

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

DRC Date: April 9, 2026	CASE #: LDLVAR-2026-23 (Shepherd Road Variance)
LUHO Date: May 28, 2026	LDC Section: Section 208, Table 2.2

Request: The applicant is requesting a variance to reduce the right of way setback from thirty-five (35) feet to fifteen (15) feet for a new dental office.

Applicant: Ricardo Jimenez

Property Owner: O Shepherd Road Land Trust

Location: North of Shepherd Rd, east of Shepherd Oaks Dr, west of Old Hwy 37, northwest of the city of Mulberry in Section 23, Township 29, Range 23.

Parcel ID#: 232923-000000-042010

Size: ±1.7 acres

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

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Aleya Inglima, Planner II

Summary:

The applicant is requesting a variance to reduce the right of way setback from thirty-five (35) feet to fifteen (15) feet for a new dental office. The property was established prior to the Land Development Code and Comprehensive Plan. It is part of PUD 83-17 which allows the property to have commercial (C-1) uses. The property has always been vacant and never developed. There is limited space to add a new office within the current footprint without a variance due to the private roadway going through the parcel, wetlands, a curb inlet, and a new lift station being placed by Polk County Utilities. The right-of-way setbacks established in RL-1 land use districts are set at thirty-five feet for urban collector roads.

Staff finds this request will cause no harm to the community or neighbor. The subject parcel is surrounded by commercial and residential uses. Since the property has physical limitations, the reduction in setbacks will help the new office fit on the property without affecting the wetlands and lift station easement.

Staff recommends approval of LDLVAR-2026-23 as it meets the following criteria listed in Section 931:

- **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 property has physical limitations such as wetlands the building needs to stay out of, there is a curb inlet west of the property, and Polk County Utilities has a lift station easement taking up a portion of the property.

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-2026-23 with conditions.**

CONDITIONS OF APPROVAL:

1. The property is approved for a variance to reduce the right of way setback from thirty-five (35) feet to fifteen (15) feet for a new dental office. Further additions or structures placed on the property shall be required to meet the setback requirements of Section 208, Table 2.2 of the Polk County Land Development Code 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;*

Granting the requested variance will not be injurious to the surrounding area or detrimental to the public welfare as surrounding commercial uses are closer to Shepherd Road. The requested variance is consistent with the general intent of the Land Development Code to allow reasonable use of the property. The variance will allow the new office to stay out of the wetlands and allow Polk County Utilities to provide a lift station. Many of the surrounding parcels were developed prior to the Land Development Code and Comprehensive Plan. The property is located off a private road, and in a Residential Low-1 (RL-1) future land use district. The right of way setbacks established in RL-1 land use districts are set at thirty-five feet for collector roads.

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 property has physical limitations which has affected its development over the years. This is the last remaining vacant property from the development of Le Mans. Le Mans Apartments has a private roadway taking up a portion of the parcel, there are wetlands, a curb inlet, and a new lift station being placed by Polk County Utilities. This makes it difficult to accommodate structures in compliance with current setback requirements.

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

The need for a variance is not solely the result of the owners' actions. The property has wetlands, an existing curb inlet taking up a portion of the property, Le Mans Apartments roadway takes up a portion east of the property, and a new Polk County Utilities lift station is being added. These all make a new building placement difficult without a variance.

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. The request represents reasonable accommodation for the property's limited space and physical limitations.

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

The requested reduction of the right-of-way setback from thirty-five (35) feet to fifteen (15) feet for a new office represents the minimum variance necessary to allow reasonable use of the property. Given the parcel's limitations and new lift station from Polk County Utilities, adherence to setback requirements would prevent placement of any new structures.

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;*

Approval of this variance will not result in a change of land use. The property will remain designated as Residential Low (RL-1) land use district.

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.*

Granting this variance will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BoCC. PUD 83-17 did not specify any setbacks or preclude the outparcel from seeking a variance.

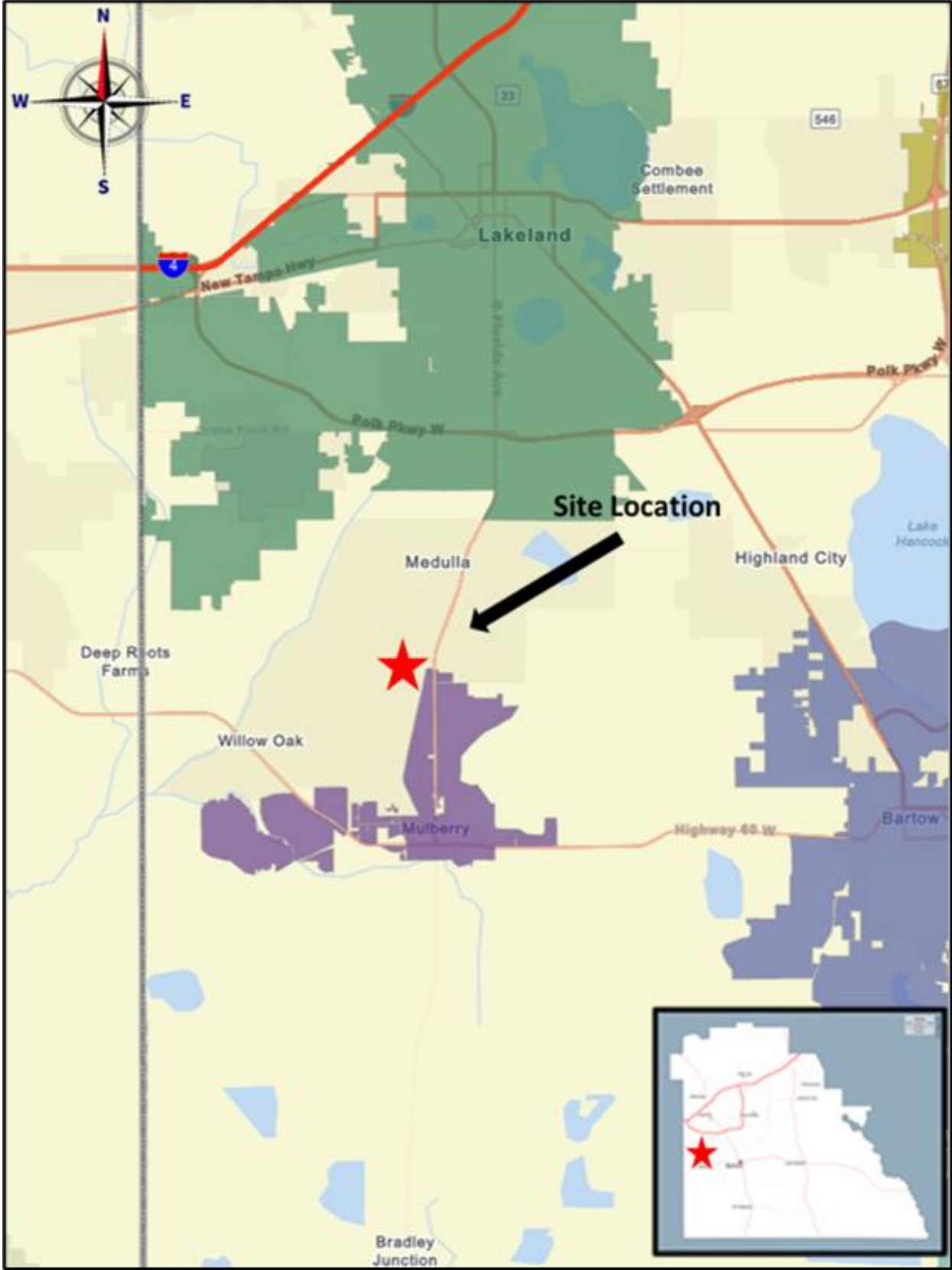
Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: RL-3 Single family homes	North: RL-1 Multi-family	Northeast: RL-1 Multi-family
West: CAC Posh Salon	Subject Property: RL-1 Vacant	East: RL-1 Multi-family
Southwest: Shepherd Road	South: Shepherd Road	Southeast: Shepherd Road

The new office building will be located within the front of the parcel near Shepherd Road and Le Mans Apartment Road. Staff found no prior variances in this area. PUD 83-17 was approved for C-1 uses from the former zoning ordinance, but later retail uses were prohibited leaving offices, personal service, and clinics (see exhibit 7).

Exhibits:

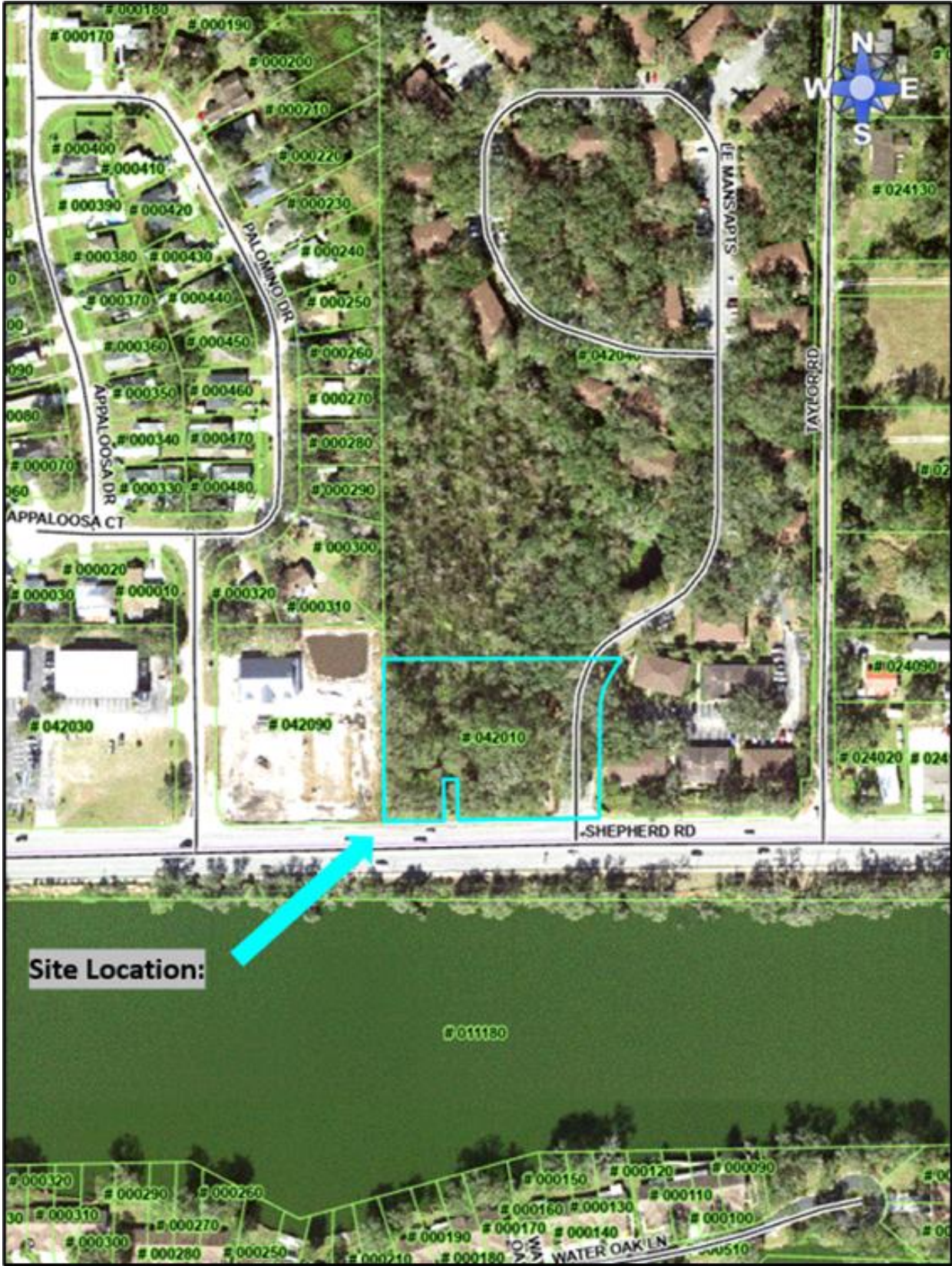
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Imagery (Context)
- Exhibit 4 Aerial Imagery (Close)
- Exhibit 5 Site Plan
- Exhibit 6 Justification
- Exhibit 7 C-1 Uses



Location Map



Future Land Use Map



Aerial Imagery (Context)



Site Location:

Aerial Imagery (Close)

CRITERIA FOR GRANTING VARIANCE

Will the variance be injurious to the area involved or detrimental to the public welfare?
 We do not expect any damage or issues to the public, this variance is beneficial to Polk County Utilities

What special conditions exist that are peculiar to the land, structure, or building involved?
 That the proposed building will be in close proximity to the lift station and Polk County Utility has requested/ would benefit from the relocation of the lift station

When did you buy the property and when was the structure built? Permit Number?
 February 2024, no structures currently reside on the property.

What is the hardship if the variance is not approved?
 Conflicts with utilities may arise.

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

Do you have Homeowners Association approval for this request?
 N/A

Justification

SECTION 5.6C COMMERCIAL (C-1) DISTRICT - NEIGHBORHOOD COMMERCIAL:

C-1 Districts are established to provide areas for commercial trade and services oriented to serving the needs of the immediate neighborhood.

1. Permitted Uses:

a. Retail Establishments such as:

Apparel and Accessory Stores
 Food and Grocery Stores
 General Merchandise Stores
 Hardware Stores
 Specialty Shops including Drug Stores, Florist Shops, and Gift Shops

b. Personal Service Establishments such as:

Barber and Beauty Shops
 Dry Cleaning including Pickup and Delivery Service
 Garment Alteration and Repair including Tailors and Seamstresses
 Laundering and Dyeing Services
 Shoe Repair Shops
 Studios for Artists, Dancers, and Photographers

c. Offices

d. Clinics

e. One (1) Single Family Dwelling Unit in conjunction with the operation of a business on the premises, provided the dwelling unit is constructed as an integral part of the principal building

f. Uses similar to or customarily accessory to the uses listed previously, provided such uses do not appear as additional permitted uses in Commercial C-2, C-3, or C-4 Districts

g. Class I and II Agricultural Uses

h. Class I and II Essential Services

2. Conditional Uses:

a. Class III Agricultural Uses

b. Class III Essential Services

c. Day-Care Centers

C-1 Uses