



# Agenda Item # 5

## BOA-003009-2024

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

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

1719 Dauphin Street

**Applicant / Agent (as applicable):**

Scott Moore

**Property Owner:**

Moore Housing Group, LLC

**Current Zoning:**

R-1, Single-Family Residential Urban District

**Future Land Use:**

Mixed Density Residential

**Case Number:**

6607

**Unified Development Code Requirement:**

- The Unified Development Code (UDC) does not allow a health/fitness club with personal services in an R-1, Single-Family Residential Urban District.

**Board Consideration:**

- Use Variance to allow a health/fitness club with personal services 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 commercial and residential units.

APPLICATION NUMBER <u>        6607        </u> DATE <u>        August 5, 2024        </u>	 NTS
APPLICANT <u>                                Scott Moore                                </u>	
REQUEST <u>  Use variance  </u>	

## SITE HISTORY

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Planning & Zoning has non-conforming documentation for the subject site regarding previous uses of the building as follows:

- 1949-1979: Play Skool Kindergarten and Marguerite Benson Hall School of Dance
- 1980-1988: Marguerite Benson Hall School of Dance
- 1989-1994: Taji Martial Arts
- 1997-2011: Mobile Popcorn Storage
- 2011-2015: Teen Ballroom Dance
- 2016-current: vacant

A zoning clearance was issued on March 3, 2011 for teaching ballroom dancing, with the associated business license being last renewed in 2015. No other permits or activity is found until 2024.

The site was part of the Bradley Estate Subdivision which was approved by the Planning Commission at its February 2, 2023 meeting, and has been recorded in Probate Court.

## STAFF COMMENTS

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### Engineering Comments:

No comments to the proposed variance; however; according to the submitted plans the project includes proposed/existing gravel and concrete parking which requires a Land Disturbance Permit. Any increase of impervious area (including gravel, concrete, asphalt, etc.) in commercial use lots are required to the following conditions:

1. The proposed site improvements will require a Land Disturbance Permit be submitted through the CSS Portal.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to 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. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

### 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 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-sprinklered commercial buildings, within 600' of sprinklered commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

### **Planning Comments:**

The applicant is requesting a Use Variance to allow a health/fitness club with personal services in an R-1, Single-Family Residential Urban District.

All documentation submitted for this application is available via the hyperlink, on page 1.

As stated previously, the site has been used for commercial businesses in the past, but has not functioned in a documented commercial capacity for over 10 years, and as such, has lost its non-conforming status. As the site has lost its non-conforming status, it must be either granted a variance or be rezoned in order to resume commercial function.

The applicant wishes to operate a health/fitness club and personal services at the subject site. No justification is provided as to why the site cannot be used residentially, as the property is zoned.

## **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:

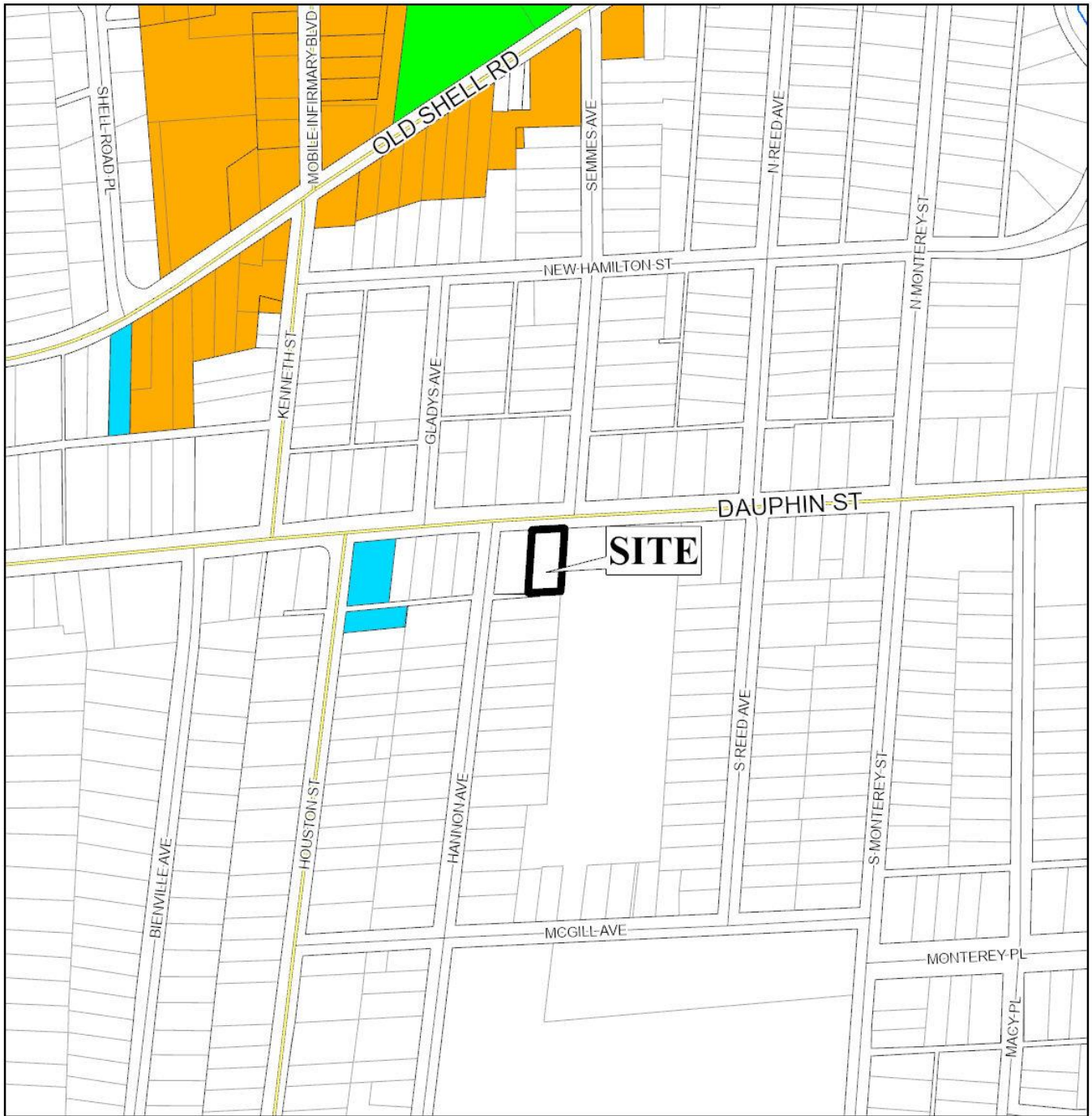
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful

## Considerations:

Based on the requested Variance, the Board should consider the following findings of fact for approval or denial of the request:

- 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.

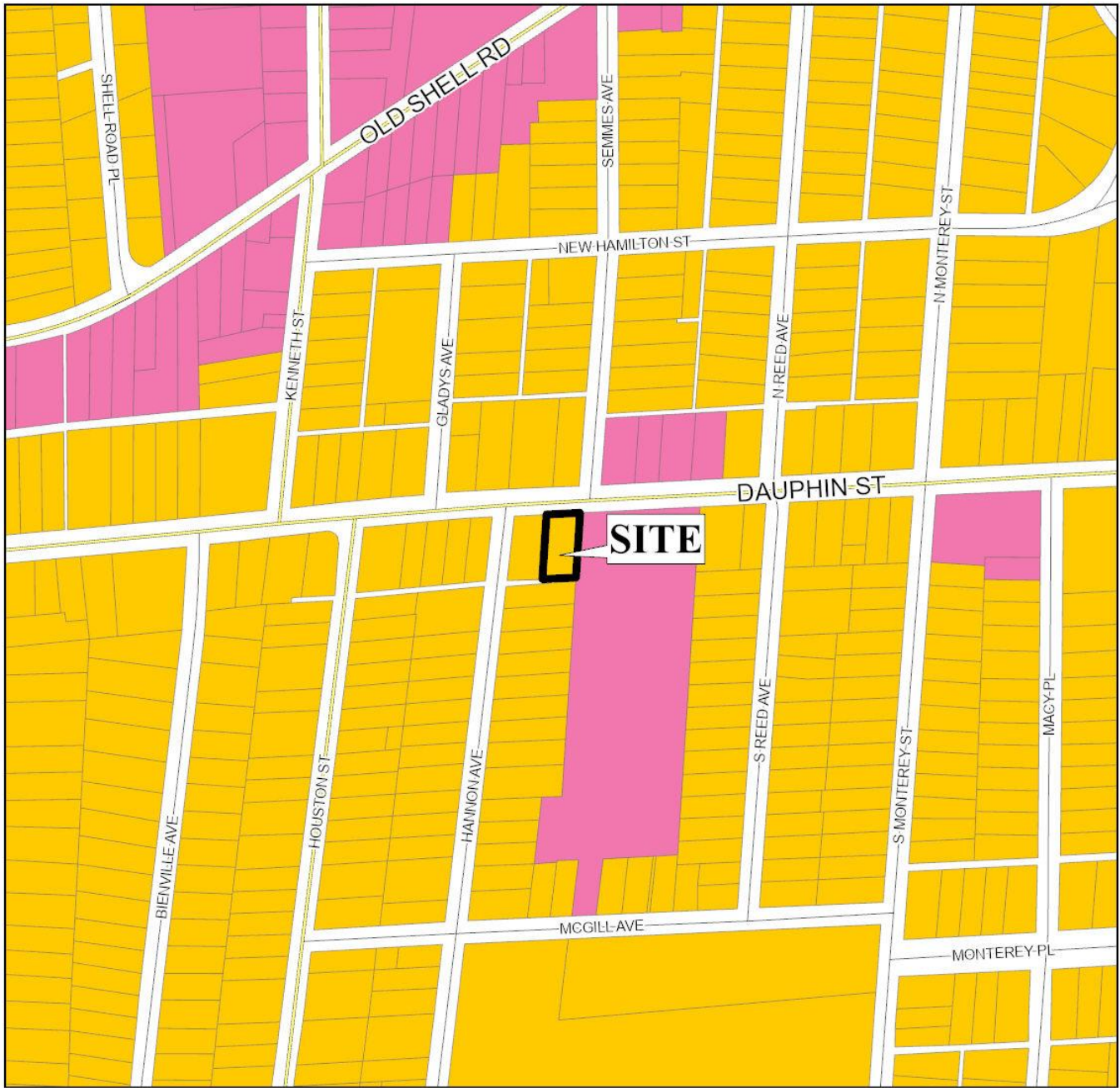
# LOCATOR ZONING MAP



APPLICATION NUMBER 6607 DATE August 5, 2024  
APPLICANT Scott Moore  
REQUEST Use variance



# FLUM LOCATOR MAP



APPLICATION NUMBER 6607 DATE August 5, 2024

APPLICANT Scott Moore

REQUEST Use variance

- |   |  |  |  |
|---|--|--|--|
| <span style="color: yellow;">■</span> Low Density Residential   | <span style="color: darkred;">■</span> Neighborhood Center - Traditional | <span style="color: brown;">■</span> Downtown Waterfront | <span style="color: lightgreen;">■</span> Parks & Open Space |
| <span style="color: orange;">■</span> Mixed Density Residential | <span style="color: blue;">■</span> Neighborhood Center - Suburban       | <span style="color: lightgrey;">■</span> Light Industry  | <span style="color: darkblue;">■</span> Water Dependent      |
| <span style="color: magenta;">■</span> Downtown                 | <span style="color: pink;">■</span> Traditional Corridor                 | <span style="color: purple;">■</span> Heavy Industry     |  |
| <span style="color: red;">■</span> District Center              | <span style="color: orange;">■</span> Mixed Commercial Corridor          | <span style="color: cyan;">■</span> Institutional        |  |



NTS



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential units.

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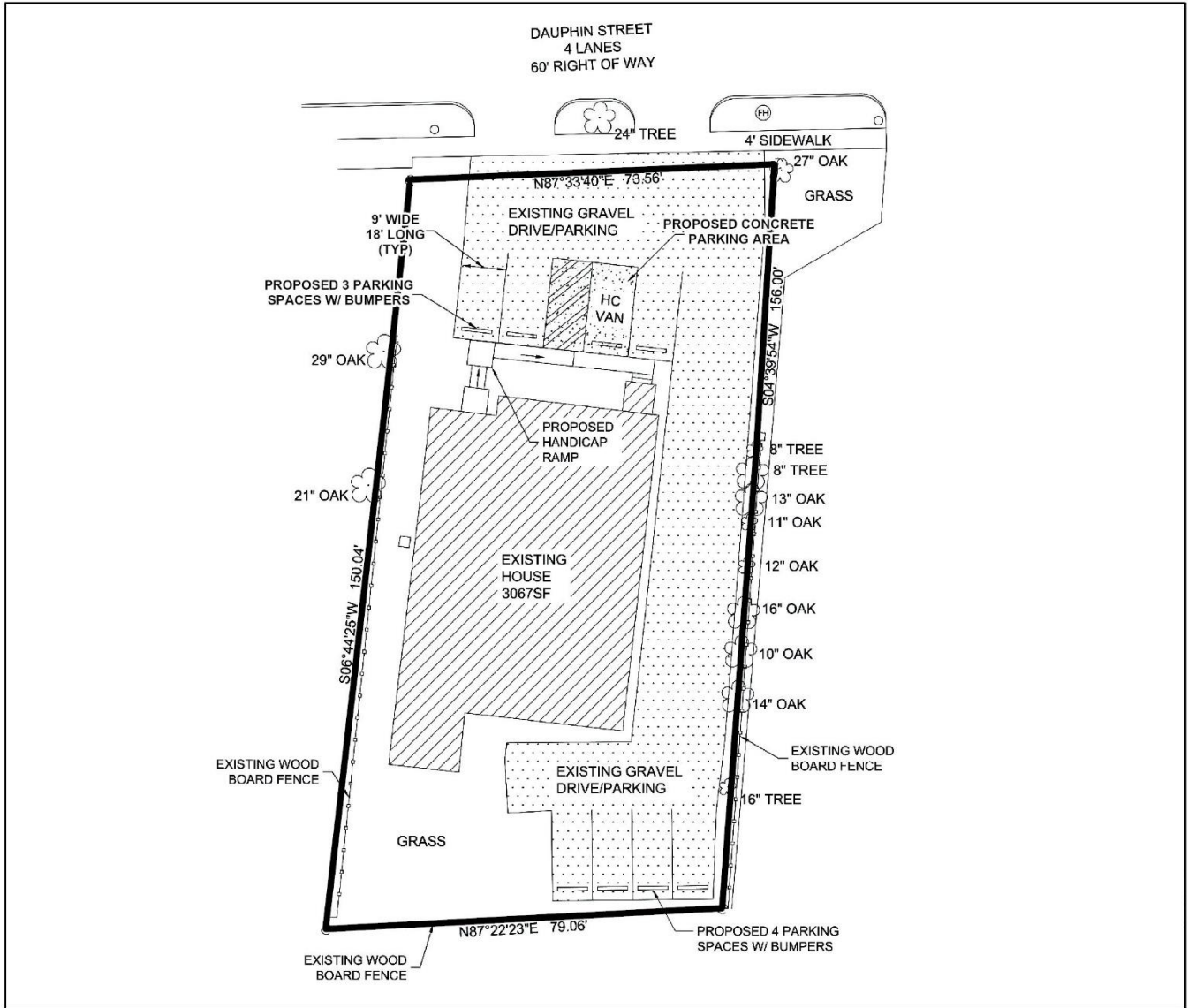
REQUEST Use variance

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<span style="background-color: #FFFFFF; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-1	<span style="background-color: #FF00FF; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-B	<span style="background-color: #D2B48C; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: #FF0000; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-3	<span style="background-color: #A9A9A9; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> CW	<span style="background-color: #008080; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MH	<span style="background-color: #008000; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> PD	<span style="background-color: #FFDAB9; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD	<span style="background-color: #9370DB; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-4	<span style="background-color: #4B0082; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-6
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# SITE PLAN



The site plan illustrates the existing building, proposed parking, and fencing.

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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 (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.