

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

<b><u>CASE NUMBER</u></b>	6239
<b><u>APPLICANT NAME</u></b>	Smith, Clark & Associates, LLC
<b><u>LOCATION</u></b>	5216 Overlook Road (Northwest corner of Overlook Road and North University Boulevard.)
<b><u>VARIANCE REQUEST</u></b>	<b>USE VARIANCE:</b> Use Variance to allow the operation of an internet based automobile brokerage business in a B-2, Neighborhood Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE VARIANCE:</b> The Zoning Ordinance does not allow automobile sales in a B-2, Neighborhood Business District.
<b><u>ZONING</u></b>	B-2, Neighborhood Business District
<b><u>AREA OF PROPERTY</u></b>	0.29± Acres
<b><u>CITY COUNCIL DISTRICT</u></b>	District 7
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	Application does not include information about how cars will be delivered to the site when they are pending sale/customer pick-up. Anything larger than a pick-up truck hauling a single car trailer may not be able to maneuver onsite. With the configuration of the free flow southbound right turn lane, unloading from a trailer parked in the right-of-way of Overlook Road will not be permissible. The City will erect no parking and/or no loading signs if it occurs at this location.
<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.

**FIRE**  
**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).

**ANALYSIS**

The applicant is requesting a Use Variance to allow the operation of an internet based automobile brokerage business in a B-2, Neighborhood Business District.; the Zoning Ordinance does not allow automobile sales in a B-2, Neighborhood District.

The site has been given a Mixed Density Residential (MxDR) land use designation, per the recently 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:

*“Smith, Clark & Associates has submitted a request for a Use Variance Zoning change at 5216 Overlook Rd, on behalf of the owner, Price Properties, LLC.*

*In March of 2018 the property in question was purchased by Price Properties, LLC. At that time the building had been vacant for some time. After the closing of a dental office nearly 10 years ago there has been little interest in the use of the office. Price Properties has finally negotiated a lease of the property for the purpose of opening an internet based automobile brokerage company. We are requesting a Use Variance from the Board of Zoning Adjustment to allow the operation of an auto mobile dealership office on property that is zoned B-2.*

*The new tenants have no intentions of operating a used automobile lot. The small size of the parcel would not be a good fit for a car lot. The property would be used as office space with occasional customers visiting to sign paperwork and take delivery of automobiles. Automobiles that have been acquired and sold may be parked in existing parking spaces awaiting pick-up but will not be stored or displayed for sale. They will appear no different than customer parking. Because there is no intent to “show” cars on the lot, there should be not excessive or additional noise or traffic and should have no more effect on the surrounding area than the dental office that operated there for years.*

*Since Price Properties purchase of the office, renovations are already permitted and underway.”*

As stated, the applicant is seeking relief, from the Zoning Ordinance to allow an automobile office in a B-2 zoning district.

It should be noted that the applicant appeared before the Planning Commission on December 20, 2018 requesting a Rezoning from B-2, Neighborhood Business District to B-3, Community Business District. The application was held over to the February 21, 2019 meeting so that they could submit a use variance request to the Board for consideration.

The applicant has indicated that the intent of the business is an office only. Although various office types are allowed by right in B-2 zoning districts, Staff has found in the past that automobile offices frequently result in the storage of inventory on site, which is prohibited.

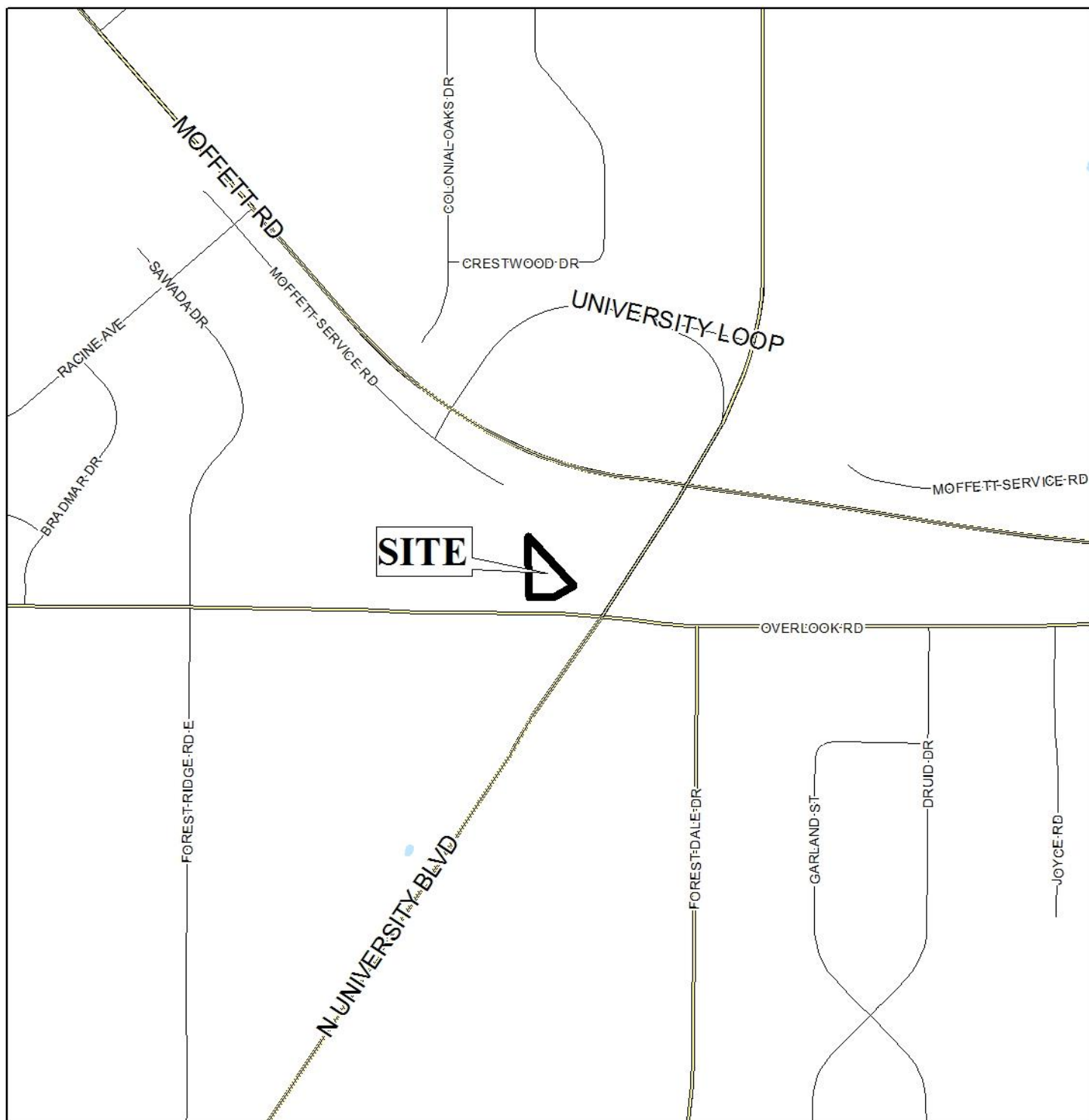
There are no conditions which exist at this site that would require the applicant to establish an automobile dealership office at this location. It appears that it is merely the applicant’s desire, as a potential financial hardship was noted. No substantial hardships have been presented that would necessitate the approval of the variance.

It should be noted, however, that the Board may have established a precedent when it approved a similar application for an automobile sales office in a B-2, Neighborhood Business District at its December 3, 2018 meeting.

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

- 1) Granting the variance will be contrary to the public interest in that because it will be contrary to the Zoning Ordinance requirement regarding the prohibition of auto sales in a B-2, Neighborhood Business District;
- 2) Special conditions and hardships do not exist in such a way 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 surrounding neighborhood by granting the variance because the proposed use could be established in the appropriate zoning district without the necessity of a variance.

# LOCATOR MAP



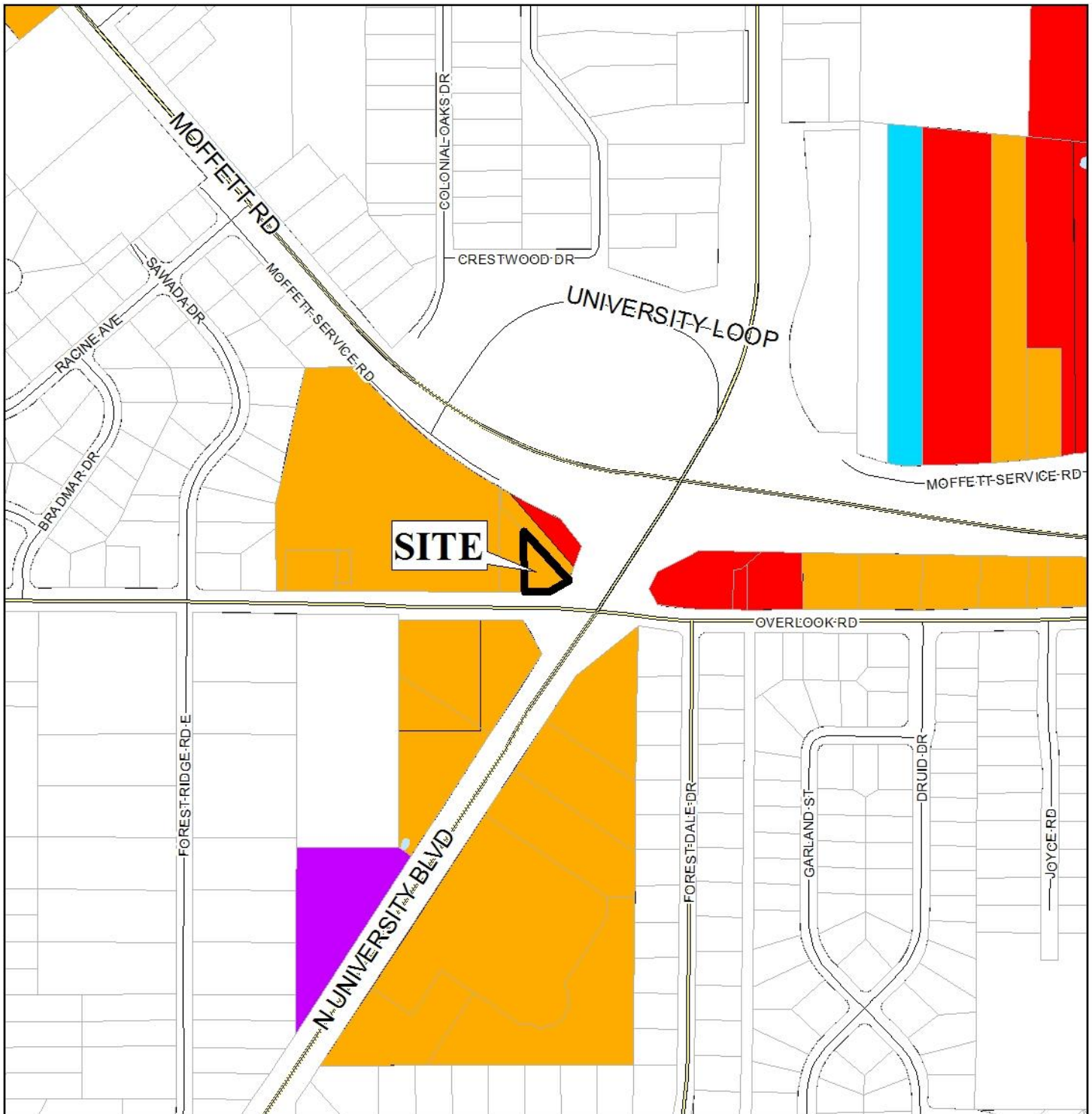
APPLICATION NUMBER 6239 DATE February 4, 2019

APPLICANT Smith, Clark & Associates, LLC

REQUEST Use Variance



# LOCATOR ZONING MAP



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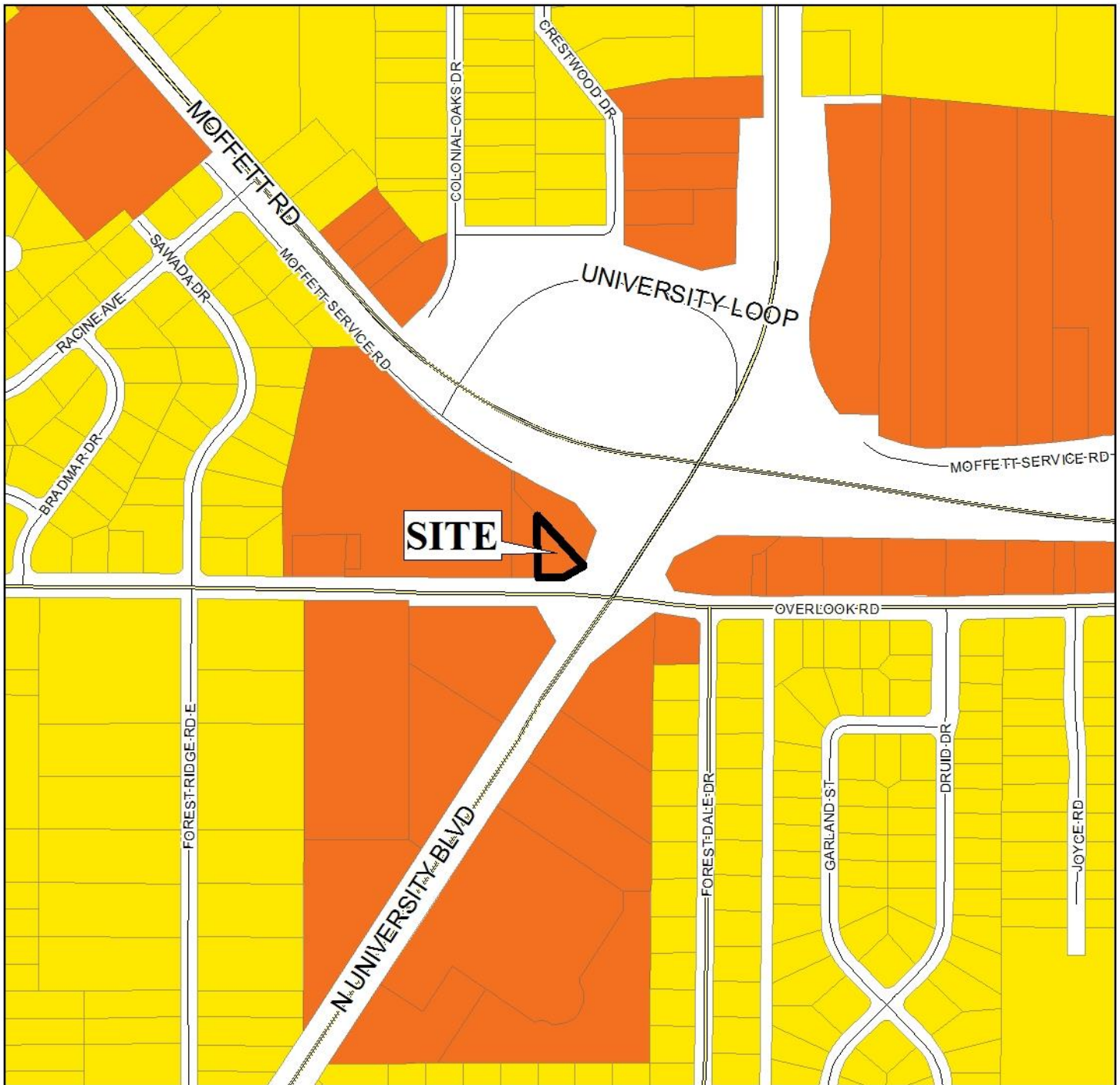
REQUEST Use Variance



NTS



# FLUM LOCATOR MAP



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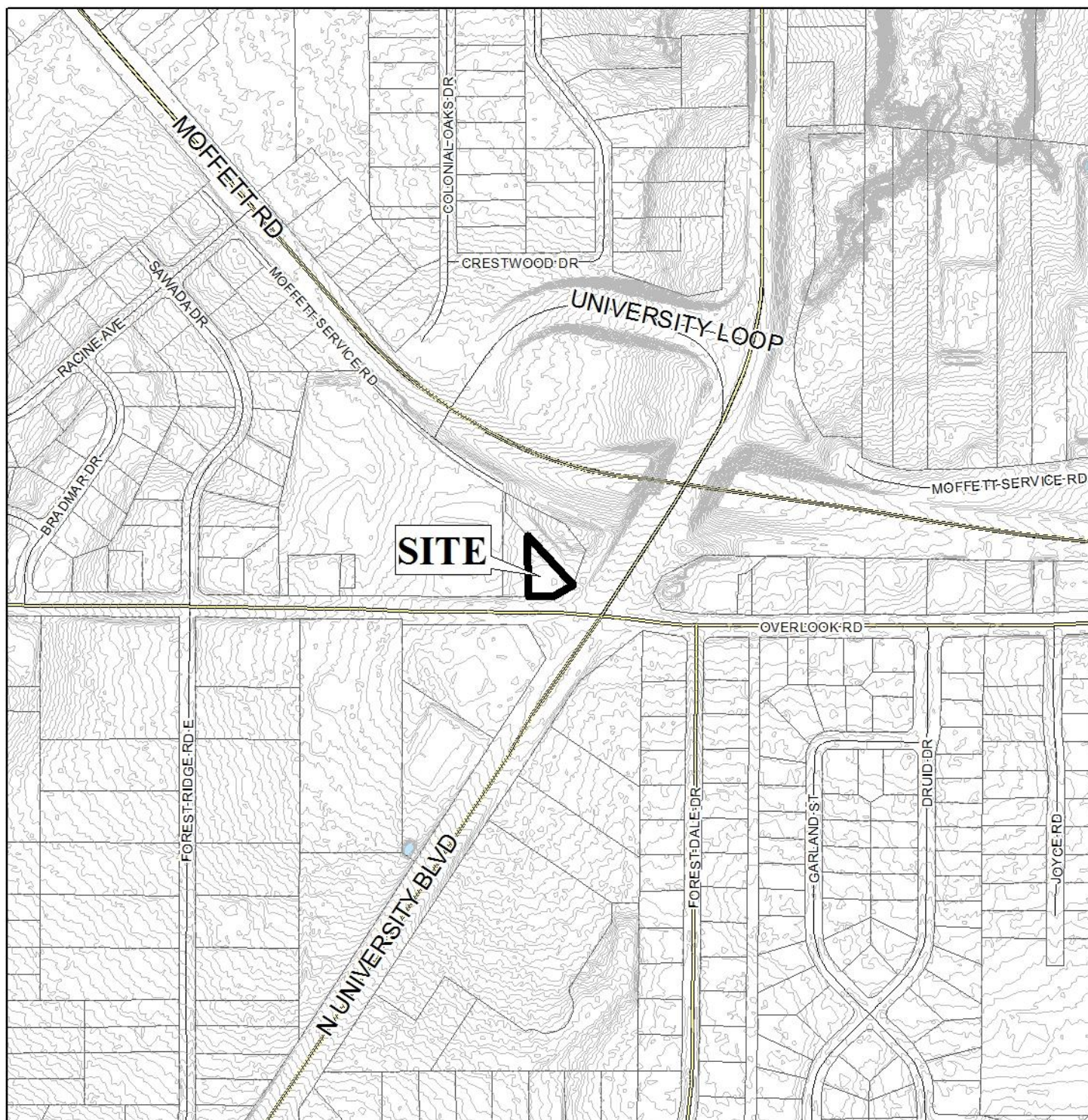
REQUEST Use Variance

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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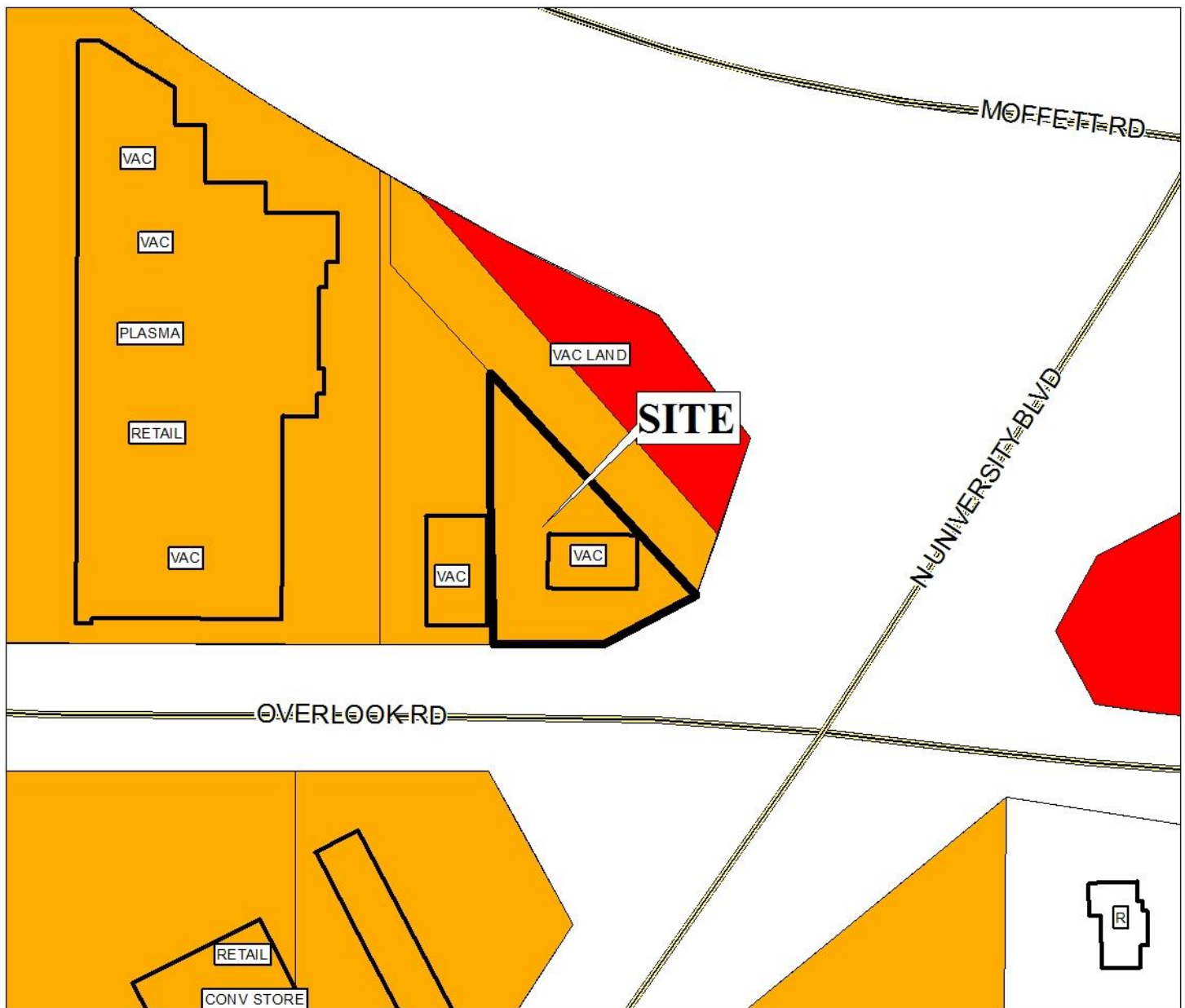
APPLICANT Smith, Clark & Associates, LLC

REQUEST Use Variance





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercia units.

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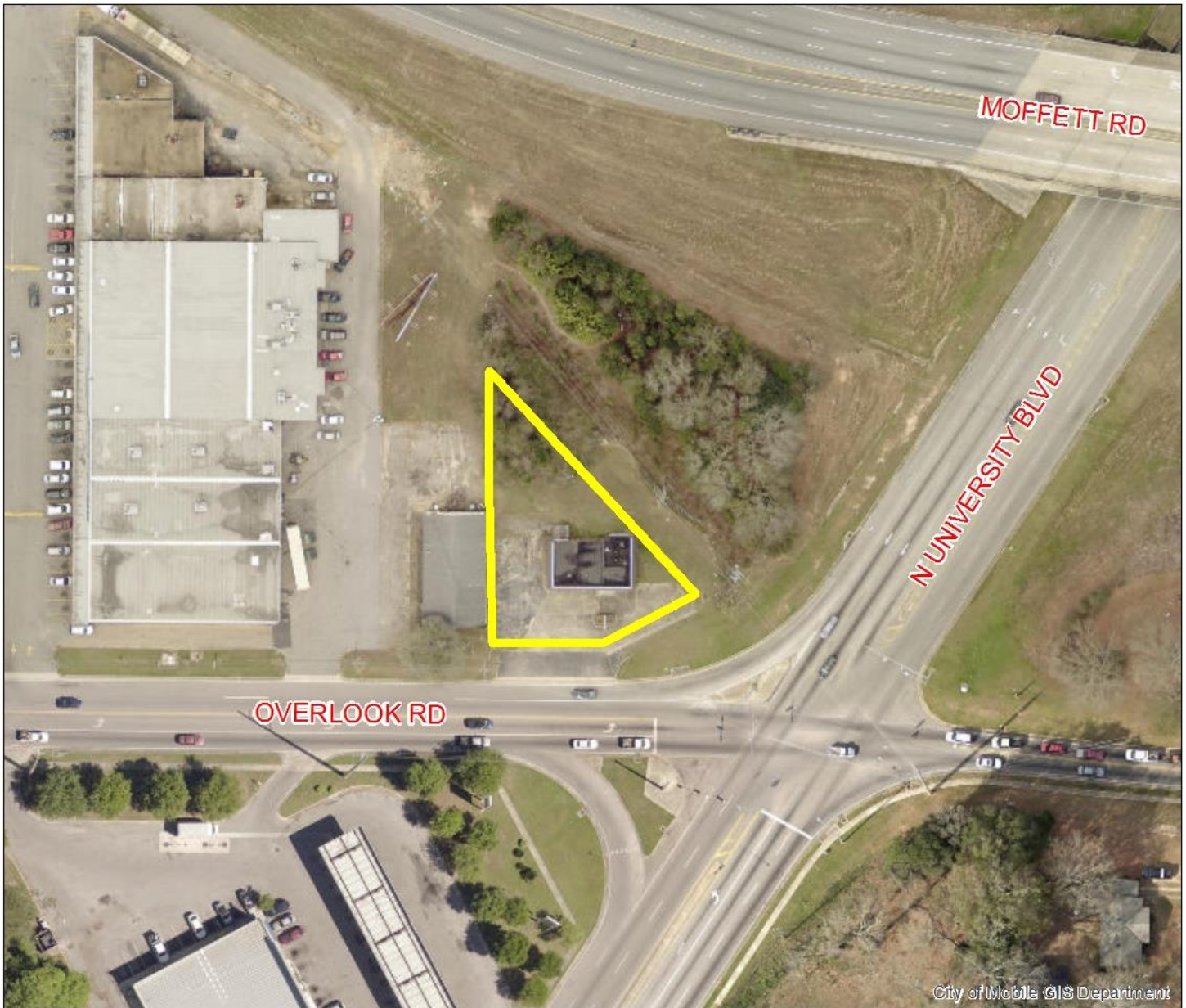
APPLICANT Smith, Clark & Associates, LLC

REQUEST Use Variance

<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-A	<span style="background-color: green; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-3	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-2	<span style="background-color: blue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-5	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MUN	<span style="background-color: red; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD-WH	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.1
<span style="background-color: white; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-1	<span style="background-color: pink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-B	<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-1	<span style="background-color: red; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-3	<span style="background-color: lightblue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> I-1	<span style="background-color: lightgreen; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> OPEN	<span style="background-color: lightpink; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T3	<span style="background-color: darkpurple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.2
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

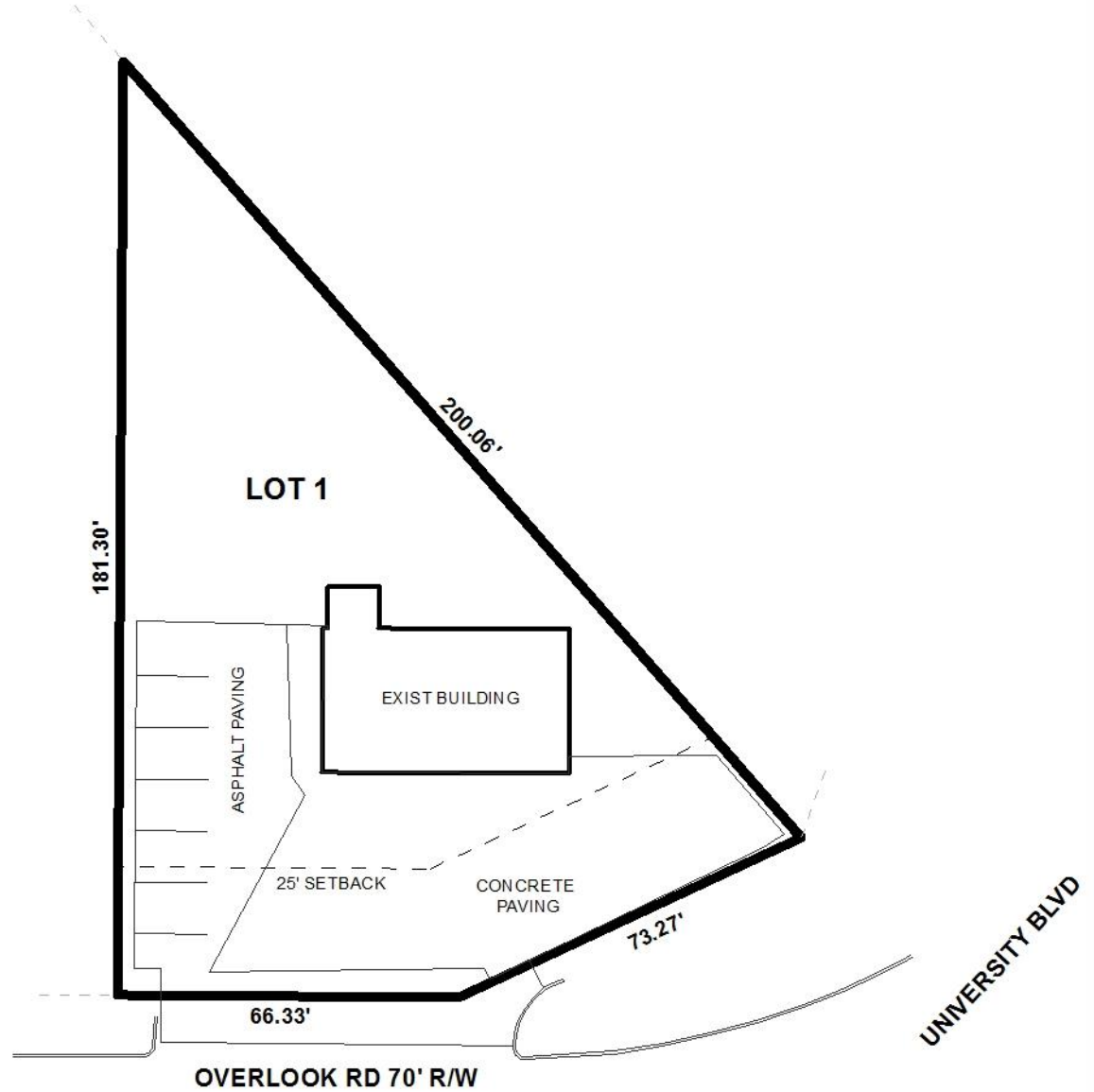


The site is surrounded by commercicla units.

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# SITE PLAN



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

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