

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

<b>DRC Date</b>	<b>March 13, 2025</b>	<b>CASE #:</b>	<b>LDLVAR-2025-6 (Birdie Dr Variance)</b>
<b>LUHO Date</b>	<b>April 24, 2025</b>	<b>LDC Section:</b>	<b>Section 303 &amp; PUD 86-24</b>

**Request:** The applicant is requesting a variance to reduce the side accessory structure setback from five (5) feet to two (2) feet on both sides and five (5) feet to four (4) feet at the rear for an RV cover.

**Applicant:** Joshua Medina

**Property Owner:** Richard Vanpraet, Kristin Vanpraet

**Location:** 373 Bridie Dr, west of Golfview Dr, east of Broken Woods Blvd, south of Eagle Dr, north of the city of Haines City in Section 17, Township 26, Range 27.

**Parcel ID#:** 272617-704401-003730

**Size:** 0.06 +/- acres

**Land Use Designation:** Leisure/Recreation-X (LRX)  
PUD 86-24  
North Ridge Selected Area Plan (SAP)

**Development Area:** Transit Supportive Development Area (TSDA)

**Case Planners:** Aleya Inglima, Planner II

**Summary:**

The applicant is requesting a variance to reduce the side accessory structure setback from five (5) feet to two (2) feet on both sides and five (5) feet to four (4) feet at the rear for an RV cover. The owners purchased the property in June of 2024 and will be replacing an RV cover with a wider structure. The previous RV cover was 20' wide, this request is for a 24' wide RV cover plus the additional roof at approximately 7 feet wide. The setback regulations require a five-foot setback, making it impossible to build a larger structure without a variance. The subject property is Lot 373 located in Deer Creek Golf & Tennis RV Resort Phase II subdivision recorded on September 20, 1988 (PB 86 PGS 50-51). (PUD 86-24) was originally approved as a Mixed-use Development with a 1200-unit Recreational Vehicle Park on 102.74 acres at 11.68 units per acre. PUD 86-24 has undergone multiple modifications over the years occurring from 1988 through 2020, which ultimately allowed full-time habitable structures onsite.

Today, most of the lots are platted and owned fee-simple, including the subject site. RV ports and carports are common accessory structures throughout the development. Habitable structures include modular and site-built homes, as well as park model RVs. The setback regulations require a five-foot setback, making it impossible to build a larger structure without a variance. Each lot

has a 5-foot rear utility easement. Four variances have been approved within Deer Creek. Deer Creek does have a Homeowners Association which requires approval from the Land Use Hearing Officer before the HOA can consider the request. Staff find the request to be compatible and similar to others granted approval in Deer Creek.

Staff find that the request meets the following criteria listed in Section 931 of the Land Development Code:

- **The request will not be injurious to the area involved or otherwise detrimental to the public welfare** because the RV cover is similar size to the neighbors, maintaining the existing character of the property. It will not obstruct visibility, interfere with neighboring properties, or create any safety concerns.

### **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-2025-6**.

### **CONDITIONS OF APPROVAL:**

1. The applicant is requesting a variance to reduce the side accessory structure setback from five (5) feet to two (2) feet on both sides and five (5) feet to four (4) feet at the rear for an RV cover. Further additions or structures placed on the property shall be required to meet the requirements of the Polk County Land Development Code and PUD 86-24 or re-apply for another variance approval from the Land Use Hearing Officer.
2. 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.
3. Gutters are required to be installed onto the RV cover to capture and direct stormwater onto the subject property and not onto adjacent properties.
4. Prior to building permit application, the property owner or their contractor shall call 811 or (800) 432-4770 to ensure that utility companies are notified about excavation work, allowing them to locate and mark their lines, preventing accidental strikes and damage prior to building permit approval and commencement of construction.

### **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;*

The applicant is requesting a variance to reduce the side accessory structure setback from five (5) feet to two (2) feet on both sides and five (5) feet to four (4) feet at the rear for an RV cover. The subject property is a lot within a phase of the Deer Creek Golf & Tennis Resort first approved by PUD 86-24. This request will be replacing the RV cover with a larger structure at 11 feet wider.

Staff finds this request will not be injurious to the area involved. The previous RV cover was 20' wide, this request is for a 24' wide RV cover plus the additional roof. The setback regulations require a five-foot setback, making it impossible to build a larger structure in the location without a variance.

In regard to the subject RV port, this is an open-air structure that is easy to maintain. RV ports such as this one are common throughout the development. Gutters are required to be installed onto the RV cover to capture and direct stormwater onto the subject property and not onto adjacent properties.

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 entire development has a peculiar history. Deer Creek Golf and Tennis RV Resort was approved through Planned Development PUD 86-24. Currently, there are 936 out of 988 lots that have participated in major modifications to PUD 86-24 that allowed permanent structures for the purpose of habitable living spaces on properties originally approved for only Recreational Vehicles. This lot was subject to these modifications.

As this was intended for RV parking rather than full-time residence, the lots are small. The original conditions of approval required "a minimum structural setback of ten (10) feet shall be required between units." In a 1988 modification, though, it required this and the rear/side setbacks to be five feet, presumably for carports, RV ports, and park model trailers, which are classified RVs. In 2016, the first modification (PD 86-24M) was approved which allowed 908 lots to be developed with habitable spaces. Among the conditions of approval, it was required that all habitable living spaces shall be setback at least five (5) feet from all interior property lines (side and rear) and 10 feet from rights-of-way. It also stated that no setback variances shall be granted for structures containing

habitable living space. LDPD-2019-26 allowed an additional 28 lots for full-time habitable living structures.

Given the stated restrictions on setback relief and multiple units within this development converted and platted into single-family developments with dwelling units already permitted and placed, LDC Section 303 was amended on December 3, 2019 by Ordinance 19-069 to list Vested RV Developments and Standards, including Deer Creek Golf & Tennis RV Resort, in Table 3.4.1. Platted lots are now required to provide minimum five (5) feet setbacks for all habitable structures from interior lot lines but may be eligible for variance. Through Section 303, all accessory structures shall be set back three (3) feet from the interior lot lines or six (6) feet from any other structure outside the space or lot measured from leading edge of the structures, whichever is more restrictive. The PUD approval, though, requires non-habitable accessory structure setbacks to be five (5) feet from interior and rear lot lines. Either way, this is eligible for a variance.

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

The setback regulations require a five-foot setback, making it impossible to build a larger structure in the location without a variance. The existing layout of the property, including space constraints and structural alignment, makes it difficult to meet the new setback without causing unnecessary hardship or limiting the functional use of the 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;*

The new setback requirements would force unnecessary and costly modifications, including shifting the structure further to the right, extending the driveway, and losing functional space.

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

The RV cover will maintain the original setbacks that were in place when it was first built. By granting this variance, the owners will be able to rebuild the structure as it was previously, in alignment with other properties in the area, without causing any negative impact to neighboring properties or public welfare.

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 home 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 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.*

With PUD or PD approvals, the setback requirements are set by the Planning Commission or BoCC for that project and are the default standards over those instituted by the underlying land use district. LDC Section 930.B.18 allows variances to PUDs, specifically to the linear distance measurements and heights approved by a Level 3 or Level 4 Review. Still, PD 86-24M and LDPD-2019-26 explicitly stated in the Conditions of Approval that no setback variances shall be granted for structures containing habitable living space. Since platted lots have been sold, development-wide PD modifications have been difficult as it has required all owners to sign off on modifications. Changes adopted by the BoCC to LDC Section 303 “Vested RV Developments and Standards” have allowed variances for platted lots within these developments. Deer Creek is listed in LDC Table 3.4.1 as one of these developments.

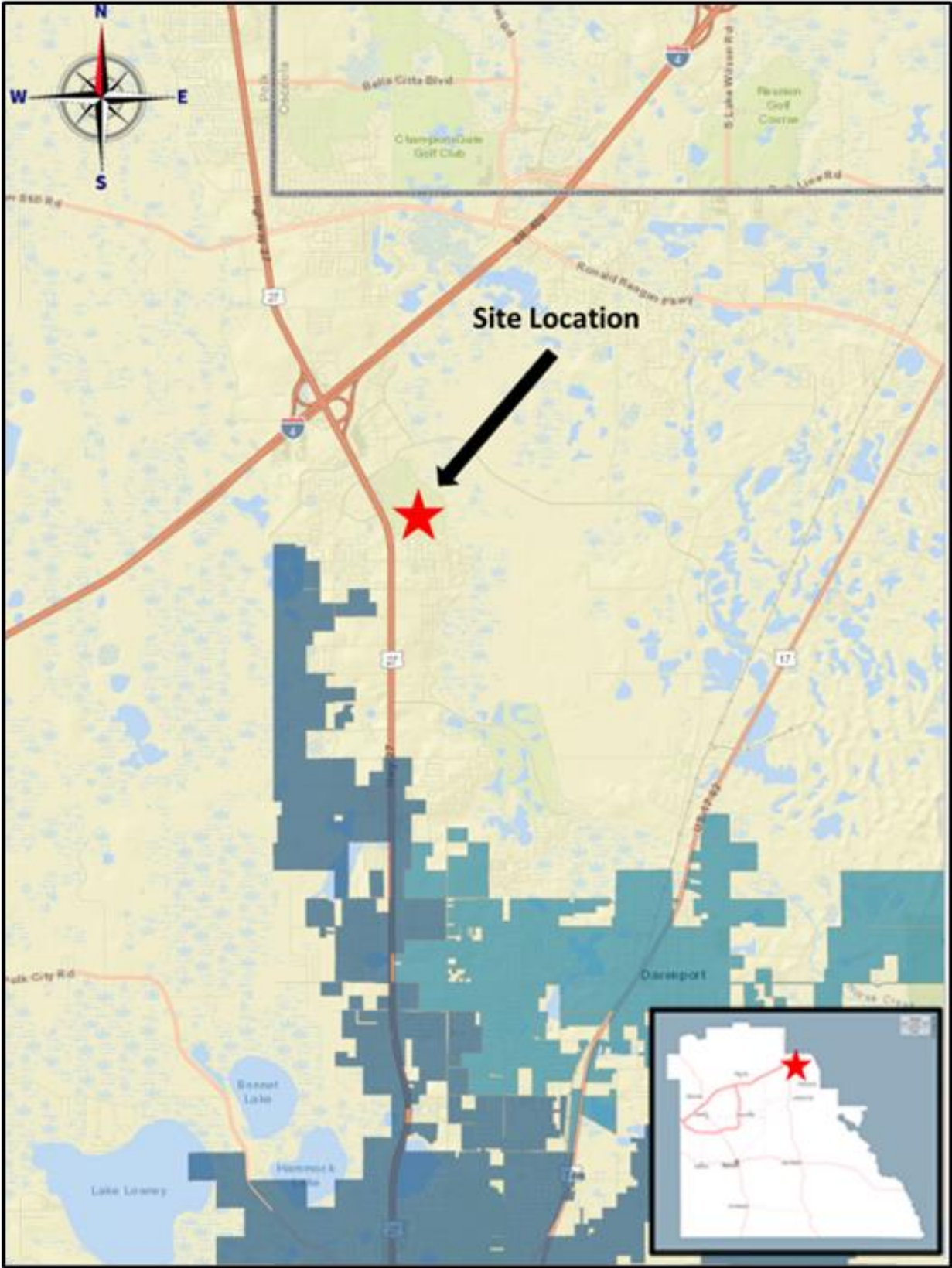
**Surrounding Future Land Use Designations and Existing Land Use Activity:**

<b>Northwest:</b> Motorhome lot PUD 86-24	<b>North:</b> Mobile home PUD 86-24	<b>Northeast:</b> Mobile home PUD 86-24
<b>West:</b> Mobile home PUD 86-24	<b>Subject Property:</b> Vacant PUD 86-24	<b>East:</b> Motorhome lot PUD 86-24
<b>Southwest:</b> Mobile home PUD 86-24	<b>South:</b> Mobile home PUD 86-24	<b>Southeast:</b> Motorhome lot PUD 86-24

Staff have found four variances for development within Deer Creek. VAR 15-12 was approved for a reduction of the right-of-way setback requirement from 10 feet to five (5) feet for Recreational Vehicle cover at 332 Players Drive. VAR 15-36 was approved for a reduction in the five (5) foot side yard setback to three (3) feet for an existing RV cover at 121 August Avenue. VAR 17-53 was approved for a reduction in the right-of-way setback from ten (10) feet to eight (8) feet for a primary structure at 310 Bunker Lane. LDLVAR-2023-48 was approved for rear principal structure setback for an existing home from five (5) feet to zero (0) feet; the western side principal structure setback from five (5) feet to two (2) feet; and reduce the western accessory side setback to zero (0) feet for an existing detached RV port.

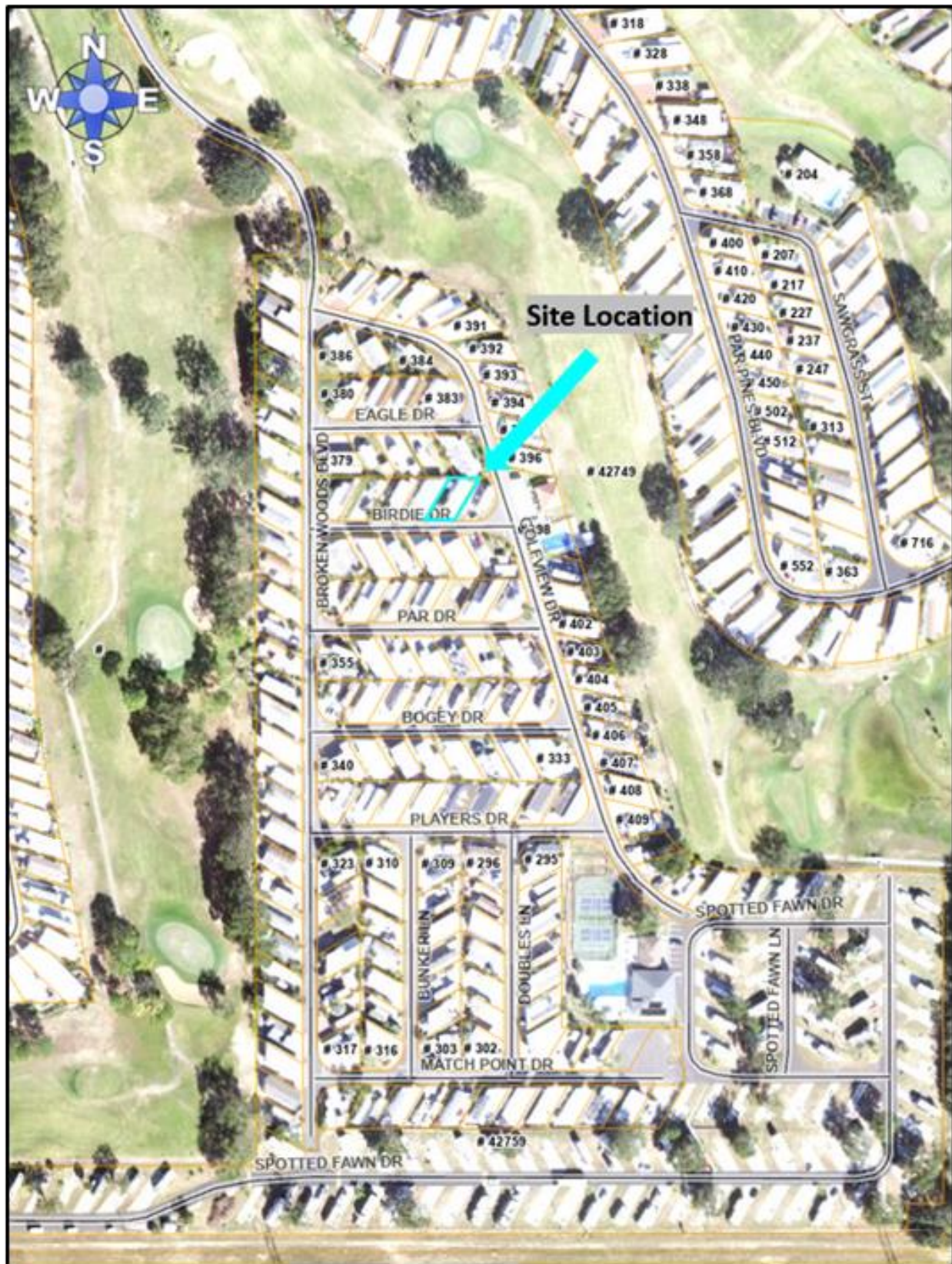
**Exhibits:**

Exhibit 1	Location Map
Exhibit 2	Aerial Image – Context
Exhibit 3	Aerial Image – Close-up
Exhibit 4	Site Plan
Exhibit 5	PUD 86-24
Exhibit 6	Applicant’s Justification
Exhibit 7	Deer Creek Plat



Location Map





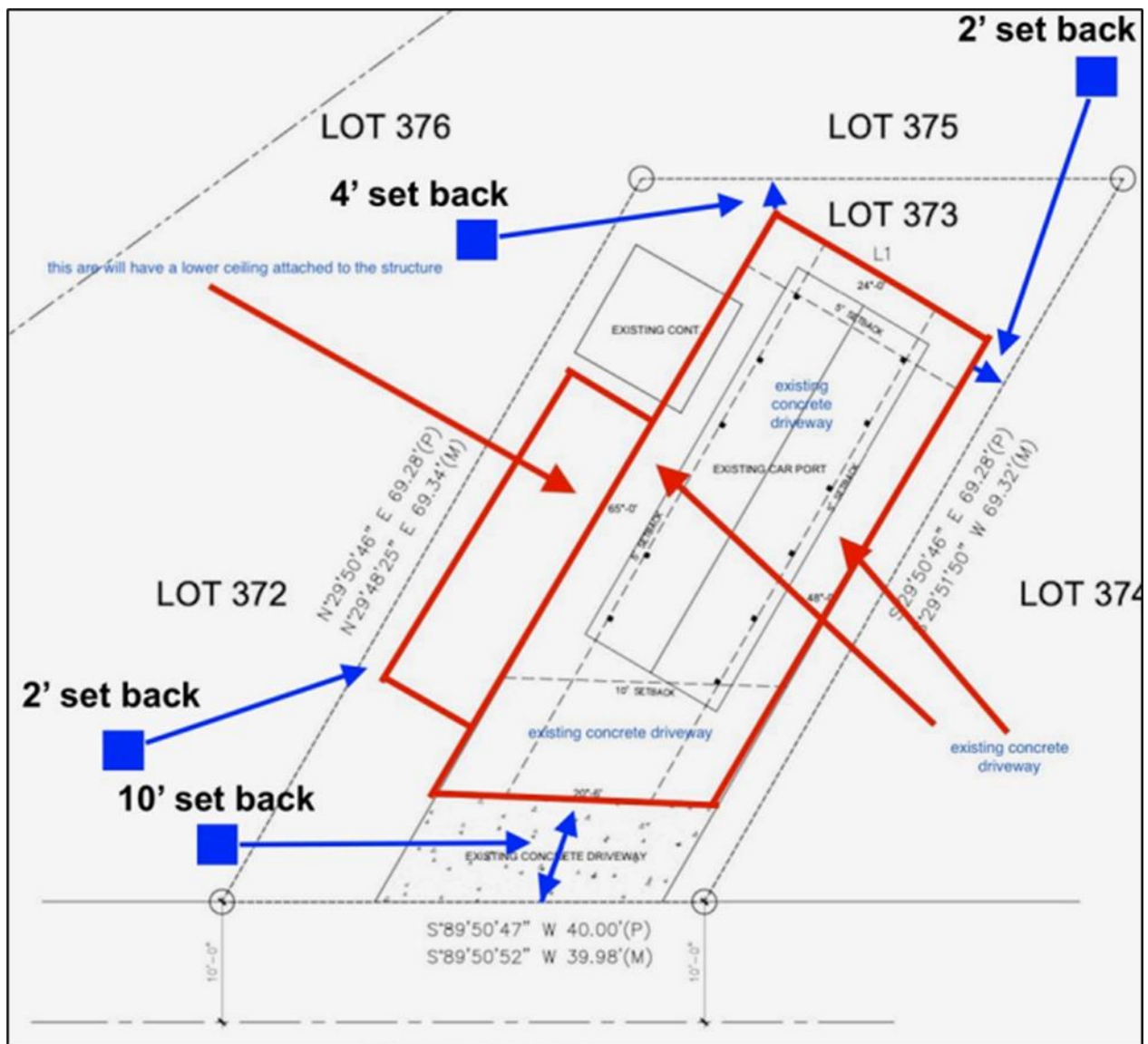
Aerial Image – Context





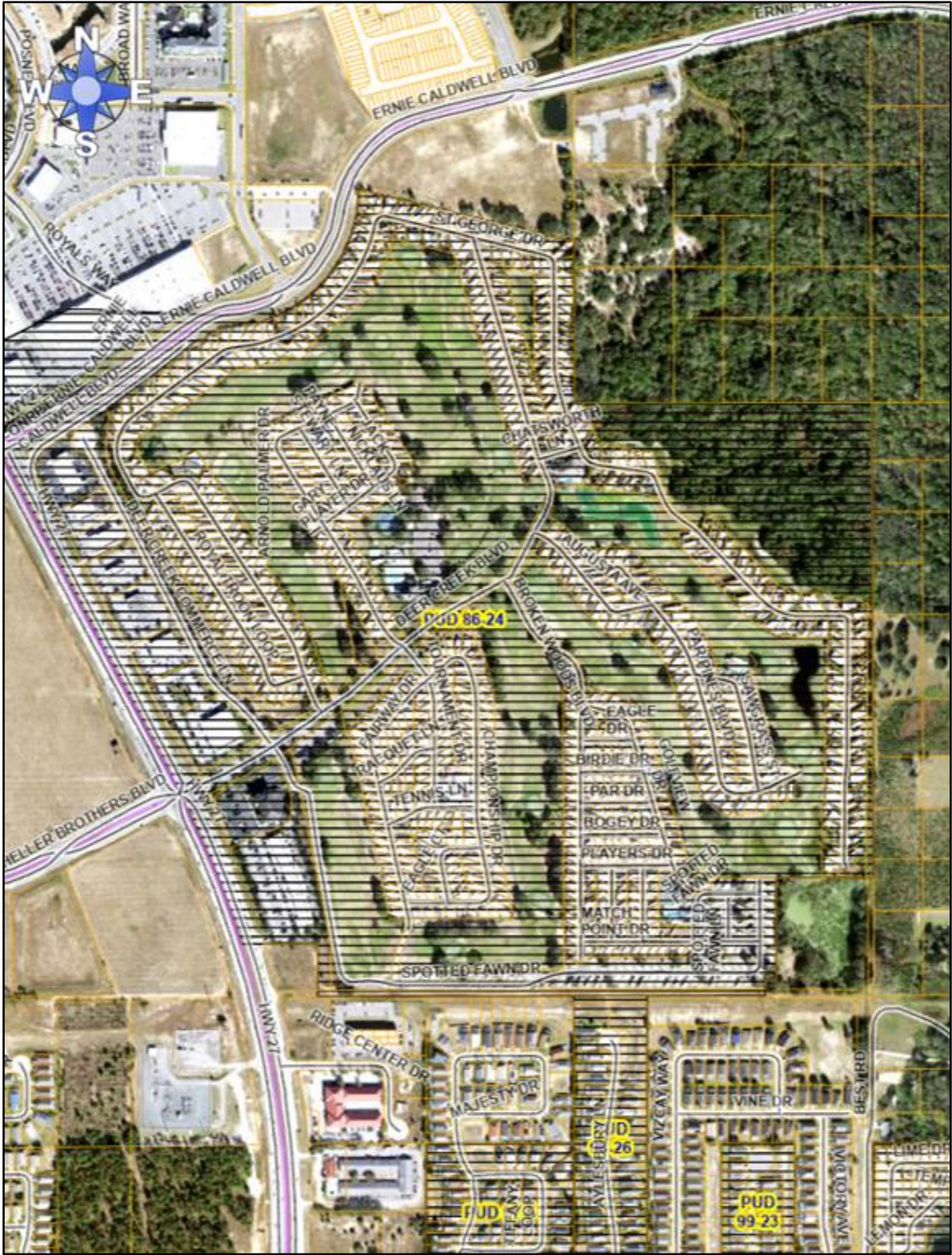
Aerial Image – Close





## Site-Plan





PUD 86-24

## **CRITERIA FOR GRANTING VARIANCE**

### **Will the variance be injurious to the area involved or detrimental to the public welfare?**

“No, granting this variance will not be injurious to the area or detrimental to the public’s welfare. The RV cover is being rebuilt in the same location as the previous structure, maintaining the existing character of the property. It will not obstruct visibility, interfere with neighboring properties, or create any safety concerns. Additionally, the structure aligns with the original setbacks and does not negatively affect drainage, accessibility, or the overall aesthetics of the neighborhood.”

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

“The special condition particular to this property is that the RV cover was previously built with a two-foot setback, which was compliant at the time. However, the new setback regulations now require a five-foot setback, making it impossible to rebuild the structure in the exact same location without a variance. The existing layout of the property, including space constraints and structural alignment, makes it difficult to meet the new setback without causing unnecessary hardship or limiting the functional use of the property.”

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

“I purchased the property located at 373 Birdie Dr, Davenport, FL, about 8 months ago. The structure was originally built in 2010.”

### **What is the hardship if the variance is not approved?**

\*\*\*“If the variance is not approved, we will face significant hardship due to the required setbacks. The new regulations would force us to shift the structure further to the right, causing a loss of approximately three additional feet of usable space. This would result in an uneven layout, requiring extensive modifications, including adding concrete to the left side to compensate. However, adjusting the driveway is not a practical option, as simply extending it by three or five feet would severely impact its functionality and structural integrity. Additionally, the requirement to move the structure 10 feet further back would cause us to lose a substantial amount of space, making it inconsistent with the alignment of other properties in the area.



These changes would not only increase construction costs significantly but also reduce the usability and efficiency of the property layout. Approving the variance would allow us to maintain the existing structure placement while preserving property value and ensuring functionality.”\*\*

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

“Yes, this is the minimum variance required for the reasonable use of the land. We are only requesting to maintain the original setbacks that were in place when the RV cover was first built. The new setback requirements would force unnecessary and costly modifications, including shifting the structure further to the right, extending the driveway, and losing functional space. By granting this variance, we will be able to rebuild the structure as it was previously, in alignment with other properties in the area, without causing any negative impact to neighboring properties or public welfare.”

**Do you have Homeowners Association approval for this request?**

“Yes, the Homeowners Association has no objections to this request. I spoke with the HOA, and they confirmed that if the county approves the variance, they will also approve it. They see no issue with using the proposed materials or rebuilding the RV cover in its original location. Since other properties in the community have the same setbacks, there is no reason to deny this request. Additionally, this structure is an RV cover, not a primary residence, so it does not impact the overall residential use of the property.”

## Applicant’s Justification

Land Use Hearing Officer  
Variance/ANI