

**PALM BEACH COUNTY  
ENGINEERING AND PUBLIC WORKS DEPARTMENT  
LAND DEVELOPMENT DIVISION**

**ZONING COMMISSION STANDALONE VARIANCE STAFF REPORT**

**Application No.:** SV-2023-01594  
**Application Name:** Fearnley Road Subdivision  
**Control No./Name:** 2016-00103  
**Applicant(s):** Lloyd Thompson and Monique Thompson  
**Owner(s):** Lloyd Thompson and Monique Thompson  
**Agent(s):** Arc Development Global, LLC - Aaron M Taylor  
**Telephone No.:** (561) 629-2739  
**Project Manager:** Werner Vaughan, Senior Professional Engineer

**Title:** a Subdivision Variance **Request:** to allow access from the existing 40-foot Right-of-Way with no curb and gutter, and no sidewalk on 4.91 acres.

**APPLICATION SUMMARY:** Petition of Aaron Taylor, Arc Development Global, LLC, on behalf of Lloyd Thompson and Monique Thompson, requesting a variance to allow access from the existing 40-foot right-of-way of Fearnley Road with no drainage and no sidewalk.

**SITE DATA:**

Location:	West side of Fearnley Road, approximately 0.14 miles north of Lantana Road
Property Control Number(s)	00-42-43-27-05-032-3041 00-42-43-27-05-032-3040
Existing Land Use Designation:	Low Residential (LR-1)
Existing Zoning District:	Agricultural Residential
Acreage:	4.92 acres
Tier:	Urban/Suburban
Overlay District:	BALREO
Neighborhood Plan:	N/A
CCRT Area:	N/A
Municipalities within 1 Mile	Greenacres
Future Annexation Area	Greenacres

**STAFF RECOMMENDATION:** Staff recommends Approval of the request subject to the Conditions of Approval as indicated in Exhibit C.

**PUBLIC COMMENT SUMMARY:** At the time of publication, staff had received 3 inquiry contacts and 2 approval contacts from the public regarding this project.

**PROJECT HISTORY:**

The subject property currently has a Future Land Use designation of Low Residential (LR-2) within the Agricultural Residential (AR) Zoning District. The site is under Unincorporated Palm Beach County jurisdiction and is presently vacant.

**SURROUNDING LAND USES:**

**NORTH:**

FLU Designation: Low Residential (LR-1)  
 Zoning District: Agricultural Residential (AR)  
 Supporting: Single-Family Residential  
 (No Control Name, Control No. N/A)

**SOUTH:**

FLU Designation: Low Residential (LR-1)  
 Zoning District: Residential Transitional (RT)  
 Supporting: Place of Worship  
 (Control Name: Palm Beach Chinese Christian Chapel, Control No. 2005-00508)

**EAST:**

FLU Designation: Low Residential (LR-1)  
 Zoning District: Agricultural Residential (AR)  
 Supporting: Single-Family Residential  
 (Control Name: Akram Bou Ghannam, Control No. 2012-00372, 2012-00423)

**WEST:**

FLU Designation: Low Residential (LR-1)

Zoning District: Residential Transitional (RT)

Supporting: Single-Family Residential (South)

Supporting: Place of Worship (North)

(Control Name: Kingdom Hall of Jehovah’s Witnesses, Control No. 1988-00138)

**SUBDIVISION VARIANCE SUMMARY**

ULDC Article	Required	Proposed	Variance
11.E.2.A.2 Minimum Legal Access	40-foot right-of-way (ROW) with 20-foot pavement width, curb & gutter and a 5-foot sidewalk	40-foot ROW, with 20 foot pavement width, no curb & gutter and no 5’ sidewalk	No curb & gutter and no 5-foot sidewalk

**FINDINGS:**

Subdivision Variance Standards:

The Agent for this site is seeking a Standalone Subdivision Variance to allow access from an existing paved roadway, known as Fearnley Road.

The owners, Lloyd Thompson and Monique Thompson, propose to subdivide their existing two vacant parcels of land, totaling 4.92-acres, located at 5729 Fearnley Road, Lake Worth FL 33467 (generally located on Fearnley Road, on the north side of Lantana Road, between Jog Road and the Florida Turnpike) into four separate single family lots (1-1.92 ac. Lot & 3-1 acre lots).

Pursuant to Unified Land Development Code (ULDC) Article 11, Chapter E.2.A.2, each lot shall abut a street of suitable classification to provide said lot with legal access consistent with the standards set forth in Table 11.E.2.A-2, Chart of Minor Streets, access to residential lots. According to this Table, access shall be provided from a 40-foot minimum width right of way (R/W). Also, the street shall have a 20 feet of minimum width, having gutters, having a 5 feet wide sidewalk on one side of the street, and provided that the maximum Average Daily Trips (ADT’s) is not exceeded when constructed. This variance application is to request site access from Fearnley Road, which already is an existing 20 feet paved roadway that has no gutters nor sidewalks from Lantana Road to its terminus at a LWDD canal, and already has an existing 40-foot R/W. As mentioned above, the applicant proposes to seek a variance from the ULDC for the purpose of pursuing a future subdivision (two adjacent lots into four properties).

This property is located within the Rural Enclave Overlay district that has a Future Land Use (FLU) of LR-1 and a Zoning Designation of AR. A subdivision variance is being requested from the applicant to allow access from existing Fearnley Road and for this roadway to remain as is without any further improvements. For ease of reference, the applicant has produced a Subdivision Variance Exhibit to accompany this request.

Since the future subdivision proposes only 20 additional average daily trips and the character of this existing neighborhood is consistent with this request, engineering staff is recommending **APPROVAL** of the subdivision variance.

The Palm Beach County ULDC Article 2.B.7.E.6 requires a statement of special reason or basis for the variance demonstrating all seven criteria listed below are satisfied to qualify for this variance:

- a) **Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure that are not applicable to other parcels of land, structures or buildings in the same district.**

**Applicant’s Response:** Yes, The subject Variance request is for an existing 40’ ROW. A ROW which existed prior to the current Code requirement of 40’ wide minimum ROW with curb, gutter 5’ sidewalk.

**Staff Response:** Yes. Fearnley Road is an existing 40 foot wide platted right-of-way with a 20 feet wide paved roadway and swale drainage.

**b) Special circumstances and conditions do not result from the actions of the Applicant.**

**Applicant's Response:** Yes, the subject lot is located on the west side of Fearnley Road. The property owners will eventually subdivide the property, and as a result the current Code requirements Fearnley Road must meet the minimum 40' ROW width with curb, gutter, and 5' sidewalk. The subject property and the existing 40' ROW were a part of an older Plat (Palm Beach Farms Plat No. 3; Plat Book: 2, Page: 45-54) which preceded the current Code requirements. Therefore, the existing conditions do not result from the actions of the property owner.

**Staff Response: Yes.** Fearnley Road is an existing 40 foot wide platted right-of-way with a 20 feet wide paved roadway and swale drainage. The existing road was constructed with swale drainage and without a sidewalk.

**c) Granting the variance shall not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district.**

**Applicant's Response:** Granting the owner's Variance request to allow the existing 40' wide ROW to remain as is, will confer no special privileges than that which has been provided to all other existing residents along Fearnley Road.

**Staff Response: Yes.** Granting the variance will not confer upon the applicant any special privilege denied by the comprehensive plan and this code to other parcels of land, buildings or structures in the same zoning district. This parcel will be developed in a manner consistent with the existing Zoning and Land Use regulations.

**d) Literal interpretation and enforcement of the terms and provisions of the ULDC would deprive the Petitioner of rights commonly enjoyed by other parcels of land in the same zoning district, and would work an unnecessary and undue hardship.**

**Applicant's Response:** Literal Interpretation of ULDC Art. 11.E.2.A.2, would cause and undue hardship. Denial of the property owner's variance requests would eliminate the property owner's ability to eventually subdivide the subject parcel. Fearnley Road is part of an old Plat, Palm Beach Farms Plat No.3., which as recorded in 1912. Refer to Plat Book 2; Page 45-54. As a result of the codification of the Comprehensive Plan and the Unified Land Development Code, the existing 40' ROW (Fearnley) do not comply with the current Code requirements for minimum ROW width of 40' with curb, gutter, and 5' sidewalk. The owner should have the right to subdivide the property into multiple lots in accordance with the minimum acreage and Lot dimensions provided in ULDC Art. 3, Table: 3.D.1.A Property Development Regulations, and utilizing the existing 40' ROW (Fearnley) as it currently exists.

**Staff Response: Yes.** Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same zoning district and would cause an unnecessary and undue hardship by requiring the applicant to install curb & gutter drainage and a 5 foot sidewalk.

**e) Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.**

**Applicant's Response:** Yes, (Refer to Responses to Variance Criteria (D)).

**Staff Response: Yes.** Granting this variance is the minimum needed for the reasonable use of the property. This project is only adding an additional 20 daily trips to this roadway.

**f) Granting the variance will be consistent with the purposes, goals, objectives, and polices of the Comprehensive Plan and this code.**

**Applicant's Response:** Yes, (Refer to Responses to Variance Criteria A-D). The subject 5 ac site is one of the last parcels of land in the area that can be subdivided. There is no possibility for any of the other 1ac residential lots to be subdivided as they could not meet the minimum lots size for the Agricultural Residential (AR) Zoning District. Therefore, there is no need for an increase in the existing 40' ROW width. The Existing ROW has existed at 40' wide since its initial construction and there have been no negative impacts to the existing residential property owners as a result of Fearnley Road not meeting the current ULDC Standard of a 40' wide ROW with curb, gutter, and a 5' sidewalk.

**Staff Response: Yes.** Granting of this variance will allow this property to be developed in a manner consistent with the Comprehensive Plan and the ULDC. This project is only adding an additional 20 daily trips to this roadway.

**g) Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

**Applicant's Response:** Yes, Granting the Variance request will cause no adverse effects to the area involved. Approval of the Variance will allow the existing 40' ROWs (Fearnley Road) to remain as is. There will be no impact on the surrounding area.

**Staff Response: Yes.** Granting of this variance will not be injurious to the area involved nor detrimental to the public welfare.

## CONDITIONS OF APPROVAL

### EXHIBIT C– Subdivision Variance – Standalone

#### DISCLOSURE

1. All applicable state or federal permits shall be obtained before commencement of the development authorized by this Development Permit.



Figure 1 – Land Use Map

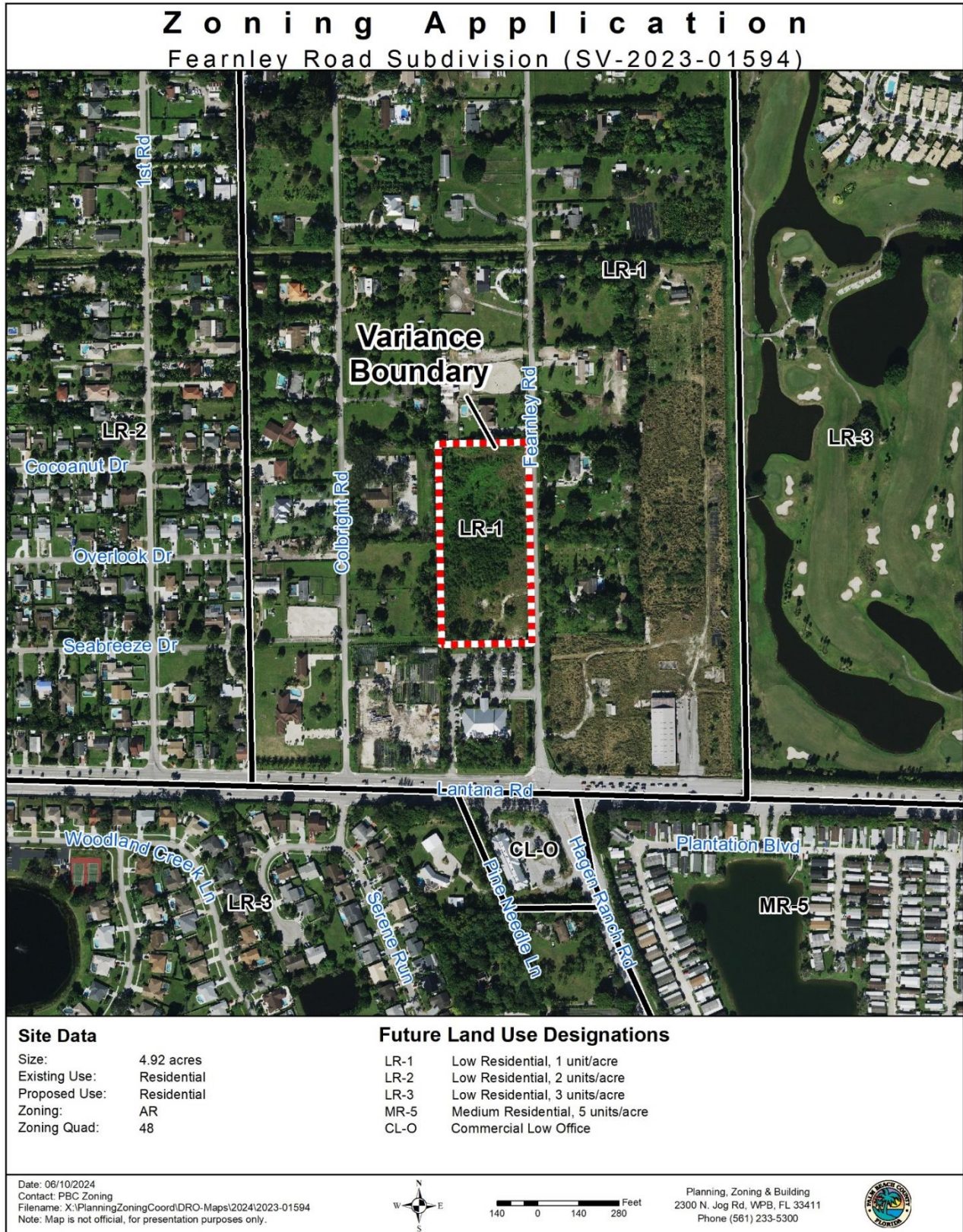




Figure 2 - Land Use Map

