

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 10, 2018****CASE NUMBER**

6202

APPLICANT NAME

Njagi Dickson & Jane Kigango

LOCATION820 Ingleside Drive West
(East side of Ingleside Drive West, 125'± South of
Parkwood Drive West).**VARIANCE REQUEST****SIDE YARD SETBACK:** Side Yard Setback Variance to
allow the construction of a shed and a garage within 6.8'
and 7.7', respectively, of a side property line in an R-1,
Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** Zoning Ordinance requires all
structures over 3' tall to be constructed a minimum of 8'
from a side property line in an R-1, Single-Family
Residential District.**ZONING**

R-1, Single-Family Residential District

AREA OF PROPERTY

0.4 ± acres

ENGINEERING**COMMENTS**If the proposed variance is approved for use the applicant
will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit – Single Family Residential Affidavit, submitted through Central Permitting.
2. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

TRAFFIC ENGINEERING**COMMENTS**

No comments

CITY COUNCIL**DISTRICT**

District 7

ANALYSISThe applicant is requesting Side Yard Variance to allow the
construction of a shed and a garage within 6.8' and 7.7', respectively, of a side property line in

an R-1, Single-Family Residential District; the Zoning Ordinance requires all structures over 3' tall to be constructed a minimum of 8' from a side property line in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) 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.

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 semi-detached, 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 site recently had a 1-lot Subdivision approved by the Planning Commission at its August 16, 2018 meeting to alter the recorded front minimum setback line from 35' to 25' to accommodate an addition made to the front of the dwelling.

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 did not submit a narrative with the application to provide any type of justification for the request at hand.

When the applicant applied for building permits for the garage in 2016, it was stated that the structure would meet the required 8' setback. Furthermore, when the applicant applied for an upgrade to the permit to include bathrooms to the garage in June 2018, they signed a document acknowledging that **all** structures must meet minimum standard setbacks. It should be noted that the shed is approximately 80± square feet, and thus does not require a building permit to be placed on the site, however, it is still subject to compliance with setback and site coverage requirements of the Zoning Ordinance.

The shed could be relocated on the site out of the setbacks. The garage, however, may be more difficult to relocate on the site, and given the minor nature of the encroachment, perhaps would be appropriate to allow it to remain.

RECOMMENDATION Staff recommends to the Board the following findings of facts for Denial for the **shed within 6.8' of a side property line**:

- 1) allowing the proposed reduced setbacks would be contrary to the public interests inasmuch as the shed can be relocated on the site in compliance with all setback requirements;
- 2) that special conditions do not exist in preventing the site from complying with side yard setback requirements in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as there is sufficient room on the site to relocate the shed outside of required setbacks; and,
- 3) that 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 applicant can relocate the shed on the site.

Staff recommends to the Board the following findings of fact for Approval for the **garage within 7.7' of a side property line**:

- 1) allowing the proposed reduced setbacks would not be contrary to the public interests inasmuch as the garage encroaches less than half a foot into the required setback;
- 2) that special conditions do exist in preventing the site from complying with side yard setback requirements in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as it would be difficult to be relocated outside of the required setback; and,

- 3) that the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the encroachment is minor in nature, and behind the primary dwelling.

LOCATOR MAP



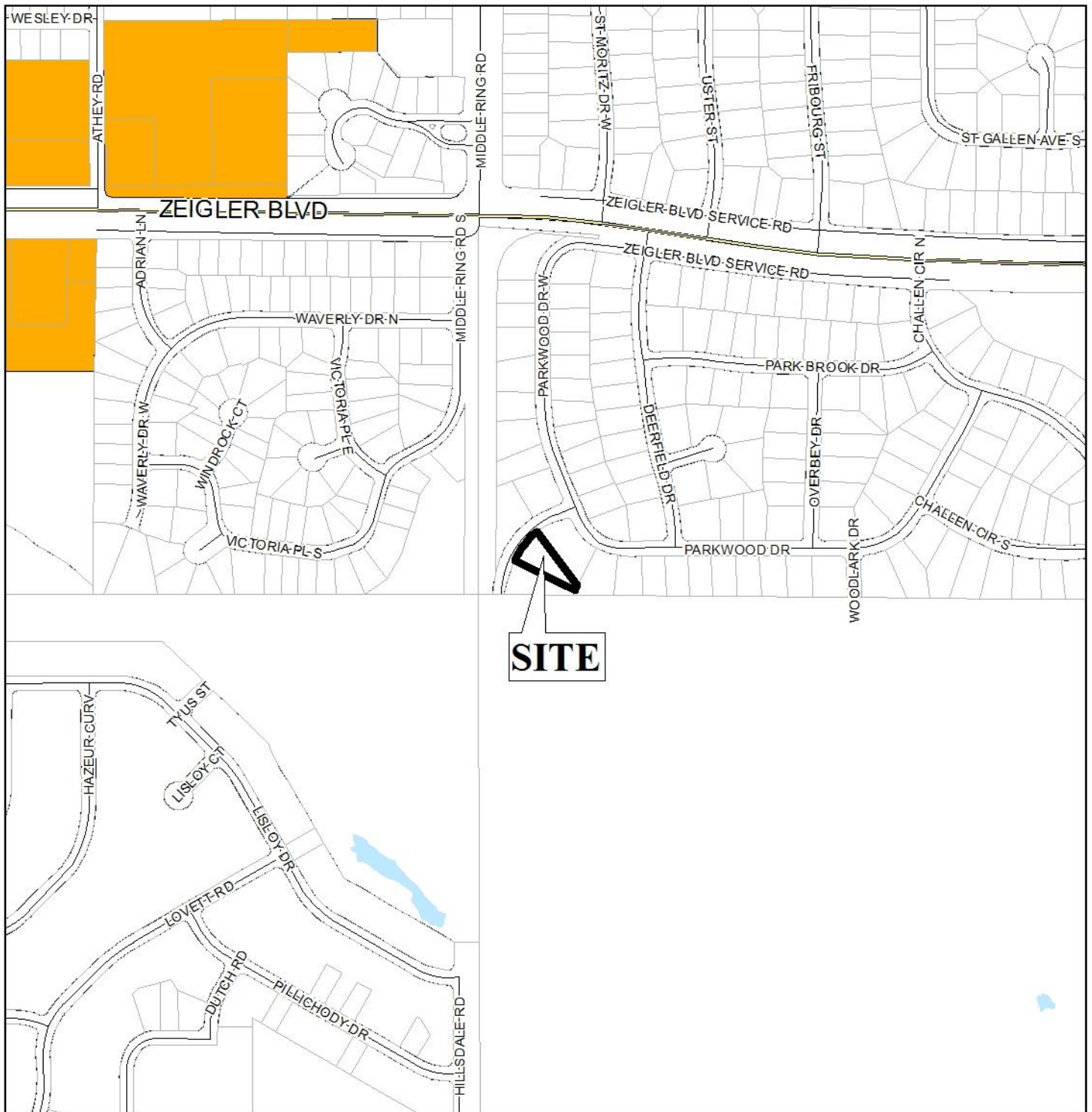
APPLICATION NUMBER 6202 DATE September 10, 2018

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REQUEST Side Yard Setback Variance



LOCATOR ZONING MAP



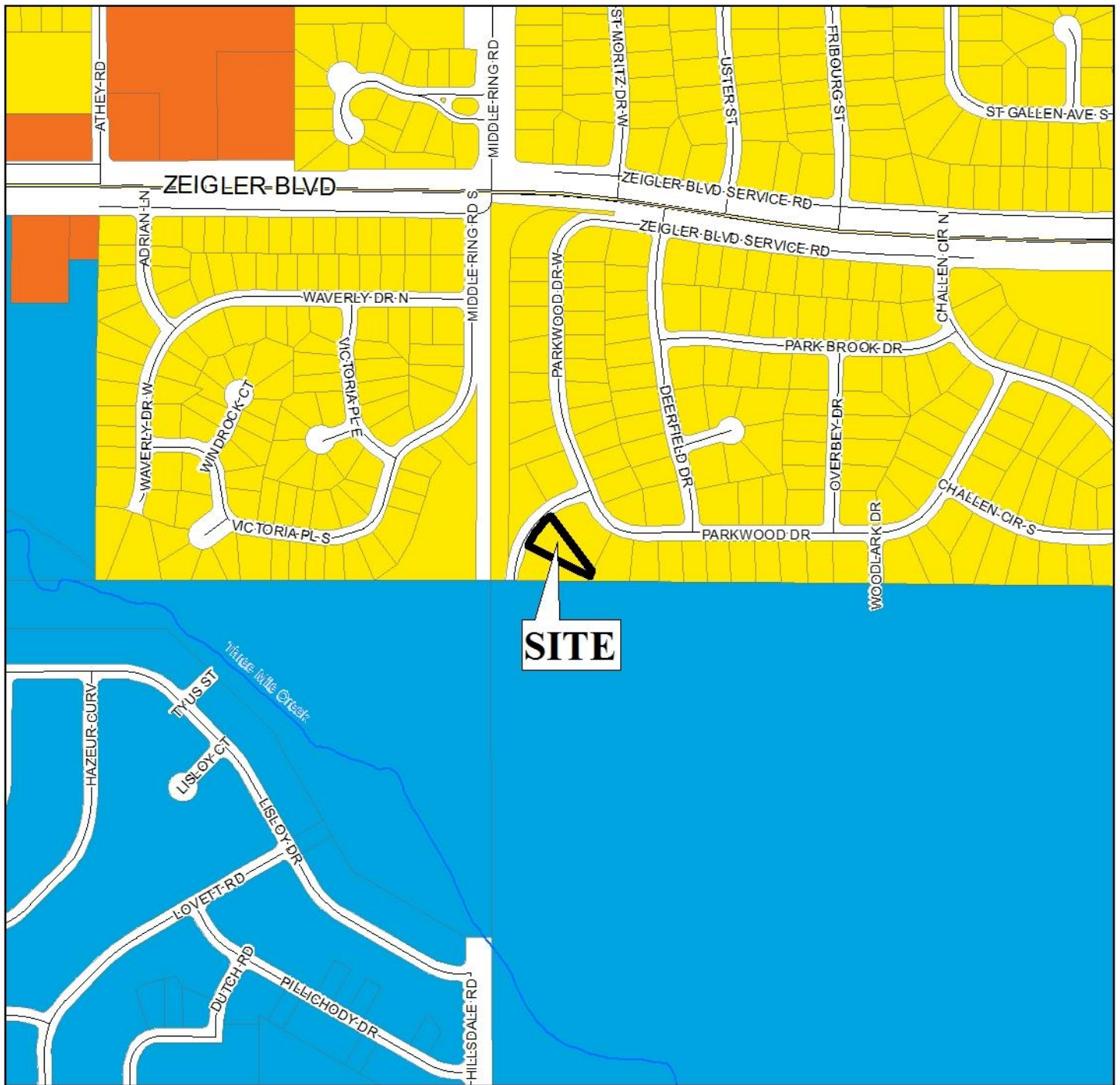
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FLUM LOCATOR MAP



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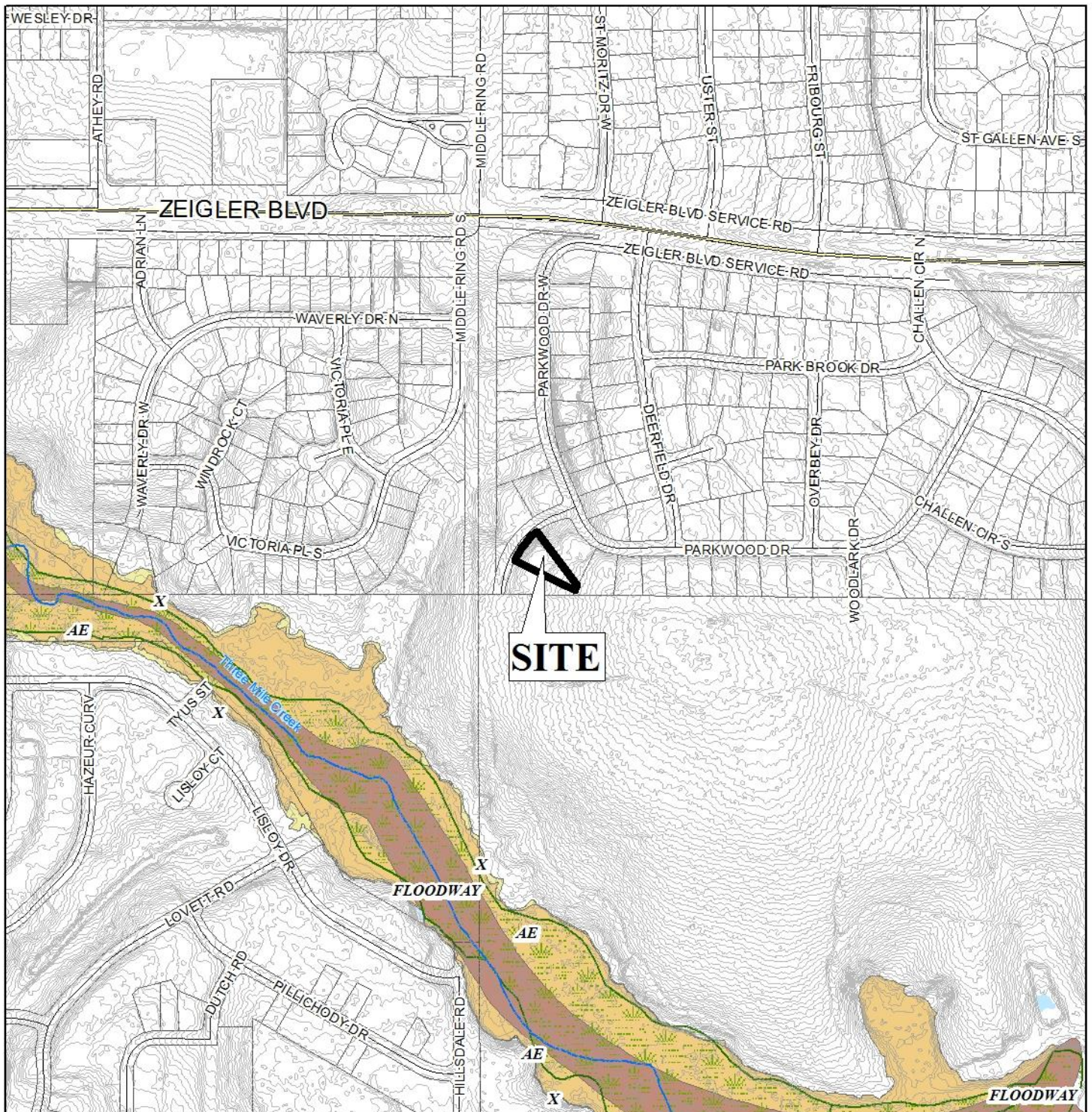
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT

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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

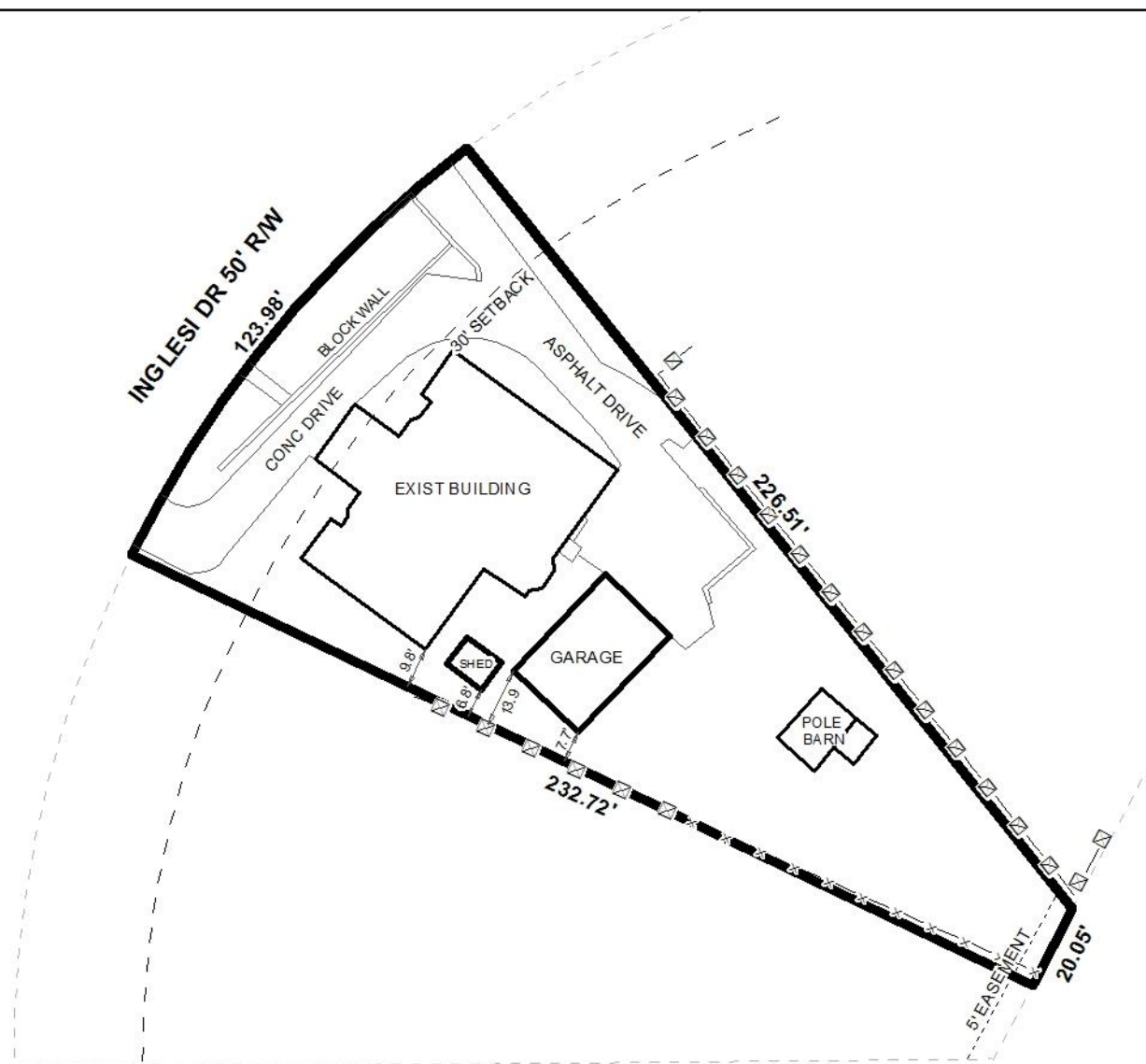
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SITE PLAN



The site plan illustrates the existing building, proposed garage and shed, setback, and easement.

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