



Agenda Item # 6

BOA-SE-002483-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

5761 U.S. Highway 90 West

Applicant / Agent (as applicable):

TVH Properties, LLC (Casey Pipes, Agent)

Property Owner:

TVH Properties, LLC

Current Zoning:

B-3, Community Business District

Future Land Use:

Mixed Commercial Corridor

Case Number(s):

6515

Unified Development Code (UDC) Requirement:

The following are the applicable code requirements in a B-3, Community Business District:

- Special Exception to allow outside runs.
- Full compliance with the landscaping requirements.

Board Consideration:

The following variance is requested:

- To allow the expansion of an existing veterinary hospital with outdoor runs, and to allow reduced frontage landscaping requirements in a B-3, Community Business District.

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BOARD OF ADJUSTMENT VICINITY MAP - AERIAL



The site is surrounded by commercial units

APPLICATION NUMBER 6515 DATE May 1, 2023
APPLICANT TVH Properties, LLC (Casey Pipes, Agent)
REQUEST Special Exception and Frontage Landscaping Variances



SITE HISTORY

The site has no history of variance applications before the Board of Adjustment. A 1-lot Subdivision was tentatively approved by the Planning Commission in February 2021, to incorporate an adjacent lot into the existing development, but the plat was never recorded, and the approval has expired.

STAFF COMMENTS

Engineering Comments:

If the proposed variance is approved the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting.
2. Submit ALDOT approval for the vacation of the segment of US-90 Service Road.
3. No structure shall be built on top of drainage pipe. The existing pipe must be relocated.
4. No structures shall be built in a City of Mobile drainage easement. Request a vacation of the drainage easement.

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 (2021 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.

Planning Comments:

The applicant has requested a Special Exception and Frontage Landscaping Variance to allow the expansion of an existing veterinary hospital with outside runs, and to allow reduced frontage landscaping area, in a B-3, Community Business District; the Unified Development Code (UDC) requires a Special Exception to allow outside runs, and full compliance with the landscaping requirements in a B-3, Community Business District.

The subject site is developed with an existing veterinary hospital with outside runs, and was developed prior to the site being annexed into the City of Mobile in 2008. The applicant now wishes to build a large addition (9,962 square feet) to the existing structure (4,788 square feet), for a total of 14,750 square feet. As the proposed addition is more than 50% of the existing footprint, the site is required to come into full compliance with the requirements of the UDC.

The site plan submitted depicts two (2) existing “hospital exercise yards”, as well as an “isolation exercise yard”, and states the existing outdoor kennel area is 46-feet by 41-feet (1,886 square feet). The applicant is proposing a new 46-foot by 53-foot (2,438 square foot) kennel with runs.

No information has been submitted in regards to providing for the safe, hygienic disposal of clinic wastes, especially infectious-disease-bearing wastes.

In regards to the landscape area request, it should be noted that the site plan submitted depicts a “Lot 1” and a “Lot 2”. The subject site is currently a single legal lot of record; however, the applicant has advised staff that it is their intent to create a separate lot from the rear portion of the property. Doing this will result in an overall reduction in the amount of front landscaped area required by the Unified Development Code (UDC); however, given the existing structure’s location, and the location of the proposed addition, the site will be unable to comply with front landscape area requirements.

	<u>Total Landscape Area (square feet)</u>	<u>Front Landscape Area (square feet)</u>
<u>Required</u>	17,226	10,336
<u>Proposed</u>	64,725	7,168

As noted in the table above, the overall development will have a considerable amount of overall landscape area above what is required, but will only be able to provide approximately 69% of the required amount of front landscape area.

VARIANCE CONSIDERATIONS

Standards of Review:

- Special Exceptions are those uses that may have some special impact which differs from the potential impacts of permitted uses, exceeds permitted uses in intensity, or have a uniqueness such that their effect on the surrounding environment cannot readily be determined in advance of the use being proposed in a particular location.

Article 5 Section 11-E.1. of the Unified Development Codes states the Board of Adjustment will not approve an Application for Special Exception unless:

- (a) The proposed use is in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
- (b) The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- (c) The proposed use will be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.

Where any such improvements, facilities, utilities or services are not available or adequate to service the proposed use in the proposed location, the Applicant shall, as part of the application and as a condition to approval of the proposed Special Exception permit, be responsible for establishing ability, willingness and commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this Chapter, and other plans, programs, maps and ordinances adopted by the City to guide its growth and development. The approval of the Special Exception Permit shall be conditioned upon such improvements, facilities, utilities and services being provided and guaranteed by the Applicant.

- (d)** The proposed use is consistent with all applicable requirements of this Chapter, including:
 - (1)** Any applicable development standards in Article 3; and
 - (2)** Any applicable use regulations in Article 4.
- (e)** The proposed use is compatible with the character of the neighborhood within the same zoning district in which it is located;
- (f)** The proposed use will not impede the orderly development and improvement of surrounding property for uses permitted within the zoning district; and
- (g)** The proposed use will have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
 - (1)** In making this determination, the Board of Adjustment shall consider:
 - a.** The location, type and height of buildings or structures;
 - b.** The type and extent of landscaping and screening;
 - c.** Lighting;
 - d.** Hours of operation; or
 - e.** Other conditions that might require mitigation of any adverse impacts of the proposed development.
- (h)** The site is designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads;
- (i)** The site is designed to minimize the impact on storm water facilities;
- (j)** The use will be adequately served by water and sanitary sewer services;
- (k)** The use is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- (l)** The use will not be detrimental or endanger the public health, safety or general welfare.

Article 5 Section 11-E.2. states; that when considering a Special Exception application, the following should also be considered:

- The City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.

Additionally, Article 5, Section 11-E.3 states:

The Board of Adjustment shall give careful consideration to the warrants and criteria set forth in this section in judging applications for Special Exceptions involving the following uses. In granting a Special Exception, the board may attach such reasonable conditions and safeguards in addition to those set forth in this section, as it may deem necessary to implement the purposes of this Chapter.

In addition to the general standards of review, there are additional criteria specific to veterinary clinic, which include:

- (1) The submission of means satisfactory to the Board providing for the safe, hygienic disposal of clinic wastes, especially infectious-disease-bearing wastes.
- (2) The Board should determine to its satisfaction that the activities to be conducted on the premises will not be detrimental to the neighborhood, taking into account the physical relationship of the proposed use to the surrounding structures and properties, the probable hours of operation, parking and the beneficial or adverse effects of the proposed use and structure upon the neighborhood.

As it pertains to the variance request, 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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful

Considerations:

Based on the requested Special Exception application, the Board should consider the following findings of fact for approval or denial of the request:

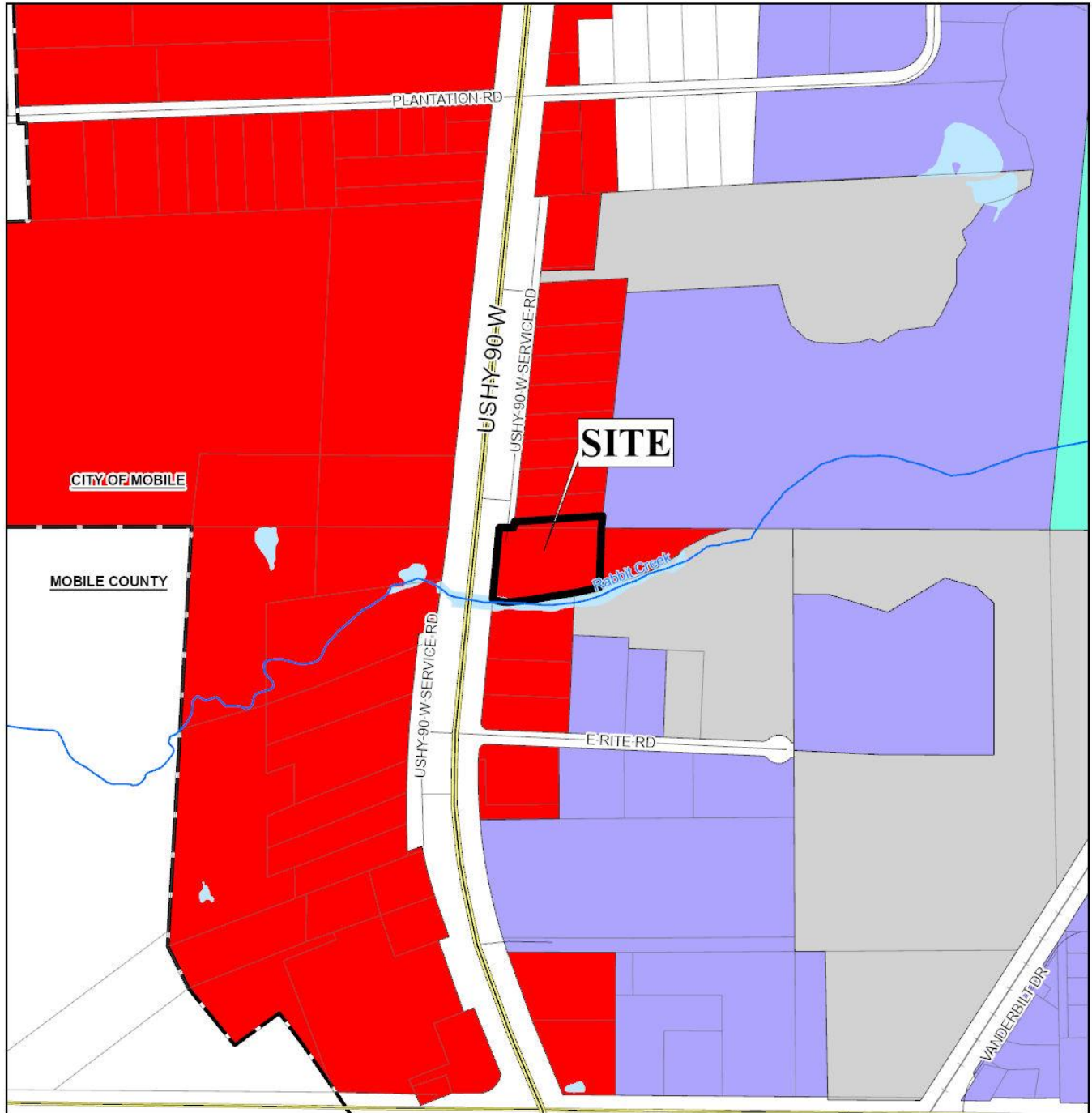
- 1) The proposed use **is / is not** in harmony with the general purpose, goals, objectives and standards of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City.
- 2) The proposed use at the proposed location **shall / shall not** result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, or other matters affecting the public health, safety and general welfare either as they now exist or as they may in the future be developed as a result of the implementation of provisions and policies of this Chapter, or any other plan, program, map, or ordinance adopted, or under consideration pursuant to official notice, by the City or other governmental agency having jurisdiction to guide growth and development.
- 3) The proposed use **will / will not** be adequately served by, and will not impose an undue burden on, any of the improvements, facilities, utilities, and services specified in this subsection.

- 4) The proposed use **is / is not** consistent with all applicable requirements of this Chapter, including: any applicable development standards in Article 3; and any applicable use regulations in Article 4.
- 5) The proposed use **is / is not** compatible with the character of the neighborhood within the same zoning district in which it is located.
- 6) The proposed use **will / will not** impede the orderly development and improvement of surrounding property for uses permitted within the zoning district.
- 7) The proposed use **will / will not** have no more adverse effects on health, safety or comfort of persons living or working in the neighborhood, or will be no more injurious to property or improvements in the neighborhood than would any other use generally permitted in the same district.
- 8) The site **is / is not** designed to provide ingress and egress that minimize traffic hazards and traffic congestion on the public roads.
- 9) The site **is / is not** designed to minimize the impact on storm water facilities.
- 10) The use **will / will not** be adequately served by water and sanitary sewer services.
- 11) The use **is / is not** noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 12) The use **will / will not** be detrimental or endanger the public health, safety or general welfare.

Based on the requested Variance application, the Board should consider the following findings of fact for approval or denial of the request:

- 1) The variance **will / will not** be contrary to the public interest;
- 2) Special conditions **exist / do not exist** such that a literal enforcement of the provisions of the chapter **will / will not** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall be / shall not be** observed and substantial justice **done / not done** to the applicant and the surrounding neighborhood by granting the variance.

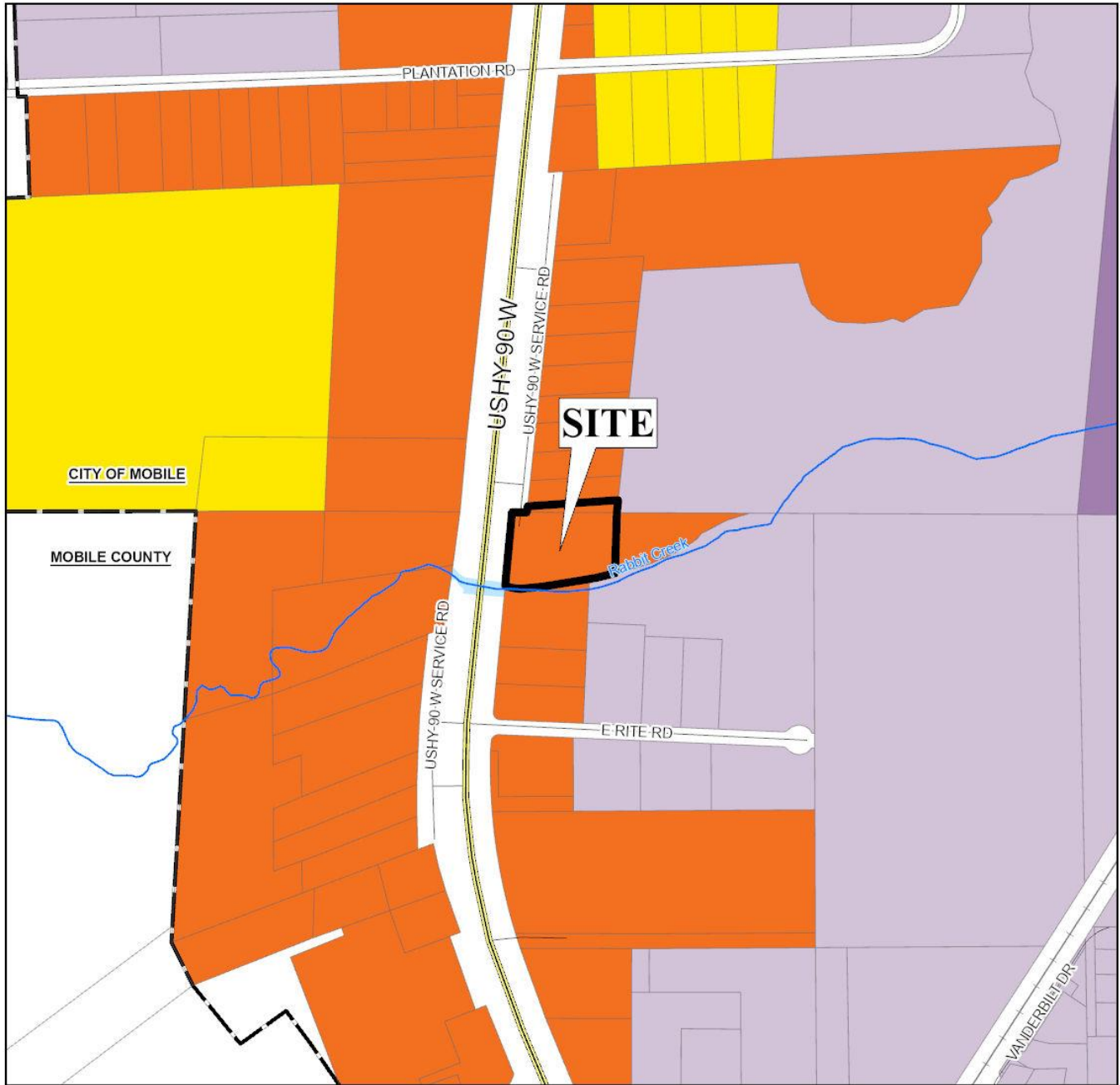
LOCATOR ZONING MAP



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REQUEST Special Exception and Frontage Landscaping Variances



FLUM LOCATOR MAP

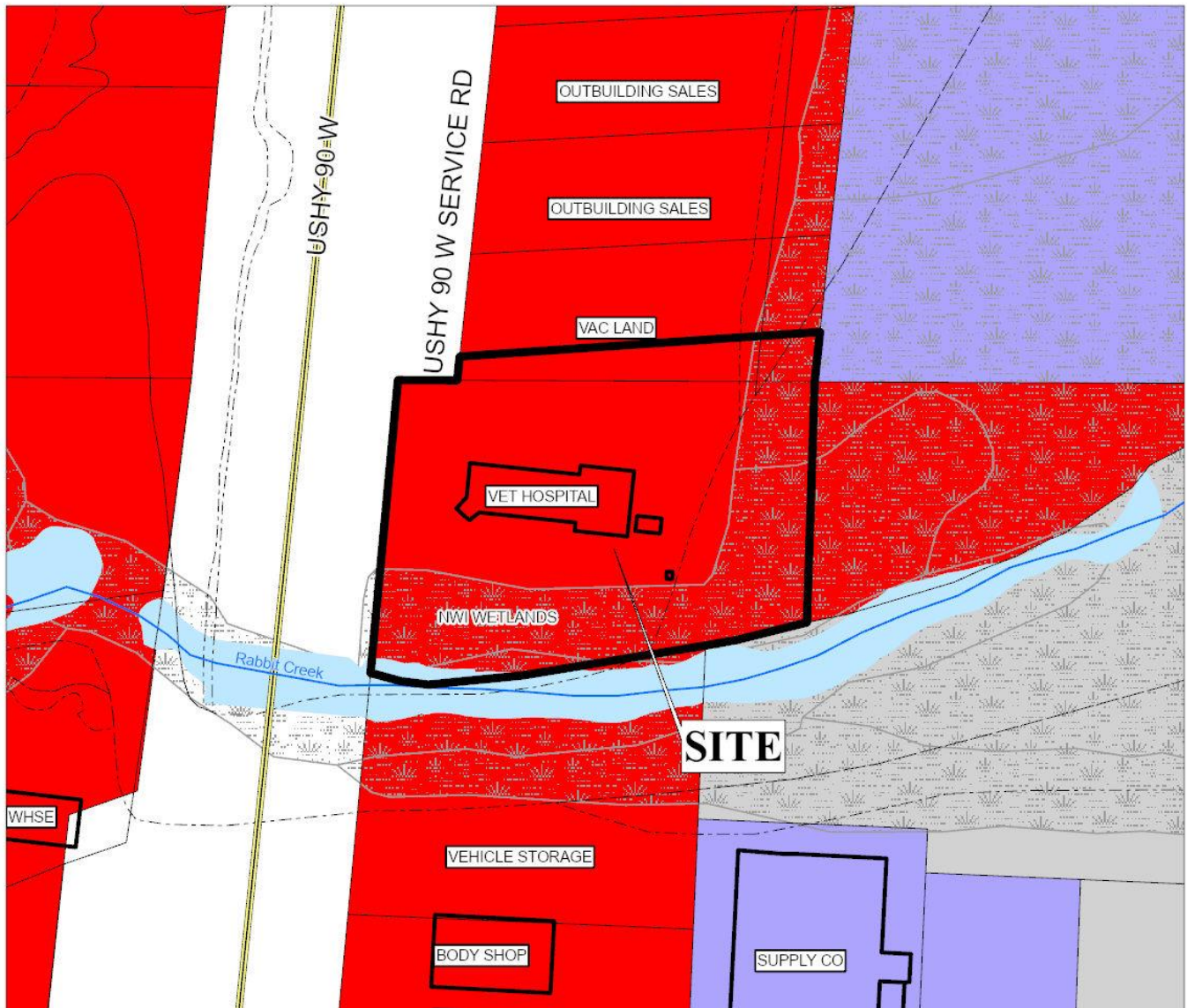


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- | | | | |
|---|--|---|---|
| ■ Low Density Residential | ■ Neighborhood Center - Traditional | ■ Downtown Waterfront | ■ Parks & Open Space |
| ■ Mixed Density Residential | ■ Neighborhood Center - Suburban | ■ Light Industry | ■ Water Dependent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



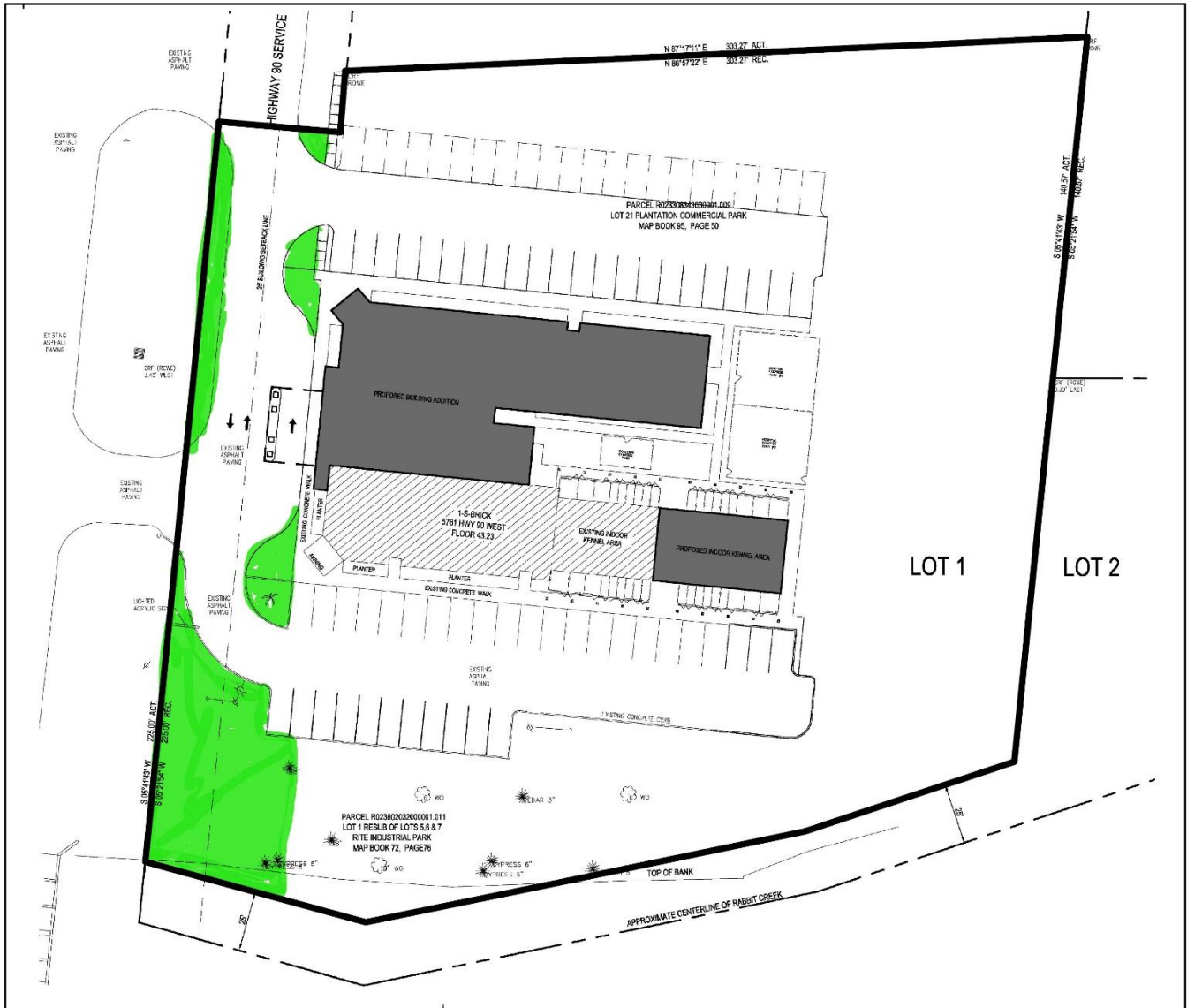
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by 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																			

SITE PLAN



The site plan illustrates the existing building, parking, proposed additions, proposed parking, and landscaping.

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