

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

<u>CASE NUMBER</u>	6292
<u>APPLICANT NAME</u>	Les Robinson, LLC (James Hughes)
<u>LOCATION</u>	412 South Broad Street (Northwest corner of Broad and Elmira Street.)
<u>VARIANCE REQUEST</u>	FRONT YARD SETBACK VARIANCE: Front yard setback variance to allow a building to encroach within the Front Yard Setbacks, in a B-2, Neighborhood Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	FRONT YARD SETBACK VARIANCE: The Zoning Ordinance does not allow any structure within a Front or Yard Setback, in a B-2, Neighborhood Business District.
<u>ZONING</u>	B-2, Neighborhood District
<u>AREA OF PROPERTY</u>	1.0 ± Acres
<u>CITY COUNCIL DISTRICT</u>	District 2
<u>ENGINEERING COMMENTS</u>	No comment.
<u>TRAFFIC ENGINEERING COMMENTS</u>	No traffic impacts anticipated by this variance request.
<u>URBAN FORESTRY COMMENTS</u>	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.
<u>FIRE COMMENTS</u>	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 a front yard setback variance to allow a building to encroach within the Front Yard Setbacks, in a B-2, Neighborhood Business District in the Oakleigh Garden Historic District; the Zoning Ordinance does not allow any structure within a Front Yard Setback, in a B-2, Neighborhood Business District.

The site has been given a Mixed Density Residential (MxDR) land use designation, per the 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 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 du/ac, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential (LDR) areas, MxDR 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 states:

“Applicant is requesting permission to reduce the setback on Elmira Street to a 20’ minimum building setback line and the setback on Broad Street to a 10’ minimum building setback line as shown on the recorded plat of Broad-Elmira subdivision (PL 122, page 87) and the recorded plat of Broad-Elmira, Resubdivision of Lot 1 (instrument # 2019047276).

The owner met with city departments for a pre-development meeting around March 2019. Planning required the owner of the property to submit a subdivision application to remove the condition limiting the number of curb-cuts on Elmira Street. Planning informed him that he would also need to submit for a variance for the intended building size, a variance for the intended sign size and his desire to install a security fence. While these variances were ultimately denied, no one ever mentioned a variance for the reduced setbacks.

The plat has been recorded; the plans have been finalized and approved. When submitting for a planning approval (to allow the storage building in a B-2 zone) The owner was informed that the previous owner didn’t submit the required variance for the reduced setbacks shown on the recorded plat in 2009. The owner respectfully requests that the variance for the reduced setbacks be approved.”

The applicant is seeking relief, from the Zoning Ordinance to allow a proposed self-storage facility to encroach upon the required front yard setback. Section 64-3.E.2.e. of the Zoning Ordinance sets a minimum Front Yard Setback of 25 feet. The submitted site plan illustrates a proposed 10 foot setback along Broad Street.

It is important to note, that at its meeting on July 16, 2009 the Planning Commission approved a subdivision requested by a previous owner of the subject property. This subdivision plat depicted a 10 foot minimum building setback along Broad Street and, though it was noted within the conditions of approval that variances would be required for less than 25 foot setbacks, no note was required stating this on the Final Plat.

On May 16, 2019 the Planning Commission approved a revised subdivision request amending the curb cut restrictions previously placed on the subject property. Following this, on June 3, 2019 the applicant went before the Board of Zoning Adjustment and requested variances to allow an 8’ security fence with building site coverage exceeding 50% and more than 64 square feet of signage in the Oakleigh Garden District in a B-2, Neighborhood Business District. After discussion, the Board voted to Holdover the request until the July 8th meeting, in order for the applicant to meet with representatives of the local community regarding the proposal. At the July 8th meeting, the variance request failed to pass, thus requiring any future development to comply with current zoning standards.

On October 3, 2019 the Planning Commission approved a Planning Approval request in order to allow the operation of a storage facility within a B-2, Neighborhood Business District. During the most recent Subdivision and Variance application review processes, staff neglected to

observe that a Variance would be required for the setbacks in addition to the Subdivision plat depicting setbacks reduced from the standard. Despite this previous oversight, the applicant is required to either redesign the structure to comply with a standard setback along Broad Street, or seek approval from the Board to allow the reduced setbacks.

The Board has approved variances for reduced side and rear yard setbacks in the area before; specifically for adjacent properties located at the Northeast and Southwest corners of the South Broad Street and Elmira Street intersection.

It should be noted that, if approved, a Certificate of Appropriateness will be required from the Architectural Review Board prior to the issuance of permits because the site is located in the Oakleigh Garden District.

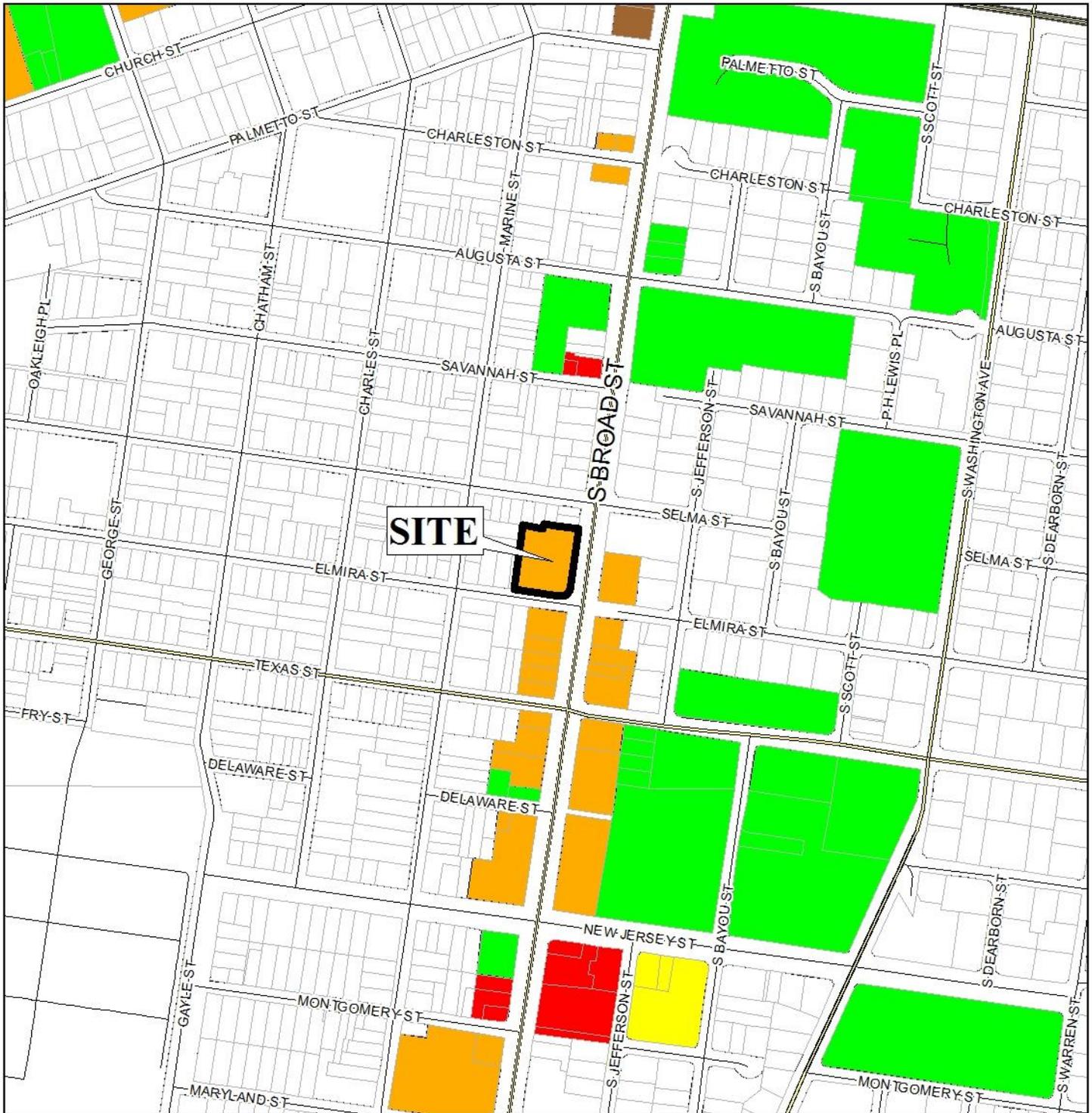
RECOMMENDATION: Staff recommends to the Board the following findings of fact for approval:

- 1) Granting the variance will not be contrary to the public interest in that, similar variances have been approved on nearby properties;
- 2) Special conditions were illustrated such that the 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 surrounding neighborhood by granting the variance because the request is in line with similar requests that have been approved within the neighborhood.

The approval should be subject to the following conditions:

- 1) Compliance with all other municipal codes and ordinances.

LOCATOR ZONING MAP



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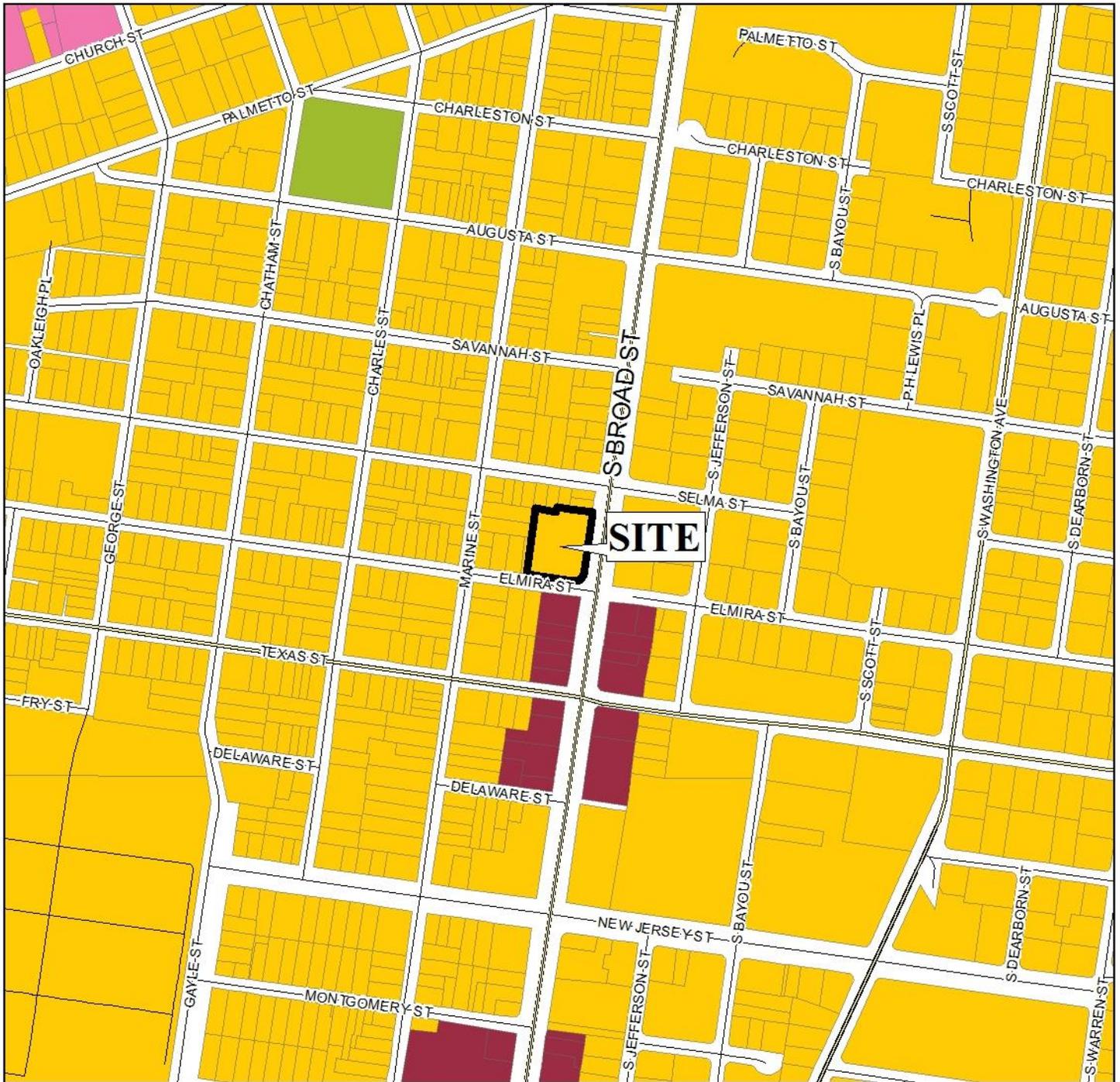
APPLICANT Les Robinson, LLC

REQUEST Setback Variance



NTS

FLUM LOCATOR MAP



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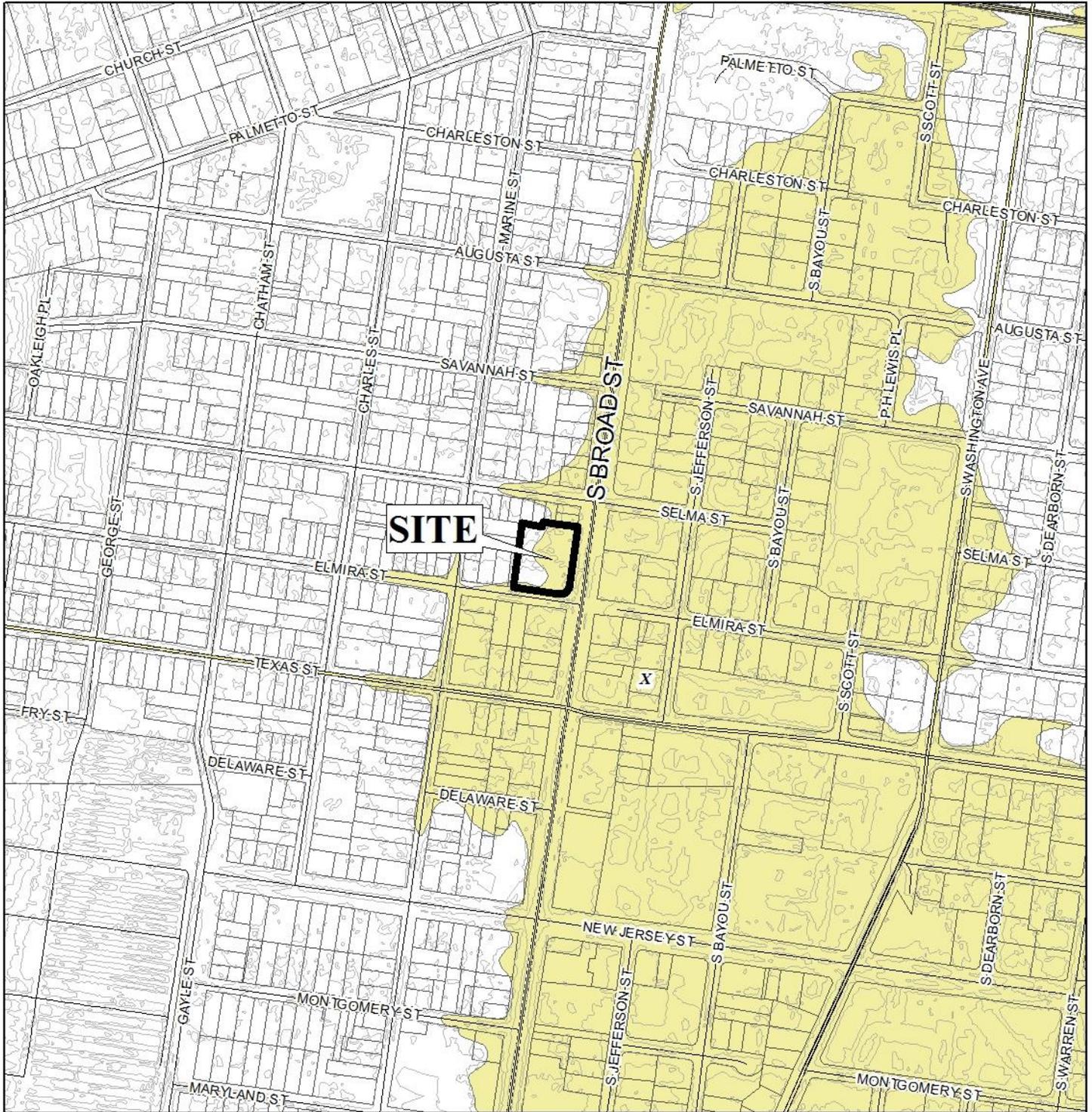
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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood 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. A manufacturing unit lies south of the site.

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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

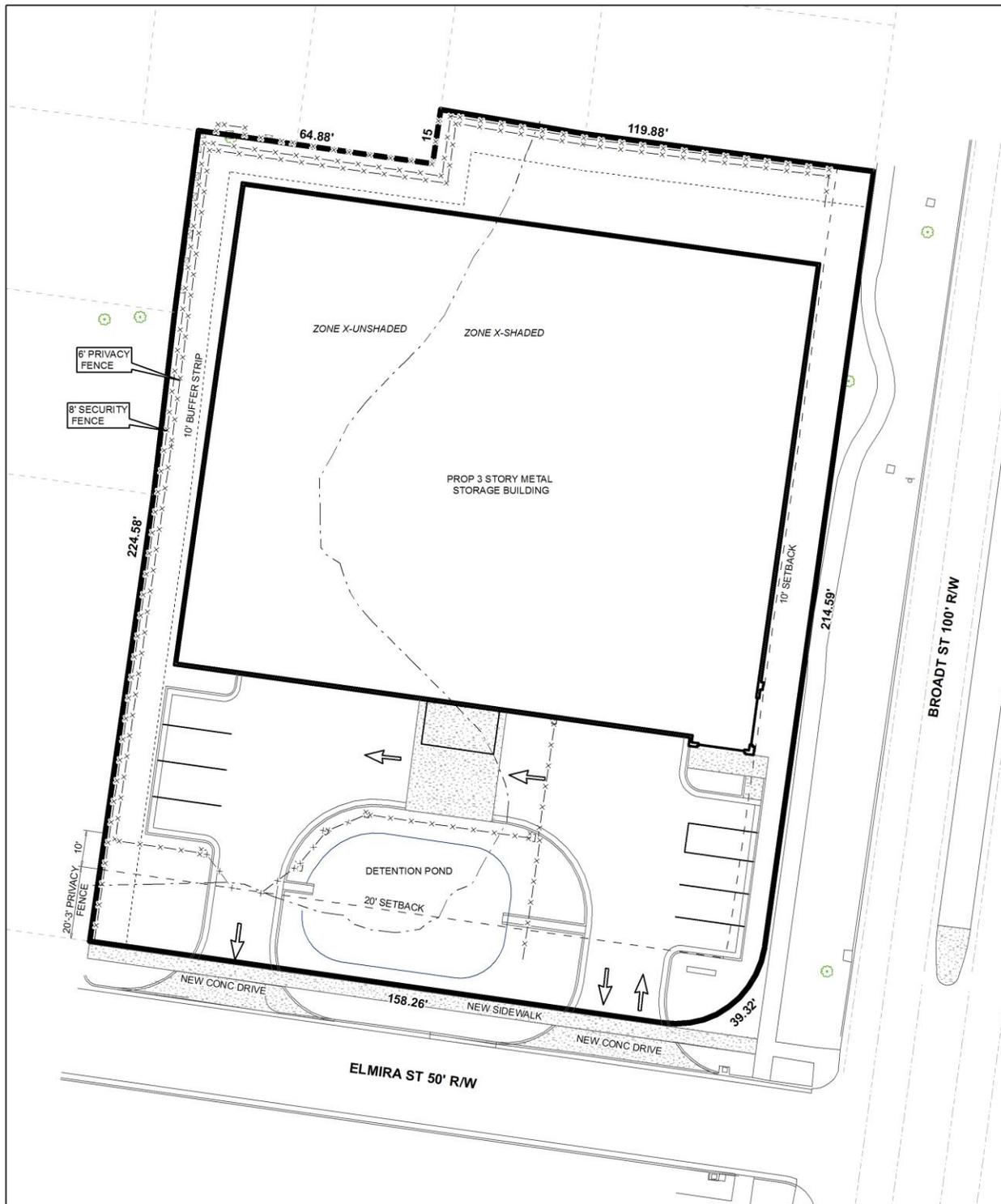


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SITE PLAN



The site plan illustrates the proposed building, parking, setbacks, and fences.

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