Board of Zoning Adjustment
November 5, 2026

Agenda Item # 2 - HOLDOVER

BOA-003896-2026

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

Applicant Materials for Consideration

DETAILS

Location:
5070 Old Shell Road

Applicant / Agent:
Food Pak, Inc.

Property Owner:
Mahin Ghavamian

Current Zoning:
R-1, Single-Family Residential Suburban District, within the Neighborhood General sub-district of the Spring Hill Overlay

Future Land Use:
Mixed Density Residential

Case Number(s):
6791

Unified Development Code (UDC) Requirement:

- The UDC requires a compliant amount of parking, tree planting, and landscape area to be provided and does not allow grocery stores in an R-1, Single-Family Residential Suburban District within the Neighborhood General sub-district of the Spring Hill Overlay.

Board Consideration:

- Use, Reduced Parking, and Tree Planting and Landscape Area Variances to allow a new grocery store with reduced parking, and reduced tree planting and landscape area in an R-1, Single-Family Residential Suburban District within the Neighborhood General sub-district of the Spring Hill Overlay

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BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER 6791 DATE November 5, 2026

APPLICANT Food Pak, Inc.

REQUEST Use, Reduced Parking, Tree Planting, and Landscape Area Variances

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HOLDOVER COMMENTS

The applicant was held over by the Board of Adjustment at its October 1, 2026 meeting at the applicant's request.

No revised information has been submitted.

HOLDOVER 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 present:

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.

SITE HISTORY

The site was recorded in the Probate Court in 1943 as part of the *Country Club Village Subdivision*, where it was identified as "Commercial Lot B."

The subject site was annexed into the City of Mobile in 1956.

With the adoption of the Zoning Ordinance in 1967, the site was assigned an R-1, Single-Family Residential District zoning classification.

In August 2017, the site was considered by the Board of Zoning Adjustment for use as off-site parking for a restaurant located at 5054 Old Shell Road. The request was denied.

The site was subsequently considered by the Planning Commission at its December 18, 2025, meeting as part of a six (6)-lot Subdivision application, which was denied.

The site was considered by the Planning Commission at its March 19, 2026, meeting as part of a six (6)-lot Subdivision application, which received tentative approval.

On September 17, 2026, the site was before the Planning Commission for consideration to be rezoned from R-1 to B-2, Neighborhood Business District. The application was recommended for denial by the Planning Commission and has not yet been considered by the City Council at this time.

STAFF COMMENTS

Engineering Comments:

No comments on the proposed variance; however, according to the submitted plans, the proposed project will require a Land Disturbance Permit. The applicant will need to have the following conditions met:

1. The proposed site improvements will require that a Land Disturbance Permit be submitted through the CSS Portal.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules for Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

Traffic Engineering Comments:

Comments not to be placed on site plan:

A non-utility right-of-way use agreement should be required to authorize the proposed vehicle maneuvering within the right of-way. Alternatively, the alleyway should be blocked off and excluded from the proposed parking layout.

Comment to be placed on site plan:

Site access is limited to Parkway East and Border Drive East. The width of the driveways shall be limited to a maximum of 24 feet. Driveway number, 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 and Article 13, Section 64-13-6 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 located within the City Limits of Mobile shall comply with the provisions of the City of Mobile Fire Code Ordinance, which adopts the 2021 edition of the *International Fire Code (IFC)*.

Fire apparatus access roads shall be provided to within 150 feet of all non-sprinklered commercial buildings and within 300 feet of all sprinklered commercial buildings, as measured along an approved route around the exterior of the facility.

An approved fire water supply capable of meeting the requirements set forth in *Appendices B and C* of the 2021 IFC shall be provided for all commercial buildings.

Fire hydrant placement shall comply with the following minimum standards:

- Within 400 feet of non-sprinklered commercial buildings
- Within 600 feet of sprinklered commercial buildings
- Within 100 feet of fire department connections (FDCs) serving standpipe or sprinkler systems

Although the *International Residential Code (IRC)* functions as a stand-alone document for the construction of one- and two-family dwellings and townhouses, it does not govern the design or layout of emergency access or community-level fire protection infrastructure. Therefore, residential developments must also comply with the applicable requirements of the *International Fire Code*, including, but not limited to, those listed above concerning the design, construction, regulation, and maintenance of fire apparatus access roads and fire protection water supplies.

Planning Comments:

The applicant is requesting Use, Reduced Parking, and Tree Planting and Landscape Area Variances to allow a new grocery store with reduced parking, and reduced tree planting and landscape area in an R-1, Single-Family Residential Suburban District within the Neighborhood General sub-district of the Spring Hill Overlay; the Unified Development Code (UDC) requires a compliant amount of parking, tree planting, and landscape area to be provided and does not allow grocery stores in an R-1, Single-Family Residential Suburban District within the Neighborhood General sub-district of the Spring Hill Overlay.

The complete application is available via the link on page 1.

It should be noted that after the application was initially submitted requesting Use, Reduced Parking, and Tree Planting and Landscape Area Variances, the applicant submitted a revised site plan depicting compliance with the parking, and tree planting and landscape area requirements of the Spring Hill Overlay, making those requests moot, and leaving only the Use Variance to be requested.

The site is located within the Neighborhood General sub-district of the Spring Hill Overlay, which defers to the underlying zoning district to determine the uses allowed at a property. The Spring Hill Overlay has several unique

site development standards in the City of Mobile, including: parking, transparency, shading sidewalks, street trees, etc. While no building elevations of the proposed new development were submitted with this application, the applicant states in their narrative that it is their intention to comply with all regulations, with the exception of the Use Variance being requested.

The submitted site plan depicts a 6,500 square foot building with 18 parking spaces. The Spring Hill Overlay requires one (1) parking spaces per 450 square feet of retail, thus requiring 15 parking spaces. As the site is less than one (1) acre, there is no need to provide alternative surfacing for the additional parking over the minimum required amount.

As mentioned, the site plan depicts 18 parking spaces at the rear of the proposed structure, that will be accessed by an existing, currently undeveloped alley. The applicant illustrates that six-feet (6') of the alley is to be paved. It should be noted that the site plan depicts 24-feet of access and maneuvering area on the subject site to accommodate two-way traffic, excluding the alley.

The site plan does not depict a dumpster for the proposed development, but there is a note stating that curbside pickup will be used, and that the cans will be stored in the building until pickup day.

As stated previously, the site was recently recommended for denial for rezoning to B-2 by the Planning Commission, but it has not been before the City Council for their final decision.

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.

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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 present:

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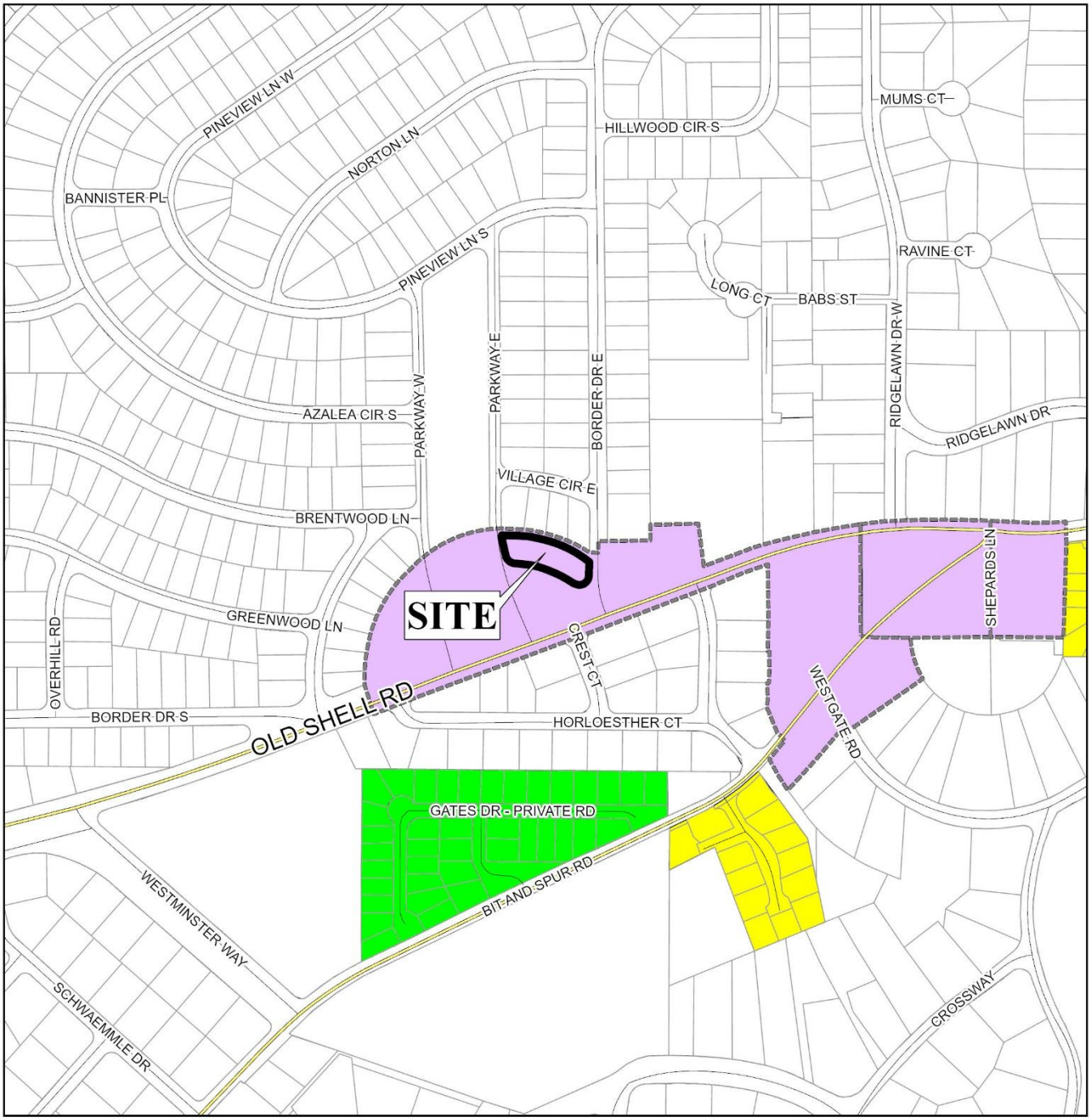
LOCATOR ZONING MAP



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APPLICANT Food Pak, Inc.

REQUEST Use, Reduced Parking, Tree Planting, and Landscape Area Variances

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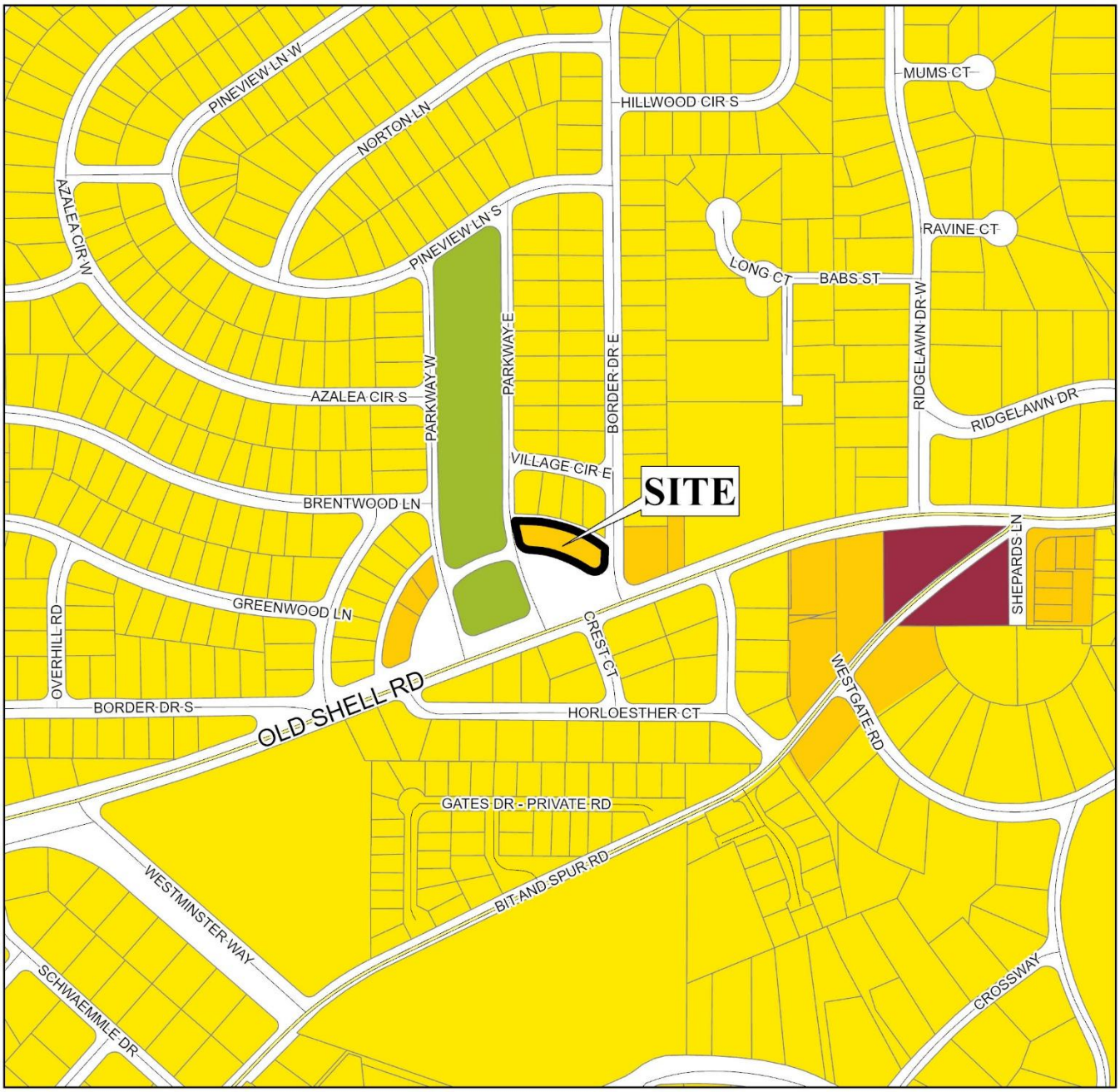
FLUM LOCATOR MAP



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REQUEST Use, Reduced Parking, Tree Planting, and Landscape Area Variances

- Low Density Residential
- Mixed Density Residential
- Downtown
- District Center
- Neighborhood Center - Traditional
- Neighborhood Center - Suburban
- Traditional Corridor
- Mixed Commercial Corridor
- Light Industry
- Heavy Industry
- Institutional
- Parks, Open Space
- Water Dependent

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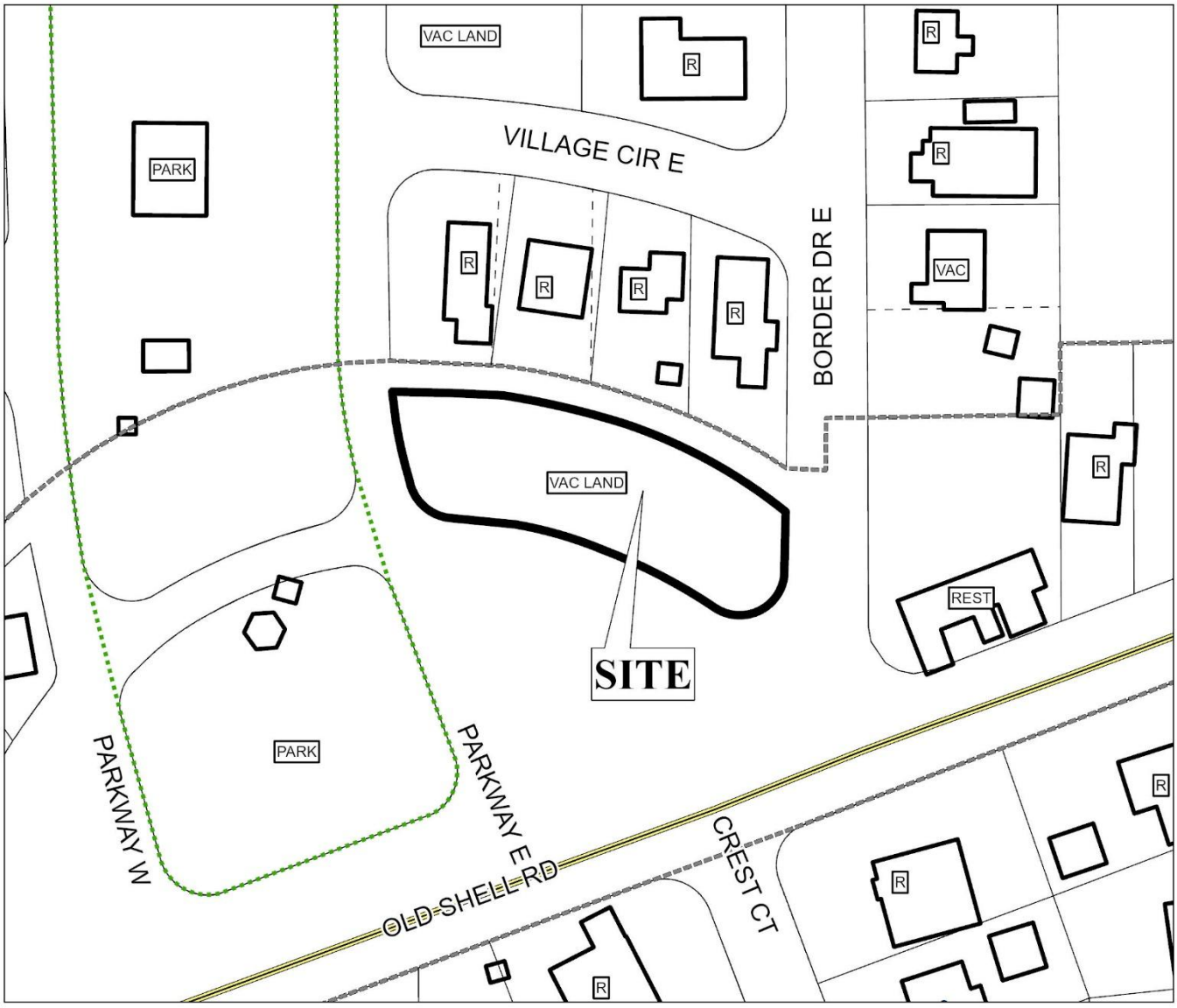
BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING



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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	

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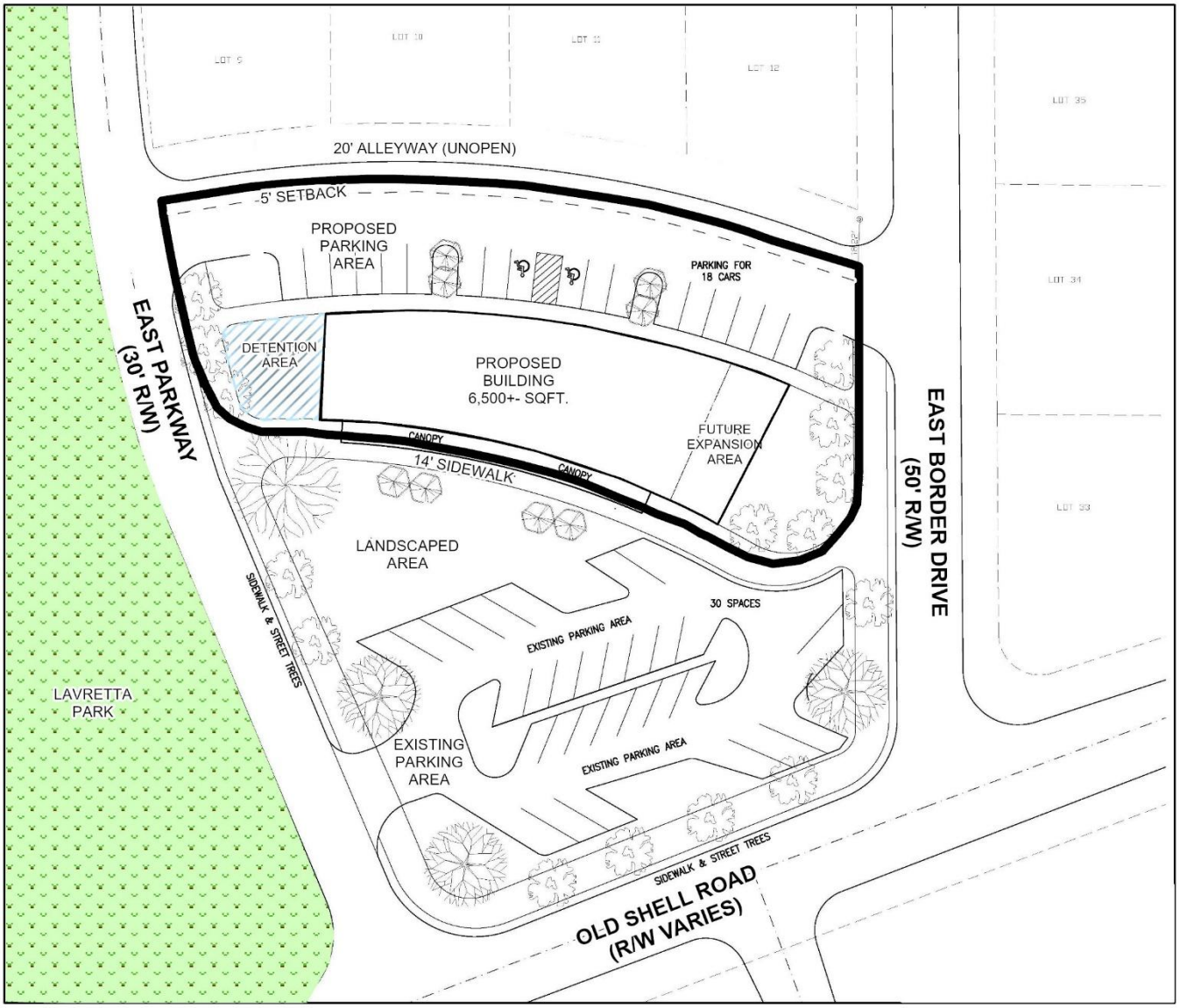
SITE PLAN



The site plan illustrates the proposed buildings, landscaping, and parking areas.

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FUTURE LAND USE MAP CORRESPONDENCE TO ZONING

A primary purpose of the Future Land Use Map is to guide zoning decisions. In many cases the designation on the FLUM may match the existing use of land, but in others the designated land use may differ from what is on the ground today. For example, a parcel that is in commercial use today but designated as any of the "mixed use" types on the map could redevelop with a mix of residential and commercial uses (such as retail, office, entertainment, etc., depending on the location).

Each future land use designation on the FLUM will have at least one corresponding zoning district, allowing a more precise application of the FLUM based on specific local conditions. In most cases, there are multiple combinations or types of zoning techniques that can accomplish the future land use designation's objectives.

The correspondence between the FLUM and the zoning district structure is described in the matrix below. This tool gives the City the flexibility over the long-term to determine appropriate changes to the zoning map based on various factors.

The designation of an area with a FLUM land use category does not mean that the most intense zoning district consistent with that category is "automatically" assigned to a property. Instead, an area retains its existing zoning category until it is changed through a landowner-initiated rezoning application, or a rezoning that follows an area plan. This is because the FLUM is a long-term designation, while a change in zoning considers current conditions – such as market demands, availability of infrastructure, or impacts on the immediate neighborhood.

Zoning correspondence matrix

■ Zoning district is appropriate to implement the future land use category.

U S Zoning district with Urban or Suburban subdistrict is appropriate to implement the future land use category.

○ Elements of the zoning district are related to the future land use category and may be appropriate with qualifications or conditions.

□ Zoning district is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

	RESIDENTIAL - AC (R-A)	ONE-FAMILY RESIDENCE (R-1)	TWO-FAMILY RESIDENCE (R-2)	MULTIPLE-FAMILY (R-3)	RESIDENTIAL BUSINESS (R-B)	HISTORIC BUSINESS (H-B)	BUFFER BUSINESS (B-1)	TRANSITIONAL BUSINESS (T-B)	LIMITED BUSINESS (LB-2)	NEIGHBORHOOD BUSINESS (B-2)	COMMUNITY BUSINESS (B-3)	GENERAL BUSINESS (B-4)	OFFICE-DISTRIBUTION (B-5)	COMMERCIAL WAREHOUSE (CW)	MARITIME MIXED (MM)	MARITIME LIGHT (ML)	MARITIME HEAVY (MH)	LIGHT INDUSTRY (I-1)	HEAVY INDUSTRY (I-2)	VILLAGE CENTER (TCD)	NEIGHBORHOOD CENTER (TCD)	NEIGHBORHOOD 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)
LOW DENSITY RESIDENTIAL (LDR)	■	S	S	S			○							○															○
MIXED DENSITY RESIDENTIAL (MDR)		U	U	■	■			■	■	■					■															○
DOWNTOWN (DT)						■					■													■	■	■	■	■	○	○
DISTRICT CENTER (DC)								■			U	○	○																	
NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)		■	■	U	■	■	○	■	○	○	○										■	■	■							
NEIGHBORHOOD CENTER - SUBURBAN (NC-S)				S			S	■	S	S	○									■	■									○
TRADITIONAL CORRIDOR (TC)		■	■		■	■	U	■	U	U	○																			○
MIXED COMMERCIAL CORRIDOR (MCC)							■		■	■	■	■	■	■	■															
LIGHT INDUSTRIAL (LI)													■	■	■	■			■										○	○
HEAVY INDUSTRY (HI)																■	■	■	■										○	○
INSTITUTIONAL LAND USE (INS)											■	■		○	○				○											
PARKS & OPEN SPACE (POS)	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□
WATER DEPENDENT USES (WDWRU)	■					○								■	■	■		○												

MIXED DENSITY RESIDENTIAL (MDR)

This designation applies mostly to residential areas located between Downtown and I-65, where the predominant character is that of a traditional neighborhood laid out on an urban street grid. These areas should offer a variety of residential types in a compact pattern at the scale of a single family neighborhood. They typically have a walkable block pattern with integrated neighborhood amenities such as parks and schools. Small office, commercial, and civic uses may also exist in these areas near major thoroughfares. Residential density ranges between 6 and 30 dwelling units per acre (du/ac) depending on the mix, types, and locations of the housing as specified by zoning.

Development Intent

- Continue historic preservation efforts to maintain the existing neighborhood character within city-designated historic districts.
- Support residential infill that fits-in with neighboring homes (building scale, placement, etc.). Support more intense residential infill and redevelopment adjacent to commercial or mixed use centers.

Land use mix

Primary Uses

- Residential, Single family
- Residential, Attached

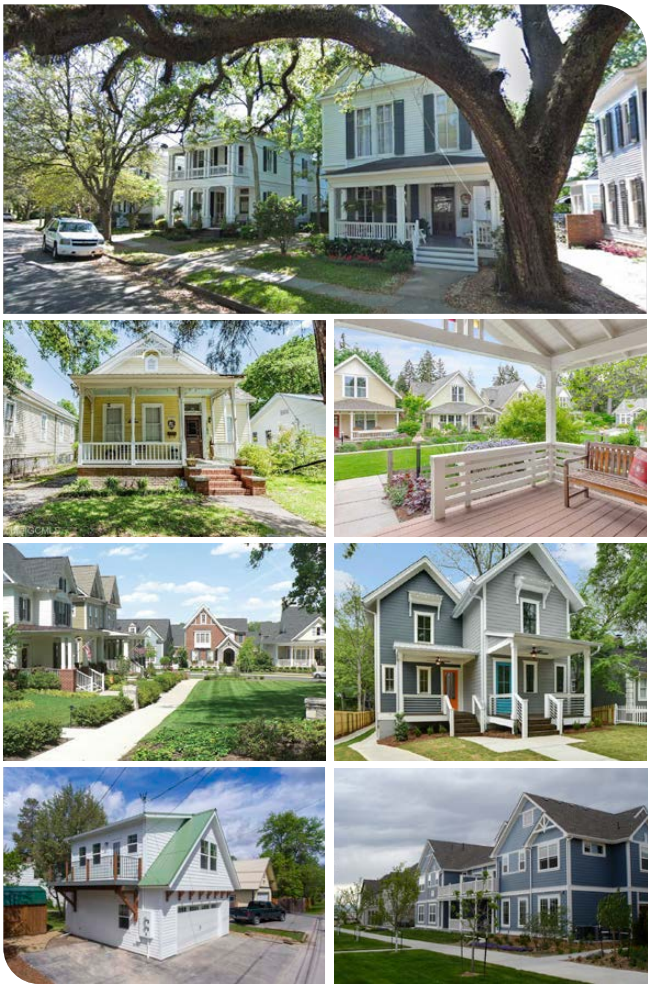
Secondary Uses

- Residential, Multifamily
- Commercial
- Civic
- Parks

Housing mix

- Single family on small to medium sized lots
- Attached residential such as duplexes, multiplexes, and townhomes
- Small scale multifamily buildings

Character Example





A mixed density neighborhood may include a range of housing types and densities at a similar scale.

Rendering: Dover Kohl