

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 3, 2020****CASE NUMBER**

6338

APPLICANT NAME

Cherry McNab Architects (Joe De Le Ree, Agent)

LOCATION664 South University Boulevard
(Northwest corner of South University Boulevard and
Ahepa Lane [private street])**VARIANCE REQUEST****SITE:** Residential Buffer Variance to allow a dumpster
within 10' from residentially-zoned property in a B-3,
Community Business District.**ZONING ORDINANCE
REQUIREMENT****SITE:** The Zoning Ordinance requires dumpsters be a
minimum 10' from residentially-zoned property in a B-3,
Community Business District.**ZONING**

B-3, Community Business District

AREA OF PROPERTY

69,320± square feet / 1.6± Acres

**CITY COUNCIL
DISTRICT**

District 4

**ENGINEERING
COMMENTS**

There appears to be adequate space available on the lot for the dumpster to be located to meet the requirements. If the variance 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. The dumpster pad drain must be tied to the sanitary sewer system.

**TRAFFIC ENGINEERING
COMMENTS**

No comment.

**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
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).

ANALYSIS

The applicant is requesting a Residential Buffer Variance to allow a dumpster within 10-feet from residentially-zoned property in a B-3, Community Business District; the Zoning Ordinance requires dumpsters be a minimum 10 feet from residentially-zoned property in a B-3, Community Business District.

The site has been given a Mixed Commercial Corridor (MCC) 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 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 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.

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 proposed dumpster enclosure is in the same location as the existing dumpster pad. The existing building prevents us from locating the enclosure outside the required 10ft buffer.

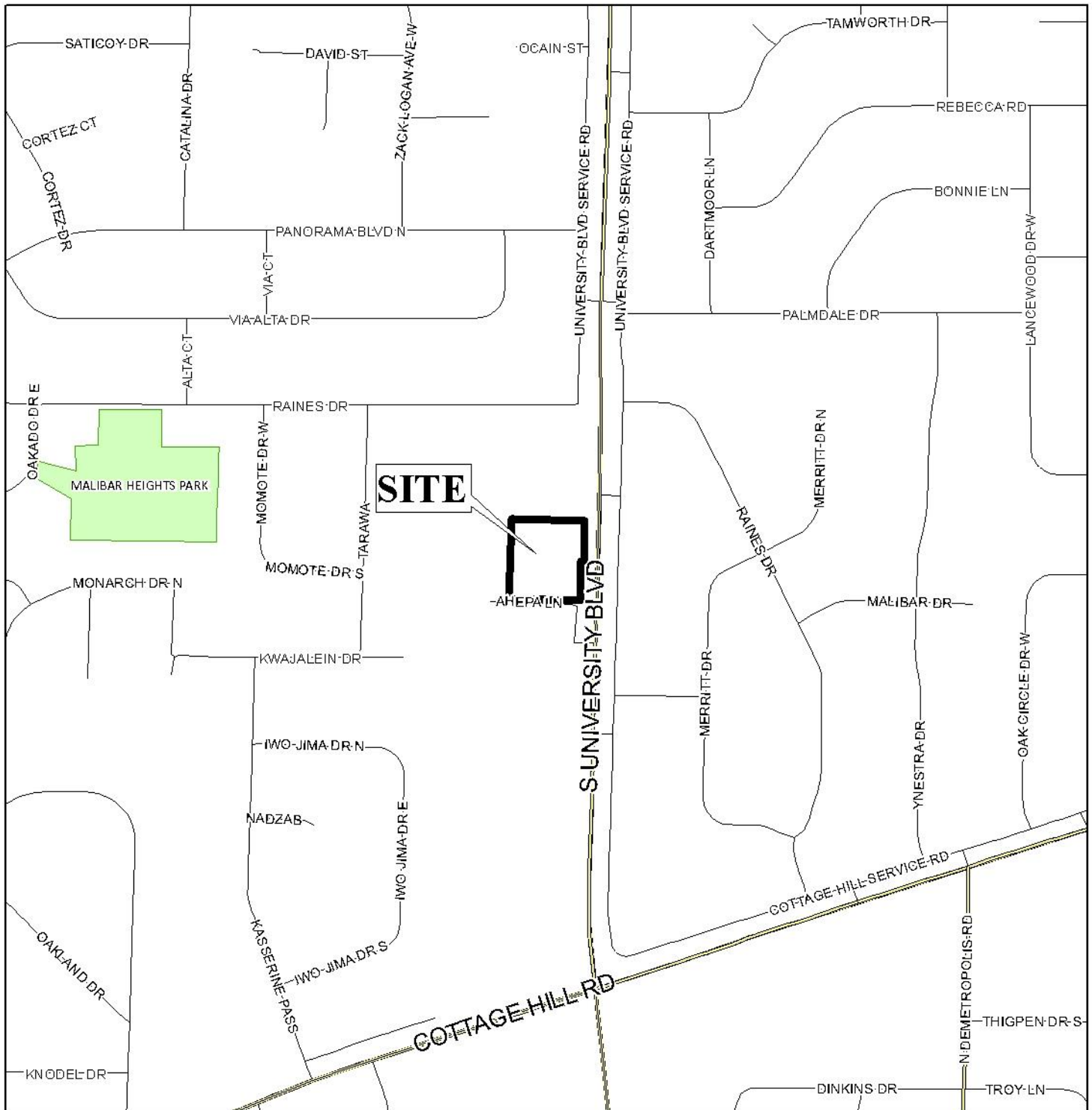
It is important to note that Section 64-4.D.1 of the Zoning Ordinance states that wherever the boundary of a commercially utilized building site adjoins the boundary of a residentially utilized building site, a 10' residential protection buffer is required to be located on the commercially utilized building site. As it relates to dumpsters, Section 64-4.D.9. specifically prohibits the placement of a dumpster within a required protection buffer; hence the current variance request. Building permit research found that the existing site was developed in 1997/1998, and at the time site was developed, dumpsters were prohibited in a required buffer.

Per the submitted site plan, there appears to be adequate area on the site where the dumpster could be placed and comply with setback and buffering requirements. As such, this request seems to be based on the applicant's desire and is not associated with a hardship or unique site development characteristics.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to the public interest due to the precedent set by approving the request without a hardship on the land;
- 2) Special conditions were not illustrated such that a 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 as no hardship has been demonstrated which would necessitate that the dumpster be located within a required buffer.

LOCATOR MAP



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 REQUEST Residential Buffer Variance



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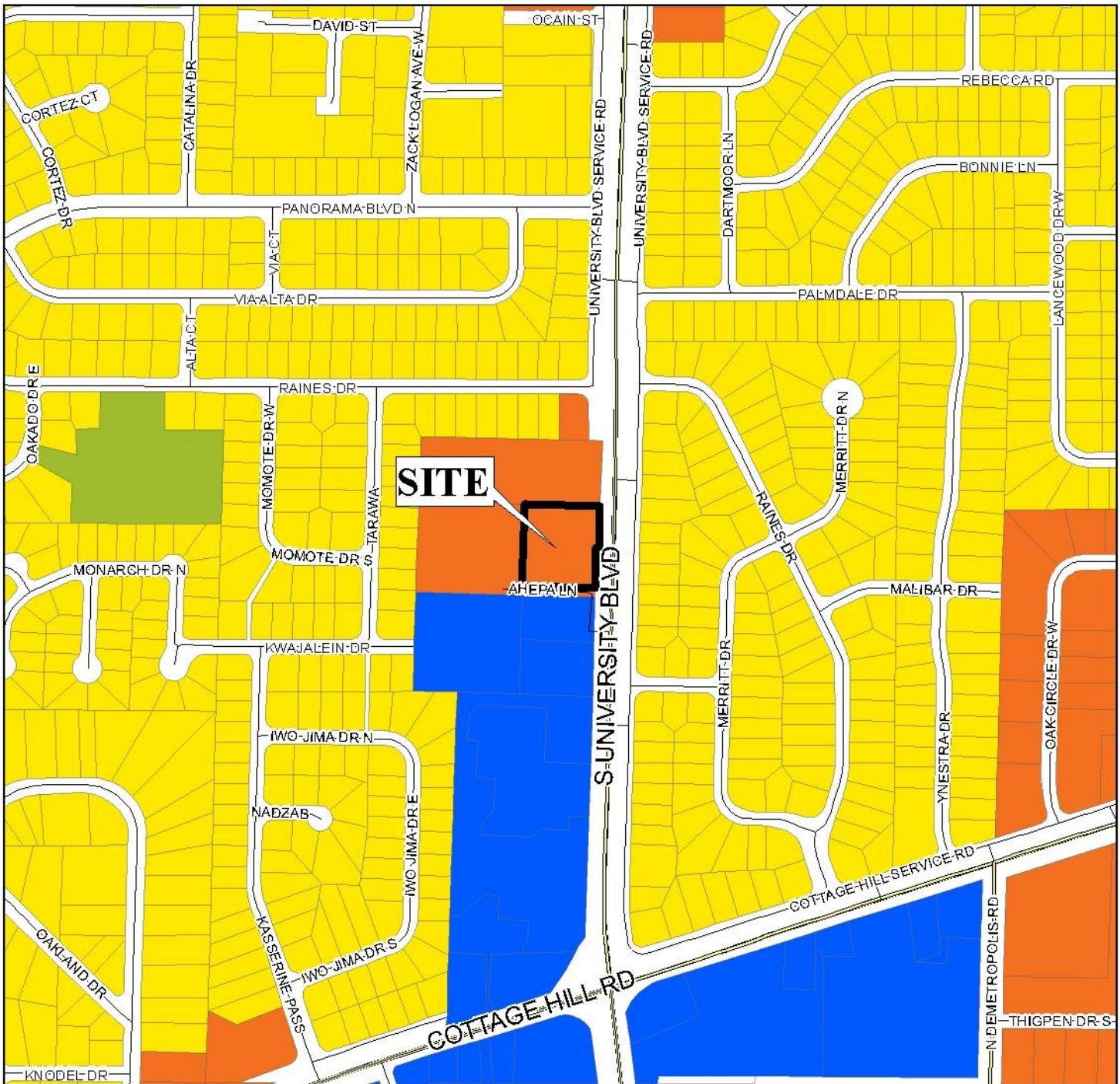
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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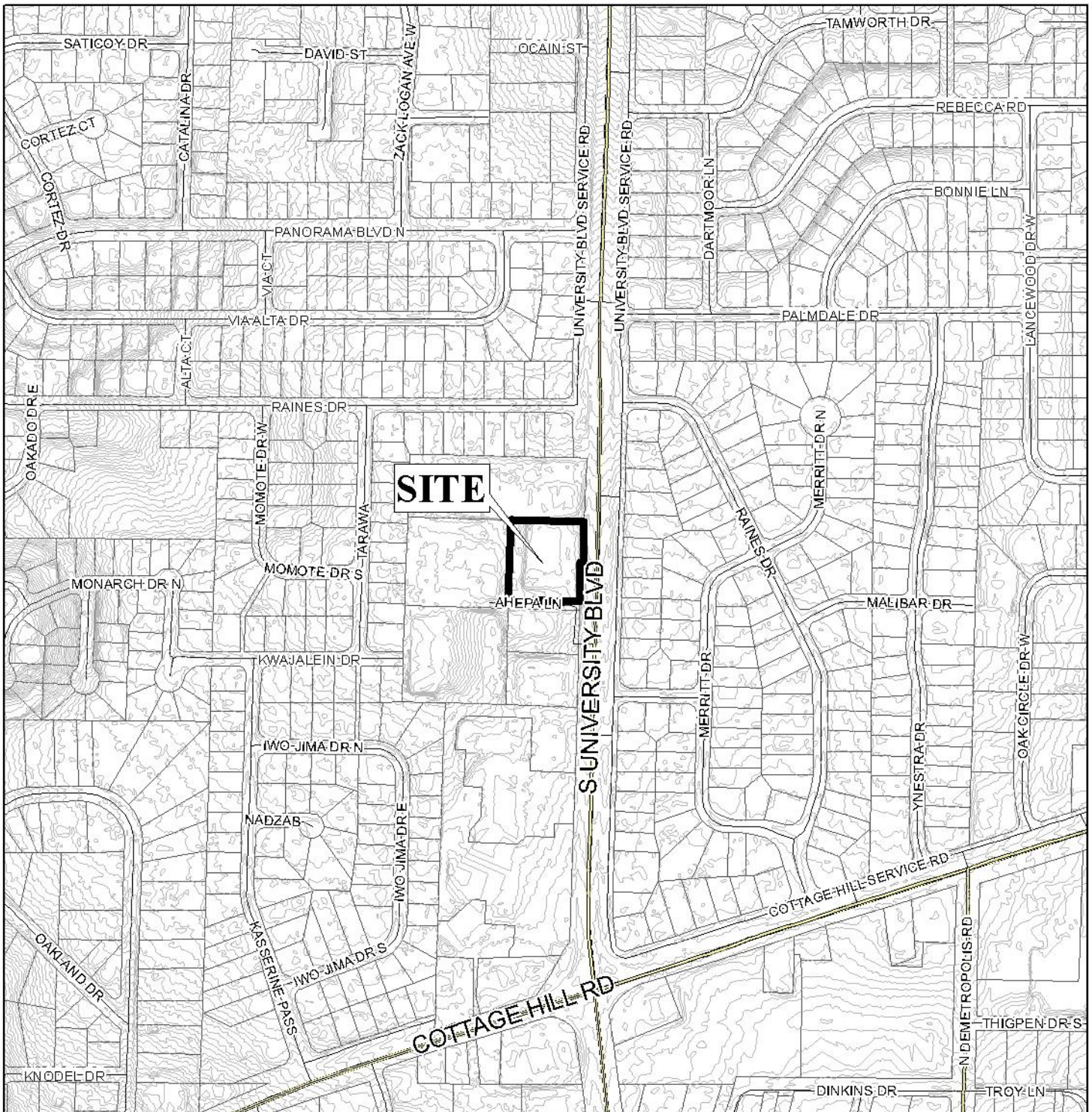
REQUEST Residential Buffer Variance

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	



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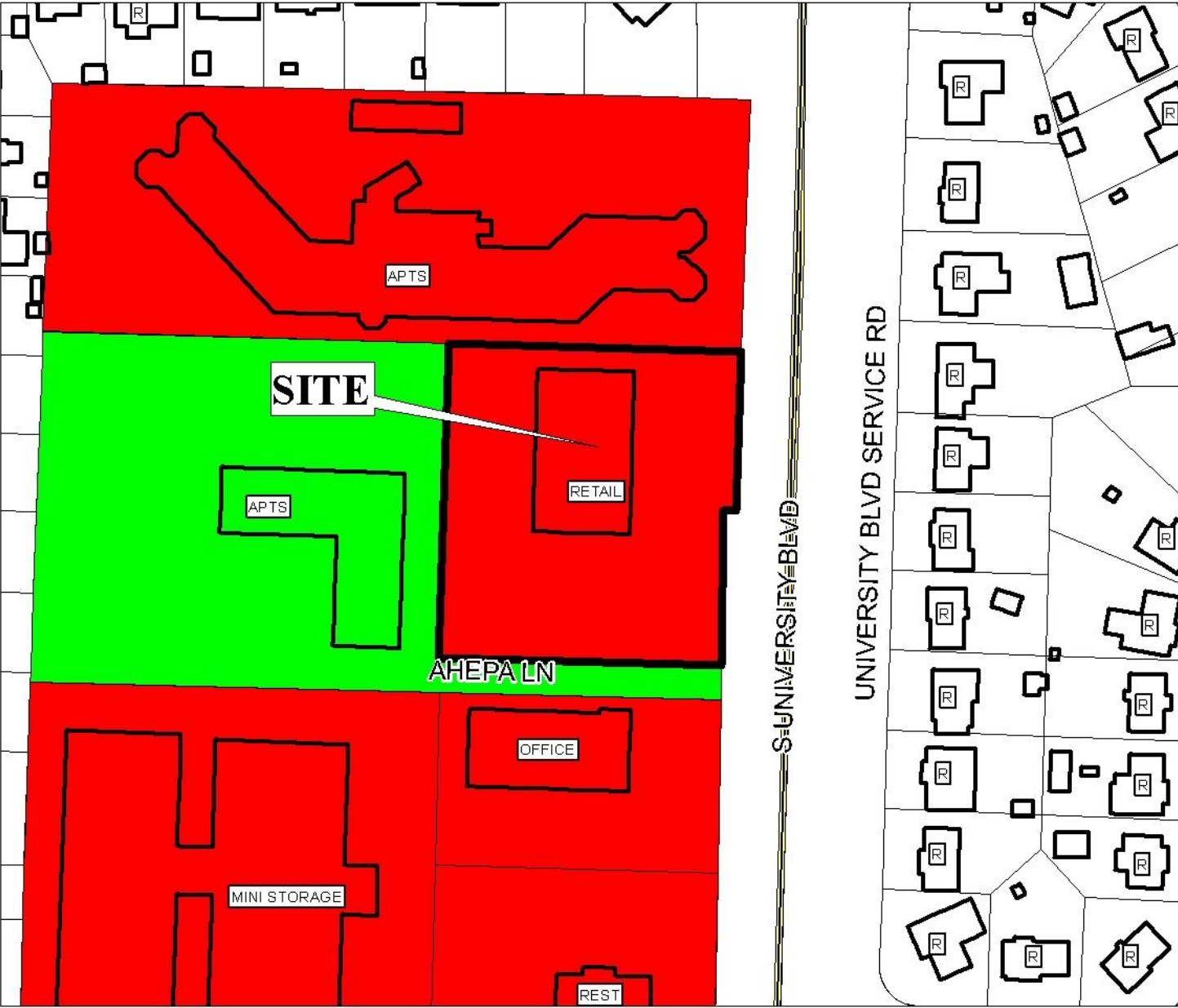
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



























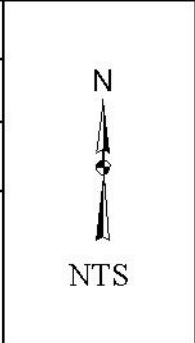
The site is surrounded by commercial and residential units.

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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



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential units.

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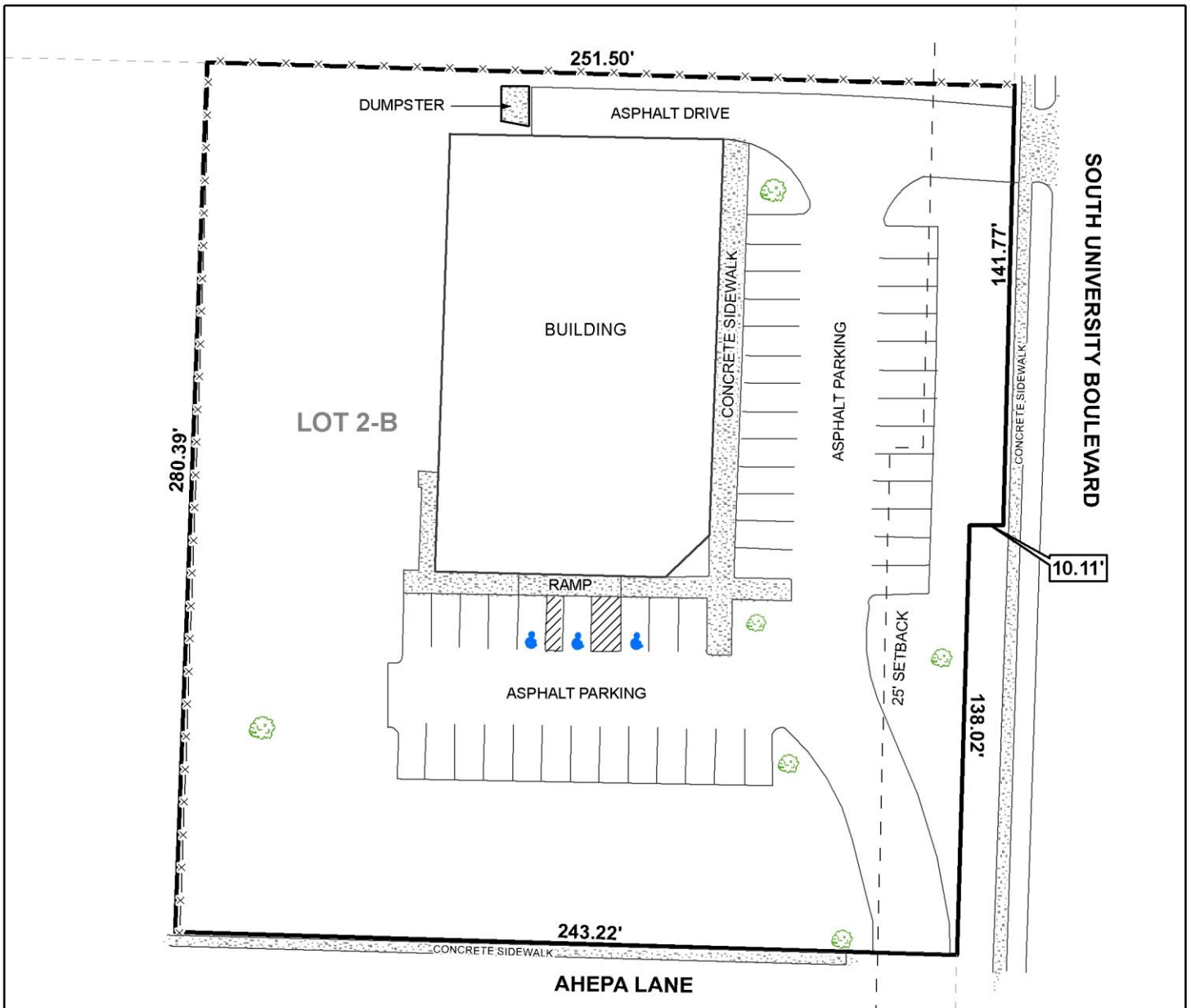
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SITE PLAN



The site plan illustrates proposed location for enclosed dumpster, existing building, parking and setback.

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