

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: June 7, 2021

CASE NUMBER

6392/2014/1960

APPLICANT NAME

Rascals Bar and Lounge LLC

LOCATION

2156 Costarides Street
(Northwest corner of Costarides Street and Driver Street).

VARIANCE REQUEST

OFF-SITE PARKING: Off-Site Parking Variance to allow all parking to be off-site for a 6,000 square-foot lounge in a B-2, Neighborhood Business District.

**ZONING ORDINANCE
REQUIREMENT**

OFF-SITE PARKING: The Zoning Ordinance requires 60 on-site parking spaces for a 6,000 square-foot lounge in a B-2, Neighborhood Business District.

ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

0.2+ Acre

**ENGINEERING
COMMENTS**

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

1. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
2. A Land Disturbance Permit should be submitted for any improvements

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**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 (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 commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL

DISTRICT

District 1

ANALYSIS

The applicant is requesting an Off-Site Parking Variance to allow all parking to be off-site for a 6,000 square-foot lounge in a B-2, Neighborhood Business District; the Zoning Ordinance requires 60 on-site parking spaces for a 6,000 square-foot lounge in a B-2, Neighborhood Business District.

The site has been given a Mixed Commercial Corridor (MCC) land use designation, per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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.

Variations 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 following concerning the request:

THE LOCATION IN QUESTION WILL BE USED AS A BAR AND LOUNGE WHERE LIQUOR, BEER, WINE AND FOOD WILL BE SOLD. THE PROPOSED DAYS AND HOURS OF OPERATION WILL BE TU-TH FROM 12PM-9PM; FRI & SAT 12PM-1AM, CLOSED ON SUN & MON; THERE WILL BE MUSIC PROVIDED BY A DJ DURING HOURS OF OPERATION; THERE WILL BE A TOTAL OF 3 EMPLOYEES WORKING AT THE PROPERTY SERVING APPROXIMATELY 50 CUSTOMERS PER DAY; THE PROPERTY IS APPROXIMATELY 9360 SQ FT; PARKING WILL BE PROVIDED ACROSS THE STREET FROM THE PROPERTY. THE PROPERTY CANNOT BE USED IN COMPLIANCE WITH THE ZONING ORDINANCE DUE TO ADDITIONAL FOOTAGE BEING ADDED TO THE PROPERTY PRIOR TO OUR PURCHASE IN 2020; THE ADDITION TOOK PLACE BETWEEN 2001 AND 2006, WE DO NOT HAVE ACCESS TO THE PAPERWORK TO SHOW THE ADDITION TO THE PROPERTY DUE TO THE PREVIOUS OWNER NOT BEING ABLE TO PROVIDE BECAUSE THE BUILDER IS DECEASED; THIS PROPERTY IS DIFFERENT FROM NEIGHBORING PROPERTIES DUE TO IT BEING A COMMERCIAL BUSINESS THAT PROVIDES PUBLIC ENTERTAINMENT; WE WILL HAVE A LICENSED SECURITY GUARD OR GUARDS IN PLACE TO ENFORCE CROWD CONTROL AND PATROL THE PARKING LOT TO MAKE SURE CUSTOMERS ARE FOLLOWING PARKING GUIDELINES FOR THE PROPERTY AND SURROUNDING AREA; WE WILL FOLLOW THE NOISE ORDINANCE PROVIDED BY THE CITY OF MOBILE AND MAKE SURE DOORS AND WINDOWS ARE ALWAYS CLOSED DURING REGULAR BUSINESS HOURS; WE HAVE ALSO SPOKEN WITH NEIGHBORING PROPERTIES TO MAKE SURE THEY ARE COMFORTABLE WITH THE OPENING OF THE PROPERTY.

The applicant recently purchased the subject site and applied for a liquor license. As part of that application process, the building size and parking plan must be submitted. As the building size is currently approximately 6,000 square feet, one parking space per 100 square feet must be provided on the lounge site. Documentation provided by the applicant indicated that all parking was off-site across Costarides Street. Nonconforming use documentation from 2001 indicated that about twenty parking spaces were provided on-site and the rest were provided off-site. Previous approvals for the lounge use indicated on-site parking was provided, but for a smaller square-footage building. Staff research discovered that the original 3,000± square-foot building had been expanded since 2001 by approximately 3,000 additional square feet, without any apparent building permits or approvals by Planning and Zoning, which eliminated almost all on-

site parking. The previous owner retained the off-site parking site when selling the lounge site. The previous owner leased the lounge to another party who made the un-permitted expansion without the owner's knowledge. Therefore, the applicant is unable to obtain the liquor license due to the noncompliant parking situation which occurred through no fault of his own and without the knowledge of the previous property owner.

In instances where a noncompliant site has been out of business for two years or more, site compliance is required before the re-establishment of business use. However, in this instance, due to the complexities of issues which occurred prior to the applicant's purchase of the lounge site, and which resulted in a noncompliant parking situation, staff is of the opinion that a hardship has been imposed upon the applicant and that the applicant should not be held responsible for the lack of compliant on-site parking. Due to the fact that previous parking was provided at the off-site location, the re-establishment of the off-site parking could be considered a reasonable request. However, the re-use of the off-site parking should be conditioned upon the submittal of a site plan indicating as many compliant parking spaces as possible, and delineated by bumper stops, with compliant maneuvering areas. Any required Building Code Inspections and Fire Department Inspections should be conducted prior to the issuance of a Zoning Certificate for the lounge use.

The applicant has demonstrated that a hardship would be imposed with respect to a literal interpretation of the on-site parking requirements of the Zoning Ordinance, and the Board should consider this request for Approval, subject to conditions.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval of the Off-Site Parking Variance request:

- 1) approving the variance will not be contrary to the public interest as the off-site parking location has previously been used as such;
- 2) special conditions do exist such that the allowance of off-site parking would be consistent with the previous history of the subject site; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the use would be compatible to the site's previous use.

The approval is subject to the following conditions:

- 1) submittal to and approval by Planning and Zoning of a site plan indicating as many compliant parking spaces as possible, and delineated by bumper stops, with compliant maneuvering areas;
- 2) compliance with the Engineering comments: *(If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 2. A Land Disturbance Permit should be submitted for any improvements.);*

- 3) any required Building Code Inspections and Fire Department Inspections are to be conducted prior to the issuance of a Zoning Certificate for the lounge use; and
- 4) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



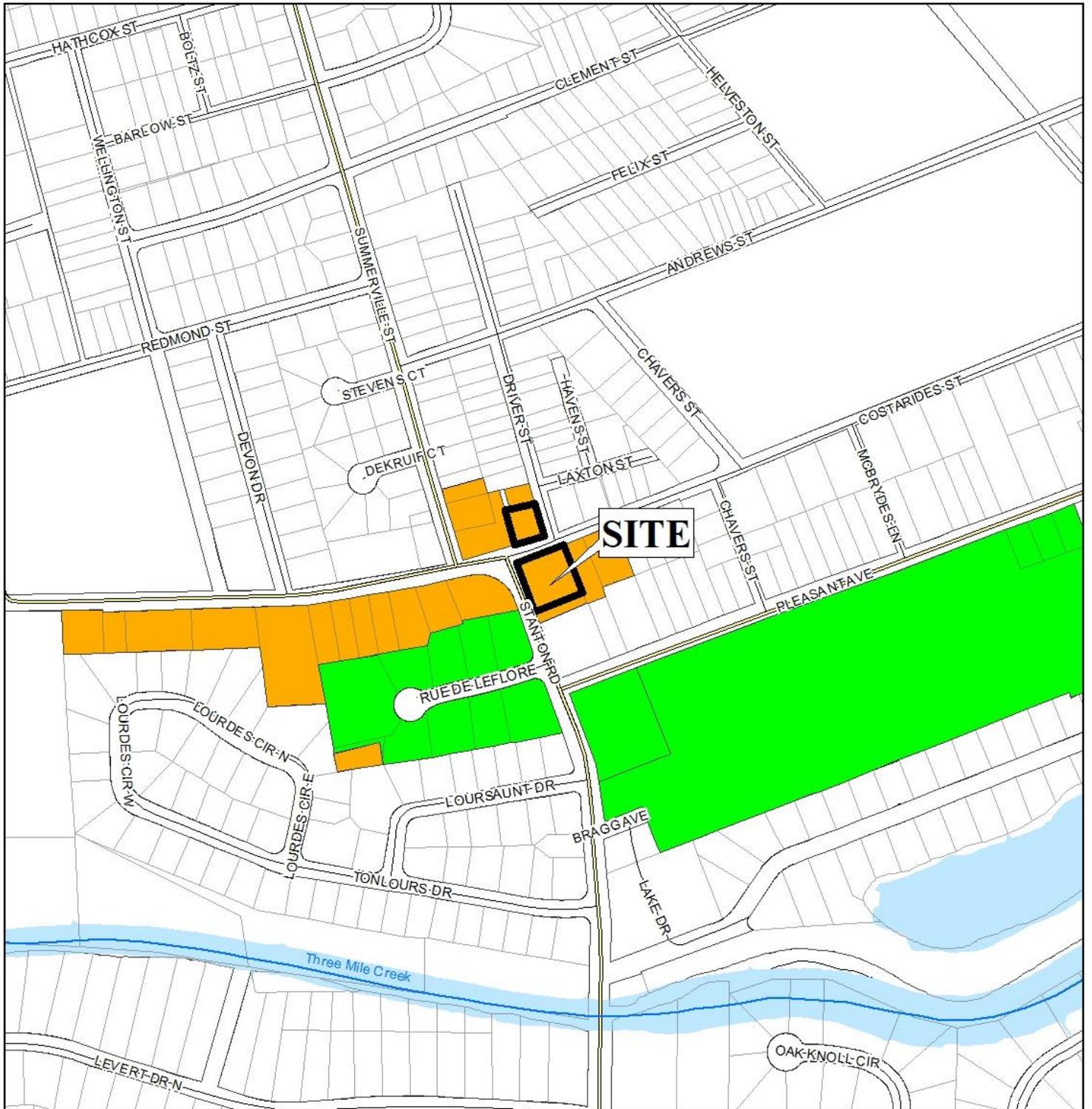
APPLICATION NUMBER 6392 DATE June 7, 2021

APPLICANT Rascals Bar and Lounge LLC

REQUEST Off-Site Parking Variance



LOCATOR ZONING MAP



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APPLICANT Rascals Bar and Lounge LLC

REQUEST Off-Site Parking Variance



FLUM LOCATOR MAP



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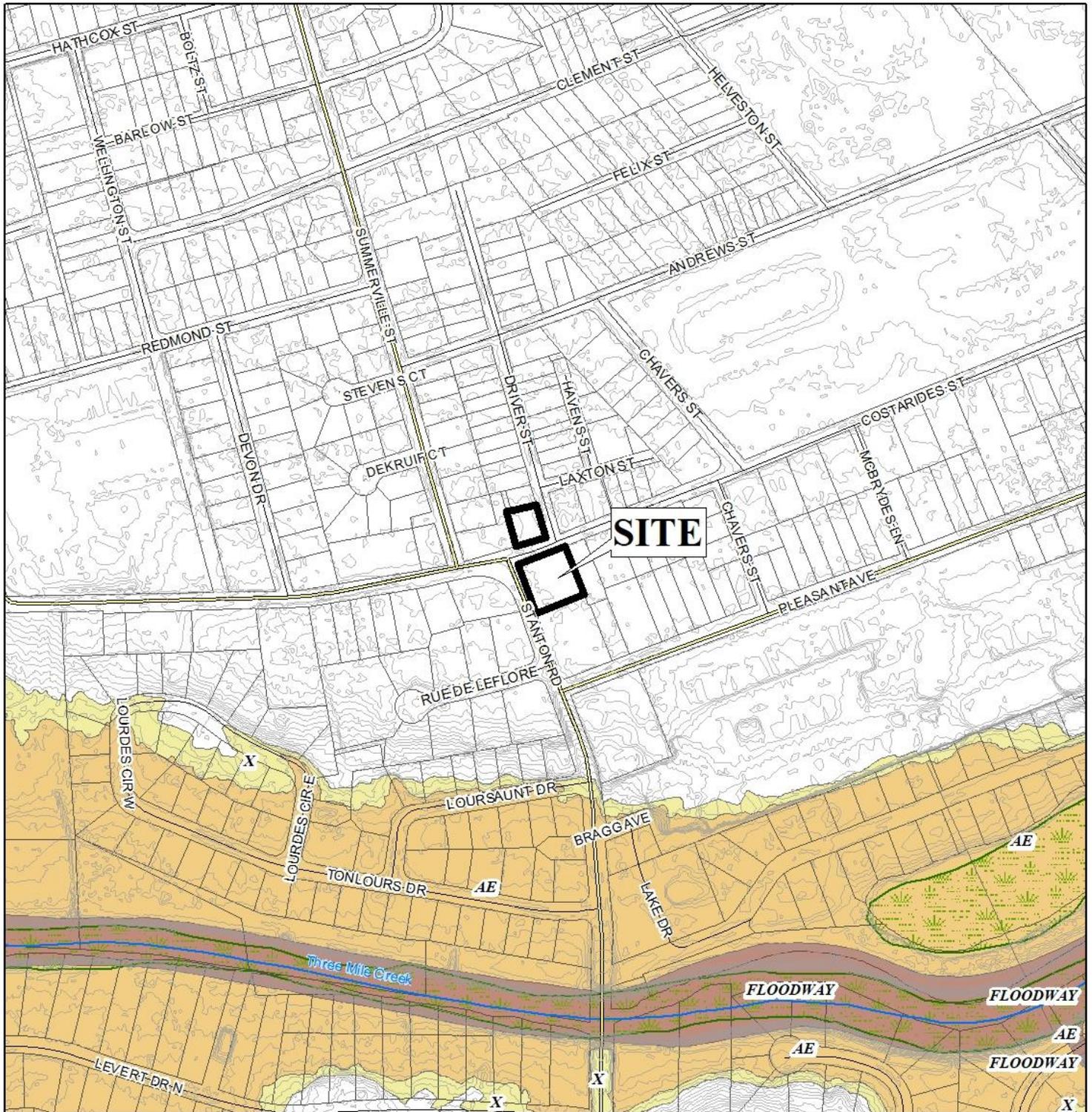
REQUEST Off-Site Parking Variance

- | | | | |
|---------------------------|-----------------------------------|---------------------|--------------------|
| 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 | |



NTS

ENVIRONMENTAL LOCATOR MAP



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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. Some commercial units 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

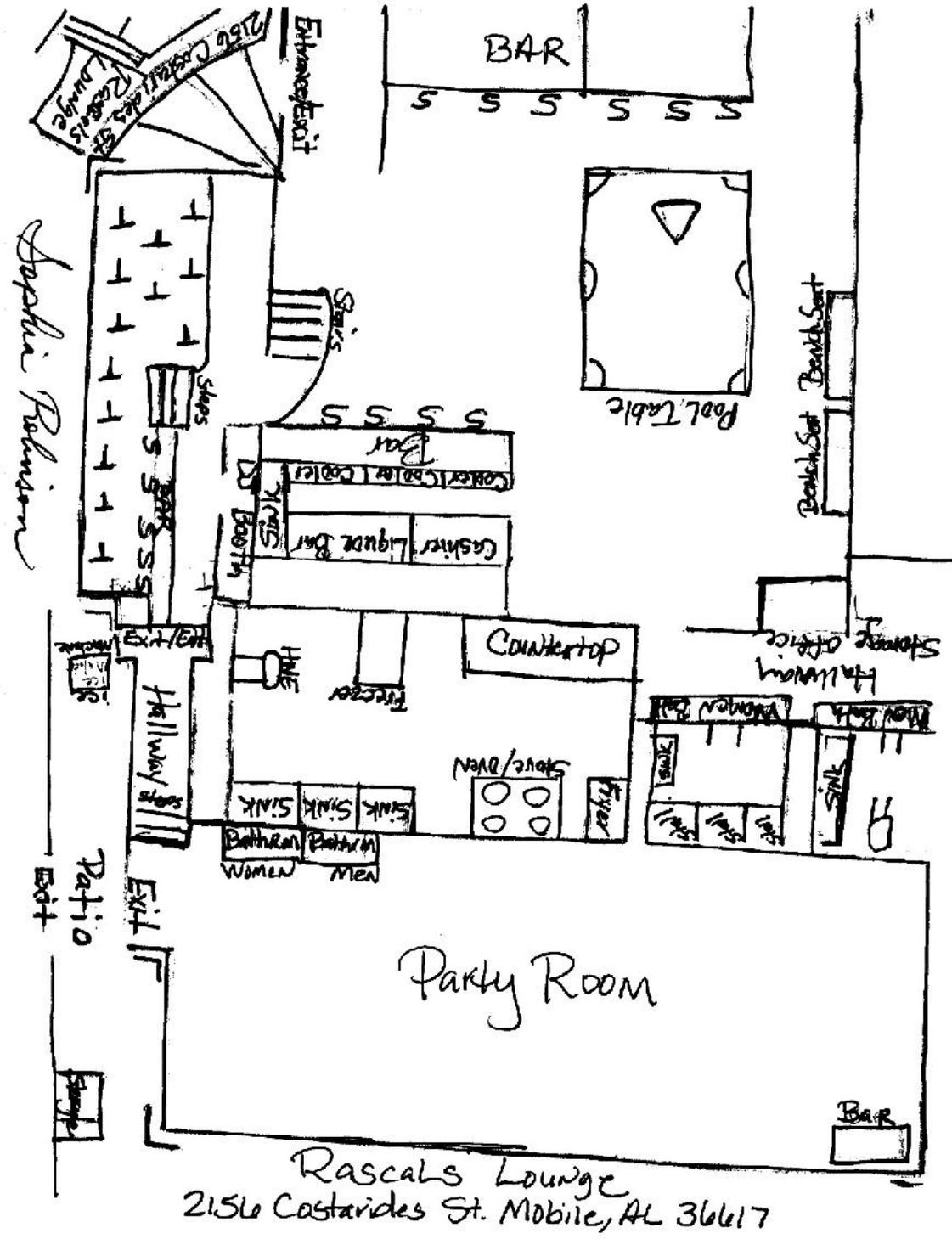


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DETAIL SITE PLAN



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