

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

DRC Date	February 8, 2024	CASE #:	LDLVAR-2023-69
LUHO Date	March 28, 2024	LDC Section:	PUD 89-10

Project Number: LDLVAR-2023-69 (Chelsea Avenue Var)

Request: The applicant is requesting a reduction in the rear yard setback from 15 feet to six (6) feet for the construction of a screen room with a solid roof.

Applicant: Luis Alonso, Big Construction Services, LLC

Property Owner: Stanley Rice

Location: The site is located at 336 Chelsea Avenue, south of Providence Boulevard, west of Cortland Drive, east of Chadwick Drive, north of African Daisy Court, north of the City of Davenport, in Section 13, Township 26, Range 27.

Parcel ID#: 272613-704001-000640

Size: 0.20 +/- acres

Land Use Designation: PUD 89-10
Residential Low-4X (RL-4X)

Selected Area Plan: Ronald Reagan Parkway Selected Area Plan (SAP)

Development Area: Urban Growth Area (UGA)

Case Planner: Amy Little

Summary:

The applicant is seeking a variance to the rear setback requirements for a screen room with a solid roof. The various Providence subdivisions were approved under PUD 89-10. The original Planned Unit Development approval included a rear setback of 15 feet for primary structures. The applicant wishes to add a screen room with a solid roof to the rear of their home. Section 209.F of the Land Development Code (LDC) states “Roofed accessory structures physically attached or connected to the principal structure shall be considered a part of the primary structure and shall be subject to the same standards as the principal structure unless exempted or superseded elsewhere in this Code.” The request is to reduce the primary structure setback from 15 feet to 6 feet to accommodate a 35’2” by 15’ screen room.

Staff finds no evidence that would suggest that the variance would be injurious to surrounding homeowners or the neighborhood. The subject site abuts Lakeside Villas at Providence Phase 1 Tract N-6A. Tract N-6A is identified in the plat as future development, however, immediately adjacent to the subject property is a recorded drainage easement (Or. 6305, Pg. 0744 as amended per Or. 7256, Pg.

1169). Aerials indicate a retention pond is located immediately behind the subject property. There are no easements at the rear of the property that will be encroached upon. The rear setback is restrictive compared to the lot sizes found within this development.

Based upon the character of the surrounding neighborhood, information provided by the applicant, and the findings analyzed by staff, the variance request is not anticipated to negatively impact the neighborhood.

Staff finds that 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 it abuts Tract N-6A which is developed with a stormwater pond, and variances for similar structures have been approved within Providence.
- **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved**, notably the rear setback within this development is restrictive when compared to the lot size.

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-2023-69**, with the following conditions:

CONDITIONS OF APPROVAL:

1. The approval of this variance is to reduce the rear setback from 15 feet to 6 feet to add a screen room with a solid roof to the back of the home. Further additions or structures placed on the property shall be required to meet the setback requirements of PUD 89-10 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 addition.

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;*

Granting this variance, as conditioned, is in accordance with the general intent and purpose of the Code. There was no evidence found that would suggest that the variance, if approved, would be injurious to surrounding homeowners or otherwise be detrimental to the public welfare of the neighborhood. The subject site is Lot 64 of Chelsea Woods at Providence recorded June 1st, 2007 (Plat Book 145, Pages 7-19). It is part of PUD 89-10 within a Residential Low-4X and the Ronald Reagan Selected Area Plan. The PUD adopted rear setbacks of 15 feet for the primary structure. There are no easements at the rear of the property. The property to the rear of the subject site is identified on Lakeside Villas at Providence Phase 1 as Tract N-6A and noted as future development. However, the portion of this tract immediately adjacent to the subject site is developed with a retention pond and is unlikely to develop.

- 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 for the subject property that are peculiar to the land. The property abuts a tract designated as future development but is developed with a retention pond and is unlikely to develop with any residential use. This property was created in 2007, but setback standards were outlined in PUD 89-10. The underlying land use district is RL-4X, and the site is located within the Ronald Reagan SAP. Minimum lot sizes within the Ronald Reagan SAP and RL-4X land use districts are 5,000 square feet. The Ronald Reagan SAP was created to promote higher densities and intensities, and Table 4.4 of the Land Development Code provides setbacks for properties located within the SAP. Due to the smaller size lots that are permitted in the SAP, primary structure rear setbacks are defined at 5 feet. Had PUD 89-10 not specified setbacks, staff could apply Table 4.4 setbacks and this variance would not be required.

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

The owners proposed rear yard screen enclosure is of their own making, however the lot size and configuration are attributable to the developer. Additionally, the least costly solution is to obtain a variance to the setback standards.

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 size creates a hardship when developing.

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

Without the proposed variance, the applicant would be limited to a 6-foot-wide screen room. This request is a reasonable use of the land to maximize the applicant's living space.

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 home will remain a residential use in a residential district.

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.*

Granting this request will not circumvent any conditions of approval. When the standards for the Planned Development (PD) 89-10 was approved, it was approved with the one of the conditions being: an individual lot shall be permitted to request a variance from the setbacks established in the report through the Board of Adjustments (now known as the Land Use Hearing Officer-LUHO) rather than the Planning Commission.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides details of abutting properties and their pertinent dimensions.

Northwest: RL-4X Single-Family	North: RL-4X Retention Pond	Northeast: RL-4X Retention Pond
West: RL-4X Single-Family	Subject Property: RL-4X Single-Family	East: RL-4X Single-Family
Southwest: RL-4X Single-Family	South: RL-4X Single-Family	Southeast: RL-4X Single-Family

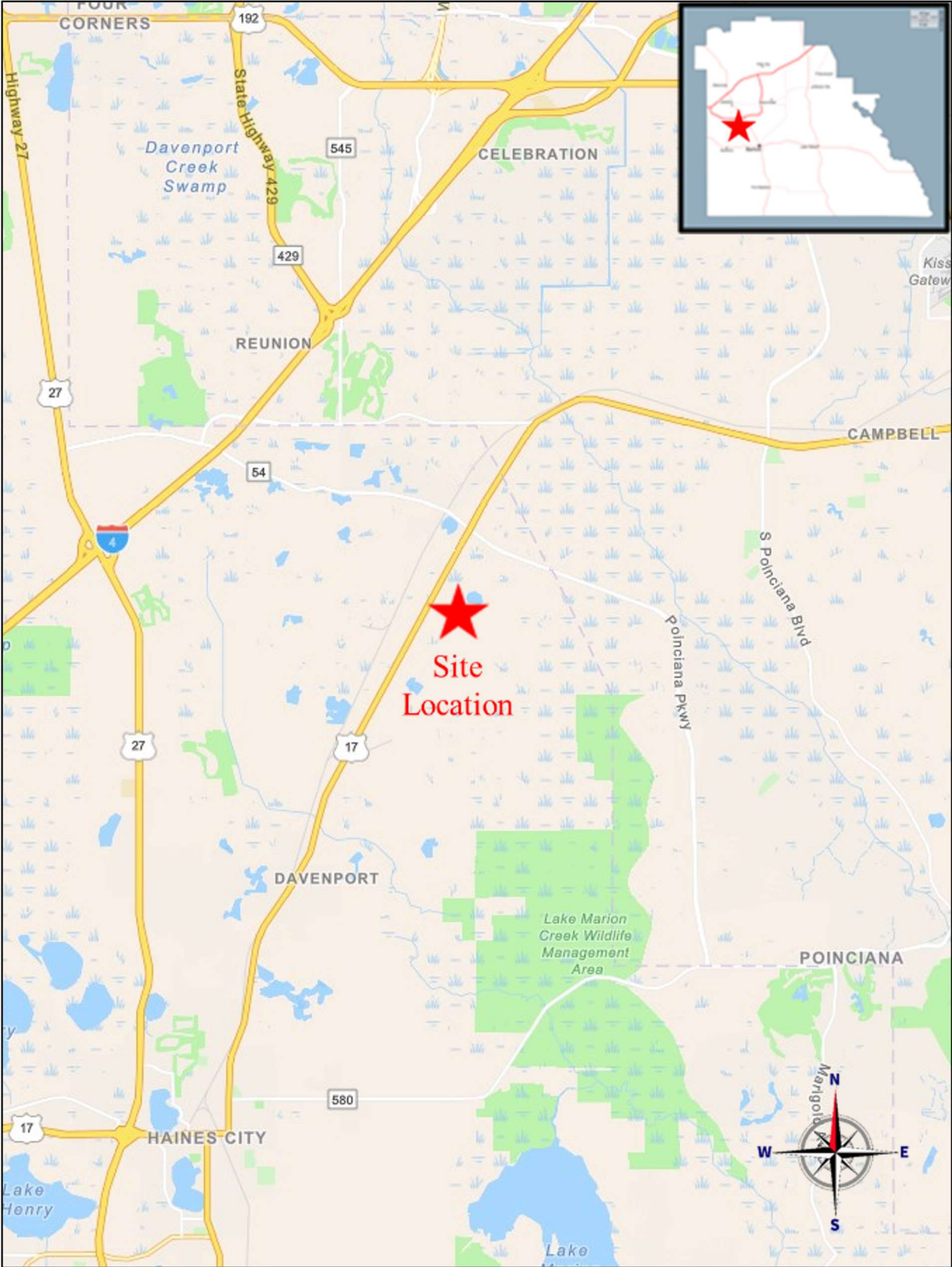
The subject site is 0.20 +/- acres in size in a suburban area of the county. To the south, west, and east are single family structures that are also located on similar lot sizes, and some have screen enclosures. To the north of the site is a retention pond. Based upon the character of the surrounding neighborhood, the proposed variance is will not change the existing land use, create an incompatible situation with the surrounding development, or circumvent the intent of any requirements pertaining to the property. Staff recommends approval.

Comments from other Governmental Agencies:

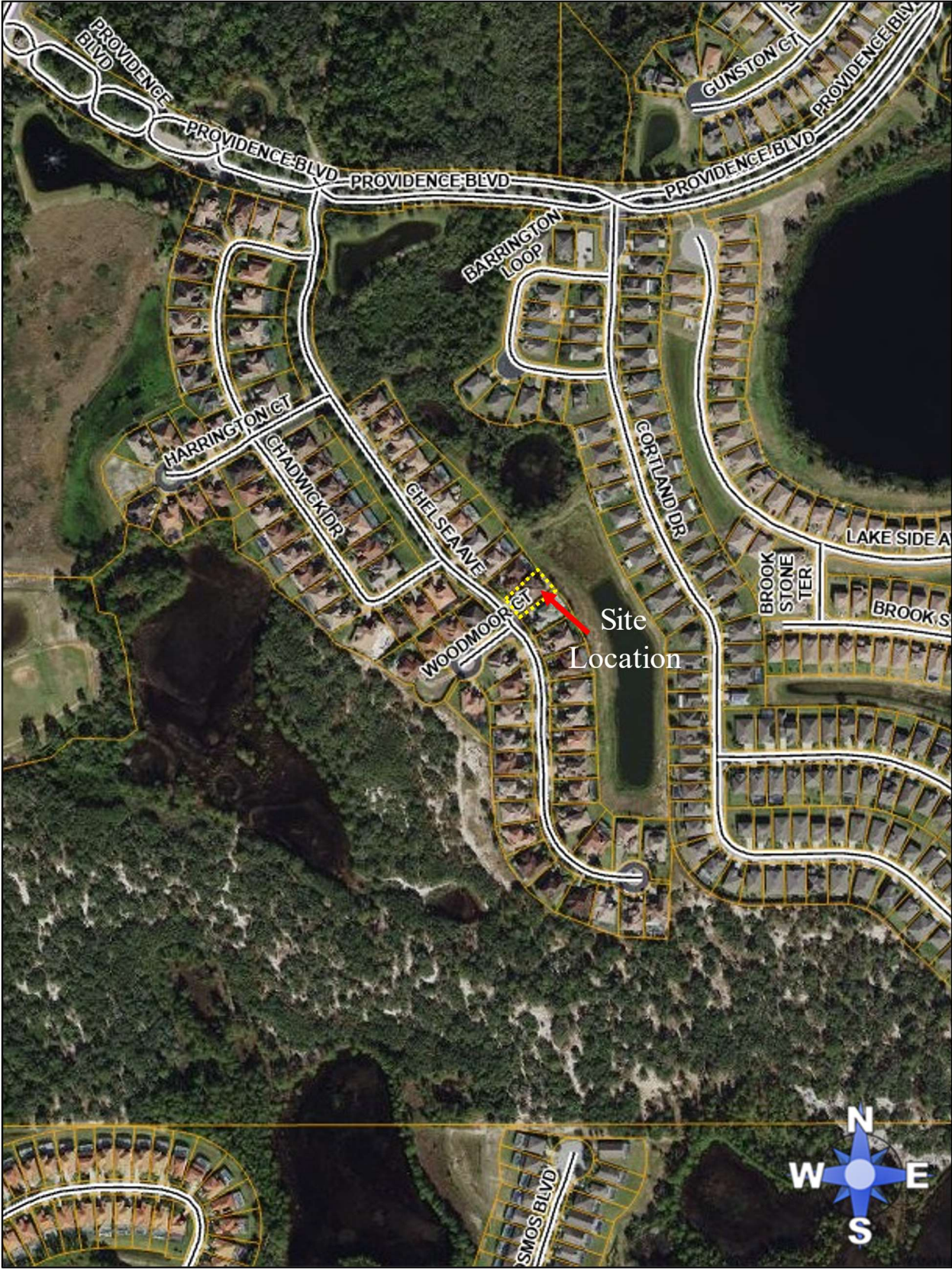
None.

Exhibits:

- Exhibit 1 - Location Map
- Exhibit 2 - Aerial Photo (context)
- Exhibit 3 - Aerial Close-up
- Exhibit 4 - Future Land Use Map
- Exhibit 5 - Applicant’s Site Plan



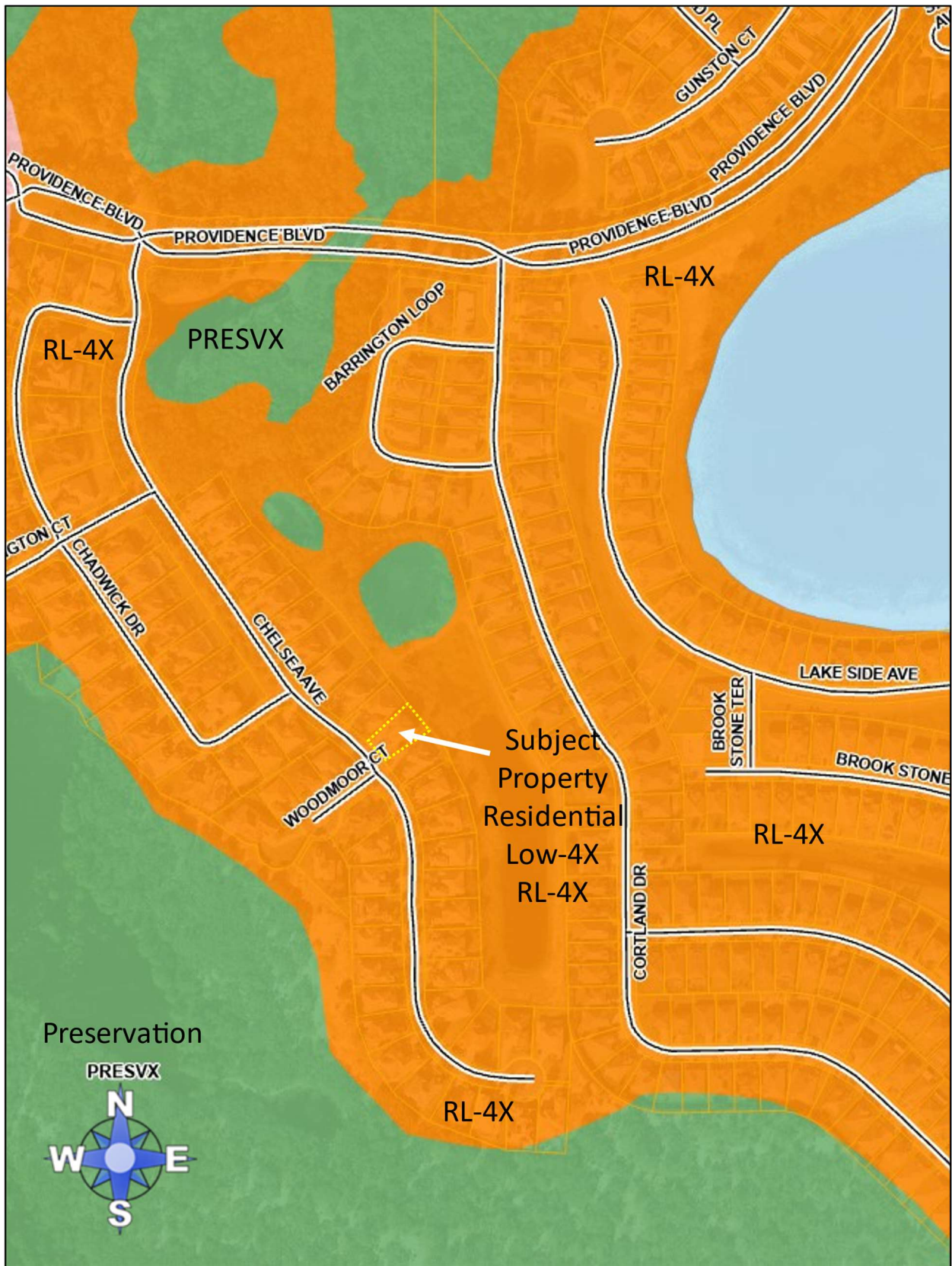
Location Map



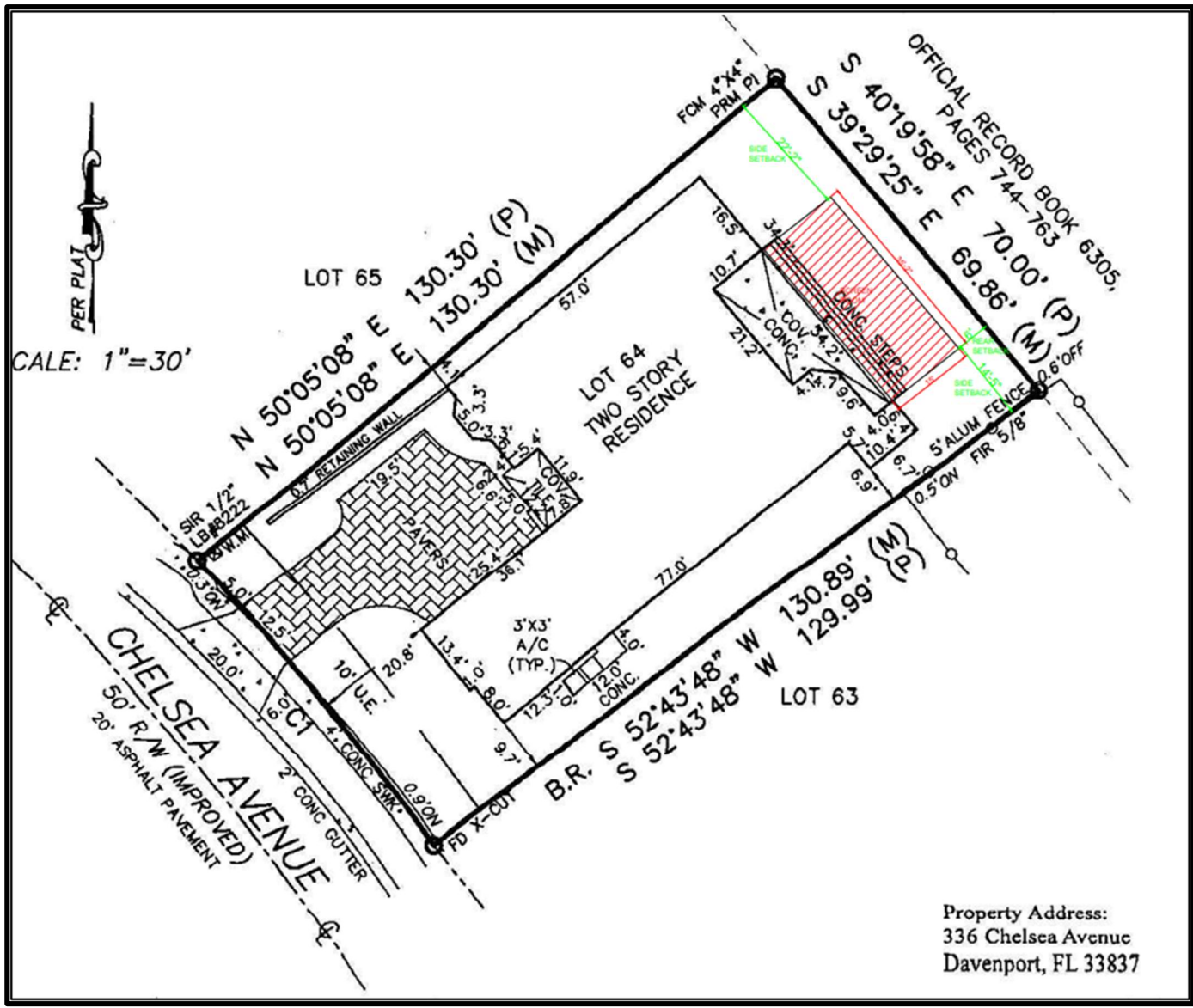
Aerial Photo (context)



Aerial Close-up



Future Land Use Map



Applicant's Site Plan