



## Agenda Item # 5

### BOA-003532-2025

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

[Applicant Materials for Consideration](#)

## DETAILS

**Location:**  
122 Michael Donald Avenue

**Applicant / Agent:**  
KB Construction & Development, LLC

**Property Owner:**  
KB Construction & Development, LLC

**Current Zoning:**  
R-1, Single-Family Residential Urban District

**Future Land Use:**  
Mixed Density Residential

**Case Number(s):**  
6722

**Unified Development Code (UDC) Requirement:**

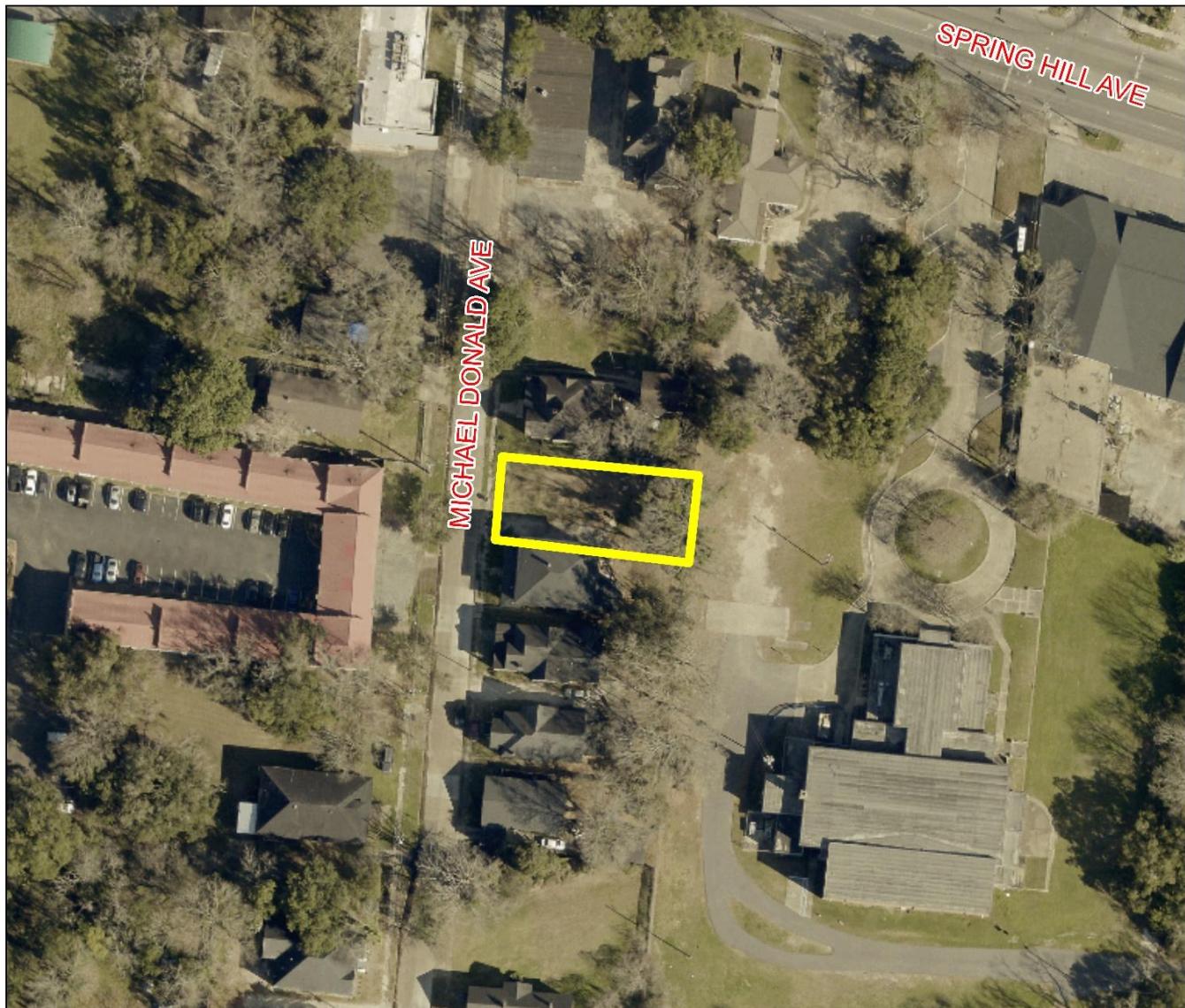
- The Unified Development Code (UDC) only allows single-family dwellings, with compliant access & maneuvering areas, compliant parking, and compliant tree plantings and landscape area in an R-1, Single-Family Residential Urban District.

**Board Consideration:**

- Use, Access and Maneuvering, Parking and Tree Planting & Landscape Area Variances to allow construction of a new four-plex with reduced access & maneuvering areas, reduced parking, and no tree plantings with reduced landscape area in an R-1, Single-Family Residential Urban District.

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**BOARD OF ADJUSTMENT  
VICINITY MAP - EXISTING AERIAL**



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

APPLICATION NUMBER	6722	DATE	January 5, 2026	 NTS
APPLICANT	KB Construction & Development, LLC			
REQUEST	Use, Access and Maneuvering, Parking, and Tree Planting & Landscape Area Variances			

## **SITE HISTORY**

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The subject site has been within the Mobile City limits since 1814.

With the adoption of the Zoning Ordinance in 1967, the site was assigned an R-3, Multi-Family Residential District zoning classification.

In January 1994, the site was rezoned from R-3 to R-1, Single-Family Residential District, via the Planning Commission's Old Dauphin Way Historic District Zoning Study.

In April 2023, the duplex which existed on the site was demolished with permits.

The site has no history of Board of Zoning Adjustment or Planning Commission applications.

## **STAFF COMMENTS**

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### **Engineering Comments:**

The proposed work shown on the submitted plans will require a Land Disturbance Permit be submitted through the CSS Portal.

The existing driveway and public sidewalk in the Right of Way must be replaced and shall be constructed per City of Mobile standards.

### **Traffic Engineering Comments:**

Reducing the parking requirement may increase on-street parking and could result in unforeseen issues. 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 Use, Access and Maneuvering, Parking and Tree Planting & Landscape Area Variances to allow construction of a new four-plex with reduced access & maneuvering areas, reduced parking, and no tree plantings with reduced landscape area in an R-1, Single-Family Residential Urban District; the Unified Development Code (UDC) only allows single-family dwellings, with compliant access & maneuvering areas, compliant parking, and compliant tree plantings and landscape area in an R-1, Single-Family Residential Urban District.

The site previously contained a nonconforming duplex dwelling which was demolished in April 2023 with permits. The applicant proposes to construct a four-plex apartment building on the site. As the site is zoned R-1, Single-Family Residential Urban District, a Use Variance is required to allow such use, as well as the other requested site element variances for non-compliance with commercial site development standards.

The applicant submitted a site plan for the site. However, the site plan was not prepared by a registered professional surveyor, engineer or architect. As the possible approval of a variance request is site-plan-specific, an accurate site plan must be provided for review which correctly depicts existing and proposed site elements for which relief is sought.

The site is within an older area of the City with several surrounding properties in use as nonconforming two-family and multi-family housing units, as the area was zoned R-3, Multi-family Residential District until the 1994 rezoning to R-1, Single-Family Residential District. In 1963, a Use Variance allowed the construction of a 94-unit multi-family residential apartment complex across Michael Donald Avenue. There have not been any other variance requests within the neighborhood for multi-family residential use. However, it should be noted that a request for Reasonable Accommodation to allow up to eight (8) unrelated people to live in a recovery residence was granted administratively for the site at 103 Michael Donald Avenue in March 2020.

The site plan submitted indicates the proposed four-plex, two (2)-story apartment building meeting required setbacks for R-3 use. However, other commercial development standards are noncompliant, including access to the rear parking area with a proposed driveway of approximately 15 feet (24 feet required for two (2)-way traffic); five (5) parking spaces instead of six (6) required for four (4) dwelling units; compliant tree plantings and compliant landscaping percentage.

As to the Use Variance request, the site is within an area which was intentionally rezoned from R-3 to R-1 to promote more single-family residential use. The proposal to replace a nonconforming R-2 use with a more nonconforming R-3 use would seem counter to the intent of the area rezoning of 1994.

As access to the rear area parking would be via a substandard driveway of approximately 11-foot width on the subject site, shared with an approximately 5-foot-wide driveway on the adjacent site to the South, proposed to be converted to a four-plex with rear area parking, the driveway could only accommodate a one-way traffic flow at any given time. When considering the nine (9) parking spaces total proposed to be shared between the two (2) sites, a potentially dangerous access and maneuvering situation could be posed.

The four-plex use would require a minimum of six (6) on-site parking spaces, and five (5) are proposed. It should be noted that Michael Donald Avenue is marked with No Parking signs which would negate the possibility of any on-street relief of substandard on-site parking.

The site plan submitted indicates three (3) trees of unidentified species along the rear of the site, but does not identify them as either existing or proposed. Although the site does not appear to be capable of accommodating a compliant tree planting schedule, some effort should be made to provide a minimum practicable amount of tree planting compliance. The site plan does seem to indicate that the 10% of site and 100 square-foot-per-unit common open space requirements can be met.

Due to the fact that the proposed use would be counter to the intent of the area rezoning of 1994, and the fact that the proposed substandard access/maneuvering and parking would be contrary to the public interest, and the fact that the site would be over-developed, the Board should consider this application for denial.

## **VARIANCE CONSIDERATIONS**

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### **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 Codes 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:

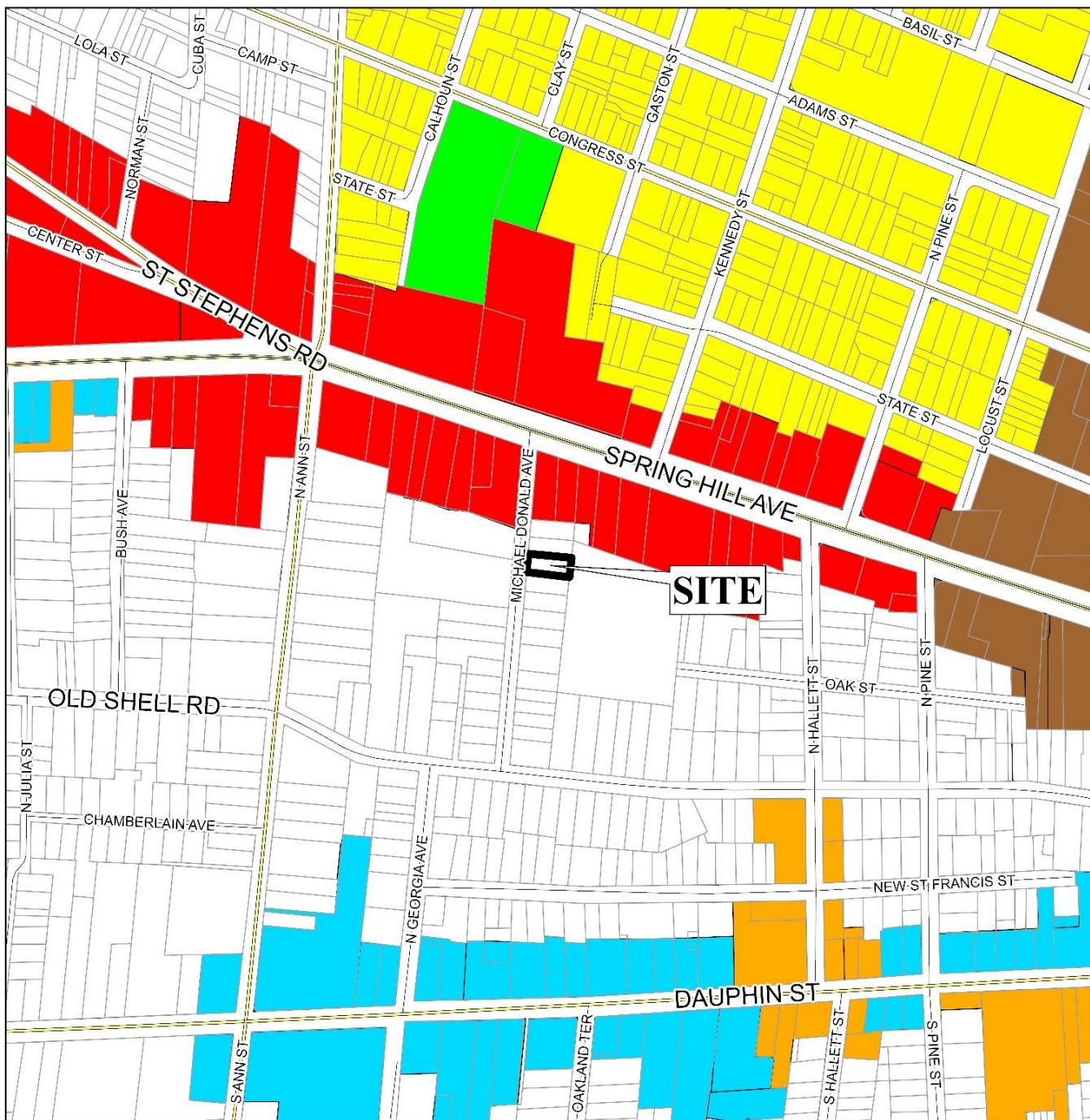
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### **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.

## LOCATOR ZONING MAP



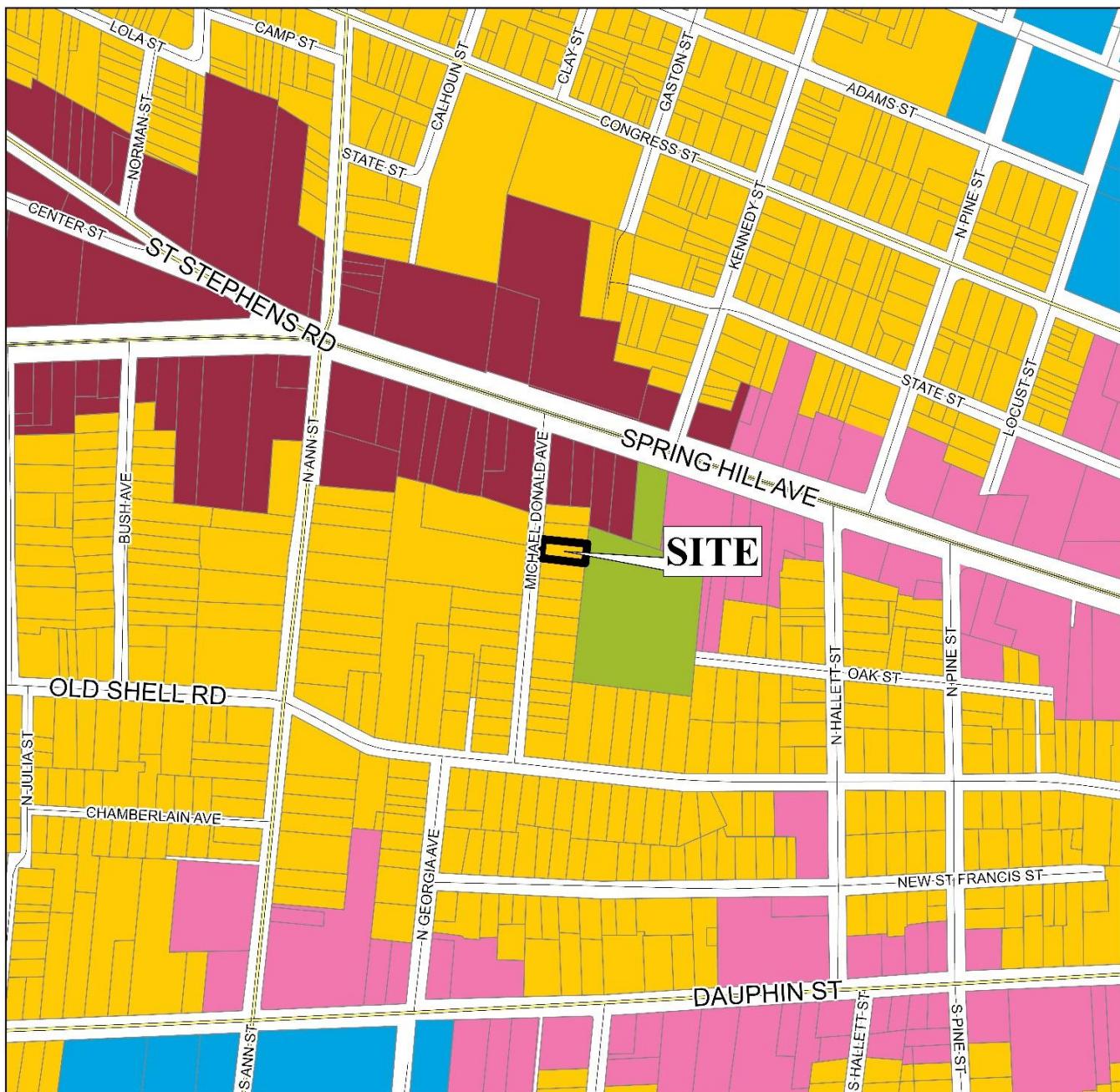
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APPLICANT KB Construction & Development, LLC

REQUEST Use, Access and Maneuvering, Parking, and Tree Planting & Landscape Area Variances



## FLUM LOCATOR MAP



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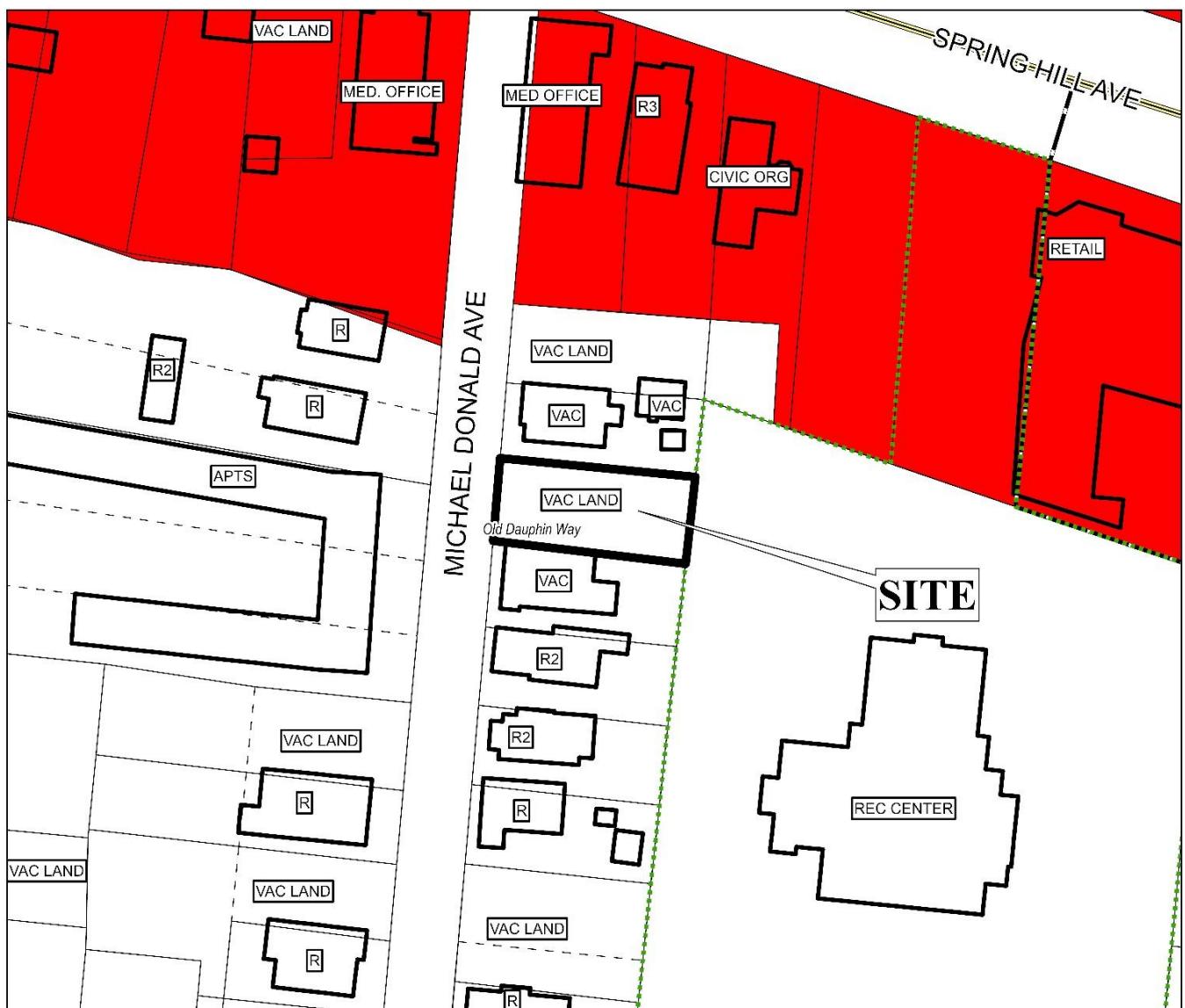
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Yellow	Low Density Residential	Maroon	Neighborhood Center - Traditional	Purple	Light Industry	Dark Blue	Water Dependent
Yellow	Mixed Density Residential	Purple	Neighborhood Center - Suburban	Purple	Heavy Industry	Blue	Institutional
Pink	Downtown	Pink	Traditional Corridor	Blue	Mixed Commercial Corridor	Green	Parks, Open Space
Red	District Center						



# BOARD OF ADJUSTMENT

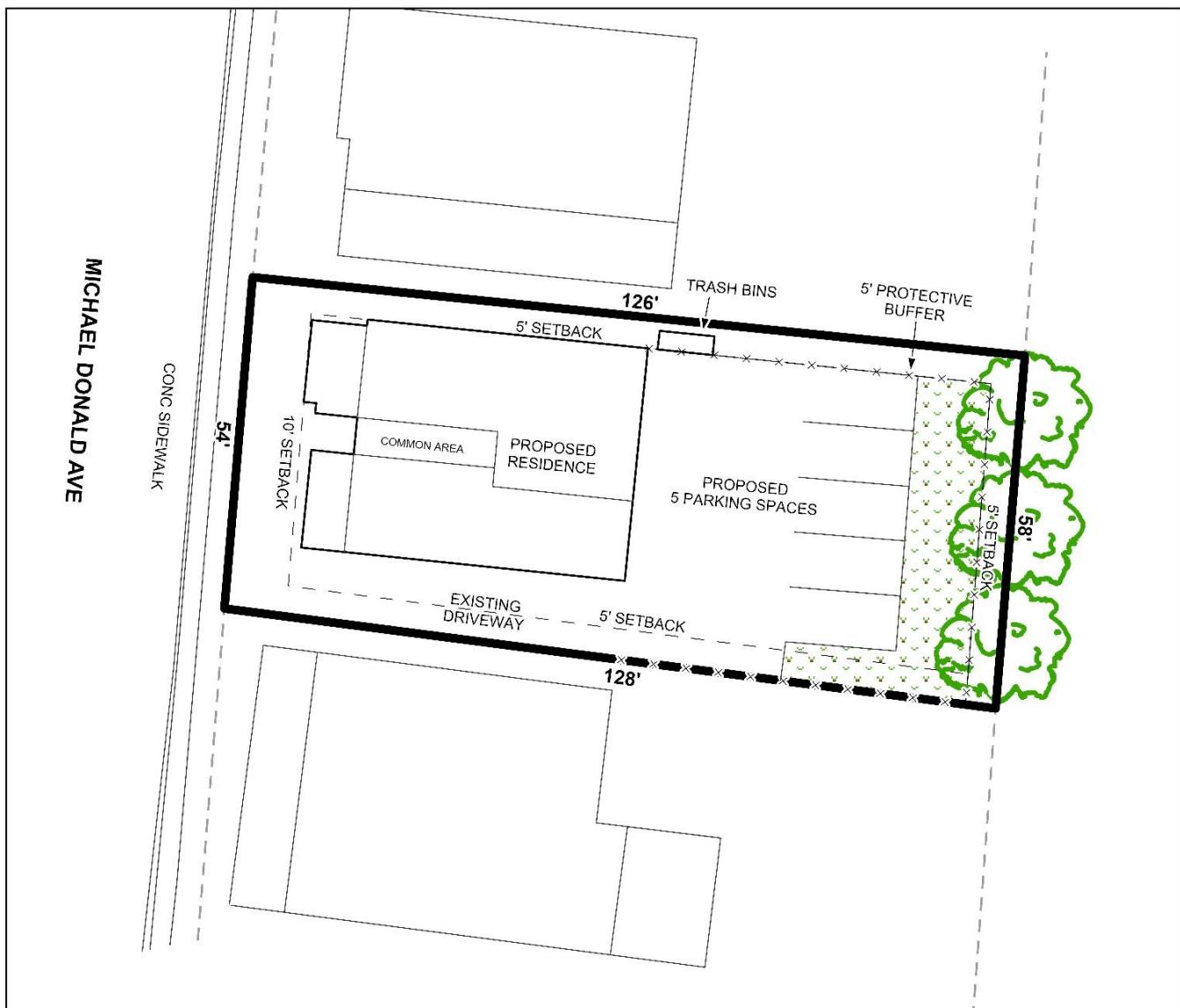
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<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">R-A</td> <td style="width: 10%;">R-3</td> <td style="width: 10%;">B-1</td> <td style="width: 10%;">B-2</td> <td style="width: 10%;">B-5</td> <td style="width: 10%;">ML</td> <td style="width: 10%;">I-2</td> <td style="width: 10%;">OPEN</td> <td style="width: 10%;">T-3</td> <td style="width: 10%;">T-5.2</td> </tr> <tr> <td>R-1</td> <td>R-B</td> <td>T-B</td> <td>B-3</td> <td>CW</td> <td>MH</td> <td>PD</td> <td>SD</td> <td>T-4</td> <td>T-6</td> </tr> <tr> <td>R-2</td> <td>H-B</td> <td>LB-2</td> <td>B-4</td> <td>MM</td> <td>I-1</td> <td>MUN</td> <td>SD-WH</td> <td>T-5.1</td> <td></td> </tr> </table>					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
R-A	R-3	B-1	B-2	B-5	ML	I-2	OPEN	T-3	T-5.2																								
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R-2	H-B	LB-2	B-4	MM	I-1	MUN	SD-WH	T-5.1																									

## SITE PLAN



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

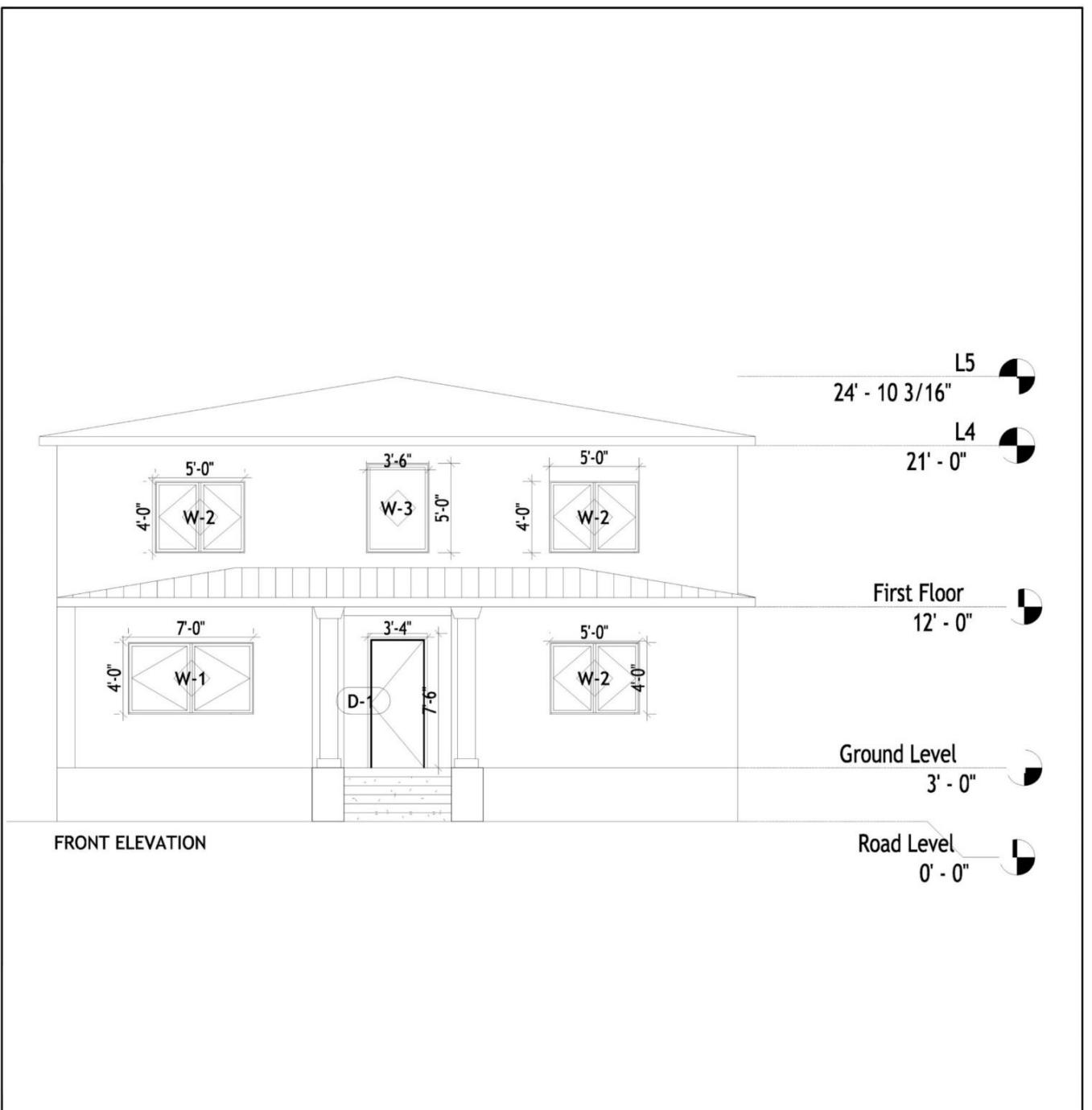
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# DETAIL SITE PLAN



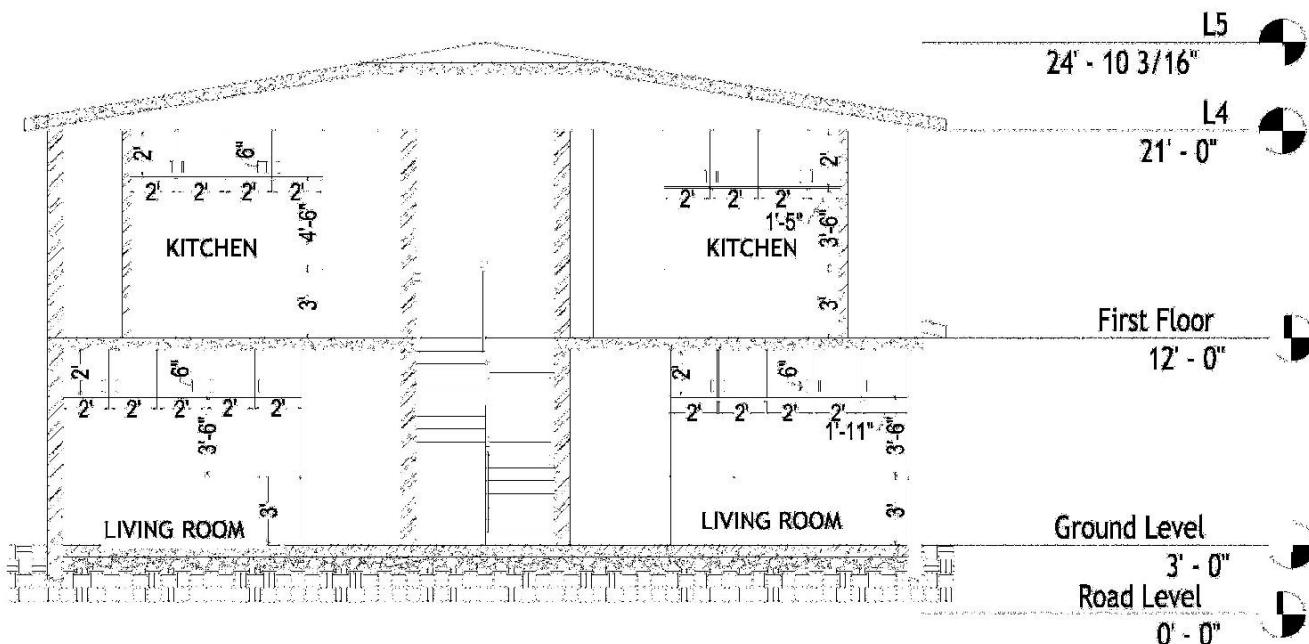
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# DETAIL SITE PLAN



SECTION AT A-A

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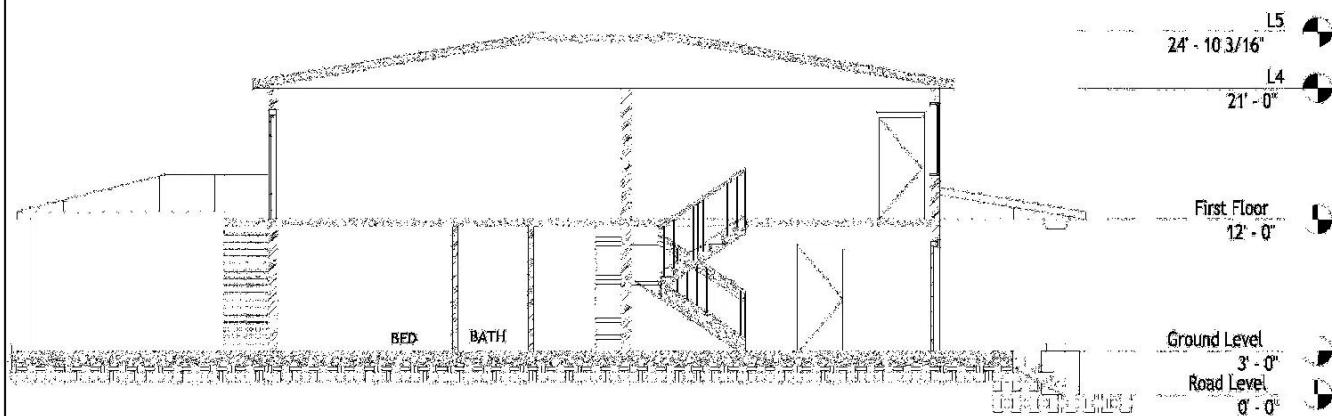
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