

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 6, 2020****CASE NUMBER**

6318

APPLICANT NAME

David Shumer

LOCATION

5461 Kooiman Road
(South side of Kooiman Road, 430'± East of US Highway
90 West)

VARIANCE REQUEST

SITE: Residential Buffer Variance to waive the construction of a buffer privacy fence along adjacent residentially zoned properties for a memory care facility in a B-1, Buffer Business District.

**ZONING ORDINANCE
REQUIREMENT**

SITE: The Zoning Ordinance requires a residential buffer privacy fence along adjacent residentially zoned properties for a commercial development in a B-1, Buffer Business District.

ZONING

B-1, Buffer Business District

AREA OF PROPERTY

231, 739.2± square feet / 5.32±Acres

**CITY COUNCIL
DISTRICT**

District 4

**ENGINEERING
COMMENTS**

No comment.

**TRAFFIC ENGINEERING
COMMENTS**

No comment.

**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 Residential Buffer Variance to waive the construction of a buffer privacy fence along adjacent residentially-zoned properties for a memory care facility in a B-1, Buffer Business District; the Zoning Ordinance requires a residential buffer privacy fence along adjacent residentially-zoned properties for a commercial development in a B-1, Buffer Business District.

The site has been given a Light Industry (LI) 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 applies to an array of modern, low-impact industrial uses that include assembly and processing, warehousing, distribution and wholesaling facilities. The bulk of the light industrial use must be contained within a building or facility. If a light industrial use requires outside storage, the storage must be limited in area and appropriately screened from view in accordance to specific zoning requirements. This designation may also include uses such as complementary offices and retail.

LI also includes areas that may be regarded as “industrial business”, where the land uses include business administration and logistics operations for industrial concerns, building trade contractors facilities and advanced research facilities, as well as stand-alone educational, scientific and industrial research facilities, or any combination of those facilities located in light industrial and technology parks. Many parcels used for industrial business are smaller and scattered throughout Mobile. For this reason, these parcels are not singled out in the FLUM, but rather are addressed through zoning.

Light industrial uses are characterized by attractive, accessible and connected development, compatible with the character of surrounding neighborhoods. Development may take the form of planned campuses in park-like settings or unified design corridors, with consideration to factors such as site and building orientation, building design, landscaping and buffering, lighting, continuity of pedestrian networks, access and connectivity to transit and to freight transportation.

Heavy commercial and, in some cases, high-density residential land uses may serve as transitions between LI and other, lower-intensity land use designations. Protection buffers may also be required by zoning.

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:

Existing Conditions

This project is located at 5461 Kooiman Road. The site is currently under development as a memory care facility. The property was part of a subdivision (Creskide at Kooiman Dairy} and rezoning to B-1 prior to commencing with the current development. The property to the east consists of an undeveloped subdivision that has recently been used as pasture, the south is currently undeveloped and wooded with potential wetlands, and the east is partially undeveloped and wooded with a residential property adjacent to Kooiman Road. The residential property is owned by a corporation (MOBAMA LLC according to County tax records) based in Foley, Alabama.

Proposed Project

The current project under development is a medical facility specializing in care for patients with Dementia and Alzheimer's. The construction of the medical facility is nearing completion and consists of a single structure with an open courtyard in the interior and a partially open patio/dining area overlooking a pond to the south. The pond has a wide embankment that has the potential to be used as a walking path for patients with assistance from staff.

Request for variance of buffer fence adjacent to residentially zoned property:

The property to the east is currently undeveloped with recent use as a pasture for livestock. The developer is proposing to provide a post and rail type fence along the east property line that is adequate to contain any livestock that are located on the property. Having the ability to see the livestock while outside or on the rear patio/dining area would be beneficial to the patients.

The south half of the property to the east is mostly adjacent to the pond and is wooded/undeveloped. There is some undeveloped area on this property that will provide

a wooded buffer. The wooded/vegetative buffer will provide a less confining feeling to the patients.

The north half of the property to the east has a residential structure that is owned by a corporation (MOBAMA LLC according to County tax records). This property has a high probability of being rezoned as a commercial property either within the current zoning or as part of the proposed unified development code.

The residential properties adjacent to this development are within an island of residentially zoned property surrounded by commercial and industrially zoned property and developments. The future land use map shows all surrounding areas to be either commercially or industrially zoned with no anticipated residential properties.

Due to the benefits of providing the appearance from this development to the adjacent natural settings and the anticipated future land use of the surrounding areas a request is made to waive the requirement of the privacy fence buffer requirement.

At its meeting on March 1, 2018 the Planning Commission approved a subdivision request creating one (1) legal lot of record from six (6) legal lots and vacated city right-of-way. Additionally, at the March 1 meeting the Commission recommended approval of a rezoning request to rezone the subject site from R-1, Single-Family Residential District to B-1, Buffer Business District. On May 22, 2018, the City Council finalized the request, approving the rezoning of the site to B-1, Buffer Business District.

It is important to note that within the Zoning Ordinance there are two separate ordinances relevant to the site which require residential buffering. Section 64-4.D.1. *Protection buffer* requires a protection buffer where any commercial use or commercially zoned property directly abuts a residential use or residentially-zoned property. While Section 64-6.A.3.i. *Screening and landscaping* requires a buffer be provided between adjacent R-1 districts and off-street parking facilities providing uncovered spaces for ten (10) or more vehicles.

Regarding the residential protection buffer, the applicant does provide rationale for why the buffer requirement cannot be installed along the Eastern and Southern property lines as well as a portion of the Western property line. Thus, a waiver of the residential protection buffer requirements until such time as the abutting properties are residentially developed may be appropriate.

Pertaining to the off-street parking buffer, the applicant does not provide rationale or hardship for why this buffer requirement cannot be installed on the subject site, other than the abutting residentially zoned property being currently listed as owned by an LLC. As such, a compliant off-street parking buffer should be required along an appropriate portion of the Western property line where the proposed parking area abuts the residentially zoned property.

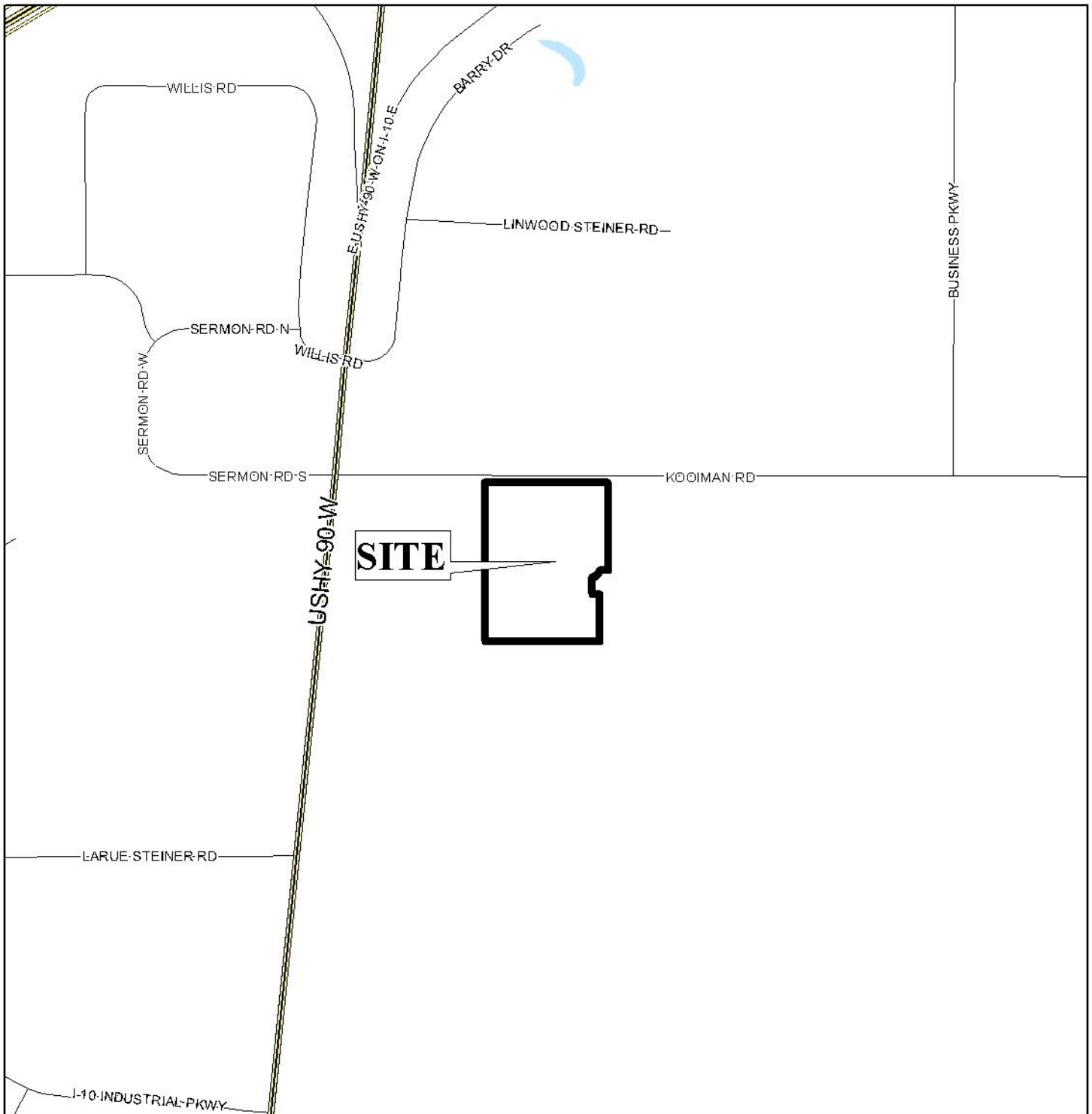
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Approving the variance will not be contrary to the public interest as the properties which stand to be most affected by the request are either undeveloped or utilized for agricultural uses;
- 2) Special conditions were illustrated such 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 because the surrounding area is primarily undeveloped, wooded, or agriculturally used land.

The approval is subject to the following conditions:

- 1) Provision of a compliant off-street parking buffer along the appropriate portion of the Western property line where the proposed parking area abuts the residentially zoned property to the West; and
- 2) Full compliance with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6318 DATE May 4, 2020

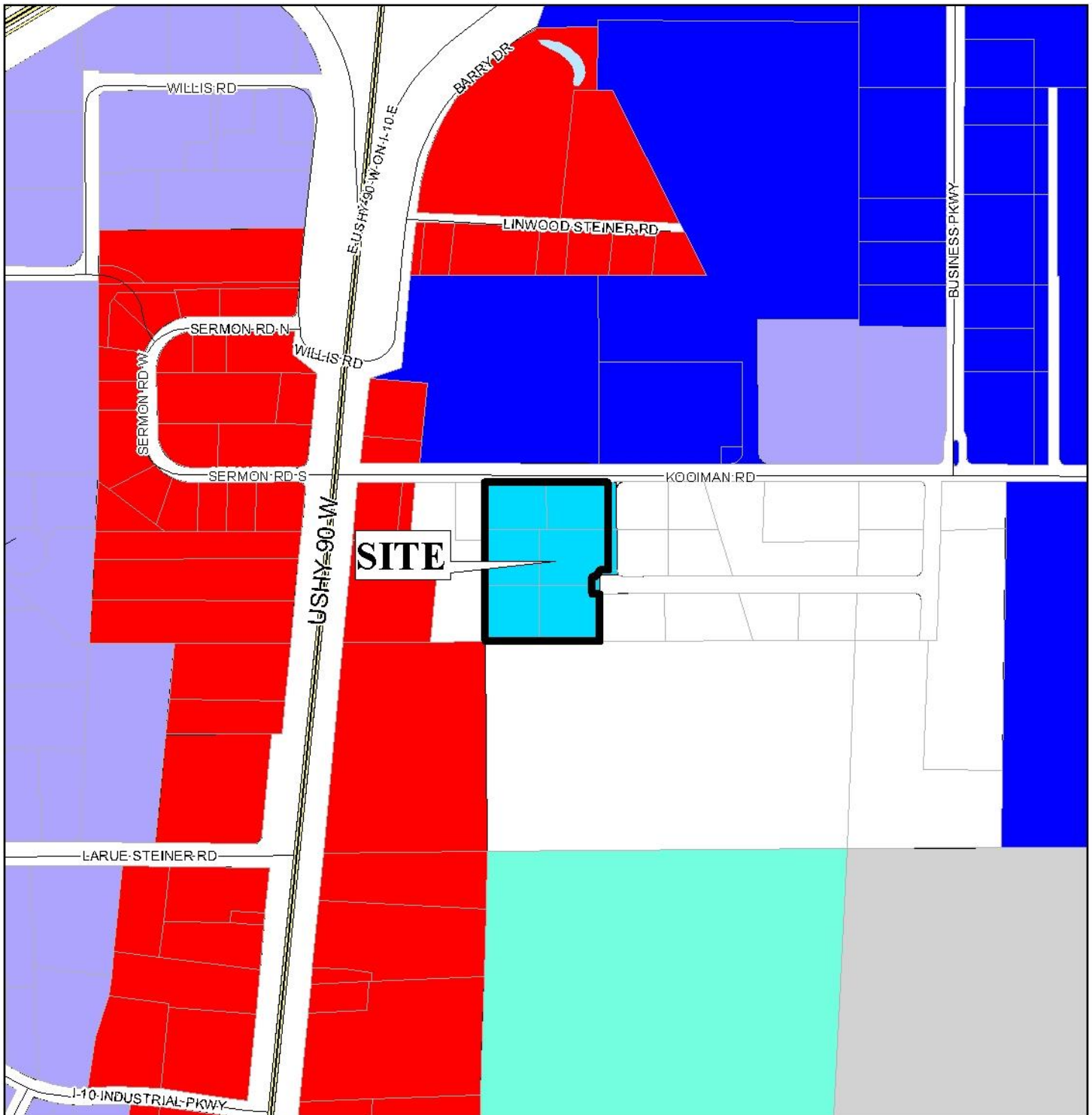
APPLICANT David Shumer

REQUEST Residential Buffer Variance



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LOCATOR ZONING MAP



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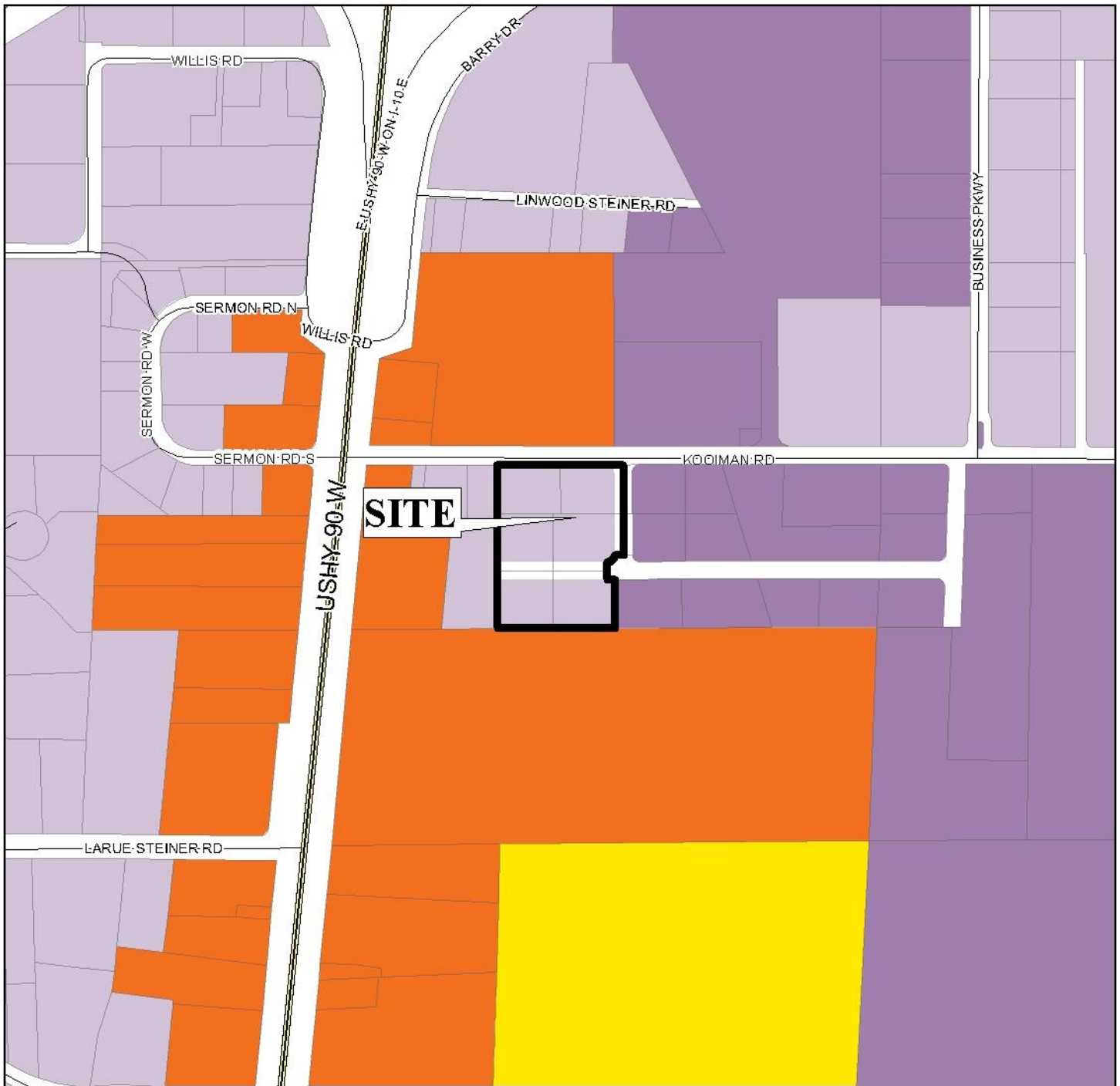
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FLUM LOCATOR MAP



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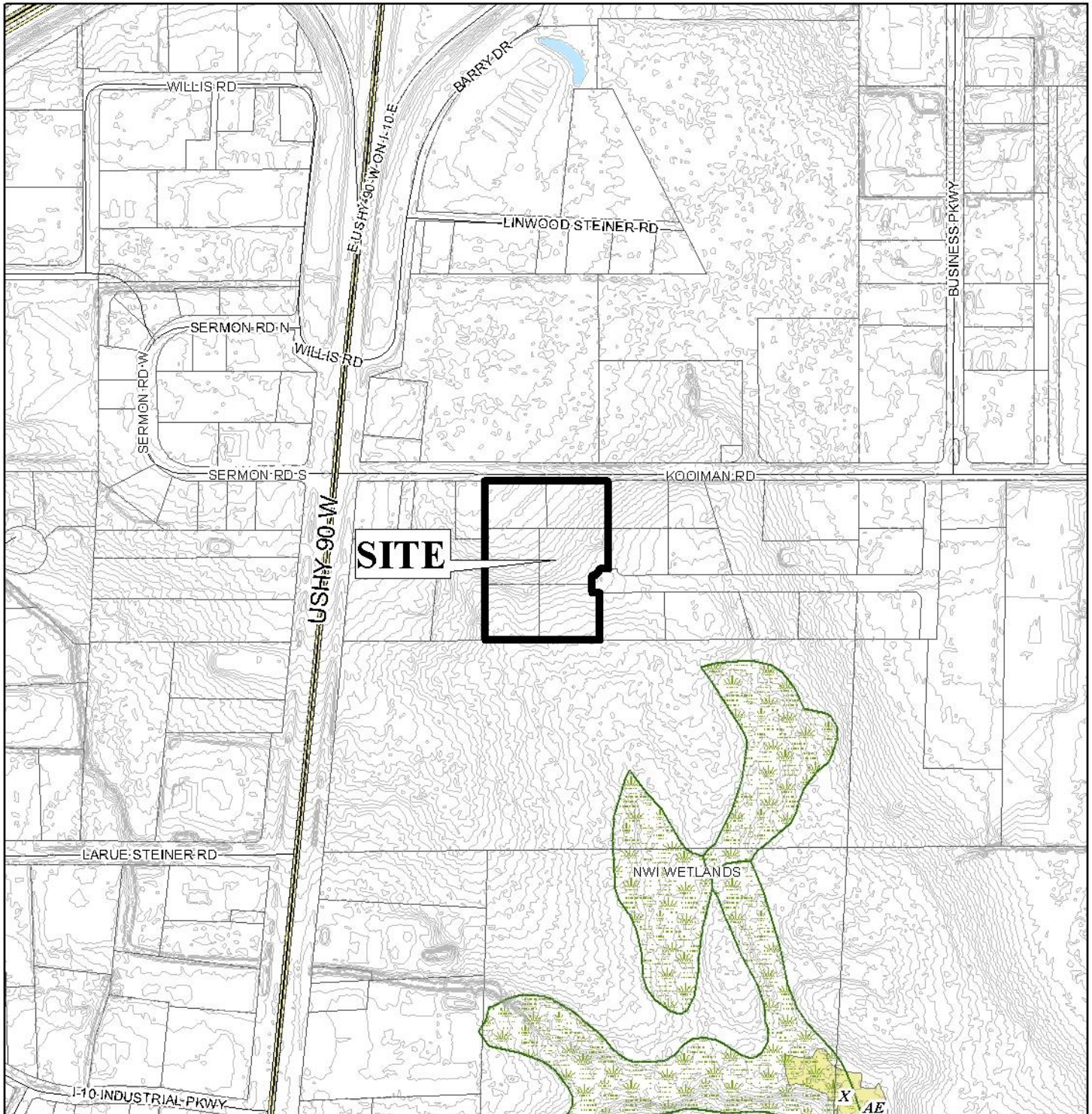
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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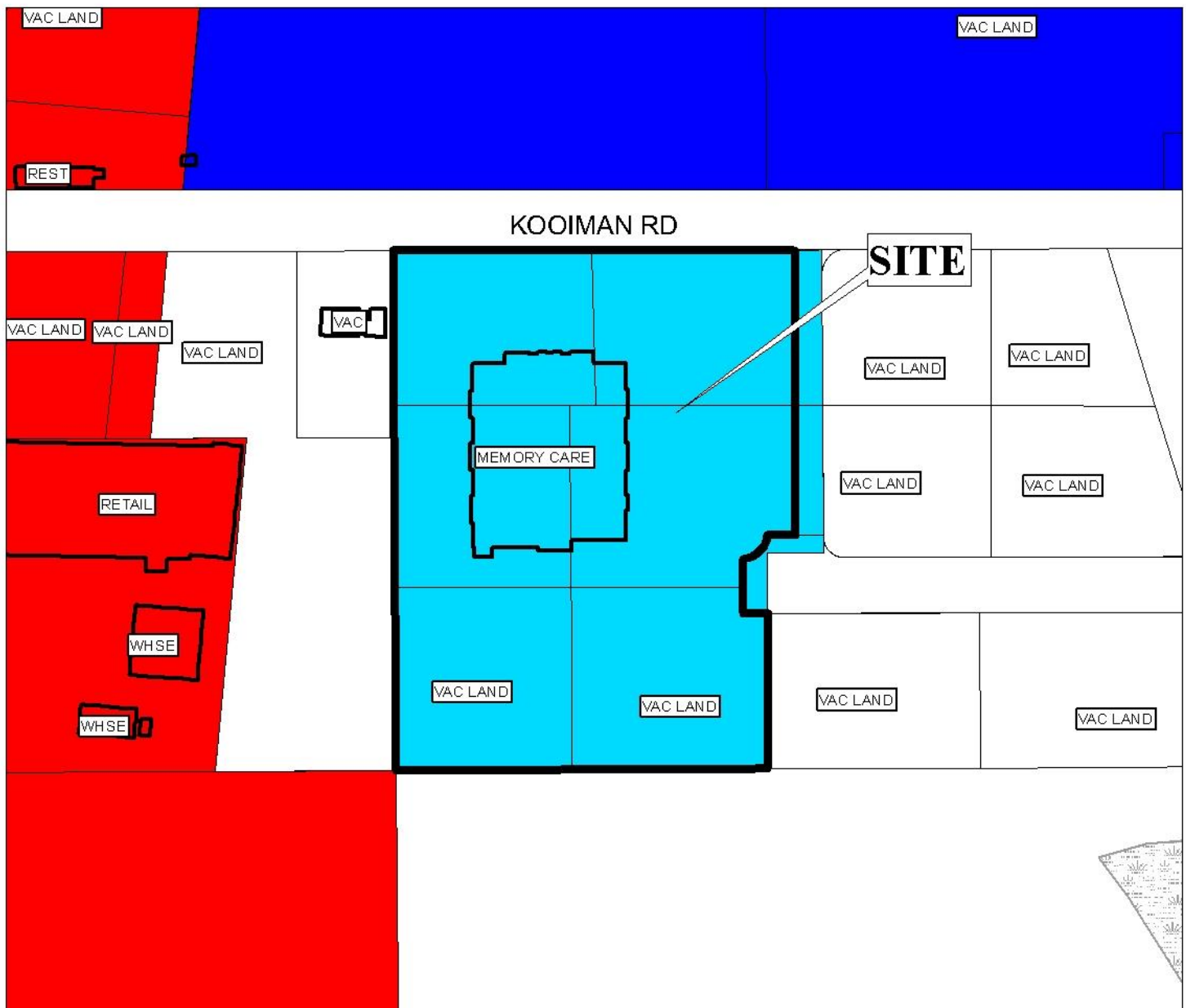
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the west. Vacant land lies east of the site.

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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



The site is surrounded by commercial units to the west. Vacant land lies east of the site.

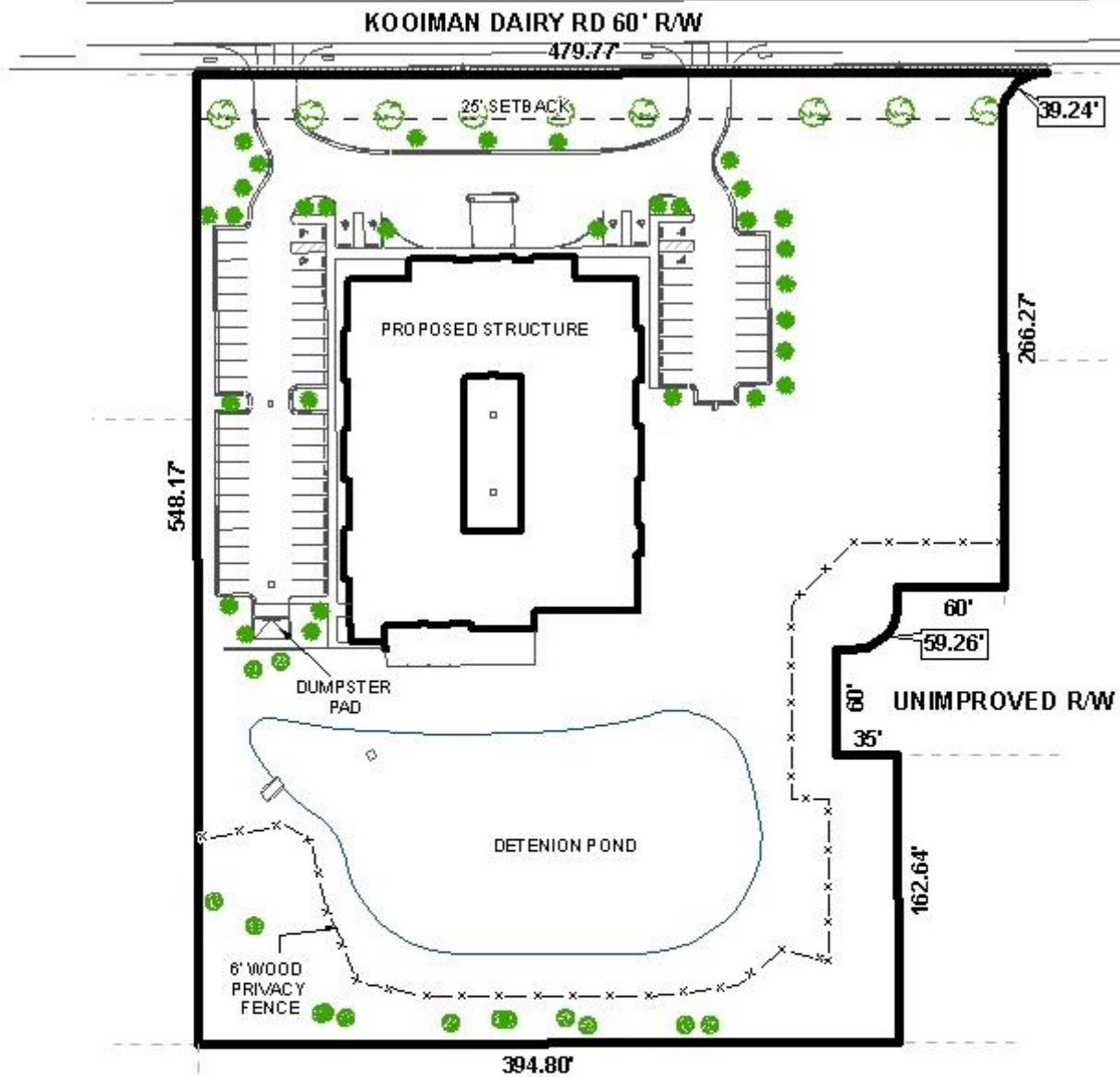
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SITE PLAN



The site plan illustrates the proposed structure, parking, setback, and drives.

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