

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: August 1, 2016****CASE NUMBER**

6050

**APPLICANT NAME**

Spanish Villa Condominium Owners Association

**LOCATION**4009 Old Shell Road  
(Southwest corner of Old Shell Road and College Lane)**VARIANCE REQUEST****SETBACK:** Front Yard and Side Street Side Yard Setback  
Variances to allow masonry sign columns 7.3' high and  
masonry iron fence columns 7' high setback 2 inches from  
the front and side street property lines at a residential  
condominium complex in a R-3, Multi-Family Residential  
District.**ZONING ORDINANCE  
REQUIREMENT****SETBACK:** The Zoning Ordinance requires any structure  
3' or higher to meet a 25' front yard setback and a 20' side  
street yard setback in an R-3, Multi-Family Residential  
District.**ZONING**

R-3, Multi-Family Residential District

**AREA OF PROPERTY**

4.57 ±Acres

**TRAFFIC ENGINEERING  
COMMENTS**

The location of the fence near the western driveway appears to create a line of sight issue for vehicles exiting the property. Although the rod iron fence is not a solid fence, it can have the appearance as such when viewed at an angle. There is also a 36" oak tree that further limits the line of sight. This issue could be eliminated by setting the fence further on to private property. Also, as illustrated, all the parking stalls on the west aisle will need to be restriped to illustrate angled parking northbound.

***Revised for the 9/12 meeting:***

*The revised site plan illustrates the proposed wall to be constructed approximately 20' from the edge of the Old Shell Road roadway. This should provide adequate line of sight for vehicles exiting the driveway with regards to vehicles on the roadway and pedestrians on the sidewalk. The parking stalls have been adjusted to reflect one-way circulation through the site. Parking stalls should be marked, where possible, to meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance. Full compliance may not be achievable and is not required since the parking lot is not being improved.*

**ENGINEERING  
COMMENTS**

- a. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or public rights-of-way.
- b. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.
- c. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting.

**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**

In accordance with the IFC 2012 Sections 503.2.1, 503.4, 503.6, D103.5. Fire Apparatus access roads shall have an unobstructed width of not less than 20 feet. The Fire Code official can allow the installation of security gates as long as they do not violate the Fire Code requirements above. Nothing shall impede the 20 foot width requirement.

**CITY COUNCIL  
DISTRICT**

District 7

**ANALYSIS**

The applicant is requesting a Front Yard and Side Street Side Yard Setback Variances to allow masonry sign columns 7.3' high and masonry iron fence columns 7' high setback 2 inches from the front and side street property lines at a residential condominium complex in a R-3, Multi-Family Residential District; the Zoning Ordinance requires any structure 3' or higher to meet a 25' front yard setback and a 20' side street yard setback in an R-3, Multi-Family Residential District.

The applicant states the following:

*“An ornamental iron (using existing sign) and black metal open picket fencing along the right of way with a 1' -2' masonry base. The fencing will be 6' tall across the front of Old Shell Road and 8' tall along the sides and back of the property. Along the East entrance to Spanish Villa Condominiums there will be an entry and exit gate controlled by an electronic keypad and there will be an exit only on the west side controlled by a wire sensor. There will also be a pedestrian gate on the west side of Old Shell Road.*

*Spanish Villa Condominiums has had a problem with thefts on the property for the last several years and this fence will improve security. In addition, any time St. Paul's Church or School has a large function the attendees' park on our property without regard to reserved Owner parking spaces. Fencing the property will eliminate both problems as well*

*as improve the appearance of the front of the property. We hope to have this project completed in 2016.”*

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 that one of the reasons for the variance request is based on the fact that site has had a problem with thefts on the property and the fence will improve security for the complex. While a fence may or may not reduce theft in the complex, staff is more concerned with the location of the fence on the proposed site plan. If approved, the fence will be 2 inches from the front and side property lines. It should be pointed out there are no 6' high fences within the front and side yard setbacks on this segment of Old Shell Road and there are no fences immediately on the right-of-way edge, furthermore making this request outside of the traditional character of the area. Pedestrian traffic should also be taken into account as well; thus staff proposes that the fence be located 10' from the edge of the right-of-way along Old Shell Road to help maintain the aesthetics and overall character of the area. The location of the fence setback along College Lane and Loyola Lane is of lesser concern due to the lack of sidewalk and low traffic volumes.

The site plan depicts the proposed two-way entrance gate as having a 24' wide driveway with a key pad. The Fire Department requires a clear width of 20' for a drive isle to accommodate fire trucks. Also, a Fire Apparatus access road shall have an unobstructed width of not less than 20 feet and nothing is allowed to impede the 20' width requirement. It appears that the current location of the proposed key pad would interfere with the clearance required by the 2012 International Fire Code. The site plan should be revised to reflect fire requirements.

The two-way entrance is depicted as retaining the two split curb-cuts. It is recommended that the curb-cut be rebuilt to a standard 24' wide curb-cut.

The site plan also depicts 20' wide exit only driveway. Based on the proposed layout, one of the existing curb-cuts associated with the exit-only gate must be removed. The site plan should be revised to depict those changes.

**RECOMMENDATION:** Based upon the preceding, the application is recommended for Holdover to address the following:

- 1) revision of the site plan to depict the fence and exit gate with a 10' setback along Old Shell Road frontage;
- 2) revision of the site plan reflect Fire Department requirements per the 2012 International Fire Code; and
- 3) revision the site plan to depict a single 20' wide curb-cut for the exit-only driveway, and a single 24' wide curb-cut for the two-way driveway.

***Revised for the September 12<sup>th</sup> meeting:***

*This application was heldover from the August 1, 2016 meeting to allow the applicant to revise the site plan to reflect comments made by the applicant and staff at the meeting. Although a revised site was submitted, no narrative was provided with the site plan to clearly identify revisions to the site.*

*It appears that the site plan has been revised to depict a single 20' wide curb-cut for the exit-only driveway, and a single 24' wide curb-cut for the entrance-only driveway. The site plan has been revised to reflect the Fire Department requirements per the 2012 International Fire Code. However, revision to depict the proposed fence with a 10' setback along Old Shell Road to allow for visibility for pedestrians was not illustrated on the site plan. Instead of the suggested 10' setback as recommended by staff for the fence the applicant opted to only provide a 6' setback along Old Shell Road. Planning staff is not in agreement with a 6' setback due to the limited amount of space that will be provided for visibility.*

*The site plan indicates that there are 127 parking spaces on the site but does not indicate how many dwelling units are in each apartment building thus staff cannot determine if the site has sufficient parking. It would also appear that one or two of the original parking spaces may have been eliminated to allow for the entrance gate. The angle and layout of the parking spaces that are aligned with the "exit only" driveway have been adjusted to accommodate appropriate maneuvering of vehicles. It should be pointed out that although the parking spaces have been adjusted, the spaces do not appear to meet the standard size and width requirements per the Zoning Ordinance.*

*The applicant has not illustrated that a hardship does indeed exist, but it is merely the applicant's desire to locate the proposed fence less than 10' from the property line. The nearest fence that is similar to the applicants request is the fence located at St. Paul's School and it is setback significantly ( $\pm$  19 feet) from the sidewalk. A fence of the proposed height and as close to the property line is not consistent with the character of the area along Old Shell Road East of McGregor Avenue, and in conjunction with the fact that there is no associated hardship; staff recommends the application be denied.*

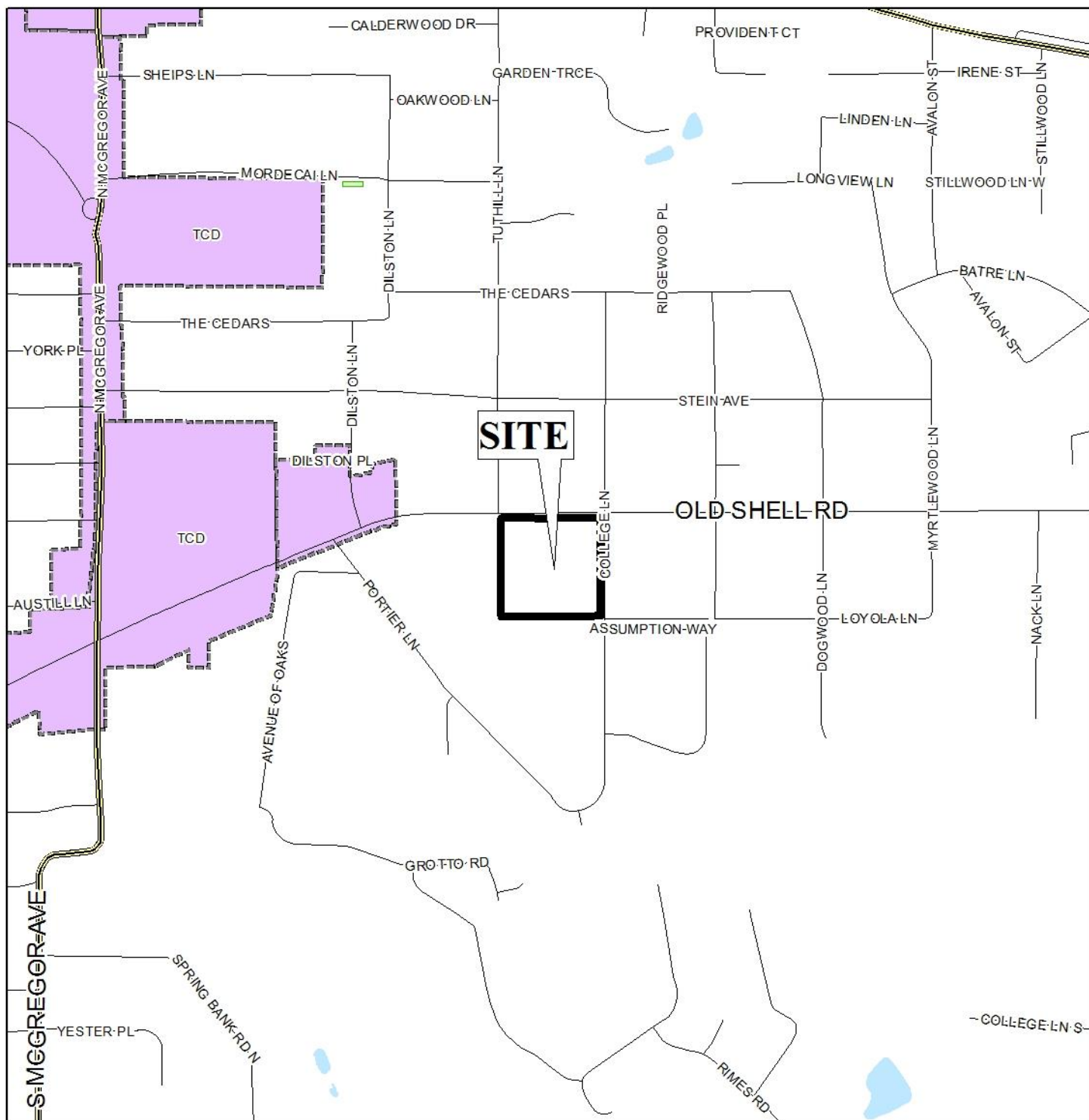
***RECOMMENDATION:*** *Based upon the preceding, staff recommends to the Board the following findings of facts for denial:*

- 1) *approving the variance request will be contrary to the public interest in that the property is located along a street segment with no other fences of the proposed height and as close to the*

*property line which is not consistent with the character of the area along Old Shell Road East of McGregor Avenue;*

- 2) special conditions with the site or unusual site constraints do not exist that a 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 variances because it will set a precedent to allow other fences of this height and this proximity to the property line for other properties within the area.*

# LOCATOR MAP



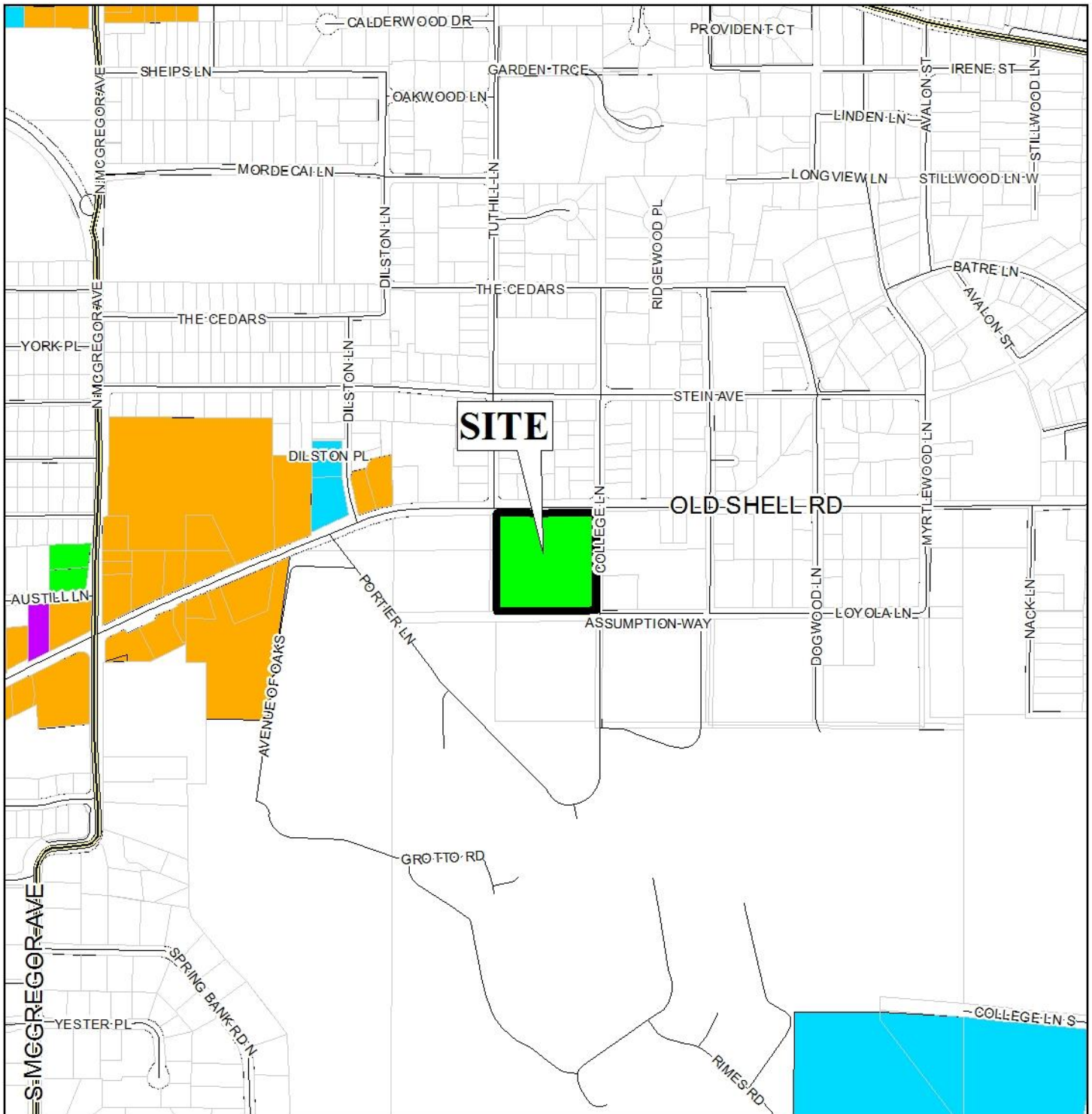
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REQUEST Front Yard and Side Street Yard Setback Variances



# LOCATOR ZONING MAP



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 REQUEST Front Yard and Side Street Yard Setback Variances





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by a church to the west, a school to the south, and residential units to the north and east.

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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

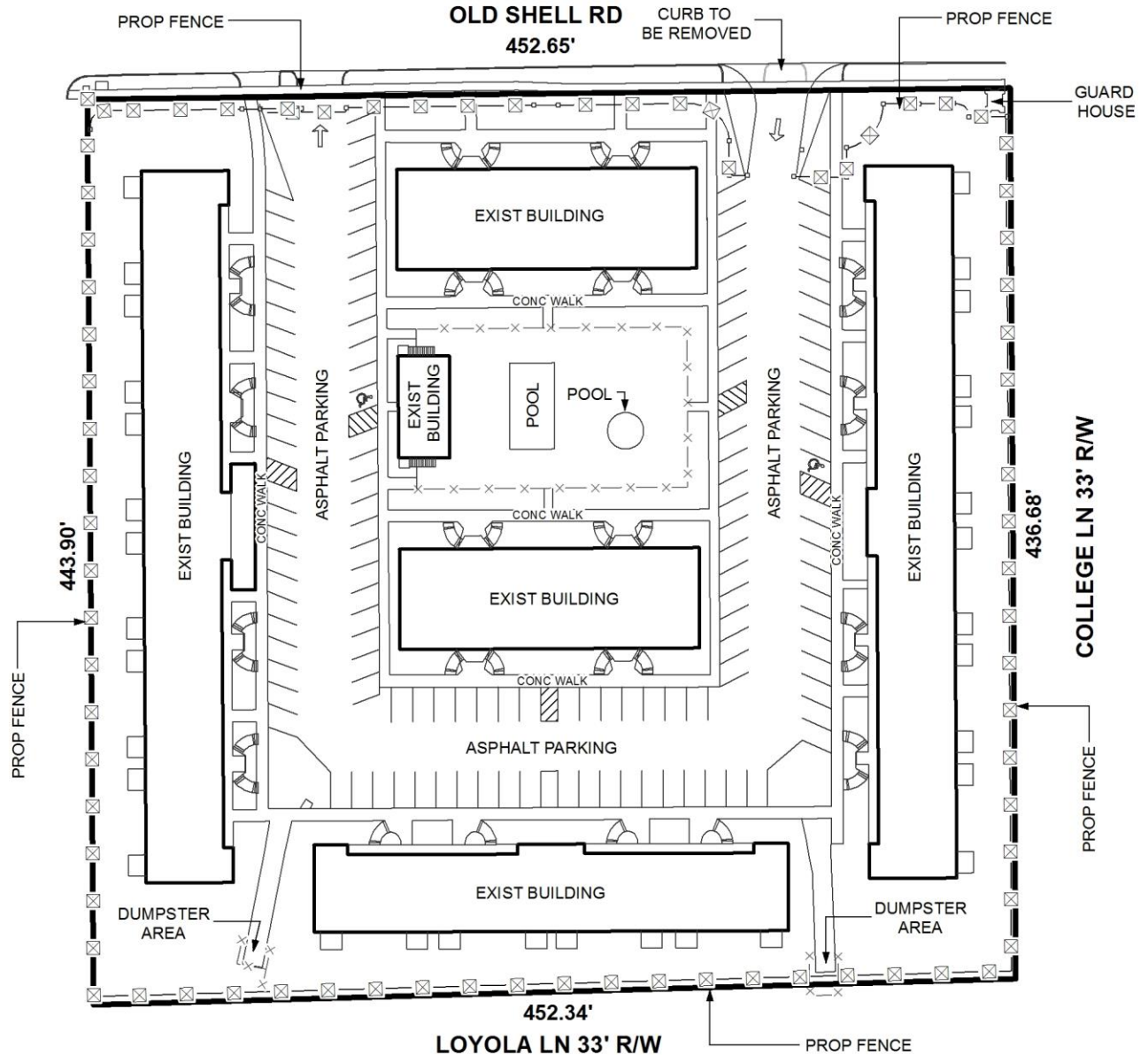


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# SITE PLAN



The site plan illustrates the existing buildings, existing parking facility, and proposed fences.

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## DETAIL SITE PLAN



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NTS

