

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 6, 2022****CASE NUMBER**

6456

APPLICANT NAME

Darron Wiley

LOCATION

4005 Moffett Road
(South side of Moffett Road, 118'± West of Oak Lane Drive).

VARIANCE REQUEST

SURFACING: To allow aggregate surfacing in a B-3, Community Business District.

ACCESS & MANEUVERING AREA: To allow insufficient access and maneuvering area in a B-3, Community District.

**ZONING ORDINANCE
REQUIREMENT**

SURFACING: The Zoning Ordinance requires all parking and maneuvering areas to paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

ACCESS & MANEUVERING AREA: The Zoning Ordinance requires compliance access and maneuvering areas in a B-3, Community Business District.

ZONING

B-3, Community Business District

AREA OF PROPERTY

0.4± Acre

**ENGINEERING
COMMENTS**

SURFACING VARIANCE: If the Gravel Surfacing Variance is APPROVED - NO COMMENTS.

If the Gravel Surfacing Variance is DENIED the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through the CSS Portal.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.

3. 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.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

ACCESS AND MANEUVERING VARIANCE: NO COMMENT

TRAFFIC ENGINEERING

COMMENTS

Moffett Road is an ALDOT maintained roadway. Driveway number, size, location, and design to be approved by ALDOT and Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

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 [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 DEPARTMENT

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.

CITY COUNCIL

DISTRICT

District 1

ANALYSIS

The applicant is requesting Surfacing and Access and Maneuvering Area Variances to allow aggregate surfacing with insufficient access and maneuvering area in a B-3, Community Business District; the Zoning Ordinance requires all parking and maneuvering areas to be paved with asphalt, concrete, or an approved alternative paving surface, as well as compliant access and maneuvering areas in a B-3, Community Business District.

The site has been given a Mixed Commercial Corridor 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 Mixed Commercial Corridor land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. Mixed Commercial Corridor includes a wide variety of retail, services and entertainment uses.

The Mixed Commercial Corridor 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 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.

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 applicant provided the following narrative with their request:

I am petitioning for variance in conformance with Municipal, Code Chapter 64 for parking (Sec. 64-4) .

As requested, I am submitting this narrative to explain how this building will operate. I will use the rear of the building as a rehearsal room for my music study. My normal rehearsal time will be 6PM until 10 PM during the week. The maximum days of practice will be 2 to 3 days every other week. Intermittently my family will have small parties. I do not plan to have a commercial service establishments or commercial amusements

business. I have provided for office rental space at the front on the structure. Mainly for a tax office. I have provided 18 total parking spaces on my property. This is the maximum which can be placed on this site if needed. I request a variance or clearance to allow use of my building.

The site was originally the subject of rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, the ordinance for which was adopted by City Council at its November 19, 1985 meeting. Since that time, it has been developed with a single building which, from aerial and Google Street View images, may have originally been used as a dwelling. However, Polk City Directories indicate an air conditioning sales and service business operated from the site between 1989 and 2010, and other commercial office uses of the property have been documented since then.

As mentioned, the applicant proposes a mixed-use of the property, including a private music rehearsal space, a private family party venue, and general commercial office use, all of which are permitted uses in the B-3 zoning district, subject to the provision of adequate off-street parking and soundproofing of any portion of the structure to be used for music rehearsals. The applicant states 18 off-street parking spaces will be provided, but staff only counts 15, 11 of which are proposed to be located in the rear yard of the property, and along the North property line. Four (4) of the parking spaces are existing and are located at the front of the building. The provision of parking in the rear yard requires two-way access, with a drive aisle at least 24-feet wide; however, the site plan illustrates a drive aisle whose width ranges from approximately 10 feet to 19 feet, thus limiting access and maneuverability to the rear parking area. Furthermore, drive aisles, and parking and maneuvering areas are required to be paved, but the applicant is proposing aggregate surfacing along the North property line. As such, the applicant is seeking relief from the Zoning Ordinance to allow the substandard access and maneuvering areas, and for these areas to be surfaced with aggregate material. The existing and proposed parking spaces will be paved.

It is unclear if the amount of parking will be compliant as no additional information was provided regarding the floor area and seating capacity of the proposed uses; however, it should be noted that parking is only required for any commercial uses proposed. If approved, additional information should be provided for staff to verify the amount of parking spaces provided will be compliant.

It may be justified to approve the use of an access aisle that is substandard in width for two-way traffic, particularly because the site is developed and there is no other way to route traffic on-site in such a way that would comply with the ordinance without requiring access to an adjacent site. However, the applicant has not presented sufficient evidence as to why the access aisle and maneuvering areas cannot be paved. As such, using aggregate surfacing may be considered a self-imposed hardship, especially because the existing parking area is paved.

Finally, it should be noted that Google Street View images depict use of an accessory structure that is adjacent to the subject site. The structure is equipped with a ramp from the parking lot to the front door. City maps and aerial images, along with the site plan provided by the applicant, indicate the accessory structure is not located on the same property as the subject site. It is

instead located on an adjacent property, which is under the same ownership as the subject site, but residentially zoned. As such, access to the structure from the subject site should be prohibited because: 1) cross-access between the properties is incompatible with the Zoning Ordinance without Planned Unit Development (PUD) or variance approval; and, 2) where a commercial property abuts a residentially zoned or utilized property, a protection buffer is required to be provided along the abutting property line. No PUD or variance is on file permitting the shared access, and there is no protection buffer, as required. While lack of a buffer may be an existing, non-conforming condition of the site, shared access should not be considered as such. Therefore, the applicant should take steps to ensure there is no cross-access between the two properties.

RECOMMENDATION:

Access/Maneuvering Area: Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the Access/Maneuvering Area Variance:

- 1) Approving the Access/Maneuvering Width Variance will not be contrary to the public interest due to the fact that the site is developed and substandard access has been prevalent on-site since development;
- 2) Special conditions do appear to exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship because the site is developed and cross-access to adjacent sites would require additional approvals; and,
- 3) That the spirit of the chapter shall be observed and substantial justice done to the surrounding neighborhood by granting the Access/Maneuvering Area Variance since adjacent developments preclude options for expansion of the access aisle.

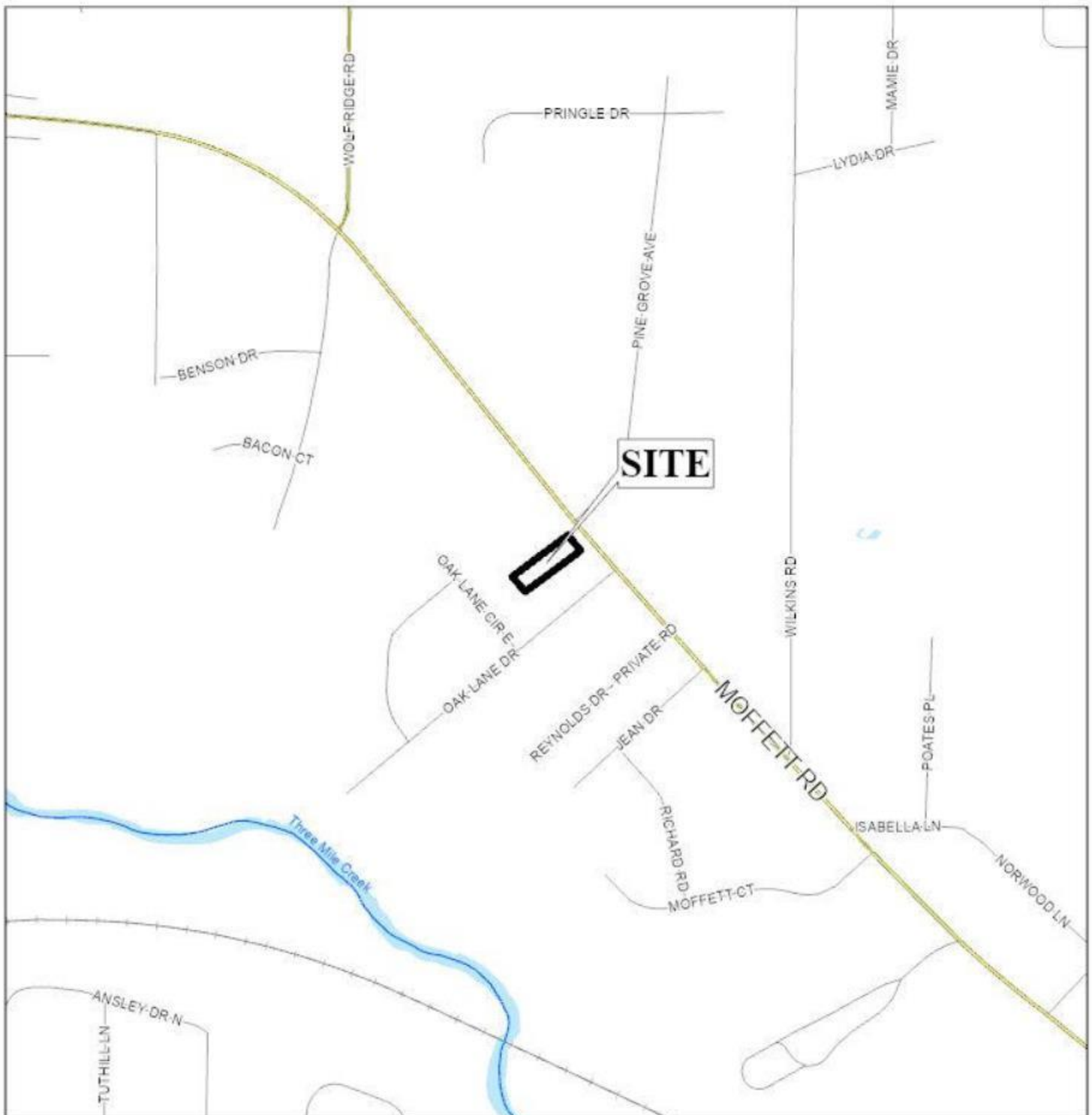
The approval is subject to:

- 1) Obtaining any permits necessary; and,
- 2) Full compliance with all municipal codes and ordinances.

Surfacing: Based upon the preceding, staff recommends to the Board the following Findings of Fact for Denial of the Surfacing Variance:

- 1) Approving the Surfacing Variance will be contrary to the public interest in that existing on-site parking is paved;
- 2) Special conditions do not exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and,
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and surrounding neighborhood by granting the as further development of the site with aggregate surfacing would be in violation of current regulations.

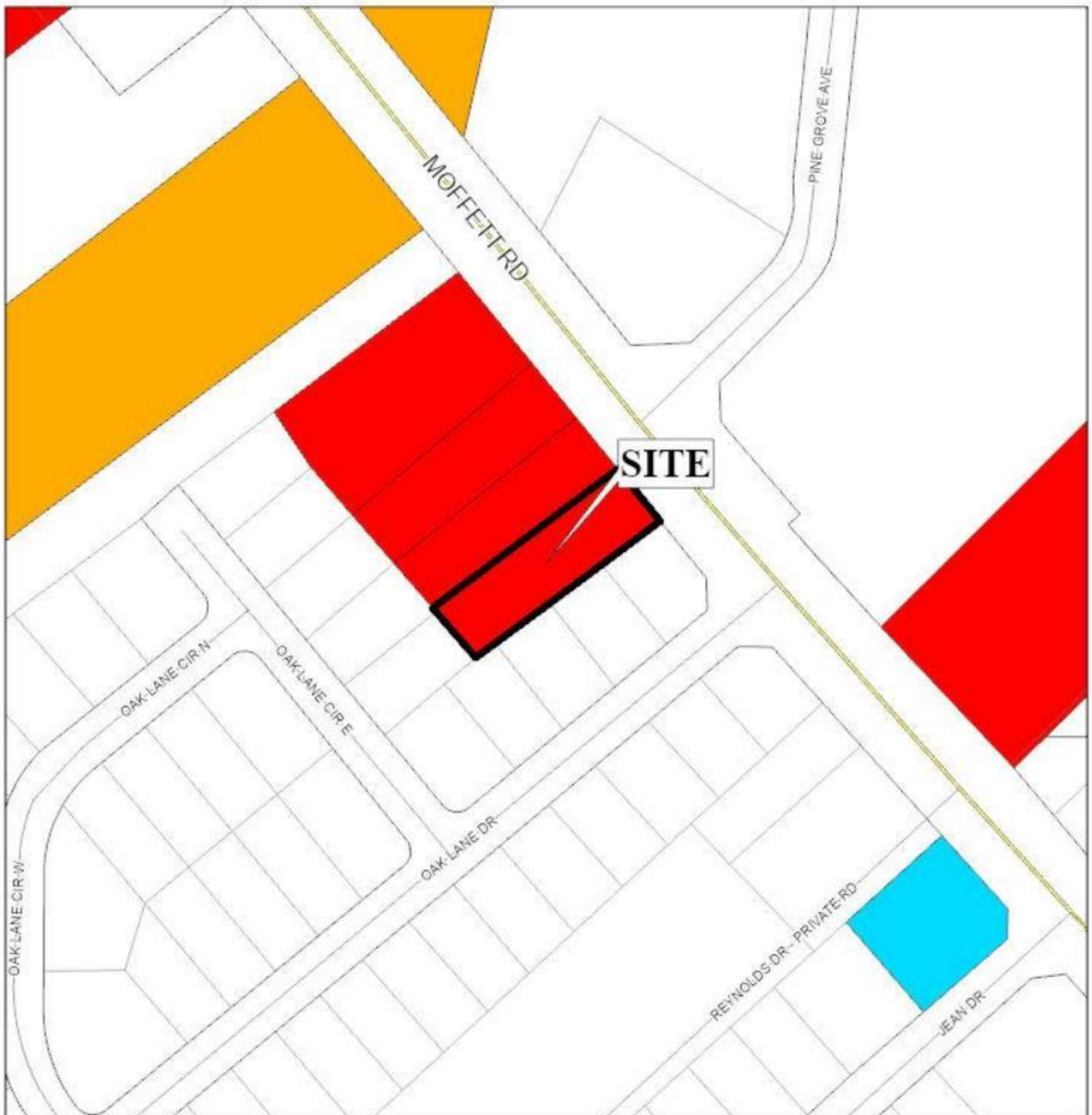
LOCATOR MAP



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APPLICANT Darron Wiley
REQUEST Surfacing and Access/Maneuvering Area Variances



LOCATOR ZONING MAP



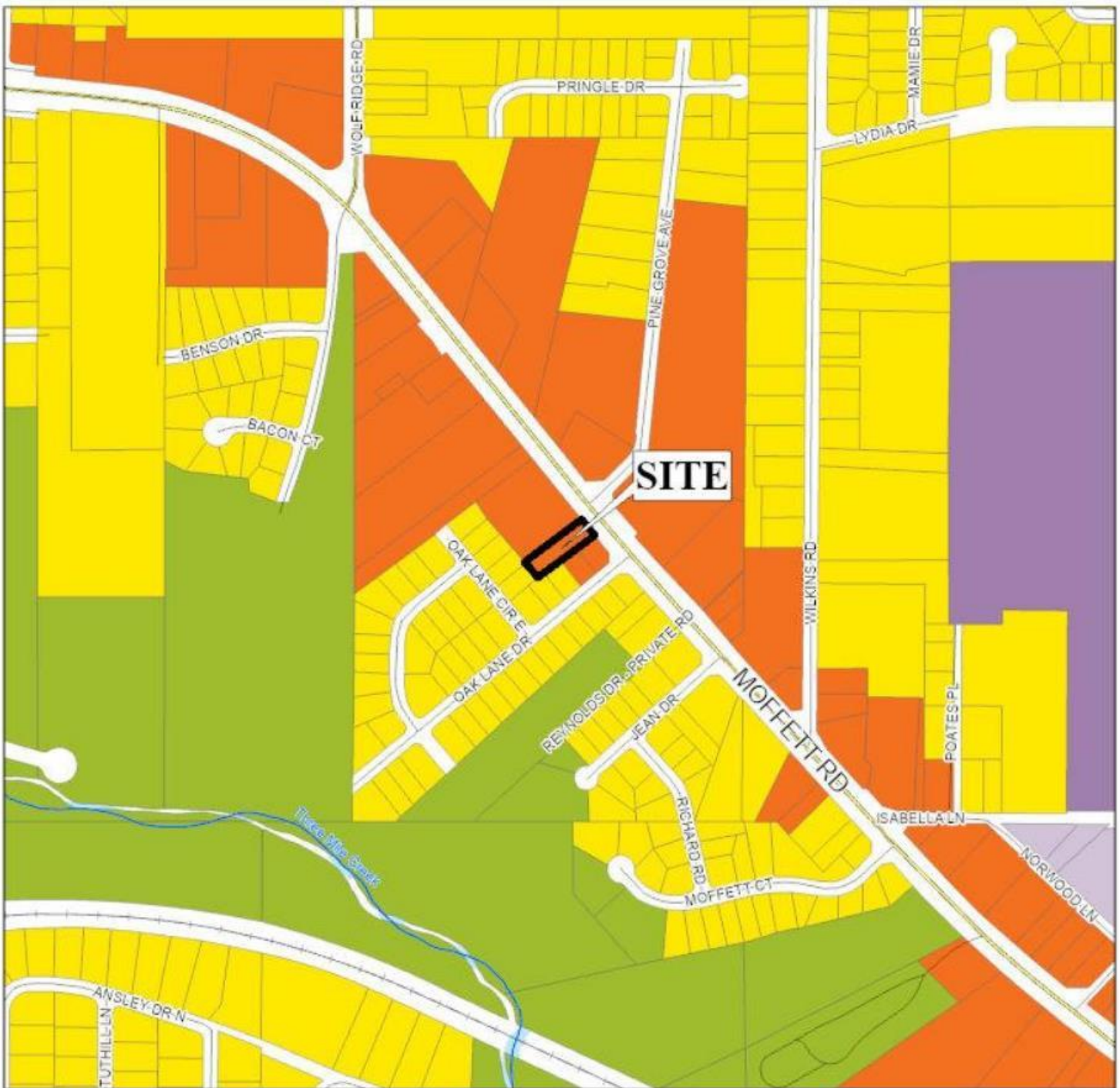
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FLUM LOCATOR MAP



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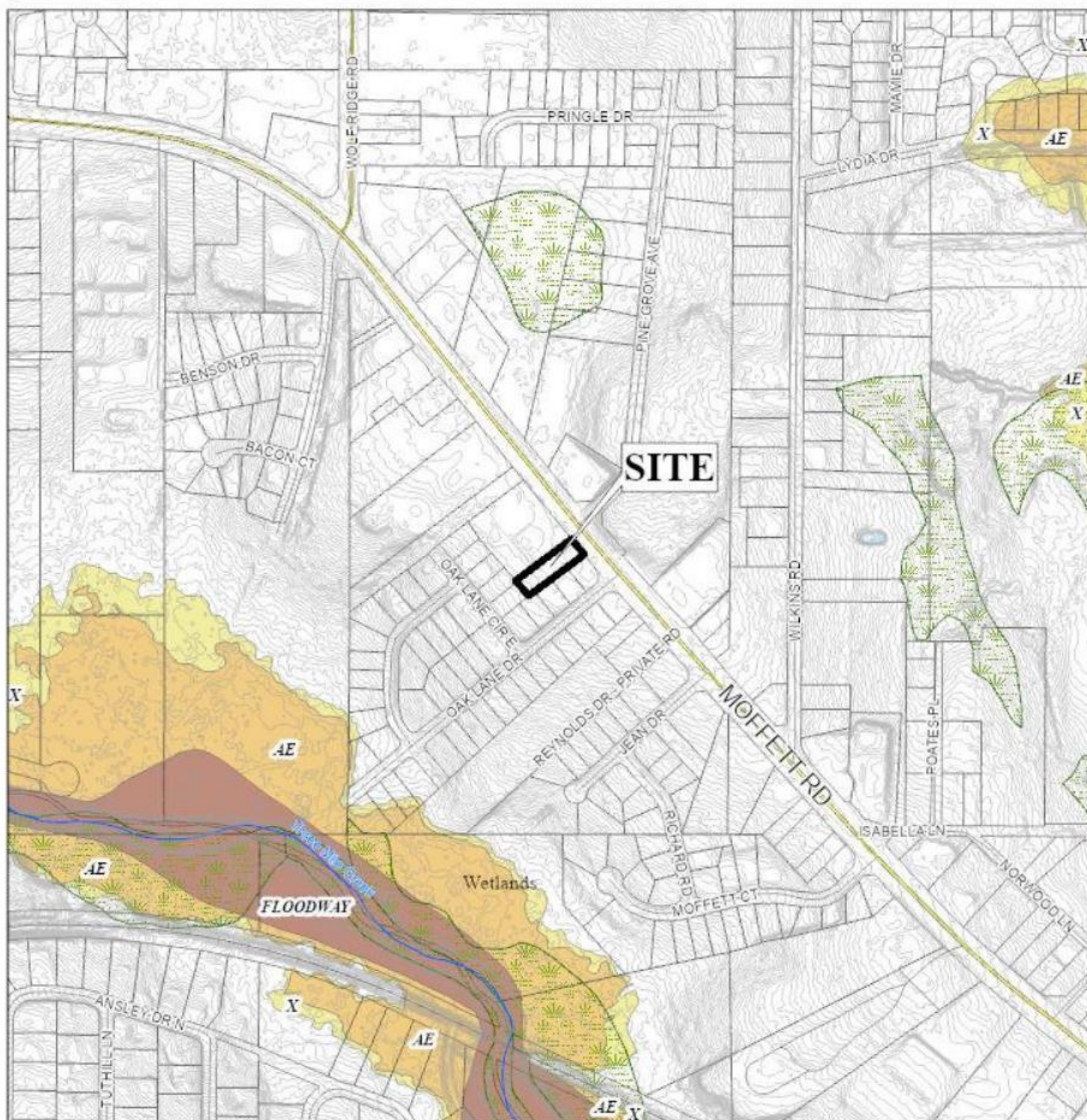
REQUEST Surfacing and Access/Maneuvering Area Variances

Layer2

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



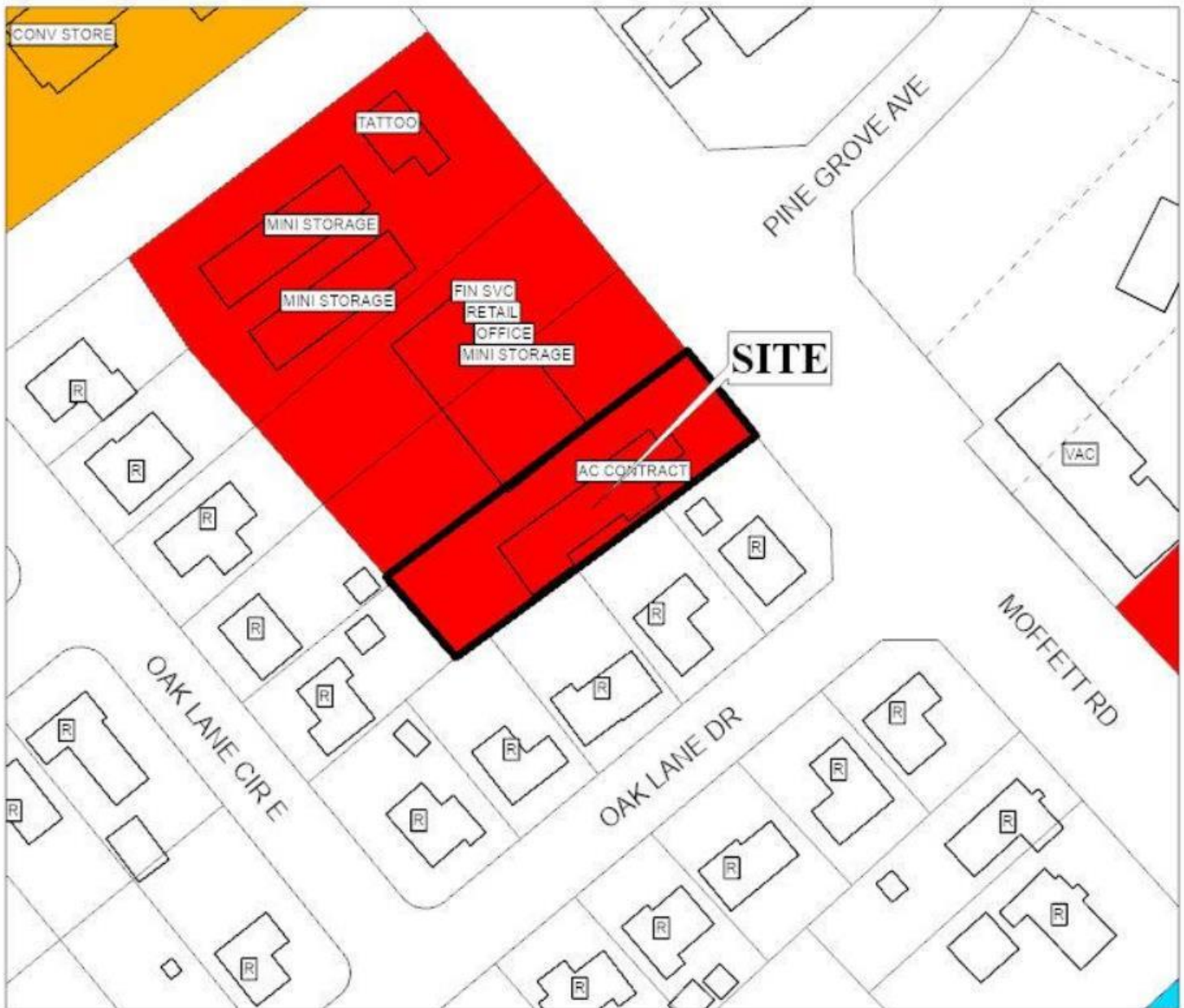
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential units, with commercial units to the north.

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REQUEST Surfacing and Access/Maneuvering Area Variances

 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



This site is surrounded by residential units, with commercial units to the north.

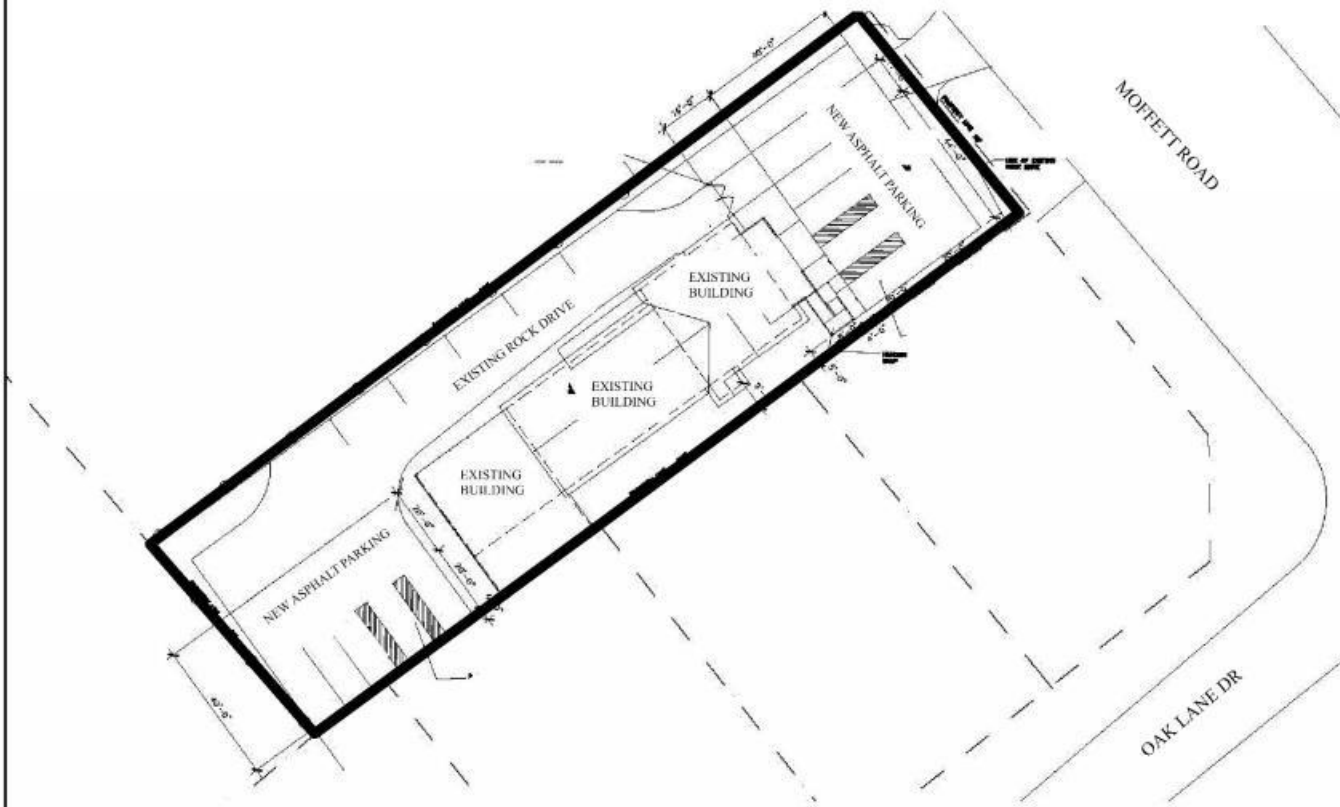
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SITE PLAN



This site illustrates the new parking area.

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