

**BOARD OF ZONING ADJUSTMENT
ADMINISTRATIVE APPEAL STAFF REPORT****Date: June 4, 2012****CASE NUMBER**

5758

APPELLANT NAME

Frances Hoffmann and Heinz Hoffmann, individually and as trustees

LOCATION21 Hillwood Road
(East side of Hillwood Road, 600'± South of Old Shell Road).**ADMINISTRATIVE
APPEAL**

Administrative Appeal of the issuance of a Certificate of Occupancy by the City of Mobile Building Official for a new single-family dwelling; and requesting that said Certificate of Occupancy be rescinded.

ZONING

R-1, Single-Family Residential

**CITY COUNCIL
DISTRICT**

District 5

ANALYSIS

The appellants contend that the City of Mobile Building Official erred in issuing a Certificate of Occupancy upon the completion of a new residence at 21 Hillwood Road. The bases for the appeal as stated several times in the application relate to an alleged failure to comply with the City of Mobile Storm Water Management and Flood Control Ordinance (Chapter 17 of the City Code) and failure to comply with a condition of Subdivision approval (condition required compliance with the City of Mobile Storm Water Management and Flood Control Ordinance).

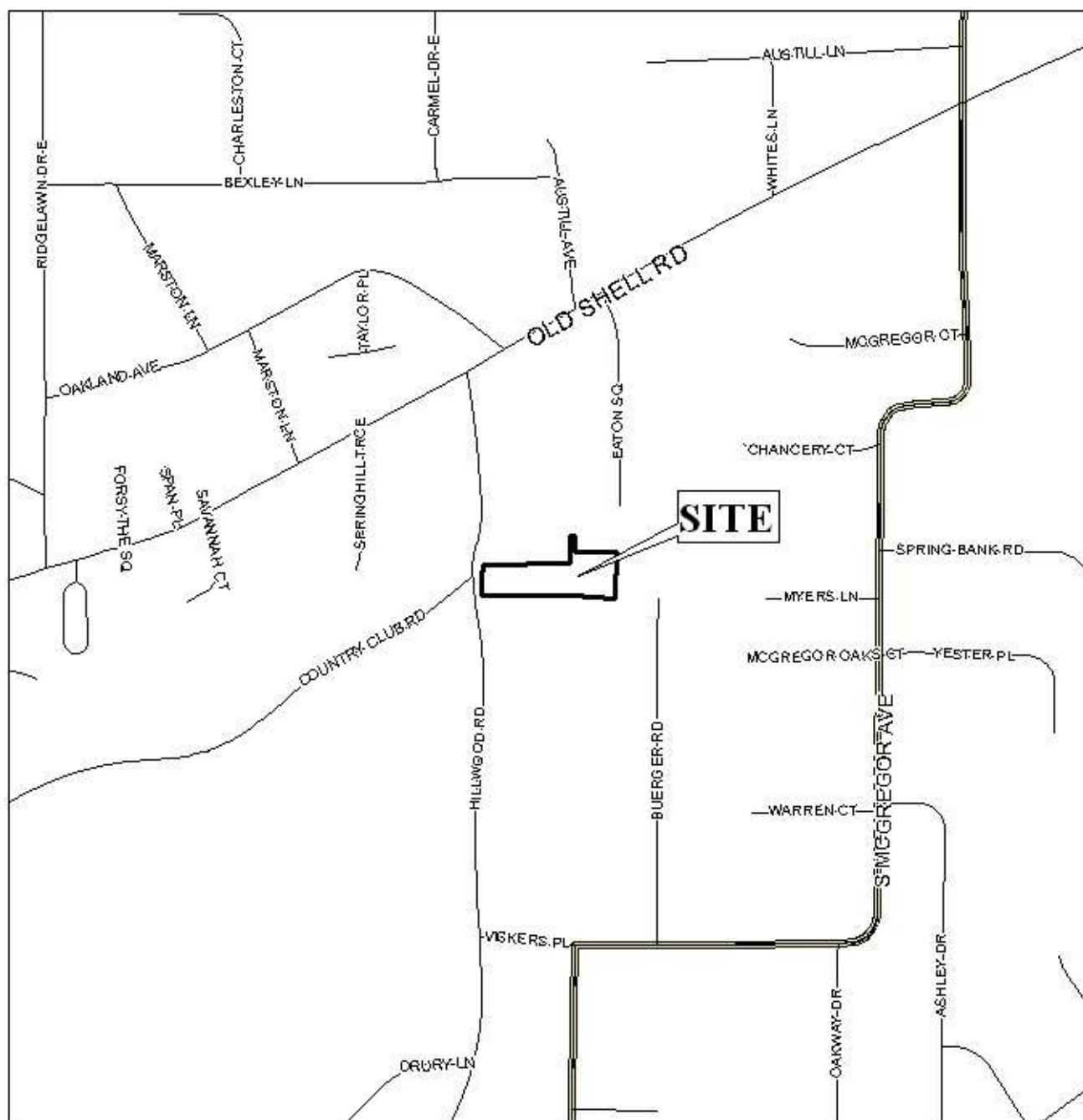
Certificates of Occupancy are issued by the Building Official under the authority of the Building Code (Chapter 11 of the City Code). References to Certificate of Occupancy in the Zoning Ordinance are specific to compliance with requirements of the Zoning Ordinance. The Subdivision Regulations are a separate document from the Zoning Ordinance, and are enabled under a separate Article of the State Code.

The Zoning Ordinance (Chapter 64 of the City Code) and the State Code (Section 11-52-80), authorize the Board of Adjustment to hear appeals of decisions, determinations, or actions of an administrative official only in the administration and enforcement of the Zoning Ordinance. The powers of the Board are limited to those parameters. Thus, an appeal the basis of which is unrelated to the administration and enforcement of the Zoning Ordinance is outside the authority of the Board.

Further, the appellants already have pending litigation in the Circuit Court against the City of Mobile. That complaint alleges that the City of Mobile failed to enforce its Storm Water Management and Flood Control Ordinance and asks that the Court revoke the Land Disturbance Permit that was issued for the site in question.

RECOMMENDATION: Based on the preceding, it is recommended that the Board determine the appeal is not relative to Chapter 64 of the Municipal Code, or Title 11, Chapter 52, Article 4, of the Code of Alabama, as amended; and as such, is outside the jurisdiction of the Board.

LOCATOR MAP



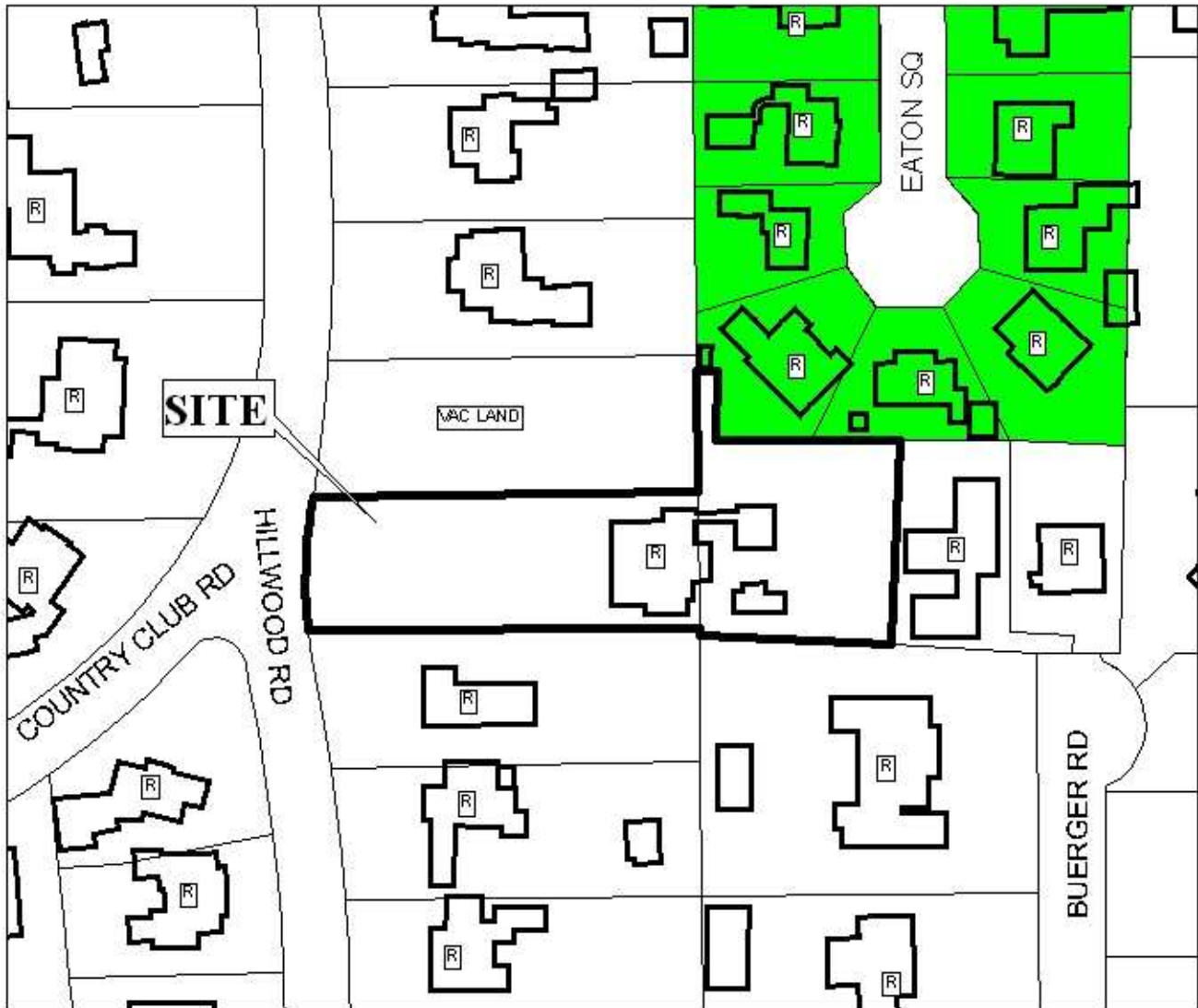
APPLICATION NUMBER 5758 DATE June 4, 2012

APPLICANT Frances and Heinz Hoffmann

REQUEST Administrative Appeal



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential land use.

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REQUEST Administrative Appeal

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

**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**



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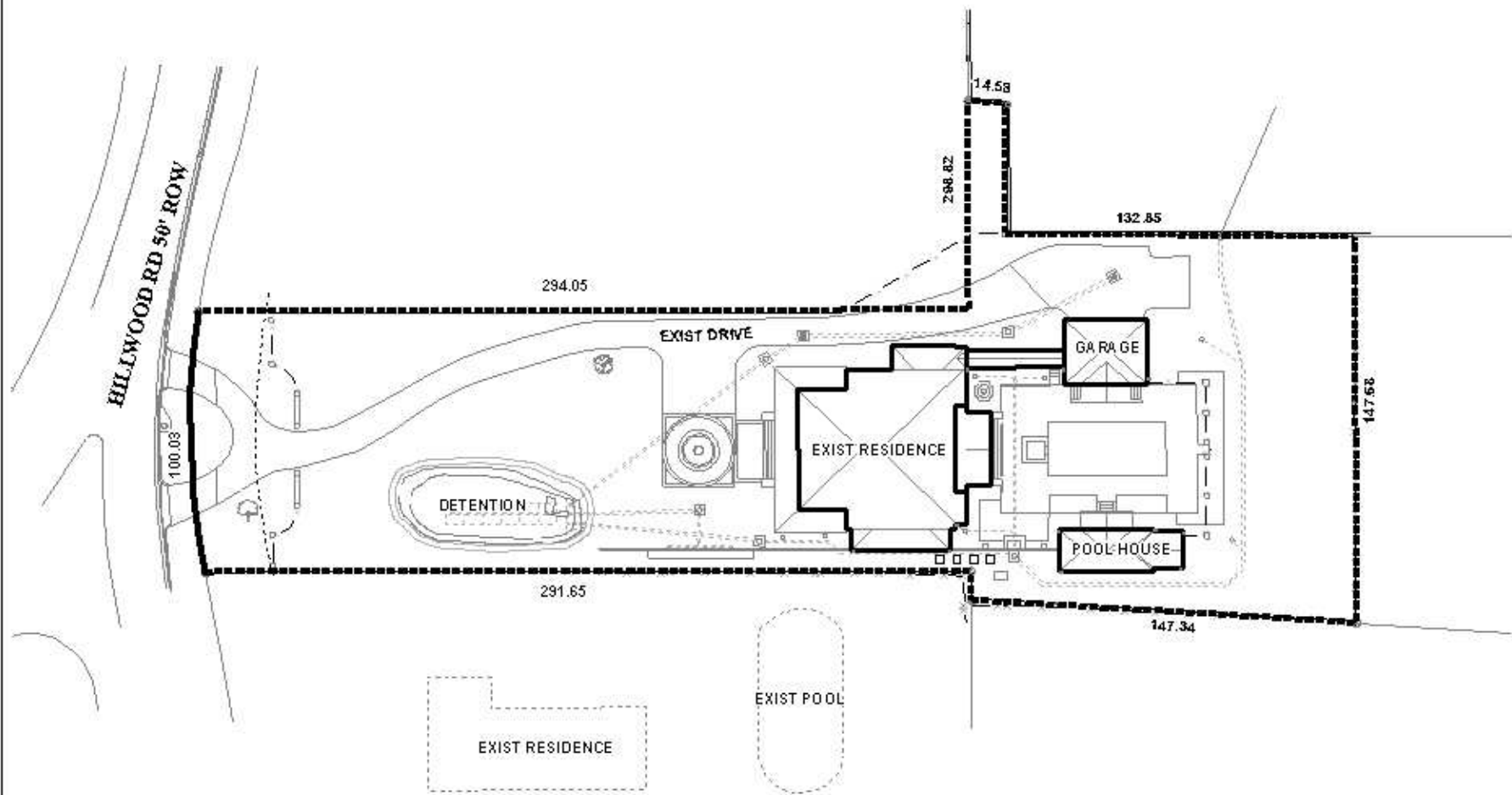
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NTS

SITE PLAN



The site plan illustrates the existing residence.

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