

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 6, 2019**

<b><u>CASE NUMBER</u></b>	6251
<b><u>APPLICANT NAME</u></b>	U-Haul Company of South Alabama (Madison Wilson, Agent)
<b><u>LOCATION</u></b>	6715 Old Shell Road (South side of Old Shell Road, extending to the North side of Dickens Ferry Road, 619'± East of Foreman Road.)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow truck leasing in a B-2, Neighborhood District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> the Zoning Ordinance requires a minimum of B-3, Community Business District, for truck leasing.
<b><u>ZONING</u></b>	B-2, Neighborhood Business District
<b><u>AREA OF PROPERTY</u></b>	5.0 ± Acres
<b><u>ENGINEERING COMMENTS</u></b>	No comments.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No traffic impacts anticipated by this variance request as it is an existing site with no planned improvements.
<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 DEPARTMENT 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).
<b><u>CITY COUNCIL DISTRICT</u></b>	District 7

**ANALYSIS**

The applicant is requesting a Use Variance to allow truck leasing in a B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District, for truck leasing.

This request comes before the Board, due to the fact that it was brought to the applicant's attention (via a letter from the Revenue Department) that the site was operating illegally, without a proper business license and zoning certificate.

The site has been given a "Mixed Commercial Corridor" development area, 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 mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. MCC includes a wide variety of retail, services and entertainment uses.

This designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

Over time, new development and redevelopment in Mixed Commercial Corridors is encouraged to raise design quality, improve connectivity to surrounding neighborhoods; improved streetscapes; and improve mobility and accessibility for all users of the corridor.

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 the following reasons to explain the need for the variances:

*“We are submitting a Variance application for the U Haul site at 6715 Old Shell Road that is currently zoned B-2 and it has been recommended by the planning staff that a variance be submitted instead of a zoning application to allow this facility to continue to operate as it has done for the last 15 plus years. The tenants became aware of this issue through the business license process and U Haul is stepping in to help their facility coordinate getting this effort resolved. They have been authorized by the owner to submit this application (see attached) to allow the location to continue to operate as it has for many years. We ask that a variance be granted to allow this operation to continue at this location, as all of the infrastructure is currently in place and plans to remain with no new improvements planned. The Staff felt it was more appropriate to go this way without going to a B-3 designation and all parties agree that this would be a better solution to getting this resolved.”*

The applicant is requesting approval to allow a truck leasing business to operate in conjunction with the storage facility. A PUD for site was approved in 1992, and the site was developed with multiple buildings with multiple tenant spaces as well as the construction of storage units. A zoning clearance for “*truck and trailer rentals*” was submitted by the U-Haul Company of South Alabama 12 years ago on June 19, 2007 and the zoning clearance was denied. The staff comment for the zoning clearance states “*FAIL. Requires B-3 Zoning*”. It appears that the applicant proceeded with operating a truck leasing business even after the zoning clearance was denied by the Planning Department.

It should also be pointed there are several deficiencies and unanswered questions based on the site plan submitted. The site plan does not depict where the rental trucks and trailers are/ would be parked, thus staff can not verify if sufficient access and maneuvering is present on site. The office area is not identified nor does it depict square footage and designated parking.

The applicant has not fully explained the necessity or an associated hardship for the truck leasing business that is not self-imposed. The request was denied by the Planning Department 12 years ago and the applicant continued to proceed and operate illegally. The use of the storage facility can continue to operate without the truck leasing business in a B-2, Neighborhood Business zoning district. Furthermore, the applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship, and there seem to no unusual characteristics of the property that satisfy variance criteria.

**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the following findings of facts for Denial:

- 1) approving the variance will be contrary to the public interest in that the facility proceeded to operate the truck leasing business after the Planning staff denied the zoning clearance to operate at this location due to improper zoning; and no hardship is illustrated by requiring the business to cease operation;
- 2) special conditions do not exist with the site and there are no hardships which exist with the site that make the approvals necessary; 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 no hardship is illustrated

as to why a truck leasing business must operate at this B-2 zoned location, which is not an allowed use in this zoning district per the Zoning Ordinance.

***Revised for the June 3, 2019 meeting:***

*The application was heldover at the Board of Zoning Adjustment's May 6, 2019 meeting so that the applicant and staff could provide additional information regarding the original business licenses request from June 2007. The applicant did not provide any additional information. However, staff received information from the City's Revenue Department stating that there was "no record of a license issued to U-Haul at this address (6715 Old Shell Rd)". Thus staff was correct with the previous determination that neither a zoning clearance nor a business licenses was approved for the use of the U-Haul storage facility at this location. Therefore staff's previous recommendation for denial still stands.*

**RECOMMENDATION:** *Based on the preceding, staff recommends to the Board the following findings of facts for Denial:*

- 1) approving the variance will be contrary to the public interest in that the facility proceeded to operate the truck leasing business after the Planning staff denied the zoning clearance to operate at this location due to improper zoning; and no hardship is illustrated by requiring the business to cease operation;*
- 2) special conditions do not exist with the site and there are no hardships which exist with the site that make the approvals necessary; 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 no hardship is illustrated as to why a truck leasing business must operate at this B-2 zoned location, which is not an allowed use in this zoning district per the Zoning Ordinance.*

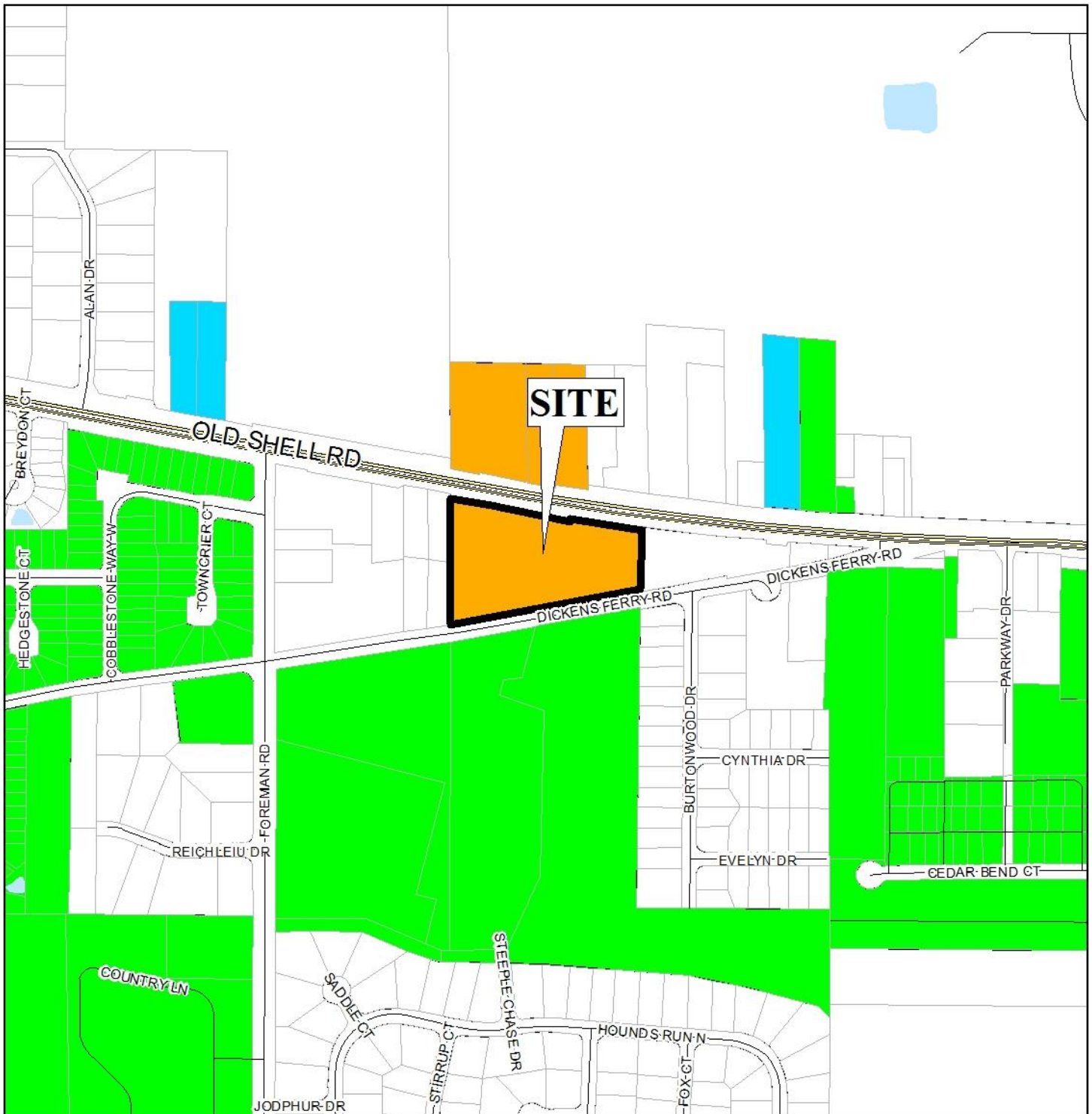
# LOCATOR MAP



APPLICATION NUMBER 6251 DATE June 3, 2019  
APPLICANT U-Haul Company of South Alabama (Madison Wilson, Agent)  
REQUEST Use Variance



# LOCATOR ZONING MAP



APPLICATION NUMBER 6251 DATE June 3, 2019

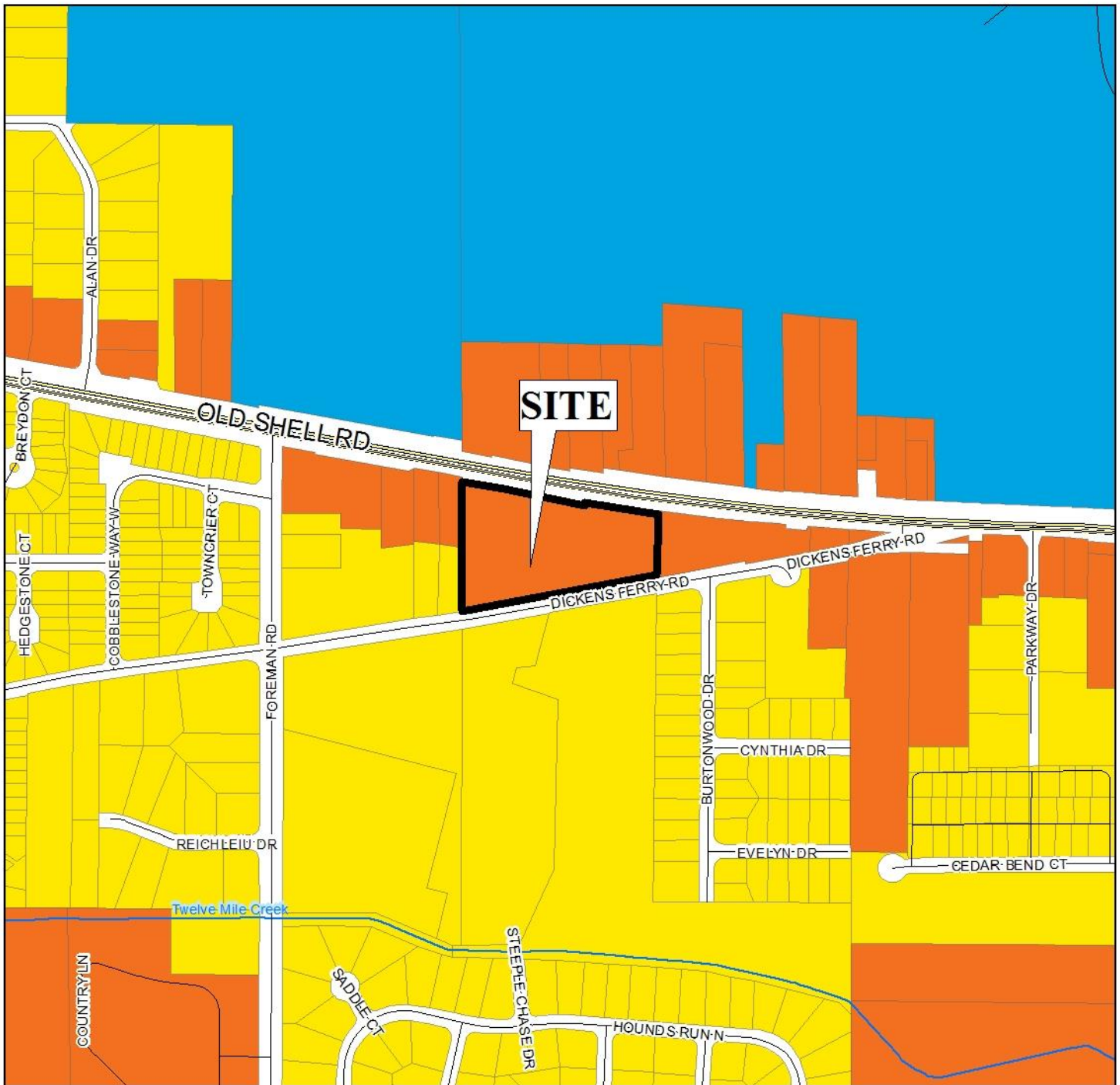
APPLICANT U-Haul Company of South Alabama (Madison Wilson, Agent)

REQUEST Use Variance





# FLUM LOCATOR MAP



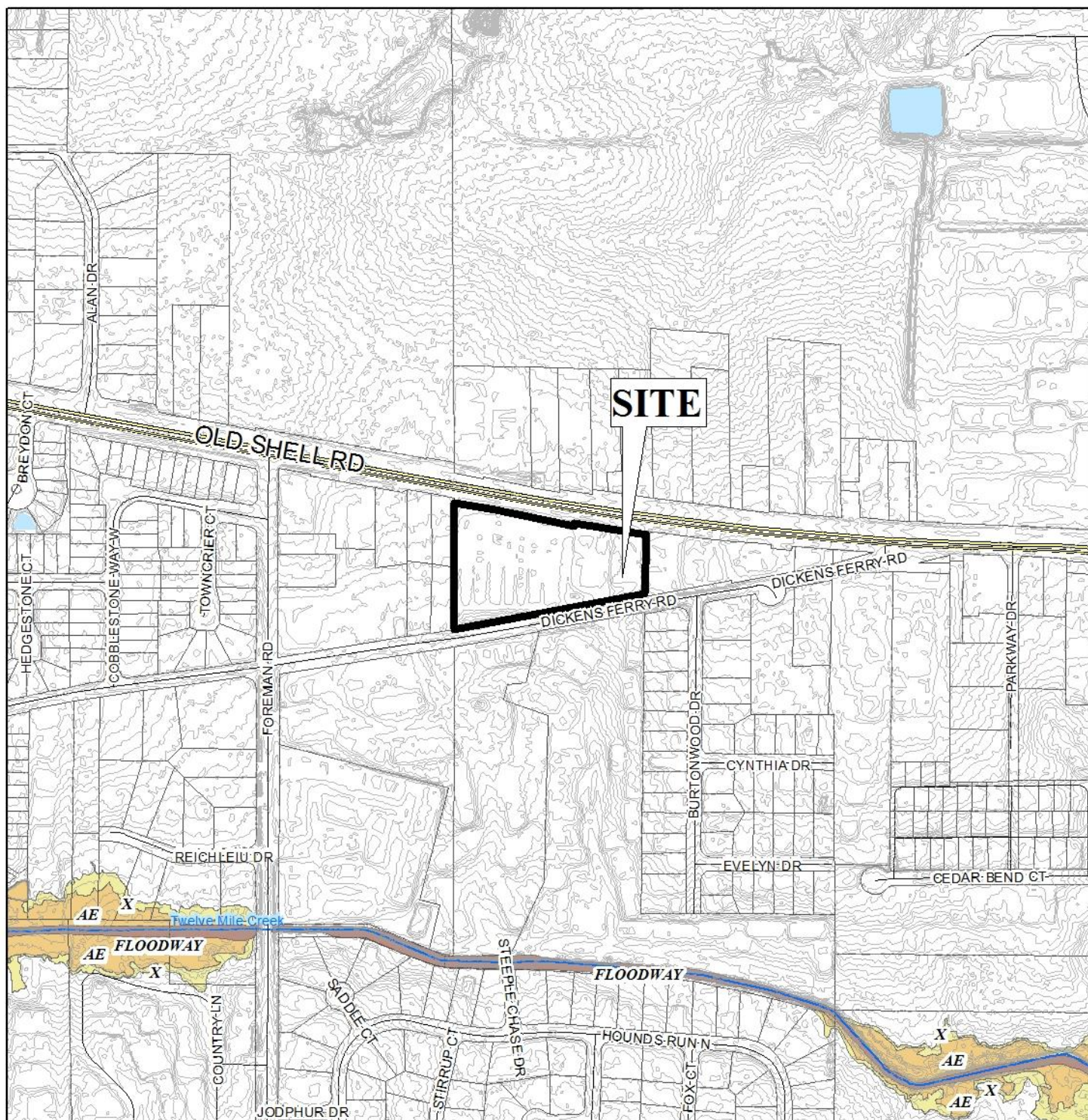
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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





# ENVIRONMENTAL LOCATOR MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by 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





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

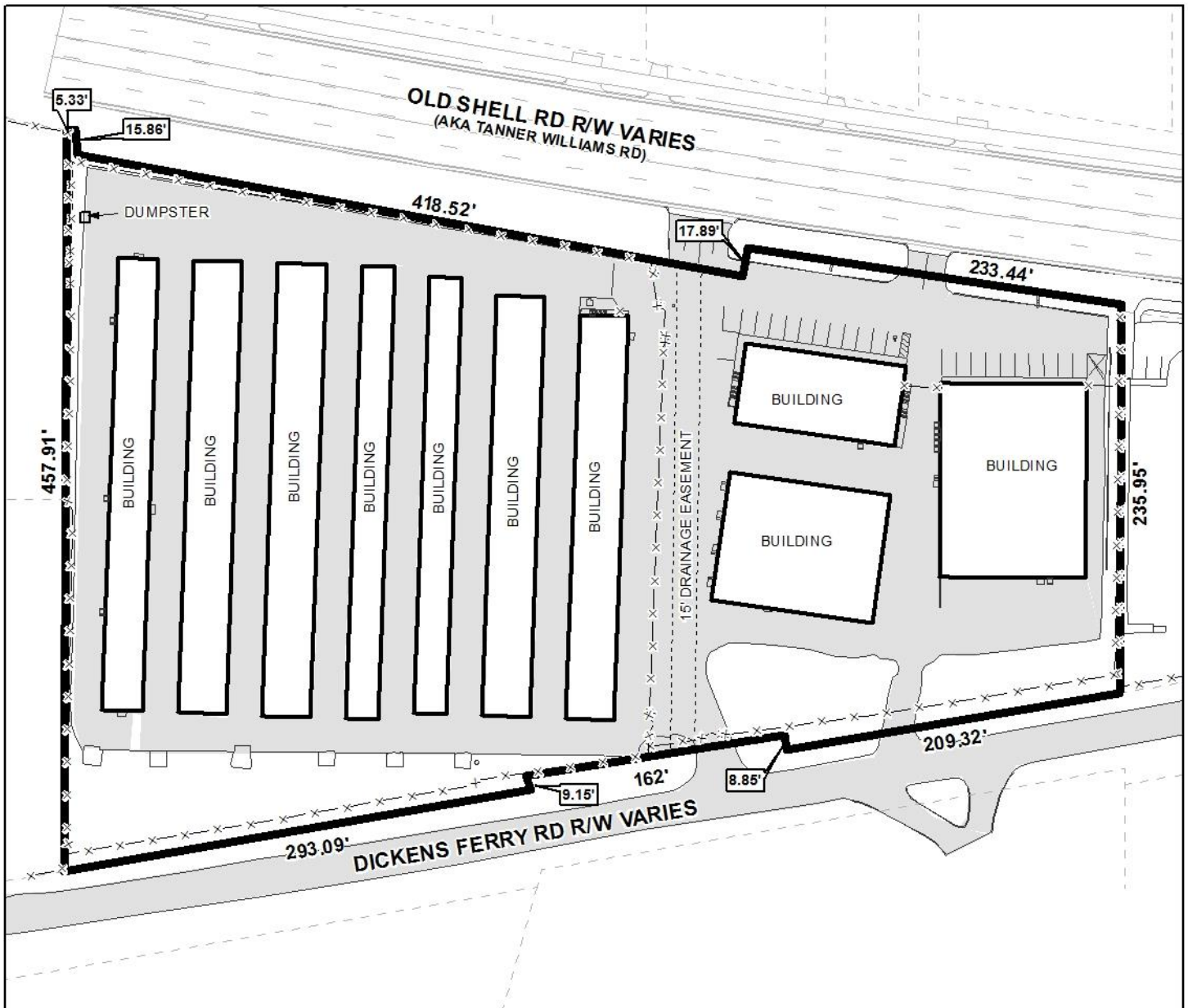


The site is surrounded by residential and commercial units.

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# SITE PLAN



The site plan illustrates the existing buildings, easement, and fences.

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