Return to:
City Attorney
City of Stuart
121 SW Flagler Avenue
Stuart, FL 34994

**BEFORE THE CITY COMMISSION**
**CITY OF STUART, FLORIDA**

Case #Z21060001

In re: The Code Variance Application of
**JOHNSON RESIDENCE**
**08-38-41-007-006-00050-0**

**FINAL ORDER OF VARIANCE APPROVAL**

THIS CAUSE came for hearing before the City Commission for the City of Stuart, Florida, at a regular set hearing at **5:30 PM on June 28, 2021,** at the City Commission Chambers, 121 S.W. Flagler Avenue, Stuart, Florida; and the Commission, having considered the sworn testimony and other evidence presented by the City staff, the Petitioner, and any Interveners, finds as follows:

1. Notice of the hearing was provided as required by the Stuart Land Development Code (LDC). Notice was not challenged by any party at the hearing, and the City Commission has jurisdiction over this case.

2. The City was represented by **Kev Freeman,** Development Director, and the applicant was represented by **Karen Johnson,** Petitioner, all in attendance.

3. **Kev Freeman**, of the City Development Department, testified on behalf of the City that the Petitioner, Karen Johnson, the title owner of the real property having **PCN #8-38-41-007-006-00050-0,** (hereinafter the "Subject Property"), who has provided a legal description and boundary survey as found within and attached as **'Exhibit 1'**, in order to receive relief from the required setback to the wetland and construction buffer setbacks.

4. **Kev Freeman** indicated the Subject Property is located **on Lots 5 and 6 of Indian Groves Drive,** and is zoned **R-3 (Residential, Multi-Family/Office)**, with a Future Land Use designation of Residential/Office. The Future Land Use and Zoning categories were not challenged by any party at the hearing.

5. The existing vacant lot is currently in compliance with zoning code.

6. The Petitioner gave verbal testimony indicating a desire to request the minimum variance required to create a buildable lot, thereby building a proposed single-family home.

7. The Petitioners requested in writing the following reductions to the minimum code requirements at the hearing to allow the development of the lot as a single-family home:

- The minimum average upland buffer distance from outstanding wetland resources shall be reduced from 75 feet to 25 feet
- The minimum upland buffer distance from outstanding wetland resources shall be reduced from 50 feet to 25 feet.
- The construction setback from all upland buffers, which is 10 feet, shall be included within the 25 feet buffer.

8. **Kev Freeman** gave testimony and analyzed the case, and indicated the petition is consistent with the City's Comprehensive Plan, meets the procedural requirements of the law. The testimony concluded by recommending that the City Commission consider the Final Order to allow for the variance, subject to the following conditions:

a. The lot shall be developed in conformity with Sec. 6.00.04, *Site design qualitative development standards*, of the Land Development Code.

b. The Subject Property is granted a relief from the Land Development Code as demonstrated in the table below:

| Land Development Regulations vs Variance Request | |
|---|---|
| **R-3 Requirements** | **Proposed Development Standards** |
| Minimum Average width of upland buffer = 75 feet | Minimum Average width of upland buffer = 25 feet |
| Upland buffer at no point less than = 50 feet | Upland buffer at no point less than = 25 feet |
| Construction setback = 10 feet | Construction setback = 10 feet *<br>*to be included within the 25-foot buffer (or shall be reduced to zero) |

9. Construction in substantial conformance with all required documents for permitting and shall be submitted for Building Permit review. The building permit documents shall ensure there is no storm water run-off on adjacent properties.

10. If the final inspection of the proposed residence is not performed by **July 1, 2023**, the variance relief granted in this **Final Order shall be void.**

11. All applicable state or federal permits must be obtained before the commencement any development activities. Issuance of this development order/permit/approval by the City of Stuart does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the City of Stuart for the issuance of this order/permit/approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

12. All subsequent Lessees and Owners shall be bound to the terms of this Variance, and this Variance shall carry forward and “run with the land” unless later released by the City Development Director, or as otherwise provided by law.

15. At the conclusion of the evidence and any follow up questioning by the Board Members, brief summaries were made by the Petitioner. The City Commission then entered into deliberation, and discussed the following:

**FINAL ORDER OF VARIANCE APPROVAL – Johnson Residence – Indian Groves Drive**

Commissioner _____ offered a motion to approve the variance(s). The motion was seconded by Commissioner _____ and upon being put to a roll call vote, the vote was as follows:

| | YES | NO | ABSENT | ABSTAIN |
|---|---|---|---|---|
| EULA R. CLARKE, MAYOR | | | | |
| MERRITT MATHESON, VICE MAYOR | | | | |
| BECKY BRUNER, COMMISSIONER | | | | |
| TROY MCDONALD, COMMISSIONER | | | | |
| MIKE MEIER, COMMISSIONER | | | | |

ADOPTED on final reading this _____day of _____, 2021.

ATTEST:

_____ _____

MARY R. KINDEL
CITY CLERK

EULA R. CLARKE
MAYOR

APPROVED AS TO FORM
AND CORRECTNESS:

_____

MICHAEL J. MORTELL, ESQ.
CITY ATTORNEY

## ACCEPTANCE AND AGREEMENT

BY SIGNING THIS ACCEPTANCE AND AGREEMENT, THE UNDERSIGNED HEREBY ACCEPTS AND AGREES TO ALL OF THE TERMS AND CONDITIONS CONTAINED IN THE FOREGOING FINAL ORDER, AND ALL EXHIBITS, ATTACHMENTS AND DEVELOPMENT DOCUMENTS, INTENDING TO BE BOUND THEREBY, AND THAT SUCH ACCEPTANCE AND AGREEMENT IS DONE FREELY, KNOWINGLY, AND WITHOUT ANY RESERVATION, AND FOR THE PURPOSES EXPRESSED WITHIN THE FOREGOING FINAL ORDER. IN WITNESS WHEREOF THE UNDERSIGNED HAS EXECUTED THIS ACCEPTANCE AND AGREEMENT:

WITNESSES:

Witness #1:

Print Name: _____

Signature: _____

KAREN JOHNSON,

Owner

Signature: _____

Witness #2:

Print Name: _____

Signature: _____

## OWNERS ACKNOWLEDGMENT

Sworn to (or affirmed) and subscribed before me by means of ☐physical presence or ☐ online notarization, this _____ day of _____, 20_____ by _____

Personally Known OR Produced Identification
Type of Identification Produced _____

Signature of Notary Public: _____
Commission Expires:

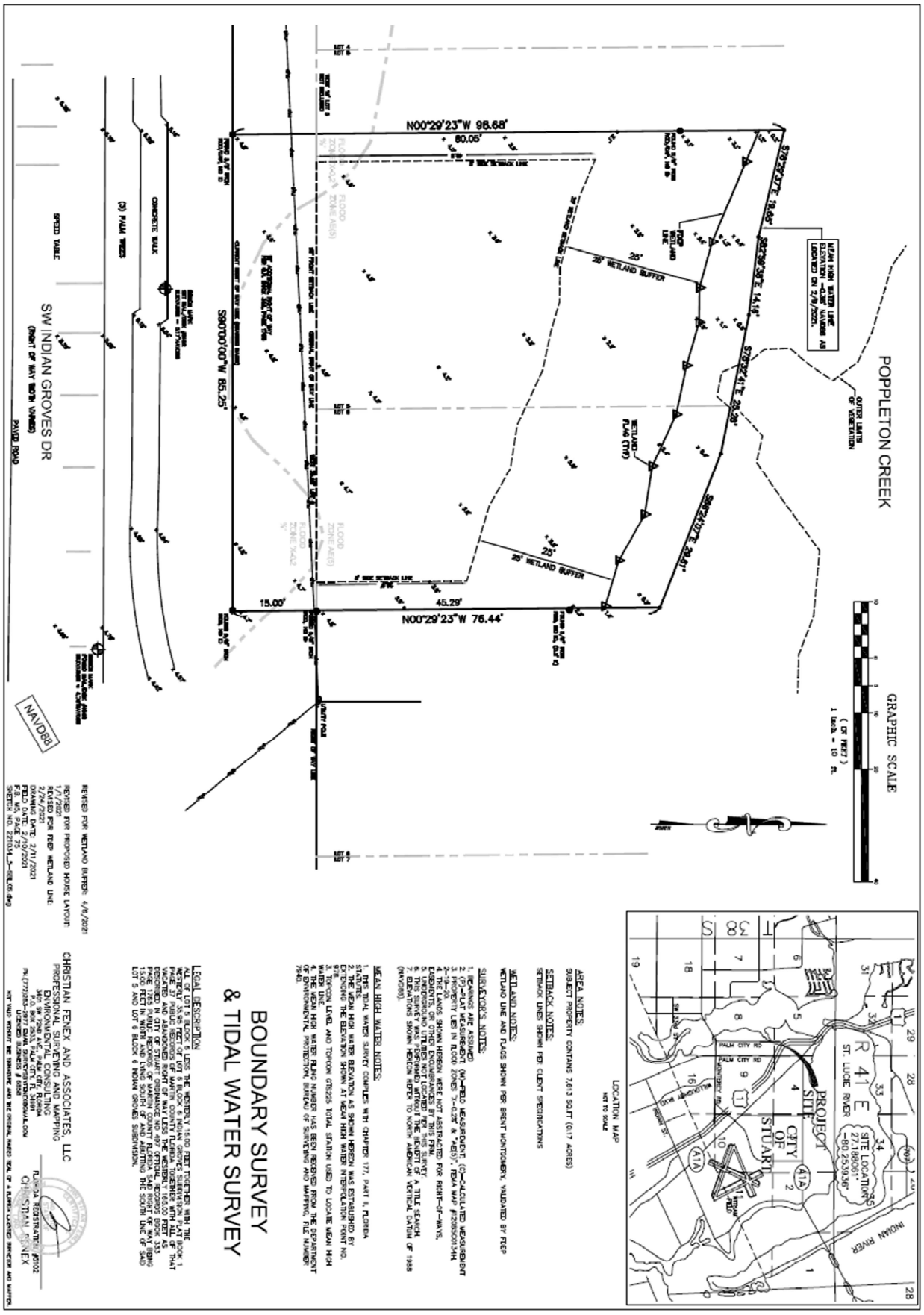
Notary Seal:

## 'Exhibit 1'

## Legal Description & Boundary Survey

### LEGAL DESCRIPTION

ALL OF LOT 5 BLOCK 6 LESS THE WESTERLY 15.00 FEET TOGETHER WITH THE WESTERLY 35.95 FEET OF LOT 6 BLOCK 6 INDIAN GROVES SUBDIVISION PLAT BOOK 1 PAGE 37 PUBLIC RECORDS OF MARTIN COUNTY FLORIDA TOGETHER WITH ALL OF THAT VACATED AND ABANDONED RIGHT OF WAY LESS THE WESTERLY 165.00 FEET AS DESCRIBED IN CITY OF STUART ORDINANCE NO 497 OFFICIAL RECORDS BOOK 333 PAGE 1765 PUBLIC RECORDS OF MARTIN COUNTY FLORIDA SAID RIGHT OF WAY BEING 15.00 FEET IN WIDTH AND LYING SOUTH OF AND ABUTTING THE SOUTH LINE OF SAID LOT 5 AND LOT 6 BLOCK 6 INDIAN GROVES SUBDIVISION.


POPPLETON CREEK
GRAPHIC SCALE
( IN FEET )
1 inch = 10 ft.
N00°29'23"W 98.68'
80.05'
S78°29'23"E 18.65'
S87°39'38"E 14.16'
S78°29'41"E 29.38'
S69°21'07"E 78.91'
25' WETLAND BUFFER
25' WETLAND BUFFER
MEAN HIGH WATER LINE ELEVATION =0.38' NAVD88 AS LOCATED ON 2/9/2021.
OUTER LIMITS OF VEGETATION
WETLAND FLAG (TYP.)
FOUND WETLAND LINE
FLOOD ZONE AE(9)
FLOOD ZONE AE(8)
S89°00'00"W 85.25'
15.00'
45.29'
N00°29'23"W 76.44'
SW INDIAN GROVES DR
(RIGHT OF WAY WIDTH VARIES)
PAVED ROAD
SPEED TABLE
CONCRETE WALK
(3) PALM TREES
NAVD88
LOCATION MAP
NOT TO SCALE
PROJECT SITE
CITY OF STUART
SITE LOCATION 27.186061° -80.253936°
INDIAN RIVER
PALM CITY RD
SW MONTEREY RD
SW 96th BLVD
SW MARTIN HWY
A1A
R 41 E
T 38 S
AREA NOTES:
SUBJECT PROPERTY CONTAINS 7413 SQ.FT (0.17 ACRES)
SETBACK NOTES:
SETBACK LINES SHOWN PER CLIENT SPECIFICATIONS
WETLAND NOTES:
WETLAND LINE AND FLAGS SHOWN PER BRENT MONTGOMERY, VALIDATED BY FEEP
SURVEYOR'S NOTES:
1. BEARINGS ARE ASSUMED
2. (D)=FLAT MEASUREMENT, (M)=FIELD MEASUREMENT, (C)=CALCULATED MEASUREMENT
3. PROPERTY LIES IN FLOOD ZONES "X-0.2% & "AE(9)", FEMA MAP #12085C0134H
4. THE LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHT-OF-WAYS, EASEMENTS, OR OTHER ENCUMBRANCES BY THIS FIRM.
5. UNDERGROUND UTILITIES NOT LOCATED AS PART OF THIS SURVEY.
6. THIS SURVEY IS BASED ON A TITLE SEARCH PROVIDED BY CLIENT.
7. ELEVATIONS SHOWN HEREON REFER TO NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88).
MEAN HIGH WATER NOTES:
1. THE TIDAL WATER SURVEY COMPLIES WITH CHAPTER 177, PART II, FLORIDA STATUTES.
2. THE MEAN HIGH WATER ELEVATION AS SHOWN HEREON WAS ESTABLISHED BY EXTENDING THE ELEVATION SHOWN AT MEAN HIGH WATER INTERPOLATION POINT NO. 978.
3. TOKEEN LEVEL AND TOPOGRAPHIC DATUM USED TO LOCATE MEAN HIGH WATER.
4. THE MEAN HIGH WATER DATUM NUMBER HAS BEEN RECEIVED FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, BUREAU OF SURVEYING AND MAPPING, FILE NUMBER 7941.
BOUNDARY SURVEY
& TIDAL WATER SURVEY
LEGAL DESCRIPTION
A PARCEL OF LAND LYING IN GOVERNMENT LOT 5 LESS THE WESTERLY 15.00 FEET THEREOF, WITH THE WESTERLY 35.00 FEET OF LOT 6, BLOCK 6, INDIAN GROVES SUBDIVISION, PLAT BOOK 1, PAGE 27, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA TOGETHER WITH ALL OF THAT PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2331, PAGE 1765, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHEAST CORNER OF SAID LOT 6, BLOCK 6, INDIAN GROVES SUBDIVISION; THENCE SOUTH 00°29'23" EAST ALONG THE EAST LINE OF SAID LOT 6 AND THE EAST LINE OF SAID PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 2331, PAGE 1765, A DISTANCE OF 98.68 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL OF LAND; THENCE SOUTH 89°00'00" WEST ALONG THE SOUTH LINE OF SAID PARCEL OF LAND, A DISTANCE OF 85.25 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL OF LAND; THENCE NORTH 00°29'23" WEST ALONG THE WEST LINE OF SAID PARCEL OF LAND, A DISTANCE OF 76.44 FEET; THENCE SOUTH 69°21'07" EAST, A DISTANCE OF 78.91 FEET; THENCE SOUTH 78°29'41" EAST, A DISTANCE OF 29.38 FEET; THENCE SOUTH 87°39'38" EAST, A DISTANCE OF 14.16 FEET; THENCE SOUTH 78°29'23" EAST, A DISTANCE OF 18.65 FEET TO THE EAST LINE OF SAID LOT 6; THENCE NORTH 00°29'23" WEST ALONG THE EAST LINE OF SAID LOT 6, A DISTANCE OF 80.05 FEET TO THE POINT OF BEGINNING.
CONTAINING 7413 SQUARE FEET OR 0.17 ACRES, MORE OR LESS.
CHRISTIAN FENEX AND ASSOCIATES, LLC
PROFESSIONAL SURVEYING AND MAPPING
ENVIRONMENTAL CONSULTING
JUPITER, FLORIDA
PH.(772)283-0977 EMAIL:SURVEYS@FENEXEMAIL.COM
LICENSED BUSINESS # 8358
FLORIDA REGISTRATION #6302
CHRISTIAN FENEX
NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER
REVISED FOR PROPOSED HOUSE LAYOUT 1/4/2022
REVISED FOR FEEP WETLAND LINE 2/24/2021
DRAWING DATE: 2/11/2021
FIELD DATE: 2/10/2021
F.B. M/S PAGE 7/5
SKETCH NO: 22104-L-1-ISLAS.dwg
REVISED FOR WETLAND BUFFER: 4/8/2021