

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

<b>DRC Date:</b>	<b>October 10, 2024</b>	<b>CASE #:</b>	<b>LDLSE-2024-8 (Brooke Road SE)</b>
<b>Hearing Date:</b>	<b>November 12, 2024</b>	<b>LDC Section:</b>	<b>216.D</b>

**Request:** The applicant is requesting a special exception to park a commercial vehicle and trailer on residential property.

**Applicant:** Rafaek Mejias

**Property Owner:** Rafaek Mejias & Judith Hernandez

**Location:** 2720 Brooke Road, north of Stokes Road, south of Garfield Road, west of Lake Hendry Road, east of Ft. Meade in Section 17, Township 31, Range 26.

**Parcel ID#:** 263117-000000-033080

**Size:** ±1.09 acres

**Land Use Designation:** Agricultural/Residential Rural (A/RR)

**Development Area:** Rural Development Area (RDA)

**Case Planner:** Ian Nance

**Summary:**

The applicant is requesting a special exception to park a commercial vehicle and trailer on residential property within an Agricultural/Residential Rural (A/RR) land use district east of Ft. Meade (Exhibit 2). This commercial vehicle is a 2013 Freightliner Cascadia that measures 45 feet in length with a trailer. Section 216.D of the Land Development Code (LDC) allows Commercial Vehicle Parking on residential properties pursuant to the rules detailed in this section and approval from the Land Use Hearing Officer following an advertised public hearing.

The subject property is approximately 1.09 acres with ample room to park the vehicle in the rear yard, between the home and an accessory structure, as presented on the site plan (*Exhibits 4 & 5*). The depicted parking area is well-screened and buffered by existing trees, a fence, and the structures. This area will easily exceed 20 feet from all property lines. The nearby uses are mobile homes and site-built homes on large properties amid an overall low rural density. With the proposed conditions, staff recommends approval of this application.

## **Development Review Committee**

The Development Review Committee, based on the criteria for granting Special Exceptions, finds that LDLSE-2024-8 **IS CONSISTENT** with Section 216.D 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 LDLSE-2024-8.**

### **CONDITIONS OF APPROVAL:**

1. This Special Exception shall be limited to parking the subject commercial vehicle and trailer, or its functional equivalent, as described in the application and staff report. No other commercial vehicles, heavy machinery equipment, or tractor/trailer rigs shall be parked on the site.
2. Approval shall not be transferable to any other owner/occupant of the property. In the event the property is sold, or the operator ceases to reside on the property, the Special Exception approval shall not “run with the land” and shall be null and void.
3. No commercial vehicle maintenance shall be performed on the site, and no outside storage of any commercial vehicle parts or equipment is allowed.
4. Parking the commercial vehicle on the operator’s lot shall be limited to empty weight only (no load or cargo).
5. This special exception 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.
6. The commercial vehicle shall only be parked in the area in the rear yard as generally designated on the site plan (*Exhibit 5*) and shall continuously meet the screening and buffering requirements listed in Section 216.D, Commercial Vehicle Parking and Storage, of Polk County’s Land Development Code.
7. Utilization of LDLSE-2024-8 is contingent upon the Applicant either: (i) obtaining a driveway permit and installing a driveway that meets commercial driveway standards per LDC Section 705.J and Table 7.8 with final approval from the Polk County Building Division Driveway Inspector (the “Driveway Inspector”); or (ii) demonstrating to the Driveway Inspector that the existing driveway meets County commercial driveway standards. Final written approval from the Driveway Inspector, whether based on

satisfaction of condition (i) or (ii) immediately above, is required prior to parking the commercial vehicle on site.

8. Approval of the Special Exception shall be valid for one year. Approvals may be renewed by the Land Development Division with a proper application submitted by the applicant 30 days prior to the expiration date (TBD by LUHO). Noncompliance with any of the conditions of approval will render LDLSE-2024-8 null and void. All conditions of approval, unless otherwise specified, must be met prior to parking the commercial vehicle on the property.

## **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: Approval of this special exception 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.*

*NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the special exception 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.*

**APPLICATIONS FOR COMMERCIAL VEHICLE PARKING AND STORAGE SHALL DEMONSTRATE COMPLIANCE WITH SECTION 216 OF THE LAND DEVELOPMENT CODE. DEMONSTRATION OF THE CRITERIA FOR GRANTING SPECIAL EXCEPTIONS FOR COMMERCIAL VEHICLES IS SUMMARIZED BELOW:**

1. *Only one commercial vehicle, as regulated by this Section 216, shall be permitted on any residential lot;*

According to the application, the subject vehicle is a 2013 Freightliner Cascadia that measures 45 feet in length with a trailer that the driver wishes to park at his residence in an A/RR land use district. LDC Section 216 defines a Commercial Vehicle as those that exceed 26 feet in length and/or are taller than nine feet. No other commercial vehicles shall be parked onsite.

2. *Commercial vehicle shall be currently registered and licensed;*

The applicant has supplied a current registration.

3. *The parking of said vehicle does not have a negative impact to the health, safety, or welfare of adjacent properties;*

Staff finds this request will not have a negative impact upon the health, safety, or welfare of adjacent properties. The subject property is approximately 1.09 acres with access to Brooke Road, a Rural Minor Collector. Due to the standards in Section 216 of the LDC, the applicant is not able to park the vehicle in the front of the home, but there is ample acreage on which to locate the subject vehicle in the rear yard while maintaining a minimum 20-foot setback from the property lines.

According to the site plan, the parking area will be to the east of the existing home, in the rear yard where there is a six-foot wooden fence along the property line. It will be parked between the home and a utility shed that will screen the vehicle from the road and from properties to the east. Large trees further surround and screen the parking area from off-site and should suffice in meeting the Type "B" landscaping buffer required in accordance with LDC Section 216. Parked in the manner proposed, very little of the vehicle will be visible from off-site.

This area is rural. The abutting properties on the east side of Brooke Road are developed with single-family homes on lots comparable in size and those exceeding four acres. Most properties in the area exceed an acre, and most homes are set at least 100 feet from the centerlines of the Brooke Road. It is not anticipated that the operation of this vehicle leaving and arriving at the subject site will have a reasonably negative impact on the neighbors.

The paved surface width on Brooke Road is approximately 20 feet, which meets LDC requirements. The nearest arterial road is US Highway 98, less than three (3) miles to the

south. No commercial vehicle restrictions are noted on this road. No sidewalks are found along the surrounding roadway network, but none would be expected in a rural area such as this. A commercial driveway, with concrete from the edge of pavement to the property line, will be required in the Brooke Road right-of-way to protect the integrity of the County's pavement at entrance to the site (Exhibit 7). No Code Enforcement cases are active on this site.

In summary, staff finds this request will not have a negative impact upon the health, safety, or welfare of adjacent properties if maintained and screened in accordance with the site plan.

4. *The applicant can demonstrate that denial of said request would place an unnecessary hardship on the property prohibiting the use of land in a manner otherwise allowed under this Land Development Code;*

The applicant uses the commercial vehicle as a source of income. This truck will be parked here on an as-needed basis. This neighborhood is in an area of the County where other options to park commercial vehicles are limited away from an urbanized area.

On January 4, 2022, the BoCC approved LDCT-2021-15 (Ordinance No. 22-002) which incorporated language into Section 216.C of the LDC that exempted application from needing a Special Exception approval for any vehicle or heavy equipment parked or stored within an enclosed structure. In the event this vehicle could be stored in such a manner, the applicant would not be required to provide the landscaping/screen or a commercial driveway.

5. *Commercial vehicles must park on the same lot occupied by the owner/operator of the vehicle.*

The vehicle will be parked on the same lot occupied by the operator of the vehicle.

6. *The vehicle shall not be parked in the front yard of the principal residence.*

The applicant's site plan (*Exhibit 5*) indicates the proposed parking area is not located in the front yard of the property.

7. *The parking area shall be at least 20 feet from all property boundaries.*

The site plan (*Exhibit 5*) calls out the parking area in the rear yard with at least 20 feet of separation from the property lines. The parking area will average approximately 60 feet from the northern and southern side property lines; and 50 feet from the eastern rear property line. The nearest home is approximately 100 feet to the east.

8. *The vehicle shall park in a manner so that the minimum amount of vehicle surface is facing the road adjacent to the property unless the vehicle is screened or buffered as provided.*

The vehicle will be parked in a manner which exposes minimal view of the truck from the road. The truck will be mostly screened from offsite view by existing vegetation, structures, fencing, and buffered by distance from neighbors.

9. *When the vehicle parking area is less than 200 feet from a residentially designated or used property, it shall be buffered from the adjacent residential property with a Type B Buffer as outlined in Section 720. A fence with a minimum height of six feet may be used in lieu of, or in conjunction with, a vegetative buffer yard.*

The proposed parking area shall meet the buffer and screening requirements of LDC Section 216.D. Existing structures, fencing, and landscaping adequately screen the parking area from offsite. Should these structures or landscaping be removed, the standards above will be required.

10. *Refrigerator units on vehicles shall not be operated on the site.*

The subject commercial vehicle does not include a refrigerator unit.

11. *Approvals shall be valid for one year, or for a shorter period as specified by the Land Use Hearing Officer. Approvals may be renewed, with proper application following notice provided by the Land Development Division Director 30 days prior to the expiration date, if the commercial vehicle location is consistent with the Land Development Code. The applicant shall bear the burden in demonstrating that the vehicle parking still meets the criteria of the approved Special Exception and Section 216.*

This has been included in the conditions of approval.

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

The table below lists the Future Land Use designation and the existing uses surrounding the site. The information in the table is based on a site visit by the case planner and observation of the Future Land Use map to note the surrounding uses.

<p><b>Northwest:</b> A/RR Brooke Road +/- 4.80 Acres Vacant</p>	<p><b>North:</b> A/RR Site-Built Home +/- 1.00 Acre</p>	<p><b>Northeast:</b> A/RR Mobile Home +/- 1.15 Acres</p>
<p><b>West:</b> A/RR Brooke Road +/- 4.80 Acres Site-Built Home</p>	<p><b>Subject Property:</b> A/RR Mobile Home +/- 1.09 Acres</p>	<p><b>East:</b> A/RR Mobile Home +/- 1.15 Acres</p>
<p><b>Southwest:</b> A/RR Brooke Road +/- 20.55 Acres Pasture/Residence</p>	<p><b>South:</b> A/RR Site-Built Home +/- 4.60 Acres</p>	<p><b>Southeast:</b> A/RR Site-Built Home +/- 4.60 Acres</p>

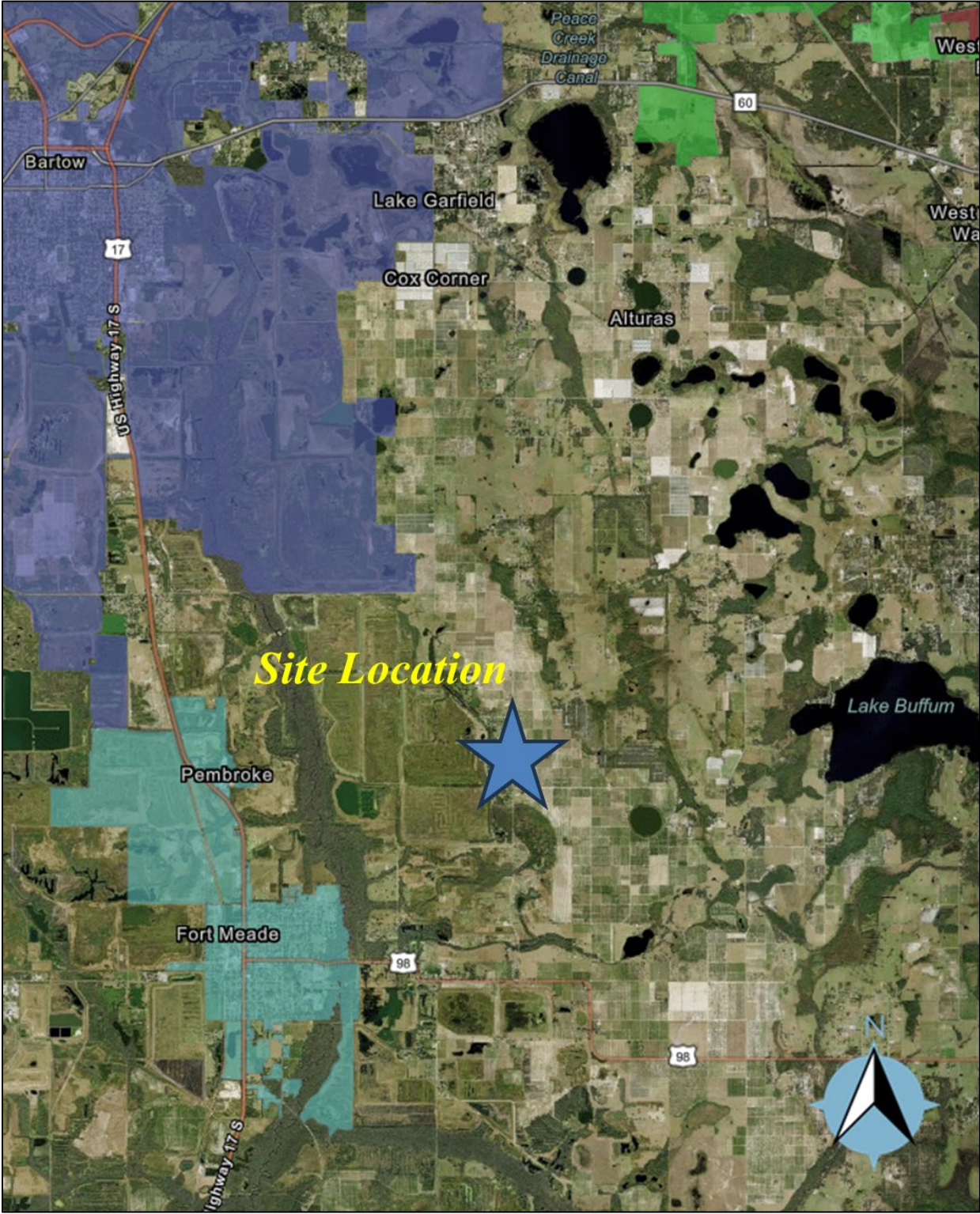
This site is approximately +/- 1.09 acres and located within an Agricultural/Residential Rural (A/RR) land use district (*Exhibit 2*). Though this is substandard to the modern A/RR minimum lot size requirement of five acres, it is a lot of record, having been legally created during a prior zoning ordinance under the Rural Conservation (RC) designation with one-acre minimum lot sizes.

According to the Property Appraiser, the home onsite is a 2,100 sq. ft. Mobile Home built in 2006. The applicant has owned the property since May 2024. The size of the property is important in evaluating this case. If the property was 5-acres or larger, the minimum lot size in A/RR, it would be permitted to have one commercial vehicle without having to apply for a Special Exception. However, this property was created prior to the adoption of the LDC and these standards. No other Special Exceptions were found to be approved in Section 17, Township 31, Range 26.

**Comments from other Governmental Agencies:**     None

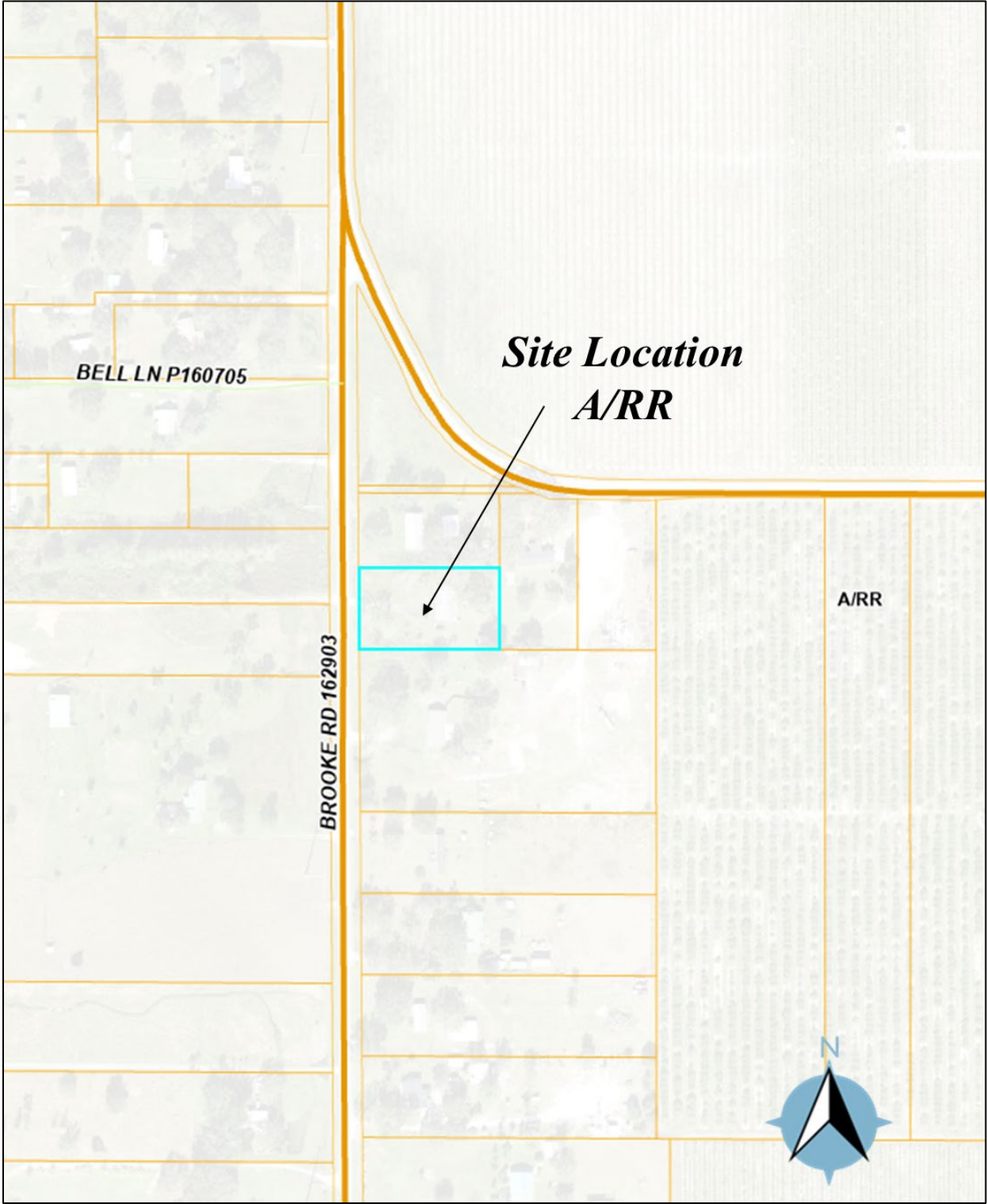
**Exhibits:**

- 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     Commercial Vehicle
- Exhibit 7     Commercial Driveway Standards

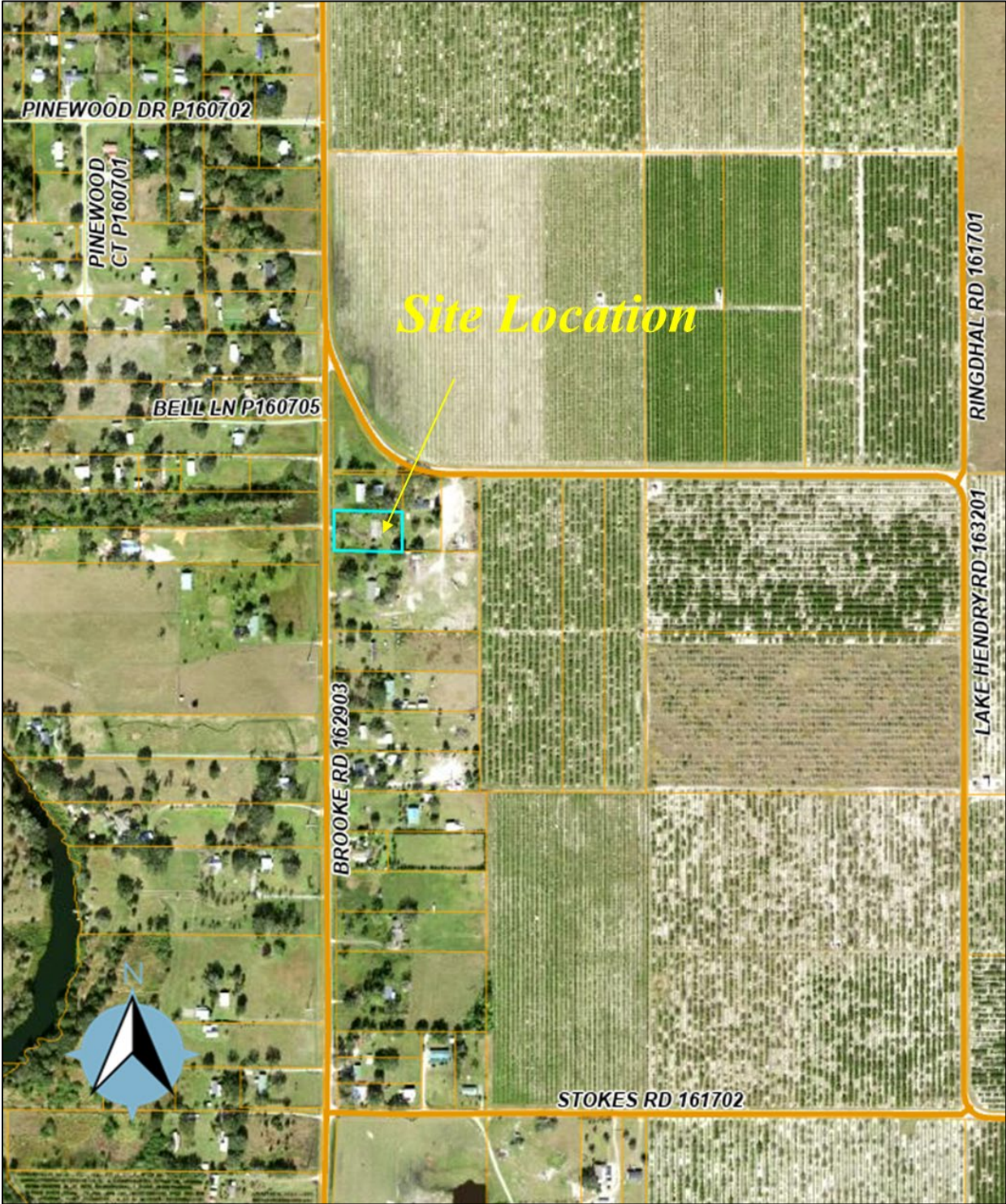


Site Location





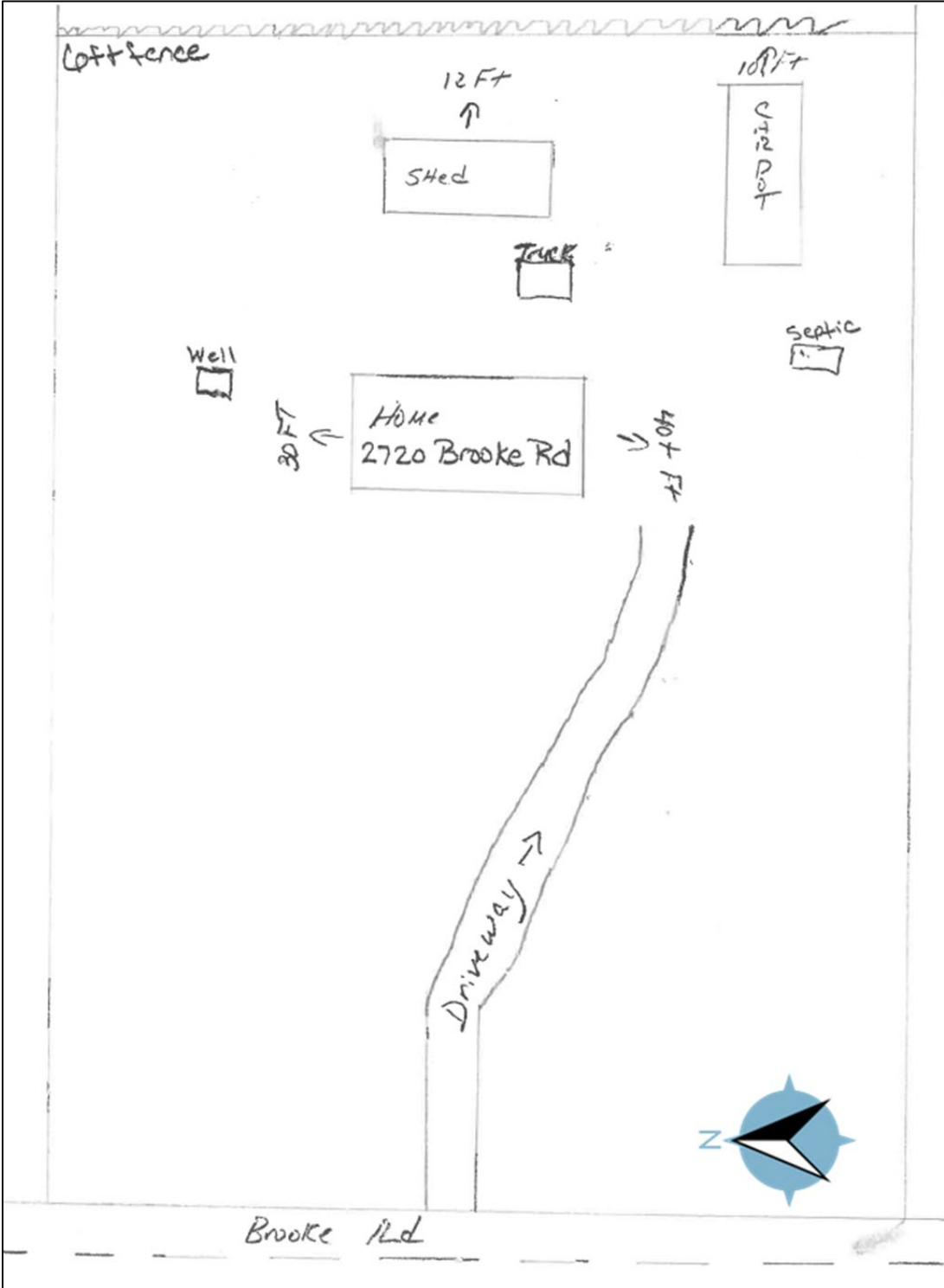
Future Land Use Map



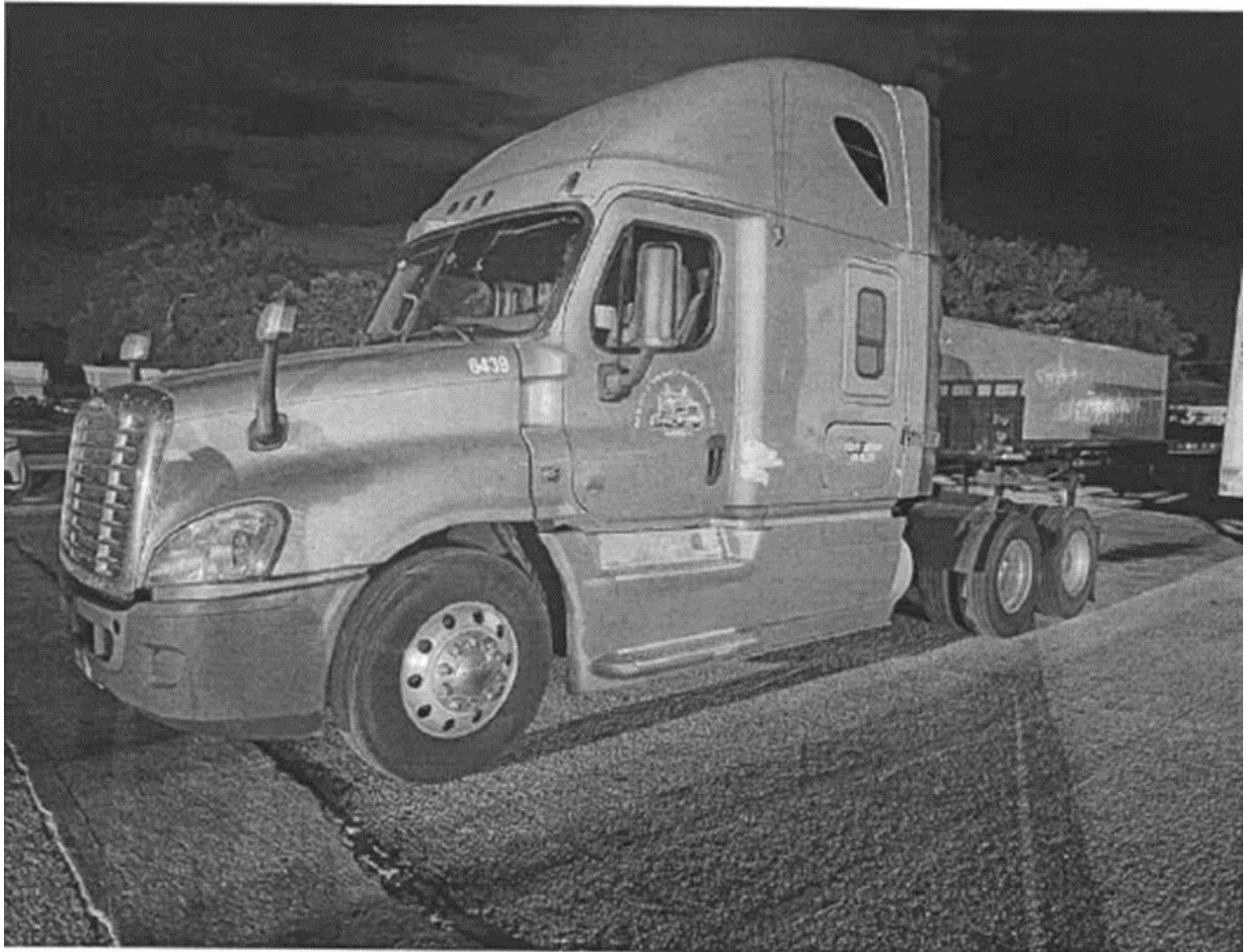
Aerial Image – Context



Aerial Image – Close



Site Plan



Commercial Vehicle

