

July 1, 2020 Board of Adjustment Hearing

WEDNESDAY, JULY 1, 2020

5:30 PM

****Core Value of the Month - <INSERT> ****

Please turn off all Cell Phones and like devices prior to the start of the meeting.

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MINUTES**
 - A. October 2, 2019**
- 4. PUBLIC COMMENTS**
- 5. NEW BUSINESS**
 - A. 20-01-VA – The applicant, Shane Cannon, is requesting approval for a variance from the Land Development Code Article 8.05.03.A External Sidewalks which requires the installation of sidewalk along the unimproved Crane Place Right-of-Way. In lieu of placing the sidewalk along the unimproved Crane Place Right-of-Way, the applicant is requesting to provide sidewalk along Azalea Drive beyond his property, where no sidewalk currently exists.**
- 6. OLD BUSINESS**
- 7. NEXT MEETING DATE: August 5, 2020**
- 8. ADJOURNMENT**

If a person decides to appeal any decision made by the City Council, committee, board, panel, or agency with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she will may need to ensure that a record of the verbatim record of the proceedings is made, which record includes the testimony and evidence upon the appeal is to be based. "Persons with disabilities who require assistance to participate in this meeting are requested to notify the City Clerk's Office 850.837.4242 at least 48 hours in advance".

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BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, OCTOBER 3, 2019
5:30 P.M.

1. CALL TO ORDER:

Chairman Weidenhamer called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, October 3, 2019, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLIGENCE:

Present:

Tom Weidenhamer
David Emerson
Casey Waterhouse
Kimberlee Vann Damme
Scott Fischer
James Staley

Staff Present:

Kim Montgomery, Deputy City Clerk
Lauren Witt, Planner
Samantha Brisolara, Planner
Kyle Bauman, City Attorney
Kimberly Kopp, Land Use Attorney

3. APPROVAL OF MINUTES:

A. July 11, 2018

Board member Emerson moved to approve the minutes of the July 11, 2019 meeting as written. Board member Fischer provided the second to the motion and the passed 6-0.

4. NEW BUSINESS:

A. 19-04-AA. The applicant, Joe A. Winkeler of Point Mezzanine, LLC, is requesting an appeal to an administrative decision regarding the requirement of a Major Deviation to the existing Development Order No. 09-17, for the addition of docking facilities with 50 boat slips. The property in question is located in the High-Density Residential Zoning District (HDR) (Parcel #00-2S-24-0000-0034-0000).

Mr. Kyle Bauman, The City Attorney (CA) explained that Mrs. Kimberly Kopp, the Land Use Attorney (LUA) will be representing city staff with Mr. Doug Smith and Mr. Gary Hunter of Hopping Green & Sams, of Tallahassee, Florida representing the applicant, Joe A. Winkeler, Point Mezzanine, LLC. Both the applicant's representatives and the city agreed to waive reading the Notice of the Hearing and the application into the record and moving the entirety of the staff report and attached exhibits into the record as City's Composite Exhibit A. The CA swore in the following individuals for testimony:

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Tim Whalen
Louis Zunguze

Alara Mills-Gutcher
Matthew Trammell

Mr. Doug Smith, Attorney for the applicant, requested the public records request his firm made of the City of Destin to be marked as *Applicant's Exhibit 1*, and entered into the record; the Chairman accepted and entered the exhibit into the record, as requested. The LUA objected with her reasoning that she has not seen any of the exhibits in advance of this hearing and she cannot review the documents now; being that they are on a computer disc as submitted at this hearing.

Mr. Smith then presented excerpts from the Land Development Code (LDC) of definitions, language from Article 2, and language from Article 11, Marina Siting of the LDC as *Applicant's Exhibit 2*; with no objection from the LUA.

According to Mr. Smith, they are appealing Mr. Zunguze's determination and arguing that what they are wanting to build is a private docking facility and not a marina and how they should be able to go forward to the Harbor Board for their review. He then provided the members with the background information on how his client obtained the upland portion of the property which includes a 100-foot dedication of the roadway as part of the Development Order (D.O.). He also mentioned that the slips are being offered for sale to the potential condominium purchasers and would not be sold to third party users to be rented or used for fare carrying vessels. He further explained that there is not one instance, that they could find, where someone who owns the upland property was required to file a Major Deviation to a Major Development Order, which basically requires the applicant to go through the entire approval process again. Pointing out that in accordance with the Marina Siting Ordinance, they do not have to go through that step and therefore; are being forced to appeal staff's determination based on the erroneous assumption by the Community Development Director. Adding that a marina is a defined term in the LDC and is not what they are proposing; what they are proposing is an ancillary docking facility to an adjacent upland condominium development.

Mr. Gary Hunter called Mrs. Alara Mills-Gutcher to provide testimony for the Defendant and asked to enter her resume into the record as *Applicant's Exhibit 3*, with no objection, Chairman Weidenhamer entered the resume into the record as *Applicant's Exhibit 3*.

Mrs. Mills-Gutcher explained to the Board members her background, how she is self-employed and interprets codes for these types of cases regarding how to best work with codes for various cities. She also stipulated for the record that in approximately 2011; she provided services for the City of Destin by helping with the rewrite of the Comprehensive Plan.

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Mr. Hunter asked Mrs. Mills-Gutcher, for purposes of their analysis, to explain what his firm asked her to review. According to Mrs. Mills-Gutcher she reviewed the Development Order that was issued in 2009, as well as various correspondence that occurred over the past year between staff and Council, looked at the Land Development Code; specifically Articles 2 – Development in the city, 3 – Definitions, and 11 – Coastal Management with the Marina Siting section within; as well as the applicant's Harbor Board Application they submitted.

Mr. Hunter asked, based on what she reviewed in those three sections, if she would consider the request for a docking facility as a marina. According to Mrs. Mills-Gutcher she does not, because the definition in the Code refers to them as commercial activities and the request is for residential; since it will be utilized by the people that reside in the condominium adjacent to the site. Adding that there will not be any fare carrying activity or slip rentals, which according to her; is not the intended use of the request.

Chairman Weidenhamer asked for clarification if the docking facility will remain completely empty until the upland condominium development is finished so the condo owners can purchase the slips. According to Mr. Hunter, that is exactly what the intent of the request is for and the City of Destin's Harbor Board will not allow the permit to be pulled for the docking facility until all the permits are approved for the upland residential condominium development. Chairman Weidenhamer then asked who the current owner of the facility is until they are sold. According to Mr. Hunter, that would be the developer and owner of the land for the project. And reiterated that it will not be built until the condo is finished being built.

Back to the testimony of Mrs. Mills-Gutcher, Mr. Hunter asked her if she is familiar with the zoning for the property in question. ***Mrs. Mills-Gutcher replied that the zoning is currently High Density Residential.***

Is it to your knowledge that a docking facility is allowed in the zoning district? ***In the LDC's Table of Allowable Uses for the zone, accessory uses are allowed.***

Are you familiar with any correspondence between the city and the Planning Director that is consistent with your interpretation that says a private docking facility affiliated with the residential condominium is an accessory use? ***There was a letter written several years ago by Mr. Ken Gallander that made that opinion.***

Mr. Hunter, acknowledged the letter dated July 31, 2007 and is included in their packet submitted as ***City's Exhibit A.***

Have you reviewed the Upland Development Order? ***Yes.***

Referring to the one that was issued in 2009, he asked her if there is any aspect of the upland D.O. that limits or places any restrictions on the ability to place docks on the parcel in question. According to Mrs. Mills-Gutcher, ***there was no language in the development order that***

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restricted the use or the construction of an accessory use, such as docks or docking facilities.

He asked her if the Upland Development order provides conditions on the development of the upland site ***There are conditions on the 2009 DO that effects the development of the site.***

And none of the conditions had anything to do with the marina, correct? ***That's correct.***

In the Technical Review Reports, did any of them have limitations for upland docking facilities? ***None did.***

He asked, in her review of the city codes, how does the city approve docks. ***She explained that Article 11 of the LDC regulations has a section called Marina Siting and Section 11.05.00 is about procedures for permitting docks and a list of procedures on how to get docks approved through the city.***

Regarding Article 2, 3 and 11, Mr. Hunter asked, is there anything in the review that would suggest that Article 2 somehow works in conjunction with Article 11, related to the siting of and permitting approval of a marina. ***No, there is no language in Article 2 about permitting docking facilities because that language is in Article 11, specifically, one would look to that Article for permitting docking facilities.***

He then asked if she is referring to the sentence that states, *"This Article establishes and regulates procedures and standards by which the city controls and regulates the development of construction activity within and contiguous to the harbor and waterways of Destin."* ***Yes.***

Mr. Hunter asked, for the record, there is no such provision in Article 2, correct? ***Correct.***

Is there anything in the criteria in Article 2 that has any input for a dock or marina? ***I did not read any.***

Is there anything in your review of Article 2 that would suggest that if you were to come to the city with an upland approved D.O. and add a docking facility that you would have to amend your D.O. associated with that upland development in order to get your dock approved. ***No.***

Are you familiar to what the city's definition of what a Major Deviation is to a development order? ***Yes.***

And did you review that? ***Yes, I did.***

Would you consider the application for a docking facility on this separate parcel to be a major deviation to the upland D.O. you reviewed; based upon the application of the city's code? ***No, there are three reasons on how it can become a Major Deviation within that definition. And none of those conditions apply to this case.***

Mr. Hunter asked her to describe each of those three conditions that are to be triggered as a Major Deviation to a Development Order in the city's code.

- ***Compatibility of the project and whether it has changed the compatibility of the proposed project as existing within the facility***
- ***A determination by the City Manager that there has been a major change or impact.***
- ***The applicant is asking for a change to one of the conditions that was listed in the development order.***

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And are you aware of any of those conditions in the development order. ***Not that I am aware of.***

The LUA Cross Examined Mrs. Mills-Gutcher:

Other than your assistance as a consultant to the city of Destin for the EAR of the Comp Plan, have you ever provided any other assistance to the City of Destin as a planning employee? ***I have not.***

Have you ever been employed as a Community Development Director with the city of Destin? ***I have not been directly employed by the city.***

Have you ever submitted a development application for a developer seeking to develop property in the city of Destin? ***I have not.***

Have you ever submitted a Development Application with the City of Destin? ***I have not.***

In regards to DO 09-17, on the last page of the Development Order is the TRC report; Mrs. Kopp asked that she read from page 5 of 12 into the record. Mrs. Mills-Gutcher read, from page 5 of 12 is the TRC Report ***“This request does not include any piers, docks, boat slips, or marinas.”***

So, given that the request did not include and piers, docks, boat slips or marina. In your experience; can a condition be placed on a pier, docks, boat slip or marina if it was not reviewed as part of the request. ***If it was not included, the staff could not have to reviewed it to begin with.***

With no further questions, the CA informed Mr. Hunter that he could call his next witness.

Mr. Hunter called Mr. Matthew Trammell and asked that he state his occupation experience, level of education.

Mr. Trammell stated for the record that he is a Senior Coastal Engineer employed at Taylor Engineering, has an undergraduate bachelor's degree in Civil Engineering from the University of Florida, a master's degree in Coastal Oceanographic Engineering from the University of Florida and graduated in 2004. He explained further that he entered into the consultant field shortly thereafter and has been in practice ever since, primarily focusing on Coastal Engineering Works in the southeast, was born and raised in the City of Destin and activity employed for the last 14-15 years specializing in dredging projects, marina waterfront facilities, and beach restoration.

Mr. Hunter submitted into the record Mr. Trammels résumé as ***Applicants Exhibit 4***, with no objection. Mr. Hunter asked Mr. Trammell if he has any experience in siting docks in the city. According to Mr. Trammell, he has had vast experience in all the waterways of Destin and the waterways adjacent to the city.

Are you a member of the city's Harbor & Waterways Board? ***I am.***

And part of that; do you review applications for marinas? ***Yes, we do.***

And how many do you think you have been involved in? ***Approximately 10-12.***

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And have the properties been both marinas as defined in the city LDC and private dock facilities as differentiated in the code from marinas? ***Yes, myself and the company that I work for have experience permitting residential private docks as well as commercial facilities within the Destin Harbor and other Destin waterways.***

Have you ever had to process a dock application within the city that involved Article 2 of the city's LDC? ***Not to my knowledge.***

In your experience, both as a permitting engineer or projects within the city as well as your service on the Harbor Board, have you ever had a dock permit yourself that involved Article 2 of the LDC? ***I do not recall, no projects come to mind.***

And all of the applications that you have been involved in as an Engineer or as a reviewer on the Harbor Board have been a part of Article 11 of the LDC? ***Yes, they have.***

Please describe generally, how as an Engineer or Project Manager on a marina application with the city, how you would go about getting that marina or docking facility approved before the City of Destin. ***There are specific processes in Article 11, the Marina Siting Ordinance that outline the application requirements. Adding that most of the projects that he and his company work on require authorization by both the Department of Environmental Protection, the State regulatory agency and the Army Corp of Engineers, the Federal Regulatory Agency. They review their criteria as well as the criteria in the City's LDC and ensure that the marina meets the requirements. And typically, they retain the FDEP and ACOE authorizations, as they are required prior to the application and once obtained, they make application with the Harbor Board; which reviews and make recommendation to City Council.***

And is the process that you follow to approve the request is in Article 11 and not Article 2? ***Yes.***
Are you familiar with the city's definition of a Marina and Marina Commercial? ***Yes.***

And are you familiar with the dock application of the Point Mezzanine project? ***Yes, Taylor Engineering is the Agent for not only the State and Federal applications but also for the City of Destin.***

In looking at the definition for marinas, is there any aspect of that application that you assume meets the definition of a marina? ***No, we did our best to refer to the proposed docks as private docking facilities.***

And in your opinion, the fact that they're private docking facilities, they're excluded in the definition of marinas. ***Yes, looking at the definition of marina commercial, marinas, or slips fare carrying, I do not feel it meets the definition of either of those.***

And why do you think that? ***A private docking facility and solely to support the upland development of the condominium as stated in the FDEP application for the submerged land lease from the State of Florida for the subject property.***

Is any part of the docking facility to be used as a rental; to your knowledge. ***No, and that is not authorized by the FDEP authorization.***

Is any part of the docking facility to be used for fare carrying vessels as the term is defined in the city's code? ***No, it is not and that is also specifically excluded from the permit within the***

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FDEP authorization.

Board member Staley asked Mr. Trammell, in comparison to the immediate area, how large is the request. ***According to Mr. Trammell the size is very similar in scale to the neighboring marina at East Pass Towers.***

In cross, Mrs. Kopp asked Mr. Trammell that as the Chairman of the Harbor and Waterways board, does he ever recall any applications for an upland development order without a docking facility included. ***According to Mr. Trammell he does not recall any.***

With no more witnesses to provide testimony for either side, the CA informed the Board members that the applicant has the burden to prove by preponderance of the evidence that the Community Development Director's decision was incorrect.

With no objection from the city, Mr. Hunter submitted the following documents into the record:

- ***Applicant Exhibit #5***, February 19, 2019 Letter from Mr. Zunguze to Taylor Engineering regarding the application to the Harbor Board.
- ***Applicant's Exhibit #6***, Letter dated February 19, 2019 from Mr. Smith and himself to Mrs. Kopp regarding the same issue.

In presenting the case to the Board for the City's Appeal, Mrs. Kopp's explained that the city never informed the applicant that they could not proceed with their development; in fact, she explained the developer can proceed to apply to pull permits with his existing Development Order 09-17; which is included in their agenda package. Additionally, she explained to the members that the applicant has never been told that he cannot have a docking facility or marina on the subject property. However, what the city requires of the applicant is for him to follow the appropriate procedures for the development that he wishes to put on the site, as set forth in Article 2 of the LDC and this is what the applicant has taken issue with regarding the process to obtain the docking facility. She explained, the city requires the applicant apply for a Deviation or an Amendment to the existing D.O. because, their D.O. specifically excludes a marina, docks and piers. And a docking facility was not considered when the D.O. application was reviewed. Therefore, the project as a whole must be considered as a D.O. Amendment to include the uses that were not included at that time. She spoke of how the term "marina" has been used by both the applicant and staff, and everyone agrees that the docking facility requires a residential component. She then spoke of the zoning district, High Density Residential (HDR) and how it prohibits all non-residential uses and regardless how the applicant wishes to classify the proposed project as either marina or docking facility, the bottom line is without a residential component; it is not allowed in the HDR zoning district. So, the three options that the applicant

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can take are:

- Apply to develop the docking facility without a residential use component and get denied; since it's not allowed in the zoning district.
- Apply to develop the docking facility with a residential component. According to their testimony, that is what they are doing. Which means they would have to amend their D.O. because since there is a D.O. for a residential facility that excludes the dock, pier, or marina. And it would have to be reviewed together for planning practices and city codes; which is how Land Use Development works.
- Request to the City Council to amend the LDC to allow the proposed use in the HDR Zoning District.

She asked the members to not get confused with other docks that have been approved in the city. Adding that the city has reviewed its records and there is not one case specifically that the city is aware of, and Mr. Trammell testified to, where a dock has been approved at the Harbor Board level, where an existing D.O. on the property that has the same condition as D.O. 09-17. She added that if there were another D.O. in the city that excludes docks, piers, or marinas with their residential development; the city would require an amendment to the D.O. to develop a dock, pier or marina. Cautioning the members to not be confused or mislead into thinking that the applicant has been treated differently than anyone else because everyone else does not have the same D.O. condition.

In summary, the LUA explained that the city has not denied the applicant, but merely informed them of the appropriate process. Which is, a docking facility must have a residential component and the D.O. for the residential component specifically excludes docks, piers, and marinas and as such, it must be amended. Therefore, we respectfully request that you affirm the Community Development Directors determination.

She then called Mr. Zunguze as the city's first witness.

The LUA asked Mr. Zunguze's experience and past work history.

Mr. Zunguze responded that he has practiced in Planning for the past 25-years and holds a Master's in Planning and Regional Development. He has practiced in three different continents around the world; Europe, Africa and in North America; in the west, east and the south.

The LUA asked Mr. Zunguze to summarize his interpretation of the code as to the process that is required for a docking facility or marina on the site.

According to Mr. Zunguze the request would need to go through the appropriate channels

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for the city to be able to review all the impacts associated with development and adhere to the ordinances that must be upheld.

The LUA asked Mr. Zunguze the following questions:

Given that in the D.O., the request does not include a pier, dock, boatslip or marina for the development of the condo; would there be a possibility for conditions regarding those uses to be included in the D.O.? **No.**

Can a planner determine if there are effects on an upland development by the addition of a docking facility, without reviewing a docking facility at the same time as the upland development? **No, that is why the need for reviews are a requirement.**

So, they can determine what the impacts may be. What type of impacts could take place? **There could be additional parking requirements, stormwater issues, concurrency issues; which are all considered when the city is reviewing a development.**

Not necessarily this project, but could there also be environmental concerns as well, that would have to be considered. **Yes.**

Is it safe to say that there may have been additional conditions in the D.O. if a dock, pier, boatslip, or marina was included in the request? **Yes, that is possible.**

And are you aware of any application that went to the Harbor & Waterways Board that had a D.O. with similar conditions or the same as this one. **No.**

Assuming this is not a marina, it's a docking facility with a residential component; would it be allowed in the HDR zoning district. **No, and I think the express intent of the residential district would preclude that.**

The LUA then asked Mr. Zunguze to explain what the proper process is for this particular case with a docking facility or marina on the site; as an accessory use to the condo. **Mr. Zunguze explained that because there is an existing D.O. for the parcel, it requires them to make application to amend the existing D.O. to include the docking facility and whatever else they may need in their proposal. This allows staff to review all the components of the request to ensure all potential impacts are reviewed properly.**

The City Attorney advised the board members that if they have any questions for Mr. Zunguze, now is the time to ask them.

Board member Weidenhamer asked if the upland residential condominium was already constructed, and they were proposing to add the docking facility; what would be the review process? **Mr. Zunguze replied they would still have to go through the amendment to the existing and permitted upland D.O. and staff would be reviewing what potential impacts the new addition to the site would be; if any.**

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With no further questions from the board, the City Attorney informed the applicant's legal team that it's their turn to cross examine Mr. Zunguze.

Mr. Doug Smith handed Mr. Zunguze his February 2019 letter to Mr. Matthew Trammell of Taylor Engineering where he notified him that what he referred to as a marina, is being pulled from the February agenda. He asked after hearing tonight's testimony, if he has changed his mind in what he still considers what the applicant is proposing; is to construct is a marina. ***According to Mr. Zunguze, for the purposes of the code, he still considers it to be a marina as does the applicant's documents and witnesses, whose earlier testimony was calling it a marina.***

In City's Exhibit A, which is the agenda packet, Mr. Smith referred everyone to the FDEP permit for the Harbor Board Application, that specifically refers the project as a 56 slip private docking facility, and if any part of the application, where slips numbering 40 or more, would be set aside for fare carrying vessels.

The LUA objected to the question based on the grounds that at this point, they have already discussed at length if this is a marina or a private docking facility, and regardless, the D.O. has to be amended.

Mr. Smith contended that what they are asking of the Board is for clarity that they are not asking for a marina. What they are asking for is a private docking facility; because ultimately that determination would affect what review process they must go through; in order to get the approval.

Chairman Weidenhamer asked for clarity that the way he understands the issue, is that if the 79 unit condominium building was built and completely sold out, and the applicant came to the city and proposed the private docking facility, the request would reopen the D.O. on the existing building. ***Mr. Zunguze replied that is a correct assumption.*** The Chairman then pointed out that if the proposal for a private docking facility would reopen the D.O. on an already sold out building, then why do they contend that it would not on something that hasn't even been built yet.

According to Mr. Smith there are differences of opinion between the way they interpret the code and staff's determination, that he will touch on later as to why they think Mr. Zunguze is wrong. Also, he will demonstrate that what they are proposing does not trigger a Major Deviation review; based on the plain language of the code.

Board member Emerson asked Mr. Smith, do you not agree that the original D.O. says

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that there would be no docks? Mr. Hunter contended that the original D.O. does say that there are no docks in the request. Mr. Emerson said, and now you are requesting a dock so isn't that a change to the D.O.? According to Mr. Hunter, it would constitute a development in the LDC but in the LDC, docks are only reviewed under Article 11. Mr. Emerson responded that regardless which Article, a dock is a dock and to him, if the original D.O. says there cannot be a dock and they are wanting to put in a dock; then that constitutes a change to the original D.O.

The CA reminded everyone that there is an objection on the floor that needs a ruling; ***Chairman Weidenhamer sustained the objection.***

Mr. Smith then asked Mr. Zunguze is there anything in the application that suggests to you that they plan on renting slips to third parties?

The LUA spoke up and referred the Board to City's Exhibit A, Attachment 5, labeled document submitted by Mr. Trammell of Taylor Engineering, is marked as a proposed marina site plan on the 5th & 6th pages.

Mr. Smith asked Mr. Zunguze, based on that reference, did you conclude that there is a plan to rent out the docks. ***No, he reviewed it based on the context of the code, that a docking facility or a marina would still need an amendment to the existing D.O. and that the Harbor Board was not the appropriate process to go through for the request.***

Mr. Smith referred Mr. Zunguze to the definition of a Major Deviation; and asked is there anything that the developer proposes to do to the upland parcel that would change the building or upland design that was approved with the D.O. ***A fifty or so docking facility would have indications to the existing D.O.***

Mr. Smith asked Mr. Zunguze to focus strictly on the upland building, is the Developer still proposing to build the building and the improvements proposed in the D.O. are exactly as set out in the D.O. ***No, because the D.O. did not include docking facility.***

Is there any condition of approval in the original D.O. expressly imposed by the City Council that is being changed as a result of this proposed docking facility? ***Mr. Zunguze replied that he cannot answer that question without an application in order to make that determination. And is why he informed the applicant that they need to make application. Adding that the scope is more than 10,000 square feet of the approved D.O and it needs to be reviewed because, the proposed docking facility may have further impacts.***

Mr. Smith then asked, based on the language of the TRC report that says no docks are

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being requested for the D.O., is that your sole bases for saying that a Major Deviation is required? ***Mr. Zunguze replied that the scope of the current project, as outlined in the D.O., and the proposed docking facility, given the size of it; is a large project that needs to be reviewed as a whole.***

With no further questions from either side, the CA asked the chairman to open the public portion of the hearing. Chairman Weidenhamer opened the public portion, seeing no one in the audience, he closed the public hearing.

According to the LUA, the city agrees that the applicant has the burden to show that the Community Development Director was incorrect in his review of the application and interpretation of the city's code. She reiterated that city has not denied the applicant, but merely informed them of the proper process to follow for the review. Adding, this has been explained to the applicant that the reason the review process is under Article 2 of the LDC is because there is already a D.O. for the upland development that specifically states no docks, no piers, no boat slips, and no marinas. And regardless, if it's either of those does not matter. Had there not been a D.O., there may been other issue however, they have already testified that it's going to be built in accordance to the upland development. Therefore, you must look at the project as a whole. And an amendment is required to the D.O. They cannot put a docking facility whether it's a boat slip, marina, dock or pier on the property without a residential component and since there is already a D.O. for the residential component; that is why an amendment to the D.O. is required. Additionally, the applicant can petition City Council for a code amendment to allow the 50+ docking facility in the HDR zoning district however, as it now stands, what they are wanting is not allowed in the zoning district without the residential component and is why the Major Deviation to the D.O. is required.

Board member Emerson asked the LUA if the wording of the TRC report from 2009 is a part of the Development Order. According to the LUA, it is, and referred him to look at the bottom of page 5 of 12, and stated that it is an integral part of the D.O.

In closing arguments Mr. Smith stipulated that they are only asking to be treated as everyone else has been treated. That requests for docks or marinas in the Harbor goes through the Harbor & Waterways review process under Article 11, and then before City Council under the Consent Agenda for their consideration of the approval. Adding that what they are requesting is compatible to the surrounding properties and to suggest otherwise is farfetched that a docking facility, in the harbor, in the city; is incompatible.

Chairman Weidenhamer asked Mr. Smith, theoretically speaking, if a case came before him and he made a determination regarding the case and then several years later additional

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information was provided to him, regarding that case, would he feel entirely comfortable that his decision was accurate, even though he didn't have all the information presented to him at that time. Or would you feel that you need to review the entire case again based on all the additional information presented.

According to Mr. Smith, applicable to his facts, they are entitled to go through the process that the code provides, applying to the Harbor Board. And if they were to change anything of what has already reviewed on the upland development then they would agree to the deviation, but they are not asking for anything to change on that upland development at all.

Board member Waterhouse asked Mr. Smith, in relation to his comment that there are residential upland developments in the harbor that have docking facilities or marinas that were approved; would he please bring those to their attention. According to Mr. Smith he believes that the project called Harbor Lights comes to mind. Board member Waterhouse asked for him to provide the Development Order for that property so they could review it. According to Mr. Smith, they are on the disc that they handed out as an exhibit, but currently, he does not have a copy to provide to them to review.

Chairman Weidenhamer asked if there is any further additional public discussion to present, having none the closed the evidentiary public session.

The CA informed the members that now is the time for them to start their deliberations and to ask any further questions they may have.

The Chairman asked if they have a D.O. with docks, is it correct that the Planning Dept would review it as a whole to determine if the docks may add additional requirements. According to the LUA, that is exactly what Mr. Zunguze testified to earlier, that this request may have additional impacts on the development that staff would need to review.

With no further questions, the chairman closed the deliberations for the Board and called for a motion.

Board member Fischer made the motion to affirm the decision of the Community Development Director dated July 29, 2019 with Board member Emerson providing the second. A roll call vote of 6-0 was taken and the motion passed.

The CA informed the applicant that under Section 2.25.11 of the City Code, that any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any officer, department, board, commission, or bureau of the City, may apply to the circuit court

DRAFT

for judicial relief within 30-days after rendition of the decision by the Board of Adjustment. Review in the circuit court shall be by petition for writ of certiorari, which shall be governed by the Florida Appellate Rules.

Mr. Hunter asked for clarification, that they will be issued a written order affirming the decision of the Board, which triggers the 30-days. According to the CA, in Section 2.25.12(H)(9) when the board passes a motion granting or denying the application, the result pronounces the order of the board, for the purposes of granting or denying the relief requested, and commences the time for filing an appeal to such order.

6. OTHER BUSINESS: Next meeting, November 6, 2019; if there are matters to come before the Board.

7. ADJOURNMENT:

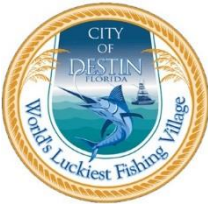
There being no further business the meeting was adjourned at 8:15 p.m.

Adopted and approved this _____ day of _____ 2019.

Tom Weidenhamer, Chairman

Kim Montgomery, Deputy City Clerk

CITY OF DESTIN



AGENDA ITEM

BOARD OF ADJUSTMENT MEETING DATE: July 1, 2020

TYPE OF AGENDA ITEM: Public Hearing

TO: Board of Adjustment Members

THRU: A. Louis Zunguze, Community Development Director
Kimberly Kopp, City Land Use Attorney
Lauren Witt, Principal Planner

FROM: Samantha Brisolara, Planner
Traci Goodhart, Planner

DATE: June 17, 2020

SUBJECT: 20-01-VA – Variance Request for Sidewalk along Unimproved Right-of-Way

I. ISSUE: The applicant, Shane Cannon, is requesting approval for a variance from the Land Development Code Article 8.05.03.A *External Sidewalks* which requires the installation of sidewalk along the unimproved Crane Place Right-of-Way. In lieu of placing the sidewalk along the unimproved Crane Place Right-of-Way, the applicant is requesting to provide sidewalk along Azalea Drive beyond his property, where no sidewalk currently exists.

II. BACKGROUND:

Applicant: Shane Cannon, Owner

Location: The subject property is located generally at the southeast corner of Melvin St and Azalea Dr.

Size of Property: 4.58 acres

Parcel ID Number: Parcel #00-2S-22-0310-000E-E170; 00-2S-22-0310-000E-E17B; 00-2S-22-0310-000E-E17A

Current Zoning: Residential, Office, Institutional – Village Residential (ROI-VR)

Future Land Use

Map Classification: Residential, Office, Institutional – Village Residential (ROI-VR)

Legal Notice: The request for a Variance was submitted for publication in the *Destin Log*

June 15, 2020, with publication dates of June 20, 2020, and June 24, 2020.

Request: The Applicant is requesting approval of a variance from the Land Development Code Article 8.05.03.A *External Sidewalks* which requires the installation of a sidewalk along the unimproved Crane Place Right-of-Way. In lieu of placing the sidewalk along the unimproved Crane Place Right-of-Way, the applicant is requesting to provide sidewalk along Azalea Dr beyond his property, where no sidewalk currently exists.

The Applicant is requesting a variance based on the following (in bold font) provisions of the Land Development Code (LDC):

Article 8, Section 8.05.03.A External Sidewalks

Developments abutting a public or private right-of-way shall provide sidewalks running the full length of any roadway frontage directly adjacent to the site. Sidewalks shall be constructed within the right-of-way whenever possible. However, where it is not possible to construct the sidewalk within the right-of-way either wholly or in part, the entire sidewalk or remaining portion thereof shall be constructed on the subject property. If any portion of a public sidewalk is located on private property, then a public sidewalk easement shall be required prior to the issuance of any certificate of completion or occupancy. Stormwater runoff generated by the sidewalk located within the public sidewalk easement shall be satisfied in the adjacent right-of-way. All sidewalks shall be five feet in width and shall remain unobstructed by benches, bike racks, street lights, street trees, trash receptacles, drinking fountains, planter boxes, newspaper boxes, historical or location/information markers, passenger shelter for transit stops or other barriers to pedestrian movement.

III. DISCUSSION:

The applicant is required to place roughly 1,991.5 square foot of sidewalk along the unimproved Crane Place right-of-way. The Crane Place right-of-way is not in the City's five-year Capital Improvements Plan (CIP) to be improved. Due to the nature of the topography and the elevation change of 23 feet in less than a 30-foot section of the site, providing a sidewalk that meets accessibility for the disabled would be impracticable and physically infeasible.

The applicant is requesting instead to place approximately 2150.76 square feet of external sidewalk to the established pedestrian corridor of Azalea Dr where no sidewalk currently exists in lieu of placing the sidewalk along the unimproved Crane Place right-of-way.

IV. FINDINGS:

According to the LDC, Article 2, Section 2.25.03.C., In order to approve variance requests, the Board of Adjustment must find:

- 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.**

Applicant's response: "There is unique topography in the Crane Place right-of-way that prevents the installation of a sidewalk. There is a total of 23ft of grade change in the Crane Place right-of-way."

Staff Findings: In order to obtain ADA compliance for a sidewalk along the unimproved Crane Place right of way, there would need to be a 12-foot running slope for every 1 foot of elevation. Given the topographic elevation changes of the land, the elevation change of 20 feet within a 30-foot section is such that switchbacks would be required that would take portions of the 60 foot right of way needed for a potential future roadway along Crane Place. The change in grade makes the sidewalk along the unimproved Crane Place impracticable and infeasible.

B. That special conditions and circumstances do not result from actions of the applicant.

Applicant response: “The topography of the property is natural and not the action of the applicant.”

Staff Findings: The topography of the site is a natural condition that was not caused by actions of the applicant or development of the site. The swift change in elevation is from natural occurrences.

C. That granting the variance requested will not confer on the applicant any special privilege that is denied by and zoning ordinance to other lands, buildings, or structures in the same zoning district.

Applicant Response: “Since the applicant is agreeing to install equal or more square footage of sidewalk in a more useful and appropriate area, the applicant will not receive special privilege.”

Staff Findings: The applicant will not be granted any special privilege. In lieu of placing the required sidewalk along the unimproved Crane Place right of way, the applicant will place the required square footage along the established pedestrian corridor on Azalea Dr. As such, no special privilege is granted to the applicant.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance would work unnecessary and undue hardship on the applicant.

Applicant Response: “If sidewalk were installed in Crane Place ROW, it would create an unsafe conditions due to steep slopes, ADA provisions could not be met, and construction would infringe on the single family homes along the right-of-way with substantial grade changes.”

Staff Findings: Placing sidewalk along the unimproved Crane Place right of way would create undue hardships on the applicant. Due to the elevation changes along the unimproved Crane Place right of way, placing a sidewalk in that location would require switchbacks at a 12-foot running slope for every 1-foot change in elevation. If the City ever improved the Crane Place right of way, there would be no room for switchbacks and an improved roadway. To that end, a literal interpretation of the provision of this requirement would deprive the applicant.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Applicant Response: “Applicant has agreed to install required sidewalk quantity in another location to ‘offset’ the receipt of the variance.”

Staff Findings: If granted, the variance would allow the applicant to place the required square footage

of sidewalk along the established pedestrian corridor of Azalea Drive. This creates additional connectivity for Azalea Drive and Melvin Street. Additionally, placing the sidewalk along the established Azalea Drive pedestrian corridor would also allow for additional public use than that of the unimproved Crane Place right of way.

F. That the grant of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare

Applicant Response: “In the interest of public welfare, the applicant believes that the relocation of the sidewalk will better serve the city and public by providing interconnected pedestrian infrastructure in a needed location.

Staff Findings: The Crane Place right of way is currently unimproved. There is no future intent within the City’s CIP to improve the Crane Place right of way, as it is adjacent to only two residential properties. Allowing the relocation of the sidewalk from the unimproved Crane Place right of way to the established pedestrian corridor of Azalea Drive would better serve the public through creating a completed sidewalk connection from Melvin Street to Benning Drive.

V. CONCLUSION: Staff’s concluding opinion is that:

- a) the topography of the site is unique to the unimproved Crane Place right of way;
- b) the special conditions and circumstances do not result from actions of the applicant and is of natural causes;
- c) the applicant will not be granted special privilege as the required square footage of the sidewalk on the unimproved Crane Place right of way will be moved to the established pedestrian corridor on Azalea Drive;
- d) that placing the sidewalk on the unimproved Crane Place right of way would be impracticable and physically infeasible;
- e) that the variance, if approved, would provide better mobility and connectivity between Melvin Street and Benning Drive;
- f) that in lieu of installing the sidewalk along the unimproved Crane Place right of way and, instead, placing the required square footage of sidewalk along the established pedestrian corridor of Azalea Drive would better serve the public and create a complete sidewalk connection from Melvin St to Benning Dr.

VI. RECOMMENDATION: Staff recommends approval of the proposed variance request 20-01-VA.

VII. RECOMMENDED MOTION: It is hereby moved that the Board of Adjustment approve Variance 20-01-VA.

Exhibits:

- A. Variance Application 20-01-VA
- B. Proposed Sidewalk Rearrangement Exhibit



Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-837-4242 | Fax: 850-460-2171 | www.cityofdestin.com

June 15, 2020

Subject: Notice of Public Hearing – Variance Application – Harbor Place Townhomes generally located at the Southeast corner of Melvin St and Azalea Dr.

City of Destin Project Number: 20-01-VA

Dear Property Owner:

The purpose of this letter is to notify you of a Variance application received by the Community Development Department. The Variance application seeks Board of Adjustment approval and relief from Land Development Code Article 8, Section 8.05.03.A, *Sidewalk Specifications; External Sidewalks*. **This is not a hearing regarding project approval, but for a variance regarding placement of a required sidewalk along an unimproved right-of-way.**

The Application will be heard by the Board of Adjustment at 5:30 p.m. at Destin City Hall, 4100 Indian Bayou Trail on Wednesday July 1, 2020. As an owner of property located within 300 feet of this project, Article 2.17.00 of the Destin Land Development Code (LDC) requires a written notice providing you the following information.

This notice is for informational purposes only. No action is required on your part.

1. Name of Owner: Shane Cannon, Property Owner.
2. Name of Agent: Dean Burgis, PE
3. Address of Project: Project is generally located at the Southeast corner of Melvin St. and Azalea Dr.
4. Parcel ID Number: 00-2S-22-0310-000E-E170; 00-2S-22-0310-000E-E17B; 00-2S-22-0310-000E-E17A
5. Project Description: This is an application requesting a variance from the sidewalk requirement along the unimproved Crane Place right-of way. In lieu of placing the required sidewalk on the unimproved Crane Place right-of-way, the applicant is requesting to place the required sidewalk along a portion of Azalea Drive where no sidewalks currently exist.
6. Location Map: Please refer to the back of this letter.
7. Location of Application Package: Project application and related materials are available for public review. Please bear in mind the City Hall Annex Lobby is currently closed to the public. To request a digital copy of the application package be sent to you, please fill out a request online: <http://www.cityofdestin.com/forms.aspx?fid=121>

If you have any questions, please do not hesitate to contact the Planning Division at (850) 654-1119.

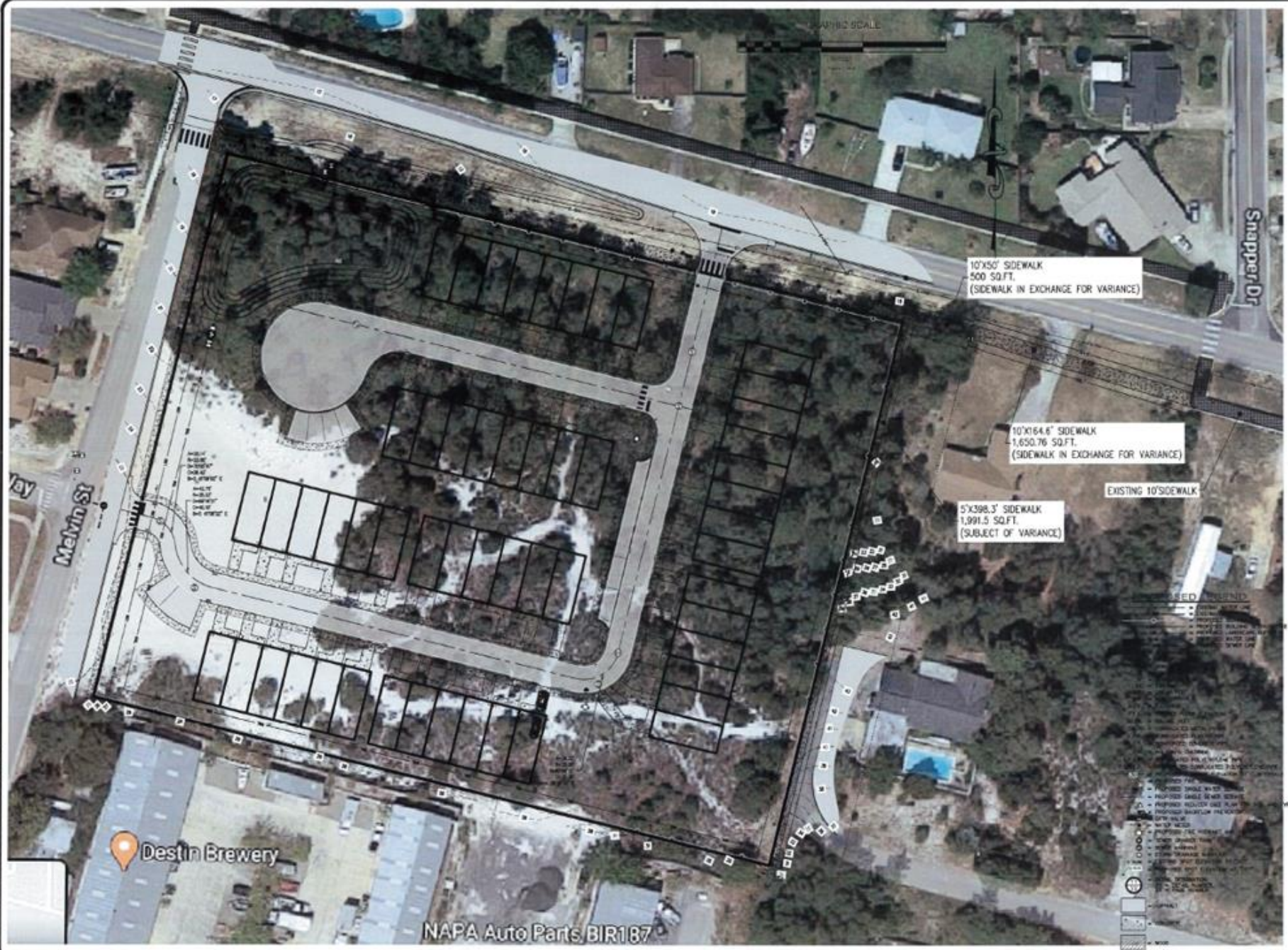
Sincerely,

Samantha Brisolara

Samantha Brisolara

Planner





www.ecanfl.com

Emerald Coast Associates Inc.
 Lead Planning • Engineering • Surveying
 327 South G St, Ste 300
 Destin, FL 32132
 P: (850) 267-0075 F: (850) 267-0076

REQUESTED BY: DAVID LAMON

HARBOR PLACE TOWNHOMES
 100' WIDE TOWNHOMES
 OF NAL UNIVERSITY, FLORIDA

VARIANCE EXHIBIT

NO.	DESCRIPTION	DATE
1	1.10' WIDE SIDEWALK	10/1/2018
2	2.10' WIDE SIDEWALK	10/1/2018
3	3.10' WIDE SIDEWALK	10/1/2018
4	4.10' WIDE SIDEWALK	10/1/2018
5	5.10' WIDE SIDEWALK	10/1/2018
6	6.10' WIDE SIDEWALK	10/1/2018
7	7.10' WIDE SIDEWALK	10/1/2018
8	8.10' WIDE SIDEWALK	10/1/2018
9	9.10' WIDE SIDEWALK	10/1/2018
10	10.10' WIDE SIDEWALK	10/1/2018

NOT VALID WITHOUT THE
 SIGNATURE AND SEAL
 OF A LICENSED ENGINEER
 OR PROFESSIONAL ENGINEER

Dean A. F. Burdick
 DEAN A. F. BURDICK
 PROFESSIONAL ENGINEER IN FLORIDA

PROJECT
18-433

SCALE: 1" = 30' DRAWN BY: JAM
 CHECKED BY: JAM
 DATE: 10-18-18 CHECKED BY: JAM

SHEET
 1 of 1



Community Development Planning Division

4200 Indian Bayou Trail | Destin, FL 32541 | Phone: 850-654-1119 | Fax: 850-460-2171 | www.cityofdestin.com

June 17, 2020

Emerald Coast Associates
c/o Dean Burgis
327 County Hwy 393 S
Santa Rosa Beach, FL 32459

**SUBJECT: Completeness Review –20-01-VA Harbor Place Townhomes Variance
Corner of Azalea and Melvin Dr (00-2S-22-0310-000E-E170; 00-2S22-0310-000E-E17A; 00-2S-22-0310-000E-E17B**

Dear Mr. Burgis:

We received a submittal of a Variance Application for a variance from Article 8.05.03.A of the Land Development Code for the subject property on June 9, 2020. Our review of your submittal package was found to be COMPLETE.

In accordance with *Section 2.07.00.B, Land Development Code (LDC)*, this letter is provided to inform you of your application submittal's completeness. **Your meeting date is tentatively set for July 1, 2020 at 5:30 PM in the City Hall Annex Council Chambers located at 4100 Indian Bayou Trl, Destin, FL 32541.**

Furthermore, *Section 2.17.00.B, LDC* requires a sign meeting the following requirements to be posted on the subject property:

1. The sign must be prominently placed on the development site and shall not be located further than five feet from the adjacent right-of-way. The required content of the sign shall be legible as viewed from the adjacent right-of-way.
2. The sign shall not be larger than 24 inches X 36 inches.
3. The sign must clearly indicate the name of the project, name of the applicant, and 24 hours a day, seven days a week emergency contact phone number of the responsible party for said development site.
4. The sign must be continuously on the property of the development site and shall be removed from said property within five working days after the issuance of Certificate of Completion or Certificate of Occupancy (whichever applies).
5. Email a copy of the Posting of Property Affidavit along with a photo of the sign in relation to the Right-of-Way to planning@cityofdestin.com.

Please include the meeting date, time, and location on the sign.

If you have any questions or comments about this letter, please feel free to call (850) 654-1119 or e-mail them to me (sbrisolara@cityofdestin.com) at your convenience.

Sincerely,
Samantha Brisolara
Samantha Brisolara
Planner





City of Destin

Community Development Department

Planning Division

City of Destin Annex
4100 Indian Bayou Trail
Destin, Florida 32541

Phone (850) 654-1119 • Fax (850) 460-2171

www.cityofdestin.com

REQUEST FOR BOARD OF ADJUSTMENT PUBLIC HEARING VARIANCE APPLICATION

20 – 01 – VA

(project number assigned by planning staff)

All applications must be emailed or shared with planning@cityofdestin.com.

A pre-application meeting is required prior to submitting this application. If a pre-application meeting has not been held, the application is considered incomplete and will not be processed. Completed applications shall be emailed or shared with planning@cityofdestin.com. Hearings are scheduled on the first Wednesday of each month at 5:30 pm in the City Hall Boardroom. Submittal deadlines are the first Wednesday of each month, one month prior to the desired meeting date. Submittal by this date does not guarantee a specific meeting date. This application will be forwarded to the Board of Adjustment for their consideration and action. You will be advised of the date and time of the Board of Adjustment public hearing. You must appear at this hearing or be represented by an authorized agent or attorney for the Board of Adjustment to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, unless you have provided written notice to the Planning Division. If you designate an agent or attorney to represent you in this application, you must submit a completed Agent Affidavit in a form approved by the City.

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the any decision on your application request. The City assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and city laws, codes, land development regulations and comprehensive plan. The City strongly recommends that all applicants consider consulting an attorney regarding their application.

You are encouraged to review, or copy, the Quasi-Judicial rules and procedures used by the Board of Adjustment at the public hearings.

1. AGENT/APPLICANT: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Business Phone number: _____ Fax number: _____

Email: _____

2. PROPERTY OWNER:

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Business Phone number: _____ Fax number: _____

3. PROPERTY INFORMATION:

Street Address: _____

Legal Description: _____
(Attach a copy of the Recorded Deed and Property Record Card)

Parcel ID: _____

4. ZONING (To be completed by City Staff):

Current Zoning: _____ Future Land Use: _____

5. SITE DETAILS:

Total Acreage of the Property: _____

Existing or Proposed Special Exceptions or Variances, etc:

6. VARIANCE REQUEST:

7. IN ORDER TO SECURE A VARIANCE, THE BOARD MUST DETERMINE BY LAW THAT YOUR VARIANCE REQUEST SATISFIES THE FOLLOWING CRITERIA OF THE CITY CODE (PLEASE PROVIDE A WRITTEN RESPONSE ALONG WITH ANY OTHER SUPPORTING DOCUMENTATION):

- 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:

- B. That the special conditions and circumstances do not result from the actions of the applicant:

- C. That granting the Variance requested will not confer on the applicant any special privilege denied that is denied by any Zoning Ordinance to other lands, buildings, or structures in the same Zoning District:

- D. That literal interpretation of the provisions of any Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning District under the terms of any Zoning Ordinance, and would work unnecessary and undue hardship on the applicant:

- E. That the Variance granted is the minimum Variance that will make possible the reasonable use of the land, building, or structure:

- F. That the granting of the Variance will be in harmony with the general intent and the purpose of any Zoning Ordinance and that such Variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

8. THE FOLLOWING ITEMS ARE REQUIRED TO COMPLETE THE APPLICATION AND MUST BE ATTACHED:

- _____ 1. Completed Application - The applicant must fill out all applicable areas of the application. The application must be submitted to the Planning Division of the Community Development Department, City Hall Annex, 4100 Indian Bayou Trail, Destin, Florida 32541.
- _____ 2. Letter of Request - The applicant must submit a letter of request that clearly states what they are requesting.
- _____ 3. Proof of Ownership - The affidavit of ownership must be executed, notarized, and submitted. A letter of authorization is required if the applicant is other than the owner.
- _____ 4. Agent Affidavit / Special Power of Attorney (if applicable) - If the applicant is other than the owner of the property under consideration for review.
- _____ 5. Legal Description - A complete legal description of the subject property must be submitted for use in the legal advertisement.
- _____ 6. Application Fee: [Fee Schedule](#)
(FY2019 Schedule of Fees, Resolution 19-11, adopted 08/05/19, effective 08/06/19)

Application fee includes Initial Submittal Review only. Subsequent Submittal Reviews and all mailing costs will be invoiced to the Applicant; invoices must be paid prior to submittal of additional Submittal Review Packages.

Accepted Payments are Cash, Check, MasterCard or Visa. Checks shall be made payable to the City of Destin and submitted to the Planning Division, Community Development Department, City Hall Annex, 4100 Indian Bayou Trail, Destin, Florida 32541

- _____ 7. Site Plan - Submit a **DIGITAL** site plan, to scale, showing the proposed improvement or location of the specific request. The site plan shall contain an affidavit that the plan accurately depicts the property, improvements and proposed improvements. The applicant may provide a current survey (not older than ninety (90) days), which provides the same information, in lieu of a site plan. Digital plans shall be emailed or shared with planning@cityofdestin.com.
- _____ 8. Additional Information - Any other documents or requirements, which are mandated by the Code or deemed necessary by staff in reference to the specific request, made may be required.

NOTE:

1. The City of Destin Planning Division will notify in writing abutting property owners of record within three hundred (300) feet of the subject property in accordance with LDC 2.17.00. The cost of this notification will be the responsibility of the applicant.
2. This application must be filled out completely and must be signed by the owner or his designated agent. If the applicant is different than the owner of the subject property, then an agent affidavit is required from the owner of the property that is under consideration for Board of Adjustment hearings. The agent affidavit must be completely filled out and submitted with this application. If the property is in multiple-ownership, then all of the owners or their designated agent(s) must sign this application.
3. A request for postponement must be submitted to the Community Development Department at least 10 working days prior to the originally scheduled meeting date. Costs for re-advertisements, public notice mailings, and all applicable fees will be the responsibility of the applicant.

I HAVE READ THE INFORMATION IN THIS APPLICATION AND HAVE FILLED IN ALL ANSWERS CORRECTLY TO THE BEST OF MY ABILITY.

APPLICANT:

SIGNATURE:


DEAN A.F. BURGESS

DATE: 6-2-20

PRINTED NAME:

Agent Affidavit / Special Power of Attorney

STATE OF Florida COUNTY OF ~~Walton~~ Okaloosa

Shane Cannon (for)

KNOW ALL MEN BY THESE PRESENTS, that I Wildcat Mtn, LLC am presently the owner and/or leaseholder of 00-2S-22-0310-000E-E170, E17B & E17A and desiring to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents do make, constitute and appoint Dean A.F. Burgis, PE whose address is 327 Co Hwy 393 South. County of Walton, State of Florida, my Attorney full power to act as my agent in the process of obtaining a development order pertaining to Harbor Place Townhomes.

FURTHER, I do authorize the aforesaid Attorney-in-Fact to perform all necessary tasks in the execution of aforesaid authorization with the same validity as I could effect if personally present. Any act or thing lawfully done hereunder by the said attorney shall be binding on myself and my heirs, legal and personal representative, and assigns.

PROVIDED, however, that any and all transactions conducted hereunder for me or for my account shall be transacted in my name, and that all endorsements and instruments executed by the said attorney for the purpose of carrying out the foregoing powers shall contain my name, followed by that of my said attorney and the designation "Attorney-in-Fact."

WITNESSES:

Signature: [Signature]

Printed Name: Sarah Ashley Bowen

APPLICANT:

Signature: [Signature], Manager

Printed Name: Shane Cannon

STATE OF FL

COUNTY OF OKALOOSA

BEFORE ME, the undersigned Notary Public in and for said County and State, appeared

Shane Cannon, who is personally known to me or who produced FL DL as identification, and who executed the foregoing instrument. Given under my hand and seal this ¹² day of

March 2020

Signed Name of Notary Public

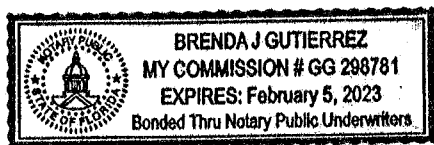
[Signature]

Printed Name of Notary Public

Brenda Gutierrez

{Seal}

Commission Number: GG 298781 Expiration Date: 02/05/2023



Do Not Submit this Informational Page with Application

GENERAL INFORMATION REGARDING PUBLIC HEARINGS

The applicant, the applicant's representative as stated on the application, or the applicant's attorney should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Commission and Board as evidence at the public hearing, you will need to leave those instruments with the Secretary. By law those instruments automatically become part of the public records and cannot be returned to you.

The public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Commission or Board members in person, by phone, E-mail, or in writing before the application is discussed at a public hearing.

For the purposes of making a decision on the application, the Commission and Board shall only consider testimony of qualified witnesses. A witness is determined by the Commission and Board and is generally based on:

1. The witness has personal knowledge of the fact in which the witness will testify; and/or
2. In the case of testimony consisting of opinions or inferences, the testimony is qualified as the following:

- A. **LAYMAN WITNESS:** Testimony of a witness other than an expert witness is qualified only if:

The witness can readily, and with equal accuracy and adequacy, communicate what he perceived to the Commission and Board without testifying in form of opinions or inferences.

The opinions and inferences do not require any special knowledge, skill experience or training.

- B. **EXPERT WITNESS:** Testimony of an expert witness is qualified only if:

The subject matter is proper for expert testimony because scientific, technical, or other specialized skill will help the Commission and Board understand the evidence being presented, or helps establish a fact in issue.

The witness is adequately qualified to express an opinion on the matter.



Okaloosa County Property Appraiser

Parcel Summary

Parcel ID 00-25-22-0310-000E-E17A
Location Address AZALEA DR
DESTIN 32541
Neighborhood DESTIN WEST (100510.00)
Brief Tax Description* CALHOUN S/D DESTIN E150 FT OF BLK E-17 AS OR
*The Description above is not to be used on legal documents.
Property Use Code VACANT COM (001000)
Sec/Twp/Rng 00-25-22
Tax District Destin (District 10)
Millage Rate 12.6845
Acreage 0.000
Homestead N
Acreage (GIS) 1.37
Fire District N/A

[View Map](#)

Owner Information

Primary Owner
[Wildcat Mnt LLC](#)
3847 Indian Trl
Destin, FL 32541

Valuation

	2019 Certified Values	2018 Certified Values	2017 Certified Values	2016 Certified Values
Building Value	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0
Land Value	\$244,675	\$194,547	\$185,010	\$185,010
Land Agricultural Value	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0
Just (Market) Value	\$244,675	\$194,547	\$185,010	\$185,010
Assessed Value	\$214,002	\$194,547	\$185,010	\$185,010
Exempt Value	\$0	\$0	\$0	\$0
Taxable Value	\$214,002	\$194,547	\$185,010	\$185,010
Maximum Save Our Homes Portability	\$30,673	\$0	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
001000	COMM VACANT	59,677.00	SF	0	0

Sales

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	04/08/2019	\$330,000	WD	3392	4657	Qualified (Q)	Vacant	ENGVAL MARGARET W	WILDCAT MNT LLC
N	04/01/1979	\$100	WD	1036	121	Unqualified (U)	Vacant	ENGVAL MARGARET W	

Generate Owner List by Radius

Distance:

100

Feet



Use Address From:

☒ Owner ☐ Property

Select export file format:

Address labels (5160)



- ☒ Show All Owners
☐ Show Parcel ID on Label

Skip Labels

0

Download

No data available for the following modules: Building Information, Extra Features, Building Area Types, Sketches.

Prepared By and Return To:
Championship Title Agency LLC
543 Harbor Boulevard, Unit 102
Destin, FL 32541

Order No.: FL-CTA-180260-PUR

Property Appraiser's Parcel I.D. (folio) Number:
00-2S-22-0310-000E-E17~~8~~^A
Vacant Lot Calhoun, Destin, FL 32541

WARRANTY DEED

THIS WARRANTY DEED dated April 8, 2019, by Margaret Winton Engvall, a married woman , whose post office address is 416 Kensington Rd., Baltimore, Maryland 21229 (the "Grantor"), to Wildcat Mnt, LLC, a Florida limited liability company, whose post office address is 3847 Indian Trail, Destin, Florida, 32541 (the "Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the Grantee, all that certain land situated in Okaloosa County, State of Florida, viz:

A portion of Block E-17, Calhouns Subdivision of Addition to Destin, Plat Book 2, Page 43-A, Okaloosa County, Florida, described as: Begin at a point on the South right of way of Azalea Drive 350' Easterly from the Northwest corner of said Block E-17; thence Southerly at right angles 400 feet; thence Easterly along the South boundary of Block E-17 150 feet; thence Northerly along the Easterly boundary of Block E-17 400 feet to Azalea Drive; thence Westerly along Azalea Drive 150 feet to the Point of Beginning. Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

Subject to easements, restrictions, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in Fee Simple forever.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to: 2018.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Margaret Winton Engvall
Margaret Winton Engvall

Grantor Address:
416 Kensington Rd.
Baltimore, MD 21229

Signed, sealed and delivered in presence of:

P. Diane Mountain
Witness Signature

P. Diane Mountain
Printed Name of First Witness

Amanda Harris
Witness Signature

Amanda F. Harris
Printed Name of Second Witness

STATE OF MARYLAND
COUNTY OF City of Baltimore

The foregoing instrument was acknowledged before me this 7th day of April, 2019, by Margaret Winton Engvall who (☒) was/were personally known to me, or () presented the following indentification:

Gloria M. Sullivan
Notary Public
My Commission Expires: 4/11/2021
(SEAL)





Okaloosa County Property Appraiser

Parcel Summary

Parcel ID 00-25-22-0310-000E-E17B
Location Address AZALEA DR
DESTIN 32541
Neighborhood DESTIN WEST (100510.00)
Brief Tax Description* CALHOUN S/D DESTIN E150 FT OF W350 FT BLK E-17 AS OR
*The Description above is not to be used on legal documents.
Property Use Code VACANT COM (001000)
Sec/Twp/Rng 00-25-22
Tax District Destin (District 10)
Millage Rate 12.6845
Acreage 0.000
Homestead N
Acreage (GIS) 1.37
Fire District N/A

[View Map](#)

Owner Information

Primary Owner
[Wildcat Mnt LLC](#)
3847 Indian Trl
Destin, FL 32541

Valuation

	2019 Certified Values	2018 Certified Values	2017 Certified Values	2016 Certified Values
Building Value	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0
Land Value	\$244,675	\$194,547	\$185,010	\$185,010
Land Agricultural Value	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0
Just (Market) Value	\$244,675	\$194,547	\$185,010	\$185,010
Assessed Value	\$214,002	\$194,547	\$185,010	\$185,010
Exempt Value	\$0	\$0	\$0	\$0
Taxable Value	\$214,002	\$194,547	\$185,010	\$185,010
Maximum Save Our Homes Portability	\$30,673	\$0	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
001000	COMM VACANT	59,677.00	SF	0	0

Sales

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	04/08/2019	\$330,000	WD	3392	4661	Qualified (Q)	Vacant	WINTON GEORGE B	WILDCAT MNT LLC
N	04/01/1979	\$100	WD	1036	122	Unqualified (U)	Vacant		WINTON GEORGE B

Generate Owner List by Radius

Distance:

100

Feet



Use Address From:

☒ Owner ☐ Property

Select export file format:

Address labels (5160)



- ☒ Show All Owners
☐ Show Parcel ID on Label

Skip Labels

0

International mailing labels that exceed 5 lines are not supported on the Address labels (5160). For international addresses, please use the xlsx, csv or tab download formats.

Download

No data available for the following modules: Building Information, Extra Features, Building Area Types, Sketches.

Prepared By and Return To:
Championship Title Agency LLC
543 Harbor Boulevard, Unit 102
Destin, FL 32541

Order No.: FL-CTA-180260-PUR

Property Appraiser's Parcel I.D. (folio) Number:
00-2S-22-0310-000E-E17~~8~~ B
Vacant Lot Calhoun, Destin, FL 32541

WARRANTY DEED

THIS WARRANTY DEED dated April 8, 2019, by George B. Winton, a married man , whose post office address is 1917 Millbrook Drive, Johnson City, Florida 37604 (the "Grantor"), to Wildcat Mnt, LLC, a Florida limited liability company, whose post office address is 3847 Indian Trail, Destin, Florida, 32541 (the "Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the Grantee, all that certain land situated in County of Okaloosa, State of Florida, viz:

A portion of Block E-17, Calhouns Subdivision of Addition to Destin, Plat Book 2, Page 43-A, Okaloosa County, Florida, described as: Begin at a point on the South right of way of Azalea Drive, 200° Easterly from the Northwest corner of said Block E-17; thence Southerly at right angles 400 feet; thence Easterly along the South boundary of Block E-17 150 feet; thence Northerly at right angles 400 feet to Azalea Drive; thence Westerly along Azalea Drive 150 feet to the Point of Beginning.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

Subject to easements, restrictions, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in Fee Simple forever.

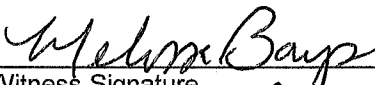
AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to: 2018.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

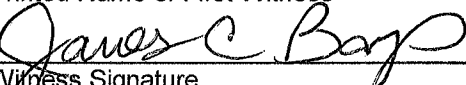
Signed, sealed and delivered in presence of:


George B. Winton

Grantor Address:
1917 Millbrook Drive
Johnson City, FL 37604


Witness Signature

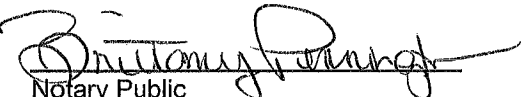
Melissa Bays
Printed Name of First Witness

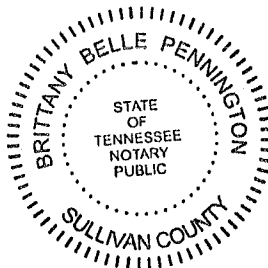

Witness Signature

James Bays.
Printed Name of Second Witness

STATE OF TENNESSEE
COUNTY OF Washington

The foregoing instrument was acknowledged before me this 16th day of April, 2019, by George B. Winton who () was/were personally known to me, or (X) presented the following identification:
TNCL 072092368


Notary Public
My Commission Expires: 10-20-2021
(SEAL)



Parcel Summary

Parcel ID 00-25-22-0310-000E-E170
Location Address AZALEA DR
 DESTIN 32541
Neighborhood DESTIN WEST (100510.00)
Brief Tax Description* CALHOUN S/D DESTIN W200 FT OF LOT E-17 BLK E
**The Description above is not to be used on legal documents.*
Property Use Code VACANT COM (001000)
Sec/Twp/Rng 00-25-22
Tax District Destin (District 10)
Millage Rate 12.6845
Acreage 0.000
Homestead N
Acreage (GIS) 1.83
Fire District N/A

[View Map](#)

Owner Information

Primary Owner
[Wildcat Mnt LLC](#)
 3847 Indian Trl
 Destin, FL 325410000

Valuation

	2019 Certified Values	2018 Certified Values	2017 Certified Values	2016 Certified Values
Building Value	\$0	\$0	\$0	\$0
Extra Features Value	\$0	\$0	\$0	\$0
Land Value	\$326,827	\$259,867	\$247,130	\$247,130
Land Agricultural Value	\$0	\$0	\$0	\$0
Agricultural (Market) Value	\$0	\$0	\$0	\$0
Just (Market) Value	\$326,827	\$259,867	\$247,130	\$247,130
Assessed Value	\$285,854	\$259,867	\$247,130	\$247,130
Exempt Value	\$0	\$0	\$0	\$0
Taxable Value	\$285,854	\$259,867	\$247,130	\$247,130
Maximum Save Our Homes Portability	\$40,973	\$0	\$0	\$0

"Just (Market) Value" description - This is the value established by the Property Appraiser for ad valorem purposes. This value does not represent anticipated selling price.

Land Information

Code	Land Use	Number of Units	Unit Type	Frontage	Depth
001000	COMM VACANT	79,714.00	SF	0	0

Sales

Multi Parcel	Sale Date	Sale Price	Instrument	Book	Page	Qualification	Vacant/Improved	Grantor	Grantee
N	04/08/2019	\$330,000	WD	3392	4659	Qualified (Q)	Vacant	WINTON LUCILLE C	WILDCAT MNT LLC

Generate Owner List by Radius

Distance:

100

Feet

Use Address From:

☒ Owner ☐ Property

Select export file format:

Address labels (5160)

☒ Show All Owners
☐ Show Parcel ID on Label

Skip Labels

0

International mailing labels that exceed 5 lines are not supported on the Address labels (5160). For international addresses, please use the xlsx, csv or tab download formats.

Download

No data available for the following modules: Building Information, Extra Features, Building Area Types, Sketches.

The Okaloosa County Property Appraiser's Office (OCPA) makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. Just (Market) Value is established by the Property Appraiser for ad valorem tax purposes. It does not represent anticipated selling price. Current year assessments are as of January 1st and are based on previous year sales activity. All website information is subject to change

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Last Data Upload: 6/3/2020, 4:30:19 AM

Developed by



Version 2.3.62

Prepared By and Return To:
Championship Title Agency LLC
543 Harbor Boulevard, Unit 102
Destin, FL 32541

Order No.: FL-CTA-180260-PUR

Property Appraiser's Parcel I.D. (folio) Number:
00-2S-22-0310-000E-E170
Vacant Lot Calhoun, Destin, FL 32541

WARRANTY DEED

THIS WARRANTY DEED dated April 8, 2019, by Lucille Cutchin Winton, a single woman, whose post office address is 4841 Oakhill Rd., Columbia, South Carolina 29206 (the "Grantor"), to Wildcat Mnt, LLC, a Florida Limited Liability Company, whose post office address is 3847 Indian Trail, Destin, Florida, 32541 (the "Grantee").

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH: That the Grantor, for and in consideration of the sum of Ten And No/100 Dollars (\$10.00) and other valuable consideration, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys, and confirms unto the Grantee, all that certain land situated in County of Okaloosa, State of Florida, viz:

Block E-17, according to Plat of Second Revision of the Calhouns Subdivision of addition to the Town of Destin, Okaloosa County, Florida, as per plat drawn by J.W. Cook and filed in the office of the Clerk of the Circuit Court of Okaloosa County, Florida, in Plat Book 2, Page 43-A. LESS and except that certain property recorded in Official Records Book 1036, Page 122 and Official Records Book 1036, Page 121 all of the Public Records of Okaloosa County, Florida.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

Subject to easements, restrictions, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in Fee Simple forever.

AND the Grantor hereby covenants with said Grantee that the Grantor is lawfully seized of said land in fee simple; that the Grantor has good right and lawful authority to sell and convey said land; that the Grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to: 2018.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

Lucille Cutchin Winton
Lucille Cutchin Winton

Margaret Winton Engvall

Lucille Cutchin Winton
Lucille Cutchin Winton

Grantor Address:

4841 Oakhill Rd.
Columbia, SC 29206

STATE OF SOUTH CAROLINA
COUNTY OF Richland

The foregoing instrument was acknowledged before me this 8 day of APRIL, 2019, by Lucille Cutchin Winton who () was/were personally known to me, or (x) presented the following identification:

SOUTH CAROLINA DRIVERS LICENSE

[Signature]

Notary Public

My Commission Expires: 5/25/2028

(SEAL)

RANCEINA DANIELS

Notary Public - State of South Carolina
My Commission Expires May 25, 2028

Signed, sealed and delivered in presence of:

[Signature]
Witness Signature

Jamal Singleton
Printed Name of First Witness

[Signature]
Witness Signature

Alex McCraw
Printed Name of Second Witness

J:\001818-433_Master.dwg 18-433 ENG.dwg 01-VARIANCE EXHIBIT Sean Humphrey 3:33 PM



A=28.14'
R=23.00'
D=70'05.47"
C=28.42'
B=S 41'00'02" E

A=42.75'
R=35.33'
D=89'19'21"
C=40.19'
B=S 41'00'22" E

A=38.27'
R=25.00'
D=69'07'15"
C=35.35'
B=N 58'09'15" E

10'X50' SIDEWALK
500 SQ.FT.
(SIDEWALK IN EXCHANGE FOR VARIANCE)

10'X164.6' SIDEWALK
1,650.76 SQ.FT.
(SIDEWALK IN EXCHANGE FOR VARIANCE)

5'X398.3' SIDEWALK
1,991.5 SQ.FT.
(SUBJECT OF VARIANCE)

EXISTING 10'SIDEWALK

PROPOSED LEGEND:

- EXISTING WATER LINE
- EXISTING SEWER LINE
- PROPOSED BUILDING SETBACK
- PROPOSED LANDSCAPE BUFF
- PROPOSED WATER LINE
- PROPOSED SEWER LINE
- PROPOSED FIRE HYDRANT
- PROPOSED SINGLE WATER SERVICE
- PROPOSED SINGLE SEWER SERVICE
- PROPOSED REDUCER (SEE PLAN FOR SIZE AND TYPE)
- PROPOSED BACKFLOW PREVENTOR
- GATE VALVE
- WATER METER
- PROPOSED FIRE HYDRANT AND VALVE
- SEWER GRINDER TANK
- SEWER MANHOLE
- STORM DRAINAGE MANHOLE
- EXISTING SPOT ELEVATION AT "DOT"
- PROPOSED SPOT ELEVATION AT "DOT"
- DETAIL DESIGNATION
XX - DETAIL NUMBER
XX - PAGE NUMBER
- ASPHALT
- CONCRETE
- WOOD

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Emerald Coast Associates Inc.

Land Planning • Engineering • Surveying
Since 1979

327 South Co. Hwy 393
Santa Rosa Beach, FLORIDA 32459
PH: (950) 267-0473 • FAX: (950) 267-0973

CERTIFICATE OF
AUTHORIZATION
NUMBER 0008775

REQUESTED BY: SHANE CANNON

HARBOR PLACE TOWNHOMES
TOWNSHIP 2 SOUTH, RANGE 22 WEST
OF WALTON COUNTY, FLORIDA

**VARIANCE
EXHIBIT**

DATE	REVISION	BY
4-15-20	REVISED PER CITY COMMENTS APRIL 6, 2020	SMH
5-29-20	REVISED PER CITY COMMENTS MAY 28, 2020	SMH

NOT VALID WITHOUT THE
SIGNATURE AND THE
ORIGINAL RAISED SEAL
OF A FLORIDA LICENSED
PROFESSIONAL ENGINEER

Dean A. F. Burgis

DEAN A. F. BURGIS
PROFESSIONAL ENGINEER No. 50705

PROJECT:
18-433

SCALE: 1" = 30' DRAWN BY: SMH
ORDER: 18-0476 DESIGN BY: SMH
DWG. DATE: 07-18-19 CHECK BY: DAFB
FILE: 18-433_VARIANCE.dwg

**SHEET
1 of 1**

THESE PLANS AND THE IDEAS AND CONCEPTS CONTAINED HEREIN INCLUDING DIGITAL INFORMATION ARE THE PROPERTY OF ECA, INC. AND ARE NOT TO BE REPRODUCED, COPIED, MODIFIED, OR CHANGED IN ANY FORM OR MANNER WITHOUT THE EXPRESS WRITTEN PERMISSION AND CONSENT OF ECA, INC.



327 COUNTY HIGHWAY 393 SOUTH
SANTA ROSA BEACH, FL 32459

May 29, 2020

Community Development Planning Division
4200 Indian Bayou Trail
Destin, FL 32541

Attn: Ms. Samantha Brisolara

Reference - Variance Request Narrative
Harbor Place Townhomes

Ms. Brisolara:

Emerald Coast Associates, Inc. (ECA) has prepared this narrative letter on behalf of Shane Cannon to demonstrate that a variance to the sidewalk requirements of Section 8.05.03.D.1 of the Land Development Code. Specifically, this section of the Code requires sidewalks adjacent to City right of way for new residential and multifamily development. While sidewalks have been provided along Melvin and Azalea street right of ways, there is an unimproved right of way along the eastern side of the subject development, shown on the attached exhibit as the Crane Place right of way. There are existing single family homes along this right of way and associated driveway access. The elevation change in the right of way from the southern residence to the northern residence is 23 feet (from elevation 43 to elevation 19). It is ECA's professional opinion that installation of a sidewalk is not feasible without significant retaining walls and excessive grade changes to shore up the existing structures. Slopes would not be able to meet ADA requirements. The significant grade change is significant and unique to this right of way in the City and ECA believes it justifies consideration by the Board of Adjustments (BOA).

ECA would like the BOA to consider that the area of sidewalk that would have been installed along the Crane Place right of way be constructed along Azalea Drive to connect the subject project sidewalks to the existing sidewalks. There are 448 linear feet (2151 square feet) of sidewalk required along Azalea Drive to connect to the project. The area of the sidewalk that is the subject of this variance request is 1991.5 square feet. ECA believes the construction of the sidewalk along Azalea would provide better connectivity and a safer appropriation of pedestrian facilities.

We appreciate your consideration of this request.

Sincerely,

EMERALD COAST ASSOCIATES, INC.

Dean A. F. Burgis, P.E.
President

**POLICY OF TITLE INSURANCE
SCHEDULE A**

Chicago Title Insurance Company

Championship Title Agency LLC
543 Harbor Boulevard, Unit 102
Destin, FL 32541

Policy Number: 7230609-216695457

Order Number: 7394960

Customer Reference: FL-CTA-180260-PUR

Address Reference: Vacant Lot Calhoun
Destin, FL 32541
Okaloosa County
(for informational purposes only)

Amount of Insurance: \$990,000.00

Premium: \$5,025.00

Date of Policy: April 09, 2019 at 2:44 PM

1. Name of Insured:
Wildcat Mnt, LLC, a Florida Limited Liability Company
2. The estate or interest in the Land that is insured by this policy is:
Fee Simple
3. Title is vested in:
Wildcat Mnt, LLC, a Florida Limited Liability Company, by virtue of Warranty Deed recorded in Official Records Book 3392, Page 4657, Warranty Deed recorded in Official Records Book 3392, Page 4659, and Warranty Deed recorded in Official Records Book 3392, Page 4661, in the Public Records of Okaloosa County, Florida.
4. The land referred to in this policy is described in Exhibit "A" attached hereto and made part hereof.

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

EXHIBIT "A"**Parcel 1:**

Block E-17, according to Plat of Second Revision of the Calhouns Subdivision of addition to the Town of Destin, Okaloosa County, Florida, as per plat drawn by J.W. Cook and filed in the office of the Clerk of the Circuit Court of Okaloosa County, Florida, in Plat Book 2, Page 43-A. LESS and except that certain property recorded in Official Records Book 1036, Page 122 and Official Records Book 1036, Page 121 all of the Public Records of Okaloosa County, Florida.

Parcel 2:

A portion of Block E-17, Calhouns Subdivision of Addition to Destin, Plat Book 2, Page 43-A, Okaloosa County, Florida, described as: Begin at a point on the South right of way of Azalea Drive, 200° Easterly from the Northwest corner of said Block E-17; thence Southerly at right angles 400 feet; thence Easterly along the South boundary of Block E-17 150 feet; thence Northerly at right angles 400 feet to Azalea Drive; thence Westerly along Azalea Drive 150 feet to the Point of Beginning.

Parcel 3:

A portion of Block E-17, Calhouns Subdivision of Addition to Destin, Plat Book 2, Page 43-A, Okaloosa County, Florida, described as: Begin at a point on the South right of way of Azalea Drive 350' Easterly from the Northwest corner of said Block E-17; thence Southerly at right angles 400 feet; thence Easterly along the South boundary of Block E-17 150 feet; thence Northerly along the Easterly boundary of Block E-17 400 feet to Azalea Drive; thence Westerly along Azalea Drive 150 feet to the Point of Beginning.

**SCHEDULE B
EXCEPTIONS FROM COVERAGE**

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees, or expenses that arise by reason of:

1. Taxes and assessments for the year 2019 and subsequent years, which are not yet due and payable.
2. Any claim that any portion of the insured land is sovereign lands of the State of Florida, including submerged, filled or artificially exposed lands accreted to such land.
3. Any lien provided by County Ordinance or by Chapter 159, Florida Statutes, in favor of any city, town, village or port authority for unpaid service charges for service by any water, sewer or gas system supplying the insured land.
4. Restrictions, covenants, conditions, easements and other matters as contained on the Plat of Second Revision to Calhouns Subdivision, recorded in Plat Book 2, Page 43-A, of the Public Records of Okaloosa County, Florida.
5. NOTE: All recording references in this form shall refer to the public records of Okaloosa County, Florida, unless otherwise noted.

NOTE: In accordance with Florida Statutes section 627.4131, please be advised that the insured hereunder may present inquiries, obtain information about coverage, or receive assistance in resolving complaints, by contacting Chicago Title Insurance Company, Telephone 1-800-669-7450.