



Agenda Item # 2

BOA-003006-2024

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

7701, 7705, 7709, 7621, and 7631 Old Government Street Road

Applicant / Agent:

James Tate

Property Owner:

James Tate

Current Zoning:

R-3, Multi-Family Residential Suburban District

Future Land Use:

Low Density Residential

Case Number(s):

6604

Unified Development Code (UDC) Requirement:

- The UDC requires a 25-foot front yard setback, 10-foot side yard setbacks, 10-foot rear yard setbacks, and limits site coverage to 45% in an R-3, Multi-Family Residential Suburban District.

Board Consideration:

- Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Site Coverage Variances to allow 15-foot front yard setbacks, 0-foot side yard setbacks, 0-foot rear yard setbacks, and 55% site coverage in an R-3, Multi-Family Residential Suburban District.

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial and residential units.

APPLICATION NUMBER 6604 DATE August 5, 2024
APPLICANT James Tate
REQUEST Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Site Coverage Variances



SITE HISTORY

The site was part of a 27-lot subdivision approved by the Planning Commission at its June 1, 2023 meeting. No plat was presented to staff for signatures, and no extension request was submitted, thus the approval was allowed to expire.

Rezoning of the site from R-1, Single-Family Residential Suburban District, to R-3, Multi-Family Residential Suburban District, was adopted by City Council at its May 14, 2024 meeting.

Most recently, at its June 20, 2024 meeting, the Planning Commission approved a 222-lot private street, zero lot line-townhome subdivision, subject to approval of the necessary variances to allow reduced setbacks and increased site coverage.

There are no previous Board of Zoning Adjustment cases associated with the site.

STAFF COMMENTS

Engineering Comments:

If the variance gets approved and there is a change in the amount of impervious area in the proposed project, the Engineer of Record must submit revised Drainage calculations and drawings to permit ENG-118882-2023 for approval.

Traffic Engineering Comments:

No traffic impacts anticipated by this variance request.

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 non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

Planning Comments:

The applicant is requesting Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Site Coverage variances to allow a 222-lot townhome subdivision with 15-foot front yard setbacks, 0-foot side and rear yard setbacks, and 55% site coverage in an R-3, Multi-Family Residential Suburban District; the Unified Development Code requires a

25-foot front yard setback, 10-foot side yard setbacks, 10-foot rear yard setbacks, and limits site coverage to 45% in an R-3, Multi-Family Residential Suburban District. In their narrative, which can be viewed using the link on Page 1 of this report, the applicant references previously approved townhome subdivisions within the city as justification for their request.

The site plan depicts 222 lots that are to be developed as a private street townhome community. Multi-family residential use and zero lot line homes are allowed by right in an R-3, Multi-Family Residential Suburban District, subject to compliance with the development standards of the Unified Development Code (UDC).

The applicant is correct in referencing that previous townhome subdivisions have been developed within the city, but their approvals were facilitated by Planned Unit Developments (PUD) which, when approved by the Planning Commission, allowed greater flexibility in the location and arrangement of buildings and uses than is generally possible in the underlying zoning district. Since the adoption of the current regulations in July 2023, PUDs are no longer a tool that can be utilized by the Planning Commission to allow such flexibility.

Under Sections 6.B.4. and 9.C.2. of the Subdivision Regulations, the Planning Commission can approve subdivisions for townhomes and, as mentioned, multi-family use and zero lot line homes are allowed in an R-3 Suburban district; however, the dimensional standards of Article 2, Section 64-2-7 of the UDC conflict with these provisions by requiring setbacks and site coverage that are incompatible with townhome construction. The Planning Commission cannot waive dimensional standards of the UDC, hence the request at hand.

VARIANCE CONSIDERATIONS

Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest;
- Where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- The spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

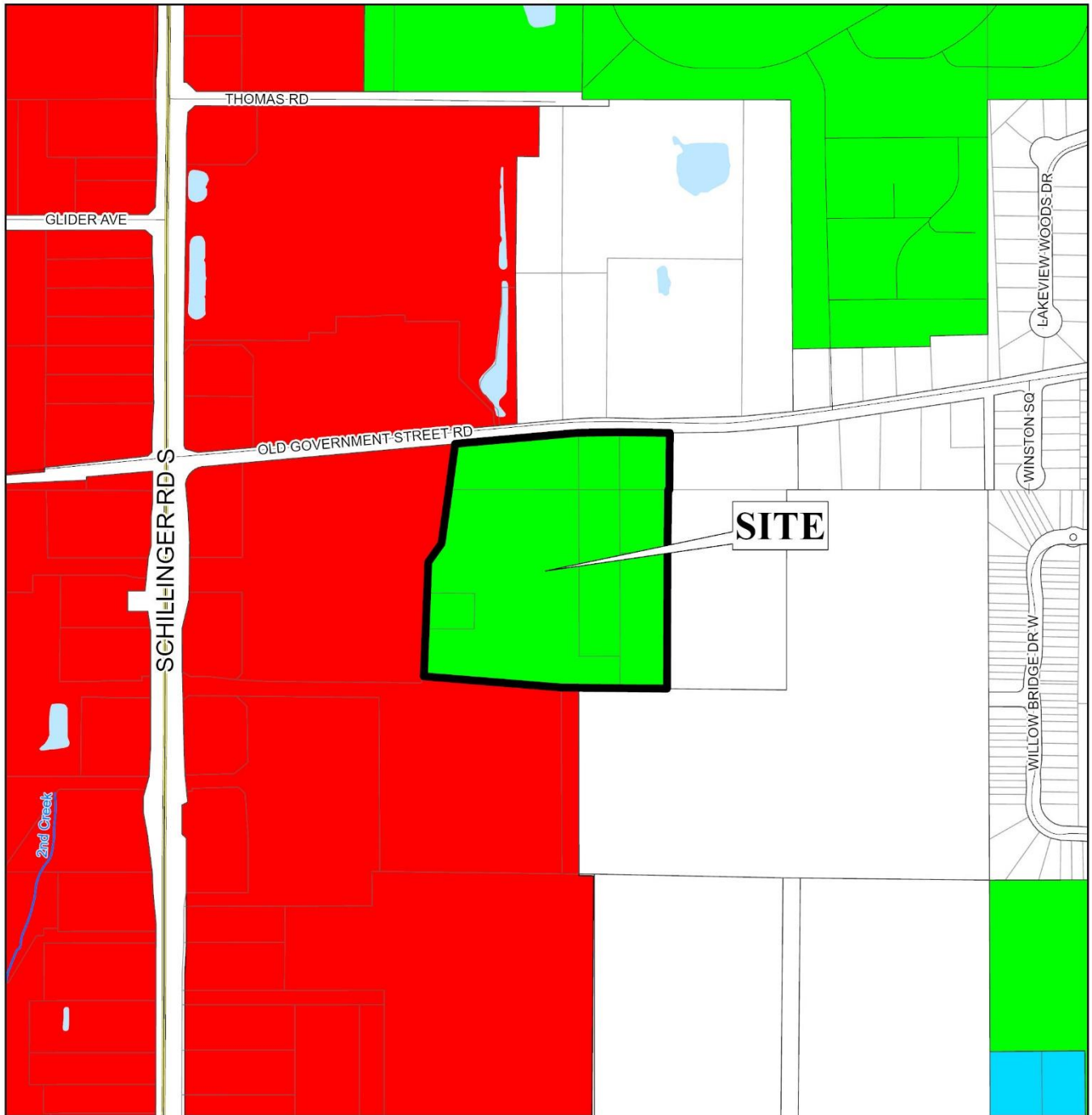
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- a) The variance **will not** be contrary to the public interest;
- b) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- c) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

If approved, the following conditions should apply:

1. Approval of the proposed street names by the City Engineer, with any modifications labeled on a revised site plan;
2. Coordinate with Engineering and Traffic Engineering the dedication of corner radii where each lot abuts a private street intersection, as needed;
3. Revision of the site plan to illustrate the applicable utility easements;
4. Placement of a note on the revised site plan stating that the streets are privately maintained and that there shall be no public right-of-way;
5. Revision of the site plan to label each lot with its size in square feet and acres, or provision of a table on the revised site plan with the same information;
6. Revision of the site plan to label each common area with its size in square feet and acres, or provision of a table on the revised site plan with the same information;
7. Placement of a note on the revised site plan stating that the maintenance of all common areas is the responsibility of the property owner(s) and not the City of Mobile;
8. Retention of a table on the site plan providing the front, side, and rear yard setbacks, as approved by the Board of Zoning Adjustment;
9. Compliance with all Engineering comments noted in this staff report;
10. Placement of a note on the Final Plat stating all Traffic Engineering comments noted in this staff report;
11. Compliance with all Urban Forestry comments noted in this staff report;
12. Compliance with all Fire Department comments noted in this staff report; and
13. Full compliance with all other codes and ordinances.

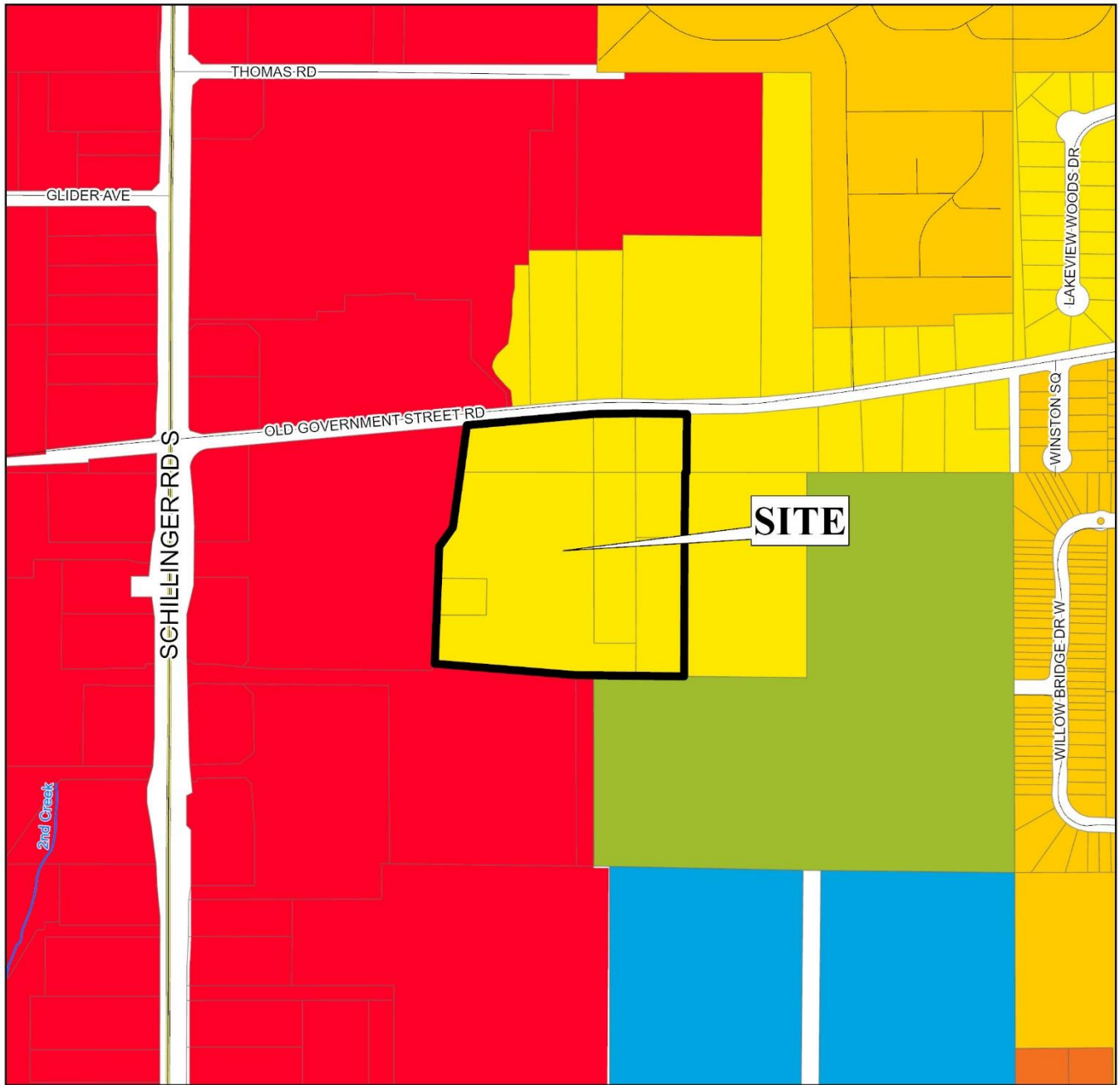
LOCATOR ZONING MAP



APPLICATION NUMBER 6604 DATE August 5, 2024
APPLICANT James Tate
REQUEST Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Site Coverage Variances



FLUM LOCATOR MAP



APPLICATION NUMBER 6604 DATE August 5, 2024

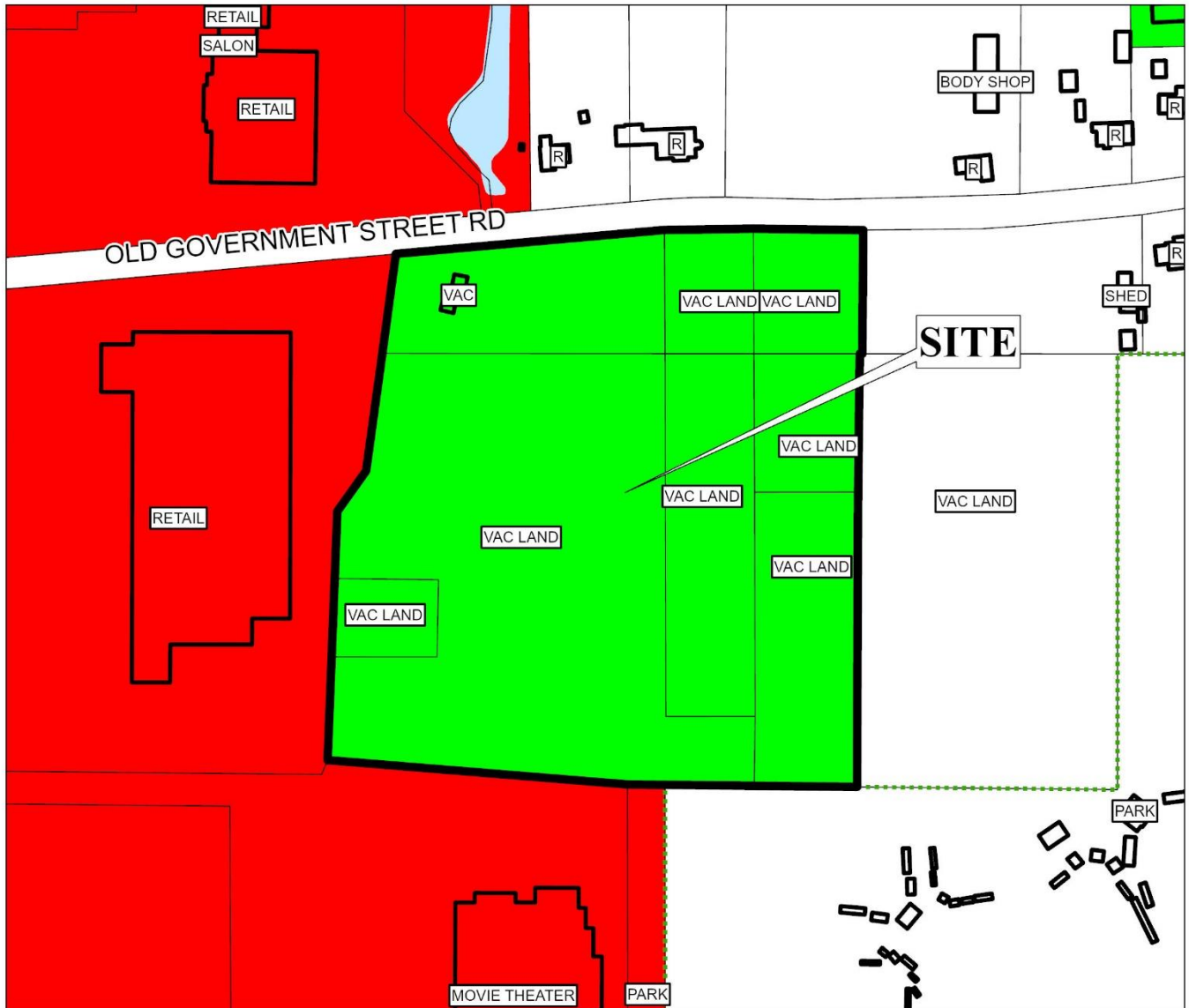
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- | | | | |
|---|--|---|---|
| ■ Low Density Residential | ■ Neighborhood Center - Traditional | ■ Downtown Waterfront | ■ Parks & Open Space |
| ■ Mixed Density Residential | ■ Neighborhood Center - Suburban | ■ Light Industry | ■ Water Dependent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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



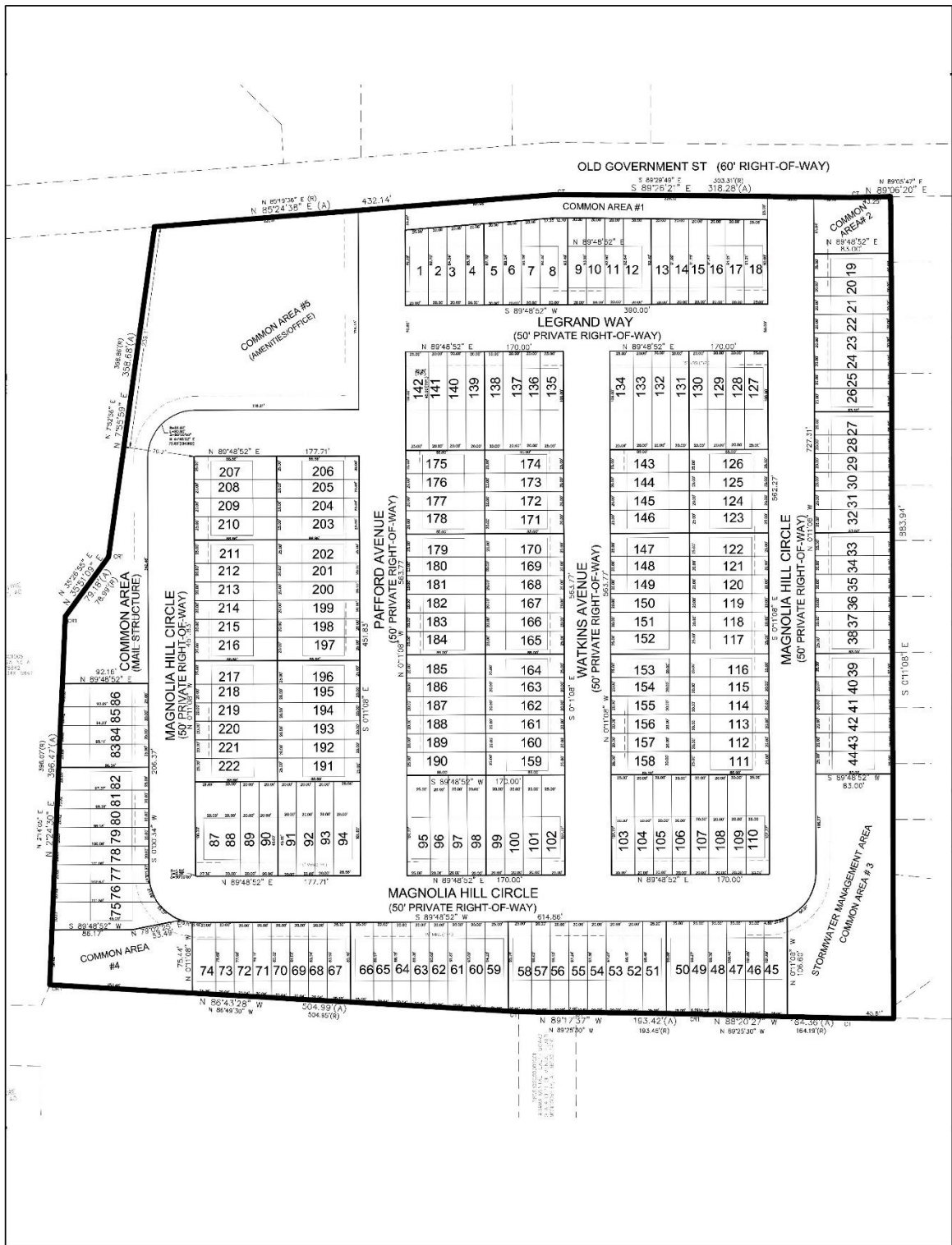
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R-A	R-3	B-1	B-2	B-5	ML	I-2	OPEN	T-3	T-5.2
R-1	R-B	T-B	B-3	CW	MH	PD	SD	T-4	T-6
R-2	H-B	LB-2	B-4	MM	I-1	MUN	SD-WH	T-5.1	



DETAIL SITE PLAN



APPLICATION NUMBER	6604	DATE	August 5, 2024
APPLICANT	James Tate		
REQUEST	Front Yard Setback, Side Yard Setback, Rear Yard Setback, and Site Coverage Variances		

NTS

ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	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 (WDWRLU)
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)

Residential Land Use

LOW DENSITY RESIDENTIAL (LDR)

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.