

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 11, 2019**

<u>CASE NUMBER</u>	6240
<u>APPLICANT NAME</u>	Kai and Ute Mahnke
<u>LOCATION</u>	72 Jordan Lane (West side of Jordan Lane, 245'± North of Wilkinson Way)
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow the addition of a second kitchen for a mother-in-law suite at a single-family dwelling in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: The Zoning Ordinance allows only one kitchen per dwelling unit in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential
<u>AREA OF PROPERTY</u>	0.48± Acre
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	This request was not reviewed by Traffic Engineering.
<u>URBAN FORESTRY COMMENTS</u>	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.
<u>FIRE DEPARTMENT COMMENTS</u>	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).
<u>CITY COUNCIL DISTRICT</u>	District 5

ANALYSIS

The applicant is requesting a Use Variance to allow the addition of a second kitchen for a mother-in-law suite at a single-family dwelling in an R-1, Single-Family Residential District; the Zoning Ordinance allows only one kitchen per dwelling unit in an R-1, Single-Family Residential District.

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:

1. Legal description

Lot 13, First Unit of New Country Club Estates, as recorded in Map Book 5, Pages 144-147, Probate Court Records, Mobile County, Alabama.

2. Parcel number

28 05 22 1 001 071.XXX

3. Description of existing variances

The house was bought in 2007 and has a total of 3 bedrooms and 3 bathrooms with a total of 2,795 sqft.

Since 2007 the following additions were made:

- a) a carport for two cars*
- b) a covered porch of about*
- c) extension of the original building's living space by 384sqft*
- d) construction of a separate addition in 2013 with a total space of 785sqft*

4. Description of variance requested

The addition listed under 3d) above currently has two bedrooms, one full bath and a storage/utility room and is used for family and guests who stay in Mobile for vacation. We are looking into having our mother/mother-in-law move in with us for a longer period of time.

For that purpose, we would like to install a kitchen in the room that is currently used for storage/utility purposes. That kitchen should also have a stove/oven to give her a high level of independence from our daily life.

It is not intended to use that addition for renting out in any form.

No external modifications to the existing property are going to be made for the purpose of this use variance.

This request focuses on the use of the detached guest house constructed in 2013 to the rear of the main dwelling on the subject site. The applicant proposes to convert a storage/utility room within that structure into a kitchen so that the building may be used as a mother/mother-in-law suite. This would constitute a second dwelling unit on a property zoned for use as a single-family dwelling; thus this Variance request.

At the time of permitting for the guest house, the applicant signed a notarized affidavit stating that the guest house would not have cooking facilities and would not serve as a second dwelling. The applicant specifically stated that the sole use of the guest house would be as a non-permanent residence for visiting guests. The allowance of the construction was conditioned on that understanding.

The subject site is within a developed single-family residential subdivision and surrounded by R-1 zoning and use.

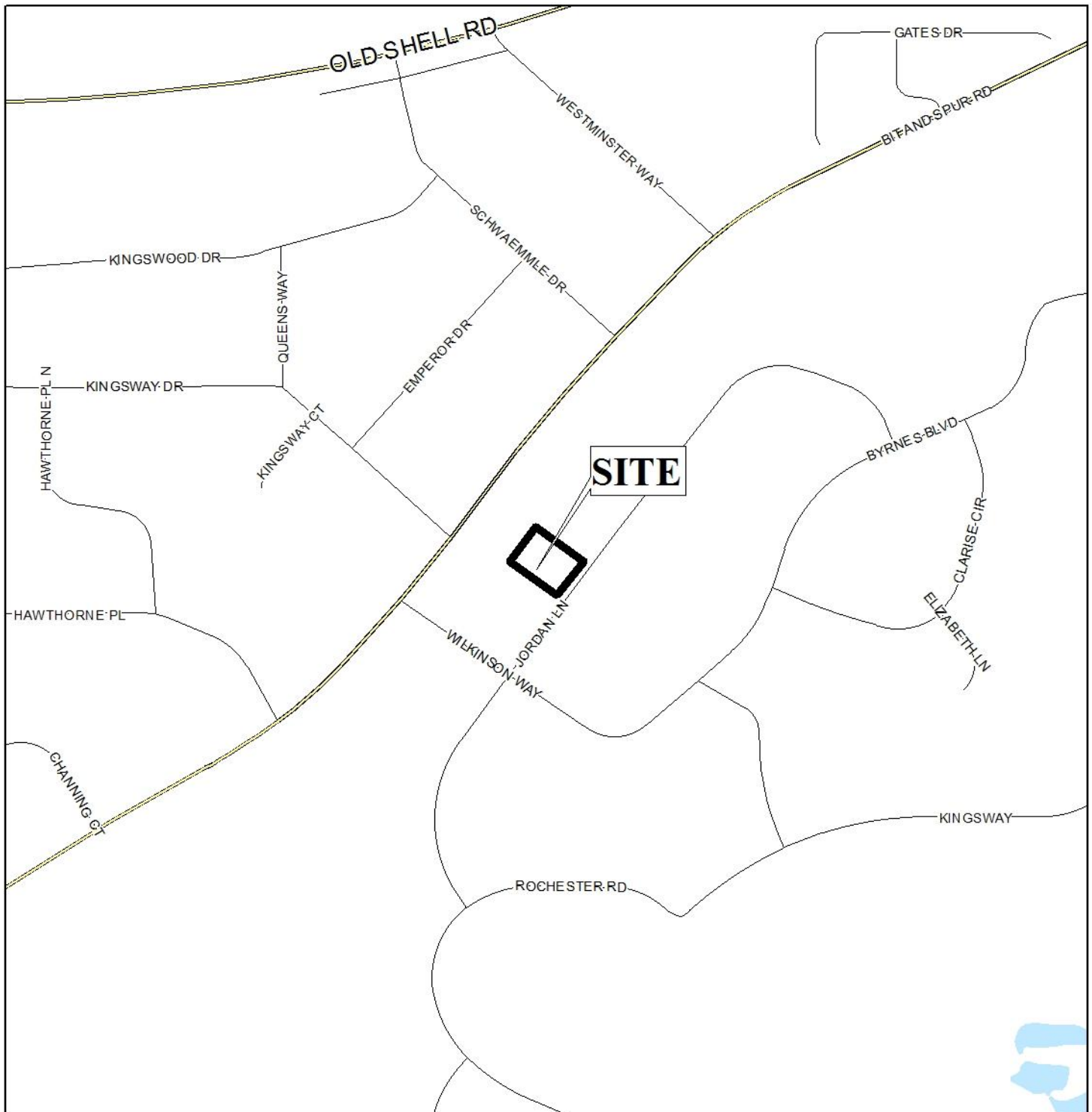
Pertaining to the request, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification or in keeping with the understanding under which the construction of the guest house was allowed. There have not been any similar Use Variance requests granted within the immediate area, and the allowance of the proposed use of the guest house as a second dwelling unit would be out of character with the surrounding single-family residential uses.

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; therefore, the Board should consider this request for denial.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Denial of the Use Variance request:

- 1) Approving the variance 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 applicant submitted an affidavit prior to the allowance of the construction of the guest house attesting to the fact that it would not contain a kitchen nor would it be used as a permanent living facility.

LOCATOR MAP



APPLICATION NUMBER 6240 DATE March 11, 2019

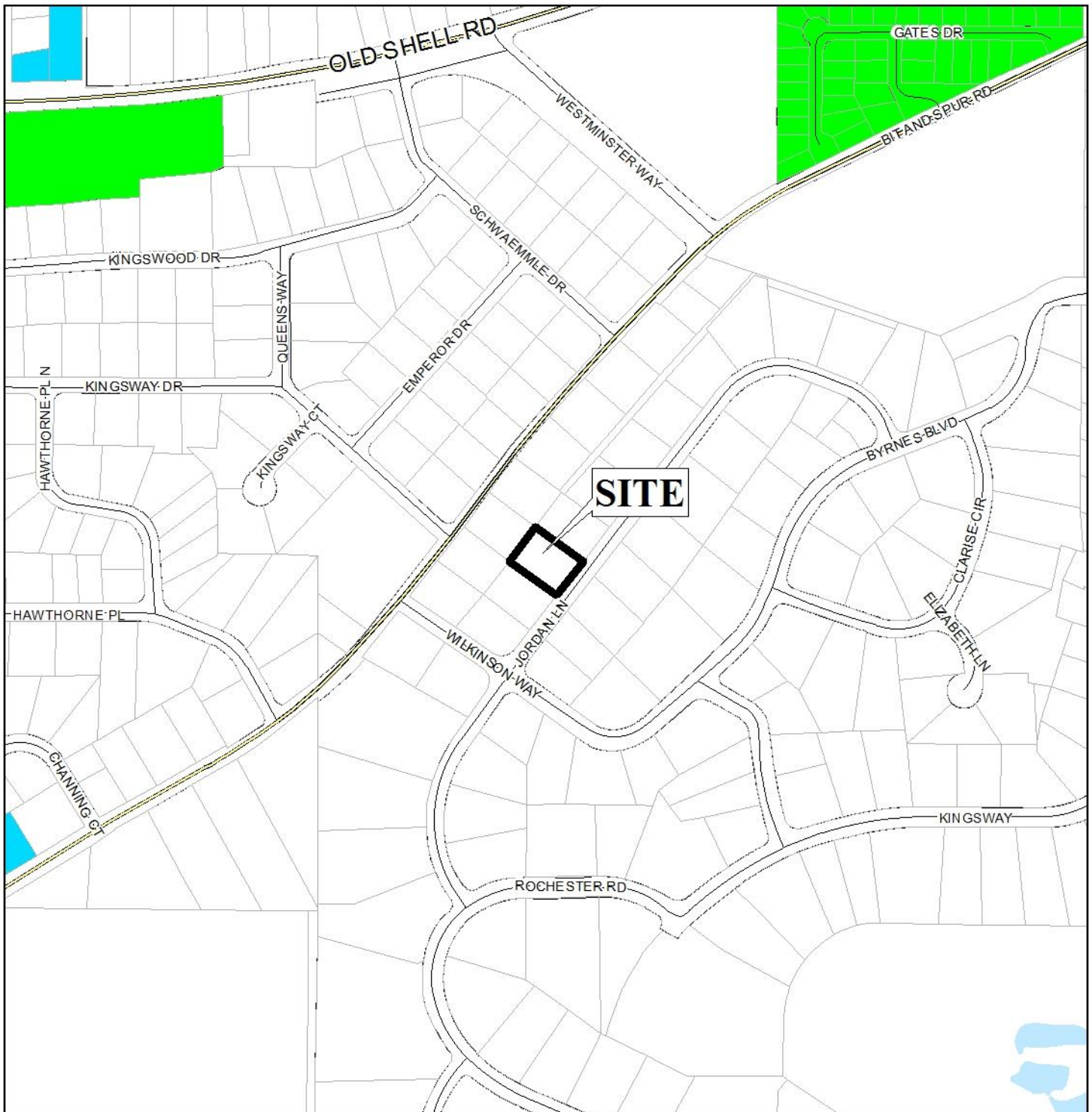
APPLICANT Kai and Ute Mahnke

REQUEST Use Variance



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LOCATOR ZONING MAP



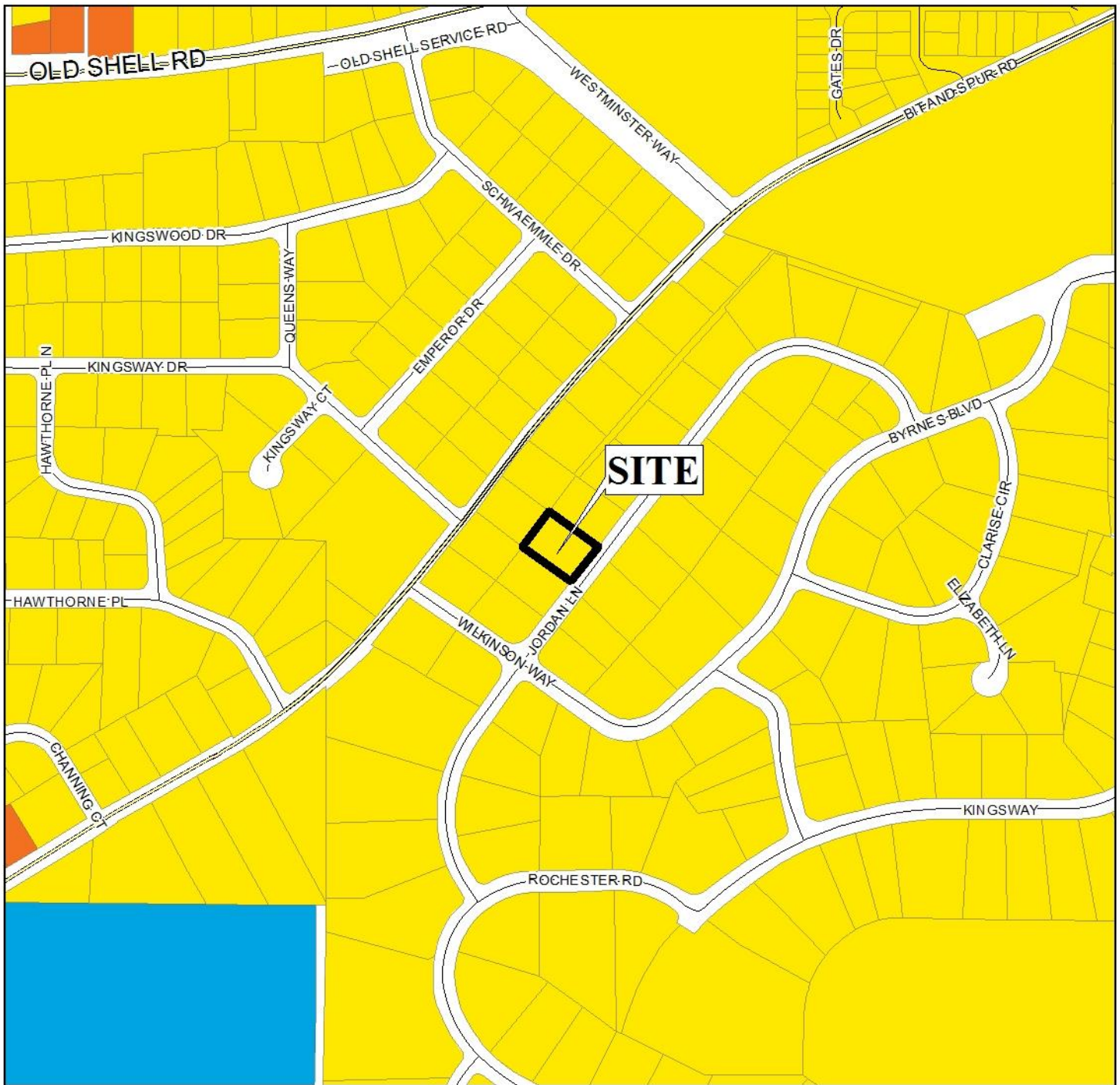
APPLICATION NUMBER 6240 DATE March 11, 2019

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FLUM LOCATOR MAP



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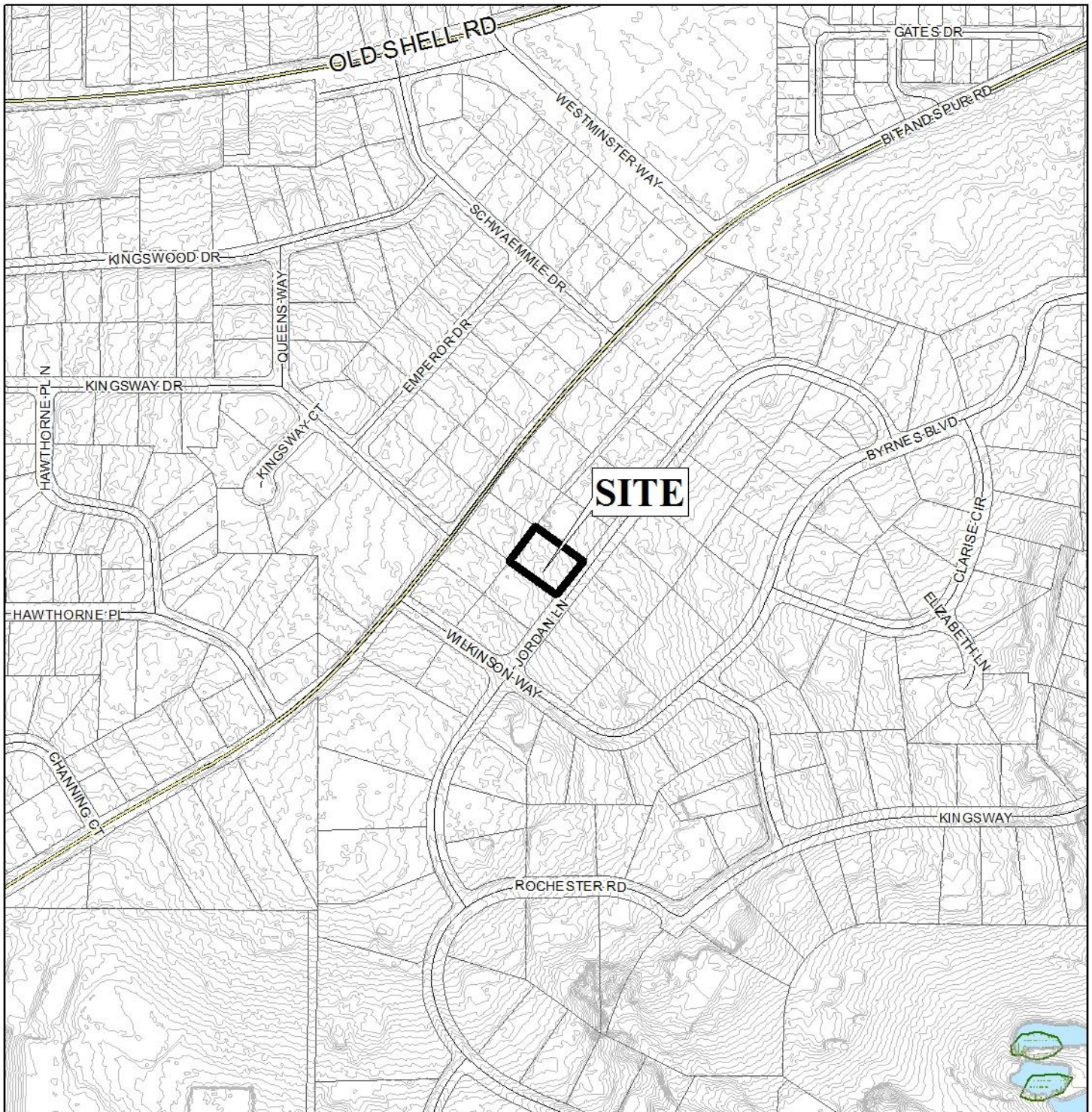
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



APPLICATION NUMBER 6240 DATE March 11, 2019

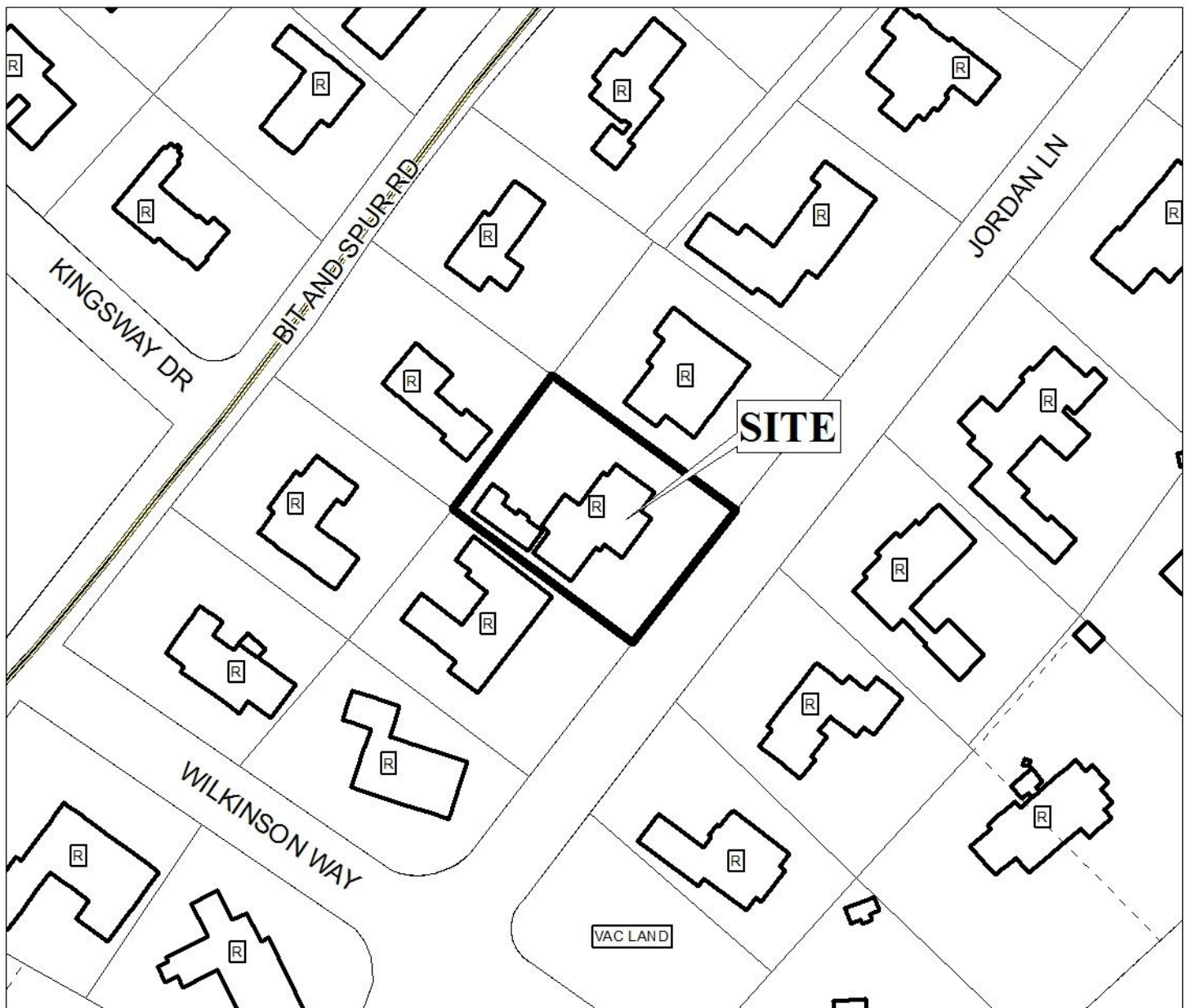
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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER 6240 DATE March 11, 2019

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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

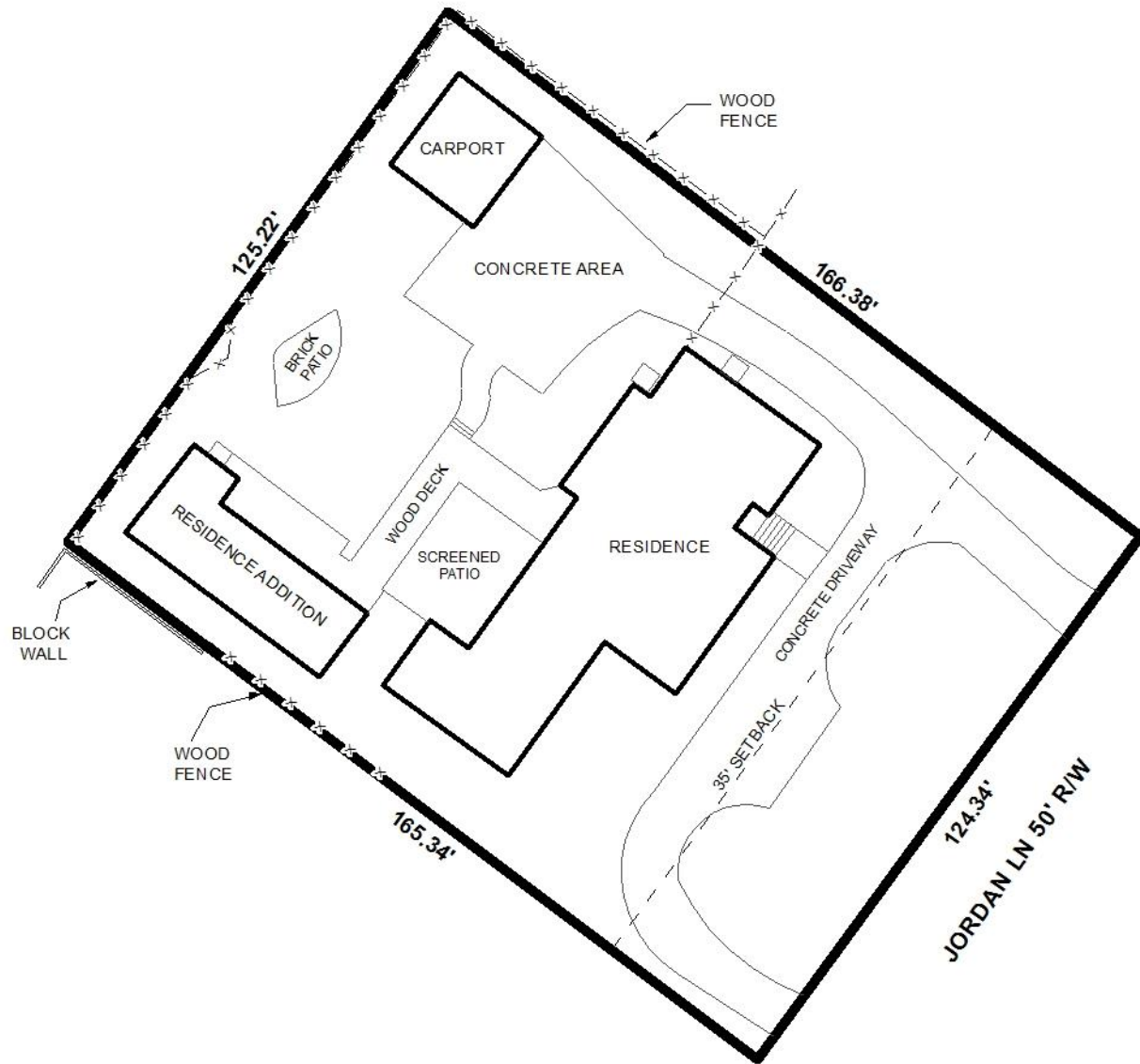


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SITE PLAN



The site plan illustrates the existing residence, addition, carport, and setback.

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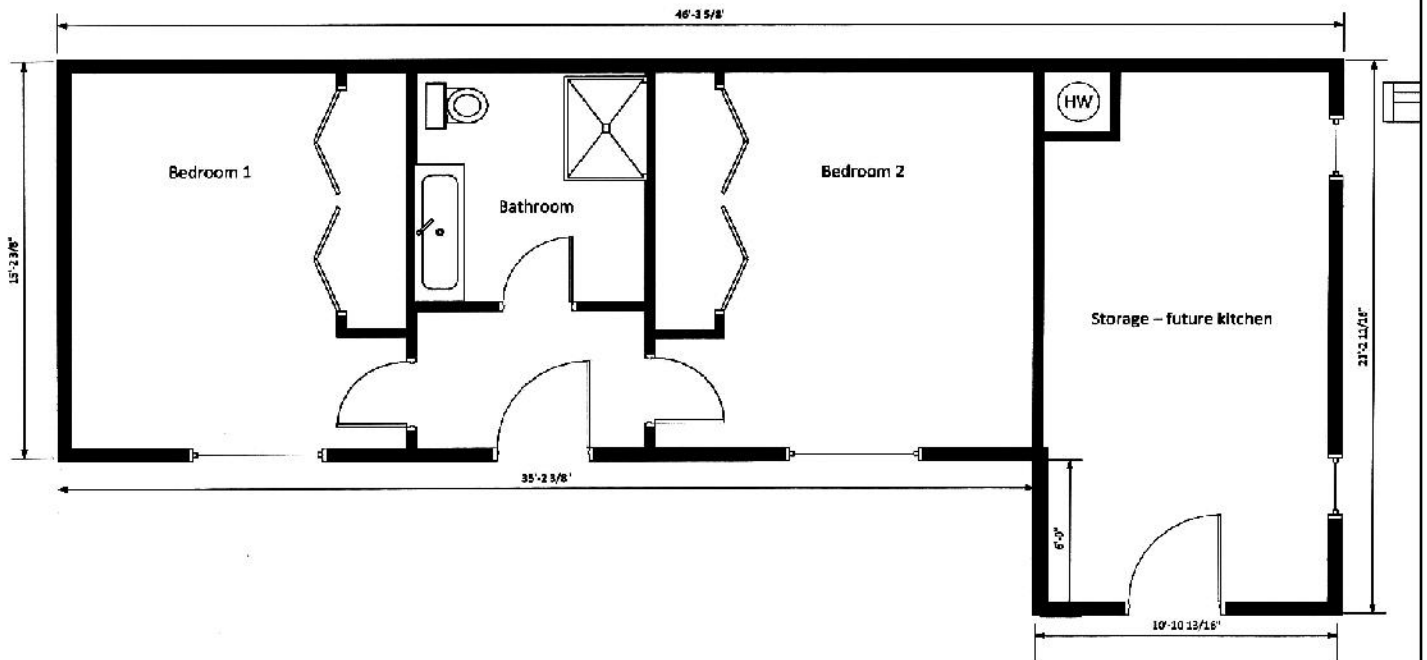
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DETAIL SITE PLAN



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