

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 11, 2017****CASE NUMBER**

6130/5890/5740/5721

APPLICANT NAME

Hossein Mohandessi

LOCATION2667 Government Boulevard
(East side of Government Boulevard, 335'± South of
Krietner Street.)**VARIANCE REQUEST****USE VARIANCE:** Use Variance to amend a previously approved variance to allow automotive sales and service on a lot that is split-zoned B-2, Neighborhood Business District, and R-1, Single-Family Residential District.**PARKING RATIO VARIANCE:** Parking Ratio Variance to amend a previously approved variance to allow 6 parking spaces for a 1,588 square-foot office building and repair shop with one employee on a lot that is split-zoned B-2, Neighborhood Business District, and R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****USE VARIANCE:** The Zoning Ordinance does not allow automotive sales and service in either B-2, Neighborhood Business Districts, or R-1, Single-Family Residential Districts**PARKING RATIO VARIANCE:** The Zoning Ordinance requires 7 parking spaces are required for a 1,588 square-foot office building and repair shop with one employee.**ZONING**

B-2, Neighborhood Business District and R-1, Single Family Residential

AREA OF PROPERTY

13, 815 square feet

ENGINEERING**COMMENTS****USE VARIANCE:** NO COMMENT.**PARKING RATIO VARIANCE:** NO COMMENT.

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 (State Act 2015-116 and City Code Chapters 57 and 64).

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). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code (2012 IFC).

CITY COUNCIL
DISTRICT

District 5

ANALYSIS

The applicant is requesting Use and Parking Variances to amend a previously approved variance to allow automotive sales and service with 6 parking spaces for a 1,588 square-foot office building and repair shop with one employee on a lot that is split-zoned B-2, Neighborhood Business District, and R-1, Single-Family Residential District; the Zoning Ordinance does not allow automotive sales and service in either B-2, Neighborhood Business Districts, or R-1, Single-Family Residential Districts, and 7 parking spaces are required for a 1,588 square-foot office building and repair shop with one employee.

The application at hand is necessary, in part, because the previously approved variance expired before business licenses or other permits were obtained.

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:

There is an existing building and parking lot which has historically been utilized for automotive related businesses. The proposed use is an automotive sales facility. The continuing B-3 nonconforming use was established by the last tenant. Considering the character of the Highway 90 frontage, automotive sales (B-3 to the East and a nightclub to the West), it seems logical that a B-3 variance should be granted to this parcel.

The property is to be used primarily for the automobiles for sale. The office is quite a bit larger than necessary for automotive sales. The request for a parking variance is based on the fact that there will only be three employees (two salesmen and one mechanic) at all times.

The Board of Zoning Adjustment approved a use variance at its April 7, 2014 meeting to allow automotive sales in an R-1, Single Family District and B-2, Neighborhood Business District, as well as a parking ratio variance to allow two (2) employee spaces for a 1,588 square-foot building. The request was approved on the conditions that the site plan be revised to illustrate a fence at the rear of the property, that “no parking” signs be placed in that asphalt right-of-way area to remain and to be coordinated with ALDOT, the placement of a note on the site plan stating the site is limited to seven (7) cars for sale on display at one time, and that two (2) revised site plans be submitted to the Urban Development Department prior to the issuance of any permits or business licenses. Prior to this, at its April 2, 2012 meeting, the Board of Zoning Adjustment approved a use variance to allow an automobile repair business on a lot split-zoned between B-2, Neighborhood Business and R-1, Single-Family Residential with no tree plantings and reduced landscaped area per the condition that a privacy fence be installed along the rear property line and that the development comply with all other municipal codes and ordinances; however, the project never came to fruition. Initially, the Board of Zoning Adjustment, at its November 7, 2011 meeting, denied the applicant’s request for a use variance to allow an automotive detail shop and body shop in an R-1, Single-Family District and B-2, Neighborhood Business District.

The subject site had a legal non-conforming status that allowed B-3, Community Business District uses from 1957 to 2008. During this time, the site was occupied by a heating and air conditioning fabrication and service business, an automotive rental service, and an automotive detail and body shop. In 2008, a business license was issued at this location for an automobile accessories store, and in 2010, a business license was issued for a tire sales and installation service; both are B-2, Neighborhood Business District uses. The applicant is correct in that the property has “historically been utilized for automotive-related businesses”; however, with the property being occupied by B-2, Neighborhood Business District uses for a period of four years, the legal non-conforming status has since been lost.

It should be pointed out that the site is currently split-zoned. The site was previously zoned B-2, Neighborhood Business District until it illegally incorporated an adjacent strip of land to the East which is zoned R-1, Single Family Residential.

It should be mentioned that the applicant is correct in that there is an automotive sales business to the North of the subject site; however, this site received a variance in 1967 to allow the automotive sales use. Additionally, the night club that is located to the South of the subject site, is a use that is allowed by right in a B-2, Neighborhood Business District.

In addition to seeking a use variance, the applicant is also seeking a parking ratio variance to amend a previously approved variance to allow six (6) parking spaces for a 1,588 square-foot office building and repair shop with one employee on a lot that is split-zoned B-2, Neighborhood Business District, and R-1, Single-Family Residential District. According to Section 64-6 of the Zoning Ordinance, an office/warehouse use requires one (1) space per three hundred (300) square feet of gross floor area devoted to office or commercial uses; plus one (1) space per (3) warehouse employees. The office area is 1,588 square feet, which will require six (6) onsite parking spaces dedicated to the office use. Additionally, per the applicant's narrative and provided site plan, the business will include two (2) salespersons and one (1) mechanic for the proposed automotive sales and service business, which will require one (1) employee parking space. The applicant purports that seven (7) parking spaces would be needed for vehicle inventory. Currently, the applicant has a deficit of one (1) parking space.

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

- 1) Granting the variance will be contrary to the public interest in that the site is currently occupied by an automotive repair shop, which is a B-3, Community Business District use;
- 2) Special conditions such as the site is unusable as a conforming, B-2, Neighborhood Business District use, do exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because of the precedent set in the granting of variances for B-3, Community Business District uses on the subject property, as well as an adjacent property.

The approval is subject to the following conditions:

- 1) Retention of the 6' high privacy fence at the rear of the property on the site plan;
- 2) If asphalt in the right-of-way is to remain, placement of "no parking" signs in the area, to be coordinated and approved by ALDOT;
- 3) Placement of a note on the site plan stating that the site is limited to seven (7) cars for sale on display at a time;
- 4) Submittal of two (2) revised site plans to the Planning and Zoning counter prior to the issuance of any permits or business licenses.

LOCATOR MAP



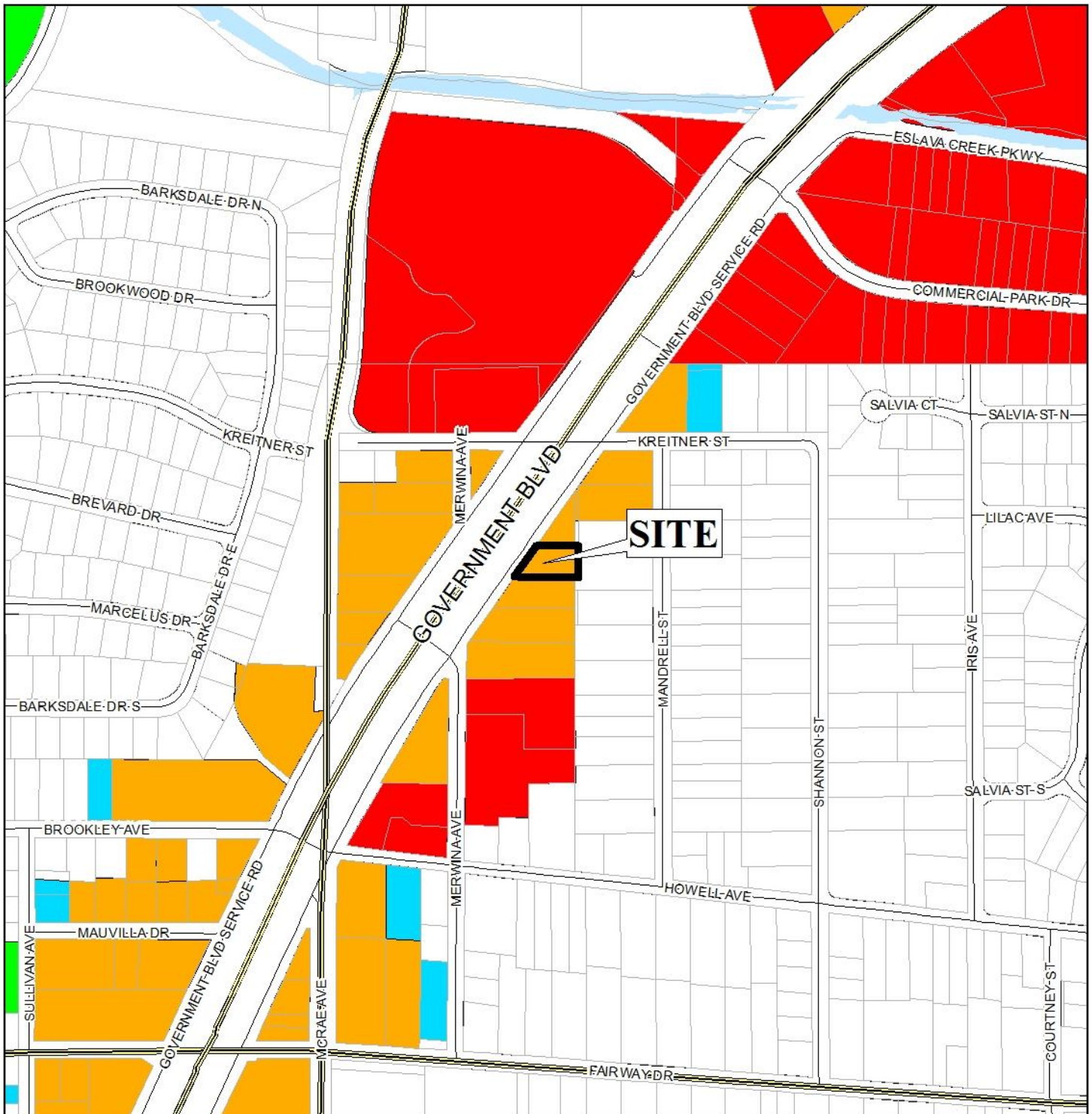
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APPLICANT Hossein Mohandessi

REQUEST Use and Parking Ratio Variances



LOCATOR ZONING MAP



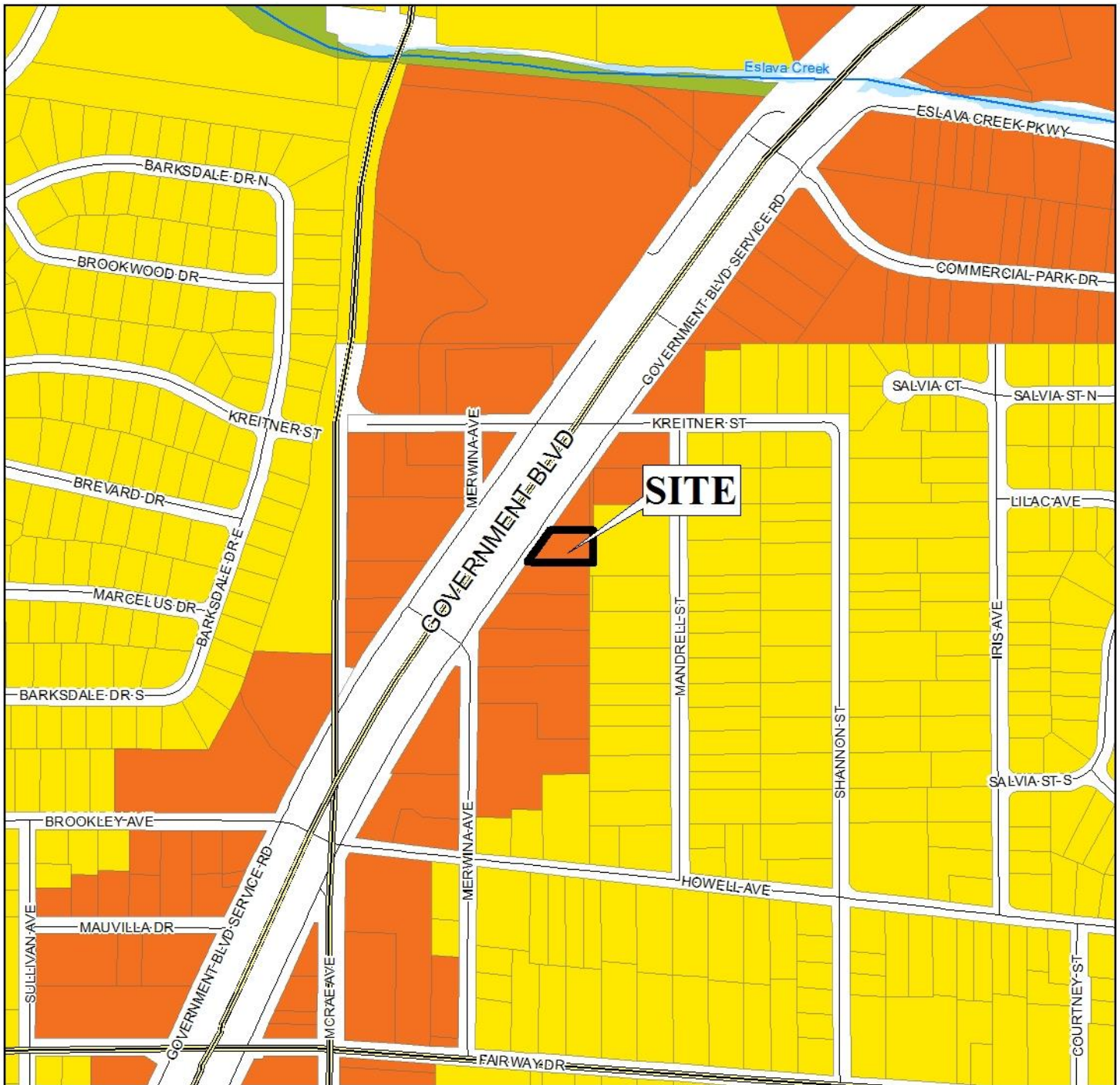
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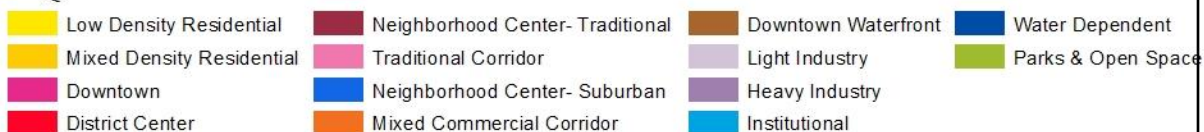
FLUM LOCATOR MAP



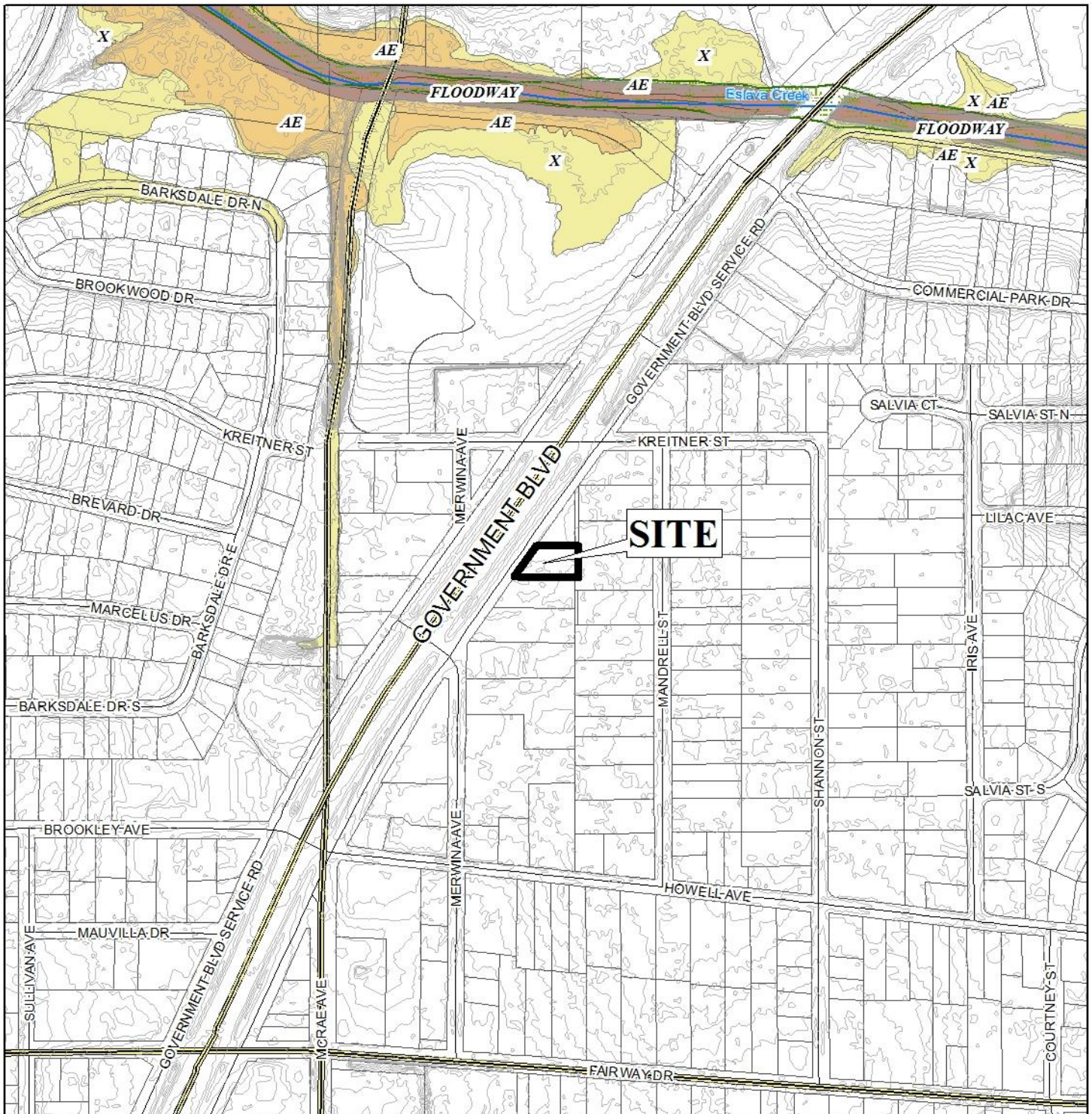
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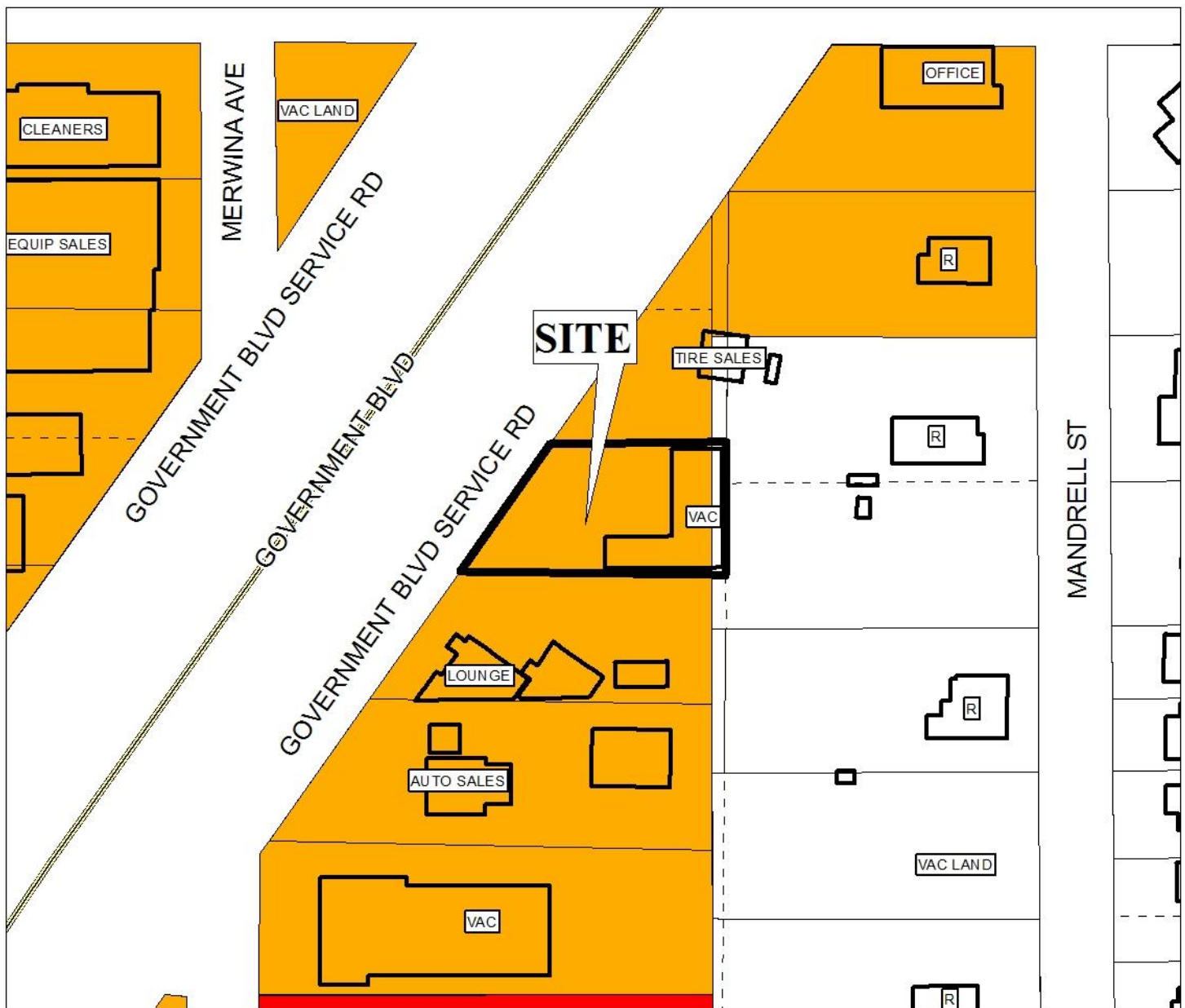
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the south and west, and residential units to the east.

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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

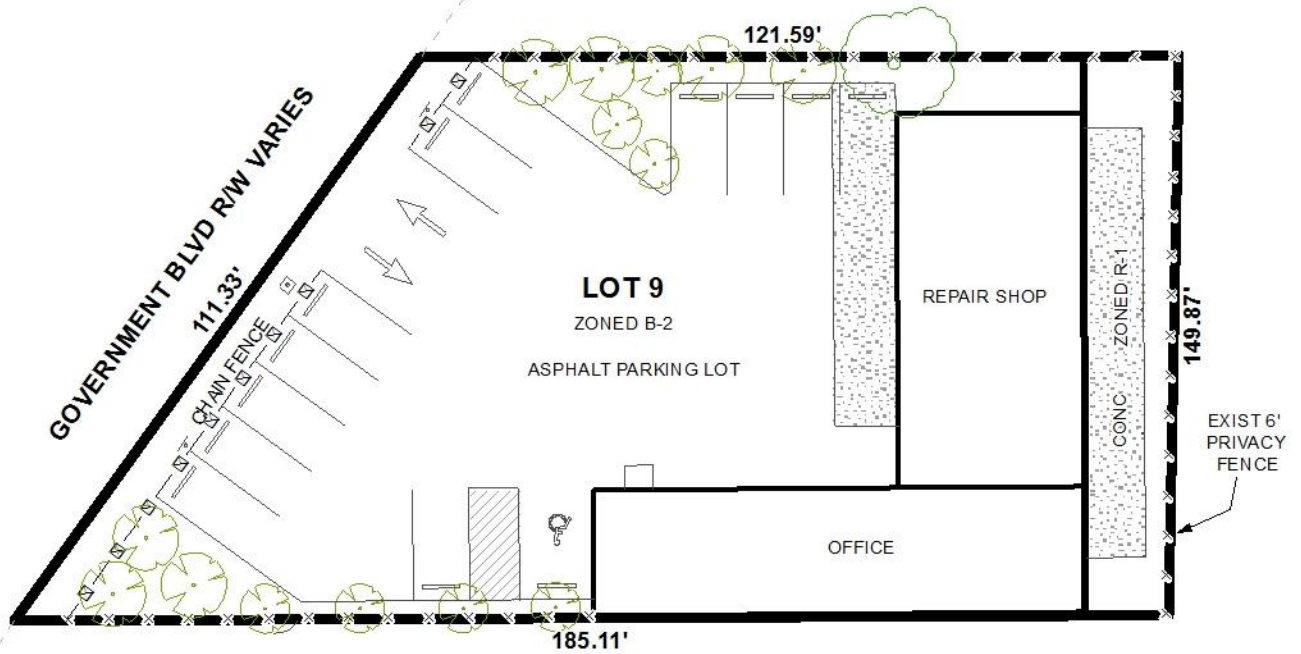


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SITE PLAN



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

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