

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

DRC Date:	July 10, 2025	CASE #:	LDLVAR-2025-41 (2034 Overlook Drive Variance)
LUHO Date:	August 26, 2025	LDC Section:	Section 205, Table 2.2

Request: The applicant is requesting an accessory structure side setback reduction from five (5) feet to three (3) feet for the construction of a six (6) by 12 feet (72 square feet) shed at their residence on approximately 0.50 acres.

Applicant: Roberto Cosme

Property Owner: Roberto and Diana Cosme

Location: The subject property is located at 2034 Overlook Drive, north of Cypress Gardens Boulevard, south of Lucerne Park Road, east of US Highway 17, west of US Highway 27, west of the City of Dundee in Section 25, Township 28, Range 26.

Parcel ID#: 262825-000000-022460

Size: ±0.50 acres

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

Development Area: Urban Growth Area (UGA)

Case Planner: Kyle Rogus, Planner I

Summary:

The applicant is requesting an accessory structure side setback reduction from five (5) feet to three (3) feet for the construction of a new six (6) by 12 feet (72 square feet) shed for storage purposes. There are multiple factors not brought on by the applicant that restrict development on this property. The subject property is in the Residential Low-1 (RL-1) land use district. The size of the lot does not meet the 40,000 square foot minimum residential lot area. The current location and shape of the property restricts the applicant to placing the shed within the side setback.

The property is located at the intersection of Overlook Drive and Lake Daisy Road, two urban collector roadways. According to Chapter 2, Section 205, Table 2.2 of the Polk County Land Development Code (LDC), the RL-1 land use district requires an right-of-way setback of 35 feet placing the residential dwelling in the south west corner of the lot. This portion of the property, where the dwelling currently resides is what would be considered the side or rear yard of the property. Pursuant of Section 209.D of the LDC, accessory structures shall be located in the side or rear yard. The 72 square foot storage shed will be in the southwest corner of the property, three (3) feet from both west and south property lines. A septic drain field is located on the north side

of the primary structure and a porch is located on the south side of the primary structure. The location of the primary structure and septic drain field make it difficult to develop elsewhere, while meeting 209.D.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval and is consistent with the surrounding properties, maintaining the integrity of the neighborhood.

Staff recommends approval of LDLVAR-2025-41 as it meets the following criteria listed in Section 931:

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 request will not block or limit the view of traffic and there are no easements on the front of the property. The shed will be located 20 feet from closest neighboring structure, two (2) feet within the 5-foot accessory structure side setback.

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 is part of Tract 17 of unrecorded Anderson Estates. The property was originally zoned Rural Estates (RE-1), which had a minimum lot size of 15,000 square feet. As the County transitioned from Zoning to adopt the Future Land Use Map in 2000, the property designation changed from RE-1 to what is now the Residential Low-1 (RL-1) land use district. The minimum residential lot area in the RL-1 is 40,000 square feet. Subject property is smaller than the minimum lot size at approximately 0.50 acres or 21,780 square feet, but met the original minimum lot size of 15,000 square feet in the RE-1 at the time of creation. The small lot size, shape of the lot, and location at an intersection of two urban collector roadways limit the placement of the primary home, and accessory structures without the relief from setbacks.

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-2025-41**

CONDITIONS OF APPROVAL:

1. The approval of this variance is to reduce the accessory structure side setback from five (5) feet to three (3) feet for the construction of a six (6) by 12-foot shed. Further additions or structures placed on the property shall be required to meet the setback requirements of Section 205, 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;*

Per Chapter 2, Section 205, Table 2.2 accessory structure setbacks in the RL-1 land use district are: 35 feet right-of-way off urban collector roadways; five (5) feet off the side; and 10 feet off the rear. The dimensions of the proposed shed will be approximately six (6) feet across, and twelve (12) feet in length. The variance request is to reduce the side setback from five (5) feet to three (3) feet on both the west property line and the south property line measured from the end of the structure. The closest neighboring structure to the shed is approximately 20 feet to the west, well above any fire separation requirements. The granting of this request will not be injurious to the area as the shed will be in the rear yard and will not block the view of traffic.

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;*

This property is located in the Residential Low- (RL-1) land use district on approximately 0.50 acres. Pursuant to Chapter 2, Section 205, Table 2.2, accessory structures have a right-of-way setback of 35 feet off urban collector roadways; five (5) feet side setbacks; and 10 feet rear setbacks. The lot is 0.50 acres, which is below the 40,000 square feet minimum residential lot area in the RL-1 land use district. However, this property was originally part of Track 17 of unrecorded Anderson Estates, which was zoned Rural Estates (RE-1) at the time of creation. The RE-1 zoning district had a minimum lot size of 15,000 square feet, meeting minimum lot size at the time. When Polk County adopted the Future Land Use Map in 2000, the property was given RL-1, causing the discrepancy with the minimum lot size requirement. Because of the small size of the lot, shape, and location at an intersection of two urban collector roadways, the setbacks restrict further development without impeding on the accessory structure side setback. The six (6) by 12-foot shed will be two (2) feet within the 5-foot side setback, approximately 20 feet away from the nearest structure to the west.

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

The owner purchased the property in February 2022, according to the Polk County Property Appraiser. The home was built in 2020 meeting all setback requirements. However, the subject site is located off the intersection of Overlook Drive and Lake Daisy Road, both classified as an Urban Collector roadways. The right-of-way setback off an urban collector roadway is 35 feet, limiting development to the southwest portion of the site. To meet this requirement, placement of the home came in close proximity to the side setback requirement. The residence is approximately 17 feet from the west property line and 13 feet from the south property line offering little relief from the 10-foot side setback requirement. This also utilizes the majority of the property that would be considered the side or rear yard. Unlike garages, accessory structures are only allowed in the side or rear yard limiting the placement of the shed to the location depicted on the site plan. There is no variance to the location of an accessory structure to be placed outside the side or rear yard, only a variance for setback reduction. The shed is six (6) by 12 feet or 72 square feet and is asking for a 2-foot reduction. This is a very minimal and discrete request. If the home was placed further to the east of the site, off the west property line, there would be no need for a variance request. The owner may not have been aware of the accessory structure side setbacks.

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 to some degree. The home is situated on a corner lot, which is subject to only right-of-way and side setbacks, no rear to the property. Because accessory structures can only be located in the side or rear yard per Chapter 2,

Section 209.D of the LDC, the only location consistent with the LDC for the placement of the shed is proposed on the site plan.

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. The subject property is 0.50 acres (21,780 square feet) below the 40,000 square feet minimum residential lot area in the RL-1 land use district. Furthermore, the property is located at the intersection of Overlook Drive and Lake Daisy Road, both classified as Urban Collector roadways requiring a primary structure right-of-way setback of 35 feet. The size, shape, and locational factors limit the development of the property, restricting the primary residence to be placed on or within close proximity to the setbacks boundaries.

The house currently sits approximately 17 feet from the west property line and 13 feet from the south property line, meeting the 10-foot side setback requirement. This further restricts any accessory structure to be placed within the side or rear of the property to impede on the accessory structure setbacks. Accessory structures shall be located in the side or rear yard, making the area depicted in the site plan the only viable location for the shed.

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 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.*

There was no evidence found that suggests the proposed request will circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners. Per Chapter 2, Section 205, Table 2.2 of the Land Development Code, Residential Low-1 (RL-1) land use district requires accessory structure right-of-way setback of 35 feet off collector roadways. Side yard setback of five (5) feet and rear yard setback of 10 feet.

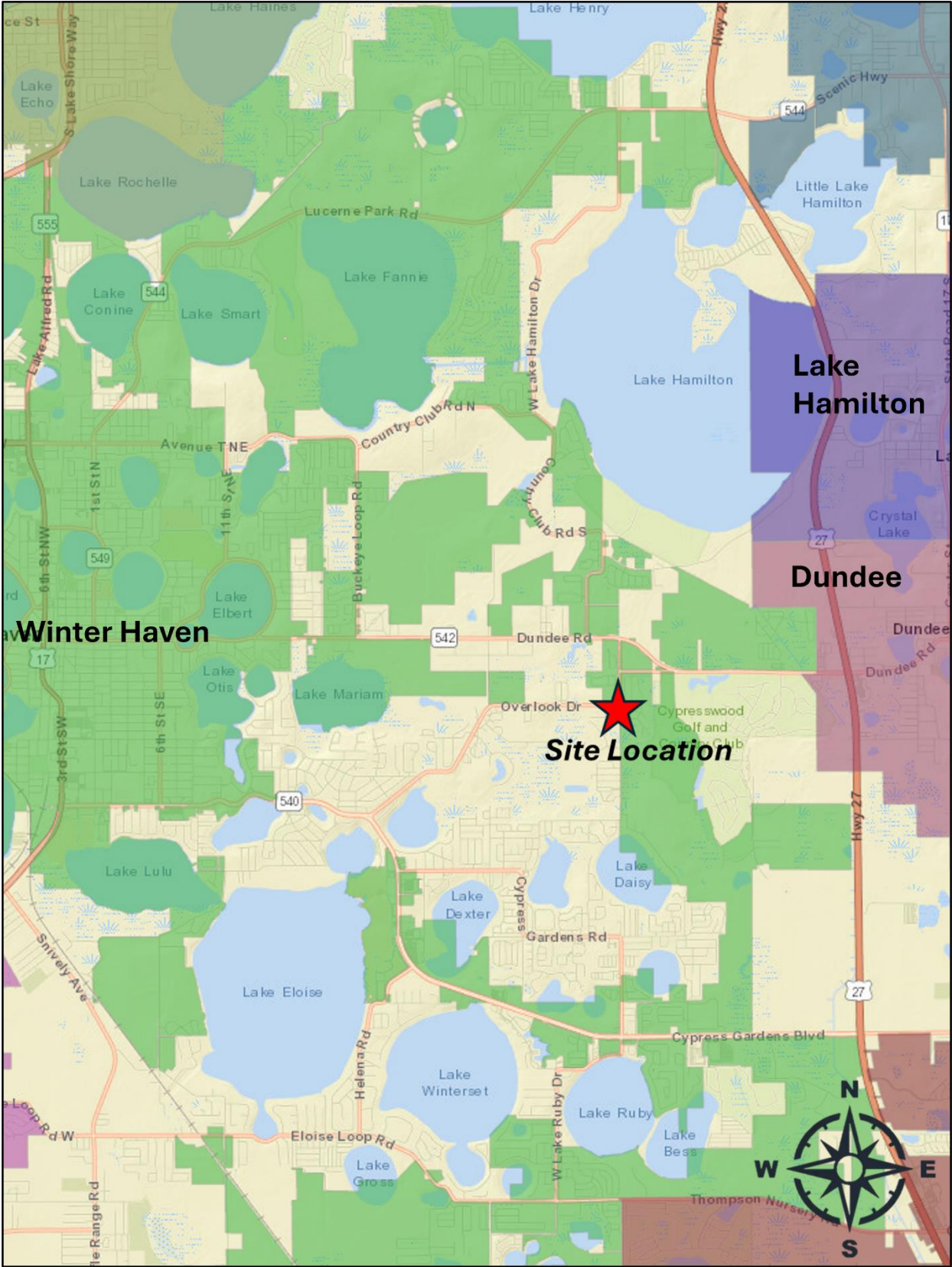
Surrounding Future Land Use Designations and Existing Land Use Activity:

Northwest: City of Winter Haven Church No accessory structures 8.9 acres	North: City of Winter Haven Church No accessory structures 8.9 acres	Northeast: City of Winter Haven Single-family 0.11 acres
West: RL-1 Single-family No accessory structures 0.50 acres	Subject Property: RL-1 Single-family Multiple accessory structures 0.50 acres	East: City of Winter Haven Single-family No accessory structures 0.11 acres
Southwest: RL-1 Single-family No accessory structures 0.50 acres	South: RL-1 Single-family Accessory structure (shed) 0.51 acres	Southeast: City of Winter Haven Single-family No accessory structures 0.11 acres

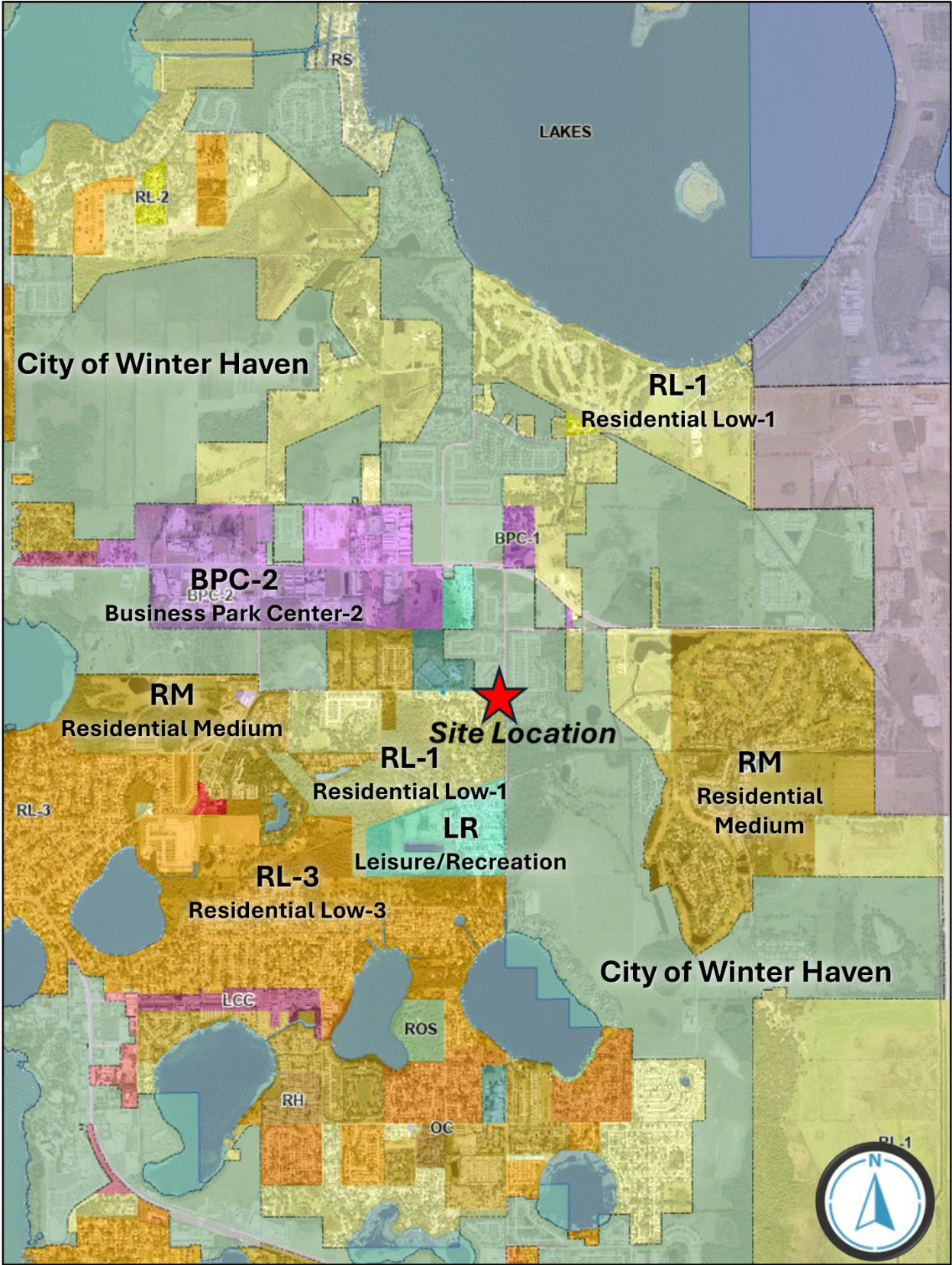
The size of the residential lots within unincorporated Polk County are similar in size to the subject property. The surrounding residential lots however do not share the same frontage on both Overlook Drive and Lake Daisy Road, only having one right-of-way setback offering some relief to the setback requirements for both primary and accessory structures. According to Property Appraiser, only one home, to the south of the subject property, has added an additional accessory structure (shed) to the property. The other properties only show attached screened porch additions to the property.

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



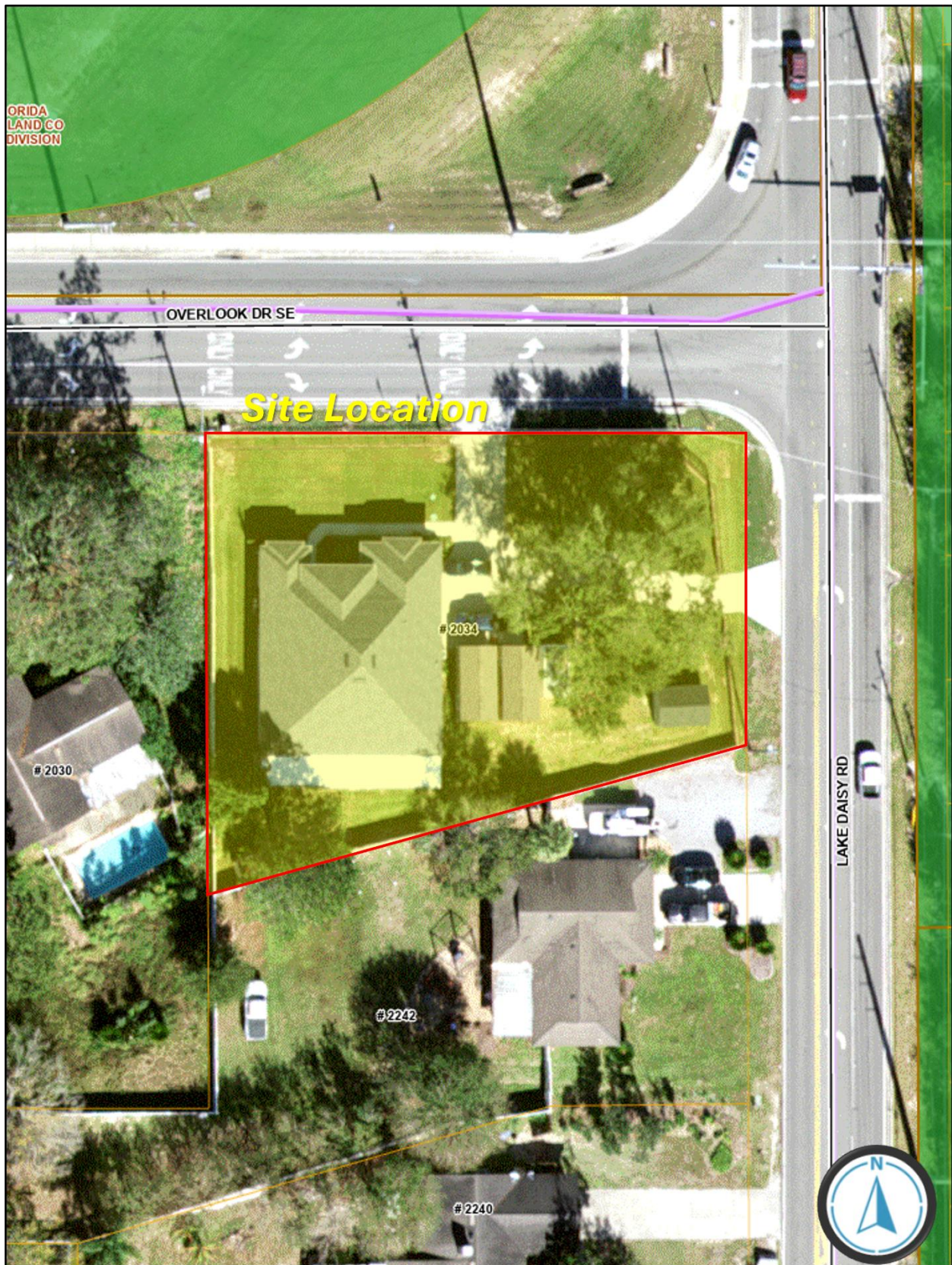
Location Map



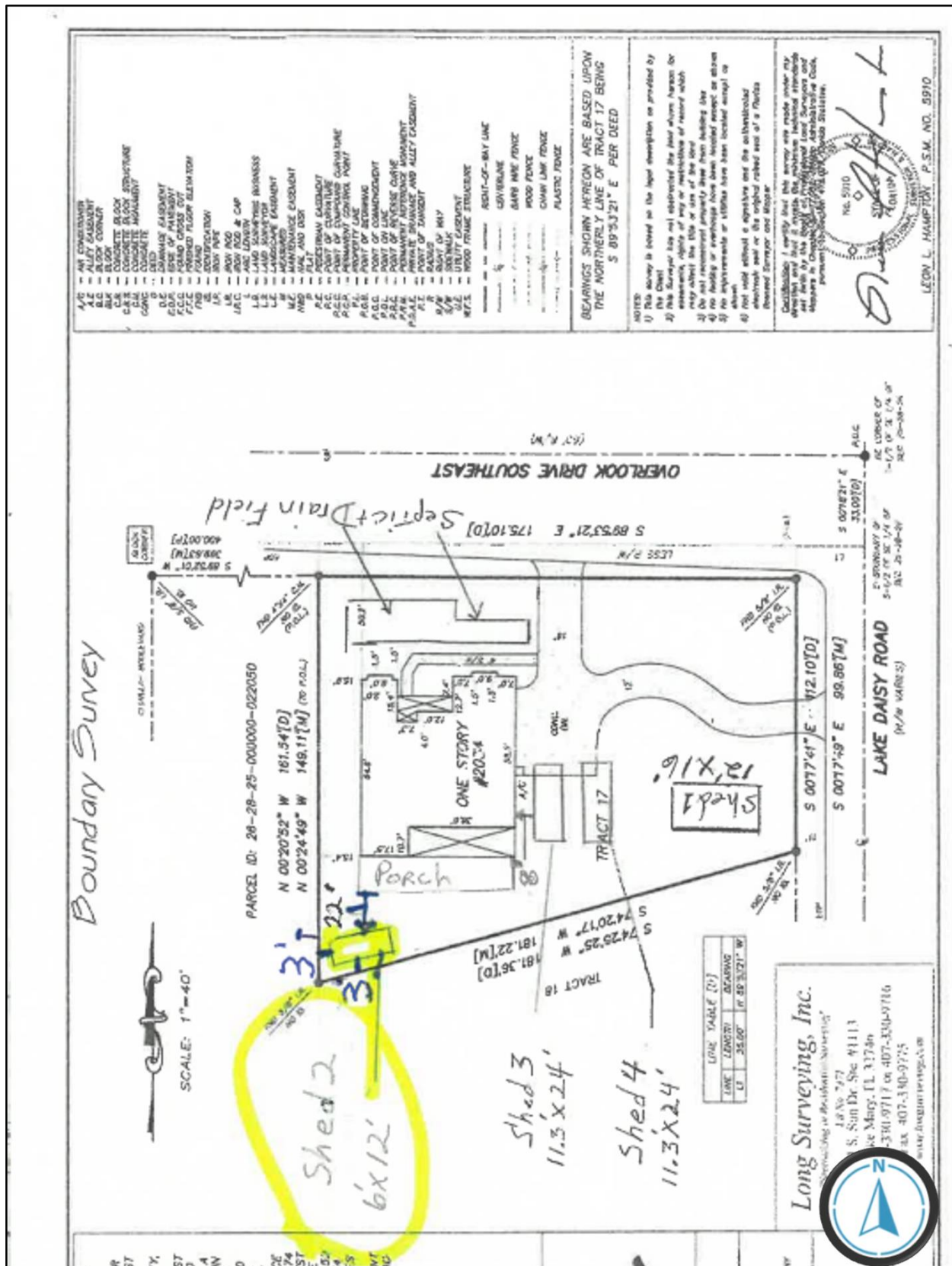
Future Land Use Map



Aerial Imagery (Context)



Aerial Imagery (Close)



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?

There is a drain field that would put the building over the drain field

When did you buy the property and when was the structure built? Permit Number?

Property was bought in 2020, structure was installed in 2022.

What is the hardship if the variance is not approved?

The building would be too close to the house and right over a drain area.

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

N/A

Do you have Homeowners Association approval for this request?

Do not have HOA on my property.

Justification