



Agenda Item # 6

BOA-003733-2026

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

1856 Old Shell Road

Applicant / Agent:

Kari Givens, Byrd Surveying, Inc.

Property Owner:

Jerald D. Bates, Jr., Old Shell Real Estate

Current Zoning:

R-1, Single-Family Residential Urban District

Future Land Use:

Mixed Density Residential

Case Number(s):

6760

Unified Development Code (UDC) Requirement:

- The UDC does not allow a real estate office to operate in an R-1, Single-Family Residential Urban District and requires full compliance with residential buffer requirements as well as the provision of compliant access and maneuvering areas.

Board Consideration:

- Use, Residential Buffer, and Access & Maneuvering Variances to allow a real estate office with no residential buffer along a portion of the East property line and with non-compliant access and maneuvering to operate in an R-1, Single-Family Residential Urban District.

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER <u>6750</u> DATE <u>June 1, 2026</u>
APPLICANT <u>Byrd Surveying</u>
REQUEST <u>Use, Residential Buffer, and Access & Maneuvering Variances</u>



SITE HISTORY

The site was originally part of the *Louis Touart Tract* subdivision, the plat of which was recorded in the Mobile County Probate Court in April 1897.

In June 1906, Lots 18 through 32 of the subdivision were resubdivided and recorded in Probate Court as the *Mechem & Bixlers Subdivision of Lots 18 to 32 of the Louis Touart Tract* subdivision.

The property was annexed into the City of Mobile in 1923 and is currently developed with a single-family dwelling and a small accessory structure.

There are no prior Planning Commission or Board of Zoning Adjustment cases associated with the site.

STAFF COMMENTS

Engineering Comments:

No comments on the proposed variance. However, based on the submitted plans, the proposed project will require a Land Disturbance Permit. The site will be treated as a commercial development, and any increase in impervious area will require stormwater detention.

The proposed site is located within the AE FEMA Flood Zones. No filling is allowed within the SFHA without providing a “No-Rise” Certification from a licensed Alabama Professional Engineer.

Traffic Engineering Comments:

No comments.

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 located within the City Limits of Mobile shall comply with the provisions of the City of Mobile Fire Code Ordinance, which adopts the 2021 edition of the *International Fire Code (IFC)*.

Fire apparatus access roads shall be provided to within 150 feet of all non-sprinklered commercial buildings and within 300 feet of all sprinklered commercial buildings, as measured along an approved route around the exterior of the facility.

An approved fire water supply capable of meeting the requirements set forth in *Appendices B and C* of the 2021 IFC shall be provided for all commercial buildings.

Fire hydrant placement shall comply with the following minimum standards:

- Within 400 feet of non-sprinklered commercial buildings
- Within 600 feet of sprinklered commercial buildings
- Within 100 feet of fire department connections (FDCs) serving standpipe or sprinkler systems

Although the *International Residential Code (IRC)* functions as a stand-alone document for the construction of one- and two-family dwellings and townhouses, it does not govern the design or layout of emergency access or community-level fire protection infrastructure. Therefore, residential developments must also comply with the applicable requirements of the *International Fire Code*, including, but not limited to, those listed above concerning the design, construction, regulation, and maintenance of fire apparatus access roads and fire protection water supplies.

Planning Comments:

The applicant is requesting Use, Residential Buffer, and Access and Maneuvering Variances to allow a real estate office with no residential buffer along a portion of the East property line and with non-compliant access and maneuvering to operate in an R-1, Single-Family Residential Urban District. The Unified Development Code (UDC) does not allow a real estate office in an R-1 district and requires compliance with residential buffer, access, and maneuvering standards for commercial development.

In support of the request, the applicant states that no exterior changes to the existing building are proposed and that the property will be utilized as a small real estate office with three employees and limited customer traffic. The applicant further states that most business activity is property management related, with rental payments received online or via mail, and that the proposed office would not adversely impact neighboring properties. The applicant also references Old Shell Road's designation as a Traditional Corridor and the presence of nearby commercial uses.

The application and supporting documentation are available via the link on Page 1 of this report.

The submitted site plan illustrates an approximately 8,255-square-foot site developed with an existing single-family dwelling, a small accessory shed, a 13-foot-wide driveway, and a paved parking area capable of accommodating approximately two vehicles. As proposed, the site does not comply with the commercial development standards of Article 3 of the UDC related to access, maneuvering, buffering, and overall site layout. Based on the information submitted, the site does not appear large enough to accommodate the improvements necessary to achieve compliance with commercial development requirements while maintaining the existing structures.

The property is located within an area designated Mixed Density Residential on the Future Land Use Map, which recognizes that limited office and commercial uses may exist near major thoroughfares. However, the property remains zoned R-1, Single-Family Residential Urban District and is surrounded by similarly zoned and developed single-family residential properties. While the Future Land Use designation may support limited neighborhood-serving commercial activity in certain contexts, it does not supersede the zoning regulations or eliminate the requirement for compliance with applicable development standards.

The property has historically functioned as a single-family residential property, and the applicant has not demonstrated that special conditions exist preventing continued compliant residential use of the site. No unique physical characteristics, such as unusual topography, shape, or environmental constraints, have been identified that would create an unnecessary hardship preventing compliance with the applicable zoning regulations. Rather, the request appears to stem from the desire to utilize the existing residential structure for a commercial office use without making the site improvements necessary to comply with the UDC requirements applicable to commercial development.

The Board has previously considered similar requests in the vicinity. In September 1990, the Board approved a Use Variance for a medical office at 1835 Old Shell Road, a larger site that appears capable of accommodating commercial parking, maneuvering, and buffering requirements. Conversely, in October 1982, the Board denied a Use Variance request for a chiropractic clinic at 1844 Old Shell Road, a property with dimensions more comparable to the subject site.

Article 5, Section 10-E.1. of the UDC states that the Board of Adjustment may grant a variance where the applicant demonstrates that the variance will not be contrary to the public interest, that special conditions exist such that literal enforcement of the chapter would result in unnecessary hardship, and that the spirit of the chapter will be observed and substantial justice done.

Based on the information provided, the request does not appear to demonstrate the existence of special conditions or an unnecessary hardship preventing compliant use of the property as a single-family dwelling, which is a permitted use within the R-1 zoning district and reflects the longstanding historical use of the site. Additionally, the requested variances would permit a commercial use and associated site deficiencies within a predominantly residential area without compliance with the buffering, access, and maneuvering standards intended to mitigate impacts between commercial and residential uses.

As such, based on the facts presented, the request does not appear to satisfy the criteria necessary for variance approval as established in Article 5, Section 10-E. of the Unified Development Code.

It should be noted that the proposed use may constitute a change of occupancy, which could trigger compliance with applicable Fire Code, Building Code, and other regulatory requirements. As such, if the variance request is approved, the applicant should coordinate with the Inspection Services Department to determine whether additional permits or modifications are necessary to ensure compliance with all applicable safety requirements for the proposed use.

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Code states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

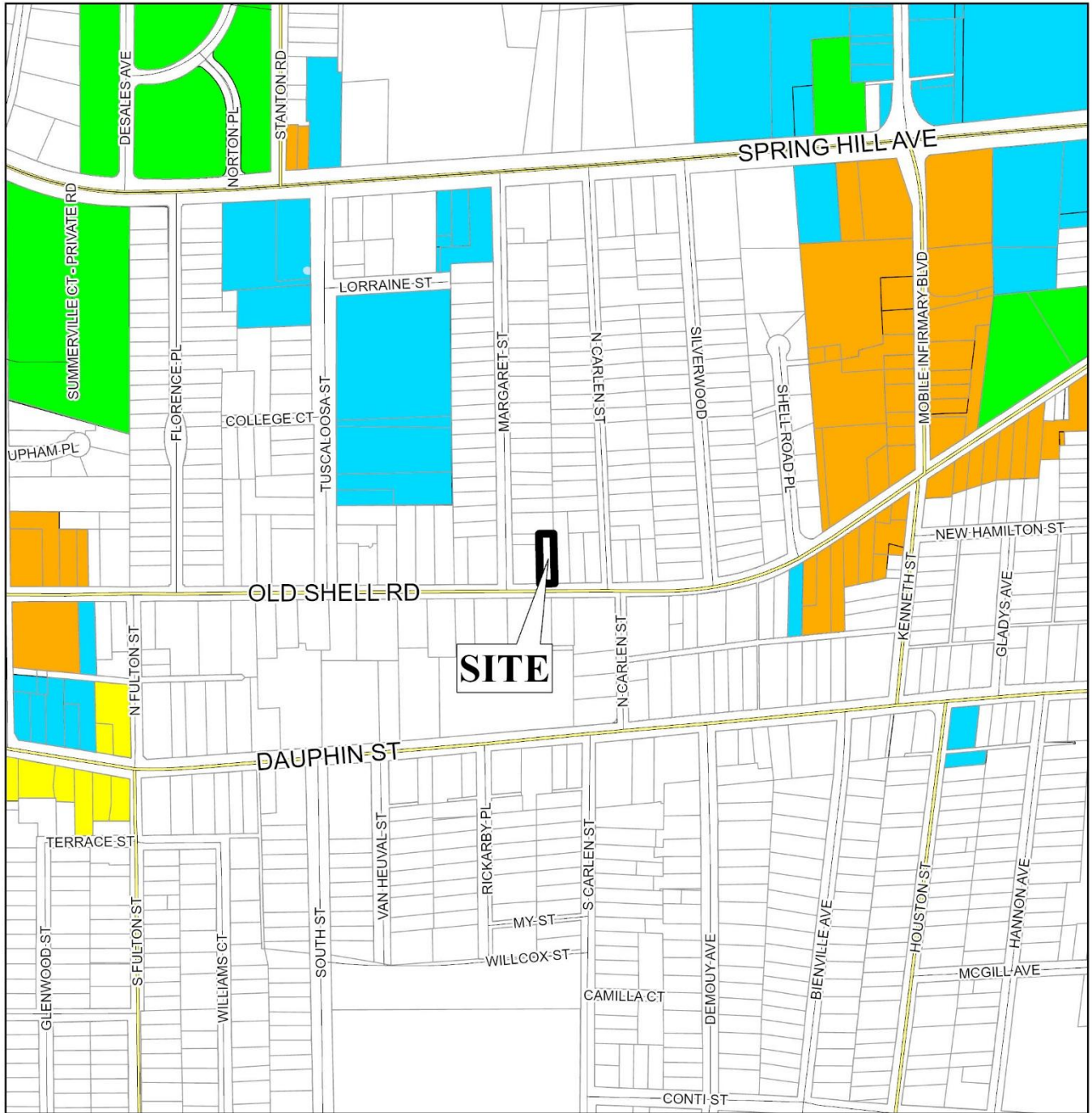
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- A) The variance **will not** be contrary to the public interest;
- B) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions should apply:

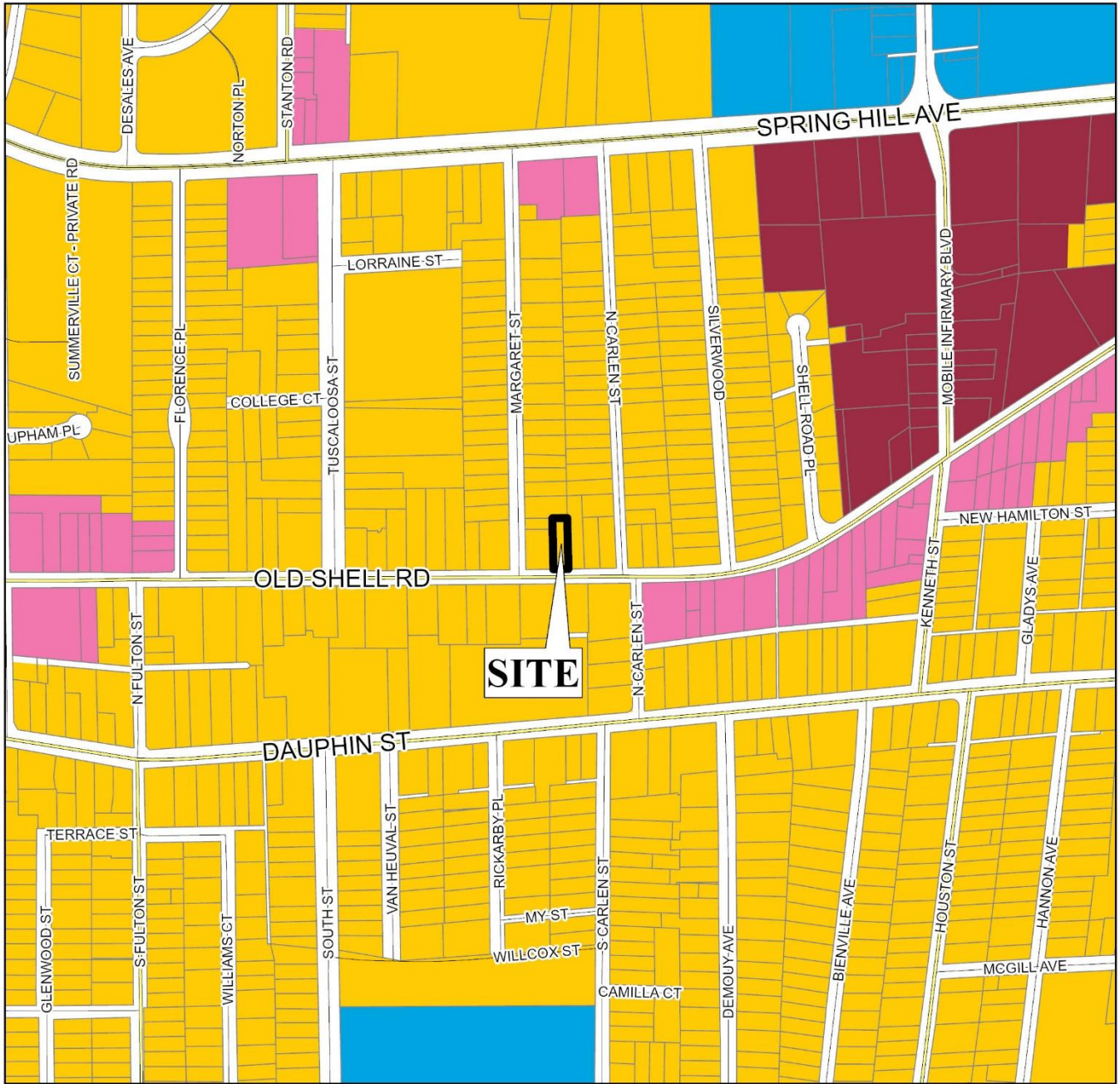
- 1) Obtain any/all required permits and inspections necessary to authorize use of the building(s) as an office, in coordination with the Inspection Services and Permitting Departments; and
- 2) Fully comply with all other codes and ordinances.

LOCATOR ZONING MAP



APPLICATION NUMBER <u>6750</u>	DATE <u>June 1, 2026</u>	 N NTS
APPLICANT <u>Byrd Surveying</u>		
REQUEST <u>Use, Residential Buffer, and Access & Maneuvering Variances</u>		

FLUM LOCATOR MAP



APPLICATION NUMBER 6750 DATE June 1, 2026
 APPLICANT Byrd Surveying
 REQUEST Use, Residential Buffer, and Access & Maneuvering Variances


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



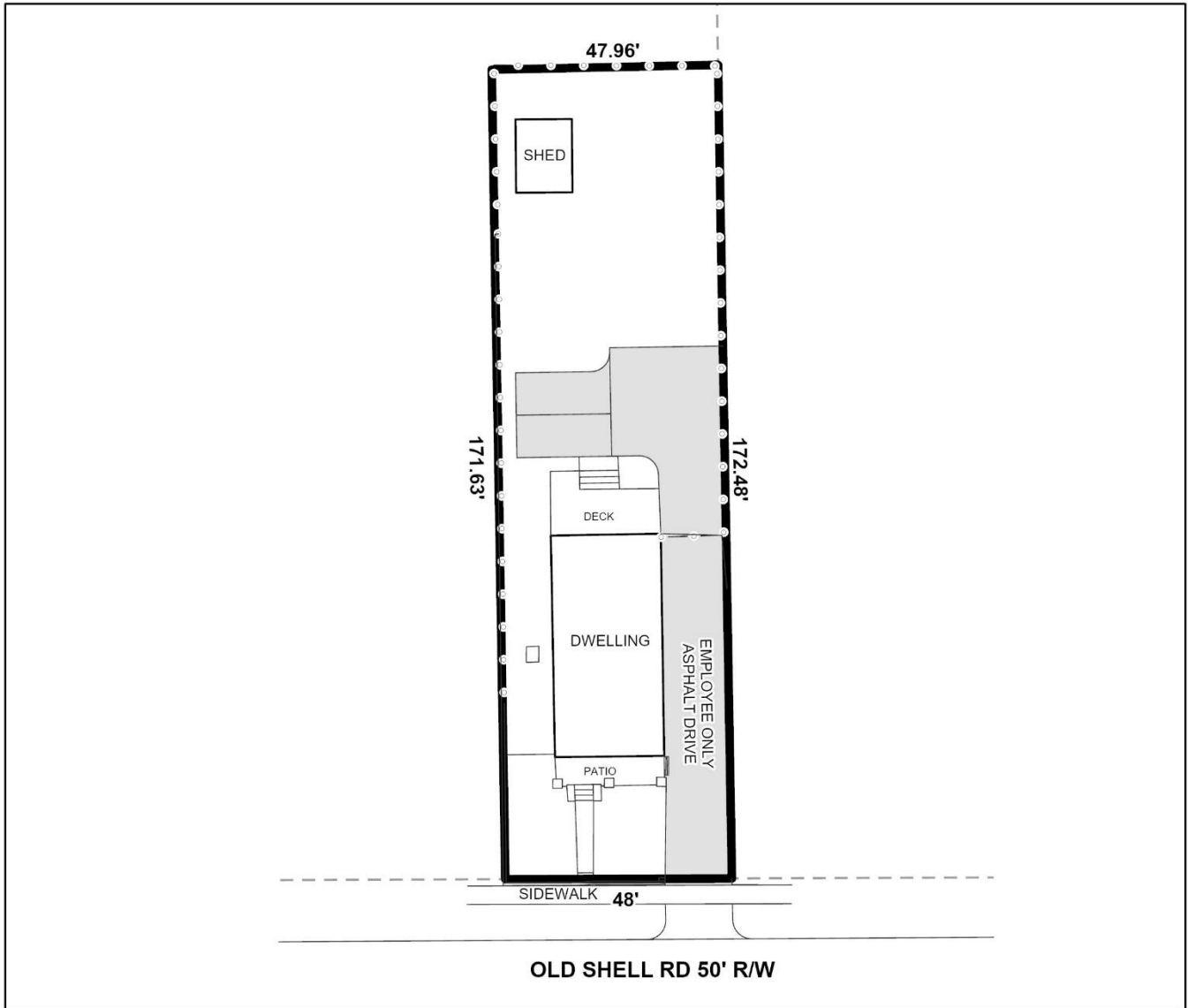
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




The site is surrounded by residential units.

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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>			 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2	 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6	 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1	
 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2																							
 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6																							
 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1																								

SITE PLAN



The site plan illustrates the current buildings, and drives.

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FUTURE LAND USE MAP CORRESPONDENCE TO ZONING

A primary purpose of the Future Land Use Map is to guide zoning decisions. In many cases the designation on the FLUM may match the existing use of land, but in others the designated land use may differ from what is on the ground today. For example, a parcel that is in commercial use today but designated as any of the “mixed use” types on the map could redevelop with a mix of residential and commercial uses (such as retail, office, entertainment, etc., depending on the location).

Each future land use designation on the FLUM will have at least one corresponding zoning district, allowing a more precise application of the FLUM based on specific local conditions. In most cases, there are multiple combinations or types of zoning techniques that can accomplish the future land use designation's objectives.

The correspondence between the FLUM and the zoning district structure is described in the matrix below. This tool gives the City the flexibility over the long-term to determine appropriate changes to the zoning map based on various factors.

The designation of an area with a FLUM land use category does not mean that the most intense zoning district consistent with that category is “automatically” assigned to a property. Instead, an area retains its existing zoning category until it is changed through a landowner-initiated rezoning application, or a rezoning that follows an area plan. This is because the FLUM is a long-term designation, while a change in zoning considers current conditions – such as market demands, availability of infrastructure, or impacts on the immediate neighborhood.

Zoning correspondence matrix

	RESIDENTIAL - AG (R-A)	ONE-FAMILY RESIDENCE (R-1)	TWO-FAMILY RESIDENCE (R-2)	MULTIPLE-FAMILY (R-3)	RESIDENTIAL BUSINESS (R-B)	HISTORIC BUSINESS (H-B)	BUFFER BUSINESS (B-1)	TRANSITIONAL BUSINESS (T-B)	LIMITED BUSINESS (LB-2)	NEIGHBORHOOD BUSINESS (B-2)	COMMUNITY BUSINESS (B-3)	GENERAL BUSINESS (B-4)	OFFICE-DISTRIBUTION (B-5)	COMMERCIAL WAREHOUSE (CW)	MARITIME MIXED (MM)	MARITIME LIGHT (ML)	MARITIME HEAVY (MH)	LIGHT INDUSTRY (I-1)	HEAVY INDUSTRY (I-2)	VILLAGE CENTER (TCD)	NEIGHBORHOOD CENTER (TCD)	NEIGHBORHOOD GENERAL (TCD)	DOWNTOWN DEV. DDD (T-6)	DOWNTOWN DEV. DDD (T-5.1)	DOWNTOWN DEV. DDD (T-5.2)	DOWNTOWN DEV. DDD (T-4)	DOWNTOWN DEV. DDD (T-3)	DOWNTOWN DEV. DD (SD-WH)	DOWNTOWN DEV. DD (SD)			
LOW DENSITY RESIDENTIAL (LDR)	■	S	S	S			O																								O	
MIXED DENSITY RESIDENTIAL (MDR)		U	U	■	■			■	■						■																O	
DOWNTOWN (DT)						■						■											■	■	■	■	■		O	O		
DISTRICT CENTER (DC)								■			U	O	O																			
NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	■	■	U	■	■	O	■	O	O	O											■	■	■									
NEIGHBORHOOD CENTER - SUBURBAN (NC-S)			S			S	■	S	S	O											■	■									O	
TRADITIONAL CORRIDOR (TC)		■	■	■	■	U	■	U	U	O																					O	
MIXED COMMERCIAL CORRIDOR (MCC)						■		■	■	■	■	■	■	■	■																	
LIGHT INDUSTRIAL (LI)													■	■	■	■				■										O	O	
HEAVY INDUSTRY (HI)																■	■	■	■											O	O	
INSTITUTIONAL LAND USE (INS)											■	■		O	O					O												
PARKS & OPEN SPACE (POS)	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	□	
WATER DEPENDENT USES (WDWRU)	■					O									■	■	■		O													

- Zoning district is appropriate to implement the future land use category.
- US Zoning district with Urban or Suburban subdistrict is appropriate to implement the future land use category.
- O Elements of the zoning district are related to the future land use category and may be appropriate with qualifications or conditions.
- Zoning district is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

Residential Land Use Areas

MIXED DENSITY RESIDENTIAL (MDR)

This designation applies mostly to residential areas located between Downtown and I-65, where the predominant character is that of a traditional neighborhood laid out on an urban street grid. These areas should offer a variety of residential types in a compact pattern at the scale of a single family neighborhood. They typically have a walkable block pattern with integrated neighborhood amenities such as parks and schools. Small office, commercial, and civic uses may also exist in these areas near major thoroughfares. Residential density ranges between 6 and 30 dwelling units per acre (du/ac) depending on the mix, types, and locations of the housing as specified by zoning.

Development Intent

- › Continue historic preservation efforts to maintain the existing neighborhood character within city-designated historic districts.
- › Support residential infill that fits-in with neighboring homes (building scale, placement, etc.). Support more intense residential infill and redevelopment adjacent to commercial or mixed use centers.

Land use mix

Primary Uses

- › Residential, Single family
- › Residential, Attached

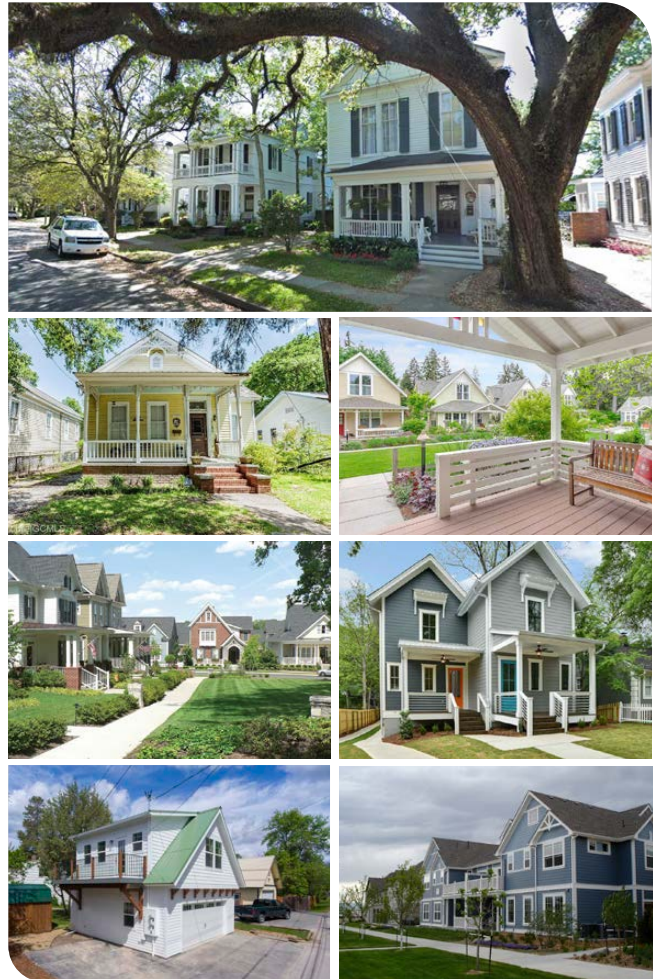
Secondary Uses

- › Residential, Multifamily
- › Commercial
- › Civic
- › Parks

Housing mix

- › Single family on small to medium sized lots
- › Attached residential such as duplexes, multiplexes, and townhomes
- › Small scale multifamily buildings

Character Example



A mixed density neighborhood may include a range of housing types and densities at a similar scale.

Rendering: Dover Kohl