

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 5, 2018****CASE NUMBER**

6159 / 6119 / 6063

APPLICANT NAME

Jeff LaCour

LOCATION5054 Old Shell Road
(Northeast corner of Old Shell Road and Border Drive North)**VARIANCE REQUEST****USE:** Use variance to allow a restaurant in a Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District).**PARKING SURFACE:** Parking Surface variance to allow an aggregate parking surface.**BUFFER:** Buffer variance to allow no parking lot buffering along a street frontage.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance does not allow a restaurant in a Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District).**PARKING SURFACE:** The Zoning Ordinance requires that parking surfaces must be paved with concrete, asphalt, asphaltic concrete, or an approved alternative paving surface for commercial uses.**BUFFER:** The Zoning Ordinance requires that parking lot buffering be provided along all street frontages restaurant in a Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District).**ZONING**

Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District)

AREA OF PROPERTY

39,639 square feet / 0.91±Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

USE VARIANCE: NO COMMENT

PARKING SURFACE VARIANCE:

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.
- b. Submit a ROW Permit (City of Mobile) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.
- c. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

BUFFER VARIANCE: NO COMMENT

**TRAFFIC ENGINEERING
COMMENTS**

A non-utility right-of-way use agreement should be required to allow for the parking and maneuvering that is proposed to take place within the right-of-way. Dedication may be required along Border Drive North so that the parking and proposed lighting are constructed entirely within the right-of-way. Any striping to be place in the right-of-way must be a thermoplastic material. If a surface variance is approved, the aggregate cannot extend into the right-of-way and cannot be used in the areas designated as the accessible path from any required handicap space to the building.

**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, Parking Surface, and Buffer Variances to allow a restaurant in a Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District), with an aggregate parking surface and no parking lot buffering along a street frontage; the Zoning Ordinance does not allow a restaurant in a Neighborhood General Sub-district of the Traditional Center District (R-1, Single-Family Residential District), all parking surfaces must be paved with concrete, asphalt, asphaltic

concrete, or an approved alternative paving surface, and parking lot buffering is required along street frontages.

The applicant has chosen to repurpose and modify the existing site under the requirements of the Section 64-3.H. Traditional Center District (TCD) of the Zoning Ordinance, which is an option for properties located within the Village of Spring Hill. The proposed improvements with the site will not all be in conformance with the requirements found in the TCD, hence the requests at hand.

The site is zoned R-1, Single Family Residential, and is bounded to the North, East and South (across Old Shell Road) by residential uses within an R-1 district. To the West, across East Border Drive, is a city-owned parking lot that serves Lavretta Park, and a vacant lot, both in an R-1 district.

The site has been given a Mixed Commercial Corridor land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. 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. MCC 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 provided the following regarding the requested variances:

Improvements to the parcel shall include, but are not limited to, a new 1,500sf addition, a new aggregate and concrete parking area to the north end of the lot, new concrete sidewalk and curbing, a small outdoor paved patio facing Old Shell Road. The existing building had a mid-century modern gas station feel and the proposed renovations of it will strive to maintain that feel. The materials will be cleaned, painted and given new life. Non-original roll-up doors will be replaced with aluminum and glass sectional doors. The new addition will be sited as such to create a pocket facing Old Shell Road for the outdoor patio to be had. Painted face brick and painted wood windows, doors and canopies will continue the more vintage look of the addition while not trying to mimic the style of the original building. The goal is to make them look like they were once separate buildings, connected by a dissimilar composite material.

Request # 1 — Use Variance

The applicant requests a Use Variance to allow a Restaurant use within the R-1 zoned property. The previous use, a mechanic garage, was non-conforming. The proposed restaurant will operate Monday through Saturday (closed Sundays) from 7am to 3pm. The small outdoor seating area shall face Old Shell Road and be shielded on two sides by the building, thereby minimizing any potential noise pollution concerns to surrounding parcels.

The proposed use fits well with the Village of Spring Hill guidelines and will be a welcome addition to the neighborhood, offering a walkable, family-friendly option.

Request #2— Site Variance

The applicant requests a Site Variance to allow a combination of compacted, crushed aggregate parking along with selective areas of concrete paving at accessible parking. This request serves several issues- it addresses storm water runoff, allowing the water to permeate instead of overwhelming the City's sewers and it allows more flexibility with the large existing tree to be saved in the proposed parking lot. Concrete bumper stops shall be utilized to denote parking spaces, along with the required accessible space markings and signage.

Request #3— Site Variance

The applicant requests a Site Variance to allow 5'-0" concrete sidewalks at the perimeter of the site, instead of the 6'-0" min. sidewalks called for in the Village of Spring Hill "Neighborhood General" streetscape requirements. It should be noted that the sidewalks that the Village of Spring Hill provided themselves are in fact 5'-0" and that the adjacent connecting sidewalk to the east is 5'-0", so this would not seem out of place.

Request #4— Site Variance

The applicant requests a Site Variance to remove the requirement for a "garden wall, fence, or hedge" on the secondary frontage along Border Drive East. Due to the unique geometry of the site, the residentially-zoned lots across the street being a parking lot and a vacant lot, and the parking configuration, providing a continuous garden wall, fence or hedge would not function to its intent.

It should be noted that "Request #3" regarding the sidewalk width cannot be addressed by the Board due to the fact that the sidewalk width requirement is found in the Subdivision Regulations (*Section VIII.G.5.i Walkable Street Standards*). A Sidewalk Waiver request to the Planning Commission is the appropriate method by which to request a reduction in the required sidewalk width.

This site was last before the Board at its September 11, 2017 meeting, where requests for Use, Multiple Structures, Setback, Off-Site Parking, Surfacing, and Landscape Area were denied due to a lack of affirmative votes. The request was to also allow a restaurant, larger than currently proposed, and additionally included the provision of parking on a separate lot across East Border Drive from the site.

The site was originally developed as a gas station, and until recently it had been used as an auto repair mechanics shop. Aerial photographs show that this building has existed since at least 1960, and may have actually been built soon after the Country Club Village subdivision was developed in the late 1930s-1940s. The applicant now wishes to utilize the building for a casual restaurant with inside and outside dining.

Due to the applicant's decision to follow the "Village of Spring Hill" regulations, a use variance is required to allow the proposed restaurant. The site is located within a Neighborhood General Sub-district of the Traditional Center District (TCD), with an underlying zoning of R-1, Single-Family Residential District. Section 64-3.H.3.d.(1) of the Zoning Ordinance for the Neighborhood General Sub-district of the Traditional Center District limits the uses of such locations to what is allowed in the underlying zoning district, which in this case is R-1.

The applicant proposes to construct a 1,501 square foot addition on the east side of the existing 1,409 square foot building, for a combined total of 2,910 square feet. An additional 1,330 square feet of outside patio area will be provided along the Old Shell Road frontage of the building for outside dining. Thus, the combined inside and outside total is 4,240 square feet.

Parking requirements for restaurant developments within the TCD is less than required for non-TCD developments: 1 parking space per 300 square feet (instead of 1 per 100 square feet). The development, as proposed, will require 15 parking spaces. The site plan depicts 19 parking spaces on the property, and an additional 4 spaces in the right of way of West Border Drive.

Regarding the **Use** variance, selecting to develop under the TCD regulations negates the site's non-conforming B-3 history, thus the need for the use variance. The existing building is clearly commercial in nature, and while it is not impossible to use the site for a residential purpose, the existing building, front concrete area, and possible site contamination from the long time use as a gas station and auto repair make its residential use unlikely. The tenant associated with the proposed restaurant use operates Monday through Saturday, 7:00 AM to 3:00 PM, and the Board has the ability to limit the hours of operation in association with a Use variance. Thus, allowing a less intense use (when compared to a gas station / auto repair use) would be beneficial to the neighborhood and the community. It should be noted, however, that the convenience store located at Parkway West and Old Shell Road, remains open until 7:00 PM Monday – Thursday, 8:00 PM on Friday and Saturday, and 6:00 PM on Sunday.

Regarding the **Parking Surface** variance, West Border Drive at Old Shell Road is known to collect large amounts of water during rain events, and can at times flood the street. The applicant proposes to surface the parking area (except the accessible parking) with aggregate (crushed stone) in order to help mitigate any increase in storm water runoff from the site. They also propose to eliminate some of the existing concrete on the front portion of the site and replace it with landscape area. Given that all required parking will be provided on the site, and that there are known flooding issues adjacent to the site, allow aggregate surfacing and maneuvering for the parking area (with the exception of the accessible parking spaces) would seem reasonable.

Regarding the **Buffer** variance, Section 64-3.H.4.a.(6) of the TCD regulations within the Zoning Ordinance requires “garden walls, fences and hedges” along all un-built primary and secondary street frontages where the development is adjacent to or across the street from residentially zoned properties. The applicant notes that the properties across East Border Drive are either vacant or a city parking lot, and that the “unique geometry of the site” would reinforce the screening function of the TCD requirement. The proposal to have 4 parking spaces within the right of way of East Border Drive creates a visibility concern as it relates to vehicles turning from Old Shell Road onto East Border Drive – a garden wall or hedge, even if only 3 feet tall, might cause a line of sight issue. As for the remainder of the site's frontage along East Border Drive, the screening would buffer the proposed parking area from passers-by. It appears that removing two proposed parking spaces would provide sufficient room for the screening on the site, from the sidewalk at the rear of the existing building to the north property line, along the East Border Drive frontage. Thus, waiving the screening requirement along the front and along the side to the rear of the existing building may be advisable, but from that point it would appear that screening can be provided.

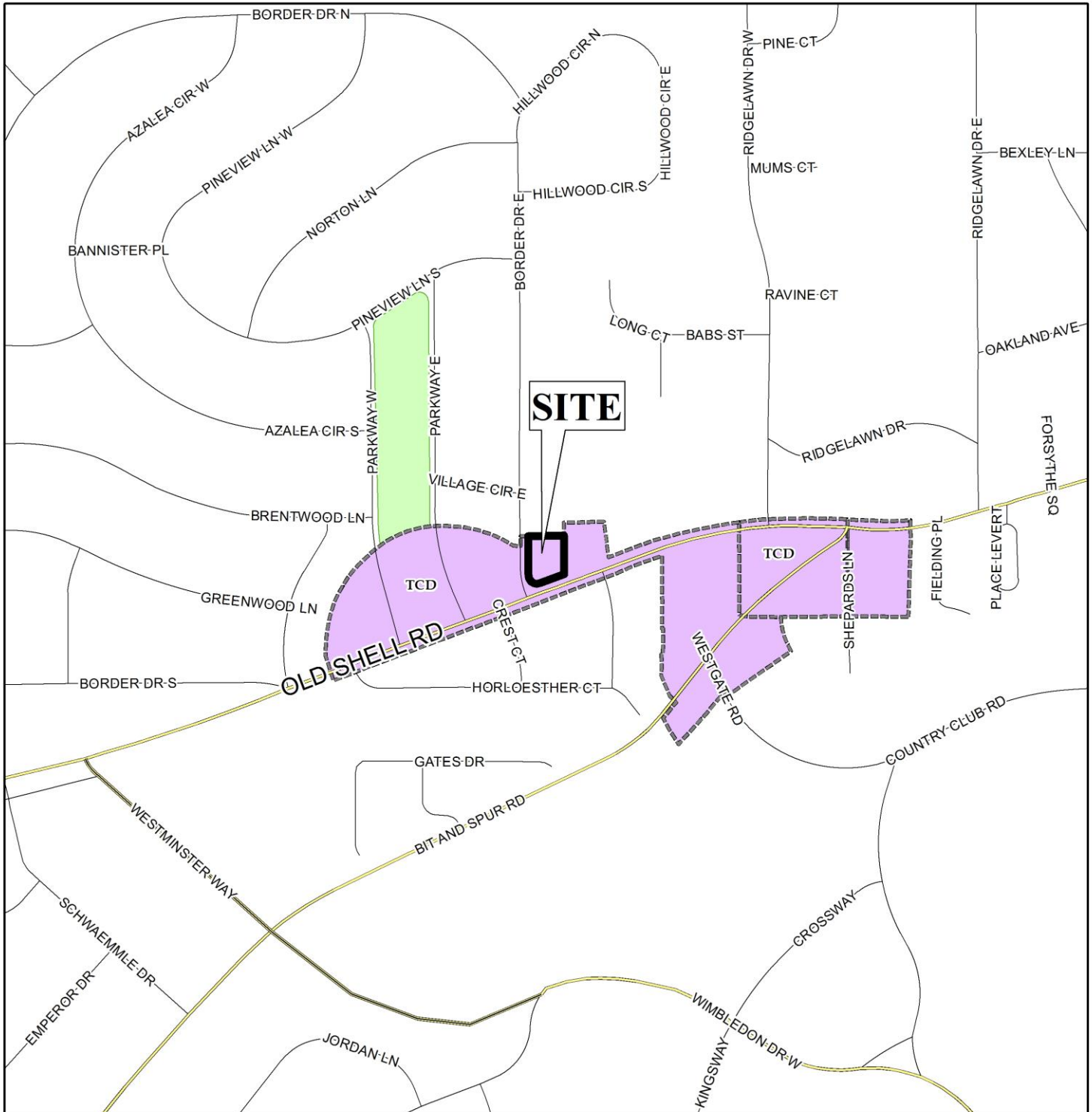
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval of the Use, Parking Surface and half of the Buffer variance requests:

- 1) Approving the variance request will not be contrary to the public interest because the proposed repurposing of the building and site will result in a less intense use, the provision of adequate on-site parking with a material will reduce storm water flowing off of the site, and waiving the screening for the corner of the site will maintain sight lines from Old Shell onto East Border Drive;
- 2) Special conditions exist, including the existing commercial structure, the potentially contaminated site, and known flooding adjacent to the site, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance due to the fact that the site will be repurposed with a less intense use, and with less impervious area.

The Approval should be subject to the following conditions:

- 1) Screening to be provided for the rear parking area, from the sidewalk along the rear of the existing building to the north property line, removing two proposed parking spaces if required;
- 2) Hours of operation limited to 6:30 AM to 7:00 PM, Monday through Saturday;
- 3) Compliance with 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. b. Submit a ROW Permit (City of Mobile) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW. c. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).*);
- 4) Compliance with Traffic Engineering comments (*A non-utility right-of-way use agreement should be required to allow for the parking and maneuvering that is proposed to take place within the right-of-way. Dedication may be required along Border Drive North so that the parking and proposed lighting are constructed entirely within the right-of-way. Any striping to be place in the right-of-way must be a thermoplastic material. If a surface variance is approved, the aggregate cannot extend into the right-of-way and cannot be used in the areas designated as the accessible path from any required handicap space to the building.*);
- 5) Compliance with 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));*
- 6) Compliance with 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));* and
- 7) Full compliance with all other applicable codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6159 DATE March 5, 2018

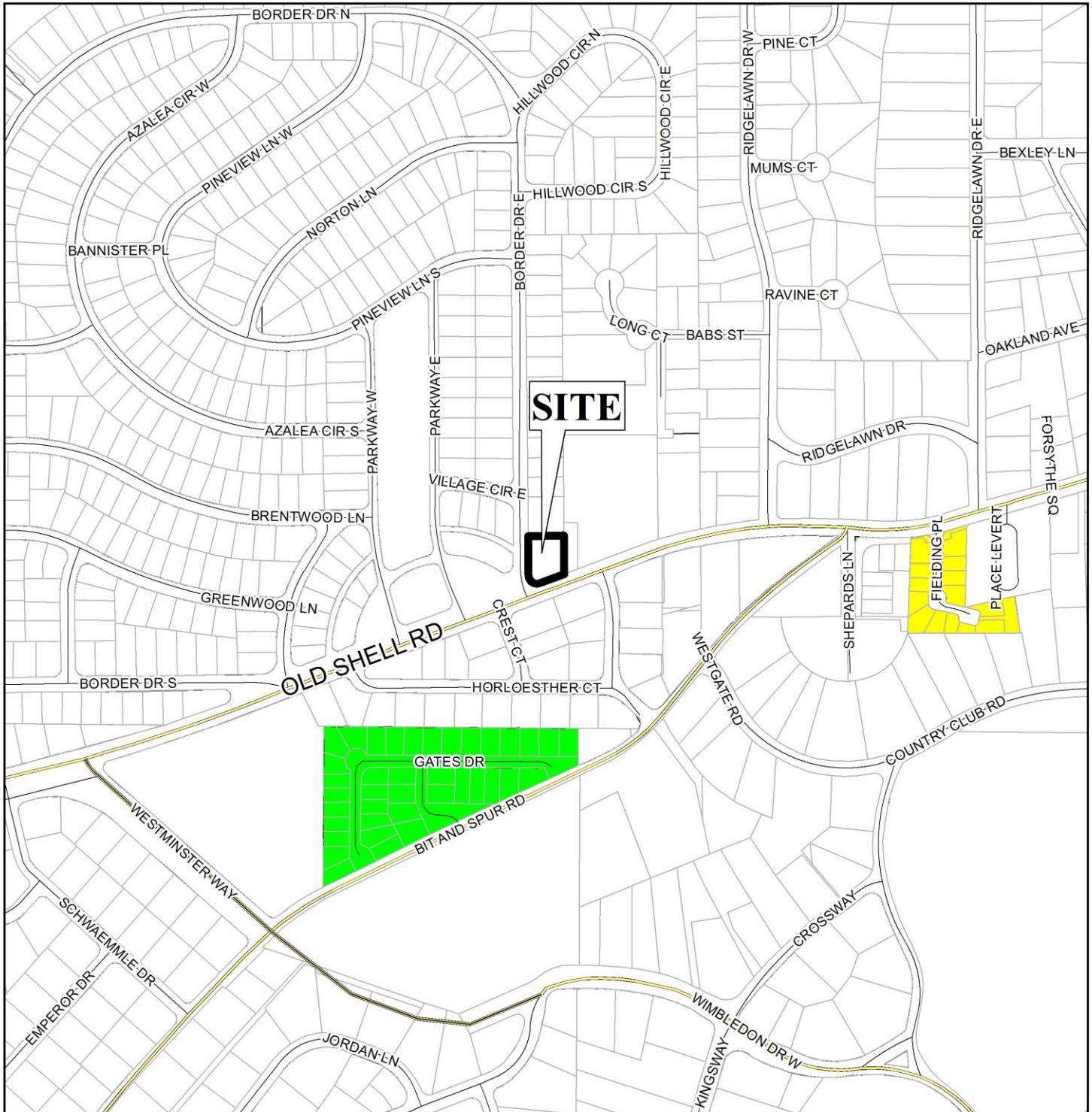
APPLICANT Jeff LaCour

REQUEST Use, Parking Surface, and Buffer Variances



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LOCATOR ZONING MAP



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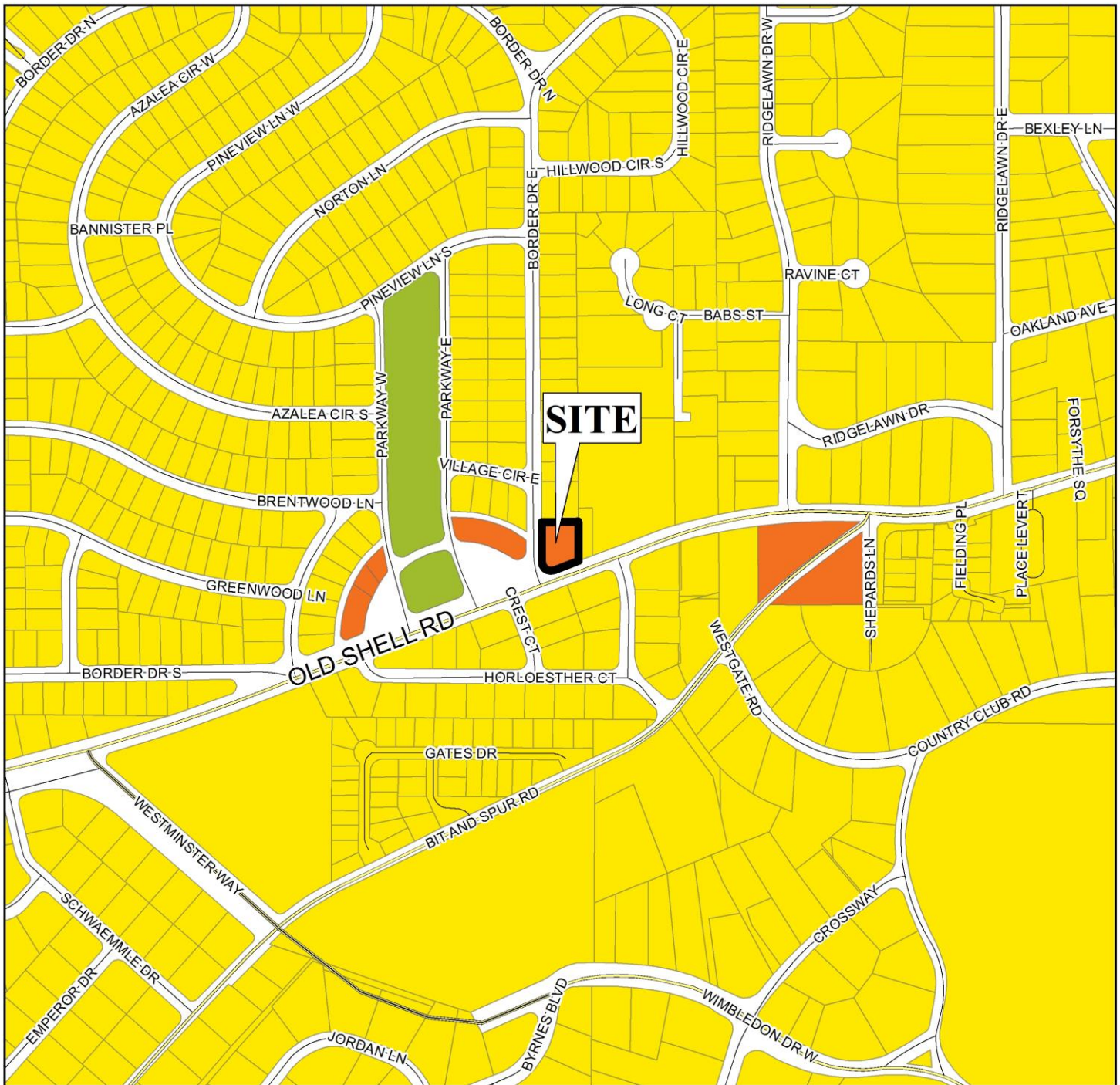
APPLICANT Jeff LaCour

REQUEST Use, Parking Surface, and Buffer Variances



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FLUM LOCATOR MAP



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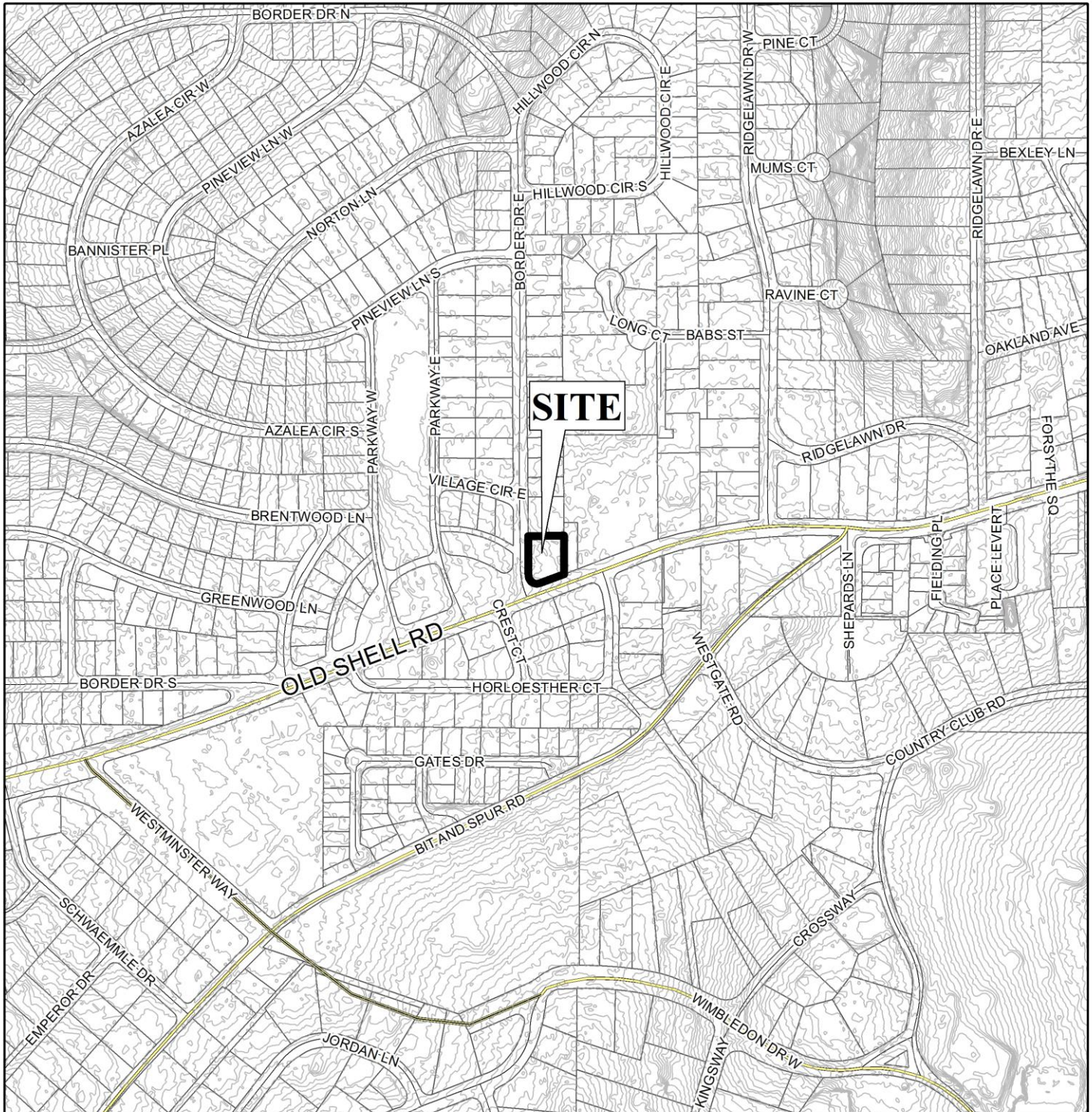
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REQUEST Use, Parking Surface, and Buffer Variances

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.

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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



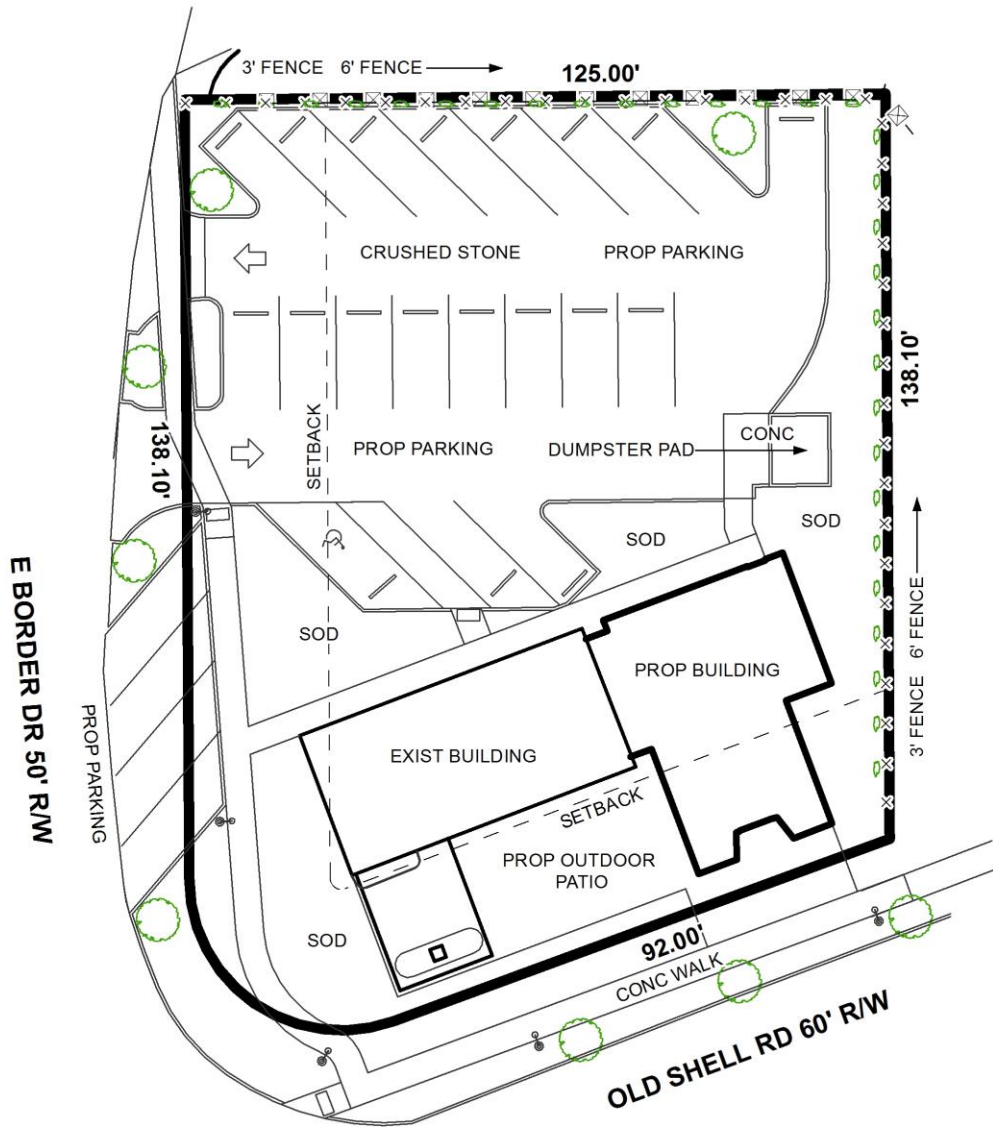
City of Mobile GIS Department

The site is surrounded by residential units.

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 REQUEST Use, Parking Surface, and Buffer Variances



SITE PLAN



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

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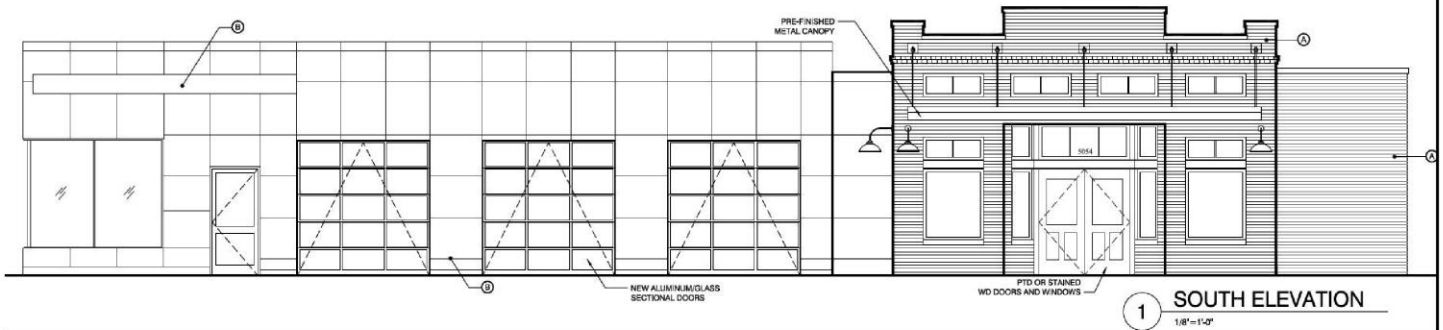
APPLICANT Jeff LaCour

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DETAIL SITE PLAN



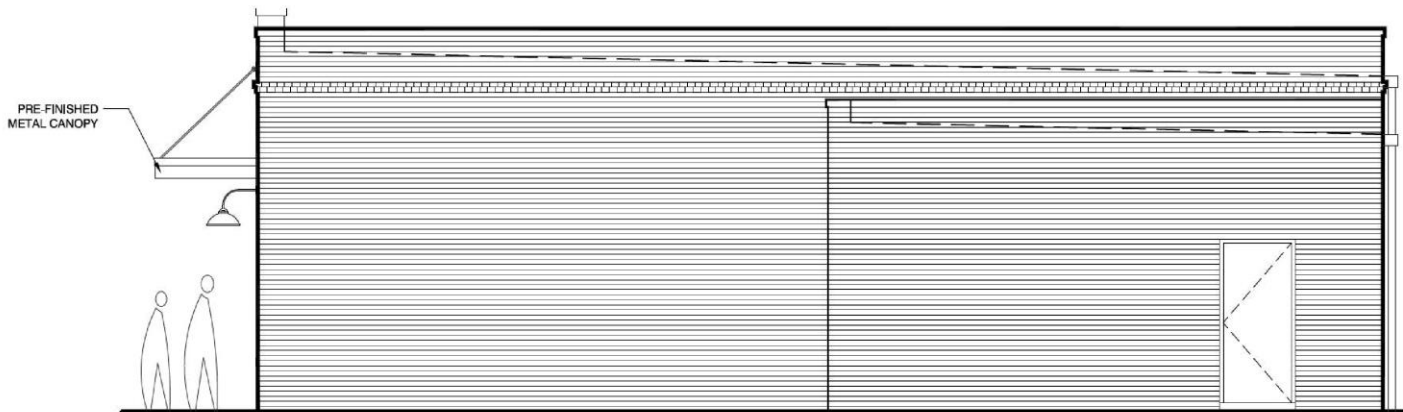
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DETAIL SITE PLAN



2 EAST ELEVATION
1/4" = 1'-0"

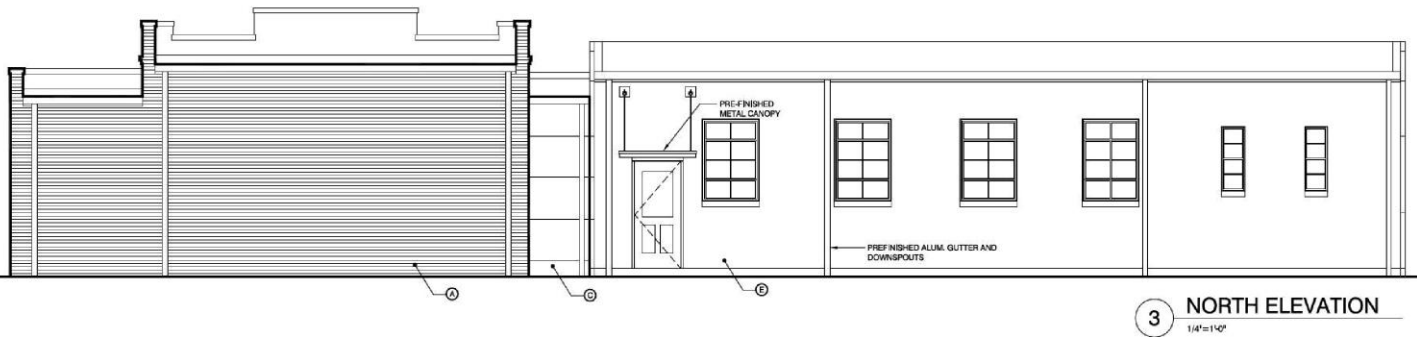
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DETAIL SITE PLAN



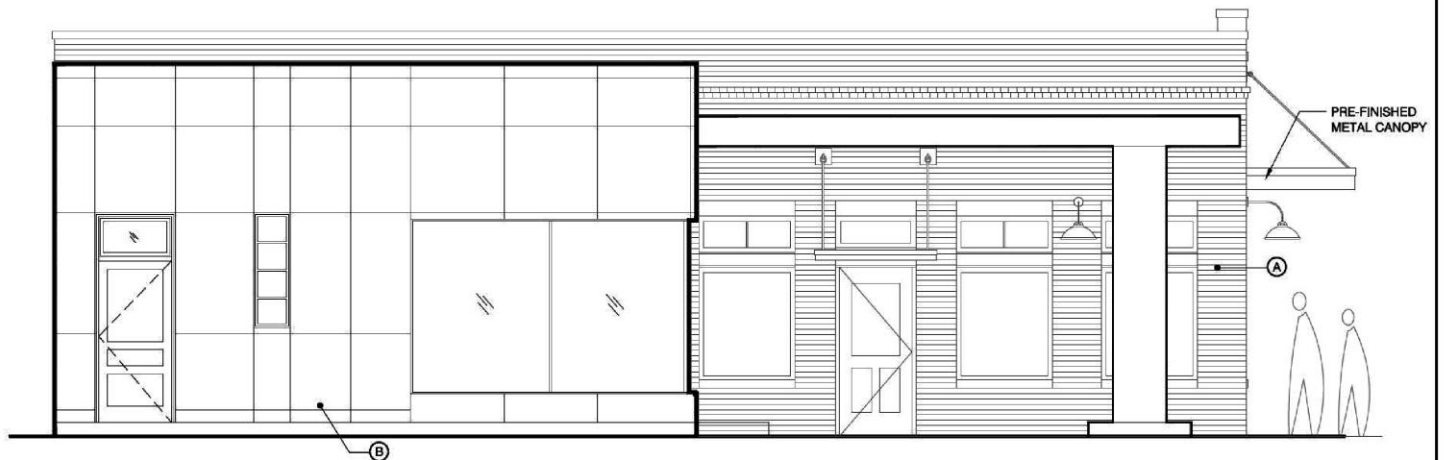
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DETAIL SITE PLAN



4 WEST ELEVATION
1/4" = 1'-0"

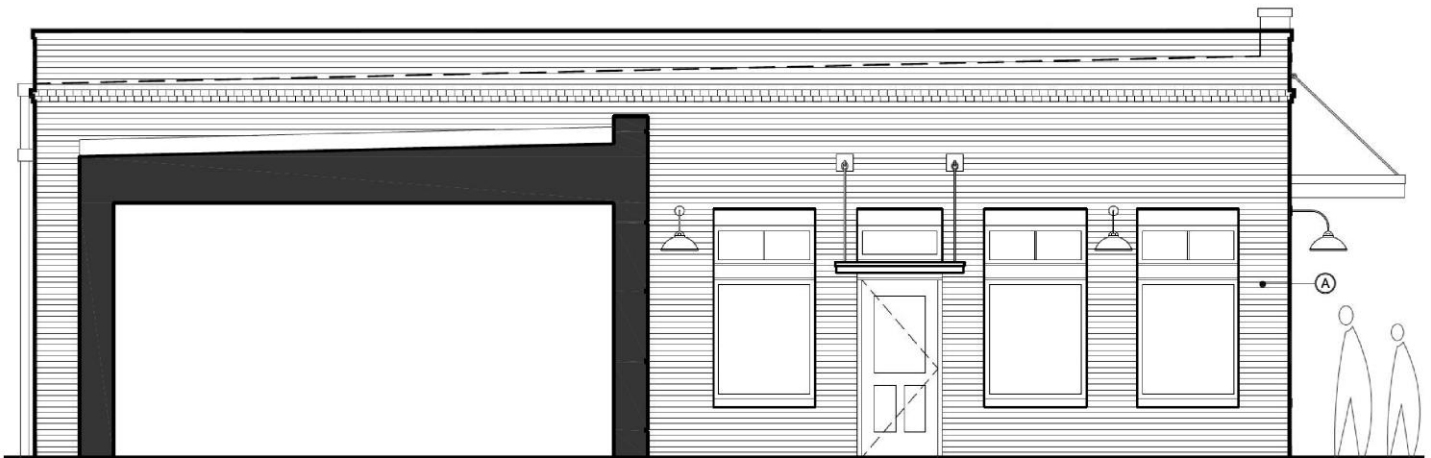
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DETAIL SITE PLAN



5

WEST ELEVATION

1/4" = 1'-0"

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