



Agenda Item #: 4 ZON-UDC-002719-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

7700 Summit Court

Applicant / Agent:

Brandon & Rebecca Abbott, RC Bell Daphne
/ Perry C. Jinright, JADE Consulting, Agent

Property Owner:

Brandon & Rebecca Abbott, RC Bell Daphne

Current Zoning:

R-1, Single-Family Residential Suburban District

Proposed Zoning:

B-3, Community Business Suburban District

Future Land Use:

Neighborhood Center - Suburban

Applicable Codes, Policies, and Plans:

- Unified Development Code
- Map for Mobile Comprehensive Plan

Proposal:

- Rezoning from R-1 Suburban to B-3 Suburban
- **Note:**

Any use permitted in the proposed district would be allowed at this location if the zoning is approved. The Planning Commission may consider other zoning districts than the proposed sought by the applicant for this property.

Commission Considerations:

1. Rezoning with two (2) conditions.


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PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

APPLICATION NUMBER <u> 4 </u> DATE <u> December 7, 2023 </u>	
APPLICANT <u> Brandon and Rebecca Abbott, RC Bell Daphne (Perry C. Jinright, JADE Consulting, LLC, Agent) </u>	
REQUEST <u> Rezoning from R-1 to B-3 </u>	

SITE HISTORY

Subdivision of the site was approved by the Mobile City Planning Commission in 1998 when the property was outside of city limits, but within the city's Planning Jurisdiction. The plat was subsequently recorded in Mobile County Probate Court. The city repealed its Planning Jurisdiction in 2019, and the site was annexed into city limits in July 2023. Since that time, the site has not been the subject of any Board of Zoning Adjustment cases or any additional Planning Commission cases.

STAFF COMMENTS

Engineering Comments:

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 Permitting Department (251-208-6070) 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.

Traffic Engineering Comments:

The new proposed fast-food restaurant will require an abbreviated traffic impact study showing what volumes they would generate and the impact on the volumes on the left turn off of Schillinger Road. Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Article 3, Section 64-3-12 of the City's Unified Development Code.

Urban Forestry Comments:

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require

approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

Planning Comments:

The applicant is requesting to rezone the subject site from R-1, Single-Family Residential Suburban District, to B-3, Community Business Suburban District, to allow the construction of a frozen custard restaurant with drive-thru service.

As mentioned, the site was annexed into Mobile City limits in July 2023. Upon annexation, the property was given an R-1, Single-Family Residential Suburban District zoning designation. In a pre-development meeting with the applicants, staff learned that commercial development of the site was proposed prior to its annexation. While the property is currently under consideration for rezoning to commercial as part of the city's rezoning study of the newly annexed areas, the applicant has submitted this application in an effort to expedite the rezoning process and begin development.

The site is within a predominantly commercial area, with a shopping center, bank, car wash, warehousing, and automobile repair shop in close proximity. This area has been given a Neighborhood Center – Suburban future land use designation, which indicates a limited amount of commercial development should be supported. Furthermore, the site is proposed to be rezoned to B-2, Neighborhood Business Suburban District, as part of the city's rezoning study of the newly annexed areas. As such, rezoning of the site may be appropriate, but it may be reasonable to consider rezoning to B-2 to be compatible with the city's intent for development of this area. Use of the property as a frozen custard restaurant with drive-thru service is permitted by right in the B-2 zoning district.

The site plan provided with the rezoning application depicts the proposed frozen custard restaurant, drive-thru lane, parking, and a dumpster. While the site plan generally depicts compliance with the applicable development standards of the Unified Development Code (UDC), if rezoning of the site is approved, the proposed development will require full compliance with the UDC. Any signage placed on the property will also need to meet the requirements of the UDC, and be permitted separately through the Planning and Zoning Department.

REZONING CONSIDERATIONS

Standards of Review:

The Unified Development Code (UDC) in 64-5-5.E. states that Rezoning is intended to carry out the objective of a sound, stable and desirable development and that casual change or amendment would be detrimental to the achievement of that objective.

The UDC goes on to say that zoning changes should be consistent with the Comprehensive Plan. However, the Comprehensive Plan and Future Land Use Plan (FLUP) and Map (FLUM) are meant to serve as a general guide, not a detailed lot and district plan; they are not a legal mandate for development. The FLUP and FLUM allow the Planning Commission and City Council to consider individual cases based on several factors including: surrounding

development, classification requested, timing of the request, and the appropriateness and compatibility of the proposed use the zoning classification.

The UDC states that an application for rezoning shall include a statement of the justification for the proposed amendment that addresses all of the following:

- A. Consistency. Whether the proposed amendment is consistent with the Comprehensive Plan;
- B. Mistake. For a Rezoning, whether there was a mistake or error in the original zoning map; and
- C. Compatibility. Whether the proposed amendment is compatible with:
 - o The current development trends, if any, in the vicinity of the subject property;
 - o Surrounding land uses;
 - o Would adversely impact neighboring properties; or
 - o Cause a loss in property values.
- D. Health, Safety and General Welfare. Whether the proposed amendment promotes the community's public health, safety, and general welfare;
- E. Capacity. Whether the infrastructure is in place to accommodate the proposed amendment; and
- F. Change. Whether changed or changing conditions in a particular area make an amendment necessary and desirable.
- G. Benefits Consideration. In addition, consideration should also be given to the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.

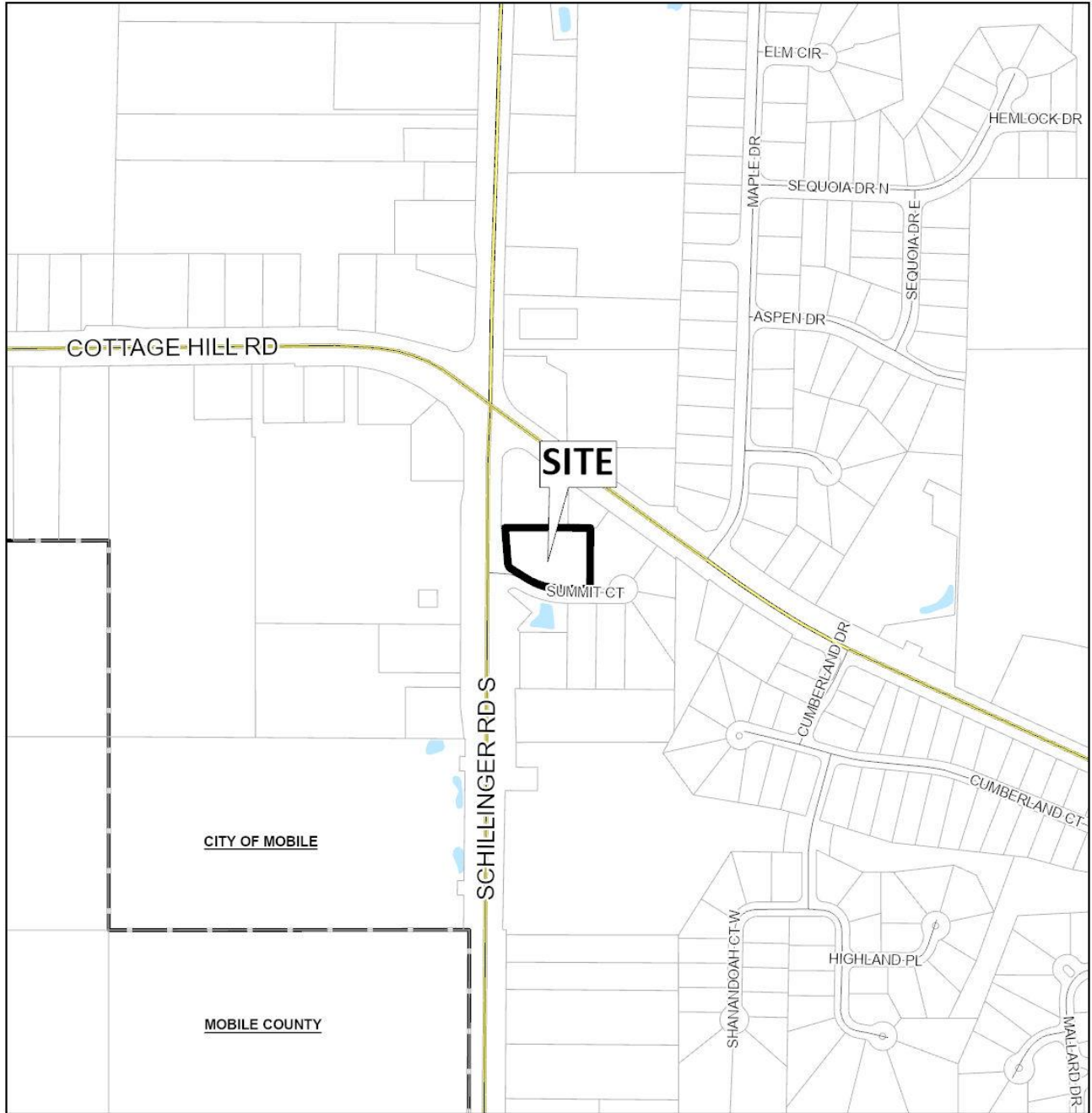
The applicant's responses to address the above criteria are available in the link on page one (1).

Considerations:

If the Planning Commission considers a recommendation of approval of the request to the City Council to Rezone the site to either B-2 or B-3, the following conditions could apply:

1. Compliance with all Engineering, Traffic Engineering, Urban Forestry, and Fire Department comments noted in this staff report; and,
2. Full compliance with all municipal codes and ordinances.

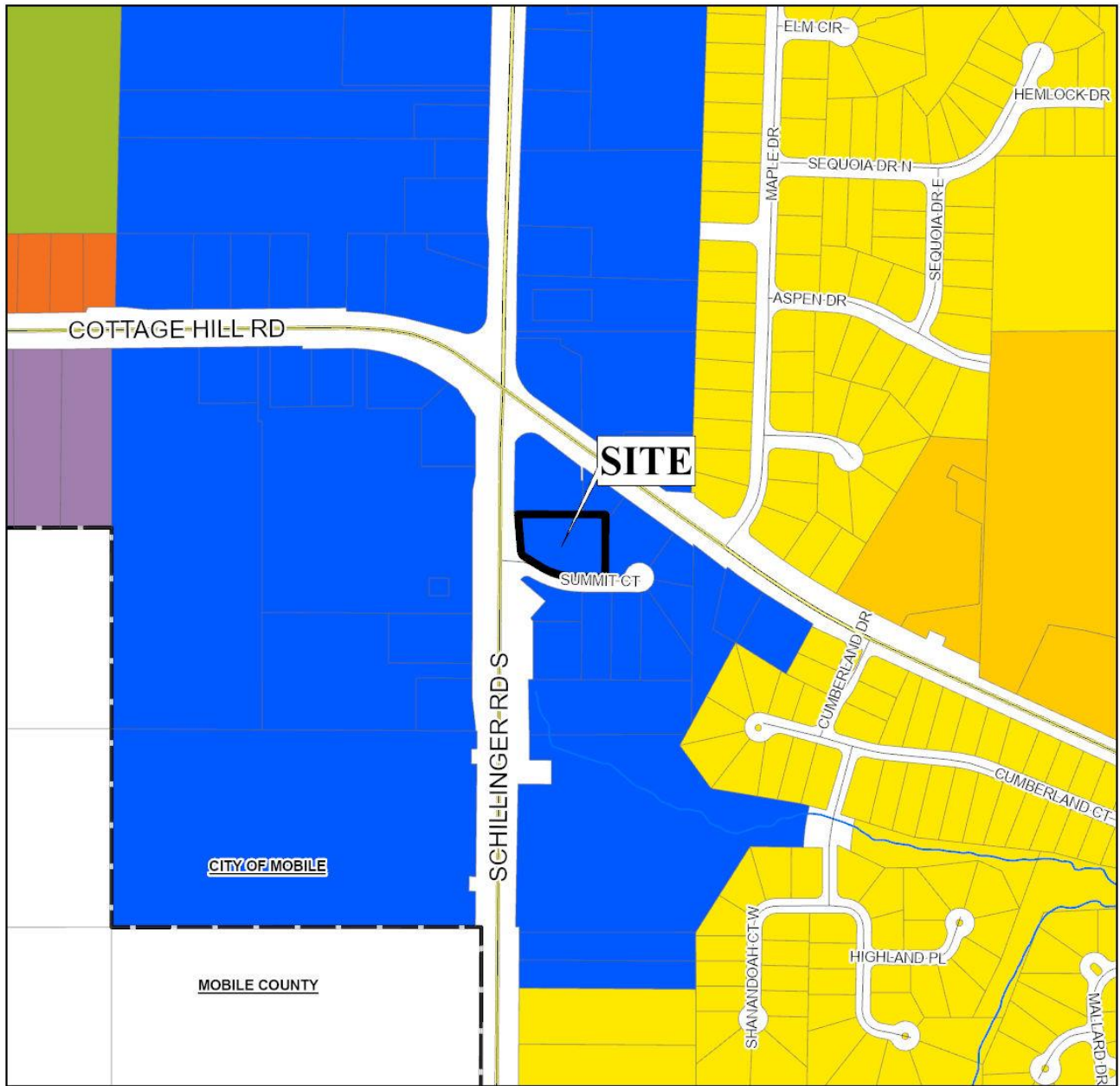
LOCATOR ZONING MAP



APPLICATION NUMBER 4 DATE December 7, 2023
APPLICANT Brandon and Rebecca Abbott, RC Bell Daphne (Perry C. Jinright, JADE Consulting, LLC, Agent)
REQUEST Rezoning from R-1 to B-3

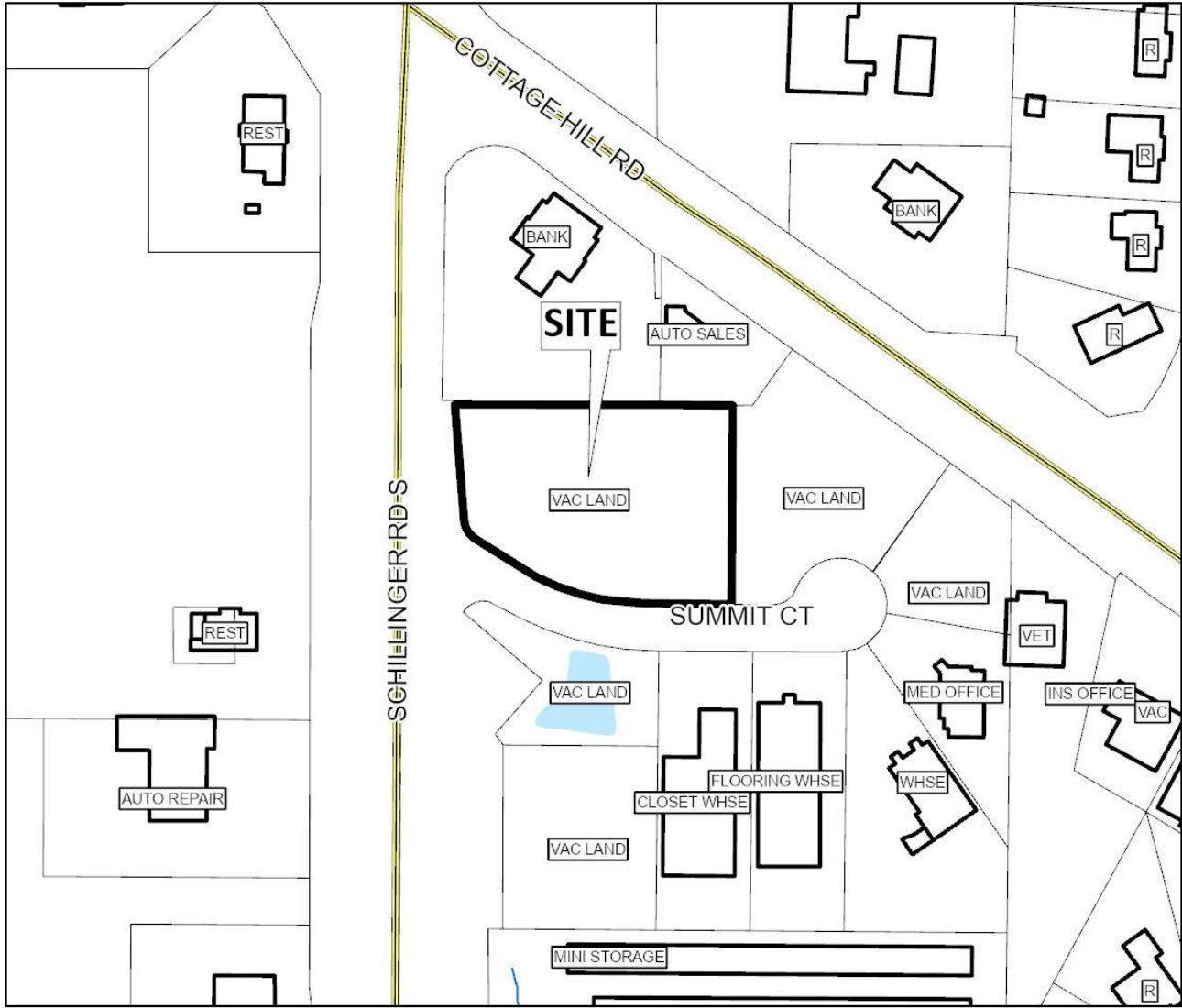


FLUM LOCATOR MAP



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REQUEST	Rezoning from R-1 to B-3																		
<table style="width: 100%; font-size: small;"> <tr> <td> Low Density Residential</td> <td> Neighborhood Center - Traditional</td> <td> Downtown Waterfront</td> <td> Parks & Open Space</td> </tr> <tr> <td> Mixed Density Residential</td> <td> Neighborhood Center - Suburban</td> <td> Light Industry</td> <td> Water Dependent</td> </tr> <tr> <td> Downtown</td> <td> Traditional Corridor</td> <td> Heavy Industry</td> <td></td> </tr> <tr> <td> District Center</td> <td> Mixed Commercial Corridor</td> <td> Institutional</td> <td></td> </tr> </table>	 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		<div style="text-align: center;"> <p>N NTS</p> </div>		
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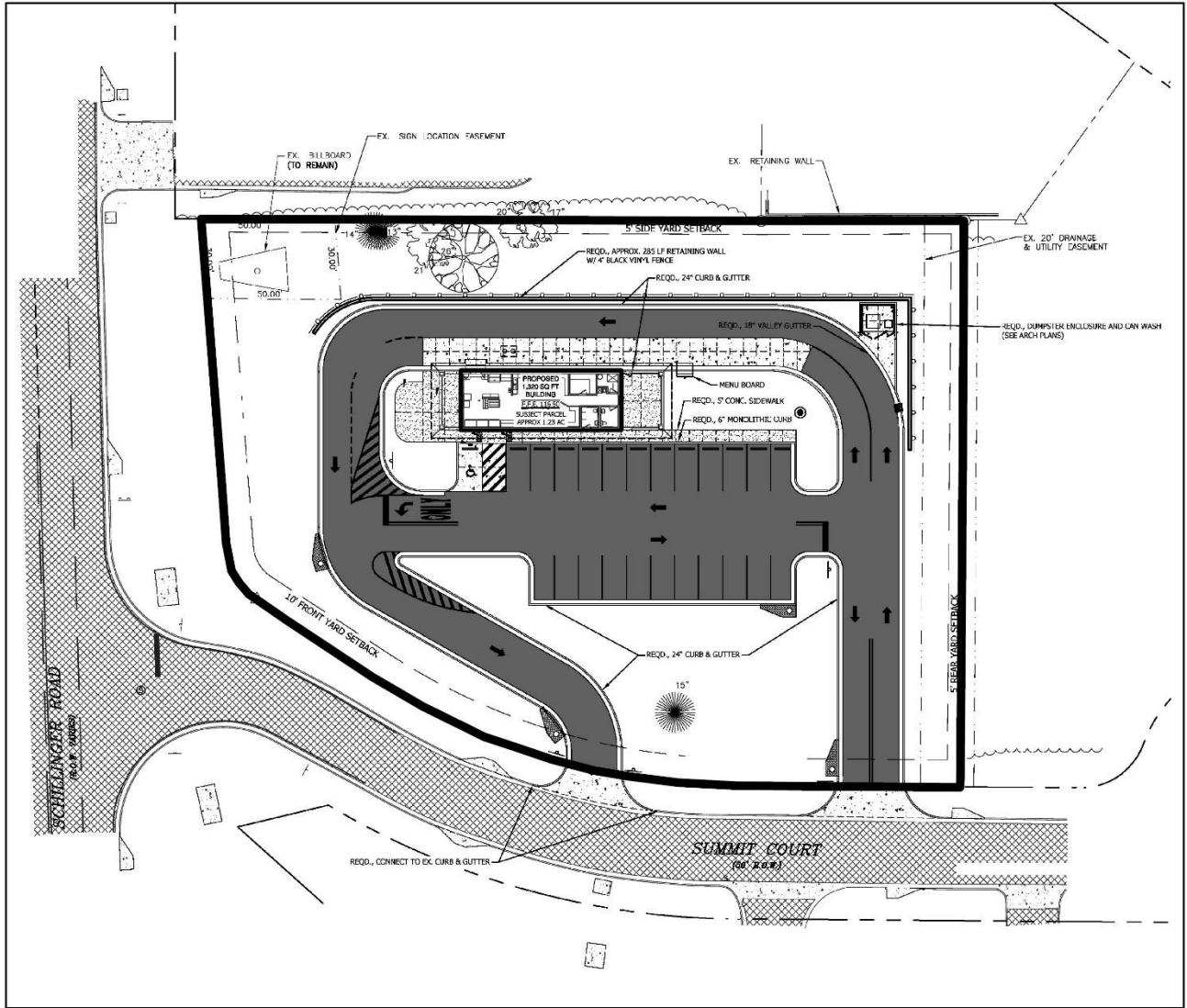
PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>				 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2	 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6	 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1	
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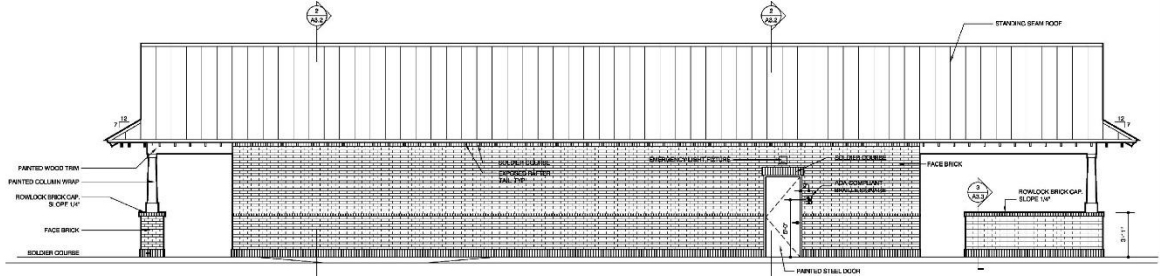
SITE PLAN



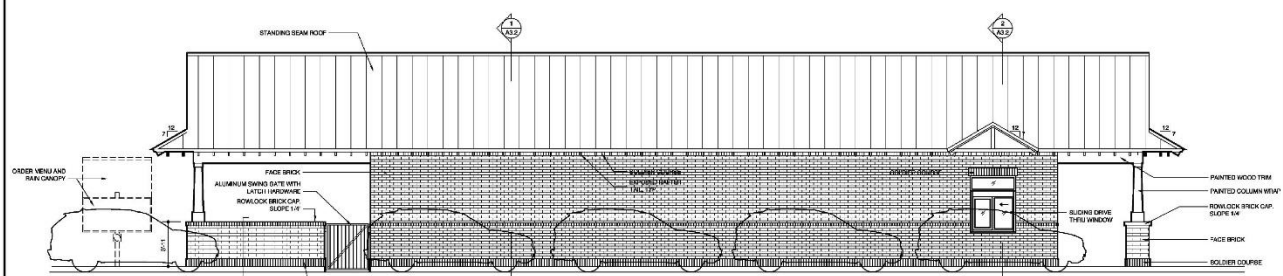
The site plan illustrates the proposed building, parking, setbacks, easements, and fencing.

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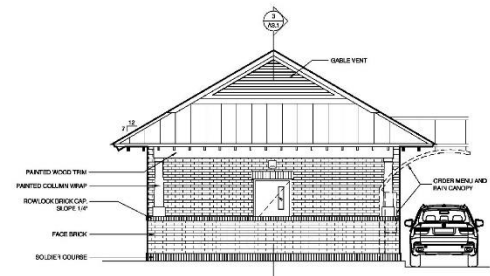
DETAIL SITE PLAN



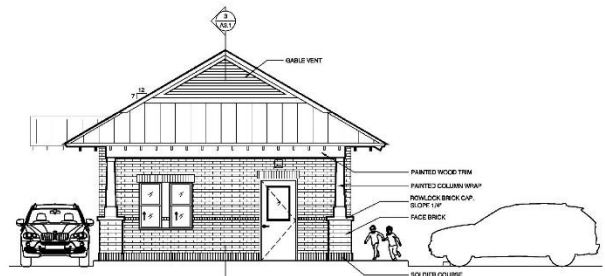
4 PROPOSED SOUTH ELEVATION
1/8"=1'-0"



3 PROPOSED NORTH ELEVATION
1/8"=1'-0"



2 PROPOSED EAST ELEVATION
1/8"=1'-0"



1 PROPOSED WEST ELEVATION
1/8"=1'-0"

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ZONING DISTRICT CORRESPONDENCE MATRIX

		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MIXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■						□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□		□

Zoning District Correspondence Matrix

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

NEIGHBORHOOD CENTER (NC)

This land use designation applies to smaller hubs of mixed commercial, community, and recreational activity that cater to adjacent residential areas. Many of these centers exist today in some form. Therefore, the following common principles apply not just to the future development of new centers, but also to the redevelopment (wholesale or incremental) of existing centers.

General Principles for Neighborhood Centers:

- NC should support a limited amount of commercial employment
- NC should incorporate some residential use, which may vary in type from detached single family, townhouse, accessory and live-work units in mixed use and low-rise multifamily structures.
- The residential density in NC designations –ranging from 4 to 10 du/ac— must be compatible in character with that of surrounding residential development, providing appropriate transitions in height, massing and other buffering from one land use district to the next.
- The retail and housing uses should merge around vibrant, compact, accessible nodes, located at key

neighborhood intersections or along short road segments.

- The NC nodes should be connected to the surrounding neighborhood and nearby public uses (e.g., schools, parks, etc.) via well-designed sidewalks and complete streets.

While the above-listed principles are common to all NC districts, the design attributes of neighborhood centers generally vary depending on whether a center is in a more “traditional” or more “suburban” context.

Additional Attributes of Neighborhood Centers:

- NC in traditional contexts: These tend to be in those areas east of the Beltline and correspond to MxDR neighborhoods. In these NCs, buildings should orient to the street, with on-site parking typically pushed to the back of the site. The design qualities of the public realm are emphasized, including the provision of continuous sidewalks, tree canopy, pedestrian amenities, on-street parking and bicycle facilities where appropriate.
- NC in suburban contexts: These generally are located among the LDR land use designations in the areas west of the Beltline. Where they exist, these centers currently have a more pronounced

vehicular orientation. Therefore, the emphasis is on retrofitting to improve internal walkability (e.g., through the addition of sidewalks, tree canopy, protection from the elements) and external connectivity to the surrounding areas (via sidewalks, paths and trails, street crossings, transit stops, etc.) and to increase the mix and density of uses (e.g., infill of outparcels, addition of housing, etc.).