

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 3, 2020**

<u>CASE NUMBER</u>	6308
<u>APPLICANT NAME</u>	Nichil Patel
<u>LOCATION</u>	150 West I-65 Service Road South (Southwest corner of West I-65 Service Road South and Spring Hill Memorial Drive North).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow the operation of an elderly housing facility in a B-3, Community Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow elderly housing facilities in a B-3, Community Business District.
<u>ZONING</u>	B-3, Community Business District
<u>AREA OF PROPERTY</u>	2.04± Acres
<u>CITY COUNCIL DISTRICT</u>	District 5
<u>ENGINEERING COMMENTS</u>	No comments.

**TRAFFIC ENGINEERING
COMMENTS**

The applicant did not provide information regarding the number of units proposed for the independent living facility. The traffic impacts would not be anticipated to be any more than the current hotel use. Owner/developer is responsible for providing adequate ADA parking on site with appropriate aisles. The two site plans submitted appeared to have conflicting information regarding the ADA parking layout.

**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 the operation of an elderly housing facility in a B-3, Community Business District; the Zoning Ordinance does not allow elderly housing facilities in a B-3, Community Business District.

The site has been given a District Center (DC) land use designation, per the Future Land Use Plan and Map adopted 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 across the city to larger areas of existing mixed-use character or where such character is encouraged. These areas will include moderate to high-density residential (minimum densities of 6 du/ac) in dynamic, horizontal or vertical mixed use environments, to provide a balance of housing and employment.

District Centers generally serve several surrounding neighborhoods and may even have a city-wide or region-wide reach. As such, they are often anchored by a major commercial or institutional employer such as a shopping mall or a medical center.

Depending on location and assigned zoning, residential areas in District Centers may incorporate a mix of housing types, ranging from midrise multifamily buildings containing apartments and lofts, to townhouses and detached single-family homes. Major civic cultural institutions and public spaces provide regional and neighborhood destinations.

District Centers should be designed to induce pedestrian activity, with high quality streetscapes connecting the different components of a center as well as the center to its surrounding area. DC districts may be served by transit and include development of an intensity and design that supports transit use.

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:

Description of Proposed Use:

- *The property at 150 West I-65 Service Road Mobile will be used as an independent living facility for the elderly.*
- *The facility will be operational 24 hours a day.*
- *The facility will employ approximately 10 people.*
- *The facility is 54,948 square feet.*
- *Mobile zoning requires 1 parking spot for every 2 dwellings in this type of facility and we will meet the parking requirements.*
- *Because this will not be a customer-based business, no traffic impact is anticipated.*
- *The area in which the property is located are mostly hospitality businesses.*
- *In zone B-3 Assisted Living Facilities are allowed, the structure of the building in question is not licensable as an ALF. However, we will be offering many of the same amenities as an ALF such as a dining plan and a housekeeping plan. Each resident will also have the option of hiring outside personal and medical assistance.*

As the provided narrative states, the applicant proposes to use the property and existing structure as an independent living facility for the elderly. Per State requirements, the site is not licensable as an assisted living facility due to the nature of the buildings construction. Therefore, it is the applicant's intent to provide as similar a service as allowable by the State of Alabama.

On January 6, 2020, Build Mobile staff held a pre-development meeting with the applicant to discuss the proposed future development plans regarding the site. Though the applicant did not yet have preliminary construction plans for staff to review at the meeting, the applicant described their current intentions for both the building and business plan. Renovations of the building would include construction of on-site amenities in keeping with those typically seen in assisted living facilities. Additionally, the applicant intends to provide such services as dining and housekeeping plans for its residents.

It appears that there are no other independent living facilities for the elderly along this portion of West I-65 Service Road South. Though there is an assisted living facility located at 3720 Dauphin Street, 296'± West of the intersection of Du Rhu Drive and Dauphin Street.

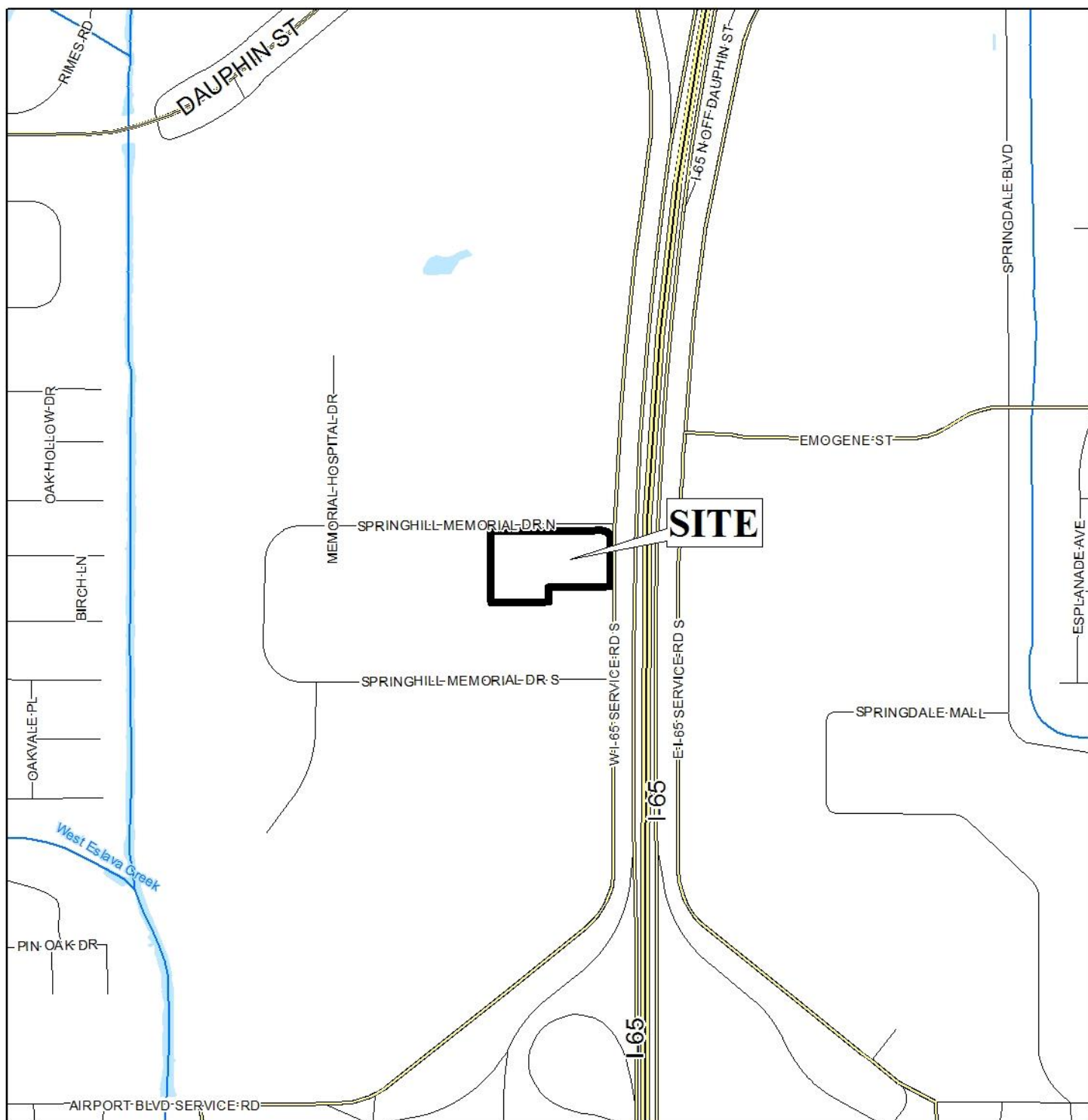
It is important to note that while the Zoning Ordinance does not allow independent living facilities for the elderly in a B-3, Community Business District; assisted living facilities, or

nursing homes, would be permitted by right in B-3, Community Business Districts. However, based solely on the application materials submitted, there is insufficient information provided to substantiate a hardship why the subject property cannot be utilized in accordance with its current zoning designation.

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 the proposed location is not suitable for an independent living facility for the elderly;
- 2) No special conditions were shown to exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 variance, as the proposed use is not allowed in B-3, Community Business Districts.

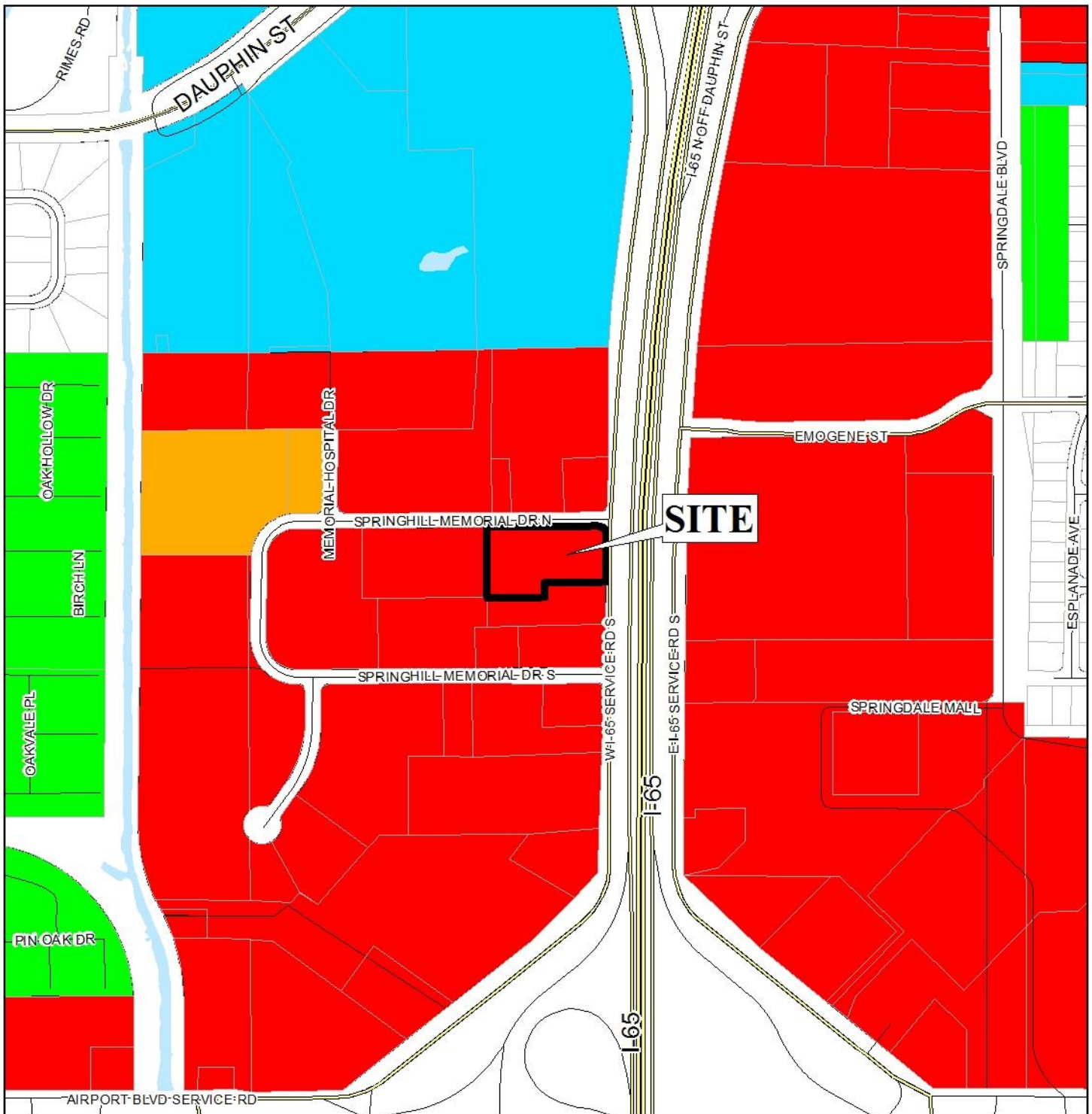
LOCATOR MAP



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LOCATOR ZONING MAP



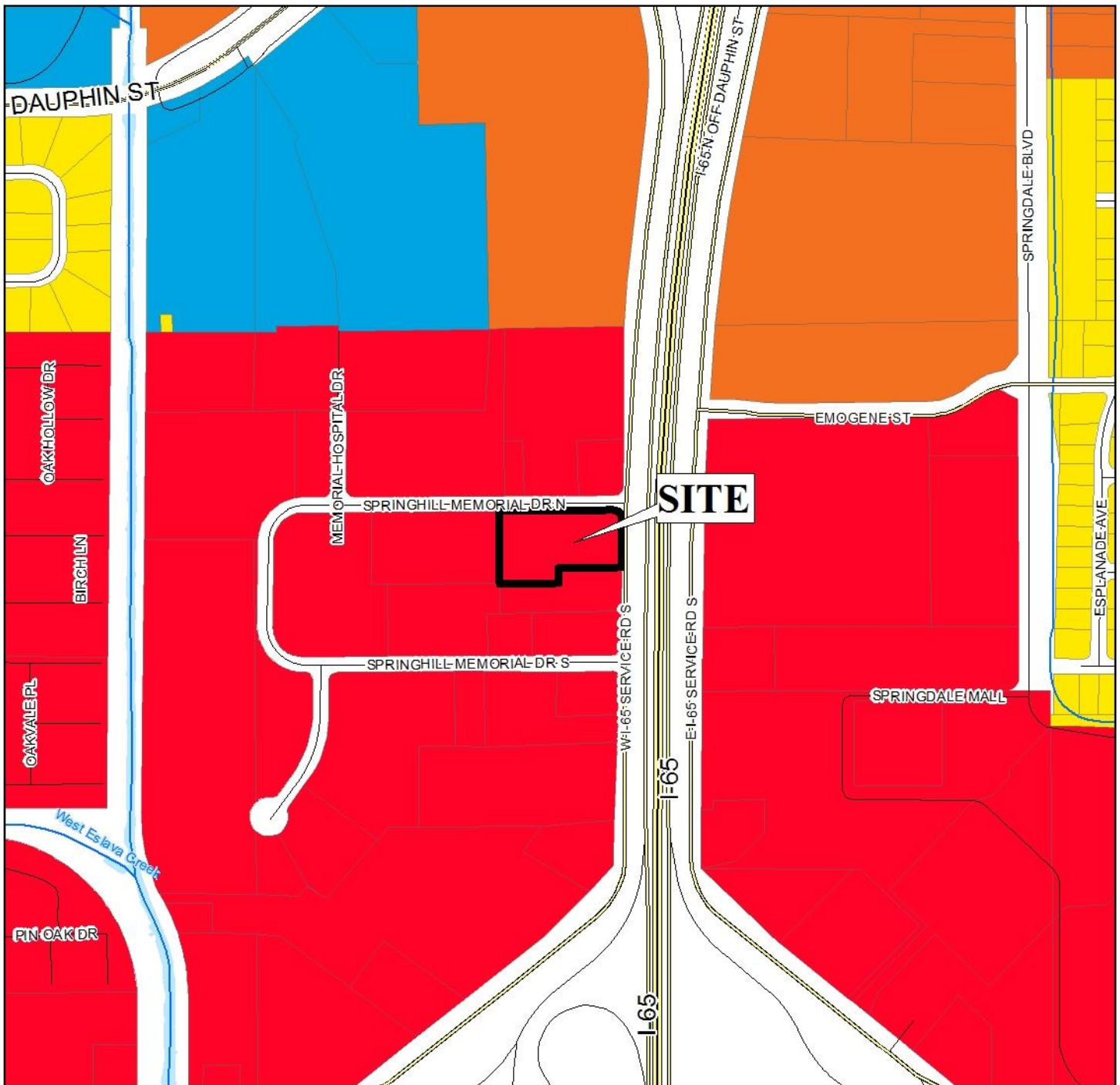
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FLUM LOCATOR MAP



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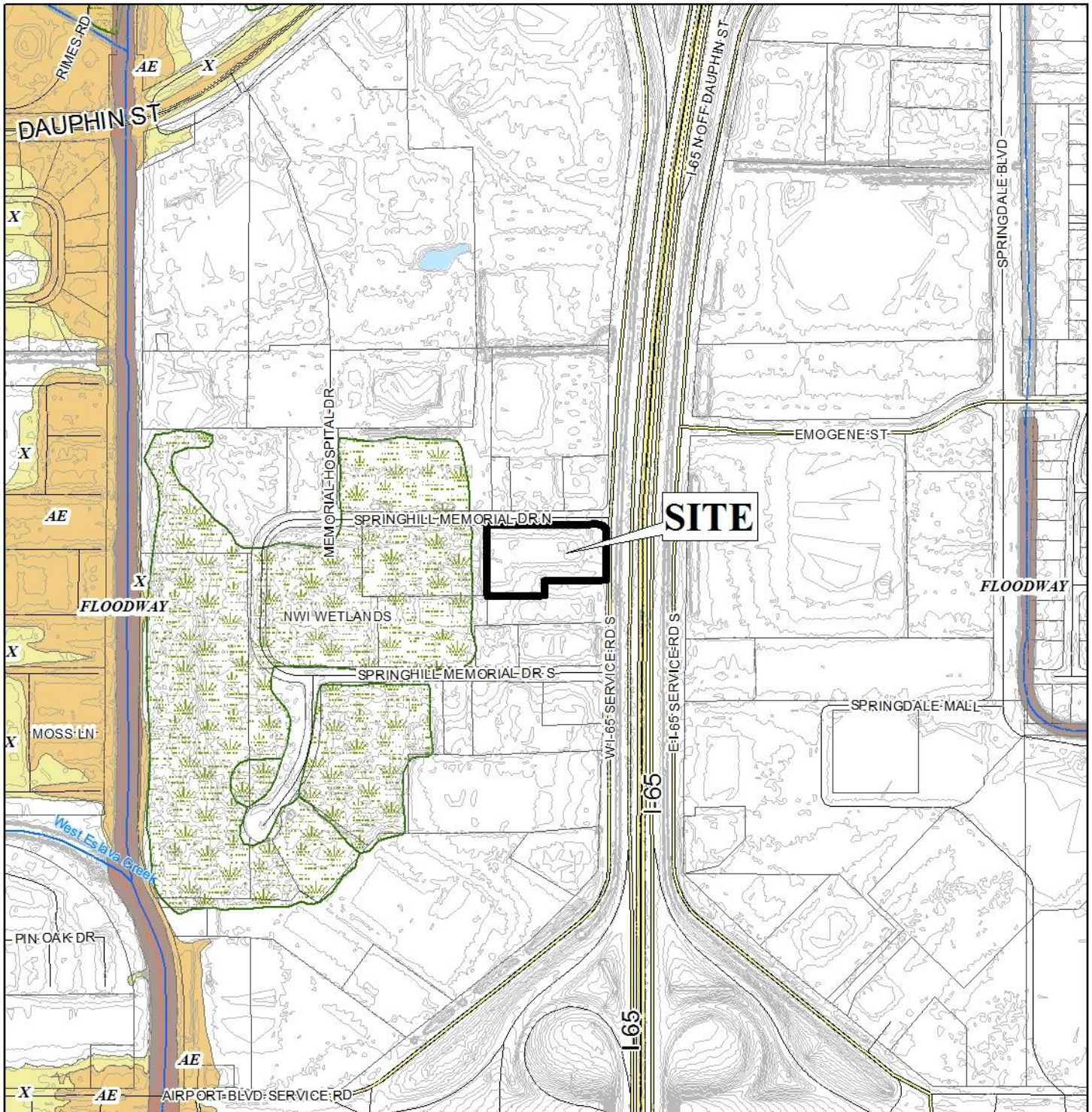
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REQUEST Use Variance

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	



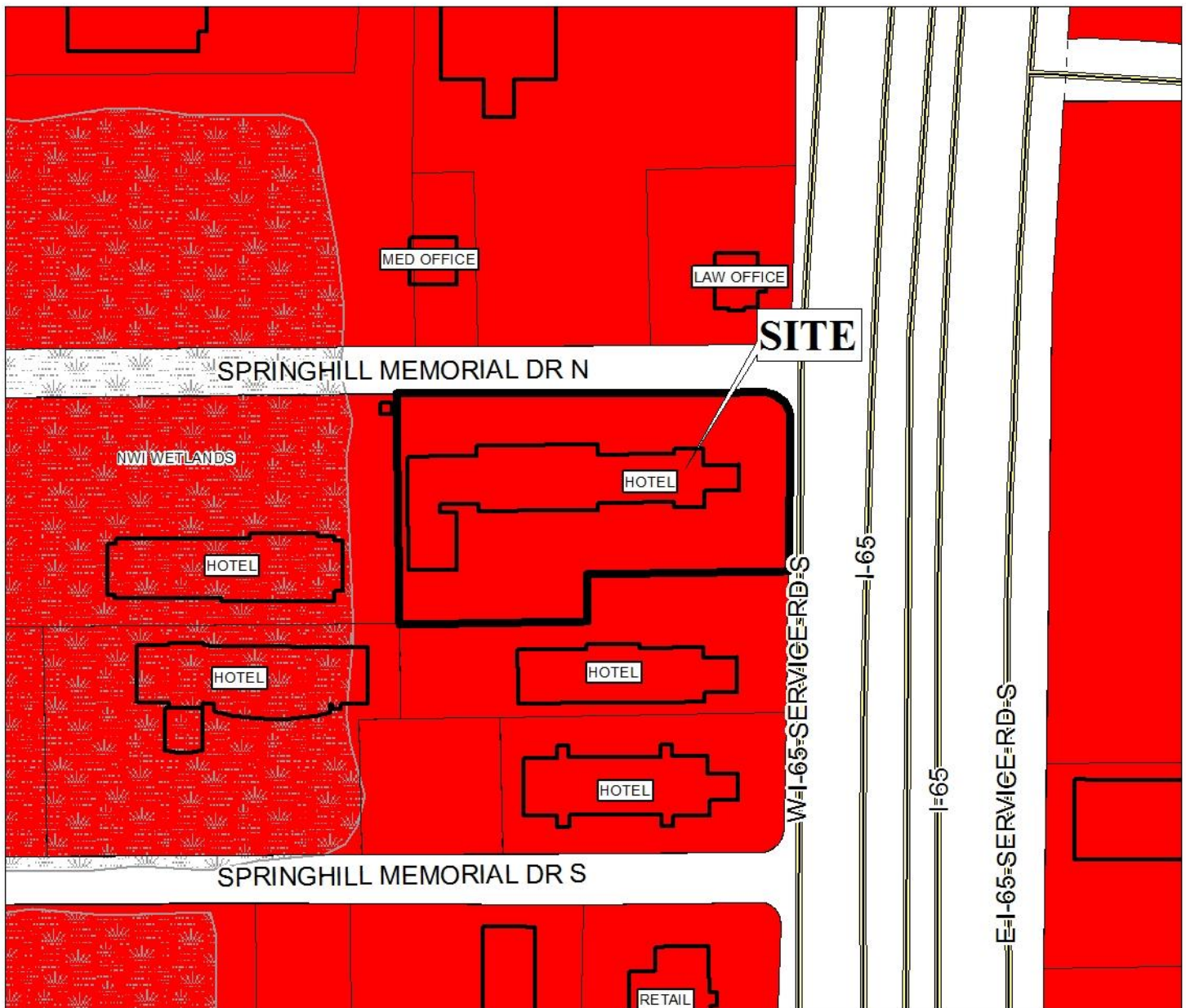
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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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

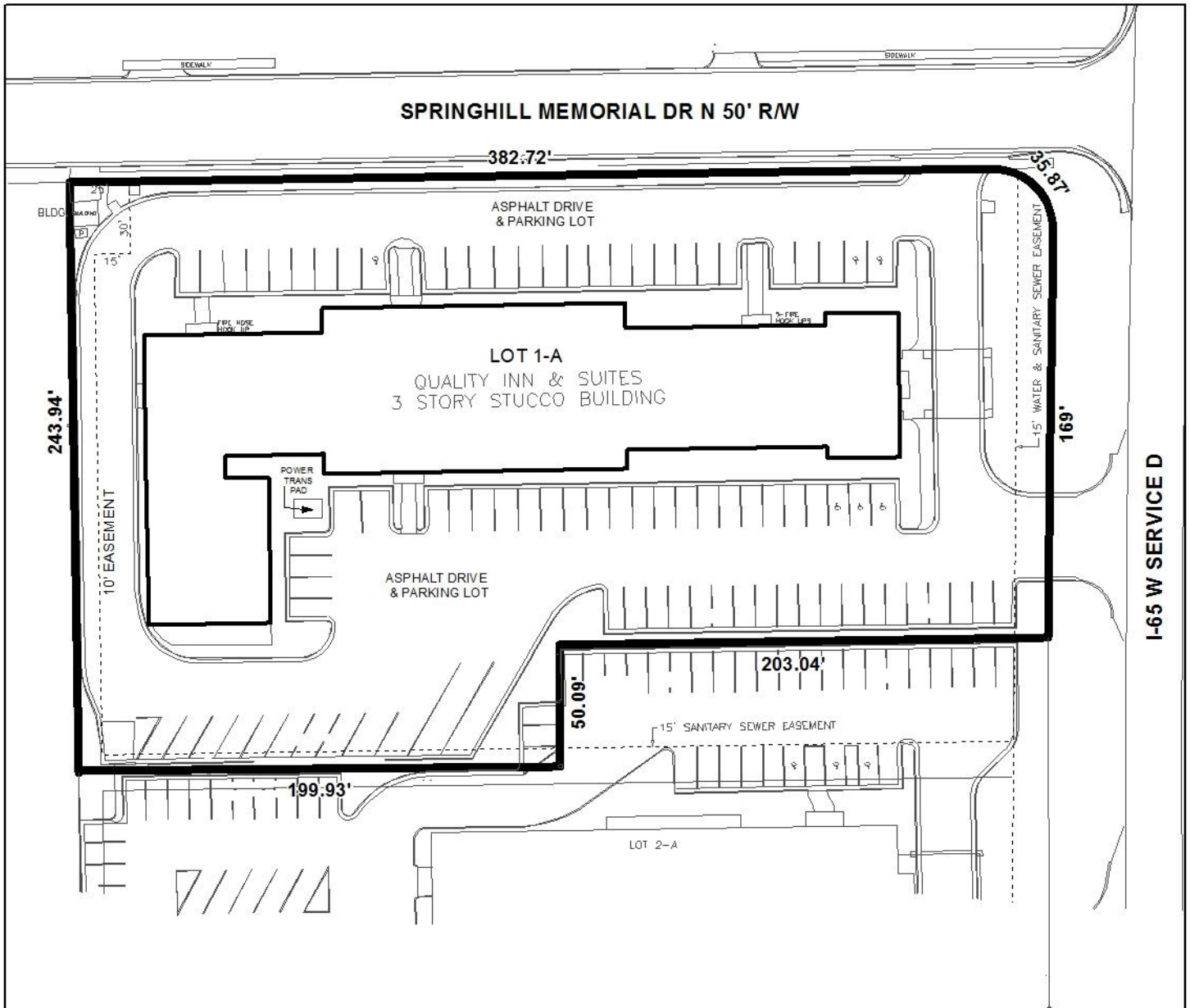


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SITE PLAN



The site plan illustrates the existing building, parking, and easements.

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