



**Agenda Item # 3**  
**BOA-003104-2024**

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

[Applicant Materials for Consideration](#)

**DETAILS**

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**Location:**

2732 Josephine St

**Applicant / Agent:**

DSW Homes, LLC (Ashley Ward)

**Property Owner:**

Carrie Buchanon

**Current Zoning:**

R-1, Single-Family Urban District

**Future Land Use:**

Mixed Density Residential

**Case Number(s):**

6629

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

- The UDC requires full compliance with the side yard setback requirements in an R-1, Single Family Residential Urban District.

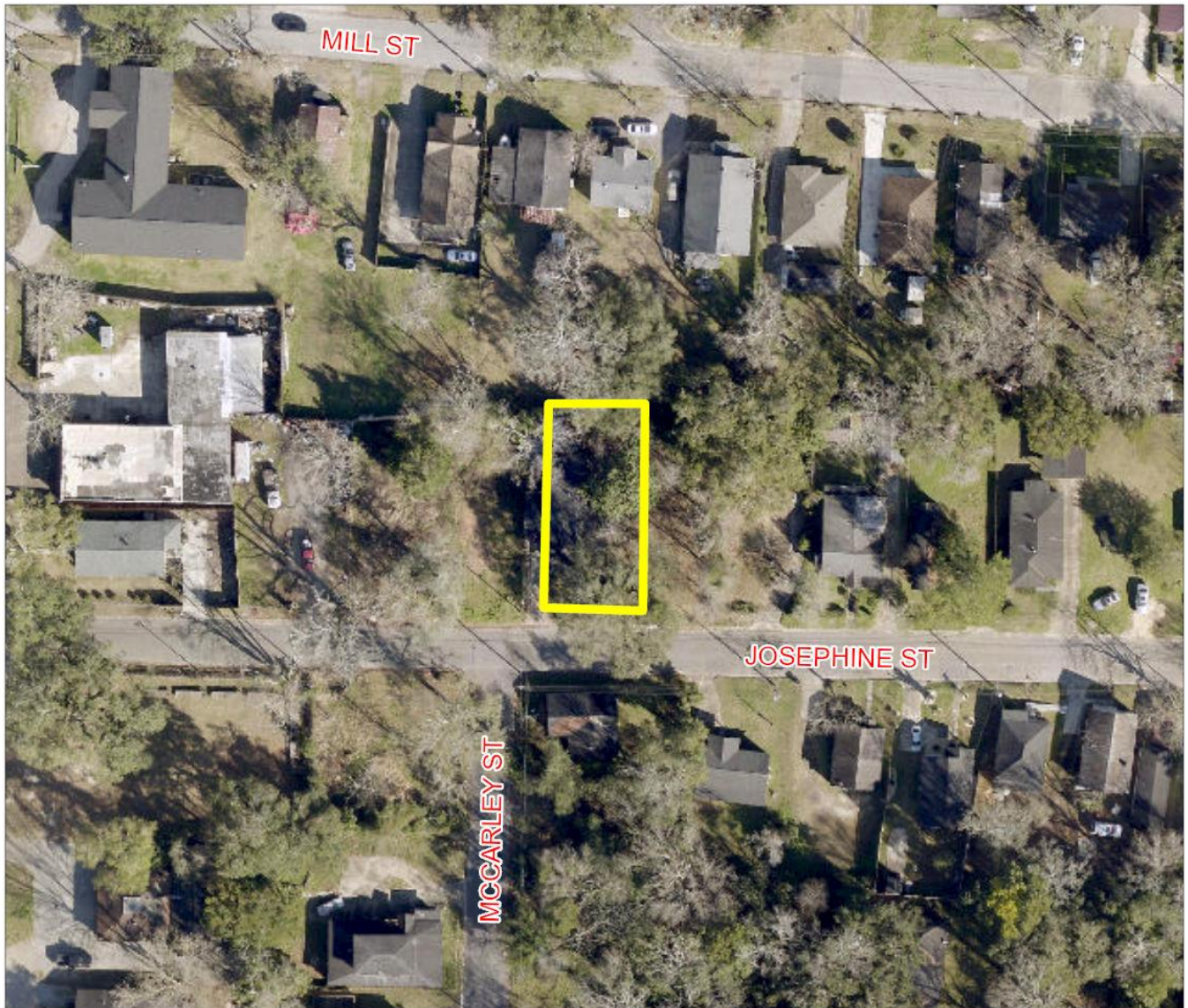
**Board Consideration:**

- Side Yard Setback Variance to allow a new dwelling within the required side yard setback 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. Commercial units lie west of the site.

APPLICATION NUMBER <u>6629</u> DATE <u>November 4, 2024</u>	 NTS
APPLICANT <u>DSW Homes, LLC (Ashley Ward)</u>	
REQUEST <u>Side Yard Setback Variance</u>	

## SITE HISTORY

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The site was originally part of the Millville Subdivision, the plat for which was subsequently recorded in Mobile County Probate Court in 1906.

There are no other Planning Commission or Board of Zoning Adjustment applications associated with the site.

## STAFF COMMENTS

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### Engineering Comments:

No comments.

### Traffic Engineering Comments:

No comments.

### 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 Side Yard Setback Variance to allow a new dwelling within the required side yard setback in an R-1, Single Family Residential Urban District; the Unified Development Code (UDC) requires full compliance with the side yard setback requirements in an R-1, Single Family Residential Urban District. In their narrative, which can be viewed using the link on Page 1 of this report, the applicant references the reduced size of the floorplans available to the applicant through the Home Recovery Alabama Program (HRAP) as justification for their request.

The site plan depicts a 1,313 square foot single-family residence on the subject site. The proposed dwelling meets all setback requirements except for the 5-foot side yard setback along the West property line where the proposed home encroaches 4 inches into the required side yard.

It should be noted that the existing dwelling on site, which is proposed to be demolished, appears to already have non-compliant setbacks as it is constructed across property lines. The proposed new dwelling will be constructed entirely on-site, effectively making the subject site less non-compliant than in its current state.

The entire application packet is available via the link on Page 1

## 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:

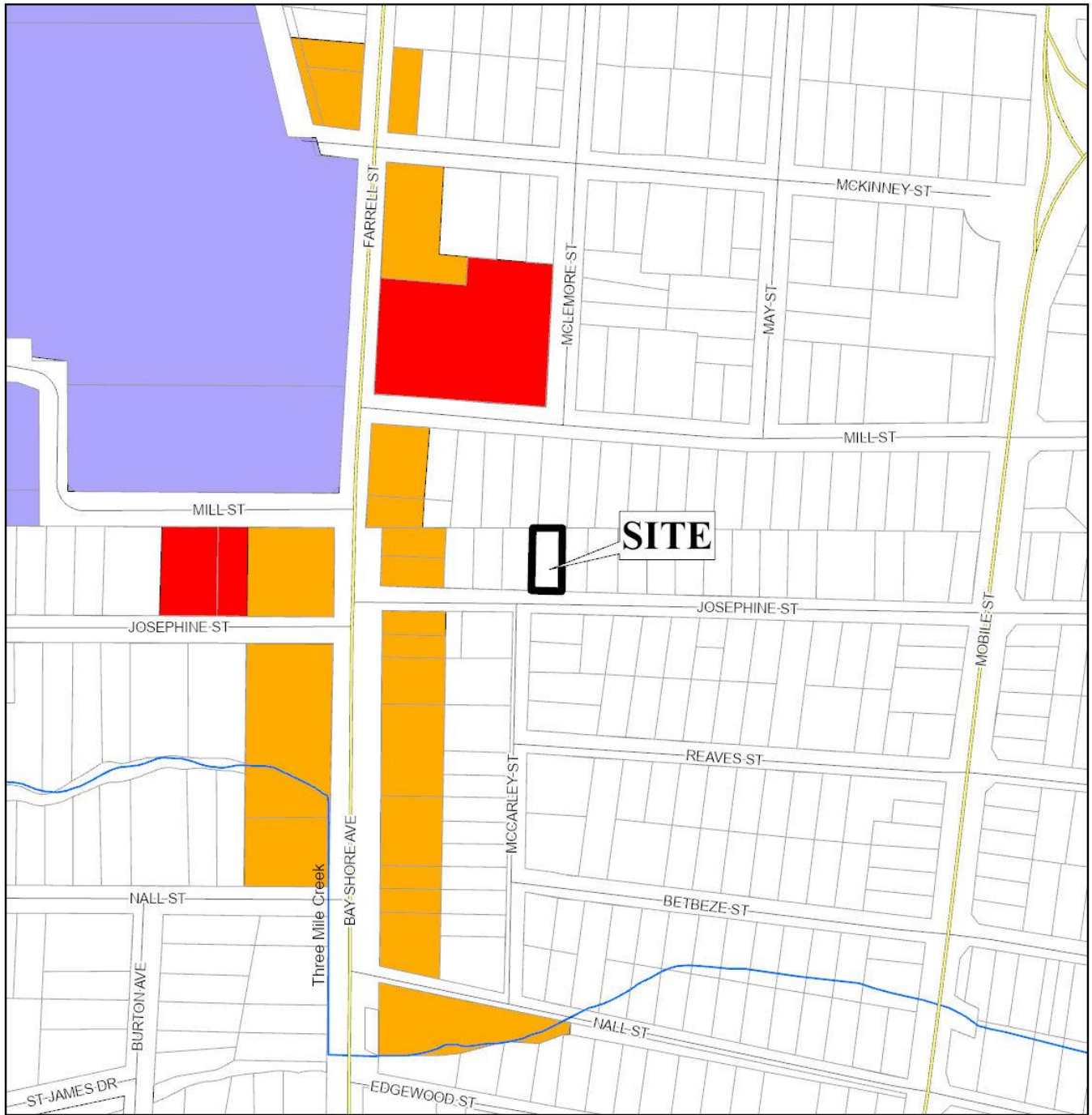
Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be presented:

- 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. Obtaining all necessary building permits;
2. Full compliance with all municipal codes and ordinances.

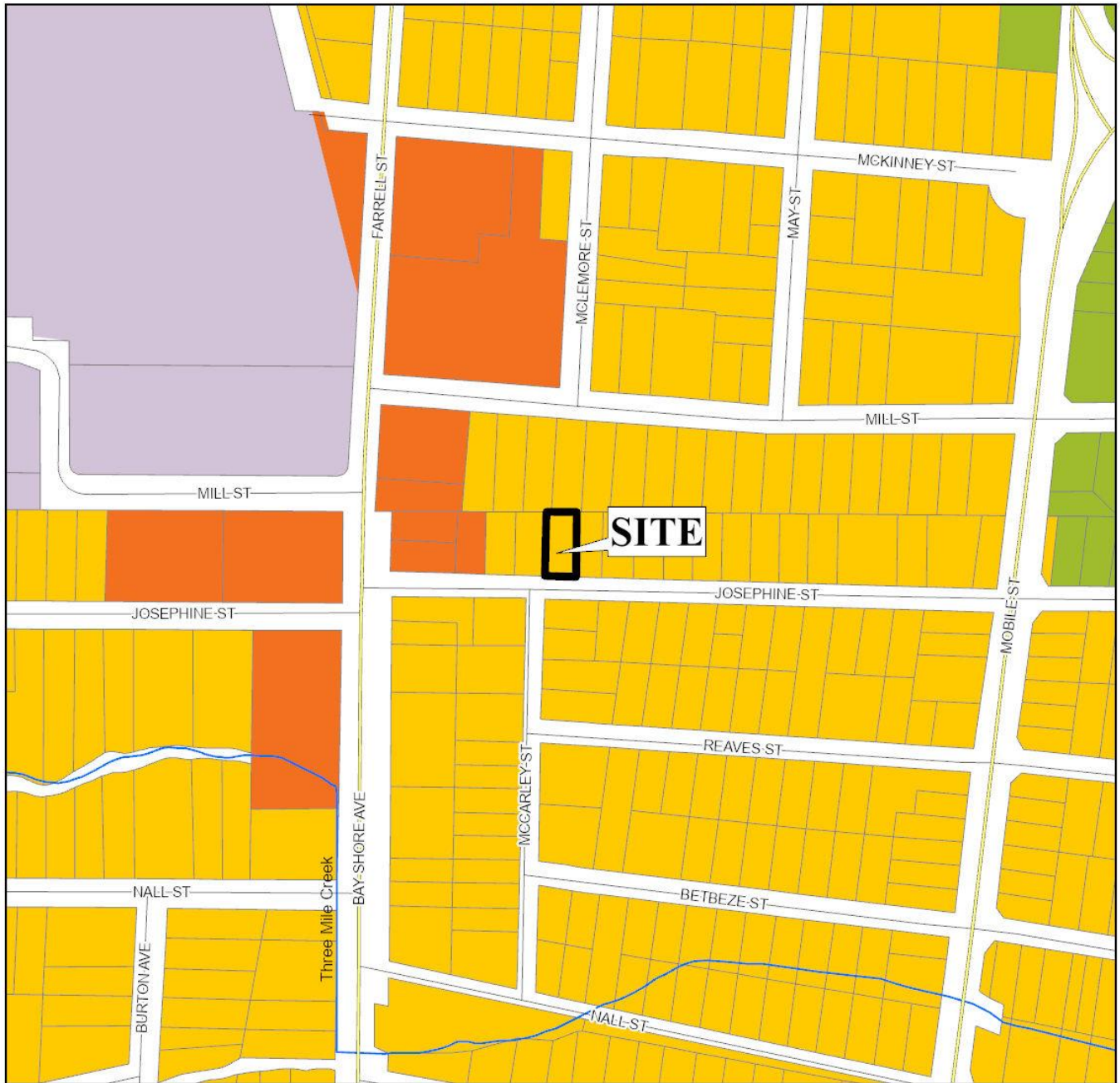
# LOCATOR ZONING MAP



APPLICATION NUMBER 6629 DATE November 4, 2024  
APPLICANT DSW Homes, LLC (Ashley Ward)  
REQUEST Side Yard Setback Variance



# FLUM LOCATOR MAP




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REQUEST Side Yard Setback Variance



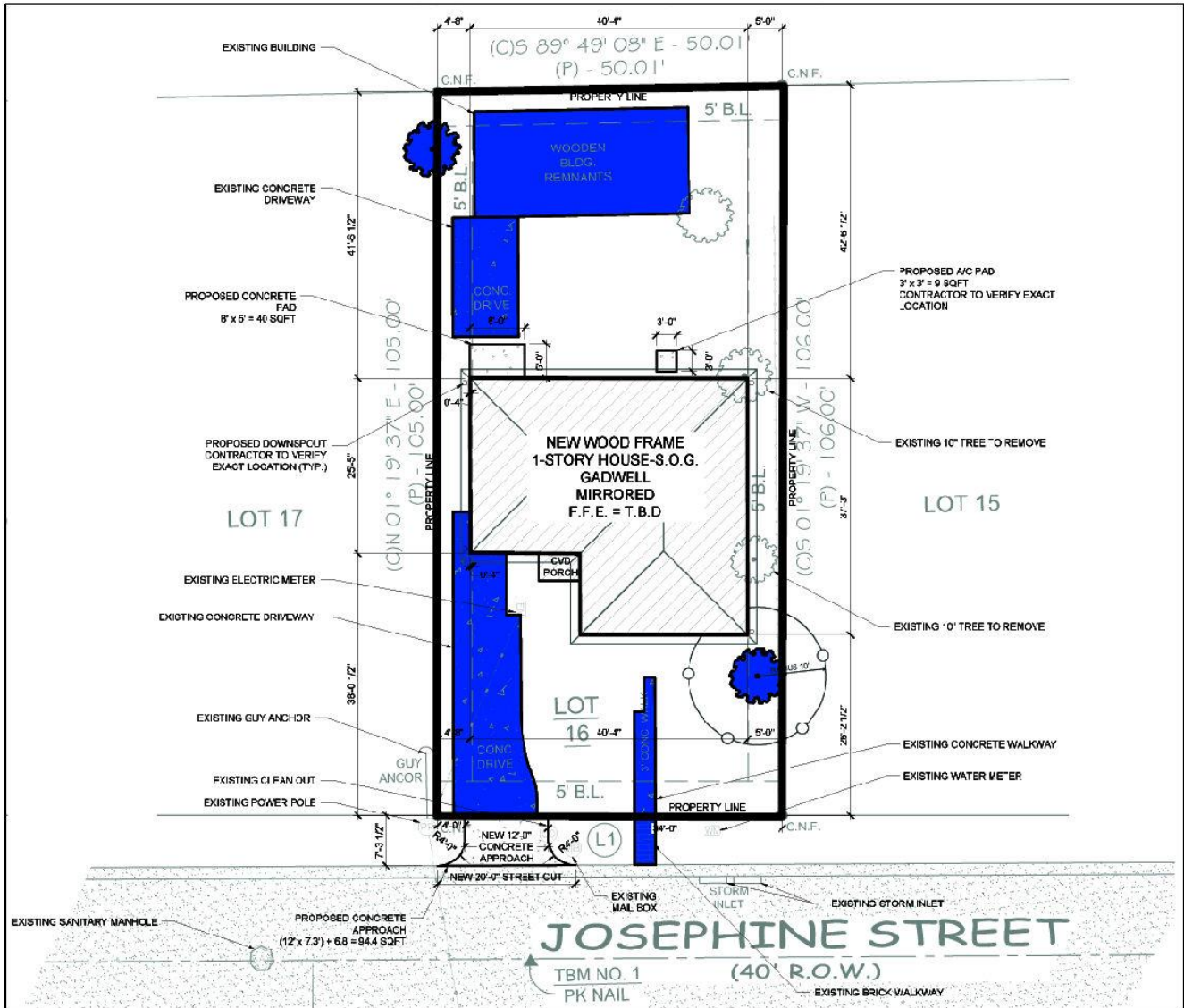
# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




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# SITE PLAN



The site plan illustrates the new proposed residence, setbacks, and drive.

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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)

## 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.