



**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
123 West Indiana Avenue, DeLand, Florida 32720
(386) 736-5959

PUBLIC HEARING: November 18, 2021 – Planning and Land Development Regulation Commission (PLDRC)

CASE NUMBER: V-22-017

SUBJECT: Variances to the minimum yard requirements for accessory structures on Urban Mobile Home Subdivision (MH-6) zoned property

LOCATION: 3724 Lisa Lane, New Smyrna Beach

APPLICANT(S): Steven Chearino

OWNER(S): Same as above

I. SUMMARY OF REQUEST

The applicant seeks two variances for existing accessory structures as follows:

Variance 1: A variance to reduce the minimum yard requirement for an existing carport from five feet to one-foot.

Variance 2: A variance to reduce the minimum yard requirement for an existing shed from 5 feet to 3.7 feet.

Staff Recommendation:

Deny variances 1 and 2, case number V-22-017, as the variances fail to meet two of the five criteria for granting said variances.

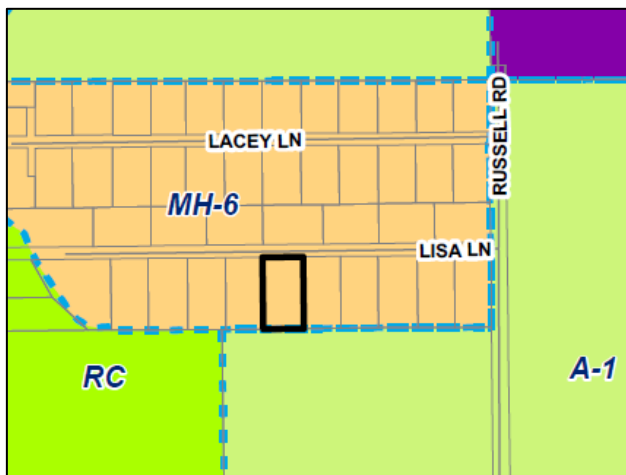
II. SITE INFORMATION

1. Location: On the south side of Lisa Lane, approximately 600 feet west of its intersection with Russell Road, New Smyrna Beach
2. Parcel Number(s): 7201-01-00-0460
3. Property Size: +/- 20,000 square feet
4. Council District: 3
5. Zoning: Urban Mobile Home Subdivision (MH-6)
6. Future Land Use: Rural (R)
7. Overlays: N/A
8. Local Plan Area: Samsula Local Plan
9. Adjacent Zoning and Land Use:

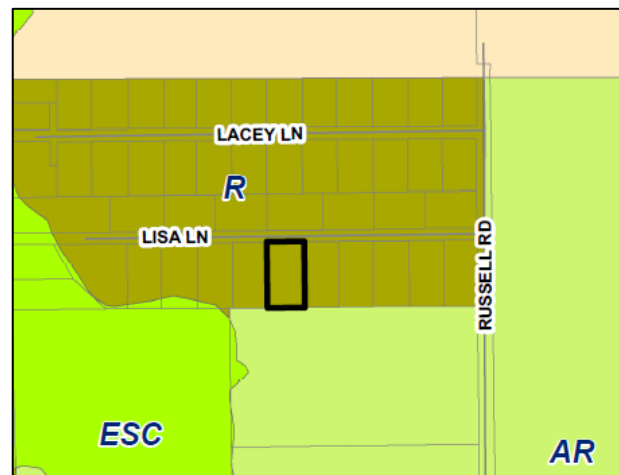
DIRECTION	ZONING	FUTURE LAND USE	EXISTING USE
North:	MH-6	Rural	Single-family residence
East:	MH-6	Rural	Single-family residence
South:	A-1	Agricultural Resource	Single-family residence
West:	MH-6	Rural	Single-family residence

10. Maps:

ZONING MAP



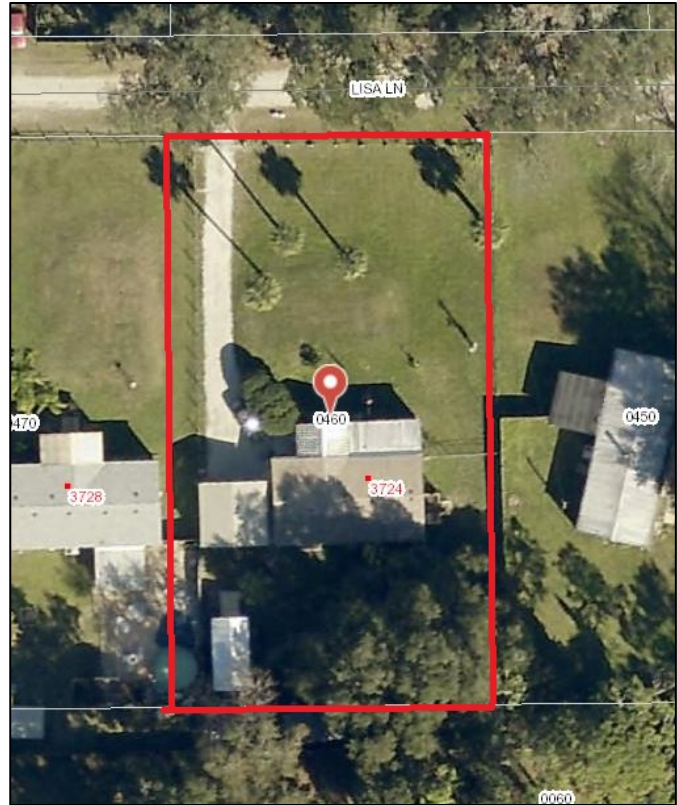
FUTURE LAND USE MAP



III. BACKGROUND AND OVERVIEW

The subject property is zoned MH-6, which requires a minimum lot area of 10,000 square feet and a minimum lot width of 85 feet. The lot is 20,000 square feet in area and 100 feet in width.

The lot is a standard interior lot. It is developed with a single-family mobile home built in 2000, a 20-foot-by-20-foot carport, an 11-foot,six-inch-by-24-foot frame shed, and a 10-foot-by-10-foot metal pump house. The carport and frame shed were installed by the current owner without benefit of a building permit. They do not meet the minimum five-foot side yard setbacks for accessory structures. In order to obtain an after the fact building permit, the owner is requesting variances to reduce the minimum setbacks.



IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379(1)a.4 of the Zoning Ordinance contains five applicable criteria by which a variance application may be granted. The following staff evaluation is based on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

Variances 1 and 2: The subject property is a standard interior lot, twice the size of the minimum zoning requirements. The structures are a standard carport and shed. There are no special circumstances associated with either the land or the structures.

Staff finds that this criterion is not met.

ii. The special conditions and circumstances do not result from the actions of the applicant.

Variances 1 and 2: The applicant is responsible for installing the carport and shed without benefit of a permit.

Staff finds that this criterion is not met.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

Variance 1: Literal interpretation of the zoning requirements would not deprive the applicant of commonly enjoyed rights, but may work an unnecessary hardship. The carport is situated adjacent to the house and over the existing driveway. The side of the carport adjacent the neighbor's property is a solid wall. The neighbor has provided a letter of support to allow the carport to remain as situated.

Staff finds this criterion is met.

Variance 2: Literal interpretation of the zoning requirements would not deprive the applicant of commonly enjoyed rights, but may work an unnecessary hardship. The shed encroaches 1.3 feet into the side yard. There is a six-foot fence between the shed and the adjacent neighbor's property. As there have been no complaints regarding the location of the shed, requiring it to be moved 1.3 feet further into the lot may work an undue hardship on the applicant.

Staff finds this criterion is met.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

Variances 1 and 2: Neither of the variances are necessary to make reasonable use of the land; however, they are the minimum that will allow the structures to remain in place and for the applicant to obtain after-the-fact building permits.

Staff finds that this criterion is met.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

Variances 1 and 2: Granting these variances is unlikely to be injurious to the area involved. The adjacent neighbor most affected by the encroachments has provided a letter of support as well as 13 additional neighbors. The carport is shielded from view by a sidewall and the fence is shielded by a six-foot fence.

Staff finds that this criterion is met.

V. STAFF RECOMMENDATION

Deny variances 1 and 2, case number V-22-017, as the variances fail to meet two of the five criteria for granting said variances.

The PLDRC may take into account additional competent substantial evidence presented at the hearing or may make an alternate finding to already presented evidence, that there is sufficient evidence such that the request meets all five criteria and should be granted. Should the PLDRC find that the applicant has provided competent substantial evidence to support approval of the variances; the following conditions are provided for consideration:

1. The variance is limited to the carport and shed as depicted on the variance site plan. Any change to the location or size of either of the structures shall require approval of a separate variance.
2. The property owner or authorized agent shall obtain and complete all required building permits and inspections for the improvements.

VI. ATTACHMENTS

- Variance Site Plan
- Written Petition
- Survey
- Environmental Memo
- Land Development Memo
- Letters of support
- Map Exhibits

VII. AUTHORITY AND PROCEDURE

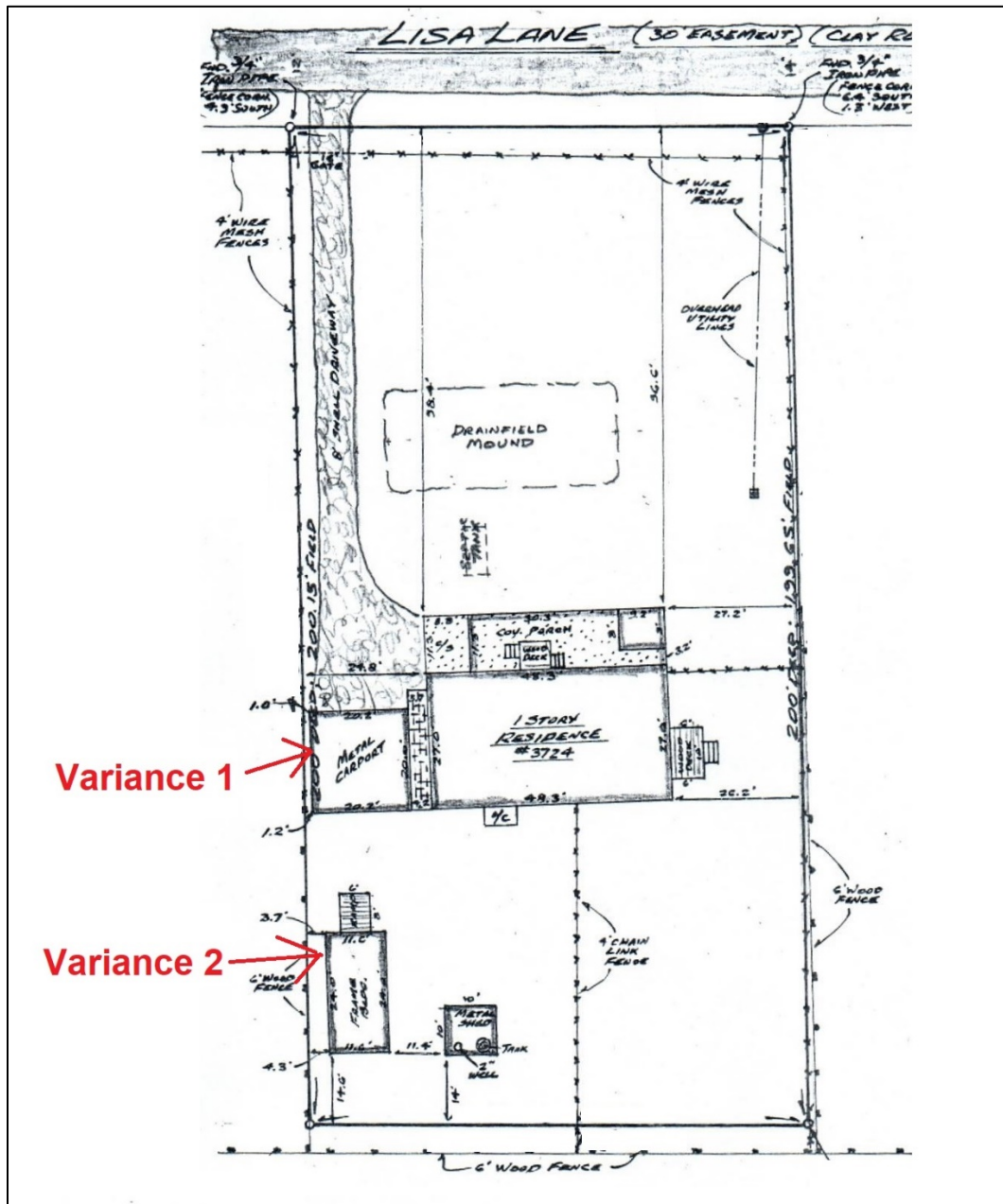
The commission may, except as otherwise provided in Section 72-379 of the Zoning Ordinance, authorize, after due public notice upon application on a form prescribed by the Zoning Enforcement Official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the County Council.

Pursuant to Section 72-412, no variance shall be granted, in whole or in part, unless four members concur. A tie vote shall be grounds for continuance to the next scheduled meeting.

Any new information to be presented at the Planning and Land Development Regulation Commission meeting for any application will be grounds to continue an application to the next Planning and Land Development Regulation Commission meeting. Applicants shall inform and provide staff with the new information prior to the Planning and Land Development Regulation Commission meeting.

Variance Site Plan

V-22-017



Variance 1: A variance to reduce the minimum yard requirement for an existing carport from five feet to one-foot.

Variance 2: A variance to reduce the minimum yard requirement for an existing shed from 5 feet to 3.7 feet.

Carport

1. When the house was purchased it didn't include any kind of garage or carport
2. Most single family homes already have a garage or car to protect your vehicles from the elements, as well as yourself, with my wife's health conditions it enables her to get prepared to enter our home. Looking at having it taken down the cost was more than we paid for it originally.
3. As far as being able to relocate the septic is located in front of the house and in the back we have a beautiful live oak that takes about 70% of the backyard, it also gets a little swampy back there when we get an inch of rain or more.
4. Due to my wife's health condition believe it or not this carport helps her continue a normal way of life for the time being as well as the protection of our older vehicles.
5. My closest neighbor has written a letter of consent stating that she was advised prior to me purchasing of the carport also where the positioning of the carport would be and she was fine with it. I would also like to say that I didn't come here to do whatever I wanted, I just intrusted the wrong person where I'm from, both New Hampshire and Rhode Island. These are considered temporary structures and you do not need building permits nor are they taxable. Believe me, going through this has really taken its toll on both me and my wife. We don't go around breaking the law matter of fact neither one of us have had a ticket in over 30 years! With that I would just like to apologize!

Shed

1. The only area I have that doesn't get swampy after heavy rain. Also the same placement where previous owners shed was as old print shows.
2. We have over 40 yrs of stuff in there, plus lawn equipment that would be exposed to the elements. My plan is when we're no longer able to take care of ourselves or one of us dies then pack it up with the rest of our belongings, put it on a trailer and move it to our daughters to live out our life.
3. Like I stated our backyard consists of a large live oak, several maple trees and the pumphouse which doesn't leave me too many options also could be moved the 2.5 ft. to comply, but was told by planner to include in variance instead of trying to empty it out also the expense of moving it.
4. The carport and shed matches the house and looks great.
5. There is really no impact on anyone other than my neighbor Karen Stuart, she is the one that tells us how great it looks and has enclosed a letter. We're on half acre lots and dirt road that we have to maintain and not visible from the road. One last thing like the carport where we came from no permits needed if placed on cinder blocks. Like I've stated I just entrusted in the wrong person, some that's lived here all his life what a good neighbor. Just like to say this will never happen again thank you for time.

SHEET 1 OF 2

DESCRIPTION: (Per O.R. Book 7603, Page 2219; Volusia County, Fla.)

The South 200 feet of the West 100 feet of the East 600 feet of the North $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 1, Township 17 South, Range 32 East, Volusia County, Florida, also known as Parcel 46, Samsula Estates, unrecorded.

Together with a 30 foot easement, described as follows: The South 30 feet of the North 460 feet of the North $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 1, Township 17 South, Range 32 East, Volusia County, Florida.

AKA: 3724 Lisa Lane, New Smyrna, FL 32168

NOTES:

- 1) Property Address: 3724 Lisa Lane
New Smyrna Beach, Florida 32168
- 2) Volusia County Parcel Number: 7201 - 01 - 00 - 0460.
- 3) Residence attached to Well, located inside Shed
in Rear Yard, as shown.
- 4) Residence equipped with Septic Tank, located in
Front Yard, as shown.

FLOOD CERTIFICATION:

According to the Federal Emergency Management Agency's 'Flood Insurance Rate Map'; Community Panel Number 125155-0516-H, Effective Feb. 19, 2014; the property described and depicted hereon lies in Zone 'X' ("Areas determined to be outside 500-year floodplain."), and does not lie within any 'Special Flood Hazard Area'.

CERTIFIED TO: Steven A. Chearino

Smith Land Surveying Inc. LB 8095
157 MAGNOLIA WAY, DELAND, FL. 32724
DELAND (386) 734-7047 DELTONA (386) 789-2855

DRAWN BY: S.E. Smith

REVISIONS:

CREW CHIEF: S.E. Smith

SCALE: 1" = 30'

DATE: August 20, 2021

WO # 8 - 1171 - 21

I hereby certify that this map depicts a survey performed under my supervision, and is correct to the best of my knowledge and belief, and that this survey meets the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 64-17-052, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.



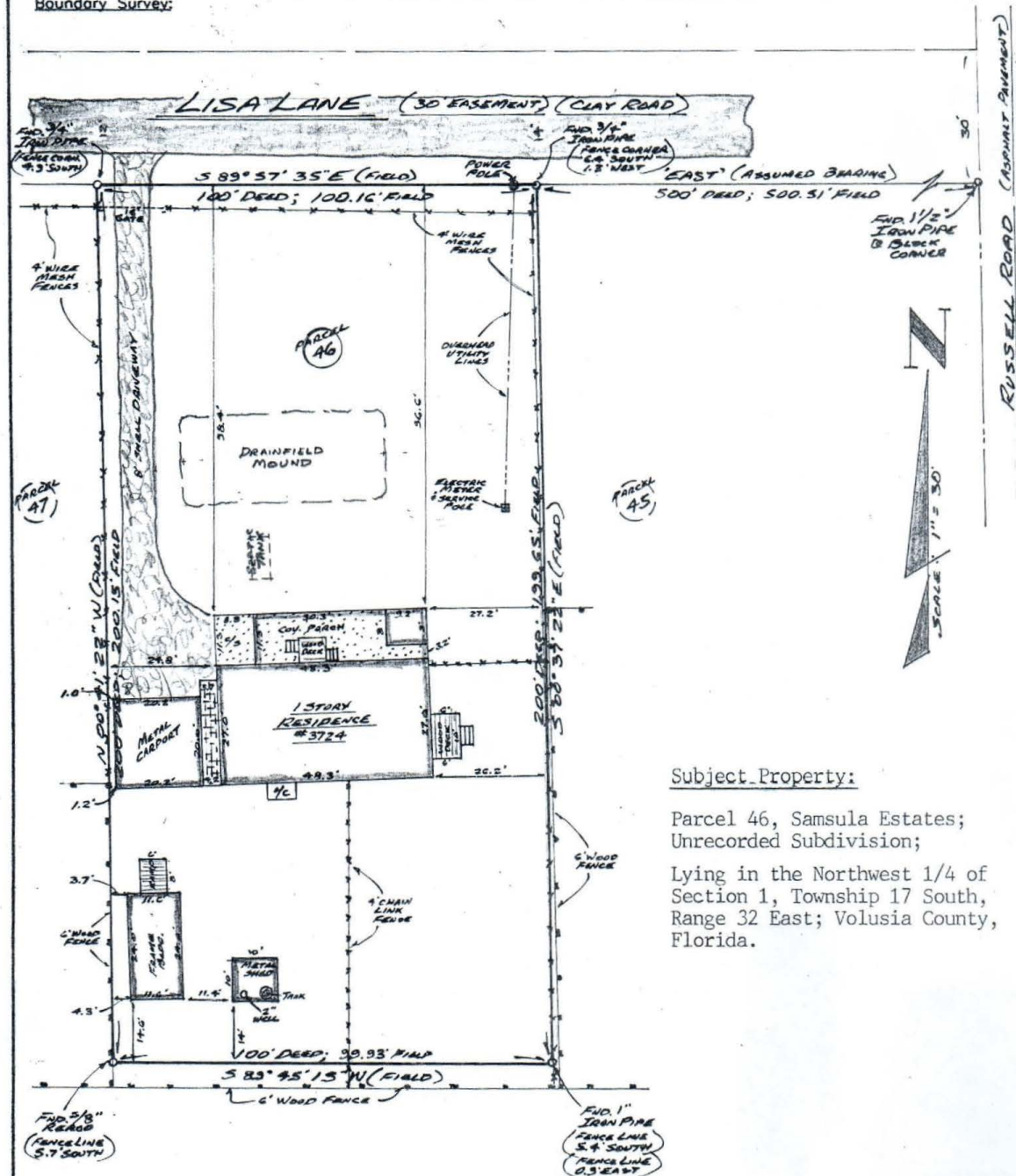
NOT VALID UNLESS SEAL IS EMBOSSED

Note: No instruments of record reflecting easements, limitations, ownerships, reservations, restrictions and/or right-of-ways, if any have been provided to this surveyor, except as shown. No underground installations or utilities have been located, except as shown.

SEC. 1-17-32

SHEET 2 OF 2			
Legend of Symbols and Abbreviations:			
—	Boundary Line	Calc.	Calculated
—	Centerline	C.B.	Concrete Block
—	Right-of-Way Line	Ch.	Chord
—	Overhead Utility Line	Conc.	Concrete
—	Easement Line	cls	Concrete Slab
Δ	Central Angle	Elev.	Elevation
ARC	Arc Length	Field	Field Measurement
BLK	Block	Fnd.	Found
⊥	CENTERLINE	Gov't	Government
		LB	License Business
		O.R.	Official Records
		Pav't	Pavement
		P.C.	Point of Curve
		P.C.C.	Point of Compound Curve
		REROD	Steel Reinforced Rod
		P.C.P.	Permanent Control Point
		PSM	Professional Surveyor & Mapper
		P.I.	Point of Intersection
		PLS	Professional Land Surveyor
		P.O.B.	Point of Beginning
		P.O.C.	Point of Commencement
		P.R.C.	Point of Reverse Curve
		P.R.M.	Permanent Reference Monument
		P.S.I.	Point of Street Intersection
		P.T.	Point of Tangency
		R	Radius
		RLS	Registered Land Surveyor
		R/W	Right of Way
		Sec.	Section
		S/T	Septic Tank
		WI	With
		W	Water Meter
		R	Reclaimed Water Meter

Boundary Survey:



Subject Property:

Parcel 46, Samsula Estates;
Unrecorded Subdivision;
Lying in the Northwest 1/4 of
Section 1, Township 17 South,
Range 32 East; Volusia County,
Florida.

CERTIFIED TO: Steven A. Chearino

I hereby certify that this map depicts a survey performed under my supervision, and is correct to the best of my knowledge and belief, and that this survey meets the Standards of Practice set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 17-002, Florida Administrative Code, pursuant to Section 472.02, Florida Statutes.

Smith Land Surveying Inc. LB 8095
157 MAGNOLIA WAY, DELAND, FL. 32724
DELAND (386) 734-7047 DELTONA (386) 789-2855

DRAWN BY: S.E. Smith

REVISIONS:

CREW CHIEF: S.E. Smith

SCALE: 1" = 30'

DATE: August 20, 2021

WO # 8 - 1171 - 21

Stanley E. Smith
Florida Professional Surveyor
and Mapper, LS 3734

NOT VALID UNLESS SEAL IS EMBOSSED

Note: No instruments of record reflecting easements, limitations, ownerships, reservations, restrictions and/or right-of-ways, if any have been provided to this surveyor, except as shown. No underground installations or utilities have been located, except as shown.

Inter-Office
Memorandum



TO: Susan Jackson, AICP Senior Planning Manager

DATE: October 10, 2021

FROM: Samantha J. West, Environmental Specialist III

SUBJECT: Parcel #: 7201-01-00-0460

Case #: V-22-017

Environmental Permitting (EP) has reviewed the application for variances to minimum yard requirements on Urban Mobile Home Subdivision (MH-6) zoned property and provides the following report:

The subject property is located within the Spruce Creek watershed and has been identified as containing suitable habitat for the gopher tortoise. The gopher tortoise is a Candidate species for federal protection and designated as threatened in the State of Florida. Any future development of the site will require compliance Division 17 *Gopher Tortoise Ordinance*, of the Land Development Code.

EP does not object to the variance requests. However, any future development must comply with the applicable requirements of the Land Development Code at the time of building permit application.

Inter-Office
Memorandum



To: Susan Jackson, AICP
Planning Manager

Date: October 10, 2021

From: Direne Ostrander
Land Development Assistant II

Subject: V-22-017
Parcel #: 7201-01-00-0460

Land Development has reviewed the parcel involved in the subject variance to minimum yard requirements and provides the following determination:

The subject parcel was previously approved by Samsula Estates Unrecorded #247 and complies with the exempt provisions of the county's subdivision regulations.

Please call the Land Development Office at 386-736-5942 for any questions.

8/28/2021

To whom it may concern

This letter is to acknowledge that Steve Chearino had talked to me prior to purchasing the carport and asked me if it would be okay putting it close to the boundary line since he couldn't position it any other way. That being said I totally agreed to what he was proposing, also how thoughtful it was to be asked, I would like to say it would be a shame if Steve and Donna weren't able to keep things the way they are specially for Donna. Last thing I would like to say after living next to prior neighbors that really let things go for almost 20 years it's nice to have neighbors that take care of their place makes a difference on the whole street! Thank you, hopefully this will help you in your decision making!



3728 Lisa Ln NSB



This is to acknowledge that I Christopher Motte
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Ch B Motte

3739 Lisa Lane
New Smyrna Beach

This is to acknowledge that I James Sawicki
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You James Sawicki

3745 Lisa Lane

New Smyrna Beach

This is to acknowledge that I Anthony Conrad
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Anthony Conrad

3711 Lisa Lane
New Smyrna Beach

This is to acknowledge that I KEVIN COATES
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Kevin Coates

Lisa Lane 760 Russell Rd
New Smyrna Beach

This is to acknowledge that I Heather Spears
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Heather Spears

3714 Lisa Lane

New Smyrna Beach

This is to acknowledge that I BRANDON ARNEY
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Brandon Arney

3721 Lisa Lane
New Smyrna Beach

This is to acknowledge that I JERRY STAPLES
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Lisa Lane

3715 Lisa Lane
New Smyrna Beach

This is to acknowledge that I Josephine Inga 1/5
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Josephine Inga
3708 Lisa Lane
New Smyrna Beach

This is to acknowledge that I RONALD EDWARDS
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You  _____

3720 Lisa Lane

New Smyrna Beach

This is to acknowledge that I Shelley Corneil
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Shelley Corneil

3736 Lisa Lane
New Smyrna Beach

This is to acknowledge that I Robert Warner
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You Robert Warner

3735 Lisa Lane
New Smyrna Beach

This is to acknowledge that I JAMES LEE THARP
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You James Lee Tharp
3732 Lisa Lane

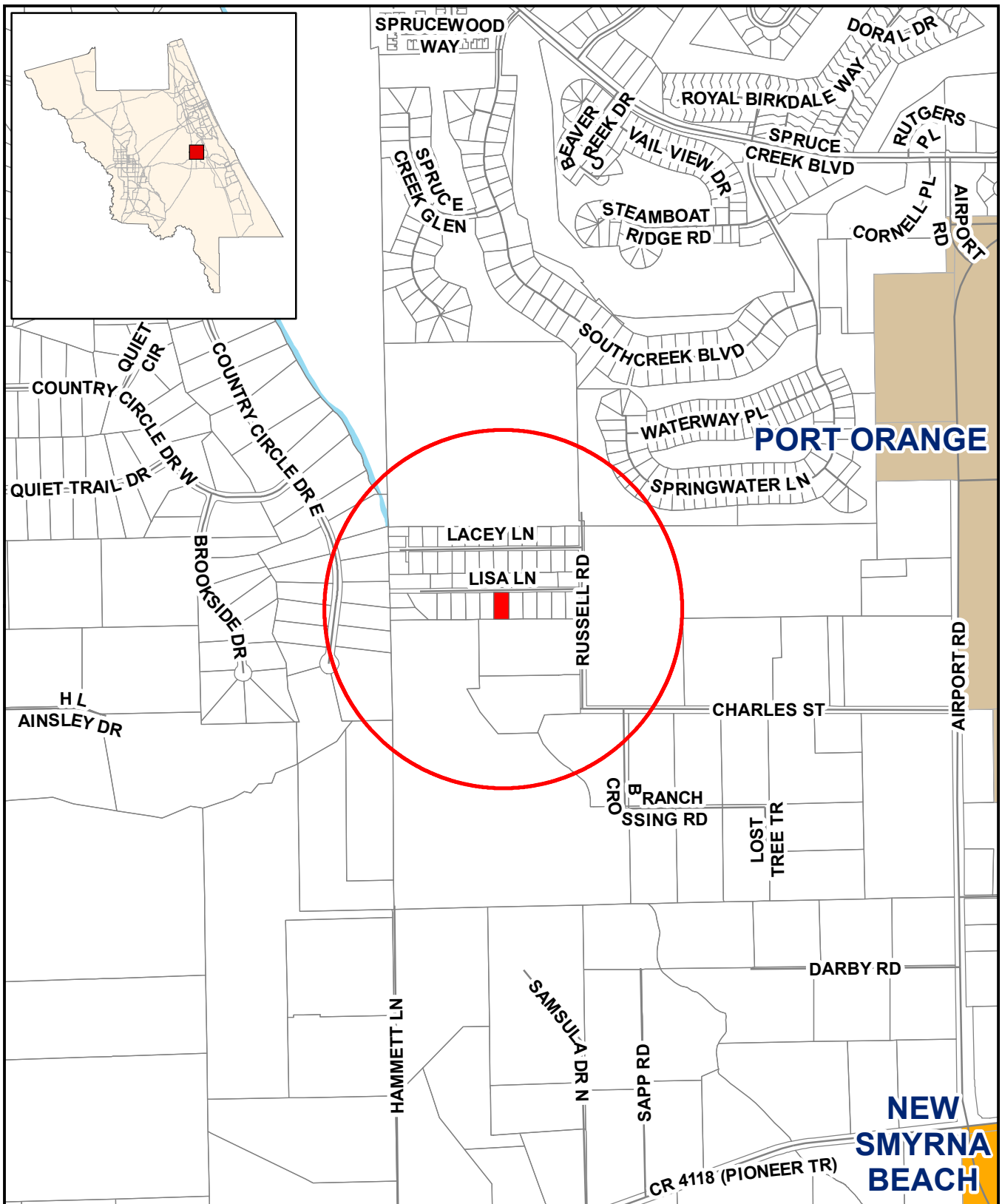
New Smyrna Beach

This is to acknowledge that I William Arney
have no objections whatsoever to the placement
of the carport and shed located at 3724 Lisa
Lane and hopefully that Steve and Donna will be
granted the variance they need.

Thank You William Arney
3727 Lisa Lane
New Smyrna Beach

PROPERTY LOCATION

V-22-017

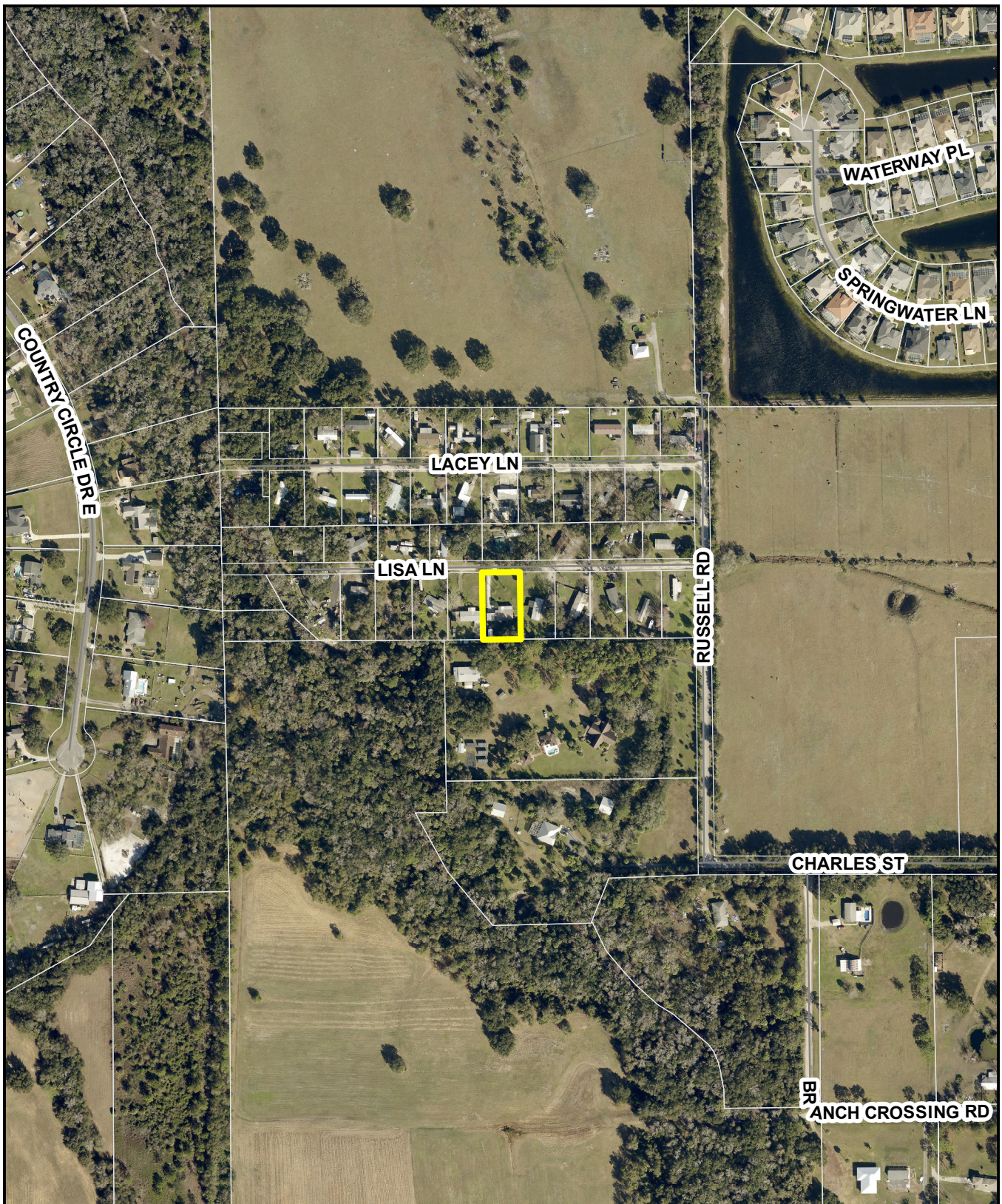


 SUBJECT PROPERTY



1" = 1,000'
9/20/2021

AERIAL
V-22-017



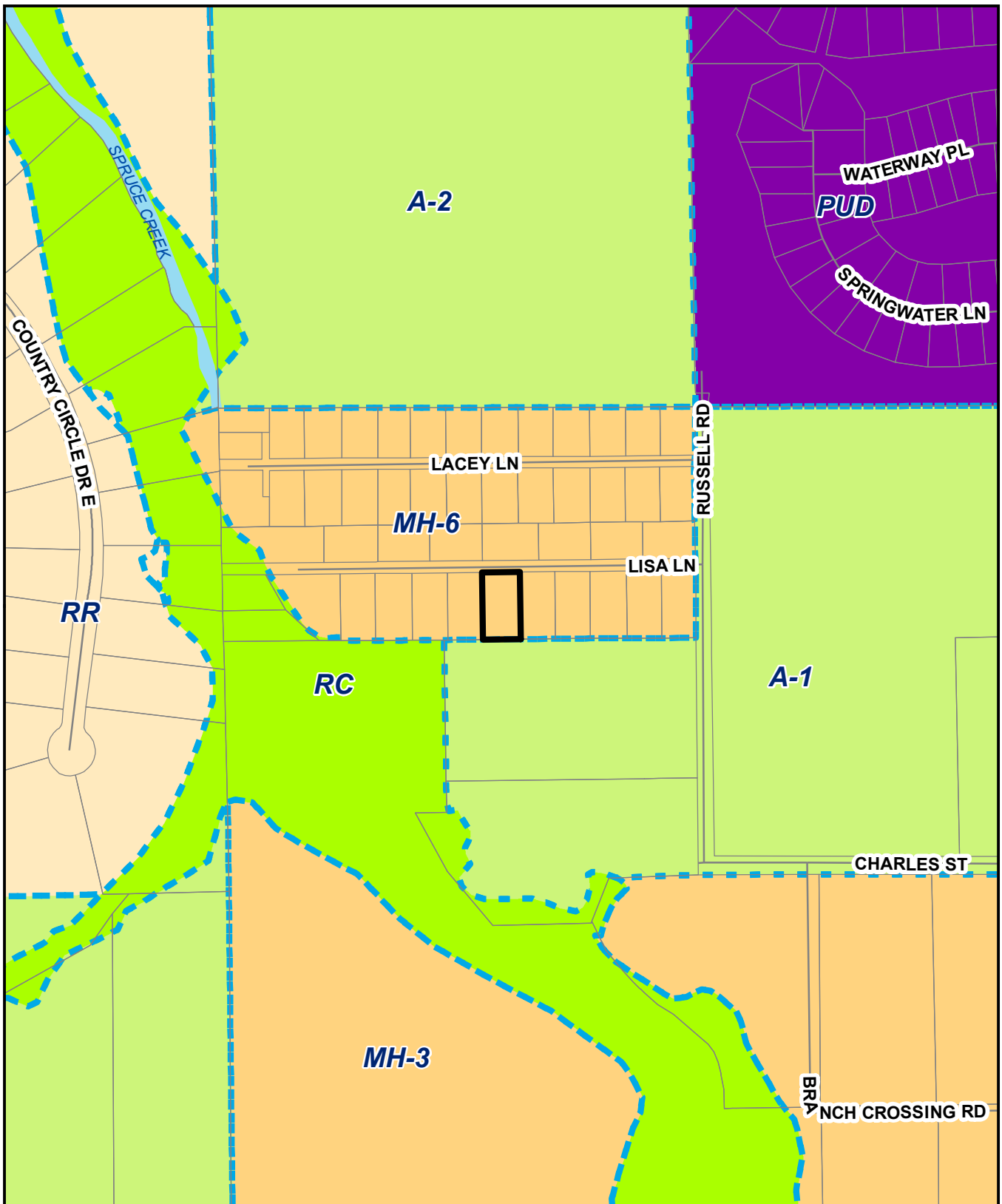
 SUBJECT PROPERTY

IMAGE DATE 2021










1 " = 400 '
9/20/2021

ZONING CLASSIFICATION
V-22-017

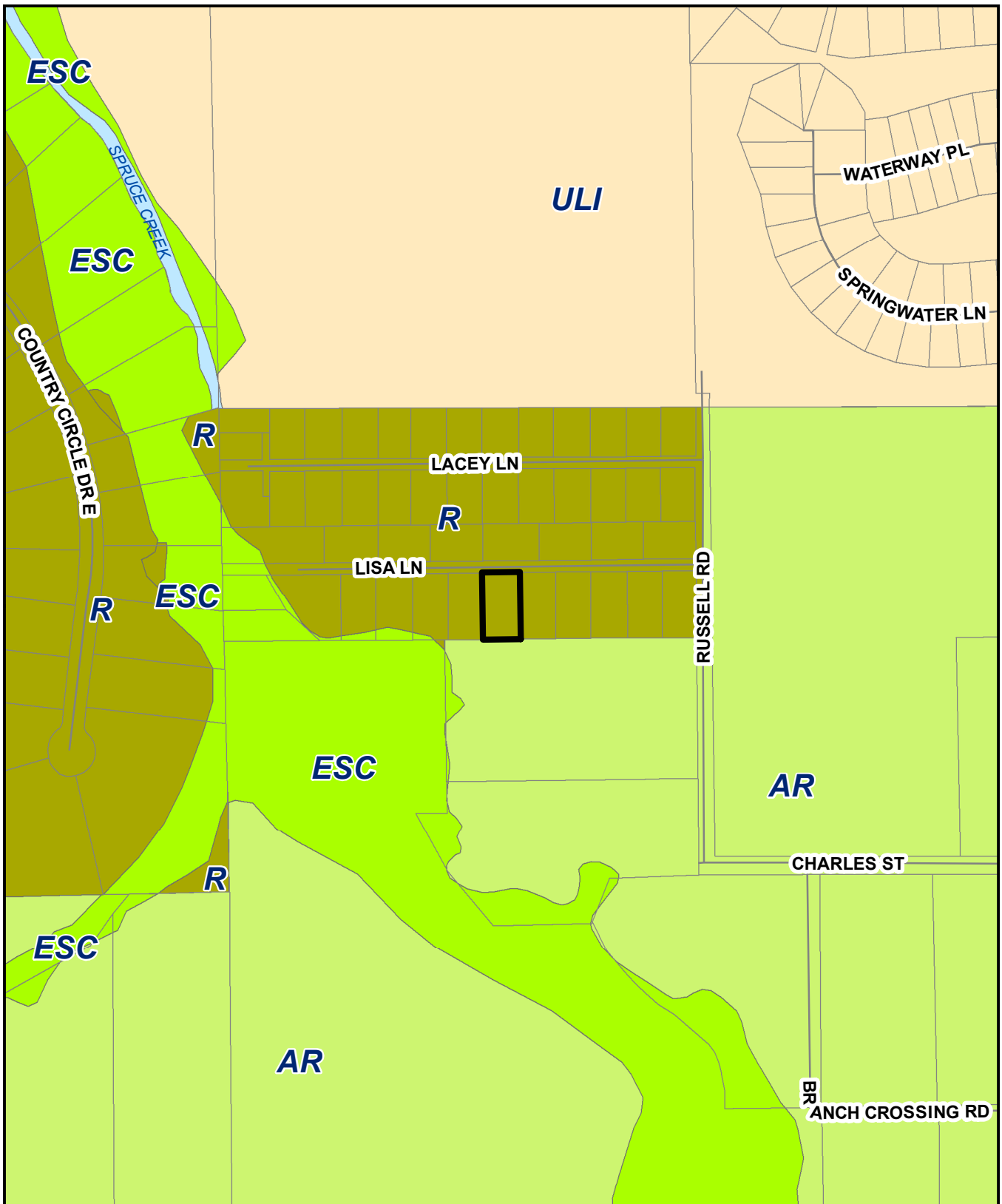



 SUBJECT PROPERTY


- | | | |
|---|---|--|
|  ZONING BNDY |  AGRICULTURAL |  PLANNED UNIT DEVELOPMENT |
|  RESIDENTIAL |  RESOURCE CORRIDOR |  MOBILE HOME |


 1 " = 400 '
9/20/2021


FUTURE LAND USE
V-22-017






SUBJECT PROPERTY



AGRICULTURE RESOURCE


ENVIRONMENTAL SYSTEMS CORRIDOR

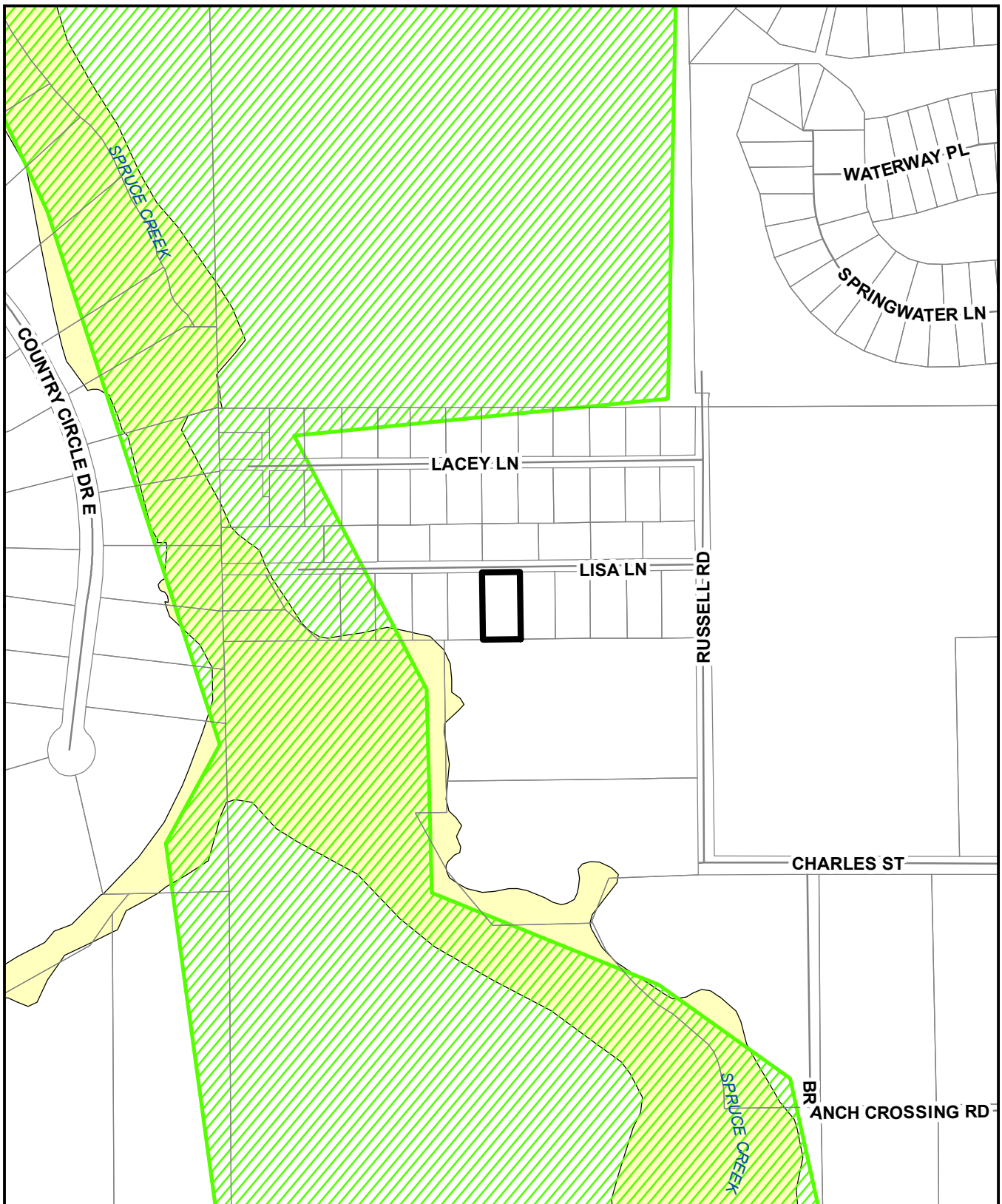

RURAL





URBAN LOW INTENSITY



1 " = 400 '
9/20/2021


WATER

ECO/NRMA OVERLAY
V-22-017



-  SUBJECT PROPERTY
-  ECO
-  NRMA

 1 " = 400 '
9/20/2021