

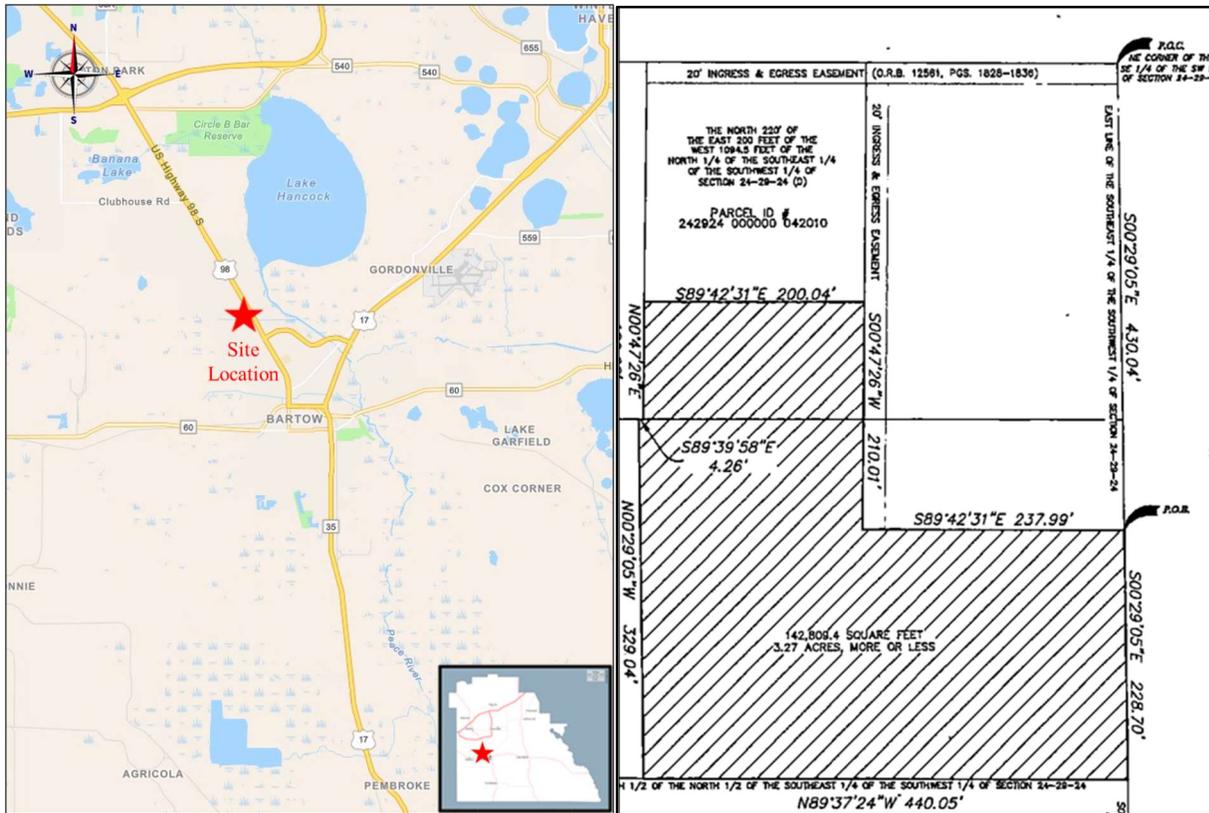
**POLK COUNTY
DEVELOPMENT REVIEW COMMITTEE
STAFF REPORT**

DRC Date: January 25, 2024	Level of Review: Level 4 Review
PC Date: April 3, 2024	Type: Residential Access via Easement Waiver
BoCC Date: May 21, 2024	Case Numbers: LDWA-2023-70
Applicant: Emerson Herrera	Case Name: Cedar Ridge Road Frontage Waiver
	Case Planner: Amy Little

Request:	Waiver to Chapter 7, Section 705 to waive the requirement of a lot having legal access to a paved County road and to allow more than four lots to access an easement.
Location:	1697 Cedar Ridge Road, east of EF Griffin Road, west of Highway 98 South, south of Smith Lane, north of Whatley Lane in Section 24, Township 29, Range 24.
Property Owners:	Luz Garcia
Parcel Size (Number):	± 2.27 acres (242924-000000-042140) ± 3.34 acres (242924-000000-042160)
Future Land Use:	Residential Low-1 (RL-1X)
Development Area:	Urban Growth Area (UGA)
Nearest Municipality:	City of Bartow
DRC Recommendation:	Approval
Planning Commission Vote:	Pending Hearing

Location

Survey



Summary:

The applicant purchased a property that is without direct frontage on a public road or paved private road meeting County standards. The site historically was part of a larger parcel with road frontage, but has been split over time. The applicant received an easement from Lakeland Regional, who owns the property to the west, and this easement provided approval for up to five homes. The applicant then subdivided the site in accordance with the density standards that apply in Residential Low-1X of one dwelling unit per acre. In order to facilitate the construction of a single-family residence on the site, the applicant requested an access via easement approval to build a home on the newly created lot. This approval was received via LDASE-2023-15. Cedar Ridge Road dead ends to the east, and the subject property is the last on the southern side of the easement. The property to the east is owned by Lakeland Regional, but any future development on the site will likely connect to Highway 98 to the east.

The applicant now is interested in further splitting the property to create one acre minimum lots. However, the parcel now considered the parent parcel does not have direct frontage on a public road or paved private road meeting County standards. Typically, this is not permissible, but through approval of a Waiver to the road frontage requirement a dwelling can be built on lot without direct access to a public road if it can gain access through a legal easement meeting the following basic requirements:

1. The easement provides access to no more than four (4) lots and meets the required density, minimum lot size requirements and any other applicable requirements of the LDC;
2. the easement is at least 20 feet wide;
3. Is no longer than a ¼ mile;
4. The easement provides sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and,
5. The property owner has the joinder and consent of all owners under the easement or legal opinion from a licensed Florida attorney that the property has legal right to the easement.

As this is required to go in front of the Board of County Commissioners to waive the requirement of not accessing a public or paved private roadway, staff has also included in the request that the approval can serve up to five residential lots, so long as they are subdivided meeting the minimum lot size of one acre. This is also in accordance with the ingress egress easement provided by Lakeland Regional, which limited the access to the easement to five (5) lots.

The Planning Commission's typical role in this review is to determine the extent to which this access easement is able to accommodate the additional usage proposed and not become overburdened. The LDC has a general standard of no more than four properties sharing one access easement. However, access easements are not all the same. 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 or not to approve the waiver request, but they look to the Planning Commission for guidance in the decision.

Staff finds this request is a reasonable use of the easement and will not place a burden on the roadway with the minimal addition of 5 homes. Currently, there are two homes accessing the easement, and if granted, this approval will allow an additional three homes for the property

owner's family to build single-family residences. There are similar densities in the surrounding area. Should the applicant create three or more lots, they will be required to complete a Level 5 plat with Land Development. Staff finds the request meets the Comprehensive Plan and Land Development Code and recommends approval.

Findings of Fact

- *This is a request for an approval of a waiver to Section 705 to waive the requirement of a lot having legal access to a paved County road and to allow more than four lots to access an easement. on ±5.62 acres.*
- *Per Section 705.B.1 of the LDC, “an easement providing access to a residential lot from a paved road meeting County standards shall meet the following requirements; the easement shall:*
 - a. Provide access for no more than four lots subject to other density, minimum lot size requirements and any other applicable requirements of this Code;*
 - b. Have a minimum width of 20 feet;*
 - c. Not exceed 0.25 miles (1,320 feet) in length;*
 - d. Provide for sufficient ingress and egress for fire trucks, ambulances, police cars and emergency vehicles; and*
 - e. Be supported by the joinder and consent of all fee owners under easements to the use of the easement by the subject parcel(s). If joinders are provided for the easement, it shall be accompanied by an ownership and encumbrance report based on the legal description of the easement. In lieu of joinders, an applicant may provide a legal opinion from a licensed Florida attorney stating a lot has legal access, along with supporting documentation.”*
- *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 no 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 standards.*
- *Section 705.B.2 states, “When creating a parcel that will be accessed solely via easement as provided for herein, the parent tract (prior) to subdividing) shall directly front on a public or private paved road meeting County standards.”*
- *The owner was granted Access Via Easement for two lots created in July of 2023 under LDASE-2023-15 to be able to split the parcel to construct a second home.*
- *Section 932 of the LDC notes that waivers to technical standards within the LDC can be waived; Section 705 is included in the sections that can be waived.*
- *The Future Land Use designation of the site is Residential Low, the Land Development Code Subdistrict is Residential Low-1X (RL-1X). The site is located in the US 98 Selected Area*

Plan (SAP). The surrounding parcels in this area are designated RL-1X or are within the City of Bartow, see Exhibit 2. The RL-1 district requires a minimum lot size of 40,000 square feet.

- *The Polk County Comprehensive Plan defines a Lot of Record as “a parcel of land, or a platted lot, zoned for residential use, the boundaries of which have been established and which has had a deed filed with the Clerk of the Circuit Court and has been recognized by the Polk County Property Appraiser as a separate parcel prior to May 1, 1991, and which, at the time of creation, was a legally established parcel or lot, having been created consistent with Polk County Zoning Ordinance, and which otherwise meets the requirements necessary to obtain a building permit, or mobile home set-up permit, including, but not limited to, the requirement of frontage on a publicly maintained road. Lots created after May 1, 1991, would also need to have complied with the Polk County Comprehensive Plan and zoning ordinance at the time of creation to be considered a lot of record. Lots created after December 1, 1992, would also need to have complied with Section 2.128-C of the Plan to be considered a lot of record. Parcels or lot created after September 1, 2000 shall be in compliance with the Land Development Code.”*
- *The parent property has access to Cedar Ridge Road, a County maintained road through a 20-foot-wide easement that is unpaved and unmaintained. A 20-foot-wide easement running north and south and connecting to the existing easement has been created, with the intention of subdividing the property further in the future.*
- *The property has no access to centralized potable water or wastewater services.*
- *The land included within the request abuts residential properties, with single-family residences to the east and south. The property to the east is vacant and is owned by Lakeland Regional Health Systems, INC..*
- *The subject property is zoned for Spessard L Holland Elementary, Bartow Middle, and Bartow Senior High.*
- *The subject property is served by the Polk County Sheriff’s Southwest District Substation, located at 4120 US 98 South, Lakeland.*
- *The subject property is served by Polk County Fire Rescue Station 28, located at 4101 Clubhouse Road, Highland City, 33846.*
- *There is a fire hydrant directly to the north of the west/east running access easement, approximately 170 feet from the subject property.*
- *The property contains no Flood Hazard Zone or wetlands, according to the Polk County GIS Viewer.*
- *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, the site is not located within a one-mile radius of a recent endangered animal species sighting.*

- *The closest monitored transportation link is E.F. Griffin Road, a two-lane urban collector roadway. Link number 4109 E/W is the closest portion to the site. According to the Polk County Transportation Planning Organization (TPO) approximately 3,600 vehicles per day travel that portion of the roadway each day on average. There are approximately 159 eastbound vehicles and 165 westbound vehicles passing through during the PM peak hour. This road is currently operating at 22% of its capacity.*
- *The closest named waterbody is Lake Hancock, located approximately 0.70 miles to the northeast.*
- *The site has a mixture of Candler Sand and Apopka Fine Sand.*

Development Review Committee

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 finds that the proposed 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, and therefore, the Development Review Committee (DRC) recommends **APPROVAL of LDWA-2023-70**.

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 LDC Section 930 D.

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. 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;*

Upon the adoption of zoning in Polk County, the property was designated Rural Conservation, which required 40,000 square feet. A home was constructed on the site in 1971, despite there not being the required road frontage of 25 feet on a County-maintained roadway. Under the current future land use, Residential Low-1X (RL-1X) allows one dwelling unit per acre with a minimum lot size of with the same 40,000 square foot requirement. The applicant has expressed interest in splitting the parcel to allow for future parcels to be split so his family can reside near him. In order to facilitate this, the applicant received an ingress egress easement from Lakeland Regional Health Systems, Inc. which provides the necessary access for the applicant. This approval was completed in under Land Development record LDASE-2023-15. As part of this ingress egress easement, Lakeland Regional granted access to up to five dwelling units. However, Section 705 states that any parent parcel that is being subdivided and resulting lots are being accessed solely via easement must have direct frontage on a public or private paved road meeting County standard. As the parent parcel is accessible via easement, a waiver to this section is required via Section 932 of the LDC. Additionally, Section 705.B indicates access via easement cannot provide access to more than four lots without approval from the Board of County Commissioners. This request will be a waiver to both of these concerns, and without approval, there would be an undue hardship on the use of the property, as the underlying density could not be achieved.

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

The proposed access waiver is the minimum adjustment that will make possible the development of up to five single-family residences on the property. The RL-1 district requires a minimum lot size of 40,000 square feet and the original zoning at the time required one acre. It is the applicant's desire to have the option to split the property in the future for family members. The easement agreed upon by Lakeland Regional Health Systems, Inc. allows the easement to provide ingress egress to no more than one single-family dwelling unit per acre of land, for a maximum of five (5) dwelling units. The property is just over five acres, and five properties could be achieved in this underlying land use. If three or more lots are created, the applicant will be required to plat through a Level 5 review.

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 granting of this waiver is in harmony with the general intent and purpose of this Code. The property was subdivided from a larger property that did meet the road frontage requirements at the time of creation. However, because the applicant is requesting further splits, the property must be in compliance with Section 705. As discussed above, the parent parcel accesses a County road via easement and the proposed splits will result in more than four properties accessing the easement, hence the need for the waiver.

Homes have existed on Cedar Ridge Road with similar densities to those proposed. There are similar densities found within the City of Bartow to the immediate south. The maximum development impacts from this request are minimal, and the applicant has stated his intention is to build homes for his family on any resulting parcel. Staff has advised that the request be for a total of five homes accessing the waiver, which is in line with the intent of the ingress egress easement provided by Lakeland Regional and is the maximum number of homes based upon the underlying land use district.

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

The property to the east is owned by Lakeland Regional and is within the city limits of Bartow. It is unlikely anything residential will develop further to the east, given its close proximity to Highway 98 further east. This is one of the only remaining enclaves of properties located in Unincorporated Polk County, with the property being surrounded by the City of Bartow entirely. All other waiver requests within the City of Bartow would need to follow their regulations.

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

This avenue is the only method available to achieve the applicant’s goals. They will be required to construct the easement to the appropriate standards with a stabilized base for fire and EMS access.

Surrounding Land Use Designations and Current Land Use Activity:

The surrounding land uses are largely located within the City of Bartow. Lots to the west immediately adjacent to the property are single-family residences on lots ranging from one (1) acre to five (5) acres. To the south, within city limits, is a subdivision consisting of approximately one (1) acre lots. Across EF Griffin Road to the west is a large subdivision known as Wind Meadows containing high density and small lot sizes; it is still under construction.

Table 1

Northwest: City of Bartow Vacant	North: RL-1X Single-family residence on 1.01 acres	Northeast: City of Bartow Vacant
West: RL-1X Single-family residence on 3.26 acres	Subject Property: RL-1X Single-family residence	East: City of Bartow Vacant
Southwest: RL-1X Single-family residence on 4.99 acres	South: City of Bartow Single-family residence on 0.96 acres	Southeast: City of Bartow Vacant

The maintained right-of-way of Cedar Ridge Road terminates just before the parent parcel. The property owner received an access easement from Lakeland Regional Health Systems to access the parcel. The intention is to split the remaining property to create lots for the applicant’s family to utilize.

Compatibility with the Surrounding Land Uses:

Residential adjacent to residential is typically compatible as long as development intensities are relatively close. The proposed lots on the Cedar Ridge Road easement are similar in size to properties located in adjacent residential subdivisions. The property to the north and east is owned by Lakeland Regional Health Systems and will likely be developed with a medical facility in the future. Properties to the south and west of E.F. Griffin Road have similar intensities to the proposed lots.

Urban Services and Infrastructure Analysis

There is sufficient infrastructure to serve this property. The infrastructure deficiencies are as follows:

From an area wide perspective, a single unit or the possible five that could come with future waiver requests will not disrupt the County's ability to maintain the current standards for traffic on public roads, schools or recreation facilities. Tables 2 and 3 provide the standard summary of infrastructure items considered with all development.

Any resulting lots created will be required to be one acre in size, which is ample size for each lot to install a well and onsite septic treatment system.

Table 2

Urban Services and Infrastructure Summary	
Schools	Spessard L Holland Elementary Bartow Middle School Bartow Senior High School
Parks	Highland City Park (1.91 miles) No significant impacts to parks based upon the nature of the request.
Sheriff	Polk County Sheriff's Southwest District, 4120 US Highway 98 South, Lakeland
Fire	Polk County Fire Rescue Station 28 located at 4101 Clubhouse Road, Highland City
EMS	Polk County Fire Rescue Station 28 located at 4101 Clubhouse Road, Highland City
Water	Well
Sewer	Onsite Treatment System
Transportation (Public Road)	E.F. Griffin Road – Urban Collector
Urban Sprawl	Site is located within the UGA and is not considered urban sprawl.

Table 3

Impact Analysis Summary Proposed Use: Five Single Family Homes			
Potable Water Impact	Wastewater Impact	*AADT Impact	Peak Hour Impact
1,800 GPD (on-site well)	1,350 GPD (on-site septic)	39.05 AADT	5 trip
<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 Average Annual Daily Trips (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 wetlands or floodplain on the subject site. The closest surface water is just under a mile away, and the requested five lots will have little impact on surface water. The site will utilize septic systems, but with each lot being required to be at least one acre, there should be little issue with the installation of said systems. The soils present slight limitations but onsite septic treatment should be simple to achieve. There are no records of protected species in a mile radius of the site and there is not indication of historical resources on the site as monitored by the State of Florida’s Division of Historical Resources. The site is not located within any Airport Height Notification or In Flight Visual Interference Zones.

Table 4

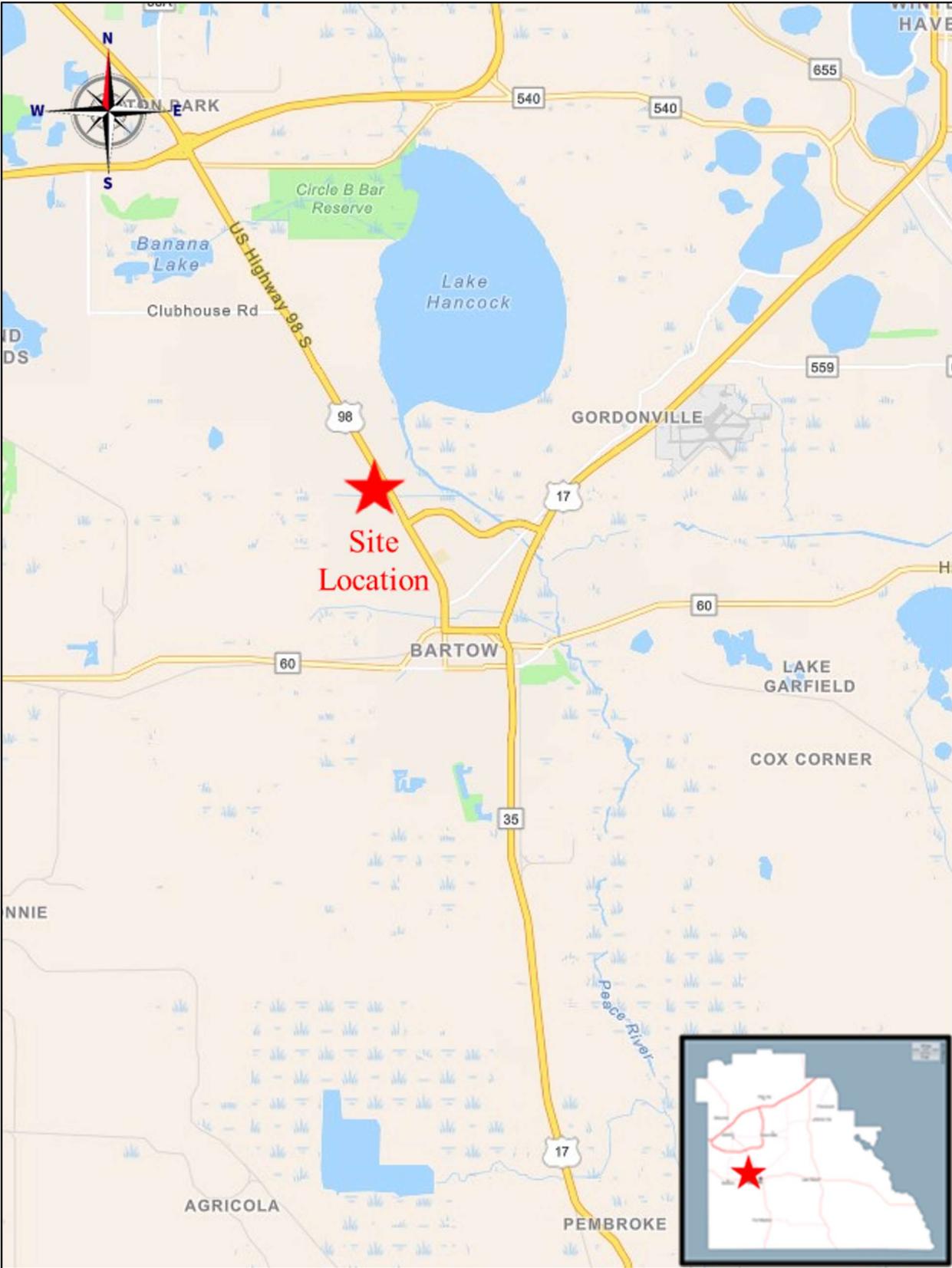
Environmental Conditions Summary	
Surface Water	The closest surface water to the site is Lake Hancock, located 0.77 miles to the northeast of the site. The proposed five lots will have no impact on the lake.
Wetlands/Floodplains	There are no wetlands or floodplains located on the subject site.
Soils	The site is comprised of Candler and Apopka fine sand which have slight limitations for septic systems.
Protected Species	The subject property is not located within a one mile radius of a protected plant or animal species sighting (Source: Florida Natural Areas Inventory Biodiversity Matrix).
Wellfield Protection	The closest County wellfield is 0.68 miles to the north. The proposed five lots will have little impact on this wellfield.
Historical Preservation	The subject property contains no historical resources as monitored by the State of Florida’s Division of Historical Resources.
Airports	Not located within any Airport Height Notification or In Flight Visual Interference Zones.

Comments from other Agencies:

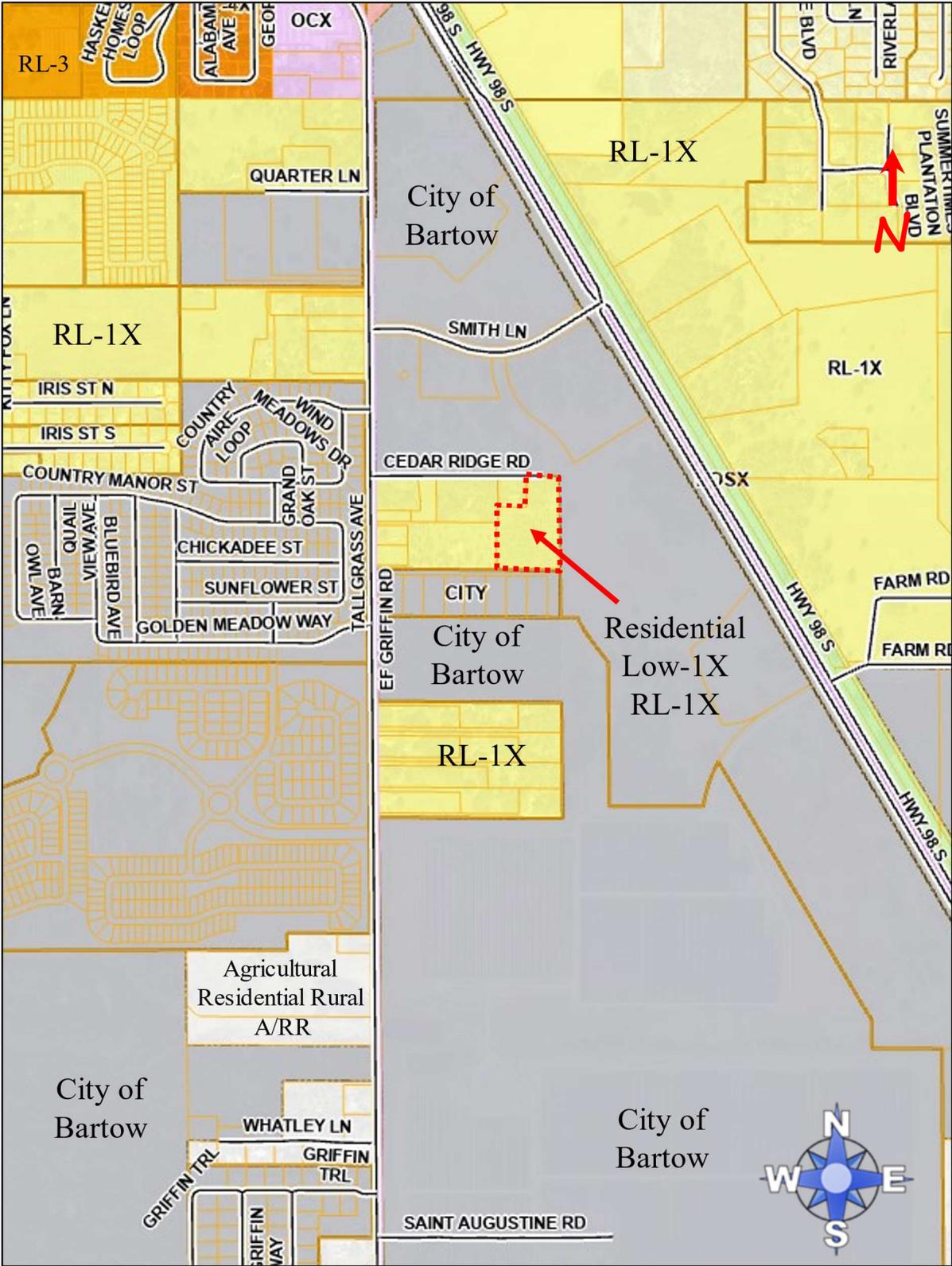
None.

Exhibits

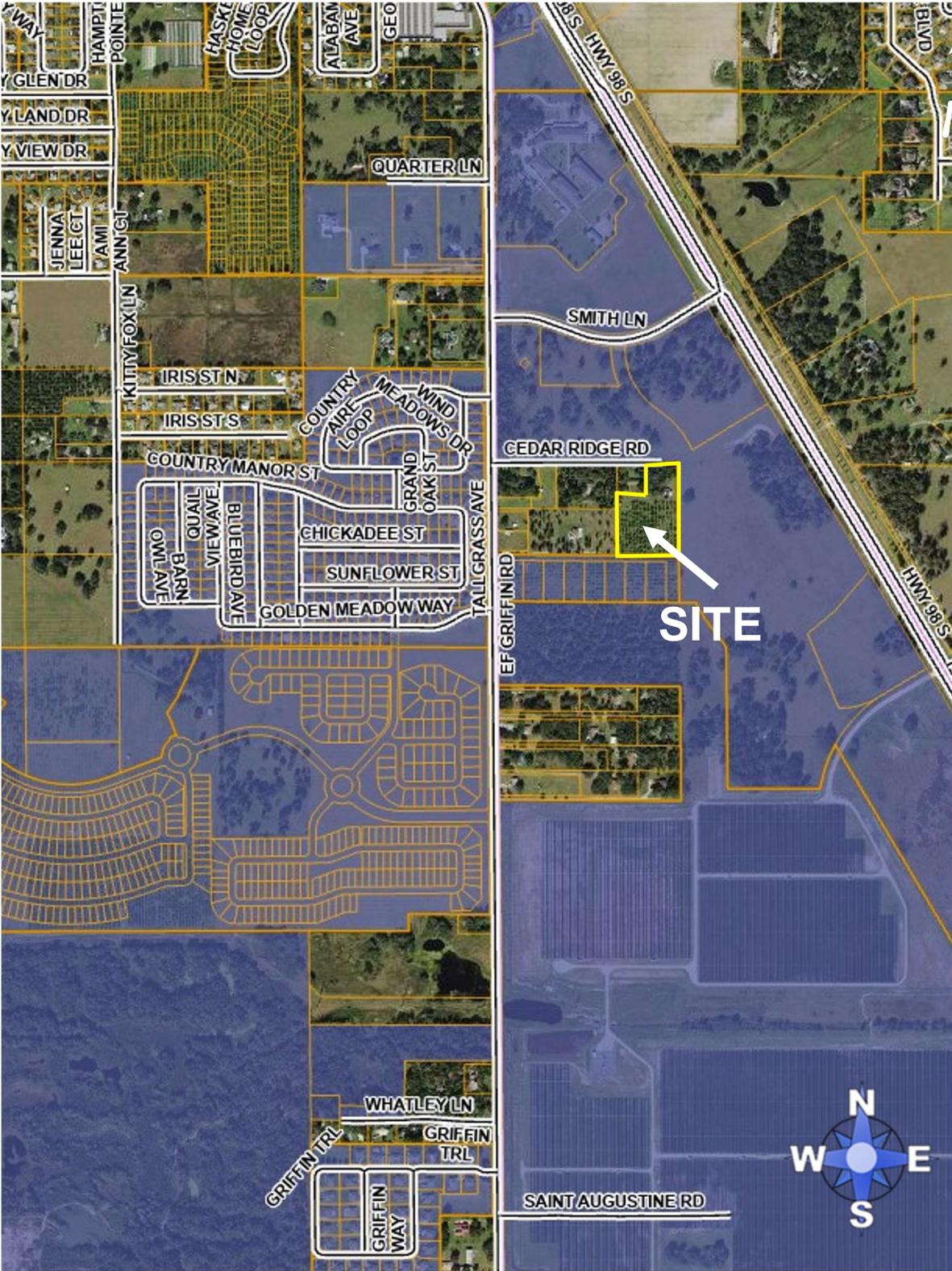
- Exhibit – 1 Location Map
- Exhibit – 2 Future Land Uses
- Exhibit – 3 2020 Satellite Photo (Context)
- Exhibit – 4 2020 Satellite Photo (Close-up)
- Exhibit – 5 Survey
- Exhibit – 6 Proposed Five Lot Layout



LOCATION MAP



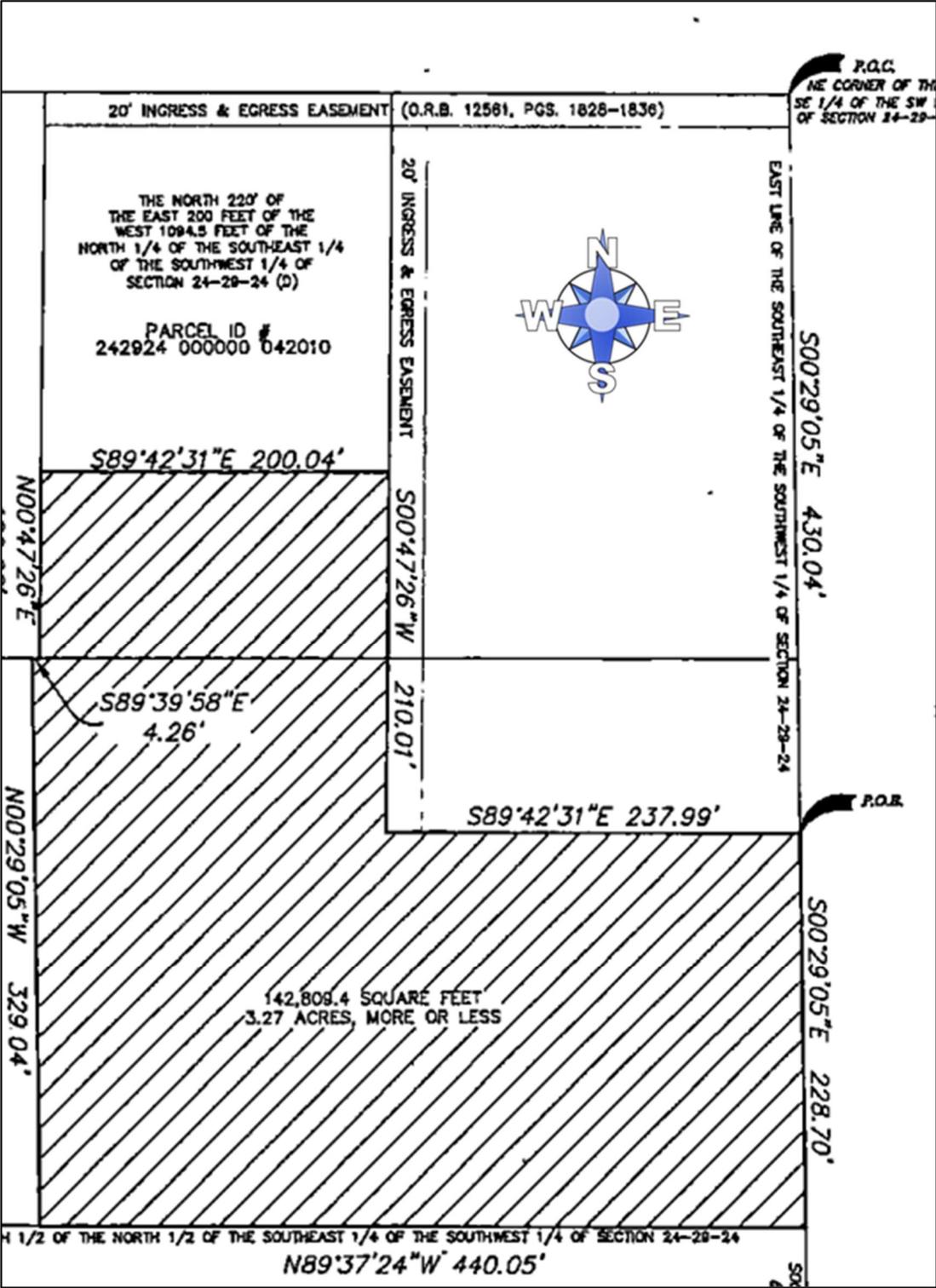
FUTURE LAND USES



2020 SATELLITE PHOTO (Context)



2020 AERIAL PHOTO (Close-up)



Survey



Proposed Lot Layout