

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 2, 2021****CASE NUMBER**

6402

APPLICANT NAME

Taylor Atchison

LOCATION755 Monroe Street
(Southeast corner of Monroe Street and South Bayou Street).**VARIANCE REQUEST****FENCE HEIGHT:** Fence Height Variance to allow a ten-foot high wooden privacy fence along a side property line in a T5.1 Sub-District of the Downtown Development District.**ZONING ORDINANCE
REQUIREMENT****FENCE HEIGHT:** The Zoning Ordinance limits wooden privacy fences to a maximum height of eight feet in a T5.1 Sub-District of the Downtown Development District.**ZONING**

T5.1 Sub-District of the Downtown Development District

AREA OF PROPERTY

0.6± Acre

**ENGINEERING
COMMENTS**

No comments.

**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 [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.

**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). 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 Fence Height Variance to allow a ten-foot high wooden privacy fence along a side property line in a T5.1 Sub-District of the Downtown Development District; the Zoning Ordinance limits wooden privacy fences to a maximum height of eight feet in a T5.1 Sub-District of the Downtown Development District.

The site had a Planning Approval application before the Planning Commission at its April 15, 2021 meeting to allow an occupant load of 149 people at an existing bar. The Zoning Ordinance requires Planning Approval for bars with an occupant load over 100 people in the Downtown Development District. The site plan submitted with the Planning Approval application included a 10' high privacy fence where the site adjoins residential property. The Planning Commission approved the Planning Approval with a condition that: "provision of a 10-foot-high fence as depicted in the application where the site adjoins residential properties if granted a variance by the Board of Zoning Adjustment, if a 10-foot fence is not approved by the Board, then the provision of an 8-foot fence, as well as the provision of all other fencing included in the application to reduce sound carry".

The site has been given a Downtown (DT) 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.

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown (DT) is the ultimate mixed-use environment. Land development and redevelopment will emphasize variety, mixed uses, and unity of form within buildings or complexes.

As the city's and region's center for commercial and service employment, Downtown supports intense development and a dynamic combination of uses: specialty and regional retail shopping and offices; business support services; urban housing at higher densities (starting at 10 dwelling units per acre); civic, educational and cultural destinations; entertainment options; and other public amenities including active and passive park space. The successful integration of a mix of housing types and densities will be critical to achieve a vibrant, 24/7-active Downtown Mobile.

Development in the DT district will focus on new, redeveloped and adaptively reused buildings that frame attractive, human-scaled streetscapes, memorable public spaces, bicycle and pedestrian-friendly streets and convenient transit access to jobs, housing and entertainment. Accordingly, certain areas of Downtown will be more intensively developed to facilitate that pedestrian orientation.

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:

We are requesting approval to build a 10' privacy fence in leu of the existing 6' privacy fence to provide a visual and sound buffer between our commercial property and our residential neighbors to the east. This plan was proposed in a planning commission meeting where the subject property was approved to expand. The fence idea came out of several meetings with concerned neighbors. Thank you for your review and consideration.

During the initial planning commission meeting we learned our abutting neighbors concerns with adding occupancy to this property. Since that initial meeting we have met with staff once and our abutting neighbors twice. In these meetings we discussed concerns such as parking, noise and litter. Here are the actions we have taken and the actions we propose to help with these issues.

1) Litter, we have hired someone to pickup littler around the perimeter of our property on Friday, Saturday and Sunday mornings.

2) Noise, we have moved an existing out door speaker to ground level to keep the noise down and have added protocol for staff to turn off the outdoor speaker at 10pm. Further we have removed and reduced the area of games that we believe was causing most of the noise and turned this area to outdoor storage. We also have changed the use of the closet indoor space to the neighbors to storage and retail/office to reduce noise. Finally we are proposing to build a 10 foot privacy fence on the remaining shared property line between our outdoor play area and our neighbors back yard. We have researched styles of fence

and have found a style that we believe will dramatically reduce sound carry across our property line.

3) Parking, we have been in communication with the police department to better monitor the no parking areas in the neighborhood. We have also talked with representatives at Ben May Public Library and are working on a relationship to be able to use their parking lot when it is unused.

We hope that these efforts will show our willingness to work with our neighbors. We want to be a place that the neighborhood is proud of. Thank you for your consideration

The applicant is proposing a 10-foot tall privacy fence in an attempt to provide increased buffering between the subject site and adjacent residential dwellings. The increase in the occupant load which necessitated the Planning Approval application included outdoor expansion of areas utilized by customers, making it desirable to reduce the impact as much as possible on the residents in the area.

It should be noted that prior to the issuance of fence permits, the applicant will need to receive approval from both the Architectural Review Board as well as the Consolidate Review Committee.

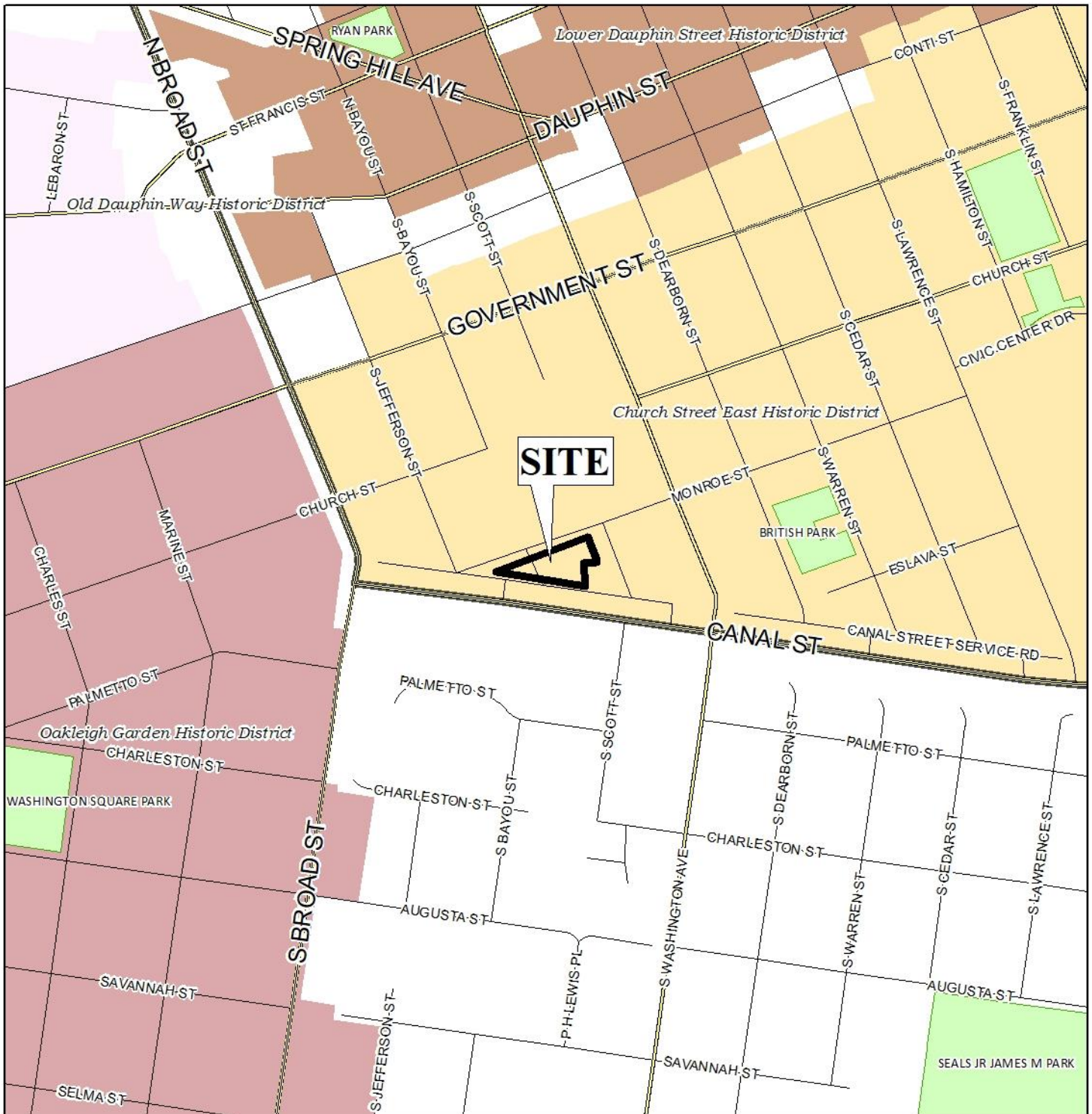
RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Fence Height Variance request:

- 1) Approving the variance will not be contrary to the public interest in that it will provide additional buffering between a commercial business with outdoor activity and adjacent residences;
- 2) Special conditions do exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, in that increased outdoor commercial activity creates a desired increase in protection of adjacent residential properties; 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 a residential buffer beyond the minimum required is proposed.

The approval should be subject to the following conditions:

- 1) Approval from the Consolidated Review Committee;
- 2) Approval from the Architectural Review Board;
- 3) Obtain all necessary permits; and
- 4) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6402 DATE August 2, 2021

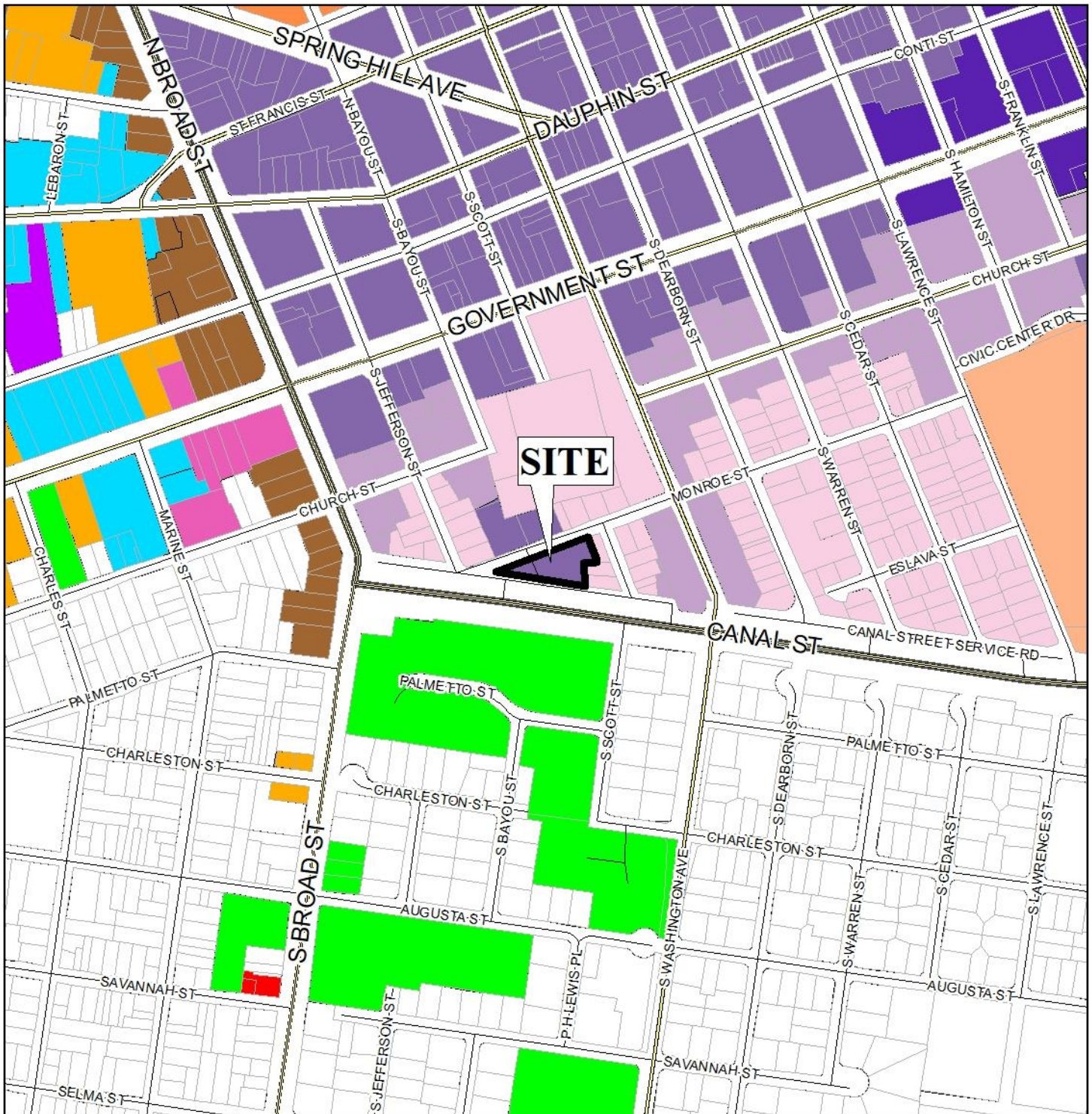
APPLICANT Taylor Atchison

REQUEST Fence Height Variance



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LOCATOR ZONING MAP



APPLICATION NUMBER 6402 DATE August 2, 2021

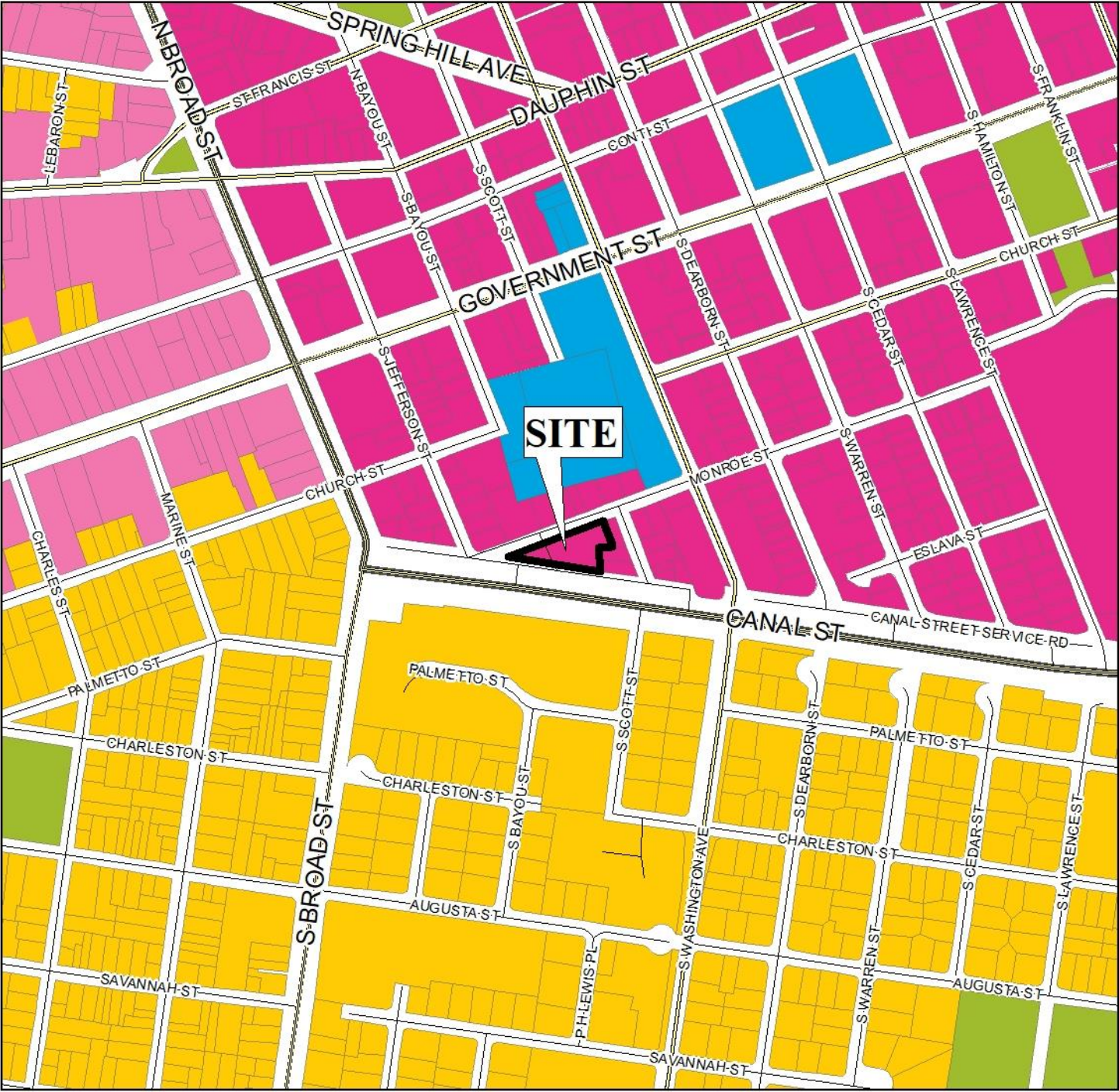
APPLICANT Taylor Atchison

REQUEST Fence Height Variance



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FLUM LOCATOR MAP



APPLICATION NUMBER 6402 DATE August 2, 2021

APPLICANT Taylor Atchison

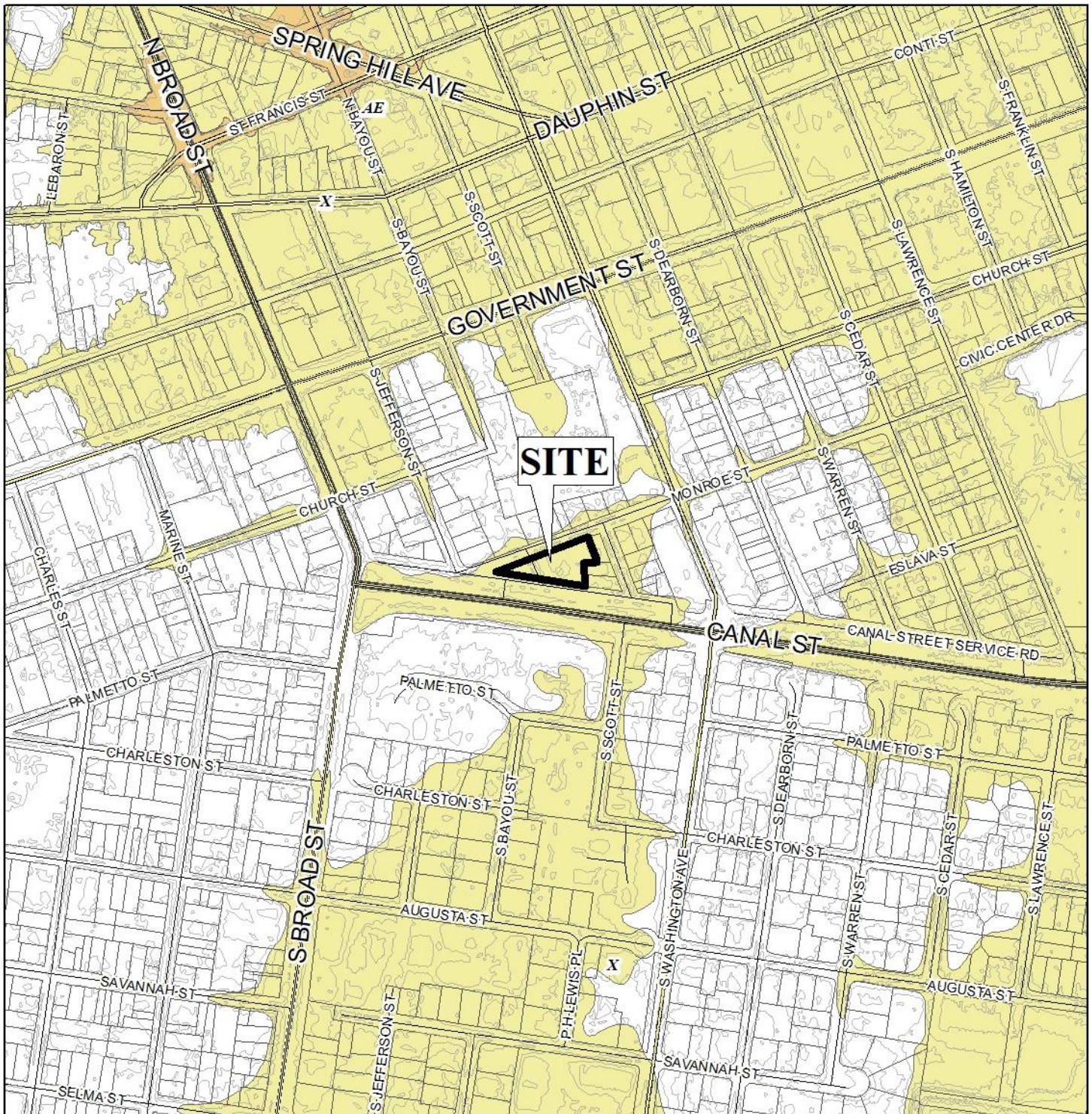
REQUEST _____ Fence Height Variance

- | | | | |
|---|---|---|--|
|  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 | |



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ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6402 DATE August 2, 2021

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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. A brewery and a cemetery lie north of the site.

APPLICATION NUMBER 6402 DATE August 2, 2021

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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

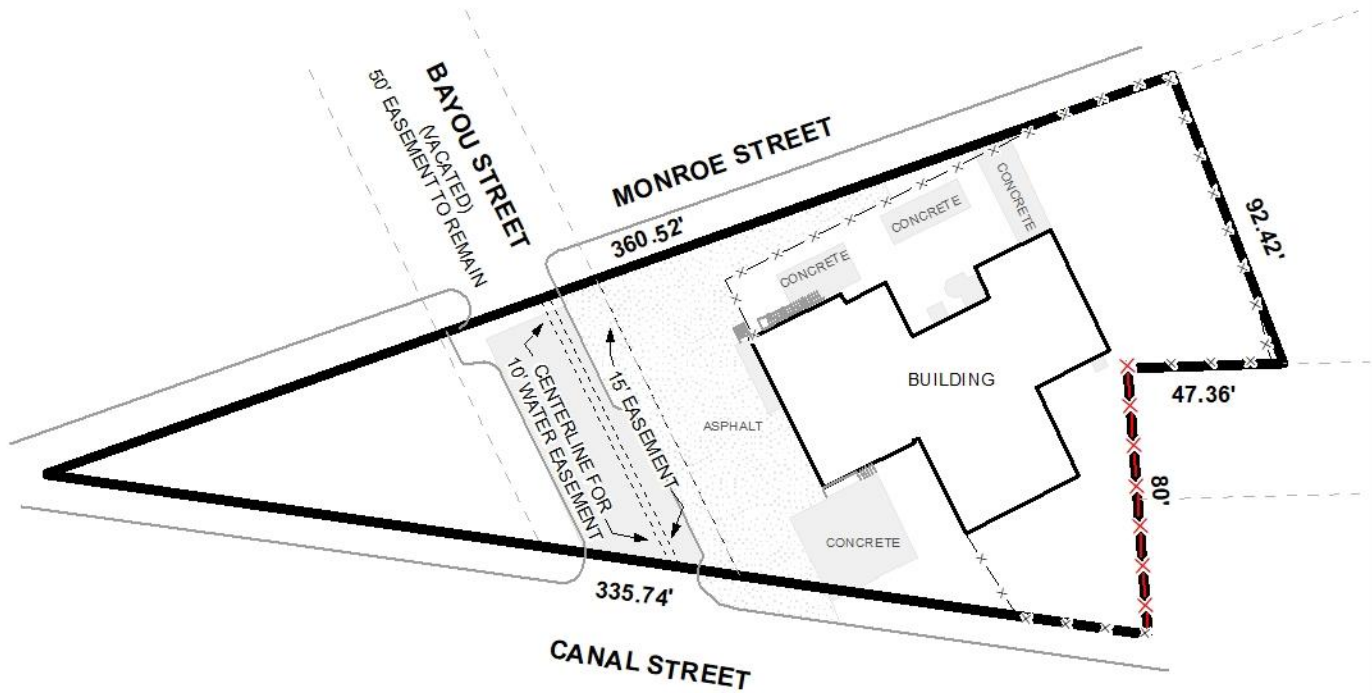


The site is surrounded by single family residential units, vacant lands, apartment buildings, a church and a cemetery.

APPLICATION NUMBER	6402	DATE	August 2, 2021
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SITE PLAN



The site plan illustrates existing building, easements and vacated right of way.

APPLICATION NUMBER 6402 DATE August 2, 2021

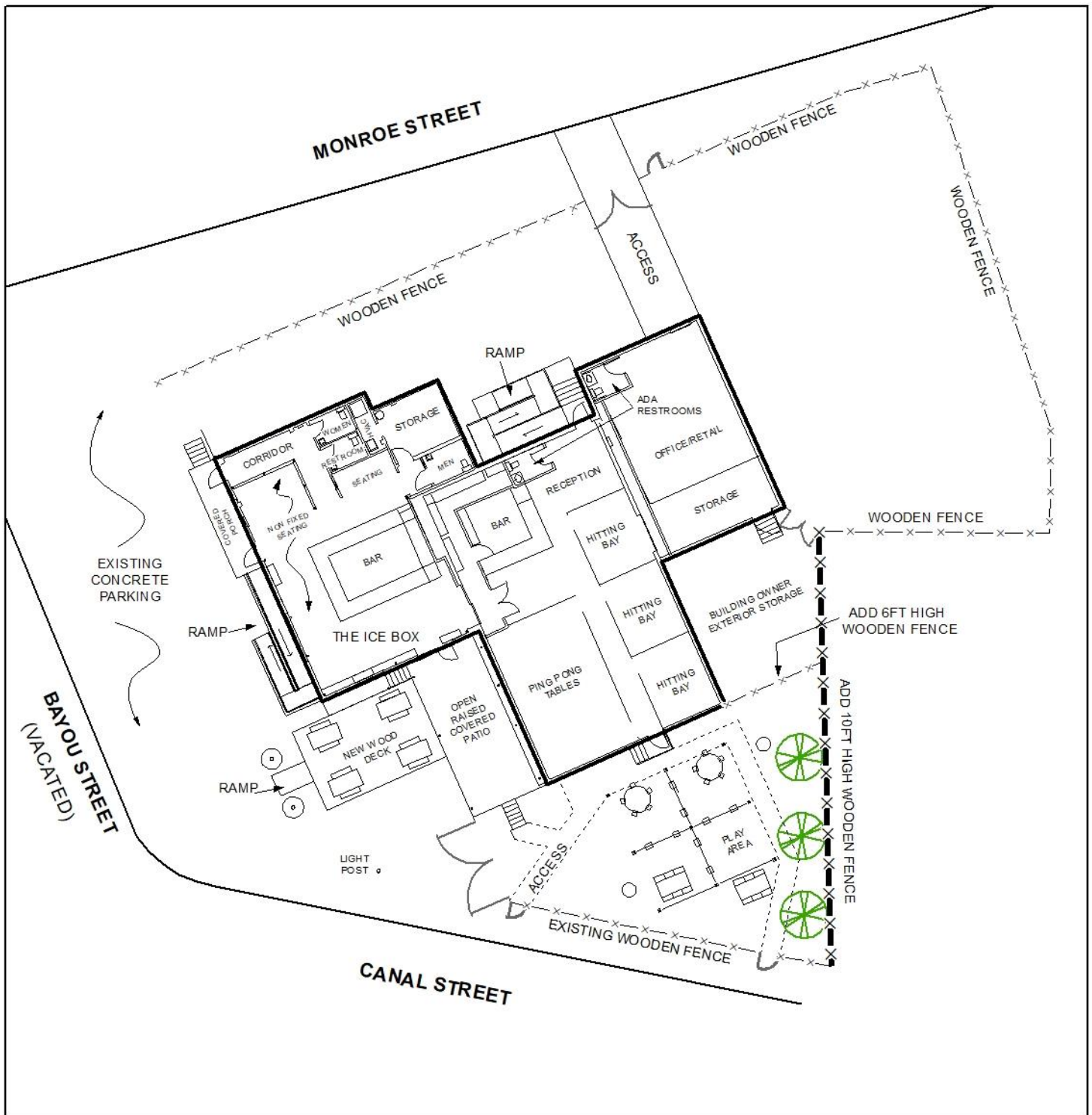
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REQUEST Fence Height Variance



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DETAIL SITE PLAN



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