

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: December 3, 2018****CASE NUMBER**

6230

**APPLICANT NAME**

Sunshine Sue's Playgarden / Sara W. Kindt, Owner

**LOCATION**2200 Dauphin Street  
(North side of Dauphin Street at the North terminus of  
Crenshaw Street)**VARIANCE REQUEST****USE:** Use Variance to allow a children's activity center and a daycare in an R-1, Single-Family Residential District;**RESIDENTIAL BUFFER:** Residential Buffer Variance to allow a reduced height residential buffer;**TREE PLANTING:** Tree Planting Variance to allow reduced tree plantings;**ACCESS AND MANEUVERING:** Access and Maneuvering Variance to allow substandard access and maneuvering areas;**SURFACING:** Surfacing Variance to allow gravel surfacing.**ZONING ORDINANCE  
REQUIREMENT****USE:** the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a children's activity center and daycare;**RESIDENTIAL BUFFER:** the Zoning Ordinance requires a 6' height minimum residential buffer;**TREE PLANTING:** the Zoning Ordinance requires full compliance with tree plantings;**ACCESS AND MANEUVERING:** the Zoning Ordinance requires access and maneuvering areas to be 24'-wide minimum for two-way traffic;**SURFACING:** the Zoning Ordinance requires all surfaces to be paved with asphalt, concrete or asphaltic concrete.

**ZONING**

R-1, Single Family Residential

**AREA OF PROPERTY**

40,510 ± square feet / 0.93±Acres

**CITY COUNCIL  
DISTRICT**

District 1

**ENGINEERING  
COMMENTS**

USE VARIANCE: NO COMMENT

RESIDENTIAL BUFFER VARIANCE: NO COMMENTS

TREE PLANTING VARIANCE: NO COMMENTS

ACCESS AND MANEUVERING VARIANCE: NO COMMENT

**SURFACING VARIANCE:**

If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

1. Submit and receive a TIER 2 Land Disturbance Permit for the proposed site development through Central Permitting.
2. Submit a ROW Permit (City of Mobile) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.
3. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

**TRAFFIC ENGINEERING  
COMMENTS**

No information has been provided regarding the enrollment or number of teachers. Dauphin Street is a high volume roadway so all loading and unloading will have to be onsite. Potential parking areas are shown, however no improvements are illustrated on the site plan. Any required parking should be marked and improved as needed. It should also be noted that the Suburban width stated in the narrative is without mirrors. Vehicles could pass in the proposed 16'-18'; however 20' is recommended minimum for two way traffic. Although uncommon in this area of town, 20' width residential driveways are not uncommon with 2-car garages elsewhere.

**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 (State Act 2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

**FIRE****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) 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 Use, Residential Buffer, Tree Planting, Access and Maneuvering and Surfacing Variances to allow a children's activity center and a daycare in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for a children's activity center and daycare, requires 6' height minimum residential buffer, full compliance with tree plantings, access and maneuvering areas to be 24'-wide minimum for two-way traffic, and all surfaces to be paved with asphalt, concrete or asphaltic concrete.

The site has been given a Mixed Density Residential 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 site is developed with a single-family dwelling and a separate, free-standing outbuilding. The property is located within an R-1, Single-Family Residential district, and is bounded to the

East and West by single-family uses in an R-1 district. South, across Dauphin Street, are single-family uses and a small church, also in an R-1 district. North of the site are single-family uses in an R-2, Two-Family Residential district and in an R-1 district. A vacant property to the Northeast (fronting Old Shell Road) was recently rezoned from R-1 to R-2 to allow a six-unit townhome development, however, construction has not commenced. This site is not within a locally designated historic district, but is within the Federally designated Midtown Historic District.

The applicant provided the following narrative:

*2200 Dauphin Street, although not situated within the limits of an historical district of Mobile, is a remarkable historic structure built around 1900. The structure is situated on an almost one-acre lot and has a commanding presence from the street. The lot is much larger than surrounding lots and has a large front yard to add to its charm. Sunshine Sue's Playgarden, a boutique children's activity center that focuses on small-group with an emphasis on exemplary and elevated customer service and community relations, is proposing to gain a zoning variance that would be equal to up to a typical "B2" equivalent.*

*Apart from widening the driveway, adding permeable parking on the east side and back of the building, some 4' fencing in the back to separate play and walking areas for children and adding any ADA components that the City may determine are required, we plan no significant changes to the exterior of the main structure. Changes to the inside of the structure are proposed to paint the interior, make any ADA compliance changes that the City determines that are necessary, and begin operations as soon as possible (possibly as soon as Jan 15th, 2019).*

*Longer-term plans, within 2-4 years, would involve renovating the back building, ensuring all codes are observed and going through the process of licensing to add a boutique, small (no more than 25 children) environment all-day child care component (commonly referred to as "daycare") to the business. The licensed portion of the business will remain solely within the back-building area. No new structures on the property are planned.*

*To summarize, all activities that fit within a "B1" will take place in the main structure, while the "B2" business activities will take place in the future within the renovated back building. Sunshine Sue's will apply for all necessary permits and licensing to comply with all State and Local law and codes throughout the process.*

**The following Zoning Variances are Requested:**

**Use Variance:** *The property is currently listed as an R-1. There are several small businesses within a .2-mile range of 2200 Dauphin, including B-1 chiropractor, B-1 Medical Clinic and B-2 gift shops, restaurants and also a gas station within that distance range. These businesses sit within a thriving neighborhood community with many families, including small children. Many of the families that live in the neighborhood are*

*current or former clients of Sunshine Sue's. Our many current clients in the immediate area will demonstrate a strong support of our plans.*

*We are proposing to add value to the diversity of the neighborhood and that due to the size/buffer of the property and the neighborhood-friendly nature of our business and the services that we will provide this property will be best used as a business that serves the community and neighborhood. The neighborhood is lacking in safe and wholesome places where young children (ages 0-6) can play or take a "Mommy & Me" class (including music and art classes), a place where a parent or guardian can take their child for a drop off of 4 hours or fewer (without being enrolled in a regular program), and a place to have a highly-decorated small-group birthday party that does not involve electronics, large inflatable slides or jump areas or trampolines.*

*Another reason that we are applying for a use variance, instead of a zoning change, is that in the unlikely event that the business cannot continue in that location, the property could easily, with our limited development plans, be converted back into a home if needed. We also believe that a variance, with a list of approved uses for the property, will serve the neighborhood better and give surrounding residences a sense of confidence that they know and are comfortable with the permitted uses for the property. We commit to be thoughtful and involved neighbors within the community we are joining.*

*The list of business activities that we are requesting to be approved:*

- *Children's Activity Center (B1)*
- *Professional Offices (B1)*
- *And for our plans for the near future (in 2-4 years, as we gain licensing and all permits required), Daycare (B2) for no more than 25 children at one time. Our plans for all-day care will serve a missing niche within Mobile to include an upscale, high customer-service boutique daycare that includes unplugged play (no tv), music, foreign language and art instruction for every child.*

*We plan to have removable outdoor play equipment with no swings or large permanent structures. Any outdoor noise from children playing would be during daytime hours only, and the children would not be outdoors all day. Since the parents come and go due to the different services that we provide, there will not be a large amount of traffic for any one time of day, we do not expect coming and going traffic to make any significant impact on the neighborhood.*

*Our proposed days and times of operation for the B1 main building would be Monday-Friday, 8am-5pm, and our All-day Care operations in the back building (when approved and licensed) would be 7:30 am to 5:30 pm. Monday-Friday. Birthday Parties would be on weekends as reserved, with the hours ranging from 10 am-5pm.*

*With the main structure, we anticipate needing 2-3 employees on a regular basis with an estimated 12-15 customers per day, all coming and going at different times. For the all-*

*day care portion on the business, we anticipate 4-5 team members and up to 25 customers present during the day in the separate building.*

*The square footage of the main structure, not counting porches, is 2800 ft. When renovated, the back building will be an estimated 1500-1800 square feet.*

*Parking requirements, since most customers are coming and going at different times or merely dropping off or picking up children, will be an estimated 9-15 spaces. An ADA space, if required, will be designated.*

*Our business is a very small one, and we focus on quality of customer service over quantity. There is a recognized need in the Midtown area for family-friendly service businesses. We are not a high-traffic business, and our services and business model would blend in well into our proposed neighborhood. The City of Mobile has been focusing on making Mobile more walkable and accessible for non-motorized vehicles such as bicycles, strollers and similar items. Although this particular block of Dauphin has no current small business, there is a church with large signage directly across the street, and if one considers the Midtown parameters of Broad to the I-65 interchange there is a small business in residential areas at least every .2 miles on average. For 2200 Dauphin, there is a church across the street and on the same side of the street, there is a business at approximately 500 feet to the east (Crow, Wilkinson, Constantine, Singleton & Morrow, PC, 2062 Dauphin St, Mobile, AL 36606) and multiple businesses .4 miles, or approximately 2000 feet to the west. Dauphin Street in Midtown is a busy corridor that overall is truly mixed-use if it is observed at a big-picture perspective. Having area businesses that are relevant to the neighborhoods enhances the quality of the lives of the residents.*

*Having a relevant neighborhood service business like ours provides a walkable resource for immediate and nearby families to visit without having to get in the car and promotes healthy and active lifestyles, another focus that the City of Mobile has promoted. We maintain that our small service business, in occupying and making very minimal adjustments to an R-1 home, will add value to the neighborhood, influencing families with young children to consider the immediate area when looking to buy a home. Since the property will remain R-1 with very specific business activity variances, the value of the property and surrounding properties should not be adversely affected. Some unfamiliar with us may not quite understand our business model, since we are so unique. We focus on fostering family relationships through creative and “unplugged” play for young children, ages 0-6 and on providing elevated and thoughtful customer service.*

*Additionally, Sunshine Sue’s commits to be exemplary neighbors, designating our entire property a smoke-free campus, and will monitor and manage parking area noise or any other activity that may be deemed disruptive to the neighborhood. We want to be a part of the community, providing value and service to the families that live there.*

**Access Variance:** *We propose to limit impact to the property by having an entry are from the street to be less than 24 feet wide, in the range of 20 feet. We are also proposing to*

*double the width of the 9-foot wide concrete drive to 18 feet wide and to adjust the privacy fencing at the driveway area accordingly to allow a larger opening.*

*Since this property is in a largely residential area, a very large driveway with a large concrete apron would not match the feel of the surrounding area and would not add to the neighborly feel that we are attempting to project with the proposed use of the property.*

*The proposed drive is requested to be 16-18 feet wide, which would easily pass two Chevy Suburbans (width of 80.5 inches each, according to the Chevy website) side-by-side going in opposite directions. Since we are not a "high traffic" business, the incidences of cars passing each other in the driveway area will not be commonplace. Our clients tend to naturally stagger their arrivals and departures; it is rarely and "all in" or "all out at the same time" event.*

***Parking Surface/Maneuvering Variance:*** *to allow for any additional parking (excepting the driveway and any ADA compliant parking required) to be permeable contained gravel, to minimize runoff onto surrounding properties and to provide a less harsh look to the landscaping.*

*We propose contained (a railroad ties or similar) aggregate parking, excepting any required ADA spaces (there is already concrete in the back of the house that could easily serve as ADA parking). Aggregate is proposed as a permeable surface to reduce rain event runoff onto adjacent properties, and to reduce the imposing look of a large amount of concrete on the property. To maintain the "home" feel of the property and to respect its R1 zoning, we propose that the look of aggregate is a better fit for this application.*

***Tree/Landscaping Variance:*** *to leave the frontage of the property without trees on the immediate street-side to keep the visibility of the business at a good level and to retain the unique look of the property as it is set back on the three lots. All trees, with the possible exception of the young magnolia that is at the corner of the current driveway are expected to remain.*

*The required tree plantings would present a hardship on the visibility of the property, the conditions of the sidewalks (where roots from a mature tree would cause damage to the sidewalk) and utilities buried within the yard. Large trees at the street side would also disrupt the unique and commanding street appearance of the front of the property. We propose to leave all living trees on the property intact (please see trees marked on site plan), with the possible exception of the smaller magnolia on the eastern street side of the property. This tree may or may not have to be removed, depending on the driveway width that we are required to install for entry/exit.*

***Buffer/Fencing Variance:*** *if the neighbors agree, we would like to keep the current lower fencing, to further emphasize our "part of the neighborhood" feel and to not starkly separate ourselves from our neighbors.*

*In the spirit of being part of the neighborhood and being a general neighbor, not just a neighborhood business, we propose that we be allowed to keep the existing fencing intact. We feel as though it portrays a more open and welcoming feel than to have a large, separating fence between the properties. The existing fencing is substantial enough where it will prevent visitors at 2200 Dauphin from encroaching upon adjacent properties. We would, however, if required to do so by the Board of Zoning Adjustment, agree to replacing all fencing lower than 6' to the required height.*

**Our justification for the zoning variance request:**

*This property cannot provide a play area for neighborhood and community children with the current zoning, and we and many of the families in the immediate area feel as though the area is underserved in quieter play and creative learning space for smaller children. We believe that the size of the property, almost one acre, makes this site unique from the others in the area and makes it a perfect candidate for a neighborhood-friendly (and neighborhood-serving) business like ours. We are a unique business as well, and since our tagline is "We are like Grandma's, But Cooler," a home in this neighborhood is where we want to be, adding value and service to the community. We also intend to open our facility to the neighborhood to (non-political) community meetings, and a few times a year we plan to have open houses, offering free play and sample classes to the families of our community. We plan to be exemplary neighbors in our community and estimate that our impact to the neighborhood, as small as it might be, will be outweighed by our services and efforts to provide value to the community. Since we are a unique business, we need a unique facility to provide our services and to be part of a thriving neighborhood.*

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 appears to propose as few changes as possible to the site and the building's exterior in order to maintain visual compatibility with the surrounding single-family homes. A Pre-Development Meeting was held with the applicant, and the applicant was made aware of some of the numerous issues which may need to be addressed in order to comply with Building, Plumbing, Mechanical, Electrical and Fire Codes, as well as site related issues (Traffic, Engineering, Right-of-Way and Planning). As detailed plans were not provided at the Pre-Development Meeting, staff could not provide more than an overview of the anticipated code requirements.

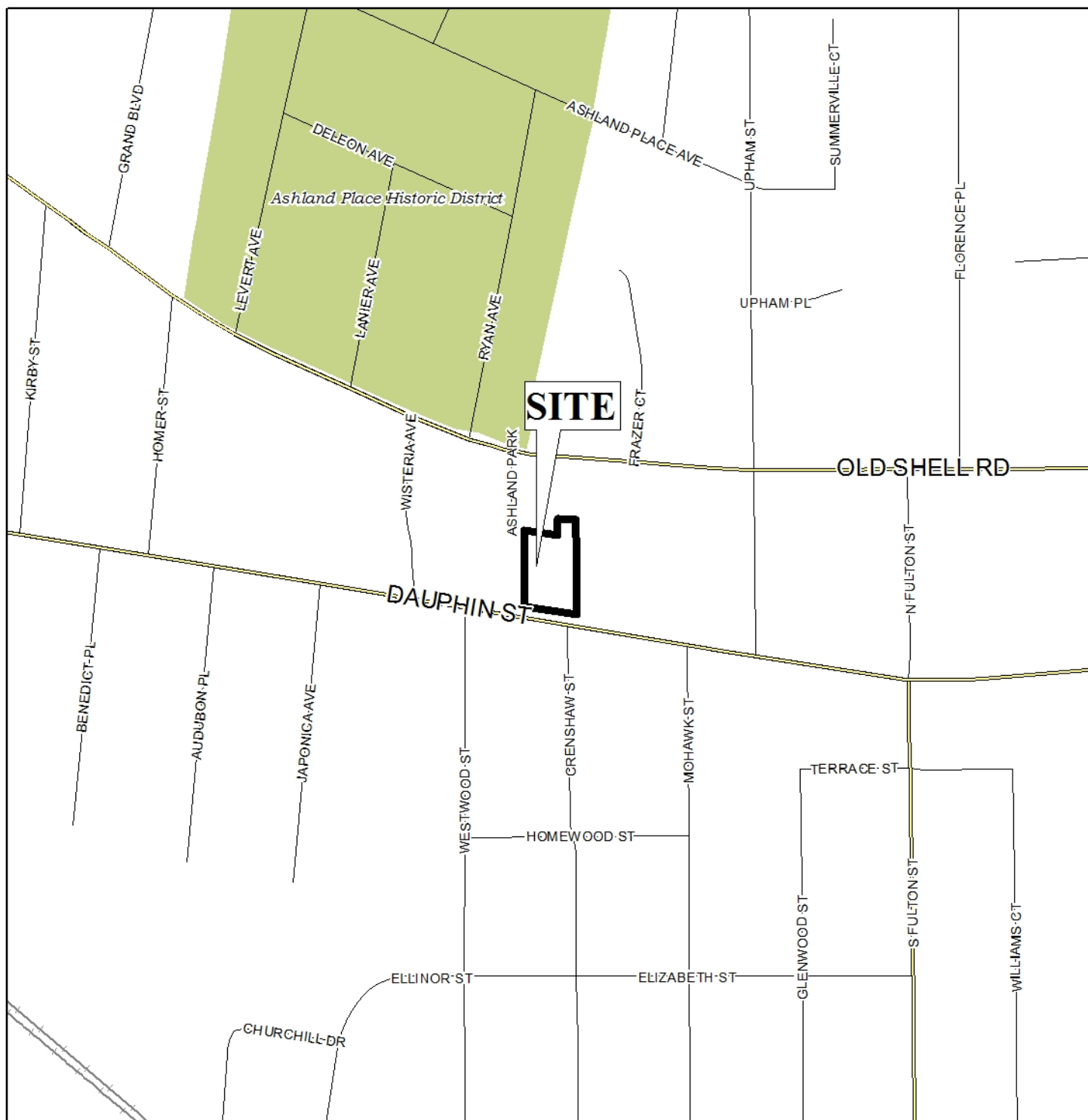


The applicant has submitted a thorough outline of the business model; however, the applicant has not shown there is a hardship associated with the property itself that prevents its use as a single-family dwelling.

**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) The variance will be contrary to the public interest, in that it will allow for the establishment of a commercial use within a single-family residential area;
- 2) Special conditions do not exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship, as the structure and the property can still be used as a single-family residence; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance, as granting the variance would establish precedence for other residential properties within the vicinity to be considered for commercial uses.

# LOCATOR MAP



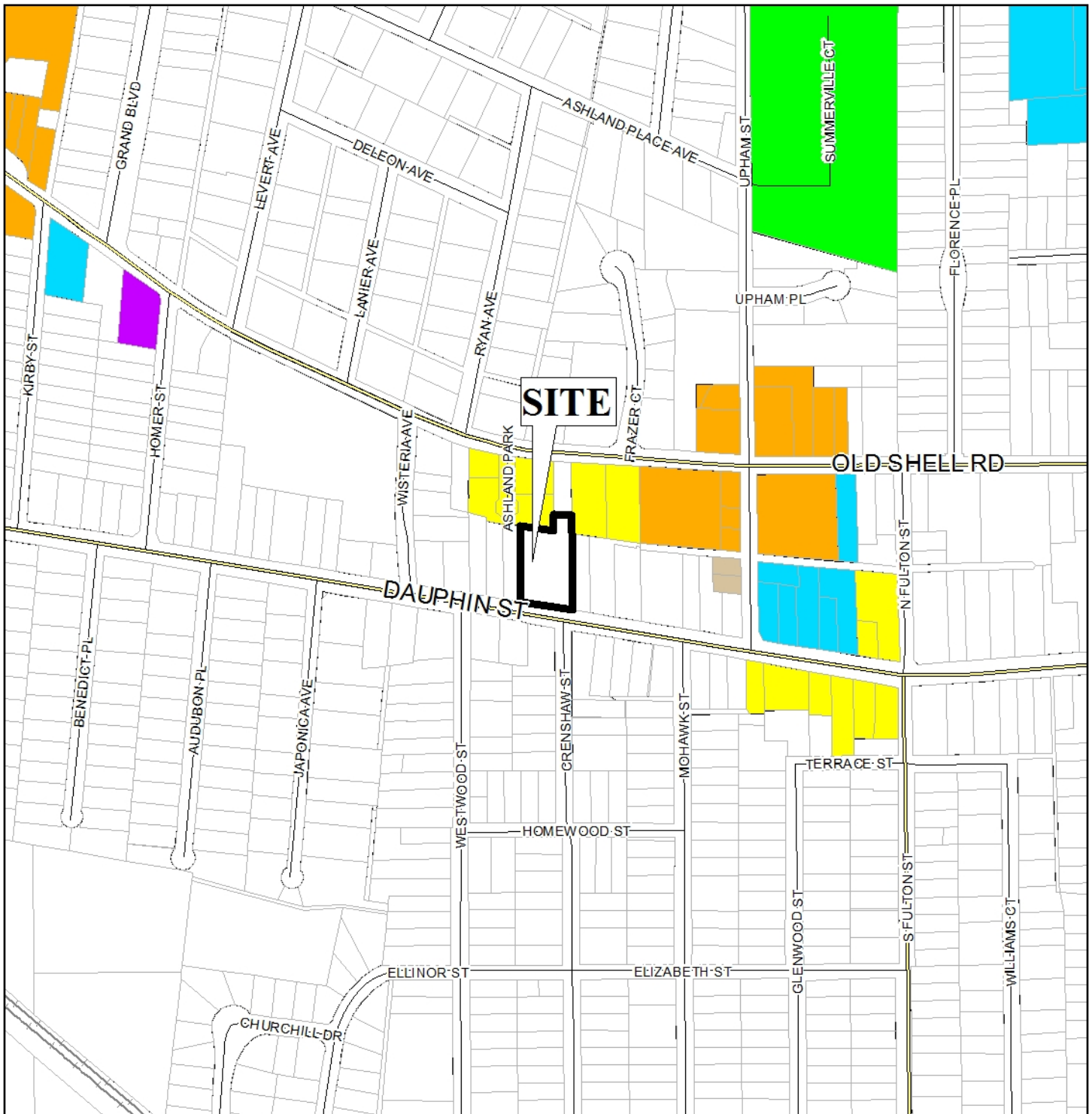
APPLICATION NUMBER 6230 DATE December 3, 2018

APPLICANT Sunshine Sue's Playgarden Sara W. Kindt, Owner

REQUEST Use, Residential Buffer, Tree Planting, Access and Maneuvering and Surfacing Variances



# LOCATOR ZONING MAP



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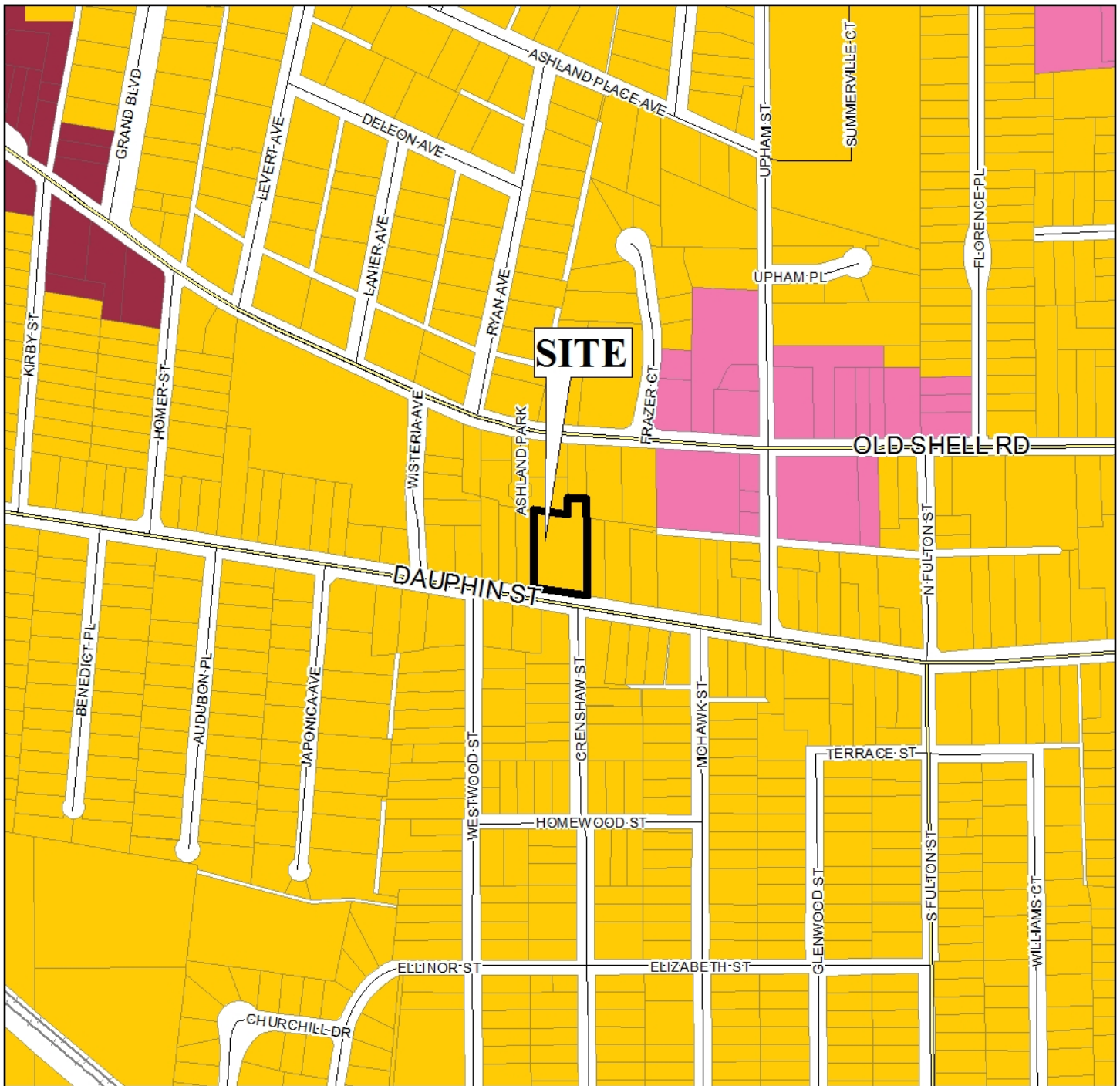
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# FLUM LOCATOR MAP



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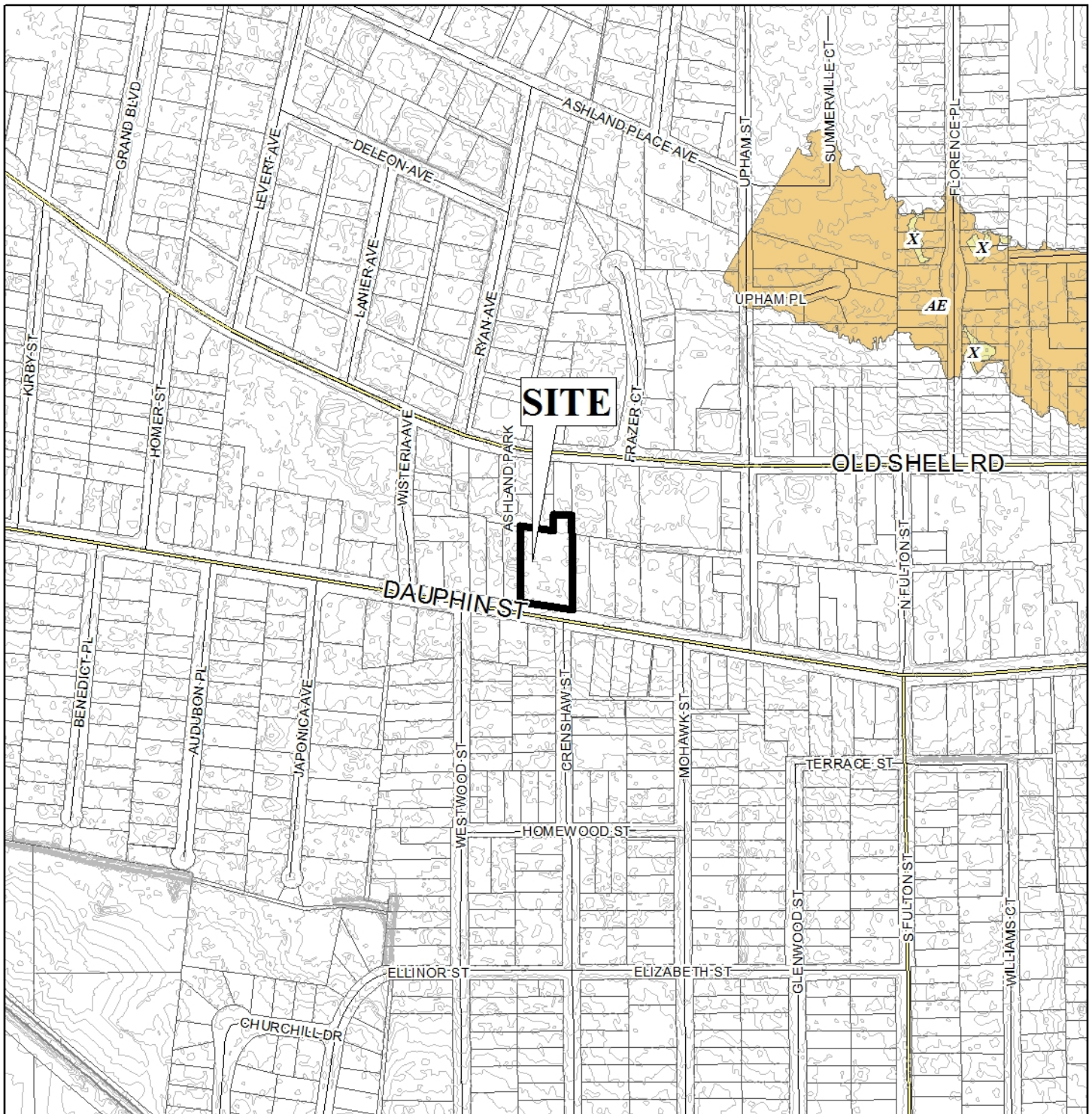
REQUEST Use, Residential Buffer, Tree Planting, Access and Maneuvering and Surfacing Variances

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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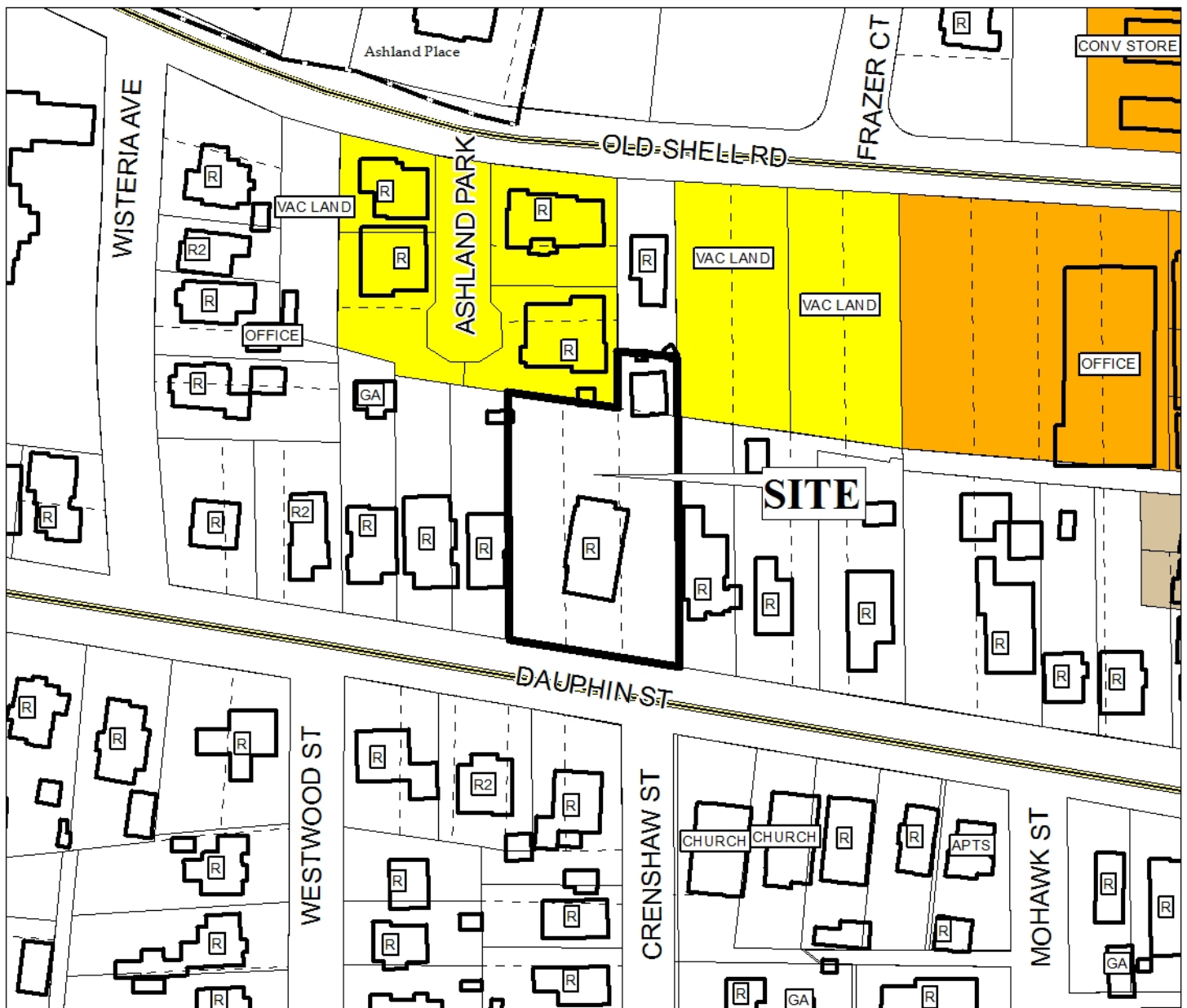
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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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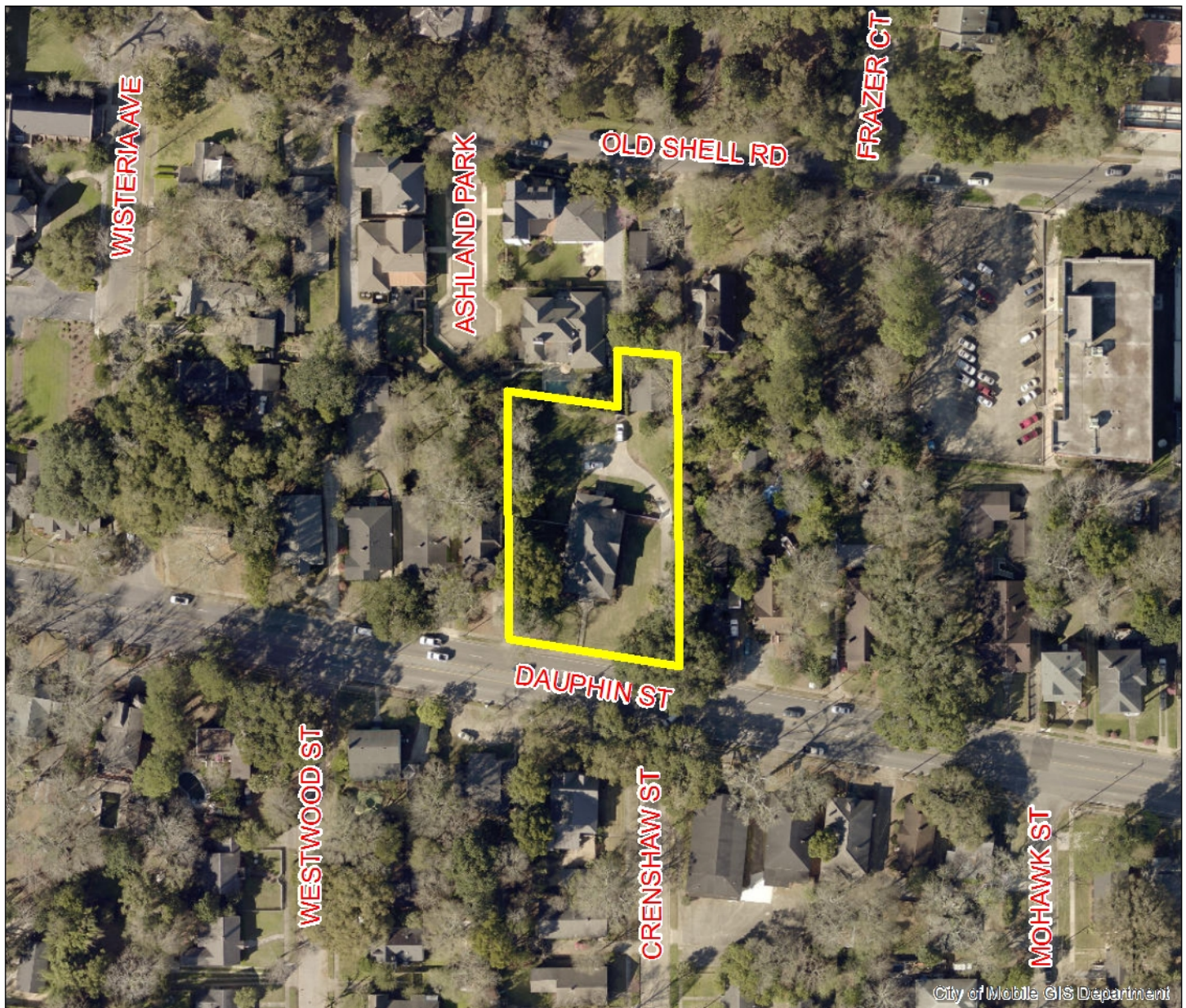
R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL



City of Mobile GIS Department

The site is surrounded by residential units.

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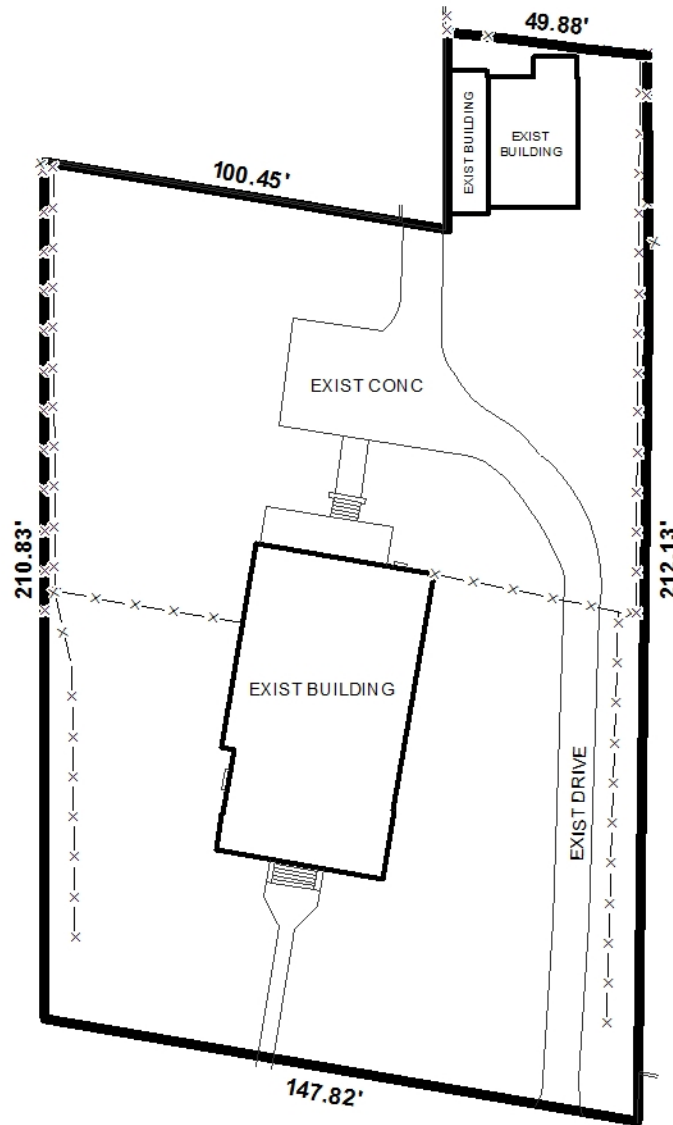
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# EXISTING SITE PLAN



The site plan illustrates the existing buildings and existing drive.

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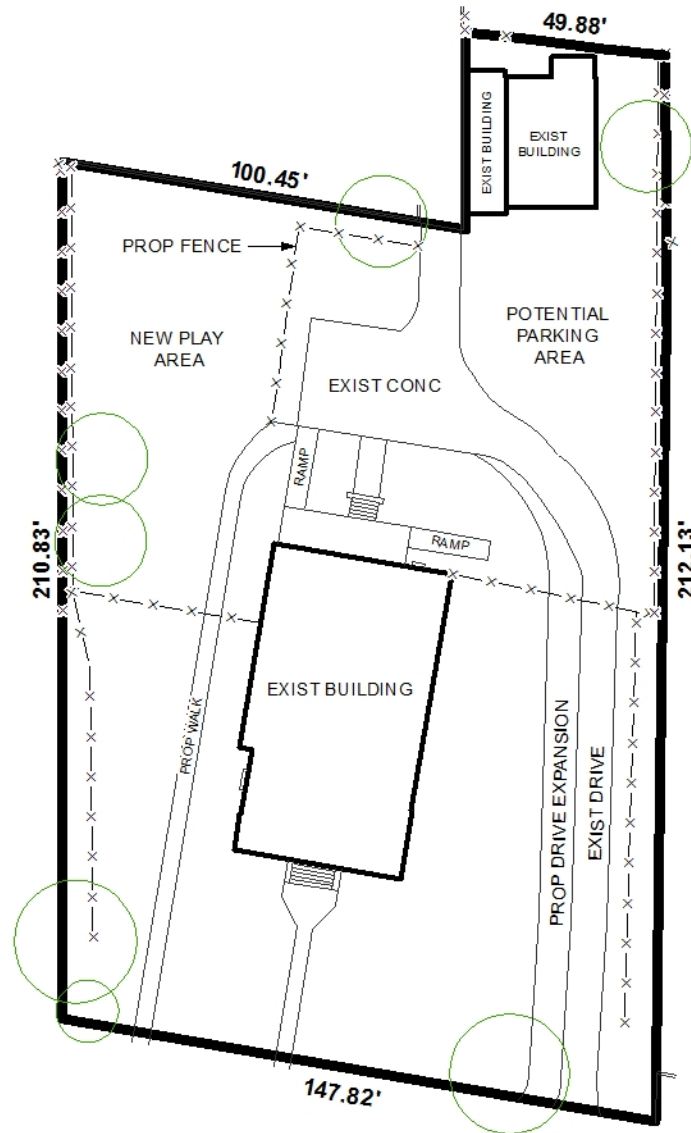
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# PROPOSED SITE PLAN



The site plan illustrates the existing buildings, existing drive, new play area, and new drive expansion.

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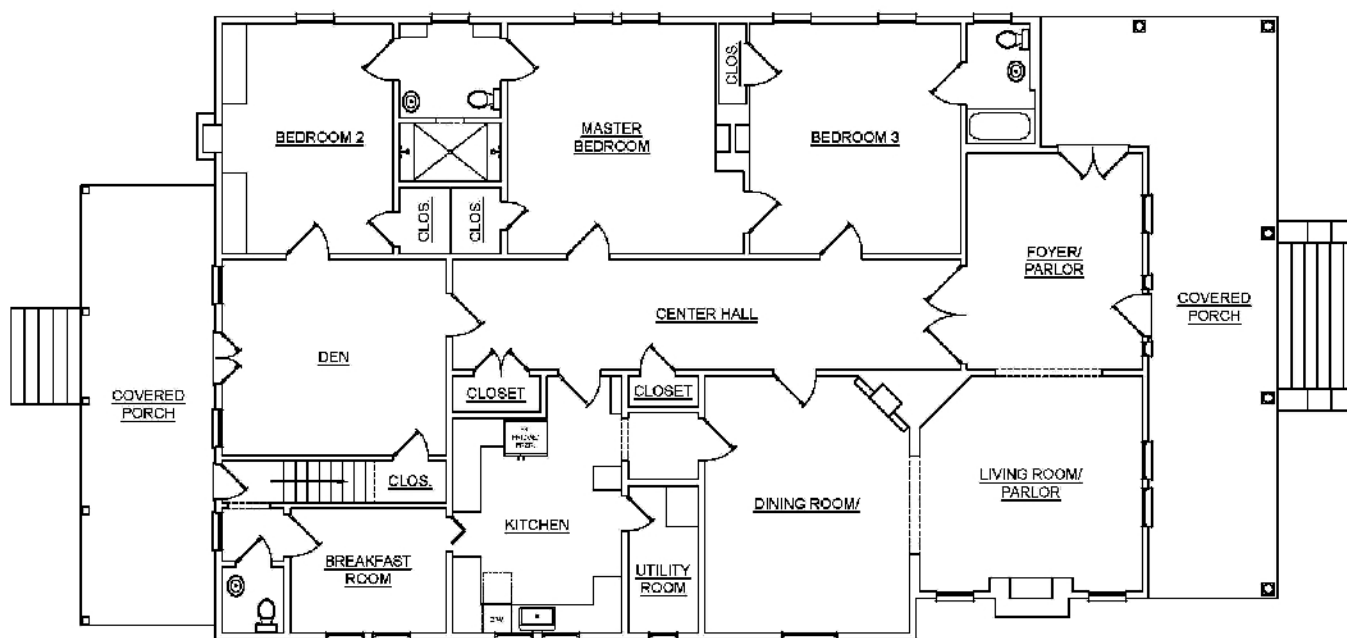
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# DETAIL SITE PLAN



**EXISTING FLOOR PLAN**

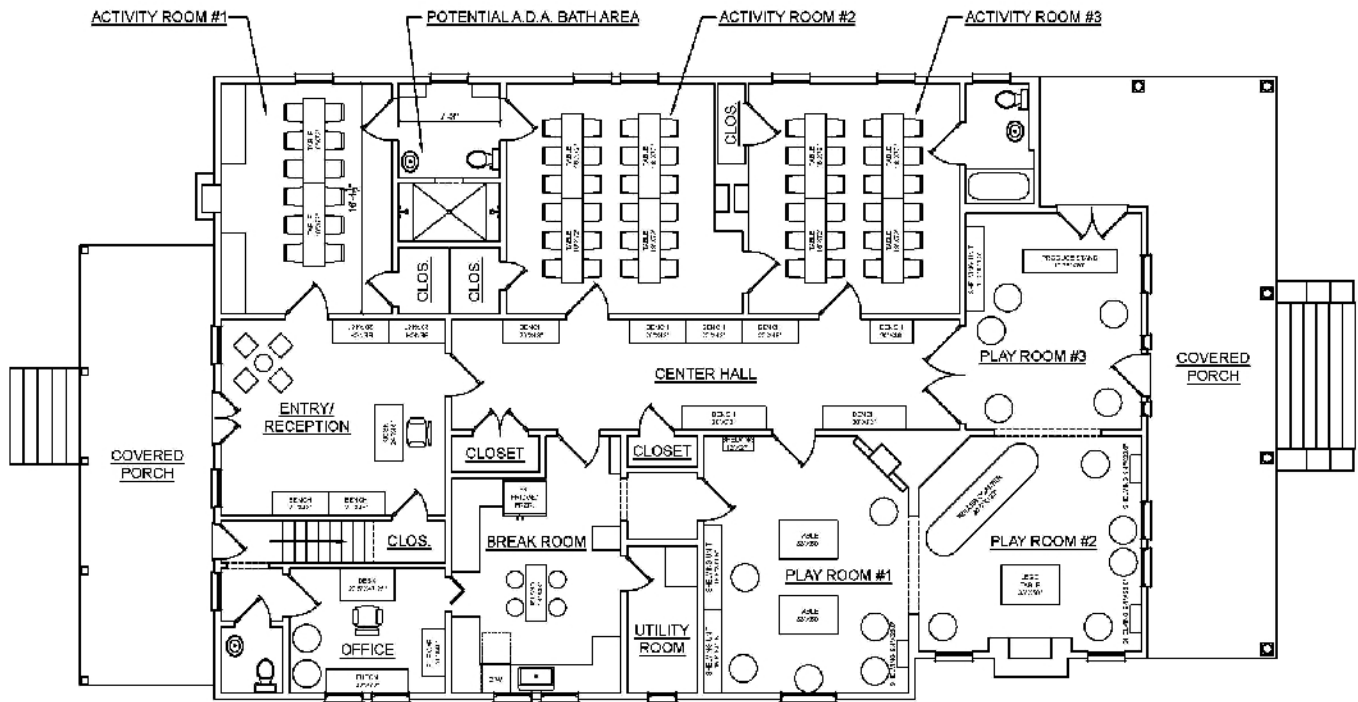
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# DETAIL SITE PLAN



1  
A3

PROPOSED FLOOR PLAN

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