



# VARIANCE STAFF REPORT

OFFICE OF PLANNING & ZONING

Tab Number: 2

Public Hearing Date: November 14, 2019

Case No. and Project Name: VAR-19-40-5, Taylor Property

Applicant: Riley E. Davis III, Buzz Davis Pools

Owner: Kirkland P. Malone and Angie R. Taylor

Requested Action: Variance to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1, to allow a pool, spa, deck, and pool enclosure to be located 3-feet from the jurisdictional wetland line (seawall), in lieu of 50-feet from the jurisdictional wetland line (seawall).

Case Manager: Christine Rock, AICP, Senior Planner

### Subject Property Information

Size: 0.43 +/- acres

Location: South of Drive No. 1, adjacent to Riverview Drive and the St. Johns River in the Astor area.

Alternate Key No.: 1356881

Future Land Use: Urban Low Density

Current Zoning District: Medium Suburban Residential District (R-4)

Flood Zone: "AE"

Joint Planning Area / ISBA: N/A

Overlay Districts: Wekiva-Ocala Rural Protection Area

### Adjacent Property Land Use Table

Direction	Future Land Use	Zoning	Existing Use	Comments
North	Urban Low Density	Medium Suburban Residential District (R-4)	Residential	Single-Family Dwelling Unit
South	Urban Low Density	Medium Suburban Residential District (R-4)	Residential	Single-Family Dwelling Unit
East	N/A	N/A	River	St. Johns River
West	N/A	N/A	Street	Riverview Drive

## Summary of Request

The subject property, identified as Alternate Key Number 1356881, contains 0.46 +/- acres and is zoned Medium Suburban Residential District (R-4) with an Urban Low Density Future Land Use designation. The GIS Aerial Map indicates that the subject property lies fully within the flood zone. The property is generally located south of Drive No. 1, adjacent to Riverview Drive and the St. Johns River in the Astor area of unincorporated Lake County.

The Applicant has requested a variance to LDR Section 6.01.04.A.1, to allow a pool, spa, deck, and pool enclosure to be located 3-feet from the jurisdictional wetland line (seawall), in lieu of 50-feet from the jurisdictional wetland line (seawall) as seen in the Concept Plan (Attachment "A"). Previously an average setback (AS #2004-63) was granted to allow a setback of 47.1-feet from the seawall, and a variance request (BOA #14-08-5) was approved by the Board of Adjustments to allow a single-family dwelling unit and addition to be located 17-feet from the jurisdictional wetland line (seawall).

The Lake County Public Works Department has indicated that the subject property is located fully within a Special Flood Hazard Area (flood zone), FEMA designated floodway, and that the Base Flood Elevation (BFE) should be 6.4 NAVD Datum. Attachment "B" depicts the subject property lying within the flood zone and flood plain. Should the variance be approved, the below conditions will apply.

1. The first 1-inch of stormwater runoff must be captured on site. An engineered design that includes a plan and calculations must be submitted.
2. The proposed improvements will be subject to a Flood Construction Permit.
3. Development that adds fill or structures to existing grades or materially impacts the physical profile area within a floodway must be supported by a "No-Rise" certification which is signed and sealed by a professional engineer.

## Staff Analysis

**LDR Section 14.15.02 states that variances will be granted when the person subject to a Land Development Regulation demonstrates that the purpose of the Land Development Regulation will be or has been achieved by other means, and when application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness.**

**1. The purpose of the Land Development Regulation will be or has been achieved by other means.**

The intent of the Code, LDR Section 6.01.01, is to conserve and protect wetlands, and to ensure that the natural structure and functional values of wetlands are maintained. The intent of this section is to avoid any net loss of wetlands whether by functional value or extent within Lake County.

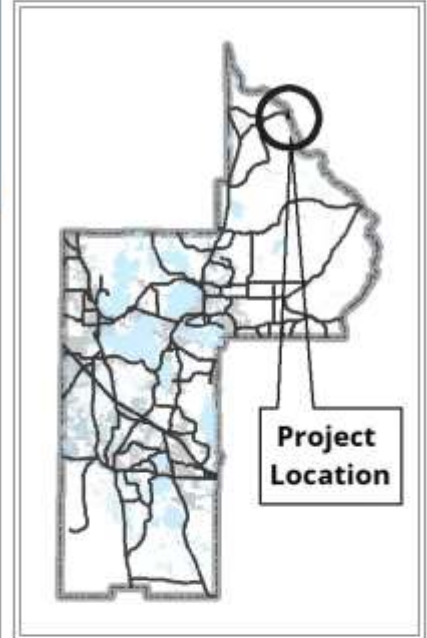
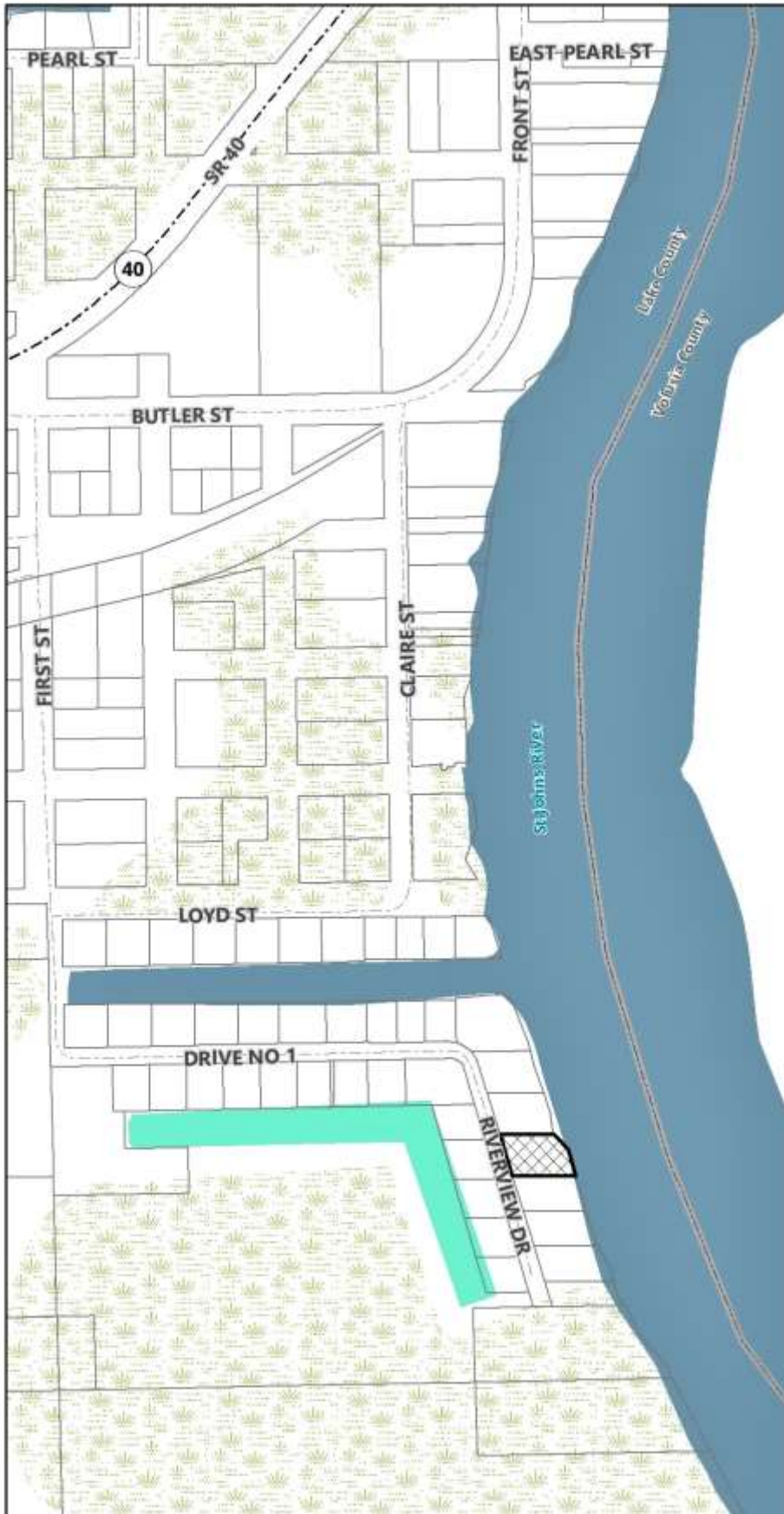
The Applicant provided the following statement, "*Variance will allow construction of pool/spa which otherwise [would] be impossible due to the location of the house in proximity to the sea wall.*"

**2. The application of a Land Development Regulation would create a substantial hardship or would violate principles of fairness. For purposes of this Section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. For purposes of this Section, "principles of fairness" are violated when the literal application of a Land Development Regulation affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the Land Development Regulation.**

The Applicant provided the following statement, "*There is no other space for a pool/spa. Pool needs to be located in rear of property.*"

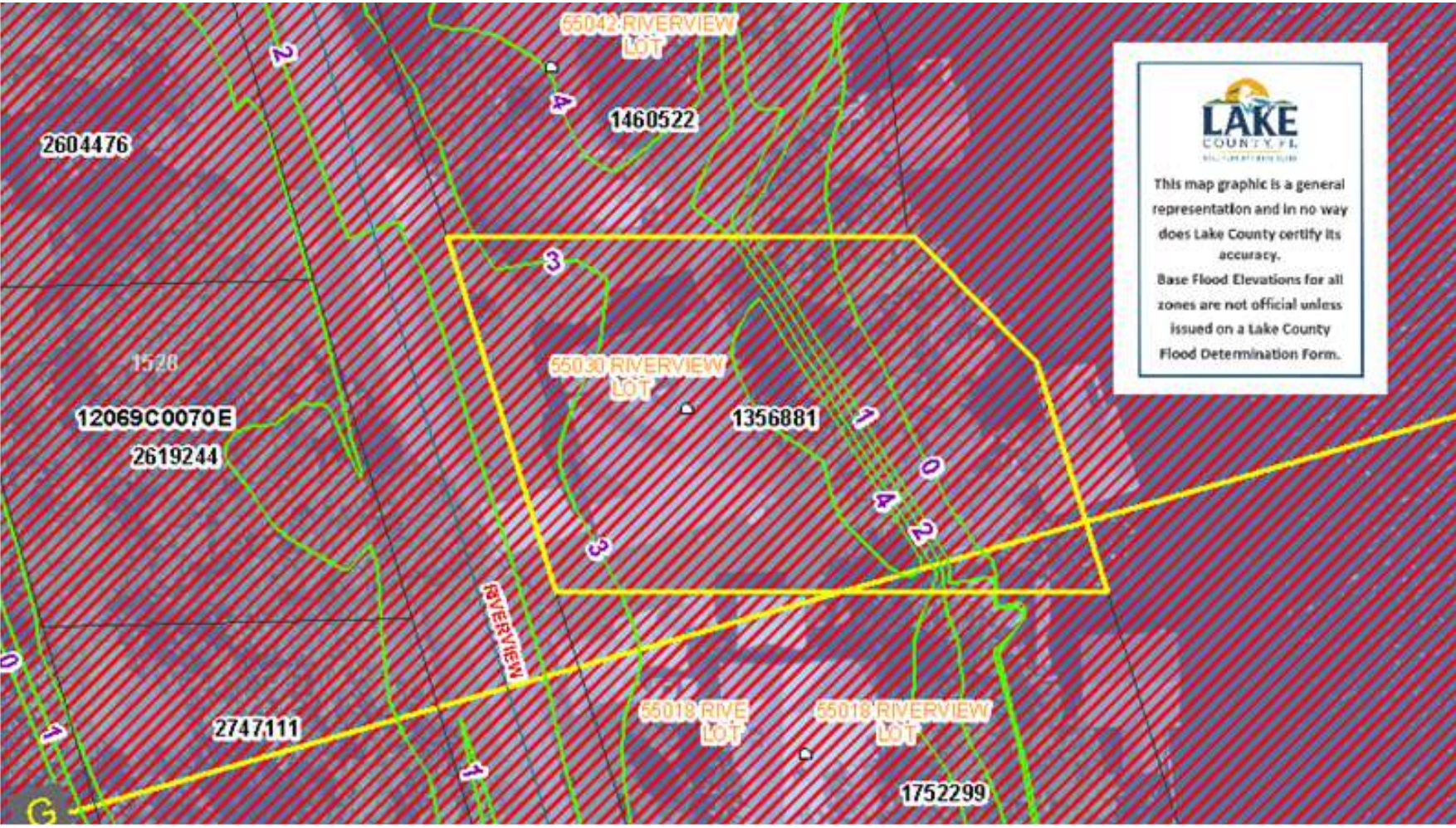
LDR Section 14.15.04 states that for the purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance. The Applicant has indicated that they have health conditions and that the proposed pool and enclosure will be beneficial to them, as it will allow for non-impact exercise. Additionally, the Applicant has indicated that several houses within their community have pools and enclosures.

# Map of Subject Property





# Attachment "B" – Floodway and Flood Zone



**Final Development Order  
VAR-19-40-5  
Taylor Property**

**A VARIANCE OF THE LAKE COUNTY BOARD OF ADJUSTMENT AMENDING THE LAKE COUNTY ZONING MAPS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Riley E. Davis III, Buzz Davis Pools (the "Applicant"), on behalf of Kirkland P. Malone and Angie R. Taylor (the "Owners"), submitted a variance request to Lake County Land Development Regulations (LDR) Section 6.01.04.A.1, to allow a pool, spa, deck, and pool enclosure to be located 3-feet from the jurisdictional wetland line (seawall), in lieu of 50-feet from the jurisdictional wetland line (seawall); and

**WHEREAS**, the subject property consists of 0.43 +/- acres and is located south of Drive No. 1, adjacent to Riverview Drive and the St. Johns River in the Astor area of unincorporated Lake County, in Section 07, Township 15 South, Range 27 East, having Alternate Key Number 1356881, and more particularly described in Exhibit "A"; and

**WHEREAS**, after giving notice of a hearing on a petition for a variance to the Lake County Land Development Regulations, including notice that the request for a variance would be presented to the Board of Adjustment of Lake County, Florida, on November 14, 2019; and

**WHEREAS**, the Board of Adjustment reviewed the petition, staff report and any comments, favorable or unfavorable, from the public and surrounding property owners at a public hearing duly advertised; and

**WHEREAS**, on November 14, 2019 the Lake County Board of Adjustment approved the variance for the above property.

**NOW THEREFORE, BE IT ORDAINED** by the Board of Adjustment of Lake County, Florida, that:

**Section 1. Terms:** The County Manager or designee shall amend the Official Zoning Map to reflect the approval of VAR-19-40-5 to allow a pool, spa, deck, and pool enclosure to be located 3-feet from the jurisdictional wetland line (seawall), in lieu of 50-feet from the jurisdictional wetland line (seawall), with the following conditions:

1. The first 1-inch of stormwater runoff must be captured on site. An engineered design that includes a plan and calculations must be submitted.
2. The proposed improvements will be subject to a Flood Construction Permit.
3. Development that adds fill or structures to existing grades or materially impacts the physical profile area within a floodway must be supported by a "No-Rise" certification which is signed and sealed by a professional engineer.

**Section 2. Severability:** If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, the holding will in no way affect the validity of the remaining portions of this Ordinance.

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Section 3. Effective Date. This Ordinance will become effective as provided by law.

ENACTED this 14<sup>th</sup> day of November, 2019.

EFFECTIVE November 14, 2019.

BOARD OF ADJUSTMENT  
LAKE COUNTY, FLORIDA

\_\_\_\_\_  
Lloyd Atkins, Chairman

STATE OF FLORIDA  
COUNTY OF LAKE

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of November, 2019, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_, as identification and who did \_\_\_\_\_ or did not \_\_\_\_\_ take an oath.

(SEAL)

\_\_\_\_\_  
Signature of Acknowledger

**Exhibit "A" – Legal Description**

**From the Northwest corner of Lot 12, Section 10, according to the Plat of Manhattan, recorded in Plat Book 2, Page 13, Public Records of Lake County, Florida, run thence South along the West line of said Lot 12 a distance of 402 feet to the South line of Drive No. 1, according to the Plat of St. Johns Waterfront Estates, recorded in Plat Book 17, Page 33, Public Records of Lake County, Florida, run thence East along said South line 1163.83 feet, thence South 15° 10'00" East 216 feet to the point of beginning; run thence East 75 feet, thence continue East to the St. Johns River, this being hereby designated Point "A", thence return to the point of beginning and run South 15° 10'00" East 116 feet, thence East 125 feet, thence continue East to the St. Johns River, run thence Northwesterly along said River to the herein designated Point "A", Also described as Lot 27, First Addition to St. Johns Waterfront Estates, an unrecorded plat.**

**(For information only: Property Appraiser's Parcel Identification Number is 0715271000-000-01318).**

**Subject to easements, restrictions, and reservations of record, if any. However, this reference shall not serve to reimpose the same.**