

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: November 2, 2020

CASE NUMBER 6352/3495/3337/2354/1697

APPLICANT NAME Selwonk Enterprises

LOCATION 366 Burton Avenue
(Southeast corner of Nall Street and Burton Avenue).

VARIANCE REQUEST **USE:** Use Variance to allow a duplex on a single lot in an R-1, Single-Family Residential District;

ZONING ORDINANCE REQUIREMENT **USE:** The Zoning Ordinance limits the number of dwelling units to a maximum of one (1) per lot in an R-1, Single-Family Residential District.

ZONING R-1, Single-Family Residential

AREA OF PROPERTY 0.2± Acre

ENGINEERING COMMENTS No comments.

TRAFFIC ENGINEERING COMMENTS Access to the site should be limited to the existing curb cut on Nall Street. Any changes to the size, location or design of the driveway must be approved by Traffic Engineering and confirm to AASHTO standards.

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). 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.

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)

CITY COUNCIL
DISTRICT

District 1

ANALYSIS

The applicant is requesting a Use Variance to allow a duplex on a single lot in an R-1, Single-Family Residential District; the Zoning Ordinance limits the number of dwelling units to a maximum of one (1) per lot in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) 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 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.

These residential areas should offer a mix of single-family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- and mid-rise multifamily 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 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 and 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.

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:

The reason for zoning variance of the referenced properties is:

366 Burton Ave: The current zoning for the parcel is R-1. The present owner would like to use the existing building as a duplex. Based on historical review of this property it was granted variances for this type of uses: 1963 – beauty shop, 1969 – laundry mat, 1978 – commercial shop. We are requesting a variance to allow the building to be utilized as a duplex. A duplex in this area would be better suited to the R-1 zoning than what has existed in the past. The existing site layout will not be changed.

The site has been the subject of three previous Use Variances, starting in 1963 with an approval to allow the construction of a beauty shop in an R-1 district. In 1969, that variance was amended to allow the building to be used as a laundry-mat. In 1978, another amended variance allowed the site to be used as an electrical contractor's shop. And in 1979, a Side Yard Setback Variance allowed for an addition to within two feet of the side property line. Past building permit history indicates that the site has also briefly been used as a single-family residence. The applicant proposes to use the site as a residential duplex. A building permit application was denied in July 2020 for the proposed conversion, hence this request.

According to plans submitted with the building permit, the applicant proposes to add a second story over proposed Unit B, but no footprint expansion of the existing structure is proposed. Site area is calculated to be approximately 8,250 square feet, which exceeds the Zoning Ordinance minimum requirement of 8,000 square feet for a two-family dwelling.

The subject site is surrounded by R-1 zoning to the East, South and West, and by both R-1 and B-2, Neighborhood Business to the North. There have been various variances granted within the surrounding area, both for commercial uses and residential duplex purposes. Staff is of the opinion that the proposed duplex use would be less intrusive to the neighborhood than the previous uses granted for the subject site, and the Board should consider this request for Approval.

The site plan submitted with the application does not provide designated parking spaces. Two-family dwellings require 1-1/2 parking spaces per unit, or three total on-site parking spaces. Therefore, the site plan should be revised to provide compliant parking for the proposed duplex use. A copy of the revised site plan should be submitted to and approved by Planning and Zoning prior to the re-submission for building permits.

As per the Traffic Engineering comments, access to the site should be limited to the existing curb cut on Nall Street. Any changes to the size, location or design of the driveway must be approved by Traffic Engineering and confirm to AASHTO standards.

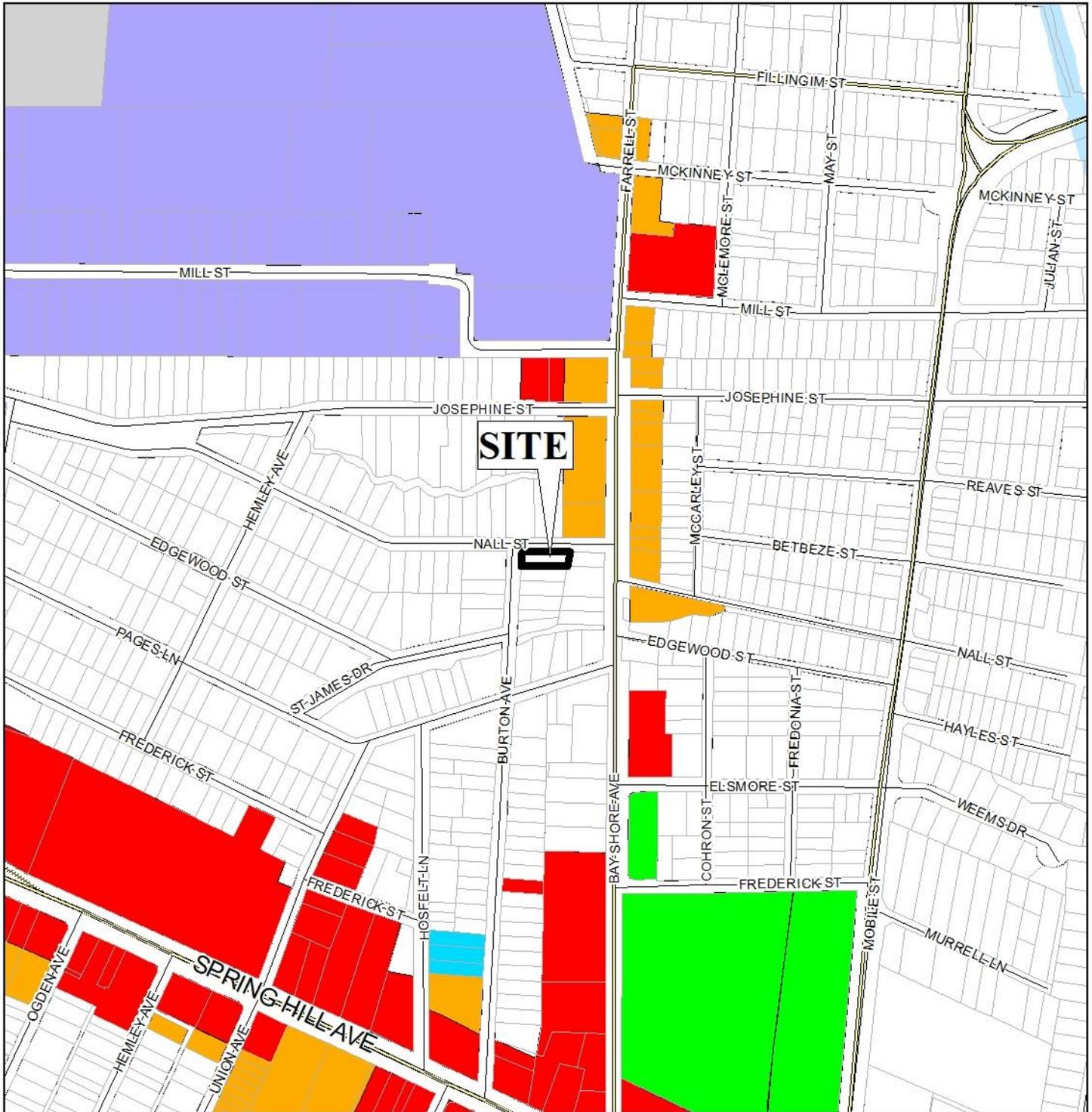
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Use Variance request:

- 1) Approving the variance will not be contrary to the public interest in that the use would be less intrusive to the surrounding neighborhood than previous uses granted for the site;
- 2) Special conditions (various other Use Variances have been granted within the area) 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 applicant and surrounding neighborhood by granting the variance because the use would be compatible to other two-family uses within the area.

The Approval is subject to the following conditions:

- 1) revision of the site plan to provide at least three (3) compliant parking spaces for the proposed duplex use;
- 2) placement of a note on the site plan stating the Traffic Engineering comments: *(Access to the site should be limited to the existing curb cut on Nall Street. Any changes to the size, location or design of the driveway must be approved by Traffic Engineering and confirm to AASHTO standards.);*
- 3) submission to and approval by Planning and Zoning of a revised site plan prior to the re-submission for building permits; and
- 4) full compliance with all other municipal codes and ordinances.

LOCATOR ZONING MAP



APPLICATION NUMBER 6352 DATE November 2, 2020

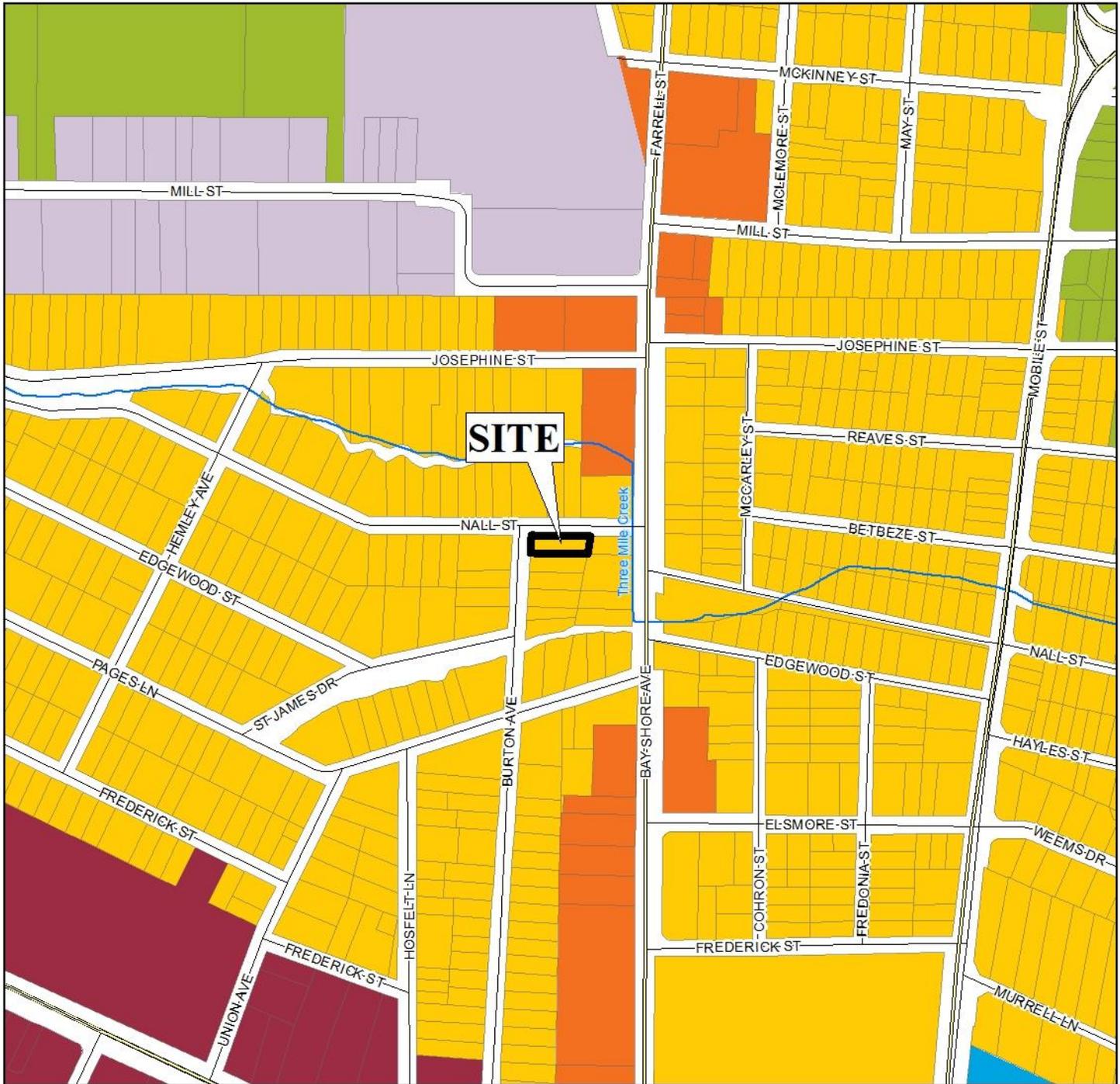
APPLICANT Selwonk Enterprises

REQUEST Use Variance



NTS

FLUM LOCATOR MAP



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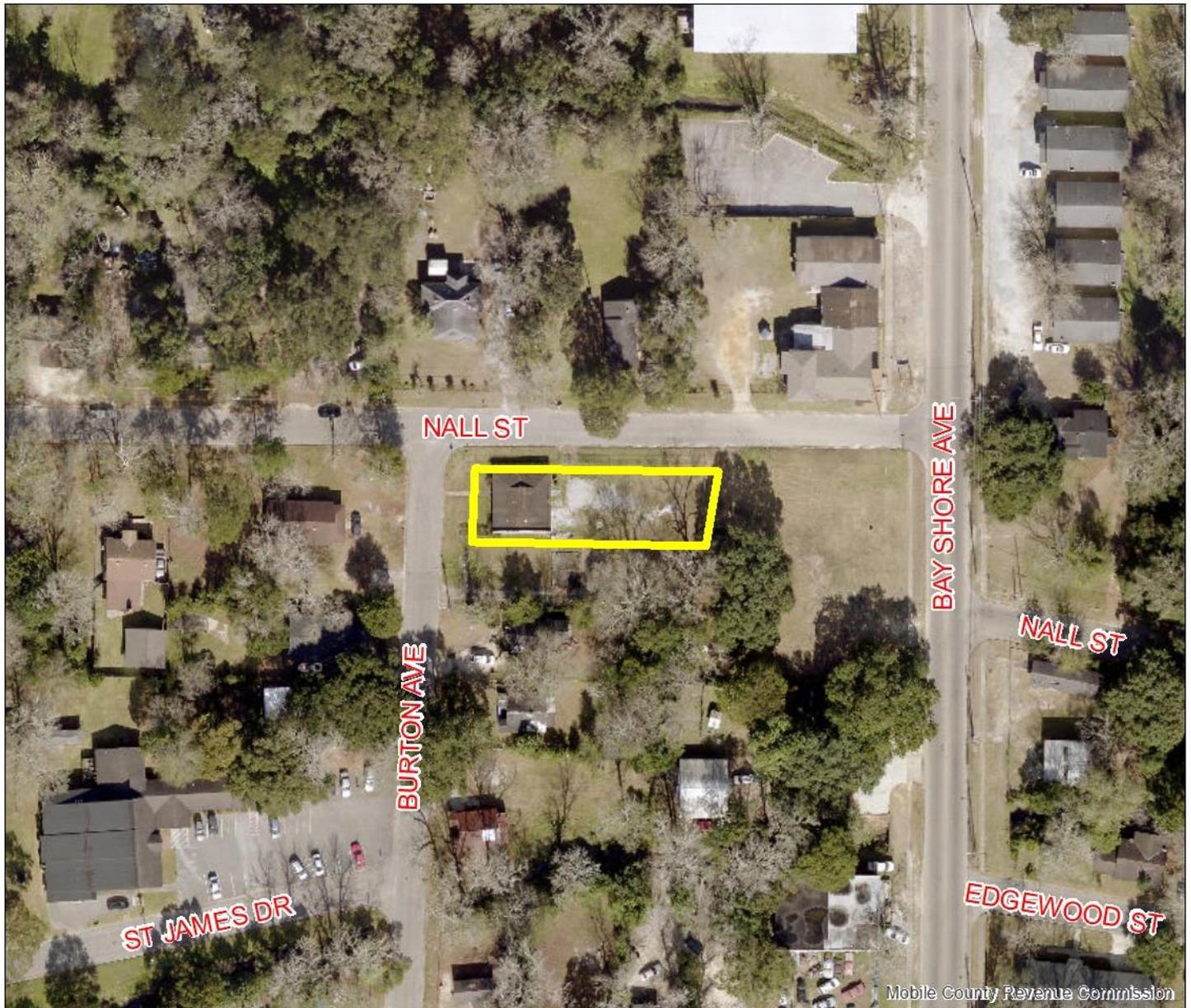
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REQUEST Use Variance

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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 | |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

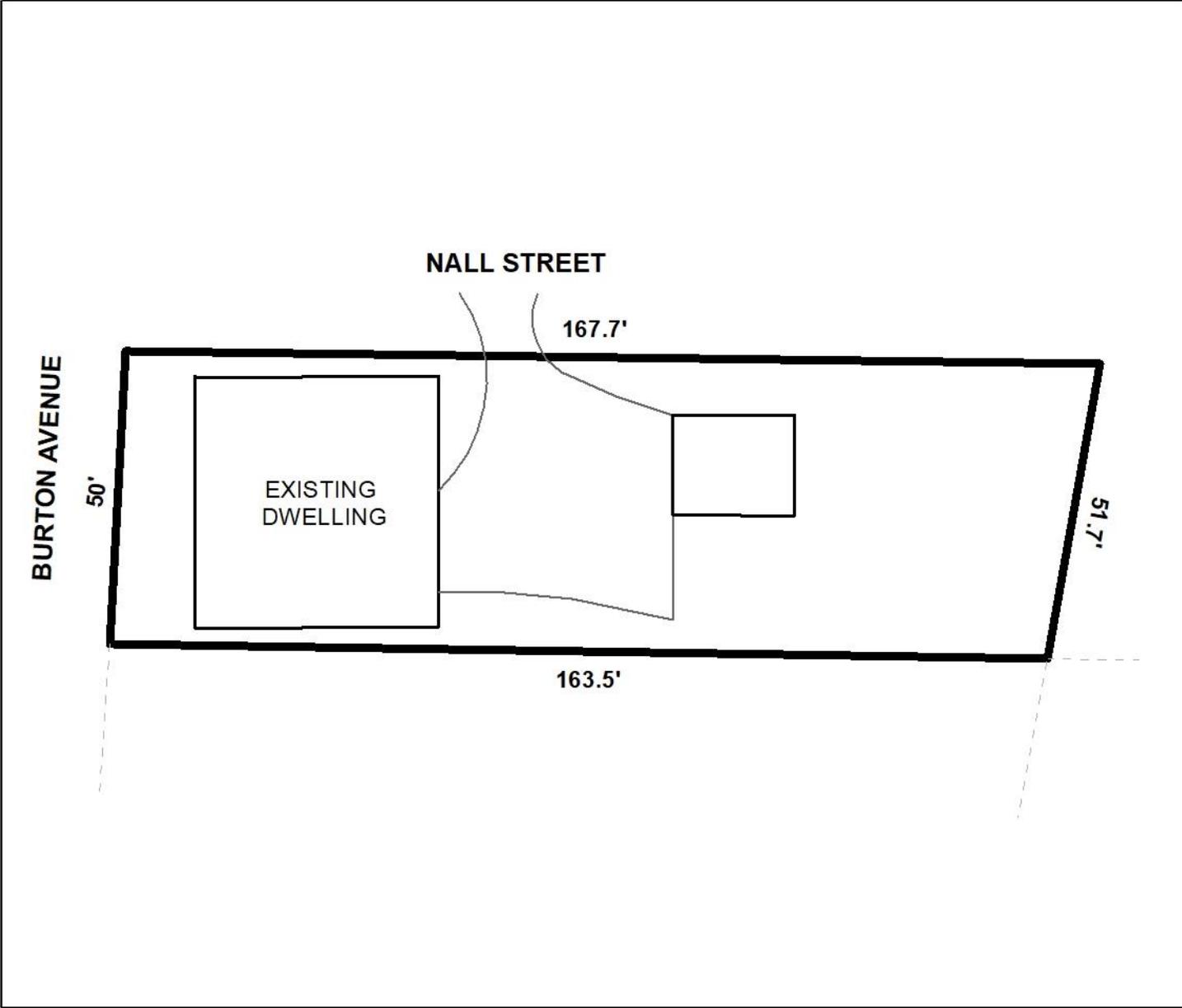


The site is surrounded by vacant lands, a church, residential units and commercial units.

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SITE PLAN



The site plan illustrates the existing dwelling and right of ways.

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