

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 6, 2020****CASE NUMBER**

6316

APPLICANT NAME

Joe Vinson Builders, Inc.

LOCATION3568 Higgins Road
(East side of Higgins Road, 270'± South of its North
terminus)**VARIANCE REQUEST****SIDE YARD SETBACK:** To allow one HVAC system
and one HVAC system platform higher than 3' above grade
within the required side yard setbacks in an R-1, Single-
Family Residential District.**COMBINED SIDE YARD SETBACK:** To allow
reduced combined side yard setbacks in an R-1, Single-
Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** The Zoning Ordinance requires
a minimum side yard setback of 8' in an R-1, Single-
Family Residential District.**COMBINED SIDE YARD SETBACK:** The Zoning
Ordinance requires a minimum combined side yard setback
of 20' for mechanical equipment higher than 3' above
grade in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-family Residential District

AREA OF PROPERTY

0.66± Acre

**CITY COUNCIL
DISTRICT**

District 4

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

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 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).

ANALYSIS

The applicant is requesting Side Yard Setback and Combined Side Yard Setback Variances to allow one HVAC system and one HVAC system platform higher than 3' above grade within the required side yard setbacks resulting in reduced combined side yard setbacks in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum side yard setback of 8' and a minimum combined side yard setback of 20' for mechanical equipment higher than 3' above grade 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 on May 18, 2017 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.

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 semidetached, 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.

The applicant states:

We are requesting a site variance regarding a setback for the property and house located at 3568 Higgins Road in Mobile, Alabama. A new residential home was built at this location after the existing house and driveway were removed. The lot is approximately 28,700 square feet on Dog River and is Y-shaped; therefore, it gets wider as you progress from the street to the waterfront. The existing setback requirements for this property are 8 feet on the right side and 12 feet on the left side. The house itself is in compliance with the City of Mobile setback rules, but the A/C unit's height is the issue. Due to flood zone requirements, the A/C units must be located on a platform. Thus, their height is greater than 36 inches, the maximum allowable height for units located within the setback. The unit located on the right side of the house is in compliance.

The variance request is for the A/C unit on the left side of the house. Its height is greater than the 36 inch maximum for units standing within the setback. Because of flood zone rules, we did not have a choice but to exceed the maximum allowable height. The A/C unit is only one foot into the left side setback and does not impede any neighboring property's use. As shown in the attached pictures, the house at 3568 Higgins Road was constructed as to not disrupt any of the existing large trees, bushes, or flowers. We believe that the current location and height of the A/C unit on the left side of the home is the best place for the unit to operate in order to service the house and to meet the flood zone obligations simultaneously; the placement is only partially within the 12 foot setback and does not distract from the look of the house or harm any other property owners' value or use.

The applicant constructed a dwelling on the subject site in 2019. Initial site plan reviews for construction indicated that the HVAC units would be situated in compliance with required setbacks. However, upon the Zoning Investigation prior to issuance of the Certificate of

Occupancy, it was discovered that one HVAC unit and one HVAC unit platform encroached into the required side yard setbacks and also resulted in a substandard combined side yard setback.

The Certificate of Occupancy cannot be issued until this matter is resolved; hence this application.

The subject site is in a flood zone along Dog River, and in the past, the Board has been presented with similar requests where elevated HVAC units did not meet the required setbacks. In those instances, staff has recommended denial of the setback requests, but the Board has been sympathetic to the applicants' requests due to the special requirements for mechanical equipment locations within flood zones, and staff is of the opinion that the approval of these similar requests would be appropriate based on the practices of the Board.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for approval:

- 1) Approving the variance requests will not be contrary to the public interest in that similar variances have been approved in flood zones along Dog River;
- 2) Special conditions appear to exist, primarily the requirements for higher mechanical equipment elevations within flood zones, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the location of the mechanical equipment is more accessible for maintenance and is not intrusive onto adjacent properties.

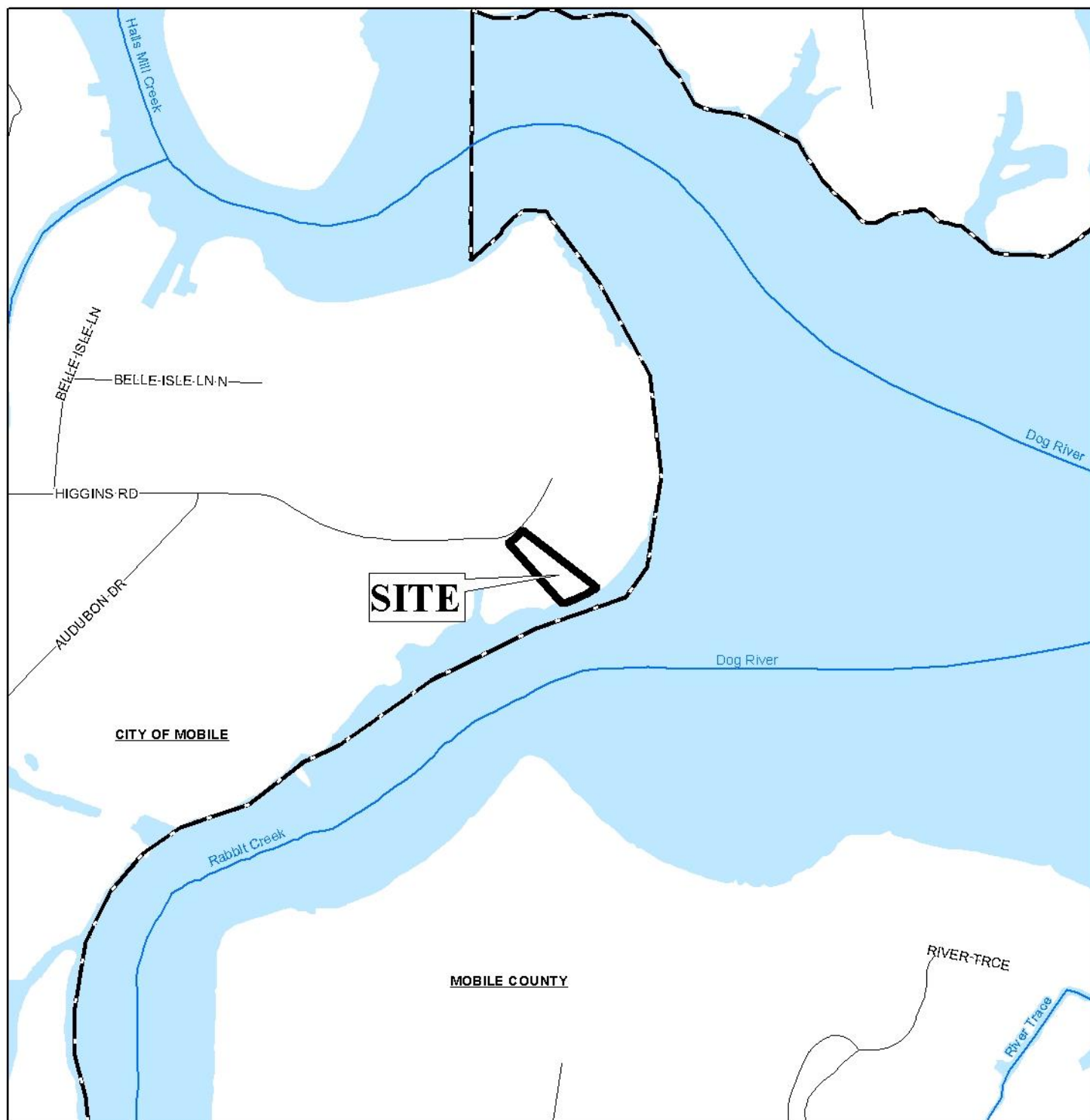
Revised for the May 4th meeting:

This application was heldover from the April 6th meeting which was not held due to a lack of quorum. As no new information was provided, the original recommendation would stand.

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- 2) *Special conditions appear to exist, primarily the requirements for higher mechanical equipment elevations within flood zones, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) *The spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the location of the mechanical equipment is more accessible for maintenance and is not intrusive onto adjacent properties.*

LOCATOR MAP



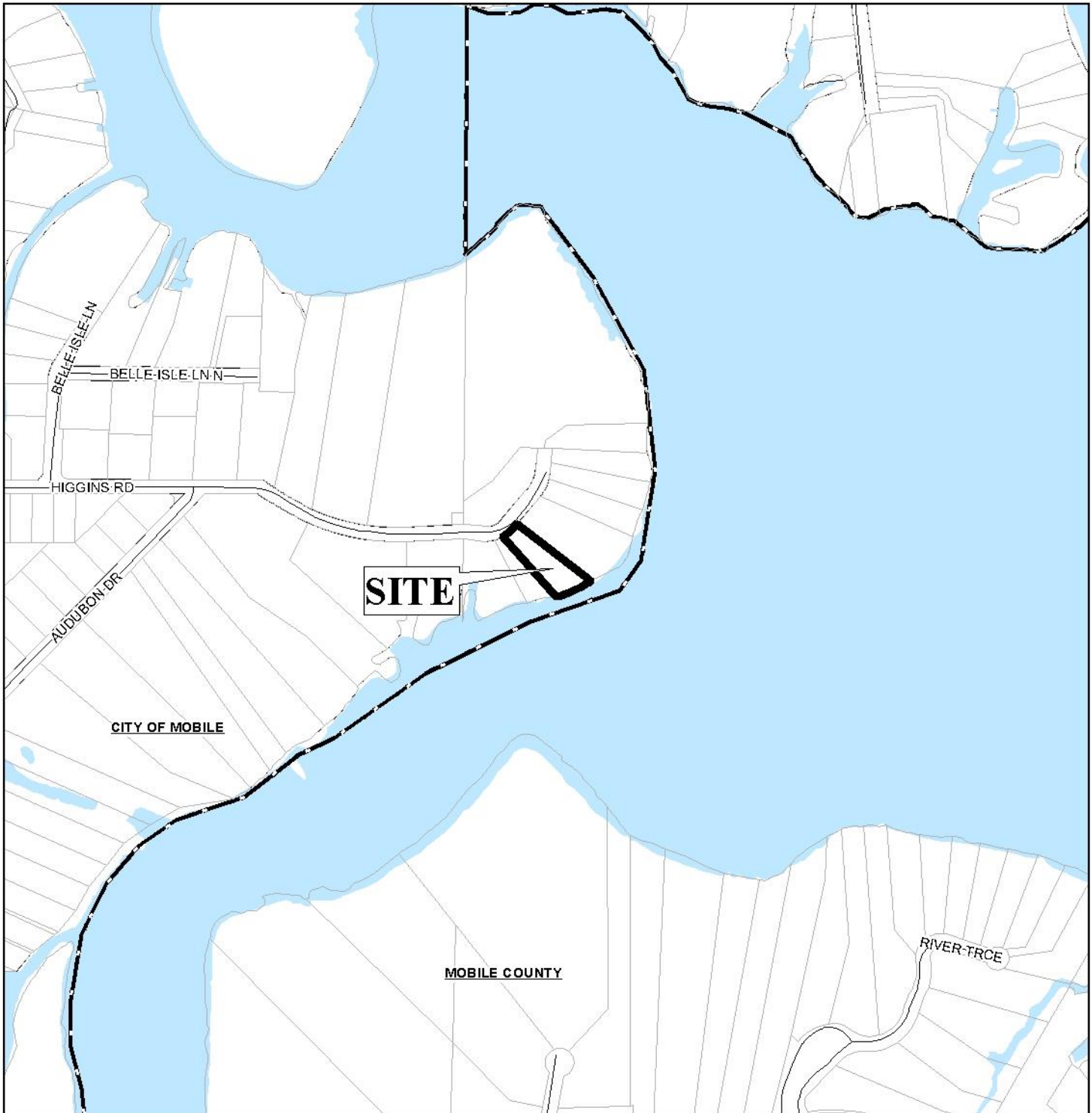
APPLICATION NUMBER 6316 DATE May 4, 2020

APPLICANT Joe Vinson Builders, Inc.

REQUEST Side Yard Setback and Combined Side Yard Setback Variances



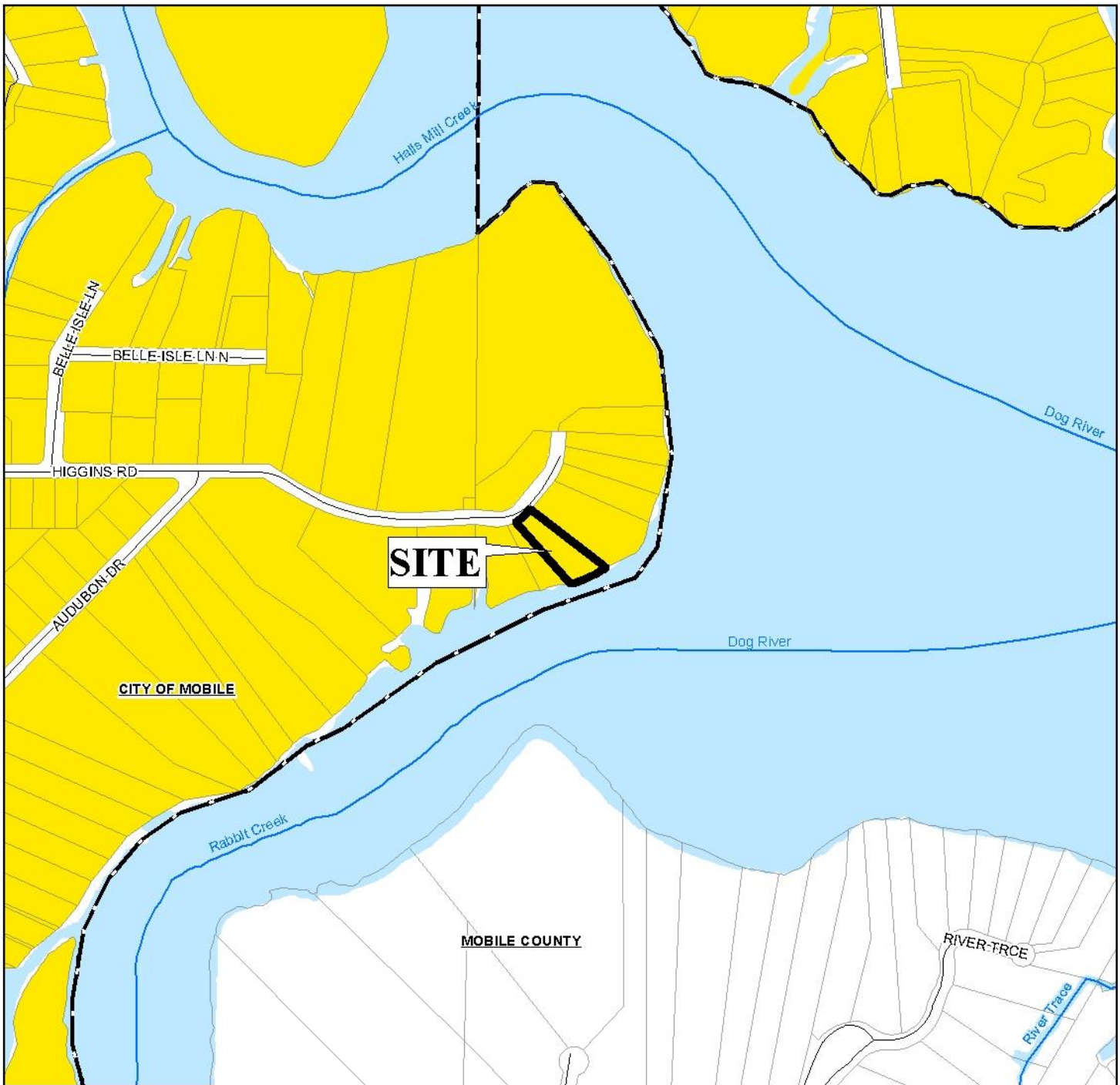
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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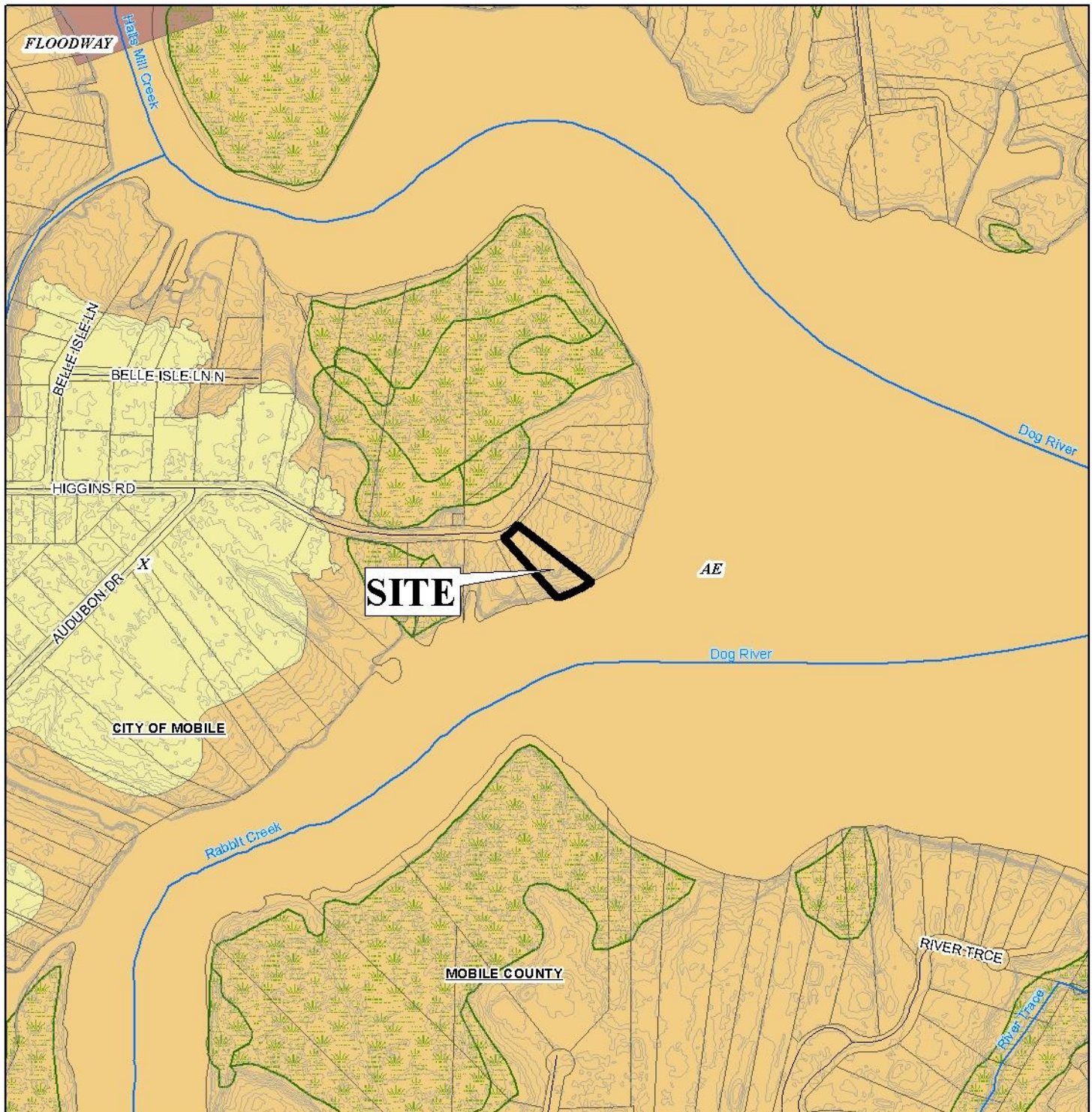
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



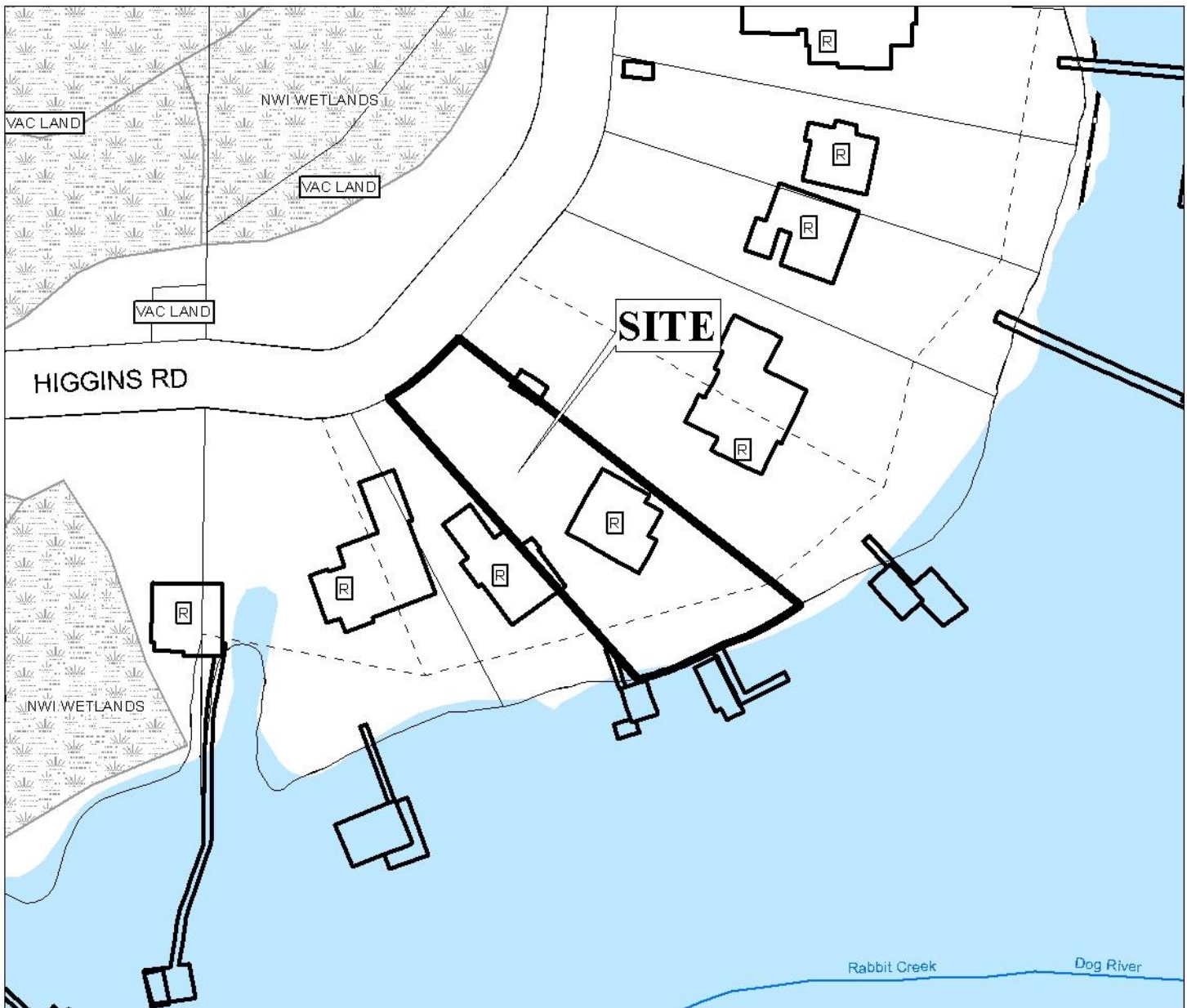
ENVIRONMENTAL LOCATOR MAP



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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

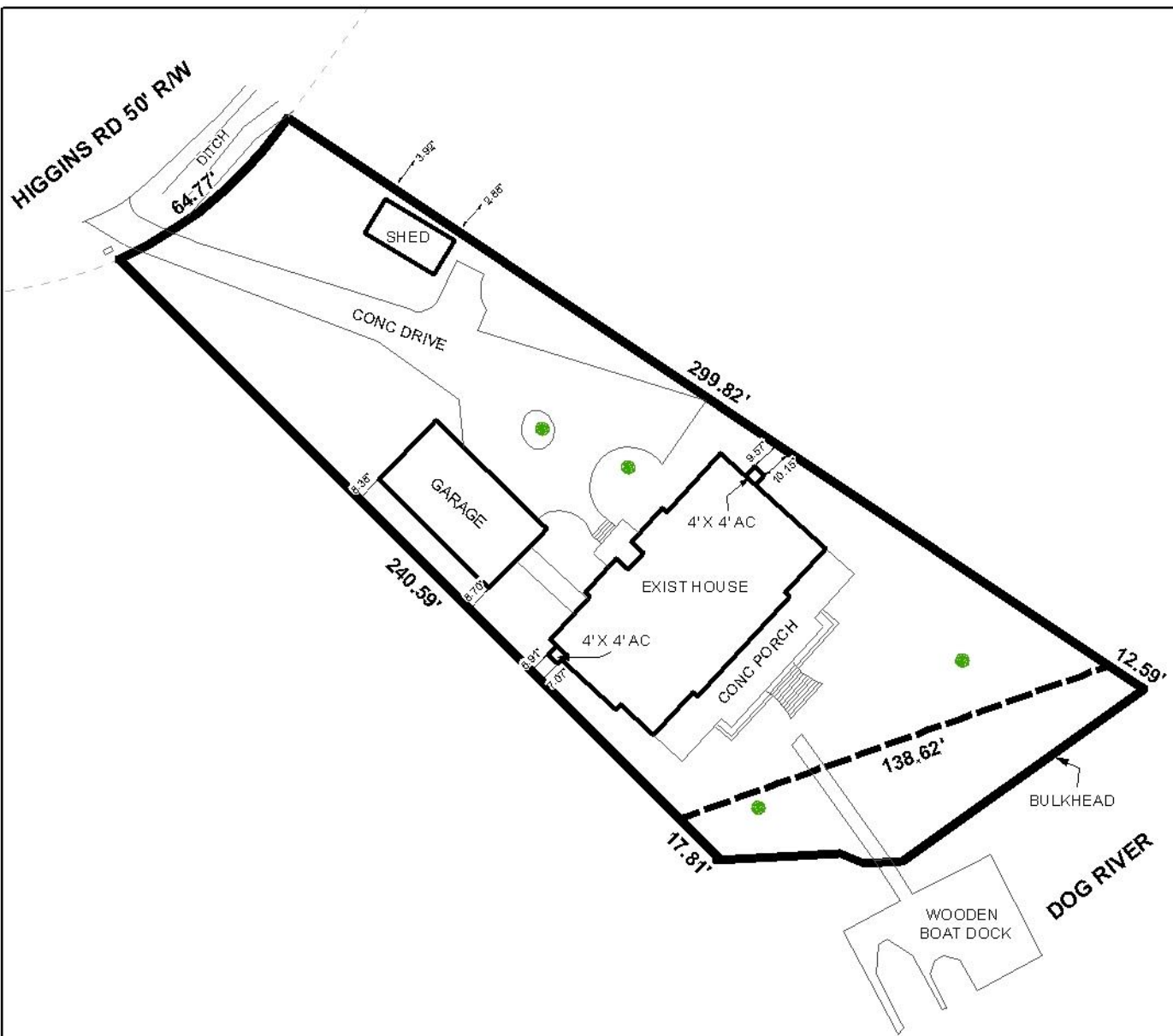


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SITE PLAN



The site plan illustrates the existing buildings, drive, and proposed ac platforms.

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