

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: June 7, 2021**

---

<b><u>CASE NUMBER</u></b>	6389 / 5829
<b><u>APPLICANT NAME</u></b>	The CORE Project, Inc.
<b><u>LOCATION</u></b>	7125 Hitt Road (Southwest corner of Hitt Road and Cody Road South).
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a school for autistic children at an existing church in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance requires a B-1, Buffer Business District, with Planning Approval, for a school for autistic children.
<b><u>ZONING</u></b>	R-1, Single-Family Residential District
<b><u>AREA OF PROPERTY</u></b>	13,600± square feet / 0.3± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 6
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No adverse traffic impacts anticipated by this variance request.
<b><u>URBAN FORESTRY COMMENTS</u></b>	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.

**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). 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.

**ANALYSIS**

The applicant is requesting a Use Variance to allow a school for autistic children at an existing church in an R-1, Single-Family Residential District; the Zoning Ordinance requires a B-1, Buffer Business District, with Planning Approval, for a school for autistic children.

The Zoning Ordinance states that no variance shall be granted where economics is 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 site has been given a Low Density Residential land use designation per the Future Land Use Plan and Map adopted by the Planning Commission. 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.

The Low Density Residential 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 Low Density Residential 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 zero (0) and six (6) dwelling units per acre.

Low Density Residential 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 also 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.

Regarding the Use Variance, the applicant provided the following narrative detailing the proposed use of the property:

*“The CORE Project is a nonprofit corporation which was established in 2020 to serve the full spectrum of individuals in the special needs community. Our purpose is to provide quality clinical care, education opportunities and overall support that will foster and optimize learning throughout the lifetime of our clients and their families. Currently, there are approximately 49 clients enrolled and 60 staff members on site each day.*

*The activities of The CORE Project, Inc. should not generate any excessive noise, odors, air pollution, or excess traffic. There should be no negative impact on the surrounding properties.*

*Currently, the property houses a church and is zoned as R-1. Therefore, The CORE Project, Inc. has been unable to secure a property business license. The application for business license has been denied multiple times due to this zoning issue. In contacting Build Mobile, the organization was advised to submit an application for a Use Variance. Included on the property are approximately 65 parking spaces, 7 of which are paved.*

*The CORE Project provides a continuum of care that includes year-round education, ABA Therapy, onsite collaborative medical and ancillary therapy services. Within the next 5 years, The CORE Project hopes to expand services to provide adult day services, respite care and residential facilities. Our goal is to cultivate a place for the special needs community to thrive and grow to its maximum potential by providing ongoing support for individuals and building a sense of belonging and independence. By doing this, we will allow these individuals to move from “labeled” to living.”*

The applicant also provided the following information regarding the proposed use of the property:

*“The property at 7125 Hitt Rd. will continue to be utilized for church congregation purposes (Episcopal Church of the Redeemer). In addition, the church has leased its space in both buildings to The CORE Project, Inc. to utilize Monday – Friday 7 am – 4 pm. No structural or landscaping changes or improvements have been made or are planned for this property.”*

Section 64-12 of the Zoning Ordinance requires a B-1, Buffer Business District, with Planning Approval, for a school for autistic children.

As mentioned, the site is currently developed and in use as a church. The property was annexed into city limits in October, 2008. As such, the existing use and the existing buildings and other site improvements, including parking, are considered legally non-conforming; however, redevelopment, expansion, demolition, or any other significant changes to the site or its use may require compliance with current codes and ordinances. No such changes to the site are proposed, but it should be noted that the site was the subject of Use Variance Approval at the May 6, 2013 Board of Zoning Adjustment meeting to allow a commercial meal preparation and delivery service to operate from the existing church.

It is unclear if the meal preparation business is currently operating as its business license has not been renewed since October, 2017, but multiple uses of the site require enough parking to accommodate each tenant. The site plan provided depicts a new paved, 62-space lot replacing the unpaved parking on site, but parking calculations for the existing and proposed uses are not provided. One (1) off-street parking space is required per four (4) seats within the church sanctuary for the existing church, but without knowing whether or not the commercial kitchen is operating, or the exact number of employees for the proposed school, it is difficult for staff to determine if the proposed amount of parking is adequate. As such, if approved, the site plan should be revised to depict calculations demonstrating that the proposed parking will adequately accommodate the non-church use(s) of the site. The calculations may include the hours of operation for each use and how their different schedules may impact the amount of required off-street parking at any given time by either requiring more or less parking.

The revised site plan should also depict compliance with the dimensional requirements of Section 64-6.A.2. of the Zoning Ordinance for off-street parking spaces, including International Building Code requirements for van accessible parking spaces. Moreover, staff cannot determine if curbing or wheel stops are proposed to prevent vehicles from extending beyond the parking lot and, as such, this information should also be provided on the revised site plan, if approved.

It appears two-way traffic circulation is proposed for the site, with access limited to a single curb cut onto Hitt Road (there are currently two (2) curb cuts). The dimensions of the on-site vehicle maneuvering areas should be provided on a revised site plan.

Paving of the entire parking area for more than 25 off-street parking spaces may require the provision of parking lot lighting. If lighting is necessary, a photometric plan will be required and shall comply with the parking lot lighting standards of Section 64-6.A.8. of the Zoning Ordinance.

An existing dumpster pad is depicted on the site plan, but it is unclear if it meets the enclosure and sanitary sewer connection requirements of Section 64-4.D.9. of the Zoning Ordinance.

Trees are illustrated on the site plan, many of which are proposed to be removed to accommodate construction of the proposed parking lot. Separate tree removal permits may be required, thus the applicant should coordinate with Urban Forestry prior to the removal of any trees.

A playground is depicted on the site plan, to the rear of the existing church building, but no additional information is provided with respect to fencing or play equipment. Any fence

constructed on the property requires a separate building permit. Additional information regarding the playground should be illustrated on the revised site plan, if approved.

Regarding the proposed use of the property, the site is adjacent to property zoned R-3, Multiple-Family Residential District, to the East; R-1, Single-Family Residential District, to South; and, property within an unincorporated part of Mobile County, to the North and West. The properties to the South and West are currently being used as single-family residential, the property to the East is vacant, and the property to the North is used as a church and private church school.

While the property to the North of the subject site is used as a church and church school it is not within city limits and is therefore not subject to the Zoning Ordinance. However, depending on how long it has been operating, it may demonstrate that a school does not negatively impact the surrounding area. Nevertheless, while the applicant provided a detailed scope of work for the proposed use of the property as a school with extended services to address the unique needs of their clients, they did not provide any information demonstrating hardships specific to the property that justify the approval of the variance request.

Initial consultation by staff with Building and Fire Code representatives indicate that the use may be a change of occupancy, which may require building alterations to comply with Building, Mechanical, Plumbing, Electrical, and/or Fire Code requirements. Such alterations will require the applicant to submit construction plans for review and approval before permits can be obtained, which are required to ensure the structure meets minimum safety requirements. The applicant should consult with the Building and Fire Inspectors regarding code compliance.

Finally, it should be reiterated that variances are not intended to be granted frequently; and, while a variance has been granted to the property, it was for a business whose use of the site is less intense in nature than perhaps the requested use. Furthermore, the proposed use and general scope of services is similar to a traditional school, which would only be subject to Planning Approval by the Planning Commission. Approving the variance would, therefore, be contrary to at least Section 64-12 of the Zoning Ordinance and may establish a precedent by which less desirable variance requests could be approved in the future, especially if no special conditions or hardships to an individual property exist.

**RECOMMENDATION:** Based on the preceding, staff recommends the application be Heldover to the July 12, 2021 meeting, with additional information submitted by June 28<sup>th</sup> to address the following:

- 1) Provide the scope of proposed improvements to the parking area; and,
- 2) Coordinate with Building and Fire Code Officials to determine the required improvements for the proposed use of the site.

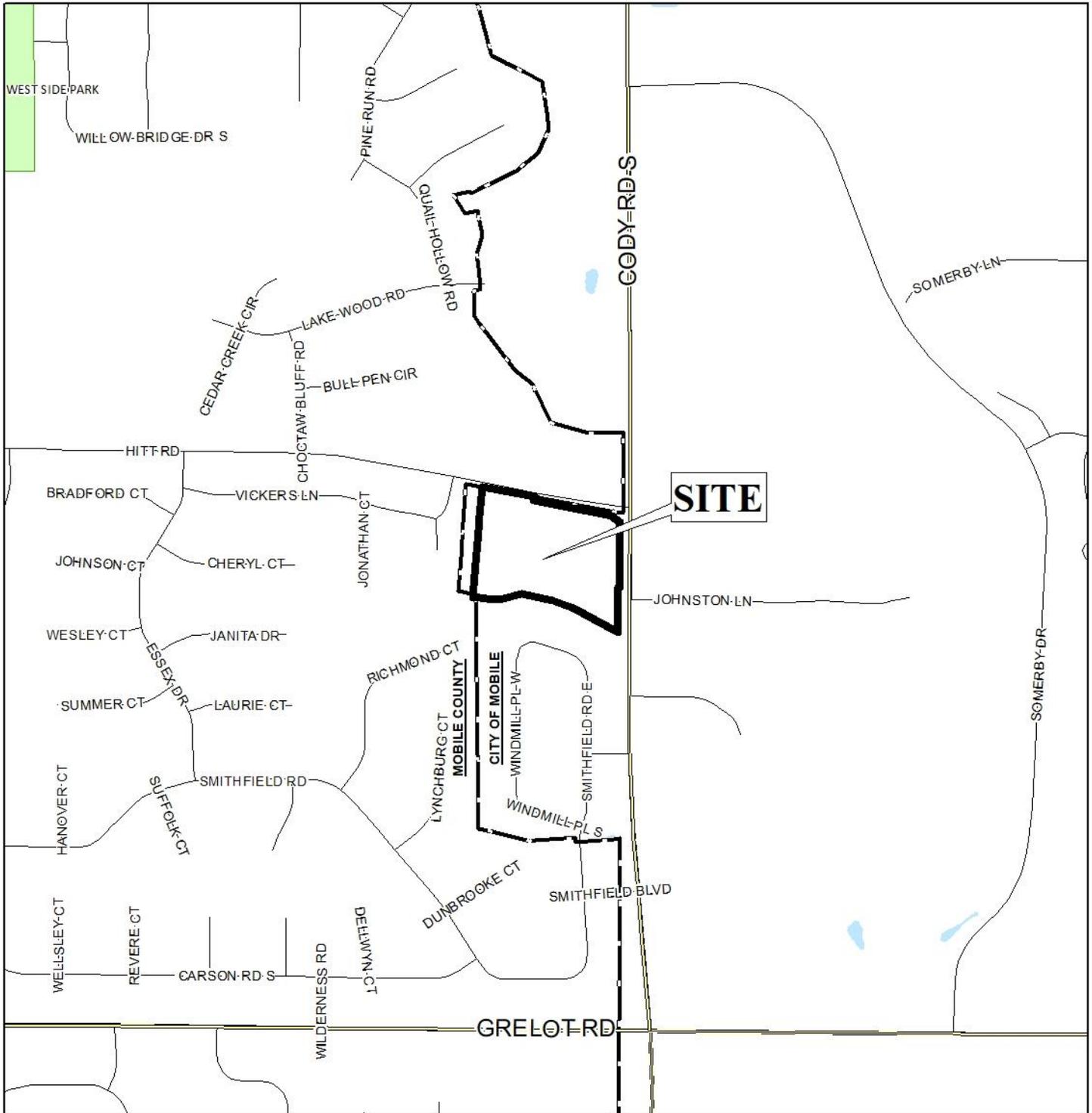
**Revised for the July 12<sup>th</sup> meeting:**

*This application was heldover by the Board at its June 7, 2021 meeting to allow the applicant to provide a scope of proposed improvements to the parking area, as well as meet with Building and Fire Code Officials in regards to required improvements to accommodate the proposed school. The applicant has advised staff that no improvements are to be made to the existing parking lot, and has been in communication with Building and Fire Code inspectors.*

**RECOMMENDATION:** *Based on the preceding, staff recommends to the Board the following findings of fact for Denial for the Variance requests:*

- 1) The variance will be contrary to the public interest;*
- 2) Special conditions do not appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variance.*

# LOCATOR MAP



APPLICATION NUMBER 6389 DATE July 12, 2021

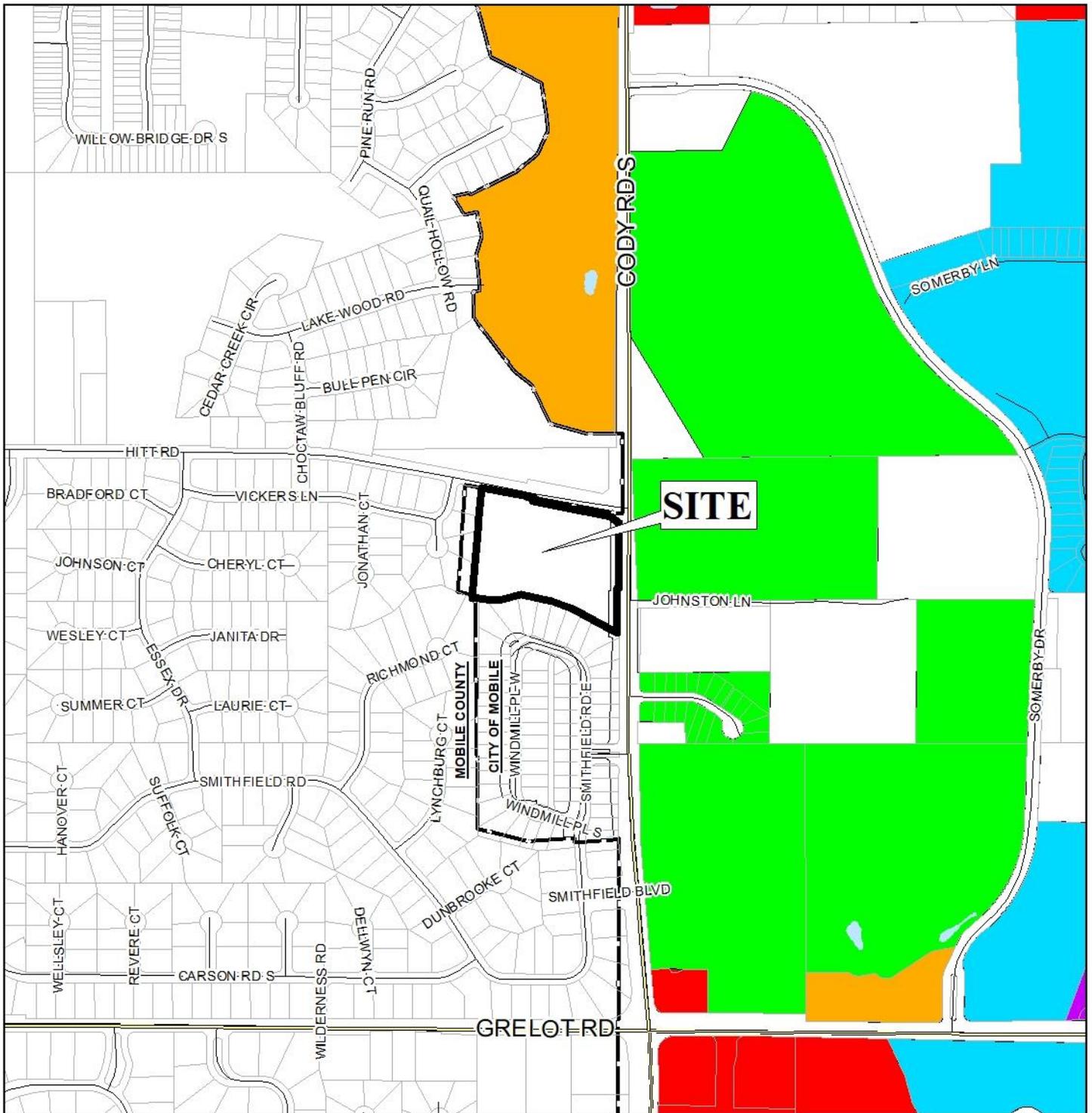
APPLICANT The CORE Project, Inc.

REQUEST Use Variance



NTS

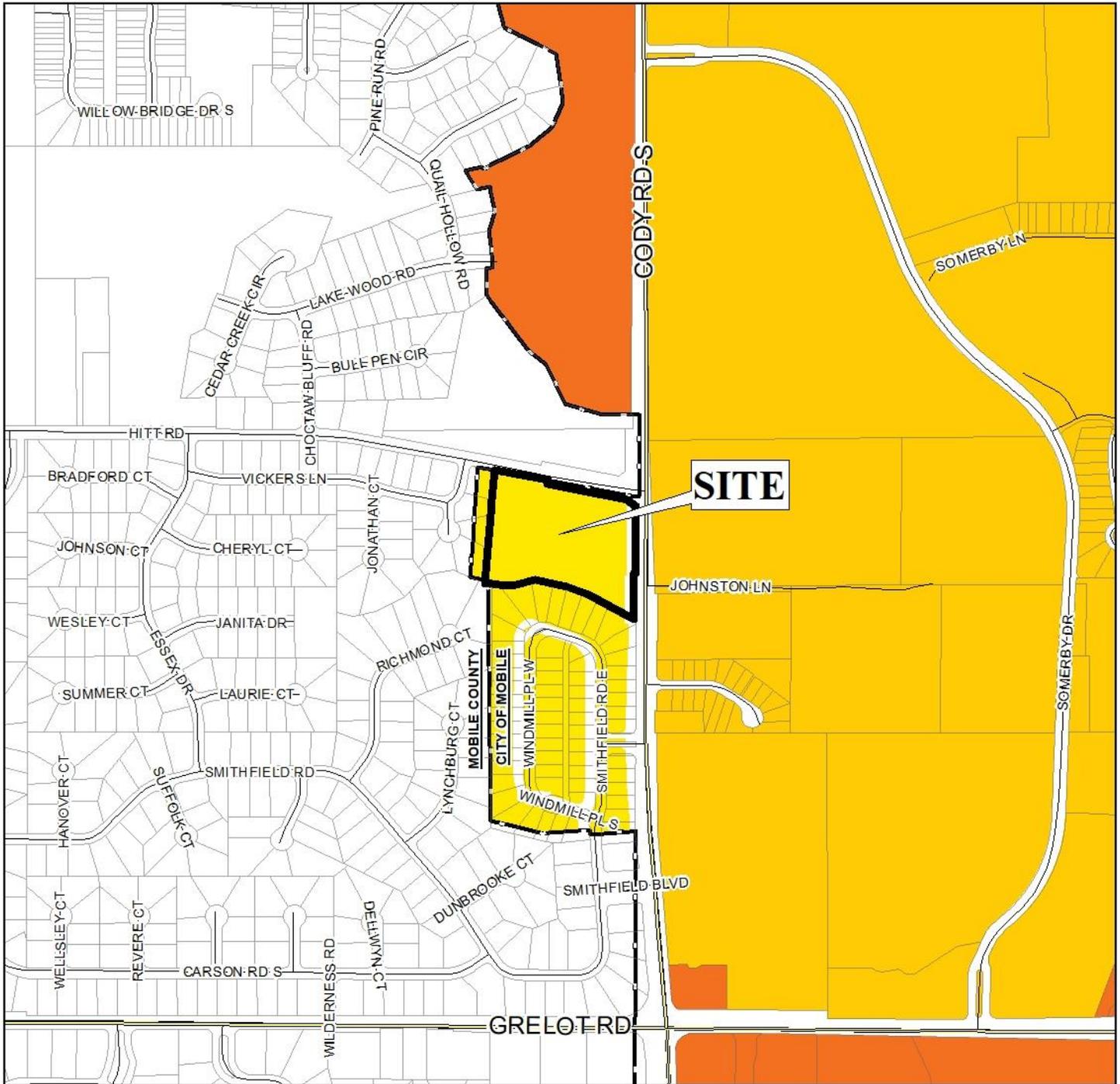
# LOCATOR ZONING MAP



APPLICATION NUMBER	6389	DATE	July 12, 2021
APPLICANT	The CORE Project, Inc.		
REQUEST	Use Variance		



# FLUM LOCATOR MAP



APPLICATION NUMBER 6389 DATE July 12, 2021

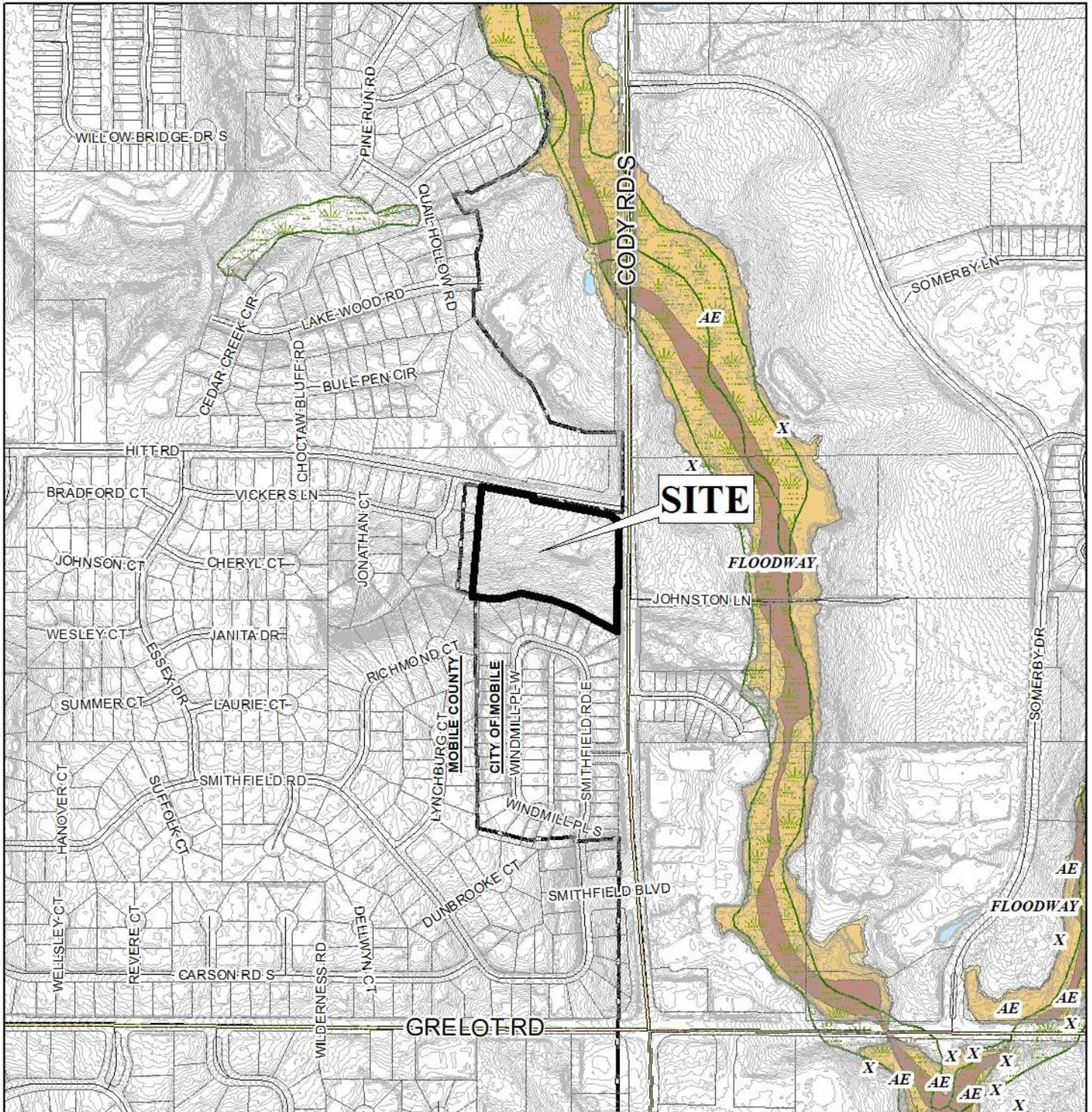
APPLICANT The CORE Project, Inc.

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



APPLICATION NUMBER 6389 DATE July 12, 2021

APPLICANT The CORE Project, Inc.

REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units, vacant lands, a church and a school.

APPLICATION NUMBER 6389 DATE July 12, 2021

APPLICANT The CORE Project, Inc.

REQUEST Use Variance

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



NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units, vacant lands, a church and a school.

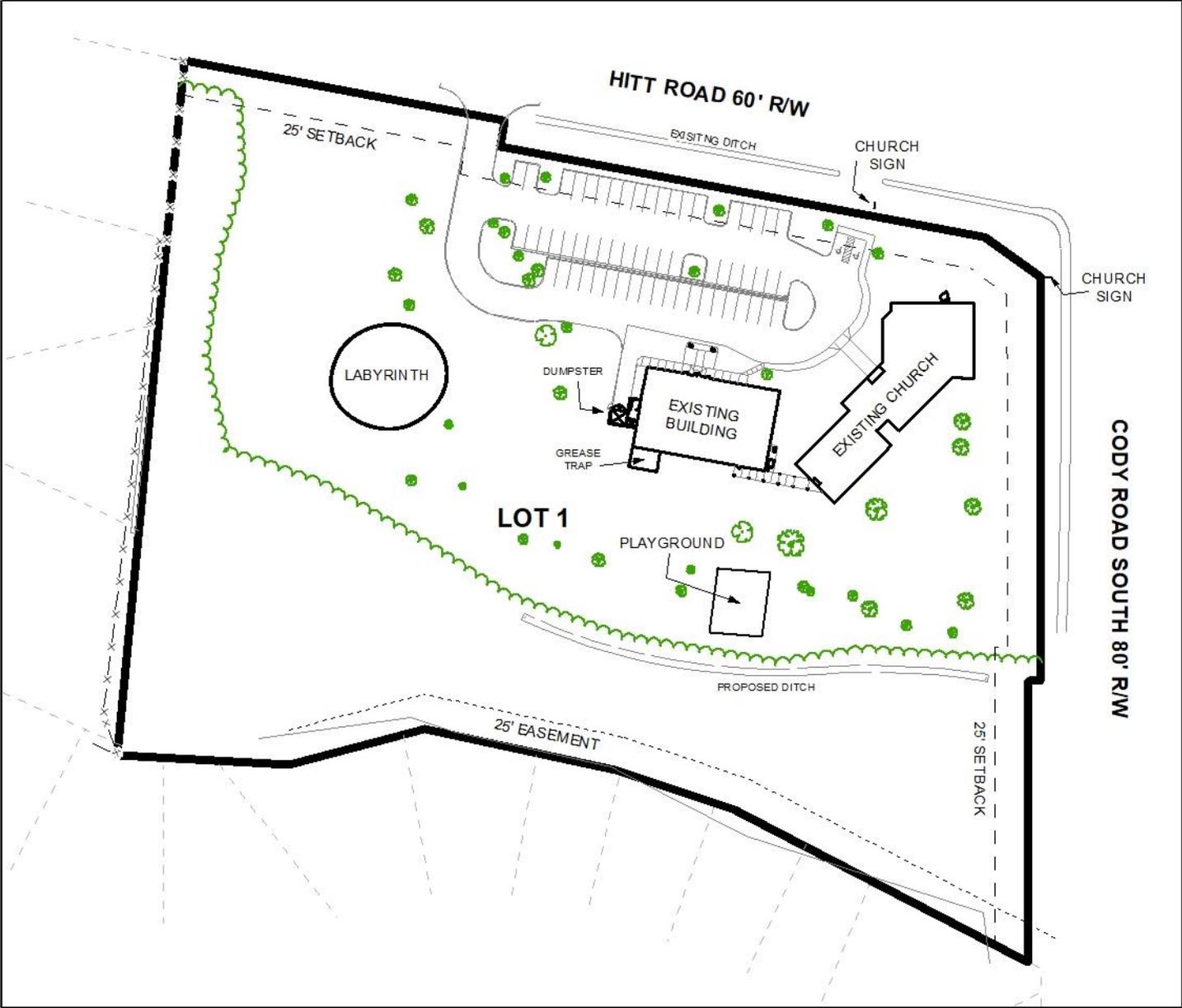
APPLICATION NUMBER 6389 DATE July 12, 2021

APPLICANT The CORE Project, Inc.

REQUEST Use Variance



# SITE PLAN



The site plan illustrates existing buildings, setback, easments and parking area.

APPLICATION NUMBER <u>6389</u>	DATE <u>July 12, 2021</u>
APPLICANT <u>The CORE Project, Inc.</u>	
REQUEST <u>Use Variance</u>	

N

NTS

