

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: October 3, 2011****CASE NUMBER**

5713

**APPLICANT NAME**

Patricia Abare

**LOCATION**

5526 Todd Acres Drive  
(North side of Todd Acres Drive, 749'± West of Commerce  
Boulevard West).

**VARIANCE REQUEST**

**USE:** Allow a mobile home park in a B-5, Office  
Distribution District.

**PARKING RATIO:** Allow no designated parking.

**MANEUVERING:** Allow sub-standard width driveways.

**SURFACING:** Allow aggregate driveways and some  
aggregate parking areas.

**TREE PLANTING:** Allow no trees to be planted.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** A mobile home park requires Planning Commission  
Approval in an R-3, Multiple Family Residential District.

**PARKING RATIO:** Designated parking spaces equal to  
at least 1.5 spaces per dwelling unit are required.

**MANEUVERING:** Driveways must be at least 24 feet in  
width to allow two-way traffic.

**SURFACING:** All parking and maneuvering areas must  
be paved with asphalt, concrete, or an approved alternative  
paving surface.

**TREE PLANTING:** Tree plantings equal to one overstory  
tree per 30 feet of street frontage, and one tree (no more  
than half to be understory trees) per 30 feet of the perimeter  
lot lines.

**ZONING**

B-5, Office Distribution District

**AREA OF PROPERTY**

3.59± Acres

**TRAFFIC ENGINEERING  
COMMENTS**

None received

**CITY COUNCIL  
DISTRICT**

District 4

**ANALYSIS**

The applicant is requesting Use, Parking Ratio, Surfacing, Maneuvering, and Tree Planting Variances to allow an additional mobile home at an existing mobile home park with aggregate surfacing, substandard maneuvering areas, no designated parking, and no tree plantings in a B-5, Office Distribution District; the Zoning Ordinance requires R-3, Multi-Family Residential District, with Planning Commission approval for a mobile home park, surfacing of all parking and maneuvering areas with concrete, asphalt, or approved alternative surface, 24' wide maneuvering areas, designated parking of 1.5 spaces per dwelling unit, and full compliance with tree planting and landscaping requirements.

The applicant wishes to add a new mobile home unit to an existing, legal nonconforming mobile home park. The applicant states that this mobile home park has existed since at least 1988; the property came into the City of Mobile in 2008. Sometime in 2007, a fire destroyed one of the mobile home units, and the unit was not replaced before annexation. In June, 2011, the applicant, without a building permit, moved a new mobile home unit onto the property, and, subsequently was unable to obtain the needed permits for utilities connections for the mobile home. The applicant was denied a permit because of the expansion of the legal, nonconforming use.

In addition to the use of the property, the applicant is also requesting several site variances due to the substandard nature of the property. The applicant proposed to have the site remain "as is" and make no improvements.

Regarding the use of the property, the applicant does not specifically state what, if any, hardship exists on the property other than that the overall use already exists as a legal nonconforming use. Legal nonconformities do not establish a basis for a hardship, and, in fact, there is no reason why the property cannot be used as it is zoned. It should be noted that the 15 mobile homes that were on the property at the time of annexation can remain, and can even be replaced by newer mobile homes of the same size or smaller because of the legal nonconformity. However, additional mobile homes cannot be added. As there is no hardship relating to the use, this request should be denied.

Regarding the other variance requests, the applicant again does not state what, if any hardship exists on the site. The applicant only mentions the fact that the site is located within an area with heavier commercial uses. While this is true, this statement would seem to work against the argument that a mobile home park is a compatible use for this area. That aside, there is no hardship readily apparent that would prevent the applicant from bringing the use into compliance with the ordinance. As previously noted, the site is legal non-conforming, and the site can remain "as is." The compliance is being triggered by the new mobile home addition. Without

the addition of the new mobile home, compliance would not be required. Because no hardship exists on the property, these requests should be denied.

It should also be noted that the new mobile home unit can still be placed on the site, it would just have to be a replacement for one of the older mobile home units on the site of the same size or larger. By doing this, the legal nonconforming status of the use and the site are preserved, and no further compliance would be needed.

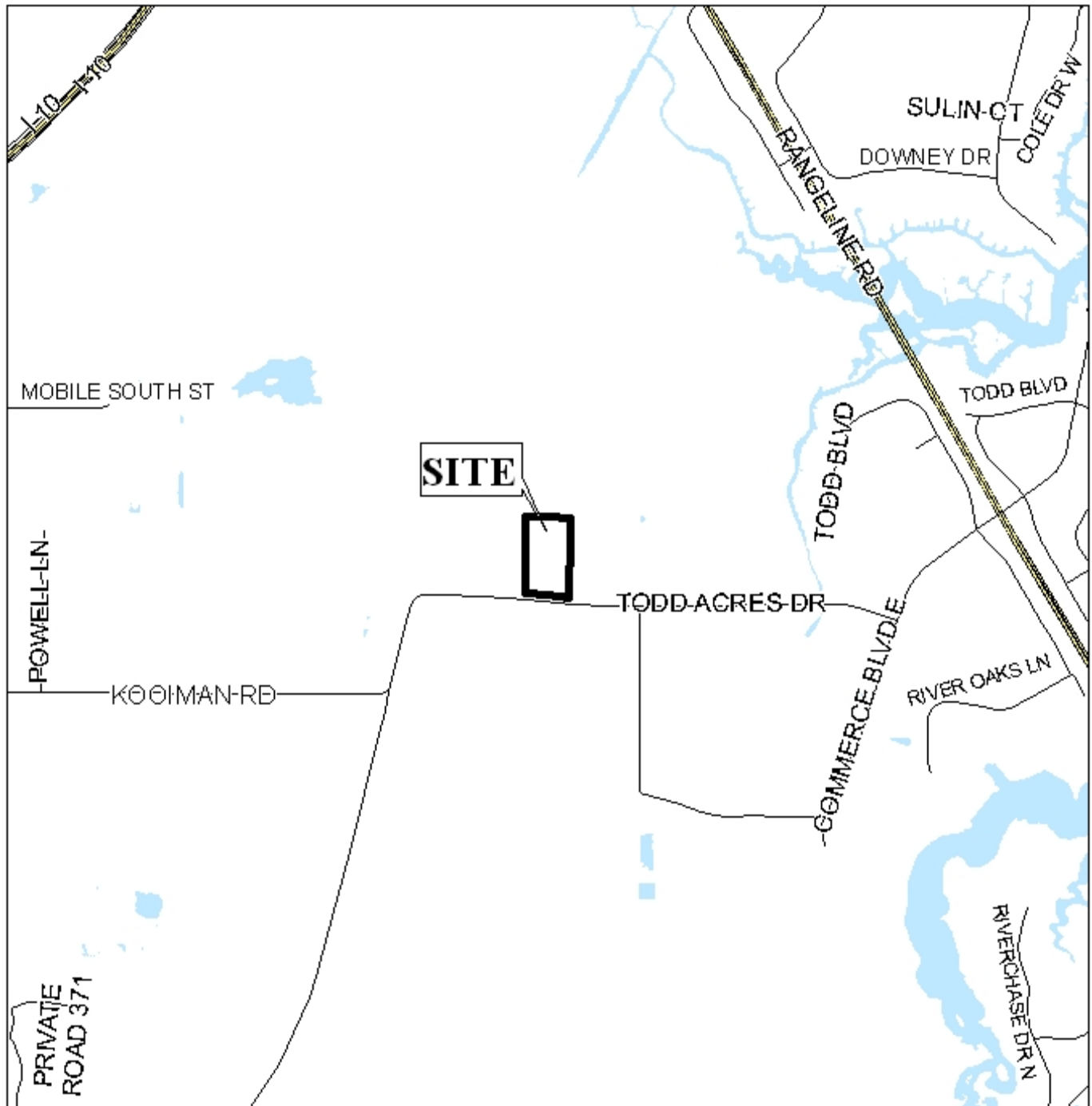
The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement 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.

**RECOMMENDATION**

Based upon the preceding, the request is recommended for denial.

## LOCATOR MAP



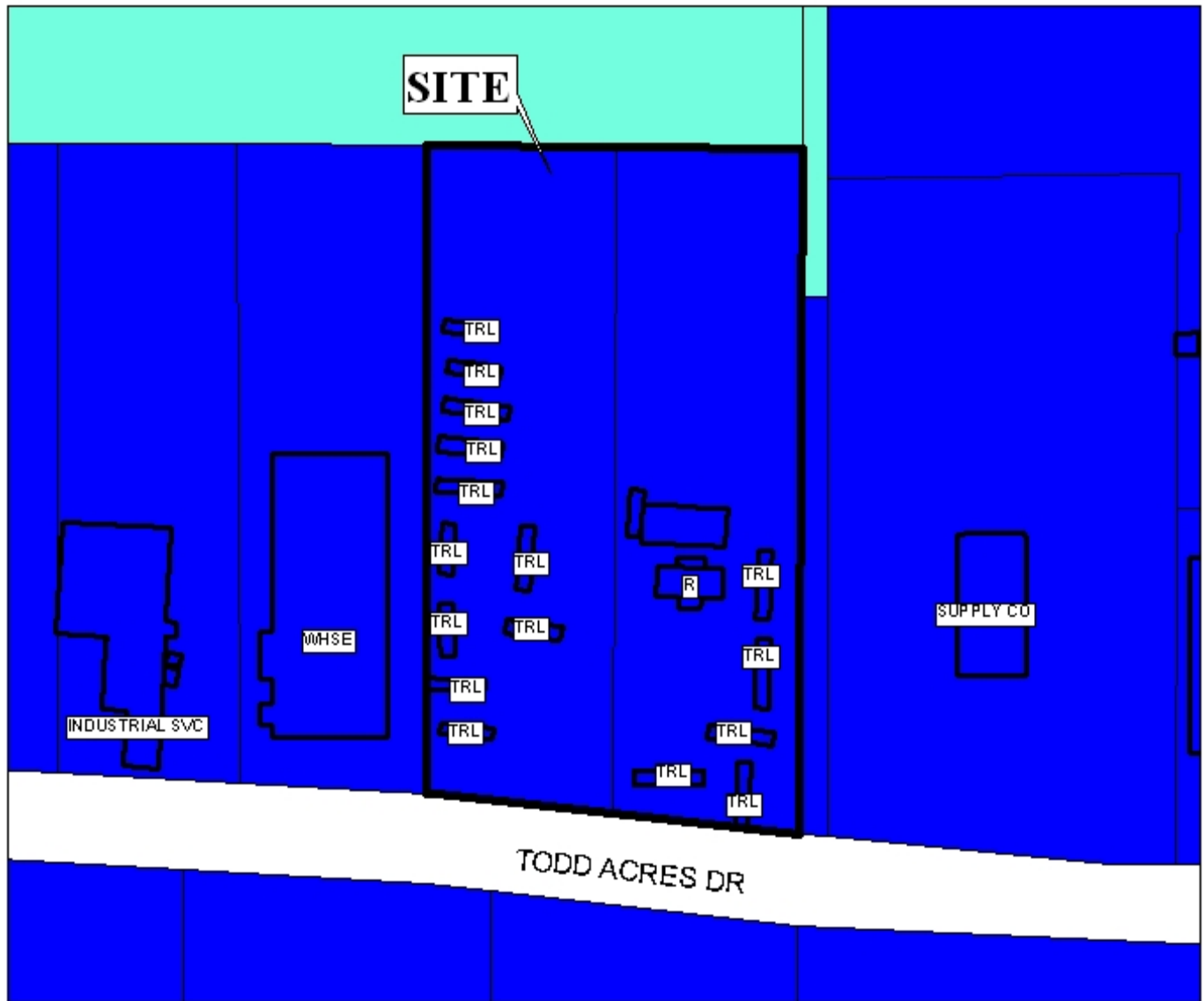
APPLICATION NUMBER 5713 DATE October 3, 2011

APPLICANT Patricia Abare

REQUEST Use, Parking Ratio, Surfacing, Maneuvering, and Tree Planting Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING











The site is surrounded by commercial land use.

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LEGEND

 R-1	 R-2	 R-3	 R-A	 R-B	 H-B	 T-B	 B-1	 LB-2	 B-2	 B-3	 B-4	 B-5	 I-1	 I-2	NTS
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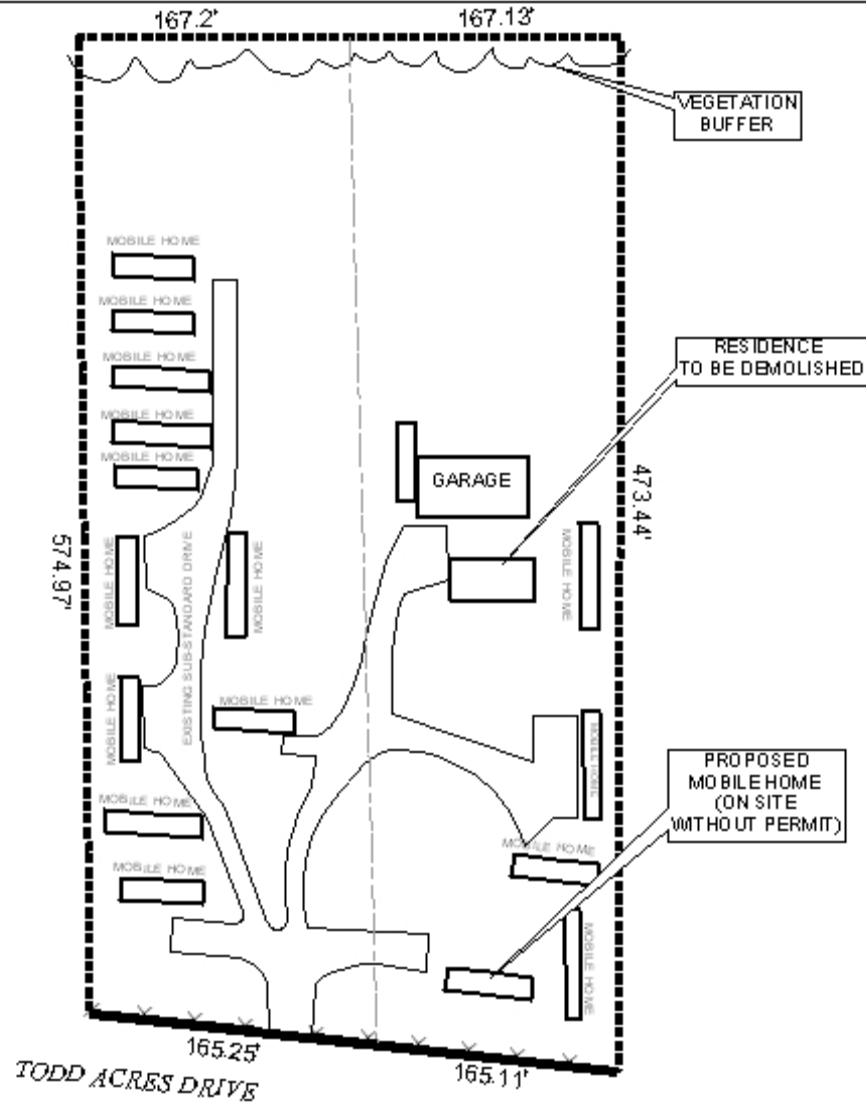


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N  
NTS

# SITE PLAN



The site plan shows existing and proposed mobile homes, drive, and building to be demolished.

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