

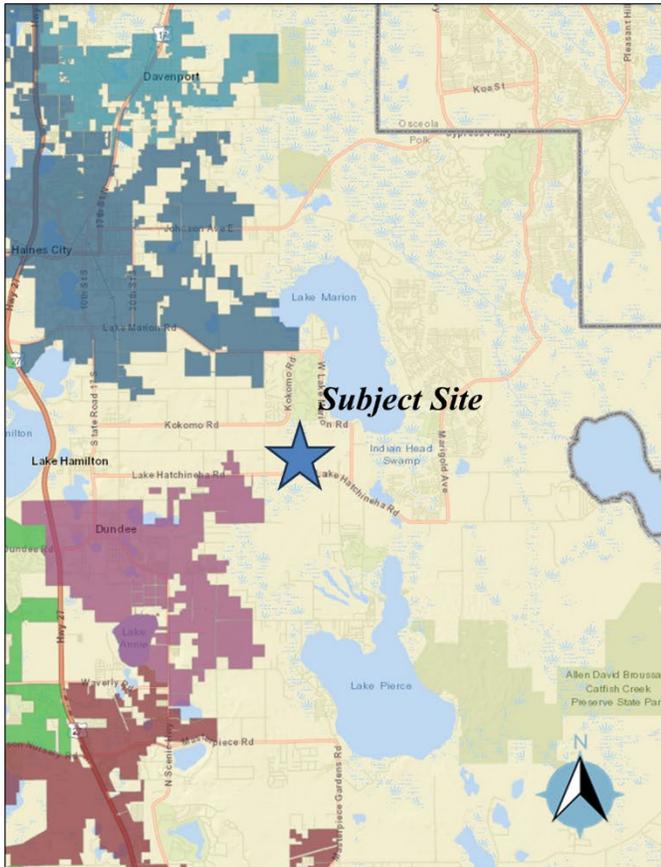
POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

DRC Date: January 4, 2024	Level of Review: Level 4 Review
PC Date: April 3, 2024	Type: Residential Access Waiver
BoCC Date: April 16, 2024	Case Numbers: LDWA-2023-74 (Hatchineha Road Access Waiver)
Applicant: Kriss Kaye, Carter & Kaye Engineering	Case Planner: Ian Nance

Request:	Approval of a waiver to LDC Section 705.B necessary to allow the issuance of building permits for up to four (4) single-family homes on property that gains access solely via an easement that exceeds ¼ mile.
Location:	7501 Hatchineha Road, east of Tyner Road, west of Jennings Road, south of Grenelefe, east of Dundee in Section 18, Township 28, Range 28.
Property Owner:	Michael J. Mason
Parcel Number (Size):	282818-000000-021000 (72.16 Acres)
Land Use District:	Agricultural/Residential Rural (A/RR)
Development Area/Overlays:	Rural Development Area (RDA)
Nearest Municipality/County:	Dundee
DRC Recommendation:	Approval with Conditions
Planning Commission Vote:	Pending Hearing

Site Location

Site Plan



Summary of Analysis:

The property owner wishes to subdivide this land to provide for up to four new residential lots that will be accessed solely via easement pursuant to Land Development Code 705.B.

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.*

Typically, an administrative Level 1 Review is used to determine eligibility; however, in this instance, the proposed easement will exceed ¼ of a mile. According to LDC Section 705.B.7, the Board of County Commissioners (BoCC) may grant a waiver through the Level 4 Review process to overcome the road length maximum.

This review is to determine the extent to which an access easement can accommodate the usage proposed. 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 Page 4 of this staff report. The proposed easement here is approximately 2,130 linear feet, or 0.40 miles, and will follow an existing roadway used for agricultural purposes. It will be upgraded to 50 feet wide with a stabilized surface. Four homes using this easement will not prevent its use by emergency services or create an incompatible situation with neighbors. The maintenance of the easement is a private matter between the users. Furthermore, staff finds the request satisfies the LDC Waiver criteria found in Section 932. To provide frontage for each new property and meet LDC requirements would create an encumbrance on the remainder of the parcel. If this Waiver is approved, a Level 1 Review will be necessary when the applicant (s) applies for a building permit to ensure the easement meets the standards proposed and the approved conditions.

Findings of Fact

- *The applicant is requesting approval of waiver to LDC Section 705.B necessary to allow the issuance of a building permit for up to four single-family homes on properties that gain access solely via an easement that exceeds ¼ mile.*
- *The subject property is recorded as Parcel ID #282818-000000-021000 with an address of 7501 Hatchineha Road, Haines City, FL 33844. It is approximately 72.16 acres and vacant.*
- *The property has approximately 362 feet of frontage on CR 542 AKA Lake Hatchineha Road (Road No. 872102). Lake Hatchineha Road is listed as a Rural Major Collector roadway. LDC Section 822 requires a minimum of 210 feet of frontage on a Rural Major Collector.*
- *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.”*
- *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 within an Agricultural/Residential Rural (A/RR) land use district in the Rural Development Area (RDA). Minimum lot sizes are five (5) acres.*
- *The subject property is zoned for Sandhill Elementary, Lake Marion Creek 5-8, and Haines City Senior High schools.*

- *The subject property is served by the Polk County Sheriff's Northeast District, located at 1100 Dunson Road, Davenport.*
- *Fire/EMS responses are from Polk County Fire Rescue Station 46, located at 9500 Marigold Ave, Kissimmee, FL 34759.*
- *A manmade lake, the remnants of a borrow pit, is located onsite with associated flood hazard areas. No wetlands are 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.*
- *This application has been reviewed for consistency with LDC Sections 705, 907, 932, and Tables 2.1 and 2.2.*

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-2023-74** with the following conditions:

CONDITIONS OF APPROVAL

1. Approval of this waiver shall allow for residential permits for up to four (4) single-family homes and accessory structures to access public roadways through the proposed easement. [PLG]
2. To allow for the access of emergency vehicles, all easements shall have an unobstructed width of not less than 20 feet. 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 feet. [FM]
3. The lot dimensions shown on the site plan may change so long as the minimum lot size standards for A/RR are met. [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;*

The subject property has approximately 362 feet of frontage on CR 542 AKA Lake Hatchineha Road (Road No. 872102). Lake Hatchineha Road is listed as a Rural Major Collector roadway. LDC Section 822 requires a minimum of 210 feet of frontage on a Rural Major Collector. There is not enough frontage available to the parent parcel to meet this requirement for four new lots. Section 822 does allow for half of the required frontage, if access to the lot is shared through a recorded easement with other lots created as part of the same development. However, this would still leave the remaining portion of the property without adequate frontage and would require a future waiver if a house was to be built here.

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 access to this property, and the ability to acquire a building permit for a home is tied to having access to a County roadway per Section 705.B. The width of the easement (50 ft.) easily meets LDC requirements (20 ft.) and will be used for no more than four lots. This issue is simply for length. The proposed easement is approximately 0.40 miles while the standard without the waiver is 0.25.

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 the easement is becoming overburdened, which is why these decisions are required to have a public hearing. In this instance, the easement will be overlaid upon an existing path used for agriculture. It will be 50 feet wide and have a compacted, stabilized surface. The Fire Marshal will examine the easement again during the Building Permit review process.

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

The proposed easement is intended to serve four lots. The parent parcel will retain road frontage. Should additional lots be requested with access to the easement, additional Waiver reviews will be required. With the raw acreage, it is possible to get up to 14 lots on this property.

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

It is not possible to create flag lots or otherwise realistically gain fee simple access Hatchineha Road without creating a non-conforming situation with parent lot, as previously described. The LDC does permit access via easement by-right; this waiver is to review the use of the proposed easement for emergency services and its suitability relative to the demands to be placed on it by the uses. All easements are different, ranging from dirt, private roads to platted easement tracts, to extended driveways serving multiple properties. This is the latter, and the proposed four lots should have little to no effect on the quality of the easement for emergency use.

Surrounding Land Use Designations and Current Land Use Activity:

The properties surrounding the site are mostly vacant with agricultural uses within the A/RR land use district and RDA development area. Unplatted lots within RL-1X are located to the north, along with Preservation property on the southern end of Grenelefe.

Table 1

Northwest: RL-1X & PRESV Vacant/Unplatted Tracts	North: RL-1X & PRESV Vacant/Unplatted Tracts	Northeast: RL-1X & PRESV Vacant/Unplatted Tracts
West: A/RR Vacant/Agriculture	Subject Property: A/RR Vacant/Agriculture	East: A/RR Vacant/Agriculture
Southwest: A/RR Single-Family Homes	South: A/RR Vacant/Agriculture	Southeast: A/RR Vacant/Agriculture

Compatibility with the Surrounding Land Uses:

The proposed use is believed to be compatible with adjacent land uses. Single-family uses are to the southwest of the subject site and near the proposed easement, but otherwise the property is surrounded by vacant land. An expansion of Grenelefe to the north is anticipated in coming years which will bring smaller lots near – if not abutting – the subject site. The proposed easement will be overlaid upon an existing road that is used for agriculture purposes. Four homes will not create a reasonable burden on the adjacent uses.

For a comparison, this site is approximately 72 acres and is in the A/RR land use district which supports one dwelling unit per five acres. If a road built to County standards was provided through the property, it is possible there could be up to 14 homes. If centralized potable water was extended to the site, it could be possible to attain one unit per acre through a Rural Residential Development (RRD), pursuant to LDC Section 303 and Planning Commission approval.

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 four homes 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)	Sandhill Elementary Lake Marion Creek 5-8 Haines City Senior High
Parks	Poinciana Community Park
Sheriff	Polk County Sheriff's Northeast District, located at 1100 Dunson Road in Davenport. The response times for January 2024 were: Priority 1: 10:12 Priority 2: 21:17
Fire/EMS	Polk County Fire Rescue Station 46, located at 9500 Marigold Ave. (4.3 Miles)
Water	Private Well
Sewer	Septic
Transportation	Hatchineha Road (Capacity Available)

Table 3

Impact Analysis Summary Proposed Use (Four Single-Family Homes)			
Potable Water Impact	Wastewater Impact	*AADT Impact	*PHT Impact
1,440 GPD	1,080 GPD	32 AADT	4.00 PHT
<i>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.</i>			

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 has flood zones associated with an existing manmade pond. 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	Manmade pond
Wetlands/Floodplains	Flood zone indicated in vicinity of the pond
Soils	Candler 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.

The Planning Commission, in the review of development plans, shall consider the following factors listed in Table 5 in accordance with Section 906.D.7 of the LDC.

Table 5

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 705.B and 932 which permit this Waiver upon completion of a Level 4 Review. These can be found in the Findings of Fact on Pages 3-4 of the staff report.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>Yes, this request is consistent with the Comprehensive Plan, as reviewed above.</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 6 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>This request will not require concurrency determinations from utilities, the School Board, or TPO. The impact on public services can be found in the analysis found on Page 7 of the staff report.</i>

The BoCC, in the review of development plans, shall consider the following factors listed in Table 6 in accordance with Section 907.D.10 of the Land Development Code.

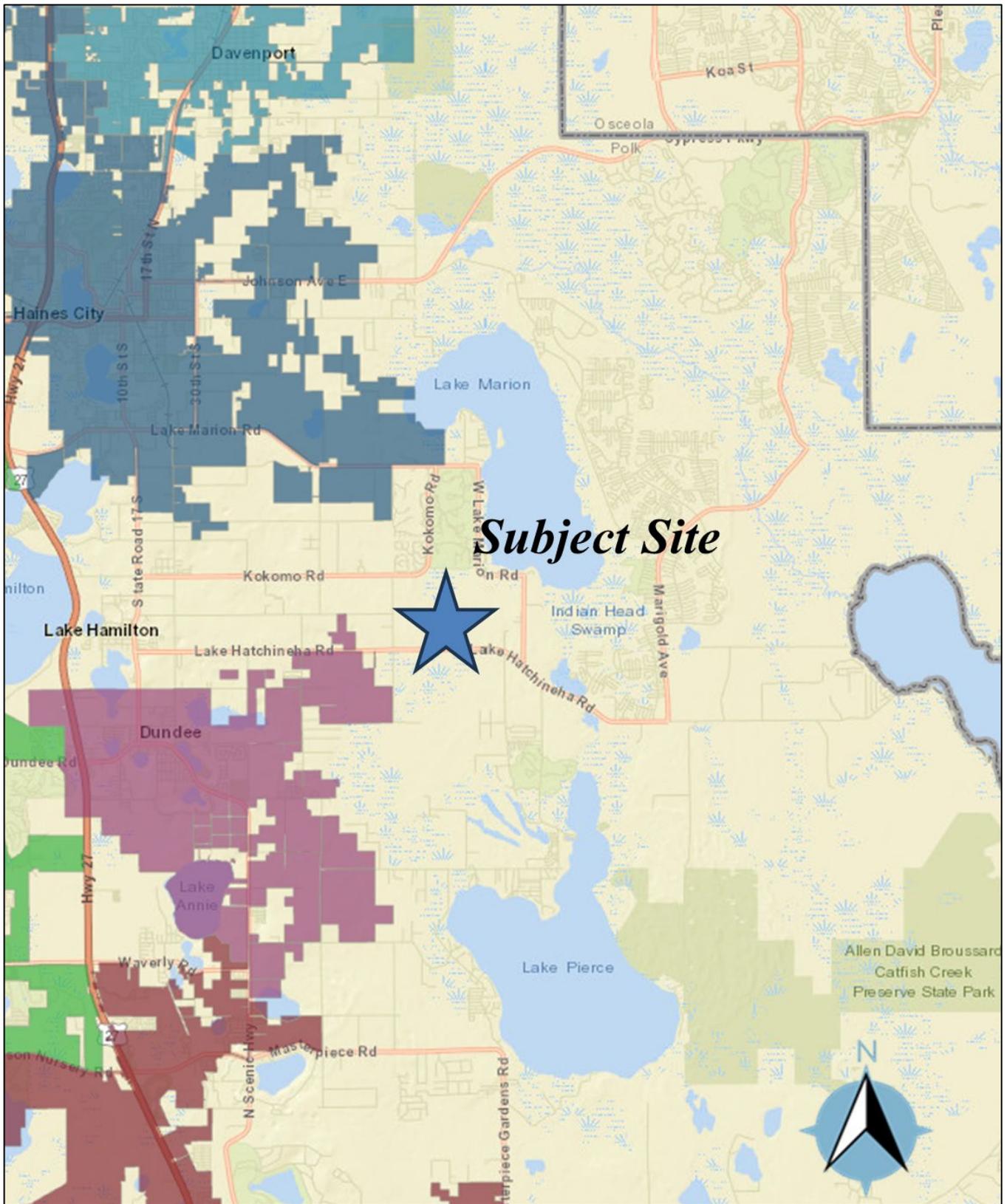
Table 6

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 705.B and 932 which permit this Waiver upon completion of a Level 4 Review. These can be found in the Findings of Fact on Pages 3-4 of the staff report.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>Yes, this request is consistent with the Comprehensive Plan, as reviewed above.</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 6 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>This request will not require concurrency determinations from utilities, the School Board, or TPO. The impact on public services can be found in the analysis found on Page 7 of the staff report.</i>

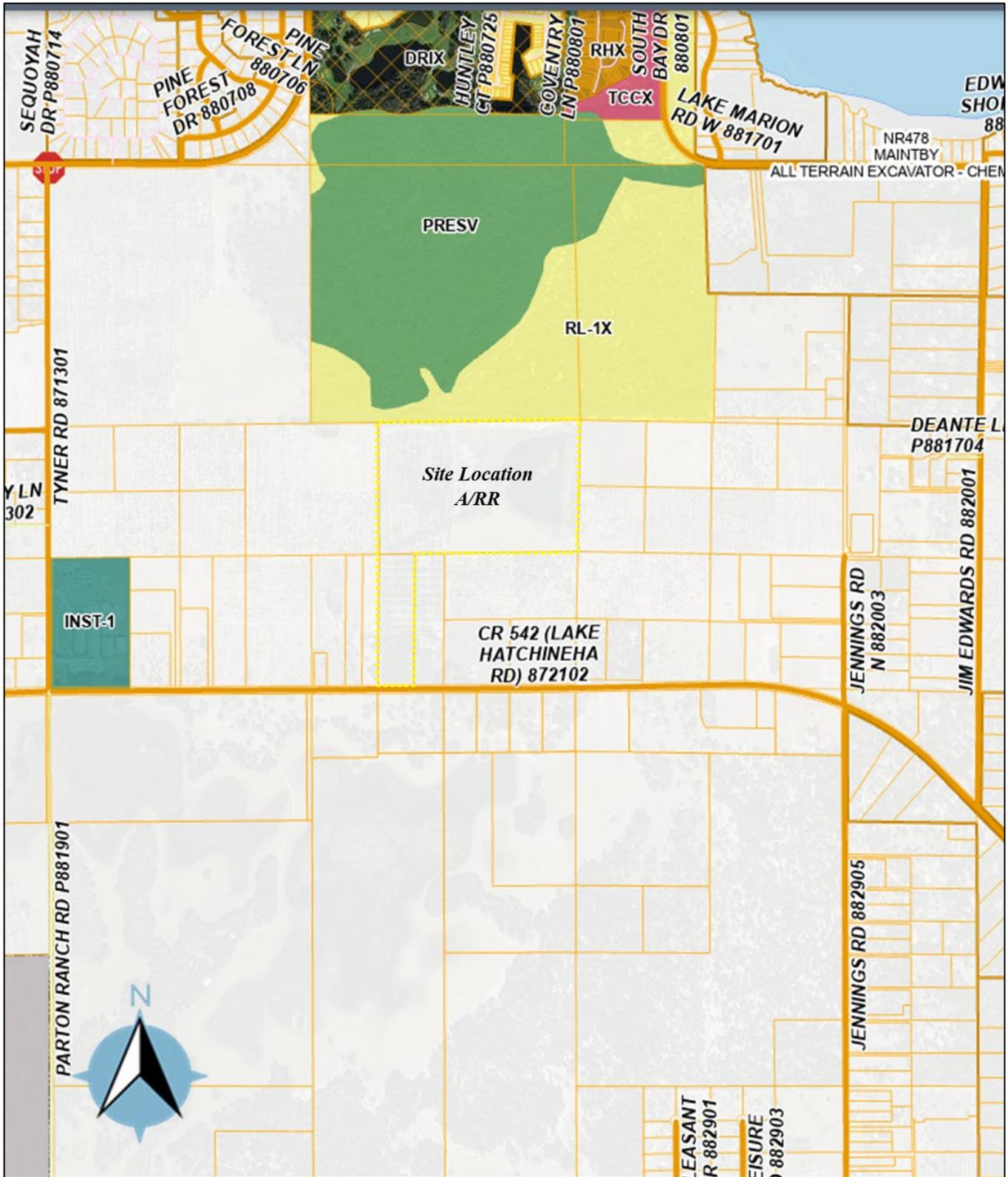
Comments from other Agencies: No Comments

Exhibits:

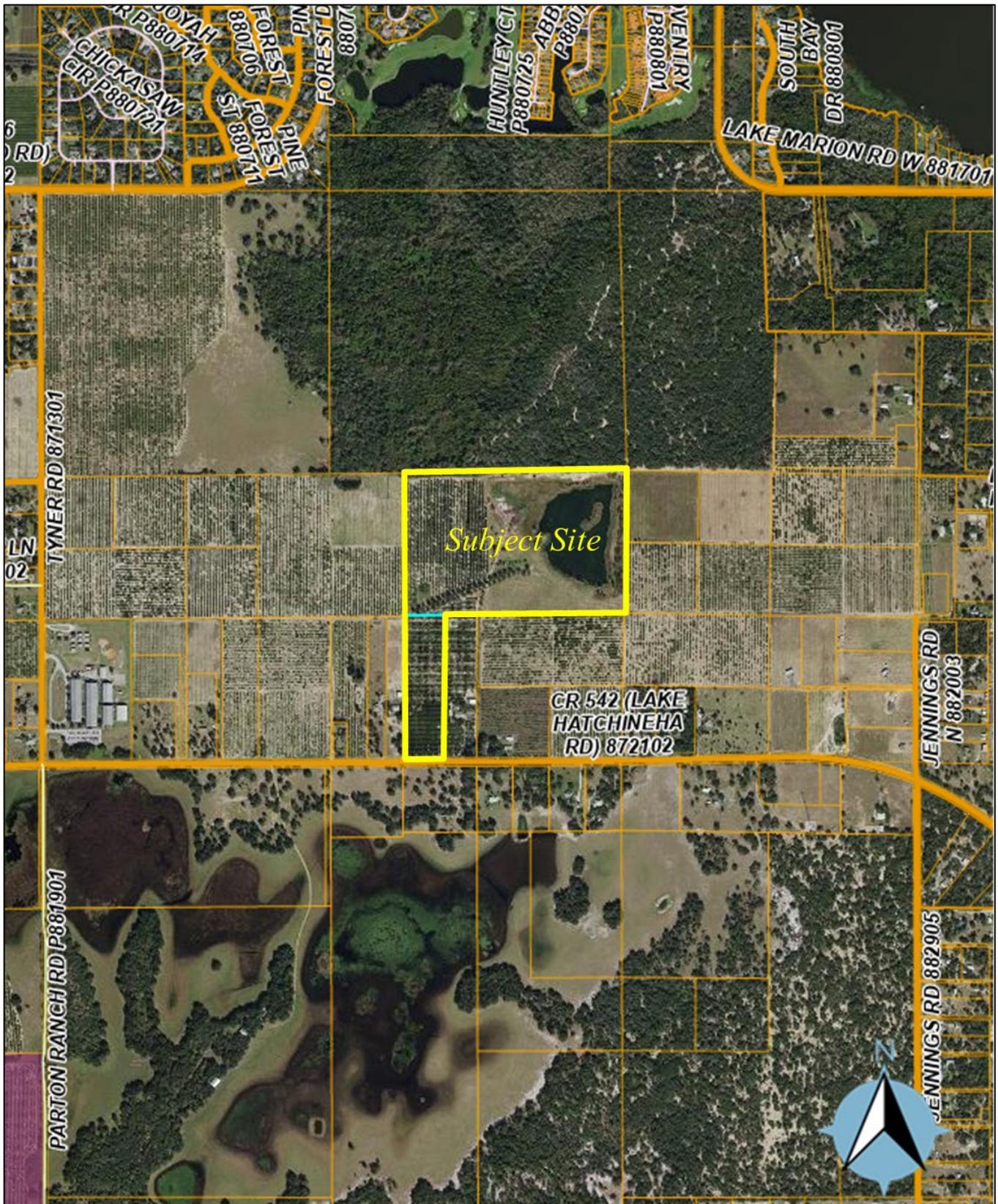
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Image (Context)
- Exhibit 4 Aerial Image (Close)
- Exhibit 5 Site Plan



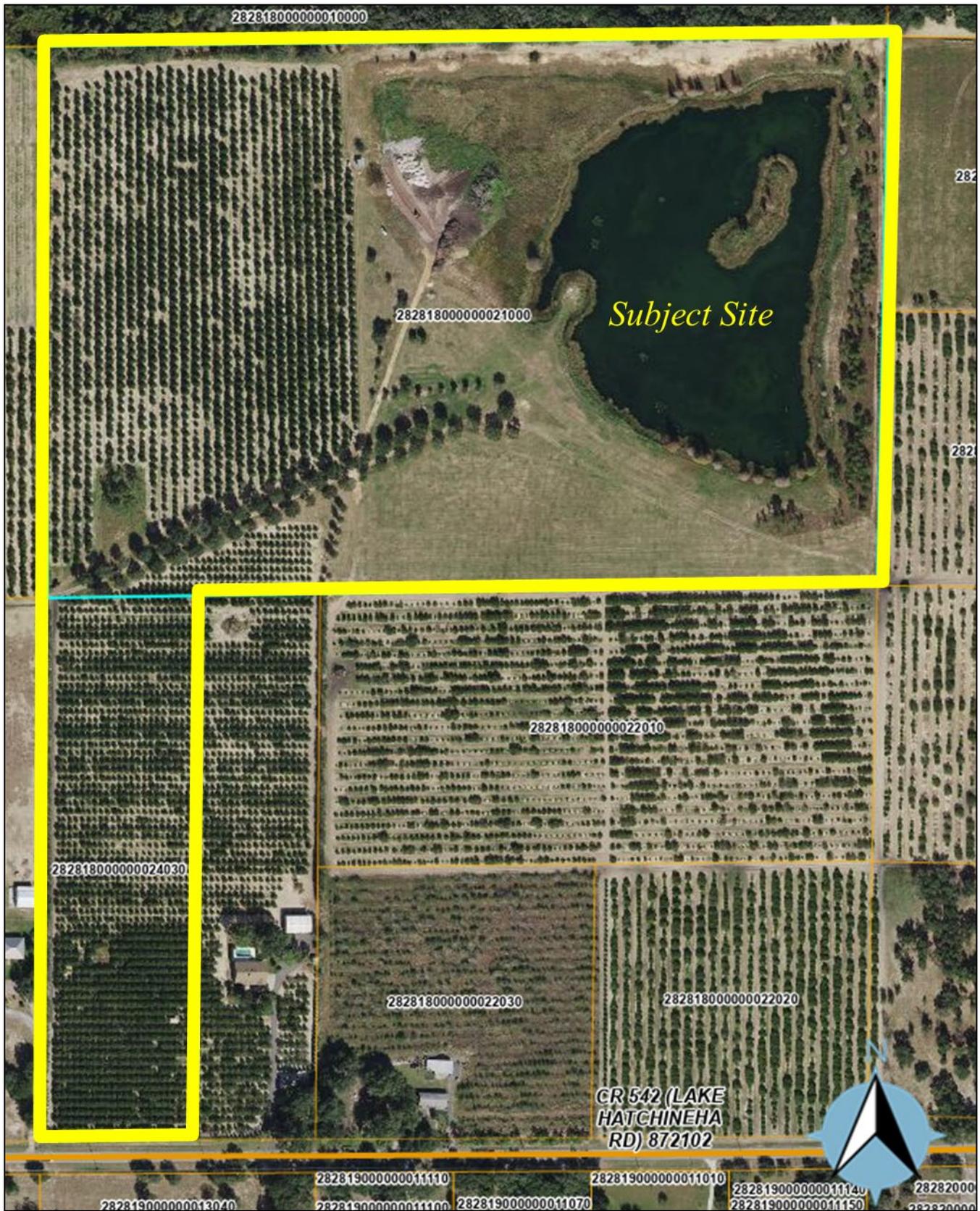
Location Map



Future Land Use Map



Aerial Image – Context



Aerial Image – Close

