

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: June 5, 2017****CASE NUMBER**

6116

**APPLICANT NAME**

Betty Bush, for The Bush Tot Spot

**LOCATION**1610 Union Street  
(East side of Union Street, 657'± South of Rochester Street)**VARIANCE REQUEST****USE:** Use Variance to allow a daycare in an R-1, Single-Family Residential District.**BULK/SITE:** Bulk/Site Variance to allow multiple buildings on a single-site for a commercial daycare in an R-1, Single-Family Residential District.**TREE PLANTING:** Tree Planting Variance to allow reduced frontage tree plantings for a commercial daycare in an R-1, Single-Family Residential District.**PARKING RATIO:** Parking Ratio Variance to allow six parking spaces for a commercial daycare with seven teaching stations in an R-1, Single-Family Residential District.**SURFACING:** Surfacing Variance to allow gravel surfacing for a commercial daycare in an R-1, Single-Family Residential District.**ACCESS AND MANEUVERING:** Access and Maneuvering Variance to allow a 21.5' + driveway for two-way traffic for a commercial daycare in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****USE:** the Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a commercial daycare.**BULK/SITE:** the Zoning Ordinance allows one building per single commercial building site.

**TREE PLANTING:** the Zoning Ordinance requires a minimum of one heritage tree per 30 linear feet of street frontage for a commercial building site.

**PARKING RATIO:** the Zoning Ordinance requires a minimum of 1½ parking spaces per teaching station, for a total of 11 parking spaces for seven teaching stations.

**SURFACING:** the Zoning Ordinance requires that parking be paved with concrete, asphaltic concrete, asphalt, or approved alternative parking surface for a commercial building site.

**ACCESS AND MANEUVERING:** the Zoning Ordinance requires that driveways be a minimum of 24' wide for two-way traffic for a commercial building site.

## **ZONING**

R-1, Single Family Residential

## **AREA OF PROPERTY**

16,682 square feet / 0.38±Acres

## **CITY COUNCIL DISTRICT**

District 1

## **ENGINEERING COMMENTS**

If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

- a. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The handicapped parking spaces and must be paved. Aggregate surfacing will NOT be allowed within the public ROW.
- b. Submit a ROW Permit (City of Mobile Eng. Dept.) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.

## **TRAFFIC ENGINEERING COMMENTS**

If the surface variance is approved, bumper stops should be included on the gravel surface to delineate any required parking spaces (illustrated on site plan). Aggregate cannot extend into the right-of-way and cannot be used in the areas designated as the accessible path from the required handicap space to the building. Consult with Engineering and Traffic Engineering for the design of the concrete apron. Because the right-of-way for Union Street is narrow, additional apron width may be require onto the site to further prevent any gravel from entering the roadway. The proposed 5' radii are also appropriate given the narrow width of the street; they are more in line with a residential standard.

**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).

**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 Use, Bulk/Site, Tree Planting, Parking Ratio, Surfacing, and Access and Maneuvering Variances to allow a daycare with multiple buildings on a single building site, reduced frontage tree plantings, six parking spaces with gravel surfacing for seven teaching stations, and a 21.5'± driveway for two-way traffic in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a daycare with a maximum of one building on a single building site, a minimum of one heritage tree per 30 linear feet of street frontage, 1½ parking spaces per teaching station paved with concrete, asphaltic concrete, asphalt, or approved alternative parking surface, and a 24' wide driveway for two-way traffic.

The applicant proposes to establish a commercial daycare on a property currently developed with one 984 square foot single-family residential dwelling. The applicant proposes to place a separate 1,728 square foot modular building on the rear of the property to accommodate additional children.

The applicant provided the following statement:

*I'm applying for use variance at 1610 union street mobile Alabama for the purpose of doing a 24 hour, seven days a week daycare for parents and /or caregivers with traditional and non-traditional schedules. I have operated in the daycare business for 7 years and loved every minute of it. This property has an existing building that I will utilize for 30-40 2-4 year olds, after schoolers, kitchen area with a bathroom also a modular building for the infants.*

*I know this building can and will be an asset to the community where parents can bring their children for quality care. I have a very well respected reputation for the care I give to their children left in my care. Because not everyone have a nine to five schedule on their job or someone whom they can trust their children with. I am praying that this property can be zoned commercial and I will be permitted to add the new modular building on the property.*

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 site is located on Union Street, a dead-end roadway with a 30-foot wide, sub-standard right-of-way, and a sub-standard width paved road, with asphalt wing curb-and-gutter. The site is bounded to the North, West and South by residential uses in an R-1 district, and to the East by the Joseph Dotch Community Center and Trinity Gardens Park.

The applicant received approval in January 2010 to operate a home-based daycare at 1615 Union Street, which is across the street from the site in question. The Zoning Clearance approval limited the applicant to no more than 6 children, and no outside employees. The applicant has since closed the home-based facility.

The proposed commercial daycare use requires, typically, an associated commercial zoning designation. The site in question, due to the location within a residential district, would be unlikely to be recommended for a commercial zoning designation if rezoning were requested. There do not appear to be any existing properties with a B-2 designation within the greater Trinity Gardens community, thus it would appear that the applicant's options are limited.

The location of the site on a dead-end, sub-standard street is of concern as it relates to the safety of the children should there be an emergency, and the possible traffic that may be generated by the proposed use. While the site benefits from a lack of through-traffic, it would not benefit from the challenge of an emergency vehicle having only one way to reach the site. For these two reasons alone, it would appear to be a well-intentioned use, addressing a community need, in the wrong location.

Regarding the site related variances, it appears that a fully compliant tree and landscape plan was submitted, thus compliance would be possible.

As for the access and maneuvering variance, it appears that there is sufficient area on the site to adjust the parking to provide the needed additional 3 to 4 feet to widen the drive to the required minimum width.

Aggregate surfacing of the parking and maneuvering area, with the exception of the accessible parking space, would reduce storm water runoff, but might also cause challenges for parents pushing children in strollers. Also, since the site is within AE and X-shaded flood zones, aggregate surfacing may not be suitable due to poor soil conditions.

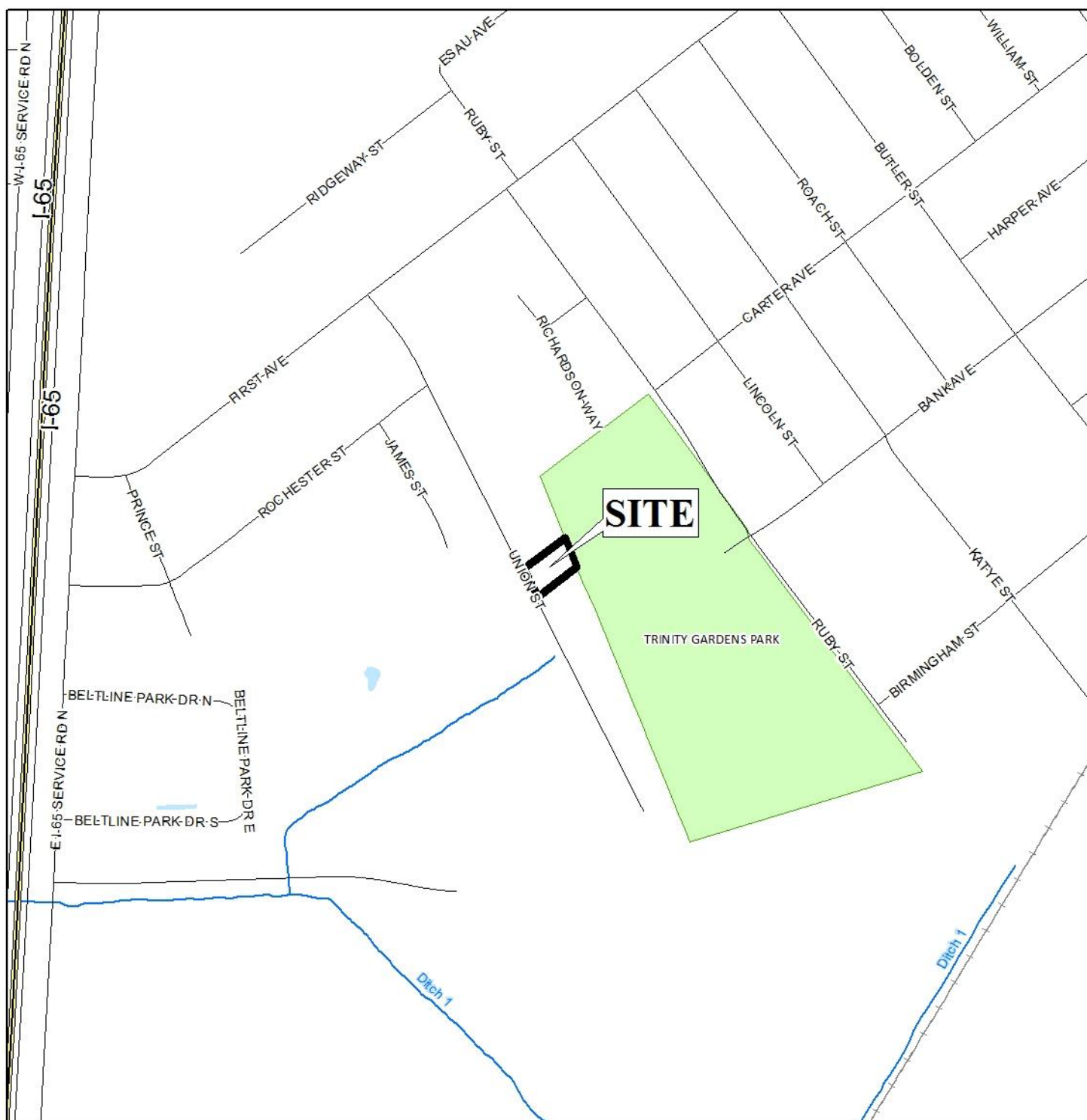
With only six proposed parking spaces, and a capacity of 30-40 proposed children ages two to four years, plus infants, there is a concern of insufficient available parking for parents dropping off or picking up their children, as well as for employees. While the pick-up and drop-off activities may be spread throughout the day, if there is insufficient parking on the property,

parents may be forced to park partially in the roadway, further exacerbating access for emergency vehicles and other residents.

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

- 1) Based on the fact that the property is located on a dead-end street, with limited access for emergency vehicles, and is within a residential area, granting the variance will be contrary to the public interest;
- 2) No special conditions exist with the property itself, 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 applicant and the surrounding neighborhood by granting the requested variances, as the proposed size of the daycare facility may create an unnecessary traffic burden for other residents located on Union Street.

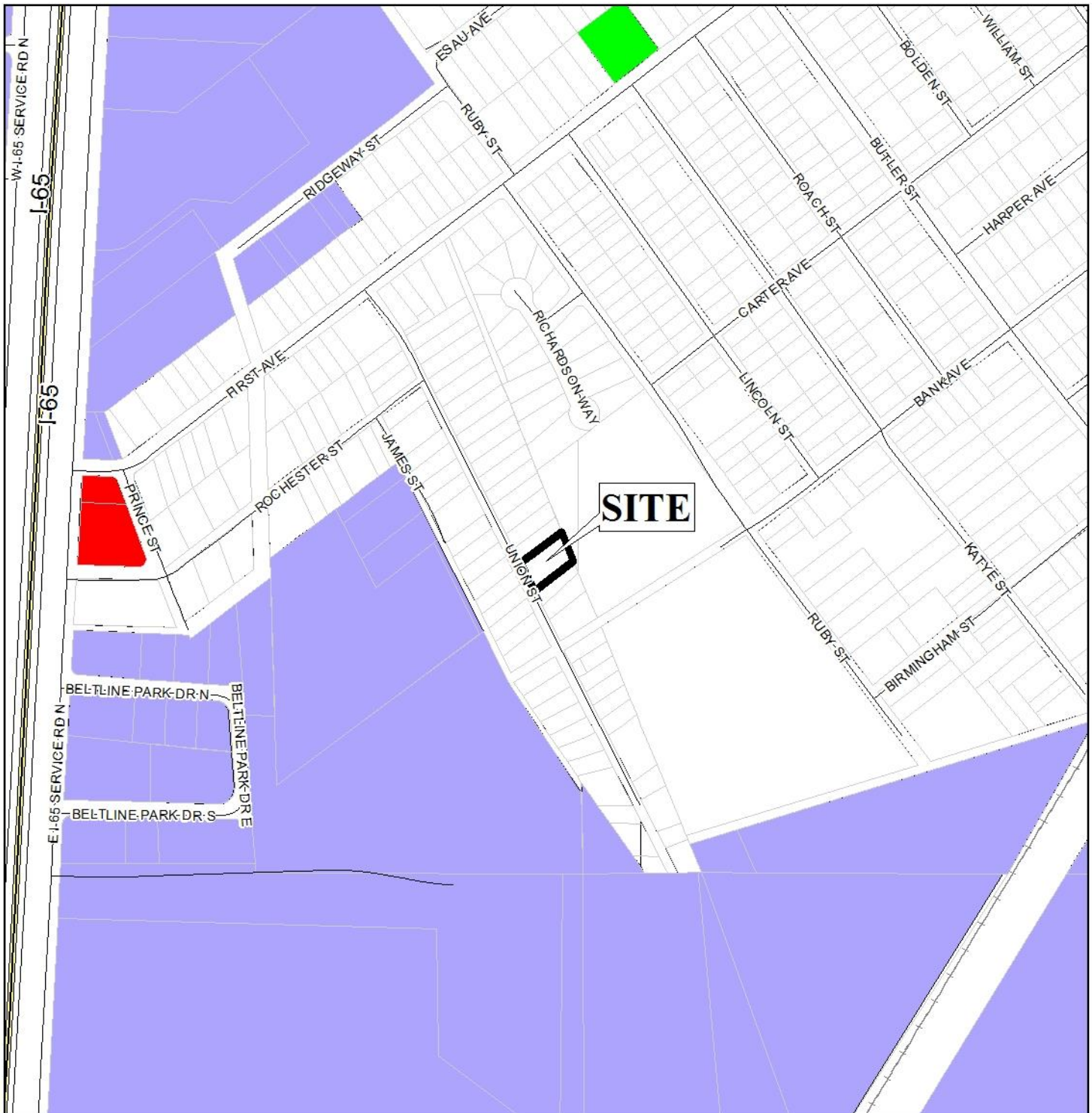
# LOCATOR MAP



APPLICATION NUMBER 6116 DATE June 5, 2017  
 APPLICANT Betty Bush, for The Bush Tot Spot  
 REQUEST Use, Bulk/Site, Tree Planting, Parking Ratio, Surfacing, and Access and Maneuvering Variances



# LOCATOR ZONING MAP



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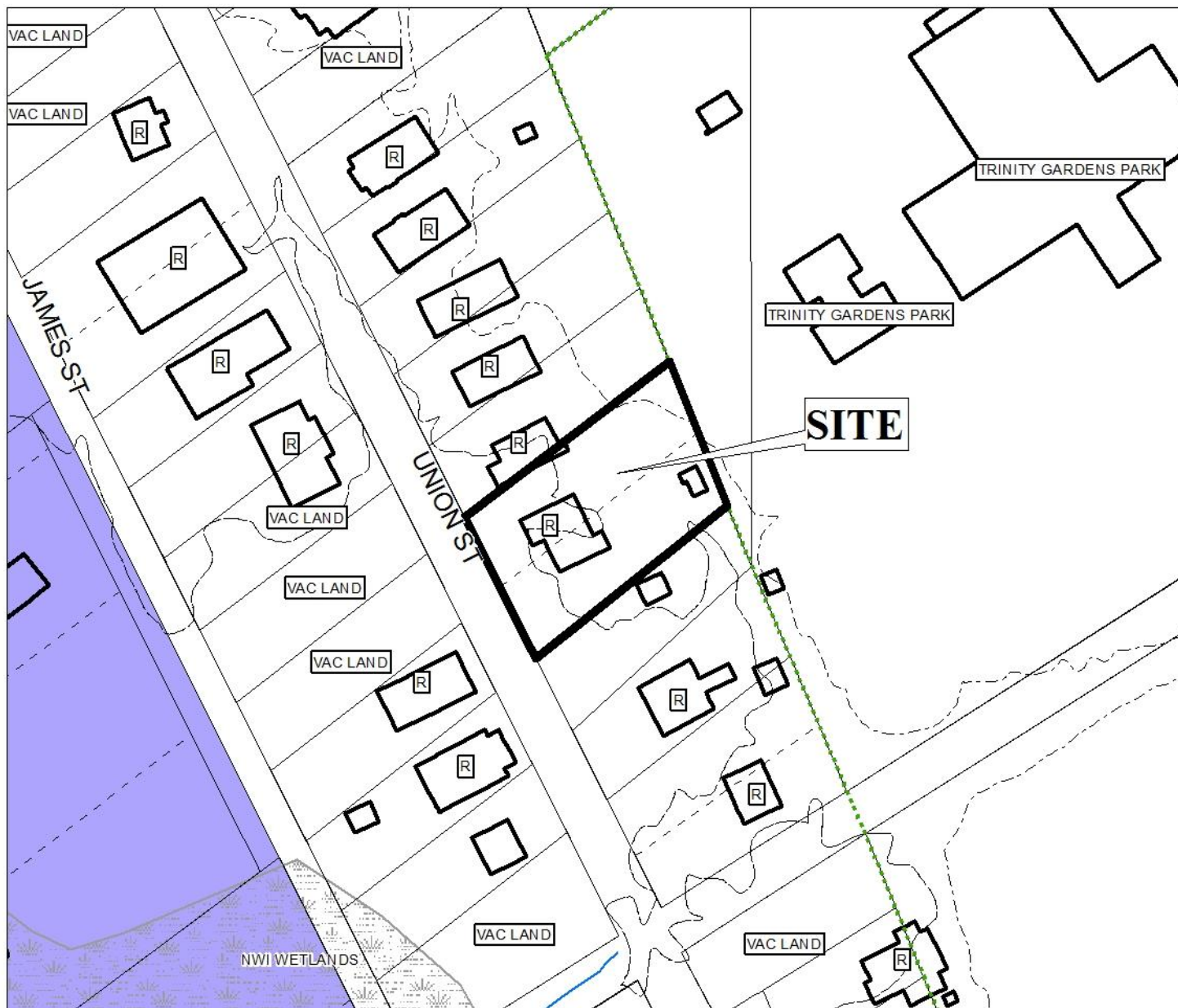
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NTS



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A park lies northeast of the site.

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<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> T5.1
<span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpink; border: 1px solid black;"></span> T3	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkpurple; border: 1px solid black;"></span> T5.2
<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: peachpuff; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: gray; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpurple; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



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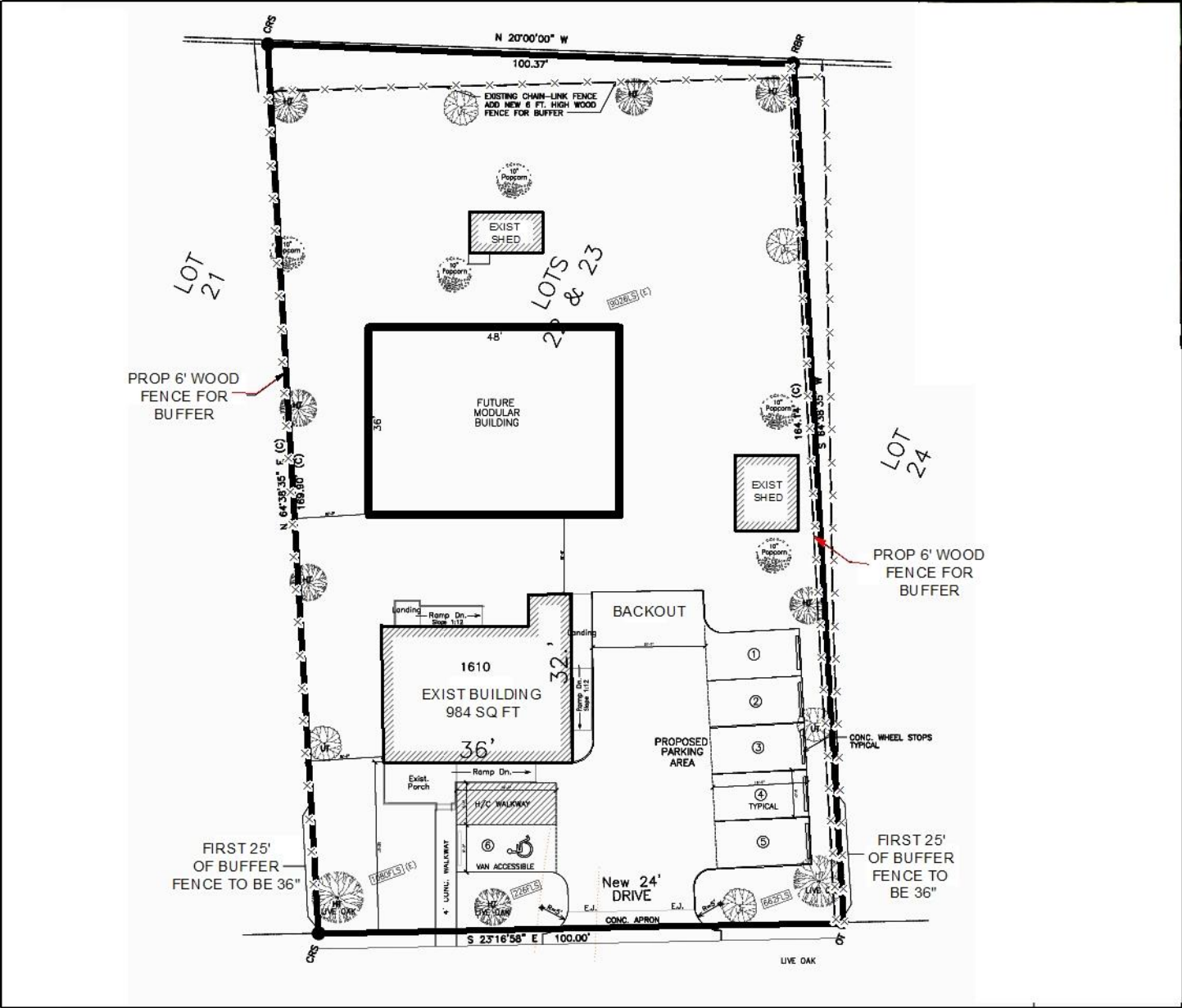
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# SITE PLAN



The site plan illustrates the existing buildings, proposed building, prop fences, and parking.

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