

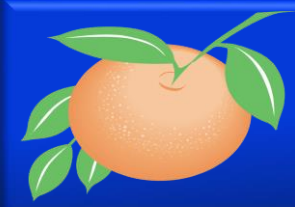
Board of County Commissioners

Appeal of the Recommendation of the Environmental Protection Commission

**Application for Waiver (side-setbacks) for the Majid Heydari
Boat Dock Permit (BD-20-04-070)**

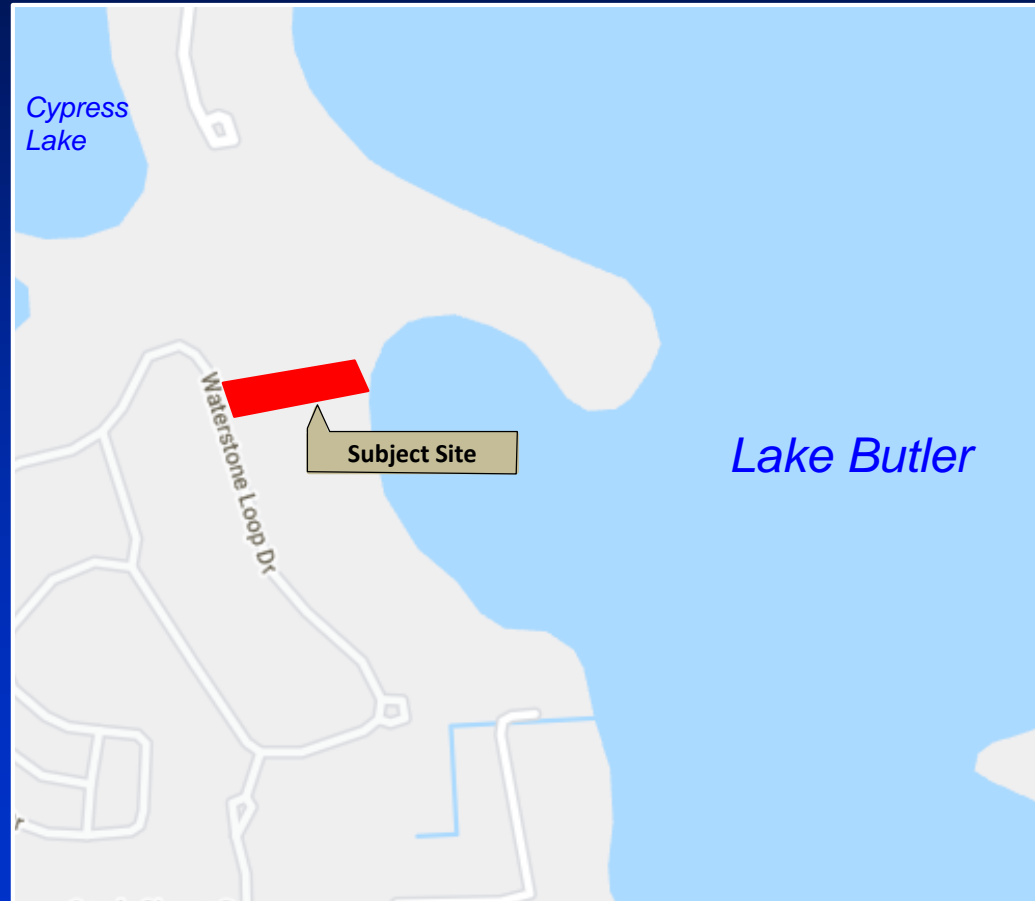
**Appellants: Gregory Merk
James and Dian Phillips**

June 22, 2021

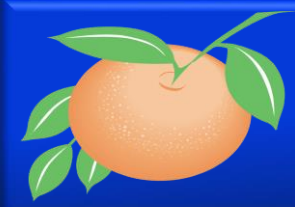


Location Map

11533 Waterstone Loop Drive



Parcel ID No.: 24-23-27-9009-00-130



Aerial Photo

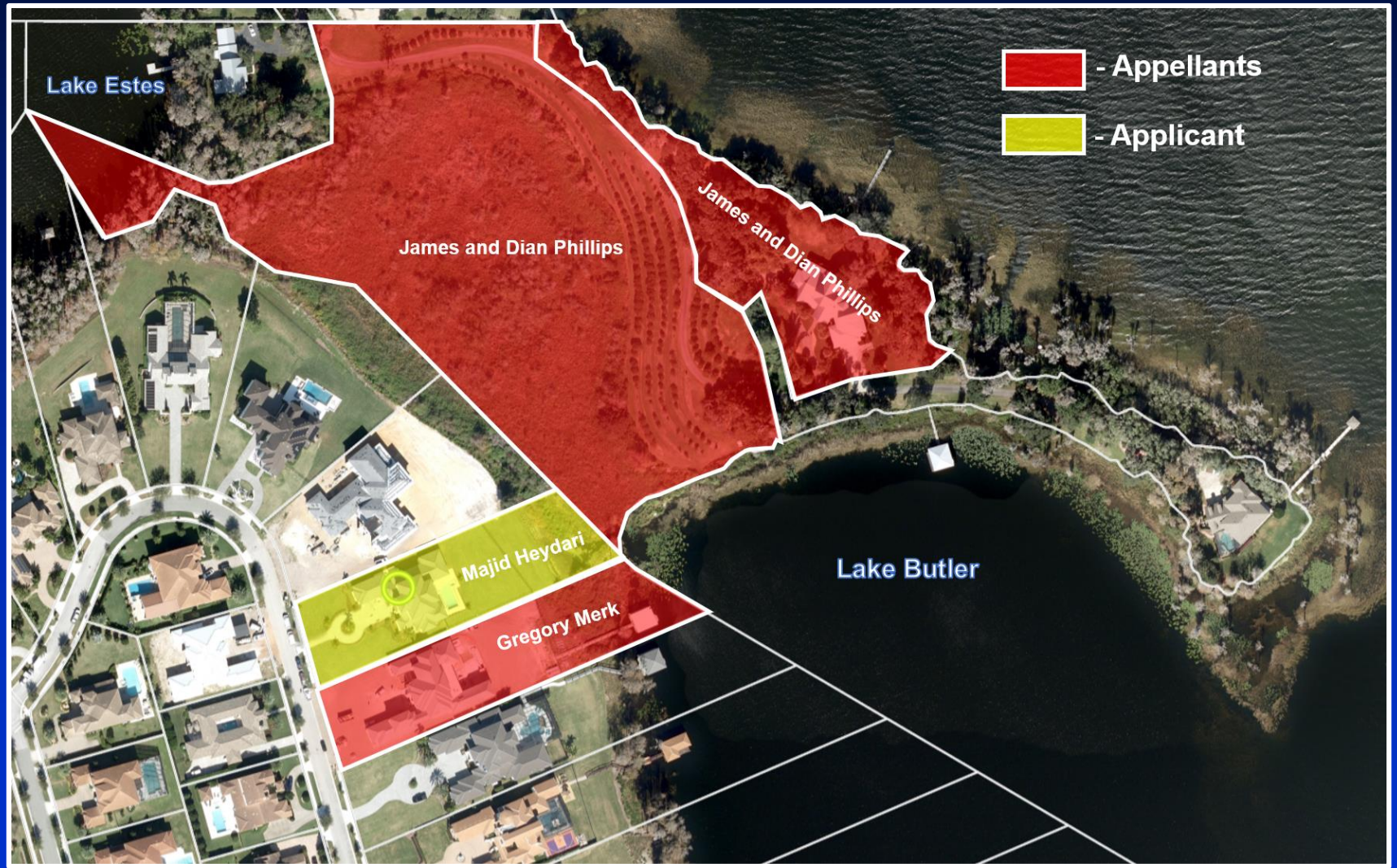
11533 Waterstone Loop Drive

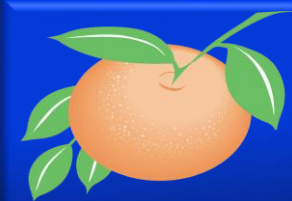


Parcel ID No.: 24-23-27-9009-00-130



Applicant and Appellants Location Map





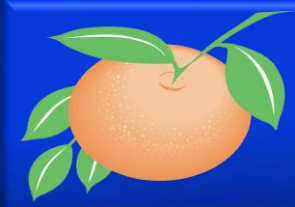
Background

- On April 30, 2020, the applicant, Majid Heydari, submitted a Dock Construction Permit Application. During the review process, EPD determined that a waiver to Section 15-343(b) (side setback) was required.
- The applicant submitted several revised plans, with the final site plan received on December 8, 2020. The applicant also submitted an Application for Waiver to Chapter 15, Article IX, Section 15-343(b) requesting a reduction of the required side setback from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line.



Background

- **There is no open EPD enforcement action on the property. However, there was a case (#19-554703) in September 2019 related to unauthorized clearing of shoreline vegetation that has since been resolved. The applicant replanted the shoreline and paid an administrative penalty. The case was closed on March 5, 2020.**

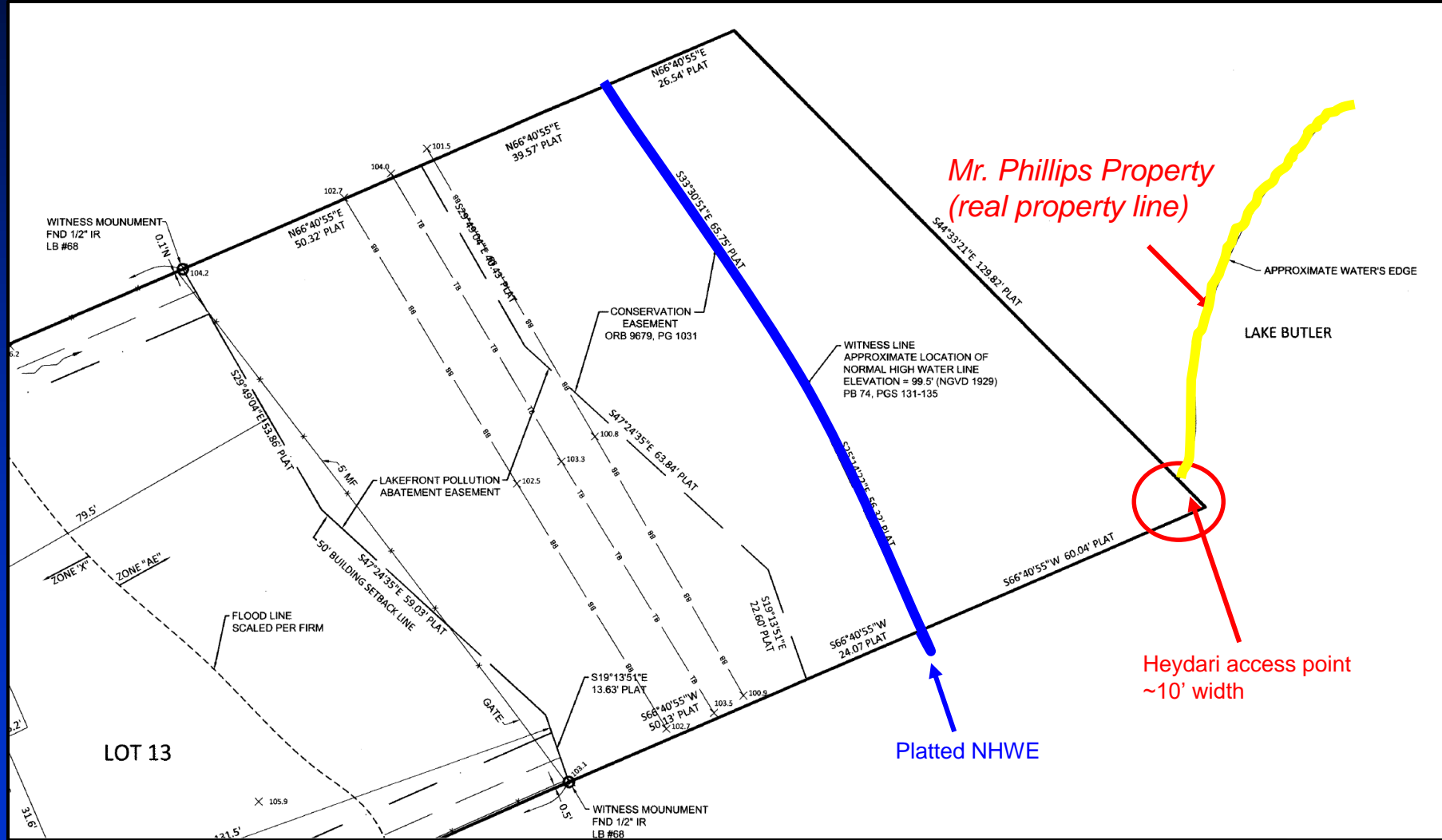


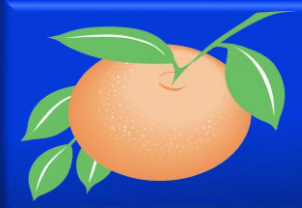
Existing Conditions





Existing Conditions - Survey





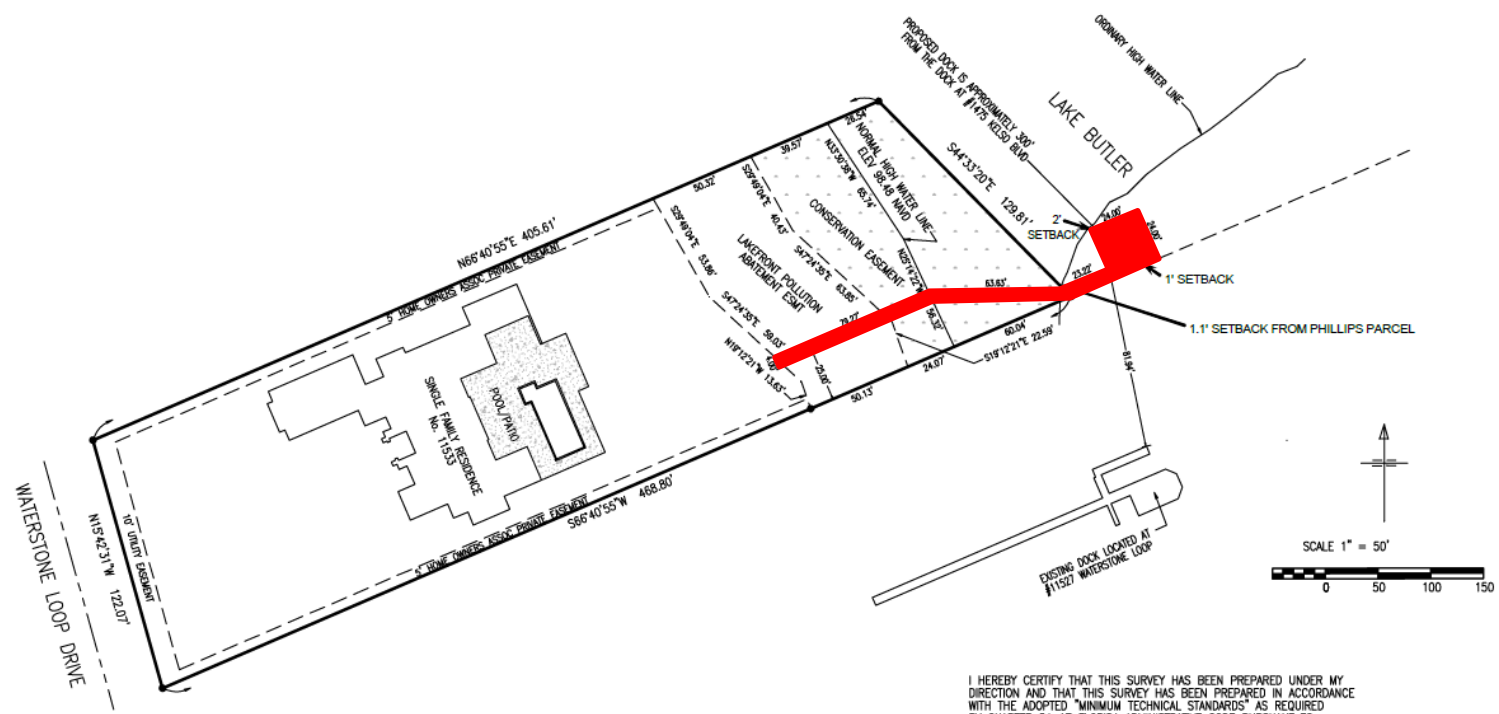
Waiver Request - Side Setback

- Section 15-343(b) states, “On lots or parcels having a shoreline frontage of seventy-five (75) feet or greater, docks shall have a minimum side setback of twenty-five (25) feet from the projected property line.”
 - The applicant has a shoreline that measures approximately 122 linear feet at the NHWE, requiring a minimum side setback of 25 feet.
 - The applicant is requesting a side setback of 1 foot from the adjoining southern projected property line and 1.1 feet from the intersecting real property line of the parcel to the northeast.



Site Plan

SITE PLAN
 PROPOSED DOCK
 11533 WATERSTONE LOOP
 WINDEMERE FL. 34786



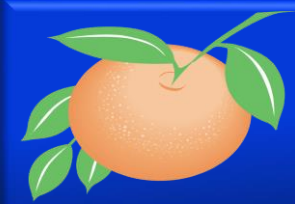
- SURVEYORS NOTES:
1. BEARINGS SHOWN HEREON ARE BASED ON THE REFERENCED PLAT.
 2. ALL DISTANCES SHOWN ARE PLAT AND MEASURED UNLESS NOTED.
 3. THE MEASUREMENTS SHOWN HEREON ARE IN U.S. SURVEY FEET. THE ACCURACY OF THIS SURVEY EXCEEDS THE REQUIREMENTS OF FLORIDA ADMINISTRATIVE CODE 5J-17.

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN PREPARED UNDER MY DIRECTION AND THAT THIS SURVEY HAS BEEN PREPARED IN ACCORDANCE WITH THE ADOPTED "MINIMUM TECHNICAL STANDARDS" AS REQUIRED BY CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027, FLORIDA STATE STATUTES.

EDWARD J. MIZO
 PROFESSIONAL SURVEYOR AND MAPPER NO. 3376
 NOT VALID WITHOUT THE AUTHENTIC ELECTRONIC
 SIGNATURE AND SEAL OF A PROFESSIONAL SURVEYOR AND MAPPER.

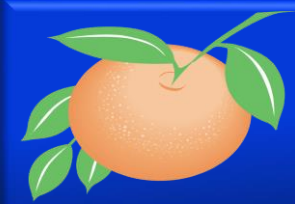


PROPOSED DOCK LOCATION	MAY 25, 2020
PROPOSED DOCK LOCATION 11533 WATERSTONE LOOP DRIVE WINDEMERE, FL. 34786	
EDWARD J. MIZO PROFESSIONAL LAND SURVEYOR 2625 LEGACY VILLAS DRIVE MAITLAND, FL 32751 (321) 436-9391	



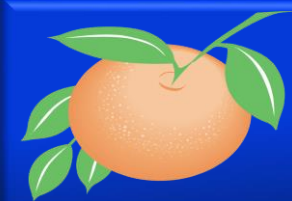
Waiver Request - Side Setback





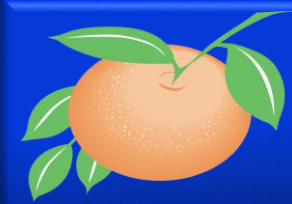
Waiver Request - Side Setback





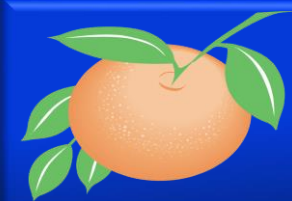
Waiver Criteria

- Pursuant to Section 15-350(a)(2), “the applicant shall describe (1) how this waiver would not negatively impact the environment, and (2) the effect of the proposed waiver on abutting shoreline owners.”
- To address these criteria, Sheila Cichra, the applicant’s agent, states:
 - (1) *“The reduced setback is required in order to construct the terminal platform over the only available open water, therefore granting the waiver would result in the least impact to the environment.”*
 - (2) *“The proposed structure will not adversely affect the adjacent property owner’s view or navigability. The adjacent dock is on the far side of the southern neighbor’s lot and the proposed terminal platform will be screened from that house, due to the trees and heavy aquatic vegetation in the conservation area.”*



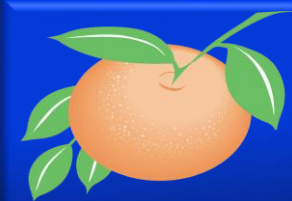
Public Notification & Objections

- On June 8, 2020, a Notice of Application for Waiver was sent to the affected adjacent shoreline owners.
- Objections were received from the following:
 - Gregory Merk - 11527 Waterstone Loop Drive
 - James and Dian Phillips - 1475 Kelso Boulevard & Parcel 24-23-27-0000-00-053
 - Scott McIver - 11521 Waterstone Loop Drive
 - Garrett Kenny - 11545 Waterstone Loop Drive
 - James and Patricia Phillips - 1476 Kelso Boulevard
 - Albert and Cathy Curnan - 1474 Kelso Boulevard



Environmental Protection Commission

- **On February 24, 2021 the EPC held a public hearing. The following is a summary of the proceedings:**
 - The recommendation of the EPO was to deny the waiver to Section 15-343(b) (side setback) based on a finding that the applicant has not demonstrated that there will be no negative effect on the abutting shoreline owners pursuant to Section 15-350(a)(2)(2), as objections have been received.
 - Sheila Cichra and Mary Solik, Esquire, of Doty Solik Law, agents for Majid Heydari, spoke in favor of the request.
 - Majid Heydari (the applicant), spoke in favor of the request.
 - Anna Long, Esquire, of Dean, Mead, Egerton, Bloodworth, Capouano & Bozarth, representing Gregory Merk and James and Dian Phillips, spoke against the request.



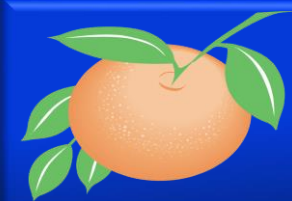
Environmental Protection Commission

- EPC overturned the recommendation of the EPO and made a finding that the waiver request was consistent with Orange County Code, Chapter 15, Article IX, Section 15-350(a)(2) and recommended approval of the request for waiver to Section 15-343(b) to reduce the minimum side setback from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line for the Majid Heydari Dock Construction Permit BD-20-04-070. The motion passed five to one.



EPC Appeal

- **On March 4, 2021, Gregory Merk and James and Dian Phillips, represented by Anna Long, submitted an appeal of the decision of the EPC to overturn the recommendation of the Environmental Protection Officer, pursuant to Orange County Code, Chapter 15, Article IX, Section 15-349(b).**
 - **The Orange County Attorney’s Office confirmed that the appeal was timely and complete.**



Action Requested

- **To affirm, reverse, or modify the recommendation of the Environmental Protection Commission to approve the waiver to Orange County Code, Chapter 15, Article IX, Section 15-343(b) (side-setback) to reduce the minimum side setback from 25 feet to one foot from the southern projected property line and 1.1 feet from the northeastern real property line for the Majid Heydari Dock Construction Permit BD-20-04-070. District 1**



Objections

