

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 7, 2020****CASE NUMBER**

6362

APPLICANT NAME

AOT, LLC

LOCATION1704 McGill Avenue
(North side of McGill Avenue, 93'± West of South Reed Avenue)**VARIANCE REQUEST****USE:** Use Variance to allow four (4) apartments units on a lot in an R-1, Single-Family Residential District.**PARKING RATIO:** Parking Ratio Variance to allow a reduced parking ratio.**ACCESS:** Access Variance to allow sub-standard access.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance limits the number of dwelling units to a maximum of one (1) per lot in an R-1, Single-Family Residential District.**PARKING RATIO:** The Zoning Ordinance requires a compliant parking ratio**ACCESS:** The Zoning Ordinance requires compliant access.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.13± Acre

**ENGINEERING
COMMENTS****USE VARIANCE:**

No comment.

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

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – A Tier 2 Land Disturbance permit will need to 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.

ACCESS AND MANEUVERING VARIANCE: (No information supplied to review)

No comment.

FRONT LANDSCAPING VARIANCE: (This was in the Applicant's written request)

No comment.

TRAFFIC ENGINEERING

COMMENTS

The proposed parking should be an improvement to what appears to be an existing use that was already using on-street parking. The narrow driveway adjacent to the building is limited by existing conditions but should not adversely affect the proposed site plan or the adjacent 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 (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 and Access Variances to allow four (4) dwelling units on a lot with a reduced parking ratio and sub-standard access in an R-1, Single-Family Residential District; the Zoning Ordinance limits the number of

dwelling units to a maximum of one (1) per lot, and requires a compliant parking ratio with compliant access 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.

The applicant's narrative states:

THE OWNER PURCHASED THIS EXISTING FOUR UNIT APARTMENT BUILDING WITH THE INTENTION OF AN EXTENSIVE RENOVATION AND LEASING THE UNITS. THE CITY RECORDS ONLY ACKNOWLEDGE OCCUPANCY IN THREE UNITS, HENCE THE NEED FOR THIS APPLICATION. THE PICTURES SUBMITTED WITH THIS APPLICATION SHOW THERE ARE FOUR EXISTING POWER METER CONNECTIONS (THREE METERS ARE INSTALLED) AND THERE ARE FOUR EXISTING GAS METER CONNECTIONS (THREE METERS ARE INSTALLED) AND ALSO THERE ARE FOUR U.S. POSTAL SERVICE ADDRESSES FOR THIS PROPERTY. THIS CLEARLY INDICATES THE EXISTANCE OF THE FOURTH APARTMENT.

THE OWNER RECENTLY SUBMITTED A SUBDIVISION (AND IT WAS APPROVED AT THE OCTOBER 1, 2020 MEETING) TO CREATE AN AREA FOR OFF-STREET PARKING. UNFORTUNATELY, THE AREA WILL ONLY ACCOMMODATE FIVE VEHICLES INSTEAD OF THE REQUIRED SIX SPACES, THEREFORE WE ARE ASKING FOR A WAIVER FOR THE SHORTAGE OF ONE PARKING SPACE.

ALSO, THE OWNER IS REQUESTING A WAIVER OF FRONT LANDSCAPING SINCE THE BUILDING IS CONSTRUCTED ON THE PROPERTY LINE.

The subject site is surrounded by R-1 zoning and uses, other than to the South across McGill Avenue where the Little Sisters of the Poor operate a nursing home. There have not been any use variances granted within the immediate area.

The property appears to have been originally developed as a four-unit, two-story apartment building. The applicant recently purchased the property and applied for building permits for renovations to all four units to re-establish the four-plex occupancy. Staff research into occupancy of the site indicated times of extended vacancies in various units, and one unit has been used for several years as a laundry room. Therefore, the property has lost its right of legal nonconforming use as a four-plex apartment. As the legal nonconforming use right has been lost, the building permits are on hold, and the applicant now seeks the Use Variance to allow all four units to be occupied.

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

The site was developed prior to the adoption of the current Zoning Ordinance in 1967, and it appears to have always had non-compliant on-street parking and one or two stacked parking spaces within a ten-foot-wide driveway along the East side of the site. As the right of legal nonconforming use was lost, the parking and access have also lost their legal nonconforming status. The applicant now proposes on-site parking, but with only five of the six parking spaces required for a four-plex apartment building. Also proposed is access to the parking area via the sub-standard ten-foot-wide drive; hence, these variance requests. It should be noted that the applicant also requests a waiver of the front landscaping requirements, but as the building is constructed to slightly within the public right-of-way, compliance is physically impossible.

As mentioned in the narrative, the site was the subject of McGill-Reed Subdivision, a two-lot subdivision, approved by the Planning Commission at its October 1st meeting. That subdivision allowed the rear portion of the property to the East at the Northwest corner of McGill Avenue and South Reed Avenue to be added to the North side of the existing site on which the apartment building is located in order to create a parking area behind the apartments. The parking area will provide five compliant on-site parking spaces, but still one short of the six minimum parking spaces required for four apartments. However, as the site has only been able to provide one or two substandard parking spaces within the ten-foot driveway on the East side of the building, the new on-site parking should lessen the necessity of curb-side, off-site parking, and the Board should consider this in its evaluation of the application.

With regard to the Access Variance request, since the site was developed prior to the parking requirements of the current Zoning Ordinance, there was no requirement for a parking area or access to one. As the site does not allow for expansion of the driveway to 24 feet to allow two-way traffic, a hardship could be imposed on the property. The allowance of the driveway for parking area access, even though sub-standard, would help reduce the off-site parking situation which has prevailed at the site. As per the Traffic Engineering comments, the proposed parking should be an improvement to what appears to be an existing use that was already using on-street parking. The narrow driveway adjacent to the building is limited by existing conditions but should not adversely affect the proposed site plan or the adjacent street.

While the provision of compliant front landscaping is not physically possible, there does appear to be green space within the new proposed parking area which could accommodate limited tree plantings. Therefore, the applicant should coordinate with Planning and Zoning on a revised site plan to provide tree plantings for the parking area.

As the use of the site would be considered commercial, a residential buffer, in compliance with Section 64-4.D.1. of the Zoning Ordinance, should be provided where the site abuts R-1 development.

It should be noted that the site is within the Old Dauphin Way Historic District; therefore, any exterior work will require Mobile Historic Development Commission (MHDC) approval.

The applicant has illustrated that hardships may exist regarding the use, parking ratio and parking access on the property and the Board should consider these requests for approval.

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

- 1) Approving the variance will not be contrary to the public interest in that the use would be consistent with the previous use of the property, and the allowance of reduced parking and sub-standard access would allow on-site parking not otherwise possible for the site;
- 2) Special conditions (the site was originally developed as a four-plex apartment building with limited, if any, on-site parking, and no area for driveway expansion) exist such that a

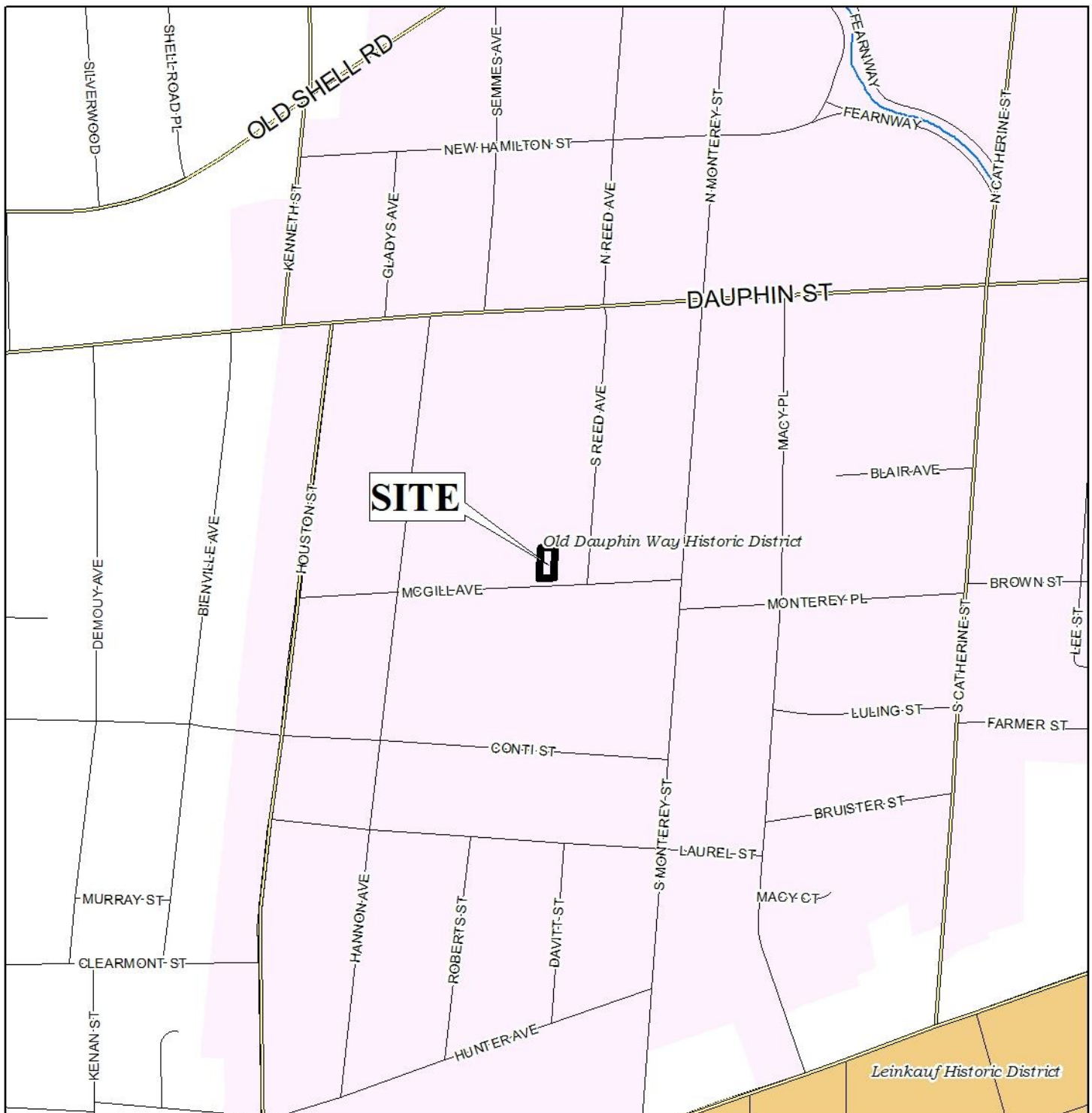
literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and

- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and surrounding neighborhood by granting the variance because the use would be compatible to the site's original and previous use, and the necessity for off-site parking will be reduced.

The Approval is subject to the following conditions:

- 1) coordination with Planning and Zoning on a revised site plan to provide tree plantings for the parking area;
- 2) revision of the site plan to provide a residential buffer, in compliance with Section 64-4.D.1. of the Zoning Ordinance;
- 3) recording of McGill-Reed Subdivision prior to the issuance of any permits for renovations or land disturbance activities for the site;
- 4) subject to the Engineering comments: *[PARKING RATIO VARIANCE: If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – A Tier 2 Land Disturbance permit will need to 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.]*;
- 5) submission to and approval by Planning and Zoning of a copy of a revised site plan prior to the issuance of any permits for renovations or land disturbance activities for the site;
- 6) approval by the Mobile Historic Development Commission for any exterior work proposed; and
- 7) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



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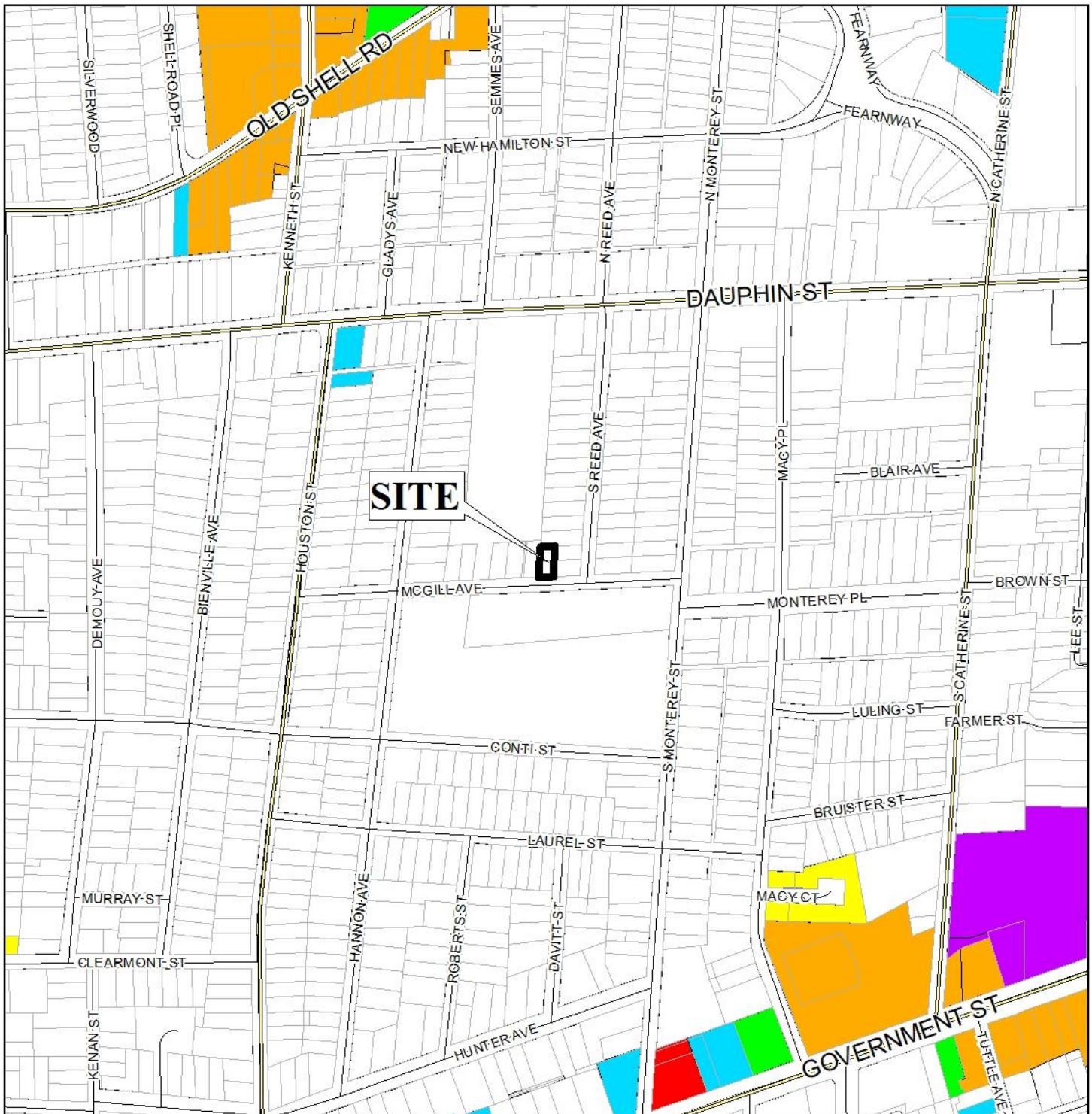
APPLICANT AOT, LLC

REQUEST Use, Parking Ratio and Access Variance



NTS

LOCATOR ZONING MAP



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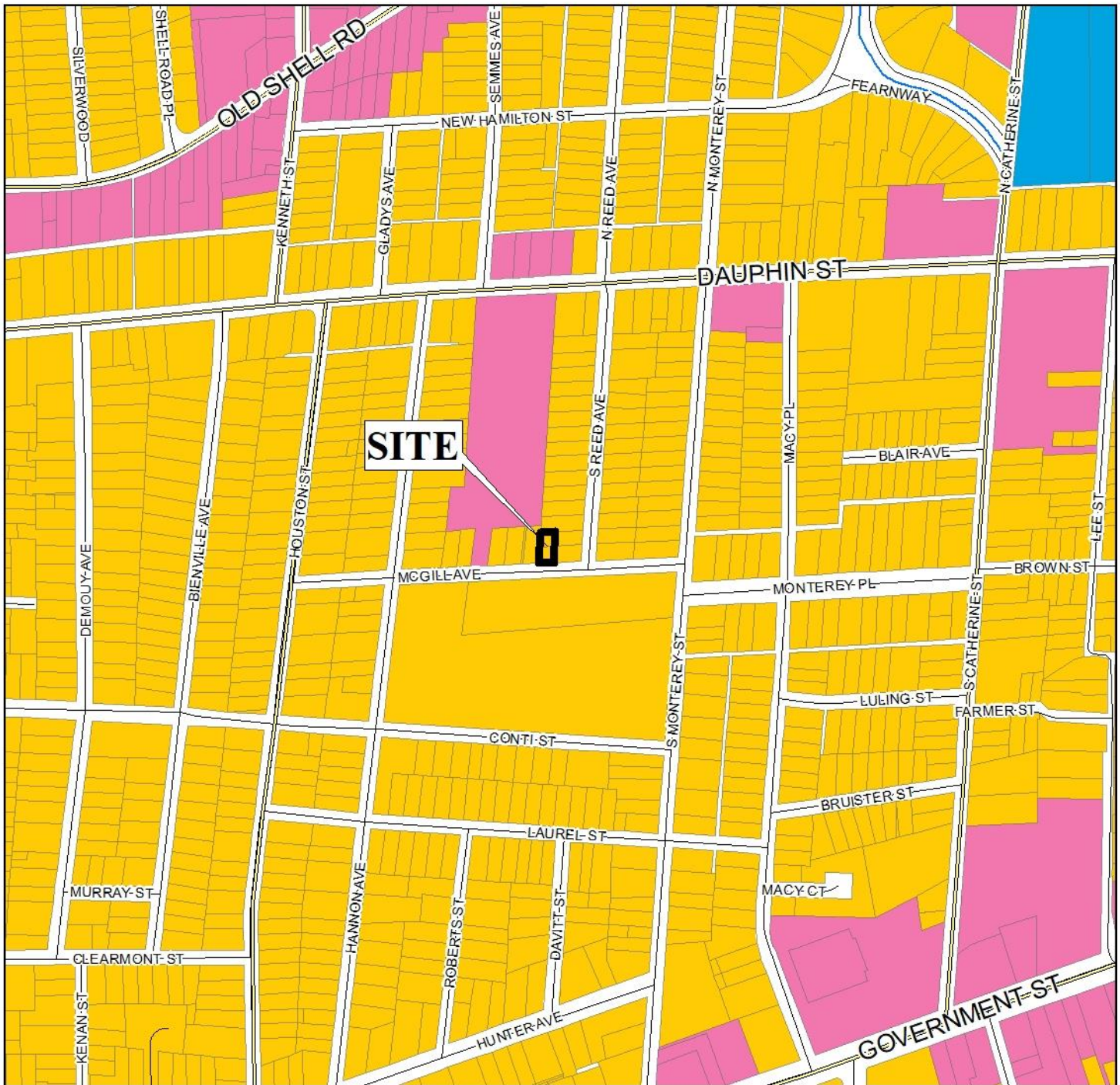
APPLICANT AOT, LLC

REQUEST Use, Parking Ratio and Access Variance



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FLUM LOCATOR MAP



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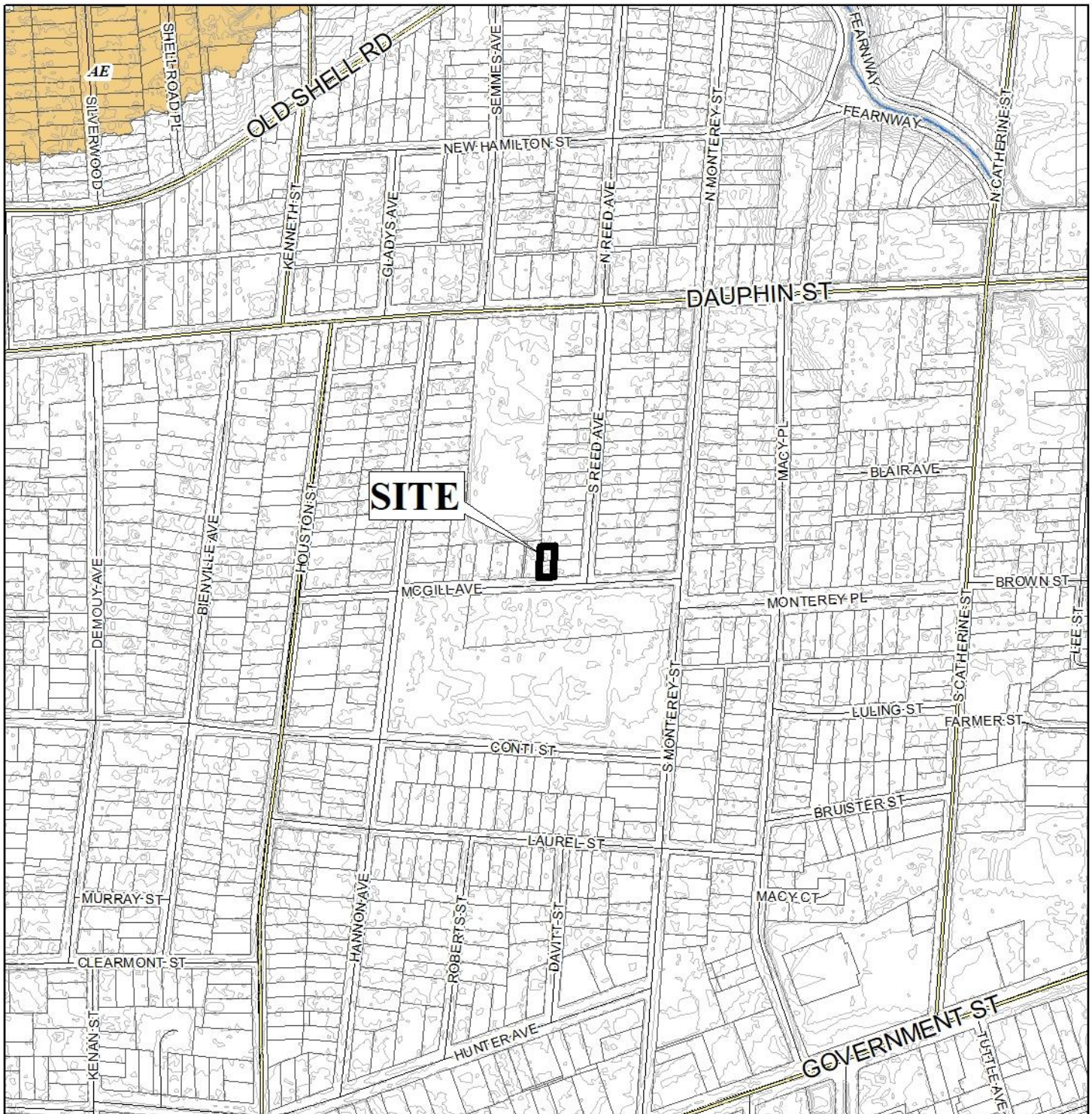
APPLICANT AOT, LLC

REQUEST Use, Parking Ratio and Access 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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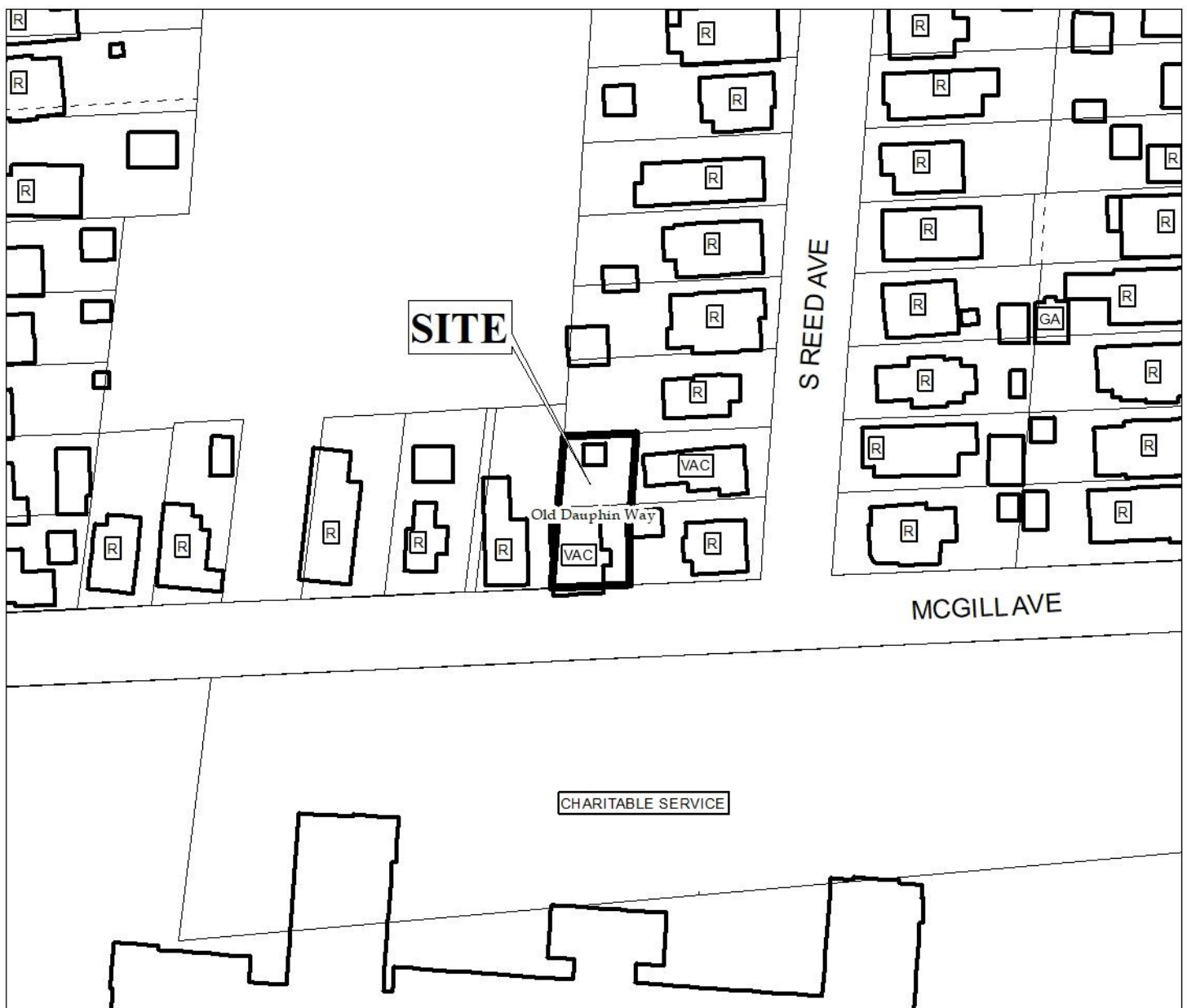
APPLICANT AOT, LLC

REQUEST Use, Parking Ratio and Access Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units and a charitable service facility.

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REQUEST Use, Parking Ratio and Access Variance

 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

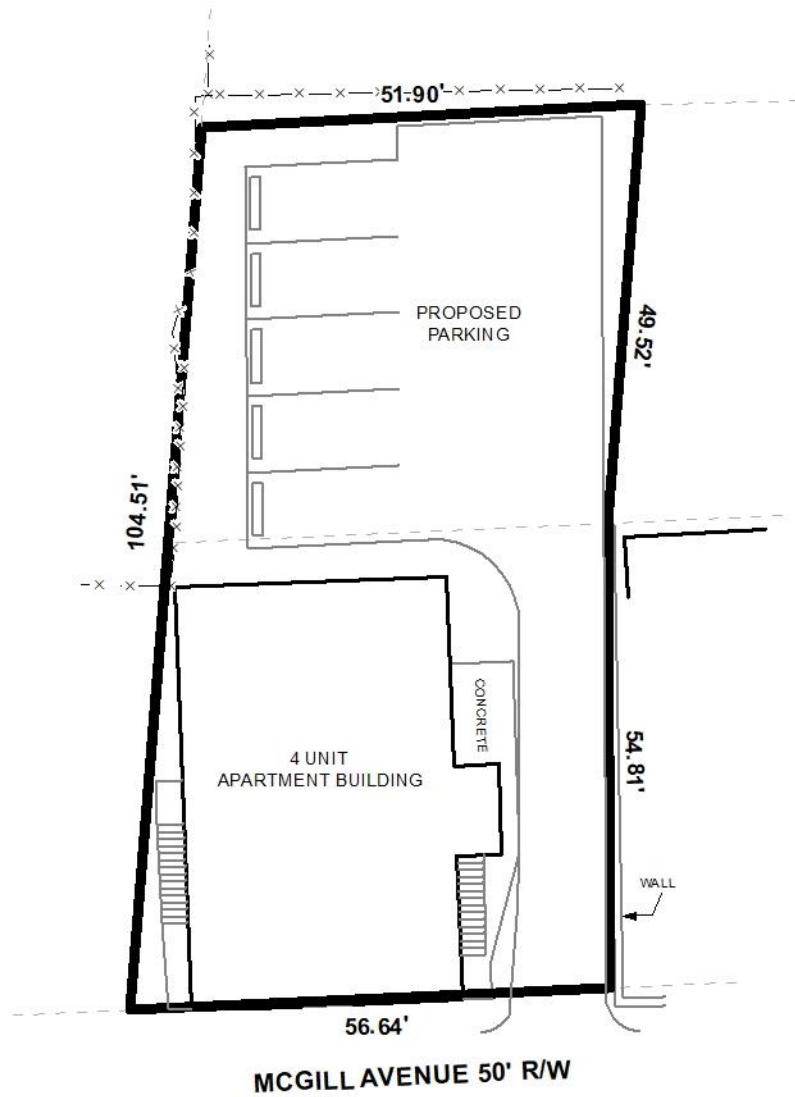


The site is surrounded by residential units and a charitable service facility.

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SITE PLAN



The site plan illustrates a four unit apartment building, proposed parking and existing fencing.

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 REQUEST Use, Parking Ratio and Access Variances

