

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

<b>DRC Date</b>	<b>June 13, 2024</b>	<b>CASE #:</b>	<b>LDLVAR-2024-32 (KVille Garage Variance)</b>
<b>LUHO Date</b>	<b>July 25, 2024</b>	<b>LDC Section:</b>	<b>Table 2.2</b>

**Request:** The applicant is requesting to reduce the western side setback from 15 feet to eight (8) feet for an existing concrete building and a proposed accessory metal building.

**Applicant:** Theodore Head

**Property Owner:** Eddy Dean Sanders III

**Location:** 2111 K-Ville Avenue, west of Kimberly Lane, east of Hurst Road, west of Thornhill Road, east of Auburndale in Section 21, Township 28, Range 25.

**Parcel ID#:** 252821-000000-023390

**Size:** 0.50 +/- acres

**Land Use Designation:** Linear Commercial Corridor (LCC)

**Development Area:** Suburban Development Area (SDA)

**Case Planners:** Ian Nance

**Summary:**

The applicant is requesting to reduce the western side setback from 15 feet to eight (8) feet for an existing concrete building and a proposed accessory metal building. The property is in a Linear Commercial Corridor (LCC) land use district east of Auburndale. A vehicle repair facility has been onsite since 1986 with the primary structure in its original location. An accessory structure was once sited where the proposed building will go, but it was destroyed by a hurricane in 2017. The applicant wants to replace it in its original footprint and in alignment with the primary building.

Staff recommends approval of this request, finding that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. The proposed structure will meet all other setbacks onsite, including residential compatibility standards in LDC Section 220. This request includes a setback reduction for the primary structure which was built during a previous zoning ordinance with different setback requirements than today, and which is no fault of the applicant. The proposed building will be used for storing equipment and material that are otherwise sitting in the open.

## **Development Review Committee**

The Development Review Committee, based on the criteria for granting variances, the submitted application, and a recent site visit, finds that the applicant's request as written **IS CONSISTENT** with Section 931 of the Polk County Land Development Code (LDC) and recommends **APPROVAL of LDLVAR-2024-32**.

### **CONDITIONS OF APPROVAL:**

1. Approval of this variance is to reduce the western side setback from 15 feet to eight (8) feet for an existing concrete building and a proposed accessory metal building. Further additions or structures placed on the property shall be required to meet the requirements of the Polk County Land Development Code 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 three (3) years 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 structure.

### **GENERAL NOTES**

*NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other interested parties at a public hearing.*

*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 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 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.*

*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 the LDC.*

**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 is requesting a variance to reduce the western side setback from 15 feet to eight (8) feet to build a 1,200 sq. ft. metal building over an existing concrete slab as an accessory to an existing 2,400 sq. ft. autobody shop. In addition, this request will include a variance from 15 feet to eight feet for the existing structure onsite. A similar accessory structure was once located here, but it was destroyed by Hurricane Irma in 2017. LDC Section 120 allows for non-conforming structures to be re-built in their original footprint, but there is a two-year timeframe before this grandfathering expires. This new structure will be constructed in alignment with the existing primary building at eight feet from the western side property line.

Staff finds no reason why this request would be injurious to the surrounding area. The existing building was constructed in 1986 and has been used as a vehicle repair facility since this time. To the west is vacant property. The proposed accessory structure will be placed a minimum of 50 feet from the residential property from the south, in accordance with compatibility standards found in LDC Section 220. The buildings will meet all other setbacks. The purpose of the proposed accessory building is to store equipment and material that are otherwise kept in the open. Organizing these items within an enclosed space will help improve the aesthetics of the site.

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;*

The existing building was constructed in 1986 when the property was under Commercial (C-3) District Regional zoning designation prior to the Comprehensive Plan and LDC. Under the C-3 category, Automotive Repair stations were conditional uses. They remain conditional uses in the LCC today. According to Section 5.6A of the previous zoning ordinance (Ordinance 83-2) in effect at the time, side setbacks were not required when commercial properties adjoined other commercial properties, whereas the LCC now requires 15-foot side and rear setbacks. Why the original building was permitted at eight feet is unknown, but this is the reason for its inclusion in the variance.

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

The property has been under the current ownership since 2024, but deeds found on the Property Appraiser indicate it has been in the family since 1986. Prior to this, it was a part of the vacant parcel to the west, once owned by J.C. and Lois Helms. It is possible that the building was permitted/constructed prior to the parcel split/sale, which would explain the eight-foot setback.

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;*

Aside from this reduction in the side setbacks, granting this variance will not allow anything else that would otherwise violate LCC standards. Vehicle service and repair facilities are allowable uses in LCC land use districts. Table 2.2 allows a Floor Area Ratio of 0.60 in the Suburban Development Area. With both structures onsite, the FAR is 0.17. The site plan shows adherence to compatibility setbacks in LDC Section 220, which are not eligible for a variance or waiver. Granting this variance will allow the business to utilize the property in a manner that is consistent with the LDC and compatible with surrounding uses.

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

The requested variance is believed to be the minimal variance necessary to optimize the use of the owner's land and build the structure as requested. The existing building is not going to be moved, and permitting the accessory structure at the same setback and over the existing slab makes sense for the property owner. Making the accessory structure adhere to the 15-foot setback could force the structure in areas used for the internal circulation of vehicles and create an inefficient use of the site.

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. Vehicle repair/service are allowable uses in LCC land use districts

7. *Whether that in no case shall a variance be granted which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request is not going to result in the creation of a lot or parcel that does not meet the requirements of the Code.

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.*

This site is not subject to any Planning Commission or BoCC conditions. It is not within a Planned Unit Development or Planned Development.

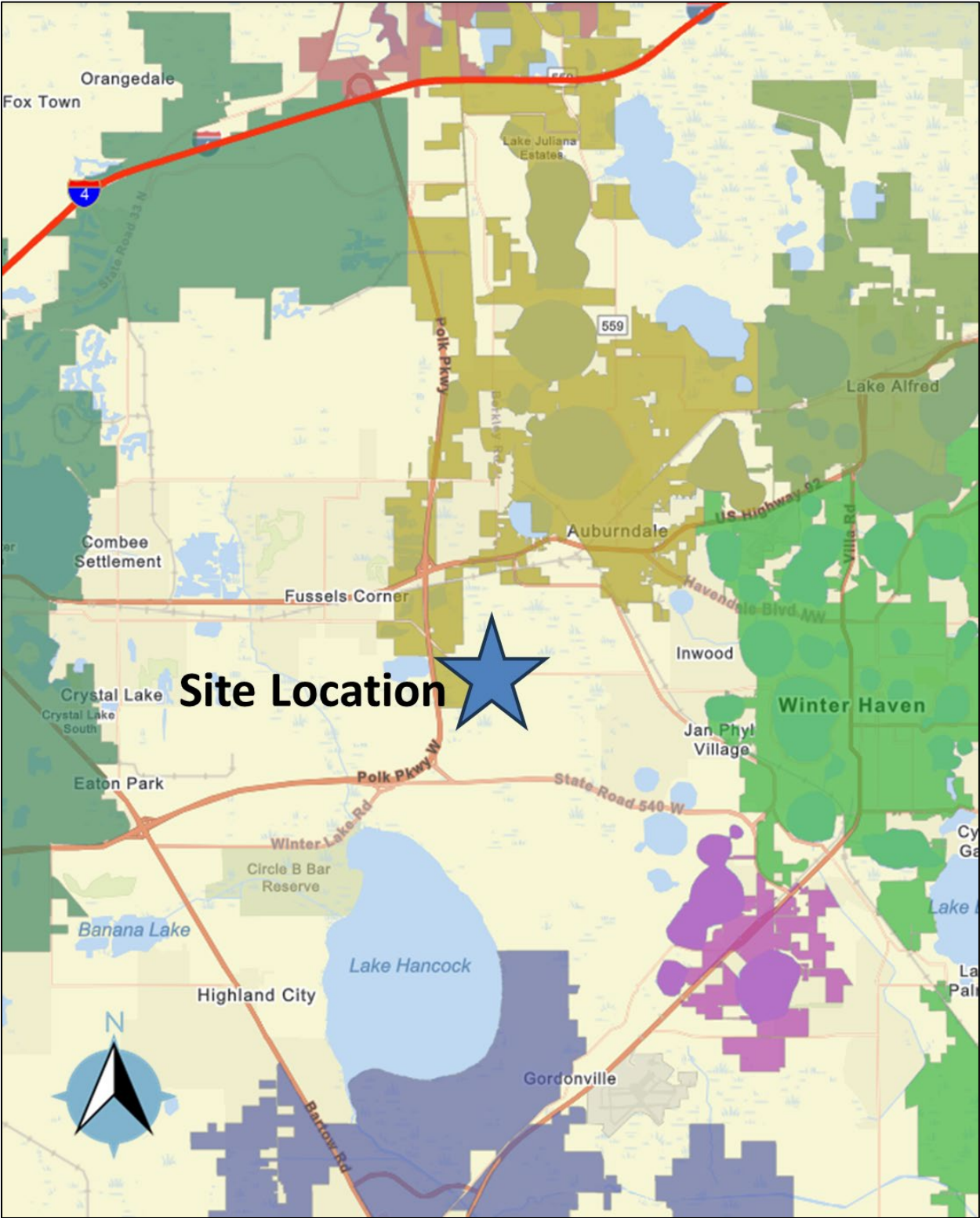
## Surrounding Future Land Use Designations and Existing Land Use Activity:

<b>Northwest:</b> LCC K-Ville Avenue Funeral Home	<b>North:</b> LCC K-Ville Avenue Vacant	<b>Northeast:</b> LCC K-Ville Avenue Vacant
<b>West:</b> LCC Vacant	<b>Subject Property:</b> LCC Auto Repair	<b>East:</b> LCC Kimberly Lane Office
<b>Southwest:</b> RS Single-Family Residence	<b>South:</b> RS Single-Family Residence	<b>Southeast:</b> RS Kimberly Lane Single-Family Residence

This site is located along CR-542 (K-Ville Avenue) within a Linear Commercial Corridor district east of Auburndale that runs from approximately Thornhill Road east to Jimmy Lee Road. The purpose of the LCC district is to recognize existing linear concentrations of commercial, office, institutional, and industrial uses along roadways.

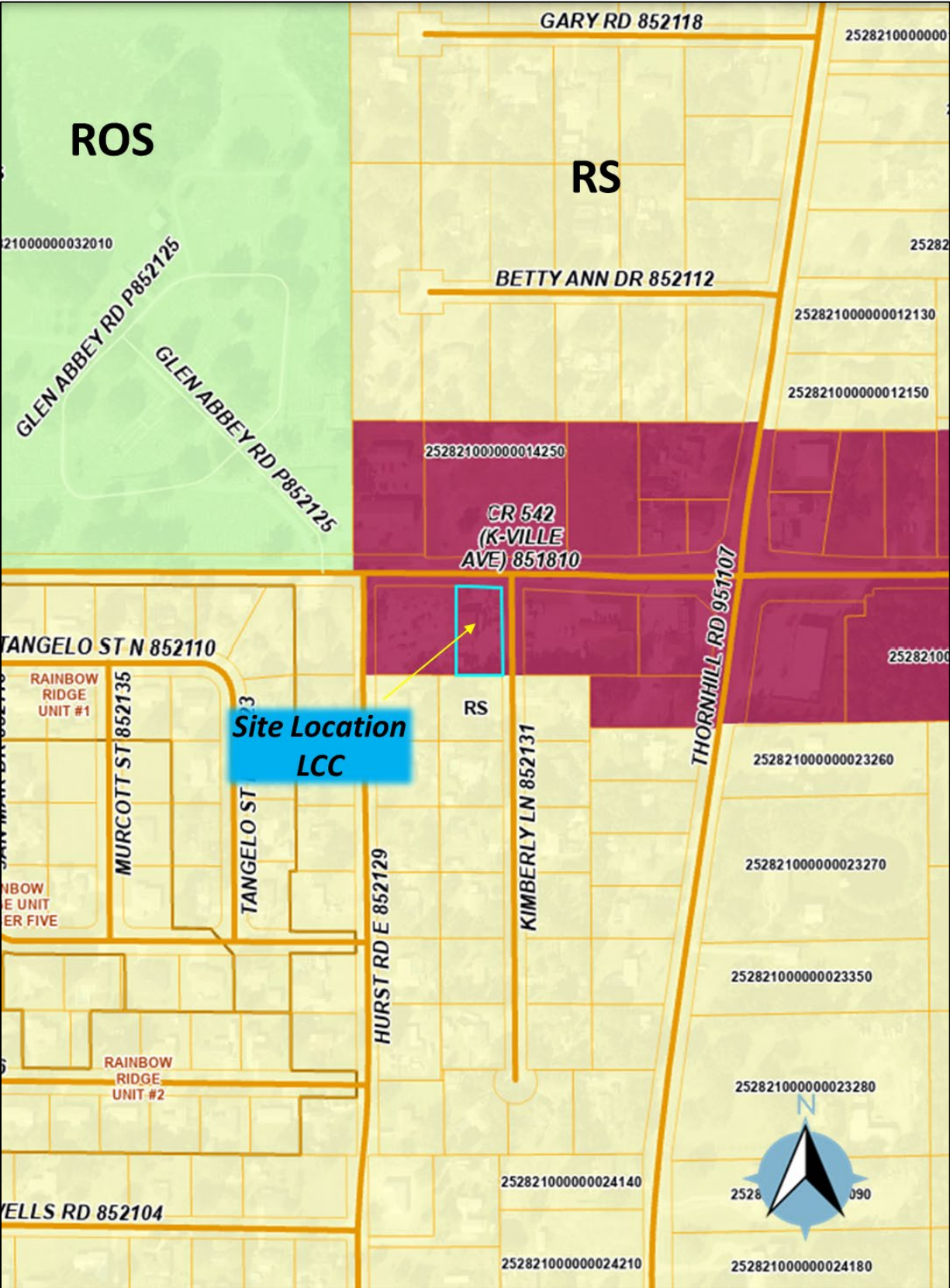
### Exhibits:

Exhibit 1	Location Map
Exhibit 2	Future Land Use Map
Exhibit 3	Aerial Image – Context
Exhibit 4	Aerial Image – Close
Exhibit 5	Site Plan
Exhibit 6	2002 Aerial Image



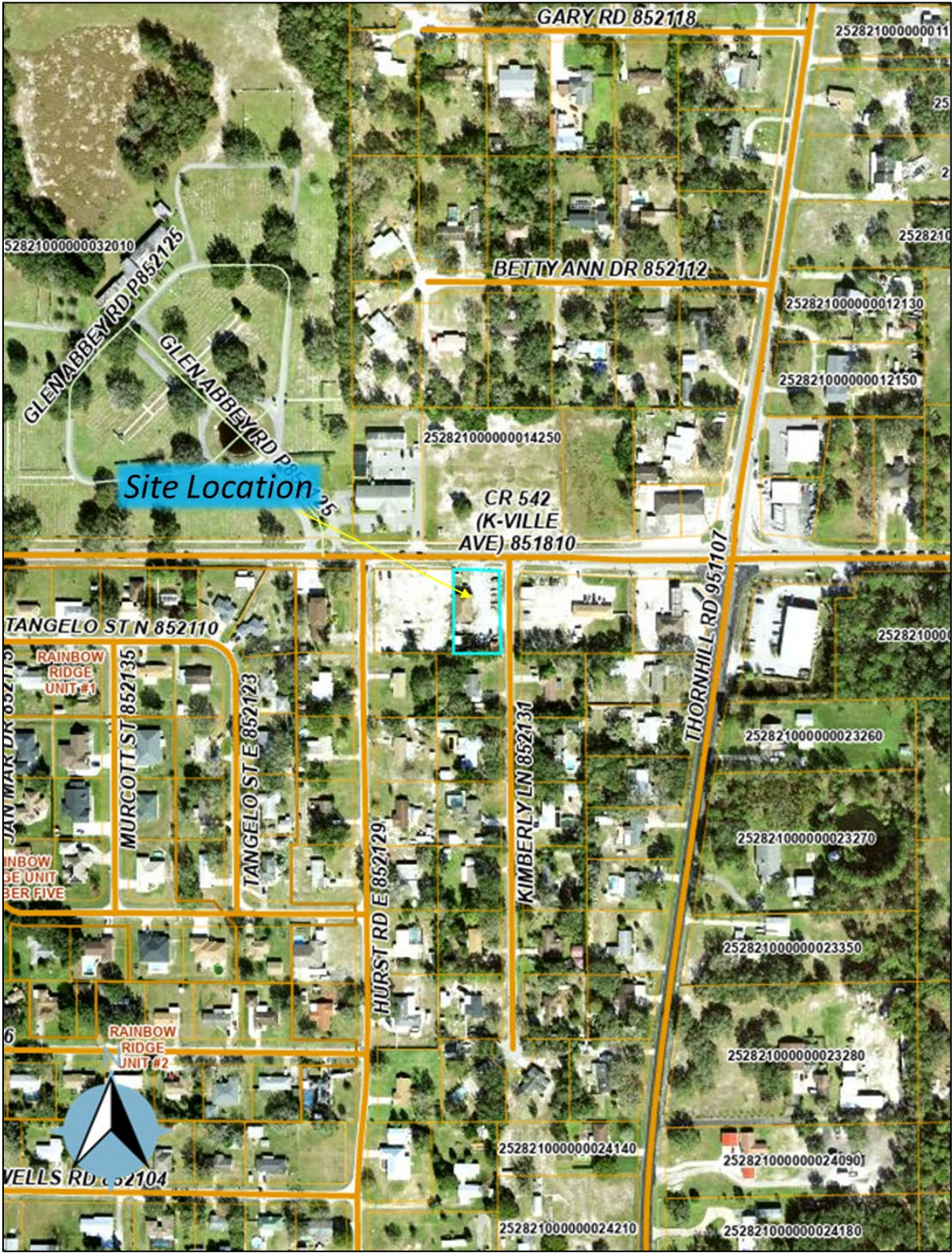
Location Map





Future Land Use Map



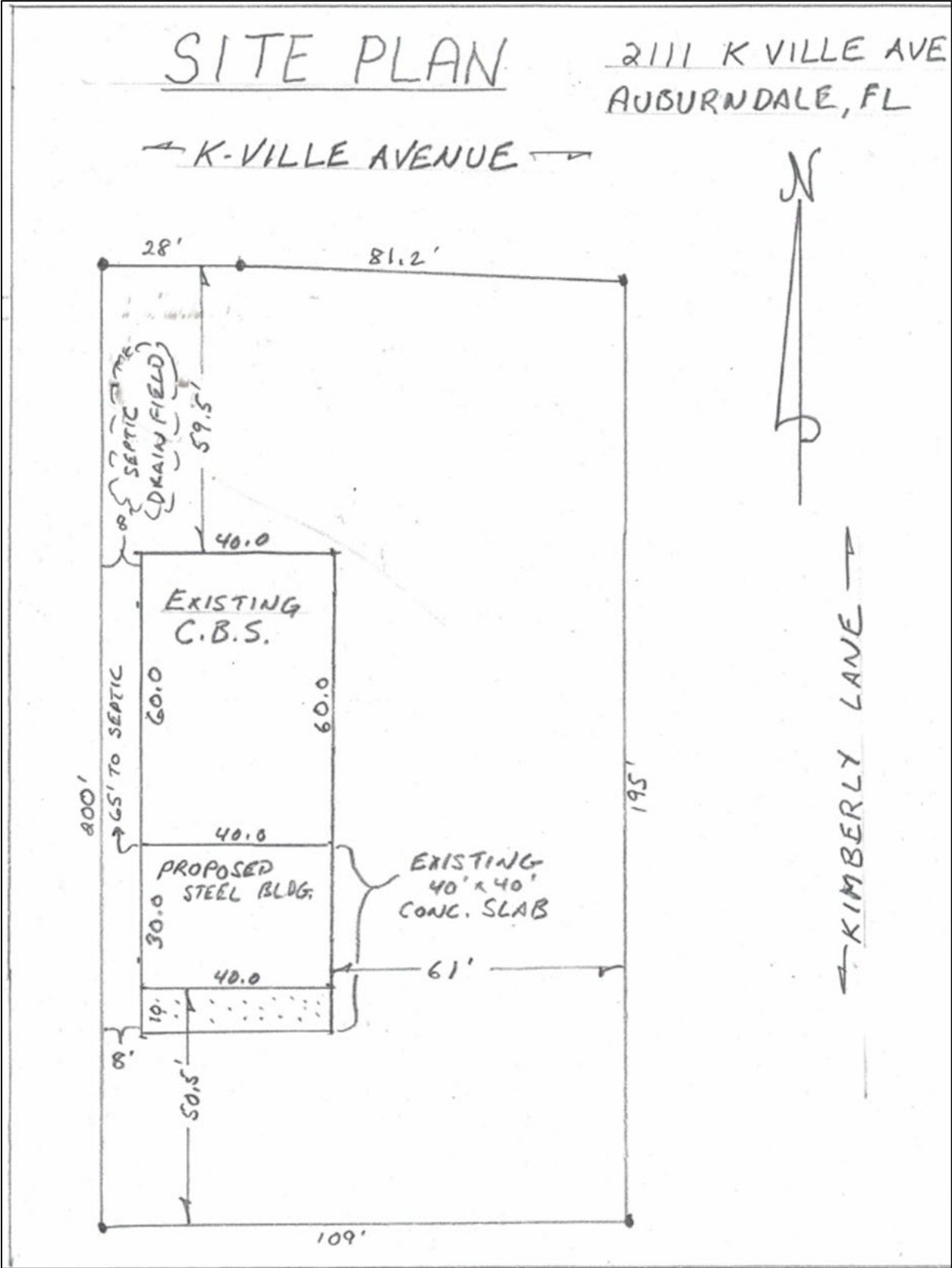


Aerial Image – Context





Aerial Image - Close



Site-Plan



2002 Aerial Image