

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 20, 2021****CASE NUMBER**

6413/6362

APPLICANT NAME

Reilly Terrell

LOCATION1704 McGill Avenue
(North side of McGill Avenue, 93'± West of South Reed Avenue)**VARIANCE REQUEST****PARKING SURFACE:** Parking Surface Variance to allow an aggregate parking surface for an apartment complex in an R-1, Single-Family Residential District.**LANDSCAPING/TREE PLANTING:** Landscaping/Tree Planting Variance to allow reduced landscaping/tree plantings for an apartment complex in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****PARKING SURFACE:** The Zoning Ordinance requires asphalt, concrete, or an approved alternative parking surface for an apartment complex in an R-1, Single-Family Residential District.**LANDSCAPING/TREE PLANTING:** The Zoning Ordinance requires full compliance with landscaping and tree planting requirements for an apartment complex in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.13± Acre

**ENGINEERING
COMMENTS****PARKING SURFACE VARIANCE:**

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

1. The proposed improvements will require a Land Disturbance Permit 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.

TREE PLANTING VARIANCE:

NO COMMENTS

TRAFFIC ENGINEERING
COMMENTS

If surface variance is allowed, at a minimum the required handicap parking and an accessible route must be provided to the building.

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 within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting Parking Surface and Landscaping/Tree Planting Variances to allow an aggregate parking surface and reduced landscaping/tree plantings for an apartment complex in an R-1, Single-Family Residential District; the Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface, and requires full compliance with landscaping and tree planting requirements for an apartment complex 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:

PARKING AREA GRAVEL PAVING IN LIEU OF CONCRETE OR ASPHALT:

Please consider our request for the use of gravel paving in lieu of the concrete or asphalt paving. The gravel paving would reduce the amount of water run-off from the site. Also,

our recent Certificate of Appropriateness MHDC-078429-2021 noted the gravel paving with concrete curb perimeter.

LIMITED LANDSCAPING FOR THE SITE AND THE USE OF PALM TREES:

Please consider our request for the limited landscaping as shown on the Variance Site Plan drawing. We are not adding to the footprint of the building, the site lacks a front yard, and the parking area in the rear was made possible by obtaining additional property from the residential site to the North. We would also like to use windmill palm trees in lieu of the heritage trees listed in the landscape ordinance. With our limited area for landscaping, the site could accommodate these trees to maturity.

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 site was granted Use, Parking Ratio, and Access Variances to allow four (4) dwelling units in an R-1 district, with reduced parking ratio and sub-standard access at the Board of Zoning Adjustment's December 7, 2020 meeting. The site was also part of a two-lot Subdivision approved by the Planning Commission at its October 1, 2020 meeting, which has subsequently been recorded in Probate Court. Building permits have been issued for renovations to the structure only, keeping the previously approved variances from expiring.

The site plan submitted with the December 2020 variance included a note stating: "driveway and parking area to be constructed to Mobile Engineering Department standards." As such, a parking surfacing variance was not necessary at that time. While the previous site plan did indicate a lack of front landscaped area, no tree plantings were depicted. When the applicant submitted plans for permit review, staff determined the need for the currently requested variances.

Regarding the use of aggregate surfacing, it is not uncommon for parking lots in historic districts to have aggregate surfacing, and the applicant has obtained a Certificate of Appropriateness relating to this. The Board of Adjustment, has similarly been sympathetic to proposed aggregate surfacing in historic districts.

Regarding the request for reduced landscaping area and tree plantings, the December 2020 staff report made mention of the lack of available landscaped area on the site. As the applicant has provided as much on-site parking as possible, a lack of landscape area on a site this size is understandable. It should be noted that the site plan submitted does not provide any landscape area calculations, and if approved, should be revised to provide this information.

The Zoning Ordinance requires the site to have a total of one (1) frontage tree, four (4) overstory perimeter trees, four (4) understory perimeter trees, and one (1) parking tree; for a total of 10 required trees. The site plan submitted shows no frontage trees, four (4) overstory perimeter trees, six (6) understory perimeter trees, and one (1) parking tree; for a total of 11 trees. While the site does show an overall compliant number of trees, more trees are proposed to be an understory species than the Zoning Ordinance allows by-right. However, due to the reduced landscape area available, allowing the proposed tree configuration may be appropriate.

It should be noted that the proposed site plan shows compliance with all other conditions of approval of the December 2020 variance.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Parking Surface and Landscaping/Tree Planting Variance requests:

- 1) Approving the variance will not be contrary to the public interest in that the use would be consistent with the use of aggregate surfacing is common in historic districts;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the existing site configuration makes it impossible for the site to provide full landscape area compliance; 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 proposed landscaping and tree planting are in keeping with the character of existing developments in the area.

The Approval is subject to the following conditions:

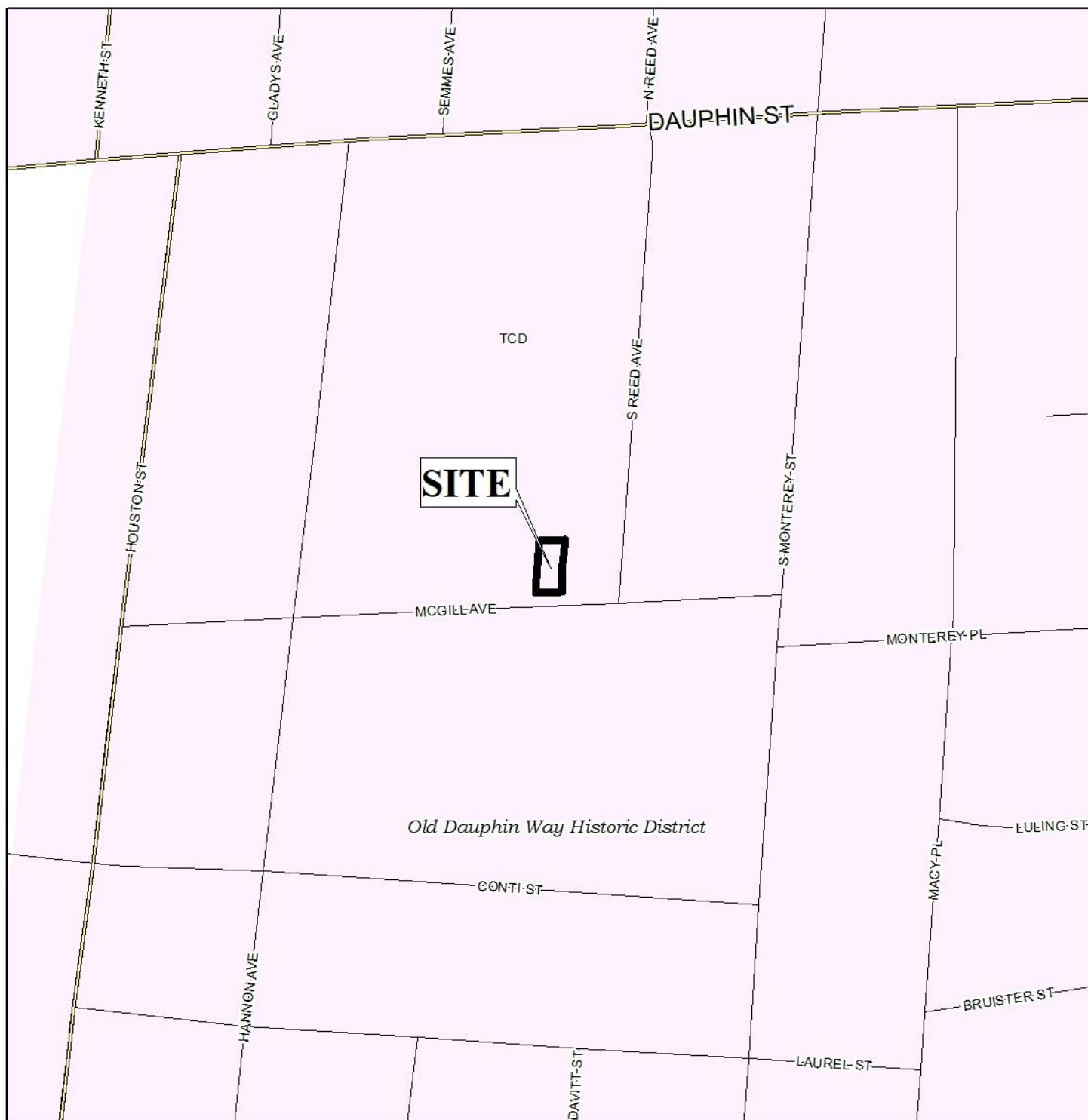
- 1) provision a residential buffer, in compliance with Section 64-4.D.1. of the Zoning Ordinance;
- 2) subject to the Engineering comments: *(If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements will require a Land Disturbance Permit 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.);*
- 3) compliance with Traffic Engineering comments: *(If surface variance is allowed, at a minimum the required handicap parking and an accessible route must be provided to the building.);*
- 4) 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; and
- 5) full compliance with all other municipal codes and ordinances.

In order for any concerns to be considered by the Board you must email your concerns to planning@cityofmobile.org or they may be uploaded to the website via the portal under the meeting date and case. Comments must be entered by 2:00 PM on Friday, September 17th, before the meeting, in order to be considered by the Board.

If you wish to participate in the meeting, you must email planning@cityofmobile.org by 2:00 PM on Friday, September 17th, before the

meeting. In accordance with the Rules of the Board of Zoning Adjustment, no more than four (4) speakers are allowed to speak for or against an application. Speaking time is limited to five (5) minutes per speaker.

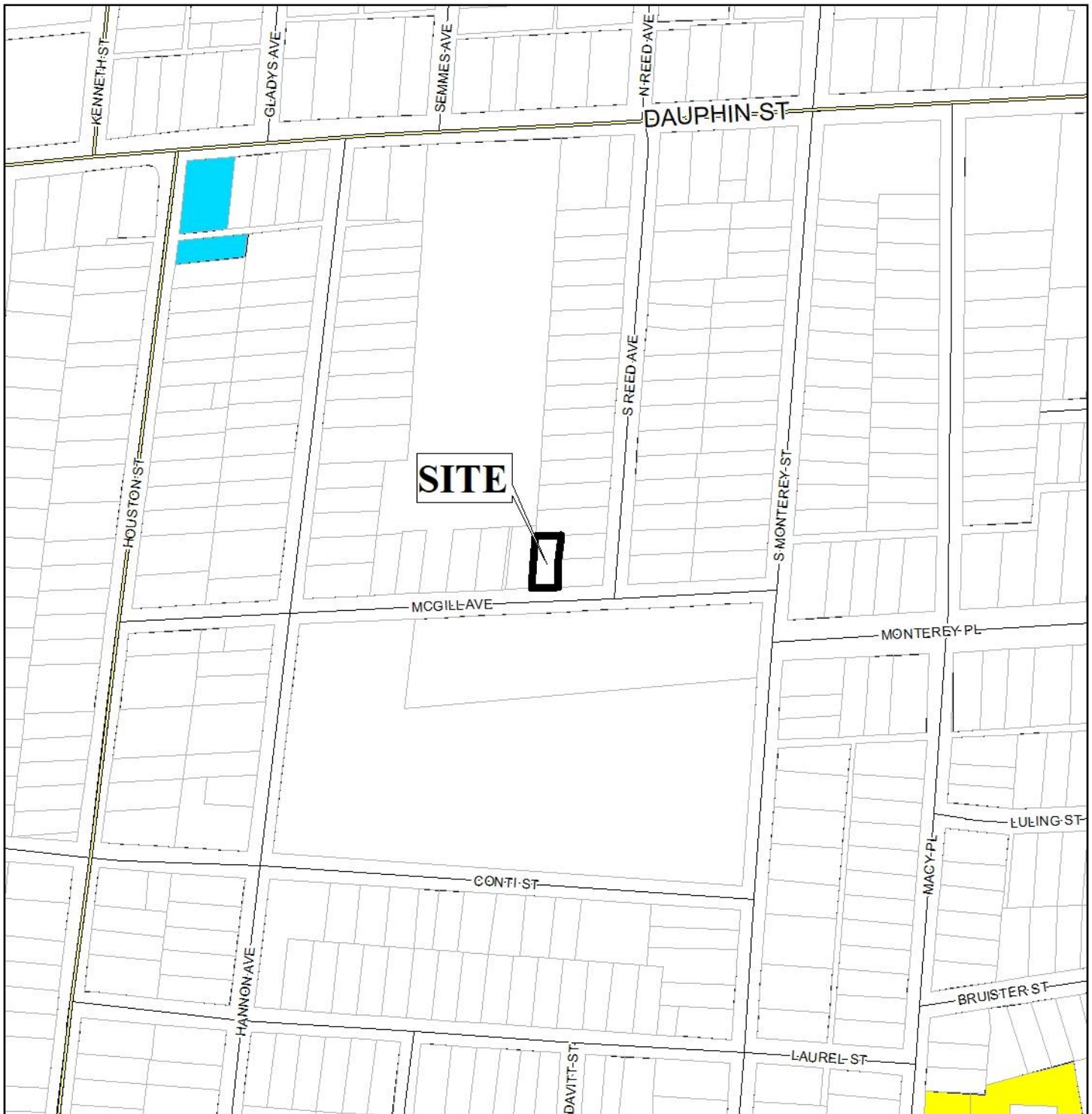
LOCATOR MAP



APPLICATION NUMBER 6413 DATE September 20, 2021
 APPLICANT Reilly Terrell
 REQUEST Parking Surface and Landscaping/Tree Planting Variances



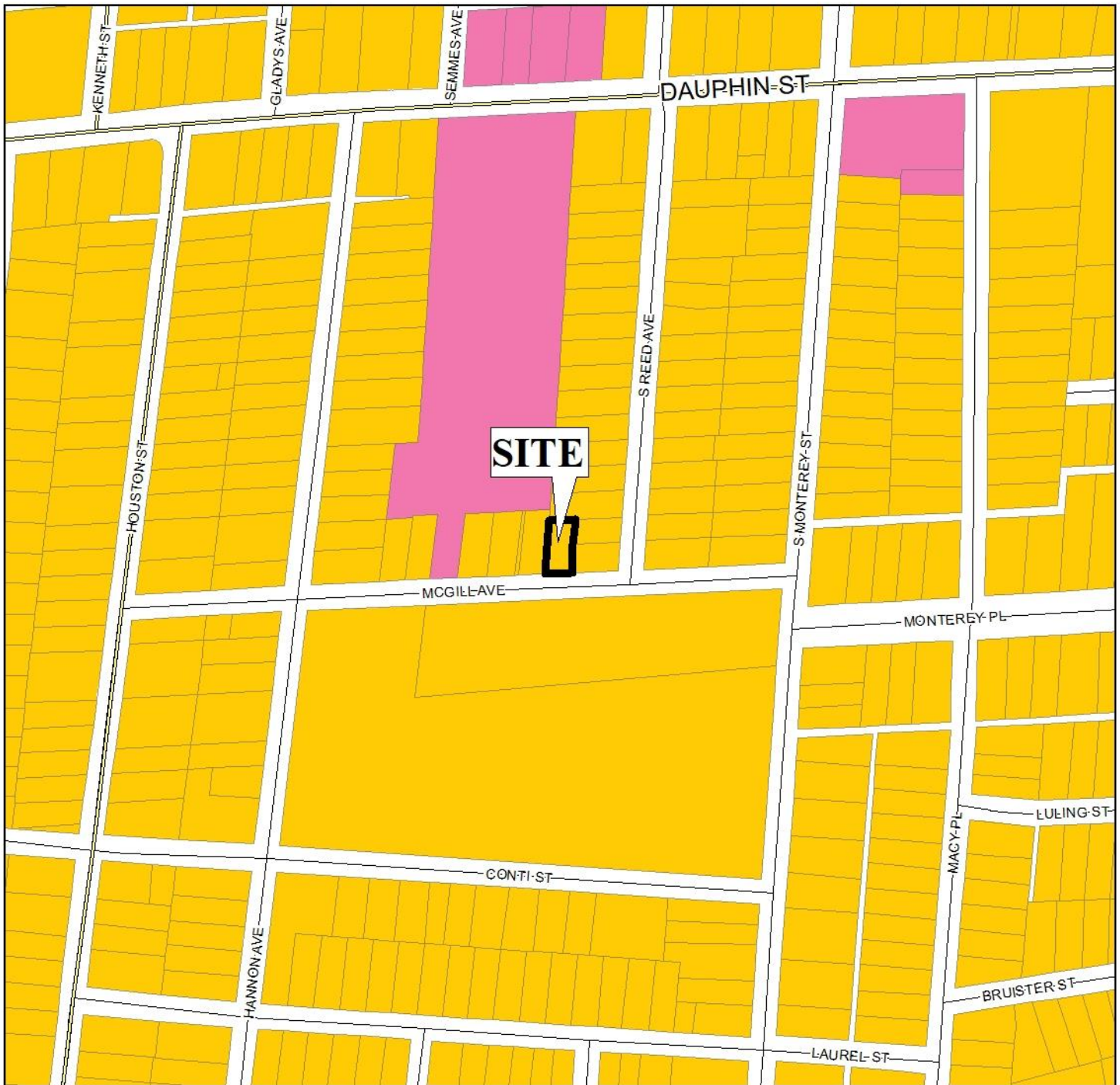
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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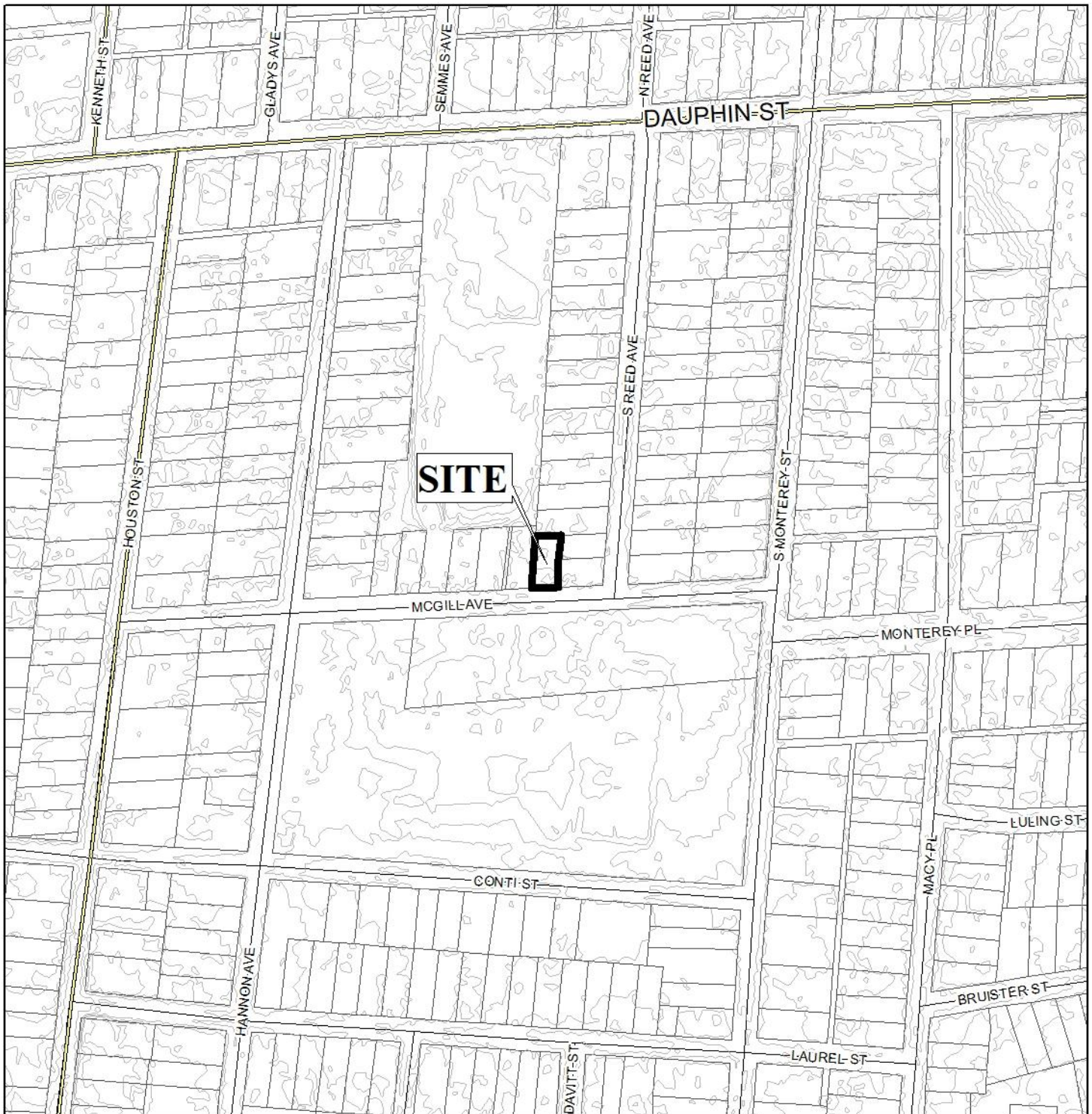
APPLICANT Reilly Terrell

REQUEST Parking Surface and Landscaping/Tree Planting Variances

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

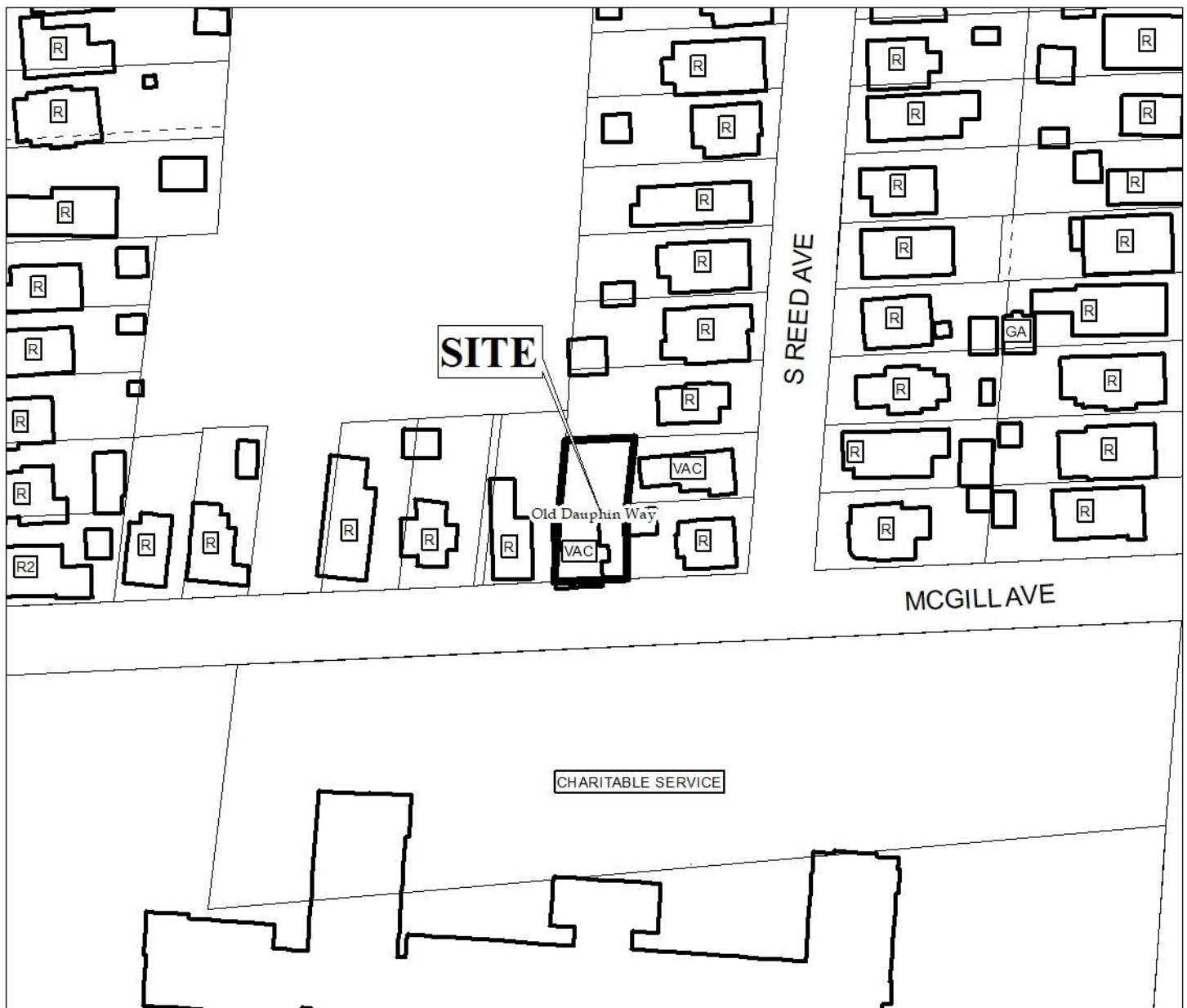


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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units and a charitable service to the south.

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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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

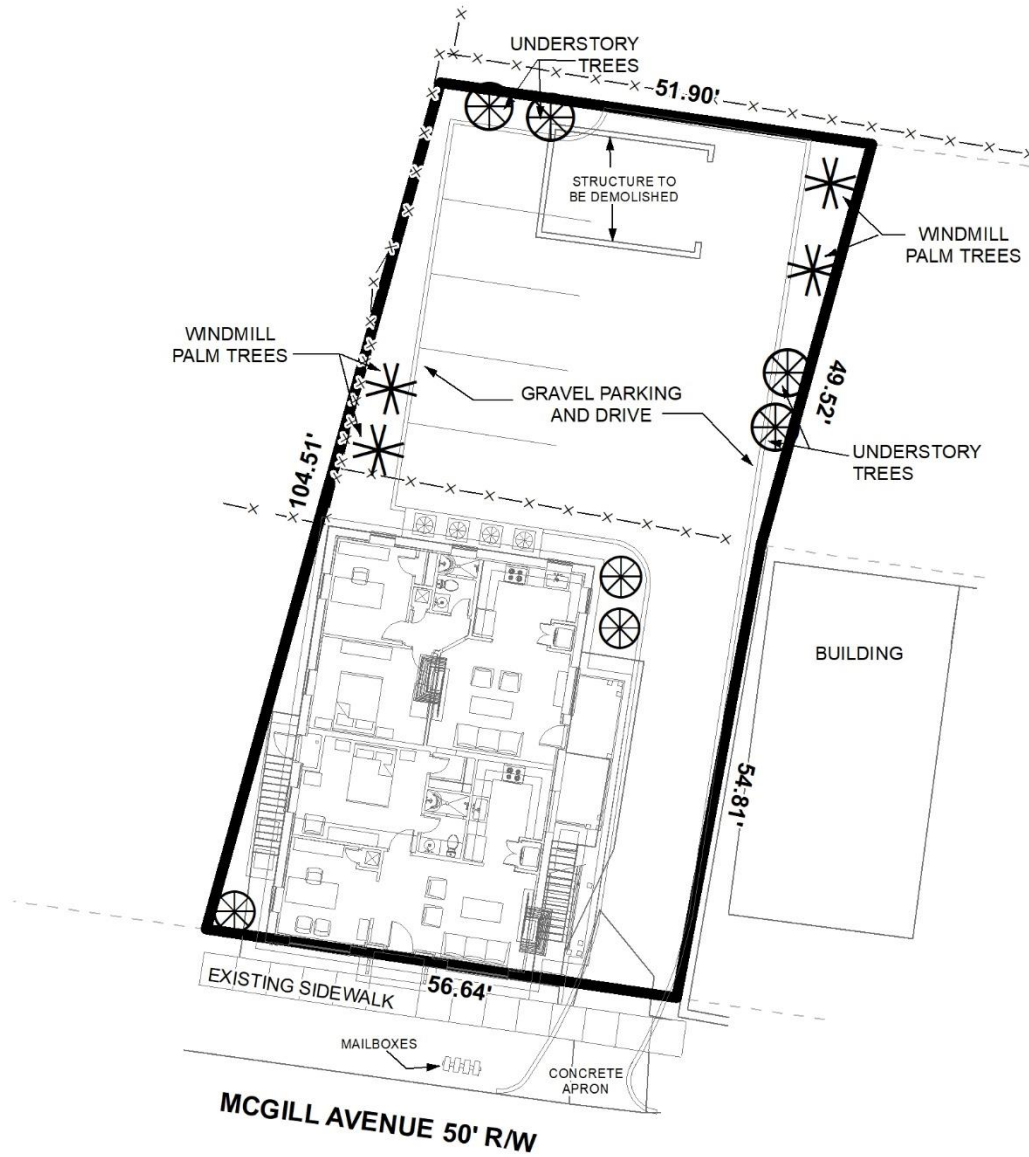


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SITE PLAN



The site plan illustrates existing buildings, proposed parking area and landscaping.

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