

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 3, 2021**

<u>CASE NUMBER</u>	6380
<u>APPLICANT NAME</u>	Thompson Properties, LLC
<u>LOCATION</u>	5715 Iron Works Road (East side of Iron Works Road, 342'± North of Larue Steiner Road).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow the distribution and storage of industrial gases in an I-1, Light Industry District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow the distribution and storage of industrial gases in an I-1, Light Industry District.
<u>ZONING</u>	I-1, Light Industry District
<u>AREA OF PROPERTY</u>	1.9± Acres
<u>CITY COUNCIL DISTRICT</u>	District 4
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	No traffic impacts anticipated by this variance request.
<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
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 buildings and 600' of sprinkled buildings.

ANALYSIS

The applicant is requesting a Use Variance to allow the distribution and storage of industrial gases in an I-1, Light Industry District; the Zoning Ordinance does not allow the distribution and storage of industrial gases in an I-1, Light Industry District.

The site has been given a Light Industry (LI) land use designation per the 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 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.

This land use designation applies to an array of modern, low-impact industrial uses that include assembly and processing, warehousing, distribution and wholesaling facilities. The bulk of the light industrial use must be contained within a building or facility. If a light industrial use requires outside storage, the storage must be limited in area and appropriately screened from view in accordance to specific zoning requirements. This designation may also include uses such as complementary offices and retail.

LI also includes areas that may be regarded as "industrial business", where the land uses include business administration and logistics operations for industrial concerns, building trade contractors facilities and advance research facilities, as well as stand-alone educational, scientific and industrial research facilities, or any combination of those facilities located in light industrial and technology parks. Many parcels used for industrial business are smaller and scattered throughout Mobile. For this reason, these parcels are not singled out in the FLUM, but rather are addressed through zoning.

Light industrial uses are characterized by attractive, accessible and connected development, compatible with the character of surrounding neighborhoods. Development may take the form of planned campuses in park-like settings or unified design corridors, with consideration to factors such as site and building orientation, building design, landscaping and buffering, lighting, continuity of pedestrian networks, access and connectivity to transit and to freight transportation.

Heavy commercial and, in some cases, high-density residential land uses may serve as transitions between LI and other, lower-intensity land use designations. Protection buffers may also be required by zoning.

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 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 applied for a business license in February 2021, and was advised at that time that the Zoning Ordinance limits industrial gas manufacture or storage to I-2, Heavy Industry Districts with Planning Approval from the Planning Commission.

The applicant submitted the following information to assist in the review of the Zoning Clearance for the business license:

We will be looking to store gases in cylinders. The largest of these cylinders would hold a maximum of 337 cf with the smallest 21 cf. There would also be some acetylene in cylinders ranging from 10 cf to 145 cf. These acetylene cylinders will be segregated from the other gases in accordance with CGA requirements.

We will have 3 liquid bulk tanks that will be 3000 gallons each. They will be argon, nitrogen and oxygen. These will be used fill liquid cans that are 180 liter each. These tanks will be delivered to places like shipyards, scrap business and laboratories.

The applicant submitted the following statement with the application:

THIS APPLICATION IS TO ALLOW AN I-2 BUSINESS TO LOCATE WITHIN AN I-1 ZONING DISTRICT. THE BUSINESS, MATHESON GAS, LEASED THE PROPERTY AND THEY, NOR THE OWNER, KNEW THAT I-2 WAS REQUIRED FOR THE DISTRIBUTION AND STORAGE OF INDUSTRIAL GASES. AFTER SIGNING THE LEASE, MATHESON BEGAN THE INSTALLATION OF THREE LARGE STORAGE TANKS AND ADDED SOME SHELVING UNITS INSIDE THE BUILDING FOR ASSORTED WELDING SUPPLIES WHICH THEY ALSO SELL. WHEN THE RENOVATIONS WERE COMPLETE, THEY WENT TO THE CITY TO ACQUIRE A BUSINESS LICENSE AND WERE TOLD THEY WERE NOT ZONED PROPERLY.

THIS PROPERTY IS LOCATED IN AN INDUSTRIAL AREA WITH I-1 ZONING EXTENDING 2000' TO THE NORTH, 1800' TO THE SOUTH, AND 1000' WESTWARDLY TO MIDDLE ROAD. ADJOINING THE REAR PROPERTY LINE, B-3 ZONING EXTENDS EASTWARDLY TO HIGHWAY 90. A SIMILAR BUSINESS, GAS AND SUPPLY, IS LOCATED LESS THAN ONE MILE TO THE SOUTH AT 5500 EAST RITE ROAD AND IT ADJOINS I-1 AND B-3 ZONED PROPERTY. INTERESTINGLY, THE ZONING ORDINANCE ALLOWS FOR INDUSTRIAL CHEMICALS TO BE MANUFACTURED AND STORED IN AN I-1 PROPERTY.

WILL ALL OF THE INDUSTRIAL BUSINESSES LOCATED ADJACENT TO THIS SITE, ALLOWING MATHESON GAS TO REMAIN AT THIS LOCATION SHOULD NOT HAVE A NEGATIVE AFFECT ON THE SURROUNDING AREA.

The applicant wishes to store a combination of industrial gases, some of which are flammable and potentially hazardous. The site is surrounded by commercial developments on I-1, Light Industry District property.

According to the applicant, three large storage tanks have been installed on the site, but they are not depicted on the site plan, and no permits were obtained. If permits had been applied for the placement of the tanks on the site, the applicant would have been made aware of the Zoning requirements at that time. If the use variance is granted, after-the-fact permits should be obtained, as appropriate.

The site plan depicts the existing 7,568± square foot building, an asphalt parking area in the front of the building, and an aggregate drive and loading area over the majority of the site. The site plan does not make a distinction between office space versus warehouse space in the structure, making it difficult for staff to determine if sufficient parking is provided. It appears that there are approximately 11 parking spaces on the site, with 26 parking spaces required if the entire building is used as an office. The applicant should provide information on the amount of office space and number of warehouse employees. It should also be noted that while aggregate lay-down yards are allowed, all required parking must be paved.

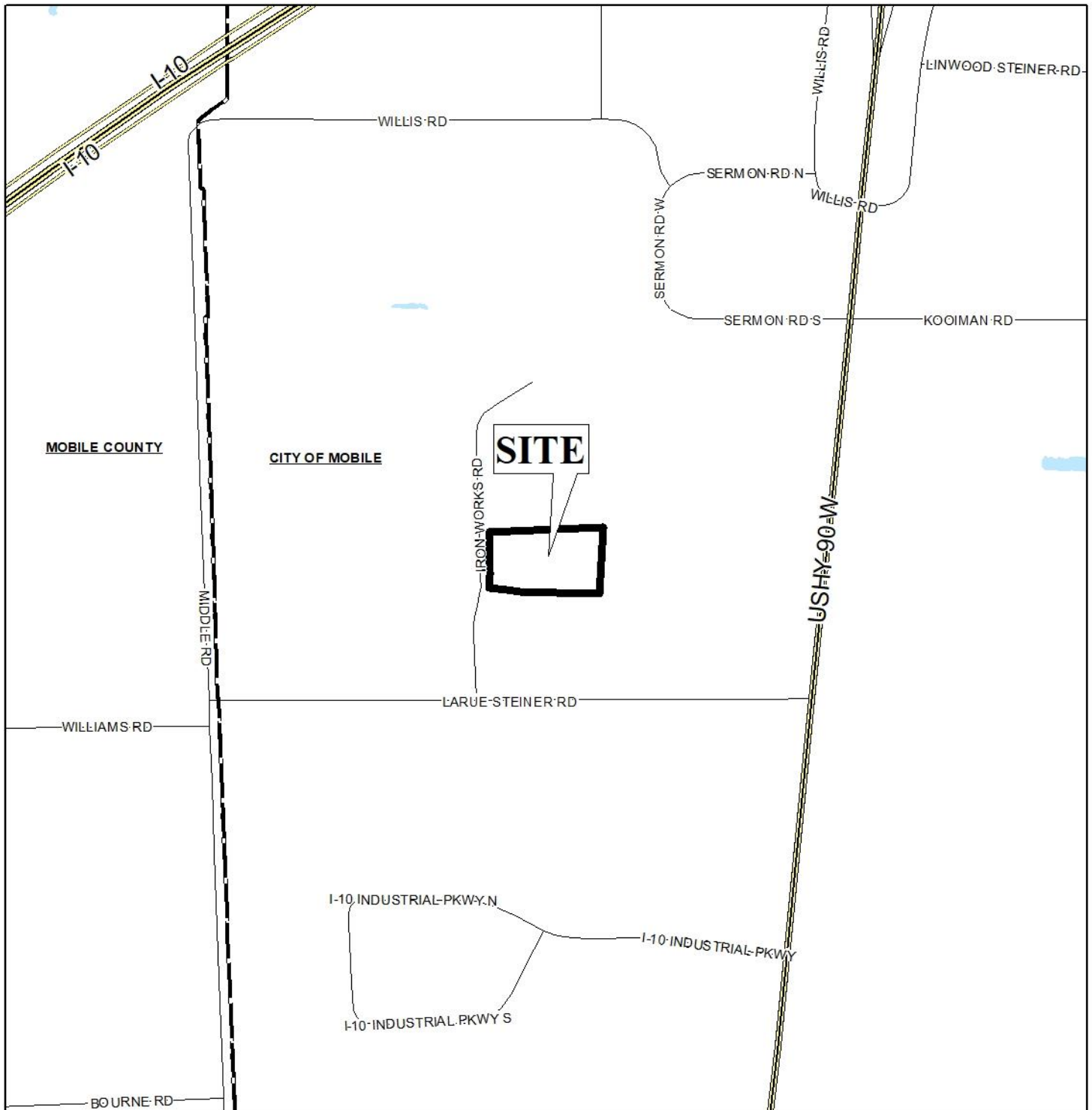
The applicant mentions a similar business located at 5500 East Rite Road. While a gas storage facility is located there, it was existing prior to annexation into the City of Mobile in 2009. In 2013, in order to expand, that business made successful applications to the Planning Commission to have that property rezoned to I-2, as well as Planning Approval to allow the gas storage.

The applicant has not provided any hardships specific to the property as to why the variance request should be approved. It seems that insufficient due diligence prior to leasing the property was performed, thus creating a self-imposed hardship.

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

- 1) The variance will be contrary to the public interest, as there is no reason the site cannot be occupied by a compliant use;
- 2) Special conditions do not appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variance, as all surrounding properties appear to be used in compliant manners.

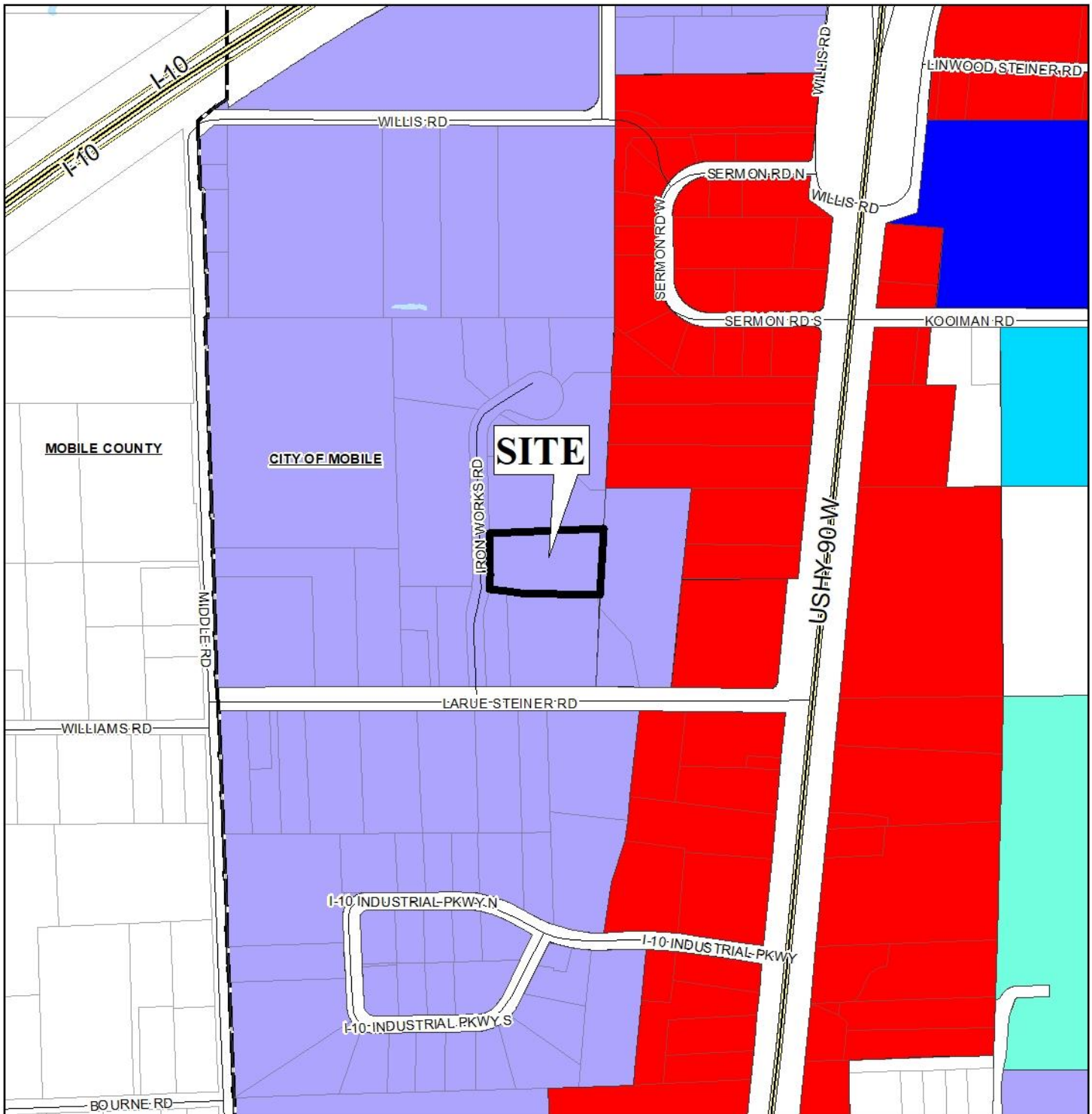
LOCATOR MAP



APPLICATION NUMBER 6380 DATE May 3, 2021
APPLICANT Thompson Properties, LLC
REQUEST Use Variance



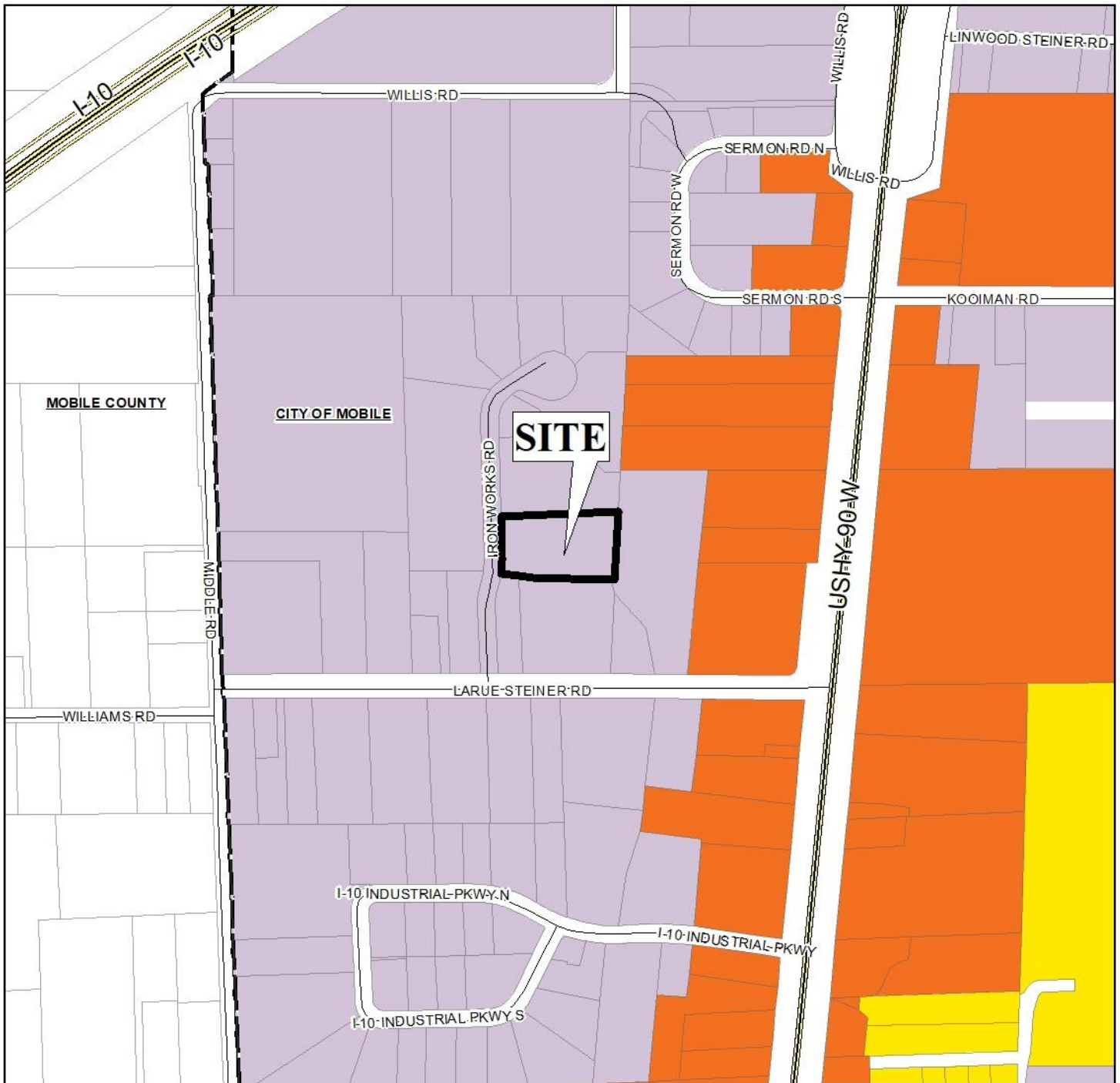
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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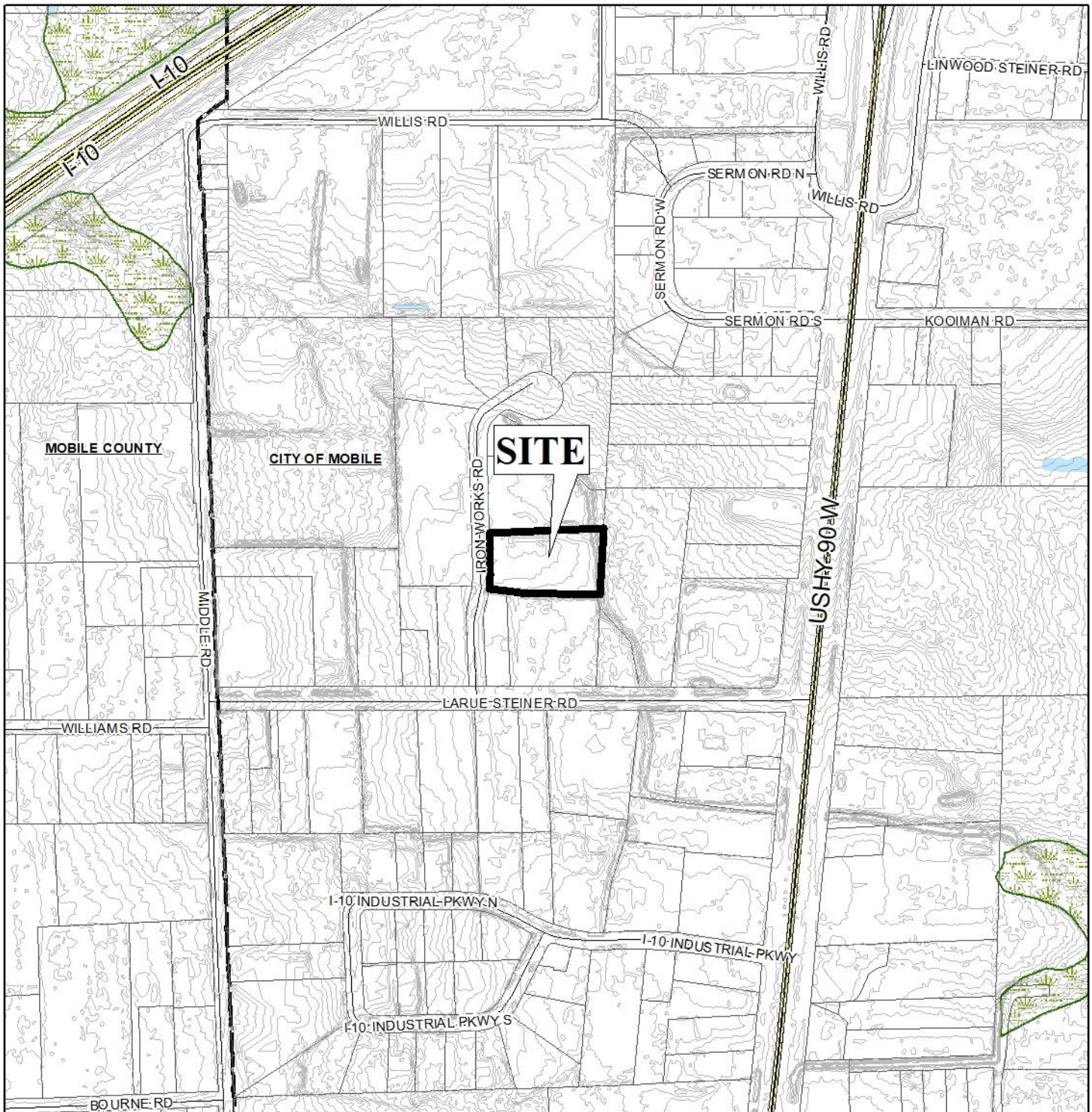
APPLICANT Thompson Properties, LLC

REQUEST Use 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

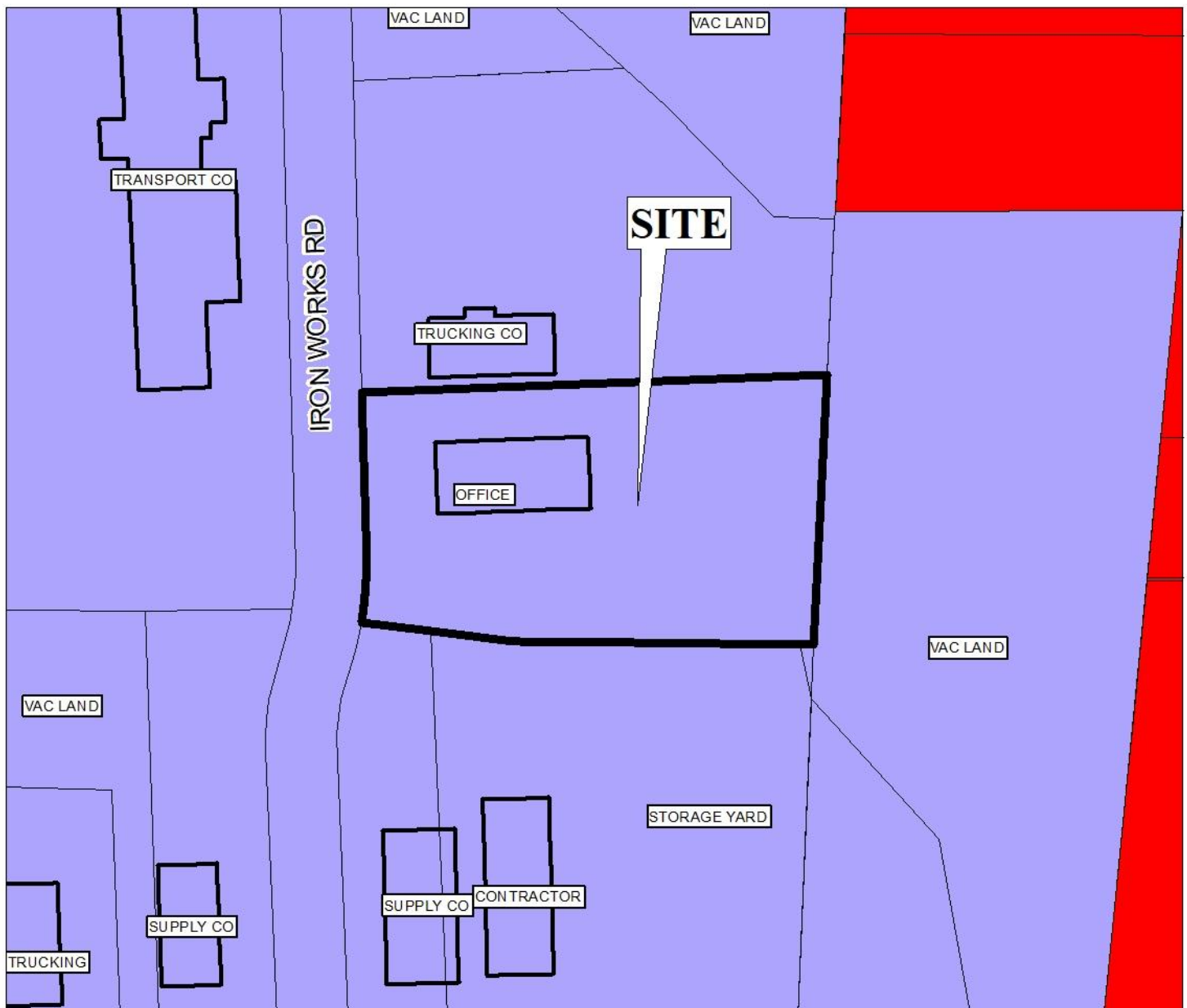


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VICINITY MAP - EXISTING ZONING



The site is surrounded by industrial 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

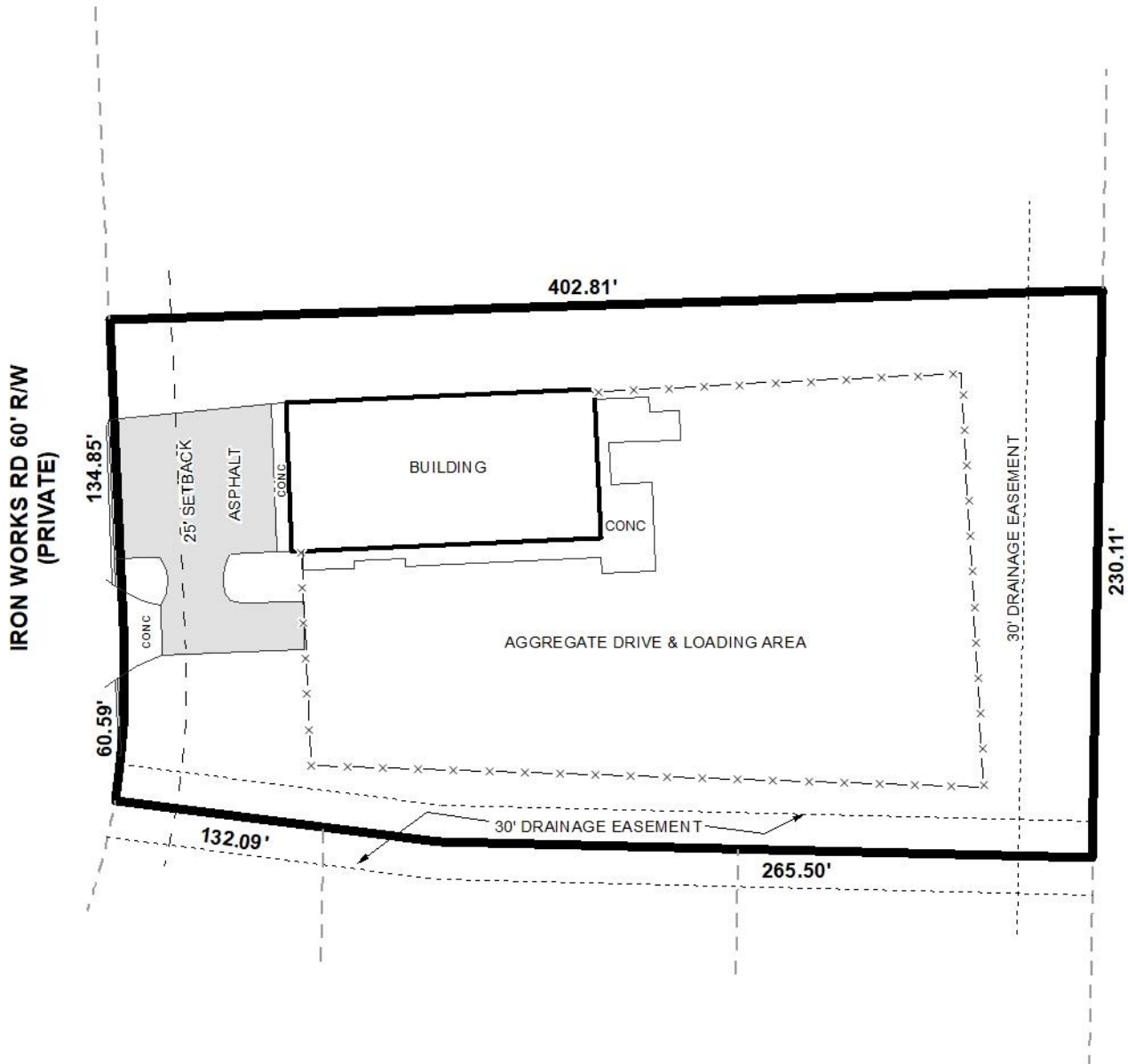


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SITE PLAN



The site plan illustrates the existing building, loading area, setback, and easements.

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