

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 5, 2018**

<u>CASE NUMBER</u>	6152
<u>APPLICANT NAME</u>	Rouse Properties, Inc.
<u>LOCATION</u>	3255 Airport Boulevard (Southeast corner of Airport Boulevard and East I-65 Service Road South.)
<u>VARIANCE REQUEST</u>	TREE PLANTING: Tree Planting Variance to allow the planting of frontage trees elsewhere on the property in a B- 3, Community Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	TREE PLANTING: The Zoning Ordinance requires all frontage trees to be planted along the corresponding right- of-way in a B-3, Community Business District.
<u>ZONING</u>	B-3, Community Business District
<u>AREA OF PROPERTY</u>	0.7 ± Acres
<u>CITY COUNCIL DISTRICT</u>	District 5
<u>ENGINEERING COMMENTS</u>	No Comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No traffic impacts anticipated by this variance request.
<u>URBAN FORESTRY COMMENTS</u>	Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).
<u>FIRE COMMENTS</u>	All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2012 International Fire Code). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code (2012 IFC).

ANALYSIS

The applicant is requesting a Tree Planting Variance to allow the planting of frontage trees elsewhere on the property in a B-3, Community Business District; The Zoning Ordinance requires all frontage trees to be planted along the corresponding right-of-way in a B-3, Community Business District.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application; and, unless the Board is presented with sufficient evidence to find that the variance will not be contrary to the public interest, and that special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship. The Ordinance also states that a variance should not be approved unless the spirit and intent of the Ordinance is observed and substantial justice done to the applicant and the surrounding neighborhood.

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.

The applicant states:

“..The previously developed Goodyear Automotive site has been redeveloped into the current Sleep Number Bed Store. The approved landscape drawings indicated the installation of the required right of way trees to be installed along the southern property line. Due to conflicts with the required sidewalk and utilities serving the development and the public, the required trees were not installed per plan. These required trees where moved to the western property line in lieu of their originally location meeting the required number of trees to be planted. The owner of the property is seeking a variance to allow the relocation of the required right of way trees as installed along the western property line.”

As stated, the applicant is seeking relief, from the Zoning Ordinance to the planting of frontage trees at a different location on the subject site. A site plan was approved by the Planning and Zoning Department on May 2, 2017 which illustrated compliant tree planting. Based on the statement from the applicant, the trees were not planted as illustrated and this is an after-the-fact request. The applicant states that the variance should be granted because the tree planting presents conflicts with the sidewalk as well as utilities on the site.

It should be noted that a sidewalk waiver was denied by the Planning Commission at its April 6, 2017 meeting. The sidewalk is located along the north, south and west perimeter of the subject site.

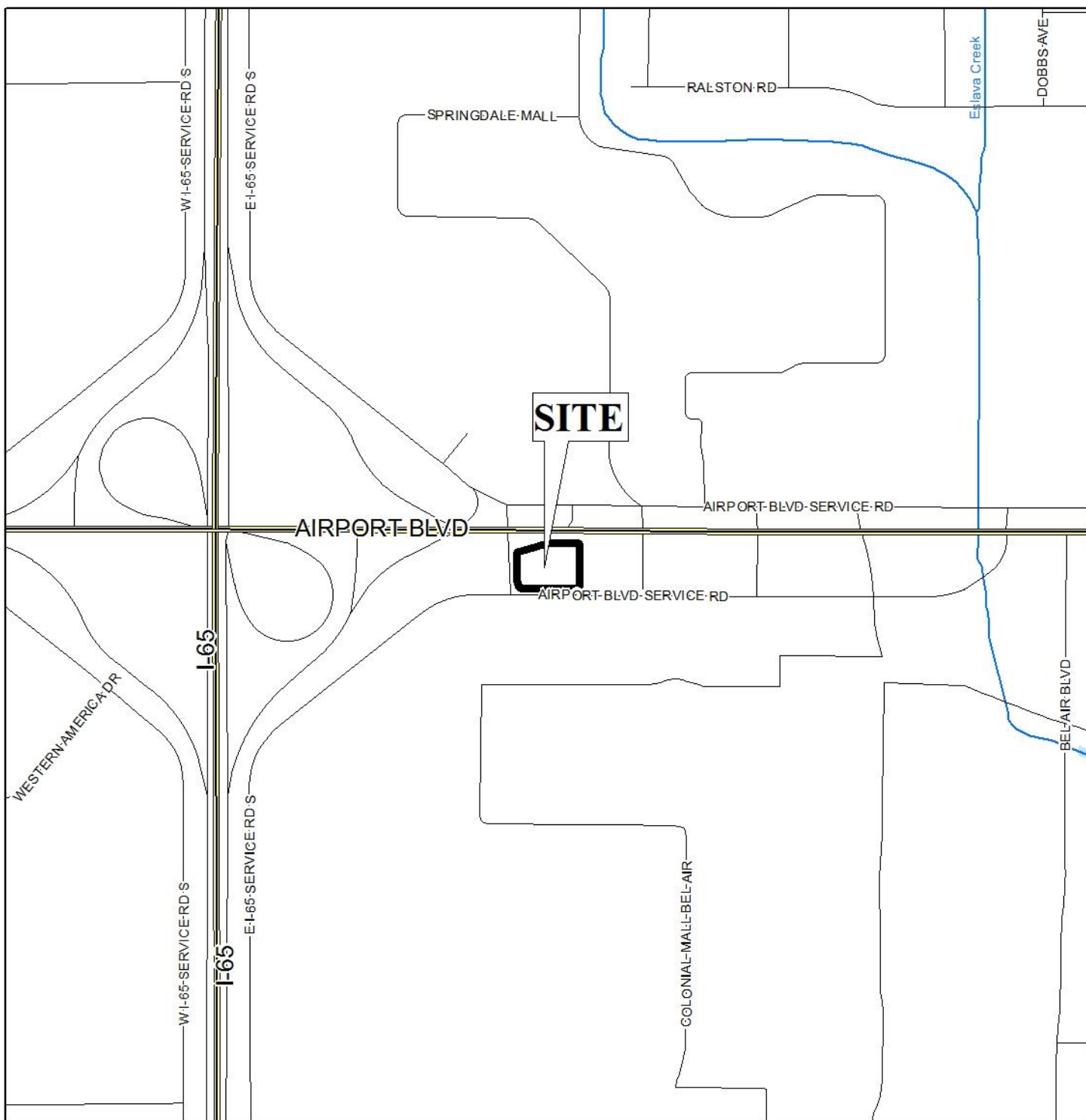
When the site plan was originally approved for construction, the plan depicted an area 3 feet wide, between the sidewalk and an internal curb that would accommodate 3 overstory trees and 3 understory trees. The “as-built” condition shows this same area as only 1.25± feet in width, which is not a sufficient area for the placement of trees. The reduction in width is due to the shift of the sidewalk to be more on the private property.

Rather than not planting the trees along the south right-of-way, the developer planted them along the west and north sides of the property. Thus the site complies with quantitative aspects of the tree requirements, but not the location.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest in that there is no longer sufficient room along the south property line to plant the trees and have any expectation of them surviving;
- 2) Special conditions do exist and there are hardships which exist including the lack of planting area, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood and the applicant by granting the variance, as the required trees are provided elsewhere on the site.

LOCATOR MAP



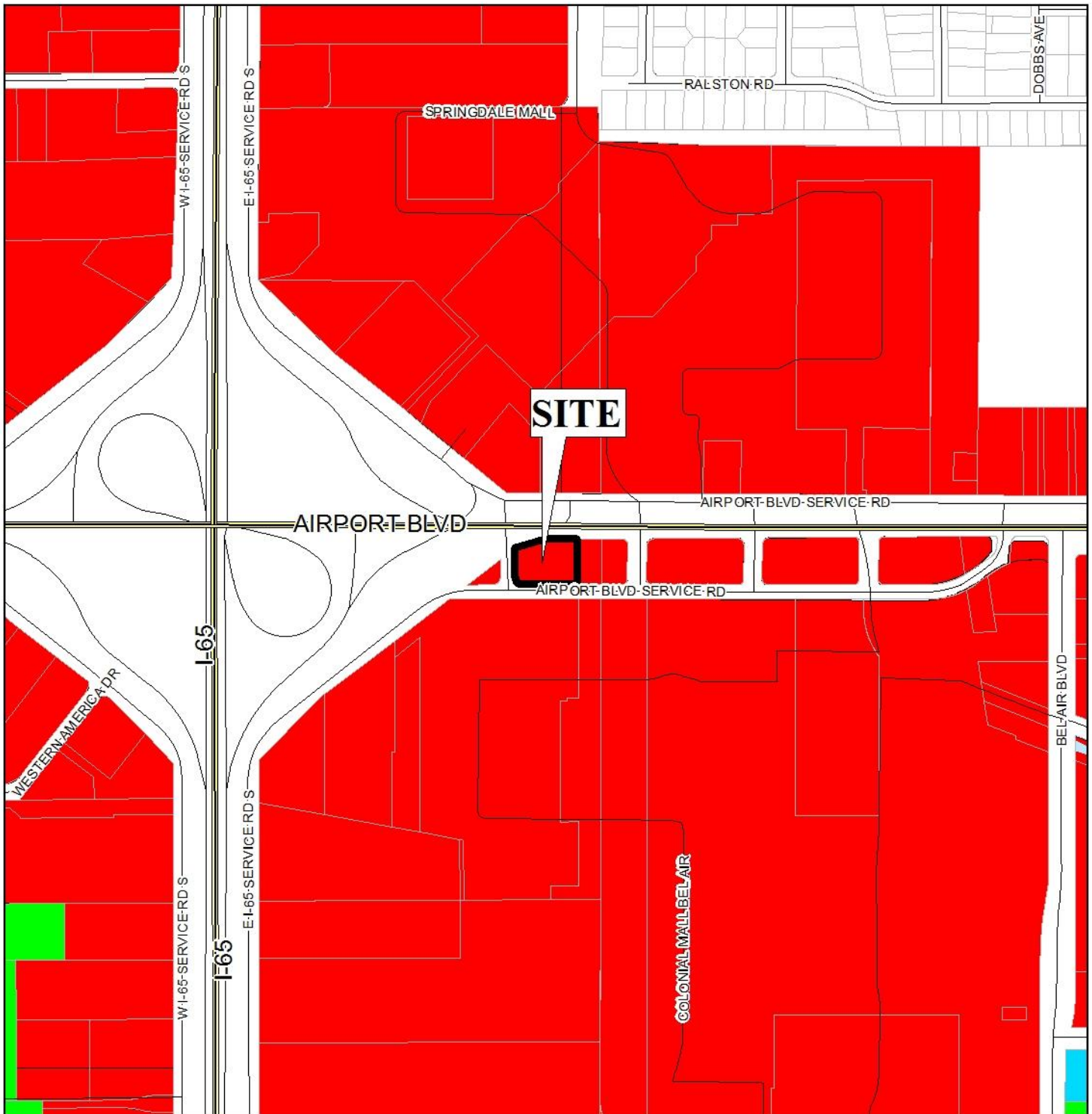
APPLICATION NUMBER 6152 DATE February 5, 2018

APPLICANT Rouse Properties, Inc.

REQUEST Tree Planting Variance



LOCATOR ZONING MAP



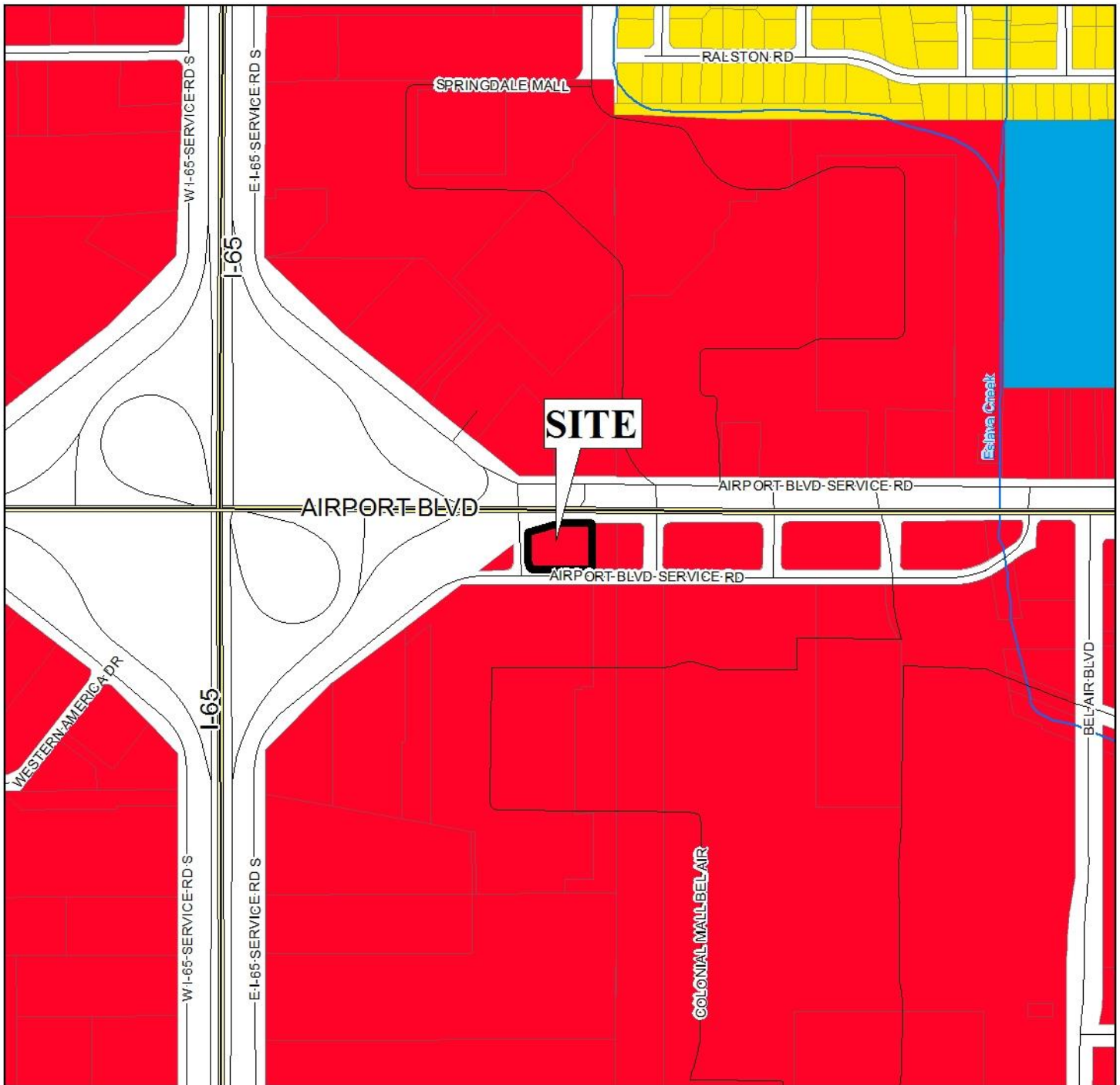
APPLICATION NUMBER 6152 DATE February 5, 2018

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FLUM LOCATOR MAP



APPLICATION NUMBER 6152 DATE February 5, 2018

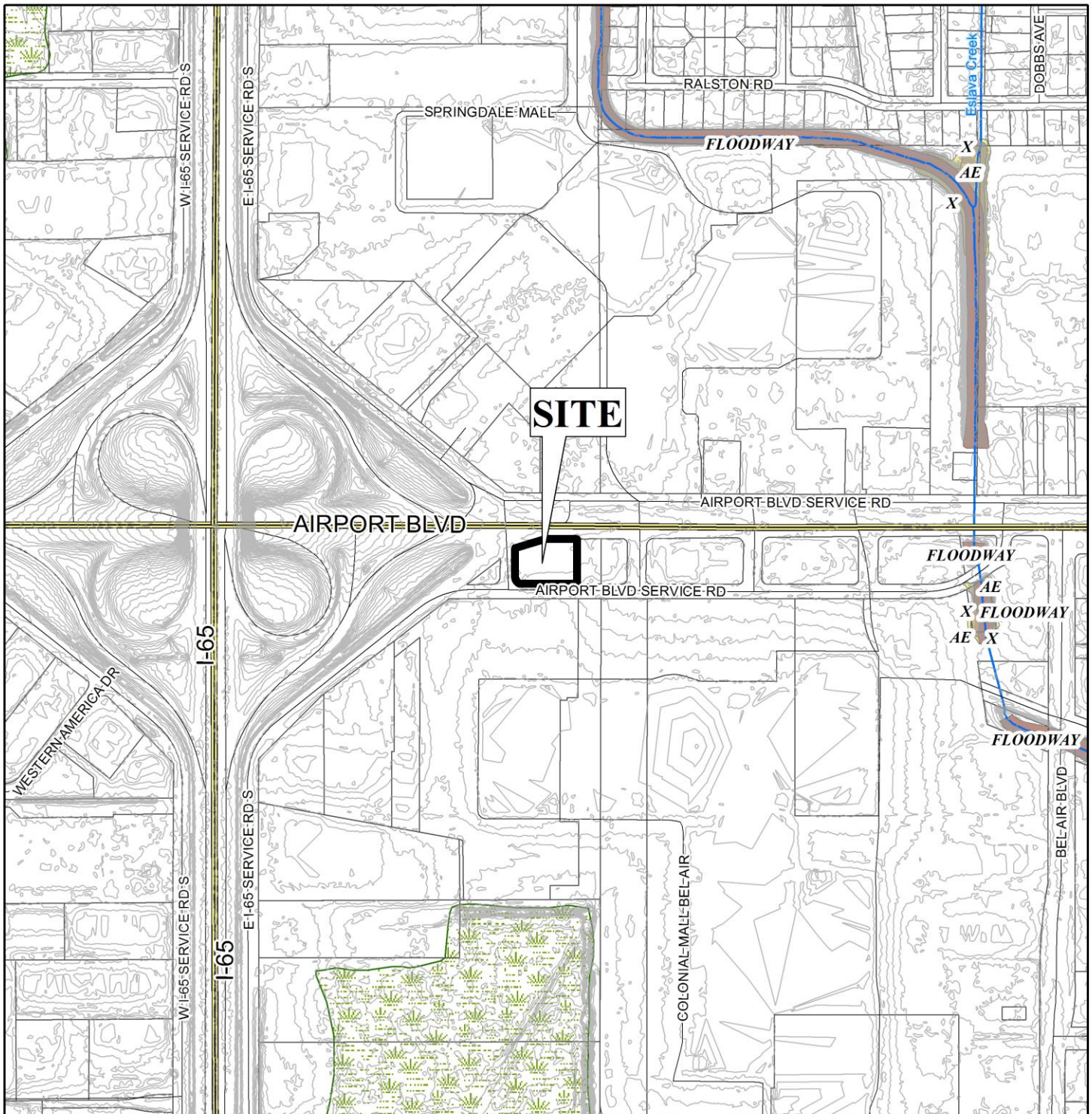
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed Commercial Corridor	Institutional	



ENVIRONMENTAL LOCATOR MAP



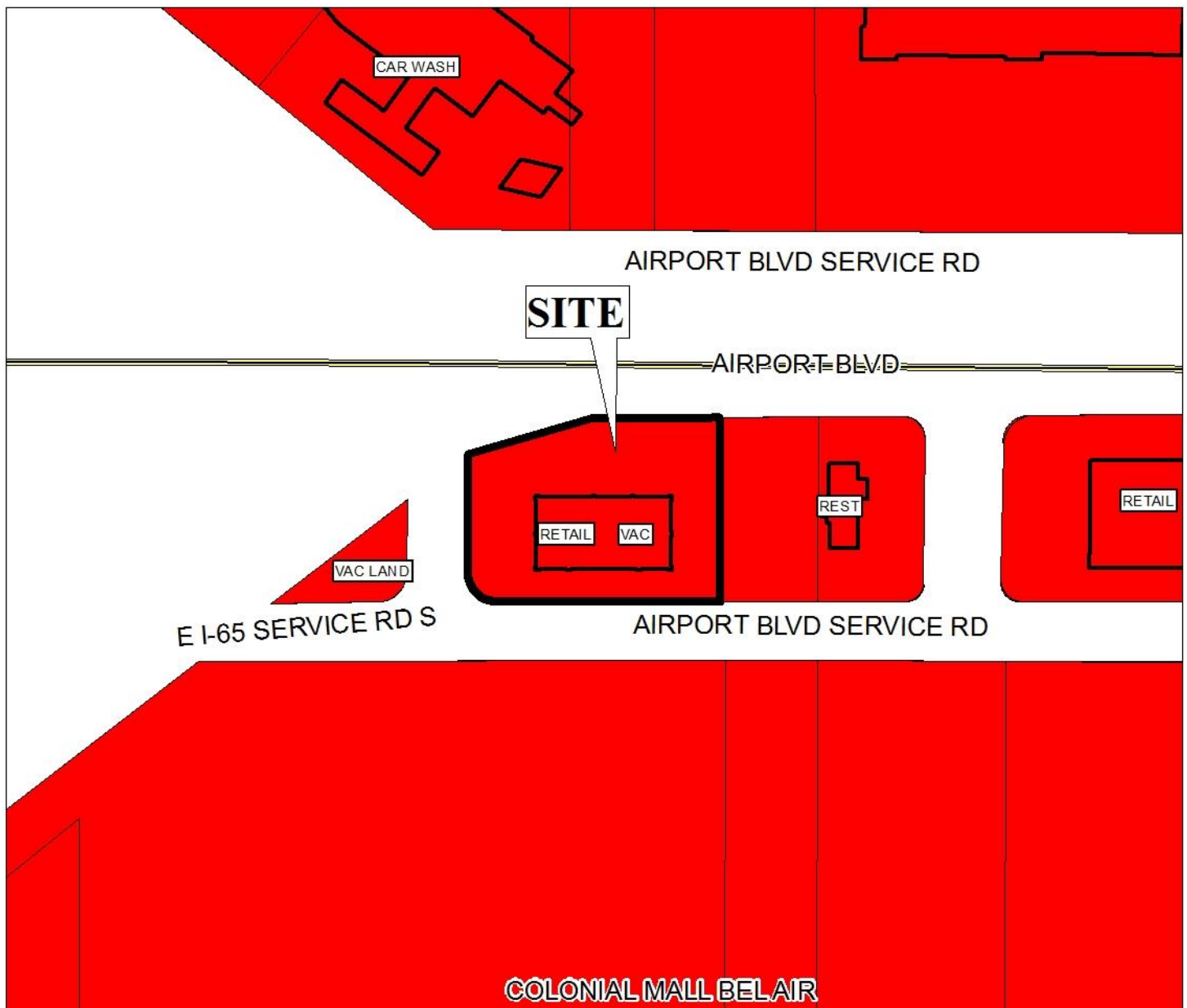
APPLICATION NUMBER 6152 DATE February 5, 2018

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial units.

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SITE PLAN



The site plan illustrates the existing building, existing parking, and landscape plan.

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