

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: September 9, 2019****CASE NUMBER**

6271 / 6272

**APPLICANT NAME**

Elrod Engineering for Cracker Barrel (S. Jasen Riherd)

**LOCATION**

43 East I-65 Service Road South, 90 Springdale Boulevard  
(East side of I-65, 890'± North of Emogene Street and  
West side of Springdale Boulevard, 616'± South of the  
Northern terminus of East I-65 Service Road South.)

**VARIANCE REQUEST**

Sign Variances to allow one existing non-conforming on-  
premise sign and one existing off-premise sign to be  
refurbished in a B-3, Community Business District.

**ZONING ORDINANCE  
REQUIREMENT**

The Zoning Ordinance requires that non-conforming signs  
come into full compliance with Sign Regulations should  
they ever be structurally altered so as to extend their useful  
life in a B-3, Community Business District.

**ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

121,970 square feet / 2.8±Acres

**CITY COUNCIL  
DISTRICT**

District 5

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

This request was not reviewed by Traffic Engineering.

**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 Sign Variances to allow one existing non-conforming on-premise sign and one existing off-premise sign to be refurbished in a B-3, Community Business District.; the Zoning Ordinance requires that non-conforming signs come into full compliance with Sign Regulations should they ever be structurally altered so as to extend their useful life in a B-3, Community Business District.

The site has been given a Mixed Commercial Corridor (MCC) land use designation, per the 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. MCC 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 purpose of the Sign Regulation Provisions is to promote the economic well-being of the entire Mobile community by creating a favorable physical image, to afford the business

community an equal and fair opportunity to advertise and promote products and services, and to protect the right of the citizens to enjoy Mobile's natural scenic beauty.

The applicant provided the following narrative:

*Cracker Barrel is asking for a variance to Section 64-11.3.(b) in the Mobile AL Code of Ordinances that states "Allowance for certain nonconforming signs. Subject to the conditions and amortization schedule hereinafter set forth, nonconforming signs may be continued in operation and maintenance after the effective date of this section, provided that nonconforming signs shall not be; (2) Structurally altered so as to extend their useful life". Cracker Barrel is asking to remove the existing sign cabinets and faces and replace, one for one, with new cabinets and faces.*

*Cracker Barrel currently has a 420 square foot (sf) flex faced sign at 85' overall height that abuts I-65 and a 101sf flex faced sign at 35' over all height that abuts Springdale Blvd. These signs have been in place since 1990 drawing visitors and boosting the economy at the Dauphin Rd exit 4 of I-65.*

*Reducing the 420sf cabinet to a 240sf (Mobile AL codes would currently allow a 240sf at 100' overall height), cutting the square footage nearly in half, will greatly reduce the sign's visibility/legibility and impact from the I-65 corridor. The 240sf, smaller square foot, sign would not be as visible, specifically from I-65 southbound, therefore creating a hardship of losing customer traffic and a loss of revenue. Cracker Barrel, being a traveler and tourists' choice, draws faithful customers with its well-known large pylon signs. A loss of traffic for Cracker Barrel is also a loss of traffic for all the travel related businesses on exit 4.*

*The 101sf 35' over all height sign on the easement that gives Cracker Barrel's customers direct access to Cracker Barrel from Springdale Blvd. Downsizing or removing this sign would diminish/remove the only identifying marker for the traffic on Springdale Blvd and the adjacent community. This potential loss of traffic could lead to diminished sales and loss of revenue for Cracker Barrel.*

The applicant is requesting to maintain an existing non-conforming on-premise high rise sign that was erected prior to the adoption of the sign regulations. The existing sign is 85 feet tall, 420 square feet per face; the Zoning Ordinance allows high rise signs to be a maximum of 100 feet tall, and 200 square feet per face. While it is understandable that the applicant would wish to maintain the existing amount of signage, rather than decrease to a compliant size, the intent behind Section 64-11.3 "Nonconforming signs" is for signs to eventually eliminate such signs throughout the City of Mobile.

Regarding the existing non-conforming off-premise sign, the only hardship the applicant seems to have, is that, while they do have shared access with property facing Springdale Boulevard, Cracker Barrel does not own that property. It would, perhaps be more appropriate for Cracker Barrel to seek a Planned Unit Development with the adjacent property owners to both legitimize the shared access for the multiple properties and also request an increase in allowable signs.

It is important to note that the Board approved a similar case at the April 7, 2014 meeting of the Board of Zoning Adjustment where the applicant, Michael Crowley (McDonald's USA, LLC), requested three non-conforming freestanding signs be allowed to remain.

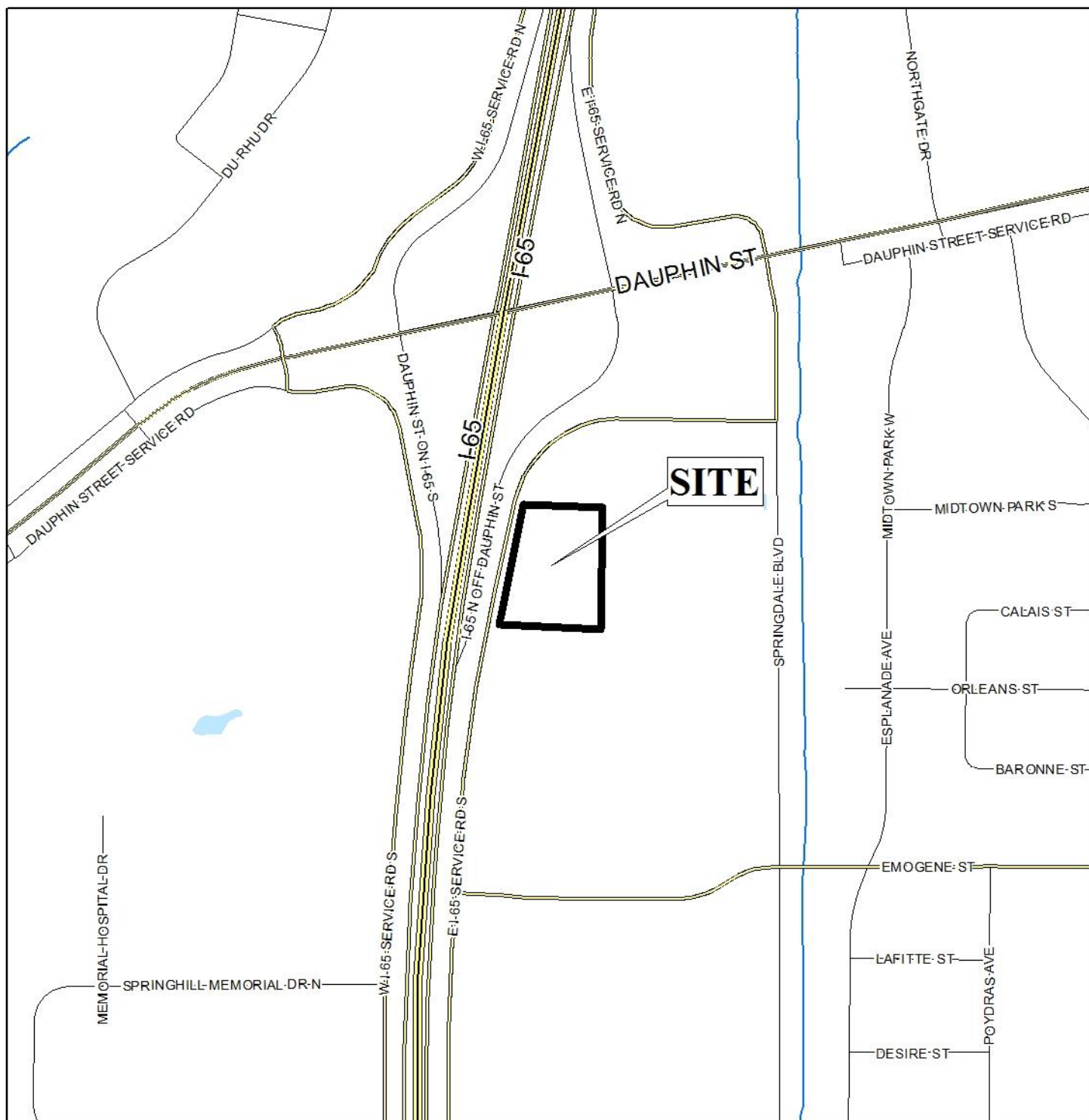
The applicant has not demonstrated that there is a hardship associated with the property not based in economics that would justify the approval of the variance request. The applicant could seek Planned Unit Development approval, which would resolve the signage issue at hand, as well as issues relating to shared access that may arise in the future. However, allowing replacement signage to exceed allowable limits would provide the applicant with a competitive advantage not available to other business with compliant signage.

**RECOMMENDATION:**

Staff recommends to the Board the following findings of facts for Denial:

- 1) Granting the variance will be contrary to the public interest in that, it will be contrary to Section 64-11.8.c.(7)(a)i. of the Zoning Ordinance regarding electronic or digital signs in Historic Districts;
- 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 can be developed 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 the proposed fence would not extend within the 25' setback requirement.

# LOCATOR MAP



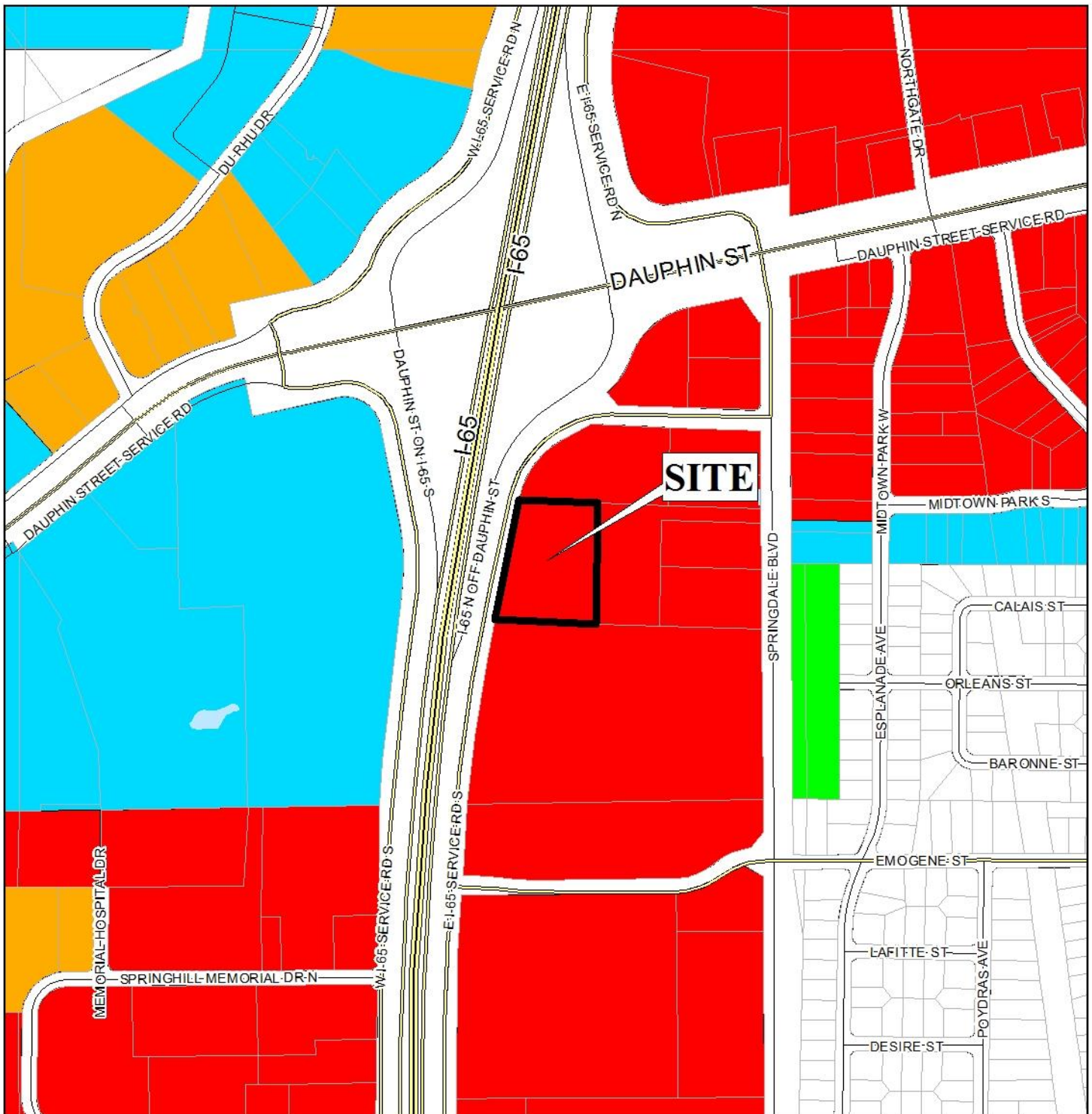
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REQUEST Sign Variance



# LOCATOR ZONING MAP



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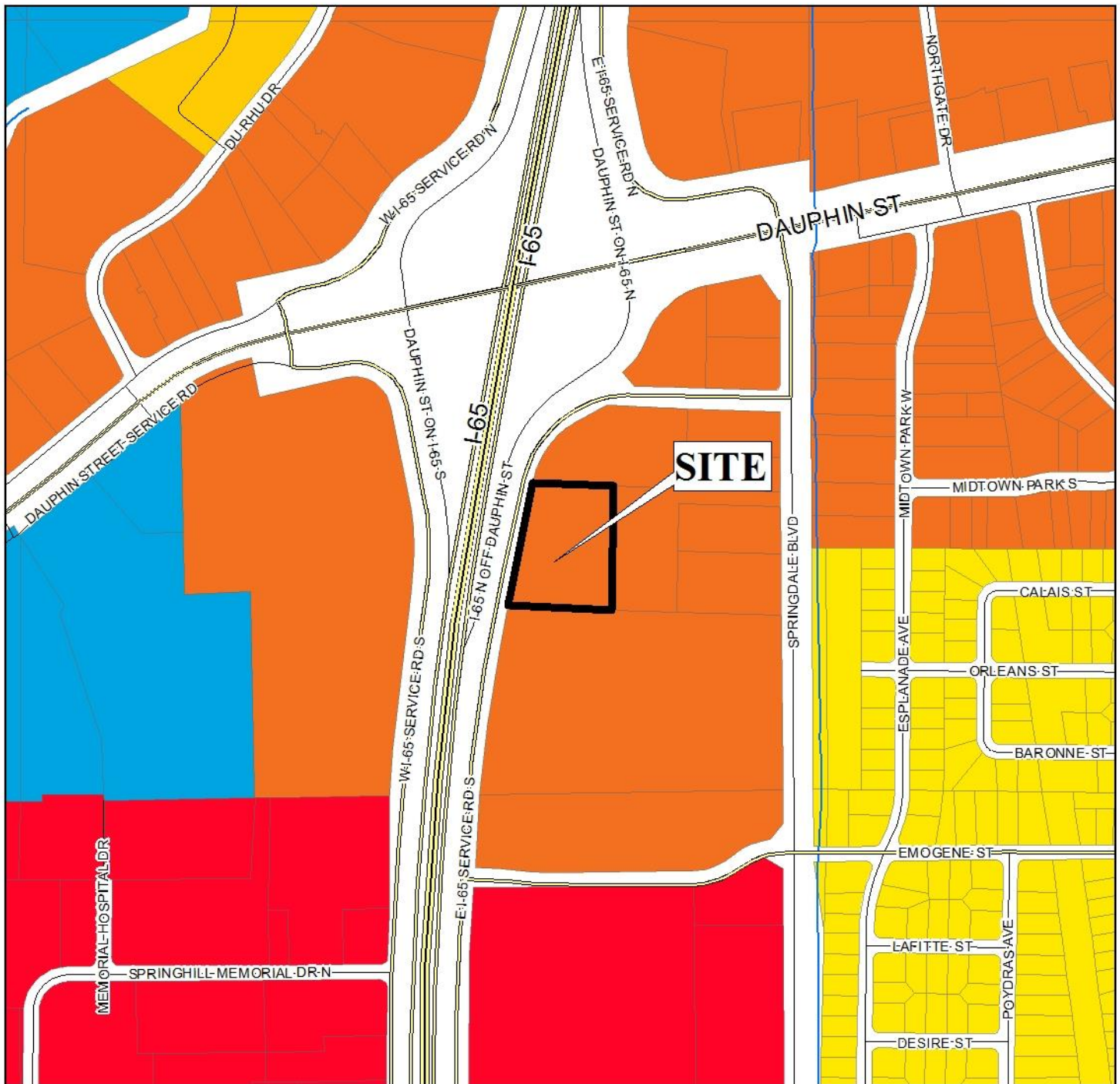
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# FLUM LOCATOR MAP



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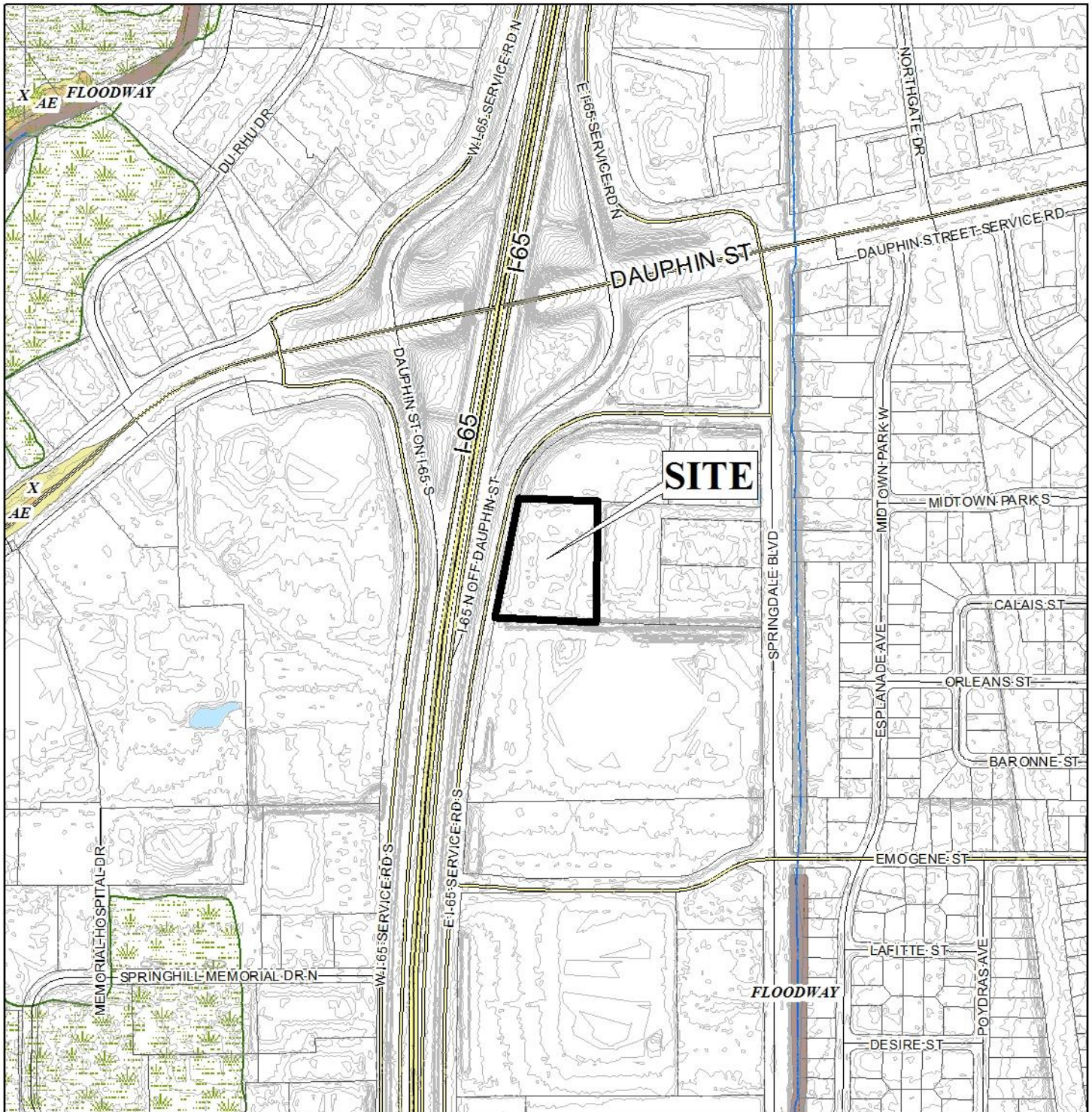
REQUEST Sign Variance

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	





# ENVIRONMENTAL LOCATOR MAP



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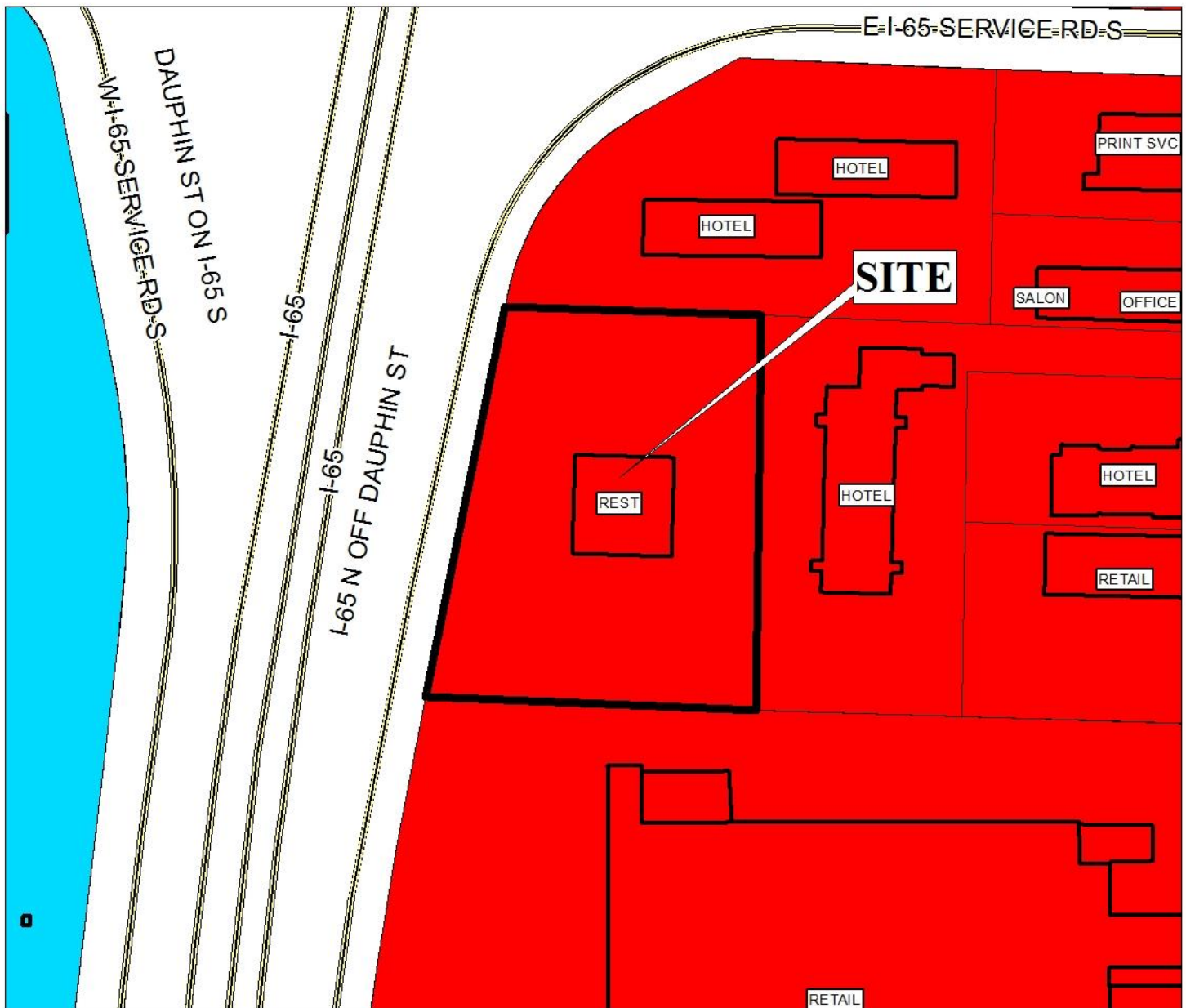
REQUEST Sign Variance





# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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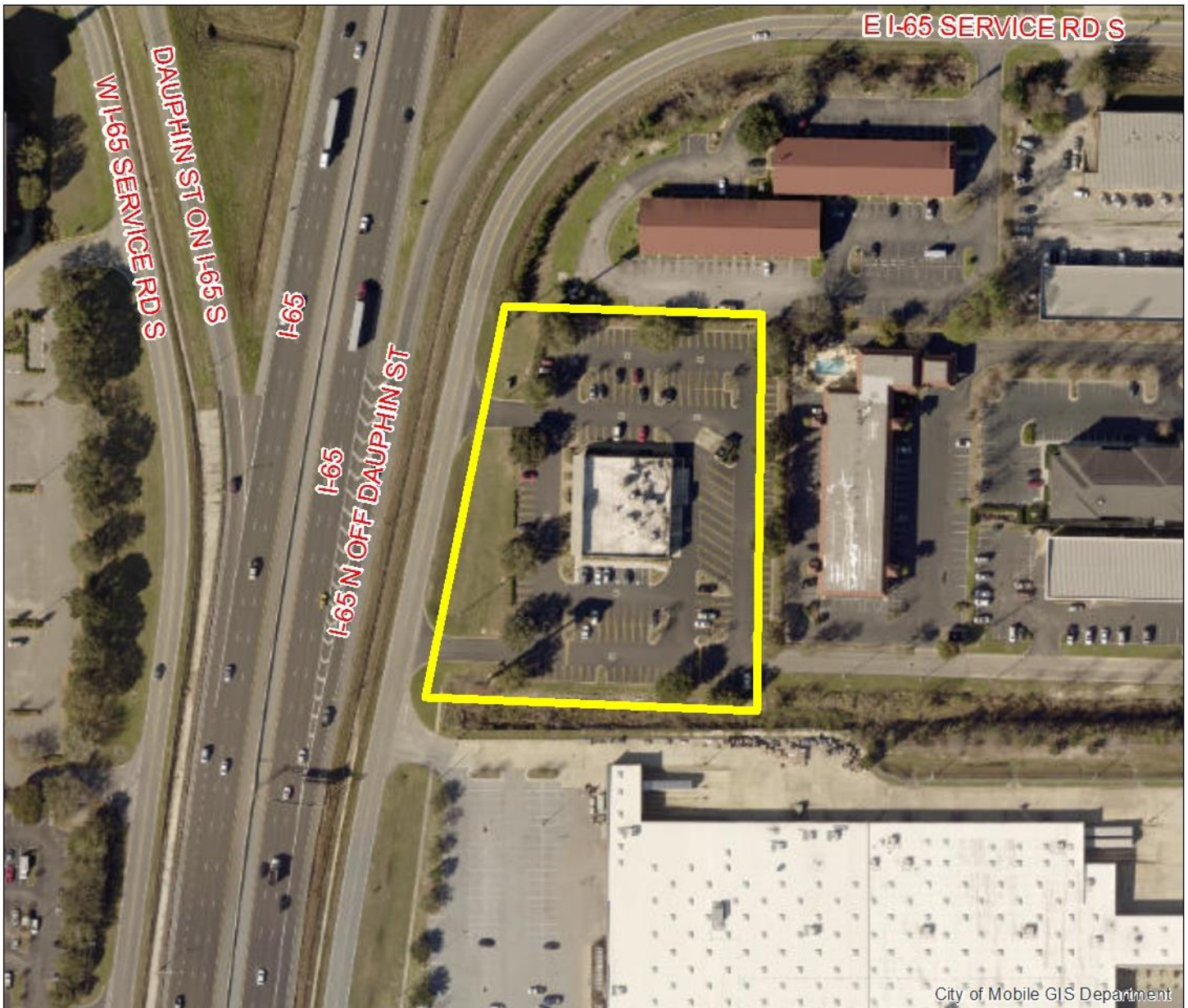
REQUEST Sign Variance

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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING AERIAL



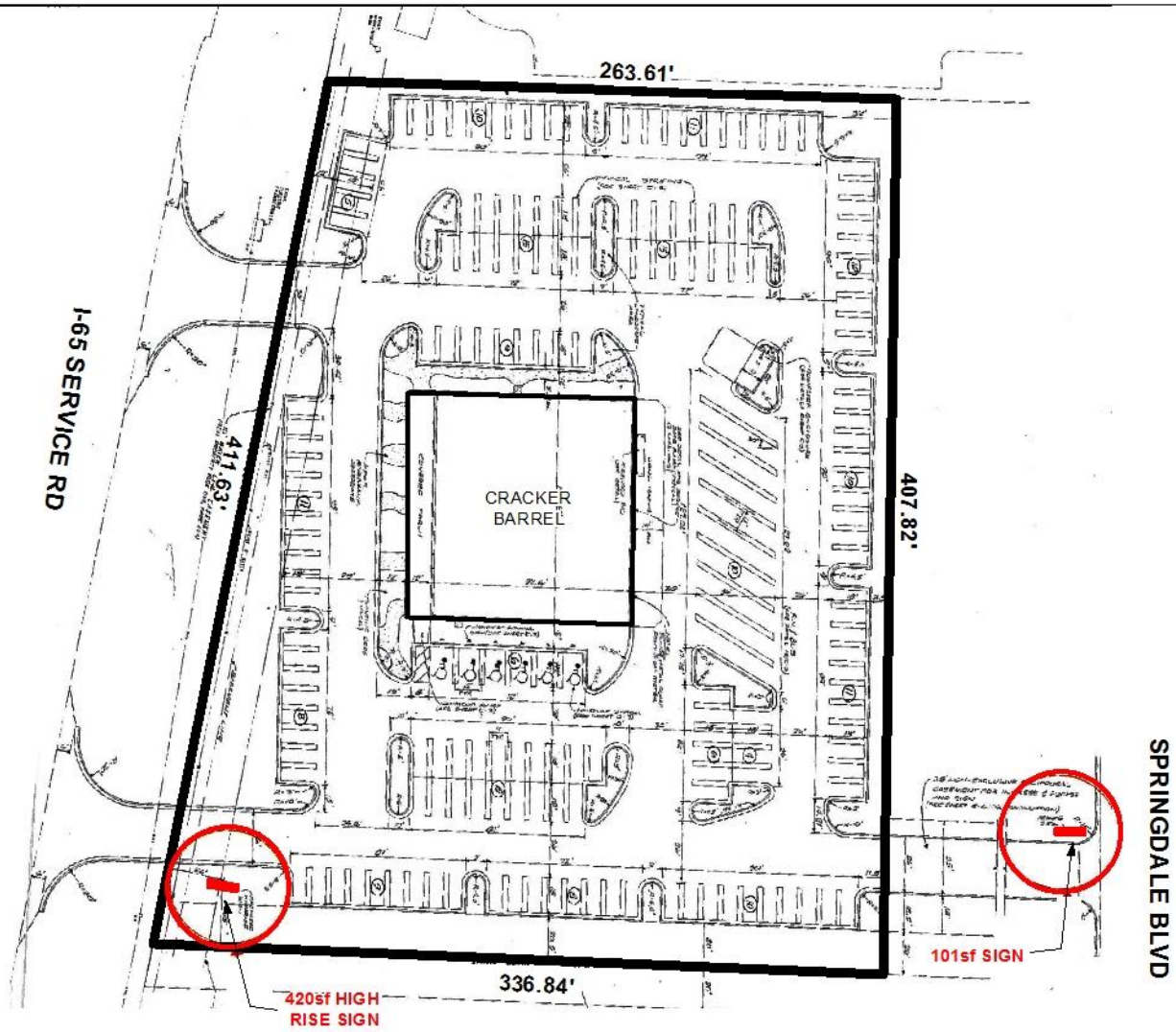
The site is surrounded by commercial units.

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REQUEST <u>Sign Variance</u>





# SITE PLAN



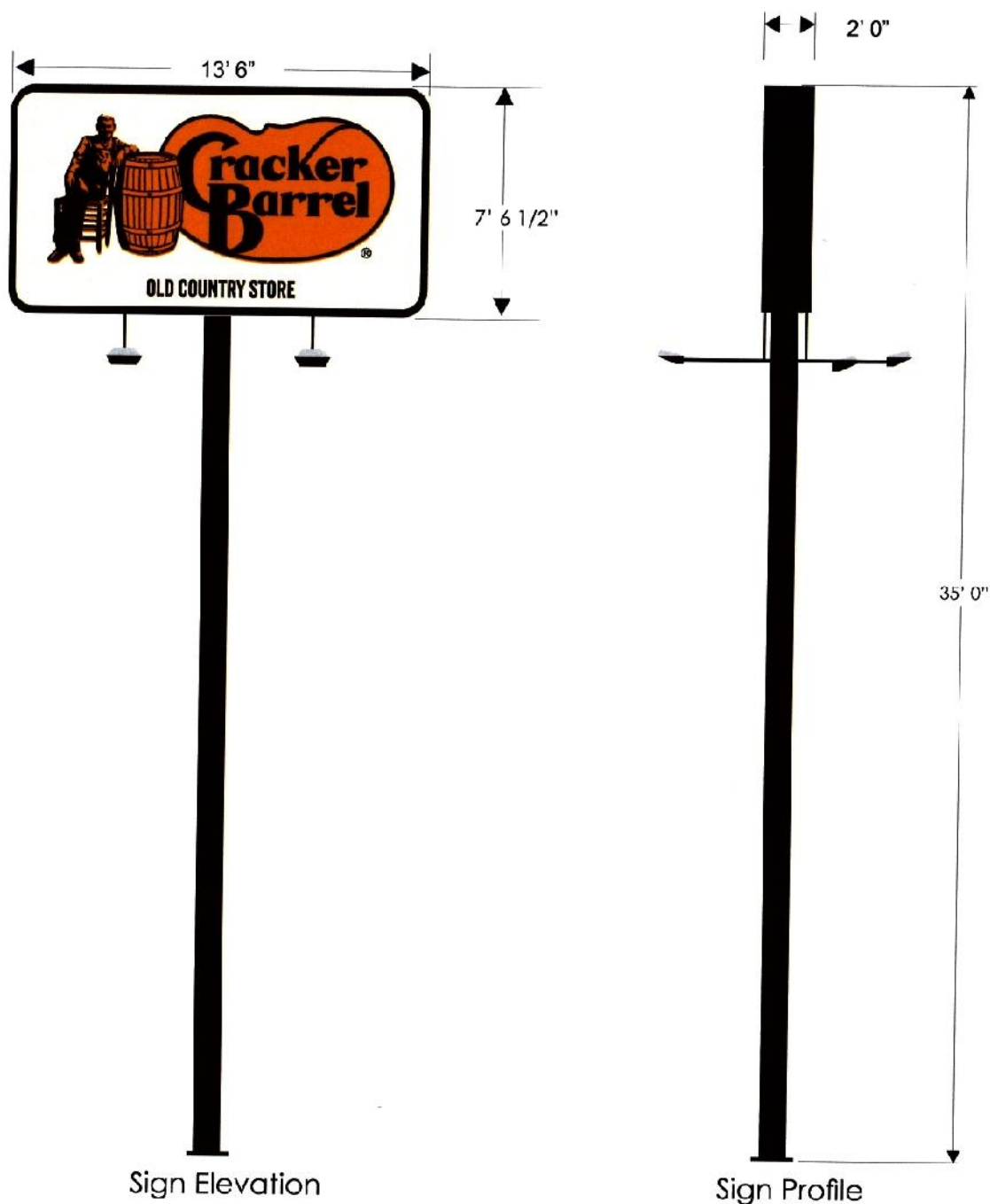
The site plan illustrates the existing sign locations.

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# DETAIL SITE PLAN



Sign Elevation

Sign Profile

101sf porcelain faced cabinet at 35' OAH

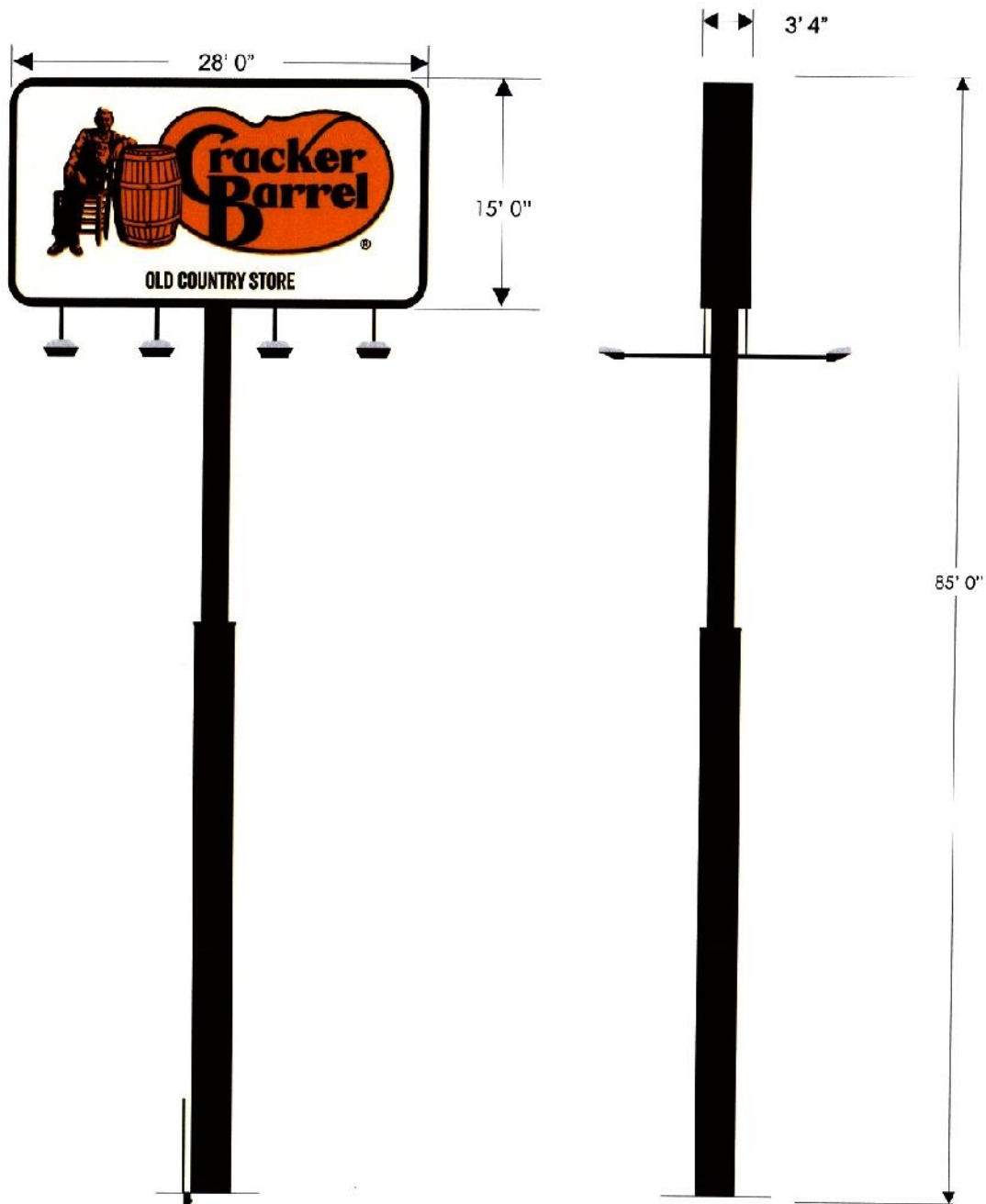
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# DETAIL SITE PLAN



Sign Elevation

Sign Profile

420sf porcelain faced cabinet at 85' OAH

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