

**ZONING AMENDMENT STAFF REPORT****Date: December 16, 2021****NAME**

Ranita Smith (Gerald Byrd, Agent)

**LOCATION**

118 Kilmarnock Street  
(East side of Kilmarnock Street, 195'± South of Spring Hill Avenue, extending to the West side of North Catherine Street).

**CITY COUNCIL  
DISTRICT**

District 2

**PRESENT ZONING**

R-1, Single-Family Residential District

**PROPOSED ZONING**

B-2, Neighborhood Business District

**AREA OF PROPERTY**

0.12± Acre

**CONTEMPLATED USE**

Rezoning from R-1, Single-Family Residential District, to B-2, Neighborhood Business District.

**It should be noted 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**

Within one year of approval.

**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 (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**

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 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 [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 (2012 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.

## **REMARKS**

The applicant is requesting rezoning from R-1, Single-Family Residential District, to B-2, Neighborhood Business District.

The site has been given a Traditional Corridor (TC) 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 land use designation generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), TC designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

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 subject site was originally assigned an R-1, Single-Family Residential District zoning classification with the adoption of the Zoning Ordinance in 1967. The site is bordered along its East side across North Catherine Street by B-2 and R-1; adjacent to the North by B-2; to the West across Kilmarnock Street by B-1, Buffer Business District; and adjacent to the South by R-1, (rezoning to B-2 proposed). The subject site appears to have always been in R-1 use, but is currently vacant. There have been various rezonings for surrounding properties since the adoption of the Ordinance in 1967.

The applicant states the following:

*THE OWNER IS PROPOSING TO REZONE THE PROPERTY TO B-2 TO ALLOW FOR GENERAL RETAIL SHOPS. ALTHOUGH SHE DOES NOT HAVE ANY TENANTS AT THIS TIME, SHE WANTS TO REZONE PRIOR TO DOING THE NECESSARY RENOVATIONS. THERE IS B-2 ZONING ADJOINING THE NORTH SIDE OF THIS SITE AND ALSO 170' SOUTH. ON THE EAST SIDE OF CATHERINE STREET THERE IS B-2 ZONING AT THE CORNER OF SPRING HILL AVENUE. ON THE WEST SIDE OF KILMARNOCK STREET THERE IS B-1 ZONING AND B-1 IS 50' SOUTH OF THIS PROPERTY.*

*CONDITION B (CHANGE IN CONDITIONS) - THIS AREA HAS CHANGED OVER THE YEARS WITH ONLY FIVE R-1 PROPERTIES LEFT IN THIS BLOCK AND THIS PROPOSAL IS TO REZONE ONE OF THESE. WITH THE*

*OTHER COMMERCIAL PROPERTIES CLOSE BY, REZONING THIS PROPERTY WILL NOT AFFECT THE NEIGHBORHOOD.*

Section 64-9. of the Zoning Ordinance states that 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 plan submitted indicates a parking area in the rear of the site with an entrance from North Catherine Street, and providing the required six compliant parking spaces. A compliant 24-foot wide curb cut is indicated along North Catherine Street. As per the Traffic Engineering comments, the driveway number, size, location, and design are 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 Section 64-6 of the City's Zoning Ordinance.

An existing 6-foot high privacy fence is indicated along the North side of the site. If the Rezoning is approved, this fence should be modified to be no more than three feet in height within the first 25 feet from the North Catherine Street and Kilmarnock Street property lines.

The site plan indicates compliance with the landscaping requirements of the Zoning Ordinance, and a note indicates complete compliance with Section 64-4.E. of the Zoning Ordinance regarding tree and landscaping will be shown on the engineering site plan for construction. A note on the site plan states that curbside waste removal service will be utilized.

It should be noted that Section 64-3.A.5.b. (Size of New Districts) recommends that new B-1 and B-2 districts consist of at least two (2) acres of gross area. The site has approximately 0.12± acre of gross area. However, the application at hand will serve as an expansion of the existing B-2 district to the North. The site has sufficient area to provide for the proposed use, as well as sufficient area to provide parking and landscaping.

It should also be noted that the site is a metes-and-bounds legal description. If the current legal description pre-dates 1962, a subdivision application would not be required. If a pre-1962 legal description as currently described cannot be presented, the site would have to be made a legal lot of record via a one-lot subdivision prior to the granting of any permits.

The site is located within the Old Dauphin Way Historic District, and any exterior modifications will require approval of the Architectural Review Board.

Nearby rezonings have occurred on the West side of Kilmarnock Street (R-1 to B-1 in 1992, and R-1, R-3 and B-1 to B-1 in 2014), and on the East side of North Catherine Street (two B-1 to B-2 rezonings in 1998; R-1 to B-1 in 2006, and B-1 and B-2 to B-2 in 2007). As there have been

various other rezonings within the immediate area since the 1967 adoption of the Ordinance due to changing conditions, and as the site is located within an area of declining residential use, the proposed rezoning would seem in order.

**RECOMMENDATION**

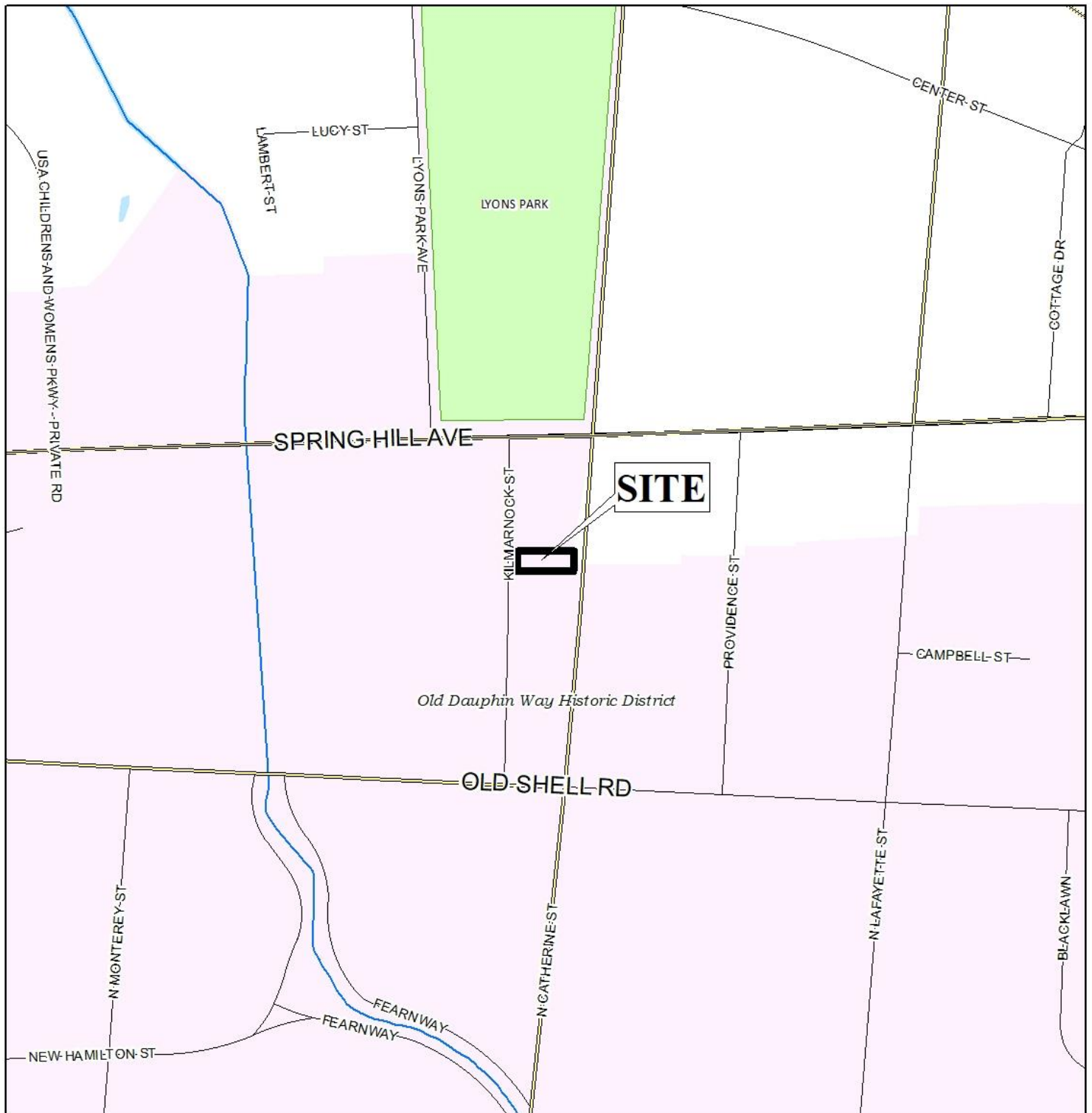
Based on the preceding, the application is recommended for Approval due to the following:

- 1) there have been changing conditions within the area which would make reclassification of the land necessary and desirable.

The rezoning should be subject to the following condition:

- 1) compliance with the Traffic Engineering comments: *(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 Section 64-6 of the City's Zoning Ordinance.);*
- 2) modification of the privacy fence along the North side of the site to be no more than three feet in height within the first 25 feet from the North Catherine Street and Kilmarnock Street property lines;
- 3) presentation of a pre-1962 legal description for the site, or the completion of a one-lot subdivision to make the site a legal lot of record prior to the issuance of permits;
- 4) exterior modifications will require approval of the Architectural Review Board; and
- 5) full compliance with all municipal codes and ordinances.

# LOCATOR MAP



APPLICATION NUMBER 5 DATE December 16, 2021

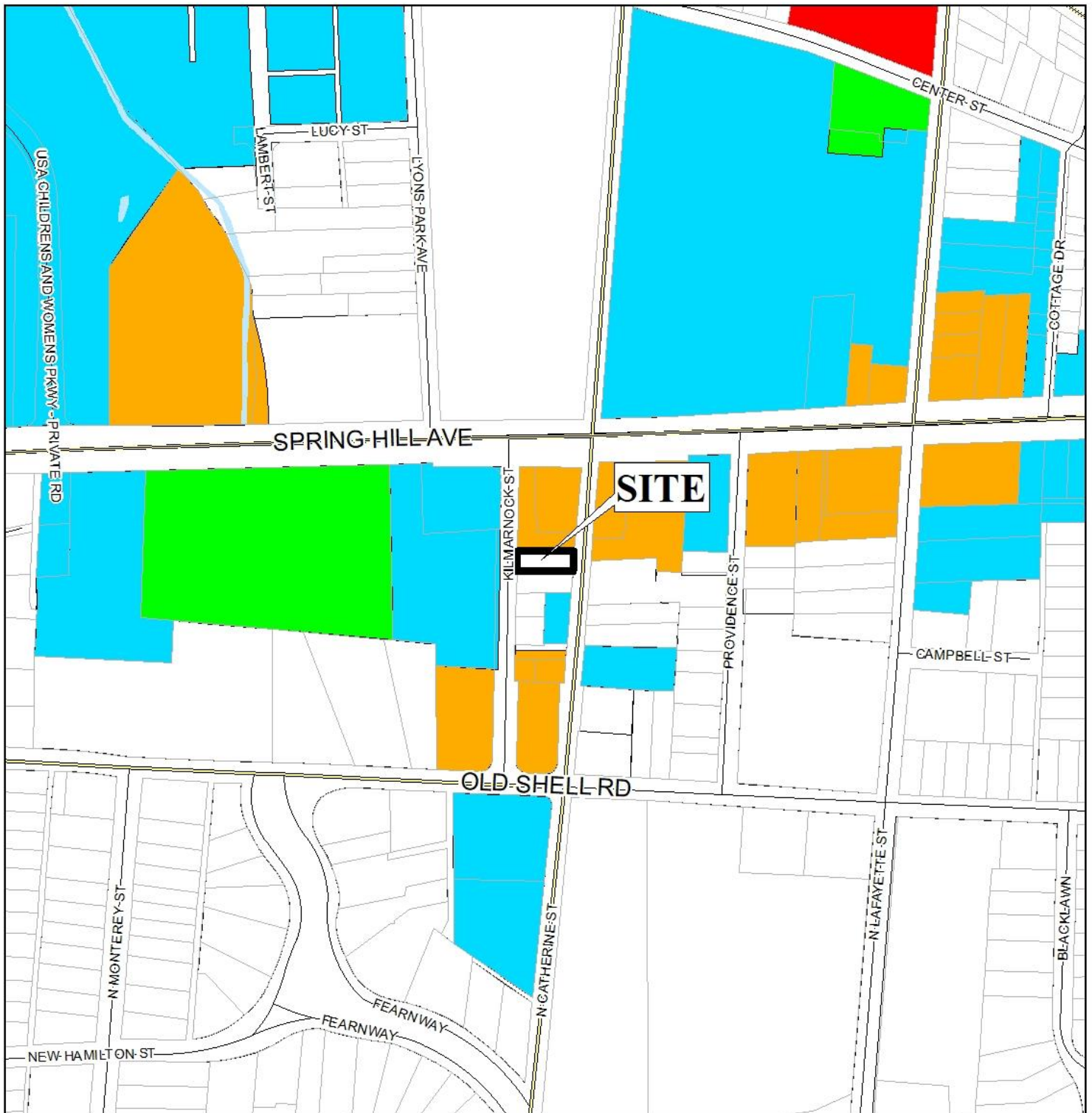
APPLICANT Ranita Smith (Gerald Byrd, Agent)

REQUEST Rezoning from R-1 to B-2



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# LOCATOR ZONING MAP



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REQUEST Rezoning from R-1 to B-2





# FLUM LOCATOR MAP



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REQUEST Rezoning from R-1 to B-2

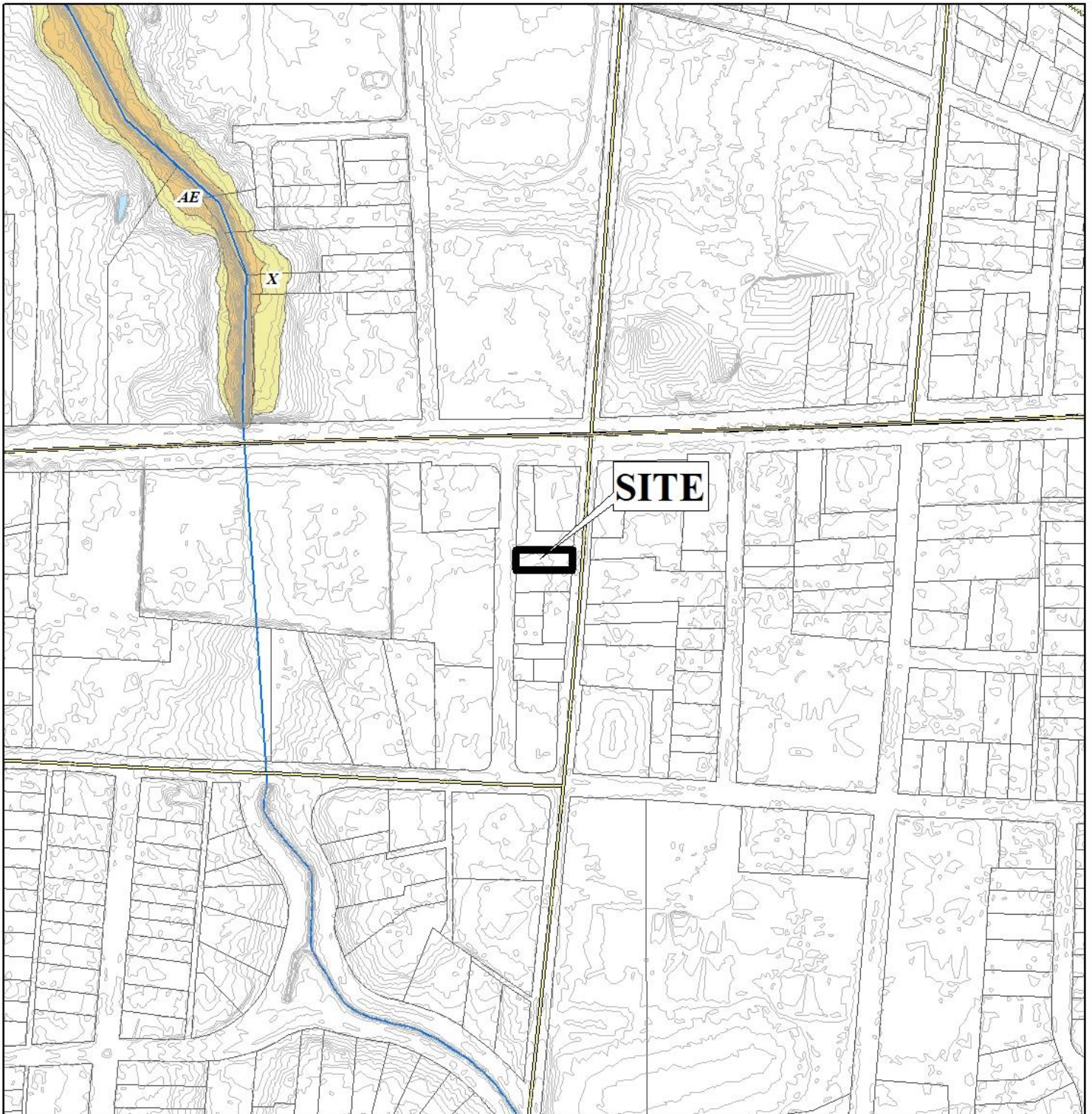
Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



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# ENVIRONMENTAL LOCATOR MAP



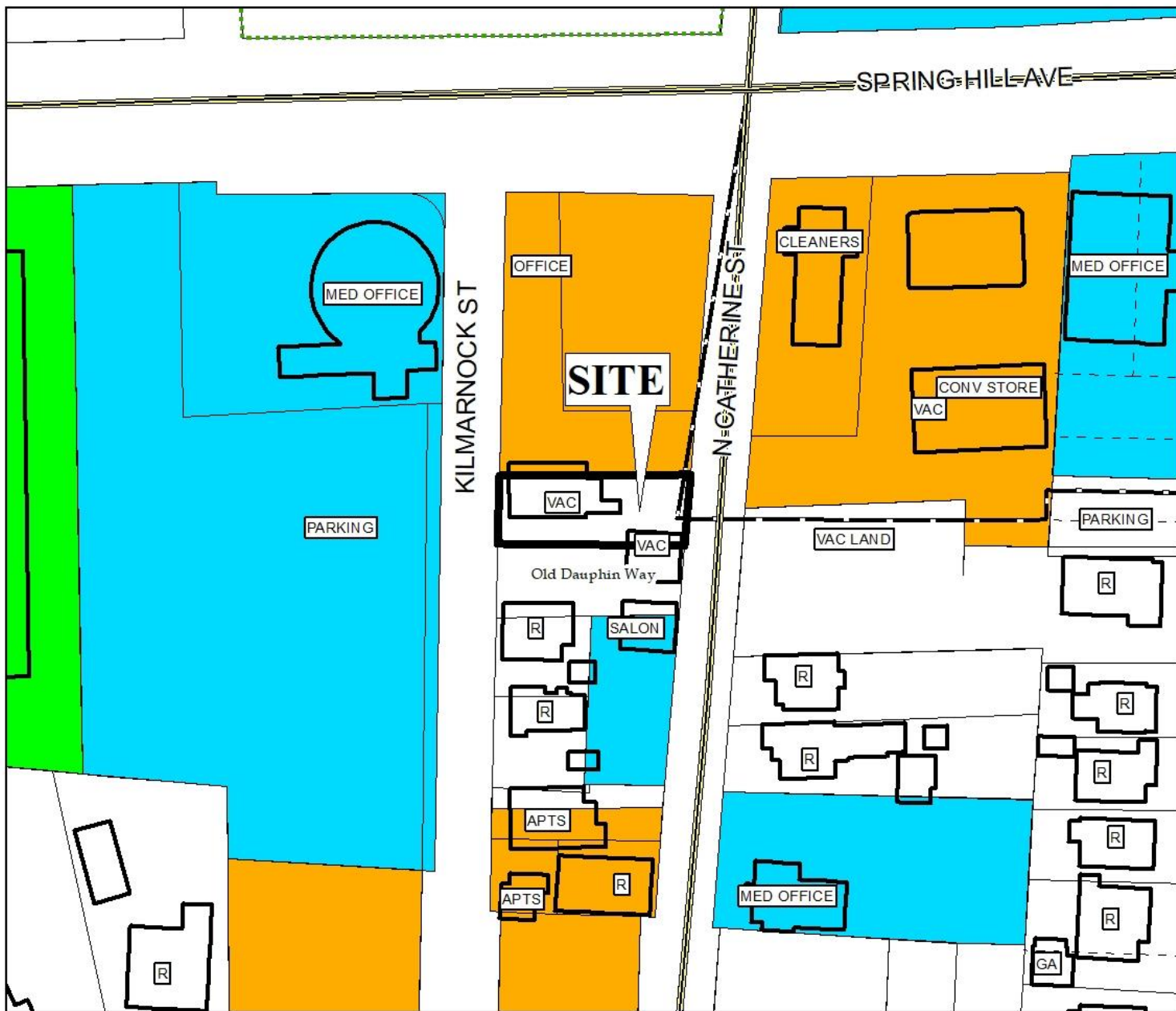
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REQUEST Rezoning from R-1 to B-2



## PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



















The site is surrounded by residential units, medical offices and commercial sites.









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REQUEST Rezoning from R-1 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



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# PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL

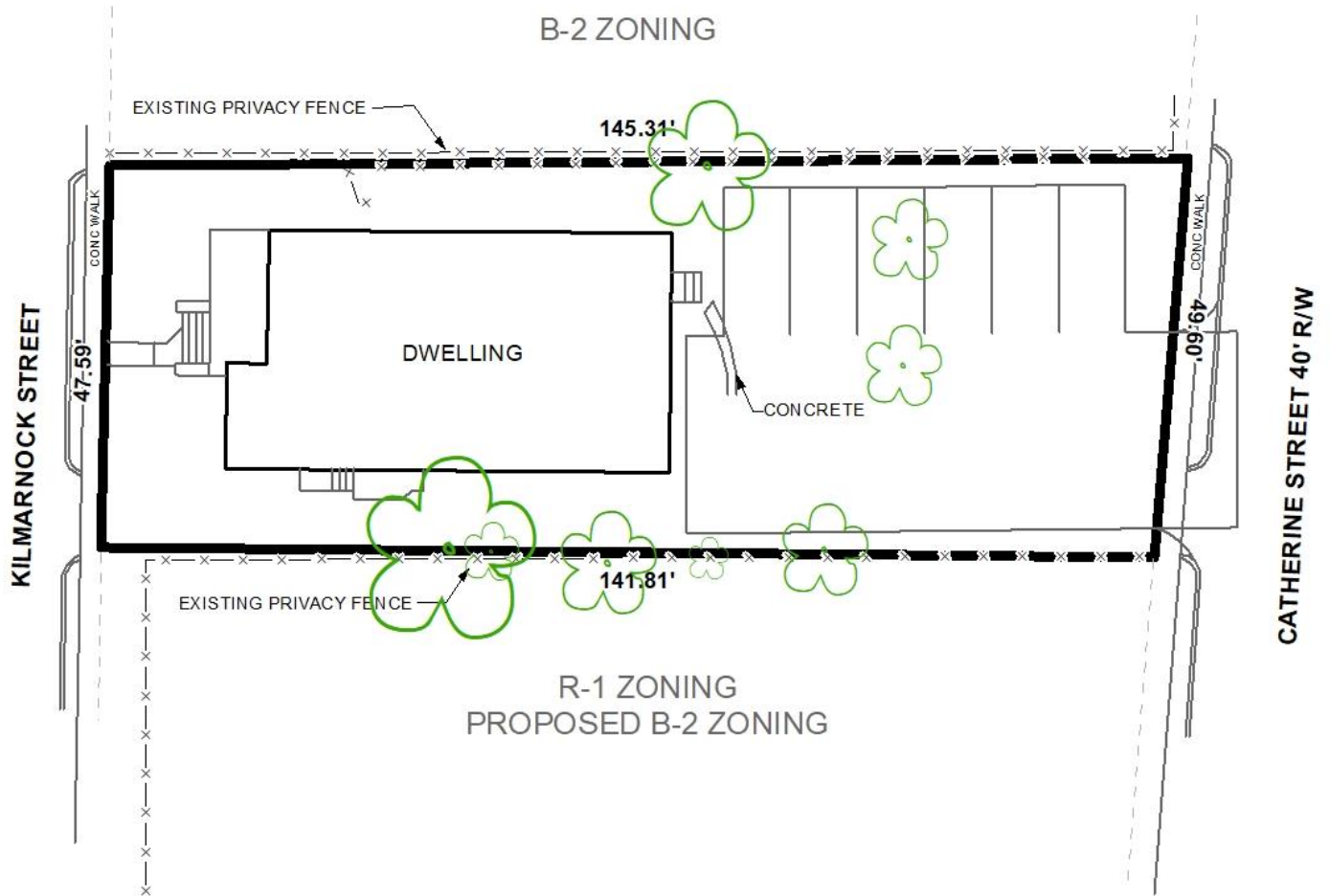


The site is surrounded by residential units, medical offices and commercial sites.

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# SITE PLAN



The site plan illustrates an existing dwelling, surfaces, fencing and zoning.

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