

APPLICATION NUMBER

**5617**

A REQUEST FOR

**USE VARIANCE TO ALLOW AN INDOOR  
LANDSCAPING AND PLANT LEASING BUSINESS IN  
AN H-B, HISTORIC-BUSINESS DISTRICT; THE  
ZONING ORDINANCE DOES NOT ALLOW LIVE  
PLANT RENTAL OR LEASING IN AN H-B,  
HISTORIC-BUSINESS DISTRICT.**

LOCATED AT

**166 SOUTH ROYAL STREET**

(Southwest corner of South Royal Street and Theater Street)

APPLICANT

**PATRICK S. HEROMAN**

**BOARD OF ZONING ADJUSTMENT**

MAY 2010

The applicant is requesting Use Variance to allow an indoor landscaping and plant leasing business in an H-B, Historic-Business District; the Zoning Ordinance does not allow live plant rental or leasing in an H-B, Historic-Business District.

The subject site is the former Roussos Restaurant and is currently unoccupied. The applicant's proposal is essentially to use the existing building in its current state to house the new business. The applicant states that at some time in the future, a wall may be constructed to create offices that would front along Theatre Street. The applicant further states that a "green" roof is being considered for the front half of the building, and a fence would be added to enclose the property.

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, any improvements to the building would require approval from the Architectural Review Board and the building inspection department regarding and change of occupancy issues. It should be noted that the Zoning Ordinance allows a florist with plant sales in an H-B district with Planning Approval. The Zoning Ordinance states that H-B districts are designed to protect the special character of the area, to encourage restoration of architecturally and historically valuable buildings and their adaptation to house permitted uses and to encourage further appropriate development for a limited number of **mutually supporting light businesses** and cultural uses. The proposed use would be in character with the previous use in that they both are service oriented businesses servicing the major downtown area.

**RECOMMENDATION 5617****Date: May 3, 2010**

The variance request is recommended for approval subject to the following conditions:

- 1) approval and compliance with the Architectural Review Board;
- 2) coordination with the Building Inspection Department regarding any change of occupancy issues; and
- 3) full compliance with all municipal codes and ordinances.

## LOCATOR MAP



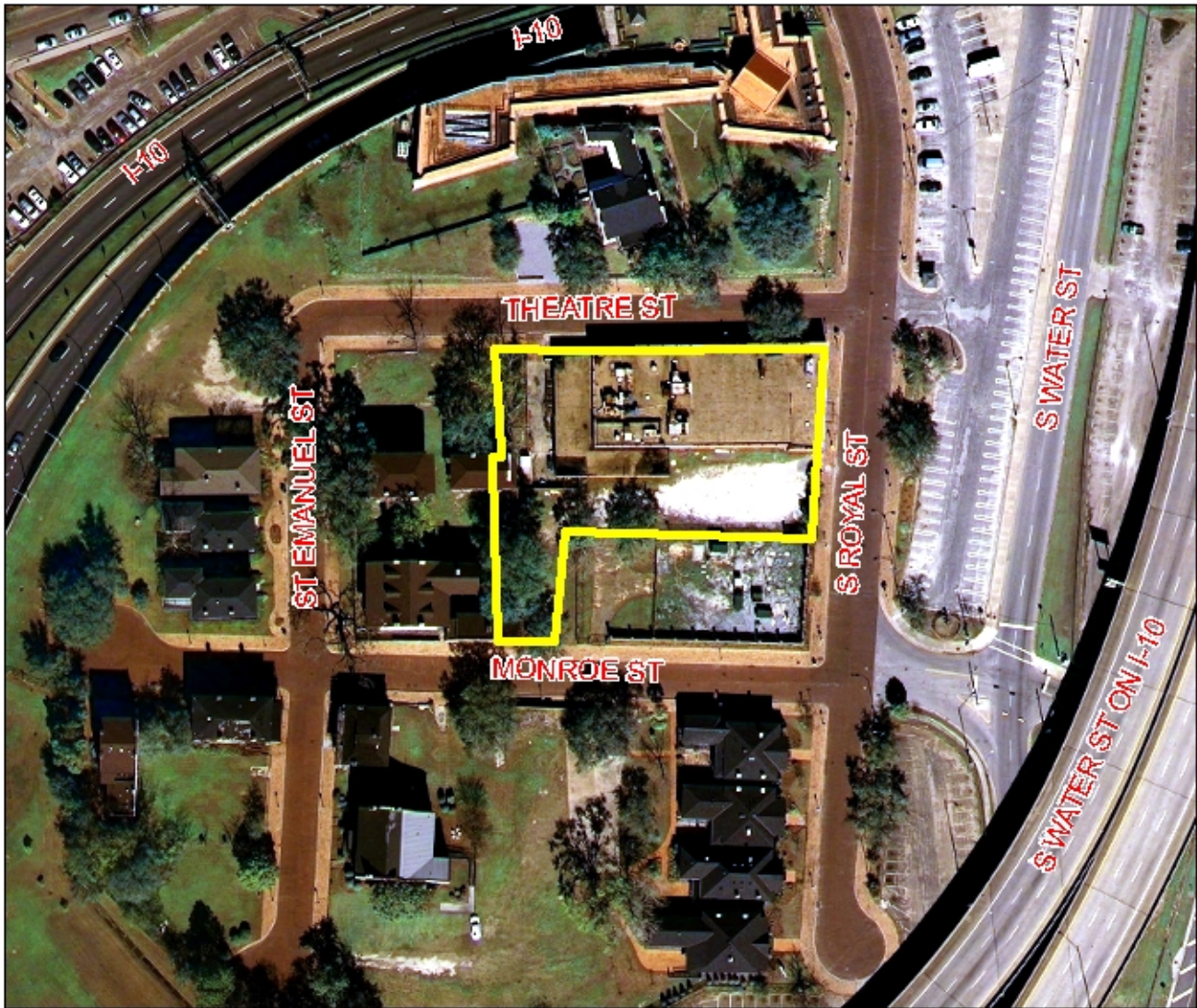
APPLICATION NUMBER 5617 DATE May 3, 2010

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REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There is a museum north of the site and offices to the west and south.

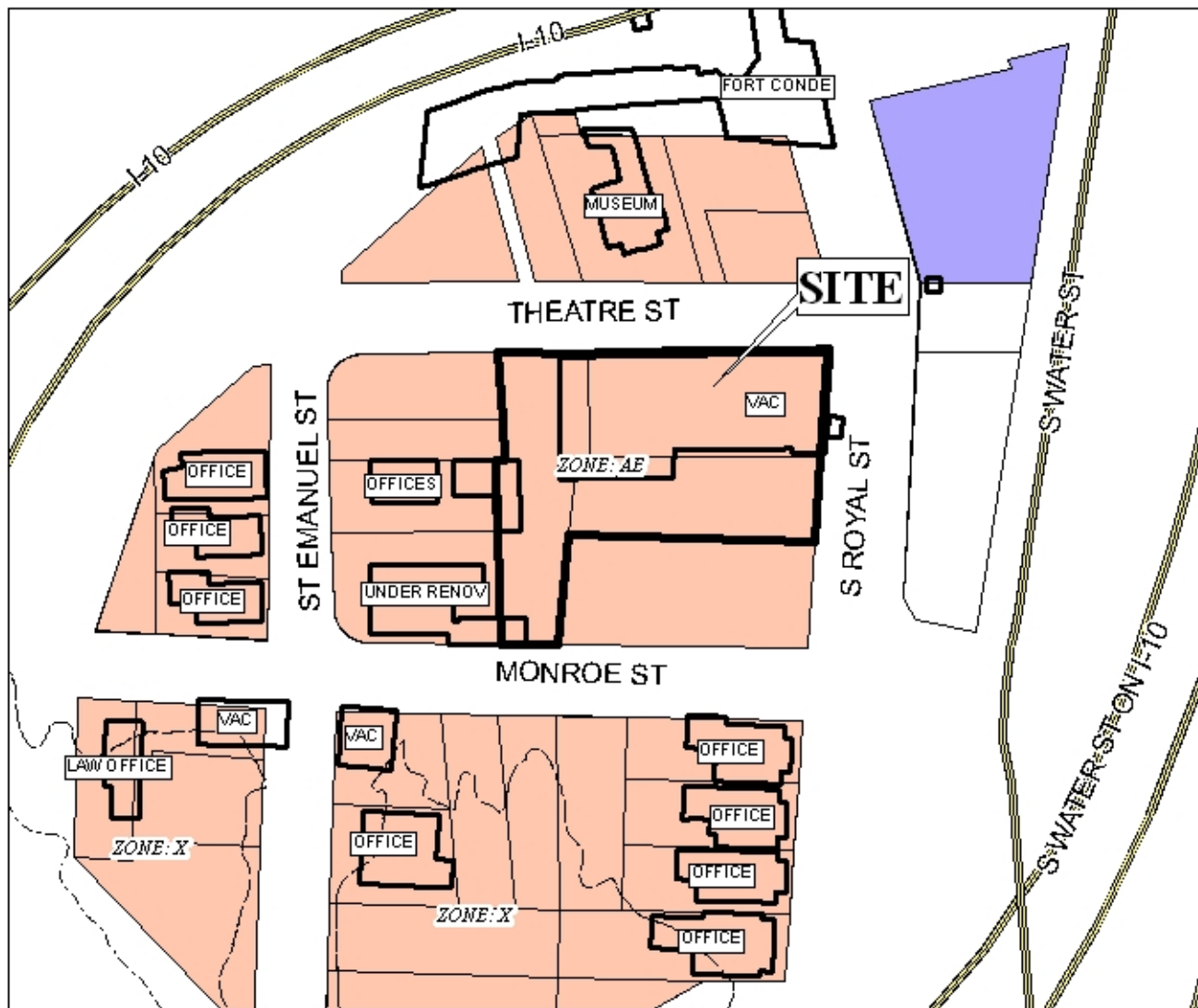
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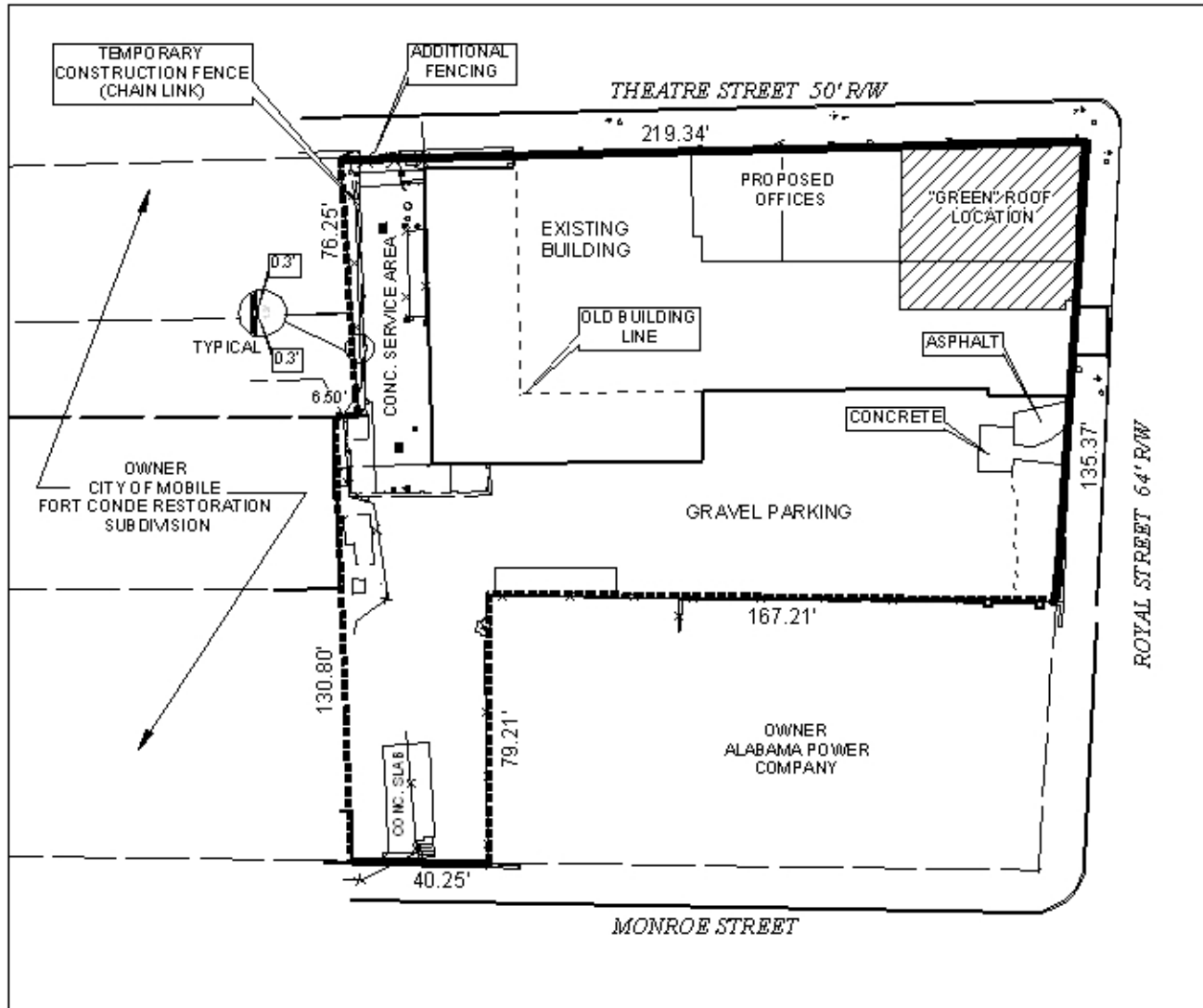
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LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2	NTS
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# SITE PLAN



The site plan illustrates existing building, parking, and other site details.

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