



Agenda Item # 1

BOA-002670-2023

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

6109 Howells Ferry Road

Applicant / Agent:

Claude & Melody Hall / Zeke Hudson, Rowe
Surveying, Agent

Property Owner:

Protestant Episcopal Church

Current Zoning:

R-1, Single-Family Residential Suburban District

Future Land Use:

Low Density Residential

Case Number(s):

6550

Unified Development Code (UDC) Requirement:

- The UDC does not allow commercial day cares to operate in an R-1, Single-Family Residential Suburban District.

Board Consideration:

- Use Variance to allow a commercial day care to operate in an R-1, Single-Family Residential Suburban District.


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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

APPLICATION NUMBER <u>6550</u> DATE <u>November 6, 2023</u>	 NTS
APPLICANT <u>Claude & Melody Hall (Zeke Hudson, Rowe Surveying, Agent)</u>	
REQUEST <u>Use Variance</u>	

SITE HISTORY

Subdivision of the site to create a single lot of record was approved in August 2001, along with Planning Approval to allow a church to operate in an R-1 zoning district, and Planned Unit Development approval to allow multiple buildings on a single building site.

The site has not been the subject of any Board of Zoning Adjustment cases.

STAFF COMMENTS

Engineering Comments:

No comments to the proposed variance; however; according to the submitted plans, the proposed project will require that a Land Disturbance Permit be submitted through Central Permitting.

Traffic Engineering Comments:

A queue analysis of the internal circulation will be required to demonstrate that there is enough storage for vehicles to ensure that spillback on to Howells Ferry Road doesn't occur. 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 Use Variance to allow use of the property as a commercial day care. In their narrative, which can be viewed using the link on Page 1 of this report, the applicant states that the site has never been used as a residential property as justification for their request.

The site plan provided depicts a vacant, 3,400 square-foot church building and two proposed metal buildings, each 7,500 square feet in size. A proposed parking lot is illustrated to the South of an existing parking lot. The total building footprint of the existing and proposed buildings is 18,400 square feet, which requires 53 parking spaces

per Table 64-3-12.1 of the UDC. It is unclear how many parking spaces will be provided as parking spaces are only illustrated within the proposed parking lot. As such, if approved, the site plan will need to be revised to illustrate a compliant number of parking spaces.

Development of the property with the proposed buildings will result in a building footprint greater than 50% of the existing building footprint. As such, if approved, full compliance with the development standards of Article 3 of the UDC will be required. This includes, but is not limited to: the provision of a sidewalk along Howells Ferry Road; the provision of on-site pedestrian walkway connections; compliance with building design and height variation requirements; compliance with tree planting and landscape area requirements; the provision of a residential protection buffer where the site abuts residentially zoned or utilized property; compliance with parking lot lighting requirements and the provision of a photometric plan; the provision of off-street loading facilities; and the provision of bicycle parking.

The applicant states in their narrative that the hours of operation of the proposed day care are from 6:00 a.m. until 6:00 p.m. The applicant also states that the day care will accommodate 40 children, and employee 20 people. The applicant does not state the days the day care will operate.

While the use history of the subject site is limited to non-residential, the site is surrounded by residentially zoned and utilized properties. Previous use of the property as a church required Planning Approval, which was a process that ensured certain criteria would be met to limit any negative impact the use might have on the surrounding neighborhood. The Variance process does not do this, rather, state law requires that a hardship associated with the property be illustrated. If the Board finds that there is a hardship associated with the property which keeps it from being used in a compliant, single-family residential manner, then the Board may stipulate conditions to mitigate negative impacts. Use of the property as a day care may be more intense than a church considering the days and hours of operation are more frequent than those of typical church services.

If approved, the change in use of the property from a church to a day care facility should not require approval of a Major Modification to the previously approved Planning Approval, but the construction of the additional parking lot and two (2) buildings may require a Major Modification of the previously approved Planned Unit Development (PUD) to be reviewed by the Planning Commission and approved by City Council. If so, approval of the Use Variance should be contingent upon approval of the Major Modification to the PUD.

VARIANCE CONSIDERATIONS

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.

Considerations:

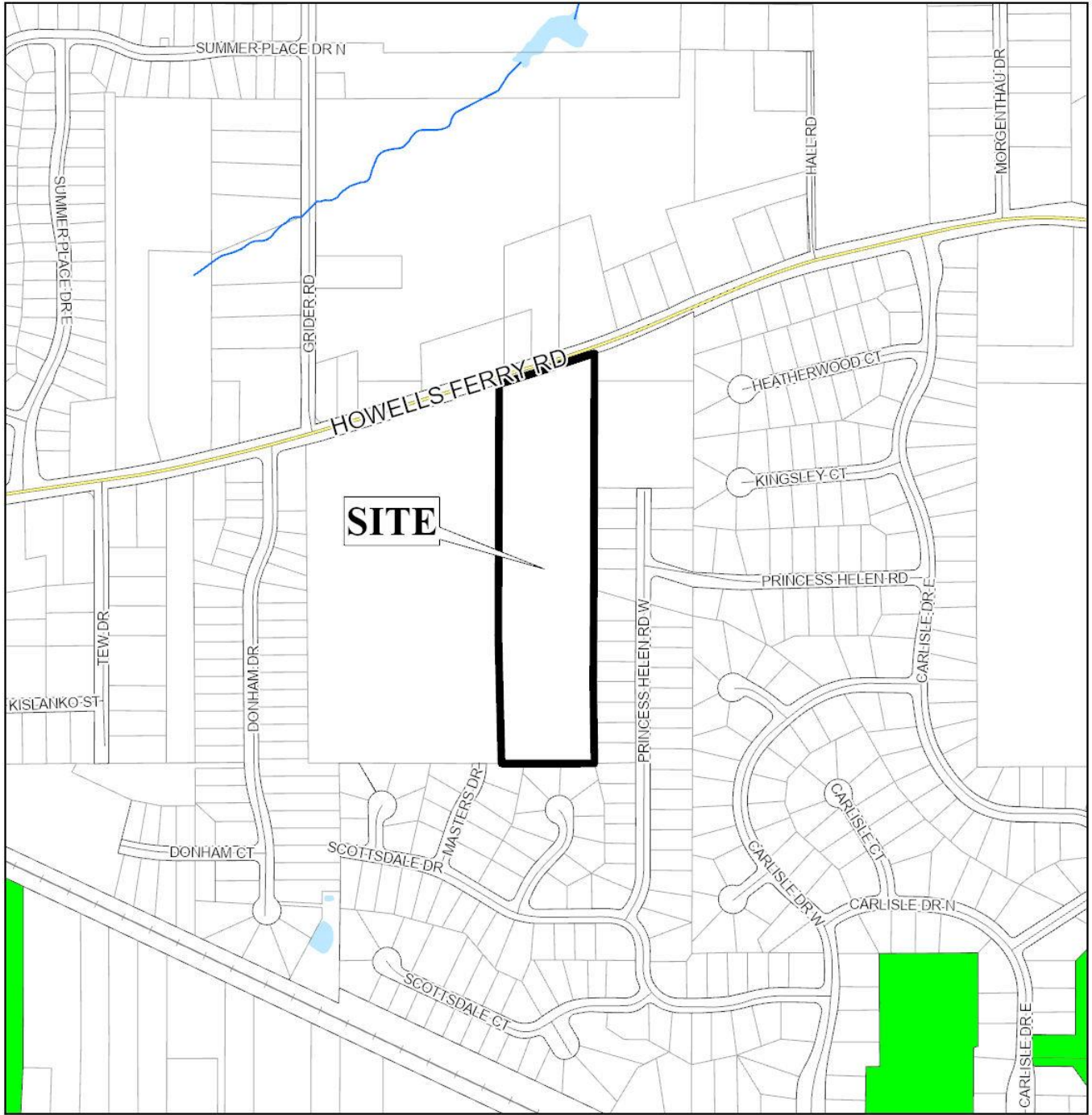
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 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.

If approved, the following condition should apply:

- 1) Submission and approval of a Major Modification to the previously approved Planned Unit Development.

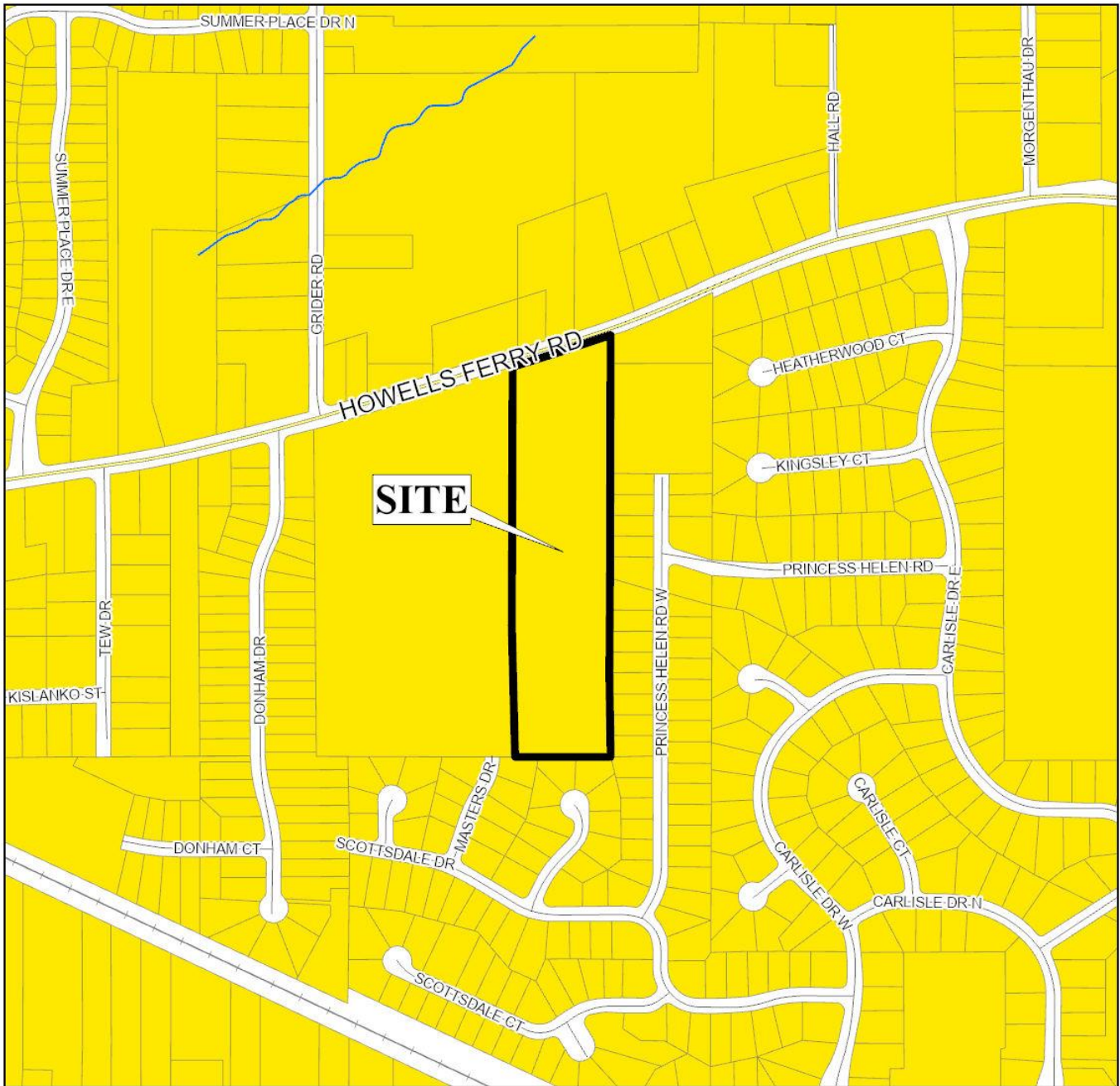
LOCATOR ZONING MAP



APPLICATION NUMBER 6550 DATE November 6, 2023
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REQUEST Use Variance



FLUM LOCATOR MAP



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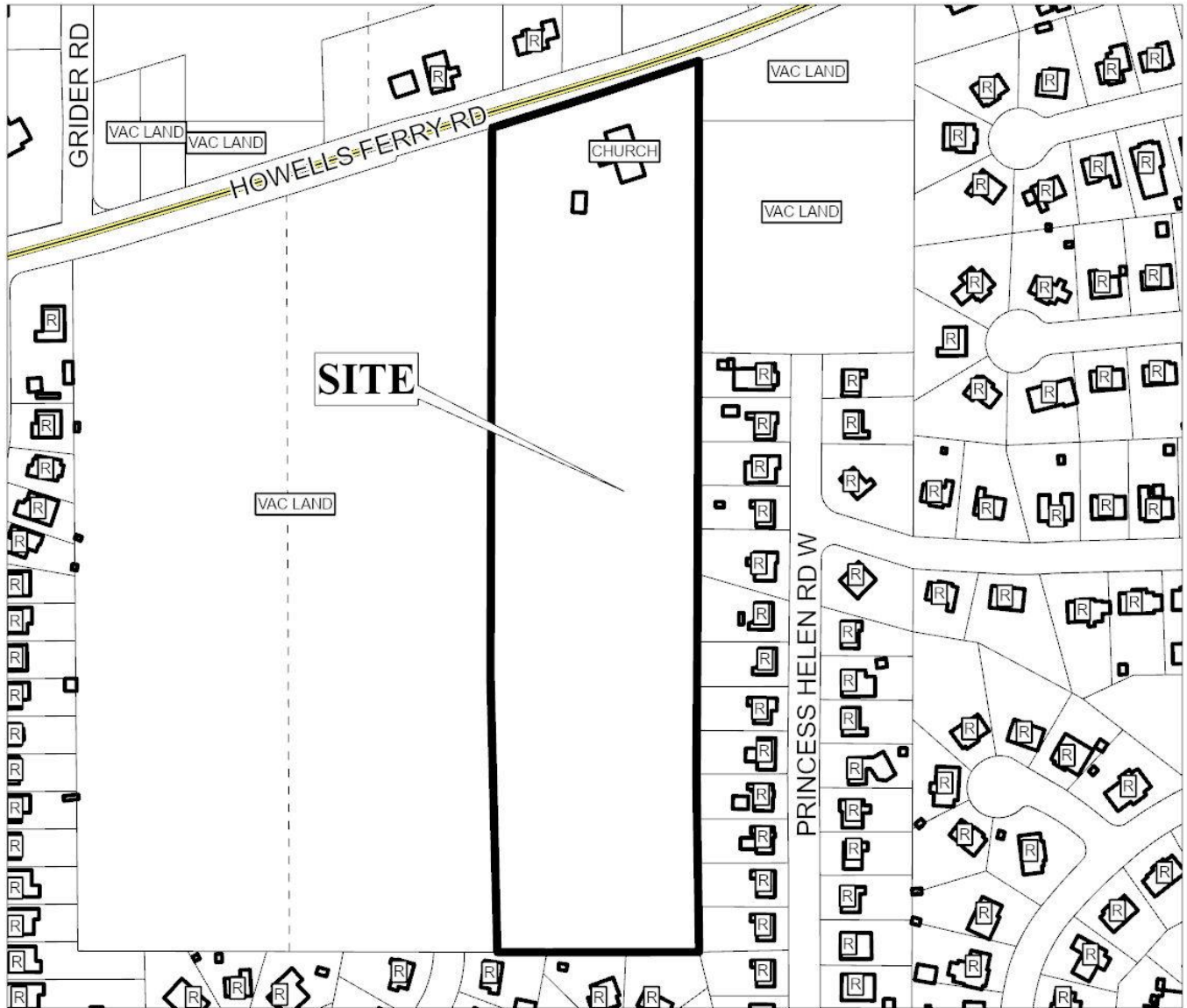
REQUEST Use Variance

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

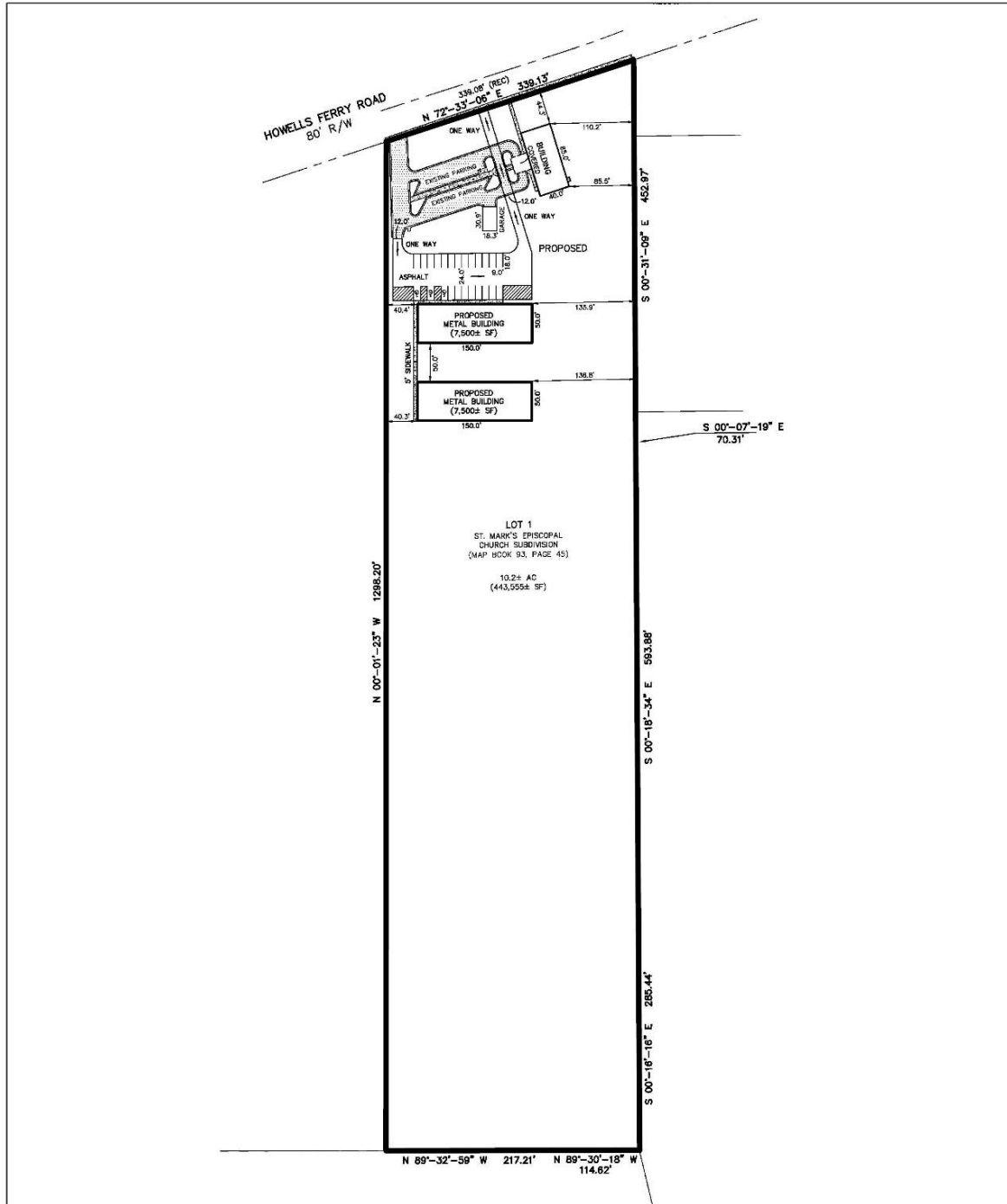
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.


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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>			 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	
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SITE PLAN



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

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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 (WDWRLU)
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)

Residential Land Use



LOW DENSITY RESIDENTIAL (LDR)

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.