Environmental Protection Division

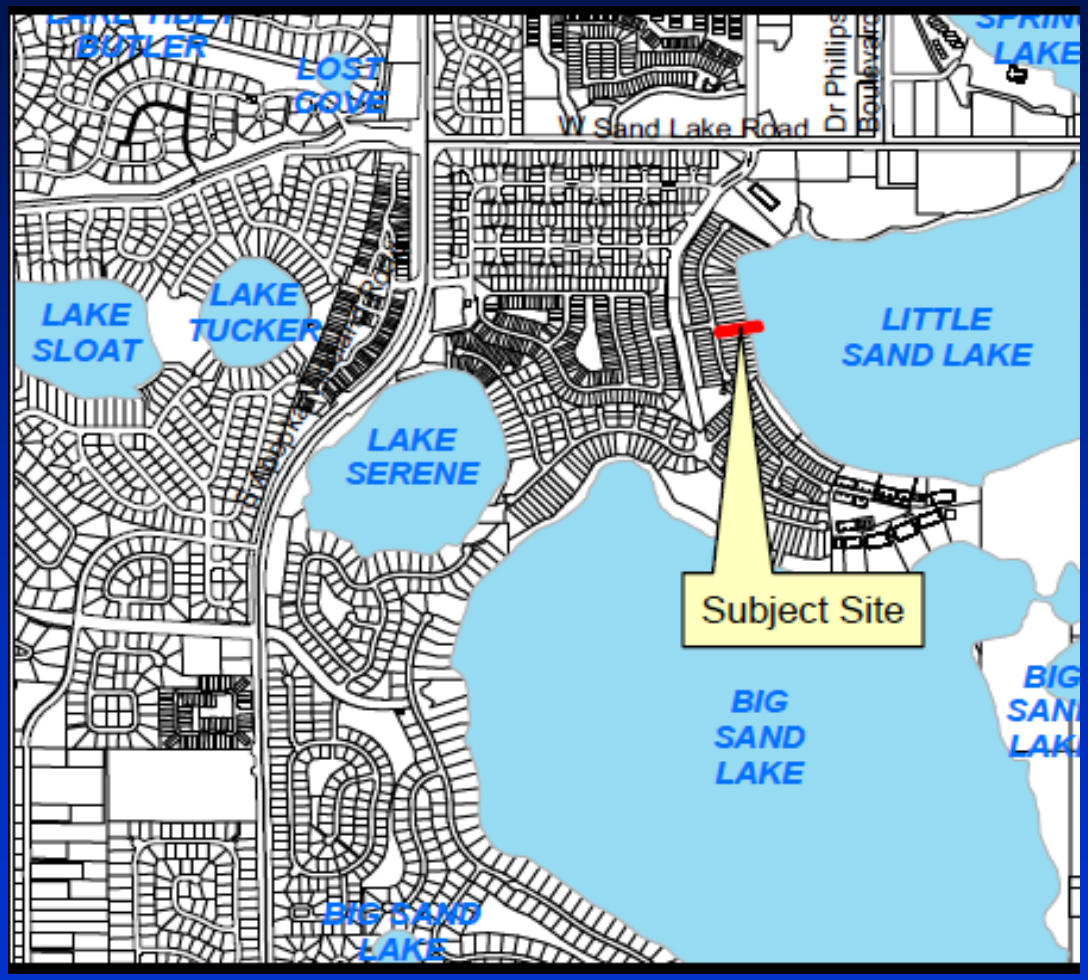
Appeal of the Recommendation of the Environmental Protection Commission

Hasan Baig and Sergio Divine
Little Sand Lake
District 1

July 18, 2017

Location Map

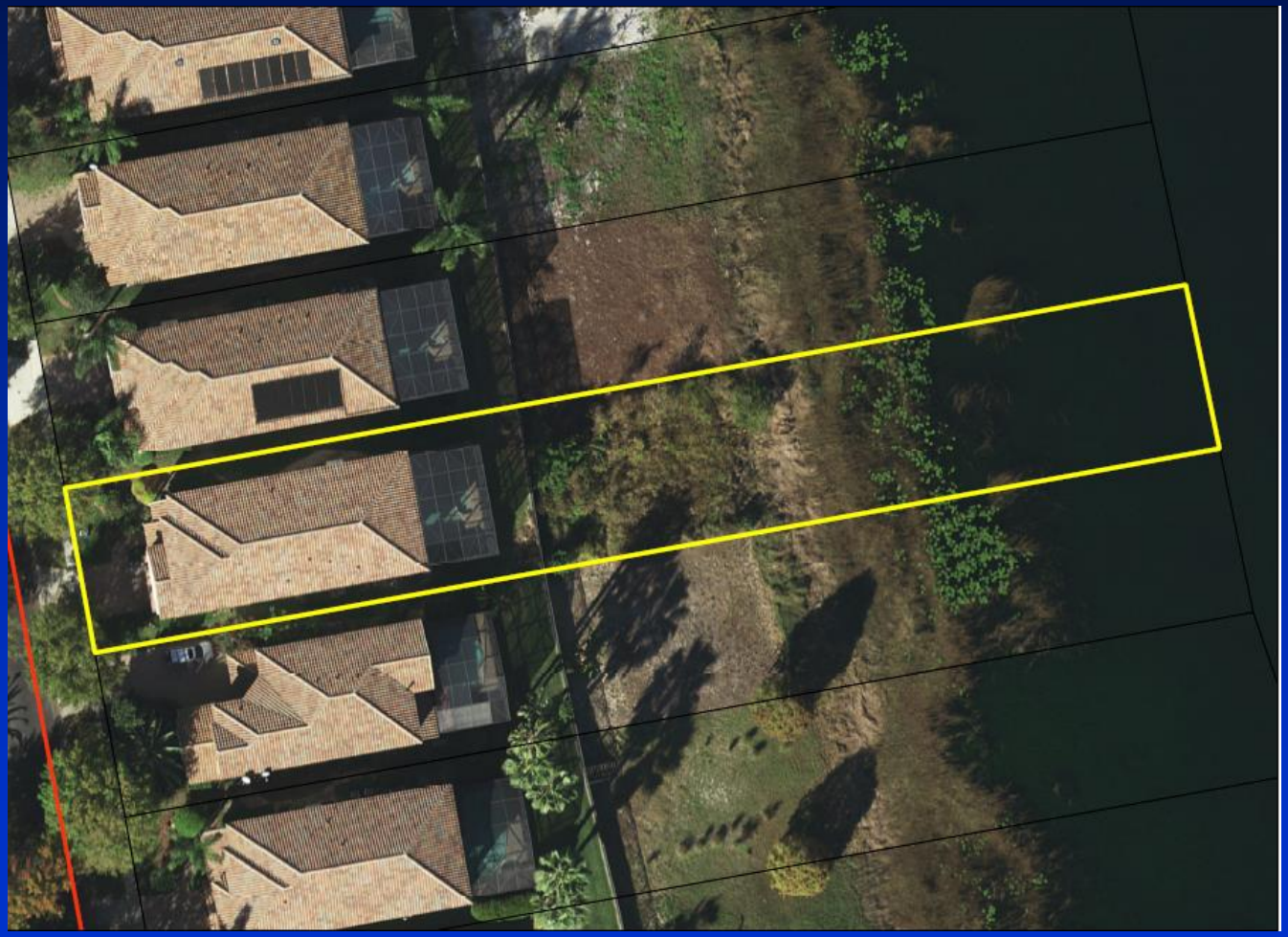
8313 Via Rosa



Parcel ID #34-23-28-5670-00-180

Aerial Photo

8313 Via Rosa



Parcel ID # 34-23-28-5670-00-180

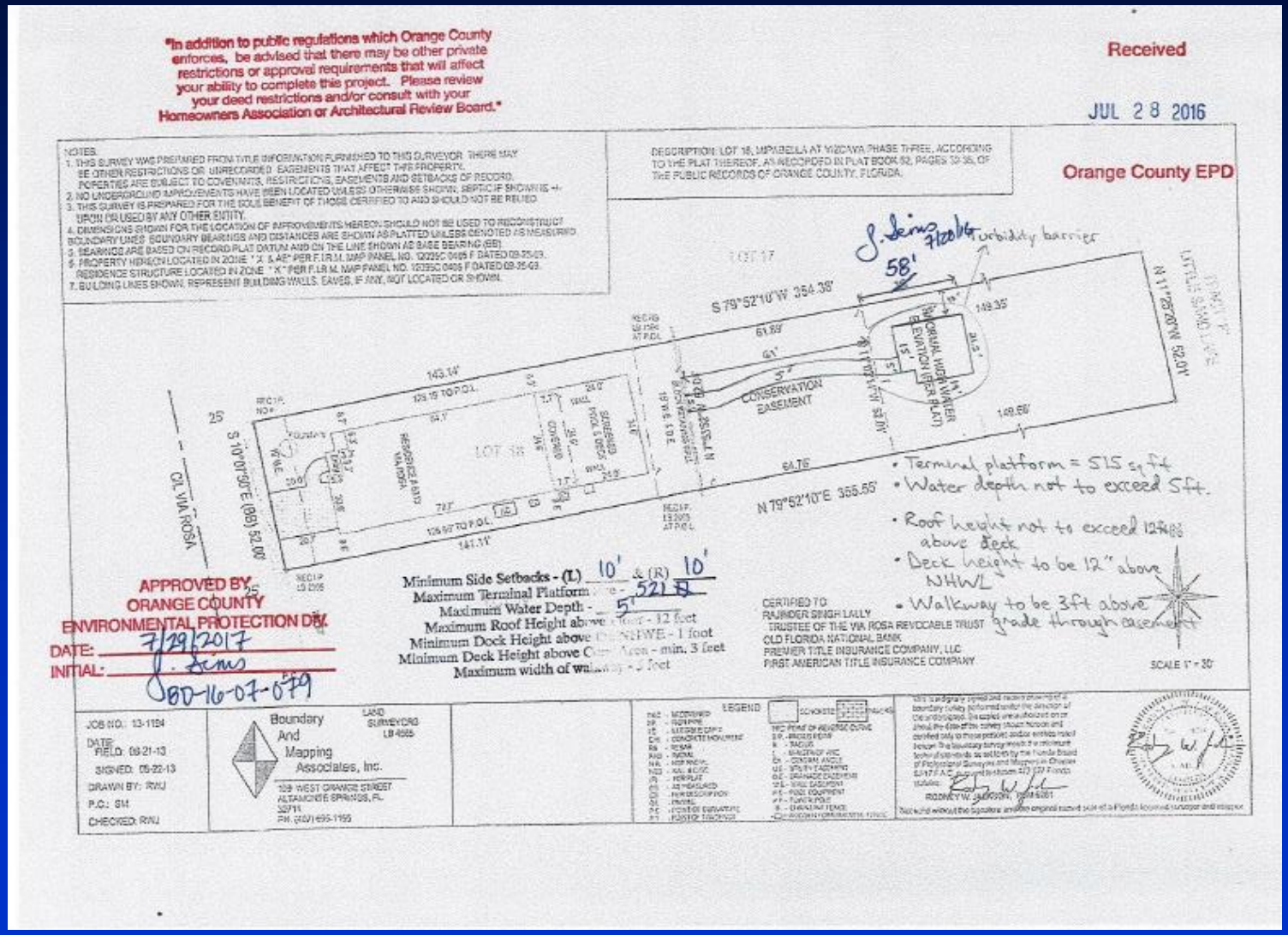
Background

<u>July 29, 2016</u> – Dock Construction Permit BD-16-07-079 was originally issued to the Via Rosa Irrevocable Trust (c/o Rajinder Singh Lally Trustee) for a boat dock that met the requirements of Chapter 15, Article IX. No waivers or variances were required. To date, no construction has begun on the dock.

<u>November 7, 2016</u> – On November 7, 2016, the Environmental Protection Division (EPD) received a request to increase the size of the terminal platform from the approved 520 square feet to 605 square feet. The proposed increases are located at the waterward end (1.5 feet waterward) and the southern side (2.8 feet south). The applicant stated that the increases are needed in order for him to achieve suitable mooring depths for his boat. The applicant has 52 feet of shoreline; therefore, the allowed terminal platform size is 520 square feet, and a waiver is required.

Background

Background



Approved Plan – Allowed up to 520 square feet of terminal platform

Background

PROPOSED BOAT DOCK
8313 VIA ROSA
ORLANDO, FL

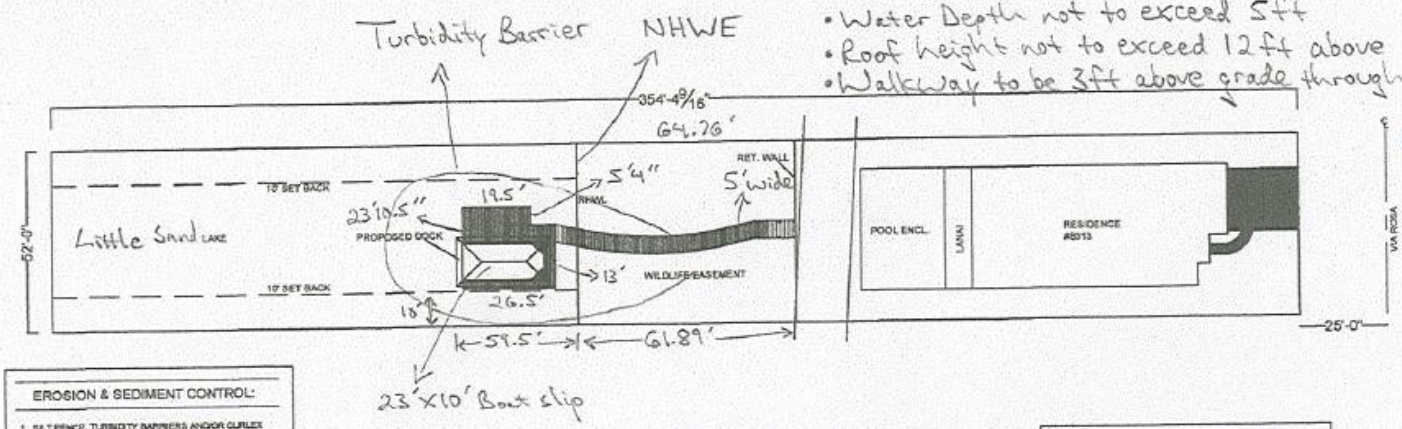
ENGINEERING NOTES:
1. ENGINEERING MEETS OR EXCEEDS 2014 FLORIDA BUILDING CODE, RESIDENTIAL, PER SECTION R301, USING ASCE 7-10, 140 mph BASIC WIND SPEED (Vult). RISK CATEGORY II, Vasd = 108 mph.

2. EXPOSURE C
INTERNAL PRESSURE COEFFICIENT = +_ 0.18

NAGY DESIGN
Design | Drafting | Development
Residential and Commercial
nagydesign@gmail.com

Applicable Codes
1. FBC 2014
2. ASCE 7-10
3. NEC 10

- Terminal Platform = 605 sq ft
- Water Depth not to exceed 5 ft
- Roof height not to exceed 12 ft above deck
- Walkway to be 3 ft above grade through easement



- Floor height to be 1' above the NHWE
11/17/16 J. Sims

EROSION & SEDIMENT CONTROL:

1. SILT FENCE, TURBIDITY BARRIERS AND/OR CURLEX MUST BE UTILIZED FOR EROSION CONTROL.
2. THE OWNER IS TO FOLLOW THE PROVISIONS ALLOWED UNDER THE SAINT JOHNS WATER MANAGEMENT PROGRAM AND ALL APPLICABLE FEDERAL, FLORIDA STATE AND/OR LOCAL STATUTES FOR THE CONTROL OF SEDIMENTS AND CONSTRUCTION DEBRIS.
3. FURTHER LAND DEVELOPMENT ISSUES MUST BE HANDLED BY A LICENSED LAND DEVELOPMENT ENGINEER.
4. ANY PERMITS MUST BE OBTAINED PRIOR TO COMMENCEMENT.

PROPOSED SITE PLAN

SCALE: 1/32" = 1'

NWL NOTE:
1. CONTRACTOR TO VERIFY THE NWL ELEVATION WITH LOCAL CITY/COUNTY AUTHORITY. DOCK TO BE PLACED AT 1' ABOVE NWL ELEVATION.

SCES
SUBSURFACE & COASTAL ENGINEERING SERVICES, LLC
3564 Avalon Park Blvd. E., Suite 1 #111
Orlando, FL 32828
Ph: 321.206.8080 LC.O.A. #28736

Proposed Boat Dock Lally Residence
8313 Via Rosa
Orlando, FL

Date: 08.01.16	Drawn: 01.10.15	Job No: 132.06-14	Page 1 of 6	Site Plan

RYAN R. MURRAY
LICENSE
No. 66503
STATE OF FLORIDA
PROFESSIONAL ENGINEER

Digitally signed by Ryan Murray, PE
Reason: I am approving this document
Date: 2016-08-04 17:55-04:00

Waiver Criteria

Pursuant to Section 15-350(a)(2)…the applicant shall describe:

(1) How this waiver would not negatively impact the environment.

The applicant has stated "The purpose of this waiver is to request that the allowable terminal platform square footage be increased from 520 sq ft to 605 sq ft. The waiver would not negatively impact the environment."

(2) The effect of the proposed waiver on abutting shoreline owners.

The applicant has stated "The majority of the increase in square footage is due to lengthening the dock lakeward thus the effect on the abutting shoreline owners is minimal."

Background

Environmental Protection Commission Meeting January 25, 2017

After the objection period closed on January 14, 2017 and no objections were received, EPD staff scheduled the waiver request to be heard by the EPC on January 25, 2017. The applicant had adequately addressed the Code requirements and no objections had been received, therefore, the recommendation of the Environmental Protection Officer to the EPC was approval.

- Several minutes before the hearing was to begin, EPD received two letters of objection from Mr. Hasan Baig and Mr. Sergio Divine.
- At the EPC Meeting, EPD revised their recommendation to denial to allow the objectors to be heard on the waiver request.
- EPC overturned the EPD revised recommendation and voted to approve the waiver request.

Background

February 9, 2017

EPD received an Appeal of the EPC recommendation from Mr. Sergio Divine and Mr. Hasan Baig

The Appeals cite the following concerns:

- Property values of the community
- Reduced view of the lake
- The proposed roof is not allowed by the HOA
- That Mr. Baig was not allowed to participate in the January 25, 2017 EPC hearing by telephone

Background

Mr. Divine states:

It appears the applicant does not demonstrate that the strict compliance with terminal platform size would impose a unique and unnecessary hardship on the applicant, furthermore it clearly appears the hardship to be self-imposed by the dock builder/applicant.

The effect of the proposed variance on abutting shoreline owners may be detrimental resulting in reduced view of the lake, given the increased size of terminal platform and the roof on the dock as shown in proposed boat dock building plans.

Background

Mr. Baig states:

The applicant does not demonstrate that the strict compliance with terminal platform size would impose a unique and unnecessary hardship on the applicant, furthermore it clearly appears the hardship to be self-imposed by the dock builder/applicant.

The effect of the proposed variance on my abutting shoreline property may be detrimental resulting in reduced view of the lake, given the increased size of terminal platform and the roof on the dock as shown in proposed boat dock building plans.

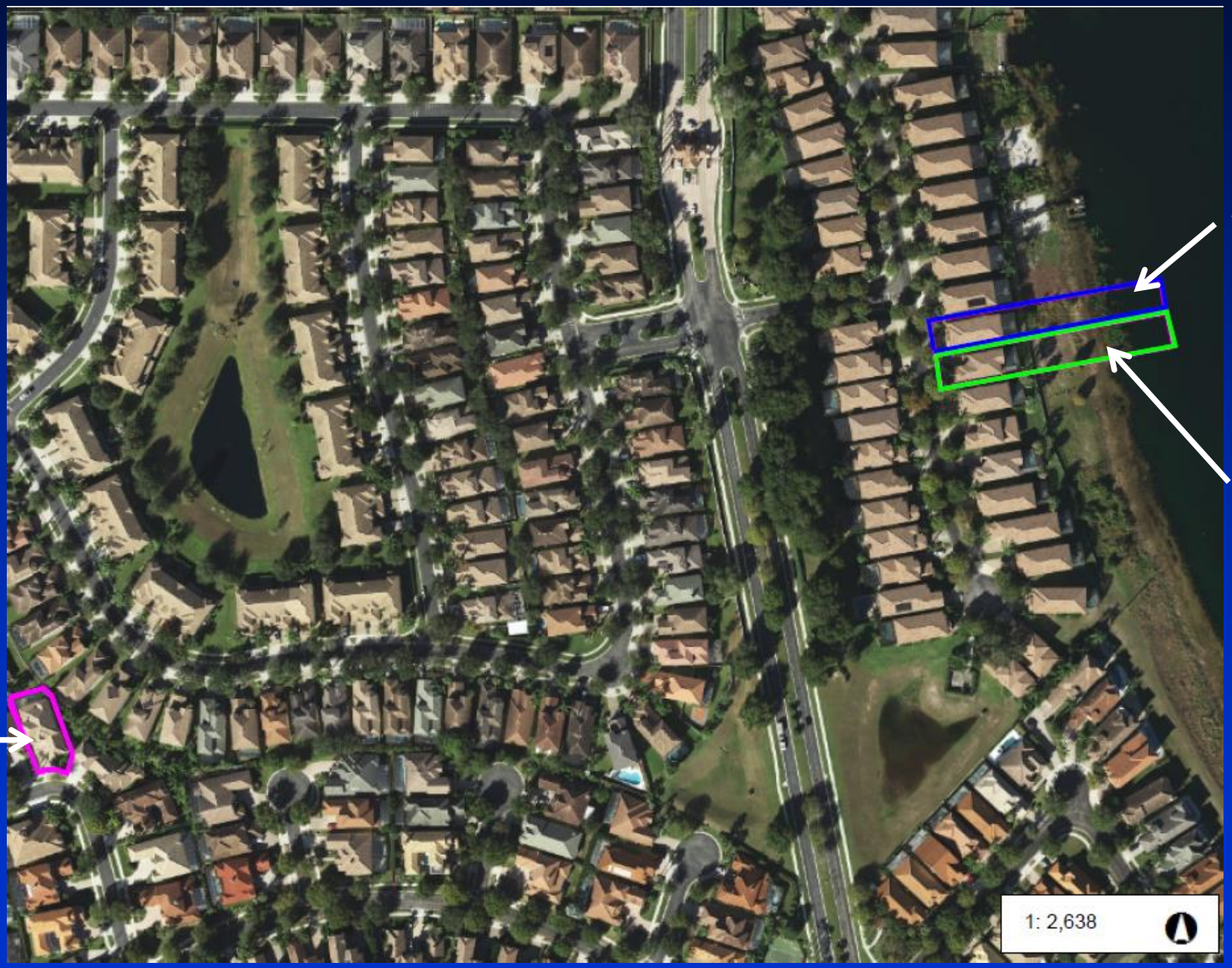
Background

Upon receipt of the two Appeals, EPD met with the County Attorney's Office to discuss the statements made by Mr. Baig and Mr. Divine regarding Mr. Baig's ability to provide testimony at the January EPC hearing.

Environmental Protection Commission Meeting March 29, 2017

EPD recommended the EPC consider "re-hearing" the waiver request to address this concern. EPC agreed to the request and the matter was scheduled for the April EPC meeting.

Background



Applicant
8313 Via Rosa

Hasan Baig
8319 Via Rosa

Sergio Divine
8226 Livorno Dr

Background

April 26, 2017 – Staff presented the waiver request for a second time to the EPC with a staff recommendation of denial, based on the 3 letters of objection. EPC voted to approve the waiver request.

May 15/17, 2017 – EPD received restated Appeals from Mr. Baig and Mr. Divine. The Appeals restated the concerns for property values throughout the community, reduced view of the lake, and the proposed roof.

Waiver Application Considerations

Application reviewed pursuant to Chapter 15, Article IX.

EPC has considered the application twice and approved the waiver request both times.

The BCC may affirm, reverse, or modify the decision of the EPC.

The decision of the BCC shall be final.

EPC Recommendation

On January 25, 2017 and April 26, 2017, the EPC voted to overturn the recommendation of the EPO and approve the request for waiver to Section 15-342 (b) (terminal platform size), and require a payment of $406.00 to the Conservation Trust Fund, for the Via Rosa Trust Permit BD-16-07-079.

Waiver Criteria

Pursuant to Section 15-350(a)(2)…the applicant shall describe:

(1) How this waiver would not negatively impact the environment.

(2) The effect of the proposed waiver on abutting shoreline owners.

Appeal Process

Section 15-349 (b) states…..

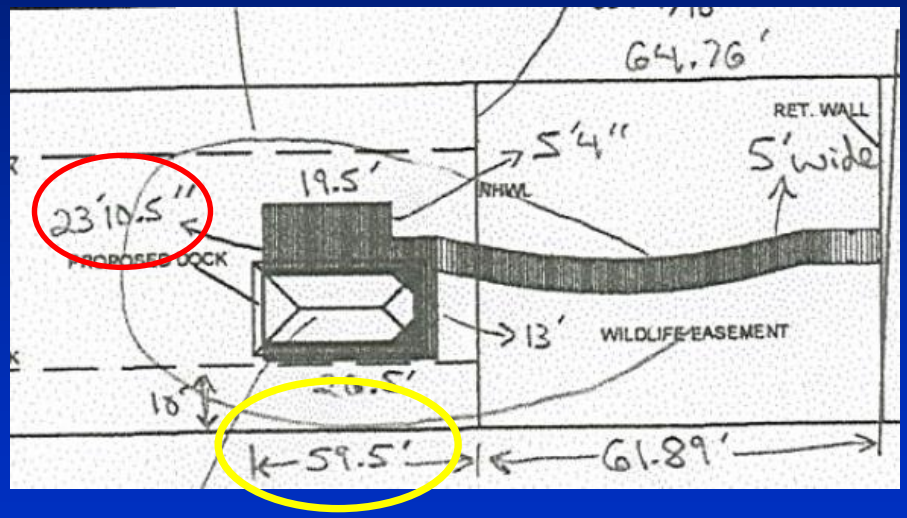
Parties who have previously filed written objections and whose substantial interests are adversely affected by the recommendation of the environmental protection commission may appeal to the board within ten days of the rendering of the recommendation. The appeal shall be filed with the environmental protection officer and shall be scheduled for a public hearing before the board. The notice of the appeal will be provided to the applicant and to parties who have previously objected in writing.

The board may affirm, reverse, or modify the decision of the environmental protection commission. The decision of the board shall be final.

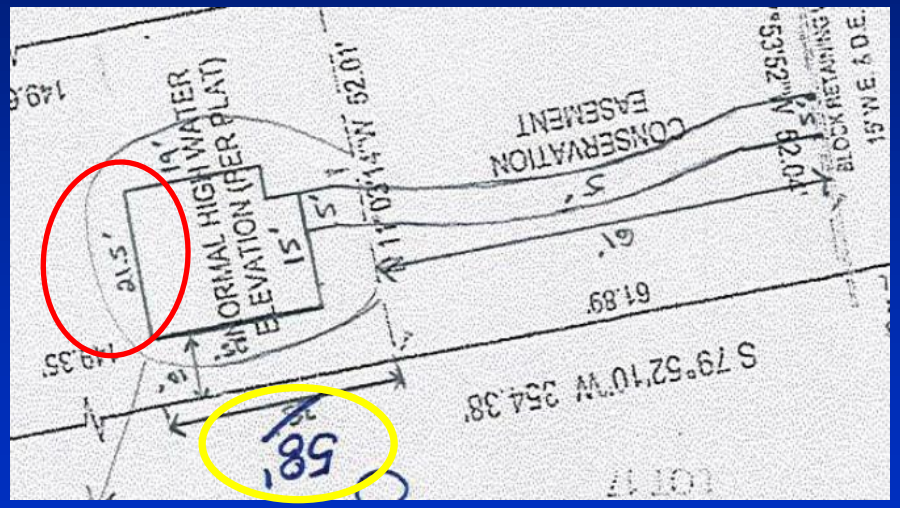
Action Requested

UPHOLD, OVERTURN, OR MODIFY THE RECOMMENDATION OF THE ENVIRONMENTAL PROTECTION COMMISSION FOR APPROVAL OF THE REQUEST FOR WAIVER FOR THE VIA ROSA REVOCABLE TRUST DOCK CONSTRUCTION PERMIT BD-16-07-079. IF UPHELD, THE APPLICANT SHALL PAY $406 TO THE CONSERVATION TRUST FUND.

Proposed Plan vs. Previously Approved Plan



Proposed Plan



Previously Approved Plan