

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 6, 2023****CASE NUMBER**

6495

APPLICANT NAME

Tymon D. Wallace

LOCATION

962 Dr. Martin Luther King, Jr. Avenue
(North side of Dr. Martin Luther King, Jr. Avenue, 155'±
West of Davidson Street).

VARIANCE REQUEST

PARKING RATIO: To allow no required on-site parking
in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires
compliant parking on-site in a B-3, Community Business
District.

ZONING

B-3, Community Business

AREA OF PROPERTY

0.14± Acre

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

Traffic Engineering is assuming that the tenant will utilize the curb space adjacent to the building for short-term parking. There have historically been "NO PARKING" signs in the right-of-way that prohibited parking immediately in front of this building. They coincided with a school crosswalk. The signs (including the crosswalk sign) were never relocated when the crosswalk was relocated to the west. The signage has since been removed that prohibits parking. In keeping with the on-street parking that is acceptable in the area to the west of this site and along similar cross sections of Martin Luther King Jr. Ave, there is no objection from Traffic Engineering to allow parking along the curb in this area. It should be noted that a pending phase of the Broad St TIGER project will reconstruct this roadway. The typical section may change and designated on-street may be created in leu of the parking that is allowed in the travel lanes. These future changes may have an impact on the availability of parking immediately adjacent to this building. On-street parking cannot be signed or reserved for explicit use by any business or property owner.

**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-RESCUE DEPARTMENT

COMMENTS

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 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 a Parking Ratio Variance to allow no required on-site parking in a B-3, Community Business District; the Zoning Ordinance requires compliant parking on-site in a B-3, Community Business District.

The site has been given a Traditional Corridor land use designation 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. This land use designation applies mostly to transportation corridors east of Interstate 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).

Traditional Corridor designations, depending on their location (and as allowed by specific zoning), 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 multi-family 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.

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:

MAY THIS DOCUMENT SERVE AS A DETAILED DESCRIPTION FOR VARIANCE REQUESTED TO HAVE OFF-SITE PARKING. THE EXISTING BUILDING AT LOCATION: 962 DR MARTIN LUTHER KING, JR. AVENUE SHALL BE A TENANT BUILD-OUT FOR NEW DAYCARE. THE EXISTING BUILDING WAS A BARBERSHOP THAT WAS IN USE AND NOW IS A CHANGE OF OCCUPANCY TO A NEW DARECARE BUILDING. THE DAYCARE WILL NEED PARKING AND CURRENTLY THERE IS NOT AND HAVE NEVER BEEN ON-SITE PARKING AT LOCATION 962 DR MARTIN LUTHER KING, JR. AVENUE. THE OPTION SELECTED IS FOR OFF SITE PARKING AT LOCATION: 970 DR MARTIN LUTHER KING JR. AVENUE TO ALLOW PARKING FOR THE DAYCARE. BOTH PROPERTIES ARE OWNED BY ONE OWNER. THE EXISTING EXTERIOR BUILDING WILL REMAIN IN PLACE AND NO EXTERIOR WORK WILL BE DONE. TENANT AND OWNER IS REQUESTING OFF-SITE PARKING TO BE IN COMPLIANCE WITH THE CITY CODES.

It should be noted that the applicant's narrative was originally intended to address a request to allow off-site parking on a vacant site to the West of the subject site. However, that site did not afford sufficient space for any access and maneuvering area for vehicles, and staff determined that a Parking Ratio Variance for the subject site would be more appropriate. Although the wording in the narrative was not revised, it does emphasize that the subject site currently does not, and never has had, on-site parking.

The site is considered legal nonconforming in its parking situation as it appears to have been developed prior to the requirement for on-site parking. Vehicular parking for the site has previously been on adjacent properties owned by others, or in the street. As a Building Code change of occupancy is required for the change in use of the site from retail sales and personal services to a child day care, parking compliance is required; hence this application.

The site plan provided and aerial imagery indicate that the existing building was built spanning the width of the site. Although the rear yard of the site appears to be able to provide sufficient area for parking, the site configuration does not allow for any vehicular access to the rear. The total lack of access makes on-site parking impossible.

As per the Traffic Engineering comments, there is no objection from Traffic Engineering to allow parking along the curb in this area. It should be noted that on-street parking cannot be signed or reserved for explicit use by any business or property owner.

It seems the applicant has illustrated that a hardship would be imposed by a literal interpretation of the Ordinance with respect to requiring on-site parking, and the Board should consider this application for Approval.

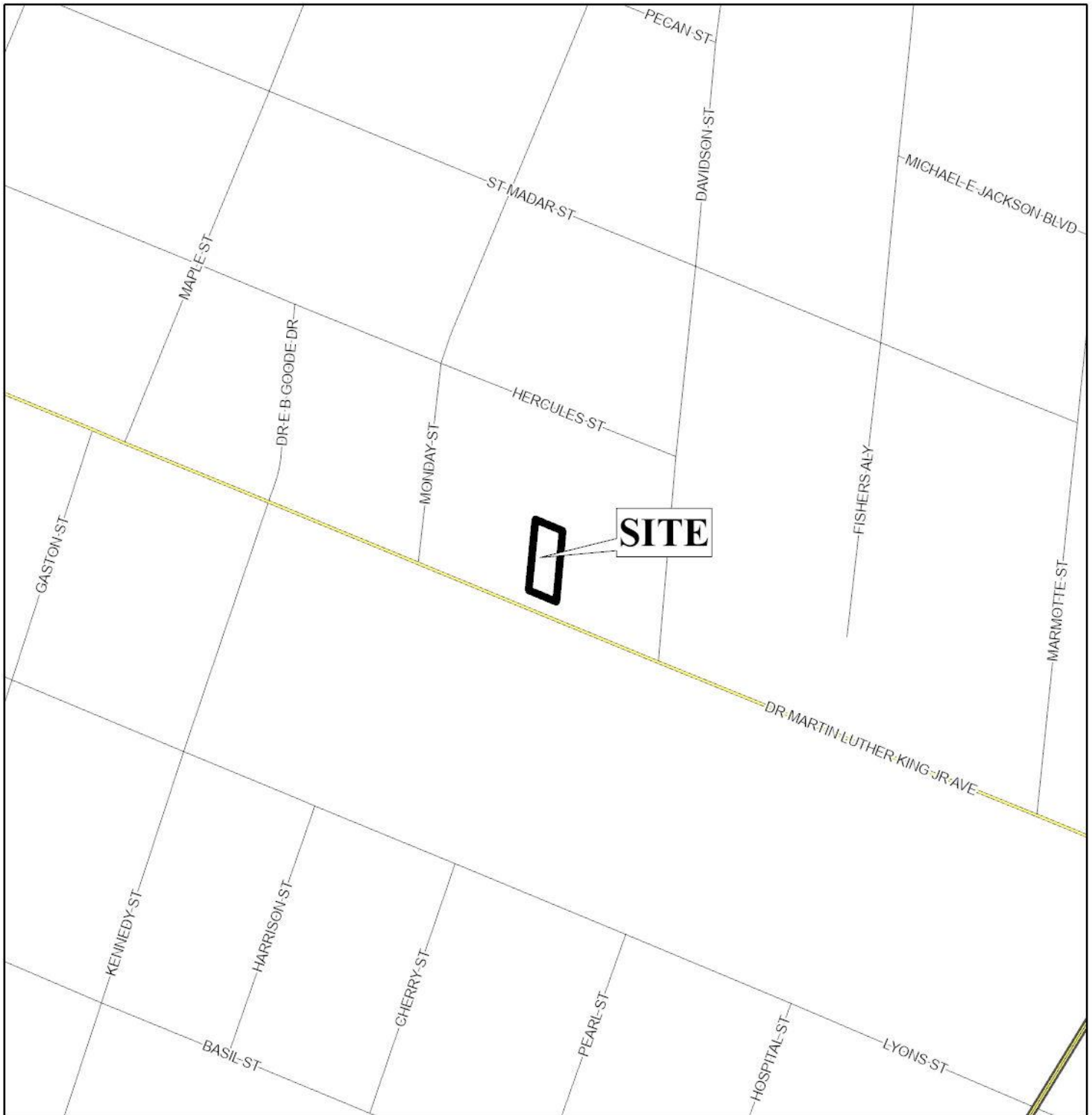
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the requests:

- 1) Approving the variance request will not be contrary to the public interest due to the fact the site was originally developed with no provision for vehicular access to the rear yard;
- 2) Special conditions exist, including the current site conditions, 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 due to the fact that the site would be re-vitalized for a viable use.

The approval is subject to the following condition:

- 1) on-street parking cannot be signed or reserved for explicit use by any business or property owner; and
- 2) full compliance with all municipal codes and ordinances.

LOCATOR MAP



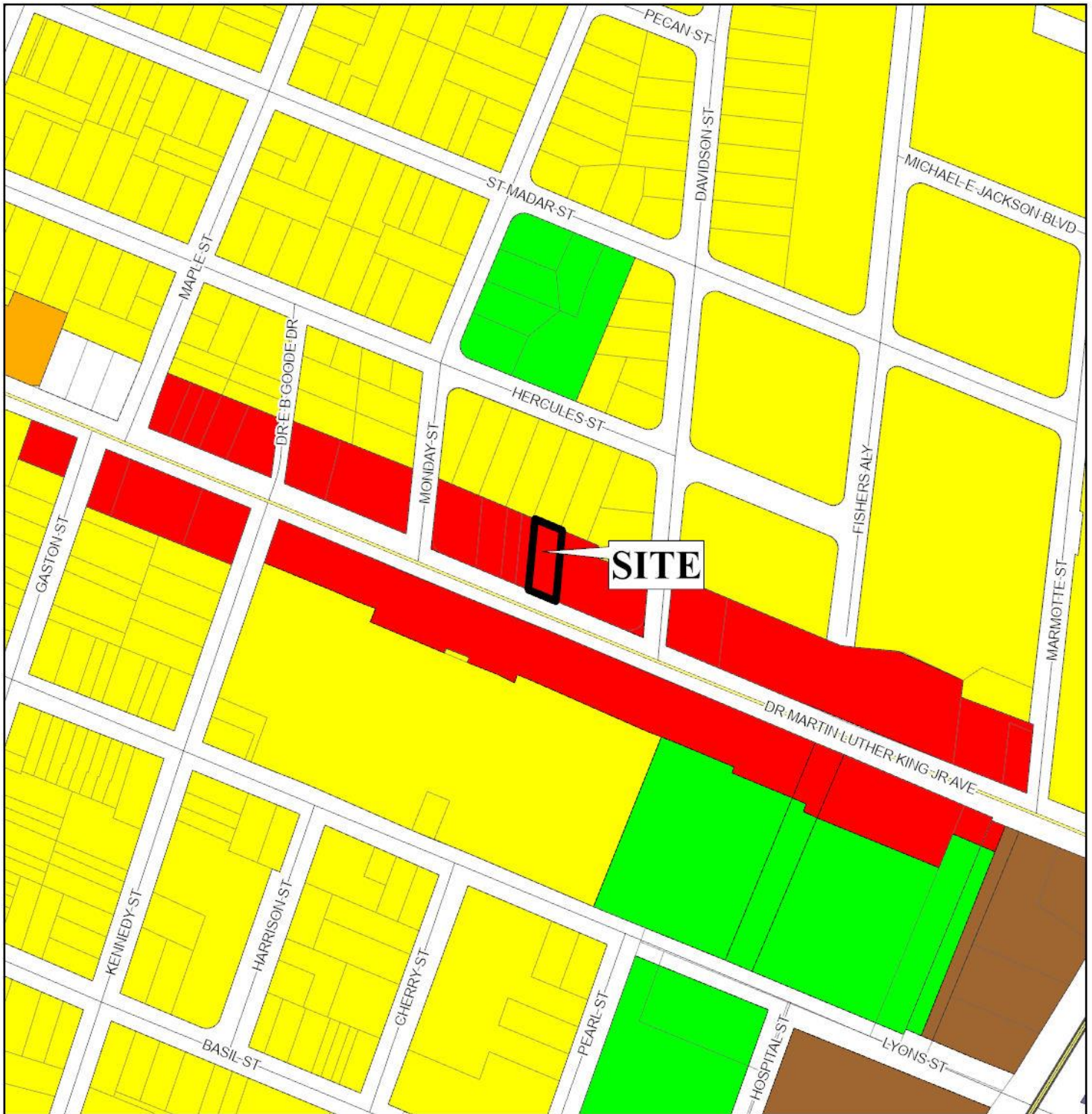
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REQUEST Parking Ratio Variance



LOCATOR ZONING MAP



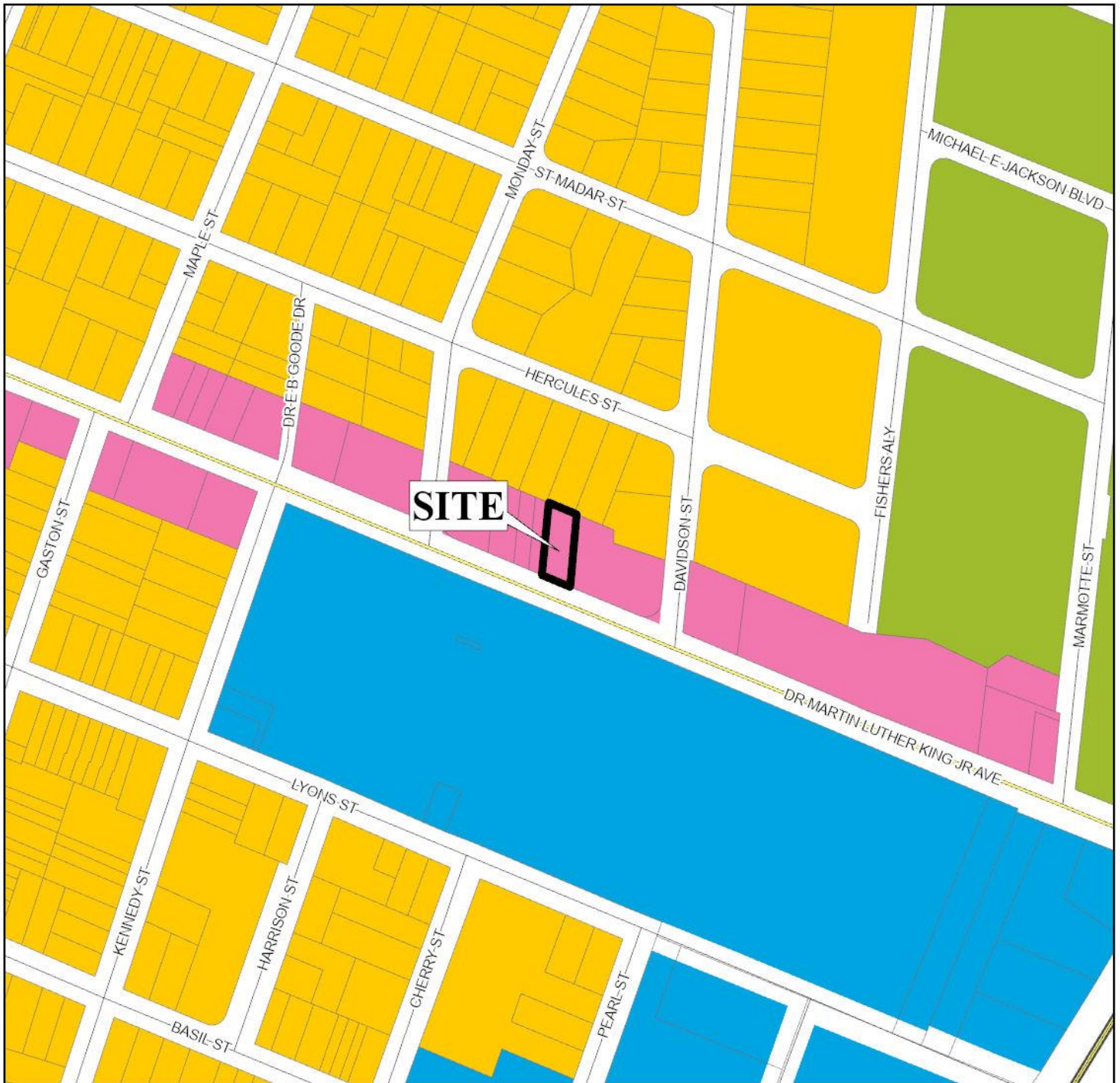
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FLUM LOCATOR MAP



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FLUM

Low Density Residential
Mixed Density Residential

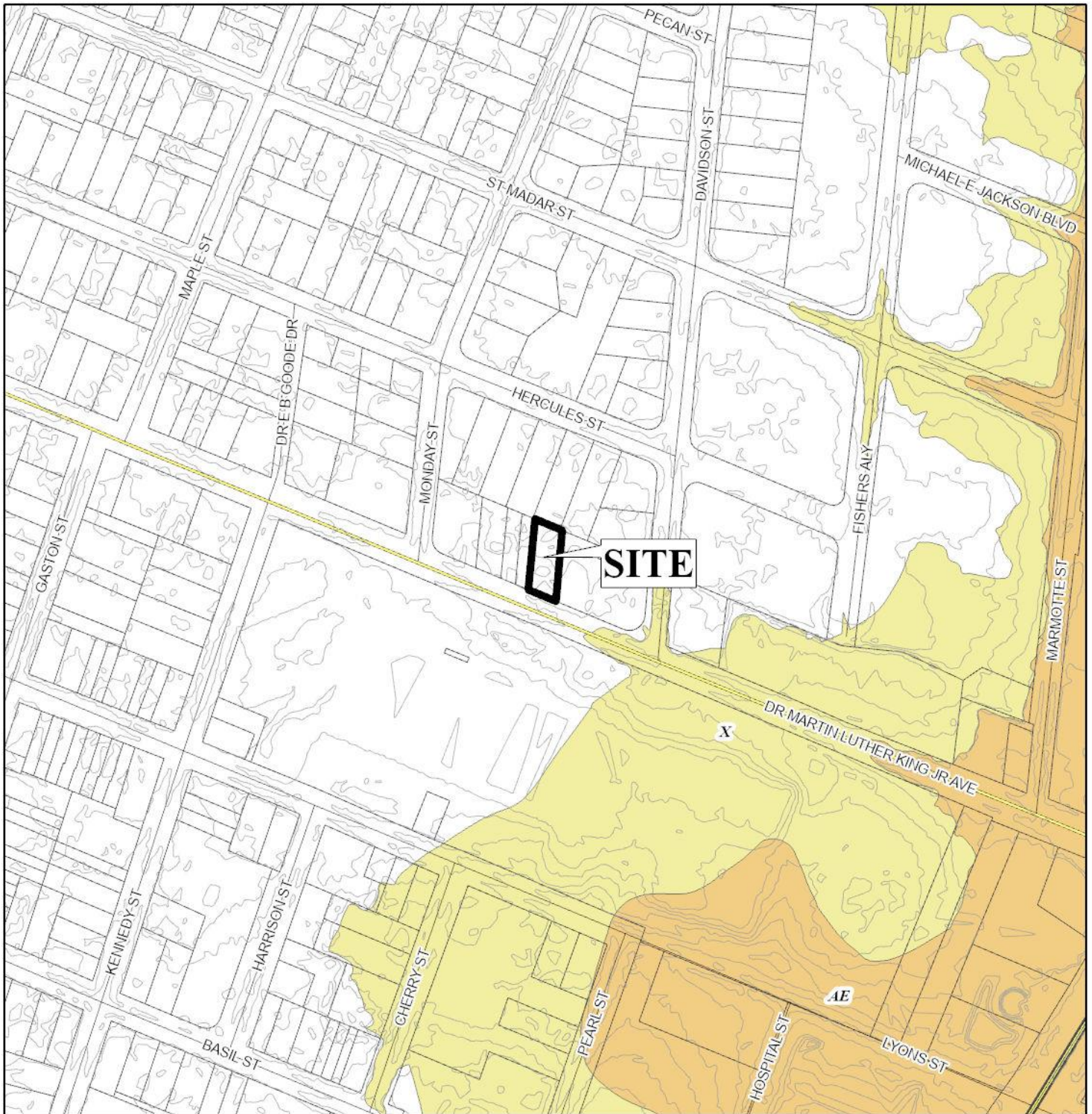
Downtown
District Center
Neighborhood Center - Traditional
Neighborhood Center - Suburban

Traditional Corridor
Mixed Commercial Corridor
Downtown Waterfront
Light Industry

Heavy Industry
Institutional
Parks & Open Space
Water Dependent



ENVIRONMENTAL LOCATOR MAP



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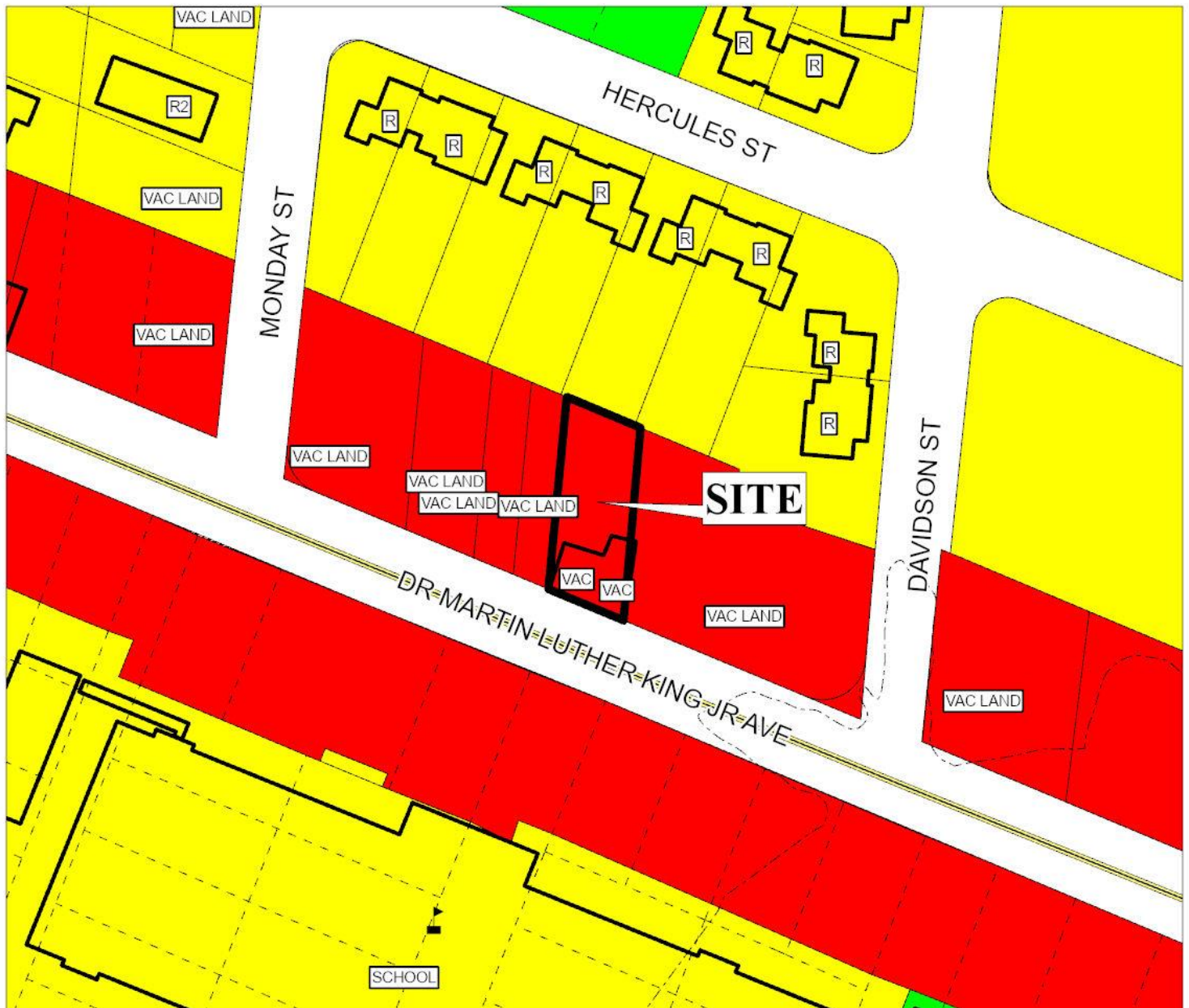
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by vacant land and residential units.
A school lies directly south from the site.

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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



The site is surrounded by vacant land and residential units.
A school lies directly south from the site.

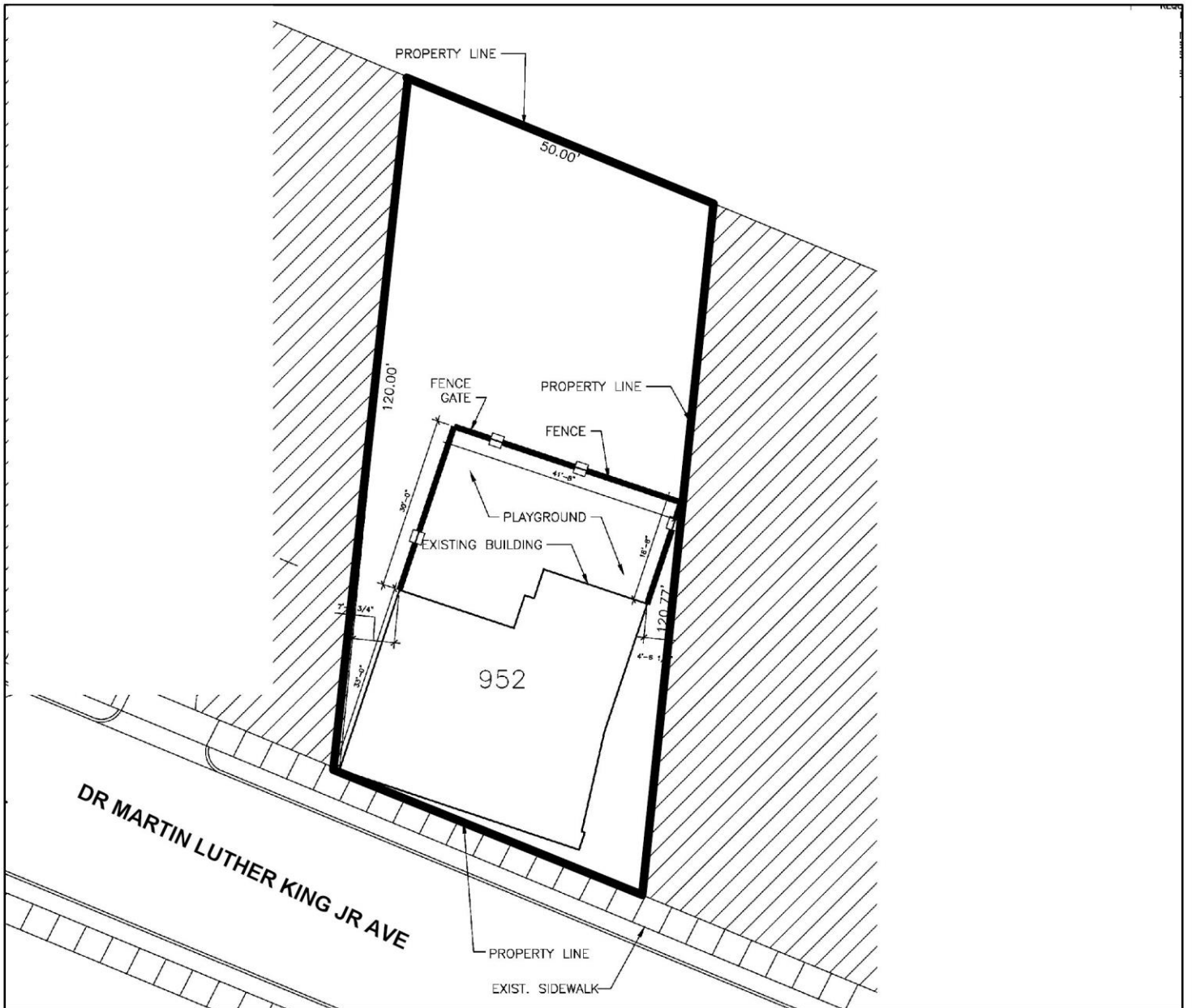
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SITE PLAN



The site plan illustrates the existing building, and property boundary.

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