



Agenda Item # 7

BOA-003167-2024

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

[Applicant Materials for Consideration](#)

DETAILS

Location:

1 Spring Hill Court

Applicant / Agent:

City of Mobile / Nick Amberger

Property Owner:

Carl & Vicky Kobelja

Current Zoning:

R-1, Single-Family Residential Suburban District

Future Land Use:

Low Density Residential

Case Number(s):

6644 / 4647

Unified Development Code (UDC) Requirement:

- The UDC does not allow structures exceeding three-feet (3') tall within a recorded side street side yard setback in an R-1, Single Family Residential Suburban District.

Board Consideration:

- Side Street Side Yard Setback Variance to amend a previously approved side yard setback variance to allow a new retaining wall/privacy fence and a new carport within a recorded 50-foot side street side yard setback in an R-1, Single Family Residential Suburban District.


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BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

APPLICATION NUMBER <u>6644</u> DATE <u>January 6, 2025</u>	
APPLICANT <u>City of Mobile</u>	
REQUEST <u>Side Street Side Yard Setback Variance</u>	

SITE HISTORY

The site was originally part of the 12-lot Springhill Court Subdivision, as Lot 1, the plat for which was approved by the Planning Commission in October 1949 and subsequently recorded in Mobile County Probate Court in June 1950.

A 50-foot setback along Spring Hill Avenue and a 30-foot setback along Spring Hill Court were recorded on Lot 1 on the final subdivision plat.

At its June 1997 meeting the Board of Zoning Adjustment approved a Fence Height Variance to allow a 6-foot-tall wooden privacy fence to encroach within the recorded setback along Spring Hill Avenue.

It should be noted that a shed and carport appear to have been constructed on the property within the setback along Spring Hill Avenue without permits, and without additional variance approval.

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

STAFF COMMENTS

Engineering Comments:

No comments to the proposed variance; however, according to the submitted plans, the proposed project will require a Land Disturbance Permit to be submitted through Central Permitting.

Traffic Engineering Comments:

As per the board of adjustment application, the new retaining wall/privacy fence is a part of a city project to improve line of sight at the intersection of Spring Hill Court and SpringHill Avenue.

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 Side Street Side Yard Setback Variance to amend a previously approved side yard setback variance to allow a new retaining wall/privacy fence and a new carport within a recorded 50-foot side street side yard setback in an R-1, Single Family Residential Suburban District; the Unified Development Code (UDC) does not allow structures exceeding three-feet (3') tall within a recorded side street side yard setback in an R-1, Single Family Residential Suburban District.

A detailed narrative of the request can be viewed using the link on Page 1 of this report. In summary, an existing retaining wall maintained by the City, within the right-of-way along Spring Hill Avenue, is being demolished due to traffic line-of-sight issues. Additional right-of-way is being or has been acquired from the property owner to construct a new retaining wall, topped with a privacy fence, closer to the subject site. As such, the request at hand would modify the previous variance to accommodate the proposed right-of-way acquisition and resulting property line alteration and would allow the existing setback encroachments to remain (the existing privacy fence, shed, and carport).

The site plan illustrates the modified property line, the existing structures, and the location of the proposed retaining wall/privacy fence. Per the applicant's narrative, the height of the retaining wall will vary between two (2) feet and six (6) feet in height, and the height of the proposed privacy fence will vary four (4) feet and six (6) feet in height.

Considering no changes to the subject site are proposed, and the request is to accommodate a City project, within City right-of-way, approval of the request may be appropriate.

VARIANCE CONSIDERATIONS

Standards of Review:

Variations 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:

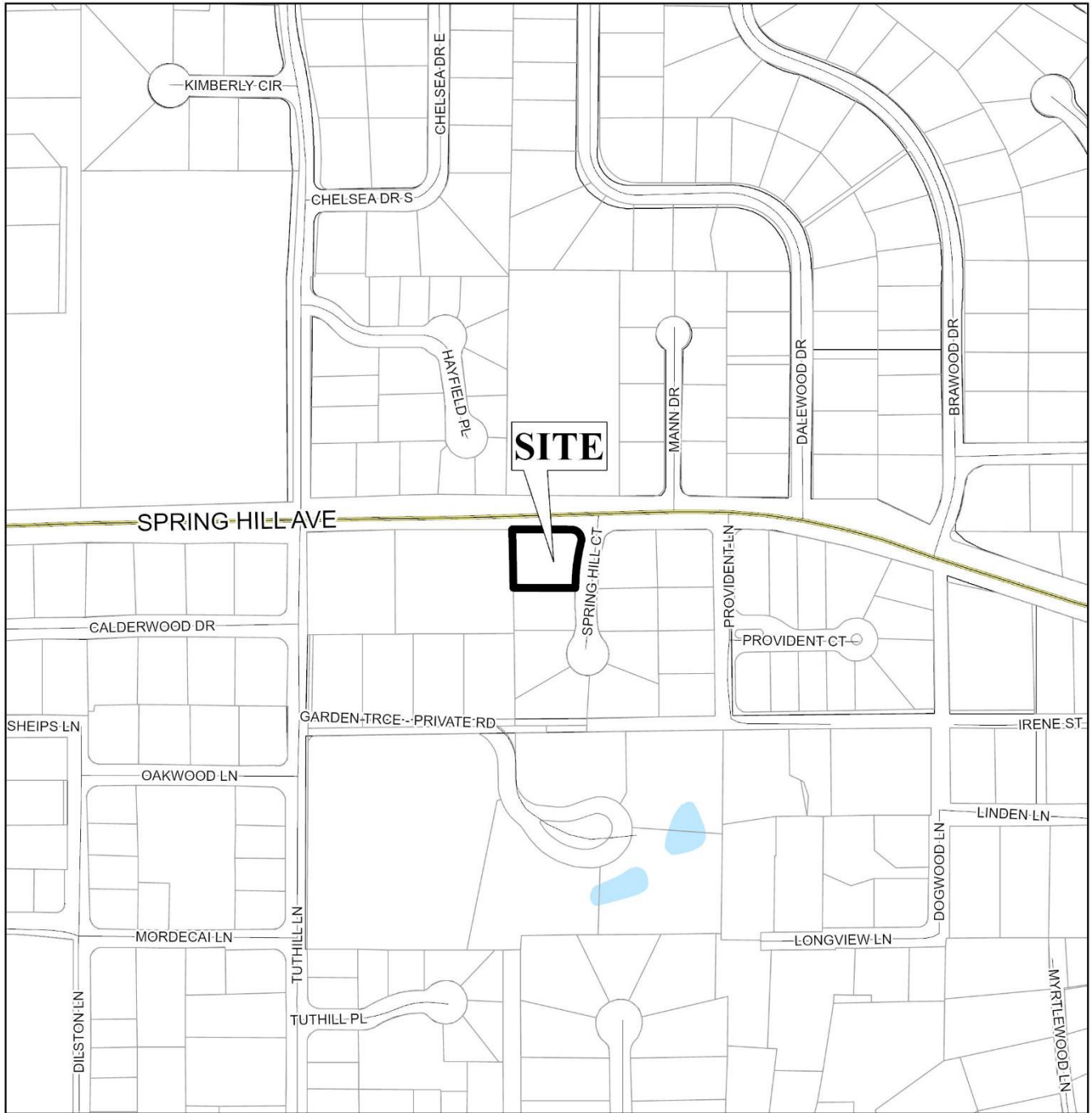
- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.


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:

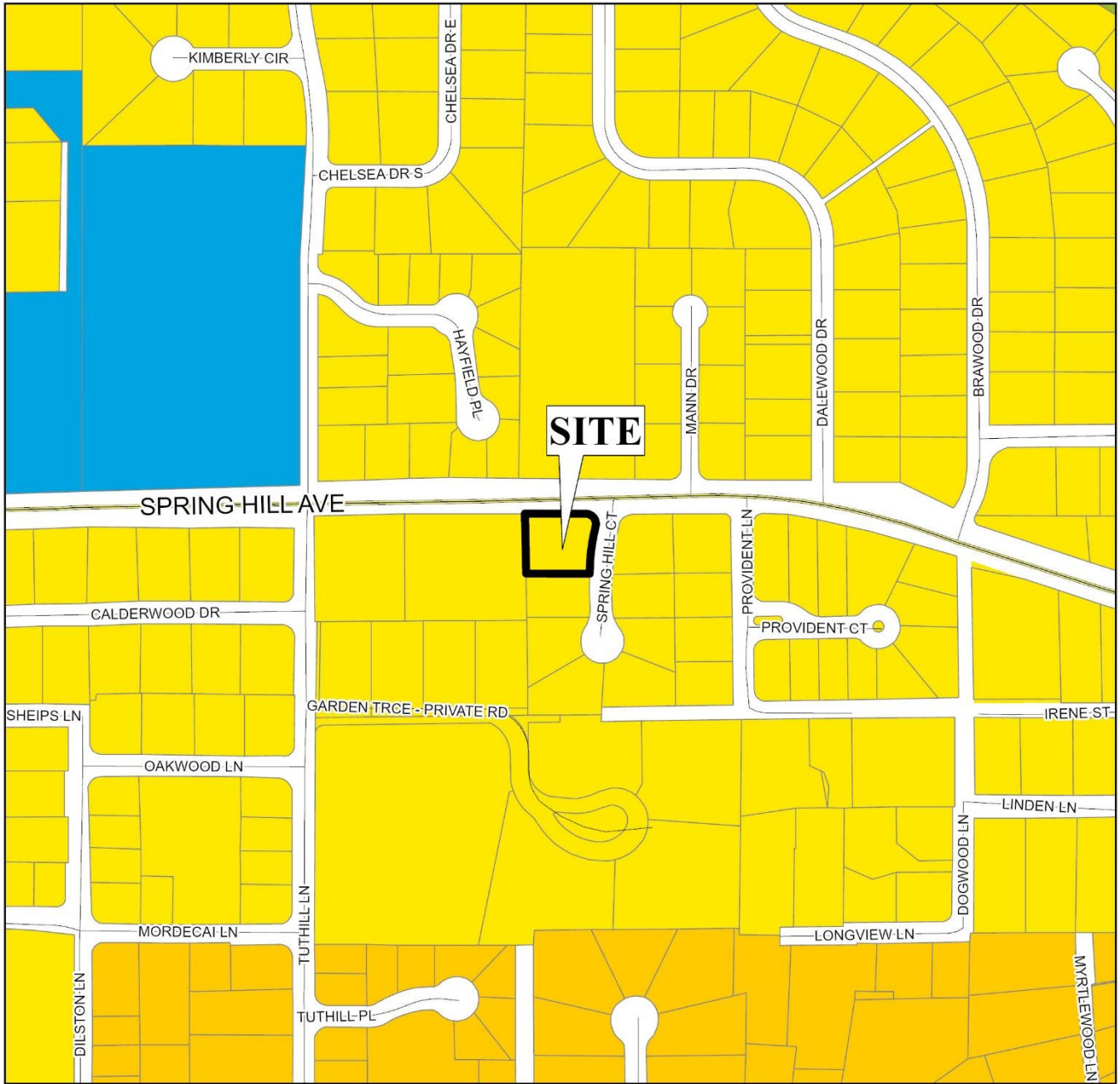
- A) The variance **will not** be contrary to the public interest;
- B) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- C) The spirit of the chapter **shall** be observed and substantial justice done to the applicant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

LOCATOR ZONING MAP



APPLICATION NUMBER <u>6644</u>	DATE <u>January 6, 2025</u>	 NTS
APPLICANT <u>City of Mobile</u>		
REQUEST <u>Side Street Side Yard Setback Variance</u>		

FLUM LOCATOR MAP



APPLICATION NUMBER 6644 DATE January 6, 2025

APPLICANT City of Mobile

REQUEST Side Street Side Yard Setback Variance


- | | | | |
|---|--|---|---|
| ■ 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 | |



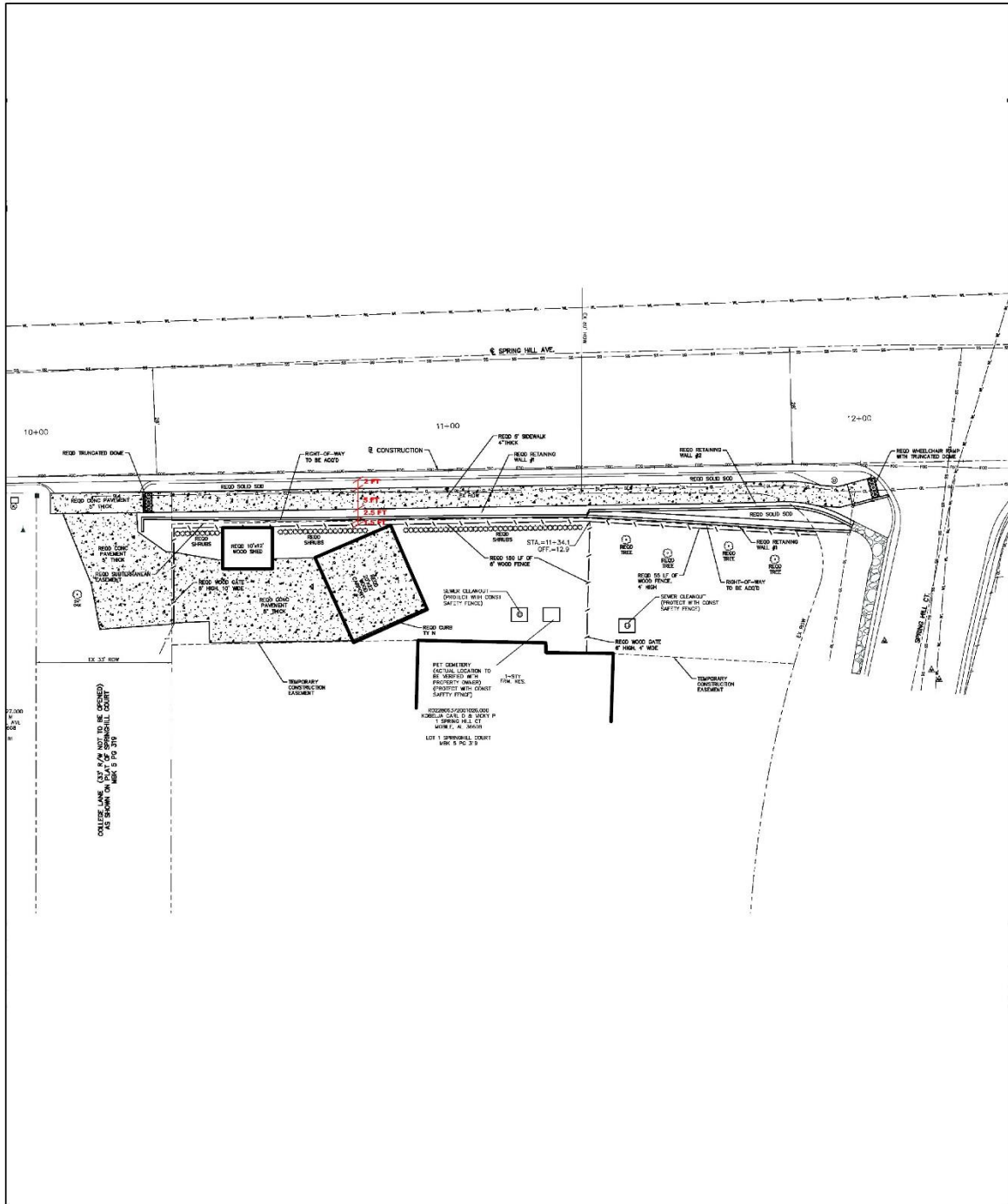
BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING




The site is surrounded by residential units.

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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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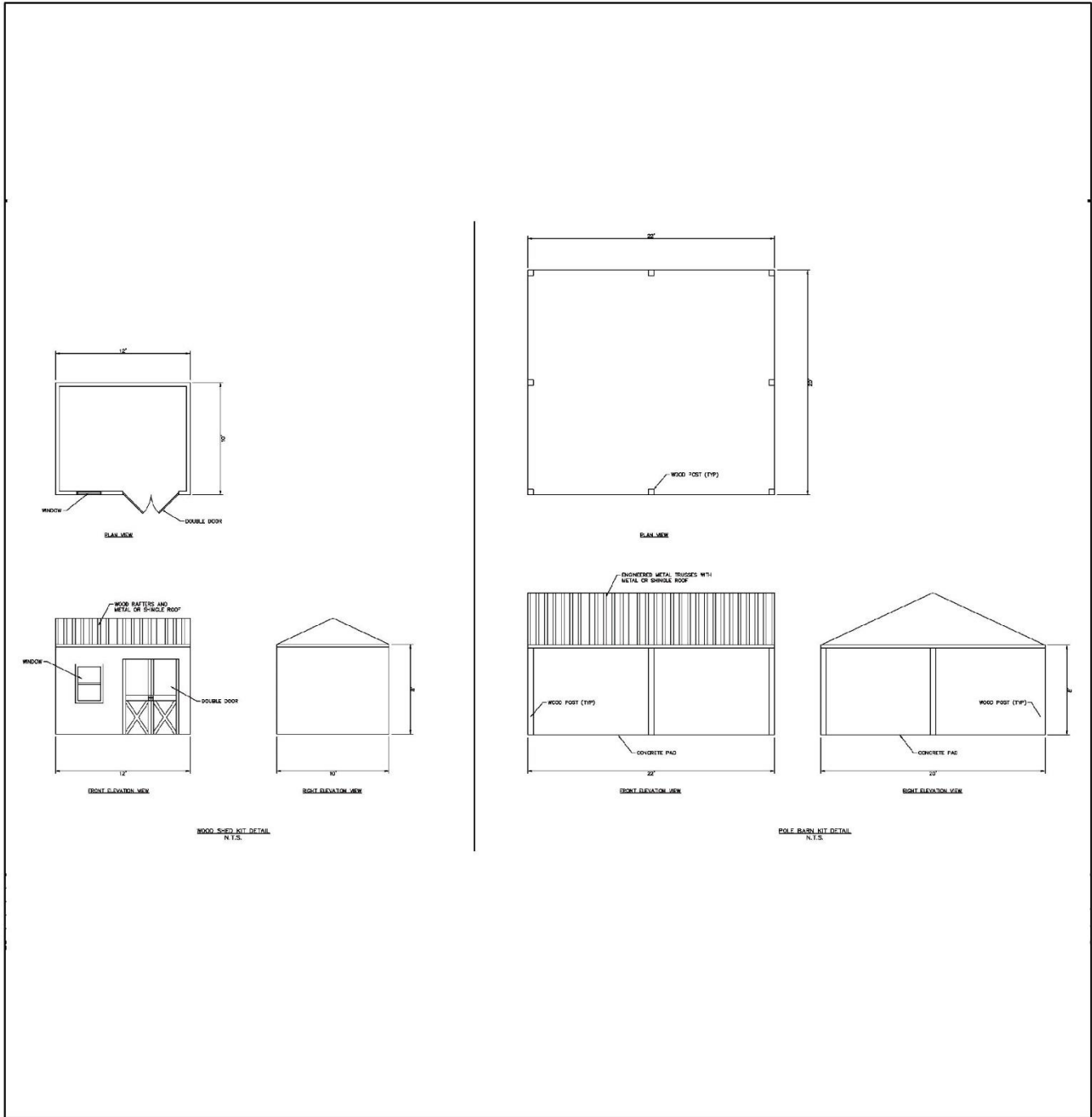
SITE PLAN



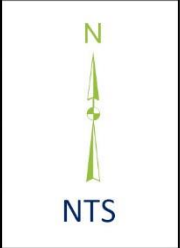
The site plan illustrates the proposed shed, carport, and existing right of ways.

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DETAIL SITE PLAN

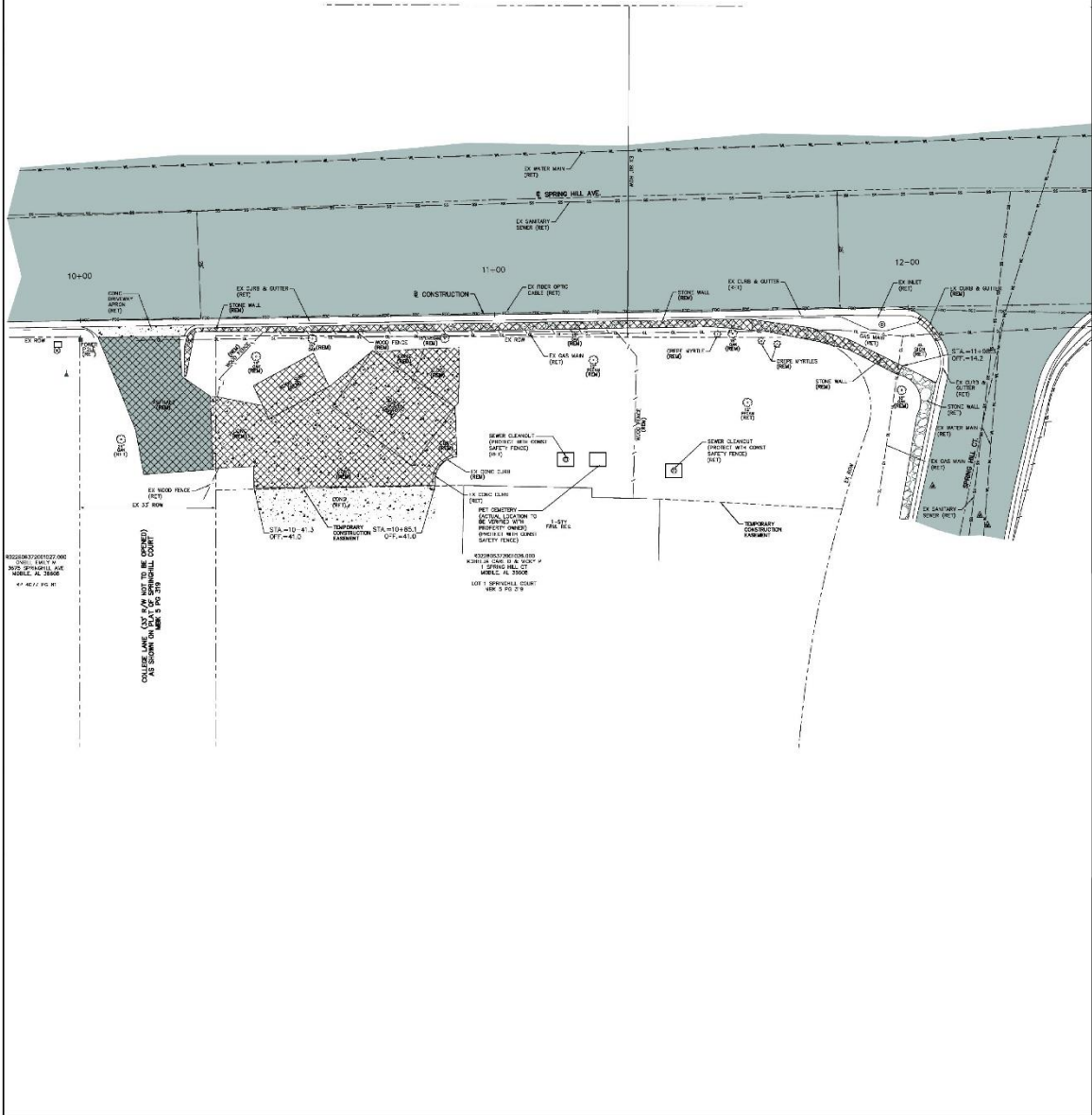


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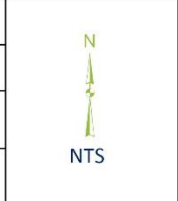


DETAIL SITE PLAN

EXISTING SITE CONDITIONS



APPLICATION NUMBER _____	DATE _____	January 6, 2025
APPLICANT _____	City of Mobile	
REQUEST _____	Side Street Side Yard Setback Variance	



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)

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.