

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 11, 2021**

<b><u>CASE NUMBER</u></b>	6366
<b><u>APPLICANT NAME</u></b>	Melinda Harmon
<b><u>LOCATION</u></b>	914 Government Street (North side of Government Street, 367'± West of South Broad Street)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a funeral service facility in a B-2, Neighborhood Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance does not allow funeral service facilities in a B-2, Neighborhood Business District.
<b><u>ZONING</u></b>	B-2, Neighborhood Business
<b><u>AREA OF PROPERTY</u></b>	32,582 ± square feet / 0.75 ± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	If the use is permitted, request the owner install new one-way signage at the driveways on Government Street to designate their use clearly.
<b><u>URBAN FORESTRY COMMENTS</u></b>	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.
<b><u>FIRE COMMENTS</u></b>	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.

### **ANALYSIS**

The applicant is requesting a Use Variance to allow a funeral service facility in a B-2, Neighborhood Business District; the Zoning Ordinance does not allow funeral service facilities in a B-2, Neighborhood Business District.

The site has been given a Traditional Corridor (TC) 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.

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 provided the following narrative regarding the request.

*I am writing this variance request for the location at 917 Government Street. I became aware of the allowed usages for this location as pertained in your chart of permitted uses.*

*It is my intent to purchase the property through agreement with the property owner, who as also given permission for this variance.*

*I plan to obtain the building for the use of operating a Funeral Service Facility. The size and location of the property has already been assessed and will be a suitable place to do so; with, or course, your approval via the meeting with the Zoning Board. The operations will include, counseling and funeral arrangement, viewing parlors, and embalming (which will first be done at another site until all adjustments to the building can be made after inspection from the Health Department and the EPS. We have also assessed the parking facility and found it to also be accommodating.*

*Please review this request along with all other required documentation included with this letter of intent.*

The site in question is actually 914 Government Street, on the North side of Government Street, extending to Conti Street. The site is located within the Oakleigh Garden Historic District.

The site and 4,600 ± square foot building most recently was used as a bank. The site has two access points to Government Street, and three access points to Conti Street. The building includes two drive-up windows. Changing the use of the building to a funeral home will likely require compliance with Building and Fire Codes, as it is considered a change of occupancy. A site plan was not provided, however, aerial photos indicate that the site has 33 parking spaces.

A funeral home is not allowed in a B-2 district, but is allowed in B-3, Community Business and B-4, General Business districts. The site abuts R-B, Residence-Business and B-4 districts to the East, B-2 and B-4 districts to the North across Conti Street, B-1, Buffer Business districts to the West, and R-B and B-1 districts to the South, across Government Street.

The description within the Zoning Ordinance of a B-2 district is:

*These districts are composed of land and structures occupied by or suitable for furnishing the retail goods, such as groceries and drugs, and the services, such as barbering and shoe repairing, to satisfy the daily household needs of the surrounding residential neighborhoods. Often located on a thoroughfare or near the intersection of two (2) thoroughfares, these districts are small and are within convenient walking distance of most of the areas they will serve. The district regulations are designed to permit the development of the districts for their purpose and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in residential districts.*

The description within the Zoning Ordinance of a B-3 district is:

*These districts are composed of land and structures used to furnish, in addition to the retail goods and services found in neighborhood business districts, such less frequently needed goods as clothing and automobiles—the wider range of retail goods and services to satisfy all the household and personal needs of the residents of a group or community of neighborhoods. Light or heavy distribution uses may be allowed as defined in the chart of permitted uses. Usually located on a thoroughfare or near the intersection of two (2) thoroughfares, these districts are large and are within convenient driving distance of the group of neighborhoods they will serve. The district regulations are designed to permit the development of the districts for their purpose in a spacious arrangement.*

A funeral home is placed in a B-3 district due to the fact that it provides services beyond what might be needed by most people on a daily basis, and perhaps due to the fact that period traffic generation may occur at a higher level than typical B-2 uses.

Funeral home facilities and their operation must comply with state laws, as administered by the Alabama Board of Funeral Service. One of the requirements is the provision of an area within the funeral home that has a capacity to seat 100 people. Because of this requirement, parking must be provided for 25 vehicles, per the Zoning Ordinance. As previously noted, the site appears to have adequate parking.

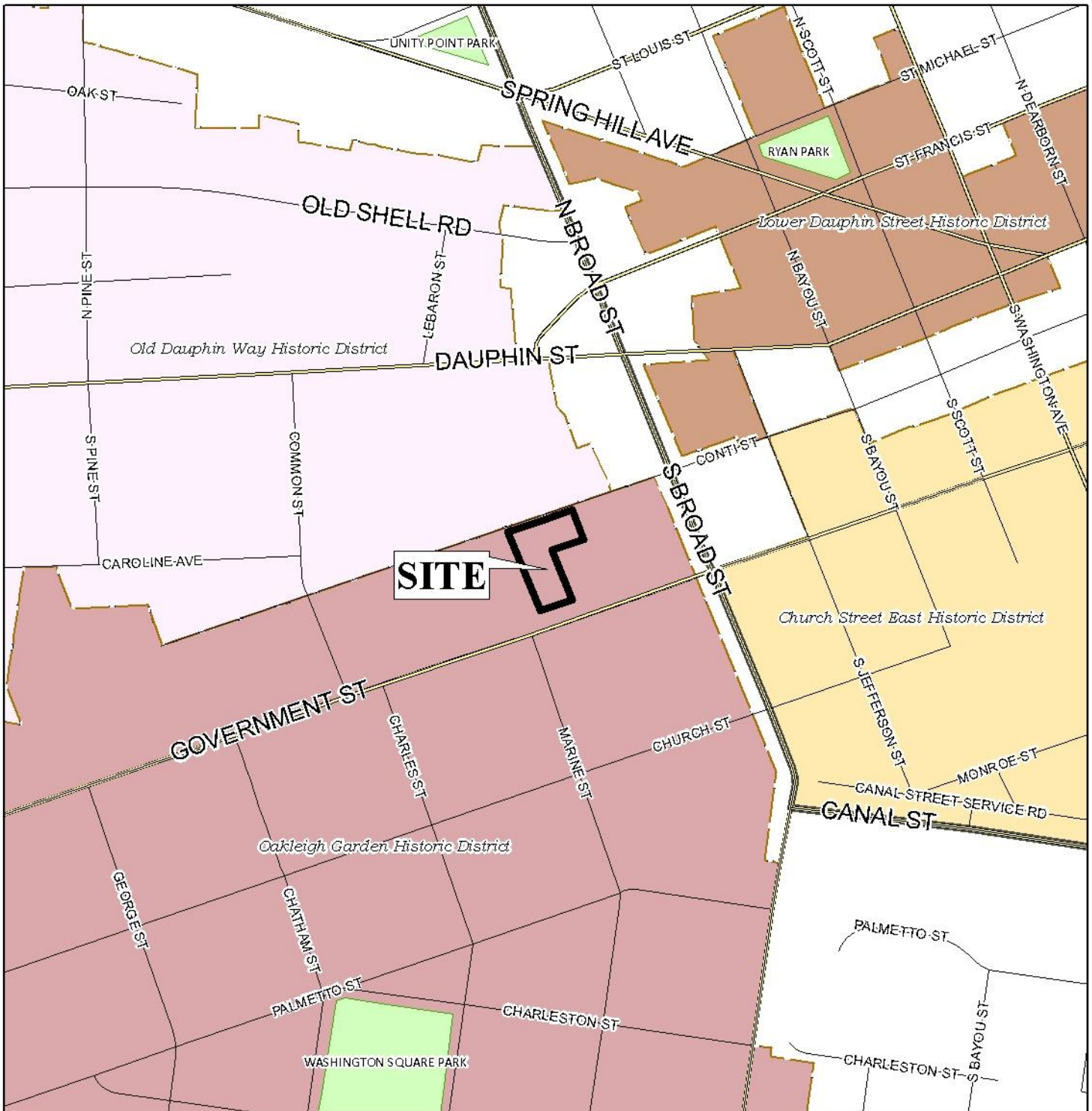
The floor plan provided by the applicant notes a viewing area, an open space for services, offices and restrooms. Modifications to the submitted floor plan may be required in order to comply with Building and Fire Codes.

The applicant has not indicated any unique aspects of the property – hardships - that prohibit use in a manner compliant with B-2 district uses. It appears that the applicant instead just wishes to use the property in a manner not compliant with the existing zoning district.

**RECOMMENDATION:** Based on the preceding, 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 proposal is to place a B-3 use in a B-2 district;
- 2) Special conditions do not exist with the site such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance.

# LOCATOR MAP



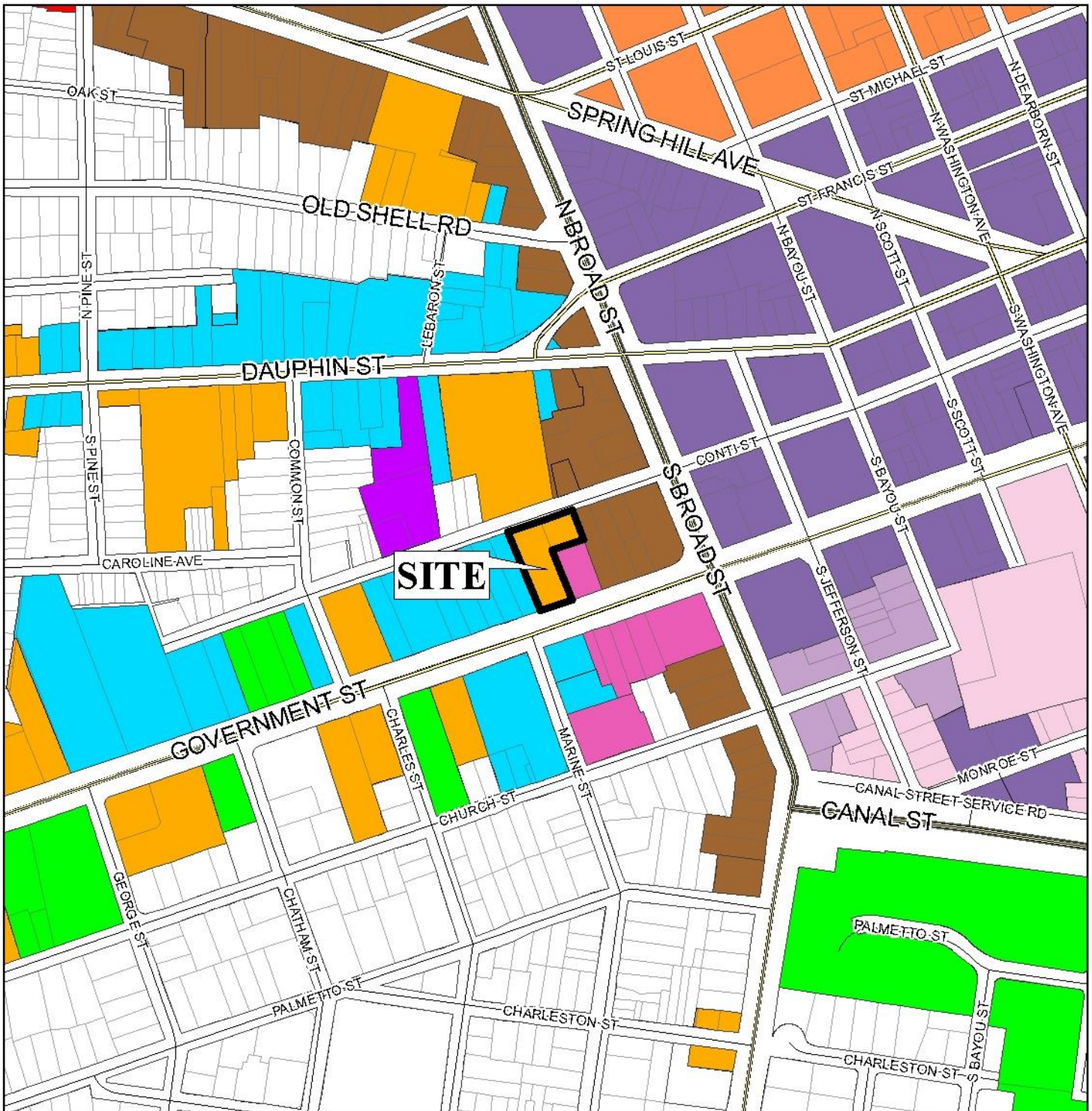
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# LOCATOR ZONING MAP



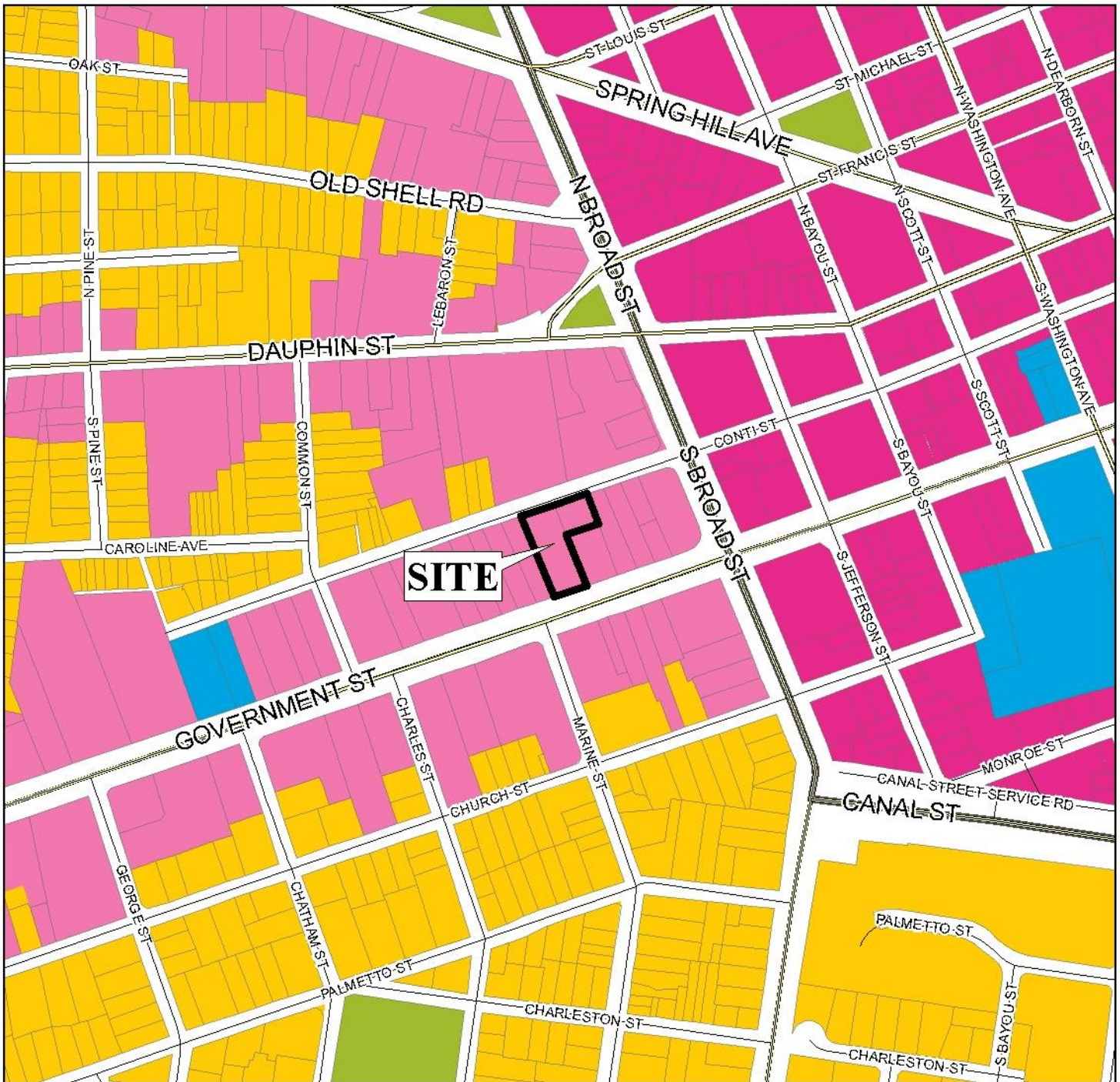
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# FLUM LOCATOR MAP



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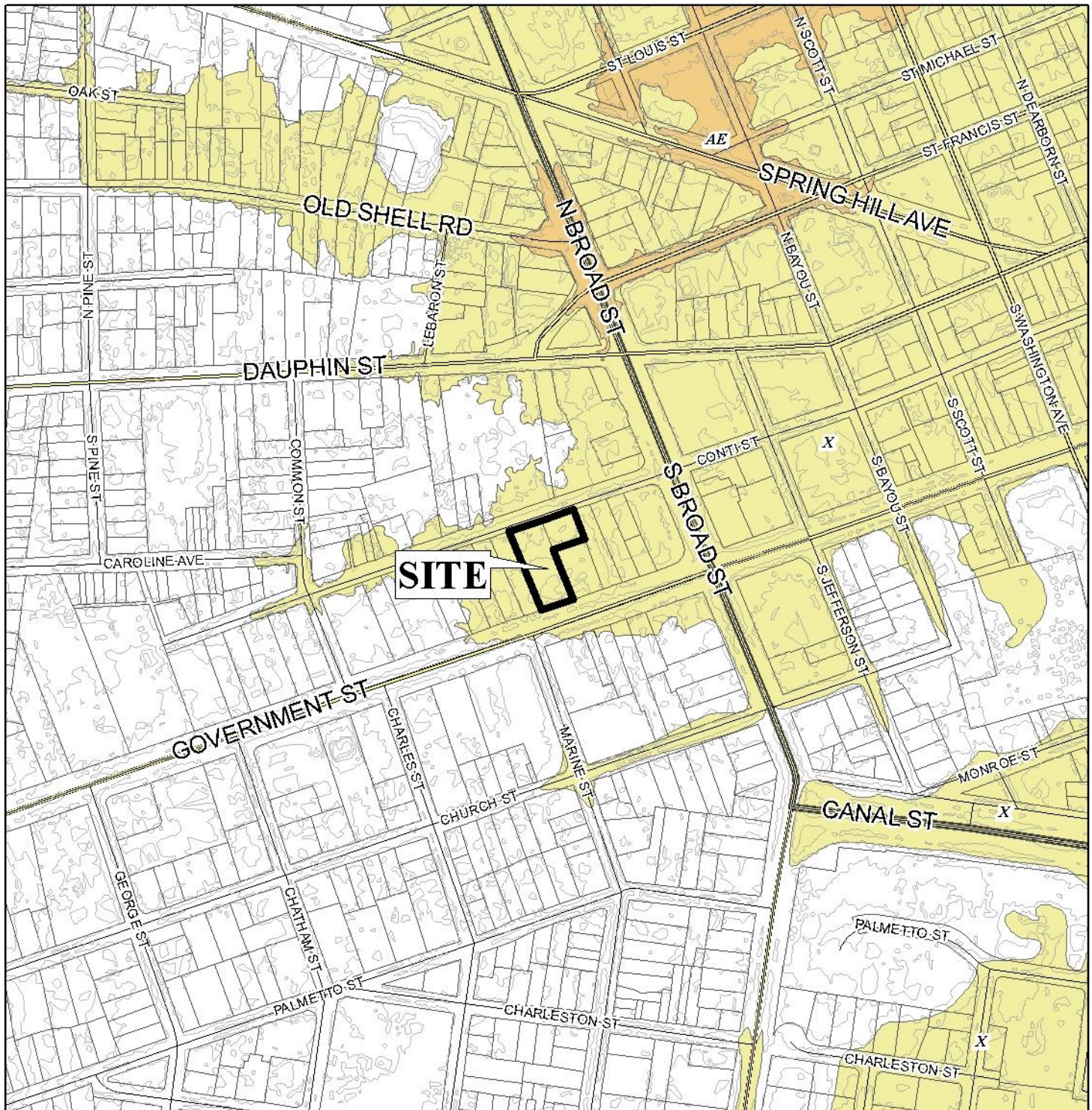
REQUEST Use Variance

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	





# ENVIRONMENTAL LOCATOR MAP

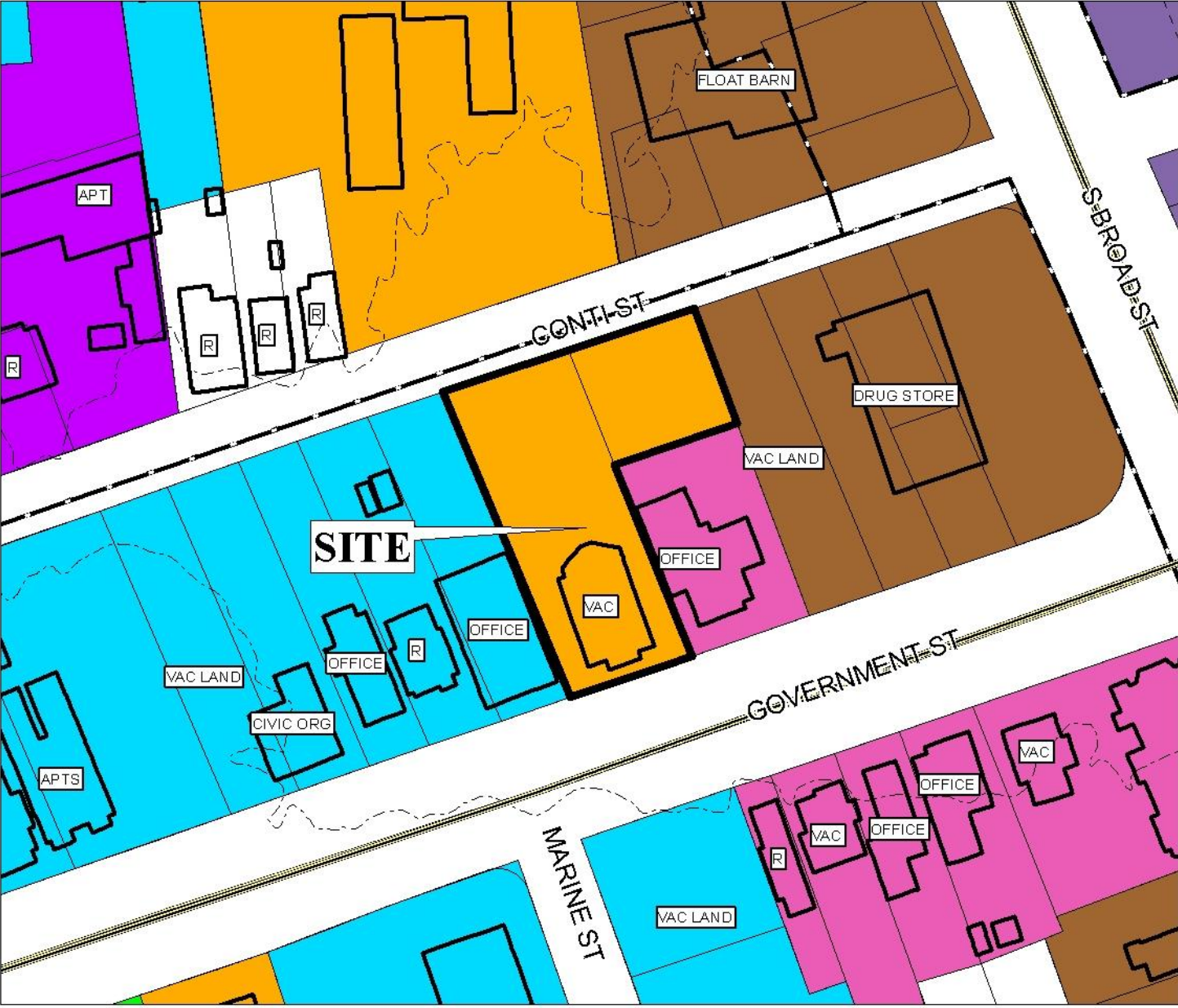


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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



























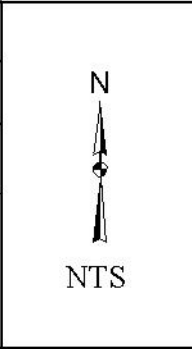
The site is surrounded by commercial and residential units.

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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



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



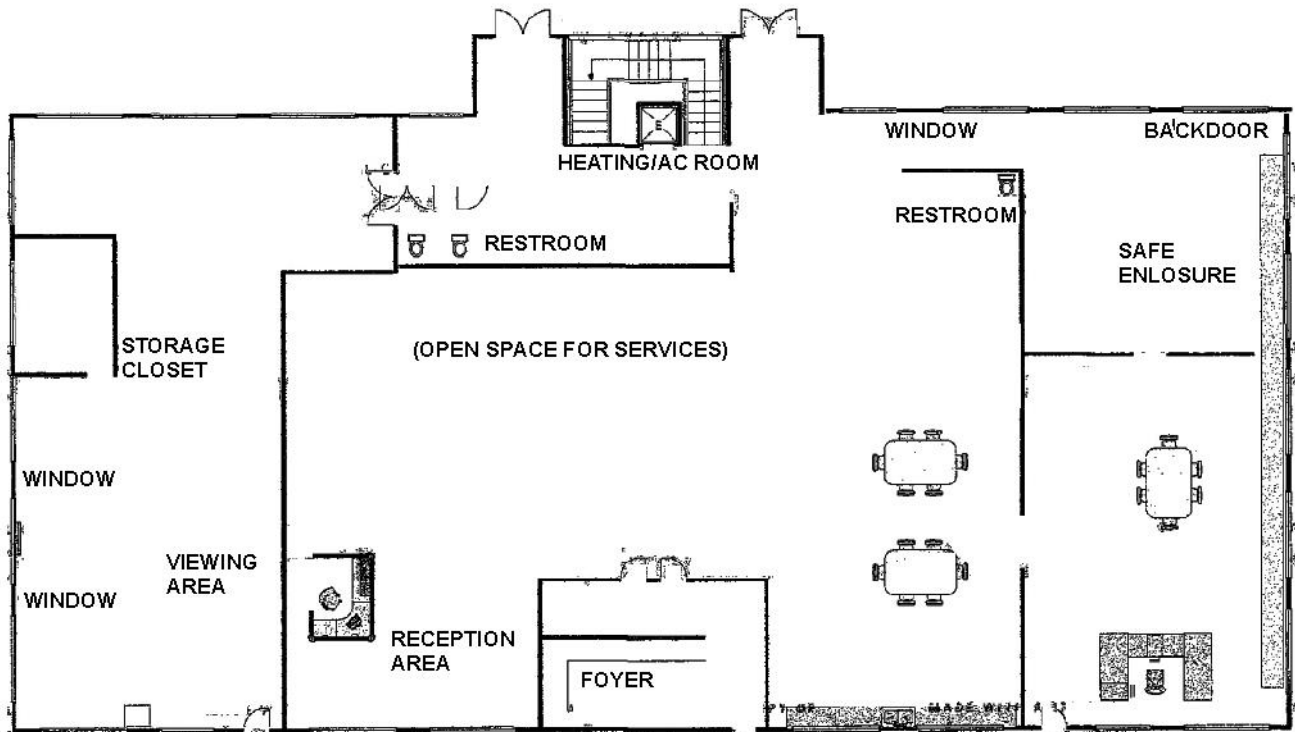
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# DETAIL SITE PLAN



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REQUEST Use Variance



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