

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

DRC Date: February 12, 2026	CASE #: LDLVAR-2025-78 (WH Water Vending Station)
LUHO Date: March 26, 2026	LDC Section: Section 205, Table 2.2

Request: The applicant is requesting a right-of-way setback reduction from 50 feet to five (5) feet off Recker Highway and a right-of-way setback reduction from 35 feet to 20 feet off Coleman Road for a water vending station on approximately 0.98 acres within a Community Activity Center (CAC).

Applicant: Michelle Kucaba

Property Owner: Stewart Beatrice C Revocable Living Trust

Location: The subject property is located at 2787 Recker Highway, north of Highway 540 W, south of Avenue G NW, east of Spirit Lake Road, west of 3rd Street SW, southwest of the City of Winter Haven in Section 25, Township 28, Range 25.

Parcel ID#: 252825-000000-021060 and 26283-000000-0043140

Size: ±0.98 acres

Land Use Designation: Community Activity Center (CAC)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Kyle Rogus, Planner II

Summary:

The applicant is requesting a reduction in right-of-way setbacks off Recker Highway and Coleman Road. Recker Highway is classified as a minor arterial state roadway requiring 50 feet of separation between any structure and right-of-way line. Coleman Road is classified as an urban collector roadway requiring 35 feet of separation between any structure and right-of-way line. Frontage off two (2) high traffic roadway segments requires restrictive setbacks that create a burden on site development without relief. The applicant is proposing a reduction from 50 feet to five (5) feet off Recker Highway and a reduction from 35 feet to 20 feet off Coleman Road.

Staff finds this request will cause no direct or indirect harm to the community and recommends approval. Staff recommends approval of LDLVAR-2025-78 as it meets the following criteria listed in Section 931:

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 location of the proposed structure is outside the clear visibility triangle and will not block the view of traffic (see Exhibit 5). The structure will be 5 feet from the right-of-way along Recker Highway and 20 feet from the right-of-way along Coleman Road. The structure will be 30 feet from the edge of pavement off Recker Highway and 32 from the edge of pavement off Coleman Road. The nearest stand-alone ice/water machine is 200 feet southwest of the site across Recker Highway (see Exhibit 4).

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 property is located in the Community Activity Center (CAC) land use district in the Transit Supportive Development Area (TSDA) on an approximate 0.98 acre parcel. The proposed stand-alone vending machine structure will be comparable in size to a box truck utilizing two (2) parking spaces. The shopping center has over the 35 required parking spaces, therefore the reduction of two (2) spaces for the proposed structure will not limit on-site parking.

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-2025-78**

CONDITIONS OF APPROVAL:

1. The approval of this variance to Section 205, Table 2.2 of the Land Development Code is to allow a right-of-way setback reduction from 50 feet to five (5) feet off Recker Highway and a Right-of-way setback reduction from 35 feet to 20 feet off Coleman Road for a water vending station. Further additions or structures placed on the property shall be required to meet the setback requirements of Table 2.2 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 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.
4. The location of the proposed structure approved herein is limited so that no structure or commercial use shall be permitted to occur within the Clear Visibility Triangle as outlined in Section 711 of the Polk County land Development Code.

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 granting of this request will not be injurious to the area as the stand-alone vending machine will not block the view of traffic. As a condition of approval, the stand-alone vending machine will not be located within the clear visibility triangle, meeting all requirements outlined in Section 711 of the Land Development Code (LDC). The stand-alone vending machine will be located on the southeast corner of the subject property within the front parking lot. The structure will be five (5) feet from the southwest property line, approximately 30 feet from the edge of pavement to Recker Highway. The structure will be 20 feet from the southeast property line, approximately 35 feet from the edge of pavement to Coleman Road. The nearest similar stand-alone vending machine is 200 feet away, within the parking lot of the Village Square Plaza to the southwest. The existing vending machine is approximately 47 feet from the northern property line, well within the 50-foot right-of-way setback. There are no platted easements.

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 property is located in the Community Activity Center (CAC) land use district and is approximately 0.98 acres. According to the structural plans provided under Building Permit BC-2025-1312 (see Exhibit 6), the proposed stand-alone vending machine will be approximately 12'-2" in length, 8'-10" in width, and 14'-5" in height utilizing two (2) parking spaces within the parking lot. The size of the structure is comparable to that of a box truck that would utilize the same number of parking spaces as the proposed stand-alone vending machine.

Per Section 708, Table 7.10, Minimum Off-Street Parking Requirements, "Retail, More than 5,000 Sq. Ft." requires 3 spaces or 1 space per 300 sq ft GFA, whichever is greater. According to Property Appraiser website, the shopping center on site is 10,500 square feet, requiring 35 total parking spaces. The site plan submitted in the application provides 44 total parking spaces not excluding the two (2) space to be utilized for the stand-alone vending machine. With the approval of the application and the utilization of two (2) spaces for the stand-alone vending machine, the parking lot will provide a total of 42 parking spaces for vehicular use, seven (7) more than is required by code.

Staff has experienced a higher volume of requests for similar structures to be implemented on various properties throughout the County. As a result of the increased demand, the County is proposing a text amendment to Chapter 2 to clarify the level of review and establish setbacks. The structure will accommodate the shopping needs of residents living within the community, much like the existing stand-alone vending machine on Parcel ID No. 252825-000000-021020.

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

The owner purchased the property in October 2015, according to the Polk County Property Appraiser. The shopping center was built in 1983 at 10,500 square feet. The proposed stand-alone vending machine will be placed on a 225 square feet foundation outside the clear visibility triangle within the front parking lot. Per discussions with the applicant, the proposed location is the only viable option as leasing negotiations and restrictions prohibit the placement of the structure elsewhere on site. The structure will be approximately 12'-2" in length, 8'-10" in width, and 14'-5" in height.

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 to some degree. Other parcels have similar vending stations located on within their respective parking lots on site. The property to the southwest of the subject site under Parcel ID No. 252825-000000-021020 has an existing ice vending machine located within the parking lot of the Village Square Plaza. The existing vending machine is approximately 200 feet from the proposed water vending station. The existing vending machine is approximately 47 feet from the northern property line, within the 50-foot right-of-way setback.

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. The currently proposed location is the only viable option allotted to the applicant by the landlord. Due to the leasing negotiations and restrictions, the applicant is not able to relocate the proposed water vending station elsewhere on the site. These vending machines need to be easily visible from the roads. They rely on being located close to the roadway as they do not have signage, and can get lost within parking lots.

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.

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 anticipated 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.*

The evidence found suggests the proposed request will not circumvent the intent of a condition placed on a development by the Planning Commission or the Board of County Commissioners. The property was originally zoned Commercial (C-3) District – Regional Commercial. The minimum ROW setbacks for principal and accessory structures in commercial and office districts were 65 feet off arterial roadways and 35 to 50 feet off collector roadways. At the time there was no roadway classification for urban collector roads, only major and minor collectors. The property is now part of the larger CAC land use district intended to accommodate the shopping needs of residents living within the community and generally contain a shopping center and other commercial and office uses within close proximity.

Surrounding Future Land Use Designations and Existing Land Use Activity:

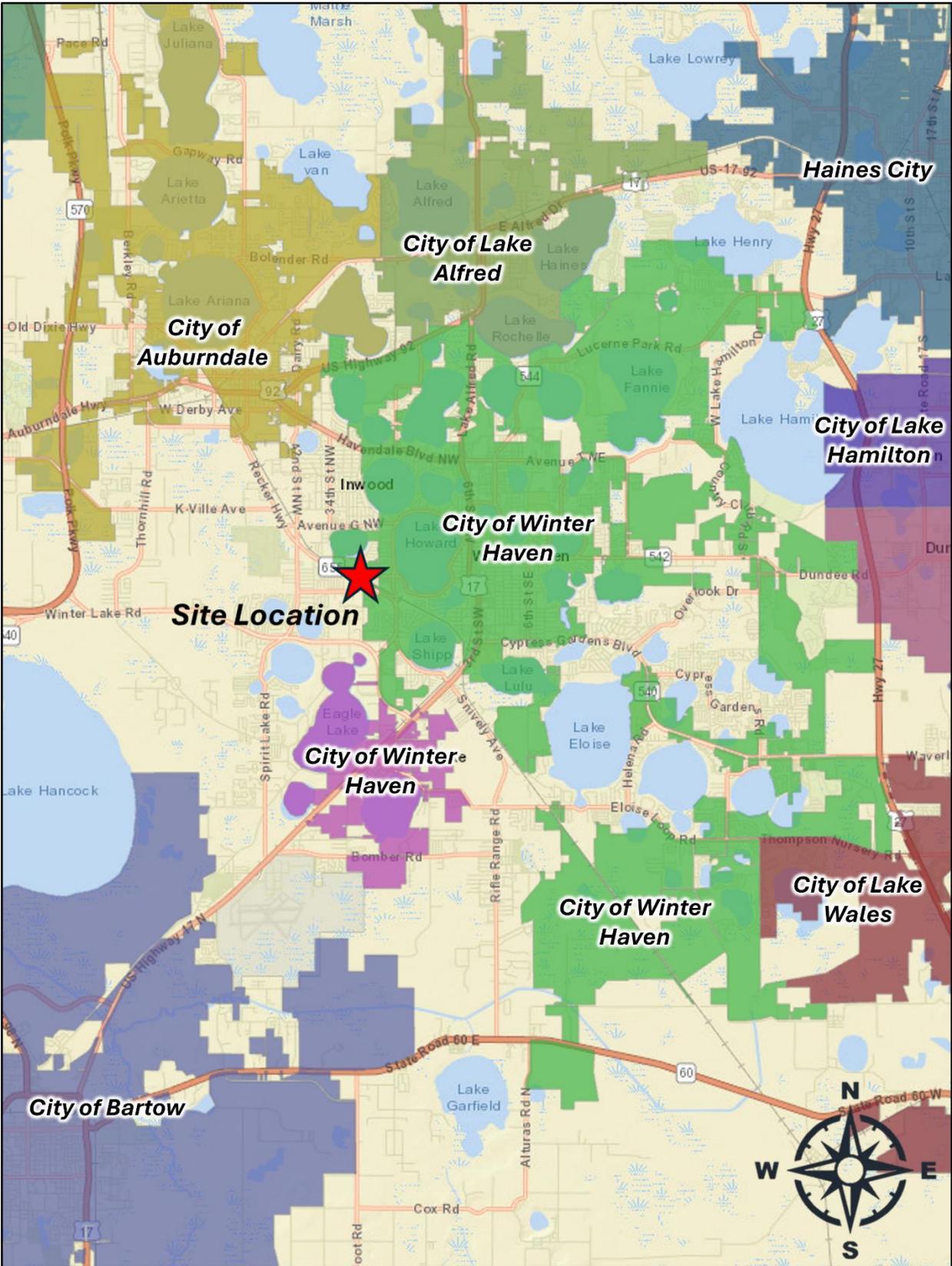
<p>Northwest: City of Winter Haven Charitable including Orphanages 11.16 acres</p>	<p>North: Residential Low-4 Convenience Stores Only 0.39 acres</p>	<p>Northeast: Community Activity Center Used Sales & Rental/Lesing 0.49 acres</p>
<p>West: Community Activity Center Bars and Lounges 0.69 acres</p>	<p>Subject Property: Community Activity Center Mini Plaza Proposed stand-alone vending machine 0.98 acres</p>	<p>East: Community Activity Center Convenience Stores w/ Gas 1.37 acres</p>
<p>Southwest: Community Activity Center Neighborhood Shopping Center Existing stand-alone vending machine 9.87 acres</p>	<p>South: Community Activity Center One-Story Class C, Office 0.52 acres</p>	<p>Southeast: Community Activity Center Dollar Store 0.75 acres</p>

Many of the surrounding properties are small commercial centers ranging in size from 0.39 acres to 9.87 acres. These small commercial centers make up the larger Community Activity Center

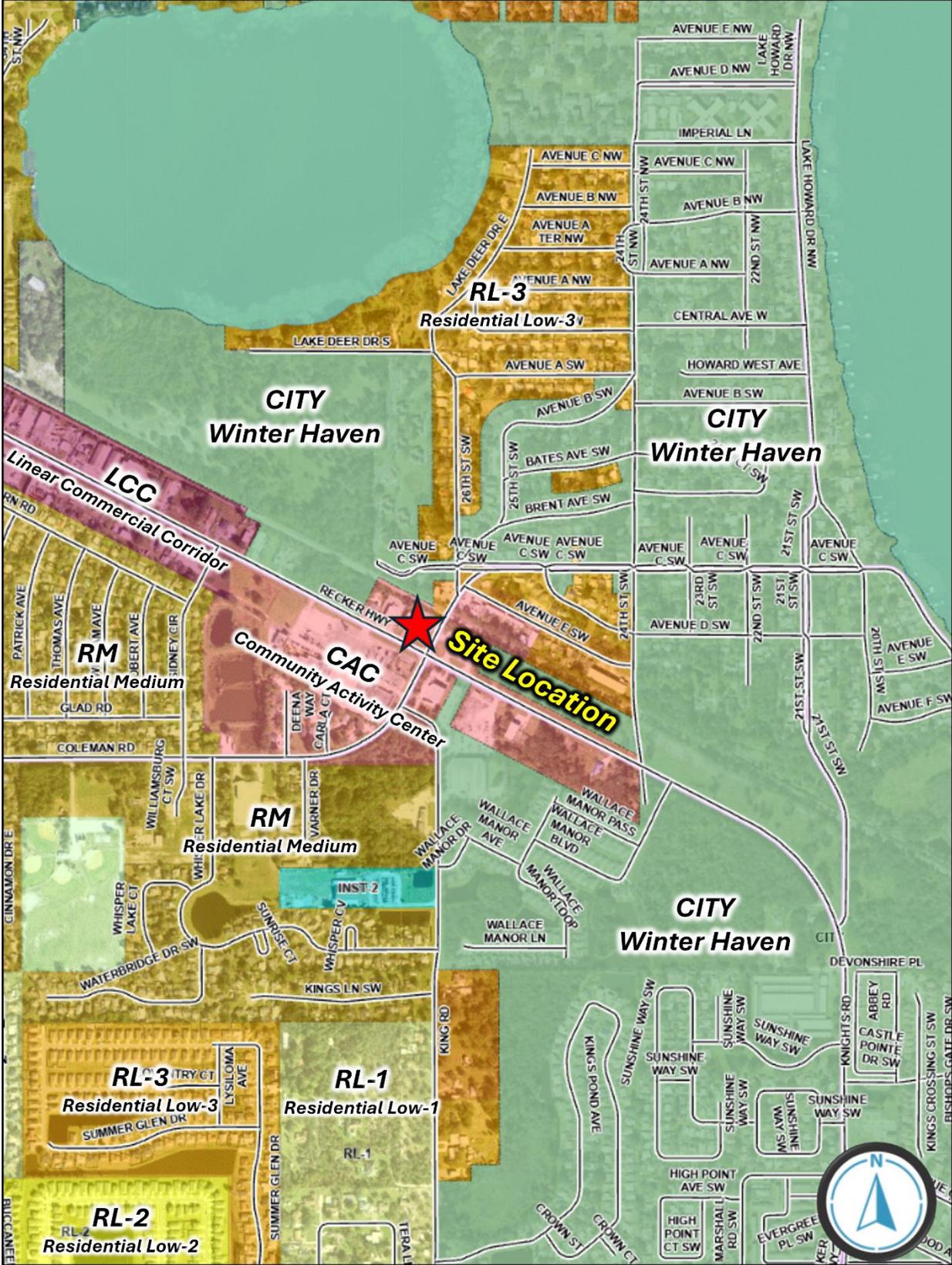
district, providing shopping services to the surrounding community. Recent aerial data viewers show similar stand-alone vending machines within the surrounding area. The property directly to the southwest of the subject site, across Recker Highway, has an existing accessory stand-alone vending machine in the front parking lot of the property within the 50-foot right-of-way setback off Recker Highway.

Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 Aerial Imagery (Context)
- Exhibit 4 Aerial Imagery (Close)
- Exhibit 5 Site Plan
- Exhibit 6 BC-2025-1312 Structural Plans
- Exhibit 7 Justification



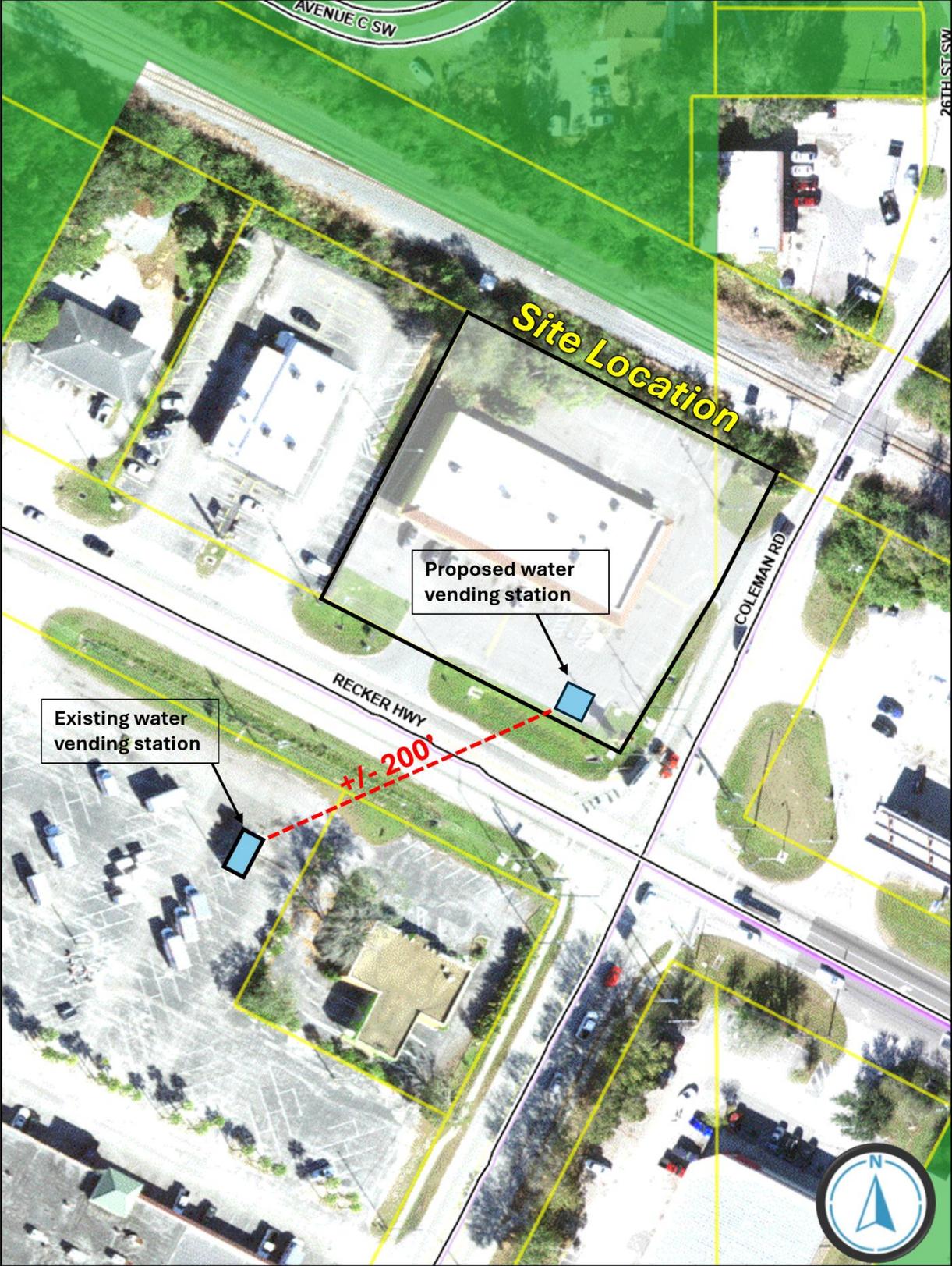
Location Map



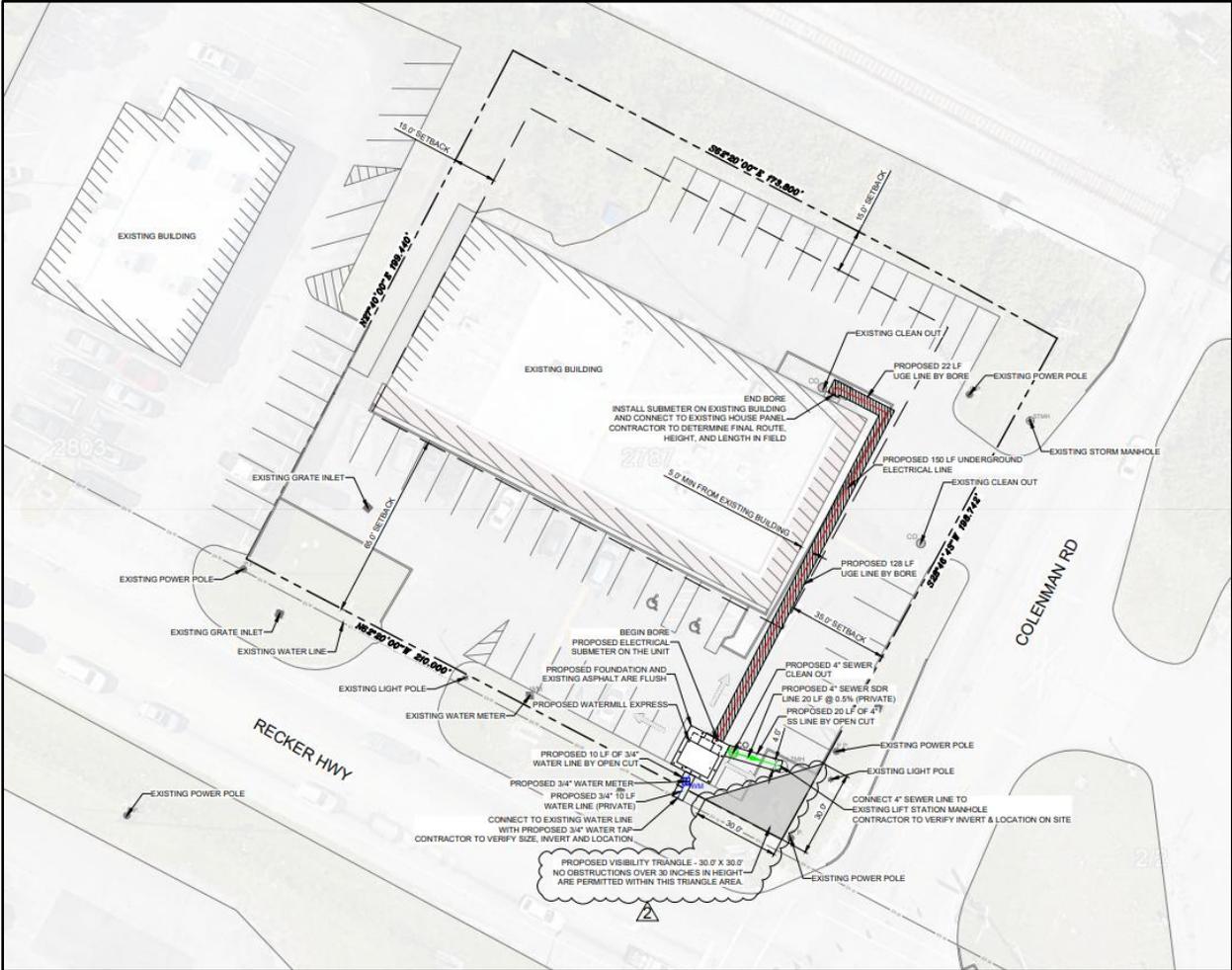
Future Land Use Map



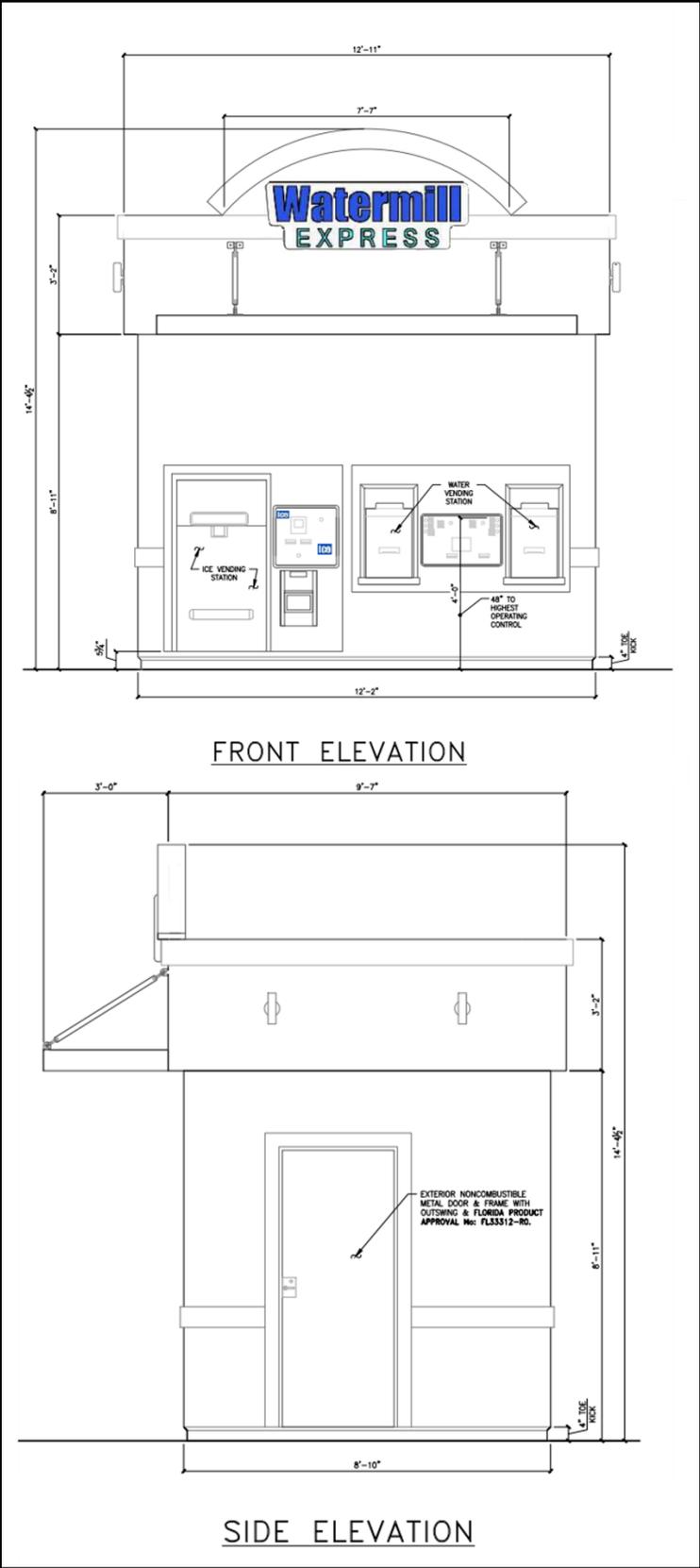
Aerial Imagery (Context)



Aerial Imagery (Close)



Site Plan



BC-2025-1312 Structural Plans

CRITERIA FOR GRANTING VARIANCE

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

No, if granted, the variance will not impact the public welfare.

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

Due to limited availability on site, the landlord will not allow for the relocation of the unit to another space, which would negate the encroachment.

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

We are tenants to the property

What is the hardship if the variance is not approved?

It would not allow us to develop and operate our business.

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

Yes

Do you have Homeowners Association approval for this request?

Not applicable

Justification