

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

DRC Date: October 10, 2024	CASE #: LDLVAR-2024-43 (Shim Variance)
LUHO Date: November 12, 2024	LDC Section: PUD 73-28

Request: The applicant is requesting a reduction of the primary structure ROW setback from 15 feet to 7 feet for the development of a double-wide manufactured home and RV port.

Applicant: Jacqueline Shim

Property Owner: John and Diane Shim

Location: The subject property is located at 5017 Northshore Dr, north of Interstate 4, south of Commonwealth Avenue SW, east of Highway 33 N, west of Berkley Road, enclosed by Polk City in Section 06, Township 27, Range 25.

Parcel ID#: 252706-298365-000570

Size: ±0.19 acres

Land Use Designation: Residential Low-1X (RL-1X)

Development Area: Utility Enclave Area (UEA)

Case Planner: Kyle Rogus, Planner I

Summary:

The applicant is requesting a reduction of the primary structure right-of-way setback from 15 feet to 7 feet for the development of a double-wide manufactured home and attached RV port. The subject property is the corner lot where Northshore Drive splits, creating two right-of-way setbacks of 15 feet as opposed to two side setbacks of 6.5 feet, limiting potential development. The shape of the property also limits development within the right-of-way setbacks of the property. A previous right-of-way variance was approved for the property directly north of the subject site. Unlike the previous variance, the applicant does have the Homeowners Association (HOA) approval for seeking this variance. The property is within a Residential Low-1X (RL-1X) future land use in the Green Swamp Area of Critical State Concern and Polk City Special Protection Area. Pursuant to the Mount Olive Shores Estates PUD 73-28, the primary setback for the front yard is 15 feet.

Staff finds this request will cause no direct or indirect harm to the community. The subject parcel is in a residential land use surrounded by lots of similar size with RV ports and mobile homes. The double wide will be placed within 15 feet of Northshore Drive on the west side of the driveway

(see Exhibit 5) and will have a slight encroachment of less than one (1) foot into the 10' utility easement dedicated to the HOA.

Staff recommends approval of LDLVAR-2024-43 as it meets the following criteria listed in Section 931:

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 request will not block or limit the view of traffic. There will be no fire hazard or encroachment on public easements.

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 irregularly-shaped lot with the two road frontage setbacks are restrictive. The small lot size affects the use of the lot without the relief from setbacks.

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-2024-43**

CONDITIONS OF APPROVAL:

1. The approval of this variance is to reduce the primary structure right-of-way setback from 15 feet to 7 feet for the development of a double-wide manufactured home and RV port. Further additions or structures placed on the property shall be required to meet the setback requirements of PUD 73-28 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. 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.

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 request is for a reduction of the primary structure right-of-way setback from 15 feet to 7 feet for the development of a double-wide manufactured home and attached RV port. The RV port meets the setbacks where it is currently located, but is included in the request because it is attached to the primary structure. The variance is only for the southwest corner of the mobile home as it protrudes in the in the right-of-way setback due to the irregular shape of the lot and nature of the roadway. The dimensions of the double-wide mobile home will be approximately 28.8 feet in width and 56 feet in length. The dimensions of the RV port will be 17 feet in width and 65 feet in length. The granting of this request will not be injurious to the area as the mobile home will not block the view of traffic. The reduced setback distance will not diminish the safety of the public and area involved.

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 is located in the Residential Low-1X (RL-1X) land use district, the Green Swamp Area of Critical State Concern, and the Polk City Special Protection Area on approximately 0.19 acres. According to the Mount Olive Shores Planned Development (PUD 73-28), the planned development was approved for 15 feet right-of-way setbacks, 7.5 feet side setbacks, and 15 feet rear setbacks. Later, a minor Planned Development modification was approved for 6.5 feet side setbacks. The corner lot and nature of the roadway creates a non-uniform lot shape limiting future development. The lot is 0.19 acres, which is below the 1-acre minimum residential lot area in the Residential Low-1X land use district. Because of the small size of the lot, the setbacks restrict further development without impeding on the 15 foot right-of-way setback. The mobile home will be within the 15 foot right-of-way setback and the private utility easement on the west side of the property off Northshore Drive.

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

The owner purchased the property in July 2024, according to the Polk County Property Appraiser. The non-uniformed shape and lot sizes within the Mount Olive Shores Planned Unit Development place a burden on the reasonable use of this land. The subject site is located on the corner of Northshore Drive, where the road splits creating two road frontages. The nature of the road creates an non-uniform right-of-way setback on the west side of the property. If the lots and roadway were developed in a uniformed pattern, there would be no need for a variance request. The owner may not have been aware of the right-of-way setbacks. Without this variance, it would be difficult to develop on this 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;*

Every variance approval is a special privilege to some degree. The non-uniformed shape of the corner lot and right-of-way setbacks create a hardship when developing on this property without relief from the right-of-way setbacks. Placement of mobile homes are subject to Section 303 and meets these requirements.

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. The property is one of the few corner lots in the Mount Olive Shores Planned Unit Development and is therefore subject to two ROW setbacks. Without the variance, constructing a double wide mobile home and RV port would be difficult due to the 15 feet right of way setbacks and is below the Residential Low-1X minimal lot size area. The Homeowners Association (HOA) has granted approval and is pending County approval.

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. The Mount Olive Shores Planned Development (PUD 73-28) was approved on January 15, 1973. On January 15, 1991 there was a minor modification of the Planned Unit Development to allow a reduction in side setbacks from 7.5 feet to 6.5 feet

in Phases 4 and 5. The Mount Olive Shores Planned Development allows for a 15 feet front right-of-way setback for primary structures. Land Development Code Section 930.B.18 allows variances to Planned Unit Developments.

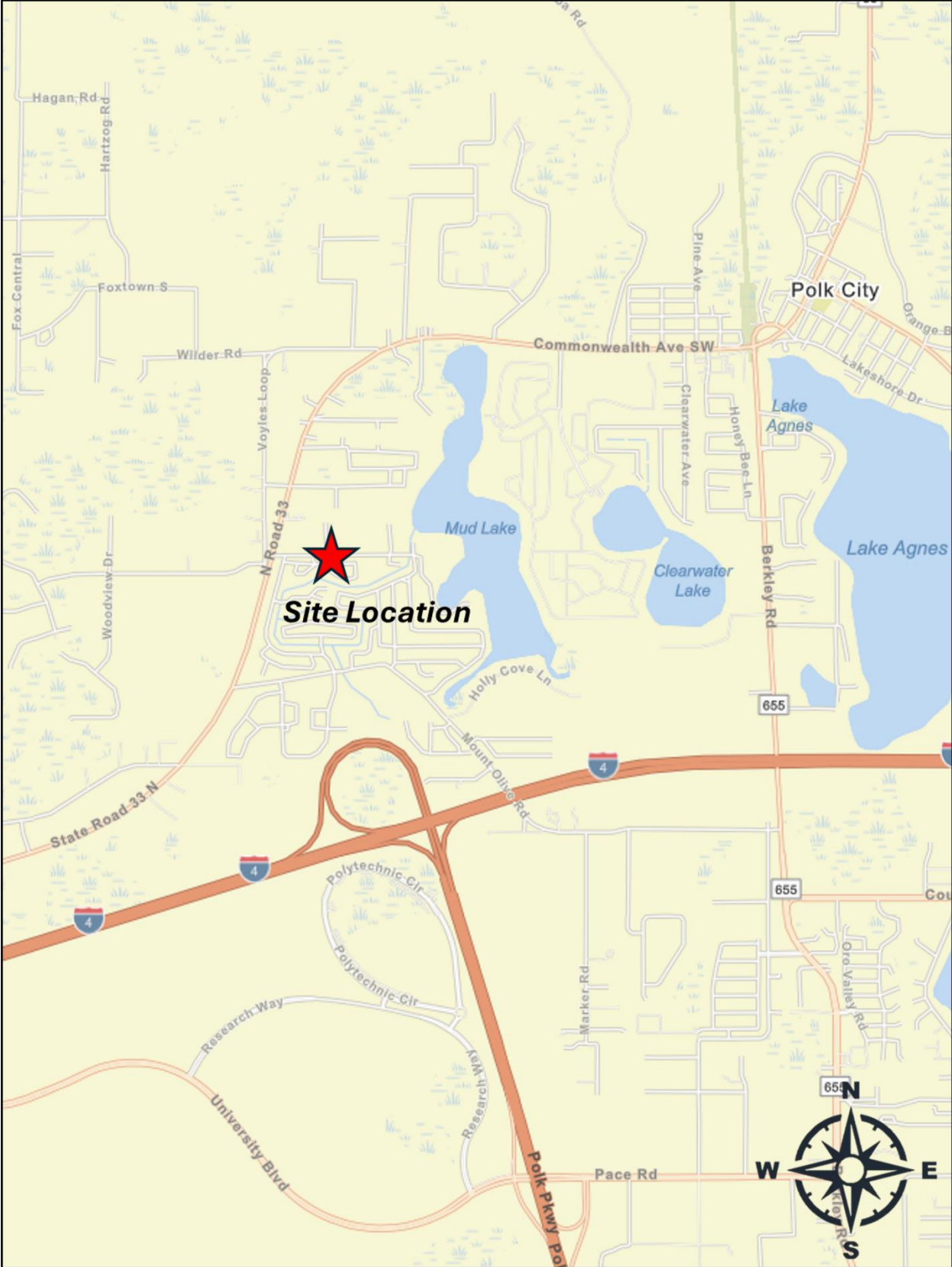
Surrounding Future Land Use Designations and Existing Land Use Activity:

<p>Northwest: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.28 acres</p>	<p>North: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.24 acres</p>	<p>Northeast: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.30 acres</p>
<p>West: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.32 acres</p>	<p>Subject Property: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.19 acres</p>	<p>East: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.16 acres</p>
<p>Southwest: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.32 acres</p>	<p>South: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.20 acres</p>	<p>Southeast: RL-1X Mount Olive Shores Phase 4 Mobile Home 0.20 acres</p>

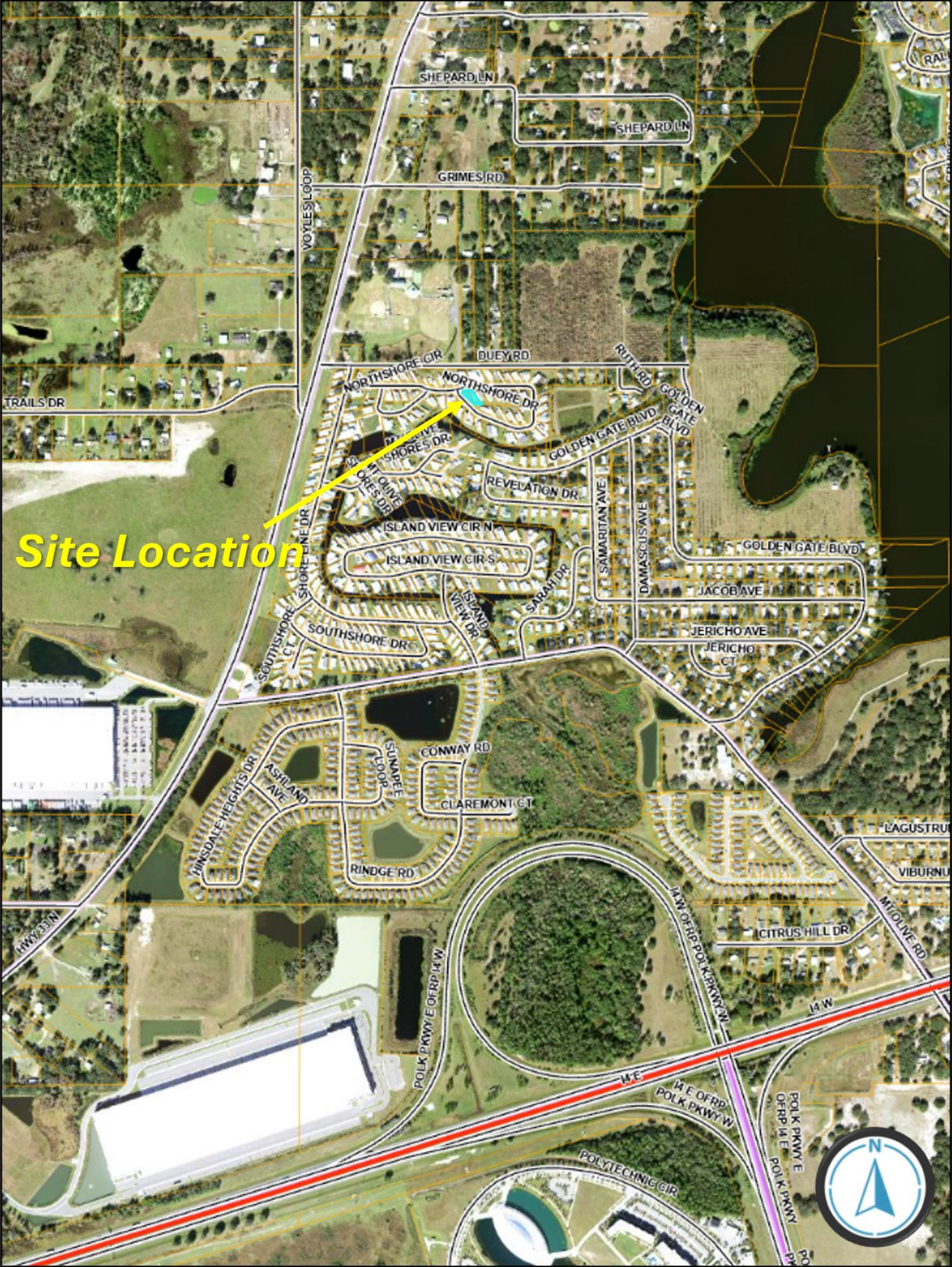
The subject site was created prior to the adoption of the Land Development Code documented by a 1974 Planned Unit Development (PUD 73-28) as part of Phase 4 (BK 91, PG 50-51). The owner purchased the property in July 2024, according to the Polk County Property Appraiser. There have been numerous variances granted in the Mount Olive Shores Planned Development. The most recent variance request was for the property to the north (LDLVAR-2024-41). Unlike the recent right-of-way setback variance that was approved directly to the north, the applicant does have Homeowners Association (HOA) approval and there is a minimal, less than a foot, encroachment into a private 10 foot utility easement dedicated to the HOA outside of the right-of-way. A water and sewer utility easement is inside the right-of-way and will not be impacted by the proposed development.

Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Imagery (Context)
- Exhibit 4 Aerial Imagery (Close)
- Exhibit 5 Site Plan
- Exhibit 6 Justification



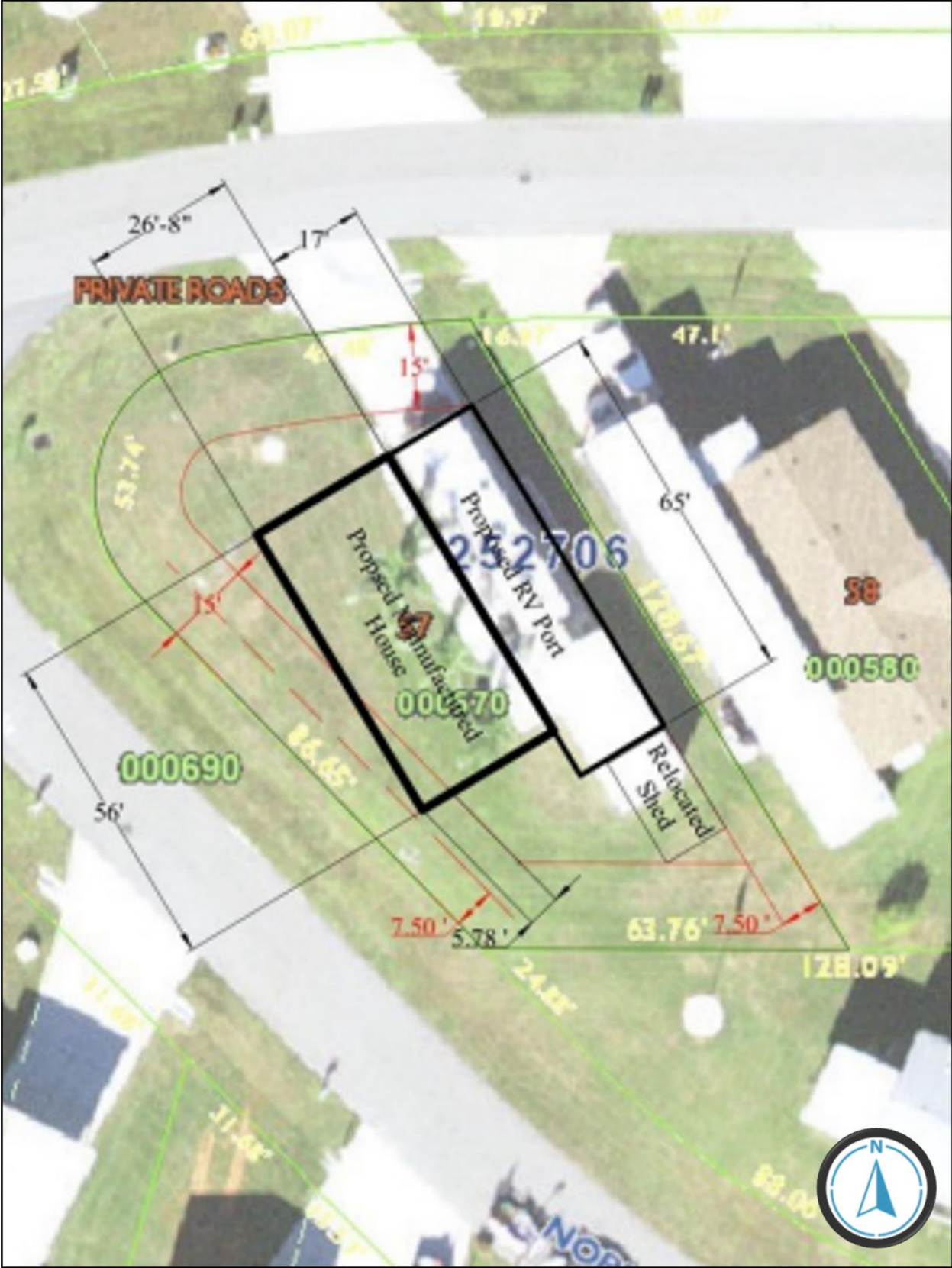
Location Map



Aerial Imagery (Context)



Aerial Imagery (Close)



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?

July 8 2024. No building yet. Only a small shed built in 1996 (10'x20'). No permit number.

What is the hardship if the variance is not approved?

I will not be able to put my home there. I won't be able to live on my property.

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

Yes

Do you have Homeowners Association approval for this request?

Yes

Justification