

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

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|------------------|-----------|---------------------|--|
| DRC Date | 6/11/2026 | CASE #: | LDLVAR-2026-33 (Davis Variance) |
| LUHO Date | 7/14/2026 | LDC Section: | Section 208, Table 2.2 |

Project Number: LDLVAR-2026-33

Request: The applicant is requesting a side yard setback variance for the placement of a detached two-story accessory structure, containing a ground-floor garage and an accessory dwelling unit above, on the west side of a residential property of approximately 0.365 acres.

Applicant: Roderick D. Davis (Agent: Paul Harper, Harper Construction and Management)

Property Owner: Roderick D. Davis

Location: The subject property is located at 1370 Crescent Woods Loop, South of Crescent Woods Circle, North of the Crescent Woods Circle, West of Carter Road, East of Crescent Lake Dr. subdivision, North of the city of Mulberry, Section 19, Township 29, Range 24.

Parcel ID#: 242919-286038-000420

Size: ± 0.365 acres

Land Use Designation: Residential Low-3

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Tyler Daniels, Planner II

Summary:

The applicant is requesting a west side yard setback reduction from five (5) feet to about two feet (2'), a reduction of three feet (3'), for the placement of a detached two-story structure in the west side yard, pursuant to Section 208, Table 2.2 of the Polk County Land Development Code. The lower level is a 533 square foot garage used for storage and vehicle parking. The upper level is 465 square feet of conditioned living space serving as the accessory dwelling unit. Total floor area is 998 square feet. The applicant states the second-floor interior may follow one of two layout options with no change to the area totals.

Accessory dwelling units are permitted as an accessory use in the Residential Low-3 (RL-3) land use district subject to a Level 1 Review and are limited to 1,000 square feet, and may be located in the side or rear yard of the principal dwelling, pursuant to Sections 206 and 209 of the Land Development Code. The conditioned living area of the proposed unit is 465 square feet, within the 1,000 square foot limit. The proposed structure is approximately 20 feet wide. At the proposed setback, it sits approximately four (4) feet from the existing two-story residence and, per the

applicant, approximately 32 feet from the nearest neighboring structure across the west property line.

As the subdivision is private, County Roads and Drainage Division requested a letter from the homeowners association stating no objection. The applicant states the HOA President and Architectural Review Committee Chair indicated by text message that they have no objection and expect the HOA to approve once the variance is granted. A formal HOA no-objection letter is not in the record.

Staff finds the request to be consistent with the criteria for granting variances and with the established pattern of accessory structures within the Crescent Woods subdivision, and recommends approval subject to the conditions listed below.

Development Review Committee

The Development Review Committee, based on the criteria for granting variances, the submitted application, and staff review, finds that the applicant's request as written IS CONSISTENT with Section 931 of the Polk County Land Development Code (LDC).

Development Review Committee Recommendation: APPROVAL WITH CONDITIONS of LDLVAR-2026-33, subject to the conditions listed below.

Conditions of Approval:

1. A variance to the standards in Section 208, Table 2.2 of the Land Development Code shall be granted for a west side yard setback reduction from five (5) feet to two feet (2') for the placement of a detached accessory structure containing an accessory dwelling unit not to exceed 1,000 square feet of conditioned floor area. Any further additions, expansions, or structures placed on the property shall be required to meet the setback requirements of Table 2.2 of the Polk County Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. The accessory dwelling unit shall not be approved or used for short-term rental or vacation rental.
3. The applicant shall have one (1) year from the date the Land Use Hearing Officer's Final Order is rendered to apply for all necessary building permits and pay all associated fees for the proposed structure.
4. 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 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 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 proposed structure is a detached two-story accessory structure, approximately 20 feet wide, with a 533 square foot ground-floor garage and a 465 square foot accessory dwelling unit above. It is located in the west side yard, behind the front building line of the existing residence. At the proposed setback the structure sits approximately four (4) feet from the existing residence, and the applicant represents it is approximately 32 feet from the nearest neighboring structure across the west property line. A five (5) foot drainage easement runs along the rear (north) property line. The structure is set within the west side yard and does not extend into that easement. The adjacent property to the West is a two story structure according to Polk County property appraiser and is about 4,401 square feet.

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 property is a standard platted interior lot of approximately 0.365 acres (110 feet by 145.01 feet). The existing two-story residence, constructed by the developer in 2006, occupies the central portion of the lot, with its west building face approximately 26.8 feet from the west property line. A five (5) foot drainage easement runs along the rear (north) property line. Per the applicant, a bedroom served by required egress on that portion of the residence prevents attaching the accessory structure to the home. The combined effect of the residence's placement, the bedroom egress the applicant identifies, and the rear drainage easement constrains the area available for a detached accessory structure to the west side yard. This condition arises from the configuration of existing improvements on the parcel and is not generally applicable to other lots in the RL-3 land use district.

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

The applicant's stated purpose, to house an elderly parent on site for daily care and support, reflects a family need but does not alter the physical site conditions that determine where a detached accessory structure may be placed. The proposed site for the structure is based on ease of access to the driveway and garage area. The proposed structure is new construction; however, the conditions that constrain its placement are not the result of the applicant's actions. County records indicate the principal residence was constructed by the developer in 2006, and the applicant purchased the property in 2007. The residence's footprint and the bedroom egress the applicant identifies both pre-existed the applicant's ownership. The lot dimensions are fixed by the recorded subdivision plat and cannot be modified by 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;*

Accessory dwelling units within the 1,000 square foot limit are permitted accessory uses in the RL-3 land use district subject to Level 1 Review, pursuant to Sections 206 and 209 of the Land Development Code. The conditioned living area of the proposed unit is 465 square feet. In response to staff review, the applicant submitted an exhibit identifying five properties within Crescent Woods that contain accessory structures (6639, 6645, 6756, and 6644 Crescent Woods Circle, and 1392 Crescent Woods Loop), and represents that the structure at 6645 Crescent Woods Circle has a side setback comparable to the requested reduction. Accessory structures of similar character exist within the subdivision, (see Exhibit 7) indicating that granting the requested setback would not confer a special privilege denied to other lands in the district.

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

The requested reduction is a three foot (3') reduction, from five (5') feet to about 2 feet (2'). The buildable area between the west property line and the existing residence is approximately 26.8 feet. A 20 foot wide structure placed at a compliant five (5) foot setback would sit approximately 1.8 feet from the existing residence. At the proposed setback it sits approximately four (4) feet from the residence. The applicant states the structure cannot attach to the residence due to the existing bedroom egress. The proposed setback represents the minimum reduction necessary to provide reasonable separation between the accessory structure and the existing residence while accommodating the unit.

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;*

The property is and will remain a single-family residential use within the Residential Low-3 (RL-3) land use district. Accessory dwelling units are permitted accessory uses in RL-3 pursuant to Sections 206 and 209 of the Land Development Code. The variance affects only the west side yard setback applicable to the accessory structure under Table 2.2.

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*

The request affects only the dimensional side yard setback for a proposed accessory structure. The size, shape, configuration, and lot dimensions of the parcel are unchanged. No subdivision, lot split, or boundary adjustment is proposed or implied by the request.

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 subject property is located within the Crescent Woods subdivision, a standard residential subdivision that was approved under the RL-3 standards in 2005. Staff review of the recorded plat and County records identified no Planning Commission or Board of County Commissioners conditions specific to this parcel or to the subdivision that would be circumvented by granting the requested setback variance. Architectural and use approvals administered by the homeowners association are separate from County conditions.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table below provides details of abutting structures and lot parameters. Properties that would abut the proposed structure are highlighted in blue.

| | | |
|---|--|---|
| Northwest: Residential Low-3 (RL-3) single-family home, Lot 54 Crescent Woods, 0.3647 acres 1 Story, 4,818 sqft | North: Residential Low-3 (RL-3) single-family home, Lot 55 Crescent Woods, 0.3645 acres, 2 Story, 4,742 sqft | Northeast: Residential Low-3 (RL-3) single-family home, Lot 56 Crescent Woods, 0.3643 acres (6651 Crescent Woods Circle) |
| West: Residential Low-3 (RL-3) single-family home, Lot 43 Crescent Woods, 0.3652 acres 2 Story, 4,401 sqft | Subject Property: Residential Low-3 (RL-3) single-family home, Lot 42 Crescent Woods, 0.365 acres, 2 Story, 4,109 | East: Residential Low-3 (RL-3) single-family home, Lot 41 Crescent Woods, 0.3647 acres (1376 Crescent Woods Loop) |
| Southwest: Residential Low-3 (RL-3) single-family home, Lot 38 Crescent Woods, 0.4154 acres (1363 Crescent Woods Loop) | South: Residential Low-3 (RL-3) single-family home, Lot 33 Crescent Woods, 0.3662 acres (1369 Crescent Woods Loop) | Southeast: Residential Low-3 (RL-3) single-family home, Lot 34 Crescent Woods, 0.3662 acres (1375 Crescent Woods Loop) |

The subject property is Lot 42 of the Crescent Woods subdivision, recorded according to the Polk County Property Appraiser. The lot is approximately 0.365 acres in the Residential Low-3 (RL-3) land use district within the Transit Supportive Development Area (TSDA). The subject parcel is surrounded entirely by single-family residential homes within the same subdivision, all in the RL-3 land use district. The structure abuts homes on the West, Northwest and North. The property to the directly West is 2 story and 4,401 feet and the proposed structure will be approximately 30 feet away from the neighboring property. The Northwest property is 1 story and 4,818 square feet and the North 2 stories with 4.742 square feet. The proposed placement is farthest from the nearest single story structure.

Comments from other Governmental Agencies:

None.

Exhibits:

Exhibit 1 – Location Map

Exhibit 2 – Future Land Use

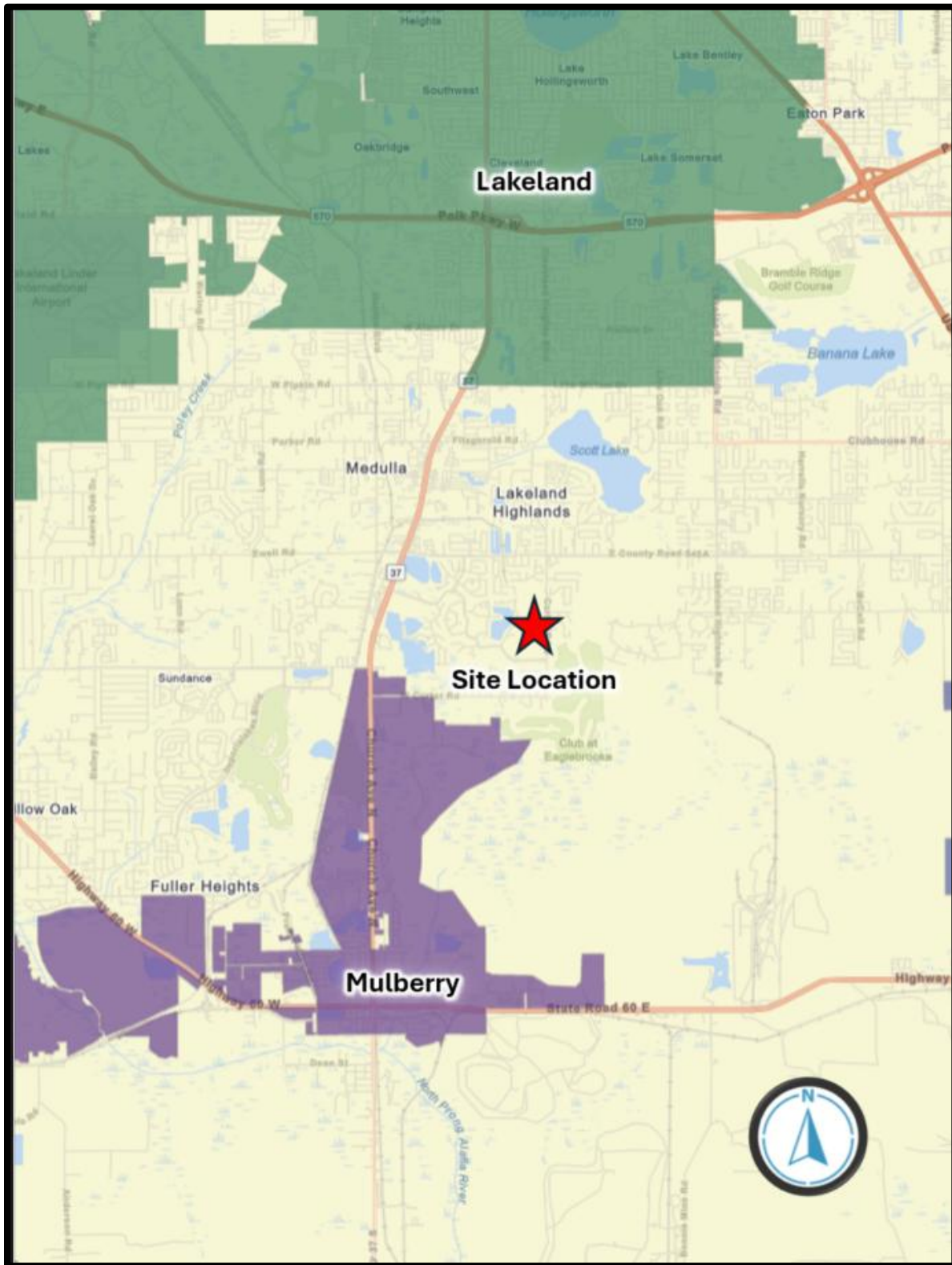
Exhibit 3 – 2023 Aerial Context

Exhibit 4 – 2023 Aerial Close-up

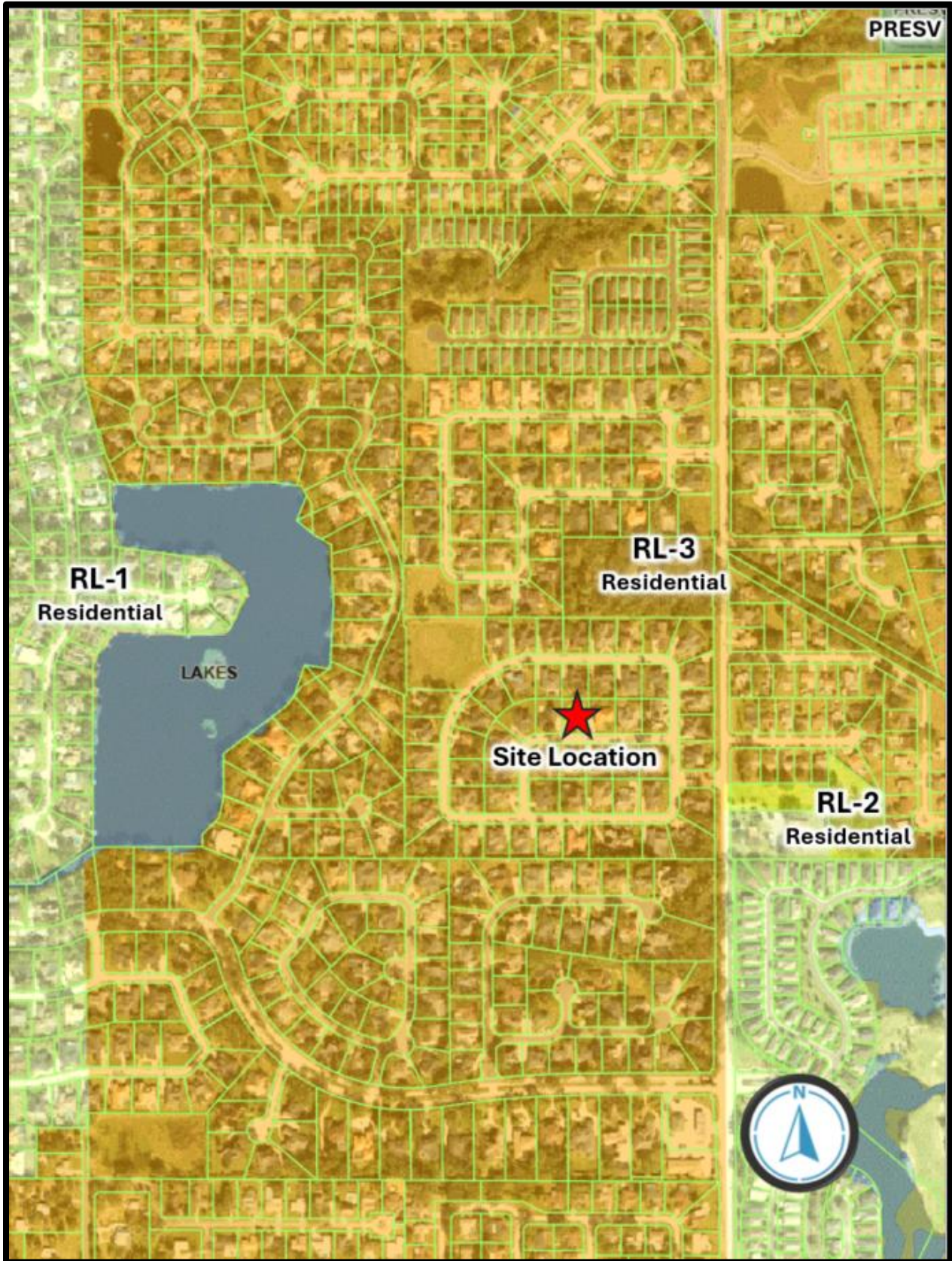
Exhibit 5 – Applicant Site Plan

Exhibit 6 – Applicant's Justification

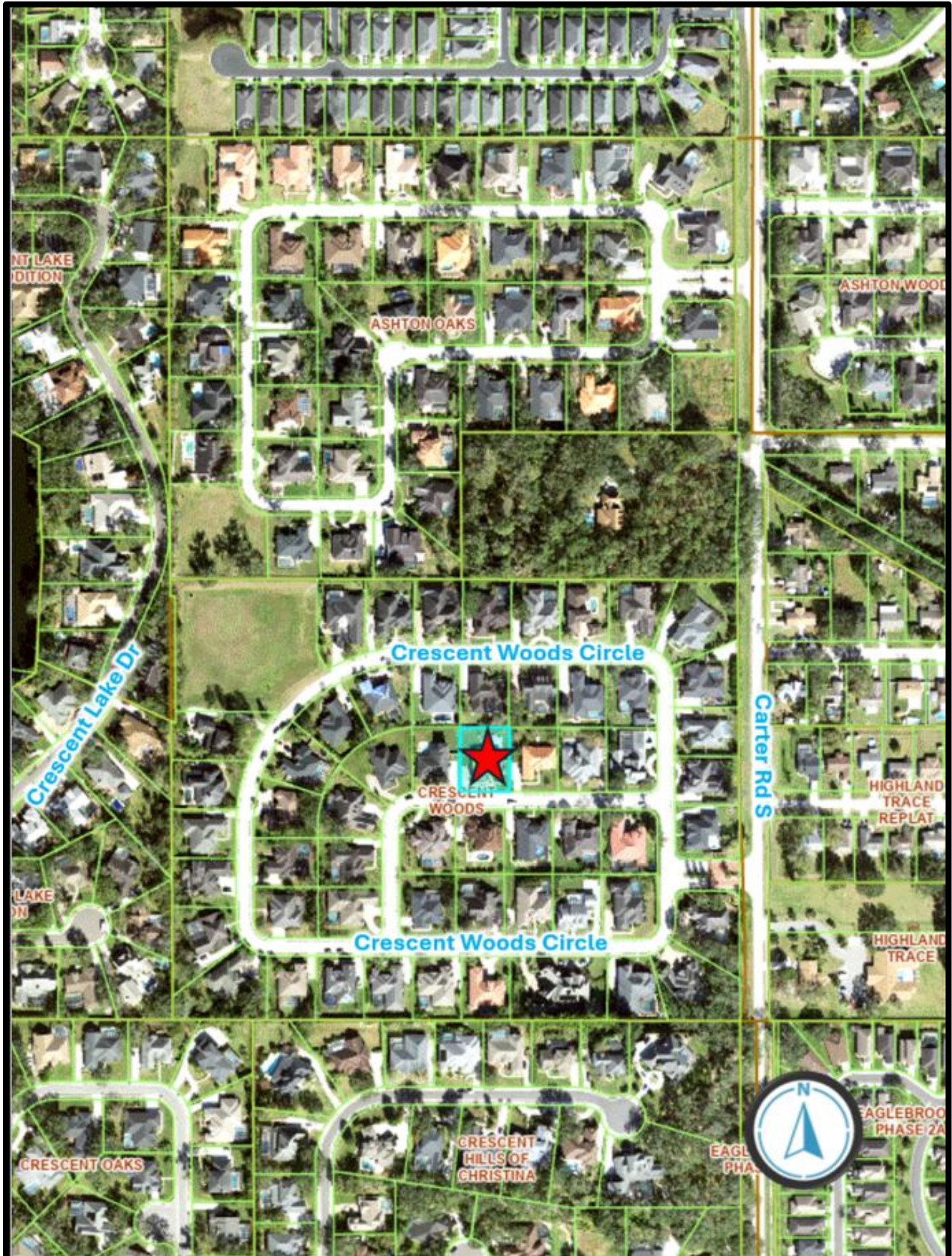
Exhibit 7 – Aerial Context



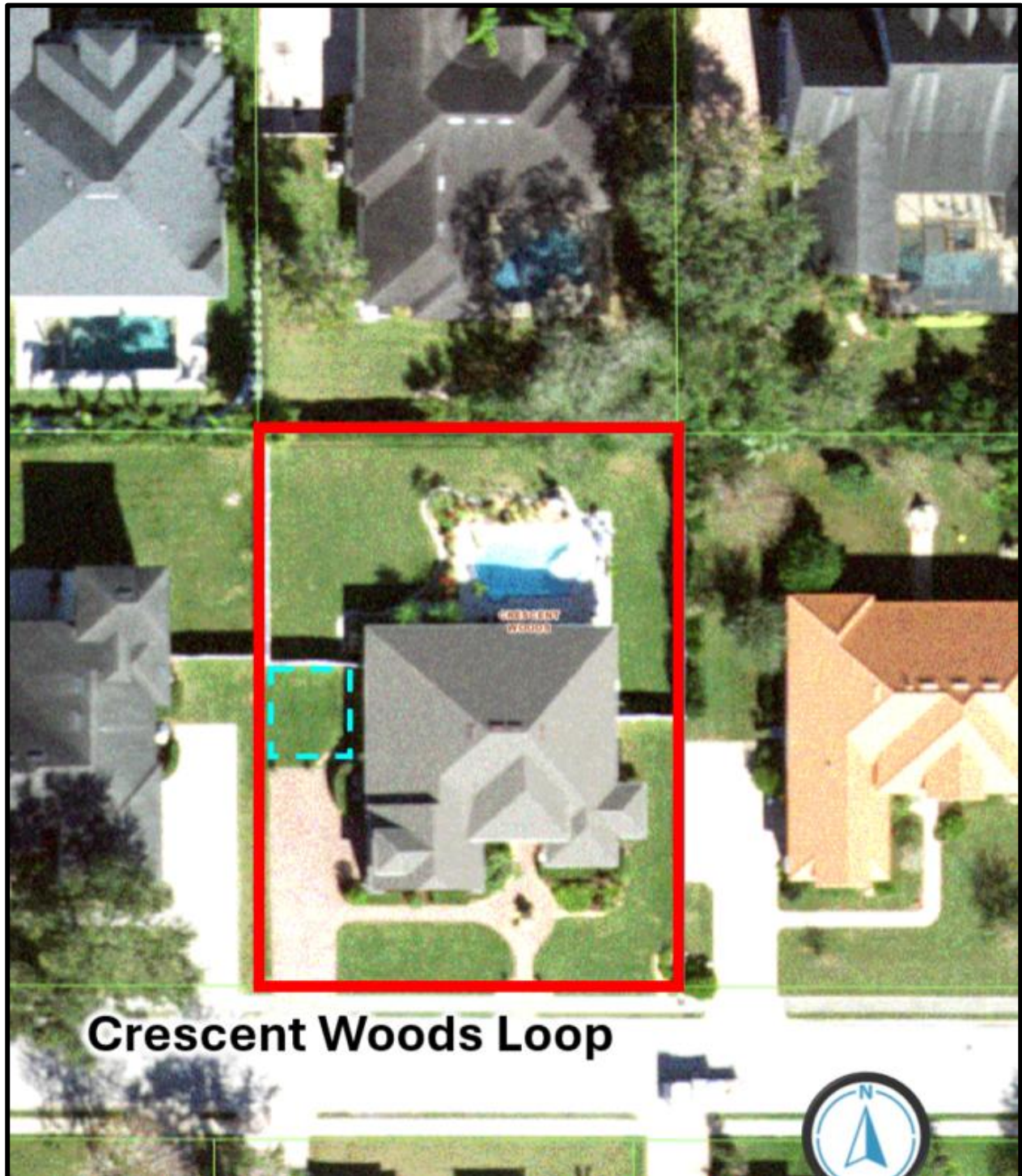
Location Map



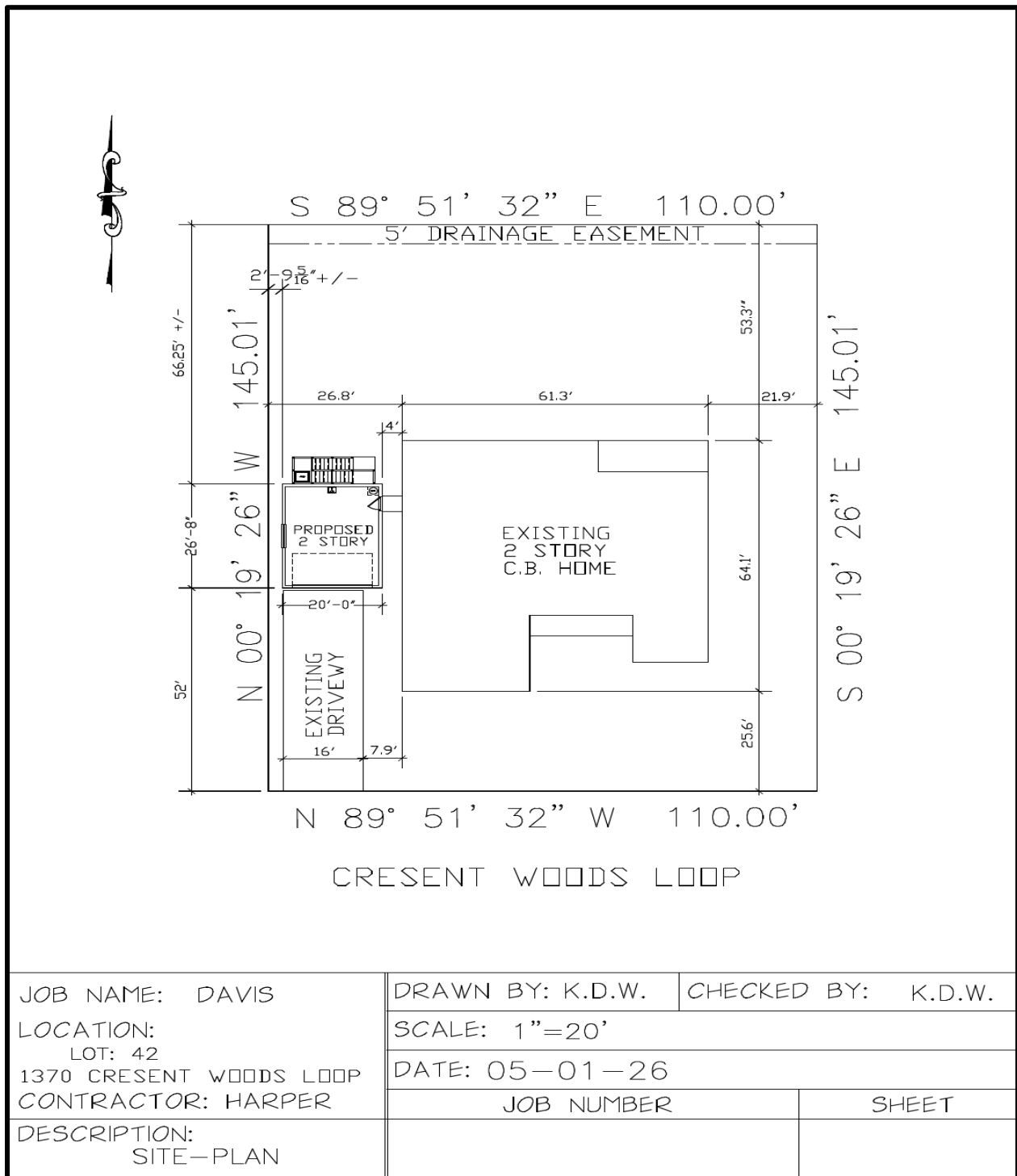
Future Land Use



2023 Aerial Context



2023 Aerial Close-Up



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?

The site is flat and we expect no site conditions. There is an existing fence that will need to be moved.

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

Purchased property 10/17/2007 Property built by developer 2/27/2006

What is the hardship if the variance is not approved?

The hardship is that without approval of the variance, the homeowner will be unable to create adequate living space for their elderly mother, who requires close proximity to family for care and support.

The accessory dwelling unit is intended to provide a safe living environment with enough space for her personal belongings and daily needs.

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

yes

Do you have Homeowners Association approval for this request?

HOA indicated that they will approve if variance is approved.

Applicant's Justification



Similar Accessory Structures in the subdivision

2023 Aerial Context