

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 4, 2022**

<u>CASE NUMBER</u>	6450
<u>APPLICANT NAME</u>	Deidra Craig
<u>LOCATION</u>	1654 Woodley Road (East side of Woodley Road, 75'± North of Mercedes Road).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow a maximum of ten (10) children in a home-based child day care business with outside employees in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow more than six (6) children in a home-based child day care business, and requires all employees to live at the location in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	0.3± Acre
<u>CITY COUNCIL DISTRICT</u>	District 1
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.
<u>URBAN FORESTRY COMMENTS</u>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

FIRE DEPARTMENT

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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

The fire code adopted by the City of Mobile does not allow for a residential daycare providing care for more than 5 children. If more than 5 children are being provided non-custodial care all code requirements of a commercial daycare shall be adhered to. The owner will be required to submit for a change of occupancy permit.

ANALYSIS The applicant is requesting a Use Variance to allow a maximum of ten (10) children in a home-based child day care business with outside employees in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow more than six (6) children in a home-based child day care business, and requires all employees to live at the location in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential 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.

The Low Density Residential designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the Low Density Residential districts is residential, and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between zero (0) and six (6) dwelling units per acre.

Low Density Residential neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations; as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

It should also 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 is 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:

I Deidra Craig owner and operator of Painting Healthy Habits for Creative Children Home Daycare, LLC. provides a safe and healthy learning program for children from 6 weeks to 3 1/2-year-olds, I am providing a High-Quality service in the community offering families childcare when needed then the children transition out to Head Start/Pre-K. I've been licensed. Since November 19th, 2018, by the Alabama Department of Human Resources. I'm currently licensed for 5 children and working in partnership with Early Head Start the problem surfaces when families that may have more than one child has to make accommodations for another facility or the children that are over the age of 3 1/2 has to transition out splitting, they're siblings if over the ratio of five. Parents have voiced their concerns of not wanting to split or transfer their children to another childcare program when they are along the same in age but would like to transition from my program to a Head Start Pre-K program in school. I would like to propose an increase to the number to 10 children. The only way that I can increase the number of children from 5 to 10 is that the city of Mobile Zoning Department grant me a Use Variance. If granted, this Use Variance, I would be allowed to be more of an asset to my families and the surrounding communities. I currently use 2 rooms (floor area of 452 sq. ft) near the side door of my home near the garage for daily activities and the play area for the children. I will have 2 employees which will consist of myself and another qualified adult. The gross square footage of my home is 14,227sq. ft. My concrete driveway is 160 ft. long from street to garage, leading towards the concrete courtyard which is 60ft long and 55ft wide. My daily schedule outlines and daily activities during the run of a day (see attachment). Most of our activities are inside my home. I stay aware of the noise level, and I have not had any complaints from my neighbors about the normal noise of children playing. With an increase in the number of children, I will continue to keep the noise level at a minimum volume.

The backyard is large enough to easily accommodate 10 children without creating a nuisance to the neighbors. Arrival time for the children is 6:30am-8:30am., Evening pick-ups are 2:30pm.-5:00p.m. Parking is not a problem due to parents using the side carport, driveway or front lawn. Parents bring their child or children into home, have

both their temperature's taken, parent sign-in then return to their cars normally within 5 minutes or less. Parents Do Not Park in front of the neighbors' yards due to me having enough yard space. Parking for staff will be in the garage or courtyard. The combined space of the 2 rooms exceeds the required space of 32 sq. Ft pre child according to the State of Alabama licensing. If I am approved for 10 children, I will have more than enough space per child. Now that there is an Ordinance in place for a large home daycare, my property is unique in the neighborhood because my home daycare provides childcare services in a residential community so that parents can work and go to school. The parents believe that their children will adjust better in a home childcare environment because the provider/child ratio is smaller and the one-on-one teachable moments. Please view my daily schedule, documents of survey, site plan attached along with photographs of driveway and home.

**PAINTING HEALTHY HABITS FOR CREATIVE CHILDREN, LLC
HOME DAYCARE**

- 6:30 – 7:30** *Arrival, Health check, and Free Choice in Activity Areas*
- 7:30 – 8:15** *Children engage in free choice activity areas after finishing*
- 8:15 – 8:30** *Clean-up, Hand Washing, Brushing Teeth*
- Group Time**
Action songs, hello songs, discussion of daily activities, singing time, finger play/puppets, concept activities, and story
- Activity Areas**
Children can select their activities from standard equipment and a changing variety of teacher provided materials
Some teacher directed activities as well as some self-directed are included
- 9:00 – 9:30** *Examples of Activities*
Creative art, cooking, science/discovery, block building, dramatic play, language art/listening, sand and water play, dramatic role play, fine motor, manipulatives, gross motor
- 9:30 – 9:45** *Clean-up, Snack, Toileting, Hand washing*
- 9:45 – 10:50** *Outdoor Vigorous Play (weather permitting)*
- 10:50 – 11:30** *Handwashing, Play with Table Toys*
- 11:30 – 12:10** *Lunch Time*
- 12:10 – 12:30** *Hand washing, Preparation for Rest*
- Rest Time**
- 12:30 – 2:30** *Children are encouraged to rest but not required to sleep*
- 2:30 – 3:00** *Hand washing, Snack, Clean-up*
- Peer Play**
- 3:00 – 4:00** *Free choice in activity areas*
- Outdoor play**
- 4:00 – 5:00** *Vigorous play until departure*

It should be noted that allowing more than six (6) children in a home-based day care may prompt compliance with Building, Mechanical, Plumbing, and Electrical Codes. Moreover, the Fire

Department requires day cares with more than five (5) children to be sprinkled along with additional building alterations. Such alterations will require the applicant to submit construction plans for review and approval before permits can be obtained, which are required to ensure the structure meets minimum safety requirements.

Furthermore, the Alabama Department of Human Resources requires the following caregivers to be available for home-based day cares caring for between seven (7) and twelve (12) children: the licensee, the assistance caregiver, and a least two (2) substitutes. This would result in individuals who do not live at the location working there, a further disruption to the residential neighborhood.

A site plan was provided by the applicant and illustrates the subject site is 14,227± square feet in size and is developed with a single-family dwelling. No other plans were provided, such as a site plan illustrating compliance with the off-street parking provisions for outside employees, buffering, etc.

A Zoning Clearance was issued to the applicant at the subject site in November, 2017 to operate a day care with no more than six (6) children. While the need for additional childcare facilities may be necessary within the community, there are locations in the city appropriately zoned for such facilities from which the applicant could provide day care services for more than six (6) children.

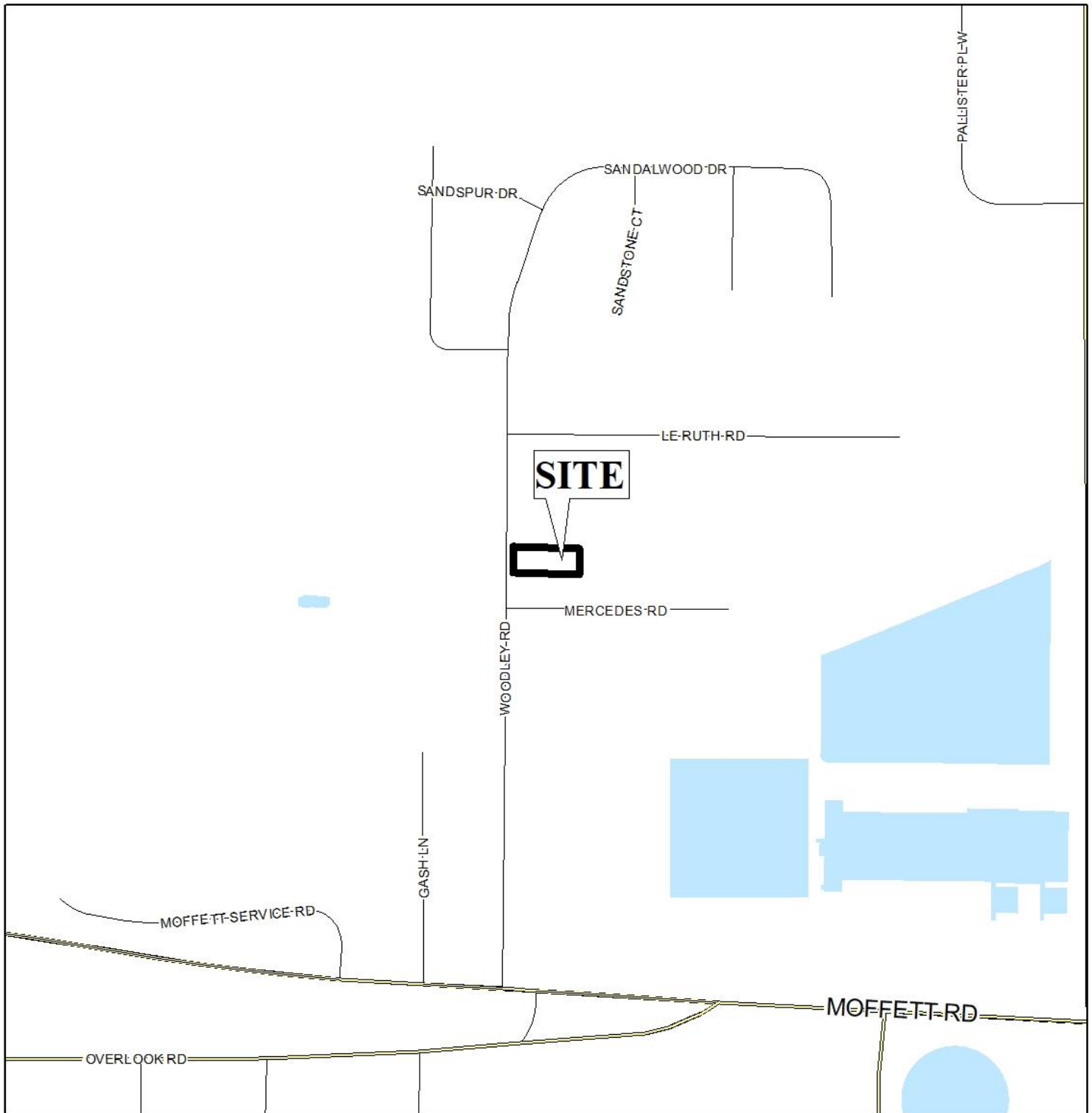
It should be reiterated that Variances are not intended to be granted frequently, and no other Use Variances have been granted within the surrounding residential neighborhood. As such, approving the request may establish a precedent by which other Use Variance requests could be considered in the future.

The applicant has not demonstrated a hardship associated with the property that prevents it from being used as it is currently; a residence and home-based child daycare. It is simply the applicant's request to establish a commercial-type business in a residential neighborhood, regardless of the impacts on the surrounding area, and without making any improvements required by the Zoning Ordinance.

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

- 1) Approving the variance will be contrary to the public interest in that it will allow commercial intrusion into an established residential neighborhood;
- 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 since a home-based day care business is operated on the property in compliance with the Zoning Ordinance; and,
- 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 because the surrounding properties are zoned and utilized residentially.

LOCATOR MAP



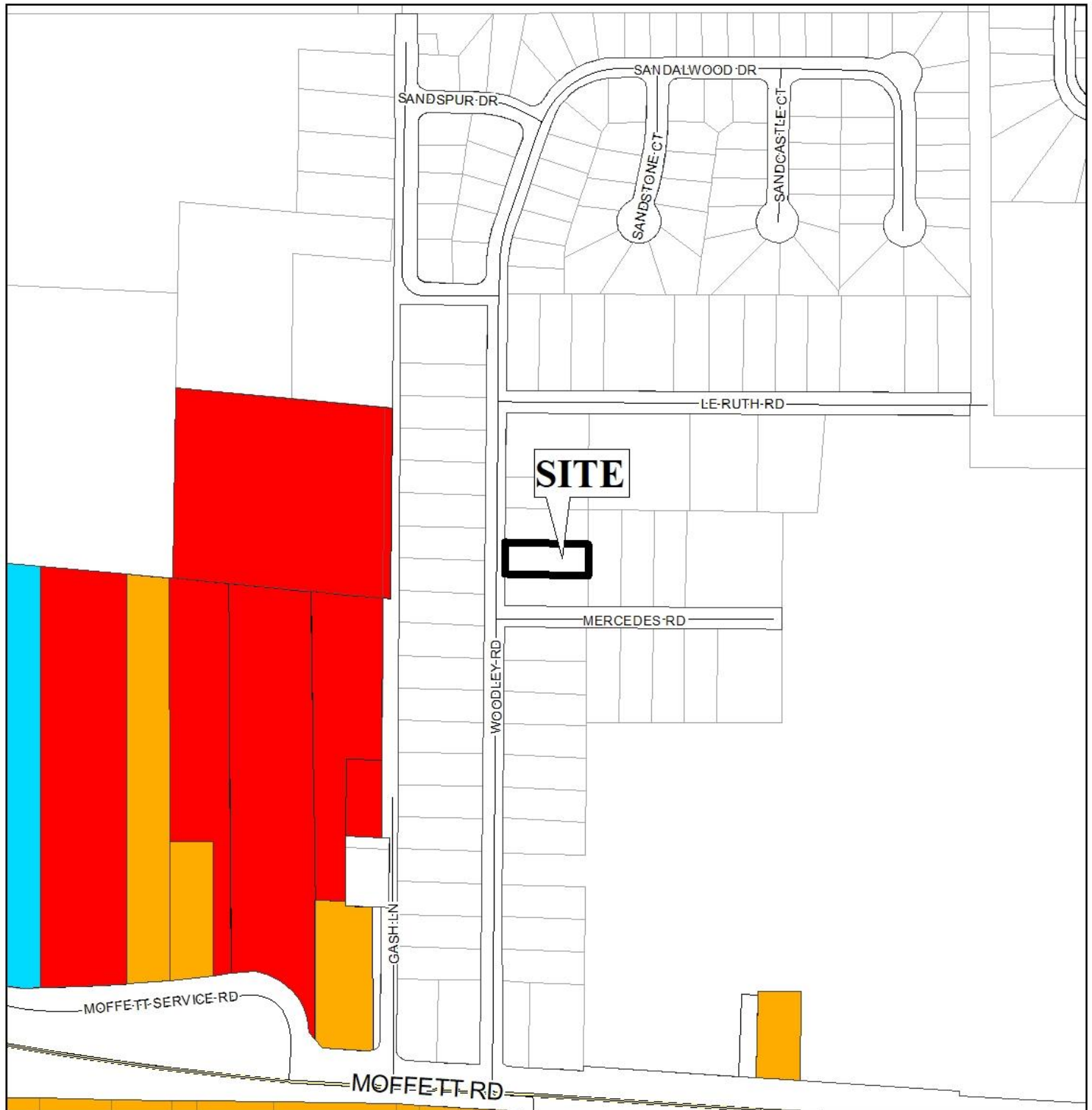
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APPLICANT Deidra Craig

REQUEST Use Variance



LOCATOR ZONING MAP



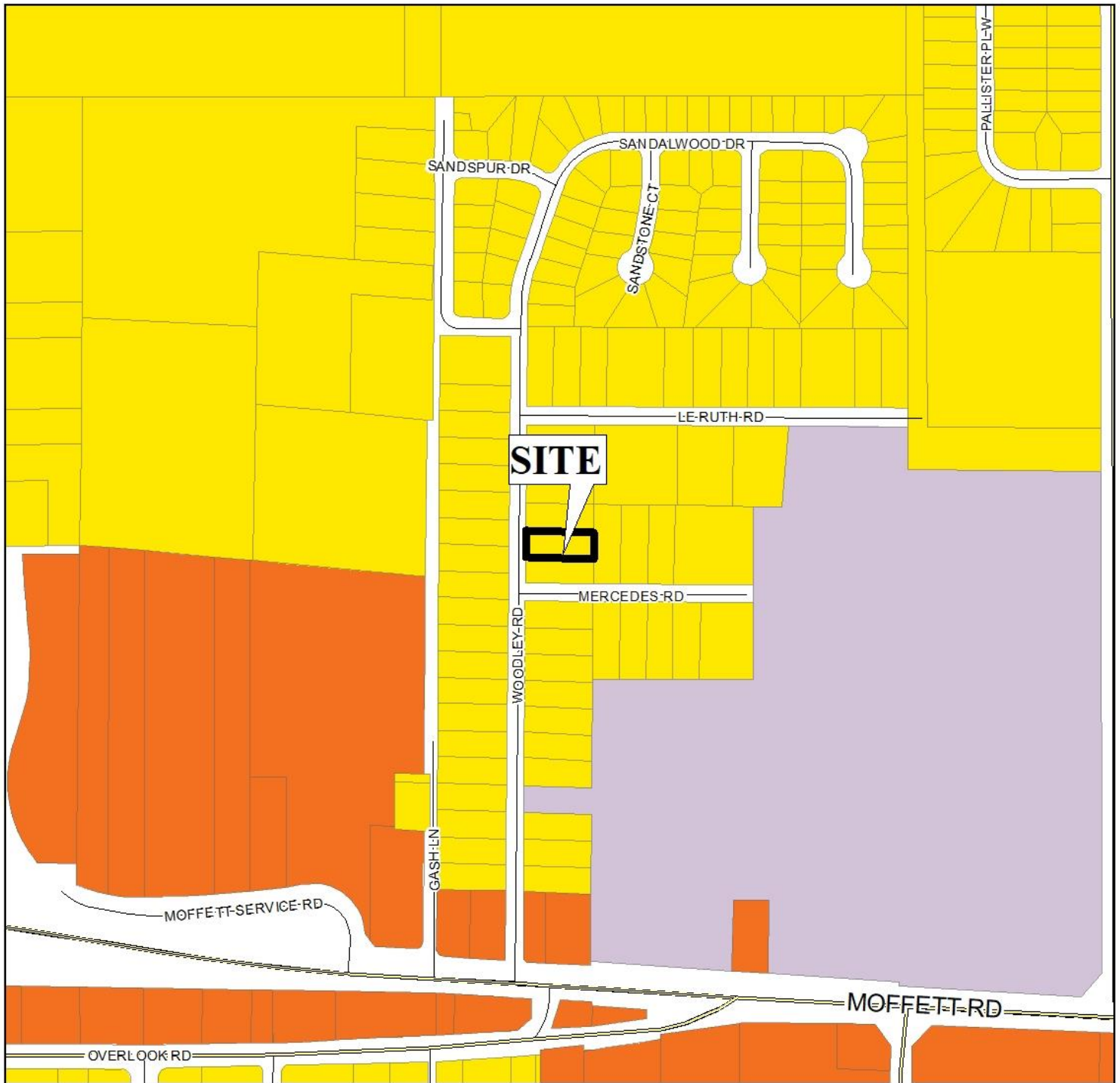
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FLUM LOCATOR MAP



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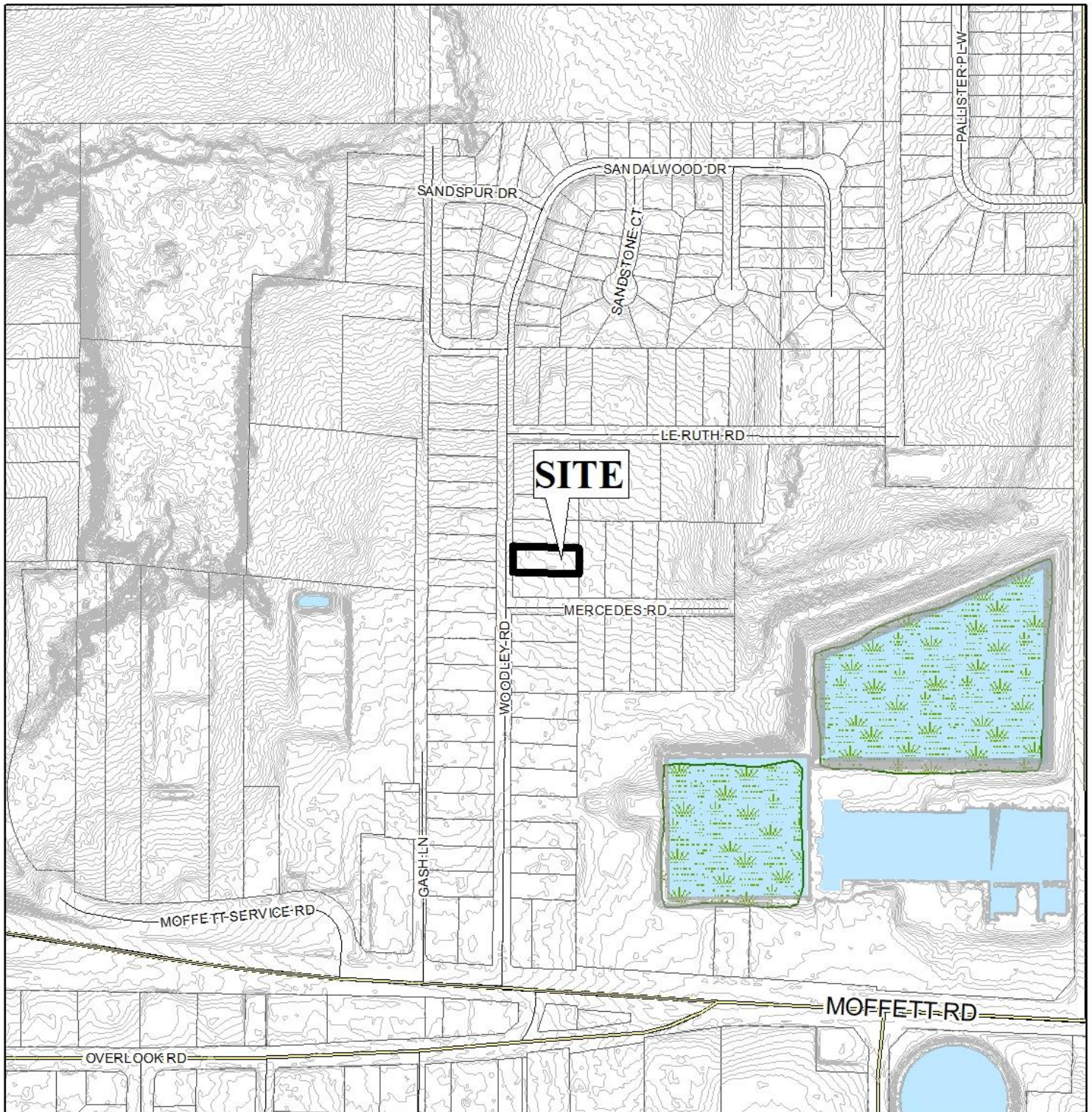
REQUEST Use Variance

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	



NTS

ENVIRONMENTAL LOCATOR MAP



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REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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REQUEST Use Variance

 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 single family residential units.

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