

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: April 2, 2018

CASE NUMBER 6171

APPLICANT NAME Elizabeth Stradford

LOCATION East side of Lewis Quarters, 500'± East of Conception Street Road.

VARIANCE REQUEST **USE:** Use Variance to allow the construction of a single-family dwelling as a primary residence in an I-2, Heavy Industry District.

ZONING ORDINANCE REQUIREMENT **USE:** The Zoning Ordinance does not allow single-family dwellings as a primary residence in an I-2, Heavy Industry District.

ZONING I-2, Heavy Industry

AREA OF PROPERTY 0.12± Acre

ENGINEERING COMMENTS No comments.

TRAFFIC ENGINEERING COMMENTS No comments.

CITY COUNCIL DISTRICT District 2

ANALYSIS The applicant is requesting a Use Variance to allow the construction of a single-family dwelling as a primary residence in an I-2, Heavy Industry District; the Zoning Ordinance does not allow single-family dwellings as a primary residence in an I-2, Heavy Industry District.

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.

Variations are site-plan specific; therefore, if approved, any proposed changes to the site layout of the request at hand will require an application to the Board to amend the approved site plan prior to any construction activities.

The site has been given a **Mixed Density Residential** 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 applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

Mixed Density Residential areas should offer a mix of single-family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- to mid-rise, multi-family apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may also incorporate compatibly scaled and sited complementary uses, such as: neighborhood retail and office uses; schools, playgrounds and parks; and, churches and other amenities that create a complete neighborhood fabric and provide safe, convenient access to daily necessities.

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 subject site is part of the Subdivision of Joe Lewis Property recorded in Mobile County Probate Court on July 22, 1948, a portion of which appears to have been developed since at least 1940 per aerial photographs. The subdivision was surveyed in 1944 per the recorded plat, whereon several structures were illustrated and identified as residences; however, the subject site is undeveloped. The applicant wishes to construct a single-family dwelling on the property, citing its historical significance as justification for the request, stating:

“We are submitting a use variance to allow a single family residential home to be built for Mrs. Stratford’s mother by S.S. Steele. We have attached the survey of the property with the proposed dwelling located. We are showing the house to meet the City setback of 25 feet on the front. This is an undersized yet platted lot and we ask that it be allowed in the I-2 zoning designation as this is a historical area. Mrs. Stratford lives next door to this property and is trying to keep her mother close by.”

Section 64-12 of the Zoning Ordinance permits single-family dwellings, by right, in R-A, Residential Agricultural, R-1, Single-Family Residential, R-2, Two-Family Residential, R-3, Multiple-Family Residential Districts, B-1, Buffer Business, and B-4, General Business Districts. Single-family dwellings are also allowed by right above the first or ground floor in B-2, Neighborhood Business, and B-3, Community Business Districts.

The site plan illustrates the proposed 1,310± square-foot single-family dwelling at the Southwest corner of Lewis Quarters and an unnamed alley. The lot does not meet the size requirements for the development of lots in I-2, Heavy Industry Districts, the minimum of which is 10,000 square-foot; however, Staff often waives the minimum building site area requirement for the construction of single-family dwellings on historically substandard lots in appropriately zoned residential districts. As such, approval of the Use Variance may also facilitate a similar waiver of this requirement at the time of permitting.

If approved, the proposed dwelling will not exceed the 75% maximum building site coverage limitation for lots within I-2, Heavy Industry Districts. The proposed dwelling will also meet the minimum setback requirements for structures within I-2, Heavy Industry Districts, the minimum of which is 25’ from the front property line.

While not provided, and generally not a concern, it should nevertheless be noted that the height limit of buildings in I-2, Heavy Industry Districts is one hundred (100) feet.

Section 64-6.A.6. of the Zoning Ordinance requires two (2) off-street parking spaces per single-family dwelling unit. If approved, revision of the site plan to illustrate at least two (2) parking spaces, either surfaced in aggregate or paved with asphalt, should be required at the time of permitting.

It should be noted that Lewis Quarters is an unimproved, substandard street without curb and gutter with a 30’ recorded right-of-way width; and the unnamed alley is an unimproved, substandard roadway with a recorded 15’ right-of-way. Neither Lewis Quarters nor the unnamed alley provide access to any major or minor streets, essentially restricting residents to their properties; however, aerial photos and Google Street View images from February, 2016 show a private driveway surfaced with aggregate material extends across adjacent private property from Conception Street Road, in the South, to Lewis Quarters, in the North, thus facilitating traffic to and from the site. Staff was unable to find information that legally permitted the use of the adjacent property for public street access, but an easement may be implied within the State of Alabama depending on the circumstances of the situation (e.g. a prescriptive easement).

Aerial photos from 1960, 1975, 1984, 1997, 2002, 2006, 2010, and 2014 depict continuous use of the private driveway through the adjacent property. As such, an easement by prescription may prevail as long as those using the property over which the prescription is claimed for twenty (20) years or more are aware that they do not own the property; and that such use is adverse to that of the owner; and is exclusive, uninterrupted, and under claim of right. Staff, however, cannot presume such a claim and is not authorized to sanction such an easement; therefore, the applicant should be aware that future accessibility to the site may be a concern.

With regards to the historical significance of the property, the site is not within one of the city's historic districts, and it is not within the nearby federally listed Africatown Historic District; however, as mentioned, uses of property within the subdivision proximal to the subject site have appeared to be residential since at least 1944 and the area is identified as an historic resource in the Africatown Neighborhood Plan, which was endorsed by the Planning Commission at its January 7, 2016 meeting. Historical narratives also indicate that Lewis Quarters may date back to the mid- to late-1860s. Furthermore, additional dwellings have been constructed over the years on the various lots within the subdivision and, as of 2014 aerial photographs appear to depict at least nine (9) residential dwellings in the vicinity.

While historical significance doesn't necessarily preclude compliance with the Zoning Ordinance, it may facilitate a precedence by which approval of the request is appropriate; or, the Board could consider that the property's location within a Mixed Density Residential district of the Future Land Use Map as a means by which the request can be approved. Also, the area is proposed for residential use by the aforementioned Africatown Neighborhood Plan.

It should be noted that no Variance has been granted within the vicinity of the subject site for any similar request(s). No hardship associated with the property has been identified by the applicant, notwithstanding historical significance, and it should be reiterated that Variances are not intended to be granted frequently. Staff is aware, however, that Lewis Quarters is a residential development that predates the abutting industrial development. After the area was annexed into the city in 1956, a heavy industrial designation was applied to the vicinity, as noted on the 1967 zoning map, and it is reasonable to assume that it was done so without soliciting input from the residents at that time. Nevertheless, approving the Variance request would be contrary to at least Section 64-12 of the Zoning Ordinance and, as such, may maintain a precedence not just of incompatible site development, but precedence by which future, less desirable Variance requests could be approved if no special conditions or hardships to an individual property exist.

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

- 1) Granting the Variance will not be contrary to the public interest since the proposed single-family dwelling would be compatible with neighboring uses;
- 2) Special conditions associated with the site exist, such that a literal enforcement of the provision of the chapter will result in an unnecessary hardship due to subdivision of the

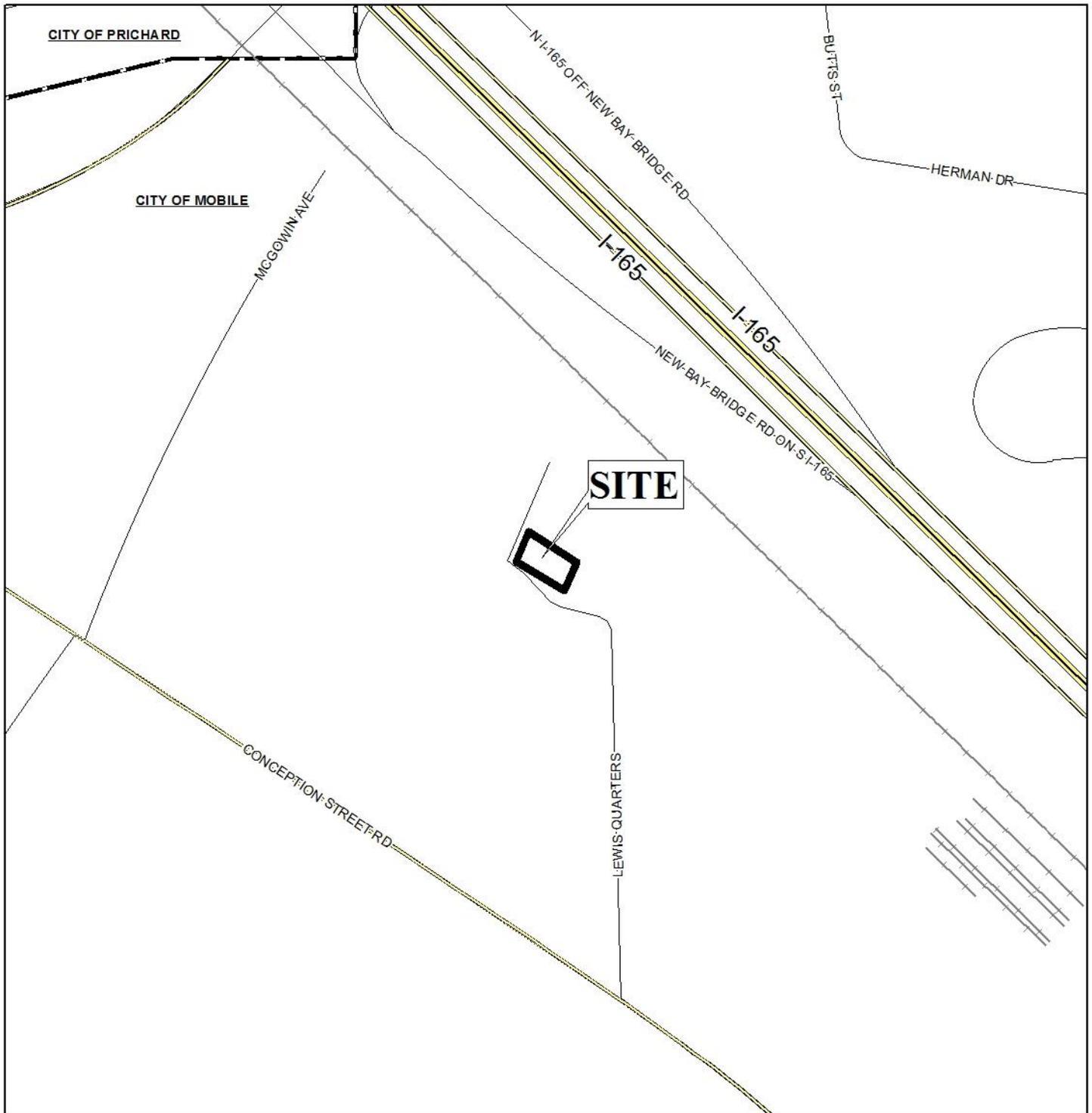
site for presumably residential purposes in 1948, and has been used as such, per historical narratives, as long ago as the 1860s; and,

- 3) The spirit of the chapter shall be observed and substantial justice done to the surrounding neighborhood by granting the Variance since it would maintain the existing character of the area.

The approval is subject to the following conditions:

- 1) revision of the site plan to illustrate two (2) off-street parking spaces, either surfaced with aggregate material or paved with asphaltic material;
- 2) provision of the revised site plan to the Planning and Zoning Department prior to the approval of any land disturbing or building activities; and,
- 3) compliance with all applicable Codes and Ordinances.

LOCATOR MAP



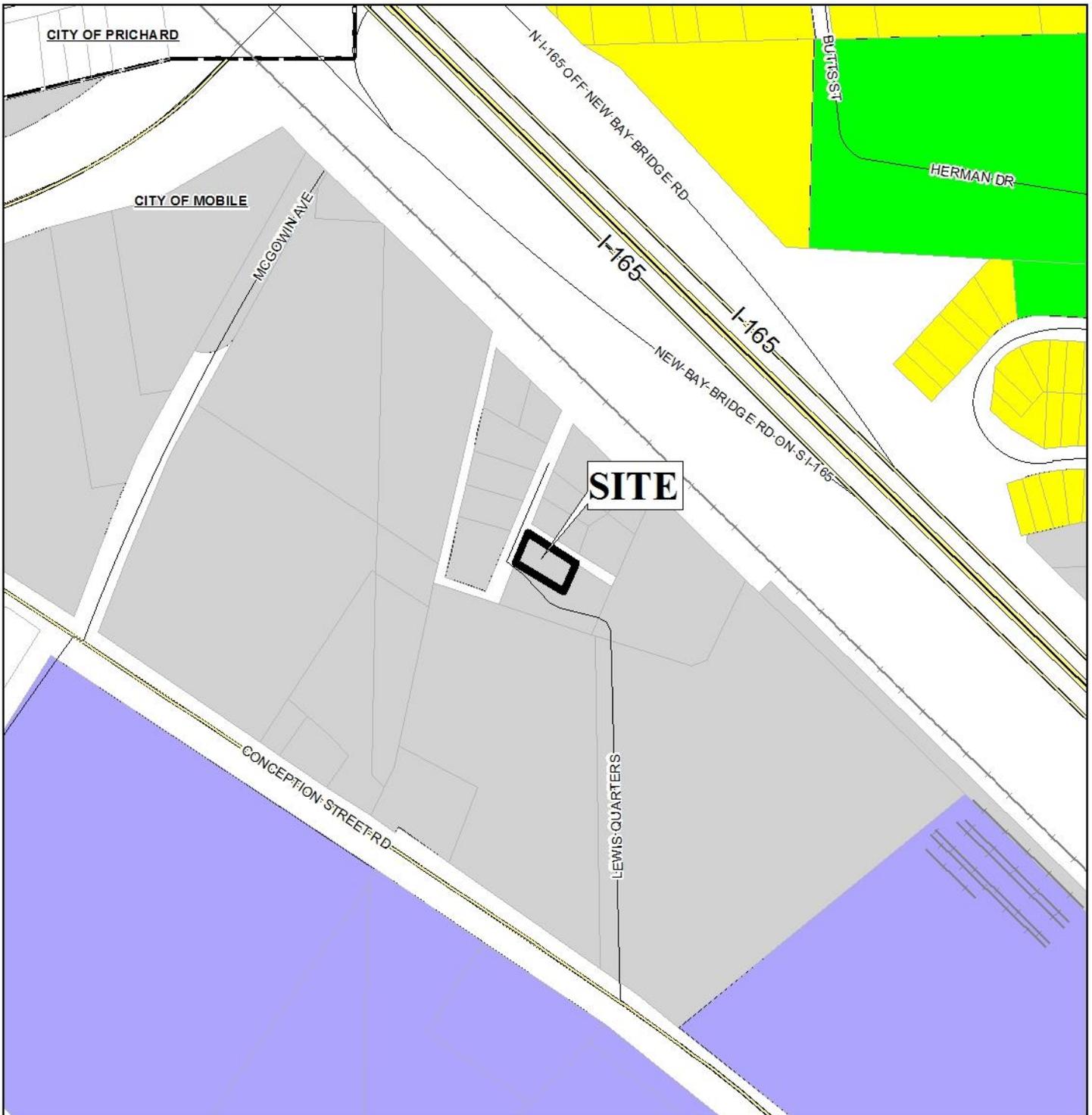
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APPLICANT Elizabeth Stradford

REQUEST Use Variance



LOCATOR ZONING MAP



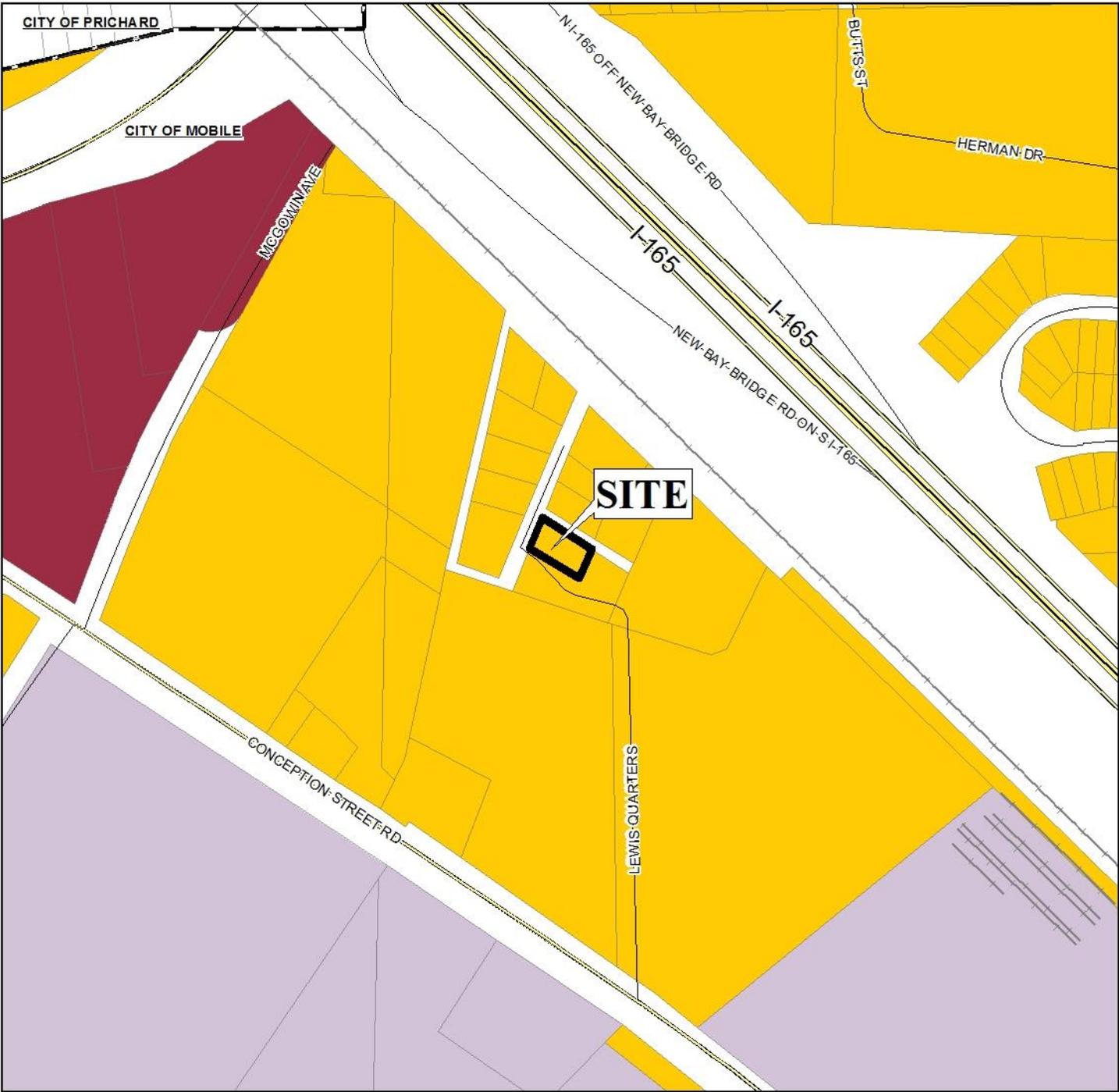
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FLUM LOCATOR MAP



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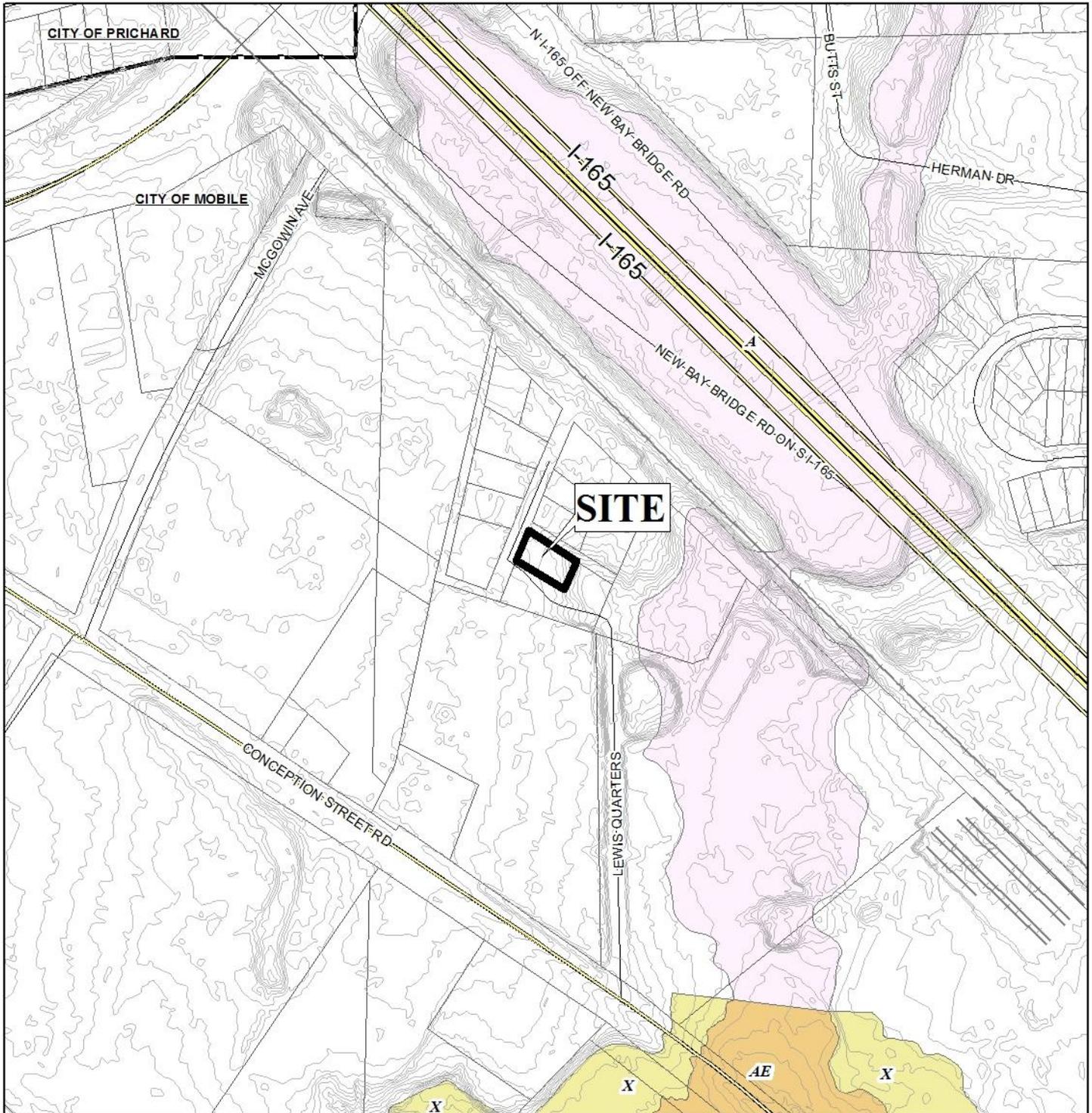
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REQUEST Use Variance

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



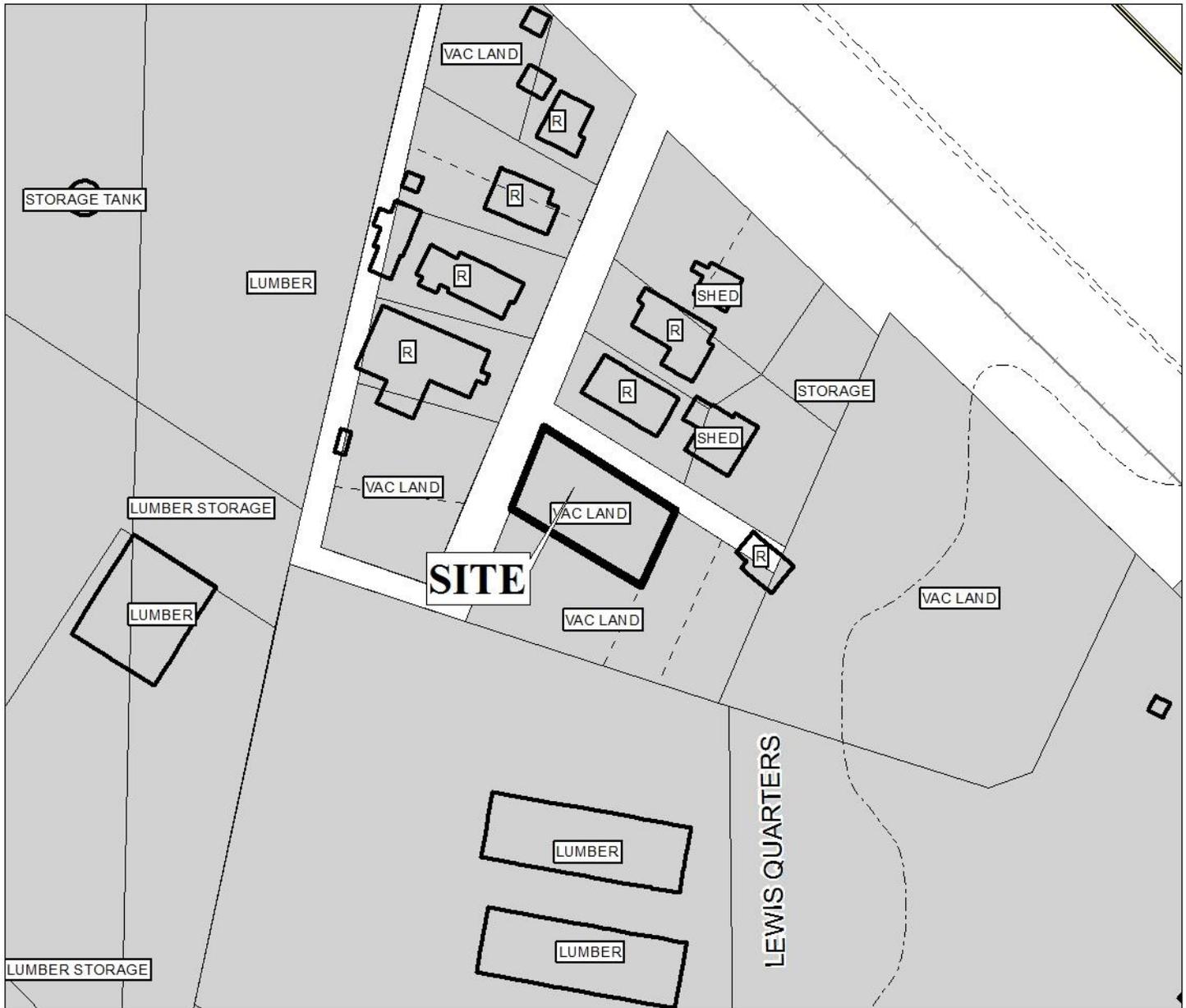
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north, and industrial units to the south.

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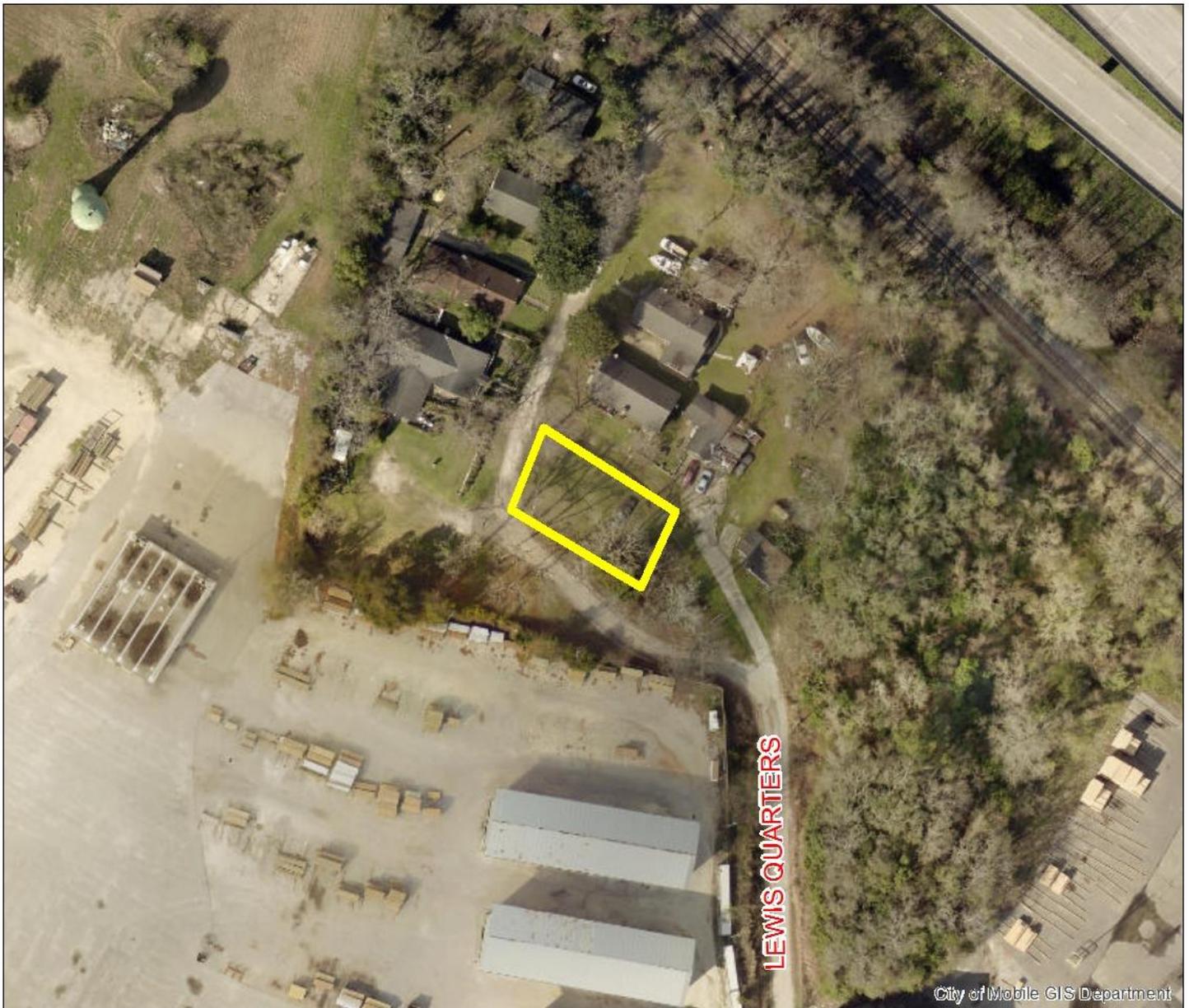
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units to the north, and industrial units to the south.

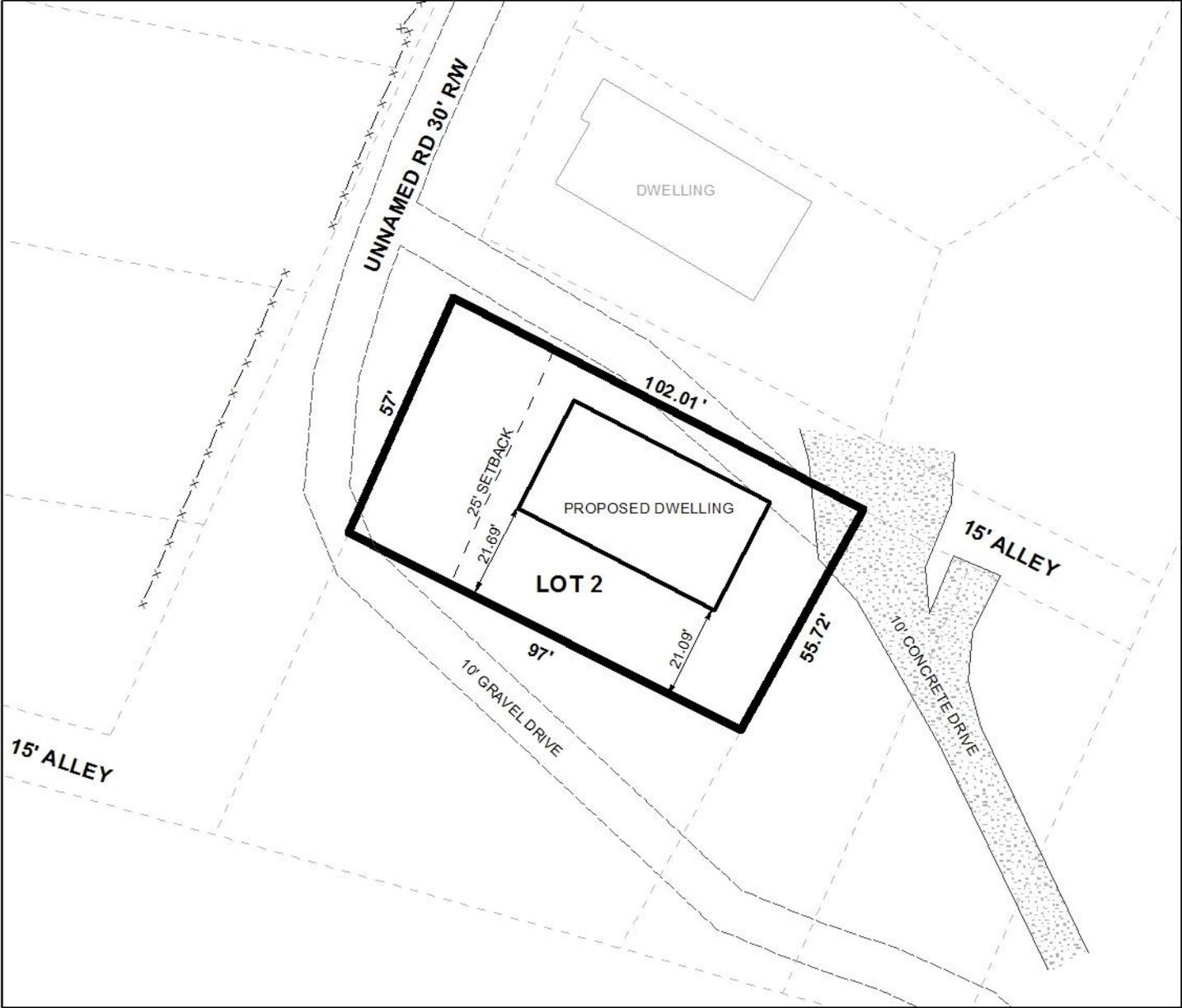
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SITE PLAN



The site plan illustrates the proposed dwelling, setback, and drives.

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