

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 12, 2021****CASE NUMBER**

6398

APPLICANT NAME

Barton & Shumer Engineering, LLC

LOCATION2600 First Avenue
(Northwest corner of First Avenue and Jessie Street).**VARIANCE REQUEST****USE:** To allow a grocery/convenience store in an R-1, Single-Family Residential District.**SIDE STREET SIDE YARD SETBACK:** Reduced side street side yard setbacks in an R-1, Single-Family Residential District.**DUMPSTER SETBACK:** Reduced dumpster setbacks in an R-1, Single-Family Residential District.**RESIDENTIAL BUFFER:** No on-site residential buffer in an R-1, Single-Family Residential District.**OFF-STREET LOADING:** No off-street loading area in an R-1, Single-Family Residential District.**PARKING LOT SCREENING:** No parking lot screening in an R-1, Single-Family Residential District.**TREE PLANTING:** To allow no tree plantings in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance does not allow a grocery/convenience store in an R-1, Single-Family Residential District.**SIDE STREET SIDE YARD SETBACK:** The Zoning Ordinance requires compliance with side street side yard setbacks in an R-1, Single-Family Residential District.**DUMPSTER SETBACK:** The Zoning Ordinance requires compliance with dumpster setbacks in an R-1, Single-Family Residential District.

RESIDENTIAL BUFFER: The Zoning Ordinance requires compliance with residential buffers in an R-1, Single-Family Residential District.

OFF-STREET LOADING: The Zoning Ordinance requires an off-street loading area in an R-1, Single-Family Residential District.

PARKING LOT SCREENING: The Zoning Ordinance requires compliance with parking lot screening in an R-1, Single-Family Residential District.

TREE PLANTING: The Zoning Ordinance requires compliance with tree plantings in an R-1, Single-Family Residential District.

ZONING

R-1, Single-Family Residential District

AREA OF PROPERTY

0.19± Acres

**CITY COUNCIL
DISTRICT**

District 1

**ENGINEERING
COMMENTS**

USE, SIDE YARD SETBACK, DUMPSTER SETBACK, RESIDENTIAL BUFFER, OFF-STREET LOADING, PARKING LOT SCREENING, and TREE PLANTING VARIANCE:

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit be submitted through Central Permitting.
2. 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.
3. 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.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

TRAFFIC ENGINEERING**COMMENTS**

Traffic Engineering could install a signed loading zone along the building side on Jessie Street if necessary to accommodate delivery trucks in the roadway. Jessie Street is wide enough and with the building set back from the corner, it will not impede traffic at the intersection of Jessie Street and First Street.

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**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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled buildings and 600' of sprinkled buildings.

ANALYSIS

The applicant is requesting Use, Side Street Side Yard Setback, Dumpster Setback, Residential Buffer, Off-Street Loading, Parking Lot Screening and Tree Planting Variances to allow a grocery/convenience store with reduced side street side yard and dumpster setbacks, no on-site residential buffer, no off-street loading area, no parking lot screening, and no tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow a grocery/convenience store in an R-1, Single-Family Residential District, and requires compliance with side street side yard setbacks, dumpster setbacks, residential buffers, off-street loading, parking lot screening and tree planting requirements for commercial uses.

The site has been given a Mixed Density Residential (MxDR) land use designation per the 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 acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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 also 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.

The site currently has an existing structure on-site which is proposed to be demolished, and a new building constructed. The existing structure was originally built in 1941, prior to being annexed into the City of Mobile in 1960, and last had a business license for a photographer in the late 1990s.

The applicant states:

Existing Conditions

This project is located at 2600 First Avenue at the intersection of First Avenue and Jessie Street in Trinity Gardens. The property is currently developed and was previously used as a local grocery/convenience store. The structure currently on the site was used as the store. The existing building is located within the First Avenue and Jessie Street setbacks, and the south property line is ~12 feet north of the historically accepted property boundary.

First Avenue is a major thoroughfare through the Trinity Gardens area. The property is zoned R-1 and is surrounded by properties zoned R-1.

Proposed Project

The proposed project would redevelop the site to function in a similar capacity as the previous local grocery. All variance requests are due to constraints resulting from the size and shape of the lot. Utilizing the existing building was considered, but the floor plan and footprint are not efficient, and bringing it up to current codes will be difficult.

Request for Use Variance:

The use variance is requested in lieu of rezoning to protect the neighborhood from future developments that are not desirable for this location. There is historical use (with the existing improvements as evidence) on this property that is consistent with the proposed use.

Request for waiver of tree planting requirements:

The tree planting waiver is requested due to the size of the property and minimal space remaining for frontage and site trees. The small lot provides minimal area for healthy tree placement once the parking, building, and drives are placed on the site. Additionally, the sidewalk on Jessie Street is proposed to be located on the property rather than in the right-of-way (ROW) due to the proximity of the property line to the roadway.

Request for waiver Front Setback (Jessie Street):

The proposed building is set eight (8) feet from the Jessie Street ROW. This placement provides enough room to locate a dumpster pad on the opposite side of the building. The historically accepted south property line is ~12 feet south of the actual property line providing additional buffer during the development of this project.

Request for waiver of Off-Street Loading:

Due to the size of the property and parking lot, space for off street loading is not provided. The unique nature of this development and location does not provide for the space required for specific off-street loading. Due to the scale of the development, large trucks are not anticipated to service this store.

Request for waiver of Dumpster Setback:

The location of a dumpster outside of the building setback off of First Avenue and Jessie Street and prohibited dumpster truck maneuvering within City of Mobile ROW dictates placement to be adjacent to the residentially zoned property. The historically accepted south property line is ~12 feet south of the actual property line providing additional buffer during the development of this project.

Request for waiver of Buffer Fence (adjacent along First Avenue):

The owner/developer, with the approval from the adjacent property owner, is proposing to construct a six (6) foot wood privacy fence along the historically accepted property line as a buffer. The historically accepted south property line is ~12 feet south of the actual property line providing additional buffer during the development of this project. This would provide the buffer as required but on the adjacent property in lieu of the subject property.

Request for waiver of Parking Lot Screening:

The request for a waiver of parking lot screening is due to the minimum area of the parking lot that will be screened. The drives will consume a large portion of the frontage preventing the screening from being effective.

As previously mentioned, the site has historically been used commercially, and the applicant wishes to build a new commercial structure on the site to replace the existing one. The existing structure has several non-conforming aspects, including: front yard setback, side street side yard setback, residential buffer, tree planting and landscape area, and parking surfacing among them. The proposed new development will comply with front yard setbacks and paved parking, but will still require relief from several Zoning Ordinance requirements.

The applicant wishes to construct the new building approximately eight-feet from the side street side yard, where a 20-foot setback is required. The proposed 2,000 square foot structure could be reduced in size (approximately 600 square feet) in order to meet this requirement.

In regards to the dumpster location, it is depicted as being located approximately three-feet from the residential property to the South of the site, where the Zoning Ordinance requires a minimum of ten-feet. Again, if the proposed structure were reduced in size, there could be sufficient room for the dumpster to comply with setback requirements. Alternatively, the applicant could use curb side waste removal.

The applicant wishes to place a residential buffer on what is referred to in the narrative as “the historically accepted property line”, rather than the actual property line, and states that they have the approval of the adjacent property owner to do so. However, if the residential buffer is not installed on the subject site, it may create issues relating to maintenance down the road if either property is sold. If the applicant wishes to utilize the accepted lot line, rather than the official lot line, a two-lot subdivision application should be submitted to alter the official property lines; this may also help reduce the number of variances needed for the proposal.

The applicant is not proposing any off-street loading area for trucks delivering goods to be sold at the proposed business. While large trucks may not be anticipated to service the proposed business, it is impossible to anticipate the types of vehicles all future vendors will bring to the site. If a vehicle larger than a standard passenger vehicle is to service the site, it would block parking spaces, and make maneuvering on the site difficult.

The applicant states that they are requesting relief from parking lot screening, however, Section 64-6.A.3.i. of the Zoning Ordinance only requires screening to be provided for parking lots with ten or more cars. As the proposed development will have seven parking spaces, parking lot screening will not be required, making that request moot.

As it relates to tree plantings, the site is depicted as having a compliant amount of landscaped area, however, there are few places where a newly planted tree would have sufficient room to thrive. The Zoning Ordinance requires the site to have six frontage trees, six perimeter trees, and one parking tree, for a total of 13 trees; the applicant wishes to have no trees planted. If the Board is

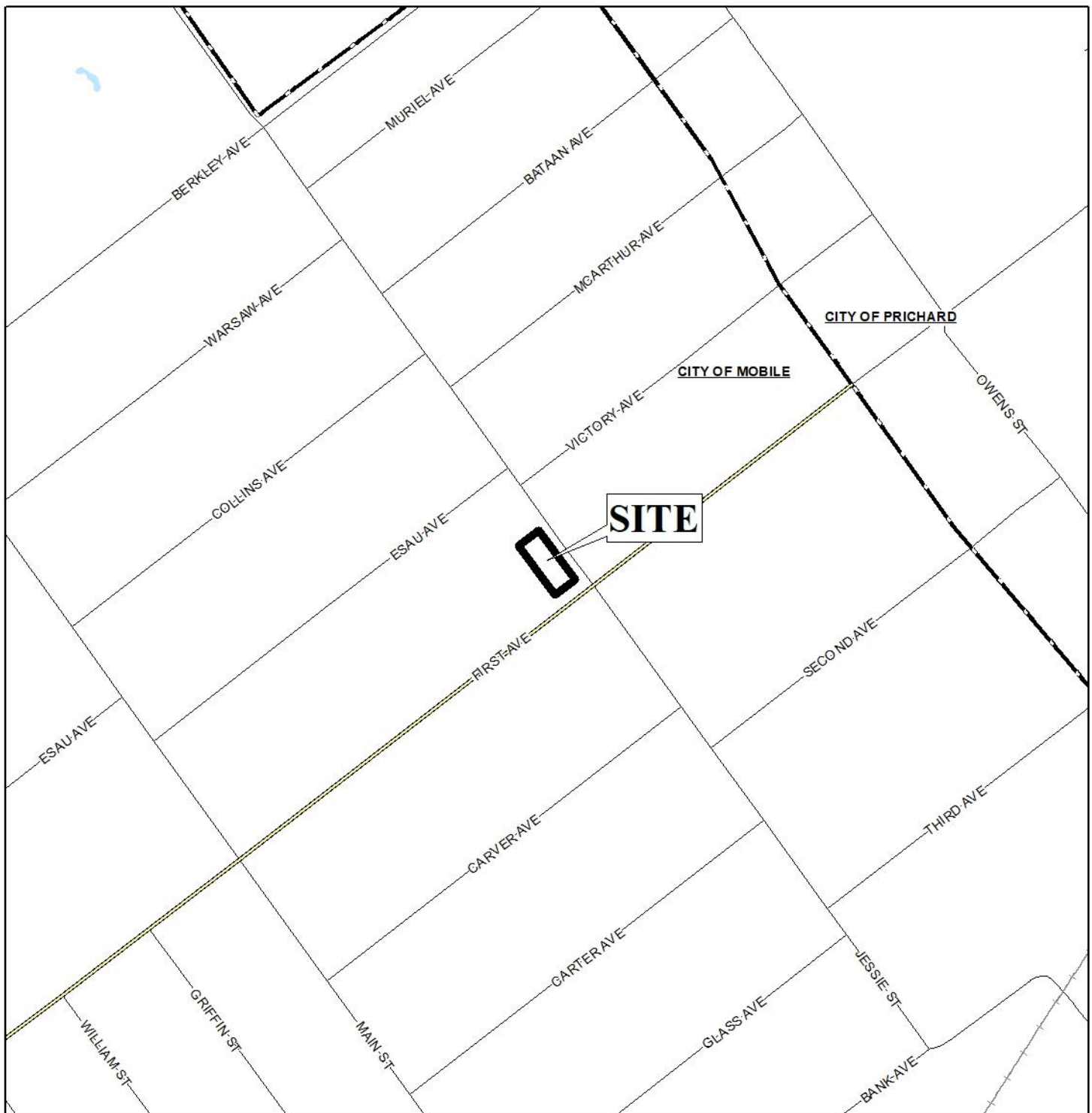
inclined to approve the request, the applicant should coordinate with Urban Forestry in regards to tree plantings or making donations to the Tree Bank.

Finally, while the site has historically been used commercially, the proposed site plan can be revised to comply with the Zoning Ordinance to a greater extent than illustrated on the site plan submitted. Moreover, the subject site could easily be used residentially without the need for variances.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial for the Variance requests:

- 1) The variance will be contrary to the public interest, as the area is predominately single-family residential in nature;
- 2) Special conditions do not appear to exist, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship as the site could be developed residentially without the need for variances; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variance, as the surrounding area is largely utilized by compliant residences.

LOCATOR MAP



APPLICATION NUMBER 6398 DATE July 12, 2021

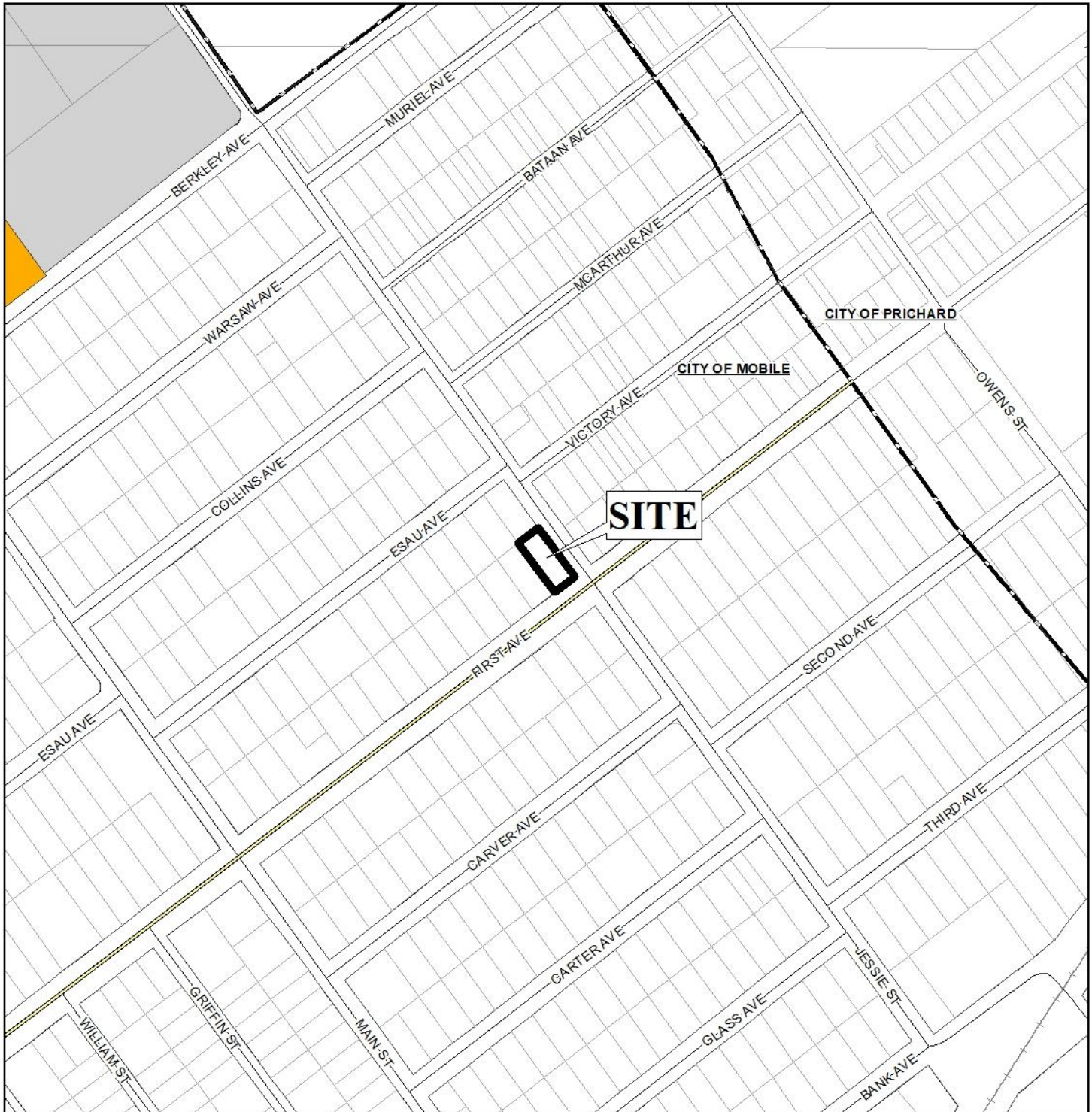
APPLICANT Barton & Shumer Engineering, LLC

REQUEST Use, Front Yard Setback, Dumpster Setback, Residential Buffer,
Off-Street Loading, Parking Lot Screening and Tree Planting Variances



NTS

LOCATOR ZONING MAP



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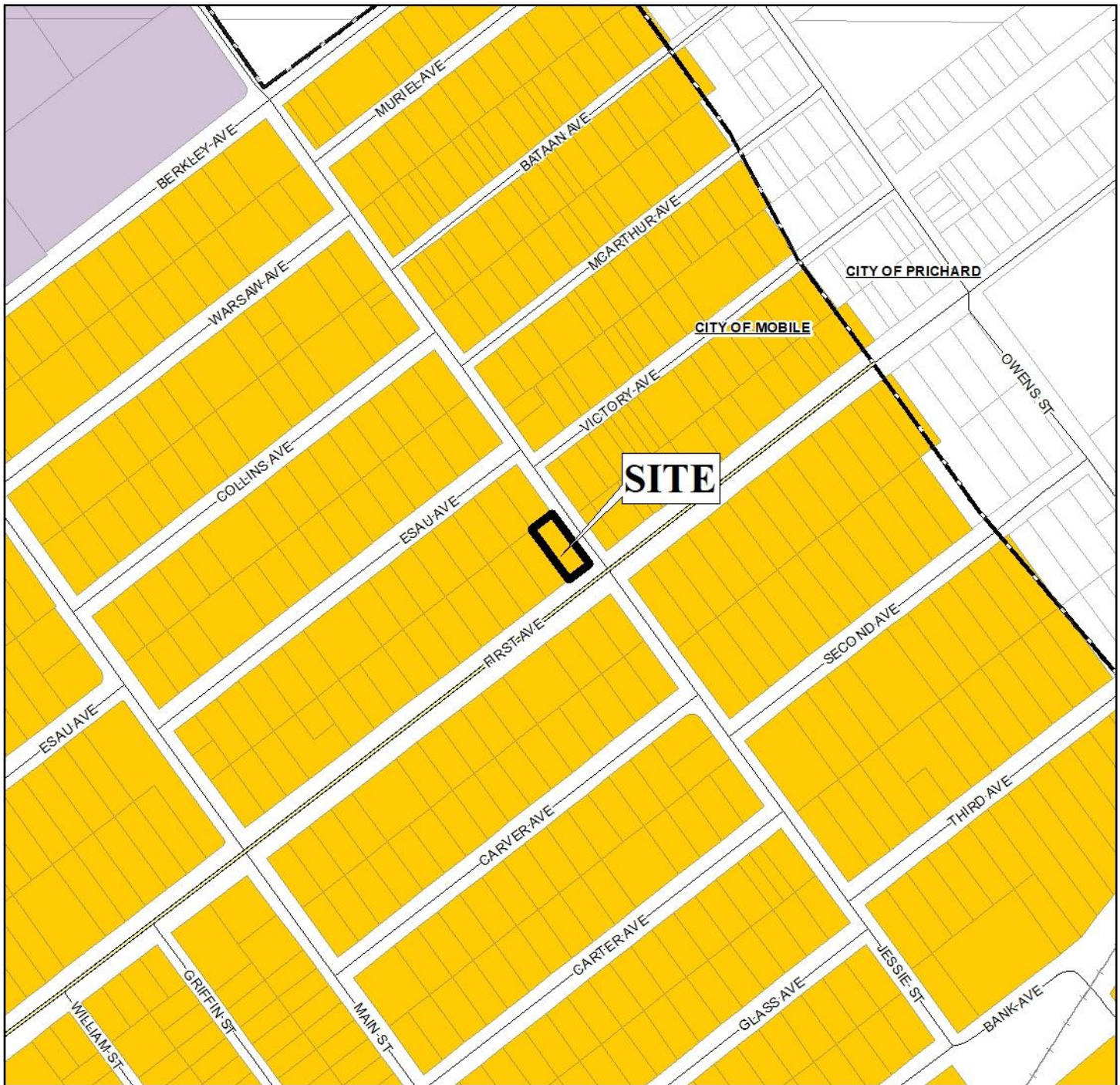
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FLUM LOCATOR MAP



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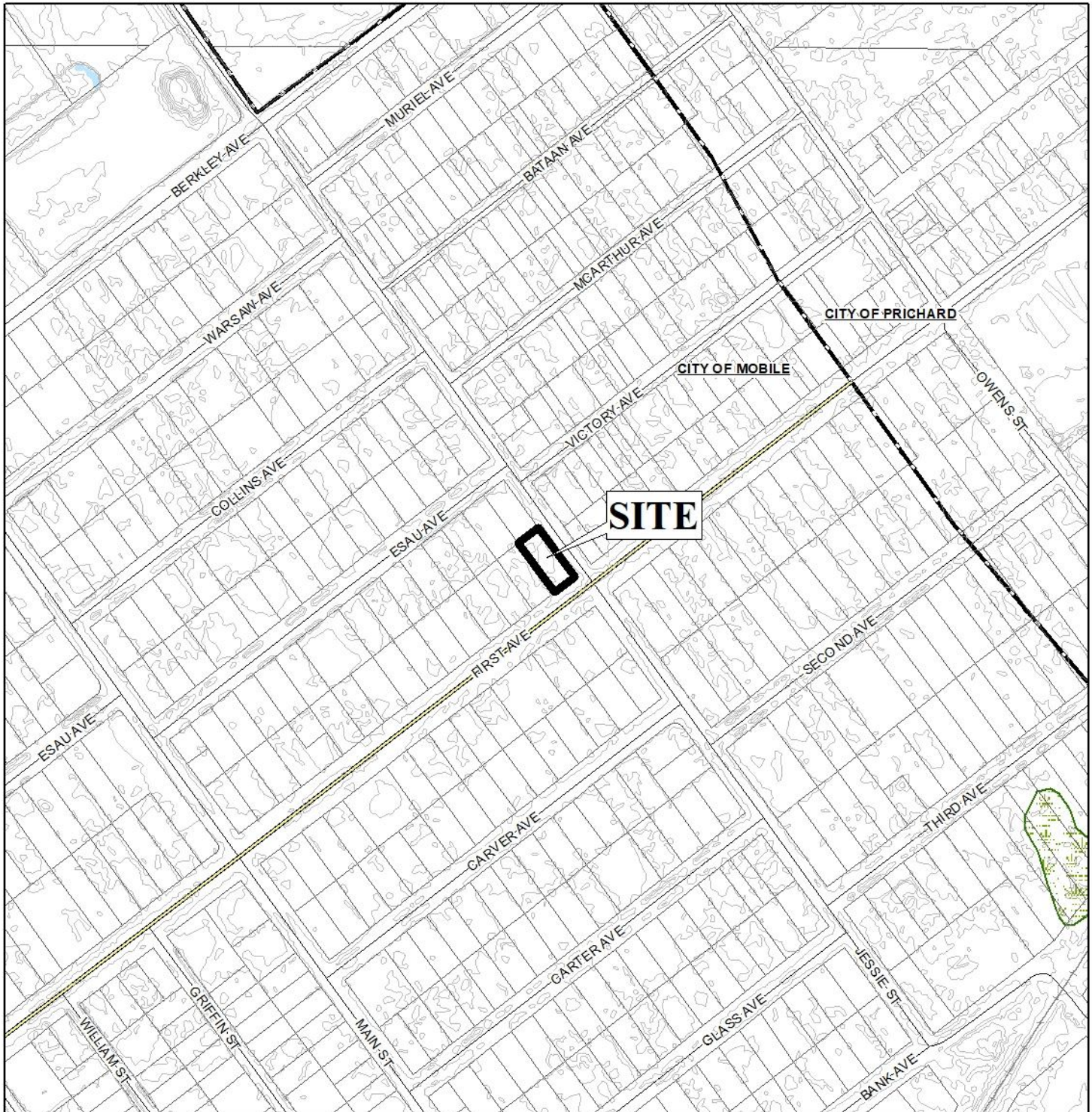
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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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 single family residential units.

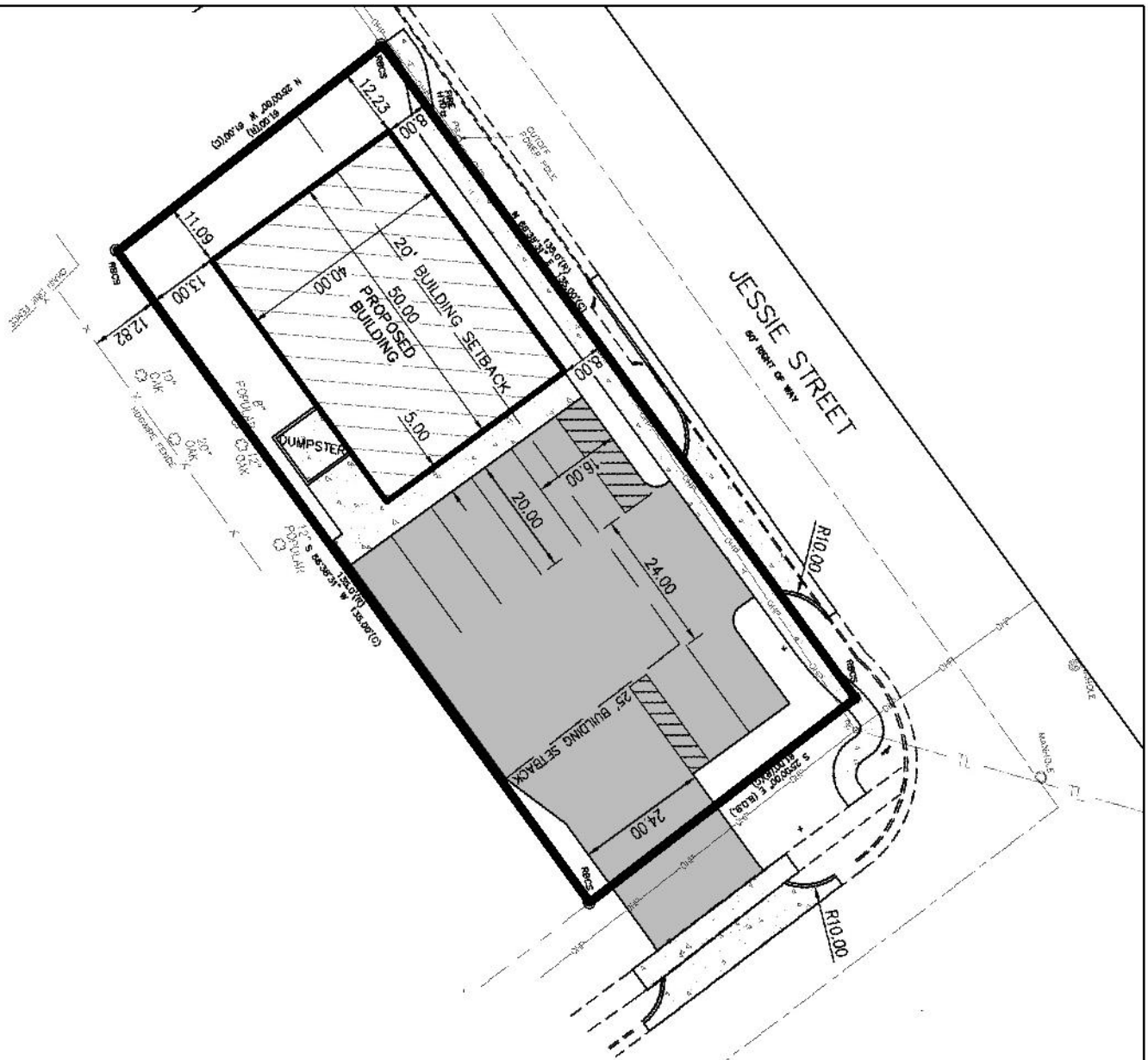
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SITE PLAN



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

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