

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

DRC Date	October 9, 2025	CASE #:	LDLVAR-2025-59 (Old Medulla Road ROW)
LUHO Date	October 23, 2025	LDC Section:	208, Table 2.1

Request: The applicant is requesting a right-of-way setback reduction from 35 feet to 29 feet for a single-family dwelling.

Applicant: Mark McDonald, PSM

Property Owner: Tower Homes LLC

Location: Northeast corner on the intersection of Old Medulla Road and Windee Avenue, east of Airport Perimeter East, west of Clements Road, west of Waring Road, east of the Lakeland-Linder International Airport, north, east, and south of the city of Lakeland in Section 03, Township 29, Range 23.

Parcel ID#: 232903-139567-000010

Size: ±0.25 acres (10,890 square feet)

Land Use Designation: Residential Low-4 (RL-4)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Erik Peterson, AICP
Planning Administrator

Summary:

The applicant is seeking setback relief to account for the misplacement of the building slab in relation to a collector roadway. Construction of the home had begun and passed the first level of inspection before it was realized that the right-of-way line was closer than other properties along the roadway. The variance requested is to reduce the setback standard from 35 feet to 28 feet, a 17% total reduction. The property is one parcel in a four-lot plat that fronts Windee Avenue named Windee Tower Estates. All four homesites in the plat are under construction. Construction was halted on the subject property after the concrete slab foundation was completed. The lots immediately to the east and west are much larger because they were established before the city of Lakeland extended potable water to this portion of Old Medulla Road. The extension of urban services to the area has enabled an increase in development density and a decrease in lot sizes.

Staff find that the request meets the following criteria listed in Section 931:

- The request **is in accordance with the general intent and purpose of this Code and will not be injurious to the area involved or otherwise detrimental to the public welfare** because the request is modest and the 35-foot setback from urban collector road rights-of-way is not needed for public safety. It is intended for aesthetic purposes. Deeper roadway setbacks also encourage higher speeds of travel.
- Denial of the variance **will constitute unnecessary and undue hardship on the applicant** relative to the amount of public benefit derived from strict adherence to the standard. The setback encroachment is relatively small compared to the enormous cost of demolition and reconstruction.

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-2025-59**, with the following conditions:

CONDITIONS OF APPROVAL:

1. A variance to the standards in Section 208, Table 2.1 of the Land Development Code (LDC) shall be granted for a right-of-way setback reduction from 35 feet to 28 feet for a single-family dwelling.
2. The applicant must apply for all necessary permits within one (1) year of the date for which the Land Use Hearing Officer's Final Order is rendered.
3. This variance does not authorize any encroachments into easements, and the applicant shall be responsible for making 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 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 Section 930D.

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 submission 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 applicant's request for setback relief is relatively minimal (approximately a 17% reduction). The 35-foot setback from urban collector road rights-of-way is not needed for public safety. It is intended for aesthetic purposes. Deeper roadway setbacks also encourage higher speeds of travel, according to the Institute of Transportation Engineers (ITE). Much of the roadway is lined with trees and vegetation, so there is not an intrinsic aesthetic that is noticeable in the building line along this corridor. This portion of Old Medulla is close to the intersection with the entrance to the south side of Lakeland-Linder International Airport. The posted speed is 35 mph. In the past, this entrance was restricted and gated. Granting this variance will not be injurious to the area involved or otherwise detrimental to the 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;*

There are special conditions and circumstances that exist which are peculiar to the land. This property has different setback regulations than the other three lots in the Windee Tower Estates plat because it is a corner lot at the intersection of a local road and an urban collector road. As a result, it is the largest of the four lots in the plat by 739 square feet (7.3% larger). This provides enough space to place the 30'x 66' (1,980 sq.ft.) dwelling at the interior side setback line and meet the 35-foot right-of-way distance from Old Medulla Road. Unfortunately, that placement was misinterpreted at some point during the site development. As a result, the 30-foot-wide foundation was placed five (5) feet three (3) and 3/8 inches too far to the south. The applicant is requesting this setback relief to reduce the added cost of construction that will result from having to physically correct the mistake.

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

The placement of the concrete slab foundation was the result of a miscommunication in the construction process that was not realized until after a substantial amount of work had been accomplished. The setback encroachment is relatively small (17% reduction) compared to the enormous cost of demolition and reconstruction.

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;*

The only structures on Old Medulla Road that are within the 35-foot right-of-way setback are the results of right-of-way taking after the structures were built. A residence at 2711 Old Medulla Road is within 32 feet and a religious institution at 4543 Waring Road is abutting both rights-of-way on the northwest corner of Old Medulla and Waring Roads. The right-of-way was taken for turn lane expansions at the intersection. While the applicant's request can be perceived as a special privilege, it was never intentional. The setback relief is not a significant benefit to the homeowner. It is more of a benefit to the neighboring lot to the north. The granting of the variance will alleviate the substantial cost burden of demolishing the foundation and starting construction all over again. The setback encroachment is relatively small (17% reduction) compared to the enormous cost of demolition and reconstruction.

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

The applicant's request for setback relief is relatively minimal (approximately a 15% reduction). This request is just enough to render the recently constructed concrete slab foundation permissible for a single-family residence. There is no further request for encroachment into any other property line setback requirements.

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 has been mapped RL since 1991 and RL-4 since September 1, 2000. A single-family, site-built residence is proposed on the subject property.

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 that does not meet the requirements of the Code. This variance request will not change the size, shape or use of the property.

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 property was zoned General Industrial (GI) under the original 1971 zoning map. This area was intended to be an industrial park but during an economic downturn in the mid-1970s, lots were sold, and residences were developed on them. When the Board of County Commissioners adopted the Comprehensive Plan in 1991, the roads running north off of Old Medulla Road (Windee Avenue, Clements Road and Freedom Lane) were designated Residential Low (RL) on the Future Land Use Map. With the adoption of the LDC in 2000, RL-4 was mapped here because of the past GI zoning and the Transitional Ordinance (ORD. 2000-010). No further development restrictions are approved. Granting this

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

Surrounding Future Land Use Designations and Existing 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

Northwest: RL-4 Vacant with structures belonging to lot to the south	North: ±0.25 acres RL-4 Single-family home under construction 1,980 sq. ft.	Northeast: RL-4 Mobile Home 2,108 sq. ft On ±1.17-acre lot ±56 feet from Medulla Road right-of-way
West: RL-4 0.54 acre lot Mobile Home 2,108 sq. ft ±36 feet from Medulla Road right-of-way	Subject Property: ±0.25 acres RL-4 Single-family home under construction 1,980 sq. ft. ±20 feet from Medulla Road right-of-way	East: RL-4 Mobile Home 2,108 sq. ft On ±1.17-acre lot ±56 feet from Medulla Road right-of-way
Southwest: City of Lakeland Industrial PUD 6068	South: City of Lakeland Industrial PUD 6068	Southeast: City of Lakeland Industrial PUD 6068

The subject property is one parcel in a four-lot plat that fronts Windee Avenue named Windee Tower Estates. All four homesites in the plat are under construction. Construction was halted on the subject property after the concrete slab foundation was completed. The lots immediately to the east and west are much larger because they were established before the city of Lakeland extended potable water to this portion of Old Medulla Road. The other properties outside of the plat on Windee Avenue are served by well and onsite septic systems which require larger land area to support. The property opposite Old Medulla Road to the south is approved for a ±62-acre light industrial park within the City of Lakeland under a Planned Unit Development.

Medulla Road comes to a 90-degree turn just after passing Windee Avenue heading west. At the intersection is the entrance to the south side of Lakeland-Linder International Airport. At one time, this entrance was gated which is why Old Medulla Road turns abruptly. The Florida Department of Transportation (FDOT) estimates that Old Medulla sees 1,550 vehicles traversing it daily. The Polk Transportation Planning Organization (TPO) estimates 900 of them occur during the peak hour which is likely when workers are leaving from the many businesses and industries on the south side of the airport such as the GEICO Insurance Regional Office Building, Champion Interior & Exterior Painters - Corporate office, several flight schools including Polk State College - Airside Center, and the National Oceanic and Atmospheric Administration (NOAA) Aircraft Operations Center. During the off-peak times of the day, traffic is relatively mild for an urban collector road. Windee Avenue is just under a quarter mile long. It terminates into private property 1,306 feet from the center of the intersection with Old Medulla Road.

Comments from other Governmental Agencies:

None.

Exhibits:

Exhibit 1 – Location Map

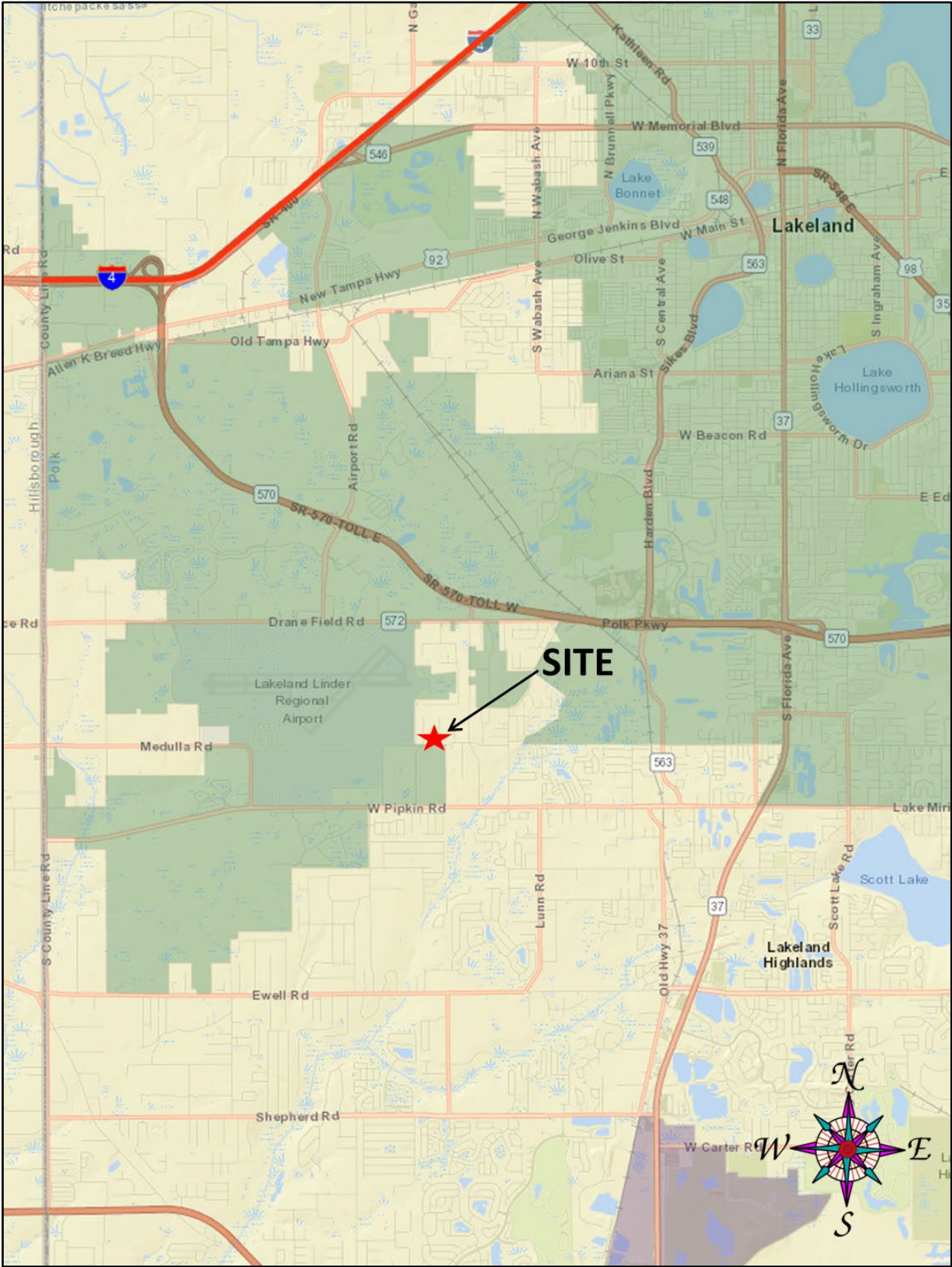
Exhibit 2 – Future Land Use

Exhibit 3 – 2023 Aerial Context

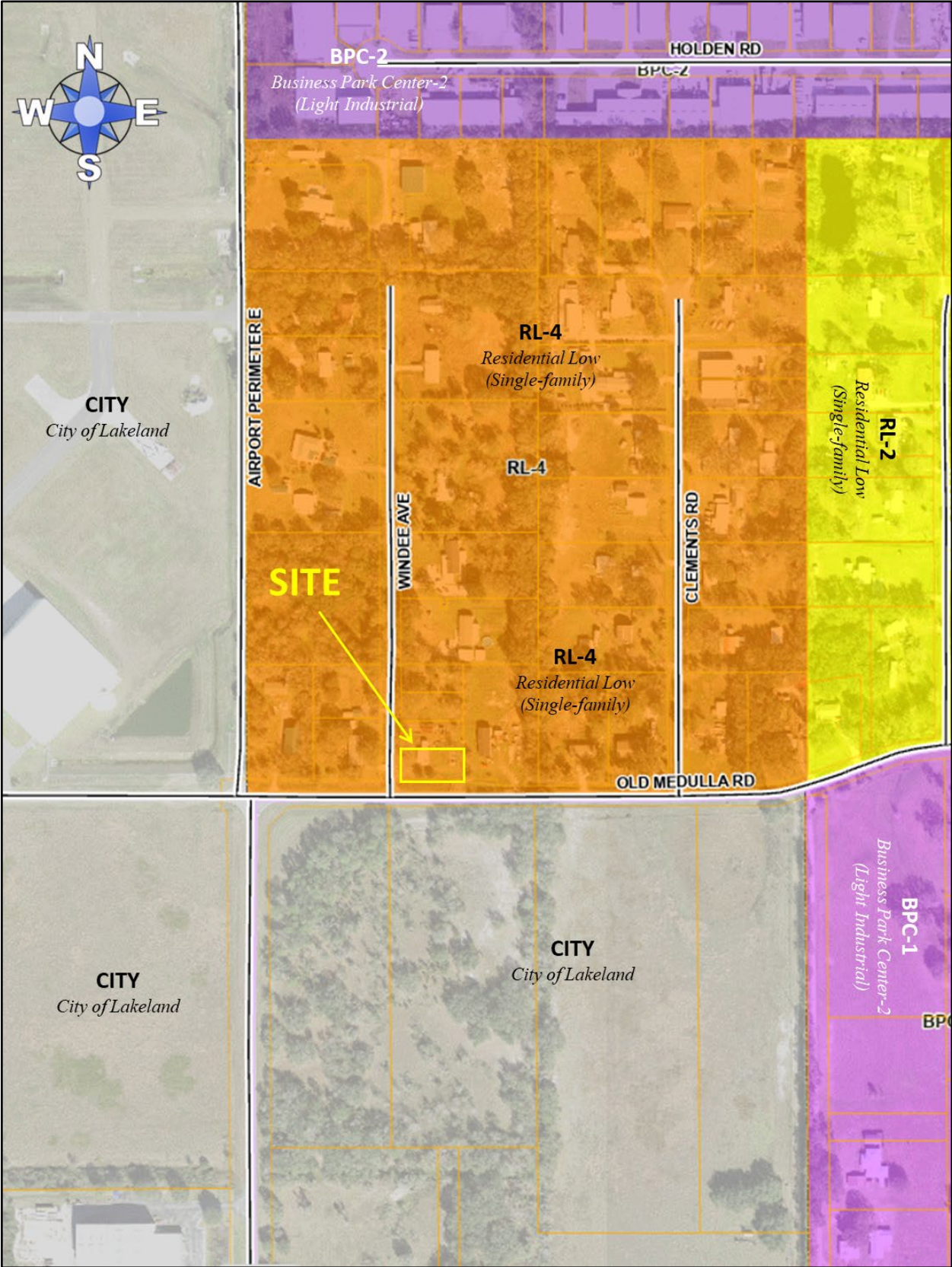
Exhibit 4 – 2023 Aerial Close-up

Exhibit 5 – Site Plan

Exhibit 6 – Criteria Justification



Location Map



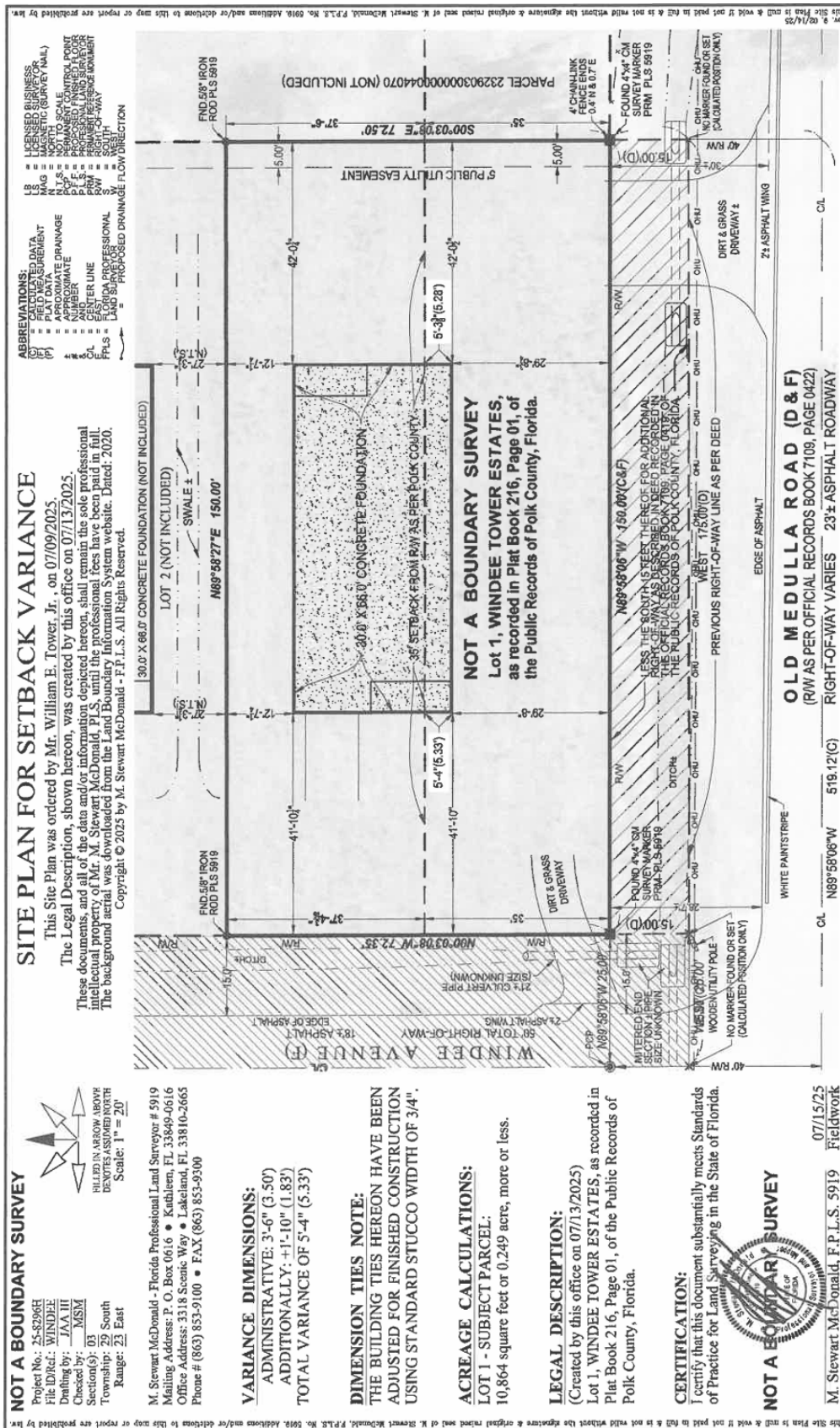
Future Land Use



2024 Satellite Photo Context



2023 Aerial Photo Close-Up



Applicants' Site Plan

CRITERIA FOR GRANTING VARIANCE

Will the variance be injurious to the area involved or detrimental to the public welfare?

No

What special conditions exist that are peculiar to the land, structure, or building involved?

None

When did you buy the property and when was the structure built? Permit Number?

Purchased 05/22/24

Structure had not been built.

What is the hardship if the variance is not approved?

Fully built concrete foundation with plumbing, etc. will have to be destroyed.

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

Yes

Do you have Homeowners Association approval for this request?

N/A

Applicant's Justification