

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

<b>DRC Date:</b> November 13, 2025	<b>CASE #:</b> LDLVAR-2025-62 (3rd Ave Variance)
<b>LUHO Date:</b> December 9, 2025	<b>LDC Section:</b> Section 208, Table 2.2

**Request:** The applicant is requesting a variance to reduce the north side primary structure setback from ten (10) feet to three (3) feet and reduce the south side primary structure setback from ten (10) feet to four (4) feet for a single-family home.

**Applicant:** Sarah Maier

**Property Owner:** Willie Hill, Kenneth Hill

**Location:** 3472 3rd Ave, south of Hwy 17 N, north of Ninety-One Mine Road, north of the city of Bartow in Section 22, Township 29, Range 25.

**Parcel ID#:** 252922-361700-000382

**Size:** ±0.13 acres

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

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

**Case Planner:** Aleya Inghima, Planner II

**Summary:**

The applicant is requesting a variance to reduce the north side primary structure setback from ten (10) feet to three (3) feet and reduce the south side primary structure setback from ten (10) feet to four (4) feet for a single-family home. The previous home was 1,078 sq ft and the new home will be approximately 1,410 sq ft. The existing house, which was constructed in 1999, was damaged beyond repair by the devastating effects of Hurricane Ian, and a replacement home is being provided by the Rebuild Florida Program. The program operates with a set portfolio of home models, in order to be as cost effective as possible and provide new homes to participants as quickly as possible. The proposed house is the most appropriate house for the participant and the property. The property is within a Residential Low-1 (RL-1) future land use district.

Staff finds this request will cause no harm to the community. The subject parcel is surrounded by a cluster of lots under an acre. Staff recommends approval of LDLVAR-2025-62 as it meets the following criteria listed in Section 931:

- **Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure** as the lot cannot reasonably accommodate any of the standard home models required by the Rebuild Florida Program

without the requested reduction in setbacks. Without this variance, the applicant would be unable to rebuild a residence on the property.

### **Development Review Committee**

The Development Review Committee, based on the criteria for granting variances, the submitted application, and a recent site visit, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code (LDC) and recommends **APPROVAL of LDLVAR-2025-62.**

### **CONDITIONS OF APPROVAL:**

1. The property is granted a reduction to reduce the north side primary structure setback from ten (10) feet to three (3) feet and reduce the south side primary structure setback from ten (10) feet to four (4) feet for a single-family home. Further additions or structures placed on the property shall be required to meet the setback requirements of Section 208, Table 2.2 of the Polk County Land Development Code or re-apply for another variance approval from the Land Use Hearing Officer.
2. This variance does not authorize any encroachments into easements, and the applicant shall be responsible to make certain there are no encroachments unless approval is granted by the easement holder and/or any applicable permitting agencies. The property owner(s) is also responsible for compliance with any restrictions of record pertaining to lots and/or land and this approval shall not be used to supersede authority over those restrictions.
3. The applicant shall have one (1) year from the date the Land Use Hearing Officer's Final Order is rendered to apply for all necessary building permits and pay all associated fees for the proposed home.

### **GENERAL NOTES**

*NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other interested parties at a public hearing.*

*NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.*

*NOTE: All written commitments made in the application and subsequent submissions of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.*

*NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.*

*NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the LDC.*

**DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES  
SUMMARIZED BELOW:**

1. *Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The subject parcel is in an area with a cluster of lots ranging under an acre. The subject site is approximately 0.13 acres and created prior to the adoption of the LDC documented by a 1961 deed (BK 0538, PG 0358). The property has been in the Hill family since 1961. The old home is approximately 1,078 sq ft. The new single-family home will be 1,410 sq ft. The request involves only a modest reduction in side-yard setbacks to allow construction of a replacement single-family home. The previous home was destroyed by Hurricane Ian, and the proposed structure will restore residential use without introducing any negative effects on adjacent properties or the community. The variance does not create safety concerns or incompatibility with surrounding land uses. The nearest structure is approximately 27 feet to the south. Therefore, approval of the variance will not be injurious to the area or detrimental to public welfare.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

The property is an older lot of record within the McNeill Addition Plat that is smaller than the current minimum lot-size requirements of the RL-1 zoning district. Because the lot was created prior to the adoption of modern zoning standards, it cannot conform to current setback requirements without relief. Additionally, the lot is 40 feet in width and the original home was destroyed by a natural disaster, creating further conditions unique to this parcel.

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

The need for a variance is not due to any action taken by the applicant. The destruction of the previous home occurred during Hurricane Ian, an event completely outside the applicant's control. The applicant did not create the hardship or alter the property in a way that would necessitate a variance. The conditions requiring relief are a direct result of the parcels pre-existing dimensions and the impacts of a natural disaster.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

Every variance approval is a special privilege. The lot cannot reasonably accommodate any of the standard home models required by the Rebuild Florida Program without the requested reduction in setbacks. Without this variance, the applicant would be unable to rebuild a residence on the property.

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

The requested variance is believed to be the minimal variance necessary to optimize the use of the owner’s land. The requested setback reduction is necessary to allow for the placement of a single-family home on the lot. The lot is about 40 feet in width. Without these minimal reductions, the property cannot be reasonably developed.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Granting this variance will not result in a change of land use.

7. *Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request is not anticipated to result in the creation of a lot or parcel that does not meet the requirements of the Code.

8. *Whether that the granting of the variance does not circumvent a condition, or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

Granting this variance will not circumvent a condition or the intent of a condition placed on the development by the Planning Commission or the BoCC.

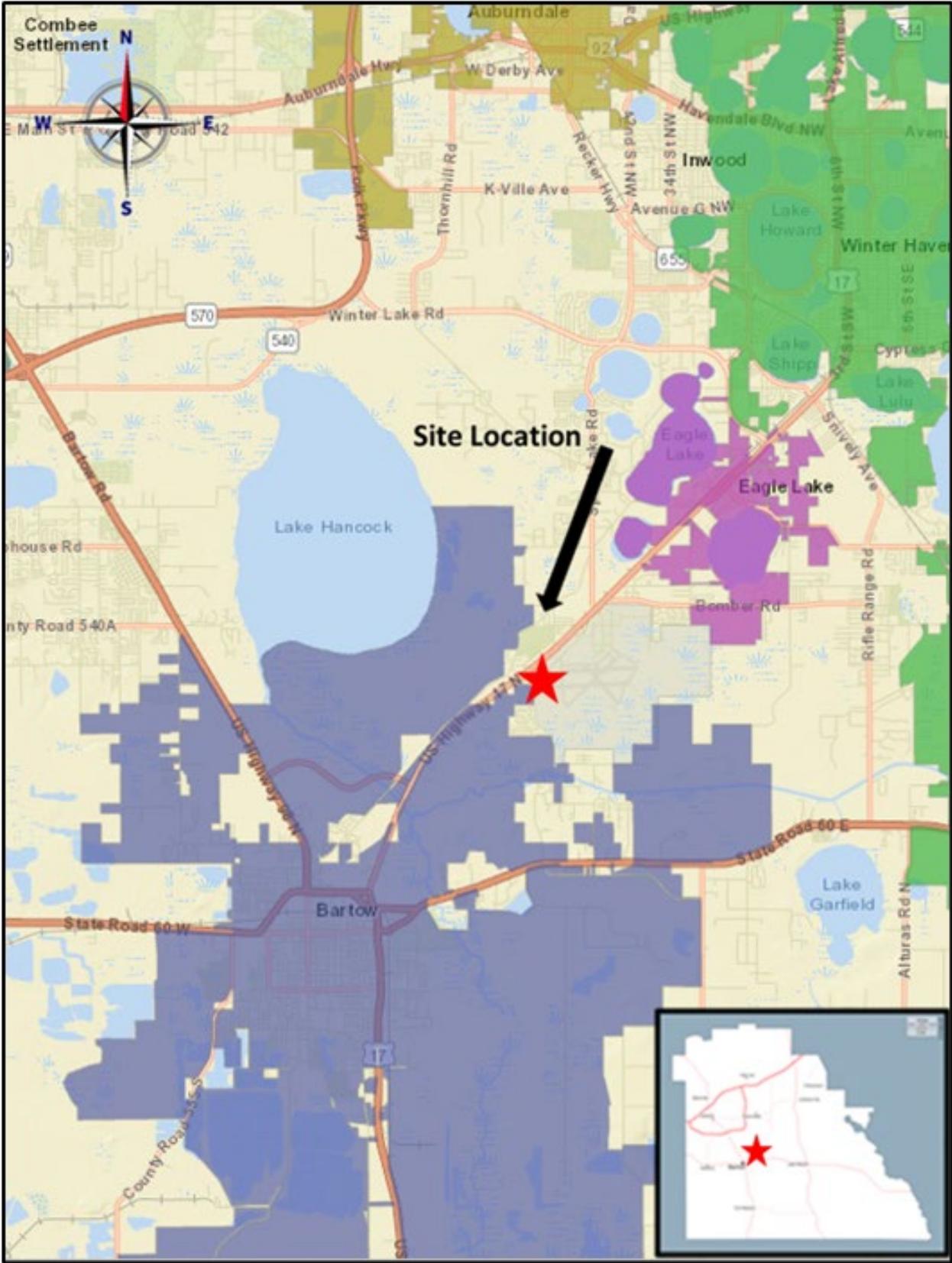
**Surrounding Future Land Use Designations and Existing Land Use Activity:**

<b>Northwest:</b> RL-1 Single family home	<b>North:</b> RL-1 Single family home	<b>Northeast:</b> BPC-2 Bartow Executive Airport
<b>West:</b> RL-1 Single family home	<b>Subject Property:</b> RL-1 Single family home	<b>East:</b> BPC-2 Single family home Bartow Executive Airport
<b>Southwest:</b> RL-1 Single family home	<b>South:</b> RL-1 Single family home	<b>Southeast:</b> BPC-2 Bartow Executive Airport

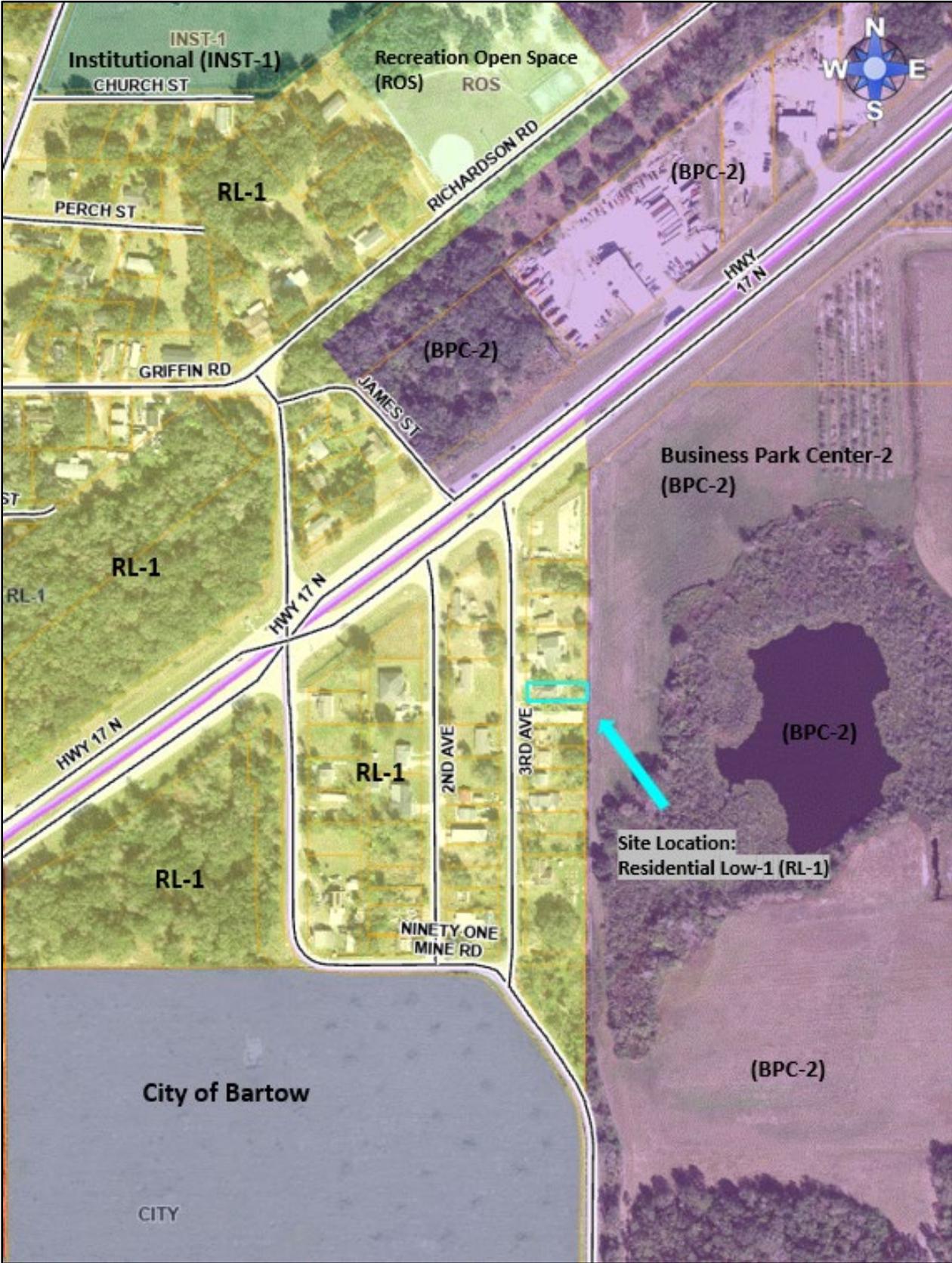
This property is a single-family home on 3<sup>rd</sup> Avenue in Bartow, Florida. Staff found no other prior variances in this area.

**Exhibits:**

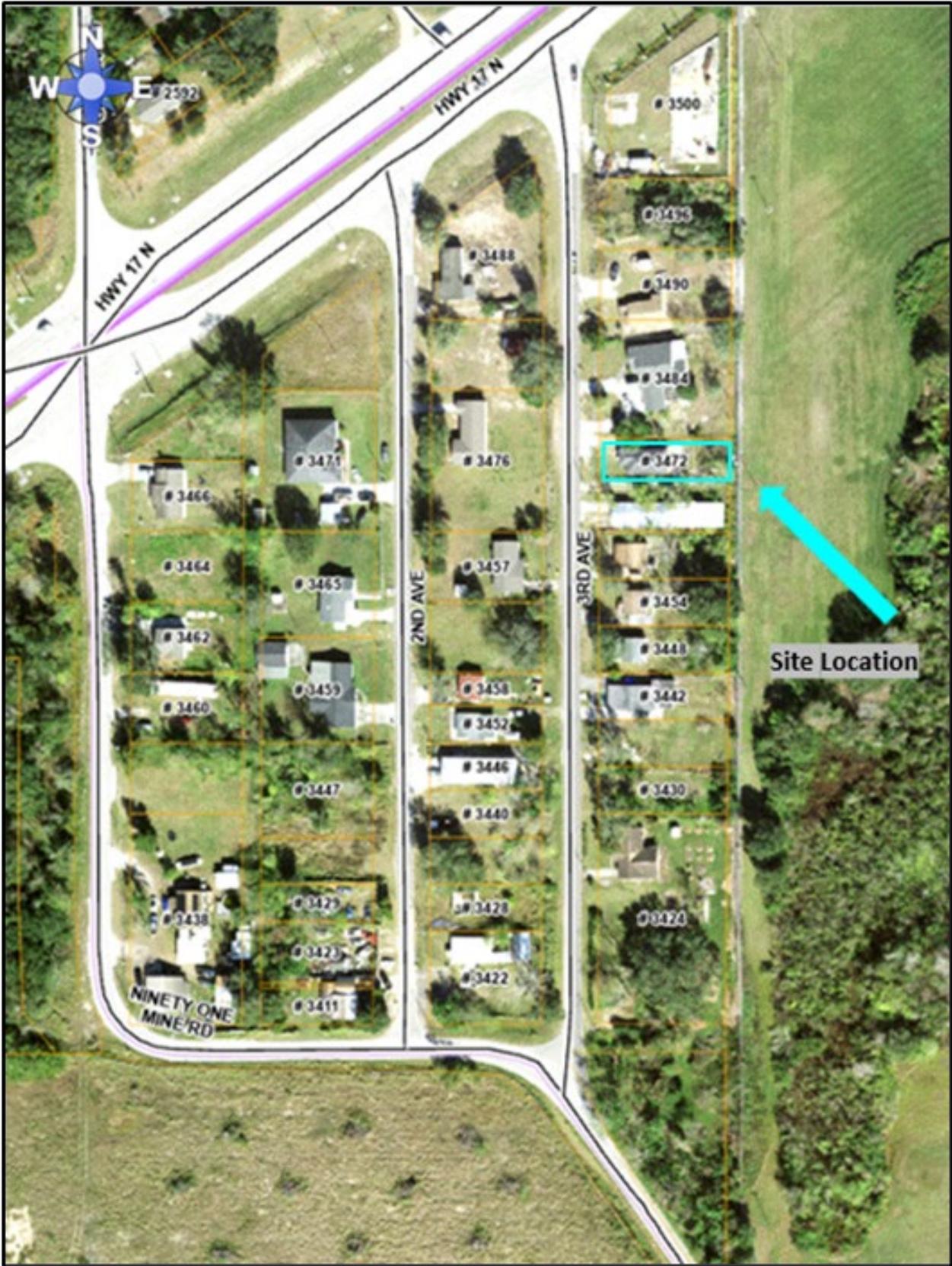
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Imagery (Context)
- Exhibit 4 Aerial Imagery (Close)
- Exhibit 5 Site Plan
- Exhibit 6 Applicant’s Justification



Location Map



Future Land Use Map



Aerial Imagery (Context)



Aerial Imagery (Close)



**CRITERIA FOR GRANTING VARIANCE**

Will the variance be injurious to the area involved or detrimental to the public welfare? The variance will not be injurious to the area or detrimental to the public welfare. The variance request is for a reduction in the side yard setbacks to allow construction of a new home. The existing structure was damaged by Hurricane Ian. The construction of a new single family home is not injurious or detrimental to the area.

What special conditions exist that are peculiar to the land, structure, or building involved? The property is part of a platted subdivision and is considered a lot of record, but it does not meet lot size requirements of current RL-1 zoning standards. Due to the small size of the property, it is unable to meet the side yard setbacks.

When did you buy the property and when was the structure built? Permit Number? The property has been in the Hill family since 1961; the existing house which was constructed in 1999, was damaged beyond repair by the devastating effects of Hurricane Ian and a replacement home is being provided by the Rebuild Florida Program.

What is the hardship if the variance is not approved? If the variance is not granted, the owner may not be able to receive assistance from the Rebuild Florida Program. The Program operates with a set portfolio of home models, in order to be as cost effective as possible and provide new homes to Program participants as quickly as possible. The proposed house is the most appropriate house for the participant and the property.

Is this the minimum variance required for the reasonable use of the land? Yes, this is the minimum variance required. A variance of 4 feet on the north side yard and a variance of 3 feet on the south side yard.

Do you have Homeowners Association approval for this request?  
No.

# Applicant's Justification