

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: November 4, 2019

CASE NUMBER 6291
APPLICANT NAME Byrd Surveying, Inc.

LOCATION 1400 Navco Road
(Southwest corner of Navco Road and McVay Drive North)

VARIANCE REQUEST **USE:** Use Variance to allow used car sales in a B-2, Neighborhood Business District.

ZONING ORDINANCE REQUIREMENT **USE:** The Zoning Ordinance requires a minimum of a B-3, Community Business District for used car sales.

ZONING B-2, Neighborhood Business District

AREA OF PROPERTY 16,967 square feet / 0.39±Acres

CITY COUNCIL DISTRICT District 3

ENGINEERING COMMENTS No comments.

TRAFFIC ENGINEERING COMMENTS The use variance is to allow automotive sales on this site. The angled parking stalls along McVay Drive are approximately 4’ short of the minimum stall length required by the City (20’ for sixty-degree angled parking). This reduces the effective width of the drive aisle adjacent to the building to 20’ in the area around the handicap parking. The effective width of the entrance/exit onto McVay Drive is also only 18’ due to the angled parking that obstructs the driveway. The asphalt area along McVay Drive encroaches into the right-of-way and the vehicle overhang will further impede any foot traffic that may use the grass area that is available. There is excess asphalt not shown to be used in the right-of-way of Navco Road. If this request should be approved, a vertical obstruction to prevent further overhang into the right-of-way may be appropriate, or the use of bumper stops. Asphalt removal may also be appropriate to prevent the display of for-sale vehicles in the right-of-way.

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

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 a Use Variance to allow used car sales in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District for used car sales.

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

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.

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 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.

Variations 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 following narrative was provided with the application:

THE APPLICANTS ARE PROPOSING TO UTILIZE THE PROPERTY AT 1400 NAVCO ROAD FOR USED AUTOMOBILE SALES. THE CURRENT ZONING IS B-2, BUT THE PROPOSED USE REQUIRES A B-3 CLASSIFICATION. THE PROPERTY HAS BEEN VACANT FOR SEVERAL YEARS BUT WAS USED FOR A BAR AND NIGHTCLUB FOR APPROXIMATELY 20 YEARS PRIOR TO THAT. B-3 ZONING JOINS THIS SITE ALONG MCVAY DRIVE TO THE WEST AND THE OTHER 3 CORNERS OF THE INTERSECTION OF NAVCO ROAD AND MCVAY DRIVE ARE ZONED B-2. TWO OF THE CORNERS ARE OCCUPIED WITH CONVENIENCE STORES WITH GAS SALES. THE THIRD CORNER IS A SHOPPING CENTER WITH A LARGE PARKING LOT THAT IS OCCASSIONALLY USED BY INDIVIDUALS LEAVING THEIR CARS ALONG MCVAY DRIVE WITH "FOR SALE" SIGNS.

THE SITE PLAN SHOWS A 24' WIDE, TWO-WAY DRIVE THAT CONNECTS THE TWO EXISTING DRIVE ENTRANCES. THE 10 REQUIRED PARKING SPACES ARE SHOWN ADJOINING THE BUILDING AND THE OTHER 24 SPACES ARE FOR THE DISPLAY OF THE AUTOMOBILES THAT ARE FOR SALE. THESE SPACES ARE AT DIFFERING ANGLES, BUT THAT IS COMMON ON AUTO SALES LOTS.

THE AUTO SALES WOULD BE OPEN MONDAY THROUGH SATURDAY FROM 10:00 A.M. TO 5:00 P.M. THE CURRENT PLANS ARE TO HAVE 1 EMPLOYEE. THE APPLICANTS DO NOT HAVE AN ESTIMATE OF THE NUMBER OF CUSTOMERS PER DAY SINCE THIS A "STARTUP" BUSINESS.

COMPARED TO THE OTHER BUSINESS USES THAT SURROUND THIS SITE, A USED AUTO SALES SHOULD BE WELCOMED. IT DOES NOT CREATE EXCESSIVE NOISE, IT DOES NOT CREATE EXCESSIVE TRASH, AND THE REQUIRED PARKING LOT LIGHTING WILL BE MINIMAL COMPARED TO THE LIGHTS AT THE OTHER BUSINESSES.

The site has been developed since at least 1975, according to aerial photos. McVay Drive was widened from three to four lanes between 1997 and 2002, however, staff cannot determine if any right-of-way was acquired from the site in question for the widening. It does appear, however, that two curb-cuts were removed from the site as part of the widening process.

As noted in the supplied narrative, the property is zoned B-2, Neighborhood Business District, as are the other three corners comprising the McVay Drive/Navco Road intersection. The B-2 properties have been of the same classification since at least 1967, and it appears that existing buildings on all of the corners have been in place since at least 1975. To the South and West, across the Bolton Branch of Dog River, are undeveloped properties in R-3, Multi-Family

Residential (*rezoned in 2012 from R-1*) and B-3, Community Business Districts (*rezoned in 2005 from R-1*).

As noted in the narrative, the most recent use of the existing building on the site was for a bar/nightclub. City directory records available to staff indicate such a use as far back as 1985. The architecture of the building suggests that it was originally constructed as a gas station. There are operating gas stations on two of the three corner properties at this intersection. The third corner contains a multi-tenant shopping center.

The applicant proposes to use the property for auto sales. It appears that there are no other used car sales businesses along any portion of Navco Road, nor along McVay Drive until Government Boulevard. Twelve of the twenty-four vehicle display parking spaces will be located at least 8 feet within the right-of-way of McVay Drive, however, the use of the right-of-way for parking for this location appears to have been occurring at least since McVay Drive was widened, and no new asphalt will be necessary as it is all existing paved area. The Board cannot, however, approve the use of the right-of-way for parking, thus a right-of-way use agreement will be necessary.

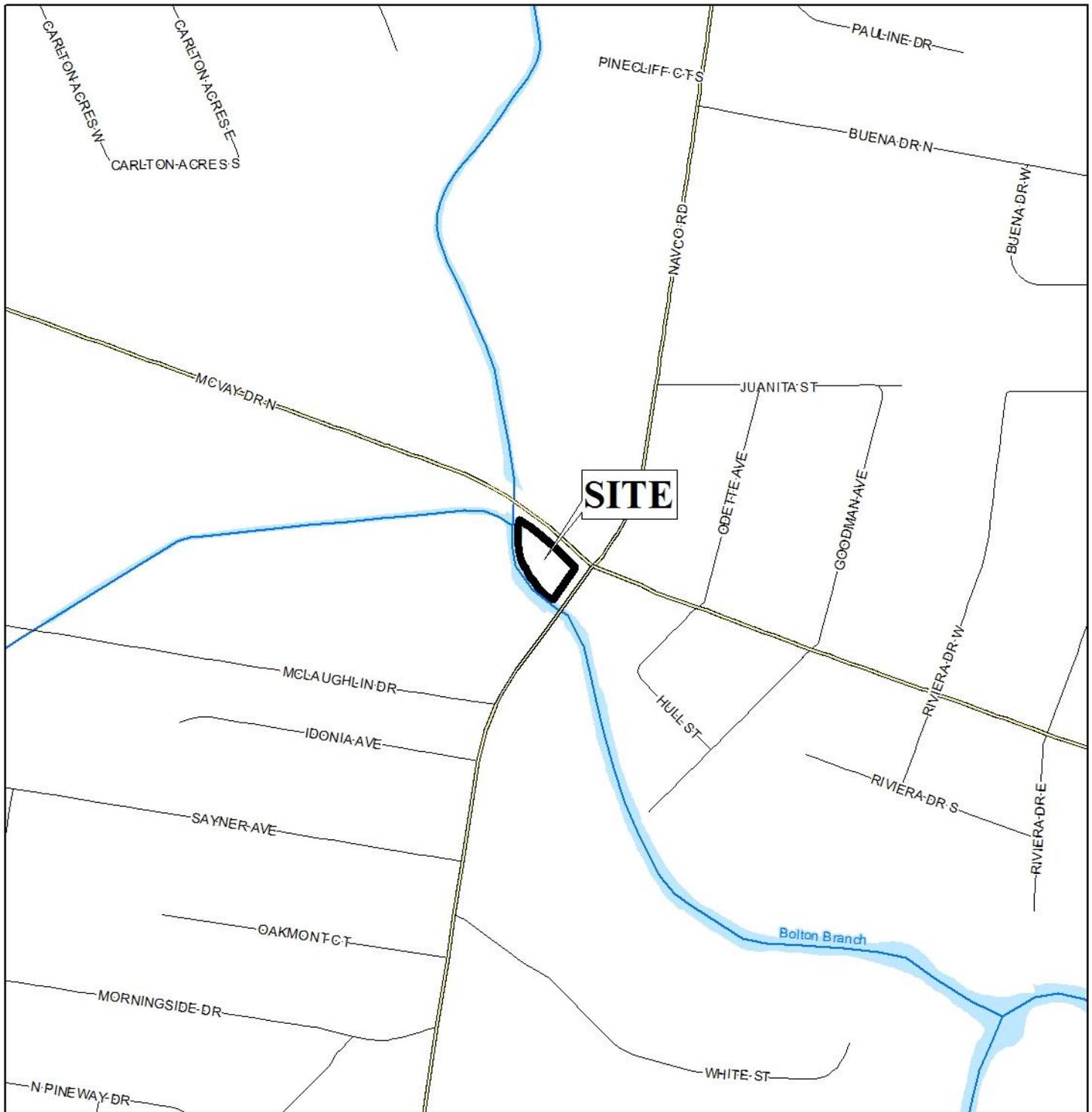
The gas station located across Navco Road was granted a setback variance in 1965, to allow the canopy over the gas pumps to come to within 4 feet of the property line along Navco Road. The shopping center across McVay Drive from the site was granted a Special Exception variance in 1960, to allow for the construction of the shopping center. More recently, another property across McVay Drive, approximately 120 feet from the site, was granted several variances in 2011 to allow the construction of a telecommunications tower.

While the property is uniquely situated, the applicant has not indicated what hardship(s) or unusual circumstances they face which prevent them from choosing any of the other 201 uses allowed by-right in the B-2 zoning district.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Granting the variance will be contrary to the public interest in that there are numerous other uses available within a B-2, Neighborhood Business District, which may be viable alternatives;
- 2) No special conditions were identified with the property itself to show that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship as it relates to use; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variances, as there are numerous other uses available within a B-2, Neighborhood Business District, which may be viable alternatives.

LOCATOR MAP



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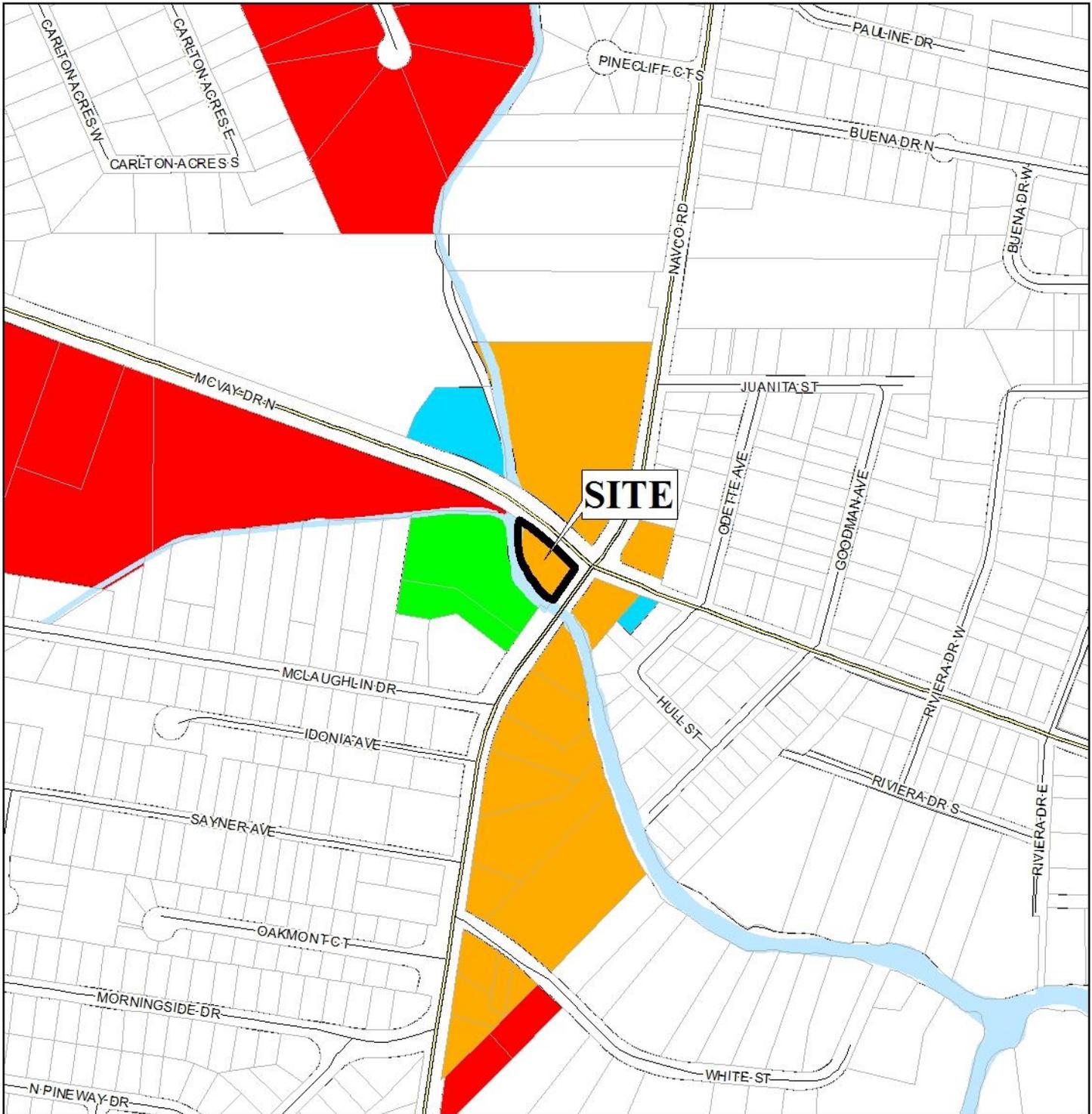
APPLICANT Byrd Surveying, Inc.

REQUEST Use Variance



NTS

LOCATOR ZONING MAP



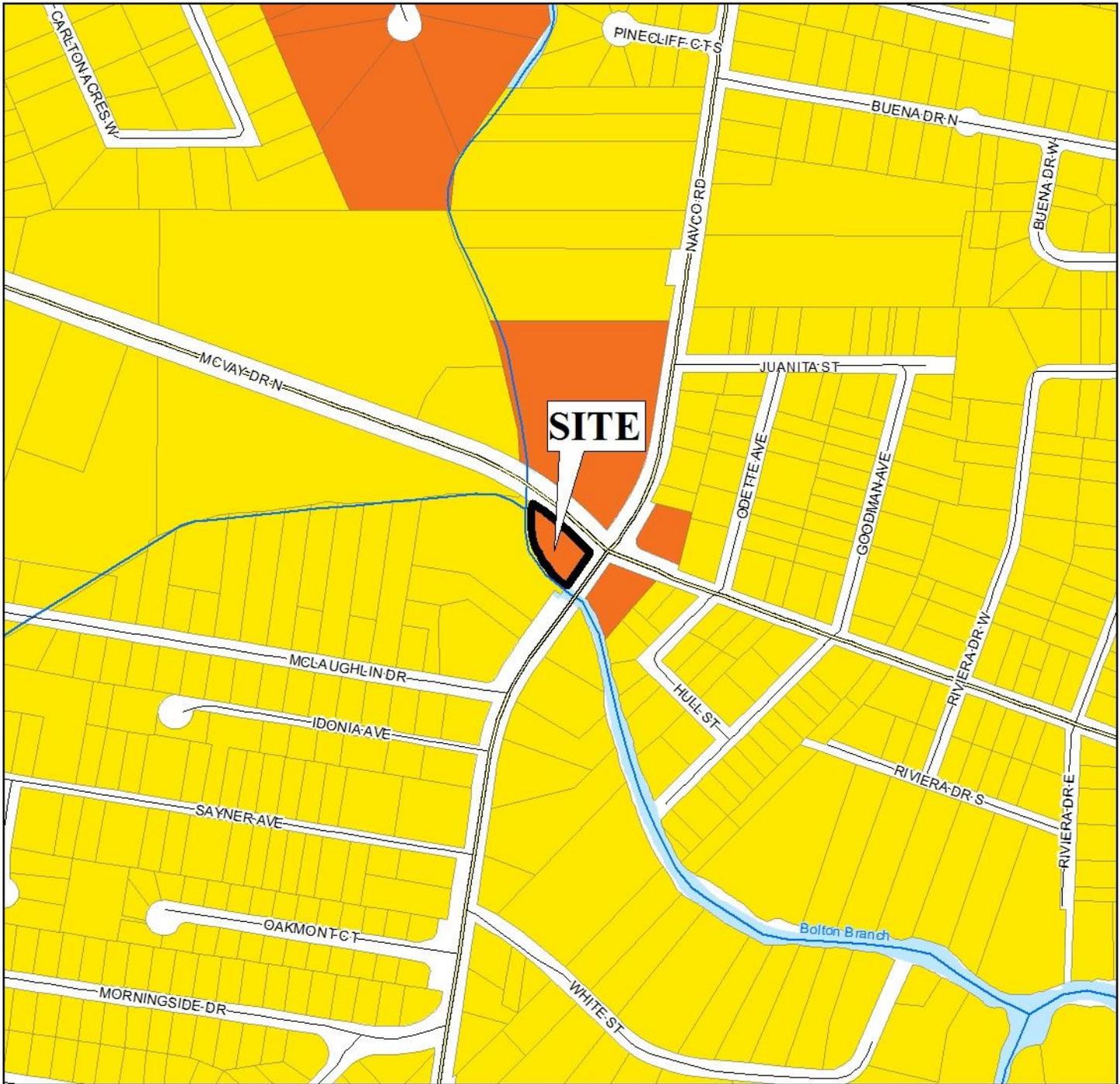
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FLUM LOCATOR MAP



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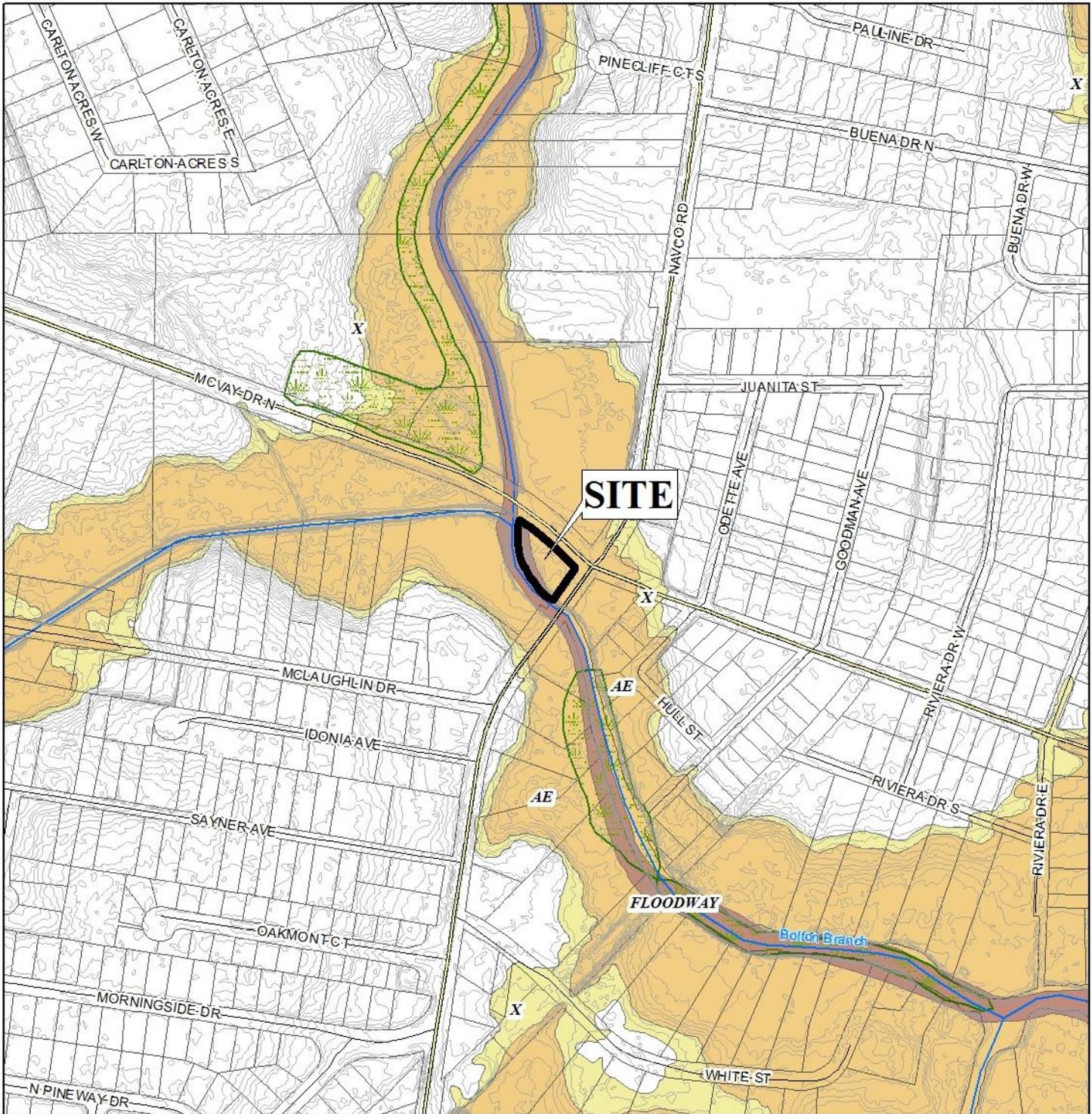
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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood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



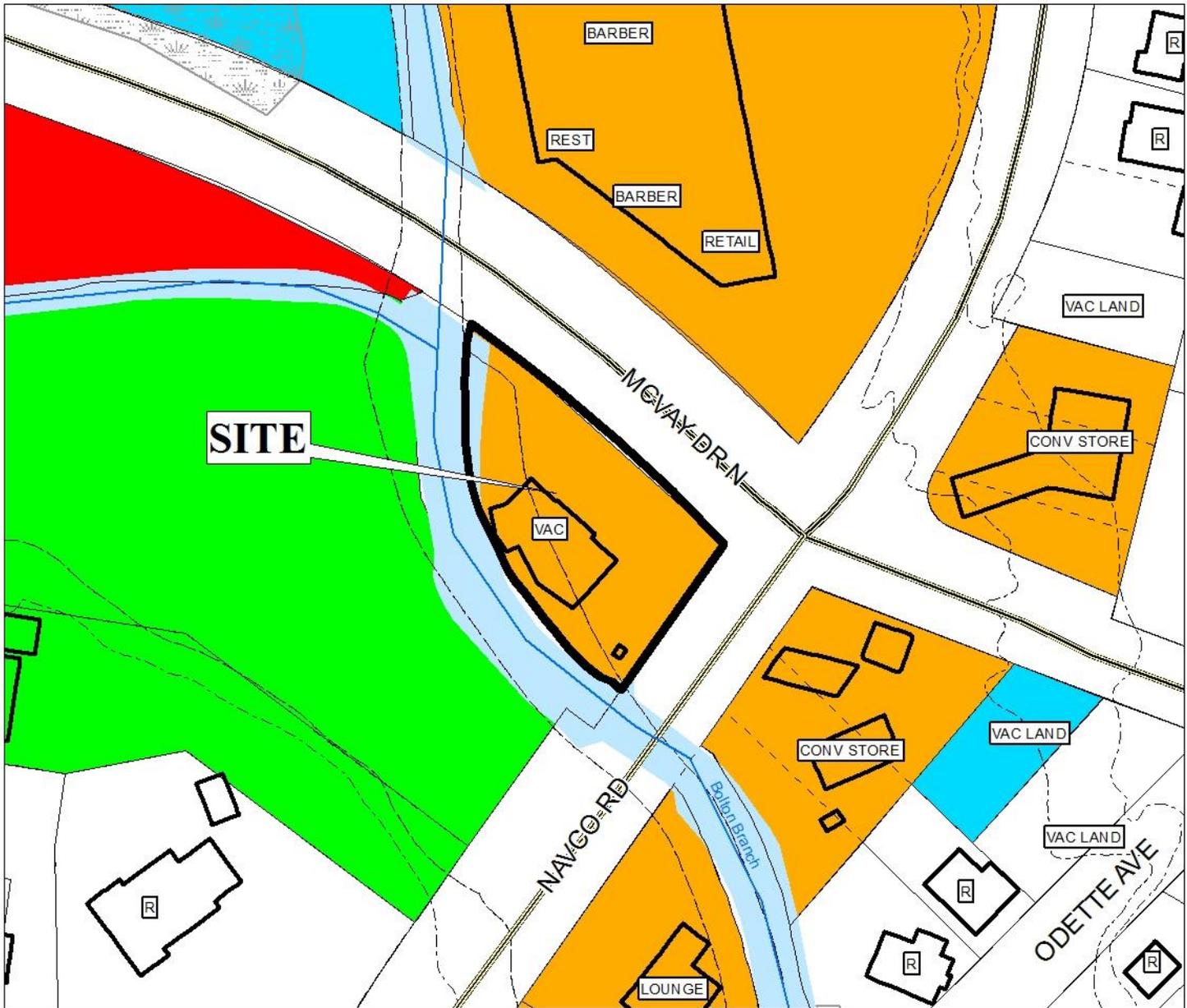
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous commercial and 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



The site is surrounded by miscellaneous commercial and residential units.

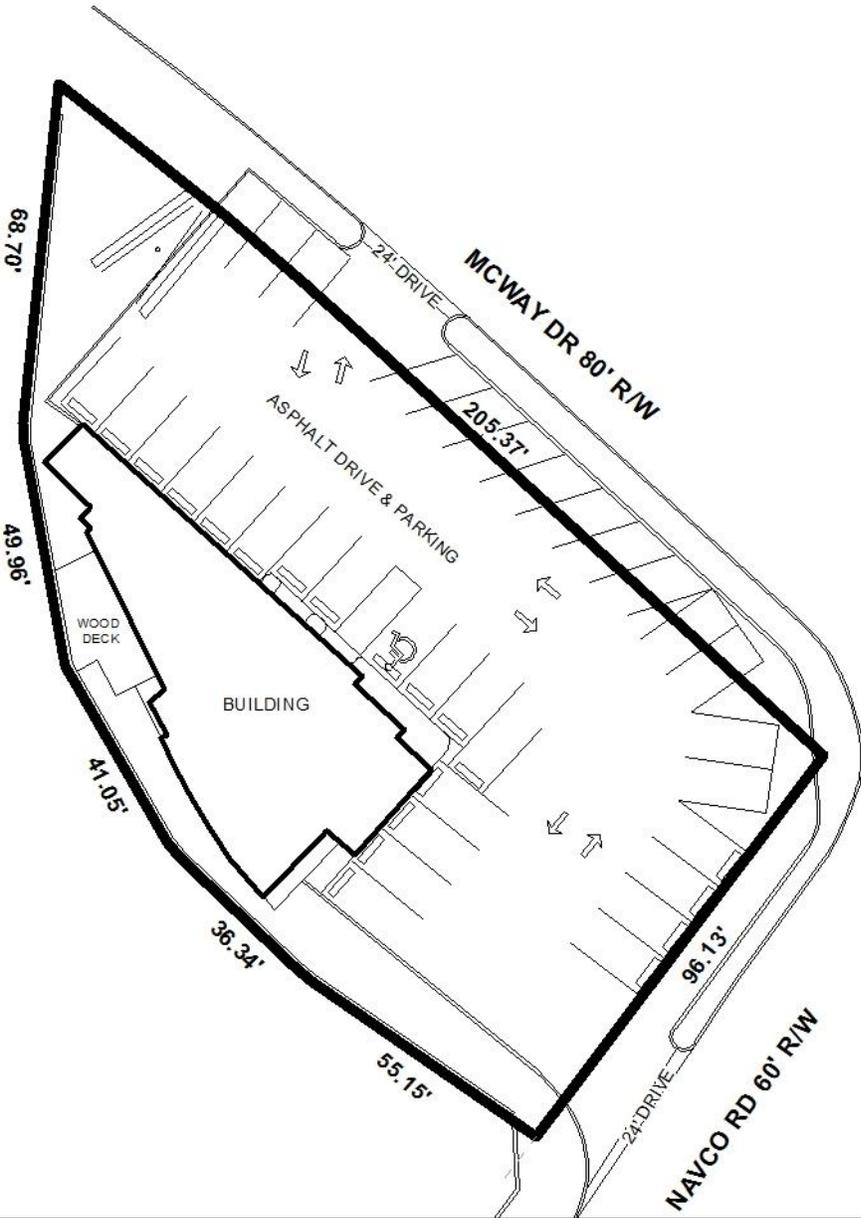
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SITE PLAN



The site plan illustrates the existing building, proposed parking, and drives.

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