

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 13, 2021****CASE NUMBER**

6405/5915/5272/3366/3139/1640

APPLICANT NAME

Rebecca Persekian

LOCATION1757 Government Street
(Southwest corner of Government Street and Weinacker Avenue).**VARIANCE REQUEST****USE:** To allow a lounge and banquet venue in a B-1, Buffer Business District.**ACCESS/MANEUVERING:** To allow parking nose-in/back-out within a right-of-way**TREE PLANTING:** To allow no additional tree plantings.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District, for the operation of a lounge and banquet venue.**ACCESS/MANEUVERING:** The Zoning Ordinance requires all parking and maneuvering spaces to be on private property.**TREE PLANTING:** The Zoning Ordinance requires full compliance with tree planting requirements.**ZONING**

B-1, Buffer Business.

AREA OF PROPERTY

1.0± Acre

**ENGINEERING
COMMENTS**

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit be submitted through Central Permitting.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.

3. Any and all proposed land disturbing activity within the property will need to 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. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

TRAFFIC ENGINEERING COMMENTS

No comments.

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 (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL DISTRICT

District 2

ANALYSIS

The applicant is requesting Use, Access/Maneuvering, and Tree Planting Variances to allow a lounge and banquet venue with parking nose-in/back-out within a right-of-way, with no additional tree plantings in a B-1, Buffer Business District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District for the operation of a lounge and banquet venue with all parking and maneuvering spaces on private property, and full compliance with tree planting requirements.

The site has been given a Traditional Corridor (TC) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. 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 generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), TC designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

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's narrative states:

My name is Rebecca Persekian and I have recently moved to Mobile from Washington DC. I feel like I have stumbled on paradise.

I would like for The Pillars of Mobile, located at 1757 Government Street to be considered for a use variance along with access-maneuvering and tree planting variance. I would like to continue the use of a banquet and reception hall but in addition to that I am requesting that we would add a piano lounge to be open from 3pm until 11pm.

The main change being that along with special events and fundraisers we would be open every night with piano music. I am extremely excited to get the Pillars re opened and am grateful to each of you for helping me to get this done.

Thank you for your time and consideration in this matter.

The subject site was granted Use, Access/Maneuvering, and Tree Planting Variances to allow a banquet venue with parking nose-in/back-out within a right-of-way, with no additional tree plantings in a B-1, Buffer Business District at the Board's September 2014 meeting. The applicant proposes to expand upon the banquet venue to also include a piano lounge. As this would be a change from the previously approved use, a new Use Variance is required. And as no new improvements to the existing noncompliant access/maneuvering and tree plantings are proposed, new variances for those must be sought; hence this application.

It should be noted that the site was granted a Use Variance in 1976 to operate as a restaurant, and it has had a sporadic history of restaurant/banquet venue use since, plus a brief use as a single-family residence.

The proposed addition of a piano lounge would not result in a use much different from the previous use as a restaurant, and the use as a banquet venue would be the same as previously approved. The proposed hours of operation would be in keeping with those of a banquet venue.

The request for an access/maneuvering variance refers to the fact that the site has its primary access and maneuvering adjacent to the rear via an alley extending from the West side of Weinacker Avenue to the East side of Houston Street. This is the same as was granted in the previous variance. The request for a tree planting variance refers to the fact that the site has not been improved to meet site compliance with regard to tree plantings. Again, this is the same request as was granted in the previous variance for the site.

As in previous applications for the site, no direct hardship has been illustrated with respect to the proposed use. However, inasmuch as the request would be of the same nature as previous approvals, and as the site is within the Leinkauf Historic District, and has been vacant for several years, the proposed use would seem to be desirable with respect to economic viability of the neighborhood, and all three requests would seem to be harmonious with previous approvals for the site.

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

- 1) Approving the variance requests will not be contrary to the public interest due to the fact the site has been used commercially and the proposed business could be considered a continuation of a similar commercial use;
- 2) Special conditions exist, including the current site conditions, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance due to the fact that the applicant will have a similar type use and site condition as previously on this property.

The approval is subject to the following conditions:

- 1) Limitation of the piano lounge hours of operation to 3:00 PM to 11:00 PM;

- 2) Compliance with the Engineering comments: *(If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements will require a Land Disturbance Permit be submitted through Central Permitting. 2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way. 3. Any and all proposed land disturbing activity within the property will need to 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. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.);*
- 3) Obtaining of any necessary Building Code and Fire Code inspections; and
- 4) Full compliance with all municipal codes and ordinances.

Revised for the September 13th meeting:

This application was heldover from the August 2nd meeting to allow the applicant to provide a complete notification list and postage fees. The required labels and fees were provided. As no new information was provided concerning the variance request, the original recommendation for approval would stand.

RECOMMENDATION: *Staff recommends to the Board the following findings of facts for Approval of the requests:*

- 1) *Approving the variance requests will not be contrary to the public interest due to the fact the site has been used commercially and the proposed business could be considered a continuation of a similar commercial use;*
- 2) *Special conditions exist, including the current site conditions, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) *That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance due to the fact that the applicant will have a similar type use and site condition as previously on this property.*

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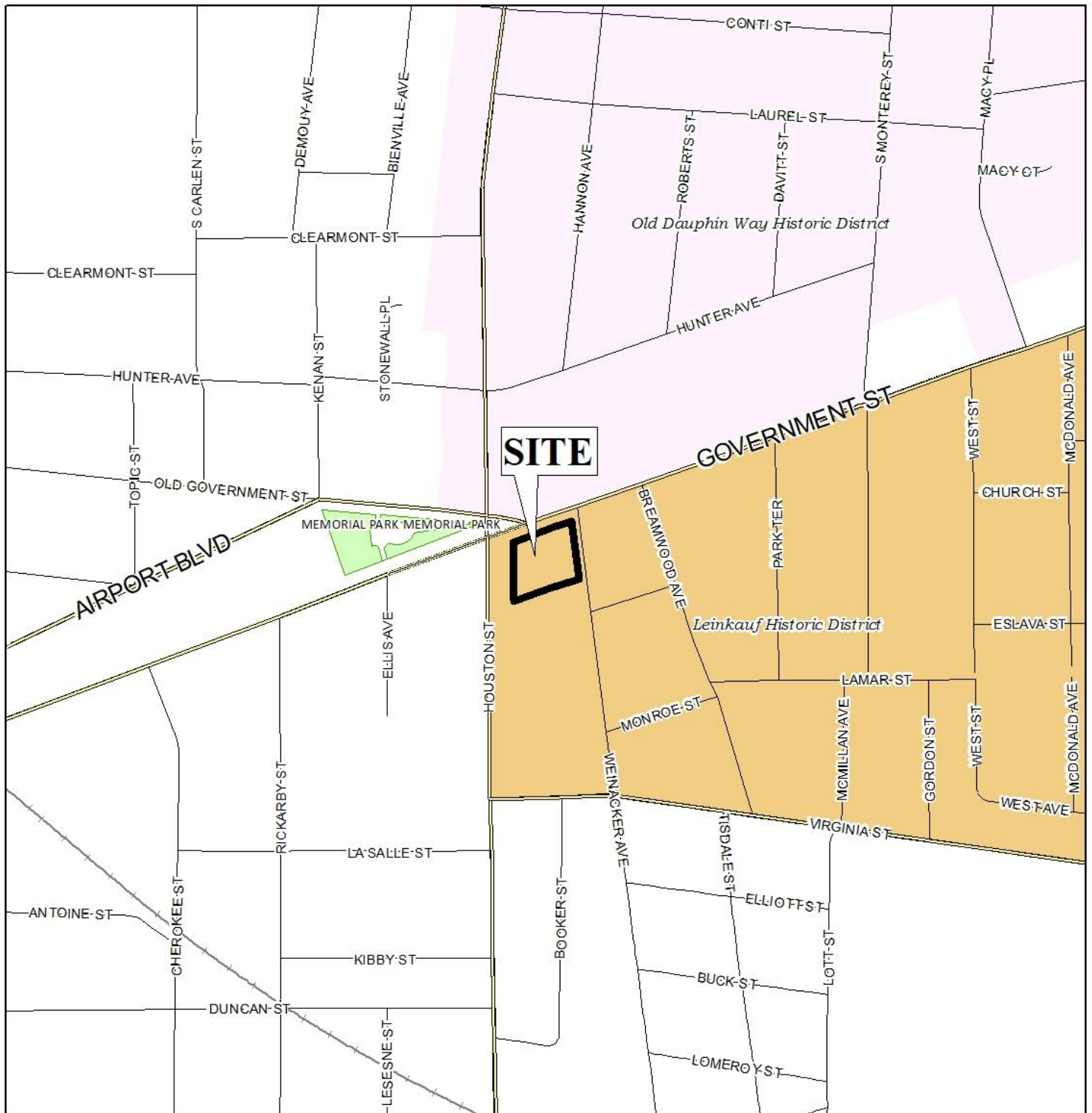
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- 3) Obtaining of any necessary Building Code and Fire Code inspections; and*
- 4) Full compliance with all municipal codes and ordinances.*

In order for any concerns to be considered by the Board you must email your concerns to planning@cityofmobile.org or they may be uploaded to the website via the portal under the meeting date and case. Comments must be entered by 2:00 PM on Friday, September 10th, before the meeting, in order to be considered by the Board.

If you wish to participate in the meeting, you must email planning@cityofmobile.org by 2:00 PM on Friday, September 10th, before the meeting. In accordance with the Rules of the Board of Zoning Adjustment, no more than four (4) speakers are allowed to speak for or against an application. Speaking time is limited to five (5) minutes per speaker.

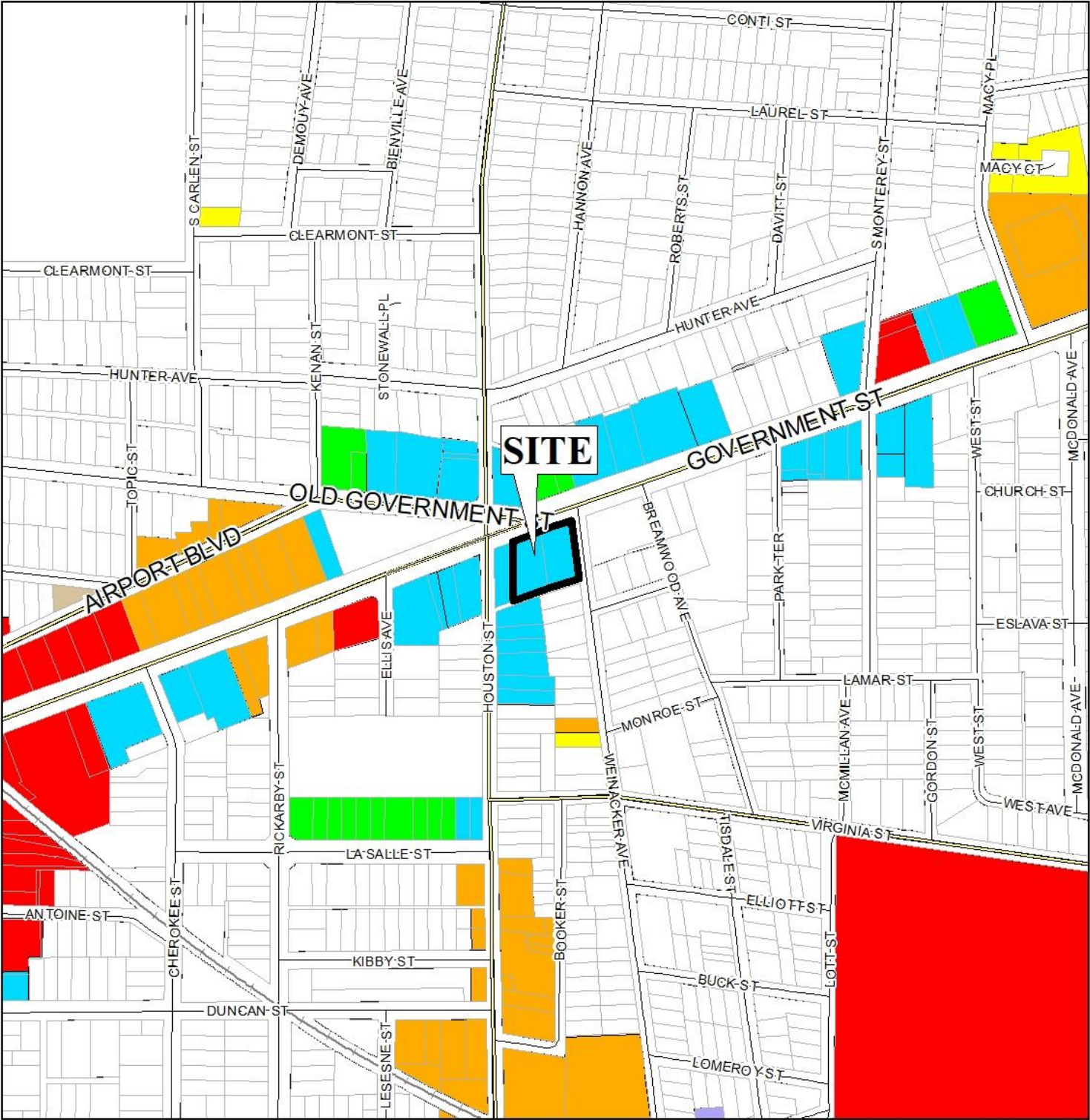
LOCATOR MAP



APPLICATION NUMBER 6405 DATE September 13, 2021
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 REQUEST Use, Access/Maneuvering, and Tree Planting Variances



LOCATOR ZONING MAP



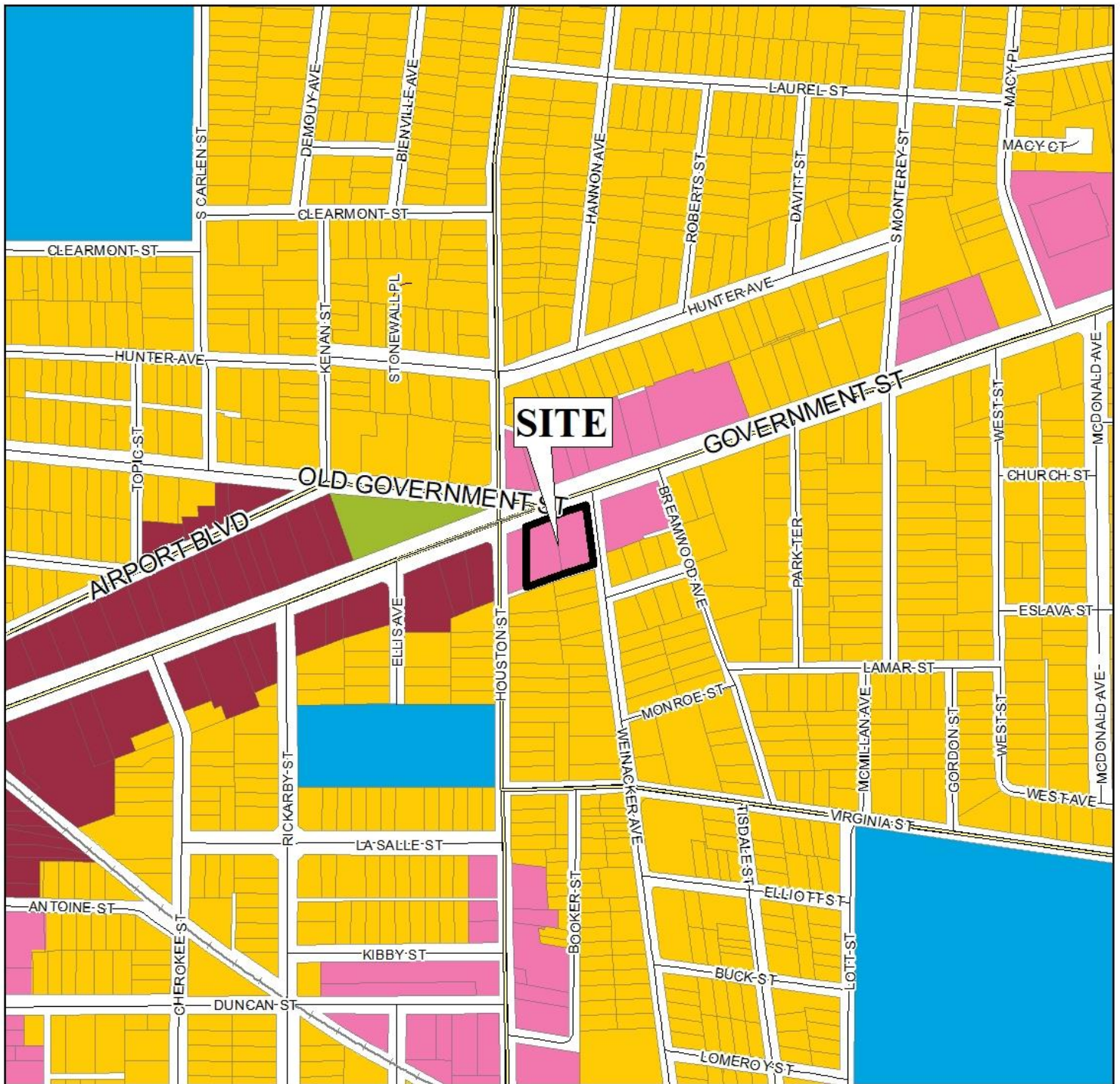
APPLICATION NUMBER 6405 DATE September 13, 2021

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REQUEST Use, Access/Maneuvering, and Tree Planting Variances



FLUM LOCATOR MAP

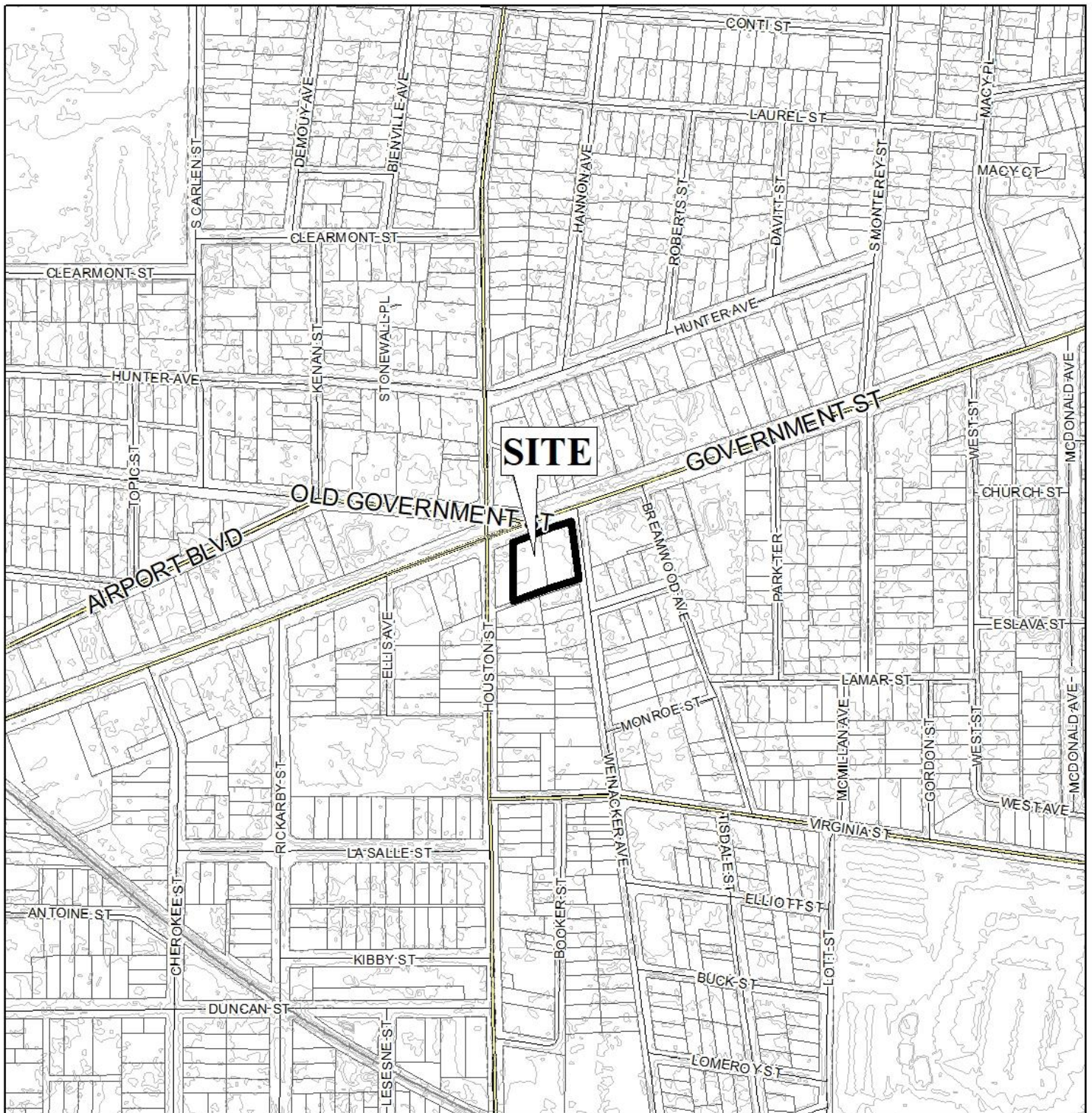


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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood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



ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6405 DATE September 13, 2021

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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units, churches, and commercial sites.

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REQUEST Use, Access/Maneuvering, and Tree Planting Variances

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 single family residential units, churches, and commercial sites.

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SITE PLAN



The site plan illustrates existing parking areas, building and alley.

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