

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: November 2, 2020**

**CASE NUMBER**

6353/6156

**APPLICANT NAME**

Dr. Dan Buckley

**LOCATION**

3535 Spring Hill Avenue  
(South side of Spring Hill Avenue extending to the North  
side of Irene Street; 293'± West of Avalon Street)

**VARIANCE REQUEST**

**USE:** Use Variance to allow a second dwelling on a single  
lot in an R-1, Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance limits the number of dwelling  
units to a maximum of one (1) per lot in an R-1, Single-  
Family Residential District.

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

1.2± Acre

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

Lot is limited to one curb cut per (open) street frontage with  
size, location and design to be approved by Traffic Engineering and conform to AASHTO  
standards.

**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 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).

**CITY COUNCIL**  
**DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting a Use Variance to allow a second dwelling on a single lot in an R-1, Single-Family Residential District; the Zoning Ordinance limits the number of dwelling units to a maximum of one (1) per lot in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) 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 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 semidetached, 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 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.

Variations 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.

At its meeting on December 21, 2017, the Planning Commission approved a one-lot subdivision request for the subject site which illustrated a 12-foot side street side yard setback along the Western property line. As was conditioned by the subdivision approval, a Setback Variance request was approved by the Board of Adjustments at its February 5, 2018 meeting to allow construction of a freestanding garage: thus, granting the reduced setback along the Western property line. The applicant had proposed to have a second dwelling above the garage in 2018 but was advised it was not allowed. The applicant now wishes to obtain approval to construct the garage with the same previously proposed 12' setback and keep the second dwelling above the garage.

It is important to note that when the 2017 subdivision was approved the existing two dwellings were made non-compliant as the subject site is zoned R-1, Single-Family Residential. However, as it was their intent in 2017 to demolish the existing structures in order to construct a new single-family dwelling as well as a garage with a second-floor dwelling, the 2017 subdivision and 2018 variance were approved including comments from staff noting that a Use Variance would be required to allow multiple dwellings on a single-family residential lot, hence this application. It should also be noted that recent Build Mobile records show two (2) demolition permits have been approved for each structure currently existing on the property.

The site plan submitted with this application illustrates both a proposed primary dwelling and garage with apartment. While it is the intent of the applicant to eventually build both structures, they plan to construct the garage with a second-floor dwelling first and the primary dwelling at a later time. The building plans submitted with the application indicate the 1,260± square foot living area to include a full kitchen, three (3) bedrooms, two (2) baths, a utility room, a large living room, and a two (2) car garage.

Pertaining to the request, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification.

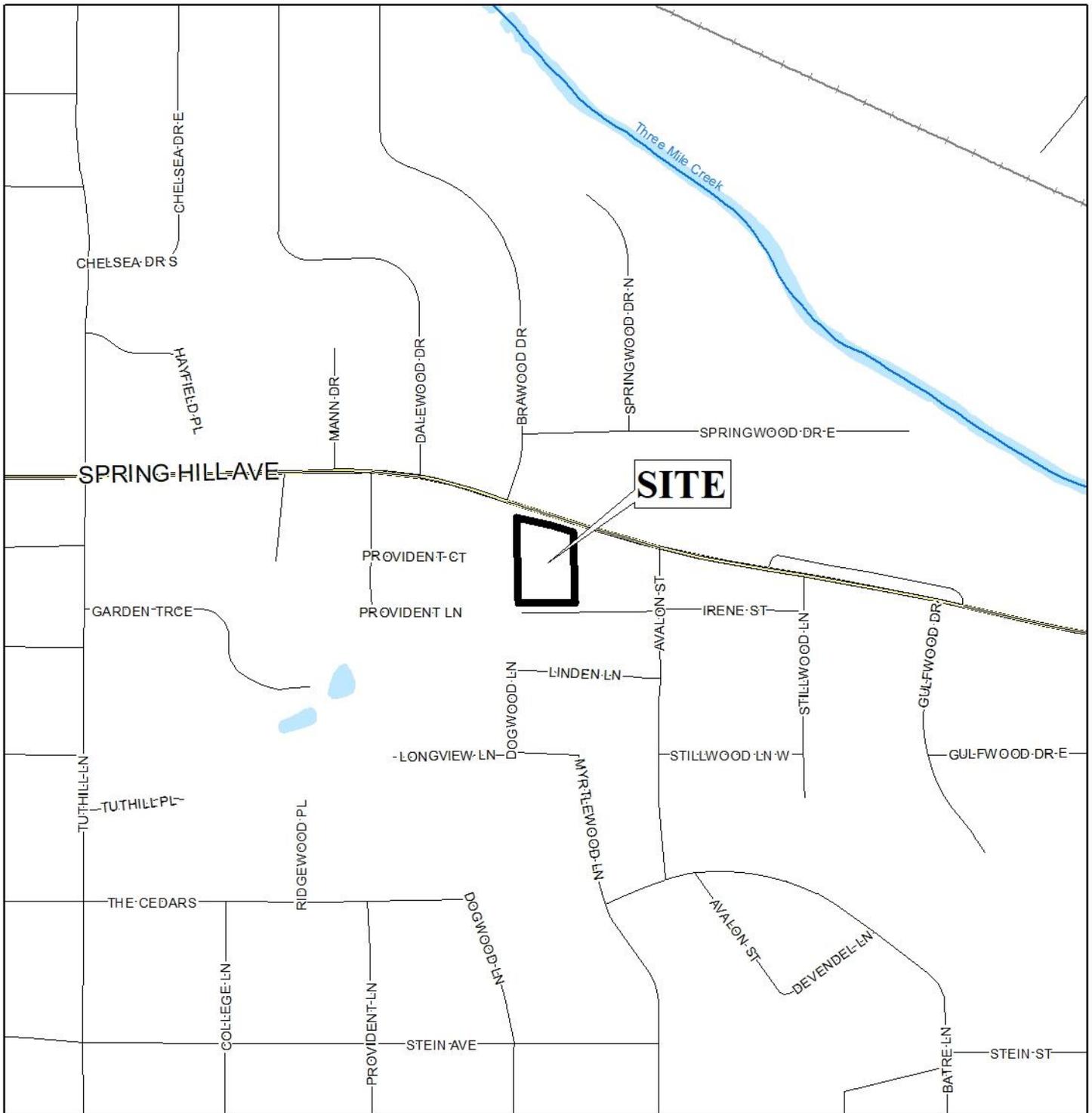
The subject site is surrounded by R-1 zoning and sits along a portion of Spring Hill Avenue which is primarily zoned for residential use. There have not been any similar Use Variance requests granted within the immediate area, and the allowance of the proposed use as a second dwelling unit would be out of character with the surrounding single-family residential uses.

The applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. As the subject site and surrounding neighborhood were developed as single-family housing, there are no unusual characteristics of the property that satisfy variance standards; therefore, the Board should consider this request for denial.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for **Denial** of the Use Variance request:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification and use of both the site and surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 use would be incompatible to an established R-1 District.

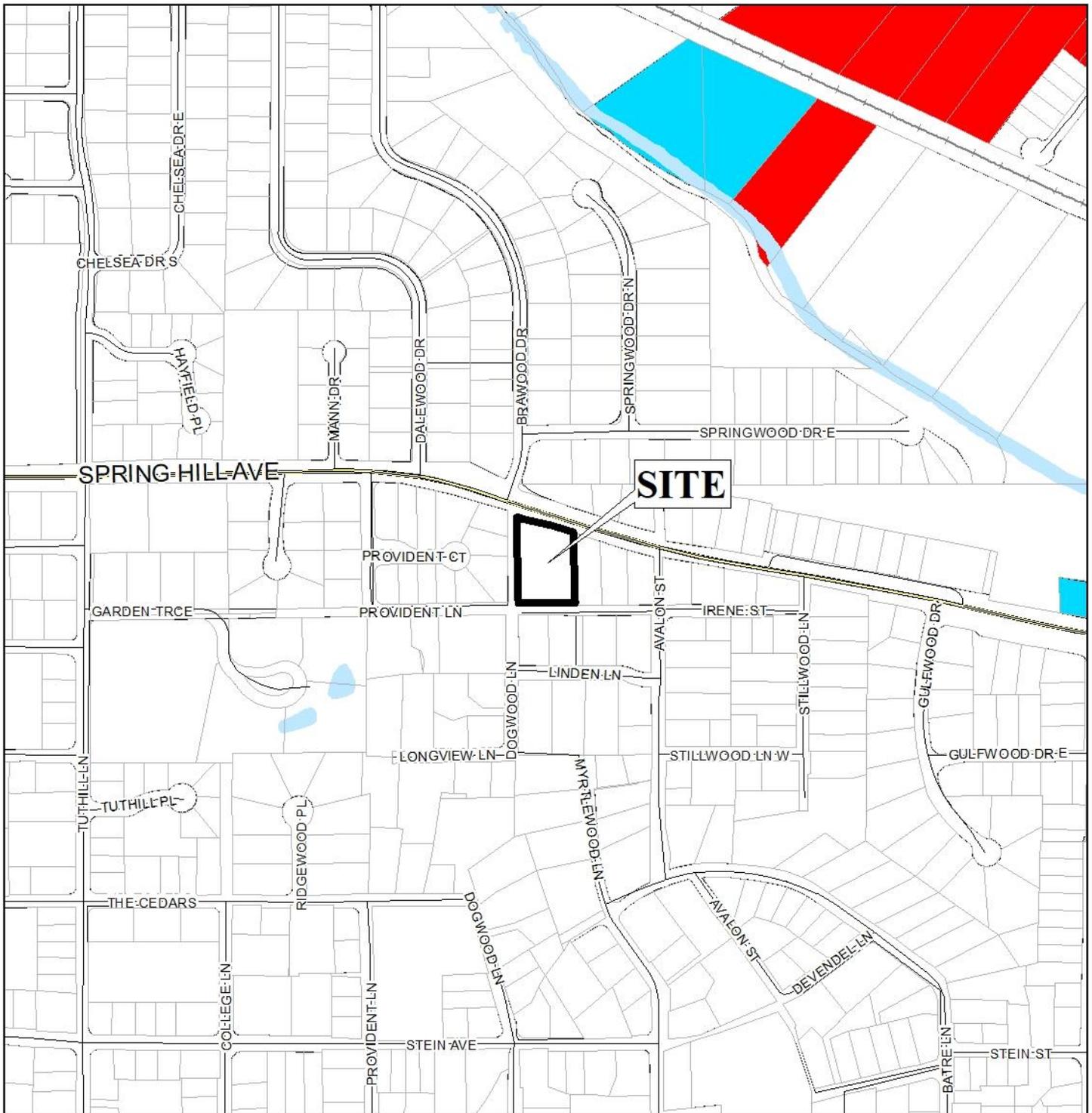
# LOCATOR MAP



APPLICATION NUMBER 6353 DATE November 2, 2020  
APPLICANT Dan Buckley  
REQUEST Use Variance



# LOCATOR ZONING MAP



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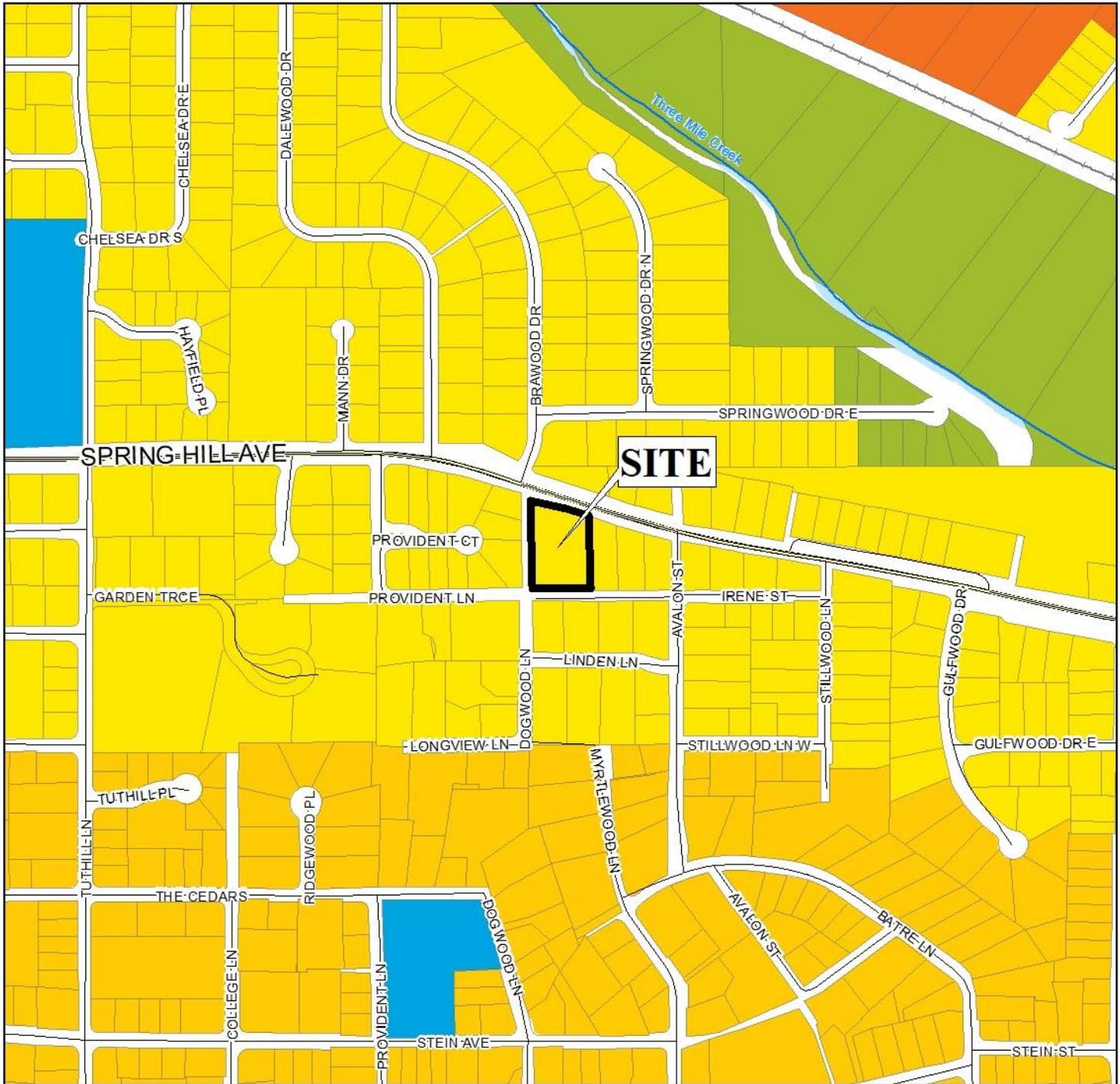
APPLICANT Dan Buckley

REQUEST Use Variance



NTS

# FLUM LOCATOR MAP



APPLICATION NUMBER 6353 DATE November 2, 2020

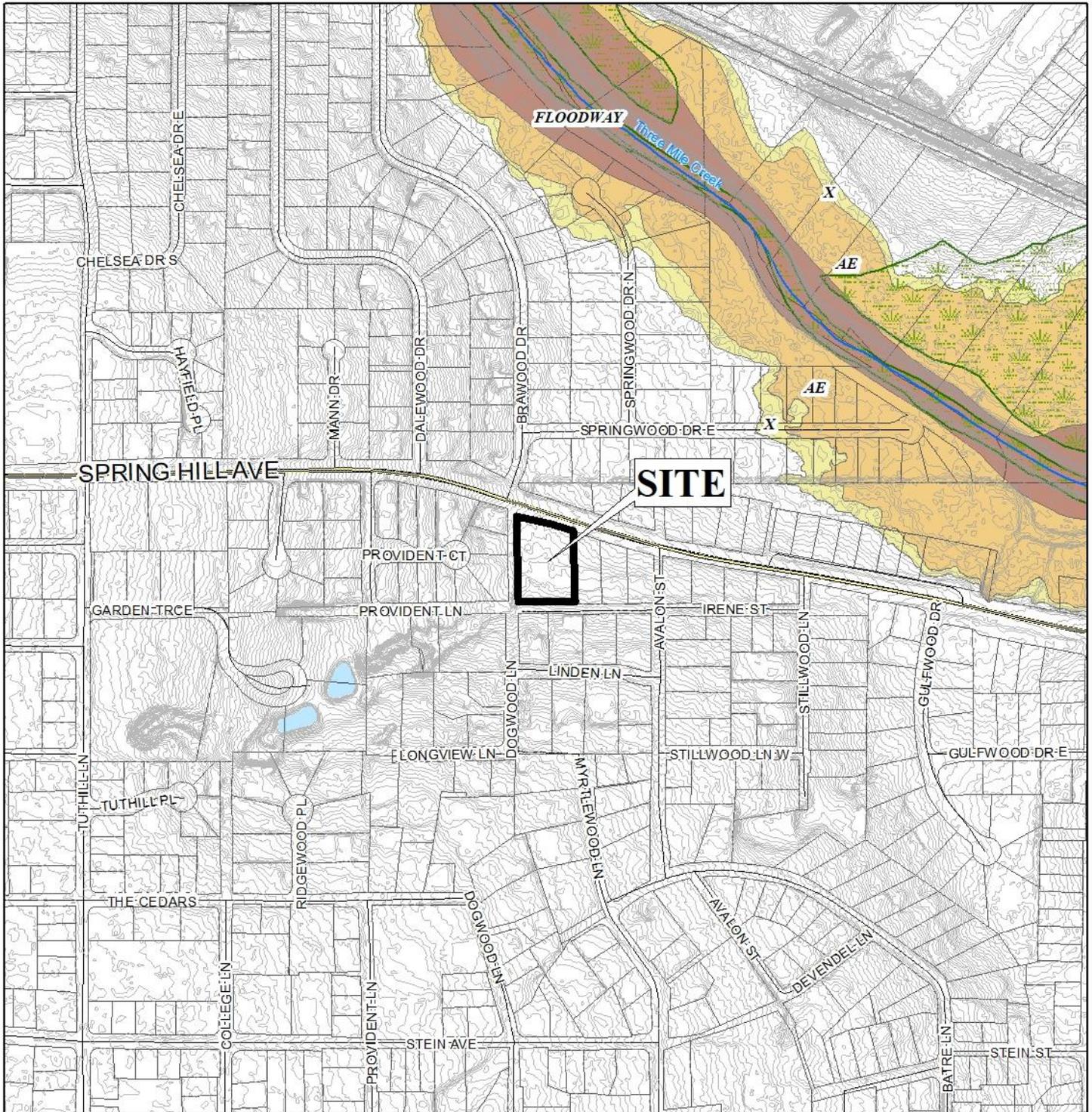
APPLICANT Dan Buckley

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       |                    |



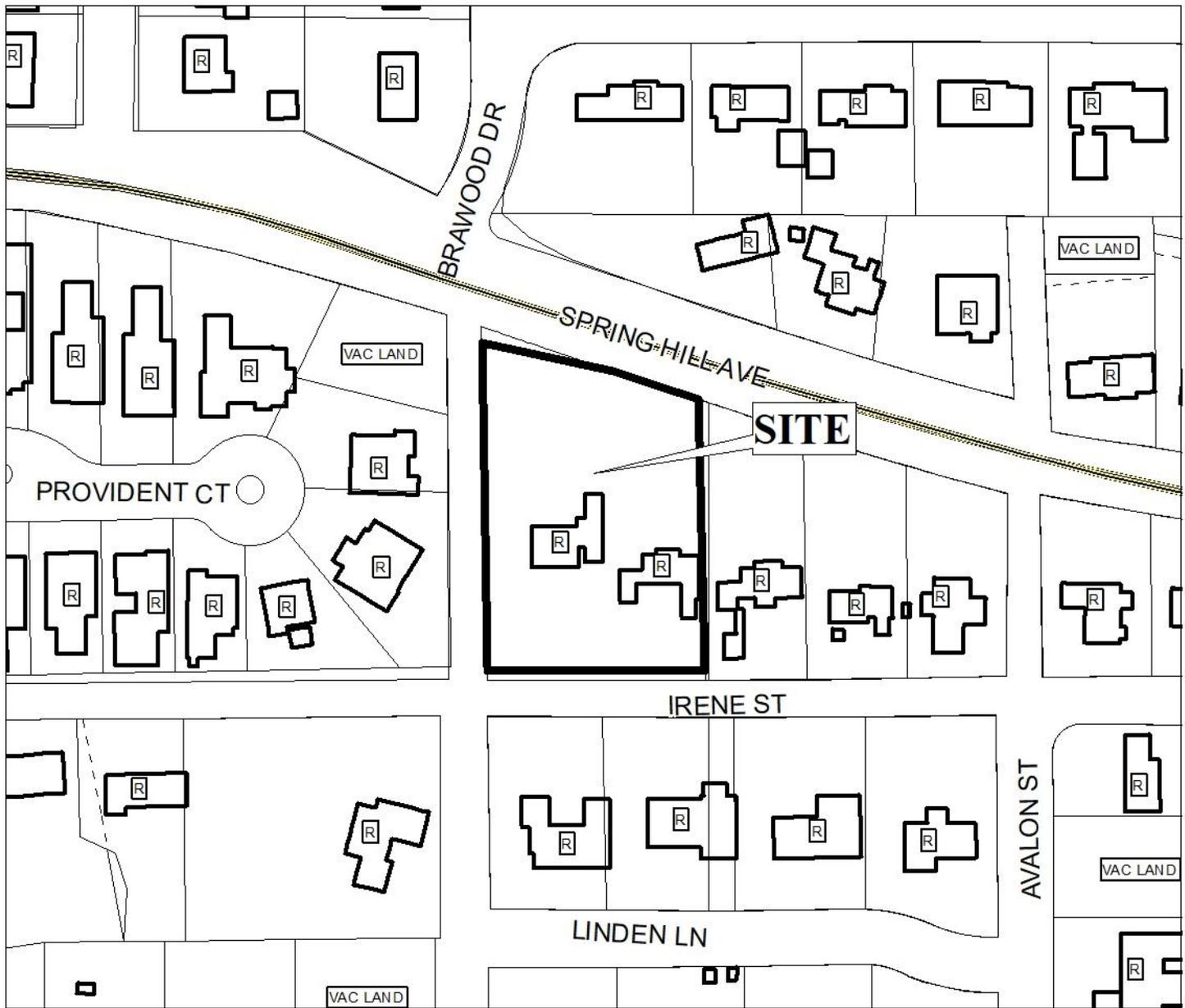
# ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6353 DATE November 2, 2020  
 APPLICANT Dan Buckley  
 REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

APPLICATION NUMBER 6353 DATE November 2, 2020

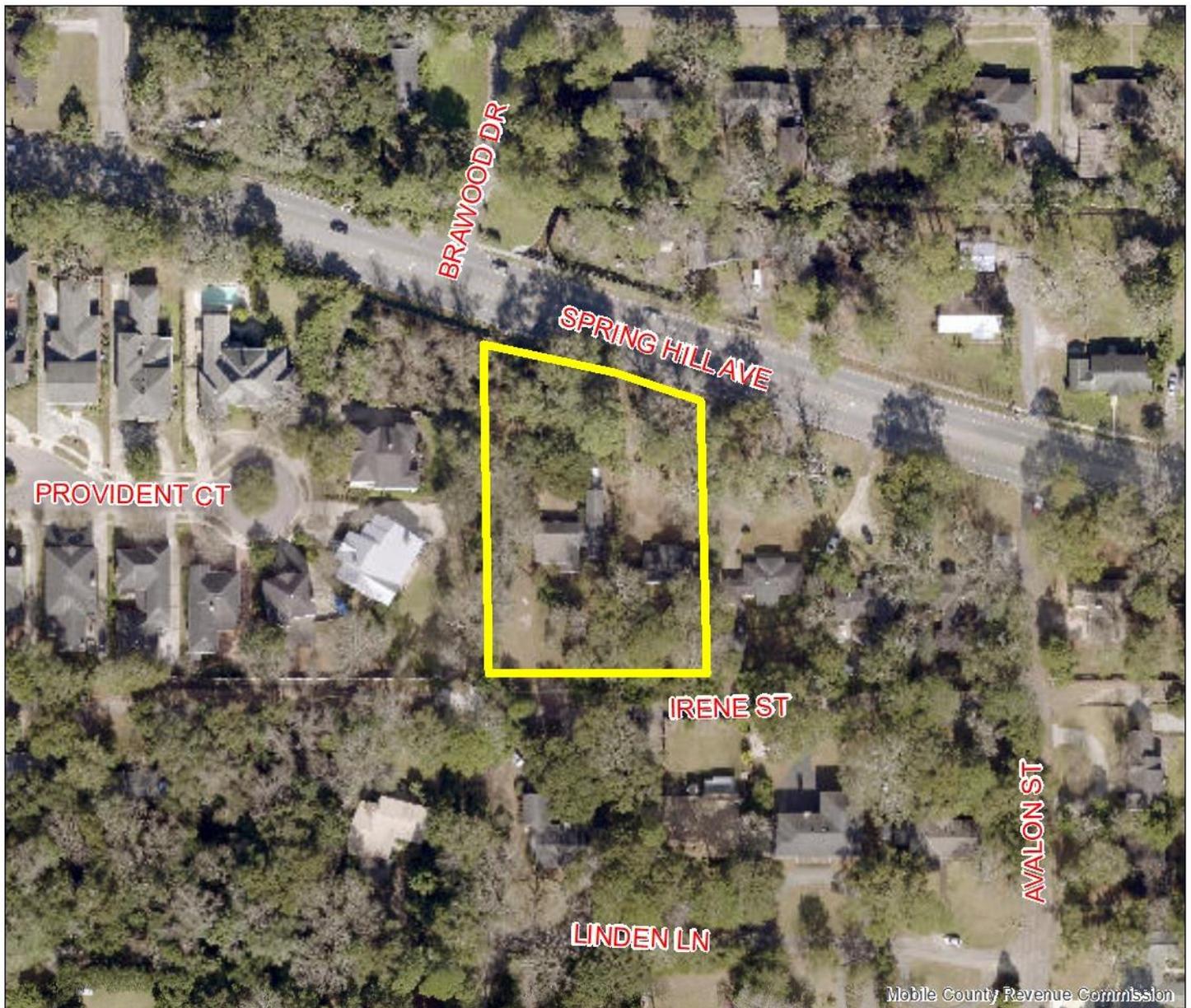
APPLICANT Dan Buckley

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



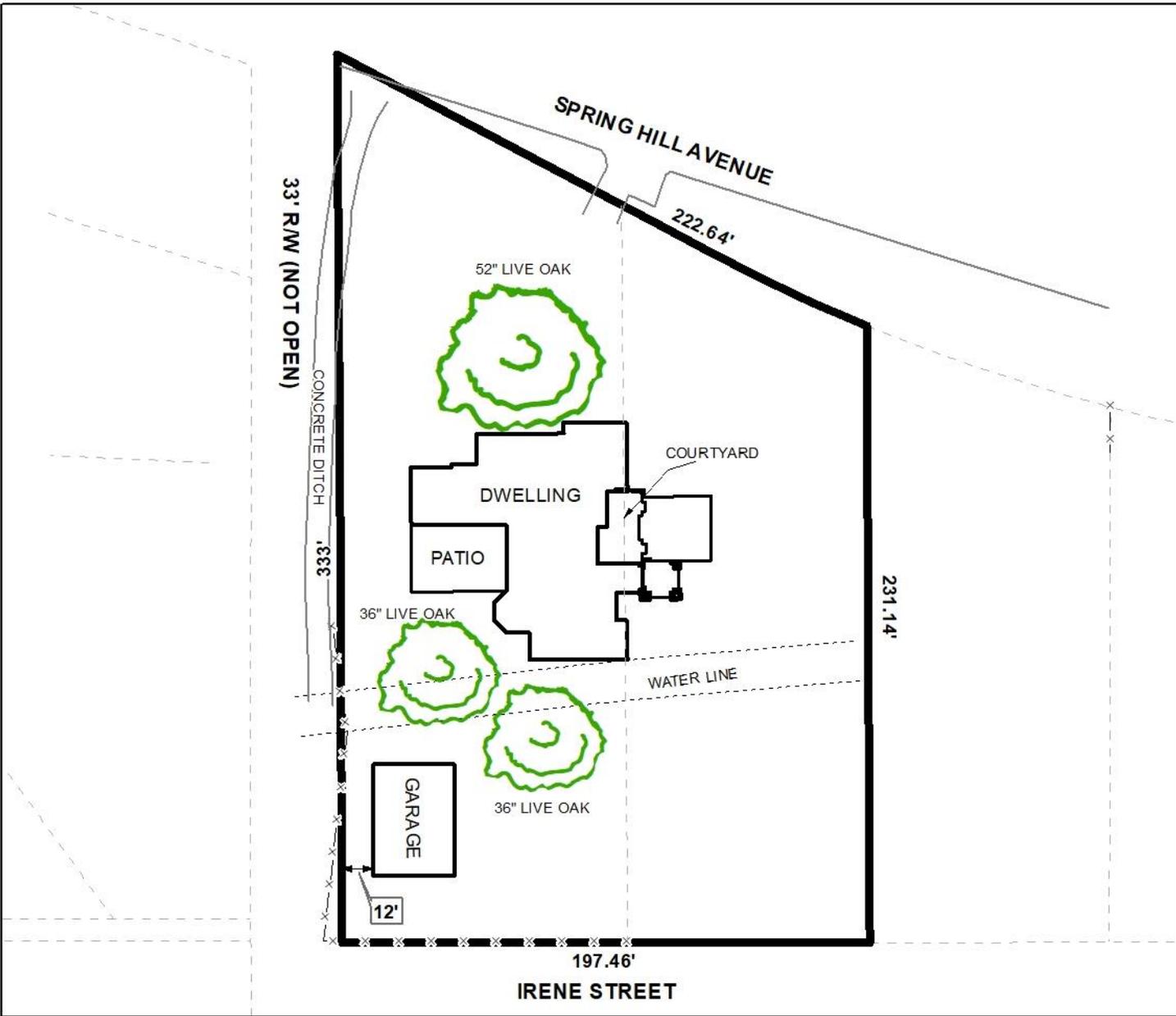
Mobile County Revenue Commission

The site is surrounded by residential units.

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# SITE PLAN



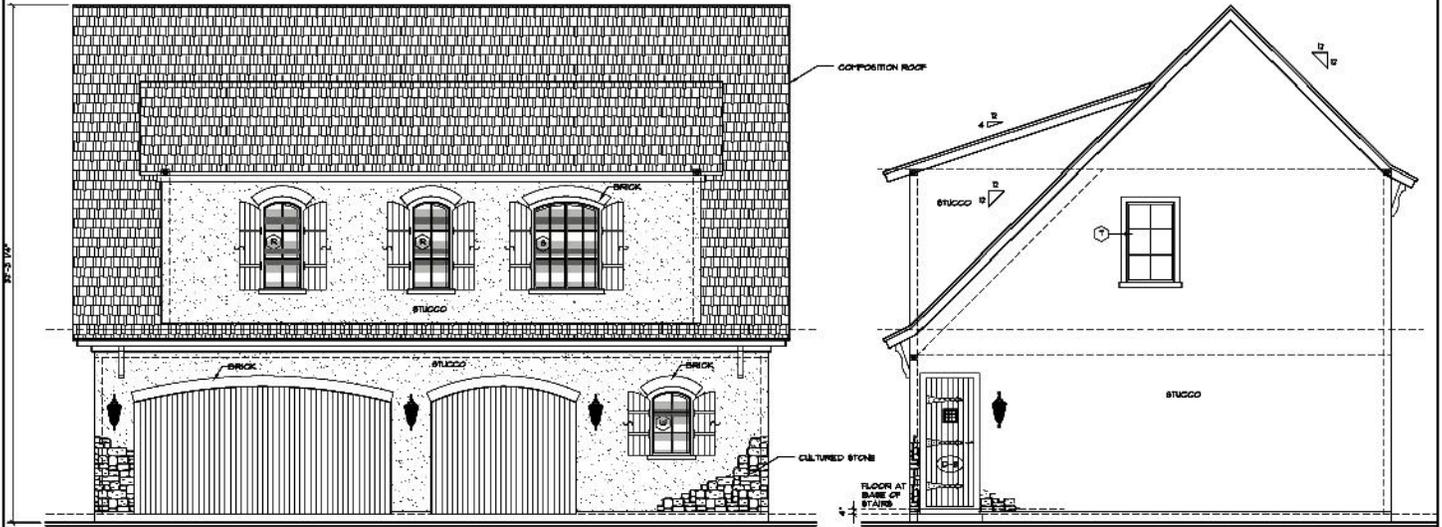
The site plan illustrates existing dwelling, garage, easement and proposed setback.

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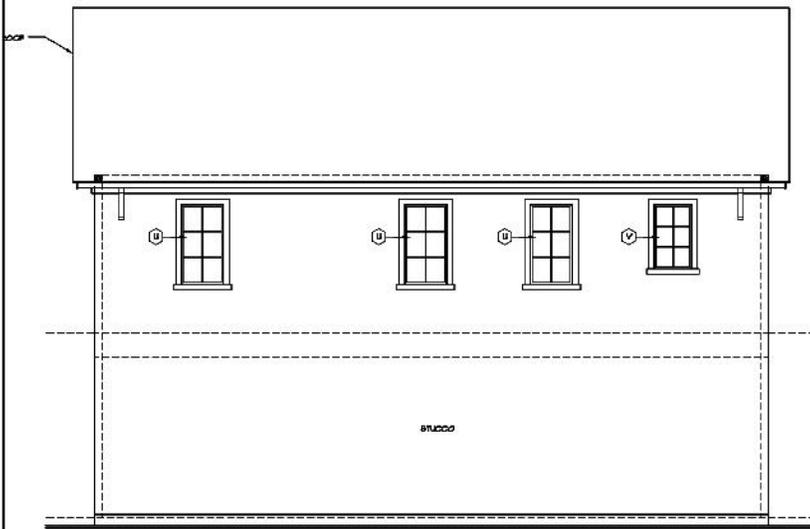


# DETAIL SITE PLAN

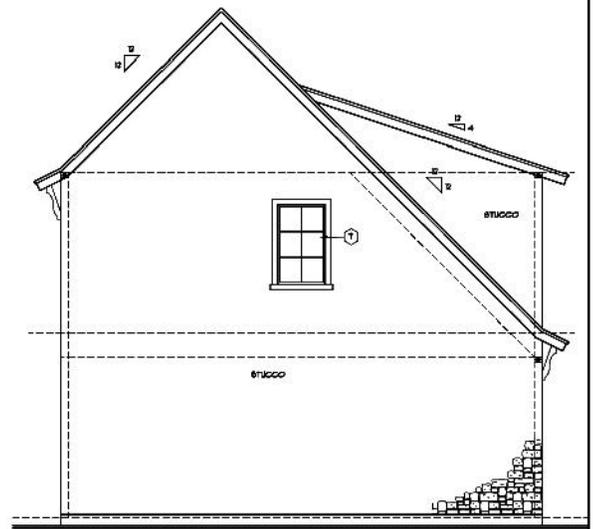


**FRONT ELEVATION**  
14'-11" x 24'-0"

**RIGHT ELEVATION**  
14'-11" x 24'-0"



**REAR ELEVATION**  
14'-11" x 24'-0"



**LEFT ELEVATION**  
14'-11" x 24'-0"

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