

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 4, 2019**

<u>CASE NUMBER</u>	6235
<u>APPLICANT NAME</u>	Leslie Ridley (Child Day Care Association, Inc.)
<u>LOCATION</u>	209 South Washington Avenue (Northeast corner of Canal Street and South Washington Avenue).
<u>VARIANCE REQUEST</u>	SETBACK: To allow the construction of a 10' x 12' playhouse with toy storage in the required building setback in a T-4, Sub District within the Downtown Development District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SETBACK: Zoning Ordinance requires that any outbuilding have a setback to the rear of the façade in a T-4 Sub District of the Downtown Development District.
<u>ZONING</u>	T-4 Sub District of the Downtown Development District
<u>AREA OF PROPERTY</u>	0.9± Acres
<u>CITY COUNCIL DISTRICT</u>	District 2
<u>ENGINEERING COMMENTS</u>	No Comments
<u>TRAFFIC ENGINEERING COMMENTS</u>	No traffic impacts anticipated by this variance request.

ANALYSIS The applicant has submitted a Setback Variance to allow the construction of a 10' x 12' playhouse with toy storage in the required building setback in a T-4, Sub District of the Downtown Development District; the Zoning Ordinance requires that any outbuilding have a setback to the rear of the façade in a T-4 Sub District of the Downtown Development District.

The Zoning Ordinance states no variance shall be granted 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; and, no variance shall be granted where economics are the basis for the

application. 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 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 applicant states:

Our proposed improvements are for the continued addition of a play house for the children at our center. The play house will also include a small storage area for outdoor play equipment; tricycles, etc. This has proven necessary after unaffiliated children/families have been found trespassing during non-business hours. The storage area will help reduce stolen property, injuries that could occur upon trespassing, as well as an area to store items upon severe weather warnings, keeping neighbors and ourselves safe from debris. The play house has been requested to be built from our state funders, The Alabama Department of Early Childhood Education. To continue to be grantees of the First Class Pre-K program that we have hosted for over 20 years we will have to meet certain requirements of equipment and materials requested of them, with this play house being one of them. Unfortunately, as we were trying to meet requirements and qualifications of our different funders we were not aware of the CRC and what the requirements were for this type of structure to be built on our property. If so, of course we would have approached this with those standards in mind and remained in compliance. If we could alter our current build to meet CRC approval that is what we would do. However, concrete was poured for this structure in the area that it is currently placed and a bike path was created to run through a section of the playhouse. Pouring another slab several feet from the current location would result in too much concrete/hard surfacing ground cover to be in our play space. This could cause us to not meet the soft surfacing requirements of the Mobile County Health Department. The build was started in compliance with all other requirements of the city, zoning, and the historical society without our knowledge of the CRC committee. If approved, the structure will be very appealing to look at and will match surrounding residential looks, in line with the historical charm that our unique community has to offer, not to mention all of the unique learning experience that the play house will offer hundreds/thousands of children in our community. Thank you so much for your consideration on the continued improvement of our facility's new, high quality, outdoor learning environment.

The site was initially brought to the attention of Planning & Zoning staff when a complaint was received through the 311 system regarding the location of the structure. It was determined that although the structure did not meet the size minimum to require a building permit, that it must still comply with the standards set forth in the Zoning Ordinance, as well as regulations for local historic districts.

The applicant appeared before the Consolidated Review Committee (CRC) on November 29, 2018 to discuss the proposed project at hand, after receiving several notices of violation. The CRC gave the applicant the following choices:

1. Bring a site plan showing the playhouse relocated beyond the front façade of the accessory structure located at 201 S. Washington Avenue; or,
2. Apply for a Variance from the Board of Zoning Adjustment.

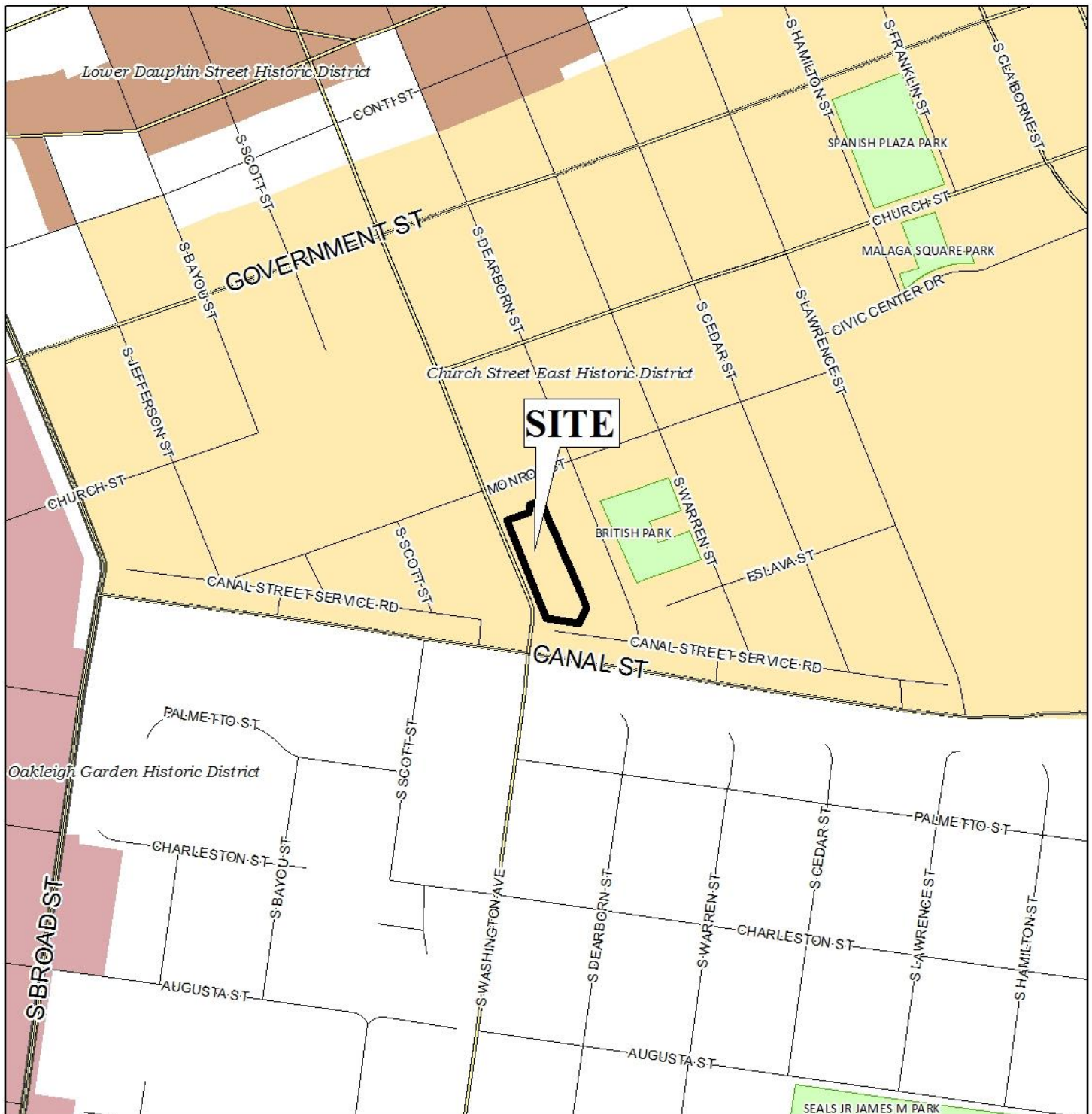
While staff does not wish to be the cause of the child care center to lose its funding, no documentation was submitted to verify the requirements stated above. Furthermore, in light of the complaints filed on the structure, it would appear that even though the structure may be

appreciated by “hundreds/thousands of children in our community”, that the residents who live near the site feel that the structure is problematic.

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

- 1) The variance will be contrary to the public interest in that the playhouse could be relocated on the site to comply with setback standards;
- 2) These special conditions do not exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship in that the site has sufficient room for the playhouse structure to be relocated; 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 complaints have been received regarding the current location of structure.

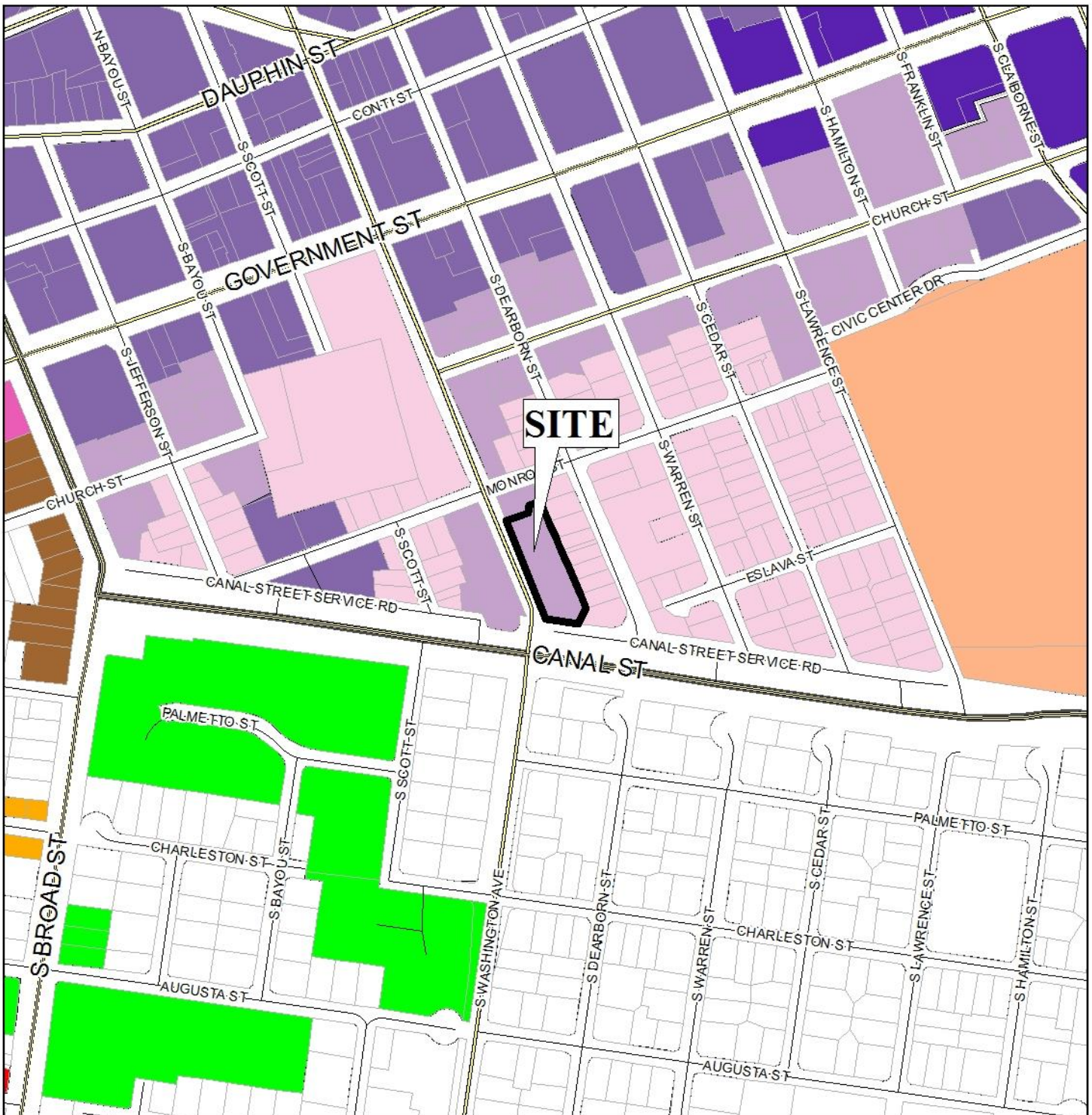
LOCATOR MAP



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APPLICANT Leslie Ridley (Child Day Care Association, Inc.)
REQUEST Setback Variance



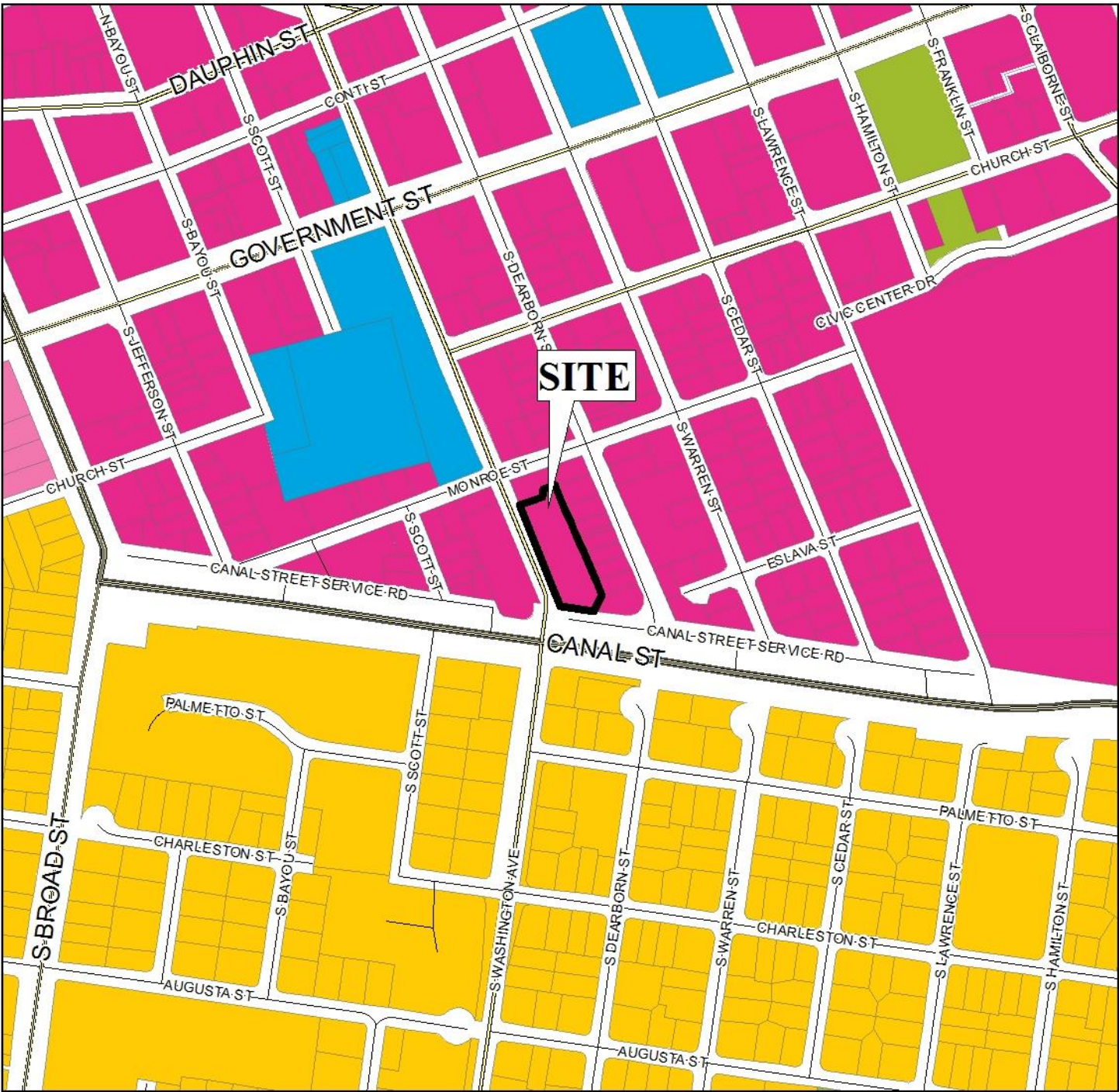
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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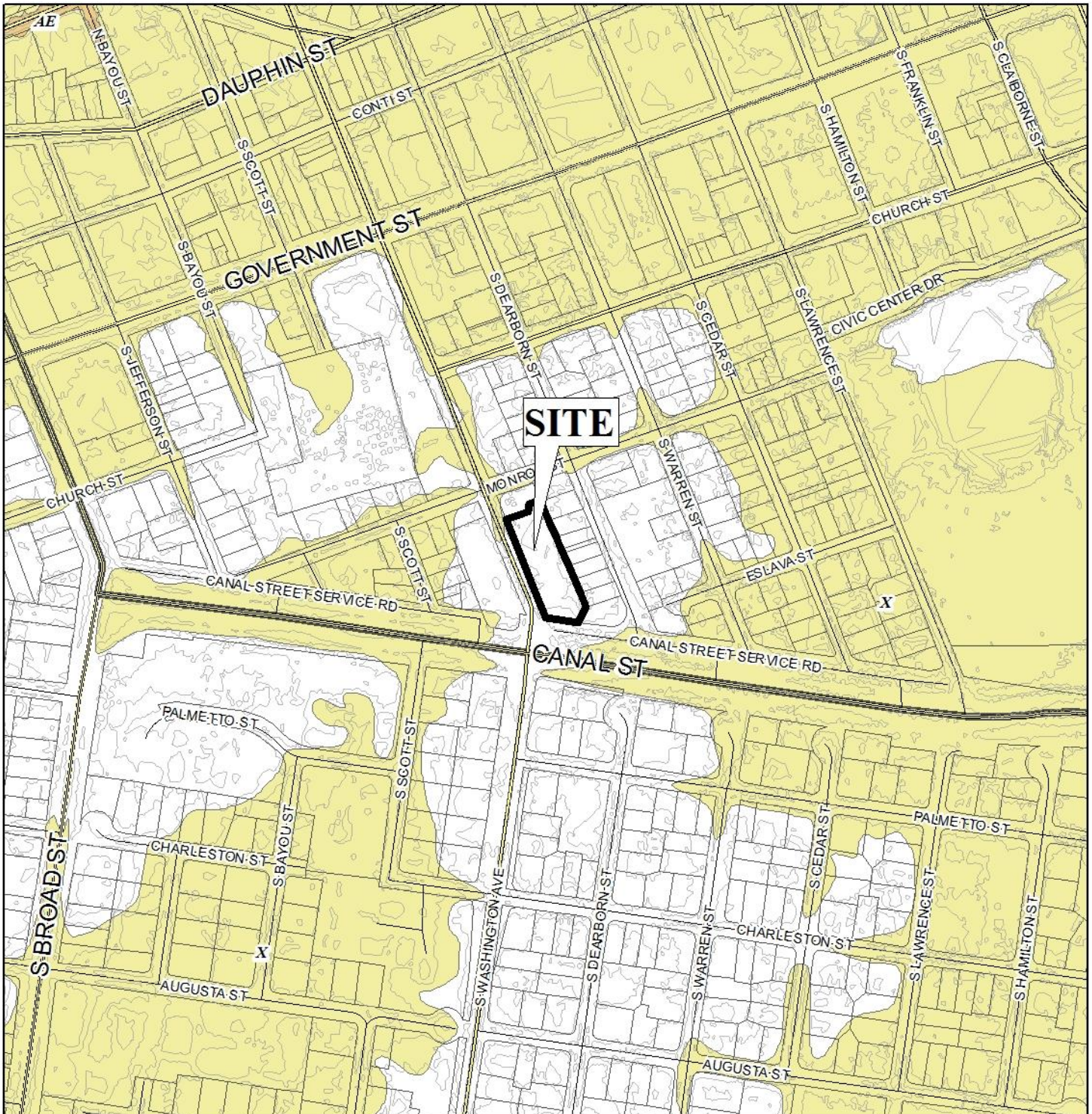
APPLICANT Leslie Ridley (Child Day Care Association, Inc.)

REQUEST_____Setback 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 | |



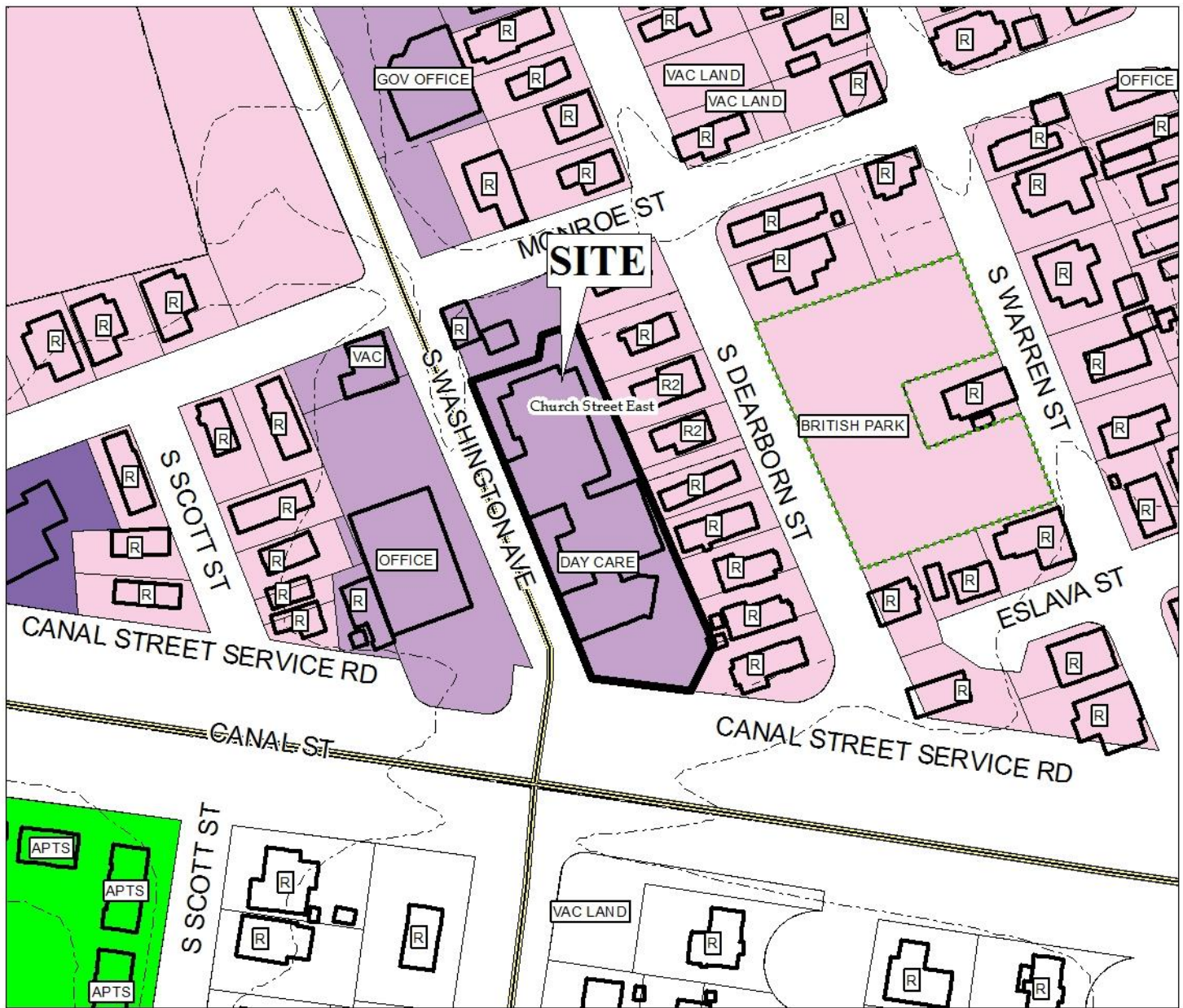
ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units. An office is located to the west.

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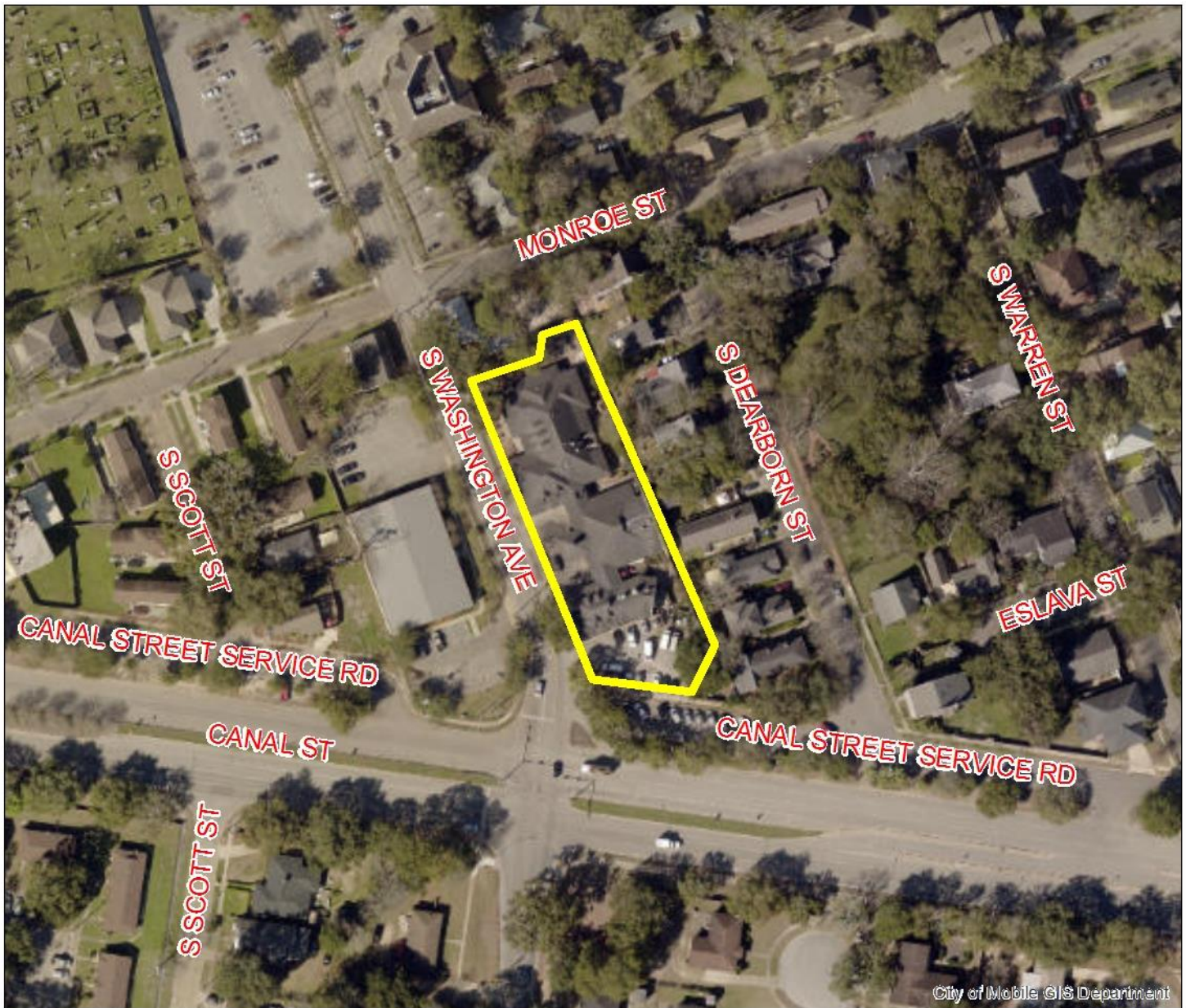
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REQUEST Setback Variance

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



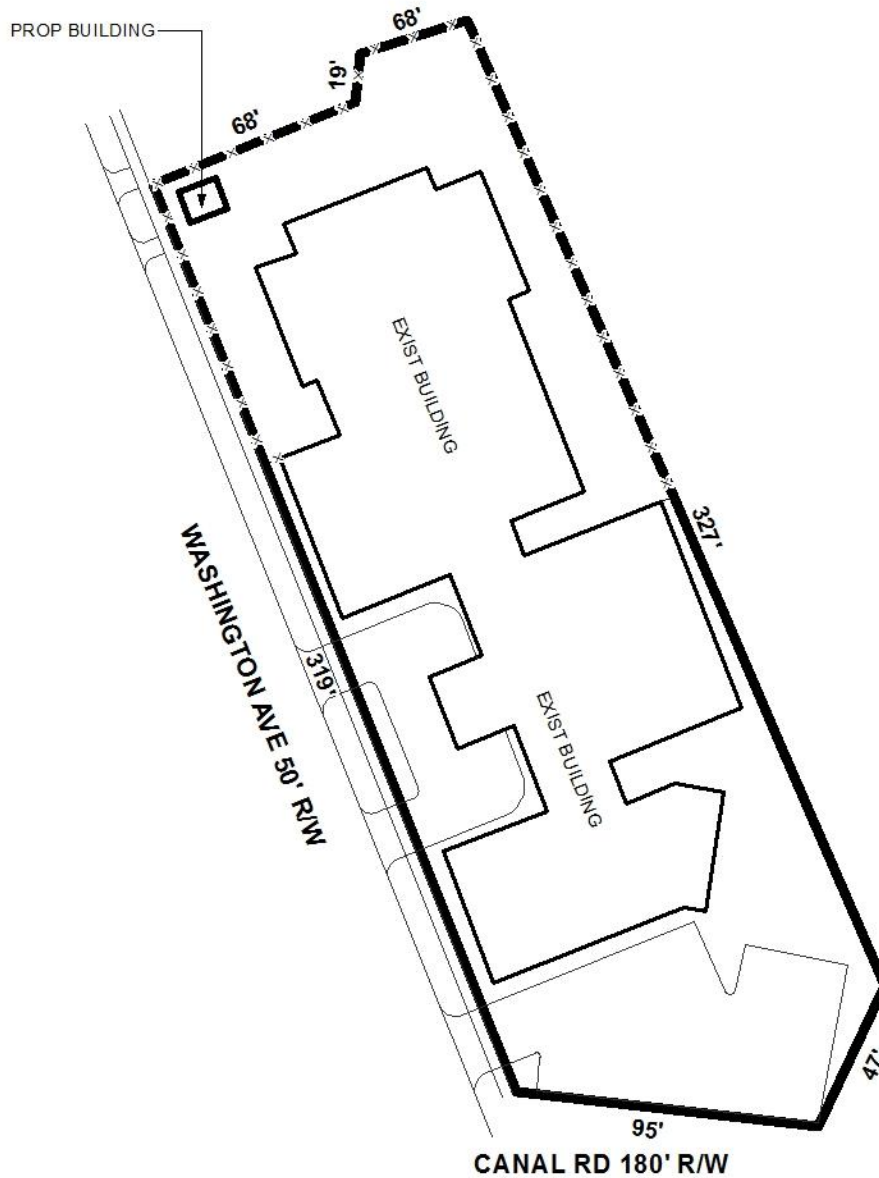
City of Mobile GIS Department

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SITE PLAN



The site plan illustrates the existing building and proposed building.

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