



**PALM BEACH COUNTY
ZONING APPLICATION STAFF REPORT**

ADMINISTRATIVE VARIANCE PUBLIC MEETING, APRIL 25, 2025

A. Application Summary

I. General

Application Name:	Delray Estates Home Pool Variance Lot 12, AV-2025-00205 Delray Estates Home Pool Variance Lot 13, AV-2025-00203 Delray Estates Home Pool Variance Lot 14, AV-2025-00206 Delray Estates Home Pool Variance Lot 15, AV-2025-00204
Control Name:	Delray Estate Homes, (2008-00522)
Applicant:	Daniel Spear, Waverley SP, LLC
Owner:	Waverley SP LLC
Agent:	N/A
Project Manager:	Michael Birchland, Site Planner II

Title: a Type 1 Variance **Request:** to allow a reduction in rear pool setbacks for a Single Family Residence

Application Summary: The application is for the Delray Estates residential development. The site was last approved by the Board of County Commissioners (BCC) on July 25, 2019 for a rezoning from the Agricultural Residential Zoning District to the Single Family Residential Zoning District. The site is approved for 15 single-family units.

The request proposes to reduce the required rear setback for pools from 10.5 ft. to 6.17 ft. on lot 12 and 10.5 ft. to 6.42 ft on lots 13, 14 and 15. Access for each lot will remain from Mosaic Place.

II. Site Data

Acres:	Each lot is 0.2 acres
Location:	Northeast intersection of Morikami Park Road and Mosaic Place
Parcel Control:	00-42-46-27-32-000-0120; 00-42-46-27-32-000-0130 00-42-46-27-32-000-0140; 00-42-46-27-32-000-0150
Future Land Use:	Low Residential, 3 units per acre (LR-3)
Zoning District:	Residential Single Family (RS)
Tier:	Urban/Suburban
Utility Service:	Palm Beach County Water Utilities
Overlay/Study:	N/A
Neighborhood Plan:	N/A
CCRT Area:	N/A
Comm. District:	District 5, Commissioner Maria Sachs

III. Staff Assessment & Recommendation

ASSESSMENT: Staff has evaluated the standards listed under Article 2.C.5.F.4, and determined that the request **does** meet the standards of the ULDC.

STAFF RECOMMENDATION: Staff recommends approval of the request subject to the Conditions of Approval as indicated in Exhibit C-1 through C-4.

PUBLIC COMMENT SUMMARY: At the time of publication, Staff had received no contact from the public regarding this application.

IV. Meeting History

Public Meeting: *Scheduled for April 25, 2025 Type 1 Variance Public Meeting*

B. Data & Analysis

The supporting data and analysis is provided within the following Exhibits.

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Exhibit A - Future Land Use Map



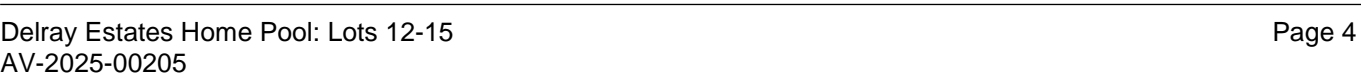


Exhibit B - Standards Analysis & Findings

FINDINGS:

Type 1 Variance Standards:

When considering a Development Order application for a Type 1 Variance, the DRO shall consider Standards a through g listed under Article 2.C.5.F.4, Standards for Zoning or Subdivision Variance. The Standards and Staff Analyses are as indicated below. A Type 1 Variance that fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved.

ULDC Article	Required	Proposed	Variance
V.1 – 5.B.1.A Pool/Spa Setbacks	10.5 foot rear setback	4.33 foot rear setback	6.17 foot rear pool setback reduction Lot 12
		6.41 foot rear setback	4.09 foot rear pool setback reduction Lot 13
		6.41 foot rear setback	4.09 foot rear pool setback reduction Lot 14
		6.41 foot rear setback	4.09 foot rear pool setback reduction Lot 15

a. **Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district:**

APPLICANT’S RESPONSE:

YES. The surrounding communities are single family residential to the north and west and a County Park to the south. There are a few circumstances, bulleted below, that were required of the developer at the time of the Subdivision Plan approval and subsequent recorded plat that effect the compliance of pools setbacks for Lots 12 through 15 of Delray Estates.

- At the time of Subdivision Plan approval, the Zoning reviewer required a 15’ wide, Type 2 incompatibility buffer at the rear of Lots 12 through 15 and the abutting property line which was undergoing simultaneous entitlement approval for a 4 story Congregate Living Facility, when ULDC Article 7.C.2.C.2.a. allowed for a reduction of up to 50% of the buffer width when two of the same types of buffer abut each other and did not take into account the potential conflict with the pool setbacks. Platting, permitting, and site construction is complete and there are purchase contracts pending for lots and homes to be constructed. If the reduction in Art. 7 were allowed and implemented at time of Subdivision Plan approval, the pools as designed and undergoing permitting would comply equally amongst all of the lots within the subdivision and sufficient landscaping could still be provided.
- The Delray Estates project is too small to be a Planned Unit Development and therefore was required to be approved as a straight subdivision, which does not allow for the same flexibility of PUD’s or Zero Lot Line subdivisions. For example, the same home with side-loaded garages proposed for Delray Estates Lots 12 through 15 in a PUD Residential Pod is allowed a 15’ front setback and Zero Lot Line subdivision allow for a 10’ front setback, as opposed to the 25’ front setback required for the Delray Estates subdivision. This leaves less area in the rear yard to comply with pool setbacks, especially when the setback is measured from the inside edge of the Type 2 Incompatibility Buffer instead of the property line.
- The plat shows Tract B1 as a Landscape Buffer Tract, based on the Subdivision Plan showing a separate tract for the Type 2 Incompatibility Buffer, which as confirmed by Land Development, is not typically required as a tract within a straight subdivision. Without the platted Tract B1, the buffer would still be required, however setbacks, including pool setbacks, would be measured from the property line rather than the inside of the buffer line, which would allow the pools to comply with the minimum rear setback of 10.5’

STAFF’S RESPONSE:

V-1 YES: The Delray Estates residential subdivision is adjacent to a Type 3 CLF along the east property line of the development. At the time of the subdivision review, Staff required a Type 2 Incompatibility buffer (15 ft wide) along the east property line as required for the type of use the subdivision was abutting. The adjacent Type 3 CLF development was also approved with a Type 2 Incompatibility buffer. The ULDC allows reductions in buffers widths by 50% when a development is proposed with the same buffer types. The Applicant at the time of the application for the Subdivision did not obtain approval to reduce the buffer and lots 11-15 were reduced in size. Subsequently the development was platted with the 15 foot buffer. If the buffer was reduced in size to 7.5 feet, the variance for these lots would not have been required as the setbacks would have been met. Additionally, the overall development is below the minimum threshold in Table 3.E.2.C to be reviewed as a PUD, and as a result is unable to utilize the additional standards for PUDs including a reduced front setback for houses with side loading garages, which may have allowed relocation of the house closer to the front of the property to allow the pool to meet setbacks.

b. Special circumstances and conditions do not result from the actions of the Applicant:

APPLICANT'S RESPONSE:

YES. The developer has substantially progressed with platting, permitting and construction of Delray Estates based on the requirements imposed at the time of the Subdivision Plan approval but unaware of implications on the pool setbacks for Lots 12 through 15. The applicant is doing what they can to provide equal opportunity to future homeowners in the community by requesting the reduction of the swimming pool setback while retaining the buffer as it was approved, rather than requesting a reduction to the buffer width as allowed in ULDC Article 7.C.2.C.2

STAFF'S RESPONSE:

V-1 - YES: The project is an infill development and was unable to obtain additional acreage to meet the minimum threshold for a PUD, nor did it request to reduce the buffer widths prior to platting, which additionally prevented the Applicant from utilizing additional flexible standards for PUDs.

c. Granting the Variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district:

APPLICANT'S RESPONSE:

YES. This request is unique to this property and circumstance and does not grant any special privilege denied by the Plan or the Code for other parcels of land, structures or buildings

STAFF'S RESPONSE:

V-1 - Granting the variance shall not confer upon the Applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district. This request is for lots 12, 13, 14, and 15. Staff have included a condition of Approval that no future buffer width reduction shall be allowed adjacent to the four lots.

d. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship:

APPLICANT'S RESPONSE:

YES. In addition to the circumstances outlined in 1. Above, a literal interpretation or enforcement of the setback would deprive equal opportunity for future homeowners to have the same type of home and pools amongst all of the lots within Delray Estates. The homes being offered are designed with some lots having executed contracts and models being permitted for construction. In comparison, even with the requested variance, Lots 12 through 15 will have more distance from the adjacent use than the lots on the west side of the development, so these lots will still be provided with sufficient separation and landscaped buffers.

STAFF'S RESPONSE:

V-1 – Literal interpretation and enforcement of the terms and provisions of this code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship. Restricting the Applicant from building the pool that is typical to other single family homes in the development due to the reduction in size of the lot, and a platted buffer that could have been reduced before platting, would deprive the Applicant of commonly enjoyed rights.

e. Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure:

APPLICANT'S RESPONSE:

YES. The variance(s) requested are the minimum to make possible equal opportunity for all home buyers in this community to have the same or similar sized homes and swimming pools/spas. Should the variance not be granted, the affected Lots will be at a marketable disadvantage to not have the potential of a swimming pool.

STAFF'S RESPONSE:

V-1 – YES: Due to the constraints of the site, the requested variance is the minimum relief that will allow for the Applicant the reasonable use of their property.

f. Granting the Variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code:

APPLICANT’S RESPONSE:

YES. The predominate purpose of setbacks is to provide separation from adjacent uses. As shown in the Variance Summary chart above, with the inclusion of the buffer tract, there is greater separation from the adjacent use than code requires. Accordingly, granting the variance will remain to be consistent with the purposes, goals, objectives of the Plan and this Code. In comparison, even with the requested variance, Lots 12 through 15 will have more distance from the adjacent use than the lots on the west side of the development, so these lots will still be provided with sufficient separation and landscaped buffers.

STAFF’S RESPONSE:

V-1- YES: Granting of the variance will be consistent with the proposed, goals, objectives, and policies of the Comprehensive Plan and the Code. A majority of single-family residences within the subdivision are proposed to have pools. Granting this variance will allow Lot 12 to be consistent with the development.

g. Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

APPLICANT’S RESPONSE:

YES. Included with this application is a letter in support from the owner of the adjacent Assisted Living Facility project to the east. The reduction of these setbacks will have no adverse effect on the area or on public welfare.

STAFF’S RESPONSE:

V-1 - YES: The granting of the variance will not be injurious to the area involved or otherwise detrimental to public welfare. The Type 2 Incompatibility Buffer will limit the impact of the pools on the adjacent Development. The Applicant has also provided a letter of support from the Owner of the adjacent property to the east.

Exhibit C-1 – Conditions of Approval

Type 1 Variance - Lot 12

ALL PETITIONS

1. The approved Type 1 Variance is based on the documents submitted with the application and depicted on the survey dated February 19, 2025. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the addition and design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

2. This Development Order is valid for one year from the effective date of the decision. Implementation of the Development Order requires the Applicant to obtain a building permit and receive approval of the first inspection. The granting of any time extensions shall be in accordance with Article 2.E. (DATE: ZONING - Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPMT: BUILDING DIVISION - Zoning)

LANDSCAPING

1. The Type 2 Incompatibility buffer along the east property line of Lot 12 may not be reduced in width or plant material. (ONGOING: ZONING – Zoning)

COMPLIANCE

1. In Granting this Approval, the Development Review Officer relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Development Review Officer for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Type 1 Variance; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to submit a Status Report to the Development Review Officer in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

Exhibit C-2 – Conditions of Approval

Type 1 Variance - Lot 13

ALL PETITIONS

1. The approved Type 1 Variance is based on the documents submitted with the application and depicted on the survey dated February 19, 2025. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the addition and design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

2. This Development Order is valid for one year from the effective date of the decision. Implementation of the Development Order requires the Applicant to obtain a building permit and receive approval of the first inspection. The granting of any time extensions shall be in accordance with Article 2.E. (DATE: ZONING - Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPMT: BUILDING DIVISION - Zoning)

LANDSCAPING

1. The Type 2 Incompatibility buffer along the east property line of Lot 13 may not be reduced in width or plant material. (ONGOING: ZONING – Zoning)

COMPLIANCE

1. In Granting this Approval, the Development Review Officer relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Development Review Officer for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Type 1 Variance; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to submit a Status Report to the Development Review Officer in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

Exhibit C-3 – Conditions of Approval

Type 1 Variance - Lot 14

ALL PETITIONS

1. The approved Type 1 Variance is based on the documents submitted with the application and depicted on the survey dated February 19, 2025. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the addition and design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

2. This Development Order is valid for one year from the effective date of the decision. Implementation of the Development Order requires the Applicant to obtain a building permit and receive approval of the first inspection. The granting of any time extensions shall be in accordance with Article 2.E. (DATE: ZONING - Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPM: BUILDING DIVISION - Zoning)

LANDSCAPING

1. The Type 2 Incompatibility buffer along the east property line of Lot 14 may not be reduced in width or plant material. (ONGOING: ZONING – Zoning)

COMPLIANCE

1. In Granting this Approval, the Development Review Officer relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Development Review Officer for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Type 1 Variance; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to submit a Status Report to the Development Review Officer in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

Exhibit C-4 – Conditions of Approval

Type 1 Variance - Lot 15

ALL PETITIONS

1. The approved Type 1 Variance is based on the documents submitted with the application and depicted on the survey dated February 19, 2025. Modifications to the Development Order inconsistent with the Conditions of Approval, or changes to the addition and design beyond the authority of the Development Review Officer as established in the Unified Land Development Code, must be approved by the Zoning Commission. (ONGOING: ZONING - Zoning)

2. This Development Order is valid for one year from the effective date of the decision. Implementation of the Development Order requires the Applicant to obtain a building permit and receive approval of the first inspection. The granting of any time extensions shall be in accordance with Article 2.E. (DATE: ZONING - Zoning)

3. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance approval along with copies of the approved Plan to the Building Division. (BLDGPMT: BUILDING DIVISION - Zoning)

LANDSCAPING

1. The Type 2 Incompatibility buffer along the east property line of Lot 15 may not be reduced in width or plant material. (ONGOING: ZONING – Zoning)

COMPLIANCE

1. In Granting this Approval, the Development Review Officer relied upon the oral and written representations of the Property Owner/Applicant both on the record and as part of the application process. Deviations from or violation of these representations shall cause the Approval to be presented to the Development Review Officer for review under the Compliance Condition of this Approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the Conditions of Approval for the subject property at any time may result in:

- a. The Issuance of a Stop Work Order; the Issuance of a Cease and Desist Order; the Denial or Revocation of a Building Permit; the Denial or Revocation of a Certificate of Occupancy; the Denial of any other Permit, License or Approval to any developer, owner, lessee, or user of the subject property; the Revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; the Revocation of any concurrency; and/or
- b. The Revocation of the Type 1 Variance; and/or
- c. A requirement of the development to conform with the standards of the Unified Land Development Code at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing Conditions of Approval; and/or
- d. Referral to Code Enforcement; and/or
- e. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or the Code Enforcement Special Master to submit a Status Report to the Development Review Officer in accordance with the provisions of Section 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any Condition of Approval. (ONGOING: MONITORING - Zoning)

Exhibit D - Project History

Application No.	Title & Request	Resolution	Decision	Approval Date
Z-2019-00510	Title: Official Zoning Map Amendment Request: to allow a Rezoning from the Agricultural Residential (AR) Zoning District to the Single Family Residential (RS) Zoning District	R-2019-01055	Approved With Conditions	07/25/2019

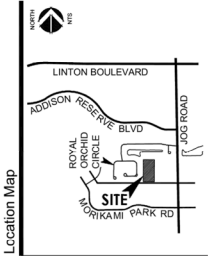
Exhibit E-1 – Final Subdivision Plan



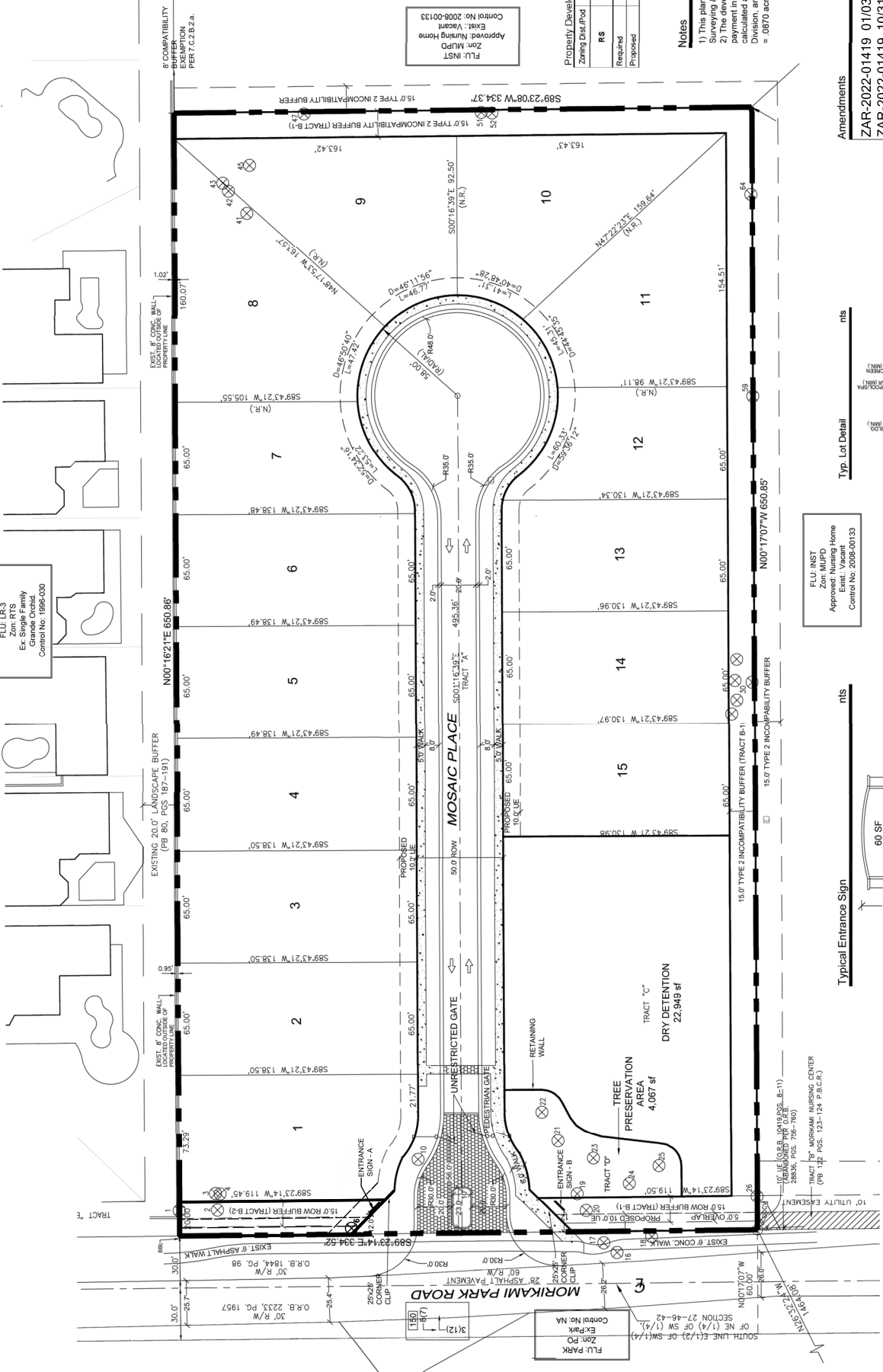
MILLER
LAND
PLANNING, INC.

508 E. Boynton Beach Blvd.
Boynton Beach, FL 33435
(561) 724-8938

Prepared For:
Waverley SP, LLC
3821 SW 47 Ave. Ste. 1013
FL Lauderdale, FL 33314



Key
TREES TO REMAIN (SEE FPP-1)



Site Data

Application Name: Waverley SP, LLC
Application Number: 2008-00522
Application Number: DRO/DRO-2019-01203
Project Number: 08999-589
Last BCC Approval Date: July 25, 2019 / R-2019-1055

Tier: Urban/Suburban
Existing Land Use: Urban/Suburban
Zoning District: LR-3
Property Control Numbers: NA
Existing Use(s): Single-Family Residential
Proposed Use(s): Single-Family Residential

Site Data
Gross Site Area: 217,644 sf
Total Proposed Units: 15 Units
Total Required/Provided WHIP (Full Incentive): 1 Units

* All WHIP units to be bought out at \$1,500 per unit prior to the release of the 1st building permit per ULDC Article 5.0.1.5.4. Per DRO 2019-1203 Planning condition 1; paid to DEHS on date (tbd) via receipt # (tbd).

Proposed Density: 3 u/a
Max. Building Coverage: 40 %

Parking Data
Parking Required - Total Spaces: 30 sp
Single-Family (2 spaces per unit @ 15 units)

Parking Provided - Total Spaces: 30 sp

Miscellaneous Data
Max. Building Height: 35 ft.
No. of Stories: 2
Required Recreation Area (See Note 2): 7,500 sq min.
Traffic Analysis Zone (TAZ): 1381

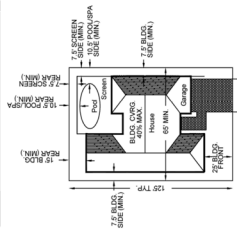
Concurrency Approval
Level: Single-Family Residential
Sq. Ft./Unit: 15 units

Property Development Regulations									
Zoning Dist./Pod		Min. Lot Dimensions (ft)		Density /SF		Max. Bldg. Cover		Subsides/Separation (ft)	
RS	Size	Width	Depth	Frontage	Depth	Front	Side	Street	Rear
Required	6,000+	65'	75'	3 u/a	n/a	40%	25'	7.5'	15'
Proposed	6,000+	65'	75'+	3 u/a	n/a	40%	25'	7.5'	15'

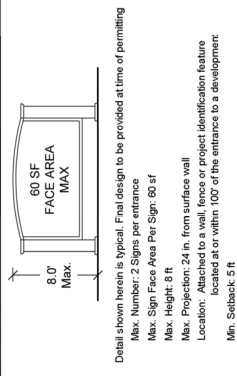
Notes

- This plan is based on survey information provided by Perimeter Surveying & Mapping, Inc., dated 03/25/2019.
- Recreation area cash out amount will be calculated as follows, unless otherwise indicated by Park & Recreation Division, and the fee will be due prior to plat approval: 15 lots x .00596/cft = .0870 acres x \$773.125/ac (avg. park development cost) = \$66,348.

Typ. Lot Detail



Typical Entrance Sign



- Detail shown herein is typical. Final design to be provided at time of permitting.
- Max. Number: 2 Signs per entrance
 - Max. Sign Face Area Per Sign: 60 sf
 - Max. Height: 8 ft
 - Max. Projection: 24 in. from surface wall
 - Location: Aligned to a wall, fence or project identification feature
 - Signs must be located on within 100' of the entrance to a development
 - Min. Setback: 5 ft
 - Planting around sign per A/C 7.C.3.C.

Amendments

ZAR-2022-01419 01/03/2023 MC
ZAR-2022-01419 10/31/2023 MC
ZAR-2025-00321 02/19/2025 DA
PROJECT #: 09999-999
CONTROL #: 2008-0522
APPLICATION #: DRO/DRO2
2019-01203
RESOLUTION #: R-2019-1055

Approval Stamp

EXHIBIT #5
SUPERSEDES EXH. #3
DATE APPROVED: November 22, 2019
PROJECT MANAGER:
Diego Penaloza



0' 15' 30' 60'
SCALE 1" = 30'

FINAL
SUBDIVISION
PLAN

FSBP-1

Exhibit E-2 – Surveys



947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

BOUNDARY SURVEY

16686 MOSAIC PL, DELRAY BEACH, FL 33446

SECTION 27 TOWNSHIP 46 SOUTH RANGE 42 EAST

LEGAL DESCRIPTION

LOT 12, "DELRAY ESTATE HOMES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 137, PAGE 17 AND 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

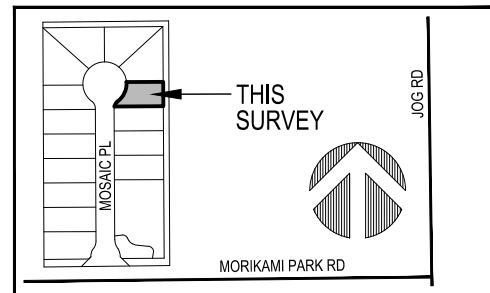
SAID LAND SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 7103 SQUARE FEET (0.163 ACRES), MORE OR LESS.

NOTES

- THIS DRAWING IS NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
- TITLE INFORMATION IS SHOWN ON SHEET 2.
- ALL EASEMENTS SHOWN HEREON ARE PER THE RECORD PLAT(S) UNLESS OTHERWISE INDICATED.
- THERE HAVE BEEN NO UNDERGROUND IMPROVEMENTS LOCATED IN CONNECTION WITH THIS SURVEY, EXCEPT AS SHOWN.
- BEARINGS SHOWN HEREON ARE BASED ON A LINE BETWEEN PALM BEACH COUNTY CONTROL MONUMENTS "SLANT" AND "CAMDEN" HAVING A BEARING OF S01°47'27"W, AS PER NAD1983 1990 ADJUSTED BEARINGS AS SHOWN ON THE PLAT OF "DELRAY ESTATE HOMES" (P.B. 137, PGS. 17&18, P.B.C.R.)
- ELEVATIONS SHOWN HEREON ARE RELATIVE TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 AND WERE DETERMINED FROM PALM BEACH COUNTY BENCHMARK "SLANT", ELEVATION: 25.969' NAVD.
- PROPERTY ADDRESS: 16686 MOSAIC PL, DELRAY BEACH, FL 33446
- FLOOD INFORMATION IS AS FOLLOWS:
COMMUNITY NUMBER : 120192
PANEL NUMBER : 12099C0967F
DATE OF FIRM INDEX : 10-05-2017
ZONE : X
BASE FLOOD ELEVATION : N/A

ABBREVIATIONS

AC	=	AIR CONDITIONER
ALF.	=	ALUMINUM FENCE
C.B.S.	=	CONCRETE BLOCK & STUCCO
CLF	=	CHAIN LINK FENCE
CONC.	=	CONCRETE
Δ	=	DELTA (CENTRAL ANGLE)
D.E.	=	DRAINAGE EASEMENT
ELEV.	=	ELEVATION
F.F.	=	FINISHED FLOOR
GAR.	=	GARAGE
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P.B.	=	PLAT BOOK
P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.C.P.	=	PERMANENT CONTROL POINT
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PROP.	=	PROPOSED
R	=	RADIUS
R.E.	=	RIM ELEVATION
R/W	=	RIGHT-OF-WAY
TYP.	=	TYPICAL
U.E.	=	UTILITY EASEMENT



LOCATION MAP

NOT TO SCALE

LEGEND

W	WATER SERVICE	⊙	FIRE HYDRANT
E	ELECTRIC SERVICE	▢	CATCH BASIN
T	TELEPHONE BOX	⊗	LIGHT POLE
C	CABLE TV BOX	●	WOOD UTILITY POLE
D	DRAINAGE MANHOLE	■	CONCRETE UTILITY POLE
S	SANITARY MANHOLE	⊖	CLEAN OUT
W	WATER VALVE	⊥	CENTERLINE
⊙	SIGN	×0.00'	EXISTING ELEVATION

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THE SURVEY SHOWN HEREON COMPLIES WITH STANDARDS OF PRACTICE AS CONTAINED IN CHAPTER 5J-17.051, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS PREPARED UNDER MY DIRECTION.

JEFF S. HODAPP
SURVEYOR AND MAPPER
FLORIDA LICENSE NO. LS5111

DATE OF LAST FIELD WORK: AUGUST 2, 2024

PROJECT NAME: DELRAY ESTATE HOMES	DATE: P.P. 2/18/2024 F.B.S. 7/17/2024
JOB NO. 19158	DWG BY: GY/AJR
CK'D BY: JSH	F.B.S. #2 8/2/2024 REV. POOL 1/14/2025
	SHEET 1 OF 3



947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

TITLE INFORMATION

OWNERSHIP AND ENCUMBRANCE REPORT
PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY
FILE NUMBER 110624434
DATED 02/06/2025

DESCRIPTION	BOOK/PAGE	APPLIES?	PLOTTED?
MORTGAGE	ORB 33067/624	YES	NO
MORT MOD AG	ORB 34741/1756	YES	NO
ASSIGNMENT	ORB 33067/654	YES	NO
FINANCING STATEMENT	ORB 33067/662	YES	NO
NOC (LOT15)	ORB 34990/132	YES	NO
NOC (LOT 12)	ORB 35113/1991	YES	NO
NOC (LOT 13)	ORB 35113/1992	YES	NO
NOC (LOT 12)	ORB 35498/463	YES	NO
NOC (LOT 13)	ORB 35498/464	YES	NO

PERIMETER

SURVEYING & MAPPING

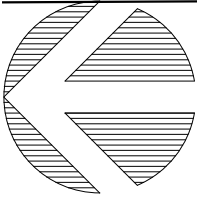
Certificate of Authorization No. LB7264

947 Clint Moore Road
Boca Raton, Florida 33487

Tel: (561) 241-9988
Fax: (561) 241-5182

TRACT B-1
(P.B. 137,
PGS. 17-18)

N00°17'07"W 65.00'



SET 1/2" IRC
LB#7264

SET 1/2" IRC
LB#7264

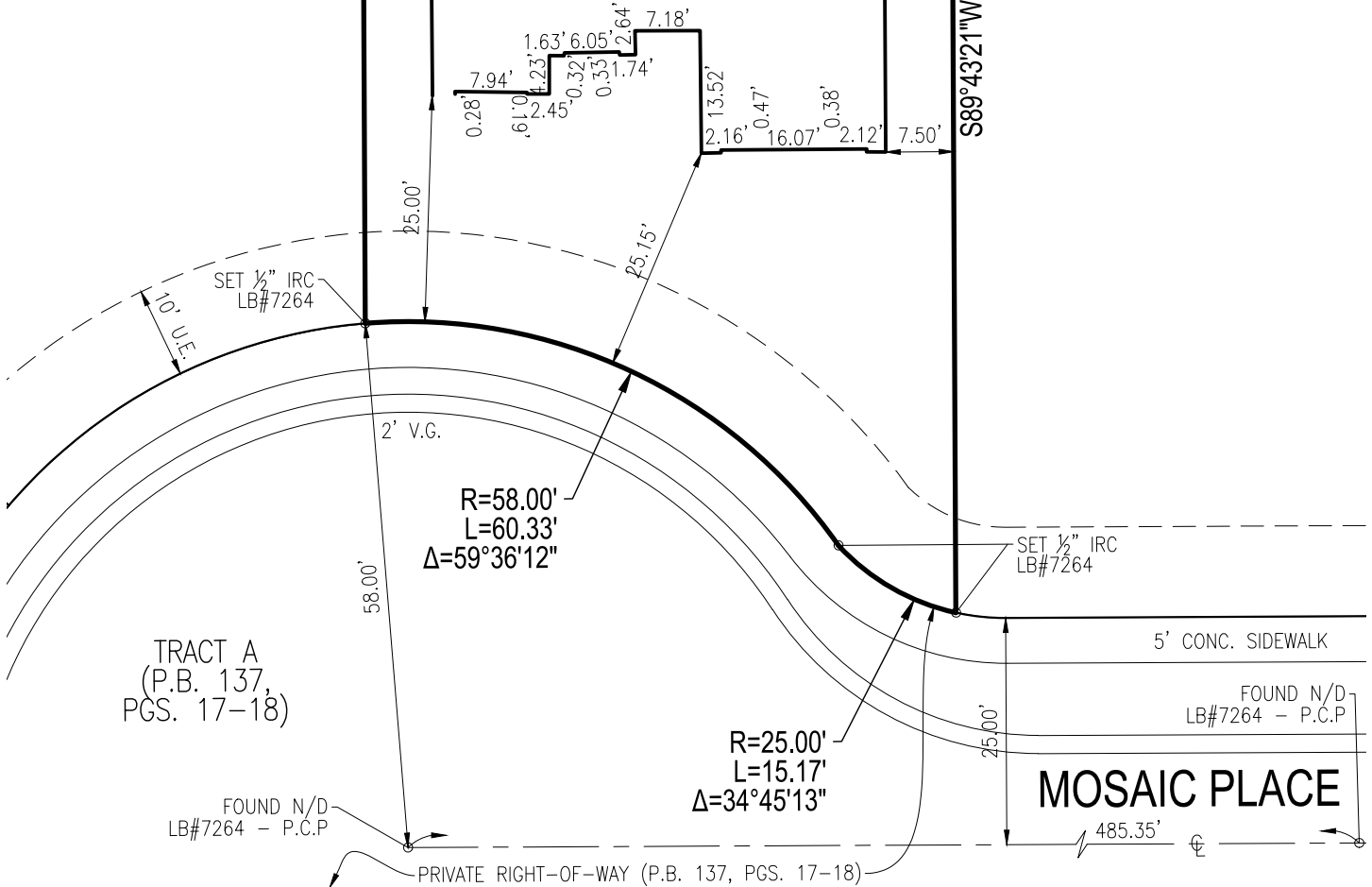
LOT 11
(P.B. 137,
PGS. 17-18)

LOT 12
(P.B. 137, PGS. 17-18)
(UNDER CONSTRUCTION)
2 STORY
C.B.S. BUILDING
F.F. EL.=20.75'

LOT 13
(P.B. 137,
PGS. 17-18)

S89°43'21"W 98.11'

S89°43'21"W 130.34'



JOB NO. 19158

PROJECT NAME: DELRAY ESTATE HOMES

DWG BY: GY/AJR

SCALE: 1" = 20'

CK'D BY: JSH

DATE: 1/14/2025

SHEET 3 OF 3



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Certificate of Authorization No. LB7264

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Fax: (561) 241-5182

BOUNDARY SURVEY

16710 MOSAIC PL, DELRAY BEACH, FL 33446
SECTION 27 TOWNSHIP 46 SOUTH RANGE 42 EAST

LEGAL DESCRIPTION

LOT 15, "DELRAY ESTATE HOMES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 137, PAGE 17 AND 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

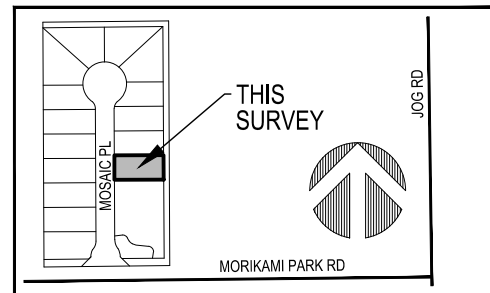
SAID LAND SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 8513 SQUARE FEET (0.195 ACRES), MORE OR LESS.

NOTES

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- PROPERTY ADDRESS: 16710 MOSAIC PL, DELRAY BEACH, FL 33446
- FLOOD INFORMATION IS AS FOLLOWS:
COMMUNITY NUMBER : 120192
PANEL NUMBER : 12099C0967F
DATE OF FIRM INDEX : 10-05-2017
ZONE : X
BASE FLOOD ELEVATION : N/A

ABBREVIATIONS

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R.E.	=	RIM ELEVATION
R/W	=	RIGHT-OF-WAY
TYP.	=	TYPICAL
U.E.	=	UTILITY EASEMENT



LOCATION MAP

NOT TO SCALE

LEGEND

W	WATER SERVICE	⊙	FIRE HYDRANT
E	ELECTRIC SERVICE	▨	CATCH BASIN
T	TELEPHONE BOX	⊗	LIGHT POLE
C	CABLE TV BOX	●	WOOD UTILITY POLE
D	DRAINAGE MANHOLE	■	CONCRETE UTILITY POLE
S	SANITARY MANHOLE	⊖	CLEAN OUT
W	WATER VALVE	⊥	CENTERLINE
⊙	SIGN	×0.00'	EXISTING ELEVATION

SURVEYOR'S CERTIFICATION

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JEFF S. HODAPP
SURVEYOR AND MAPPER
FLORIDA LICENSE NO. LS5111

DATE OF LAST FIELD WORK: AUGUST 2, 2024

PROJECT NAME: DELRAY ESTATE HOMES	DATE: P.P. 1/10/2025
JOB NO. 19158	DWG BY: AJR
CK'D BY: JSH	SHEET 1 OF 3



947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

TITLE INFORMATION

OWNERSHIP AND ENCUMBRANCE REPORT
PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY
FILE NUMBER 110624434
DATED 02/06/2025

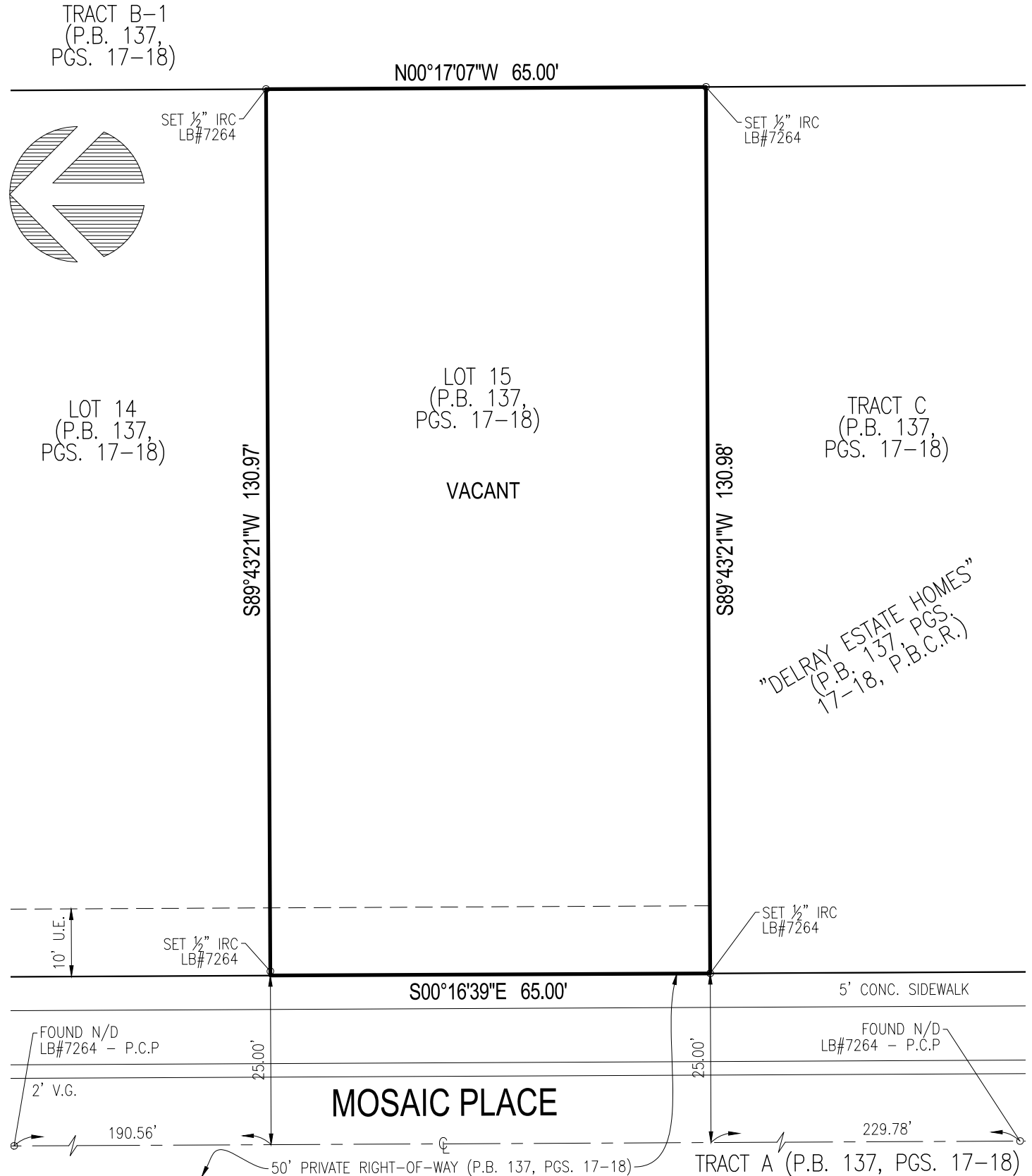
DESCRIPTION	BOOK/PAGE	APPLIES?	PLOTTED?
MORTGAGE	ORB 33067/624	YES	NO
MORT MOD AG	ORB 34741/1756	YES	NO
ASSIGNMENT	ORB 33067/654	YES	NO
FINANCING STATEMENT	ORB 33067/662	YES	NO
NOC (LOT15)	ORB 34990/132	YES	NO
NOC (LOT 12)	ORB 35113/1991	YES	NO
NOC (LOT 13)	ORB 35113/1992	YES	NO
NOC (LOT 12)	ORB 35498/463	YES	NO
NOC (LOT 13)	ORB 35498/464	YES	NO

PERIMETER

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Boca Raton, Florida 33487

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Fax: (561) 241-5182



JOB NO. 19158	PROJECT NAME: DELRAY ESTATE HOMES	DWG BY: GY/AJR	SCALE: 1" = 20'	
		CK'D BY: JSH	DATE: 8/2/2024	SHEET 3 OF 3



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BOUNDARY SURVEY

16702 MOSAIC PL, DELRAY BEACH, FL 33446

SECTION 27 TOWNSHIP 46 SOUTH RANGE 42 EAST

LEGAL DESCRIPTION

LOT 14, "DELRAY ESTATE HOMES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 137, PAGE 17 AND 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

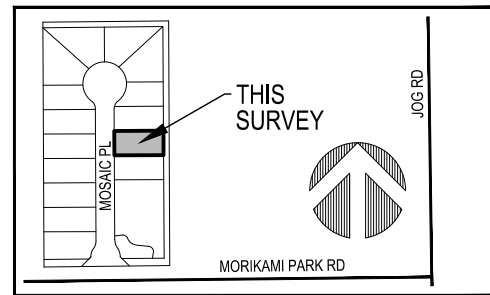
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- PROPERTY ADDRESS: 16702 MOSAIC PL, DELRAY BEACH, FL 33446
- FLOOD INFORMATION IS AS FOLLOWS:
COMMUNITY NUMBER : 120192
PANEL NUMBER : 12099C0967F
DATE OF FIRM INDEX : 10-05-2017
ZONE : X
BASE FLOOD ELEVATION : N/A

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L.M.E.	=	LAKE MAINTENANCE EASEMENT
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P.B.C.R.	=	PALM BEACH COUNTY RECORDS
P.C.P.	=	PERMANENT CONTROL POINT
PG.	=	PAGE
PROP.	=	PROPOSED
R	=	RADIUS
R.E.	=	RIM ELEVATION
R/W	=	RIGHT-OF-WAY
TYP.	=	TYPICAL
U.E.	=	UTILITY EASEMENT



LOCATION MAP

NOT TO SCALE

LEGEND

W	WATER SERVICE	⊙	FIRE HYDRANT
E	ELECTRIC SERVICE	▨	CATCH BASIN
T	TELEPHONE BOX	⊗	LIGHT POLE
C	CABLE TV BOX	●	WOOD UTILITY POLE
D	DRAINAGE MANHOLE	■	CONCRETE UTILITY POLE
S	SANITARY MANHOLE	⊖	CLEAN OUT
W	WATER VALVE	⊥	CENTERLINE
⊙	SIGN	×0.00'	EXISTING ELEVATION

SURVEYOR'S CERTIFICATION

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JEFF S. HODAPP
SURVEYOR AND MAPPER
FLORIDA LICENSE NO. LS5111

DATE OF LAST FIELD WORK: AUGUST 2, 2024

PROJECT NAME: DELRAY ESTATE HOMES	DATE: P.P. 1/10/2025
JOB NO. 19158	DWG BY: AJR
CK'D BY: JSH	SHEET 1 OF 3



947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

TITLE INFORMATION

OWNERSHIP AND ENCUMBRANCE REPORT
PREPARED BY FIRST AMERICAN TITLE INSURANCE COMPANY
FILE NUMBER 110624434
DATED 02/06/2025

DESCRIPTION	BOOK/PAGE	APPLIES?	PLOTTED?
MORTGAGE	ORB 33067/624	YES	NO
MORT MOD AG	ORB 34741/1756	YES	NO
ASSIGNMENT	ORB 33067/654	YES	NO
FINANCING STATEMENT	ORB 33067/662	YES	NO
NOC (LOT15)	ORB 34990/132	YES	NO
NOC (LOT 12)	ORB 35113/1991	YES	NO
NOC (LOT 13)	ORB 35113/1992	YES	NO
NOC (LOT 12)	ORB 35498/463	YES	NO
NOC (LOT 13)	ORB 35498/464	YES	NO

PERIMETER

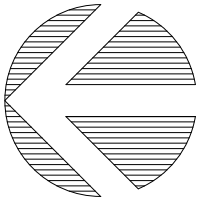
947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

TRACT B-1
(P.B. 137,
PGS. 17-18)

N00°17'07"W 65.00'



SET 1/2" IRC
LB#7264

SET 1/2" IRC
LB#7264

LOT 13
(P.B. 137,
PGS. 17-18)

LOT 14
(P.B. 137,
PGS. 17-18)

LOT 15
(P.B. 137,
PGS. 17-18)

VACANT

S89°43'21"W 130.96'

S89°43'21"W 130.97'

SET 1/2" IRC
LB#7264

10' U.E.

SET 1/2" IRC
LB#7264

S00°16'39"E 65.00'

5' CONC. SIDEWALK

FOUND N/D
LB#7264 - P.C.P

FOUND N/D
LB#7264 - P.C.P

2' V.G.

MOSAIC PLACE

125.56'

294.78'

50' PRIVATE RIGHT-OF-WAY (P.B. 137, PGS. 17-18)

TRACT A (P.B. 137, PGS. 17-18)

JOB NO. 19158

PROJECT NAME: DELRAY ESTATE HOMES

DWG BY: GY/AJR

SCALE: 1" = 20'

CK'D BY: JSH

DATE: 8/2/2024

SHEET 3 OF 3



947 Clint Moore Road
Boca Raton, Florida 33487

SURVEYING & MAPPING
Certificate of Authorization No. LB7264

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Fax: (561) 241-5182

BOUNDARY SURVEY

16694 MOSAIC PL, DELRAY BEACH, FL 33446

SECTION 27 TOWNSHIP 46 SOUTH RANGE 42 EAST

LEGAL DESCRIPTION

LOT 13, "DELRAY ESTATE HOMES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 137, PAGE 17 AND 18, OF THE PUBLIC RECORDS OF PALM BEACH COUNTY, FLORIDA.

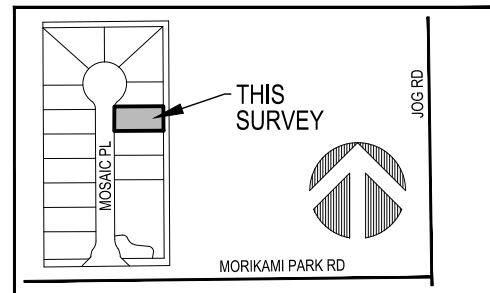
SAID LAND SITUATE IN PALM BEACH COUNTY, FLORIDA AND CONTAIN 8511 SQUARE FEET (0.195 ACRES), MORE OR LESS.

NOTES

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- PROPERTY ADDRESS: 16694 MOSAIC PL, DELRAY BEACH, FL 33446
- FLOOD INFORMATION IS AS FOLLOWS:
COMMUNITY NUMBER : 120192
PANEL NUMBER : 12099C0967F
DATE OF FIRM INDEX : 10-05-2017
ZONE : X
BASE FLOOD ELEVATION : N/A

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NOT TO SCALE

LEGEND

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E	ELECTRIC SERVICE	▨	CATCH BASIN
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FLORIDA LICENSE NO. LS5111

DATE OF LAST FIELD WORK: AUGUST 2, 2024

PROJECT NAME: DELRAY ESTATE HOMES	DATE: P.P. 2/18/2024 F.B.S. 7/17/2024
JOB NO. 19158	DWG BY: GY/AJR
CK'D BY: JSH	F.B.S. #2 8/2/2024 REV. POOL 1/14/2025
	SHEET 1 OF 3



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NOC (LOT 13)	ORB 35498/464	YES	NO

PERIMETER

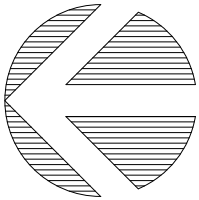
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SURVEYING & MAPPING
Certificate of Authorization No. LB7264

Tel: (561) 241-9988
Fax: (561) 241-5182

TRACT B-1
(P.B. 137,
PGS. 17-18)

N00°17'07"W 65.00'



SET 1/2" IRC
LB#7264

SET 1/2" IRC
LB#7264

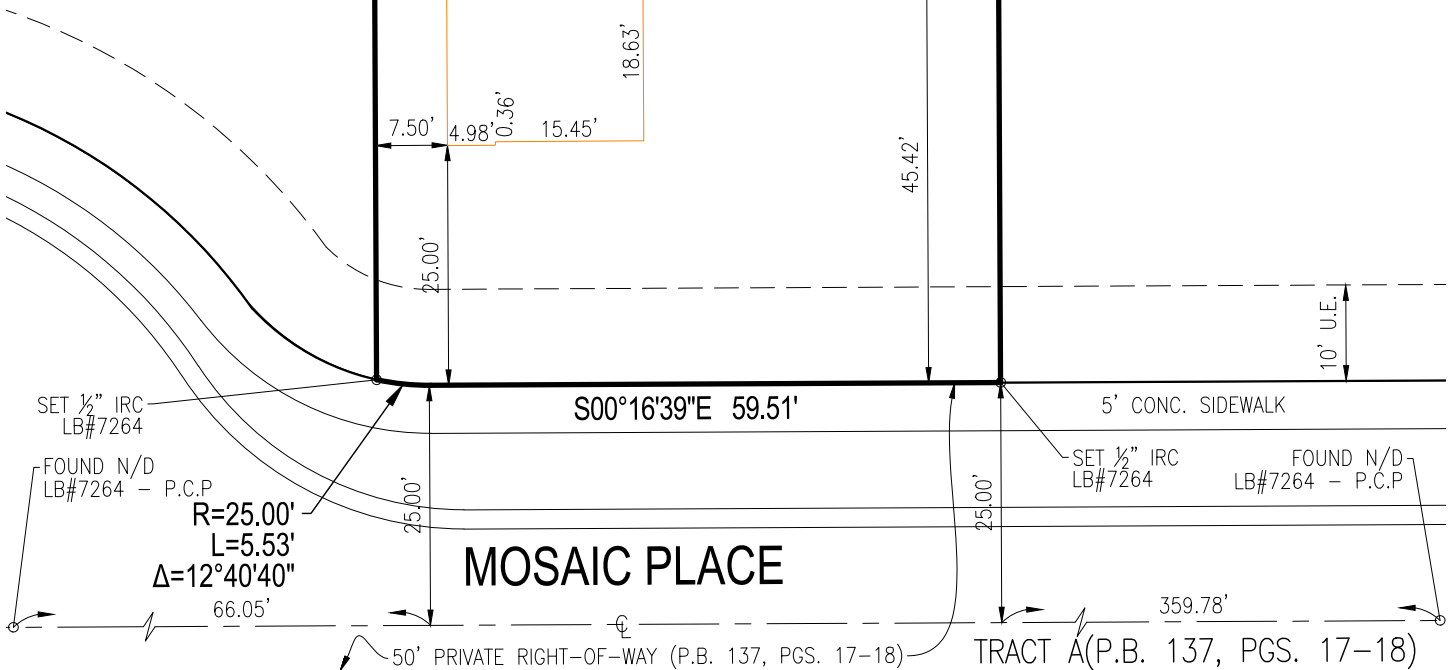
LOT 12
(P.B. 137,
PGS. 17-18)

LOT 13
(P.B. 137, PGS. 17-18)
(UNDER CONSTRUCTION)
2 STORY
C.B.S. BUILDING
F.F. EL.=20.75'

LOT 14
(P.B. 137,
PGS. 17-18)

S89°43'21"W 130.34'

S89°43'21"W 130.96'



JOB NO. 19158

PROJECT NAME: DELRAY ESTATE HOMES

DWG BY: GY/AJR

SCALE: 1" = 20'

CK'D BY: JSH

DATE: 1/14/2025

SHEET 3 OF 3

Exhibit E-3 – Justification Statement

Delray Estate Homes

Control No. 2008-522

Type I Variance – Pool Setback

February 24, 2025 Resubmittal

JUSTIFICATION STATEMENT

Project Location & Application Request

Delray Estate Homes ("Project") is a 15 lot single family subdivision located on the north side of Morikami Park Road, west of Jog Road. The Project has development approvals under Control Number 2008-00522 for a Final Subdivision Plan and a recorded plat, Plat Book 137, Pages 17-18. The site is permitted for development and construction has commenced.

This application requests approval of a Type I Variance for Lots 12 through 15, to allow a reduction of the rear setback for swimming pools and spas. Article 5.B.1.A.10.c requires a 10.5' setback from the rear lot line to the water's edge. This application proposes a reduction of the rear setback to swimming pools and spas for Lots 12 through 15 as summarized below.

Application Description

The design of the Project is a simple roadway, Mosaic Place, that is centered east to west within the property with equal depth of lots on both sides. However, to the east of the Project is an approved and constructed 4-story Assisted Living Facility, which, at time of Subdivision Plan approval, required a 15' wide incompatibility buffer along the east property line of the Subject Project. A 15' wide incompatibility buffer is also required on the common lot line but on the Assisted Living Facility property, so when combined, a 30' buffer is provided.

The Delray Estates buffer is platted as a separate tract and therefore, not included in the actual lots. The lots and home models were designed with a 25' front setback, which for all lots except 12 through 15, still leaves room for a reasonable pool and setbacks. When the pool setbacks are measured from the buffer tract line for Lots 12 – 15, the same sized pools do not fit within the setbacks as shown in the variance table below. **The last column of the table is important to note, showing that if the setbacks were measured from the exterior property line versus the interior lot line and included the 15' buffer tract, the setbacks would be approximately double the setback that's required.**

VARIANCE SUMMARY

Lot No.	Required Setback per Art. 5.B.1.A.10.c.	Provided Setback from Lot Line	Variance	Provided Setback from Property Line
12	10.5' from Rear Lot Line	4.33 '	6.17'	19.33 '
13		6.41'	4.09'	21.41'
14		6.41'	4.09'	21.41'
15		6.41'	4.09'	21.41'

The requested variance(s) will allow home buyers equal opportunity of the house model and the ability to have a swimming pool that is conceptually designed to be 14' x 25' at water's edge. Without the variance, the width of the pools would be reduced to 7.83' for Lot 12 and 9.91' for Lots 13 through 15, making them obsolete and putting these lots at a marketable disadvantage.

Application Standards

When considering a Type 1 Variance request the DRO shall consider the Seven Standards listed in ULDC Art. 2.C.5.D.4, in formulating their recommendations and opinions. The Standards and responses to each standard are listed below:

1. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures, or buildings in the same district.

Response: The surrounding communities are single family residential to the north and west and a County Park to the south. There are a few circumstances, bulleted below, that were required of the developer at the time of the Subdivision Plan approval and subsequent recorded plat that effect the compliance of pools setbacks for Lots 12 through 15 of Delray Estates.

- *At the time of Subdivision Plan approval, the Zoning reviewer required a 15' wide, Type 2 incompatibility buffer at the rear of Lots 12 through 15 and the abutting property line which was undergoing simultaneous entitlement approval for a 4 story Congregate Living Facility, when ULDC Article 7.C.2.C.2.a. allowed for a reduction of up to 50% of the buffer width when two of the same types of buffer abut each other and did not take into account the potential conflict with the pool setbacks. Platting, permitting, and site construction is complete and there are purchase contracts pending for lots and homes to be constructed. If the reduction in Art. 7 were allowed and implemented at time of Subdivision Plan approval, the pools as designed and undergoing permitting would comply equally amongst all of the lots within the subdivision and sufficient landscaping could still be provided.*
- *The Delray Estates project is too small to be a Planned Unit Development and therefore was required to be approved as a straight subdivision, which does not allow for the same flexibility of PUD's or Zero Lot Line subdivisions. For example, the same home with side loaded garages proposed for Delray Estates Lots 12 through 15 in a PUD Residential Pod is allowed a 15' front setback and Zero Lot Line subdivision allow for a 10' front setback, as opposed to the 25' front setback required for the Delray Estates subdivision. This leaves less area in the rear yard to comply with pool setbacks, especially when the setback is measured from the inside edge of the Type 2 Incompatibility Buffer instead of the property line.*
- *The plat shows Tract B1 as a Landscape Buffer Tract, based on the Subdivision Plan showing a separate tract for the Type 2 Incompatibility Buffer, which as confirmed by Land Development, is not typically required as a tract within a straight subdivision. Without the platted Tract B1, the buffer would still be required, however setbacks, including pool setbacks, would be measured from the property line rather than the inside of the buffer line, which would allow the pools to comply with the minimum rear setback of 10.5'.*

2. Special conditions and circumstances do not result from the actions of the applicant.

Response: The developer has substantially progressed with platting, permitting and construction of Delray Estates based on the requirements imposed at the time of the Subdivision Plan approval but unaware of implications on the pool setbacks for Lots 12 through 15. The applicant is doing what they can to provide equal opportunity to future homeowners in the community by requesting the reduction of the swimming pool setback while retaining the buffer as it was approved, rather than requesting a reduction to the buffer width as allowed in ULDC Article 7.C.2.C.2.

3. Granting the variance shall not confer upon the applicant any special privilege denied by the Plan and this Code on other parcels of land, structures or buildings in the same district.

Response: This request is unique to this property and circumstance and does not grant any special privilege denied by the Plan or the Code for other parcels of land, structures or buildings.

4. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district and would work [cause] an unnecessary and undue hardship.

Response: In addition to the circumstances outlined in 1. Above, a literal interpretation or enforcement of the setback would deprive equal opportunity for future homeowners to have the same type of home and pools amongst all of the lots within Delray Estates. The homes being offered are designed with some lots having executed contracts and models being permitted for construction. In comparison, even with the requested variance, Lots 12 through 15 will have more distance from the adjacent use than the lots on the west side of the development, so these lots will still be provided with sufficient separation and landscaped buffers.

5. Granting the variance is the minimum variance that will make possible a reasonable use of the parcel of land, building, or structure.

Response: The variance(s) requested are the minimum to make possible equal opportunity for all home buyers in this community to have the same or similar sized homes and swimming pools/spas. Should the variance not be granted, the affected Lots will be at a marketable disadvantage to not have the potential of a swimming pool.

6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and,

Response: The predominate purpose of setbacks is to provide separation from adjacent uses. As shown in the Variance Summary chart above, with the inclusion of the buffer tract, there is greater separation from the adjacent use than code requires. Accordingly, granting the variance will remain to be consistent with the purposes, goals, objectives of the Plan and this Code. In comparison, even with the requested variance, Lots 12 through 15 will have more distance from the adjacent use than the lots on the west side of the development, so these lots will still be provided with sufficient separation and landscaped buffers.

7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Response: Included with this application is a letter in support from the owner of the adjacent Assisted Living Facility project to the east. The reduction of these setbacks will have no adverse effect on the area or on public welfare.