

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 6, 2015****CASE NUMBER**

5985/5920/5811/4958

APPLICANT NAME

Taylor Atchison

LOCATION951 Government Street
(Westside of Marine Street, extending from Government
Street to Church Street)**VARIANCE REQUEST****USE:** Use Variance to allow a retail business or restaurant
to operate in a B-1, Buffer Business District.***PARKING RATIO:*** *Parking ratio variance to allow 87
on-site parking spaces for the various mixed-uses
proposed.***ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a minimum B-2,
Neighborhood Business District for the operation of a retail
business or restaurant.***PARKING RATIO:*** *The Zoning Ordinance requires a
minimum of 117 on-site parking spaces for the various
mixed-uses proposed.***ZONING**

B-1, Buffer Business District

AREA OF PROPERTY

60,964 square feet / 1.3±Acres

**CITY COUNCIL
DISTRICT**

District 2

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**Any B-2 use that would require a drive-thru would not be
recommended for this site. Site circulation would be adversely impacted by a change of this
magnitude to the site. The application did not include information about the number of required
parking spaces under the existing B-1 zoning, and what additional parking could be necessary for
a B-2 use.

Revised (additional) Traffic Engineering Comments: *It is possible that this site, based on its make-up of proposed land uses, could see a shared parking benefit between 15-20% based on Urban Land Institute's Share Parking principals. The adjacent street section of Marine Street is currently wide enough to accommodate parking on one side of the roadway without adversely affecting through traffic.*

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 61-929 and City Code Chapters 57 and 64).

FIRE

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) Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC)

ANALYSIS

The applicant is requesting a Use Variance to allow a retail business or restaurant to operate in a B-1, Buffer Business District; the Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a retail business or restaurant.

The applicant is requesting permission to utilize the ground floor of an existing 8-story commercial building for retail and/or restaurant use. The building is under renovation, where floors 2-8 will be converted into a maximum of 48 dwelling units.

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 provided the following statement:

"The existing building was previously used for an office building but then sat vacant for a number of years. It is currently undergoing a major renovation that will convert a majority of the building to apartments using Historic Tax Credits. This application is to seek approval to lease the ground floor only for a commercial use, possibly office or retail. The current zoning is B-1 but a variance would be needed for retail, restaurants, etc. The time schedule is immediate at the renovation for the apartments is on-going.

The building is currently zoned B-1 which is not suitable for the desired use for retail, restaurants, etc. Since the property is zoned B-1 it can't be used for retail, restaurants, etc. The subject property adjoins a Wendy's Restaurant that is zoned B-2 and there is another B-2 zoned restaurant on the north side of Government. It should be noted that there are a number of mixed use properties within this Historic District. A good example of such would be Callaghan's Restaurant and Pub which is just to the south and is located in an R-1 zoned property. It's not anticipated that there would be any use of equipment or machinery that will generate excessive noise, odors, etc. The ground floor space is also located within a much larger building and land site. It's well buffered from adjoining property owners by Marine Street to the east, Government Street to the north, and parking lots & landscaping to the west & south. The hours and days of operation would need to be determined but potentially seven days a week. If the space is leased to a bakery or coffee shop, then it could open earlier than a restaurant primarily serving lunch or dinner."

The site appeared most recently before the Board at its October 6, 2014 meeting, where the Board approved a request to allow up to 48 dwelling units on a site that would otherwise be limited to 36 dwelling units by right, due to the size of the property.

The building contains a total of 72,000 square feet over 8 floors, which is approximately 9,000 square feet per floor. The floor plan provided with the application shows that the ground floor will contain an elevator lobby, office, three stairways, and electrical and fire pump rooms. The remaining space is divided into two available tenant spaces of approximately 2,469 and 3,817 square feet each, for a total of 6,286 square feet.

The site plan depicts a total of 85 parking spaces. Given the number of dwelling units, a minimum of 72 parking spaces is required, leaving 13 spaces available for the two tenant spaces.

If each tenant space is used for retail or office uses, a total of 21 parking spaces will be required (using a parking ratio of 1 space per 300 gross square feet), thus the site will be 8 parking spaces short of the number of required spaces.

If each tenant space is used for restaurant uses with on-premise consumption, a total of 63 parking spaces will be required (using a parking ratio of 1 space per 100 gross square feet), thus the site will be 50 parking spaces short of the number of required spaces.

Thus in either case, it appears that commercial use of the two available tenant spaces will exceed the available parking by 8 to 50 parking spaces.

Therefore, in addition to a Use variance request, it appears that a Parking Ratio variance request is also required. However, the applicant must determine how each tenant space will be used so that the Parking Ratio variance request can be accurate. Additionally, the applicant may wish to provide a first floor plan that is to a measurable scale so that more exact estimates of leasable space may be obtained (thus possibly reducing the parking requirements).

While the proposed mixed-use of this building is in accordance to the recommendations for this site within the New Plan for Mobile document, additional information is required before a recommendation can be made by staff.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the Holdover of the request until the August 3rd meeting, so that the following may be undertaken by July 9th:

- 1) Specification in writing and on the floor plan by the applicant of the maximum size in square feet of each tenant space and how each tenant space will be used (retail, restaurant, office, etc.); and
- 2) Submission of additional narrative, postage, labels and application and mailing fees for a second variance request for parking.

Revised for the August meeting:

The request was heldover from the July meeting to allow the applicant to amend the variance to include a parking ratio variance, and to provide additional information regarding the proposed uses.

The applicant's variance request was amended as follows to include the parking variance request:

"The proposed redevelopment of this property will include 48 residential units over 5,900 square feet of mixed commercial space that may include a restaurant, office, and/or retail. There are a total of 87 spaces that can be provided on the property to support this development and based on the City's ordinance the development is required to provide 110.

Residential (48 @ 1.5/unit) = 72 spaces

Commercial (3,600± @ 1/100 sf, 2,600± @ 1/300 sf) = 38 spaces

Total Required = 110 spaces

Total Provided = 87 spaces

Because this property is being redeveloped and the structure and property access is remaining the existing property does not have sufficient area to provide the required parking.

The residential spaces within this development will consist mainly of one (1) bedroom units, which we believe will give us an overage on residential spaces as they are calculated at 1.5 spaces per unit regardless of size.

The Oakleigh Garden District is known for its neighborhood commercial spaces such as Callaghan's, Kitchen On George, and Cream and Sugar which all utilize on-street

parking. The commercial portion of this development will match the character of the existing establishments and the patrons in this area are accustomed to using on street parking space to access commercial properties.

Further, we have spoken to Rob Gullledge of the BeeHive Church (who owns a parking area on East side of Marine Street and he informed us the church would welcome us to use their space for over flow parking when it did not coincide with a church service. The commercial hours of office space will not likely coincide with the regular Sunday morning church service.”

The revised floor plan provided by the applicant shows a 2,400 square foot proposed restaurant space, and a 3,200 square foot proposed office space. The remaining ground floor area is for lobby, mechanical and restroom use associated with the overall building. Using the information depicted on the floor plan versus the (possibly inaccurate) information provided in the revised narrative, staff determined the following parking requirements:

<i>48 dwelling units @ 1.5 spaces per du =</i>	<i>72 parking spaces</i>
<i>2,400 sf restaurant @ 1 space per 100 sf =</i>	<i>24 parking spaces</i>
<i><u>3,200 sf office @ 1 space per 300 sf =</u></i>	<i><u>11 parking spaces</u></i>
<i>Total Required</i>	<i>107 parking spaces</i>
<i><u>Total Provided</u></i>	<i><u>85 parking spaces (per site plan)</u></i>
<i><u>Parking Deficit</u></i>	<i><u>25 parking spaces</u></i>

The parking calculations performed by staff differ from those provided with the revised narrative, in that the information provided in the narrative would require a total of 117 parking spaces (not 110 as claimed).

As the New Plan for Mobile has recommended that this site be utilized for mixed-use development, and given that the site is constrained in size, and the size of the existing building would create a parking requirement beyond what can be provided on-site, a parking ratio variance may be considered a reasonable request. Furthermore, the office and restaurant operations may be during periods of the day when sufficient parking is available on-site, and the restaurant itself may attract customers who can walk instead of drive to the site, minimizing the need for a full level of parking compliance.

RECOMMENDATION: *Based on the preceding, staff recommends to the Board the following findings of fact for Approval:*

- 1) Granting the variances will not be contrary to the public interest due to the fact that the mix of uses and hours of parking demand are unlikely to impact the adjacent neighborhood or businesses;*
- 2) Special conditions exist with the property itself, in that the size of the building creates an Ordinance-based parking requirement greater than can be met on-site due to the limited*

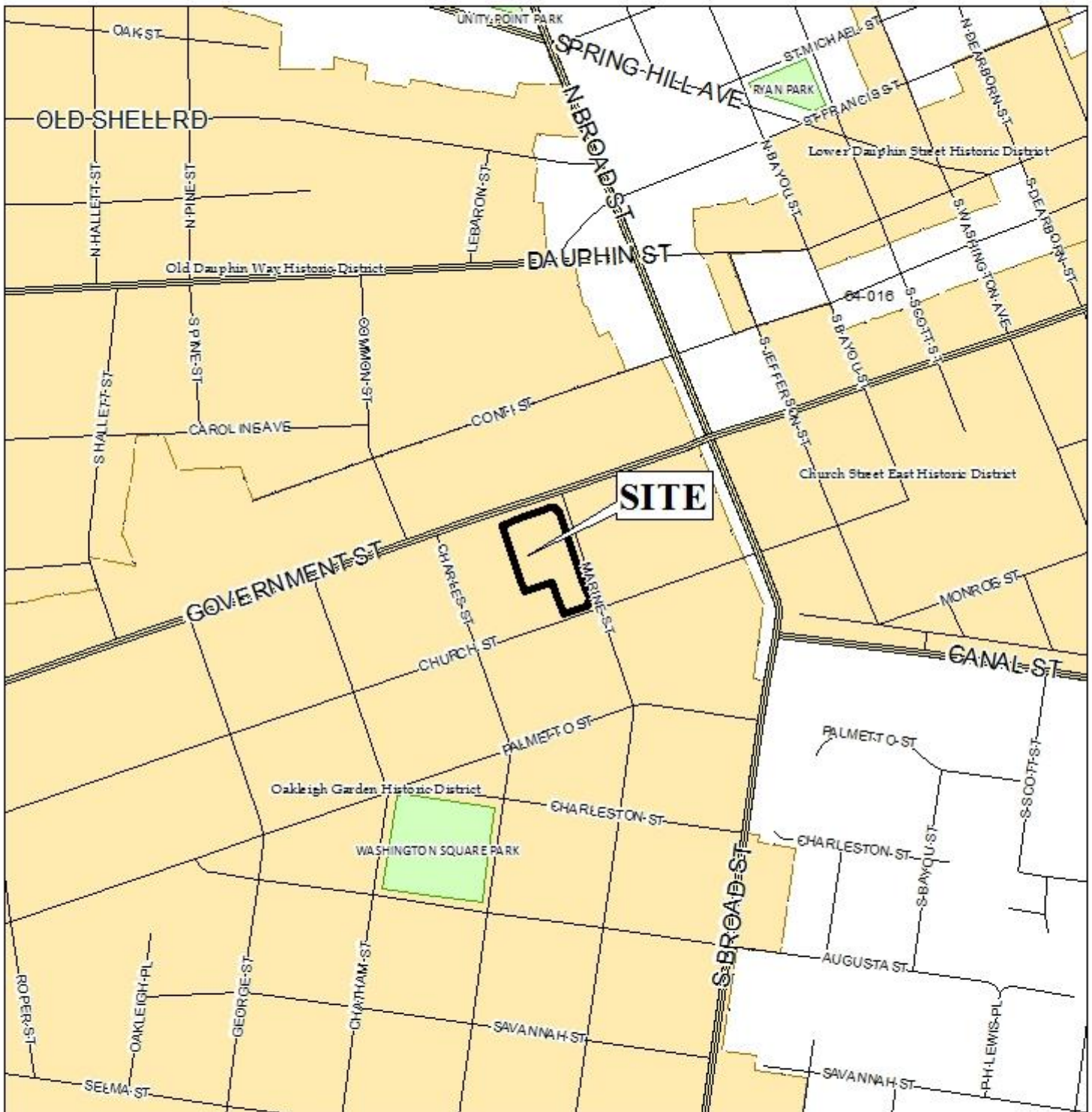
size of the site, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and

- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variances, as the applicant will be allowed to continue the renovation and reuse of the building in a manner that will benefit the neighborhood.*

The Approval should be subject to the following conditions:

- 1) Restaurant use limited to 2,400 square feet of leasable area;*
- 2) Office/Retail use (not associated with the apartment use of the building) limited to 3,200 square feet of leasable area;*
- 3) Remainder of ground floor area to be used as common lobby, restroom, elevator and other associated common facilities;*
- 4) Provision of 85 parking spaces on-site; and*
- 5) Full compliance with all other municipal codes and ordinances.*

LOCATOR MAP



APPLICATION NUMBER 5985 DATE August 3, 2015

APPLICANT Taylor Atchison

REQUEST Use and Parking Ratio Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

APPLICATION NUMBER 5985 DATE August 3, 2015

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REQUEST Use and Parking Ratio 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 ZONING



The site is surrounded by residential and commercial units.

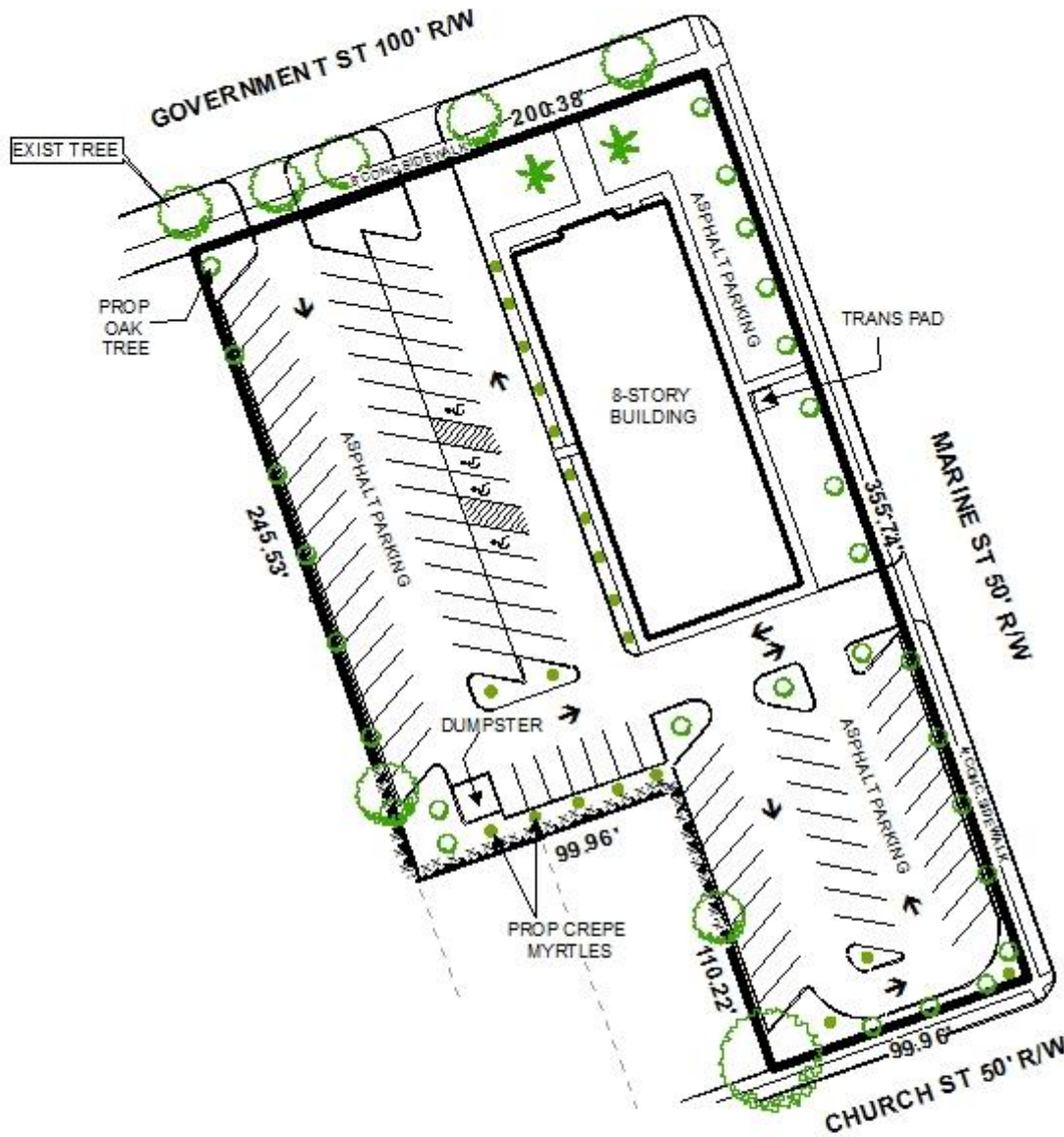
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REQUEST Use and Parking Ratio Variances



SITE PLAN



The site plan illustrates the existing building, exist trees, proposed trees, parking, and dumpster.

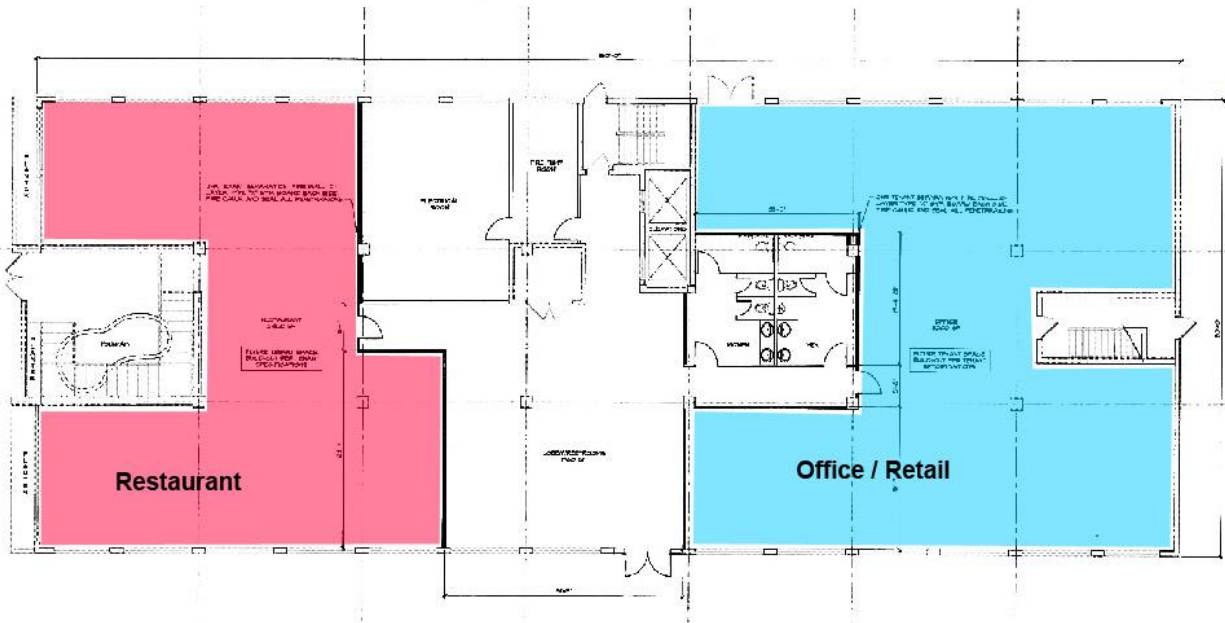
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REQUEST Use and Parking Ratio Variances



DETAIL SITE PLAN



APPLICATION NUMBER 5985 DATE August 3, 2015

APPLICANT Taylor Atchison

REQUEST Use and Parking Ratio Variances



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