Flagler County Planning and Development Board
Public Hearings / Agenda Item 6.b.

Meeting Date:	November 10, 2026
Department Contact:	Hannah Lademann, Planner
Subject:	CONTINUED FROM THE SEPTEMBER 8, 2026 REGULAR MEETING Quasi-judicial requiring disclosure of ex parte communication: Project 2026060045 – **REQUEST FOR A VARIANCE IN THE PUD (PLANNED UNIT DEVELOPMENT) DISTRICT** – Request for a Variance in the PUD (Planned Unit Development) District from the Maximum Allowed Building Height at 11 Riviera Place. Parcel Number: 04-11-31-3014-00000-0110; Parcel Size: 18,844+/- Square Feet (0.43 Acres). Owner/Applicant: [redacted] and [redacted] Duran. (AR 6622) (TRC,PDB)

Overview/Summary:

The request is for approval of a one story variance in the PUD (Planned Unit Development) District. The subject property is 18,844+/- square feet in size, identified as Parcel No. 04-11-31-3014-00000-0110 (the “Property”).



The Property is described as Lot 11, Block 55, Grande Mer, according to the plat thereof, as recorded in Map Book 29, Page 98 through 100, being and amended plat of Section 85, North Raffles Surf Club, as recorded in Map Book 23, Pages 41 through 57, of the Public Records of Flagler County, Florida. According to the Hammock Dunes DRI, the Property is located within a Low (L) density category. The other density categories established by the DRI are Low-Medium (L-M) and Medium-High (M-H). The following table from the DRI Development Order identifies the maximum Allowable Building Heights for each of the density categories:

Allowable Building Height

Cluster DataDensity Category	Maximum BuildingHeight in Stories
Low (L)	3
Low-Medium (L-M)	7
Medium-High (M-H)	12*

***Building height includes residential and garage floors.**

In May of 2025, the County was contacted by Wendy Duran of Stoughton & Duran Custom Homes LLC with a permit-related question for a new single-family dwelling to be constructed on the Property. Ms. Duran provided County staff with a working site plan and construction drawings for a home that appeared to exceed the maximum Allowable Building Height in Stories as established for this subdivision and its density category in the Hammock Dunes DRI, as set forth above. Ms. Duran was informed of this, and a meeting with County staff was requested to further discuss the issue.

County staff met with staff from Stoughton & Duran on May 7, 2025, during which the history of the Hammock Dunes DRI, as amended over time, was discussed. Also discussed was County staff's interpretation that the maximum Allowable Building Height applicable to the Property is three (3) stories inclusive of the garage. Seeing as that what was being proposed was a three (3) stories over a garage, which, for purposes of the DRI, is equivalent to four (4) stories, County staff provided the option to apply for a variance to exceed the Allowable Maximum Height. As with the vast majority of variances, Stoughton & Duran was advised that a public hearing before the Planning and Development Board would be required.

On June 20, 2025, Adam Mengel, then acting as the County's Growth Management Director, issued a letter summarizing the County's determination as it relates to the Allowable Building Height. As was discussed at the May 7 meeting, the letter, which was provided to the County's Legal Department for review prior to issuance, concluded that the maximum Allowable Building Height applicable to the Low (L) clusters within the DRI and, thus, the Property is three (3) inclusive of the garage. As an alternate to the variance route, County staff provided the option to appeal Mr. Mengel's decision, which, like the variance, would require a public hearing.

On June 29, 2026, Jessica Duran, on behalf of property owners [redacted] and [redacted] submitted an application for variance from the maximum Allowable Building Height in Stories to allow a four (4) story house in the Grande Mer subdivision. The application was accompanied by a request for reasonable accommodation under the Federal Fair Housing Act and the Florida Fair Housing Act (collectively referred to

hereinafter as the “Acts”). As further addressed in the Technical Staff Report, while the request does not meet the variance criteria established in the Flagler County Land Development Code, the Acts require the County to consider a request for accommodation in application of the variance criteria so long as such request is related to a bona fide disability and are reasonable.

The variance request was heard by the Planning and Development Board at its regular meeting on September 8, 2026. During their presentation, the applicants made two separate arguments: (1) the variance was not necessary because the Growth Management Director incorrectly interpreted the DRI and (2) if a variance is necessary, it should be granted as a reasonable accommodation under the Federal and Florida Fair Housing Acts.

Given that the applicants had only pursued the first of two options given (to seek a variance), the Planning and Development Board was unable to consider the validity of the Growth Management Director’s determination. Unable to split the applicants’ two arguments, the Planning and Development Board continued the variance application to a date and time certain (November 10, 2026). At that time, the Planning and Development Board requested more information from the applicants and instructed them to file an application for appeal should they wish to pursue the first of its two arguments and challenge the validity of the Growth Management Director’s determination.

On September 10, 2026, Jessica Duran submitted an application (Project No. 2026090015) for Appeal of the Growth Management (Planning) Directors Decision on behalf of the property owners. This will be discussed in depth in the Technical Staff Report for that item. At this point the applicant has not provided any additional documentation support for the continued variance request.

Public notice has been provided for this application according to Flagler County Land Development Code Section 2.07.00. Public comments have been received on this item and are included in the record.

This agenda item is:
__X__ quasi-judicial, requiring disclosure of ex-parte communication; or
_____ legislative, not requiring formal disclosure of ex-parte communication.

Strategic Plan:
N/A

Funding Information:
N/A

Recommendations:
OPTIONS FOR THE BOARD:

APPROVAL: The Planning and Development Board finds that, while the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met, the request for accommodation is reasonable, and therefore approves Project No. 2026060045 for a 1-Story Height variance from the Maximum Allowable Building Height of 3 Stories at 11 Riviera Place. (Parcel No. 04-11-31-3014-00000-0110).

DENIAL: The Planning and Development Board finds that all the variance criteria as listed in the guidelines at Land Development Code Section 3.07.03.E have not been met and the request for accommodation is not reasonable, and therefore denies Project No. 2026060045 for a 1-Story Height variance from the Maximum Allowable Building Height of 3 Stories at 11 Riviera Place. (Parcel No. 04-11-31-3014-00000-0110).

Attachments:

1. TSR
2. Resolution 84-7 (in part)
3. Resolution 95-50 (in part)
4. Resolution 98-10 (in part)
5. Clear 1998 Exhibit 3A
6. 2005 density-map (1998 Exhibit 3A)
7. Application
8. Medical Letter
9. Site Plan
10. 20250610-11 Riviera Pl Max Bldg Height ltr
11. TRC Comments
12. Public Notice
13. Public Comment

PROJECT NO. 2026060045
MAXIMUM BUILDING HEIGHT IN STORIES VARIANCE IN THE PUD DISTRICT
11 RIVIERA PLACE
TECHNICAL STAFF REPORT

Project No./AR No.: 2026060045/6622

Address: 11 Riviera Place

Owner: [redacted] Family LLC

Applicant: Jessica Duran

Parcel No.: 04-11-31-3014-00000-0110

Parcel Size: 18,844+/- Square Feet (0.43+/- Acres)

Legal Description:
The subject property is described as Lot 11, Block 55, Grande Mer, according to the plat thereof, as recorded in Map Book 29, Page 98 through 100, being and amended plat of Section 85, North Raffles Surf Club, as recorded in Map Book 23, Pages 41 through 57, of the Public Records of Flagler County, Florida.

Existing Zoning and Land Use Classification:
Zoning: PUD (Planned Unit Development) District
Land Use: Mixed Use: Low Intensity

Future Land Use Map Classification/Zoning of Surrounding Land:
North: Mixed Use: Low Intensity/PUD (Planned Unit Development) District
East: Beach Parcel
South: Mixed Use: Low Intensity/PUD (Planned Unit Development) District
West: 11 Riviera Place; Mixed Use: Low Intensity/PUD (Planned Unit Development) District

Flagler County Land Development Code (FCLDC) Sections Affected: Section 3.03.20 *PUD – Planned Unit Development District;* Section 3.07.03, *Procedure for variances and special exceptions*; and Section 3.07.03.E, *Variance guidelines*.

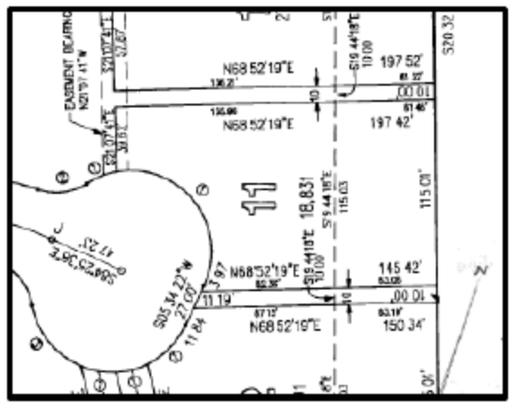
FCLDC Sec. 3.03.20.D.2 – The Plat Addendum for the Grande Mer Subdivision states it is subject to all conditions of the Hammock Dunes Development Order issued by the County in Resolution 84-7 dated March 30, 9184, and as it may be amended.

PROJECT NO. 2026060045
MAXIMUM BUILDING HEIGHT IN STORIES VARIANCE IN THE PUD DISTRICT
11 RIVIERA PLACE
TECHNICAL STAFF REPORT

Summary of Request:

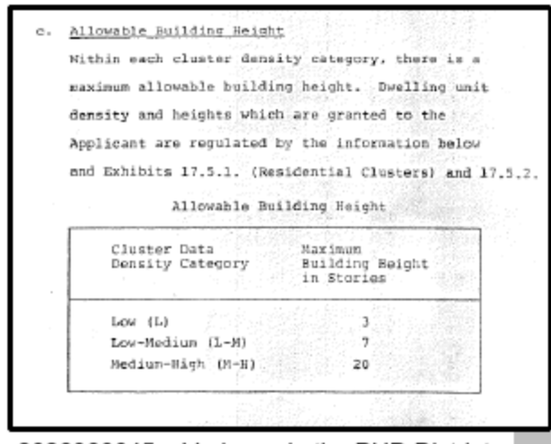
The subject property is 18,844+/- square feet having an average width of 115.01 feet and a depth of 145.42 feet along the South property long and a depth of 197.42' along the North property long. [redacted] and [redacted] of [redacted] Family LLC purchased the property through a Warranty Deed dated April 22, 2022 and recorded April 25, 2022 in Official Records Book 2681, Page 476, of the Public Records of Flagler County, Florida.

According to the plat for the Grande Mer Subdivision, Lot 11 is depicted as (at Map Book 29, Page 98 through 100, Public Records of Flagler County, Florida):



The property owners wish to construct a 4-story single-family residence on a property in the Grande Mer subdivision where a maximum of 3-stories is permitted. The Grande Mer subdivision is subject to the Hammock Dunes Development of Regional Impact (DRI) as adopted and approved in Flagler County Resolution No. 84-7, as amended in Flagler County Resolution No. 95-50, as amended in Flagler County Resolution No. 98-10.

In the original Resolution 84-7, Section 17.0 sets forth regulations for Density, Building Spacing, Land Use Classification, and other Development Requirements. Section 17.5.c on Allowable Building Height is depicted below:



c. Allowable Building Height

Within each cluster density category, there is a maximum allowable building height. Dwelling unit density and heights which are granted to the Applicant are regulated by the information below and Exhibits 17.5.1. (Residential Clusters) and 17.5.2.

Allowable Building Height

Cluster Data Density Category	Maximum Building Height in Stories
Low (L)	3
Low-Medium (L-M)	7
Medium-High (M-H)	20

PROJECT NO. 2026060045
MAXIMUM BUILDING HEIGHT IN STORIES VARIANCE IN THE PUD DISTRICT
11 RIVIERA PLACE
TECHNICAL STAFF REPORT

In Resolution 95-50, Sections 17.5.a., b. and c. Dwelling unit Density, Residential Clusters and Allowable Building Height were amended. Section 17.5.c on Allowable Building Height is depicted below:

c. Allowable Building Height

Within each cluster density category, there is a maximum allowable building height. Dwelling unit density and heights which are granted to the Applicant are regulated by the information below and Exhibits 3A and 3B. (Residential Clusters).

Allowable Building Height

Cluster Data Density Category	Maximum Building Height in Stories
Low (L)	3
Low-Medium (L-M)	7
Medium-High (M-H)	12 *

*Building height includes residential and garage floors.

In the 1995 revised DRI, we see the reduction in the maximum Allowable Building Height in the Medium-High (M-H) Density Category from the previously allowed 20 stories to 12 stories, inclusive of residential and garage floors. No changes in Allowable Building Height were made to the Low (L) Density Category or the Low-Medium (L-M) Density Category. As determined by the Growth Management Director, the asterisk that identifies that the Medium-High (M-H) Density Category is limited to a maximum building height of 12 stories inclusive of residential and garage floors does not apply to the Low (L) or the Low-Medium (L-M) Density Categories and their respective three story and seven story maximum height limits.

In Resolution 98-10, Sections 17.5.a., b. and c. Dwelling Unit Density, Residential Clusters and Allowable Building Height were again amended. Section 17.5.c on Allowable Building Height is depicted below:

c. **Allowable Building Height**

Within each cluster density category, there is a maximum allowable building height.

Dwelling unit density and Building heights which are granted to the Applicant are regulated by the information below and Revised Exhibits 3A and 3B (Residential Cluster).

Allowable Building Height

Cluster Data Density Category	Maximum Building Height in Stories
Low (L)	3
Low-Medium (L-M)	7
Medium-High (M-H)	12*

*Building height includes residential and garage floors.

OFFICIAL DOCUMENT

In the 1998 revised DRI, we see no change to the Allowable Building Height in any of the Density Clusters, but we do see the addition of a Revised Exhibit 3A (attached to this report). The Grande Mer Subdivision – as recorded at Map Book 29, Pages 98-100 – is identified on the 1998 Revised Exhibit 3A as Clusters 2 and 3 within the DRI, classified as a Low (L) Density Category, designated as "Fairway" and subject to a maximum building height of three stories.

In May of 2025, the County was contacted by Wendy Duran of Stoughton & Duran Custom Homes LLC with a permit related question for a new single-family dwelling to be constructed at 11 Riviera Place. Ms. Duran provided County staff with a working site plan and construction drawings, which appeared to not be in conformance with the maximum Allowable Building Height in Stories as stated in the Hammock Dunes DRI, pursuant to this subdivision and its density category. Ms. Duran was informed of this in which a meeting with County staff was requested to discuss further. County staff met with staff from Stoughton & Duran on May 7, 2025 in which we covered the history of the Hammock Dunes DRI, as amended overtime, and County staffs interpretation of the maximum allowed height. County staff provided the option to apply for a variance, subject to a public hearing, to exceed the 3-story maximum height limit.

Following discussion at this meeting, Adam Mengel as the Growth Management Director produced a letter with his determination signed and dated June 20, 2025 that was provided to the County's Legal Department for review and distributed to the contractor. As an alternate path, County staff provided the option to appeal the planning directors' decision, subject to a public hearing, to challenge Mr. Mengel's interpretation and determination of the language in the DRI.

On June 29, 2026, a year after the date of the Mr. Mengel's determination, Jessica Duran on behalf of property owners [redacted] and [redacted] submitted an application for variance from the Maximum Allowed Building Height in Stories to allow a 4-story house in the Grande Mer subdivision.

Included in the application for a variance at this property was an argument that the County had permitted twenty-five 4-story homes within the Hammock Dunes DRI in Clusters with the Low (L) Density Category limiting their height to 3-stories. This is factually inaccurate. Of the alleged twenty-five homes: three of them were found to be within the M-H Density Category allowing a maximum building height of 12 stories; fourteen of them were found to be within the L-M Density Category allowing a maximum building height of 7 stores; and five of them found to be within the L Density Category were constructed with three stories in height. Three homes identified on the list do appear to have been permitted, in error, as four story homes with two finaled in 2010 and one finaled in 2019. None of these three residences are within Clusters 2 and 3 of the Hammock Dunes DRI or the Grande Mer Subdivision. Flagler County has acknowledged these permits were issued in error

and reserves the right to not continue issuing permits in error, simply because we have done so before.

The variance request was heard by the Planning and Development Board at its regular meeting on September 8, 2026. During their presentation, the applicants made two separate arguments: (1) the variance was not necessary because the Growth Management Director incorrectly interpreted the DRI and (2) if a variance is necessary, it should be granted as a reasonable accommodation under the Federal and Florida Fair Housing Acts.

Given that the applicants had only pursued the first of two options given (to seek a variance), the Planning and Development Board was unable to consider the validity of the Growth Management Director's determination. Unable to split the applicants' two arguments, the Planning and Development Board continued the variance application to a date and time certain (November 10, 2026). At that time, the Planning and Development Board requested more information from the applicants and instructed them to file an application for appeal should they wish to pursue the first of its two arguments and challenge the validity of the Growth Management Director's determination.

On September 10, 2026, Jessica Duran submitted an application (Project No. 2026090015) for Appeal of the Growth Management (Planning) Directors Decision on behalf of the property owners. This will be discussed in depth in the Technical Staff Report for that item. At this point the applicant has not provided any additional documentation support for the continued variance request.

Variance Guideline Analysis:
LDC Section 3.07.03.E, *Variance guidelines,* states that a variance may be granted only upon a finding by the Planning and Development Board that all of the criteria listed in the guidelines have been found in favor of the applicant and that a literal enforcement of the provisions of this article will result in an unnecessary hardship. These criteria are listed followed by the applicant's statements (included below and attached in their entirety) and staff's analysis:

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, topography, or other unique features that, when considered in whole or in part, creates an unnecessary hardship; and*

   Applicant's response: The subject property is an oceanfront lot within the Grande Mer subdivision of the Hammock Dunes Master Development Plan. Development is governed by both the community's architectural standards and applicable development restrictions. The proposed single-family residence has been specifically designed to comply with all Hammock Dunes Design Review Committee (DRC)

guidelines, including the maximum allowed building height, and has received formal approval from the DRC. No variances are requested for setbacks, lot coverage, building footprint, allowable building area, or maximum building height; the proposed residence fully complies with all such requirements.

The hardship arises from the technical classification of the residence as a four-story structure due to the inclusion of the garage level, rather than from any physical impact of the building itself. The residence can be constructed within the same approved building height envelope whether classified as three or four stories. Requiring a redesign solely to reduce the number of stories would not decrease the home's height, massing, scale, or visual impact and would not further the planning objectives underlying the applicable regulations because the overall height, scale, massing, and visual impact of the residence would remain unchanged.

The design is consistent with longstanding development patterns within the Hammock Dunes and Ocean Hammock Master Development Plan. To date, 25 oceanfront residences have been approved and constructed with a garage level and three occupied floors above, including residences within the Grande Mer subdivision. Similar residences exist throughout each of the five oceanfront communities governed by the Master Development Plan, demonstration that the requested relief is consistent with the established character of oceanfront development within the DRI.

Additionally, the proposed residence has been uniquely designed to meet the exceptional needs of the applicants' 8-year-old autistic non-verbal child, who requires constant supervision when outside. An entire floor has been dedicated as a safe, indoor space for his education, play, and exploration. A letter from the child's medical provider detailing his condition is attached.

Staff analysis: The property is not particularly unique in size, shape, or topography as compared to other lots within the Grande Mer subdivision that would create an unnecessary hardship where the need to construct a 4-story structure, rather than a 3-story is substantiated.

2. *Such conditions were not created by the affirmative actions of the applicant and the applicant has acted at all times in good faith; and*

Applicant's response: The applicant has acted in good faith throughout the entire design, review, and approval process. The residence was designed by qualified professionals in full accordance with the governing development documents and Hammock Dunes Design Review Guidelines. The plans were reviewed and formally approved by the Hammock Dunes Design Review Committee prior to submission of

the building permit application. The applicant reasonably relied upon the applicable governing documents, professional consultants, and the HOA approval process when developing the design.

The need for this variance results from differing interpretations regarding whether the garage level should be included in the story county for properties in the Low Density (L) cluster. The applicant also reasonably relied upon the fact that the Hammock Dunes Design Review Guidelines regulate development primarily by maximum building height., The proposed residence fully complies with all applicable height limitations and was approved by the DRC as consistent with the character and architectural standards of the community. The interpretation is further supported by Ordinance 98-10, which applies the garage-floor inclusion footnote only to the Medium-High (M-H) density category. In any event, the applicant proceeded in good faith and has designed a residence that satisfies all height, setback, lot coverage, and architectural requirements.

Staff analysis: This is a before-the-fact variance request as no building permit application has been submitted to the County for review. The applicants purchased the property as-is. The proposed design and placement of the residence on the property are the affirmative actions of the applicants, but they are presumed to have been done in good faith.

3. *The variance, if granted, would not cause substantial detriment to the public health, welfare, safety, and morals of the community or impair the purpose and intent of this article; and*

Applicant's response: Granting the requested variance will not cause substantial detriment to the public health, safety, welfare, or the character of the community. The proposed residence complies with all applicable setback requirements, lot coverage limitations, building area requirements, and HOA design standards, and has already received architectural approval from the Hammock Dunes Design Review Committee – the entity responsible for ensuring compatibility within the neighborhood.

The requested variance does not increase the overall building height, footprint, density, intensity of use, or visual impact of the structure. A redesign as a three-story residence would result in substantially the same height and external appearance. Therefore, the variance will not impair the purpose or intent of the applicable regulations, which seek to ensure compatible development and reasonable limitation on building scale. The proposed resident will generate no greater traffic, demand on public-facilities, intensity of use, or impact on adjacent properties than any other permitted single-family residence.

Staff analysis: The height of structures in the Grande Mer Subdivision is governed by the Allowable Building Height in Stories as set forth by the Hammock Dunes DRI, rather than in a foot dimension as set forth in the Covenants and Restrictions enforced by the Hammock Dunes Development Review Committee. While the County does not enforce HOA or DRC regulations, the applicant has received HOA approval for the height of the structure measured in feet.

4. *No variance may be granted for a use of land or building that is not permitted by this article.*

Applicant's response: The proposed structure is a single-family residential use within the applicable zoning district and the Grande Mer subdivision. The applicant is not requesting approval of a prohibited use, an increase in density, or change in the permitted use of the property. The variance relates solely to the technical classification of the residence as four stories rather than three and constitutes the minimum relief necessary to construct a home that otherwise fully complies with all height limitations, setbacks, lot coverage requirements, HOA design standards, and development regulations.

Requiring the home to be redesigned as a three-story residence would not reduce its overall height, scale, massing, or visual impact, as the structure would still be built to the maximum height permitted on the property. The variance therefore addresses only a technical classification of stories and does not alter the permitted residential use of the property, increase density or intensity, or adversely affect the character or compatibility of the surrounding neighborhood.

Staff Analysis: A single-family residence is a permitted use in the Grande Mer subdivision.

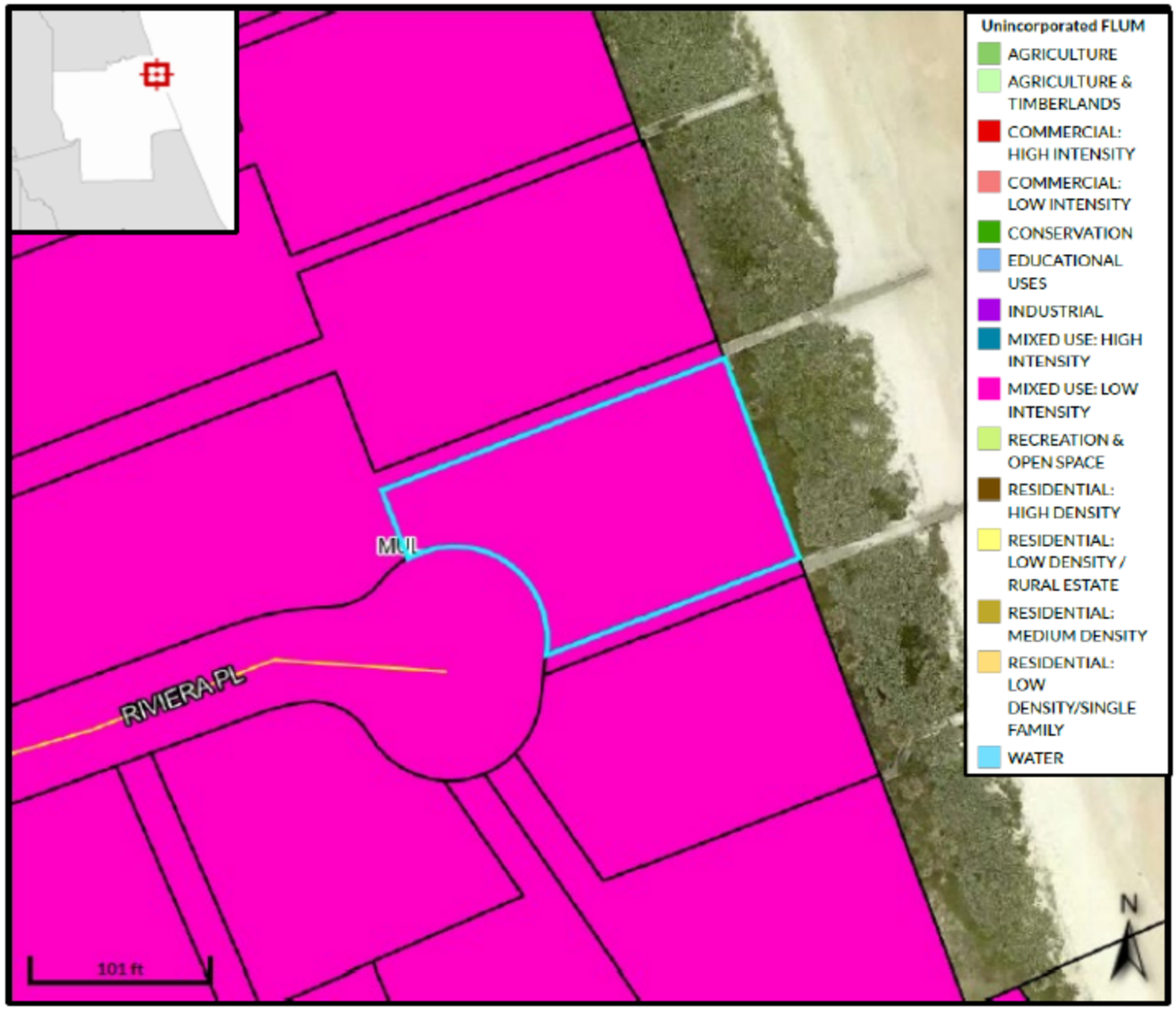
A variance, if granted, shall be the minimum variance necessary to alleviate the hardship. For purposes of this section, an unnecessary hardship shall mean that without the granting of the variance the owner will be deprived of all reasonable use of the property as allowed in the zoning district.

Applicant response: No response.

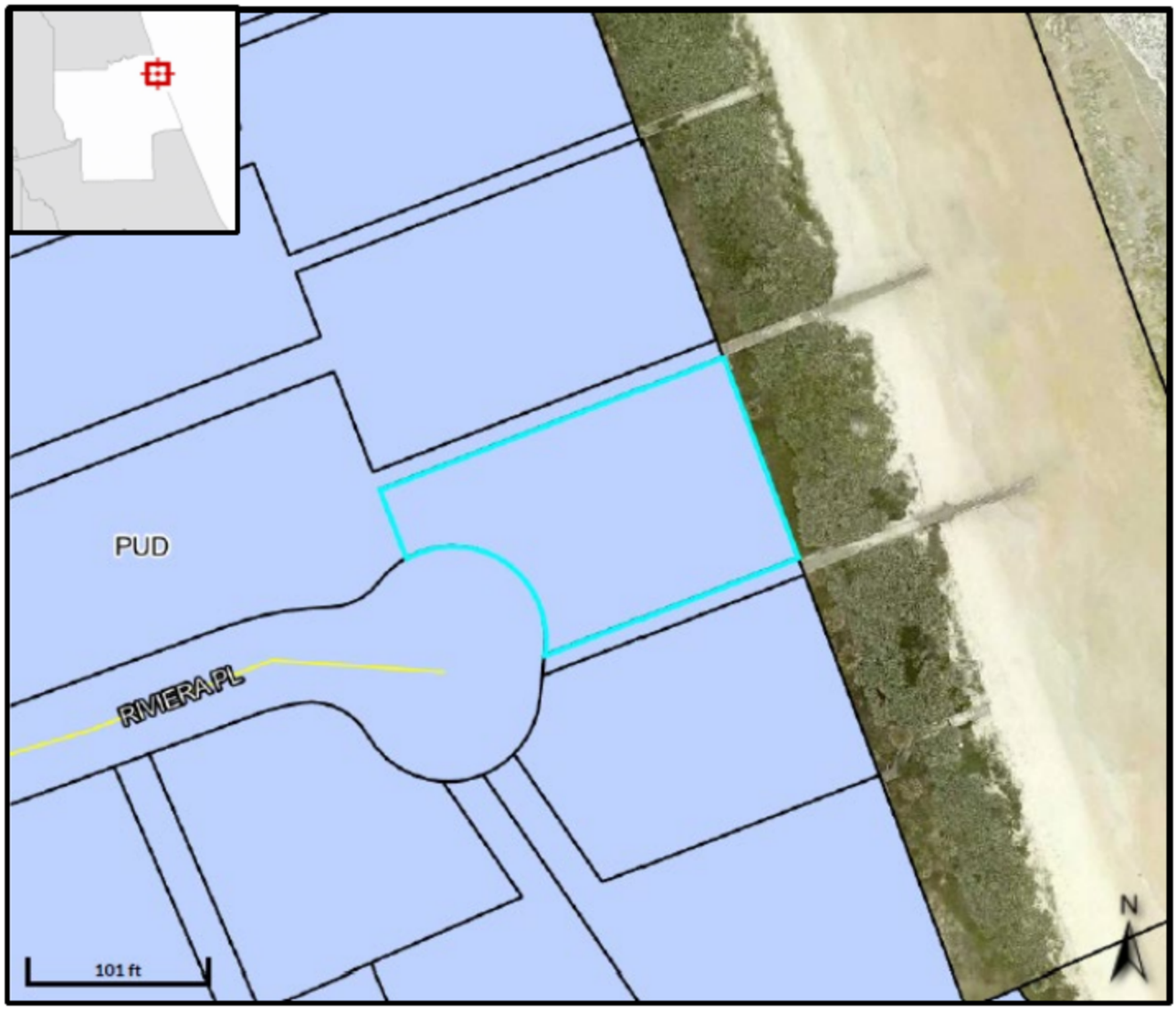
Staff Analysis: The requested variance is not the minimum relief necessary as there is nothing unique pertaining to the property itself that creates an unnecessary hardship depriving the applicant of all reasonable use of the property. In the instance that an unnecessary hardship is present, the applicant has not exhausted the full buildable

area of the lot by designing a residence to the minimum dimensional requirements. Based on the setbacks set forth in the Plat Addendum for the Grande Mer Subdivision, the residence, by right, could be 18’ wider on all 3 permitted stories without the need for a variance.

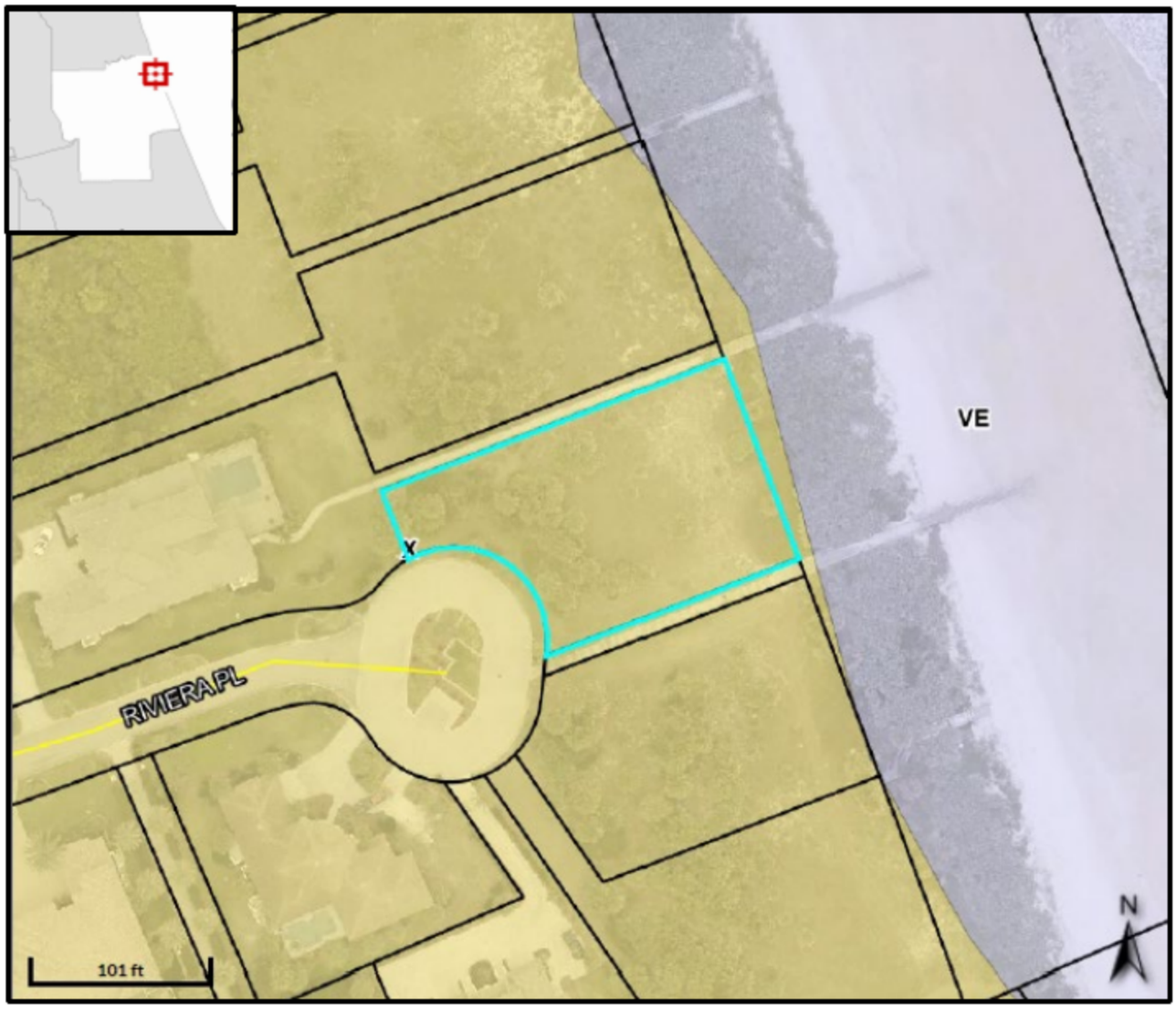
Future Land Use Map



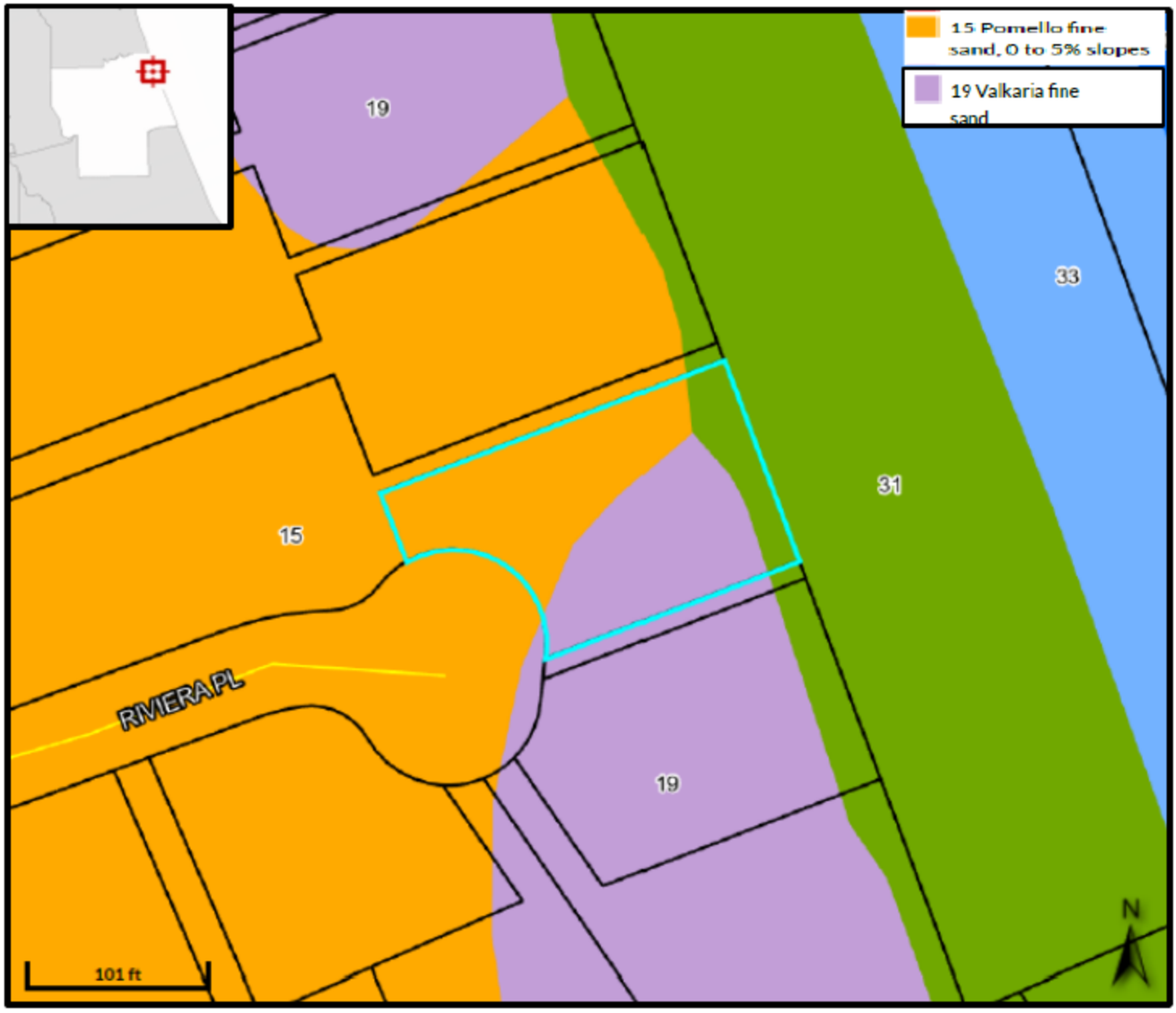
Zoning Map



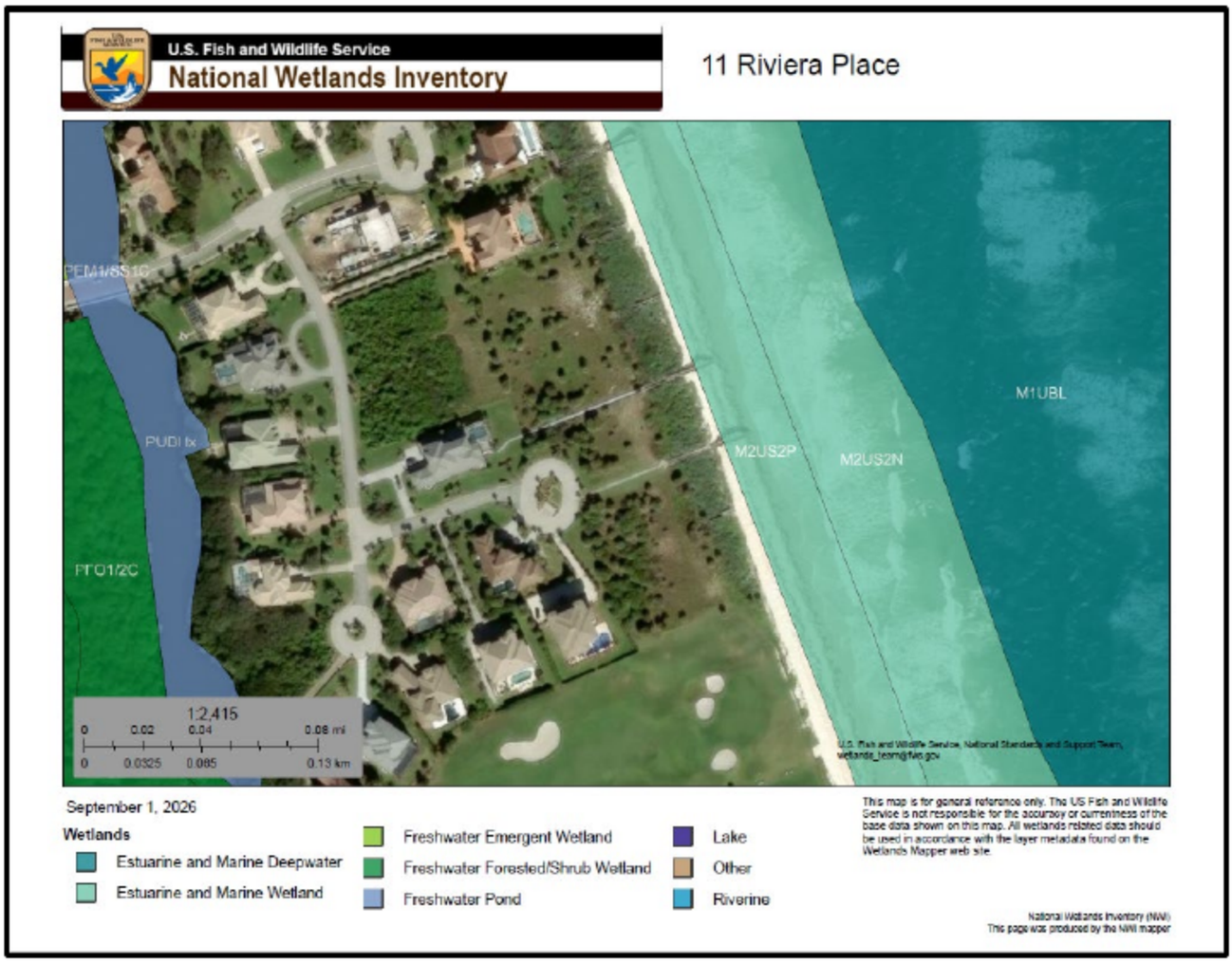
Flood Zone Map



Soils


15 Pomello fine sand, 0 to 5% slopes
19 Valkaria fine sand
19
33
31
15
RIVIERA PL
19
101 ft
N

Wetlands


U.S. Fish and Wildlife Service
National Wetlands Inventory
11 Riviera Place
PEMAWSS1C
PUDI fx
PFO1/2C
M2US2P
M2US2N
M1UBL
1:2,415
0 0.02 0.04 0.08 mi
0 0.0325 0.065 0.13 km
U.S. Fish and Wildlife Service, National Standards and Support Team, wetlands_team@fws.gov
September 1, 2026
Wetlands
Estuarine and Marine Deepwater
Estuarine and Marine Wetland
Freshwater Emergent Wetland
Freshwater Forested/Shrub Wetland
Freshwater Pond
Lake
Other
Riverine
This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.
National Wetlands Inventory (NWI)
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