

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

DRC Date	April 10, 2025	CASE #:	LDLVAR-2025-17 (McLean Variance)
LUHO Date	May 19, 2025	LDC Section:	Chapter 2, Section 209.G

Request: The applicant is requesting a variance to construct a pole barn larger than the primary residence.

Applicant: Wyatt Tanner McLean

Property Owner: Wyatt Tanner McLean

Location: The subject property is located at 1703 Marker Road, north of Pace Road, west of Derosa Road, south Mount Olive Road, east of the Polk Parkway, west of Auburndale, in Section 08, Township 27, and Range 25.

Parcel ID#: 252708-000000-044090

Size: ±1.89 acres

Land Use Designation: Residential Low - 2X (RL-2X)
I-4 Selected Area Plan (SAP)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting a variance to Section 209.G of the Land Development Code to allow for the reconstruction of an accessory structure that is larger than the primary home. The pole barn is approximately 3,100 square-feet while the primary structure is listed at 1,144 square-feet, according to the Polk County Property Appraiser. The property is in a Residential Low-2 (RL-2) land use district in the I-4 Selected Area Plan (SAP).

This property is subject to a Codes Enforcement Case (CMA-2024-1415) for building this structure without permitting. Approval of this will be the next step in remediating this issue without removing the structure. Per conversations with the applicant and Code Enforcement, the accessory structure would shelter personal recreational vehicles including boats and jet skis, construction equipment, and other tools.

According to Section 209.G of the Land Development Code, accessory structures may be permitted up to 150% of the principal structure square footage or height. This exceeds this limit by over two times; however, the property is well-screened and buffered by dense vegetation to the north and opaque fencing to the south and east. Given the site plan (*Exhibit 5*) the pole barn meets setback

requirements for accessory structures.

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

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** as the building is located to the rear of the property while meeting all accessory setback requirements. The structure will also be retrofitted to adhere to Florida Building Code standards.

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-2025-17**.

CONDITIONS OF APPROVAL:

1. Approval of this variance is to allow an existing accessory barn (3,100 sq. ft.) that is larger than the primary structure (1,144 sq. ft.) as described in the staff report. Further additions or structures placed on the property shall be required to meet the requirements of Chapter 2 of the Polk County Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. The applicant must bring the existing pole barn up to the most recent Florida Building Code standards.
3. This variance does not authorize any encroachments into easements, and the applicant shall be responsible to make 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.
4. 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 addition.
5. The use of the accessory structure approved herein is limited to the storage of items associated with the residential use of this property. No home-based business or commercial uses shall be permitted to occur within the accessory structure.

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.

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;*

Granting this variance will not be injurious to the area or otherwise detrimental to the public welfare. The applicant has requested to retrofit a pole barn at the rear of their property to store boats, trailers, and other large items rather than having them parked in the open. It is enclosed on three sides and open on the north end. Inhabited properties to the north and south range from one to four acres. The subject property backs up to a large vacant pasture consisting of 144 acres within Lakeland's city limits. Setbacks for the request are adequate in the RL-2 district and existing fenced screening is provided from Marker Road and the southern property. The properties to the north are screened by thick vegetation. The nearest home to the barn is over 300 feet southeast. The variance, if approved, will require the applicant to retrofit the pole barn to adhere to appropriate Building Code and safety standards. Staff finds no issue with the request.

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 request is a result of a Codes case in December 2024 (CMA-2024-1415) where the pole barn was built without necessary permits. Referencing aerial photography, the structure was built sometime in 2021. Per conversations with the applicant and Code Enforcement, the structure serves as storage for various personal recreational vehicles and construction equipment. The applicant is now taking steps to fix the problem. They will need to retroactively permit the structure and retrofit the pole barn while adhering to appropriate County building and Florida Building Code standards.

In terms of evaluating cases such as these, the burden of a hardship is less salient to a recommendation of approval than ensuring it poses no harm to the area. This has been addressed above, and the placement of this structure is ideal relative to the property layout.

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 2017 and constructed the pole barn without a permit sometime around 2021. The metal building, at 3,100 square feet, was built 270% larger than the primary home at 1703 Marker Road. They wish to shelter personal recreational vehicles including boats and jet skis, construction equipment, and other tools within this barn and

have determined these dimensions suit this need. The site plan shows that it is set well off from any roads and is well-buffered and screened from adjacent properties.

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;*

The proposed request is not anticipated to confer on the applicant any special privilege that is denied by the provisions of the Code. Section 209.G.2 allows an accessory structure larger than the primary with approval from the Land Use Hearing Officer pursuant to Sections 930 and 931. Any property owner is eligible under these Sections. In 2023, a variance for an existing accessory structure larger than the primary residence was approved about ½ mile to the north of the subject property at 5735 Mount Olive Road (LDLVAR-2023-60).

Removing the structure altogether will be an additional financial cost. The applicant wishes to retrofit the existing pole barn to current Florida Building Code standards. Accessory structures are permitted in this land use district, and structures such as this - as long as it has a permanent foundation, a rigid roof, and meets setbacks and building standards - can be permitted in the rear, or side yard. According to Table 2.2 of the LDC, accessory side and rear setbacks in the RL-2 district are 5 feet. Rear and side yard setbacks for the pole barn are 18 feet and 26 feet respectively. This structure meets these setbacks without requiring a variance.

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 and keep the barn as requested.

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.

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.

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.*

There was no evidence found that suggests the proposed request will circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners.

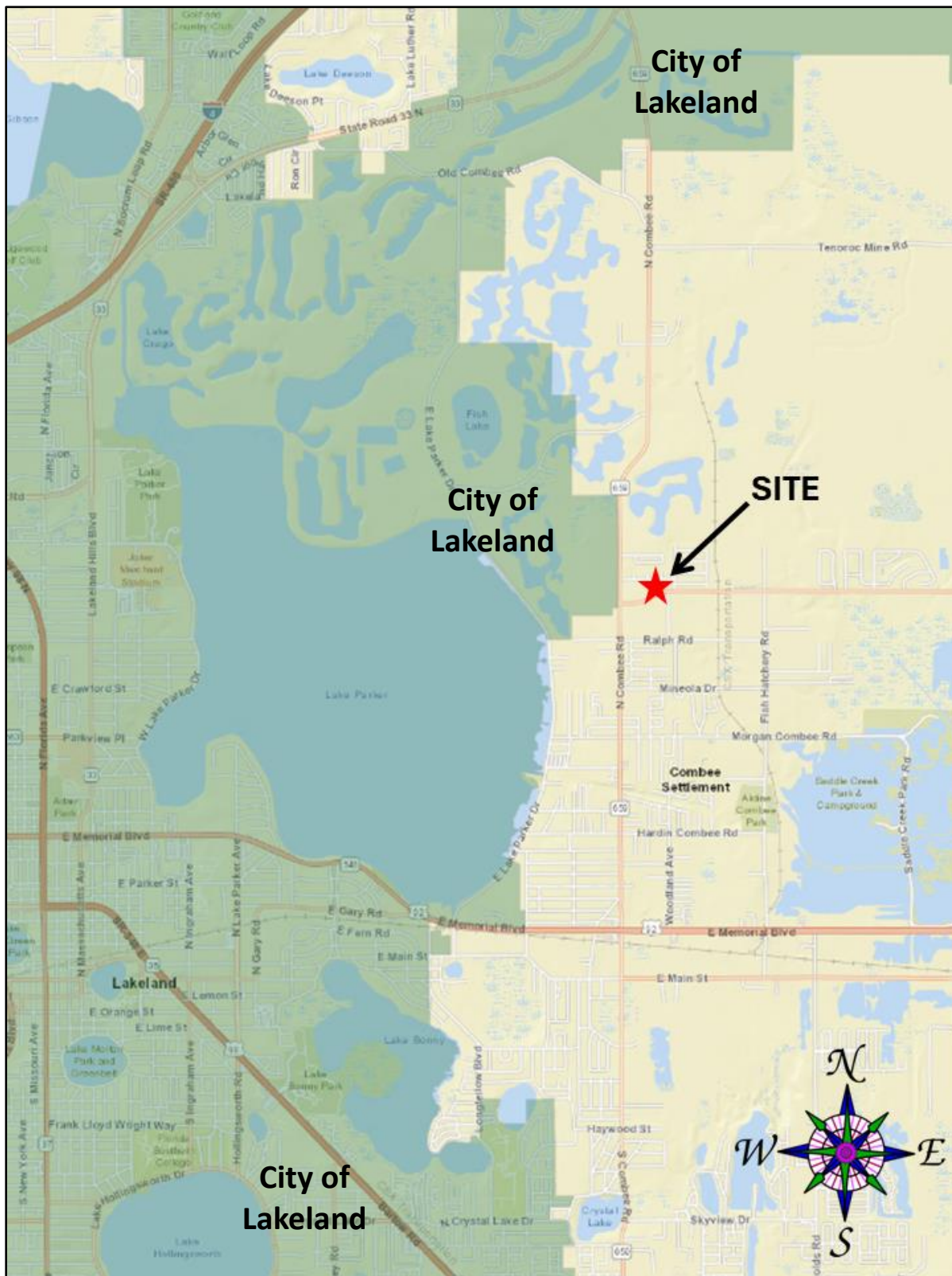
Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: City of Lakeland Vacant land ±144.48 acres	North: RS 2,468 sq. ft. SFR and 1,152 sq. ft. MH ±2.36 acres	Northeast: RS Single-family home ±3.00 acres
West: City of Lakeland Vacant land ±144.48 acres	Subject Property: RL-2X 1,496 sq. ft. mobile home 784 sq. ft. mobile home ±1.89 acres	East: RL-2X 1 single-family home and 2 MHs ±4.84 acres
Southwest: City of Lakeland Vacant land ±144.48 acres	South: RL-2X 1,647 sq. ft. single-family home On ±0.34 acres, ±675 sq. ft lot., & 1 acre	Southeast: RL-2X Vacant land ±4.84 acres

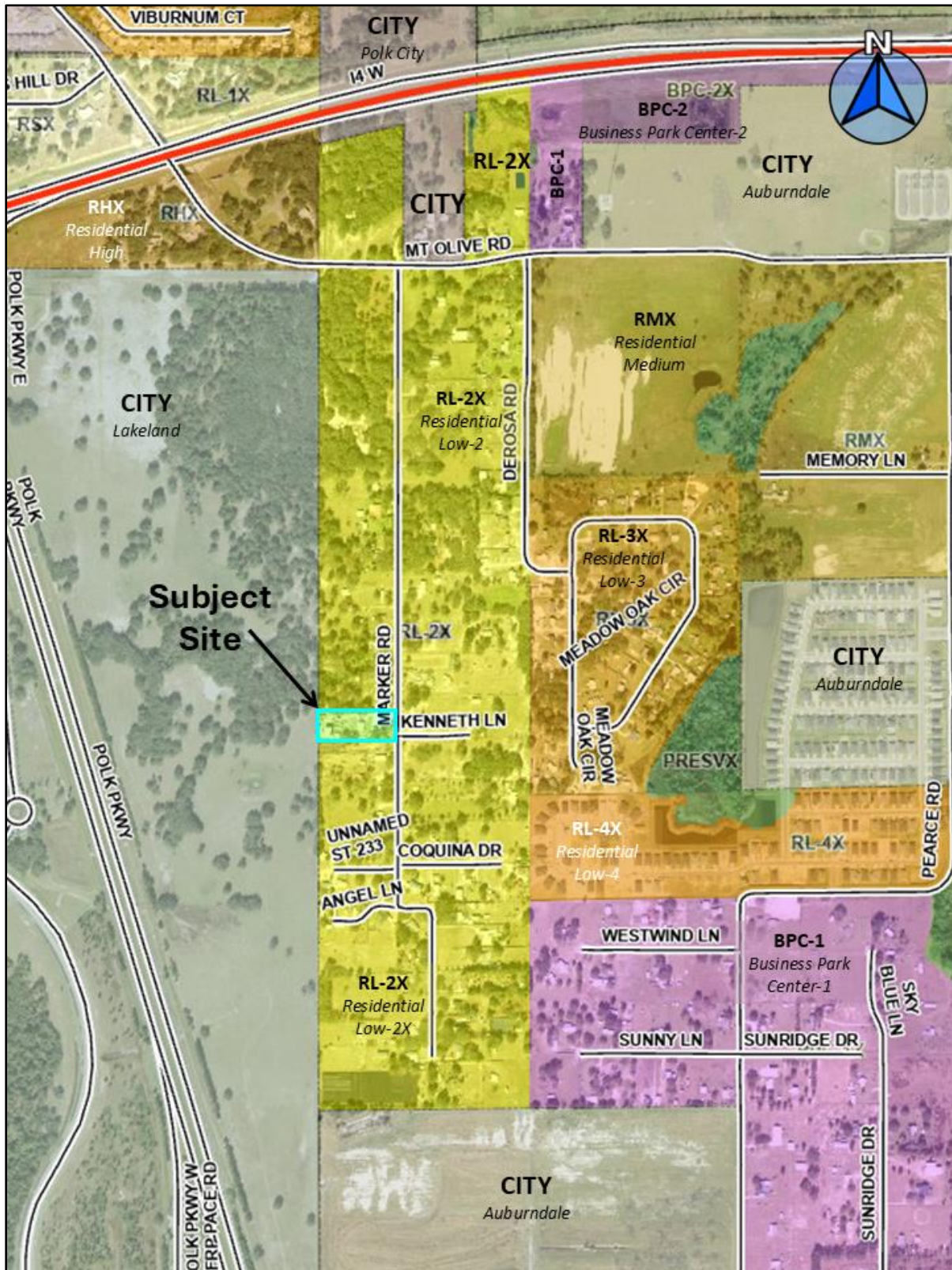
The property is about 1.89 acres and located in a RL-2X land use district in the I-4 SAP. Table 2.2 of the LDC, the site requires minimum lot sizes of 15,000 square-feet, which this property exceeds. Two mobile homes on the property were demolished and replaced in 2017 and 2018. According to the Property Appraiser's website, the mobile home addressed at 1703 Marker Road is approximately 1,144 square feet (BR-2018-2452) while the home addressed at 1609 Marker Road is 540 square feet (BLD-H-418713). The residence backs up to a large tract of land within Lakeland's city limits as well as the Polk Parkway. This area is located near the Polk Parkway and Interstate-4 interchange which is flanked by Lakeland and Auburndale city boundaries on either side. The proximity to the interchange and establishment of Florida Polytechnic University has contributed to the overall growth in the area. The nature of this request will have a minimal impact on surrounding development.

Exhibits:

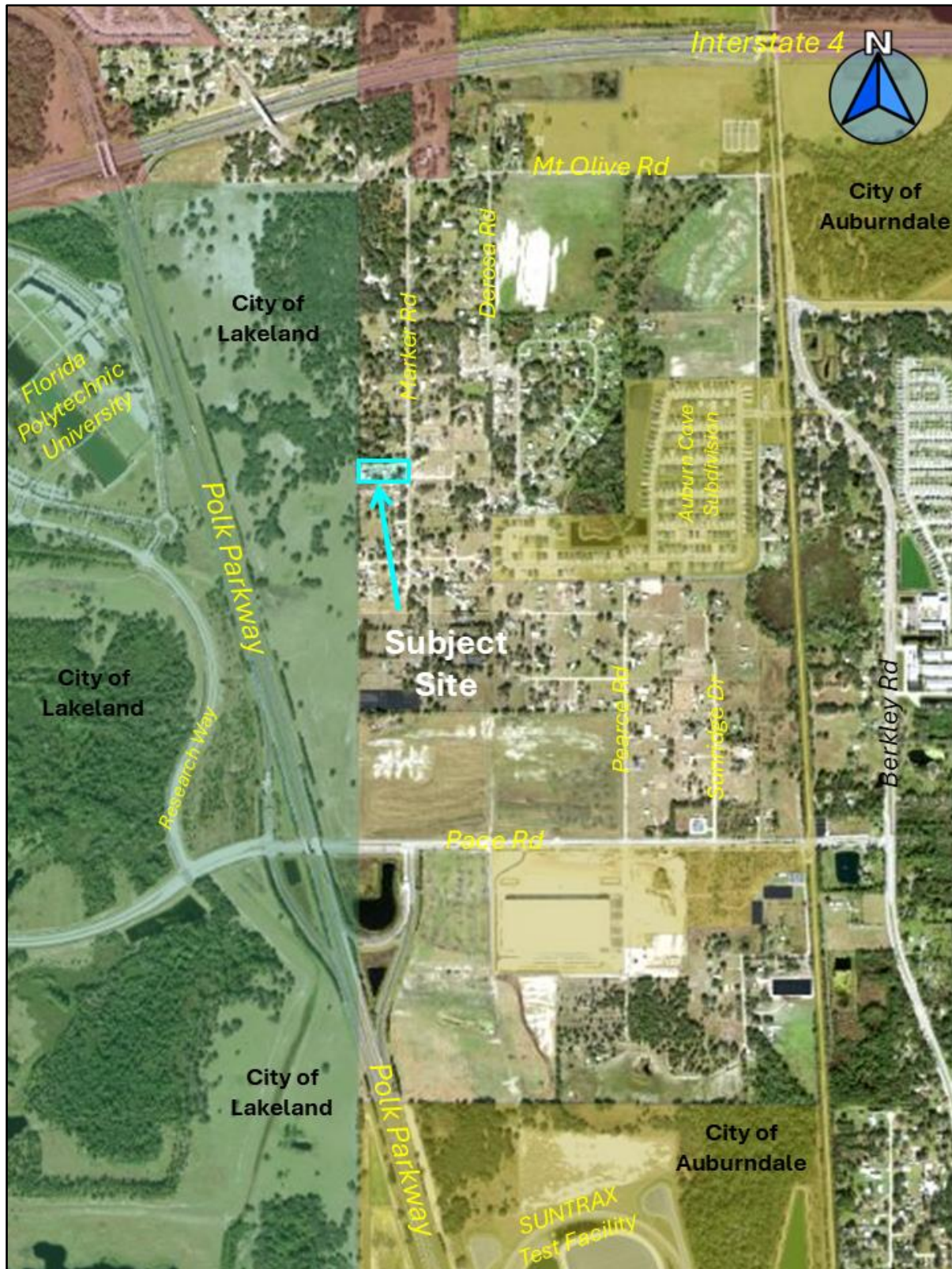
- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use
- Exhibit 3 – 2023 Aerial (Context)
- Exhibit 4 – 2023 Aerial (Close-up)
- Exhibit 5 – Applicant's Site Plan
- Exhibit 6 – Applicant's Justification



Location Map



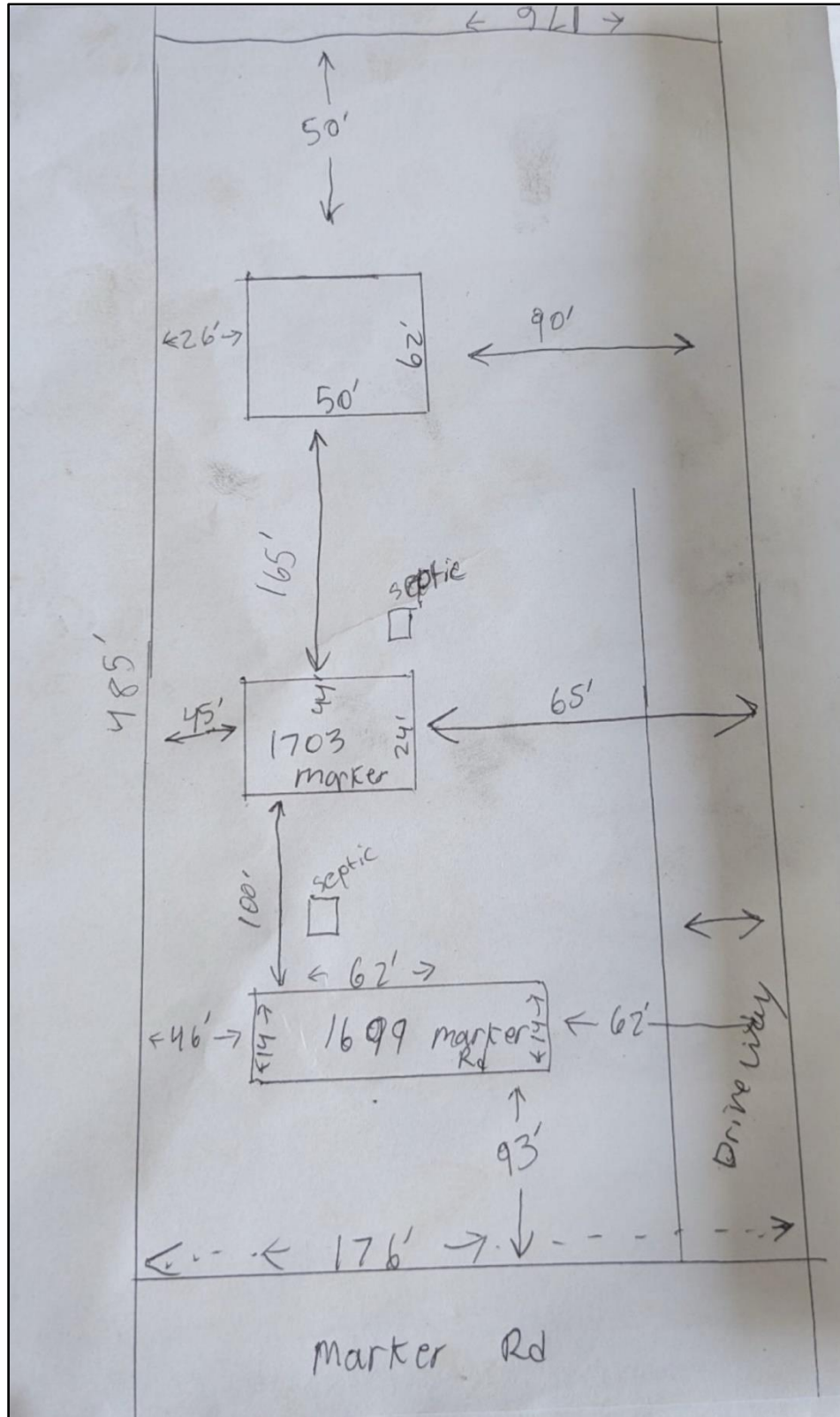
Future Land Use Map



2023 Aerial Photo (Context)



2023 Aerial Photo (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?

none

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

2017

What is the hardship if the variance is not approved?

unsure

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

unsure

Do you have Homeowners Association approval for this request?

n/a

Applicant's Justification