

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

DRC Date	March 12, 2025	CASE #:	LDLVAR-2025-8 (Mather Road Variance)
LUHO Date	April 24, 2025	LDC Section:	209.G

Request: The applicant is requesting a variance to allow an accessory structure that is taller than the primary home.

Applicant: Chad L. Weeks

Property Owner: Chad L. Weeks

Location: 3920 Mather Road, east of Catherine Drive, west of Kathleen Road, north of Duff Road, northwest of Lakeland in Section 17, Township 27, Range 23.

Parcel ID#: 232717-000000-012150 (±1.82 acres)

Land Use Designation: Residential Suburban (RS)

Development Area: Suburban Development Area (SDA)

Case Planners: Ian Nance

Summary:

The applicant built a carport that exceeds the height of the single-family home onsite. LDC Section 209.G requires accessory structures to be subordinate in height to the primary structure. The Land Use Hearing Officer has the authority to grant a variance from this requirement.

The applicant built a carport on his property in 2019 without a permit. Upon applying for a permit, it was discovered the structure was taller (19') than the primary structure (12').

Staff recommends approval of this variance. This difference in height is minimal relative to the size of the property, size and height of the home, height of surrounding homes, and the maximum height allowed in the RS Future Land Use designation (50'). The open-sided carport is placed to the rear of the home, exceeds RS setbacks, and is used to house vehicles and boats. Staff finds that this request will not be injurious to surrounding neighborhoods or to the character of the area.

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-2025-8**.

CONDITIONS OF APPROVAL:

1. Approval of this variance is to allow the subject carport on Parcel ID #232717-000000-012150, as shown on the site plan (Exhibit 5) and described in this staff report.
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.

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;*

According to the applicant, a 30 x 35' (1,050 sq. ft.) carport was built on the ±1.82-acre residential property in 2019 without the necessary permits. Upon the application of a building permit (BR-2024-8635) following a Code Enforcement investigation (CMA-2024-1110), it was discovered that the height of the carport (19') exceeded that of the primary home (12').

LDC Section 209.G requires accessory structures to be subordinate in square-footage and height of the primary home. In this case, it is only the height being exceed. The square-footage of the carport is less than that of home (2,212 sq. ft.), according to the Property Appraiser.

Staff finds that the additional height of this carport will not be injurious to the area or detrimental to the public welfare. Despite the LDC allowing carports in front yards, this one is placed to the rear of the primary home, approximately 190-200 feet from Mather Road. It is approximately 45-50 feet from the eastern side property line; 80-90 feet from

the rear property line; and 160-170 feet from the western side property line. These all well-exceed the setbacks for detached accessory structures in the RS Future Land Use designation (5' Side/10' Rear).

Additionally, the structure is well-buffered from offsite by large oaks and other existing vegetation. It is open-sided and used to store vehicles, equipment, and boats, which often require increased heights and are not easily stored in standard garages. This home does have a side-loading garage.

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 subject property is in a RS land use district (*Exhibit 2*) which typically requires 5-acre minimum lot sizes. This parcel was created prior to the adoption of the Comprehensive Plan under a previous zoning ordinance (Rural Estates-1 zoning) when minimum lot sizes were 15,000 sq. ft. So, the acreage of this property has never been accurately mapped.

Still, this has little regard to the request. Most properties in this area are non-conforming to the RS. The subject home was built in 1966, according to information from the Property Appraiser. The maximum height for structures in RS is 50 feet, according to LDC Table 2.2.

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

The owner purchased this property in October 2017 and built the carport in 2019. According to records from the Codes case (CMA-2024-1110), the applicant believed the contractor had obtained the necessary permits. The applicant is working to rectify this situation and requires this variance to be issued a Building Permit.

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;*

Approval of this variance will not allow a structure or use that would not otherwise be allowed. Carports with foundations for the purpose of storing vehicles can be placed in front, rear, and side yards. They are permitted on residential properties as accessory structures once a primary residential structure has been built.

The matter is simply one of height relative to the style of the house. Surrounding this property are two-story homes or ones with steeper roof pitches that could have an accessory structure like what is being proposed without the need for a variance. This property is the only one on this block of Mather Road that requires a height variance for a carport as proposed with this application. Please see Table 1 below.

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 and build the structure as requested. LDC Section 209.G allows

accessory structures to be permitted up to 150% of the height of the principal structure with a minimum lot size of two acres. This property misses this acreage standard, but would require a variance anyhow, as 150% of a 12-foot-high home would only allow 18-feet in height for the accessory.

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 carport is open-sided and intended for storage. It would not serve any commercial purpose as presently constructed.

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 going 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.*

This site is not subject to any Planning Commission or BoCC conditions. It is not within a Planned Unit, Planned Development, or other Conditional Use.

Surrounding Future Land Use Designations and Existing Land Use Activity:

Table 1

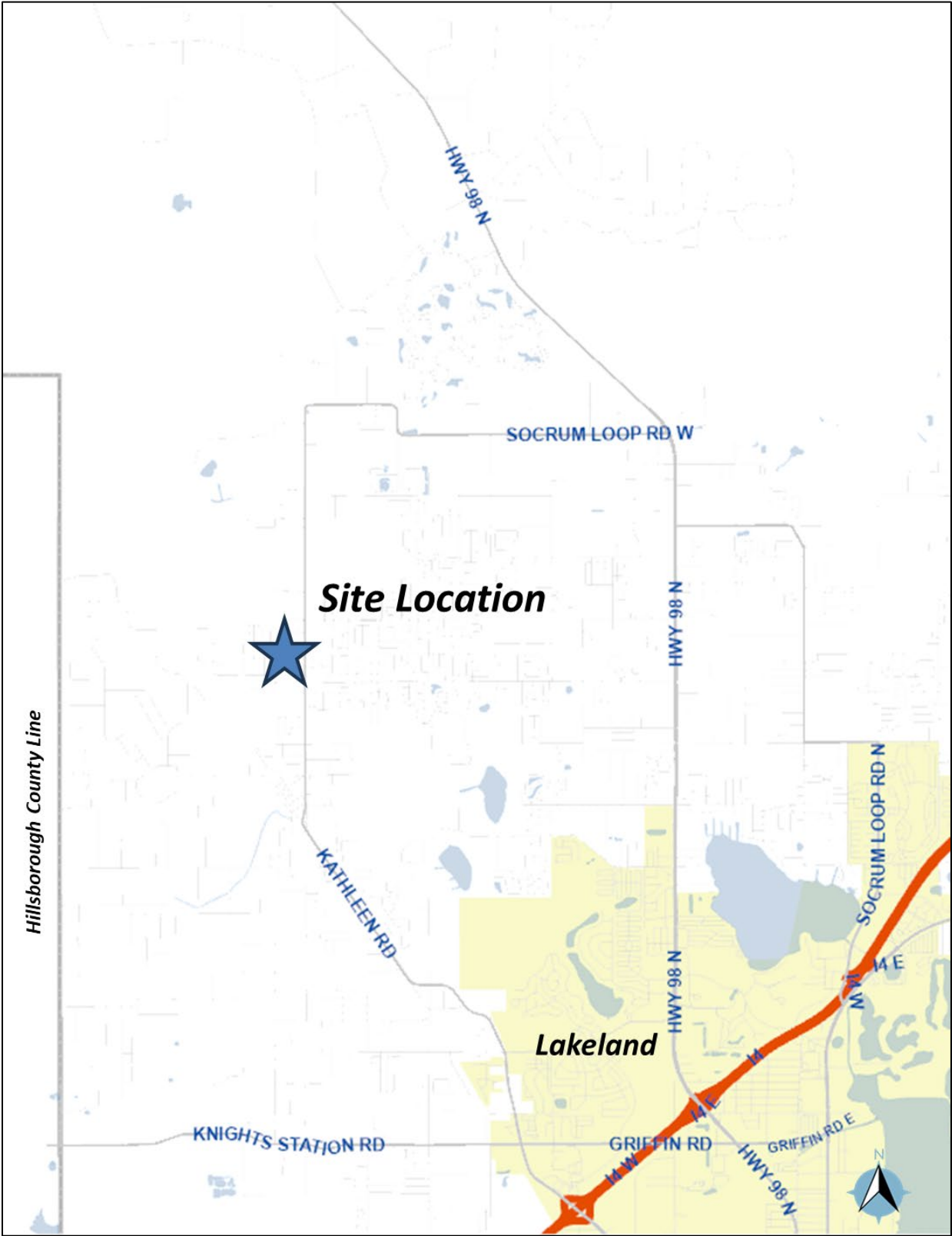
Northwest: RS One-Story Site-Built Home 4.89 Acres	North: RS Two-Story Site-Built Home 4.96 Acres	Northeast: RS Two-Story Site-Built Home 5.01 Acres
West: RS Two-Story Site Built Home 1.70 Acres	Subject Property: RS Single-Story Site-Built Home 1.82 Acres	East: RS Single-Story Site-Built Home 2.22 Acres
Southwest: RS Two-Story Site-Built Home*** 8.80 Acres	South: RS Two-Story Site-Built Home*** 8.80 Acres	Southeast: RS Two-Story Site-Built Home 2.73 Acres

***same property

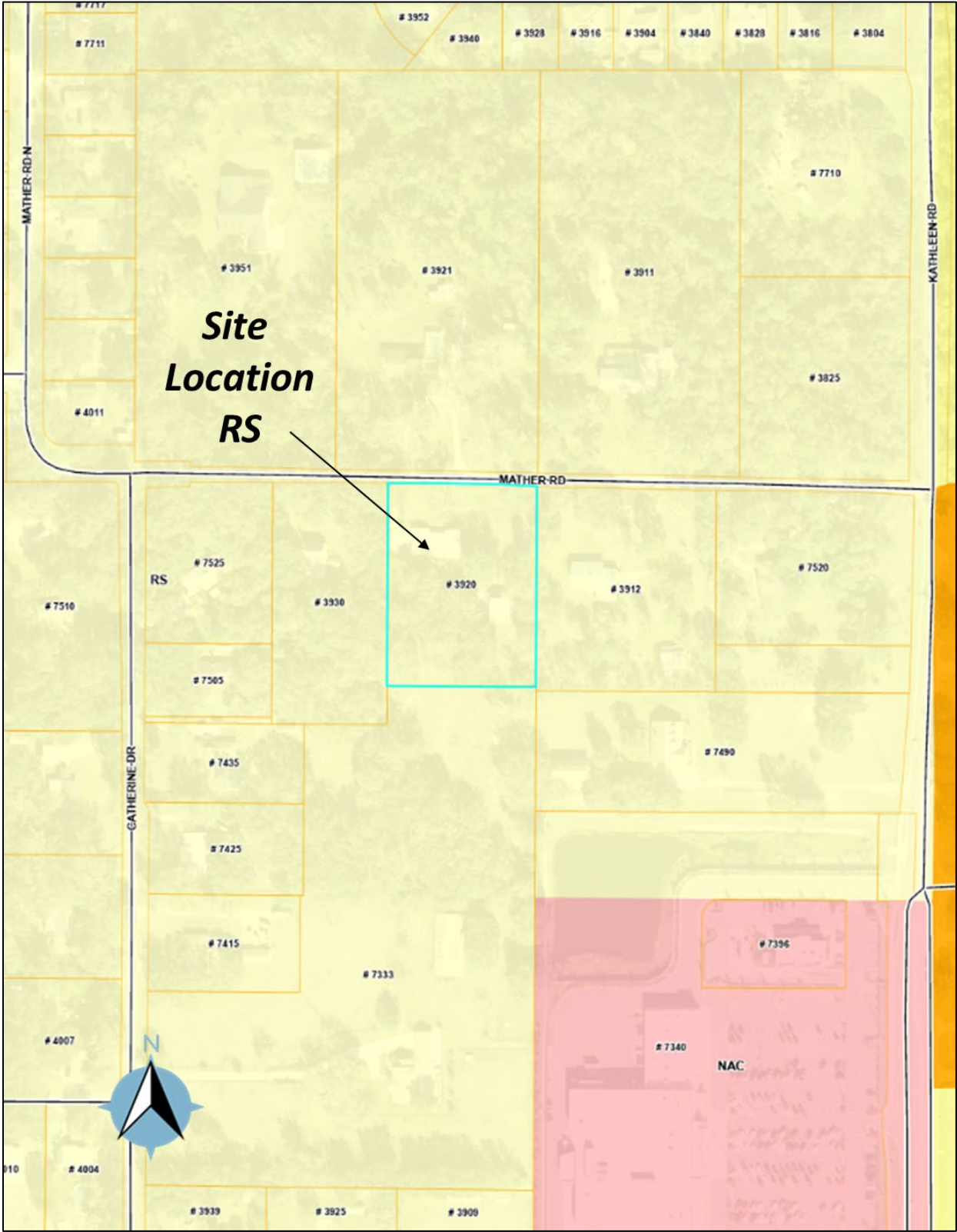
Every home surrounding this property would be eligible for a carport as proposed by the applicant without a variance, because it would be shorter than the existing home. The surrounding homes are either two stories or the pitches of their roofs easily exceed that of the subject home.

Exhibits:

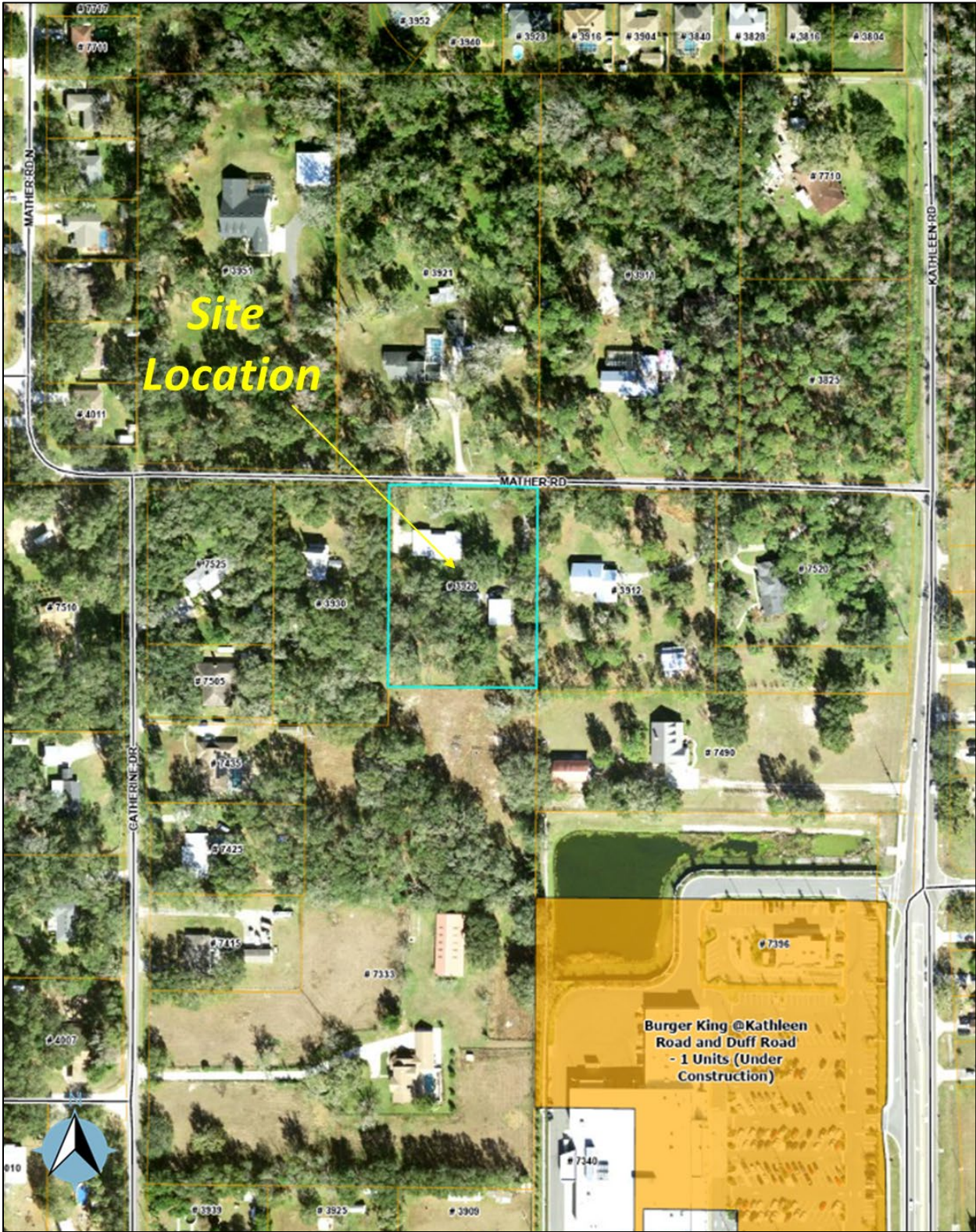
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Image – Context
- Exhibit 4 Aerial Image – Close
- Exhibit 5 Site Plan



Location Map



Future Land Use Map



Aerial Image – Context



Aerial Image – Close

Land Use Hearing Officer
Variance/*IAN*