



# Agenda Item # 4

## BOA-003700-2026

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

---

**Location:**

1408 Cody Road North

**Applicant / Agent:**

Elliott Land Developments, LLC (Jay Broughton, Agent)

**Property Owner:**

Elliott Land Developments, LLC

**Current Zoning:**

R-3, Multi-Family Residential Suburban District

**Future Land Use:**

Mixed Density Residential

**Case Number(s):**

6747/6652

**Unified Development Code (UDC) Requirement:**

- The Unified Development Code (UDC) requires newly created lots to be a minimum of 10,000 square feet, with compliant setbacks, a maximum allowed 45% site coverage, and 700 square feet of common area per dwelling unit in an R-3, Multi-Family Residential Suburban District.

**Board Consideration:**

- Lot Size, Setback, Site Coverage, and Common Area Variances to allow reduced lot sizes, reduced setbacks, increased site coverage, and reduced common area for a new 230-lot development in an R-3, Multi-Family Residential Suburban District.

**Report Contents:**

	<b>Page</b>
Context Map .....	2
Site History .....	3
Staff Comments .....	4
Variance Considerations .....	6
Exhibits .....	8

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial and residential units.

APPLICATION NUMBER 6747 DATE May 4, 2026  
APPLICANT Elliott Land Developments, LLC (Jay Broughton, Agent)  
REQUEST Lot Size, Setback, Site Coverage, and Common Area Variances



## SITE HISTORY

---

The site was annexed into Mobile City limits in 1956.

A portion of the site was the subject of a Use Variance application requesting a wrecker service on an R-1 zoned property. The Board of Zoning Adjustment denied the request at its April 5, 1975 meeting.

At its April 19, 2007 meeting, the Planning Commission denied a request for a 62-lot subdivision of the site due to inadequacies with the preliminary plat that were not addressed by the applicant before the meeting. Later, at its May 3, 2007 meeting, the Planning Commission approved a similar request for a 62-lot subdivision. A one (1)-year extension of the May 2007 approval was granted in February 2008, but was allowed to expire before the subdivision process was completed.

At its July 10, 2008 meeting, the Planning Commission approved Subdivision, Planned Unit Development (PUD), and Rezoning requests for: a one (1)-lot subdivision; an apartment complex with multiple buildings on a single building site; and a rezoning from R-1 and B-2 to R-3, Multi-Family Residential District, to allow use of the property as an apartment complex. While the rezoning to R-3 was adopted by City Council at its August 19, 2008 meeting, the Subdivision and PUD approvals were allowed to expire before the subdivision process was completed, and before any development permits were obtained.

It should be noted that the rezoning to R-3 was subject to the following conditions: 1) dedication of sufficient right-of-way to provide a minimum of 50-feet from the centerline of Cody Road; 2) the provision of an 8-foot high wooden privacy fence where the site abuts R-1, Single-Family Residential; and 3) full compliance with all municipal codes and ordinances.

At its September 15, 2022 meeting, the Planning Commission approved Subdivision and Rezoning requests to subdivide the subject site and an adjacent lot to the North, abutting Overlook Road, into three (3) lots, and to rezone the property from R-3 and B-1, to R-1 and B-1. The following month, at its October 20, 2022 meeting, the Planning Commission approved another Subdivision request to further subdivide one of the lots approved in September 2022 into 74 lots; however, all of the approvals from September 2022 and October 2022 were allowed to expire.

At its February 22, 2024 meeting, the Planning Commission approved a one (1)-lot Subdivision for the subject site; however, the plat has not been provided to staff for signature, and has recently expired.

At its February 20, 2025 meeting, the Planning Commission approved a 229-lot, private road Subdivision for the subject site.

At the March 10, 2025 meeting, the Board of Zoning Adjustment approved Lot Size, Setback, Site Coverage, and Common Area Variances to allow reduced lot sizes, reduced setbacks, increased site coverage, and reduced common area for a new 230-lot development in an R-3, Multi-Family Residential Suburban District.

As no permits or extension were obtained, both the 2025 Subdivision and Variances have expired.

## STAFF COMMENTS

---

### Engineering Comments:

No comments on the proposed variance; however, according to the submitted plans, the proposed project will require a Land Disturbance Permit. The applicant will need to have the following conditions met:

1. The proposed site improvements will require that a Land Disturbance Permit be submitted through the CSS Portal.
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:

Traffic Engineering has received a Traffic Impact Study for the proposed development, prepared by ALCO Engineering Services on behalf of Elliott Land Developments, LLC. The submitted study is currently under review, is incomplete, and has not been accepted by the city. It does not include a warrant analysis for left and right turn lanes at the proposed entrance on Cody Road N and does not address internal traffic circulation. Due to the presence of on-street parking, further evaluation is required to determine whether supplemental parking lots or other provisions within the development are necessary to prevent adverse impacts to traffic flow and circulation to ensure unobstructed access for emergency vehicles. 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 Article 3, Section 64-3-12 of the City's Unified Development Code.

### 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 located within the City Limits of Mobile shall comply with the provisions of the City of Mobile Fire Code Ordinance, which adopts the 2021 edition of the *International Fire Code (IFC)*.

Fire apparatus access roads shall be provided to within 150 feet of all non-sprinklered commercial buildings and within 300 feet of all sprinklered commercial buildings, as measured along an approved route around the exterior of the facility.

An approved fire water supply capable of meeting the requirements set forth in *Appendices B and C* of the 2021 IFC shall be provided for all commercial buildings.

Fire hydrant placement shall comply with the following minimum standards:

- Within 400 feet of non-sprinklered commercial buildings
- Within 600 feet of sprinklered commercial buildings
- Within 100 feet of fire department connections (FDCs) serving standpipe or sprinkler systems

Although the *International Residential Code (IRC)* functions as a stand-alone document for the construction of one- and two-family dwellings and townhouses, it does not govern the design or layout of emergency access or community-level fire protection infrastructure. Therefore, residential developments must also comply with the applicable requirements of the *International Fire Code*, including, but not limited to, those listed above concerning the design, construction, regulation, and maintenance of fire apparatus access roads and fire protection water supplies.

### **Planning Comments:**

The applicant is requesting Lot Size, Setback, Site Coverage, and Common Area Variances to allow reduced lot sizes, reduced setbacks, increased site coverage, and reduced common area for a new 230-lot development in an R-3, Multi-Family Residential Suburban District; the Unified Development Code (UDC) requires newly created lots to be a minimum of 10,000 square feet, with compliant setbacks, a maximum allowed 45% site coverage, and 700 square feet of common area per dwelling unit in an R-3, Multi-Family Residential Suburban District.

Though the narrative states that 230-lot are proposed, the site plan submitted depicts 228-lots that are to be developed as a private street single-family residential community. Single-family residential use is allowed by right in an R-3, Multi-Family Residential Suburban District, subject to compliance with the development standards of the Unified Development Code (UDC).

As mentioned previously, the site received Subdivision and Variance approvals for the subject site in February and March 2025, but those approvals were allowed to expire. The applicant is currently requesting almost identical Variances, with a slight change to the proposed lot layout. The subject site has a Subdivision application on the May 21, 2026 Planning Commission agenda.

Article 2, Section 64-2-7.1. of the UDC requires newly created lots to be a minimum of 10,000 square feet. The currently proposed lot sizes are as small as 1,250 square feet, with an average size of 1,375 square feet. The previously approved Variance allowed lot sizes ranging from 1,367 square feet to 2,179 square feet.

Article 2, Section 64-2-7.6. of the UDC requires newly created lots to have a 25-foot minimum front yard setback; Article 2, Section 64-2-7.8. of the UDC requires newly created lots to have a 10-foot minimum side yard setback; and Article 2, Section 64-2-7.9. of the UDC requires newly created lots to have a 10-foot minimum rear yard setback. The applicant is proposing the new development have a 10-foot minimum front yard setback, a 0-foot minimum side yard setback, and a 5-foot minimum rear yard setback. These are the same setbacks as previously approved.

Article 2, Section 64-2-7.3. of the UDC requires newly created lots to have a maximum site coverage of 45%. The applicant is proposing the new development have a maximum site coverage of 80%. The previously approved Variance allowed for a maximum site coverage of 60%.

Article 2, Section 64-2-7.11. of the UDC requires newly created lots to have a minimum of 700 square feet of open space per dwelling unit. The applicant previously proposed approximately 481 square feet of open space per dwelling unit. While the current application does not specifically state how much open space per dwelling unit is

proposed, the increased site coverage requested, and the revised layout result in less open space than previously approved.

	UDC Requirement	Proposed
<b>Lot Size</b>	10,000 square feet	1,250 square feet minimum, 1,375 square feet average
<b>Site Coverage</b>	45%	80%
<b>Front Setback</b>	25-feet	10-feet
<b>Side Setback</b>	10-feet	0-feet
<b>Rear Setback</b>	10-feet	5-feet
<b>Common Area</b>	700 square feet/unit	Less than 481 square feet/unit

## VARIANCE CONSIDERATIONS

---

### Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### Considerations:

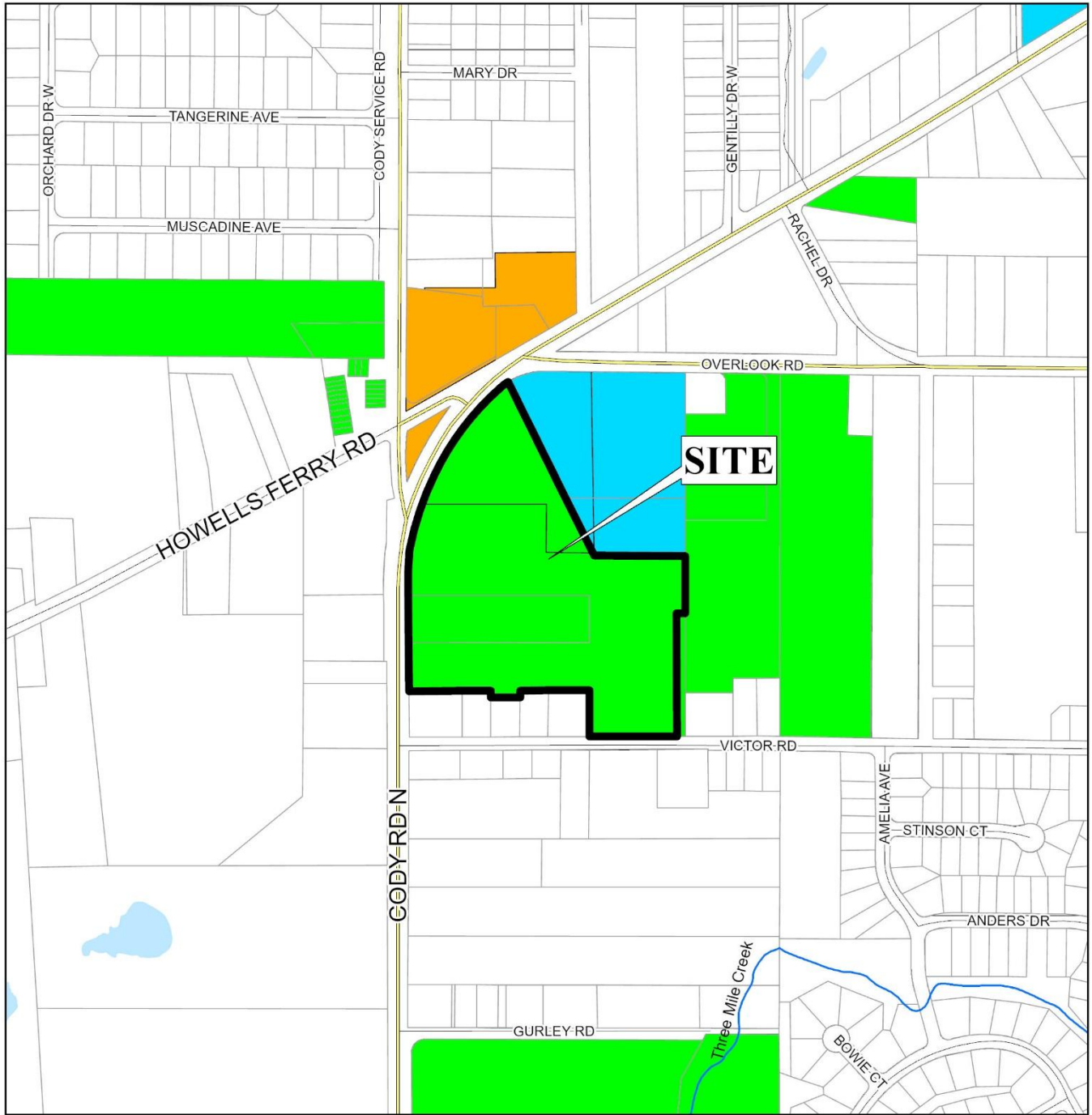
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- A) The variance **will not** be contrary to the public interest;
- B) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions should apply:

1. Completion of the Subdivision process (land disturbance for street construction allowed prior to recording of plat);
2. Revision of the site plan to provide the amount of open space per dwelling unit;
3. Compliance with all Engineering comments noted in this staff report;
4. Compliance with all Traffic Engineering comments noted in this staff report;
5. Compliance with all Urban Forestry comments noted in this staff report;
6. Compliance with all Fire Department comments noted in this staff report;
7. Submittal of a revised site plan to Planning Staff prior to issuance of permits; and
8. Full compliance with all other codes and ordinances.

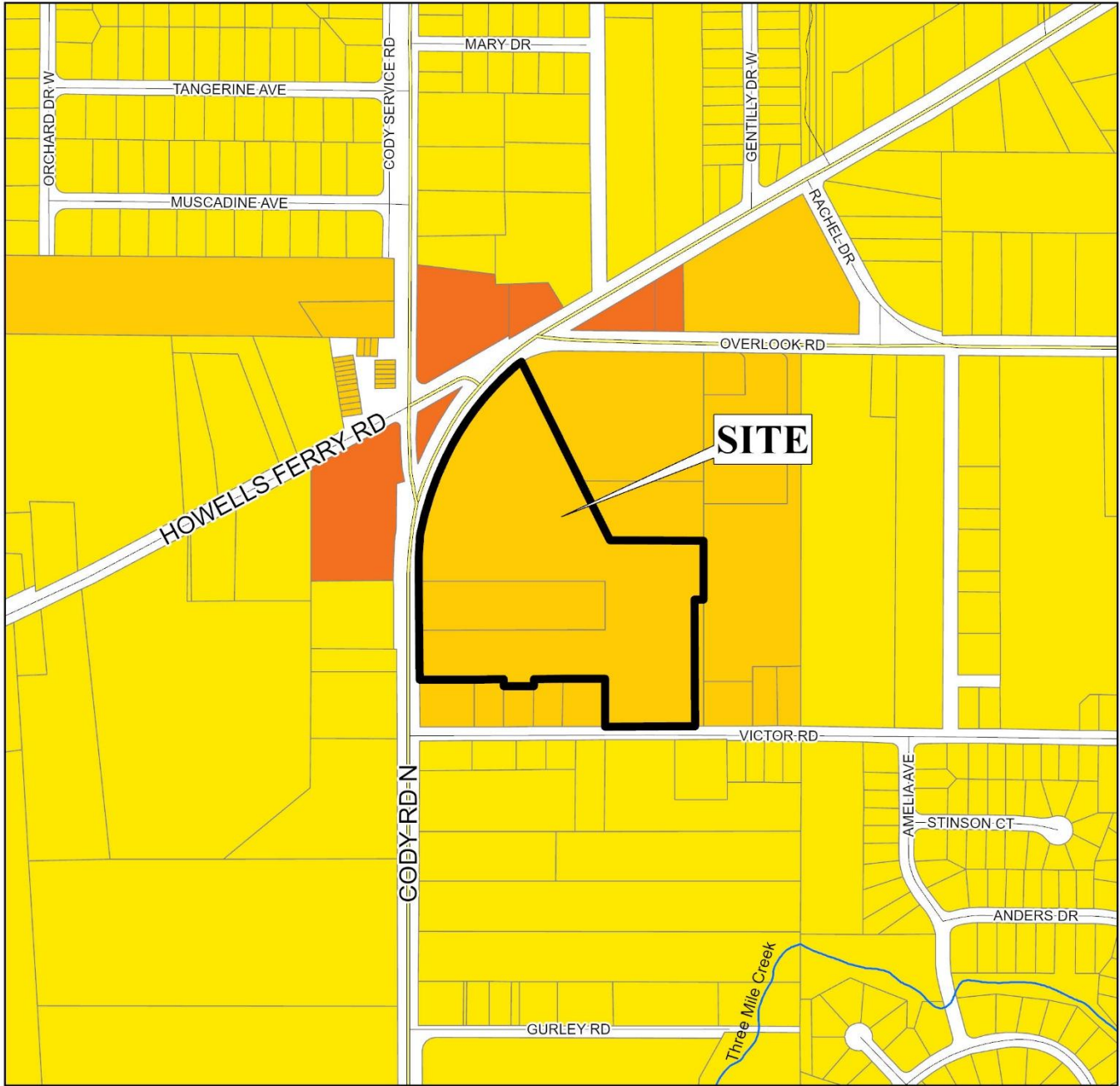
# LOCATOR ZONING MAP



APPLICATION NUMBER 6747 DATE May 4, 2026  
APPLICANT Elliott Land Developments, LLC (Jay Broughton, Agent)  
REQUEST Lot Size, Setback, Site Coverage, and Common Area Variances



# FLUM LOCATOR MAP

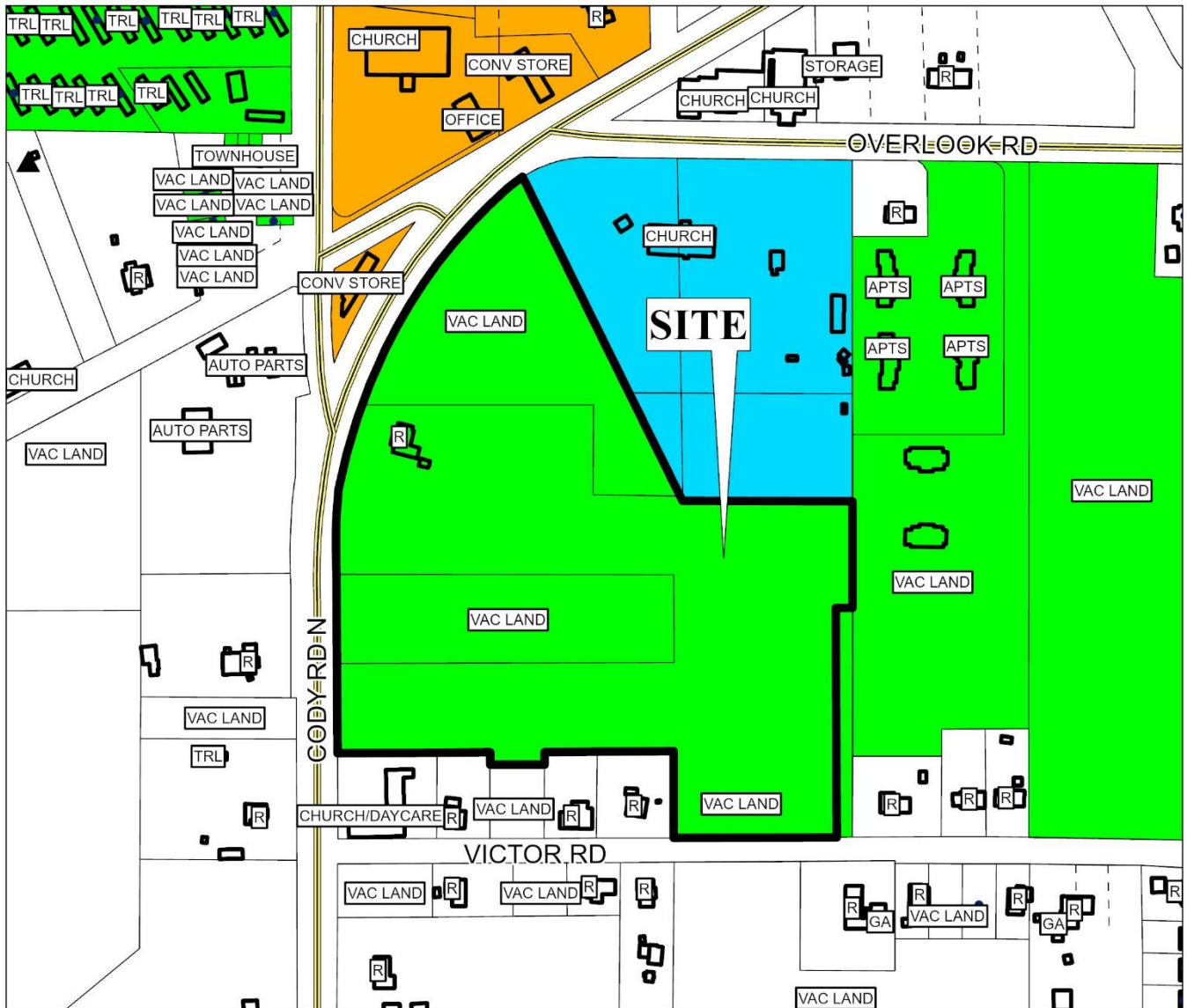


APPLICATION NUMBER 6747 DATE May 4, 2026  
 APPLICANT Elliott Land Developments, LLC (Jay Broughton, Agent)  
 REQUEST Lot Size, Setback, Site Coverage, and Common Area Variances

- |   |  |   |   |
|---|--|---|---|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: red;">■</span> Neighborhood Center - Traditional | <span style="color: lightgrey;">■</span> Light Industry | <span style="color: blue;">■</span> Water Dependent |
| <span style="color: orange;">■</span> Mixed Density Residential | <span style="color: purple;">■</span> Neighborhood Center - Suburban | <span style="color: grey;">■</span> Heavy Industry      |   |
| <span style="color: pink;">■</span> Downtown                    | <span style="color: lightpink;">■</span> Traditional Corridor        | <span style="color: cyan;">■</span> Institutional       |   |
| <span style="color: darkred;">■</span> District Center          | <span style="color: orange;">■</span> Mixed Commercial Corridor      | <span style="color: green;">■</span> Parks, Open Space  |   |



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



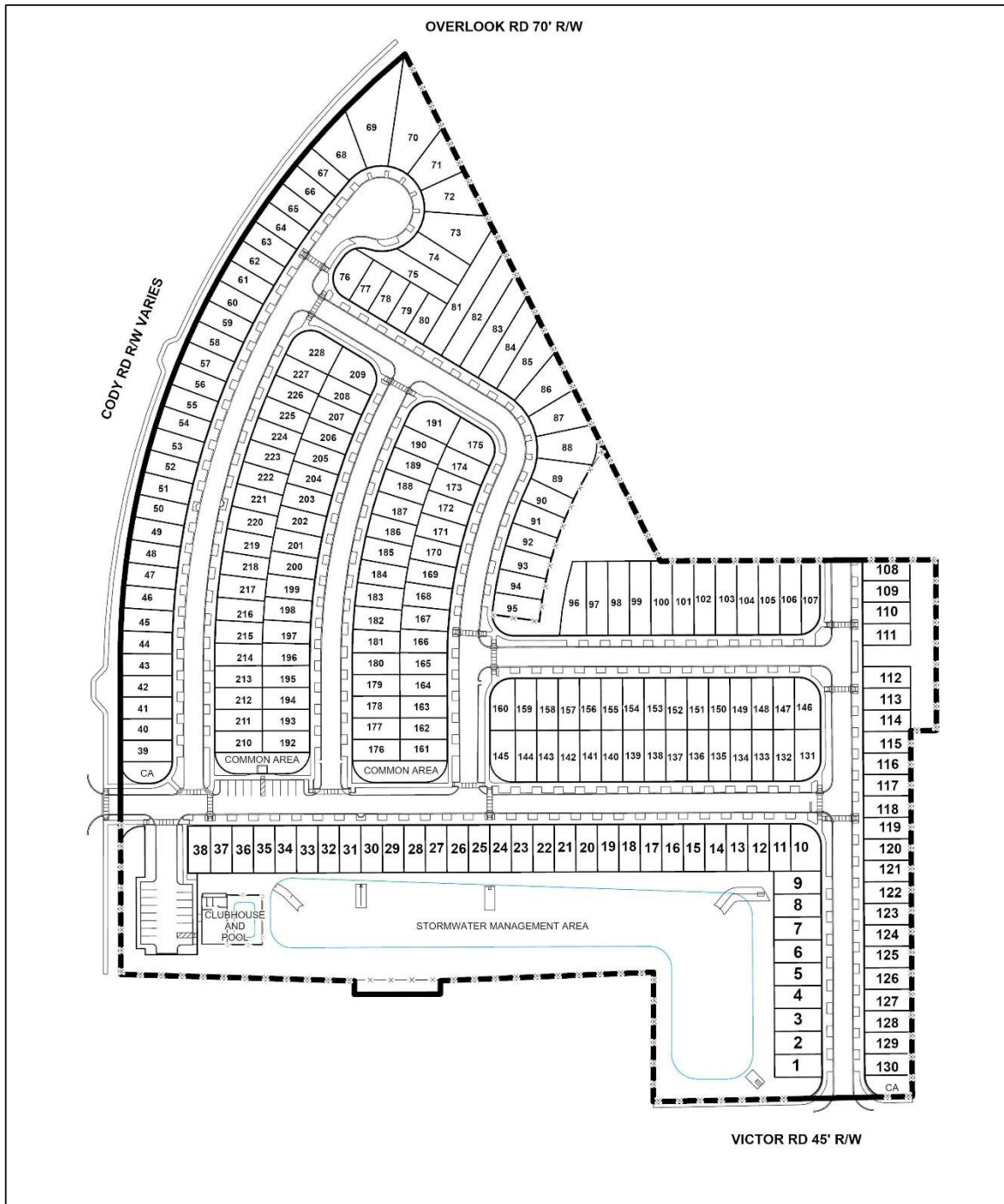
The site is surrounded by commercial and residential units.

APPLICATION NUMBER 6747 DATE May 4, 2026  
 APPLICANT Elliott Land Developments, LLC (Jay Broughton, Agent)  
 REQUEST Lot Size, Setback, Site Coverage, and Common Area Variances


<span style="display: inline-block; width: 15px; height: 10px; background-color: #90EE90; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00FF00; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #00BFFF; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFA500; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #0000FF; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 10px; background-color: #ADD8E6; border: 1px solid black;"></span> ML	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D3D3D3; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #C8E6C9; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFB6C1; border: 1px solid black;"></span> T-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #483D8B; border: 1px solid black;"></span> T-5.2
<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFFF; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF69B4; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #D2B48C; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF0000; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 10px; background-color: #A9A9A9; border: 1px solid black;"></span> CW	<span style="display: inline-block; width: 15px; height: 10px; background-color: #008080; border: 1px solid black;"></span> MH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #3CB371; border: 1px solid black;"></span> PD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFDAB9; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> T-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #4B0082; border: 1px solid black;"></span> T-6
<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFF00; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFD700; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8A2BE2; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 10px; background-color: #8B4513; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 10px; background-color: #6495ED; border: 1px solid black;"></span> MM	<span style="display: inline-block; width: 15px; height: 10px; background-color: #9370DB; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FFFFE0; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 10px; background-color: #FF8C00; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 10px; background-color: #483D8B; border: 1px solid black;"></span> T-5.1	



# SITE PLAN



The site plan illustrates proposed lots, drives, and common spaces.

APPLICATION NUMBER	6747	DATE	May 4, 2026		
APPLICANT	Elliott Land Developments, LLC (Jay Broughton, Agent)				
REQUEST	Lot Size, Setback, Site Coverage, and Common Area Variances				