

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 8, 2019**

<u>CASE NUMBER</u>	6262
<u>APPLICANT NAME</u>	Tony Cooper
<u>LOCATION</u>	5620 Sermon Road North (Northwest corner of Sermon Road North and Willis Road).
<u>VARIANCE REQUEST</u>	TREE: Tree Variance to allow reduced tree plantings in a B-3, Community Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	TREE: The Zoning Ordinance requires full compliance with the tree planting requirements in a B-3, Community Business District.
<u>ZONING</u>	B-3, Community Business District
<u>AREA OF PROPERTY</u>	0.7± Acres
<u>ENGINEERING COMMENTS</u>	If the variance is approved the applicant will need to have the following conditions met: <ol style="list-style-type: none">1. Submit and receive approval of a REVISED Land Disturbance Permit through Central Permitting for any proposed site work.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>CITY COUNCIL DISTRICT</u>	District 4
<u>ANALYSIS</u>	The applicant is requesting a Tree Variance to allow reduced tree plantings in a B-3, Community Business District; the Zoning Ordinance requires full compliance with the tree planting requirements in a B-3, Community Business District.

When the applicant submitted for land disturbance and building permits in 2017, a compliant tree and landscaping plan was signed by the applicant and submitted, indicating that they were aware of these requirements. The applicant is currently trying to obtain a Final Certificate of Occupancy. During Planning & Zoning staff inspection of the site, it was determined that the tree plantings do not match those of the approved site plan. The applicant submitted the current

application, stating that “potential tree locations hindered by site & building underground utilities”. The applicant has been in conversation with staff about the reduced number of trees on site, and was advised that a variance would be required.

Below is a chart showing the number and type of trees required compared to those on the site:

Total	Provided	Required	Compliance ?
Frontage 1	1	8	No
Frontage 2	0	4	No
Perimeter	10	12	No
Overstory	1	6	No
Understory	9	6	
Parking	1	1	No
Total	12	25	No
Overstory	2	18	No
Understory	10	7	Yes

As noted above, a total of 25 trees are required for the site to be in compliance with the regulations, and only 12 are planted on the site, with all of omitted trees being overstory trees, such as live oaks, which require larger planting areas to thrive.

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 site has been given a Light Industry (LI) land use designation per the adopted Future Land Use Plan and Map. 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 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.

This land use designation applies to an array of modern, low-impact industrial uses that include assembly and processing, warehousing, distribution and wholesaling facilities. The bulk of the light industrial use must be contained within a building or facility. If a light industrial use requires outside storage, the storage must be limited in area and appropriately screened from

view in accordance to specific zoning requirements. This designation may also include uses such as complementary offices and retail.

LI also includes areas that may be regarded as “industrial business”, where the land uses include business administration and logistics operations for industrial concerns, building trade contractors facilities and advance research facilities, as well as stand-alone educational, scientific and industrial research facilities, or any combination of those facilities located in light industrial and technology parks. Many parcels used for industrial business are smaller and scattered throughout Mobile. For this reason, these parcels are not singled out in the FLUM, but rather are addressed through zoning.

Light industrial uses are characterized by attractive, accessible and connected development, compatible with the character of surrounding neighborhoods. Development may take the form of planned campuses in park-like settings or unified design corridors, with consideration to factors such as site and building orientation, building design, landscaping and buffering, lighting, continuity of pedestrian networks, access and connectivity to transit and to freight transportation.

Heavy commercial and, in some cases, high-density residential land uses may serve as transitions between LI and other, lower-intensity land use designations. Protection buffers may also be required by zoning.

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.

Per the submitted site plan, it appears that there may be room for additional understory trees to be planted, however, the required trees are of the overstory variety. As these trees need larger planting areas to thrive, there do not appear to be any such places that would both provide sufficient room for growth as well as not interfere with electrical, sanitary sewer, water, phone, and drainage infrastructure on the site.

While the applicant did submit a signed compliant tree plan acknowledging the City of Mobile’s tree and landscape regulations as it pertains to this site, it is often difficult to know precisely where underground utilities will need to be placed during construction. As such, adjustments must be made to insure the infrastructure is able to operate without interference from items such as tree roots. If the Board is inclined to grant the variance request, it is recommended that the applicant be required to remit to the tree bank, the amount of \$200 per overstory tree (for a total of \$3,200) that will be missing from the site.

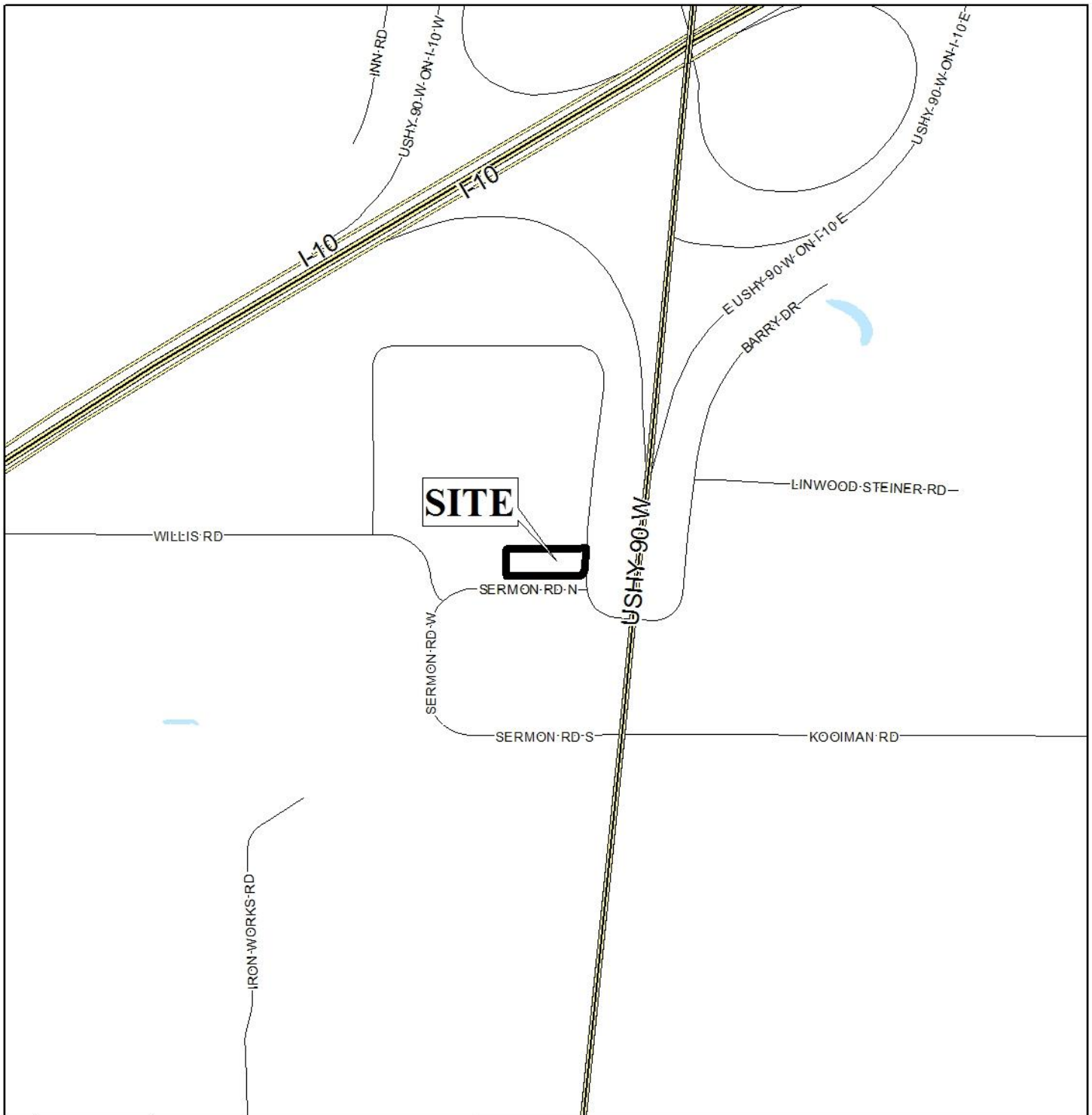
RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) The variance will not be contrary to the public interest, in that requiring the tree plantings will interfere with the effectiveness of infrastructure serving the site;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship, in that the roots of the required trees would interfere with underground utilities serving the site; and
- 3) The spirit of the chapter shall be observed and substantial justice be done to the applicant and the surrounding neighborhood by granting the variance as to allow infrastructure to serve the site without competing with tree roots.

The Approval is subject to the following conditions:

- 1) Payment to the Tree Bank in the amount of \$200 per missing overstory tree, for a total of \$3,200 prior to the issuance of a final Certificate of Occupancy; and
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



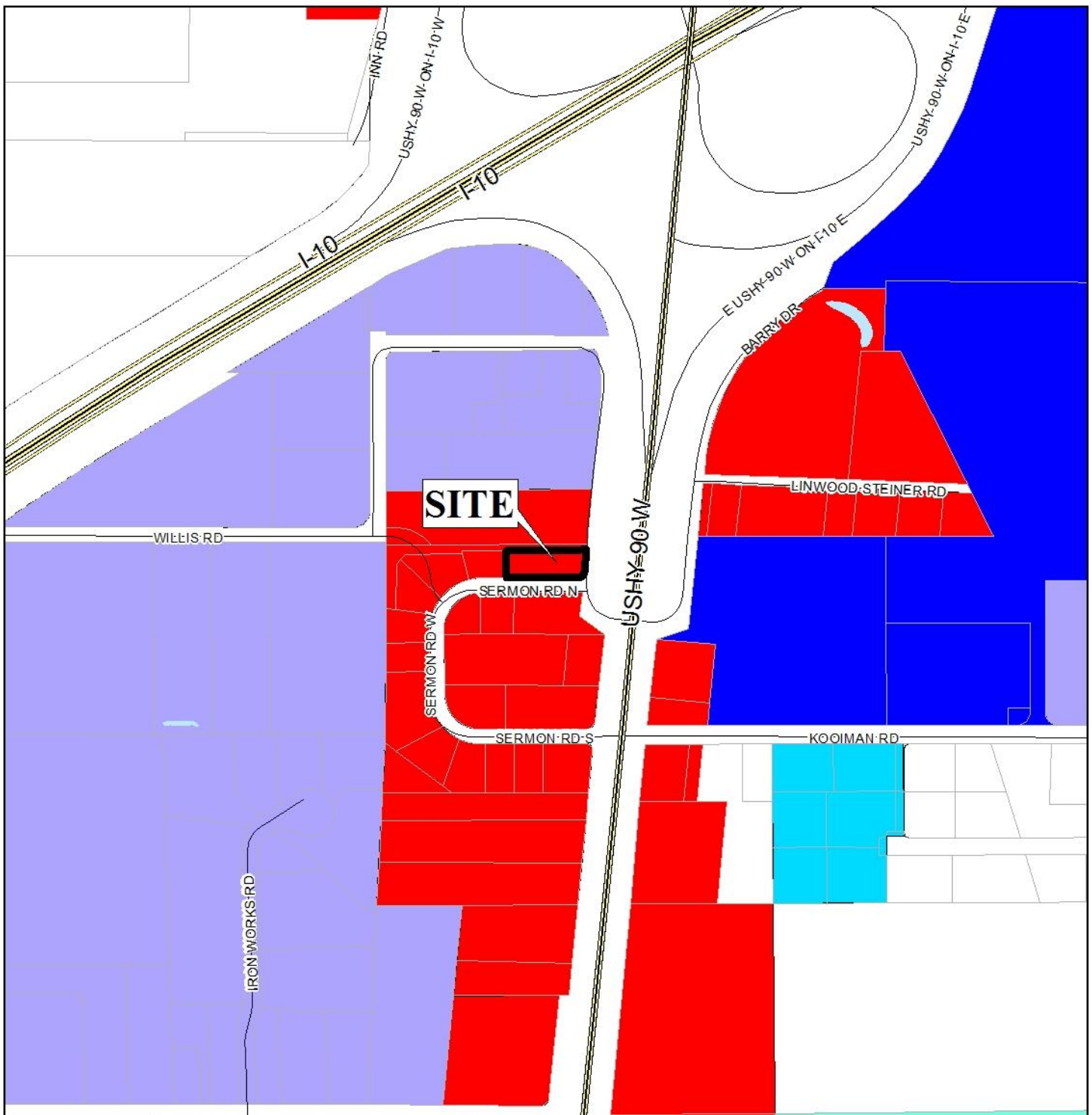
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APPLICANT Tony Cooper

REQUEST Tree Planting Vairance



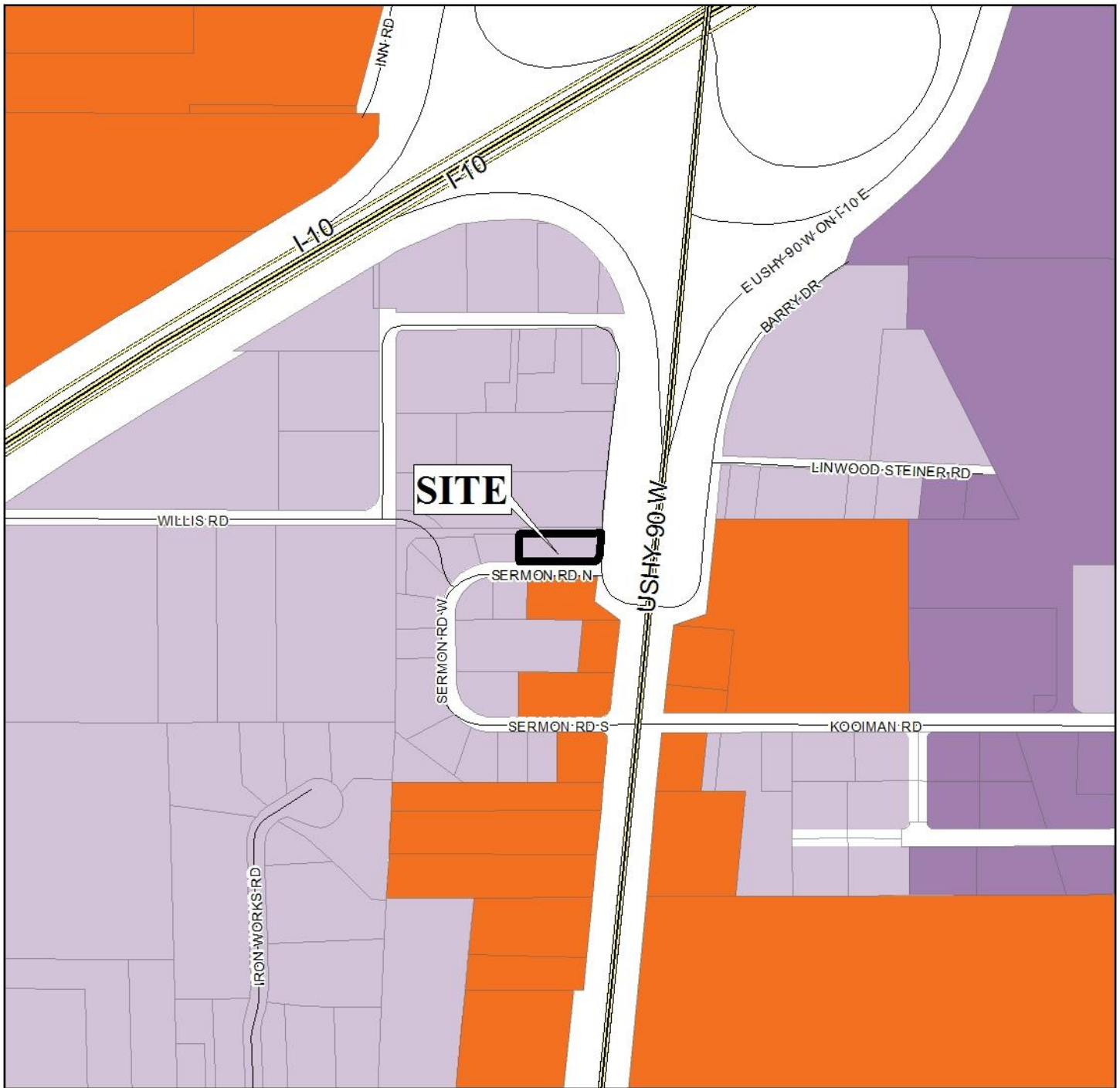
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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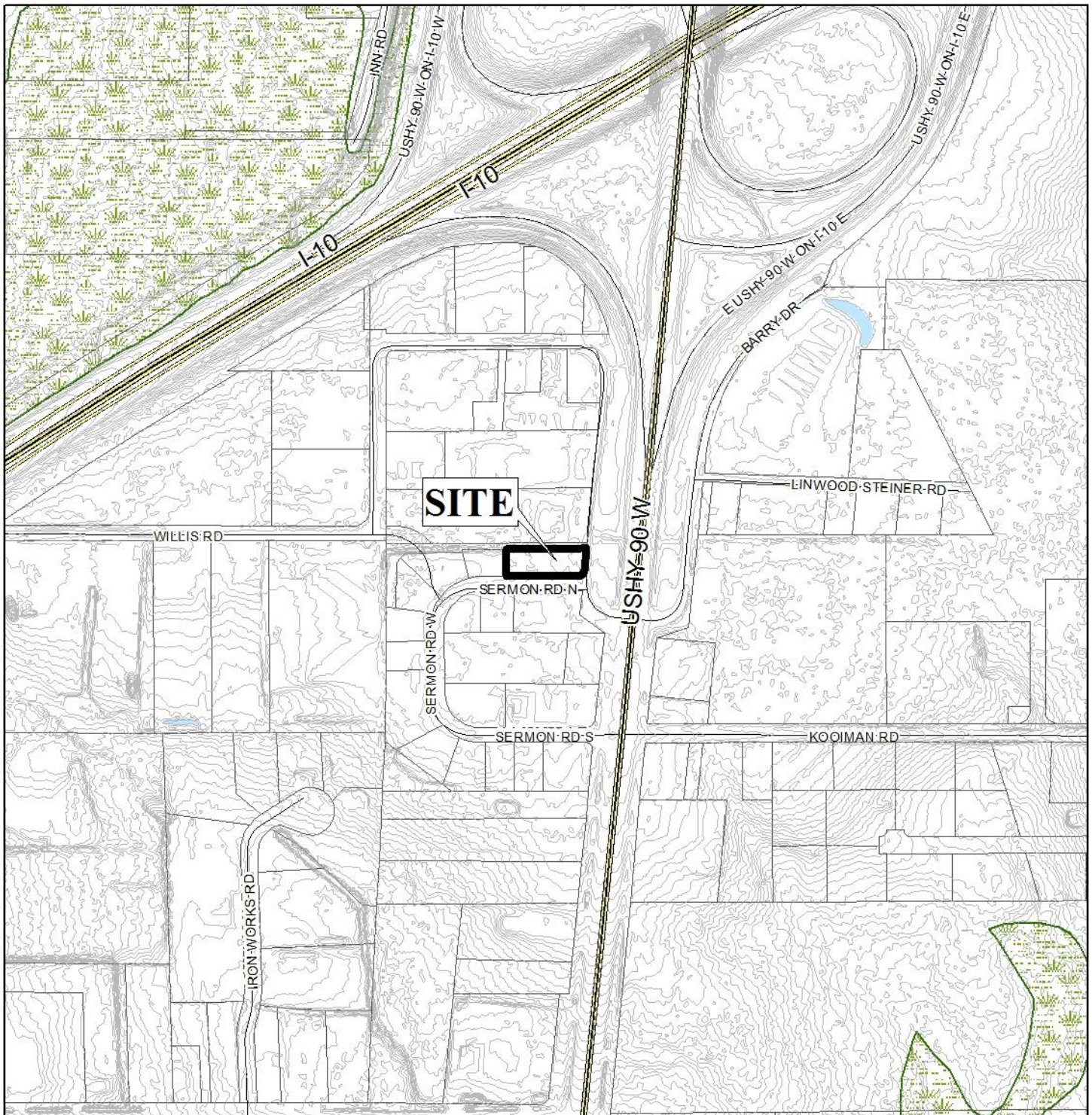
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



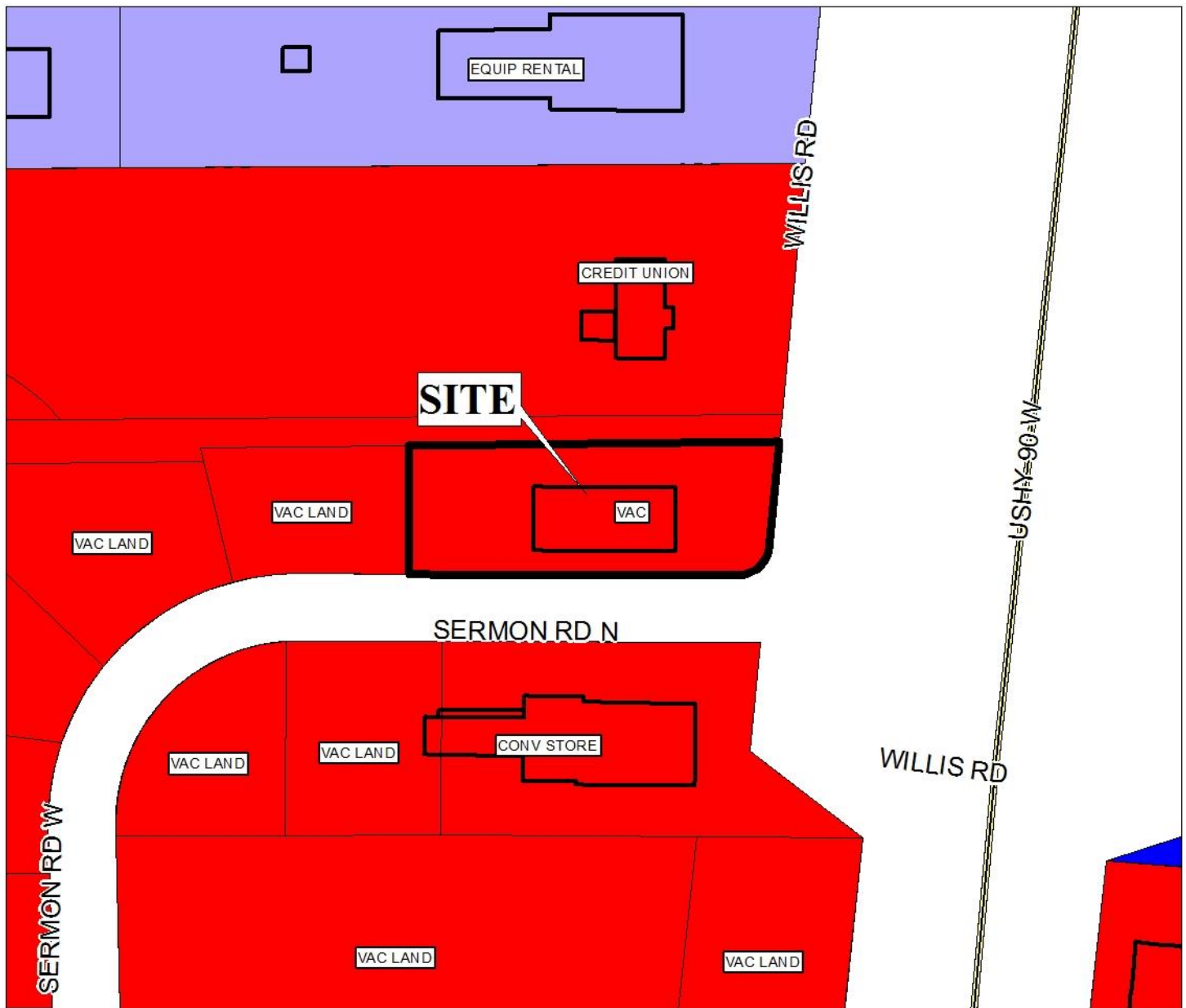
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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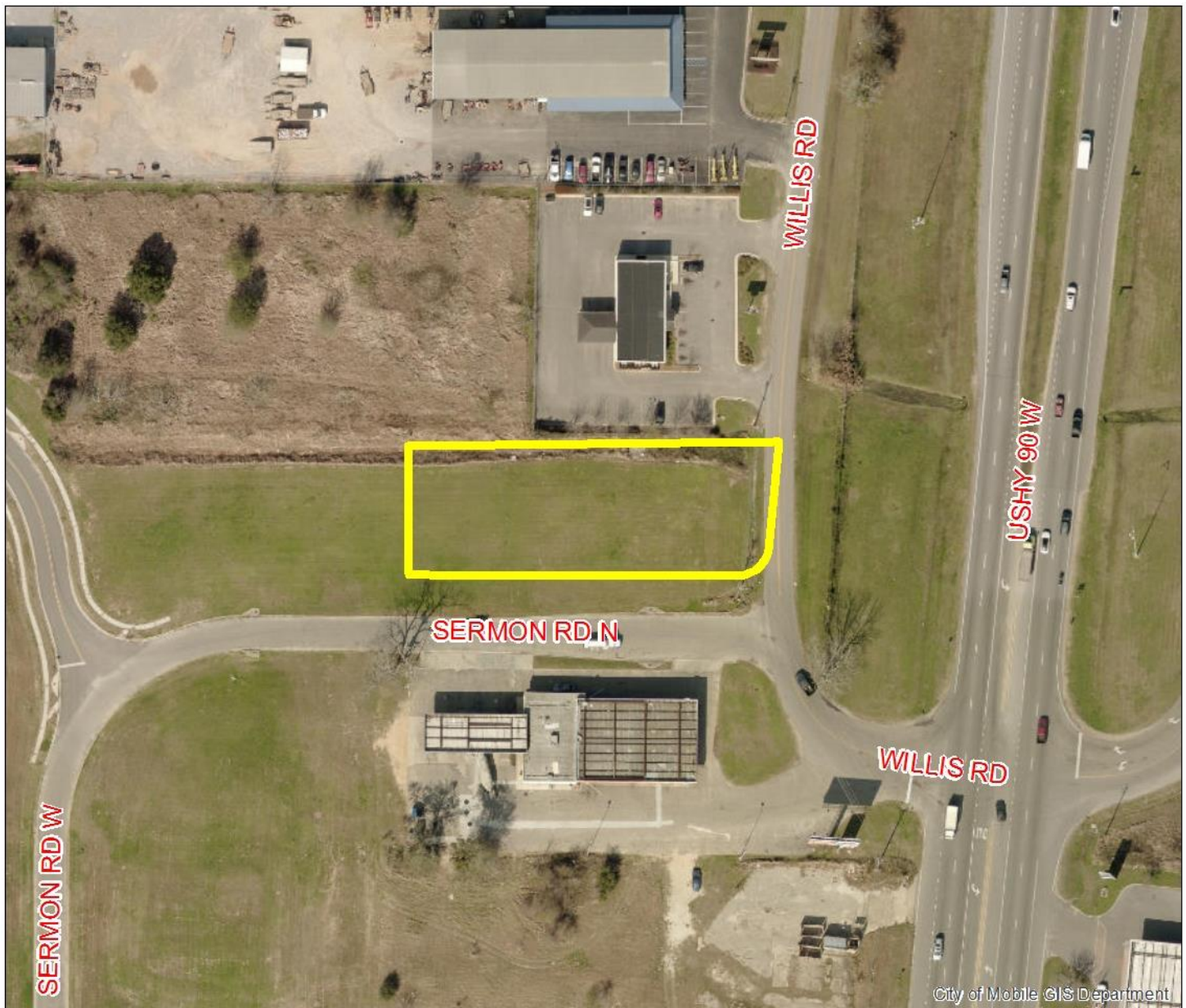
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

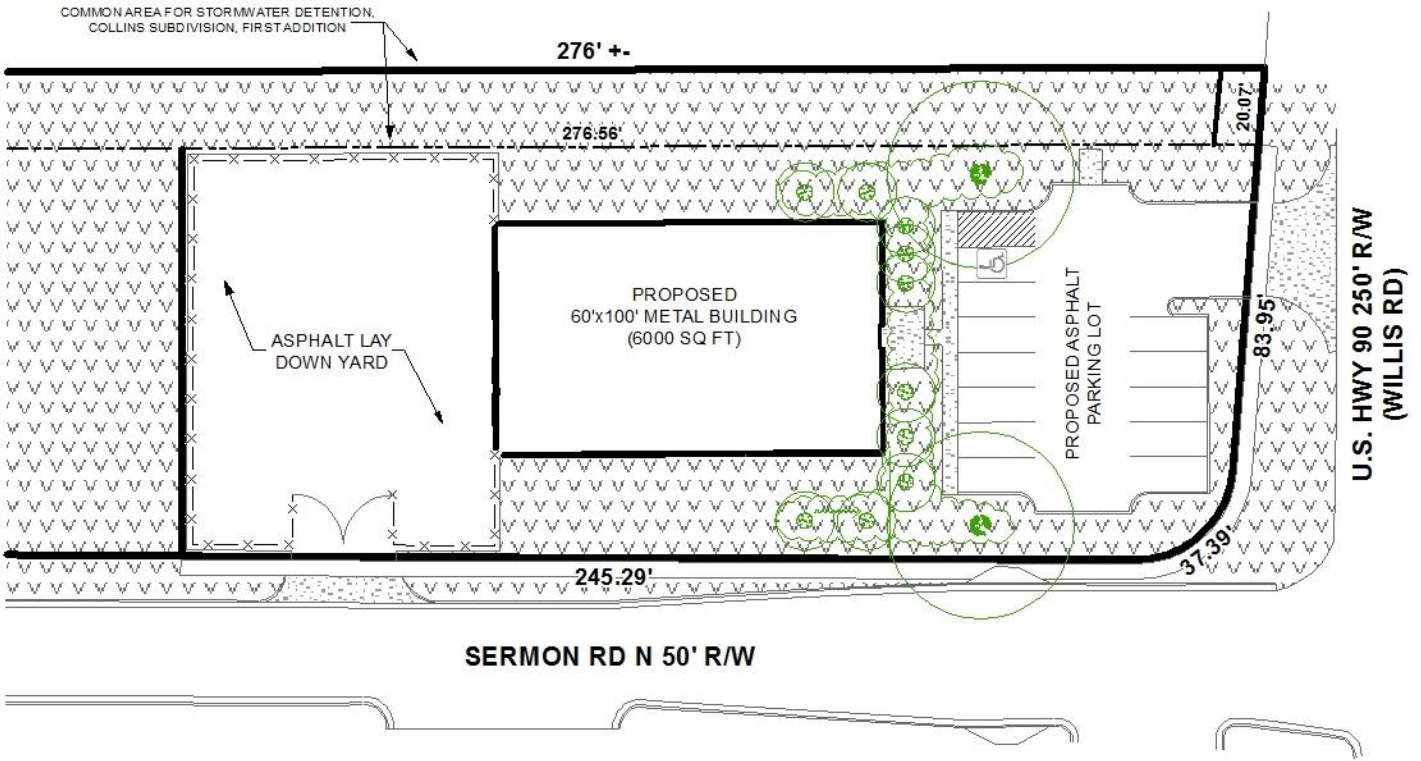


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SITE PLAN



The site plan illustrates the proposed building, proposed parking, and proposed landscaping.

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