

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 4, 2018****CASE NUMBER**

6184/6023/5672/5608

APPLICANT NAME

My Happy Dog 123, LLC

LOCATION1252 Government Street
(North side of Government Street, 55'± West of South Georgia Avenue)**VARIANCE REQUEST****USE:** To amend a previously approved variance to allow a retail and wholesale bakery with light distribution in a B-1, Buffer Business District.**TREE PLANTING AND LANDSCAPING:** To allow no tree plantings or landscaping.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a minimum of a B-3, Community Business District zoning for a retail and wholesale bakery with light distribution.**TREE PLANTING AND LANDSCAPING:** Requires full compliance with tree planting and landscaping requirements.**ZONING**

B-1, Buffer Business District

AREA OF PROPERTY

11,769± square feet/0.28±Acres

**ENGINEERING
COMMENTS**

No Comments

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**URBAN FORESTRY
COMMENTS**

Urban Forestry recommends the variance be granted as it pertains to tree planting. The front parking area is entirely paved leaving no green space for planting. There are a variety of existing trees along the property line as well as live oaks on the Right of way.

FIRE DEPARTMENT**COMMENTS**

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).

CITY COUNCIL**DISTRICT**

District 2

ANALYSIS

The applicant is requesting Use and Tree Planting and Landscaping Variances to amend a previously approved variance to allow a retail and wholesale bakery with light distribution in a B-1, Buffer Business District and no tree plantings or landscaping; the Zoning Ordinance requires a minimum of a B-3, Community Business District zoning for a retail and wholesale bakery with light distribution and full compliance tree planting and landscaping requirements.

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 site was granted variances to allow the operation of a restaurant at the Board of Zoning Adjustment's January 4, 2016 meeting with the following conditions:

- 1) hours of operation be limited to 10:00 AM to 11:00 PM Sunday — Thursday and from 10:00 AM to 12:00 AM on Friday and Saturday;**

- 2) provision that the dumpster pick-up be between 9:00 AM and 9:00 PM on weekdays only;
- 3) provision that deliveries are restricted to 9:00 AM to 6:00 PM;
- 4) revision of the site plan to illustrate one additional parking space at the rear of the site, behind the building;
- 5) the site not be allowed the sales of alcohol;
- 6) the smoker be limited to the hours of operation, if applicable;
- 7) lighting of the site to focus only on the site and not overflow to the adjacent residential properties;
- 8) revision of the site plan to indicate a 6' high, wooden privacy fence along the North property line;
- 9) provision of a revised site plan to the Planning & Zoning Development prior to the issuance of any permits or land disturbance activities; and
- 10) full compliance with all other municipal codes and ordinances.

This site has been previously used as a restaurant for many years. Non-conforming use documentation shows that the building housed the former Steak and Egg Restaurant since the 1960's, and later the Saucy Q Bar-B-Q Restaurant from 1998 until January 2005. The site was vacant from 2005, and, as such, legal non-conforming use status as a restaurant expired in 2007, and variances were granted in 2010, 2011, and 2016 to allow operation of a restaurant to resume. The applicant now wishes to operate a bakery that specializes in treats for dogs.

The applicant states:

There is an existing building and parking lot which has historically been utilized for restaurant businesses. The proposed use is a bakery that makes grain free and gluten free dog treats. The dog treats will be sold at this location and with some wholesale and online orders. Online orders will be taken to the UPS store for delivery and not picked up at the location. They will utilize the same restaurant kitchen to prepare and bake the dog treats. They have two employees right now but are looking to add about three more in the future. The hours of operation will be 9:00 AM to 6:00 PM daily if permitted.

The purposed of this application is to request allowing a bakery with light distribution in a B-1 zone. We are also asking that no tree planting or landscaping be required due to the site being almost 100% developed and there is not sufficient room. Tree planting and Landscape Variances were previously approved by the Board of Zoning Adjustment on the Letter of Decision dated January 8, 2016 (Case# ZON 2015-02756).

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.

As this site has historically been a restaurant, and the building is currently set up for a restaurant, it would seem to be reasonable to grant the use variance for a bakery for dog treats. The site already has adequate paved parking for the use, and, as such, would not overburden the site. Furthermore, with online orders being taken to the UPS store, rather than picked up directly from the site, large trucks would not be stopping by the site frequently.

In regards to the landscaping and tree planting requests, the site is almost 100% developed, and removing any parking or maneuvering areas to plant trees would result in another variance request either for parking or maneuvering area. Aerial photography reveals a large live oak on the right-of-way directly in front of this site, with the remainder of the right-of-way frontage being taken up by the site's curb-cut. These conditions could be considered hardships, and as such, the landscaping and tree planting variances may be appropriate.

When the site was presented to the Board previously, neighborhood residents voiced concerns about the type of restaurant which would operate at this location. Therefore, restrictions were placed on the site including prohibiting the sales of alcohol, limiting hours of operation for a smoker, lighting not overflowing onto adjacent residential properties, and provision of a buffer along the North property line. With the currently proposed business and proposed hours of operation, these concerns should be minimized.

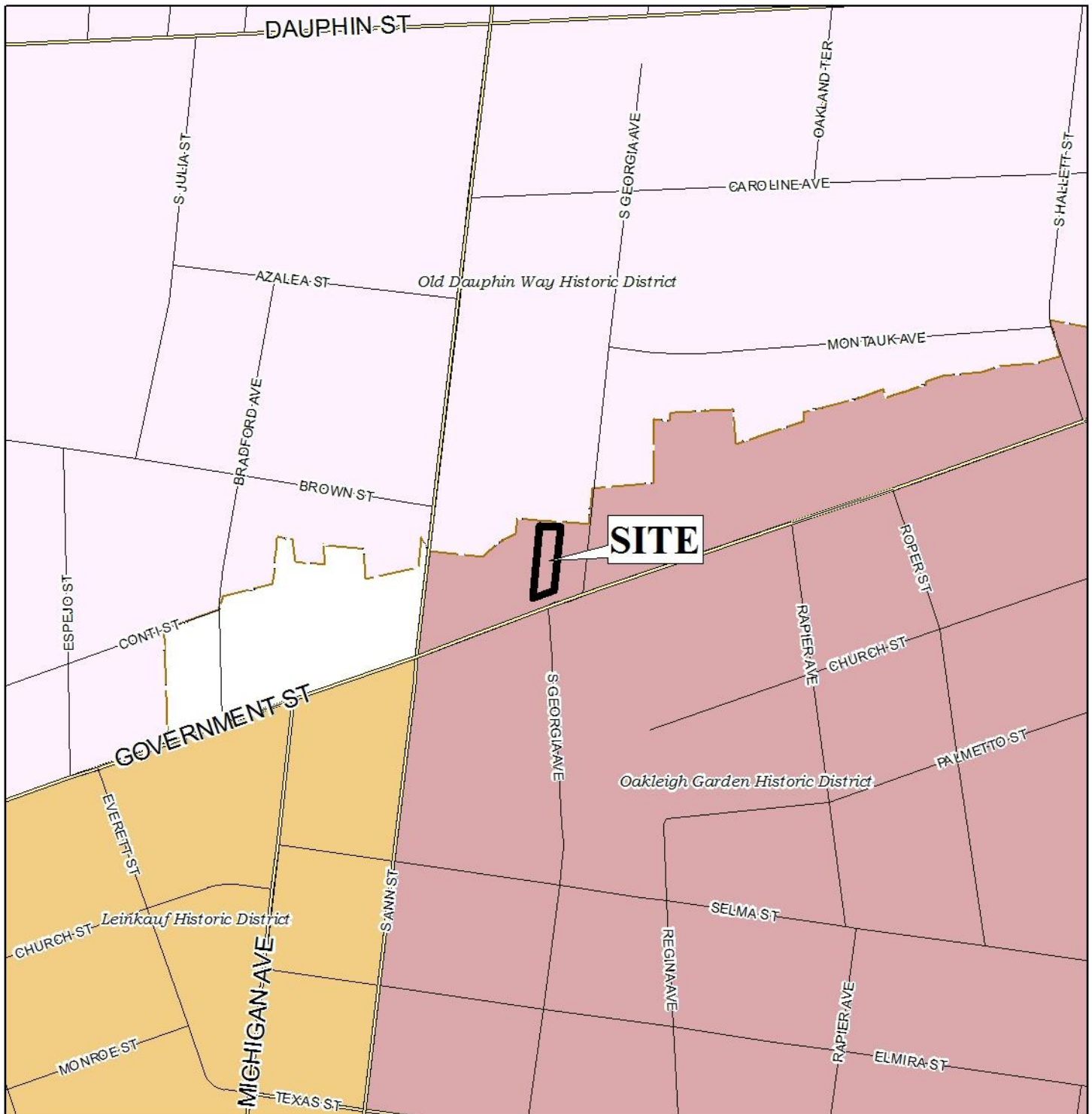
RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) approving the variance will not be contrary to the public interest in that the subject site has been used as a restaurant since the 1960's;
- 2) special conditions do exist and there are hardships which exist in that the site is almost 100% developed and there is not sufficient room for tree plantings and landscaped area; 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 site has been used as a restaurant for over 50 years without tree plantings and landscaped area.

The approval is subject to the following conditions:

- 1) hours of operation be limited to 9:00 AM to 6:00 PM daily;
- 2) provision that the dumpster pick-up be between 9:00 AM and 9:00 PM on weekdays only;
- 3) provision that deliveries are restricted to 9:00 AM to 6:00 PM;
- 4) lighting of the site to focus only on the site and not overflow to the adjacent residential properties; and
- 5) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



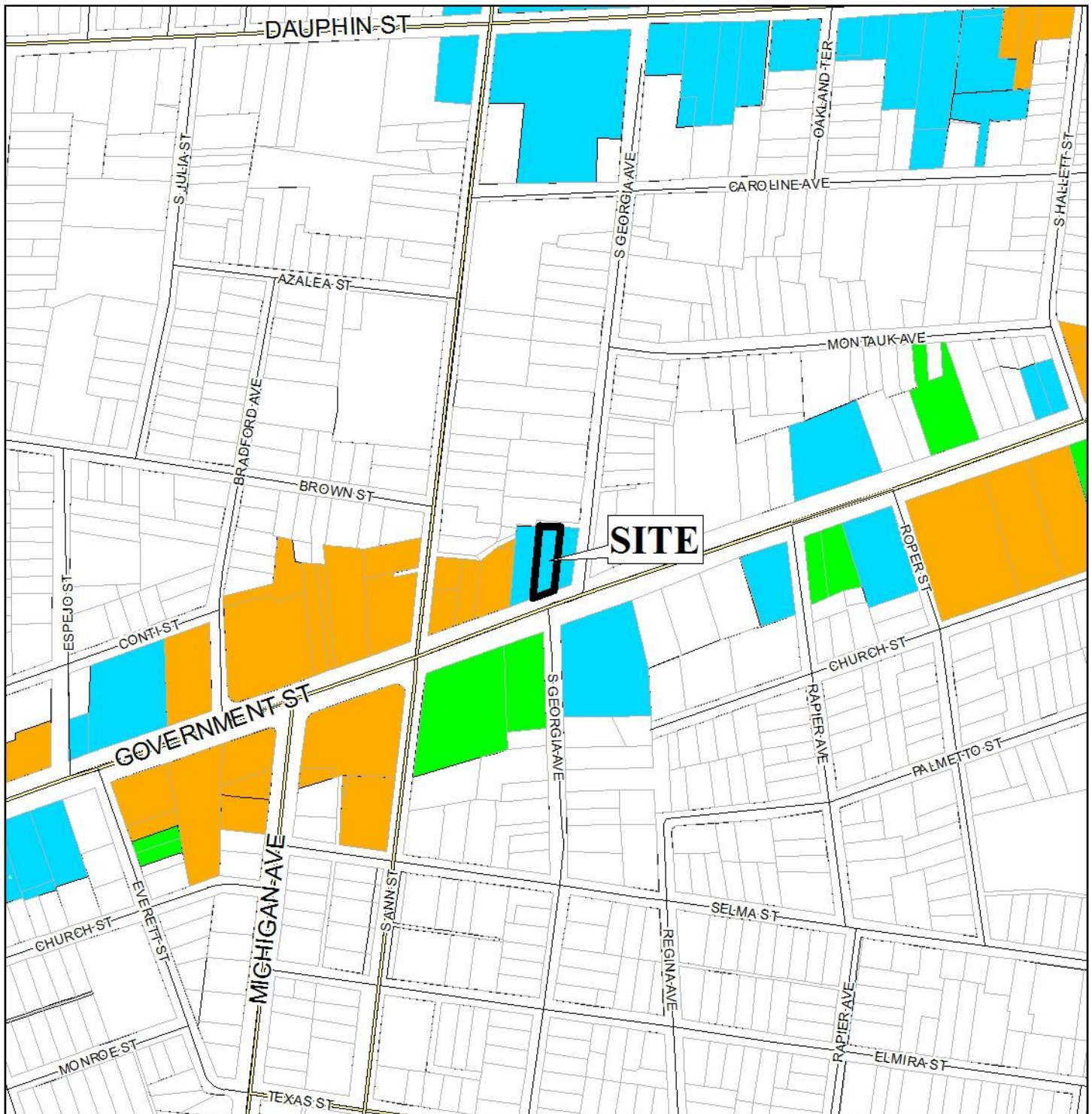
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APPLICANT My Happy Dog 123, LLC

REQUEST Use Variance



LOCATOR ZONING MAP



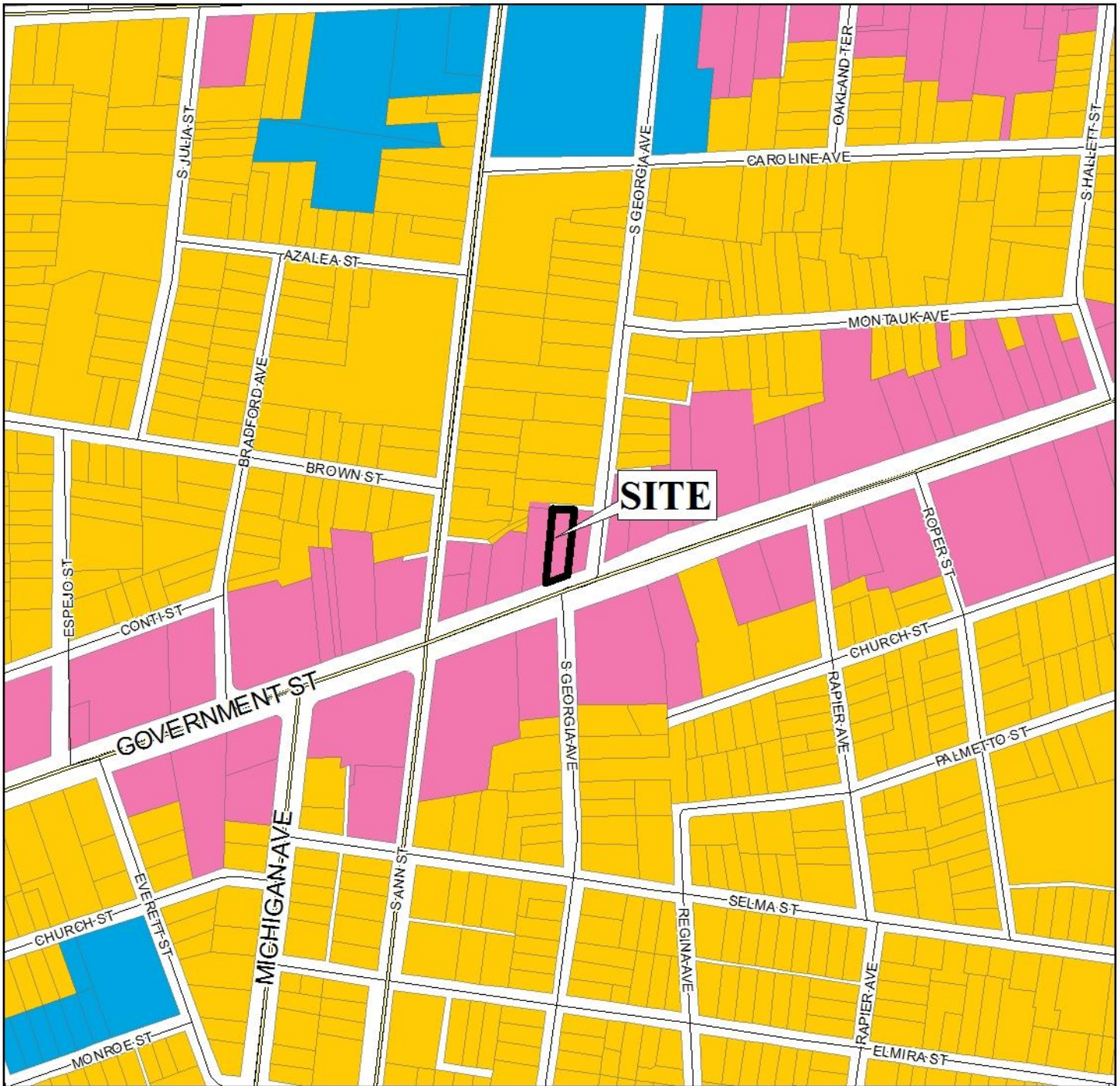
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FLUM LOCATOR MAP



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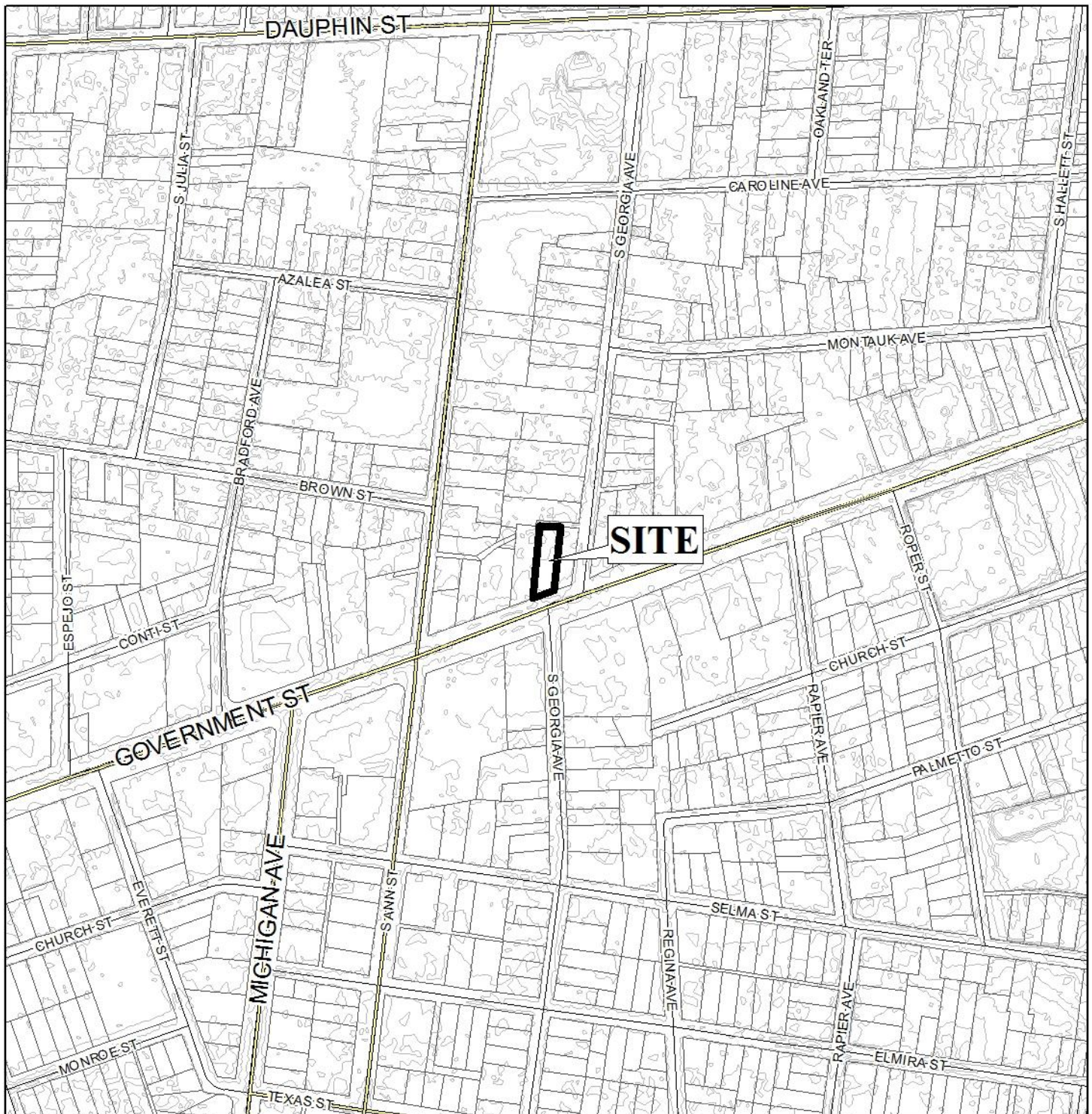
APPLICANT My Happy Dog 123, LLC

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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The map illustrates the proposed site location relative to surrounding streets and land use. Key features include:

- Streets:** SANN ST, BROWN ST, GOVERNMENT ST, and S GEORGIA AVE.
- Land Use:** Residential areas (marked 'R'), vacant land ('VAC LAND'), and a vacant building ('VAC').
- Proposed Site:** A large blue-shaded area labeled 'SITE'.
- Other Landmarks:** CHURCH, ASSISTED LIVING, MED CLINIC, and SERV STA.

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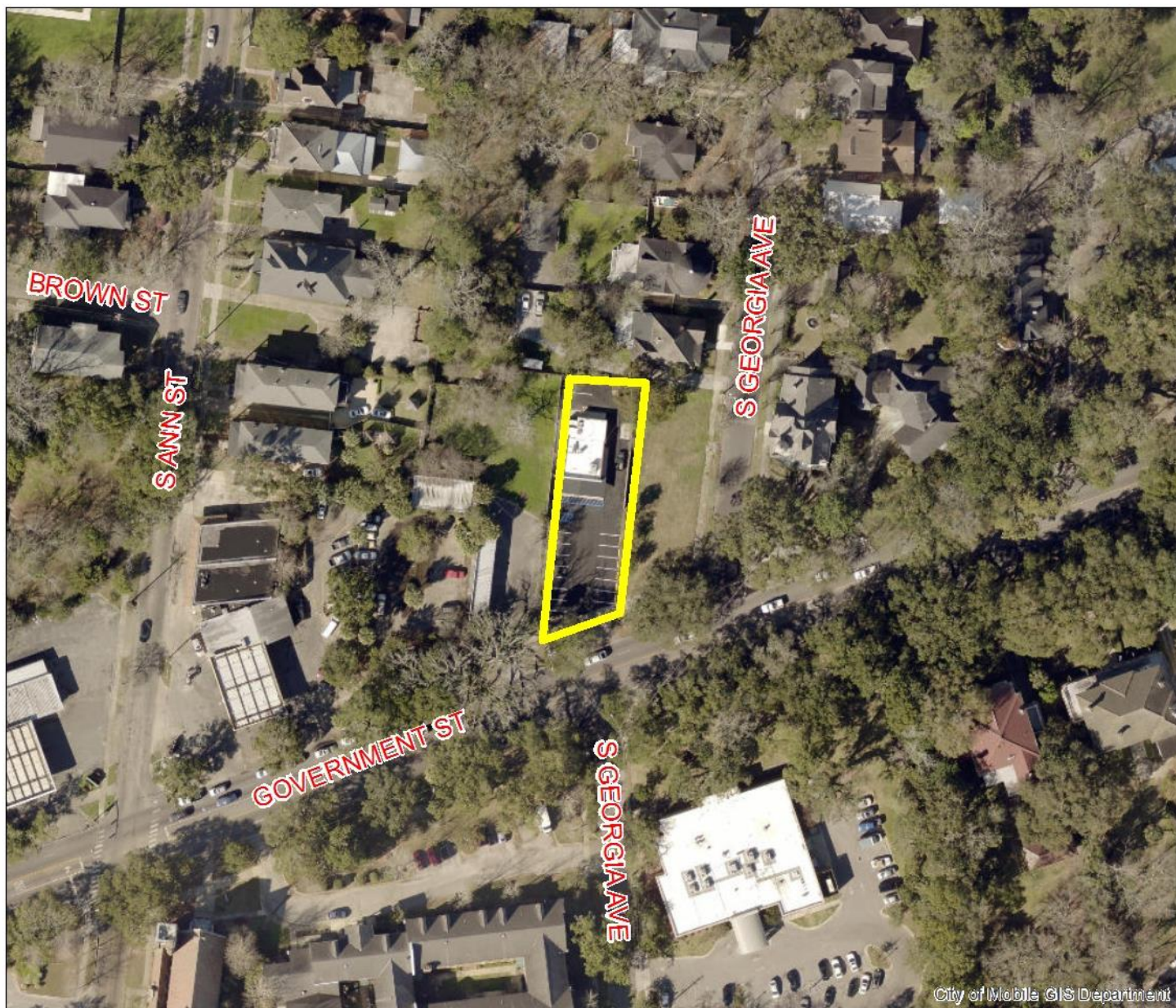
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REQUEST_____Use Variance

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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING AERIAL



The site is surrounded by residential units to the north and east. Commercial units lie to the southwest.

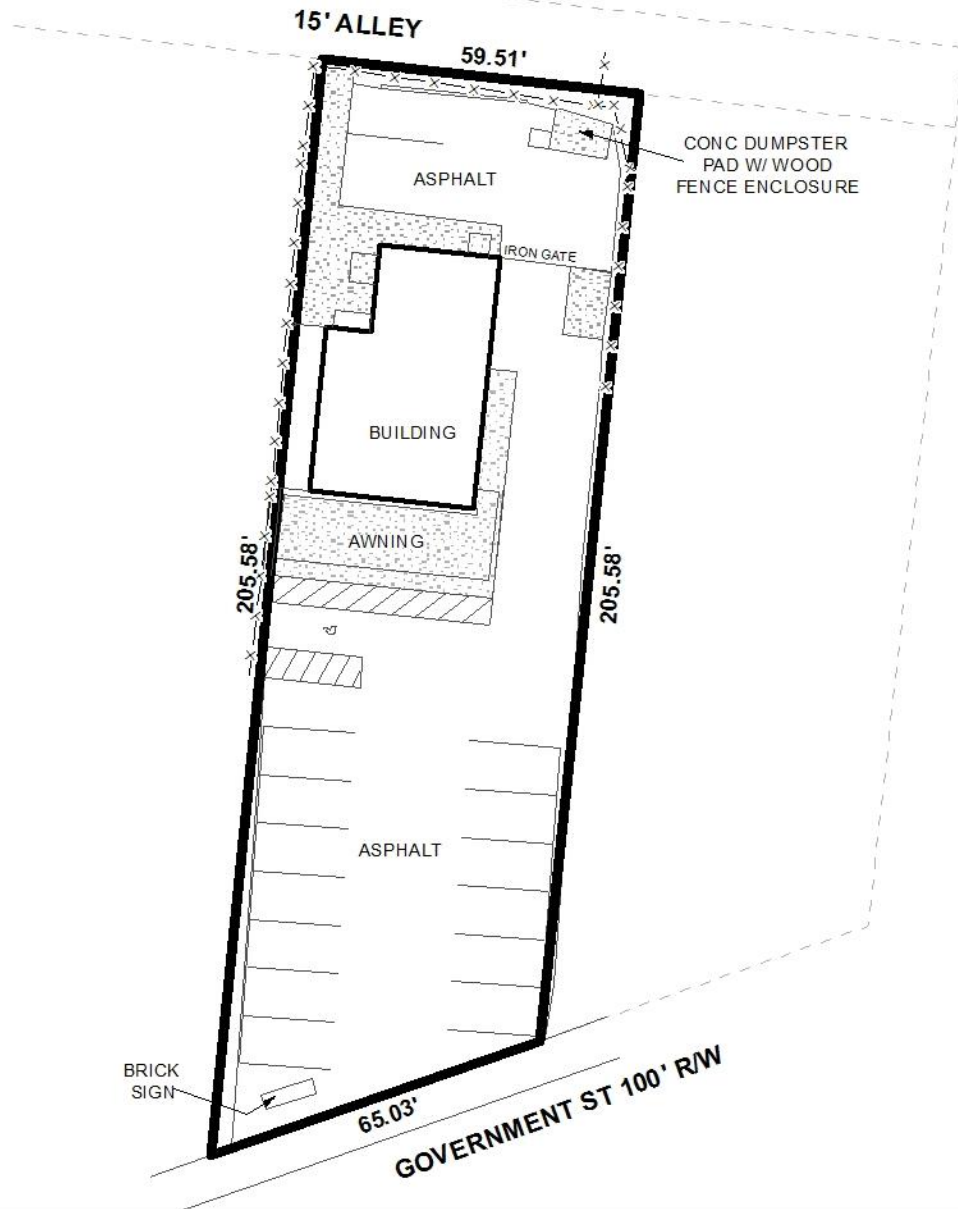
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SITE PLAN



The site plan illustrates the existing building, and parking.

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NTS

