

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 4, 2022**

<u>CASE NUMBER</u>	6446/4514
<u>APPLICANT NAME</u>	Anna C. Ferry
<u>LOCATION</u>	5288 Todd Acres Drive (Northwest corner of Todd Acres Drive and Todd Boulevard).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow an accessory dwelling unit in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow an accessory dwelling unit in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential
<u>AREA OF PROPERTY</u>	1.1± Acres
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.
<u>URBAN FORESTRY COMMENTS</u>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.
<u>FIRE DEPARTMENT COMMENTS</u>	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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A

fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL **DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Use Variance to allow an accessory dwelling unit in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow an accessory dwelling unit in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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 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.

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

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.

In 1995, the applicant began the construction of a garage without permits across property lines. The Planning Commission approved a subdivision application to alter the interior lot line with the adjacent property to the West, subject to approval of a reduced setback variance by the Board of Zoning Adjustment. At the September 11, 1995 meeting, the Board denied the request, which was then granted by Circuit Court upon appeal. The applicant now wishes to construct an accessory dwelling unit above the existing garage.

The applicant's narrative states:

Anna C. Ferry and her husband Edward G. Ferry are revising their request of a use variance to add a second story addition onto their garages and part of their house. It has come to our attention, that the best use of this addition would be to provide a home to our son, his wife and our 17-year-old fully handicapped grandson, Malic Little. Our current home layout does not provide the ADA compliant requirements for a safe housing space.

Our Grandson's twin brother, Micah Little, has been accepted into the University of Southern Mississippi and will be leaving for college in August. He currently is Malic's main caregiver, he greets his brother's bus when it arrives at their rental home, gets him into the house, if needed changes his diaper, gives him a snack, removes him from his wheelchair and places him in his recliner. Since both parents work, it is essential that someone be there when Malic gets home from school.

As Grandparents to a happy Malic, we enjoy spending time with him, and he and his Grandfather Ned have a special bond. They love spending time with each other, listening to music and watching TV together. Once Micah goes off to school this summer, Anna and Ned will have the responsibility of meeting Malic's bus and providing the same after school needs that he currently receives from his twin brother. Having our immediate family residing at our same address will make it much more achievable that Malic will be able to receive the care and love that he needs on a constant basis.

This revised use variance request will still be for a 3 bedroom, 2 bath extension with a living room and kitchen. This will be one contiguous home and NOT a free-standing structure. This will allow Malic and his parents the privacy they need as a family.

The garage space is located well off Todd Acres Dr roadway with a 1/4 acre of landscaped yard facing the intersection of Todd Acres Dr. and Todd Blvd. There are numerous trees, bushes, shrubs and lawn space between the intersection of the two roads.

Mrs. Ferry has been a resident at 5288 Todd Acres Dr. since 1987 and Mr. Ferry since 1999. Our current home is covered in Alabama Sandstone and is approximately 3800 sq. ft. We have 6 garages that are attached to the main home providing the space needed for this project and will not interfere with any of our neighbor's enjoyment of their homes and properties.

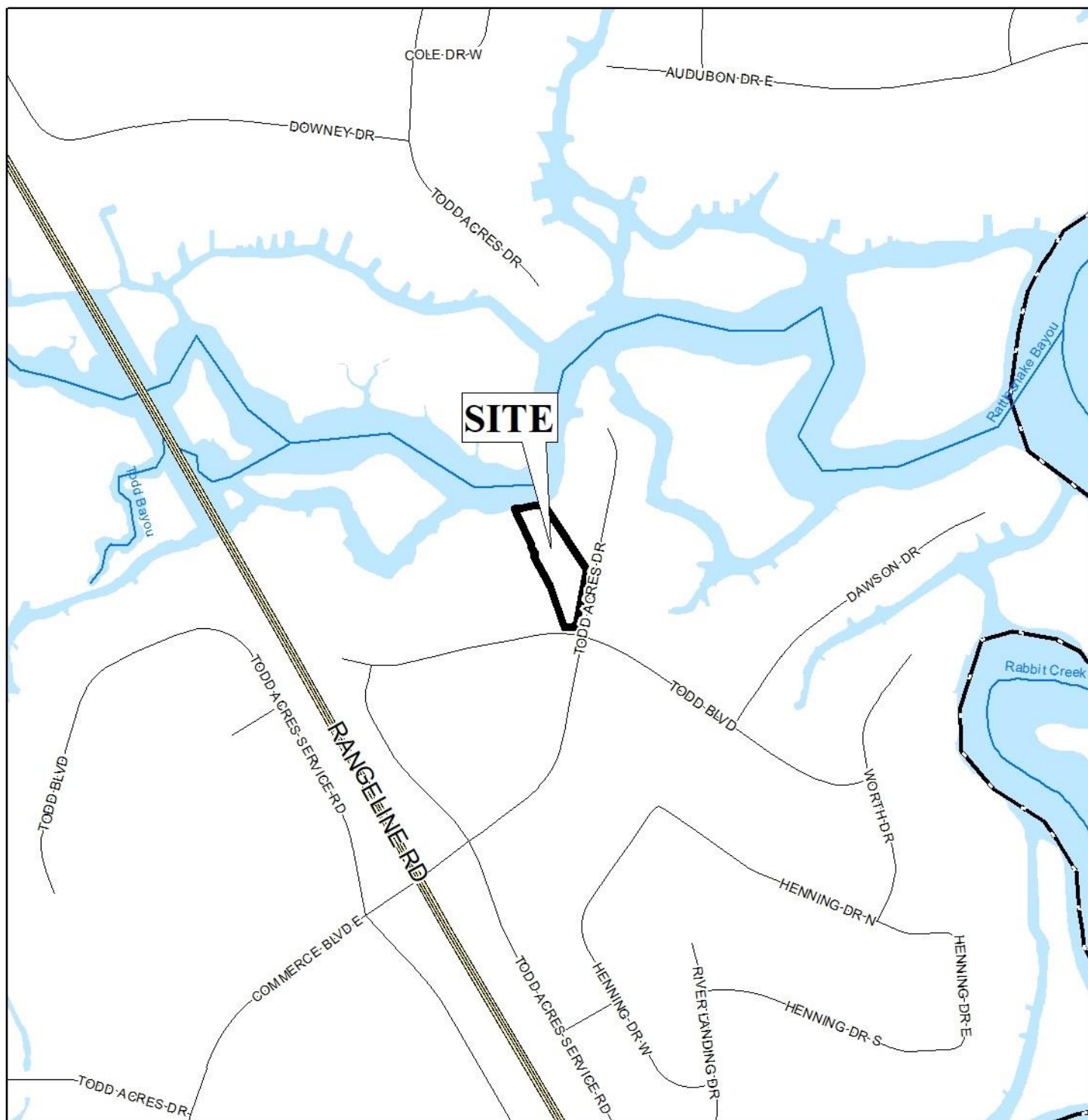
Our legal representative cannot attend the March 7th meeting. We request that our appearance be scheduled for the next available meeting of the Planning Board.

The applicant has stated that the requested variance is to accommodate a family member who has special needs. The applicant could potentially make modifications to the existing structure to accommodate the family member, remove the kitchen from the proposed accessory dwelling unit, or find another location, but have chosen to seek approval to create an accessory dwelling unit instead. While it is understandable that the applicant wishes to make improvements needed for their family, there is no hardship associated with the property to justify the approval of the request.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Denial of the Use Variance request to allow an accessory dwelling unit in an R-1, Single-Family Residential District:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification of the site and use of the surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship based on factors unique to the property; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the use would be incompatible in an established R-1 District.

LOCATOR MAP



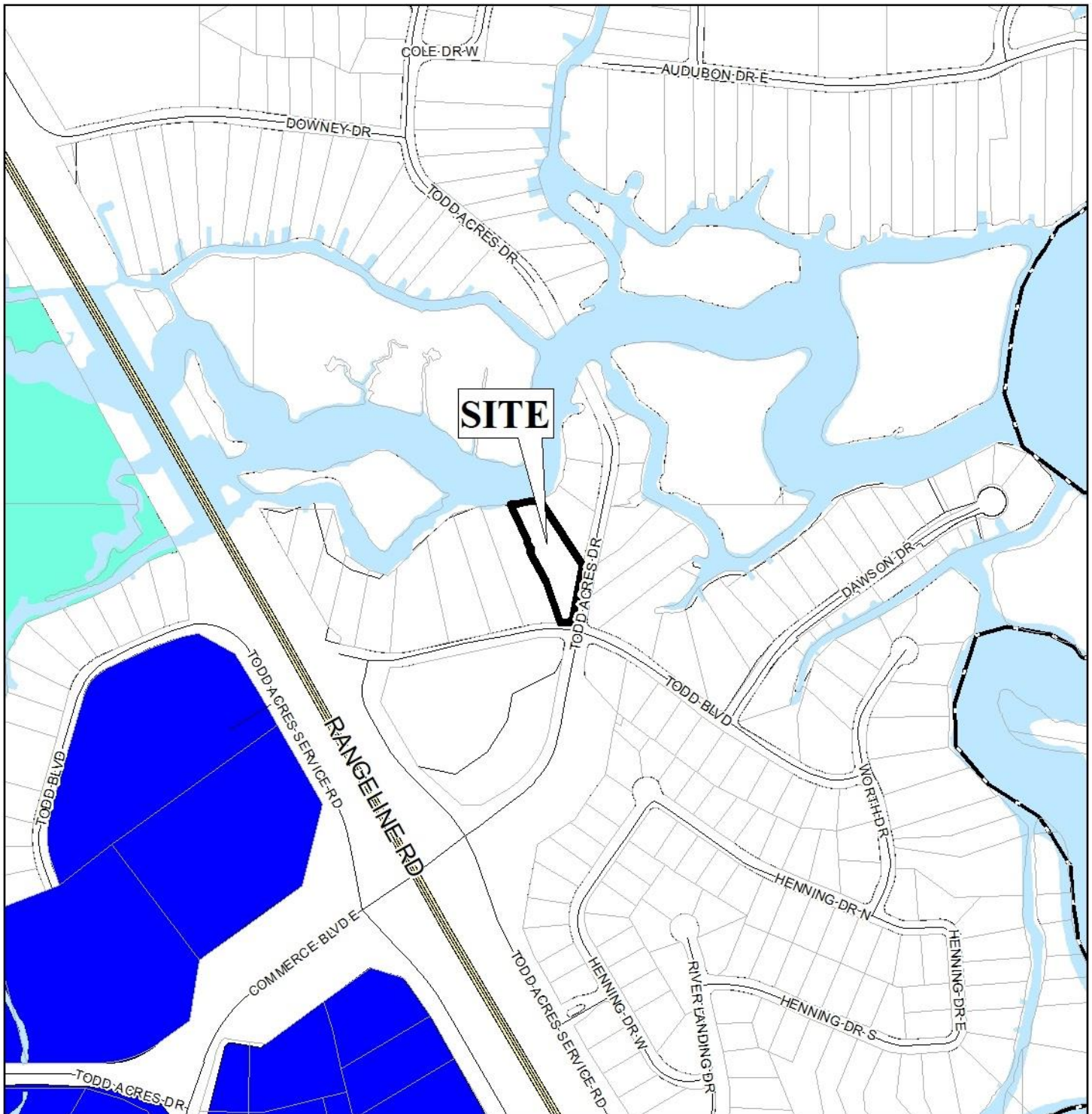
APPLICATION NUMBER 6446 DATE April 4, 2022

APPLICANT Anna C. Ferry

REQUEST Use Variance



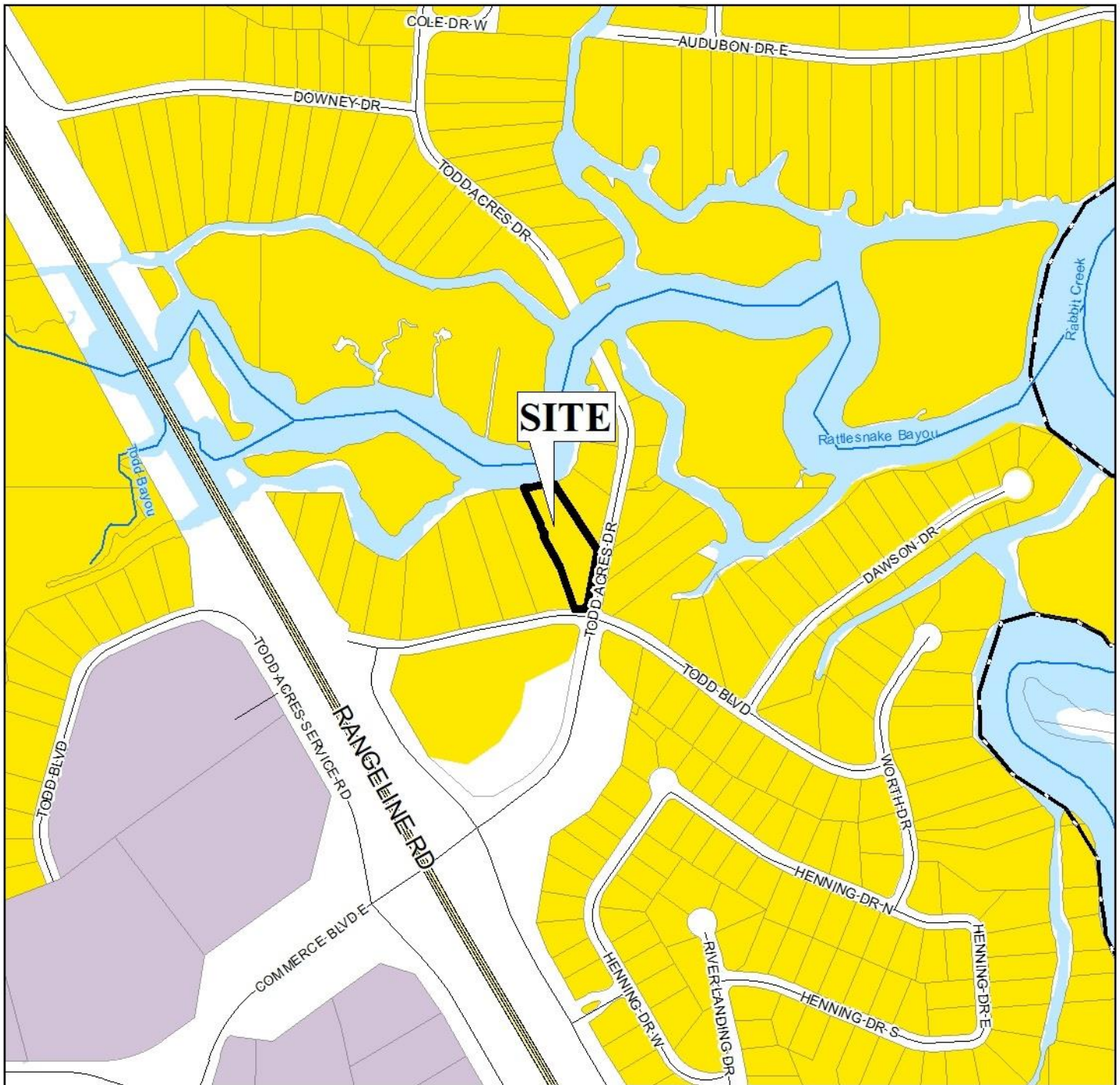
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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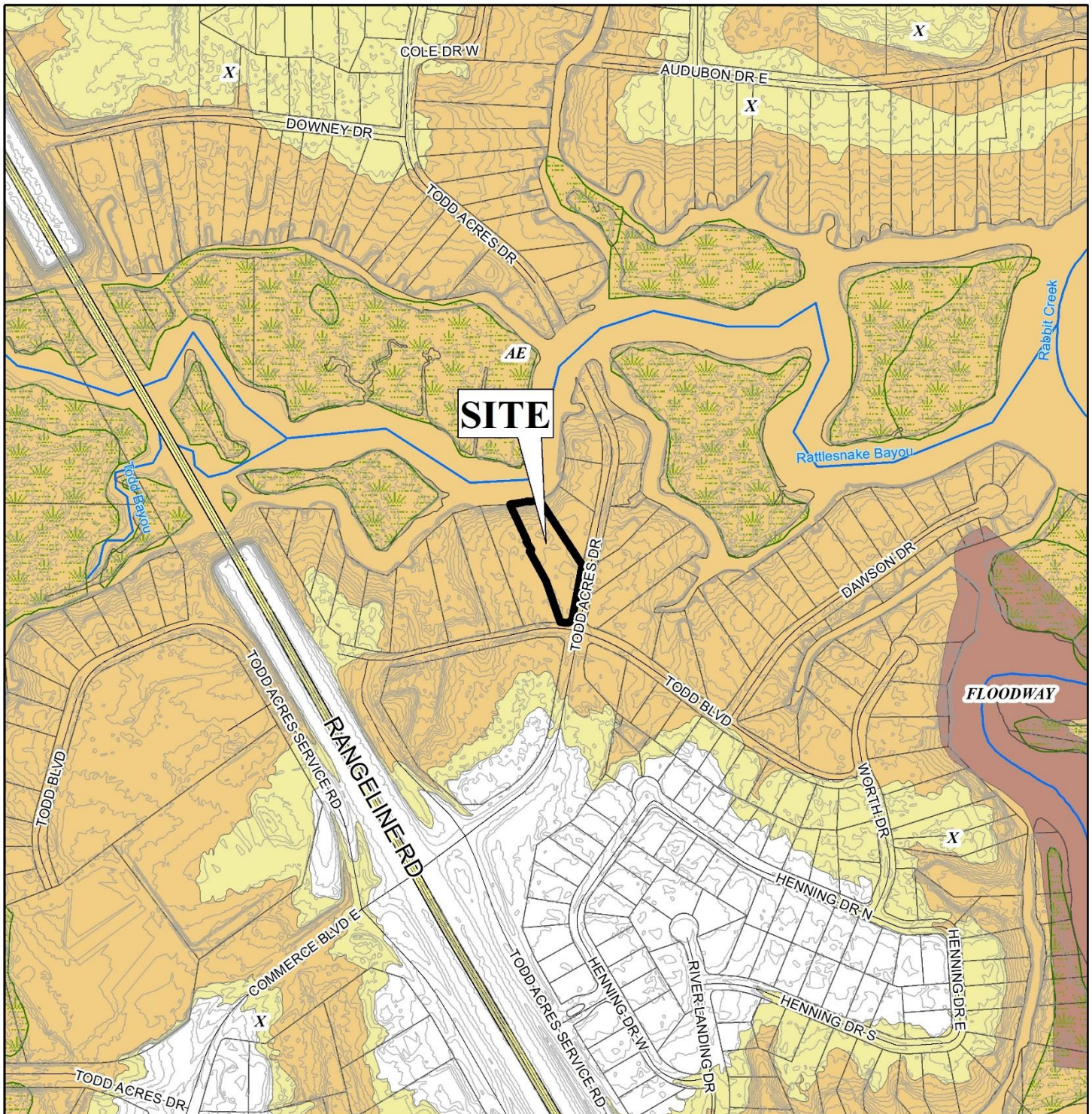
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REQUEST Use Variance

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	



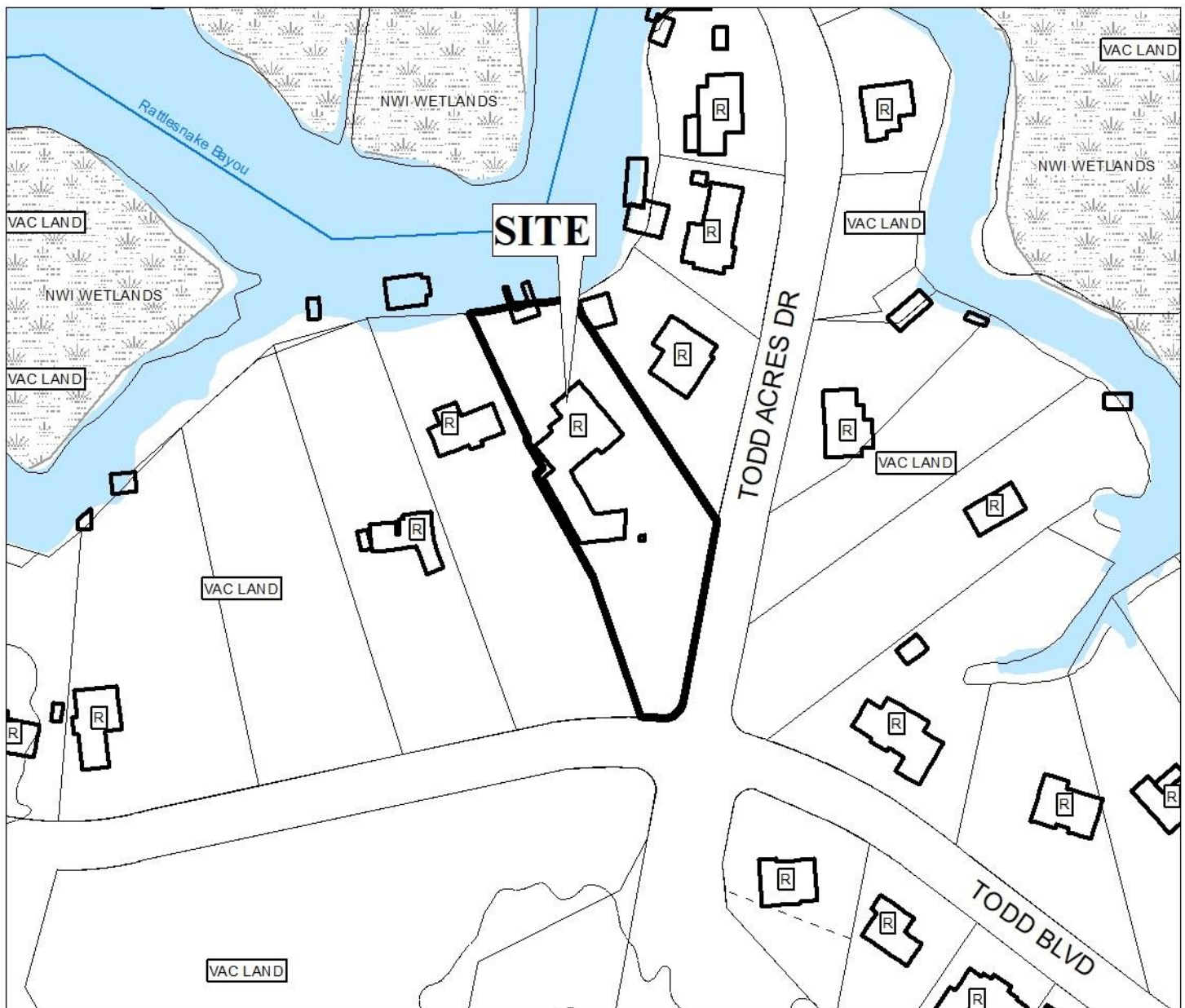
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential 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

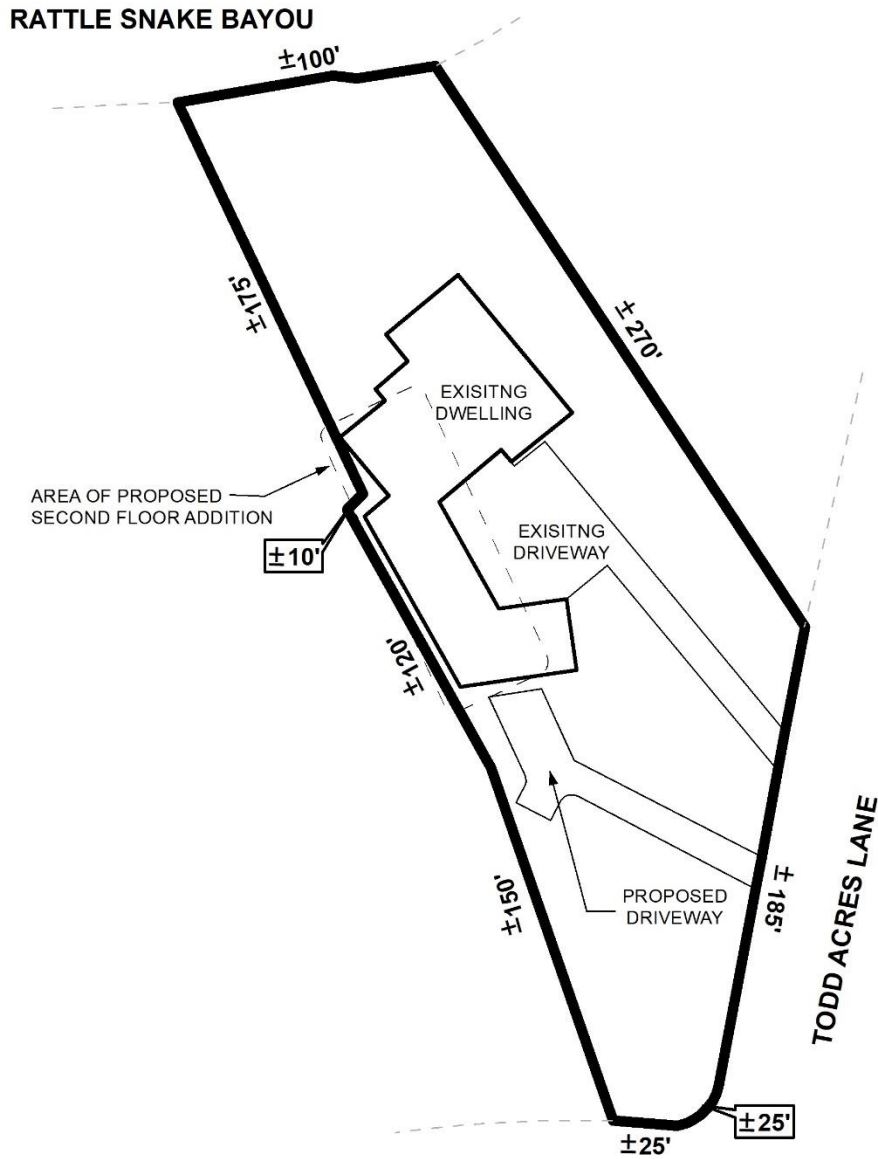


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SITE PLAN

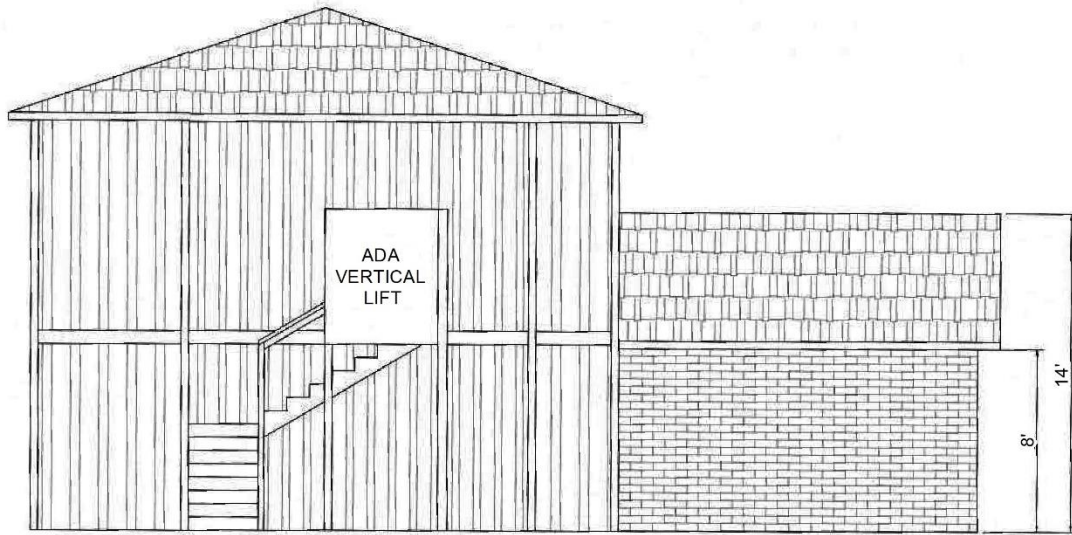


The site plan illustrates an existing dwelling and driveway, and a proposed driveway.

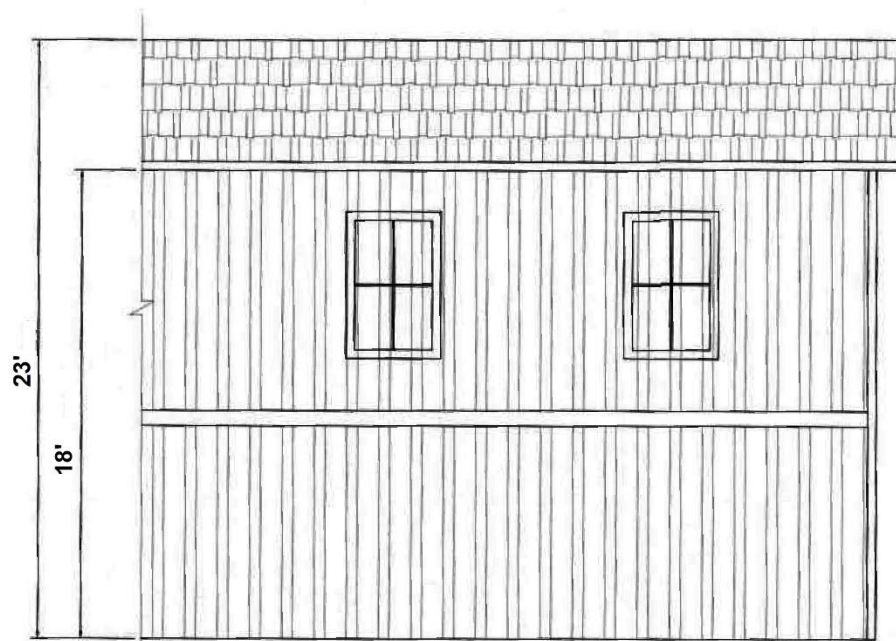
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DETAIL SITE PLAN



SOUTH ENTRY ELEVATION



WEST ELEVATION

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