

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

<u>CASE NUMBER</u>	6213/5720/5323/4729/4500/4429
<u>APPLICANT NAME</u>	S.O.A.P., LLC (Susan R. Carley, Agent)
<u>LOCATION</u>	351 George Street (Southeast corner of George Street and Savannah Street).
<u>VARIANCE REQUEST</u>	USE: To amend the site plan of a previously approved Use Variance to include a walk-in cooler and dumpster pad that were added since the most recent Use Variance approval in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance requires that variances are site plan-specific and any revisions to the site plan of a previously approved Use Variance must be approved via an amended Use Variance in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	0.5± Acres
<u>CITY COUNCIL DISTRICT</u>	District 2
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No comments.
<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 2015-116 and City Code Chapters 57 and 64).
<u>ANALYSIS</u>	The applicant is requesting to amend the site plan of a previously approved Use Variance to include a walk-in cooler and dumpster pad that were added since the most recent Use Variance approval in an R-1, Single-Family Residential District; the

Zoning Ordinance requires that variances are site plan-specific and any revisions to the site plan of a previously approved Use Variance must be approved via an amended Use Variance in an R-1, Single-Family Residential District.

The site has been the subject of several variances over the years. A restaurant was developed in 1998 after variances for the Use and the Parking Ratio were granted in April of that year. In 2005 the Board approved a seating expansion for the restaurant; and, in 2011 the Board approved another expansion to allow construction of a walk-in cooler. Since that time, another walk-in cooler was placed on the property to the rear of a new dumpster pad, both of which were constructed without permits. At a pre-development meeting in June, the applicant proposed the construction of a deck to accommodate outdoor seating on the site, at which time the provided site plan illustrated the additional walk-in cooler and dumpster pad. Variances are site plan-specific, therefore it was determined that amending the original variance requests to include the walk-in cooler and dumpster pad would be required before any permits to construct the proposed deck were approved. As such, the applicant is seeking approval from the Board to do so, referencing the existence of the walk-in cooler and dumpster pad prior to their purchase of the property as justification for the request:

“To Whom It May Concern:

We would like to amend the use variance for 351 George Street to illustrate additional accessory structures associated with the restaurant’s use. We purchased the restaurant in May of 2009 with a fully operational and functioning 10’ walk-in cooler that was detached from the main structure. The cooler has been used continuously over the past nine years by Cream & Sugar Café and will continue to be used by the new tenants who signed a lease in April 2018. We, as the owners of the building, are requesting the current use variance be amended to illustrate this structure.

In addition, the current dumpster pad was also not reflected previously, and needs to be included in the amended variance. It, too, has been fully operational in its current location since the building was purchased in 2009.”

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.

As mentioned, Variances are site plan-specific; therefore, if approved, any proposed changes to the site layout of the request at hand will require an application to the Board to amend the approved site plan prior to any construction activities.

The site has been given a Mixed Density Residential 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 applies mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

Mixed Density Residential areas should offer a mix of single-family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- to mid-rise, multi-family apartment buildings. The density varies between 6 and 10 dwelling units per acre, depending on the mix, types and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential areas may also incorporate compatibly scaled and sited complementary uses, such as: neighborhood retail and office uses; schools, playgrounds and parks; and, churches and other amenities that create a complete neighborhood fabric and provide safe, convenient access to daily necessities.

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.

It should also be noted that the site is within the Oakleigh Garden Historic District, therefore this request is also subject to review by the Architectural Review Board. A Certificate of Appropriateness for the walk-in cooler and dumpster pad may be required, if approved.

The site plan illustrates an existing structure that is used as a multi-tenant site, most recently occupied by a restaurant and café. A proposed deck to accommodate outdoor seating in an existing courtyard is illustrated. Additional structures illustrated on the property include an exterior walk-in cooler, a dumpster pad with two (2) dumpsters, a grease receptacle, a storage shed, and two (2) HVAC condensers. These accessory structures meet applicable setback requirements for a site in an R-1, Single-Family Residential District, but may not meet the requirements of other applicable codes and ordinances since no permits for the structures were obtained, thus no inspections were made. Of special concern is the dumpster pad, which should be connected to a sanitary sewer and meet all enclosure requirements. As such, if approved, after-the-fact permits and inspections may be required to ensure compliance with all applicable codes and ordinances and should be coordinated with the Permitting Department.

Five (5) parking spaces are illustrated, four (4) of which are surfaced in aggregate. One (1) of these spaces is illustrated as handicap accessible and is proposed to be paved in concrete. The site plan, however, is not to scale; therefore, staff cannot determine if parking meets the minimum requirements of previously approved variances, or for stall dimensions of accessible parking spaces. Also, previously approved site plans and recent aerial photographs indicate there is additional parking on site. As such, if approved, a revised plan drawn to scale and showing the entire site with all site improvements (to include on-site parking) should be required.

Regarding the applicant's statement, aerial photos indicate the walk-in cooler and dumpster pad may have existed at the time of the most recent Variance approval in 2011 and were simply not illustrated on the approved site plan. While this represents a self-imposed hardship, the site appears to comply with the previously approved Variances. However, as mentioned, a revised site plan illustrating the entire site and all site improvements (to include parking) will need to be reviewed by staff to verify such compliance. Nevertheless, given the previous Variances granted by the Board at this site, and the fact that the structures are accessory uses to the main structure, approval of the request may be appropriate.

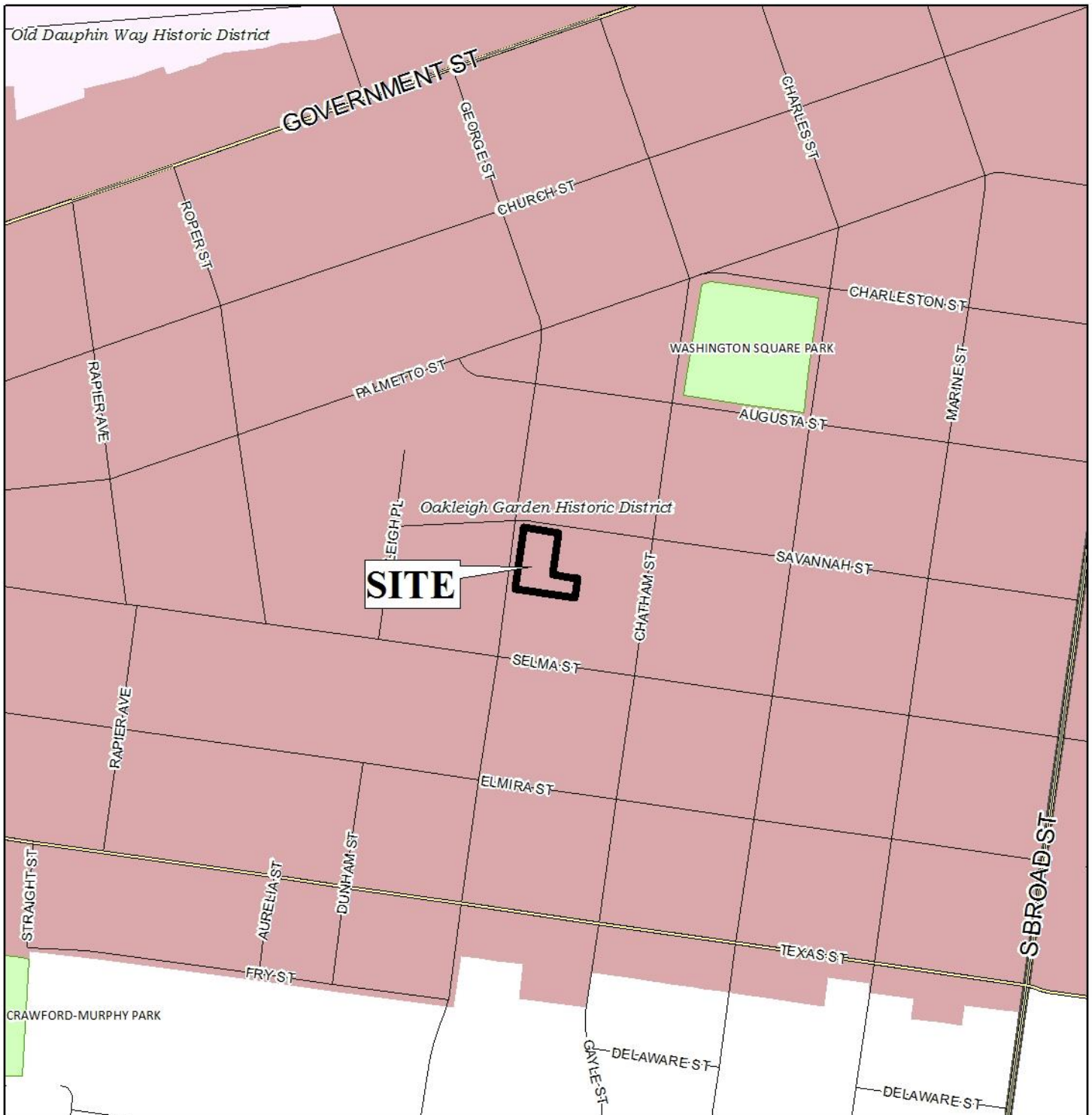
RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the Variance will not be contrary to the public interest since the structures are accessory uses to the main structure and facilitate an existing approved use of the property;
- 2) Special conditions may not exist, such as the unapproved construction/placement of the structures prior to the purchase of the property, thus indicating a self-imposed hardship, but not in such a way that a literal enforcement of the provisions of the chapter are necessary since they are accessory uses to the main structure and can meet all applicable codes and ordinances; and,
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the Variance since the site has been the subject of previous Variance approvals and no change in the approved use of the property is proposed.

The Approval is subject to the following conditions:

- 1) Provision of a revised site plan to Planning and Zoning, drawn to scale, showing the entire site and all site improvements, to include parking, prior to the approval of any permits for construction;
- 2) Attainment of after-the-fact permits and inspections for at least the walk-in cooler and dumpster pad to ensure they comply with all applicable codes and ordinances; and,
- 3) Compliance with all other applicable codes and ordinances.

LOCATOR MAP



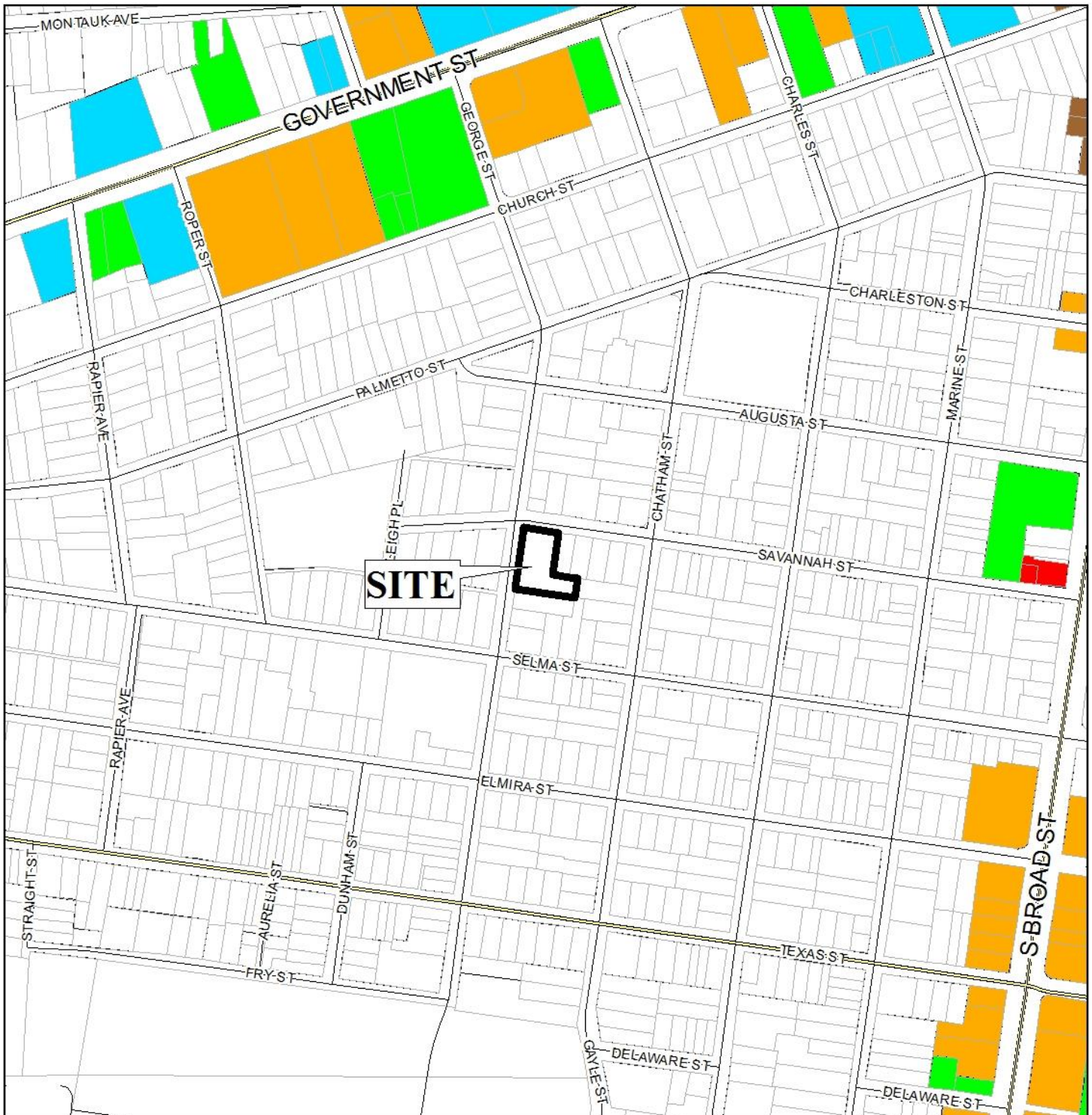
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REQUEST Use Variance



LOCATOR ZONING MAP



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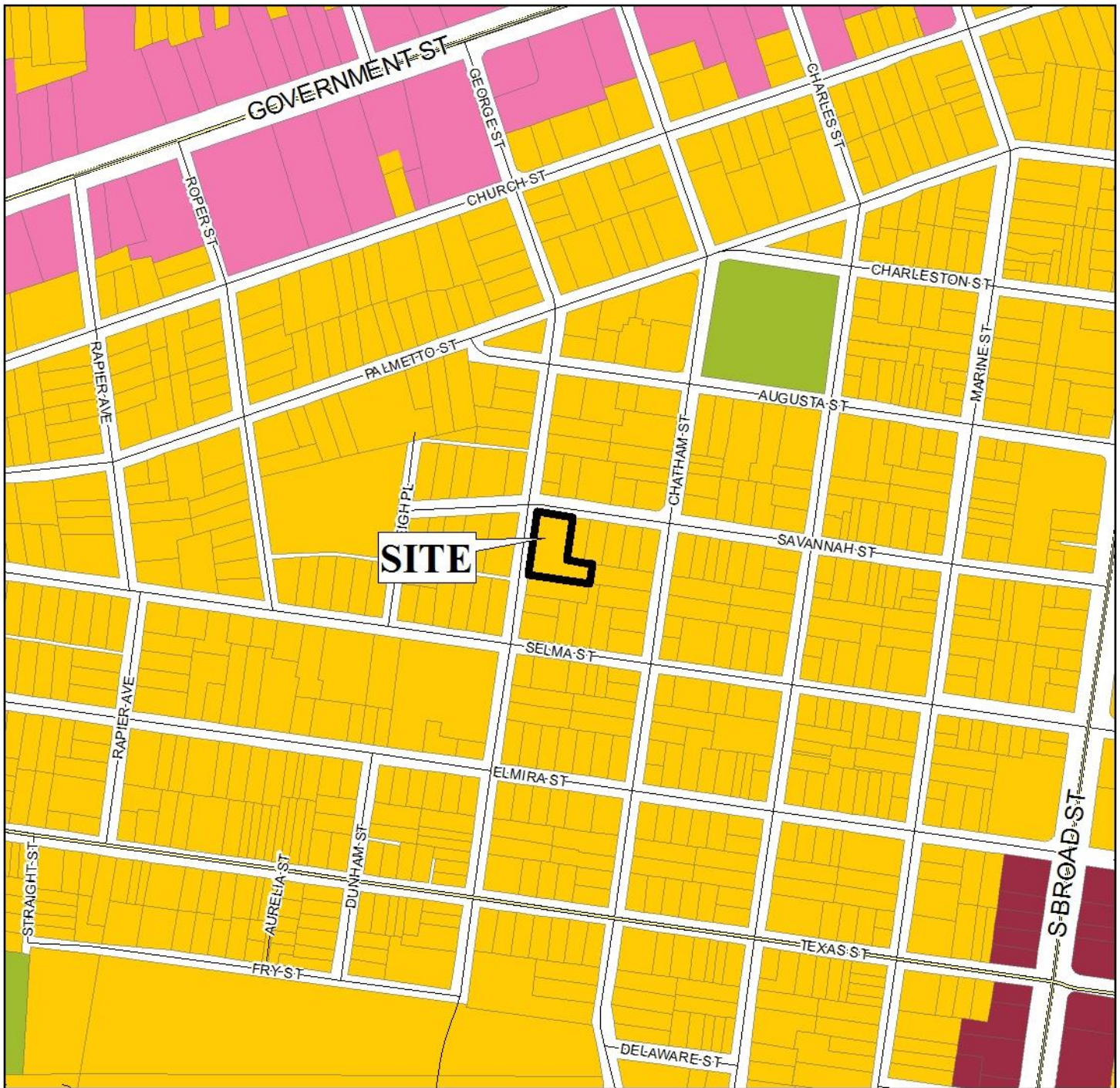
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FLUM LOCATOR MAP



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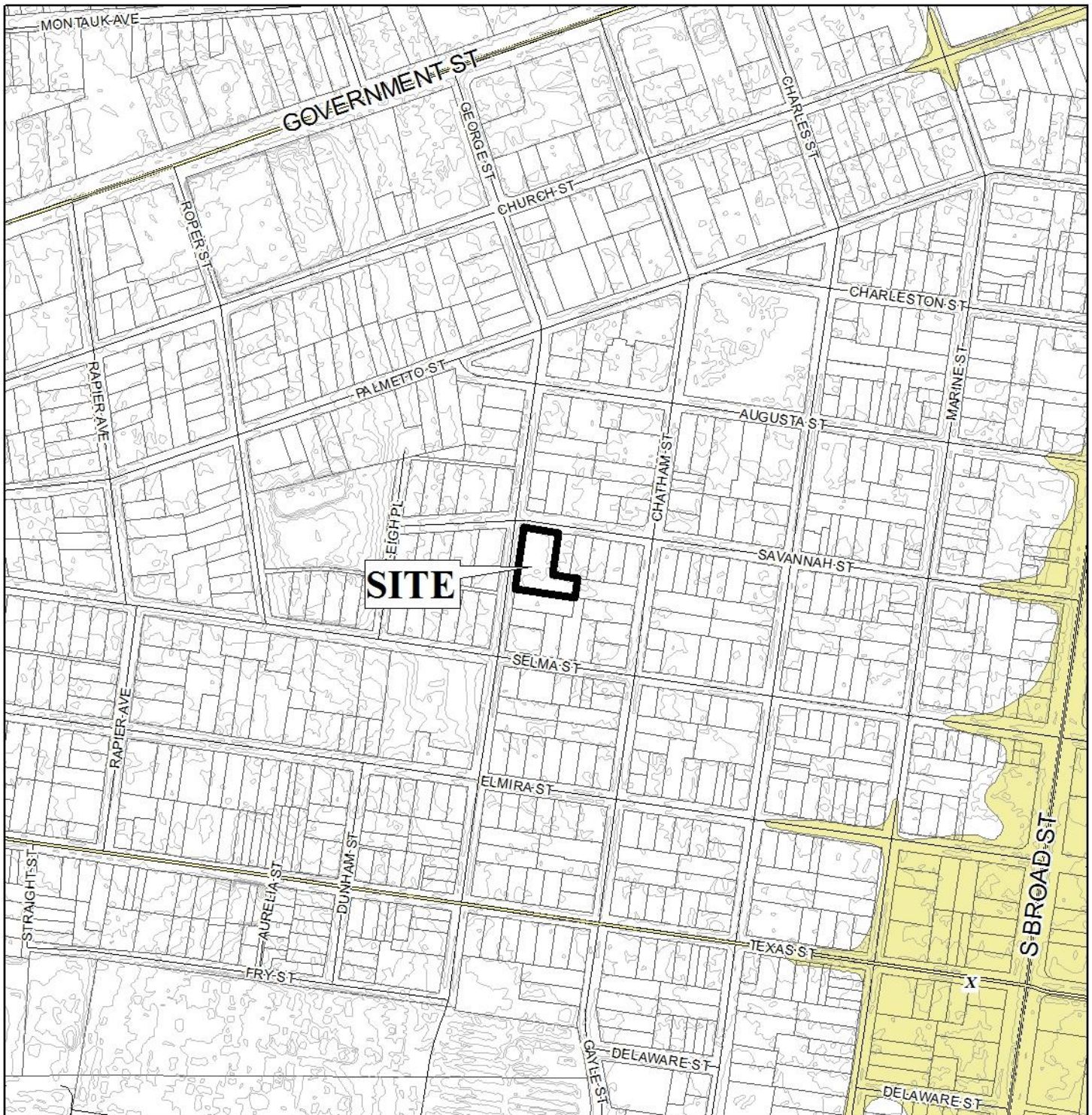
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REQUEST Use Variance

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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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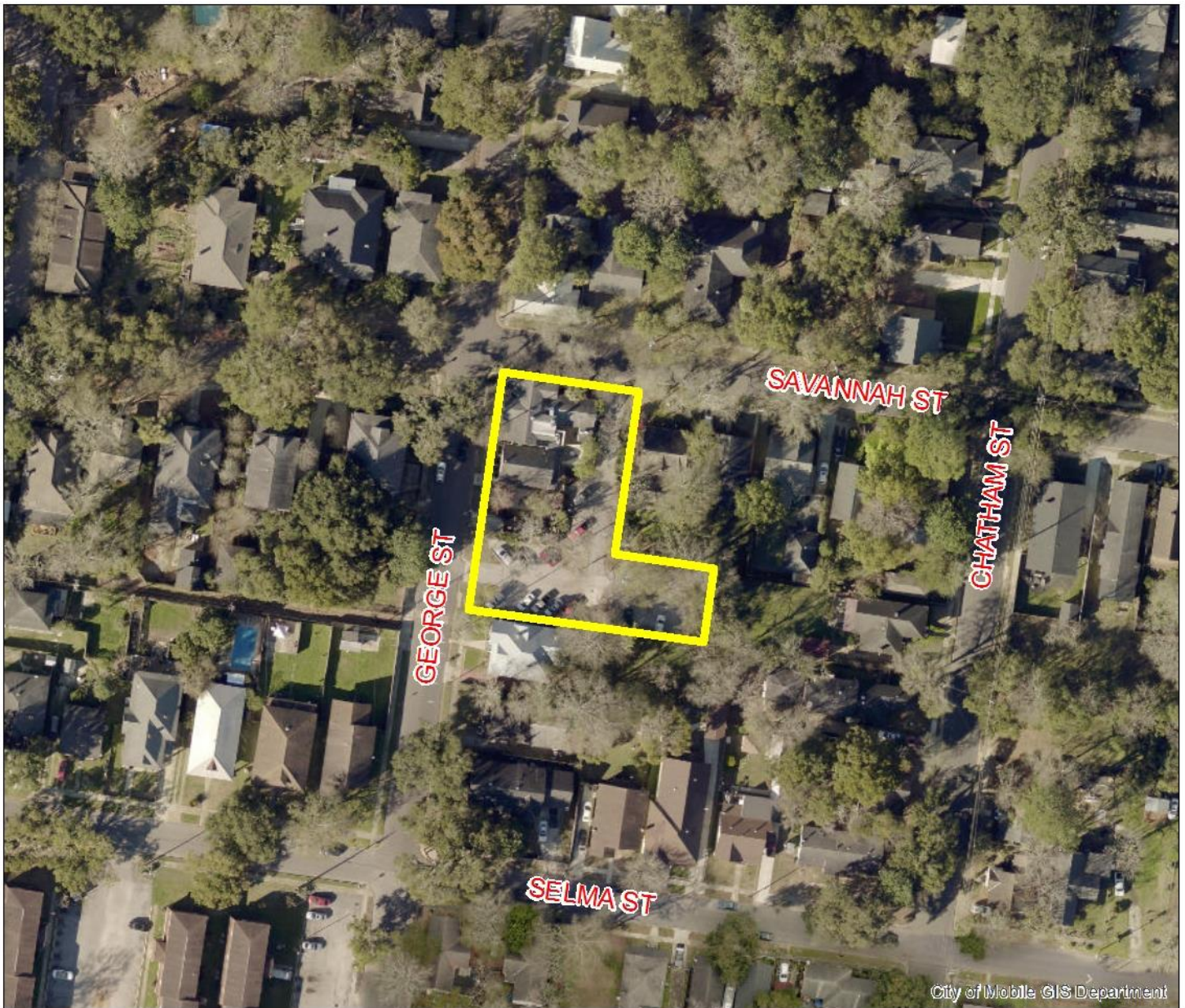
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

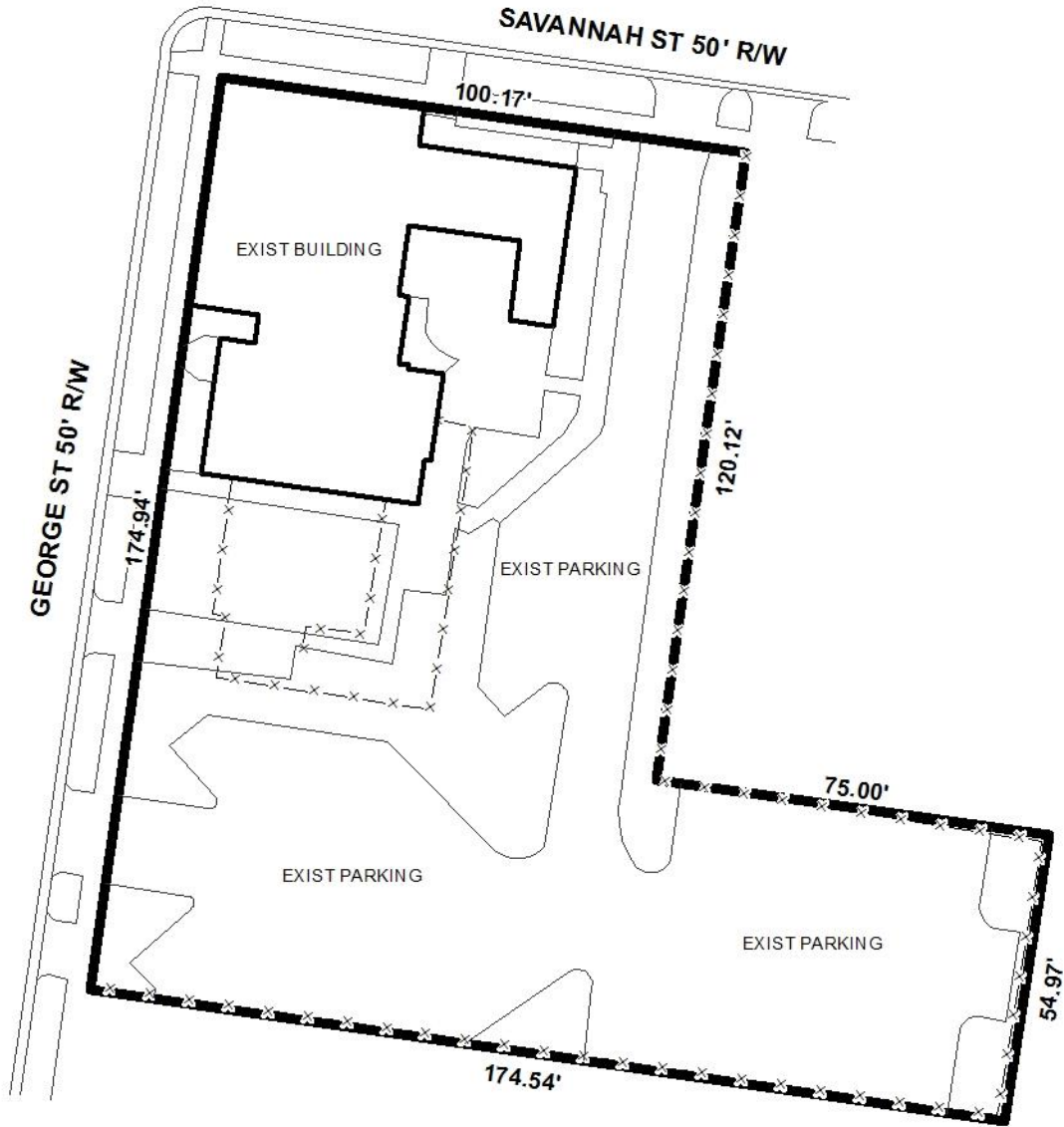


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SITE PLAN



The site plan illustrates the existing building and existing parking.

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REQUEST_____Use Variance



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