

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 4, 2022****CASE NUMBER**

6449

APPLICANT NAME

Lorenzo Martin

LOCATION

2908 Old Shell Road
(North side of Old Shell Road, 120'± West of Union Avenue, extending to the Southeast corner of Yew Street and Hemley Avenue).

VARIANCE REQUEST

SIDE STREET, SIDE YARD SETBACK: To allow a structure within the required side street, side yard setback in a B-3, Community Business District.

REAR STREET, REAR YARD SETBACK: To allow a structure within the required rear street, rear yard setback in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

SIDE STREET, SIDE YARD SETBACK: The Zoning Ordinance requires full compliance with the side street, side yard setback for structures in a B-3, Community Business District.

REAR STREET, REAR YARD SETBACK: The Zoning Ordinance requires full compliance with the rear street, rear yard setback for structures in a B-3, Community Business District.

ZONING

B-3, Community Business District

AREA OF PROPERTY

0.4± Acre

ENGINEERING**COMMENTS****YARD VARIANCE (Structure):****SIDE STREET SIDE YARD & REAR STREET REAR**

If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements will require a Land Disturbance Permit.
2. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

FIRE DEPARTMENT

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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL

DISTRICT

District 1

ANALYSIS

The applicant is requesting Side Street Side Yard and Rear Street Rear Yard Setback Variances to allow a structure within the required side street, side yard and rear street, rear yard setbacks in a B-3, Community Business District; the Zoning Ordinance requires full compliance with the side street, side yard and rear street, rear yard setbacks for structures in a B-3, Community Business District.

The site has been given a Traditional Corridor (TC) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 by the Planning Commission. 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 generally applies to transportation corridors east of I-65, which serve as the primary commercial and mixed-use gateway to Downtown and the City's traditional neighborhoods (equivalent to Map for Mobile's Traditional Neighborhoods).

Depending on their location (and as allowed by specific zoning), TC designations incorporate a range of moderately scaled single-use commercial buildings holding retail or services; buildings that combine housing units with retail and/or office; a mix of housing types including low- or mid-rise multifamily structures ranging in density from 4 to 10 du/ac; and attractive streetscapes and roadway designs that safely accommodate all types of transportation – transit, bicycling, walking, and driving. In these areas, special emphasis is placed on the retention of existing historic structures, compatible infill development, and appropriate access management.

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:

I, owner of the property in question 2908 Old Shell Road Mobile, AL am planning to have one 2,400 gross square footage retail store (Uniforms R US). There will be 4 employees and around 20 customers a day. The parking requirements for the site is 8 spaces. I will have 16 parking spaces.

Our hours will be Monday- Friday from 10am to 5 pm, Saturdays 10am to 1pm, and closed on Sundays. I need 2,400 gross square feet for the business to work. If we followed the current requirements, I would only be able to have a 720 foot building.

The subdivision for the site was recorded in 1912 as a residential subdivision. Currently, properties along Old Shell Road are commercial.

The negative impact on adjoining properties would be greatly reduced by placing a six foot wall around the building. Appropriate landscape will be placed around the parking lot area.

I request the following:

- 1. Additional five feet along the North side of my property Right of way request by the City of Mobile Planning Commission. Along Yew Street is not needed because it is not a major roadway.*
- 2. The normal twenty five foot minimum setback line to be reduced to 12 feet to allow the construction of this retail building.*

It should be noted that an associated one-lot subdivision, Valelore Subdivision, is pending before the Mobile City Planning Commission. Staff has recommended approval of that subdivision with, among other conditions, dedication to provide 25 feet from the centerline of Yew Street, and indication of a 25-foot minimum building setback line along all street frontages. The applicant seeks relief from the setback requirements along Hemley Avenue and Yew Street in order for those conditions to be amended on the subdivision.

With regard to the side street, side yard setback request (along Hemley Avenue), Hemley Avenue terminates at the South end of the subject site and no vehicular access is proposed onto the site from Hemley Avenue. Furthermore, there is only one residential property across Hemley Avenue from the site; thus, only minimal vehicular traffic would be possible along Hemley Avenue beside the site. Consequently, the allowance of a reduced side street, side yard setback of twelve (12) feet along Hemley Avenue may be justifiable, and the Board should consider this request for approval.

With regard to the rear street, rear yard setback request (along Yew Street), as the site has a substantial elevation drop-off within the Old Shell Road right-of-way, Yew Street provides the only viable vehicular access, and essentially becomes the “front” street. Yew Street has a substandard right-of-way width (40 feet currently, 50 feet required), and the pending subdivision application is recommended to require a dedication of five feet along the street frontage, to provide the required 25 feet from the centerline of Yew Street. The 25-foot rear street, rear yard setback would then be measured from the new property line along the dedicated street frontage. The applicant proposes to retain the existing street frontage property line along Yew Street and provide a twelve-foot minimum building setback line from that, resulting in a setback line 32 feet from the centerline of Yew Street as opposed to 50 feet as would be required with dedication and the normal setback.

The site plan indicates that revisions could be made to the parking lot by reducing the excess access/maneuvering area width (50 feet proposed, 24 feet required) which would allow for reconfiguring the building to meet the required setback along Yew Street after frontage dedication, and still be able to retain the proposed 2,400 square feet in the building and sufficient number of parking spaces. Therefore, the Board should consider the rear street, rear yard setback variance request for denial.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Approval of the request for a Side Street, Side Yard Setback Variance in a B-3, Community Business District:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that only minimal vehicular traffic would be possible along the side street;
- 2) Special conditions exist, such as the fact that the side street dead-ends along the subject site, such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall be observed and substantial justice shall be done to the applicant and the surrounding neighborhood by granting the variance because the requested reduced setback would have no impact on traffic and visibility along the side street.

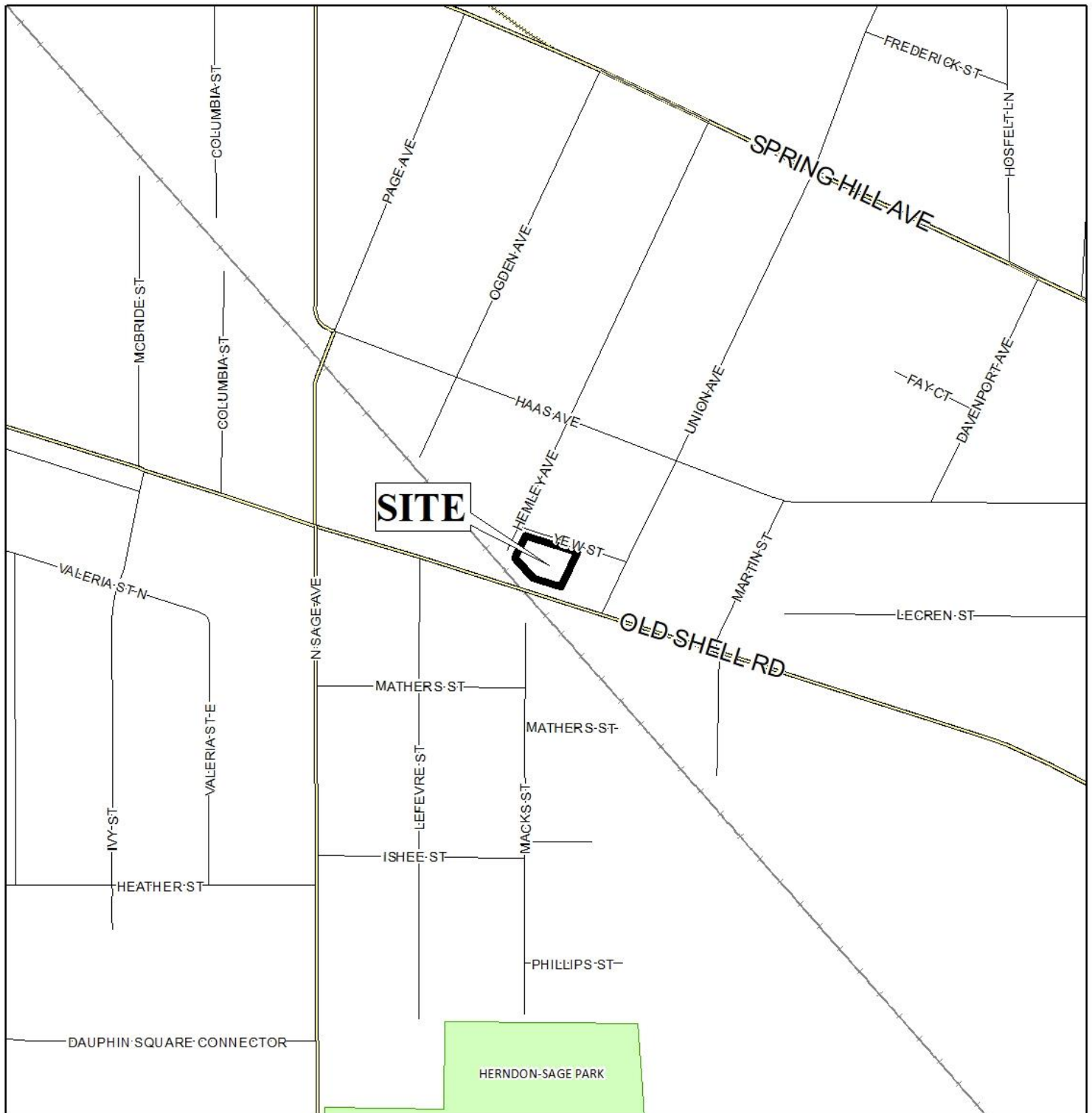
The approval is subject to the following conditions:

- 1) subject to the Engineering comments: *(1.The proposed improvements will require a Land Disturbance Permit. 2. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.); and*
- 2) full compliance with all municipal codes and ordinances.

Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial of the request for a Rear Street, Rear Yard Setback Variance in a B-3, Community Business District:

- 1) Approving the variance will be contrary to the public interest in that it will not allow for the normal right-of-way dedication and minimum building setback requirements of a pending subdivision;
- 2) Special conditions do not exist such as site area constraints in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship since sufficient area exists within the proposed parking lot to orient the building design to meet the required rear street, rear yard setback and maintain the proposed building square footage and required parking; 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 necessary rear street right-of-way dedication and building setback compliance will not be achieved.

LOCATOR MAP



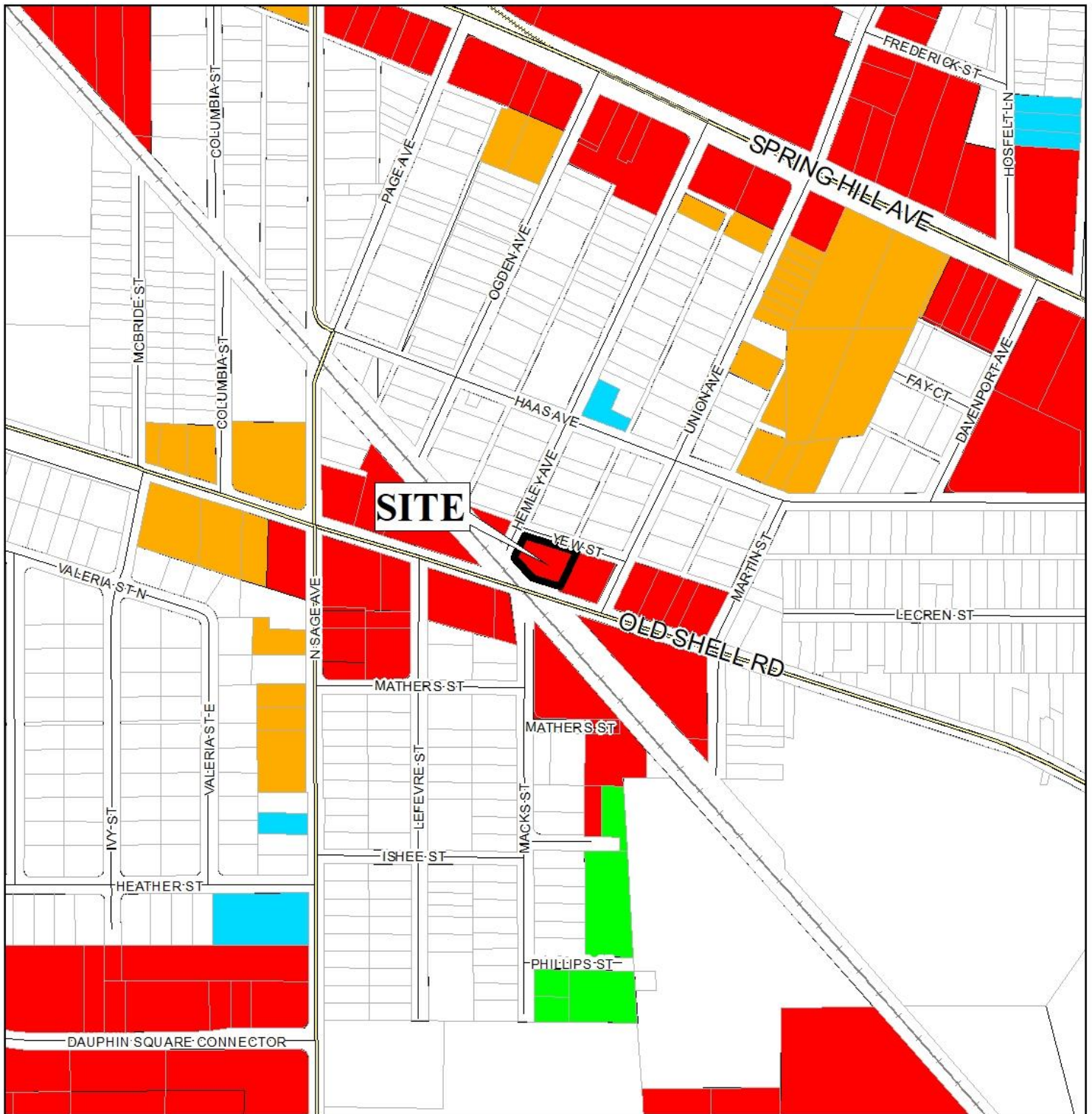
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REQUEST Setback Variances



LOCATOR ZONING MAP



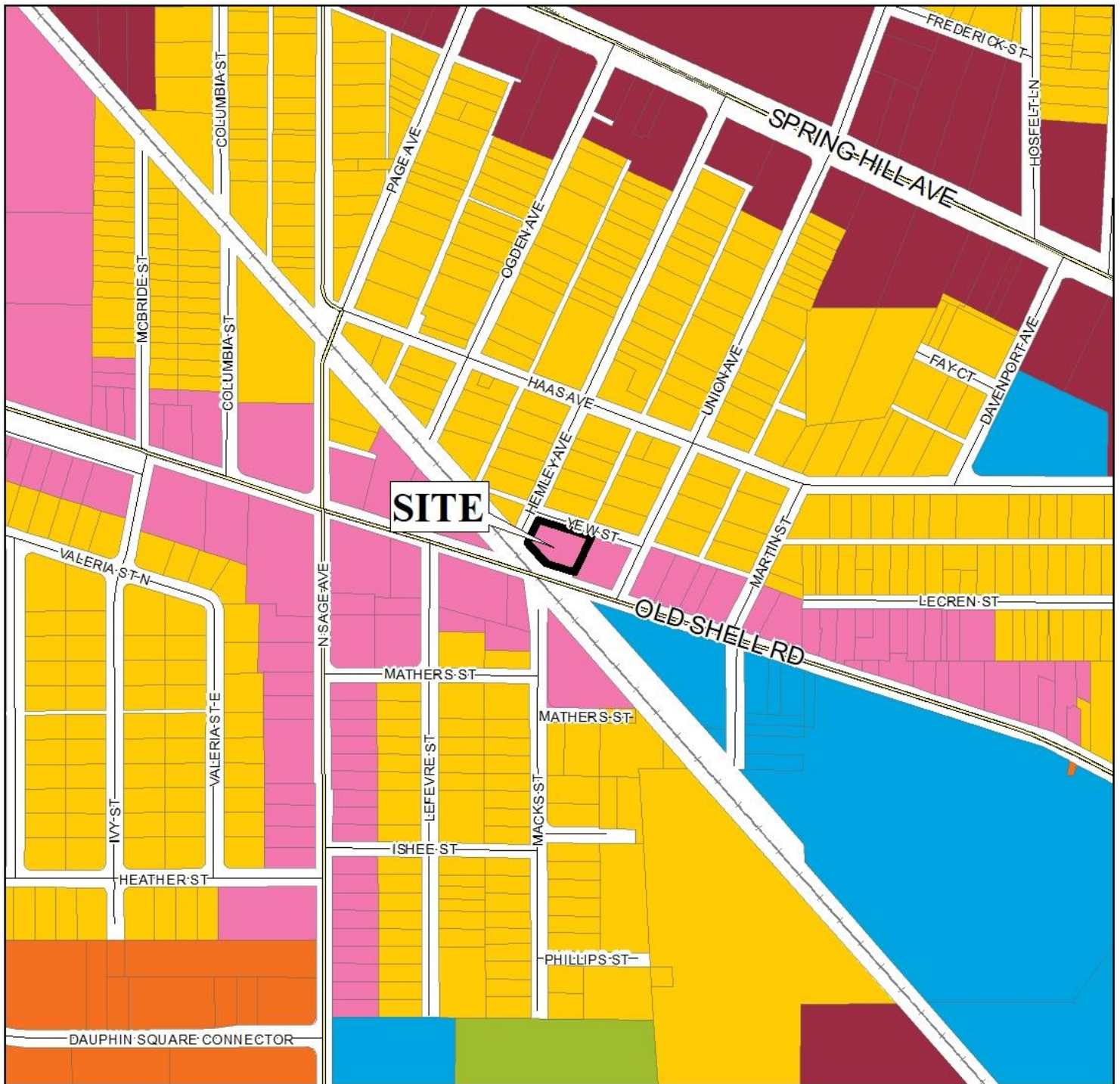
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FLUM LOCATOR MAP



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REQUEST Setback Variances

- | | | | |
|--|--|---|---|
| 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 and commercial 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

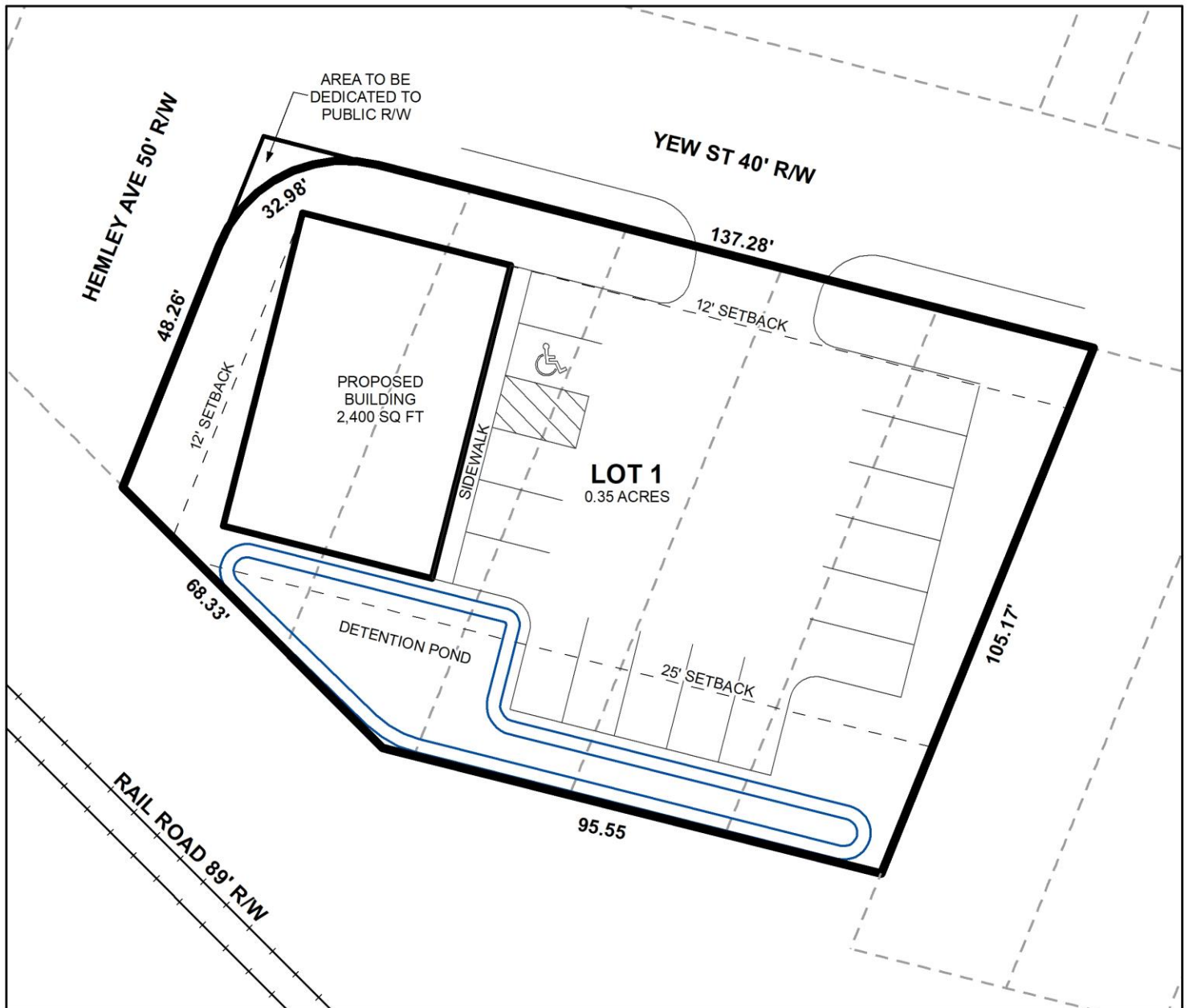


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SITE PLAN



The site plan illustrates the proposed building, parking, detention pond, and setbacks.

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