

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

DRC Date	October 9, 2025	CASE #:	LDLVAR-2025-33 (Bowling Green Right-of-way)
LUHO Date	October 23, 2025	LDC Section:	208, Table 2.1

Project Number: LDLVAR-2025-33

Request: The applicant is requesting a right-of-way setback reduction from 65 feet to 20 feet for a retail plaza.

Applicant: Nicolas Colorado

Property Owner: Nicolas Colorado and Lucia Cedeno

Location: West of U.S. Highway 17, north of Dixie Boulevard, south of Hillcrest Drive, east of Miner Avenue, north of the city of Bowling Green and Hardee County line in Section 33, Township 32, Range 25.

Parcel ID#: 253233-488000-003010

Size: ±1.02 acres

Land Use Designation: Rural Cluster Center (RCC)

Development Area: Rural Development Area (RDA)

Case Planner: Erik Peterson, AICP
Planning Administrator

Summary:

The applicant is seeking to build a 9,557 square foot retail plaza on a property with limited depth. In order to maintain a required 50 feet of separation from abutting residential properties and enable the required parking for the plaza, the building must be located closer to U.S. Highway 17.

Structures to the north, and opposite U.S. Highway 17 are located within 20 feet of the right-of-way. The majority of the roadway drainage is diverted to the west side of the U.S. Highway 17 right-of-way through drainage inlets to a subtle drainage structure that lies between the edge of pavement and the right-of-way line along the west side of the road. This separates the applicant's property line from the edge of pavement between 55 feet to 85 feet. The distance between the right-of-way and the edge of pavement on the east side is as low as 20 feet. The roadway is equipped with a 90-degree curb and sidewalks two feet from the edge of pavement on both sides. The posted speed of U.S. Highway 17 is 45 mph on the north side and drops to 40 mph just south of the intersection of Dixie Boulevard on the south side of the property.

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

- The request **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 the public welfare** because the 65-foot setback from arterial road rights-of-way is not needed for public safety but rather intended for aesthetic purposes. Deeper roadway setbacks also encourage higher speeds of travel, and this portion of US Highway 17 is posted for lower speeds.
- **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** because this property has an irregular V-shape to it due to the angle in which Dixie Boulevard was platted back in the mid-1920s.
- **Granting the requested variance will not confer on the applicant any special privilege** because other buildings on adjacent lots are within 20 feet of the right-of-way.

Staff recommends additional time to apply for permits for this request to allow for securing financing, finalizing architectural plans, well and septic tank permitting, site and structural engineering.

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-2025-33**, with the following conditions:

CONDITIONS OF APPROVAL:

1. A variance to the standards in Section 208, Table 2.1 of the Land Development Code (LDC) shall be granted for a right-of-way setback reduction from 65 feet to 20 feet for a commercial building or buildings.
2. The applicant must apply for all necessary permits within five (5) years 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 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 LDC Section 930D.

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 65-foot setback from arterial road rights-of-way is not needed for public safety. It is intended for aesthetic purposes. Deeper roadway setbacks also encourage higher speeds of travel, according to the Institute of Transportation Engineers (ITE). This area is an approach to the urbanized area of Bowling Green, so the posted speed is reduced from 60 mph to 45 mph and 40 mph just to the south. If there were any development standards that could be reduced without harm to the public, the 65-foot right-of-way setback would be at the top of the list. Therefore, granting a variance in this case will not be injurious to the area involved or otherwise detrimental to the public welfare. Additionally, buildings on adjacent lots are within 20 feet of the right-of-way. So, adherence to the setback will provide very little aesthetic value.

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;*

This property has an irregular V-shape to it due to the angle in which Dixie Boulevard was platted back in the mid-1920s. Section 220 of the Land Development Code (LDC) prohibits commercial buildings, dumpsters, and a number of other accessory uses within 50 feet of residential property. The addition of the 65-foot right-of-way setback eliminates a number of other options for building placement and property use. Access must also be setback significantly from the intersection of U. S. Highway 17 and Dixie Boulevard or Hillcrest Drive. A parking space is required for every 300 square feet of office or commercial building space and more if there are medical or restaurant occupants, according to LDC Section 709. LDC Section 740 requires stormwater management for all impervious surfaces for a 25-year, 24-hour storm event onsite for both rate and volume. There is no just cause for reductions from the residential compatibility standards or stormwater requirements, and a reduction in available parking could either be a detriment to the

businesses onsite or result in parking on the right-of-way which can threaten public safety and cause harm to neighboring residents.

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

The applicant purchased the property in 2019. It had been changed to residential in 2000. The Board of County Commissioners recently granted the applicant's request to change it back to commercial.

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;*

There are other structures along US Highway 17 that are within the 65-foot right-of-way setback. At least three are within 20 feet of the right-of-way. However, the home to the south and the commercial buildings opposite US Highway 17 were built before the first zoning ordinance with setbacks in 1971.

Applying the full 65 feet of setback from the right-of-way and a 50-foot setback from residential for the building, will leave only 35 feet of developable area on the north side (40%) of the property. The available space to place a building on the property is approximately 11,800 square feet in an irregular shape. This would force drainage to one side and parking to another leaving for a very inefficient design. In reality, it would result in a very small building. The other commercial properties along this corridor do not have as irregular of a shape, and the ones on the east side of U.S. Highway 17 do not abut residential property.

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

The applicant is proposing a ±9,557 square foot retail plaza on the one-acre property (see Exhibit 5). This is estimated to be the maximum amount of commercial space that can fit on the site while meeting other development standards and infrastructure needs. While it may not be that large in the end, the building will need to have a depth as proposed at 43 feet to serve retail, office, and personal services establishments that might inhabit the building suites. More depth would be better, but there is also parking and drainage that must be accommodated on the site as well. Commercial services are needed in this area according to the applicant and they are seeking to provide as much commercial space for them as possible on this site.

The applicant is also seeking this variance so that the building can be setback the farthest possible from abutting residential properties. The applicant is not asking for more setback relief than abutting structures along the corridor. Additionally, the 20 feet proposed will enable better drainage control on the site.

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 property was recently approved for a change of from Rural Cluster Center-Residential (RCC-R) to Rural Cluster Center Commercial (RCC) on October 7, 2025. The proposed retail plaza is a permitted use in the RCC district.

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 this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request 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 property was zoned Regional Commercial (C-3) under the original 1971 zoning map. The setbacks from arterial roads have been 65 feet from right-of-way since November 30, 1971, with the adoption of Ordinance 1971-08. There was a variance process in that ordinance similar to the one in the LDC today. Granting this variance will not circumvent any condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The following table provides a reference point for notable and pertinent Future Land Use Map districts and existing land uses upon them.

Table 1		
Northwest: RCC-R Single-family Residence	North: Rural Cluster Center – Residential (RCC-R) Rural Cluster Center – Commercial (RCC) Vacant lot, mobile home, and 1,628 sq.ft. single-family residence ±19 feet from US 17 right-of-way	Northeast: Rural Cluster Center – Commercial (RCC) Bar, Tavern, Lounge (County Line Club) 3,060 sq. ft. ±18 feet from US 17 right-of-way
West: RCC-R Mobile home	Subject Property: ±1.02 acres RCC Vacant lot Proposed Retail Plaza 9,557 sq. ft. ±20 feet from US 17 right-of-way	East: RCC Agricultural equipment and fertilizer sales & services (Pro Plus Products Inc.) 3,600 sq. ft. ±33 feet from US 17 right-of-way
Southwest: RCC-R Single-family Residence	South: RCC-R Single-family Residence 1,098 sq. ft. ±5 feet from US 17 right-of-way	Southeast: RCC Agricultural equipment and fertilizer sales & services (Pro Plus Products Inc.) All buildings south of Pinecrest Drive meet or exceed setback

Immediately to the west and north are single-family homes and mobile homes. These are the closest structures to the site. Across U.S. Highway 17 is the County Line Club Bar and

ProPlusProducts Inc., an agricultural support use that provides custom blends of fertilizers for various industries, but primarily agriculture and golf courses. There is RCC commercial north of the site on Hilton Road that has a single-family residence but is used for the storage of agricultural use vehicles.

Structures to the north, and opposite U.S. Highway 17 are located within 20 feet of the right-of-way. The majority of the roadway drainage is diverted to the west side of the U.S. Highway 17 right-of-way through drainage inlets to a subtle drainage structure that lies between the edge of pavement and the right-of-way line along that side of the road. This separates the applicant's property line from the edge of pavement between 55 feet to 85 feet. The distance between the right-of-way and the edge of pavement on the east side is as low as 20 feet. The roadway is equipped with a 90-degree curb and sidewalks within two feet of the edge of pavement on both sides. The posted speed of U.S. Highway 17 is 45 mph on the north side and drops to 40 mph just south of the intersection of Dixie Boulevard on the south side of the property.

The applicant's property is part of the Dixie Highway Homesites Unit No. 2 plat that was approved by the Board of County Commissioners on December 14, 1925. During the late 1930s, Dixie Highway became U.S. Highway 17 and was relocated from the west side of the plat to just off the center which was a 50-foot-wide right-of-way named Alma Avenue. An additional row of lots were taken to the east as the roadway widened from two to four lanes in the late 1990s.

Comments from other Governmental Agencies:

None.

Exhibits:

Exhibit 1 – Location Map

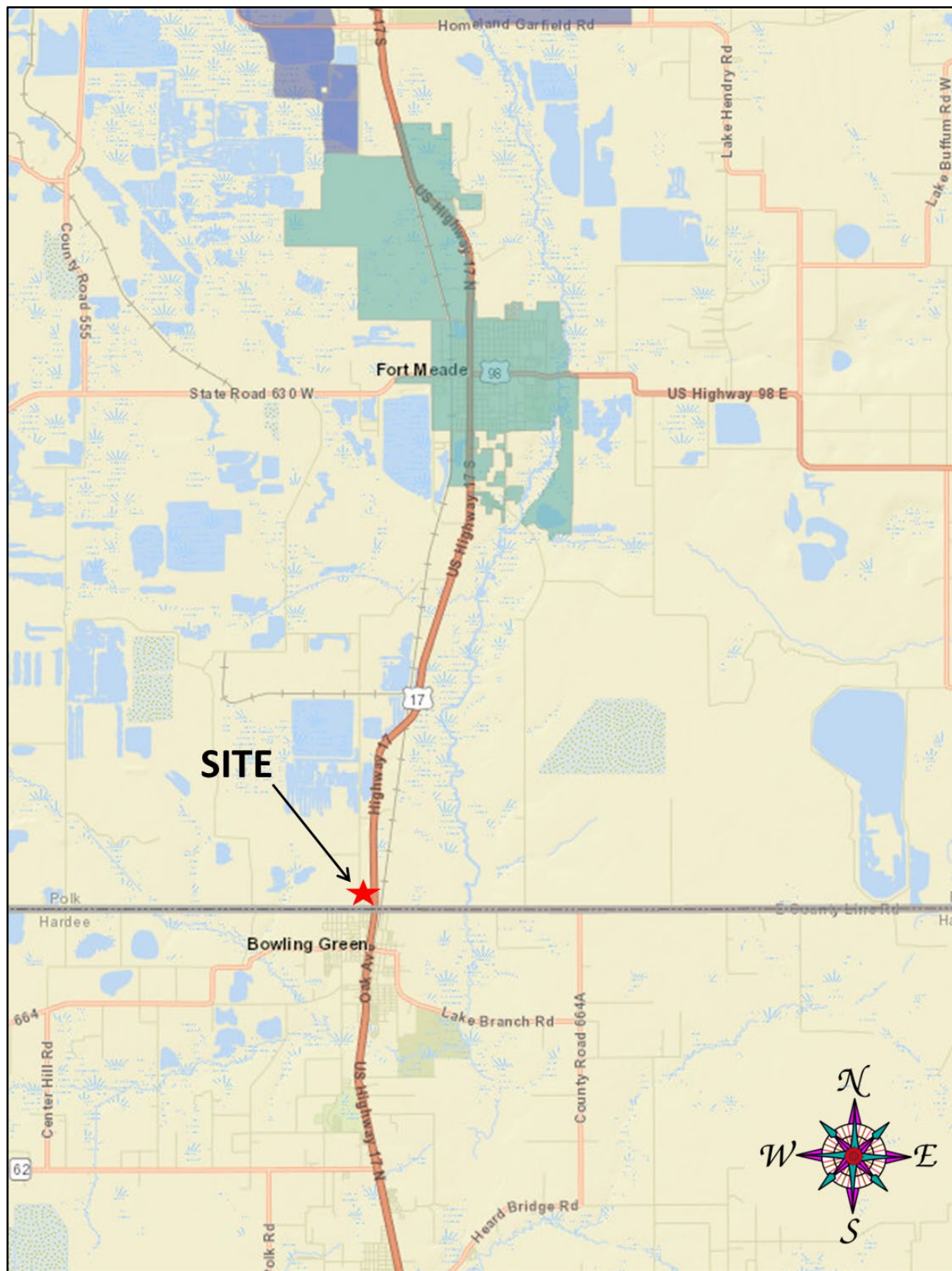
Exhibit 2 – Future Land Use

Exhibit 3 – 2023 Aerial Context

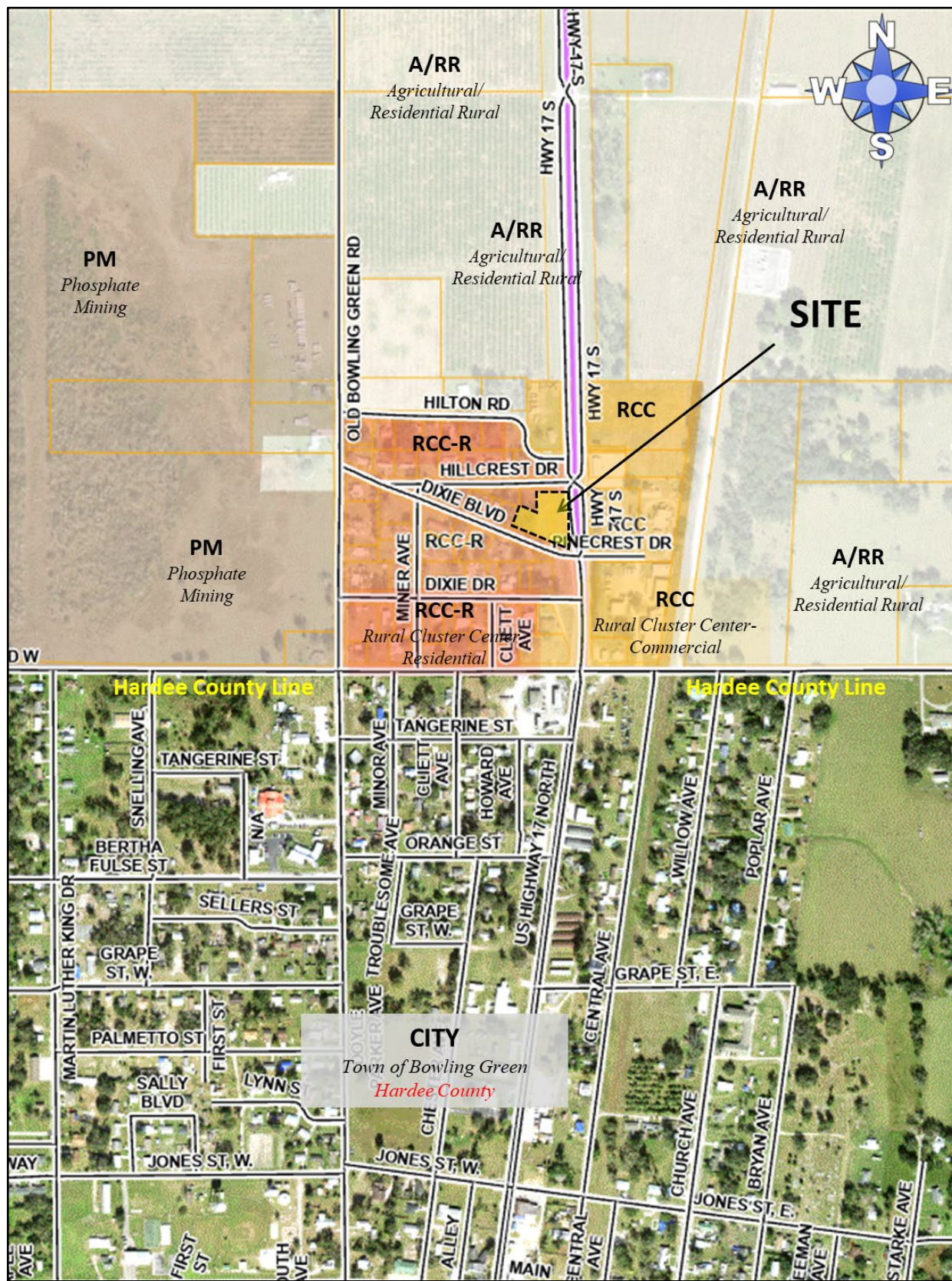
Exhibit 4 – 2023 Aerial Close-up

Exhibit 5 – Site Plan

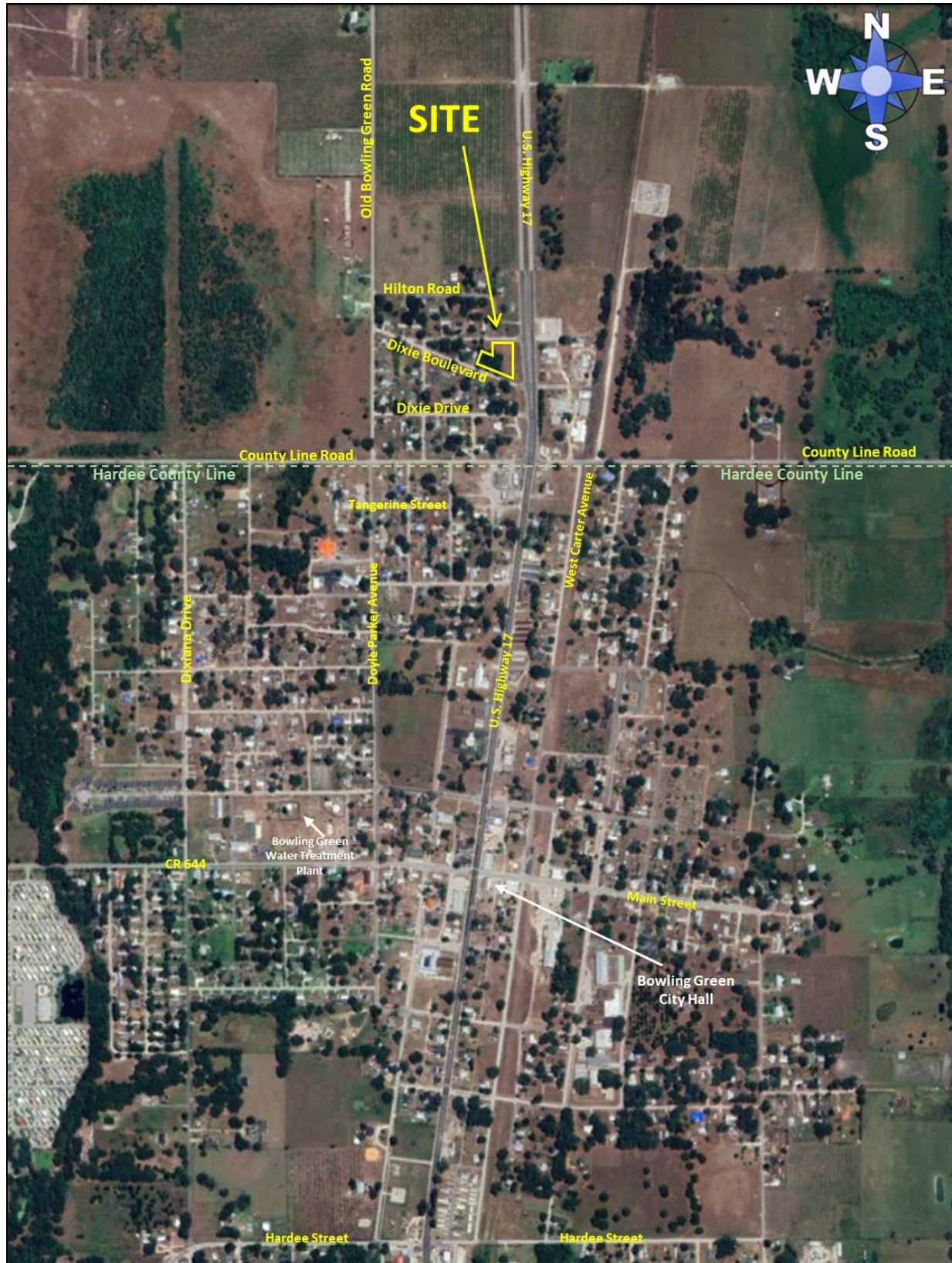
Exhibit 6 – Criteria Justification



Location Map



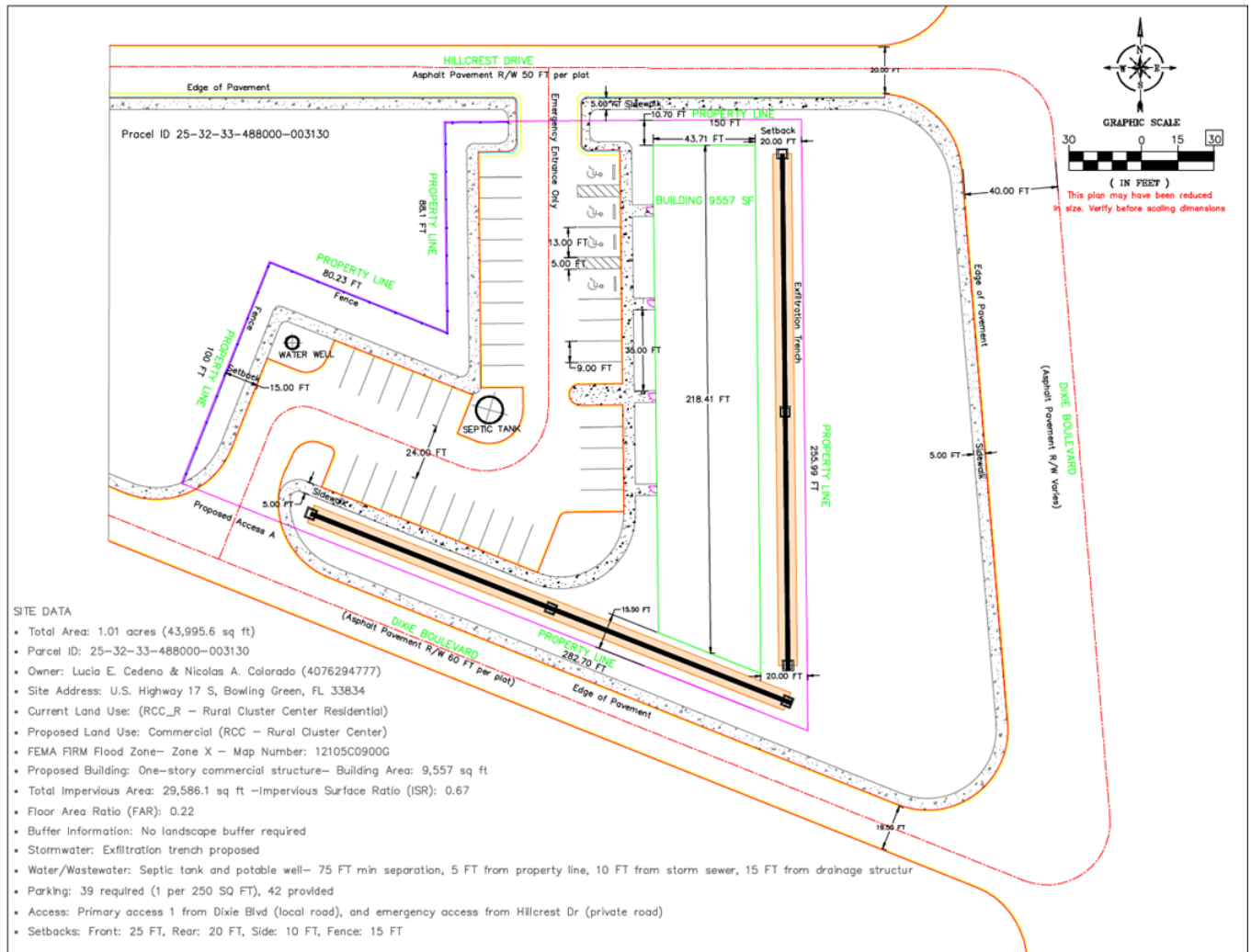
Future Land Use



2023 Satellite Photo Context



2023 Aerial Photo Close-Up



Applicants' Site Plan

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

Response: No. The variance reduces buffer requirements, thereby increasing the efficiency of site utilization and expanding usable space for parking, drainage, and utilities, while still maintaining appropriate setbacks from nearby residential properties.

The building will not be too close to the edge of the pavement; there's a hard curb, sidewalk, and drainage provides clear separation.

The design also maintains safe and efficient site circulation, and the adjacent highway's speed limit (40–45 mph) aligns with the proposed layout.

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

Response: No special conditions exist. The client's objective is to maximize the building area within the code requirements, and our proposal reflects that. We have ensured that the allowable building size has not been exceeded.

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

Response:

- Parcel Purchase Date: 2019
- Structure: No structures have been built on the parcel
- Permit Number: N/A

4. What is the hardship if the variance is not approved?

Response: This could impact the ability to accommodate essential infrastructure such as parking, drainage, and onsite water/wastewater systems, which require substantial space. If it is not approved, it would reduce site efficiency and restrict the intended commercial use that is expected to benefit the region.

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

Response: Yes, the minimum variance necessary is requested to support a functional and efficient layout for the proposed RCC (Rural Cluster Center – Commercial) use.

Consider the following factors:

- Enhance zoning compatibility by placing the building closer to the highway, improving visibility and customer access.
- Parking and drainage are strategically placed between the commercial building and residential areas, with additional separation provided by a hard curb, sidewalk, and drainage swale. This ensures the building is not too close to the edge of the pavement and maintains a safe and functional site design
- Accommodate essential infrastructure, including a private portable well and septic system, which requires substantial space. The proposed layout allows for optimal placement of these systems.

6. Do you have Homeowners Association approval for this request?

Response: No HOA needed for this since the site is not part of an HOA.

Applicant's Justification