

BOARD OF COUNTY COMMISSIONERS OF CITRUS COUNTY, FLORIDA
Citrus County Courthouse
Room 100, 110 N. Apopka Avenue, Inverness, FL 34450

AGENDA

VARIANCE AND WATERFRONT SET BACK

November 9, 2021 8:00 AM

Scott Carnahan, Chair, District 4 Ronald E. Kitchen Jr., 1st Vice Chair, District 2 Ruthie Davis Schlabach, 2nd Vice Chair, District 3 Jeff Kinnard D.C., Commissioner District 1 Holly L. Davis, Commissioner, District 5	Angela Vick, Clerk of the Circuit Court Charles R. Oliver, County Administrator Denise A. Dymond Lyn, County Attorney
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MISSION

Citrus County Government is a value-driven organization dedicated to responsive citizen service by providing quality programs, services and facilities to build a strong community and promote the best quality of life for our citizens.

All persons desiring to address the County Commission will be asked to limit their comments to the specific subject being discussed.

The Board gives citizens multiple opportunities for **PUBLIC INPUT**. All members of the public wishing to speak at the "Open To The Public" portion of a meeting will have three (3) minutes per person to make their request or presentation or five (5) minutes if they represent an organization with the appropriate documentation on file with the Clerk of Courts. If the request or presentation deals with a matter that requires investigation by County Staff, the Chairman will refer it to the County Administrator to follow-up with the person making the request.

Any person who decides to appeal any decision of the Governing Body with respect to any matter considered at this meeting will need a record of the proceedings and for such purpose may need to provide that a verbatim record of proceeding is made which record includes testimony and evidence upon which the appeal is to be based. (Section 286.0105 Florida Statutes)

Any person requiring reasonable accommodation at this meeting because of a disability or physical impairment should contact the County Administrator's Office, Lecanto Government Bldg., 3600 W. Sovereign Path, Suite 267, Lecanto, FL 34461 (352) 527-5210, TTY (352) 527-5312 at least two days before the meeting.

A. CALL TO ORDER

A.1. Invocation

A.2. Pledge of Allegiance

A.3. Roll Call

B. WORKSHOP WATERFRONT SET BACKS, STORMWATER & VARIANCE CRITERIA

B.1. Variance and Waterfront Set Back Workshop

Board Discussion on Variance and Waterfront Setbacks according to the current Land Development Code.

B.2. Waterfront setback/water quality workshop

To discuss waterfront setback/water quality.

C. OPEN TO THE PUBLIC

D. UPCOMING MEETINGS

- | |
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| 1. Regular Meeting: Tuesday, November 9, 2021 at 1:00 PM , Citrus County Courthouse, Room 100, 110 N. Apopka Avenue, Inverness, FL 34450 |
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E. UPCOMING WORKSHOPS AND SPECIAL MEETINGS

- | |
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| 1. Special Meeting: Universal Collection Tuesday November 30, 2021, at 9:00 AM , Citrus County Courthouse, Room 100, 110 N. Apopka Avenue, Inverness, FL 34450 |
|---|

F. ADJOURN



AGENDA MEMORANDUM

FROM:	Michael Sherman, AICP Growth Management Director
SUBJECT:	Variance and Waterfront Set Back Workshop
AGENDA DATE:	November 09, 2021

BRIEF OVERVIEW:

On September 14, 2021, the BOCC directed staff to schedule a workshop on November 09, 2021, to discuss waterfront setbacks and variances. For consideration by the BOCC is information for the workshop.

BUDGET IMPACT/FUNDING SOURCE:

Account No.	Account Title	Current Budget	YTD Expenditures	Encumbrances	Available Balance
					\$0

RECOMMENDED ACTION:

Board Discussion on Variance and Waterfront Setbacks according to the current Land Development Code.



Board of County Commissioners

DEPARTMENT OF GROWTH MANAGEMENT

3600 W. Sovereign Path, Lecanto, FL 34461-8070

Toll Free (352) 489-2120 TTY (352) 527-5312

Web Address: www.citrusbocc.com

MEMORANDUM

TO: The Citrus County BOCC
 FROM: Michael Sherman, AICP
 DATE: November 9, 2021
 SUBJ: Variances and Waterfront setbacks

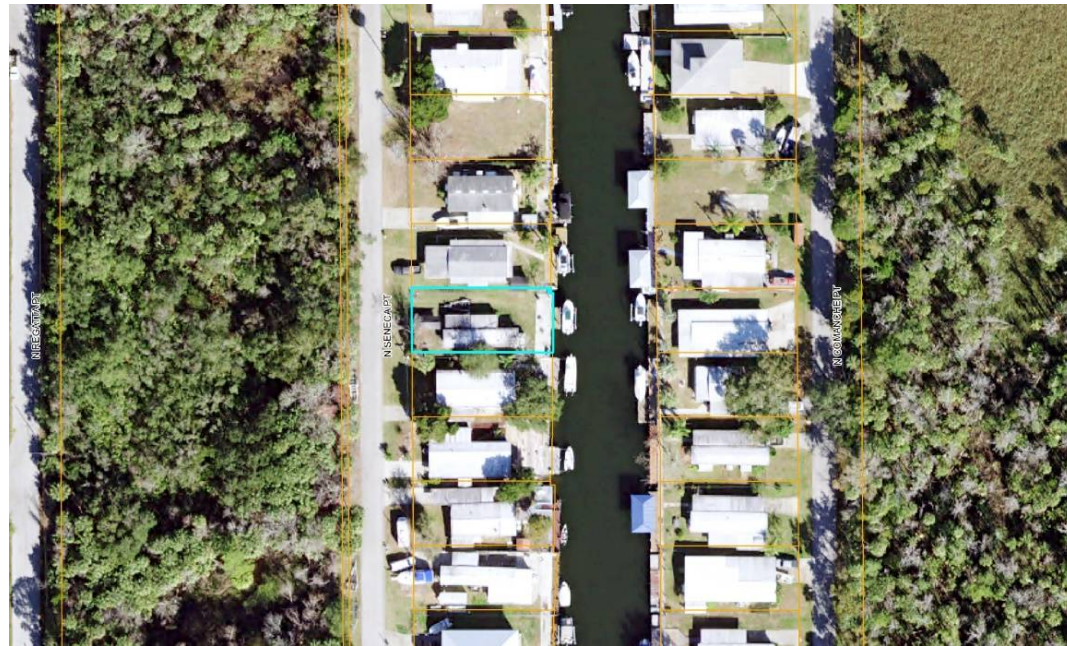
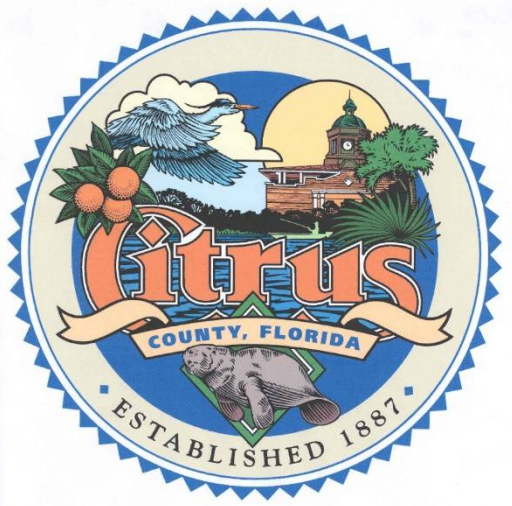
For the workshop on November 9, the following is included for the BOCC's consideration

1. Power point presentation addressing:
 - Variances
 - Setbacks
 - Summary of 2020 and 2021 variances that would not require a variance using the 2018 PDC language
 - Examples of 2 variances that would not require a variance using the PDC language.
2. 2018 waterfront setback PDC recommended language.
3. PDC short course by County Attorney

Attachment: Summary of presentation (18613 : Variance and Waterfront Set Back Workshop)

VARIANCES AND WATERFRONT SETBACKS WORKSHOP

November 9, 2021



Variances and land development?

What is a Variance? A variance is, generally, permission for a landowner to go outside the limits of the zoning or land development code to build something which would otherwise be not allowed under the terms of the zoning or land development code.

Why Variances? Landowners seek variances because of special condition and circumstances exist to the land, structure or building.

- Irregular lot size or shape
- irregular topography

EXISTING REGULATIONS AFFECTING VARIANCES

- **Section 4400.C, Standards for action by the PDC.**
 - Approval of a petition for variance from the provisions and requirements of this code shall be granted by the PDC only on a finding that:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to lands, structures, or buildings in the same land use district.
2. The special conditions and circumstances do not result from the actions of the applicant.
3. A granting of the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, buildings or structures in the same land use district.

4. Literal interpretation of the provisions of this code which [would] deprive the applicant of rights commonly enjoyed by other similarly situation properties and would work unnecessary and undue hardship on the applicant.
5. The variance granted is the minimum variance that will make possible the reasonable development and or use of the land, building or structure.
6. The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the area involved or otherwise detrimental to the public welfare.

7. There will be full compliance with any additional conditions and safeguards which the PDC may prescribe, including but not limited to reasonable time limits within which the action for which the variance is required shall be begun or completed, or both.
8. Granting of the variance will not deviate from the clear intent of the adopted Comprehensive Plan.

Setbacks and land development.

What are setbacks?

A building setback is the required distance that a building or structure must be located from the property line, water body, environmental feature, etc.

Why Setbacks? Setback regulations are adopted to ensure buildings and structures do not infringe on another property's right to views, sunlight, ventilation, vehicular access, etc., or neighborhood character in general.

EXISTING LDC REGULATIONS AFFECTING SETBACKS

Section 2300, Building and Height Requirements

- **25 feet** setback to a local street/ROW

Section 3501, Surface Water Protection Standards

- **50 feet** setback from MHWL or OHWL, or jurisdictional wetland.
- **50 feet**, or **35 feet** if swales or berms are provided.

Section 3520, Floodplain Protection Standards

- **50 feet** in Velocity Zones and Coastal A Zones.
- Flood Hazard warning on all agreement for deed, purchase agreements, leases, etc.

2018 Proposed Language (Ord. 2018-A-09)

There are no minimum setbacks required for side and rear yards (those sides of a building which do not abut a right-of way) that do not abut water, wetlands or springs, provided that ~~one of the requirements shall be met.~~ † if distance from the structure to the property line is less than five feet, the applicant must show evidence of maintenance easement granted by adjacent property owner(s),

~~1.A structure may be built on the property line provided the adjacent property owner shall grant an attachment easement to the property owner(s) making application.~~

2018 Proposed Language (Ord. 2018-A-09)

E. All structures shall be setback a minimum setback 35'
from MHWL, OHWL or wetlands, except as follows:

1. On-natural grade structures – set back a minimum of 15' to MHWL, OHWL or wetlands. (summary)
2. For structures not on grade – structure may utilize the greater of (1) an **average setback** of the 4 closest similar uses **and** (2) **furthest setback** for immediately abutting improved properties on either side of the proposed site. Any structures used for this calculation must be permitted and the minimum setback allowable via this process cannot be less than 15 feet from the ordinary high water line, mean high water line or jurisdictional wetland line.

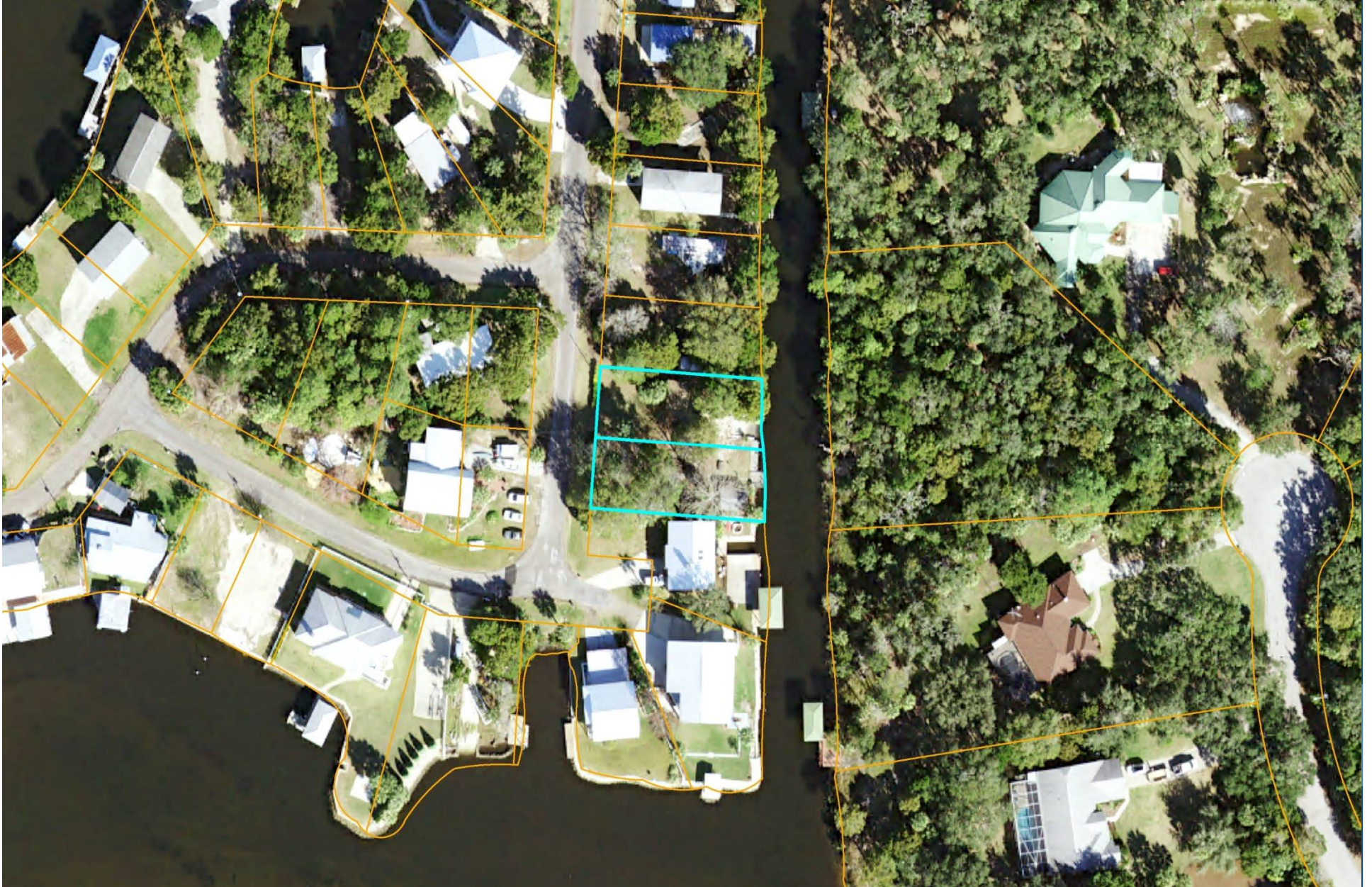
Variance Number	Variance Request	Flood Zone	Outcome	Variance still needed w /PDC Language?
V-20-01	25' sfd	VE	Denied	No -14' (15')
V-20-02	17' scrn rm	AE	Approved	No -10' (15')
V-20-03	15' sfd	AE	Denied	Yes – 17'
V-20-04	35' sfd	VE/AE	Continued	No -28'
V-20-05	30' pool	VE	Approved	No- 19'
V-20-06	23' pole brn	AE	Denied	Yes (no nearby development)
V-20-07	27' sfd	AE	Approved	No-19'

Variance Number	Variance Request	Flood Zone	Outcome	Variance still needed w /PDC Language?
V-20-09	15' mh	A	Approved	Yes – 17'
V-20-10	20' pool	AE	Denied	No -31' adj
V-20-13	20' sfd	AE	Continued	Yes – 21'adj
V-20-17	22' sfd	A	Continued	No – 16'
V-21-01	32' scrn rm	CAE	Approved	No – 22'
V-21-02	15' scrn rm	CAE	Denied	No – 10' (15')
V-21-03	24' addtn	VE/CAE	Denied	Yes - 27' avg.

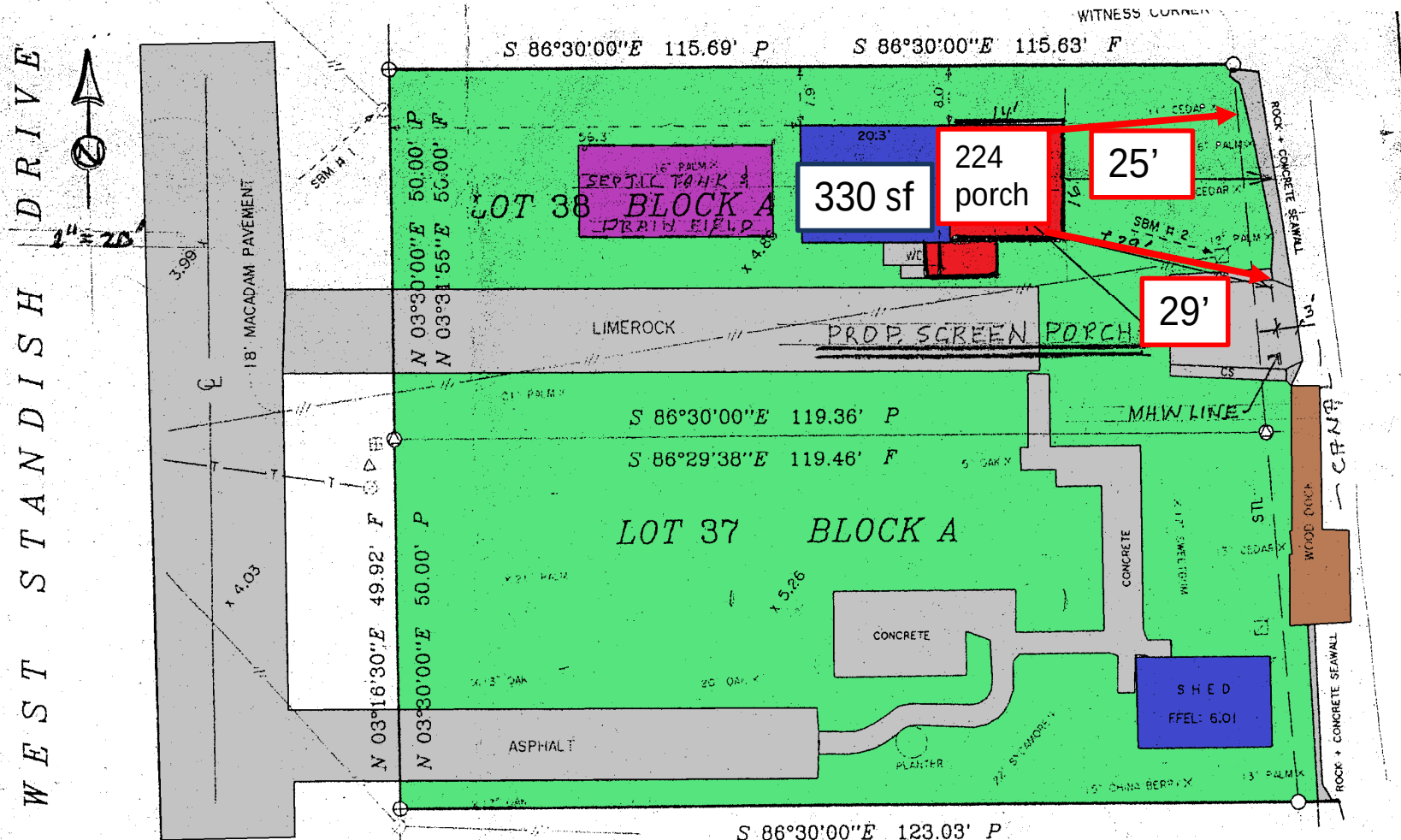
Variance Number	Variance Request	Flood Zone	Outcome	Variance still needed w /PDC Language?
V-21-07	33' sfd	AE	11/4/21 PDC	No – 21'
V-21-09	28' addtn	AE	Continued	No -31' adj
V-21-10	16' deck	VE	W/Drawn	No – 13' (15')
V-21-11	18' sfd	AE	(11/4/21 PDC)	No – 17'
V-21-07	33' sfd	AE	(11/4/21 PDC)	No – 21'
V-21-09	28' addtn	AE	Continued	No – 27'
V-21-10	16' deck	VE	W/drawn	No – 13' (15')

Variance Number	Variance Request	Flood Zone	Outcome	Variance still needed w /PDC Language?
V-21-11	18' sfd	AE	(11/4/21 PDC)	No -17'
V-21-13	15' shed	VE	Denied	Yes – 45'
V-21-16	21' sfd	VE	Continued	No -18'

V-21-01



V-21-01



NOTES:

OWNER: JAMES F. ADAMS
 jadam@ccsrr.com
 352-678-2858

ORIGINAL SURVEY BY MCKEAN
 ASSOC. SURVEYORS, INC.
 MAP NO. B-2451 7/24/02

NOTES:

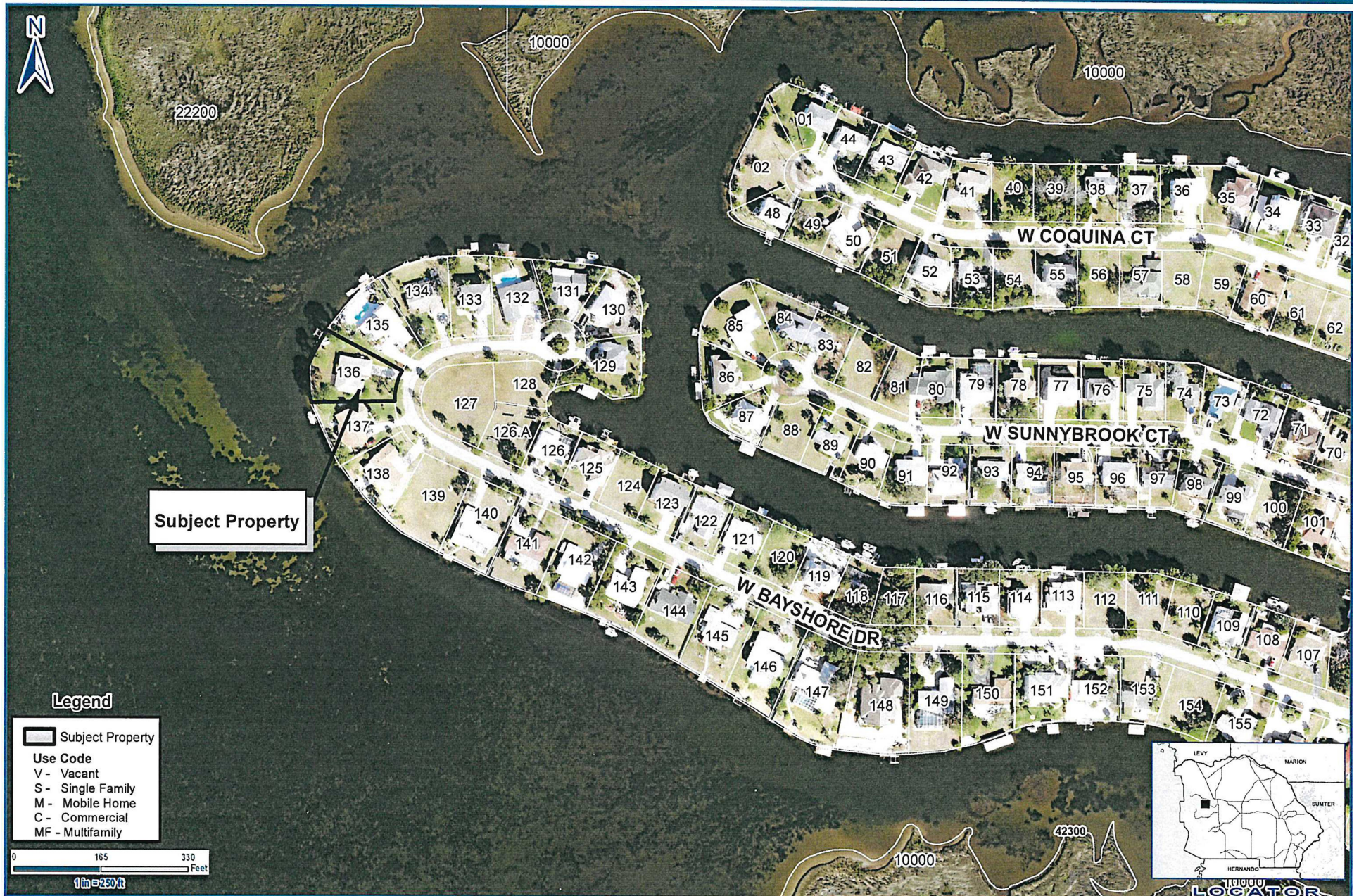
PROPERTY AREA = 0.28 AC
 % IMPERVIOUS = 15.8%
 CENTRAL WATER
 ELEVATION HEIGHT ~12.5 FT.
 MEAN HIGH WATER (MHW)
 PERMANENT REFERENCE MONUMENT

LOT 36 BLOCK A

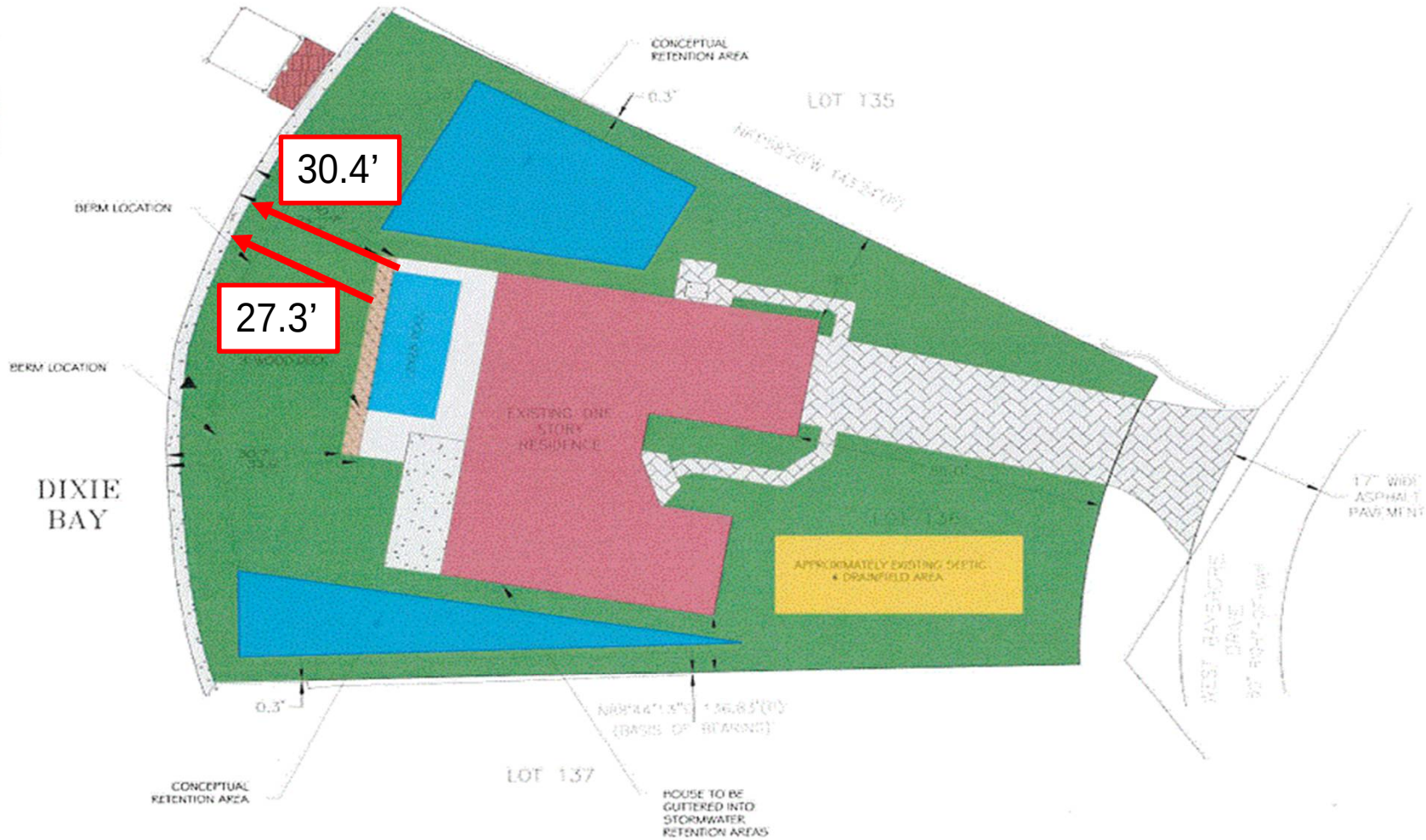
SITE PLAN
 PROPOSED SCREEN PORCH ADDITION
 12386 W. STANDISH DRIVE

REV. 12/9/20
 REVISED 11/12/20

V-20-05



V-20-05



QUESTIONS?

Surrounding Jurisdictions Criteria

Citrus	Crystal River	Inverness	Hernando County	Marion County
1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same land use district.	1. There is a specific hardship affecting the development of the lot resulting from the strict application of the provisions of the LDC;	1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same zoning district.	(a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;	(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings with the same zoning classification and land use area.
2. Special conditions and circumstances do not result from the actions of the applicant.	2. The hardship is not a result of actions of the owner and is not based solely on a desire to reduce development costs;	2. That the special conditions and circumstances did not result from the action or negligence of the applicant.	(b) That the special conditions and circumstances do not result from the actions of the applicant;	(2) The special conditions and circumstances do not result from the actions of the applicant.
3. Granting the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, buildings, or structures in the same land use district.	3. The need for the proposed variance is due to the physical shape, configuration, or topographical condition of the lot in such a manner as to distinguish it from other adjacent or nearby lots or from other lots in the district;	3. That granting the variance requested will not confer upon the applicant any special privileges denied by this Code to other lands, buildings or structures in the same zoning district.	(c) That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district;	(3) Literal interpretation of the provisions of applicable regulations would deprive the applicant of rights commonly enjoyed by other properties with the same zoning classification and land use area under the terms of said regulations and would work unnecessary and undue hardship on the applicant.
4. Literal interpretation of the provisions of this code which deprive the applicant of rights commonly enjoyed similarly situated properties and would work unnecessary and undue hardship on the applicant.	4. The proposed variance is necessary to preserve a substantial property right where such property right is generally available to other property owners of adjacent or nearby lots or other lots in the zoning district;	4. That literal interpretation of the provisions of the Code would deprive the applicant of rights commonly enjoyed by other properties in this same zoning district under the terms of this Code and would work unnecessary and undue hardship on the applicant.	(d) That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant;	(4) The variance, if granted, is the minimum variance that will allow the reasonable use of the land, building or structure.
5. The variance granted is the minimum variance that will make possible the reasonable development and/or use of the land, building, or structure.	5. The grant of the proposed variance does not confer on the applicant any special privilege that is prohibited by this LDC to other lands, buildings, or structures in the same zoning district;	5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.	(e) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;	(5) Granting the variance requested will not confer on the applicant any special privilege that is denied by these regulations to other lands, buildings or structures in the same zoning classification and land use area.
6. The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the area involved or otherwise detrimental to the public welfare.	6. The proposed variance does not substantially increase congestion on surrounding streets, does not increase the danger of fire or other hazard, and is not otherwise detrimental to the health, safety, or general welfare of the public;		(f) That the granting of the variance will be in harmony with the general intent and purpose of the land development regulations and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.	(6) The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare
7. There will be full compliance with any additional conditions and safeguards which the PDC may prescribe, including but not limited to reasonable time limits within which the action for which the variance is required shall be begun or completed, or both.	7. The development following the proposed variance is compatible with adjacent and nearby development and does not alter the essential character of the district;			
8. Granting the variance will not deviate from the clear intent of the adopted Comprehensive Plan.	8. The variance granted is the minimum variance that results in reasonable use of the land, building, or structure; 9. The effect of the proposed variance is consistent with the general intent of the LDC and the specific intent of the relevant standards and criteria; and 10. The effect of the proposed variance is consistent with the comprehensive plan.			

PDC SHORT COURSE

April 1, 2021

Presented by:
Denise A. Dymond Lyn
Citrus County Attorney

Types of decisions You will be asked to make:

❖ Variances – Final Authority

Pursuant to Section 4400, variances may only be granted if all of the following are true:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to land, structures, or buildings in the same land use district.
 - May Qualify
 - Irregular lot size or shape
 - Irregular topography
 - Probably Would not Qualify
 - Surveyor error
 - Contractor error
 - Realtor/Seller comments/assurances
 - Lack of due diligence

Variances, continued:

- Don't Qualify
 - Poor health
 - Won't hurt anyone else
 - Need more room for planned building
 - Pre-existing condition (purchased with knowledge of size, shape, setback)
 - "Self-created" issues (building size, accessory uses, pre-existing conditions)
 - Economic gain or loss
 - Other applicants received variances (Previous variances)
 - Neighbors are in agreement
 - Existing floor plan does not accommodate addition

Variances, continued:

2. The special conditions and circumstances do not result from the actions of the applicants.
 - Irregular lot size or shape
 - Irregular topography
3. A granting of the variance requested will not confer on the applicant any special privilege that is denied by this code to other lands, buildings, or structures in the same land use district.
 - Post code development in the area does not enjoy same privilege
 - Pre-code conditions should not be considered

Variances, continued:

4. Literal interpretation of the provisions of this code which [would] deprive the applicant of rights commonly enjoyed by other similarly situated properties and would work unnecessary and undue hardship on the applicant.
 - Narrowly defined
 - No reasonable use of the land for the purpose it was zoned. *Town of Indialantic v. Nance*
 - Does not look at the policy concern that necessitated the restriction, such as water quality for setback issues, wetland impacts, etc.
5. The variance granted is the minimum variance that will make possible the reasonable development and/or use of the land, building, or structure.
 - Has applicant made all possible adjustments
 - If applicant can make adjustments, then cannot be considered minimum

Variances, continued:

6. The granting of the variance will be in harmony with the general intent and purpose of this code and will not be injurious to the area involved or otherwise detrimental to the public welfare.
7. There will be full compliance with any additional conditions and safeguards which the PDC may prescribe, including but not limited to reasonable time limits within which the action for which the variance is required shall be begun or completed, or both.
8. Granting of the variance will not deviate from the clear intent of the adopted Comprehensive Plan.
 - Comprehensive Plan is the primary planning document for the County
 - Plans future managed growth of the County

Variances, Continued:

Prior Variances

- ▶ An Applicant's variance request must be reviewed on its own merits, rather than on the basis of previously approved variances in the jurisdiction. See *City of Jacksonville v. Taylor*, 721 So.2d 1212 (Fla. 1st DCA 1998). Previously issued variances do not establish controlling precedent or constitute a basis to sustain other variance applications.

Variances Continued:

Use as it is Zoned

- ▶ The hardship must be such that it "renders it virtually impossible to use that land for the purpose or in the manner for which it is zoned." Hemisphere Equity v. Key Biscayne, 369 So.2d 996 (3 DCA 1979).

Variances Continued:

Land Uniqueness

- It is the land, and not the nature of the project, which must be unique and create a hardship. Town of Indianatlantic v. Nance, 400 So.2d 37 (5 DCA 1981), *affd.* 419 So.2d 1041; Ft. Lauderdale v. Nash, 425 So.2d 578 (4 DCA 1982) (many other common violations in the neighborhood do not constitute a hardship); City of Miami v. Franklin Leslie, 179 So.2d 622 (3 DCA 1965).

END OF PDC SHORT COURSE

QUESTIONS?

CALL:
Denise Lyn

OFFICE:
341-6579

CELL:
270-6055

EMAIL:
denise.lyn@citrusbocc
com

WHEREAS, on June 12, 2012, the Board of County Commissioners adopted the Citrus County Land Development Code (LDC) as Ordinance No. 2012-06;

WHEREAS, the Citrus County Board of County Commissioners recognize the need to plan for orderly growth and development while protecting Citrus County's abundant natural resources;

WHEREAS, certain changes are necessary to comply with Florida Statutes as enacted by the State of Florida Legislature;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Citrus County, a political subdivision of the State of Florida, as follows:

SECTION 1. THAT SECTION 2300, BUILDING SETBACK REQUIREMENTS AND HEIGHT REQUIREMENTS FOR ALL LAND USE DISTRICTS, OF THE LAND DEVELOPMENT CODE OF CITRUS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, IS HEREBY AMENDED AS FOLLOWS:

2300. BUILDING SETBACK REQUIREMENTS AND HEIGHT REQUIREMENTS FOR ALL LAND USE DISTRICTS

- A. A minimum setback from an abutting right-of-way shall be required for all buildings. The required minimum setback shall be measured from the centerline of the right-of-way. The distance is determined by the functional classification of the roadway, as specified on the Functional Classification Map in this LDC. Minimum distance is shown in the following table:

BUILDING SETBACK REQUIREMENTS	
Local Street (public or private)	50 feet
Minor Collector	65 feet
Major Collector	75 feet
Minor Arterial	100 feet
Principal Arterial	125 feet

- Principal uses should be located 25 feet from any existing right-of-way line, except as provided elsewhere within this LDC. In cases where private and local streets are 60 feet in width where residential uses may be permitted, the setback may be administratively approved no less than 20 feet from an existing right-of-way line.
- Metal or wood carports, awnings, or other open accessory structures may be permitted administratively with up to 20 percent reduction of the required building setback from the centerline of the right-of-way.

There are no minimum setbacks required for side and rear yards (those sides of a building which do not abut a right-of-way) that do not abut water, wetlands, or springs, provided that ~~one of the following requirements shall be met:~~ if the distance from the structure to the property line is less than five feet, the applicant must show evidence of a maintenance easement granted by adjacent property owner(s), ~~OR~~

- ~~1. A structure may be built on the property line provided the adjacent property owner shall grant an attachment easement to the property owner(s) making application.~~

NOTE: Standards for specified individual uses as provided in this LDC may include requirements for setbacks.

- B. When a building exceeds 50 feet in height, the minimum distance from an adjacent building or property line shall be increased by two feet for each 10 feet above 50 feet.
- C. Architectural features, eaves, balconies, and the like may project into required front yards not more than three feet.
- D. Special setbacks are established for structures adjacent to existing sinkholes and caves as provided in this LDC.
- E. All structures shall be a minimum of 35 feet from either the mean high water line or ordinary high water line , except as follows:
 1. Proposed structures that are on natural grade, such as slabs, decks (without railings or similar construction), or inground pools (without enclosures) shall be set back a minimum of 15 feet from the ordinary high water, mean high water line, or jurisdictional wetland line;
 2. For structures that are not on grade, the structure may utilize the greater of (1) an average setback of the four closest similar uses on either side of the proposed site, and (2) the furthest setback for immediately abutting improved properties on either side of the proposed site. Any structures used for this calculation must be permitted, and the minimum setback allowable via this process cannot be less than 15 feet from the ordinary high water, mean high water line or jurisdictional wetland line.

SECTION 2. THAT SECTION 3501. SURFACE WATER PROTECTION STANDARDS, OF THE LAND DEVELOPMENT CODE OF CITRUS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, IS HEREBY DELETED

3501. SURFACE WATER PROTECTION STANDARDS



AGENDA MEMORANDUM

FROM:	Randall Olney, Public Works Director				
SUBJECT:	Waterfront setback/water quality workshop				
AGENDA DATE:	November 09, 2021				
<u>BRIEF OVERVIEW:</u>					
To Discuss waterfront setback/water quality.					
<u>BUDGET IMPACT/FUNDING SOURCE:</u>					
Account No.	Account Title	Current Budget	YTD Expenditures	Encumbrances	Available Balance
N/A	N/A	N/A	N/A	N/A	N/A
<u>RECOMMENDED ACTION:</u>					
To discuss waterfront setback/water quality.					

Current BOCC Policy for Residential Stormwater

Residential Stormwater management systems are required based on two criteria:

1. An undeveloped lot in waterfront areas
2. Lots in all V Zones, A Zones, and Floodways





Current Toolbox:

1. Berm and Swale System

- Designed to treat a $\frac{1}{2}$ " or $\frac{3}{4}$ " of stormwater runoff.





Opportunity for More Tools

UCF BMP Train
- Contains requirements from multiple agencies

BMP Trains 2020

Welcome to BMP Trains Version: 4.3.3



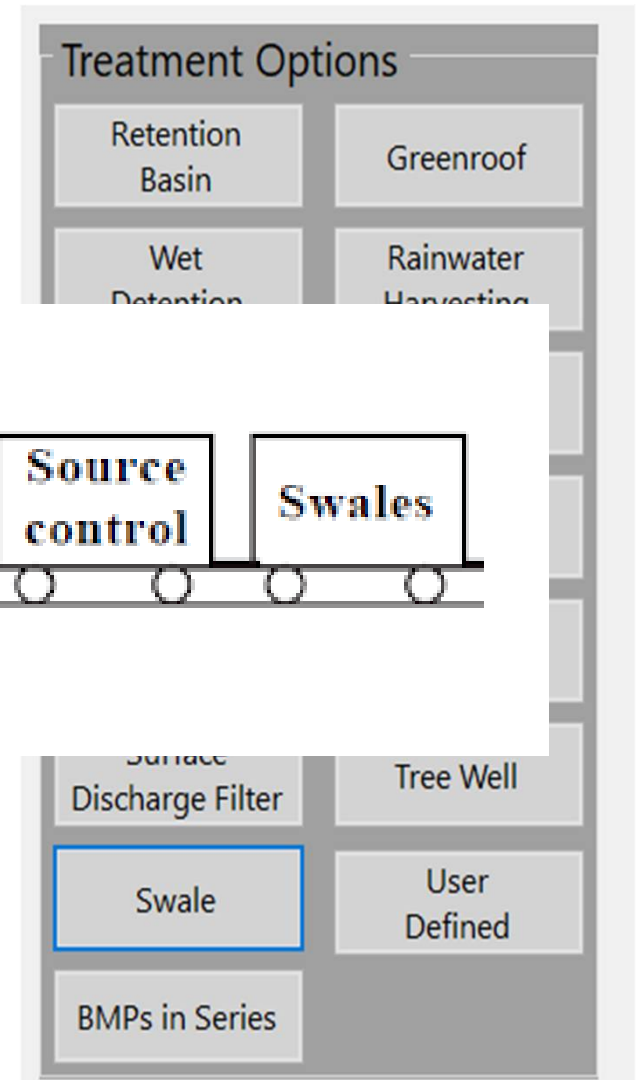
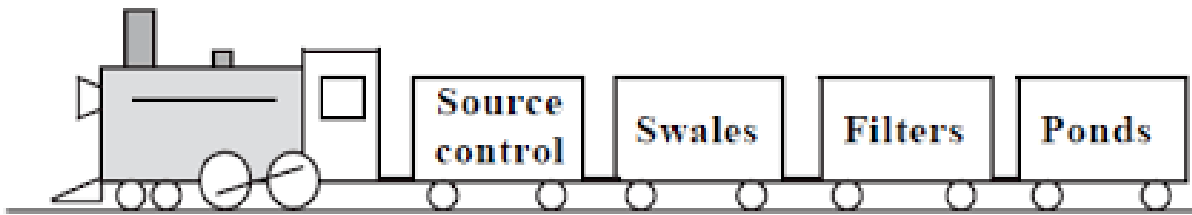
UNIVERSITY OF
CENTRAL FLORIDA



Water Quality should focus on Best Management Practice (BMP) nutrient reduction train

An inefficiently designed train needs more tools

Stormwater treatment train



Recommendations:

- Eliminate the need for a water quality - stormwater permit for lots without waterfront.
- Direct staff to review the UCF computer program with local engineers and the CCBA to help build consensus.
- Consider a voluntary incentive program for existing waterfront homeowners to implement BMPs in exchange for stormwater fee credits



THANK YOU!