



**Agenda Item # 3**  
**BOA-003007-2024**

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

**DETAILS**

**Location:**  
3760 Joy Springs Drive

**Applicant / Agent:**  
Duncan Greenwood, Downtown Investment Properties, LP

**Property Owner:**  
Duncan Greenwood, Downtown Investment Properties, LP

**Current Zoning:**  
B-3, Community Business Suburban District

**Future Land Use:**  
Low Density Residential

**Case Number(s):**  
6605

**Unified Development Code (UDC) Requirement:**

- The UDC requires both a vegetative buffer and a privacy fence/wall where an R-1, Single-Family Residential Suburban District is adjacent to a B-3, Community Business Suburban District.

**Board Consideration:**


- Residential Buffer Variance to allow a vegetative buffer between an R-1, Single-Family Residential Suburban District and an adjacent B-3, Community Business Suburban District.

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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial units to the east and residential units to the west.

APPLICATION NUMBER <u>        6605        </u> DATE <u>        August 5, 2024        </u>	 NTS
APPLICANT <u>        Duncan Greenwood, Downtown Investment        </u>	
REQUEST <u>        Residential Buffer Variance        </u>	

## SITE HISTORY

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The subject site was included in a Planned Unit Development approved by the Planning Commission in 2002 to allow multiple buildings on a single building site.

In 2006 the site went before the Planning Commission to request a zoning change from B-1, Buffer Business District and B-3, Community Business District to B-3, Community Business District. The Planning Commission approved the request conditioned upon a 40-foot vegetative buffer along the Western boundary to remain undisturbed and in its natural state. The request was approved and subsequently adopted by the City Council.

At its meeting on May 3, 2007 the Planning Commission approved the 3-lot Watson Addition to Lakeside Commercial Park Subdivision. This was later re-subdivided as Lakeside Commercial Park Subdivision, Joy Springs Addition and approved by the Planning Commission at its December 6, 2007 meeting. Additionally, the Final Plat illustrates a required 40-foot natural vegetation buffer along the Western boundary of the site. The Plat was subsequently recorded in Mobile County Probate Court in January 2008.

Concurrently with the December 2007 Subdivision request the Planning Commission approved a Planned Unit Development request to allow shared access between two building sites.

Most recently at its August 6, 2009 meeting the Planning Commission approved a 4-lot Subdivision request for Lake Heron Subdivision. The Final Plat for which was never recorded in Mobile County Probate Court and subsequently expired.

No other Planning Commission or Board of Zoning Adjustment cases are associated with the site

## STAFF COMMENTS

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### **Engineering Comments:**

No comments to the proposed variance.

### **Traffic Engineering Comments:**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

### **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 a Residential Buffer Variance to allow only a vegetative buffer between an R-1, Single-Family Residential Suburban District and an adjacent B-3, Community Business Suburban District. The UDC requires both a vegetative buffer and a privacy fence/wall where an R-1, Single-Family Residential Suburban District is adjacent to a B-3, Community Business Suburban District.

In their narrative, which can be viewed using the link on Page 1 of this report, the applicant states that the recorded plat for Lakeside Commercial Park, Joy Springs Addition requires a 40-foot wide vegetative buffer along the entire East boundary of the site; thus, negating any need for a wood privacy fence.

As previously mentioned the 2006 Rezoning request required that the existing 40-foot natural vegetative buffer remain on site undisturbed, which was compliant with residential buffer standards at the time under the previous Zoning Ordinance. This was further reinforced by the 2007 Subdivision and Planned Unit Development conditions of approval both of which requiring the 40-foot buffer to remain. Only with the adoption of the UDC did residential buffer requirements change to the current standard requiring a 10-foot protection buffer comprised of both a fence/wall and screen planting strip where a B-3 district abuts a residential district or residentially used building site.

The site plan provided depicts the 40-foot vegetative buffer along with one (1) 12,000± square-foot proposed commercial building and one (1) 15,000± square-foot proposed commercial building. Additionally, the site plan proposes 55 parking spaces between two (2) parking lots and a "laydown area" with no specified dimensions.

No information was provided to staff detailing the proposed use of the site. As such, staff is unable to accurately calculate the total number of parking spaces required for the site. Additionally, no information was provided with regard to tree planting and landscaping which likewise cannot be confirmed by staff. If approved, revision of the site plan to provide proposed use and compliant parking data must be required.

With regard to the proposed use of "Laydown Area", per Article 2 Section 64-2-24 of the UDC a laydown yard may only be permitted within a B-3 district as an Accessory Use and must be incidental to the Primary Use of a building site.

It should be noted that any and all future development of the site must comply with current development standards as detailed in the Unified Development Code.

## **VARIANCE CONSIDERATIONS**

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### **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:**

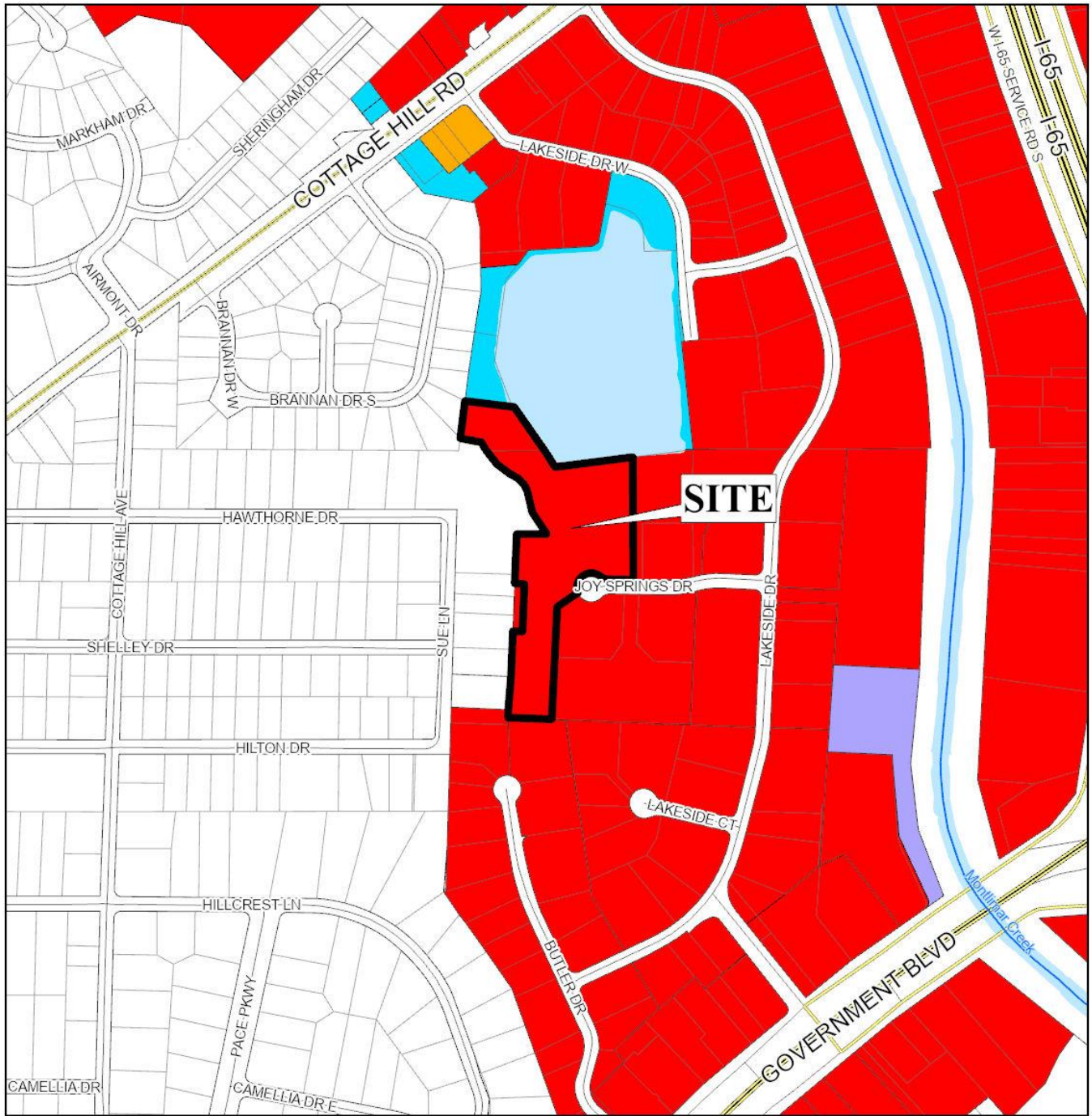
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 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. Revision of a compliant site plan to include parking calculations and a breakdown of all existing and proposed use types providing the total amount of floor area designated between each use;
2. Provision of a note on the site plan stating that any and all future development of the site must comply with all other requirements of the Unified Development Code;
3. Compliance with all Engineering comments noted in this staff report;
4. Compliance with all Traffic Engineering comments noted in this staff report;
5. Compliance with all Urban Forestry comments noted in this staff report;
6. Compliance with all Fire Department comments noted in this staff report;
7. Provision of a copy of the recorded site plan (hard copy and pdf) to Planning and Zoning; and,
8. Full compliance with all municipal codes and ordinances.

# LOCATOR ZONING MAP

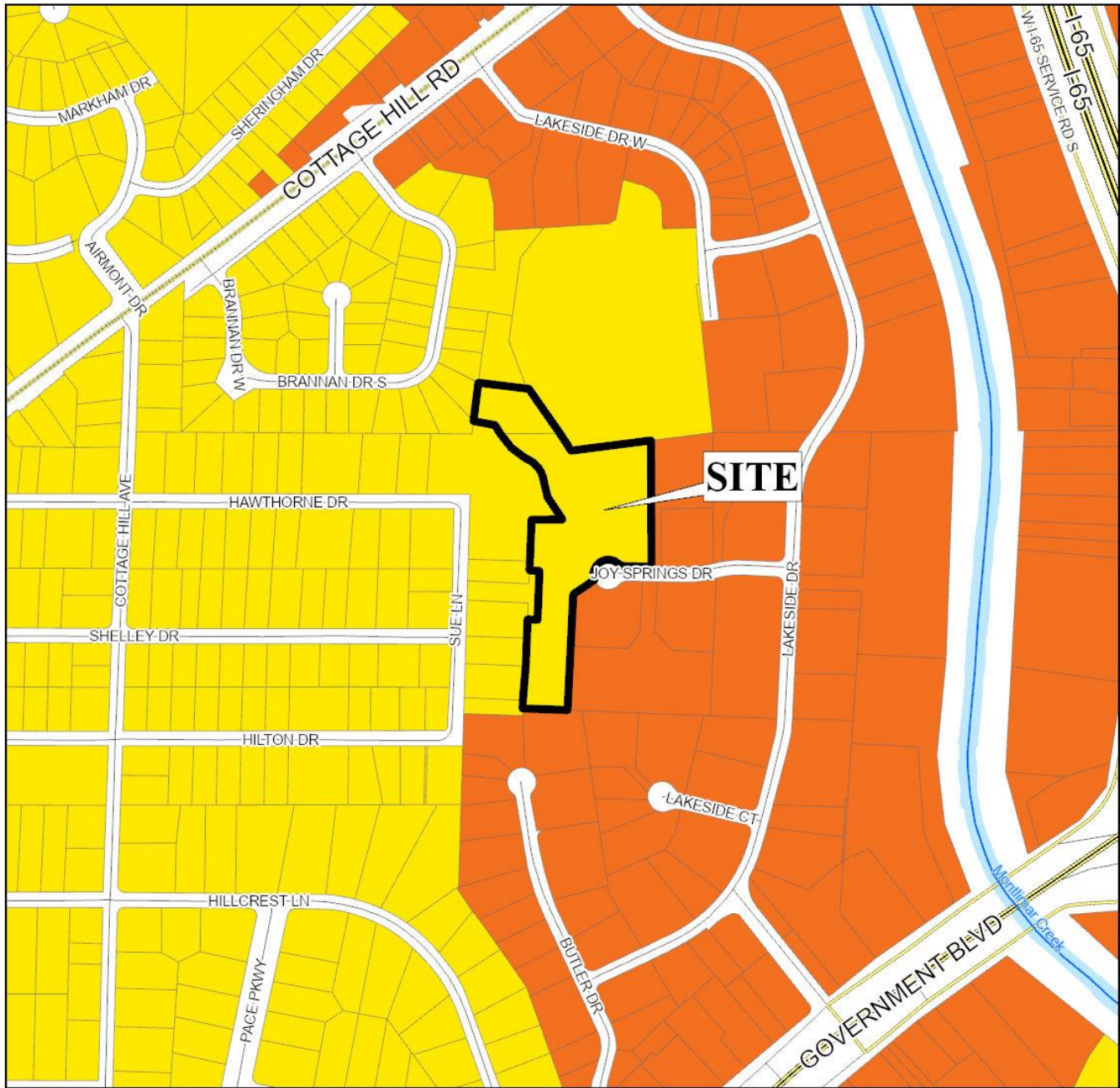


APPLICATION NUMBER 6605 DATE August 5, 2024  
 APPLICANT Duncan Greenwood, Downtown Investment  
 REQUEST Residential Buffer Variance





# FLUM LOCATOR MAP



APPLICATION NUMBER 6605 DATE August 5, 2024

APPLICANT Duncan Greenwood, Downtown Investment

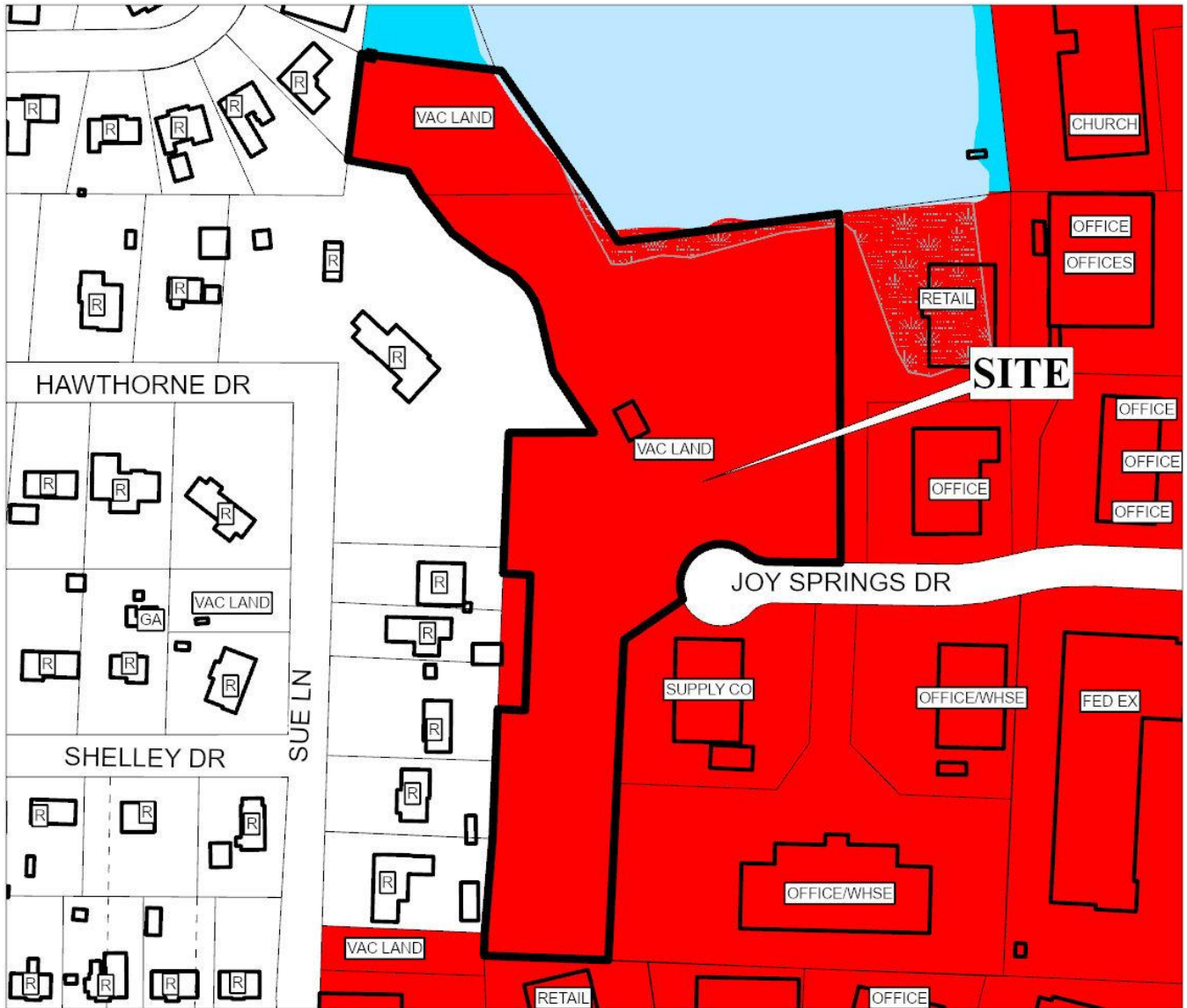
REQUEST Residential Buffer Variance

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|--|---|--|---|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> Low Density Residential   | <span style="display: inline-block; width: 15px; height: 10px; background-color: darkred; border: 1px solid black;"></span> Neighborhood Center - Traditional | <span style="display: inline-block; width: 15px; height: 10px; background-color: brown; border: 1px solid black;"></span> Downtown Waterfront  | <span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> Parks & Open Space |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Mixed Density Residential | <span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black;"></span> Neighborhood Center - Suburban       | <span style="display: inline-block; width: 15px; height: 10px; background-color: lightpurple; border: 1px solid black;"></span> Light Industry | <span style="display: inline-block; width: 15px; height: 10px; background-color: darkblue; border: 1px solid black;"></span> Water Dependent      |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> Downtown                    | <span style="display: inline-block; width: 15px; height: 10px; background-color: magenta; border: 1px solid black;"></span> Traditional Corridor              | <span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span> Heavy Industry      |   |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black;"></span> District Center              | <span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Mixed Commercial Corridor          | <span style="display: inline-block; width: 15px; height: 10px; background-color: cyan; border: 1px solid black;"></span> Institutional         |   |




NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

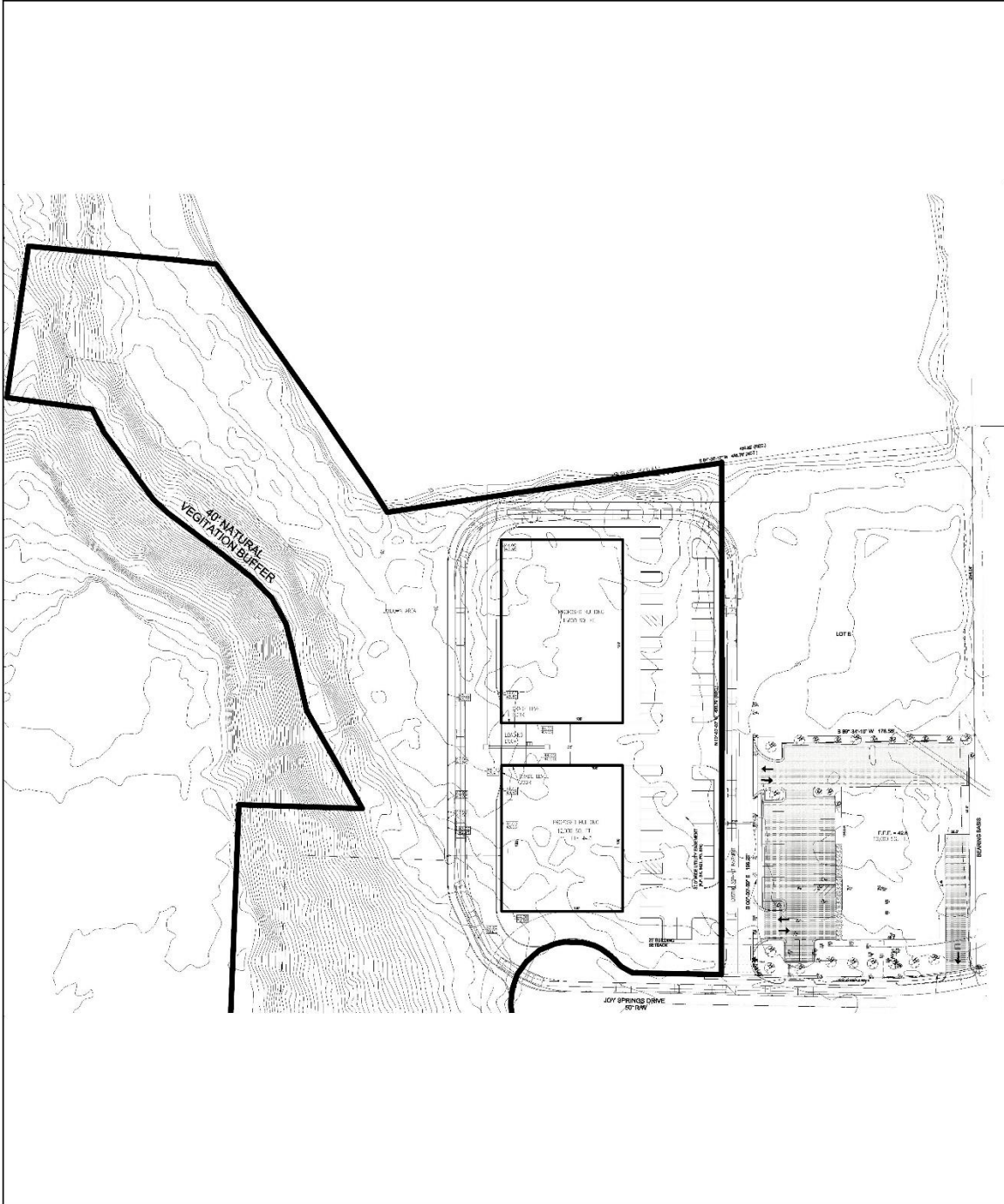


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# SITE PLAN



The site plan illustrates the proposed buildings, parking, setback, and easements.

APPLICATION NUMBER <u>6605</u>	DATE <u>August 5, 2024</u>	
APPLICANT <u>Duncan Greenwood, Downtown Investment Properties, LP</u>		
REQUEST <u>Residential Buffer Variance</u>		

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.