

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 1, 2017****CASE NUMBER**

6104

APPLICANT NAME

David M. Shumer

LOCATION

5999 U.S. Highway 90 West
(South side of U.S. Highway 90 West, ¼ mile± East of
Broadview Drive East.)

VARIANCE REQUEST

PARKING SURFACE: Variance to allow aggregate surfacing for a parking area in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

PARKING SURFACE: The Zoning Ordinance requires all parking surfaces be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

ZONING

B-3, Community Business

AREA OF PROPERTY

19,900± Square Feet / 0.46± Acres

ENGINEERING**COMMENTS**

SURFACING VARIANCE: If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

- a. The handicapped parking spaces and the vehicular access to and from them must be paved (asphalt or concrete).
- b. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting.
- c. Submit a ROW Permit (ALDOT and City of Mobile) for any proposed work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.

TRAFFIC ENGINEERING**COMMENTS**

If the surface variance is approved, bumper stops should be included on the gravel surface to delineate any required parking spaces. An ALDOT permit is required for any work in the right-of-way. Aggregate cannot extend into the right-of-way and cannot be used in the areas designated as the accessible path from the required handicap space to the building.

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Surfacing Variance to allow aggregate surfacing for a parking area in a B-3, Community Business District; the Zoning Ordinance requires all parking surfaces to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

Regarding the proposed development of the site, the applicant states the following:

The owner is proposing to develop the site as a small animal veterinary clinic. There will be two structures connected by a small breezeway. The front building will house the reception area, examination rooms, and areas for the primary veterinary operations and the rear of the building will contain a kennel for animal boarding.

This site is relatively flat with a slight slope away from the road that increases toward the rear of the property. The property has been cleared and has contained multiple manufactured structures in the past. There is a chain link fence that surrounds the property.

The current zoning for this and all adjacent properties is B-3.

The property is within flood zone AE (56).

The applicant discusses the use of aggregate surfacing to mitigate the effects of excess storm water runoff, and to facilitate compliance with the City of Mobile storm water and flood control ordinances as justification for the request, stating:

The purpose for this request is to lessen the impact of this development on the surrounding areas and to better allow the site to be developed within the Storm Water Management and Flood Control Ordinance of the City of Mobile.

This site is within a flood zone and fill material to elevate the site is not permitted. Filling on the site would allow for a more traditional storm water control plan with runoff entering a detention pond and being discharged through a control structure. Without the ability to elevate the grades to develop in a conventional manner creates a greater need to minimize the amount of additional runoff generated as a part of the development. Additionally, this site does not naturally drain toward the roadway (ALDOT) and will require a greater level of detention in order to be permitted by the City to discharge onto an adjacent private property.

The use of a coarse aggregate surface would lessen the runoff significantly when compared to a paved surface while allowing for a percentage of the runoff to be contained on-site within the void space of the aggregate.

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.

It should be noted that the site is located within what the Map for Mobile Comprehensive Plan describes as a **Suburban Corridor** Development Area, wherein the intent for development includes:

- accommodation of all users: automobile, bicycle, pedestrian and transit;
- greater connectivity to surrounding neighborhoods;
- development concentrated in centers rather than in strips along the corridor;
- eventual increase in density with residential above retail and services;
- increased streetscaping; and,
- improved traffic flow.

The site is also located with the Theodore Tillman's Corner Annexation. Annexation and re-zoning of the property from R-1, Single-Family Residential to B-3, Community Business, was adopted by City Council at its February 19, 2009 meeting.

As the applicant mentions, the proposed site improvements are for a veterinary clinic. The site plan provided illustrates two buildings connected by what the applicant states is breezeway, as well as a parking lot surfaced with aggregate, with 15 parking spaces; one of which is and van accessible and would be paved with concrete. Parking is delineated by bumper stops (and lines for van accessible parking), and compliance with the standard driveway and parking stall dimensions required by the Zoning Ordinance is illustrated. Also, the combined area of the two proposed buildings is 3,092± square feet, thus requiring 11 parking spaces; therefore, the site would be served by an adequate amount of parking.

Tree and landscaping calculations are provided but, if approved, should be revised to indicate that 60% of required landscaping should be provided between the front property line and the front of the building, not 7.2%. Also, while tree calculations indicate the site would exceed minimum tree planning requirements, no proposed trees are illustrated on the site plan. As such, if approved, revision of the site plan to illustrate full compliance with Tree and Landscape Ordinances would be required.

A photometric plan is not required due to the limited scope of the project; however, all site lighting is to comply with Section 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance, if approved.

A dumpster is not depicted on the site plan, therefore any dumpster placed on the property must be in compliance with the current enclosure and sanitary sewer connection requirements of Section 64-4.D.9. of the Zoning Ordinance and must be illustrated on any revised site plan(s); or,

placement of a note on the site plan stating that curbside pickup will be utilized will suffice, if approved.

The site fronts U.S. Highway 90 West, a proposed major street with a future right-of-way width of 250'. Any proposed development must comply with future right-of-way requirements, the implication being that the proposed location of the main building will be within the required front setback of U.S. Highway 90 West; and, as such the site plan should be revised to reflect this requirement. However, the change of the building location will necessitate a change to other aspects of the site plan, thereby rendering full review of the request impractical.

Nevertheless, it should be noted that the subject property is a metes-and-bounds parcel and not a legal lot of record. If approved, completion of the subdivision process would be required prior to any requests for land disturbance or building permits unless documentation is provided proving this lot has existed in its current configuration as a metes-and-bounds parcel since at least 1984.

It should also be noted that the construction of a breezeway to connect the two proposed buildings on the site may require approval of a Planned Unit Development.

With regards to the applicant's request for aggregate surfacing, such material is not approved due to the possibility of aggregate shifting into the right-of-way and onto adjacent properties via tires. In cases where the basis for a Surfacing Variance has been justified, either large construction equipment with off-road capabilities or the storage of heavy equipment on the property was persuasive considering such activity and use of the property could adversely impact more traditional surfacing (e.g. concrete, asphalt, etc.). Neither condition would apply to the subject site.

Aerial photos verify that aggregate surfacing is common in the area, but only for developed properties that are otherwise considered non-conforming as a result of the aforementioned annexation; or, because such surfacing is used on industrial sites, and is allowed by right in I-1, Light Industry, and I-2, Heavy Industry Districts. The applicant mentions the site contained manufactured structures in the past, a claim substantiated by aerial photographs; however, the site has never been developed and is therefore subject to all municipal codes and ordinances.

Also, it should be noted that recent requests for Surfacing Variances in the vicinity have been denied by the Board, the exception being Retif Oil and Fuel which was approved by an appeal to Circuit Court on October 26, 2016.

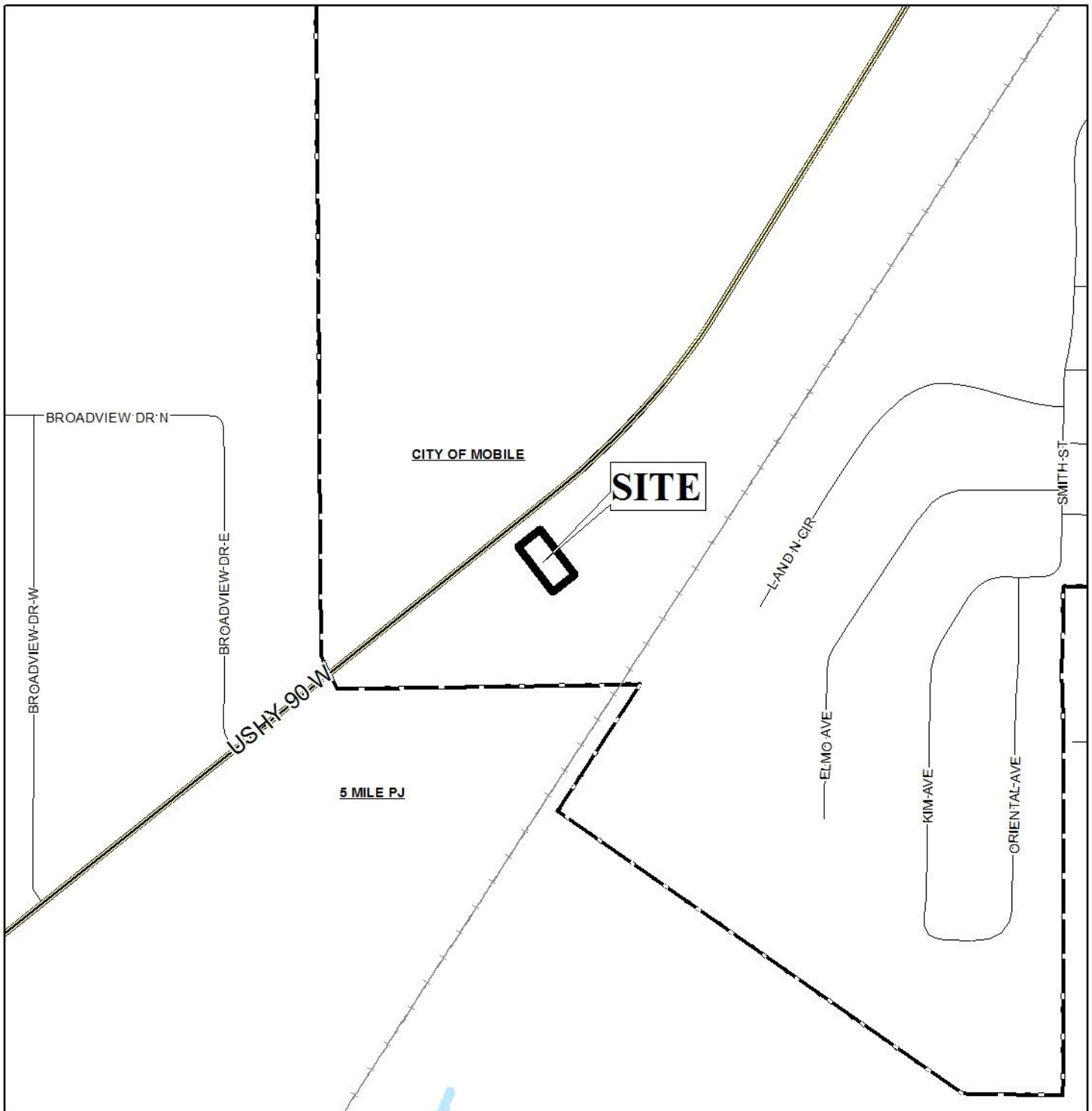
While aggregate surfacing may benefit the site with respect to drainage in a flood zone, Staff has not been provided with information substantiating that traditional surfacing of a parking lot could not do so, either; or, that traditional surfacing would inhibit or impair drainage. As such, approval of the request may establish a precedent regarding similar development of commercial properties not otherwise intended by the Map for Mobile Comprehensive Plan in a Suburban Corridor.

Finally, until such time the applicant can provide information precluding the adequacy of more acceptable surfacing with respect to drainage; or, justify in some other way that more acceptable surfacing would be detrimental to the site, Staff cannot recommend approval.

RECOMMENDATION: Based on the preceding, Staff recommends to the Board the following facts for Denial:

- 1) Granting the variance will be contrary to the public interest due to the possibility of aggregate shifting into the right-of-way or onto adjacent properties;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship due to the fact that the applicant has not substantiated that traditional surfacing of the proposed parking lot would inhibit or impair storm water drainage;
- 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 since aggregate surfacing is inappropriate for the proposed use of the property that otherwise satisfies the intentions for developing a Suburban Corridor; and,
- 4) The site plan does not reflect the development requirements that apply due to the site abutting a proposed major street within a proposed right-of-way width of 250'.

LOCATOR MAP



APPLICATION NUMBER 6104 DATE May 4, 2017

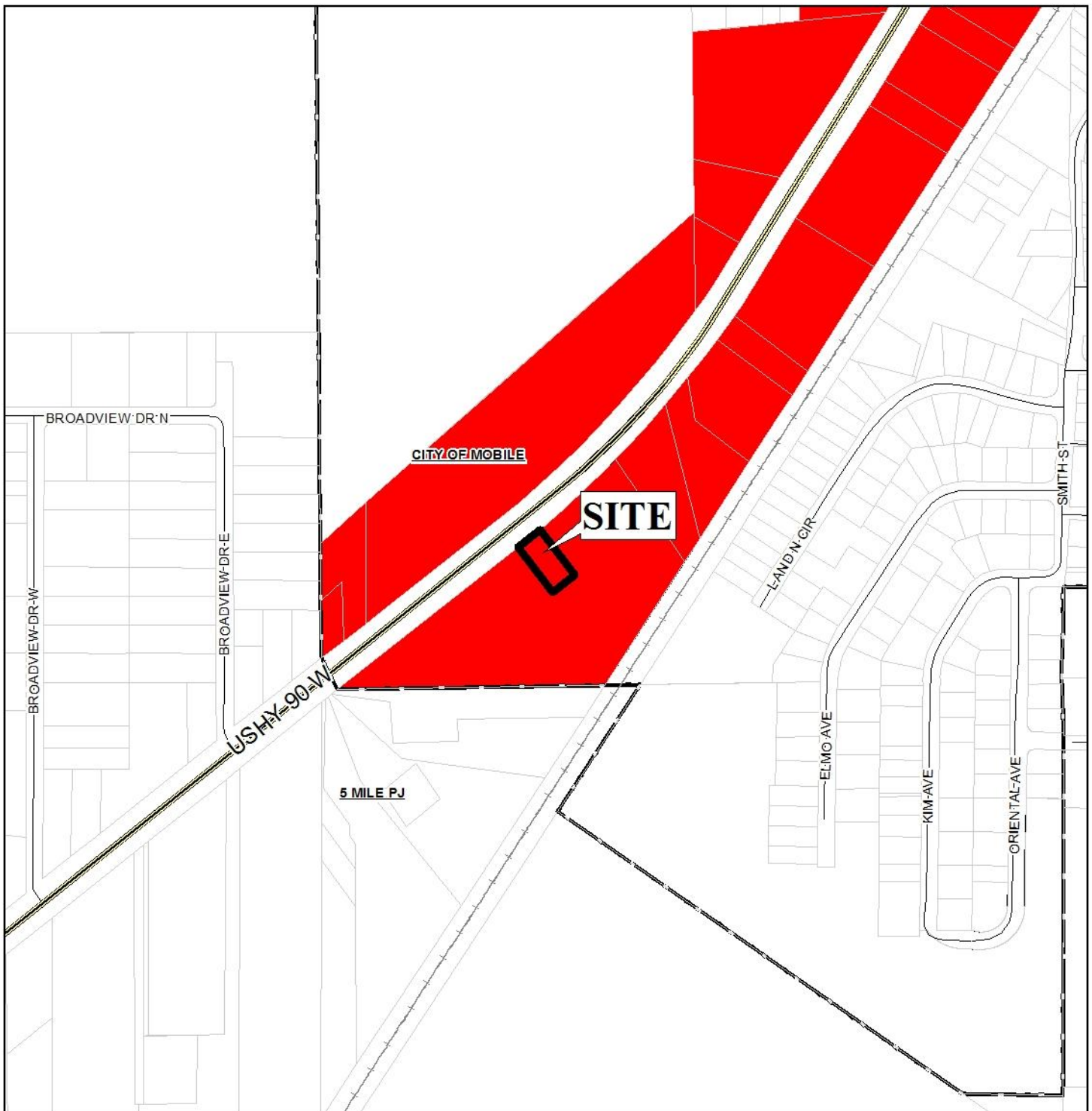
APPLICANT David M. Shumer

REQUEST Surface Variance



NTS

LOCATOR ZONING MAP



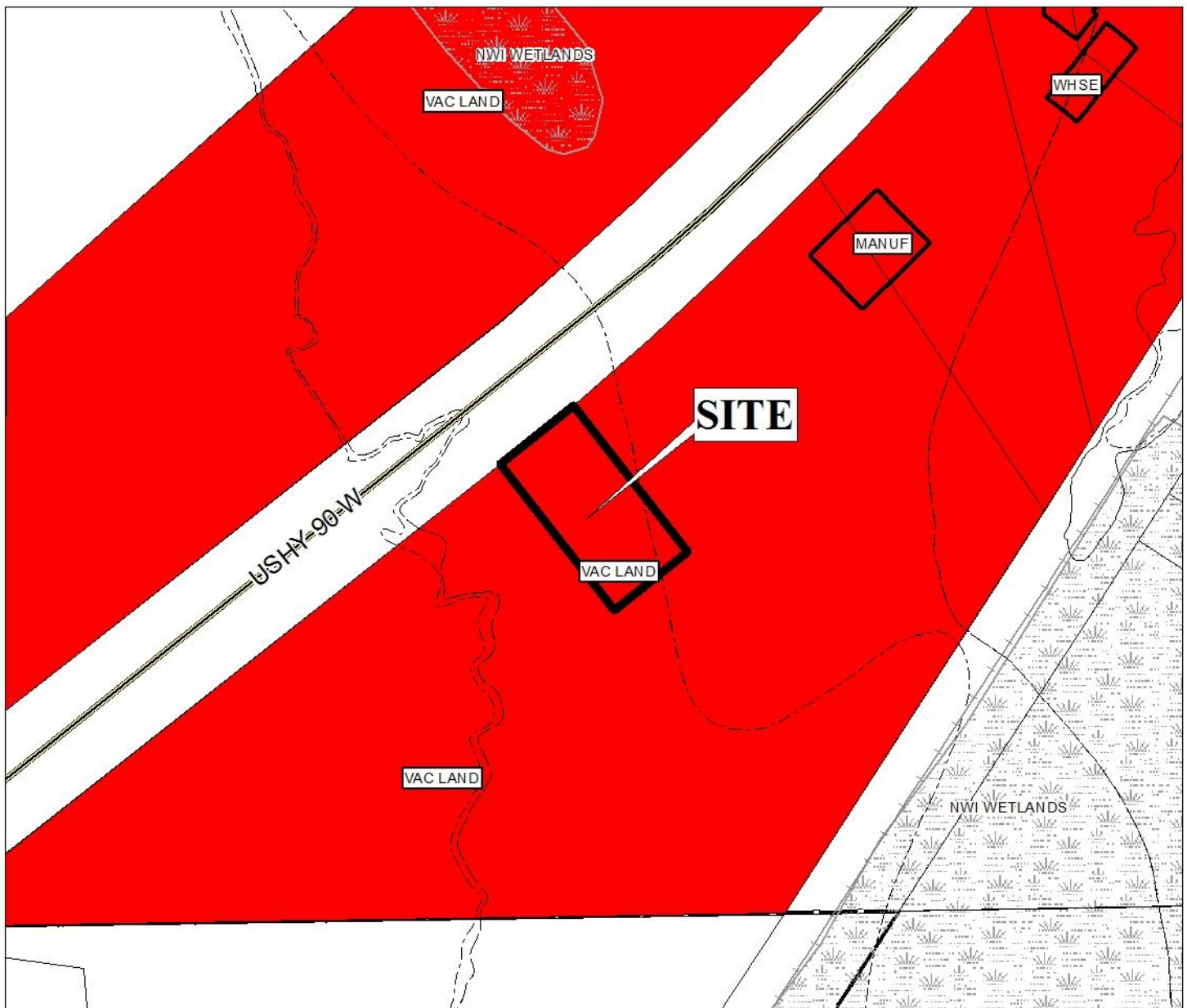
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by industrial 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

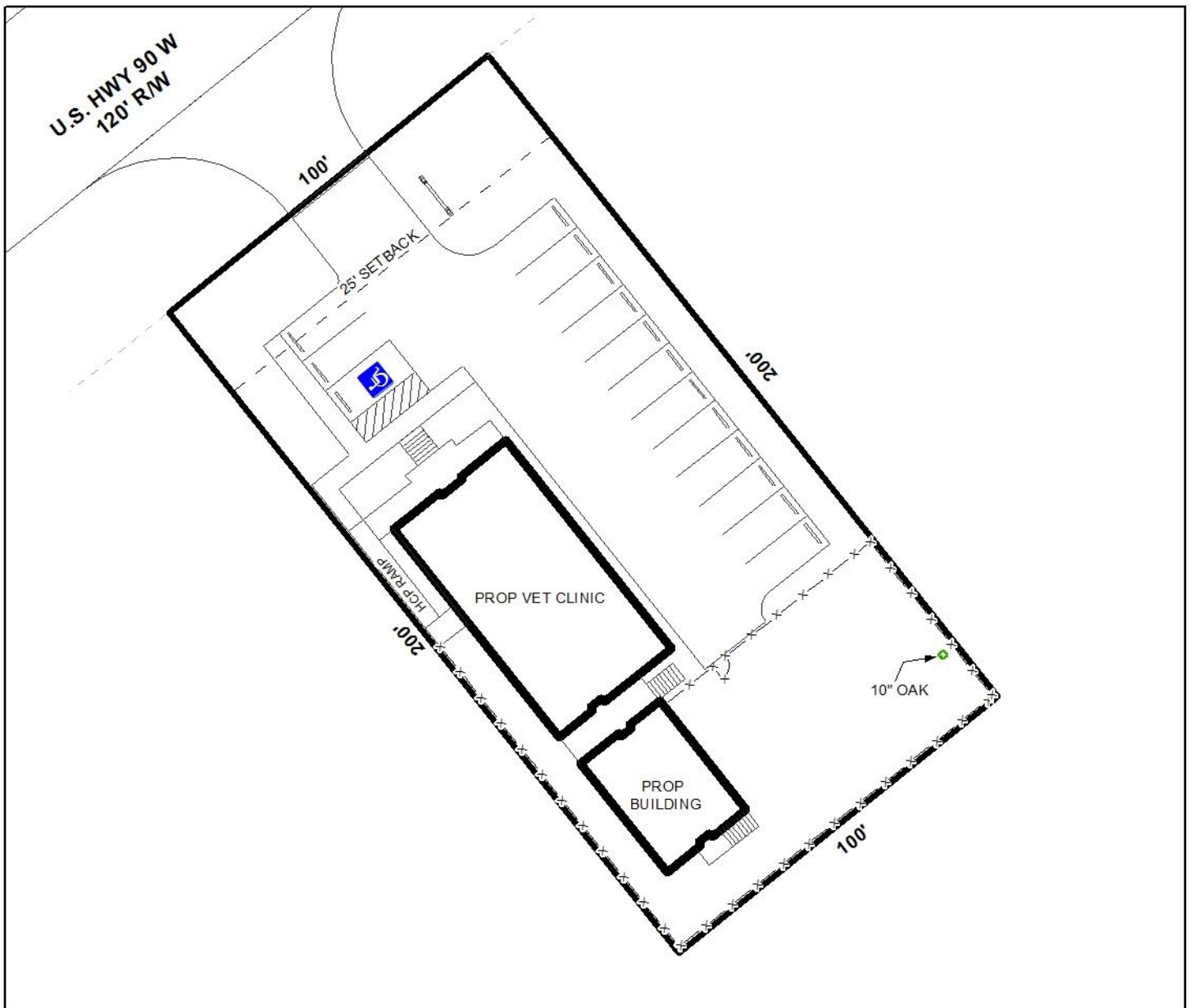


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SITE PLAN



The site plan illustrates the proposed buildings, parking, and setback.

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