

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: January 10, 2022

CASE NUMBER

6433

APPLICANT NAME

Barton & Shumer Engineering, LLC

LOCATION

1101 Dauphin Street
(Southwest corner of Dauphin Street and South Hallett Street).

VARIANCE REQUEST

SIDE STREET SIDE YARD SETBACK: To allow a structure to encroach into the required side street side yard setback in a B-2, Neighborhood Business District.

OFF-STREET LOADING: To allow no designated on-site loading area with on-street loading in a B-2, Neighborhood Business District.

PARKING RATIO AND MANEUVERING AREA: To allow a reduced number of parking spaces, and reduced vehicle maneuvering area in a B-2, Neighborhood Business District.

***QUEUING SPACE:** To allow reduced queuing spaces between the order station and service window in a B-2, Neighborhood Business District.*

***PARKING SPACE DIMENSION:** To allow sub-standard parking space dimensions in a B-2, Neighborhood Business District.*

**ZONING ORDINANCE
REQUIREMENT**

SIDE STREET SIDE YARD SETBACK: The Zoning Ordinance requires structures to be located out of required side street side yard setbacks in a B-2, Neighborhood Business District.

OFF-STREET LOADING: The Zoning Ordinance requires a compliant on-site loading area in a B-2, Neighborhood Business District.

PARKING RATIO AND MANEUVERING AREA: The Zoning Ordinance requires a compliant number of parking

spaces, and compliant vehicle maneuvering area in a B-2, Neighborhood Business District.

QUEUING SPACE: *The Zoning Ordinance requires compliant queuing spaces in a B-2, Neighborhood Business District.*

PARKING SPACE DIMENSION: *The Zoning Ordinance requires compliant parking space dimensions in a B-2, Neighborhood Business District.*

ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

0.22± Acre

CITY COUNCIL DISTRICT ENGINEERING

District 2

COMMENTS

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting.
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

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 Section 64-6 of the City’s Zoning Ordinance.

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 (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled buildings and 600' of sprinkled buildings.

ANALYSIS

The applicant is requesting Side Street Side Yard Setback, Off-Street Loading, Parking Ratio and Maneuvering Area Variances to allow a structure to encroach into the required side street side yard setback, no designated on-site loading area with on-street loading, a reduced number of parking spaces, and reduced vehicle maneuvering area in a B-2, Neighborhood Business District; the Zoning Ordinance requires structures to be located out of required side street side yard setbacks, a compliant on-site loading area, a compliant number of parking spaces, and compliant vehicle maneuvering area in a B-2, Neighborhood Business District.

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 subject site currently has an existing structure on-site which is proposed to be redeveloped as a coffee shop or other quick service restaurant. The structure was originally built at some time after 1955 and has been used as a variety of retail businesses since, including a restaurant.

The applicant states:

Existing Conditions

This project is located at 1101 Dauphin Street at the intersection of Dauphin Street and South Hallett Street. The property is currently developed and was previously operating as a convenience store. The existing structure is located within the South Hallett Street setback. The area to the north, east, and west of the existing structure is currently paved. The date of original development of the property is unknown but the structure does appear in historical aerial photography from 1955.

The property does not contain any trees with a DBH greater than 24 inches.

The property is zoned B-2. B-2 properties are located to the north, east, and west with the property to the south zoned R-1.

Proposed Project

The proposed project would redevelop the site with the potential of a coffee shop or other quick service restaurant. All variance requests are due to constraints resulting from the size and shape of the lot with the utilization of the existing structure.

Request for waiver Front Setback (Hallett Street):

This request is due to the current non-conforming condition of the existing structure. This site was developed prior to 1955 and may have preceded the City's original zoning ordinance.

Request for waiver of Off-Street Loading:

Due to the size of the property and parking lot, space for off street loading is not provided. The unique nature of this development and location does not provide for the space required for specific off-street loading. Due to the scale of the development, large trucks are not anticipated to service this store.

Request for waiver of minimum number of Parking Spaces:

The request for a waiver of minimum number of parking spaces is due to the size of the property and existing development configuration. The location of the existing structure does not provide room for additional parking on the north side of the

building and the concrete block wall on the south boundary does not allow for parking that conforms to the City's parking standards. Based on use as a restaurant, the minimum number of spaces is twelve (12: 1,150 sf/100 sf) and the total provided is eight (8). Due to the incorporation of a drive thru service and proximity to the neighborhood most of the patrons are anticipated to be drive thru or pedestrian/bicycle. Two (2) employees are expected.

Request for waiver of Maneuvering requirements:

This site currently operates with parking in the front, perpendicular to the building. This does not provide the minimum 24 feet of width for a two-way drive isle. This site has operated in the current non-conforming layout for over 50 years and the location of the building does not provide space to provide a standard width drive isle.

It should be mentioned that staff has determined that the requested Front Setback Variance is not needed as the building is existing and no expansion is proposed.

In regards to the proposed Off-Street Loading waiver request, the site appears to have adequate area in the rear to provide truck ingress; however, truck maneuvering area would be limited, and as the proposed drive-thru would have to be one-way, truck egress would be restricted to back-out only. Moreover, the site has functioned without off-street loading since about 1955.

The proposed restaurant use would require 12 on-site parking spaces, but only eight are provided, and based on the site plan submitted, no more compliant parking spaces can be provided. As emphasized throughout the application and this report, many of the deficiencies are existing conditions relating back to the development of this property around 1955 as general retail site. However, restaurant parking ratios are higher than those for general business, as restaurants have an increased need for parking. In 2019, the Board approved a parking maneuvering variance for the adjoining property (1105 Dauphin Street a proposed mixed use development with a downstairs coffee shop), but it should be noted the required number of parking spaces were provided, it was only the maneuvering area that was substandard.

While the Board has been sympathetic to applicant's request when a neighborhood patronage has been anticipated, in this situation, more parking spaces could be provided if the drive-thru is removed. As drive-thrus frequently have a negative impact to adjoining residential development and are not a standard element of redevelopment in historic areas, the elimination of the drive thru should assist in providing an adequate number of parking spaces while reducing potential negative impact to the nearby residential properties.

The applicant also requests relief from the vehicle maneuvering area requirements of the Ordinance. Given the location of the existing building on the site, the provision of compliant maneuvering area behind the parking stalls is not possible, and there is no other area on the site in which to provide compliant vehicle parking maneuvering area.

The site plan submitted indicates a dumpster enclosure with screening and meeting the required setback from adjacent residential property. An existing concrete block wall is indicated along the

South side of the site adjacent to residential property, but no height is given. As a compliant residential buffer is required in this area, the site plan should be revised to indicate the wall is at least a compliant six feet high, dropping to no more than three feet in height within twenty feet of Hallett Street, or such should be provided. No landscaping or tree planting calculations are provided; however, as no expansion of the existing building is proposed, landscaping and tree planting compliance would not be applicable.

As per the Traffic Engineering comments, the driveway number, size, location, and design are 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 Section 64-6 of the City's Zoning Ordinance. A note should be placed on a revised site plan stating these comments.

It should be noted that the site is within the Old Dauphin Way Historic District, and any exterior modifications are subject to approval by the Architectural Review Board.

The applicant has illustrated that a hardship could be imposed by a literal interpretation of the Zoning Ordinance with respect to the Off-Street Loading, Parking Ratio and Maneuvering Area requirements, and the Board should consider this application for approval, subject to conditions.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval of the Off-Street Loading, Parking Ratio and Maneuvering Area Variance requests:

- 1) The variance will not be contrary to the public interest, as similar requests have been approved for similar uses in the Midtown area;
- 2) Special conditions exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship due to site constraints; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the applicant is not proposing any expansion of the existing building.

The Approval is subject to the following conditions:

- 1) revision of the site plan to indicate the existing concrete block wall on the South side of the site is at least six feet high, and no more than three feet high within twenty feet of the Hallett Street right-of-way, or the provision of a compliant residential buffer in that area;
- 2) subject to the Engineering comments: (*SIDE STREET SIDE YARD SETBACK, OFF-STREET LOADING, PARKING RATIO, & MANEUVERING AREA VARIANCES (New Use and Drive-thru):* *If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting. 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.);
- 3) placement of a note on the site plan stating the Traffic Engineering comments: (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 Section 64-6 of the City's Zoning Ordinance.);
 - 4) approval by the Architectural Review Board for any exterior modifications;
 - 5) removal of the drive thru and provision of additional parking; and
 - 6) full compliance with all other municipal codes and ordinances.

Staff has determined that the Side Street Side Yard Setback request is not needed.

Revised for the January 10, 2022 meeting:

This application was heldover from the December 6, 2021 meeting to allow the applicant to address the following:

- 1) *Meet with neighbors about the proposed development; and*
- 2) *Submit a revised site plan depicting parking on the rear of the site, the location of the proposed pickup window, and all queuing spaces.*

A revised site plan was submitted by the applicant which indicated proposed parking in the rear of the site, the location of the pickup window, and queuing spaces for the drive-thru service. As the site plan indicated a reduced number of queuing spaces between the order station and service window, an additional request had to be added to the application to allow such. Furthermore, the parking spaces added were of sub-standard dimensions, an additional request also had to be added to the application to allow such.

The revised site plan indicates the order station is proposed to be at a window in the rear of the building instead of at the originally-proposed remote location outside the building. The proposed pickup window is also indicated to be in the rear of the building. Two queuing spaces are proposed between the order window and the pickup window, whereas a minimum of three spaces are required by the Zoning Ordinance.

Consequently, as proposed, the drive thru is deficient a queueing space. However, if only one service window is provided where both the order is placed and received at the one window, only three (3) queuing spaces are required between (Dauphin Street) right of way and the service window and one (1) queueing space is required after the service window (toward the Hallett Street right-of-way). Thus, if the plan is revised in such a manner that the order window shown is the only window (thereby functioning as both the service and pick up window), then four (4) queuing

spaces will provided between the window and the right-of-way (Dauphin Street) and one (1) required queuing space could be provided after the service window (toward Hallett Street), and comply with the minimum standards of the Zoning Ordinance.

Also indicated on the revised site plan are six proposed angled parking spaces between the proposed drive-thru lane and the South property line. The drive-thru is indicated to be a compliant 14 feet in width for one-way flow. The parking spaces are indicated to be at a 60-degree angle off the drive-thru aisle. The Zoning Ordinance requires at least a 20-foot depth as measured perpendicular to a one-way drive-thru aisle for a 60-degree angle parking space. However, the proposed spaces are 18 feet deep.

Although of substandard depth in relation to the drive-thru aisle, the proposed new parking area would provide for 14 parking spaces, and would provide a compliant number of parking spaces for the proposed use, as twelve spaces are required. However, the maneuvering area for the parking would be restricted by the proposed drive-thru as parked vehicles would have to wait for a void in queued vehicles in order to back out of parking spaces. Due to the constraints of an already-noncompliant site, the allowance of additional noncompliant constraints would not seem logical.

However, again modifications to the site plan could lessen this impact. As previously referenced, the drive-thrus should be designed with only one service window (located at the southwest corner of the building). With this revision, only one queueing space after the service window would be required, thus allowing adequate maneuvering space for two (2) of the four (4) parking spaces. It should be noted that the parking in this area may need to shift slightly to the east to provide adequate maneuvering room for the two (2) easternmost spaces. In order to reduce traffic conflict, the remaining four (4) spaces should be designated as employee only.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval of the Off-Street Loading, Parking Ratio, Maneuvering Area and Parking Space Dimension Variance requests:

- 1) The variance will not be contrary to the public interest, as similar requests have been approved for similar uses in the Midtown area;
- 2) Special conditions exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship due to site constraints; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the applicant is not proposing any expansion of the existing building.

The approval is subject to the following conditions:

- 1) revision of the site plan to indicate the existing concrete block wall on the South side of the site is at least six feet high, and no more than three feet high within twenty feet of the Hallett Street right-of-way, or the provision of a compliant residential buffer in that area;
- 2) subject to the Engineering comments: (SIDE STREET SIDE YARD SETBACK, OFF-

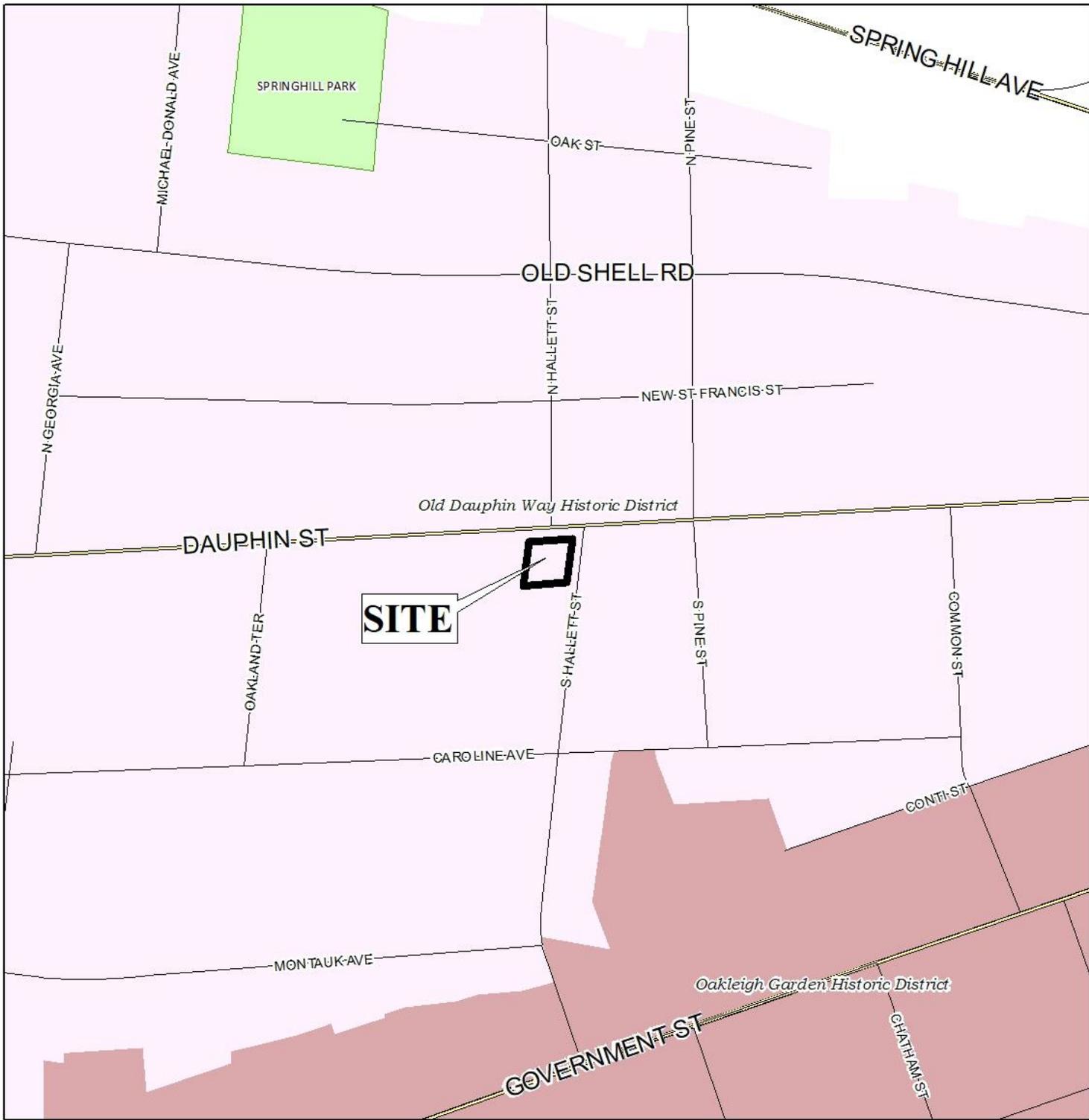
STREET LOADING, PARKING RATIO, & MANEUVERING AREA VARIANCES (New Use and Drive-thru): *If the proposed variance is approved for use the applicant will need to have the following conditions met:* 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through Central Permitting. 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.);

- 3) placement of a note on the site plan stating the Traffic Engineering comments: (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 Section 64-6 of the City's Zoning Ordinance.);
- 4) approval by the Architectural Review Board for any exterior modifications;
- 5) revision of the plan to have only one drive thru window, located at the southwest corner of the building, providing four (4) queueing spaces between dauphin Street and the window, and one (1) queueing space between the window and Hallett Street;
- 6) revision of the rear parking area shifting the parking slightly to the east, designating the four (4) westernmost spaces as employee only; and
- 7) full compliance with all other municipal codes and ordinances.

Based on the preceding, with the modifications as outlined in the analysis, a Queuing Space Variance is not required.

Staff has determined that the Side Street Side Yard Setback request is not required

LOCATOR MAP



APPLICATION NUMBER 6433 DATE January 10, 2022
APPLICANT Barton & Shumer Engineering, LLC (David Shumer, Agent)
REQUEST Off-Street Loading, Parking Ratio and Maneuvering Area Variances



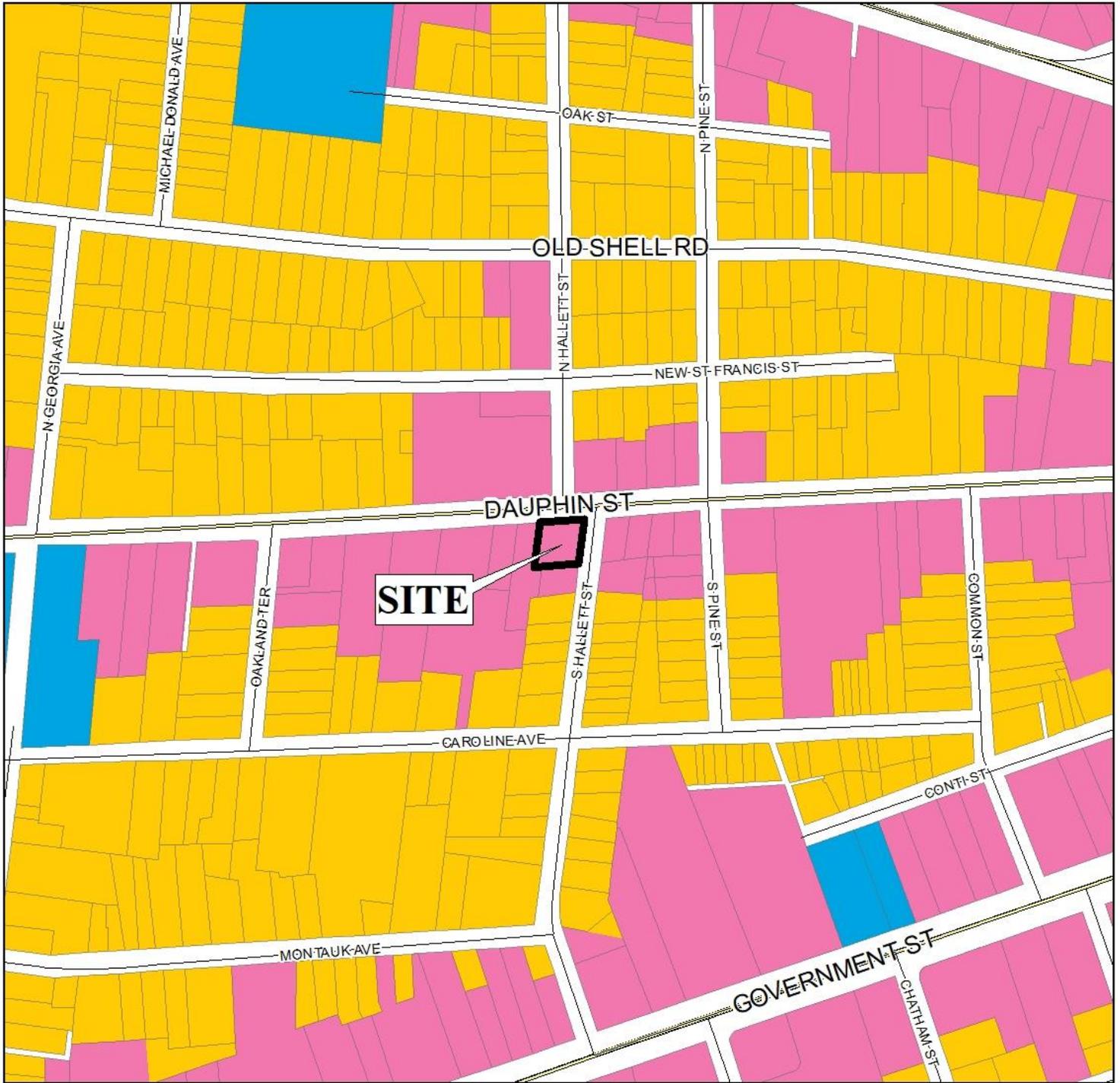
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



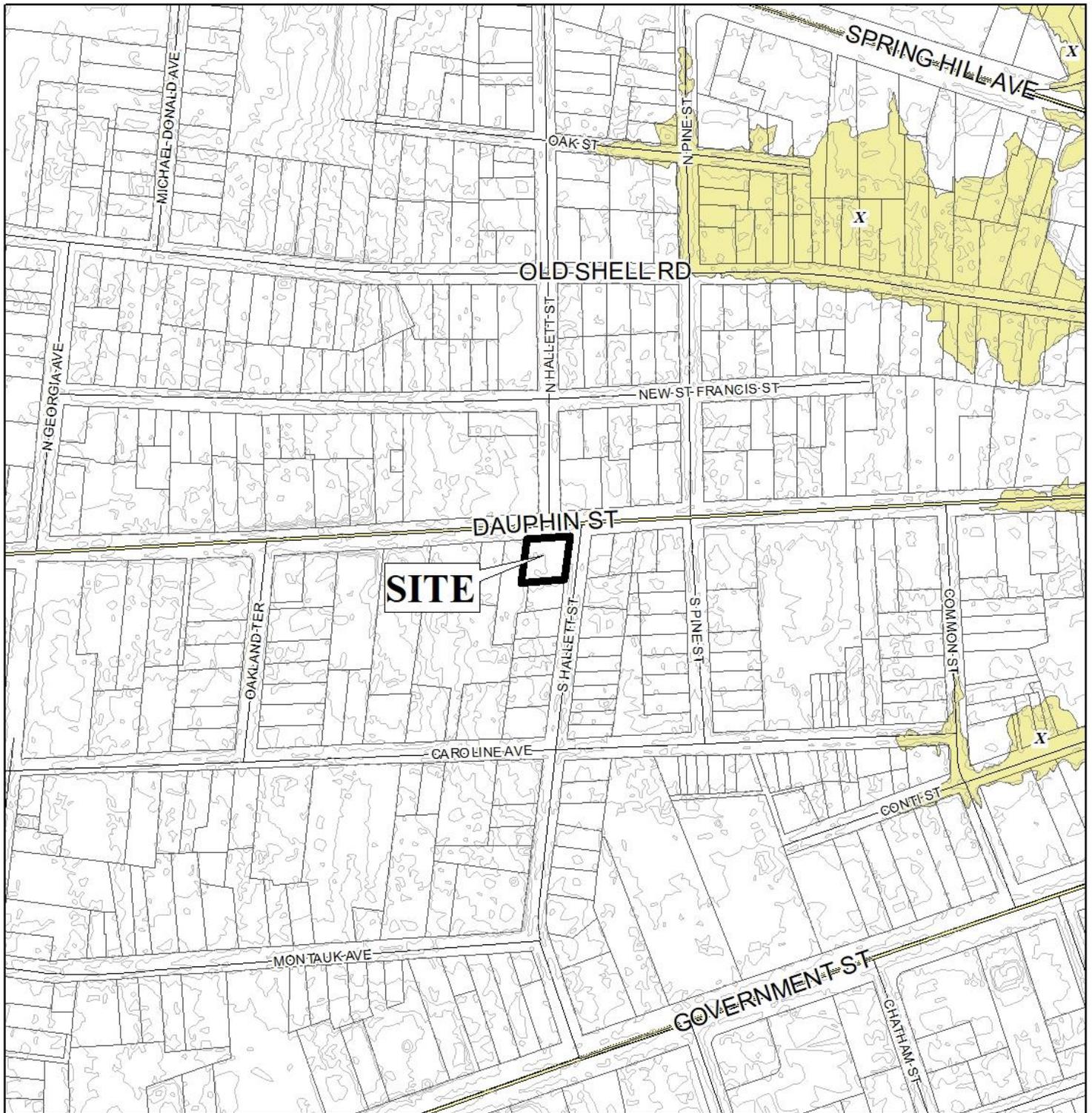
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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood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



NTS

ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6433 DATE January 10, 2022
APPLICANT Barton & Shumer Engineering, LLC (David Shumer, Agent)
REQUEST Off-Street Loading, Parking Ratio and Maneuvering Area Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial sites, offices and residential units.

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 REQUEST Off-Street Loading, Parking Ratio and Maneuvering Area Variances

 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

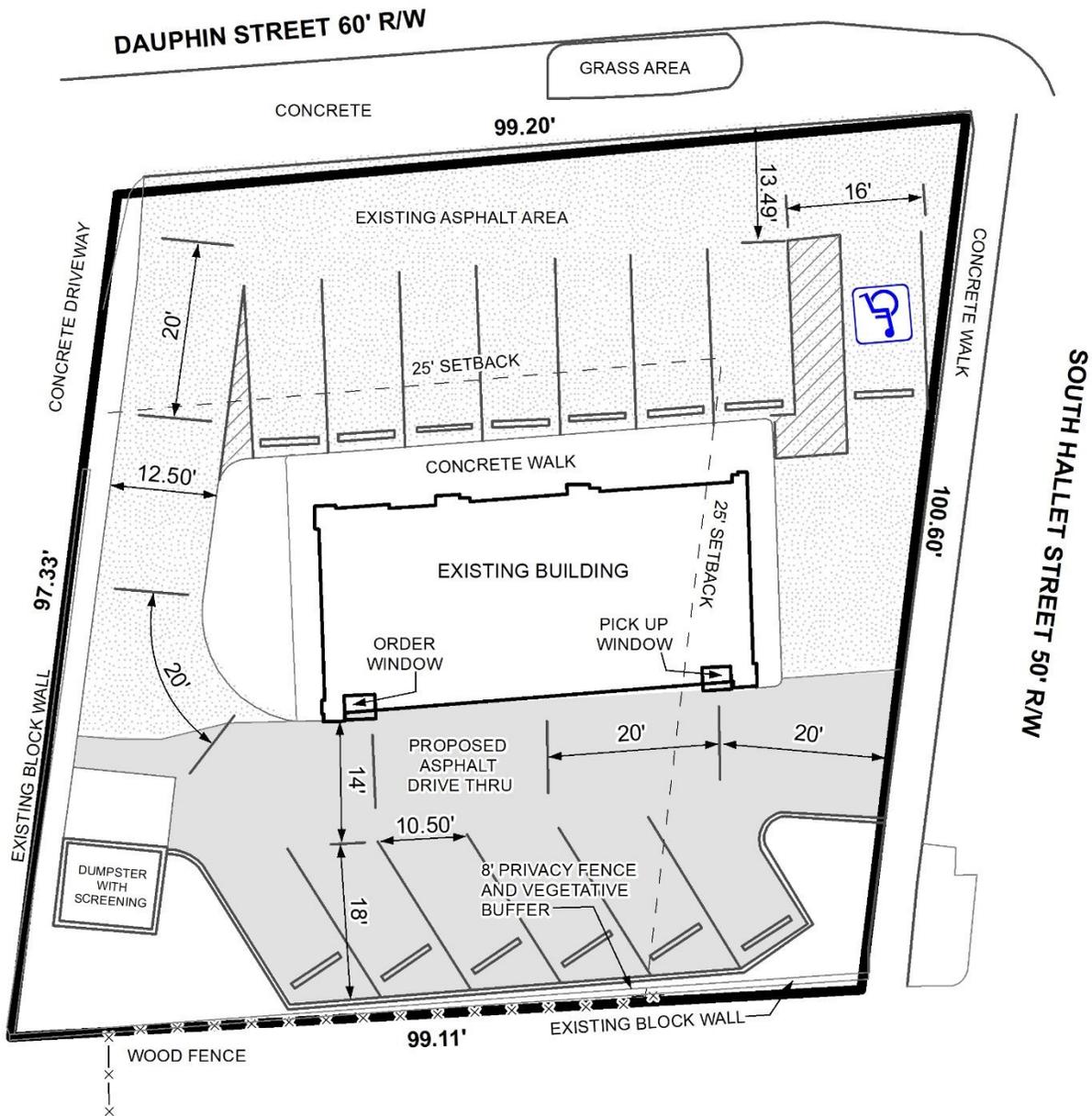


The site is surrounded by commercial sites, offices and residential units.

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SITE PLAN



The site plan illustrates an existing building and asphalt parking area,
and proposed asphalt drive thru and parking.

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