

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: August 6, 2018

CASE NUMBER 6198/5595/3092/2945/2438

APPLICANT NAME Richard Armstrong / Modern Signs, LLC

LOCATION 5753 Old Shell Road
(Southeast corner of Old Shell Road and Long Street.)

VARIANCE REQUEST **SIGN:** Sign Variance to allow an off-premise tenant panel sign for a hotel in a B-2, Neighborhood Business District.

ZONING ORDINANCE REQUIREMENT **SIGN:** The Zoning Ordinance requires all signage to be on premise for a hotel in a B-2, Neighborhood Business District.

ZONING B-2, Community Business District

AREA OF PROPERTY 63,500± Square-Feet / 1.5± Acres

ENGINEERING COMMENTS No Comments

TRAFFIC ENGINEERING COMMENTS No Comments

CITY COUNCIL DISTRICT District 6

ANALYSIS The applicant is requesting a Sign Variance to allow an off-premise tenant panel sign for a hotel in a B-2, Neighborhood Business District; the Zoning Ordinance requires all signage to be on premise for a hotel in a B-2, Neighborhood Business 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 that substantial justice is done to the applicant and the surrounding neighborhood.

Variations 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 site has been given a Mixed Commercial Corridor 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 land use designation mostly applies to transportation corridors west of I-65 serving primarily the low-density (suburban) residential neighborhoods. It includes a wide variety of retail, services and entertainment uses.

The Mixed Commercial Corridor designation acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern, or concentrated into shorter segments of a corridor.

Over time, new development and re-development in Mixed Commercial Corridors is encouraged to: raise design quality; improve connectivity to surrounding neighborhoods; improve streetscapes; and, improve mobility and accessibility for all users of the corridor.

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 has been the subject of various Variance requests over the years, the most recent being a Sign Variance to allow two (2) wall signs to project 5' above the roofline. The request was denied at the January 4, 2010 meeting of the Board of Zoning Adjustment, and it should be noted that the site has been entirely redeveloped since that time.

The applicant now wishes to allow an additional tenant panel sign to an existing tenant panel sign structure to advertise the location of an off-premise hotel, which is under construction on property to the rear of the subject site, at 109 Long Street. The applicant references a lack of visibility of the hotel from Old Shell Road as justification for the request, stating:

"Dear Board Members,

Please consider our request for a variance of the On Premise Sign Ordinance.

Our client, Kleban Shed LLC who is the property owner of South Landing, would like to install a sign on the above referenced property as a directional sign to the Hotel property located behind South Landing Shopping Center.

Per City Code, the sign would not be allowed because it would be larger than the 20 square feet allowed for a directional sign and it would also be considered as off premise advertising for the Hotel.

We feel that the hotel will have a true hardship because the Hotel property is located approximately 250' from Old Shell Road and they have no visibility for a freestanding sign. The South Landing property owner is agreeable to the installation of this sign below their tenant panel sign if a variance is granted.

Please hear our request at the next meeting of the Board of Zoning Adjustment.”

The purpose of the Sign Regulations is to protect the health, safety and welfare of the citizens of the City of Mobile and the general aesthetics of the city by providing for uniform standards for the locations, spacing, height, setback, lighting, and other regulation of off-premise and on premise signs within the city.

Sections 64-11.6.p. and 64-11.8.c.(4) prohibit off-premise signs and advertising, respectively, with the exception of non-conforming signs.

The proposed sign is an illuminated, double-faced sign attached to an existing freestanding tenant panel sign. The area of each side of the sign is 32 square-feet. Sign copy indicates the hotel's logo would be illustrated on the sign along with an arrow pointing in the direction of the hotel.

With respect to the applicant's statement regarding directional signs, such signs are permitted within the City regardless of their size as long as they are on premise. Directional signs larger than 20 square-feet do, however, require a permit from the Planning and Zoning Department whereas directional signs less than 20 square-feet do not require a permit.

Regarding the applicant's statement concerning visibility of the hotel from Old Shell Road, the hotel site seemingly negates its options for on premise signage. Under Section 64-11.8.c(2), commercial building sites with one (1) establishment are permitted to construct three (3) signs, not including directional signs less than 20 square-feet, one (1) of which may be a freestanding sign with a maximum height of 35'. As such, it is reasonable to believe that such a sign may be visible from Old Shell Road if placed in a suitable location on the property. Recent Google Street View photos appear to substantiate this claim. It should also be pointed out that the hotel will be four-stories in height, thus any wall signage placed near the top of the building may be visible from not just Old Shell Road, but also University Boulevard.

Furthermore, plans for development of the hotel site have been under review since at least October, 2017, and approved since June, 2018. During that time no concerns about signage arose, perhaps indicating due diligence was incomplete with respect to the Sign Regulation Provisions of the Zoning Ordinance. Such concerns could have been mitigated by incorporating the new hotel into the subject site on which the off-premise sign is proposed, which is part of a Planned Unit Development (PUD). PUDs allow for flexibility in not just the design of a site, but

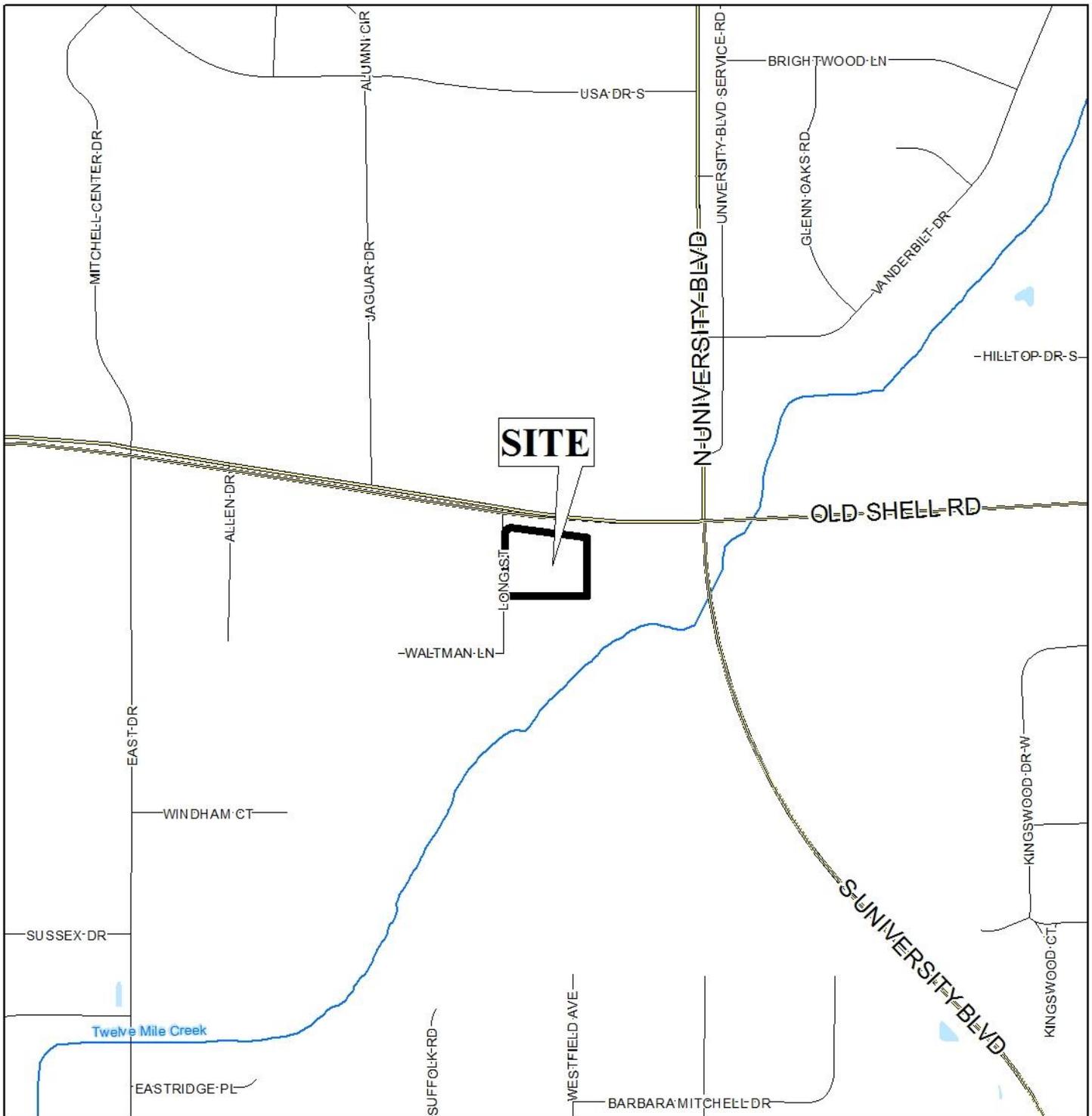
also its signage needs. Shared access between sites could essentially be extended to signs, thus eliminating the need to request Sign Variance Approval.

While Sign Variances have been approved by the Board within the vicinity of the subject site, they were for additional on premise signs. It is understandable that the hotel wishes to maximize their visibility from Old Shell Road, but the applicant has not provided information on how complying with the Sign Regulation Provisions of the Zoning Ordinance would not provide sufficient visibility. Additionally, no permit requests have been submitted for signage for the actual hotel, thus Staff cannot determine if there is a hardship. As such, the applicant has not demonstrated that a literal enforcement of the Sign Regulation Provisions of the Zoning Ordinance would result in an undue hardship; rather, the applicant simply wishes to have an off-premise sign. Approving the Variance would, therefore, be contrary to at least Sections 64-11.6.p. and 64-11.8.c.(4) of the Zoning Ordinance and, as such, may establish a precedent by which future, less desirable Sign Variance requests could be approved if no special conditions or hardships to an individual property exist. As a result, the Board should consider this application for denial.

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

- 1) Approving the variance will be contrary to the public interest in that it is contrary to Sections 64-11.6.p. and 64-11.8.c.(4) of the Zoning Ordinance;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship since a freestanding sign with a maximum height of 35' can be placed on the hotel site and may be visible from Old Shell Road;
- 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 signage may establish a precedent by which future, less desirable Sign Variance requests could be approved if no special conditions or hardships to an individual property exist.

LOCATOR MAP



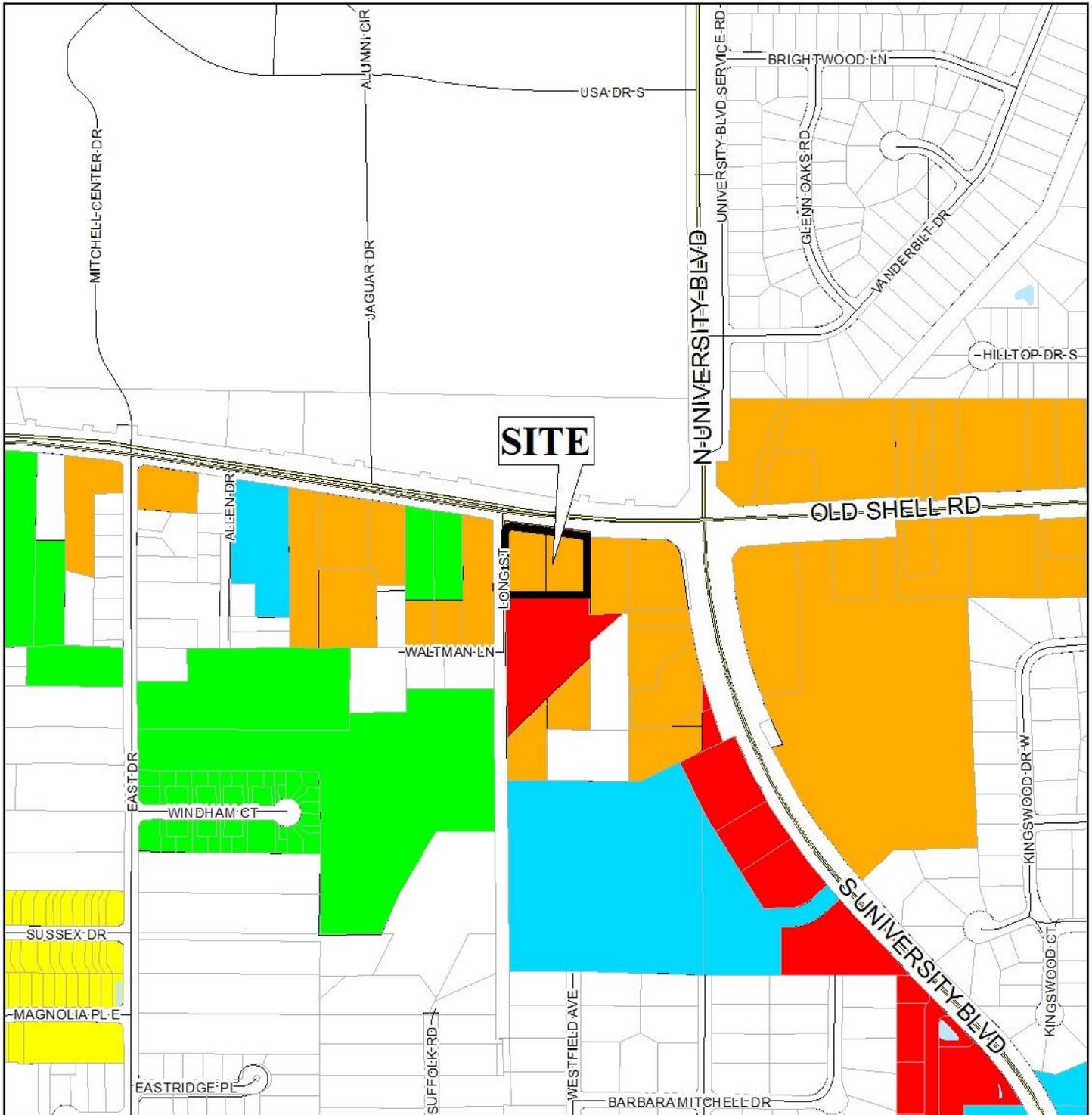
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APPLICANT Richard Armstrong/ Modern Signs LLC

REQUEST Sign Variance



LOCATOR ZONING MAP



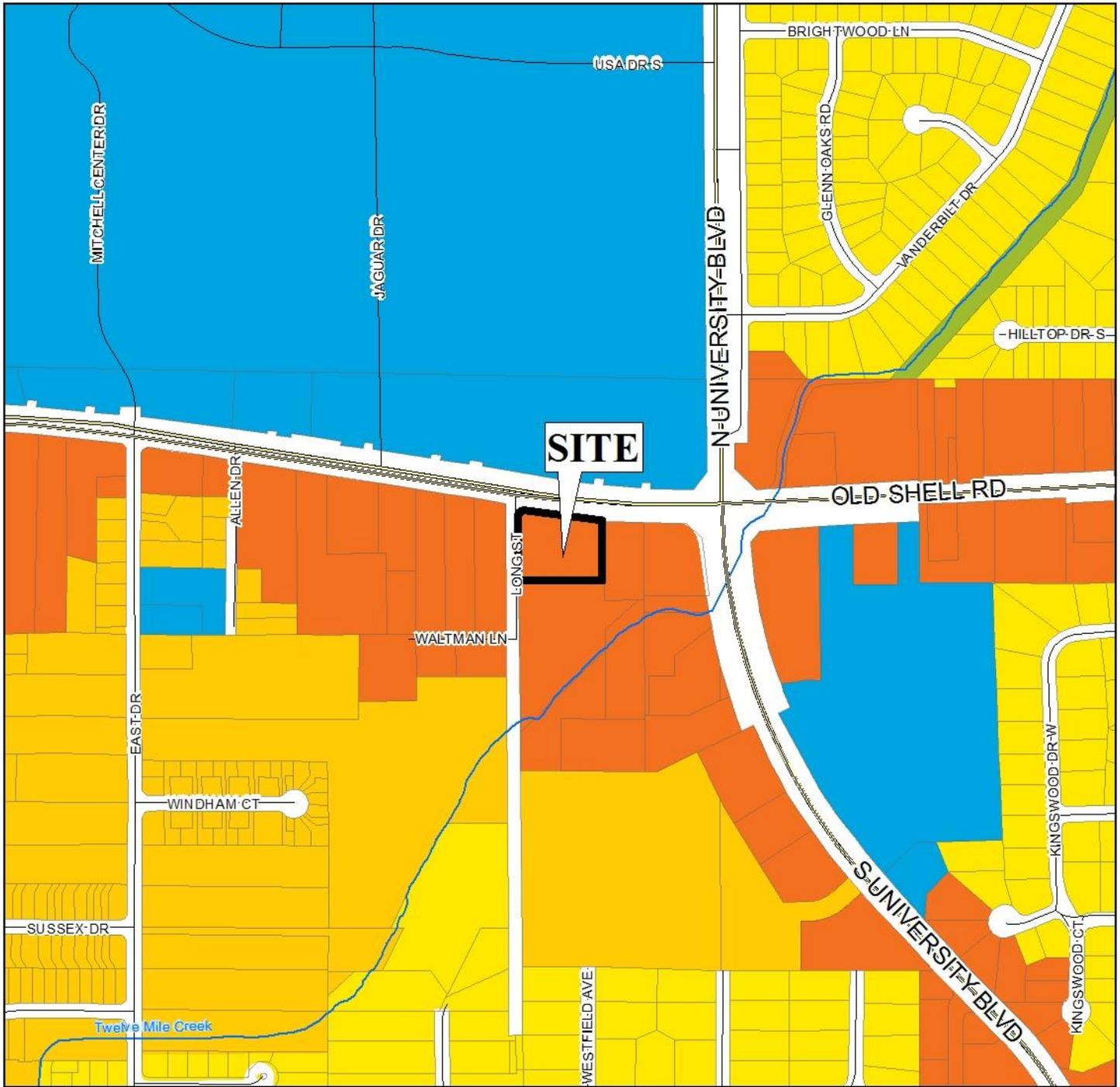
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FLUM LOCATOR MAP



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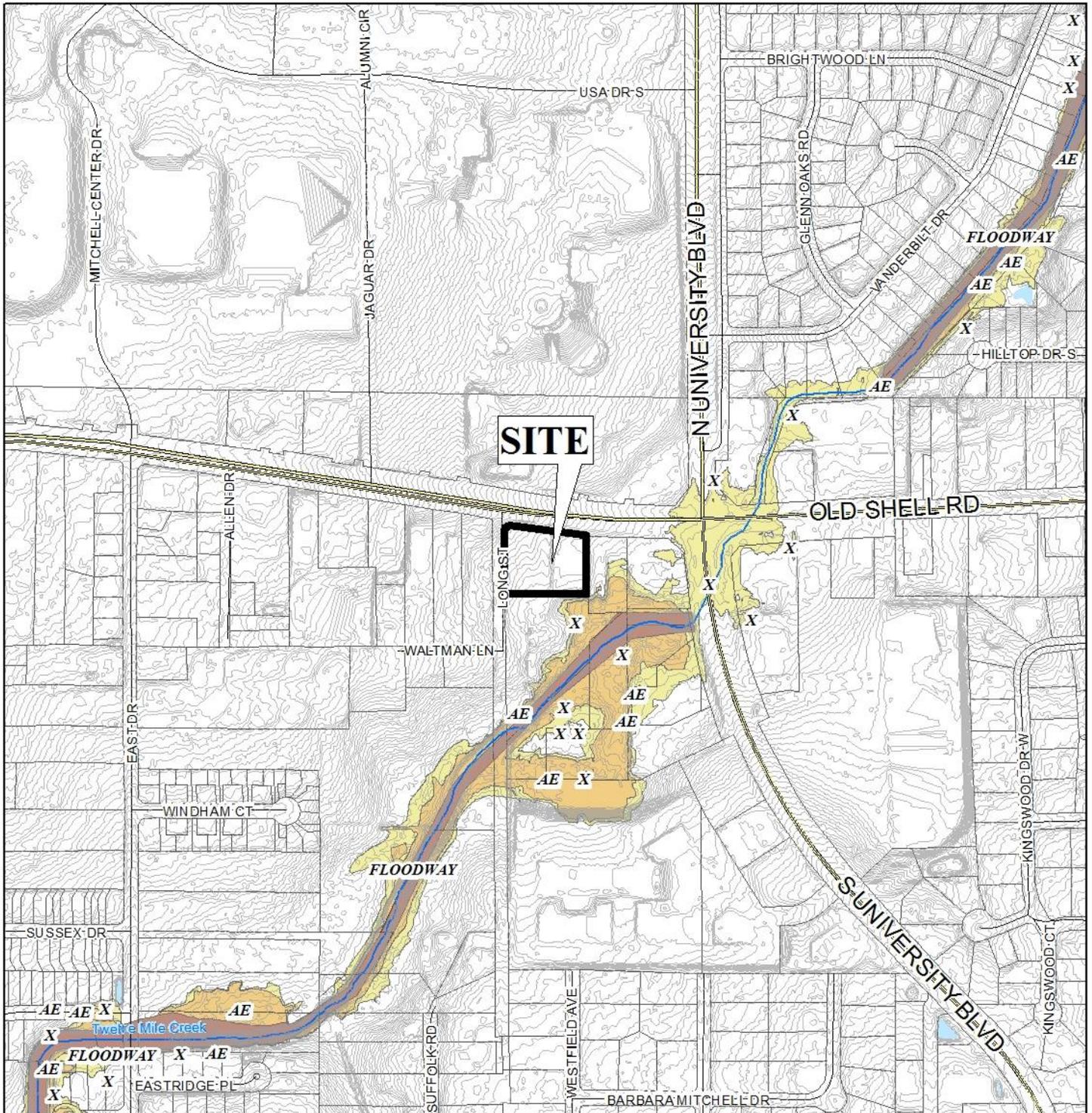
REQUEST Sign Variance

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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 | |



NTS

ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the east, and residential units to the west.

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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 commercial units to the east, and residential units to the west.

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