



Agenda Item # 2
BOA-002861-2024

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

Property Owner:
Protestant Episcopal Church

Current Zoning:
R-1, Single-Family Residential Suburban District

Future Land Use:
Low Density Residential

Case Number(s):
6580 / 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 residential units.

APPLICATION NUMBER <u>6580</u> DATE <u>April 1, 2024</u>	
APPLICANT <u>Claude & Melody Hall</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 Board of Zoning Adjustment approved a Use Variance at its November 6, 2023 meeting to allow use of the site as a commercial day care in an R-1, Single-Family Residential Suburban District.

At its December 21, 2023 meeting, the Planning Commission approved a modification to the previously approved Planned Unit Development (PUD) to allow the construction of additional buildings on the site.

Most recently, at its March 21, 2024 meeting, the Planning Commission approved another modification to the previously approved PUD to alter the building size of one (1) of the two (2) proposed buildings, and to increase the number of possible students and staff.

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 traffic impact study will be required. 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, one (1) 7,500 square feet in size, and the other 8,750 square feet in size. Two (2) proposed parking lots are illustrated to the North and South of the proposed buildings, for a total of three (3) parking areas. The total building footprint of the existing and proposed buildings is 19,650 square feet, which requires 57 parking spaces per Table 64-3-12.1 of the UDC. There are 54 parking spaces proposed and 16 existing parking spaces, per a note on the site plan, for a total of 70 parking spaces.

It should be noted that, as illustrated, the proposed parking lots will not comply with the parking lot landscaping requirements of Article 3, Section 64-3-7.A.3(c)(2).c. of the UDC with respect to the landscape islands that are required for every 12 contiguous parking spaces. If approved, revision of the site plan will be required to illustrate compliance with these requirements.

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 180-200 children, and employ 25 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 the applicant to illustrate a hardship associated with the property. If the Board finds that there is a hardship associated with the property which prevents it from being used in a compliant, single-family residential manner, then the Board may stipulate conditions to mitigate negative impacts on the surrounding neighborhood. Use of the property as a commercial 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; and the previously approved application stated the day care would accommodate 40 children, while the application at hand is to accommodate 180-200 children.

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:

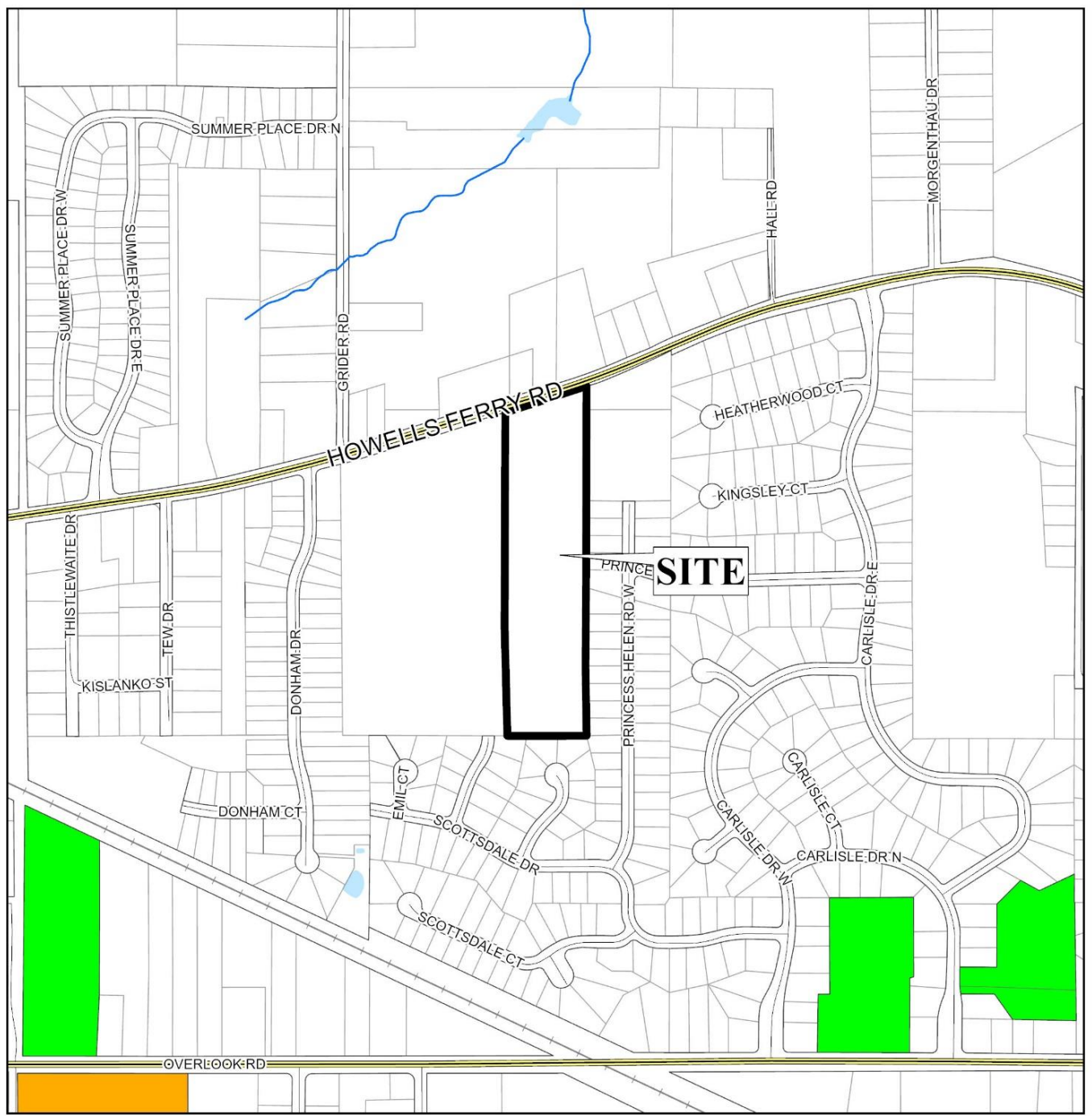
- a) The variance **will not** be contrary to the public interest;
- b) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- c) The spirit of the chapter **shall** be observed and substantial justice done to the applicant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

If approved, the following conditions should apply:

1. Revision of the site plan to illustrate the required landscape islands every 12 new contiguous parking spaces, in compliance with Article 3, Section 64-3-7.A.3(c)(2).c.;
2. Revision of the site plan to illustrate a Protection Buffer where the site abuts residentially zoned property, in compliance with Article 3, Section 64-3-8 of the UDC;
3. Revision of the site plan to reflect compliance with the development standards of Article 3 of the UDC, as listed on Page 4 of this report (or placement of notes on the site plan stating the site will comply with all listed development requirements, with each one listed), and submission of the site plan for review by Planning and Zoning;
4. Completion of the Major Modification process to modify the previously approved Planned Unit Development;
5. Compliance with all Engineering comments noted in this staff report;

6. Compliance with all Traffic Engineering comments noted in this staff report;
7. Compliance with all Urban Forestry comments noted in this staff report;
8. Compliance with all Fire Department comments noted in this staff report;
9. Provision of a copy of the recorded site plan (hard copy and pdf) to Planning and Zoning; and,
10. Full compliance with all municipal codes and ordinances.

LOCATOR ZONING MAP

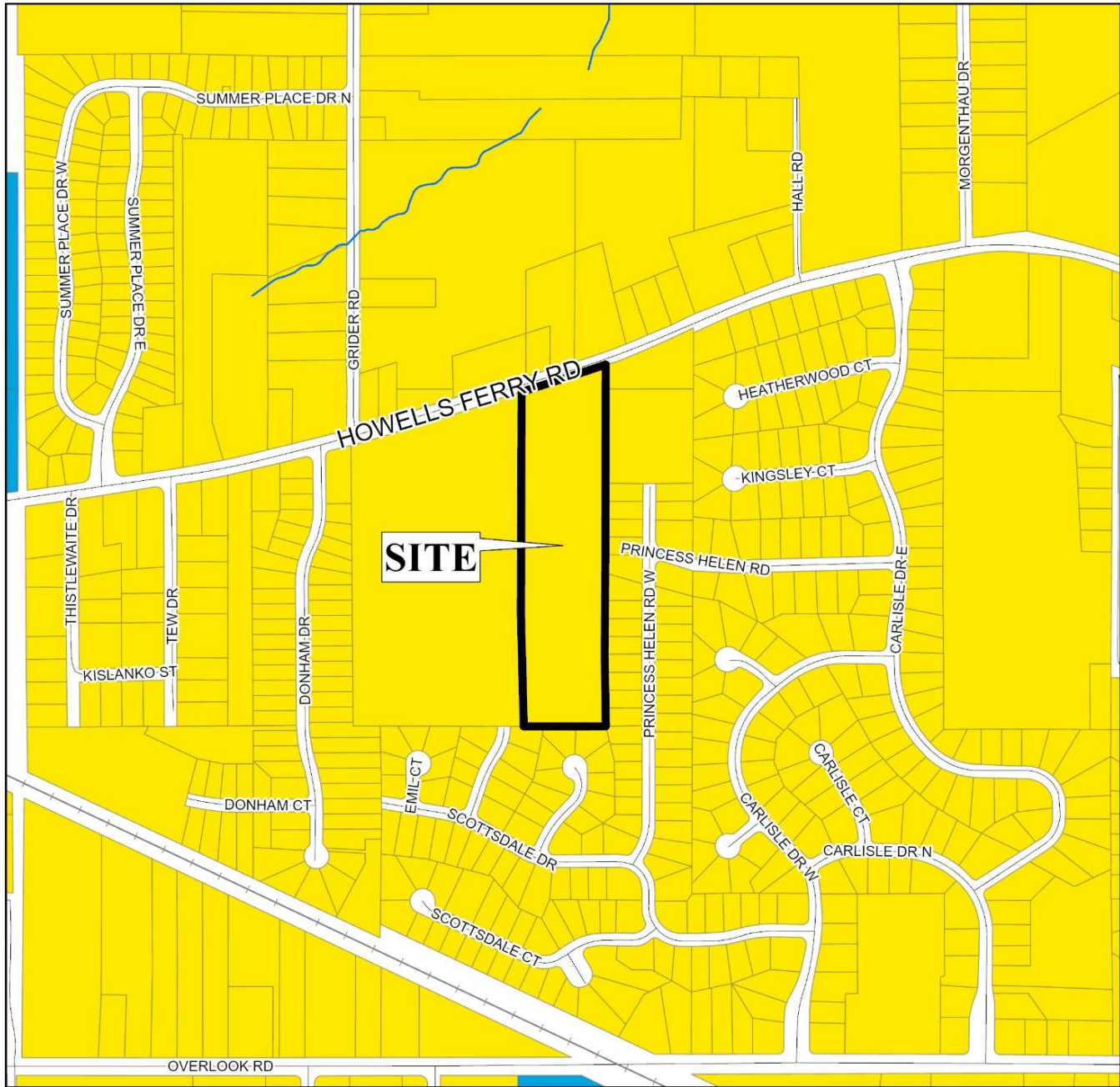


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REQUEST	Use Variance		



NTS

FLUM LOCATOR MAP



APPLICATION NUMBER 6580 DATE April 1, 2024

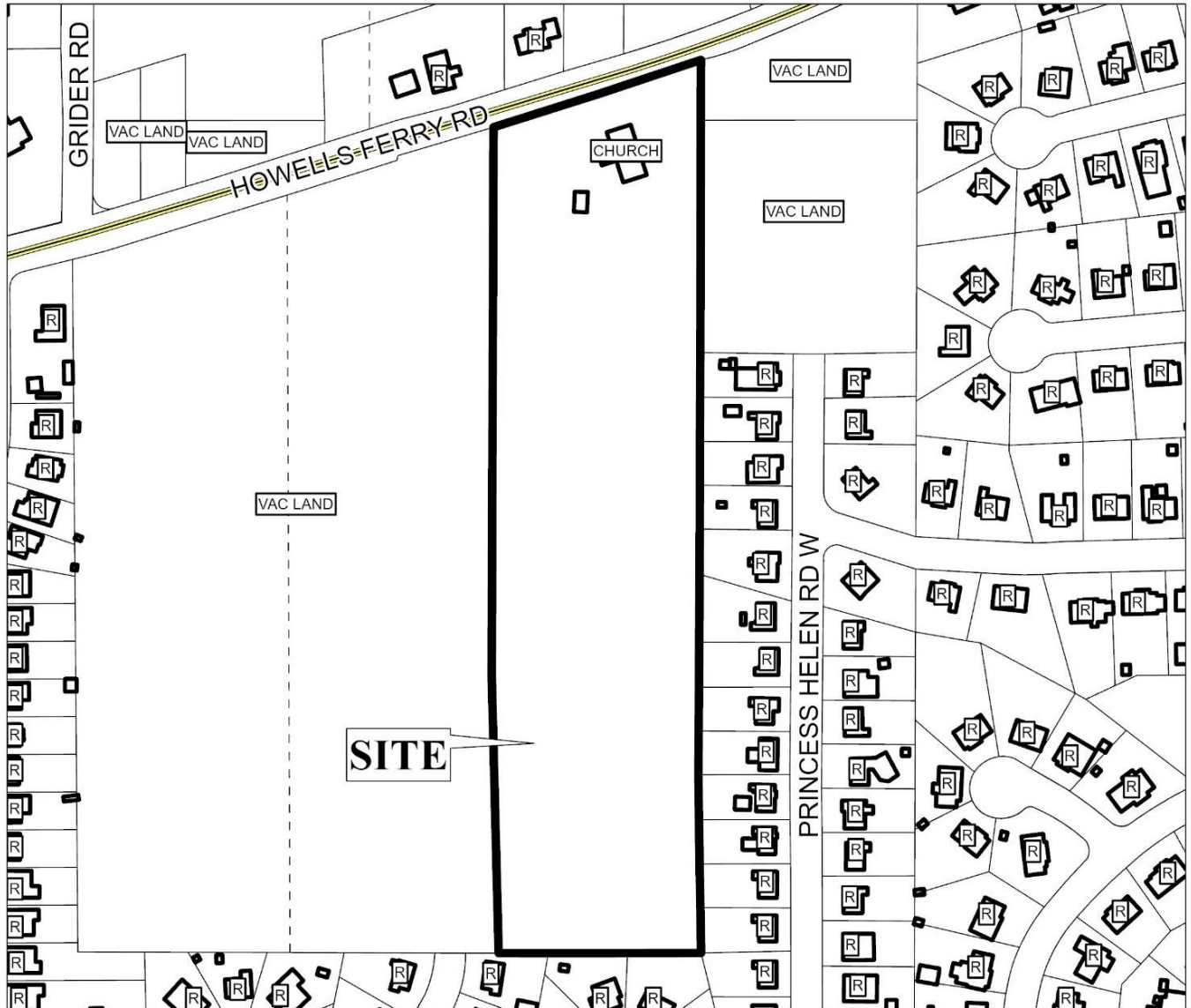
APPLICANT Claude & Melody Hall

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 | |



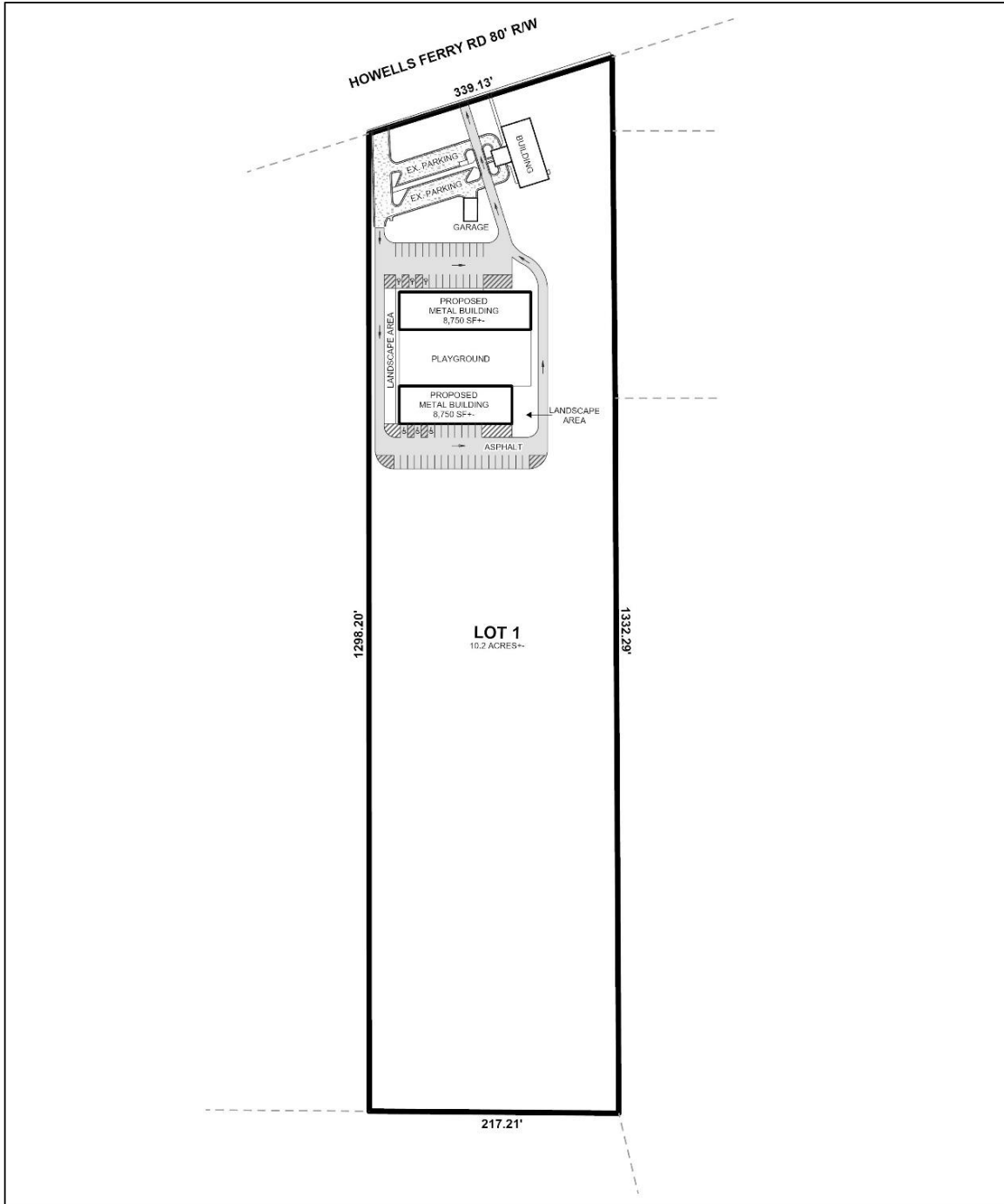
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




The site is surrounded by 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 an existing building, landscaping areas, and the proposed buildings.

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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.