



Agenda Item # 2
BOA-003175-2024

View additional details on this proposal and all application materials using the following link:
[**Applicant Materials for Consideration**](#)

DETAILS

Location:
North side of Third Avenue, 25'± West of Owens Street

Applicant / Agent:
The Comforter (Adric Bush, Agent)

Property Owner:
Adric Bush

Current Zoning:
R-1, Single-Family Residential Urban District

Future Land Use:
Mixed Density Residential

Case Number:
6647

Unified Development Code (UDC) Requirement:

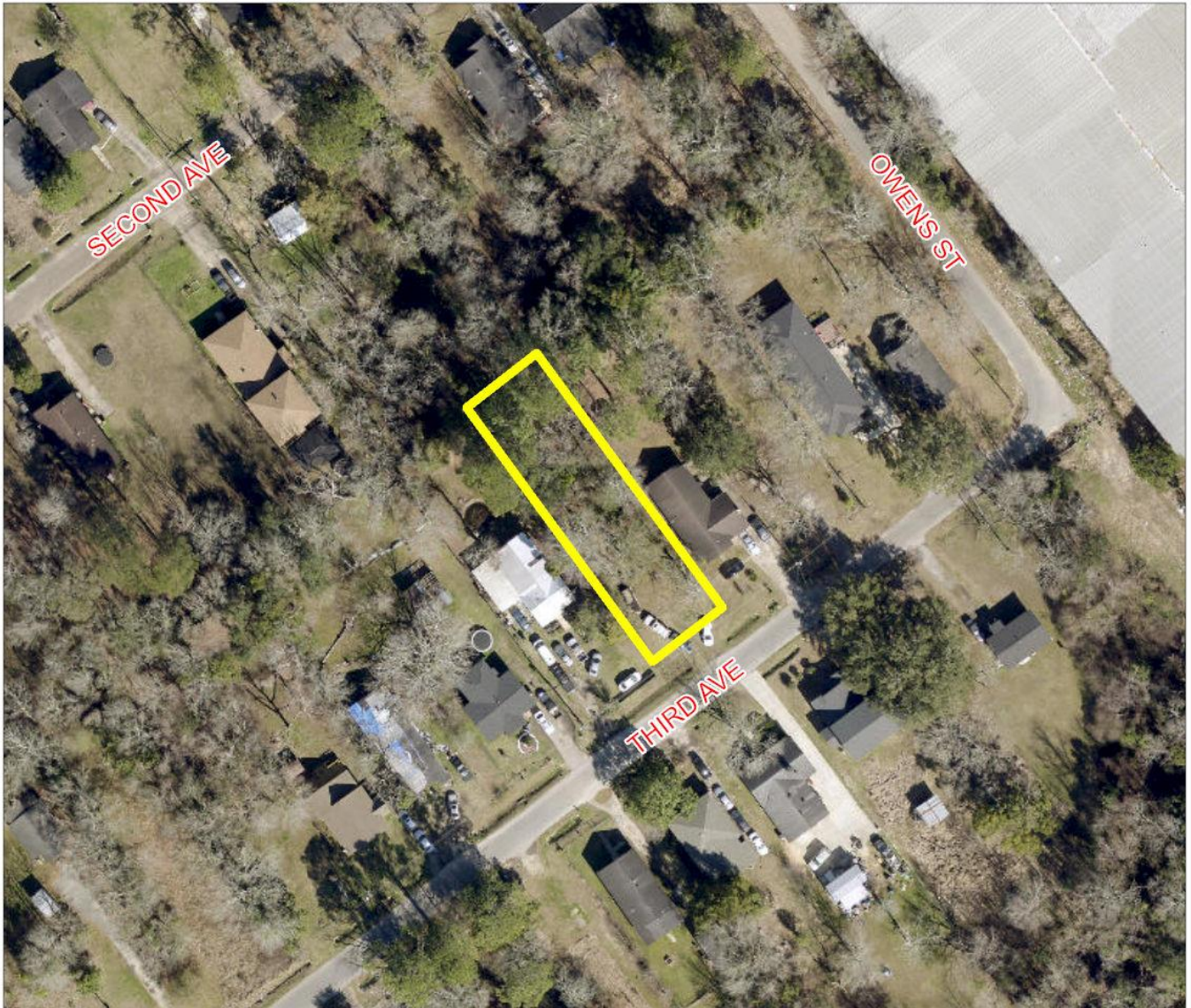
- The UDC does not allow an HVAC contractor with sub-standard parking access and maneuvering, no tree plantings, and a chain link fence as a residential buffer in an R-1, Single-Family Residential Urban District.

Board Consideration:

- Use, Parking Access and Maneuvering, Tree Planting, and Residential Buffer Variances to allow an HVAC contractor with sub-standard parking access and maneuvering, no tree plantings, and a chain link fence as a residential buffer in an R-1, Single-Family Residential Urban District.

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER	6647	DATE	February 3, 2025
APPLICANT	The Comforter (Adric Bush, Agent)		
REQUEST	Use, Parking Access and Maneuvering, Tree Planting, and Residential Buffer Variances		



SITE HISTORY

The subject site was recorded in Probate Court as Lot 64, Block B of the Trinity Gardens Subdivision on April 21, 1938, prior to the Planning Commission being formed in 1944.

The subject site has never been before the Board of Zoning Adjustment or the Planning Commission.

STAFF COMMENTS

Engineering Comments:

The improvements shown on the submitted plans will require a Land Disturbance Permit be submitted through the CSS Portal.

An additional Right of Way permit is required, and the driveway shall meet City of Mobile requirements. The driveway must be concrete in the Right of Way portion, a minimum of 12' of width, 4' min. radii and, 2' setback from the back of the pavement. Refer to Standard Drawing No. 5 for Concrete residential driveways for streets without curb and gutter.

Traffic Engineering Comments:

Reduced Parking may lead to unforeseen issues. 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 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 Use, Parking Access and Maneuvering, Tree Planting, and Residential Buffer Variances to allow an HVAC contractor with sub-standard parking access and maneuvering, no tree plantings, and a chain link fence as a residential buffer in an R-1, Single-Family Residential Urban District; the UDC does not allow an

HVAC contractor with sub-standard parking access and maneuvering, no tree plantings, and a chain link fence as a residential buffer in an R-1, Single-Family Residential Urban District.

A detailed description of the proposed Use Variance request is available via the link on Page 1 of this report.

The subject site does not appear to have ever been previously developed. It is located within an established single-family residential neighborhood, and is adjacent to the Prichard City limits along its East boundary. It should be noted that there have not been any similar Use Variance requests approved within the immediate area.

The applicant owns The Comforter Heating and Air Conditioning Company LLC with the license held at his parents' residence directly across Third Avenue from the subject site. The applicant purchased the subject site in October 2024 and placed a 100 square-foot metal building on the site, along with a concrete driveway. The property was also partially fenced along the side property lines with a chain link fence, and with a wood board fence along the rear and approximately 80 feet back from the front property line. The metal storage building was placed about 70 feet back from the front property line in front of the wood board fence. No permits were obtained for the improvements to the site. The applicant uses the site for storage of equipment and supplies related to his home-based HVAC business.

Home-based businesses have certain conditions under which they must operate: The applicant must live at the residence, and persons not living at the residence cannot work at the location. The business activity shall be incidental to the residential use of the premises and shall not: (a) take place in the yard or in a detached building; (b) occupy more than 25% of the floor area of the dwelling; (c) employ anyone who does not live in the dwelling; (d) include selling or storage of items for sale from this address that are made elsewhere; (e) include the storage of materials or heavy equipment such as bulldozers, dump trucks, etc.; and (f) clients cannot be seen at residence.

In this instance, the business activity is located on the subject site and not at the applicant's residence, and takes place in the yard and a detached building. Also, the site is not compliant with the commercial site standards of Section 64-3 of the UDC. The access drive does not allow for two-way traffic; there is no designated vehicular parking area with adequate maneuvering area; no tree plantings are provided; and no compliant residential buffer is provided. As proposed, the use and site improvements would not be in keeping with the residential character of the neighborhood.

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:

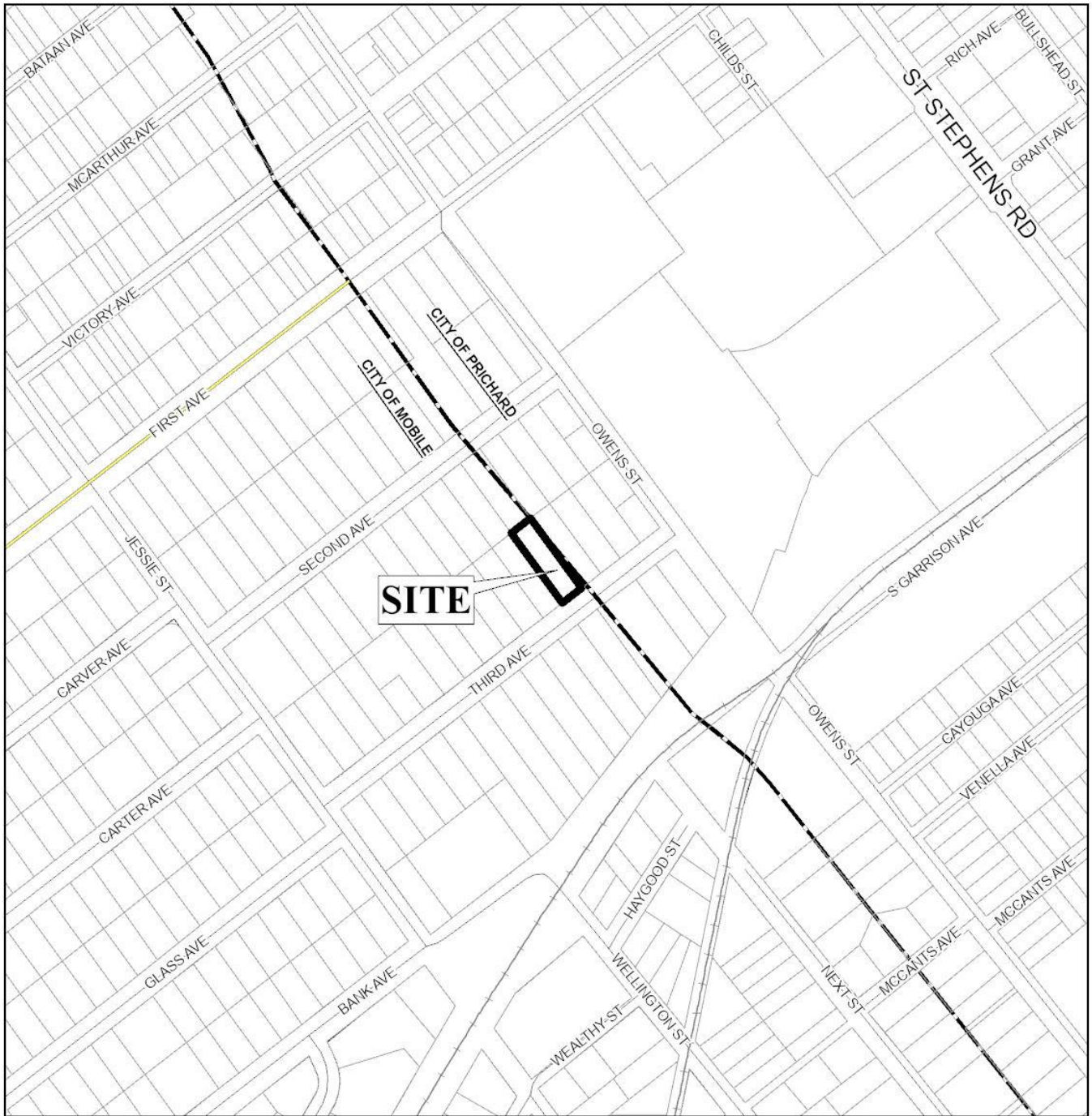
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

Considerations:

If the Board considers approval of the request, the following findings of fact must be present:

- 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.

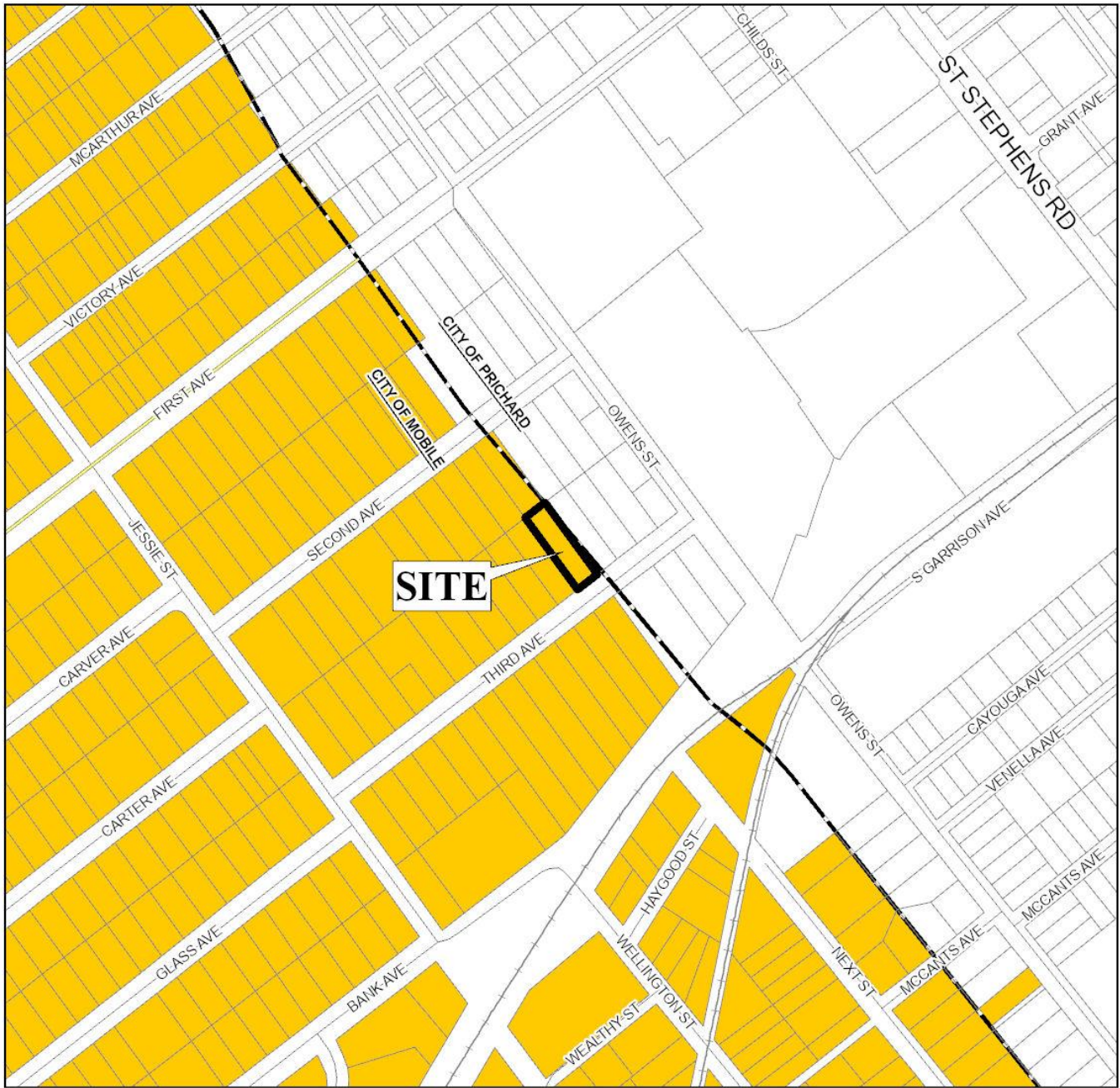
LOCATOR ZONING MAP



APPLICATION NUMBER 6647 DATE February 3, 2025
APPLICANT The Comforter (Adric Bush, Agent)
REQUEST Use, Parking Access and Maneuvering, Tree Planting, and Residential Buffer Variances



FLUM LOCATOR MAP



APPLICATION NUMBER 6647 DATE February 3, 2025

APPLICANT The Comforter (Adric Bush, Agent)

REQUEST Use, Parking Access and Maneuvering, Tree Planting, and Residential Buffer Variances

- | | | | |
|---|--|--|--|
| ■ 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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<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	
 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2																					
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 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1																						

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 (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)



MIXED DENSITY RESIDENTIAL (MxDR)

This designation applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4- residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 du/ac, depending on the mix, types, and locations of the housing as specified by zoning.

Like LDR areas, MxDR areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.