

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 5, 2018****CASE NUMBER**

6212/4425/106

APPLICANT NAME

Universal Property Investments

LOCATION

2814 Government Boulevard
(West side of Government Boulevard, 330'± North of
Magnolia Road, extending to the East side of Magnolia
Road, 240'± North of Government Boulevard.)

VARIANCE REQUEST

REAR SETBACK VARIANCE: Rear Setback Variance
to allow a storage shed within the 25' minimum rear street
frontage setback in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

REAR SETBACK VARIANCE: The Zoning Ordinance
requires all structures to meet the minimum street frontage
setback in a B-3, Community Business District.

ZONING

B-3, Community Business District

AREA OF PROPERTY

0.7 ± Acres

**CITY COUNCIL
DISTRICT**

District 4

**ENGINEERING
COMMENTS**

If the Rear Yard Setback variance is approved the applicant
will need to have the following conditions met:

1. The existing drainage patterns and surface flow characteristics will not be altered so as to have a negative impact on any adjoining properties.
2. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.
3. Coordinate with and provide additional site details to the Engineering Dept. to determine if a Tier 2 Land Disturbance permit is required.

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**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 (State Act

2015-116 and City Code Chapters 57 and 64). Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from a commercial site will require a tree removal permit.

FIRE

COMMENTS

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).

ANALYSIS

The applicant is requesting a Rear Setback Variance to allow a storage shed within the 25' minimum rear street frontage setback in a B-3, Community Business District; the Zoning Ordinance requires all structures to meet the minimum street frontage setback in a B-3, Community Business District.

The site has been given Mixed Commercial Corridor land use designation, per the recently adopted Future Land Use Plan and Map. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

This land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. Mixed Commercial Corridors includes a wide variety of retail, services and entertainment uses.

This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved streetscapes; and improve mobility and accessibility for all users of the corridor.

It should be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and, where applicable, the zoning classification.

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:

“When we purchased the building, there was an aluminum carport at the back of the building that covered HVAC units and was a place to cover cars from weather. After our addition was completed, we moved the aluminum carport to the back of our property. We realized that we needed an outside storage facility for materials that would not be part of our alarmed building so that employees could access materials without entering our building after hours and on weekends. We did not know that location we moved the carport was part of a 25’ minimum building setback. We enclosed the carport with aluminum siding in order to keep the materials from getting weathered. There are no other areas on our property where we can move the shed where it will be out of the way of traffic or outside of the minimum 25’ setback. Our property is enclosed by a chain link fence and the converted carport to storage shed is inside the fence and away from the gate opening. The area where the storage shed is located does not hinder the use of the property.

We respectfully request a variance to keep the storage shed in its current location since there is no other place to relocate it.”

As stated, the applicant is seeking relief, from the Zoning Ordinance to allow an aluminum storage shed on a commercially zoned property that will encroach in the required minimum rear street frontage setback. The applicant states that the accessory storage facility is a necessity.

The Zoning Ordinance states in Section 64-3.E.3.e. that there shall be a 25’ minimum front setback requirement in a B-3, Community Business District. Although, the building faces Government Boulevard, the site has frontage along Magnolia Road to the rear and is therefore subject to the 25’ setback requirement.

The applicant has submitted a site plan illustrating the storage shed located in the Northwest corner of the property.

It should be noted that the building permit associated with this project was initially approved with the condition that a compliant tree and landscape plan, signed by the property owner be provided, prior to any request for final inspections of the site. The storage shed was later depicted on the As-Built site plans and denied by the Planning and Zoning Department due to the setback encroachment.

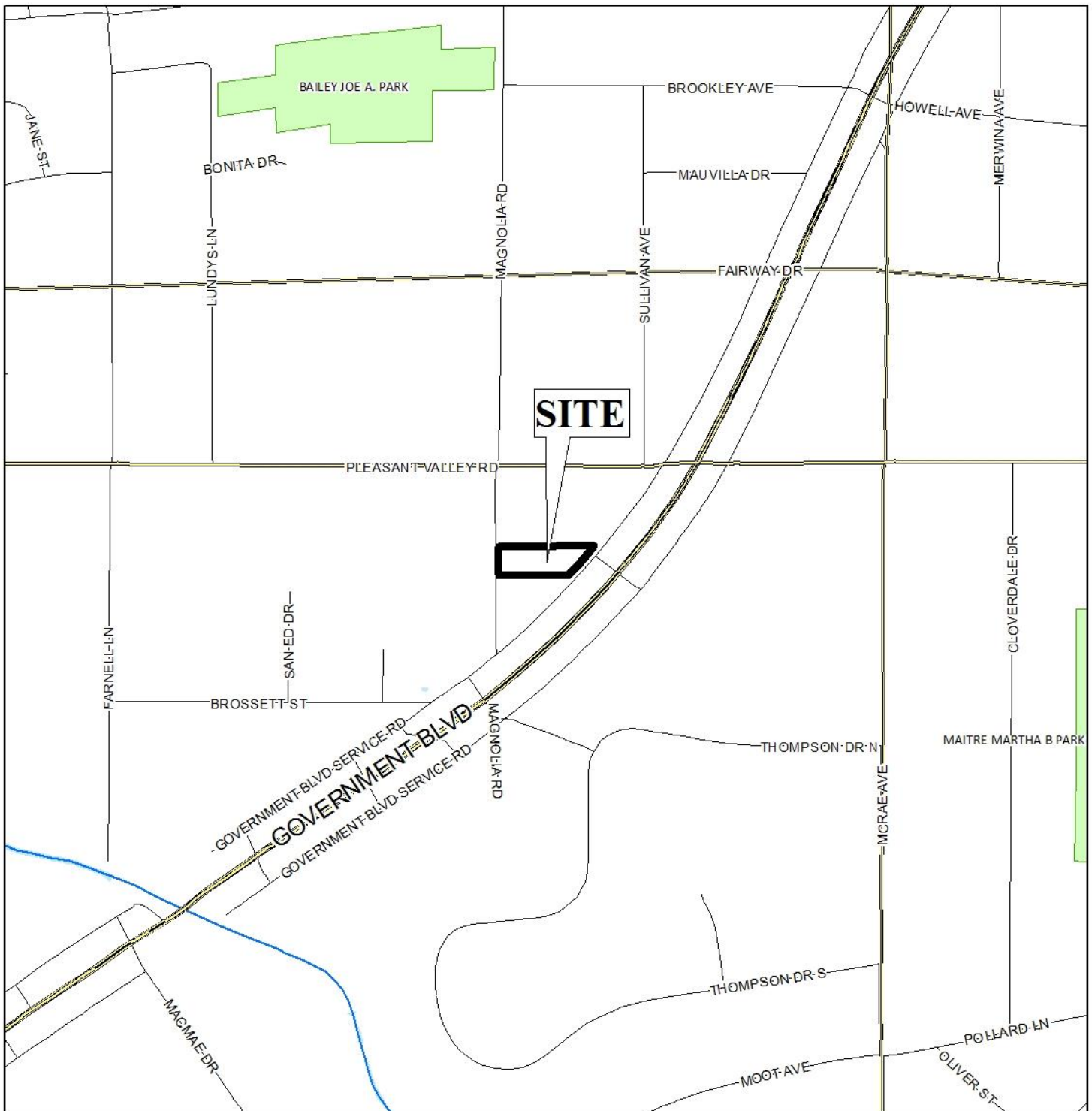
There are no conditions which exist at this site that would require the applicant to construct a structure that will encroach in the rear setback. It appears that it is merely the applicant’s desire. No hardships have been presented that would necessitate the approval of the variance. The location of the storage shed may be desirable to the applicant due to various issues noted in the

narrative, however, it appears that there is sufficient room on the site to allow the placement of a storage structure without encroaching in any setbacks.

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

- 1) Granting the variance will be contrary to the public interest in that because it will be contrary to the Zoning Ordinance requirement regarding the minimum rear street frontage setbacks in a B-3, Community Business District;
- 2) Special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site expansion was approved without the requirement for a variance ; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the site can be developed in such a way that a storage shed could be oriented on the lot in such a way that it would meet the setback requirements.

LOCATOR MAP



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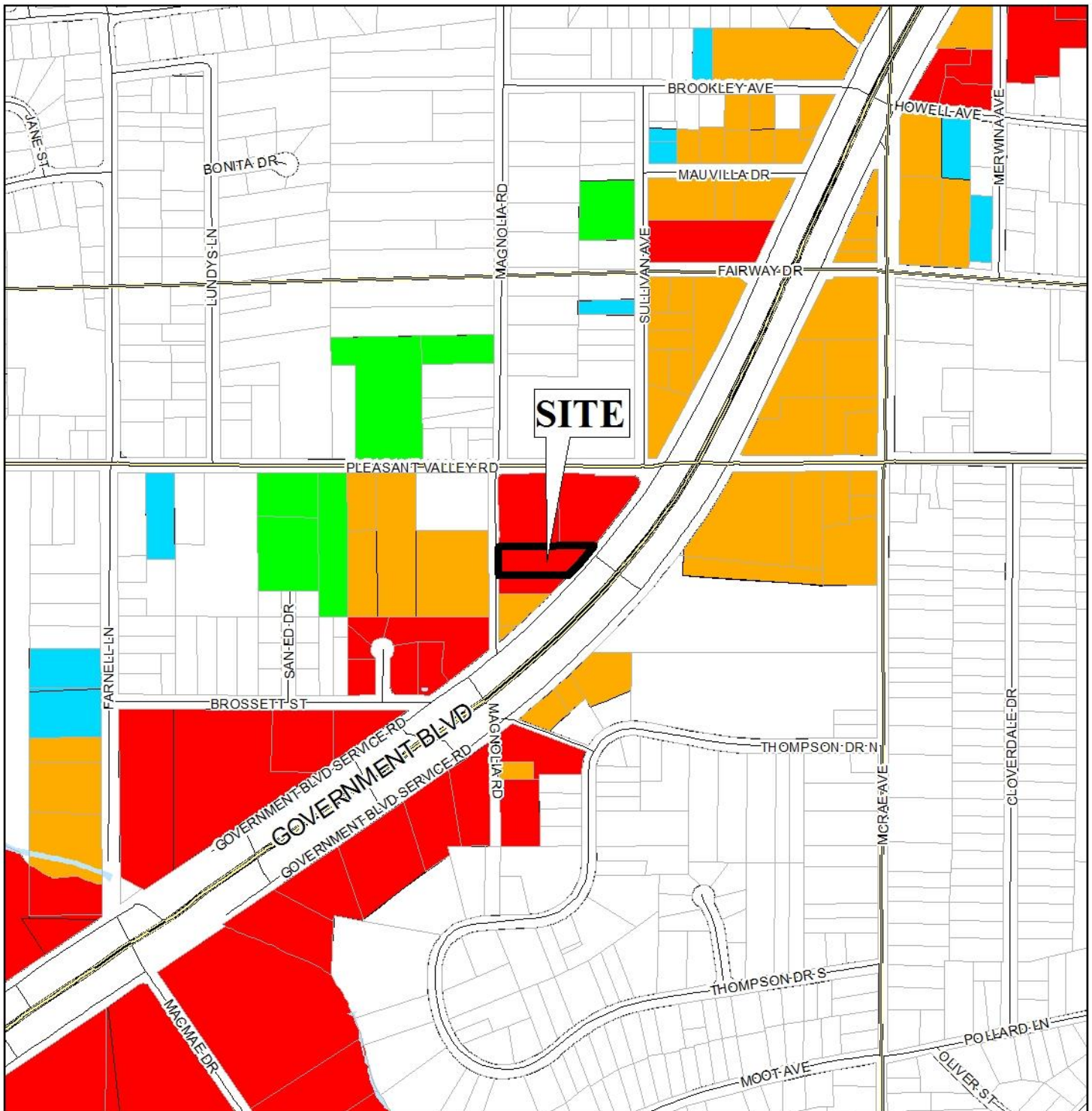
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NTS

LOCATOR ZONING MAP



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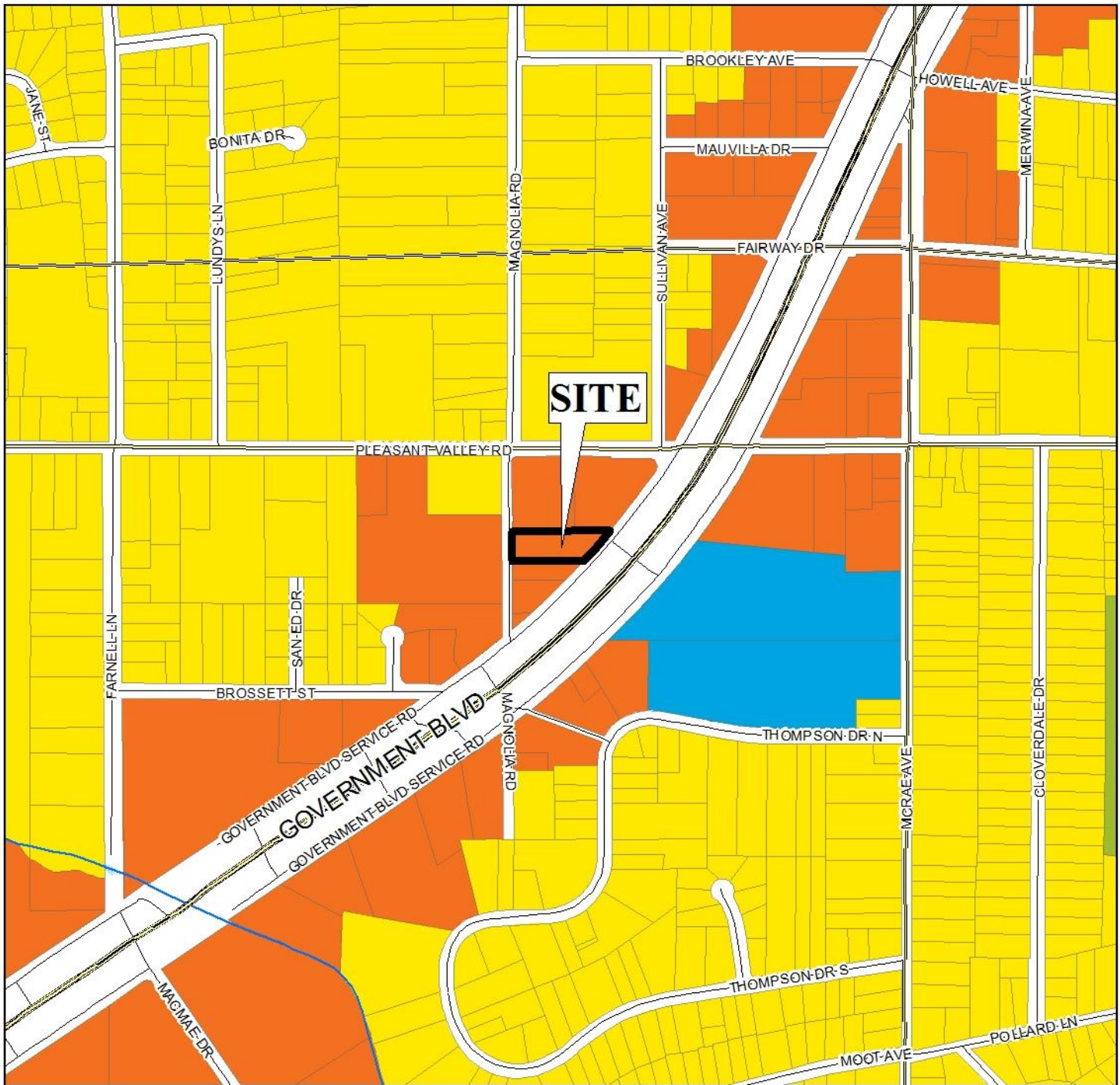
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FLUM LOCATOR MAP



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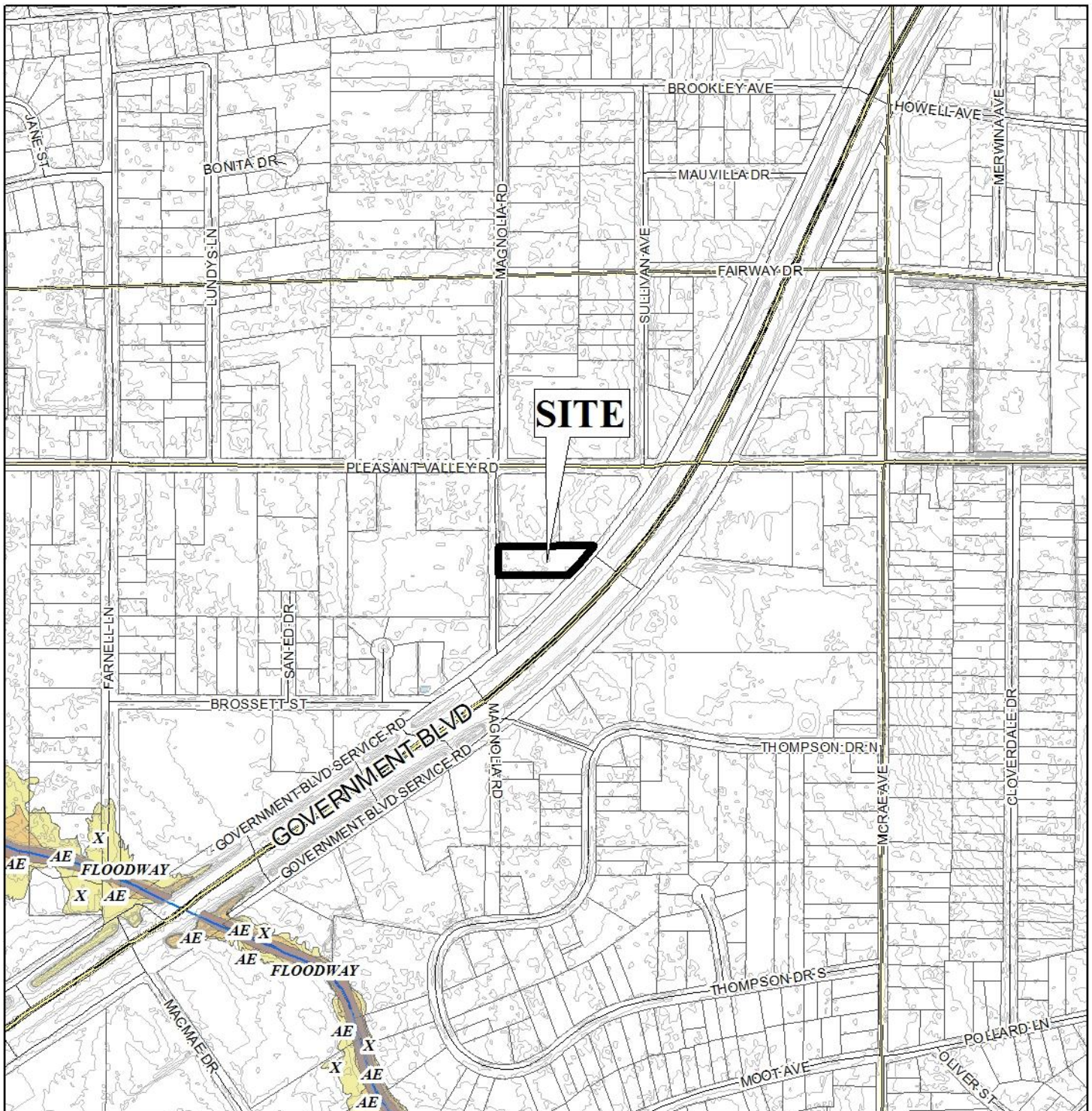
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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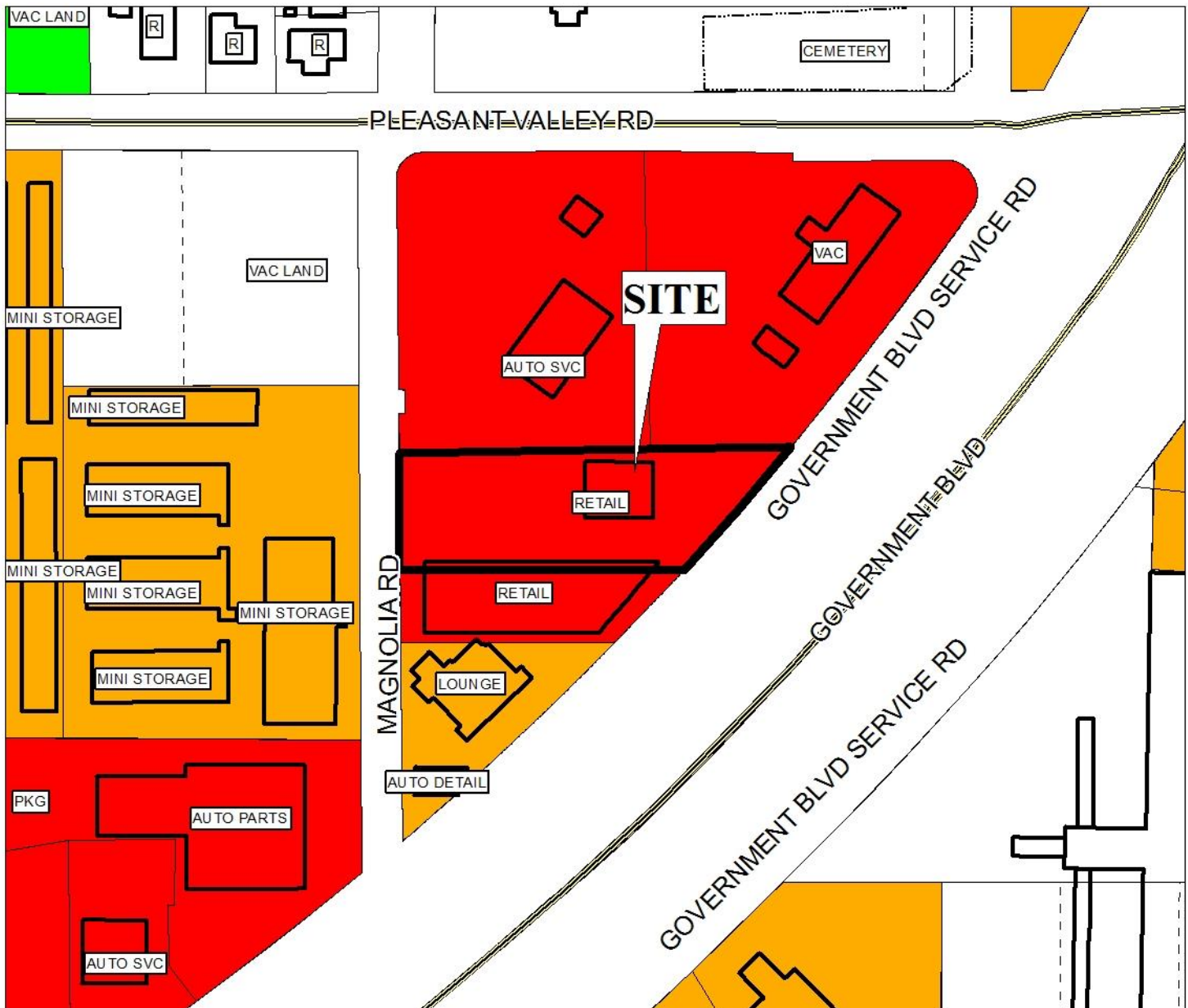
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. Residential units are located to the northwest.

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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. Residential units are located to the northwest.

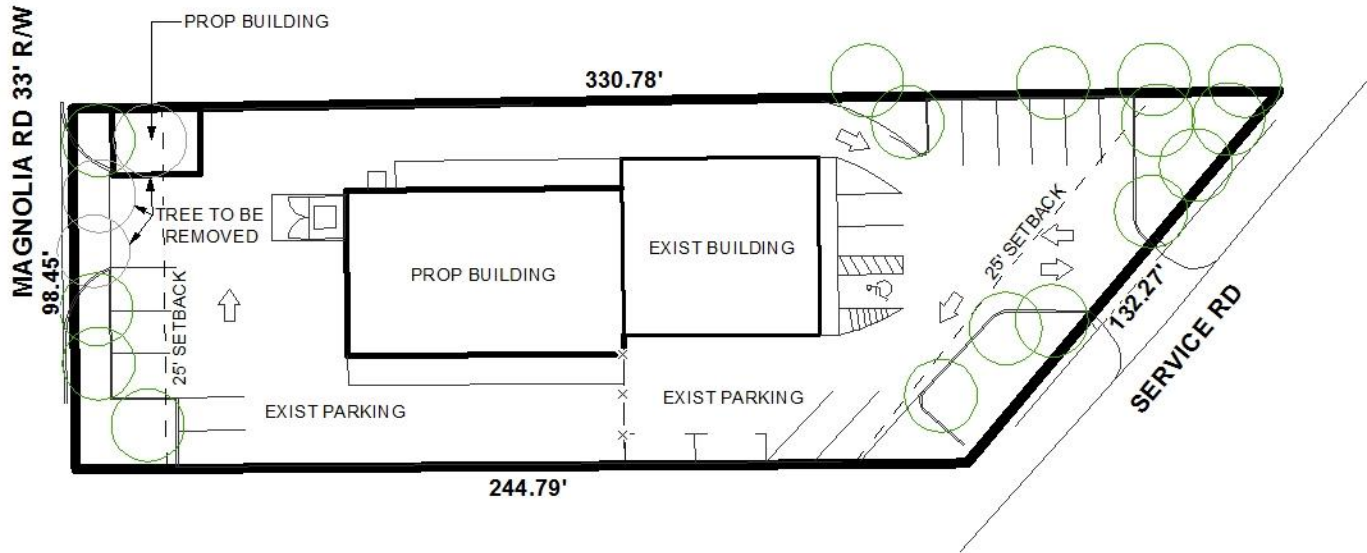
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SITE PLAN



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

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