



Agenda Item # 5

BOA-003802-2026

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

2260 Pesnell Court

Applicant / Agent:

Brookside Senior Living Community/Arthur Marquez

Property Owner:

Sand Creek Mobile Home Park LLC

Current Zoning:

R-3, Multi-Family Residential Suburban District

Future Land Use:

Mixed Density Residential

Case Number:

6776

Unified Development Code (UDC) Requirement:

- The Unified Development Code (UDC) requires a minimum of a B-1, Buffer Business Suburban District to allow offices.

Board Consideration:

- Use Variance to allow offices in an R-3, Multi-Family Residential Suburban District.

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER <u>6776</u>	DATE <u>September 14, 2026</u>	 NTS
APPLICANT <u>Brookside Senior Living Community</u>		
REQUEST <u>Use Variance</u>		

SITE HISTORY

This site was annexed into the City of Mobile in 1956.

At its meeting on January 8, 1998, the Planning Commission approved a request for a 10-lot subdivision, a Planned Unit Development to allow a multiple building on a single building site, a Planning Approval to allow an assisted living facility in an R-3, Multi-Family Residential District, and a request for rezoning from R-1, Single-Family Residential District to R-3, Multi-Family Residential District. The subdivision was recorded in Probate Court on December 15, 1998. The rezoning to R-3 was adopted by the City Council at its February 25, 1998 meeting.

At its meeting on January 7, 1999, the Planning Commission approved a Planned Unit Development to allow multiple buildings on a single building site.

At its meeting on August 10, 1999, an Administrative Planned Unit Development was approved to allow construction of two (2) gazebos and a storage building.

At its meeting on August 19, 1999, the Planning Commission approved a Sidewalk Waiver request to waive the construction of a sidewalk along Cottage Hill Road.

At its meeting on August 2, 2007, the Planning Commission approved a request for a 1-lot subdivision and a Planned Unit Development to allow multiple buildings on a single building site and a reduced front yard setback. The subdivision was recorded in Probate Court on June 10, 2008.

There have been no other Planning Commission or no Board of Zoning Adjustment applications associated with the site.

STAFF COMMENTS

Engineering Comments:

No comments.

Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

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 Department Comments:

All projects located within the City Limits of Mobile shall comply with the provisions of the City of Mobile Fire Code Ordinance, which adopts the 2021 edition of the *International Fire Code (IFC)*.

Fire apparatus access roads shall be provided to within 150 feet of all non-sprinklered commercial buildings and within 300 feet of all sprinklered commercial buildings, as measured along an approved route around the exterior of the facility.

An approved fire water supply capable of meeting the requirements set forth in *Appendices B and C* of the 2021 IFC shall be provided for all commercial buildings.

Fire hydrant placement shall comply with the following minimum standards:

- Within 400 feet of non-sprinklered commercial buildings
- Within 600 feet of sprinklered commercial buildings
- Within 100 feet of fire department connections (FDCs) serving standpipe or sprinkler systems

Although the *International Residential Code (IRC)* functions as a stand-alone document for the construction of one- and two-family dwellings and townhouses, it does not govern the design or layout of emergency access or community-level fire protection infrastructure. Therefore, residential developments must also comply with the applicable requirements of the *International Fire Code*, including, but not limited to, those listed above concerning the design, construction, regulation, and maintenance of fire apparatus access roads and fire protection water supplies.

Planning Comments:

The applicant is requesting a Use Variance to allow offices in an R-3, Multi-Family Residential Suburban District. The Unified Development Code (UDC) requires a minimum of a B-1, Buffer Business Suburban District to allow offices.

All documentation submitted for this application is available via the hyperlink, on page 1.

The purpose of the Variance is to request an office in a 13,4580 ± square foot building that was formally utilized as an assisted living facility associated with Brookside Senior Living Community. The applicant is requesting a variance to allow a portion of the building to be used for professional office space. The professional office space will be tailored toward senior living needs and related administrative services. There will be no proposed construction, expansion, modifications, or site changes. All parking, access, utilities, and infrastructure will remain unchanged.

Per Table 64-2-24.1. Use Table of the UDC, the proposed use is not allowed in an R-3, Multi-Family Residential Suburban District. The site was developed as and is used as R-3, Multi-Family Residential. Therefore, a hardship does not exist as the parcel is sufficient to operate as multi-family residential.

The property is surrounded by R-1, Single-Family Residential Suburban District and other R-3 Suburban-zoned lots, all developed with dwellings, and there is no record of similar Use Variances being granted in the immediate area. Approval of this request without compelling justification could establish an undesirable precedent for future applications that are inconsistent with the intent of the zoning district.

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Code states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

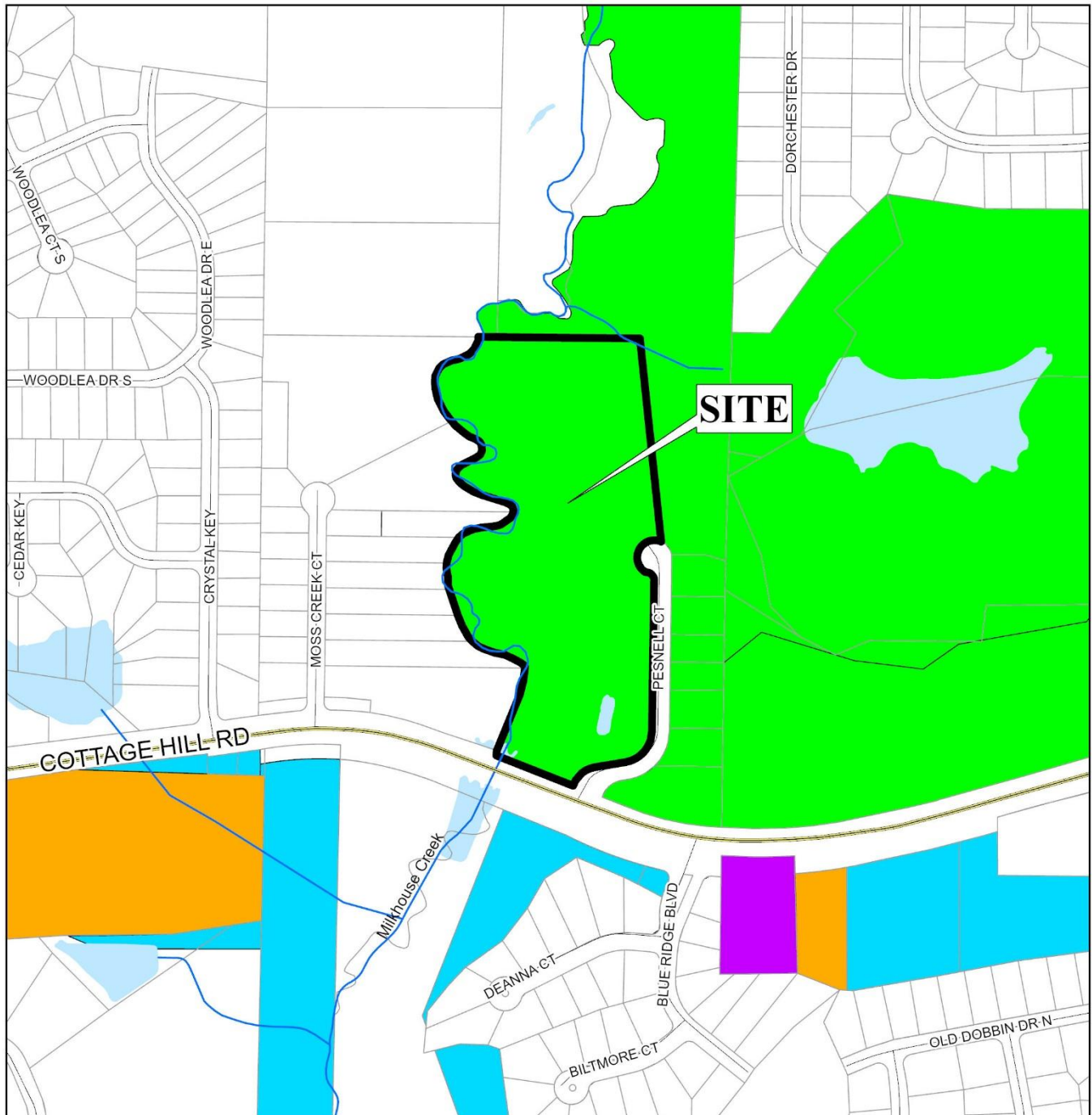
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- A) The variance **will not** be contrary to the public interest;
- B) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If the Board considers approving the variance request, it could be subject to the following condition:

- 1) Obtain all necessary permits for the change of occupancy;
- 2) Compliance with all Engineering comments noted in this staff report;
- 3) Compliance with all Traffic Engineering comments noted in this staff report;
- 4) Compliance with all Urban Forestry comments noted in this staff report;
- 5) Compliance with all Fire Department comments noted in this staff report; and
- 6) Full compliance with all municipal codes and ordinances.

LOCATOR ZONING MAP



APPLICATION NUMBER 6776 DATE September 14, 2026

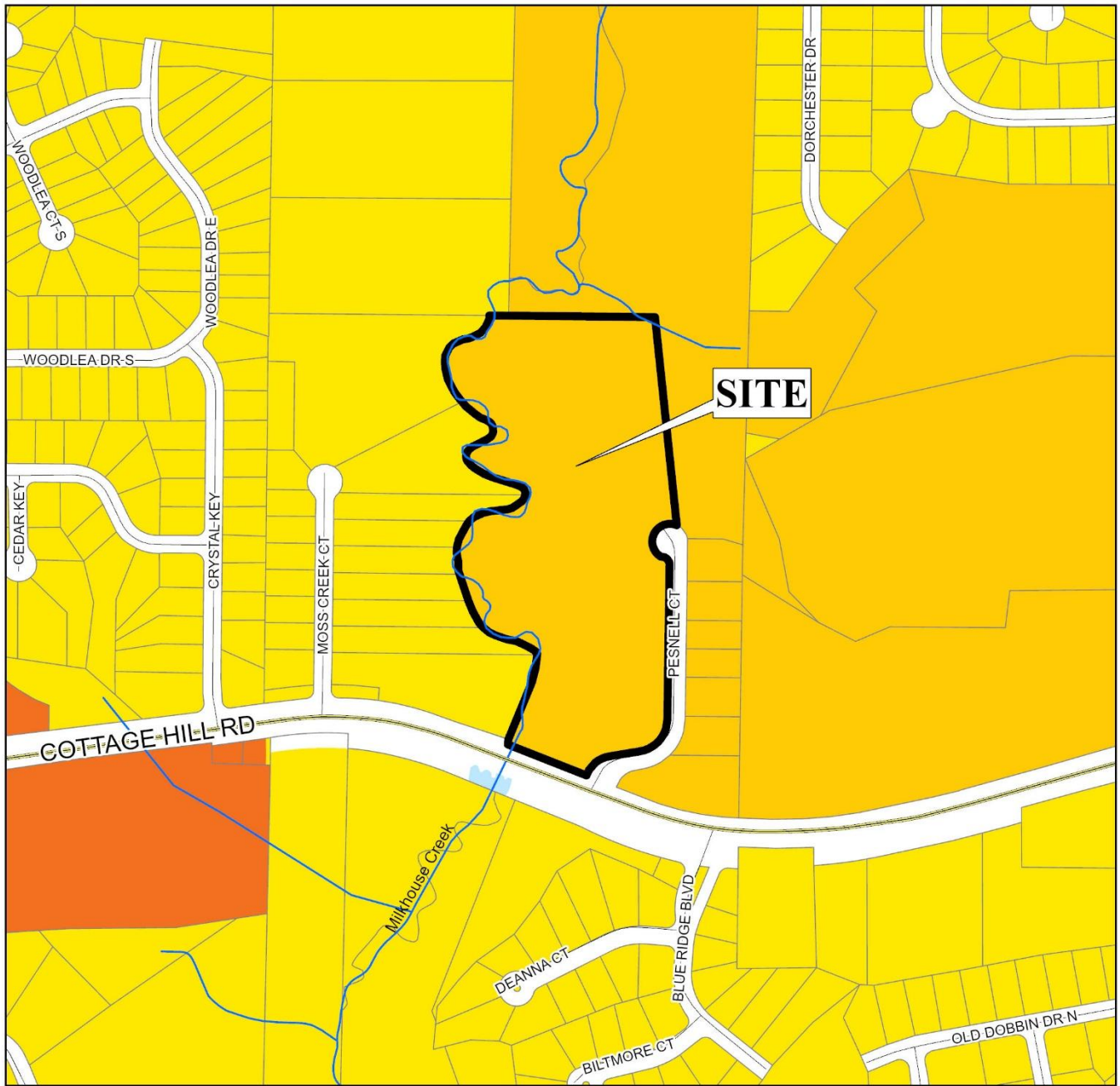
APPLICANT Brookside Senior Living Community

REQUEST Use Variance



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FLUM LOCATOR MAP



APPLICATION NUMBER 6776 DATE September 14, 2026

APPLICANT Brookside Senior Living Community

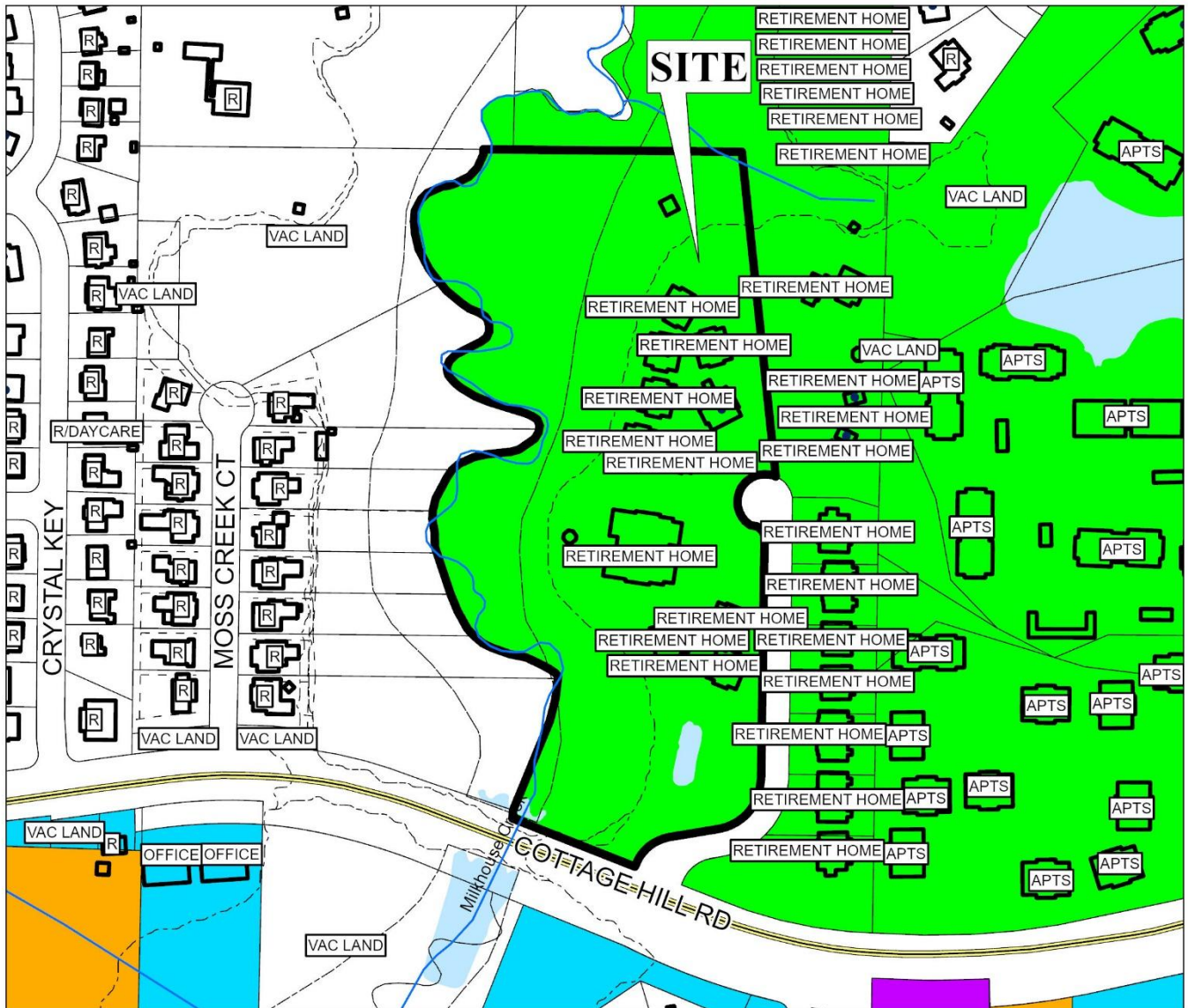
REQUEST Use Variance

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



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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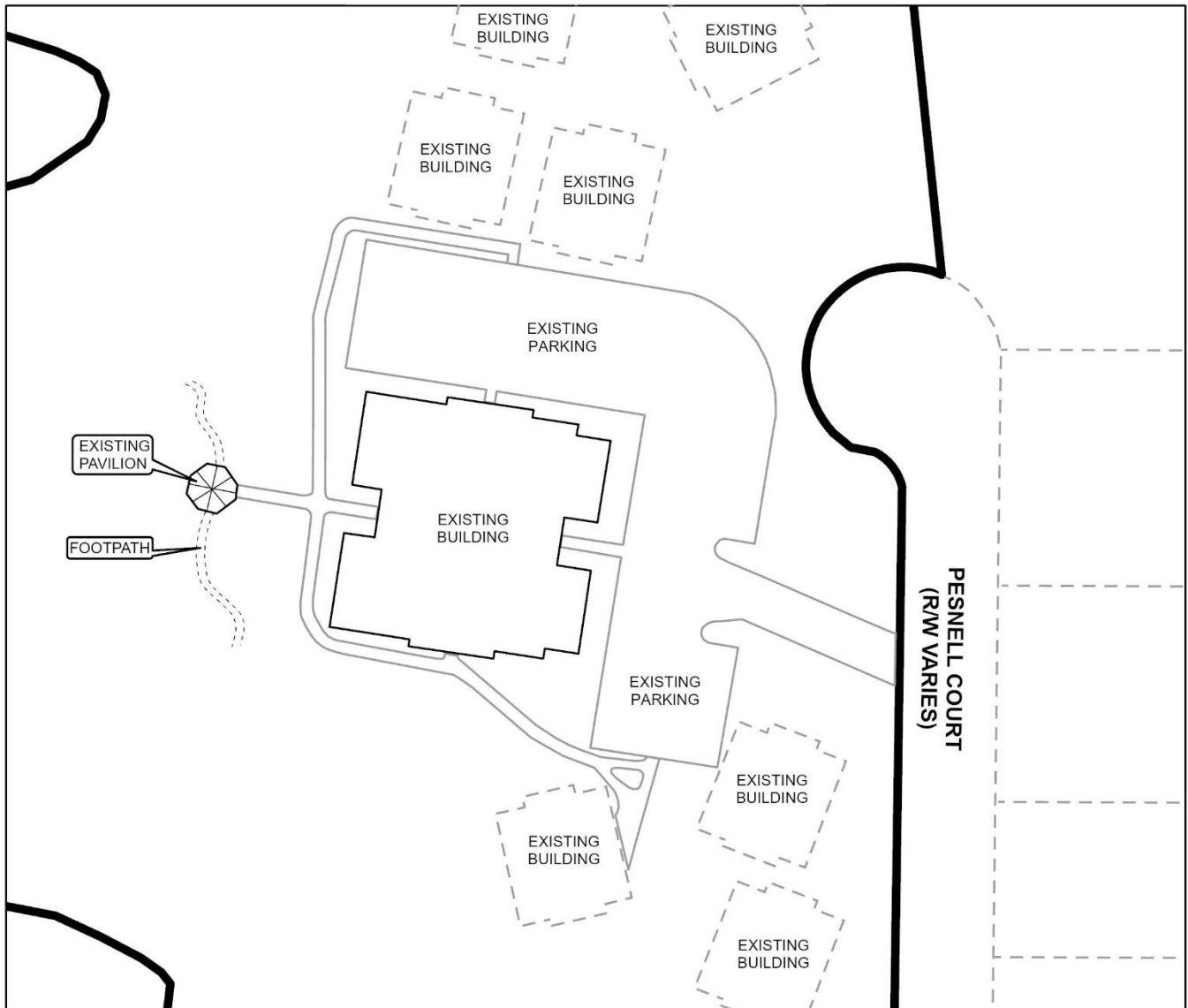
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REQUEST Use Variance

R-A	R-3	B-1	B-2	B-5	ML	I-2	OPEN	T-3	T-5.2
R-1	R-B	T-B	B-3	CW	MH	PD	SD	T-4	T-6
R-2	H-B	LB-2	B-4	MM	I-1	MUN	SD-WH	T-5.1	



SITE PLAN



The site plan illustrates the current buildings, existing parking,
and other existent features.

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The designation of an area with a FLUM land use category does not mean that the most intense zoning district consistent with that category is “automatically” assigned to a property. Instead, an area retains its existing zoning category until it is changed through a landowner-initiated rezoning application, or a rezoning that follows an area plan. This is because the FLUM is a long-term designation, while a change in zoning considers current conditions – such as market demands, availability of infrastructure, or impacts on the immediate neighborhood.

Residential Land Use Areas

MIXED DENSITY RESIDENTIAL (MDR)

This designation applies mostly to residential areas located between Downtown and I-65, where the predominant character is that of a traditional neighborhood laid out on an urban street grid. These areas should offer a variety of residential types in a compact pattern at the scale of a single family neighborhood. They typically have a walkable block pattern with integrated neighborhood amenities such as parks and schools. Small office, commercial, and civic uses may also exist in these areas near major thoroughfares. Residential density ranges between 6 and 30 dwelling units per acre (du/ac) depending on the mix, types, and locations of the housing as specified by zoning.

Development Intent

- Continue historic preservation efforts to maintain the existing neighborhood character within city-designated historic districts.
- Support residential infill that fits-in with neighboring homes (building scale, placement, etc.). Support more intense residential infill and redevelopment adjacent to commercial or mixed use centers.

Land use mix

Primary Uses

- Residential, Single family
- Residential, Attached

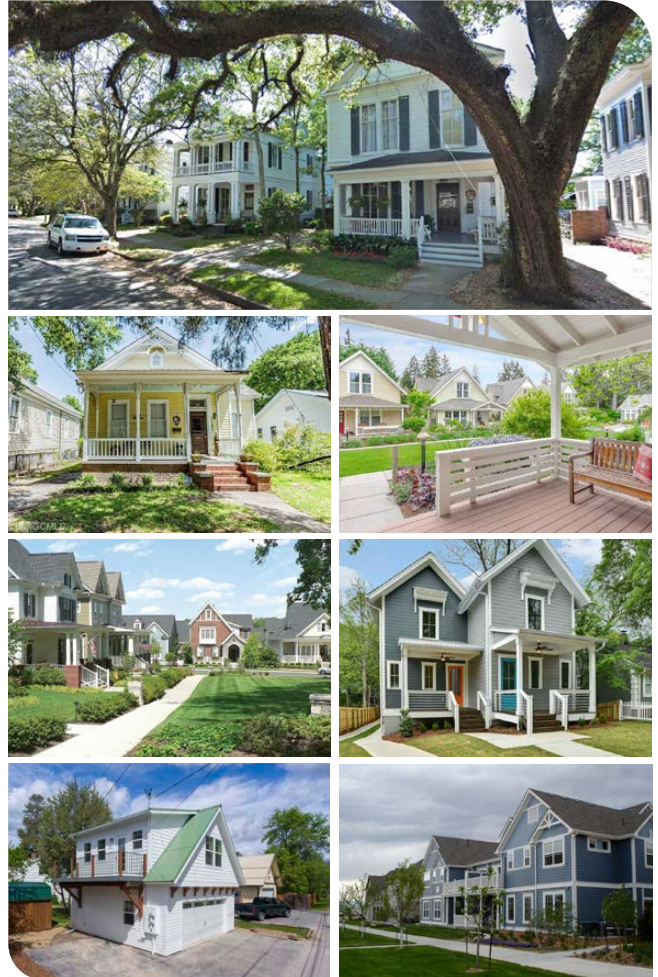
Secondary Uses

- Residential, Multifamily
- Commercial
- Civic
- Parks

Housing mix

- Single family on small to medium sized lots
- Attached residential such as duplexes, multiplexes, and townhomes
- Small scale multifamily buildings

Character Example



A mixed density neighborhood may include a range of housing types and densities at a similar scale.

Rendering: Dover Kohl