

**BOARD OF ZONING ADJUSTMENT
ADMINISTRATIVE APPEAL STAFF REPORT****Date: May 6, 2013****CASE NUMBER**

5823

APPELLANT NAME

Carla M. Sharrow

LOCATION1001 Augusta Street
(Southwest corner of Augusta Street and Charles Street)**ADMINISTRATIVE
APPEAL**

Administrative Appeal of a staff determination of approval regarding the nonconforming status of multiple dwelling units located on a property in an R-1, Single-Family Residential District; the Zoning Ordinance allows multiple dwelling units on a single site in an R-1, Single-Family Residential District, with staff approval of nonconforming use history evidence.

ZONING

R-1, Single-Family Residential

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The appellant, a neighbor, contends that City of Mobile Planning Section staff erred in the acceptance and continuation of the non-conforming second dwelling unit located at the above site. The main basis for the appeal relates to an alleged failure of staff to adequately verify the continuance of rental for the second dwelling unit: that the Polk Directory typically used by staff does not in fact show a continuous rental history (with no period of vacancy exceeding two years). The appellant has also submitted statements, including statements by her parents (who do not reside next to the site in question, but have some first hand knowledge of the situation), that the second dwelling unit in question was only used by the current owners of the property for their own dwelling needs as the main house was renovated: the second dwelling unit only became rented in the fall of 2012.

The Non-Conforming Use affidavit submitted On February 28, 2012 (actually 2013 – the mistaken date was written by the notary) by the current owner of 1001 Augusta Street, Mr. Kevin Cross, did not include any supporting documentation. Staff did find a previous affidavit from 1992 submitted by the previous owner, Mrs. Velma Croom, regarding her need to rent the second dwelling unit. Staff additionally did utilize available Polk Directories in the department to verify that the second dwelling unit (1003 Augusta Street) had at some points been occupied, however, no additional evidence was available or provided to verify occupation of the unit during the previous two years.

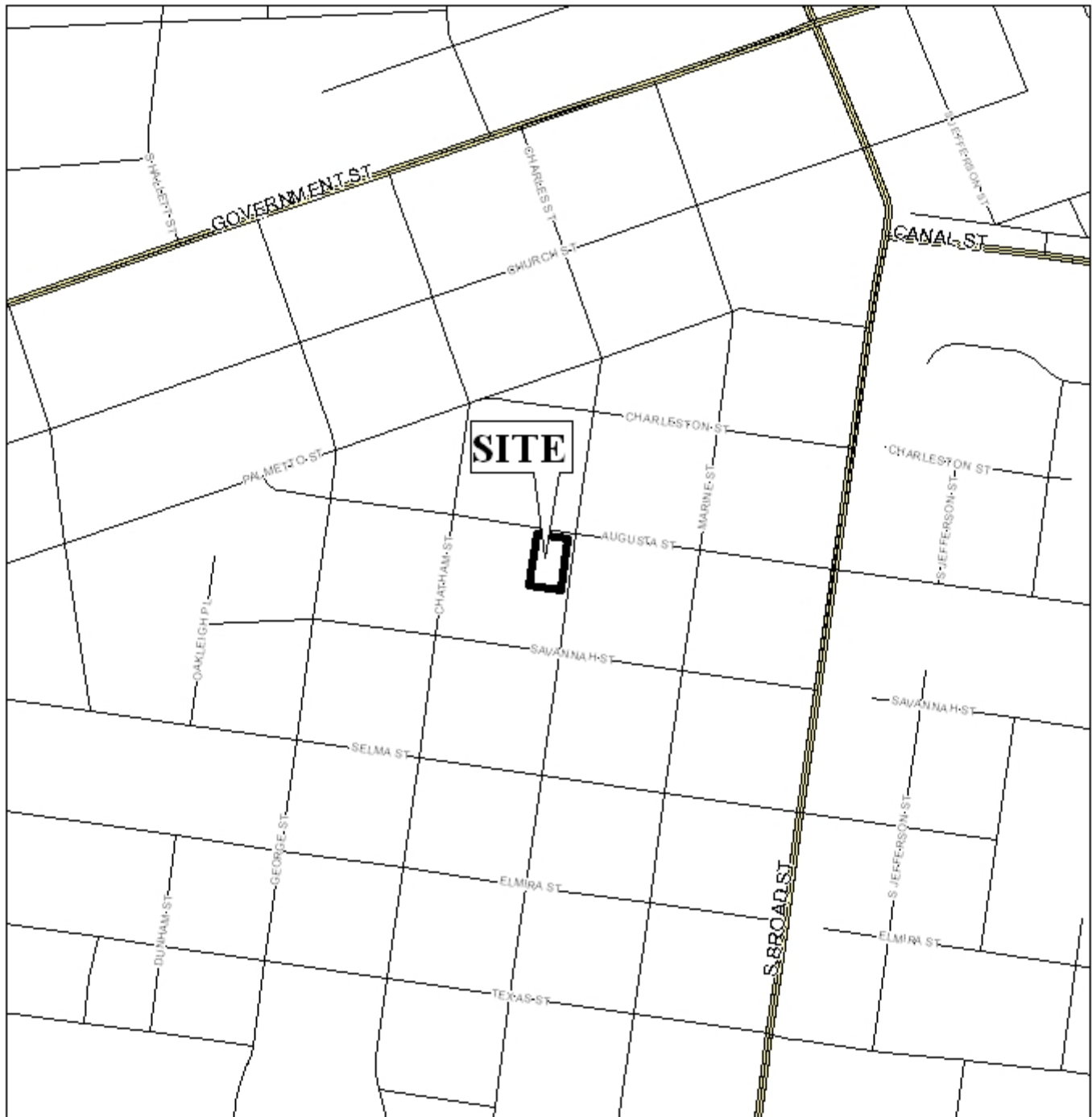
It is not usual for staff to receive Non-Conforming Use affidavits which lack supporting documentation. It is department policy to assist customers and to, when possible, make a reasonable determination based upon researched as well as provided information. In this case staff determined that there appeared to be a reasonable basis to continue the Non-Conforming Use of the site.

The Zoning Ordinance (Chapter 64 of the City Code) and the State Code (Section 11-52-80), authorize the Board of Adjustment to hear appeals of decisions, determinations, or actions of an administrative official only in the administration and enforcement of the Zoning Ordinance.

Should the Board rule in favor of Ms. Sharrow, the property owner, Mr. Cross, has the right to appeal the decision to Circuit Court. Mr. Cross may also choose to either file a variance request to allow multiple dwelling units on a single property, or file a subdivision request to create two lots, each with a single dwelling unit.

RECOMMENDATION:

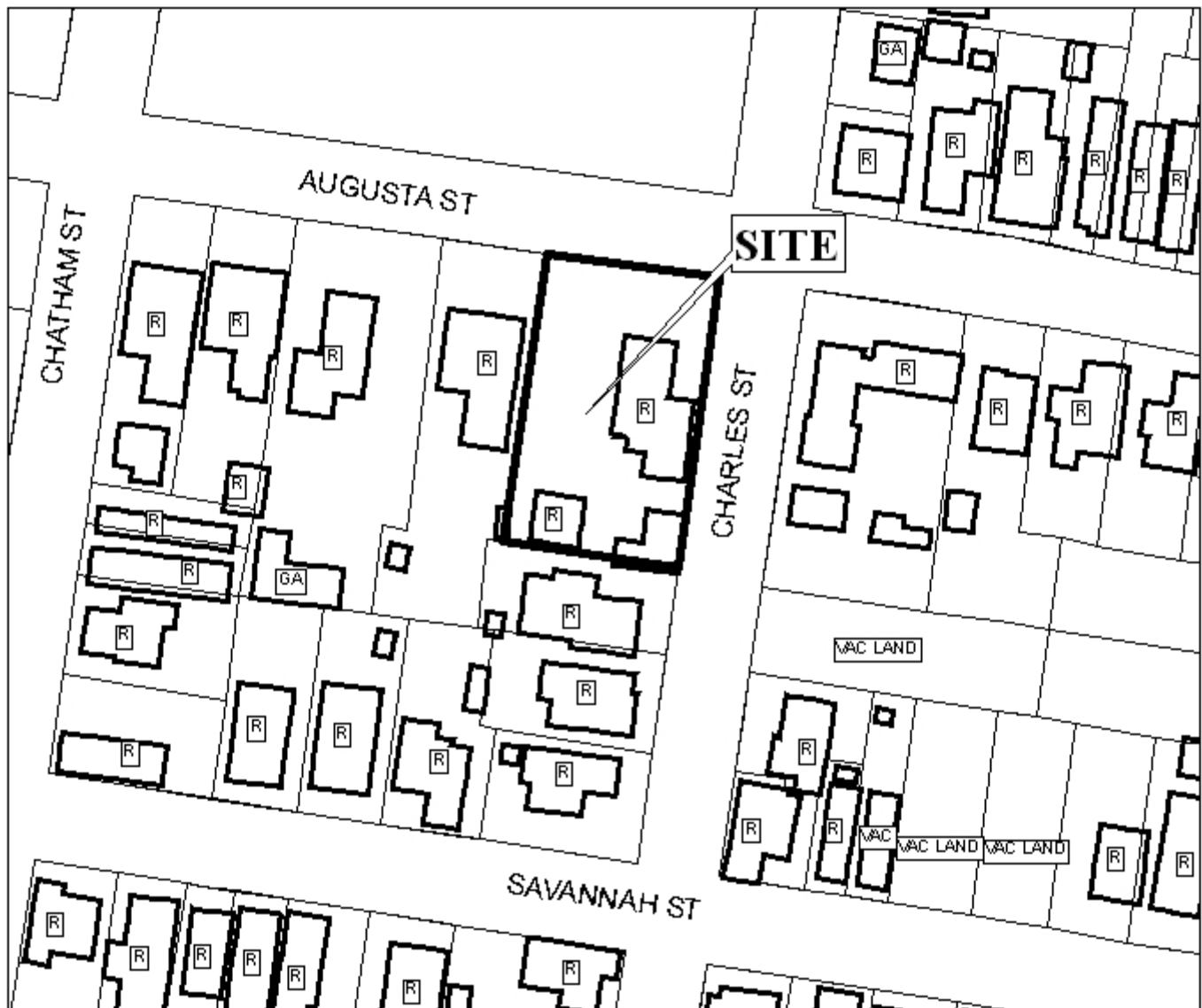
LOCATOR MAP



APPLICATION NUMBER 5823 DATE May 6, 2013
APPLICANT Carla M. Sharrow
REQUEST Administrative Appeal



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residences.

APPLICATION NUMBER 5823 DATE May 6, 2013

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LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2	NTS
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residences.

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N
NTS