

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

DRC Date:	September 11, 2025	CASE #:	LDLVAR-2025-52 (Hudson ADU)
LUHO Date:	October 23, 2025	LDC Section:	Section 206.A

Request: The applicant is requesting a variance to allow a 1,510 square foot accessory dwelling unit (ADU) to exceed the 1,000 square foot cap on approximately 15.03 acres in the Agriculture/Residential Rural-X (A/RRX) land use district.

Applicant: Joseph Hudson

Property Owner: Joseph Hudson

Location: The subject property is located at 6850 AVT Ranch Road, north of Interstate 4, south of Deen Still Road, east of Moore Road, west of Commonwealth Avenue, north of Polk City in Section 05, Township 26, Range 25.

Parcel ID#: 252605-000000-021010

Size: ±15.03 acres

Land Use Designation: Agriculture/Residential Rural-X (A/RRX)

Development Area: Rural Development Area (RDA)

GSACSC: Green Swamp Area of Critical State Concern

SPA: Rural Special Protection Area

Case Planner: Kyle Rogus, Planner II

Summary:

The applicant is seeking a variance to the maximum size limit of 1,000 square feet for an accessory dwelling unit (ADU). Section 206.A.2 of the Land Development Code (LDC) limits ADUs to less than the size of the primary residence and not to exceed 1,000 square feet of heated floor space. The owners would like to construct a new home that will be between 2,000 to 2,500 square feet under roof. Meanwhile the existing dwelling unit is 1,510 square-foot under roof, or 1,350 square feet of heated floor space, and would serve as an ADU.

The owners seek this ADU size approval for the property to comfortably house their elder parents onsite and from a separate residence. Considering the max ADU size considers only heated floor space, the existing home intended to become an ADU is only 35% larger than the County's ADU standards permitted by right.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-52 as it 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;*

The location of the new home will meet primary structure setbacks. The existing home met the primary structure setbacks when it was constructed at the time. Also the impervious surface of the site will not exceed the 60% threshold established in Section 206.A.3.b of the LDC.

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;*

The owners stated in the application the ADU will provide the ability to comfortably house their elder parents and provide caretaking services for them at a distance. By right, they could demolish and build an ADU just 350 square feet smaller than what's currently on site, but the owners want the home to remain as it stands.

Development Review Committee

The Development Review Committee, based on the criteria for granting variances, the submitted application, and a recent site visit, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code (LDC) and recommends **APPROVAL of LDLVAR-2025-52**

CONDITIONS OF APPROVAL:

1. A variance to the standards in Section 206.A.2, of the Land Development Code (LDC) shall be granted to adjust the maximum allowable square footage of an accessory dwelling unit (ADU) from 1,000 square feet to 1,510 square feet to allow the existing residence to remain on site.
2. This variance shall be valid as long as the new primary residence is constructed at 2,000 square feet under roof or greater.
3. This variance does not authorize any encroachments into easements and the applicant shall be responsible for making certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land 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 interested parties at a public hearing.

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 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 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.

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.

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;*

Under Ordinance 25-018 enacted by the BoCC on March 18, 2025, ADU sizes on residential properties are permitted up to 1,000 square feet of heated floor space. This standard is to ensure accessory uses remained subordinate in size to the principal structure on the same property. The Board understood that there would be exceptional situations, so this variance option was added to the duties of the Land Use Hearing Officer to review. The one stipulation is that the total impervious surface ratio (ISR) of a property with a larger than 1,000 square foot ADU does not result in more than 60%. The applicant's property is approximately 15.03 acres, and the current home and its accessory structures cover less than 1% of the property. The addition of the new 2,000 to 2,500 square foot primary residence will increase the ISR to 0.95%, well below the 60% maximum ISR of the property.

The applicant and property owner Joseph Hudson, is seeking to build a new 2,000 to 2,500 square foot single-family residence while retaining the old home as an ADU. The existing home is 35%, or 350 square feet of heated floor space, larger than the maximum size permitted in under Section 206.A.2 of the LDC. Under roof, the ADU is also subordinate in size to the proposed primary dwelling unit by about 34%. The subject site is a legal lot of record, and the new principal structure will meet all the required setbacks in the A/RRX land use district. Additionally, the existing 1958 home met all principal structure setbacks at the time. For these reasons, approval will not be injurious to the area involved or otherwise detrimental to the public welfare.

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;*

The subject site is within the Agriculture/Residential Rural-X (A/RRX) land use district in the Green Swamp Area of Critical State Concern (GSACSC), surrounded by developed and vacant land similar in size. The property is approximately 15.03 acres, which met the 40,000 acre minimum lot area in the Rural Conservation (RC) zoning district when the property was recorded, and the current 10 acre minimum lot area in the A/RRX. The lot is unplatted and gains access off an unpaved County-maintained local roadway directly to the south (AVT Ranch Road).

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

The existing home on the subject site was constructed in 1958 and met the principal side and rear setbacks of 15' and 40' under the prior zoning district respectively. According to the request, rather than demolishing the home altogether, the owner instead would use the home as an accessory dwelling unit to comfortably house their elder parents and provide caretaking services. The size of the dwelling is 35% larger than the County's ADU standards permit by right.

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;*

This will not confer on the applicant any special privilege that is denied by the provisions of this Code. ADUs are permitted as accessory uses to single-family detached homes and mobile homes in all residential districts and lots of record, so long as they meet setback, dimensional, and locational requirements. According to Section 206.A.3.c of the LDC, the "new" ADU must meet primary structure setbacks when it exceeds 1,000 square feet. The residence was originally zoned Rural Conservation (RC) at the time it was constructed in 1958. Minimum principal structure setbacks in RC district are 25' front, 15' side, and 40' rear. The residence is ±15.03 acres, well over the 40,000 square feet minimum lot area per RC zoning district making it easy to meet these requirements. In addition to this, the ADU will not be located in the front yard once the new residence is built.

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

The owners are seeking to designate their existing home as an accessory dwelling unit (ADU) that is approximately 35% larger than the County's current ADU maximum standard. In terms of total under roof, the ADU will be approximately 34% the size of the minimum new primary dwelling proposed. This still falls into the confines of the definition of accessory (incidental and subordinate). According to the applicant's justification, the request aims to house their older parents in the ADU while providing caretaking services.

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. A larger than standard accessory dwelling unit (AD) will not alter the residential use of this property

7. *Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request is not anticipated to 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.*

The evidence found suggests the proposed request will not circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners.

Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: Agriculture/Residential Rural Pasture 122.44 acres	North: Agriculture/Residential Rural 1,248 sq. ft. single-family home Built 2020 15.02 acres	Northeast: Agriculture/Residential Rural 1,344 sq. ft. mobile home Built 2005 5.01 acres
West: Agriculture/Residential Rural Pasture 122.44 acres	Subject Property: Agriculture/Residential Rural 1,510 sq.ft. single-family home Built in 1958 15.03 acres	East: Agriculture/Residential Rural 2,544 sq. ft. single-family home Built 1959 7.62 acres
Southwest: Agriculture/Residential Rural Pasture 122.44 acres	South: Agriculture/Residential Rural Pasture 122.44 acres	Southeast: Agriculture/Residential Rural Pasture 122.44 acres

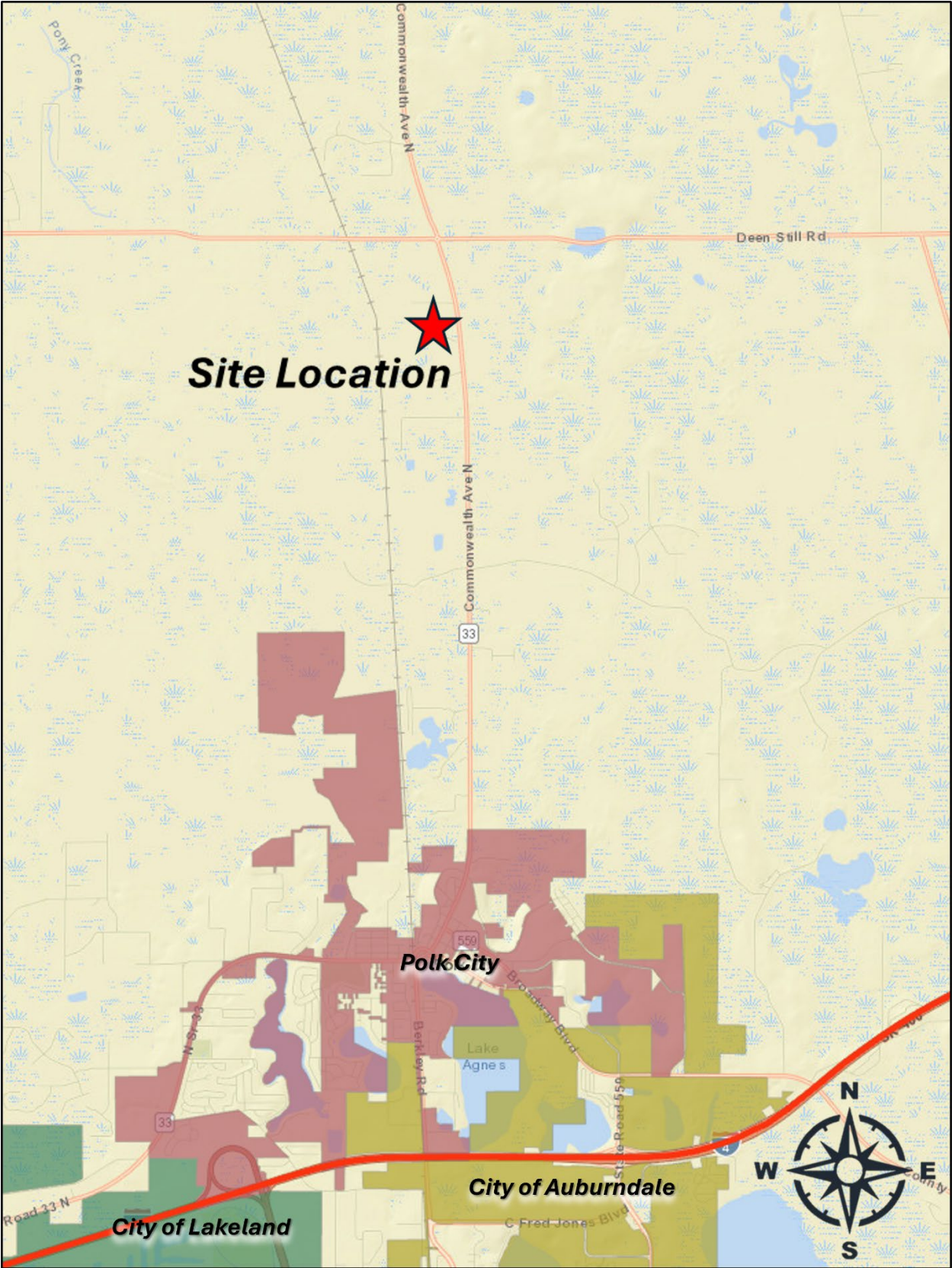
The property is unplatted and is surrounded by large developed and vacant lots. The property is approximately 15.03 acres in the Green Swamp Area of Critical State Concern (GSACSC), which meets the 40,000 acre minimum lot area in the Rural Conservation (RC) zoning district when the property was recorded, and the current 10 acre minimum lot area in the Agricultural/Residential Rural-X (A/RRX) land use district.

A one-story 1,510 square foot single-family home was constructed on the subject site in 1958. In June 2022, the property owner purchased the subject site through a Trustee's deed according to the Property Appraiser (O.R. BK 12304 PGs 607-608). The applicant and property owner Joseph

Hudson, is seeking to build a new 2,000 to 2,500 square foot single-family residence while retaining the old home as an accessory dwelling unit (ADU). Approval from the Land Use Hearing Officer to accompany this 2,000 to 2,500 square foot home and 1,510 square-foot ADU is required.

Exhibits:

Exhibit 1	Location Map
Exhibit 2	Future Land Use Map
Exhibit 3	Aerial Imagery (Context)
Exhibit 4	Aerial Imagery (Close)
Exhibit 5	Site Plan
Exhibit 6	Justification



Location Map

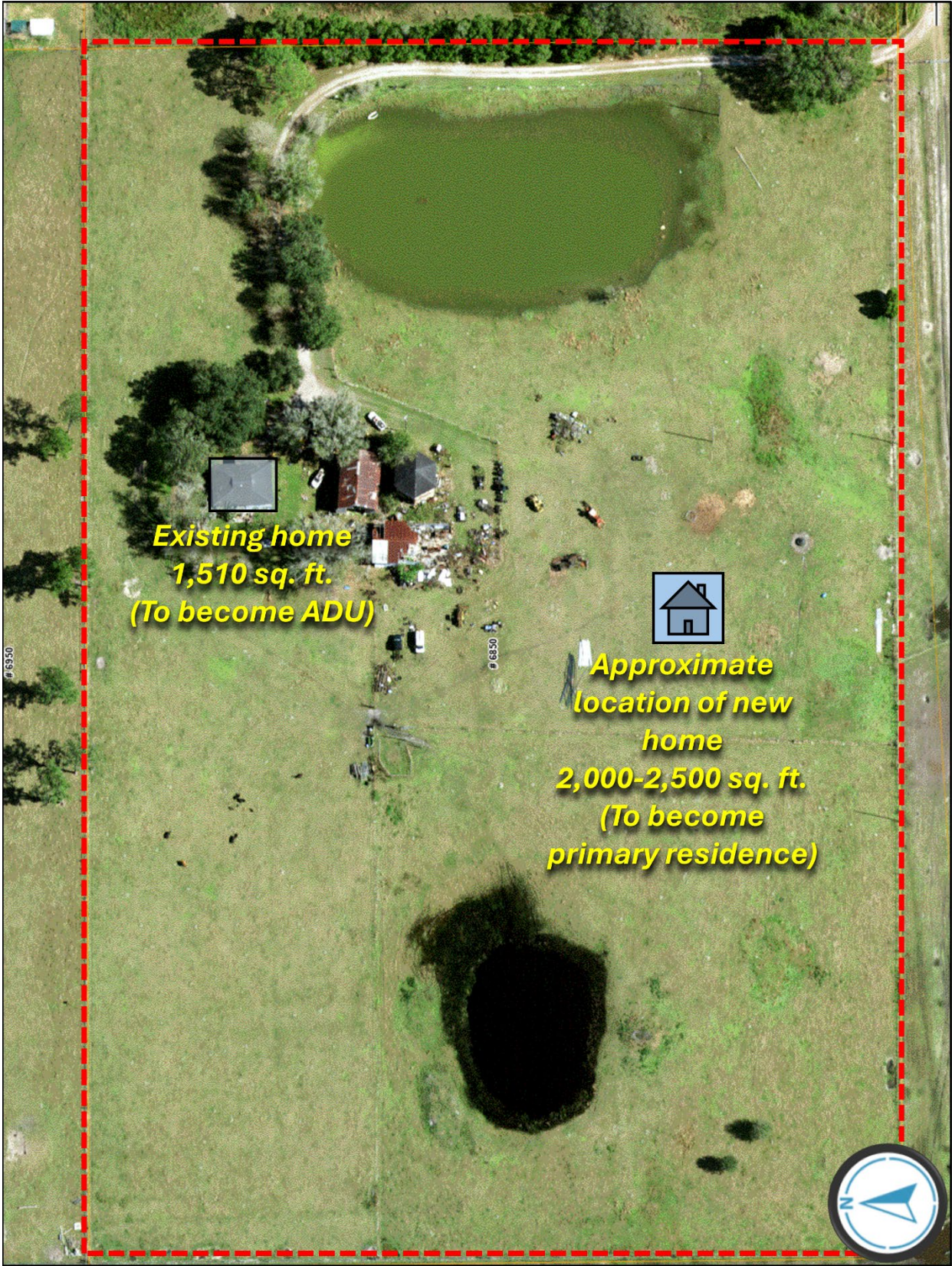


Future Land Use Map



Aerial Imagery (Context)

Land Use Hearing Officer
Variance/KSR



Site Plan

CRITERIA FOR GRANTING VARIANCE

Will the variance be injurious to the area involved or detrimental to the public welfare?

no

What special conditions exist that are peculiar to the land, structure, or building involved?

none

When did you buy the property and when was the structure built? Permit Number?

na

What is the hardship if the variance is not approved?

Assisting Older parents, taking proper care of the homestead.

Is this the minimum variance required for the reasonable use of the land?

na

Do you have Homeowners Association approval for this request?

na

Justification