

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: March 11, 2019****CASE NUMBER**

6243/5603

**APPLICANT NAME**

Church Street Apartments, LLC

**LOCATION**1400 Church Street  
(Northwest corner of Church Street and Everett Street)**VARIANCE REQUEST****USE:** Use Variance to allow an apartment building in an R-1, Single-Family Residential District.**PARKING RATIO:** Parking Ratio Variance to allow a reduced number of parking spaces.**ACCESS AND MANEUVERING:** Access and Maneuvering Variance to allow substandard access width.**FRONT LANDSCAPING:** Front Landscaping Variance to allow reduced front landscaping.**ZONING ORDINANCE  
REQUIREMENT****USE:** The Zoning Ordinance does not allow an apartment building in an R-1, Single-Family Residential District.**PARKING RATIO:** The Zoning Ordinance requires a compliant number of parking spaces to be provided.**ACCESS AND MANEUVERING:** The Zoning Ordinance requires compliant access and maneuvering space be provided.**FRONT LANDSCAPING:** The Zoning Ordinance requires compliant front landscaping area be provided.**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.19± Acre

**ENGINEERING  
COMMENTS**

USE, PARKING RATIO, ACCESS AND MANEUVERING, FRONT YARD LANDSCAPING RATIO VARIANCES:

If any of the proposed variances are approved for use the applicant will need to have the following conditions met:

1. 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.
2. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting.
3. 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.

**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). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site 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).

**CITY COUNCIL  
DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Use, Parking Ratio, Access/Maneuvering and Front Landscaping Variances to allow an apartment building in an R-1, Single-Family Residential District, with a reduced number of parking spaces, substandard access width and a reduced front landscaping ratio; the Zoning Ordinance does not allow an apartment building in an R-1, Single-Family Residential District, and a compliant number of parking spaces is required, with compliant access and maneuvering space, and compliant front landscaping area must be provided.

The site has been given a Mixed Density Residential (MxDR) 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 applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.

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.

Use, Parking Ratio, and Tree/Landscaping Variances were sought for the subject site in 2010, but only the Use and Parking Ratio requests were approved. As permits were never obtained to bring the site into compliance following the approval, the approval expired. The site is now under different ownership, and the applicant proposes to use the existing building for ten apartment units as in the previous variance request. And as in the previous request, reduced parking is requested. The applicant also requests that reduced front landscaping be allowed.

The applicant's narrative states:

*THE OWNER / APPLICANT RECENTLY PURCHASED THIS PROPERTY ASSUMING THAT THE PROPERTY WAS PROPERLY ZONED FOR THE EXISTING 10-UNIT APARTMENT BUILDING. UNFORTUNATELY, THE CITY ALLOWED THE BUILDING TO BE BUILT IN AN R-1 ZONED DISTRICT WITH NO PROVISION FOR THE REQUIRED NUMBER OF PARKING SPACES (1.5 SPACES PER UNIT) THAT HAS EXISTED FOR 45 PLUS YEARS. THIS HAS IMPOSED A HARDSHIP ON THE CURRENT OWNER (AND PREVIOUS OWNERS) WHO WISHES TO RESTORE THE 10 UNITS TO A LIVABLE CONDITION AND BE AN ASSET TO THE NEIGHBORHOOD. THIS PROPERTY WAS SUBMITTED TO THE BOARD OF ZONING ADJUSTMENT IN 2010 AND WAS APPROVED SUBJECT TO 6 CONDITIONS. WE CAN MEET 5 OF THE CONDITIONS BUT NEED VARIANCES FOR THE NUMBER OF SPACES AND WIDTH OF THE ACCESS / MANEUVERING AISLE. WE ALSO NEED A WAIVER FROM THE FRONT LANDSCAPING REQUIREMENT.*

- 1. NUMBER OF SPACES: THE SITE PLAN PROVIDES FOR 12 PARKING SPACES WHICH IS MORE THAN 1 SPACE FOR EACH BEDROOM. THIS IS THE SAME RATIO FOR PARKING THAT IS REQUIRED IN THE AREA AROUND THE UNIVERSITY OF SOUTH ALABAMA CAMPUS.*
- 2. ACCESS / MANEUVERING AISLE: WE ARE REQUESTING THAT THE TWO-WAY DRIVE AISLE BEHIND 5 SPACES BE REDUCED TO A WIDTH OF 20 FEET. THIS WIDTH WILL BE SUFFICIENT BECAUSE OF THE LOW VOLUME OF VEHICLES ENTERING AND EXITING THE PROPERTY. THE CITY SUBDIVISION REGULATIONS ONLY REQUIRE A MINIMUM WIDTH OF 18 FEET FOR A PRIVATE STREET.*
- 3. FRONT LANDSCAPING: WE NEED A WAIVER OF THE FRONT LANDSCAPING SINCE WE ARE 31 SQUARE FEET LESS THAN THE REQUIRED AREA.*

*THE OWNER HAS MET WITH THE MOBILE HISTORIC DEVELOPMENT REVIEW BOARD AND THEY ARE IN AGREEMENT WITH HIS PLANS FOR RENOVATION.*

The subject site is adjacent to vacant R-1 zoning to the West with R-1 to the North used as a church. To the East across Everett Street is R-1 zoning used as apartments, and to the South across Church Street is R-1 zoning used as a public school.

It should be noted that the site is located in the Leinkauf Historic District. Architectural Review Board/Mobile Historic Development Commission approval was granted in October, 2018, for the proposed improvements to the site. Part of that approval included a detached ancillary building to be built on the site which is not indicated on the submitted site plan. However, that building is no longer proposed, and, instead, a small laundry room addition is proposed at the Northwest corner of the apartment building. As such, updated approval may be required by the ARB.

The property appears to have been originally developed as a ten-unit, two-story apartment building. Nonconforming use history on file allowed a Zoning Clearance to be issued in 2005 for apartments, but that legal nonconforming allowance expired after a period of more than two years of vacancy after that time. In 2010, Use, Parking Ratio, and Tree/Landscaping Variances were requested for the subject site. The Use and Parking Variances were granted, and the Landscaping Variance was not required. Permits were obtained for interior renovations, but work was never completed and the Variances expired. A different owner now proposes to re-establish the use as apartments; hence the current requests.

As the site was obviously developed for apartments and was used for such, and as the previous Use Variance request was granted, it would stand that the re-use of the property as apartments would be consistent with the originally-intended and previous use.

For ten apartment units, the site is required to provide 15 parking spaces. The site plan provided indicates ten compliant nose-in/back-out 90-degree parking spaces along the North side of the building, and two non-compliant parallel parking spaces along the Northern boundary of the site. Those two spaces are indicated to be 8' wide and 18' long. Parallel parking stalls must be 9' wide, and interior stalls must be at least 23' long. End stalls must be at least 20' long if their entry/exit area is unencumbered. It appears that sufficient area exists to at least meet the minimum length requirements for these two parking spaces; however, the restricted maneuvering area between the rear of the 90-degree parking stalls and the side of the parallel parking stalls is a concern. Site entry and exit is indicated via a compliant 24' wide curb cut with compliant 24' access and maneuvering area behind the first three parking stalls West of the entrance. Beyond that point, the access and maneuvering area diminishes to 20' between the rear of the 90-degree parking stalls and the side of the parallel parking stalls. Therefore, the two parallel parking stalls should be eliminated and a 24' access/maneuvering aisle should be provided. The previously-approved Parking Ratio Variance request was approved for nine parking spaces, and the applicant now proposes ten compliant spaces, excluding the parallel parking spaces.

With regard to the Front Landscaping Variance request, landscaping calculations on the site plan indicate 585 square feet of landscaping within the area between the front of the building and the Church Street right-of-way. The required frontage landscaping for the site is 616 square feet. Since this is a public street corner site, the required frontage landscaping can be apportioned along both street frontages, and there is an area of 204 square feet between the East end of the building and the Everett Street right-of-way which can also be counted into the total frontage landscaping area, thus providing a total of 789 square feet of frontage landscaping area. Therefore, the Frontage Landscaping Variance request is not needed.

The applicant has illustrated that a hardship exists with regard to the use of the property as a single-family dwelling and the Board should consider the Use Variance request for approval. A hardship has also been illustrated with respect to the parking ratio, and the Board should also consider this request for approval, especially since one more compliant parking space can be provided beyond the number provided in the previously-approved variance. Although site constraints would seem to justify the approval of the Access/ Maneuvering Variance request, the restricted maneuvering area between the 90-degree and parallel parking areas would not seem to justify its approval. Therefore, the Board should consider this request for denial. The Front

Landscaping Variance request is not needed since sufficient area is actually provided for compliant front landscaping.

**RECOMMENDATION:** Staff recommends to the Board the following findings of facts for Approval of the Use and Parking Ratio Variance requests:

- 1) Approving the variances will not be contrary to the public interest in that the use would be consistent with the originally-intended and past use of the property, and the compliant parking has been increased beyond that provided in the previously-approved variance request;
- 2) Special conditions were illustrated such that the 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 surrounding neighborhood by granting the variance because the use would be compatible to the site's original development and previous use.

The approval is subject to the following conditions:

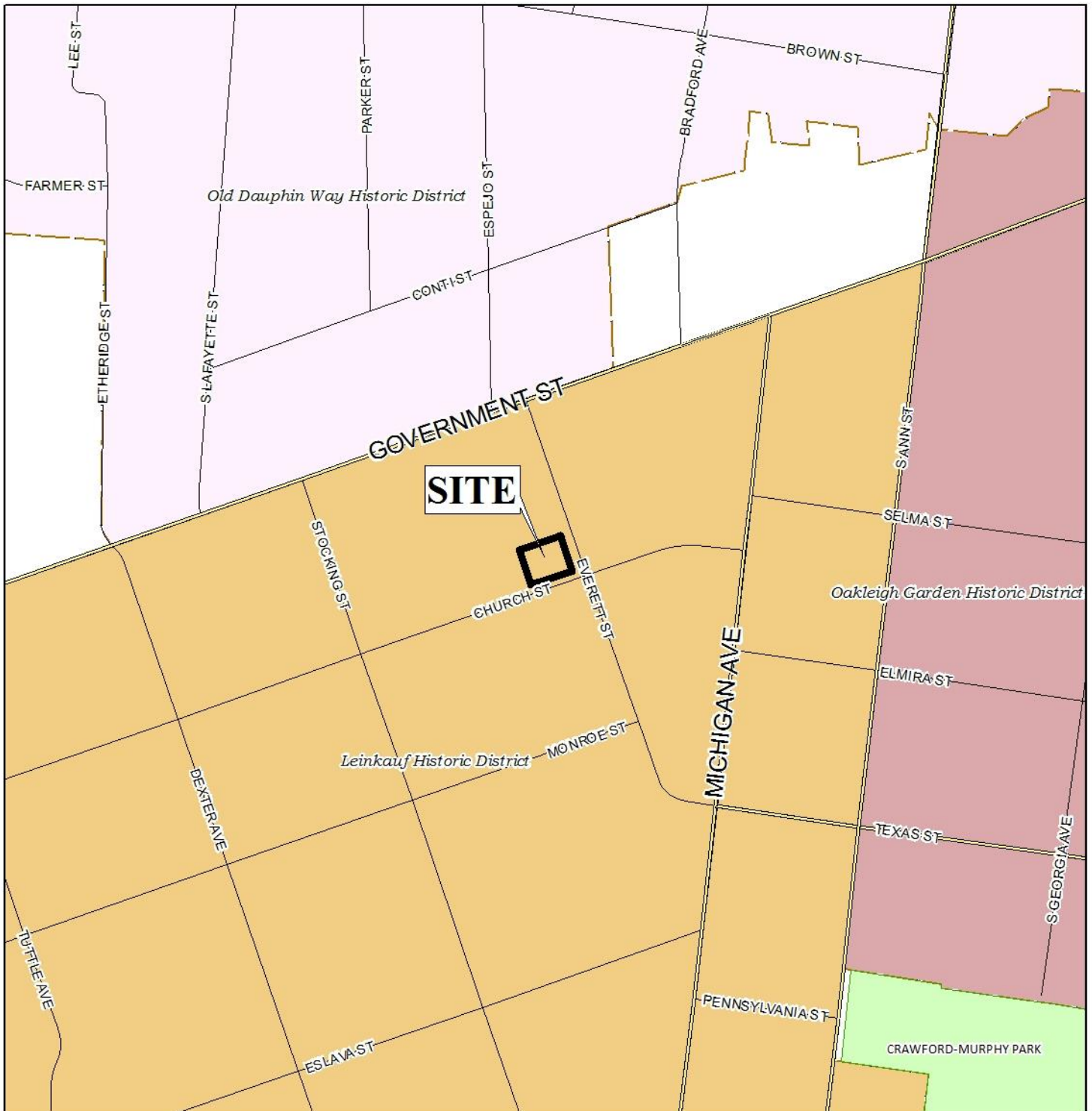
- 1) revision of the site plan to eliminate the two parallel parking spaces along the Northern boundary of the site and provide a 24' wide access/maneuvering area along the rear of all parking stalls;
- 2) correction of the front landscaping calculations to indicate that compliant area is provided;
- 3) submittal to and approval by Planning and Zoning of a revised site plan; and
- 4) full compliance with all municipal codes and ordinances.

Staff recommends to the Board the following findings of facts for Denial of the Access and Maneuvering Variance request:

- 1) Approving the variance will be contrary to the public interest in that its allowance would cause a restricted maneuvering area between the 90-degree and parallel parking areas;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship because the elimination of the proposed parallel parking spaces will still allow one more compliant parking space than provided in the previously-approved variance; and
- 5) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because it could cause traffic back-up into the right-of-way due to restricted on-site traffic flow.

Staff has determined that the Front Landscaping Variance request is not needed since there is further frontage landscaping provided on the site plan which was not included in the landscaping calculations.

# LOCATOR MAP



APPLICATION NUMBER 6243 DATE March 11, 2019  
APPLICANT Church Street Apartments, LLC  
REQUEST Use, Parking Ratio, Access/Maneuvering and Front Landscaping Variances





# LOCATOR ZONING MAP

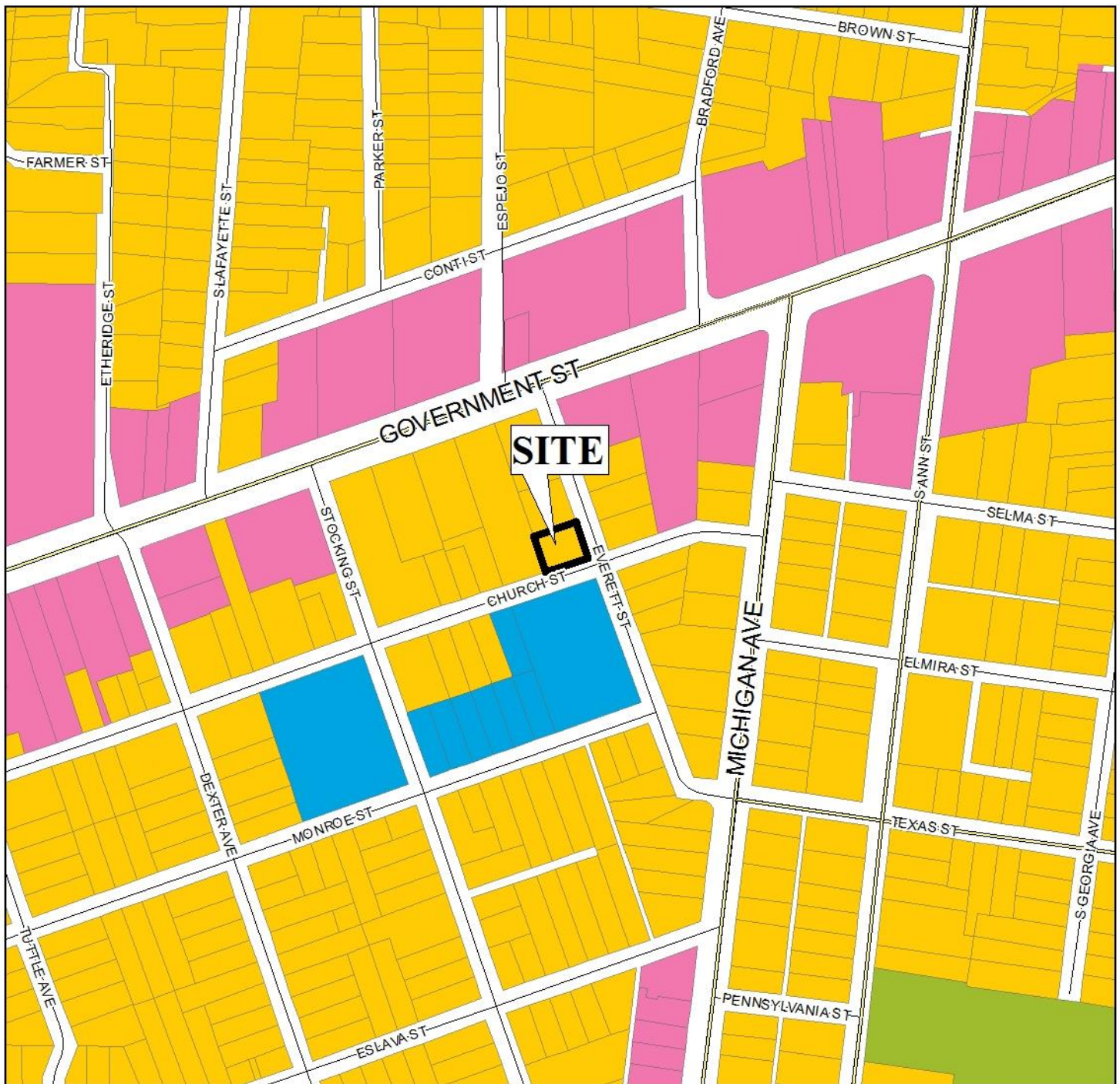


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# FLUM LOCATOR MAP



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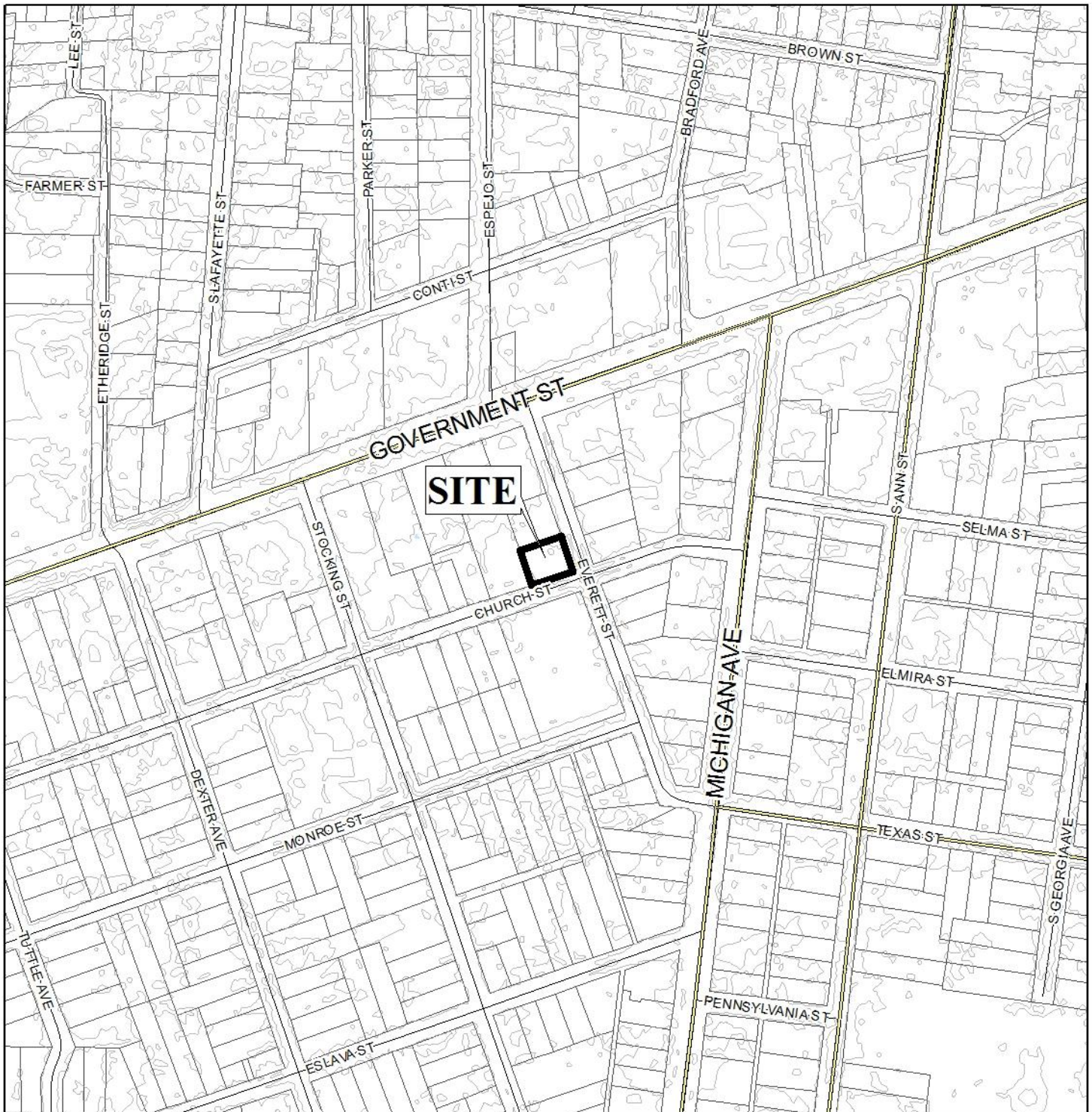
REQUEST Use, Parking Ratio, Access/Maneuvering and Front Landscaping Variances

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



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REQUEST Use, Parking Ratio, Access/Maneuvering and Front Landscaping Variances





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. Commercial units lie to the north of the site.

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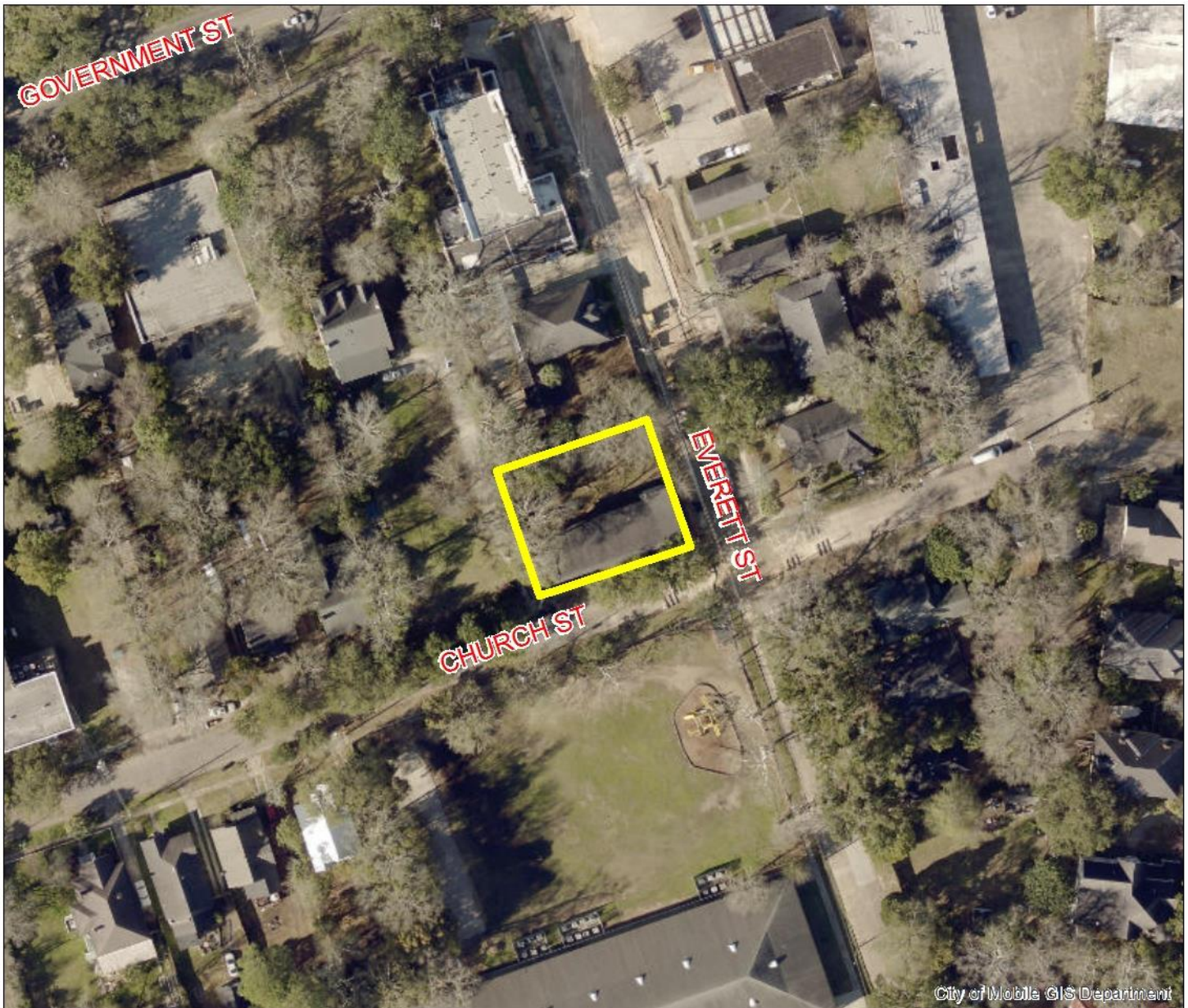
REQUEST Use, Parking Ratio, Access/Maneuvering and Front Landscaping Variances

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

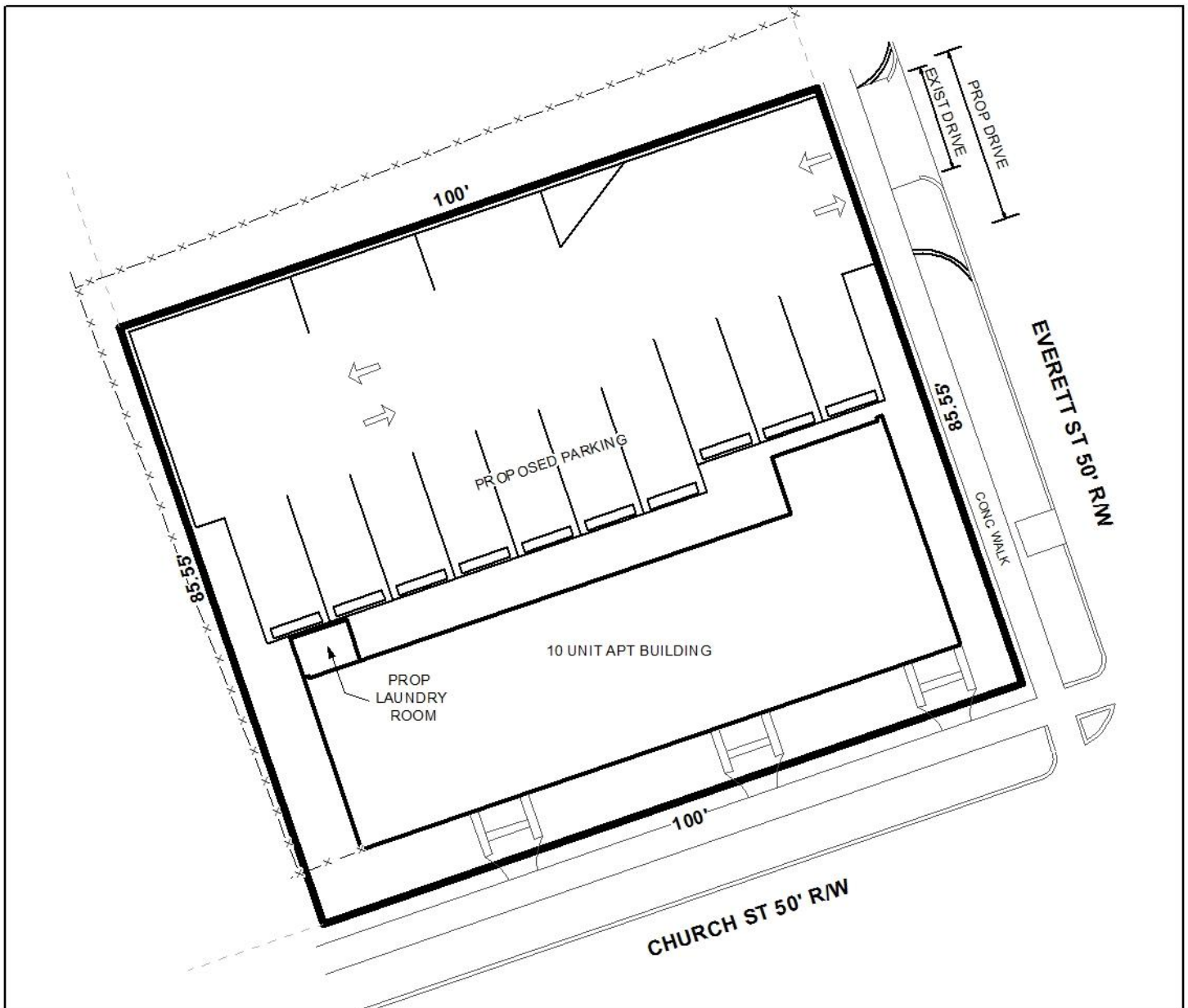


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# SITE PLAN



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

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