

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 7, 2016****CASE NUMBER**

6063

APPLICANT NAME

Dr. Jack Carney

LOCATION

5054 Old Shell Road
(Northeast corner of Old Shell Road and Border Drive East)

VARIANCE REQUEST

USE: To allow a clinical psychologist office in an R-1, Single-Family Residential District

SURFACING: To allow aggregate surfacing for a parking area.

FRONT LANDSCAPE AREA: To allow reduced front landscape area.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of a B-1, Buffer Business District zoning for a clinical psychologist office.

SURFACING: The Zoning Ordinance requires all parking be paved with concrete, asphaltic concrete, or asphalt.

FRONT LANDSCAPE AREA: The Zoning Ordinance requires full compliance with landscape area requirements.

ZONING

R-1, Single-Family Residential District

AREA OF PROPERTY

18,264± square feet/0.42±Acres

**ENGINEERING
COMMENTS**

Surfacing: If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

- a. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. Surface drainage from aggregate surfacing should be collected onsite and not enter the public ROW.

- b. Submit a ROW Permit (City of Mobile) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW. Concrete parking areas within the public ROW, or with required maneuvering in the public ROW shall not be allowed.

TRAFFIC ENGINEERING

COMMENTS

Site is limited to one curb-cut to Border Drive East with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. Redevelopment of the site should include the removal of the continuous curb cut on Old Shell and around to its terminus on Border Drive East. Sidewalk construction should be required along Old Shell Road to tie into a previous city sidewalk project on its east and west side. Aggregate surface, if approved, should be designated with bumper stops to mark spaces and prevent parking in landscape areas. Handicap parking space and adjacent aisle must be solid surface (concrete or asphalt) to meet ADA requirements.

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).

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 7

ANALYSIS

The applicant is requesting Use, Surfacing, and Front Landscaping Variances to allow a clinical psychologist office with aggregate surfacing and reduced frontage landscape area in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-1, Buffer Business District for a clinical psychologist office, that all parking be paved with concrete, asphaltic concrete, or asphalt, and full compliance with landscape area requirements.

While staff has no non-conforming documentation on this site, it has been used as a mechanic (a B-3 use) as far back as 1980 according to the Polk Directory, and aerial photographs show that this building has existed as far back as 1960. The applicant wishes to utilize the building for a clinical psychologist office (a B-1 use).

The applicant states:

We are submitting a variance application to allow Dr. Jack Carney to place his doctor's office at the location of this tire/mechanics shop. Dr. Carney is a clinical psychologist and wants to keep the character of the structure intact for its historical preservation. There will be striping added for parking and additional parking added for customers and staff. He would like to aggregate surfacing as to keep within the character of the

neighborhood. We will provide buffering in terms of a fence where needed. We are unable to provide adequate front landscaping based on the existing location of the building. We do have landscaping on the rear of the property that we will utilize as an additional buffer to the neighbors. We are asking for a variance to allow a doctor's office in a R-1 zoned property, along with a variance of front landscaping requirement.

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.

According to the Map for Mobile, the site is located within a Traditional Corridor. The intent for Traditional Corridors is:

- Emphasize retaining historic buildings and creating appropriate, denser infill development
- Encourage mixed housing types including small multi-family structures along the corridor
- Retail and neighborhood services at intersections
- Combine and close driveways to create a continuous pedestrian friendly environment
- Auto, bicycle, transit and pedestrian traffic are accommodated
- More dense mixed-use development to include neighborhood services and residential above retail

The existing structure on the site is 1,413± square feet, thus requires 5 parking spaces. The applicant proposes to provide an aggregate parking area at the rear of the structure with 15 parking spaces. It should be noted that Traffic Engineering states that the Americans with Disabilities Act requires accessible parking spaces to be paved with a solid surface, so even if the surfacing request is approved for the site, the applicant will have to pave the proposed accessible space. The applicant states the reason for the aggregate surfacing is to “keep within the character of the neighborhood”, however the only aggregate surfacing in the area that staff is aware of is an existing gravel drive on the subject site which is proposed to be removed. It should also be noted that the City of Mobile has a parking lot across Border Drive East from the subject site that is paved with asphalt, as do nearby businesses along Old Shell Road.

The site is located in a “Neighborhood General” sub-district of the optional Traditional Center District. This district consists of a mixture of uses but primarily residential urban fabric. It may have a wide range of building types and uses, including residential (in attached and detached buildings), civic buildings, and limited retail including home occupations. Setbacks and landscaping are variable. This district has generous sidewalks and regular street tree planting.

Almost the entire portion of the site between the building and Old Shell Road is paved with concrete with a continuous curb cut. Per Traffic Engineering, this continuous curb cut should be eliminated, with the site being limited to one curb cut to Border Drive East. The site plan indicates a new sidewalk will be installed along Border Drive East, and should also be provided along Old Shell Road with the removal of the curb cut.

It should be noted that the site plan indicates the location of the existing freestanding sign at this location is mostly located in the right-of-way. If the applicant wishes to have a freestanding sign, it should be located on private property and comply with all sign regulations.

There is no dumpster indicated on the site, but there is a note stating that curb side pickup will be utilized. If approved, this note should remain on the site plan.

The site abuts residentially zoned and utilized property to the North and East. The proposed site plan indicates a 6' high wooden privacy fence in compliance with Section 64-4.D. of the Zoning Ordinance. It should be noted that the privacy fence cannot be higher than 3' within the 25' front setback.

The applicant states that the site is unable to provide compliance with front landscape area, however, a revised site plan submitted to staff, after the initial application was submitted, included landscape area calculations showing that the site actually exceeds the minimum amount of both total landscape area and front landscape area, making the front landscape area variance request moot.

The proposed site plan submitted illustrates full compliance with tree planting requirements with 9 new frontage trees proposed, and existing trees on the site providing sufficient credits for any remaining tree requirements.

The proposal does fit in with the Map for Mobile's view for the area in that it will allow a less intense use than previously occurring at the site, while providing services to the residents in the surrounding area, the provision of a new sidewalk to better accommodate pedestrians, and a new parking area that does not result in vehicles backing into the right-of-way, such as is occurring now.

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

- 1) approving the variance will not be contrary to the public interest in that the subject site has been commercially utilized since at least 1980;
- 2) special conditions do exist and there are hardships which exist in that the site was developed commercially and thus the existing building may not be suitable for residential use; 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 proposed use as a clinical psychologist office is less intense than that of the previous business, an automotive mechanic.

The approval is subject to the following conditions:

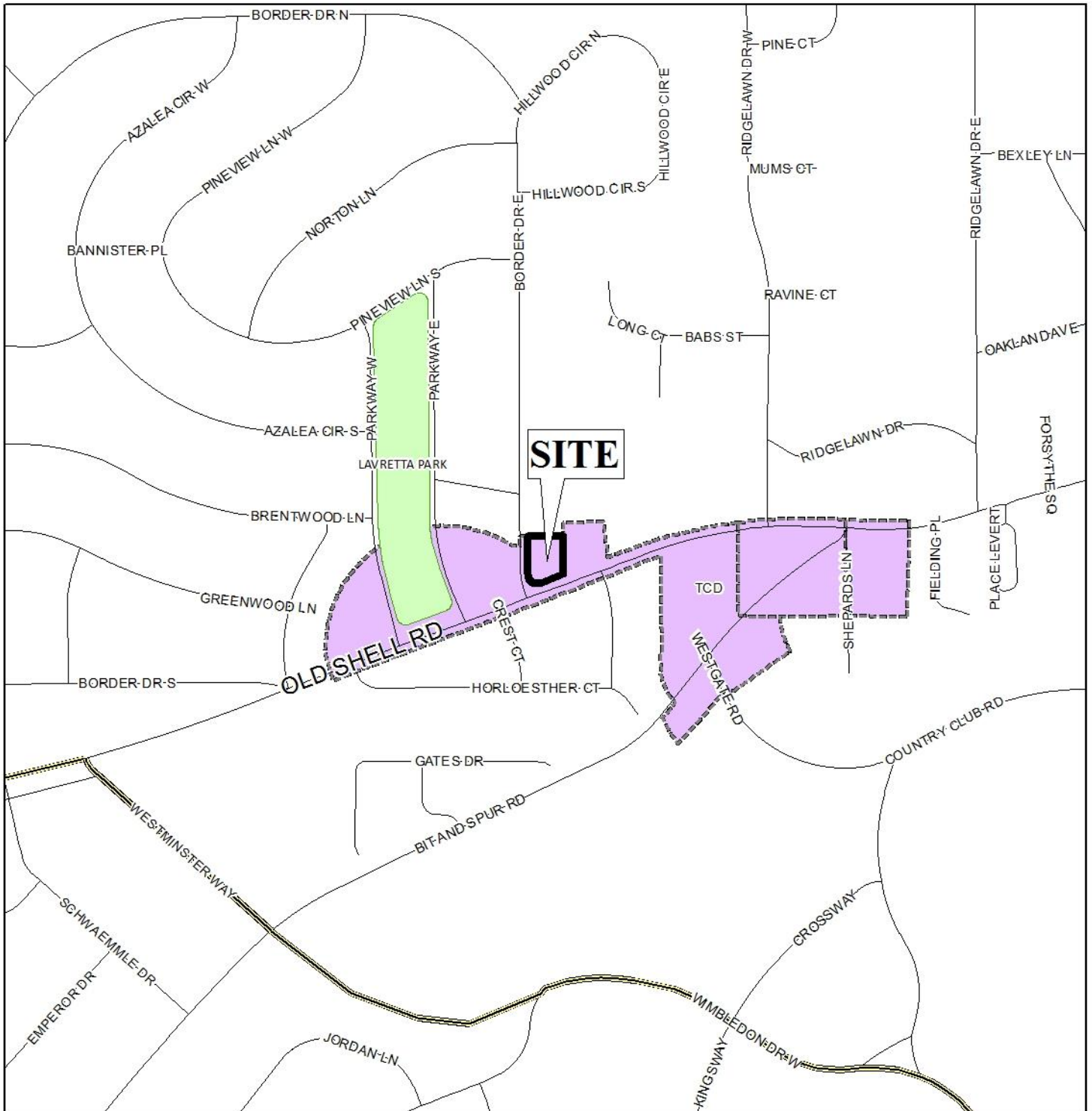
- 1) provision of a compliant residential buffer;
- 2) full compliance with tree planting and landscape area requirements;
- 3) compliance with Traffic Engineering requirements (*Site is limited to one curb-cut to Border Drive East with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. Redevelopment of the site should include the removal of the continuous curb cut on Old Shell and around to its terminus on Border Drive East. Sidewalk construction should be required along Old Shell Road to tie into a previous city sidewalk project on its east and west side. Aggregate surface, if approved, should be designated with bumper stops to mark spaces and prevent parking in landscape areas. Handicap parking space and adjacent aisle must be solid surface (concrete or asphalt) to meet ADA requirements.*);
- 4) removal of the freestanding sign in the right-of-way; and
- 5) full compliance with all other municipal codes and ordinances.

Staff recommends to the Board the following findings of fact for Denial for the Surfacing Variance:

- 1) approving the variance will be contrary to the public interest in that nearby parking lots are paved with compliant surfacing;
- 2) special conditions do not exist and there are no hardships which exist that prevent the site from utilizing a compliant surfacing; 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 it is simply the applicant's desire to use aggregate surfacing.

The front landscape area request is unnecessary, thus is moot.

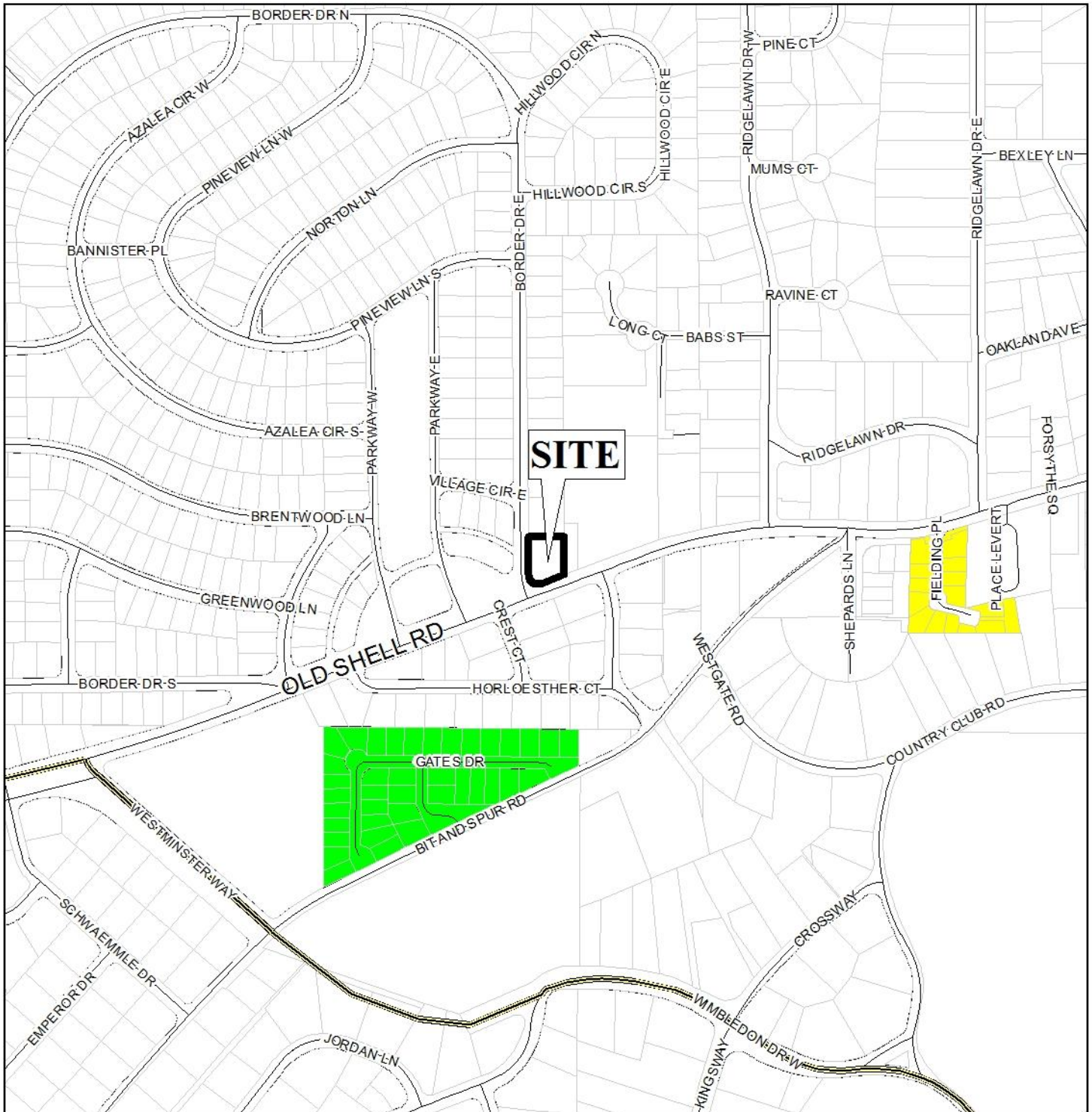
LOCATOR MAP



APPLICATION NUMBER 6063 DATE November 7, 2016
 APPLICANT Dr. Jack Carney
 REQUEST Use, Surfacing, and Front Landscape Area Variance



LOCATOR ZONING MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 6063 DATE November 7, 2016

APPLICANT Dr. Jack Carney

REQUEST Use, Surfacing, and Front Landscape Area Variance

 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

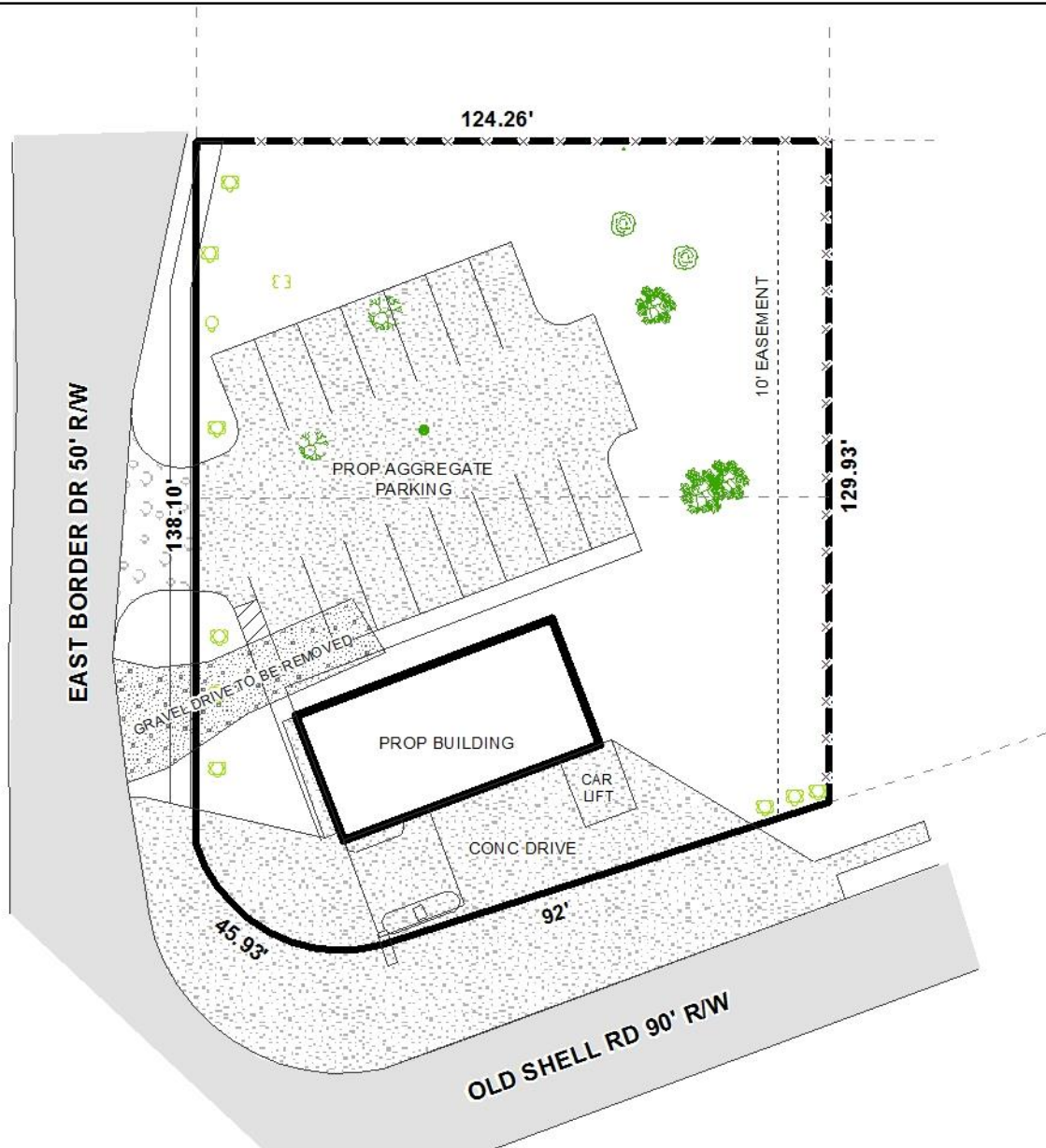


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SITE PLAN



The site plan illustrates the proposed building, striped parking, easement, and trees.

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