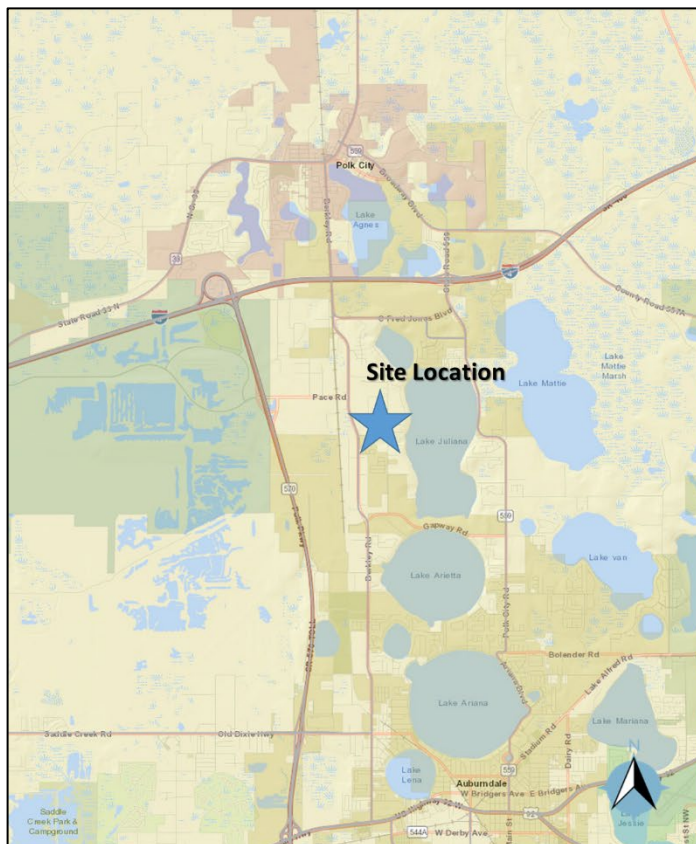


POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

| | | | |
|-------------------|--------------------|-------------------------|--|
| DRC Date: | June 2, 2022 | Level of Review: | Level 4 Review |
| PC Date: | August 3, 2022 | Type: | Residential Access via Easement Waiver |
| BoCC Date: | September 20, 2022 | Case Numbers: | LDWA-2022-23 (Smith Access Waiver) |
| Applicant: | Tracye Smith | Case Planner: | Ian Nance |

| | |
|-------------------------------------|--|
| Request: | Waiver to Section 705.B for approval for a residential lot with access through a private road easement that provides access to more than four existing lots and whose parent lot does not front a paved road meeting County standards. |
| Location: | 723 Honeycomb Lane, west of Old Berkley Road, east of SR 559, south of Honeyfarm Lane, north of the city of Auburndale, in Section 16, Township 27, Range 25. |
| Property Owner: | Scott Paul & Tracye Smith |
| Parcel Number (Size): | 252716-000000-042070 (+/- 2.89 acres) |
| Land Use District: | Residential Low-1 (RL-1) |
| Development Area/Overlays: | Transit Supportive Development Area (TSDA) |
| Nearest Municipality/County: | City of Auburndale |
| DRC Recommendation: | Approval with Conditions |
| Planning Commission Vote: | Approve 7-0 |

Site Location



Aerial Photo



Summary of Analysis:

Parcel #252716-000000-042070 is approximately 2.89 acres with +/- 384 feet of frontage along Honeycomb Lane, an unpaved private road, of which the applicant owns fee simple. Honeycomb Lane leads to Old Berkley Road, approximately 705 feet to the east. The owner wishes to create one new lot in accordance with the dimensional requirements of Table 2.1 of the Land Development Code (LDC) with access to Honeycomb Lane. To be eligible for a building permit for a single-family home, this is neither consistent with Policy 2.132 of the Comprehensive Plan nor Section 705 of the LDC as the roadway does not meet County standards. However, the Board adopted amendments to the Comprehensive Plan (CPA 18C-04) and Land Development Code (LDC 18T-11) to allow access via easement for up to four (4) residential parcels. To be eligible the easement must:

1. *Provide access to no more than four (4) lots;*
2. *Be at least 20 feet wide; and,*
3. *Be no longer than a ¼ mile;*
4. *Provide for sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and*
5. *Be supported by the joinder and consent of all fee owners under easements to the use of the easement by the subject parcel(s). If joinders are provided for the easement, it shall be accompanied by an ownership and encumbrance report based on the legal description of the easement. In lieu of joinders, an applicant may provide a legal opinion from a licensed Florida attorney stating a lot has legal access, along with supporting documentation.*

In addition, Section 705.B.2 states the parent parcel must have frontage on a public road, a private paved road meeting County standards, or an unpaved road that is maintained by the County and is less than 0.25 miles in length. A Level 1 Review is used to determine eligibility.

In this instance, Honeycomb Lane provides access to four properties. An additional lot would be five, thus violating #1 above. In addition, the parent parcel does not have adequate frontage as determined by 705.B.2. According to Section 705.B.7, the Board of County Commissioners (BoCC) may grant a waiver through the Level 4 Review process to overcome the four-lot maximum and the lack of legal frontage.

Granting this waiver does not supersede the authority of any homeowner's association, property owner, or other entity responsible for the maintenance of private roads. As noted in #5 above, the follow-up Level 1 Waiver Review must be accompanied by legal documentation that the owners have access through all easements. Therefore, neither the Planning Commission nor the BoCC is approving or determining the legality of access. This review is to determine the extent to which this access easement is able to accommodate the additional usage proposed. The LDC has a general standard of no more than four properties sharing one access easement. However, access easements are not all the same. There are many variables that separate one easement from another. These include, but are not limited to, the condition of the easement, how the surface is constructed, maintenance and sustainability, public input derived at a public hearing, and the amount of additional use proposed. It is these factors, as well as the waiver criteria in Section 932.A (1-5), that are to be considered. The Board of County Commissioners will ultimately decide whether or not to approve the waiver request, but they look to the Planning Commission for guidance in the decision.

Through the Development Review Committee (DRC) process, Land Development staff recommends approval of this application with the conditions listed on Pages 4 & 5 of this staff report.

Findings of Fact

- *The applicant is requesting a waiver to Section 705.B of the Polk Land Development Code (LDC) to split Parcel #252716-000000-042070 for the purpose of building a single-family home on the new lot. The subject property is approximately 2.89 acres and has +/- 384 feet of frontage along Honeycomb Lane of which the applicant owns fee simple. The property does not have frontage on a County road or one meeting County standards.*
- *According to LDC Section 802.B, the creation of two lots, provided there is no dedication or construction of new roadways and provided the parent parcel has not been divided in the previous three years, is exempt from platting requirements found in Chapter 8, except for Sections 821.A, B, and D; 822 and 830.*
- *According to Polk County's Road Inventory, Honeycomb Lane (Road No. P751606) is a private, unpaved road that intersects with Old Berkley Road to the east and dead ends to the northwest of the subject site. The road is a 20 feet wide with an easement for ingress-egress and utilities and is approximately 0.27 miles long.*
- *Honeycomb Lane currently provide access to Old Berkley Road for four properties. All of these properties are developed with single-family homes.*
- *Per LDC Section 705.B.1, "an easement providing access to a residential lot from a paved road meeting County standard shall meet the following requirements:*
 - a. Provide access for no more than four lots subject to other density, minimum lot size requirements and any other applicable requirements of this Code;*
 - b. Have a minimum width of 20 feet;*
 - c. Not exceed 0.25 miles (1,320 feet) in length;*
 - d. Provide for sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and*
 - e. Be supported by the joinder and consent of all fee owners under easements to the use of the easement by the subject parcel(s). If joinders are provided for the easement, it shall be accompanied by an ownership and encumbrance report based on the legal description of the easement. In lieu of joinders, an applicant may provide a legal opinion from a licensed Florida attorney stating a lot has legal access, along with supporting documentation."*
- *Per LDC Section 705.B.2, "When creating a parcel that will be accessed solely via an easement as provided for herein, the parent tract (prior to subdividing) shall directly front on a public or private paved road meeting County standards. If the parent parcel fronts an unpaved road that is maintained by the County and the road is less than 0.25 miles (1,320 feet) in length, this shall also suffice as direct frontage."*
- *Waivers to Section 705.B may be granted by the Board of County Commissioners pursuant to a Level 4 Review and subject to the waiver provisions in Section 932 of this Code for the following standards of 705.B:*

- a. Easement will serve no more than four lots after the creation of the newly proposed lot(s).*
- b. Easement is not longer than 0.25 miles (1,320 feet) in length.*
- c. The parent parcel, prior to subdividing, directly fronts on a public or private paved road meeting County standard.*

- *The subject property is in a Residential Low-1 (RL-1) land use district. Per Table 2.2 of the LDC, the minimum residential lot size in a RL-1 district is 40,000 square feet. One dwelling unit per acre is the base density. Single-family residences are permitted uses in RL-1, according to Table 2.1 of the LDC.*
- *The subject property is zoned for Lena Vista Elementary, Stambaugh Middle, and Auburndale Senior High schools.*
- *The subject property is served by the Polk County Sheriff's Central District, located at 3635 Ave G NW, Winter Haven.*
- *Fire/EMS responses are from Polk County Fire Rescue Station 7, located at 200 Commonwealth Ave, Polk City 33868.*
- *No wetlands, flood zones, or surface waters are found onsite.*
- *There are no known historical or archeological resources onsite, according to the Secretary of State's Department of Historical Resources Florida Master Site File.*
- *According to the Florida Natural Areas Inventory Biodiversity Matrix, the site is not located within a one-mile radius of a recent endangered animal species documented sighting.*

Development Review Committee

The Development Review Committee, based on submitted information, the findings of fact and analysis conducted as part of this staff report, and a recent site visit, finds that the proposed request **IS COMPATIBLE** with the surrounding land uses and general character of the area; **IS CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan; and recommends **APPROVAL of LDWA-2022-23** with the following conditions:

CONDITIONS OF APPROVAL

1. Approval of this waiver shall be for one additional lot, as described in this staff report and derived from Parcel #252716-000000-042070, to access public roadways through the described private road and easement. [PLG]
2. To allow for the access of emergency vehicles, all easements shall have an unobstructed width of not less than 20 ft. No fencing, landscaping, vehicles, machinery, equipment, or other accessory structures or features which could interfere with the passage of emergency vehicles shall be placed or stored within this 20 ft. [FM]

3. The property owner (s) of Parcel #252716-000000-042070 and the lot derived from it shall be responsible for the maintenance of their portion of Honeycomb Lane. Such maintenance shall include, but is not limited to, keeping all roadways and easements clear of tree limbs and brush; removing debris and other obstacles from the path of emergency vehicles; and improving the stabilized base of roadways and easements to support emergency vehicles as directed by the Fire Marshal's office. [FM]
4. Approval of this waiver with the conditions herein shall be valid for the life of the new parcel. [PLG]

GENERAL NOTES

NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other parties at a public hearing.

NOTE: Approval of this request shall not constitute a waiver or variance from any applicable development requirement unless specifically noted in the conditions of approval and consistent with the LDC.

NOTE: All written comments made in the application and subsequent submissions of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such comments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.

NOTE: Approval of this request is only for Level 4 Review and only for those development decisions within the Planning Commission's and Board of County Commissioner's jurisdiction. Upon completion of the Level 4 Process, building permits will be required for all structures in accordance with Chapter 553 of the Florida Statutes.

NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit 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.

DEMONSTRATIONS OF THE CRITERIA FOR GRANTING WAIVERS SUMMARIZED BELOW:

Note: Below are staff's responses and opinions to the applicant's request relative to demonstrating the criteria for granting a waiver. Since this particular request requires a Level 4 Review approval, it is ultimately the Board of County Commissioners' decision on whether the waiver should be granted and access should be allowed.

1. *Whether the application of the provisions of the Code would cause unnecessary and undue hardship on the use of the property;*

By utilizing the exemption in LDC Section 802.B, the applicant wishes to split the subject property to create a new one-acre lot on which the intention is to build a single-family home. In order to be eligible for a building permit to construct this home, it must meet access requirements found in LDC Section 705 which establishes standards for the vehicular ingress and egress from public and private roads. The subject property – known as the parent parcel – and any lots created from it do not have access to a County road or one meeting County standards, thus necessitating this request for a Waiver.

According to the Property Appraiser, the subject property was first recorded on June 29, 1987 with the south 20-feet of the lot subject to an easement for ingress-egress and utilities. At that time, it was zoned Rural Conservation (RC) when minimum lot sizes were 40,000 sq. ft. Honeycomb Lane was little more than a citrus grove road that connected to what is now Honey Farm Lane to the north before circling back to Old Berkley Road to the east. Staff was unable to find any waivers that would

have allowed the parent parcel to be created without suitable road frontage, as was required at that time, but given the time in which the lot was created and the house was built, it is very possible any approvals are lost.

Regardless, the home onsite has been there since 1987, and the subject property is approximately 2.89 acres, which easily allows the creation of a lot that meets the standards of the underlying Residential Low-1 (RL-1) land use district (40,000 sq. ft.). Without this waiver, the owner cannot sell any portion of their property. The only possibility of gaining fee simple access to Old Berkley Road would be by purchasing property from three other property owners to the east. Another waiver to Section 822 would be required for minimum road frontage. It is possible driveways would need to be shared to minimize driveways onto Old Berkley, an Urban Collector roadway. In the end, though, this would all serve the same purpose as an access easement.

2. *Whether the waiver granted is the minimum adjustment that will make possible the reasonable and permitted use of the property;*

As noted above, no other practical options exist for the subdivision of this property. The applicant owns the 20-foot easement along the southern boundary of the property.

3. *Whether the granting of the waiver will be in harmony with the general intent and purpose of this Code and that such waiver will not be injurious or detrimental to the public health, safety or welfare by, without limitation, creating unsafe traffic conditions or cause increased maintenance expenses in connection with the subdivision improvements;*

The assurance of safe access is one of the key issues for the Planning Commission and Board to consider when evaluating requests for access via easement. Another issue is whether or not the easement is becoming overburdened which is why these decisions are required to have a public hearing. By utilizing the County's DataViewer, staff has recognized four properties that gain their access to Old Berkley Road from Honeycomb Lane. The addition of one more lot to this road will not cause a significant impact, especially when considering the location of the property near Old Berkley Road. Honeycomb Lane is approximately 0.27 miles or 1,437 feet in length. Over 384 feet of it runs through the subject property. Through the DRC review process, the Fire Marshal approved this project.

Conditions of approval have been added that have been standard to other access via easement waivers that keeps the easement clear of obstacles and in good condition for the accessibility of emergency vehicles. With these conditions and the minimal amount of new traffic this approval would generate, staff recommends approval of the request.

4. *The granting of the waiver will not likely result in setting a precedent for a similar waiver request in the area; and*

It is conceivable that granting this request could result in new lots but not realistic. The minimum lot size in RL-1 is 40,000 sq. ft. The total acreage of the four existing parcels – plus one unbuildable one – is 10.15 which is enough land for eleven 40,000 sq. ft. lots; however, reconfiguring these properties to accomplish this would be a large undertaking with five property owners and existing homes. Parcel #252716-000000-042080, two properties to the east, was created through a road frontage waiver granted on April 20, 2016 (Project #58561). This was prior to current rules

governing access via easement in Section 705. The property to the north was granted an access via easement waiver to create four new lots from Honey Farm Lane on July 6, 2021 (LDWA-2021-26).

5. *Whether all other avenues of relief have been exhausted.*

This property cannot be subdivided in the manner proposed without this waiver. It is not possible to create flag lots or otherwise realistically gain fee simple access to Old Berkley Road. The lot will be split so it has fee simple ownership to a portion of Honeycomb Lane and will be granted rights to the easement enjoyed by the parent parcel.

Surrounding Land Use Designations and Current Land Use Activity:

The uses surrounding the property are primarily single-family residential with varying lot sizes within Residential Low land use districts.

Table 1

| | | |
|---|--|--|
| Northwest: RL-1 Single-Family Home +/- 1.00 acre | North: RL-1 Three Single-Family Lots +/- 1.00 acre (LDWA-2021-26) | Northeast: RL-1 One Single-Family Lot +/- 1.00 acre (LDWA-2021-26) |
| West: RL-1 Single-Family Home +/- 1.82 acres Access to Honeycomb Lane | Subject Property: RL-1 Single-Family Homes (One More Lot) (+/- 2.89 acres) Access to Honey Honeycomb Lane | East: RL-1 Single-Family Home (+/- 1.83 acres) Access to Honeycomb Lane |
| Southwest: Auburndale Single-Family Homes Auburn Reserve (+/- 0.17 acres) | South: Auburndale Single-Family Homes Auburn Reserve (+/- 0.17 acres) | Southeast: Auburndale Single-Family Homes Auburn Reserve (+/- 0.17 acres) |

Compatibility with the Surrounding Land Uses:

The proposed use is believed to be compatible with adjacent land uses. Single-family uses surround the subject site with comparable lot sizes. The lots to the south in the Auburn Reserve subdivision are notably smaller and in the city of Auburndale. The amount of traffic produced by one additional lot will have minimal impact on surrounding roadways and neighborhoods

Urban Services and Infrastructure Analysis

The surrounding area has public safety service facilities that are operating within their adopted Level-of-Service (LOS) standard with no deficiencies. Placement of one home will not trigger school concurrency or a traffic study. Table 2, below, summarizes urban services and infrastructure for the surrounding area. Based upon the nature and size of the request, the proposed request is not anticipated to create any significant demand on these services.

Table 2

| Urban Services and Infrastructure Summary | |
|--|---|
| Schools (Zoned) | Lena Vista Elementary Stambaugh Middle Auburndale Senior High |

| Urban Services and Infrastructure Summary | |
|---|--|
| Parks | Lake Myrtle Sports Complex |
| Sheriff | Polk County Sheriff's Central District, located at 3635 Ave G NW, Winter Haven. The response times for March 2021 were: Priority 1: 9:05 Priority 2: 21:00 |
| Fire/EMS | PCFR Station 7, located at 200 Commonwealth Ave, Polk City 33868. Eight (8) minute response time |
| Water | City of Auburndale |
| Sewer | City of Auburndale |
| Transportation | Old Berkley Road (Capacity Available) |

Table 3

| Impact Analysis Summary Proposed Use (Four Single-Family Homes) | | | |
|--|-------------------|--------------|-------------|
| Potable Water Impact | Wastewater Impact | *AADT Impact | *PHT Impact |
| 360 GPD | 270 GPD | 7.81 AADT | 1.00 PHT |
| Source: Polk County Concurrency Manual. The proposed development assumes that the potable water rate for a single-family home will consume 360 GPD and generate 270 GPD in wastewater. ITE 210-Single Family rate was used to determine similar AADT and PM Peak Hour rates for mobile homes. The AADT rate was 7.81 and the PM Peak Hour rates was 1.00 per unit. | | | |

Environmental Conditions Analysis

There are no known environmental conditions that should pose a threat to existing environmental resources based upon the proposed request (*See Table 4, below*). The site is not within any wetlands or flood zones and has no surface water. The subject property is not located within any of the County's identified wellhead protection areas; the subject site is not located within an identified protected species area. The soil on the property is not of such that would limit compliance with applicable Land Development Code regulations for the proposed use. In addition, the subject property is not located within a Historical Preservation area.

Table 4

| Environmental Conditions Summary | |
|----------------------------------|---|
| Surface Water | There are no surface water ponds on the subject property. |
| Wetlands/Floodplains | There are not wetlands or flood zones onsite. |
| Soils | Millhopper Fine Sand |
| Protected Species | The subject property is not located within a one-mile radius of an endangered plant or animal species sighting (Source: Florida Natural Areas Inventory Biodiversity Matrix). |
| Wellfield Protection | The site is not located within a wellfield protection area. |
| Historical Preservation | The subject property contains no historical resources as monitored by the State of Florida's Division of Historical Resources. |
| Airports | The site is not within close proximity to any public airports |

Consistency with the Comprehensive Plan, LDC, and Other County Ordinances:

The property is located in a Residential Low Future Land Use Map district. Comprehensive Plan POLICY 2.120-C1 permits “*by single-family dwelling units, duplex units, and small-scale multi-family units*” at densities up to five (5) dwelling units per acre. The table to follow addresses the primary growth management Policies of Section 2.102 of the Comprehensive Plan Future Land Use Element.

Table 5

| Comprehensive Plan Policy | Consistency Analysis |
|---|---|
| POLICY 2.102-A1: DEVELOPMENT LOCATION – Polk County shall promote contiguous and compact growth patterns through the development process to minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where tracts of land are by-passed in favor of development more distant from services and existing Communities. | This request is for only one home. The Comprehensive Plan density of the RL district would allow up to 2 homes on this property. |
| POLICY 2.102-A2: COMPATIBILITY - Land shall be developed so that adjacent uses are compatible with each other, pursuant to the requirements of other Policies in this Future Land Use Element, so that one or more of the following provisions are accomplished: a. there have been provisions made which buffer incompatible uses from dissimilar uses; b. incompatible uses are made to be more compatible to each other through limiting the intensity and scale of the more intense use; c. uses are transitioned through a gradual scaling of different land use activities through the use of innovative development techniques such as a Planned Unit Development. | The subject site is surrounded by other residential dwelling units within a Residential Low land use district. Other lots in the area are the same size or smaller. The request is for a single-family site-built home. The rest of the lots on the easement are single-family site-built dwellings. |
| POLICY 2.102-A3: DISTRIBUTION - Development shall be distributed throughout the County consistently with this Future Land Use Element so that the public utility, other community services, and public transit and transportation systems can be efficiently utilized; and compact, high-density and intensity development is located where urban services can be made available. | The proposed low-density use is consistent with services available in this underperforming portion of the TSDA |
| POLICY 2.102-A4: TIMING - The development of land shall be timed and staged in conjunction with the cost-effective and efficient provision of supporting community services which, at a minimum, shall require compliance with the Plan's Level of Service requirements and the County's concurrency management system. | The surrounding area has public safety service facilities that are operating within their adopted Level-of-Service (LOS) standard with no deficiencies. Placement of one home will not trigger school concurrency. There are nearby schools with available capacity that may be utilized. Water and wastewater are available. |
| POLICY 2.102-A15: ADEQUATE PUBLIC FACILITIES - The County will direct new growth to areas where adequate public facilities exist or are planned; and ensure that essential services are in place to provide for efficient, cost-effective response times from the Fire Department, Sheriff's Department, and Emergency Management Service (EMS). | Fire services are in close proximity. A condition has been recommended by the Fire Marshall to address existing and future obstructions along the easement. |

The Planning Commission, in the review of development plans, shall consider the following factors listed in Table 6 in accordance with Section 906.D.7 of the Land Development Code.

Table 6

| The Planning Commission, in the review of development plans, shall consider the following factors in accordance with Section 906.D.7 of the LDC: | |
|---|--|
| Whether the proposed development is consistent with all relevant requirements of this Code; | <i>Yes, this request is consistent with the LDC, specifically Sections 906.D and 705.B.</i> |
| Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan; | <i>Yes, the property size is consistent with the Comprehensive Plan because it allows 5 du/ac, and the property is larger than the LDC RL-1 requirements of 40,000 square feet per lot or greater.</i> |
| Whether the proposed use is compatible with surrounding uses and the general character of the area, including such factors as density, height, bulk, scale, intensity, traffic, noise, and appearance; and | <i>Yes, the request is compatible with surrounding uses and the general character of the area. See Page 7 of this staff report for data and analysis on surrounding uses and compatibility.</i> |
| How the concurrency requirements will be met, if the development were built. | <i>The request is capable of meeting concurrency requirements in the timeframe in which it will be constructed. See pages 7-8 of this staff report for data and analysis.</i> |

The BoCC, in the review of development plans, shall consider the following factors listed in Table 7 in accordance with Section 907.D.10 of the Land Development Code.

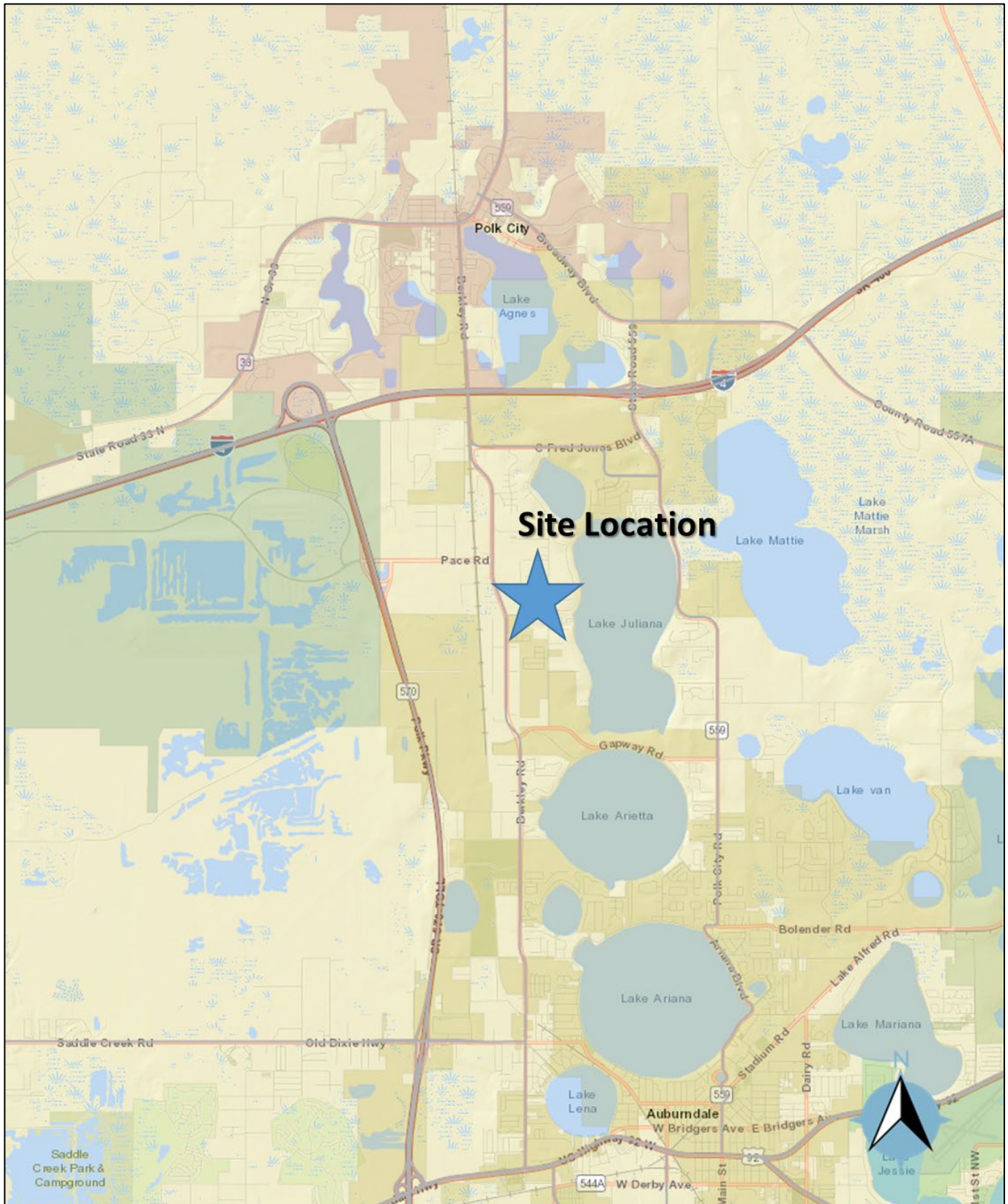
Table 7

| The BoCC, in the review of development plans, shall consider the following factors in accordance with Section 907.D.10 of the LDC: | |
|---|--|
| Whether the proposed development is consistent with all relevant requirements of this Code; | <i>Yes, this request is consistent with the LDC, specifically Sections 906.D and 705.B.</i> |
| Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan; | <i>Yes, the property size is consistent with the Comprehensive Plan because it allows 5 du/ac, and the property is larger than the LDC RL-1 requirements of 40,000 square feet per lot or greater.</i> |
| Whether the proposed use is compatible with surrounding uses and the general character of the area, including such factors as density, height, bulk, scale, intensity, traffic, noise, and appearance; and | <i>Yes, the request is compatible with surrounding uses and the general character of the area. See Page 7 of this staff report for data and analysis on surrounding uses and compatibility.</i> |
| Any other matter which the BoCC may deem appropriate and relevant to the specific development proposal. | <i>The request is capable of meeting concurrency requirements in the timeframe in which it will be constructed. See pages 7-8 of this staff report for data and analysis.</i> |

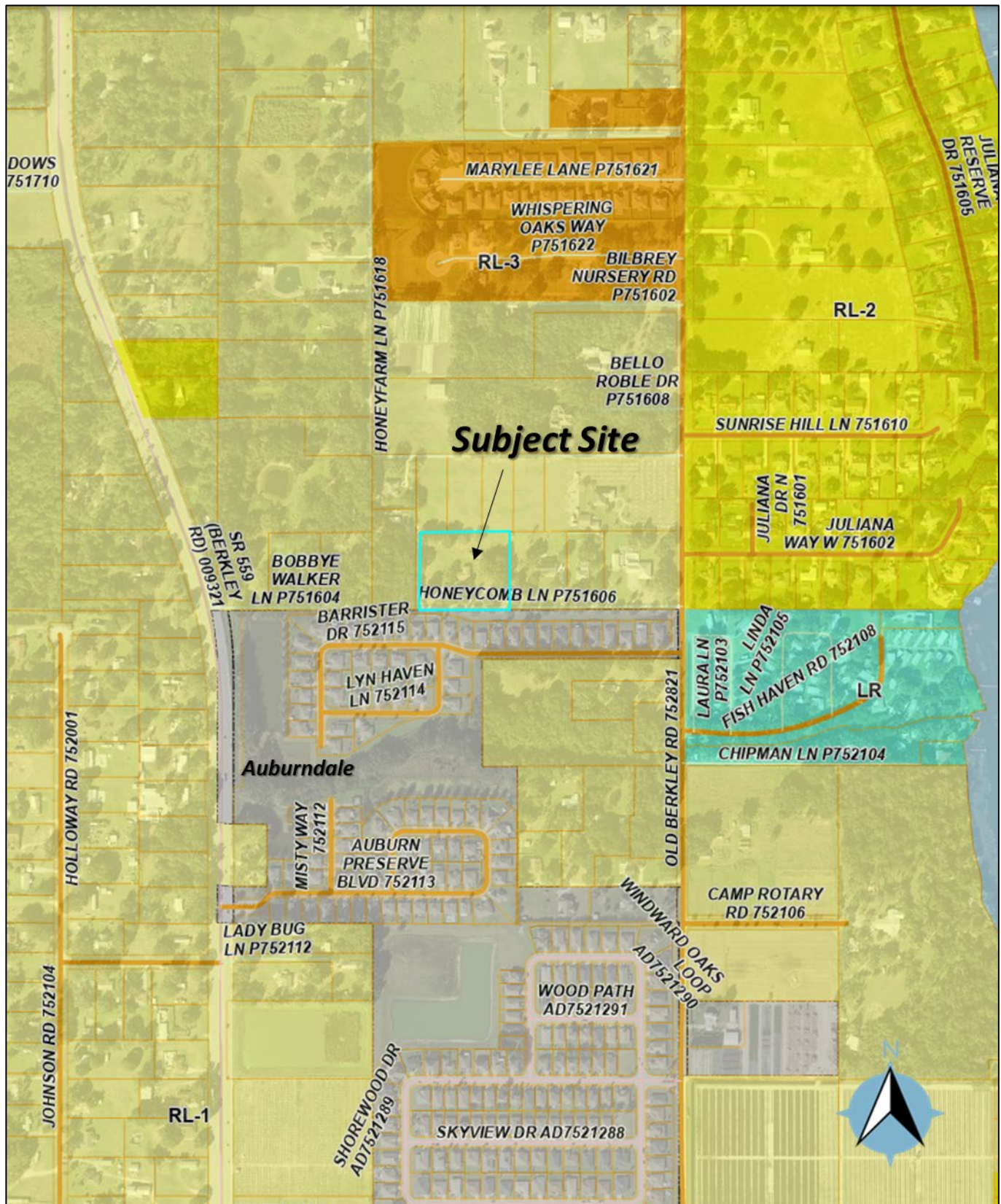
Comments from other Agencies: No Comments

Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Image – Context
- Exhibit 4 Aerial Image – Close-up
- Exhibit 5 Site Plan



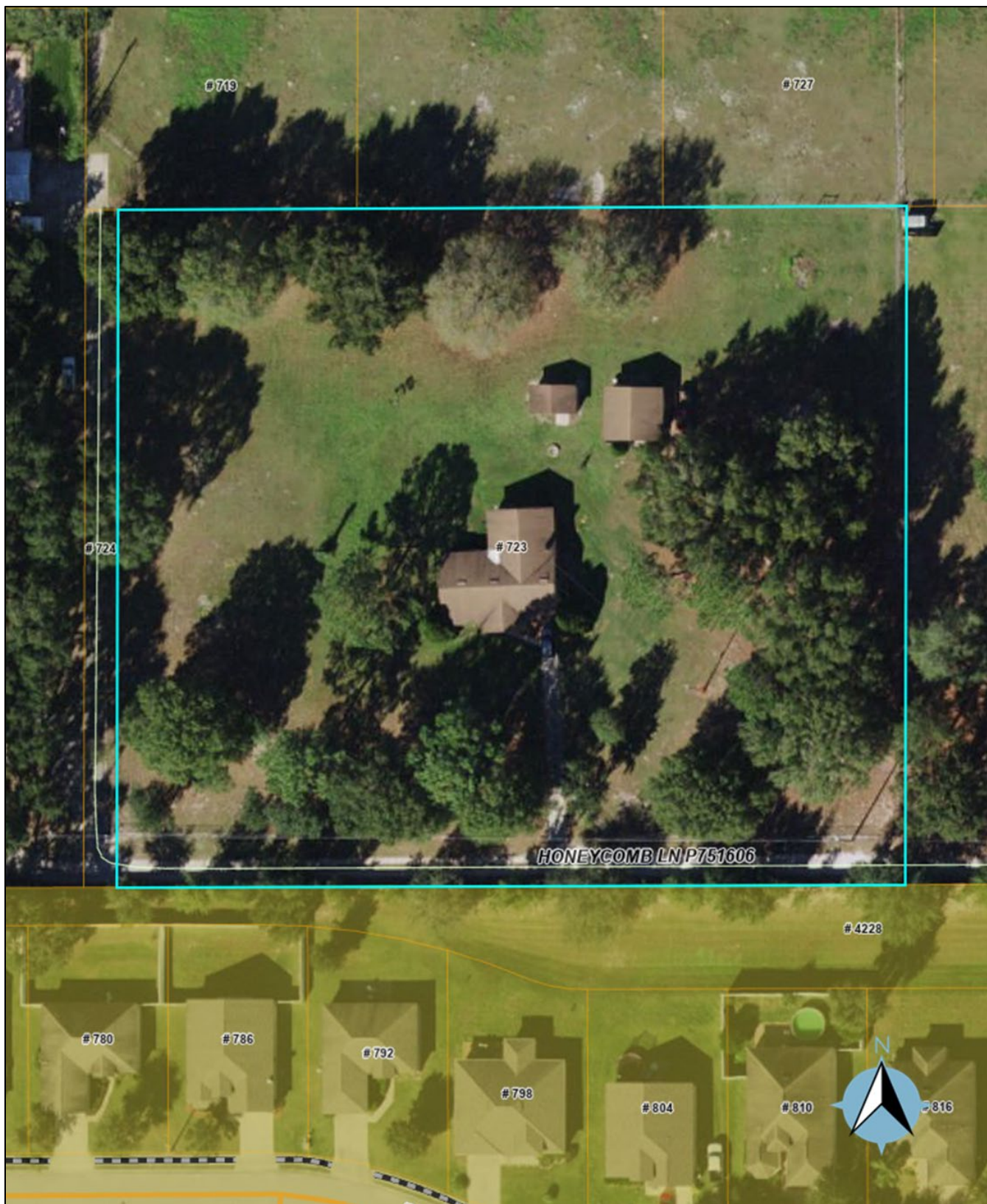
Location Map



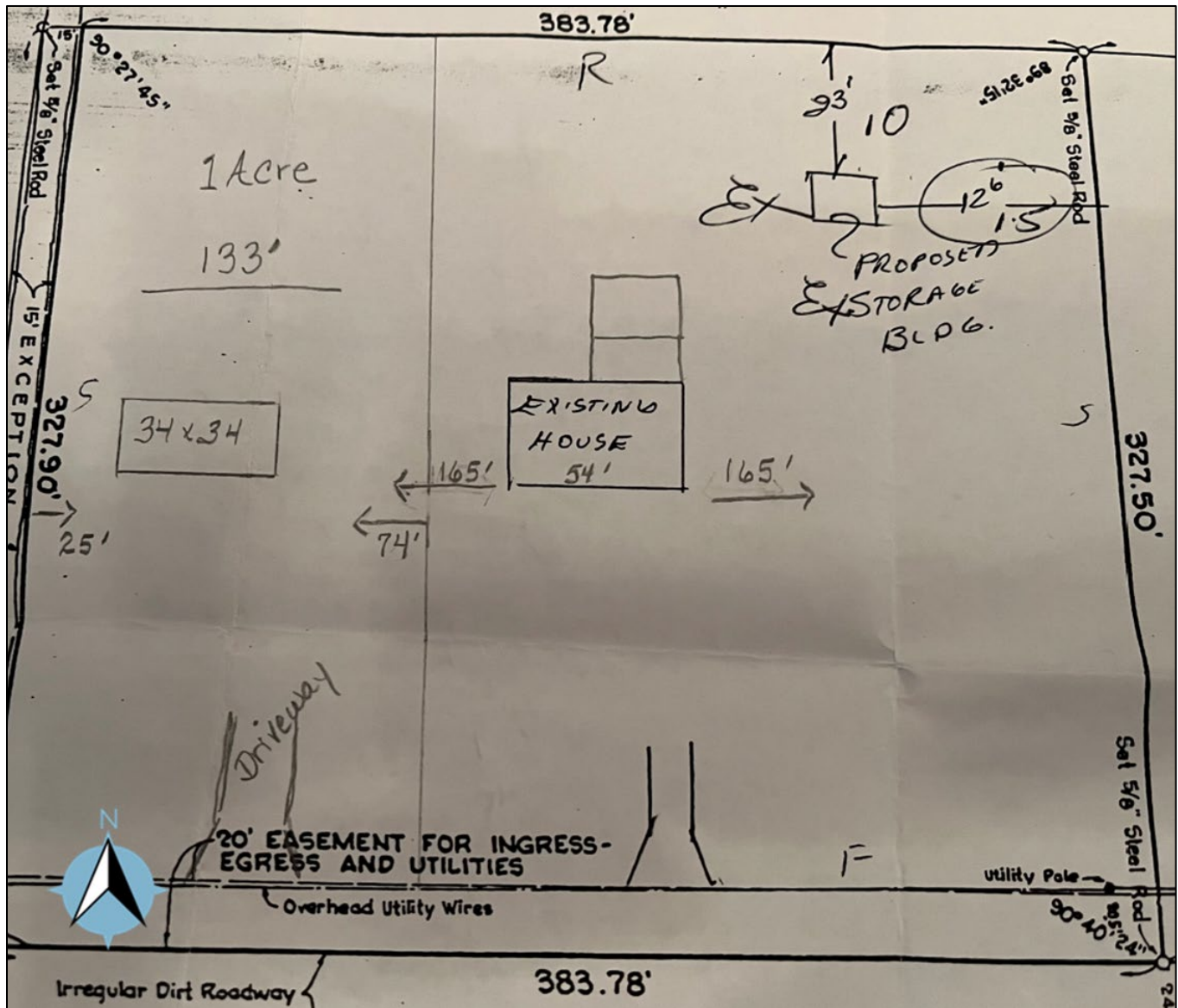
Future Land Use Map



Aerial Image – Context



Aerial Image – Close-up



Site Plan