

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 4, 2019****CASE NUMBER**

6236 / 6237 / 6238 / 6135 / 6136 / 6137

APPLICANT NAME

Dennis D. McLeod

LOCATION

451 & 457 Dauphin Island Parkway, 1965 & 1967 Antoine Street and 1968 Duncan Street
(Southeast corner of Dauphin Island Parkway and Antoine Street, extending to the North side of Duncan Street, 150'± East of Dauphin Island Parkway.)

VARIANCE REQUEST

USE: Use Variance to allow the storage of commercial equipment in two R-1, Single-Family Residential Districts;

FRONT SETBACK: Setback variance to allow two existing buildings within the 25' front setback for a single-tenant commercial site in a B-3, Community Business District;

TREE PLANTING: Tree Planting variance to allow reduced tree plantings for a single-tenant commercial site in a B-3, Community Business District;

LANDSCAPING: Landscaping variance to allow no landscape area for a single-tenant commercial site in a B-3, Community Business District;

SURFACING: Surfacing variance to allow aggregate surfacing for a single-tenant commercial site in a B-3, Community Business District;

MANEUVERING: Maneuvering variance to allow maneuvering area within the public right-of-way for a single-tenant commercial site in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of an I-1, Light Industry District for the storage of commercial equipment;

SETBACK: The Zoning Ordinance requires a minimum 25' front setback for all structures for a single-tenant commercial site in a B-3, Community Business District;

TREE PLANTING: The Zoning Ordinance requires full compliance with the tree planting and landscaping area requirements for a single-tenant commercial site in a B-3, Community Business District;

LANDSCAPING: The Zoning Ordinance requires full compliance with the tree planting and landscaping area requirements for a single-tenant commercial site in a B-3, Community Business District;

SURFACING: The Zoning Ordinance requires all parking to be paved with concrete, asphaltic concrete, asphalt, or approved alternative parking surface for a single-tenant commercial site in a B-3, Community Business District;

MANEUVERING: The Zoning Ordinance requires all vehicular maneuvering areas to be located out of the right-of-way for a single-tenant commercial site in a B-3, Community Business District.

ZONING

R-1, Single Family Residential and B-3, Community Business

AREA OF PROPERTY

47,872 square feet / 1.1±Acres

CITY COUNCIL DISTRICT

District 2

ENGINEERING COMMENTS

No comments for the Use, Front Setback, Tree, Landscaping, or Maneuvering variance requests.

SURFACING VARIANCE (AGGREGATE):

If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

1. Submit and receive a Tier 2 Land Disturbance Permit for any proposed site development.
2. Submit a ROW Permit (ALDOT and City of Mobile) for any proposed work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.
3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

TRAFFIC ENGINEERING**COMMENTS**

Dauphin Island Parkway (AL Highway 163) is an ALDOT maintained roadway. Site is limited to no more than its existing curb cuts, with any changes in size, location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

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**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).

ANALYSIS

The applicant is requesting Use, Front Setback, Reduced Tree Planting, Landscaping, Surfacing, and Maneuvering Variances to allow the storage of commercial equipment in two R-1, Single-Family Residential Districts, and to allow two existing buildings within the 25' front setback, reduced tree plantings, no landscape area, aggregate surfacing, and vehicular maneuvering area within the public right-of-way for a single-tenant commercial site in a B-3, Community Business District; the Zoning Ordinance requires a minimum of an I-1, Light Industry District for the storage of commercial equipment, and a minimum 25' front setback for all structures, full compliance with the tree planting and landscaping area requirements, all parking to be paved with concrete, asphaltic concrete, asphalt, or approved alternative parking surface, and all vehicular maneuvering areas to be located out of the right-of-way for a single-tenant commercial site in a B-3, Community Business District.

The site was granted the same variances at the December 4, 2017 meeting, but did not apply for permits until September 2018. Because permits must be obtained within 6 months of approval, the previous approvals have expired.

The previous variances were granted subject to the following conditions:

- 1) Revision of the site plan to reflect the site plan approved by the Planning Commission;
- 2) Compliance with Engineering comments (*SURFACING VARIANCE (AGGREGATE)*): *If the proposed variance is approved for use the applicant will need to have the following conditions met:*
 - a. *The proposed improvements shown on the submitted plans may require a Land Disturbance Permit. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.*
 - b. *Submit a ROW Permit (City of Mobile) for any work within the public ROW. Aggregate surfacing is NOT allowed*

within the public ROW; only pavement will be allowed. MANEUVERING VARIANCE (BACKING OUT INTO DAUPHIN ISLAND PARKWAY): 1. It is recommended that the parking spaces within the Dauphin Island Parkway ROW be subject to the approval of ALDOT. 2. Unless the location of the handicapped spaces is required by ADA requirements, it is recommended that the handicapped parking spaces not be located so as to back out onto Dauphin Island Parkway. If the proposed variance is approved for use the applicant will need to have the following conditions met: a. The proposed improvements shown on the submitted plans may require a Land Disturbance Permit. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.);

- 3) Compliance with the revised Traffic Engineering comments (*Dauphin Island Parkway (AL Highway 163) is an ALDOT maintained roadway. Site is limited to no more than its existing curb cuts, with any changes in size, location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.);*
- 4) Compliance with 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).);*
- 5) Compliance with Fire 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)); and*
- 6) Full compliance with all other municipal codes and ordinances.

The site plan submitted with the current variance requests matches the revised site plan required by the Planning Commission and in accordance with the first condition of approval by the Board of Zoning Adjustment.

In addition to the variances, the applicant submitted Subdivision, Planned Unit Development, Sidewalk Waiver, and Rezoning requests for consideration by the Planning Commission that were granted at the November 16, 2017 meeting. The Subdivision was recorded in Probate Court, and the Rezoning was approved by the City Council, but as no permits were obtained within one year of approval, the previous approval has become null and void. A new Planned Unit Development application has been submitted, and will be heard by the Planning Commission at its February 7, 2019 meeting.

The applicant initially began with the property located at 457 Dauphin Island Parkway. In April 2005, the applicant acquired 1968 Duncan Street (a residence in an R-1 district), and subsequently extended aggregate surfacing and commercial parking onto the rear of the property by 2006. In December 2012, the applicant acquired 1967 Antoine Street (a non-conforming commercial property in an R-1 district) and 1965 Antoine Street (a residence in an R-1 district), and was using and crossing through the non-conforming commercial property by 2014. Finally, the applicant acquired 451 Dauphin Island Parkway in December 2013, and subsequently

demolished one of the two buildings on the property (with permits in 2015), and substantially renovated the remaining building (with permits in 2015). The area of the demolished building was subsequently placed into use for unpaved parking for the business.

The site appears to be split between a “Traditional Corridor” development area along Dauphin Island Parkway, and a “Mixed Density Residential” development area along Antoine and Duncan Streets, per the recently adopted Future Land Use Plan and Map. 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.

The Traditional Corridor land use designation generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City’s traditional neighborhoods (equivalent to Map for Mobile’s Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), Traditional Corridor designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

The Mixed Density Residential 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 du/ac, 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 provided the following narrative:

Site Variance Application: 451 and 457 Dauphin Island Parkway and 1967 Antoine Street

Use Description: The existing Coast Safe & Lock and associated companies will continue to operate on site. If approved, the owner will apply for a permit for paving the existing parking area along Dauphin Island Parkway.

Plan Consistency Analysis: The property use is consistent with the Comprehensive Plan for Mobile for the Loop Area with businesses lining the major streets and residential property on the periphery.

Zoning: The property along Dauphin Island Parkway is zoned B-3.

Site Variances: Site variances requested for the parking area surface, parking area layout and parking area maneuvering.

Site Improvements: The parking along Dauphin Island Parkway will be repaved and landscaped as indicated. An 8 ft. privacy fence will be added to the existing chain link fencing where the parking and storage yard border the adjacent residential property.

Trees: Trees will be added to the site as indicated for compliance with the landscape requirements. There are no existing heritage trees 24" or larger on site.

Use Variance Application: 1965 Antoine Street

Use Variance: This application applies for a use variance for the storage yard with security fence to remain behind the existing residence.

Site Improvements: An 8 ft. privacy fence will be added where the parking and storage yard borders the adjacent residential property.

Landscaping: No changes are planned for the existing landscaping. There are no heritage trees 24" or larger on site.

Use Variance Application: 1968 Duncan Street

Use Variance: This application applies for a use variance for the existing aggregate parking and storage yard with security fence to remain behind the existing residence.

Site Improvements: An 8 ft. privacy fence will be added where the parking and storage yard borders the adjacent residential property.

Landscaping: No changes are planned for the existing landscaping. There are no heritage trees 24" or larger on site.

There have been no changes in conditions in the surrounding area that would affect the variances as previously approved, nor have there been any changes to the Regulations which would affect the previous approval.

RECOMMENDATION:

Staff recommends the following findings of fact for Approval for the Use, Front Setback, Landscaping, Surfacing and Maneuvering variance requests:

- 1) Approving the variances, per the revised site plan submitted for Planning Commission review, will not be contrary to the public's interest given the fact that the applicant will make additional improvements to the overall site;
- 2) Special conditions appear to exist, given the period when the head-in parking and buildings were built, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance since it would preserve existing buildings and their relationship to the street, and associated tree, landscaping and buffer fence improvements will benefit the neighborhood.

The Tree Planting request is moot, per the Planning Commission's approval of a site plan depicting the provision of 14 trees on-site, and 14 trees to be donated to the tree bank.

The Approval is subject to the following conditions:

- 1) Compliance with Engineering comments (*If the aggregate surfacing is approved for use the applicant will need to have the following conditions met: 1. Submit and receive a Tier 2 Land Disturbance Permit for any proposed site development. 2. Submit a ROW Permit (ALDOT and City of Mobile) for any proposed work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW. 3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt)..*);

- 2) Compliance with the revised Traffic Engineering comments (*Dauphin Island Parkway (AL Highway 163) is an ALDOT maintained roadway Site is limited to no more than its existing curb cuts, with any changes in size, location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.*);
- 3) Compliance with 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).*);
- 4) Compliance with Fire 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)*); and
- 5) Full compliance with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6236 DATE February 4, 2019

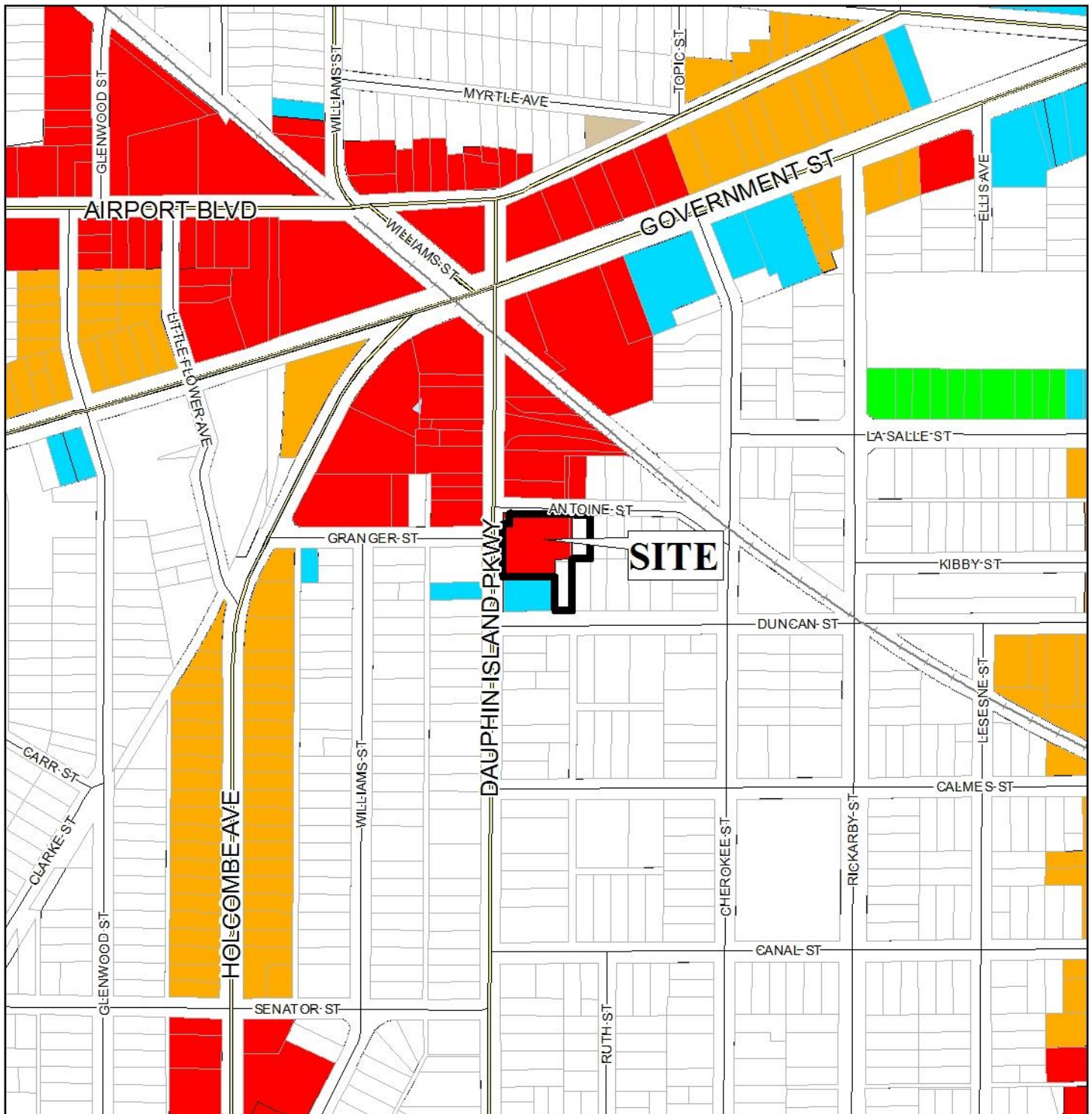
APPLICANT Dennis McLeod

REQUEST Use, Front Setback, Reduced Tree Planting, Landscaping,
Surfacing, and Maneuvering Variances



NTS

LOCATOR ZONING MAP



APPLICATION NUMBER 6236 DATE February 4, 2019

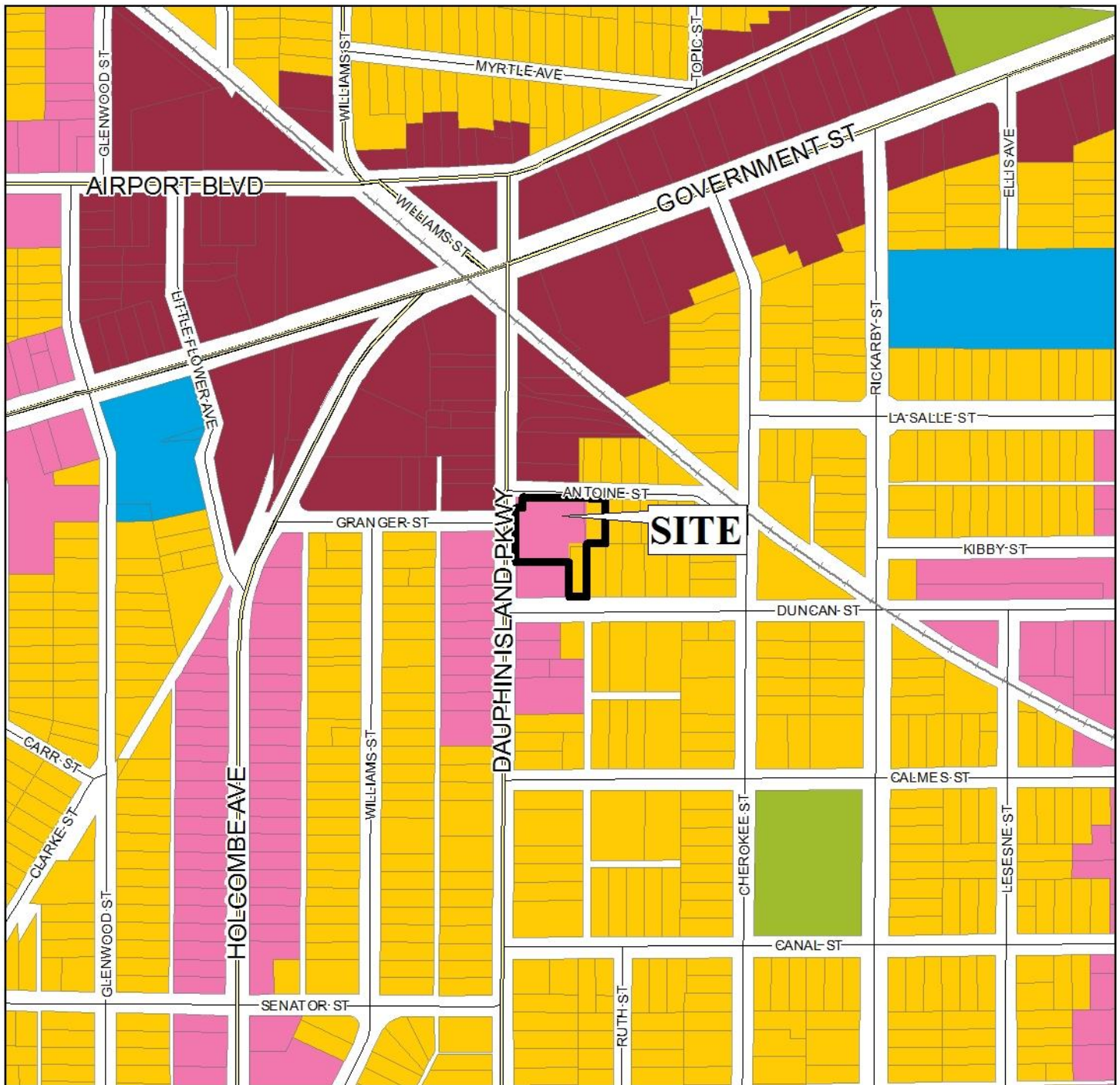
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NTS

FLUM LOCATOR MAP



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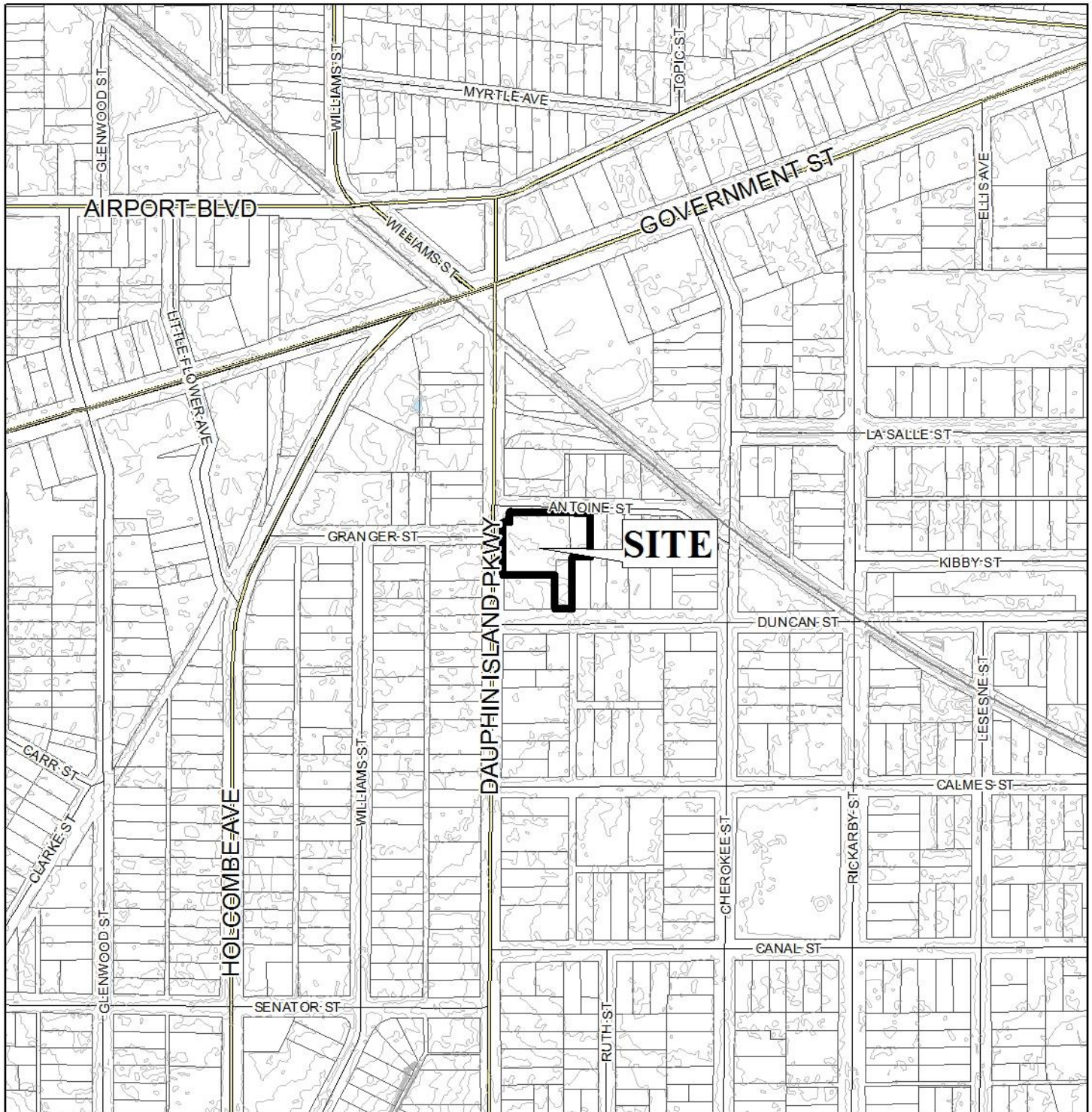
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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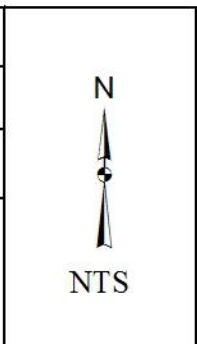
The site is surrounded by commercial units to the northwest, and residential units to the south and northeast.

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APPLICANT _____ Dennis Mcleod

REQUEST Use, Front Setback, Reduced Tree Planting, Landscaping, Surfacing, and Maneuvering Variances

	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

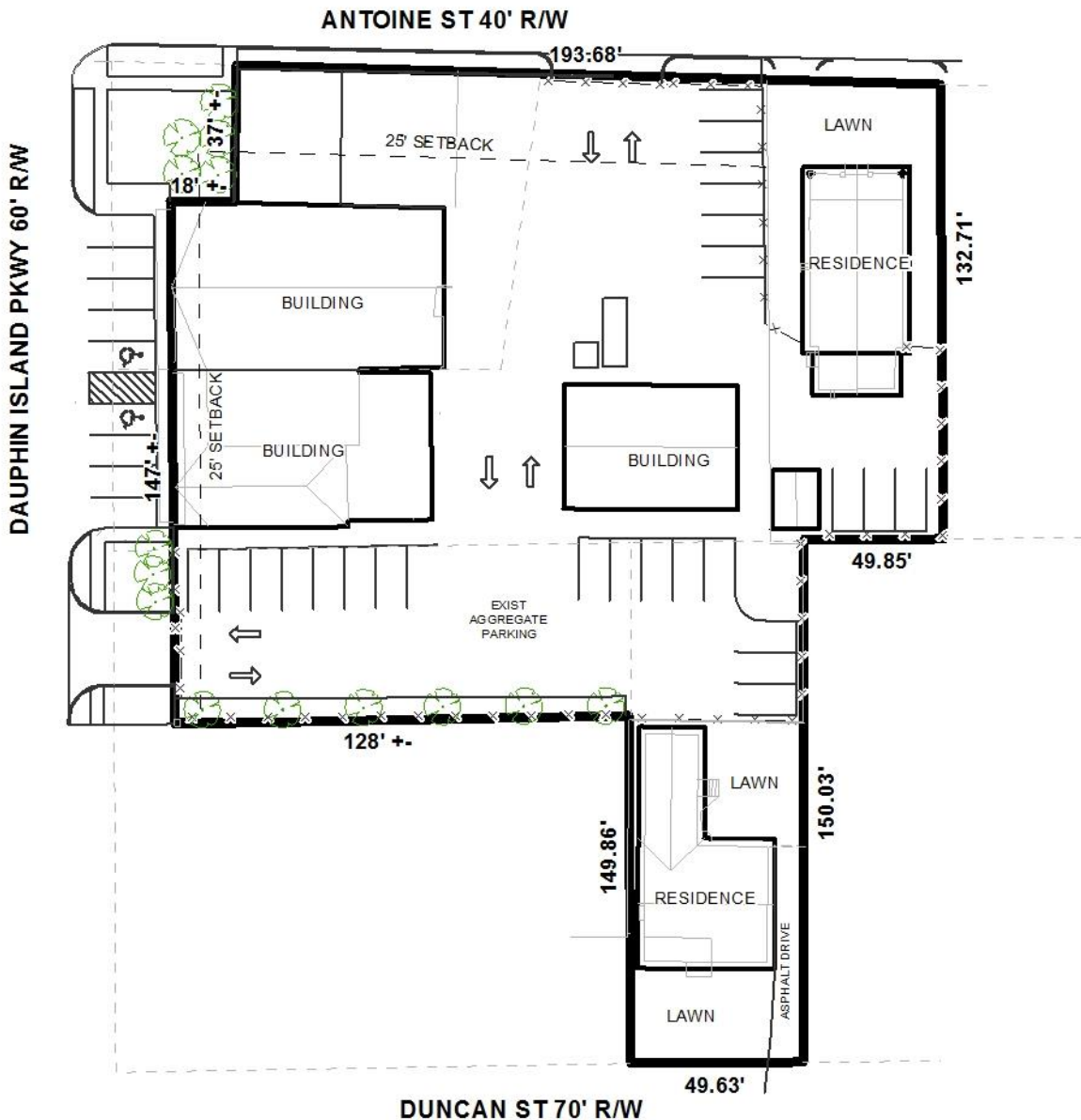


The site is surrounded by commercial units to the northwest, and residential units to the south and northeast.

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SITE PLAN



The site plan illustrates the existing buildings, residences, setback, and parking.

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