

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

DRC Date	February 13, 2025	CASE #:	LDLVAR-2025-4 (Rogers Variance)
LUHO Date	March 27, 2025	LDC Section:	Section 209.G

Project Number: LDLVAR-2025-4

Request: The applicant is requesting a 5,540 square-foot accessory structure to be 370 percent larger than the primary structure in a Residential Suburban (RS) land use district on approximately +/- 4.02 acres.

Applicant: Thomas Rogers

Property Owner: Thomas W. Rogers Jr.

Location: The subject property is located at 2710 Saddle Creek Road, south of Wilson Boulevard, north of Ralph Road, east of Combee Road North, west of Dell Rose Drive West, east of the City of Lakeland in Section 03, Township 28, Range 24.

Parcel ID#: 242803-000000-043120

Size: ±4.02 acres

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

Development Area: Suburban Development Area (SDA)
Transit Supportive Development Area (TSDA)

Case Planner: Andrew Grohowski, Planner II

Summary:

The applicant is requesting a variance to allow an accessory structure to be larger than the primary structure in the Residential Suburban (RS) land use district. Specifically, the applicant is requesting a variance for a 5,540-square foot structure that is larger than the 1,496-square foot primary structure on site. The proposed two-story garage is replacing an old barn intended to be demolished (permit # BT-2025-1791). Per Section 209.G of the Polk County Land Development Code (LDC), accessory structures are customarily associated with, subordinate in size, and incidental in use to the principal structure located on the same site. However, an accessory structure may be permitted up to 150% of the height of the principal structure and up to 2,000 sq. ft. or 150% of the principal structure square footage, whichever is greater on properties larger than 2 acres. The proposed two-story structure is 370% of the primary house square footage, therefore requiring an approval of a variance from the Land Use Hearing Officer pursuant to Sections 930 and 931 of the LDC.

The proposed garage is 30 feet above grade including the foundation while the residence is 14' high. This new garage is 214% of the primary structure's height and will be setback about 75' from the Wilson Acres subdivision to the north and over 400' from the single-family residences to the east. The property is in both the Residential Suburban (RS) and Residential Low (RL-1) land use districts due to portions of the site being situated in different development areas. The proposed garage will be located in the RS land use district.

Staff recommends approval as the significant amount of acreage owned by the applicant, substantial accessory setbacks, and the 8-foot concrete wall reduce offsite visibility and potential intensity concerns of the 5,540 square-foot two-story garage.

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 location of the property and the manner in which the building will be placed minimizes the aesthetic appearance of the larger accessory structure. The storage of the applicant's agricultural equipment rather than out in the open is more aesthetically beneficial to the neighborhood.
- **Special conditions and circumstances exist which are peculiar to the land and structure** because the applicant is replacing a demolished barn from the 1970s which was also larger than 150% of the primary structure to house all equipment. The applicant must store these items somewhere indoors for security and longevity purposes. Unlike the former barn, the new storage will adhere to the LDC and all new building code requirements.

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-2025-4**, with the following conditions:

CONDITIONS OF APPROVAL:

1. The approval of this variance to Section 209.G of the Land Development Code to allow an accessory structure (5,540 square-foot garage) to be larger than the primary structure, as described in the staff report. Further additions or structures placed on the property shall be required to meet the setback requirements of 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 must apply for all necessary permits within one (1) year of the date for which the Land Use Hearing Officer's Final Order is rendered.
4. The use of the accessory structure approved herein is limited to the storage of items associated with the residential use of the 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;*

The subject parcel is slightly over four acres. The applicant recently demolished an old barn under permit # BT-2025-1791. The applicant intends to replace the old barn with a new garage in the same location. The proposed garage will be approximately 30 feet high and will be setback 75' from the rear and 179.5' and 401' from the sides. The RS district accessory setbacks are 5' side and 10' rear. The primary structure is 14' high.

The applicant owns twelve additional parcels in the general vicinity of the subject site which are divided among State Road 659 (Combee Road) and Saddle Creek Road. The thirteen parcels owned by the applicant consist of vacant land and multiple single-family residences with a combined total acreage of over 33 acres (See Exhibit 5). The garage is proposed to have two stories with windows on the second story. It will be setback about 75' from the Wilson Acres subdivision to the north according to the site plan (See Exhibit 7). The applicant constructed an 8-foot-high opaque concrete wall around three parcels north of Saddle Creek Road, including the subject site. The substantial setbacks as well as the concrete barrier minimizes the visual impacts of the larger garage as well as any privacy concerns with the abutting subdivision.

The now demolished barn existed since 1971 and had expansions in the early 1980s and late 1990s. It was 24' high and exceeded 150% of the principal structure's square footage and height. It was constructed prior to the adoption of the LDC. The proposed garage will be over three times the size of the primary structure. However, due to the large size of the lot, combined acreage of all properties, setback distances, and the concrete wall, this garage should not be as noticeable as it would be on much smaller lots in a regular subdivision. Granting the subject request will not be injurious to the area as the new garage replacing the old barn has been in the same location for over 50 years.

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;*

There are some special conditions and circumstances that exist which are peculiar to the land and structures involved. The property is in both the Residential Suburban (RS) and Residential Low (RL-1) land use districts due to portions of the site being situated in different development areas. Most of the site is located in the Suburban Development Area (SDA) while the southern portion is in the Transit Supportive Development Area (TSDA) (see Exhibit 2). The proposed garage will be in the SDA and the RS land use district.

Considering all thirteen properties owned by the applicant, the size of the primary structure relative to the total acreage of the properties is significantly different. The three contiguous properties owned by the applicant to the north of Saddle Creek Road, including the subject site, are over 11 combined acres and surrounded by an 8-foot-high opaque concrete wall. The garage will be setback more than 75 feet from the Wilson Acres subdivision to the north. These factors enable the larger accessory structure to be less noticeable from offsite.

The proposed structure will be approximately 30 feet above grade including the foundation. The original home on site is approximately 14 feet above grade. The closest neighbor to the proposed garage, located at 2737 Wilson Boulevard, is approximately 56 feet off their southern property line. The applicant's proposed accessory structure will about 75 feet off that line. Therefore, separation from the nearest dwelling will be over 130 feet in addition to the 8-foot-high opaque concrete wall.

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

The property has been in the family for more than 75 years. The special conditions and circumstances present in the request are a result of the applicant's choice to rebuild a storage structure on almost an identical building footprint. The applicant would like the garage to be located within the contiguous 8' concrete wall surrounding the three parcels north of Saddle Creek Road (see Exhibit 5). If they chose to relocate on another parcel within that wall, they would still have to request a variance due to the square footage exceeding 150% of the primary structure. Notwithstanding, the owner wants the new garage to be located within their 8-foot-high opaque concrete wall for security purposes and ease of access. The old barn that is being replaced was also 150% larger than the 14' high, 1,496-square foot primary structure on the subject site.

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;*

Staff has not received any applications for accessory structures larger than the primary in the immediate vicinity nor any other variance request within a one-mile radius of the site. The request is to construct a storage garage that will become 370% larger than the primary residence. While approval of this variance will grant the applicant a special privilege, there are other mitigating factors with regard to the location of the property. The total acreage of the owner's 13 properties, setbacks, and 8-foot concrete wall need to be considered. This is not a request to place a 5,540 square foot two-story garage on a small piece of property. The garage would exist on over 11 contiguous acres and be large enough to accommodate the owner's equipment to maintain the ±33-acre homestead.

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

The applicant oversees thirteen properties in the surrounding area totaling over 33 acres which is no small task. Three workers are employed to aid with the upkeep and ongoing maintenance of these properties. The new garage is replacing an old barn which has been essential for storing various agricultural equipment including but not limited to tractors, various lawn mowers, and a wheel loader. Sheltering these tools from the elements will extend their useful lifespan, protect from possible theft and be more aesthetically desirable to neighboring property owners and public rights of way. The storage building is also proposed at this location due to the enhanced security of the concrete wall and to closely monitor its contents. The proposal is 5,540 square-feet which is not dissimilar to the former barn located in almost the same footprint (see Exhibit 6). If they chose to relocate on another owned parcel within the wall (on either 2710 Saddle Creek Road or 2301 N Combee Road) they will still need a variance pursuant to Section 209.G of the LDC.

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 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. This property was zoned Rural Estates (RE-1) from the adoption of the original zoning map until the zoning ordinance was repealed in 2000 and replaced by the LDC Sub-district Map. It has never been granted any special use permit or conditional use approval.

Surrounding Future Land Use Designations and Existing Land Use Activity:

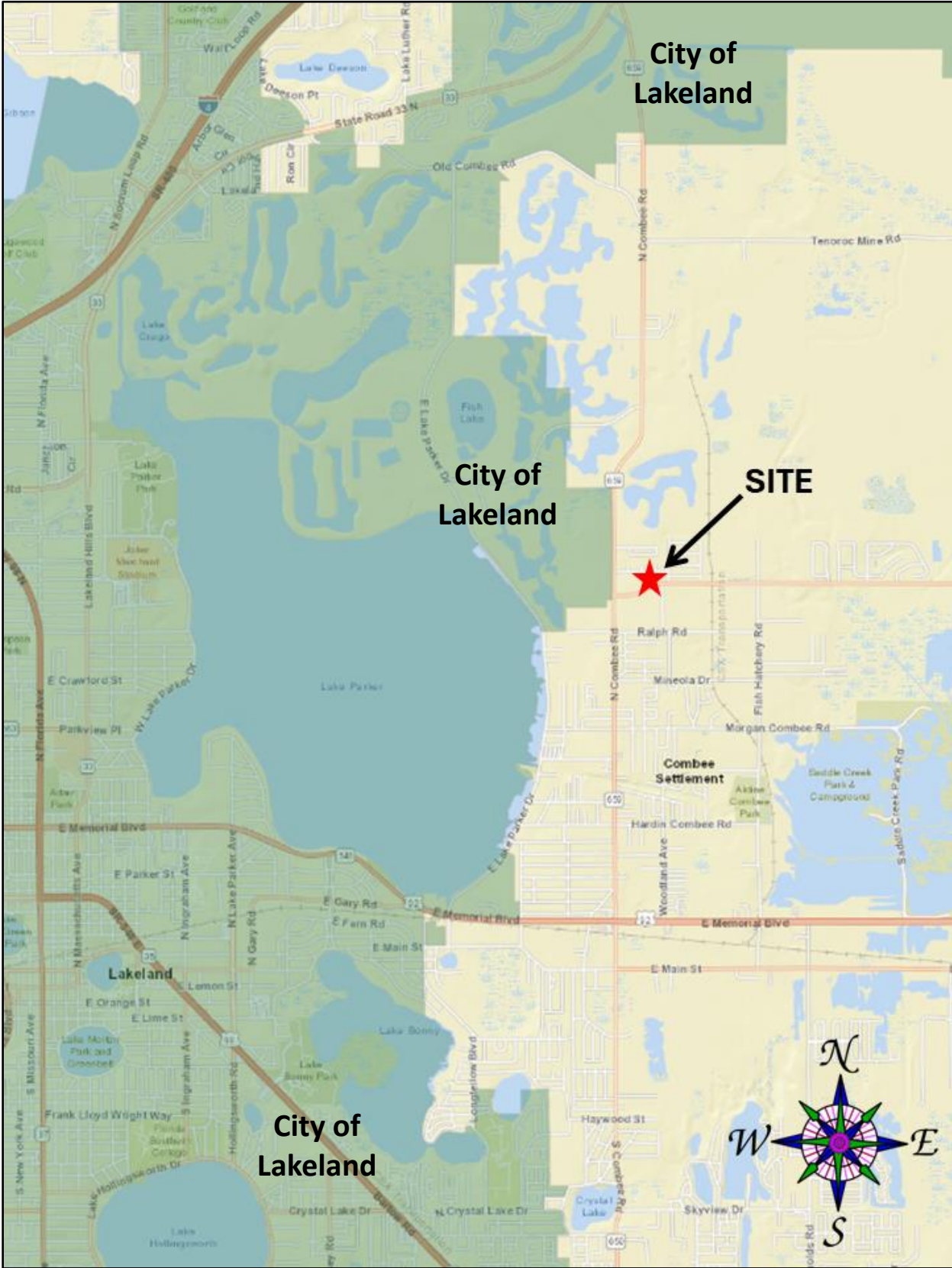
The table to follow provides details of abutting uses and their lot parameters.

<p>Northwest: RS Wilson Acres subdivision 2,141 sq. ft. single-family home ±11,325 sq. ft. lot</p>	<p>North: RS Wilson Acres subdivision 6 SFRs & one vacant lot ±11,400 sq. ft. lots and one ±22,800 sq. ft lot</p>	<p>Northeast: RS Wilson Acres subdivision 2 single-family homes ±11,000 sq. ft. lots</p>
<p>West: RS & RL-1 5,632 sq. ft. single-family home Owned by the applicant On ±3.74 acres</p>	<p>Subject Property: RS & RL-1 1,496 sq. ft. single-family home Owned by the applicant On ±4.03 acres</p>	<p>East: RS Wilson Acres subdivision 3 single-family homes On ±26</p>
<p>Southwest: RL-1 1,168 sq. ft. single-family home Owned by the applicant On ± 10.03 acres</p>	<p>South: RL-1 1,168 sq. ft SFR & 2 vacant lots Owned by the applicant On ±0.34 acres, ±675 sq. ft lot., & 1 acre</p>	<p>Southeast: RL-1 & BPC-1 Single family homes, mobile homes & vacant land</p>

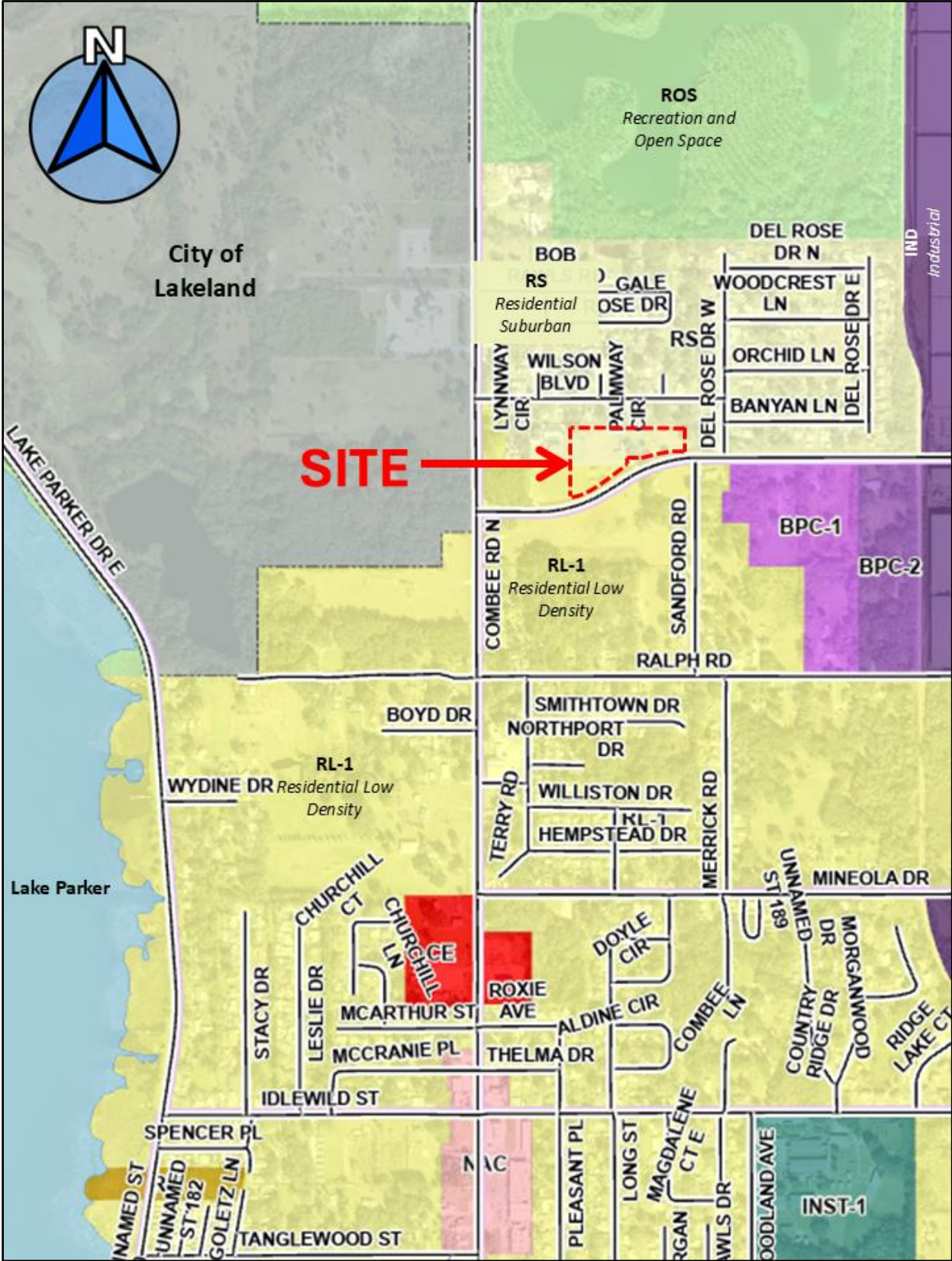
The surrounding properties consist of single-family residences. The western and southern properties are owned by the applicant. The home is bordered to the north and east by the Wilson Acres subdivision. Staff found no prior variances within one-mile radius of the site. The applicant owns a total of ±33 acres in the vicinity which require ongoing maintenance. That is why so much enclosed space is needed by the applicant for lawn maintenance supplies and vehicles.

Exhibits:

- Exhibit 1 - Location Map
- Exhibit 2 - Future Land Use Map
- Exhibit 3 - 2020 Aerial Photo (Context)
- Exhibit 4 - 2023 Aerial Photo (Close-up)
- Exhibit 5 - 2022 Oblique Aerial of Applicant’s Properties
- Exhibit 6 - 2024 Aerial with Site Plan
- Exhibit 7 - Site Plan
- Exhibit 8 - Applicant’s Justification



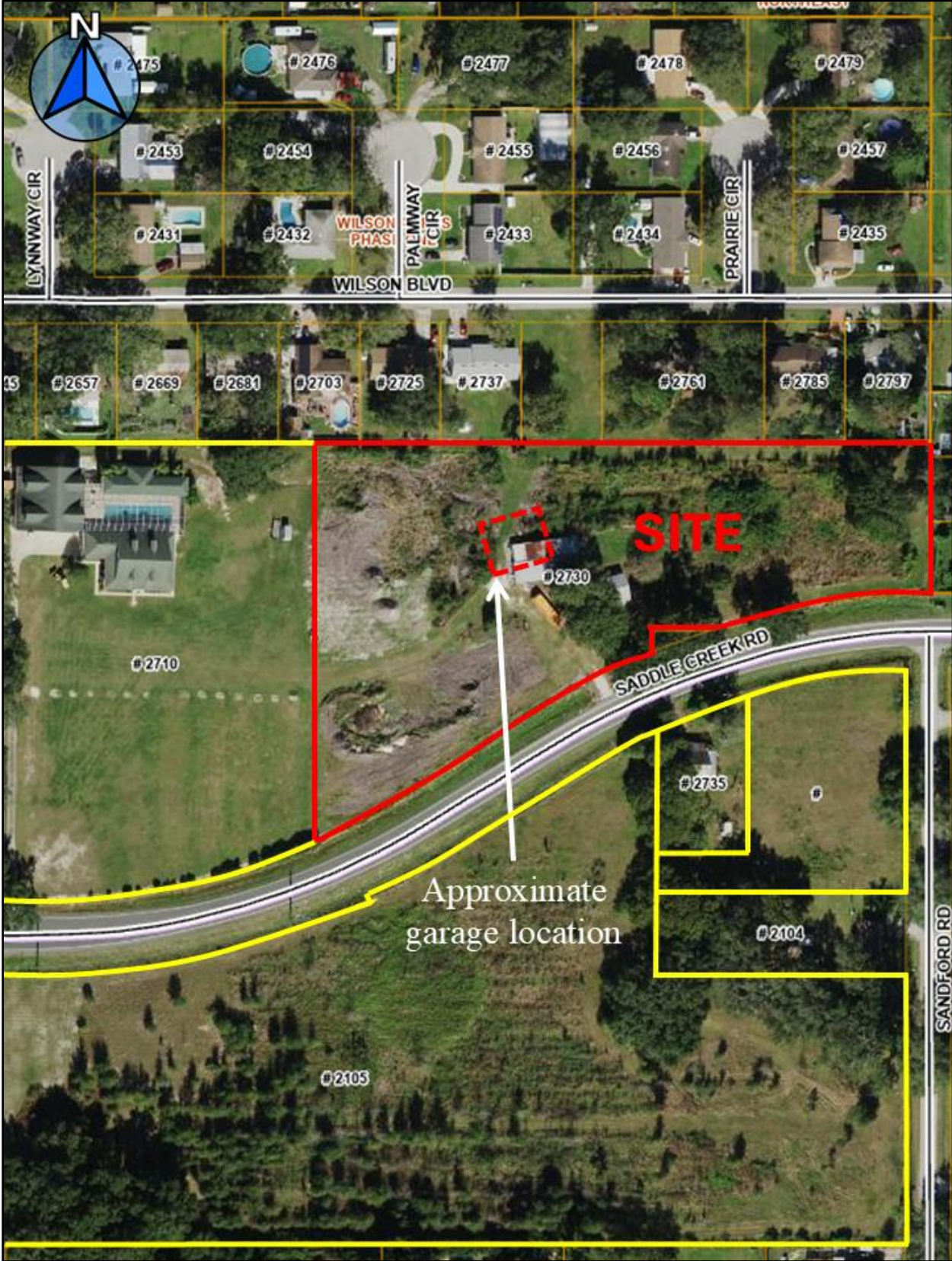
Location Map



Future Land Use Map



2020 Aerial Photo (Context)



2023 Aerial Photo (Close-Up)



2022 Oblique Aerial of Applicant's Properties



2024 Aerial with 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?

Property has been in the family my whole. It was passed down to me.
Built in the 1970s (unsure of exact date)

What is the hardship if the variance is not approved?

The equipment will be left outside in the open where weather will deteriorate. This building is needed to maintain the property.

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

Yes

Do you have Homeowners Association approval for this request?

Not needed

Applicant's Justification