

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 9, 2019**

<u>CASE NUMBER</u>	6282
<u>APPLICANT NAME</u>	Darling Ingredients (Formerly Griffin Industries, Inc.)
<u>LOCATION</u>	760 Zeigler Circle (North side of Zeigler Circle, 307' ± East of Zeigler Boulevard).
<u>VARIANCE REQUEST</u>	SIDE YARD SETBACK VARIANCE: Side Yard Setback Variance to allow a structure within required side yard setbacks in a B-3, Community Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SIDE YARD SETBACK VARIANCE: The Zoning Ordinance requires at least a 5 foot side yard setback in a B-3, Community Business District.
<u>ZONING</u>	B-3, Community Business District
<u>AREA OF PROPERTY</u>	0.9 ± Acres
<u>CITY COUNCIL DISTRICT</u>	District 7
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	If new asphalt paving is proposed, site should also include a proper asphalt driveway and turn out, and any gravel in the right-of-way to be removed.
<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 (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 Side Yard Setback Variance to allow a structure within required side yard setbacks in a B-3, Community Business District; the Zoning Ordinance requires at least a 5 foot side yard setback in a B-3, Community Business District.

The site has been given Mixed Commercial Corridor 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 land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. Mixed Commercial Corridors 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 following for the variance request:

This site is the existing location for Darling Ingredients, Inc. a.k.a. DAR-PRO. This business consists of collecting used cooking oil and the cleaning of grease traps and interceptors. The new building to be located on this site will be used to clean used cooking oil containers that are collected from area restaurants. The construction of the foundation for this new building was permitted under BLDC-036363-2019. The intent was for the building to be 5 feet from the north property line; however, the slab was constructed with the westerly and easterly corner being 3 feet and 7.8 feet, respectively from the property line. Therefore, the purpose of this variance application is to allow a portion of the building to be closer than 5 feet from the property line. Zoning requires that any proposed structure must be 0 feet or 5 feet from the property line.

This is a 60' x 40' pre-engineered metal building with no occupants. Approximately 25 feet of the 60' long building will be closer than 5' from the north property line. The entire wall adjacent to the north property line will be fire rated as required by the building code. All storm water run-off from the roof will be collected and discharged into a new on-site detention area. No storm water will encroach on adjacent property. Since the foundation for this building has already been permitted and constructed, it would be an undue hardship on the owner to relocate the foundation.

This site was developed in accordance with County requirements prior to this area being annexed into the City. As shown on the survey submitted with this application, the majority of the lot is paved with crushed limestone rather than concrete or asphalt as required by the City. In conjunction with the new building the rear 50 feet more or less of area will be paved with crushed limestone for truck maneuvering. It would be impractical to pave the rear 50 feet with concrete or asphalt, since the majority of the lot is already paved with crushed limestone. Therefore, this deviation from the City's Zoning Ordinance is included in this variance application.

The Darling Ingredients Inc. Mobile location activities include the collection of used cooking oil (UCO) and the cleaning of grease traps and interceptors. The UCO is transferred at the Mobile location and routed to another Darling facility for processing. The grease trap and interceptor cleanout is directly disposed of at licensed and permitted facility depending on the geographic area where the grease traps and interceptors are located. Please note, grease trap and interceptor cleanout is not returned to the Mobile facility.

We are expanding our parking area, and building a shed to park and store our equipment in. This is being done to accommodate our growing business. We constructed the slab of our shed to have a catch basin built in the northeast corner.

The slab is built in such a manner that any liquid will flow toward the basin. The north and east sides of the slab will have 12-inch containment walls and the south and west side will have a 3-inch curb. The basin will be covered with a metal grate that can be

remove This setup will contain any spills and or washdown water from equipment cleaning. We will then use one of our vacuum trucks to suck up the water and dispose of it along our trap waste. We also have the option of including the water with our raw material, for transport to our recycling facility.

The new parking area is built in such a manner so any runoff water will flow across the granite, and then into the heavily vegetated and wooded area to the west for approximately 100 feet, until it gets to the drainage ditch.

It should be pointed out that the applicant did indeed submit building plans for new construction on the site on April 4, 2019. Upon reviewing the site plan, the Planning and Zoning Department failed the initial building plan review and stated the following comments:

Proposed structure does not meet minimum building setbacks. (Minimum rear setbacks for B-3 zoning district are 0' or 5' from the rear property line). The structure appears to be illustrated on adjacent property. Also, there is a 15' drainage and utilities easement illustrated in the rear of the property. No structure can be erected in any easement. Please provide a to-scale site plan depicting compliant setbacks with the structure located out of the easement. Land Disturbance permit is required.

The applicant then resubmitted for a second plan review on April 30, 2019. The Planning Department failed that review as well and submitted comments stating “*any proposed structure must be 0’ or 5’ from the side property line*”. The applicant resubmitted for a third review on May 15, 2019. The Planning and Zoning Department failed the permit review and stated the above comments again. The applicant was made aware several times that the proposed structure could only be located 0’ or 5’ from the side property line.

A portion of the slab for the structure is 3 feet from the side property line while the remaining portion is 7.8 feet. As illustrated on the site plan, there is more than adequate room to place the structure in a compliant location.

It should also be pointed out that the applicant depicts new crushed limestone on the site plan. The applicant also references the request to allow the rear portion of the property to have crushed limestone for parking and truck maneuvering. The narrative mentions that majority of the site already consist of crushed limestone because it was present prior to the site being annexed by the city; however, due to the new construction of the site, staff would require an approved parking surface. Crushed limestone is not allowed by right in a B-3 zoning district. The applicant was correct in requesting relief from the Zoning Ordinance; however, the additional site variance request to allow unpaved parking was not included in the legal ad. Additional fees and notice would be required to address this additional request.

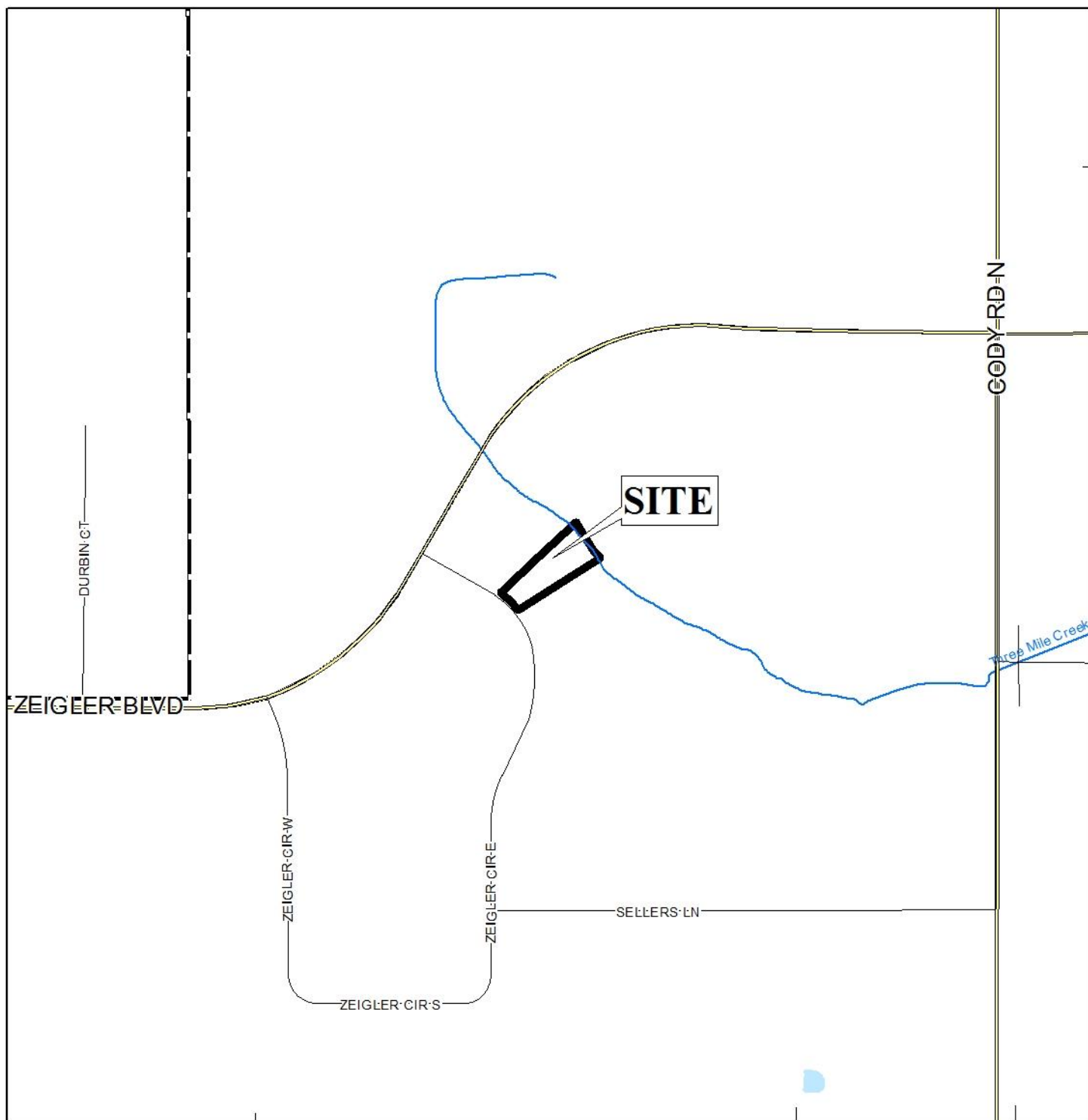
There are no conditions which exist at this site that would require the applicant to construct a structure that does not comply with the side yard setback requirements. It appears that it is merely the applicant’s desire as three plan reviews documented this requirement. No hardships have been presented that would necessitate the approval of the variance. The location of the proposed structure may be desirable to the applicant due to various reasons noted in the

narrative; however, there is sufficient room on the site to allow the placement of the structure without encroaching in any setbacks; especially considering it can be placed on the property line. Furthermore, the applicant was advised by staff numerous times prior to the construction of the slab that any proposed structure must be 0' or 5' from the side property line.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Denial:

- 1) allowing the proposed reduced side yard setback would be contrary to the public interest in that the slab/ structure can be removed or relocated on the site to comply with setback requirements within a B-3, Community Business District;
- 2) special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as it would not be difficult to relocate the proposed structure out of the setbacks as the construction of the proposed structure is not yet completed; 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 because the site can be developed in such a way that the proposed structure could be placed on the property line or 5 feet from it to meet the setback requirements.

LOCATOR MAP



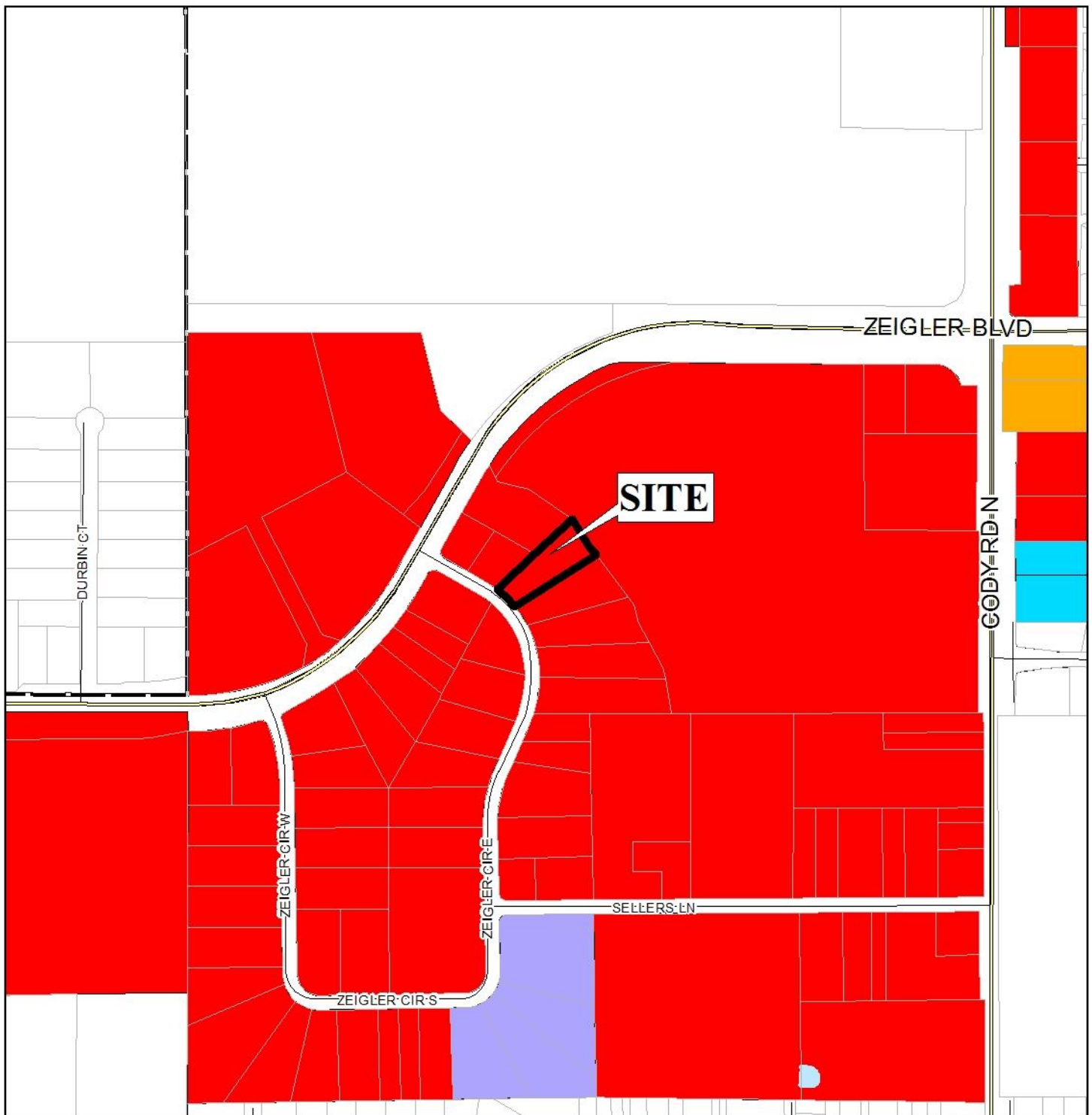
APPLICATION NUMBER 6282 DATE September 9, 2019

APPLICANT Darling Ingredients (Formerly Griffin Industries, Inc.)

REQUEST Setback Variance



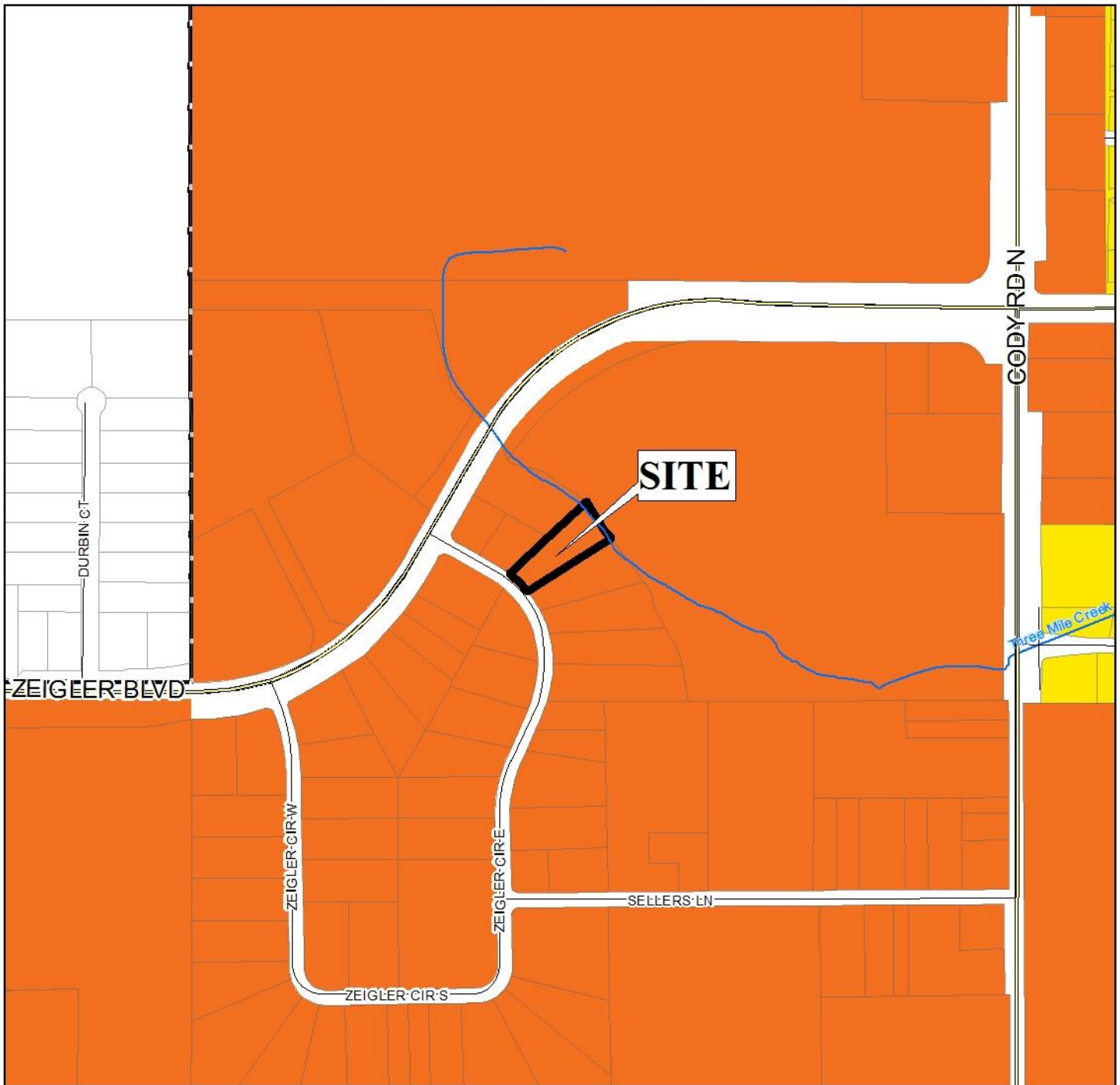
LOCATOR ZONING MAP



APPLICATION NUMBER 6282 DATE September 9, 2019
APPLICANT Darling Ingredients (Formerly Griffin Industries, Inc.)
REQUEST Setback Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6282 DATE September 9, 2019

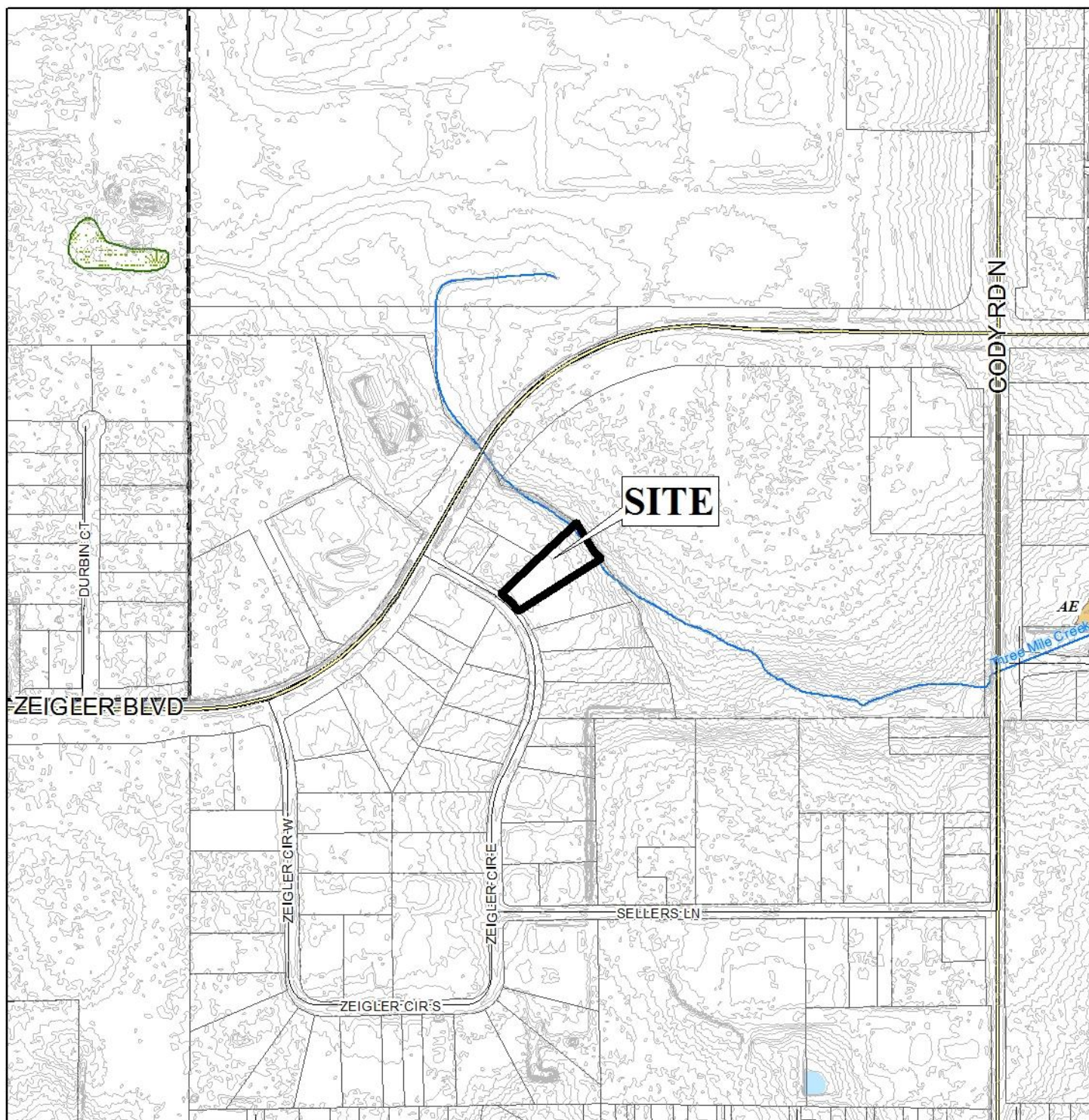
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REQUEST Setback Variance

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	



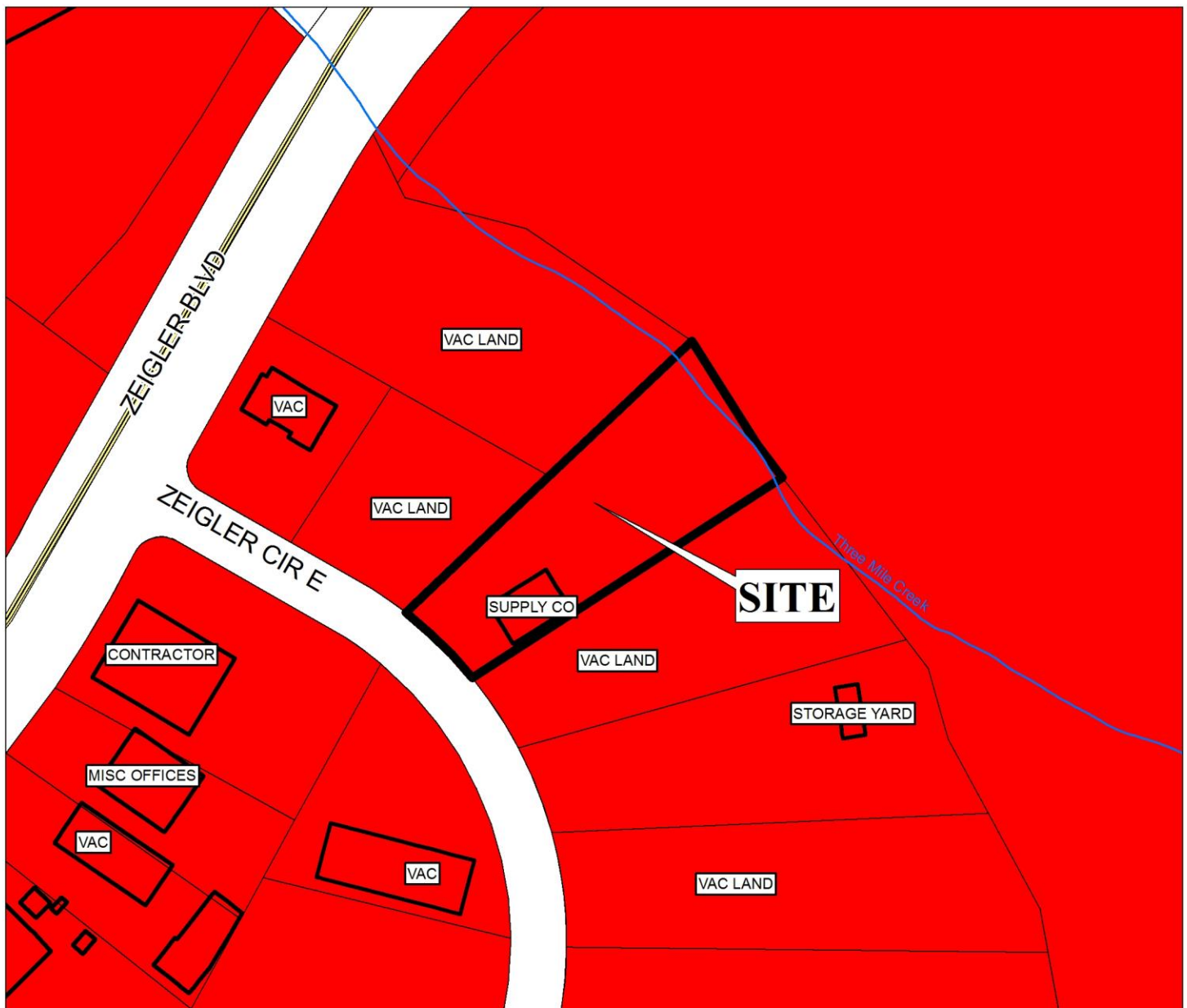
ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6282 DATE September 9, 2019
APPLICANT Darling Ingredients (Formerly Griffin Industries, Inc.)
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

APPLICATION NUMBER 6282 DATE September 9, 2019

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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



City of Mobile GIS Department

The site is surrounded by commercial units.

APPLICATION NUMBER 6282 DATE September 9, 2019

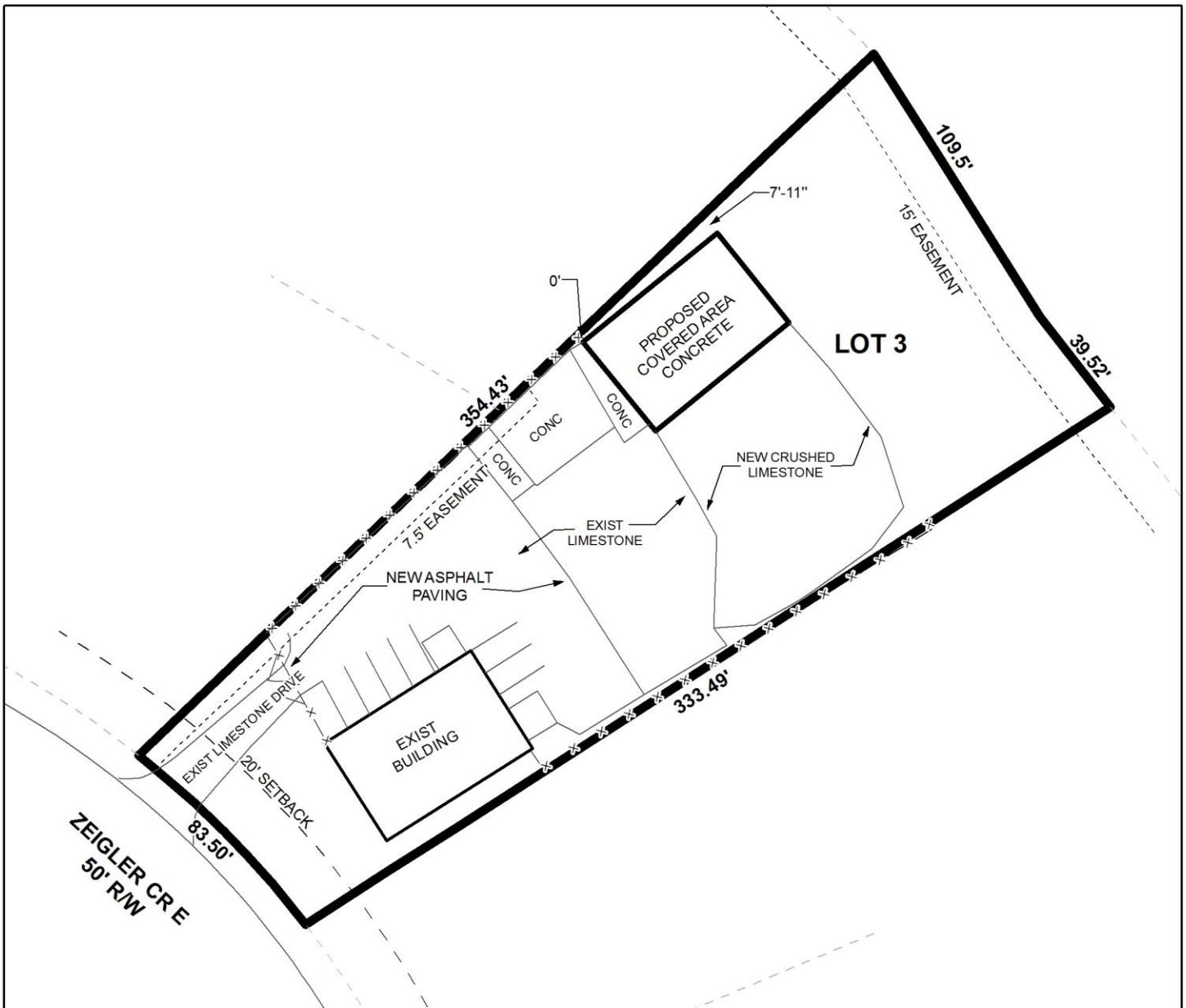
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NTS

SITE PLAN

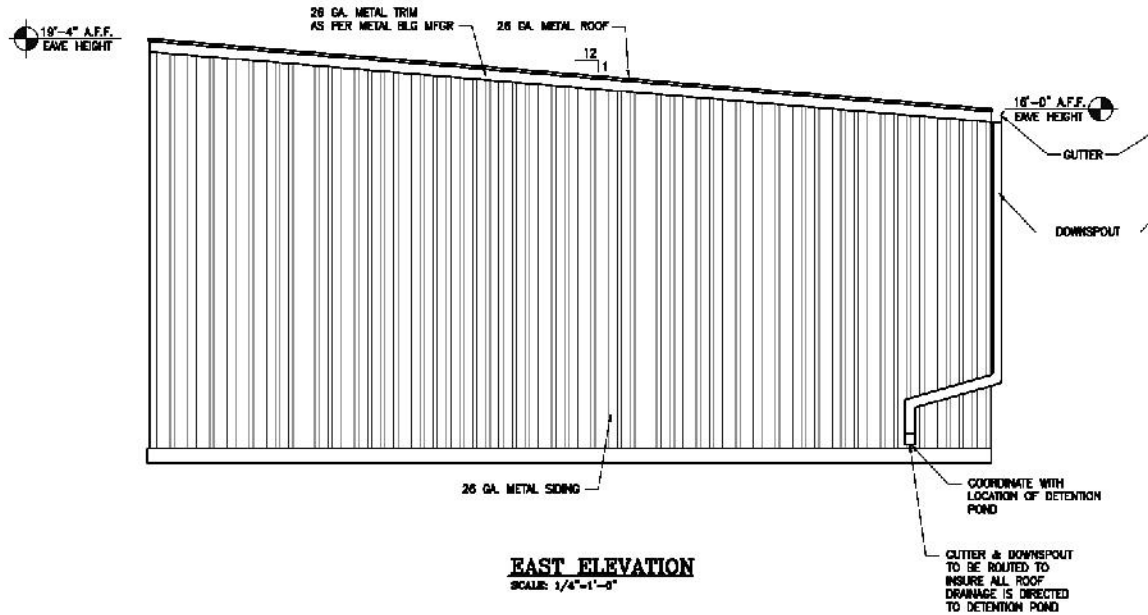
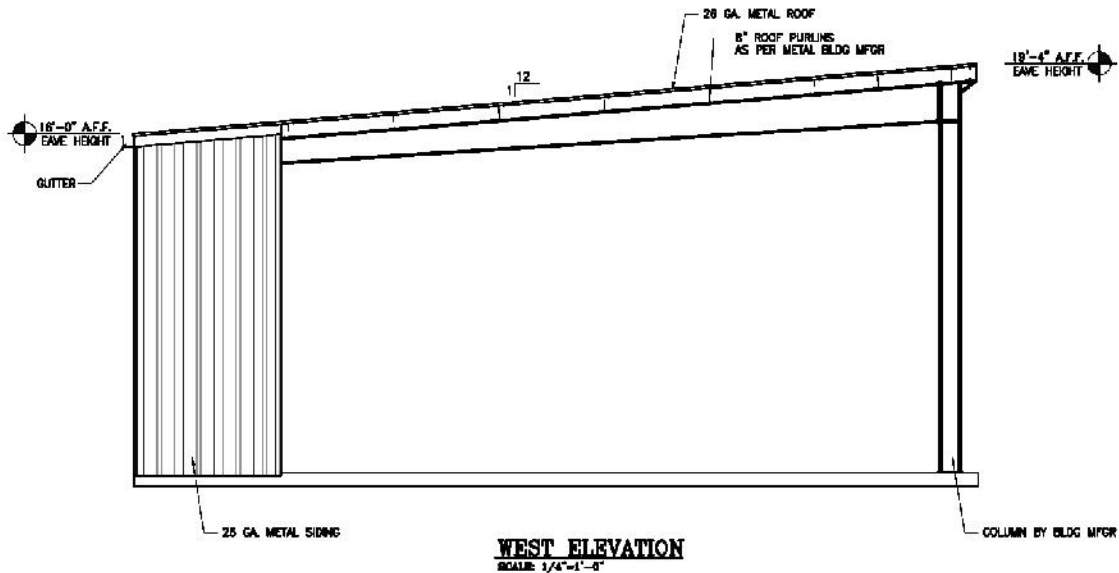


The site plan illustrates the existing building, the proposed covered area, setbacks and easements.

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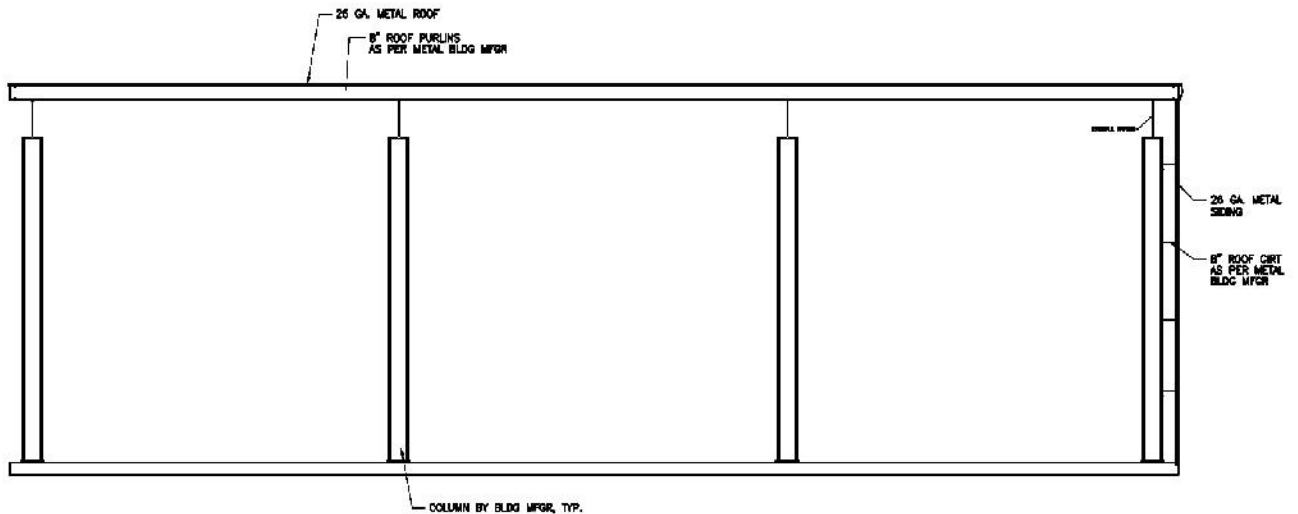
DETAIL SITE PLAN



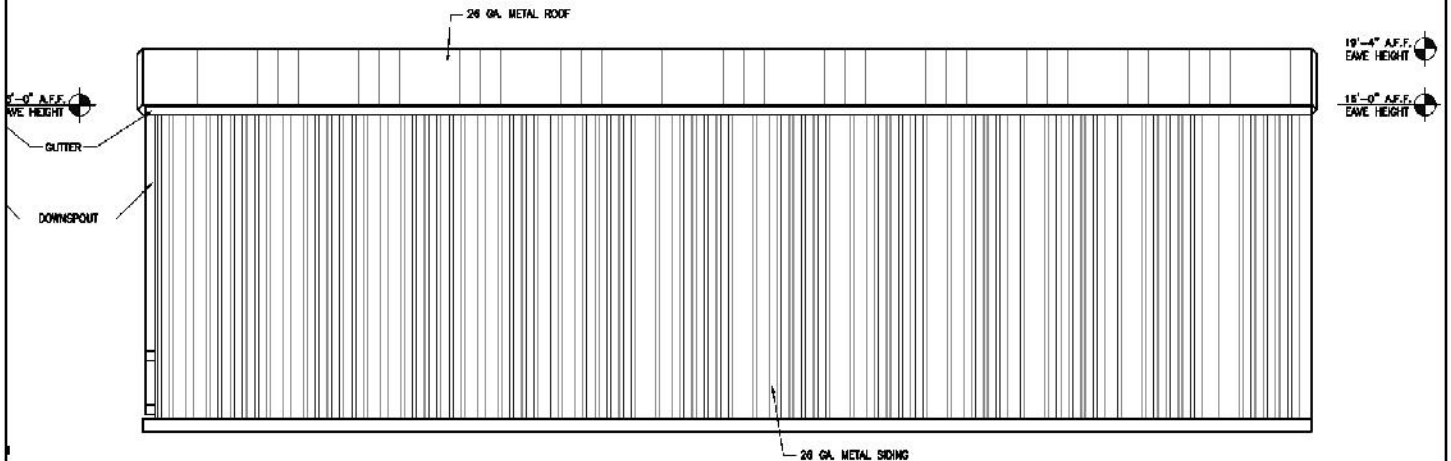
APPLICATION NUMBER 6282 DATE September 9, 2019
 APPLICANT Darling Ingredients (Formerly Griffin Industries, Inc.)
 REQUEST Setback Variance



DETAIL SITE PLAN



SOUTH ELEVATION
SCALE: 1/4"=1'-0"



NORTH ELEVATION
SCALE: 1/4"=1'-0"

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