

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: April 2, 2018

CASE NUMBER

6170

APPLICANT NAME

MTC Logistics of Alabama, LLC

LOCATION

301 Yeend Street
(Southwest corner of Yeend Street and Baker Street)

VARIANCE REQUEST

TREE PLANTING: Tree Planting Location Variance to allow no frontage trees to be planted along the street frontage, and Tree Quantity Variance to allow a reduced number of trees to be planted on a site in an I-2, Heavy Industry District.

**ZONING ORDINANCE
REQUIREMENT**

TREE PLANTING: The Zoning Ordinance requires a minimum of one heritage tree per every 30 linear feet of street frontage, and that the trees be planted within the 25-foot setback along street frontages in an I-2, Heavy Industry District.

ZONING

I-2, Heavy Industry

AREA OF PROPERTY

18.02± Acres

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**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).

**CITY COUNCIL
DISTRICT**

District 3

ANALYSIS

The applicant is requesting a Tree Planting Location Variance to allow no frontage trees to be planted along the street frontage, and Tree Quantity

Variance to allow a reduced number of trees to be planted on a site in an I-2, Heavy Industry District; the Zoning Ordinance requires a minimum of one heritage tree per every 30 linear feet of street frontage, and that the trees be planted within the 25-foot setback along street frontages in an I-2, Heavy Industry District.

The subject site was recently approved as a one-lot Subdivision by the Planning Commission and currently has a Sidewalk Waiver request pending review by the Commission. The applicant proposes to develop the site as a cold storage facility with a 282,286 square-foot temperature-controlled distribution center with associated tractor-trailer truck and employee parking. As almost all tree planting is proposed within the interior of the site and not within the first 25' along the public street frontages and with a reduced number below the normal requirement, a Tree Planting Location and Tree Quantity Variance is requested. Sites within I-2 Districts are required to only have frontage trees planted.

The applicant's narrative states:

The site in question is an 18.02 +/- acre site at Baker Street and Yeend Street. The property is across Baker Street from the entrance to the Alabama State Port Authority Container Terminal. The applicant has the subject property under contract for purchase from the Alabama State Port Authority and intends to construct a 282,286 square foot temperature controlled international distribution center (cold storage warehouse) in order to support the Port of Mobile's international trade. The facility will support both import and export of temperature controlled food products and juices. Much of the product passing through the warehouse will be destined to or originating from the State of Alabama. The subject project will rely heavily on the proximity to the Container Port and the Interstate and will anticipate, initially, 50 – 80 trucks per day into and out of the facility. Once at full capacity and operation, the facility will be serviced by upwards of 100 trucks per day.

The site is bounded on the north by Baker Street and on the west and south by Yeend Street (a portion of which was vacated several years back). The parcel is somewhat challenged as there are wetlands and flood zones to the south and east. The site is also bisected, east to west, by a 48 inch forced main sewer line operated by Mobile Area Water and Sewer. These factors all play into how the building on the site is oriented and how parking and drainage is managed.

Additionally, it is anticipated that the Customs-Trade Partnership Against Terrorism Act (C-TPAT) will be expanded in the near future to incorporate import and export of food products in order to further protect the food supply chain. The applicant has designed this facility in anticipation of some of the requirements which may be included in that legislation in order to fully secure the site. These security measures include perimeter security fencing around the entire site, a single gated point of ingress and egress to the facility, and a patrol road/internal circulation road to allow internal circulation and monitoring throughout the entire campus.

In order to construct this facility and the ancillary parking and truck support areas, taking into consideration the wetland areas and flood plain issues together with what is anticipated to be some regulatory controls, the applicant is seeking a variance from Section IV.3(a) (1) and (2) of the Zoning Ordinance in connection with site coverage, landscaping, and frontage tree requirements.

The proposed site plan provides for 172,746 square feet of landscape area (including ponds) which is equal to 22% of the overall area of the site (this would be 17% if pond areas are excluded). Though the proposed site plan illustrates compliance with the overall percentage of landscaping required, the site plan falls short with respect to the amount of landscape area between the building and the road frontage. For the site, approximately 94,000 square feet of landscaped area would be required between the buildings and roadway. As proposed, 84,932 square feet are provided. The applicant requests a variance from Section IV.3(a) (1) to allow for a reduction in the amount of landscaped area between the building and the roadway.

Additionally, the site plan reflects no frontage trees along Baker Street, Lawrence Street or Yeend Street. Frontage trees near the security fencing would pose a potential opportunity for a breach of the security fencing. Trees inside the security fencing would impact the use of the patrol roads. The viability of trees, particularly on Yeend Street given the volume of semi-truck traffic along that road and the current width, should also be a consideration. Finally, any trees planted on the Yeend Street side of the site would be in and under the existing Alabama Power Company high voltage transmission lines. Pursuant to Section IV.3 (a) (2) the applicant would be required to plant approximately 68 heritage trees between the building and the road frontage. The applicant is proposing to plant trees throughout the site as opposed to planting frontage trees given the reasons set forth above.

It should be noted that the applicant's calculations for the required landscaping area is wrong and only about 94,194 of total landscaping area is required, and 56,516 square feet of frontage landscaping is required. Therefore, no variance is required for the amount of landscaping areas proposed. Staff has calculated that 67 frontage trees are required instead of the 68 calculated by the applicant.

The site has been given a Heavy Industry (HI) land use designation, per the recently 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 larger parcels primarily developed to high-impact industrial activity which is preferably removed from residential and commercial uses. Light industry, industrial business or heavy commercial lands may separate heavy industry from other land uses.

Heavy industrial areas include collection, treatment, and manufacturing processes which use raw materials, are distinguished by the presence of noise, vibration, and/or odors, and benefit from

easy access to a multimodal freight transportation network. Certain types of heavy industry are characterized by low building coverage and activities that rely on large areas of outdoor storage of raw material stockpiles and/or waste-product disposal areas, storage tanks, pipelines, and transportation yards to handle the transfer of heavy materials. The outdoor storage areas should be screened as much as possible by the nature of the stored materials.

Land designated as HI may be underdeveloped due to the presence of wetlands on portions of the parcel. In these cases, the wetlands may serve to buffer surrounding uses from the potential impacts of the heavy industrial use. Undeveloped areas of HI parcels that have tree cover may be used as buffering between the heavy industrial use and other uses. Where buffers do not exist naturally, they should be provided as spelled out in the zoning and subdivision regulations. Open areas reserved for dredge disposal are also designated as HI and may contain wetlands.

In Mobile, port terminal facilities, docks, shipyards, drydocks, etc., are mostly owned by the State of Alabama. Although not subject to local zoning, these facilities are shown as heavy industrial uses in the FLUM.

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.

It should be noted that the development of the site will result in the removal of an existing 50"± Live Oak tree and 24"± and 30"± Southern Magnolias. A permit will be required to remove these trees.

The site plan submitted indicates sufficient area between the proposed building and all street frontages in which frontage trees could be planted in compliance with the Zoning Ordinance requirements. However, a perimeter security drive wraps along all street frontages within the areas where perimeter trees are required to be planted. That, combined with the fact that

perimeter trees could pose potential visibility problems masking attempted perimeter breaches and could aid in attempted security fence scaling, would seem to support the request for the Tree Planting Variance. Current and emerging threats within the international shipping community would warrant increased security measures at facilities which handle vulnerable cargoes.

Therefore, some design standards may need to be altered to accommodate such security measures. In this instance, the planting of heritage trees within the interior of the site equal to the number of required frontage trees would seem like a fair alternative given the circumstances and would serve as mitigation for the lack of perimeter tree planting. However, the site plan submitted indicates 56 trees proposed for the interior of the site, short of the 67 calculated by staff. As there appears to be sufficient area within the interior to provide all 67 trees, and as no hardship has been illustrated which would prevent the planting of all 67 trees, the Board should consider the request for the Tree Quantity Variance for denial.

The applicant has illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship with respect to site security concerns and the Board should consider the request for the Tree Planting Location Variance for approval.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for the Approval of the Tree Planting Location request:

- 1) Approving the variance will not be contrary to the public interest in that the planting of the required frontage trees would interfere with perimeter security access and visibility;
- 2) Special conditions (the site is proposed to handle cargoes which could be vulnerable to security threats) exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship with respect to security maintenance; 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 an alternative tree planting plan has been proposed by the applicant.

Therefore, the Frontage Tree Planting request is recommended for approval, subject to the following conditions:

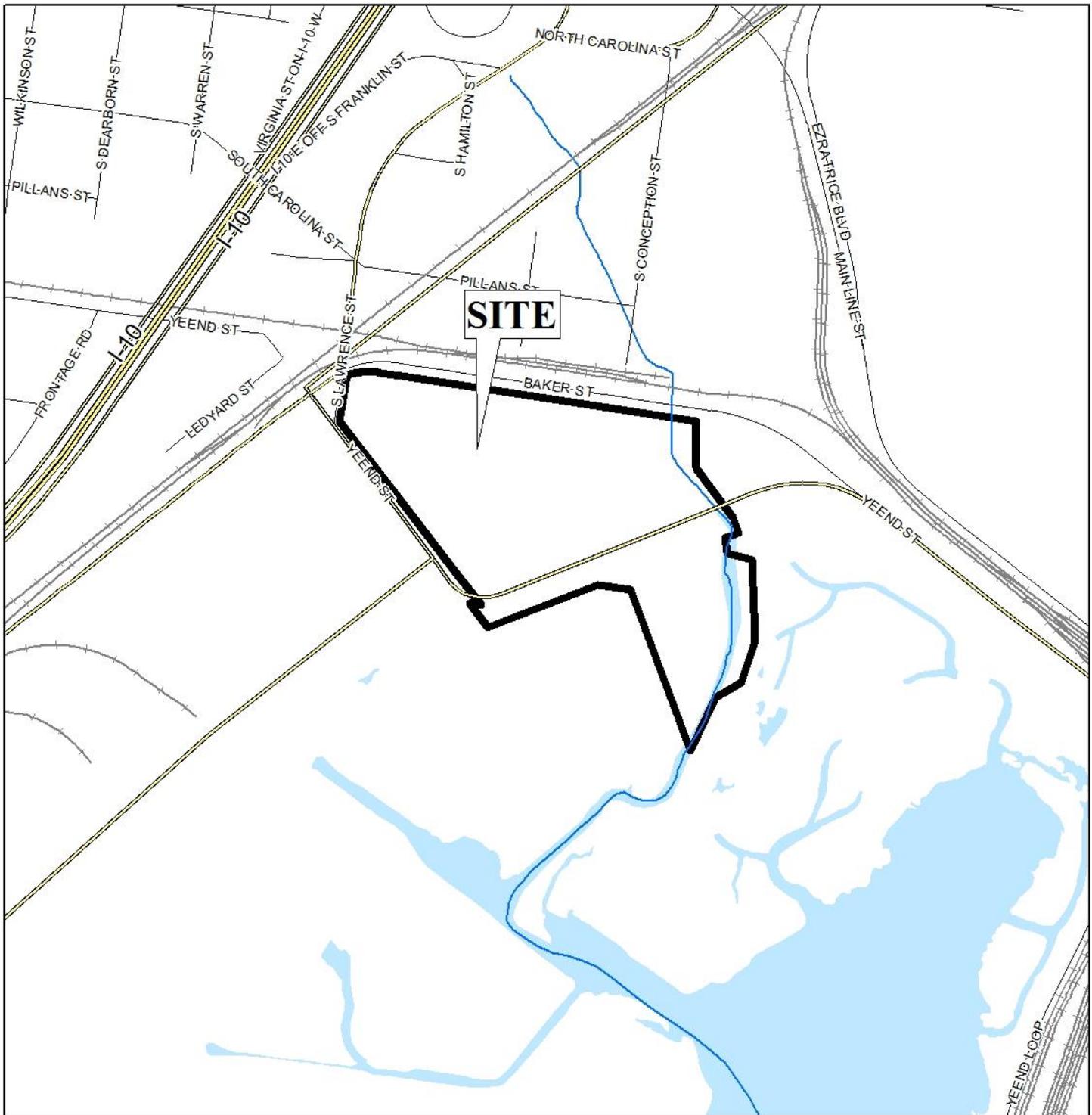
- 1) the provision of heritage tree plantings within the interior of the site equal to the number ordinarily required along the public street frontages;
- 2) revision of the site plan to provide 67 interior heritage tree plantings; and
- 3) full compliance with all other municipal codes and ordinances.

Staff recommends to the Board the following findings of facts for the Denial of the Tree Quantity request:

- 1) Approving the variance will be contrary to the public interest in that the site appears to provide sufficient interior area in which to plant 67 heritage trees in mitigation for the lack of frontage trees;
- 2) Special conditions (the site does not afford ample area for interior tree planting) do not exist such that the 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 surrounding neighborhood by granting the variance since approving the variance will set a precedence for other businesses to seek similar tree planting requests.

LOCATOR MAP



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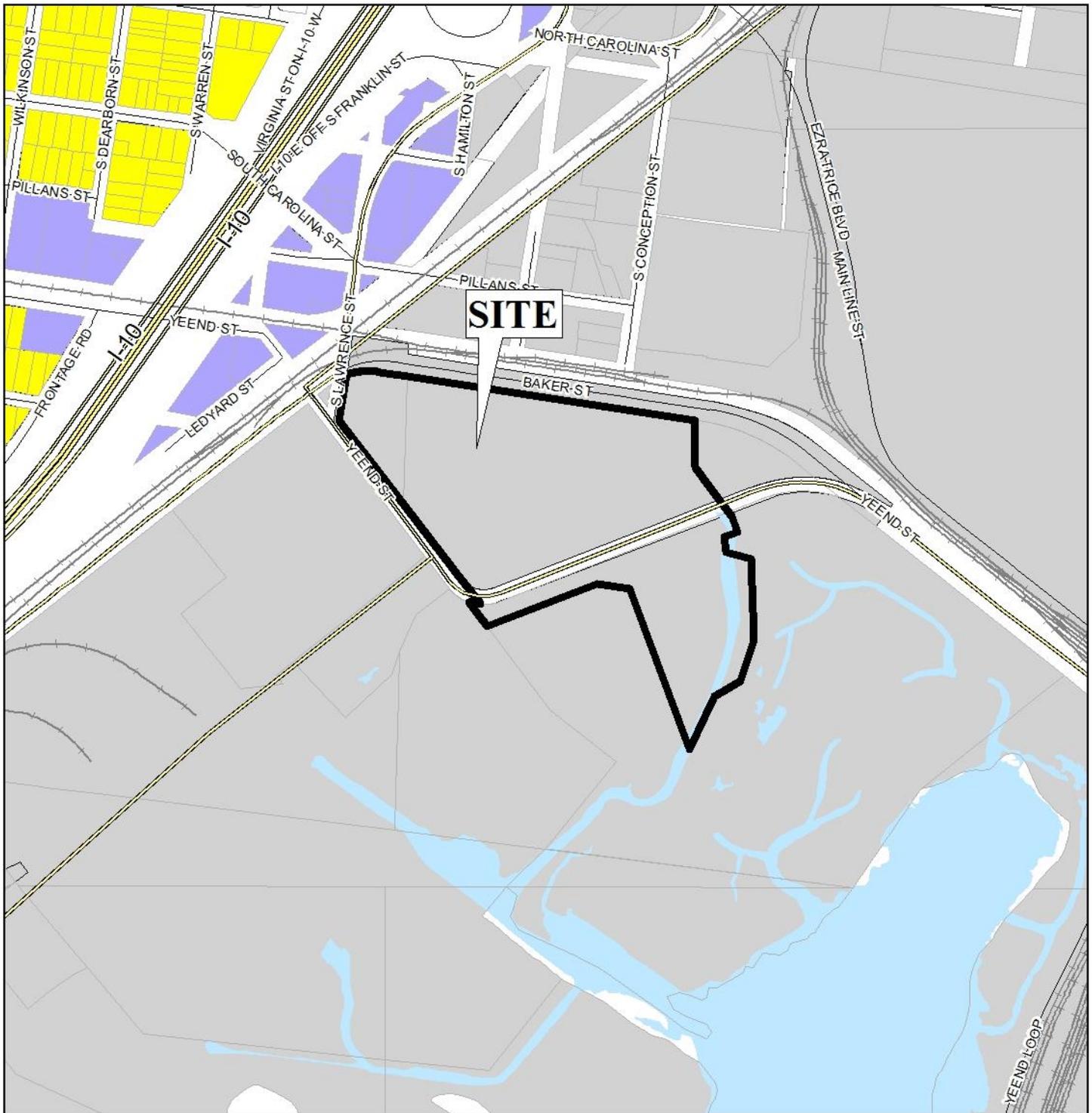
APPLICANT MTC Logistics of Alabama, LLC

REQUEST Tree Planting Variance



NTS

LOCATOR ZONING MAP



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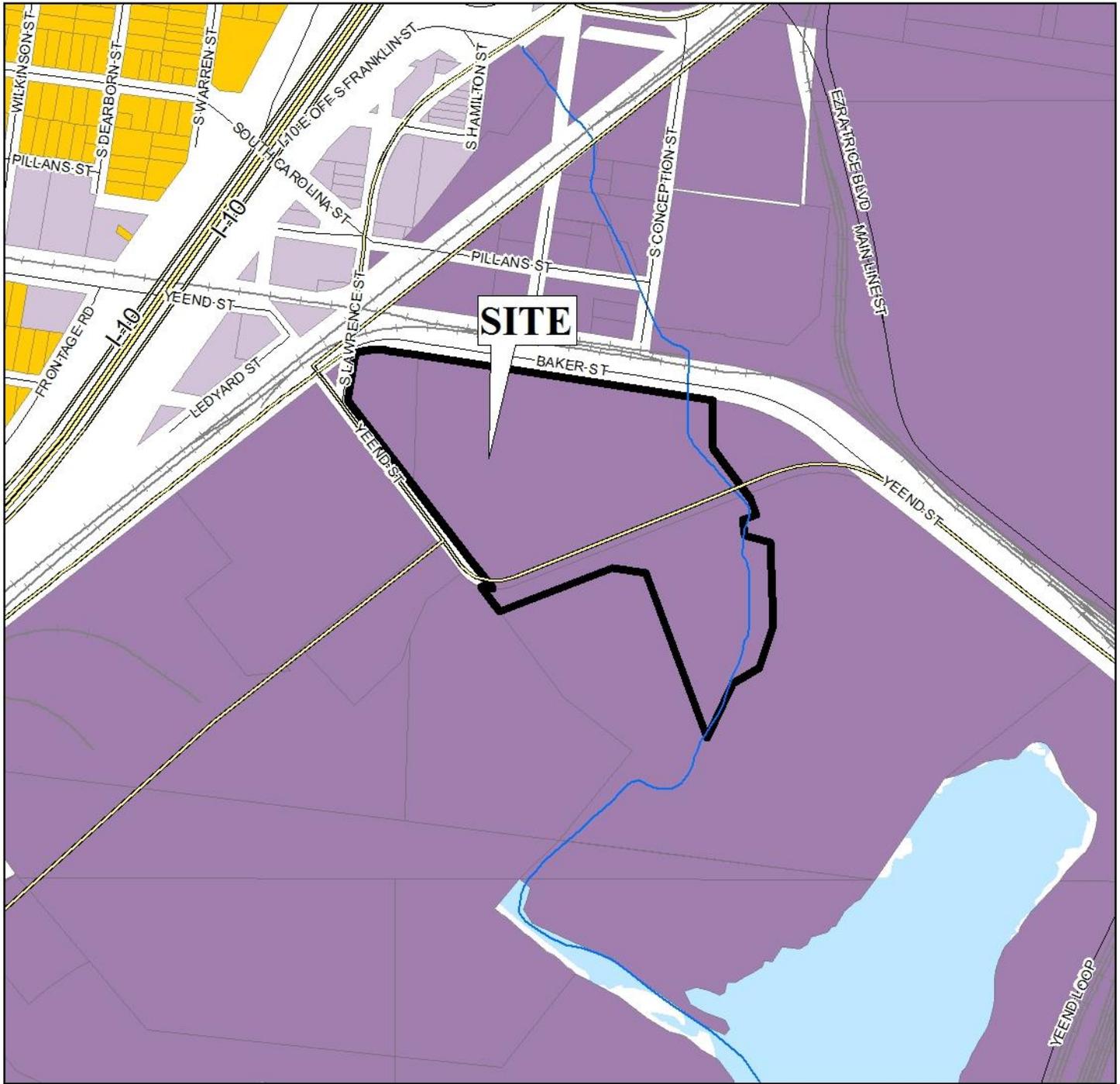
APPLICANT MTC Logistics of Alabama, LLC

REQUEST Tree Planting Variance



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FLUM LOCATOR MAP



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APPLICANT MTC Logistics of Alabama, LLC

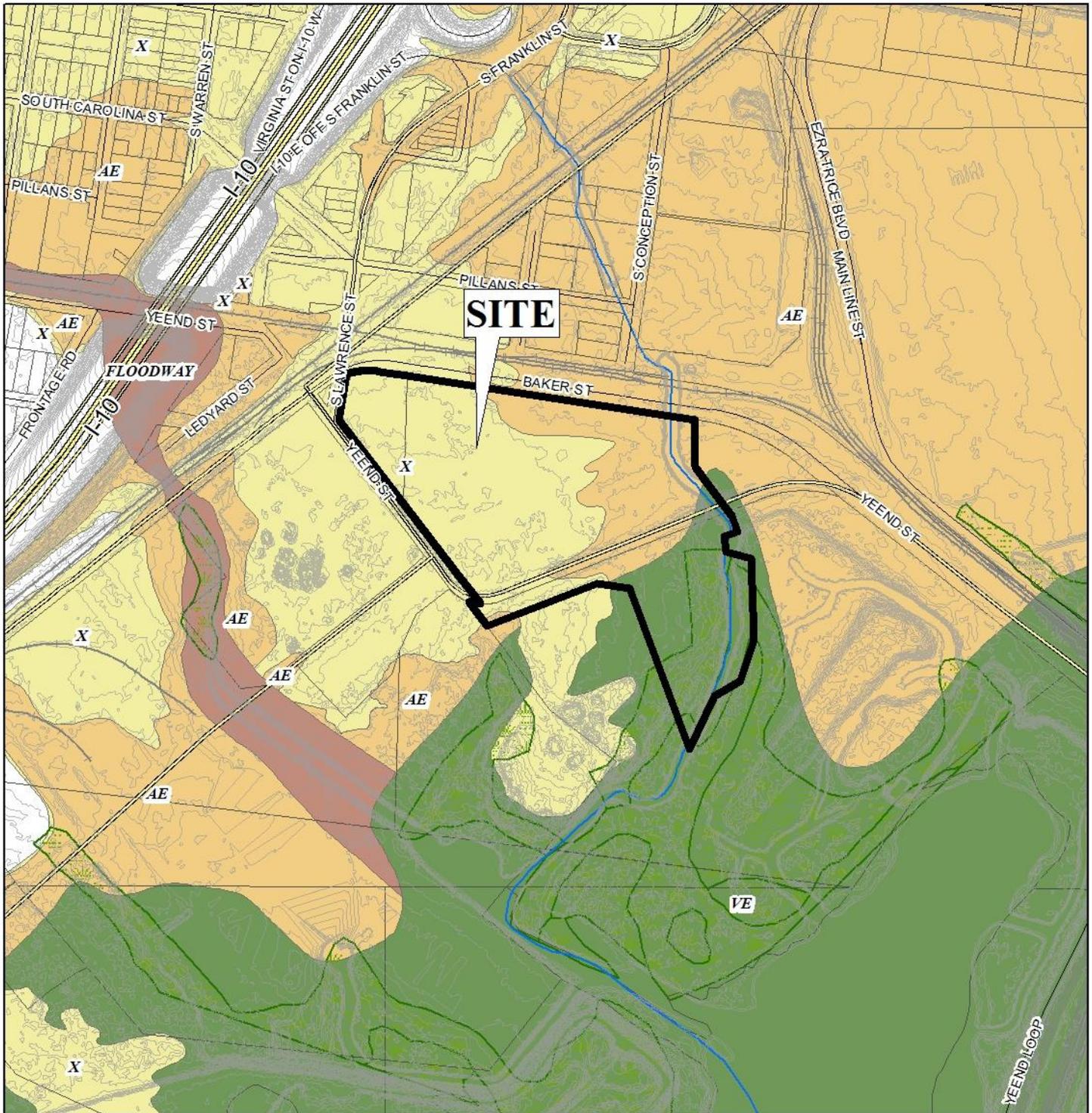
REQUEST Tree Planting Variance

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



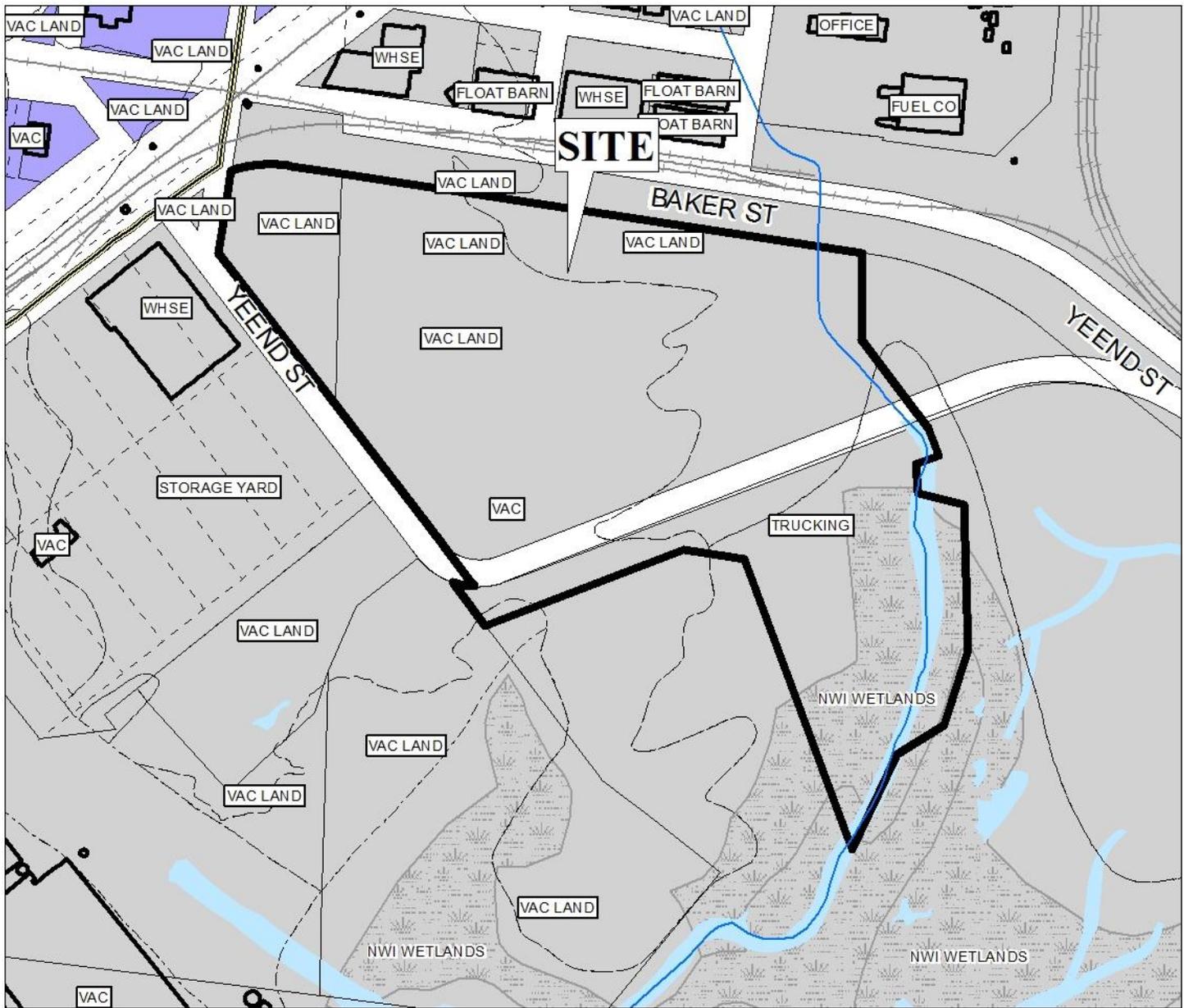
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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



The site is surrounded by industrial units.

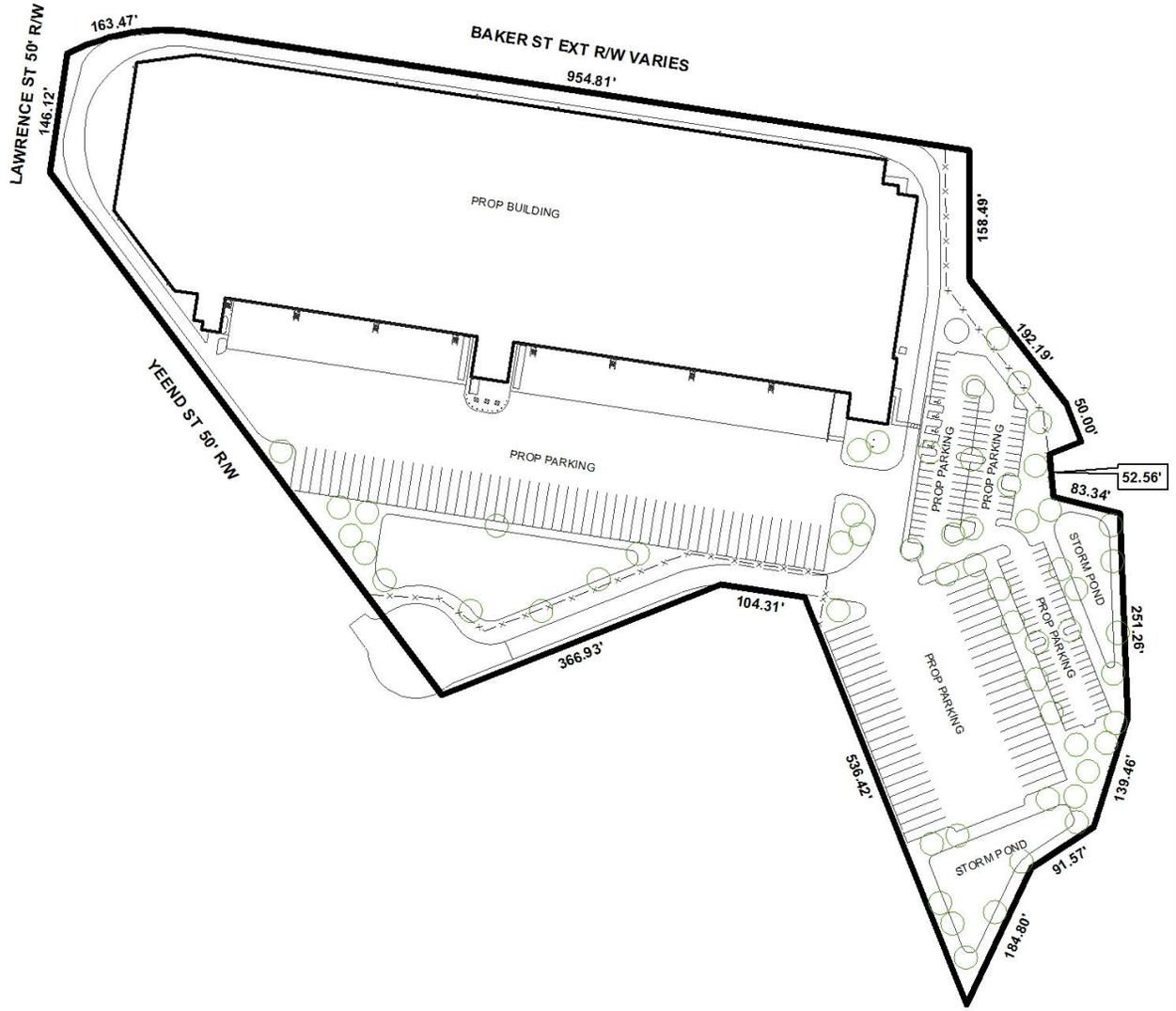
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SITE PLAN



The site plan illustrates the proposed building, proposed parking, and proposed storm ponds.

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