

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 3, 2020**

<u>CASE NUMBER</u>	6335/6243/5603
<u>APPLICANT NAME</u>	The Fernbank Apartments, LLC
<u>LOCATION</u>	1400 Church Street (Northwest corner of Church Street and Everett Street)
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow an apartment building in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow an apartment building in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential
<u>AREA OF PROPERTY</u>	0.19± Acre
<u>CITY COUNCIL DISTRICT</u>	District 2
<u>ENGINEERING COMMENTS</u>	No comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	If gravel surface is an acceptable use for this site, the gravel should not extend into the right of way. Required on-site parking, including ADA handicap spaces, should meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.
<u>URBAN FORESTRY COMMENTS</u>	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).

ANALYSIS

Use Variance to allow an apartment building in an R-1, Single-Family Residential District.; the Zoning Ordinance does not allow an apartment building in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) 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 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 and Parking Ratio Variances were approved for the subject site at the May 6, 2019 meeting of the Board of Adjustment, with a six-month extension granted at the November 4, 2019 meeting. As permits were never obtained for associated work following the approval, the Variances expired. The applicant proposes to use the existing building for six (6) apartment units as was conditioned by the previous variance request. The applicant's proposal no longer requires any Parking Ratio Variances.

The applicant states:

The property is proposed to be fully renovated and restored to its historic use as an apartment building. Originally built as the Fernbank Apartments in the early 1900's, the plan is to re-open the property with 6 well-appointed units, including 2 studio units, 2 1BR/1BA units and 2 2BR/1BA units. There will be no on-site employees or machinery noise of any kind. Only tenants and their guests will be at the property. The gross square footage of the building will remain unchanged, and there will be 9 parking spaces (1.5 spaces per unit).

Multi-family use is not allowed in an R-1 zoning, so a Use Variance is required. Due to the historic nature of the building, demolition and redevelopment with single family home(s) is not allowed. Further, the existing structure is not well-suited for single family use. The property has operated as an apartment building for nearly 100 years but has been un-operational for the past 20+ years.

This property is not different from surrounding properties, as multi-family uses are located on several properties directly across the street. Allowing this use variance will improve the neighborhood by allowing the owner to move forward with the plans to renovate and restore this property to its former glory and use. The owner's investment into this property should increase the value of surrounding properties and others throughout the neighborhood.

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 May 2020, for the proposed improvements to the site.

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.

Sometime after 2010 the subject property changed ownership and on May 6, 2019 the applicant, and current owner, requested Use, Parking Ratio, Access/Maneuvering, and Front Landscaping Variances to re-establish the use as apartments. Similar to the 2010 Variance, the Use and Parking Variances were granted, but the Access/Maneuvering and Front Landscaping Variances were not needed. Permits were never obtained for any work associated with the approved May 6, 2019 Variances and as such, they expired; hence the current request.

Staff research suggests that the original intent for the site was for the development of apartments. Since it 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.

The applicant has illustrated that a hardship exists with regards to the use of the property as a single-family dwelling and the Board should consider the Use Variance request for approval.

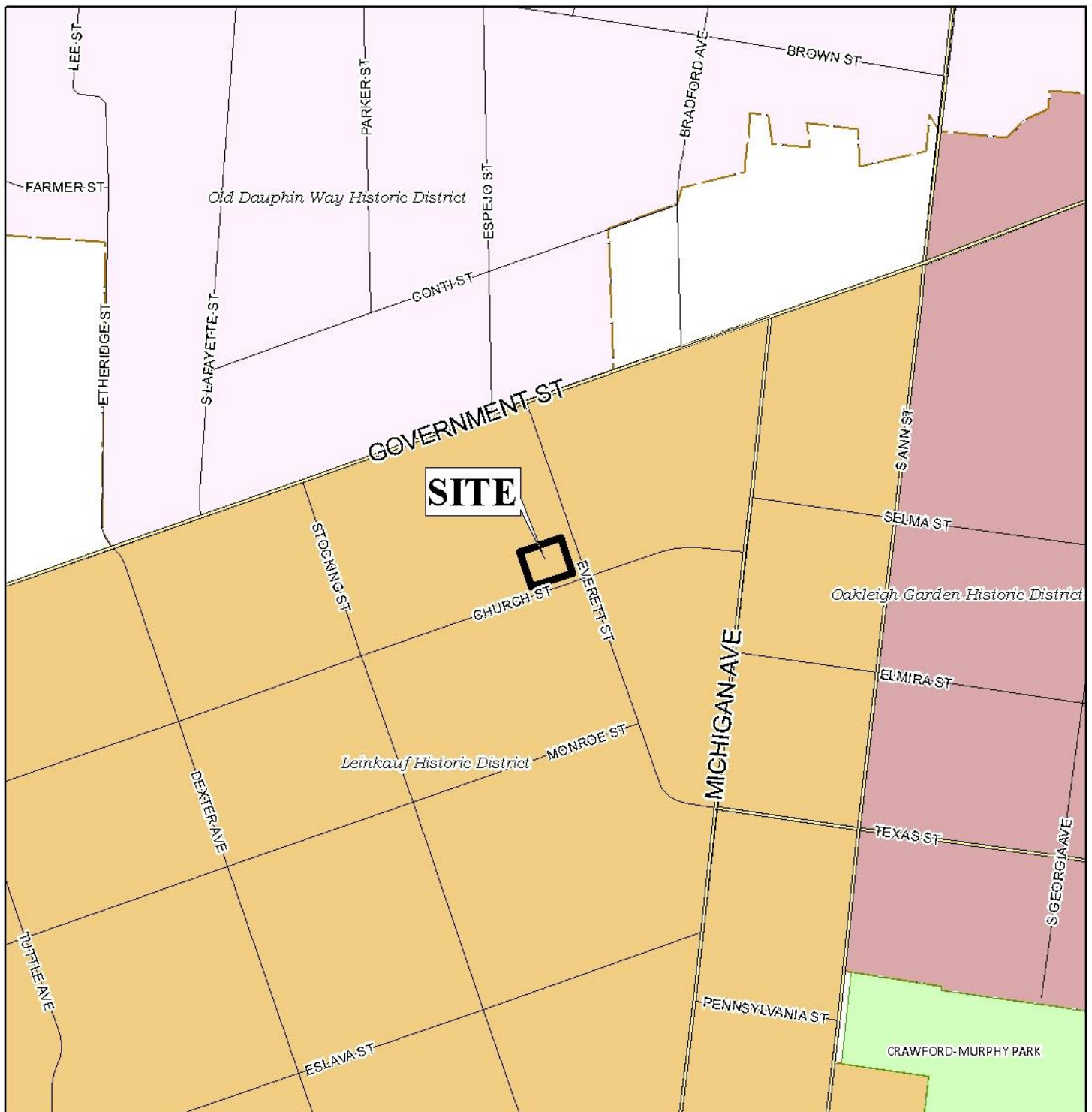
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Use Variance request:

- 1) Approving the variance 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;
- 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) use is limited to 6 dwelling units;
- 2) full compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6335 DATE August 3, 2020

APPLICANT The Fernbank Apartments, LLC

REQUEST Use Variance



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LOCATOR ZONING MAP



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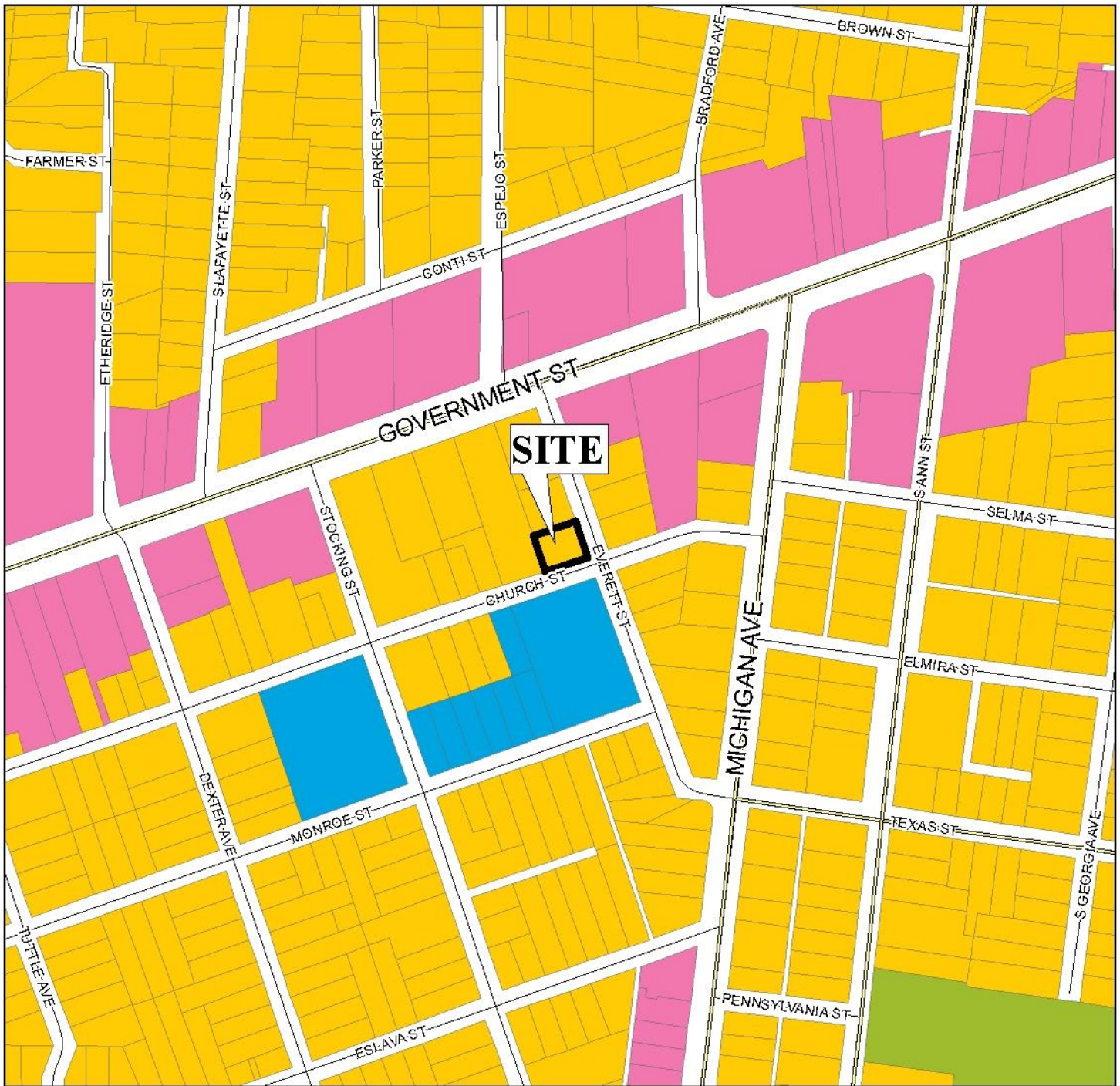
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FLUM LOCATOR MAP



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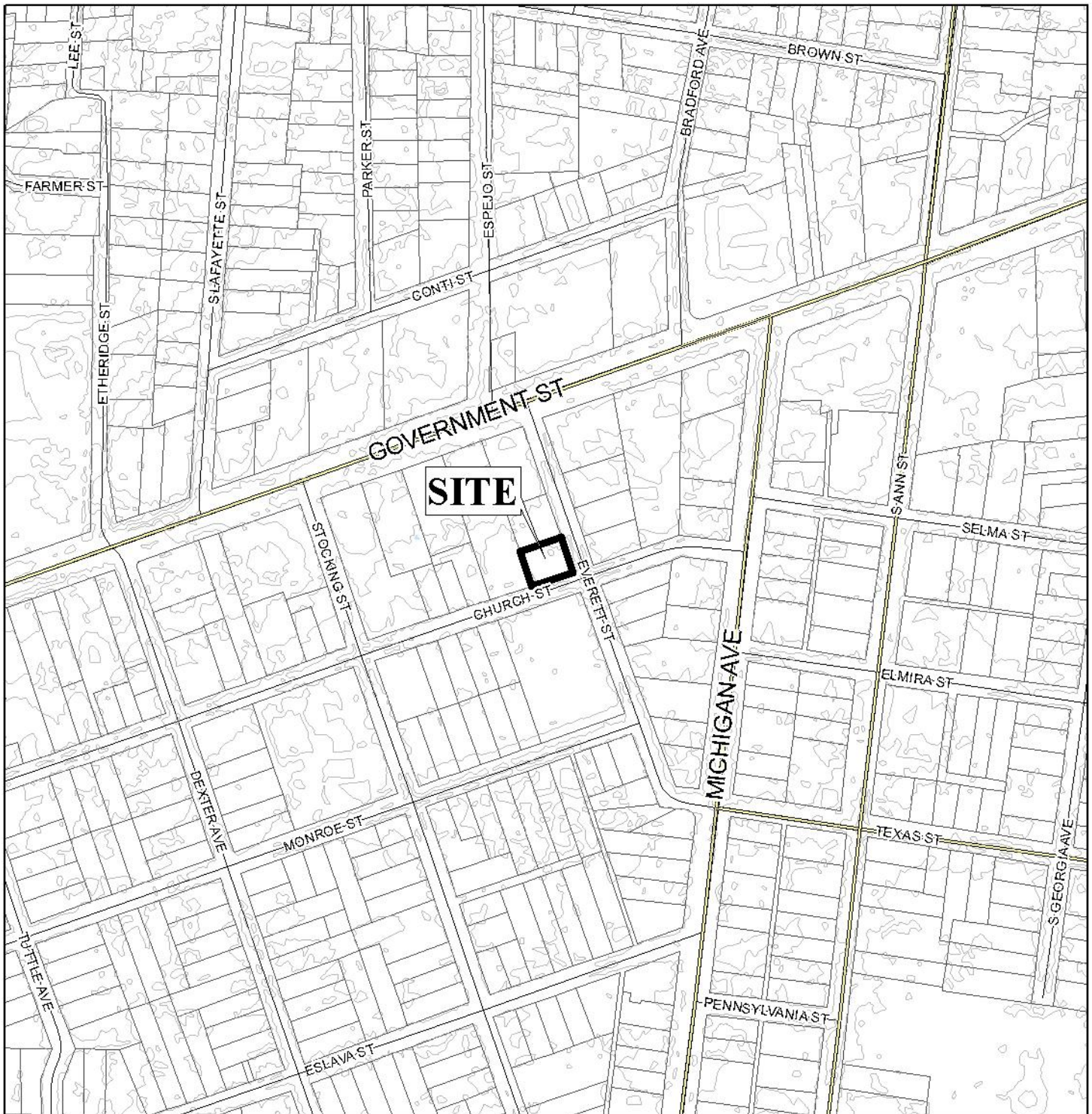
APPLICANT The Fernbank Apartments, LLC

REQUEST Use Variance

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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the south and commercial units to the north.

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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 to the south and commercial units to the north.

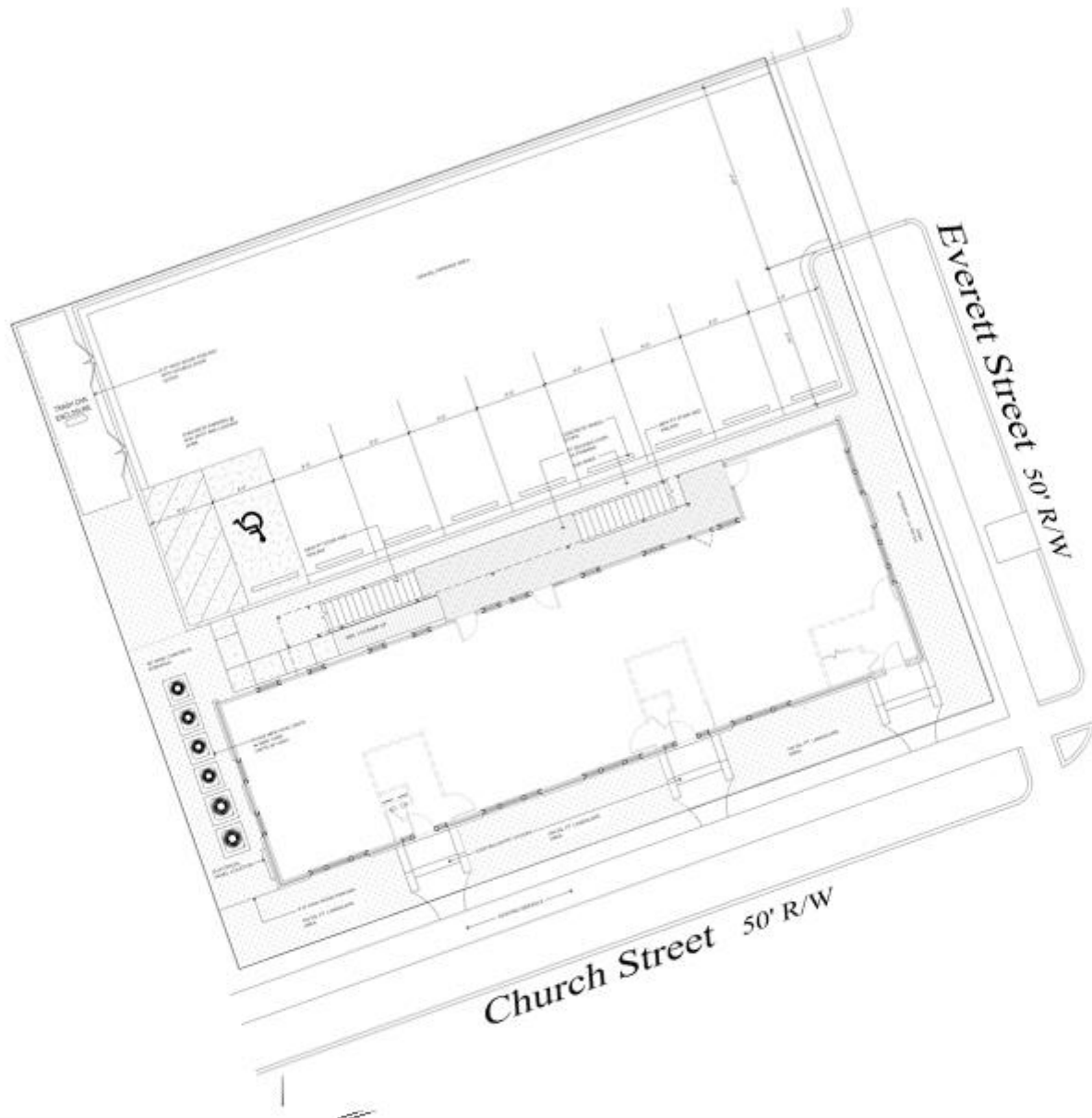
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SITE PLAN



The site plan illustrates the existing building and fences.

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