

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 4, 2018****CASE NUMBER**

6179

APPLICANT NAME

Meoshi Williams

LOCATION

820 Challen Circle North
(North side of Challen Circle North, 380'± East of
Parkwood Drive East)

VARIANCE REQUEST

USE: Use Variance to allow a domiciliary care facility (assisted living facility) for the elderly in an R-1, Single-Family Residential District.

RESIDENTIAL BUFFER: Residential Buffer Variance to allow no buffering along adjacent residential properties.

PARKING: Parking Variance to allow reduced parking on-site.

ACCESS AND MANEUVERING: Access and Maneuvering Variance to allow substandard access and maneuvering areas.

TREE PLANTING: Tree Planting Variance to allow no tree plantings on-site.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum B-1, Buffer Business District, for a domiciliary care facility for elderly.

RESIDENTIAL BUFFER: The Zoning Ordinance requires a minimum 10' vegetative buffer or 6' high wooden privacy fence as a buffer from adjoining residential properties.

PARKING: The Zoning Ordinance requires one compliant parking space per four beds for a domiciliary care facility.

ACCESS AND MANEUVERING: The Zoning Ordinance requires a 24' wide drive for two-way traffic and 24' behind parking stalls for parking maneuvering area.

TREE PLANTING: The Zoning Ordinance requires full compliance with the frontage, perimeter and parking area tree planting ratios.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

0.35± Acre

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

Pertaining to traffic generation, there is not a significant amount of data available in published resources to estimate the expected trips for this proposed land use. The application only indicates up to 10 elderly residents and the applicant herself as users of the proposed facility. No indication is given that there would be additional support staff on site, although it would be a valid assumption that additional staff would be on site at least when the applicant is not at the residence. Visitors to the site could also cause a burden to neighbors due to increased parking on a residential street. If on street parking becomes an issue, on street parking restrictions may have to be installed based on the width of Challen Circle North. If the Board considers approval of the use, also consider a requirement to construct a circular driveway to minimize the potential impacts of increased parked vehicles at the residence.

**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, Residential Buffer, Parking, Access and Maneuvering, and Tree Planting Variances to allow a domiciliary care facility for elderly with no residential buffer, reduced parking, substandard access and maneuvering areas, and no tree plantings in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum B-1, Buffer Business District for a domiciliary care facility for elderly with compliant parking, adequate access and maneuvering areas, a residential buffer, and full compliance with tree planting requirements.

The site has been given a Low Density Residential (LDR) 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 to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semidetached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.

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's narrative states:

We are submitting a Variance application for Ms. Williams at 820 Challen Circle North. Ms. Williams wants to use the residentially zoned property as an elderly care home. The

home has 5 bedrooms and she will have no more than 10 people in this home and transportation for each tenant will be provided by Ms. Williams to and from doctor's visits, care facilities, grocery store etc. She intends to care for the people on-site and provide an environment in which they can thrive. We ask that you consider Ms. Williams to run the elderly care home so that she can better serve her community.

A City Fire Department call to the site revealed a 17-bed group home (domiciliary care facility) operation with 3 of the beds in a detached storage shed. The Bureau of Fire Prevention further investigated the site and verified the situation and notified other entities such as Planning and Zoning and Inspection Services of the overcrowding and building code violations. The applicant corrected some of the issues and lowered the number of residents to 10 and now desires to operate the facility with that number of residents, hence this application.

The Zoning Ordinance defines a domiciliary care facility as “A residential facility whose primary purpose is to furnish room, board, laundry, personal care, and other nonmedical services, for not less than twenty-four (24) hours in any week, to individuals not related by blood or marriage to the owner and/or administrator. This kind of care implies sheltered protection and a supervised environment for persons, who because of age and/or disabilities, are incapable of living independently in their own homes or a commercial board and room situation, yet who do not require the medical and nursing services provided in a nursing home. These facilities may provide temporary limited medical care as an individual would receive if the individual were living in his or her own home.”

A domiciliary care facility is allowed as a home occupation, but it is limited to four residents and no staff may work at the facility who do not reside in the home. In this instance, up to ten people are proposed which constitutes a commercial operation. As such, the site must be brought into compliance with the Zoning Ordinance requirements for the proper number of parking spaces with sufficient access and maneuvering area within the parking lot. Since the site is adjacent to other residential zoning, a residential buffer must be provided and the site must have the appropriate amount of landscaping and tree plantings.

The subject site is within a developed single-family residential subdivision and surrounded by R-1 zoning. All adjacent properties to the sides and those across the street are developed residentially. To the rear of the site is a vacant wooded ravine owned by the State of Alabama.

Pertaining to the requests, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification. None of the requests were addressed by the applicant to explain their necessity or an associated hardship. As the entire surrounding neighborhood is used as single-family residential, the proposed use would create a spot-commercial infiltration and would be out of character with the surrounding single-family residential uses.

It should be noted that such a facility typically requires a license from the Alabama Department of Public Health, and must meet State requirements for such a facility. No information was included with the application to indicate that licenses had been secured, or that there was an

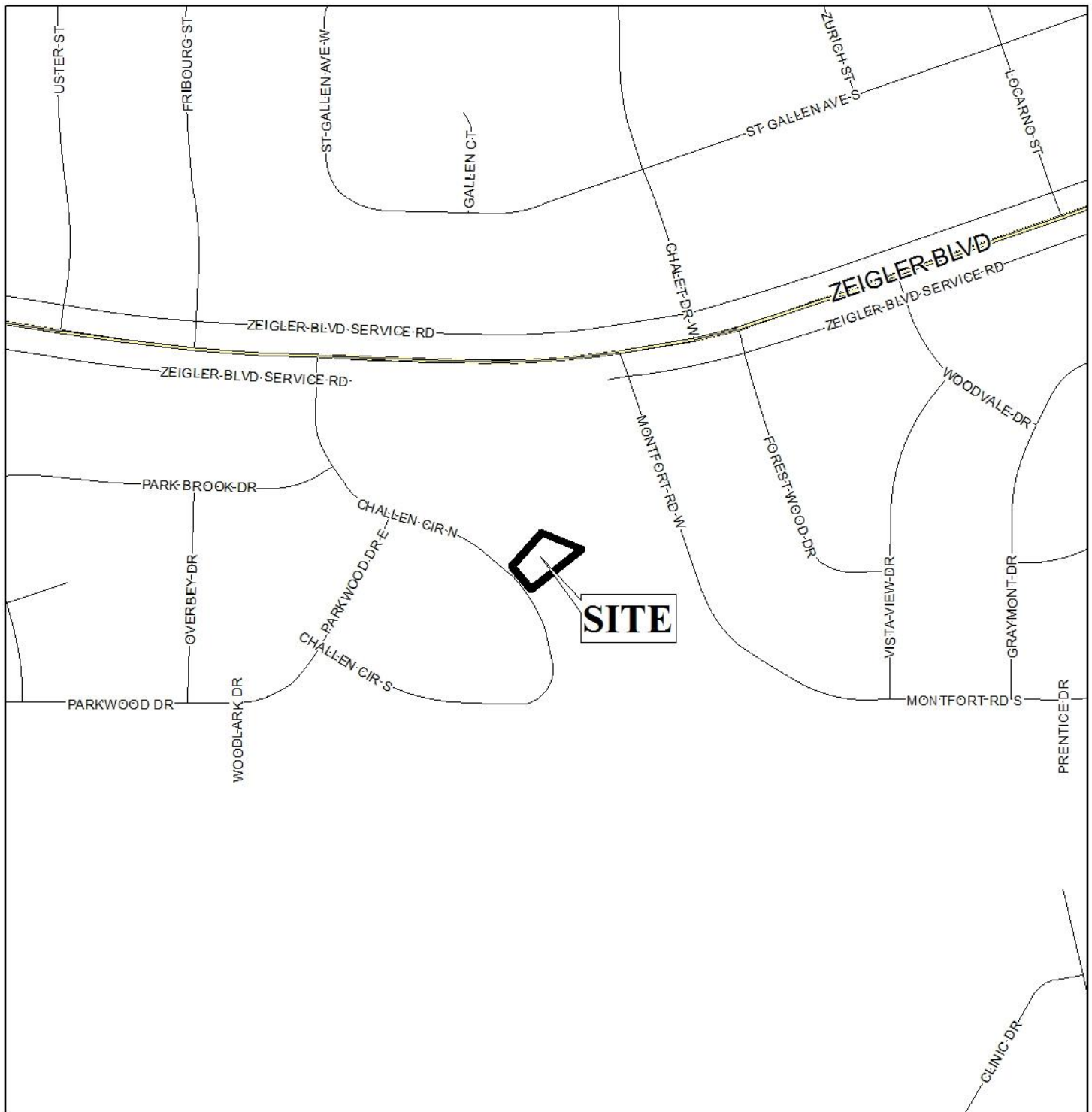
intent to secure licenses. Also, a facility for 10 people may require additional staff besides the applicant, but no information about staffing was provided.

The applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. As the subject site and surrounding neighborhood were developed as single-family housing, there are no unusual characteristics of the property that satisfy variance standards. Furthermore, the primary proposed use as a commercial domiciliary care facility without any commercial site compliance would be out of character for an R-1, Single-Family Residential District. The Board should consider all of the Variance requests for denial.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Denial of the Use, Residential Buffer, Parking, Access and Maneuvering, and Tree Planting requests:

- 1) Approving the variances will be contrary to the public interest in that the use would be contrary to the established zoning classification and use of both the site and surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the 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 use would be incompatible to an established R-1 District, and the subject property can be utilized for single-family dwelling purposes.

LOCATOR MAP



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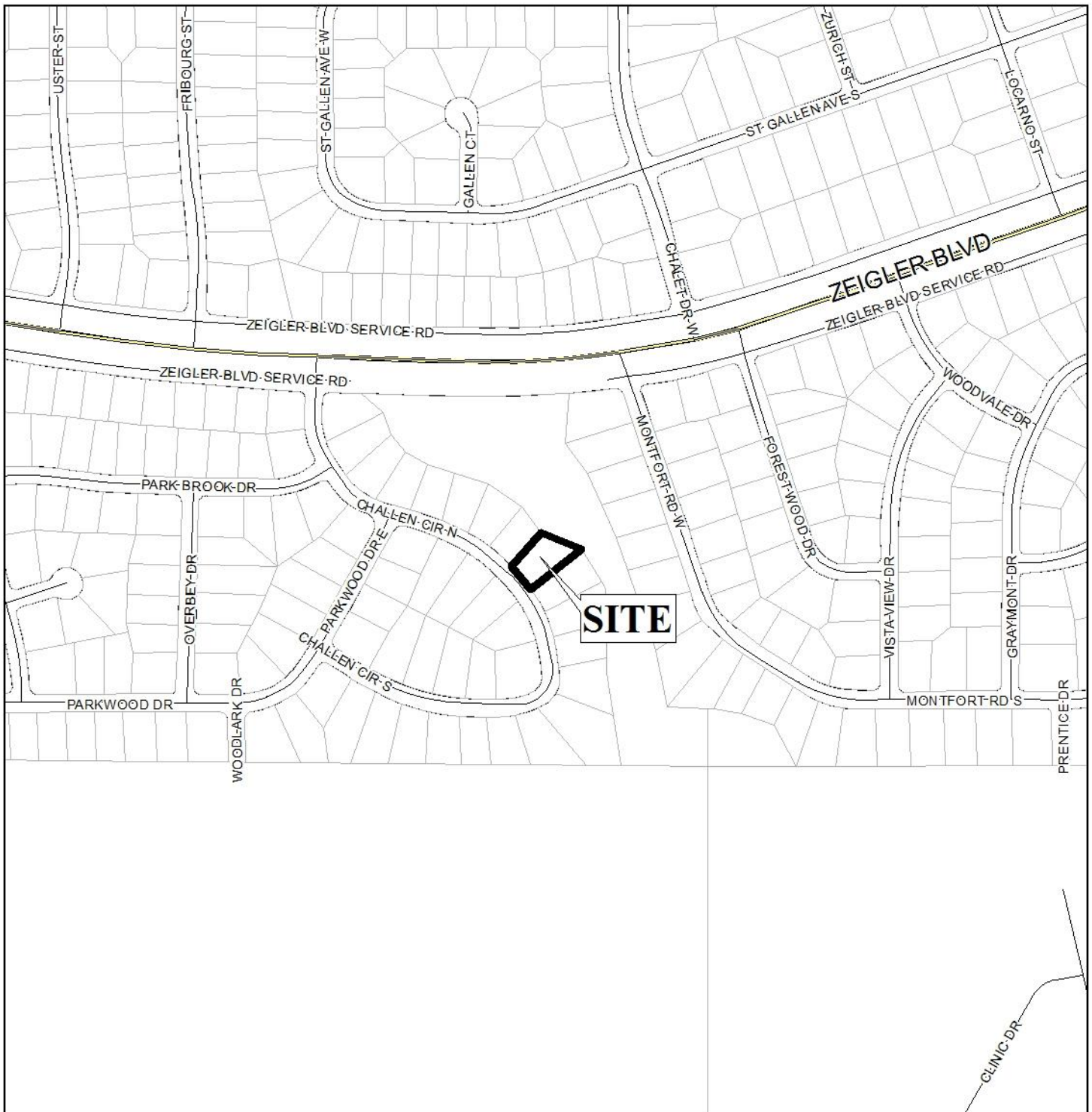
APPLICANT Meoshi Williams

REQUEST Use Variance



NTS

LOCATOR ZONING MAP



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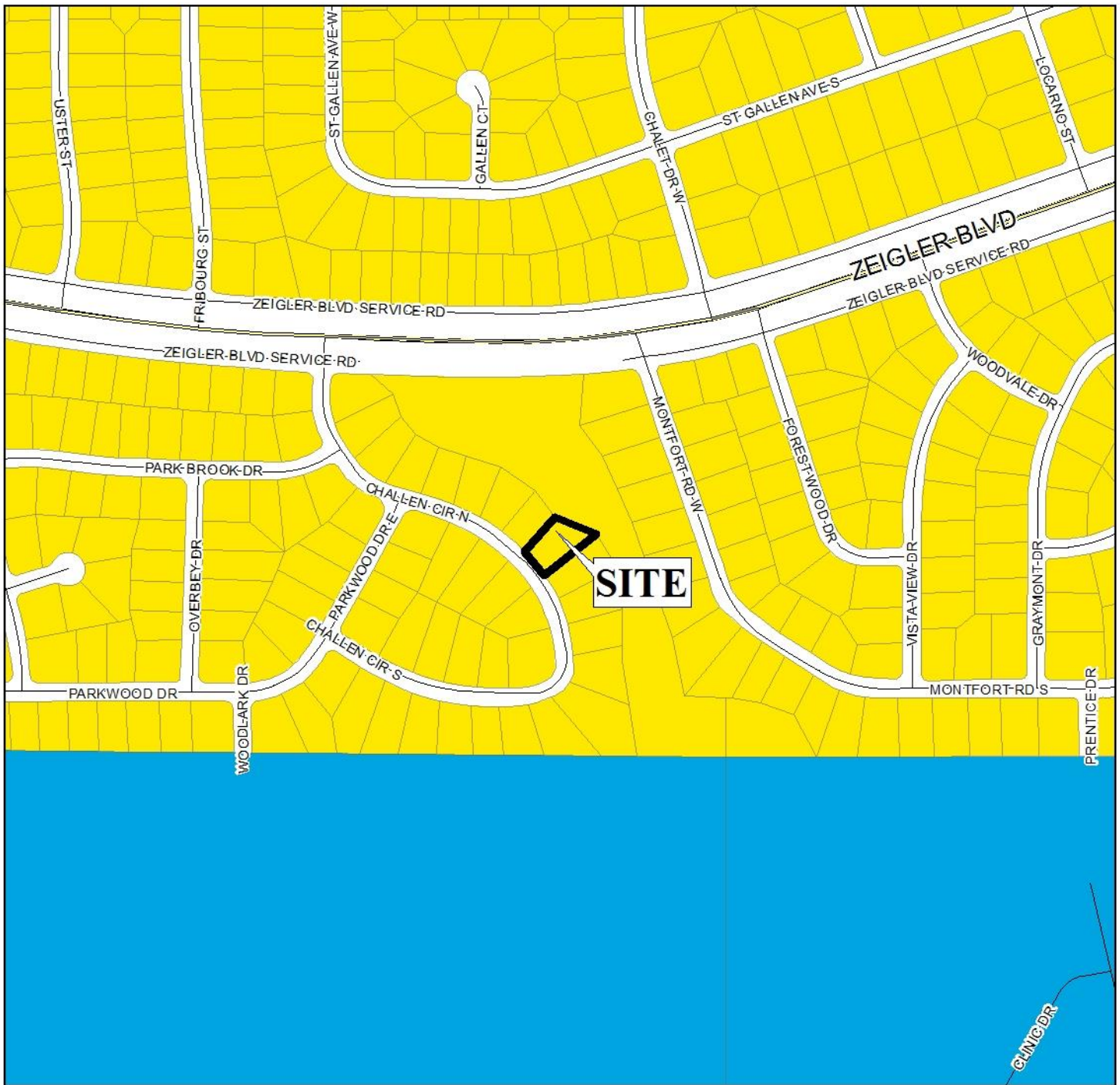
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FLUM LOCATOR MAP



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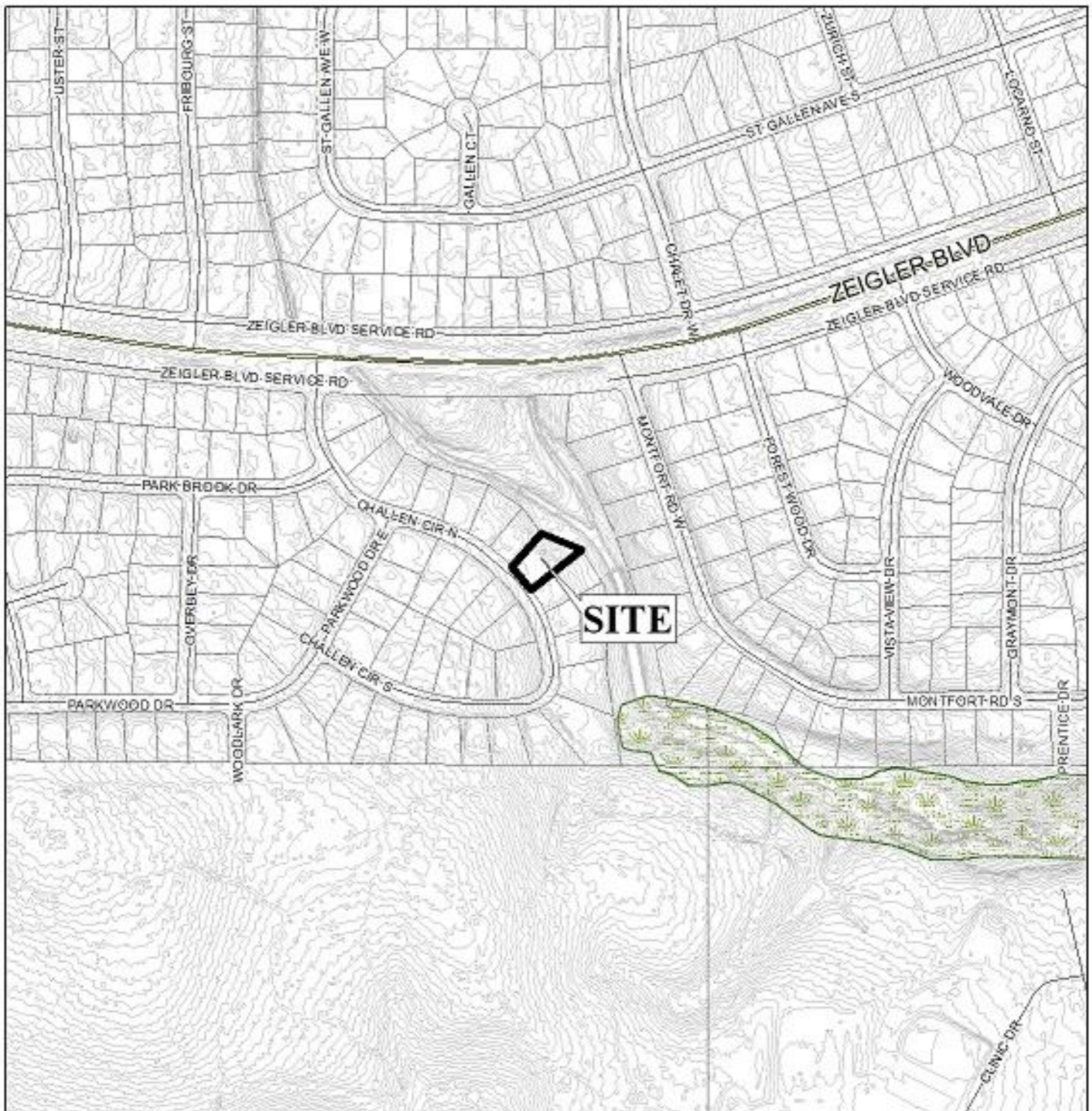
APPLICANT Meoshi Williams

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

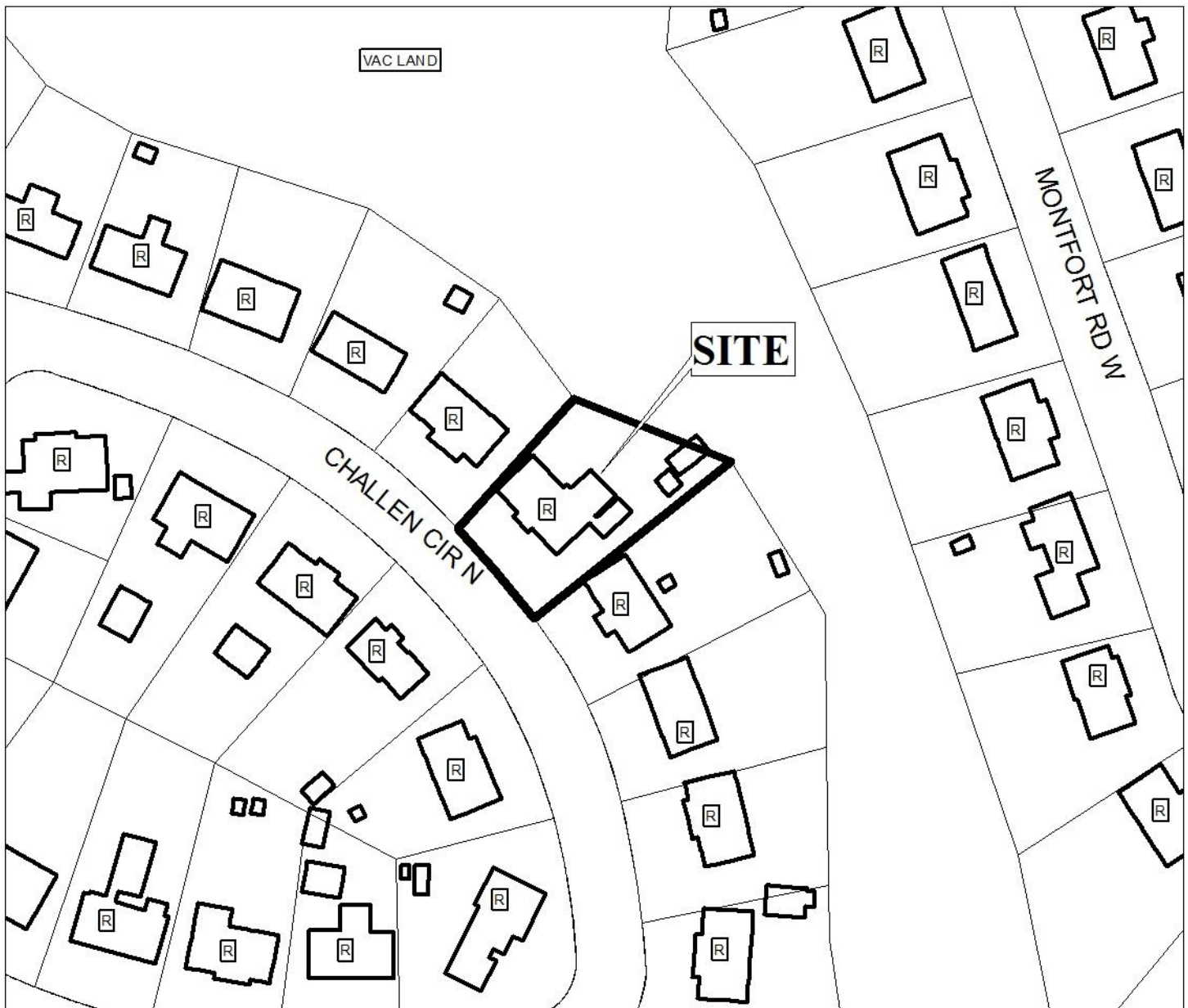


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VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential 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



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VICINITY MAP - EXISTING AERIAL

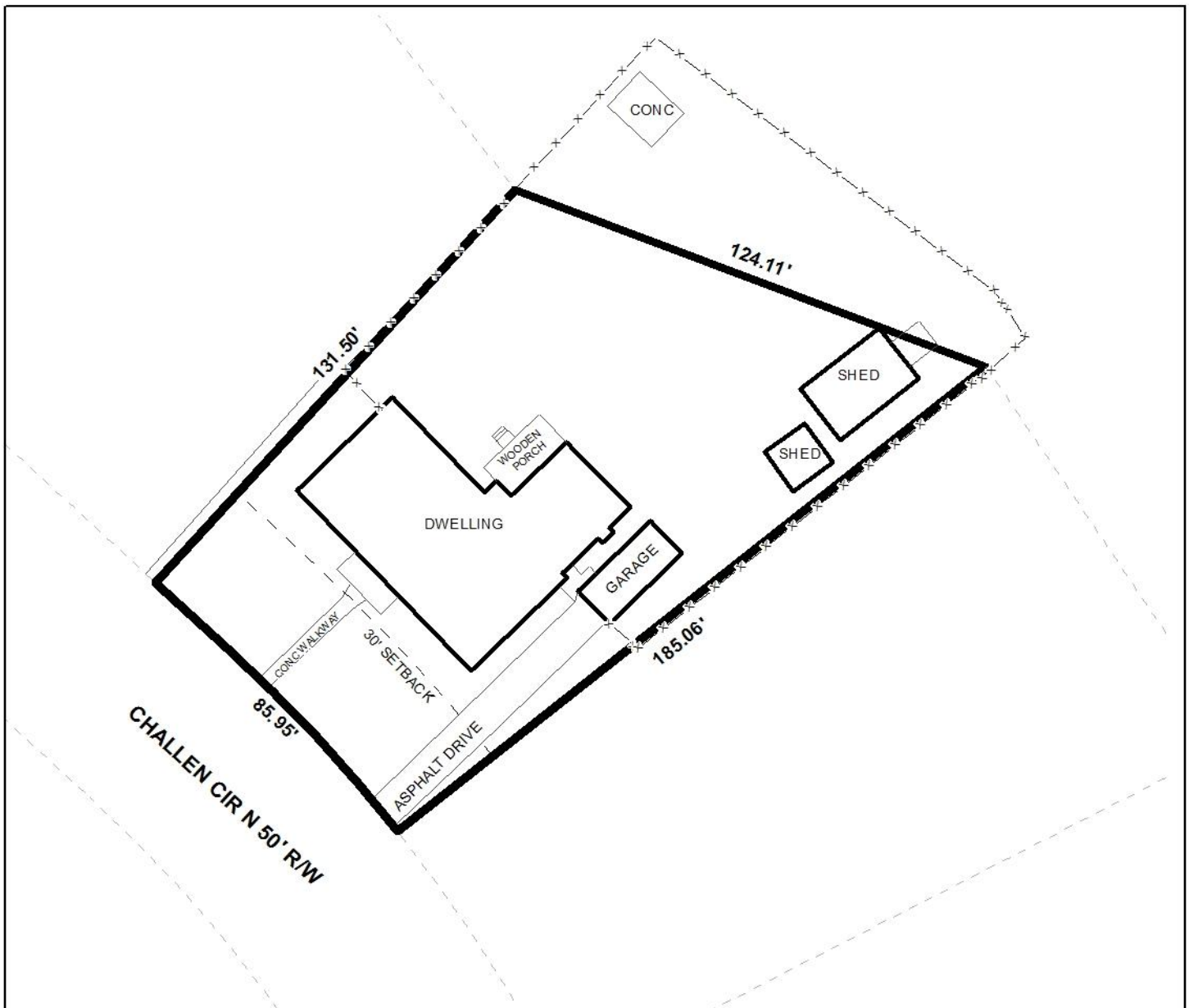


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SITE PLAN



The site plan illustrates the existing dwelling, garage, and setback.

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