

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: July 6, 2015**

<b><u>CASE NUMBER</u></b>	5985/5920/5811/4958
<b><u>APPLICANT NAME</u></b>	Taylor Atchison
<b><u>LOCATION</u></b>	951 Government Street (Westside of Marine Street, extending from Government Street to Church Street)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a retail business or restaurant to operate in a B-1, Buffer Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a retail business or restaurant.
<b><u>ZONING</u></b>	B-1, Buffer Business District
<b><u>AREA OF PROPERTY</u></b>	60,964 square feet / 1.3±Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	Any B-2 use that would require a drive-thru would not be recommended for this site. Site circulation would be adversely impacted by a change of this magnitude to the site. The application did not include information about the number of required parking spaces under the existing B-1 zoning, and what additional parking could be necessary for a B-2 use.
<b><u>URBAN FORESTRY COMMENTS</u></b>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).
<b><u>FIRE COMMENTS</u></b>	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)

Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC)

### **ANALYSIS**

The applicant is requesting a Use Variance to allow a retail business or restaurant to operate in a B-1, Buffer Business District; the Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a retail business or restaurant.

The applicant is requesting permission to utilize the ground floor of an existing 8-story commercial building for retail and/or restaurant use. The building is under renovation, where floors 2-8 will be converted into a maximum of 48 dwelling units.

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 provided the following statement:

*“The existing building was previously used for an office building but then sat vacant for a number of years. It is currently undergoing a major renovation that will convert a majority of the building to apartments using Historic Tax Credits. This application is to seek approval to lease the ground floor only for a commercial use, possibly office or retail. The current zoning is B-1 but a variance would be needed for retail, restaurants, etc. The time schedule is immediate at the renovation for the apartments is on-going.*

*The building is currently zoned B-1 which is not suitable for the desired use for retail, restaurants, etc. Since the property is zoned B-1 it can't be used for retail, restaurants, etc. The subject property adjoins a Wendy's Restaurant that is zoned B-2 and there is another B-2 zoned restaurant on the north side of Government. It should be noted that there are a number of mixed use properties within this Historic District. A good example of such would be Callaghan's Restaurant and Pub which is just to the south and is located in an R-1 zoned property. It's not anticipated that there would be any use of equipment or machinery that will generate excessive noise, odors, etc. The ground floor space is also located within a much larger building and land site. It's well buffered from adjoining property owners by Marine Street to the east, Government Street to the north, and parking lots & landscaping to the west & south. The hours and days of operation would need to be determined but potentially seven days a week. If the space is leased to a bakery or coffee shop, then it could open earlier than a restaurant primarily serving lunch or dinner.”*

The site appeared most recently before the Board at its October 6, 2014 meeting, where the Board approved a request to allow up to 48 dwelling units on a site that would otherwise be limited to 36 dwelling units by right, due to the size of the property.

The building contains a total of 72,000 square feet over 8 floors, which is approximately 9,000 square feet per floor. The floor plan provided with the application shows that the ground floor will contain an elevator lobby, office, three stairways, and electrical and fire pump rooms. The remaining space is divided into two available tenant spaces of approximately 2,469 and 3,817 square feet each, for a total of 6,286 square feet.

The site plan depicts a total of 85 parking spaces. Given the number of dwelling units, a minimum of 72 parking spaces is required, leaving 13 spaces available for the two tenant spaces.

If each tenant space is used for retail or office uses, a total of 21 parking spaces will be required (using a parking ratio of 1 space per 300 gross square feet), thus the site will be 8 parking spaces short of the number of required spaces.

If each tenant space is used for restaurant uses with on-premise consumption, a total of 63 parking spaces will be required (using a parking ratio of 1 space per 100 gross square feet), thus the site will be 50 parking spaces short of the number of required spaces.

Thus in either case, it appears that commercial use of the two available tenant spaces will exceed the available parking by 8 to 50 parking spaces.

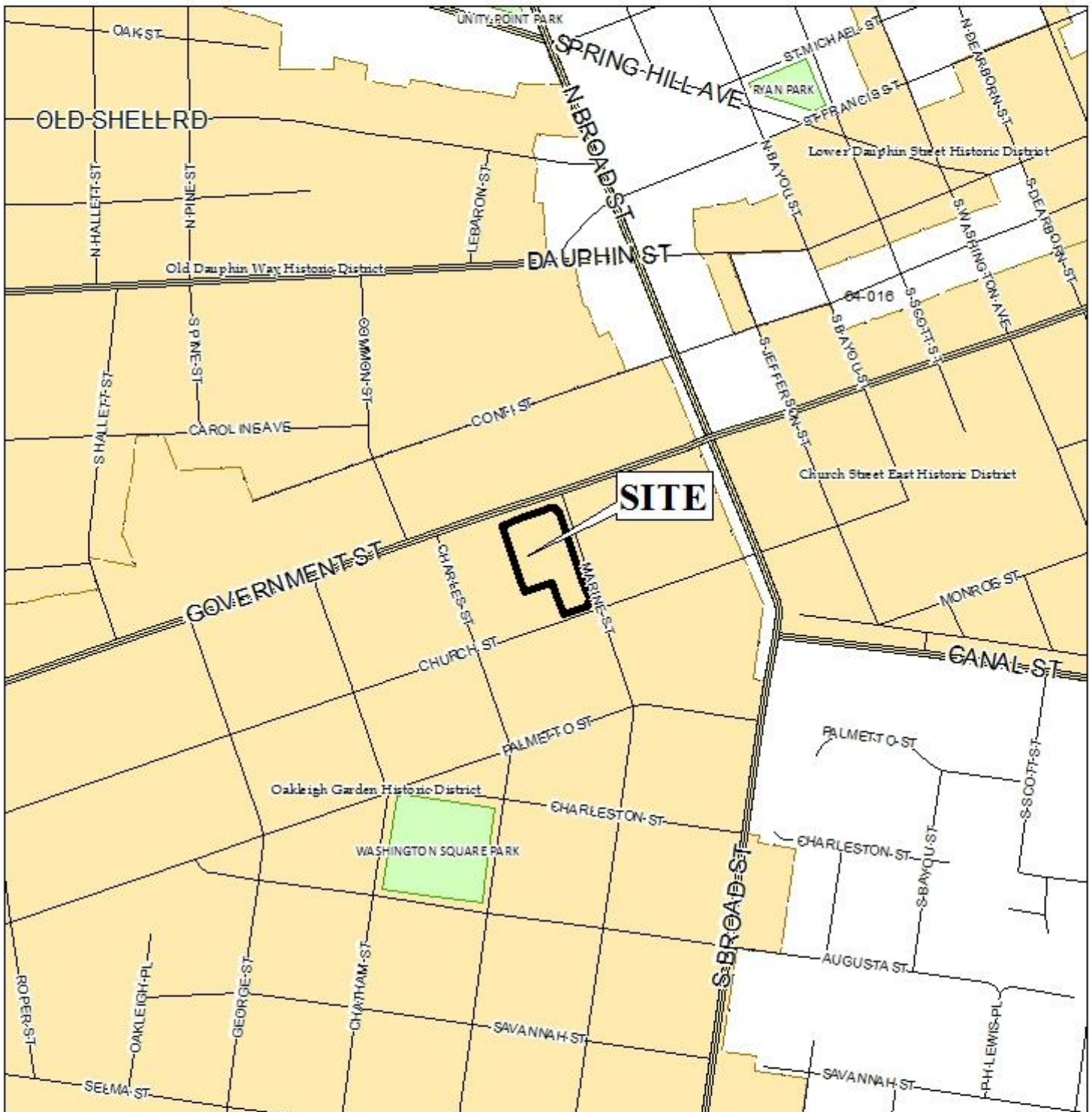
Therefore, in addition to a Use variance request, it appears that a Parking Ratio variance request is also required. However, the applicant must determine how each tenant space will be used so that the Parking Ratio variance request can be accurate. Additionally, the applicant may wish to provide a first floor plan that is to a measurable scale so that more exact estimates of leasable space may be obtained (thus possibly reducing the parking requirements).

While the proposed mixed-use of this building is in accordance to the recommendations for this site within the New Plan for Mobile document, additional information is required before a recommendation can be made by staff.

**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the Holdover of the request until the August 3<sup>rd</sup> meeting, so that the following may be undertaken by July 9<sup>th</sup>:

- 1) Specification in writing and on the floor plan by the applicant of the maximum size in square feet of each tenant space and how each tenant space will be used (retail, restaurant, office, etc.); and
- 2) Submission of additional narrative, postage, labels and application and mailing fees for a second variance request for parking.

# LOCATOR MAP



APPLICATION NUMBER 5985 DATE July 6, 2015

APPLICANT Taylor Atchison

REQUEST Use Variance



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

APPLICATION NUMBER 5985 DATE July 6, 2015

APPLICANT Taylor Atchison

REQUEST Use Variance

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 ZONING



The site is surrounded by residential and commercial units.

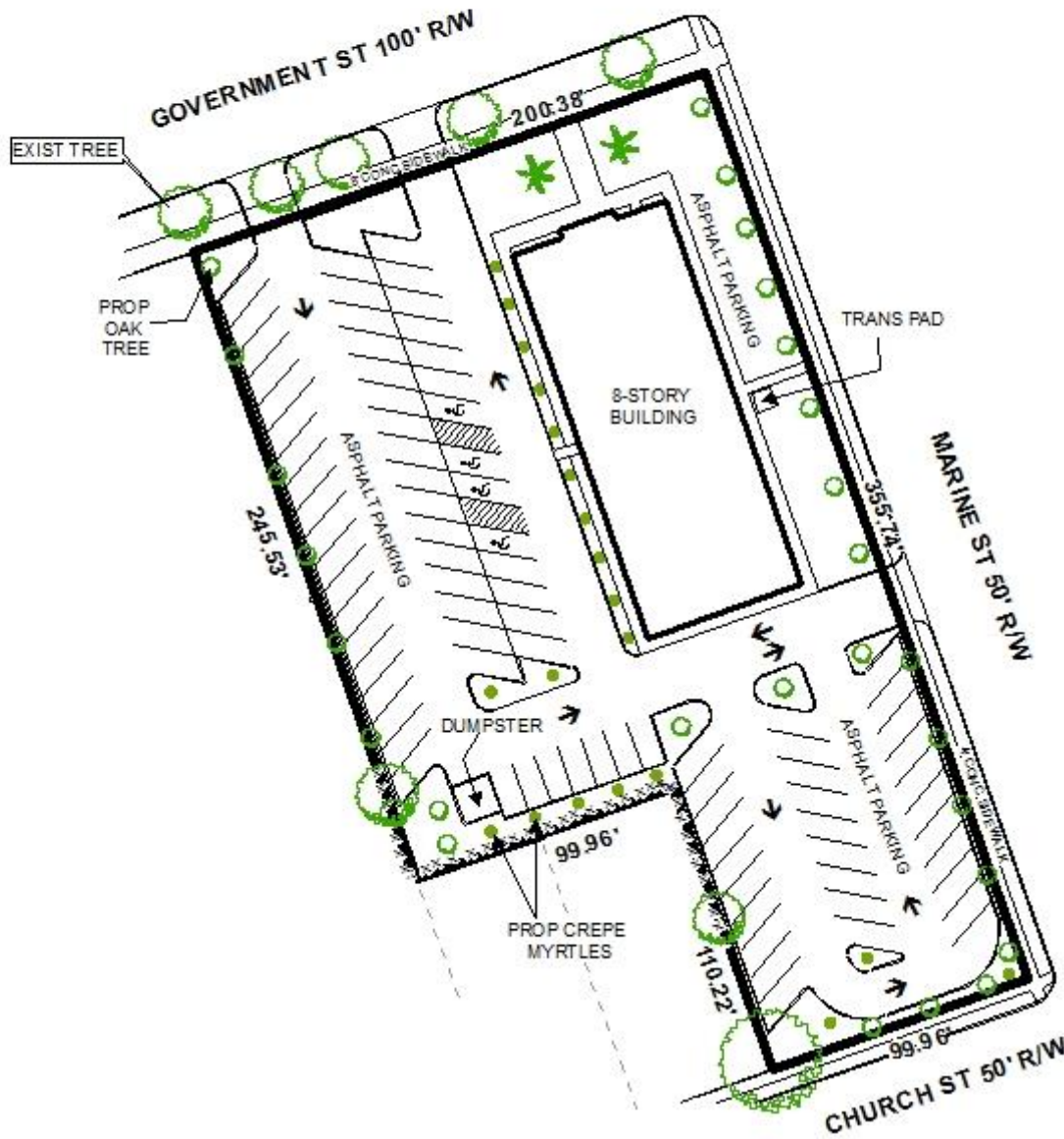
APPLICATION NUMBER 5985 DATE July 6, 2015

APPLICANT Taylor Atchison

REQUEST Use Variance



# SITE PLAN



The site plan illustrates the existing building, exist trees, proposed trees, parking, and dumpster.

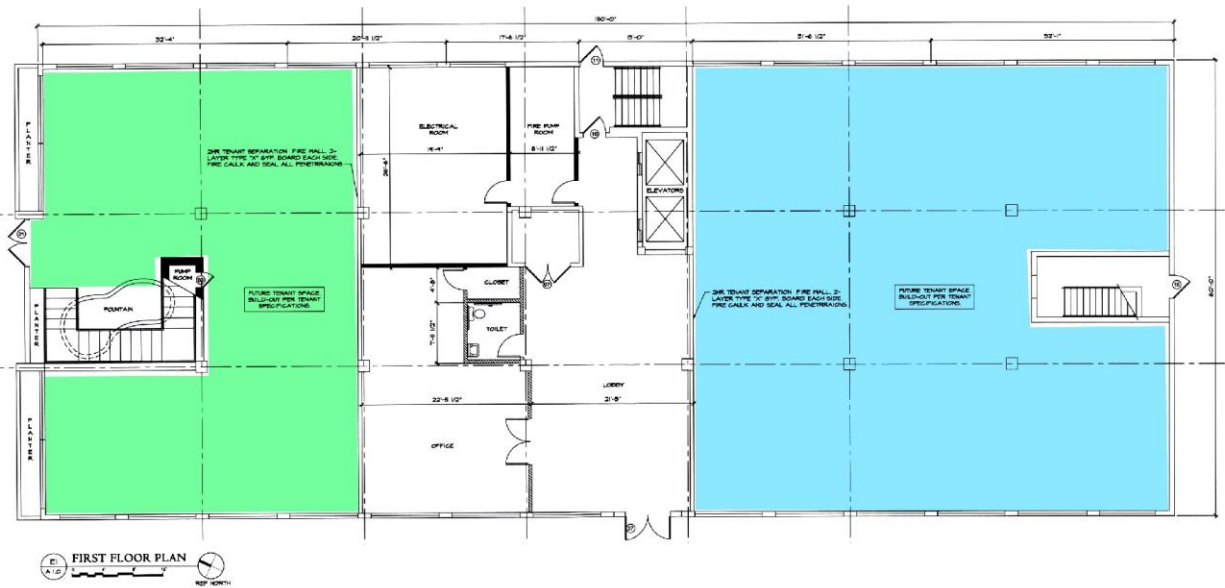
APPLICATION NUMBER 5985 DATE July 6, 2015

APPLICANT Taylor Atchison

REQUEST Use Variance



# DETAIL SITE PLAN



APPLICATION NUMBER 5985 DATE July 6, 2015

APPLICANT Taylor Atchison

REQUEST Use Variance



NTS