



## Agenda Item # 3 BOA-002649-2023

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

### DETAILS

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**Location:**

3651 Riviere Du Chien Road

**Applicant / Agent (as applicable):**

Rick Twilley

**Property Owner:**

Matthew & Elizabeth Adams

**Current Zoning:**

R-1, Single-Family Residential Suburban

**Future Land Use:**

Low Density Residential

**Case Number(s):**

6548

**Unified Development Code Requirement:**

- A 25-foot front yard setback in an R-1, Single-Family Residential-Suburban District.

**Board Consideration:**

- To allow stairs exceeding three-feet (3') tall to encroach within the 25-foot front yard setback in an R-1, Single-Family Residential- Suburban District.


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**BOARD OF ADJUSTMENT**  
**VICINITY MAP - EXISTING AERIAL**



The site is surrounded by residential units.

APPLICATION NUMBER <u>6548</u> DATE <u>October 2, 2023</u>	
APPLICANT <u>Rick Twilley</u>	
REQUEST <u>Setback Variance</u>	

## SITE HISTORY

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The site was created as part of the Benderwood Subdivision, and Planned Unit Development, approved by the Planning Commission at their January 7, 1982 meeting. The plat was recorded in Mobile County Probate Court on January 10, 1983.

There have been no other applications before the Planning Commission or Board of Zoning Adjustment for the site.

## STAFF COMMENTS

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### Engineering Comments:

If the proposed variance is approved 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 be submitted through Central Permitting.
2. The existing drainage patterns and surface flow characteristics should not be altered so as to have a negative impact on any adjoining properties or any public rights-of-way.
3. 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.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.
5. No filling can be placed within FEMA Flood Zone.

### 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 [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 (2021 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.

## Planning Comments:

The applicant is requesting a Setback Variance for a new single-family residence to allow stairs exceeding three-feet (3') tall to encroach within the 25-foot front yard setback in an R-1, Single-Family Residential-Suburban District; the Unified Development Code (UDC) requires all stairs exceeding three-feet (3') tall to be located outside of the front 25-foot (25') setback in an R-1, Single-Family Residential Suburban District.

The entire application packet is available via the link on Page 1.

The applicant provides the following concerning the request:

*The stairway in front of the home is used for access into the house. Parking is as shown on the plot plan. No other logical location for stairs is available. The tree is approximately 12-feet (12') from the base of the tree to the corner of the foundation.*

*The setback of the home cannot be changed due to the location of the large Heritage Oak tree. The owner wishes to save the large Heritage Oak tree located at the back corner of the house.*

The site plan submitted indicates the proposed stairs encroaching into the 25-foot front setback line. The encroachment was identified during the permit review process.

The application does include information regarding a unique characteristic of the property which precludes the applicant from constructing the house with the stairs located outside of the 25-foot setback line rather than the stairs exceeding three-feet (3') tall to encroach within the 25-foot front setback line. There is a large Live Oak tree that is located at the back corner of the house which is preventing the house from being relocated to allow the stairs to be located outside of the 25-foot front setback line.

## VARIANCE CONSIDERATIONS

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### Standards of Review:

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.

Article 5 Section 10-E. 1. of the Unified Development Codes states that the Board of Adjustment may grant a variance if:

- The Applicant demonstrates that the variance shall not be contrary to the public interest,
- where, owing to special conditions a literal enforcement of the provision of this Chapter will result in unnecessary hardship; and
- the spirit of this Chapter will be observed and substantial justice done.

Article 5 Section 10-E.2. states; no variance shall be granted:

- (a) In order to relieve an owner of restrictive covenants that are recorded in Mobile County Probate Court and applicable to the property;

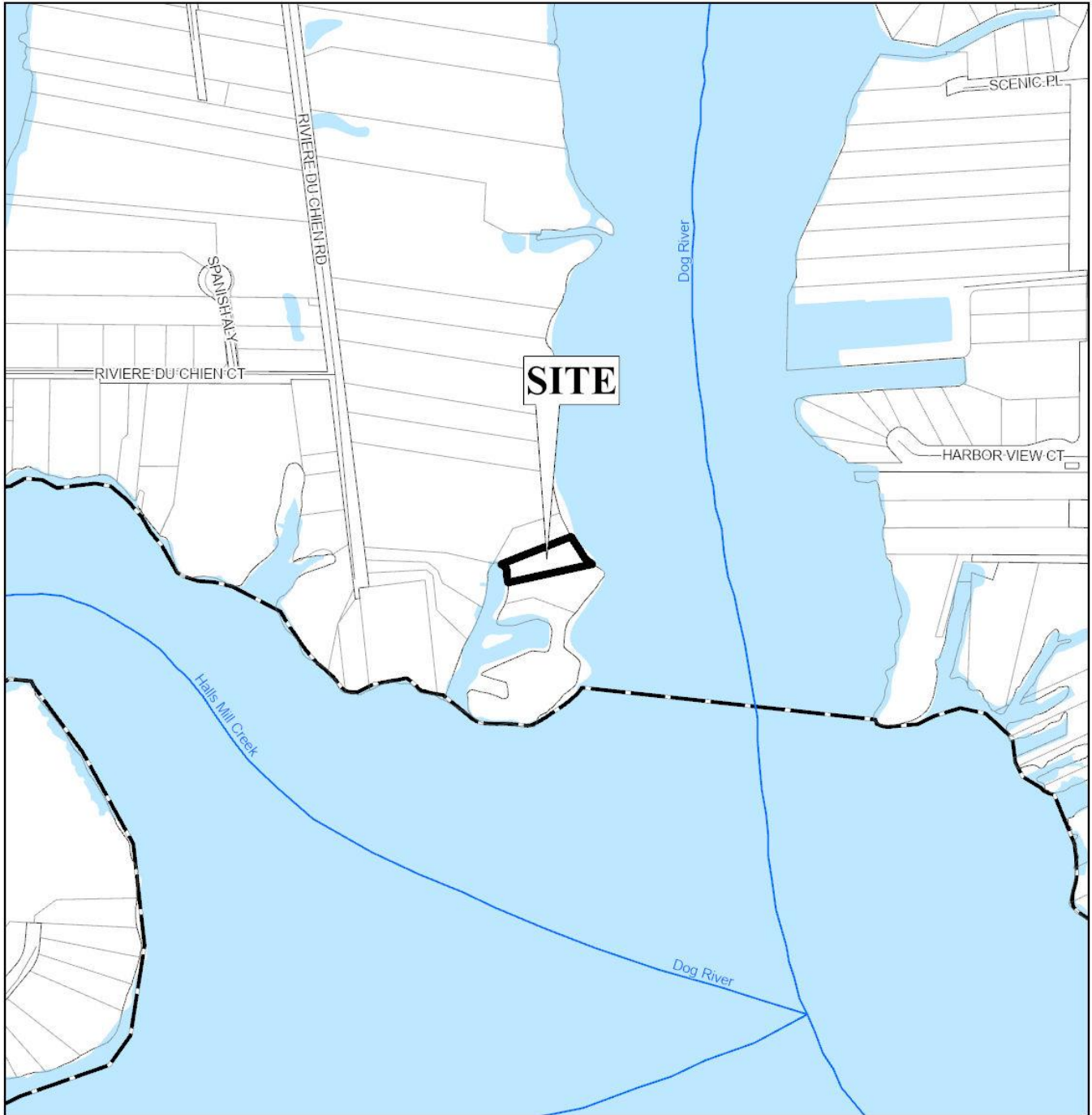
- (b) Where economic loss is the sole basis for the required variance; or
- (c) Where the variance is otherwise unlawful.

### **Considerations:**

Based on the requested Variance application and documentation submitted, if the Board considers approval of the request, the following findings of fact must be present:

- 1) The variance **will not** be contrary to the public interest;
- 2) Special conditions exist such that a literal enforcement of the provisions of the chapter **will** result in unnecessary hardship; and
- 3) The spirit of the chapter **shall** be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance.

# LOCATOR ZONING MAP



APPLICATION NUMBER 6548 DATE October 2, 2023

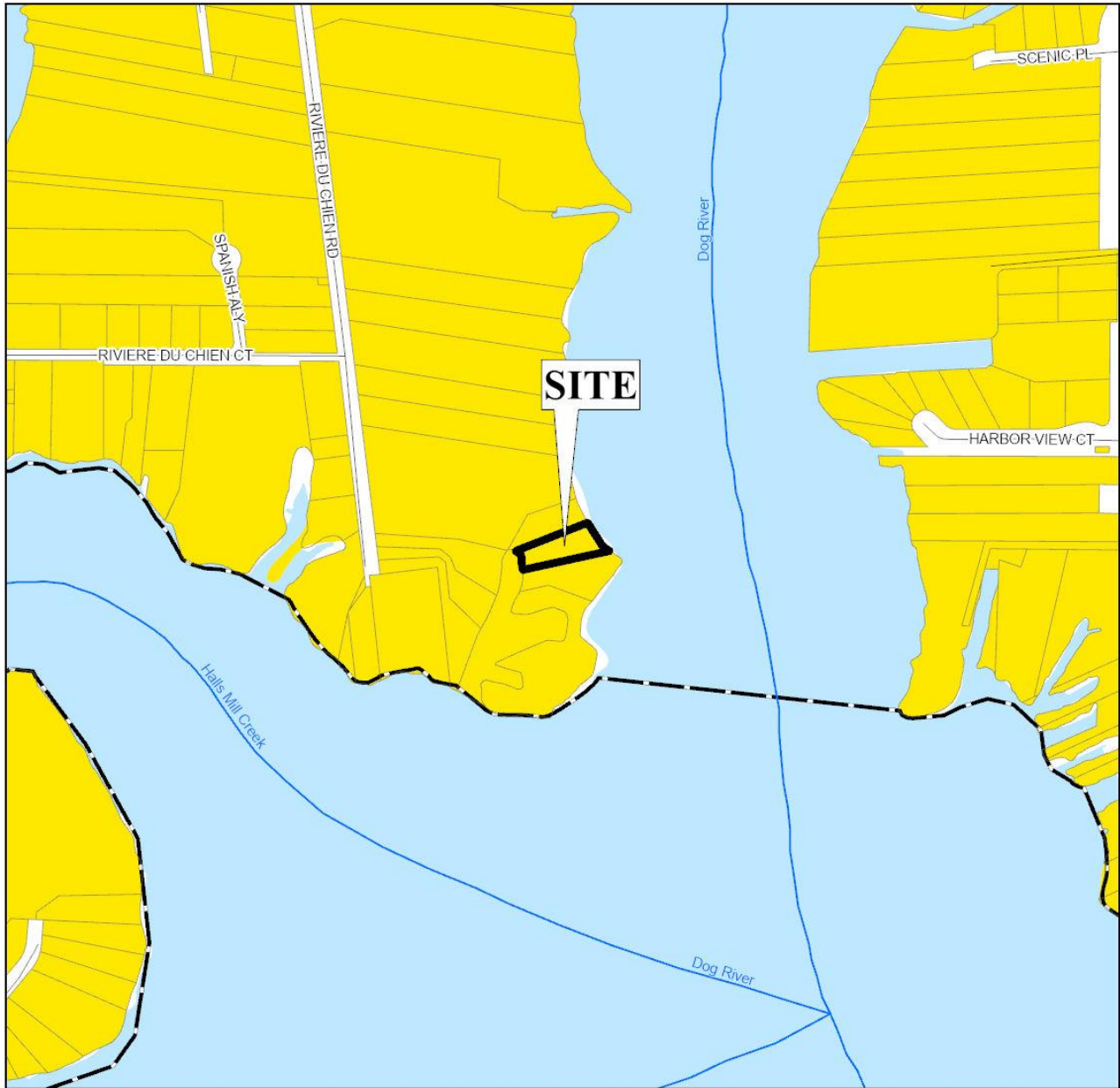
APPLICANT Rick Twilley

REQUEST Setback Variance



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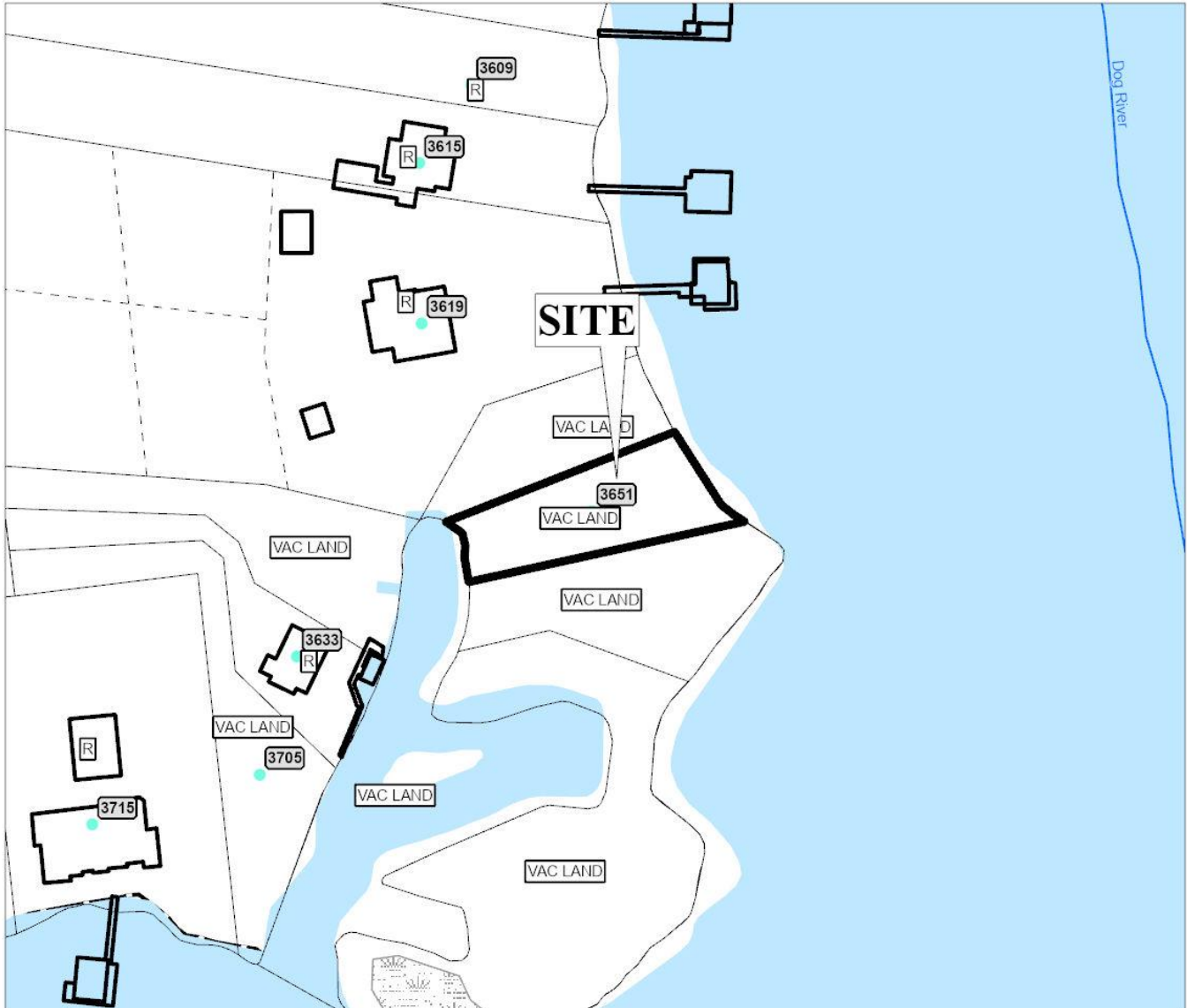
# FLUM LOCATOR MAP



APPLICATION NUMBER	6548	DATE	October 2, 2023
APPLICANT	Rick Twilley		
REQUEST	Setback Variance		
<ul style="list-style-type: none"> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: yellow; border: 1px solid black; margin-right: 5px;"></span> Low Density Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black; margin-right: 5px;"></span> Mixed Density Residential</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: pink; border: 1px solid black; margin-right: 5px;"></span> Downtown</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: red; border: 1px solid black; margin-right: 5px;"></span> District Center</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: brown; border: 1px solid black; margin-right: 5px;"></span> Neighborhood Center - Traditional</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: blue; border: 1px solid black; margin-right: 5px;"></span> Neighborhood Center - Suburban</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: lightpink; border: 1px solid black; margin-right: 5px;"></span> Traditional Corridor</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: orange; border: 1px solid black; margin-right: 5px;"></span> Mixed Commercial Corridor</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: tan; border: 1px solid black; margin-right: 5px;"></span> Downtown Waterfront</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: lightgrey; border: 1px solid black; margin-right: 5px;"></span> Light Industry</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: purple; border: 1px solid black; margin-right: 5px;"></span> Heavy Industry</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: cyan; border: 1px solid black; margin-right: 5px;"></span> Institutional</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: lightgreen; border: 1px solid black; margin-right: 5px;"></span> Parks &amp; Open Space</li> <li><span style="display: inline-block; width: 15px; height: 10px; background-color: darkblue; border: 1px solid black; margin-right: 5px;"></span> Water Dependent</li> </ul>			



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

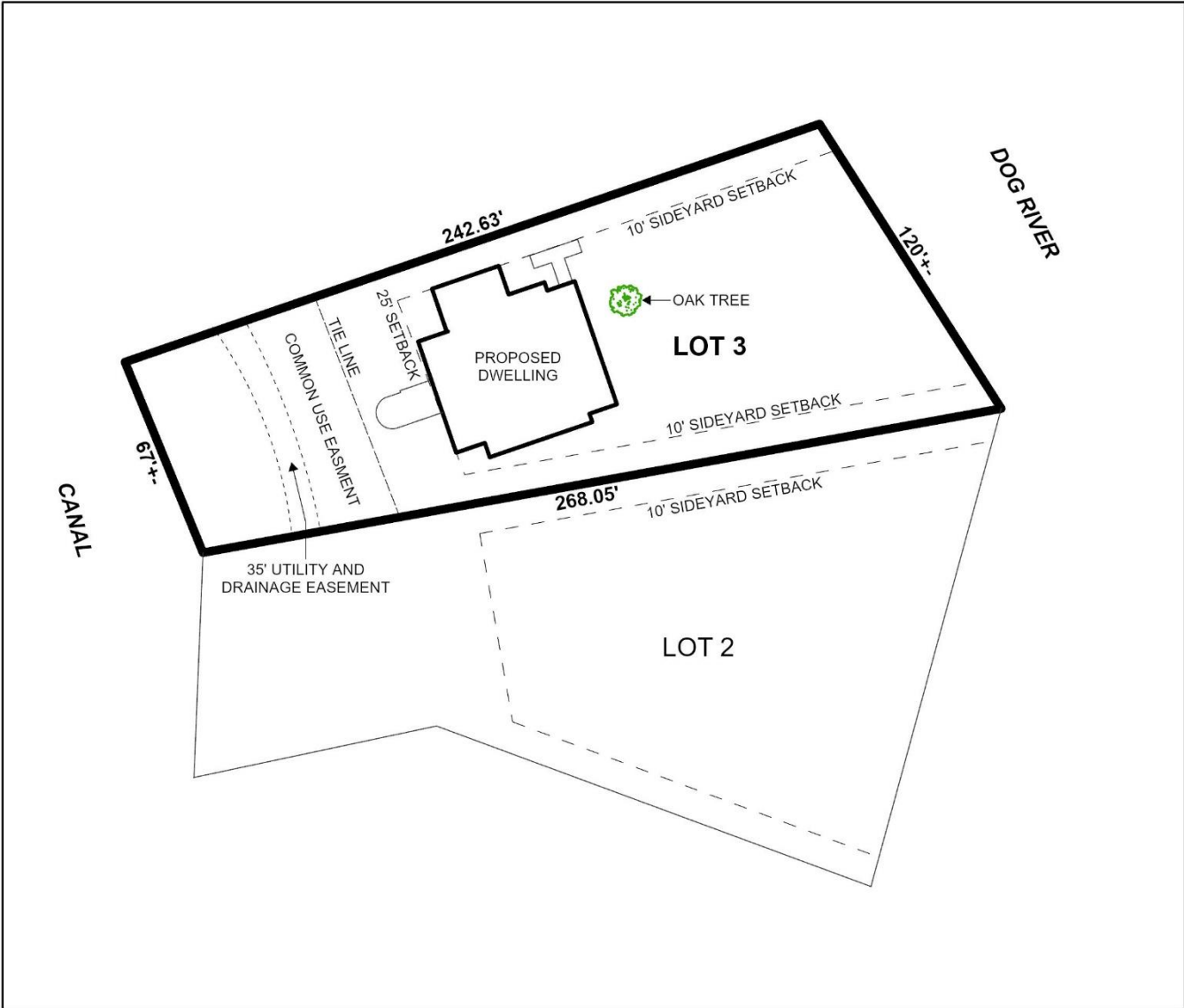


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# SITE PLAN



The site plan illustrates the proposed dwelling and setback lines as well as the property boundary.

APPLICATION NUMBER <u>6548</u> DATE <u>October 2, 2023</u>	
APPLICANT <u>Rick Twilley</u>	
REQUEST <u>Setback Variance</u>	





# DETAIL SITE PLAN



APPLICATION NUMBER 6548 DATE October 2, 2023  
 APPLICANT Rick Twilley  
 REQUEST Setback Variance



NTS

# DETAIL SITE PLAN



APPLICATION NUMBER	6548	DATE	October 2, 2023
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ZONING DISTRICT CORRESPONDENCE MATRIX		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■	■					□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□		□

**Zoning District Correspondence Matrix**

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)

# Residential Land Use



## LOW DENSITY RESIDENTIAL (LDR)

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.