

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 6, 2014**

<u>CASE NUMBER</u>	5920/5811
<u>APPLICANT NAME</u>	Pace Burt
<u>LOCATION</u>	951 Government Street (West side of Marine Street, extending from Government Street to Church Street)
<u>VARIANCE REQUEST</u>	BULK: Bulk Variance to amend a previously approved Bulk Variance to allow 48 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	BULK: The Zoning Ordinance allows 36 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District
<u>ZONING</u>	B-1, Buffer Business District
<u>AREA OF PROPERTY</u>	59,933 square feet / 1.4±Acres
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<u>CITY COUNCIL DISTRICT</u>	District 2

ANALYSIS The applicant is requesting a Bulk Variance to amend a previously approved Bulk Variance to allow 48 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District; the Zoning Ordinance allows 36 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District.

The subject site had a Bulk Variance approved at the Board of Zoning Adjustment's February 3, 2013 meeting to allow 56 dwelling units with the conditions that the apartment use be limited to elderly housing / retirement home use, and full compliance with all other municipal codes and ordinances. The applicant describes the currently proposed dwelling units as "luxury, upscale"; with no mention of if the occupancy will be limited to senior citizens. The site also had a 1-lot subdivision approved at the Planning Commission's September 18, 2014 meeting.

The applicant states that:

We are proposing to renovate an existing, vacant 8-story office building into luxury, upscale residential feet, and the applicant intends to utilize the ground floor for uses that are accessory to an apartment building, including manager's office, lobby, library, and exercise room. The remainder of the building will be used for residential apartments.

On February 4, 2013 the Planning Board approved a request to allow 56 dwelling units based on the following conditions:

- 1) Apartment use limited to elderly housing / retirement home use; and*
- 2) Full compliance with all other municipal codes and ordinances*

We then received notice from the Zoning Ordinance limiting multi-family density in B-1 districts based upon the size of the property: in this case the site is large enough to accommodate 36 dwelling units by right. As the building contains 72,000 square feet over 8 floors, or approximately 9,000 square feet per floor, the "by right" development would result in 5 apartments per floor of 1,750 square feet each, prior to any allocation of space for common areas such as elevator lobbies and mechanical shafts on a typical floor (ground floor is excluded from the calculations). The requested density would result in 8 dwelling units per floor, with apartments of 1125 square feet in size prior to any allocation for common areas such as elevator lobbies and mechanical shafts on a typical floor (ground floor is excluded from the calculations).

We are now seeking an adjustment which will allow 48 dwelling units. The ground floor will consist of the leasing office and lobby. The second floor will accommodate 6 dwelling units, and floors 3-8 will accommodate 7 units each for a total of 38 dwelling units on a 59,933 square foot site in a B-1, Buffer Business District.

The Zoning Ordinance limits multi-family density in B-1 districts based upon the size of the property: in this case the site is large enough to accommodate 36 dwelling units by right. As the building contains 72,000 square feet over 8 floors, or approximately 9,000 square feet per floor, the "by right" development would result in 5 apartments per floor of 1,750 square feet each, prior to any allocation of space for common areas such as elevator lobbies and mechanical shafts on a typical floor (ground floor is excluded from the calculations). The requested density would result in 8 dwelling units per floor, with apartments of 1125 square feet in size prior to any allocation for common areas such as elevator lobbies and mechanical shafts on a typical floor (ground floor is excluded from the calculations). It should also be noted that the submitted plans illustrating proposed renovations depict an "unfinished future tenant space" on the first floor that appears to be 800± square feet.

Review of other apartment developments in the Mobile area indicate that one-bedroom apartments can typically range from 550 square feet to 850 square feet, thus even with space allocated for common area, a 36-unit "by-right" use of the existing building would likely result in dwelling units greatly exceeding the size supported by market demands, or result in large common spaces on each floor.

Because the subject site is no longer proposed to be limited to elderly housing, the parking requirements for each dwelling unit are 1.5 parking spaces per dwelling unit. Based on 48 proposed units, the site plan illustrates 13 parking spaces over the required minimum, which

would allow additional parking spaces to accommodate a future tenant in the proposed area. Because the site has more than 25 parking spaces, full compliance with parking lot lighting as required in Section 64- 6.A.8 of the Zoning Ordinance, if the existing parking lot lighting is replaced.

The site plan illustrates full compliance with tree planting requirements and states that full compliance with landscaped area requirements will be provided as well.

It should be noted that there is a dumpster to be provided for the site, which meets setbacks. It should be noted that the dumpster should be screened from view and in compliance with Section 64-4.D.9. of the Zoning Ordinance.

It appears that while most of the proposed parking spaces are provided with curbing, that bumper stops are not illustrated for the rest of the parking spaces. Bumper stops or curbing should be provided for all parking spaces at the perimeter of the site in compliance with Section 64-4.A.3.b. of the Zoning Ordinance.

Furthermore, it appears that while the properties to the Southwest of the site are zoned B-1, Buffer Business District, they are used residentially, therefore a compliant residential buffer should be provided as required by Section 64-4.D.1. of the Zoning Ordinance.

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 proposed residential use of the building is allowed by right. As the building has been vacant for several years, and as the office market is somewhat saturated with available (high quality) office space, remodeling and renovation of the dated building is not a realistic consideration. Residential use of the building, at an increased density than typically allowed by the more suburban-based standards for density calculations in the Zoning Ordinance, would seem to be a reasonable consideration given the fact that the building was developed prior to the current Zoning Ordinance, and all required parking can be met on the site. Additionally, the proposed residential use of the site would be compatible with the use recommendations of the New Plan for Mobile regarding the Government Street corridor.

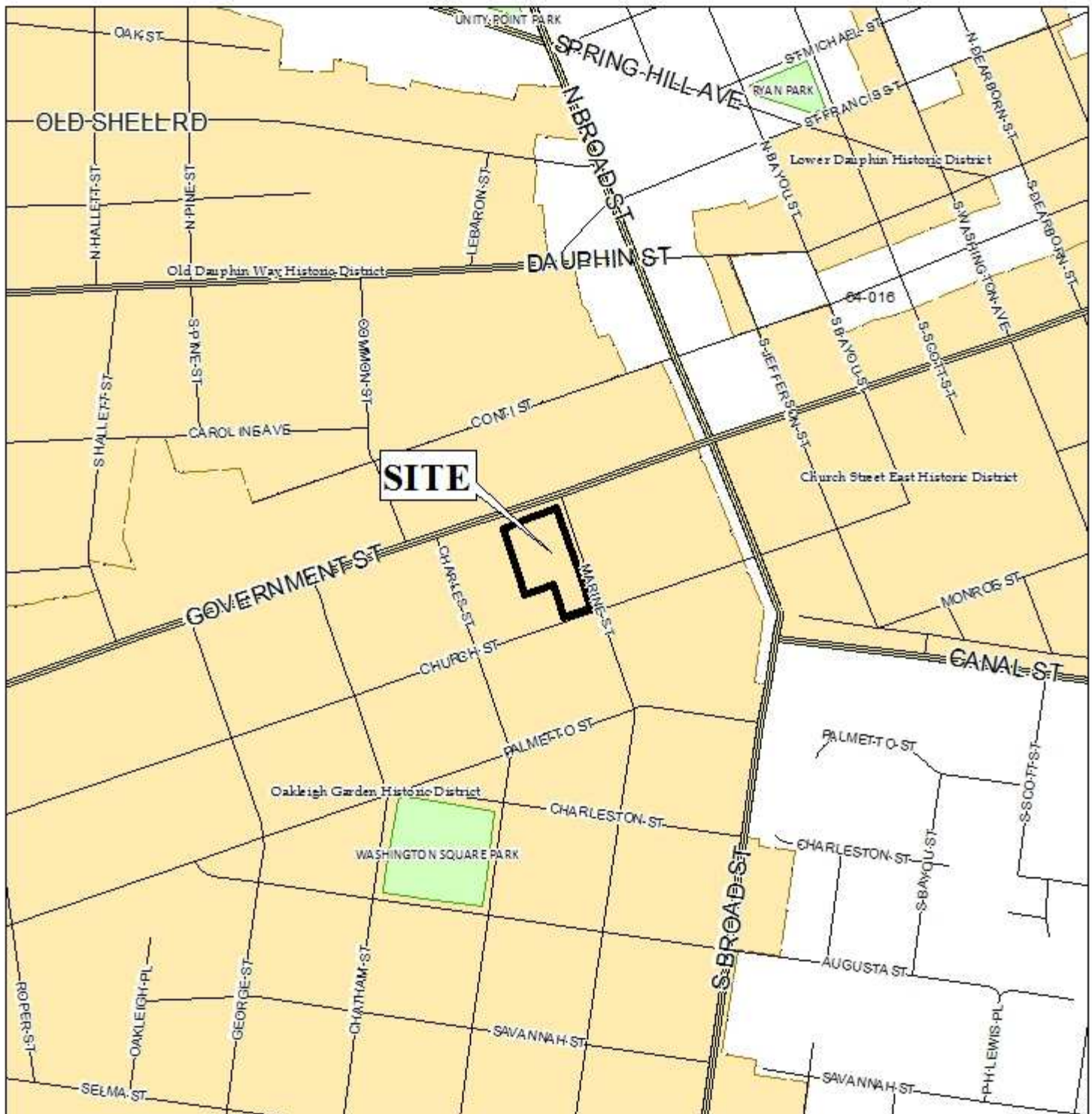
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest based upon the fact that the Board of Zoning Adjustment previously approved a similar request to allow more dwelling units than are currently requested;
- 2) the structure on the site is large enough that to prevent an increased number of dwelling units, may result in an unnecessary hardship; and
- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance by approving the request to allow more dwelling units than allowed by right, but fewer dwelling units than previously approved.

Based on the preceding, the bulk variance request to allow 48 dwelling units is recommended for approval, subject to the following conditions:

- 1) provision of a dumpster screen in compliance with Section 64-4.D.9. of the Zoning Ordinance;
- 2) provision of a residential buffer for properties to the Southwest of the site in compliance with Section 64-4.D.1. of the Zoning Ordinance;
- 3) provision of bumper stops or curbing for all parking spaces around the perimeter of the parking area in compliance with Section 64-4.A.3.b. of the Zoning Ordinance;
- 4) compliance with parking lot lighting requirements in Section 64- 6.A.8 of the Zoning Ordinance for all new lighting;
- 5) submission of two (2) revised site plans prior to submitting for any permits;
- 6) completion of the Subdivision process prior to submitting for any permits; and
- 7) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 5920 DATE October 6, 2014

APPLICANT Pace Burt

REQUEST Bulk Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residential units lie south of the site.

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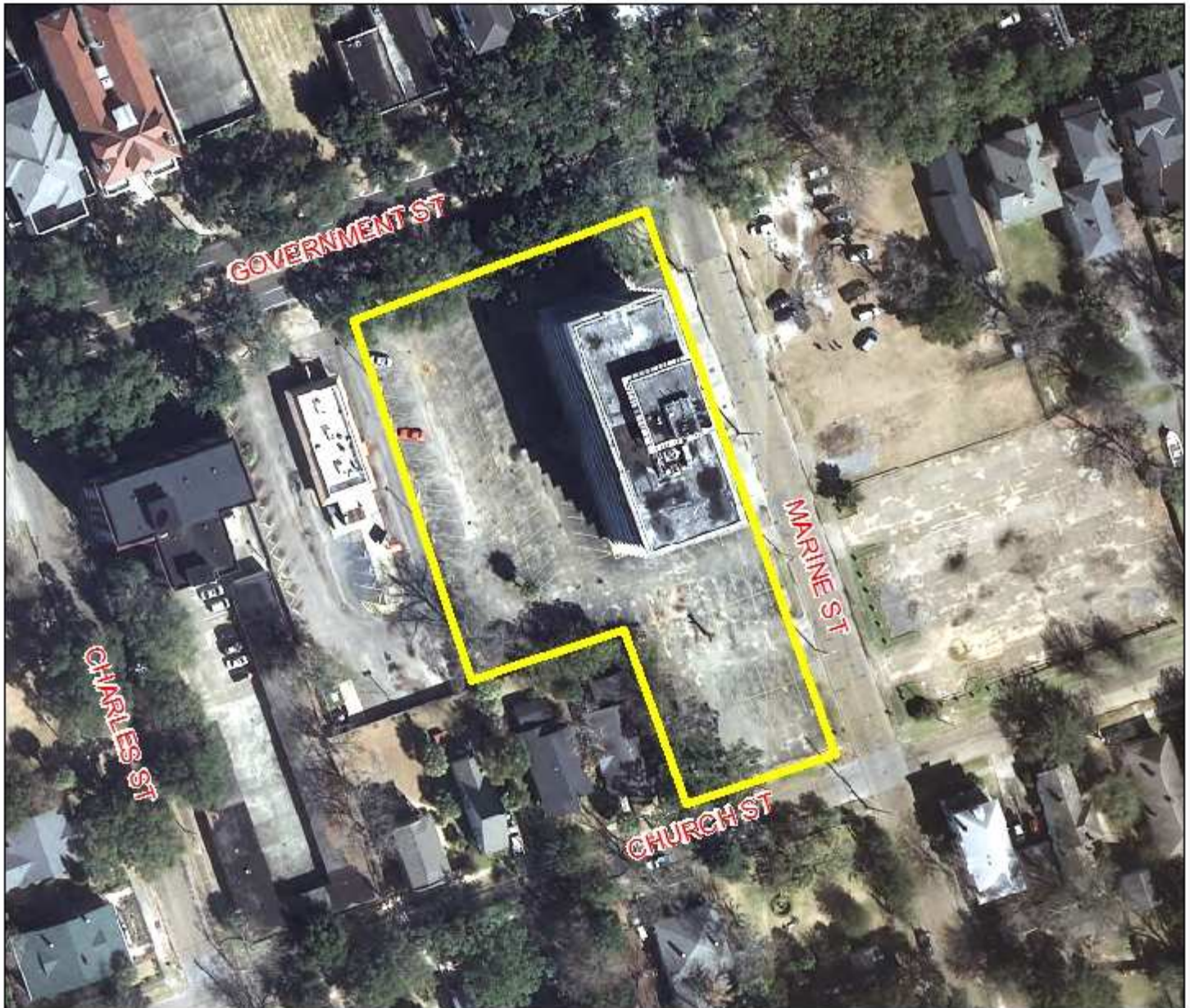
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



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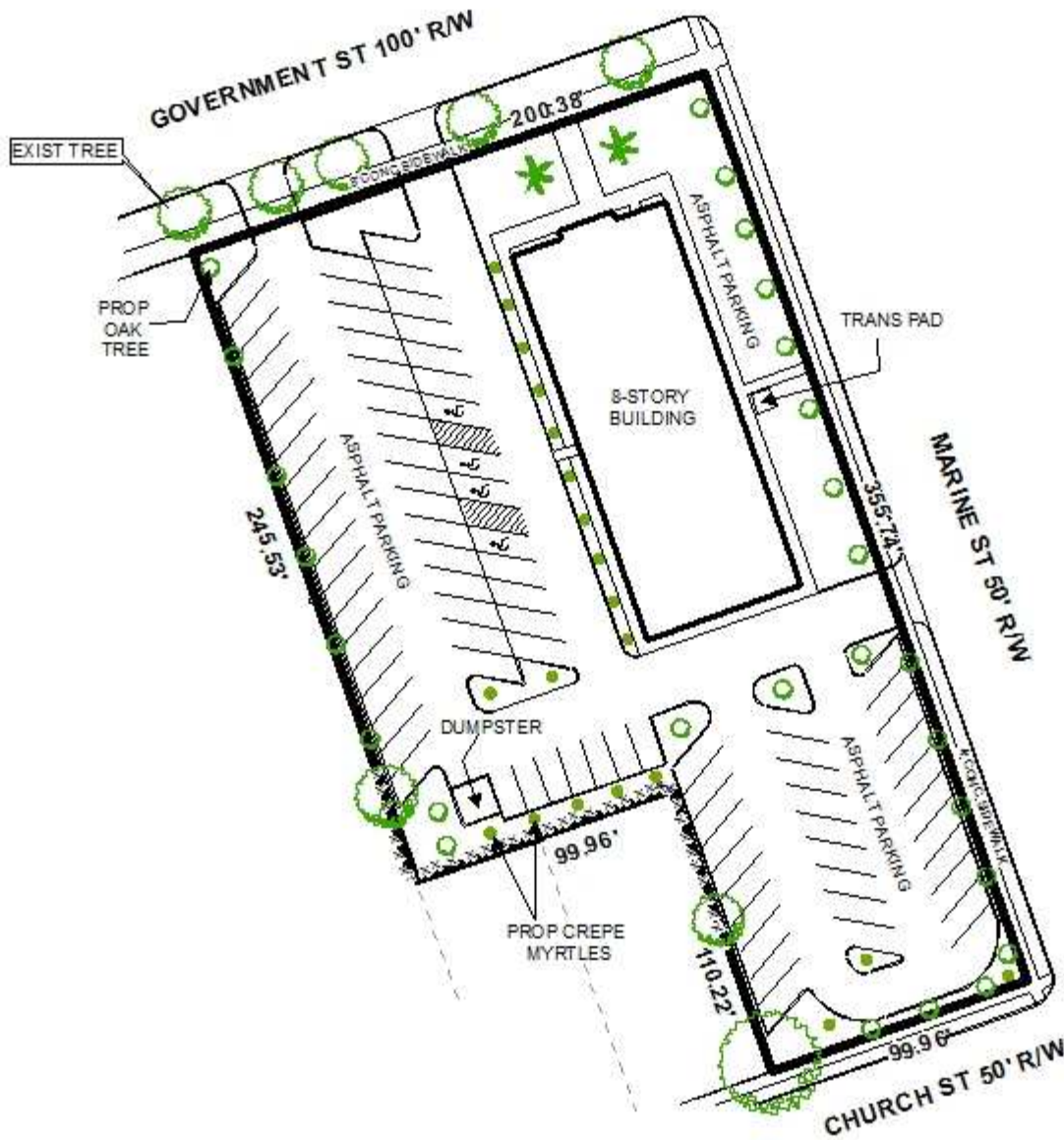
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SITE PLAN



The site plan illustrates the existing building, exist trees, proposed trees, parking, and dumpster.

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