

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 7, 2018****CASE NUMBER**

6177 / 3753

**APPLICANT NAME**

Dorothy I. Wells

**LOCATION**

137 Tuscaloosa Street (proposed parking lot)  
(West side of Tuscaloosa Street, 300'± South of  
Spring Hill Avenue.)  
2001 Spring Hill Avenue (existing building)

**VARIANCE REQUEST**

**ADMINISTRATIVE APPEAL:** Administrative Appeal of a staff decision to allow construction of a new off-site parking lot to accommodate an existing medical clinic in a B-1, Buffer Business District; the Zoning Ordinance allows the construction of off-site parking to accommodate existing medical clinics in a B-1, Buffer Business District.

**ZONING ORDINANCE  
REQUIREMENT****ZONING**

B-1, Buffer Business District

**AREA OF PROPERTY**

2 lots / 73,739 ± square feet / 1.7 ± acres  
Parking lot site: 38,967 ± square feet / 0.9 ± acres

**CITY COUNCIL  
DISTRICT**

District 1

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**URBAN FORESTRY  
COMMENTS**

No comments.

**FIRE  
COMMENTS**

No comments

**ANALYSIS**

The applicant is requesting an Administrative Appeal of a staff decision to allow construction of a new off-site parking lot to accommodate an existing medical clinic in a B-1, Buffer Business District; the Zoning Ordinance allows the construction of off-site parking to accommodate existing medical clinics in a B-1, Buffer Business District.

**Please note**, the “existing medical clinic” is currently a **vacant** building. The building was previously used as a medical clinic, and the current owner intends to renovate the building and utilize the building as a medical clinic. The proposed parking lot would serve the proposed medical clinic.

The site was initially approved for a new parking lot as part of a two lot Planned Unit Development, at the December 21, 2017 meeting of the Planning Commission. The appellant filed an appeal with the City Clerk regarding the Planning Commission decision, on January 3, 2018.

The first hearing of the City Council of the appeal occurred on January 30, 2018. On February 27, 2018, the City Council approved the appeal, thus the PUD approval was reversed.

The attorney for the City Council noted, during the consideration of the appeal before them, that the Zoning Ordinance had a provision for allowing parking to be provided off-site from the main building location, without the need for a PUD.

The section in question, *Section 64-6.A.7. Special plan for location or sharing of (parking) facilities*, is provided below:

7. ***Special plan for location or sharing of facilities.*** Under the standard provisions of this chapter, off-street parking facilities are required to be provided on the same building site as the use or structure for which the facilities are provided in an amount based on the listed requirement for the individual use or structure. Pursuant to the procedure hereinafter set forth, either part or all of the required off-street parking facilities may be located on a site other than the one occupied by the use or structure for which the facilities are provided; also, two (2) or more uses may share off-street parking facilities and each of such uses may be considered as having provided space individually.
  - a. *Limitations on separation from use.* In B-4 districts and R-B districts off-street parking facilities may be located on a separate site from the building site on which the use is located, provided such separate site is no farther from the building site of the use for which provided than one thousand two hundred (1,200) feet in the case of a B-4 district or five hundred (500) feet in the case of an R-B district; all such distances shall be measured along the most direct line of walking along public streets from the nearest point of the separated off-street parking facilities. No such separated parking facilities shall be located within an R-1, R-2, or R-3 district, and no such separated parking facilities shall be located within an R-B district except those required for uses in the district.
  - b. *Limitations on sharing facilities.* No use shall be considered as individually having provided off-street parking facilities which are shared with one (1) or more other

- uses unless the schedules of operation of all such uses are such that none of the uses sharing the facilities require the off-street parking facilities at the same time as any other uses sharing them.
- c. *Application for approval of special plan.* An application for approval of a special plan hereunder shall be filed with the municipal building inspector by the owner or owners of all structures then existing on such land area, and, additionally, shall contain sufficient evidence to establish that the applicants have the right of possession to the land area and structures. The application shall contain such information required by this ordinance or deemed necessary by the inspection services department and shall include plans showing the location of the uses or structures for which off-street parking facilities are required and the location at which the off-street parking facilities are proposed to be located.
  - d. *Review of applications.* Applications hereunder shall be reviewed by the inspection services department and either approved or disapproved within thirty (30) days; and approval may establish conditions and limitation.
  - e. *Filing of special plan.* Upon approval of a special plan, a copy of such plan shall be filed among the records of the inspection services department and shall thereafter be binding upon the applicants, their heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures included within such special plans to all conditions and limitations specified in such plans and the approvals thereof.
  - f. *Amendment or withdrawal of special plan.* Pursuant to the same procedure and subject to the same limitations and requirements by which the special plan was approved and filed, any special plan may be amended or withdrawn, either partially or completely, if all land and structures remaining under such special plan comply with all the conditions and limitations of the special plan and all land and structures withdrawn from such special plan comply with all regulations established by this chapter and are unrelated to the special plan.

The owners of the proposed clinic submitted an application for a “Special Plan” on March 7, 2018. The application was approved by staff on March 8, 2018, and a letter noting the approval was sent out on that date. A “correction letter” was sent out on March 26, 2018 to property owners within 300 feet of the site, and is reproduced as follows:

*This letter is to advise adjacent property owners of 137 Tuscaloosa St that pursuant to Chapter 64.VI.A.7, Special Plan for Location of Sharing of Parking Facilities, has been submitted.*

*DEVELOPMENT NAME      PAM Midtown*

*LOCATION OF USE            2001 Spring Hill Avenue  
(Southwest corner of Spring Hill Ave and Tuscaloosa St)*

*PARCEL NUMBER            R022907540004172*

*TYPE OF USE*            *Doctors Office*

*HRS OF OPERATION*        *8am-5pm*

*ZONING REQUIRED*           *B-1*

*BLD SQ FT*                *11, 566 sq ft*

*PARKING REQUIRED*        *39*

*LOCATION OF PARKING*    *137 Tuscaloosa St*  
*(West side of Tuscaloosa St, 300'+ South of Spring Hill Ave).*

*PARCEL NUMBER*    *R022907240004173*

*EXISTING USE*                *N/A*

*SQ FT*                        *N/A*

*HOURS OF OPERATION*    *N/A*

*DISTANCE FROM USE*       *66'*

*ZONING OF SITE*            *B-1*

*PARKING REQUIRED*        *N/A*

*PROPOSED OFF SITE/*       *59*  
*SHARED*

*Based upon the plan submitted and the provisions of 64.VI.A.7, the Special Plan for Location or Shared Parking was approved on March 8, 2018, subject to the following limitations:*

- 1. provision of a photometric plan in compliance with Section 64-6.A.8. of the Zoning Ordinance at the time of permitting, lighting fixtures to be full cutoff, dark sky compliant, with a maximum height of 12';*
- 2. trees to be "saved" as illustrated on the Special Plan, and provision of a Tree and Landscaping plan in compliance with Section 64-4.E.3. of the Zoning Ordinance at the time of permitting;*
- 3. provision of an 8' wooden, shadow-box, privacy fence along the South and West property lines where the site abuts residential properties;*
- 4. compliance will all municipal codes and ordinances, including but not limited to Chapter 57 of the Mobile City Code;*

5. *compliance with 64.VI.A.7. f. and g. (f. Filing of special plan. Upon approval of a special plan, a copy of such plan shall be filed among the records of the inspection services department and shall thereafter be binding upon the applicants, their heirs, successors and assigns, shall limit and control the issuance and validity of permits and certificates and shall restrict and limit the use and operation of all land and structures included within such special plans to all conditions and limitations specified in such plans and the approvals thereof. And g. Amendment or withdrawal of special plan. Pursuant to the same procedure and subject to the same limitations and requirements by which the special plan was approved and filed, any special plan may be amended or withdrawn, either partially or completely, if all land and structures remaining under such special plan comply with all the conditions and limitations of the special plan and all land and structures withdrawn from such special plan comply with all regulations established by this chapter and are unrelated to the special plan.) \*Plan to be filed with the Planning and Zoning Department.*

***Any party aggrieved by this decision may, within 30 days days of the date of the decision, appeal to the Board of Adjustment by filing a written notice of Administrative Appeal, specifying the administrative decision from which the appeal is taken.***

The appellant filed the Administrative Appeal on April 5, 2018. She provided the following narrative with her appeal:

*I received a letter dated March 26, 2018 to advise adjacent property owners of 137 Tuscaloosa Street that pursuant to Chapter 64. VI.A.7 Special Plan for Location of Sharing of Parking Facilities, has been submitted.*

*(Please note: that my back yard property abuts/ajoins the back yard of 137 Tuscaloosa Street where PAM application wants to turn 137 Tuscaloosa Street into a paved parking lot.)*

*I am aggrieved by this decision, thus, I am appealing to the Board of Adjustment with written notice of Administrative Appeal.*

*I have lived on beautiful and picturesque Florence Place for the past 40 years and want to emphasize to the City of Mobile additional objections as follows:*

1. *Storm Water Runoff concerns (my property is on a slant) and water drains from my back yard towards Florence Place; a pave parking at 137 Tuscaloosa Street would cause severe flooding on my property. I see no mention of requirements to be met prior to issuing permits.*
2. *Depreciation of home property values.*
3. *Noise: people talking, vehicle doors opening and closing, sounds when, car alarms, sounds when vehicles are locked and unlocked.*
4. *I work the night shift as a Med Tech and sleep during the day; noise will interrupt*

- my sleep.*
5. *The dumpster attracts rodents and unwanted visitors which creates health and safety issues.*
  6. *Medical facilities can be robbed and a fast exit would be through my back yard endangering my life as well as others.*
  7. *Traffic issues on Springhill Ave and Tuscaloosa Street.*
  8. *I, as well as others, did not receive the proper required notices in 1990 (property lying within a distance of 300' when 137 Tuscaloosa Street was rezoned? from R-1 to B-1. Protocol was not followed; a deposition needs to be obtained to those property owners to document that they did not receive the said notices which will prove that the rezoning application dated, 3-16-1990 to B-1 is incomplete concluding to be NULL&VOID.*

The role of the Board of Zoning Adjustment regarding appeals is defined in Sections 64-8.B.4. and 6.f. of the Zoning Ordinance, and is provided below:

4. ***Appeals to board of adjustment.*** Appeals to the board of adjustment created by virtue of Section 11-52-80 of the 1975 Code of Alabama, as amended, may be taken by any person aggrieved or by any officer, department or board of the city affected by any decision of the zoning administrator with respect to the administration or enforcement of this chapter.
  - a. ***Procedure.*** Such appeal shall be taken by filing with the zoning administrator and with the board of adjustment within the time provided by the rules of the board, a notice of appeal specifying the particular grounds upon which the appeal is taken. Upon receipt of a notice of appeal, the zoning administrator shall transmit to the board of adjustment all of the original documents and materials, or true copies thereof, constituting the record upon which the order or decision appealed from was based.
  - b. ***Effect of appeal.*** An appeal from any order or decision of the zoning administrator to the board of adjustment shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board of adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application on notice to the zoning administrator and on due cause shown.
6. ***Board of adjustment.***
  - f. ***Powers of the board.*** Subject to the limitations enumerated herein, the board shall have and exercise the following powers; in the exercise of its powers the board may reverse or affirm, in whole or in part, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and, to that

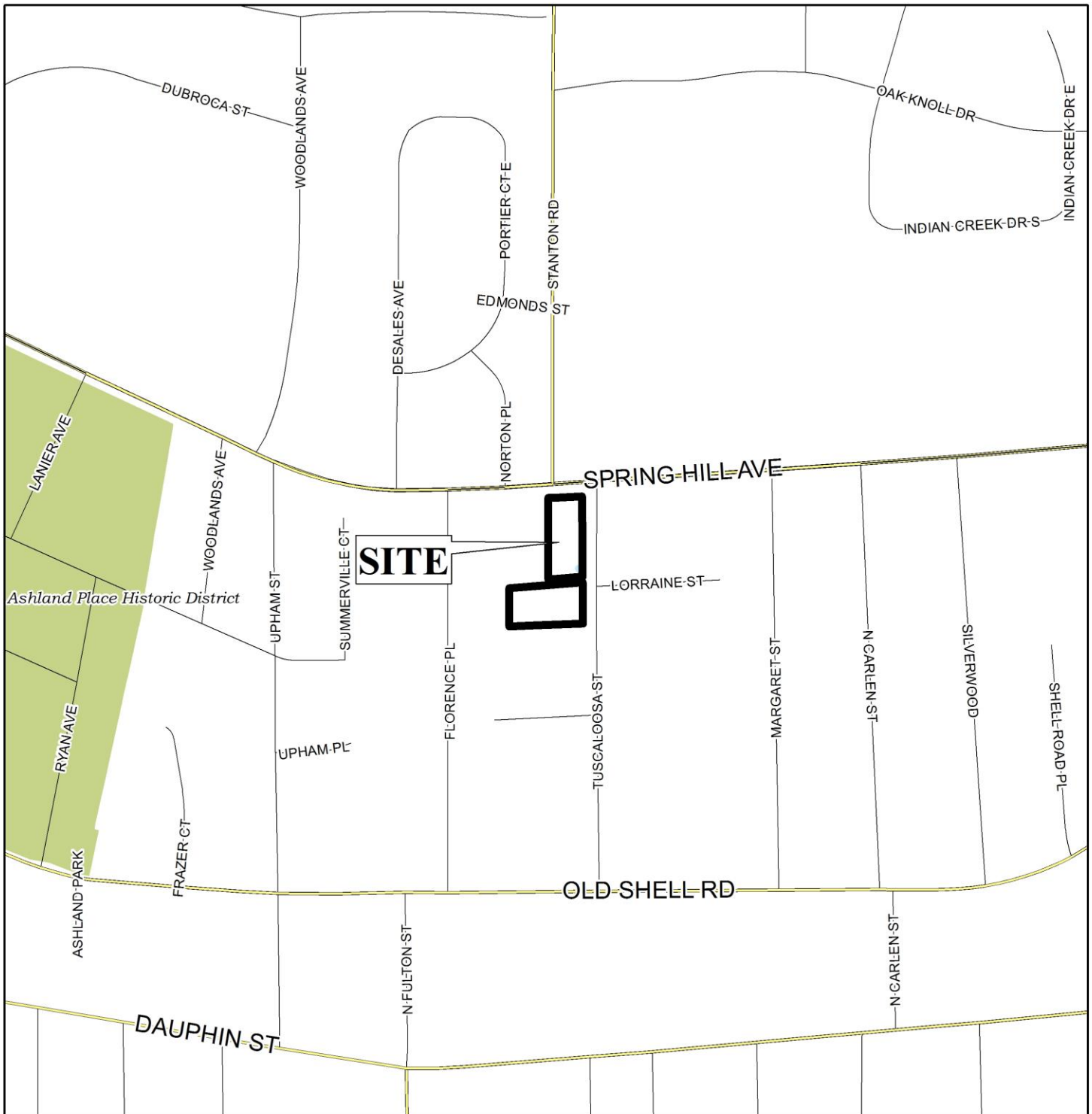
end, shall have all of the powers of the officer or department from whom the appeal is taken:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the zoning administrator or other administrative office in the enforcement of this chapter or of Article 4, Section 11-52-70 et seq., of the 1975 Code of Alabama, as amended.

It should be noted that the staff approval of the special parking plan does not waive any of the minimum requirements within the Zoning Ordinance regarding trees, landscaping, residential buffering and lighting; in fact, in some cases the conditions of the staff approval are more stringent than the minimum requirements. Furthermore, development of the site must also comply with the standard requirements of other departments, including the Engineering Department, Right-of-Way, Traffic Engineering and Urban Forestry.

**RECOMMENDATION:** Based on the preceding, staff recommends that the Board consider all relevant facts prior to making a decision regarding the appeal of the staff's decision to approve the special plan for location or sharing of (parking) facilities for the site in question.

# LOCATOR MAP

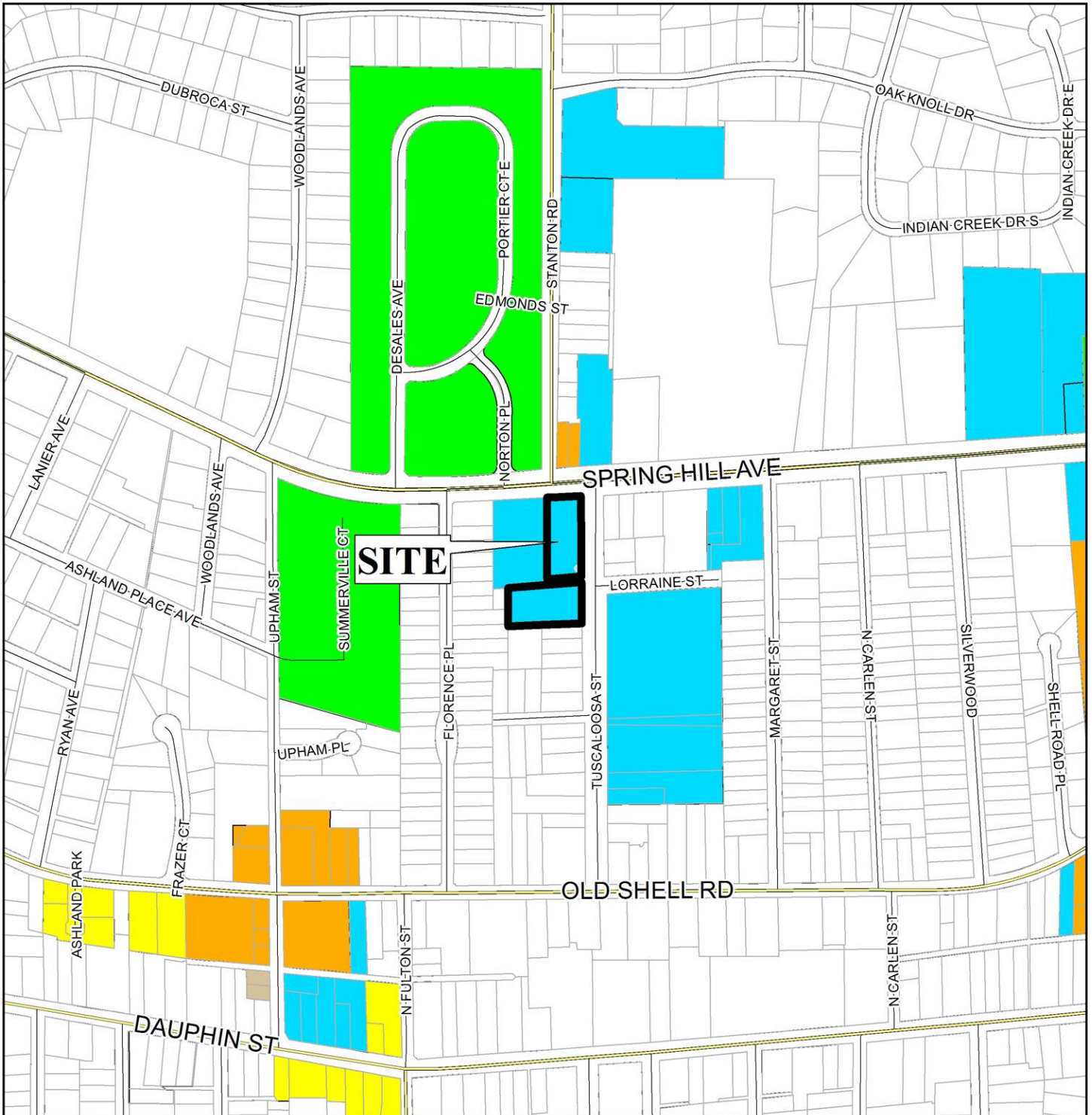


APPLICATION NUMBER 6177 DATE May 7, 2018  
APPLICANT Dorothy I. Wells  
REQUEST Administrative Appeal





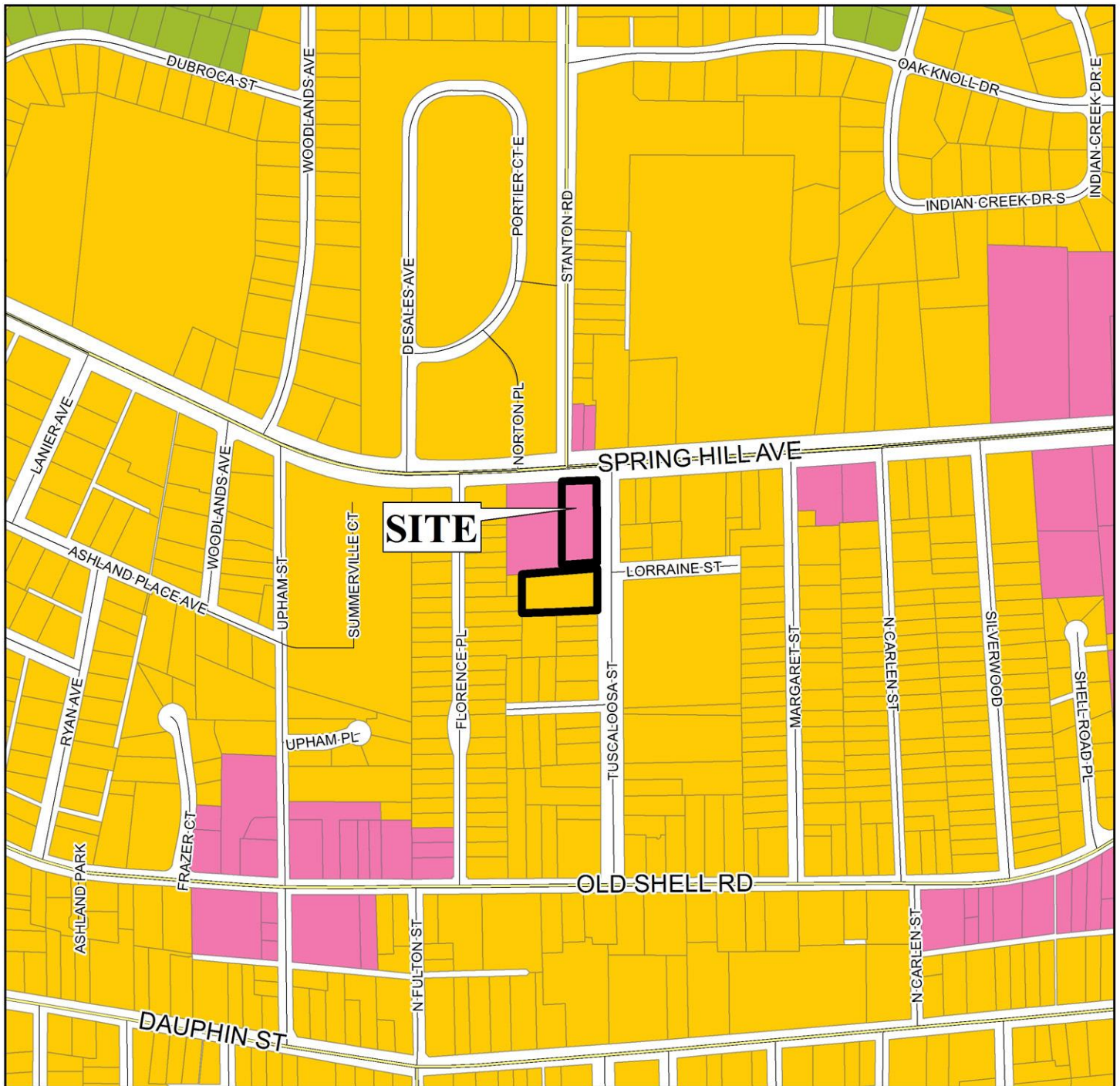
# LOCATOR ZONING MAP



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REQUEST Administrative Appeal



# FLUM LOCATOR MAP



APPLICATION NUMBER 6177 DATE May 7, 2018

APPLICANT Dorothy I. Wells

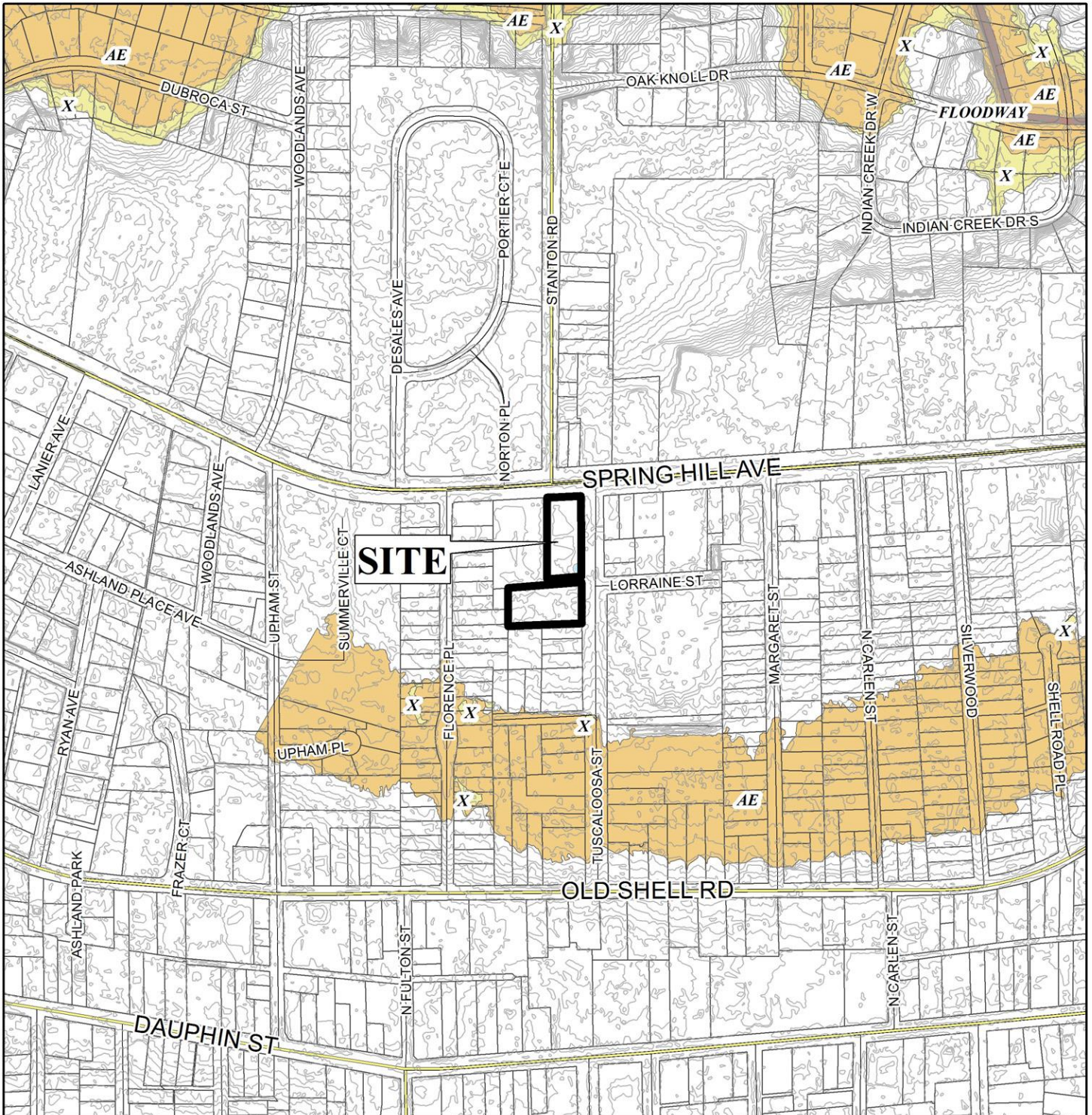
REQUEST Administrative Appeal

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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REQUEST Administrative Appeal





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the west and east.  
Commercial units are located to the northeast and southeast.

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REQUEST Administrative Appeal

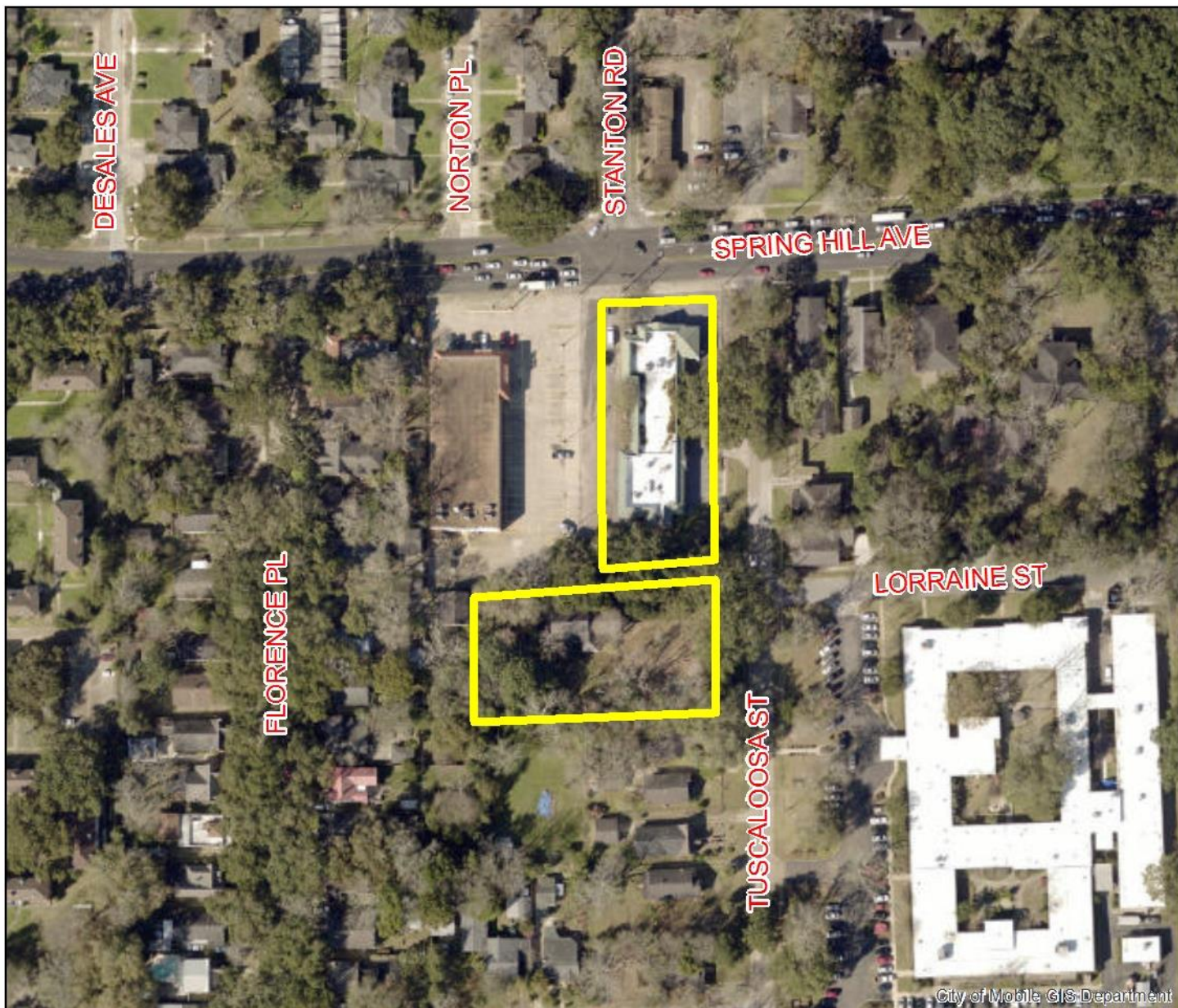
R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL

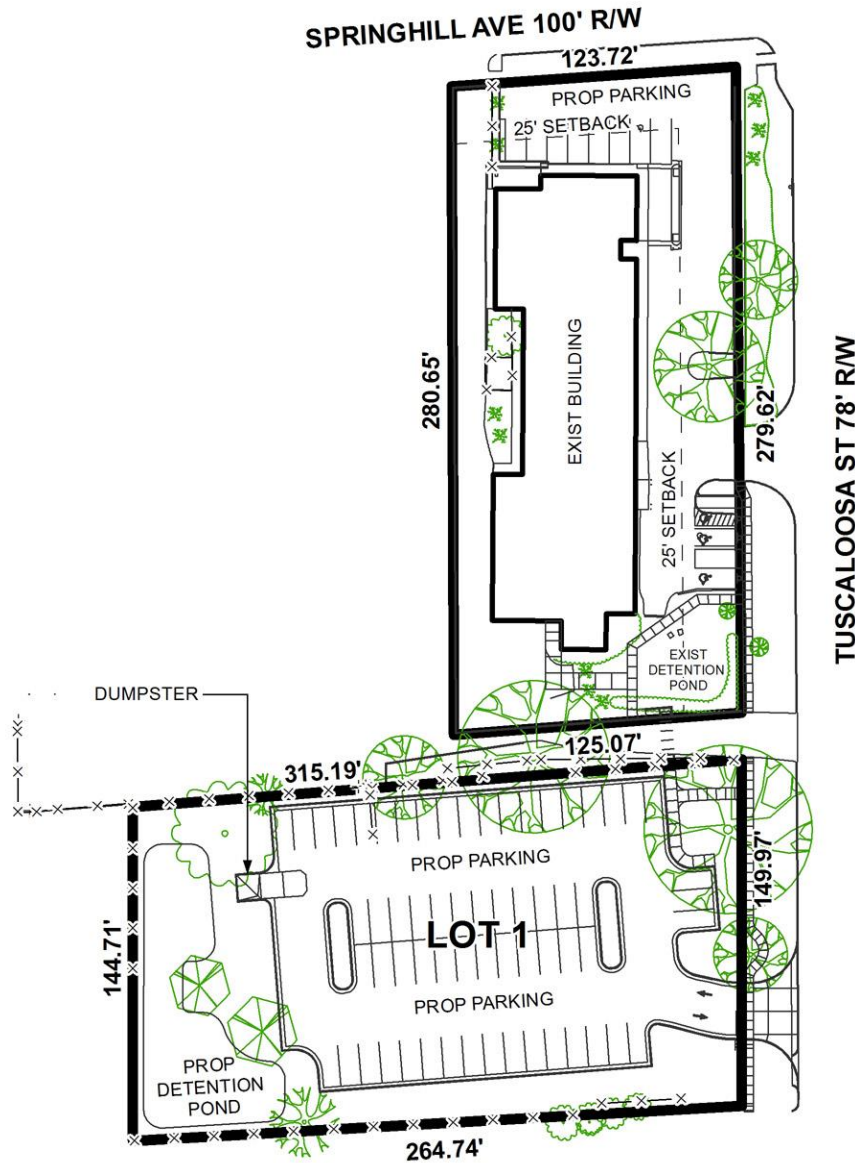


The site is surrounded by residential units to the west and east.  
Commercial units are located to the northeast and southeast.

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# SITE PLAN



The site plan illustrates the existing building, setbacks, and proposed parking.

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