

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

<b>DRC Date:</b> April 9, 2026	<b>CASE #:</b> LDLVAR-2026-17 (1946 Manatee Ct Variance)
<b>LUHO Date:</b> May 28, 2026	<b>LDC Section:</b> PUD 71-10

**Request:** The applicant is requesting a primary structure rights-of-way setback from twenty-five (25) feet to fifteen (15) feet for a single-family home.

**Applicant:** Adam Smith

**Property Owner:** Alfredo and Arlene Magbanua

**Location:** The subject property is located at 1946 Manatee Ct, north of Pacific Road, south of Hemlock Avenue, east of Manitoba Ct, west of Flounder Road, east of Haines City in Section 03, Township 28, Range 28.

**Parcel ID#:** 282803-934760-049090

**Size:** ±0.16 acres

**Land Use Designation:** Poinciana Pre-Development of Regional Impact (DRI) #1  
PUD 71-10 Neighborhood 5, Village 7

**Development Area:** Utility Enclave Area (UEA)

**Case Planner:** Kyle Rogus, Planner II

**Summary:**

The applicant is seeking a variance to reduce the primary structure rights-of-way (ROW) setback from twenty-five (25) feet to fifteen (15) feet for the construction of a single-family home. The subject site is designated as Lot 9 of the Poinciana Neighborhood 5, Village 7, part of Planned Unit Development (PUD) 71-10 which was approved for primary structure 25-foot ROW, 7.5-foot side yard, and 20-foot rear yard setbacks. Typical corner lots in PUD 71-10 require 25-foot ROW setback for driveway access and 15-foot ROW setback along the side road. The subject site is located on the corner of Manatee Court, where the road curves north, providing over 130 feet of frontage on less than a quarter-acre lot. The corner lot and nature of the roadway creates an atypical lot shape limiting future development.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2026-17 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;*

This is not the only property within the immediate surrounding area that will be within 25 feet from Manatee Court ROW. The abutting property to the north, designated as Lot 8, was approved for a single-family residence within 25 feet of Manatee Court ROW. Manatee Court is considered a side road with 15-foot ROW setbacks. It will not limit the view of traffic as similar structures exist within 15 feet of public ROW and is at the end of a cul de sac. The structure will remain outside all side and rear yard public utility and drainage easements.

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 irregularly-shaped lot with one (1) road frontage setback is restrictive. The small lot size, shape, and public easements affect the use of the lot without the relief from setbacks.

### **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-2026-17**

### **CONDITIONS OF APPROVAL:**

1. The property is granted a reduction in the primary structure ROW setback from twenty-five (25) feet to fifteen (15) feet for a single-family home.
2. All necessary permits must be applied for within one (1) year of the date for which the Land Use Hearing Officer's Final Order is rendered.
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;*

In September 1996, the owner purchased the subject site through a warranty deed according to the Property Appraiser (O.R. BK 3739 PG 0086). The subject site is within PUD 71-10 and designated as Lot 9 in the Poinciana Neeighborhood 5, Village 7 Subdivision under Plat Book 53, Page 19 in 1971. PUD 71-10 has approved 25-foot ROW, 7.5-foot side yard, and 20-foot rear yard setbacks. If this site was not within the Poinciana PUD 71-10, the site would be designated under the Residential Low-4 (RL-4) land use district. RL-4 requires 15-foot ROW, 7-foot side yard, and 10-foot rear yard setbacks. If the development were to come in under RL-4 district regulations, the applicant would not require a variance to the ROW setback.

The proposed house will not be injurious to the area involved. To the north of the property, designated as Lot 8, Block 1138, is a similar size and shaped lot that has been developed with a single family home. Access on the neighboring site to the north comes off Manatee Lane, requiring a 25-foot ROW and garage setback. Manatee Court is then considered a side road, requiring 15-foot ROW setbacks. The house met all required PUD setbacks, therefore no variance was required.

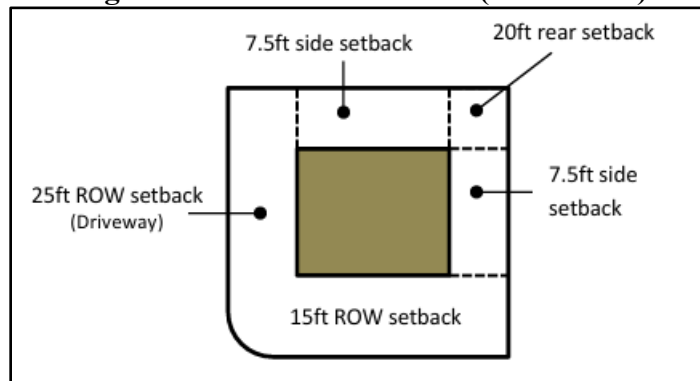
The applicant is requesting a primary structure ROW setback reduction from 25 feet to 15 feet, staying consistent with the setback of the house to the north. It is important to note the majority of the home will meet the 25-foot setback, however the curvilinear nature of the road creates a choke point requiring the setback reduction from reduction from 25 feet to 15 feet at the nearest point. The garage will meet the 25-foot setback as there is no variance to this requirement. The proposed structure will stay outside any noted easements.

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 part of the larger Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10. The subject site is Lot 9, Block 1138 designated for single family residential according to the 1981 Poinciana Master Plan. PUD 71-10 was approved for 25 feet ROW setback; 7.5 feet side yard setback; and 20 feet rear yard setback. Unlike a typical corner lot fronting two (2) roads, the subject site is a corner lot with frontage on only one (1) road, Manatee Court. Typical corner lots found in PUD

71-10 require 25-foot ROW setback for driveway access and 15-foot ROW setback along the side road (see Figure 1 below).

**Figure 1. Poinciana Setbacks (PUD 71-10)**



The distinction between the two road frontage setbacks, depending on where access is being taken, offers additional relief for development.

The corner lot and nature of the roadway creates an non-uniform lot shape limiting future development (see Exhibit 4). The lot is 0.16 acres, which is consistent with the surrounding area and above the 6,000 square feet minimum residential lot area in the Residential Low-4 (RL-4) land use district. Because of the shape and frontage on one (1) roadway the setbacks restrict further development without impeding on the 25 foot right-of-way setback. The proposed single-family home will be over 15 feet from the right-of-way, 7.5 feet from the side, and 20 feet from the rear (see Exhibit 5). The home will remain outside the 10-foot public utility and drainage easement to the rear of the site and outside the public utility easement and drainage easement on the east side of the property.

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

The owner purchased the property in September 1996, according to the Polk County Property Appraiser (O.R. BK 3739 PG 0086). The non-uniformed shape and lot size in regards to public utility and drainage easements on site place a burden on the reasonable use of this land. The subject site is located on the corner of Manatee Court, where the road curves north, providing over 130 feet of frontage on less than a quarter-acre lot. The nature of the road creates a non-uniform right-of-way setback on the west side of the property. If the lots and roadway were developed in a uniformed pattern, like the corner lots along Flounder Road, or fronted a side road like Lot 8 to the north, there would be no need for a variance request. The owner may not have been aware of the right of-way setbacks. Without this variance, it would be difficult to develop on this property.

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;*

Every variance approval is a special privilege to some degree. The non-uniformed shape of the corner lot and right-of-way setbacks create a hardship when developing on this property without relief from the right-of-way setbacks. The garage will be setback 25 feet from public ROW. This dimensional regulation is not subject to a variance or waiver.

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

The requested variance is believed to be the minimal variance necessary to optimize the use of the owner's land. The property is one of the few corner lots in PUD 71-10 with frontage on only one (1) roadway and is therefore subject to the 25-foot ROW setback along the entire frontage. Without the variance, constructing a single family home would be difficult due to the 10-foot rear yard and 7.5-foot side yard public utility and drainage easements.

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. The site will remain a residential use in a residential district of the Planned Development.

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.*

Granting this request will not circumvent any conditions of approval. It was anticipated that some lots may not be able to comply with all the standards set forth in the Planned Unit Development (PUD) approval. As long as the drainage easements are not encroached upon, this request will not circumvent the Board approvals. LDC Section 930.B.21 allows variances to approved Level 3 and Level 4 reviews.

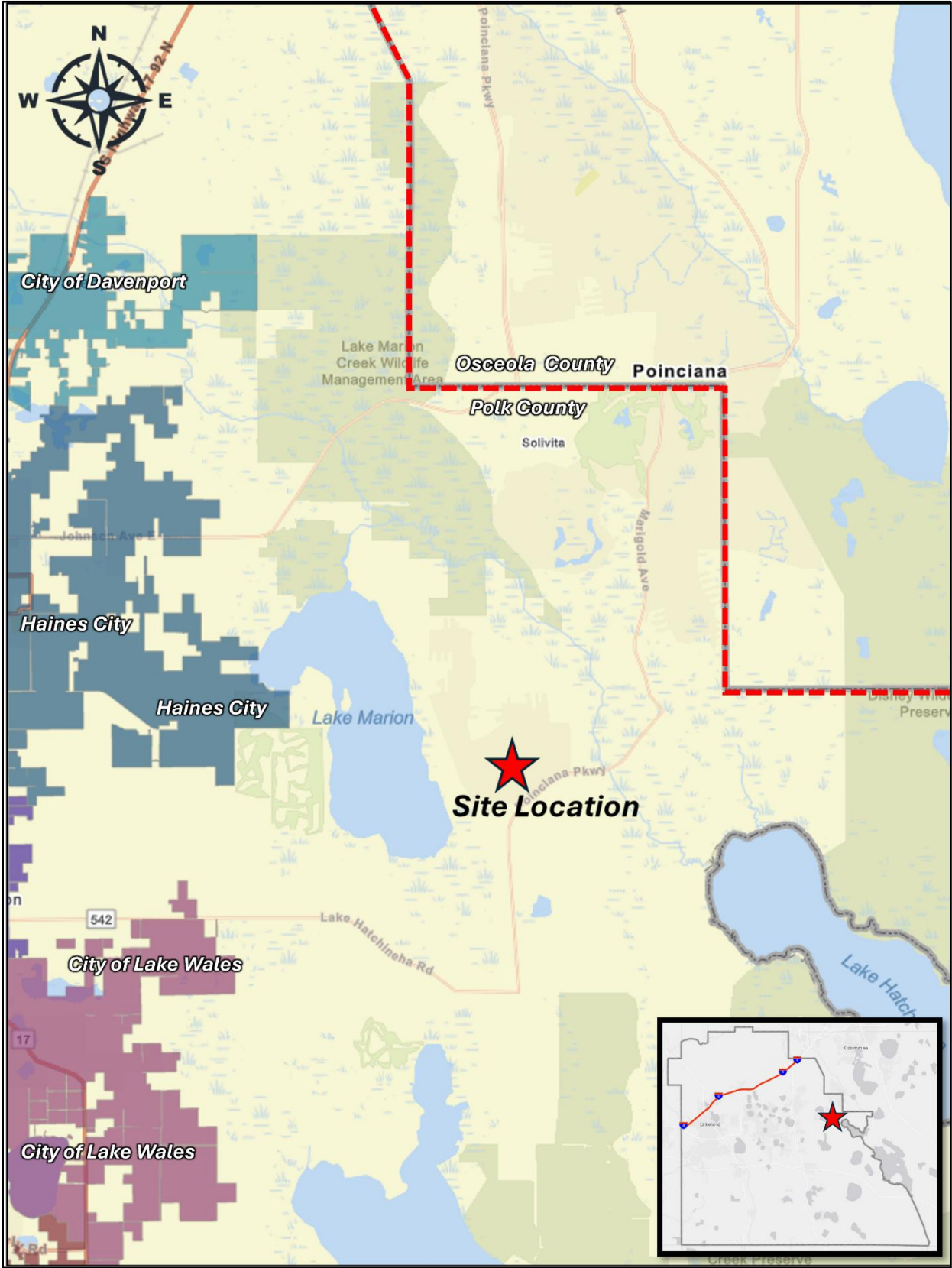
**Surrounding Future Land Use Designations and Existing Land Use Activity:**

<p><b>Northwest:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7 Manatee Court Private Road</p>	<p><b>North:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7, Lot 8 1,850 sq. ft. single-family home Built 2019 0.17 acres Corner lot</p>	<p><b>Northeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7, Lot 7 2,246 sq. ft. single-family home Built 2021 0.16 acres</p>
<p><b>West:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7 Manatee Court Private Road</p>	<p><b>Subject Property:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7, Lot 9 Vacant 0.16 acres Corner lot</p>	<p><b>East:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7, Lot 6 2,245 sq. ft. single-family home Built 2007 0.16 acres</p>
<p><b>Southwest:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7 Manatee Court Private Road</p>	<p><b>South:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7 Manatee Court Private Road</p>	<p><b>Southeast:</b> Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7, Lot 10 3,278 sq. ft. single-family home Built 2005 0.17 acres</p>

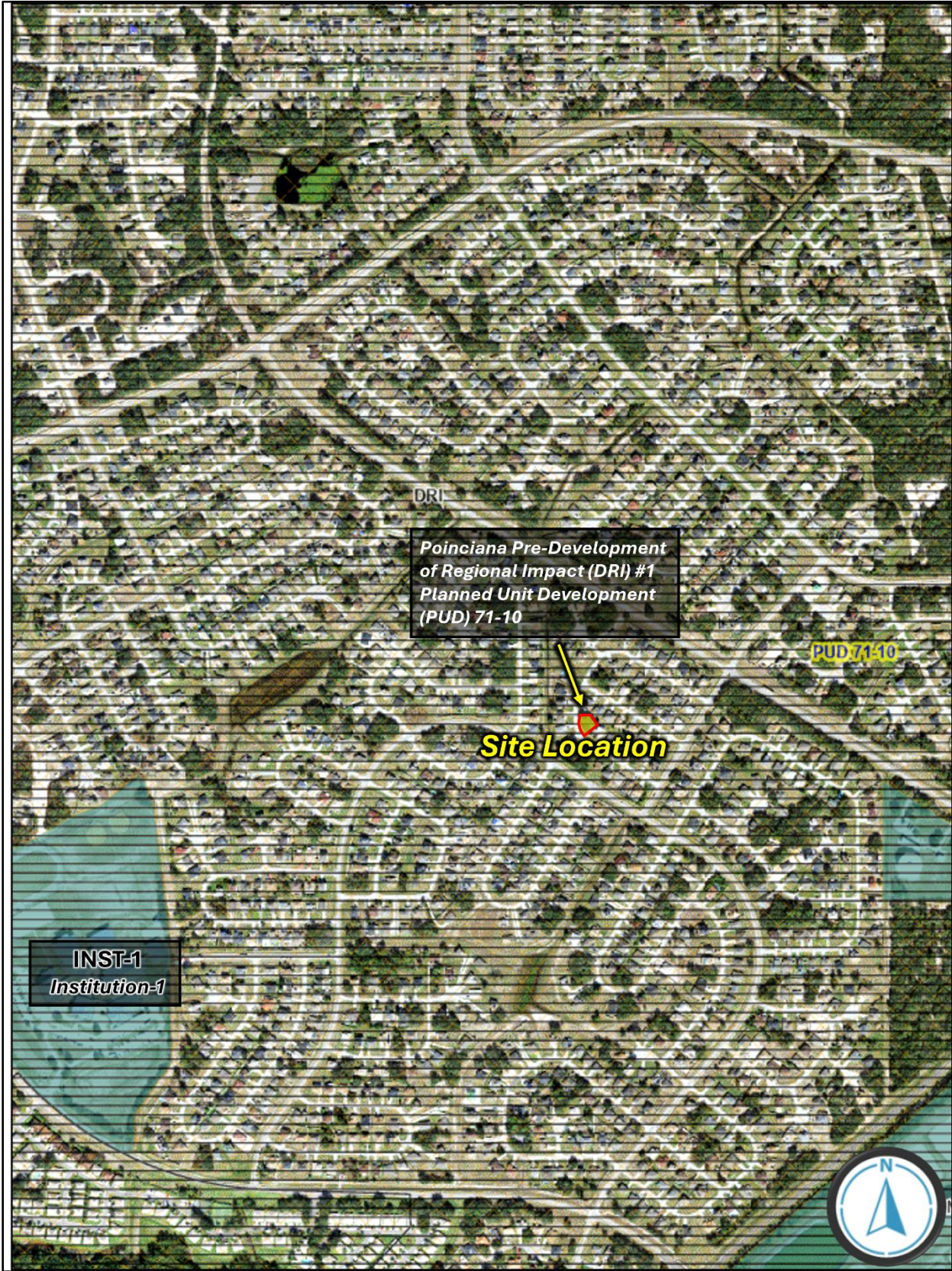
The property is part of the Poinciana Pre-Development of Regional Impact (DRI) #1 Planned Unit Development (PUD) 71-10, Neighborhood 5, Village 7. The surrounding area is developed with single-family detached units. This proposed single-family home will be 10 feet within the primary structure 25-foot ROW setback. This would not be the only property within the immediate surrounding area that would be within 15 feet of the rights-of-way. To the north, Lot 8 is a corner lot that at its closest point is 15 feet from the public rights-of-way.

**Exhibits:**

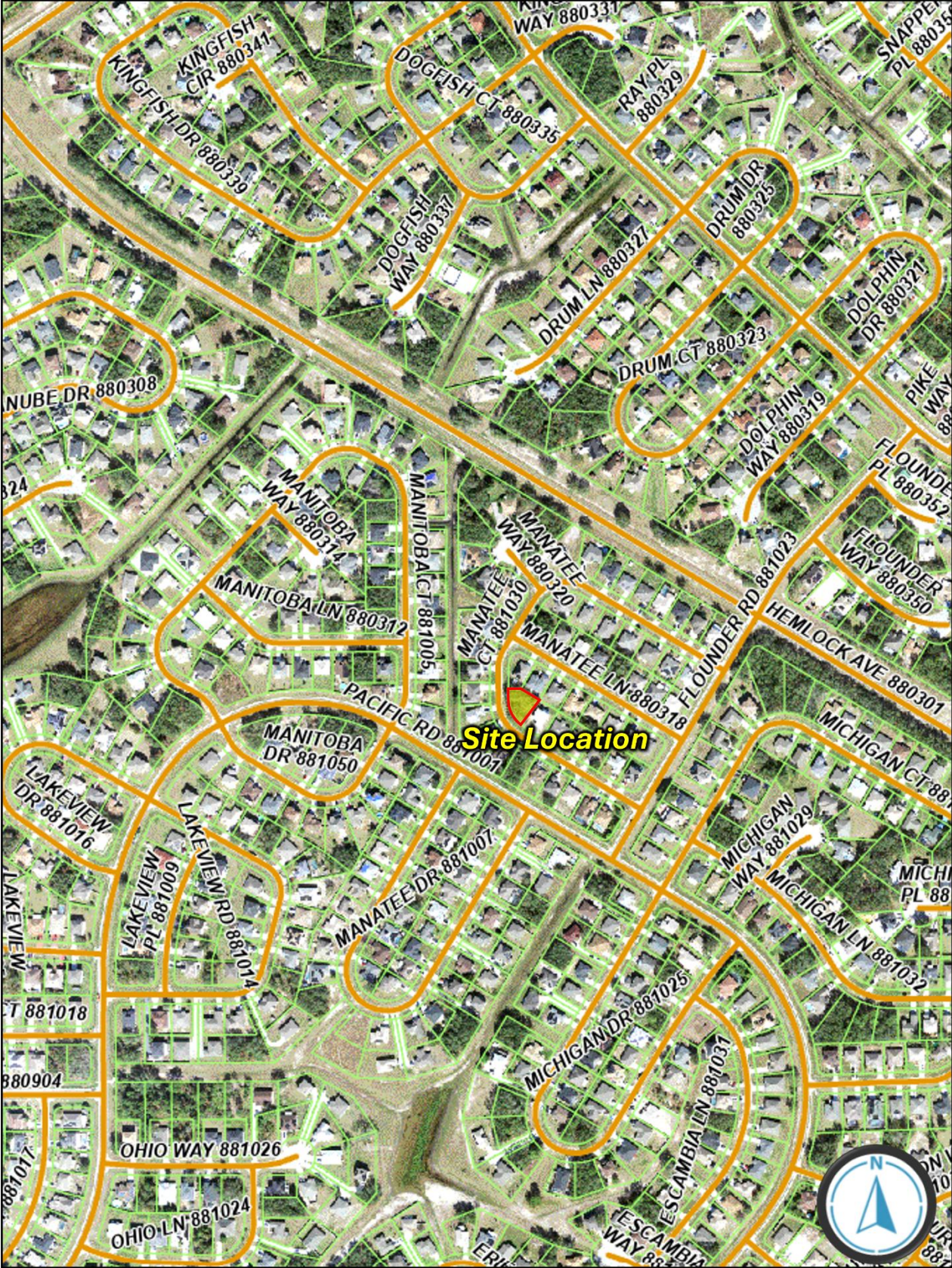
Exhibit 1	Location Map	Exhibit 4	Aerial Imagery (Close)
Exhibit 2	Future Land Use Map	Exhibit 5	Site Plan
Exhibit 3	Aerial Imagery (Context)	Exhibit 6	Justification



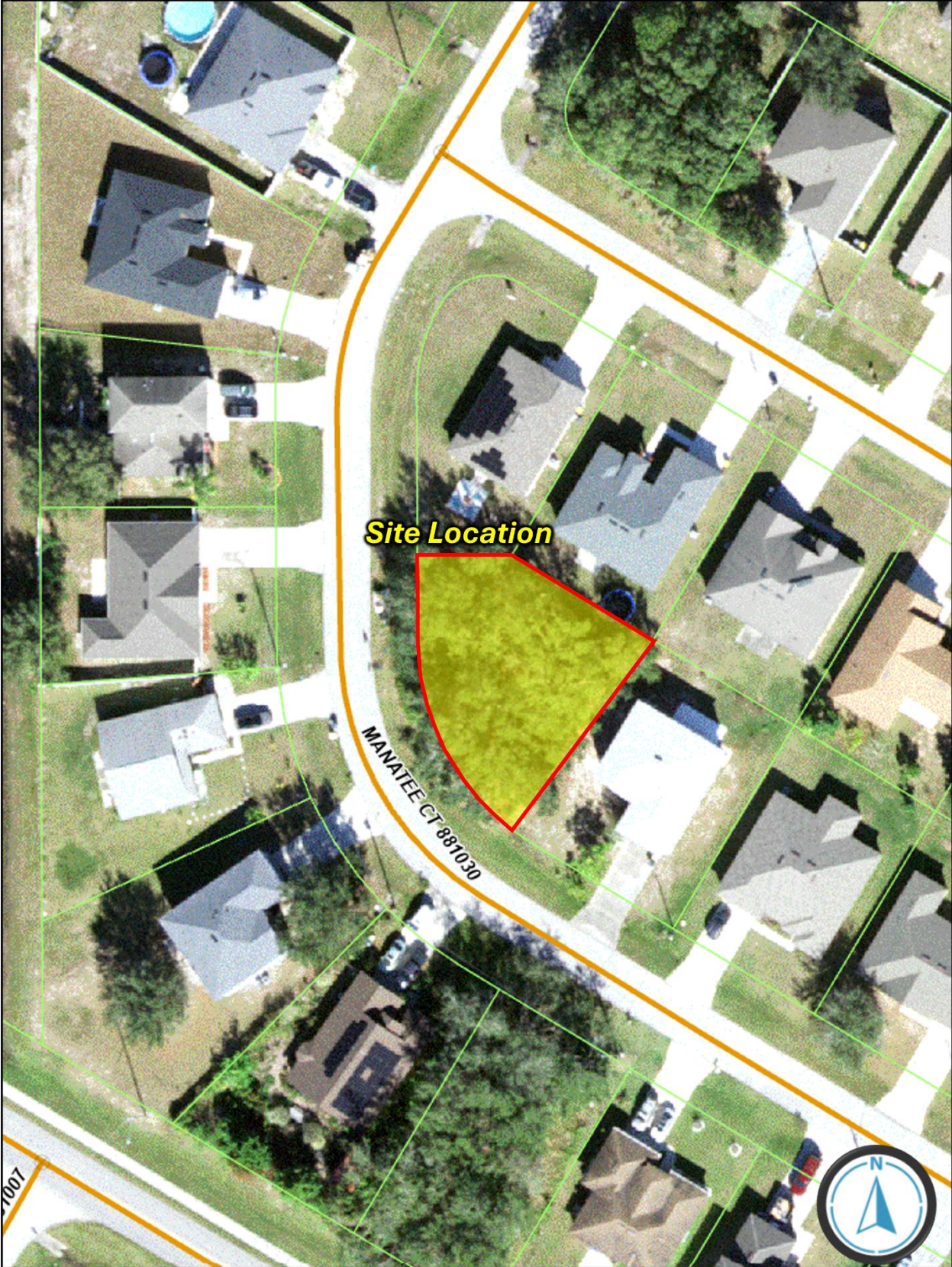
Location Map



# Future Land Use Map



Aerial Imagery (Context)



Aerial Imagery (Close)



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?

The lot is a corner lot with a long radius that pushes the ROW setback well into the lot. The lot depth is not adequate to fit a relatively small pad within the allowable setbacks.

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

The property is currently under contract, applicant (DHI Engineering) is working on behalf of the contract purchaser.

What is the hardship if the variance is not approved?

The lot realistically would require a very customized home causing undue expense to the owner.

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

While a smaller home may be possible, the proposed home is a typical size product (38' wide x 46' deep).

Do you have Homeowners Association approval for this request?

No.

# Justification