

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

<b>DRC Date</b>	September 12, 2024	<b>CASE #:</b>	LDLVAR-2024-42 (Patterson Road) Nickerson Variance
<b>LUHO Date</b>	October 24, 2024	<b>LDC Section:</b>	Section 209.F & PUD 83-02

**Request:** The applicant is requesting a rear accessory setback reduction from five (5) feet to one (1) foot for a shed to be located on the property.

**Applicant:** Sallie Nickerson

**Property Owner:** Sallie Nickerson

**Location:** The subject property is Lot 25, Block E, Unit C-20 of West View Ridge Resorts Inc., east of Highway 27, west of Orchid Drive, north of Bates Road, south of Patterson Road, east of Haines City, in Section 17, Township 27, Range 27.

**Parcel ID#:** 272717-741002-005250

**Size:** ±0.07 acres (3,049.2 square feet)

**Land Use Designation:** Residential Low-4X (RL-4X), North Ridge Selected Area Plan (SAP), Planned Unit Development (PUD) 83-2

**Development Area:** Urban Growth Area (UGA)

**Case Planner:** Malissa Celestine, Planner II

**Summary:**

The applicant is requesting a rear accessory setback reduction from five (5) feet to one (1) foot for a shed to be located on the subject property. This request is associated with CMA-2023-1679 for building without a permit, as the shed is currently onsite. According to submitted documents, the applicant received prior approval from the Homeowners Association (HOA). There is also an expired building permit (BR-2024-63) for the 8x8 shed.

The parcel is identified as Lot 25, Block E, Unit C-20 within West View Ridge Resorts. The development is associated with Planned Unit Development 83-02 (PUD 83-02), which allows single wide mobile homes, park models, and use of recreational vehicles (RV's). A blanket variance (VAR 87-34) was granted by the Zoning Board of Adjustment (ZBA) in 1987 which reduced the principle rear setback from five (5) feet to two (2) feet for all property owners in West View Ridge. Verbiage within the variance identified a separate designation within the park for sheds. Today, sheds may be placed on the side and rear property lines if they meet certain standards. However, this shed is slightly over the heigh limitation.

Staff recommends approval of LDLVAR-2024-42 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** because the shed is just 1½ feet too tall to be exempt from the setback standards and the additional foot in height is not likely to cause adverse effects on neighboring properties.
- **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.** This shed is among many other sheds in the neighborhood. Six out of eight of the immediate neighboring properties have sheds on them. Their size and appearances are not significantly different than the applicant's shed (see Exhibit 7).

### **Development Review Committee**

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

**Development Review Committee Recommendation:** Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2024-42**, with the following conditions:

### **CONDITIONS OF APPROVAL:**

1. Approval of this variance is to reduce the rear setback from five (5) feet to one (1) foot for of up to 86 square feet and up to 12 feet tall. All further additions or structures placed on the property shall be required to meet the requirements PUD 83-02 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. The applicant shall apply for all necessary building permits and pay all associated fees for the proposed accessory structure.
4. 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;*

The subject property's address is listed as C-20 with the Property Appraiser but is platted as Lot 25 within the Block E in West View Ridge Resorts (Plat Book 82 Pages 14-16) recorded on October 16, 1986. A variance (VAR 87-34) was granted by the Zoning Board of Adjustment (ZBA) in 1987 that reduced the rear principal structure setback from five (5) feet to two (2) feet for all property owners in West View Ridge. A condition within the variance states that sheds would be located in a designated area of the development. Overtime, it appears that the Homeowners Association (HOA) abandoned that concept and began allowing the sheds on individual lots.

The applicant is requesting a rear accessory setback reduction from five (5) feet to one (1) foot for a shed to be located on the subject property. This request is associated with CMA-2023-1679 for building without a permit, as the shed is currently onsite. There is also an expired building permit (BR-2024-63) for the 8x8 shed. The plat identifies a five-foot utility easement along the rear property line of all lots. According to submitted documents, the applicant also received prior approval from the HOA. Likewise, e-mail correspondence with the city of Haines City Utility Department stated the roadways and everything within the development is private, and the HOA governs all utility easements within the development.

The Board of County Commissioners directed staff to allow smaller storage sheds to be exempt from the side and rear yard accessory structure setbacks. Staff analyzed the storage shed market, building permit data, past variance approvals for storage sheds, and random developments throughout the County to establish the most common shed size and lot parameters. Staff found that over 50% of each category fell with 400 square feet in size, 10 feet in height. This established the basis for the ordinance amendment. The Board of County Commissioners agreed with staff's analysis and adopted the ordinance in March of this year. This request is just outside the parameters of a zero lot line 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 subject property is located within the Residential Low-4X land use district of the North Ridge Selected Area Plan. The parcel size of ±0.07 acres (3,049.2 square feet) is significantly smaller than the Residential Low-4X (RL-4X) minimum lot size of 6,000 sq. ft. This property was recorded in June 1983. Because accessory structure setbacks were not included in the blanket variance, the interior rear setback requirements are determined by Table 4.17 of the Code, limiting the interior rear setback to five (5) feet for accessory structures. For a lot of this size, the setback is restrictive for home additions and accessory structures.

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

The lot is a part of an approved Planned Unit Development (PUD 83-02) which regulates the lot sizes and other development criteria. The parcel size of ±0.07 acres (3,049.2 square feet), smaller than the Residential Low-4X (RL-4X) lot size of 6,000 sq. ft. PUD 83-02 setback requirements, lot sizes, and modifications over the years significantly limit the amount of usable space without some relief from the PUD 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;*

Six out of eight of the immediate neighboring properties have sheds on them. Their size and appearances are not significantly different than the applicant's shed. The most proximate shed can appear to be at the same height depending on where one is standing on the property. Both are within the five-foot accessory structure setback.

Per Section 208.F.2: The required accessory setbacks for **accessory structures used for storage may be reduced to zero (0) feet from the side and rear property lines** provided the following requirements are met:

- a. Height of the accessory structure used for storage **does not exceed 10 feet**, measured from grade to the highest point of the accessory storage structure;
- b. The accessory structure used for storage is less **than or equal to 400 square feet** in size;
- c. No windows or doors of the accessory storage structure may face the property line of the reduced setback;
- d. No part of the accessory structure used for storage, including eaves, cornices, and other similar projections, extends over adjacent properties;
- e. The accessory structure used for storage is **not within six (6) feet** of any structure on a neighboring property for public safety purposes; and
- f. All other standards from Section 209 of this Chapter (excluding subsection 209.H) are met.

Variances are a development privilege, but all of the above requirements could be met negating the need for the variance request if the shed was just slightly shorter. The neighboring properties have sheds that are not as tall but close. This disparity in visual height is not significantly noticeable.

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

Approval of the applicant's request will assist in resolving the citations associated with CMA-2023-1679, allow the applicant to proceed with the building permit (BR-2024-63), and come into compliance with the LDC. Accessory structures and additions are common throughout this development, many require additional approval from the Land Use Hearing Officer for setback relief.

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 property will remain residential with an additional residential structure.

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.

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.*

The proposed variance request has the potential to circumvent an existing condition of approval placed on development within PUD 83-02 by the Planning Commission and the BOCC. Setbacks in the past have been adjusted for the entire development through modification to the PUD in the past.

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

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

**Table 1**

<p><b>Northwest:</b> PUD 83-02 Lot 8 Mobile Home, carport, <b>shed</b>, cabana, porch</p>	<p><b>North:</b> PUD 83-02 Lot 9 Mobile Home, carport, <b>shed</b>, cabana, screen room</p>	<p><b>Northeast:</b> PUD 83-02 Lot 10 Mobile Home, carport, cabana, porch, <b>shed</b></p>
<p><b>West:</b> PUD 83-02 Lot 26 Mobile Home, carport, <b>shed</b>, cabana, vinyl room</p>	<p><b>Subject Property:</b> PUD 83-02 Lot 25 Mobile Home, carport, patio, cabana, <b>proposed shed</b></p>	<p><b>East:</b> PUD 83-02 Lot 24 Mobile Home, carport, cabana</p>
<p><b>Southwest:</b> PUD 83-02 Lot 5 Mobile Home, carport, <b>shed</b>, cabana</p>	<p><b>South:</b> PUD 83-02 Lot 6 Mobile Home, carport, <b>shed</b>, cabana, screen room</p>	<p><b>Southeast:</b> PUD 83-02 Lot 7 Mobile Home, carport, patio, cabana</p>

The subject property’s address is listed as C-20 with the Property Appraiser but is platted as Lot 25 within the Block E in West View Ridge Resorts (Plat Book 82 Pages 14-16) recorded on October 16, 1986. The typical lot sizes are comparable to the applicant’s approximate 50’ x 69’ (±3,450 sq. ft.) lot (*Exhibit 4*). In recent years some lots have been converted to accommodate permanent mobile homes or park model units. Six out of eight of the immediate neighboring properties have sheds on them. Their size and appearances are not significantly different than the applicant’s shed. The most proximate shed can appear to be at the same height depending on where one is standing on the property (See Exhibit 7). Both are within the five-foot accessory structure setback.

**Comments from other Governmental Agencies:** None

**Exhibits:**

Exhibit 1 –Location Map

Exhibit 2 – Future Land Use Map

Exhibit 3 – Aerial Context

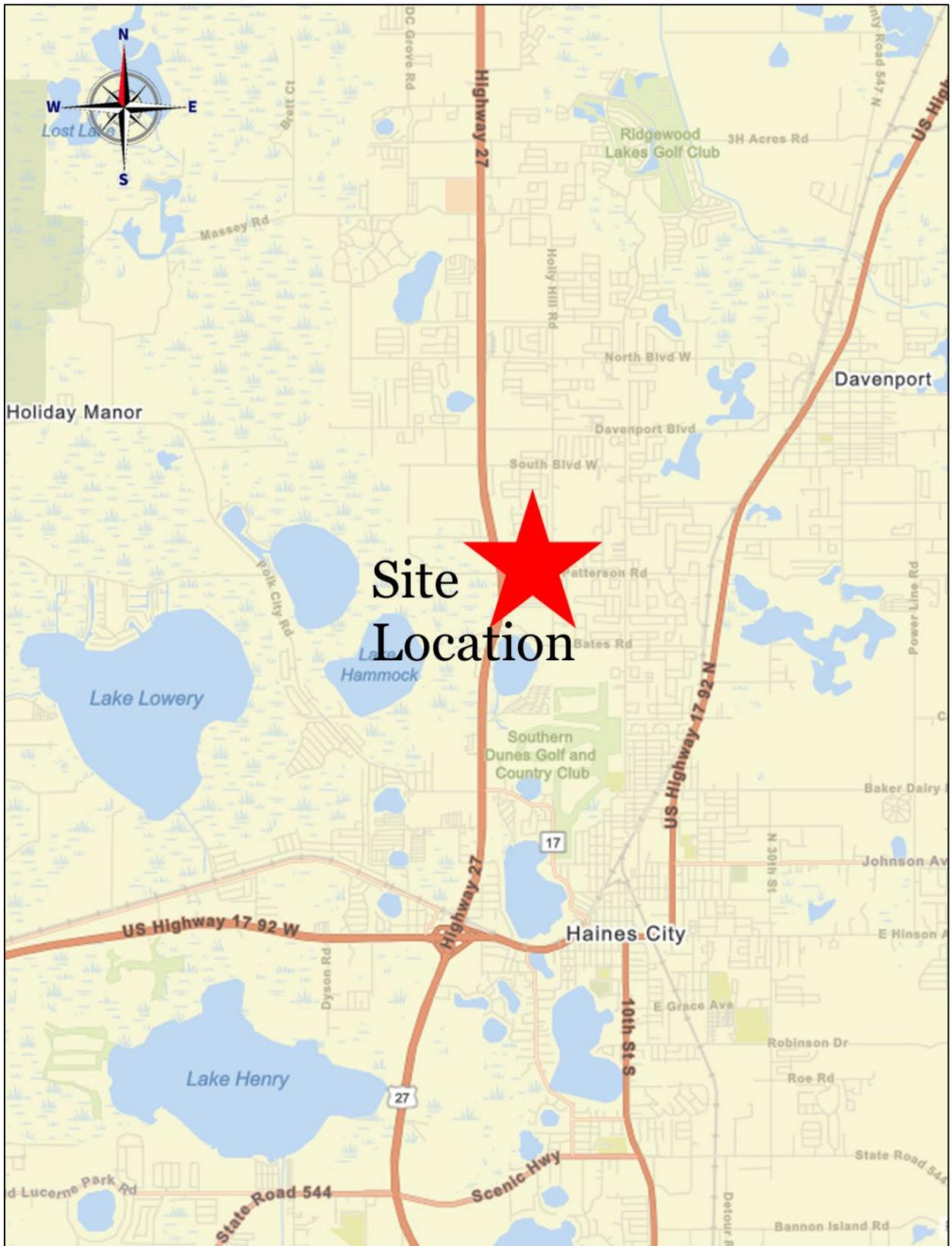
Exhibit 4 – Aerial Close-up

Exhibit 5 – Applicant Site Plan

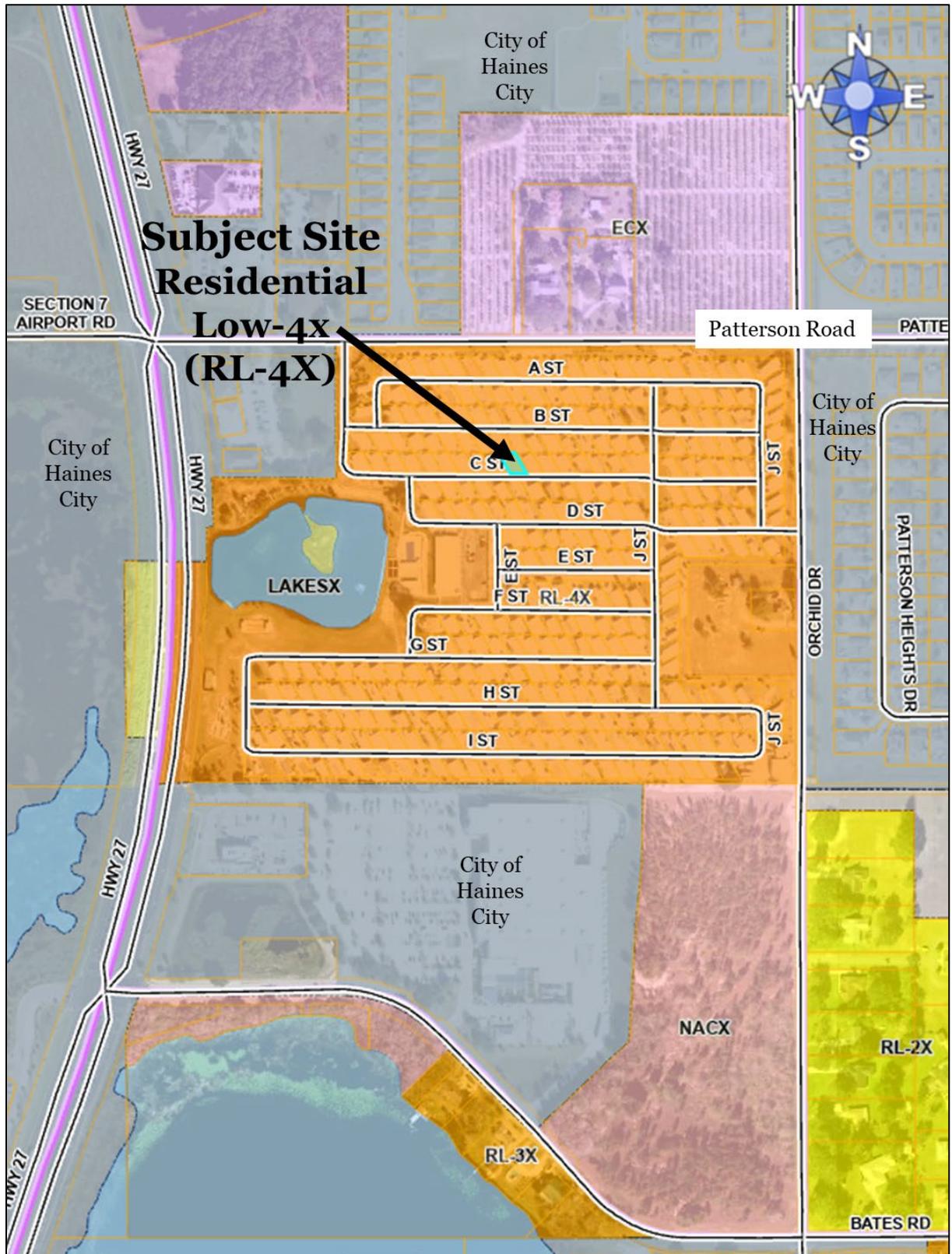
Exhibit 6 – Applicant’s Justification

Exhibit 7 – Recent Site Photo

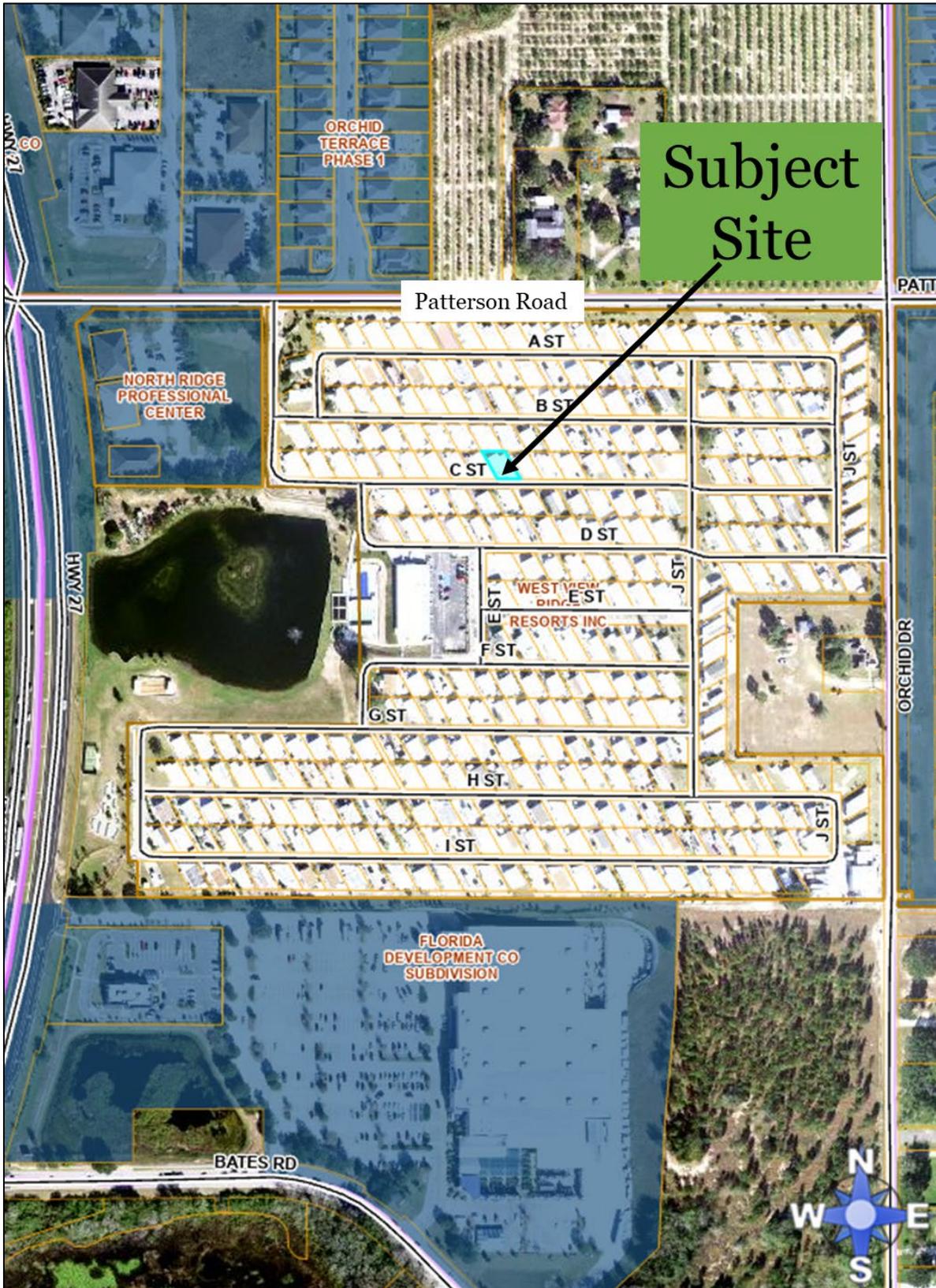
**Exhibit 1**



## Location Map



## Future Land Use



# 2023 Aerial Context



## 2023 Aerial Close Up



**CRITERIA FOR GRANTING VARIANCE**

Will the variance be injurious to the area involved or detrimental to the public welfare?  
It will not be injurious to the area or detrimental to the public welfare

What special conditions exist that are peculiar to the land, structure, or building involved?  
The roof of the side of the house will not allow the shed to fit under it. Therefore having to enter the setback

When did you buy the property and when was the structure built? Permit Number?  
2021 I believe the property was purchased, built in November

What is the hardship if the variance is not approved?  
Thousands of dollars spent for nothing, no storage for outside tools

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

Do you have Homeowners Association approval for this request?  
We had approval to build the shed from the West View Ridge office

# Applicant's Justification



Recent Site Photo

