

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 7, 2021****CASE NUMBER**

6390

APPLICANT NAME

Cory Bronenkamp

LOCATION158 Hemley Avenue
(East side of Hemley Avenue, 174'± North of Haas Avenue).**VARIANCE REQUEST****USE:** Use Variance to allow a second dwelling on a residential site in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires at least an R-2, Two-Family Residential District, to allow two dwellings on a residential site.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.2± Acre

**ENGINEERING
COMMENTS**

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

1. 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.
2. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site..

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**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 1

ANALYSIS

The applicant is requesting a Use Variance to allow a second dwelling on a residential site in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an R-2, Two-Family Residential District, to allow two dwellings on a residential site.

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:

Currently on the property is a 1,000 square foot single family residence along with an +/-800 square foot garage & living space.

The use variance is to allow a second dwelling on the property by converting the rear 800 square foot building to an apartment. There is a large existing driveway that can accommodate two vehicles, and off-street parking is also available.

The rear building traditionally goes unused by previous tenants, and it would be a great improvement to the surrounding area to upgrade this structure.

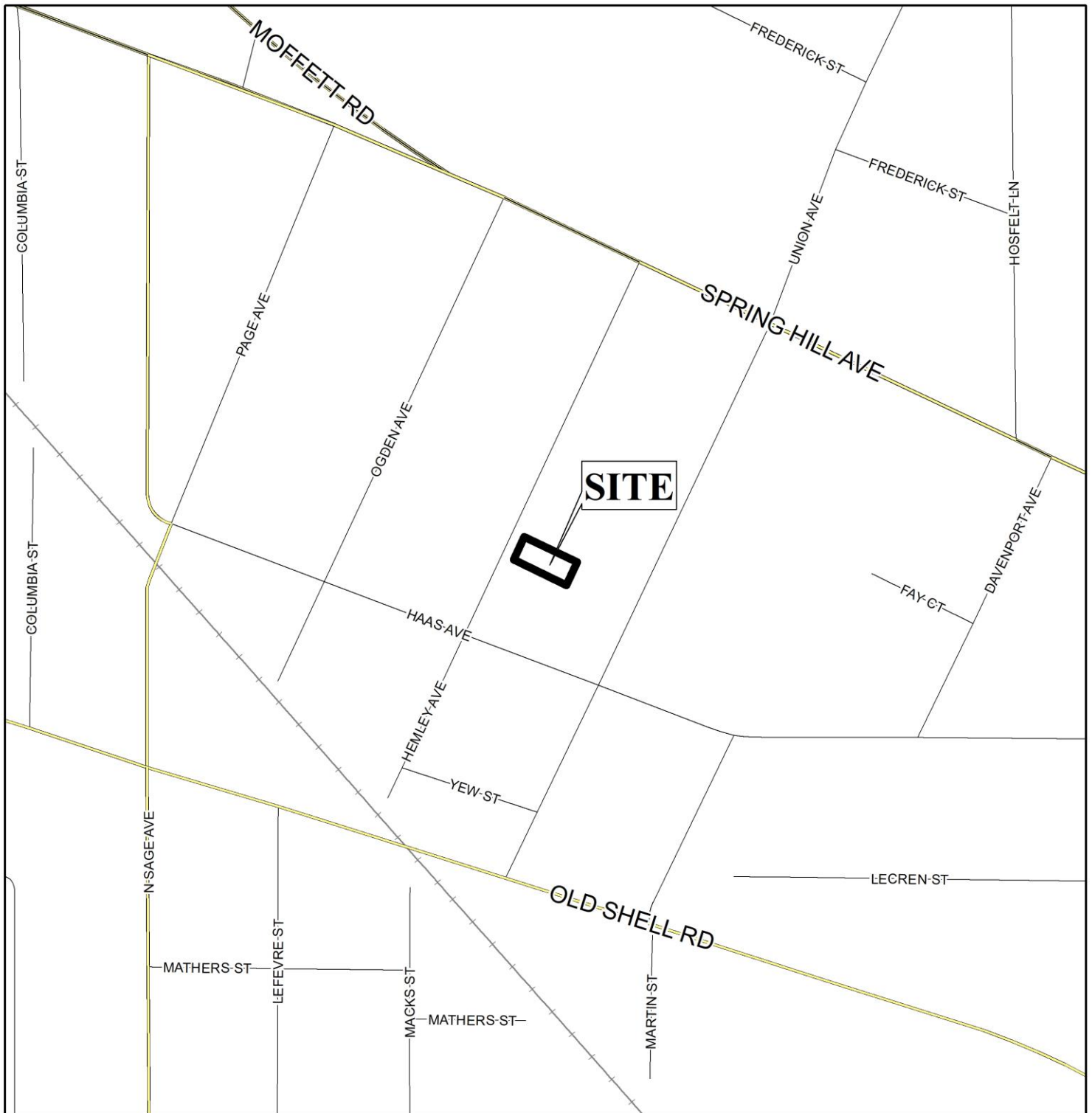
As the subject site is zoned R-1, only one dwelling unit is allowed by the Zoning Ordinance. The applicant proposes to convert the existing garage at the rear of the property into a second dwelling unit and contends that this would be a great improvement to the surrounding area. However, as all other properties within the area are zoned R-1, and appear to be used as such, and as there is no legal nonconforming documentation on file concerning any other properties within the area being used in an R-2 capacity, and as there have not been any Use Variances granted within the area for R-2 use, the proposed conversion to R-2 use would be out of character with the surrounding single-family residential uses.

Pertaining to the request, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification. The applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. As the subject site and surrounding neighborhood were developed as single-family housing, and appear to be used as such, there are no unusual characteristics of the property that satisfy variance standards; therefore, the Board should consider this request for denial.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Denial of the Use Variance request:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification and use of both the site and surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed, and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the use would be incompatible to an established R-1 District.

LOCATOR MAP



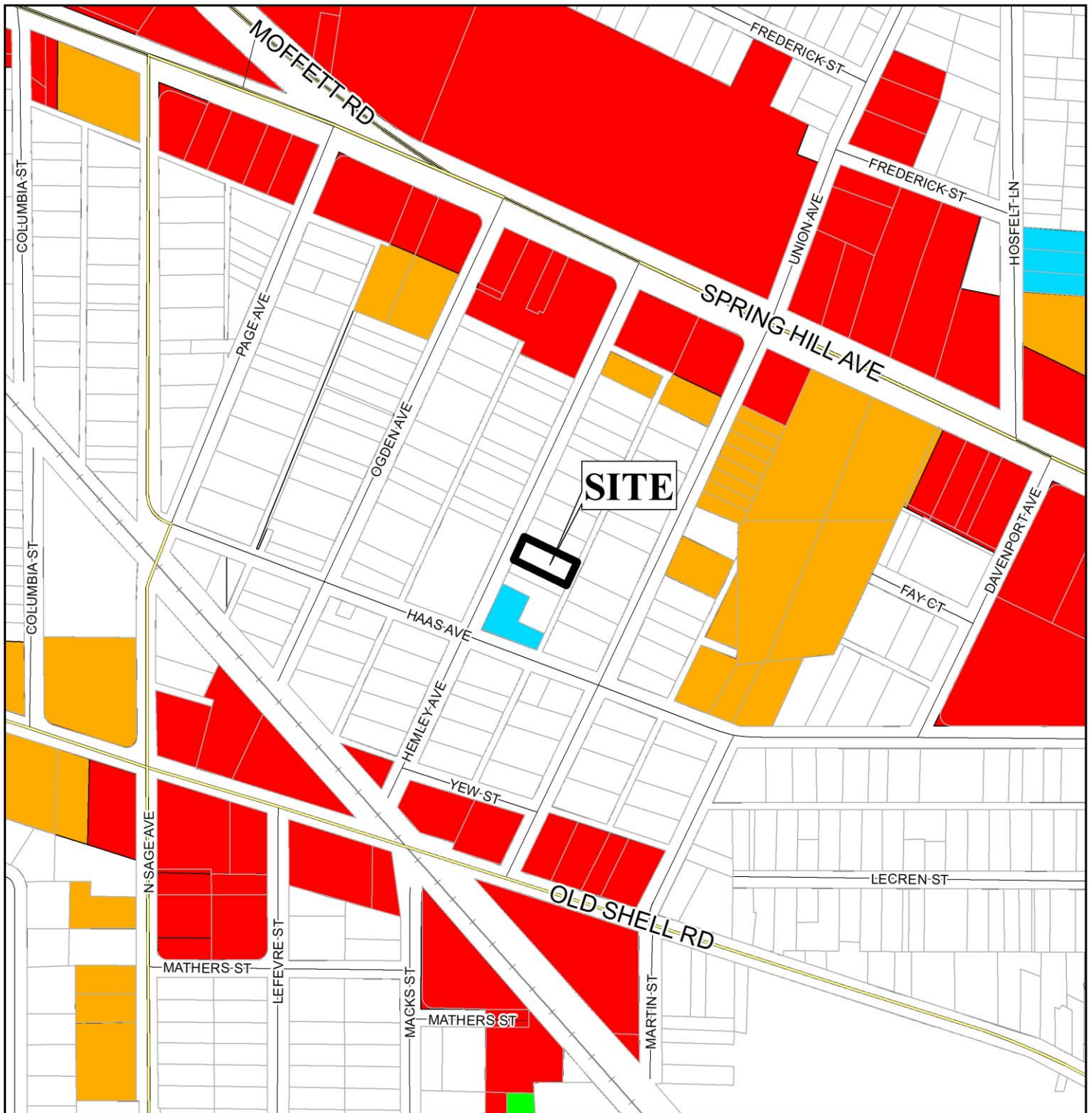
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LOCATOR ZONING MAP



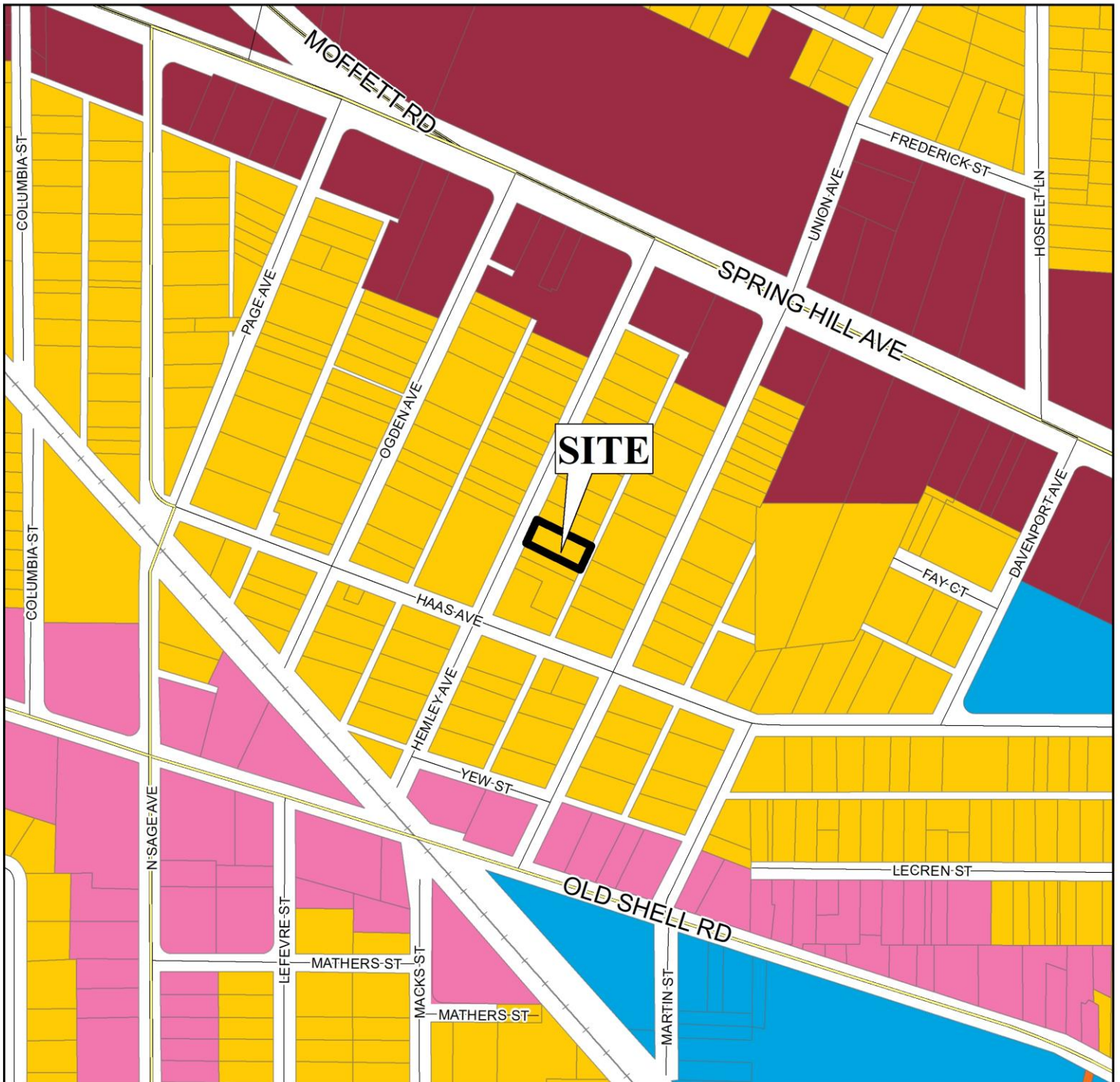
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FLUM LOCATOR MAP



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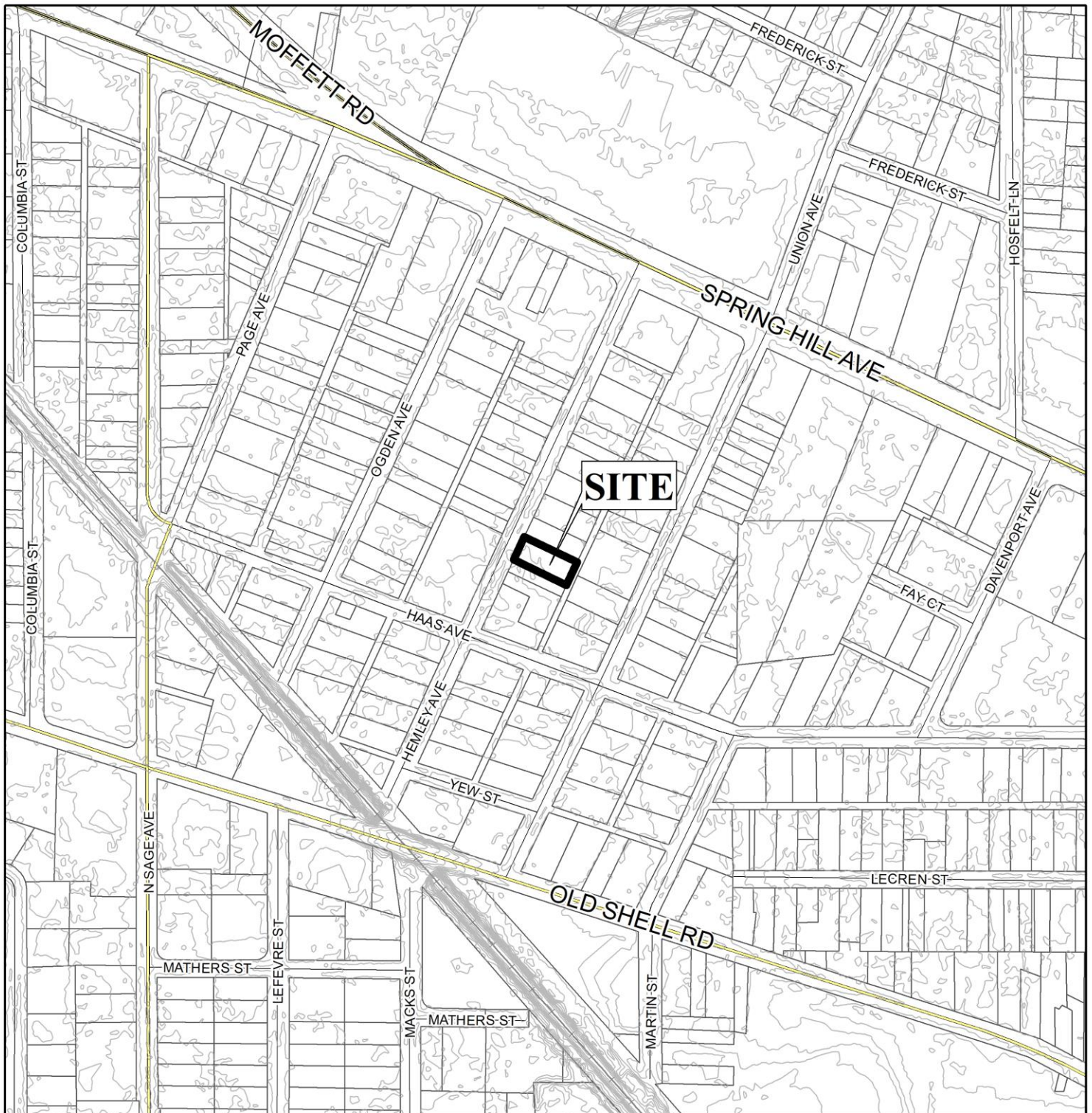
REQUEST Use Variance

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	



NTS

ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units. A church lies west of the site, and a daycare to the south.

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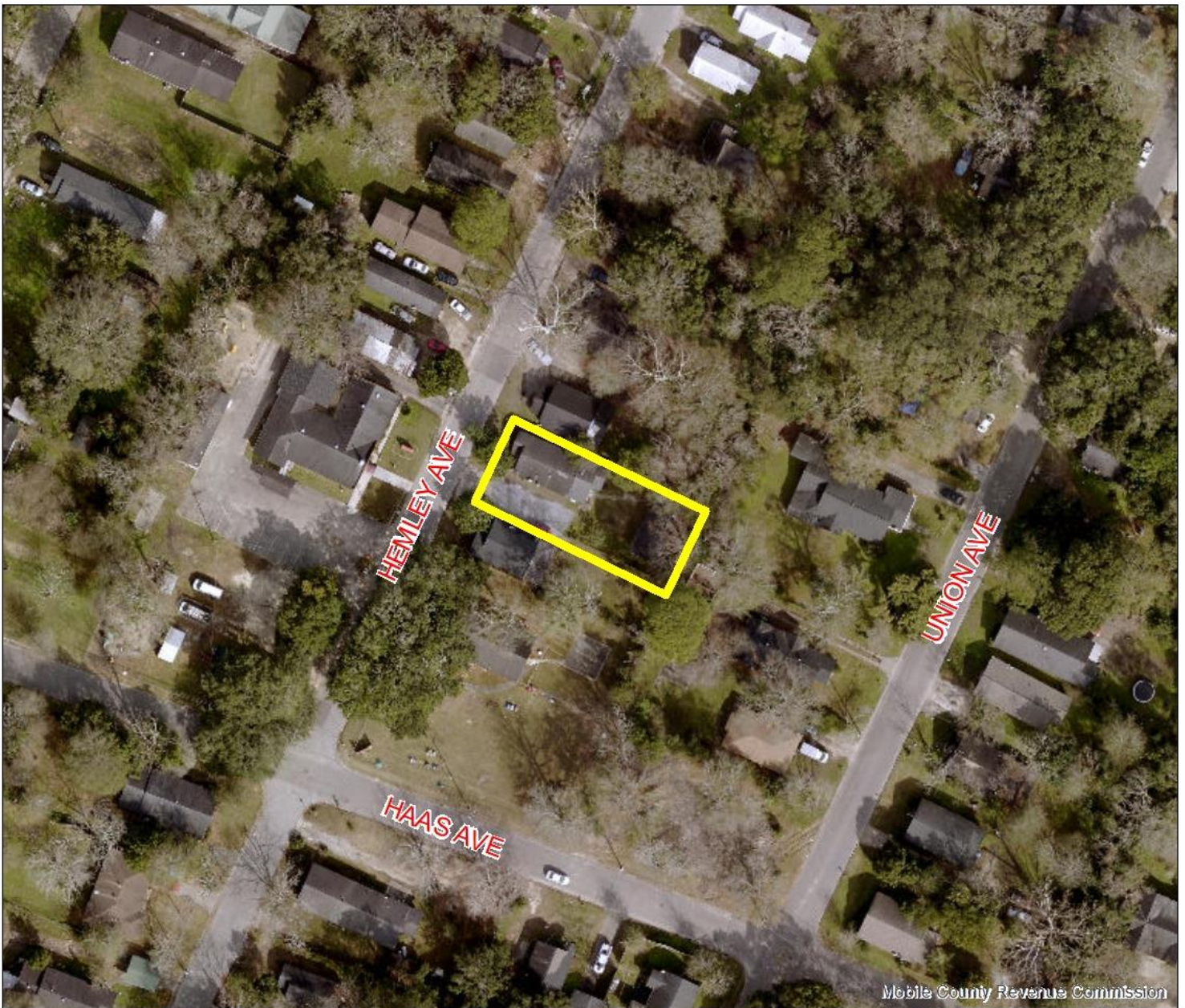
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units. A church lies west of the site, and a daycare to the south.

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SITE PLAN



The site plan illustrates the existing dwelling, parking, and garage that is proposed to be used as an apartment.

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