

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

DRC Date	April 10, 2025	CASE #:	LDLVAR-2025-20
LUHO Date	May 19, 2025	LDC Section:	Coppertop Construction Expansion Section 208, Table 2.2

Request: The applicant is requesting a reduction in the side yard setback from 20 feet to five (5) feet for a storage addition to an existing office and showroom.

Applicant: Brandy Nagel

Property Owner: Coppertop Construction & Roofing LLC

Location: 2718 Combee Road, east side, north of Maine Avenue, south of Mine and Mill Road, east of U.S. Highway 98, west of Reynolds Road, southeast of the City of Lakeland, in Section 27, Township 28 and Range 24.

Parcel ID#: 242827-000000-044011

Size: 0.51 +/- acres (22,246 square feet)

Land Use Designation: Business Park Center-2 (BPC-2)

Development Area: Transit Supportive Development Area (TSDA)

Case Planner: Erik Peterson, AICP

Summary:

The applicant is seeking a variance to the side yard setback requirements on the south side of the existing office building to add a storage room within five (5) feet of the interior side property line. The neighboring property to the south side of the property is owned by the city of Lakeland for a collection of high voltage power lines that lead to the power substation nearby.

The area is accustomed to lesser side setbacks because much of the existing development was established before the side setback regulations changed in 2000 with the adoption of the Land Development Code. Today, the interior side lot line setbacks are 20 feet in BPC-1 and BPC-2. They were as low as zero on one side so long as the cumulative setback for both sides combined equaled 15 feet.

This site has some atypical characteristics compared to other properties in an industrialized area amongst BPC-2 and Industrial (IND) districts. For one, it is substantially smaller than all other properties in the Combee Road industrial area. It also is encumbered by a large, mounded septic tank drain field that consumes a third of the site because of the pour soil percolation in the area

and lack of central wastewater services. The third extenuating characteristic is the abutting property owned by the city of Lakeland that is used for high voltage powerline connections to a nearby power substation. These physical limitations that affect the development of the lot set it apart from other properties of the area in the degree of hardship to its full development potential.

Staff find that the request meets the following criteria listed in Section 931:

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because expanding the applicant's building to within five feet of the city's property line will not infringe or jeopardize the city's operation of the transmission lines or the substation. Nor will it prevent further use of the property for the benefit of the city residents and electrical power customers.
- Because **special conditions and circumstances exist which are peculiar to the land** that other properties in the surrounding BPC-2 district do not have to overcome.
- **Granting the requested variance will not confer on the applicant any special privilege** because most of the other properties within the BPC-2 district developed at a time when the side setbacks were less restrictive than today.

Development Review Committee

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** 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 LDLVAR-2025-20**, with the following conditions:

CONDITIONS OF APPROVAL:

1. A variance to the standards in Section 208, Table 2.2, of the Land Development Code (LDC) shall be granted on the south side of the existing office building to add a storage room within five (5) feet of the interior side property line.
2. 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.
3. This variance does not authorize any encroachments into easements and the applicant shall be responsible for making 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.

GENERAL NOTES

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

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 LDC Section 930D.

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 submission 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.

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;*

It is not uncommon for buildings to be constructed at or near their interior side lot lines in the industrial districts along Combee Road. Past zoning regulations used to permit buildings to locate abutting one side lot line in order to provide more space for vehicle movements on the other. A total of 15 feet for both sides of the property was one requirement. The side abutting commercial or industrial could be zero. The applicant's building is setback 10 feet on the north side of the property where the abutting lot has a warehouse on the property line. Under past zoning requirements, the applicant was entitled to build to within five feet of the south property line.

The property to the south is under the city of Lakeland's ownership and is dedicated to high voltage power lines that connect to the city's electric substation southeast of the property. Expanding the applicant's building to within five feet of the city's property line will not infringe or jeopardize the city's operation of the transmission lines or the substation. The closest pole is over 30 feet from the proposed building expansion measured at the base. The lines are at least 40 feet above grade. The proposed storage expansion will not exceed the current height of the existing building (See Exhibit 5). The granting of this variance is in accordance with the general intent and purpose of this Code, and it will not be injurious to the area involved or otherwise detrimental to the public welfare.

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 applicant is a construction contractor that needs storage space. While the Business Park Center-2 (BPC-2) district allows for outdoor storage, the applicant has equipment and materials that are sensitive to the elements. Therefore, enclosed storage is needed. The building currently has 400 square feet of storage, but that is not enough to meet the needs of the business.

This is the smallest of the industrial properties in the area. Additionally, soil conditions are such that the restroom facilities in the office require a significantly large, mounded septic tank drain field which consumes the entire rear yard of the property. There are no available connections to sanitary sewer in this area. Lakeland runs reclaimed water from their Glendale Plant to the power plants on Lake Parker for cooling along the applicant's side of Combee Road and there is a potable water line on the opposite side of the road. These lines occupy too much of the right-of-way for the extension of other wastewater lines. Additionally, distance to the nearest available connection is not feasible.

Parking consumes as substantial area of the site. The original 2,400 square-foot office space required eight (8) parking spaces. Eight (8) spaces are provided. The addition of storage for the office use does not require additional parking. The applicant cannot expand the storage area into the parking lot.

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

There was a time before the adoption of the LDC when commercial and industrial districts allowed setbacks to go to zero on interior side lot lines through various administrative development methods. So many of the buildings along Combee Road that were developed prior to the LDC are at or near their side lot lines. There are also many buildings developed prior to zoning and setback regulations in 1970. Therefore, the area gives the appearance that setbacks are much less than the current 20-foot side setback requirements for BPC districts.

There was once a standard in commercial and industrial areas where side setbacks were a combination of distances that equaled a total of 15 feet. The neighboring property to the north took advantage of a zero setback when it was developed by providing 15 feet on the opposite side of the property which was one of the setback alternatives for commercial and industrial. The applicant assumed that since the building was 10 feet off the north side, then five feet on the south was all that was required when they applied for the building permit. The 25'8" expansion provides a very modest amount of storage for the construction business occupying the site. It was reasonable the think that this was possible when the owner purchased the property in June of 2023.

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;*

The granting of a variance to the development standards is a privilege. The standards are in place to protect the rights of neighboring property owners. In this case, the protected right is not a necessity of the neighboring property owner because the use of it is not

incumbered by the granting of setback the relief to the applicant for expansion of their building closer to the property line. The city of Lakeland uses the neighboring property to connect high volume electrical lines to a major power substation. The building expansion will not adversely affect the continued use for those purposes.

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

There is very little buildable space remaining on the property given the amount of area consumed by the existing building, sanitary septic with mounded drain field, and parking lot. This expansion is relatively modest but consumes the remaining buildable area. It is a 55% expansion of the current building.

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. The district is for office, storage, and light industrial uses. The applicant is seeking approval to add storage space to their office.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape or use of the property. It will expand the developable area of the property.

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.*

Prior to the Land Development Code, the property was zoned C-4 from the original zoning map adoption in 1971 to the date the ordinance was repealed on September 1, 2000. Setbacks for the C-4 district were 15 feet on one side and zero (0) on the opposing side. The Comprehensive Plan Future Land Use Map designation has been BPC since 1995. There have been no conditions placed on the property by the Planning Commission or the BoCC.

Surrounding Future Land Use Designations and Existing Land Use Activity:

The table to follow provides details of abutting structures and lot parameters.

Table 1

Northwest: Business Park Center-2 (BPC-2) ±40,800 sq.ft. Light Manufacturing ±750,000 sq.ft. office On a ±2.53 acres	North: BPC-2 ±5,000 sq.ft. Storage Warehouse Open storage area On a ±1.64 acres	Northeast: BPC-2 ±5,000 sq.ft. Storage Warehouse Open storage area On a ±1.64 acres
West: BPC-2 ±40,800 sq.ft. Light Manufacturing ±750,000 sq.ft. office On a ±2.53 acres	Subject Property: Business Park Center-2 (BPC-2) Proposed: ±1,540 sq.ft. storage expansion to a ±2,800 sq.ft. office building On a ±0.51 acres	East: BPC-2 City of Lakeland Powerline tract
Southwest: BPC-2 ±15,212 sq.ft. Office ±40,600 sq.ft. warehouse/ fabrication On a ±11.79 acres	South: BPC-2 City of Lakeland Powerline tract ±9,590 sq.ft. Storage Warehouse On a ±2.28 acres	Southeast: BPC-2 City of Lakeland Electric power substation

The Combee Road corridor (State Road 659) is predominantly industrialized in this area. Well beyond the effective scope of this variance there is an elementary school and residential neighborhood to the east and south of the site. The properties most affected by this request are the ones owned by the city of Lakeland with their high voltage electric power transmission lines that connect to the power substations to the southeast. It is not likely that the city will be constructing any buildings on the opposite side of the applicant's property.

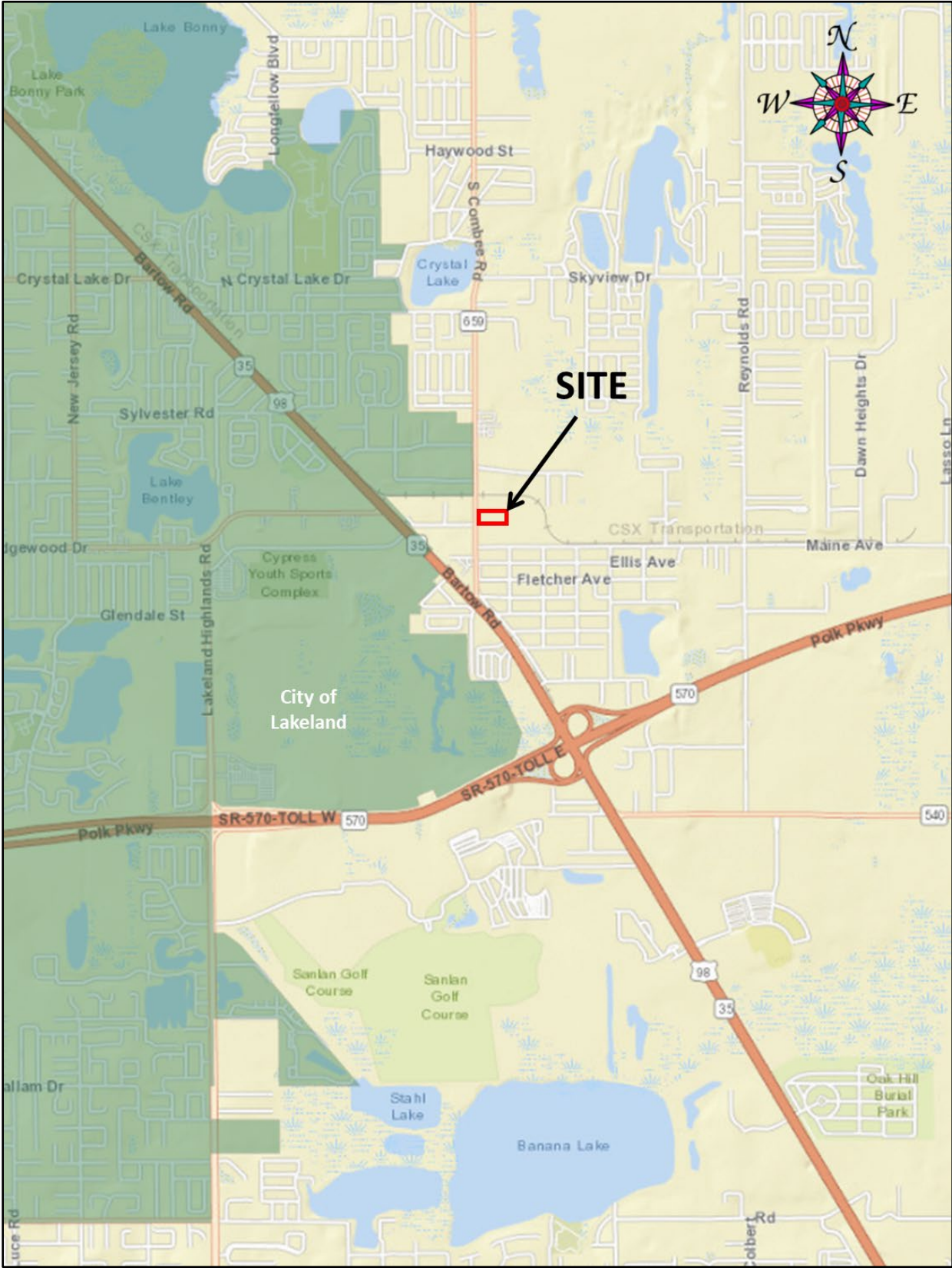
The subject property is very small relative to the surrounding properties. Much of the neighboring properties land area is consumed by outside storage of vehicles, materials, and equipment. There is very little area on the subject property for expansion. The septic tank mound consumes the entire area to the rear of the existing building and the parking lot and right-of-way setback consumes the front. There is even less room on the north side for expansion. Therefore, the south side of the building is the only available area to add to the size of the structure.

Comments from other Governmental Agencies:

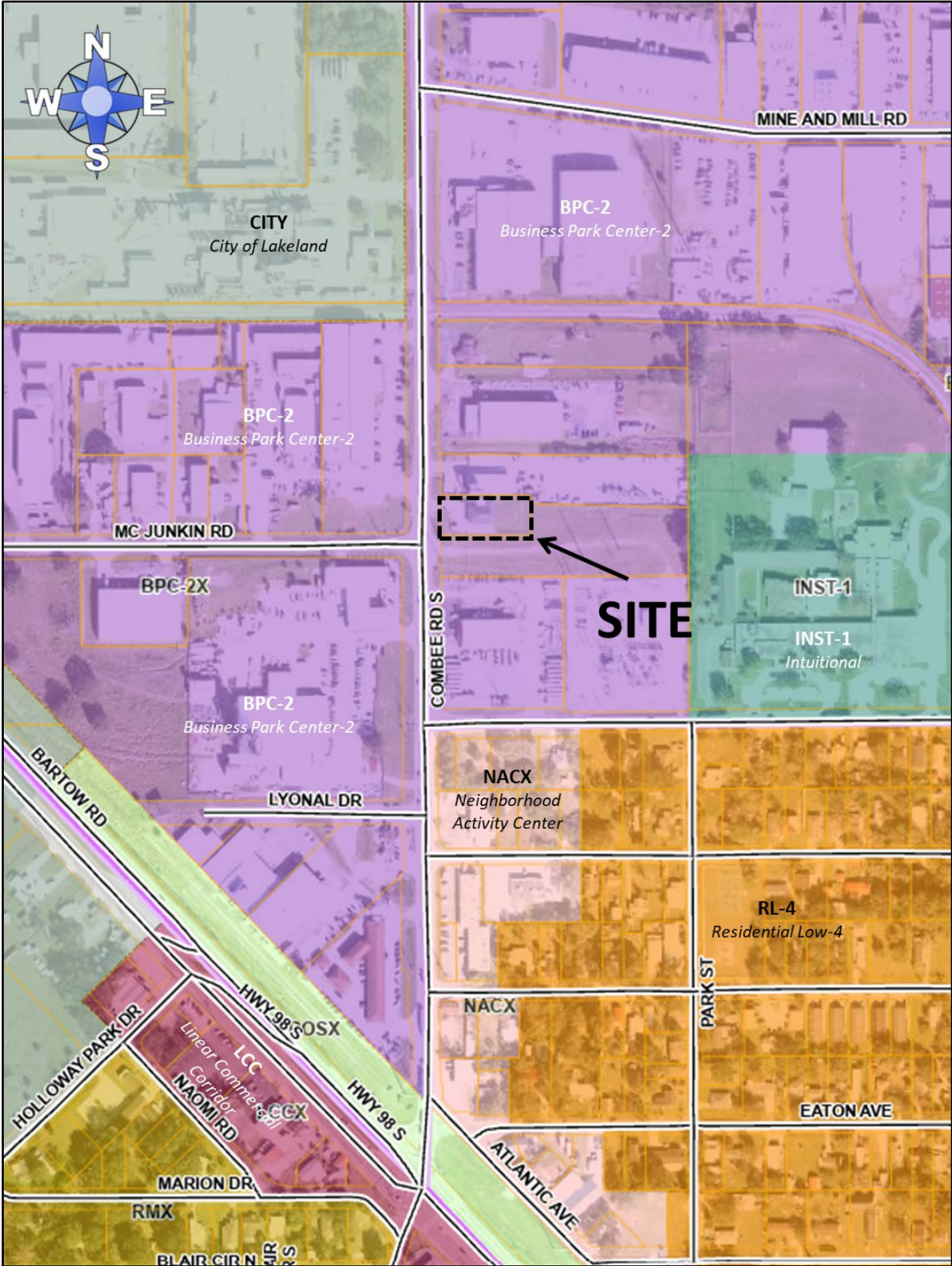
None.

Exhibits:

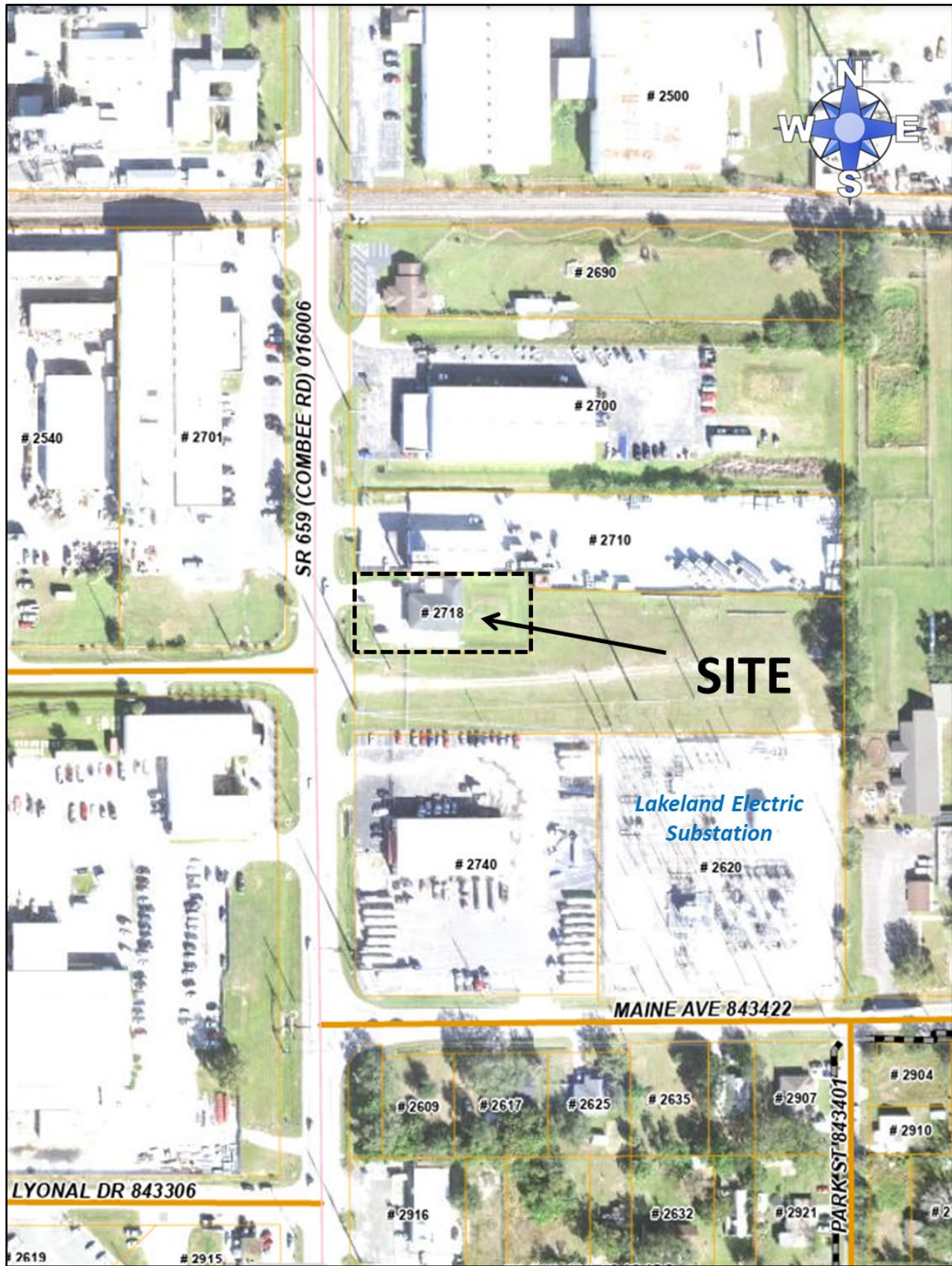
- Exhibit 1 - Location Map
- Exhibit 2 - Future Land Use Map
- Exhibit 3 - 2023 Aerial Photo (context)
- Exhibit 4 - 2023 Aerial Close-up
- Exhibit 5 - Applicant's Site Plan
- Exhibit 6 - Applicant's Justification



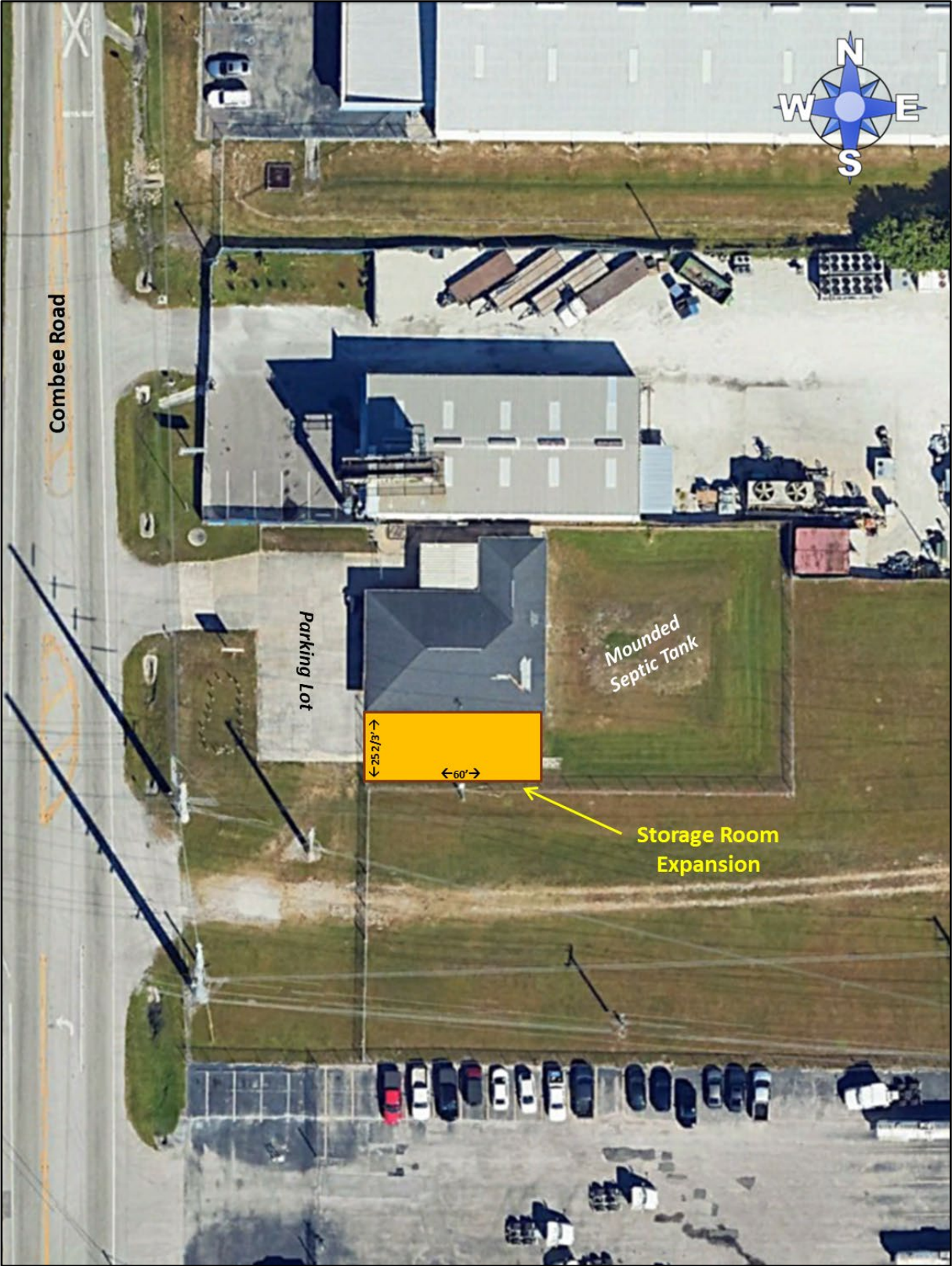
Location Map



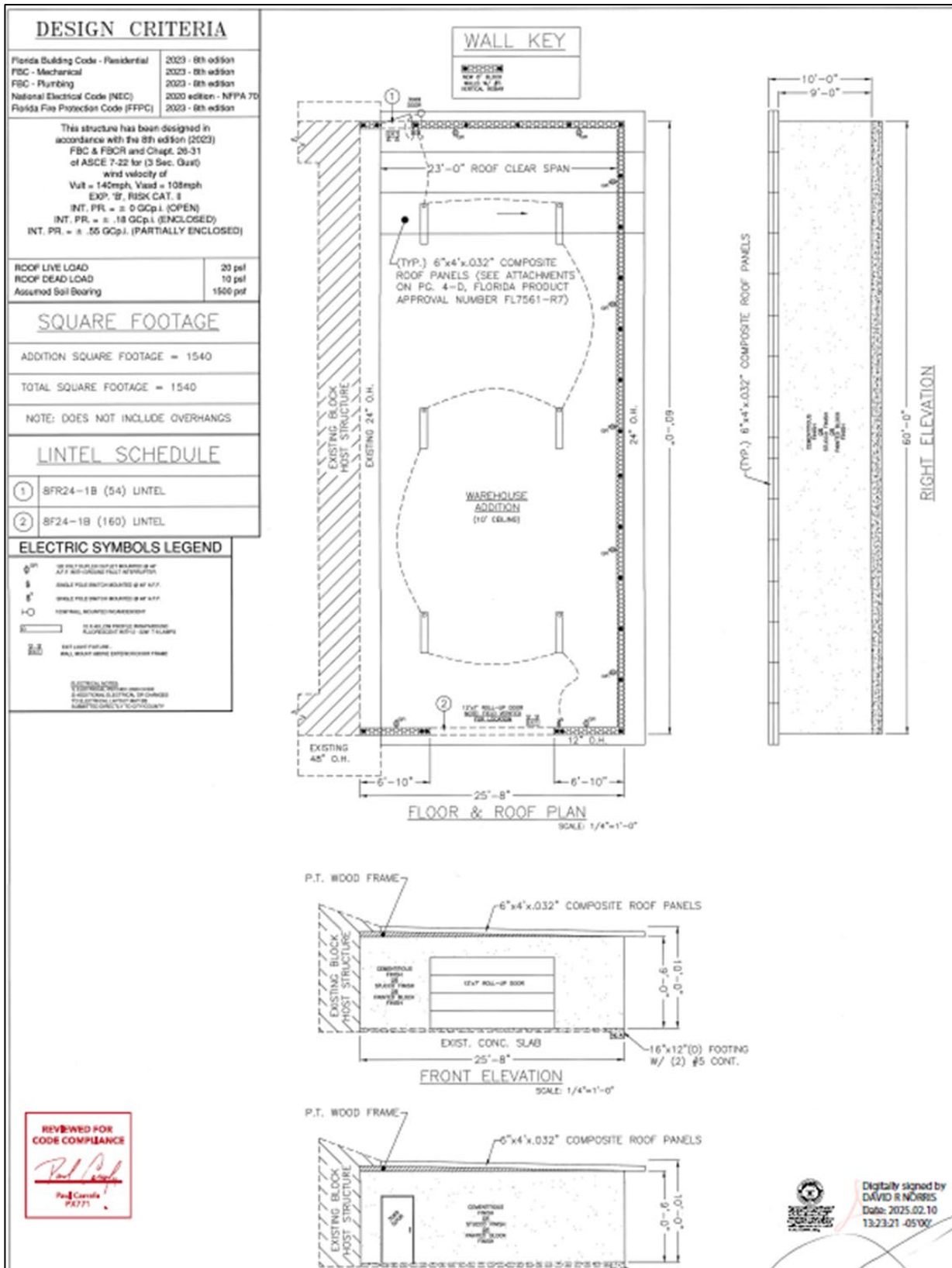
Future Land Use Map



2023 Aerial Photo (context)



2023 Aerial Close-up



Applicant's Site Plan

CRITERIA FOR GRANTING VARIANCE

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

no

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

none

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

purchased 2021 built in 1992

What is the hardship if the variance is not approved?

unable to use this part of the land for expansion of the business

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

yes

Do you have Homeowners Association approval for this request?

n/a

Applicant's Justification