

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: December 7, 2020

CASE NUMBER

6361

APPLICANT NAME

Ava Speights

LOCATION

2401 Government Street
(Southwest corner of Government Street and Morgan Avenue)

VARIANCE REQUEST

SITE / USE VARIANCE: Site and Use Variances to allow used auto sales on an un-developed lot in a B-2, Neighborhood Business District.

**ZONING ORDINANCE
REQUIREMENT**

SITE / USE VARIANCE: The Zoning Ordinance requires used auto sales lots to be developed to commercial site standards and does not allow vehicle sales in a B-2, Neighborhood Business District.

ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

0.32± Acres

**CITY COUNCIL
DISTRICT**

District 5

**ENGINEERING
COMMENTS**

No land disturbing activity is to take place without first obtaining a Land Disturbance permit. Contact the Engineering Permitting Dept. of Build Mobile at land.disturbance@cityofmobile.org.

**TRAFFIC ENGINEERING
COMMENTS**

The proposed lot is on the corner of Government Street and Morgan Avenue. If the use is allowed, the area of sales needs to be defined to keep the corner clear of sight obstructions parked cars. The plan does not illustrate the area for sales or customer parking. If adequate parking is not provided on site, there could be parking on the street on Morgan Avenue. If on-street parking becomes an issue, the City may have to restrict parking on Morgan Avenue. Government St (US Highway 90) is an ALDOT maintained roadway. If any changes are required for the curb cut on Government St it will have to be approved by ALDOT. It is possible access to Government St could be denied since it is a corner lot with frontage on a side street.

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**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).

ANALYSIS

The applicant is requesting Site and Use Variances to allow used auto sales on an un-developed lot in a B-2, Neighborhood Business District; the Zoning Ordinance requires used auto sales lots to be developed to commercial site standards and does not allow vehicle sales in a B-2, Neighborhood Business District.

The site has been given a Traditional Corridor (TC) 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 land 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 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 did not submit a detailed narrative with their application. However, the following additional information was provided:

- 1) *The request is for a car lot;*
- 2) *Operating hours will be from 10 AM to 7 PM; and*
- 3) *Staff will consist of two (2) employees.*

As stated, the applicant is requesting Site and Use Variances to allow used auto sales on an undeveloped lot in a B-2, Neighborhood Business District; the Zoning Ordinance requires used auto sales lots to be developed to commercial site standards and does not allow vehicle sales in a B-2, Neighborhood Business District.

Regarding the Use Variance request, there are two (2) nearby properties currently operating similar businesses. At the Northeast corner of this intersection it appears that the site has been used for auto sales to some extent since at least 2002. Approximately 800 feet East of the subject site, at the Northeast corner of Government Street and Westwood Street, has been utilized in a similar fashion (ranging from auto mechanic to auto sales) dating back to as early as 1994. However, both of these properties enjoy a legal non-conforming status and as such Use Variances have not been required as of yet.

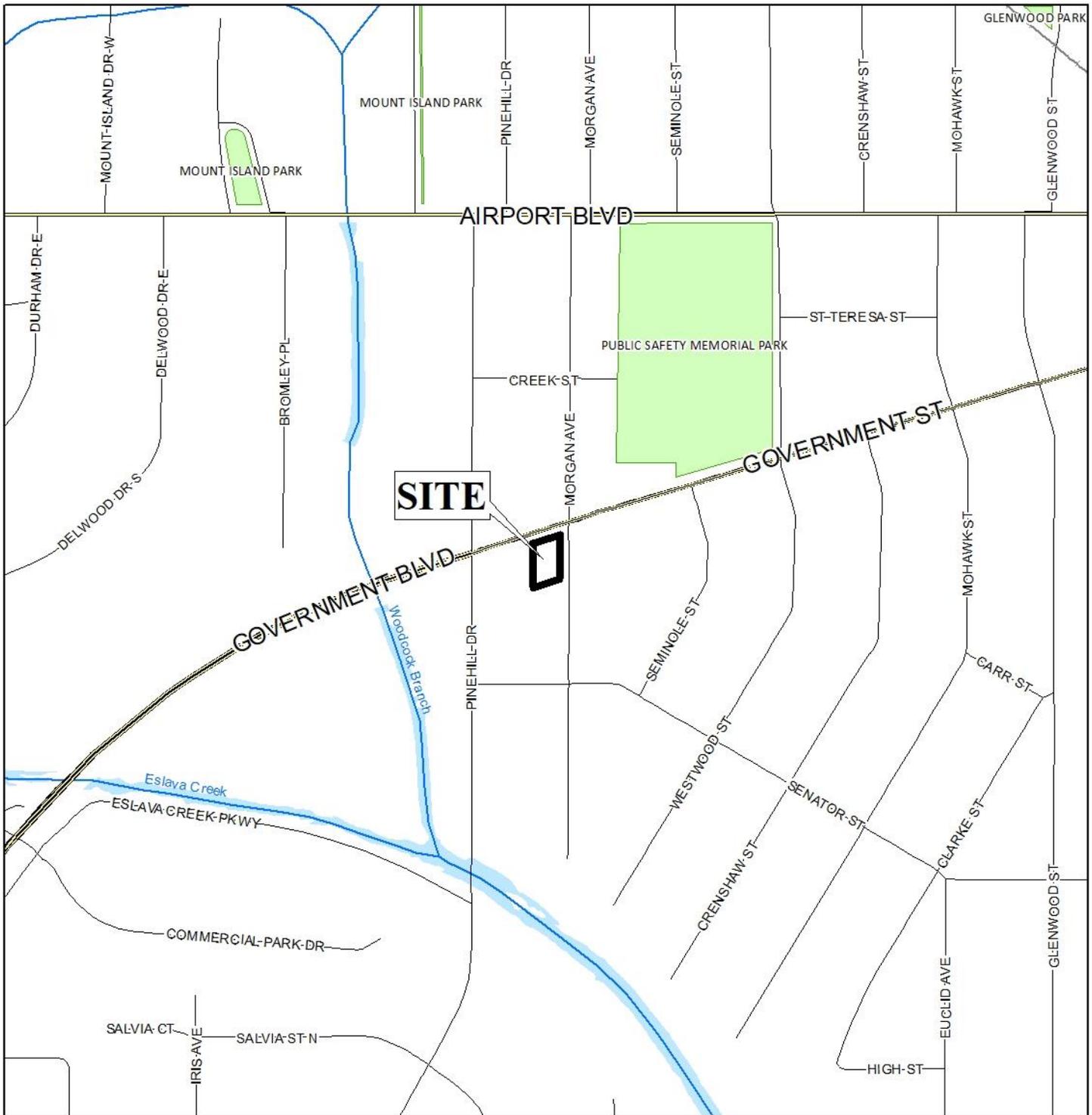
In regard to the Site Variance request, per city records, the subject site had previously been developed with three (3) structures since at least 2006. Each structure had an assigned address at the time: 2401 Government Street, 2403 Government Street, and 400 Morgan Avenue. At some point prior to 2014 the structures at 2403 Government and 400 Morgan were demolished. Followed later by the structure located at 2401 Government which was demolished prior to 2017. Since this time the subject site has remained vacant and undeveloped aside from the concrete parking area left behind from the previous development. As such, the Zoning Ordinance requires any future development to comply with all city codes and ordinances. It is the applicant's wish to be relieved of these requirements.

The applicant has not provided any justification as to why the requested variances are necessary. Furthermore, as an undeveloped B-2 site there are a number of business uses available to the applicant for operation at this location which would be compliant with its current zoning designation. Alternatively, the applicant could find an appropriately zoned location that would allow auto sales without the need for variances. It is simply the applicant's desire to use the subject site for auto sales that variances are necessary, resulting in a self-imposed hardship.

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

- 1) Granting the variance will be contrary to the public interest because it will be contrary to the Zoning Ordinance requirements regarding the prohibition of auto sales and commercial site standards in a B-2, Neighborhood Business District;
- 2) Special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 because the proposed use could be established in the appropriate zoning district without the necessity of a variance.

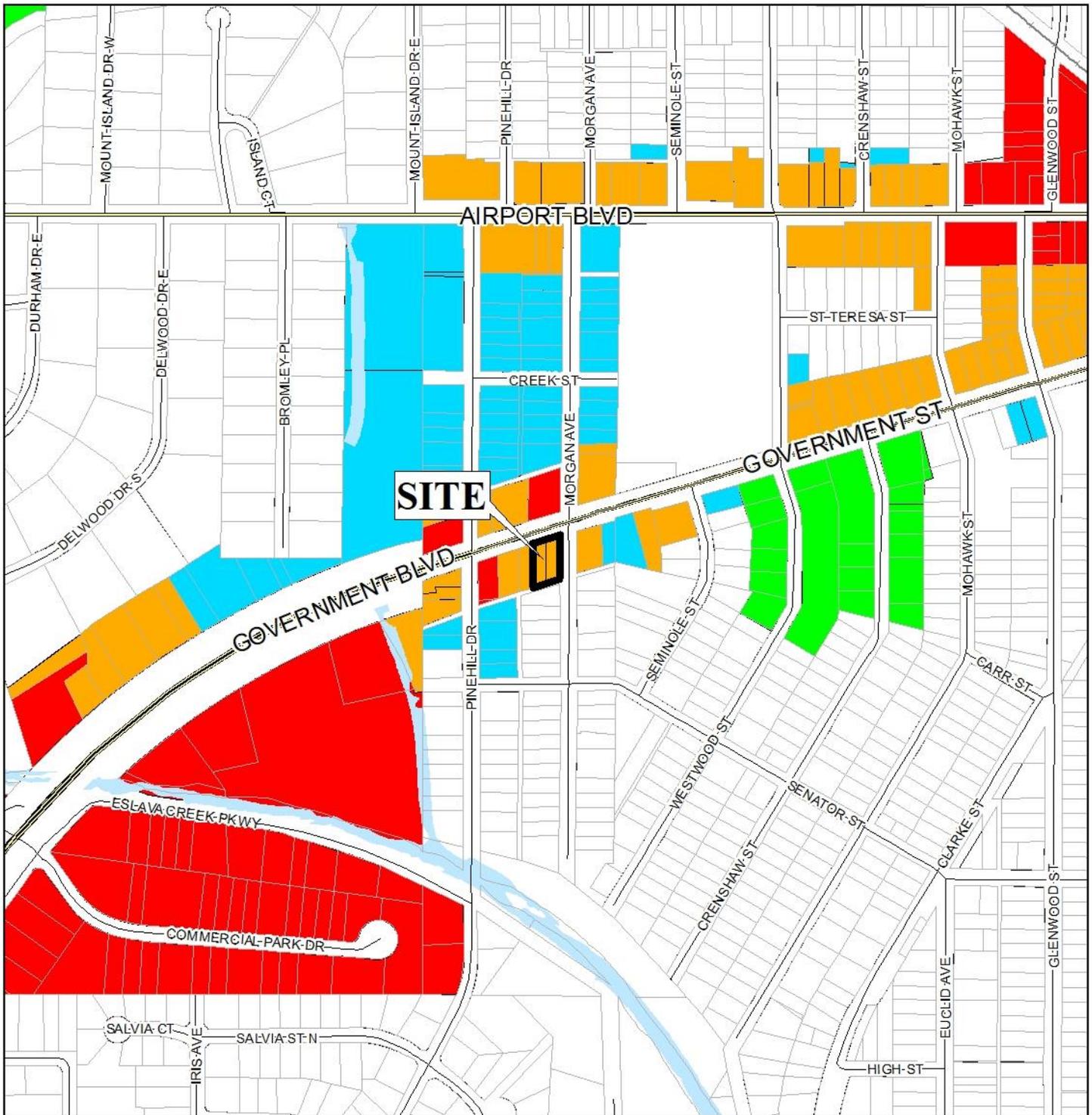
LOCATOR MAP



APPLICATION NUMBER 6361 DATE December 7, 2020
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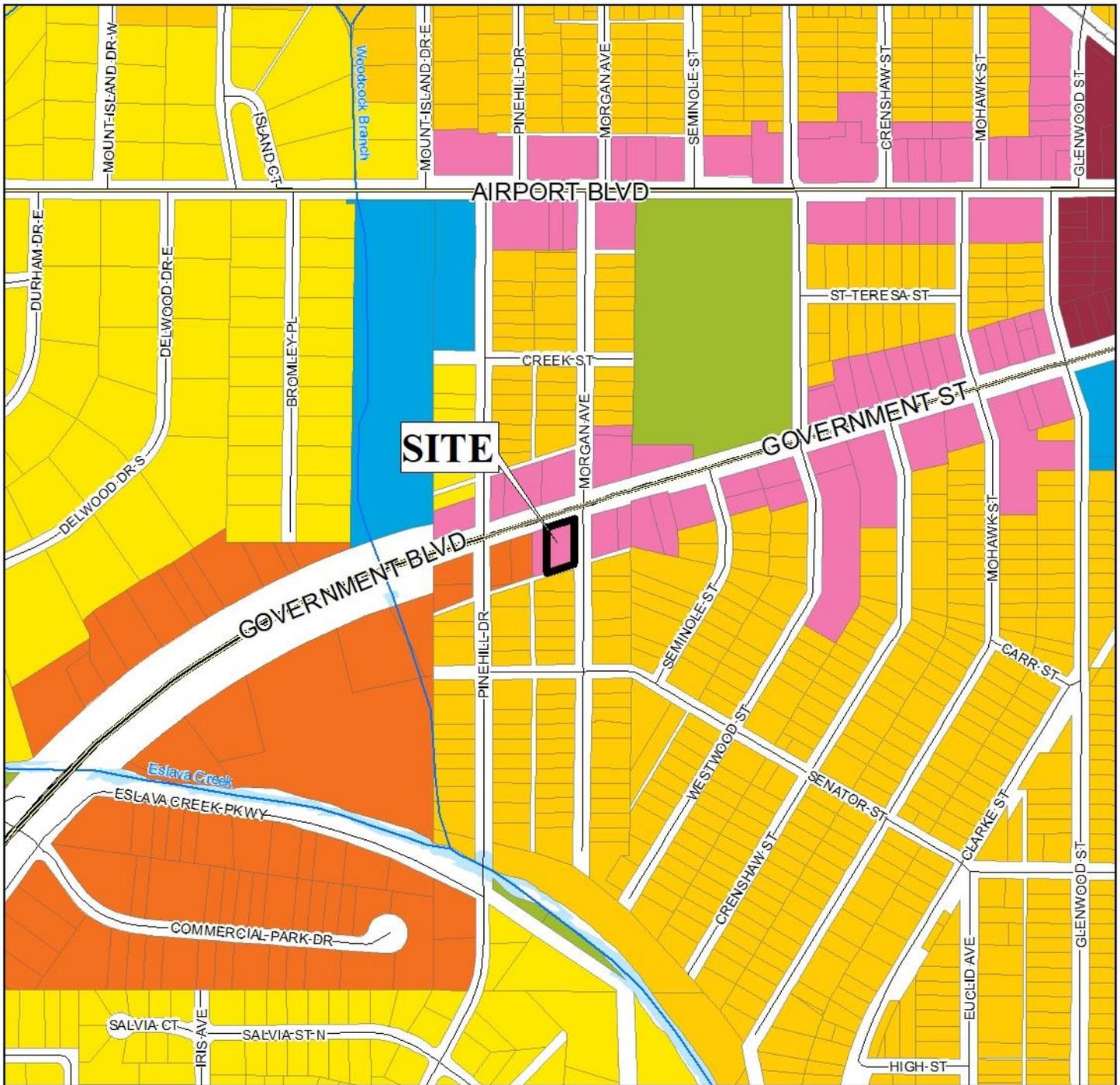
LOCATOR ZONING MAP



APPLICATION NUMBER 6361 DATE December 7, 2020
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FLUM LOCATOR MAP



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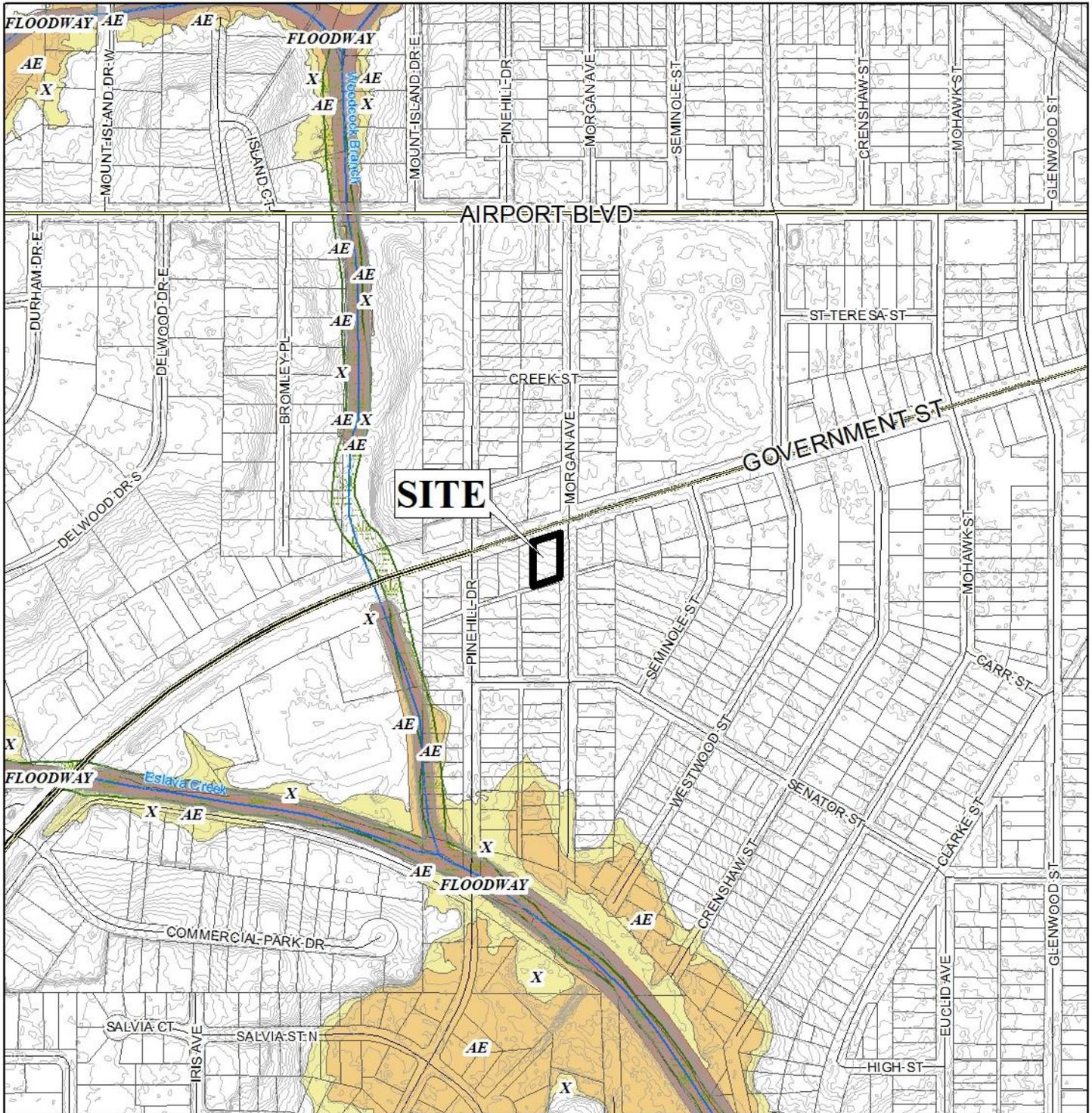
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REQUEST Site and Use Variances

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



ENVIRONMENTAL LOCATOR MAP



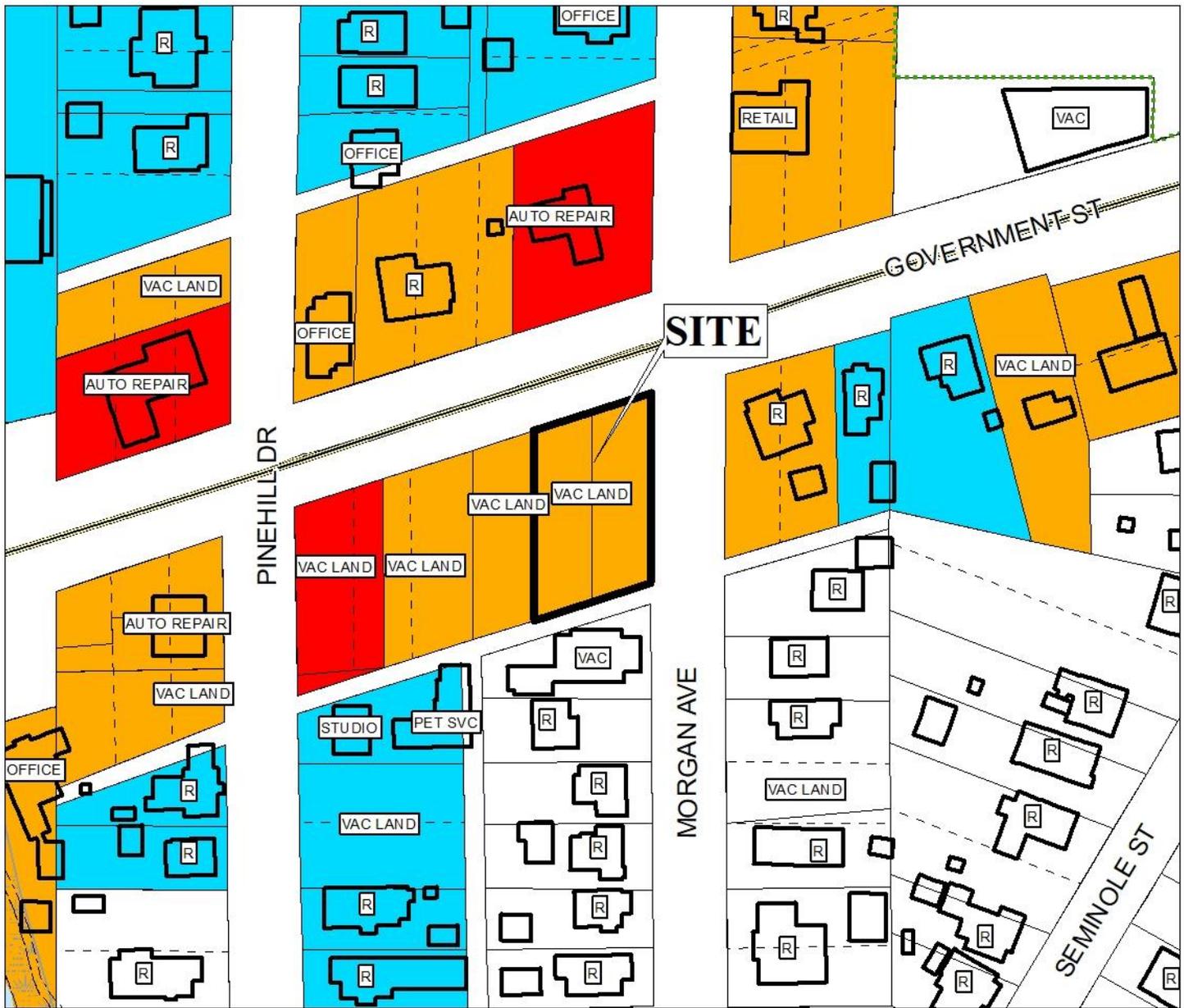
APPLICATION NUMBER 6361 DATE December 7, 2020

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REQUEST Site and Use Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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

APPLICATION NUMBER 6361 DATE December 7, 2020

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REQUEST Site and Use Variances

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 vacant lands, residential and commercial units.

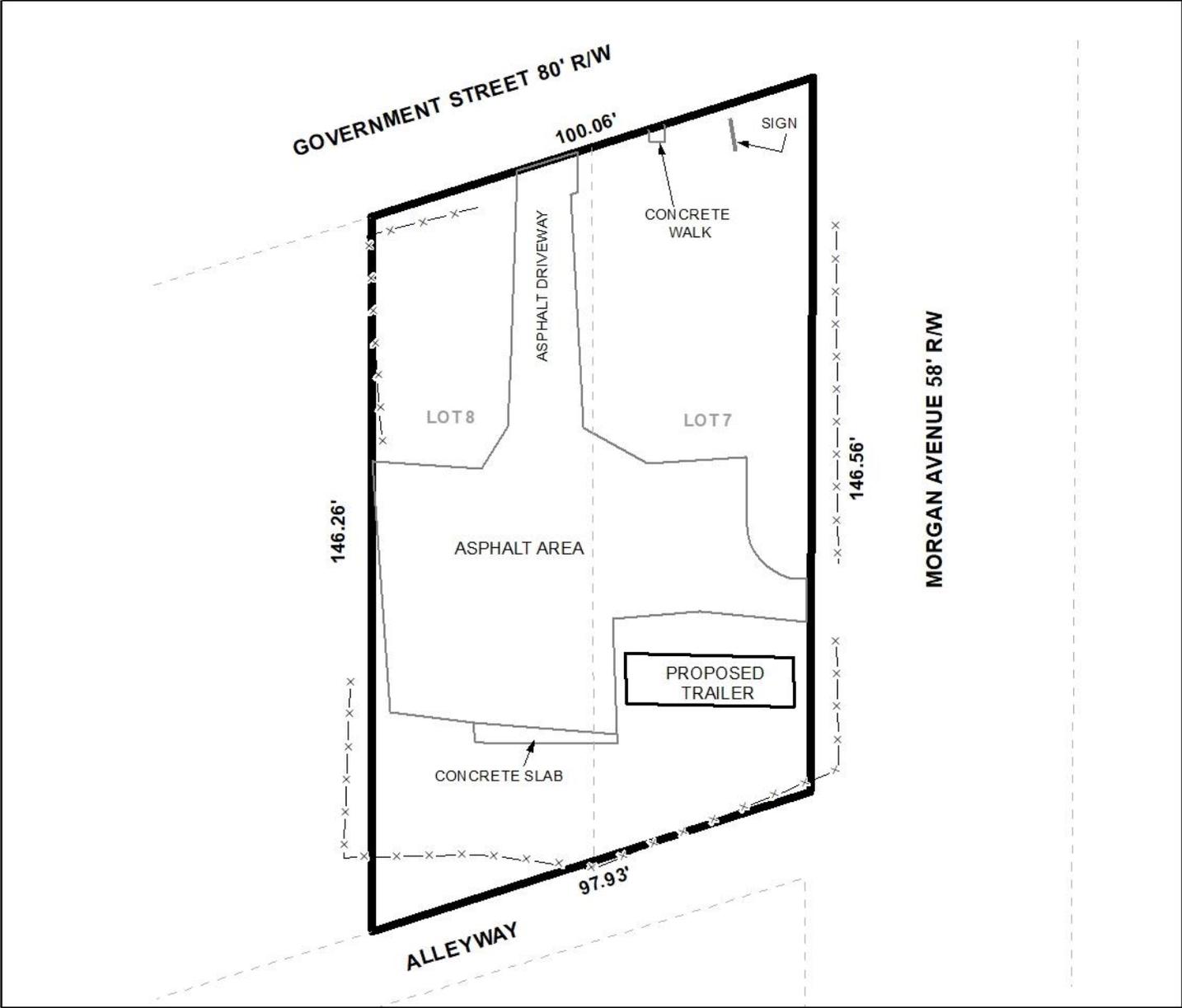
APPLICATION NUMBER 6361 DATE December 7, 2020

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SITE PLAN



The site plan illustrates proposed trailer, existing asphalt, fencing and concrete.

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