

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

<u>CASE NUMBER</u>	6479/5492
<u>APPLICANT NAME</u>	Cynthia Carter
<u>LOCATION</u>	631 Azalea Road (North side of Azalea Road, 390'± West of Village Green Drive).
<u>VARIANCE REQUEST</u>	USE: To allow a single-family dwelling on the ground floor in a B-2, Neighborhood Business District. PARKING: To allow no required parking for a dog day care in a B-2, Neighborhood Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow single-family dwellings on the ground floor in a B-2, Neighborhood Business District. PARKING: The Zoning required parking for a dog day care in a B-2, Neighborhood Business District.
<u>ZONING</u>	B-2, Neighborhood Business District
<u>AREA OF PROPERTY</u>	2.0± Acres
<u>ENGINEERING COMMENTS</u>	No comments.
<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 5

ANALYSIS

The applicant is requesting Use and Parking Variances to allow a single-family dwelling on the ground floor and no required parking for a dog day care in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow a single-family dwellings on the ground floor, and requires full compliance with parking requirements for a dog day care in a B-2, Neighborhood Business District.

The site has been given Mixed Commercial Corridor (MCC) 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 land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. MCC includes a wide variety of retail, services and entertainment uses.

This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved streetscapes; and improve mobility and accessibility for all users of the corridor.

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.

At its October 4, 2007 meeting, the Planning Commission approved requests for a two-lot Subdivision, Rezoning from R-1, Single-Family Residential District to B-2, Neighborhood Business District, and Planning Approval by to allow a dog daycare facility with outdoor runs in a B-2, Neighborhood Business District for the subject site. In July 2008, the site obtained Administrative Planned Unit Development approval to allow multiple buildings on a single building site. The site was also subject to a variance to allow a single-family residential dwelling on the ground floor in a B-2 district, which was approved by the Board of Zoning Adjustment at its August 5, 2008 meeting. The applicant now wishes to build a new structure on the subject site, which requires the applicant to amend the previously approved applications. The applicant has a pending Planning Approval and Planned Unit Development applications scheduled to be heard by the Planning Commission at its November 3rd meeting.

The site plan submitted depicts the existing structures on the site, including an existing one-story dwelling, a freestanding garage, a play house, and several sheds. The applicant is proposing a new 2,080 square foot building on the site, but does not state what the purpose of the structure in their narrative, but advised staff during a pre-development meeting that the structure is proposed to house a three-foot deep therapy pool for animals.

The applicant provided the following narrative with the request:

Lieb Engineering, on behalf of Wags and Walks, requests recommendation for administrative PUD amendment for 1.97 acres to have 2 buildings on a single property.

The applicant is requesting a Use Variance to allow a single-family dwelling on the ground floor in a B-2, Neighborhood Business District; the Zoning Ordinance requires a single-family dwelling to be above the ground floor in B-2, Neighborhood Business Districts. There is no off street parking needed bc Customers will be dropping off their pets. Employees will be picking the pets up at the car as well as bringing them to cars at pick up.

The site is surrounded to the North, by R-3, Multi-Family Residential District; and to the East, West, and South by B-1, Buffer Business District.

As the site has previously been granted approval to use the ground floor of an existing structure as a residence in a B-2 district, and the site is proposed to be utilized for the same purposes, a dog day care and personal residence of the business owners, it would seem that approval of this request is in keeping with the previous approval, and may be appropriate.

In regards to the proposed parking variance, based on the size of the structures on the site, a total of 14 parking spaces are required. The site plan submitted depicts an existing carport attached to the dwelling, as well as a freestanding garage on the site, but no other parking is depicted. The applicant states that pets are dropped off, and that employees pick up pets from vehicles as they are brought to the site, however there is no mention of the number of employees for the site. Despite a lack of detailed information, it appears that the site plan presented with the previously approved variance in 2008 did not depict any parking spaces, as would typically be required. Therefore, as the site has been previously approved without any commercially compliant parking spaces, approval of reduced parking in a nature similar to what was previously approved, may be appropriate.

Based on the previous approvals, approval of the subject request may be considered appropriate.

RECOMMENDATION: Based upon the previous approval and the current application as submitted, Staff recommends to the Board the following findings of fact for Approval:

- 1) Approving the variance will not be contrary to the public interest in that it is in keeping with the character of the area as well as previous approvals;
- 2) Special conditions may exist in such a way 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.

The approval should be subject to the following conditions:

- 1) Approval of the associated Planning Approval and Planned Unit Development applications;
- 2) Revision of the site plan to depict any changes as required by approval of the associated Planning Approval and Planned Unit Development applications;
- 3) Compliance with 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. Preservation status should be granted to the 44" Live Oak tree along the South of the site. The applicant should coordinate with Urban Forestry staff to insure the proposed development will not negatively impact the health of the tree.);*
- 4) compliance with 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). 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.);* and
- 5) full compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6479 DATE November 7, 2022

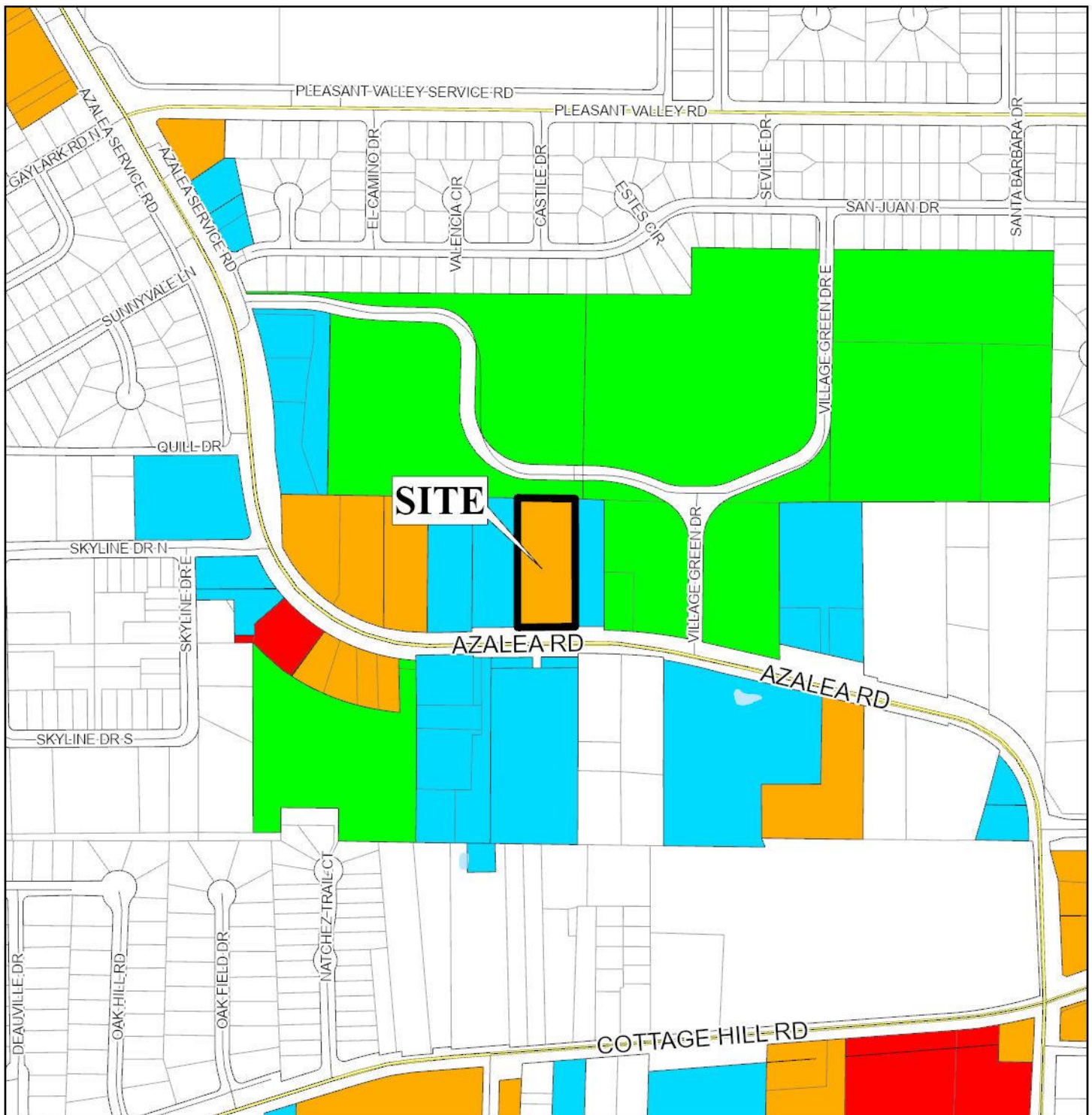
APPLICANT Cynthia Carter

REQUEST Use and Parking Variances



NTS

LOCATOR ZONING MAP



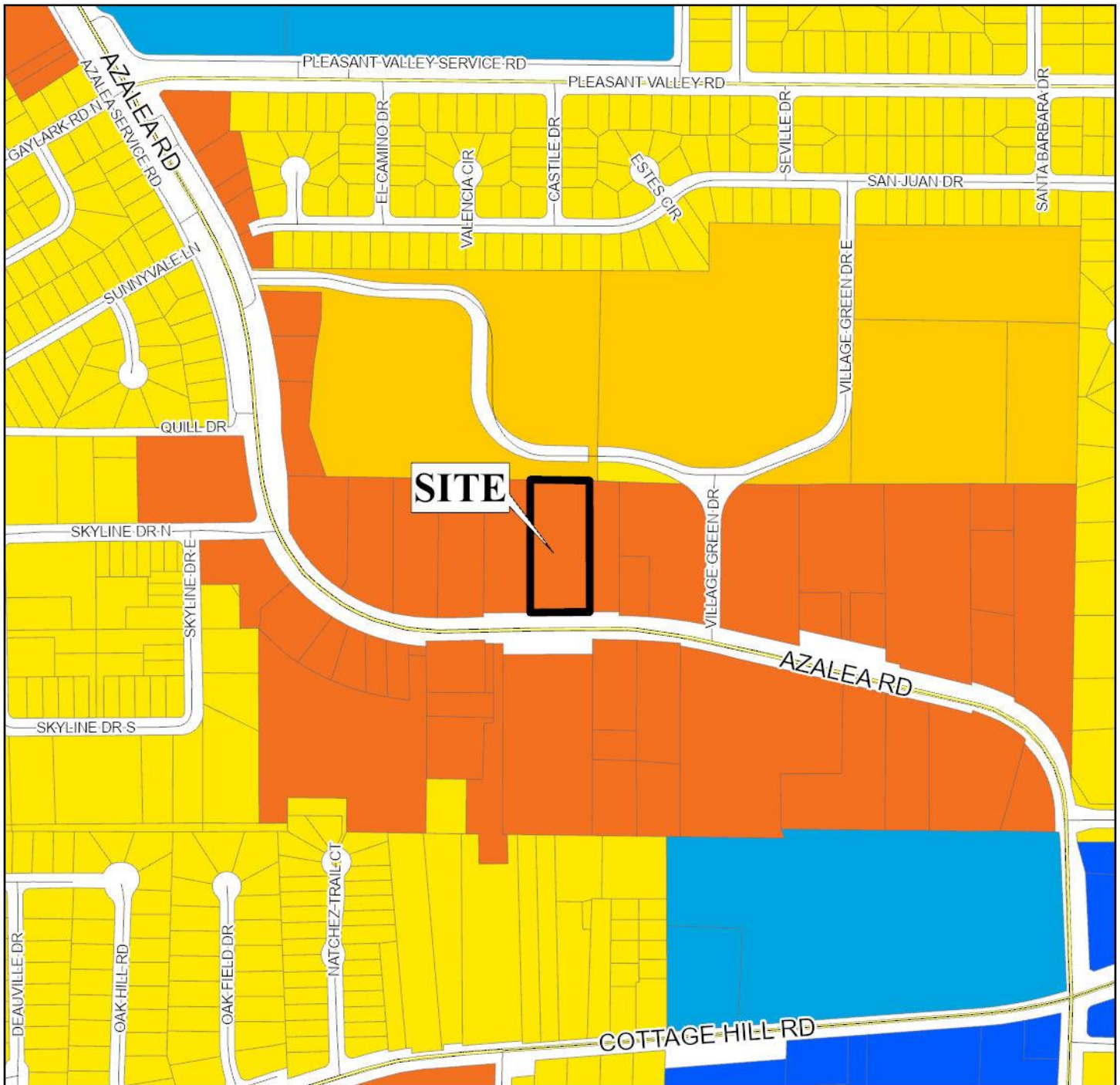
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FLUM LOCATOR MAP



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FLUM

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



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ENVIRONMENTAL LOCATOR MAP



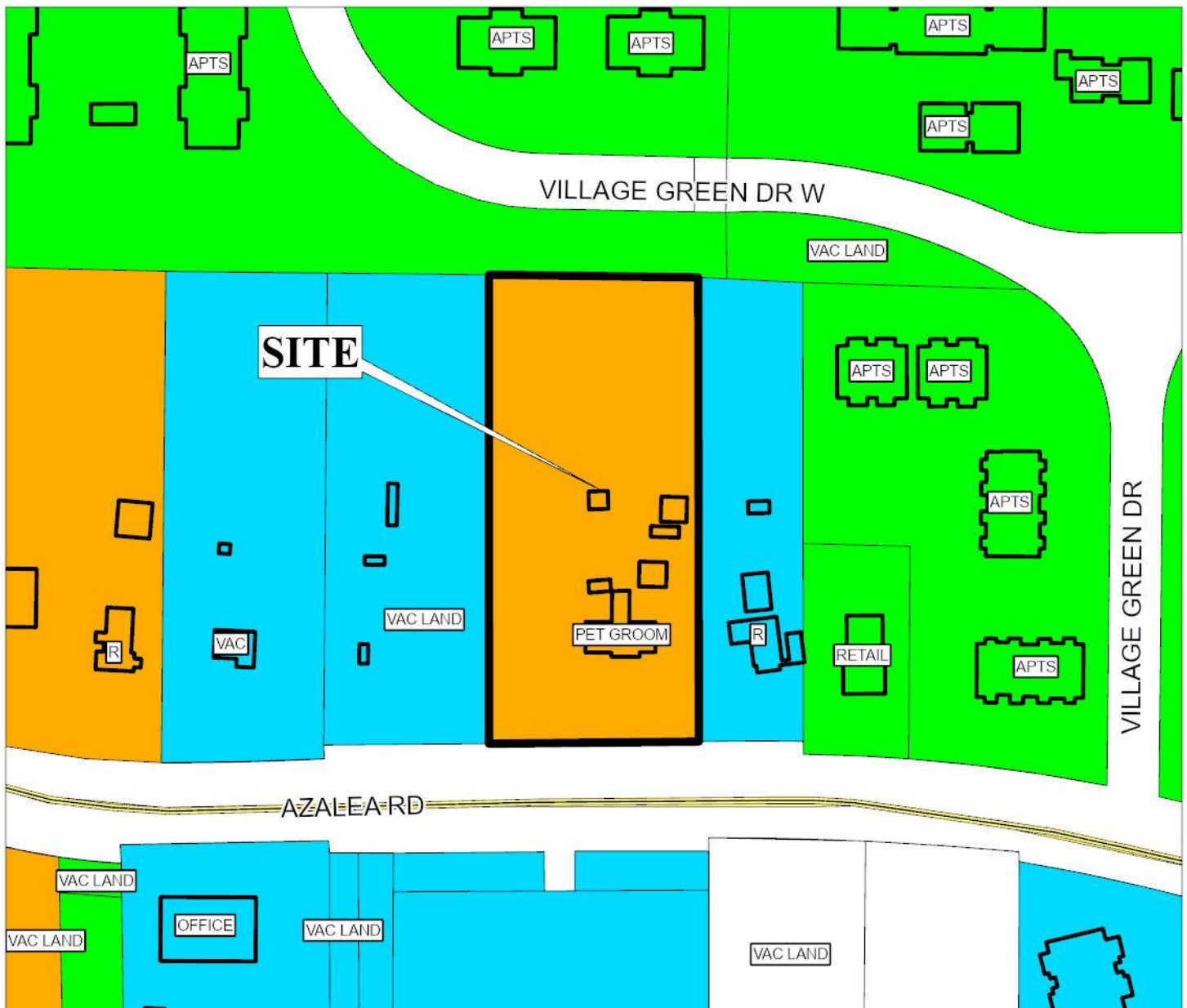
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

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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 residential and commercial units.

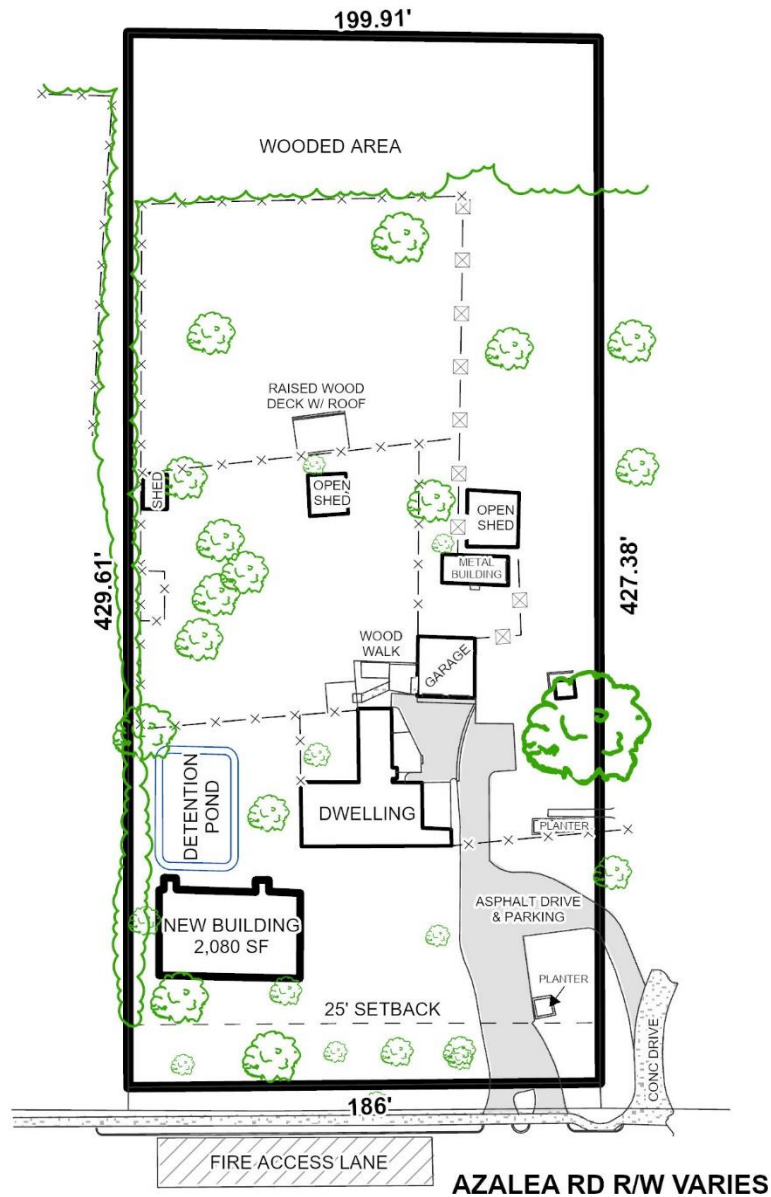
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SITE PLAN



The site plan illustrates the proposed building, existing buildings, setback, and fencing.

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