



# Agenda Item # 1

## BOA-002650-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

720 Museum Drive

**Applicant / Agent:**

Philip Burton, Burton Property Group / Stephen Harvey, McDowell Knight, Agent

**Property Owner:**

City of Mobile

**Current Zoning:**

R-1, Single-Family Residential Suburban

**Future Land Use:**

Institutional

**Case Numbers:**

6549

**Unified Development Code Requirement:**

- A minimum of 10 acres West of Interstate 65 is required for consideration of a Planned Development.

**Board Consideration:**

- Site variance to allow a Planned Development application on 4.33± acres West of Interstate 65.

**Report Contents:**

	<b>Page</b>
Context Map .....	2
Site History .....	3
Staff Comments .....	3
Variance Considerations .....	4
Exhibits .....	6

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



The site is surrounded by commercial and residential units.

APPLICATION NUMBER 6549 DATE December 4, 2023  
APPLICANT Philip Burton, Burton Property Group (Stephen  
REQUEST Site Variance



## SITE HISTORY

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The site was formerly used by the Alabama National Guard as an armory with the existing large building constructed in the mid to late 1960's. The Armory Commission of Alabama deeded the property to the City in the 2000's and earlier this year, the City published a Request For Proposal (RFP) to sell the property.

## STAFF COMMENTS

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### Engineering Comments:

No comments.

### Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

### 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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

### Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

### Planning Comments:

The applicant is requesting a Site Variance to allow a Planned Development application on 4.33± acres West of Interstate 65. The site is zoned R-1, Single-Family Residential Suburban District, and is located within the Neighborhood General sub-district of the Spring Hill Overlay. The Unified Development Code requires Planned Development sites to include a minimum of 10 acres, when the site is located West of Interstate 65.

The entire application packet is available via the link on Page 1.

The subject site is adjoined to the Southeast by a City of Mobile Fire Rescue station, R-3 and commercial zoning and uses to the West and North, vacant commercial zoning to the East across McGregor, and R-1, Single-Family

and institutional development (Mobile Area Water Service and public safety telecommunications) to the East and South.

As referenced in the Site History, the City published a RFP for the site which stated in part that the City sought proposals that will “create an impact to the community through residential development...[and that]...multifamily dwellings are of interest to support the residential housing demand.” The RFP went on to say “the property can be considered for rezoning to a more suitable category, depending on the plans” and “It is expected that the selected respondent will rezone the property as needed.” The RFP also stated that the “development would be required to fully comply with applicable City of Mobile zoning regulations.”

At this point, further information regarding Planned Development (PD) zoning is appropriate. A PD zoning district is an alternative zoning district where a project is so unique that it does not appropriately fit within an existing zoning district classification. A PD creates its own unique zoning district and standards (site dimensions, density, uses, development standards, etc.) and requires the same process as a rezoning for a “typical” zoning district (R-1, B-2, I-1, etc.); a public hearing is held with the Mobile City Planning Commission who then makes a recommendation to the City Council. The City Council makes the final decision on the PD zoning application.

Due to the flexibility available with a PD zoning district, minimum site standards were established to prohibit a disruptive zoning pattern. The Unified Development Code (fka the Zoning Ordinance), in 64-2-23.A.2. states that an application for PD rezoning must include the following minimum contiguous land area:

(b) Areas West of I-65 or South of I-10: 10 acres.

For informational purposes, areas East of I-65 and North of I-10 require a minimum of 5 acres. It is further stated in Section 64-2-23.B.3. that; “The PD District is not intended to be used as a means to reduce the standards and requirements of the development of property as otherwise required by this Chapter.”

The applicant has submitted the site plan that was included in the RFP bid for the property. The applicant goes on to say there is uncertainty as to the ability to construct the proposed 362 units on 4.33 acres due to the requirements and limitations of the UDC. The applicant also states that some retail use may be incorporated in lieu of some residential units but is confident that a PD zoning will be the “best zoning suitable” for the project.

This variance request, if approved, would allow the applicant the ability to submit a PD application to the Planning Commission and City Council. Approval of the variance application would not approve the plan submitted.

## VARIANCE CONSIDERATIONS

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### Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;

- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

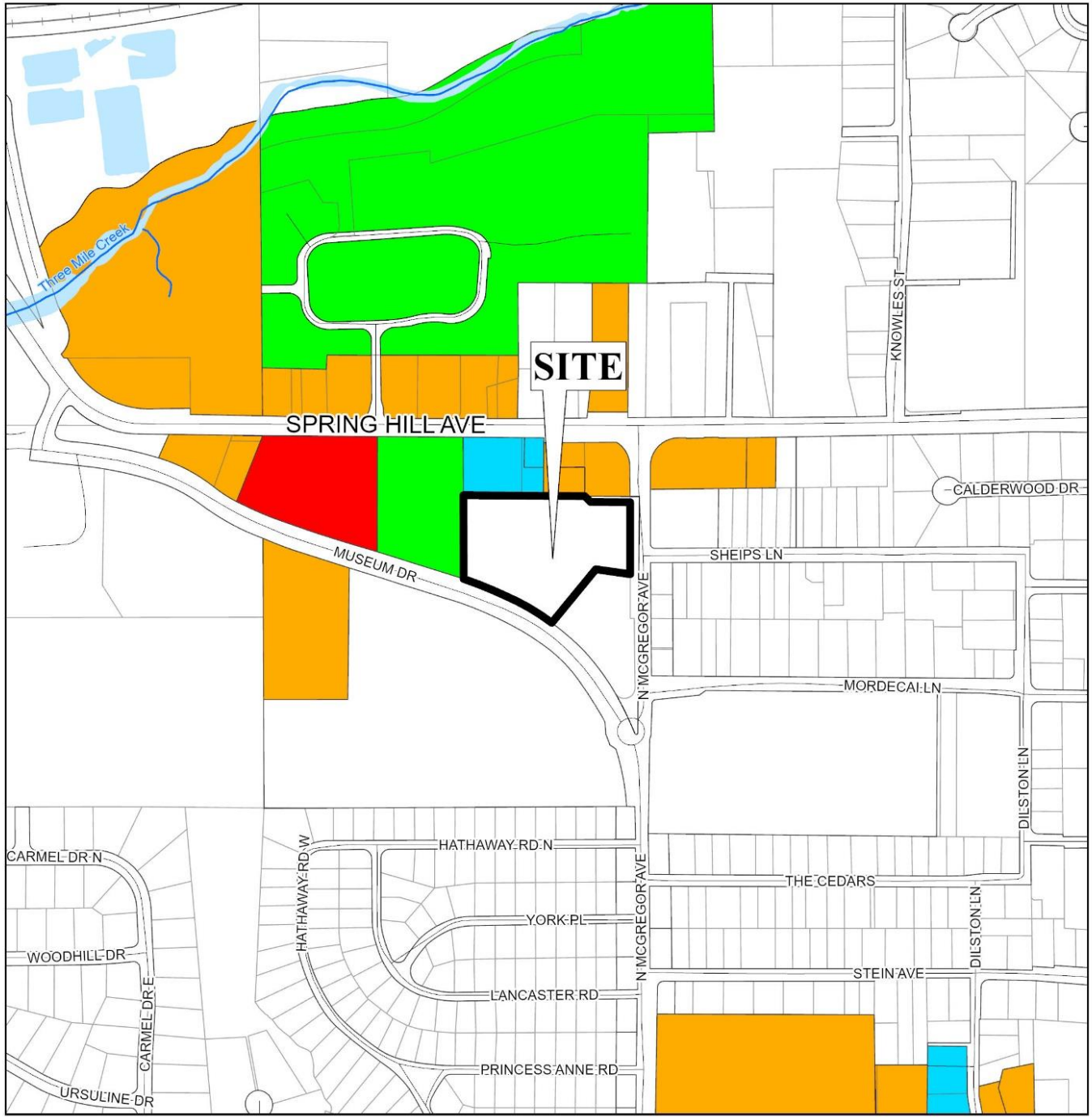
With this application, the Board is determining if there are unique characteristics associated with the property such that no other zoning classification can reasonably accommodate the proposed development, and thus granting the applicant the ability to apply for PD zoning. It should be noted that lower levels of commercial zoning, such as B-1 and B-2 urban are possible zoning classifications that would allow mixed use development for the site, as it is located within the Neighborhood General Sub-district of the Spring Hill Overlay.

### **Considerations:**

Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

# LOCATOR ZONING MAP



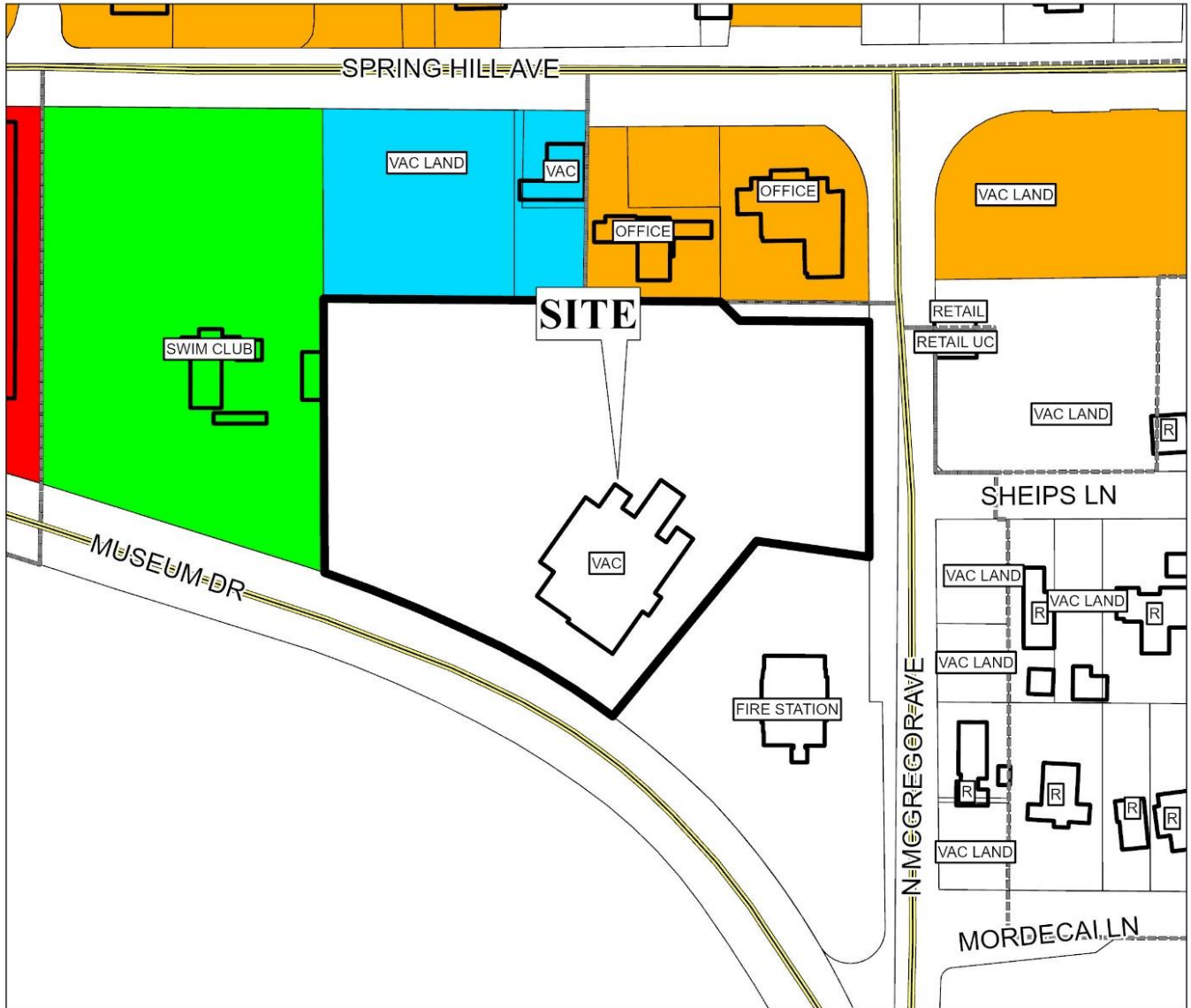
APPLICATION NUMBER 6549 DATE December 4, 2023

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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential units.

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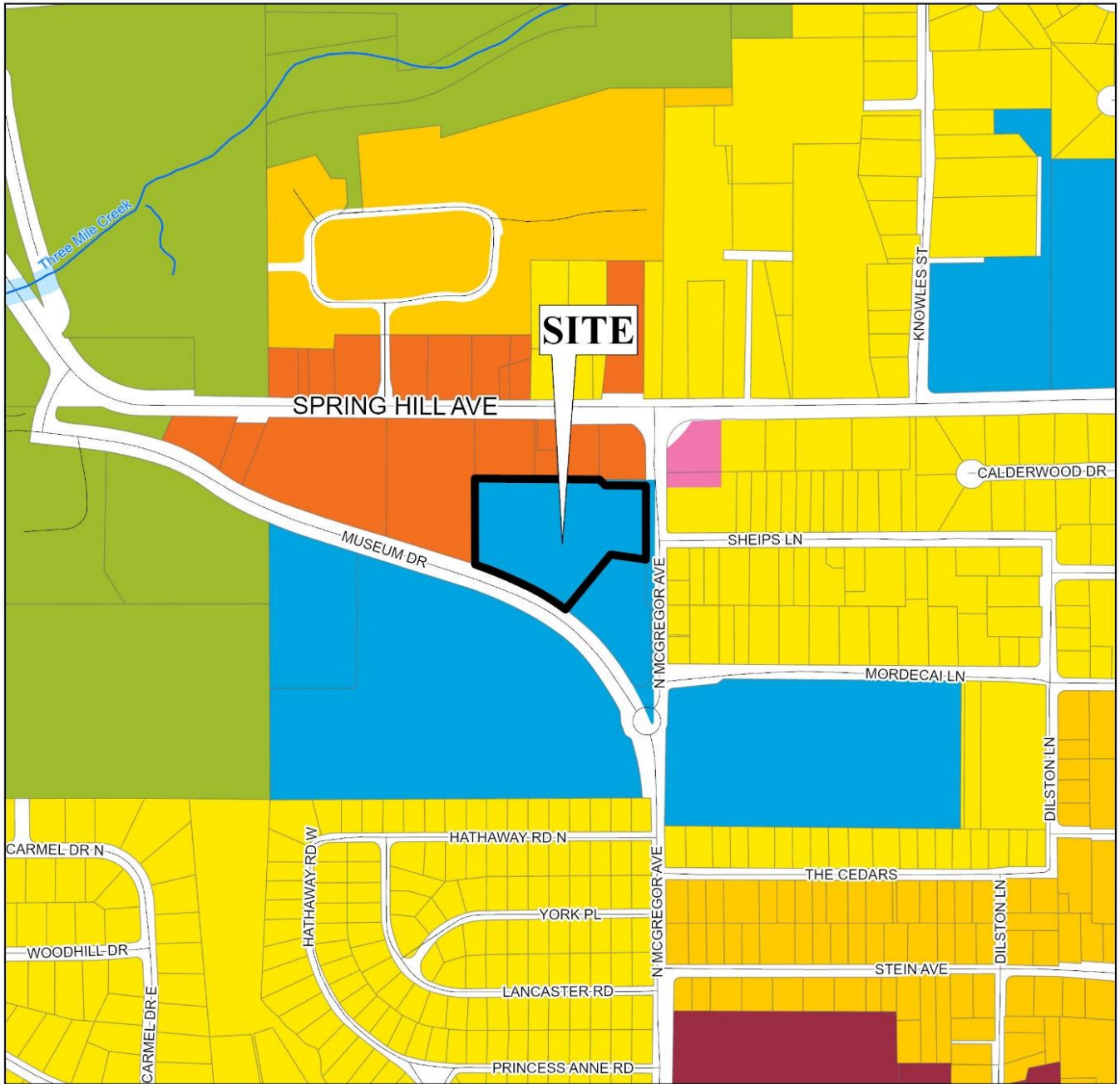
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	R-A		R-3		B-1		B-2		B-5		ML		I-2		OPEN		T-3		T-5.2
	R-1		R-B		T-B		B-3		CW		MH		PD		SD		T-4		T-6
	R-2		H-B		LB-2		B-4		MM		I-1		MUN		SD-WH		T-5.1		



# FLUM LOCATOR MAP



APPLICATION NUMBER 6549 DATE December 4, 2023

APPLICANT Philip Burton, Burton Property Group (Stephen

REQUEST Site Variance

- |   |   |   |  |
|---|---|---|--|
| <span style="color: yellow;">■</span> Low Density Residential | <span style="color: maroon;">■</span> Neighborhood Center - Traditional | <span style="color: orange;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: gold;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban      | <span style="color: lightgrey;">■</span> Light Industry   | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: pink;">■</span> Downtown                  | <span style="color: lightpink;">■</span> Traditional Corridor           | <span style="color: purple;">■</span> Heavy Industry      |  |
| <span style="color: red;">■</span> District Center            | <span style="color: orange;">■</span> Mixed Commercial Corridor         | <span style="color: cyan;">■</span> Institutional         |  |





# SITE PLAN



The site plan illustrates the proposed structures, proposed parking, and a garage.


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ZONING DISTRICT CORRESPONDENCE MATRIX			LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWURU)
RESIDENTIAL - AG	R-A															
ONE-FAMILY RESIDENCE	R-1	■				■		■						□		
TWO-FAMILY RESIDENCE	R-2	■				■		■						□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■							□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■						□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■						□		
HISTORIC BUSINESS	H-B			■		■		■						□		
VILLAGE CENTER	TCD					■	■							□		
NEIGH. CENTER	TCD					■	■							□		
NEIGH. GENERAL	TCD					■								□		
DOWNTOWN DEV. DDD	T-6			■										□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□						□		
DOWNTOWN DEV. DDD	T-5.2			■		■								□		
DOWNTOWN DEV. DDD	T-4			■		■		□						□		
DOWNTOWN DEV. DDD	T-3			■		■								□		
DOWNTOWN DEV. DDD	SD-WH										○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○			○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■					□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■					□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■					□	○	
COMMUNITY BUSINESS	B-3				■				■				○	□	○	
GEN. BUSINESS	B-4			■					■				○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■				□	□	
LIGHT INDUSTRY	I-1										■			□	□	□
HEAVY INDUSTRY	I-2											■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

## Institutional Land Use (INS)



This designation includes land and buildings occupied by municipal and other governmental agencies for the exercise of their functions, to serve the public or provide a civic use or amenity. These include major libraries, airports, public schools and public safety facilities, but exclude parks and public open space which are identified under a separate land use classification (see below). Semi-public uses such as grammar and high schools, colleges and universities, hospitals, and other major institutions that serve the public and/or operate in a public function are

included. Parks and public open space are not included but have their own land use classification.

*Note: Small-scale properties (less than 2 acres) accommodating subsidiary public and semi-public facilities, such as branch libraries, substations, satellite clinics, etc., may not be specifically called out in the FLUM under this land use designation, but may instead be considered part of the array of integrated complementary uses typically found in a residential neighborhood or a mixed-use center or corridor. The specific location and design of these complementary uses is subject to zoning.*