

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 11, 2016****CASE NUMBER**

6046/5840/5113/4902/4883

APPLICANT NAME

Steve Stone (Authorized Agent)

LOCATION1714 Dauphin Street
(Northeast corner of Dauphin Street and Semmes Avenue)**VARIANCE REQUEST**

USE: Use Variance to amend a previously approved use Variance to allow a 2,500 square foot restaurant within a 6,000 square foot commercial building in an R-1, Single-Family Residential District.

PARKING RATIO: Parking Ratio Variance to allow 22 shared parking spaces between two sites with a 2,500 square foot restaurant within a 6,000 square foot, three-tenant building, and a 1,800 square foot commercial building.

ACCESS AND MANEUVERING: Access and Maneuvering Variances to allow shared access between two sites with substandard parking stalls and aisle widths.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of B-2, Neighborhood Business District, for a restaurant.

PARKING RATIO: The Zoning Ordinance requires 37 parking spaces for a 6,000 square foot commercial building with a 2,500 square foot restaurant, and 6 parking spaces for an 1,800 square foot commercial building (43 parking spaces total).

ACCESS AND MANEUVERING: The Zoning Ordinance requires all parking to be on-site with 9' wide by 18' deep parking stalls, and with 24' wide aisles.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

19,310 Square Feet

TRAFFIC ENGINEERING**COMMENTS**

Traffic Engineering does not object to the proposed variances, as they have been approved for this site in the past.

ENGINEERING**COMMENTS**

No comment

CITY COUNCIL**DISTRICT**

District 2

ANALYSIS

The applicant is requesting Use, Parking Ratio, and Access and Maneuvering Variances to amend conditions placed on a previously approved variance to allow a 2,500 square foot restaurant within a 6,000 square foot, three-tenant building, shared access and parking with a 1,800 square foot commercial building, with 22 parking spaces, substandard parking stalls and aisle widths in an R-1, Single-Family Residential District; the Zoning Ordinance requires 37 compliant parking spaces for a 6,000 square-foot commercial building with a proposed 2,500 square foot restaurant, 6 compliant parking spaces for an 1800 square-foot commercial building and 24' maneuvering aisles with a minimum of a B-2, Neighborhood Business District.

The specific purpose of this request is to amend the allowed hours of operation for a new restaurant tenant.

This site has been the subject of three previously approved variances. At its January 10, 2000 meeting, the Board approved a Use and Parking Variance to allow a coffee house with 50% of the required number of parking spaces, and at its May 6, 2002 meeting, the Board approved another Use and Parking Ratio Variance to allow a garden shop with fewer required parking spaces. At its July 1, 2013 meeting, the Board approved Use, Parking Ratio, and Access Maneuvering Variances to amend the previously approved variance to allow a 2,500 square foot restaurant within in a 6,000 square foot, three-tenant building with shared access and parking with an adjacent 1,800 square foot commercial building, with 22 parking spaces, and substandard parking stall dimensions and aisle widths. In addition to this approval, the Board placed a condition limiting the restaurant to evening hours only Monday through Friday, and lunch and dinner on weekends. The applicant now proposes to use the street corner unit, in which the former coffee shop, garden shop, and restaurant were located, in addition to a storage unit to the rear of the structure, for a 2,500 square foot café. The other two units in the building occupy a total of 3,500 square feet, but are currently vacant. Based on these square footages, and assuming the two vacant units would only be used for businesses requiring one parking space per 300 square feet of gross floor area, the site would require 37 parking spaces. The applicant also proposes to continue shared access and parking with the adjacent site to the East which houses an existing 1,800 square foot credit union building requiring 6 parking spaces, bringing the total required for both sites to 43 parking spaces.

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 states:

“On July 1, 2013, the Board of Zoning Adjustment approved several requested variances for a 2,500 sf restaurant tenant located within a three-unit building at the corner of Dauphin & Semmes.

At the time, requests were made to share parking spaces and access with the existing Credit Union to the east, as well as allow substandard parking space size and quantity. We have attached the submitted site plan from the 2013/2014 application as an exhibit for reference.

That restaurant has since gone out of business and a new tenant is looking to operate another restaurant, specifically a café serving breakfast and lunch along with serving as a wholesale bakery. The establishment intends to eventually serve beer & wine but not hard liquor.

The new business would not operate during the evening hours approved by the 2013 Use Variance and would like to request that condition #1–“the restaurant operation is limited to evening hours only Monday through Friday, and lunch and dinner on weekends;” to be removed and replaced with a condition on the previously approved Use Variance limiting operations to 7am to 10 pm, 7 days a week.”

With regard to the Use Variance request to operate a café, in light of the fact that the 2000 approval allowed a coffee shop and the 2013 approval allowed a restaurant, the café would be within the same vein of operation. The building is clearly commercial in nature, thus re-use for residential purposes is unlikely. Allowance of the café would be a viable neighborhood-oriented re-use of an otherwise vacant commercial site.

The applicant states that the proposed café would serve breakfast and lunch, in addition to wholesale bakery items, and will operate between the hours 7 am to 10 pm, seven days a week. The previous restaurant request allowed the credit union and future tenant spaces full use of the parking facilities during normal daytime Monday through Friday business operating hours, while the restaurant maintained evening and weekend hours. At that time, the combined sites required 18 parking spaces for normal Monday through Friday retail/office operations, and 25 spaces for the night-time restaurant operation. As 22 parking spaces were provided on the combined sites, sufficient parking was available for the day-time operations and only a deficit of three parking

spaces existed for the restaurant operation. The proposed restaurant/café is requesting daytime business operation hours Sunday through Saturday in lieu of the approved evening and weekend operating hours of the last variance request. As mentioned previously, the parking facility would be required to have 43 parking spaces on site to fulfill the parking requirements for each business use, which at some point, may consist of four businesses operating at the same time throughout the week; however, it should be mentioned that the 2000 approval of the coffee shop permitted three businesses to share access and parking with a 50% reduction in the total number of parking spaces required for this site. Therefore, it appears that an amended parking ratio and shared access and parking request would be reasonable, in this instance, if the remaining vacant tenant spaces are relegated to retail/office uses only in order to mitigate the subject site's current parking constraints.

No changes to the site are proposed, thus all previous site related variance approvals and conditions remain applicable.

It should be noted that the existing landscape planter boxes within the Dauphin Street right-of-way were a condition of the 2000 variance and meant to deny parallel parking along that street. Those planters should remain in place as a condition of this variance, if approved.

As both sites are fully developed, the requirement for any landscaping and tree planting would not be required.

Given the fact that the proposed re-use is essentially the same as previously approved, with only a change to the hours of operation, consideration could be given for the approval of this application, subject to certain conditions.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) Based on the fact that a hardship regarding use, parking ratio, and access and maneuvering have posed as constraints on the subject site throughout the years, granting the variance will not be contrary to the public interest since the subject property has been granted similar variances in the past;
- 2) Special conditions appear to exist and there are justifications of hardship which exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site cannot be developed without the requirement for variances; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the subject site is not proposing any site changes as the request is only to extend the hours and days of operation for a restaurant use.

The application Approval is subject to the following conditions:

- 1) the restaurant/café operation is limited to the hours of 7 am to 10 pm, 7 days a week;
- 2) the remaining vacant tenant spaces are required to be used for retail or office space only;
- 3) site to remain developed per previous Board of Zoning Adjustment approvals and conditions; and
- 4) full compliance with all other municipal codes and ordinances.

Revised for the August 1, 2016 meeting:

This application was heldover from the July 11, 2016 meeting due to a member's recusal resulting in a lack of a quorum. The recommendation for approval still remains applicable.

RECOMMENDATION: *Staff recommends to the Board the following findings of fact for Approval:*

- 1) Based on the fact that a hardship regarding use, parking ratio, and access and maneuvering have posed as constraints on the subject site throughout the years, granting the variance will not be contrary to the public interest since the subject property has been granted similar variances in the past;*
- 2) Special conditions appear to exist and there are justifications of hardship which exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site cannot be developed without the requirement for variances; and*
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the subject site is not proposing any site changes as the request is only to extend the hours and days of operation for a restaurant use.*

The application Approval is subject to the following conditions:

- 1) the restaurant/café operation is limited to the hours of 7 am to 10 pm, 7 days a week;*
- 2) the remaining vacant tenant spaces are required to be used for retail or office space only;*
- 3) site to remain developed per previous Board of Zoning Adjustment approvals and conditions; and*
- 4) full compliance with all other municipal codes and ordinances.*

Revised for the September 12, 2016 meeting:

This application was heldover from the August 1, 2016 meeting due to a member's recusal resulting in a lack of a quorum. The recommendation for approval still remains applicable.

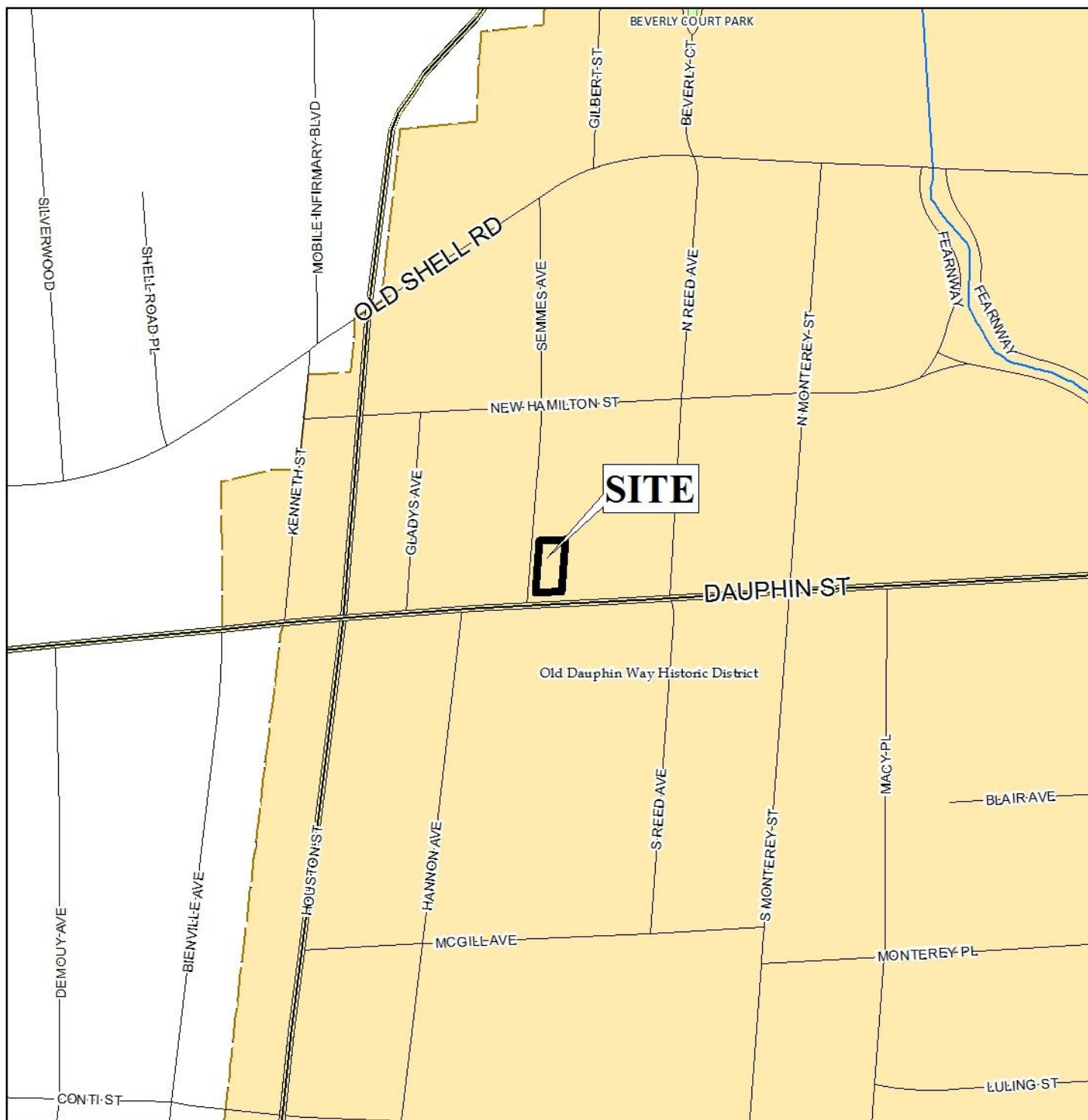
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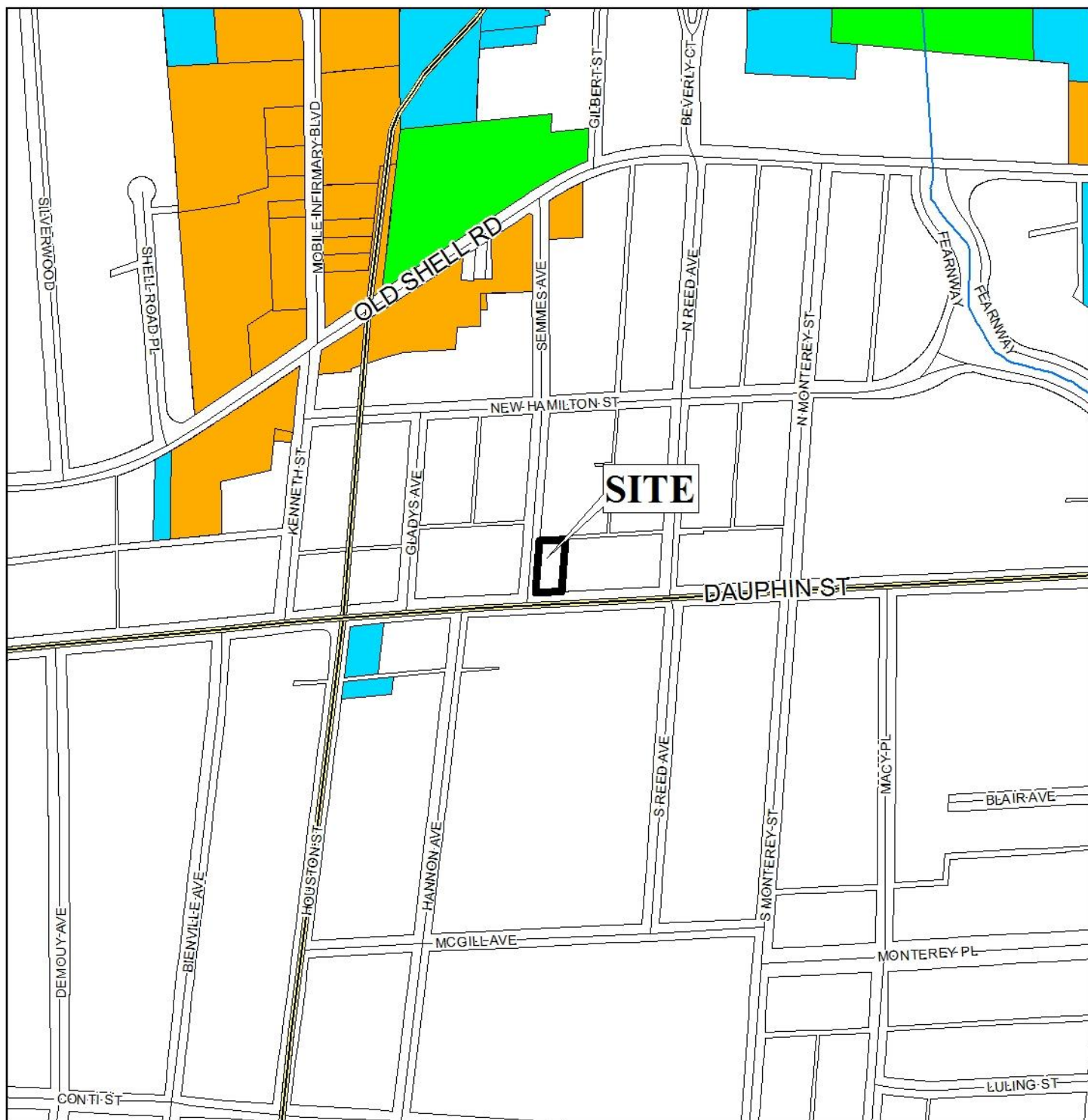
LOCATOR MAP



APPLICATION NUMBER 6046 DATE September 12, 2016
APPLICANT Steve Stone
REQUEST Use, Parking Ratio, and Access and Maneuvering Variances



LOCATOR MAP



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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A credit union lies east of the site.

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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

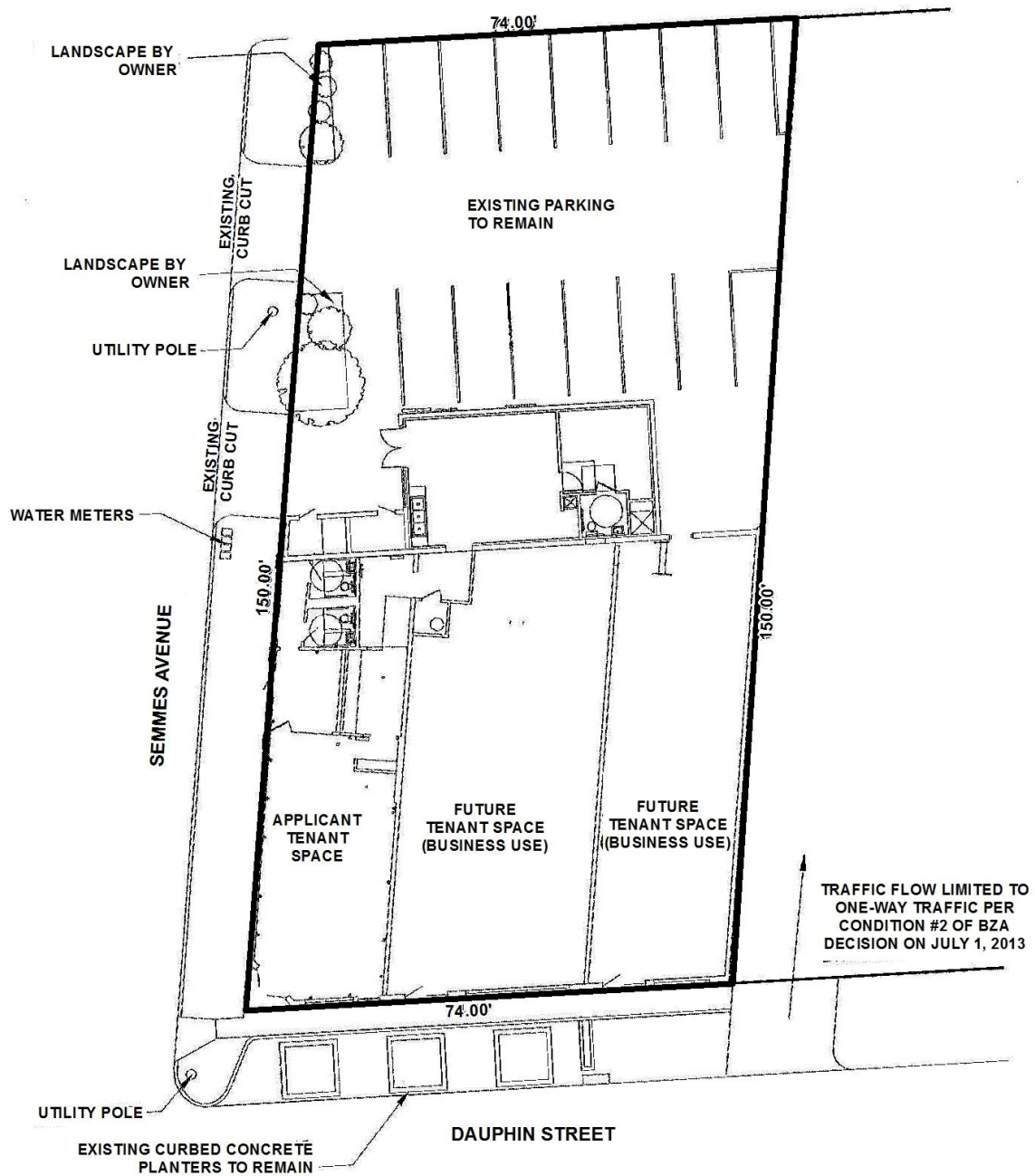


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SITE PLAN



The site plan illustrates the future tenant spaces, parking, and landscape.

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