

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: December 2, 2019****CASE NUMBER**

6293/4896/3232

**APPLICANT NAME**

Robert J. Isakson

**LOCATION**

740 and 744 Museum Drive and 4619, 4621, and 4623 Spring Hill Avenue  
(North side of Museum Drive, extending to the South side of Spring Hill Avenue; 904'± West of North McGregor Avenue)

**VARIANCE REQUEST**

**SETBACK VARIANCE:** To allow a dumpster within the required minimum front yard setback in a B-3, Community Business District.

**ZONING ORDINANCE  
REQUIREMENT**

**SETBACK VARIANCE:** The Zoning Ordinance prohibits the placement of a dumpster within the front yard setback in a B-3, Community Business District.

**ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

3.34 ± Acres

**CITY COUNCIL  
DISTRICT**

District 7

**ENGINEERING  
COMMENTS**

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit be submitted through Central Permitting.
2. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

**TRAFFIC ENGINEERING  
COMMENTS**

No adverse traffic impacts anticipated by this variance request.

**URBAN FORESTRY****COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

**FIRE****COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code).

**ANALYSIS**

The applicant is requesting a Setback Variance to allow a dumpster within the required minimum front yard setback in a B-3, Community Business District. The Zoning Ordinance prohibits the placement of a dumpster within the front yard setback in a B-3, Community Business District.

The site has been given a Mixed Commercial Corridor (MC) land use designation, per the adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. MCC includes a wide variety of retail, services and entertainment uses.

This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved streetscapes; and improve mobility and accessibility for all users of the corridor.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also

states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant states:

*The existing condition of the location for improvements is asphalt adjacent to the existing dumpster enclosure, sodded green space and parking. The proposed improvement is for a 12' x 10' dumpster enclosure. The dumpster pad will have 6" thick 3,500 psi reinforced concrete slab with 6" curbing on all four sides and plumbing per code requirements. The enclosure will have 8' split face concrete masonry unit walls on 3 sides with a 3' x 7' access door and two 6' x 7' opaque swing gates to access the dumpster.*

*The Variance request is for permission to construct a dumpster enclosure with the code specified 25' front yard setback.*

*The proposed location is preferred for the following reasons:*

- 1. The dumpster has been kept in this location for the life of the building;*
- 2. It allows easy access for the large garbage trucks;*
- 3. Site constraints/parking structure layout would impede access by large garbage trucks to any other location on the property; and*
- 4. Keeping in the general vicinity of the proposed location but also complying with the code setbacks (which still allows easy access for garbage trucks) would block the fire lane in the rear of the building.*

It should be noted that at the time of permitting, the dumpster was shown out of the front setback, and was to have a privacy fence enclosure. However, the site plan was not based on a field survey and both the existing and proposed dumpsters are located within the front yard setback.

As proposed, the dumpster and corresponding enclosure would be constructed within the required 25 foot front yard setback along Museum Drive. Section 64-4.D.9.a. of the Zoning Ordinance prohibits the placement of a dumpster in the front yard or required protection buffer of the building site or in the street right-of-way. To relocate the dumpster outside of the required front yard setback and required buffer to the East would necessitate the dumpster to essentially be located at the front door of the building as connection to sanitary sewer is required for dumpster enclosures.

Additionally, the applicant has stated intent to use split face concrete blocks to construct the walls of the required enclosure. As such, it is important to note that Section 64-4.D.9.c. of the Zoning Ordinance states, "All dumpsters shall be enclosed within a wooden or brick enclosure of at least the height of the dumpster . . .". Even though the proposed material does not meet current

Zoning standards, staff believes that the original intent of the ordinance would nonetheless be met with utilizing the alternate material.

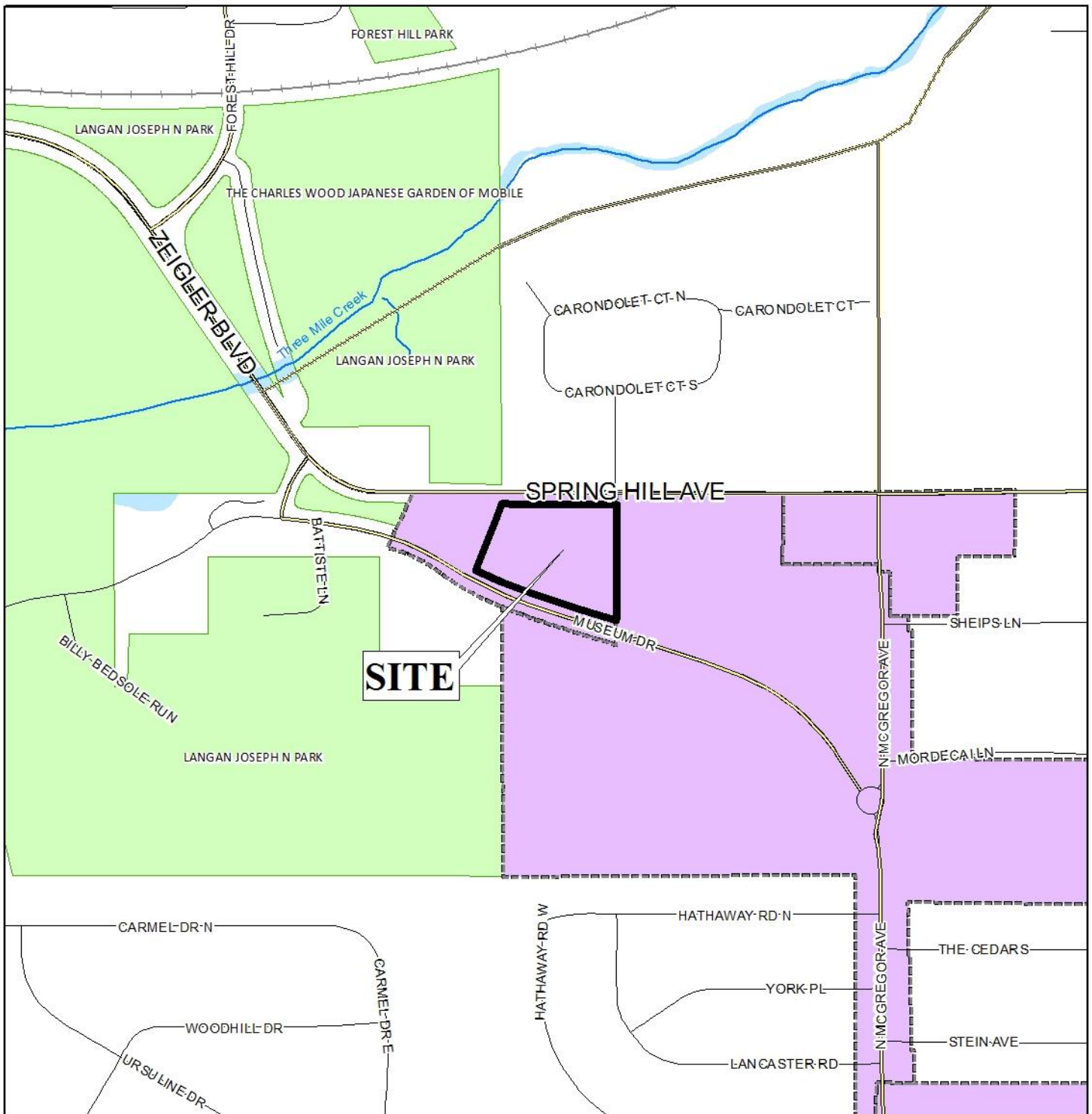
**RECOMMENDATION:** Staff recommends to the Board the following findings of fact for Approved:

- 1) Granting the variance will not be contrary to the public interest in that, the dumpster has existed in its current location since 2013; and
- 2) Special conditions were illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship.
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the request is in line with similar requests that have been approved within the neighborhood.

The approval is subject to the following conditions:

- 1) construction of dumpster enclosure as outlined in the application.
- 2) full compliance with all municipal codes and ordinances

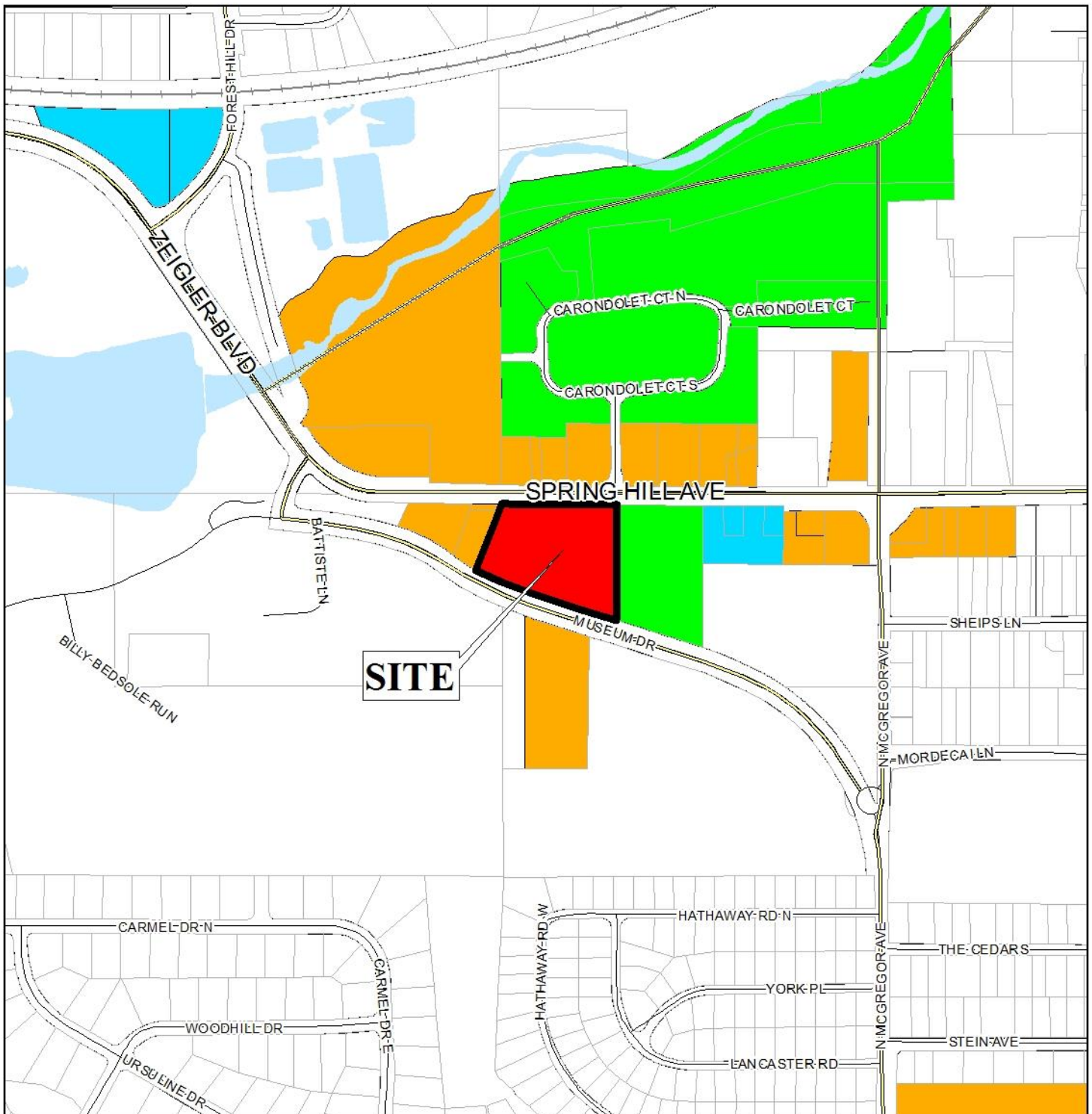
# LOCATOR MAP



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 REQUEST Setback Variance



# LOCATOR ZONING MAP

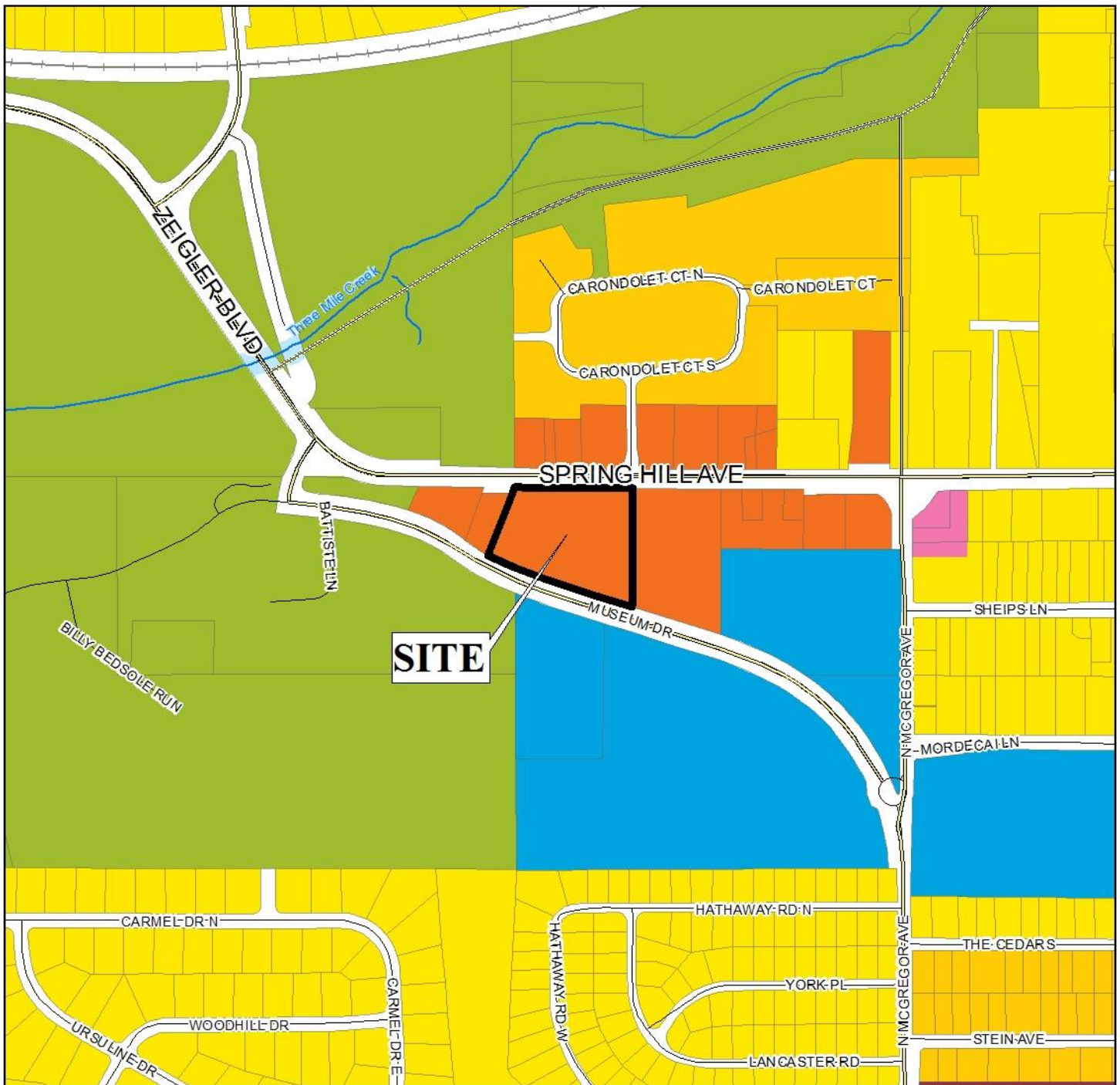


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# FLUM LOCATOR MAP



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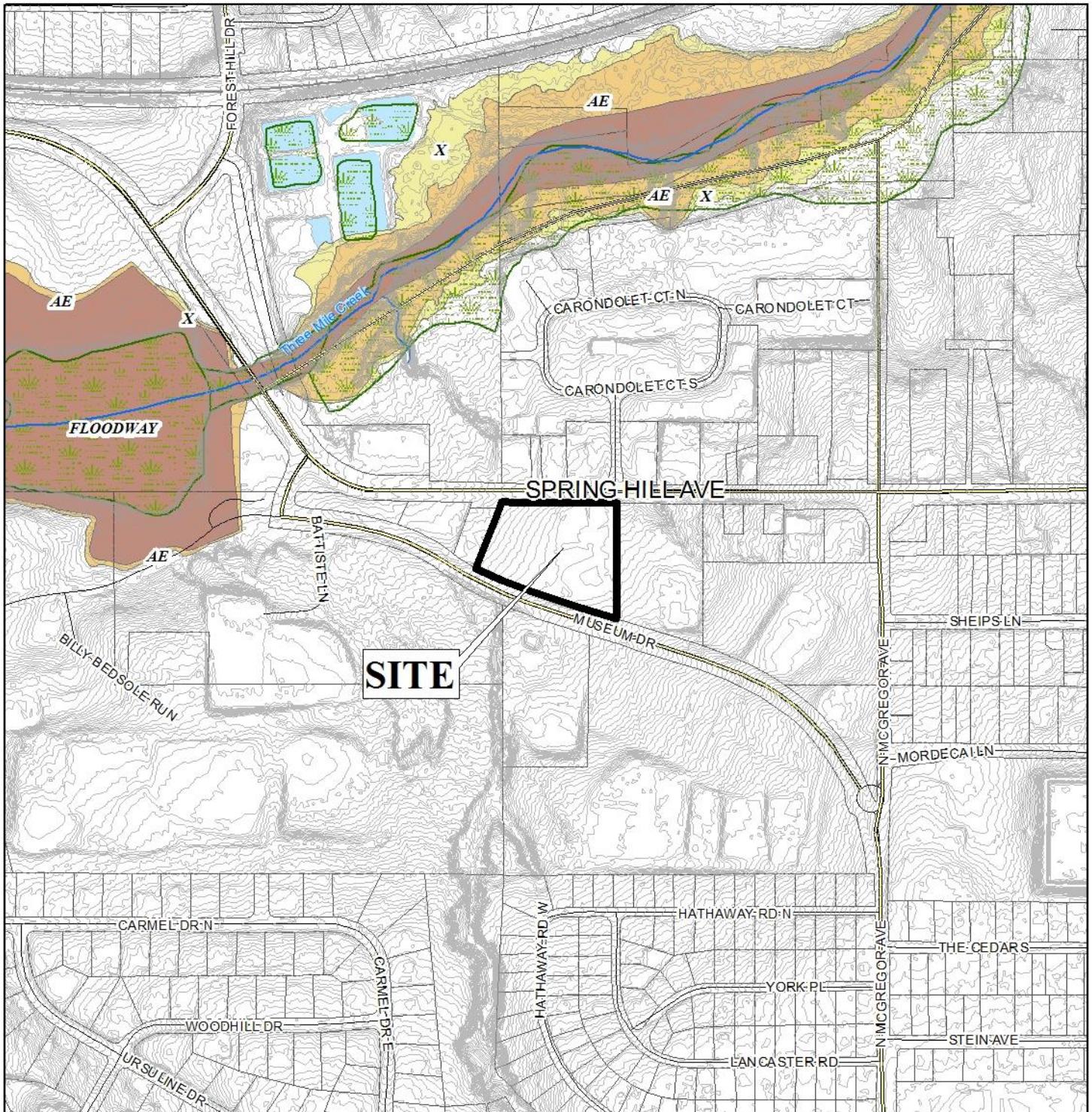
REQUEST Setback Variance

Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	





# ENVIRONMENTAL LOCATOR MAP

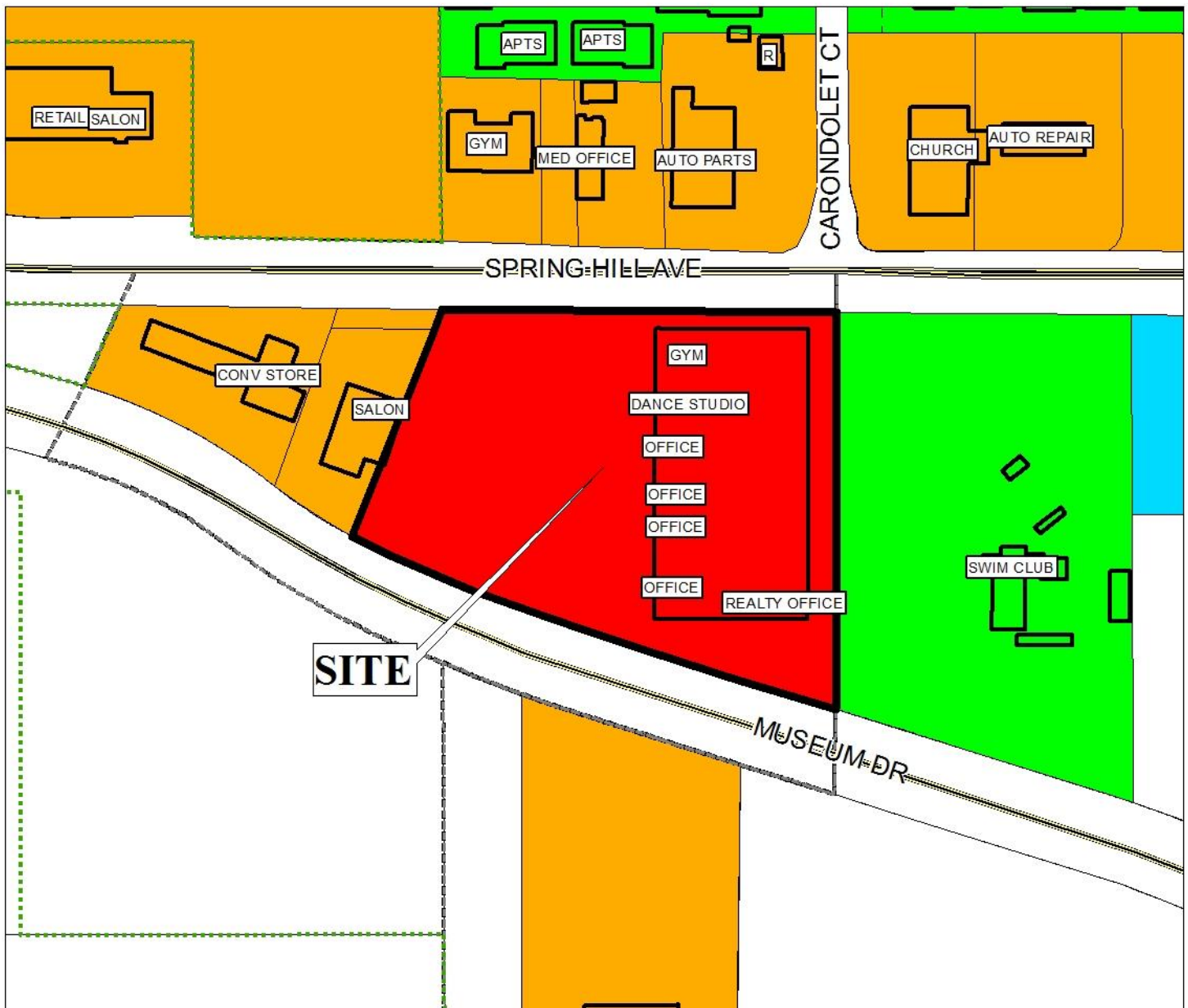


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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

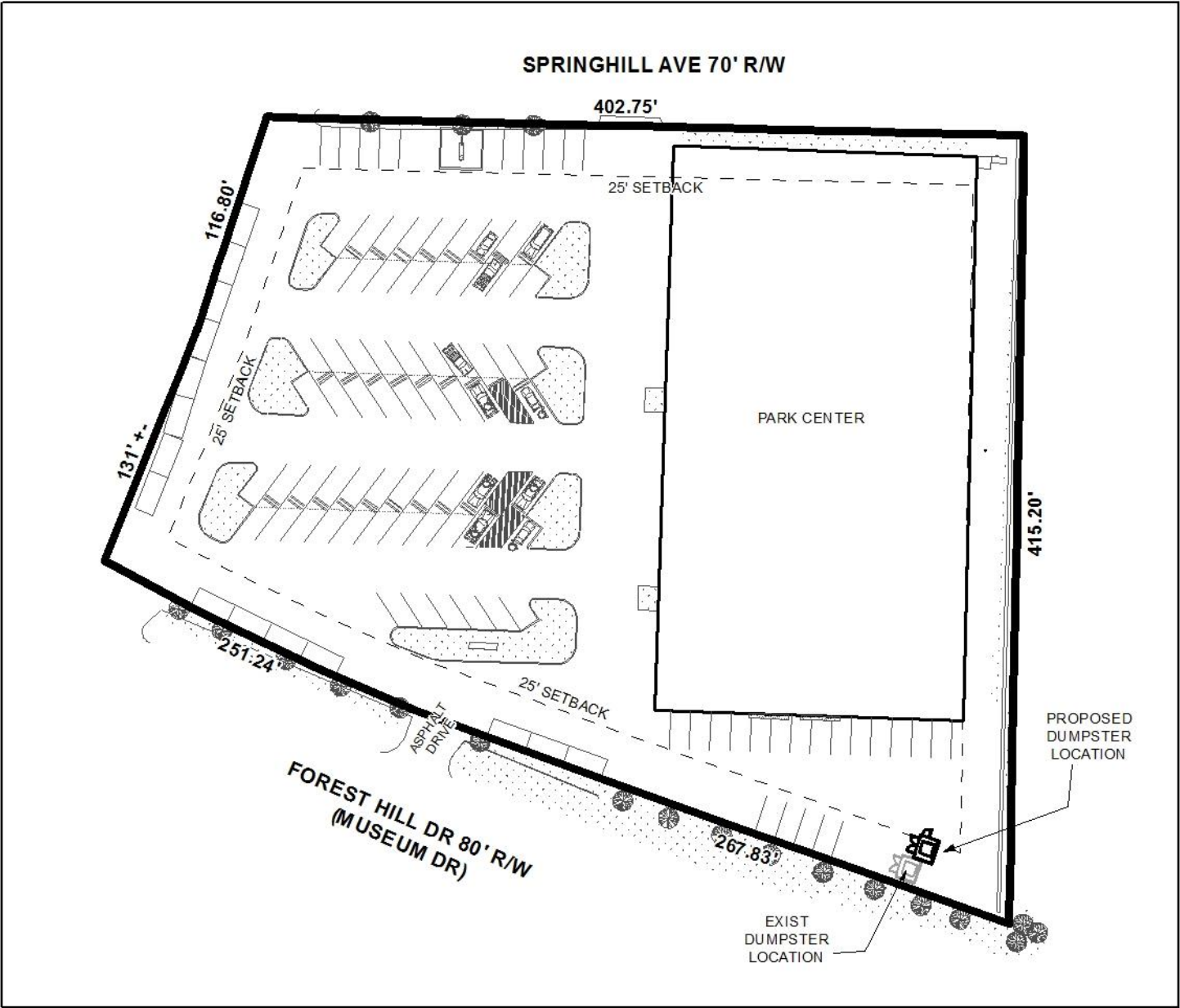


The site is surrounded by commercial units.

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# SITE PLAN



The site plan illustrates the existing dumpster location, the proposed dumpster location and setbacks.

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