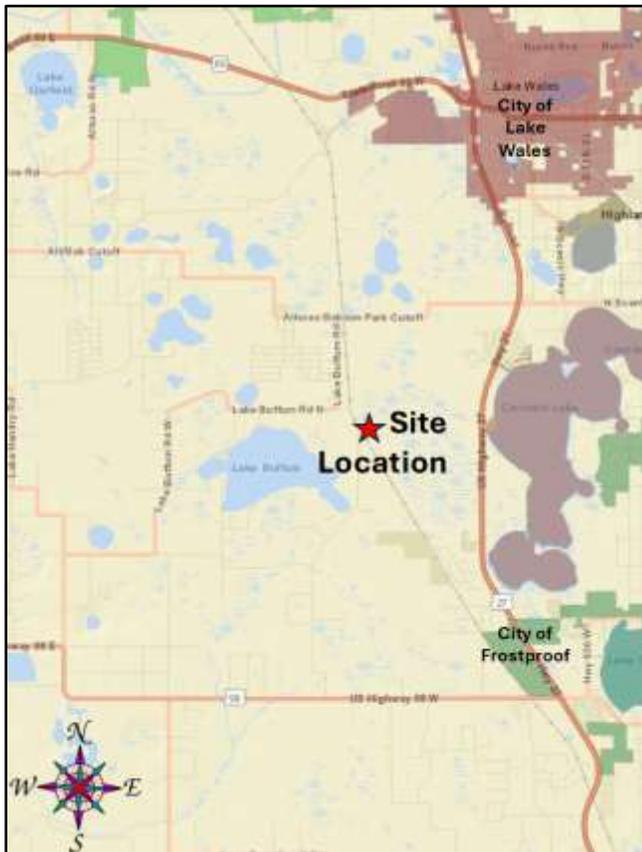


**POLK COUNTY
DEVELOPMENT REVIEW COMMITTEE
STAFF REPORT**

DRC Date: August 7, 2025	Level of Review: Level 3 Review
PC Date: October 1, 2025	Type: Residential Access Waiver
BoCC Date: N/A	Case Numbers: LDWA-2025-31
Applicant: Joanna Smith	Case Name: Bear Oak Ranch Waiver
	Case Planner: Andrew Grohowski, Planner II

Request:	Waiver to Section 705.B for approval for a residential lot with access through a private road easement accessed by more than four lots and is over ¼ mile in length.
Location:	3890 Wolfolk Road, east of Highway 27, west of Lake Buffum Road East, north of Buffum Lake Trail, south of Lake Buffum Road North, northwest of the City of Frostproof in Section 09, Township 31, Range 27.
Property Owner:	Bear Oak Ranch LLC
Parcel Number (Size):	273109-000000-033050 (±33.23 acres)
Land Use District:	Agriculture/Residential Rural-X (A/RRX)
Development Area/Overlays:	Southeast Selected Area Plan (SAP) Rural Development Area (RDA)
Nearest Municipality/County:	City of Frostproof
DRC Recommendation:	Conditional Approval
Planning Commission Vote:	Pending Hearing

Site Location



2023 Aerial (Close-up)



Summary of Analysis:

The property owner wishes to subdivide an existing 33-acre residential property in order to create a one (1) new residential lot that will be accessed solely via easement on Wolfolk Road, an unpaved private easement, pursuant to Land Development Code 705.B.

In order for a dwelling to be built on a lot without direct access to a public road, a legal easement must meet the following basic requirements:

1. 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. At least 20 feet wide;
3. Is no longer than a ¼ mile;
4. 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.

Typically, an administrative Level 1 Review is used to determine eligibility; however, in this instance, the number of lots on the proposed easement will exceed four lots and the easement is longer than ¼ mile. According to LDC Section 705.B.7, the Planning Commission (PC) may grant a waiver through the Level 3 Review process to overcome this limit and length.

This review is to determine the extent to which an access easement can accommodate the usage proposed. 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. According to the survey, Wolfolk Road provides access to more than four residences: one (1) undeveloped lot and five (5) developed lots including the subject site. Additionally, the easement is longer than ¼ mile and is approximately ±3,325 feet, ±0.63 miles. Given this request, the total number of residential properties accessing this private easement will be six (6) developed lots. The remaining properties are large tracts owned by the Water Management District and Polk County. In 1978, the Board granted a variance for the subject site in order to construct a single-family residence without having direct public roadway frontage (Case # 78-11).

Staff recommends approval. The proposed easement and the associated residences in the neighborhood have been in existence for over fifty years. Correspondence with Fire by both the applicant and Staff has confirmed there is sufficient ingress and egress on Wolfolk Road for their operations. The additional residence will not create any burden on public infrastructure or urban services, including school capacity. Furthermore, staff finds the request satisfies the LDC Waiver criteria found in Section 932. The proposed lot will meet the minimum lot size requirements for the A/RRX land use district of five acres, but with limited access to a public road, this easement is necessary. If this Waiver is approved, a Level 1 Review will be necessary when the applicant (s) applies for a building permit to ensure the easement meets the standards proposed and the approved conditions.

Findings of Fact

- *This is a request for an approval of a waiver to Section 705.B for approval for a new residential lot with access through a private road easement accessed by more than four lots on ±33.23 acres.*
- *The subject property is recorded as Parcel ID # 242909-279990-000050. It is approximately 33.23 acres and currently has a single-family residence.*
- *The property has access to the County maintained road through an easement that is unpaved and unmaintained. The easement is listed as a private road named *Wolfolk Road* in the County Road Inventory.*
- *On February 1978, the Board of County Commissioners voted to approve a variance to permit the construction of a single-family residence without direct frontage on a public roadway for the subject site (Case #: 78-11).*
- *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 Planning Commission pursuant to a Level 3 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.*
- *The subject property is within a Agriculture/Residential Rural-X (A/RRX) land use district in the Rural Development Area (RDA) and Southeast Selected Area Plan (SAP). Minimum lot sizes are five (5) acres.*
- *Ordinance 71-03 stated in Section 4, “For the purposed hereof the word “access” shall mean that the plot on which such structure is proposed to be erected directly abuts on such road, street or highway and sufficient frontage there on to allow the ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles, and a frontage of twenty- five feet shall presumptively be sufficient for that purpose.”*

- *On June 26, 1971, the Board of County Commissioners adopted Ordinance 71-03, Section 1, of the ordinance stated “No permit for the erection of any building in the unincorporated area of Polk county shall be issued unless there is a road, street or highway giving access to the lot or parcel upon which such structure would be located...”*
- *On July 11, 1971, a private 6-foot easement between the subject property owners at the time, Robert W. Murray and Pauline I. Murray, and Florida Power Corporation through an easement agreement (O.R. Bk 1388, Pg 235). Six additional easement agreements have been recorded between 1971 and 2008, each varying in width.*
- *On June 10, 1974, Fay M. Pope and George J. Pope Et. Al. sold the subject property through a Fee Simple Deed to Robert. W. Murray according to O.R. Book 1516, Page 782.*
- *The subject property is zoned for Frostproof Ben Hill Griffin Jr. Elementary and McLaughlin Academy of Excellence for Middle/High School.*
- *The subject property is served by the Polk County Sheriff’s Southeast District, located at 4011 Sgt. Mary Campbell Way, Lake Wales. The response times for July 2025 were P1: 13:35; P2: 27:46.*
- *Fire and EMS responses are from Polk County Fire Rescue Station 21 and Fire Rescue Station 12 respectively. Station 21 is located at 14684 US-27, Lake Wales. Station 12 is located at 1385 Fort Meade Rd, Frostproof.*
- *There are no fire hydrants located on Wolfolk Road. The closest accessible fire hydrant is located over 1,000 feet away from the subject property.*
- *The private easement known as Wolfolk Road is over ¼ mile (±3,325 feet, ±0.63 miles) and has no place to turn a vehicle around within the easement. There are numerous driveways, which are used to compete three point turns to turn around. The property owner has confirmed with Fire Rescue that the condition of the easement is sufficient for their operations.*
- *Wetlands and flood hazard areas are found onsite and correspond to the numerous ponds. The closest body of water is Lake Buffam which is ±0.85 miles from the property.*
- *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 Biodiversity Matrix, the site is not located within a one-mile radius of a recent endangered animal species documented sighting.*
- *This application has been reviewed for consistency with LDC Sections 705, 906, 932, and Tables 2.1 and 2.2.*

Development Review Committee

Based upon the information provided by the applicant and a recent site visit, the Development Review Committee finds that with the recommended conditions the request **IS COMPATIBLE** with the surrounding land uses and general character of the area and **IS CONSISTENT** with the Comprehensive

Plan, and Land Development Code. Based upon the findings of fact the Development Review Committee recommends **APPROVAL** of **LDWA-2025-31**.

CONDITIONS OF APPROVAL

1. Approval of this waiver shall allow for one (1) residential building permit on a newly created parcel from parent Parcel No. 273109-000000-033050, as described within the staff report. [PLG]
2. The parcel is subject to the requisite Level 1 Review approval pursuant to Section 705.B of the Land Development Code. [PLG]
3. To allow for the access of emergency vehicles, all easements shall have an unobstructed width of not less than 20 feet. No fencing, landscaping, vehicles, machinery, equipment, or other accessory structures or features which could interfere with the passage of emergency vehicles shall be placed or stored within these 20 feet. [FM]

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 Planning Commission's and Board of County Commissioner's 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 3 Review approval, it is ultimately the Planning Commission's 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;*

When the lots along Wolfolk Road, a private road easement, were created, the zoning on the property at the time (Rural Conservation, RC) required a minimum of one dwelling unit per acre, and a minimum lot size of 40,000 square feet. The subject site as well as the other properties accessing Wolfolk Road, are at least five (5) acres. As it currently stands, the easement along Wolfolk Road is approximately 3,325 feet or 0.63 miles in length, exceeding the maximum easement length permitted in Section 705.B by over 2,000 feet. The applicant proposes a one-time lot split on the

subject site, and the new lot will meet the minimum lot size requirements for the Agricultural/Residential Rural (A/RR) land use district (5 acres). A variance to road frontage access was approved on February 7, 1978, and granted legal permission to construct a residence on the site. According to LDC Section 822, 50 feet of frontage is required for lots on Local Residential roadways. Given the CSX rail line and public lands surrounding this small neighborhood, the lots in this neighborhood are unable to have frontage on a public roadway. Without this waiver, one additional residence on this lot through subdividing, while meeting the minimum size standards, is not possible. Wolfolk Road has five (5) properties with existing homes accessing Wolfolk Road, including the subject property since at least 1973. There is one additional vacant lot along Wolfolk Road owned by the property owner, so the maximum buildout could potentially be seven (7) homes.

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

The ability to acquire a building permit for a new home is tied to having access to a County roadway per Section 705.B. This will be the minimum requirement in order to construct a residence on the property. The width of the easement varies in width and the County Surveying Division has confirmed it meets the average minimum LDC requirements (20 ft.). As previously mentioned, the applicant can choose not to subdivide and build a home on the adjacent property, however they would still need to go through the waiver process. Denial of this waiver request would leave the adjacent property owned by the applicant vacant in perpetuity as there does not appear to be any other actions the applicant could take to make the lot buildable.

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 assurance of safe access is one of the key issues for the Planning Commission to consider when evaluating requests for access via easement. The property in its current form was created in 1973, three years after the adoption of the zoning ordinance in 1970 and over one year after the Subdivision Regulations in 1971. The road frontage requirement at the time was 25 feet on a publicly maintained road. In 1978, the Board granted a variance for the subject site in order to construct a single-family residence without having direct public roadway frontage (Case # 78-11). The maximum development impacts from this request are de minimus.

Another issue is whether the easement is becoming overburdened, which is why these decisions are required to have a public hearing. The applicant has met with Polk County Fire Rescue and has confirmed that there is sufficient ingress and egress on Wolfolk Road and the easement is adequate in order to provide service to the residents living along it. Conditions of approval will ensure no obstacles prevent access by emergency vehicles. The amount of traffic generated by this subdivision will not create unsafe traffic conditions outside of the development.

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

The subject property already received approval by the Board for waiving public road frontage access in 1978 thereby already establishing a precedent (Case #: 78-11). Besides this request, there is room for one additional unit to be developed on a 5-acre vacant property which was purchased by the

same landowners. This unit will have a de minimus impact on any infrastructure in the neighborhood. The access easement is mostly built out and the neighborhood is surrounded by large tracts owned by the County or SWFMD.

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

The hardship was placed on the property by the original owner by creating a property without direct public roadway frontage. The easement standards outlined in the LDC including width, stabilization, and grade were not required when the easement was recorded in the 1970s. Correspondence with the County Surveying Division has confirmed that while the easement width varies, the average width exceeds the 20-foot minimum. Further, the applicant has met with representatives from Polk County Fire Rescue and have confirmed that the access provides sufficient ingress and egress in order for them to serve the residents of the neighborhood.

Surrounding Land Use Designations and Current Land Use Activity:

The residential properties along Wolfolk Road have been in existence since at least 1973. Wolfolk Road was created as a private easement around 1971 with an agreement made between the property owner at the time and Florida Power (O.R. Bk 1388, Pgs 235 & 237). The first residence began utilizing Wolfolk Road for access sometime in 1973 (3840 Wolfolk Road) without a variance to road frontage. The subject site followed shortly thereafter with a 1,336 sq. ft. single-family home constructed in 1978 after being granted approval of a roadway frontage variance by the Board in 1978 (Case #: 78-11). Besides the five (5) existing properties which use Wolfolk Road for access, one additional lot is owned by the applicant and is approximately 6.7 acres. The remaining parcels in the immediate area to the north, south, and west across the rail line are publicly owned by the Southwest Florida Water Management District or Polk County. Directly to the west across the CSX rail line is a vacant lot subdivision, Lake Buffum Acres. The 6-lot subdivision was recently platted in April 2025 (P.B. 214, Pgs 28-29). Prior to this, the surrounding lands were used for citrus groves and vacant undisturbed lands.

Table 1

<p>Northwest: Agriculture/Residential Rural-X (A/RRX) Vacant land owned by subject property ± 6.7 acres</p>	<p>North: Agriculture/Residential Rural-X (A/RRX) Polk County ± 593.5 acres</p>	<p>Northeast: Agriculture/Residential Rural-X (A/RRX) Polk County ± 593.5 acres</p>
<p>West: Agriculture/Residential Rural (A/RR) Polk County & CSX Rail Line ± 30 acres</p>	<p>Subject Property: Agriculture/Residential Rural-X (A/RRX) 1,336 sq. ft. single-family residence ± 33.23 acres</p>	<p>East: Agriculture/Residential Rural-X (A/RRX) Polk County ± 464.73 acres</p>
<p>Southwest: Agriculture/Residential Rural (A/RR) Vacant land & CSX Rail Line</p>	<p>South: Agriculture/Residential Rural-X (A/RRX) Four (4) residential parcels accessing Wolfolk Road</p>	<p>Southeast: Agriculture/Residential Rural-X (A/RRX) Polk County ± 464.73 acres</p>

Compatibility with the Surrounding Land Uses:

The proposed use is believed to be compatible with adjacent land uses. The residential density in this area is relatively sparse and the lots on Wolfolk Road are similar in size. The five (5) residences to the south, including subject site, have coexisted for nearly fifty years, which addresses the co-location factor. Much of the surrounding area besides the lots along Wolfolk Road is vacant land owned by the Southwest Florida

Water Management District or Polk County. Further west, large residential lots dart the banks of Lake Buffum. The closest city is Frostproof, located about seven (7) miles southeast of the subject property.

Urban Services and Infrastructure Analysis

The surrounding area has public safety service facilities that are operating within their adopted Level-of-Service (LOS) standard with no deficiencies. From an area wide perspective, a single unit will not disrupt the County’s ability to maintain the current standards for traffic on public roads, schools or recreation facilities.

Table 2, below, summarizes urban services and infrastructure for the surrounding area. Based upon the nature and size of the request, the proposed request is not anticipated to create any significant demand on these services.

Table 2

Urban Services and Infrastructure Summary	
Schools (Zoned)	Frostproof Ben Hill Griffin Jr. Elementary McLaughlin Academy of Excellence (Middle/High School)
Parks	Lake Buffum Boat Ramp (±3.2 miles). Little Crooked Lake Ramp (±4.4 miles). Fewox Park in Frostproof (± 6.86 miles).
Sheriff	Polk County Sheriff’s Southeast (SE) District, located at 4011 Sgt. Mary Campbell Way, Lake Wales. The response times for July 2025 were: Priority 1: 13:35 Priority 2: 27:46
Fire	Polk County Fire Rescue Station 21, 14684 US-27, Lake Wales. (±7.6 miles) Response time: 18-22 minutes. No objection.
EMS	Polk County Fire Rescue Station 12, 1385 Fort Meade Rd, Frostproof. (±12.2 miles) Response time: 24-28 minutes. No objection.
Water	Well (Proposed)
Sewer	Septic (Proposed)
Transportation (Public Road)	Lake Buffum Road East (Road No. 171901) – Rural Minor Collector (RNC)

Table 3

Impact Analysis Summary Proposed Use : One Single-Family Home			
Potable Water Impact	Wastewater Impact	AADT Impact	Peak Hour Impact
360 GPD (on-site well)	270 GPD (on-site septic)	7.81 AADT	1 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 AADT and PM Peak Hour rates for single-family 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 known environmental conditions that should pose a threat to existing environmental resources based upon the proposed request (*See Table 4, below*). The site has flood zones and wetlands which correspond to the small ponds scattered throughout. The subject property is not located within any of the County’s identified wellhead protection areas; the subject site is not located within an identified protected species area. The soil on the property is not of such that would limit compliance with applicable Land Development Code regulations for the proposed use. In addition, the subject property is not located within a Historical Preservation area.

Table 4

Environmental Conditions Summary	
Surface Water	Small ponds scattered throughout
Wetlands/Floodplains	Flood hazard areas and wetlands dotted throughout corresponding to small ponds
Soils	Smyrna and Myakka Sands; Ona Fine Sand; Immokalee Sand
Protected Species	The subject property is not located within a one-mile radius of an endangered plant or animal species sighting (Source: Florida Natural Areas Inventory Biodiversity Matrix).
Wellfield Protection	The site is not located within a wellfield protection area.
Historical Preservation	The subject property contains no historical resources as monitored by the State of Florida’s Division of Historical Resources.
Airports	The site is not within proximity to any public airports.

The Planning Commission, in the review of development plans, shall consider the following factors listed in Table 5 in accordance with Section 906.D.7 of the LDC.

Table 5

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 705.B and 932 which permit this Waiver upon completion of a Level 3 Review. These can be found in the Findings of Fact on Pages 3-4 of the staff report.</i>
Whether the proposed development is consistent with all applicable policies of the Comprehensive Plan;	<i>Yes, this request is consistent with the Comprehensive Plan, as reviewed above.</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 7-8 of this staff report for data and analysis on surrounding uses and compatibility.</i>
How the concurrency requirements will be met if the development were built.	<i>This request will not require concurrency determinations from utilities, the School Board, or TPO. The impact on public services can be found in the analysis found on Page 8 of the staff report.</i>

Comments from other Agencies:

Fire Marshall:

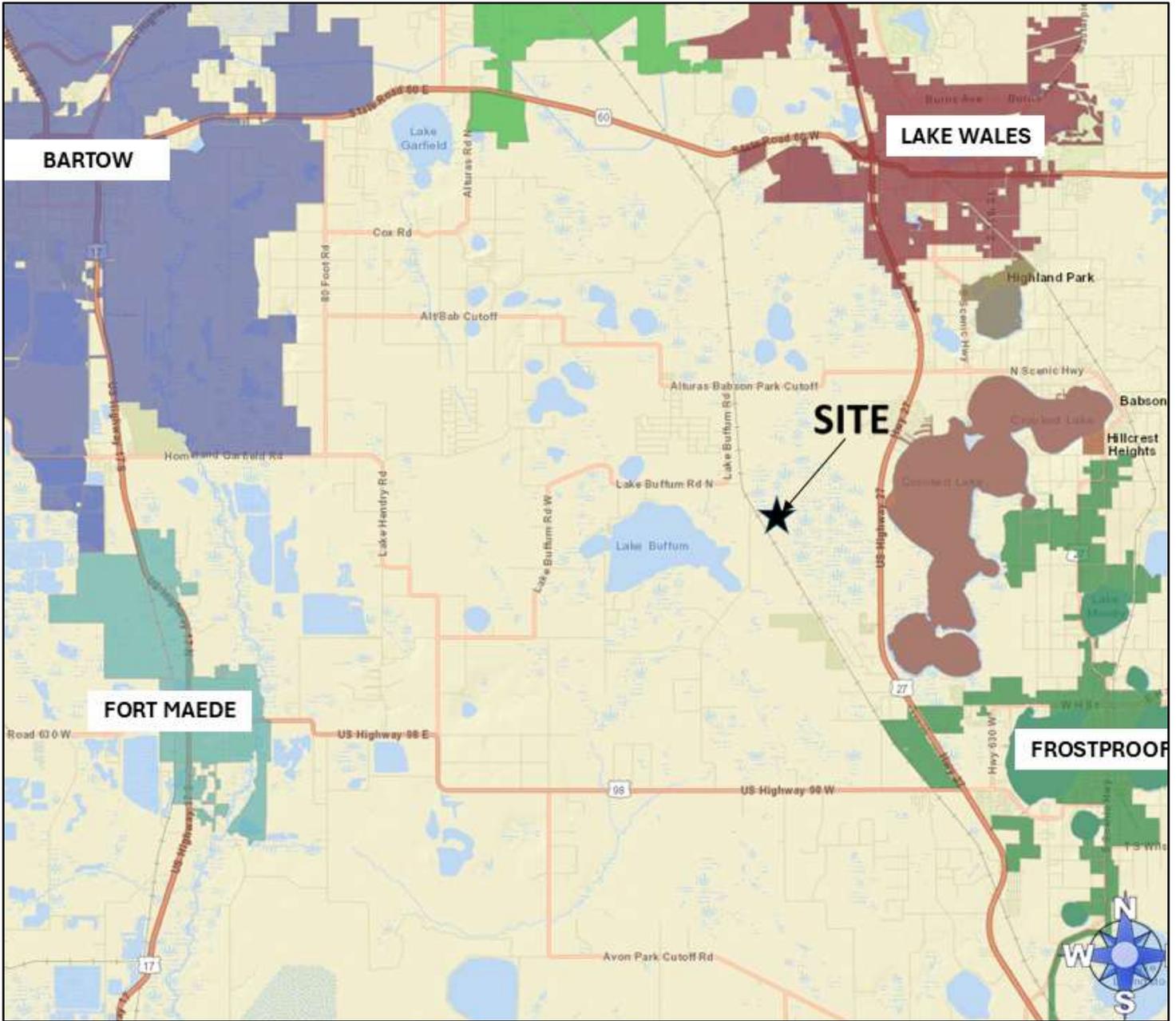
“This location does have Fire/EMS access all the way through. Width and stabilized road [for sufficient ingress and egress]”

County Survey:

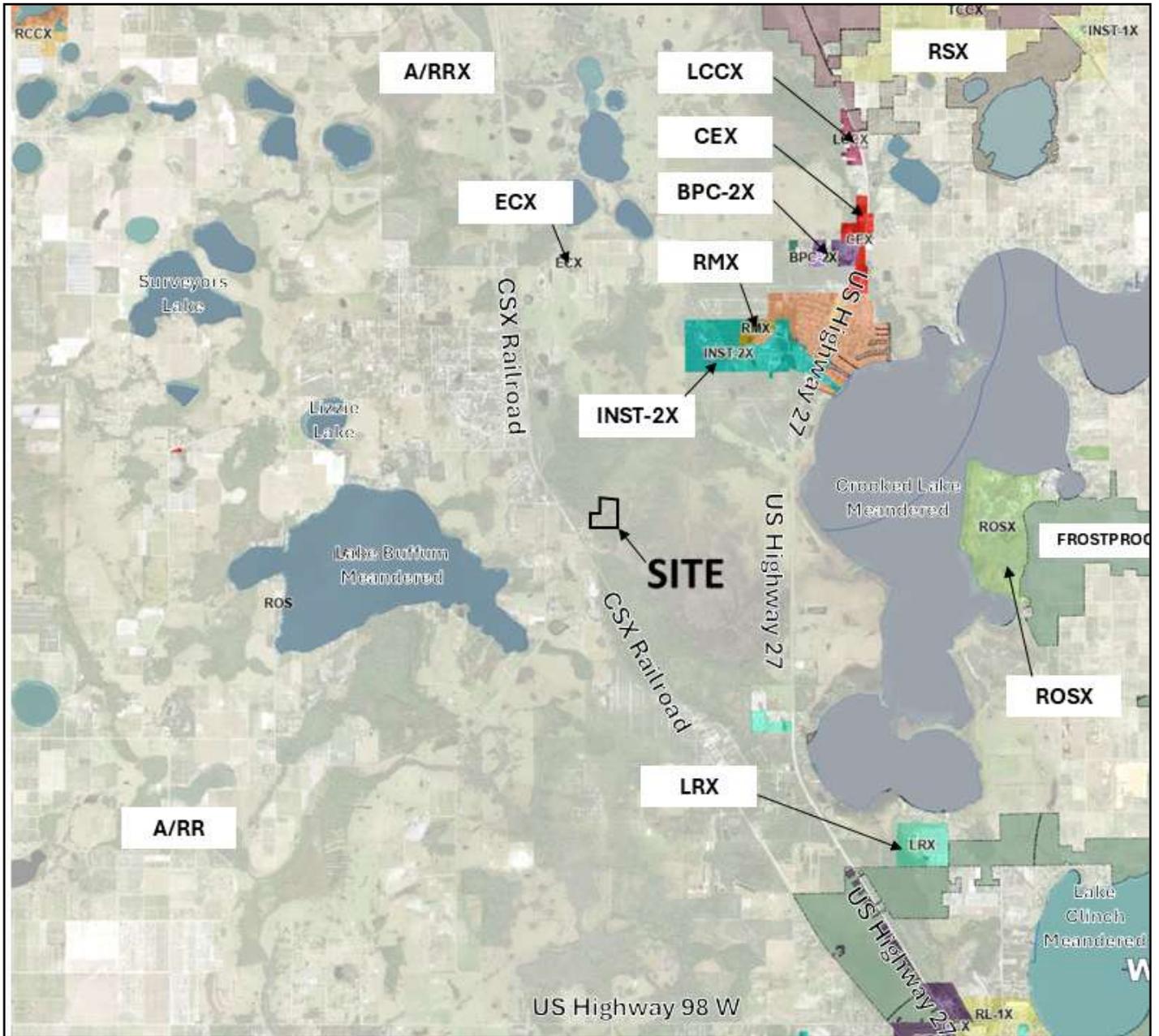
The easement sufficient in width, averaging about 20 feet, taken over the span of the entire easement.

Exhibits:

- Exhibit 1 – Location Map
- Exhibit 2 – Future Land Use Map
- Exhibit 3 – 2023 Aerial Photo (Context)
- Exhibit 4 – 2023 Aerial Photo (Close-up)
- Exhibit 5 – Survey
- Exhibit 6 – Site Plan



Location Map



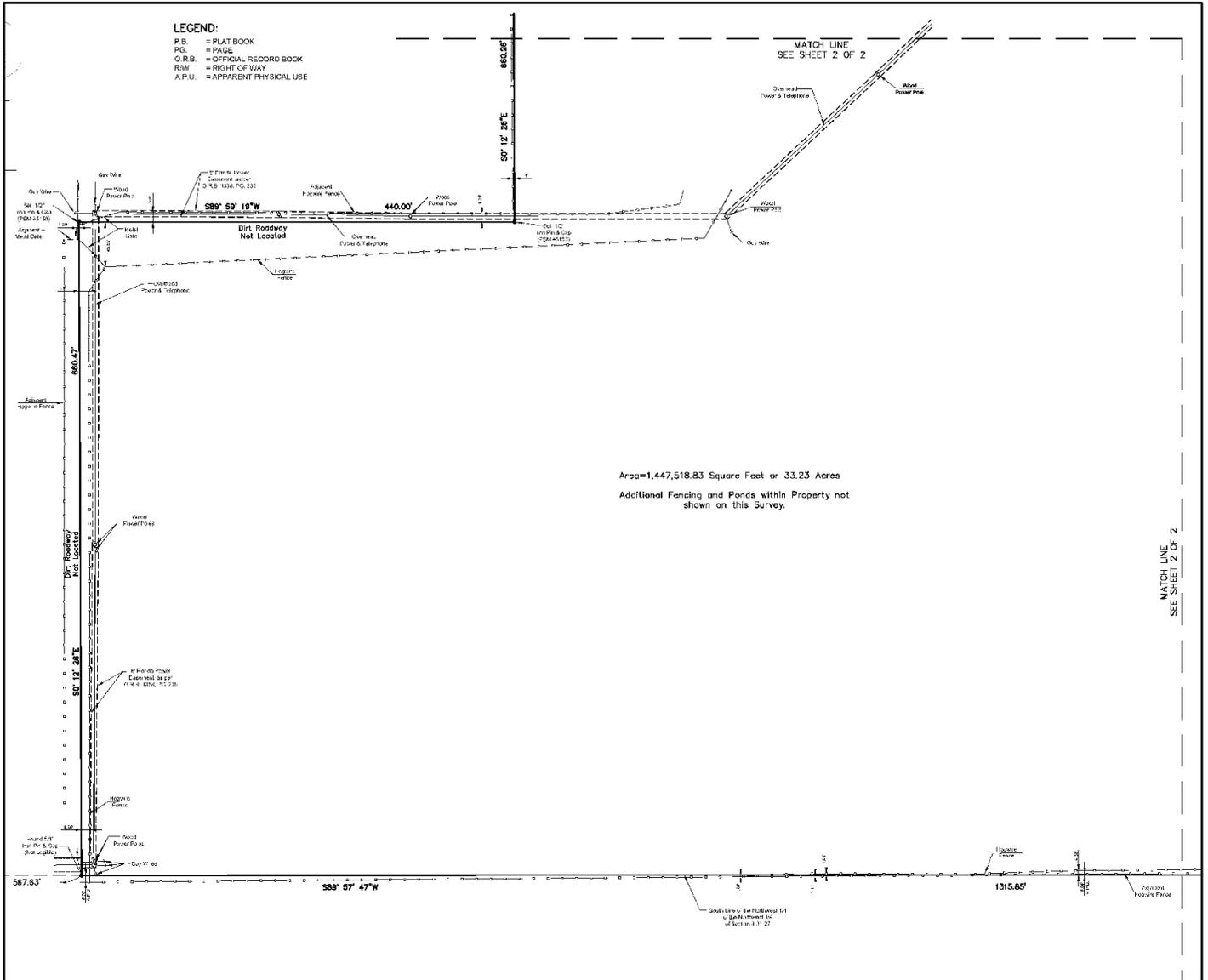
Future Land Use Map



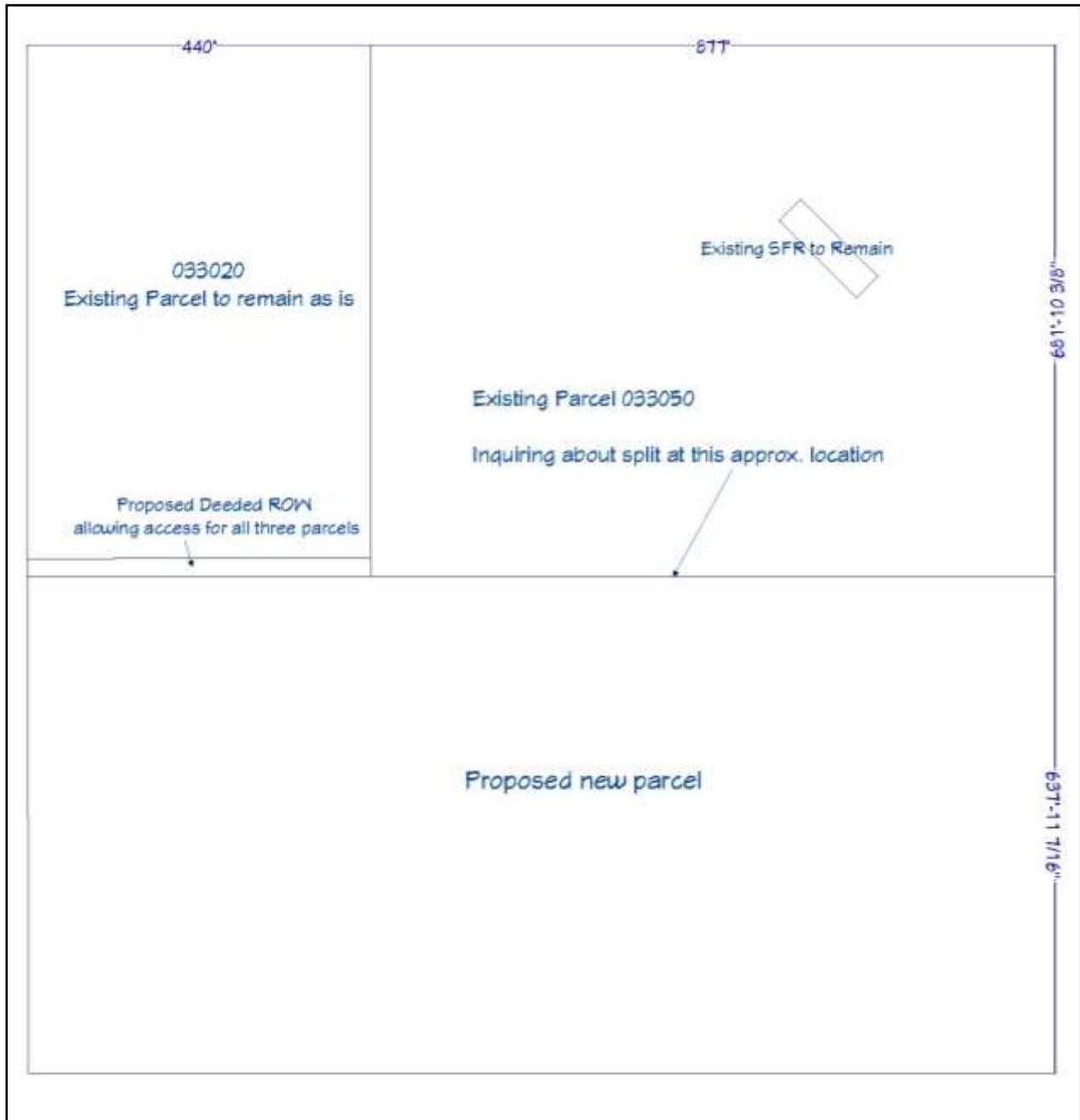
2023 Aerial Image (Context)



2023 Aerial Image (Close-up)



Survey



Site Plan