

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 9, 2018****CASE NUMBER**

6186/1585

APPLICANT NAME

McDowell Knights Roedder & Sledge, LLC (J. Stephen Harvey, Agent)

LOCATION

558 & 560 Houston Street (West side of Houston Street, at the West terminus of Old Canal Street.)

VARIANCE REQUEST**USE:** Use Variance to allow an automotive repair shop in a B-2, Neighborhood District.**MULTIPLE STRUCTURES:** Multiple Structures Variance to allow with multiple structures on a single building site.**PARKING SURFACE:** Parking Surfacing Variance to allow an aggregate parking surface in a B-2, Neighborhood Business District.**REAR YARD & SIDE YARD SETBACK:** Rear Yard and Side Yard Setback Variance to allow a 7.2' rear yard setback, and 1.7' rear yard setback, and a 1.7' side yard setback.**ZONING ORDINANCE
REQUIREMENT****USE:** the Zoning Ordinance requires a minimum of B-3, Community Business District, for an automotive repair shop.**MULTIPLE STRUCTURES:** the Zoning Ordinance allows a single structure per building site.**PARKING SURFACE:** the Zoning Ordinance requires all parking areas to be surfaced in asphalt, concrete, or an approved alternative paving surface in a B-2, Neighborhood Business District.**REAR YARD & SIDE YARD SETBACK:** the Zoning Ordinance requires at least 10' side and rear yard setbacks from adjacent residentially zoned properties.**ZONING**

B-2, Neighborhood Business District

AREA OF PROPERTY

0.3 ± Acres

ENGINEERING**COMMENTS****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 TIER 2 Land Disturbance Permit for any proposed site work within the property through Central Permitting.
- b. Submit a ROW Permit (City of Mobile) for any proposed 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 (concrete, asphalt).

TRAFFIC ENGINEERING**COMMENTS**

No traffic impacts anticipated by the multiple variances requested.

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 DEPARTMENT**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).

CITY COUNCIL**DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Use, Multiple Structure, Parking Surface, Rear Yard Setback and Side Yard Setback Variance to allow an automotive repair shop in a B-2, Neighborhood Business District, with multiple structures on a single building site, with an aggregate parking surface, a 7.2' rear yard setback, a 1.7' rear yard setback, and a 1.7' side yard setback; the Zoning Ordinance requires a minimum B-3, Community Business District, for an automotive repair shop, only a single structure per building site is allowed, parking surfaces to be paved in asphalt, asphaltic concrete, concrete, or an approved alternative parking surface; and requires at least a 10' side and rear yard setback from adjacent residentially zoned properties.

This site appeared before the Planning Commission at its May 3rd meeting to allow a 1 lot subdivision to create one legal lot of record from multiple lots, and a Planned Unit Development to allow multiple buildings on a single building site. The site plan that was submitted with the application had some Zoning Ordinance compliance issues, thus causing several variance requests to be required even if the PUD had been approved. Staff suggested that the PUD application be withdrawn to allow the Board of Zoning Adjustment to address the building setback issues for the apparently unpermitted buildings, the dumpster location, and to address the desire for aggregate surface parking; thus the reasons for this application.

The site has been given a Traditional Corridor (TC) 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 generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), TC designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

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 states the following reasons to explain the need for the variances:

"The property is currently zoned B-2 and is located at 558 and 560 Houston Street. The Owner proposes to (continue to) use the property for (i) an automotive maintenance shop (such as oil change, lubrication and minor engine servicing), which is allowed in B-2, and (ii) minor automotive repairs, such as repair/replacement of brakes, alternators, starters, radiators and air conditioning systems, and parking for said uses. Some of this "repair" work may fall under "automotive maintenance" (and therefore allowed under B-2), but other parts of the repair work (such as brake work) may not. The zoning chart does not permit general automotive repair on property zoned B-2, and the City issued the

Owner a Notice of Violation (see attached) because the site is not zoned for use as automotive repair business.

Owner has been using the original site (558 Houston) for the above purposes since 2007, when Owner relocated his business from 552 Houston Street to the current site because the building on the prior site became dilapidated and leaked/flooded and could no longer be used. Owner rented and operated at the prior site for 18-19 years before relocating to the current site. It is Owner's understanding that the prior site (also zoned B-2) was "grandfathered in" as an automotive repair shop. Only one parcel/building (an automotive body shop) separates the prior site and current site.

Owner's proposed use will not cause excessive noise, odors, air pollution or traffic. Owner uses only hand held tools that are customarily used for automotive maintenance and minor repairs. Owner does no automotive body work. Owner operates the shop from 9:00 a.m. until 5:00 p.m., Monday through Friday. Owner has no employees. Owner sees an average of approximately 5 customers per day. In January of 2017, Owner acquired approximately 5,250 square feet to the south (560 Houston Street) of the original site for parking, as shown on the site plan. Customers' vehicles are usually picked up the same day they are dropped off for maintenance/repair (i.e., same day maintenance/repair), but occasionally a customer's vehicle may be parked on site overnight because the customer does not pick up the vehicle the day the work is finished.

Use of the site for minor automotive repairs will not disturb the surrounding properties, businesses or residences. Owner has been operating there for over 10 years with no complaints, and for 18-19 years before then at the prior site which is only 2 parcels away (to the north). The auto/maintenance repair shop is located in the rear of the site. Another unrelated business is located in the front. The proposed use is not out of character with this area. The adjacent parcel is used as an auto body shop. The two parcels across the street from the site are vacant lots. Continued use of the site for the proposed purposes (auto maintenance and minor repairs) will have no negative impact on surrounding properties. Owner merely desires to continue operating on the property as he has done for over 10 years.

Owner originally attempted to submit this application (for the above use variance only) in February of 2018, but was informed that Owner first needed to apply for (i) subdivision approval (to combine 558 Houston and 560 Houston into one lot), and (ii) PUD approval because Owner has more than one building on one lot. Owner did so and on May 11, 2018, received preliminary subdivision approval as set forth in the Letter of Decision attached hereto (SUB-000471-2018). However, on staff recommendation, Owner withdrew his PUD application (PUD-000472-2018). The staff noted in its remarks to the PUD application that the site plan (i) depicts the expansion parking area (560 Houston) as "aggregate parking", (ii) shows the mechanic shop building is only 7.2 feet from the rear property line, and (iii) shows the open shed attached to the mechanic shop to be on 1.7 feet from the side and rear property lines. The staff then recommended that owner submit an application to the Board of Adjustment to address these issues.

In addition to the above Use Variance, Owner therefore also seeks a variance (i) to allow "aggregate parking as shown on the site plan, (ii) for the current location of the

mechanic shop and open shed as shown on the site plan, and (iii) to allow multiple buildings on one lot, as shown on the site plan.

If Owner does not receive these variances, Owner will suffer severe hardship and could possibly even lose the business that he has spent over 25 years building up to what it is today. Instead of harming the neighborhood, Owner's business is helping the community. More businesses, such as Owner's, are needed in this area to help sustain it."

The applicant is requesting approval for an automotive repair shop to be in the rear of the subject site, with an existing beauty shop in the front of the site. The automotive repair shop and one of the open sheds, were both placed on the site sometime between 2006 and 2010, apparently without any permits or approvals. The automotive repair building is only 7.2 feet from the rear yard property line, thus encroaching into the required 10' minimum rear yard setback. The open shed attached to the mechanic shop appears to be only 1.7 feet from side and rear property lines, abutting residential properties. While the structures seem to have been on the site for some time now, there were never any inspections by city officials conducted, thus due to no permits being obtained, it is unknown if there are any fire/building code issues or violations.

The applicant states that some of the work that is done in the automotive repair shop under the current zoning is allowed and some is not. The area does have several mechanic shops along Houston Street, and the use would not seem out of character with the surrounding area. However, the additional shed and placement of the shed, as it is only 1.7 feet from side and rear property lines, does seem out of character, and should be removed.

With regards to the parking surface the applicant does not provide specific details as to why the parking lot area cannot be paved with asphalt, concrete, or some other approved alternative parking surface. Based on the pictures submitted with the application, and review of Google street view images, it appears that there is cracked and broken asphalt on the site, and that the customers currently park on grass and dirt. It appears that it is simply the applicant's desire to not pave the parking lot area.

It should be noted that in the above referenced Planning Commission report staff stated that the dumpster was less than 10 feet from the abutting residential property, and that the dumpster should be removed and relocated, outside the required protection buffer, and not located within the 25-foot front setback or front yard. It appears that the dumpster is still depicted in the same spot as it was on the previous (Planning Commission) site plan, thus an additional setback variance request will be required, or the dumpster must be removed/ relocated to comply with Zoning Ordinance requirements. A revised site plan depicting the relocation of the dumpster is required prior to any approvals, or a holdover to allow an additional setback variance request, will be required.

RECOMMENDATION: Based on the preceding, staff recommends dividing the requested variances into two groups: Findings of facts for Approval of the **Use, Multiple Structure**, and a portion of the **Setback** (for the 7.2' setback of the main auto repair building) Variance requests:

- 1) approving the variance request will not be contrary to the public interest in that the use and multiple structures have been operating with the existing businesses for almost 10 years;
- 2) special conditions with the site or unusual site constraints do exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship;
- 3) the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that the proposed use and multiple structures will be in keeping with the character of the site and existing neighborhood/area.

The approval is subject to the following conditions:

- 1) relocation of the dumpster to a compliant location.
- 2) after the fact inspections by all building trades of the auto repair garage for code compliance.

Based on the preceding, staff recommends to the Board the following findings of facts for Denial of the **Parking Surface** and **Rear Yard and Side Yard Setback** (for the open shed structure) Variance requests:

- 1) approving the variance will be contrary to the public interest in that the setback violation for the shed can be resolved once the shed is removed and the parking lot can be paved; and no hardship is illustrated by requiring compliant surfacing for the areas or the need for the additional shed;
- 2) special conditions do not exist and there are no hardships which exist that make the approvals necessary; and
- 3) the spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because no hardship is illustrated with respect to complying with the parking surface requirements of the Zoning Ordinance or the need for the additional shed.

Because of the Denial, the existing open shed structure must be removed from the property, once a demolition permit has been obtained.

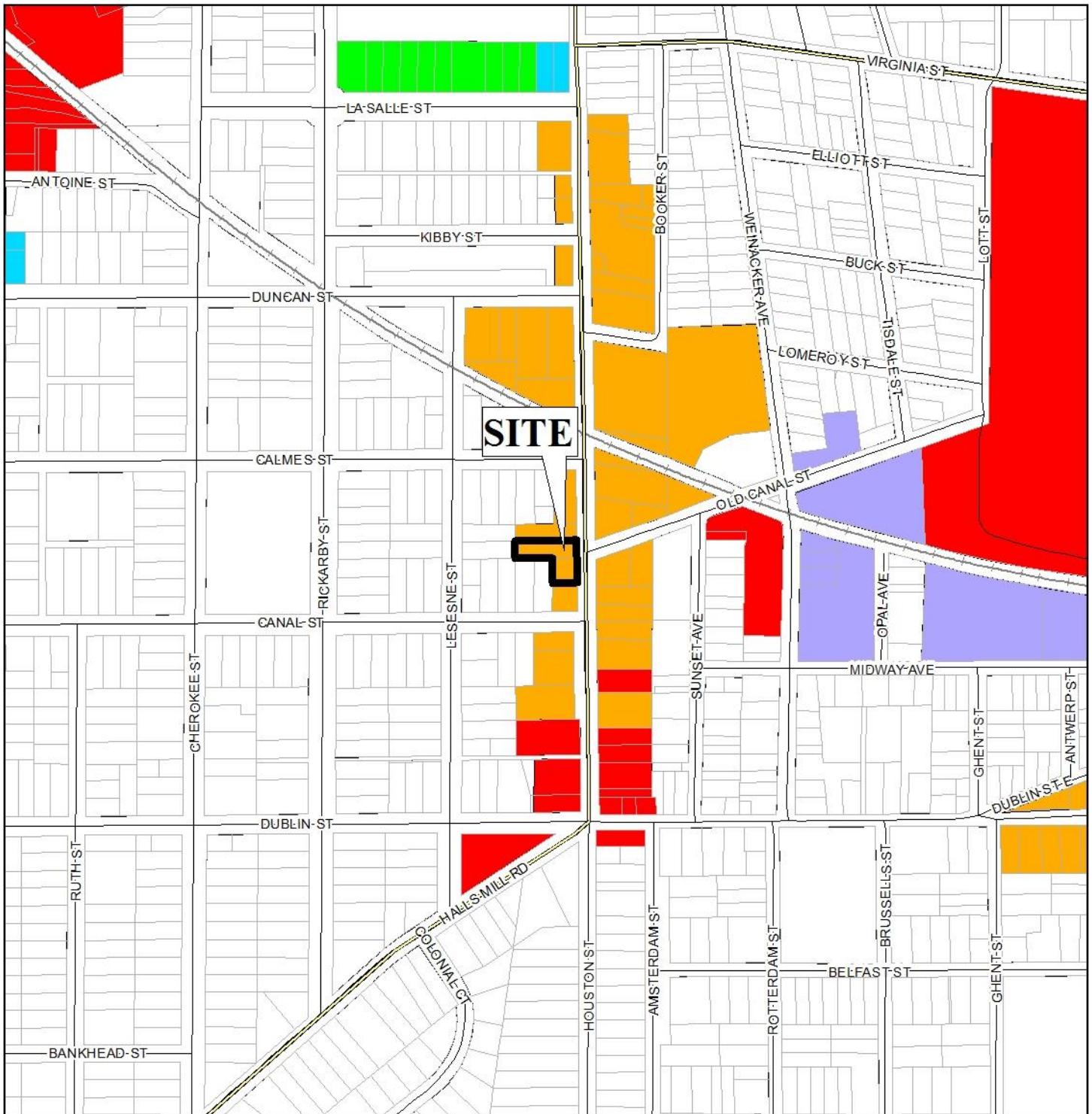
LOCATOR MAP



APPLICATION NUMBER 6186 DATE July 9, 2018
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 REQUEST Use, Multiple Structures, Parking Surface, Rear Yard Setback and Side Yard Setback Variances



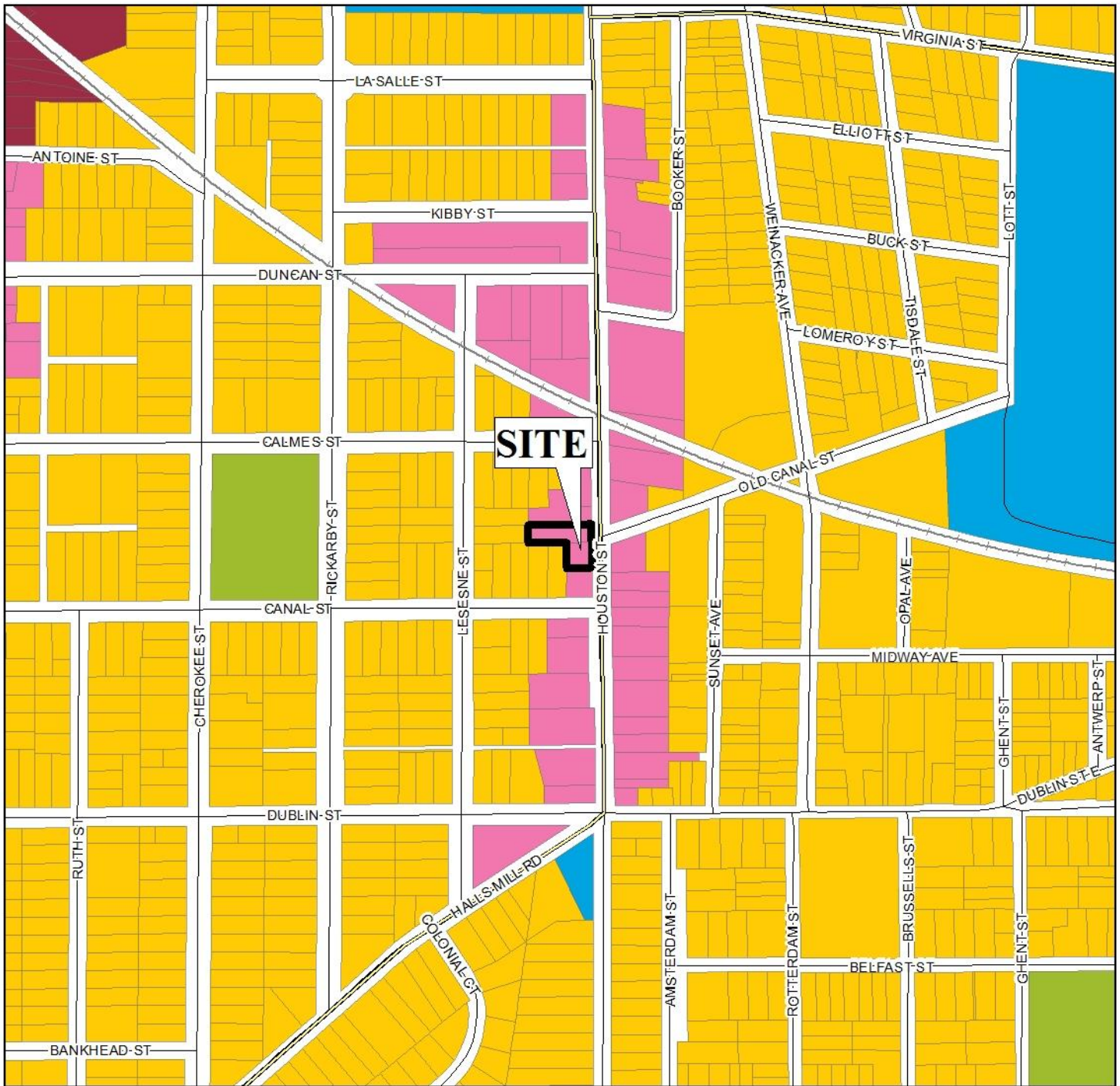
LOCATOR ZONING MAP



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FLUM LOCATOR MAP

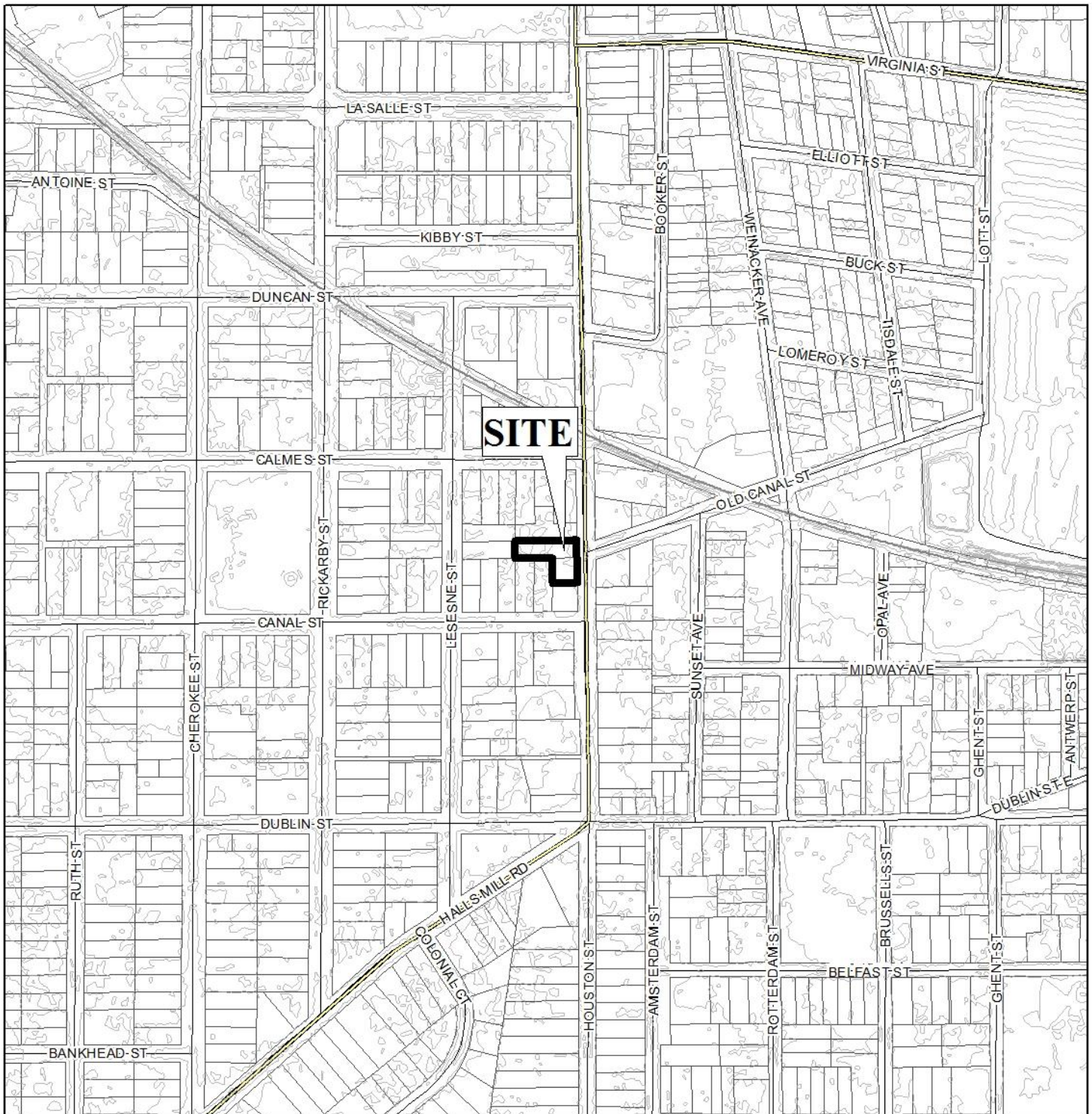


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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the west and commercial units to the north and south.

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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

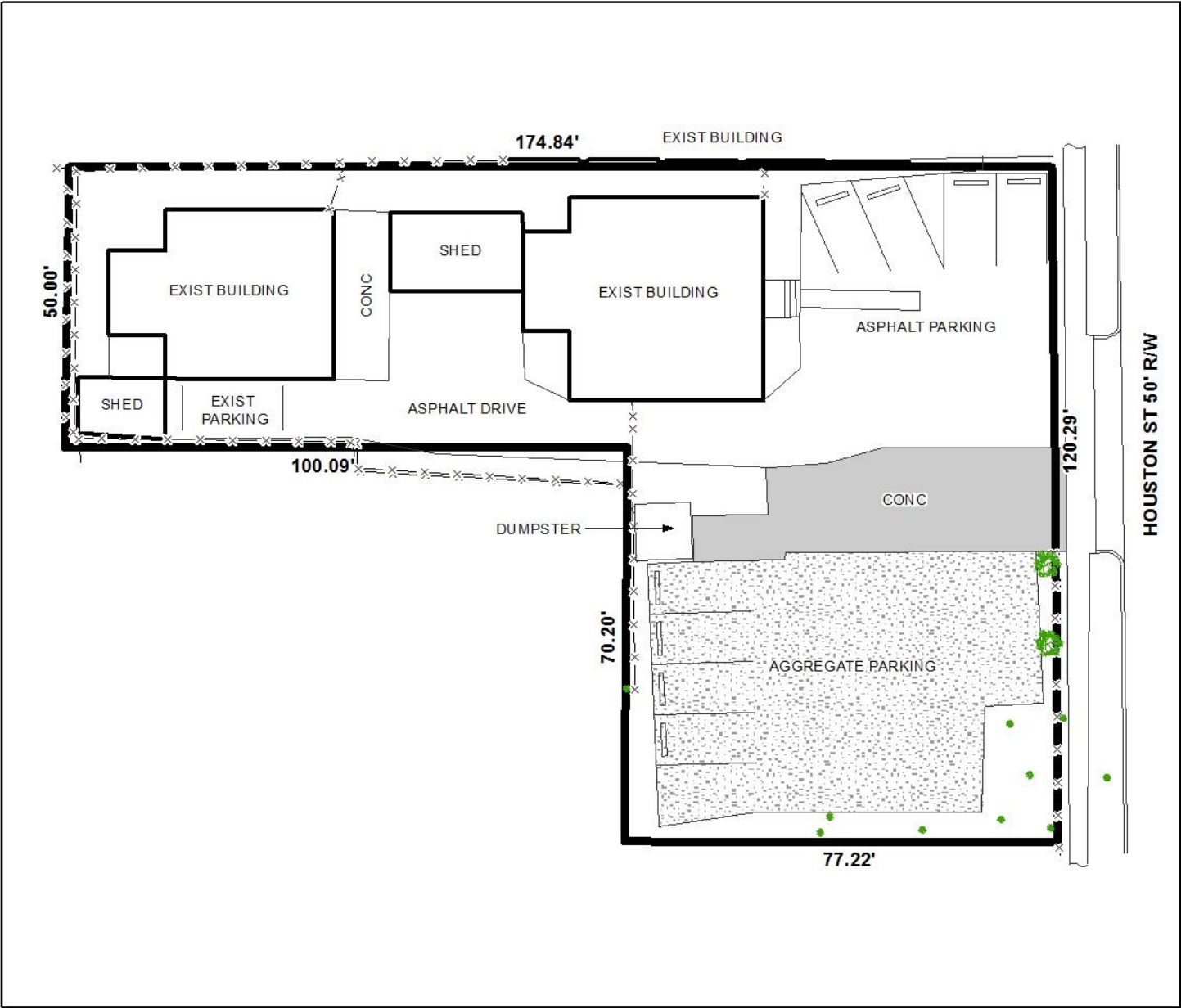


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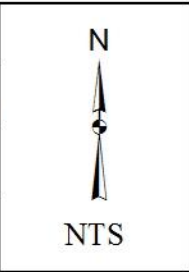


SITE PLAN



The site plan illustrates the existing buildings, sheds, and existing parking.

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NTS

