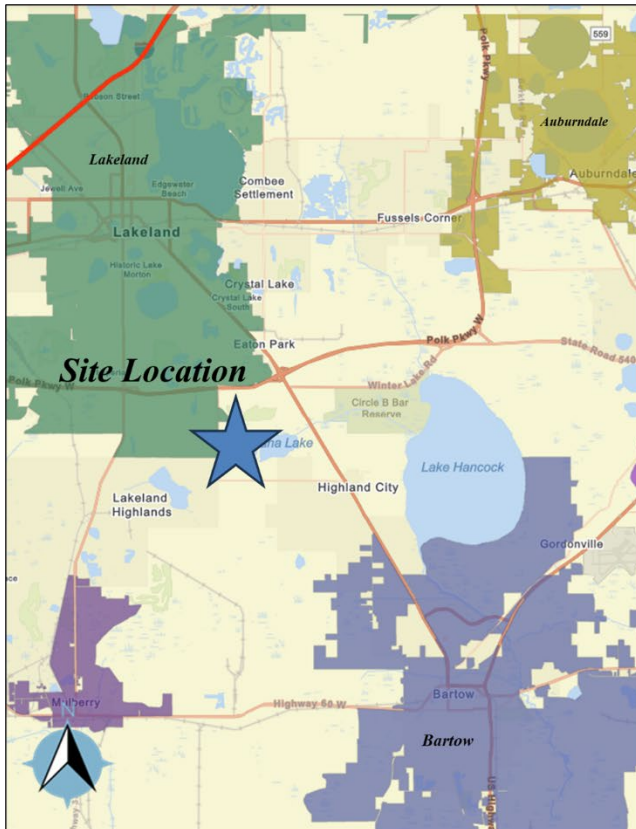


POLK COUNTY DEVELOPMENT REVIEW COMMITTEE STAFF REPORT

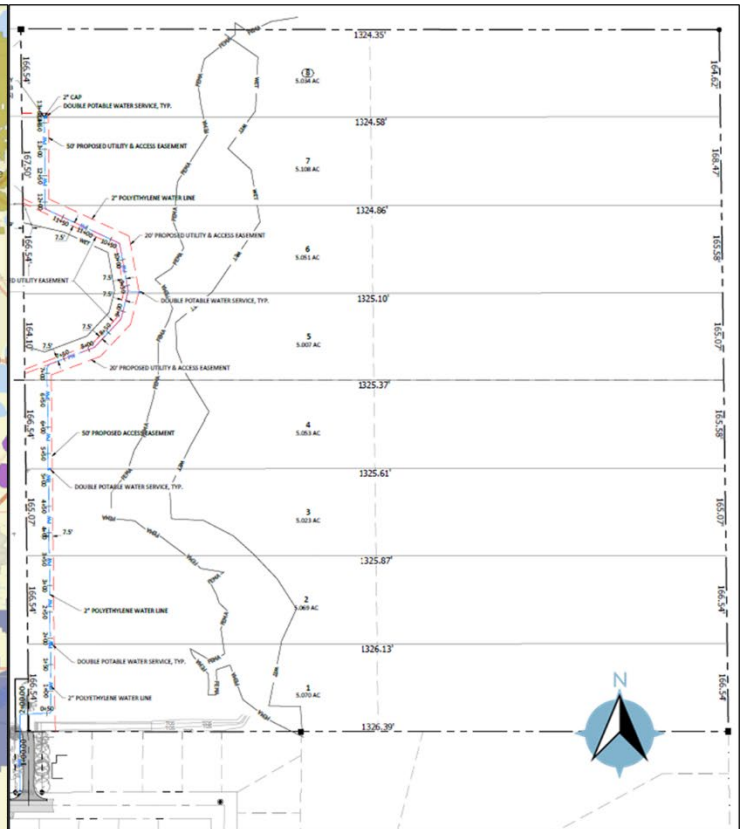
DRC Date: April 25, 2024	Level of Review: Level 4 Review
PC Date: July 10, 2024	Type: Residential Access Waiver
BoCC Date: August 6, 2024	Case Numbers: LDWA-2024-21 (Garden of Eden Access Waiver)
Applicant: Chad Brooker, Traditions Engineering	Case Planner: Ian Nance

Request:	Approval of a waiver to LDC Section 705.B necessary to allow the issuance of building permits for up to eight (8) single-family homes on property that gains access solely via an easement.
Location:	North of Gary Lane, east of County Road 37-B, south of Sanlan Golf Drive, east and south of Lakeland in Section 09, Township 29, Range 24.
Property Owner:	Hulbert Homes
Parcel Number (Size):	242909-279990-000050 (+/- 40.41 Acres)
Land Use District:	Residential Suburban (RS)
Development Area/Overlays:	Suburban Development Area (SDA)
Nearest Municipality/County:	Lakeland
DRC Recommendation:	Approval with Conditions
Planning Commission Vote:	Pending Hearing

Site Location



Site Plan



Summary of Analysis:

The property owner wishes to subdivide this land to provide for up to eight (8) new residential lots that will be accessed solely via easement pursuant to Land Development Code 705.B.

To be eligible, the easement must:

1. ***Provide access to no more than four (4) lots;***
2. *Be at least 20 feet wide; and,*
3. *Be no longer than a ¼ mile;*
4. *Provide for sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and*
5. *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.*

Typically, an administrative Level 1 Review is used to determine eligibility; however, in this instance, the number of lots on the proposed easement will exceed four lots. According to LDC Section 705.B.7, the Board of County Commissioners (BoCC) may grant a waiver through the Level 4 Review process to overcome this limit.

This review is to determine the extent to which an access easement can accommodate the usage proposed. There are many variables that separate one easement from another. These include, but are not limited to, the condition of the easement, how the surface is constructed, maintenance and sustainability, public input derived at a public hearing, and the amount of additional use proposed. It is these factors, as well as the waiver criteria in Section 932.A (1-5), that are to be considered. The Board of County Commissioners will ultimately decide whether to approve the waiver request, 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 4 of this staff report. The proposed easement will vary in width from 20 to 50 feet to account for wetlands onsite, provide a minimum paved surface width of 20 feet, and allow for the extension of centralized potable water. Eight homes using this easement will not prevent its use by emergency services or create an incompatible situation with neighbors. The eventual maintenance of the easement will be a private matter between the users. Furthermore, staff finds the request satisfies the LDC Waiver criteria found in Section 932. The proposed lots will meet the minimum lot size requirements for the RS land use district of five acres, but with limited access to a public road, this easement is necessary. If this Waiver is approved, a Level 1 Review will be necessary when the applicant (s) applies for a building permit to ensure the easement meets the standards proposed and the approved conditions.

Findings of Fact

- *The applicant is requesting approval of waiver to LDC Section 705.B necessary to allow the issuance of a building permit for up to eight (8) single-family homes on properties that gain access solely via an easement.*
- *The subject property is recorded as Parcel ID # 242909-279990-000050. It is approximately 40.41 acres and vacant.*
- *The property has 50 feet of frontage on Sprenkle Lane (Road No. 940915), a County right-of-way this is currently unimproved. LDROW-2024-14 was approved on April 11, 2024, to pave the road to County standards. The proposed easement will connect to this roadway.*
- *Per LDC Section 705.B.1, “an easement providing access to a residential lot from a paved road meeting County standard shall meet the following requirements:*
 - 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.”*
- *Waivers to Section 705.B may be granted by the Board of County Commissioners pursuant to a Level 4 Review and subject to the waiver provisions in Section 932 of this Code for the following standards of 705.B:*
 - a. Easement will serve no more than four lots after the creation of the newly proposed lot(s).*
 - b. Easement is not longer than 0.25 miles (1,320 feet) in length.*
 - c. The parent parcel, prior to subdividing, directly fronts on a public or private paved road meeting County standard.*
- *The subject property is within a Residential Suburban (RS) land use district in the Suburban Development Area (RDA). Minimum lot sizes are five (5) acres.*
- *The subject property is zoned for Highlands Grove Elementary, Crystal Lake Middle, and George Jenkins Senior High schools.*

- *The subject property is served by the Polk County Sheriff's Southwest District, located at 4120 US Highway 98, Lakeland.*
- *Fire/EMS responses are from Polk County Fire Rescue Station 28, located at 4101 Clubhouse Road, Highlands City.*
- *Wetlands and flood hazard areas are found onsite. A former phosphate pit connected to Banana Lake is located adjacent to the northeast side of the property.*
- *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 not located within a one-mile radius of a recent endangered animal species documented sighting.*
- *This application has been reviewed for consistency with LDC Sections 705, 907, 932, and Tables 2.1 and 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-2024-21** with the following conditions:

CONDITIONS OF APPROVAL

1. Approval of this waiver shall allow for residential permits for up to eight (8) single-family homes and accessory structures to access public roadways through the proposed easement. [PLG]
2. To allow for the access of emergency vehicles, all easements shall have an unobstructed width of not less than 20 feet. No fencing, landscaping, vehicles, machinery, equipment, or other accessory structures or features which could interfere with the passage of emergency vehicles shall be placed or stored within these 20 feet. [FM]
3. The lot dimensions shown on the site plan may change so long as the density standards for RS are maintained. [PLG]
4. At a minimum, the easement shall have a 20-foot-wide, eight-inch stabilized base with an LBR of 40. [ENG]

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 and Board of County Commissioner'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;*

The applicant proposes creating eight residential lots on the subject site, each meeting the minimum lot sizer requirements for Residential Suburban (RS) land use districts (5 acres). The property has 50 feet of frontage on Sprenkle Lane (Road No. 940915), a County right-of-way this is currently unimproved. LDROW-2024-14 was approved on April 11, 2024, to pave the road to County standards. The proposed easement will then connect to this roadway. According to LDC Section 822, 50 feet of frontage is required for lots on Local Residential roadways. There is simply not enough frontage available to the parent parcel to meet this requirement for eight new lots. Without this waiver and approval of an easement, developing this lot to the minimum standards is not possible.

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

As noted above, no other practical options exist for access to this property, and the ability to acquire a building permit for a home is tied to having access to a County roadway per Section 705.B. The width of the easement (20-50 ft.) easily meets LDC requirements (20 ft.) and will be used for no more than eight lots. Pervasive flood hazard areas and wetlands hinder the creation of smaller lots, if the applicant were to pursue a different route such as a Suburban Planned Development or Residential Infill. Such developments would certainly require a road meeting County standards rather than an easement. The proposed easement avoids wetland areas and provides right-of-way for centralized potable water.

As a final note, this property could be subdivided into four 10-acre tracts with the same easement and be approved administratively for building permits. The eight lots take advantage of the underlying land use district and defrays the costs of paving Sprenkle Lane and paving the easement. The increase from four to eight lots does not create a significant impact on traffic demand or utility usage.

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 assurance of safe access is one of the key issues for the Planning Commission and Board to consider when evaluating requests for access via easement. Another issue is whether the easement is becoming overburdened, which is why these decisions are required to have a public hearing. In this instance, the easement will be a stabilized surface that avoids wetlands and flood hazard areas. It will be 50 feet wide but narrow to a minimum of 20 feet where navigating around the wetlands. The easement will be in private ownership and maintenance. Conditions of approval will ensure no obstacles prevent access by emergency vehicles. The amount of traffic generated by this subdivision will not create unsafe traffic conditions outside of the development.

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

The proposed easement is intended to serve eight lots. This is one of the last properties in this area that can be developed, and the existing environmental constraints place limitations on density.

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

It is not possible to create flag lots or otherwise realistically gain fee simple access to Sprengle Lane. The LDC does permit access via easement by-right; this waiver is to review the use of the proposed easement for emergency services and its suitability relative to the demands to be placed on it by the eight lots. All easements are different, ranging from dirt, private roads to platted easement tracts, to extended driveways serving multiple properties. This is essentially a stabilized private road to be maintained privately, and the proposed eight lots should have little to no effect on the quality of the easement for emergency use.

Surrounding Land Use Designations and Current Land Use Activity:

The properties surrounding the site are developed since at least 1980. Prior to this, the surrounding lands were used for citrus groves and phosphate mining with dug the pits to the east along Banana Lake.

Table 1

Northwest: INST-2 Elementary School	North: City of Lakeland Multi-Family Apartments	Northeast: LR Golf Course
West: City of Lakeland/RS Church/Single-Family Subdivision	Subject Property: RS Vacant/Wetlands	East: RS/Lakes Wetlands/Banana Lake
Southwest: RS Single-Family Subdivision	South: RS Single-Family Subdivision	Southeast: RS/Lakes Wetlands/Banana Lake

Compatibility with the Surrounding Land Uses:

The proposed use is believed to be compatible with adjacent land uses. Single-family uses are located to the south and west as densities that far surpass those proposed with this subdivision (1 DU/5 AC). Multi-family development is located to the north within the city of Lakeland. The greatest impact will be on the

Highlands South subdivision to the south where traffic from this proposed development will enter and exit. A Minor Traffic Study was submitted and approved with LDROW-2024-14. Eight Peak PM trips are anticipated when the proposed subdivision finishes developing. The proposed lot sizes are the only ones in the area congruent with the underlying land use district (RS). This surrounding development is closer to Residential Low sizes and densities, but this is the result of their dates of approval, prior to the Comprehensive Plan and LDC.

To the west is a religious institution that provides rec league youth sports. The lights and noise from that use might affect future residents of the proposed subdivision, but ample screening and buffering from existing vegetation is anticipated with the development of this site.

Urban Services and Infrastructure Analysis

The surrounding area has public safety service facilities that are operating within their adopted Level-of-Service (LOS) standard with no deficiencies. Placement of eight homes will not trigger school concurrency. A Minor Traffic Study was submitted with LDROW-2024-14. 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

Urban Services and Infrastructure Summary	
Schools (Zoned)	Highlands Grove Elementary Crystal Lake Middle George Jenkins Senior High
Parks	John McGee Park (Lakeland)
Sheriff	Polk County Sheriff’s Southwest District, located at 4120 US Highway 98, Lakeland. The response times for May 2024 were: Priority 1: 9:16 Priority 2: 23:25
Fire/EMS	Polk County Fire Rescue Station 28, 4101 Clubhouse Rd, Highland City, FL 33846 (4.0 Miles)
Water	City of Lakeland
Sewer	Septic
Transportation	Eight PM Peak Hours Trips

Table 3

Impact Analysis Summary			
Proposed Use			
(Eight Single-Family Homes)			
Potable Water Impact	Wastewater Impact	*AADT Impact	*PHT Impact
2,880 GPD (Lakeland)	2,160 GPD (Septic)	62 AADT	8.00 PHT
<i>Source: Polk County Concurrency Manual. The proposed development assumes that the potable water rate for a single-family home will consume 360 GPD and generate 270 GPD in wastewater. ITE 210-Single Family rate was used to determine similar AADT and PM Peak Hour rates for mobile homes. The AADT rate was 7.81 and the PM Peak Hour rates was 1.00 per unit.</i>			

Environmental Conditions Analysis

There are no known environmental conditions that should pose a threat to existing environmental resources based upon the proposed request (*See Table 4, below*). The site has flood zones and wetlands. The subject property is not located within any of the County’s identified wellhead protection areas; the subject site is not located within an identified protected species area. The soil on the property is not of such that would limit compliance with applicable Land Development Code regulations for the proposed use. In addition, the subject property is not located within a Historical Preservation area.

Table 4

Environmental Conditions Summary	
Surface Water	Manmade phosphate pit to the east
Wetlands/Floodplains	Wetlands and flood hazard areas over most of the property
Soils	Sparr Sands; Eaton Mucky Fine Sand; Haplaquents/Clayey
Protected Species	The subject property is not located within a one-mile radius of an endangered plant or animal species sighting (Source: Florida Natural Areas Inventory Biodiversity Matrix).
Wellfield Protection	The site is not located within a wellfield protection area.
Historical Preservation	The subject property contains no historical resources as monitored by the State of Florida’s Division of Historical Resources.
Airports	The site is not within proximity to any public airports.

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 LDC.

Table 5

The Planning Commission, in the review of development plans, shall consider the following factors in accordance with Section 906.D.7 of the LDC:	
Whether the proposed development is consistent with all relevant requirements of this Code;	<i>Yes, this request is consistent with the LDC, specifically Sections 705.B and 932 which permit this Waiver upon completion of a Level 4 Review. These can be found in the Findings of Fact on Pages 3-4 of the staff report.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>Yes, this request is consistent with the Comprehensive Plan, as reviewed above.</i>
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	<i>Yes, the request is compatible with surrounding uses and the general character of the area. See Pages 6-7 of this staff report for data and analysis on surrounding uses and compatibility.</i>
How the concurrency requirements will be met if the development were built.	<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 Pages 7-8 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.

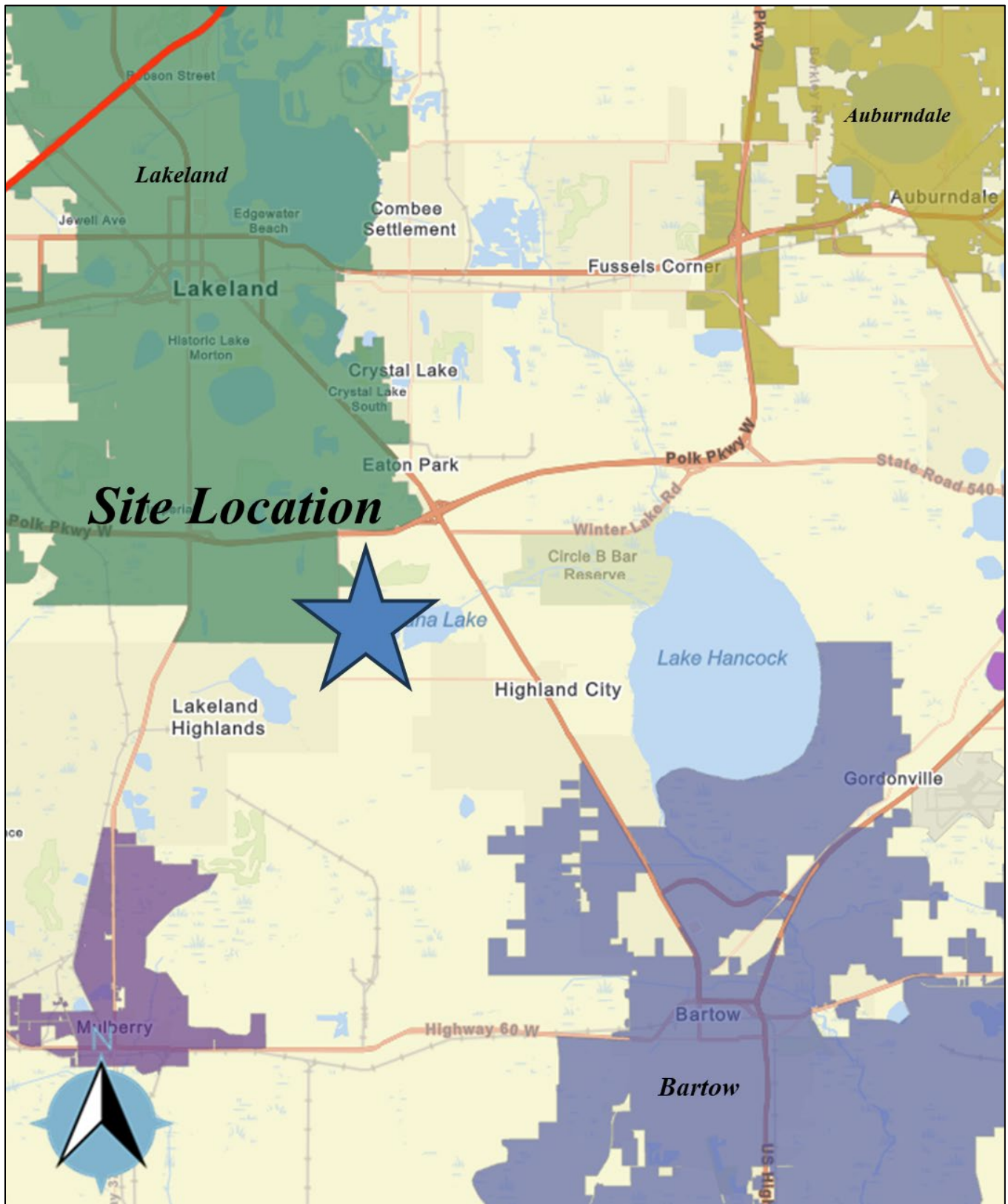
Table 6

The BoCC, in the review of development plans, shall consider the following factors in accordance with Section 907.D.10 of the LDC:	
Whether the proposed development is consistent with all relevant requirements of this Code;	<i>Yes, this request is consistent with the LDC, specifically Sections 705.B and 932 which permit this Waiver upon completion of a Level 4 Review. These can be found in the Findings of Fact on Pages 3-4 of the staff report.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>Yes, this request is consistent with the Comprehensive Plan, as reviewed above.</i>
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	<i>Yes, the request is compatible with surrounding uses and the general character of the area. See Pages 6-7 of this staff report for data and analysis on surrounding uses and compatibility.</i>
Any other matter which the BoCC may deem appropriate and relevant to the specific development proposal.	<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 7-8 of the staff report.</i>

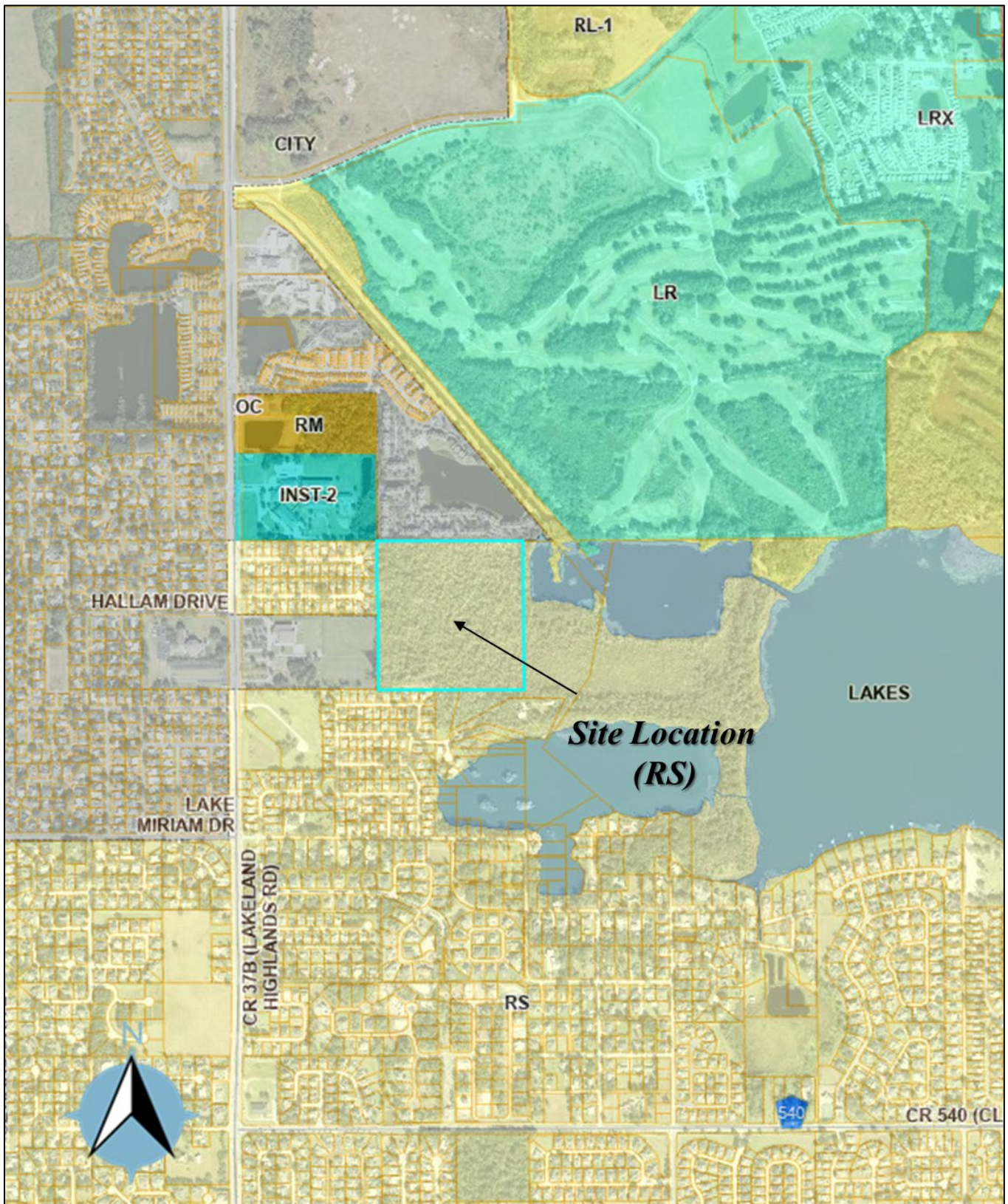
Comments from other Agencies: No Comments

Exhibits:

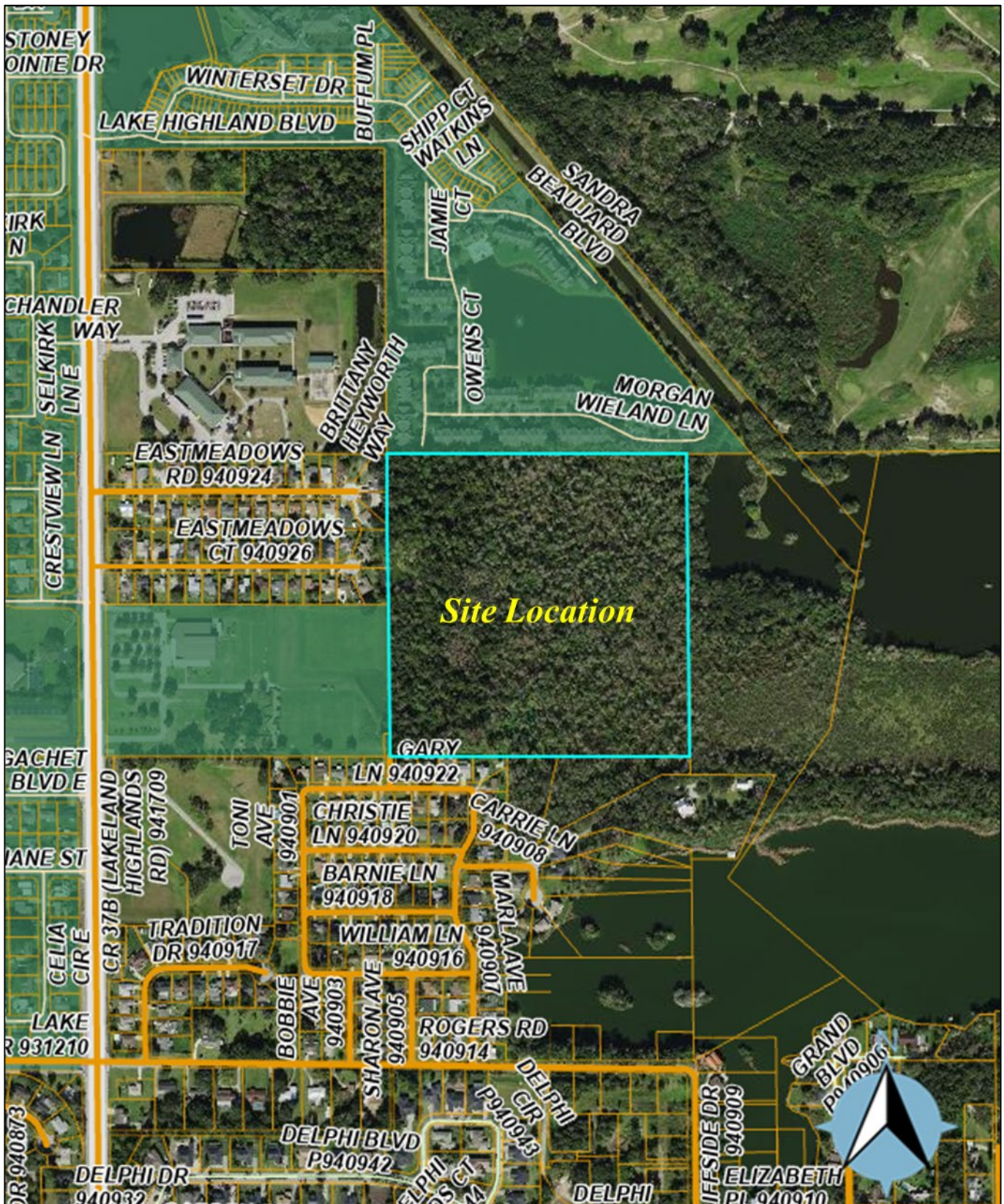
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Image (Context)
- Exhibit 4 Aerial Image (Close)
- Exhibit 5 Site Plan



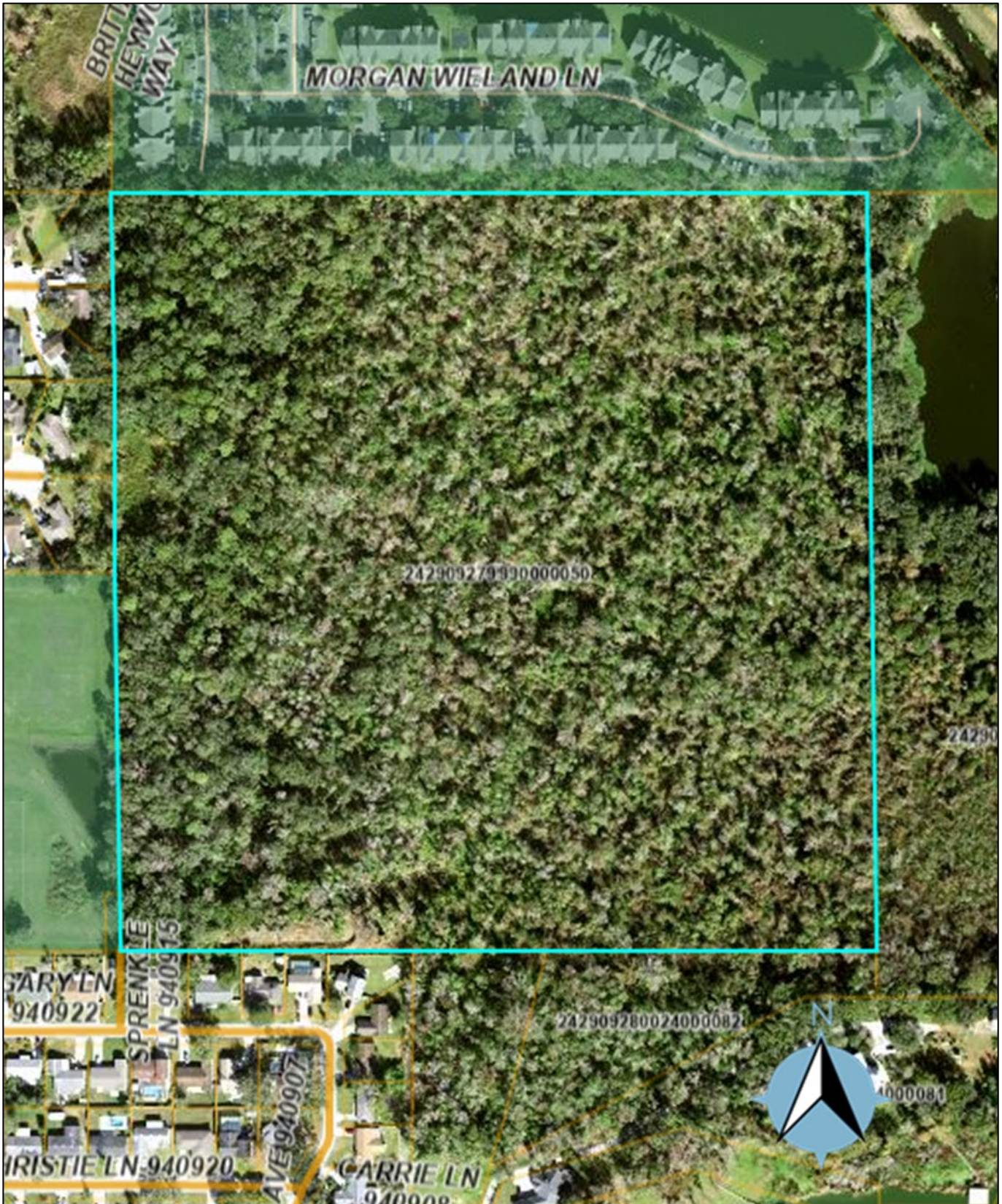
Location Map



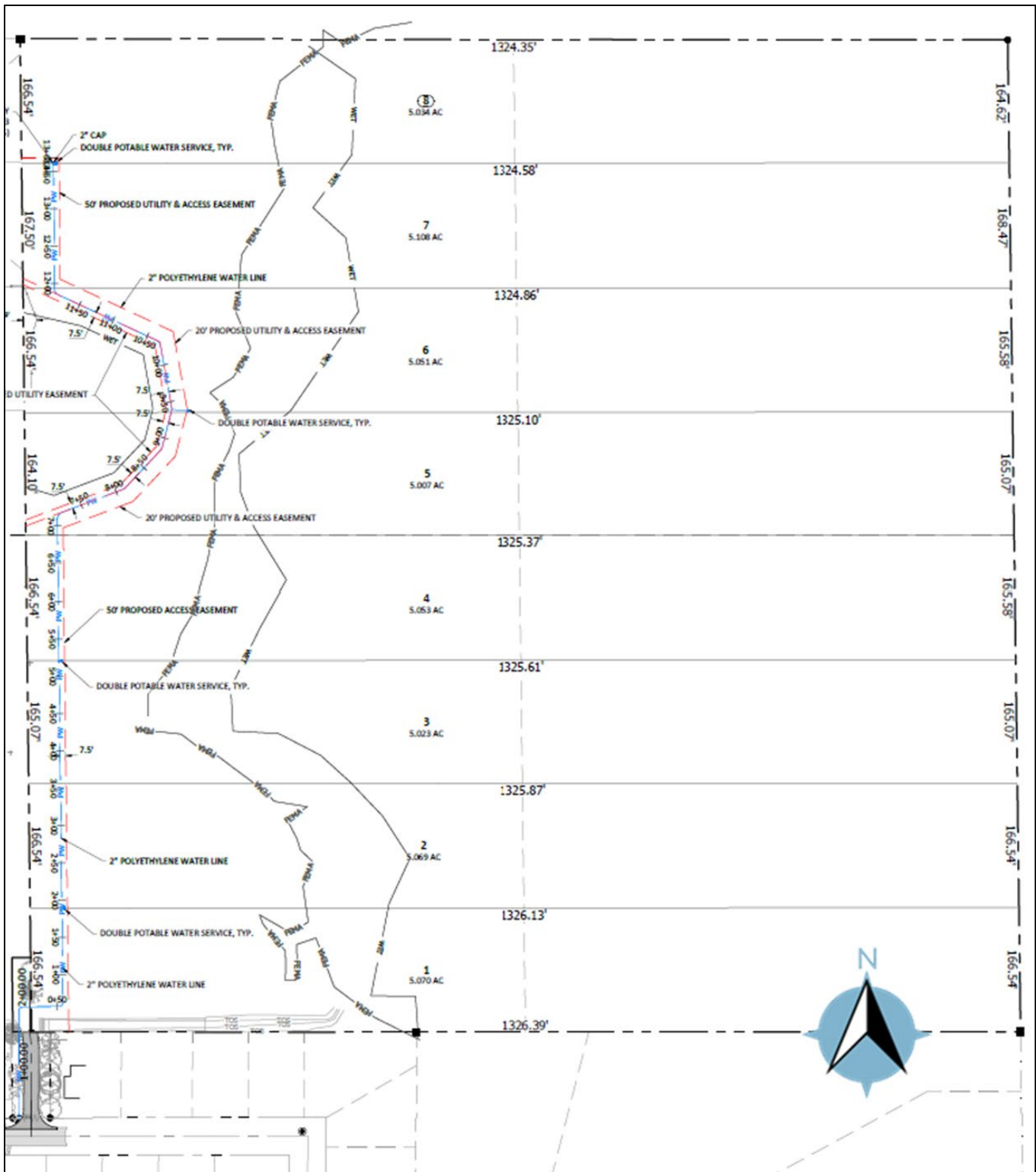
Future Land Use Map



Aerial Image – Context



Aerial Image – Close



Site Plan