

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: March 11, 2019**

<b><u>CASE NUMBER</u></b>	6242
<b><u>APPLICANT NAME</u></b>	Paula Gushard
<b><u>LOCATION</u></b>	4401 Birchwood Drive East (East side of Birchwood Drive East at the East terminus of Hillandale Drive.)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a mobile home as an accessory dwelling in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance does not allow mobile homes in an R-1, Single-Family Residential District.
<b><u>ZONING</u></b>	R-1, Single-Family Residential
<b><u>AREA OF PROPERTY</u></b>	0.4± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 4
<b><u>ENGINEERING COMMENTS</u></b>	No Comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	This request was not reviewed by Traffic Engineering.
<b><u>URBAN FORESTRY COMMENTS</u></b>	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.
<b><u>FIRE COMMENTS</u></b>	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 a Use Variance to allow a mobile home as an accessory dwelling in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow mobile homes in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) 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 designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semidetached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

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.

Variations 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:

*I Paula Gushard have placed an ADU/ manufactured home, 436 sq. ft. on Amanda and William Webb's property at 4401 E. Birchwood Dr. Mobile, AL 36693.*

*This ADU is for me to live in. I am Amanda Webb's mother. I have health issues and the kids wanted me near them to keep an eye on me and to be around my grandchildren. So, when I paid my house off in Huntsville, AL. I sold it and moved down here to Mobile. Prior to me moving and even after I moved, her, and I researched tiny homes and requirements to place one on said property. I called and spoke to people at the zoning office. I feel that I complied with all I was told. When I got my permit, it states on the permit manufactured home. I cannot keep living in my daughter's home. I have a home sitting right outside the door that I can't live in until this is over. I spent all my money on it so I can't afford to move it.*

*So please take into consideration what I have told you and allow me to keep it here.*

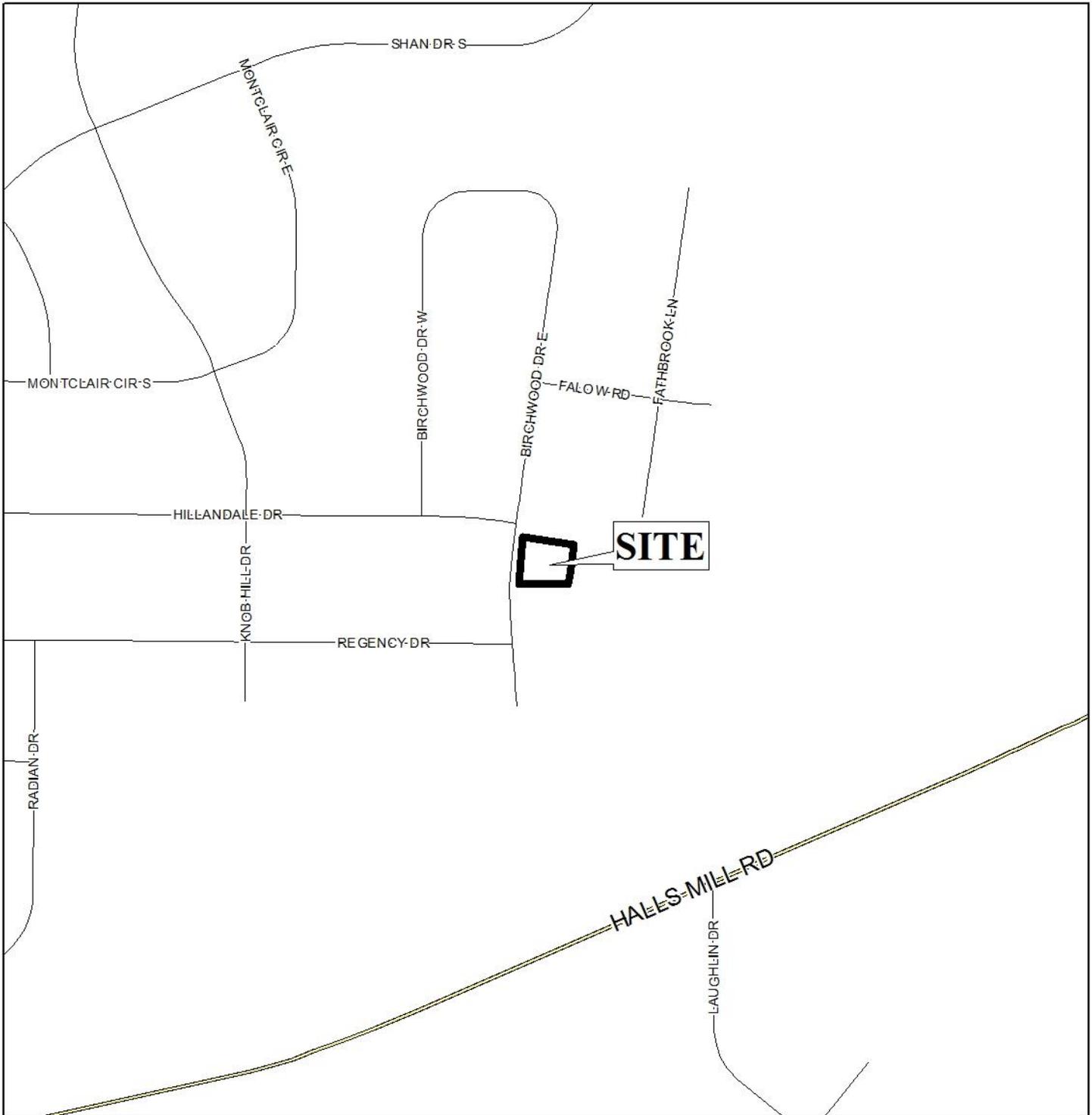
Mobile homes generally require Planning Approval from the Planning Commission to be used as a primary residence in an R-1, Single-Family Residential District, however it should be noted that the subject site already has a compliant primary dwelling, and the mobile home does not have a full kitchen (although it should be noted that a stove vent, hood, and outlet are in place), making it an accessory dwelling unit, rather than a second dwelling on the site. If the same type of structure was built on a foundation, and not certified by the U.S. Department of Housing and Urban Development and inspected by the Alabama Manufactured Housing Commission, it would be allowed without the need for a variance.

A permit was issued for the structure to be placed on the site in December 2018, where it was described as a modular home. It was not until an electrical inspection was conducted that staff was made aware that the structure was a manufactured home; necessitating the subject request. Additionally, it was determined that the structure does meet setbacks and site coverage allowances for the site.

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

- 1) granting the Variance will be contrary to the public interest;
- 2) special conditions with the site or unusual site constraints do not exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as an accessory dwelling unit could be built without the need for a variance;
- 3) the spirit of the chapter shall not be observed and substantial justice not done to the surrounding area by granting the variance.

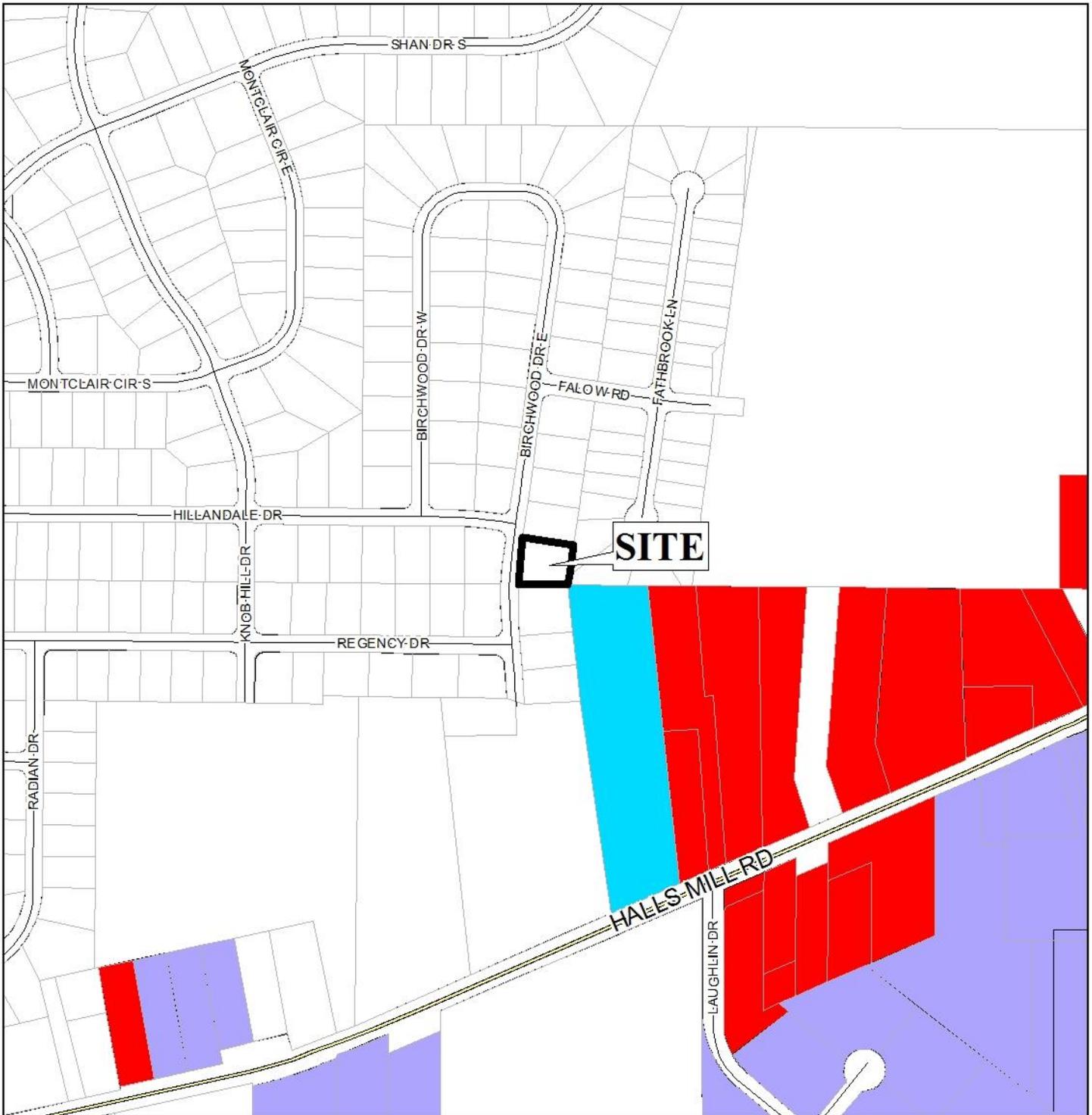
# LOCATOR MAP



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REQUEST	Use Variance		



# LOCATOR ZONING MAP



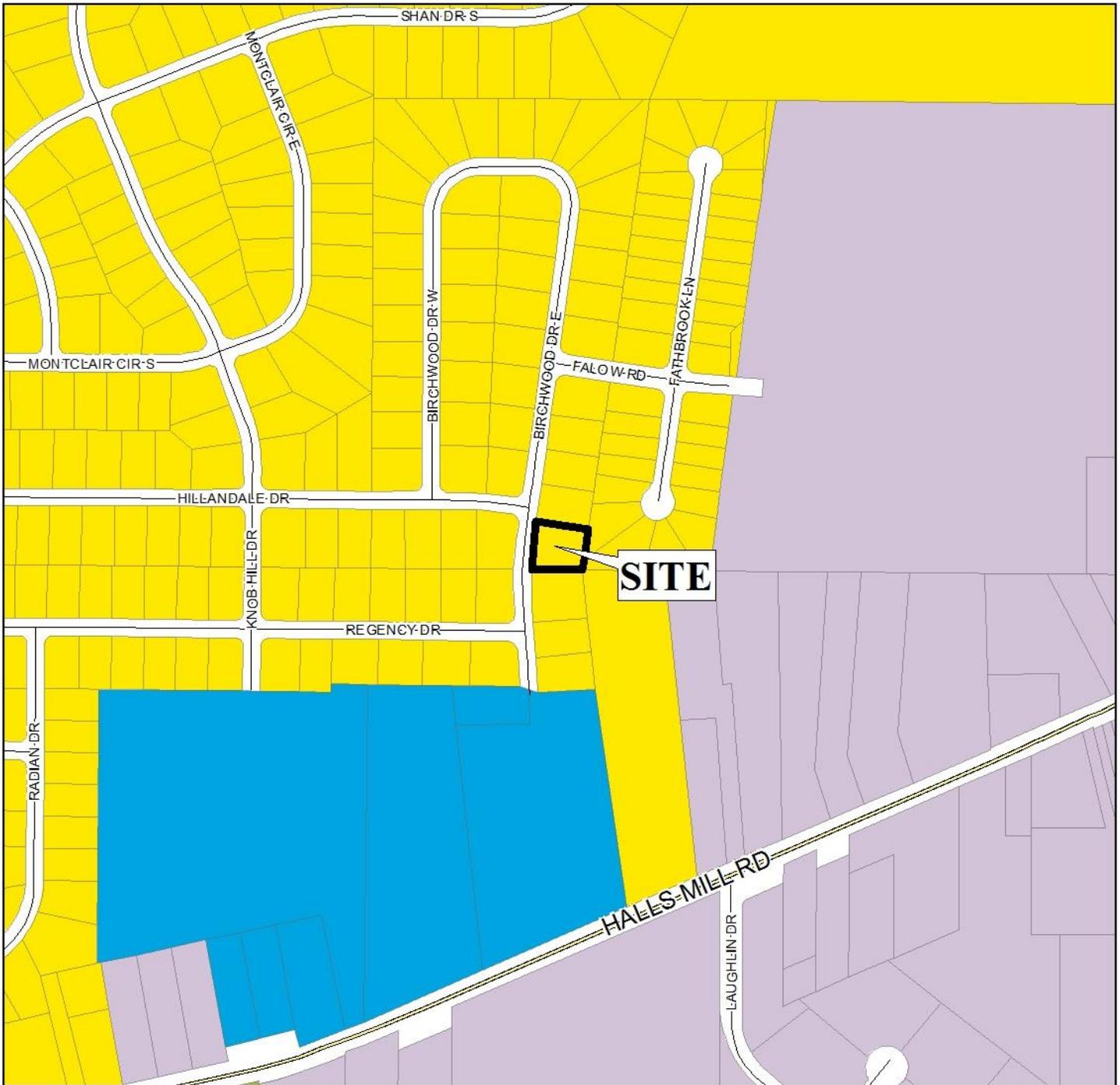
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REQUEST Use Variance



# FLUM LOCATOR MAP



APPLICATION NUMBER 6242 DATE March 11, 2019

APPLICANT Paula Gushard

REQUEST Use Variance

- |  |   |  |   |
|--|---|--|---|
| <span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black;"></span> Low Density Residential   | <span style="display: inline-block; width: 15px; height: 10px; background-color: darkred; border: 1px solid black;"></span> Neighborhood Center - Traditional | <span style="display: inline-block; width: 15px; height: 10px; background-color: brown; border: 1px solid black;"></span> Downtown Waterfront  | <span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black;"></span> Parks & Open Space |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Mixed Density Residential | <span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black;"></span> Neighborhood Center - Suburban       | <span style="display: inline-block; width: 15px; height: 10px; background-color: lightpurple; border: 1px solid black;"></span> Light Industry | <span style="display: inline-block; width: 15px; height: 10px; background-color: darkblue; border: 1px solid black;"></span> Water Dependent      |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black;"></span> Downtown                    | <span style="display: inline-block; width: 15px; height: 10px; background-color: lightpink; border: 1px solid black;"></span> Traditional Corridor            | <span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black;"></span> Heavy Industry      |   |
| <span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black;"></span> District Center              | <span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black;"></span> Mixed Commercial Corridor          | <span style="display: inline-block; width: 15px; height: 10px; background-color: cyan; border: 1px solid black;"></span> Institutional         |   |



NTS

# ENVIRONMENTAL LOCATOR MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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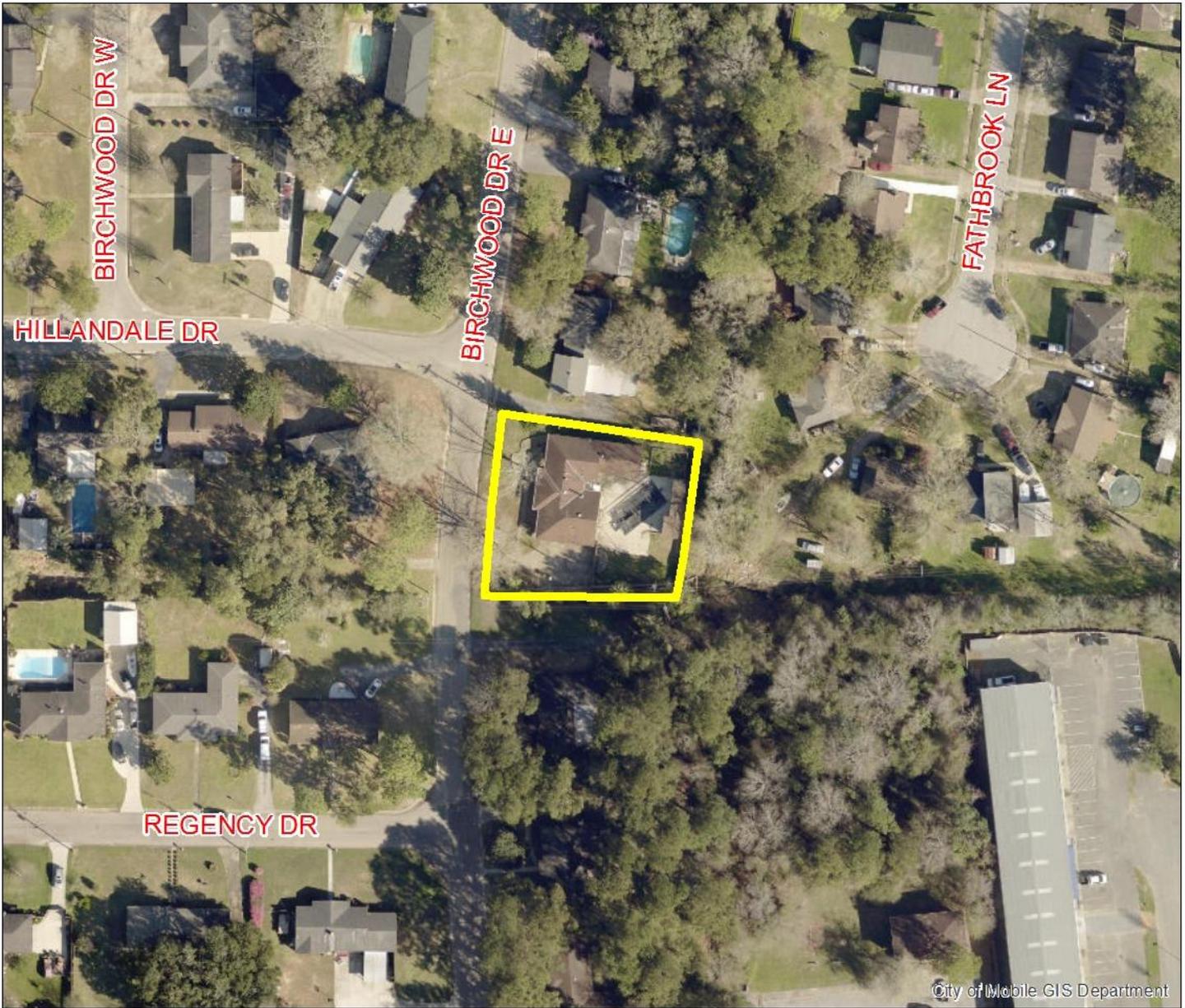
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REQUEST Use Variance

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



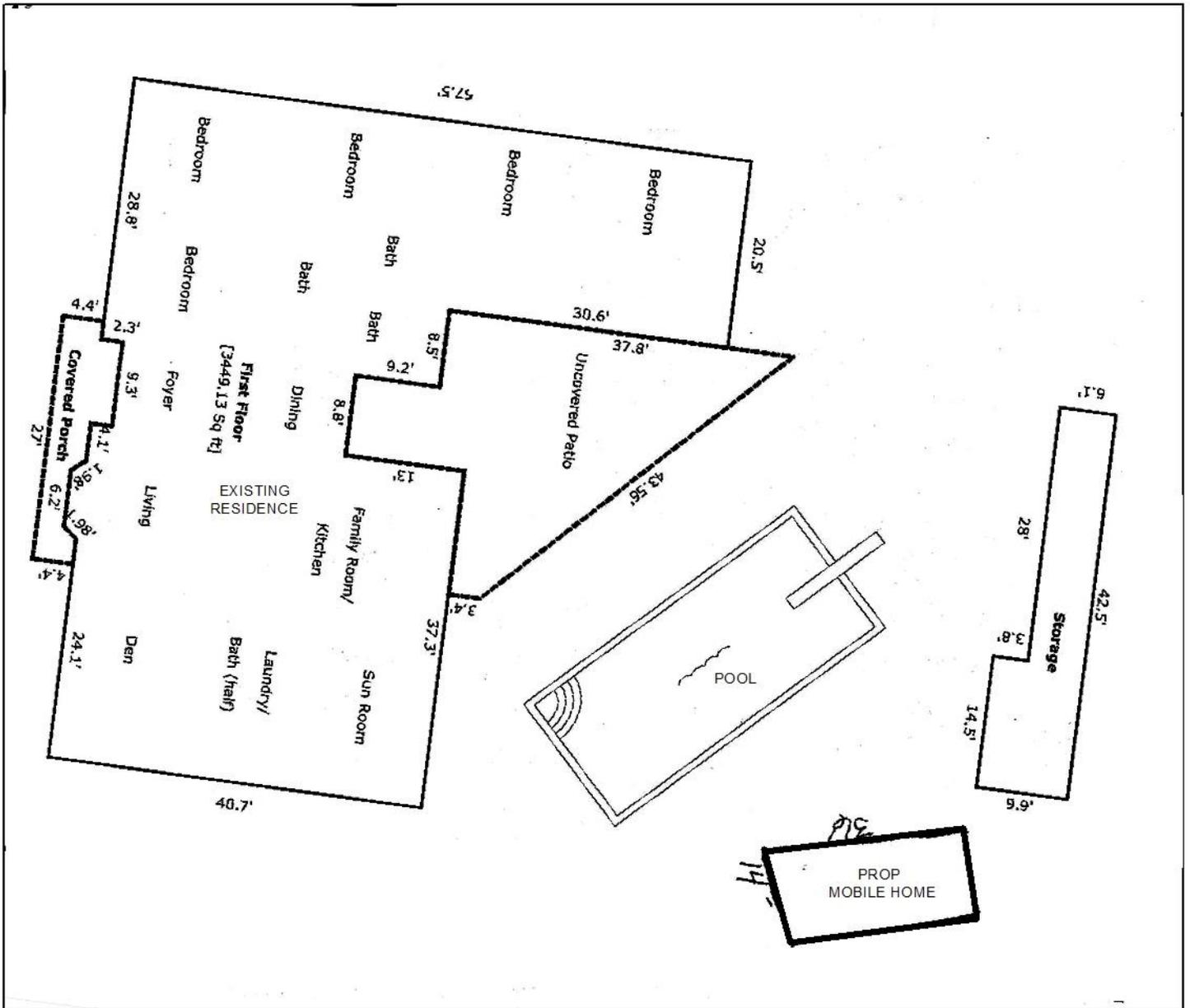
City of Mobile GIS Department

The site is surrounded by single family residential units.

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# SITE PLAN



The site plan illustrates the existing residence, pool, and proposed mobile home.

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