

**POLK COUNTY
LAND USE HEARING OFFICER
STAFF REPORT**

DRC Date:	September 11, 2025	CASE #:	LDLVAR-2025-50 (Sitar Indian American Buffet Alcohol Variance)
LUHO Date:	October 23, 2025	LDC Section:	Section 224 Table 2.4

Request: This is a request for a 2COP License (Beer and Wine consumption on premises) within the separation distance (1,000 feet) of two religious institutions.

Applicant: Antony Cheriya Kadavil

Property Owner: Publix Super Markets Inc

Location: 2020 Shepherd Rd, north of Imperial Lakes Blvd, west of Imperial Pkwy, west of City of Mulberry in Section 26, Township 29, Range 23

Parcel ID#: 232926-141964-000010

Size: ±8.65 acres

Land Use Designation: Community Activity Center (CAC)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant owns an existing Indian American Buffet restaurant within the Publix Imperial Lakes Plaza. The owners are requesting a variance to the separation requirements for a 2COP alcohol license (Beer and Wine consumption on premises). However, there are two religious institutions within 1,000 feet of property (see Exhibit 5). Section 224 of the Land Development Code (LDC) prohibits beer and wine consumption on premises within 1,000 of a religious institution or a public or private school (K-12). Through LDC Section 930, a property owner (or agent of) may request a variance to the 1,000 feet of separation from the Land Use Hearing Officer. Alcohol separation distance is measured from property line to property line.

In 2002, a 2COP Variance (VAR 02-27) was granted, as well as a 4COP Variance (VAR 04-20) in 2004 to the previous Cherry's Restaurant that occupied the building. The 2COP license was Null and Void on March 31, 2020, when Cherry's went out of business.

First Baptist Church Imperial Lakes is within the 1,000-foot distance requirement. First Baptist Church Imperial Lakes is located about 170 feet from the subject property line. Shepherd's Community United Methodist Church is located about 890 feet from the subject property line. There are a few locational factors that need to be considered. Shepherd Road separates the two

uses with four lanes and 170 feet of right of way. In addition, the separation distance is much greater when accounting for pedestrian and vehicular travel. The distance increases to over 1,500 feet when accounting for vehicle and pedestrian travel from the entrance of the proposed restaurant and the religious institutions rather than from property line to property line.

Staff finds that the request meets the following criteria listed in Section 931:

1. *Whether granting the variance will be in accordance with the general intent and purpose of this code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare:*

There are many instances where alcohol sales and religious institutions have coexisted in close proximity without any adverse effects. Publix Imperial Lakes Plaza already has a Publix liquor that sells alcohol to close distance of these churches.

2. *Whether 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 applicable land use district*

In 2002, a 2COP Variance (VAR 02-27) was granted, as well as a 4COP Variance (VAR 04-20) in 2004, to the previous Cherry's Restaurant that occupied the building. The 2COP license was Null and Void on March 31, 2020. Cherry's went out of business so the variance expired.

3. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure,*

This request allows the owner the flexibility of offering the customers beer and wine. A Publix Liquors within the plaza sells alcohol package.

Staff recommends approval of a variance to reduce the requirements for separation from schools and religious institutions for this site.

Development Review Committee

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

Development Review Committee Recommendation: Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2025-50**, with the following conditions:

CONDITIONS OF APPROVAL:

1. The variance to Section 224 is approved for one 2COP Alcohol Beverage License (Beer and Wine consumption on premises) on Parcel #232926-141964-000010, as shown and described in the staff report.
2. The applicant shall secure and locate the necessary alcohol license (2COP license) within one (1) year from the date the Land Use Hearing Officer's Final Order is

rendered. The variance will be valid as long as the beverage license is current and the establishment does not close for a period of greater than twenty-four (24) months, otherwise the variance will become null and void.

3. The property owner(s) is responsible for compliance with any further restrictions of record pertaining to the property and this approval shall not be used to supersede authority over those restrictions.

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 variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the LDC.

NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.

NOTE: All written commitments made in the application and subsequent submission 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 commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.

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 VARIANCES SUMMARIZED BELOW:

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The applicant, Antony Cheriya Kadavil, representing Sitar Indian American Buffet is requesting a variance to the 1,000-foot separation requirement between alcohol sales with a 2COP license (Beer and Wine consumption on premises) and religious institution, as required by LDC Section 224. The proposed store requires a variance to this distance separation requirement from the First Baptist Church Imperial Lakes and Shepherd's Community United Methodist Church.

There are few reasons to find this will be injurious to the area. From a pedestrian and vehicular standpoint, access from the First Baptist Church Imperial Lakes and Shepherd's Community United Methodist Church requires crossing Shepherd Road, a 4-lane roadway. The outparcels on the site plan along with landscaping (see Exhibit 6) serve as physical barriers between the subject site and religious institution. In addition, the operating hours of the religious institution are majority on Sundays. Meanwhile, the operating hours of the

proposed restaurant are Monday through Sunday, 10:00 a.m. to 11:00 p.m., according to the applicant.

There are numerous examples throughout the County that demonstrate restaurants selling alcohol and religious institutions can co-exist without any adverse effects, as shown in the chart on page 4. Also, the site has been approved for a 4-COP (Cherry's) in the past.

2. *Whether 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 applicable land use district;*

Sitar Indian American Buffet is seeking to add 2COP license to their restaurant in the Publix Imperial Lakes Plaza located in the Community Activity Center (CAC) future land use district. The restaurant is within the plaza at the Publix supermarket. The alcohol sales will serve the local residents and visitors in the area. There are other liquor stores in the immediate vicinity of the restaurant, and this area is experiencing high residential growth. Therefore, the requested variance is in accordance with the general intent and purpose of this Code and will not be injurious to the area involved or otherwise detrimental to public welfare. The operational characteristics of a restaurant are not any more impactful than other commercial uses permitted by the property's zoning and therefore will not be injurious to the area or detrimental to public welfare.

The standard method of measuring by property lines is not always the most accurate depiction of real-world phenomenon. Pedestrians and vehicles must travel much further than the property line measurements including crossing Shepherd Road and entering the buildings themselves. The property boundaries between the subject site and religious institutions vary from 170-890 feet. Meanwhile, if measured between the restaurant entrance through vehicle and pedestrian travel to the religious institutions, those distances increase to over 1,500 feet (see Exhibit 6).

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

It is important to realize that the separation requirements of Section 224 apply to a wide variety of uses that have disparate intensities and effects upon the surrounding area. Furthermore, this case illustrates the uneven nature of alcohol policies in Polk County. The applicant would not be seeking a variance to sell alcohol at this location if it was not for the market phenomenon that are present. There appears to be no special conditions and circumstances present that are not the result of the applicant.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

Several alcohol-distance variances for alcohol sales have been approved since the adoption of the LDC. Therefore, this request is a privilege that has been enjoyed by others under similar circumstances. Below is a chart of other establishments offering liquor sales that have been approved within the distance separation requirement of a school or religious institution.

Case	BOA/LUHO Date	Schools/Religious Institution
VAR 12-56	7/26/12	Seven Churches & One High School
VAR 12-73	8/23/12	Two Churches & One High School
LDVAR-2019-55	8/22/19	One Church
LDVAR-2019-72	9/26/19	Two Churches & One Middle School
LDVAR-2020-57	6/26/20	One Church
LDLVAR-2021-107	11/15/21	Two Schools & One Church
LDLVAR-2021-122	1/27/22	Two Churches
LDLVAR-2022-36	7/28/22	One Church
LDLVAR-2022-54	8/25/22	One School & One Church
LDLVAR-2023-67	2/22/24	One Church & One School
LDLVAR-2024-10	4/25/24	Four Churches
LDLVAR-2024-12	4/25/24	Four Churches & One Elementary School
LDLVAR-2024-27	7/25/24	Three Churches
LDLVAR-2024-55	11/12/24	Two Churches & One Elementary School
LDLVAR-2025-1	3/27/25	Two Churches
LDLVAR-2025-26	7/24/25	Two Churches
LDLVAR-2025-35	8/26/25	Four Churches

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

This approval is the minimum needed to accommodate the use. This request allows the owner the flexibility of offering the customers beer and wine. A Publix Liquors within the plaza sells alcohol. If measured between the restaurant and religious institutions through vehicle and pedestrian travel, those distances increase to over 1,500 feet (see Exhibit 6).

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use. Beer and wine consumption on premises may be approved in CAC districts without limitations if there are no schools or religious institutions within 1,000 feet.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting the variance will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance will not change the size, shape, or use of the property.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

Granting this request will not circumvent a condition or intent of a condition placed on the development by the Planning Commission or the BoCC.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides pertinent details of abutting uses and their regulatory parameters.

Northwest: CAC Vacant Commercial 2.4 acres	North: CAC First Baptist Church of Imperial Lakes 8.96 acres	Northeast: CAC Commercial 1.5 acres
West: RH Vacant Residential 16.6 acres	Subject Property: CAC Publix Imperial Lakes Plaza 8.64 acres	East: CAC Commercial 4.7 acres
Southwest: RH Vacant Residential 16.6 acres	South: RL-1 Vacant Golf Course 74 acres	Southeast: CAC 4.7 acres

Land is developing at a rapid pace in this area. The existing residential development on the south within Imperial Lakes is the intended market for such a proposed use.

Comments from other Governmental Agencies: None.

Exhibits:

Exhibit 1 – Location Map

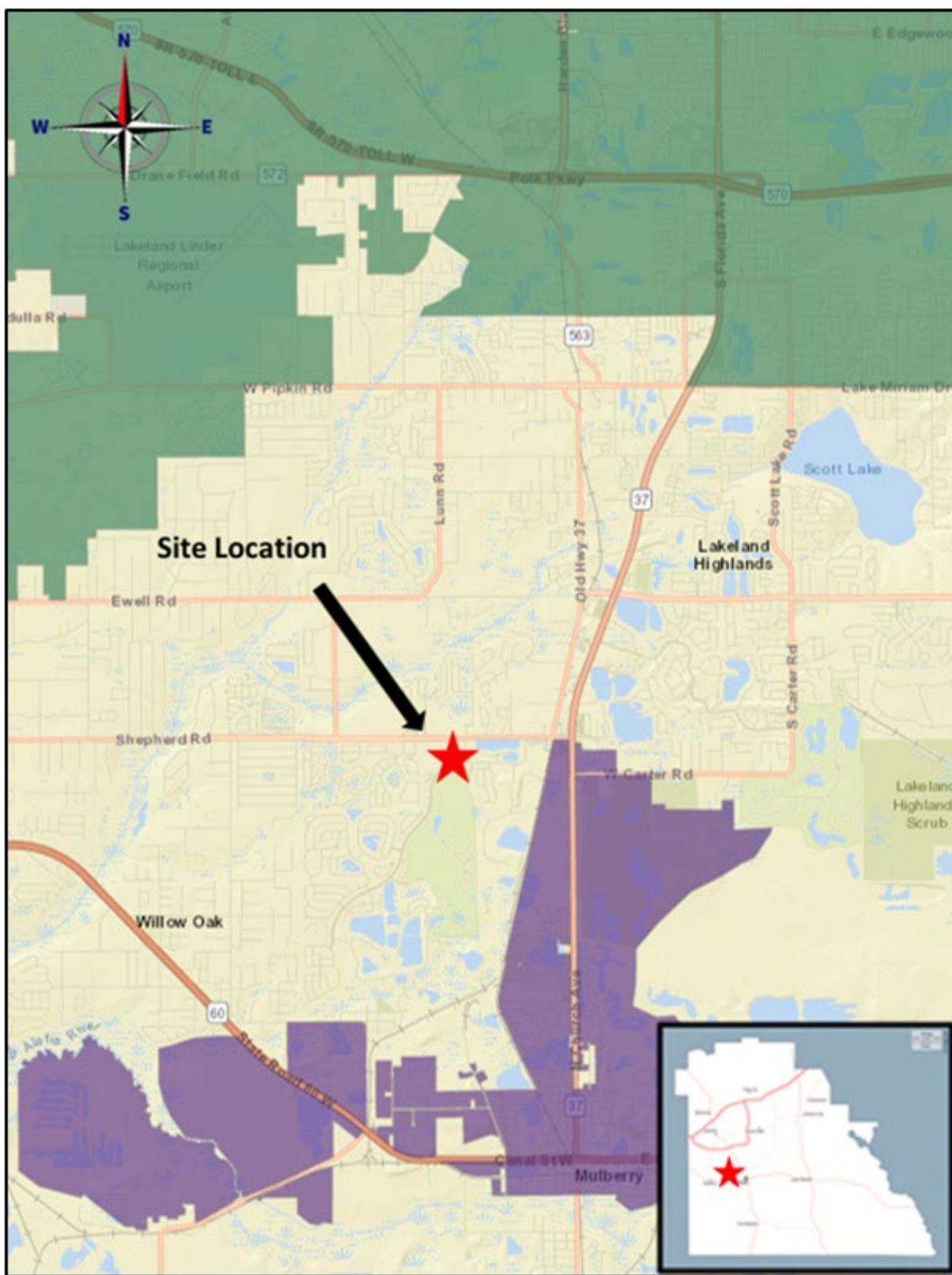
Exhibit 2 – 2023 Aerial Photo (Context)

Exhibit 5 – Site Plan

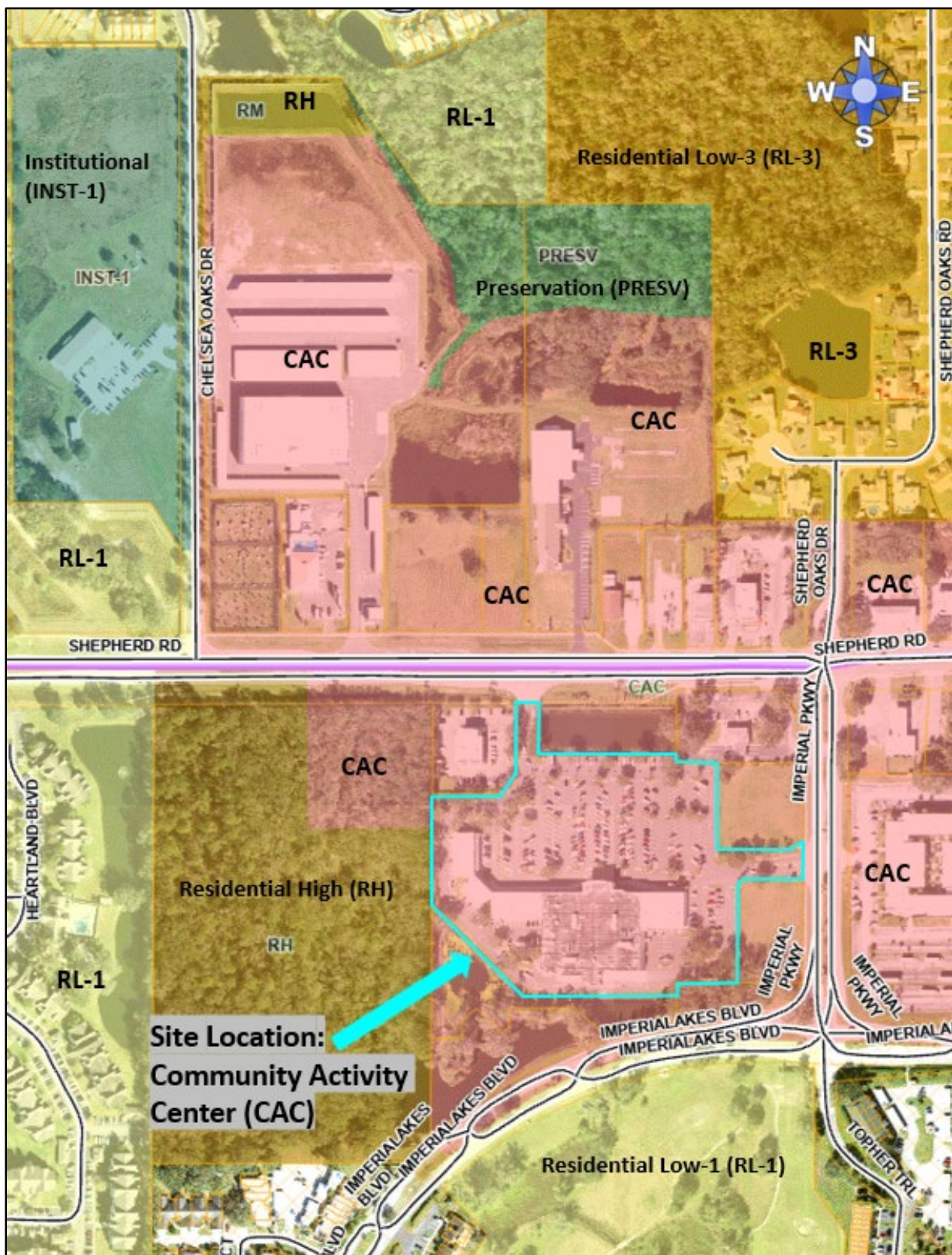
Exhibit 3 – Future Land Use Map

Exhibit 4 – 2023 Aerial Photo (Close)

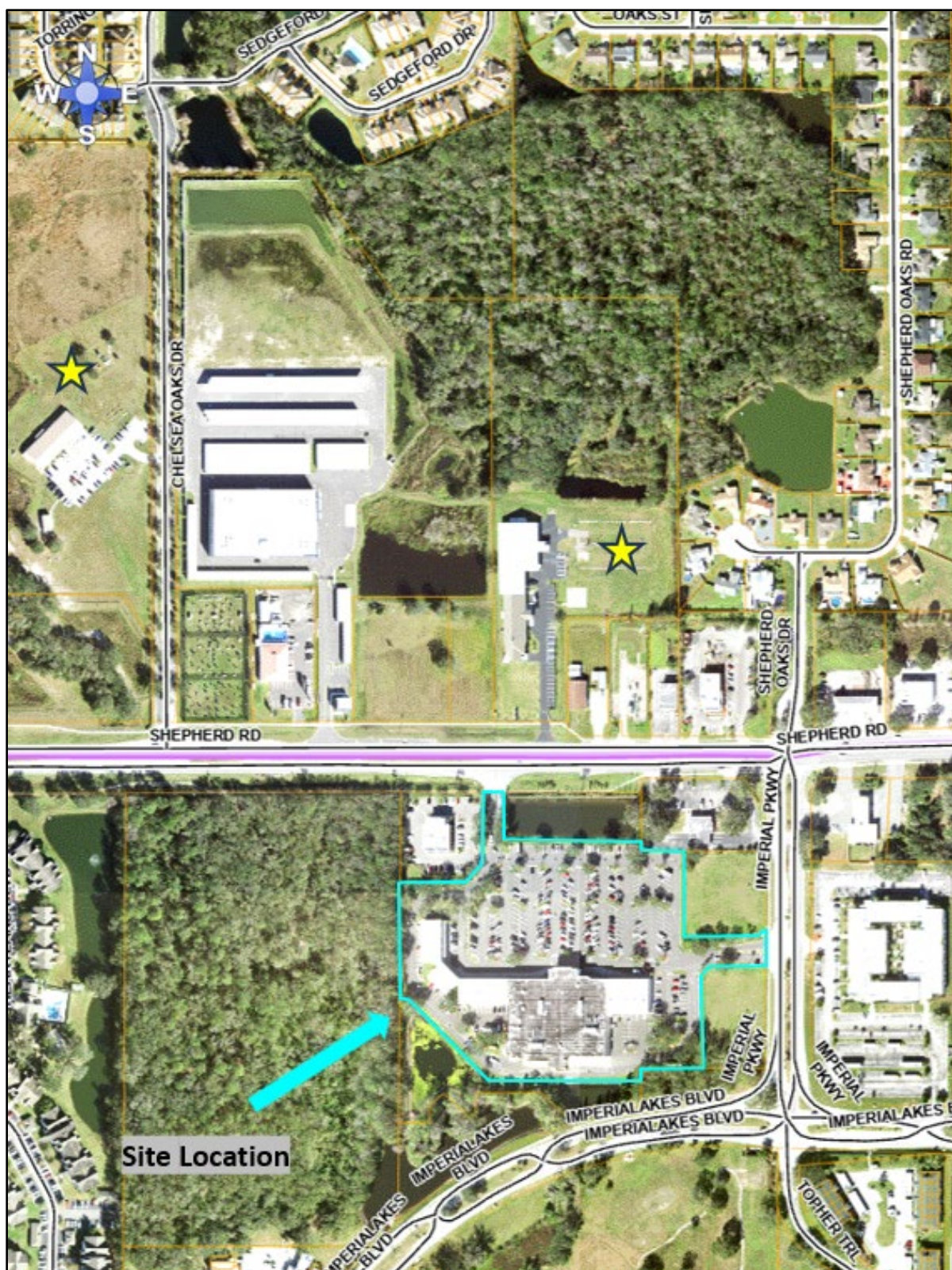
Exhibit 6 – Distance



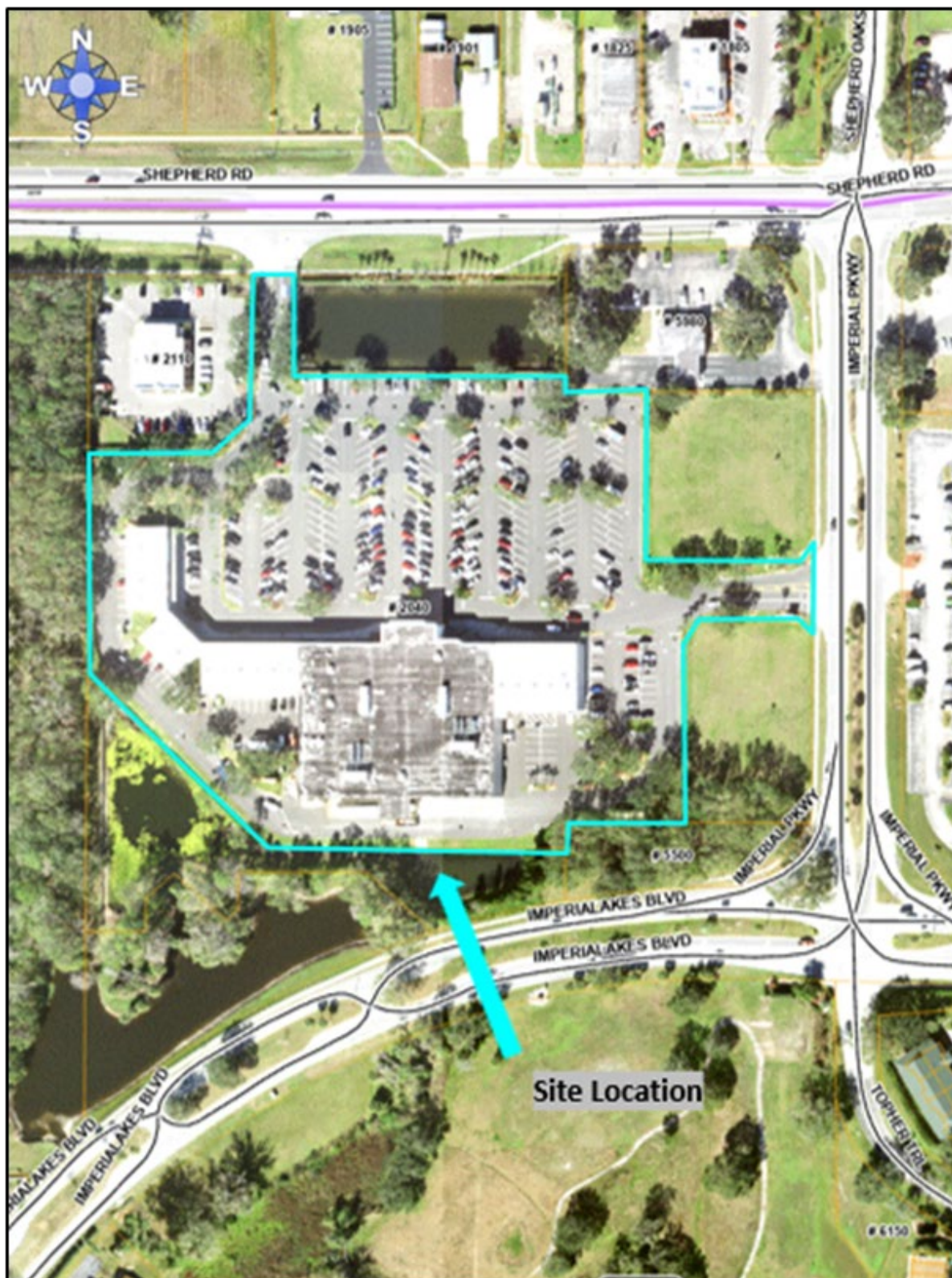
Location Map



Future Land Use Map



2023 Aerial Photo (Context)



2023 Aerial Photo (Close-up)



Site Plan

Land Use Hearing Officer
Variance/ANI