

# Agenda Item # 12

# ZON-UDC-002993-2024 & ZON-CUP-002994-2024

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

**Applicant Materials for Consideration – Rezoning** 

**Applicant Materials for Consideration – Conditional Use Permit** 

# **DETAILS**

#### Location:

6411 Howells Ferry Road

# Applicant / Agent:

Keri R. Coumanis, Helmsing Leach, P.C.

#### **Property Owners:**

Anganette Williams, Branches of Life, LLC

#### **Current Zoning:**

R-3, Multi-Family Residential Suburban District

#### **Proposed Zoning:**

R-3, Multi-Family Residential Suburban District

#### **Future Land Use:**

Low Density Residential

# **Applicable Codes, Policies, and Plans:**

- Unified Development Code
- Map for Mobile Comprehensive Plan

#### **Proposal:**

- Rezoning from R-3, Multi-Family Residential Suburban District to R-3, Multi-Family Residential Suburban District to remove a previous condition of rezoning approval limiting use of the site to an assisted living center.
  - Any use permitted in the proposed district would be allowed at this location if the zoning is approved. The Planning Commission may consider other zoning districts than the proposed sought by the applicant for this property.
- Conditional Use Permit to allow a Community Residence for 16 persons in an R-3, Multi-Family Residential Suburban District.

#### **Commission Considerations:**

- 1. Rezoning with two (2) conditions; and
- 2. To allow a Community Residence for 16 persons with ten (10) conditions.

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# PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units.

| APPLICATIO   | N NUMBER 12 DATE July 18, 2024            |     |  |  |  |  |
|--|---|-----|--|--|--|--|
| APPLICANT_   | Anganette Williams, Branches of Life, LLC | N   |  |  |  |  |
| REQUEST Conditional Use Permit, Rezoning from R-3 to R-3 |   |     |  |  |  |  |
|  |   |     |  |  |  |  |
|  |   | NTS |  |  |  |  |
|  |   |     |  |  |  |  |

# SITE HISTORY

The site was the subject of one-lot subdivision approval by the Planning Commission in December 1996, the plat for which was subsequently recorded in Mobile County Probate Court. The Planning Commission also approved a request for Planning Approval to allow use of the property as an assisted living facility in an R-1, Single-Family Residential District.

Rezoning of the site to R-3, Multi-Family Residential District, was adopted by City Council at its March 18, 1997 meeting with the following conditions:

- 1. Dedication of 20' along Middle Ring Road right-of-way, in conformance with the Major Street Plan;
- 2. Dedication of 100' along the south property line, in conformance with the Major Street Plan, exact location and design to be approved by the City Engineering Department and the Traffic Engineer;
- 3. Denial of direct access to Middle Ring Road and Wulff Road Extension;
- 4. Limited to the site plan submitted, as required to be revised by [the] approvals;
- 5. Submission of a subdivision application or documentation to establish the parcel as a legal lot of record;
- 6. Site to be used for Assisted Living Facility only; and
- 7. Full compliance with all municipal codes and ordinances, including the tree planting requirements of the Zoning Ordinance and the sidewalk requirements of the Subdivision Regulations.

There are no Board of Zoning Adjustment cases associated with the site.

# STAFF COMMENTS

# **Engineering Comments:**

- 1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Permitting Department (251-208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII).
- 2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems and paving will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work.
- 3. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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. Any existing or proposed detention facility shall be maintained as it was constructed and approved. The Land Disturbance Permit application for any proposed construction includes a requirement of a Maintenance and Inspection Plan (signed and notarized by the Owner) for the detention facility. This Plan shall run with the land and be recorded in the County Probate Office prior to the Engineering Department issuing their approval for a Final Certificate of Occupancy.
- 5. The approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. The Owner/Developer is responsible for acquiring all of the necessary permits and approvals.
- 6. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

# **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-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:**

#### Rezoning

The purpose of the rezoning request is to remove a previous condition of rezoning approval limiting use of the site to an assisted living facility.

The site is across the street from an elementary school zoned R-1, Single-Family Residential District, to the North; it adjoins vacant property zoned R-1, Single-Family Residential Suburban District, to the West; and is adjacent to public, unopened street right-of-way to the East, and railroad right-of-way and unopened street right-of-way to the South. To the East of the unopened street right-of-way are properties zoned R-1, Single-Family Residential Suburban District, most of which are developed with single-family dwellings.

The applicant submitted a site plan depicting the existing building that was most recently used as an assisted living facility. Future improvements to the site are also illustrated and include a second building and additional parking. No timeline was submitted outlining when these improvements will be made.

It should be noted that another condition of approval of the rezoning limited development of the site to the original site plan of the assisted living facility, which depicted the aforementioned improvements as a future phase. As the applicant states that they only propose to use the existing facility at this time, if development of the future phase is anticipated, the applicant will need to first obtain approval of a modified Conditional Use Permit.

Minutes from the July 11, 1996 Planning Commission meeting, at which the rezoning was initially considered, indicate that use of the property as an assisted living facility was not a concern for neighboring property owners; they were, however, concerned that an R-3 zoning designation would allow other uses of the property that would not be compatible with the surrounding neighborhood. As a result, the Planning Commission and City Council approved the rezoning with the use restriction.

At the neighborhood meeting held for the purpose of discussing the rezoning application at hand, no objections to the request were noted.

# **Conditional Use Permit**

The applicant is requesting a Conditional Use Permit to allow use of the existing building on the property as a Community Residence for 16 people. Specifically, the applicant would like to operate a residential facility where girls aged 13-18 will be provided counseling, educational services, work force training, and any other assistance necessary to meet their needs. The applicant's narrative justifying the request can be viewed using the link on Page 1 of this report. In summary, the applicant suggests that use of the property as a community residence for 16 people is similar enough to the former assisted living facility such that it will maintain the existing character of the surrounding neighborhood.

As mentioned, the applicant submitted a site plan depicting the existing building that was most recently used as an assisted living facility. Future improvements to the site are also illustrated and include a second building and additional parking. No timeline was submitted outlining when these improvements will be made.

There are 24 parking spaces illustrated on the site plan, but staff cannot determine if this is an adequate amount of parking as no parking calculations are provided. According to Table 64-3-12.1 in Article 3 of the Unified Development Code (UDC), one (1) parking space is required per four (4) bedrooms. As such, if approved, a table with the required parking calculations should be provided on a revised site plan, including the number of existing and proposed bedrooms.

As mentioned, the applicant has stated that their intent is to use the existing building. As such, if development of the future phase is anticipated, the applicant will need to a new Conditional Use Permit application.

Prior to recording of the site plan in Mobile County Probate Court, a revised plan stating that a new Conditional Use Permit application will be required for the proposed second building.

The applicant states in their narrative that the residents will be on-site 24 hours each day, and that the facility will have two (2) employee shifts. The applicant did not provide the number of employees.

It should that, if approved, the Community Residence will be limited to the scope of operations within the existing building provided with this application, including the number of people being cared for. Any changes to the scope of operations or site plan may require additional review of a modified Conditional Use Permit request by the Planning Commission and approval by City Council. This information should be provided as a note on the revised site plan.

# **REZONING CONSIDERATIONS**

# **Standards of Review:**

The Unified Development Code (UDC) in 64-5-5.E. states that Rezonings are intended to carry out the objective of a sound, stable and desirable development and that casual change or amendment would be detrimental to the achievement of that objective.

The UDC goes on to say that zoning changes should be consistent with the Comprehensive Plan. However, the Comprehensive Plan and Future Land Use Plan (FLUP) and Map (FLUM) are meant to serve as a general guide, not

a detailed lot and district plan; they are not a legal mandate for development. The FLUP and FLUM allow the Planning Commission and City Council to consider individual cases based on several factors including: surrounding development, classification requested, timing of the request, and the appropriateness and compatibility of the proposed use the zoning classification.

The UDC states that an application for rezoning shall include a statement of the justification for the proposed amendment that addresses all of the following:

- A. Consistency. Whether the proposed amendment is consistent with the Comprehensive Plan;
- B. Mistake. For a Rezoning, whether there was a mistake or error in the original zoning map; and
- C. Compatibility. Whether the proposed amendment is compatible with:
  - The current development trends, if any, in the vicinity of the subject property;
  - Surrounding land uses;
  - Would adversely impact neighboring properties; or
  - Cause a loss in property values.
- D. Health, Safety and General Welfare. Whether the proposed amendment promotes the community's public health, safety, and general welfare;
- E. Capacity. Whether the infrastructure is in place to accommodate the proposed amendment; and
- F. Change. Whether changed or changing conditions in a particular area make an amendment necessary and desirable.
- G. Benefits Consideration. In addition, consideration should also be given to the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.

The applicant's responses to address the above criteria are available in the link on page one (1).

# **Considerations:**

If the Planning Commission considers a recommendation of approval of the request to the City Council to Rezone the site to R-3, the following conditions could apply:

- 1. Compliance with all Engineering, Traffic Engineering, Urban Forestry, and Fire Department comments noted in this staff report; and
- 2. Full compliance with all municipal codes and ordinances.

# **CONDITIONAL USE PERMIT CONSIDERATIONS**

# Standards of Review:

Conditional Use Permits (CUPs) are required for certain uses in the Use Table (Table 64-2-24.1). These uses may have some special impact which differs from the potential impacts of permitted uses, such as exceeding permitted uses in intensity, or have unique requirements specified for compliance in the Unified Development Code (UDC).

Article 5, Section 6-E. of the Unified Development Codes states the City Council shall not approve an Application for Conditional Use Permit unless the proposed use:

1. Is consistent with all applicable requirements of this Chapter, including:

- (a) Any applicable development standards; and
- (b) Any applicable use regulations.
- 2. Is compatible with the character of the surrounding neighborhood;
- 3. Will not impede the orderly development and improvement of surrounding property; and
- 4. Will not adversely affect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood. In making this determination, the Planning Commission and City Council shall consider:
  - (a) The location, type and height of buildings or structures;
  - (b) The type and extent of landscaping and screening;
  - (c) Lighting;
  - (d) Hours of operation; and
  - (e) Other conditions that might require mitigation of the adverse impacts of the proposed development.
- 5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
- 6. Is designed to minimize the impact on storm water facilities;
- 7. Will be adequately served by water and sanitary sewer services;
- 8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 9. Shall not be detrimental to or endanger the public health, safety or general welfare.
- Benefits Consideration. In addition, consideration should also be given to the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.
- 11. Criteria by Use. The Planning Commission and City Council shall give careful consideration to the warrants and criteria set forth in this section in judging applications for Conditional Use Permits involving the following uses. In considering a Conditional Use Permit, the Planning Commission and City Council may attach such reasonable conditions and safeguards in addition to those set forth in this section, as they may deem necessary to implement the purposes of this Chapter.

In addition to the general standards of review above, there are criteria specific to Community Residences with more than five (5) residences, which include:

- A. The applicant demonstrates that the proposed Community Residence will be compatible with the residential uses allowed as of Right in the Zoning District;
- B. When the proposed Community Residence would be located in a single-family zoning district, the Applicant demonstrates that the proposed Community Residence will not alter the residential stability of the single-family zoning district;
- C. The Applicant specifies by how many individuals it wishes to exceed the as of right maximum of four (4) residents and adequately demonstrates the financial and/or therapeutic need to house the proposed number of residents;
- D. The primary function of the proposed Community Residence is residential where any treatment is merely incidental to the residential use of the property;
- E. The Applicant demonstrates that it will ensure that the proposed Community Residence emulates a biological family and operates as a functional family rather than as an institution, boarding house, Nursing Home, short-term rental, continuing care facility, Hotel/Motel, treatment center, rehabilitation center or a non-residential use;
- F. The Applicant demonstrates that the requested number of residents in the proposed Community Residence will not interfere with the normalization and community integration of the occupants of any existing Community Residence.

The applicant's responses to address the above criteria are available in the link on page one (1).

# **Considerations:**

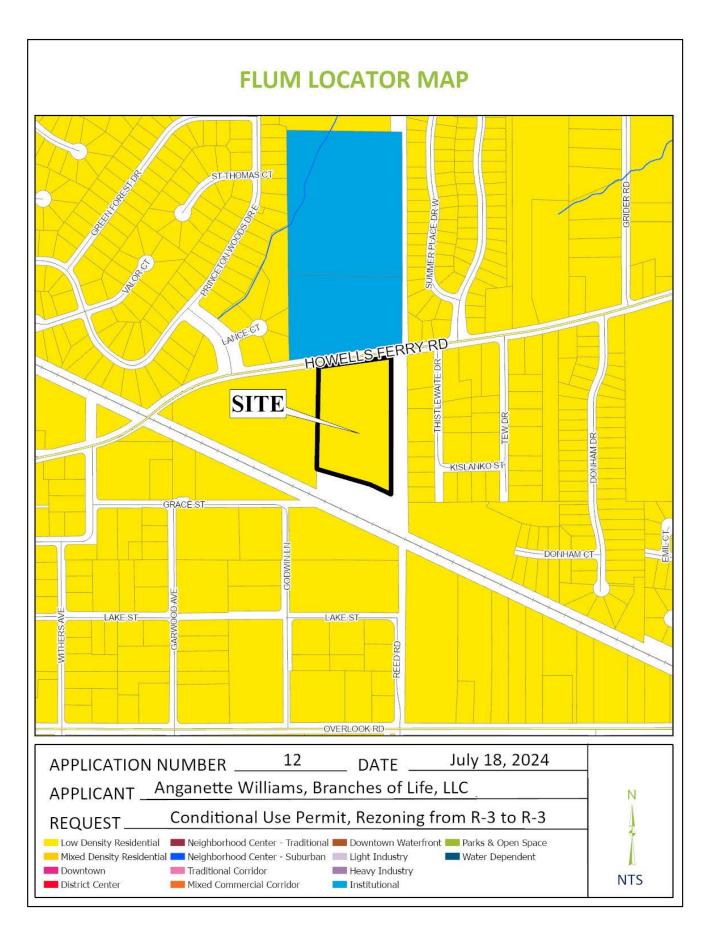
Based on the requested Conditional Use Permit application, if the Commission and City Council consider approval of the request, the following Findings of Fact must be present. The application:

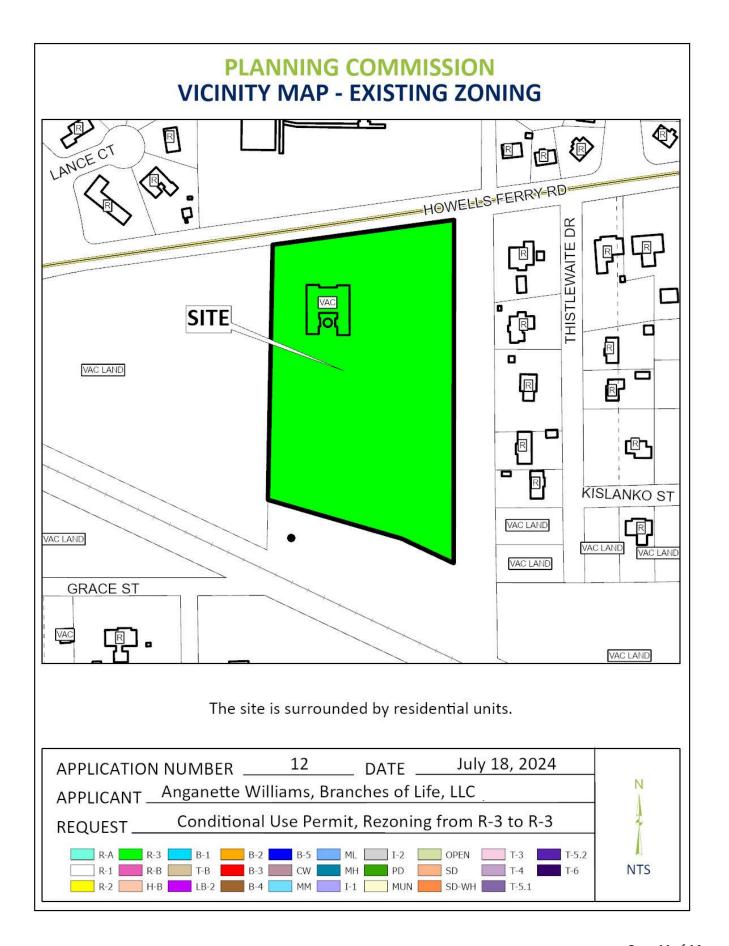
- 1. Is consistent with all applicable requirements of this Chapter, including:
  - (a) Any applicable development standards; and
  - (b) Any applicable use regulations.
- 2. Is compatible with the character of the surrounding neighborhood;
- 3. Will not impede the orderly development and improvement of surrounding property; and
- 4. Will not adversely affect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood. In making this determination, the Planning Commission and City Council shall consider:
  - (a) The location, type and height of buildings or structures;
  - (b) The type and extent of landscaping and screening;
  - (c) Lighting;
  - (d) Hours of operation; and
  - (e) Other conditions that might require mitigation of the adverse impacts of the proposed development.
- 5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
- 6. Is designed to minimize the impact on storm water facilities;
- 7. Will be adequately served by water and sanitary sewer services;
- 8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
- 9. Shall not be detrimental to or endanger the public health, safety or general welfare.
- 10. The proposed use will meet the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.

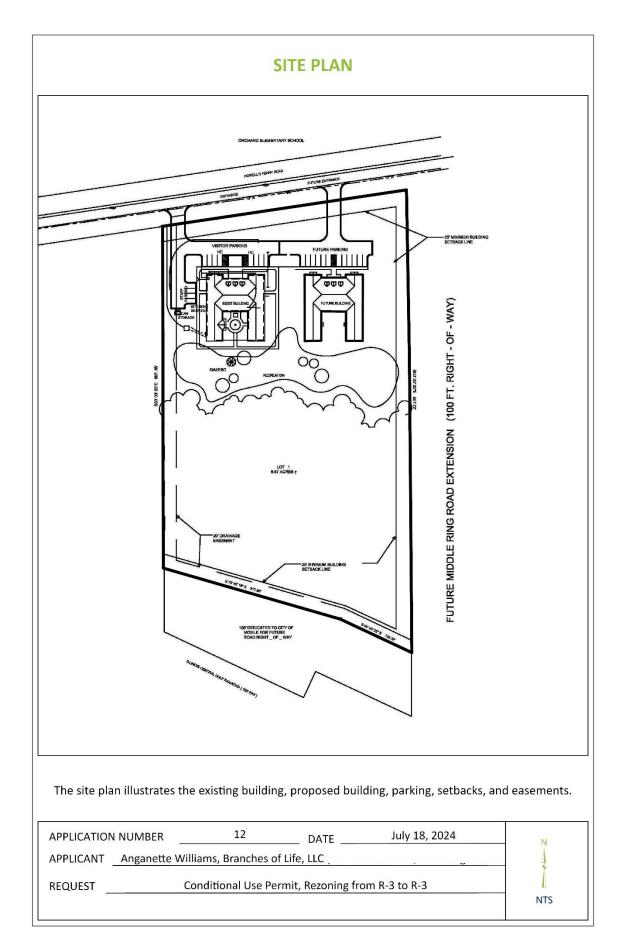
If the application is considered for approval, it should be subject to the following conditions:

- 1) Completion of the rezoning process to remove the condition limiting use of the site to an assisted living facility;
- 2) Use is limited to the existing building;
- 3) Revision of the site plan to illustrate compliant parking and include a table of the required number of parking spaces for use of the existing facility;
- 4) Placement of a note on the revised site plan stating any changes in the scope of operations (number of residences, hours of operation, etc.) or to the site (parking layout, number of buildings, etc.), will require additional Conditional Use Permit approval by the Planning Commission and City Council;
- 5) Compliance with all Engineering comments noted in this staff report;
- 6) Compliance with all Traffic Engineering comments noted in this staff report;
- 7) Compliance with all Urban Forestry comments noted in this staff report;
- 8) Compliance with all Fire Department comments noted in this staff report;
- 9) Provision of a copy of the recorded site plan (hard copy and pdf) to Planning and Zoning; and,
- 10) Full compliance with all municipal codes and ordinances.









| ZONING DISTRICT CORRESPONDENCE MATRIX |       |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          |                          |                              |
|---------------------------------------|-------|------------------------------|----------------------------------|---------------|----------------------|--|---------------------------------------|---------------------------|---------------------------------|----------------------|---------------------|-----------------------------|--------------------------|--------------------------|------------------------------|
| ZONING DISTRICT CORRESPOND            |       | OW 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) | IGHT INDUSTRIAL (LI) | HEAVY INDUSTRY (HI) | NSTITUTIONAL LAND USE (INS) | PARKS & OPEN SPACE (POS) | DOWNTOWN WATERFRONT (DW) | WATER DEPENDENT USES (WDWRU) |
| RESIDENTIAL - AG                      | R-A   | 7                            | 2                                | D             | D                    | Z  | Z                                     | _                         | 2                               | _                    | 工                   |                             |                          | D                        | >                            |
| ONE-FAMILY RESIDENCE                  | R-1   |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          |                          | 8                            |
| TWO-FAMILY RESIDENCE                  | R-2   |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        |                              |
| MULTIPLE-FAMILY                       | R-3   | 0                            |                                  |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        |                              |
| RESIDENTIAL-BUSINESS                  | R-B   |                              | 0                                |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        |                              |
| TRANSITIONAL-BUSINESS                 | T-B   |                              | 0                                |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          |                          |                              |
| 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 |                              |                                  |               |                      |  |                                       |                           |                                 | 0                    | 0                   |                             |                          |                          |                              |
| DOWNTOWN DEV. DD                      | SD    | 0                            | 0                                | 0             | 0                    | 0  | 0                                     | 0                         |                                 | 0                    | 0                   |                             |                          |                          | 0                            |
| BUFFER BUSINESS                       | B-1   |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        |                              |
| NEIGH. BUSINESS                       | B-2   |                              | 0                                |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        | s c                          |
| LIMITED BUSINESS                      | LB-2  |                              | 0                                |               |                      |  |                                       |                           |                                 |                      |                     |                             |                          | 0                        |                              |
| COMMUNITY BUSINESS                    | B-3   |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     | 0                           |                          | 0                        |                              |
| GEN. BUSINESS                         | B-4   |                              |                                  |               |                      |  |                                       |                           |                                 |                      |                     | 0                           |                          | 0                        |                              |
| 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.