

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 1, 2015****CASE NUMBER**

5976

APPLICANT NAME

David M. Shumer (Barton & Shumer Engineering)

LOCATION3611 Stein Avenue
(Southside of Stein Avenue, 170'± east of Provident Lane.)**VARIANCE REQUEST****BULK/SITE:** Bulk/Site Variance to allow an addition with 45% site coverage in an R-1, Single-Family Residential District.**SIDE YARD SETBACK:** Side Yard Setback Variance to allow 3 mechanical units higher than 3' above grade within the side yard setback in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****BULK/SITE:** The Zoning Ordinance allows up to 35% site coverage in an R-1, Single Family Residential District.**SIDE YARD SETBACK:** The Zoning Ordinance requires a minimum 8' side yard setback for mechanical equipment 3' or more above grade in an R-1, Single Family Residential District.**ZONING**

R-1, Single Family Residential

AREA OF PROPERTY

7,500 square feet/0.2 ± Acres

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by 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 61-929 and City Code Chapters 57 and 64).

FIRE DEPARTMENT**COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile. As per Appendix D, Section D107.1, one and two family developments with more than 30 dwelling units shall be provided with separate and approved fire apparatus access roads and shall meet the requirements of Section D104.3.

CITY COUNCIL**DISTRICT**

District 7

ANALYSIS

The applicant is requesting a Bulk/Site and Side Yard Setback Variance to allow an addition with 45% site coverage and 3 mechanical units higher than 3' above grade within the side yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback for mechanical equipment 3' or more above grade and allows up to 35% site coverage in an R-1, Single Family Residential District.

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:

“Existing Conditions:

This project is located at 3611 Stein Street. The subdivision was originally developed in 1988 and consists of four (4) lots. All properties were originally developed in 1989 with lots 1 and 3 appearing to have had additions constructed at later dates.

The lots within the subdivision are all approximately 50 feet wide and 150 feet deep with a total square footage of 7,500 square feet.

Two of the three properties within the four (4) lot subdivision that contains the subject property appear to currently exceed 35% coverage. Three structures on Provident Lane directly northwest of this location appear to exceed the 35% maximum coverage limit (reference Figure 1). McRee Place, a subdivision directly adjacent to this property, has a platted maximum site coverage of 50% (reference Figure 2).

The existing residence has two (2) mechanical units installed n finished grade on the east side of the structure within the building setback.

Proposed Project:

Structure Coverage above 35%:

The proposed addition would increase the site coverage at 3611 Stein Street to 3,390 square feet including a 475 square foot covered patio, 550 square foot garage, and a master suite. With a property size of 7, 500 square feet and a building size of 3,390 square feet the coverage would be 45%.

The size of the proposed structure will match the character in size and lot coverage of other residential structures in the immediate vicinity.

Mechanical units above three feet height within side yard setback:

The proposed addition will include the addition of a third mechanical unit on the east side of the structure adjacent to the two existing units. The existing and proposed units will be elevated above finished grade adjacent to the house to provide for the proposed drainage on the east side of the structure.

The existing and proposed units will not exceed the height of the existing wood privacy fence.”

As the applicant stated, this request is to allow the site coverage of the property to be increased from 35% to 45% and to allow three mechanical units to be placed higher than 3’ above grade through a Bulk/Site and Side Yard variance to accommodate a new addition onto the existing housing structure in an R-1, Single Family District.

Section 64-3.C.1 of the Zoning Ordinance states that the maximum building site coverage by all buildings shall be thirty-five (35) percent. The side yard setbacks for properties located in an R-1 district also require a minimum 8’ side yard setback for mechanical equipment 3’ or more above grade per Section 64-4.D.11 of the Ordinance; however, due to the 50 foot width of the subject lot, the side yard setback requirements are reduced to 7.1 feet. The applicant is requesting to exceed each limitation as required by the Ordinance. It should be noted, that these standards were set in place to protect the residential character of the developed areas, to encourage a suitable neighborhood environment for family life, and to preserve the openness of the areas by requiring certain minimum yard and area criterion to be met.

The applicant purports that the increase in site coverage will mimic other residences located to the northwest, as well as two of the three other properties within the four lot subdivision, of the subject site. It should be noted that a side yard setback variance was granted in 1988 to allow the construction of the house at the southeast corner of Provident Lane and Stein Avenue.

The applicant also made reference to the 50% maximum site coverage that McRee Place, a subdivision located south of the subject site, allows within that particular subdivision. Upon further review, McRee Place is a Planned Unit development that requires its own set of standards

separate of the traditional R-1 requirements of the Zoning Ordinance; therefore, it does not share criterion that would be deemed comparable to the subject site in review. In addition, Provident Place, which is inclusive of the properties northwest of the subject site, had variances in 1980 and 1981 to allow non-standard development.

Although surrounding properties within the vicinity of the subject site appear to have and/or allow site coverage above 35%, the applicant does not provide a justification for a hardship related to the subject lot that would require an increase in site coverage. It can be said that the design could be reworked, such as removing the covering over the porch or reducing the size of the building footprint, in order to get the proposed addition within the bounds of the 35% site coverage required by the Ordinance. As for the side yard setback, the applicant does justify raising the height of the units 3' feet above grade to address drainage site issues, which would appear to be a probable justification for the side yard setback regarding the height increase.

While there is some hardship regarding issues of site drainage and the need to raise the height of the mechanical units, the applicant has not sufficiently shown that there is a hardship with the property regarding the design of the structure and site coverage. Due to this lack of information, the denial of the request for variance may be considered more appropriate.

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

- 1) Based on the fact that a hardship regarding the over-development of the site was not presented, granting the variance will be contrary to the public interest;
- 2) Special conditions do not appear to exist and there are no justifications of hardship which exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site can be developed without the requirement for variances; 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 proposed addition can be designed to fit within the parameters of the site coverage as defined by the Zoning Ordinance for an R-1, Single Family District development.

Revised for the July 2015 meeting:

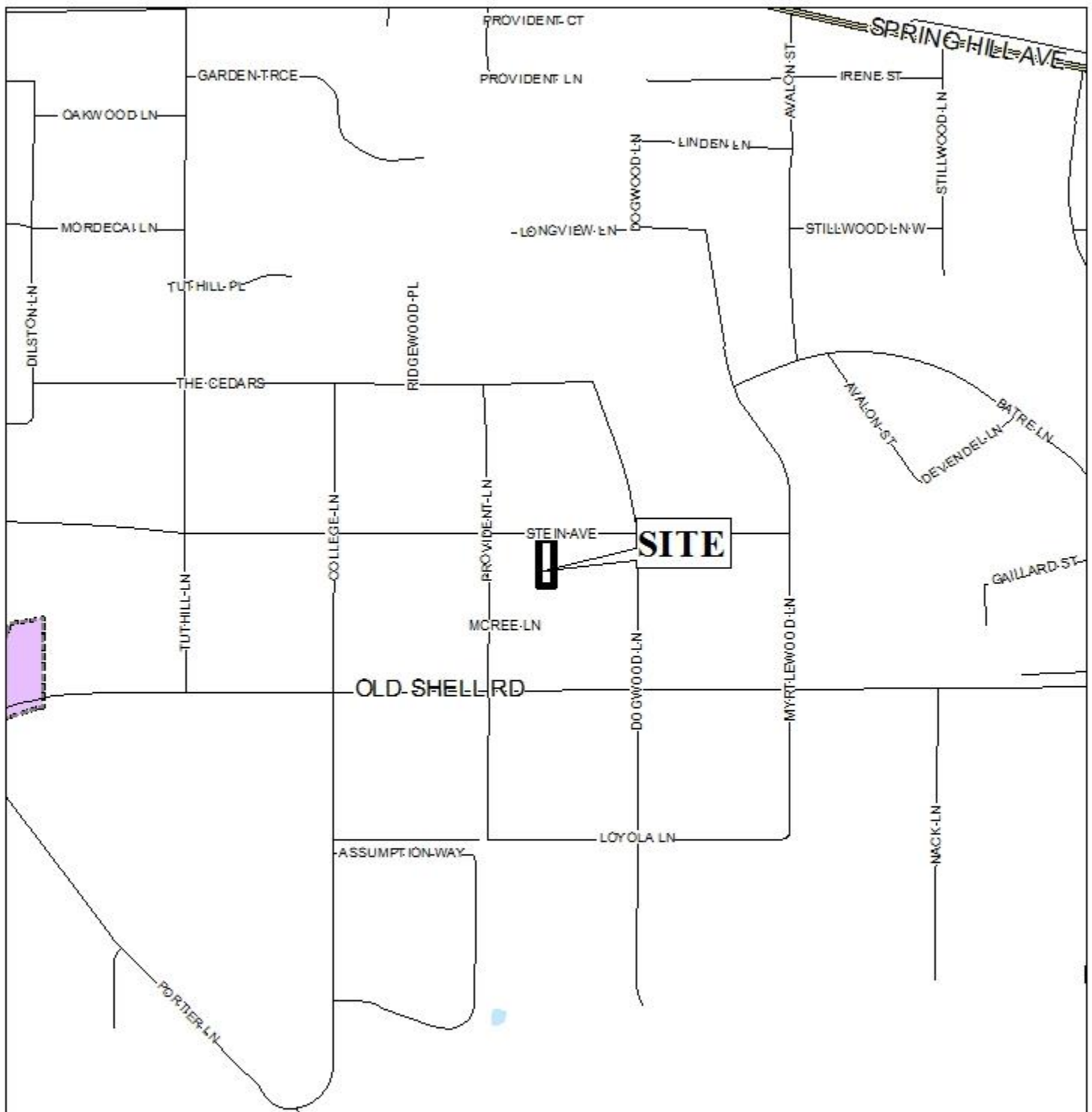
This application was heldover from the Board's June meeting to allow the applicant an opportunity to readdress the initial design of the proposed addition, and to provide any further information that may demonstrate a hardship to the property as well as any special conditions that may exist.

As no new information was received from the applicant, the original recommendation of denial still stands.

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

- 1) *Based on the fact that a hardship regarding the over-development of the site was not presented, granting the variance will be contrary to the public interest;*
- 2) *Special conditions do not appear to exist and there are no justifications of hardship which exist such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site can be developed without the requirement for variances; 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 proposed addition can be designed to fit within the parameters of the site coverage as defined by the Zoning Ordinance for an R-1, Single Family District development.*

LOCATOR MAP



APPLICATION NUMBER 5976 DATE July 6, 2015
 APPLICANT David M. Shumer (Barton & Shumer Engineering, LLC)
 REQUEST Bulk/Site and Side Yard Setback Variances



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



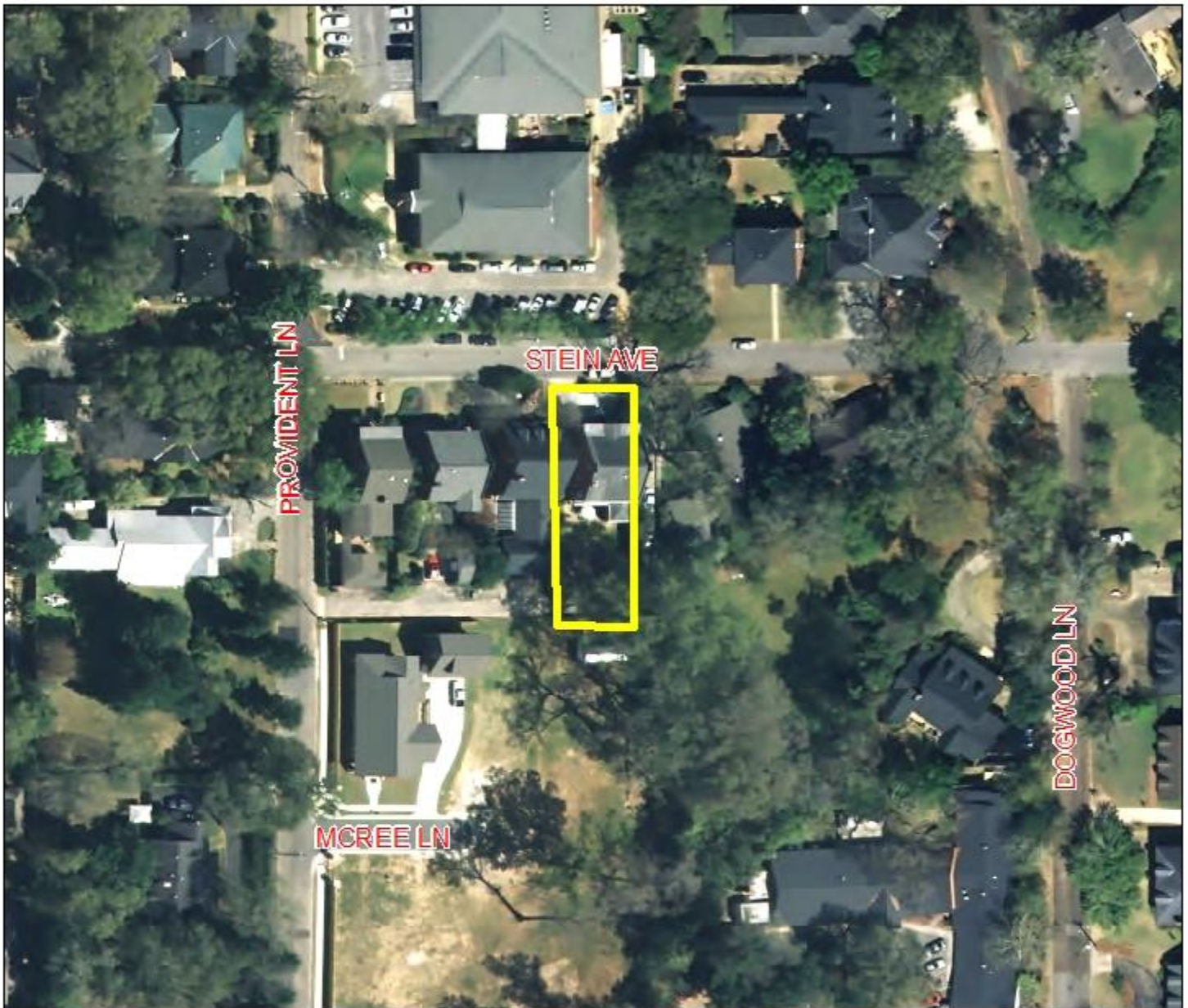
The site is surrounded by residential units. A school lies north of the site.

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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 ZONING

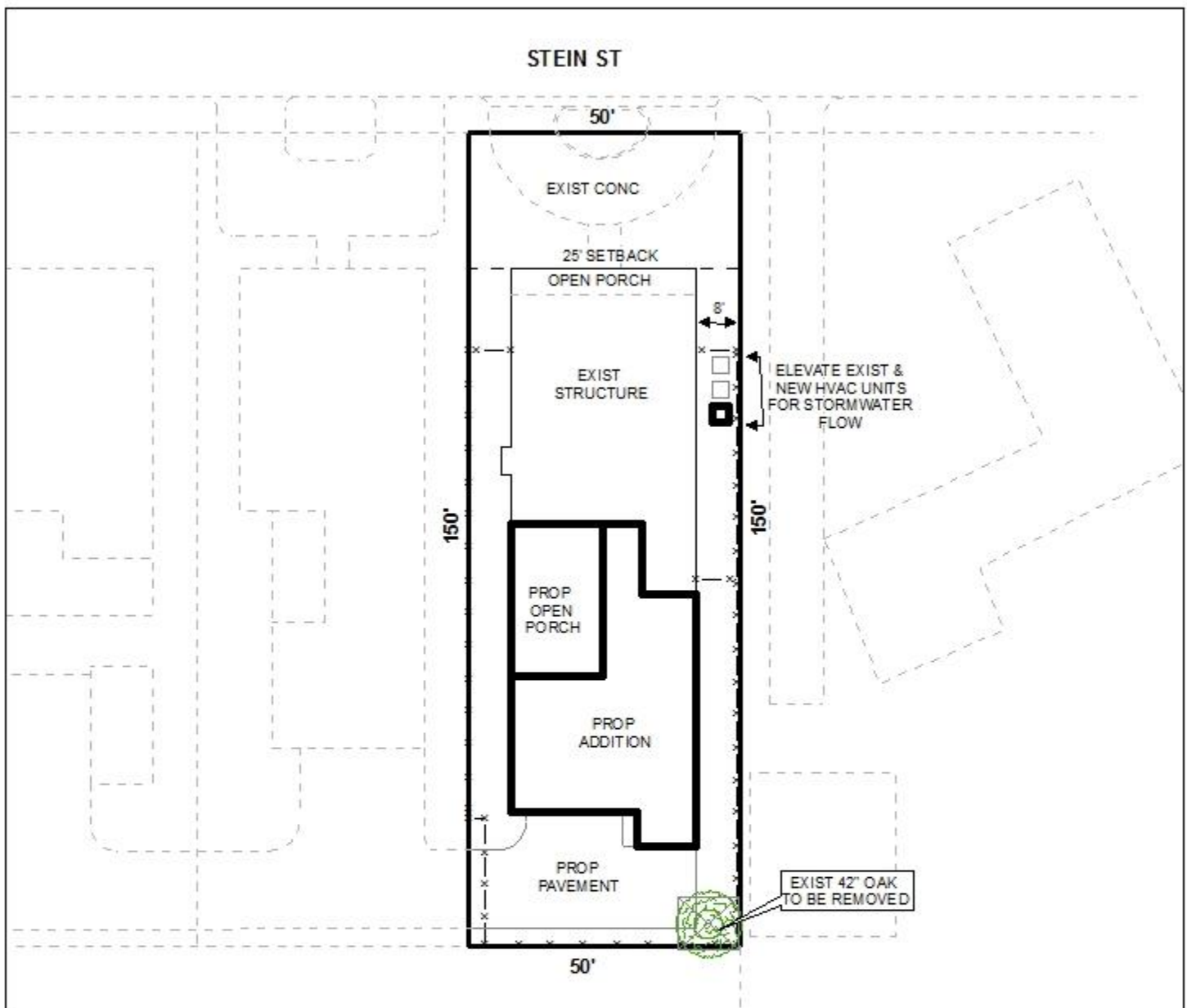


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SITE PLAN



The site plan illustrates the existing building, proposed additions, setback, exist AC units, and a new AC unit.

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