

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: September 10, 2018**

<b><u>CASE NUMBER</u></b>	6206
<b><u>APPLICANT NAME</u></b>	Tarldon Holdings, LLC
<b><u>LOCATION</u></b>	363 Rapier Avenue (Northeast corner of Rapier Avenue and Texas Street).
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a duplex in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> Zoning Ordinance requires a minimum R-2, Two-Family Residence District, for duplexes.
<b><u>ZONING</u></b>	R-1, Single-Family Residential District
<b><u>AREA OF PROPERTY</u></b>	0.1 ± acres
<b><u>ENGINEERING COMMENTS</u></b>	No Comments
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2

**ANALYSIS** The applicant is requesting a Use Variance to allow a duplex in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-2, Two-Family Residence District, for duplexes.

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 states:

*The use and character of the property will remain the same. Cosmetic improvements will be made to the property. These improvements include; repairing fascia/soffit boards, painting exterior and interior, replacing outlets/switches, replace flooring, install kitchen cabinets, replacing door and cabinet hardware. It should take about four weeks to complete the improvements.*

*The proposed use of the property will be residential non-owner-occupied rental housing. The property cannot be used in compliance with the Zoning Ordinance because it is a multi-family residence and is currently deemed single-family residence. According to the City of Mobile Department of Planning and Zoning, this occurred when the City of Mobile "re-zoned" the property to single-family residence in 1984. According to the previous owner's estate executor, the building was erected as a duplex in 1975 and has remained a duplex, without change, until present day. This property is not different than*

*neighboring properties as there are several other, properties on Rapier Ave that appear to be duplexes.*

The applicant is correct in that the property and the surrounding area were rezoned by the City of Mobile from R-3, Multiple Family Residential District to R-1, Single-Family Residential District, however, said rezoning occurred in 1992, rather than 1984. It appears that the subject site was built as a duplex and used as such until 2005, when the previous owner of the property died. The structure has been vacant with no utilities since that time, thus allowing its previous legal non-conforming status as a duplex to expire.

The applicant and current owner purchased the property in July 2018, without realizing that the non-conforming status had been lost for the site. The applicant has submitted an illustration of the floorplan of the site depicting it as having two 1-bedroom units.

It should be noted that there are at least six duplex structures in the immediate vicinity of the subject site. Two of the duplex structures were granted approval by the Board of Zoning Adjustment in 1956, while the others seem to be non-conforming, and occupied, although staff has no documentation on them.

Given the prevalence for duplexes in the area, it may be appropriate to allow the request to resume use of the subject site as a duplex. It should be noted that because the site is in the Oakleigh Garden Historic District, a Certificate of Appropriateness must be obtained from the Mobile Historic Development Commission prior to any permits for repairs the applicant wishes to make to the exterior of the dwelling.

### **RECOMMENDATION**

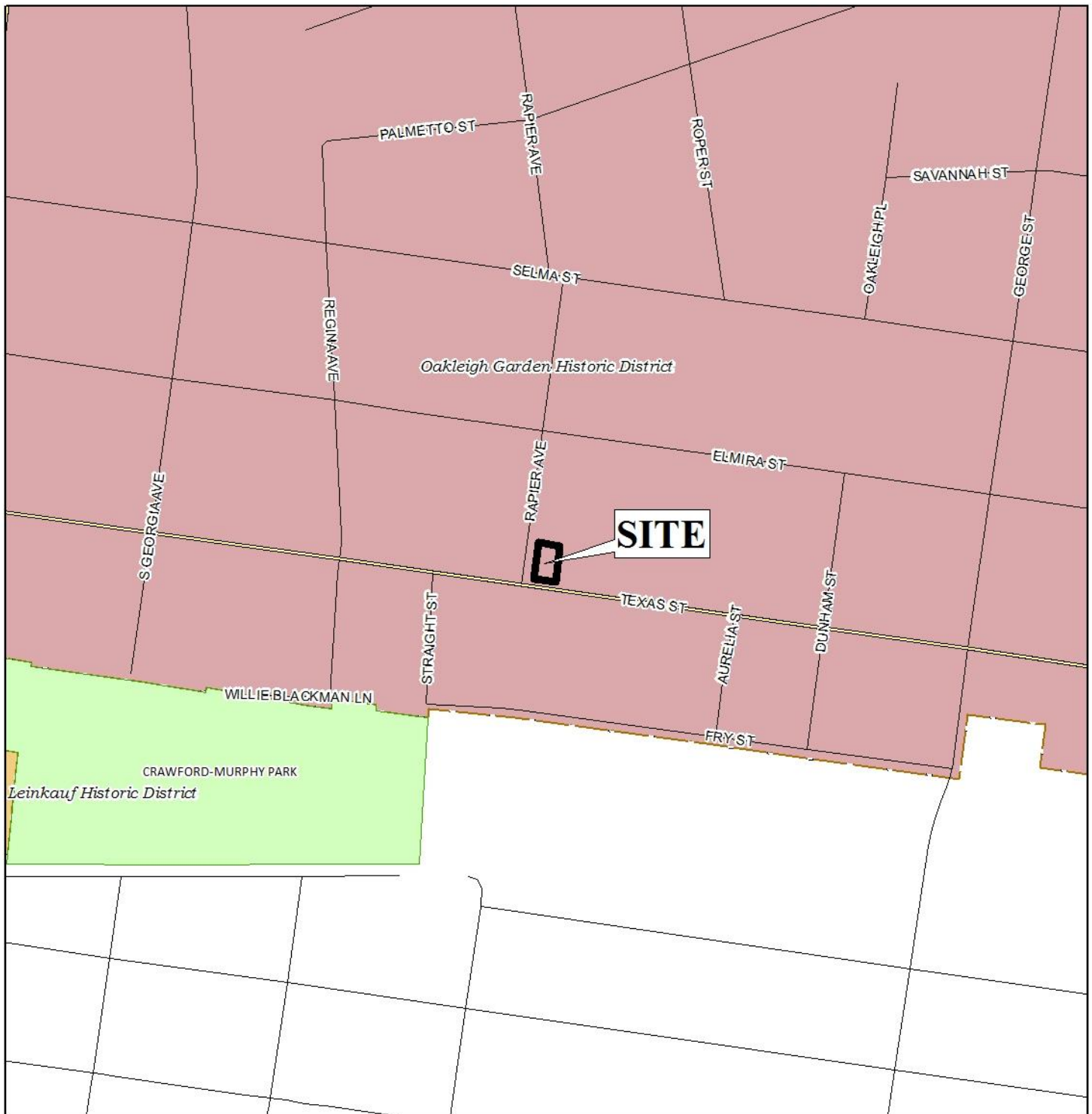
Staff recommends to the Board the following findings of facts for Approval:

- 1) allowing the dwelling to be used as a dwelling would not be contrary to the public interests due to the sites prior use as a duplex, and the prevalence of other duplexes in the area;
- 2) that special conditions do exist in preventing the site from complying with side yard setback requirements in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the dwelling was constructed as a duplex and has never been utilized as a single-family residence; and,
- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because duplexes are not uncommon in the area.

Therefore, the request is recommended for approval, subject to the following conditions:

- 1) Full compliance with all municipal codes and ordinances.

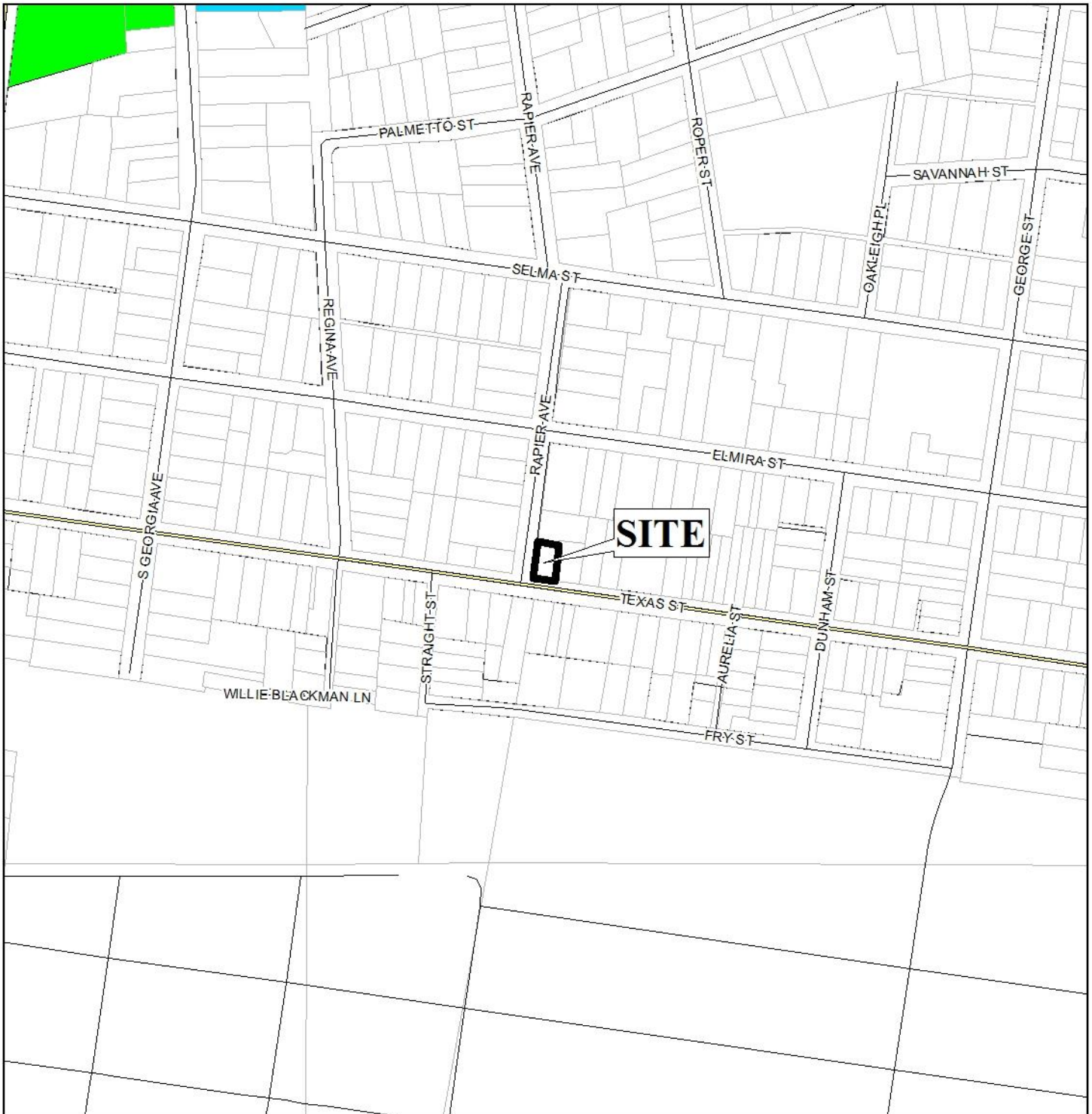
# LOCATOR MAP



APPLICATION NUMBER 6206 DATE September 10, 2018  
 APPLICANT Tarldon Holdings, LLC  
 REQUEST Use Variance



# LOCATOR ZONING MAP



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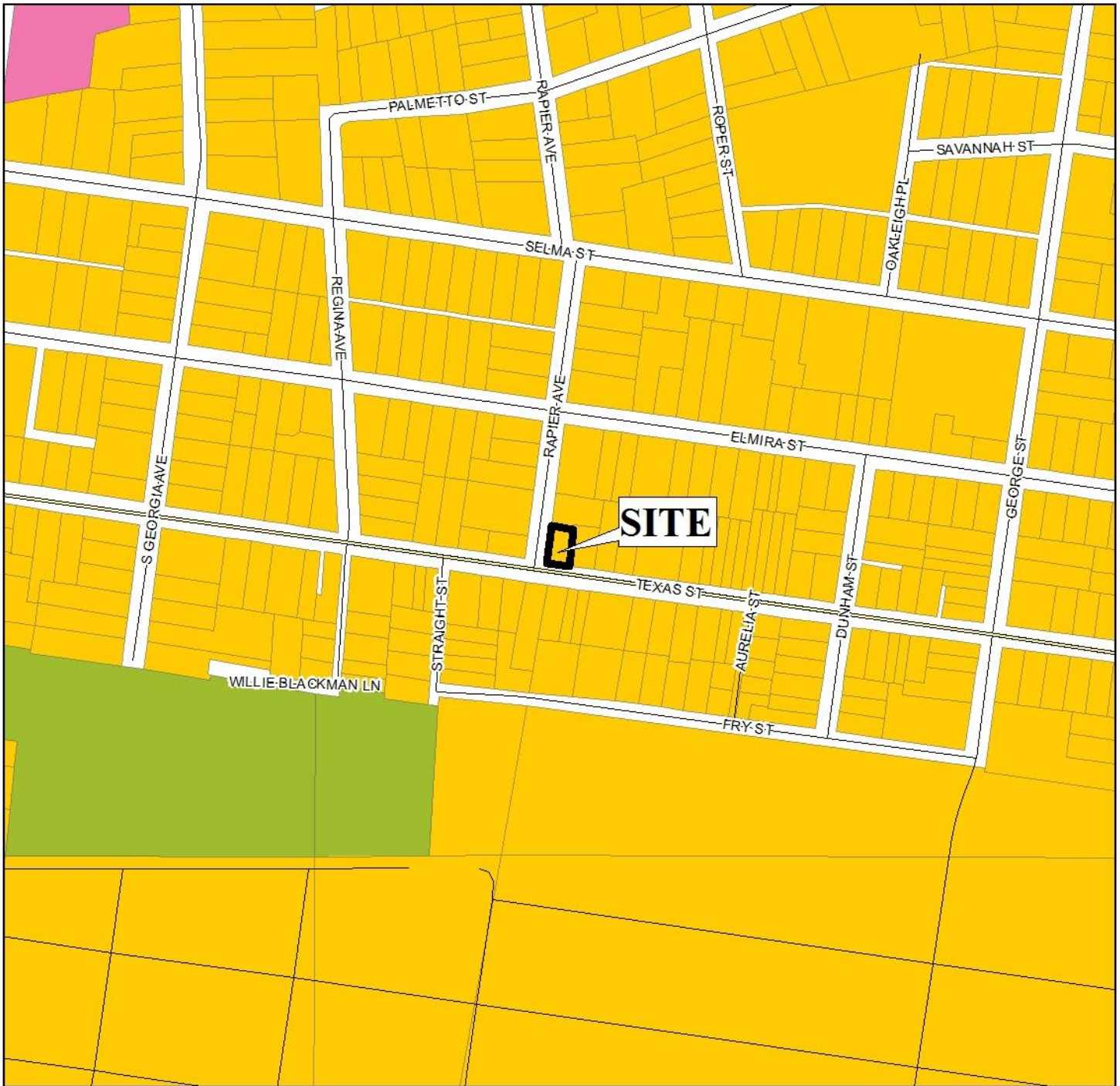
APPLICANT Tarldon Holdings, LLC

REQUEST Use Variance





# FLUM LOCATOR MAP



APPLICATION NUMBER 6206 DATE September 10, 2018

APPLICANT Tarldon Holdings, LLC

REQUEST Use 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



APPLICATION NUMBER 6206 DATE September 10, 2018  
APPLICANT Tarldon Holdings, LLC  
REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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REQUEST Use 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



City of Mobile GIS Department

The site is surrounded by residential units.

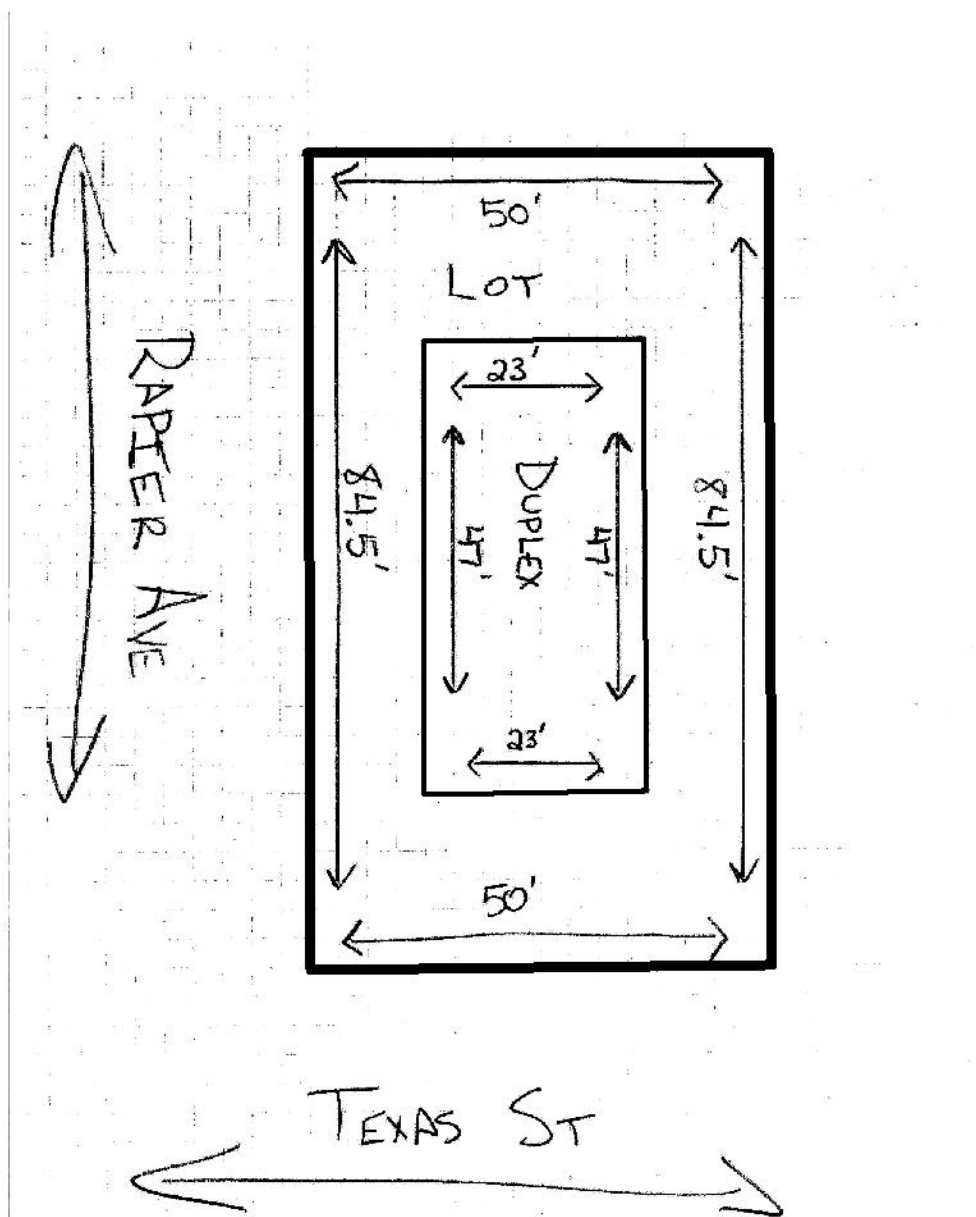
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APPLICANT Tarldon Holdings, LLC

REQUEST Use Variance



# SITE PLAN



The site plan illustrates the existing building.

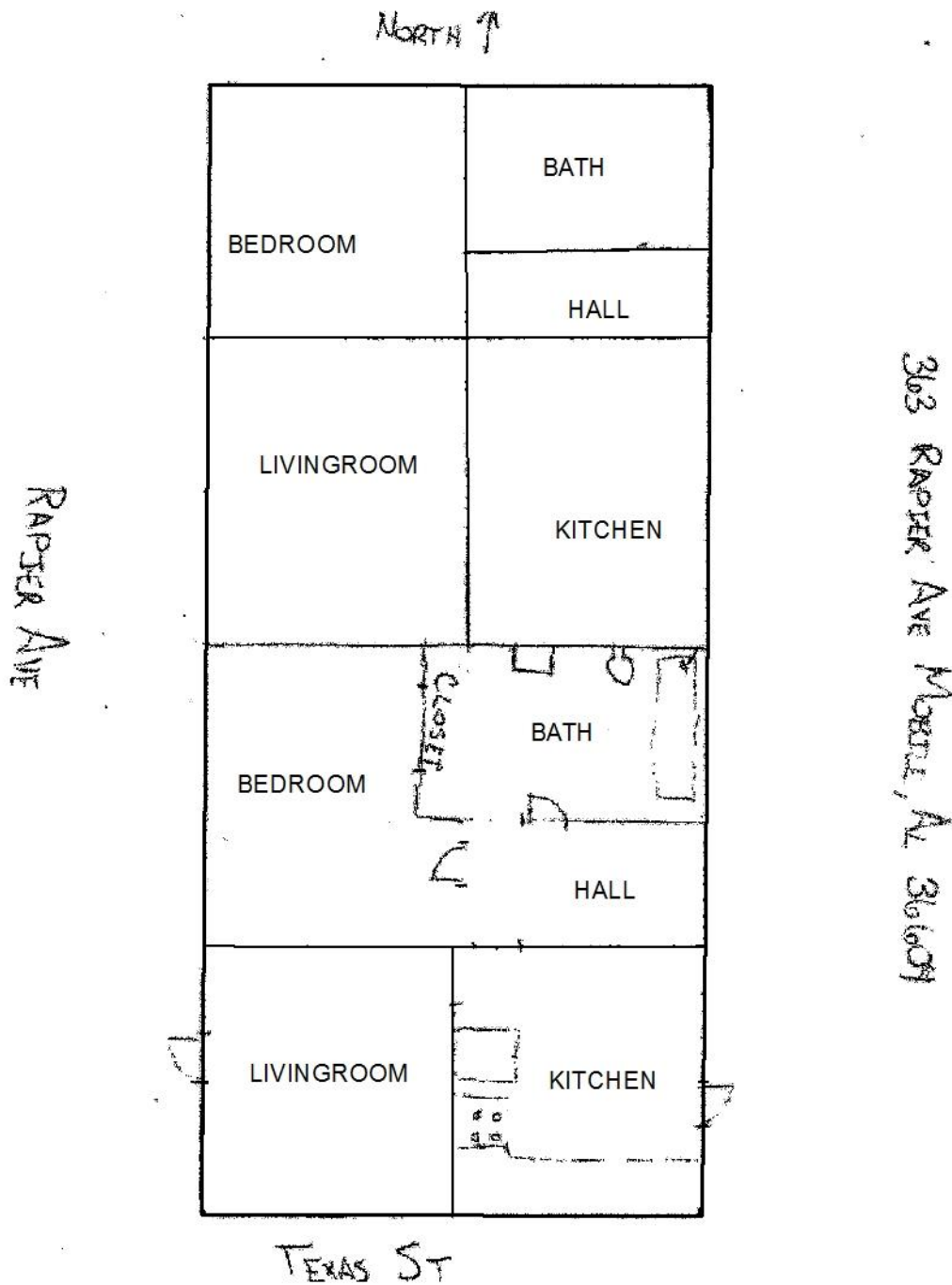
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APPLICANT Tarldon Holdings, LLC

REQUEST Use Variance



# DETAIL SITE PLAN



APPLICATION NUMBER 6206 DATE September 10, 2018  
 APPLICANT Tarlton Holdings, LLC  
 REQUEST Use Variance





