



Agenda Item # 4

BOA-003480-2025

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

1615 Dr. Martin Luther King Jr. Avenue

Applicant / Agent:

Mercy Chepengna / Sharon Ingram

Property Owners:

Joyce Barasa

Current Zoning:

R-1, Single-Family Residential Urban District

Future Land Use:

Mixed Density Residential

Case Number(s):

6707 / 971

Unified Development Code (UDC) Requirement:

- The UDC does not allow convenience stores in an R-1, Single-Family Residential Urban District.

Board Consideration:

- Use Variance to allow a convenience store in an R-1, Single-Family Residential Urban District.

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER	6707	DATE	November 3, 2025
APPLICANT	Mercy Chepengna (Dr. Sharon Ingram, Agent)		
REQUEST	Use Variance		



SITE HISTORY

The site was identified as residential on the 1934 Use District Map, prior to its annexation into the City in 1945. According to the 1953 Sanborn Maps, the property was developed with a single-family dwelling. In April 1959, the Board of Zoning Adjustment denied a variance request to allow construction of a religious facility encroaching into the rear yard setback.

Polk City Directories indicate the site has been used as a convenience store since at least 1985. This is supported by various updates to the property's non-conforming status as a commercial use within a residential zoning district. The most recent update to its non-conforming status occurred in 2013, which also appears to be the last time a Zoning Certificate was issued for the convenience store use. Google Street View imagery suggests the property has been vacant since at least May 2016, which—if accurate—would indicate a loss of non-conforming status under the provisions of Article 6 of the Unified Development Code (UDC).

There are no Planning Commission or additional Board of Zoning Adjustment records associated with the site.

STAFF COMMENTS

Engineering Comments:

No comments.

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 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 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 requests a Use Variance to allow a convenience store in an R-1, Single-Family Residential Urban District. The Unified Development Code (UDC) does not permit convenience stores within the R-1 District.

The applicant indicates that the convenience store would provide goods and services to the surrounding community as justification for the request. The application and supporting materials are available via the link on Page 1 of this report.

The submitted site plan depicts the existing building and six off-street parking spaces. The building is approximately 1,500 square feet in area, which requires five parking spaces, including one van-accessible space. If approved, the site plan should be revised to demonstrate compliance with the accessibility standards of the International Building Code.

Street-view imagery shows wheel stops at each parking space, although these are not reflected on the submitted site plan. If approved, the plan should be revised to illustrate all existing wheel stops, or to identify any curbing that prevents vehicle overhang beyond the parking area.

No dumpster or waste management information is provided on the site plan. If a dumpster is proposed, it should be shown on a revised site plan with a note indicating compliance with the enclosure and placement requirements of Article 3, Section 64-3-13.A of the UDC. If curbside service is to be utilized, that should also be noted on the plan, if approved.

While the property previously operated as a convenience store, its vacancy since at least 2016 indicates that any prior non-conforming commercial use has expired under Article 6, Section 64-6-1.C of the UDC, which provides that a non-conforming use discontinued for more than two years may not be reestablished. Additionally, no hardship has been demonstrated that would prevent the property from being used in compliance with the R-1 zoning classification.

However, the site's long history as a convenience store, with no apparent negative impact on the surrounding neighborhood, may support consideration of the request.

The site is surrounded by residentially used properties zoned R-1, Single-Family Residential Urban District, with a cemetery located across the street, also zoned R-1. While no additional site improvements are proposed at this time, the Board could consider requiring installation of a six-foot-tall privacy fence along property lines adjoining residential uses to partially satisfy the residential protection buffer requirements of the UDC. Full compliance with the current 10-foot-wide buffer standard may not be feasible due to the building's proximity to the rear property line.

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:

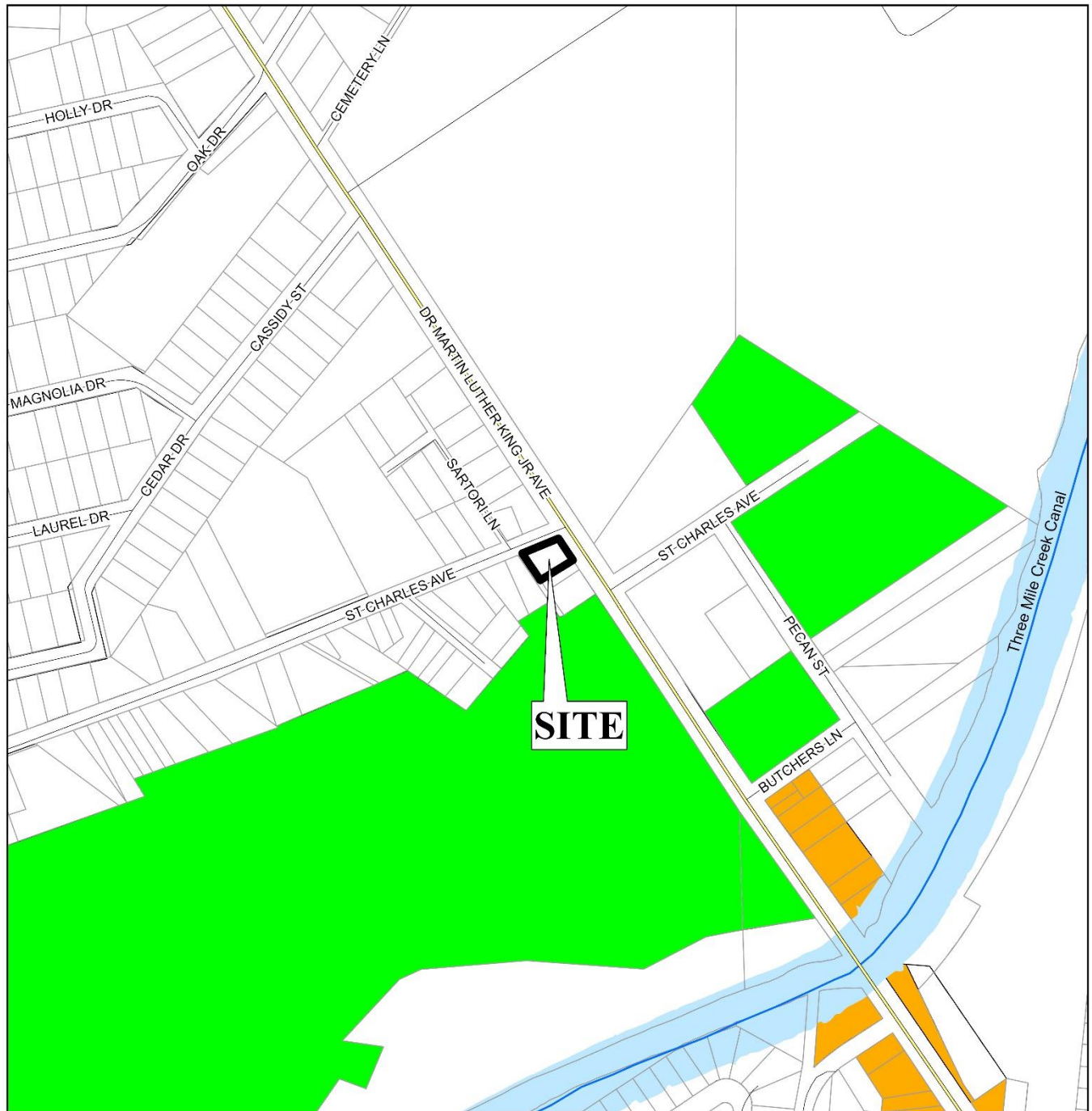
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) 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 could apply:

- 1) Revision of the site plan to demonstrate compliance with the accessibility standards of the International Building Code;
- 2) Revision of the site plan to illustrate all existing wheel stops, or to identify any curbing that prevents vehicle overhang beyond the parking area;
- 3) Revision of the site plan to depict a dumpster with a note stating it will comply with the enclosure and placement standards of Article 3, Section 64-3-13.A of the UDC, or provision of a note on the revised site plan stating curbside waste services will be utilized;
- 4) Revision of the site plan to illustrate a six (6)-foot-tall privacy fence where the property adjoins residentially used property; and
- 5) Full compliance with all other codes and ordinances.

LOCATOR ZONING MAP



APPLICATION NUMBER 6707 DATE November 3, 2025

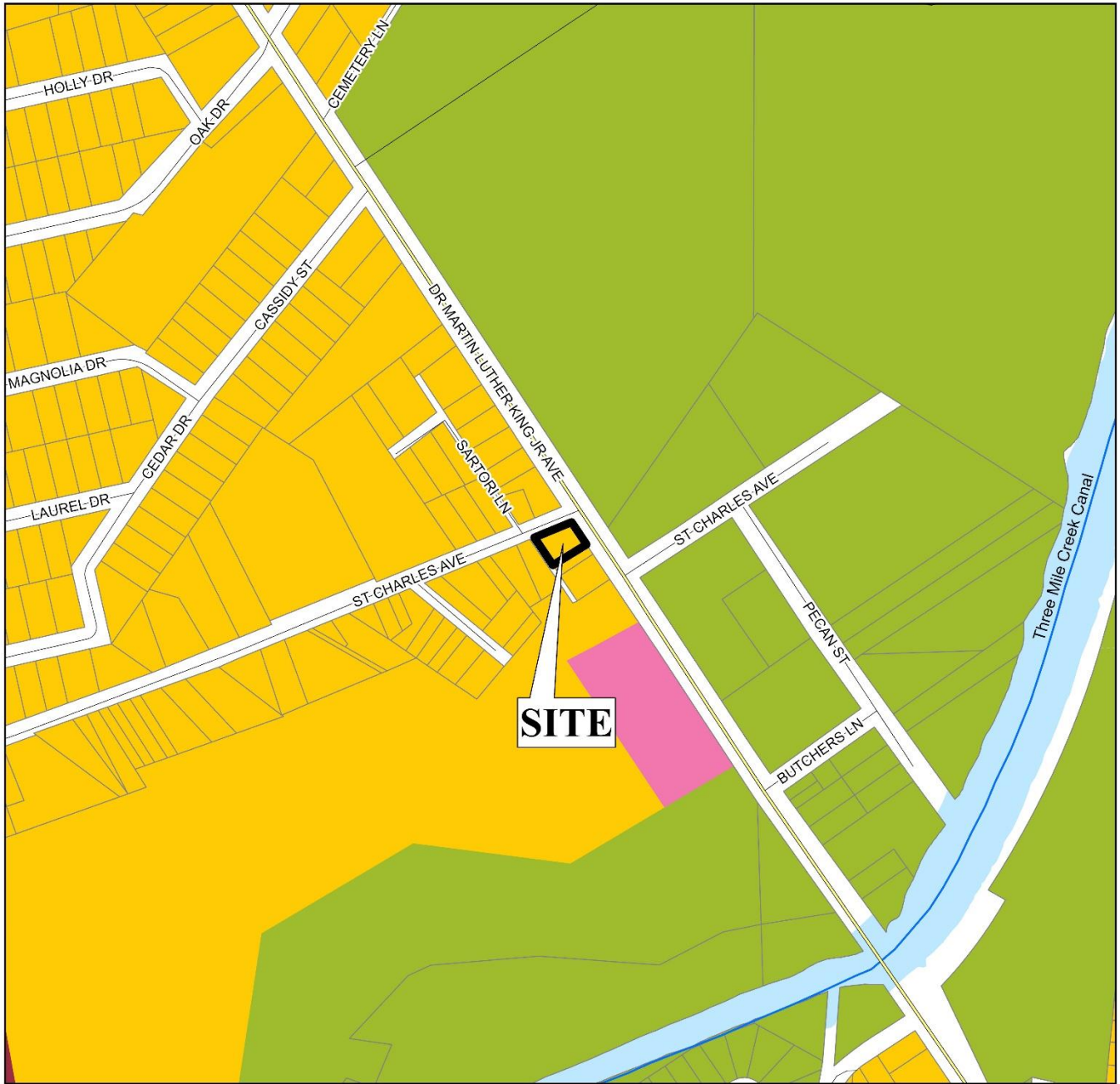
APPLICANT Mercy Chepengna (Dr. Sharon Ingram, Agent)

REQUEST Use Variance



NTS

FLUM LOCATOR MAP



APPLICATION NUMBER 6707 DATE November 3, 2025

APPLICANT Mercy Chepengna (Dr. Sharon Ingram, Agent)

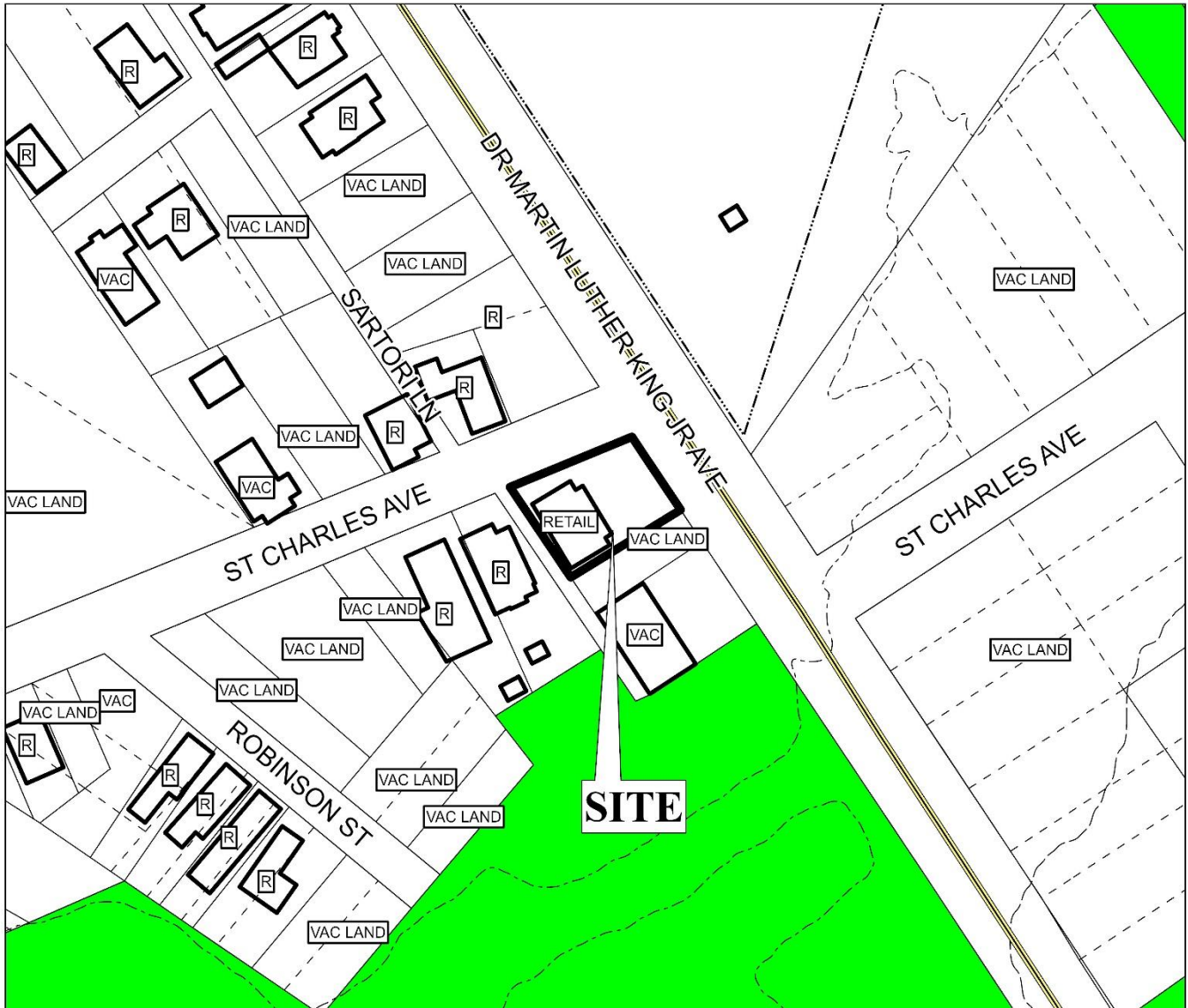
REQUEST Use Variance

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



BOARD OF ADJUSTMENT

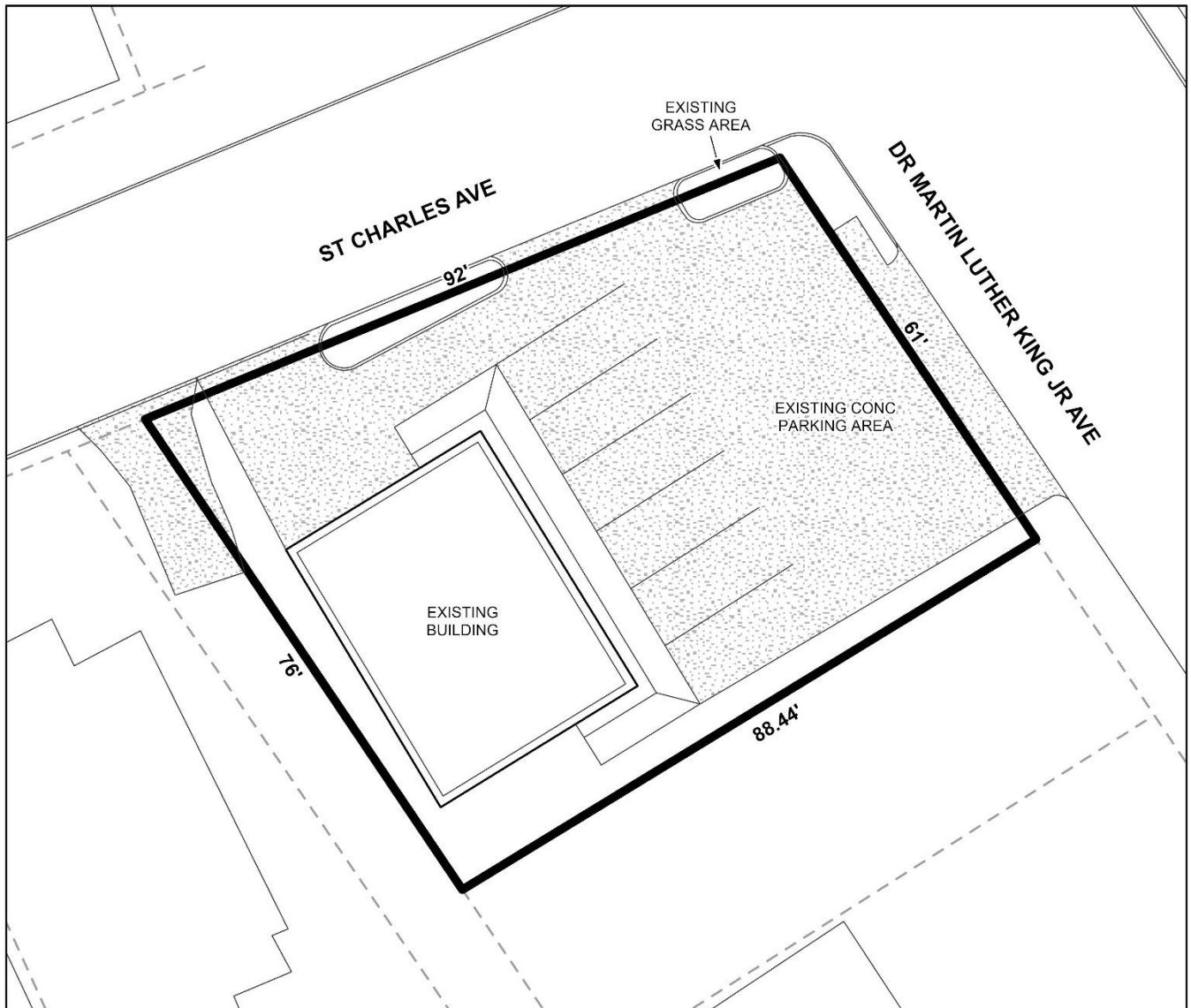
VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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APPLICANT <u>Mercy Chepengna (Dr. Sharon Ingram, Agent)</u>	
REQUEST <u>Use Variance</u>	
<div> <div>R-A</div> <div>R-1</div> <div>R-2</div> </div> <div> <div>R-3</div> <div>R-B</div> <div>H-B</div> </div> <div> <div>B-1</div> <div>T-B</div> <div>LB-2</div> </div> <div> <div>B-2</div> <div>B-3</div> <div>B-4</div> </div> <div> <div>B-5</div> <div>CW</div> <div>MM</div> </div> <div> <div>ML</div> <div>MH</div> <div>I-1</div> </div> <div> <div>I-2</div> <div>PD</div> <div>MUN</div> </div> <div> <div>OPEN</div> <div>SD</div> <div>SD-WH</div> </div> <div> <div>T-3</div> <div>T-4</div> <div>T-5.1</div> </div> <div> <div>T-5.2</div> <div>T-6</div> </div>	<div> <div>N</div> <div>NTS</div> </div>

SITE PLAN



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

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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).

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.

Zoning correspondence matrix

[illegible]

Residential Land Use Areas

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

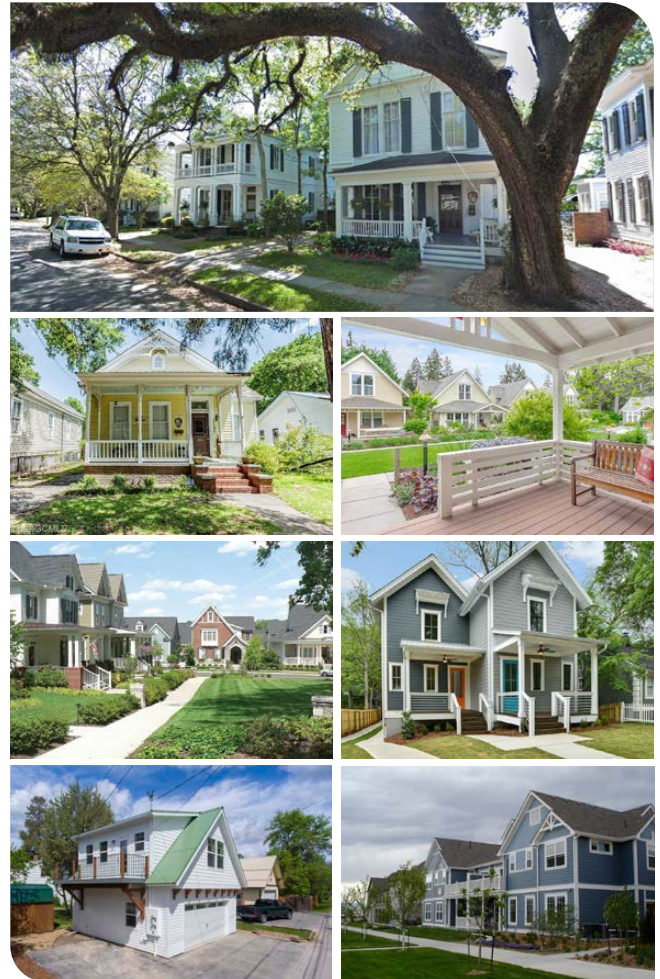
Secondary Uses

- 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