

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: September 12, 2022**

**CASE NUMBER** 6475

**APPLICANT NAME** Lee Waldrop

**LOCATION** 455 South Broad Street  
(East side of South Broad Street, 106'± South of Elmira Street).

**VARIANCE REQUEST** **ACCESS:** To allow reduced access width in a B-2, Neighborhood Business District.

**SURFACING:** To allow aggregate access and parking surfacing in a B-2, Neighborhood Business District.

**ZONING ORDINANCE REQUIREMENT** **ACCESS:** The Zoning Ordinance requires compliant access width in a B-2, Neighborhood Business District.

**SURFACING:** The Zoning Ordinance requires compliant access and parking surfacing in a B-2, Neighborhood Business District.

**ZONING** B-2, Neighborhood Business District

**AREA OF PROPERTY** 0.2± Acre

**ENGINEERING  
COMMENTS**

If this variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Tier 2 Land Disturbance Permit be submitted through Central Permitting.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.
5. Submit a ROW Permit (City of Mobile) for any work within the Public ROW.

- 6. Aggregate surfacing will NOT be allowed within the public ROW.
- 7. Designated handicapped accessible spaces and routes must be paved (i.e. concrete, asphalt).

**TRAFFIC ENGINEERING**

**COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City’s Zoning Ordinance.

**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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

**FIRE DEPARTMENT**

**COMMENTS**

All fire access roads are required to be constructed out of an all-weather material, if not required fire access then no comment.

**CITY COUNCIL**

**DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Access and Surfacing Variances to allow reduced access width and aggregate access and parking surfacing in a B-2, Neighborhood Business District; the Zoning Ordinance requires compliant access width and compliant access and parking surfacing in a B-2, Neighborhood Business District.

The site has been given a Traditional Neighborhood Center land use designation, per the Future Land Use Plan and Map adopted 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.

The Neighborhood Center (NC) land use designation applies to smaller hubs of mixed commercial, community, and recreational activity that cater to adjacent residential areas. Many of these centers exist today in some form. Therefore, the following common principles apply not just to the future development of new centers, but also to the redevelopment (wholesale or incremental) of existing centers:

- NC should support a limited amount of commercial development;

- NC should incorporate some residential use, which may vary in type from detached single-family, townhouse, accessory and live-work units in mixed use and low-rise multi-family structures;
- The residential density in NC designations – ranging from 4 to 10 dwelling units per acre – must be compatible in character with that of surrounding residential development, providing appropriate transitions in height, massing and other buffering from one land use district to the next;
- The retail and housing uses should merge around vibrant, compact, accessible nodes, located at key neighborhood intersections of along short road segments;
- The NC nodes should be connected to the surrounding neighborhood and nearby public uses (e.g. schools, parks, etc.) via well-designed sidewalks and complete streets.

While the above-listed principles are common to all NC districts, the design attributes of neighborhood centers generally vary depending on whether a center is in a more “traditional” or more “suburban” context.

Neighborhood Centers in traditional contexts tend to be in those areas east of the Beltline and correspond to Mixed Density Residential neighborhoods. In these Neighborhood Centers, building should orient to the street, with on-site parking typically pushed to the back of the site. The design qualities of the public realm are emphasized, including the provision of continuous sidewalks, tree canopy, pedestrian amenities, on-street parking and bicycle facilities where appropriate.

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 of 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 the 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 is 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 subject site has an existing structure that was constructed prior to 1980. Land disturbance and building permits were recently applied for to make improvements to the site, and the applicant was advised of the need for the reduced access width variance. The site has historically been serviced

by parking spaces located entirely in the right-of-way, and the applicant proposes to utilize property behind the existing building to provide parking on private property, as required by the Zoning Ordinance. It should be noted that the site plan submitted for permitting shows compliant paving for access and parking as being proposed for the site, whereas the site plan submitted with the variance application depicts gravel for the proposed parking area. No additions are proposed to the existing structure at this time, and the site plan depicts a compliant number of parking spaces available on-site, making the provision of parking in the right-of-way unnecessary. If approved, the existing parking in the right-of-way should be removed. Finally, based on City of Mobile aerial photos of the site, it appears that the rear of the site has recently been cleared, without permits. If approved, the applicant should obtain any required after-the-fact permits.

The applicant provided the following narrative with their request:

*18 FT. WIDE ENTRANCE DRIVE:*

*Please consider our request for allowing an 18 ft. wide entrance drive. The existing side yard and building location limit the available width for the existing entrance drive.*

*CRUSHED GRAVEL PARKING AREA PAVING:*

*Please consider our request for using crushed gravel for the parking area paving. Concrete paving would be provided at the H.C. parking space & access aisle and at the first 32 ft. of the entrance drive (this will align the entrance drive concrete paving with the adjacent site concrete paving). There are no existing storm drains adjacent to this property. With the previous site plan submitted for permit, pervious pavement was used to store and drain the retained storm water. With the gravel paving area shown on the site plan drawing, the storm water would percolate into the soil faster than the previous design.*

*There are no existing trees on site. The legal description for the property is shown on the property survey. Please call if you have any questions or need additional information. Thank you for your assistance on this project.*

It should be noted that the property has R-1, Single-Family Residential District property that abuts the rear property line of the subject site. The site plan submitted depicts an existing chain link fence along this property line, with a six-foot tall privacy fence proposed. If approved, the buffer should be retained on the site plan.

Neither the site plan submitted with the variance application, nor the plan submitted for permitting depict a dumpster, but there are notes regarding provision of a dumpster. If approved, the site plan should be revised to either depict a dumpster with a compliant enclosure and sanitary sewer connection, or include a note stating that curbside pickup will be utilized.

As the structure has existed in its current configuration for 40 years, it may be reasonable to allow the site to be served by a sub-standard access drive. However, there is no hardship associated with the property that would make the provision of gravel surfacing over asphalt or concrete preferential. The applicant has even had a site plan created showing the site can be developed in a compliant manner. As such, this request should be denied, and the applicant should be required to provide compliant surfacing materials.

**RECOMMENDATION:**

Based upon the preceding, staff recommends to the Board the following Findings of Fact for Denial of the Surfacing Variance:

- 1) Approving the Surfacing Variance will be contrary to the public interest in that there is no hardship which makes the provision of a compliant surfacing material undesirable;
- 2) Special conditions do not exist such 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 applicant and surrounding neighborhood by granting the variance.

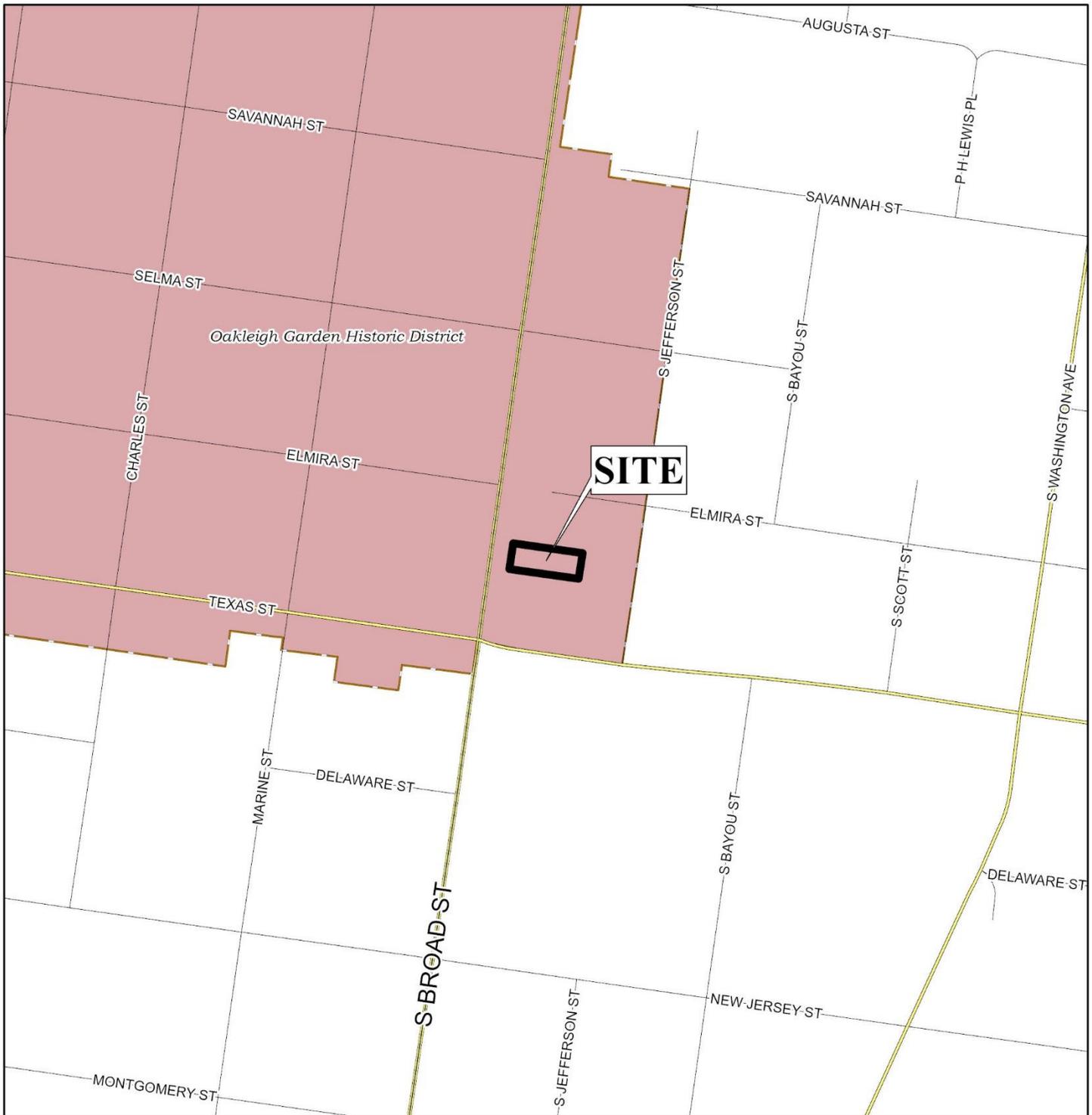
Based upon the preceding, staff recommends to the Board the following Findings of Fact for Approval of the Access (Width)Variance:

- 1) Approving the variance will not be contrary to the public interest in that the existing structure has been in its current configuration for approximately 40 years;
- 2) Special conditions do exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship since the site would only be able to provide compliant access if a portion of the existing structure were removed; and,
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and surrounding neighborhood by granting the variances as the site has been used for approximately 40 years.

This approval should be subject to the following conditions:

- 1) Obtain any after-the-fact permits needed for clearing the property;
- 2) Revision of the site plan to depict compliant parking and maneuvering surfaces;
- 3) Retention of the compliant residential buffer along the rear property line;
- 4) Removal of the existing parking spaces in the right-of-way;
- 5) Revision of the site plan to either depict a dumpster with a compliant enclosure and sanitary sewer connection, or include a note stating that curbside pickup will be utilized; and
- 6) Full compliance with all municipal codes and ordinances.

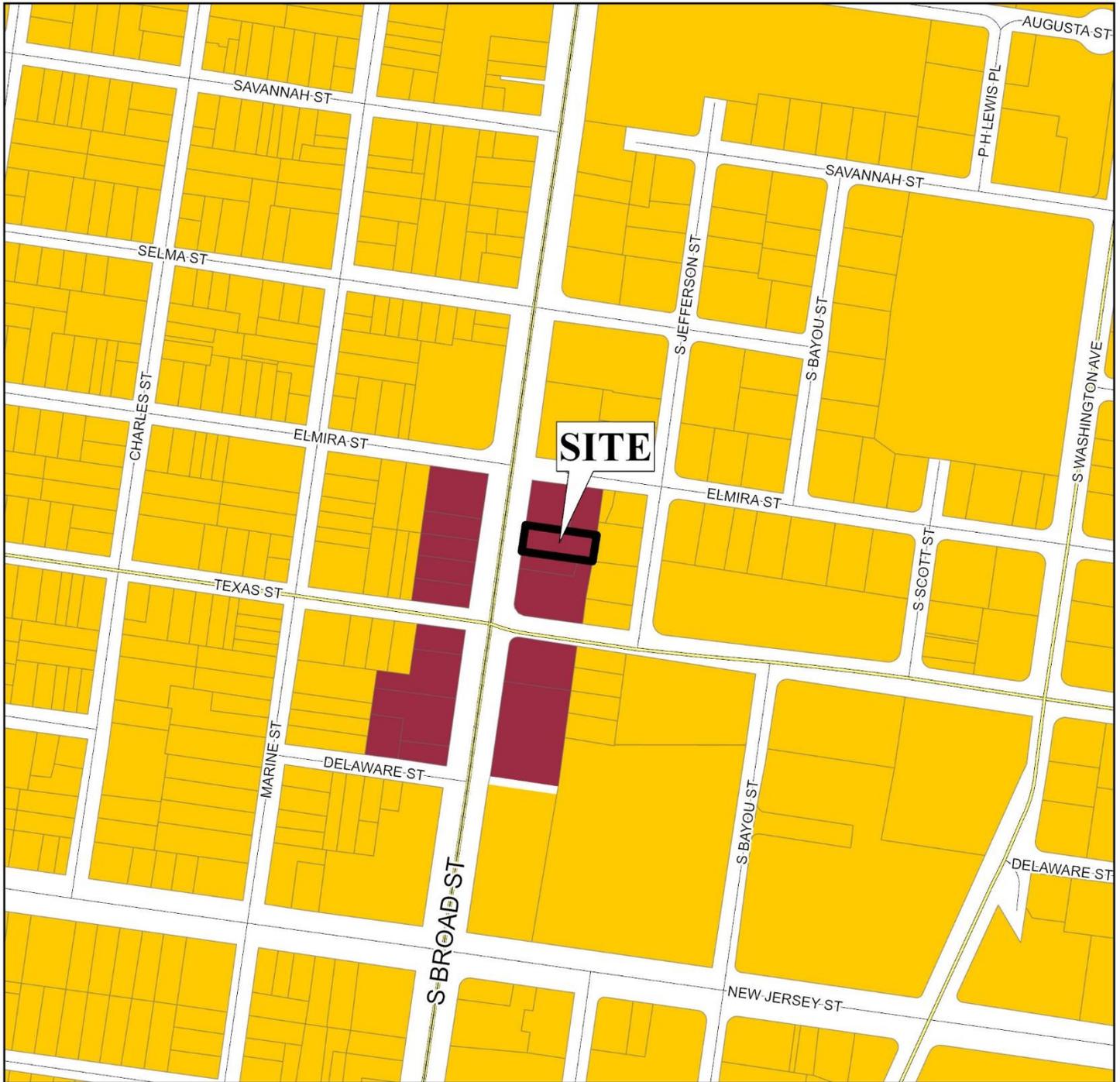
# LOCATOR MAP



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# FLUM LOCATOR MAP



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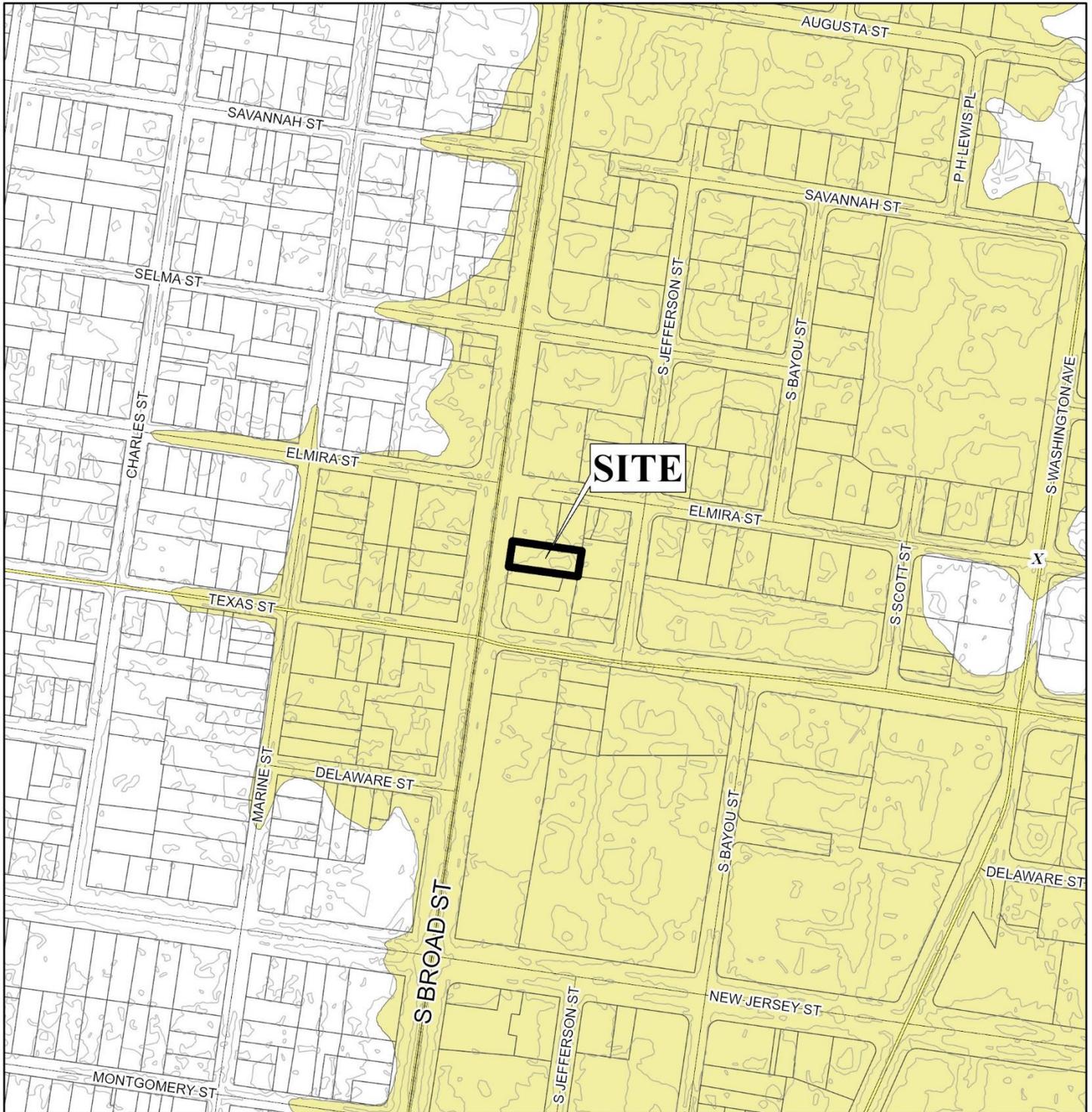
**Layer2**

- |                           |                                   |                           |                    |
|---------------------------|-----------------------------------|---------------------------|--------------------|
| Low Density Residential   | Neighborhood Center - Traditional | Traditional Corridor      | Heavy Industry     |
| Mixed Density Residential | Neighborhood Center - Suburban    | Mixed Commercial Corridor | Institutional      |
|                           |                                   | Downtown Waterfront       | Parks & Open Space |
|                           |                                   | Light Industry            | Water Dependent    |



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# ENVIRONMENTAL LOCATOR MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial 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

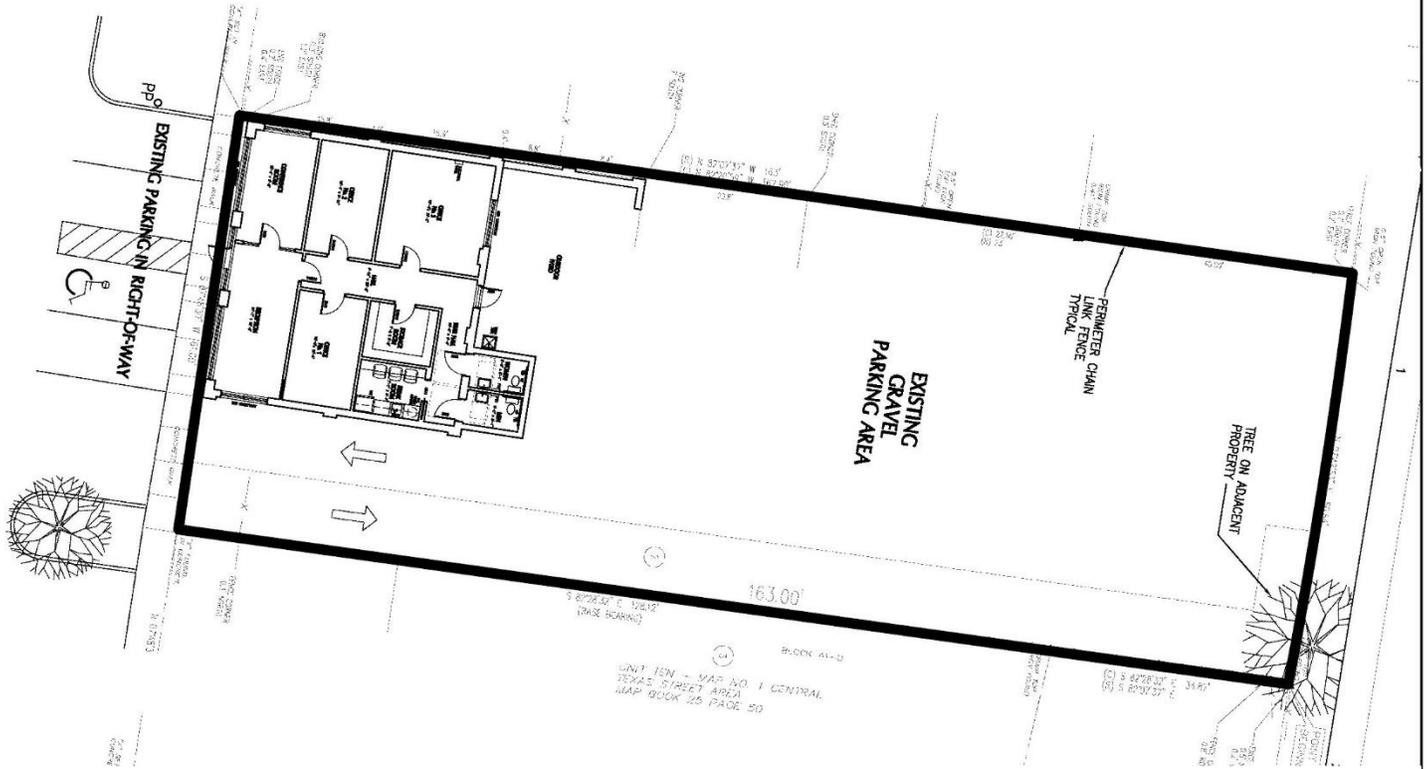


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# EXISTING SITE PLAN



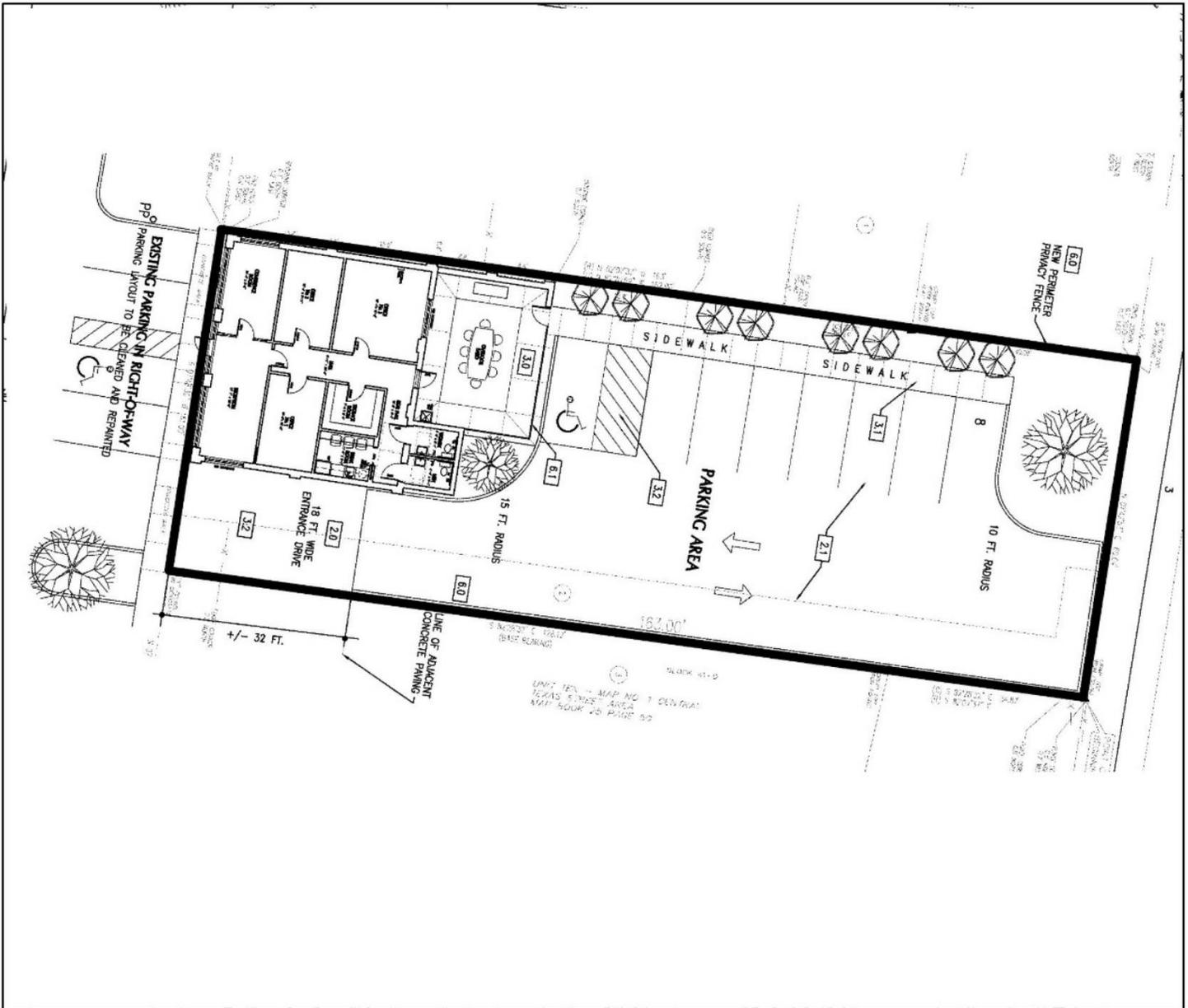
The site plan illustrates the existing building, and parking areas.

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# PROPOSED SITE PLAN



The site plan illustrates the existing building, and new proposed parking area.

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