

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

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| DRC Date: February 13, 2025 | CASE #: LDLSE-2024-12 (Binzha Special Exception) |
| LUHO Date: March 27, 2025 | LDC Section: Section 216.D |

Request: The applicant is requesting a Special Exception to park a commercial vehicle (2023 S 47 SX Schwing America) at their residence on approximately 8.80 acres within a residential neighborhood.

Applicant: Juan Binzha

Property Owner: Juan Binzha

Location: The subject property is located at 7333 Catherine Drive, north of Deeson Road, south of Raulerson Road, east of Hillsborough County, west of Kathleen Road, northwest of the City of Lakeland in Section 17, Township 27, Range 23.

Parcel ID#: 232717-000000-012170

Size: ±8.80 acres

Land Use Designation: Residential Suburban (RS)

Development Area: Suburban Development Area (SDA)

Case Planner: Kyle Rogus, Planner I

Summary:

This is a request for a Special Exception to park a truck (2023 S 47 SX Schwing American) on approximately 8.80 acres in a Residential Suburban land use district in the Suburban Development Area. The property has frontage on Catherine Drive. Access is proposed from an existing driveway on Catherine Drive. The applicant is requesting permission to park the commercial vehicle on property to store within, behind or partially enclosed within the barn located north of the single-family residence. The site plan (see Exhibit 6) highlights in yellow the path the commercial vehicle will utilize to access the barn. The barn, is approximately 500 feet from the north residential property line; 346 feet from the south residential property line; 220 feet from the west residential property line; and 115 feet from the east commercial property line. The barn is 90 feet to the north of the single-family residence.

Staff finds this request meets the standards in Section 216.D. Furthermore the parking of this vehicle on site will not have a negative effect on the health and safety. Parking is well buffered from the surrounding properties. The site is large and offers access on an Urban Collector roadway.

Staff recommends approval based on the site plan provided by the applicant and recent visits to the site. The proposed placement of the vehicle will be within, behind or partially enclosed within the barn well outside of 200 feet from any abutting residential properties. It is within 200 feet from abutting commercial property (Publix) to the east, therefore meeting the screening or buffering requirements. A commercial driveway apron is recommended as a condition of approval to protect Catherine Drive from stretching caused by commercial vehicle turning movements on and off the property.

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 LDLSE-2024-12**

CONDITIONS OF APPROVAL:

1. This Special Exception shall be limited to parking one truck, a 2023 S 47 SX Schwing America or functional equivalent (see Exhibit 7), as described in the application and staff report. No other commercial vehicles may be parked on the site.
2. Approval of this special exception shall be for the operator Juan Binzha of record only. 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. This commercial vehicle parking approval shall be contingent upon the applicant constructing at least one entrance to commercial driveway standards for structural thickness and turning radius in accordance with Section 705.I of the Land Development Code (see Exhibit 8).
5. The property owner(s) is 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. 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 (to be determined by the Land Use Hearing Officer). Noncompliance with any of the conditions of approval will render LDLSE-2024-12 null and void. All conditions of approval, unless otherwise specified, must be met prior to parking the commercial vehicle on the property.
7. The commercial vehicle shall only be parked in the area designated on the site plan (Exhibit 6) and shall continuously meet the screening or buffering requirements listed in Section 216.D, Commercial Vehicle Parking and Storage, of Polk County's 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.

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, shall be permitted on any residential lot or parcel;*

The request is for one truck (2023 S 47 SX Schwing America). See Exhibit 7.

2. *Commercial vehicles shall be currently registered or licensed;*

The applicant has provided the current valid registration for the vehicle. Vehicle registration is under Juan Binzha or "Binzha Concrete LLC".

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

The applicant's property is 8.80 acres with ample space for parking. The nearest abutting property to the east is designated commercial within the Neighborhood Activity Center (NAC) land use district. The nearest residentially designated property is located to the east, north of the Neighborhood Activity Center (Kathleen Square). The nearest home from where the proposed vehicle will be parked is the property directly to the west (Parcel ID #232717-000000-012070) approximately 368 feet from the west side of the barn. The proposed vehicle parking is not within 200 feet from any neighboring residential properties and will be within, behind or partially enclosed within an existing barn structure, therefore it will not be required to meet the Type B screening or buffering requirements listed in Section 216.D, Commercial Vehicle Parking and Storage, of Polk County's Land Development Code (LDC).

Catherine Drive site specific characteristics:

The vehicle will access Catherine Drive from Kathleen Road, which is 0.32 miles east of the subject property. The commercial driveway apron is required to protect Catherine Drive from the stretching caused by a heavy vehicle's turning movements on and off the property. The truck will pass 11 residential homes on Duff Road and Catherine Drive. The affected roadway, Catherine Drive, is a paved two lane Urban Collector roadway with no curb or sidewalk with a posted speed limit of 35 mph. Catherine Drive has a width of 18 feet, which does not meet the minimum 24 foot right-of-way width standard.

Kathleen Road site specific characteristics:

The affected roadway Kathleen Road is a paved four lane Urban Collector roadway with curb and gutter with sidewalks. Kathleen Road has a posted speed limits of 40 and 45 mph. Kathleen Road has a width of 44 feet, which does not meet the minimum 48 feet right-of-way width standard. Kathleen Road experiences approximately 16,200 Annual Average Daily vehicle trips combined for both directions between Galloway Road and Duff Road. Kathleen Road connects to Interstate 4 to the south of the subject site, which offers connections to Tampa to the west and Orlando to the east. The surrounding roads near the property have no weight restrictions.

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 Code;*

The applicant did not include any demonstration of need in the application. The applicant will provide their hardship demonstration at the public hearing.

5. *Commercial vehicles must be parked on the same lot occupied by the owner or operator of the vehicle;*

The operator is Juan Binzha or registered "Binzha Concrete LLC". Juan Binzha is 100% owner of the property and the business, according to Polk Property Appraiser and Sunbiz.org.

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

The applicant's site plan (Exhibit 6) indicates the new proposed parking area is not located in the front yard of the property. The truck will access the property on the existing driveway off Catherine Drive be parked within, behind or partially enclosed within the existing barn located on the north side of the single-family residence.

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

The property is 8.80 acres. It is easy to meet this requirement. The site plan (Exhibit 6) illustrates the proposed parking area. The parking area will be within, behind or partially enclosed within the existing barn, which is over 200 feet away from any abutting residential properties and over 100 feet from the commercial designated property 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 site plan illustrates the truck will be parked on the north side of the property within, behind or partially enclosed within the existing barn. It is important to note that the Property Appraiser website identifies the barn dimensions as 100' x 40', with the length of the commercial vehicle being 42.1 feet in length. There is excess screening from the barn when the vehicle is not parked within or partially enclosed within the barn, therefore the truck will not be visible from the road and neighboring properties.

9. *When the vehicle parking area will be less than 200 feet from a residentially designated or used property, it shall be buffered from the adjacent residential property with a Type B Bufferyard 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 bufferyard;*

Residential

The vehicle will be parked within, behind or partially enclosed within the barn, therefore minimizing any visibility from the neighbors to fully meet this requirement. The enclosed barn is approximately 328 feet from the nearest north residential property line, 346 feet from the south residential property line, and 220 feet from the west residential property line. If the applicant were to park the commercial vehicle outside on the east side of the barn, the parking location will remain outside the 200 feet screening and buffering setback meeting the requirements per this section.

Commercial

To the east the property abuts Kathleen Square, within a Neighborhood Activity Center (NAC), where there is a Publix Super Market and other small commercial businesses. The property is not a residentially designated or used property, therefore the screening and buffering requirements per this section do not apply. The barn is approximately 115 feet from the designated commercial property.

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

There are no refrigerator units.

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 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 this Section;*

This has been included in the conditions of approval.

Surrounding Future Land Use Designations and Existing Land Use Activity:

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| <p>Northwest: Residential Suburban (RS) Single Family Distance from vehicle: 575 feet CMA-2024-935 Complainant 1.70 acres</p> | <p>North: Residential Suburban (RS) Single Family Distance from vehicle: 580 feet CMA-2024-935 Complainant 1.82 acres</p> | <p>Northeast: Residential Suburban (RS) Single Family Distance from vehicle: 393 feet 2.22 acres</p> |
| <p>West: Residential Suburban (RS) Single Family Distance from vehicle: 580 feet CMA-2023-586 Complainant 0.94 acres</p> | <p>Subject Property: Residential Suburban (RS) Single Family 8.80 acres</p> | <p>East: Neighborhood Activity Center (NAC) Grocery, Retail, Restaurants Distance from vehicle: 253 feet 9.66 acres</p> |
| <p>Southwest: Residential Suburban (RS) Single Family Distance from vehicle: 557 feet 0.83 acres</p> | <p>South: Residential Suburban (RS) Single Family Distance from vehicle: 462 feet 0.92 acres</p> | <p>Southeast: Residential Suburban (RS) Single Family Distance from vehicle: 431 feet 0.95 acres</p> |

The subject site is located off Catherine Drive, passing approximately 11 residential properties from Kathleen Road when accessing Duff Road and Catherine Drive. The properties in this area are smaller in size. The subject site abuts 10 residential properties, 3 of which have filed complaints against the applicant. While conducting our site visit, no other commercial vehicles were seen.

This property has a history of Code complaints and violations dating back to April of 2023, two months after the applicant purchased the property on February 2, 2023. Below is a listed timeline of Code complaints and violations filed since the applicant purchased the property.

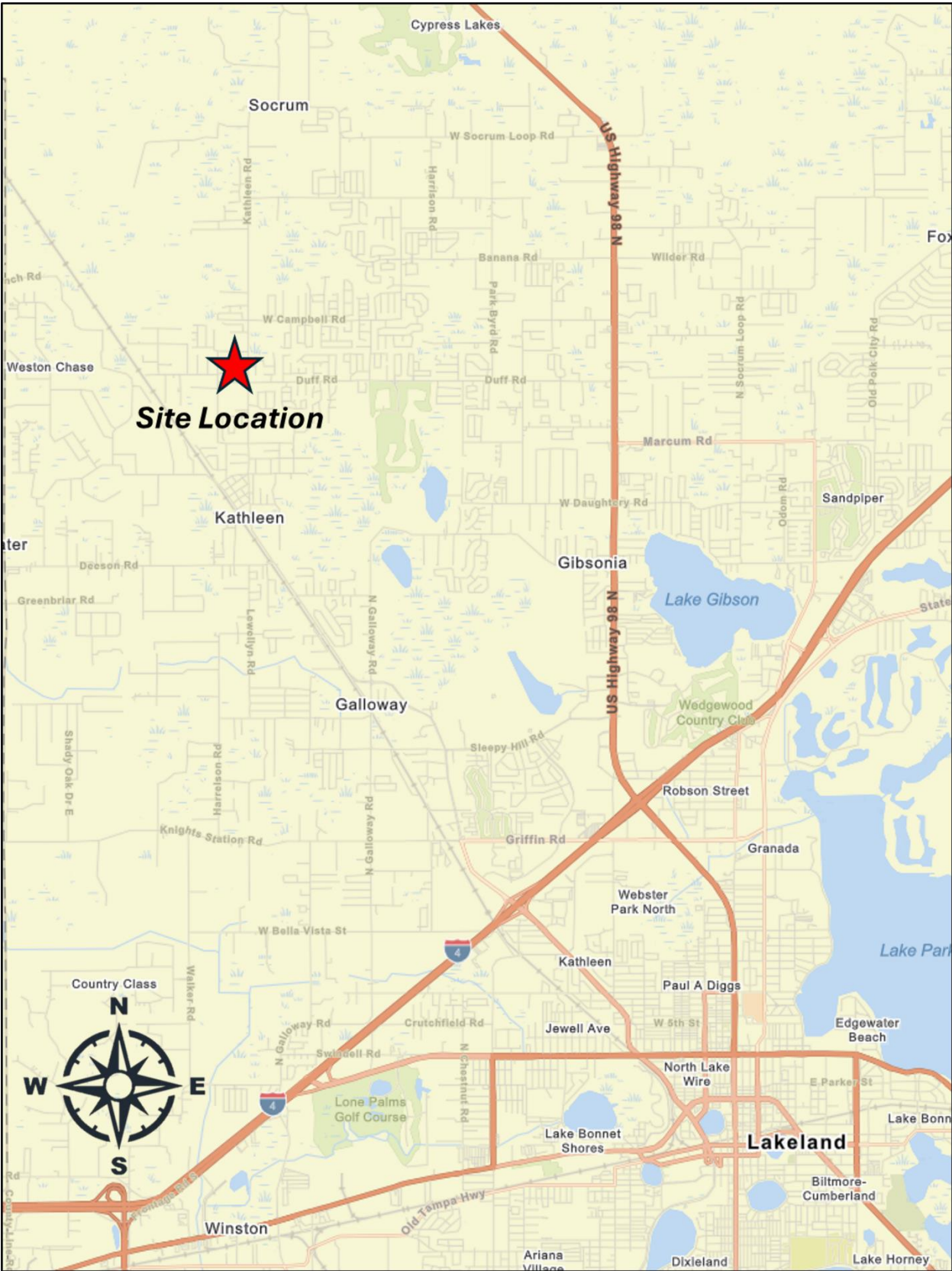
| RECORD | STEP OF THE PROCESS | CITED CODE | STATUS | COMPLAINANT | CREATED DATE |
|---------------|----------------------------|--|--------------------------|---|---------------------|
| CEC-2023-1523 | Complaint | _____ | Violation Case Generated | Robert Cordes Carmen Rossi | 04/04/2023 |
| CMA-2023-586 | Magistrate Violation | Section 206 – Accessory Uses Section 216 – Commercial Vehicle Parking and Storage | Closed-Owner Corrected | Robert Cordes Carmen Rossi Scott Frier Gene Beal Elizabeth Bailey Judy Padgett | 04/17/2023 |
| CEC-2024-1157 | Complaint | _____ | Closed-No Violation | Carmen Rossi | 03/12/2024 |
| CEC-2024-2845 | Complaint | _____ | Violated Case Generated | Chad weeks Megan Dye | 06/25/2024 |
| CMA-2024-935 | Magistrate Violation | Section 227 – Filling and Excavating Land | Closed-Owner Corrected | Chad Weeks Megan Dye Carmen Rossi Blair Clark | 07/25/2024 |
| CEC-2024-3563 | Complaint | _____ | Violation Case Generated | Elizabeth Bailey | 08/06/2024 |
| CMA-2024-1007 | Magistrate Violation | Section 206 – Accessory Uses Section 216 – Commercial Vehicle Parking and Storage | Closed-Owner Corrected | Elizabeth Bailey Carmen Rossi | 08/12/2024 |

| <i>RECORD</i> | <i>STEP OF THE PROCESS</i> | <i>CITED CODE</i> | <i>STATUS</i> | <i>COMPLAINANT</i> | <i>CREATED DATE</i> |
|---------------|----------------------------|-------------------|--------------------------|--------------------|---------------------|
| CEC-2024-4916 | Complaint | _____ | Assigned to Investigator | Elizabeth Bailey | 11/14/2024 |

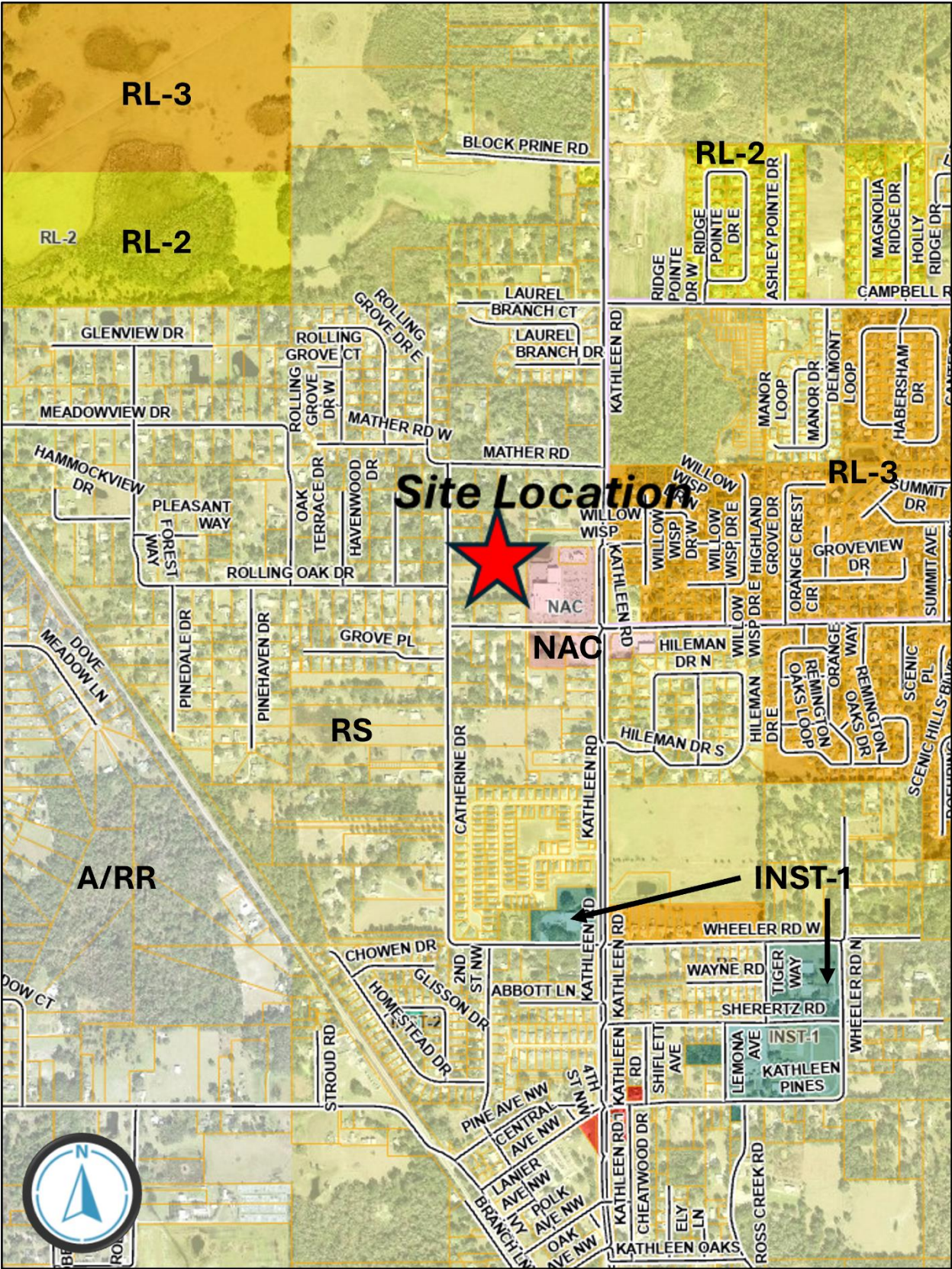
According to Polk Property Appraiser the applicant purchased the property on February 2, 2023. Shortly after the applicant purchased the property, the applicant was cited by Code Enforcement in violation of Chapter 2, Section 216 Commercial Vehicle parking and Storage, for parking the commercial vehicle at this location without a special exception and Chapter 2, Section 206.O Outdoor Storage, for storing concrete business equipment outside on a residential property (CMA-2023-586). The Code Enforcement Special Magistrate Case (CMA-2023-586) is closed as the owner corrected, removing the commercial vehicle and concrete business equipment from the property. The applicant was cited by Code Enforcement for repeated violations from Special Magistrate Case (CMA-2023-586). The second Code Enforcement Special Magistrate Case (CMA-2024-1007) is also closed as the owner corrected, removing the commercial vehicle and concrete business equipment from the property. The owner is now seeking approval for commercial parking on the property. A Special Exception will only approve one commercial vehicle on property. Any additional commercial vehicles on property will be subject to further violation of the Polk County Land Development Code. A Special Exception will not approve of the outdoor storage of any heavy equipment, machinery that may be associated with a concrete business.

Exhibits:

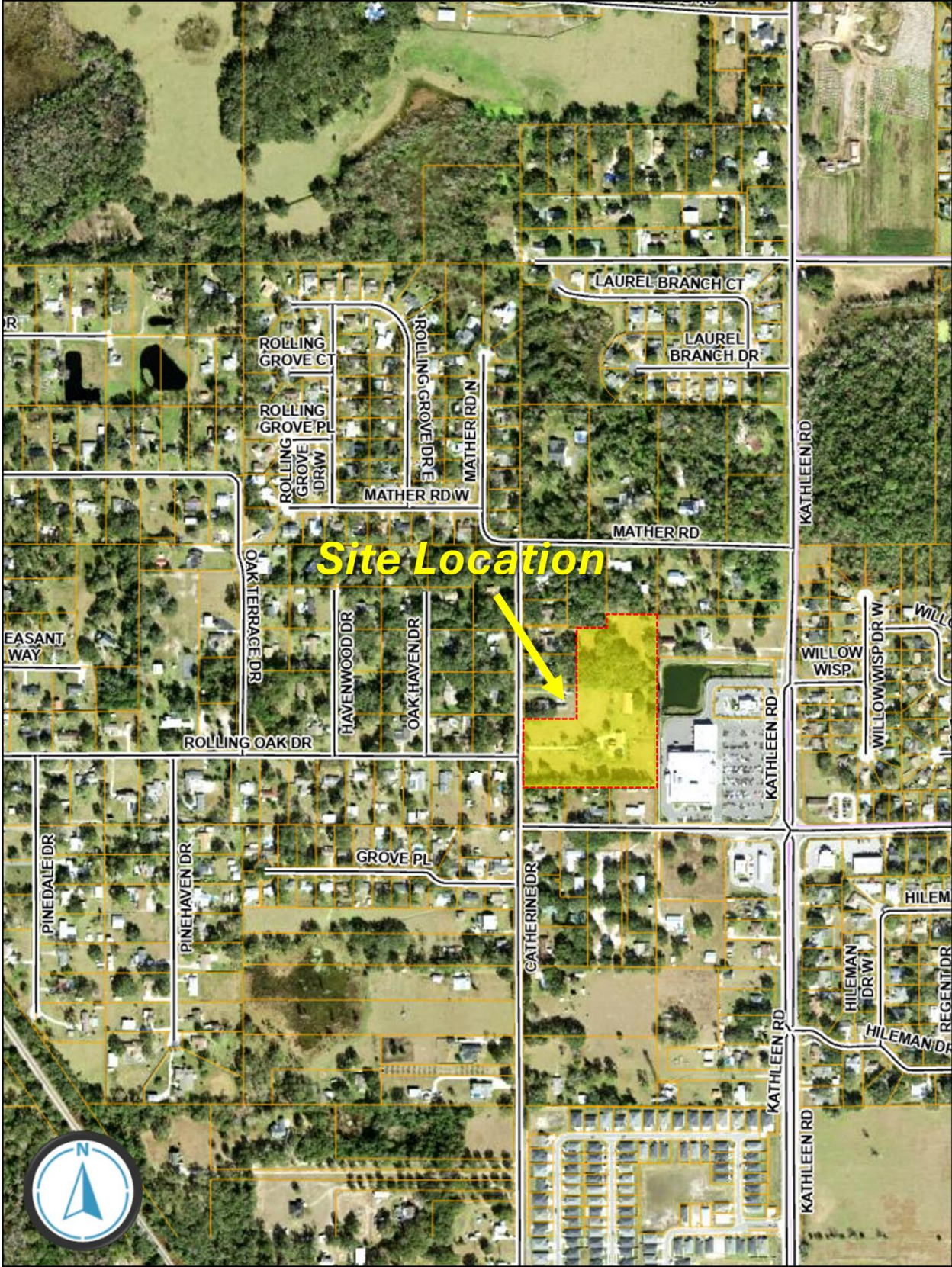
- Exhibit 1 Location Map
- Exhibit 2 Future Land Use Map
- Exhibit 3 2023 Aerial Imagery (Context)
- Exhibit 4 2023 Aerial Imagery (Close)
- Exhibit 5 Commercial Vehicle Parking Dimensions
- Exhibit 6 Site Plan
- Exhibit 7 Commercial Vehicle Pictures
- Exhibit 8 Commercial Driveway Specifications
- Exhibit 9 Buffering and Screening Specifications



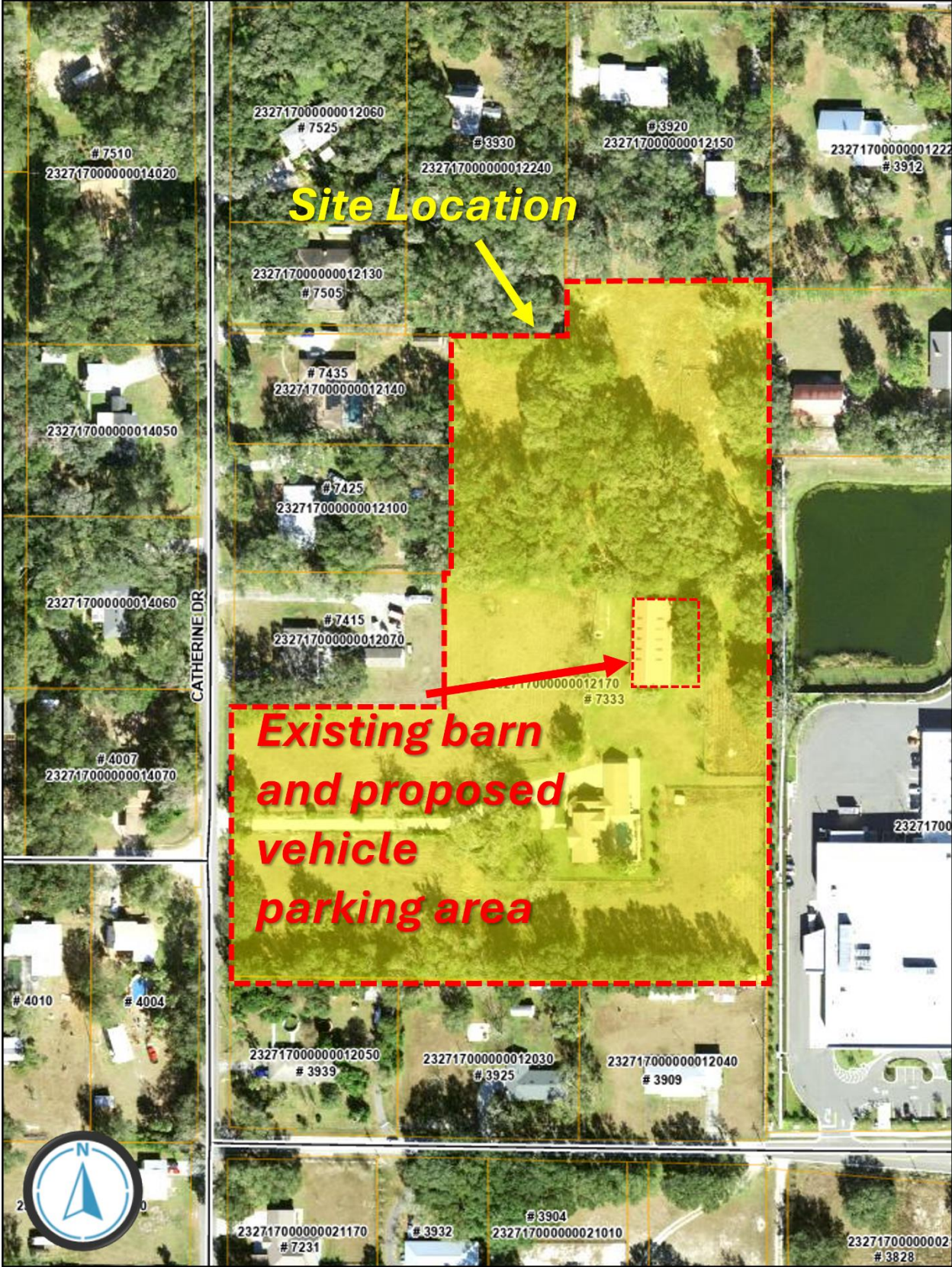
Location Map



Future Land Use Map



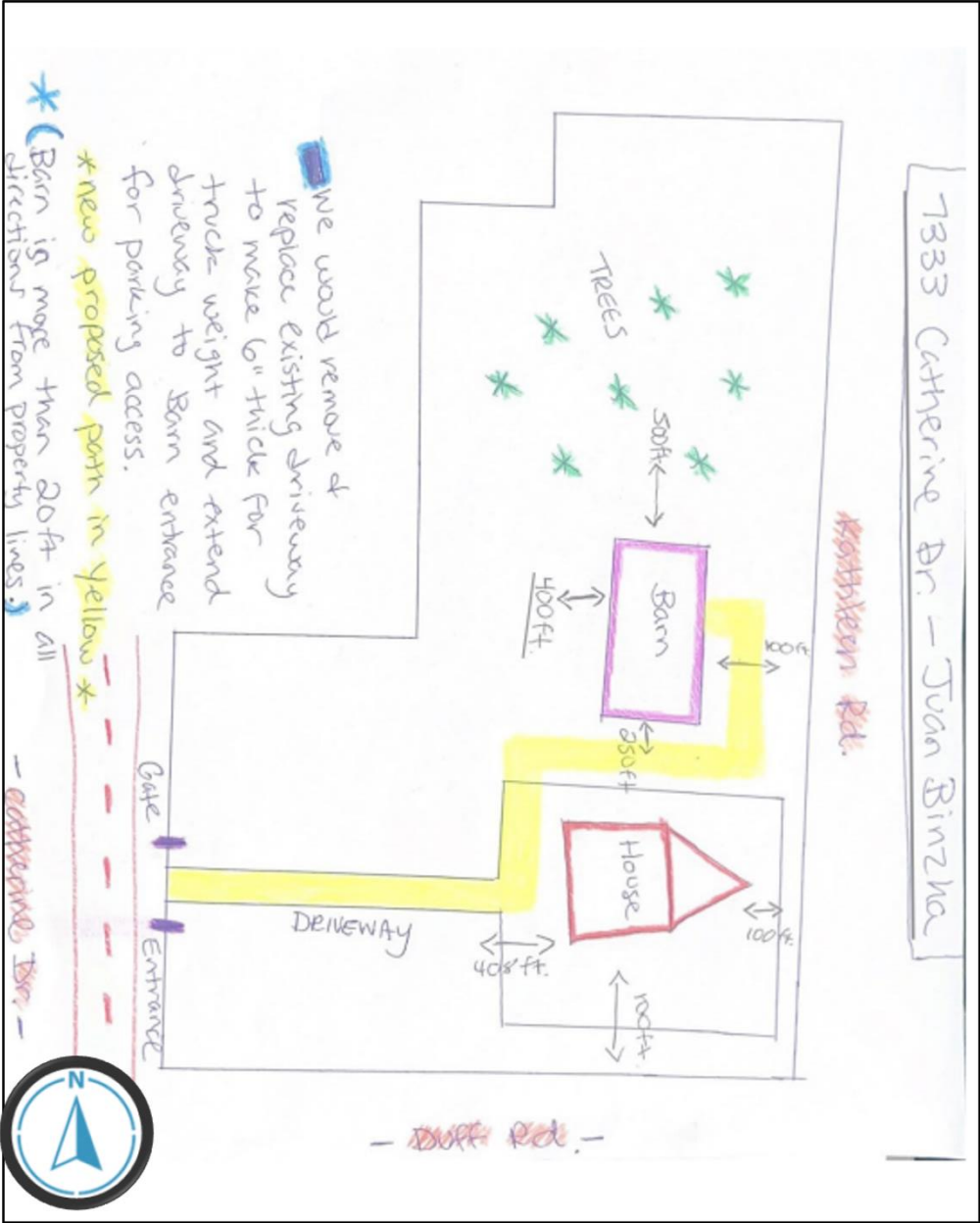
Aerial Imagery (Context)



Aerial Imagery (Close)



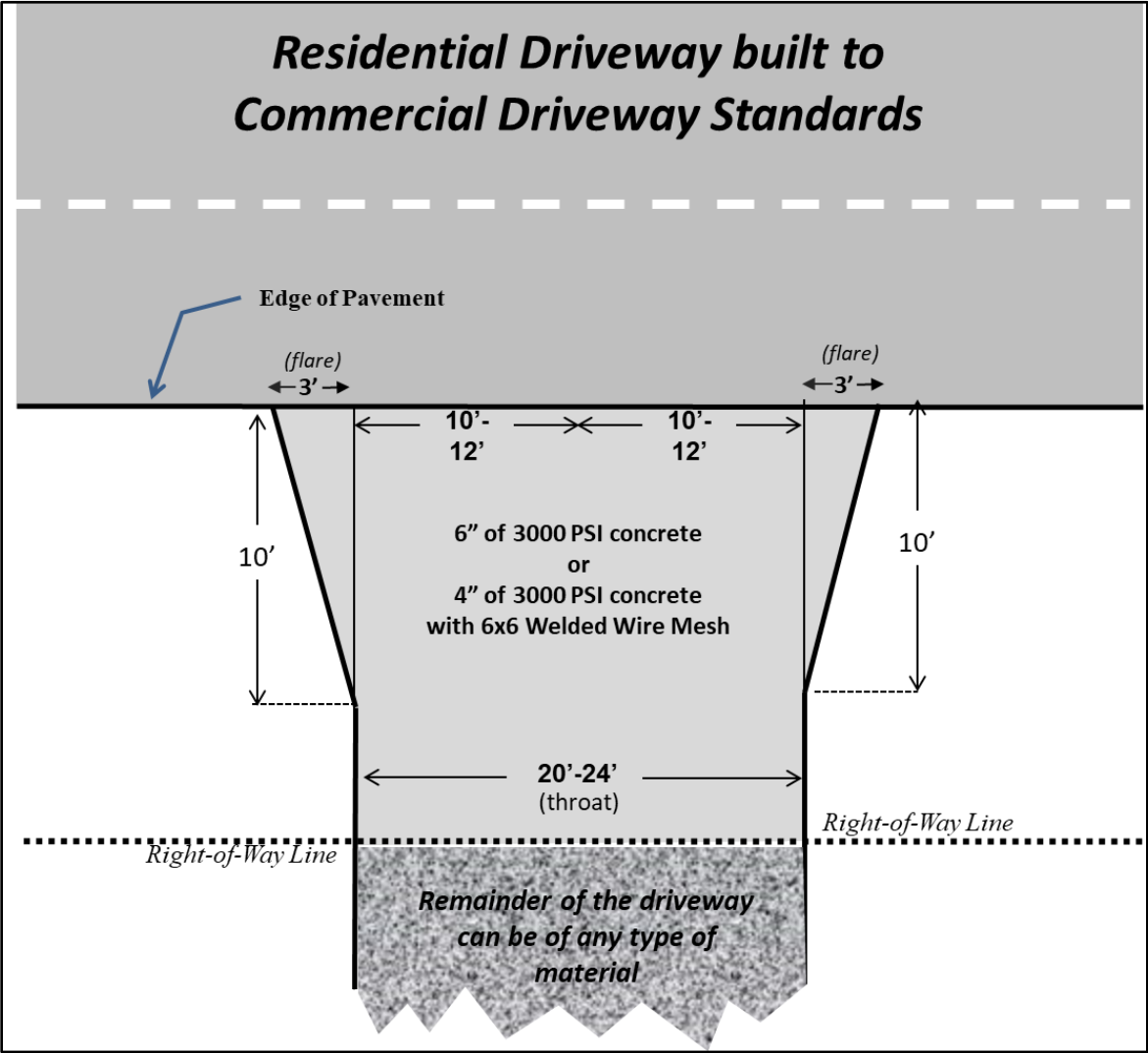
Commercial Vehicle Parking Dimensions



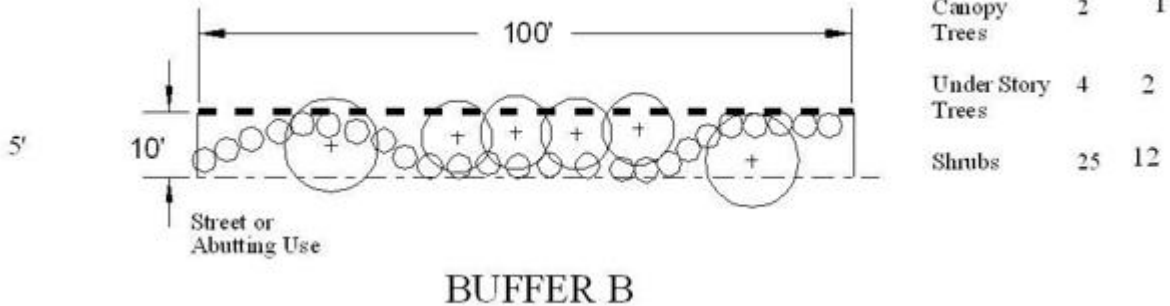
Site Plan



Commercial Vehicle Pictures



Commercial Driveway Specifications
(Per LDC Section 705.1)



Buffering and Screening Specifications
(Per LDC Section 720.L)