

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: December 4, 2017****CASE NUMBER**

6146

**APPLICANT NAME**

Alan Chastain (LA Signs)

**LOCATION**4270 Cottage Hill Service Road  
(Northeast corner of Cottage Hill Service Road and Oak  
Circle Drive West).**VARIANCE REQUEST****SIGN:** Sign Variance to allow an LED electronic message center sign to be erected within 300' of residentially-zoned properties in a B-2, Neighborhood Business District.**ZONING ORDINANCE  
REQUIREMENT****SIGN:** The Zoning Ordinance prohibits LED electronic message center signs from being located 300' of residentially-zoned properties on a B-2, neighborhood Business District.**ZONING**

B-2, Community Business District

**AREA OF PROPERTY**

1.27± acres

**ENGINEERING  
COMMENTS**

No Comments

**TRAFFIC ENGINEERING  
COMMENTS**

No Comments

**CITY COUNCIL  
DISTRICT**

District 5

**ANALYSIS**

The applicant is requesting a Sign Variance to allow an LED electronic message center sign to be erected within 300' of residentially-zoned properties in a B-2, Neighborhood Business District; the Zoning Ordinance prohibits LED electronic message center signs from being located 300' of residentially-zoned properties on a B-2, neighborhood Business District.

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 that substantial justice is 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:

*The purpose of this application is to allow: Immediate Care of the South located at 4270 Cottage Hill Road to install two LED Electronic Message Centers to be installed on their existing freestanding sign in place of their existing reader board.*

*In 2013, Lynn McDonanld, the owner of Immediate Care of the South, wanted to have a LED message board installed on her sign. A sign permit was obtained to allow this. Shortly thereafter, funds became unavailable for them to install the sign. Also the following month after the sign permit was pulled, and unbeknownst to the owner, the City of Mobile amended the sign ordinance for Electronic and Digital Signs which, when implemented, disallowed Immediate Care from having an LED sign installed in the future since the sign location is within 300 feet of 4 residential properties.*

*Another issue that has caused her current sign to be mostly in effective is that the trees growing on Cottage Hill have grown high enough to block the view of the top portion of her sign. Since the message board is below the tree line, Mrs. McDonald wanted to take advantage of that view to let future clients know that her business still exists and its location. It has also come to the attention of Mrs. McDonald that some clients have had difficulty finding the location of the Urgent Care when needing immediate assistance with some medical issue.*

*This property is different for the following reasons: The spirit of the amended sign ordinance was to prevent bright LED signs from encroaching on residential locations by means of the light emanating from the sign and if a business owner wanted to have a sign installed, the Review Board would be able review such cases taking into consideration the issues of business as well as the residents. At this location, the church located across the street has its own LED sign and has issued a statement via email that they would have no problem if Immediate Care had an LED sign installed. The other 4 residential properties located on Ynestra drive (only 4 properties lines are located within 300 ft of the sign area) have many trees blocking the view of the signs, as well a tall fence and there is also a large business (Big Time Diner) blocking the view of the sign. Since this is the case, no residential properties would be affected if an LED sign were to be allowed to be installed.*

The applicant desires to seek relief from the sign requirements of the Zoning Ordinance by erecting a two-sided LED electronic message board on an existing freestanding sign at this

location. The applicant believes that the LED signage will promote visibility for Immediate Care of the South.

According to Section 64-11.8.c.(7). of the Zoning Ordinance, “*electronic or digital signs are allowed only... if sign is placed a distance of not less than 300 feet from any residential zoned property. The distance shall be measured in a straight line, without regard to intervening structures or objects, from the proposed location of the sign to the nearest property line of any residential zoned property*”. Additional requirements further state that “*on- premise electronic message board or digital signs may display animation and effects, so long as they do not flash or constitute a flashing sign as defined in this Chapter*”. It should be mentioned that, while the applicant did provide information about the sign capabilities, specific details of the proposed sign in regards to what it would display, or its compliance with the other requirements of Section 64-11.8.c.(7) were not submitted.

The applicant has provided a copy of a sign permit issued on May 21, 2013 for an LED Message Center at this location. It should be noted that Section 64-11.4.e. of the Zoning Ordinance states, “*Permit duration. All work must be completed on the proposed sign within six (6) months of the issuance of the sign permit, or the permit shall be null and void.*” The Zoning Ordinance was amended on June 4, 2013 to include the residential buffer requirement.

The subject site is located less than 200’ from residentially zoned property to the West and 150’± to the South across Cottage Hill Road. There is a commercial buffer between the residential properties to the West.

It should be noted that the sign regulations of the Zoning Ordinance have been enacted to protect the health, safety, and welfare of the citizens of the City of Mobile and the general aesthetics of the city by providing for uniform standards for the locations, spacing, height, setback, lighting, and other regulation of off-premise and on-premise signs within the city.

There are no conditions which exist at this site that require LED message boards at this location. Illuminated signage would be allowed and would eliminate the necessity of a variance. Though the applicant may have concerns regarding visibility, there has not been a hardship proven that would necessitate a LED electronic signage at this location. The applicant has options that will allow the site to remain compliant with the sign requirements regarding the maximum size/ height of signs established by the Zoning Ordinance.

**RECOMMENDATION:** Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to public interest in that the Zoning Ordinance prohibits LED electronic message center signs within 300’ of residentially zoned property;
- 2) Special conditions do not exist and there are no hardships which exist that make the placement of the proposed sign necessary;

- 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 site can be developed without LED electronic signage.

# LOCATOR MAP



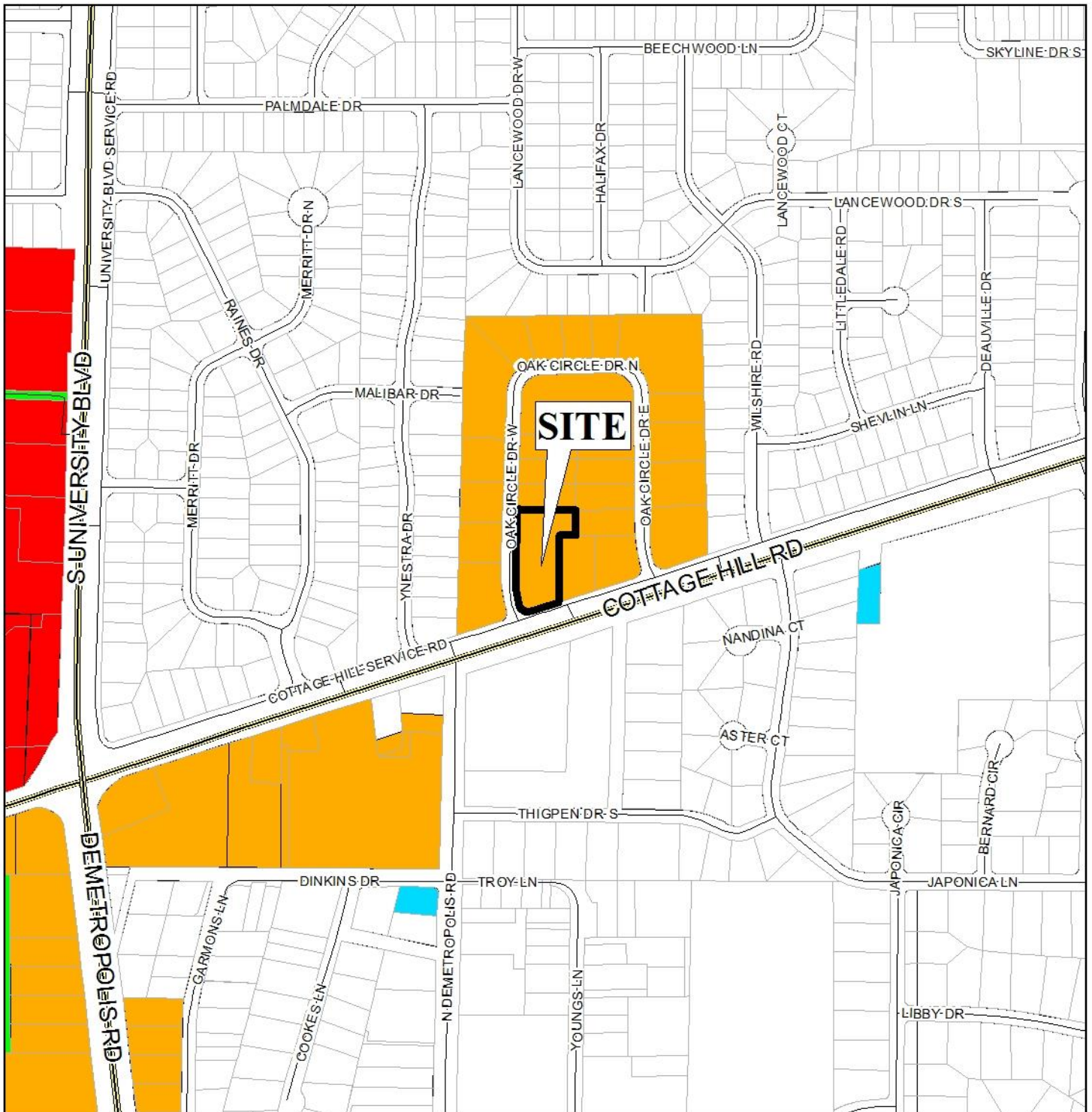
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REQUEST Sign Variance



# LOCATOR ZONING MAP



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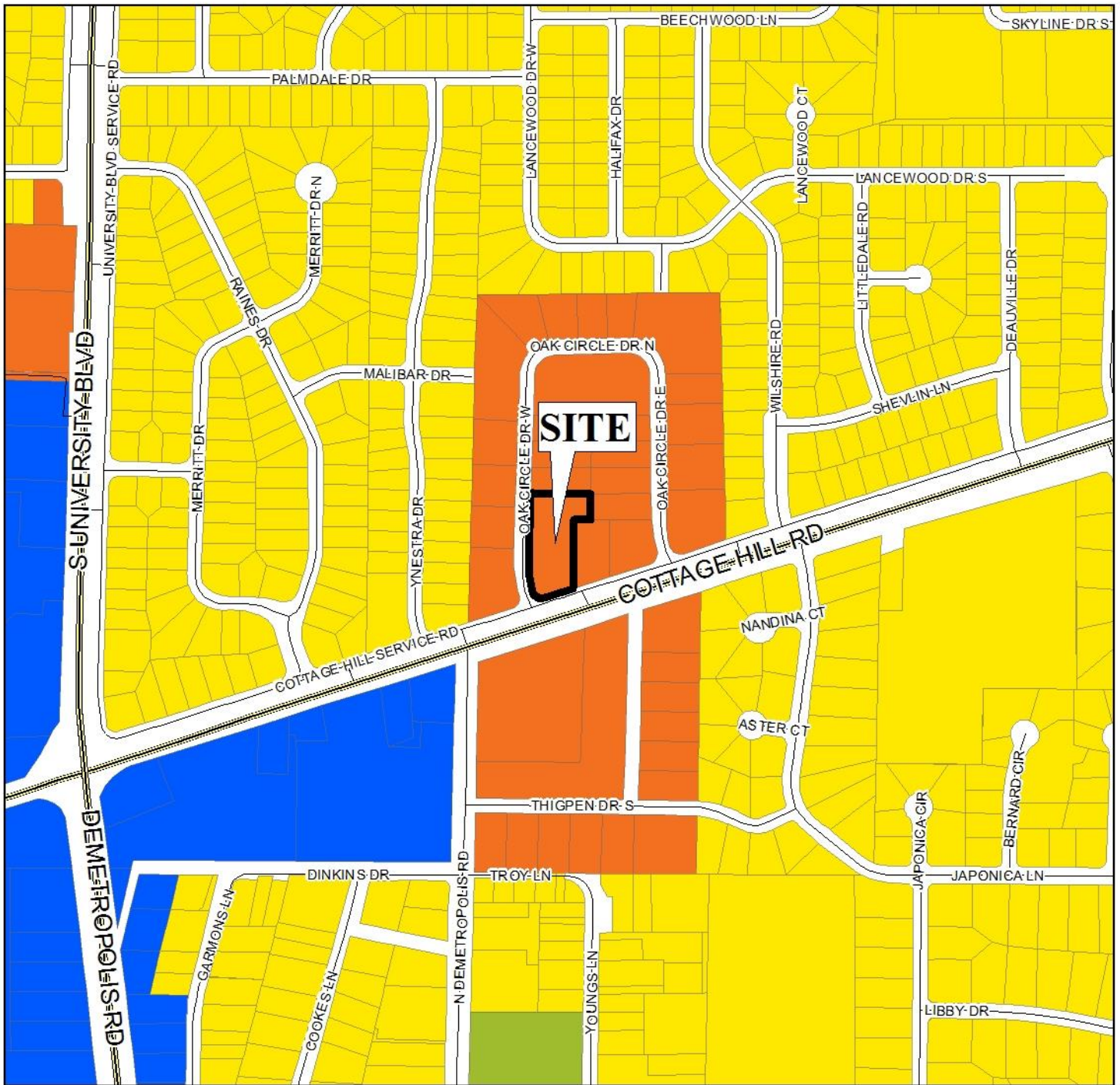
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# FLUM LOCATOR MAP



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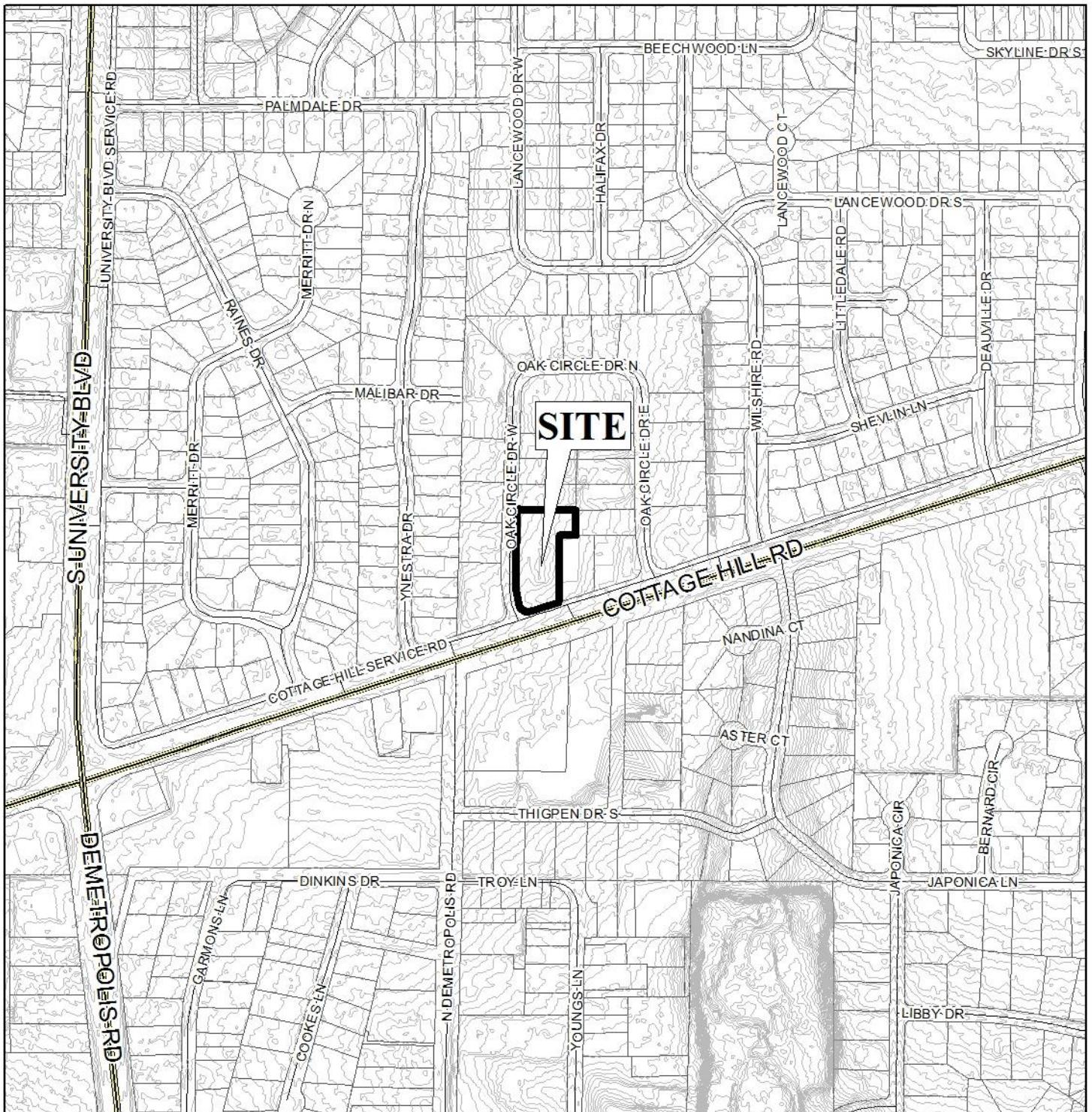
REQUEST Sign Variance

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

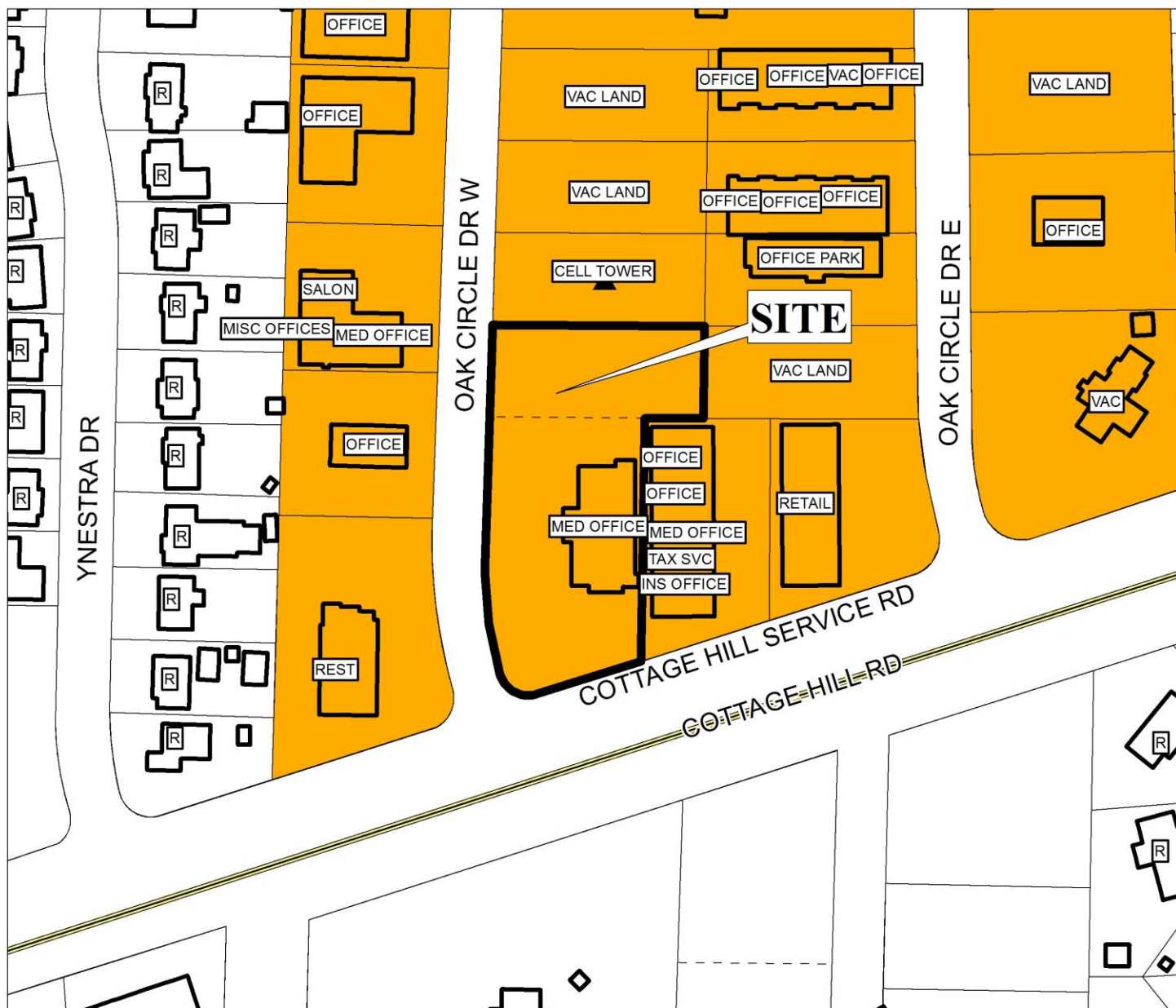


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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residences lie west 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. Residences lie west of the site.

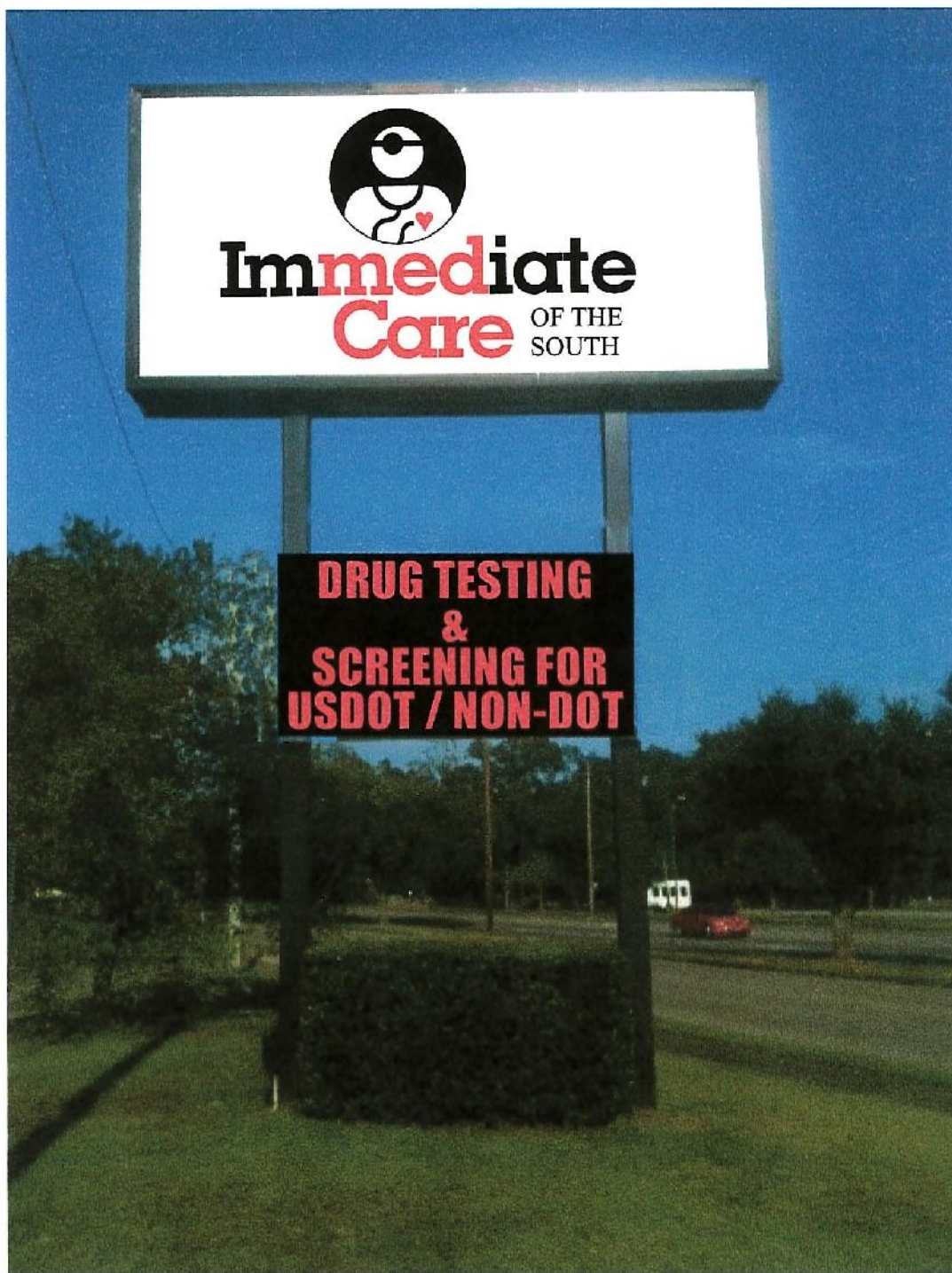
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## DETAIL SITE PLAN

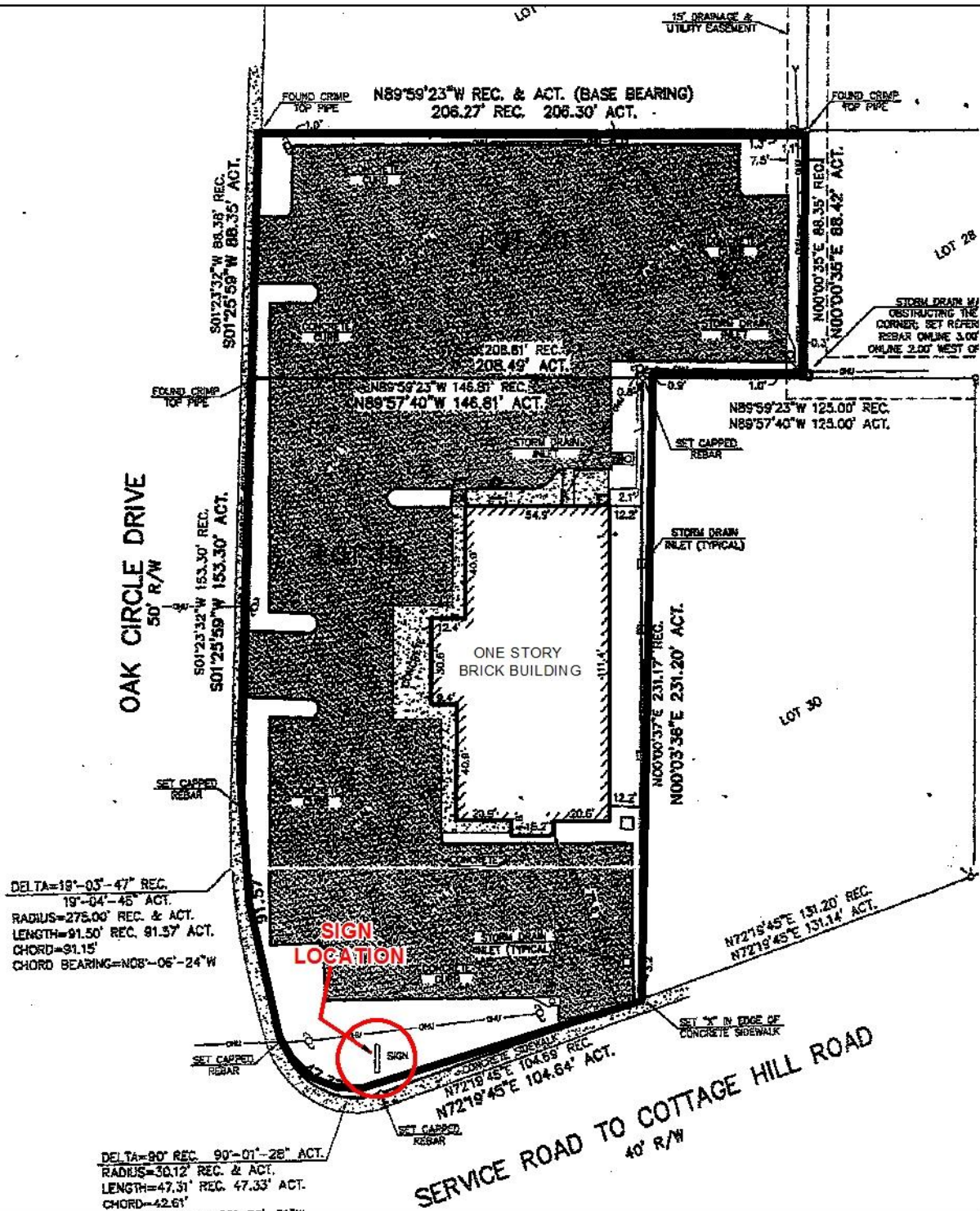


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