

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 7, 2021****CASE NUMBER**

6387/2625

APPLICANT NAME

H. O. Weaver & Sons, Inc.

LOCATION1101 Athey Road
(West side of Athey Road, 160'± North of Zeigler
Boulevard.)**VARIANCE REQUEST****USE:** Use Variance to allow a temporary construction lay-down yard in a B-2, Neighborhood Business District.**SURFACING:** Surfacing Variance to allow the use of gravel surfacing in a B-2, Neighborhood Business District.**TREE AND LANDSCAPE:** Tree and Landscape Variance to allow no landscaping or tree planting in a B-2, Neighborhood Business District.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance does not allow a temporary construction lay-down yard in a B-2, Neighborhood Business District.**SURFACING:** The Zoning Ordinance does not allow the use of gravel surfacing in a B-2, Neighborhood Business District.**TREE AND LANDSCAPE:** The Zoning Ordinance requires compliant tree planting and landscaping in a B-2, Neighborhood Business District.**ZONING**

B-2, Neighborhood Business District.

AREA OF PROPERTY

1.9± Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

USE VARIANCE: NO COMMENT

SURFACING VARIANCE: If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

1. Submit and receive a Land Disturbance Permit through Central Permitting for the proposed site development.
2. Aggregate surfacing will NOT be allowed within the public ROW.
3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

TREE & LANDSCAPING VARIANCE: NO COMMENTS

**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.

ANALYSIS

The applicant is requesting Use, Surfacing and Tree and Landscaping Variances to allow a temporary construction lay-down yard with gravel surfacing and no landscaping or tree plantings in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow a temporary construction lay-down yard with gravel surfacing and no landscaping or tree plantings in a B-2, Neighborhood Business District.

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 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 applicant's narrative states:

Type of Variance Requests:

- 1. Use: to allow for the temporary use of the property for a construction lay-down yard, in a B-2, Neighborhood Business District.*
- 2. Surfacing: to allow the use of RAP aggregate surfacing as an alternative parking surface in a B-2, Neighborhood Business District.*
- 3. Tree & Landscape: to waive tree planting and landscape requirements in a B-2, Neighborhood Business District.*

The temporary construction lay-down yard will be utilized for the sole purpose of storing miscellaneous materials needed to construct Zeigler Blvd. in a secure environment. The potential hours of operation will match the working hours of the above project, which will be 7 am – 5 pm Monday thru Saturday. The normal working force (5-10 employees) will spend the majority of their time on the Zeigler roadway project. Their presence at the laydown yard will not be continuous. Upon completion of Zeigler Blvd roadway project, the temporary laydown yard shall be decommissioned. All material, equipment, and debris will be removed. The RAP aggregate surfacing and fencing will be removed and the site graded to the pre-construction contours. All ground disturbance will be permanently stabilized in accordance with ALDOT specifications.

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 properties to the South and East are zoned B-2, Neighborhood Business District; while properties to the North and West are zoned R-1, Single-Family Residential District.

As the applicant mentions, this request is for a construction lay-down yard for use by a contractor in association with the ongoing widening of Zeigler Boulevard. A similar application was heard by the Board at its May 4, 2020 meeting for a site on Baltimore Street. Like the current request site, the Baltimore Street was adjacent to residentially utilized property, therefore, some of the conditions that were placed on that operation may be appropriate for this project in order to limit impacts on nearby properties, such as:

- 1) Approval is valid for an initial period of two-years, with extensions required if additional time is required;
- 2) Hours of operation a limited to between 7 AM and 5 PM;
- 3) Within 60 days of completion of the associated project, the site will be returned to its current status, to include: removal of all gravel or other surfacing materials used, removal of any chain link fence, placing of sod, etc.;

The site plan submitted shows no structures or parking spaces. The only improvements depicted are gravel surfacing and a six-foot high chain link fence around the perimeter of the site, with an access gate.

As the site is adjacent to developed R-1 properties on the West and North, the site plan should be revised to depict a compliant residential buffer, if approved.

There do not appear to be sufficient queuing spaces between the proposed gate to the lay-down yard and the property line. However, if the gate will be kept open during hours of operation, this will be acceptable. If approved, a note should be placed on the site plan stating this.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval of the requests:

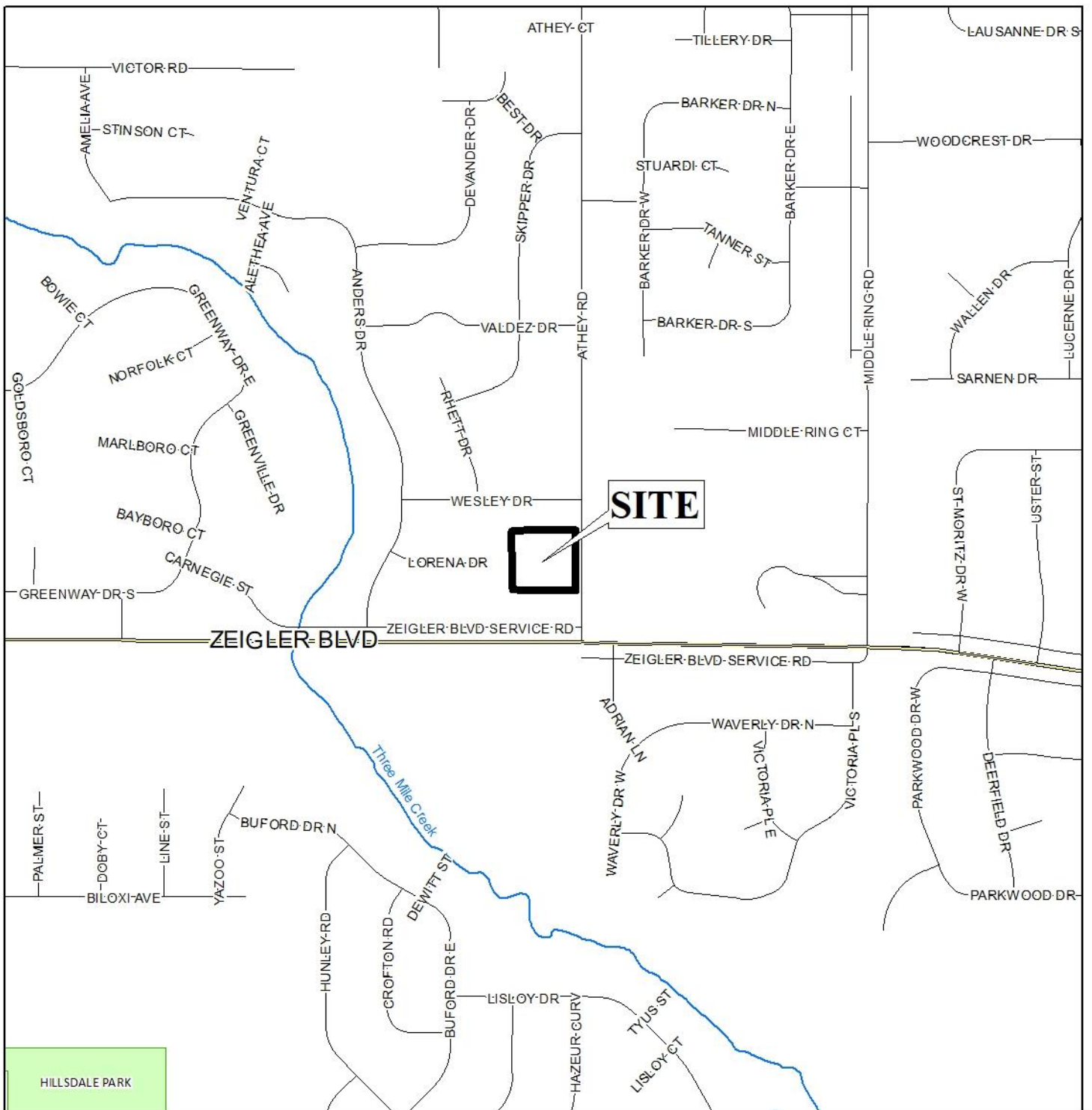
- 1) Approving the variance will not be contrary to the public interest in that it will allow a contractor to use a currently vacant property to perform a project for the City of Mobile to improve infrastructure for residents;
- 2) Special conditions exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship in that there are a limited number of alternative sites available that are close to the work to be performed, and large enough to accommodate storage of equipment and materials; 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 site will only require variances temporarily, and will then be returned to its existing state.

The approval should be subject to the following conditions:

- 1) Approval is valid for an initial period of one-year, with extensions required if additional time is required;
- 2) Hours of operation a limited to between 7 AM and 5 PM;
- 3) Within 60 days of completion of the associated project, the site will be returned to its current status, to include: removal of all gravel or other surfacing materials used, removal of any chain link fence, placing of sod, etc;
- 4) Revision of the site plan to illustrate a compliant residential buffer abutting residential properties;
- 5) Placement of a note on the site plan stating that the gate will remain open during hours of operation
- 6) subject to the Engineering comments: *(If the aggregate surfacing is approved for use the applicant will need to have the following conditions met: 1. Submit and receive a Land Disturbance Permit through Central Permitting for the proposed site development. 2. Aggregate surfacing will NOT be allowed within the public ROW. 3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).);*
- 7) subject to the 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.);*
- 8) subject to the 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.);*
- 9) submission to and approval by Planning and Zoning of two (2) copies of a revised site plan (hard copy and .pdf) prior to any request for land disturbance or building permits; and
- 10) full compliance with all municipal codes and ordinances.

LOCATOR MAP



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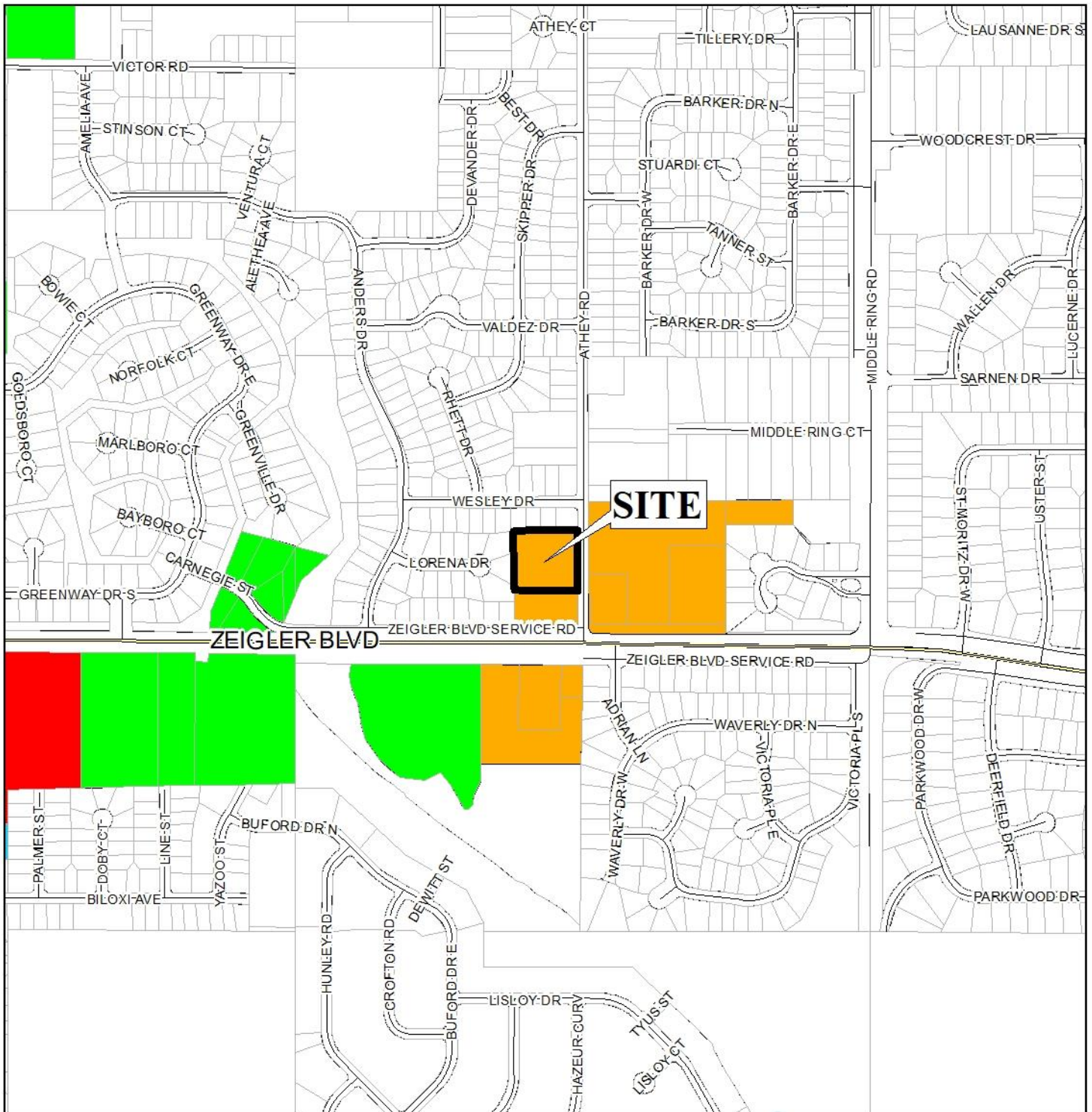
APPLICANT H.O. Weaver & Sons, Inc.

REQUEST Use, Surfacing and Tree and Landscaping Variances



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LOCATOR ZONING MAP



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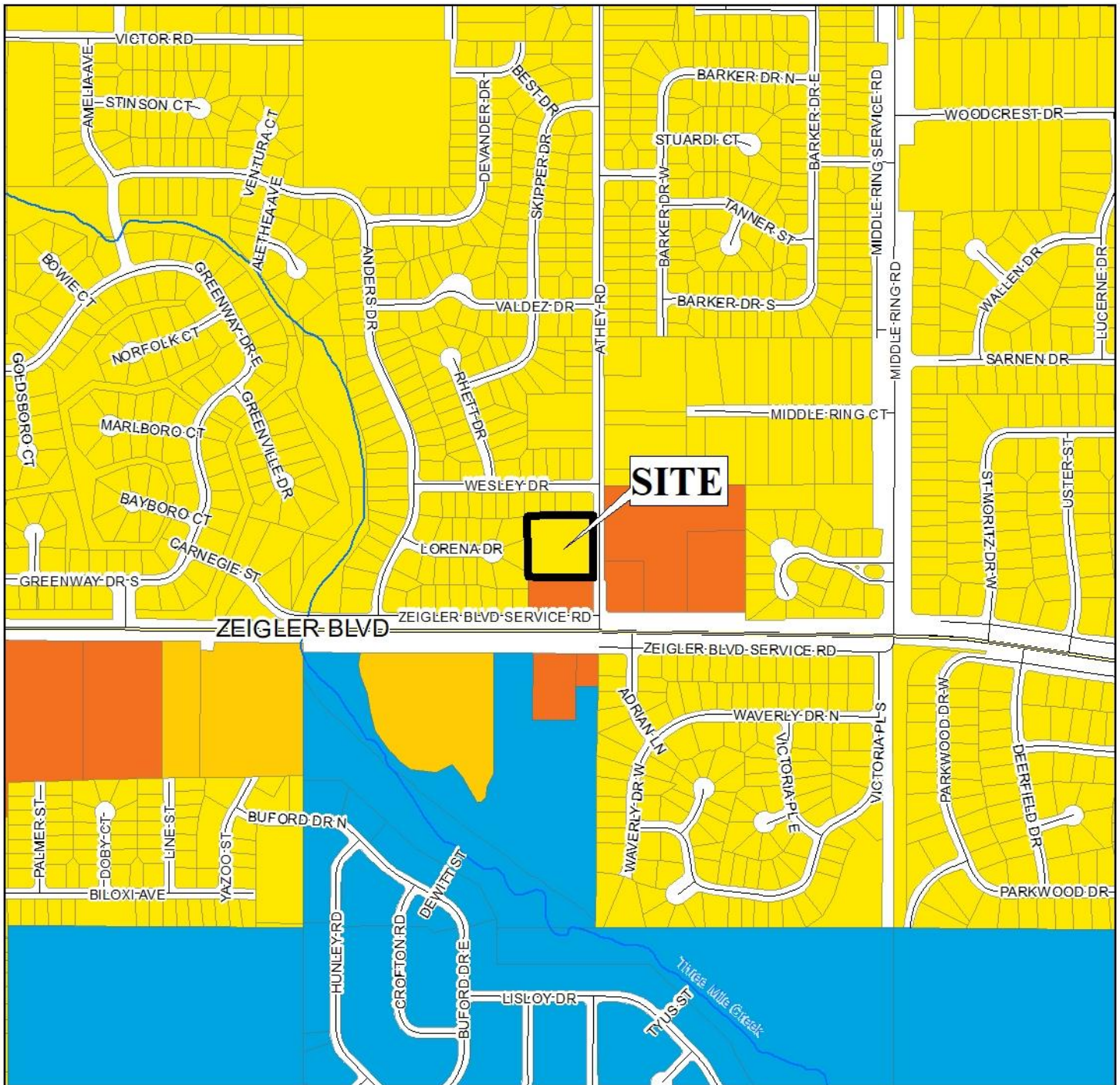
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FLUM LOCATOR MAP



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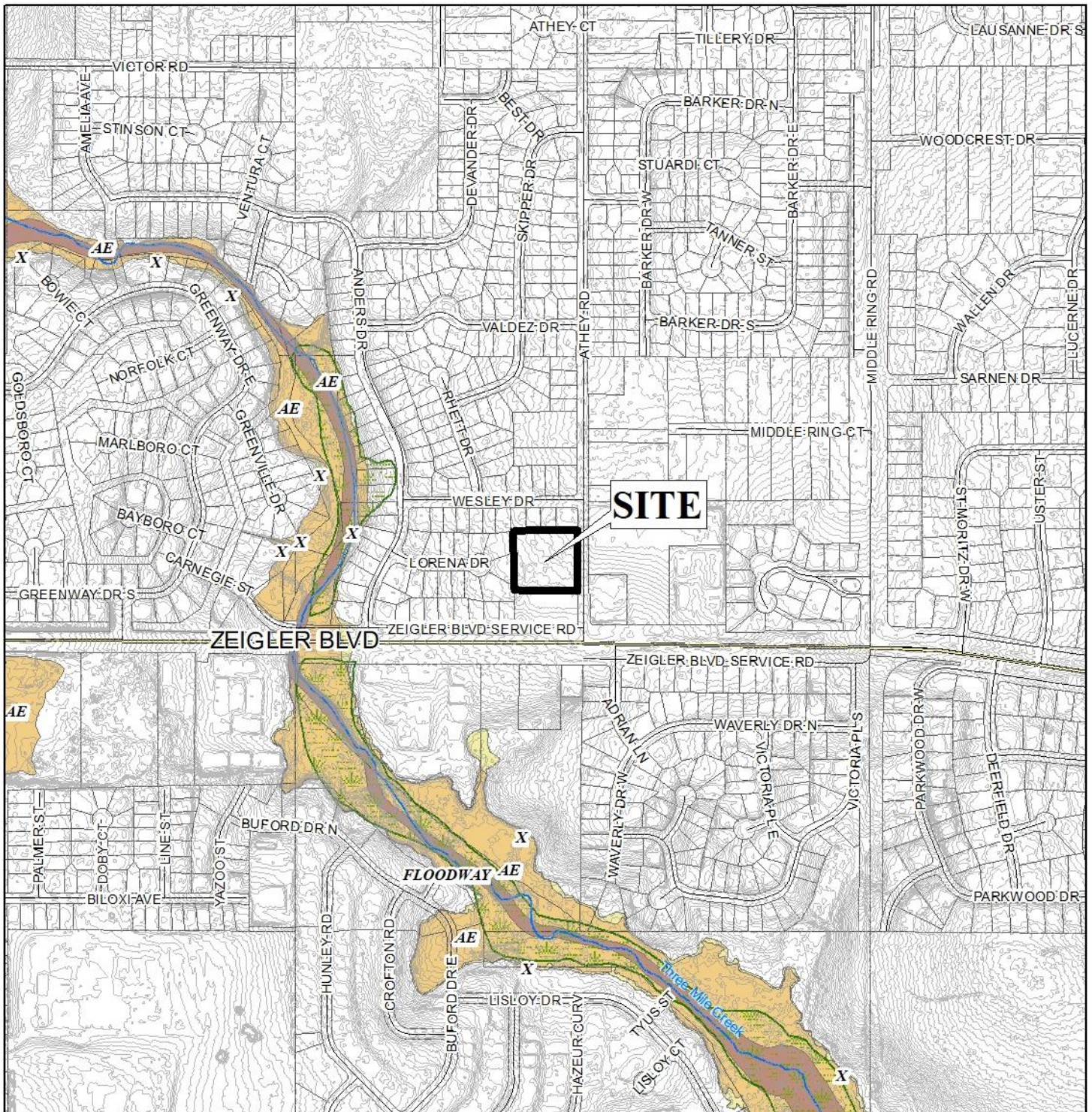
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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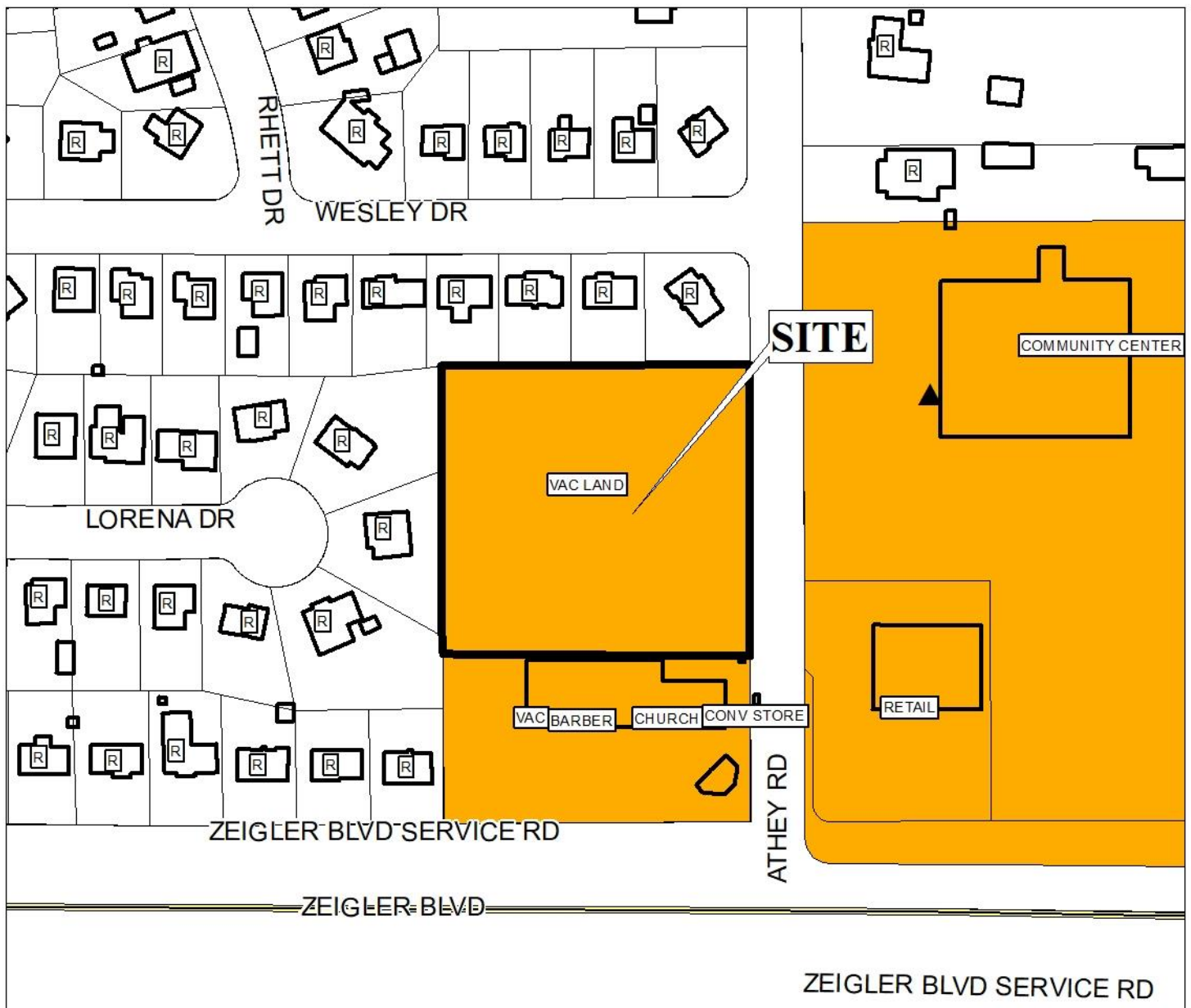
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units, retail units, and a community center.

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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



Mobile County Revenue Commission

The site is surrounded by single family residential units, retail units, and a community center.

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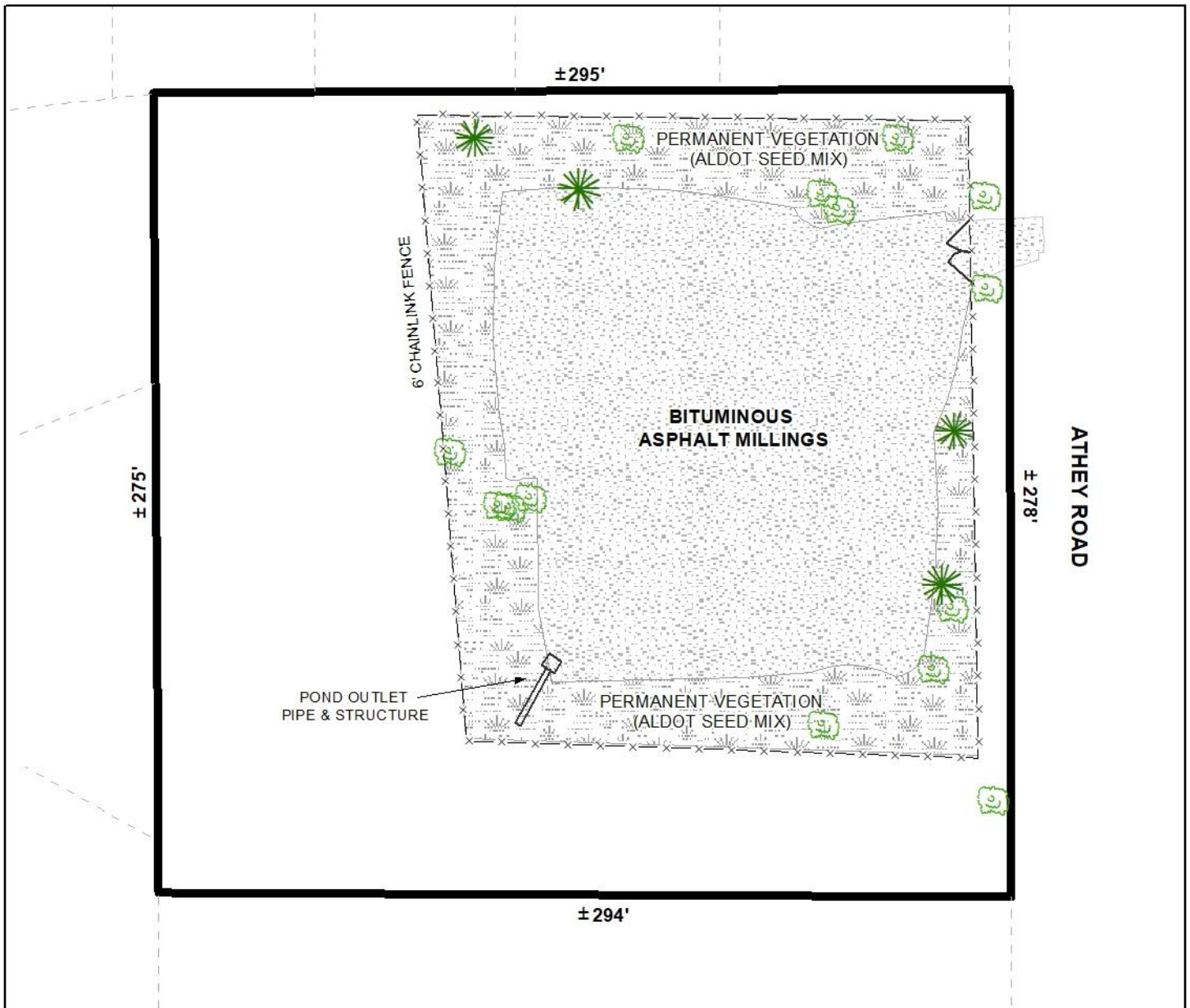
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SITE PLAN



The site plan illustrates fencing, surfaces and drainage structures.

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