



**Dennis & Roberta Katz Residence @ Vizcaya Falls PUD**  
**1831 Cataluna Circle**  
**Variance**  
**P22-272**



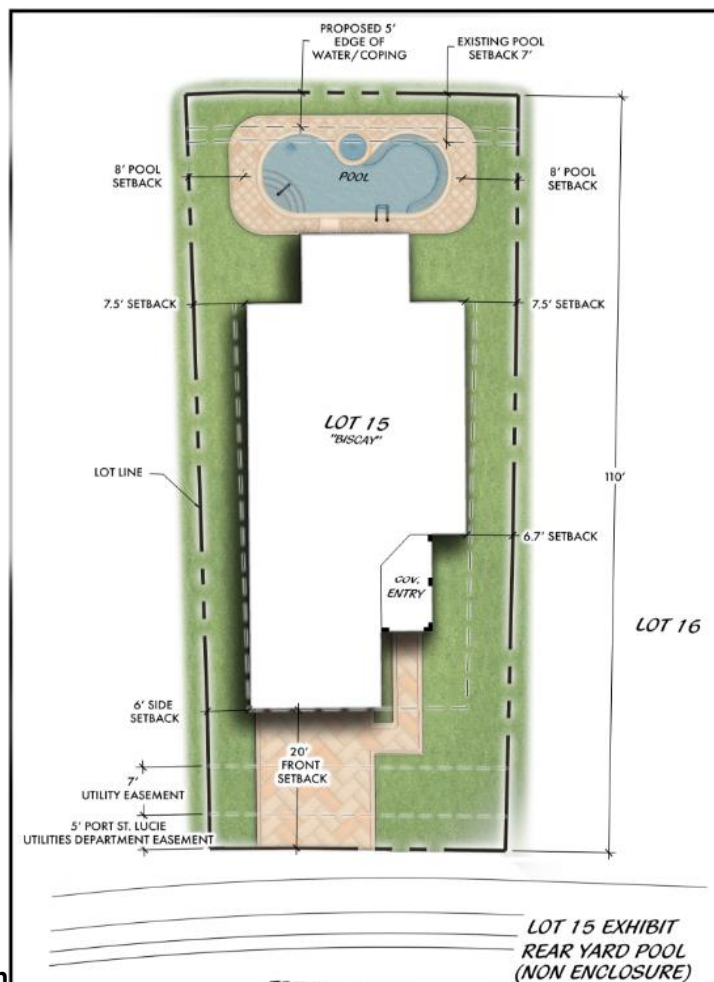
**Aerial Map**

**SUMMARY**

Applicant's Request:	To grant a variance of two (2) feet to allow a rear yard setback of five (5) feet for the pool edge of water of a proposed pool. The Villa Vizcaya PUD requires a rear yard setback of seven (7) feet to the pool edge of water. The proposed pool will not have a screen enclosure.
Application Type:	Variance, Quasi-Judicial
Applicant's Agent:	Dan Sorrow, Cotleur and Hearing
Property Owner:	Dennis & Roberta Katz
Address:	1831 NW Cataluna Circle
Location:	Lot 15 of Vizcaya Falls
Project Planner:	Stephen Mayer, Planner III

**Project Description**

This application is to reduce the rear setback to the pool edge of water by two (2) feet, from seven (7) feet to five (5) feet. The proposed pool will not have a screen enclosure, which has a required setback of five (5) feet. The Vizcaya Falls PUD setbacks were established by Ordinance 15-63, the fourth amendment of the Vizcaya Falls PUD, which state that the rear setbacks for pool edge of water is seven (7) feet, and when within screen enclosures, the screen enclosure setback (which is five feet), plus two.



**Exhibit 1: Clip of Proposed Site Plan**

**Review Criteria**

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

**Public Notice Requirements**

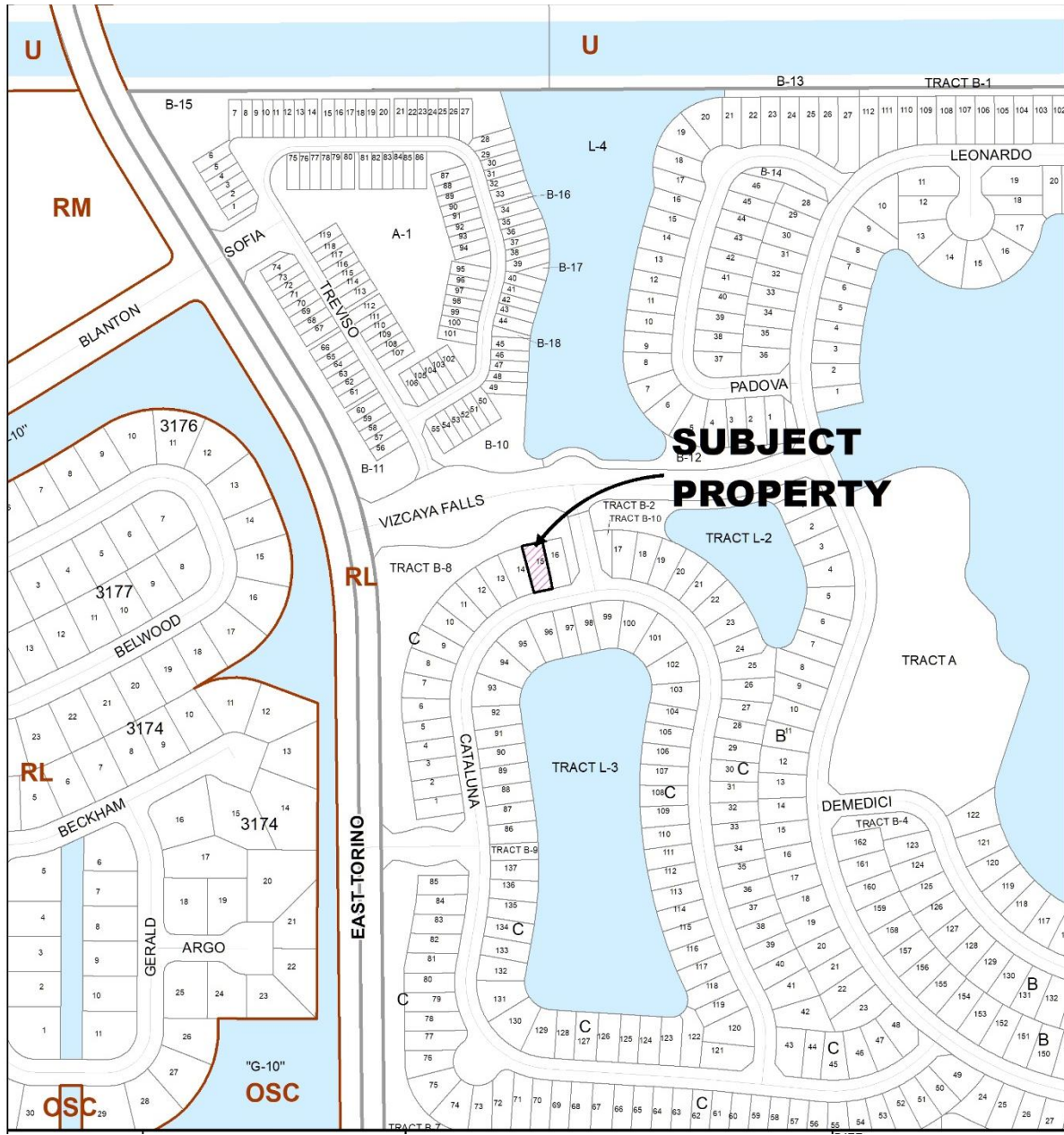
Public notice was mailed to owners within 750 feet and the file was included in the ad for the Planning & Zoning Board’s agenda.

**Location and Site Information**

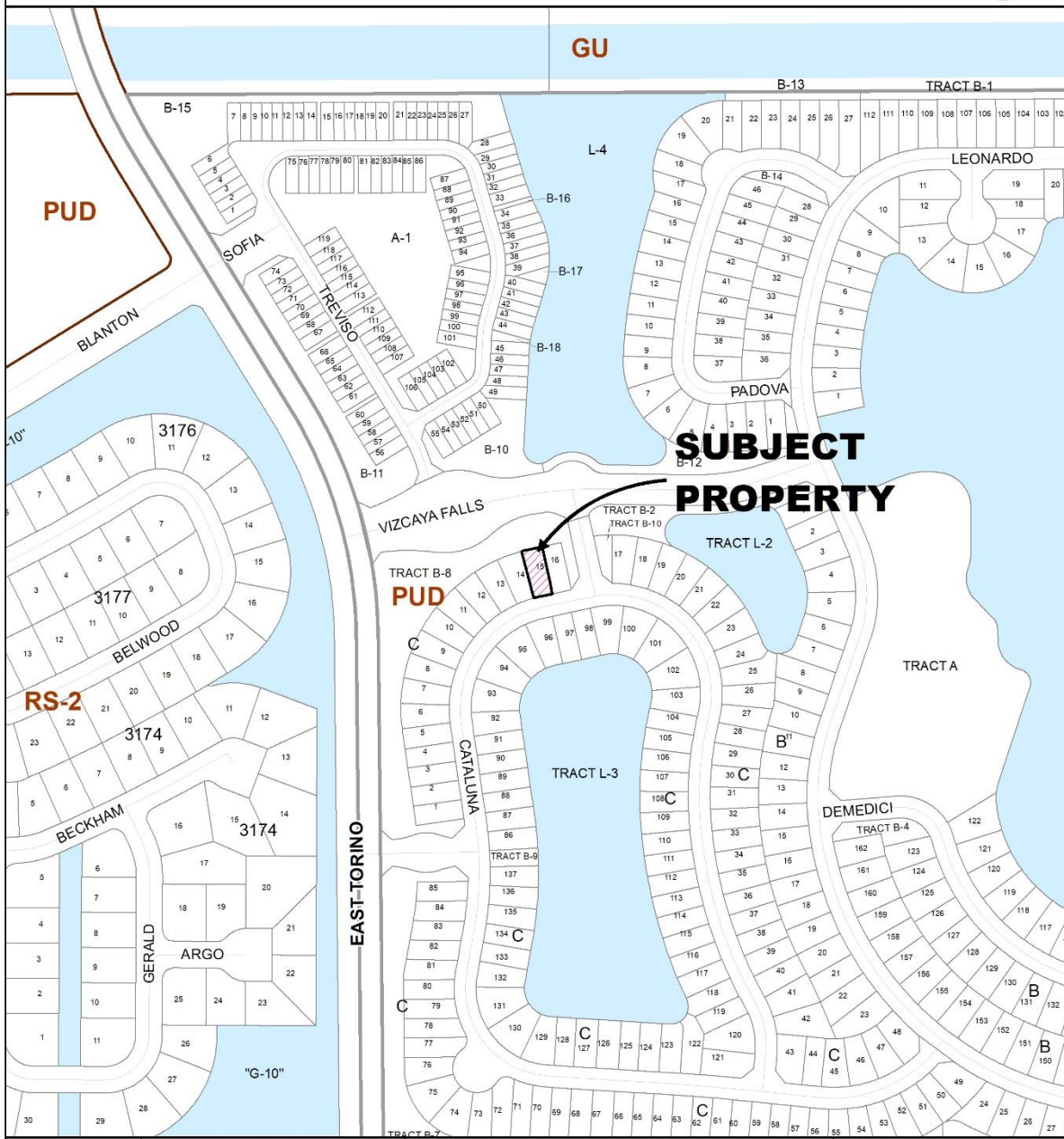
Parcel Number:	3312-701-0021-000-5
Property Size:	5,037 Square feet
Legal Description:	VIZCAYA FALLS PLAT 2 (PB 47-15) BLOCK C LOT 15
Future Land Use:	Residential Low (RL)
Existing Zoning:	Planned Unit Development (PUD)
Existing Use:	Proposed Single Family Residential

**Surrounding Uses**

<b>Direction</b>	<b>Future Land Use</b>	<b>Zoning</b>	<b>Existing Use</b>
North	Residential Low (RL)	Planned Unit Development (PUD)	Tract B-8, Vizcaya Falls
South	RL	PUD	Proposed Single Family Residential
East	RL	PUD	Proposed Single Family Residential
West	RL	PUD	Proposed Single Family Residential



Land Use Map



Zoning Map

## IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize the variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of the structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7). The applicant's response to this criterion is attached to the application. Staff's review is provided below.

**See the applicant's responses that are included in the Variance application.**

### **Compatibility with variance criteria Section 158:295 (B).**

- 1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
  - *Staff Findings: There are no special conditions and circumstances that exist with the residential lot. However, the rear of the lot does border a Vizcaya Falls Master HOA open space tract, separating the lot from the community entrance. The open space tract will not be developed. It serves as a buffer and therefore would create a unique circumstance to the rear of the subject lot.*
- 2) That the special conditions and circumstances do not result from any action of the applicant.
  - *Staff Findings: see finding for #1.*
- 3) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.
  - *Staff Findings: All residential lots within the Vizcaya Falls PUD are required to provide a minimum setback of 7 feet from the edge of water of a pool to the rear property line. The applicants are proposing a pool without a screen enclosure. If the applicants or a subsequent property owner wish to add a pool enclosure in the future, a variance would be required.*
- 4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.
  - *Staff Findings: see finding for #3.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - *Staff Findings: Granting this variance would allow the applicants to construct the pool as proposed. A smaller pool or one with a different configuration would fit within the required setback.*
- 6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

- *Staff Findings: Any public comment that is received will be forwarded to the Board.*
- 7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.
- *Staff Findings: Acknowledged.*

## PLANNING AND ZONING BOARD ACTION OPTIONS

The Board may choose to approve, deny or table the proposed variance. If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above), then the Board may:

- Motion to approve
- Motion to approve with conditions

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to deny

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting

***(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).***