Orange County Zoning Division

VA-18-06-060
Appellant / Applicant: Mohammad Ali

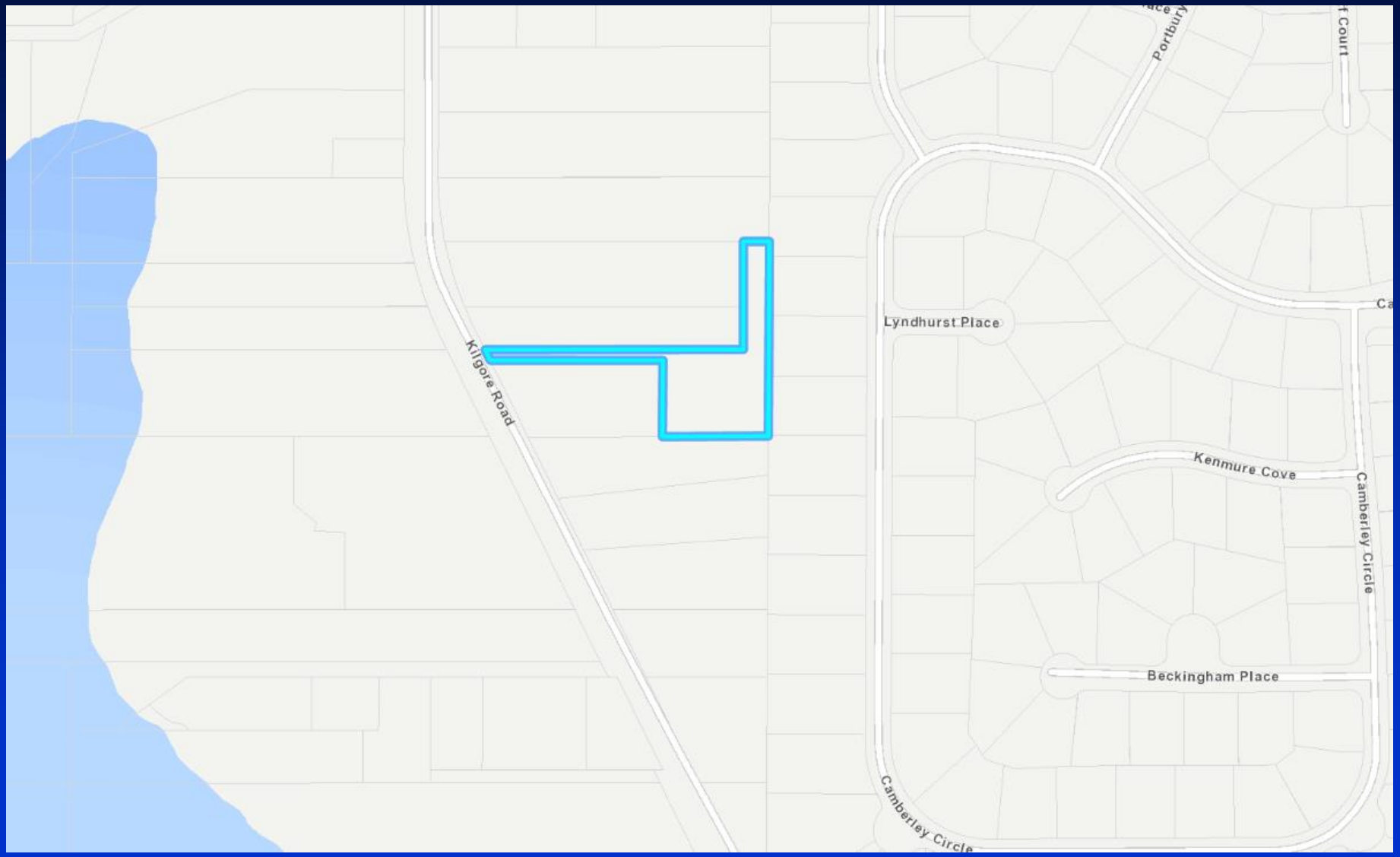
(continued from July 31, 2018)

September 18, 2018

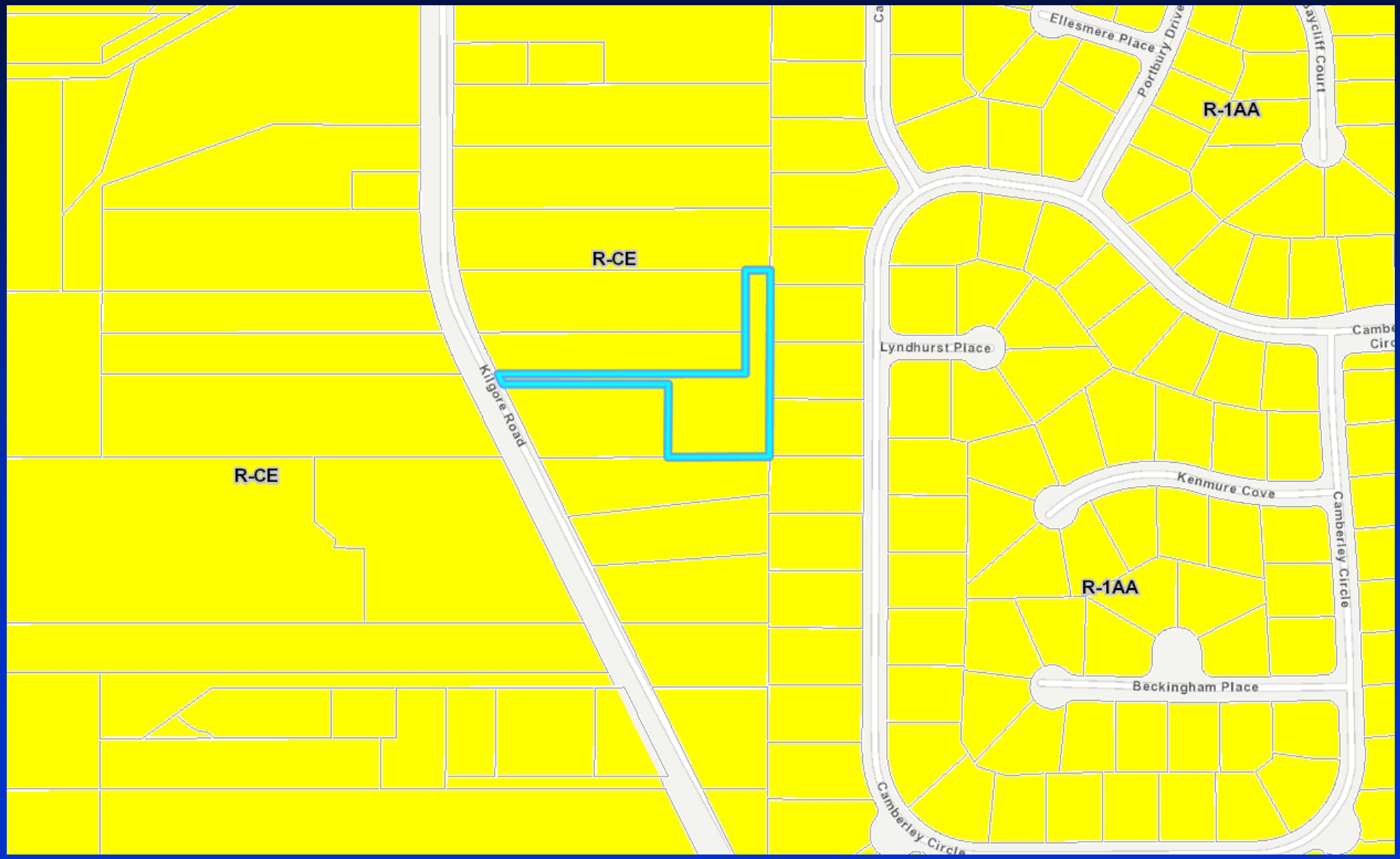
Background

CASE #:	VA-18-06-060
APPLICANT:	Mohammad Ali
REQUEST:	Variance in the R-CE zoning district to allow a chicken coop 12 ft. from the west property line in lieu of 30 ft.
ZONING:	R-CE (Country Estates District)
FUTURE LAND USE:	LDR (Low Density Residential) in Urban Service Area
ADDRESS:	9853 Kilgore Rd.
LOCATION:	West of S. Apopka Vineland Rd., east side of Kilgore Rd.
TRACT SIZE:	1.179 Acres
DISTRICT:	# 1

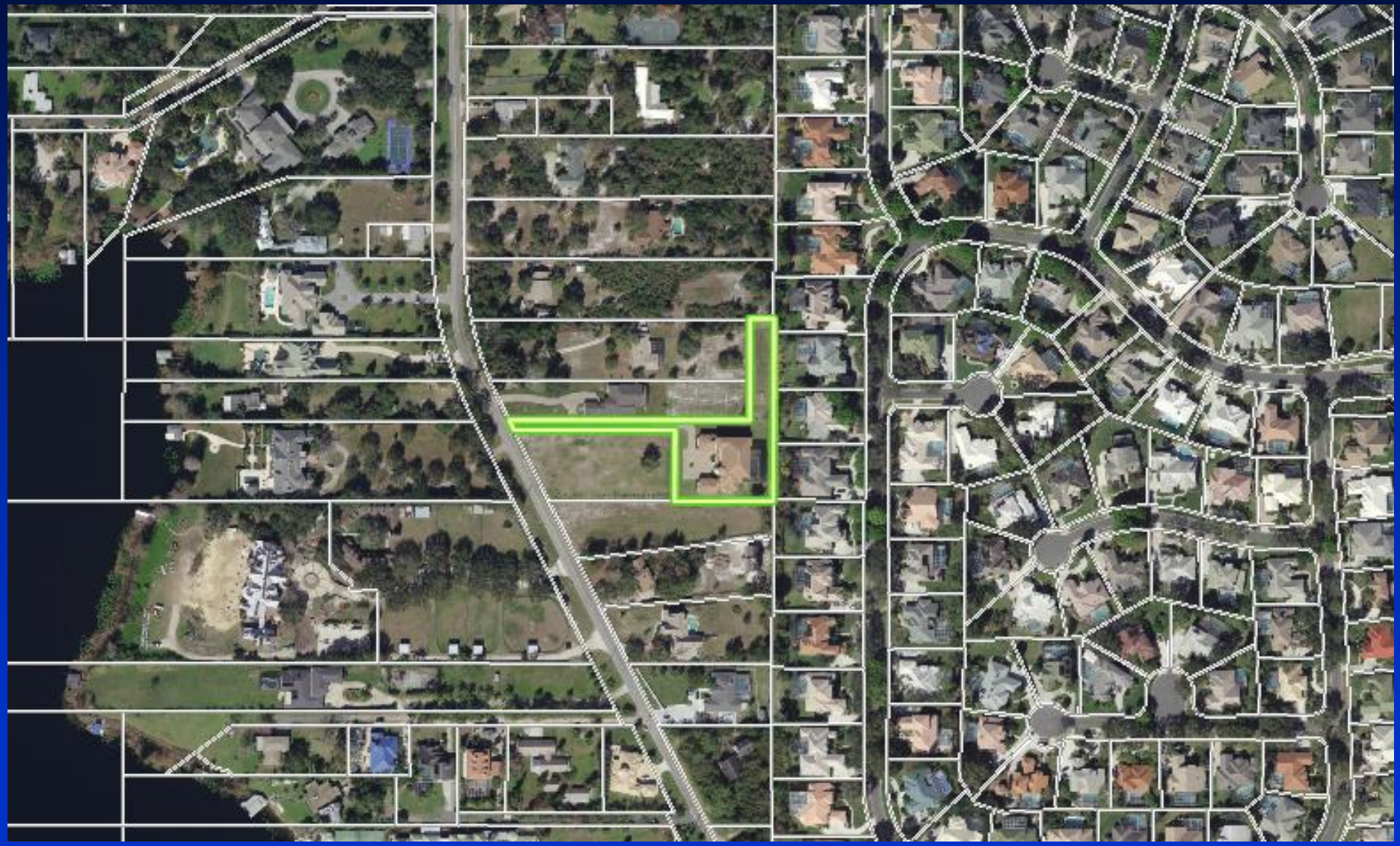
Location Map



Zoning Map

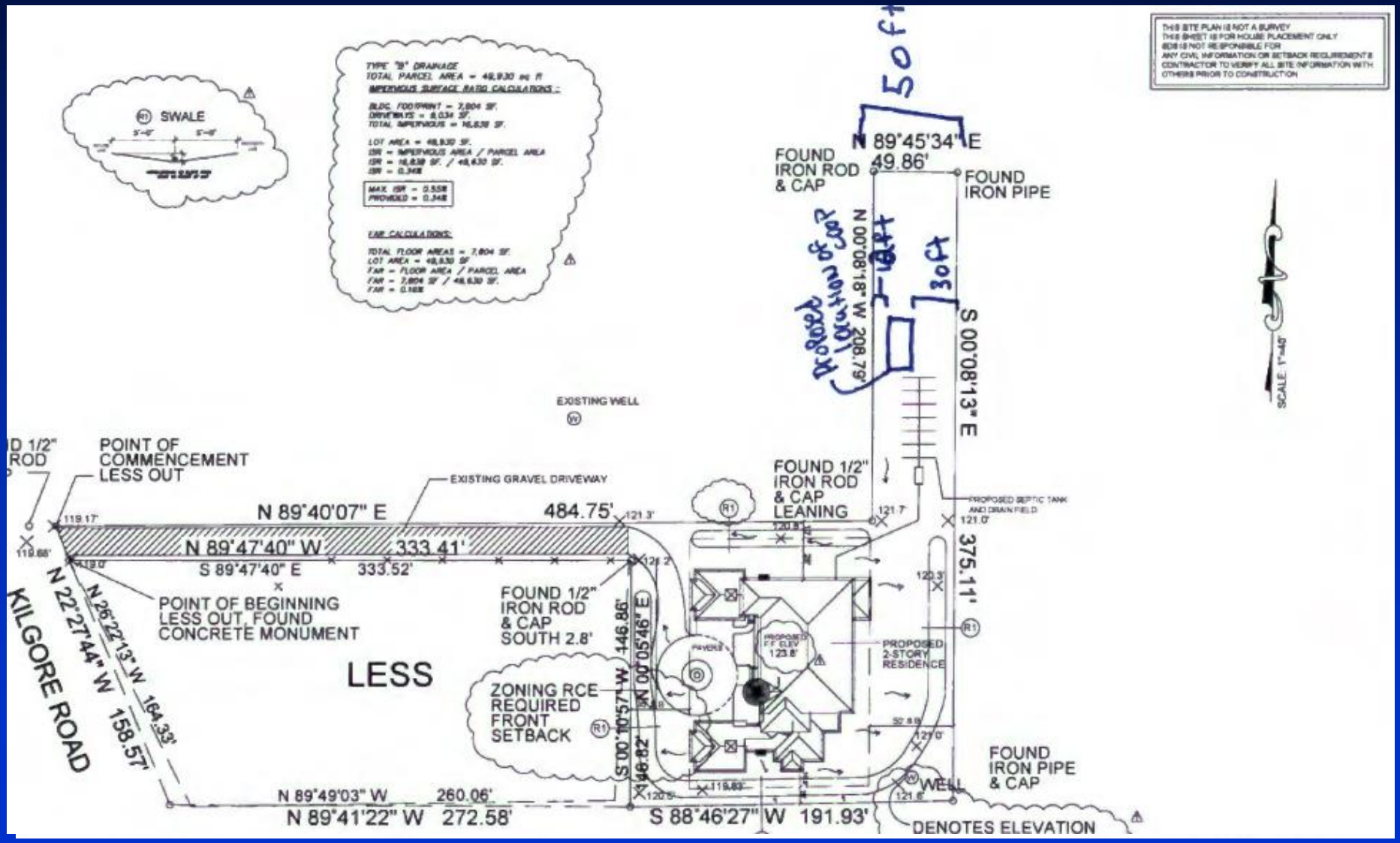

R-CE
R-CE
Kilgore Road
Ellesmere Place
Portbury Drive
R-1AA
Lyndhurst Place
Kenmure Cove
Camberley Circle
R-1AA
Beckingham Place
Camberley Circle

Aerial Map

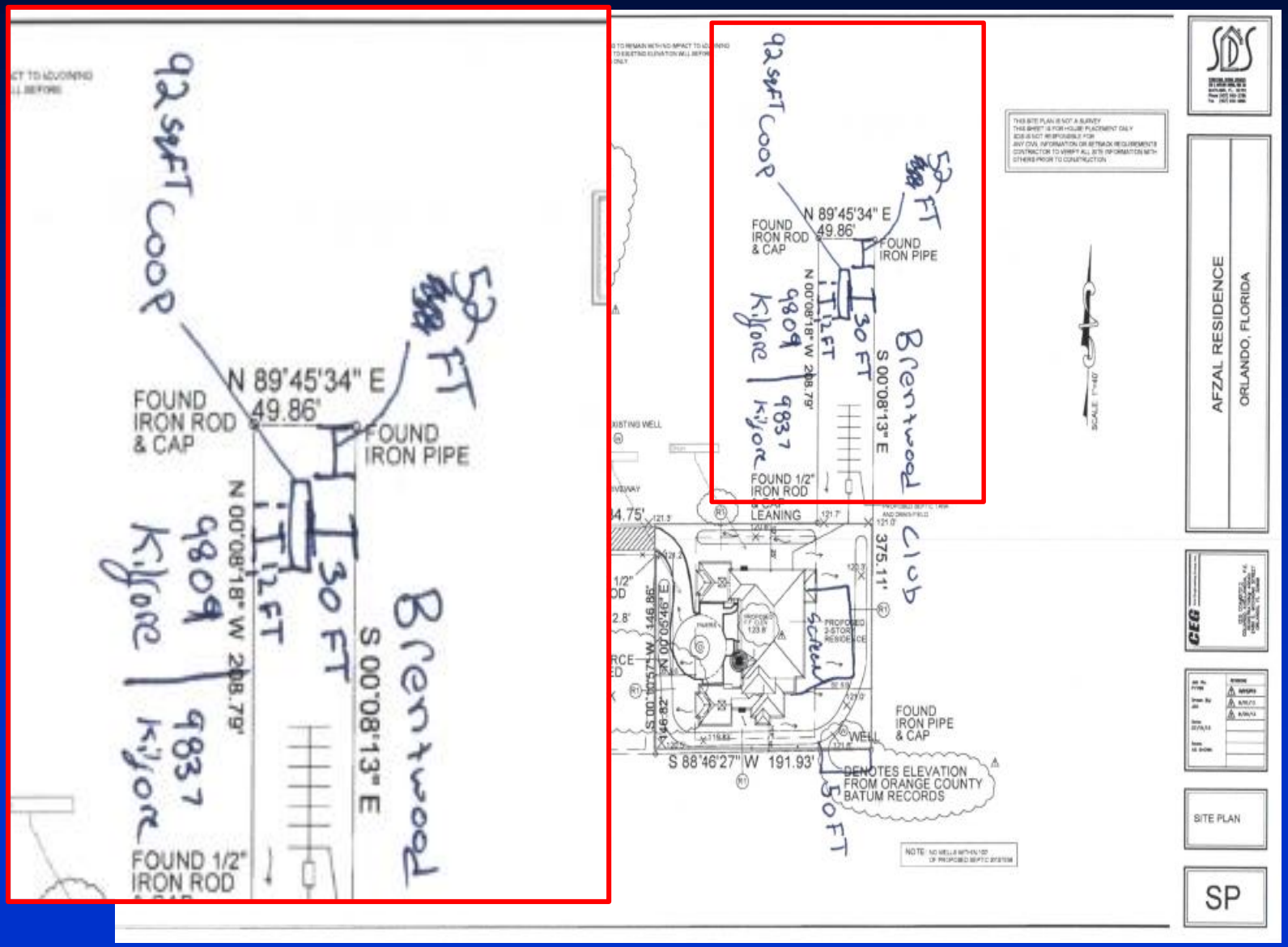


Close-Up Aerial Map

Proposed Site Plan



Revised Site Plan (Aug. 4, 2018)



Site Photo - Looking east from Kilgore Rd at front of subject property

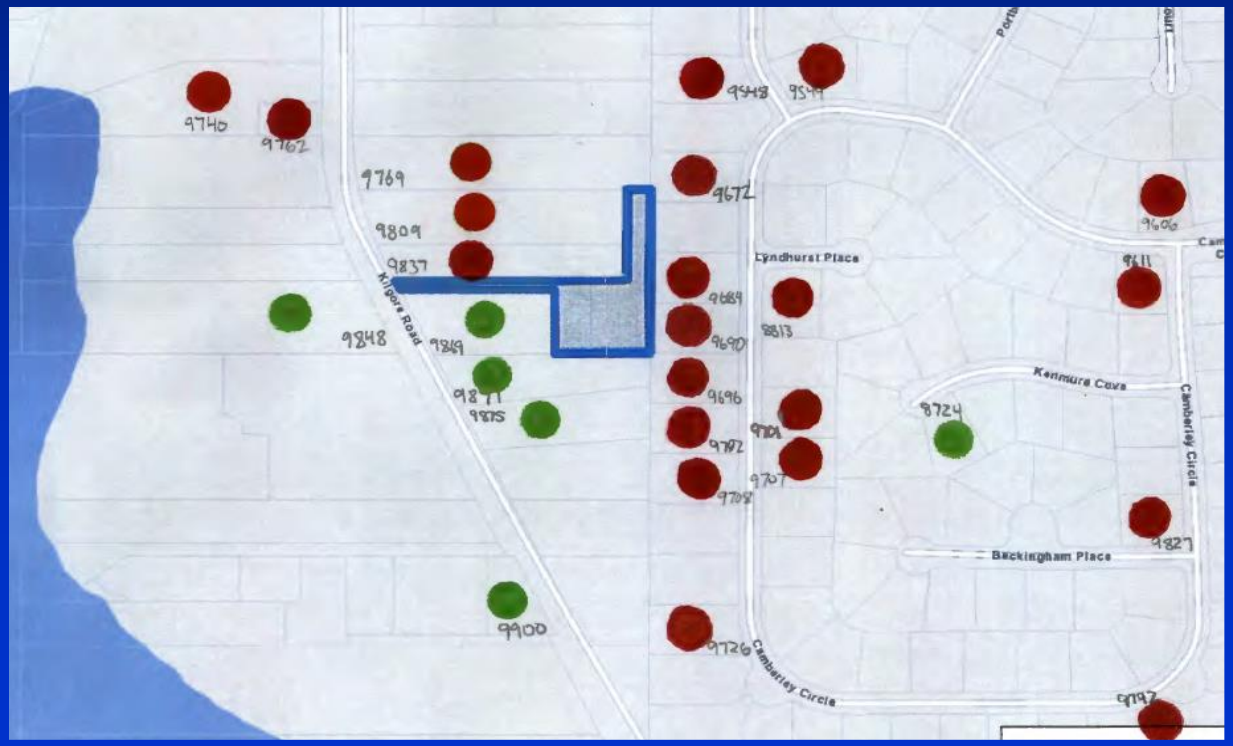
Site Photo – Looking east along north side of subject property

Site Photo – Looking north from the rear yard of subject property

Site Photo – Looking north from the rear yard of subject property

Public Feedback

- Mailed 80 notices to property owners within 500 ft. radius of the property:
- Staff received 6 letters in support of the request.
- Staff received 21 letters in opposition to the request.



Variance Criteria

Variance Criteria: Section 30-43 (3) of the Orange County Code stipulates specific standards for the approval of variances. No application for a zoning variance will be approved unless the Board of Zoning Adjustment finds that the following standards are met:

1. **Special Conditions and Circumstances** - 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 same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of a proposed zoning variance.
2. **Not Self-Created** - The special conditions and circumstances do not result from the actions of the **applicant**. A self-created or self-imposed hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
3. **No Special Privilege Conferred** - Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by this Chapter to other lands, building, or structures in the same zoning district.
4. **Deprivation of Rights** - Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval or objection.
5. **Minimum Possible Variance** - The zoning variance approved is the minimum variance that will make possible the reasonable use of the land, building, or structure.
6. **Purpose and Intent** - Approval of the zoning variance will be in harmony with the purpose and intent of the Zoning Regulations and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Findings

- The property is located in the R-CE, Rural Country Estate district, which allows a single family home and associated accessory structures on minimum one (1) acre lots.
- The applicant is requesting a variance to allow an enclosure/pen for chickens to be located 12 ft. from the west property line in lieu of 30 ft. (Section 38-79(36)
- The R-CE zoning district allows up to 12 chickens (roosters are prohibited) to be contained in an enclosure/pen located at least 30 ft. from property lines.
- Code Enforcement cited the applicant in January of 2018 for having roosters, goats, and an enclosure/pen located less than 30 ft. from property lines. (CEB-2018-374603Z/Incident 499936)

Staff Findings

- The Sept. 2016 Chapter 38 amendments added the prohibition for roosters in the R-CE District and reduced the setback requirements for the pen/coop from 100 ft. to 30 ft.
- Goats have never been permitted in the R-CE District.
- Other locations exist on the applicant's property where the pen/coop could be placed without the need for a variance.
- Staff recommended denial of this request:
  - The applicant has not demonstrated special conditions or circumstances to justify the request.
  - The need for the requested variance is self-created
  - Approval of the request would grant the applicant a special privilege that is not granted to other properties in the area.

BZA Findings and Recommendation

- The need for the variance is self-created
- Approval of this variance will confer special privilege to the applicant
- The applicant is not being deprived of rights, as there are other locations on the property to place the coop
- The request does not meet the purpose and intent, as the request appears to be injurious to the neighborhood and detrimental to the public welfare
- The BZA recommended denial of the variance

Requested Action

- Approve or deny the variance request