

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 5, 2018****CASE NUMBER**

6161

APPLICANT NAME

WNC of Mobile, LLC

LOCATION

907 Hillcrest Road, Suites F & G
(East side of Hillcrest Road, 490'± South of Piccadilly Square Drive).

VARIANCE REQUEST

APPEAL: Administrative Appeal of a staff determination to allow one parking space per 300 square feet of gross floor area for a proposed painting class studio allowing class members to be sold wine and beer in a B-2, Neighborhood Business District.

**ZONING ORDINANCE
REQUIREMENT**

APPEAL: The Zoning Ordinance requires one parking space per 100 square feet of gross floor area for any business selling food or beverages in a B-2, Neighborhood Business District.

ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

2.5± Acres

**CITY COUNCIL
DISTRICT**

District 6

**ENGINEERING
COMMENTS**

Comments.

TRAFFIC ENGINEERING**COMMENTS**

Comments.

**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).

ANALYSIS

The applicant is requesting an Administrative Appeal of a staff determination to allow one parking space per 300 square feet of gross floor area for a

proposed painting class studio allowing class members to be sold wine and beer in a B-2, Neighborhood Business District; the Zoning Ordinance requires one parking space per 100 square feet of gross floor area for any business selling food or beverage in a B-2, Neighborhood Business District.

The Zoning Ordinance states that the Board has the authority to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision, or refusal made by the zoning administrator or other administrative office in the enforcement of this chapter, or of Article 4, Section 11-52-70 et seq., of the 1975 Code of Alabama, as amended.

The site has been given a **Mixed Commercial Corridor** land use designation per the recently adopted Future Land Use Plan and Map. 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 designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to: raise design quality; improve connectivity to surrounding neighborhoods; improve streetscapes; and, improve mobility and accessibility for all users of the corridor.

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 site is developed with a 15,781± square-foot building for use as a mixed-use, multi-tenant property. Eleven (11) tenant suites are illustrated on the site plan provided by the applicant, two (2) of which are proposed to be combined for use as a painting class studio with wine and beer sales. The remaining tenants include: a nail salon, hair salon, gift shop, ice cream shop, restaurant, and an office for the manager of the property. Two (2) suites are currently vacant.

It should be noted that the site was developed in 1986/1987, per Mobile County Revenue Department tax records, and is potentially non-conforming in that the existing building was developed across two (2) parcels, each the result of combining multiple lots of record without a legal subdivision of the property, but each owned by the same property owner. As such, it may be considered that the parcels share access and parking.

Off-street parking is required by Section 64-6.A.1. of the Zoning Ordinance for all permitted uses in the City of Mobile, the exceptions being permitted uses within: T-3, T-4, T-5, and SD-WH Districts within the Downtown Development District; and, in I-2, Heavy Industry Districts.

The required amounts of parking spaces are provided in Section 64-6.A.6., wherein the classifications of uses are included and apply to all uses within their applicable zoning districts. If the classification of a use for the purpose of determining the amount of parking spaces to be provided is not readily determinable, then the classification of the use shall be fixed by the Board of Zoning Adjustment.

The existing uses of the property, including all current tenant vacancies, currently require 77 parking spaces per the following ratios:

- One (1) parking space per 300 square feet of gross floor area for the nail salon, hair salon, gift shop, management office, and vacant tenant suites, all of which occupy 12,181± square-feet and may be classified as “General business, commercial personal service establishments, commercial amusements, offices, repair shops, medical and dental clinics, libraries, art galleries, clubs, and lodges” per Section 64-4.A.6., thus requiring 41 parking spaces; and,
- One (1) parking space per 100 square feet of gross floor area for the ice cream shop and restaurant, all of which occupy 3,600± square-feet and may be classified as “Restaurant” per Section 64-4.A.6., thus requiring 36 parking spaces.

Staff has determined that the use of two (2) of the vacant tenant spaces as a painting class studio with wine and beer sales will require one (1) parking space per 100 square feet of gross floor area. The gross floor area of the tenant spaces is 2,487± square-feet, thus requiring 25 parking spaces and increasing the amount of required parking spaces from 77 to 93:

- One (1) parking space per 300 square feet of gross floor area for the nail salon, hair salon, gift shop, management office, and vacant tenant suites, all of which will occupy 9,694± square-feet, thus requiring 32 parking spaces; and,
- One (1) parking space per 100 square feet of gross floor area for the ice cream shop, restaurant, and proposed painting class studio with wine and beer sales, thus requiring 61 parking spaces.

The site plan illustrates 82 parking spaces, but multiple aerial photos and recent Google Street View images show that the site only has 76 parking spaces. Per the classifications of the tenant suites used by Staff to determine the appropriate amount of parking spaces, the site will have a deficit of 17 parking spaces. As such, approval of an Off-Street Parking Variance by the Board of Zoning Adjustment would be required to allow the proposed use of two (2) vacant tenant spaces as a painting class studio with wine and beer sales. The applicant contends, however, that such a classification of their proposed use of the property is incorrect and should instead be classified as a business for which one (1) parking space per 300 square feet of gross floor area is required, thus reducing the amount of required parking spaces on the site to 77. The applicant references a similar existing business in the City having a reduced parking ratio, as well as their inability to occupy the subject site should their appeal be denied, as justification for their request:

Wine and Canvas is a painting class venue. They offer scheduled classes between the hours of 4:00-9:00 M -F., 9:30 am - 10:00 pm on Saturday and 1:00-7:30 on Sundays. The studio is unmanned during times that classes are not booked and not open to the

public. They will offer to paying class members only wine and beer but not to the general public. You must be a member of the class to buy beverages and vacate when the class is concluded. Currently this business is being assessed a parking ratio of 1 parking space per 100 square feet due to the wine and beer license they will have.

This style of business exists in other areas of the city and has been assessed by zoning a parking ratio of 1 parking space per 300 square feet. Competitors allow patrons to bring wine, beer and food and it is consumed while classes are held. Wine & Canvas would not be any different than area competitors in regard to parking and should be classed as they are.

Current Competing location is:

Paint Party Studios

15 Upham St

Mobile, Al. 36607

This is a approx.. 2,587 sf studio that has 6 spaces dedicated to the building.

This use will have no negative impact and is expected to fit in and favorably increase traffic to the center that will support the other tenants located in the building. Any chance of overflow is negated by topo, Rehm Animal Clinic on the South side site approximately 20' above grade and has a retaining wall, the undeveloped land to the North is heavily wooded and the land to the East is sloped at a sharp grade approximately 20' feet above grade to a unimproved road, Properties to the West are across 4 lanes and median.

The assessment of 1 park for every 100 sf will result in this venue being unable to locate on in this shopping center.

Please note that this is a franchise unit that is bound to operate under franchise guidelines. Having an open bar is not allowed.

The Zoning Ordinance does not regulate the sale, distribution or consumption of alcohol; rather, it regulates the use of the property on which such activity is proposed. Uses of the subject site to not only facilitate painting classes, but also to sell and serve alcohol is therefore subject to the applicable Zoning regulations. While similar uses of property for painting instruction may occur elsewhere in the City, none has been issued a Zoning Certificate required for which use of the property also included the sale and/or distribution of alcohol. Such an activity is perhaps what Staff considers the delimiting factor in prescribing an appropriate use classification with respect to the required amounts of parking spaces; an example being the difference between a package store where alcohol may be purchased for off-site consumption, and a bar, where alcohol is purchased and served for on-site consumption: parking for package stores is determined as one (1) parking space per 300 square-feet of gross floor area, and parking for bars is determined as one (1) parking space per 100 square-feet of gross floor area.

With regards to what the applicant references is a competing business, that particular location was developed well before current regulations and no off-street parking facilities are provided. Parking within the right-of-way, over which the Zoning Ordinance has no jurisdiction, has instead been considered non-conforming in providing access to the site.

Regarding the applicant's concern that denial of the Appeal would encumber their occupancy on the subject site, there remains the option for Off-Street Parking Variance review by the Board. Variances differ from Appeals inasmuch as Variances are based off of a hardship associated with the property, whereas Appeals are based off of the applicant's ability to argue that the zoning administrator is in error in interpreting the Zoning Ordinance. A hardship may exist on the property that legitimately prevents compliance with off-street parking requirements, irrespective of use classifications.

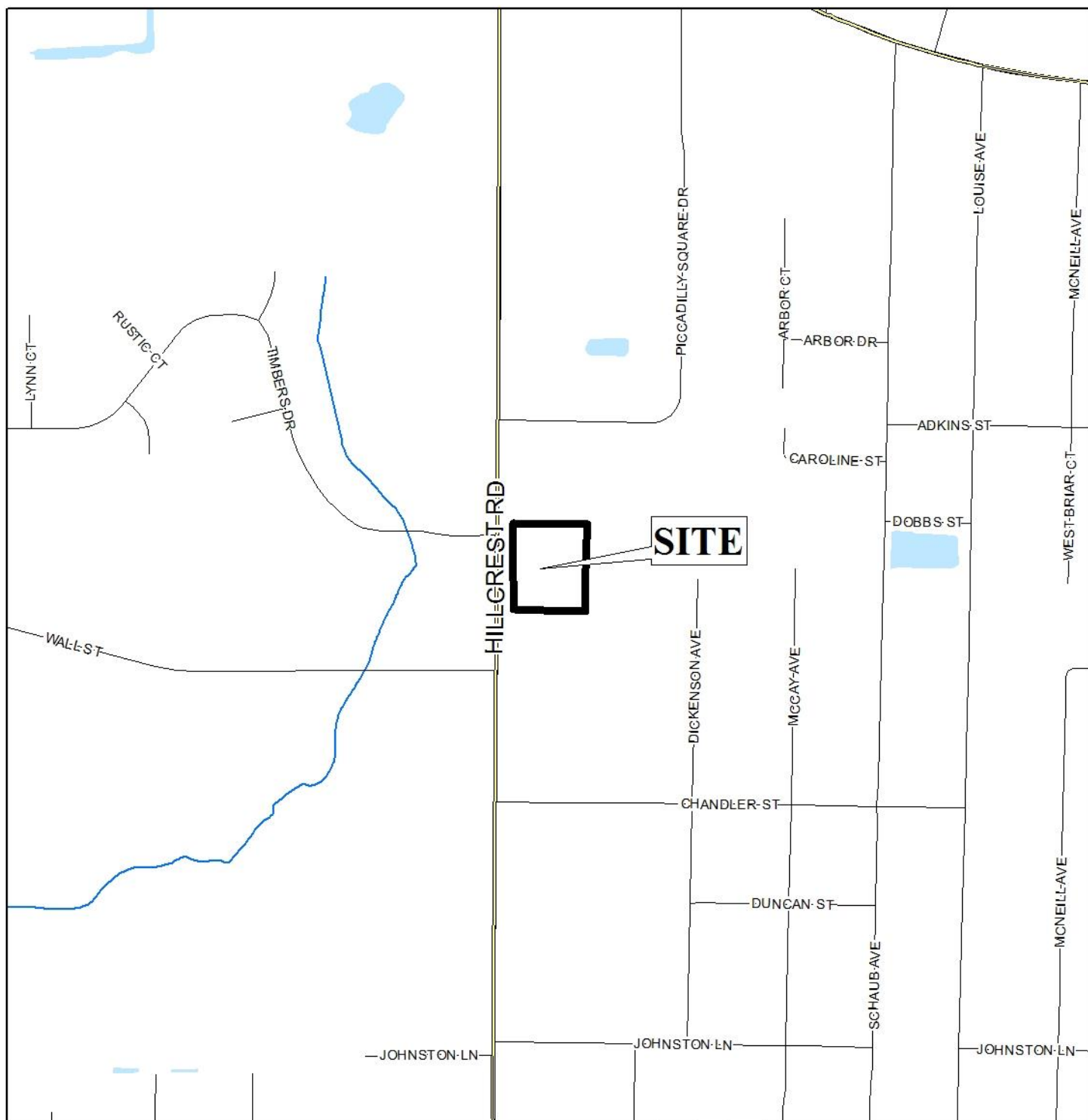
Staff is aware that other painting class studio owners/operators within the City have allowed on-site consumption of beer and wine, but these beverages are brought to the premises by customers. Whether or not on-site consumption of alcohol purchased off-site complies with applicable regulations governing alcohol in the State of Alabama is not for Staff to decide. Staff is responsible, however, for determining how the proposed use of a property is compatible with the Zoning Ordinance. In an effort to enable and ensure the equitable disposition of doing so, Staff often relies on precedence. As such, the applicant perhaps presents a unique case inasmuch as, while the consumption of alcohol on-site may empower Staff to determine such activity is an accessory use to the proposed primary use of the subject site, the sale of alcohol as *part* of course instruction sales perhaps promotes them as a combined, single use of the property; which is altogether considered a "restaurant/bar" for the purpose of determining an appropriate off-street parking ratio. However, the uniqueness of the case is such that the proposed use, or uses, of the property are perhaps innocuous enough to be incomparable to a restaurant/bar parking classification, thus resulting in a situation where an appropriate parking classification is not readily determinable. Both scenarios are compounded by a lack of preceding businesses where both painting classes are taught, and beer and wine is sold and served.

The applicant has not presented sufficient evidence that the zoning administrator is in error in using a restaurant/bar classification for determining an appropriate amount of parking for the proposed use of the subject site. However, a lack of precedence to assist in this determination may also be presented as a means by which Staff may defer to the Board.

It should be noted that, if approved with a 1/300 ratio, the site will nevertheless remain deficient of one (1) parking space. Also, the provided site plan shows that two (2) of the aforementioned tenant spaces are combined and are proposed to be used by the applicant. No building permits have been issued permitting the combination of these tenant spaces, and recent Zoning Certificates indicate that they remain separate suites. As such, if approved, compliance with the applicable codes and ordinances should be required regarding the combining of the tenant spaces.

RECOMMENDATION: Given that the site will remain deficient of one (1) parking space, regardless of the Appeal, it is recommended that the request be withdrawn in favor of the applicant filing an application for Off-Street Parking Variance Approval.

LOCATOR MAP



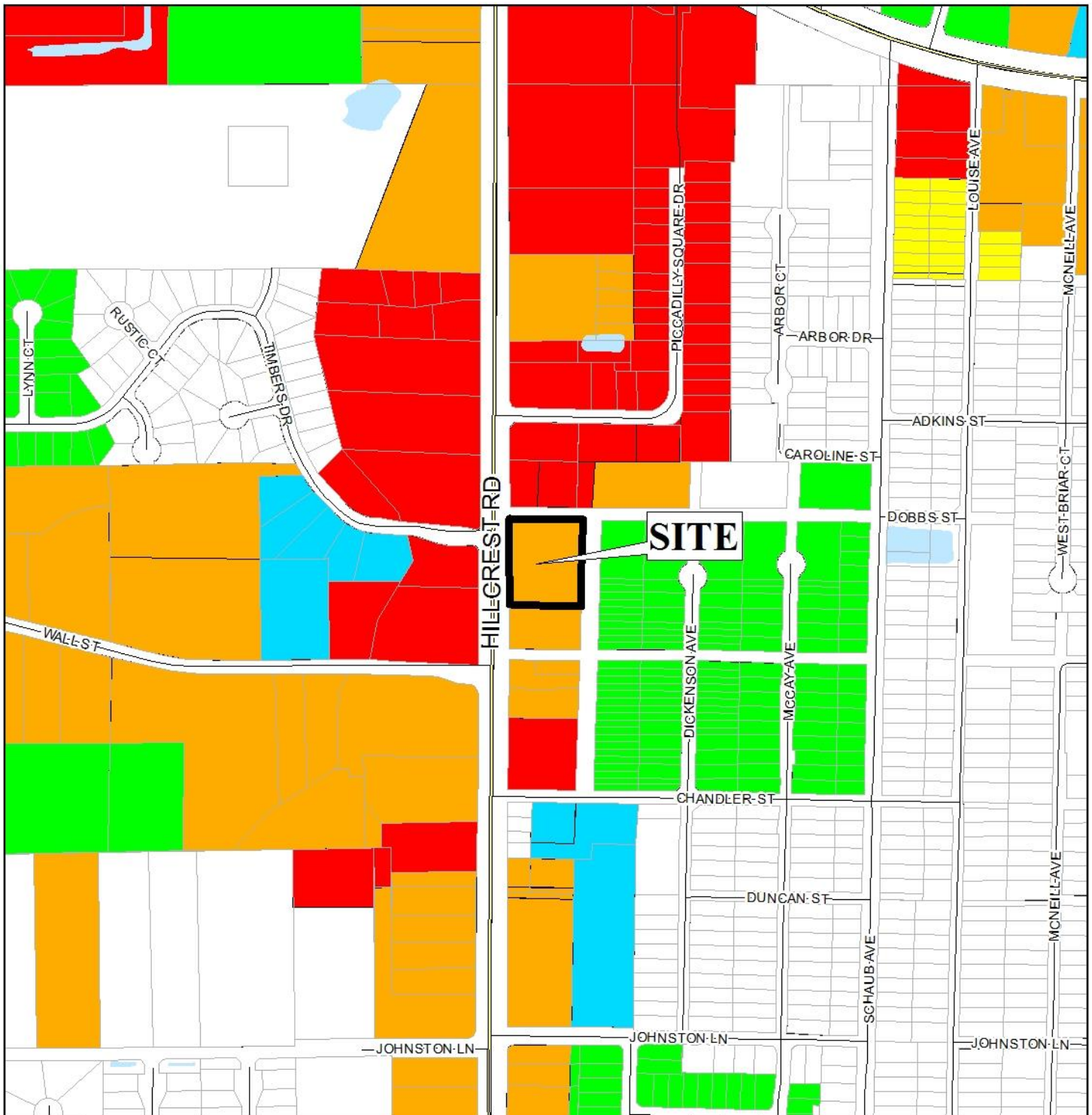
APPLICATION NUMBER 6161 DATE March 5, 2018

APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal



LOCATOR ZONING MAP



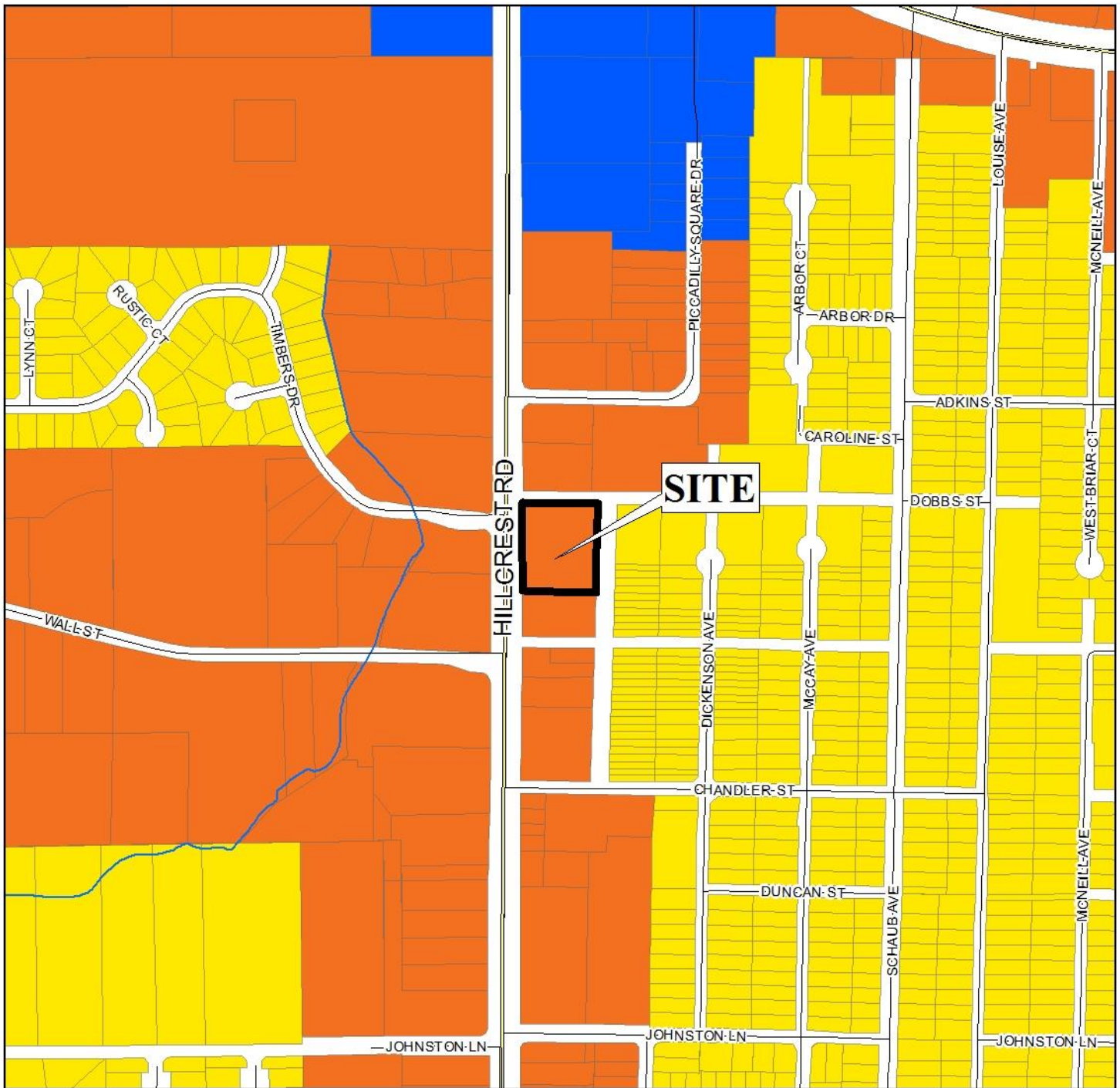
APPLICATION NUMBER 6161 DATE March 5, 2018

APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal



FLUM LOCATOR MAP



APPLICATION NUMBER 6161 DATE March 5, 2018

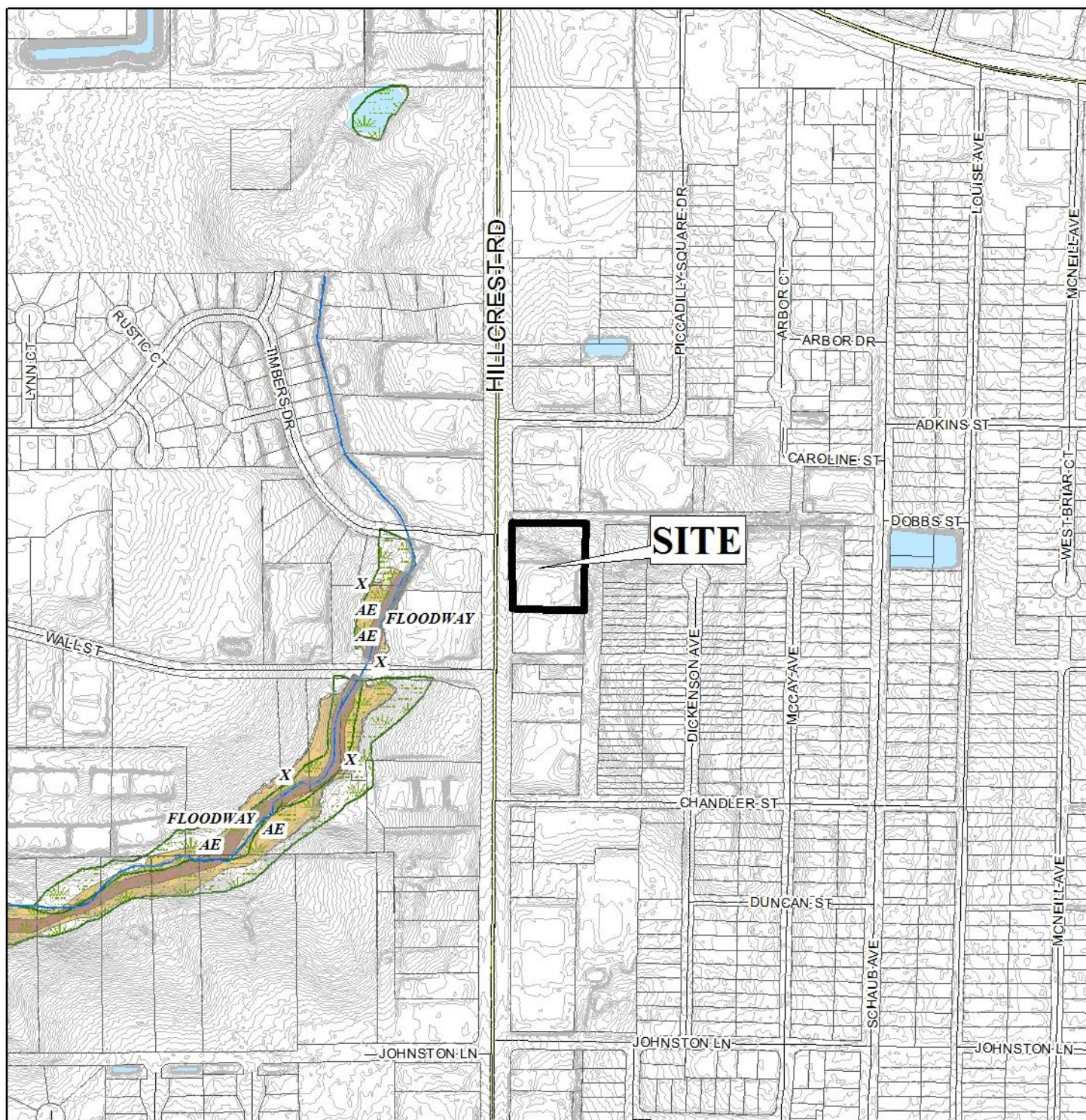
APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal

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



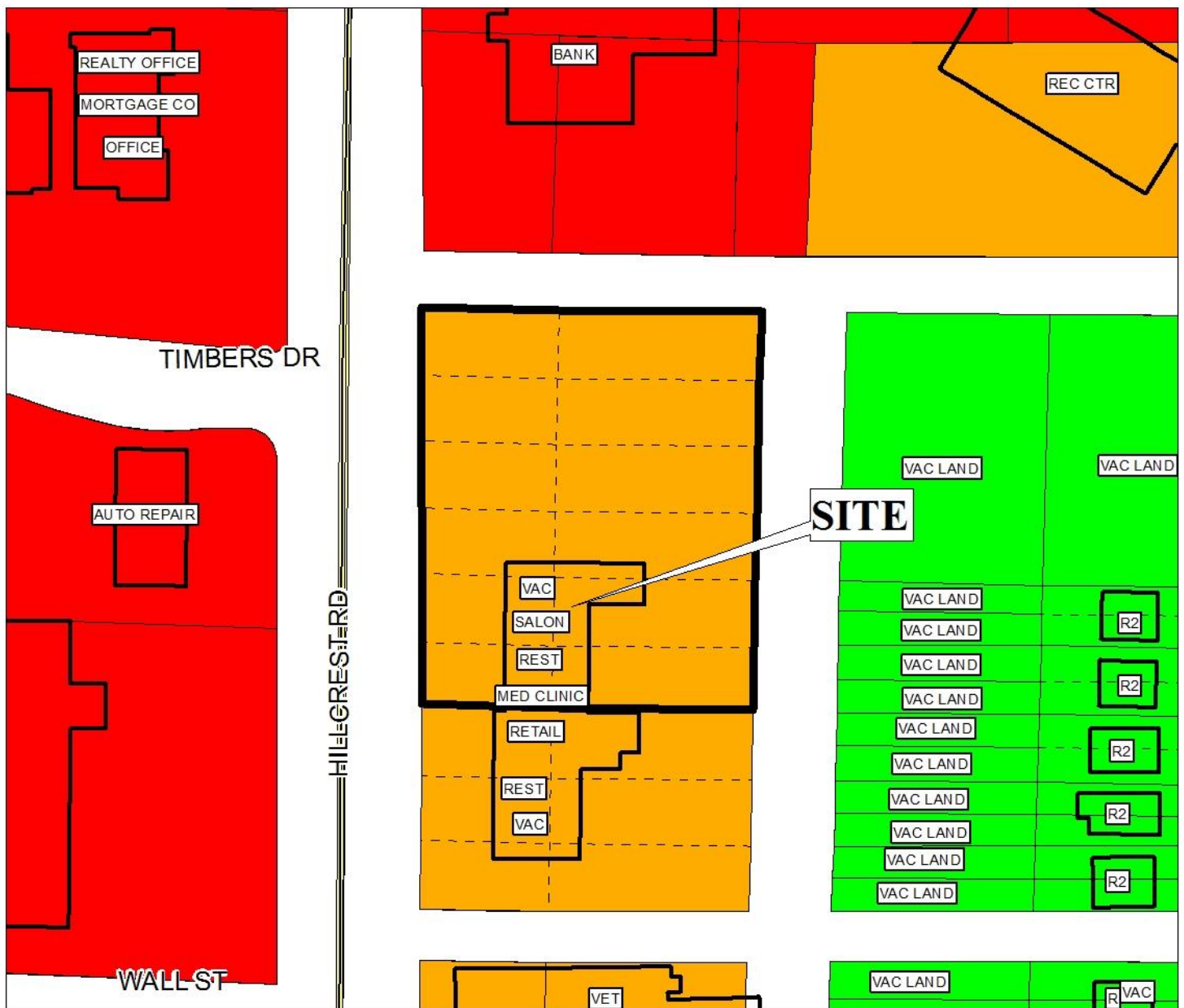
APPLICATION NUMBER 6161 DATE March 5, 2018

APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residential units lie to the east.

APPLICATION NUMBER 6161 DATE March 5, 2018

APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal

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

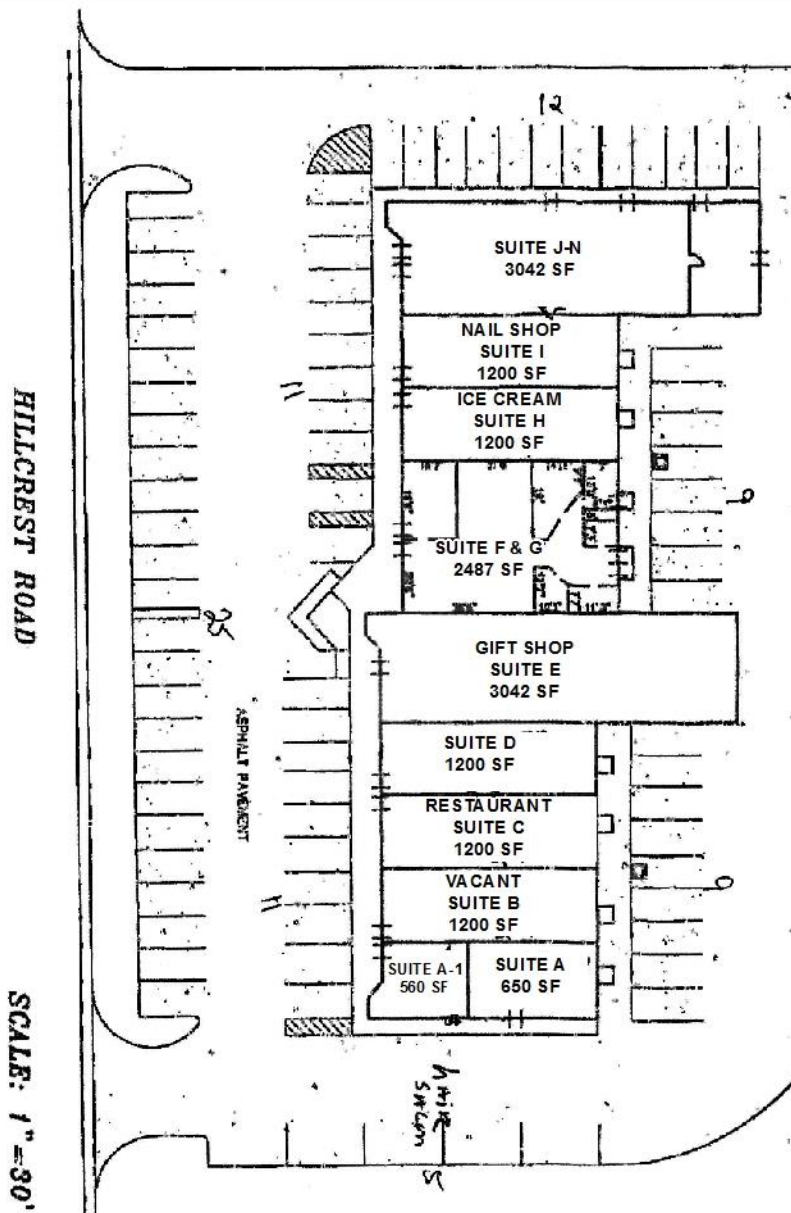


The site is surrounded by commercial units. Residential units lie to the east.

APPLICATION NUMBER	6161	DATE	March 5, 2018
APPLICANT	WNC of Mobile, LLC		
REQUEST	Administrative Appeal		



SITE PLAN



The site plan illustrates the existing buildings, and parking.

APPLICATION NUMBER 6161 DATE March 5, 2018

APPLICANT WNC of Mobile, LLC

REQUEST Administrative Appeal



NTS

