

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

DRC Date:	October 10, 2024	CASE #:	LDLVAR-2024-55 (Ritter Road Swiss Valley Clubhouse)
LUHO Date:	November 12, 2024	LDC Section:	Section 224 Table 2.4

Request: The applicant is requesting a variance to allow separation reduction for a Private Club Liquor Service (11C License) within 2,500 feet of Religious Institutions and a School.

Applicant: Jeffrey Scallon

Property Owner: VISCA Corporation Inc

Location: 1527 Ritter Road, west of Highway 98, south of Banana Road, east of Chase Road, north of Lakeland, in Section 11, Township 27, Range 23.

Parcel ID#: 232711-000000-024040 & 232711-000000-024070

Size: ±15 acres

Land Use Designation: Residential Low-4 (RL-4)
LDPD-2023-10

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Erik Peterson, AICP

Summary:

The applicant is in the process of developing a luxury mobile home park in north Lakeland and desires to serve beer, wine, and liquor at the park’s clubhouse. The applicant is applying for a private club liquor sales license (11C) for the clubhouse. However, there are two religious institutions and an elementary school within 2,500 feet of the property. Section 224 of the Land Development Code (LDC) prohibits the sale of liquor beverages within 2,500 of a religious institution or a Kindergarten through 12th grade public or private school. Through LDC Section 930, a property owner (or agent of) may request a variance to the 2,500 feet of separation from the Land Use Hearing Officer.

The applicant chose this site because of its location near urban services and environmental qualities. A stream runs through the property, all utilities needed were available, minutes away from parks, schools, and shopping centers. The thought to provide alcohol beverages at the clubhouse came from visitors and prospective residents. The applicant did not realize the close proximity to schools would stand in the way of enhancing the amenities within the development. The applicant considered carving out the clubhouse into a separate parcel, but that requires other

special approvals and could affect insurance or financing. The variance process seemed to be the best option.

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** because the need for a variance is unnecessary if the property is subdivided and other similar facilities such as golf course clubhouses are exempt from the separation requirements.
- **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 the applicant is seeking a unique and atypical license for what staff believes was not intended to be limited by the ordinance.

Staff recommends approval of a variance to reduce the requirements for separation from religious institutions from 2,500 feet to any distance that will enable the mobile home park clubhouse to provide its residences with an alcohol beverage service option.

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-2024-55**, with the following conditions:

CONDITIONS OF APPROVAL:

1. A variance shall be granted to the clubhouse and associated onsite recreational facilities for on-premises alcohol consumption separation distance requirements from K-12 schools and Religious Institutions listed in Section 224 of the LDC.
2. The property owner(s) is responsible for compliance with any further restrictions of record pertaining to the property 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;*

Not all alcohol licenses issued in Polk County require a separation distance from K-12 schools and religious institutions. Restaurants larger than 2,500 square feet and with seating capacity above 150 are exempt and so are clubhouses at a golf course. It's easier to understand why the separation distance may be needed between bars, lounges, nightclubs and liquor stores. There is some history behind those types of uses and their notable incompatible qualities. However, private clubs within residential developments are very similar to golf course clubhouses and often on in the same. Therefore, staff finds granting the variance will be in accordance with the general intent and purpose of this Code.

If the applicant had chosen to plat the mobile home park, the clubhouse would have been a smaller parcel, and its boundaries would most likely be out of range of a school or religious institution. The simple action of redrawing property lines would render this request unnecessary. It is primarily for that reason staff find this the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Staff recommends no specific distance conditions or time limits for this reason as well. This provides flexibility if the applicant needs to wait until upcoming phases are completed before seeking the license approval or if the serving of alcohol beverages at the clubhouse is dormant for any period.

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 applicant is seeking an atypical alcohol beverage license. Most often it is restaurants and bars that seek relaxation in the separation distance between schools and religious institutions. The license request is for an 11C license that provides all types of alcohol beverages to private clubs (i.e. social, fraternal, recreational, etc.). There will be no storefront and parking at the clubhouse is limited since it is within walking distance of every space in the park. It's not common that a variance is needed in typical residential developments because the clubhouse is usually on a separate parcel within the larger area of the development. This private clubhouse license request is for a mobile home park which has one large parcel. Since the separation distance is measured from property line to property line, there is less distance between the parcel boundary of the alcohol use and the offsite schools and religious institutions. If the linear distance from the clubhouse to the

nearest religious institution and school were measured, it would be farther away than the 2,500 feet of separation requirement.

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

The applicant chose this site because of its location near urban services and environmental qualities. A stream runs through the property, all utilities needed were available, minutes away from parks, schools, and shopping centers. The thought to provide alcohol beverages at the clubhouse came from visitors and prospective residents. The applicant did not realize the close proximity to schools would stand in the way of enhancing the amenities within the development. The applicant considered carving out the clubhouse into a separate parcel, but that requires other special approvals and could affect insurance or financing. The variance process seemed to be the best option.

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;*

An alcohol-distance variance for a private club is not necessarily granting a special privilege. Many residential developments within the County have private clubs within them. It's not common that a variance to these standards is needed because the clubhouse is typically on a separate parcel within the larger area of the development. This request is for a mobile home park which has one large parcel. Since the separation distance is measured from property line to property line, there is less distance between the offsite schools and religious institutions. If the linear distance from the clubhouse to the nearest religious institution and school were measured, it would be farther away than the 2,500 feet of separation requirement.

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 providing an upscale mobile home park living with themed events for the residents. Recreation facilities and amenities are a requirement of mobile home park development in Polk County. The applicant believes that having alcohol service at the clubhouse as an amenity helps promote the sales and rentals.

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;*

Liquor, Wine and Beer consumption on premises at private clubs may be approved in residential districts without limitations if there are no schools or religious institutions within 2,500 feet. This approval will not change the use of the land. The property will remain a mobile home park. The alcohol sales and consumption will be in the clubhouse as an amenity for the residents that is incidental and subordinate to the function or the park.

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.*

Granting this request will not circumvent any conditions of approval. The mobile home park was originally approved for 42 units under LDPD-2020-29 in November of 2020 and recently modified to add 11 more units under LDPD-2023-10 in August of last year. Conditions of approval granted setbacks from rights-of-way. There are no conditions regarding alcohol sales.

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

<p>Northwest: Residential Low-4 (RL-4) Settlers Creek Single-family Subdivision,</p>	<p>North: Residential Low-4 (RL-4) Settlers Creek Single-family Subdivision</p>	<p>Northeast: Residential Medium (RM) Sundance MHP 160 units</p>
<p>West: Residential Low-4 (RL-4) Settlers Creek Single-family Subdivision Large acreage lots Single-Family</p>	<p>Subject Property: Swis Valley Estates Mobile Home Park (MHP) Phase 1 constructed 4 units Clubhouse and Recreation amenities 53 units upon completion</p>	<p>East: Residential Medium (RM) Sundance MHP 160 units Southwinds MHP 35 units</p>
<p>Southwest: Residential Low-4 (RL-4) Large acreage lots Single-family and Mobile Homes</p>	<p>South: Residential Low-4 (RL-4) Large acreage lots Single-family and Mobile Homes</p>	<p>Southeast: Residential Low-4 (RL-4) Country Chase Single-family Subdivision 64 units</p>

The abutting uses are mobile home parks to the east, residential subdivisions to the south and west with large acreage lots interspersed. The large residential lots developed prior to the extension of urban services in the area. The denser mobile home parks to the east developed originally on their own water and wastewater systems and later connected to public water and wastewater systems as lines were extended.

R. Clem Churchwell Elementary School is approximately 2,300 feet from the mobile home park boundary linear distance from property line to property line (*as the crow flies*). Travel distance via roadways in over one mile driveway to driveway. Grace Pointe Church is within 1,700 feet of linear distance property from line to property line. The travel distance is approximately one mile.

Comments from other Governmental Agencies:

None.

Exhibits:

Exhibit 1 – Location Map

Exhibit 2 – 2023 Aerial Context

Exhibit 3 – Future Land Use Map

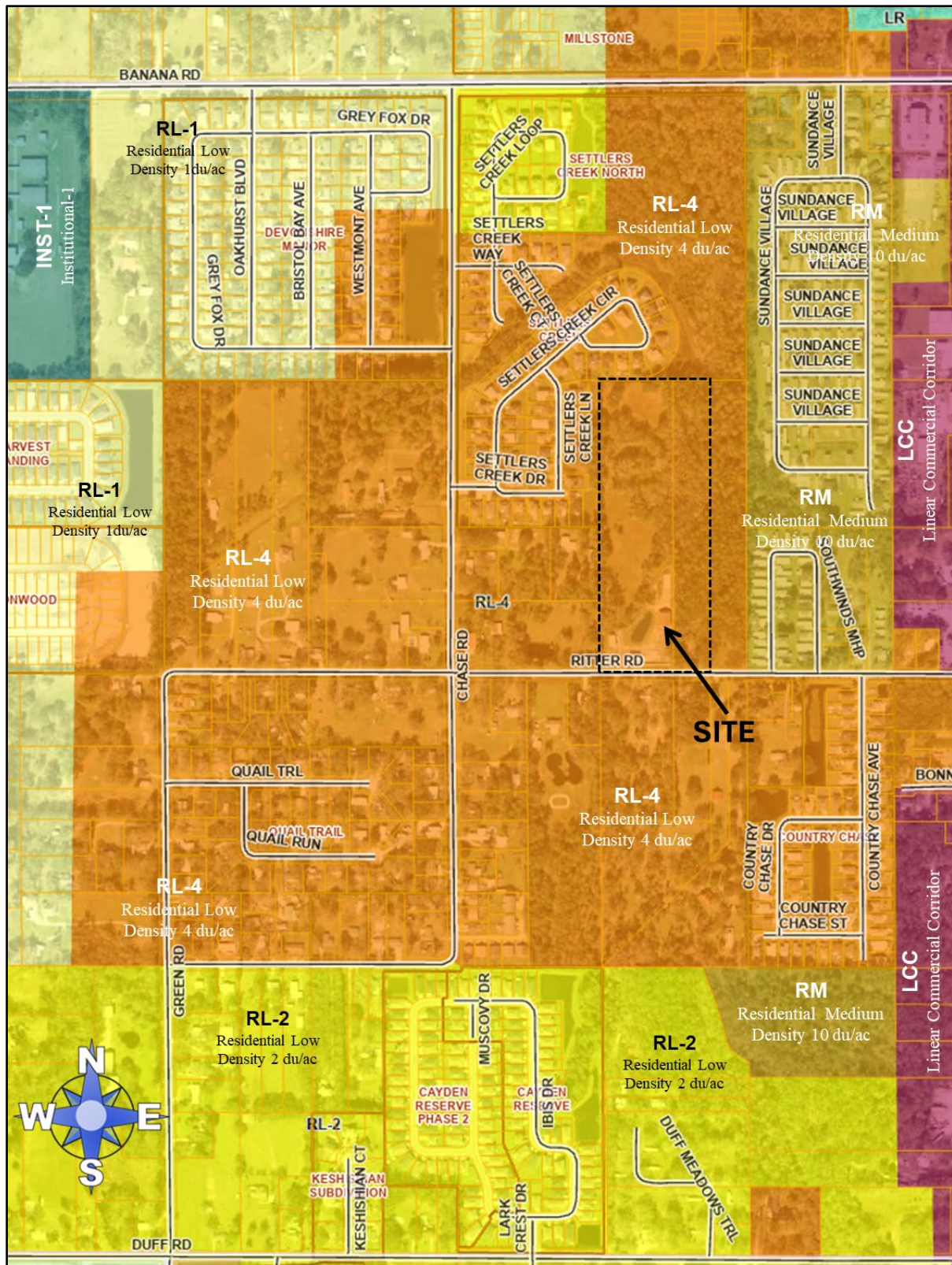
Exhibit 4 – 2023 Aerial Close-up



LOCATION MAP



2023 AERIAL CONTEXT



Future Land Use Map



2023 Aerial Photo (Close-up)

CRITERIA FOR GRANTING VARIANCE

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

No it will absolutely not.

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

Our property is very long and the portion where the clubhouse is where we would serve beverages is almost 3000 ft away from the property line of the school.

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

We purchased in 2020 and the structure was built in 2021

What is the hardship if the variance is not approved?

We will not be able to use our Swiss themed clubhouse as originally intended. We spent a great deal of funds creating what we had hoped would be a place where we could share our cultural heritage with the community in a family friendly environment. If denied, we would be prevented from doing this, and this is an integral part of our business plan.

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

Yes it is. As mentioned we have built a Swiss themed community and celebrating certain events like Oktoberfest requires the ability to serve beverages to our clients.

Do you have Homeowners Association approval for this request?

No.

Applicant's Justification