

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 9, 2023**

<u>CASE NUMBER</u>	6489/6258/4827/4826/4549/2439
<u>APPLICANT NAME</u>	Stephen M. Griffith (Gerald Byrd, Agent)
<u>LOCATION</u>	1260 and 1262 Government Street (Northeast corner of Government Street and South Ann Street).
<u>VARIANCE REQUEST</u>	USE: To allow to allow truck leasing in a B-2, Neighborhood Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance does not allow truck leasing in a B-2, Neighborhood Business District.
<u>ZONING</u>	B-1, Buffer Business District and B-2, Buffer Business District
<u>AREA OF PROPERTY</u>	1.3± Acres
<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 [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.
<u>FIRE-RESCUE DEPARTMENT 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). 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 a Use Variance to allow to allow truck leasing in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow truck leasing in a B-2, Neighborhood Business District.

The site has been given a Traditional Mixed-Use Corridor (TC) land use designation, per the 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.

The TC 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 is 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 site has obtained several variances in the past, with a setback variance granted in 1996 for the gas canopy, construction of a car wash and vacuum stations in 1999, and a sign variance to allow digital gas pricers in 2019. It should be noted that the 1999 variance approval for the car wash had the following conditions:

- 1) full compliance with the landscaping requirements of the Ordinance; and
- 2) extension of the berm across the subject lot.

The subject site currently has 1-lot Subdivision, Planned Unit Development, and Rezoning applications before the Planning Commission for consideration at the January 19th meeting. The applicant is requesting rezoning of the portion of the property that is currently zoned B-1, Buffer Business District to be B-2, Neighborhood Business District, and shared access between multiple building sites. The applicant has been utilizing the subject site for truck leasing, without zoning approval for some time, with Planning and Zoning staff first being made aware of the issue in 2018. Since that time, there have been periods where it appeared the truck leasing operation had ceased, but was brought back to staff's attention in June 2022, and the property owner was issued a Municipal Offense Ticket (MOT). The MOT is currently pending in Environmental Court, and the applicant is requesting this use variance to address the zoning violation.

The applicant states the following:

THE PURPOSE OF THIS APPLICATION IS TO ALLOW FOR A "PICKUP-DROPOFF" LOCATION FOR TRUCK RENTALS. THE RENTAL TRUCKS ARE STORED AT ANOTHER LOCATION AND ARE BROUGHT TO 1262 GOVERNMENT STREET ON THE DAY THEY ARE TO BE PICKED UP BY A CUSTOMER. THE PROCEDURE FOR THIS TRANSACTION IS: THE CUSTOMER FILLS OUT THE RENTAL AGREEMENT ONLINE WHICH STATES THE TIME AND DATE THEY NEED TO PICK UP THE TRUCK. ON THAT DAY, THE TRUCK IS MOVED TO 1262 GOVERNMENT STREET. WHEN THE CUSTOMER ARRIVES, THEY SIGN THE RENTAL AGREEMENT, SWIPES THE CREDIT CARD, AND DRIVES AWAY IN THE TRUCK. WHEN THE TRUCK IS RETURNED TO 1262 GOVERNMENT STREET IT IS TRANSPORTED BACK TO THE STORAGE AREA. THE PICKUP AND RETURN IS DURING NORMAL BUSINESS HOURS THEREFORE THIS REQUESTED USE SHOULD NOT AFFECT THE SURROUNDING PROPERTIES.

While the applicant states that the truck leasing business occurs during business hours, and therefore should not affect surrounding properties, the fact that complaints have been made for several years regarding this business operation indicates otherwise.

The site plan submitted does not include information regarding tree plantings or landscape area calculations, nor is a berm depicted, therefore it is difficult for staff to determine if the site has maintained compliance with the 1999 variance approval.

It should be noted that, while the applicant is seeking to rezone the entire property to B-2, truck leasing requires a minimum of B-3 zoning. The property is abutted to the North, by R-1, Single-Family Residential; to the East, by B-2; to the South, by R-3, Multi-Family Residential District; and to the West by B-1, Buffer Business District.

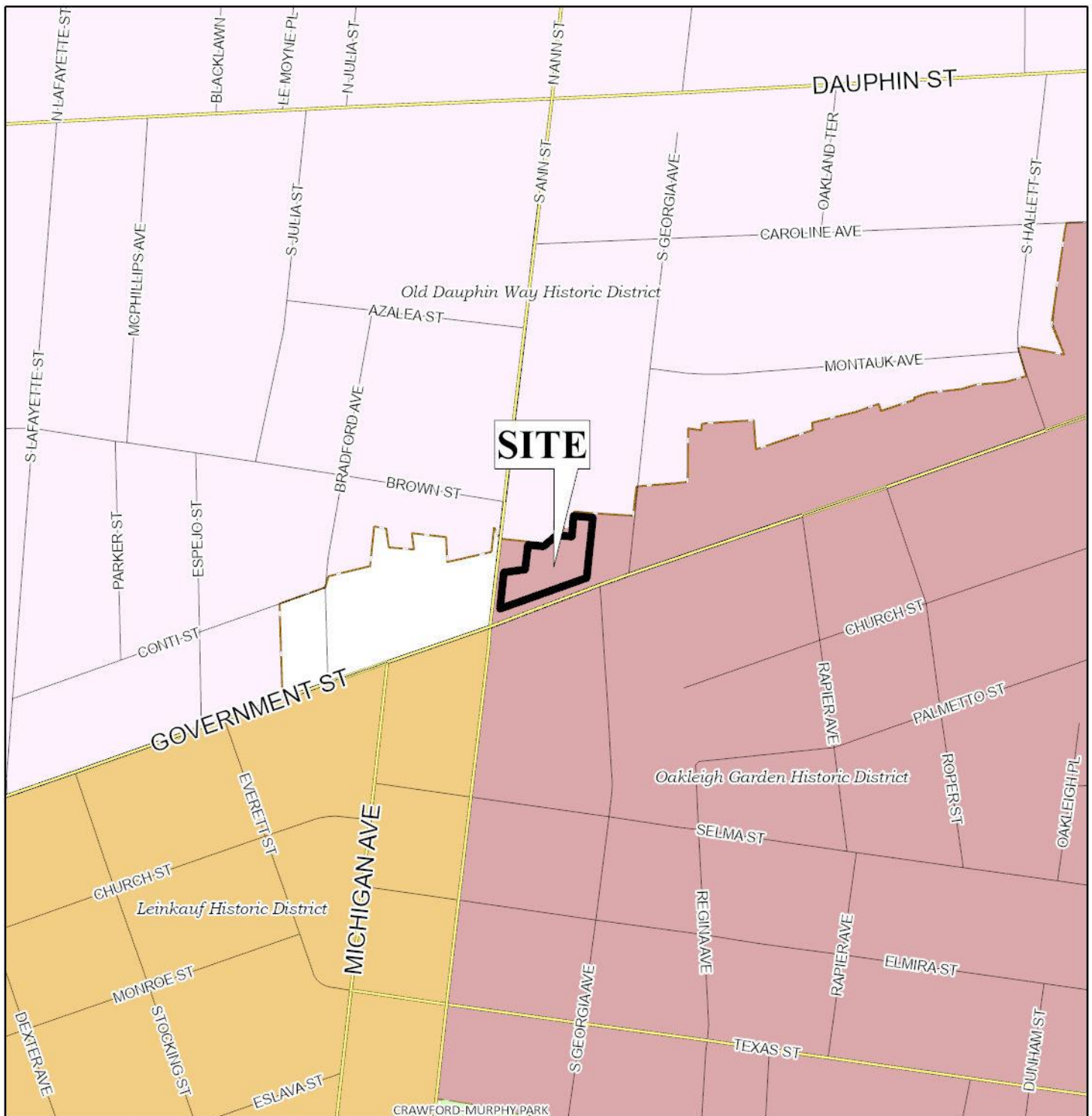
The site plan submitted, depicts a portion of the site the applicant is requesting to be exempted from providing a compliant residential buffer, however the applicant did not include a residential buffer variance on their application, nor did they make any justification or mention of the buffer in the narrative provided. As a result, the application was advertised without a residential buffer variance included, therefore the Board is unable to consider this request until it is adequately advertised.

Regarding the truck leasing, the applicant does provide any justifications for the request at hand that are a result of hardships specific to the subject property, therefore the Board should consider denying the request.

RECOMMENDATION: Based upon the application as submitted, Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance will be contrary to the public interest;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship to residents in the surrounding area in that the site is being utilized with compliant uses; 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, as there are no hardships associated with the subject site.

LOCATOR MAP



APPLICATION NUMBER 6489 DATE January 9, 2023

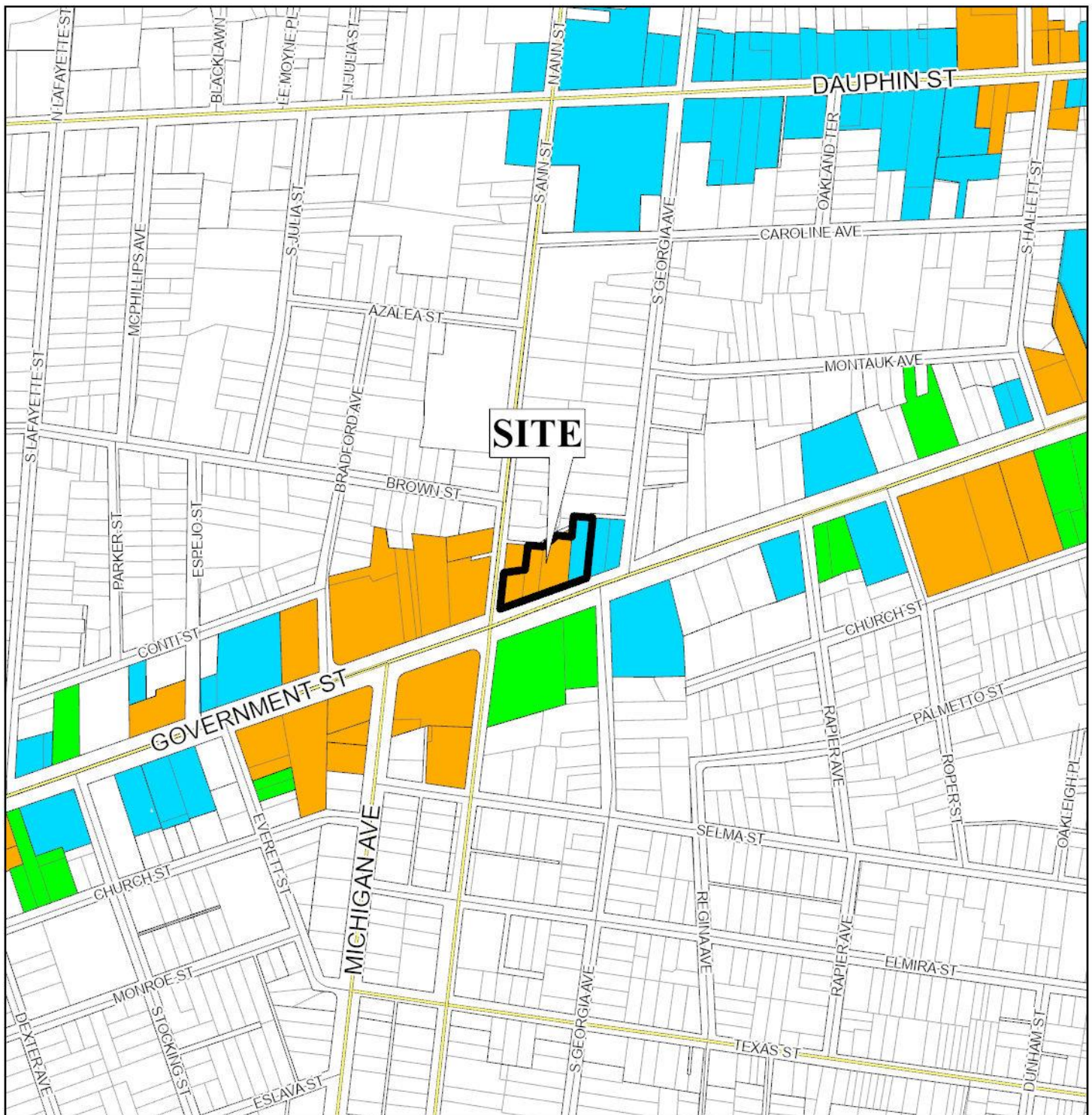
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REQUEST Use Variance



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LOCATOR ZONING MAP



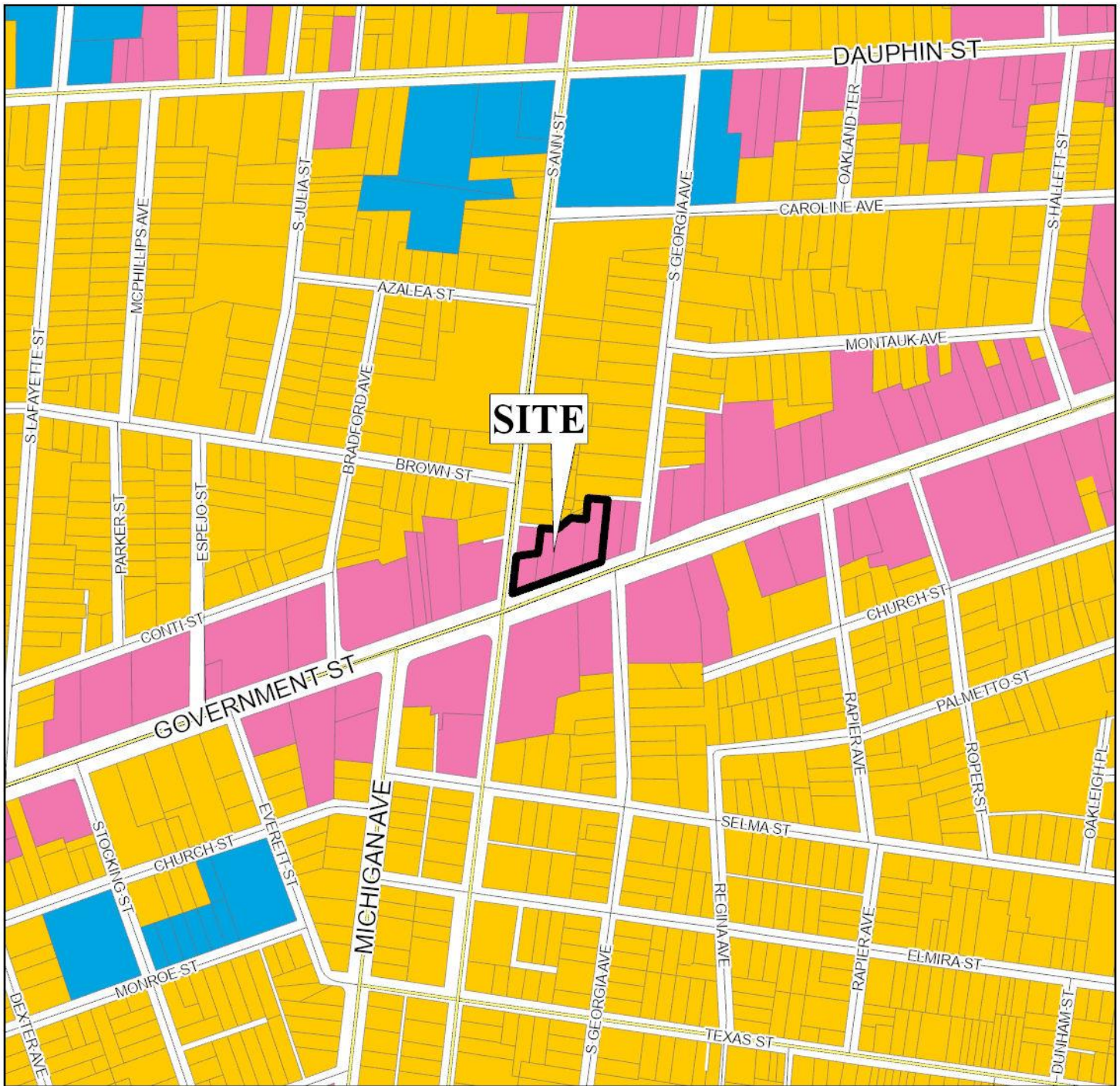
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FLUM LOCATOR MAP



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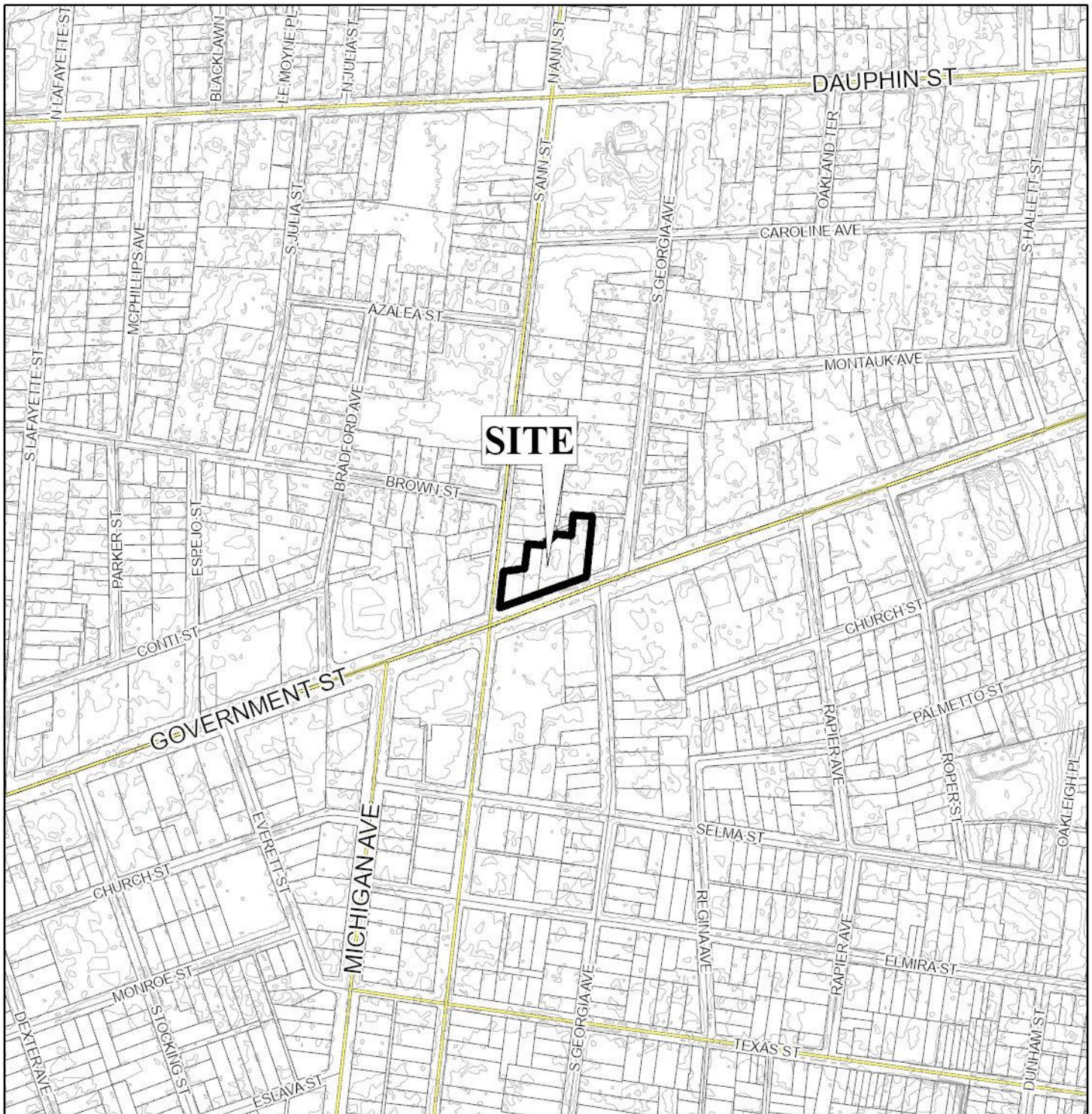
FLUM

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



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ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential 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

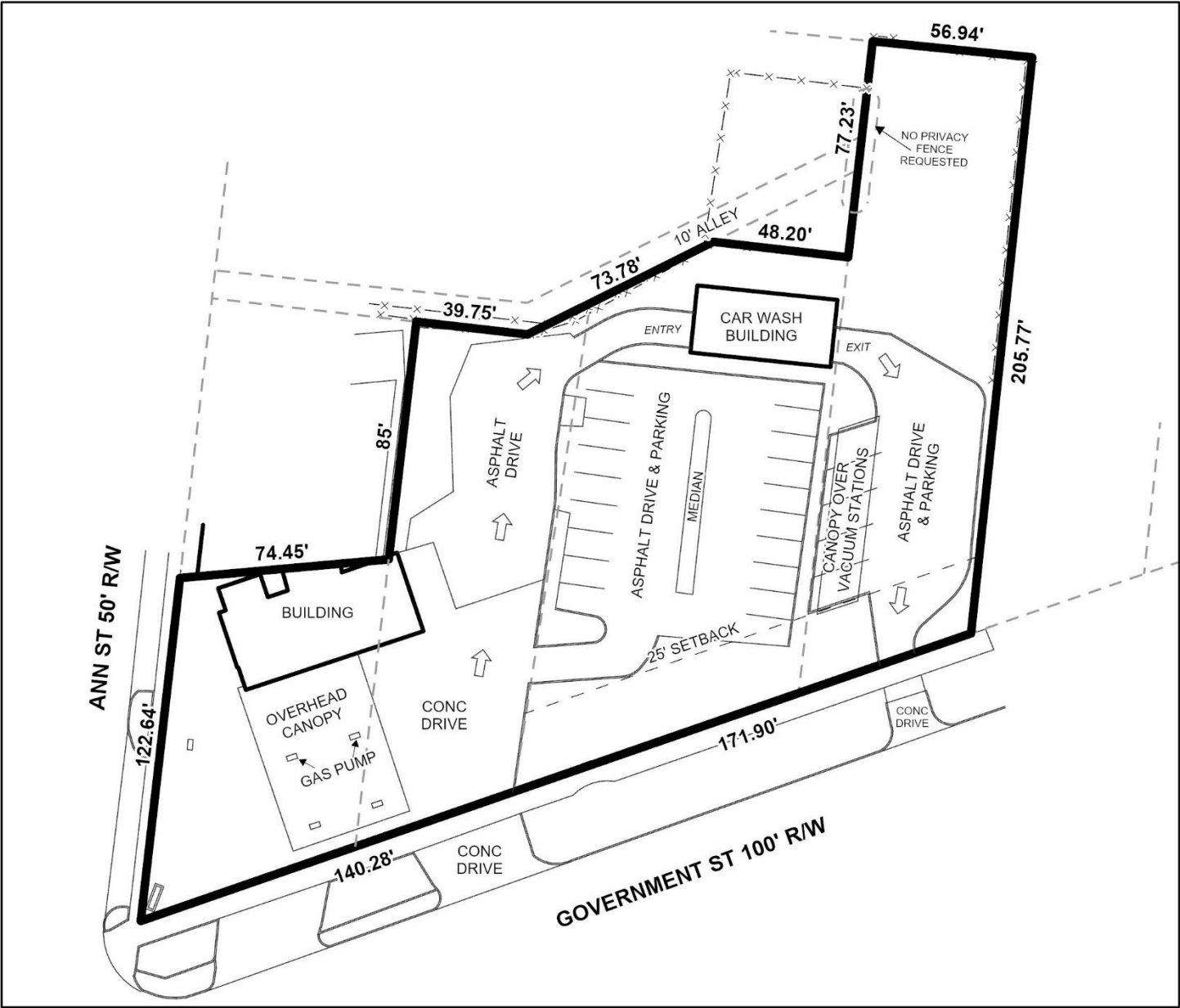


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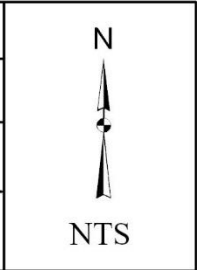
SITE PLAN



The site plan illustrates the existing buildings, parking, and setback.

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