

**PLANNED UNIT DEVELOPMENT,
PLANNING APPROVAL &
ZONING AMENDMENT, STAFF REPORT****Date: January 9, 2020****NAME**

Chris Paragone

LOCATION2907 and 2911 Dauphin Street
(South sides of Dauphin Street, 537'± South Sage Avenue)**CITY COUNCIL
DISTRICT**

District 1

PRESENT ZONING

LB-2, Limited Neighborhood Business District

PROPOSED ZONING

B-2, Neighborhood Business District

**REASON FOR
REZONING**

None provided.

AREA OF PROPERTY

6.9± Acres

CONTEMPLATED USE

Planned Unit Development Approval to allow shared access between multiple building sites, Planning Approval to allow the operation of a performing arts center in a proposed B-2, Neighborhood Business District; and Rezoning from LB-2, Limited Neighborhood Business Districts to B-2, Neighborhood Business to accommodate a performing arts center.

It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.

**TIME SCHEDULE
FOR DEVELOPMENT:**

None provided

**ENGINEERING
COMMENTS:****Planned Unit Development:**

1. Recommend moving the dumpster as far away from the residential properties as possible.

2. Retain NOTES #3, 4, & 5 as shown on the PUD Site Plan (Plan Sheet No. C-01).
3. Due to existing downstream drainage conditions the site will be required to provide detention to contain the 100 year post development volume with a 2 year predevelopment outflow (volume and velocity).
4. Add the following notes to the PUD Site Plan (Plan Sheet No. C-01):
 - a. Any existing or proposed detention facility shall be maintained as it was constructed and approved. The Land Disturbance Permit application for any proposed construction includes a requirement of a Maintenance and Inspection Plan (signed and notarized by the Owner) for the detention facility. This Plan shall run with the land and be recorded in the County Probate Office prior to the Engineering Department issuing their approval for a Final Certificate of Occupancy.
 - b. The approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. The Owner/Developer is responsible for acquiring all of the necessary permits and approvals.
 - c. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

Planning Approval:

1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII).
2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems and paving will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work.
3. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.
4. Any existing or proposed detention facility shall be maintained as it was constructed and approved. The Land Disturbance Permit application for any proposed construction includes a requirement of a Maintenance and Inspection Plan (signed and notarized by the Owner) for the detention facility. This Plan shall run with the land and be recorded in the County Probate Office prior to the Engineering Department issuing their approval for a Final Certificate of Occupancy.
5. The approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. The Owner/Developer is responsible for acquiring all of the necessary permits and approvals.

6. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

Rezoning: No Comments.

TRAFFIC ENGINEERING

COMMENTS

A traffic impact study was conducted for the proposed development on Lot 2A. A previous study for the overall site required offsite improvements, including but not limited to a northbound right turn lane on Sage Avenue. This study was completed after the traffic impact study for the adjacent medical clinic site, but the proposed improvements to the median on Dauphin Street were not considered as part of this impact study placing greater emphasis on U-turn movements along Dauphin Street. This impact study only recommends signal timing adjustments at the intersection of Dauphin Street and Sage Avenue based on the high intensity use as the theatre. The potential impacts of the educational programs offered during the week were not considered as part of the study. When additional development is proposed for the remaining portions of the property, additional impact studies will be required based on the intensity of each development prior to approval of any additional site access. The proposed site is limited to one curb cut to Dauphin Street with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. All on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

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 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).

REMARKS

The applicant is requesting Planned Unit Development Approval to allow shared access between multiple building sites, Planning Approval to allow the operation of a performing arts center in a proposed B-2, Neighborhood Business District, and Rezoning from LB-2, Limited Neighborhood Business Districts to B-2, Neighborhood Business to accommodate a performing arts center.

The site has been given a Low Density Residential (LDR) 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 to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

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 applicant provided the following narrative in regard to all three requests:

Purpose

The purpose of this document is to comply with the City of Mobile ordinance 64-5,D.2.a for a Planned Unit Development (PUD) and planning application inclusive of a Voluntary Use Restriction (VUR) proposal of the re-subdivision of the Graf Dairy Lot(s) 1,2,3,5 from LB-2 to B-2. The proposed development of a Performing Arts Education Center and Theater is not indicated as a permitted use for LB-2 and is shown as a provisional use for B-2 zoning. The VUR will identify uses that may be considered a nuisance and how the nuisance will be mitigated through limitations by rezoning the lot for the parcel and restrict B-2 uses to LB-2 by-right uses.

Description and Existing Use

The site is currently owned by Graf Dairy LLC and is undergoing a re-subdivision process. The Performing Arts Center will be located on Lot 2A of the Graf Dairy Re-Subdivision submitted by McCrory Williams Incorporated of Lot(s) 1, 2,3 and 5 .This location is bordered to the north by Dauphin Street and to the east by a residential

neighborhood. The property is bordered on the south and west by vacant lots. The site is currently vacant and not being used by the owner.

Proposed Use

The proposed use is a multi-purpose 6.9 acres and a 65,848-sf building that will serve as a performing arts center. This facility will give patrons the opportunity to participate in classes and attend theatrical events that will highlight the importance of the arts in education. This site will not just serve as an Arts Education Center. It will also serve as a venue that will attract local, as well as national acting companies. This development will provide an opportunity for people of all ages to enjoy performances and learn about the different elements of performing arts.

Most of the activities provided by the Center will be conducted inside the building but there is a portion of the southeast corner that will include a playground and other features that allows patrons to enjoy the outdoors.

Normal Hours of Operation

The normal operation for the proposed performing arts education center will be from 2:30 pm to 7:00 pm. These hours will provide ample time for different lessons and classes, as well as provide the opportunity to stay open for premier performances and showcases.

Hours of Operation – Theater

The Theater will be closed except during performances:

Monday – Friday – 5:00 pm through 9:00 pm

Saturday – 12:00 pm through 9:00 pm

Sunday – 12:00 pm through 7:00 pm

Hours of Operation – Arts Education Area:

Mon-Fri between the hours of 2:30 pm to 7:00 pm

Fugitive Light – Hours of Light(s) on:

Mon-Sun from Sunset to 10:30 pm

Parking

The amount of parking required for this type of facility is 132 vehicular spaces, 5 handicap spaces and 1 van space. The amount of parking provided is 141 vehicular spaces, 5 handicap spaces and 1 van space. Parking spaces are proposed on all sides of the building, with most of the spaces being proposed on the south side of the property. The parking spaces along the east side of the site will serve as employee parking and loading/unloading for delivery trucks. The spaces will be clearly marked so they can be easily identified. The main entrance will be on the north side of the building with a

second entrance located on the west side of the building. The entrance on the west side of the building will serve as the main loading/unloading area and provide a turnout so that vehicles can get out of the travel way and not create a safety hazard.

Maximum Number of Students

The maximum number of students will be 200 on a daily basis. Visiting students not enrolled in the Arts Education Center but visiting the facility during the normal operational hours of instruction will be less than 1 per day. No parking for enrolled students or visitors will be allowed along the eastern portion of the site.

Owners and/or occupiers of land cannot use the property in such a way that deprives adjacent landowners of their right of useful enjoyment of their property. Also, landowners cannot use their land in a way that causes injury or harm to others. If the use of a property causes unreasonable annoyance or disturbs another person in the use, possession or enjoyment of their property, the landowner/occupier could be liable for creating a nuisance which is punishable by fine or at the discretion of the local governing authority. Examples of a nuisance include bright lights, or business activities that cause bad odors or loud noises.

Anyone who is injured by a nuisance created by your use of your property can file a lawsuit against you. The lawsuit can seek money damages or an injunction, which is a court order forbidding you from engaging in the harmful activity.

Voluntary Use Restrictions

If approved by the Board of Zoning Adjustments, this property will be within the B-2 zoning district and will be allowed the uses shown below in the Voluntary Use Restrictions. All other uses, except those shown in the table below, shall not be permitted on this site.

Several measures will be taken to ensure that the surrounding properties will not be negatively affected by this development. The proposed development will utilize low level intensity lighting along the eastern parking area and building face, low height lighting for along the eastern parking area, 95-ft setback and vegetation buffer will be utilized along the eastern property line to reduce the amount of noise emanating from the property.

Chart of Permitted Uses			
Uses and Conditions	Types of Districts		
	B-2	LB-2	B-3
Antique store: not including	R	R	R

refinishing or repairing			
Apothecary: limited to the sale of pharmaceuticals and medical supplies	R	R	R
Appliance (household) sales and service:	R	R	R
Appliance repair, electrical:	R	R	R
Art gallery: commercial	R	R	R
Art supply store:	R	R	R
Auditorium, civic center: (<i>requested to be allowed w/approval of planning commission</i>)	P(-)	P(-)	P(R)
Bakery: all products produced on the premises shall be sold at retail on the premises	R	R	R
Bank or savings institution:	R	R	R
Barber shop or beauty shop:	R	R	R
Bed and breakfast inn: see Definition, section 64-2	R	R	—
Bicycle repair:	R	R	R
Bicycle sales and service:	R	R	R
Book store:	R	R	R
Butcher shop, meat market:	R	R	R
Camera and photographic supplies store:	R	R	R
Candy, nut and confectionery, and popcorn sales:	R	R	R
Catering shop:	R	R	R
Ceramics school:	R	R	R
Ceramics shop with small kiln: includes ceramics instruction and supply sales	R	R	R
Church or religious facility: including parish house, community house and educational buildings; see Definition, section 64-2	R	R	R
Church, revival (temporary): zoning certification and site plan review required; certification to be valid for up to 30 days;	R	R	R

Clinics of dentists: see Definition, section 64-2	R	R	R
Clinics of other health practitioners: including chiropractors, optometrists, podiatrists, physical therapists, psychologists, etc.	R	R	R
Clinics of physicians: see Definition, section 64-2	R	R	R
Clothing and accessory store:	R	R	R
Community center, recreation center: including social services, activity centers, outreach programs	R	R	R
Community residential facility: for persons with developmental disabilities; see Definition, section 64-2	R	R	R
Computer and computer software sales and service:	R	R	R
Computer leasing:	R	R	R
Computer repair and maintenance service:	R	R	R
Computer software production: production of prepackaged software on tape or disk	R	R	R
Convenience food store: may not include gas pumps in T-B districts	R	R	R
Convent, monastery:	R	R	R
Cosmetics store:	R	R	R
Counseling center:	R	R	R
Credit union:	R	R	R
Dance school: (<i>already permitted use by right</i>)	R	R	R
Day care center, adult and handicapped:	R	R	R
Day care, kindergarten, nursery: for infants and children	R	R	R
Delicatessen:	R	R	R
Diet center: not including exercise facilities; also see health club	R	R	R
Domiciliary care facility: see Definition, section 64-2	R	R	R

Drapery shop: including custom drapery fabrication, drapery and upholstery material sales; but not including reupholstery	R	R	R
Drug store:	R	R	R
Dwelling, multiple-family: allowed by right in B- 2 and B-3 districts; allowed by right in B-4 districts, except within the Dauphin Street Overlay which requires planning approval for residential use on the first or ground floor (historic residential structures are exempt within the overlay); permitted only above 1st or ground floor in T-B or B-4 districts (historic residential structures are exempt from this restriction in B-4 districts as determined by MHDC); see definition, section 64-2	R	R	R
Dwelling, single-family: allowed by right above the first or ground floor in B-2 and B-3 districts; allowed by right in B-4 districts, except within the Dauphin Street Overlay which requires planning approval for residential use on the first or ground floor (historic residential structures are exempt within the overlay); permitted only above 1st or ground floor in T-B or B-4 districts (historic residential structures are exempt from this restriction in B-4 districts as determined by MHDC); see definition, section 64-2	R	R	R

Dwelling, two-family: allowed by right above the first or ground floor in B-2 and B-3 districts; allowed by right in B-4 districts, except within the Dauphin Street Overlay which requires planning approval for residential use on the first or ground floor (historic residential structures are exempt within the overlay); permitted only above 1st or ground floor in T-B or B-4 districts (historic residential structures are exempt from this restriction in B-4 districts as determined by MHDC); see definition, section 64-2	R	R	R
Educational services, miscellaneous: such as photography, drama, speech, music, tutoring, etc. (<i>already permitted use by right</i>)	R	R	R
Electric substation: must be enclosed within a solid masonry wall or wood fence at least 8' high to obstruct view, noise and passage of persons; or must be placed underground	R	P	R
Electric transmission line right-of-way: for transmission lines of 44kv potential and above, over and across private property; need not be enclosed within structure	R	P	R
Electric transmission or distribution line: excluding electric transmission lines of 44kv potential and above; need not be enclosed within structure	R	R	R
Electrical and electronic repair, nec: including medical equipment and business machines	—	R	R
Fabric store:	R	R	R
Floor covering and carpet sales:	R	R	R
Florist: also see potted plant leasing	R	R	R
Freight or cargo shipping agency: office use only to provide shipping information and arrange transportation; allowed only above first or ground floor in H-B districts	R	R	R

Fruit and vegetable sales:	R	R	R
Furniture sales:	R	R	R
Gas regulator station:	R	P	R
Gift or greeting card shop:	R	R	R
Grocery store:	R	R	R
Hardware store:	R	R	R
Health club, fitness center, gymnasium:	R	R	R
Hobby supply store:	R	R	R
Ice cream or frozen yogurt shop:	R	R	R
Interior decorating shop:	R	R	R
Jewelry store: including repair of jewelry, watches and clocks	R	R	R
Jewelry, watch, and clock repair:	R	R	R
Leather or luggage store:	R	R	R
Library or reading room:	R	R	R
Library, public:	R	R	R
Loan office, mortgage or finance company:	R	R	R
Martial arts instruction:	R	R	R
Massage therapy (each massage therapist must be certified and licensed by the state to locate in B-1 districts)	R	R	R
Membership organization meeting hall: including non-profit civic, social, fraternal, business, or political organizations; but not including college fraternities or sororities	R	P	R
Museum: public or semi-public; or art, natural history, science, technology, etc.	R	R	R
Musical instrument sales:	R	R	R
News stand:	R	R	R
Novelty or souvenir shop:	R	R	R
Office supplies and stationery:	R	R	R
Offices of attorneys; legal services:	R	R	R

Offices of contractors: Allowed only above first or ground floor in H-B districts. Outside storage is allowed in B-1, B-2, B-3 and B-4 districts under the following restrictions: said construction storage area shall be completely screened by a 6' privacy fence; all materials stored shall not be stacked higher than 6'; heavy equipment such as bull dozers, dump trucks, etc. are not allowed; said area is allowed only in the rear yard	R	R	R
Offices of dentists:	R	R	R
Offices of engineers, architects, accountants, business services, or membership organizations:	R	R	R
Offices of finance, insurance, and real estate establishments:	R	R	R
Offices of government establishments:	R	R	R
Offices of landscape architects:	R	R	R
Offices of manufacturing establishments:	R	R	R
Offices of mining establishments:	R	R	R
Offices of other health practitioners:	R	R	R
Offices of physicians:	R	R	R
Offices of retail establishments:	R	R	R
Offices of transportation, communication, and utility establishments:	R	R	R
Offices of wholesale establishments:	R	R	R
Optical goods sales: may include lens grinding and fitting glasses to prescription	R	R	R
Paint and wallpaper store:	R	R	R
Park and/or playground, public: need not be enclosed within structure	P	R	P
Photocopying, xerographing, or fax service:	R	P	R
Photographic studio, portrait:	R	R	R

Photography, commercial:	R	R	R
Piano sales and service:	R	R	R
Picture framing:	R	R	R
Plants, live: rental or leasing: also see florist	R	R	R
Police department or precinct, highway patrol, sheriffs' office:	P	R	P
Post office:	P	R	P
Printing, quick or custom: small establishments primarily engaged in offset or lithographic printing on a job or custom basis	R	P	R
Publishing; desk-top: but not including printing by letterpress, lithography, offset, or similar methods; allowed only above first or ground floor in H-B districts	R	R	R
Radio and television repair: including repair of other household audio/visual equipment	R	R	R
Radio and television sales and service:	R	R	R
Record and tape store:	R	R	R
Restaurant: may include carry-out service; but may not include automobile drive-thru window or curbside service; see Definition, section 64-2	R	R	R
Restaurant, drive-thru: may not include automobile curbside service; see Definition, section 64-2	R	R	R
School supply store:	R	R	R
Security systems service:	R	R	R
Sewing machine or vacuum cleaner sales and service:	R	R	R
Sewing machine repair:	R	R	R
Shelter for women and children:	R	R	R
Shoe repair shop:	R	R	R
Shoe store:	R	R	R
Specialty food store: such as health food, vitamins, coffee, beer and wine (no liquor)	R	R	R
Sporting goods sales and service:	R	R	R

Stained glass shop:	R	R	R
Stationery store:	R	R	R
Tailor shop:	R	R	R
Tanning salon:	R	R	R
Telephone lines: need not be enclosed within structure	R	R	R
Theatrical production or symphony orchestra: (<i>requested to be allowed by right</i>)	P	R	R
Tobacco shop:	R	R	R
Toy store:	R	R	R
Travel agency: allowed only above first or ground floor in H-B districts	R	R	R
Tuxedo, formal wear, or costume rental:	R	R	R
Variety store: limited to the sale of items which may be sold by any other use in this district	R	R	R
Video movie rental:	R	R	R

The list of permitted uses shown above will supersede the permitted uses published in Section 64, Chapter 12 of the City of Mobile Zoning Ordinance.

As stated previously, the applicant has submitted three applications; Planned Unit Development, Planning Approval and Rezoning. The review criteria for each request differs based on the type of request, and are referenced below.

Planned Unit Development review examines the site with regard to its location to ensure that it is generally compatible with neighboring uses; that adequate access is provided without generating excess traffic along minor residential streets in residential districts outside the PUD; and that natural features of the site are taken into consideration. PUD review also examines the design of the development to provide for adequate circulation within the development; to ensure adequate access for emergency vehicles; and to consider and provide for protection from adverse effects of adjacent properties as well as provide protection of adjacent properties from adverse effects from the PUD. PUD approval is site plan specific, thus if any new construction is anticipated that will change an approved site plan, an application to amend an existing, approved PUD must be made prior to any construction activities.

In pursuit of these purposes, the objectives to be met by a PUD are as follows: a) to encourage innovative and diversified design in building form and site development; b) flexibility, to permit greater flexibility in the location and arrangement of buildings and uses than is generally possible under district regulations; c) to encourage the most efficient and sustainable use of land, especially tracts in the inner part of the city that remain undeveloped or that are appropriate for

re-development; d) to preserve and protect as urban amenities the natural features and characteristics of land; e) to encourage the provision of common open space through efficient site design; and, f) to encourage optimum use of available public utilities, streets and community facilities.

The review required for Planning Approval examines the applicant's location and site plan with regard to transportation, parking and access, public utilities and facilities, traffic congestion and hazard, and to determine if the proposal is in harmony with the orderly and appropriate development of the district.

It is very important to note that the Planning Approval review is site plan specific; therefore *any* future changes to the approved site plan or to the approved scope of operations by current or future applicants must be submitted for Planning Approval.

The site in question was considered as part of a Subdivision Application at the Planning Commission's December 19, 2019 meeting. The plat was granted Tentative Approval, and the proposed lot corresponds with the plat tentatively approved December 19th.

A PUD for the lot adjacent to the west of the private access road was also approved as part of the three lot subdivision and rezoning at the December 19th meeting. The current PUD application will in essence amend that PUD by developing the lot on the east side of the access road.

The site plan illustrates the proposed 65,848 square foot building consisting of a 509 seat theater with a 1,120 square office. The theater requires 128 parking spaces (one space per four seats) and the office requires four parking spaces (132 required spaces total); 141 parking spaces, which includes 5 handicap spaces and 1 van space, are provided.

Also illustrated on the plan is an existing 10-foot wide draining easement along the east property line and a portion of the southerly property line where the site adjoins existing residential zoning, and in addition to the drainage easement, there is a 10-foot buffer strip; if approved, both the easement and the buffer should remain on the plan.

Tabular/narrative data on the site plan indicates side and rear yard setbacks as "40' Provided Voluntary Restriction;" however a signed Voluntary Condition and Use Restriction Form was not provided. Moreover, a 40-foot setback line is not illustrated on the plan.

To the rear of the proposed building, at the southeast corner of the site, is a large open area which includes a fenced play area and "toilet block." Under "Maximum Number of Students" the applicant's narrative indicates issues associated with depriving others of enjoyment of their property providing examples of nuisances such as bright lights and loud noises. However, there is no explanation as to how this outdoor area will be used. Additionally, the "Normal Hours of Operation" section of the applicant's narrative provides hours for "Fugitive Light."

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows,

the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site was rezoned from R-1, Single-Family Residential to LB-2 Limited Neighborhood Business in 2008. The current applicant is requesting that the site now be rezoned to B-2, Neighborhood Business.

As illustrated in the applicant's narrative above, the applicant does not indicate if any of the conditions upon which a rezoning change should be based applies to the current rezoning request. Additionally, as previously stated, the applicant did not provide a signed Voluntary Condition and Use Restriction Form. While the applicant indicates an intent to restrict the use of the site to only those uses listed in the table, again it is not executed on the required form and there is no signature of the property owner or the applicant. It should also be noted that the form (Voluntary Condition and Use Restriction Form), requires the applicant to list the uses that are prohibited, not the uses to which the property is "restricted."

RECOMMENDATION

Planned Unit Development: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application, and determine findings of fact based on the following:

- a. The application does or does not illustrate Creative design providing innovative and diversified design in building form and site development;
- b. The application does or does not illustrate flexibility in the location and arrangement of buildings and uses that is otherwise generally possible under B-2, Neighborhood Business district regulations;
- c. The application does or does not illustrate Efficient land use providing the most efficient and sustainable use of land, especially tracts in the inner part of the city that remain undeveloped or that are appropriate for redevelopment;
- d. The application does or does not promote the Environment, by preserving and protecting urban amenities or natural features and characteristics of the land;
- e. The application does or does not promote the objective of Open space by providing common open space through efficient site design; and
- f. The application does or does not promote the objective of Public services, encouraging the optimum use of available public utilities, streets and community facilities.

Planning Approval: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application, and determine findings of fact based on the following:

- a. the proposal will be or will not be appropriate with regard to transportation and access, water supply, waste disposal, fire and police protection, and other public facilities;

- b. the proposal will or will not cause undue traffic congestion or create a traffic hazard; and
- c. the proposal will or will not be in harmony with the orderly and appropriate development of the district in which the use is located.

Rezoning: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application in deciding whether to recommend approval or denial to the City Council.

Revised for the February 6th meeting:

At the Commission's January 9th meeting, the applicant requested a one month holdover and has submitted a revised site plan, narrative and an updated, correctly executed, Voluntary Condition and Use Restriction Form.

The revised narrative is as follows:

Purpose

The purpose of this Rezoning Application is to accommodate the use of a performing arts center, specifically the live performance theater, on Lot 2A of the Graf Dairy Subdivision. Further, the purpose of this rezoning application is because the use of a performing arts center is not included under the approved by right uses of the current LB-2 zoning. Included in the Rezoning Application are Voluntary Conditions and Use Restrictions. Extensive community outreach has been performed for this project. Input from adjacent property owners and neighbors was solicited for the Voluntary Conditions and Use Restrictions and their input is reflected in the accompanying form.

Further, this document has been prepared to comply with the City of Mobile ordinance 64-5,D.2.a for a Planned Unit Development (PUD) and planning application inclusive of a Voluntary Use Restriction (VUR) proposal of the re-zoning of the Graf Dairy Lot(s) 1,2,3,5 (Lot 2A) from LB-2 to B-2. The proposed development of a Performing Arts Center and Theater is not indicated as a permitted use for LB-2 and is shown as a provisional use for B-2 zoning. Voluntary Conditions and Use Restrictions will be provided as part of the Rezoning request.

Description and Existing Use

The site is currently owned by Graf Dairy LLC and is undergoing a re-subdivision process. The Performing Arts Center will be located on Lot 2A of the Graf Dairy Re-Subdivision submitted by McCrory Williams Incorporated of Lot(s) 1, 2,3 and 5. This location is bordered to the north by Dauphin Street and to the east by a residential neighborhood. The property is bordered on the south and west by vacant lots. The site is currently vacant and not being used by the owner.

Proposed Use

The purpose of the rezoning application is to accommodate a live performing arts theater, which is not currently an allowed use by right under the current LB-2 zoning ordinance.

The proposed use is a multi-purpose 6.9 acres and a 65,848-sf building that will serve as a performing arts center. This facility will give patrons the opportunity to participate in classes and attend theatrical events that will highlight the importance of the arts in education. This site will not just serve as an Arts Education Center. It will also serve as a venue that will attract local, as well as national acting companies. This development will provide an opportunity for people of all ages to enjoy performances and learn about the different elements of performing arts.

Most of the activities provided by the Center will be conducted inside the building but there is a portion of the southeast corner that will include a playground that allows patrons to enjoy the outdoors.

Normal Hours of Operation

The normal operation for the proposed performing arts education center will be from 2:30 pm to 7:00 pm. These hours will provide ample time for different lessons and classes, as well as provide the opportunity to stay open for premier performances and showcases.

*Hours of Operation –**Live Theater:*

The Theater will be closed except

during performances: Monday – Friday: normal business hours

Friday–Sunday: evening events not to extend past 11:00 pm

Hours of Operation – Performing Arts Classes: Mon-Fri: normal business hours

Parking

The amount of parking required for this type of facility is 132 vehicular spaces, 5 handicap spaces and 1 van space. The amount of parking provided is 141 vehicular spaces, 5 handicap spaces and 1 van space. Parking spaces are proposed on all sides of the building, with most of the spaces being proposed on the south side of the property. The parking spaces along the east side of the site will serve as employee parking and loading/unloading for delivery trucks. The spaces will be clearly marked so they can be easily identified. The main entrance will be on the north side of the building with a second entrance located on the west side of the building. The entrance on the west side of the building will serve as the main loading/unloading area and provide a turnout so that vehicles can get out of the travel way and not create a safety hazard.

Maximum Number of Students

The maximum number of students will be 200 on a daily basis. Visiting students not enrolled in the Arts Education Center but visiting the facility during the normal operational hours of instruction will be less than 1 per day. No parking for enrolled students or visitors will be allowed along the eastern portion of the site.

Owners and/or occupiers of land cannot use the property in such a way that deprives adjacent landowners of their right of useful enjoyment of their property. Also, landowners cannot use their land in a way that causes injury or harm to others. If the use of a property causes unreasonable annoyance or disturbs another person in the use, possession or enjoyment of their property, the landowner/occupier could be liable for creating a nuisance which is punishable by fine or at the discretion of the local governing authority. Examples of a nuisance include bright lights, or business activities that cause bad odors or loud noises.

Anyone who is injured by a nuisance created by your use of your property can file a lawsuit against you. The lawsuit can seek money damages or an injunction, which is a court order forbidding you from engaging in the harmful activity.

Voluntary Use Restrictions

The list of restrictions and voluntary conditions was developed through input provided by adjacent property owners and neighbors near the project site.

Several measures will be taken to ensure that the surrounding properties will not be negatively affected by this development. This project fully intends to meet all the requirements of the Zoning Ordinance and the standards adopted by the City of Mobile Engineering Department.

As stated above, the applicant has also submitted an unsigned Voluntary Condition and Use Restriction Form which reads as follows:

I, the undersigned, as the owner of the property located at 2907 and 2911 Dauphin Street (the property) more specifically described in the attached legal description, and in consideration for Planning Commission and City Council rezoning approval, I hereby voluntarily covenant with the City of Mobile that the following uses shall be prohibited on the property:

Please see the attached sheet for the list of prohibited uses for Lot 2A of the Graf Dairy subdivision

Furthermore, I voluntarily place the following conditions and restrictions on the property as a part of the rezoning of the property:

40-foot side and rear building setbacks

Hours of Operation -normal operations

Monday - Sunday: normal business hours

Friday – Sunday: evening events not to extend past 11:00 pm.

The above stated restrictions shall run with the land and are fully enforceable by the City of Mobile as a condition of the rezoning.

*Automobile Service Station
Automotive Maintenance Shop
Automotive Parking
Automotive upholstery repair and trip shop
Automotive Glass Repair
Automotive radio and telephone sales
Automotive parts sales
Bar, nightclub, lounge, tavern
Billboard
Broadcasting station (with and without towers)
Butcher shop, meat market
Carwash
Check cashing agency
Communication tower
Convenience store
Dance hall
Dry cleaning & laundry pick up station
Electric sub-station
Electric transmission line Right-of-Way
Electric transmission or distribution line
Emergency shelter facility
Freight or cargo shipping agency
Gas regulator station*

*Janitorial or maid service
Laundry and dry-cleaning service, coin operated
Mini self-storage
Motion picture theater
Oil and gas extraction
Parcel delivery service
Pawn shop
Pipeline right-of-way
Pool hall
Pool tables (separate classification from pool hall)
Radiotelephone and cellular service (allows for satellite towers)
Recycling drop off center
Restaurant, drive-in (fast food)
Restaurants, dine-in
Restaurants, drive thru
Shooting range, indoor
Teen club
Tire store
Trailer sales, parts and repair
Vet hospital, veterinarian (large and small animals)
Water or sewage pumping station
Water storage
Zoo*

The revised site plan provides a second access point to the private access road to Dauphin Street. The revised plan also relocates the dumpster from the east side property line to a location adjacent to the building, and relocates some parking spaces along the east property line to provide additional front landscaping.

RECOMMENDATION

Planned Unit Development: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application, and determine findings of fact based on the following:

- a. The application does or does not illustrate Creative design providing innovative and diversified design in building form and site development;
- b. The application does or does not illustrate Flexibility in the location and arrangement of buildings and uses that is otherwise generally possible under B-2, Neighborhood Business district regulations;
- c. The application does or does not illustrate Efficient land use providing the most efficient and sustainable use of land, especially tracts in the inner part of the city that remain undeveloped or that are appropriate for redevelopment;
- d. The application does or does not promote the Environment, by preserving and protecting urban amenities or natural features and characteristics of the land;
- e. The application does or does not promote the objective of Open space by providing common open space through efficient site design; and
- f. The application does or does not promote the objective of Public services, encouraging the optimum use of available public utilities, streets and community facilities.

Planning Approval: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application, and determine findings of fact based on the following:

- a. the proposal will be or will not be appropriate with regard to transportation and access, water supply, waste disposal, fire and police protection, and other public facilities;
- b. the proposal will or will not cause undue traffic congestion or create a traffic hazard; and
- c. the proposal will or will not be in harmony with the orderly and appropriate development of the district in which the use is located.

Rezoning: Based upon the preceding, staff recommends that the Planning Commission consider all relevant aspects of the application in determining their recommendation for approval or denial. If the application is recommended for approval, the Commission should enumerate which below condition(s) applies to this application in recommending approval of this zoning request to the City Council:

- a. Error. There is a manifest error in the chapter;
- b. Change in conditions. Changed or changing conditions in a particular area, or in the planning region generally, make a change in the chapter necessary and desirable;
- c. Increase in need for sites for business or industry. Increased or increasing needs for business or industrial sites, in addition to sites that are available, make it necessary and desirable to rezone an area or to extend the boundaries of an existing district; or
- d. Subdivision of land. The subdivision or imminent subdivision of land into urban building sites makes reclassification necessary and desirable.

LOCATOR MAP



APPLICATION NUMBER 1 DATE February 6, 2020

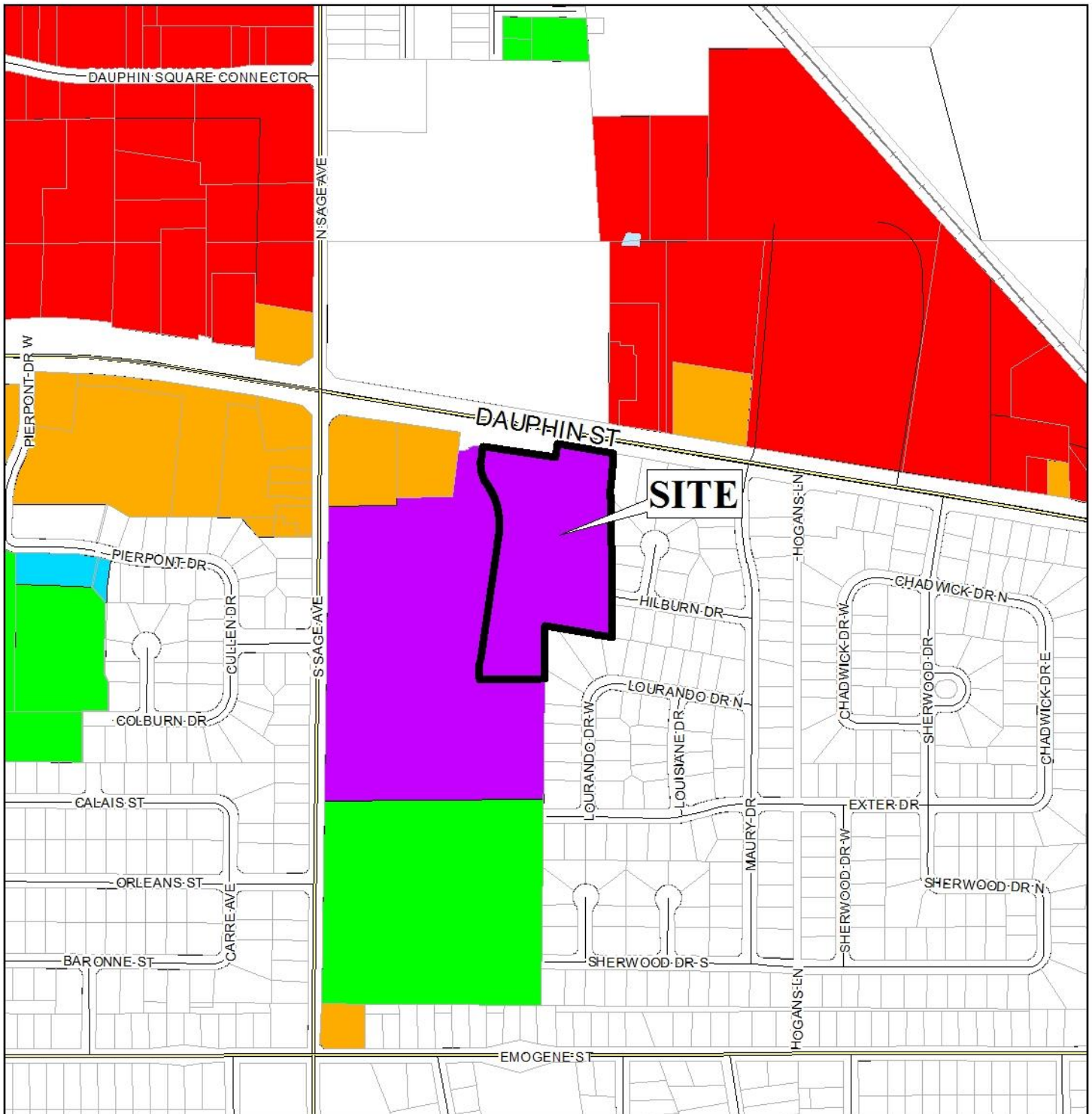
APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2



NTS

LOCATOR ZONING MAP



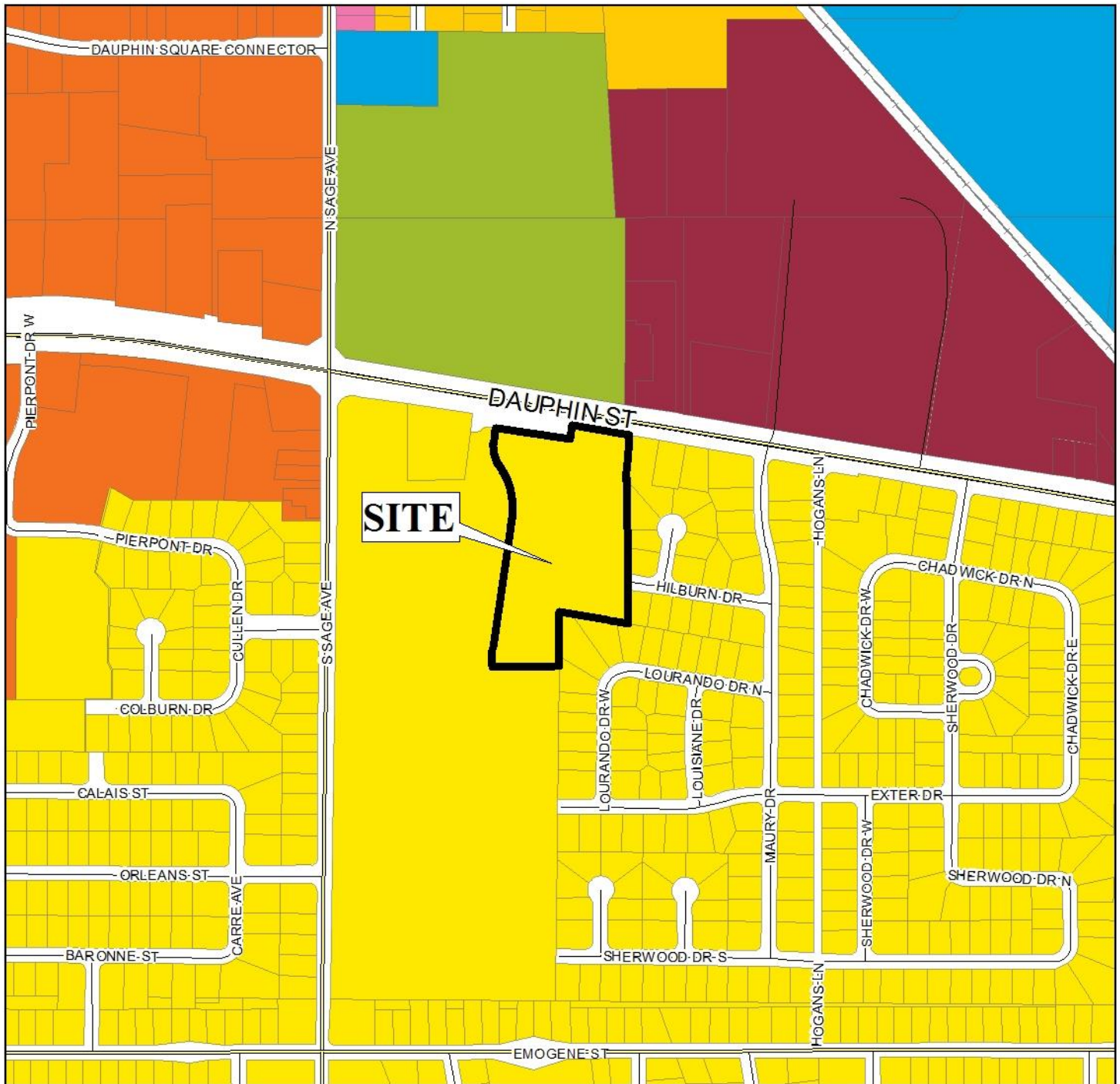
APPLICATION NUMBER 1 DATE February 6, 2020

APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2



FLUM LOCATOR MAP



APPLICATION NUMBER 1 DATE February 6, 2020

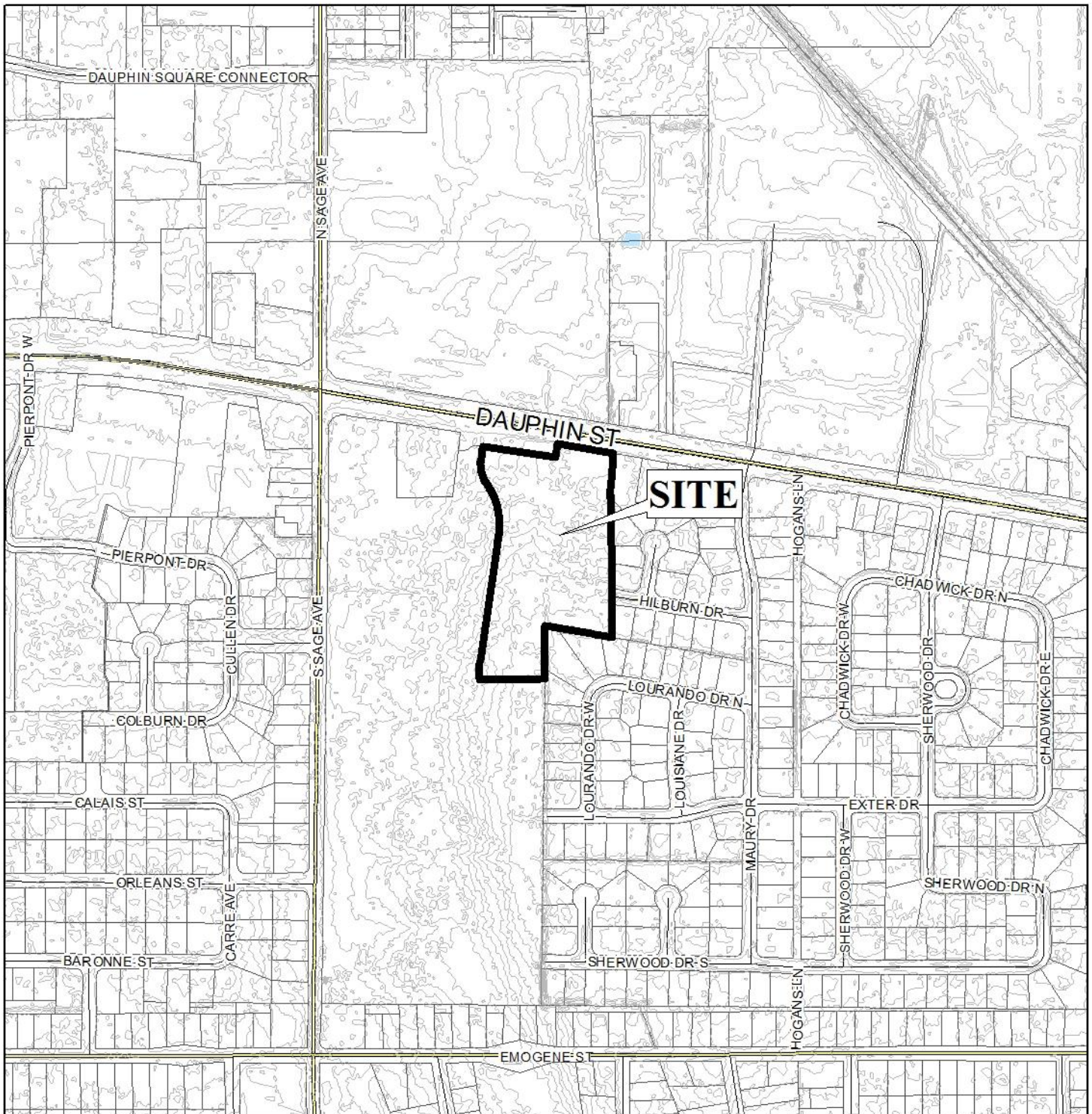
APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2

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



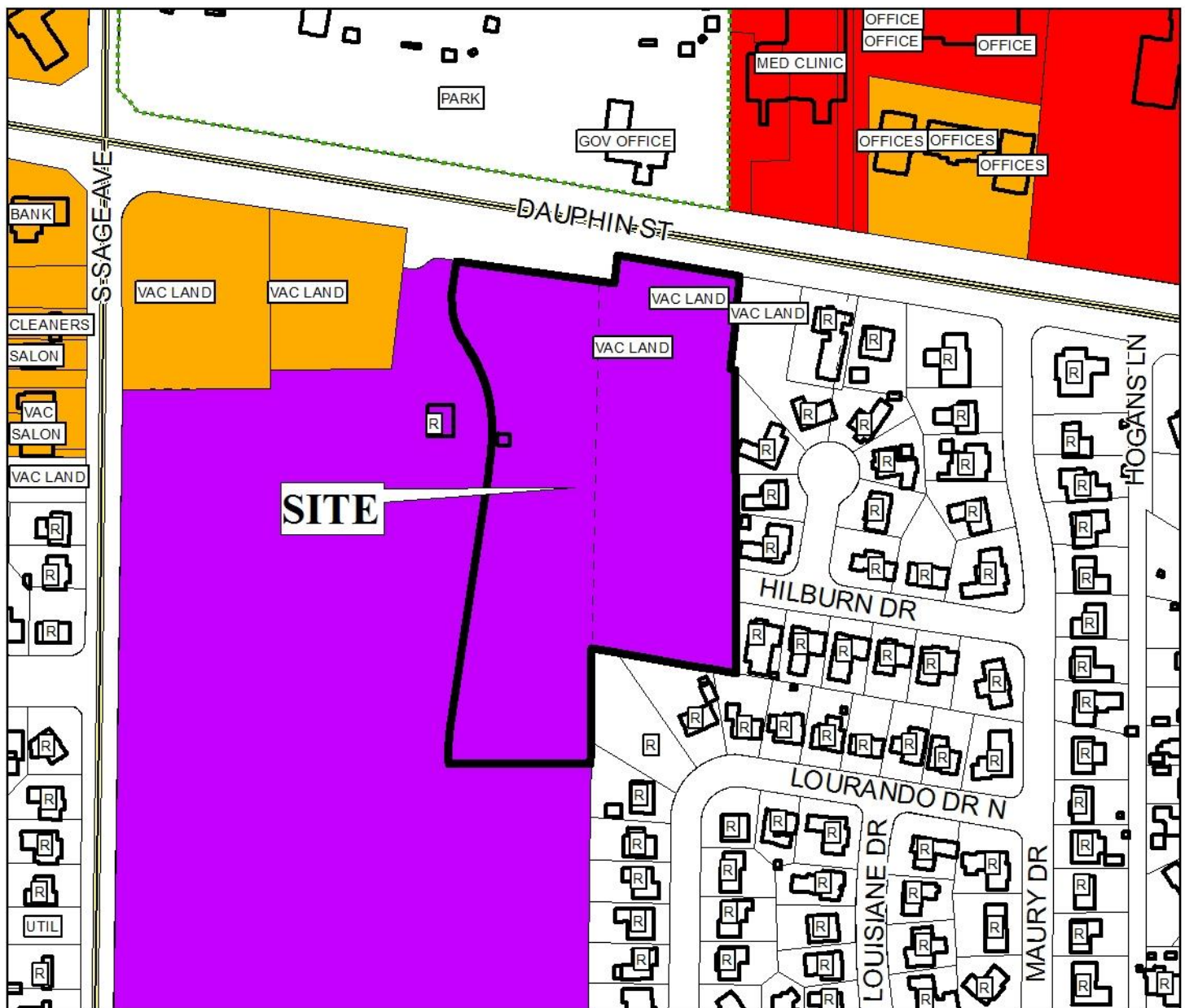
APPLICATION NUMBER 1 DATE February 6, 2020

APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the north and northwest, and residential units to the east.

APPLICATION NUMBER 1 DATE February 6, 2020

APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2

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



PLANNING COMMISSION

VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial units to the north and northwest, and residential units to the east.

APPLICATION NUMBER 1 DATE February 6, 2020

APPLICANT Chris Paragone

REQUEST PUD, PA, Rezoning from LB-2 to B-2



