

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 7, 2022**

<u>CASE NUMBER</u>	6478
<u>APPLICANT NAME</u>	Johnnie Robinson
<u>LOCATION</u>	4791 Le Sure Road (South side of Le Sure Road, 275'± East of Old Military Road).
<u>VARIANCE REQUEST</u>	USE: To allow an event center in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow an event center in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District.
<u>AREA OF PROPERTY</u>	5.2± Acres
<u>ENGINEERING COMMENTS</u>	<p>If this variance is approved for use the applicant will need to have the following conditions met:</p> <ol style="list-style-type: none">1. Submit a Tier 2 Land Disturbance Permit for any proposed site improvements.2. Submit a ROW Permit for any proposed work within the Public ROW.3. 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.4. Aggregate surfacing will NOT be allowed within the public ROW.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<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.

CITY COUNCIL**DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Use Variance to allow an event center in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow an event center in an R-1, Single-Family Residential District.

The site has been given Low Density Residential (LDR) land use designation, per the recently 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 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 LDR 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 0 and 6 dwelling units per acre (du/ac).

These 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.

In July 2022, the applicant submitted a request for review of non-conforming status for events held at the subject site as a result of a 311 complaint received by Planning & Zoning. After reviewing the submitted documentation, staff determined that the documentation provided did not illustrate that the site existed as an outdoor event center at the time of annexation into the City. The applicant was given until September 14, 2022 to submit an administrative appeal of that decision. The applicant did attempt to submit an appeal on the deadline date, however the application was incomplete, hence the application at hand.

The applicant did not submit a site plan of the property, but rather an aerial view of the site, with areas labeled as “stage”, “audience”, and “parking”. It should be noted that while there is a stage on the site, it appears to have been placed on the site between 2017 and 2019 without permits. If the applicant had applied for building permits for the stage, they would have been advised of the need for the site to comply with Zoning Ordinance requirements at that time.

The applicant provided the following narrative with the request:

I (Johnnie L. Robinson) am appealing the rezoning decision that was made. I feel that I have been treated unfairly. I have been having events at my home before the city annexation.

I was told by Zoning that I needed two notarized letters saying that I was having events prior to annexation. I turned in five notarized letters and photos. John Williams, retired city councilman of District 4 signed one of the letters that I turned in.

I was also told in June of 2022 that I needed to get a business license from the City of Mobile. (I attached a copy of the license with this letter.) I was then told that I needed a license for an event I had in July of 2022. I went Downtown to get the license for the event in July and was told that I could not purchase a license. I have been taking the necessary steps to follow the rules, but I keep getting the run around.

The site is surrounded to the North, South, East, and West by R-1, Single-Family Residential property.

As no site plan was submitted, it is difficult for staff to determine the amount of required parking, or the amount of parking provided. It should be noted however, that the “parking” areas are unimproved, and located on adjacent properties also owned by the applicant.

Furthermore, without a site plan, it is difficult to determine if the site complies with Zoning Ordinance requirements for commercially utilized properties; this includes tree planting and landscape area, waste removal, residential buffering, etc.

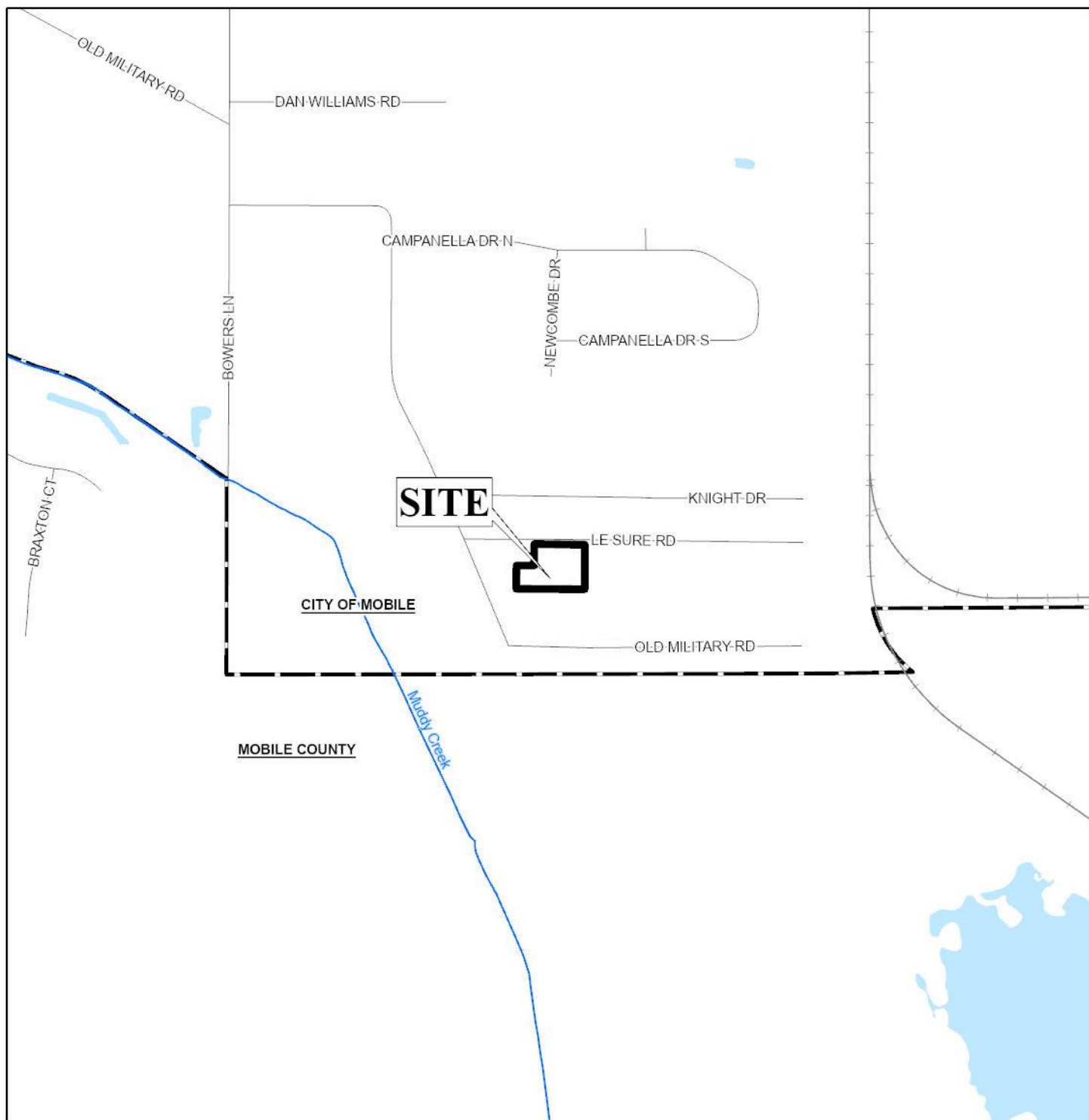
Based on the information available to staff, it appears as if the applicant may have used the subject site for events prior to being annexed into the City of Mobile in 2008, but has since expanded the size and frequency of these events, thus negating any potential non-conforming status the site may once have been eligible for. None of the information provided included dates of events, the number of attendees, or the frequency with which events were held.

Based on aerial photos, the subject site was initially developed with a mobile home on the site, with the existing dwelling constructed in 2010, after annexation into the City of Mobile. Staff cannot find any building permits or Certificate of Occupancy for the structure. According to Revenue Commission records, the applicant owned the property at that time, indicating a general disregard for City of Mobile regulations and requirements. As there is an existing home on the property, the site is being used for a compliant R-1 use, thus documenting there is no hardship associated with the property itself.

RECOMMENDATION: Based upon 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 the subject site is located in a 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 to residents in the surrounding area; 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.

LOCATOR MAP

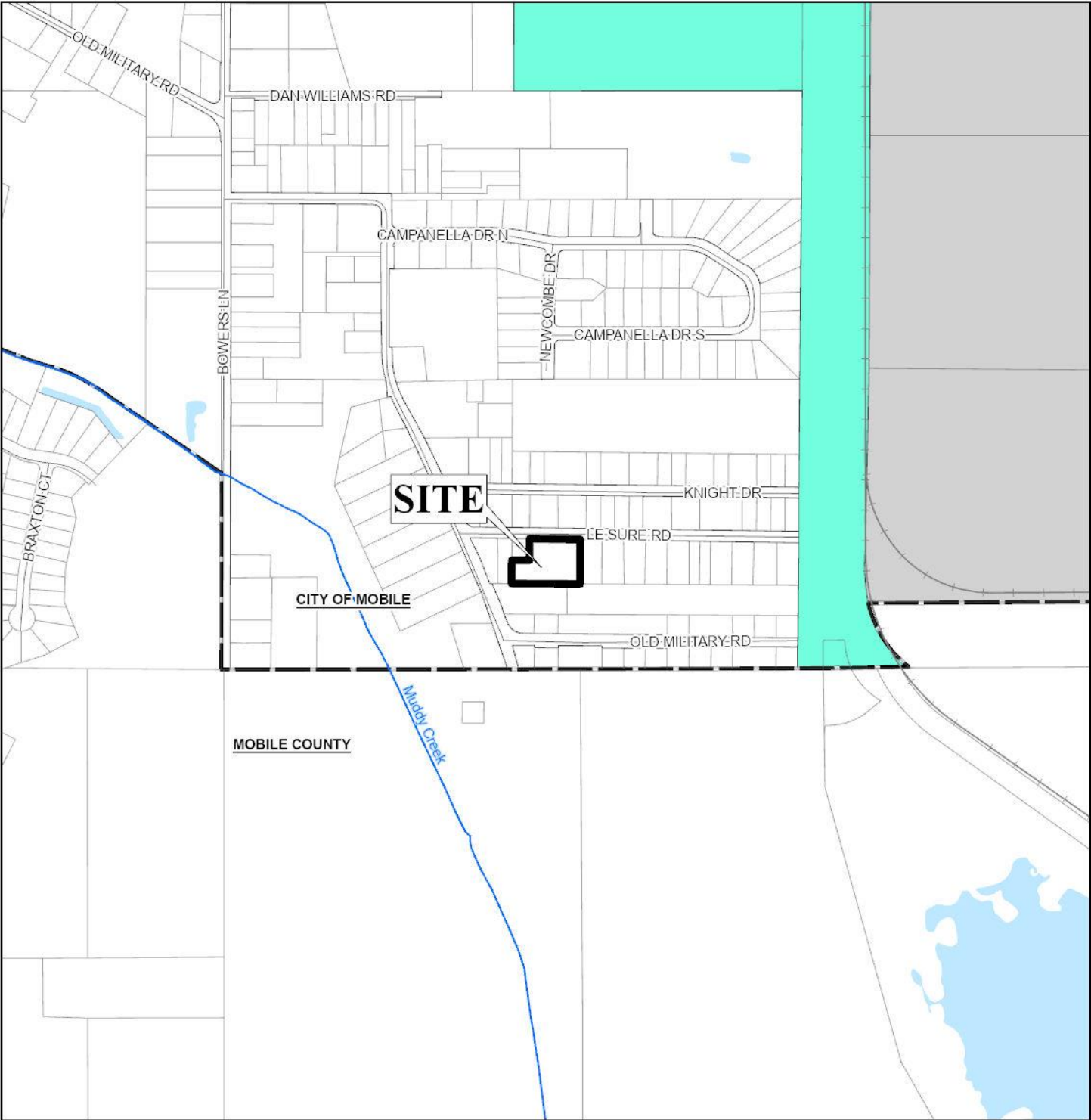


APPLICATION NUMBER 6478 DATE November 7, 2022

APPLICANT Johnnie Robinson

REQUEST Use Variance

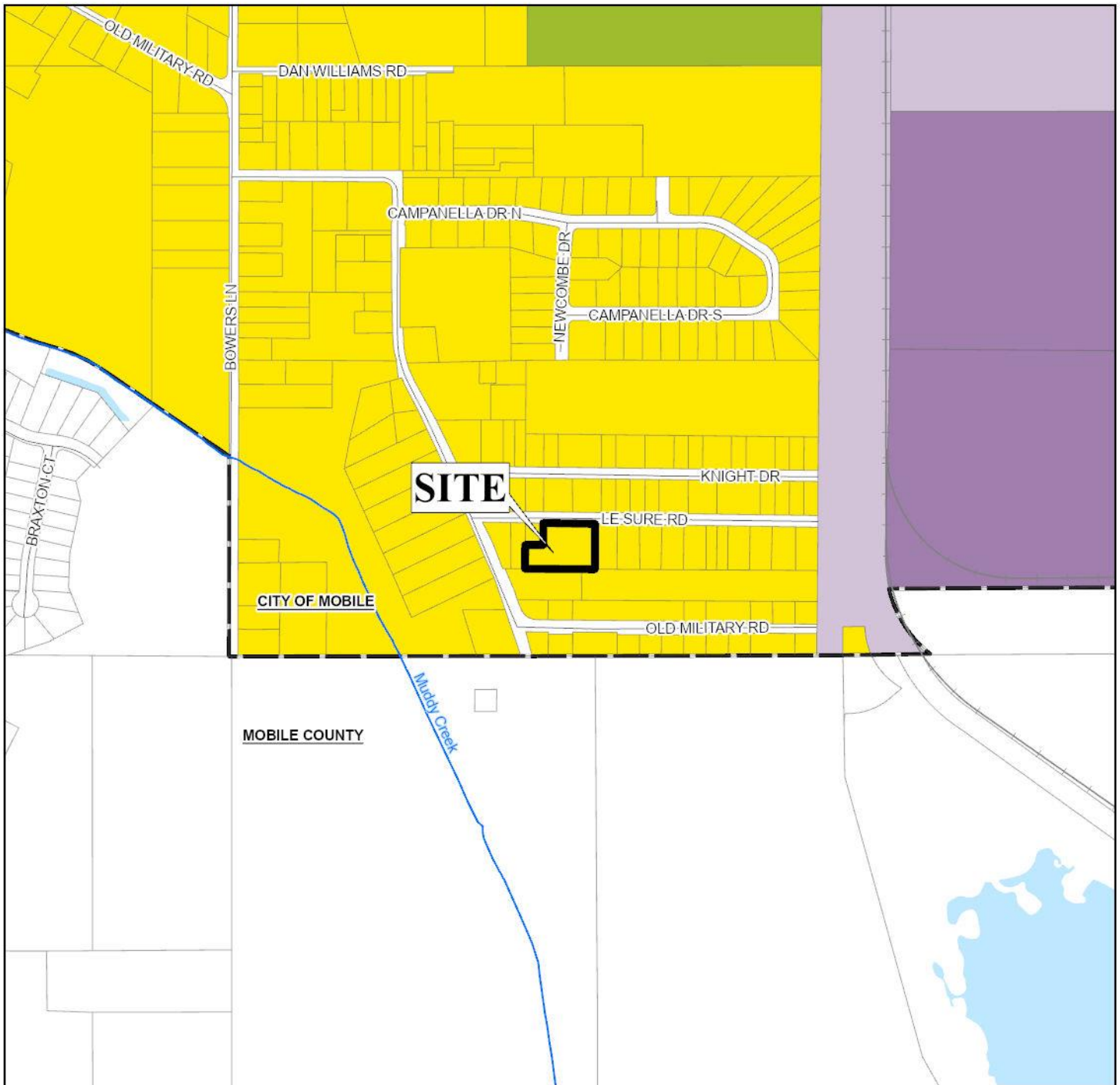
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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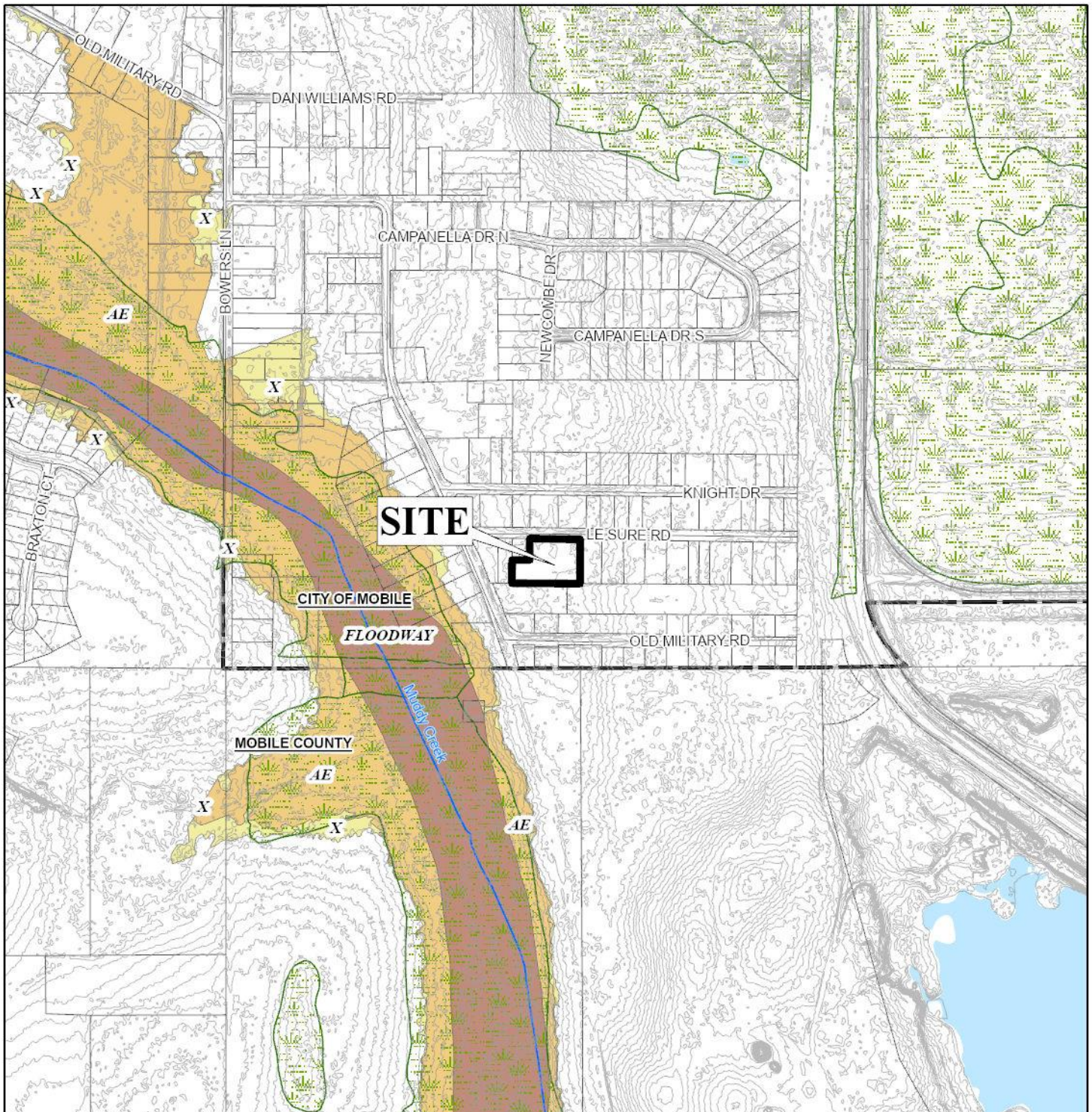
FLUM

■ 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



NTS

ENVIRONMENTAL LOCATOR MAP



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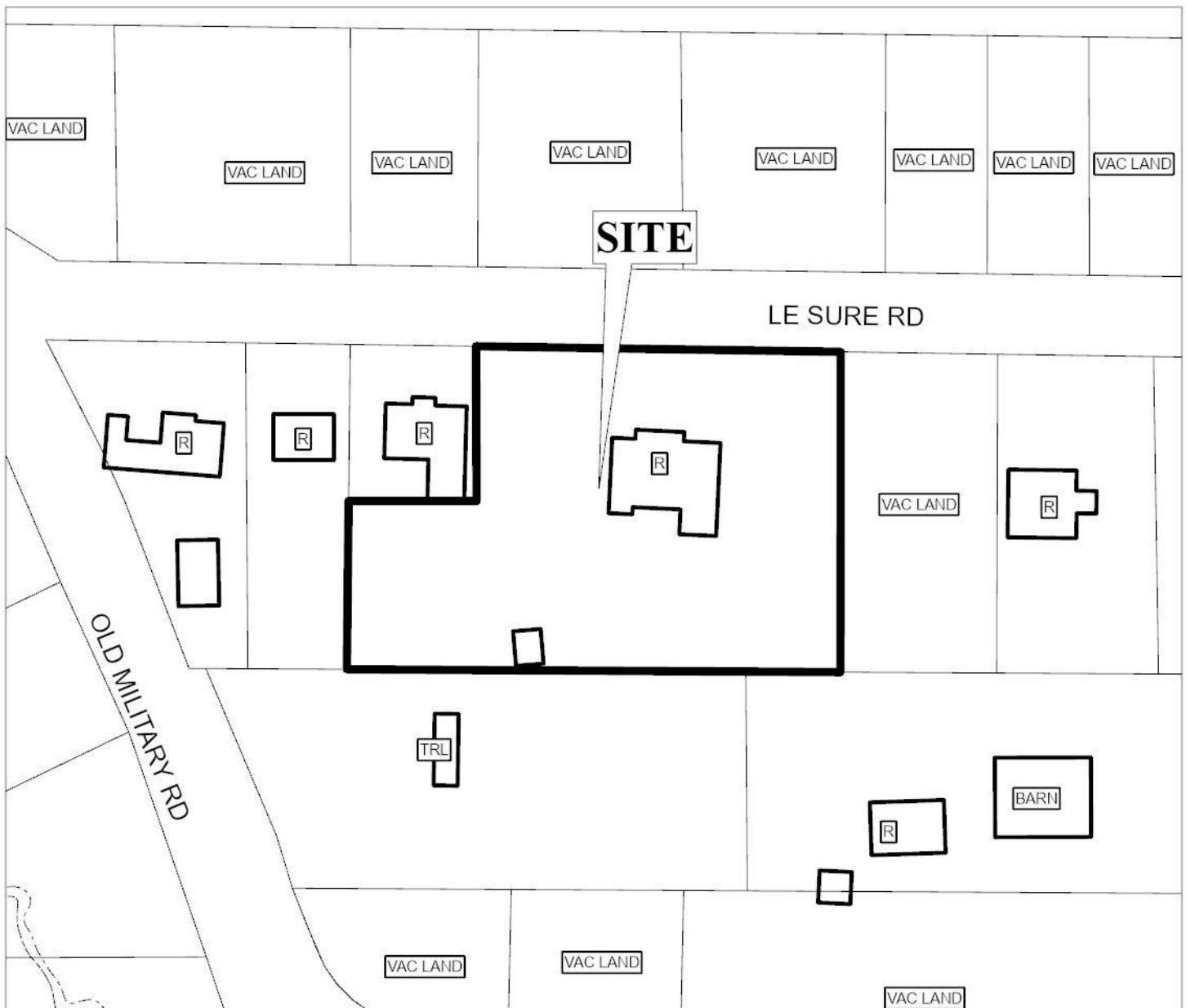
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units, and vacant land.

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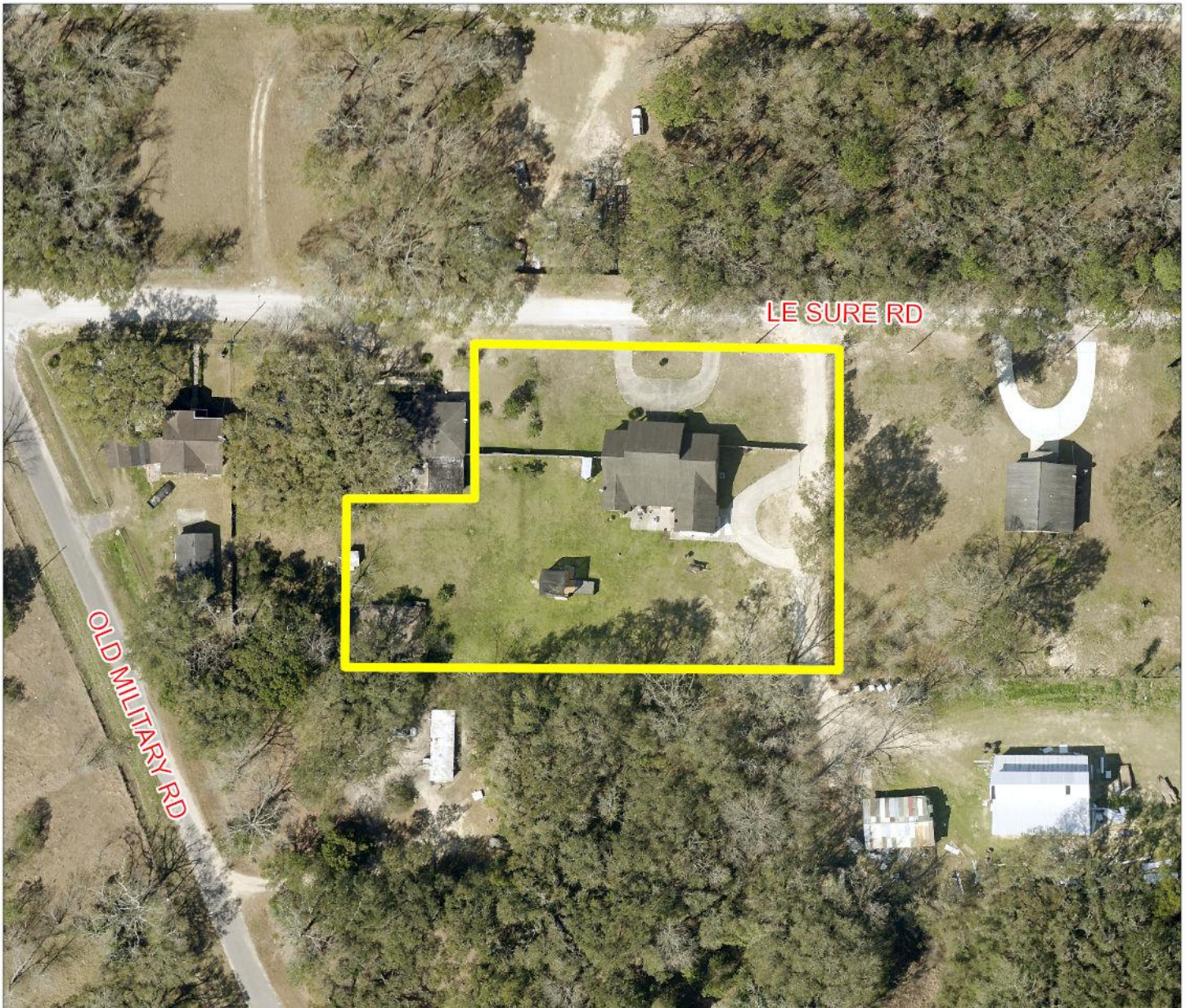
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

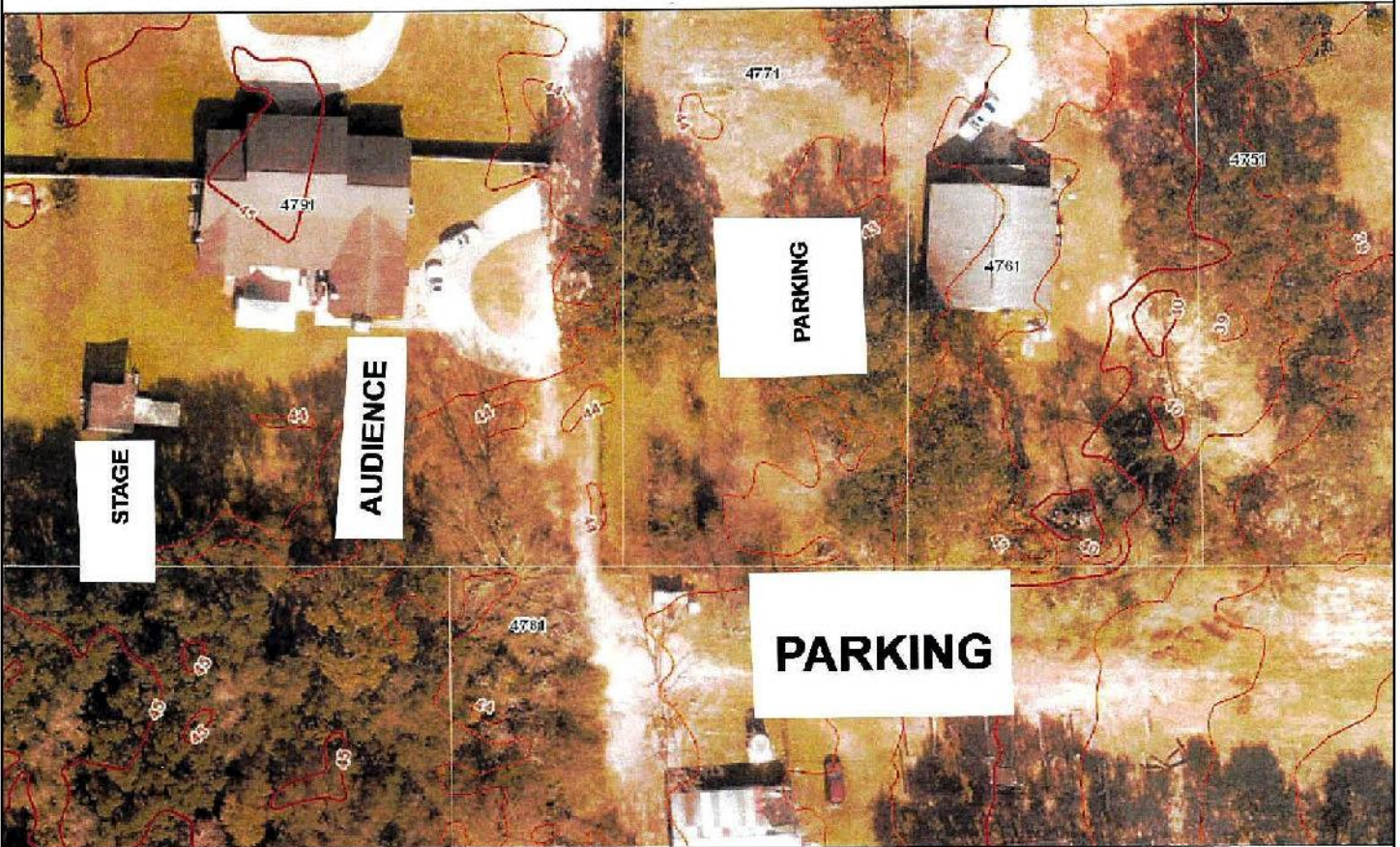


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SITE PLAN



The site plan illustrates the event venue stage, and parking areas.

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