

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 6, 2020****CASE NUMBER**

6315

APPLICANT NAME

L. Craig Roberts

LOCATION

257 North Jackson Street
(West side on North Jackson Street, 155'± North of State Street)

VARIANCE REQUEST

FRONT YARD SETBACK: Front Yard Setback Variance to allow a front yard setback of 22' for a dwelling in a T-4 Sub-District of the Downtown Development District.

DRIVEWAY WIDTH: Driveway Width Variance to allow a 15' wide driveway in a T-4 Sub-District of the Downtown Development District.

**ZONING ORDINANCE
REQUIREMENT**

FRONT YARD SETBACK: The Zoning Ordinance limits the front yard setback to a maximum of 12' in a T-4 Sub-District of the Downtown Development District.

DRIVEWAY WIDTH: The Zoning Ordinance limits the driveway width to a maximum of 10' within the front setback in a T-4 Sub-District of the Downtown Development District.

ZONING

T-4 Sub-District of the Downtown Development District

AREA OF PROPERTY

0.2± Acres

**CITY COUNCIL
DISTRICT**

District 2

**ENGINEERING
COMMENTS**

No Comments.

**TRAFFIC ENGINEERING
COMMENTS**

Driveway width is acceptable to Traffic Engineering.

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 (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. Preservation status is to be given to the 24" Live Oak Tree located on the southeast side of the property. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger. Work is to be avoided inside the critical root zone. The critical root zone is the diameter of the tree in inches at 4 ½ ft above the ground, the measurement changed to feet, then measured from the tree in all directions.

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)

ANALYSIS

The applicant is requesting Front Yard Setback and Driveway Width Variances to allow a front yard setback of 22' for a dwelling, with a 15' wide driveway within the front yard setback in a T-4 Sub-District of the Downtown Development District; the Zoning Ordinance limits the front yard setback to a maximum of 12', and limits the driveway width to a maximum of 10' within the front yard setback in a T-4 Sub-District of the Downtown Development District.

The proposed site plan was considered by the Consolidated Review Committee (CRC) at its January 30, 2020 meeting. The applicant was advised at that time that the site would require approval from the Board of Zoning Adjustment on both matters presented for the Board's consideration. It was also determined that an existing wall at the front property line qualifies as "non-conforming", and therefore does not require a variance to exceed 4' tall in the front setback. The site has also been before the Architectural Review Board (ARB), where the ARB unanimously approved the plans as submitted.

The site has been given a Downtown (DT) 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.

Downtown is called out as a separate land use designation due to its distinct role, layout and fabric.

As a land use district, Downtown (DT) is the ultimate mixed-use environment. Land development and redevelopment will emphasize variety, mixed uses, and unity of form within buildings or complexes.

As the city's and region's center for commercial and service employment, Downtown supports intense development and a dynamic combination of uses: specialty and regional retail shopping

and offices; business support services; urban housing at higher densities (starting at 10 dwelling units per acre); civic, educational and cultural destinations; entertainment options; and other public amenities including active and passive park space. The successful integration of a mix of housing types and densities will be critical to achieve a vibrant, 24/7-active Downtown Mobile.

Development in the DT district will focus on new, redeveloped and adaptively reused buildings that frame attractive, human-scaled streetscapes, memorable public spaces, bicycle and pedestrian-friendly streets and convenient transit access to jobs, housing and entertainment. Accordingly, certain areas of Downtown will be more intensively developed to facilitate that pedestrian orientation.

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:

Due to the fact that the Tree Commission has requested the location of the front of the proposed residence be 14' away from a 24" heritage oak, we request a setback of 22' which is beyond the 12' maximum setback.

As the applicant notes, there is an existing 24" live oak on the property, and it is the intent to preserve the tree by providing a sufficient amount of undisturbed ground surrounding the tree. It should be noted that the subject tree is on private property, and therefore not under the jurisdiction of the Tree Commission. Instead, the Urban Forester discussed the tree with the applicant and provided an ideal separation distance.

Regarding the request to have an increased driveway width, the curb cut and associated driveway are 10' wide at the front property line, and the driveway does not start to widen until 8' from the

property line. With the request to increase the front setback to 22', this results in a 14' long section that is up to 5' wider than normally allowed. No justification is provided for having the driveway widen within the front setback, and it appears as though the driveway could be revised to comply with little impact to the overall design.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial for the Driveway Width Variance:

- 1) Based on the fact that the hardships are self-imposed, and that the applicant could alter the proposed driveway to be compliant with little impact to the overall design;
- 2) No special conditions exist with the property itself, 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 the surrounding neighborhood by granting the requested variance, as a minor revision would allow for a compliant driveway width.

Based on the preceding, staff recommends to the Board the following findings of fact for Approval for the Front Yard Setback Variance:

- 1) Based on the fact that the hardships are not self-imposed, a compliant front yard setback would compromise the survival of an existing 24" live oak;
- 2) Special conditions exist with the property itself, in that there is an existing heritage tree in the required setback; and
- 3) The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variance, as the Architectural Review Board has approved the plans as submitted.

The Approval should be subject to the following conditions:

- 1) Obtain all required permits; and
- 2) Full compliance with all municipal codes and ordinances.

Revised for the May 4, 2020 meeting:

This application was heldover from the April 6, 2020 Board of Zoning Adjustment meeting, after a lack of quorum caused the meeting to be cancelled. No new information has been submitted, therefore, the recommendation remains unchanged.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial for the Driveway Width Variance:

- 1) *Based on the fact that the hardships are self-imposed, and that the applicant could alter the proposed driveway to be compliant with little impact to the overall design;*
- 2) *No special conditions exist with the property itself, 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 the surrounding neighborhood by granting the requested variance, as a minor revision would allow for a compliant driveway width.*

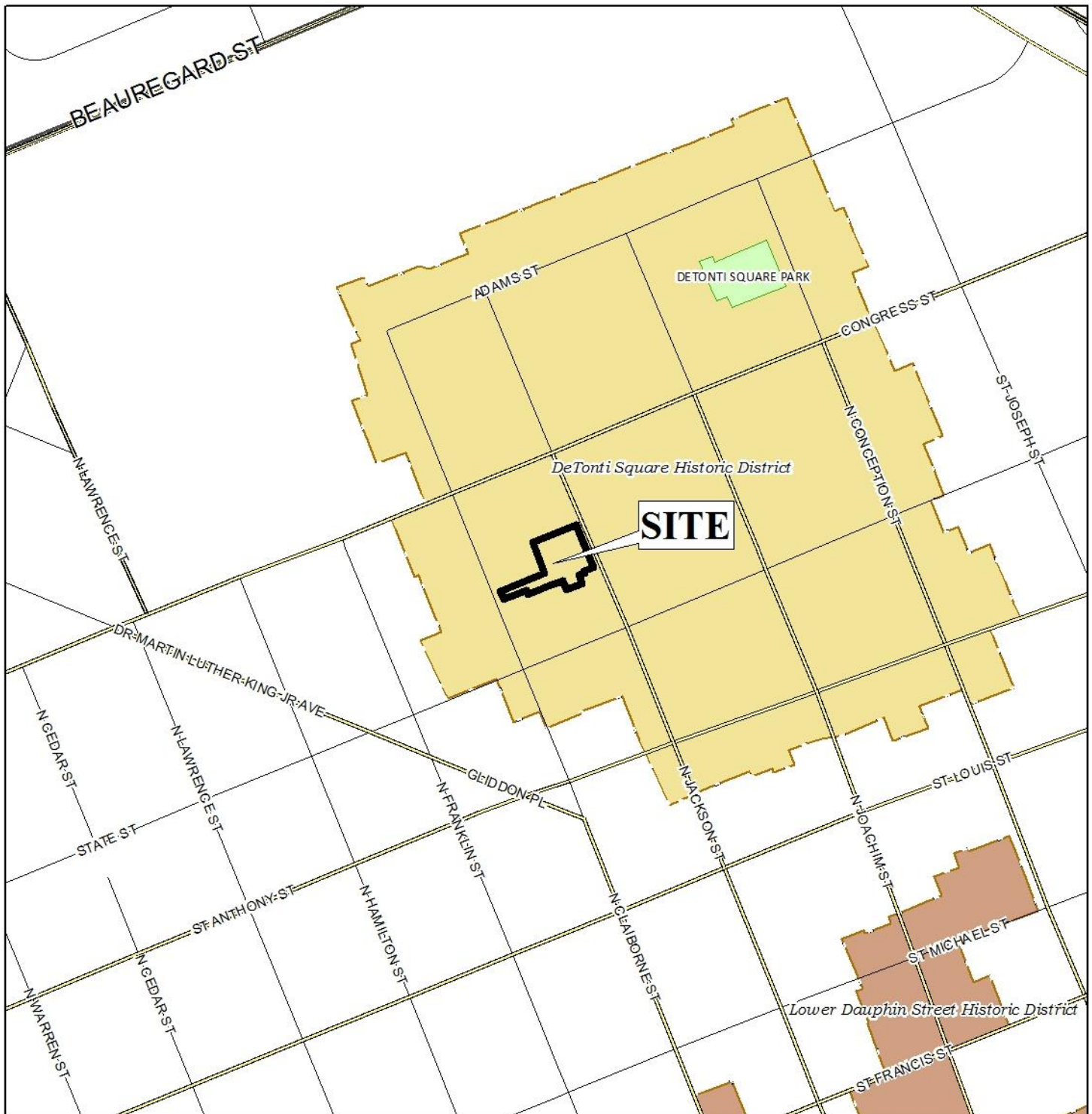
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- 2) *Special conditions exist with the property itself, in that there is an existing heritage tree in the required setback; and*
- 3) *The spirit of the chapter shall be observed, and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the requested variance, as the Architectural Review Board has approved the plans as submitted.*

The Approval should be subject to the following conditions:

- 1) *Obtain all required permits; and*
- 2) *Full compliance with all municipal codes and ordinances.*

LOCATOR MAP



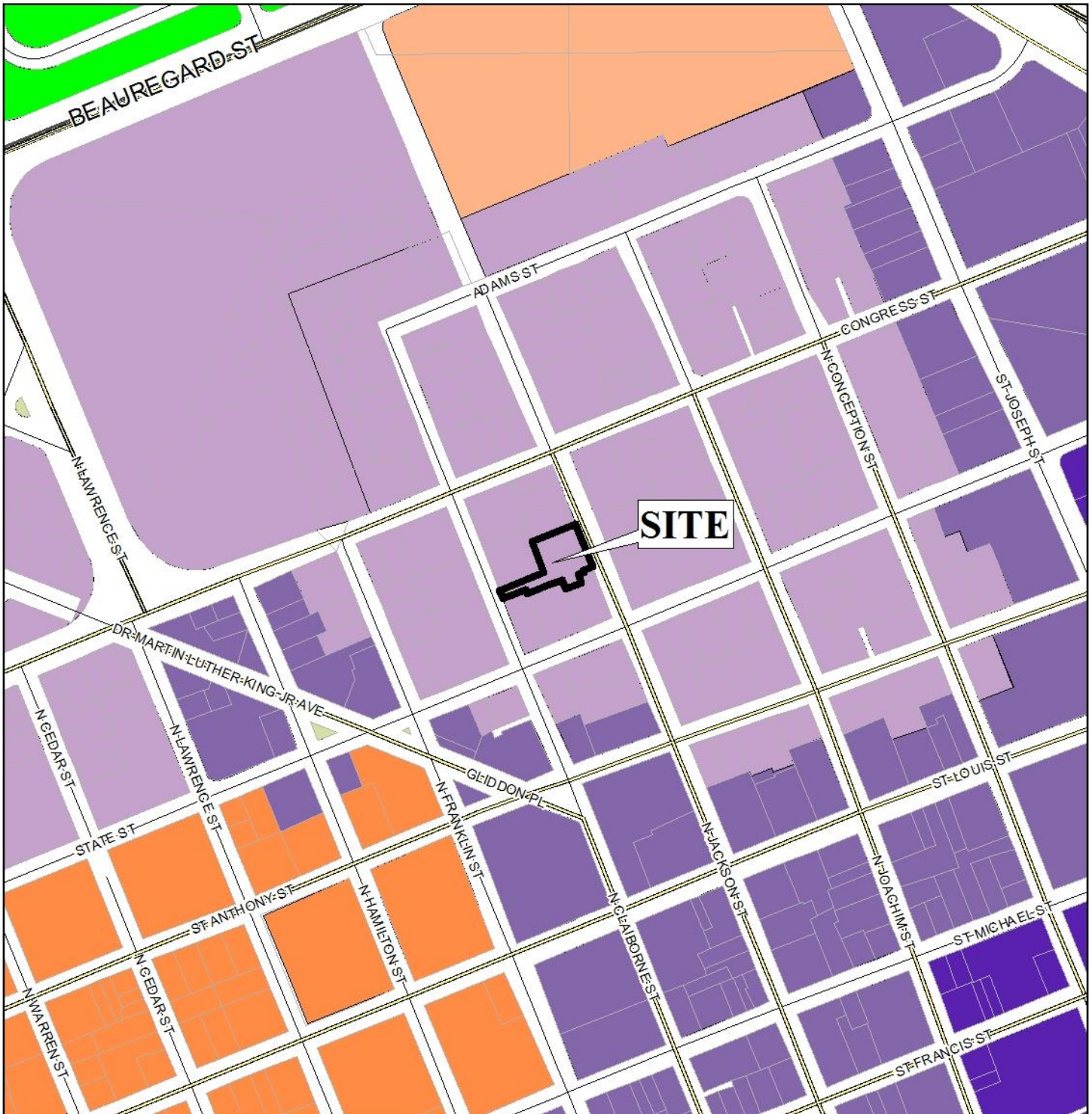
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APPLICANT L. Craig Roberts

REQUEST Front Yard Setback and Driveway Width Variances



LOCATOR ZONING MAP



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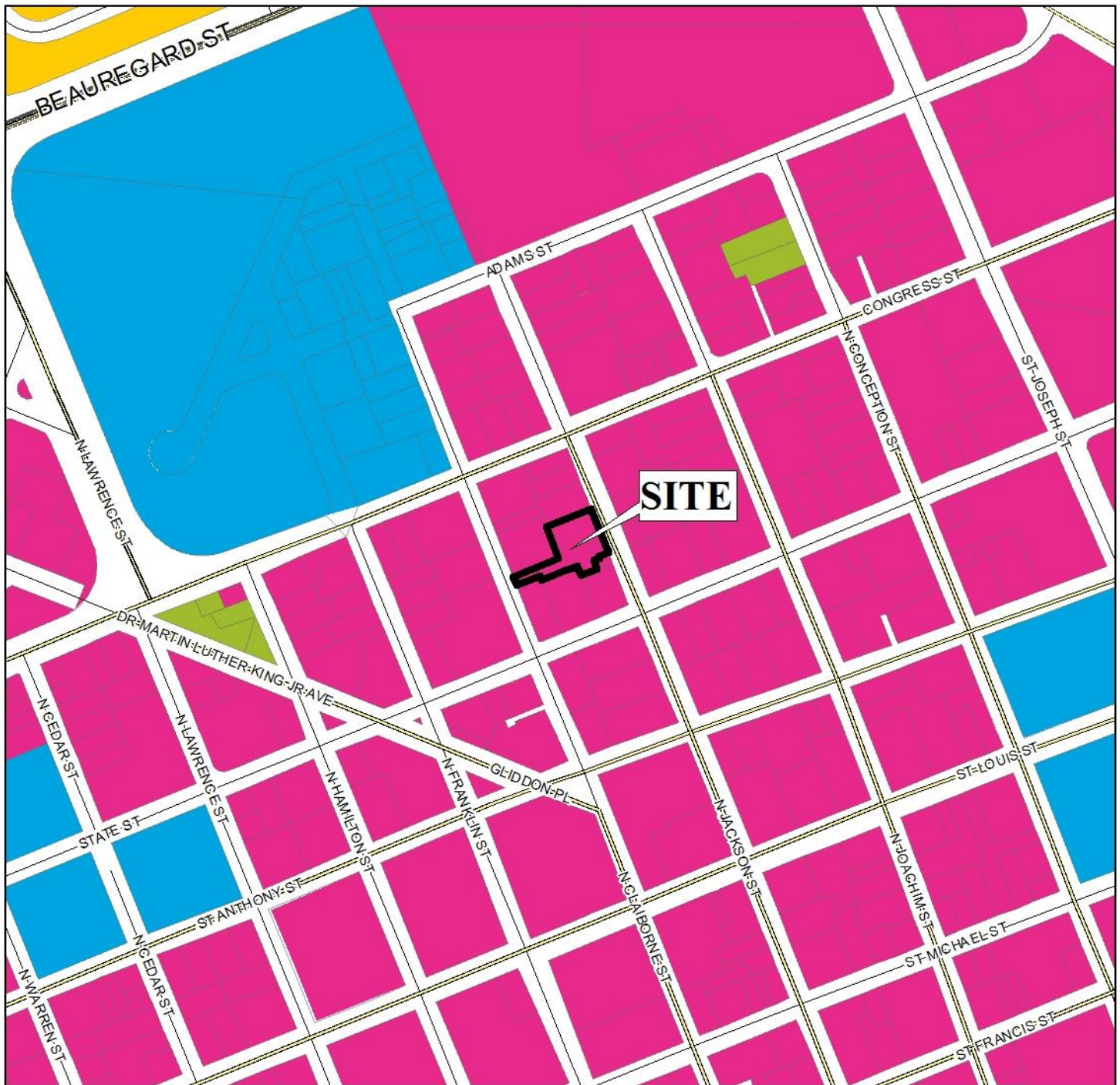
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FLUM LOCATOR MAP



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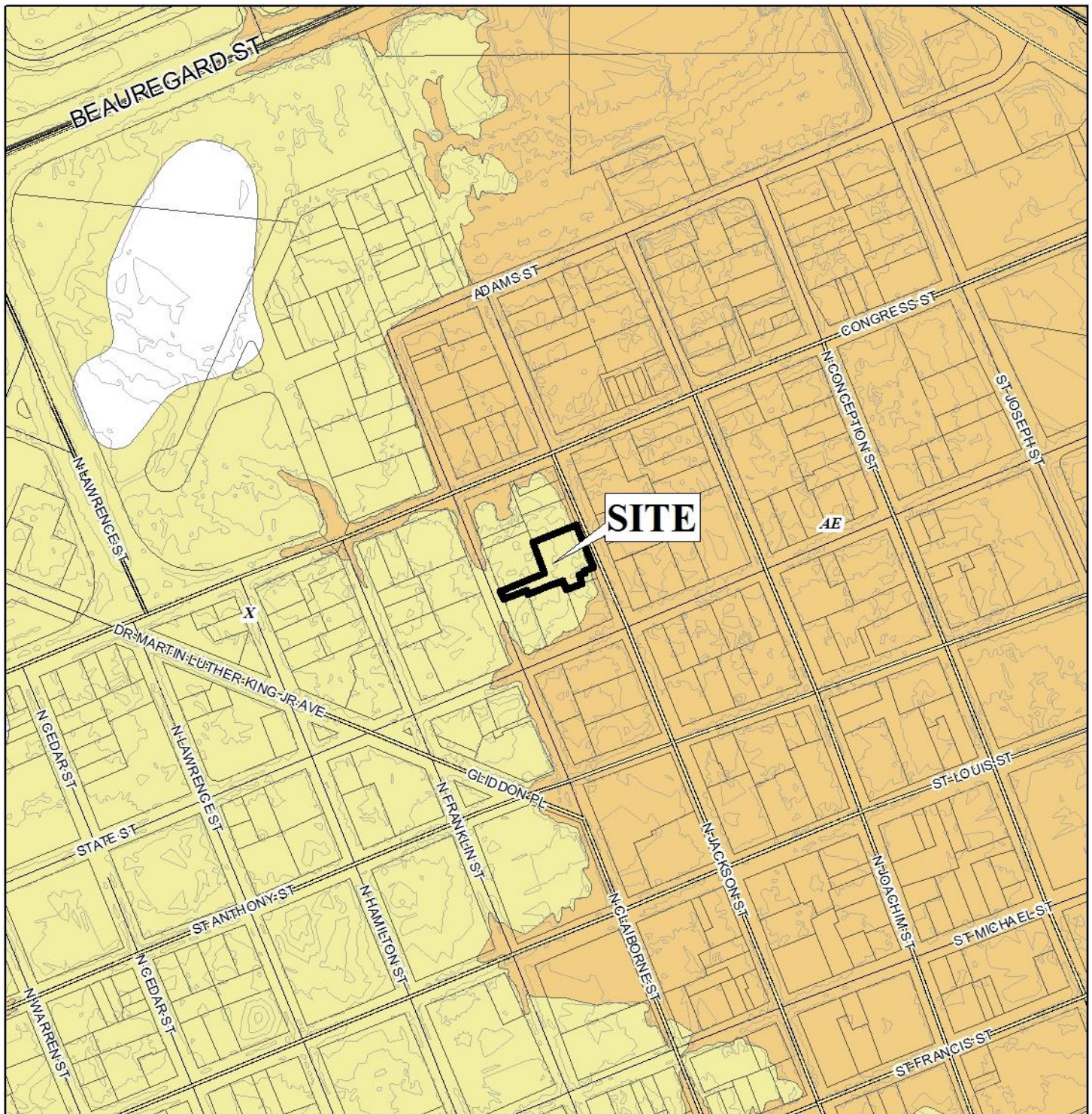
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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood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



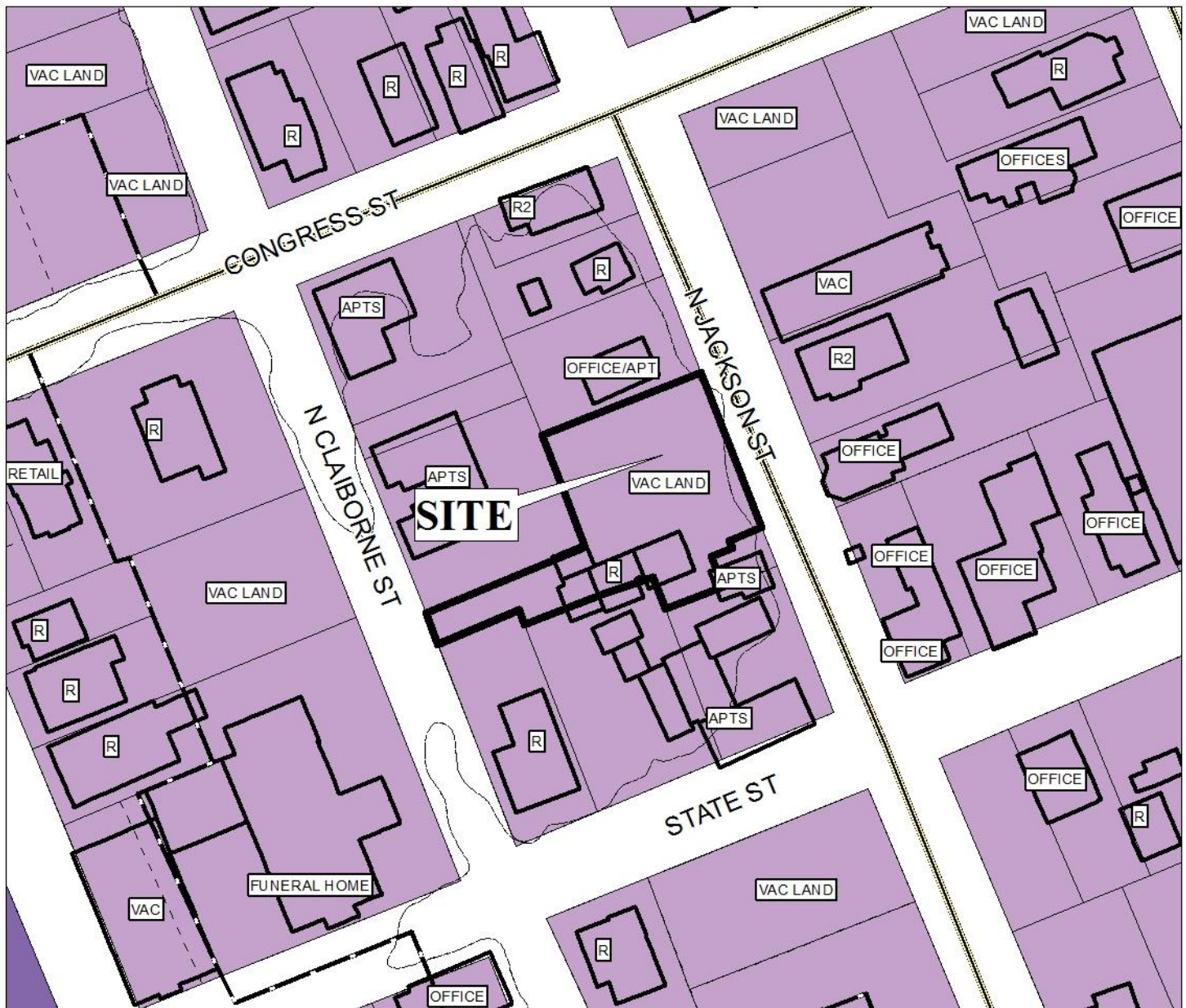
ENVIRONMENTAL LOCATOR MAP



| | |
|---|--------------------|
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| REQUEST _____ | L. Craig Roberts |
| Front Yard Setback and Driveway Width Variances | |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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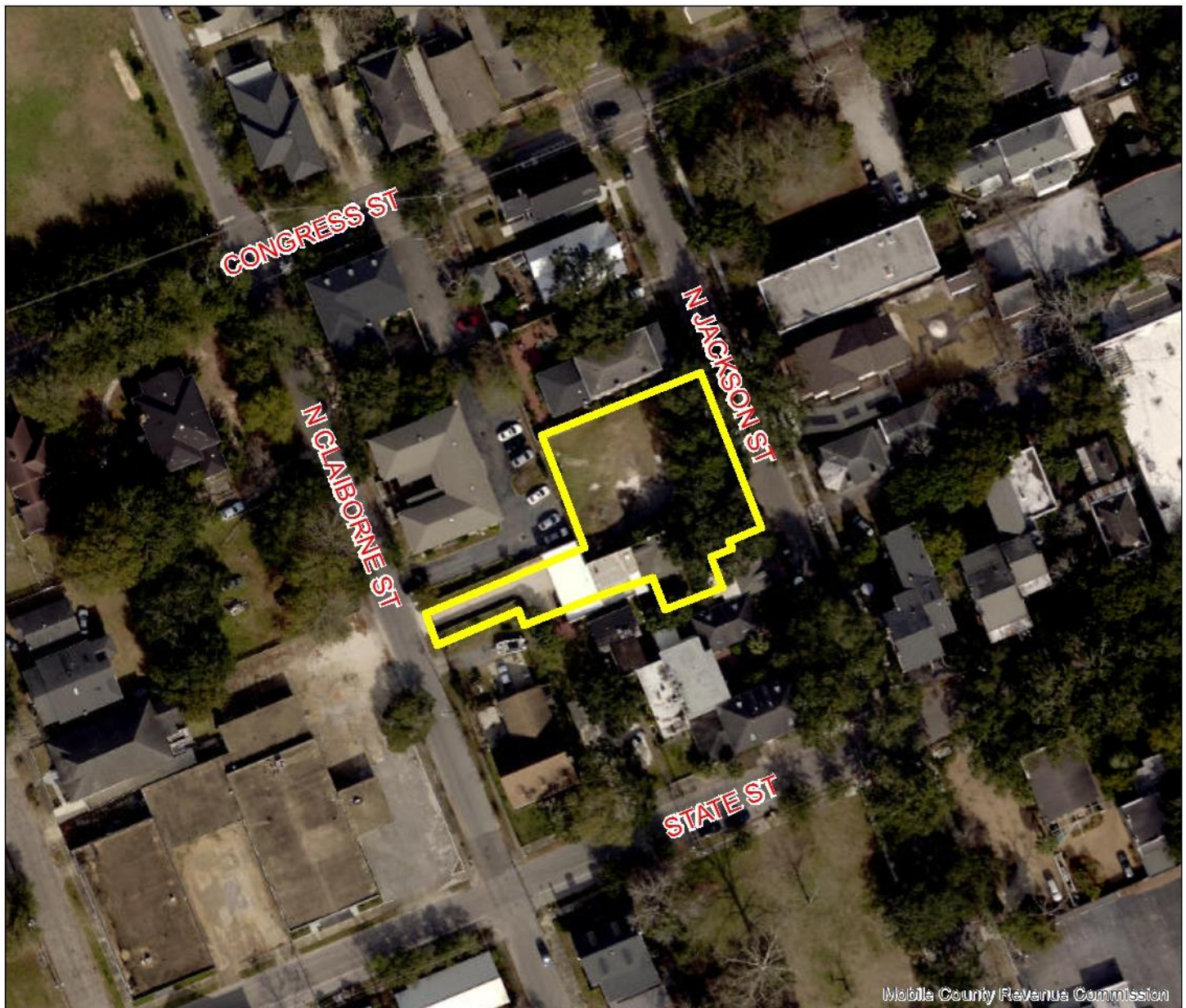
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| | | | | | | | |
|-----|-----|------|-----|-----|------|-------|------|
| R-A | R-3 | T-B | B-2 | B-5 | MUN | SD-WH | T5.1 |
| R-1 | R-B | B-1 | B-3 | I-1 | OPEN | T3 | T5.2 |
| R-2 | H-B | LB-2 | B-4 | I-2 | SD | T4 | T6 |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

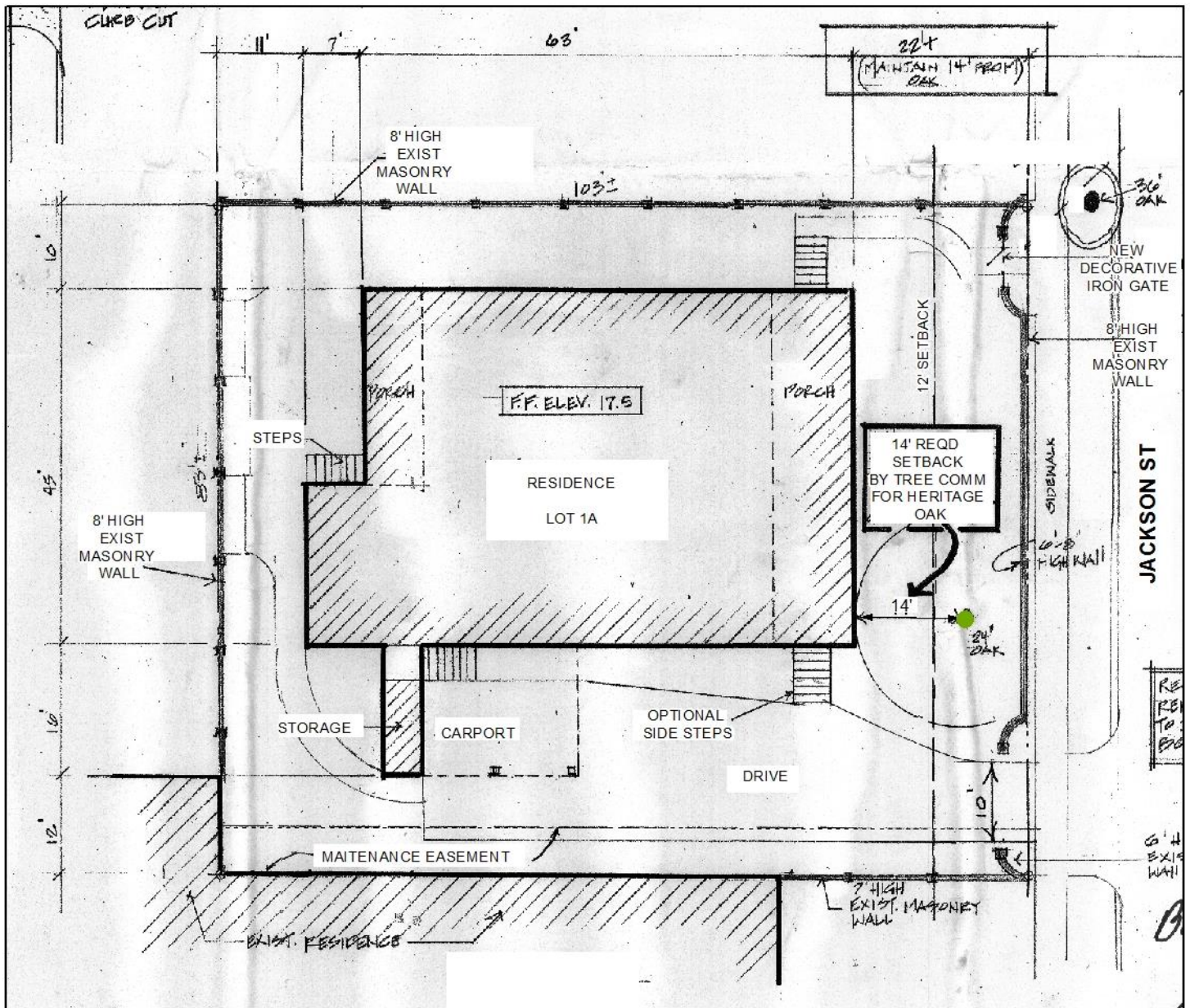


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SITE PLAN

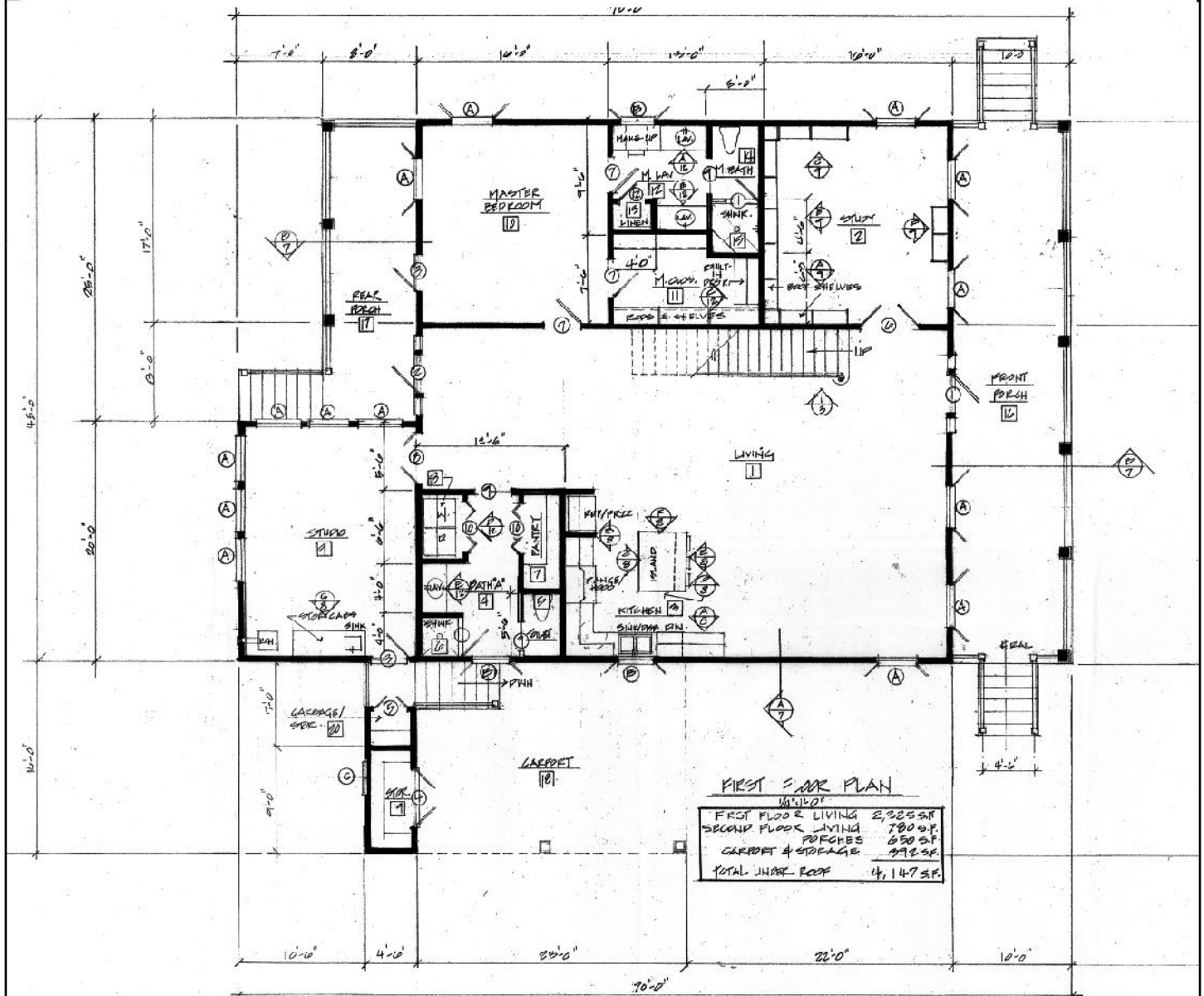


The site plan illustrates the residence, drive, setbacks, and easement.

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DETAIL SITE PLAN



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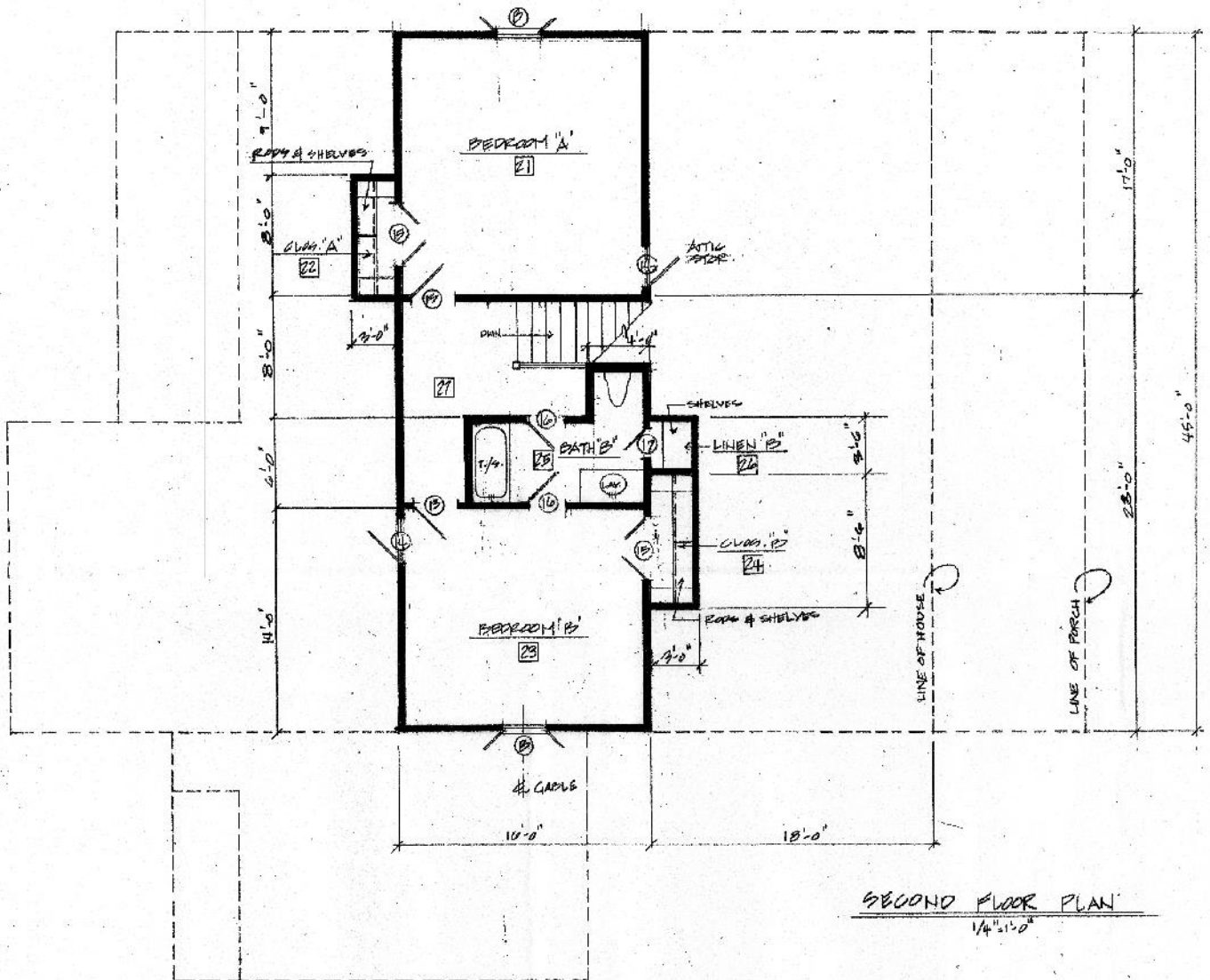
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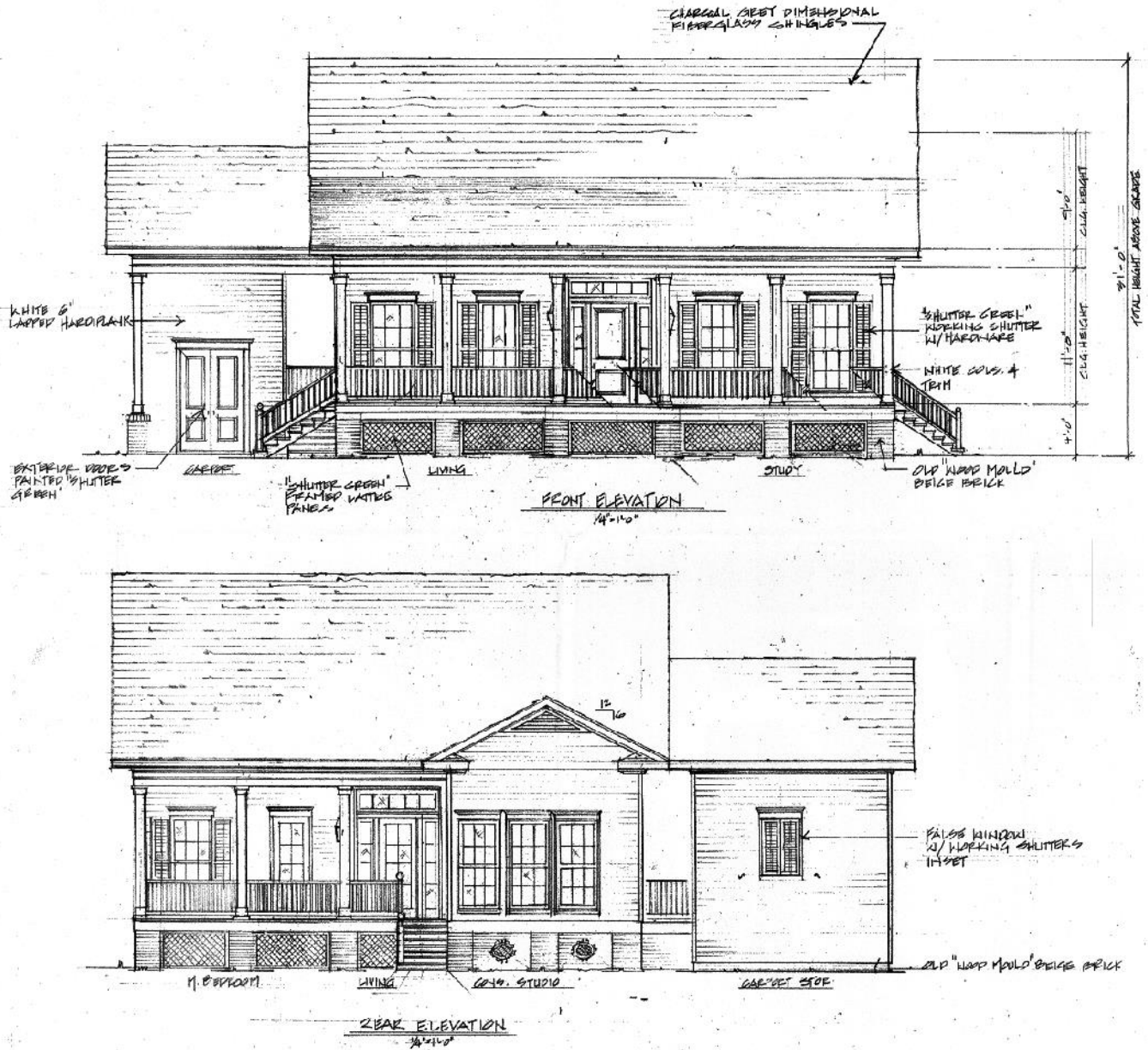
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