

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: March 11,2019

CASE NUMBER

6241

APPLICANT NAME

Frederick and Claire Stimpson

LOCATION

4358 Stein Avenue
(North side of Stein Avenue, 435'± East of North
McGregor Avenue.)

VARIANCE REQUEST

**SIDE YARD SETBACK, COMBINED SIDE YARDS
AND SITE COVERAGE VARIANCE:** Side Yard
Setback, Combined Side Yards and Site Coverage
Variances to allow a dwelling addition within the required
side yard setback with reduced combined side yard
setbacks and increased site coverage in an R-1, Single-
Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

**SIDE YARD SETBACK, COMBINED SIDE YARDS
AND SITE COVERAGE VARIANCE:** The Zoning
Ordinance requires a minimum 8'side yard setback with
20' of combined side yards, and allows a maximum site
coverage of 35% in an R-1, Single-Family Residential
District.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

0.2± Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

If any of the proposed variances are approved for use the
applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit (Single Family Residential Affidavit or Tier 2 LD Permit) be 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.

**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). 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.

**FIRE
COMMENTS**

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).

ANALYSIS

The applicant is requesting Side Yard Setback, Combined Side Yards and Site Coverage Variances to allow a dwelling addition within the required side yard setback with reduced combined side yard setbacks, and increased site coverage in an R-1, Single-Family Residential District; The Zoning Ordinance requires a minimum 8’ side yard setback with 20’ of combined side yards, and allows a maximum site coverage of 35% in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) 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 mostly to residential areas located between Downtown and the Beltline, where the predominant character is that of a traditional neighborhood laid out on an urban street grid.

These residential areas should offer a mix of single family homes, townhouses, 2- to 4-residential unit buildings, accessory dwellings, and low- and mid-rise multifamily apartment buildings. The density varies between 6 and 10 du/ac, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential (LDR) areas, MxDR areas may incorporate compatibly scaled and sited complementary uses such as neighborhood retail and office uses, schools, playgrounds and parks, and churches and other amenities that create a complete neighborhood fabric and provide safe and convenient access to daily necessities.

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 states:

“ Frederick and Claire Stimpson are owners of the house and property at 4358 Stein Ave. The Stimpsons purchased the home in 2016. When the home was purchased, the Stimpsons made material improvements to the interior of the front home. The back home on the property is currently used for storage and a home office but is primarily unused square footage.

The work that is proposed is to connect the front and the back homes to create more living space for the family to have room to grow. The west side of the front house sits 3' from the property line and the east side of the back house sits 2.5' from the property line. The current ordinance requires a home to be setback a minimum of 8' from the property line with a total setback of 20' feet on either side of the home. The Stimpson's are seeking a variance in the existing code to allow for the addition that will be built flush with the current home. The addition will not encroach any further towards the property line.

Additionally, The Stimpson's are seeking a variance to allow their building site to cover 39% of the lot. The current ordinance allows for a maximum of 35% building site coverage.

As evidenced by the print out of properties surrounding the home, there are several examples of other houses in the area that sit close to the property line or exceed the 35% building site coverage.

Because there are many other examples of homes exceeding the allowed 35% building site coverage and sitting closer than 8' to the property line in the immediate neighborhood, we feel that allowing this variance for 39% building site coverage and building on to the existing 3' side yard setback will not be out of character with the neighborhood, nor will it be counter to the spirit of the ordinance. ”

As stated, the applicant is seeking relief, from the Zoning Ordinance to allow the construction of an addition on a Single-Family Residentially zoned property that will encroach in the required minimum side yard setbacks and exceed the allowable site coverage.

The Zoning Ordinance states in Section 64-3.C.1.e. that the sum of the widths of two (2) side yards shall be at least twenty (20) feet, with at least 8 feet on one side, in an R-1, Single Family Residential District. Additionally, the Section 64-3.C.1.c. states the maximum building site coverage by all buildings shall be thirty-five (35) percent in an R-1, Single Family Residential District.

The applicant has submitted a site plan which shows the proposed addition that will connect an existing structure in the rear of the property with the existing dwelling. The site plan also illustrates a new covered porch on the front of the existing dwelling. Currently, the dwelling is approximately 3' from the west property line. The existing structure into the rear encroaches in both the rear and side yard setback. It is a distance of approximately 2' to 5' from the rear, and 3' from the east side property line. The 815.3 square foot addition will connect the 2 structures and be set back from the west side property line approximately 3'. The proposed covered does not appear to be calculated in the site coverage requested by the applicant. Including the porch in site coverage calculations shows the actual site coverage proposed will be 41%±.

The applicant has provided addresses of homes in the nearby vicinity with structures that do not appear to comply with setback and/or site coverage requirements. Based on aerial images, most of the houses in the area, as well as accessory structures, encroach in the required setbacks. It should be noted that the Board of Zoning Adjustment approved variances in 1992 and 1997 for side and rear yard setbacks at 4402 Stein Avenue, which also exceeds the maximum 35% site coverage. An application for a side yard setback variance was submitted for 4404 Stein Avenue in 2018 but was later withdrawn.

There are no conditions which exist at this site that would require the applicant to construct an addition that will encroach in the side yard setback and result in excessive site coverage. It appears that it is merely the applicant's desire. However, the placement of the proposed structures will not change the character of the neighborhood because many neighboring properties exceed the allowable site coverage and have structures within the required setbacks.

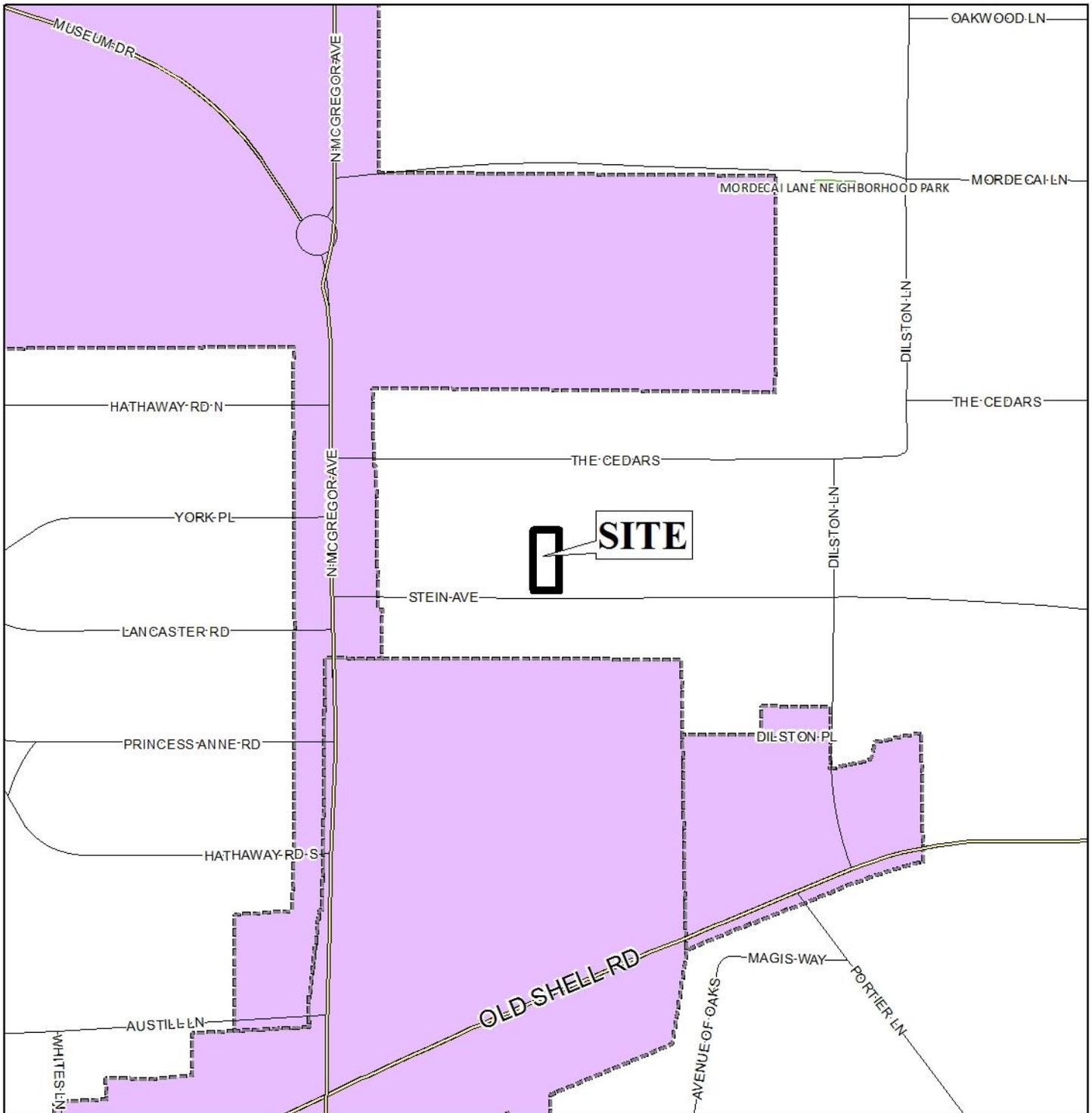
RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

- 1) Granting the variance will not be contrary to the public interest in that although it will be contrary to the Zoning Ordinance requirement regarding the maximum side yard building setbacks and site coverage in an R-1, Single-Family Residential district, it will be in character with the neighborhood;
- 2) Special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site was developed without the requirement for a variance ; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because it will not change the character of the neighborhood.

The approval is subject to the following conditions:

- 1) provision of gutters and downspouts for any portion of the addition 5' or fewer from the property line.

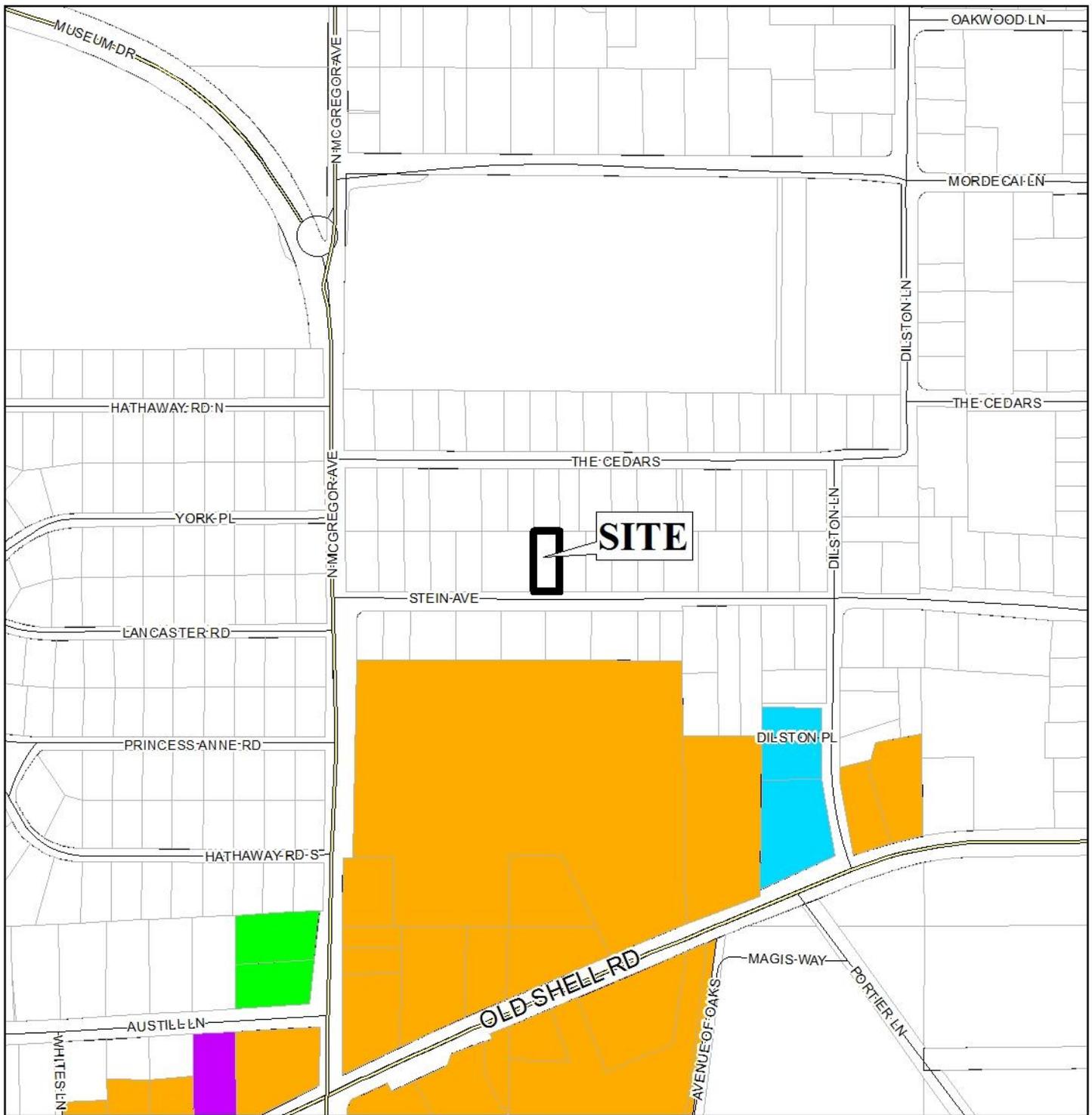
LOCATOR MAP



APPLICATION NUMBER 6241 DATE March 11, 2019
APPLICANT Frederick and Claire Stimpson
REQUEST Side Yard Setback, Combined Side Yards and Site Coverage Variances



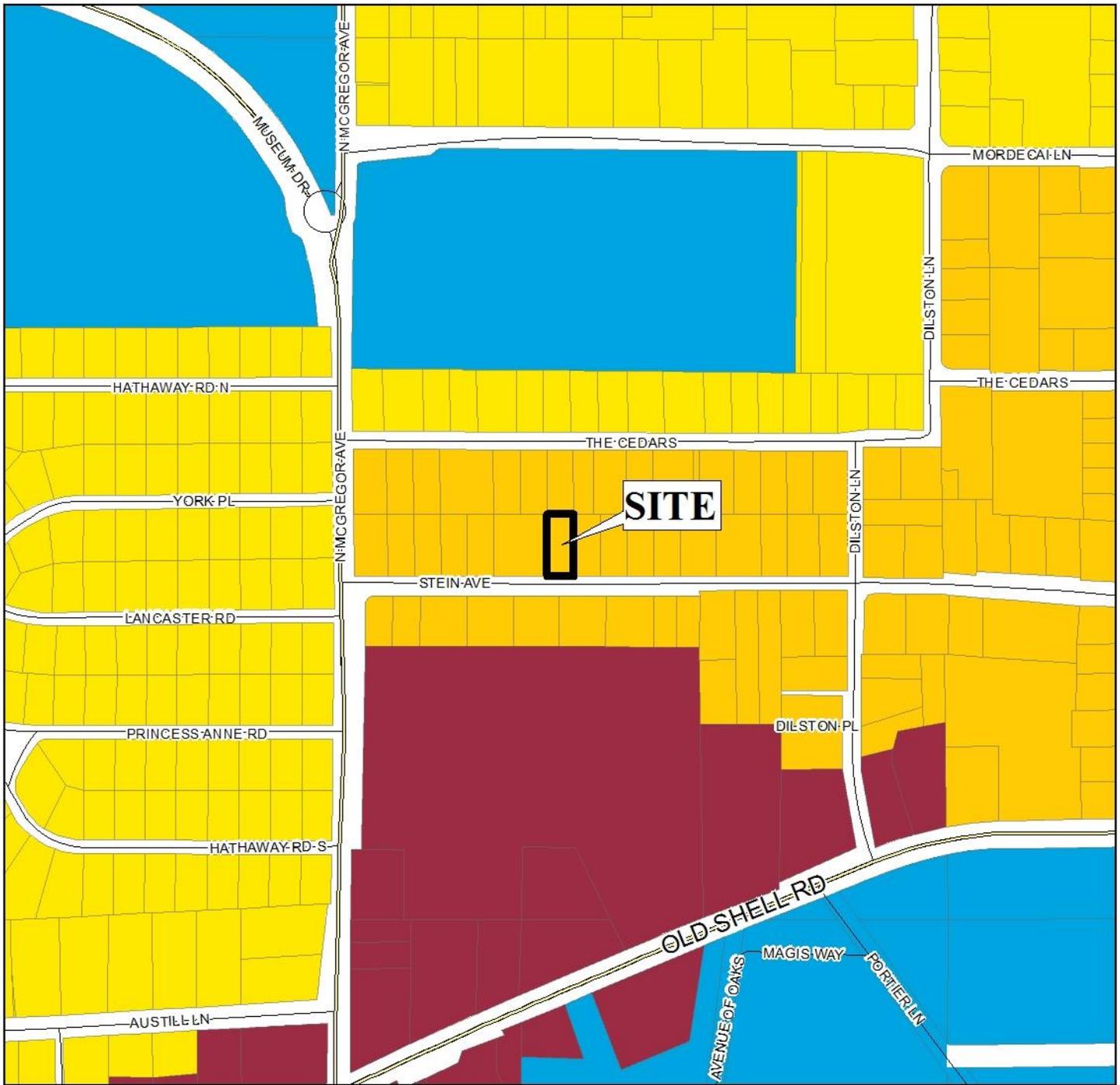
LOCATOR ZONING MAP



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FLUM LOCATOR MAP



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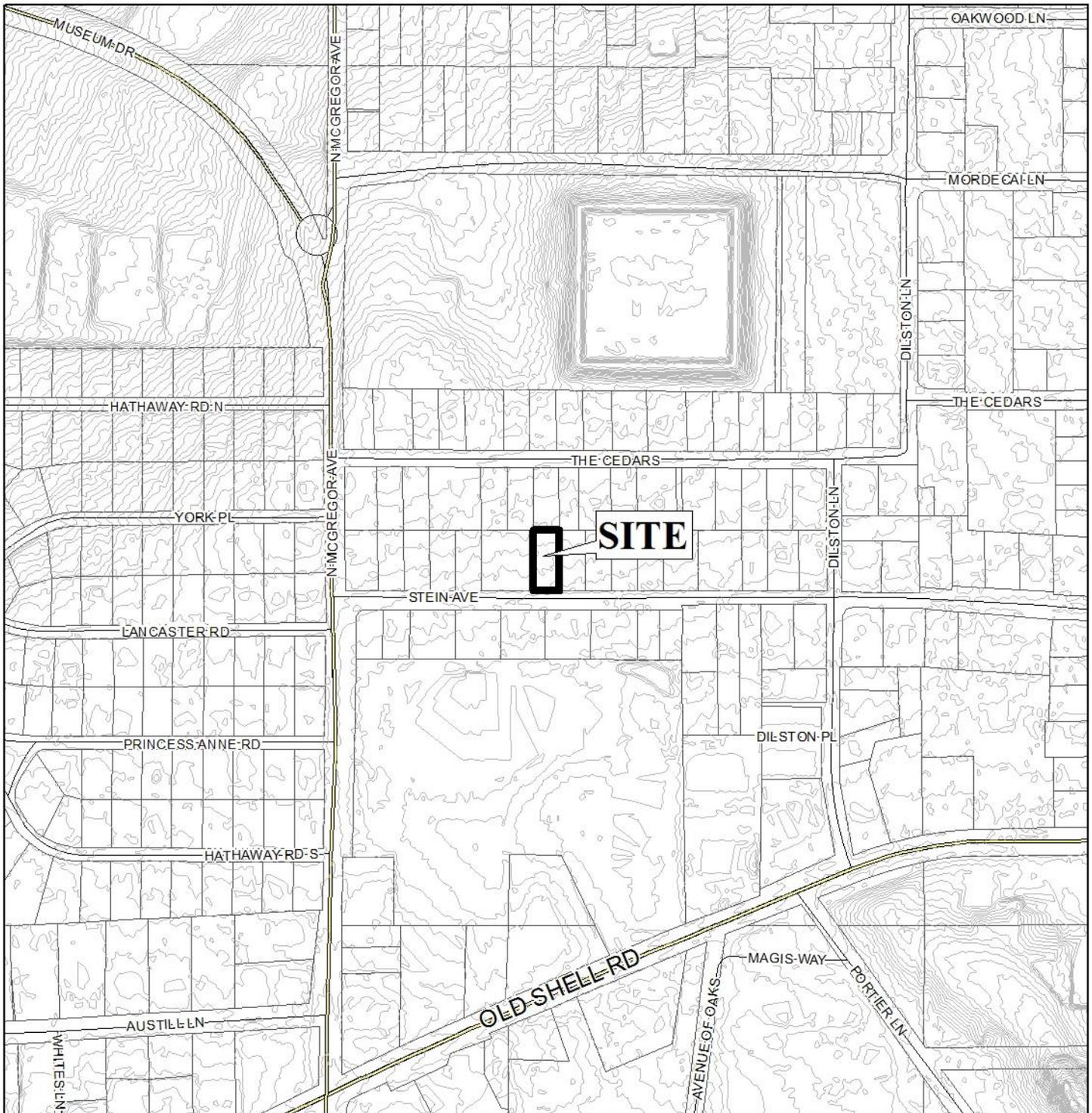
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- | | | | |
|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | 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 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

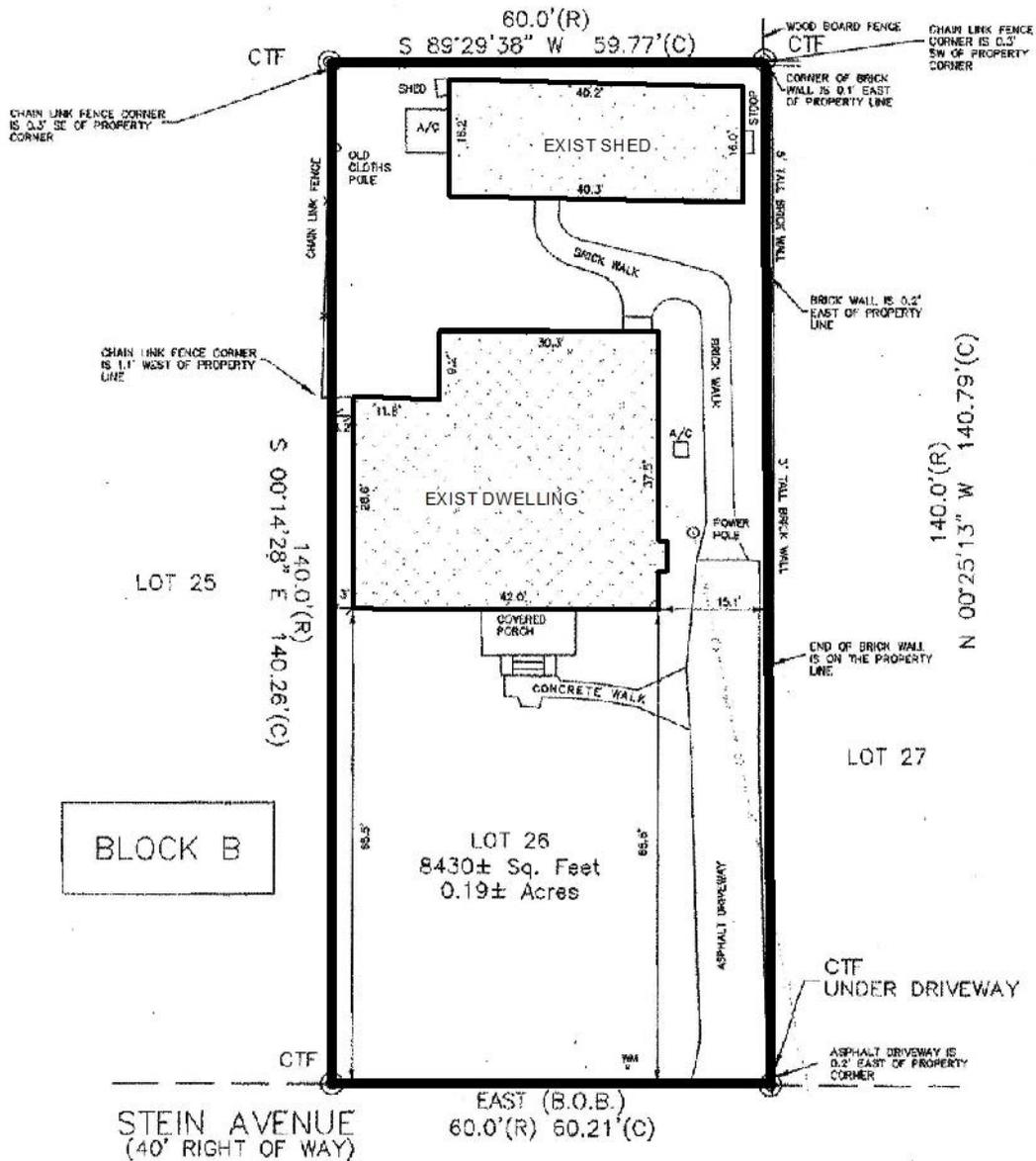


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EXISTING SITE PLAN

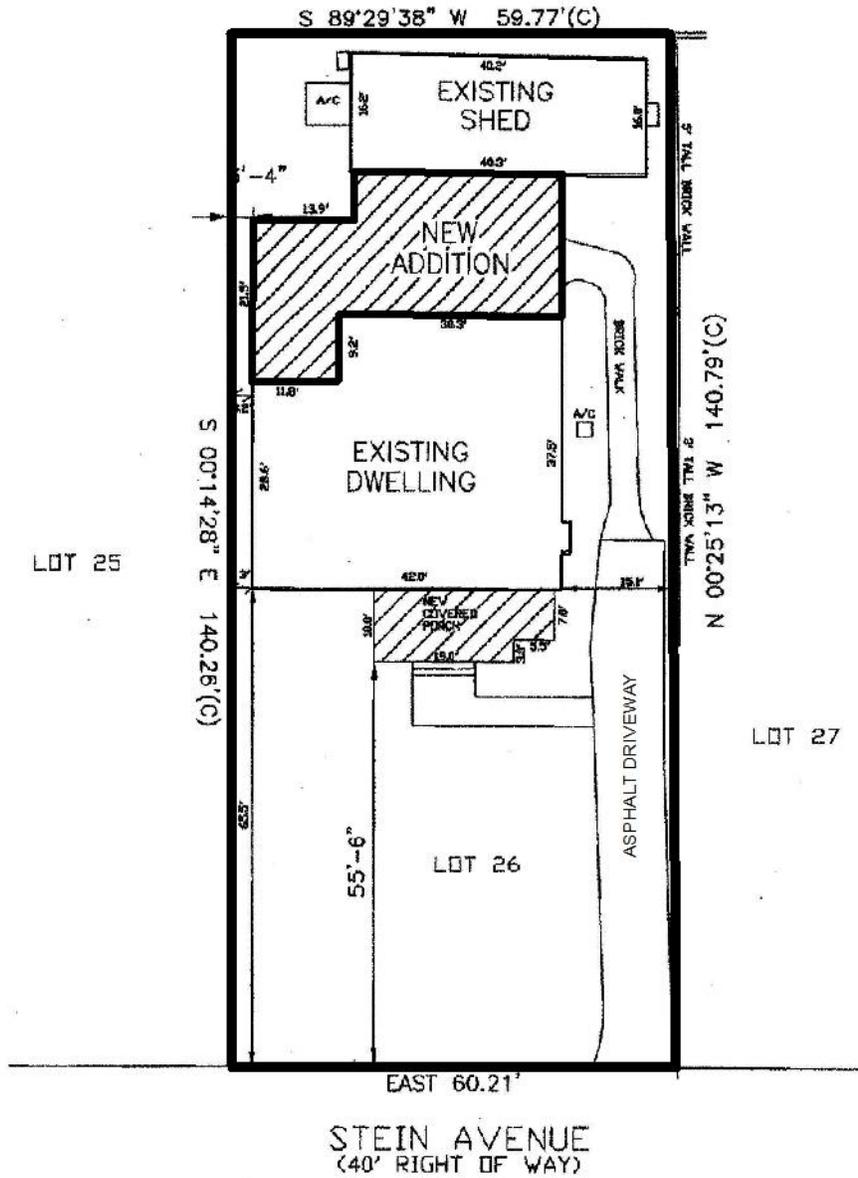


The site plan illustrates the existing dwelling, shed, and drive.

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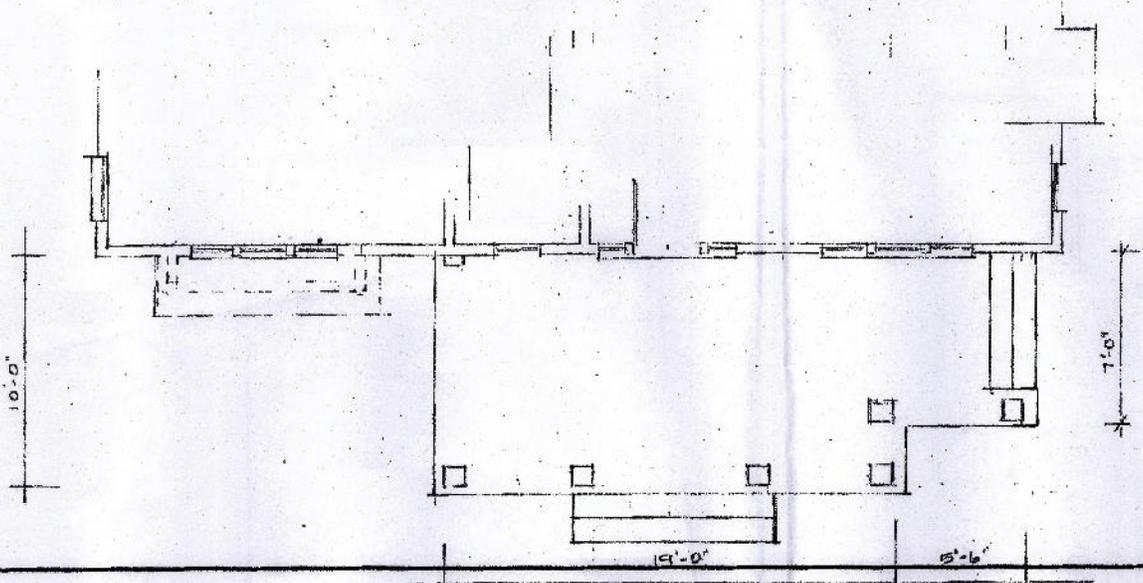
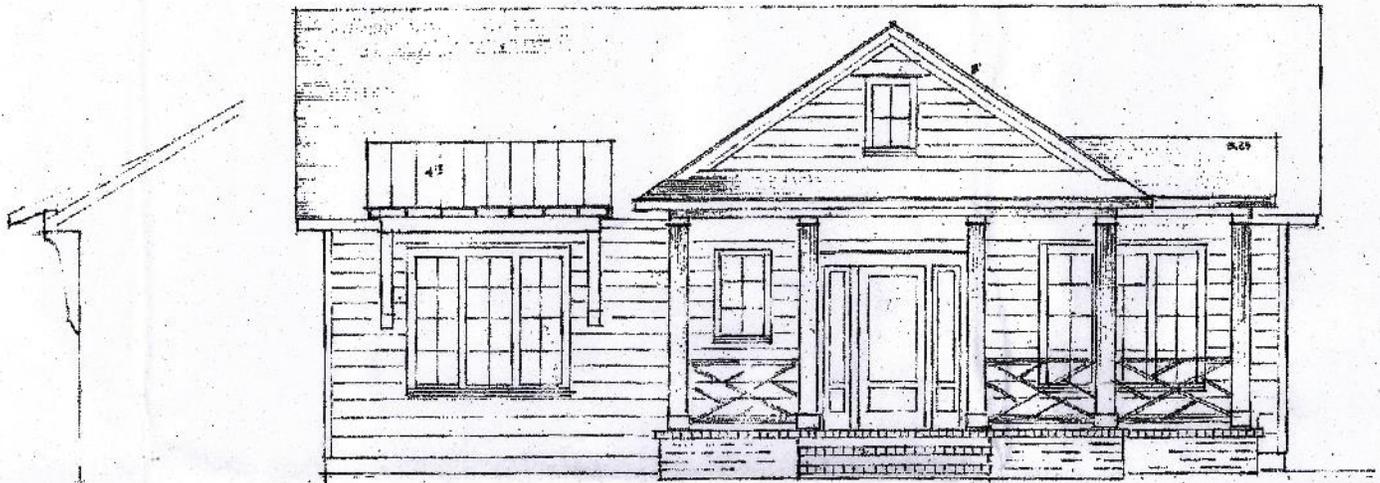


The site plan illustrates the proposed addition, existing dwelling, shed, and drive.

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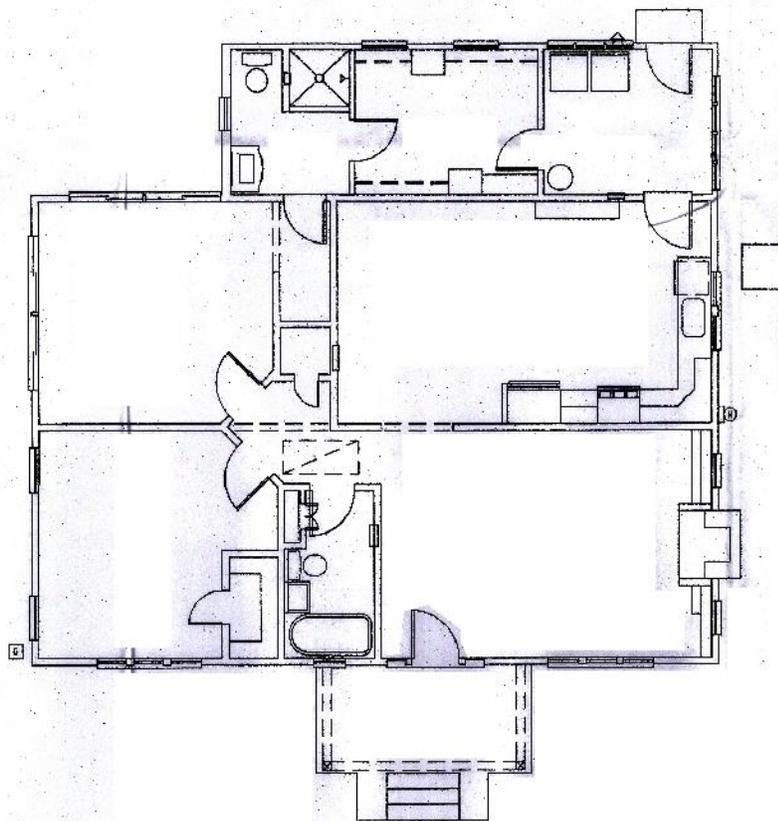
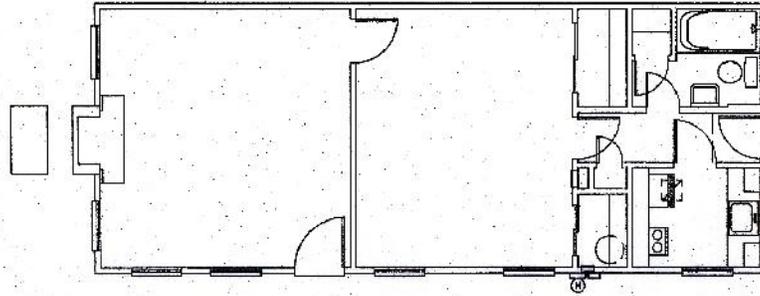
DETAIL SITE PLAN



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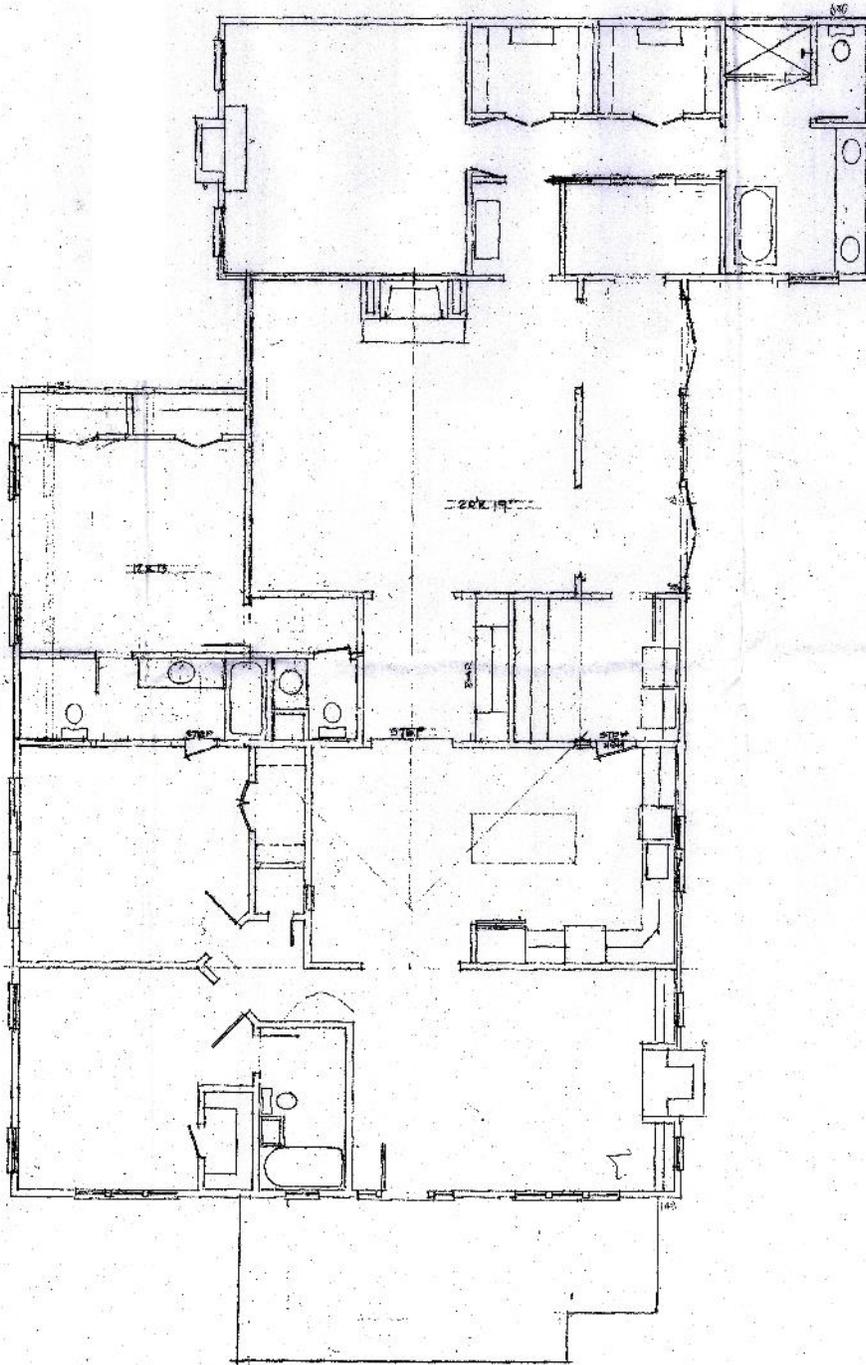
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