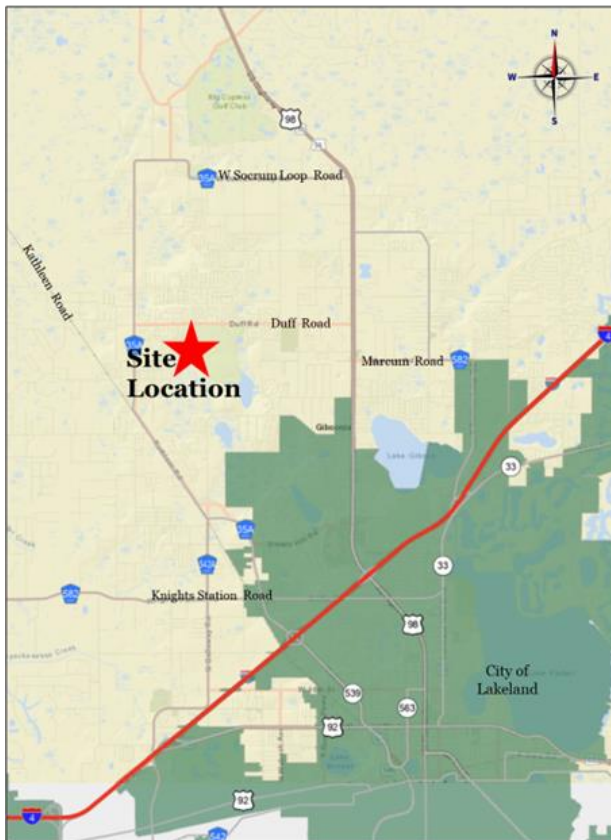


**POLK COUNTY  
DEVELOPMENT REVIEW COMMITTEE  
STAFF REPORT**

<b>DRC Date:</b> October 26, 2023	<b>Level of Review:</b> Level 4 Review
<b>PC Date:</b> January 3, 2024	<b>Type:</b> Access Waiver
<b>BoCC Date:</b> February 20, 2024	<b>Case Number:</b> LDWA-2023-58
<b>Applicant:</b> Sarah Case	<b>Case Name:</b> Silver Fox Path Access Waiver
	<b>Case Planner:</b> Malissa Celestine, Planner II

<b>Request:</b>	The applicant is requesting a Waiver to Chapter 8, Section 821.A of Polk County’s Land Development Code (LDC) to access through a platted residential lot with the intent of creating four (4) residential lots.
<b>Location:</b>	The subject property is located at 3202 Silver Fox Path, west of Bendelow Drive, east of Kathleen Road, south of Duff Road, north of Spivey Road, northwest of the City of Lakeland in Section 16, Township 27, Range 23.
<b>Property Owners:</b>	Tyrone King
<b>Parcel Size (Number):</b>	±0.79 (232716-000980-000320), ±25.13 (232716-000000-022020)
<b>Future Land Use:</b>	Residential Low-1 (RL-1) Residential Low-3 (RL-3)
<b>Development Area:</b>	Urban Growth Area (UGA)
<b>Nearest Municipality:</b>	City of Lakeland
<b>DRC Recommendation:</b>	Conditional Approval
<b>Planning Commission Vote:</b>	5:1 Approved

**Location Map**



**Subject Site**



## Summary:

The applicant's request is for one (1) point of public road access through a platted residential lot. The access parcel, Parcel No. 232716-000980-000320, is comprised of Lot 32 and Lot 33 of the Fox Chase subdivision (PB 69, Pg. 32 & 33). Mr. King owns both the platted lots and the 25-acre parcel to the south, which is the impetus for the subject waiver request. The western portion of Lot 32 is being proposed to provide the access required to develop the southern property which will utilize Silver Fox Path for ingress and egress. Chapter 8, Section 821.A.1 of the Land Development Code (LDC) specifically states: "Access through a platted subdivision to an adjoining property shall not be permitted through existing lots which have been platted for residential purposes." The section elaborates that any deviance from this provision requires a Level 4 Review approval from the Board of County Commissioners (BoCC).

As such, the purpose of this request is to evaluate whether a portion of Lot 32 can be utilized for access to develop the parcel to the south, Parcel No. 232716-000000-022020. The proposed access will be a 30' easement along the western boundary of Lot 32 (see *Exhibit 5*). Note, this request is not to review the proposed subdivision plan the applicant has submitted (*Exhibit 6*), however if access is granted via the subject Level 4 Review, the applicant will be permitted to create four (4) additional lots meeting the requirements of the RL-1 district and LDC.

Huntington Hills Subdivision is located to the east and adjacent to the four (4) future residential properties associated with Parcel No. 232716-000000-022020. Although aerial photos depict that access could be obtained through Bendelow Drive, it is owned by Huntington Hill's Property Owner Association (POA). Permission would have to be granted through the POA, and it is unclear if there are covenants in place that prohibit access, according to the applicant.

There is currently a residence that spans the lot lines of Lot 31 and Lot 32. According to the applicant, the existing residence will remain. The access easement is proposed on the far west side of lot 32, away from the existing residence. There is a 15-foot utility easement along the rear of the property per the subdivision plat (see *Exhibit 5*). Typically, easements are not permitted to be obstructed but this is a utility easement, and the area will only be utilized for access.

When allowing development to access through another subdivision, one primary evaluation is to ascertain the traffic impacts. Specifically, the evaluation is to determine whether the access points to the subdivision are sufficient to permit additional trips/traffic and, aesthetically, if allowing a new road or additional lots through a platted lot will have adverse impacts on adjoining neighbors. The four (4) additional units will increase the average traffic volume by approximately 32 annual average daily trips (AADT), four (4) of them will occur at peak hour. Of these trips, Silver Fox Path and the individuals residing on the cul-de-sac will be most impacted. The proposed request is anticipated to increase the traffic volume on Silver Fox Path by approximately 66% and approximately 10% for Fox Chase Drive as individuals travel to and from Duff Road. As identified above, the impact is marginal for the entire subdivision.

The Board of County Commissioners will ultimately decide whether the waiver request should be granted, but they look to the Planning Commission for guidance in the decision. Through the Development Review Committee (DRC) process, Land Development staff recommends approval of this application with the conditions listed on page five of this staff report. The amount of traffic produced by four (4) residential lots will have minimal impact on surrounding roadways and neighborhoods. The data provided in this report demonstrates that this request is compatible with the surrounding development.

## Findings of Fact

- *The applicant is requesting a Waiver to Chapter 8, Section 821.A of Polk County's Land Development Code (LDC) to access through a platted residential lot with the intent of creating four (4) residential lots on vacant real estate.*
- *The subject request is only to evaluate whether the subject platted lot, Lot 32 of Fox Chase Subdivision (PB 69, Pg. 32/33) can be utilized for access to the adjacent parcel to the south (Parcel No. 232716-000000-022020).*
- *Per Section 821.A of the LDC, Access Through Platted Lots:*
  - 1. Access through a platted subdivision to adjoining property shall not be permitted through existing lots which have been platted for residential purposes.*
  - 2. Access may be allowed through tracts which have been recorded as part of a plat for the expressed purpose of future road access.*
  - 3. All roads and road rights-of-way recorded as of 1992 for future road access shall be the minimum required for a road based on the potential functional classification of the road and the master development plan for the area.*
  - 4. Any deviance from Section 821 A. shall require a Level 4 Review*
- *The subject access point is located within a Residential Low-3 (RL-3) Future Land Use district (Parcel No. 232716-000980-000320).*
- *The proposed four (4) lots to the south, are within a Residential Low-1 (RL-1) Future Land Use district (Parcel No.232716-000000-022020).*
- *The applicant has proposed a plan that includes four (4) lots on approximately 25 acres. This is consistent with the underlying Residential Low-1 (RL-1) land use district requirements, which requires a minimum lot size of 40,000 square feet, per Table 2.2 of the Land Development Code.*
- *The owner of the access parcel also purchased the southern parcel with the intent of creating four (4) additional parcels that will access through his residential lot.*
- *The existing home on Parcel No. 232716-000980-000320 will remain.*
- *The proposed roadway access is bordered by single-family homes and will only access Silver Fox Path.*
- *The Policy 2.128-C of the Comprehensive Plan requires direct road frontage with legal access to a public or private paved road, meeting County standards for the subdivision of land, and for any newly created lot to be eligible for a building permit.*
- *The entirety of the proposed development is composed of Candler Sand 0 to 5% slopes, Kendrick Fine Sand 0 to 5% slopes, and Hontoon Muck 0 to 1% slopes.*
- *Sheriff's response to the site is served by the Northwest District, located at 1045 Wedgewood Estates Blvd in Lakeland. The response times for the NW district for November 2023 were: Priority 1 – 12:15 and Priority 2 – 27:47.*

- *Both parcels are location in the Urban Growth Area (UGA). According to Chapter 2, Section 202, the UGA is intended to “serve as a foundation from which a future urban pattern is established, and to provide future areas for development at urban densities and intensities”.*
- *Per Table 2.2 of the Land Development Code (LDC), the minimum residential lot size in a Residential Low-3 (RL-3) district is 10,000 square feet.*
- *Per Section 705.B LDC, “an easement providing access to a residential lot from a paved road meeting County standards shall meet the following requirements; the easement shall:
 
  - a. *Provide access for no more than four lots subject to other density, minimum lot size requirements and any other applicable requirements of this Code;*
  - b. *Have a minimum width of 20 feet;*
  - c. *Not exceed 0.25 miles (1,320 feet) in length;*
  - d. *Provide for sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and*
  - e. *Be supported by the joinder and consent of all fee owners under easements to the use of the easement by the subject parcel(s). If joinders are provided for the easement, it shall be accompanied by an ownership and encumbrance report based on the legal description of the easement. In lieu of joinders, an applicant may provide a legal opinion from a licensed Florida attorney stating a lot has legal access, along with supporting documentation.”**
- *The subject property is zoned for Kathleen Elementary School, Kathleen Middle School, and Kathleen Senior High School.*
- *The site is located in the Polk County Northwest Utility Service Area.*
- *According to the applicant’s response to the waiver criteria, the proposed four (4) lot subdivision will utilize onsite septic systems and individual wells.*
- *Fire/EMS responses are from Polk County Fire Rescue Station 23 located at 6750 Kathleen Rd Lakeland 33810, approximately 1.5 miles with an estimated 5-minute response.*
- *Wetlands and flood zones are found on the southern parcel (Parcel No.232716-000000-022020).*
- *There are no known historical or archeological resources onsite, according to the Secretary of State’s Department of Historical Resources Florida Master Site File.*
- *According to the Florida Natural Areas Inventory Biodiversity Matrix, the site is located within a one-mile radius of a recent endangered animal species documented sighting.*
- *This application has been reviewed for consistency with LDC Sections 821, 907, 932, and Table 2.2.*

## **Development Review Committee**

The Development Review Committee, based on submitted information, the findings of fact and analysis conducted as part of this staff report, and a recent site visit, finds that the proposed request **IS COMPATIBLE** with the surrounding land uses and general character of the area; **IS CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan; and recommends **APPROVAL of LDWA-2023-58** with the following conditions:

### **CONDITIONS OF APPROVAL**

1. Approval of this waiver shall be for the access of up to four (4) single-family residential lots through Lot 32 of Fox Chase Subdivision (PB 69, Pg. 32/33) as described within the staff report.
2. This waiver shall be valid for the residential development of no more than four (4) future lots derived from ±25.13 acres of Parcel No. 232716-000000-022020 so long as the size of these lots meets the criteria for the minimum lot size for the applicable land use district to the subject property. All parcels are subject to the requisite Level 1 Review approval pursuant to Section 705.B of the Land Development Code.
3. No vehicles, machinery, equipment, or other accessory structures which could interfere with the passage of emergency vehicles shall be parked or stored along the 30-foot easement intended to serve the four (4) future lots.

### **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 request shall not constitute a waiver or variance from any applicable development requirement unless specifically noted in the conditions of approval and consistent with the LDC.*

*NOTE: All written comments 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 comments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.*

*NOTE: Approval of this request is only for Level 4 Review and only for those development decisions within the Planning Commission's jurisdiction. Upon completion of the Level 4 Process, building permits will be required for all structures in accordance with Chapter 553 of the Florida Statutes.*

*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 WAIVERS SUMMARIZED BELOW:

*Note: Below are staff's responses and opinions to the applicant's request relative to demonstrating the criteria for granting a waiver. Since this particular request requires a Level 4 Review approval, it is ultimately the Board of County Commissioners' decision on whether the waiver should be granted, and access should be allowed.*

1. *Whether the application of the provisions of the Code would cause unnecessary and undue hardship on the use of the property;*

Policy 2.128-C of the Comprehensive Plan requires direct road frontage with legal access to a public or private paved road meeting County standards for the subdivision of land, and for any newly created lot to be eligible for a building permit.

Parcel No. 232716-000980-000320 consists of Lot 32 and Lot 33 of the Fox Chase subdivision which is developed with one (1) site-built residence. The owner, Mr. King, purchased the southern parcel, parcel No. 232716-000000-022020, in January 2023 with the intent of creating four (4) additional residential lots. The access proposed from Silver Fox Path is not wide enough for the applicant to construct a roadway in accordance with Chapter 8, Section 824 of the LDC because the existing home is going to remain. Therefore, the western portion of Lot 32 is being proposed for access (see *Exhibit 5*) via a 30' easement subject to LDC Section 705.B.

Huntington Hills Subdivision is located to the east and adjacent to the four (4) future residential properties associated with Parcel No.232716-000000-022020. Although aerials depict that access could be obtained through Bendelow Drive, it is owned by Huntington Hill's Property Owner Association (POA). Permission would have to be granted through the POA, and it is unclear if there are covenants in place that prohibit access, according to the applicant.

Construction of a roadway to County standards, either publicly or privately owned, has both fixed and variable costs that are a substantial expense to defray over four (4) lots given their size of five acres or more. If constructed, the applicant would have the ability to turn this road over to the County for perpetual maintenance. This would likely become a burden to the taxpayers because a street in this location presents a higher cost of maintenance that is not offset by the tax revenue from four (4) lots, especially for the longer duration that they may remain vacant. Denial of access through the subject platted lot could cause unnecessary and undue hardship on the use of the property for residents seeking large properties isolated away from central Florida's rapid pace of growth. The untouched upland of the site offers an ideal place to construct future homes.

2. *Whether the waiver granted is the minimum adjustment that will make possible the reasonable and permitted use of the property;*

The RL-1 district permits one (1) dwelling unit per acre. The request is intended to achieve four (4) additional lots, over four (4) acres in size. The applicant is well below the threshold of what can be achieved with the  $\pm 25.13$  acres parcel. Both parcels are owned by the same individual. The proposed access is the minimum adjustment that will make possible the reasonable and permitted use of the property without necessitating adjustments to the existing

home and corresponding improvements, according to the applicant. The southern property cannot be accessed for the proposed use without final approval from the BoCC.

3. *Whether the granting of the waiver will be in harmony with the general intent and purpose of this Code and that such waiver will not be injurious or detrimental to the public health, safety or welfare by, without limitation, creating unsafe traffic conditions or cause increased maintenance expenses in connection with the subdivision improvements;*

The subject waiver is in harmony with the general intent and purpose of the LDC. The proposed four (4) lots are well below the 25 lots that can be achieved by-right on the 25-acre parcel. The applicant's request does not allow something out of context or character of the LDC, as previous requests for access through a platted lot has been approved, i.e., LDWA-2018-31. If the request was solely for access via easement, the request would have been reviewed and approved administratively as it meets the requirements outlined in Section 705.B of the LDC (see *Exhibit 7*).

The proposed four (4) residential lots will have negligible impacts on the County's infrastructure and services. There is a 15-foot utility easement along the rear of the property per the subdivision plat (see *Exhibit 5*). Typically, easements are not permitted to be obstructed but this is just a utility easement, and the area will only be utilized for access. Staff found no indications that approval of the waiver request will be injurious or detrimental to the public health, safety, or welfare.

4. *The granting of the waiver will not likely result in setting a precedent for a similar waiver in the area; and*

A property owner is allowed a one-time lot split without platting, every three years. The standards of the RL-1 land use district allow minimum lots sizes of 40,000 square feet. The subject property could achieve up to 25 lots without approval of a Planned Development because the parcel exceeds 25 acres. It is conceivable that approval of this waiver could generate further requests from the owners of this property. However, there is no indication that additional lots, over the requested four (4) are being considered. To achieve a higher density, additional BoCC approval would be required due to the conditions of approval outlined within the staff report and the limits on the number of lots allowed to access via easement.

5. *Whether all other avenues of relief have been exhausted.*

The southern property cannot be accessed for development without utilizing Silver Fox Path and the additional easement. Since Mr. King owns both parcels, the proposed access is the most logical access point for the proposed four (4) lots.

**Surrounding Land Use Designations and Current 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 style="text-align: center;"><b>Northwest</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home ±0.37 acre</p>	<p style="text-align: center;"><b>North</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home ±0.32 acre</p>	<p style="text-align: center;"><b>Northeast</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home ±0.38 acre &amp; Residential Low-1 (RL-1) Huntington Hills Phase IV Site-Built Home ±0.24 acre</p>
<p style="text-align: center;"><b>West</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home ±0.37 acre/±0.28 acre</p>	<p style="text-align: center;"><b>Subject Property:</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Site-Built Home &amp; Proposed Access &amp; Residential Low-1 (RL-1) ±25.13-acre parcel Future four (4) lot Residential Development</p>	<p style="text-align: center;"><b>East</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home &amp; Residential Low-1 (RL-1) Huntington Hills Phase IV Attached Housing ±0.12 acre</p>
<p style="text-align: center;"><b>Southwest</b></p> <p style="text-align: center;">Residential Low-3 (RL-3) Fox Chase Subdivision Site-Built Home ±0.28 acre &amp; Residential Suburban (RS) Vacant ±91.39 acres</p>	<p style="text-align: center;"><b>South</b></p> <p style="text-align: center;">Residential Low-1 (RL-1) Future four (4) lot Residential Development &amp; Residential Suburban (RS) vacant</p>	<p style="text-align: center;"><b>Southeast</b></p> <p style="text-align: center;">Residential Low-1 (RL-1) Future four (4) lot Residential Development &amp; Residential Suburban (RS) vacant</p>

Source: GIS Data Viewer

The areas immediately surrounding the property are residential and primarily associated with Fox Chase or Huntington Hills subdivision. To the south of the site is vacant real estate.

**Compatibility with the Surrounding Land Uses:**



The applicant’s request is for one (1) point of public road access through a platted residential lot. The access parcel is comprised of Lot 32 and Lot 33 of the Fox Chase subdivision. This parcel is currently developed with a site-built home which will remain, according to the applicant. Mr. King owns both the platted lots, and the 25-acre parcel to the south, which is the impetus for the subject waiver request. The western portion of Lot 32 is being proposed to provide the access required to develop the southern property which will utilize Silver Fox Path

for ingress and egress. The access will serve no more than four (4) single-family residential lots averaging four (4) acres in size. The amount of traffic produced by four (4) residential lots will have

minimal impact on surrounding roadways and neighborhoods. There is no evidence that this request is incompatible with the surrounding development and the evidence provided in this report clearly demonstrates the request is compatible all land uses in the area.

### Urban Services and Infrastructure Analysis

The site is located in the Urban Growth Area (UGA). The surrounding area has public safety service facilities that are operating within their adopted Level-of-Service (LOS) standard with no deficiencies. Placement of four (4) homes will not trigger school concurrency or a traffic study. Potable water will be provided by a well and an onsite treatment septic system will be utilized. Table 2, below, summarizes urban services and infrastructure for the surrounding area. Based upon the nature and size of the request, the proposed request is not anticipated to create any significant demand on these services.

**Table 2**

<b>Urban Services and Infrastructure Summary</b>	
<b>Schools</b>	Kathleen Elementary School, 68% capacity, ±2 miles Kathleen Middle School, 79% capacity, ±1.9 miles Kathleen Senior High School, 73% capacity, ±7.9 miles
<b>Parks</b>	Hunt Fountain Sports Complex ±1.57 miles to the east
<b>Sheriff</b>	Sheriff’s response to the site is served by the Northwest District, located at 1045 Wedgewood Estates Blvd in Lakeland. The response times for the NW district for November 2023 were: Priority 1 – 12:15 and Priority 2 – 27:47
<b>Fire/ EMS</b>	Polk County Fire Rescue Station 23 located at 6750 Kathleen Rd., Lakeland 33810, approximately 1.5 miles with an estimated 5-minute response.
<b>Water</b>	Onsite Well per applicant
<b>Sewer</b>	Onsite Treatment System per applicant
<b>Transportation</b>	Nearest monitored link is Duff Road – Urban Collector roadway with capacity
<b>Urban Sprawl</b>	Site is located within the UGA with 5+ acre lots which is not considered urban sprawl.

According to methodology utilized by the Polk County Transportation Planning Organization (TPO), single-family detached housing (ITE Code 210) generates 7.81 Annual Average Daily Trips (AADT) and 1.00 Peak PM Hour Trips. Additionally, potable water rate for a single-family home on lots more than 1 acre will consume 540 GPD and generate 270 GPD in wastewater. Table 3, to follow, provides generalized estimates of the anticipated traffic demands, and generalized estimates of the anticipated water and wastewater impacts.

**Table 3**

<b>Impact Analysis Summary</b>			
<b>Proposed Use</b>			
<b>(11 Single-Family Residential Lots)</b>			
<b>Potable Water Impact</b>	<b>Wastewater Impact</b>	<b>*AADT Impact</b>	<b>*Peak Hour Impact</b>
2,160 GPD (on-site well)	1,080 GPD (on-site septic)	31.24 AADT	4 trips
<i>Source: Polk County Concurrency Manual. The proposed development assumes that the potable water rate for a single-family home on lots more than 1 acre will consume 540 GPD and generate 270 GPD in wastewater. The AADT rate was 7.81 and the PM Peak Hour rates was 1.00 per unit.</i>			

Potable water will be provided by a well, and an onsite septic treatment system will be utilized to handle wastewater for each individual lot so there will be no changes to water pressure. Duff Road is tracked for concurrency in the Transportation Planning Organization’s Roadway Network Database. It is classified as an Urban Collector Roadway. It is operating at a Level of Service of “C” and there should be at least 371 available trips eastbound and 354 trips available westbound. The four (4) additional units will increase the average traffic volume by approximately 32 annual average daily trips (AADT), four (4) of them will occur at peak hour. Of these trips, Silver Fox Path, and the individuals residing on the cul-de-sac will be most impacted. The proposed request is anticipated to increase the traffic volume on Silver Fox Path by approximately 66% and approximately 10% for Fox Chase Drive as individuals travel to and from Duff Road.

**Environmental Conditions Analysis**

There are minor environmental conditions that could pose a threat to existing environmental resources based upon the proposed request (See *Table 4*, below). Wetlands and floodplains are isolated along the southern boundaries of Parcel No. 232716-000000-022020. In accordance with Chapter 6 of the Land Development Code, no development shall take place in these wetlands. There are significant uplands on the remnants of the 25-acre parcel and the soils located here are not of such that would limit compliance with applicable Land Development Code regulations for the proposed request. The subject site is also located within one (1) mile of an identified protected species area.

The subject property contains no surface water features; and the site is not located within a Historical Preservation area or within any of the County’s identified wellhead protection areas.

**Table 4**

<b>Environmental Conditions Summary</b>	
<b>Surface Water</b>	There is no surface water onsite. The nearest lake, Duff Lake is located approximately 0.7 miles to the east.
<b>Wetlands/Floodplains</b>	Floodplains and wetlands are not located on the parcel with the proposed access (Parcel No. 232716-000980-000320). Wetlands and floodplains can be found on the southern portion of <i>Parcel No.</i> 232716-000000-022020, as identified with the existing vegetation. See <i>Exhibit 4</i> .
<b>Soils</b>	Candler Sand (74.6%), slight limitation for dwellings and septic; Kendrick Fine Sand (4.2%), slight limitation for dwellings and septic; Hontoon Muck (21.2%), severe limitation for dwellings and septic.
<b>Protected Species</b>	According to the Florida Natural Areas Inventory Biodiversity Matrix, the site is located within a one-mile radius of a recent endangered animal species documented sighting.
<b>Wellfield Protection</b>	The site is not located within a wellfield protection area. There is a wellfield located approximately 1.5 miles to the southwest of the site.
<b>Historical Preservation</b>	The subject property contains no historical resources as monitored by the State of Florida’s Division of Historical Resources.
<b>Airports</b>	Not located within any Airport Height Notification or In-Flight Visual Interference Zones.

The subject property contains no surface water features; and the site is not located within a Historical Preservation area or within any of the County’s identified wellhead protection areas.

The Planning Commission, in the review of development plans, shall consider the following factors listed in *Table 5* in accordance with Section 906.D.7 of the Land Development Code.

**Table 5**

<b>The Planning Commission, in the review of development plans, shall consider the following factors in accordance with Section 906.D.7 of the LDC:</b>	
<b>Whether the proposed development is consistent with all relevant requirements of this Code;</b>	<i>Yes, this request is consistent with the LDC, specifically Sections 821.A and 932. See the Finding of Fact on pages 3 and 4.</i>
<b>Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;</b>	<i>Yes, this development is consistent with the Comprehensive Plan because Residential development may gain access to a paved public road via a public or private road meeting County standards or via a legally established easement as prescribed in the Land Development Code, per Policy 2.128-C2.</i>
<b>Whether the proposed use is compatible with surrounding uses and the general character of the area, including such factors as density, height, bulk, scale, intensity, traffic, noise, and appearance; and</b>	<i>Yes, the request is compatible with surrounding uses and the general character of the area. See Page 8 of this staff report for data and analysis on surrounding uses and compatibility.</i>
<b>How the concurrency requirements will be met, if the development were built.</b>	<i>This request will not require concurrency determinations from utilities, the School Board, or TPO. The impact on public services can be found in the analysis found on Page 9 of the staff report.</i>

The BoCC, in the review of development plans, shall consider the following factors listed in Table 6 in accordance with Section 907.D.10 of the Land Development Code.

**Table 6**

<b>The BoCC, in the review of development plans, shall consider the following factors in accordance with Section 906.D.10 of the LDC:</b>	
<b>Whether the proposed development is consistent with all relevant requirements of this Code;</b>	<i>Yes, this request is consistent with the LDC, specifically Sections 821.A and 932. See the Finding of Fact on pages 3 and 4.</i>
<b>Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;</b>	<i>Yes, this development is consistent with the Comprehensive Plan because Residential development may gain access to a paved public road via a public or private road meeting County standards or via a legally established easement as prescribed in the Land Development Code, per Policy 2.128-C2.</i>
<b>Whether the proposed use is compatible with surrounding uses and the general character of the area, including such factors as density, height, bulk, scale, intensity, traffic, noise, and appearance; and</b>	<i>Yes, the request is compatible with surrounding uses and the general character of the area. See Page 8 of this staff report for data and analysis on surrounding uses and compatibility.</i>
<b>Any other matter which the BoCC may deem appropriate and relevant to the specific development proposal.</b>	<i>This request will not require concurrency determinations from utilities, the School Board, or TPO. The impact on public services can be found in the analysis found on Page 9 of the staff report.</i>

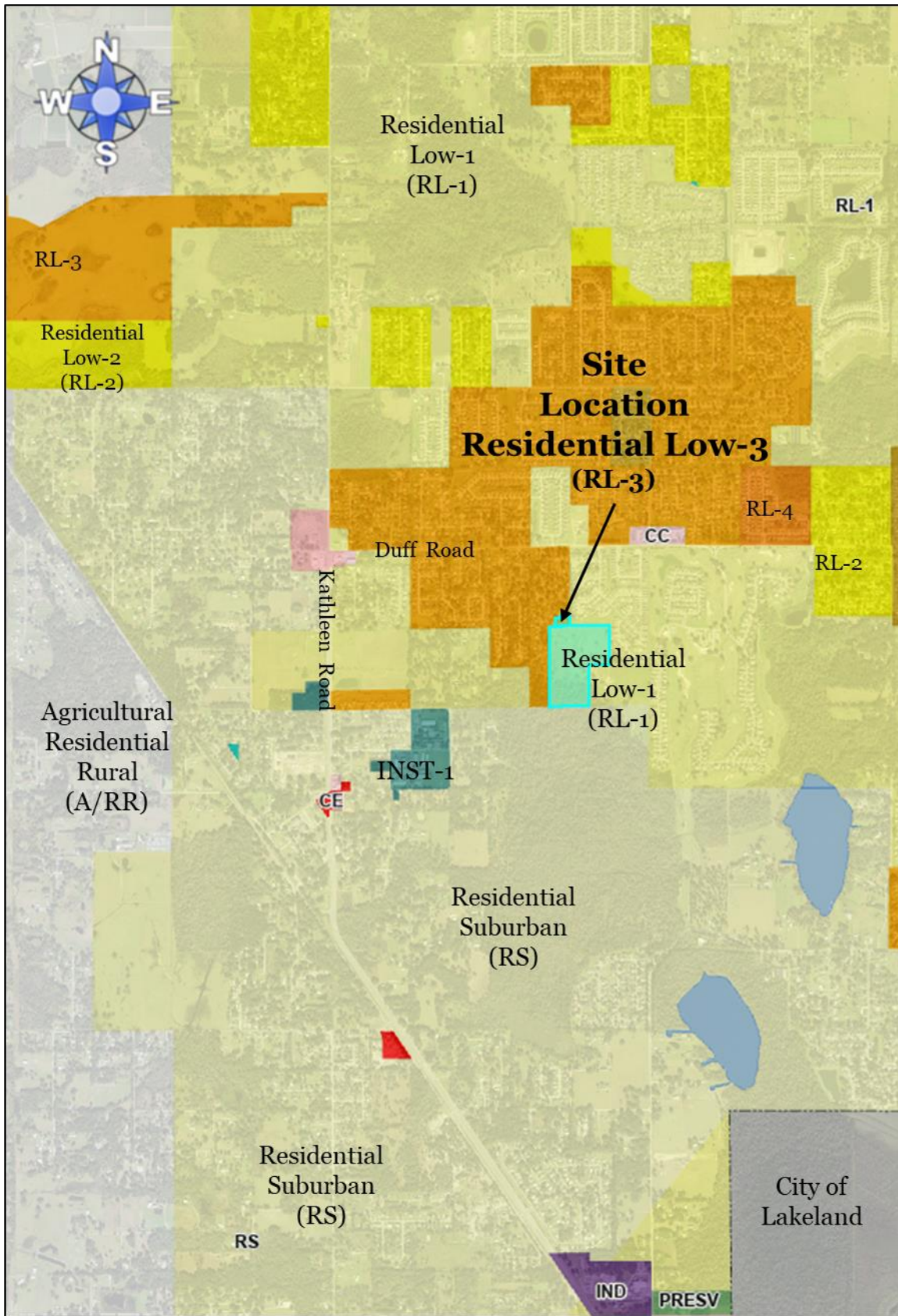
**Comments from other Agencies:** None.

**Exhibits**

- Exhibit – 1      Location Map
- Exhibit – 2      Future Land Use Map
- Exhibit – 3      2020 Aerial Image (Context)
- Exhibit – 4      2020 Aerial Image (Close-up)
- Exhibit – 5      Fox Chase Plat (PB 69 PGS 32/33)
- Exhibit – 6      Proposed Layout and Easement
- Exhibit – 7      Applicant’s response to Waiver Criteria



## Location Map



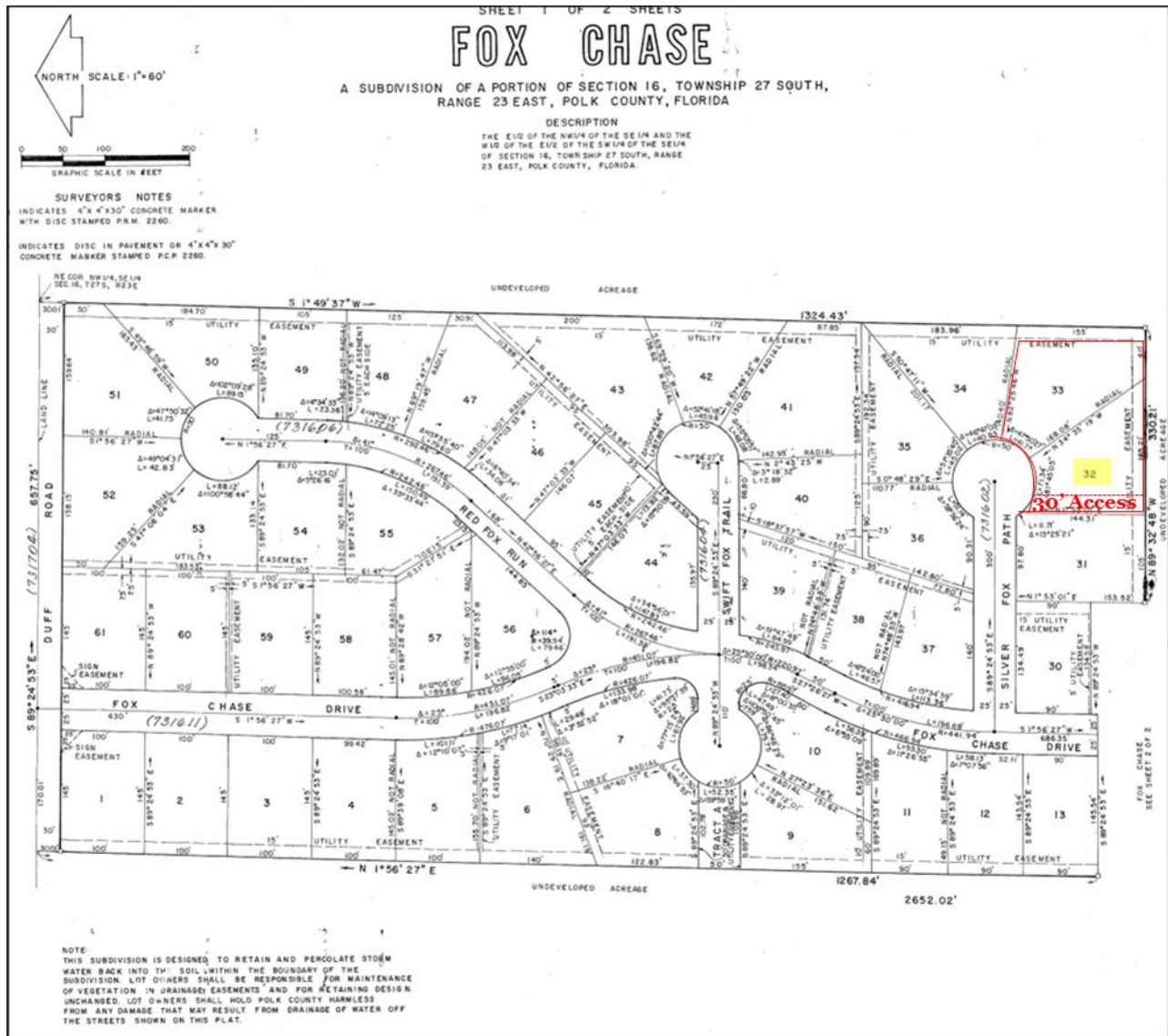
# Future Land Use Map



2020 Satellite Image (Context)



2020 Aerial Image (Close-up)



Fox Chase Plat (PB 69 PGS 32/33)



# Applicant's Proposed Lot Layout and Easement



**LDWA-2023-58**  
CGF WAIVER

The request is for the BoCC to approve access to their 25.13 +/- Acre property South of the 0.79 +/- Acre lot, known as platted lot Fox Phase Lots 32 & 33, Parcel 232716-000980-000320. The access requested is for Parcel 232716-000000-022020.

The assigned Land Use for the platted lot is RL-3, and the subject property requesting access is designated RL-1 Land Use. The owner's intent is to develop no more than four (4) lots, far less than the minimum lot size allowed through the RL-1 designation of minimum 40,000 S.F.

SECTION 932

1. Whether the application of the provisions of the Code would cause unnecessary and undue hardship on the use of the property;

**The larger parcel (25.13 AC) is currently landlocked. The owner purchased both properties in January 2022; the single-family lot (0.79 AC) was built in 1981. The existing house will remain. Approval of the easement will allow access and future development of the 25+ acres. Adjacent to the East is Huntington Hills Subdivision, and from an aerial it may appear that access could be obtained through Bendelow Drive however, that is owned by the Huntington Hill POA. Permission would have to be granted through the POA, and it is unclear if there are HOA covenants in place that prohibit access. Additionally, a Level IV waiver request for access would need to be submitted (Currently what is being requested through the Fox Chase lot) and proposed development would impact far more existing single-family homes using Bendelow Drive than the current request accessing Silver Fox Path.**

2. Whether the waiver granted is the minimum adjustment that will make possible the reasonable and permitted use of the property;

**The 30' access easement is the minimum adjustment that will permit legal access to the larger parcel. Both subject properties are owned by the**

## Applicant's response to Waiver Criteria



**same entity, and the Silver Fox parcel has the open space for the easement, without making any adjustments to the existing home and corresponding improvements.**

3. Whether the granting of the waiver will be in harmony with the general intent and purpose of this Code and that such waiver will not be injurious or detrimental to the public health, safety or welfare by, without limitation, creating unsafe traffic conditions or cause increased maintenance expenses in connection with the subdivision improvements;

**The requested waiver and proposed easement meets all the criteria as described in Section 705.B of the Code.**

- a. The easement will serve no more than four (4) lots**
  - b. The proposed lots will meet the applicable lot size and density within the RL-1 district**
  - c. Easement is proposed at 30' (Minimum is 20')**
  - d. Easement is not longer than 0.25 miles (1,320 Feet) in length – proposed length is +/- 778'**
  - e. The lot is part of Fox Chase Subdivision recorded in PB 69 PGs 32/33**
  - f. The lot is part of a developed subdivision, with infrastructure however, the proposed four (4) new lots will utilize private well and septic systems**
  - g. The parcel is not within GSACSC**
  - h. Once the easement is granted, there will be the necessary legal documents in place for access to the future four lots**
4. The granting of the waiver will not likely result in setting a precedent for a similar waiver request in the area; and

**No precedent will be set with the granting of the waiver; nowhere in the surrounding area is a large tract of this size (+/- 25 AC) that is landlocked. The properties to the North, West, and East are all developed single-family subdivisions. The property to the South is also a +/- 25 AC parcel however, it is pastureland with a barn. Access was obtained through Huntington Hills subdivision Phase V, Lot 42 platted in 1997.**

## Applicant's response to Waiver Criteria



5. Whether all other avenues of relief have been exhausted.

**The Huntington Hills POA will not grant access through the platted Tract A (it is believed there is a lift station located within said tract.) The practical access is through the proposed 30' easement, through Fox Chase.**

## Applicant's response to Waiver Criteria