

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 3, 2017****CASE NUMBER**

6100/1872/71

APPLICANT NAME

Stephen L. Zito, AIA

LOCATION944 Conti Street
(Northeast corner of Conti Street and Common Street.)**VARIANCE REQUEST****USE VARIANCE:** Use Variance to allow a church in an R-1, Single-Family Residential District.**SURFACE VARIANCE:** Surface Variance to allow gravel and grass parking in an R-1, Single-Family Residential District.**ACCESS AND MANEUVERING VARIANCE:** Access and Maneuvering Variance to allow drives and parking that backs out into the right-of-way in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****USE VARIANCE:** The Zoning Ordinance requires Planning Approval for a church in an R-1, Single-Family Residential District.**SURFACE VARIANCE:** The Zoning Ordinance requires all drives and parking to be paved with asphalt or concrete in an R-1, Single-Family Residential District.**ACCESS AND MANEUVERING VARIANCE:** The Zoning Ordinance requires all maneuvering areas to be located on private property.**ZONING**

R-1, Single Family Residential

AREA OF PROPERTY

9,558 square feet/0.2 ± acres

**ENGINEERING
COMMENTS****USE VARIANCE:** NO COMMENT

SURFACING VARIANCE: If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

- A. Submit and receive a Land Disturbance Permit through the Permitting Dept. for the proposed site development. Aggregate surfacing will NOT be allowed within the public ROW.

ACCESS/MANEUVERING VARIANCE: If the access/maneuvering variance is approved the applicant will need to have the following conditions met:

- A. Submit and receive a Land Disturbance Permit for the proposed site development.
- B. Submit and obtain a ROW Permit (City of Mobile Engineering Dept.) for the proposed work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.

TRAFFIC ENGINEERING
COMMENTS

No 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).

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).

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting Use, Surfacing, and Access/ Maneuvering Variances to allow a church with gravel and grass parking and drives with parking that backs into the right-of-way in an R-1, Single-Family Residential District; the Zoning Ordinance requires Planning Approval for a church in an R-1, Single Family Residential District with all parking and drives to be paved with asphalt or concrete and all maneuvering areas to be located on private property.

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 building is a wood and masonry wall structure with wood framed roof. Exterior walls are brick veneer and metal windows. Roofing material is asphalt shingles. Site is gravel and grassed with little defined parking. Sidewalks are existing on all sides. Current use of the building is an operating picture frame shop. Inside, the building has several larger spaces with fully function electrical, HVAC, and plumbing systems.

The proposed use is for a local First Church of Christ, Scientist. The larger workshop area is just the right size for the sanctuary. Other areas are well sized for other uses. Only a few walls are proposed to be added, including a new ADA compliant toilet room. Multiple entrance doors exist on the Conti Street face. The use of these doors will be reduced to just one or two to better accommodate access.

The site is proposed to remain "as is" to avoid hard paved surfaces in a residential area with suspect drainage. Required parking for the 48 proposed church seats can be provided on site and dimensionally meet the City parking requirements. One handicap accessible parking space will be provided and hard paved along with access to the building. Overgrown palm trees in the front of the building will be trimmed back or removed and replaced with smaller shrubs to allow for better building maintenance.

The Church is prepared to purchase the property shortly after the zoning approval and final construction pricing. This should happen between 30-90 days. Building permits will be applied for during this time.

The proposed use is a church that holds services Wednesday evenings and on Sunday. Currently membership is at about 30 members. Membership is expected to be steady and the move is not to promote growth, just own their own building. The building will be occupied other times on a very limited basis, perhaps a few hours a day. The only musical instruments used will be a piano. There will be a soloist as well as the congregation singing hymns. Sunday school is held for youth during service times. Reading areas will be provided as well as a Church Office. No outside play areas will be provided. Doors and windows will remain closed during service times.

The property is intended to be used solely as a church and its supporting functions. The small nature of this Church is compatible with the quaint, smaller buildings in the adjacent neighborhood.

We request a "Use" variance to allow the Church to operate in the R-1 zoning.

We request a "Site Variance" to allow existing site improvements to remain as they are, with exception of defining a driveway and the required 12 parking spaces. We request to allow the gravel and gravel/grassed areas to remain for drives and parking. The light

use of the property by the smaller congregation and limited hours will not cause erosion problems in the parking areas. A few of the proposed parking spaces will be back out onto Common Street, as they do now for the commercial use. Less use of these spaces is anticipated than occurs today.

This site first appeared before the Board of Zoning Adjustment at its July 25, 1952 meeting in which the applicant received approval for a 6' front yard variance for an addition. Then at the Board of Zoning Adjustment's May 4, 1964 meeting, the site received use variance approval by the Board to permit the extension of an existing gift shop on the property abutting on the South.

The existing structure is located in the Old Dauphin Way Historic District. The subject site is bounded by R-1, Single Family Residential to the North, East, and West and B-1, Buffer Business District and B-2, Neighborhood Business District to the South.

This site has served as an art gallery, gift shop, and custom framing and restorations business for many years. The First Church of Christ, Scientist, as previously stated by the applicant, is seeking to purchase the subject property from the current owner in order to achieve ownership of their own building structure for church services. The church currently has 30 members; however 48 seats will be provided in the advent of receiving new members and/or guests as the church grows. The church proposes to hold services only on Wednesday evenings and on Sunday, and asserts that the property will be used solely as a church and its supporting functions.

It is not uncommon to find churches or religious facilities located in R-1, Single Family Residential Districts, however, according to the Zoning Ordinance, a church or religious facility, including parish house, community house and educational buildings, require Planning Approval in an R-1, Single Family Residential District. Each use variance application is viewed independently on a case-by-case basis in order to determine the feasibility of religious uses in residential areas, thus the reason for today's request. Nevertheless, it appears that the small congregation size, the days and hours of operation, and the continued use of the existing structure in a non-residential capacity, may be positive attributes that are deemed favorable amongst neighboring residences and businesses.

It should be noted that a nearby church located 418'± Southwest of the subject site in the Oakleigh Garden District received Subdivision Approval at the February 19, 2009 Planning Commission meeting for a three-lot subdivision; which was later approved administratively for a two-lot subdivision. At the Planning Commission's June 4, 2009 meeting, the site received Planning Approval to allow a church in an R-1, Single Family Residential District and Planned Unit Development Approval to allow multiple buildings on a single building site. Subsequently, at the Board of Zoning Adjustment's August 3, 2009 meeting, the site received approval for an alternative parking surface material, Percstone Grid Pavers, in lieu of the standard asphalt or concrete paved parking surfaces required by the Zoning Ordinance.

In addition to seeking Planning Approval for a church in an R-1 zoned district, the applicant also desires to utilize the existing grass and gravel surfacing as a parking area for church members and visitors. The applicant states that the site is proposed to remain "as is" to avoid hard paved surfaces in a residential area with suspect drainage. Additionally, the applicant asserts that the

light use of the property by a smaller congregation, and limited hours of operation, will not cause erosion problems in the parking areas; however, Section 64-6.A.3.a. of the Zoning Ordinance states that commercial parking lots “shall be properly graded for drainage, surfaced with concrete, asphaltic concrete, asphalt, or alternative parking surface as defined in section 64-2, and maintained in proper condition, free of weeds, dust, trash, and debris.” Furthermore, Section 64-6.A.4 of the Zoning Ordinance, specifically states that “gravel parking lots is prohibited as commercial parking.” If the use of the existing structure is proposed to change from a retail use to an assembly use, and the proposed project is not residential in nature, the subject site must meet all parking and parking surface requirements as outlined by the Zoning Ordinance. The applicant may want to consider an alternative parking surface in order to achieve a more natural appearance while meeting site compliance.

The applicant is also seeking relief from the Zoning Ordinance to allow vehicles in the parking area along Common Street to use the right-of-way in order to “back out” of the subject site. It also appears that the proposed parking area located on the East side of the existing structure along Conti Street may require vehicles to back out onto the right-of-way in order to maneuver and exit the parking area. Section 64-6.2 of the Zoning Ordinance states that “access, maneuvering area, ramps and other appurtenances shall be furnished off the street right-of-way and, except for one family and two family dwellings, vehicles are prohibited from backing from the area into the roadway.” Being that the proposed church will provide 48 seats, the subject site will require 12 parking spaces as indicated on the site plan. The applicant may wish to consider decreasing the number of seats provided for the proposed church in order to decrease the amount of parking spaces needed for the subject site, which may aid in better accessibility and maneuvering within the parking area. The applicant should look at alternative options for reconfiguring the parking area(s) in order to achieve parking site compliance.

The Zoning Ordinance states that one-way angled parking spaces require stall widths that measure 10.5’ wide by 20’ long. Additionally, parallel parking spaces shall measure 8’ wide and interior stalls shall be at least 23’ long, and the aisle widths must be at a minimum 14’ wide. It appears that the parking spaces and aisle widths are labelled as such on the site plan; however, the site plan provided with the application is not to scale. The applicant should also revise the site plan to depict all parking and circulation as “one-way” along the East and North sides of the property, as well as providing “one-way” signage on site. Furthermore, the applicant should ensure that site lighting is provided in accordance with Section 64-6.3.c. of the Zoning Ordinance since more than 10 spaces are being provided on site.

It should be noted that the current configuration of the proposed parking area to the East of the existing building structure along Conti Street requires the use of an existing alley as an access and maneuvering aisle for the parking area. Submission of an application to the Planning Commission for a 1-lot subdivision and to the City Clerk for vacation of the 10’ alley easement located to the East of the subject site is required.

Due to the conversion of the space from retail business to a church, there may be various building code issues that will need to be addressed prior to the church occupying the site.

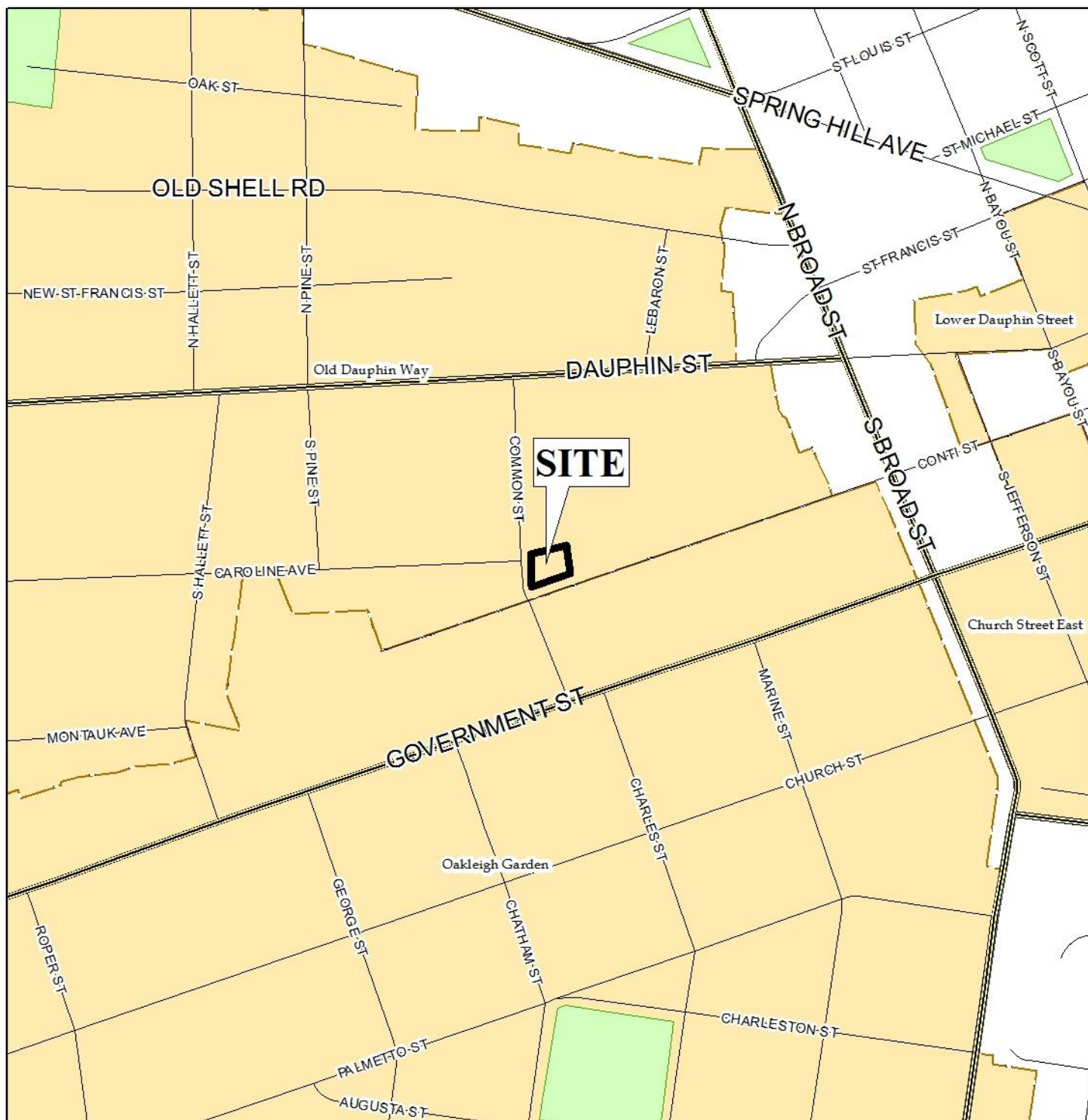
RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) Based on the fact that a hardship was presented, granting the variance will not be contrary to the public interest since other church and religious facilities located within the vicinity of the subject site have been granted similar use and site variance requests in the past;
- 2) Special conditions appear to exist and there are justifications of hardship which exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site cannot be utilized and/or modified without the requirement for variances; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance as the small size of the congregation, the minimal days and hours of operation, as well as the continued use of the existing building in a non-residential capacity coincide with the general character of the surrounding neighborhood.

The application Approval is subject to the following conditions:

- 1) Provision of a to-scale site plan to Planning and Zoning Staff; and
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



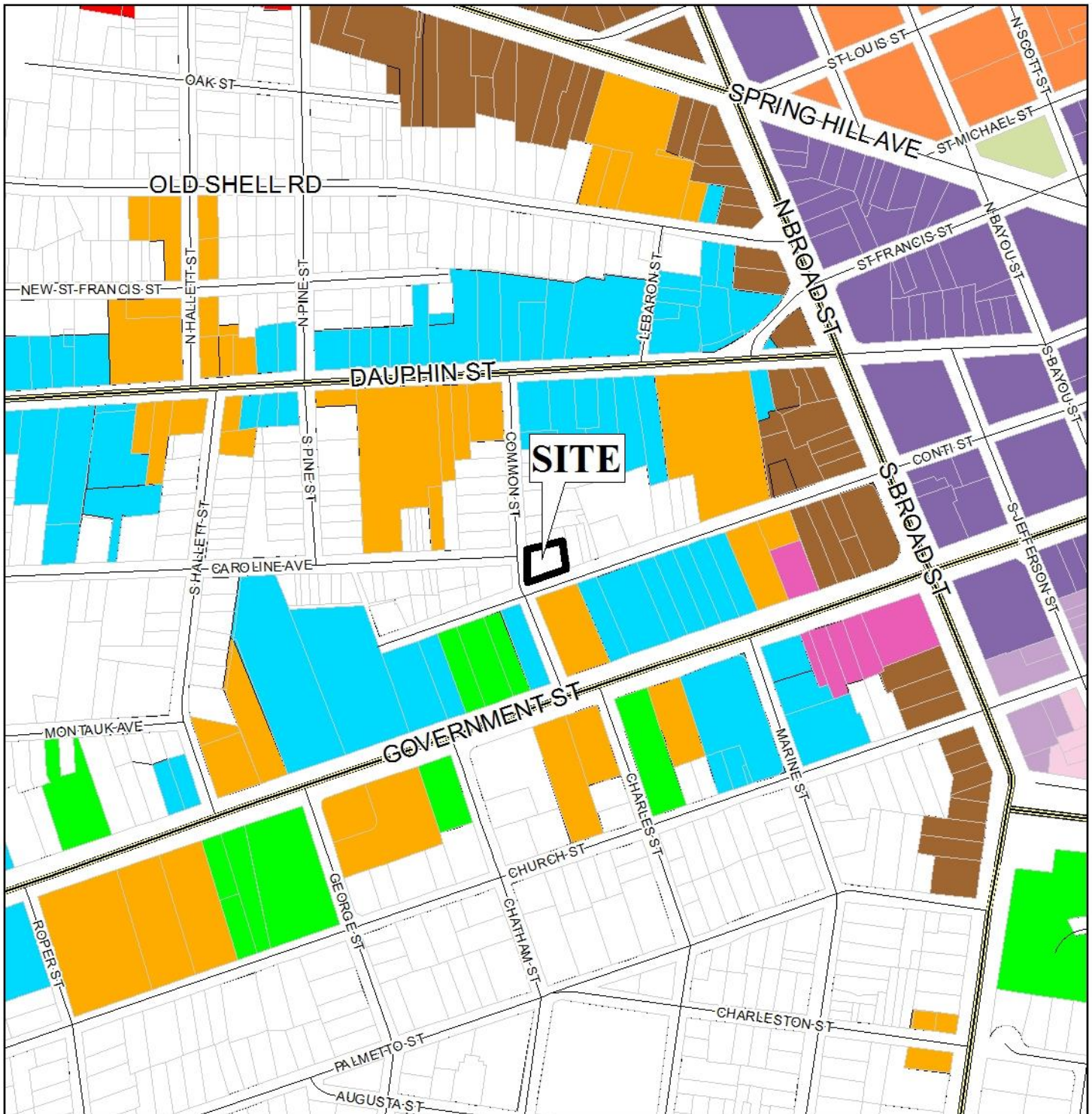
APPLICATION NUMBER 6100 DATE April 6, 2017

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REQUEST Use, Surfacing, and Access/Maneuvering Variances



LOCATOR ZONING MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A commercial unit is located to the south and east of the site.

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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



The site is surrounded by residential units. A commercial unit is located to the south and east of the site.

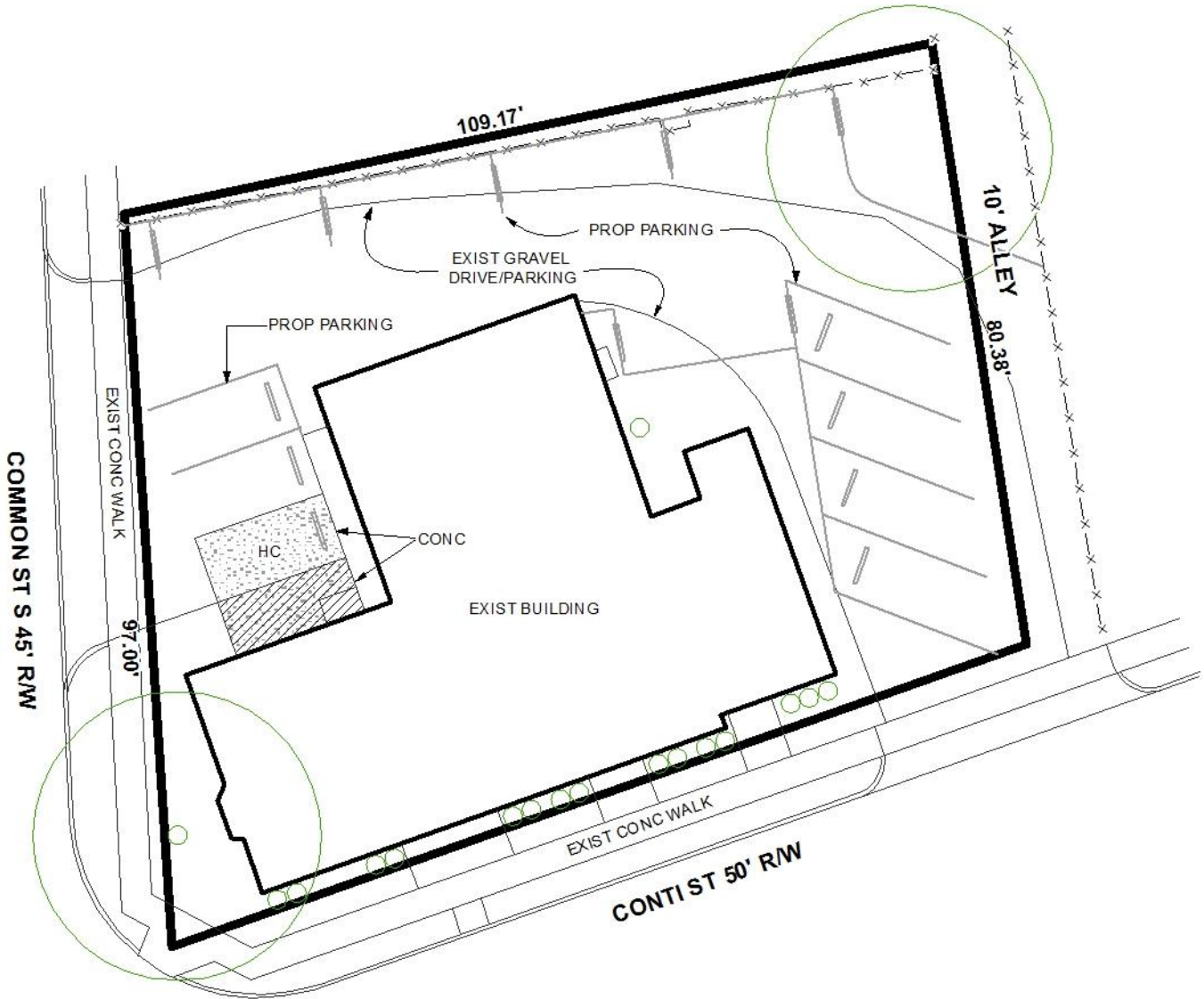
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SITE PLAN



The site plan illustrates the existing building, existing gravel parking, existing drive, and proposed parking.

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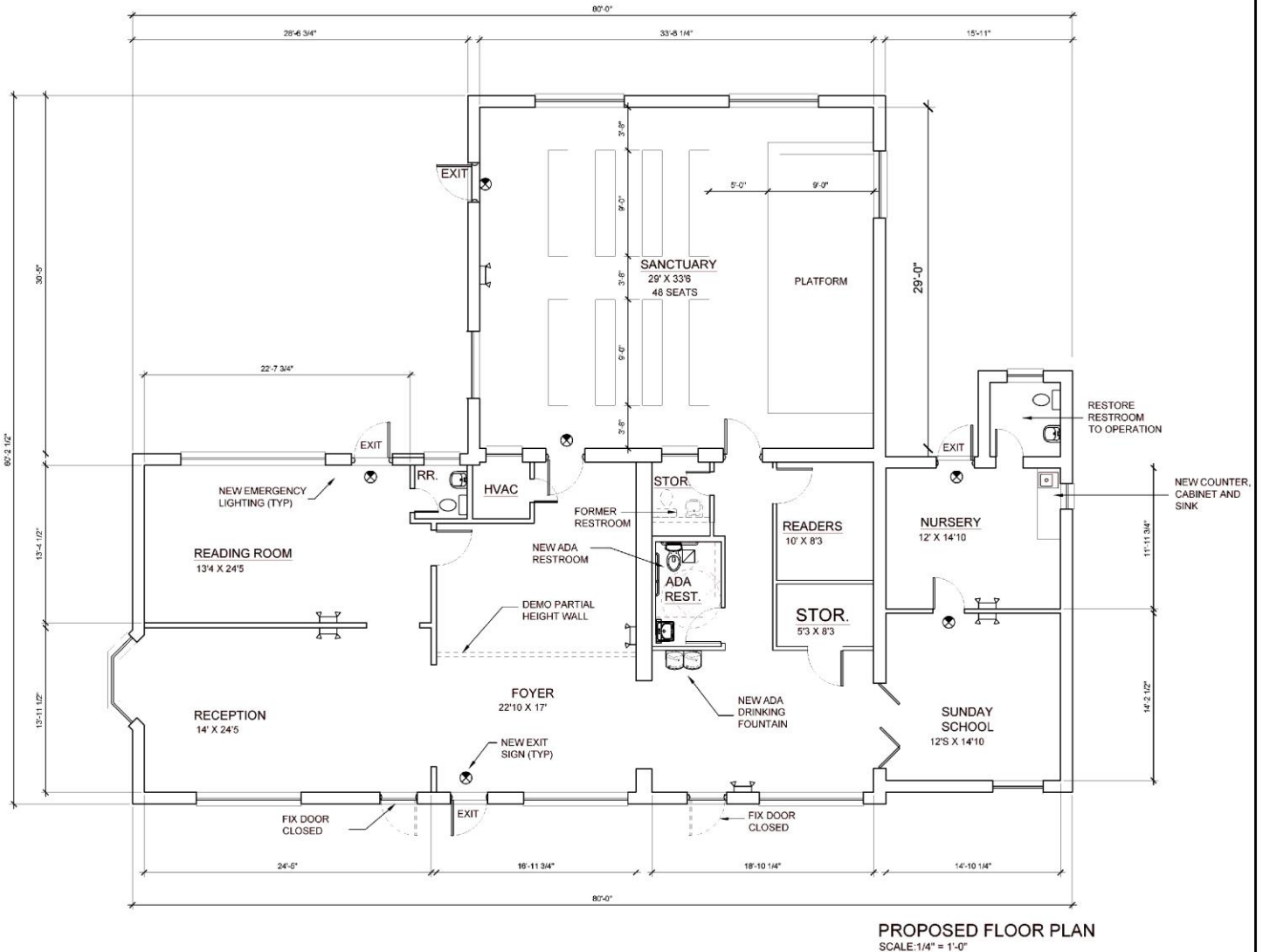
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NTS

DETAIL SITE PLAN



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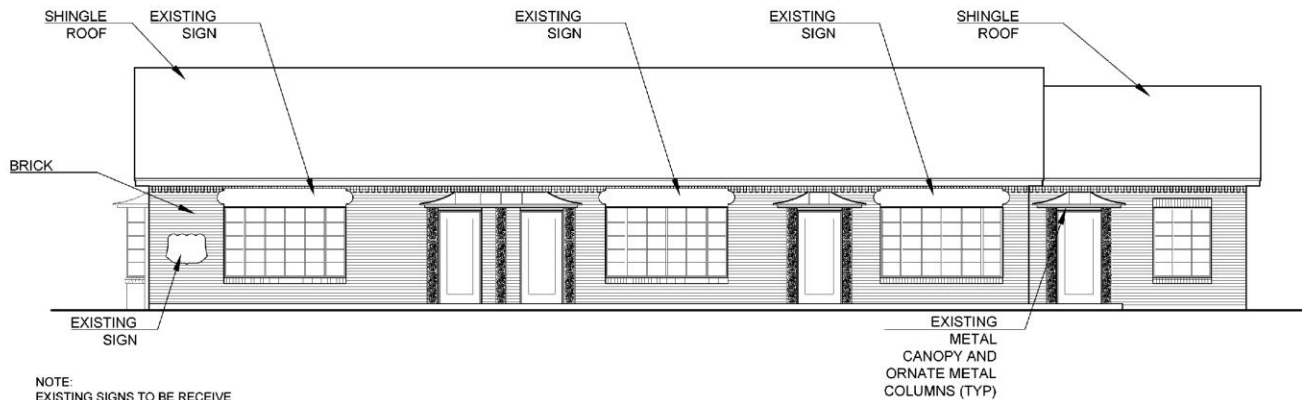
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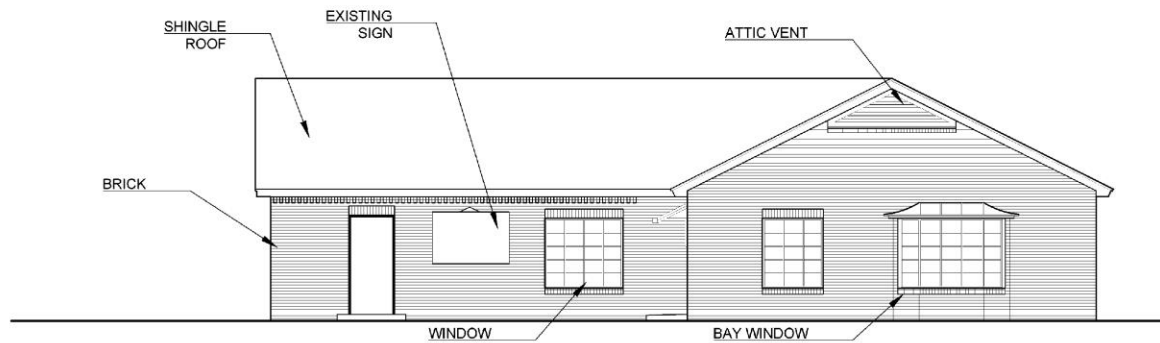


NTS

DETAIL SITE PLAN



EXISTING FRONT ELEVATION
SCALE: 1/4" = 1'-0" CONTI STREET



EXISTING LEFT SIDE ELEVATION
SCALE: 1/4" = 1'-0" COMMON STREET

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