

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

<b>DRC Date:</b>	<b>June 15, 2024</b>	<b>CASE #:</b>	<b>LDLVAR-2024-25 (International Bass Lake Resort - Foley Variance)</b>
<b>LUHO Date:</b>	<b>July 25, 2024</b>	<b>LDC Section:</b>	<b>PUD 86-19</b>

**Request:** The applicant is seeking a reduction to the right of way setback from fifteen (15) feet to six (6) feet for a deck and a reduction from fifteen (15) feet to four (4) feet for carport.

**Applicant:** Michael Foley

**Property Owner:** Michael P Foley, Kathleen M Foley

**Location:** 50989 Hwy 27 Lot 219, south of Sunfish Ct, west of Lake Trout Ct, north of International Bass Blvd, Davenport, in Section 12, Township 25, and Range 26.

**Parcel ID#:** 262512-488053-002190

**Size:** ±0.09 acres

**Land Use Designation:** Residential Low-1X (RL-1X) within PUD 86-19 (International Bass Lake Resort) and North US 27 Selected Area Plan (SAP)

**Development Area:** Transit Supportive Development Area (TSDA)

**Case Planner:** Aleya Inglima, Planner II

**Summary:**

The applicant is seeking a reduction to the right of way setback from fifteen (15) feet to six (6) feet for a deck and a reduction from fifteen (15) feet to four (4) feet for carport. By constructing a deck, the structure becomes a part of the primary residence and must adhere to the fifteen (15) foot right of way setback. The proposed request necessitates public hearing and approval from the Land Use Hearing Officer (LUHO), in accordance with Chapter 9, Section 931 of the Land Development Code (LDC).

Located within the Residential Low-1X (RL-1X) land use district and the North US 27 Selected Area Plan (SAP), the subject property is Lot 219 within Phase 1 of International Bass Lake Resort (PUD 86-19). While the RL-1X requires a minimum lot size of 40,000 square feet, the development was established with significantly smaller lots through an approved Planned Unit Development (PUD) intended for recreational vehicles (RVs) in phase 1. On May 3, 1994, the Board granted approval for a Major Modification of Final and Tentative Approval of Phase I & II to allow a change from RV's to conventionally constructed homes and mobile homes for Phase I

and increase minimum lot size to 5,000 square feet and conventional construction only for Phase II. The modification to the PUD was later approved to permit the placement of mobile homes but did not reduce setbacks.

Since the modification of the PUD, the development has seen an increase in mobile homes being placed on lots within the International Bass Lake Resort PUD. As a result, many property owners desiring to construct additions to their homes within PUD 86-19 realize the need to request a variance because of the limited space, setback requirements, and easements relative to the small lot sizes. The applicant's request for six (6) feet for a deck and four (4) feet for carport will leave enough room to ensure adequate maintenance in the future and no encroachments into the neighbor's property.

Staff recommends approval of LDLVAR-2024-25 as 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** as many homes in this community have carports and structures the same distance as the new owner is proposing. The six (6) feet for a deck and a reduction to four (4) feet for the carport will leave adequate space for property maintenance and will also ensure no encroachments into the neighbor's property. Building and fire code separations will still be met as the proposed structure is not for habitable purposes.
- The **special conditions and circumstances present in the request do not result from the actions of the applicant** because phase I was originally intended for RVs but later evolved into mobile homes. The unique shape of the lot makes it difficult to meet the PUD 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-2024-25.**

### **CONDITIONS OF APPROVAL:**

1. A variance to the standards established within PUD 86-19 shall be granted to reduce the right of way setback from fifteen (15) feet to six (6) feet for a deck and a reduction from fifteen (15) feet to four (4) feet for carport. All further additions or structures placed on the property shall be required to meet the requirements PUD-86-19 or be granted approval via another variance from the Land Use Hearing Officer.
2. 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.
3. 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: 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 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.*

## **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 subdivision plat (Plat Book 87, Page 16), there is a five-foot utility easement along the rear and side lot line of each lot. Granting this variance, as conditioned, is in accordance with the general intent and purpose of the Code. The request will not be injurious to the area or detrimental to the public welfare because it is similar to other mobile homes in the development and it does not encroach on any easement or utility line. There will also be adequate space to allow for maintenance between the property lines and the proposed addition.

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;*

Although the subject lot size is typical for the approved PUD, Phase 1 of the development began as an RV park and later evolved into a mobile home subdivision. However, the developable space did not change and as a result, area for additional structures on the lots are limited. The subject property is Lot 219 of International Bass Lake Resort Phase 1 and is approximately ( $\pm 0.09$  acres). As previously noted, the minimum lot size within the RL-1X requires a minimum lot size of 40,000 square feet ( $\pm 0.92$  acres), much larger than the subject development. This phase of International Bass Lake Resort also requires a ten (10) foot rear setback and a five (5) foot side setback. The property was acquired by the applicant in September of 2016 via a warranty deed. Many property owners within PUD 86-19 desiring to construct additions to their residences may also realize the need to request

a variance for their proposed structure because of the limited space, setback requirements, and easements within the development.

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

The relatively large setbacks and easements on small lots established within this development were not actions of the individual property owners. The approved modification to the PUD on May 3, 1994, allowed placement of mobile homes with no relief to the setbacks. The property was acquired by the applicant in September of 2016 via a warranty deed.

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;*

Screen rooms, carports, and open covered patios are common in this development and variances are typically needed for their construction.

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

Phase 1 of the development was originally intended for recreational vehicles only. The addition of permanent dwellings such as double-wide mobile homes severely limit the amount of space for any additions. If approved, the applicant will remain six (6) feet for a deck and four (4) feet for carport from the right of way.

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 proposed structure is considered a part of the primary residence. Therefore, the request will remain residential and does 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.*

Chapter 9, Section 930.B.13 of the LDC allows relief to requirements within approved Planned Unit Developments via an approved variance, specifically linear distances, and height.

**Surrounding Future Land Use Designations and Existing Land Use Activity:**

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

<p><b>Northwest:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 226 Mobile Home</p>	<p><b>North:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 227 Mobile Home</p>	<p><b>Northeast:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 252 Mobile Home</p>
<p><b>West:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 220 Mobile Home</p>	<p><b>Subject Property:</b> PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 219 Mobile Home</p>	<p><b>East:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 253 Mobile Home</p>
<p><b>Southwest:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 220 Mobile Home</p>	<p><b>South:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 218 Mobile Home</p>	<p><b>Southeast:</b> Subject Property: PUD 86-19 RL-1X International Bass Lake Resort Phase 1, Lot 254 Mobile Home</p>

The subject property has a Future Land Use district of Residential Low-1X (RL-1X) within the Transit Supportive Development Area (TSDA) and the North US 27 Selected Area Plan (SAP). The subject site is surrounded by mobile homes. However, the International Bass Lake Resort PUD (86-19) is comprised of RVs and mobile homes, some with covered carports, canopies, and other additions. There have been other variance approvals in this subdivision but specific record information is not available. Based on the surrounding neighborhood, a recent site visit, and the variance application provided by the applicant, staff believes that the proposed variance is compatible with the surrounding development.

**Comments from other Governmental Agencies:**

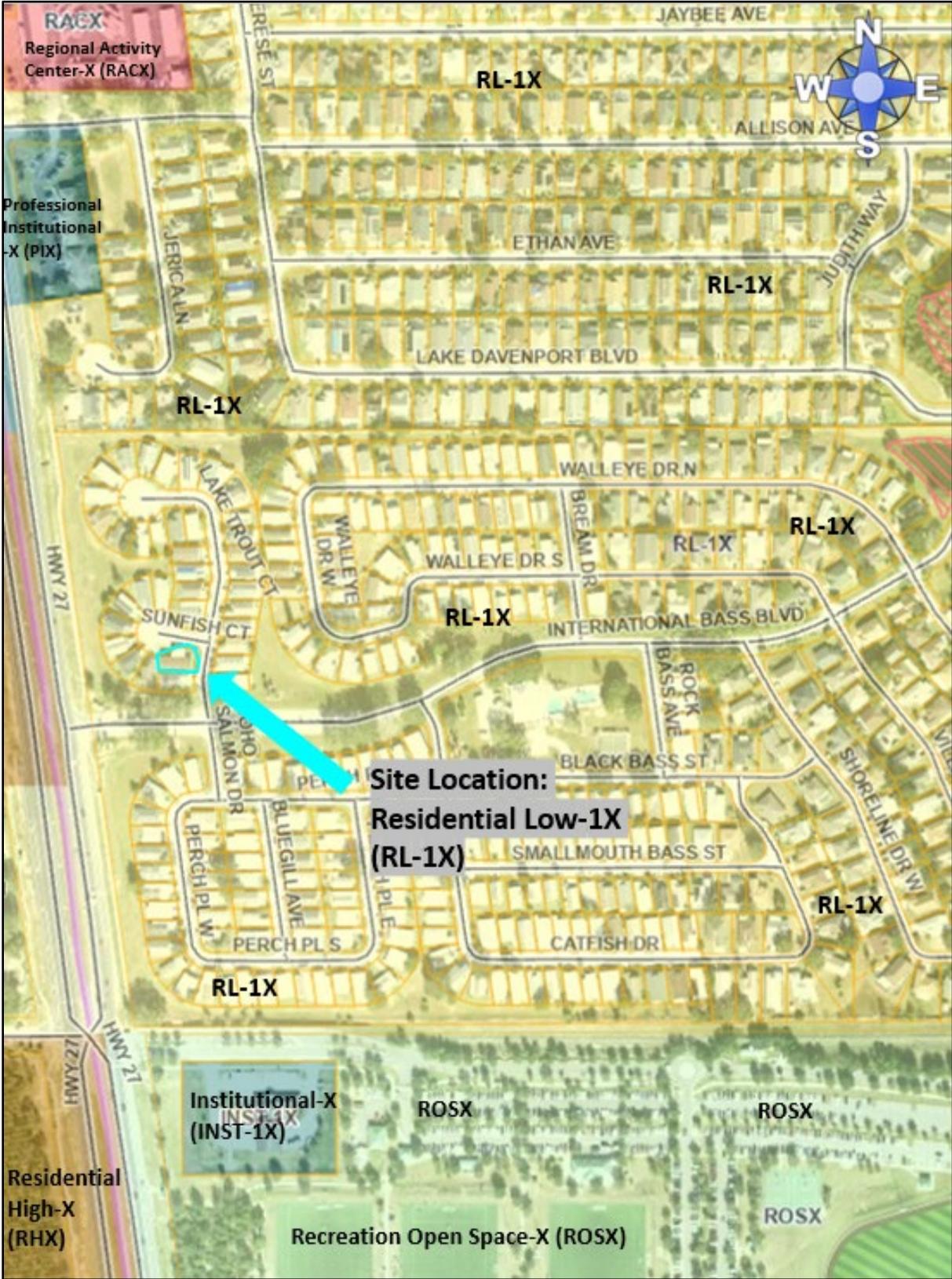
None.

**Exhibits:**

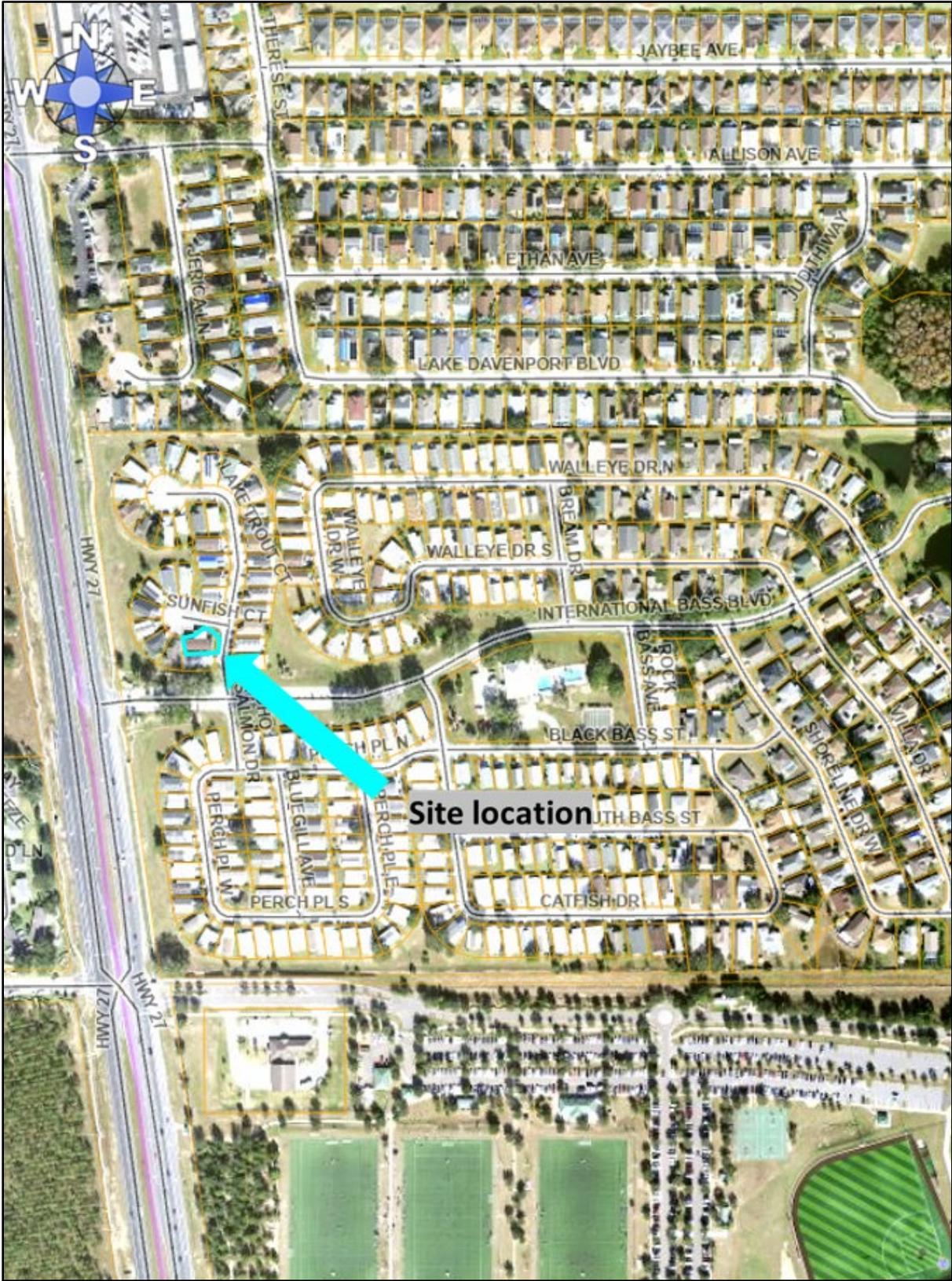
- Exhibit 1 –Location Map
- Exhibit 2 – Future Land Use
- Exhibit 3 – Aerial Context
- Exhibit 4 – Aerial Close-up
- Exhibit 5 – Applicant Site Plan
- Exhibit 6 – Applicant’s Justification
- Exhibit 7 – International Bass Lake Resort Phase 1



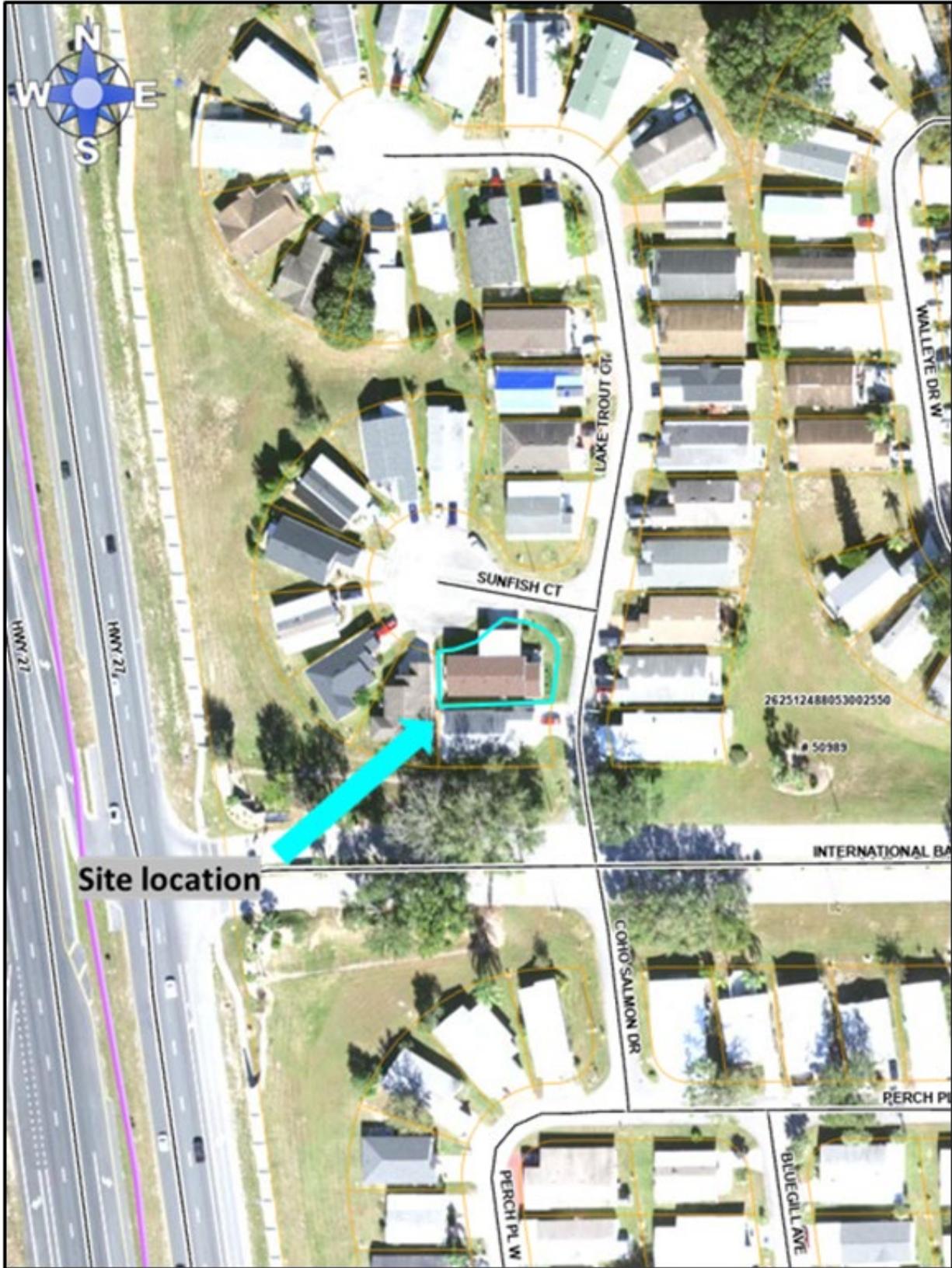
# Location Map



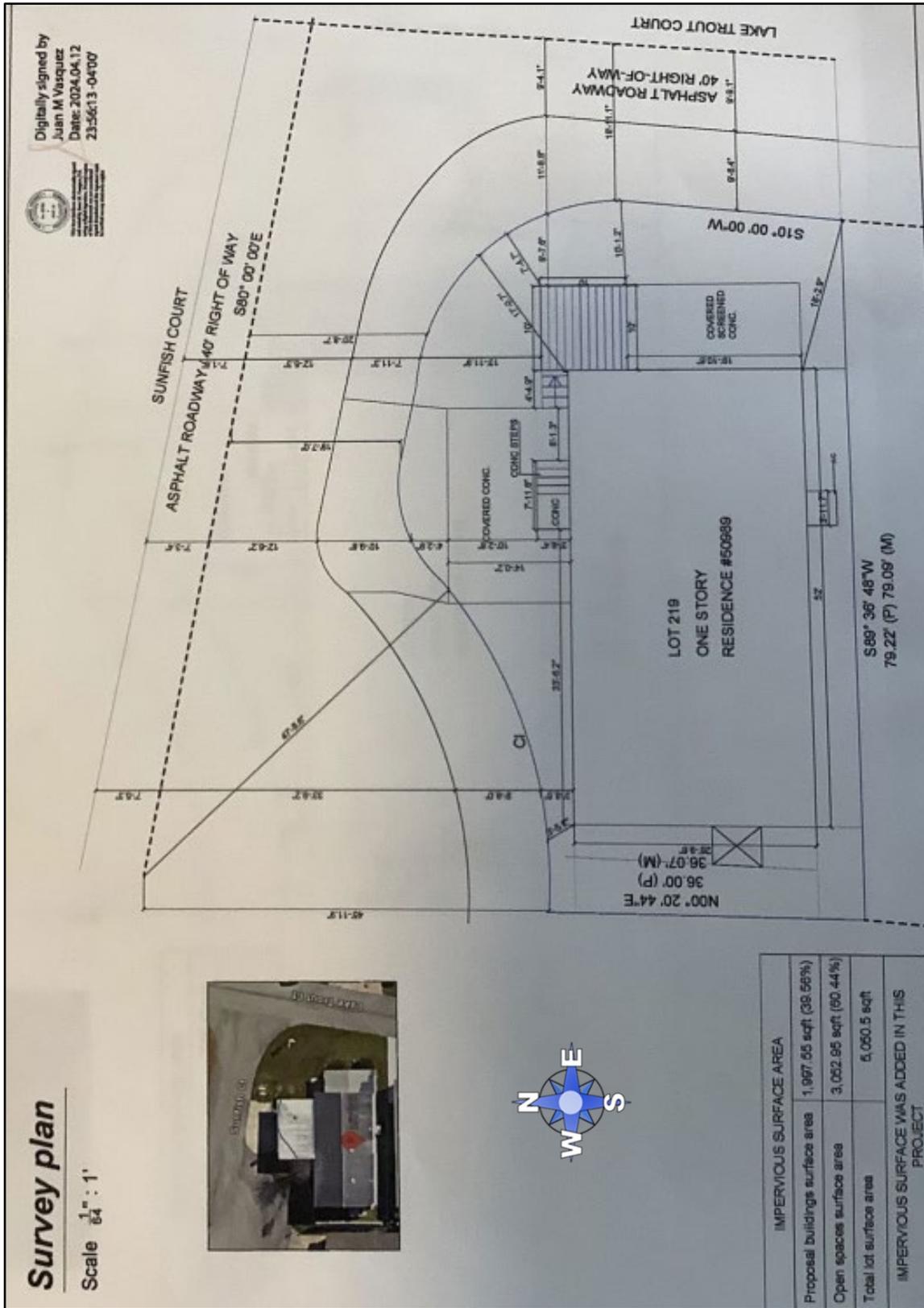
# Future Land Use Map



# Aerial Context



## Aerial Close-Up



# 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?

The shape of the lot is circular.

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

2016

What is the hardship if the variance is not approved?

Financial loss of investment.

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

Yes,

Do you have Homeowners Association approval for this request?

Yes. Approval uploaded into case file.

## Applicant's Justification

