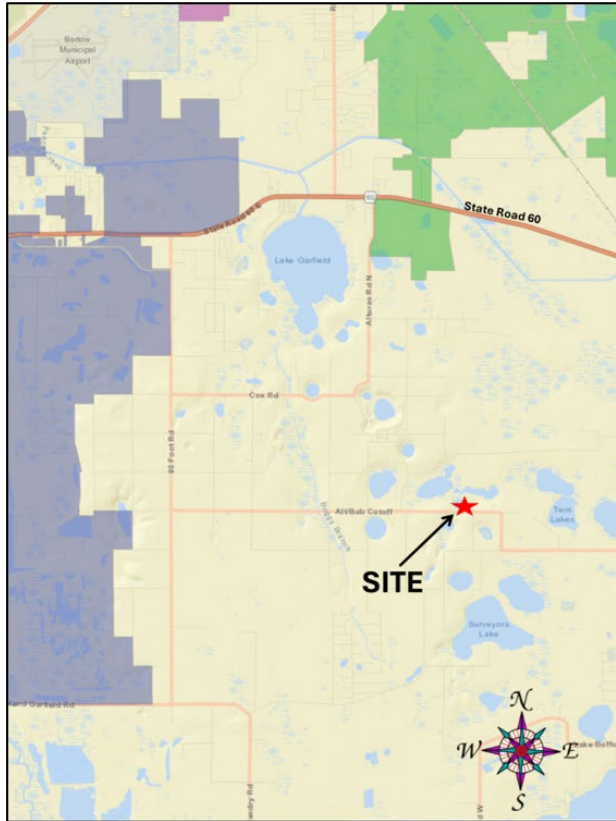


**POLK COUNTY
DEVELOPMENT REVIEW COMMITTEE
STAFF REPORT**

DRC Date: November 7, 2024	Level of Review: Level 4 Review
PC Date: January 8, 2025	Type: Extended Rights Parcel
BoCC Date: January 21, 2025	Case Numbers: LDCU-2024-36
Applicant: Alejandro Rodriguez	Case Name: Rodriguez Rights Restoration ABC Road
	Case Planner: Erik Peterson, AICP

Request:	Conditional Use for recognition of a former legal non-conforming use of three dwelling units on one parcel per Section 120.H of the LDC.
Location:	9000 Alturas-Babson Park Cutoff Road, west of Rodriguez Drive, east of Alturas Road, south of East Lake Wales-Alturas Road, north of Rocker Road, South of State Road 60, southeast of Alturas, east of the City of Bartow, South of the City of Winter Haven in Section 22, Township 30, Range 26.
Property Owners:	Alejandro and Elvia Rodriguez
Parcel Size (Number):	±0.7 acres (263022-000000-014020)
Future Land Use:	Agriculture/Residential Rural (A/RR)
Development Area:	Rural Development Area (RDA)
Nearest Municipality:	Bartow 4¼ miles
DRC Recommendation:	Approve
Planning Commission Vote:	Approval (Vote 7:0)

Location Map



2007 Aerial Photo



Summary:

Alejandro and Elvia Rodriguez own a property on Alturas-Babson Park Cutoff Road that once had two mobile homes and one site-built home. The site-built home was demolished in 2013. One mobile home was replaced in 2012. The other mobile home was demolished in April of 2021. The Rodriguezs' want to regain their rights to three units on the property. They would like to replace the former site built home and mobile home with two mobile homes for a total of three units on the property. These homes are rented to low-income workers in the agricultural and services industry. Under Section 120.H of the Land Development Code, a former legal non-conforming use that has ceased, pursuant to Section 120 C.1.b. may be recognized as conforming as part of an Extended Rights Parcel subject to its approval as a Level 4 conditional use.

The abutting residential properties have multiple dwellings on them the same as the Rodriguezs' property once had just over 10 years ago. One has a duplex in addition to a single-family dwelling. The other once had seven units on it but has only two mobile homes today. The other surrounding properties are in pasture.

Infrastructure in the area is minimal as expected in a Rural Development Area (RDA) urban services district. The septic tanks from the previous homes remain on the property in their original locations. All three units were served by one central potable water well and can be again. Restoring the former development rights of three units will not have any significant impacts to infrastructure and services such as public safety, schools, or transportation.

The property has been 0.696 acres since February of 1967. The 1968 aerial photos show three dwellings on the property. For nearly 45 years this property was developed at a density of more than four (4) dwelling units per acre. The site is in the center of a large Agricultural/Residential Rural (A/RR) district and in the Rural Development Area (RDA). Therefore, urban infrastructure is scarce. The A/RR district does not have a method for approving any more than two dwelling units per acre. The density of this property was legally non-conforming until 2012 for three units and 2021 for two units. The Rodriguezs' purchased the property in 1999. This process is the only way they can return the property to its original condition as it was under their original investment. The site was consistent with the zoning ordinances prior to the adoption of the Comprehensive Plan in 1991 and the A/RR designation of the property on the Future Land use Map.

There are eight (8) criteria (Section 120. H) for the Planning Commission and Board of County Commissioners to consider when reviewing the requested use for approval. These criteria are briefly summarized in Table 11 on page 14 of this report. The data and analysis to support each summary statement are included in pages 5-14. Staff has found overwhelming justification for recommending approval of this request for restoration of development rights.

Findings of Fact

- *The request is for an Extended Rights Parcel for three (3) dwelling units (site built single-family or mobile home) on ±0.696 acres in the A/RR district.*
- *The site and surrounding properties are in a Rural Development Area (RDA), which is an area “characterized by large open areas, agricultural use, with scattered development and rural centers. Services are limited and mostly found in the rural centers and clustered developments” according to POLICY 2.108-A1 of the Comprehensive Plan. The site is in a Rural Development Area (RDA), which is an area “characterized by large open areas, agricultural use, with scattered development and rural centers. Services are limited and mostly found in the rural centers and clustered developments,” according to POLICY 2.108-A1 of the Comprehensive Plan.*
- *The site and surrounding properties are Agricultural Residential Rural (A/RR) on the Comprehensive Plan Future Land Use Map. POLICY 2.114-A of the Comprehensive Plan states that the “Polk County recognizes the importance of the agriculture industry as a healthy and competitive force in the national and international marketplace and, therefore, shall encourage the continuation of productive agricultural uses and provide for the placement of low-density residential development within unincorporated rural areas through:*
 - a. the establishment and mapping of Agriculture/Residential-Rural (A/RR), and*
 - b. the establishment of policies to govern the development of land within the A/RR land use category.”*
- *Policy 2.129-A.2.c requires that the Land Development Code provides “regulations and procedures to address existing development and potential development, to include, but not limited to:*
 - a) Existing non-conformities, including: uses, lots, structures, and site characteristics (parking, signage, access, etc.). Such regulations shall include provisions for the elimination or reduction of such non-conformities through abandoned or destroyed "grandfathered" discontinuance provisions and through the elimination of non-conforming zoning districts; and*
 - b) Recognition of legal non-conformities to include: rebuilding rights; expansion rights; and use changes.”*
- *Section 120 provides for the recognition of a former legal non-conforming use that has ceased as an Extended Rights Parcel subject to approval as a Level 4 Conditional Use. The granting is to be based on the consideration of the following criteria:*
 - a) Substantiation that the subject use was a legal non-conforming use;*
 - b) Site improvements, e.g., buildings or structures, were made to support the former legal non-conforming use;*
 - c) The extent to which the non-conformity is conforming with the surrounding uses;*
 - d) The availability of infrastructure and community services to support the nonconforming use;*
 - e) Compatibility with neighboring properties and their land uses;*
 - f) The impacts of the historical uses on the surrounding area;*
 - g) The applicant’s future plans for the property relative to the character of the surrounding area; and*
 - h) The need or potential for site or infrastructure improvements that may result from extension of the use.*

- *Aerial photos from 1968, 1971, 1980, 1988, 2002,2005, 2007, and 2011, show three dwellings on the subject property.*
- *The property was originally zoned Residence R-3 district, which permitted all building types not exceeding two (2) stories in height, and a gross density of eight (8) dwelling units per acre under Ordinances 71-01, and 83-2 (original 1970 zoning ordinance and 1983 revised zoning ordinance)*
- *In the original zoning standards for R-3, the minimum lot size was 6,000 square feet plus 400 square feet for each additional unit.*
- *Aerial photos dated April 25, 2012, show one site built dwelling and two mobile homes on the subject property.*
- *Aerial photos dated January 9, 2021, show two mobile homes on the subject property.*
- *A demolition permit was issued on the subject property for removal of a single-family dwelling on September 27, 2012, under case #BLD-H-173457.*
- *A mobile home set-up permit was issued on the subject property for removal of a single-family dwelling on October 18, 2012, under case #BLD-H-175691*
- *A demolition permit was issued on the subject property for removal of a mobile home on January 8, 2013, under case #BLD-H-181768.*
- *Fire Rescue and EMS response to this site is from Polk County Fire Rescue Station 19 at 5361 Rifle Range Road which is approximately 6½ miles in travel distance with a response time average of ten minutes.*
- *The area is served by the Polk County Sheriff's Office Southwest District Command at 4120 US Highway 98 North approximately 18 miles driving distance from the site and on average 10 minutes in response time.*
- *There is public potable water or wastewater infrastructure in available distance to the site.*
- *The site accesses Alturas-Babson Park Road which is a rural major collector road.*
- *Subject property is not located in the 100-year flood zone.*
- *According to the Polk County Endangered Habitat Map (Source: Florida Natural Areas Inventory, 2006 & 2011), the site is not located within a one-mile radius of an endangered animal species sighting.*

Development Review Committee Recommendation: Based on the information provided by the applicant, recent site visits, and the analysis conducted within this staff report, the Development Review Committee (DRC) finds that with the proposed conditions the request **IS COMPATIBLE** with the surrounding land uses and general character of the area and **IS CONSISTENT** with the Polk County Comprehensive Plan and Land Development Code. Therefore, the DRC recommends **APPROVAL of LDCU-2024-36.**

Planning Commission Decision: Based on the information provided at a public hearing held on January 8, 2025, the Planning Commission found that with the proposed conditions the request **IS COMPATIBLE** with the surrounding land uses and general character of the area and **IS CONSISTENT** with the Polk County Comprehensive Plan and Land Development Code by a **VOTE OF 7-0 FOR APPROVAL.**

CONDITIONS OF APPROVAL

Based upon the findings of fact, the DRC recommends APPROVAL of LDCU-2024-36 with the following conditions:

1. This Conditional Use approval shall be for an Extended Rights Parcel for three (3) dwelling units (site built single-family or mobile home) on ±0.696 acres in the A/RR district.
2. A Level 2 Review is not required to initiate this conditional approval. The approval shall be vested as long the property does not become completely vacant of residential dwellings for more than 24 consecutive months. Building permits or mobile home set-up permits will be required for each new dwelling established on the property.
3. A residential driveway in accordance with the standards for Section 705.F and 705.G of the Land Development Code (LDC) shall be constructed with the next dwelling added to the property.

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 Board of County Commissioners' jurisdiction. Building permits will be required for improvements to 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.

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>Northwest: Agricultural/ Residential Rural (A/RR) Lake Millbite</p>	<p>North: A/RR Two mobile homes and a barn 3 site-built dwellings, a barn, and a mobile home until 2021. Seven (7) site-built dwellings until 2006</p>	<p>Northeast: A/RR Two mobile homes and a barn 3 site-built dwellings, a barn, and a mobile home until 2021. Seven (7) site-built dwellings until 2006</p>
<p>West: Agricultural/ Residential Rural (A/RR) Three (3) dwelling units on 1¼ acres (duplex and site-built single-family dwelling)</p>	<p>Subject Property: One (1) mobile home on 0.696 acres two mobile homes until 2021 a single-family site-built home and two mobile homes until 2012</p>	<p>East: Rodriguez Drive (private road) Agricultural/ Residential Rural (A/RR) pasture</p>
<p>Southwest: Agricultural/ Residential Rural (A/RR) pasture</p>	<p>South: Agricultural/ Residential Rural (A/RR) pasture</p>	<p>Southeast: Agricultural/ Residential Rural (A/RR) pasture</p>

Based on past aerial photos, this site and the two abutting properties had more units on them until suspected hurricane events. The property to the northeast had seven dwellings on them until 2005 aerial photos that show damage to the roofs of each structure and blue tarps covering them. The in the last quarter of 2004, Polk County experienced three hurricanes (Charlie, Francis, and Jeanne). The applicant’s property appears to have lost one of its units as a result of Hurricane Irma in 2017 because the 2018 aerial photos show damage. In both cases the units were removed in the years to follow but the initial decline in the integrity of the structures that caused their removal shows in the post storm event photos. The other abutting properties have historically been in active agriculture but are only used for pasture today.

Compatibility with the Surrounding Land Uses and Infrastructure:

This request is to restore the development rights for a small property that ceased to exist on the property more than 24-months (two years). Although it does not meet the district standards for density and intensity today, there was a time when it was acceptable in this location. The analysis to follow provides a detailed review of the request as it relates to current development regulations, neighboring properties, infrastructure, and public services.

A. Land Uses:

The Agricultural/Residential Rural (A/RR) district allowable base density for development is one dwelling per five acres. If there are certain levels of urban services available and other conditions are met, up to one dwelling unit per acre may be permitted provided all units are connecting to a public potable water system. Up to two dwellings per acre can be permitted if there was public wastewater available. On an 0.7 acre site, three dwelling units is over four units to the acre. Such a situation would not be permitted today in the A/RR under any special provision other than recognition of legal non-conforming standard.

The LDC defines compatibility as “A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.”

Section 120 recognizes legal non-conforming uses, structures, lot size, density, and development standards. Section 120.C sets forth a duration for which a non-conformity can cease to exist before losing its past development rights. For uses, structures, and density it is 24-months. This property last had two units on it in January 2021 and three units in April of 2012, according to aerial and ground photos. Section 120.H provides a process that the Board of County Commissioners can use to restore the legal non-conforming rights to a property after 24 months have passed since the use, structures, or density ceased to exist. This process entails an assessment of eight criteria. These are summarized in Table 11 of this code.

The immediate properties are the most affected by the restoration of development rights to the applicant's land. There is currently one mobile home dwelling on the property, and the applicant desires to have the other two that legally existed on the property up until 2012 for one unit and 2021 for the last unit removed. The immediate neighbors also have multiple dwellings on their property. To the west there are three units (one home and one duplex) to the north there once were seven units. Restoration of rights that once existed three and 11 years ago on the property will not create a disparity in development intensity because they once "coexisted in a stable fashion" over many years.

The property was in compliance with the original Zoning Ordinance in 1970 and continued to be in compliance with subsequent amendments to the zoning ordinance amendments until the Comprehensive Plan was adopted in 1991 and the land was designated A/RR. The site and the properties around it were originally zoned R-3 in 1970. The R-3 district which permitted all building types not exceeding two (2) stories in height, and a gross density of eight (8) dwelling units per acre. The minimum lot size was 6,000 square feet plus 400 square feet for each additional unit. Three units would have required 6,800 square feet. The subject property is 30,318 square feet.

The applicant is asking for the ability to restore the former residential dwellings with either mobile homes or site-built single-family structures. Section 303 allows this flexibility in the Board grants restoration of the former unit count because mobile homes are allowed on any unplatted property in the A/RR.

B. Infrastructure:

Three dwellings in a rural area do not require a significant amount of infrastructure. These units were placed on this property long ago before the County planned for the allocation of urban service investment. This level of intensity would not be permitted today without the urban services needed if it were at a larger scale. Living in such an area like this, expectations are low for most urban services even if the individual lot density is higher than the norm. Restoring the former development rights that this property was once entitled to will not set a precedent for further growth in this area because there are not many situations where this process would apply. Additionally, it was just over 10 years ago that these three units were occupied.

Nearest and Zoned Elementary, Middle, and High School

The property is zoned for middle and high schools in Bartow, the closest city. These are Bartow Middle School, and Bartow High School. Alturas Elementary is relatively close to the site at less than three miles away. All are the closest schools. Three dwelling units will not have a significant impact on the school system. There will be less than one student each year in all three levels.

Table 2

Name of School	Annual Estimated Demand	Distance from subject site	School Capacity
Alturas Elementary	<1 student	±2¼ miles driving distance from entrance to entrance	81%
Bartow Middle School	<1 student	±14 miles driving distance from entrance to entrance	83%
Bartow Senior High School	<1 student	±14½ miles driving distance from entrance to entrance	79%

Source: Polk County School Board, Duncan Associates Educational Facility Impact Fee Study, GIS

Nearest Sheriff, Fire, and EMS Station

Public Safety services are not in close proximity to this area which is expected due to its rural nature. This level of intensity is uncommon for the Rural Development Area (RDA). Therefore, there are no fire hydrants nearby. Development densities are not typically permitted at this intensity because delayed fire rescue will not only be unable to save a unit under stress, but it also can affect the survivability of nearby units. Placement of the units will be the farthest separation possible without jeopardizing the safety offsite properties.

Table 3

	Name of Station	Distance	Response Time*
Sheriff	Southwest District Command (4120 US 98N, Lakeland)	±18 miles	10 minutes
Fire	Polk County Fire Rescue Station 19, 5361 Rifle Range Road	±6½ miles	10 minutes
EMS	Polk County Fire Rescue Station 19, 5361 Rifle Range Road	±6½ miles	10 minutes

Source: Polk County Sheriff's Office and Public Safety

*Response times are based on when the station receives the call and not from when the call is made to 911.

The nearest Sheriff's substation is the Southwest District Command at 4120 U.S. Highway 98, south of Lakeland next to Polk State College, 18 miles driving distance from the site. Sheriff response times are not as much a function of the distance to the nearest sheriff's substation rather more a function of the overall number of patrol officers within the County. However, patrol coverage is less in these more rural areas of the County.

Water and Wastewater Demand and Capacity:

These units will not need public water or wastewater service. The septic tank systems from the former units remain and the central well that serves all three may still be operational.

A. Estimated Demand and Service Provider:

There is no public potable water or wastewater service available in the remote vicinity. The closest is over five miles away. In the recent past, the three dwelling units each had their own individual septic tank, but all were served by one well. This will likely be achievable in the future with some renovation to the former systems.

Table 4

Subject Property	Estimated Impact Analysis		
	Demand as Currently Permitted A/RR	Maximum Permissible in the district A/RR	Proposed Plan
0.7± acres A/RR			
Permitted Intensity	One dwelling As a lot of record	One dwelling As a lot of record	Restore rights to a total of three units on the property either site built or mobile homes
Potable Water Consumption (GPD)	360 GPD	360 GPD	1,080 GPD
Wastewater Generation (GPD)	270 GPD	270 GPD	810 GPD

Source: Polk County Concurrency Manual & Polk County Utilities: Single-family = 360 GPD potable water demand and 270 GPD wastewater output.

In an isolated rural area such as this one, three septic tanks on one small property will not likely result in any significant environmental harm based on past Health Department review. However, a higher number of septic tanks at this density could have some long-term adverse effects. Recognizing this former legal non-conforming development will not enable a precedent to be set in this area because there are very few similar situations.

B. Available Capacity:

If the well and septic tank systems are still functional, they should provide the three units with ample water and wastewater capacity. For the next two years, the Health Department will review this site for septic and well permits. The Florida Department of Environmental Protection (FDEP) will assume the role of permitting individual septic tank permits for Polk County in approximately June of 2026. With that change, new rules on septic tank design and permitting will be implemented.

C. Planned Improvements:

The septic tanks may need to be reconstructed and possibly combined to meet current Health Department standards or future FDEP standards. The well pump and casing may need to be replaced but no other improvements should be necessary.

Roadways/ Transportation Network

There are no anticipated adverse impacts to the transportation systems in the area because three dwelling units will not generate a significant amount of new traffic on the surrounding rural roads. There is ample capacity to serve these units again.

A. Estimated Demand:

There will be a limited increase in transportation demand as a result of this approval. The Institute of Traffic Engineers estimates these three units will add an average of 24 daily trips to the roadways. This is approximately a 1.65% increase to current traffic estimates on Alturas Babson Park Road. The following table provides a comparison between what the current Comprehensive Plan and Land Development Code policies will permit on this legally non-conforming lot.

Table 5

Subject Property	Estimated Impact Analysis		
	Demand as Currently Permitted A/RR	Maximum Permissible in the district A/RR	Proposed Plan
0.7± acres A/RR			
Permitted Intensity	One dwelling As a lot of record	One dwelling As a lot of record	Restore rights to a total of three units on the property either site built or mobile homes
Average Annual Daily Trips (AADT)	8	8	24
PM Peak Hour Trips	1	1	3

Source: Polk County Concurrency Manual

This request will not require either a major or minor traffic study since the average annual daily trip rate (AADT) will be less than 50 trips per day.

B. Available Capacity:

The site has direct access to Alturas-Babson Park Cutoff Road (aka ABC Road), a two-lane rural major collector roadway. According to the Polk County Transportation Planning Organization (TPO) approximately 1,900 vehicles per day traveled the roadway each day on average in 2023. There are approximately 84 eastbound vehicles and 87 westbound vehicles passing through during the PM peak hour. This road is currently operating at approximately 19% of its capacity. Table 6, to follow, shows the generalized capacity on the immediately affected roads within proximity of the facility. Based on periodic traffic counts there appears to be adequate capacity on roads listed in Table 6.

Table 6

Link #	Road Name	Current Level of Service (LOS)	Available PM Peak Hour Capacity	Minimum LOS Standard
4010E	Alturas-Babson Park Cutoff Road From: County Road 559 (80-foot Road) To: U.S. Highway 27	B	366	C
4010W	Alturas-Babson Park Cutoff Road From: U.S. Highway 27 To: County Road 559 (80-foot Road)	B	363	C

Source: Polk County Transportation Planning Organization, Concurrency Roadway Network Database November 2023
Single-family = 7.81 AADT and one (1) vehicle trip during the PM peak hour.

ABC Road originates at County Road 559 (80-foot Road) on the eastern terminus and ends at U.S. Highway 27 where it crosses and becomes County Road 630. From the three PM Peak Hour trips that this property will generate if approved, only one will be exiting the property into the roadway network at that time of day. Given the ample amount of capacity on the roadway, the impacts of this approval will be insignificant on the network.

C. Roadway Conditions

Polk County uses the Pavement Surface Evaluation and Rating (PASER) method established by the Transportation Information Center at the University of Wisconsin-Madison. The roadway conditions are displayed in the table to follow under the Pavement Condition Index (PCI) rating. The property has frontage on Alturas-Babson Park Cutoff Road. It is 22-foot-wide paved rural major collector roadway with a PCI rating of “good” (7) along the project frontage. The right-of-way is substandard. A rural major collector should have 80 feet of right-of-way width. ABC Road has less than 40 feet of right-of-way width. Since the County will be granting restoration of a non-conforming standard, there is not the nexus for requiring right-of-way dedication.

D. Planned Improvements:

There are no transportation improvements planned for the Alturas area. There will be no requirements of the applicant to provide offsite improvements. The driveway is substandard. Approval of the next dwelling will require an upgrade of the driveway to the County's residential standards from the edge of pavement to the right-of-way line.

E. Mass Transit

The closest Mass Transit service is over five miles to the north on State Road 60 called the 21X East Bartow/Lake Wales Express that runs with 2-hour headways between Bartow, the Lake Wales Health Department, and the Egel Ridge Mall Monday through Saturday. The nearest bus stop is at the intersection of SR 60 and Alturas Road approximately 5½ miles away with no sidewalk connection.



F. Sidewalks

There is no sidewalk network in the Alturas area.

Park Facilities:

There are no park or recreation facilities near this site. This approval will pose no adverse effects recreation service capacity or facilities.

A. Location:

This is a relatively rural area of the County. The closest County recreation facility is the boat ramp at Lake Garfield over five miles to the northwest. The closest ballfields and playgrounds are in the city of Bartow.

B. Services:

The Lake Garfield Boat Ramp has only a boat launch, and no other facilities. It is not formally approved for 24-hour access but there are no gates or fences.

C. Planned Improvements

There are no recreation improvements scheduled for this area of the County in the 5-year Community Investment Program.

D. Environmental Lands

There are no access facilities to any nearby Environmental Lands or easements nearby. The closest is the Grassland Reserve Program Easement to the east. But no public access is available at this time.

Environmental Conditions

There are few environmental limitations onsite, and the site plan shows only the replacement of two structures. There are no wetlands and floodplain onsite. The soils have only moderate limitations. No endangered species have been sighted in the area. Airports and groundwater wells will not be affected.

A. Surface Water:

The site is located within the Pembroke Outlet drainage basin. It is an open basin that flows from Lake Millbite through a chain of small lakes (Gadau Lake, Twin Lakes, to Lake Pembroke) to the to the Lake Wales Drainage Canal.

B. Wetlands/Floodplains:

The entire parcel is outside of the nearest wetland or floodplain, according to the Flood Insurance Rate Maps (FIRM) from the Federal Emergency Management Agency (FEMA) and National Wetlands Inventory (NWI). The existing home is the closest at 118 feet from the nearest wetland and 232 feet from the nearest 100-year flood hazard area. The static base floodplain elevation of Lake Millbite is at 121.6 feet above sea level. The existing home is at no lower than 128 feet above sea level and the two former homesites are higher in elevation, according to the LIDAR elevation data within the Polk GIS system.

C. Soils:

All three units (existing and two proposed) are located on Taveres Fine Sand, according to the Soil Survey of Polk County, Florida, United States Department of Agriculture (USDA), Soil Conservation Service. This soil some limitations but is typically suitable for housing on the upslope away from waterbodies as is the case with this site. No homes will be placed on or near the Placide and Myakka soils.

Table 8

Soil Name	Limitations to Dwellings w/o Basements	Septic Tank Absorption Field Limitations	% of Site (approximate)
Apopka Fine Sand	Slight	Slight	10%
Taveres Fine Sand	Slight	Moderate: wetness	80%
Placid and Myakka Fine Sands (depressional)	Severe: ponding	Severe: ponding, poor filter	10%

Source: Soil Survey of Polk County, Florida, USDA, Soil Conservation Service

D. Protected Species

The site is not within a mile radius of an endangered animal species sighting according to the Florida Natural Areas Inventory of 2002, 2006, or 2012. Although, it's likely that there may be some endangered species in such a rural area, the site and properties around it have been occupied with multiple dwellings for many years. Restoration of the two former homesites in the request is not likely to adversely impact an endangered species.

E. Archeological Resources:

The two former units existed on the property from prior to 1968 and up to 2013. One of them remained until 2021. Restoring the two units that were demolished on this site is not likely to pose any threat to archeological resources that was not there before.

F. Wells (Public/Private)

The site had one well that has served all three units in the past. Most likely it is capable of serving them once again if approved. The septic tanks for the former units are still in place from when they were operational. This approval will have no adverse effects on any public or private well systems.

G. Airports:

The site is not within any Airport Buffer Zones. The closest airport is Lake Wales Municipal Airport just under five miles to the northeast. This approval will have no adverse effects on airway traffic.

Economic Factors:

Alejandro and Elvia Rodriguez currently own eight residential properties throughout the County with a total of nine units in addition to their home in Winter Haven. On these rental properties they offer housing to different income levels. The subject property provides affordable housing to workers in the nearby agricultural businesses. When they first purchased the property in 1999, it had three old but rentable units on it. In 2012, the single-family dwelling was beyond repair and had to be demolished for safety reasons. In 2021, a small single-wide mobile home was also in failing condition and had to be removed. They had every intention of replacing both units but did not possess the capital at the time to accomplish it. They had hopes that they could within the two-year grandfathering period but unfortunately could not. Today they have the finances to purchase another mobile home. In a few years they believe they will be able to afford another one. This request will grant them the ability to replace the two former units when the time is right for them. The price point for the product they offer does not yield a substantial amount of revenue, but it is needed in this area.

Consistency with the Comprehensive Plan, LDC, and Other County Ordinances:

The site is located in the Rural Development Area (RDA), which is the area that “*is characterized by large open areas, agricultural use, with scattered development and rural centers. Services are limited and mostly found in the rural centers and clustered developments.*” according to POLICY 2.108-A1 of the Comprehensive Plan. The site is near a rural center known as Alturas, a former railroad hub and packing plant that once served the surrounding groves and farms. The rail line was abandoned before the 1970s but there is a small residential community, and elementary school, and some agribusinesses that remain near the former railroad right-of-way.

The subject property is designated Agricultural/Residential Rural on the Future Land Use Map. The base density of the land use district is one dwelling per five acres. Through various development scenarios, higher density can be approved by the Planning Commission or Board of County Commissioners. The purpose of the A/RR district is to provide lands for the continuation of productive agricultural uses and to provide for very low-density residential development within unincorporated rural areas. The A/RR district permits agricultural activities, agricultural support facilities, multi-family dwelling units, farm labor housing, group living facilities, and community

facilities. The maximum possible density that can be approved consistent with the district is two (2) dwellings per acre. This property was once built above four units per acre. The only path to reaching that density again is to restore the former rights to the property that were lost as of 2015.

According to POLICY 2.129-A2.c, the Land Development Code should include regulations for “*recognition of legal non-conformities to include: rebuilding rights; expansion rights; and use changes.*” Simerly, so does Section 4.301.C.4 which addresses implementation of the Comprehensive Plan and its development regulations.

Section 120 of the Land Development Code is dedicated to addressing every question regarding legal, non-conforming, properties, structures, development standards, and land uses. Section 120.H sets forth a process for recognition of a former legal non-conforming use where such a use or structure has ceased to exist on a property for over two years. The Board of County Commissioners may grant permanent recognition of a former legal non-conformity after consideration of eight criteria. These criteria have been addressed throughout this report and summarized in Table 11 to follow.

Table 9

Comprehensive Plan Policy	Consistency Analysis
<p>POLICY 2.102-A2: COMPATIBILITY - Land shall be developed so that adjacent uses are compatible with each other, pursuant to the requirements of other Policies in this Future Land Use Element, so that one or more of the following provisions are accomplished: a. there have been provisions made which buffer incompatible uses from dissimilar uses; b. incompatible uses are made to be more compatible to each other through limiting the intensity and scale of the more intense use; c. uses are transitioned through a gradual scaling of different land use activities through the use of innovative development techniques such as a Planned Unit Development.</p>	<p><i>The request is equally compatible with neighboring properties and the area as a whole. The property immediately to the west of the site has a single-family home and a duplex on it. The property to the north currently has three mobile homes but has had as many as seven mobile homes. The other abutting properties are active and passive pasture. There is no need for buffering because as there will be no difference in intensity.</i></p>
<p>POLICY 2.102-A1: DEVELOPMENT LOCATION – Polk County shall promote contiguous and compact growth patterns through the development process to minimize energy costs, conserve land, water, and natural resources, minimize the cost of services, and prevent development patterns where tracts of land are by-passed in favor of development more distant from services and existing Communities.</p>	<p><i>While this is a rural area and the applicant is asking for a suburban level of density, this property was developed with three dwellings from before 1968 to 2012. It sits next to two other clusters of units: one on a parcel with a single-family unit and a duplex, the other a mobile home park with as many as seven units. Restoring this cluster of workforce housing that historically has served the surrounding farms, is not circumventing sound growth management</i></p>
<p>POLICY 2.102-A3: DISTRIBUTION - Development shall be distributed throughout the County consistently with this Future Land Use Element so that the public utility, other community services, and public transit and transportation systems can be efficiently utilized; and compact, high-density and intensity development is located where urban services can be made available.</p>	<p><i>This site was once non-conforming to the Future Land Use Element and still is.</i></p>
<p>POLICY 2.102-A4: TIMING - The development of land shall be timed and staged in conjunction with the cost-effective and efficient provision of supporting community services which, at a minimum, shall require compliance with the Plan's Level of Service requirements and the County's concurrency management system.</p>	<p><i>Restoring the two former units to this property will not alter the area's current levels of service.</i></p>

Comprehensive Plan Policy	Consistency Analysis
<p>POLICY 2.102-A15: ADEQUATE PUBLIC FACILITIES - The County will direct new growth to areas where adequate public facilities exist or are planned; and ensure that essential services are in place to provide for efficient, cost-effective response times from the Fire Department, Sheriff's Department, and Emergency Management Service (EMS).</p>	<p><i>The subject property is located within an area of the County that has adequate public safety services for the current amount of development.</i></p>

The Planning Commission, in the review of development plans, shall consider the following factors listed in Table 10 in accordance with Section 906.D.7 of the Land Development Code.

Table 10

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 120.H and 906.D.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>POLICY 2.129-A2.b.2 states the LDC should address "recognition of legal non-conformities to include: rebuilding rights; expansion rights; and use changes." Section 120 of the LDC was specifically designed to implement this policy. This request is consistent with Section 120 thereby consistent with the plan.</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 5&6 of this staff report for data and analysis on surrounding uses and compatibility. Two of the abutting properties have multiple dwellings on them as well.</i>
How the concurrency requirements will be met, if the development were built.	<i>There were three units on this property less than 13 years ago. An increase current demand from one unit to three is an insignificant increase and there is excess capacity on surrounding roads, area schools, and public safety facilities to support two more units.</i>

This request will have very little impact on abutting properties and the area as a whole. It will bring a lot of benefit to the applicant and will provide needed affordable housing to the local labor force.

Table 11

The Planning Commission, in the review of Recognition of a Former Legal Non-Conforming Use, shall consider the following factors in accordance with Section 120.H of the LDC:	
Substantiation that the subject use was a legal non-conforming use	<i>Three dwellings can be seen on the property in aerial photos between 1968 and 2012. The dwellings can also be seen in the Google Maps ground photos in 2008 and 2011.</i>
Site improvements, e.g., buildings or structures, were made to support the former legal non-conforming use;	<i>The two septic tanks remain from the former dwellings and there is one well that can serve all three units.</i>
The extent to which the non-conformity is conforming with the surrounding uses;	<i>Two of the abutting properties have multiple dwellings on them as well. The property to the north was once a small mobile home park.</i>
The availability of infrastructure and community services to support the non-conforming use;	<i>There is no new infrastructure needed to support three dwellings on this property. Increase current demand from one unit to three is an insignificant increase of housing. Existing services are still adequate to meet the needs of two more homes.</i>
Compatibility with neighboring properties and their	<i>Two of the abutting properties have multiple dwellings on</i>

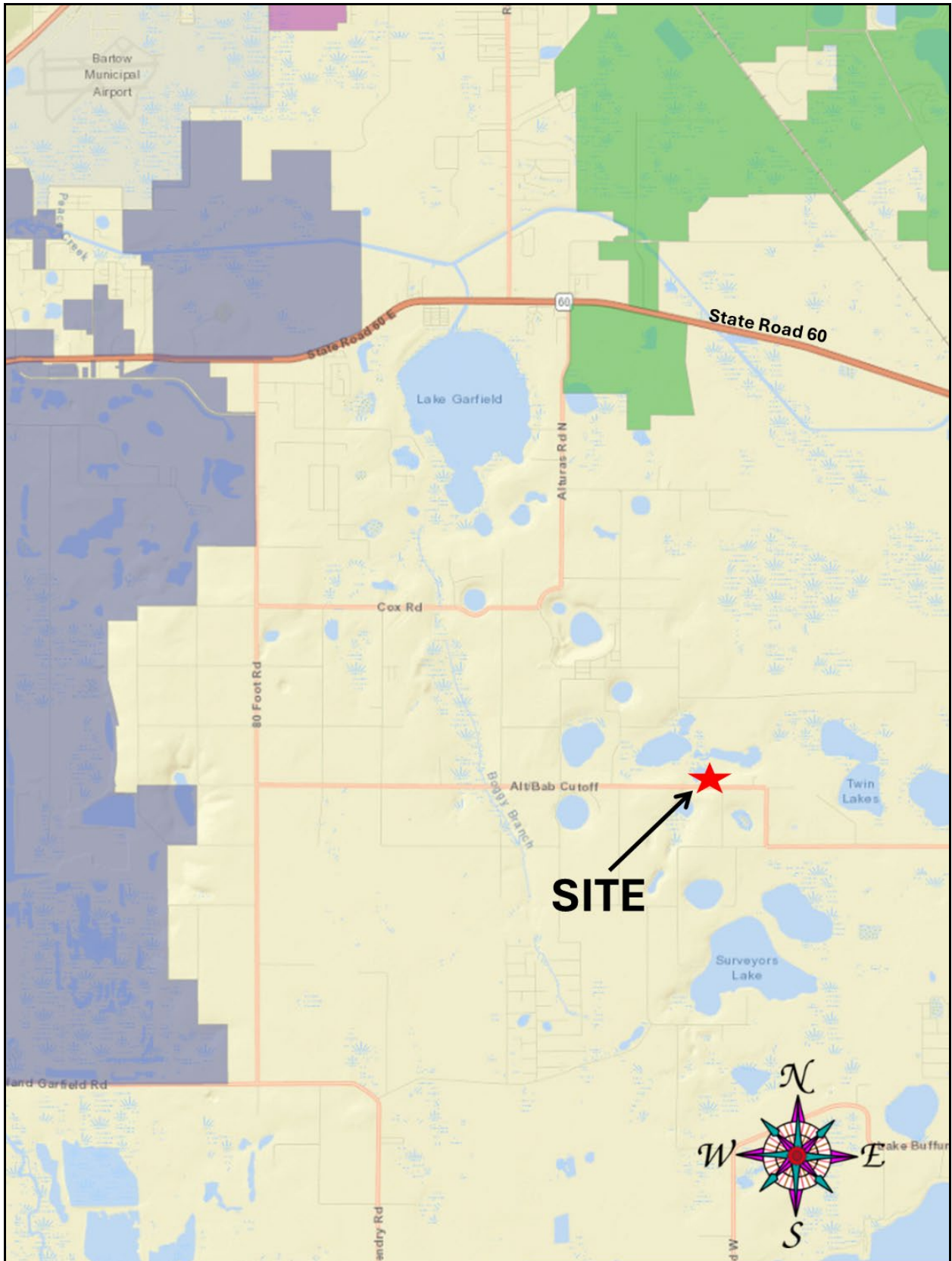
Table 11

The Planning Commission, in the review of Recognition of a Former Legal Non-Conforming Use, shall consider the following factors in accordance with Section 120.H of the LDC:	
land uses;	<i>them as well. The restoration of these former units will be compatible as they were prior to 2012 and 2021.</i>
The impacts of the historical uses on the surrounding area;	<i>The site and the properties around it were originally zoned R-3 in 1970. The R-3 district which permitted all building types not exceeding two (2) stories in height, and a gross density of eight (8) dwelling units per acre. The minimum lot size was 6,000 square feet plus 400 square feet for each additional unit. Three units would have required 6,800 square feet. The subject property is 30,318 square feet. These homes once housed workers in the surrounding agricultural businesses. They are needed even more today due to the decline in affordable housing in this area.</i>
The applicant's future plans for the property relative to the character of the surrounding area; and	<i>The applicant plans to replace one of the former sites immediately. The other former dwelling will likely be replaced with a mobile home in the next three years. No further dwellings will be sought.</i>
The need or potential for site or infrastructure improvements that may result from extension of the use.	<i>No new infrastructure will be needed to support the three dwellings on this site. Septic tank and wells remain on the property from when the former dwellings were occupied. The most they will need is rehabilitation, new pumps, and permitting.</i>

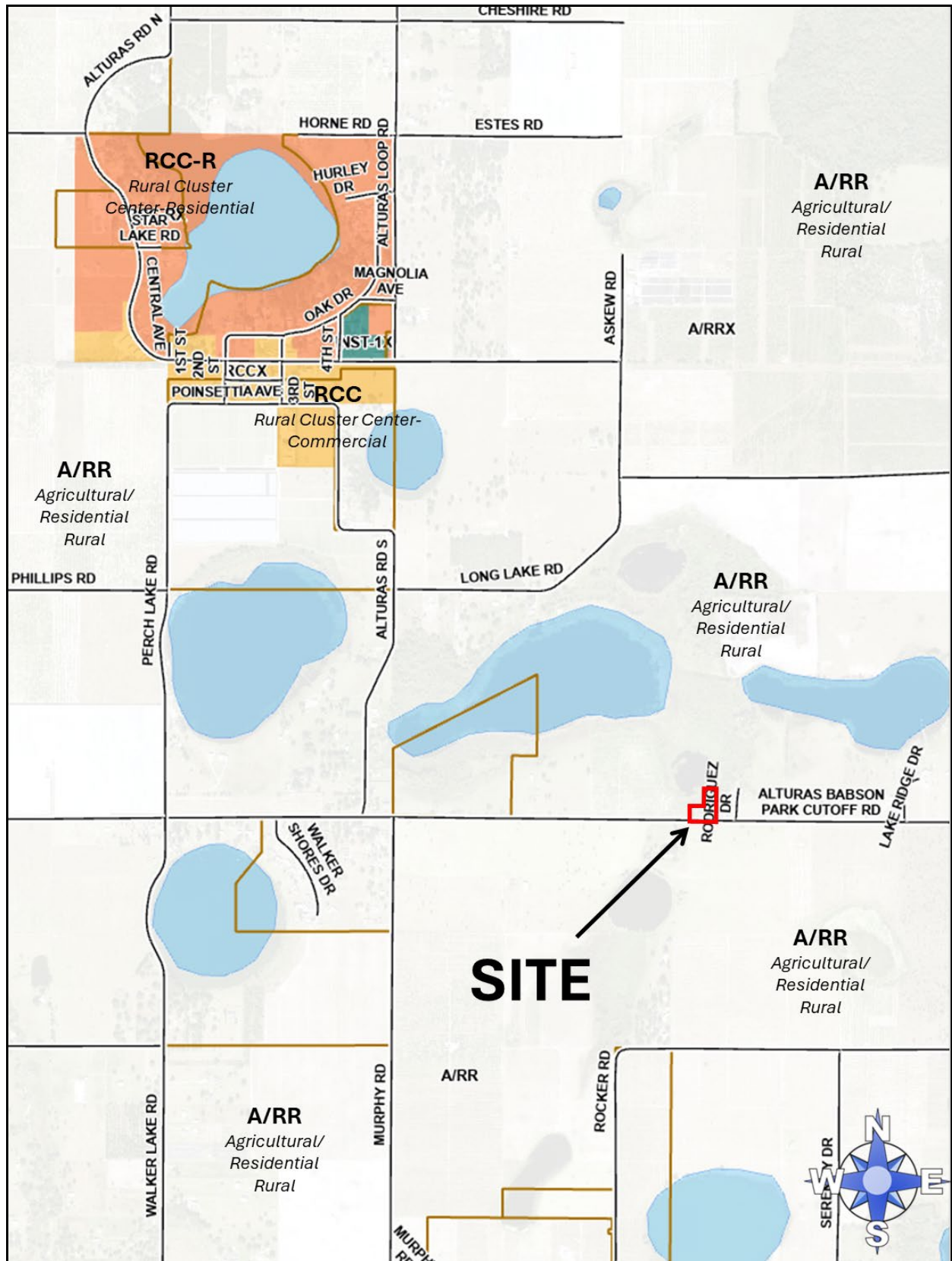
Comments from other Agencies: Polk County Land Development Engineering and the Polk County Public Safety Division contributed to the drafting of this report.

Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 2024 Satellite Photo (Context)
- Exhibit 4 2023 Aerial (Close-up)
- Exhibit 5 Site Plan
- Exhibit 6 1971 Aerial Photo
- Exhibit 7 1988 Aerial Photo



Location Map



Future Land Use Map



2024 Satellite Photo (Context)



2023 Aerial (Close Up)



Site Plan



1971 Aerial



1988 Aerial