

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: October 3, 2022**

**CASE NUMBER** 6475/5512

**APPLICANT NAME** Casey Pipes

**LOCATION** 4742 Airport Boulevard  
(North side of Airport Boulevard, 425'± East of Bit and Spur Road).

**VARIANCE REQUEST** **USE:** Use Variance to amend a previously approved Use Variance to allow medical restorative art services in a B-1, Buffer Business District.

**ZONING ORDINANCE REQUIREMENT** **USE:** The Zoning Ordinance does not allow medical restorative art services in a B-1, Buffer Business District.

**ZONING** B-1, Buffer Business District

**AREA OF PROPERTY** 0.35± Acre

**ENGINEERING COMMENTS** If the proposed variance is approved the applicant will need to have the following conditions met:

1. If any site improvements are proposed contact [land.disturbance@cityofmobile.org](mailto:land.disturbance@cityofmobile.org) to see what type of Land Disturbance Permit will be required.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**TRAFFIC ENGINEERING COMMENTS** No comments.

**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 [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.

**CITY COUNCIL**

**DISTRICT**

District 6

**ANALYSIS**

The applicant is requesting a Use Variance to amend a previously approved Use Variance to allow medical restorative art services in a B-1, Buffer Business District.

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. It includes a wide variety of retail, services and entertainment uses.

The Mixed Commercial Corridor 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 re-development in Mixed Commercial Corridors is encouraged to raise design quality; improve connectivity to surrounding neighborhoods; improve 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 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 provided the following narrative with the request:

*The site is currently improved with a professional office building that previously served as the offices of Praytor Realty as well as a retail store and other uses. The building, parking areas, landscaping, and other site improvements will all remain as-is in their current state (other than sign content and interior build-out changes). There are no additions or changes to the building or parking areas planned. A current building floor plan is submitted for reference.*

*The proposed use is a medical restorative art. There are no activities which would involve the use of equipment or machinery outside the building. There are no activities which will generate any noise, odors, or air pollution. There are no activities which will generate excessive traffic.*

*The days and hours of operation will generally be normal, professional office hours (currently the hours of operation are from 10:00 AM to 5:00 PM on Tuesdays through Fridays). While some client appointments may be made after hours to accommodate the client, no work will be performed after 8:00 PM. All services are provided on an appointment-only basis.*

*There will be no more than 10 employees of the business on-site at any given time. The average number of clients that would frequent the business on a given day is around 10.*

*The business is expected to take up approximately 2,700 square feet of the current building. The business will not generate any increased parking needs or requirements from a B-1 zoning district use.*

***Granting the variance will not be contrary to the public interest.***

*The business is rare, if not unique, in Mobile, and it is much needed in our community. Facilitating the operation of this business in this location would not be contrary to the public interest.*

*Outliner Studio primarily specializes in medical restorative services via micropigmentation. The majority of its clientele are medical patients that have been referred as a result of a medical conditions, side effects from medications, or as a result of a surgery or trauma. Its clients have suffered from medical conditions such as Alopecia, Trichotillomania, Chemotherapy, Hypothyroidism, Cancer, and Breast Cancer. Its services include simulating, restoring or enhancing the appearance of eyebrows, areola, skin tissue, lips, hair, or restoring other natural body features lost due to surgery, traumatic experience, or otherwise. This includes trying to camouflage scars and other disfigurements.*

*Outliner Studios does not, and will not ever, perform decorative work create art or any unnatural designs on the body through "tattoo" or "body piercings". It would never tattoo a word, name, or symbol to the body. Its business does not fall under the category of "body art tattoo" under the Health Department, but rather is classified as a "permanent makeup" business.*

*Its previous location was within a plastic surgeon's office, but this space does not allow for the business to serve all of the community that are in need. Examples of local surgeons who have referred their patients to Outliner Studio include Dr. Lyn Dyess (USA Health Breast Endocrine Surgeon and Professor of surgery), Dr. Rachel Hunter (USA Health Breast Surgical Oncologist), Dr. Ryan Rebowe (Plastic Surgeon- The Park and Rebowe Clinic), Dr. Christopher Park (Plastic Surgeon – the Park and Rebowe Clinic), Dr. Chuck Dyas (Bay Area Plastic Surgery Associates), and Dr. Kathryn Dempsey (Coastal Dermatology of Mobile).*

*Below is a more specific list of services provided and the reasons why our clients need the services Outliner Studios provides:*

- A. 2D and 3D Areola Restoration: By placing pigment in the skin through the art of micropigmentation, Outliner Studios can completely reconstruct a client's areola and nipple through creating dimension to a completely flat or dimensional breast mound. These services are typically requested by patients who have undergone a mastectomy, traumatic breast reduction surgery, and other medical reasons. Breast cancer survivors are referred to Outliner Studios by surgeons across the Southeast. This service currently comprises approximately 40% of its total services.*
- B. Scar Camouflage: By placing pigment into the skin which can match the surrounding tissue which has been discolored due to scar tissue we can help camouflage the scar. The scars could be due to Vitiligo, port scars (from chemotherapy), traumatic surgery, breast cancer, "cutting", acne scars, and breast reduction surgery. This type of service comprises approximately 20% of its work.*
- C. Permanent Brows: By placing pigment into the skin through micropigmentation which matches the brow hair color Outliner Studios can recreate brows where they may be lost or thinning. The most common reason why men and women receive Permanent Brows at Outliner Studio is due to hair loss due to chemotherapy, hypothyroidism, certain medications which cause hair loss, cancer, Alopecia and*

*Trichotillomania. Restoring Permanent Brows accounts for approximately 20% of its services. Of this work, about 80% of its clients are seeking this service in response to a medical condition, while the remaining 20% of those treated do so for purely cosmetic reasons.*

- D. Permanent Lip Blush: By placing pigment microscopically into the skin to restore the vermilion border which loses color due to a lack of elastin and collagen into the skin Outliner can restore lip color. They can also perform a Permanent Lip Blush service to restore birth defects to the lips such as a cleft lip, vitiligo to the lips, and scars to the lip. Many women and men experience color loss to the skin of their lips which is due to the body creating less elastin and collagen which causes the lips to lose color in this manner. This comprises approximately 15% of total services. Of this work, about 50% is for a medical restorative reason, and the other 50% is for cosmetic enhancement.*
- E. Permanent Eyeliner: By performing micropigmentation between the lashes we can create the illusion of eye lashes. This is one of the most "cosmetic" services offered, however this is a very important medical service for clients who have Alopecia or who have lost their brows and eyelashes due to chemotherapy, cancer, Trichotillomania, and medications which causes hair loss. This service comprises approximately 5% of total services.*

*The services offered are not offered at a Day Spa or a tattoo parlor or any other type of business. Our primary work is engaging closely with our partners in the medical community to provide an invaluable service to those undergoing traumatic life changes to provide restorative services unlike any other offering in Mobile.*

***Special conditions exist such that a literal enforcement of the Zoning Code will result in unnecessary hardship.***

*The subject property was resubdivided in 1977 to make it narrower than all the other lots originally developed in this commercial subdivision. This 1977 change made Lot 5 of the original subdivision 23 feet wider, and it made Lot 6, the subject property, 23 feet narrower. This width is insufficient for modern, commercial, B-1 business uses.*

*Later, in 2002 the neighboring property to the West was absorbed into the lot on the corner of Bit & Spur and Airport Blvd., which severed the service road that used to connect these lots together and to Airport Blvd. This also created an overly large lot to the West of the subject property where the Blue Cross Blue Shield office is located. The results of these changes are that the subject property is now suffers from inadequate access due to the severance of the service road to the West. Also, there is a very large live oak tree on or adjacent to the site which severely limits the visibility of the property, which further impairs its B-1 commercial appeal. These are all special conditions which are unique to the subject property which severely impair the property's ability to be used only for B-1 uses.*

*This building has been vacant for years. The building has limited parking which is not conducive to the volume of clients that a typical doctor, dentist, or medical practice would need for a "medical practice". The visibility and access into the parking lot is also difficult*

*which makes a high volume of cars entering/exiting a problem for this space and neighbors. The property can only really be used by a business like Outliner Studios.*

***The spirit of the Zoning Code shall be observed, and substantial justice will be done to the applicant and the surrounding neighborhood by granting the variance.***

*The proposed use is not directly addressed by the Zoning Code. It is more of a professional, medical use than anything else. All customers are seen by appointment only. Some procedures are covered by or reimbursable by private health insurance. Most referrals are from medical doctors, like plastic surgeons. The operating hours for the business are normal, professional office hours. The business is most similar to, and operates most like, a dentist's or an orthodontist's office. The neighboring businesses to the East are dentists and similar health care businesses, and these businesses all support the variance application.*

*Further, the newly adopted Unified Development Code would not prohibit this type of use in a B-1 zoning district. It should fit under the definition of a "Clinic" or an "Office" which are permitted uses by right in B-1, but at worst it would be deemed "Personal Services" which is not prohibited in B-1 (but would require a special exception).*

*The surrounding neighborhood supports the use variance request. We will be able to furnish letters of support from them, as well as others in the community who wish to see this business succeed.*

The site is surrounded to the East and West by other B-1 zoning in commercial use, and to the North by R-1, Single-Family Residential District zoning in use as single-family residential dwellings. To the South across Airport Boulevard is R-1 zoning in use as single-family residential dwellings.

The site was the subject of Use, Access, Landscaping and Tree Planting Variances to allow a specialty gift shop in a B-1, Buffer Business District, with 10-foot wide one-way access drives, no on-site landscaping, and no on-site tree plantings, heard by the Board at its December 2008 meeting. The Use and Access requests were approved, and it was determined by staff that no trees could be planted due to existing parking and the service road.

As stated by the applicant, the proposed use, although not specifically classified as health or medically-related, is not intended to be that of a typical artistic tattoo parlor. Furthermore, as the majority of clientele would be medical patients referred by physicians for cosmetic restorative procedures not typically offered within the medical environment, the proposed use could be considered closely related to the medical field. As such, it would appear that the use could be considered similar to that of other health practitioners and would be appropriate for a B-1, Buffer Business District.

The applicant has demonstrated that a hardship may be imposed by not granting the request, and the Board should consider the variance for approval.

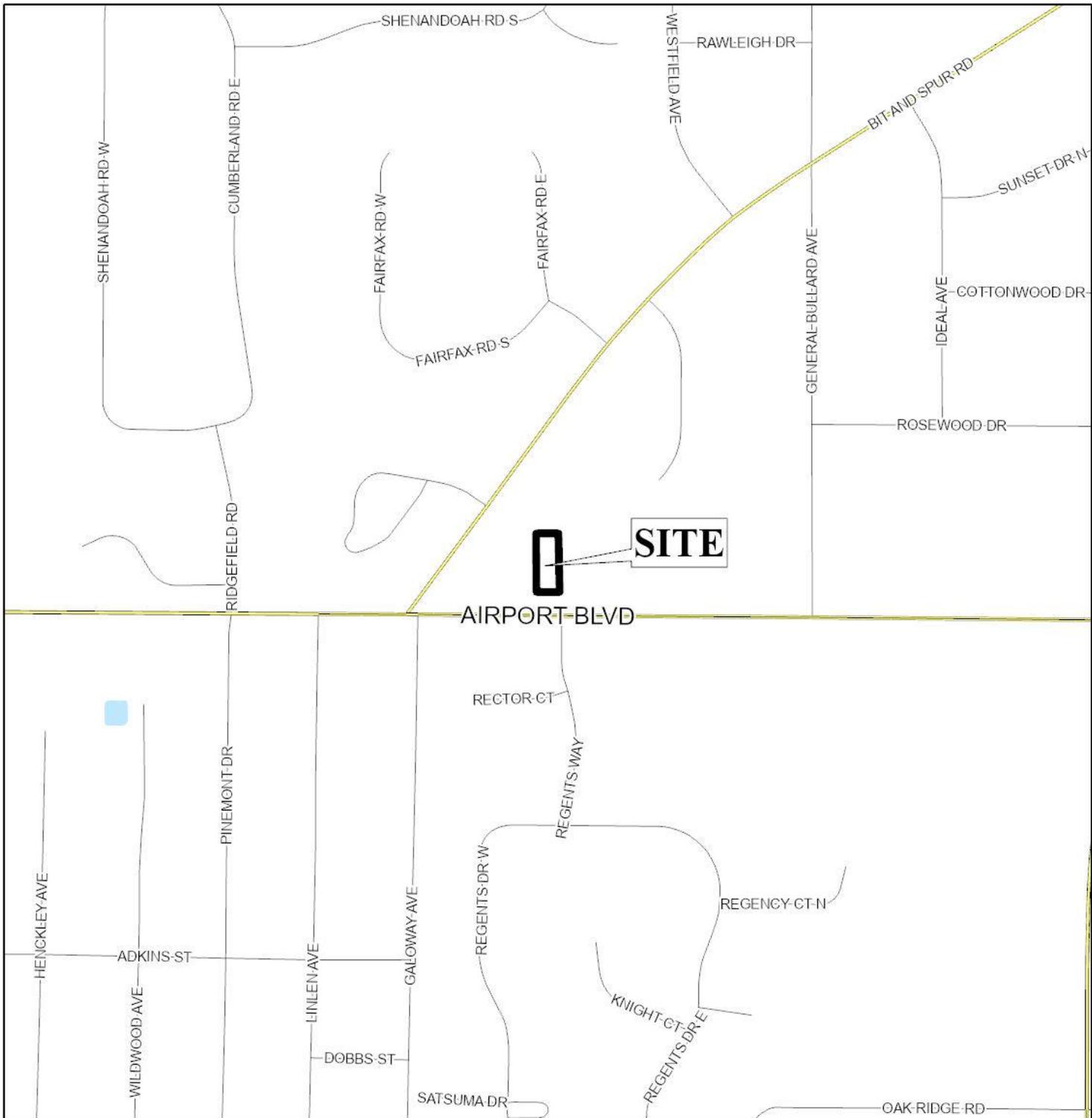
**RECOMMENDATION:** Based upon the preceding, Staff recommends to the Board the following findings of fact for Approval:

- 1) Approving the variance will not be contrary to the public interest in that it is in keeping with the character of the neighborhood;
- 2) Special conditions may exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and,
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the Variance.

The approval should be subject to the following conditions:

- 1) the use is limited to medical restorative art and not decorative art;
- 2) compliance with the Engineering comments: *(If the proposed variance is approved the applicant will need to have the following conditions met: 1. If any site improvements are proposed contact land.disturbance@cityofmobile.org to see what type of Land Disturbance Permit will be required. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.); and*
- 3) full compliance with all municipal codes and ordinances.

# LOCATOR MAP



APPLICATION NUMBER 6475 DATE October 3, 2022

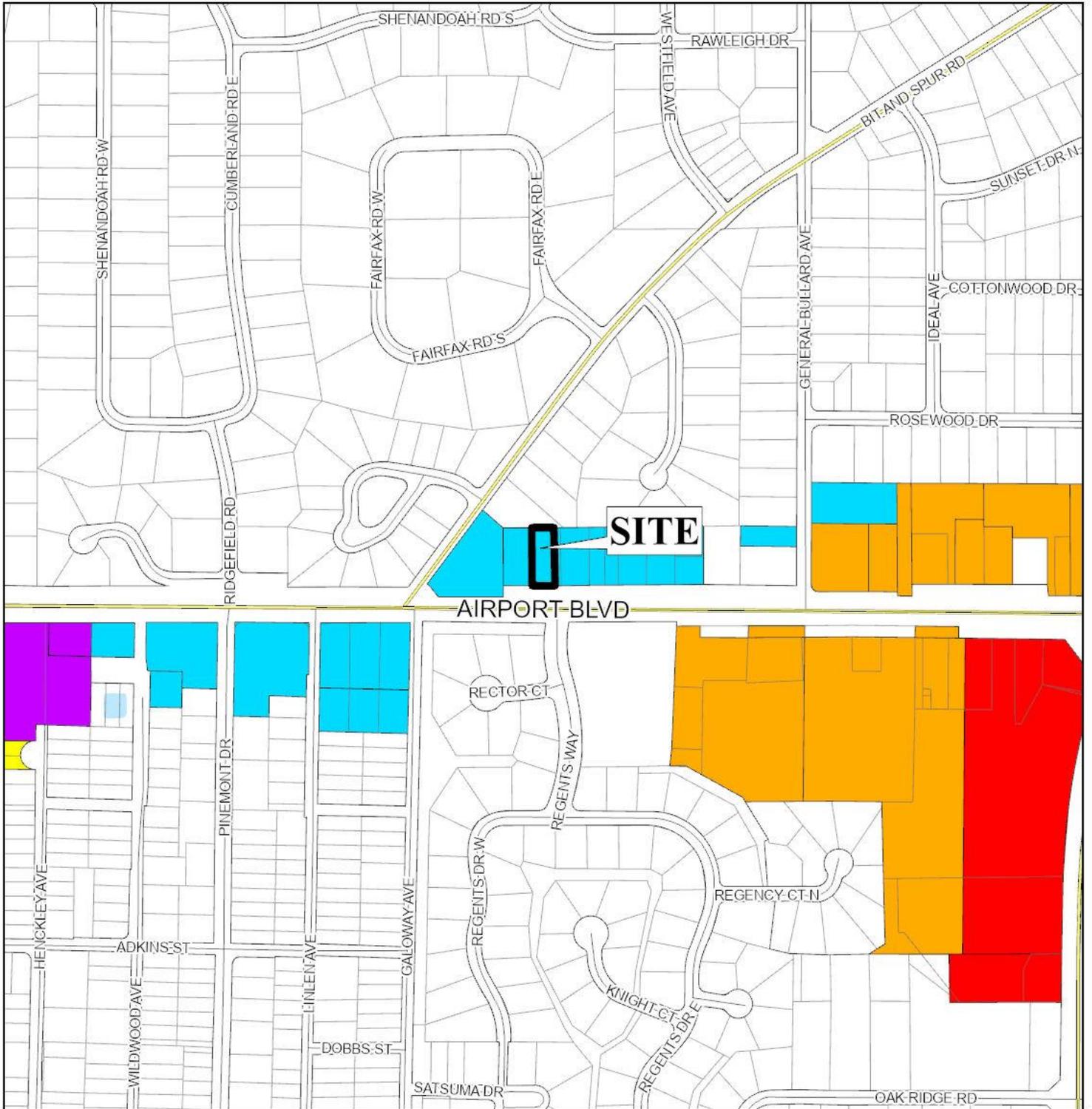
APPLICANT Casey Pipes

REQUEST Use Variance



NTS

# LOCATOR ZONING MAP



APPLICATION NUMBER 6475 DATE October 3, 2022

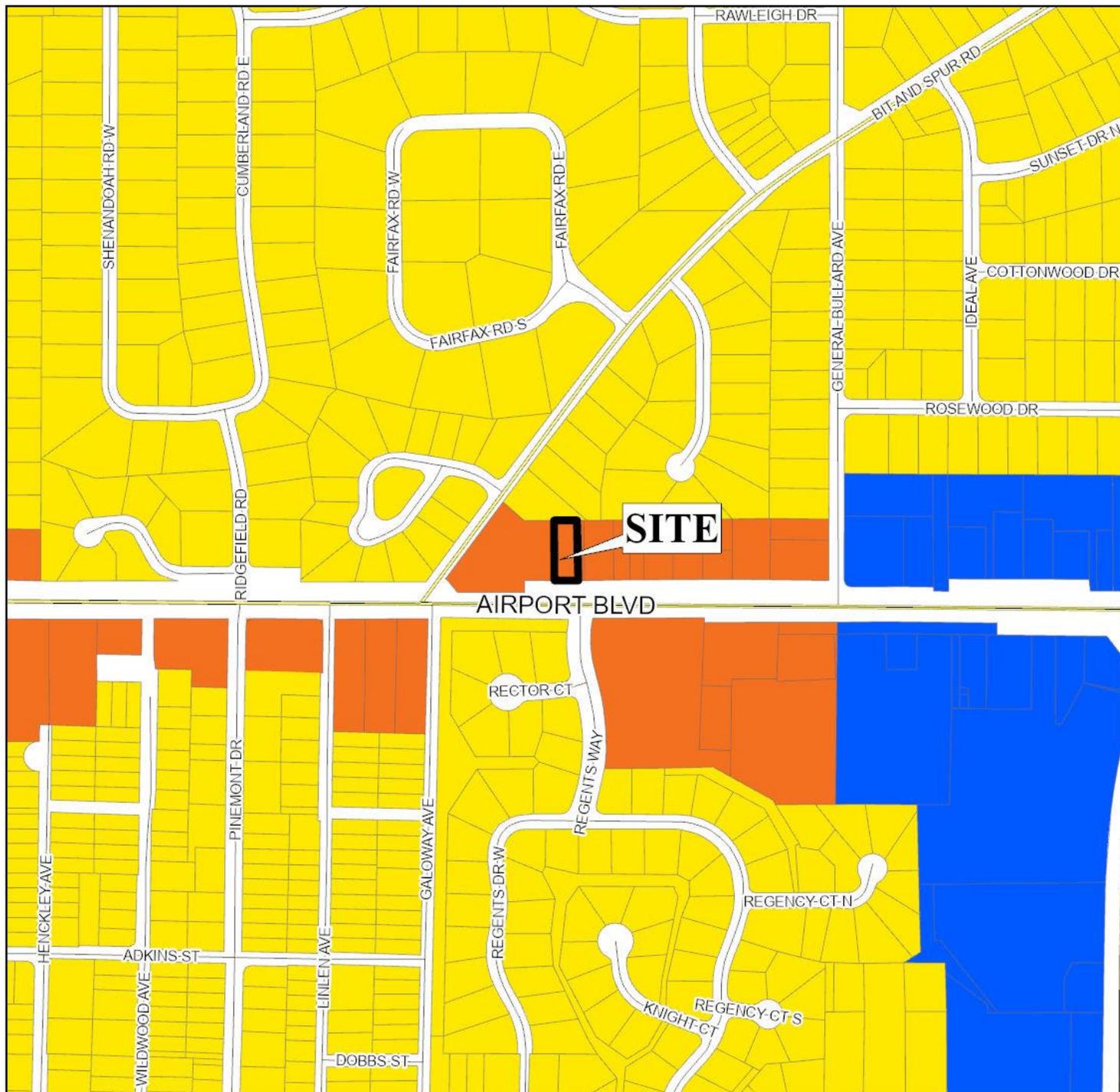
APPLICANT Casey Pipes

REQUEST Use Variance



NTS

# FLUM LOCATOR MAP



APPLICATION NUMBER 6475 DATE October 3, 2022

APPLICANT Casey Pipes

REQUEST Use Variance

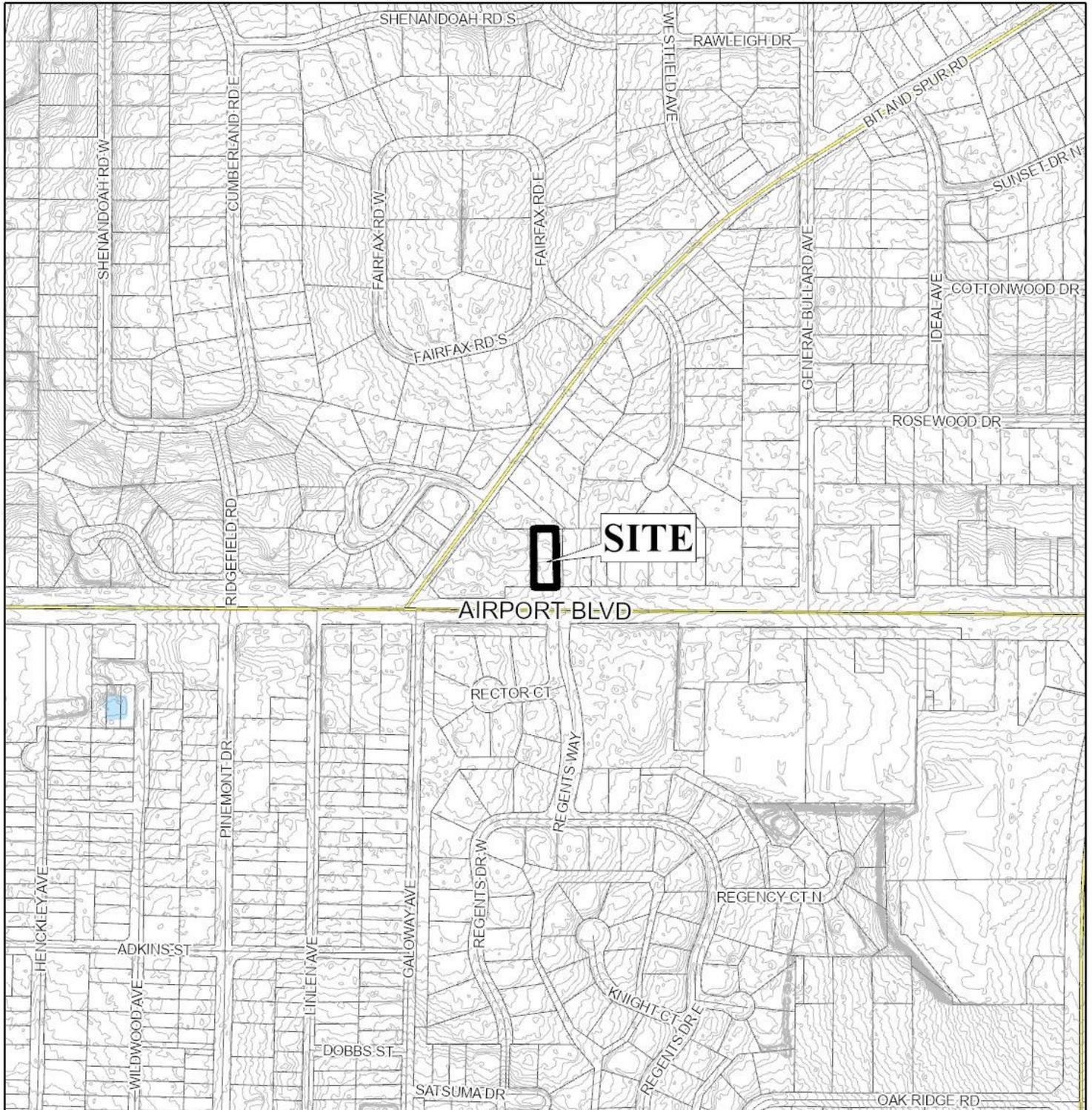
**FLUM**

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



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# ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6475 DATE October 3, 2022

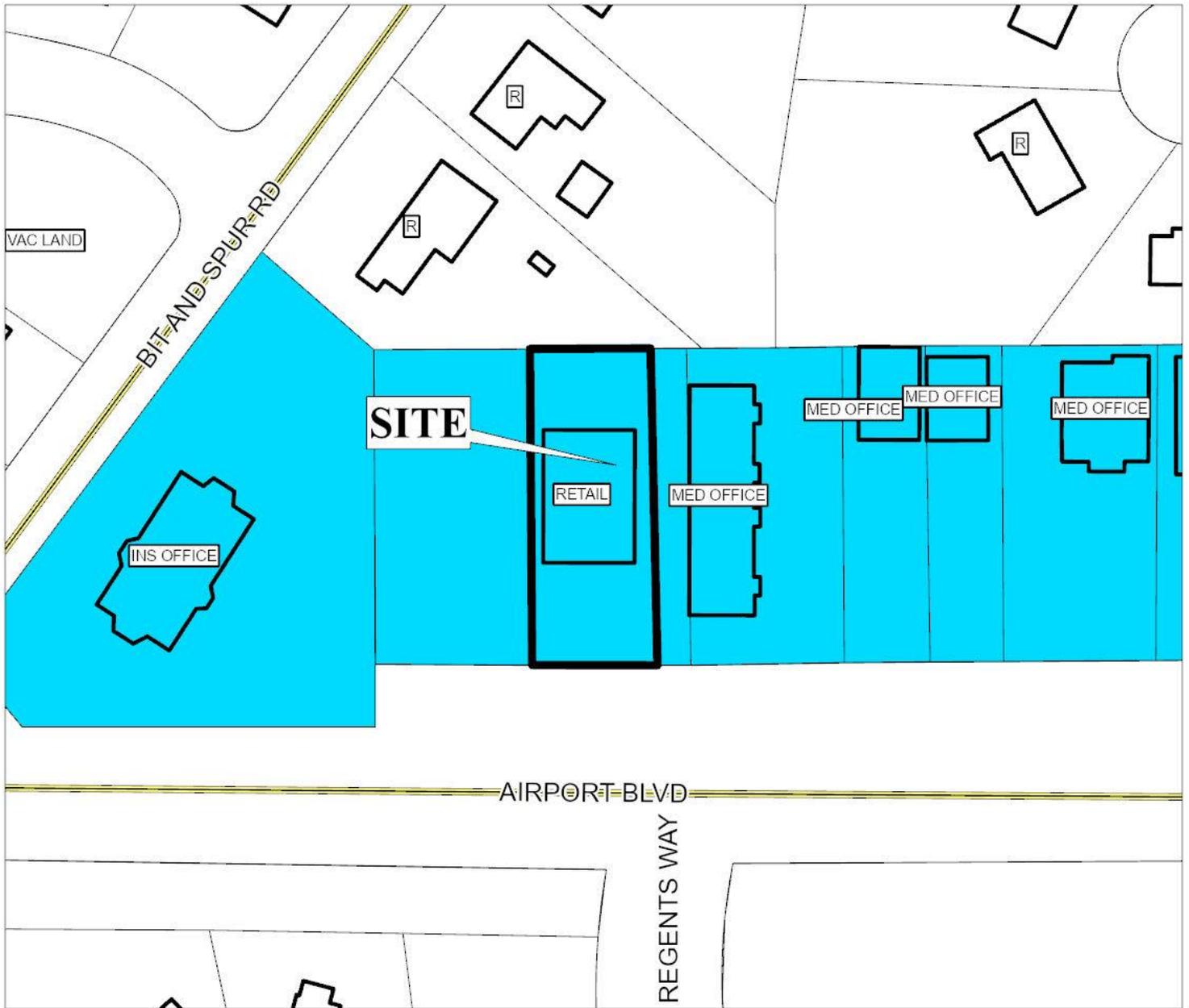
APPLICANT Casey Pipes

REQUEST Use Variance



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and 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

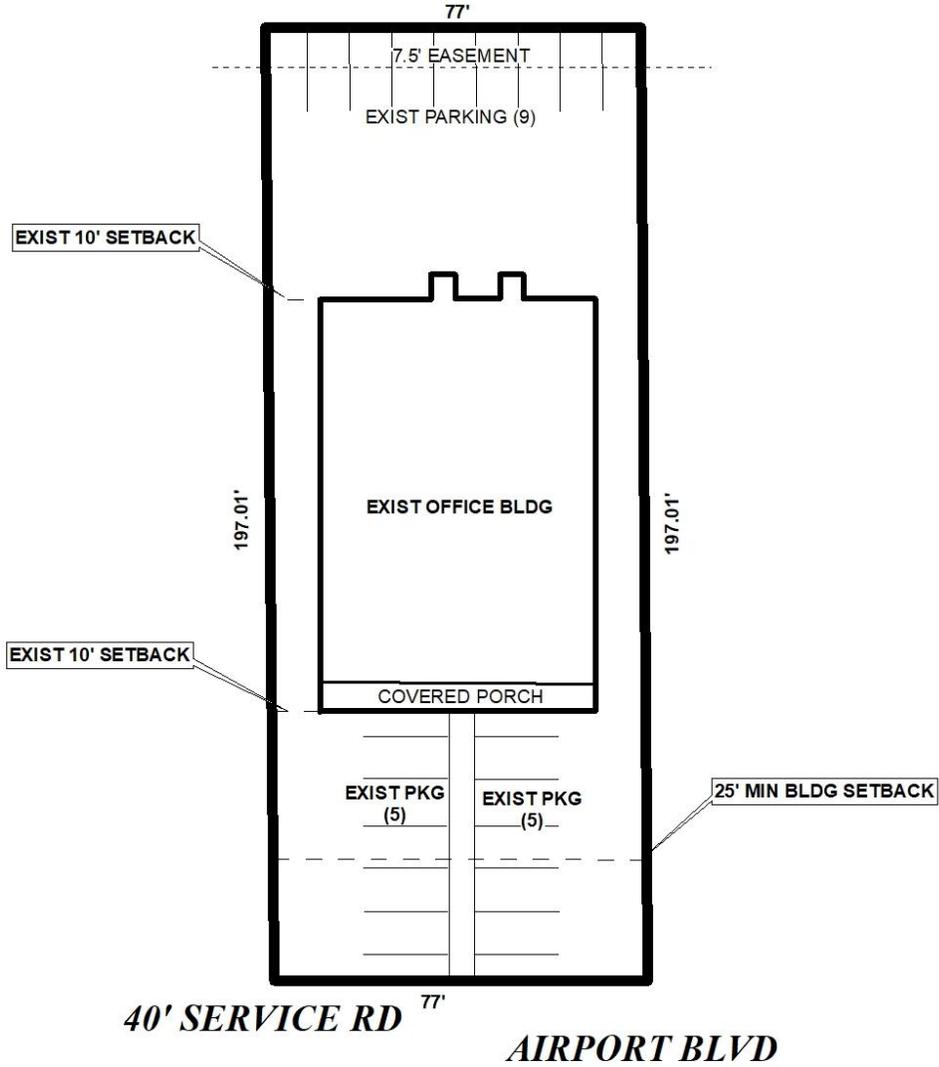


The site is surrounded by commercial and residential units.

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APPLICANT Casey Pipes  
REQUEST Use Variance



# SITE PLAN



The site plan illustrates the existing development and proposed business location

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 APPLICANT Casey Pipes  
 REQUEST Use Variance

