

HOLDOVER

APPLICATION NUMBER

5546

A REQUEST FOR

USE, PARKING SURFACE, ACCESS AND MANEUVERING, TREE AND LANDSCAPING, AND FRONT YARD SETBACK VARIANCES TO ALLOW A MOBILE HOME PARK AND A RECREATIONAL VEHICLE PARK WITH LONG-TERM OCCUPANCY IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, WITH AGGREGATE PARKING SURFACE, SUBSTANDARD DRIVE AISLE WIDTHS, VEHICLES BACKING INTO THE RIGHT-OF-WAY, REDUCED NUMBER OF FRONTAGE TREES, AND RECREATIONAL VEHICLES AND MOBILE HOMES LOCATED WITHIN THE FRONT YARD SETBACK; THE ZONING ORDINANCE REQUIRES PLANNING APPROVAL IN AN R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT FOR A MOBILE HOME PARK AND PLANNING APPROVAL IN A B-3, COMMUNITY BUSINESS DISTRICT FOR A RECREATIONAL VEHICLE PARK, WITH PAVED, DESIGNATED PARKING, 24' DRIVE AISLES, MANEUVERING OF VEHICLES COMPLETELY ON-SITE, 38 TOTAL FRONTAGE TREES (ALL OVERSTORY), AND A MINIMUM 25' FRONT YARD SETBACK.

LOCATED AT

2500 OLD MILITARY ROAD

(Northeast corner of Crescent Drive East and Old Military Road)

APPLICANT

CHARLES G. SEIBERT

BOARD OF ZONING ADJUSTMENT

SEPTEMBER 2009

HOLDOVER

ANALYSIS APPLICATION 5546

Date: September 14, 2009

The applicant is requesting a Use, Parking Surface, Access and Maneuvering, Tree and Landscaping, and Front Yard Setback Variances to allow a Mobile Home Park and Recreational Vehicle Park with long-term occupancy in an R-1, Single-Family Residential District, with aggregate parking surface, substandard drive aisle widths, vehicles backing into the right-of-way, reduced number of frontage trees, and Recreational Vehicles and Mobile Homes located within the front yard setback; the Zoning Ordinance requires Planning Approval in an R-3, Multiple-Family Residential District for a Mobile Home Park and Planning Approval in a B-3, Community Business District for a Recreational Vehicle Park, with paved, designated parking, 24-foot drive aisles, maneuvering of vehicles completely on-site, 38 total frontage trees (all overstory), and a minimum 25-foot front yard setback.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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 late March, 2009, the Planning Section was notified that a mobile home park was being converted to a recreational vehicle park at this location. On April 7, 2009, an investigator went to the site and documented 50 recreational vehicles, 18 mobile homes, and 18 vacant spots. A Notice of Violation was issued the next day. Non-conforming use affidavits on file with the Planning Section indicated between 41 and 48 "mobile homes" or "trailers" on the site, and also indicated that the site had been used as a mobile home park since at least 1955. This area was annexed into the City of Mobile in 1956, and came under the auspices of the current Zoning Ordinance in 1967. As such, legal non-conforming use status was established for a mobile home park.

Staff met with the applicant after the Notice of Violation was issued. The applicant stated that he had erred previously by calling the "trailers" on site "mobile homes" and not "recreational vehicles" which he asserted had been there all along. The applicant further asserted that in the 1950's, mobile homes and recreational vehicles did not exist as they do today, and that everything was just "trailers." The applicant, in revising his non-conforming use affidavits and documentation submitted pictures of the site. A review of the submitted pictures, as well as a review of the aerial photographs available for the area did not reveal recreational vehicle parking as a primary use, but did show

mobile homes on the site. In fact, aerial photos from 1960, 1975, 1984, and 2002 all indicated mobile home parking as the primary usage for the site. Only in the 2006 aerial photos do the recreational vehicles begin to appear as a significant portion of the park's business. Therefore, staff denied the applicant's request for legal non-conforming status for a recreational vehicle park with mobile homes.

With that being stated, legal non-conforming use status expires after two years of non-activity, and, given the fact that, based upon the submitted site plan there are only 15 mobile homes left in the park, legal non-conforming status for a mobile home park is dangerously close to being vacated. Additionally, the site plan that the applicant submitted shows a total of 90 lots, which would seem to be a substantial increase in the number of lots for which legal non-conforming use had been established.

The applicant now wishes to operate a recreational vehicle and mobile home park. The Zoning Ordinance treats a recreational vehicle park and a mobile home park as two distinct, separate types of uses, and does not allow for a mix of mobile homes and recreational vehicles. Further, the ordinance does not allow for long term occupancy of recreational vehicles in recreational vehicle parks. Section 64-2 of the Zoning Ordinance defines a recreational vehicle park as

“Any plot of ground on which two or more travel trailers are located for short-term (less than thirty (30) days) occupancy during travel, recreational or vacation use. Recreational vehicle (or travel trailer) parks shall not be occupied by any travel trailer for thirty (30) days or more, nor by any mobile home.”

The applicant wishes to remove any limitations on length of occupancy for the recreational vehicles. Recreational vehicles, as per the Recreation Vehicle Industry Association, are not designed for long-term occupancy. By the applicant's own statements, tenants have been living for long periods of time in recreational vehicles on the site already. The applicant has stated that these occupants are usually construction workers. The obvious safety issues of long-term recreational vehicle occupancy are sanitation, electrical safety, and natural hazard safety. If a variance is approved, certification from the Mobile County Health Department should be provided showing that the sanitation facilities at each lot are adequate for long-term recreational vehicle occupancy. Regarding electrical safety, the Electrical Inspection Unit of the Urban Development Department should certify that the power box connections for the recreational vehicles are adequate for long-term recreational vehicle occupancy. Lastly, natural hazard safety must be considered. The site is not located in a FEMA Flood Insurance Rate Map (FIRM) identified flood zone; therefore the site does not have to comply with FEMA regulations regarding the maximum 180-day location occupancy of recreational vehicles in flood zones. Recreational vehicles are designed to be mobile, are

designed for short-term occupancy, and there are no standards for anchoring of recreational vehicles for protection from and resistance to high winds. As there are no standards, there is not an agency that can certify that the recreational vehicles are adequate to withstand hurricane winds. As such, if this variance is approved, it should be required that any time Mobile County is placed under a hurricane warning, that all recreational vehicles be temporarily removed from the park until such time that the County is no longer under a hurricane warning.

The applicant is also requesting to be able to permit mobile homes on the site. As previously stated, mobile home parks and recreational vehicle parks are two distinct uses. However, because the site was essentially a mobile home park until at least 2002, there are still some mobile homes left on the site. The applicant has stated that these will gradually be phased out, but would like to reserve the right to continue to place mobile homes on the site. As the site has legal non-conforming status as a mobile home park, the existing mobile homes likely still have that status, and thus could stay anyway. However, the mobile homes could not be replaced with larger mobile homes or moved to other lots on the site. As previously stated, any lots which have not been utilized for mobile home parking would have lost their non-conforming use status.

As some of the mobile homes on the site are older, they may not comply with some of the current rules and regulations regarding anchoring and blocking of mobile homes. As such, should any mobile home variance be approved, certification from a licensed engineer indicating compliance with Chapter 535-X-13-.04., 535-X-13-.05, 535-X-13-.06, 535-X-13-.07-, 535-X-13-.08, AND 535-X-13-.09 of the Alabama Manufactured Housing Commission Administrative Procedures Code regarding site preparation, soil classification, minimum blocking standards, minimum anchoring standards, and anchor and tie-downs device standards for Wind Zone II (Hurricane Zone) for all mobile homes on site should be required.

As the mobile home park use was grandfathered, a variance could be considered appropriate for that use. As for the recreational vehicle park use, the non-conforming use documentation for the site has not ever covered recreational vehicles. The site has essentially been transitioning to a recreational vehicle park since at least 2006 and likely before then. As such, the site has been functioning, illegally, as the proposed mixed use for several years. Since this was an expansion of the non-conforming use of the park, this does not appear to meet the standard of a non-economic hardship. Because of this, a variance for use as a recreational vehicle park should be denied.

As for the time constraints placed upon recreational vehicle occupancy by the ordinance, it is likely that these time constraints were intended to be in place because of the health and safety issues that could inherently arise from long term recreational vehicle occupancy. As this variance is directly related to the use variance, this would be a moot point if the use is not approved. However, if the use variance for recreational vehicles is approved, an occupancy variance to relieve the time constraints may be appropriate if it can be demonstrated that long term occupancy of the recreational vehicles is safe,

according to all the conditions previously mentioned in this report, including the provision of hurricane evacuation.

Regarding surfacing and drive-aisle widths, the site currently exists with three substandard asphalt driveways, with the parking spaces and hook-up sites being gravel or concrete. The surfacing of the hook-up and parking sites as gravel may be considered appropriate due to the existing condition of the site and the fact that this surfacing likely has legal non-conforming status. As far as the drive aisle widths, the aisles currently have widths varying from 5 feet to 12 feet. The standard drive aisle width for two-way traffic is 24 feet. As one of the drive aisles is essentially a loop, with two existing curb cuts, a 12-foot drive aisle could be appropriate, as long as the loop were designated as a one-way drive. The curb cuts for the drives are also substandard, as the city-standard is 24 feet.

While this is an existing condition, due to the volume of traffic from such a large mobile home park the drive aisle widths and curb cuts should be increased to standard, with the number, size, design, and location of all curb cuts to be approved by traffic engineering and conform to AASHTO standards.

The applicant has also requested a front-yard setback variance. The site is currently two metes and bounds lots. A subdivision application is anticipated, and should be condition of approval. Due to the existing substandard right-of-way for Old Military Road and Crescent Drive, setbacks greater than the standard 25 feet would be required. The setback line along Old Military Road should be considered to be at 26 feet (25-foot for the standard setback, and 1 foot for future dedication and widening). The setback along Crescent Drive should be considered 27 feet (20-foot for standard corner building site side yard and 7-foot for future dedication and widening). The site plan submitted indicates Lots 1, 19, 43, 61, and 79 within the 26-foot setback along Old Military Road; and depicts Lots 79-90 within the 27-foot setback along Crescent Drive. While this is an existing condition, setback visibility issues and conformity with surrounding development should be taken into account, and, therefore, the front yard setback variance should not be considered appropriate. As such, removal of Lots 1, 19, 43, 61, and 79-90 should be required, leaving a total of 74 lots remaining. The lot removals should include relocation of the mobile homes at Lots 84, and 87-90 to another site or to other lots on the site meeting setbacks. Removal of the lots should entail removal of all electric, sewer, water, and similar amenity hookups, as well as removal of power boxes. Additionally, Lot 79-90 access Crescent Drive directly. Crescent Drive is a minor, single-family residential, loop street, developed with houses. Due to the single-family residential character of the street, the curb cuts and access should be removed. Therefore, the request for a variance of access and maneuvering along Crescent Drive should also be denied. Pads and parking for the removed lots should also be removed from the setback area and be replaced with sod.

Additionally, if a use variance is approved, a 6-foot high wooden buffer privacy fence should be required along the 27-foot setback line along Crescent drive (except for the

area also within the 26-foot setback for Old Military Road). Likewise, a 6-foot high wooden buffer privacy fence should also be required along the eastern property line where the site abuts existing single-family residential development. The Board could consider not requiring a buffer fence along the northern property line, as this property is owned by the applicant and used for the applicant's residence; however, the Board should consider requiring the buffer fence there if at any time the abutting property to the north is sold and the new owner requests that such a buffer fence be erected.

Lastly, the applicant is requesting a variance to waive frontage tree planting requirements. The ordinance would require the planting of 39 frontage trees, 19 along Old Military Road and 20 along Crescent Drive. The submitted site plan depicts a large number of existing trees on the site. In fact, staff has calculated a total of 19 frontage tree credits and 413 perimeter and parking tree credits. Additionally, the site plan depicts, and aerial photos confirm, a large wooded area on the northern part of the site that was not included for credits. It seems likely that there are additional credit trees located in the wooded area. The site plan depicts 17 frontage tree credits along Old Military Road and two frontage tree credits along Crescent Drive. Despite the large amount of existing trees eligible for credit on the site, the site is seriously lacking in frontage trees. The applicant provided no reason for hardship, and thus this portion of the variance should be denied. However, if the variance is approved, a condition should be placed on the site that any tree counted for credit be preserved and removed only because of disease or impending danger, and that tree removals be coordinated via permits from the Mobile Tree Commission and the Urban Forestry section of the Urban Development Department.

It should be noted that the site plan did not indicate whether the site complies with the required landscaping areas. A review of the site plan seems to indicate compliance, however, this does need to be demonstrated to staff in the form of a note or table on a revised site plan stating the required total and frontage landscaping area as well as the provided total and frontage landscaping areas.

This application was heldover from the Board's scheduled July meeting due to a lack of quorum to hold the meeting.

Revised for the September 14, 2009 meeting

The application was heldover at the last meeting at the applicant's request. The applicant's met with Staff to express their concerns that they would not be able to meet staff recommendations if they were required to, and would likely be forced to cease their operations. The applicants did not, however, provide any new information, and, as such, the original recommendation stands.

HOLDOVER

RECOMMENDATION 5546

Date: September 14, 2009

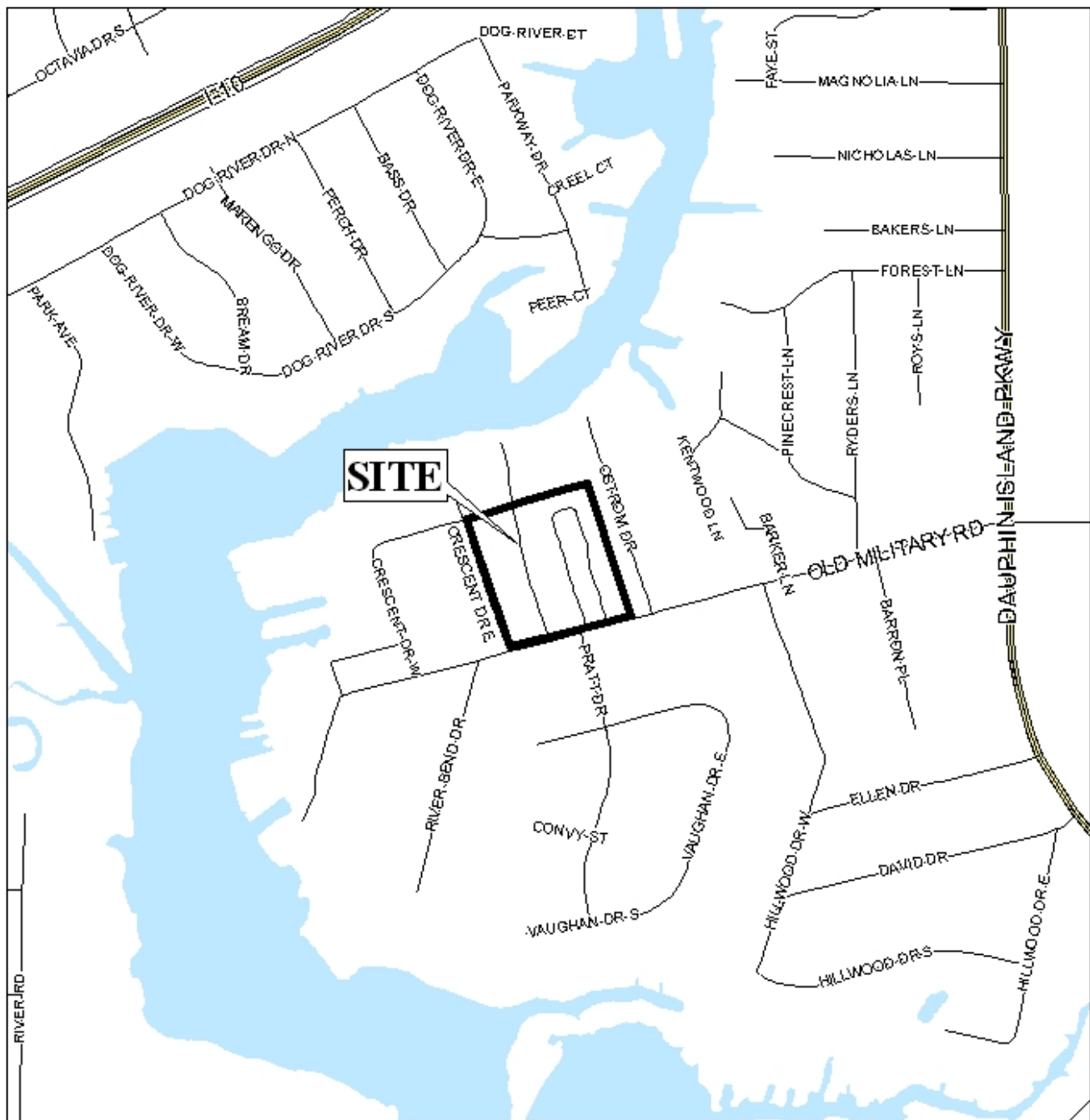
Based on the preceding, the following is recommended:

The requests for use as a mobile home park and parking surface variance for gravel parking are recommended for approval subject to the following conditions:

- 1) certification from a licensed engineer indicating compliance for all mobile homes with Chapter 535-X-13-.04, 535-X-13-.05, 535-X-13-.06, 535-X-13-.07-., 535-X-13-.08, AND 535-X-13-.09 of the Alabama Manufactured Housing Commission Administrative Procedures Code regarding site preparation, soil classification, minimum blocking standards, minimum anchoring standards, and anchor and tie-downs device standards for Wind Zone II (Hurricane Zone);
- 2) upgrading of all access and driveways to standard widths (24 feet for two-way drives and 12 feet for one-way drives), to be surfaced in asphalt;
- 3) upgrading of all curb cuts to city-standards along Old Military Road, with the number, size, design, and location of all curb cuts to be approved by traffic engineering and conform to AASHTO standards;
- 4) removal of all curb cuts to Crescent Drive;
- 5) removal of Lots 1, 19, 43, 61, and 79-90, including relocation of the mobile homes at Lots 84, and 87-90 to another site or to other lots on the site meeting setbacks; and removal of all electric, sewer, water, and similar amenity hookups, as well as removal of power boxes;
- 6) removal of pads and parking and replacement of the same with sod;
- 7) provision of a 6-foot high wooden buffer privacy fence along the 27-foot setback line along Crescent drive (except for the area also within the 26-foot setback for Old Military Road);
- 8) provision of a 6-foot high wooden buffer privacy fence along the eastern property line where the site abuts existing single-family residential development;
- 9) provision of a 6-foot high wooden buffer privacy fence along the northern property line if at any time the abutting property to the north is sold and the new owner request that such a buffer fence be erected;
- 10) preservation of any tree counted for credit, removal to only be allowed in the event of disease or impending danger, with such tree removals to be coordinated via permits from the Mobile Tree Commission and the Urban Forestry section of the Urban Development Department;
- 11) provision of a note or table indicating lot area, landscaping area, and frontage landscaping area, and compliance with the zoning ordinance, on a revised site plan;
- 12) provision of a revised site plan incorporating all of the conditions herein;
- 13) provision of a completed subdivision approval from the Mobile City Planning Commission; and
- 14) full compliance with all municipal codes and ordinances.

The requests for use as a recreational vehicle park, unlimited time restriction for recreational vehicle occupancy, access and maneuvering, substandard drive aisles, frontage tree planting requirements reduction, and front yard setback variance are recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5546 DATE September 14, 2009

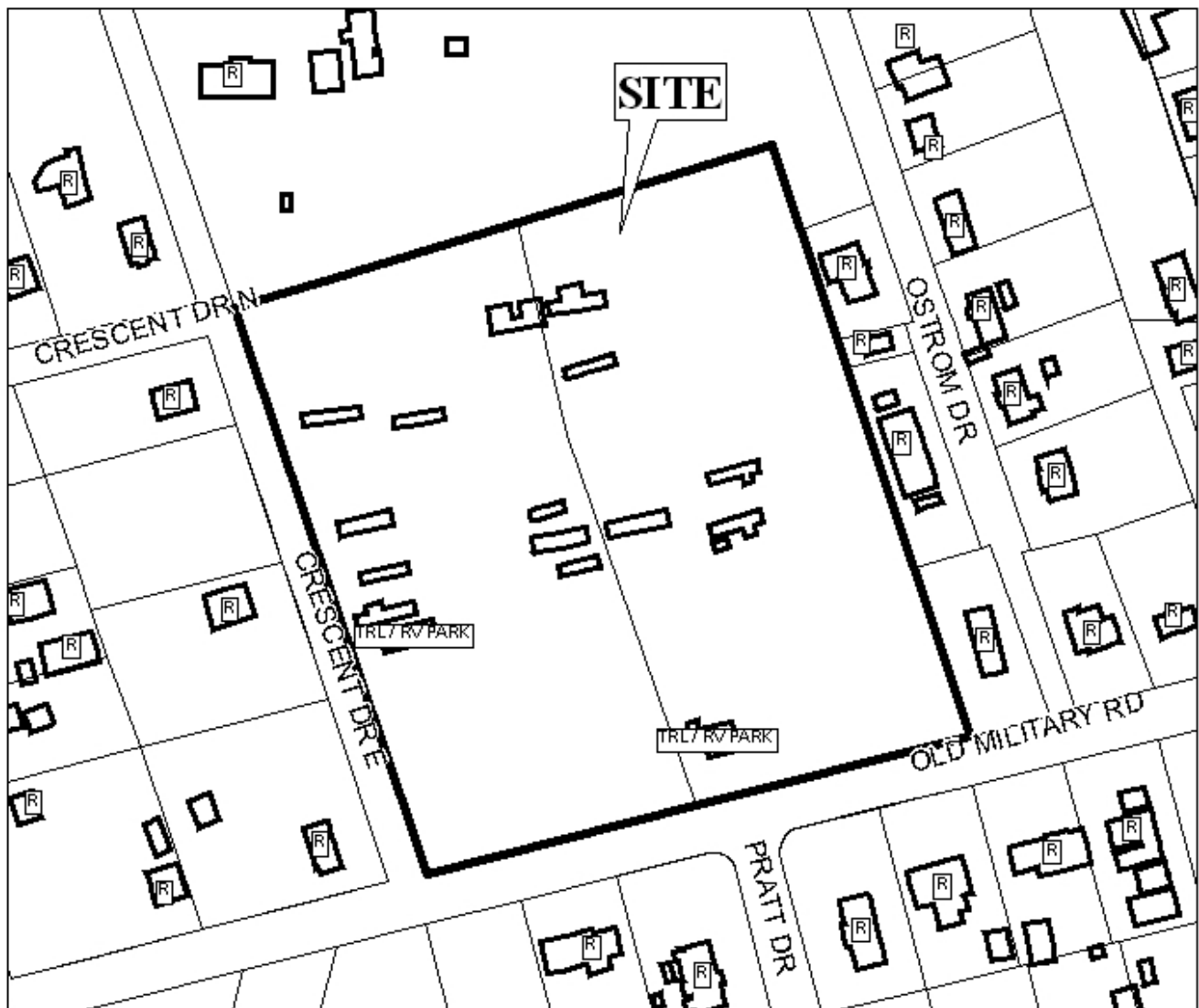
APPLICANT Charles G. Seibert

REQUEST Use, Parking Surface, Access / Maneuvering, Tree / Landscaping, Front Yard Setback Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units.

APPLICATION NUMBER 5546 DATE September 14, 2009

APPLICANT Charles G. Seibert

REQUEST Use, Parking Surface, Access / Maneuvering, Tree / Landscaping, Front Yard Setback Variance

LEGEND

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| R-1 | R-2 | R-3 | R-A | R-B | H-B | T-B | B-1 | LB-2 | B-2 | B-3 | B-4 | B-5 | I-1 | I-2 | NTS |
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units.

APPLICATION NUMBER 5546 DATE September 14, 2009

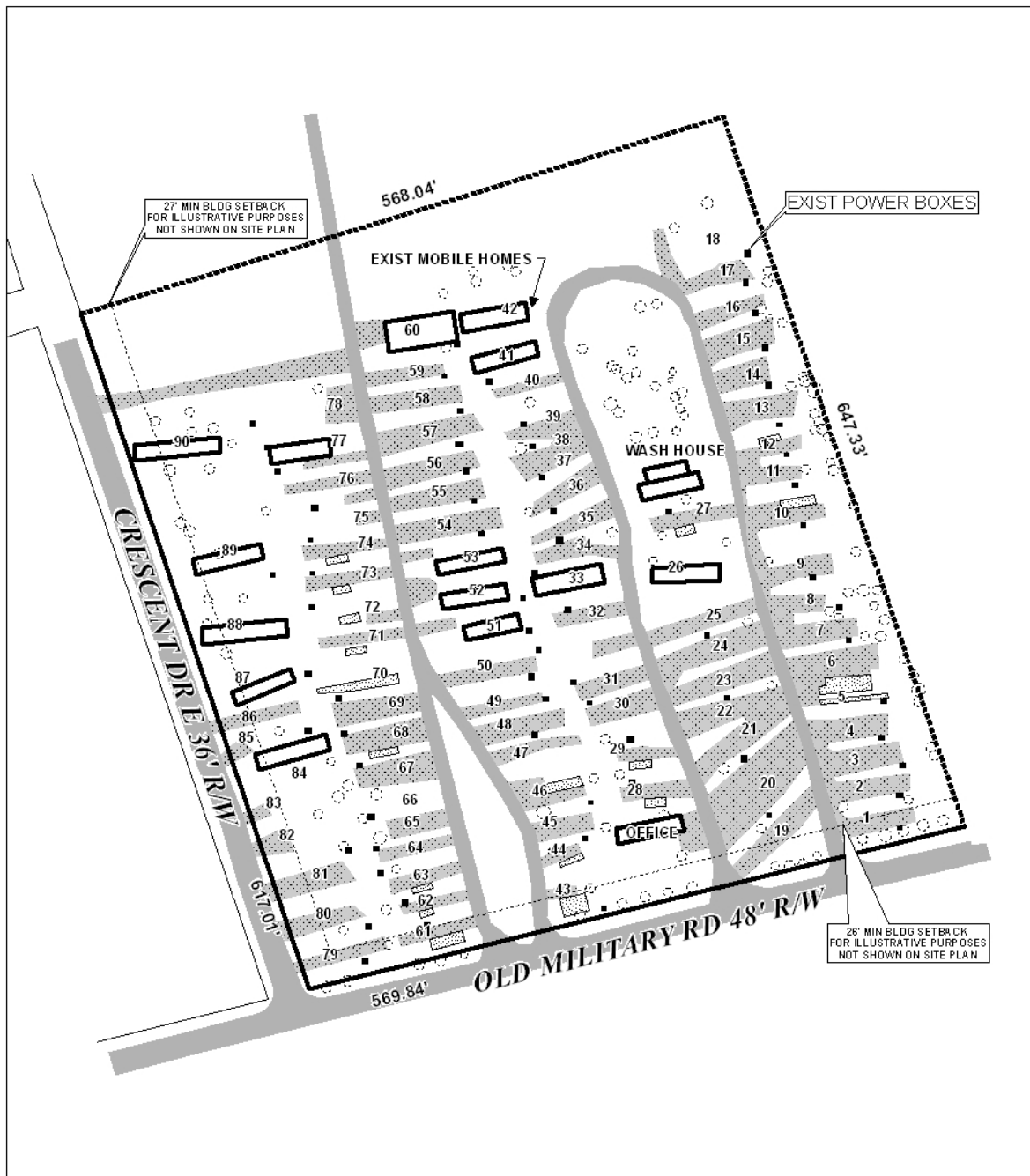
APPLICANT Charles G. Seibert

REQUEST Use, Parking Surface, Access / Maneuvering, Tree / Landscaping, Front Yard Setback Variance



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SITE PLAN



The site plan illustrates the existing development

APPLICATION NUMBER 5546 DATE September 14, 2009

APPLICANT Charles G. Seibert

REQUEST Use, Parking Surface, Access / Maneuvering, Tree / Landscaping, Front Yard Setback Variance

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