

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: April 5, 2021

CASE NUMBER 6374

APPLICANT NAME Steven Sheridan

LOCATION 116 Myrtlewood Avenue
(East side of Myrtlewood Avenue at the East terminus of Stein Avenue)

VARIANCE REQUEST **FRONT YARD SETBACK:** To allow a ten-foot front yard setback in an R-1, Single-Family Residential District.

ZONING ORDINANCE REQUIREMENT **FRONT YARD SETBACK:** The Zoning Ordinance requires at least a 25’ front yard setback in an R-1, Single-Family Residential District.

ZONING R-1, Single-family Residential District

AREA OF PROPERTY 0.46± Acre

ENGINEERING COMMENTS If the proposed variance is 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 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.

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 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 buildings and 600' of sprinkled buildings.

CITY COUNCIL

DISTRICT

District 7

ANALYSIS

The applicant is requesting Front Yard Setback Variance to allow a ten-foot front yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least a 25' front yard setback in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) 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 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 dwelling units per acre, depending on the mix, types, and locations of the housing as specified by zoning.

Like Low Density Residential areas, Mixed Density Residential 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.

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 applicant states:

We are submitting variance for a 2-lot subdivision along Myrtlewood to allow a reduced setback along Myrtlewood. We received approval for the 2-lot subdivision and as part of the planning commission decision it was recommended by the City Engineer that we bring a variance to this board to seek a reduction of setback along Myrtlewood as it would not be out of character with the surrounding area. We were asked as part of the subdivision process to dedicate additional right of way as shown for a total of 25 feet from the centerline of Myrtlewood. We have both future homes shown and are requesting a reduced setback of 10 feet from the newly dedicated right of way along Myrtlewood. Lot 2-A will have a drive coming off the unnamed street and will maintain the standard 25-foot setback. On Lot 1-A we have shown the proposed dwelling as front entry coming off Myrtlewood to be closely in line with the other proposed home on 2-A for consistency. We ask that the 2-lot variance be considered as submitted to ensure the homesites flow with the existing conditions of the street and to follow the direction given by the planning commission recommendations. We understand this is a small right of way at Myrtlewood and believe we meet the character of the neighbors how we have submitted the site plan.

The subject site was approved as a two-lot subdivision by the Planning Commission at its August 20, 2020 meeting. Dedication to provide 25 feet from the centerline of Myrtlewood Lane was required, which resulted in approximately ten feet of frontage dedication. Staff recommended the standard 25-foot minimum front building setback be required from the dedicated right-of-way. However, the applicant was able to persuade the Commission to require only a ten-foot minimum front building setback, and the subdivision was approved with such, subject to that reduced setback being approved by the Board; hence this application.

The applicant had requested that no dedication be required along Myrtlewood Lane, in addition to a 20-foot minimum building setback along the front. Staff cited other subdivision approvals within the immediate area which required a dedication to provide 25 feet from the centerline of

various substandard-width streets, as well as the standard 25-foot minimum front building setback. It was pointed out in the subdivision staff report that insufficient right-of-way widths and building setbacks do appear to exist in the area, but that this is a common occurrence with properties whose development or subdivision predate current subdivision regulations, but does not necessarily constitute adequate reasoning for non-compliance. It was summarized that a waiver of dedication and a reduced setback would be contrary to the existing character of the area and prior Planning Commission approvals.

The applicant has not demonstrated that a hardship would be imposed by a literal interpretation of the front setback requirements of the Zoning Ordinance. Furthermore, previous approvals of subdivisions within the immediate area where the standard 25-foot minimum building setback was required, in addition to frontage dedication, would indicate that the requested ten-foot front yard setback would be out of character of the area, and the Board should consider this request for Denial.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial:

- 1) Approving the variance request will be contrary to the public interest due to the fact that there have not been similar variances approved within the vicinity of this site;
- 2) Special conditions do not appear to exist, primarily the approval of reduced front yard setbacks, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance in that it would be contrary to the existing character of the area and previously-approved front setback requirements.

Revised for the May 3rd meeting:

This application was heldover from the April 5th meeting at the applicant's request.

The applicant submitted a revised narrative and site plan. The revised narrative states:

Attached is the revision to the proposed plat. As stated the setback of the new home has been marked in the field to reflect these proposed changes. The setback shown on the plat is approximately 15 feet or truly 25 feet from the original lot line of Lot 1, Roe Property Subdivision and current right of way line prior to this required dedication. We have amended the previous submittal to reflect an additional 5 feet from what was originally submitted. We also located the home south of the property as requested and this home sits 50 feet from the centerline of the road while ours sits a little over 40 feet for a difference of 10 feet. Please note that the original home was located 5 feet closer to the road than what is being proposed here and that the owner will be meeting with neighbors to show the location of the proposed home as it was marked on-site

Another point of reference to where we are planning the home would be 25 feet from the existing fence line if that helps the neighborhood also further understand the placement of the home.

Please also note that in the planning commission meeting for this approval that Mr. Amberger the city engineer mentioned that there were no plans that he was aware of for improving or making changes to Myrtlewood and we were asked to be considered at the Board of Adjustment for setback reduction.

We ask that the variance to allow the revised location to be allowed based on previous location of original home being 5 feet closer to the road than what is proposed, no plan for future widening even though dedication is being required and 2 homes being added to area that are comparable in size to surrounding properties.

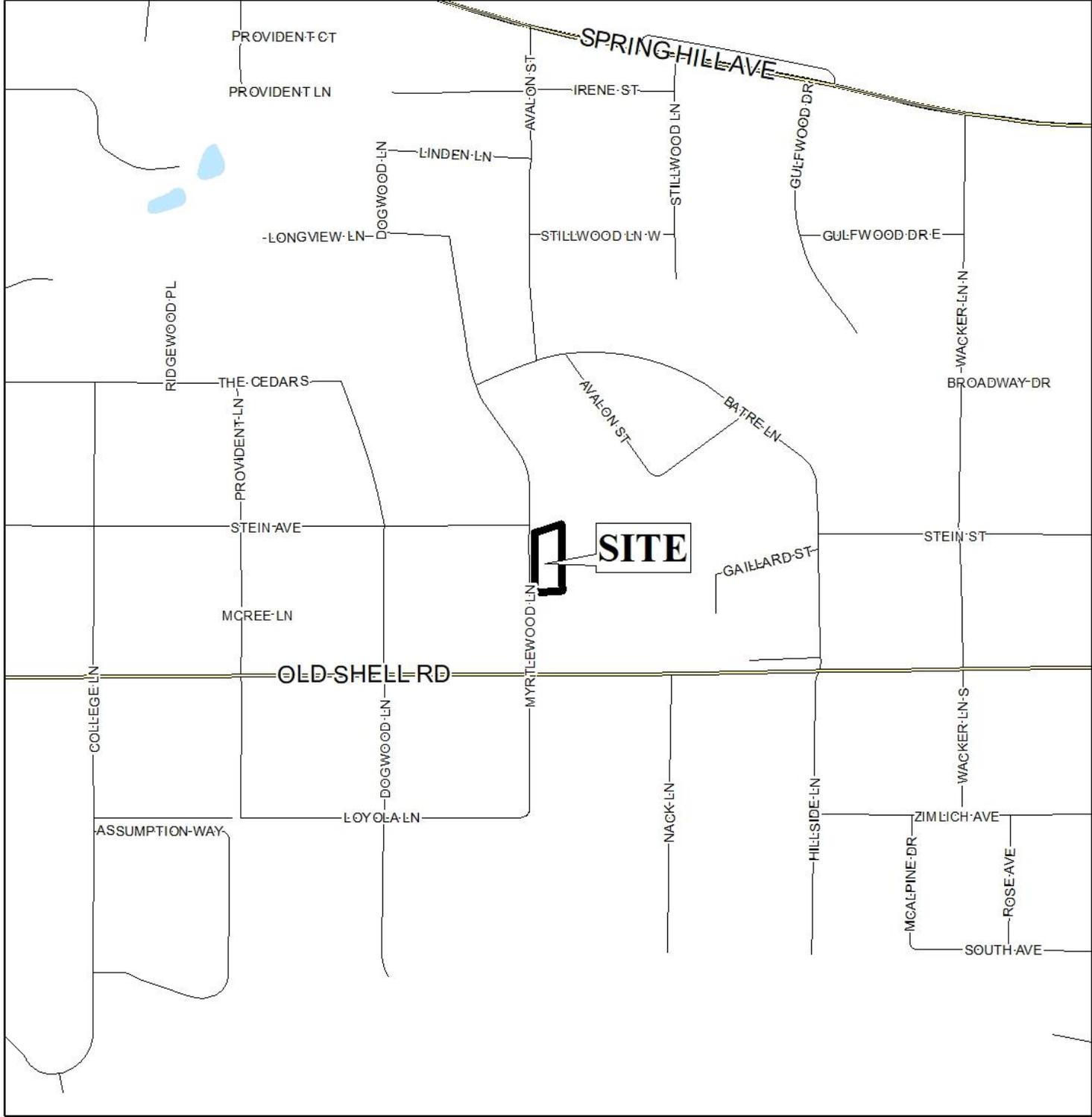
The revised site plan indicates the proposed minimum building setback line to be slightly over 15 feet back from the required dedication along Myrtlewood Lane, as opposed to the originally-requested setback of slightly over ten feet from the required dedication. This still indicates that the dwellings proposed for each of the two new lots are closer to Myrtlewood Lane than other existing dwellings along the street.

It should be noted that in 1980, the Sigler Subdivision, located immediately South of the subject site across the unnamed drive, was required to provide dedication equal to 25 feet from the centerline of Myrtlewood Lane, with a corresponding compliant 25-foot setback. As there have not been any similar Setback Variances within the immediate area, and as other subdivisions within the immediate area were required to comply with the standard 25-foot front setback, the allowance of a reduced setback would be contrary to the existing character of the area and prior applications.

RECOMMENDATION: *Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial:*

- 1) Approving the variance request will be contrary to the public interest due to the fact that there have not been similar variances approved within the vicinity of this site;*
- 2) Special conditions do not appear to exist, primarily the approval of reduced front yard setbacks, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) That the spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance in that it would be contrary to the existing character of the area and previously-approved front setback requirements.*

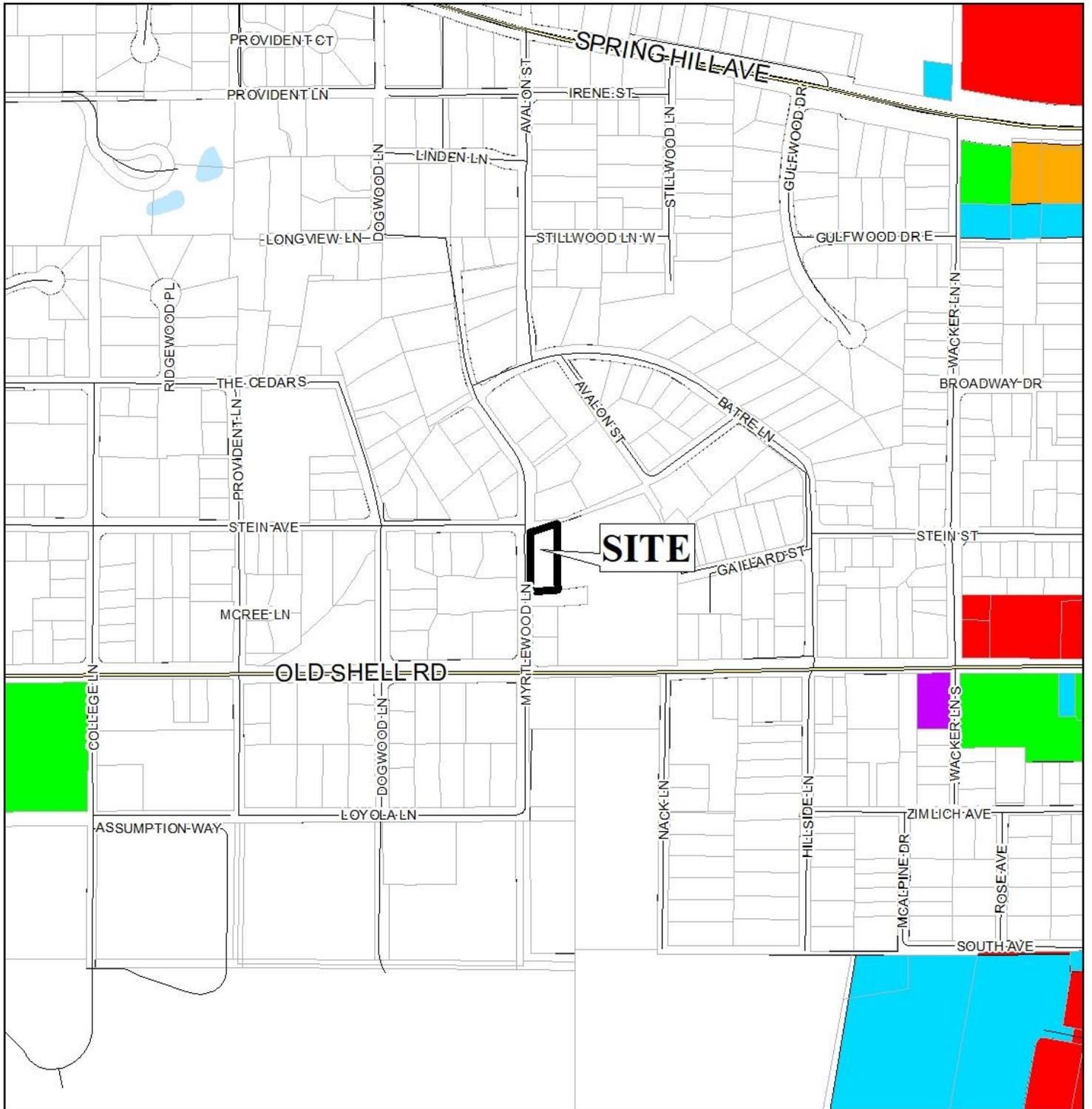
LOCATOR MAP



APPLICATION NUMBER	6374	DATE	May 3, 2021
APPLICANT	Steven Sheridan		
REQUEST	Front Yard Setback Variance		



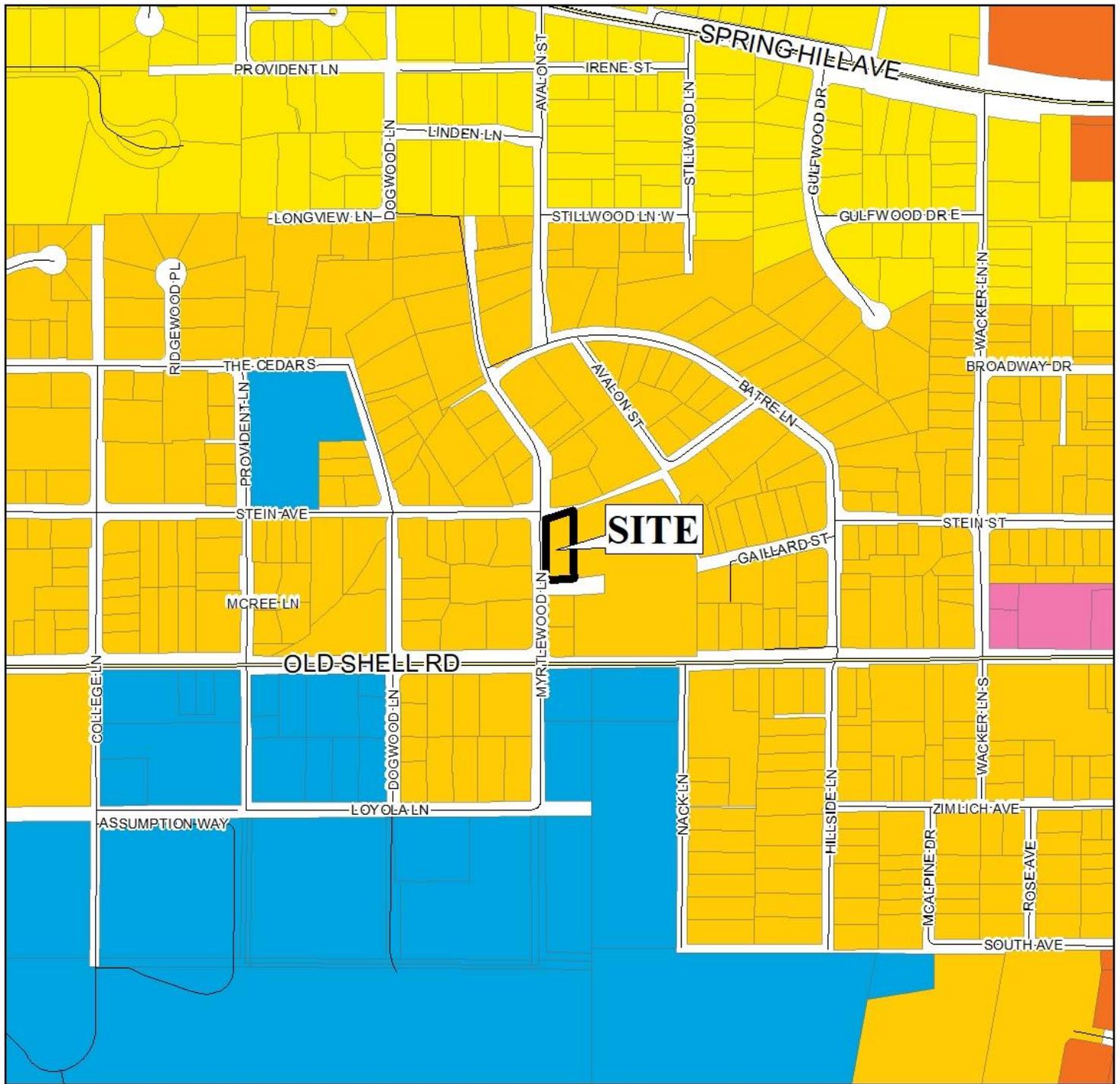
LOCATOR ZONING MAP



APPLICATION NUMBER 6374 DATE May 3, 2021
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FLUM LOCATOR MAP



APPLICATION NUMBER 6374 DATE May 3, 2021

APPLICANT Steven Sheridan

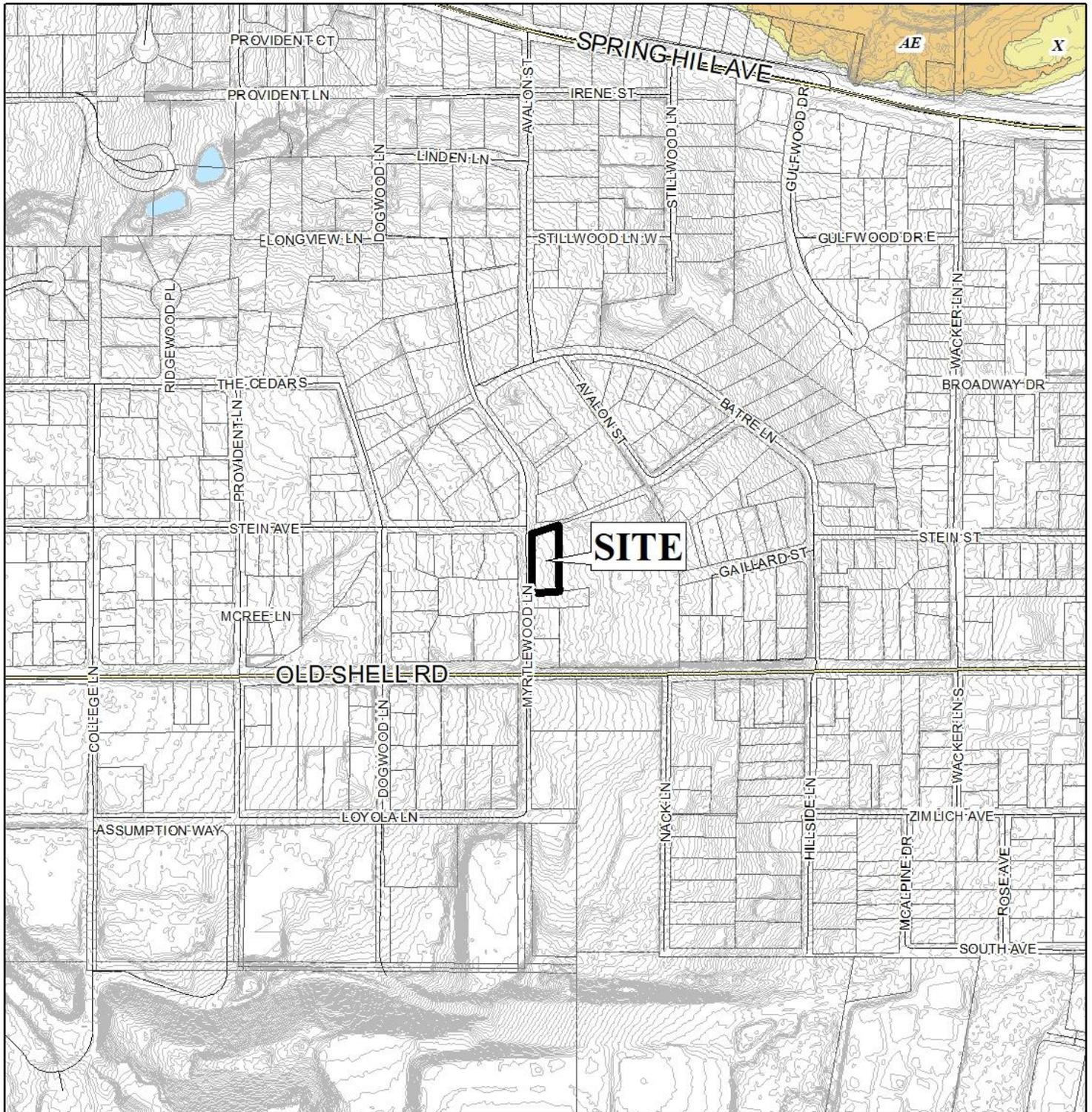
REQUEST Front Yard Setback Variance

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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



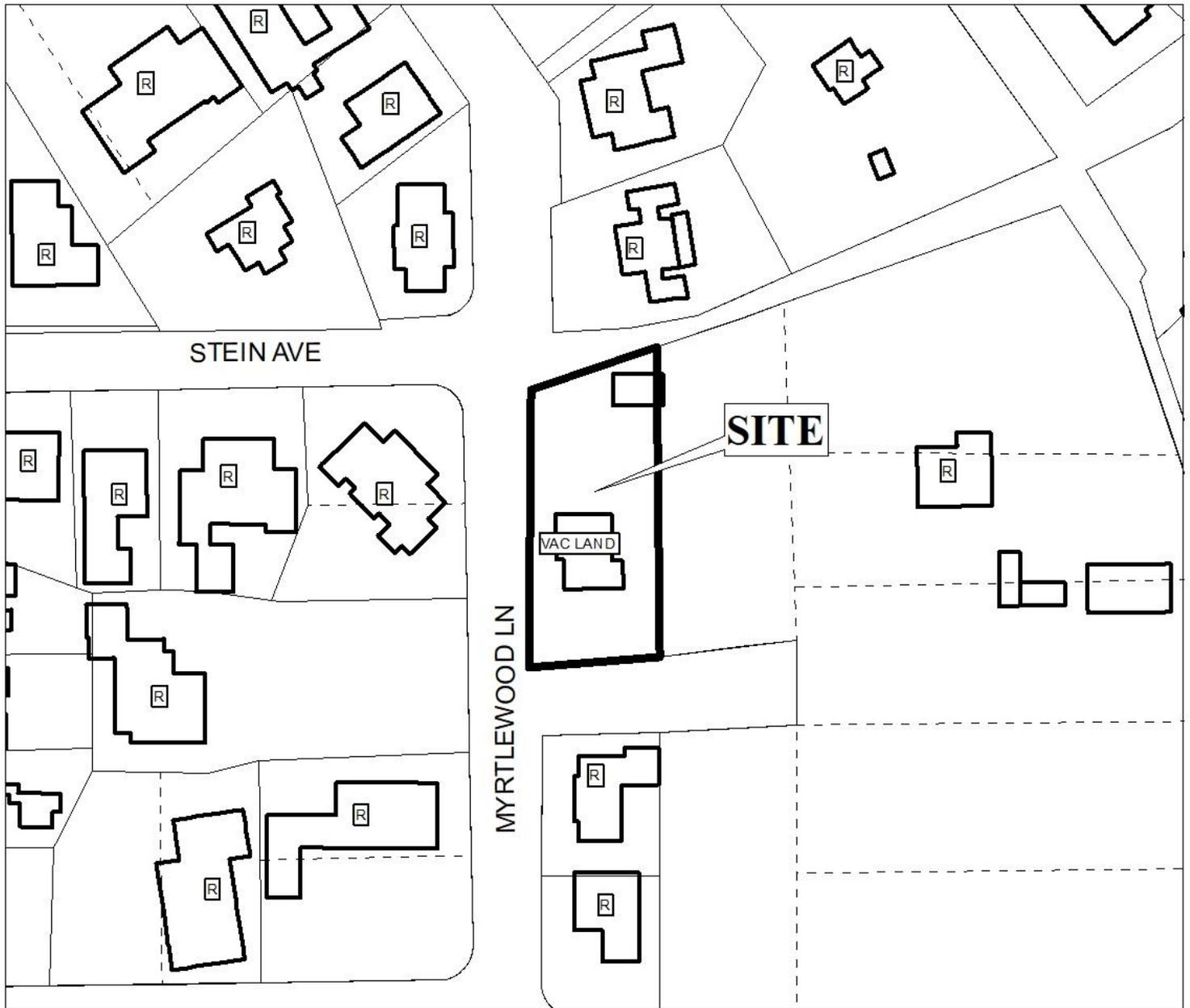
APPLICATION NUMBER 6374 DATE May 3, 2021

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REQUEST Front Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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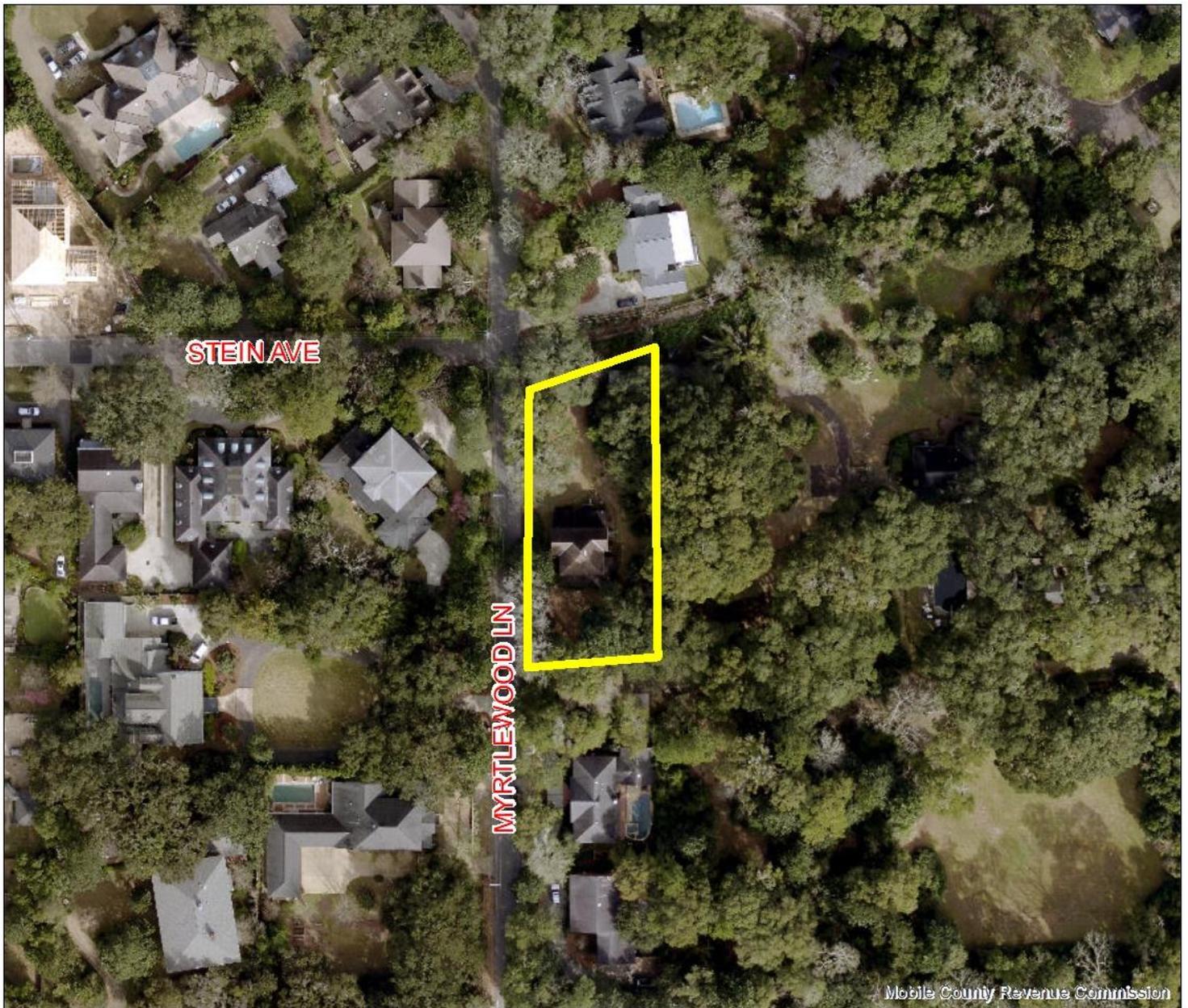
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REQUEST Front Yard Setback Variance

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**

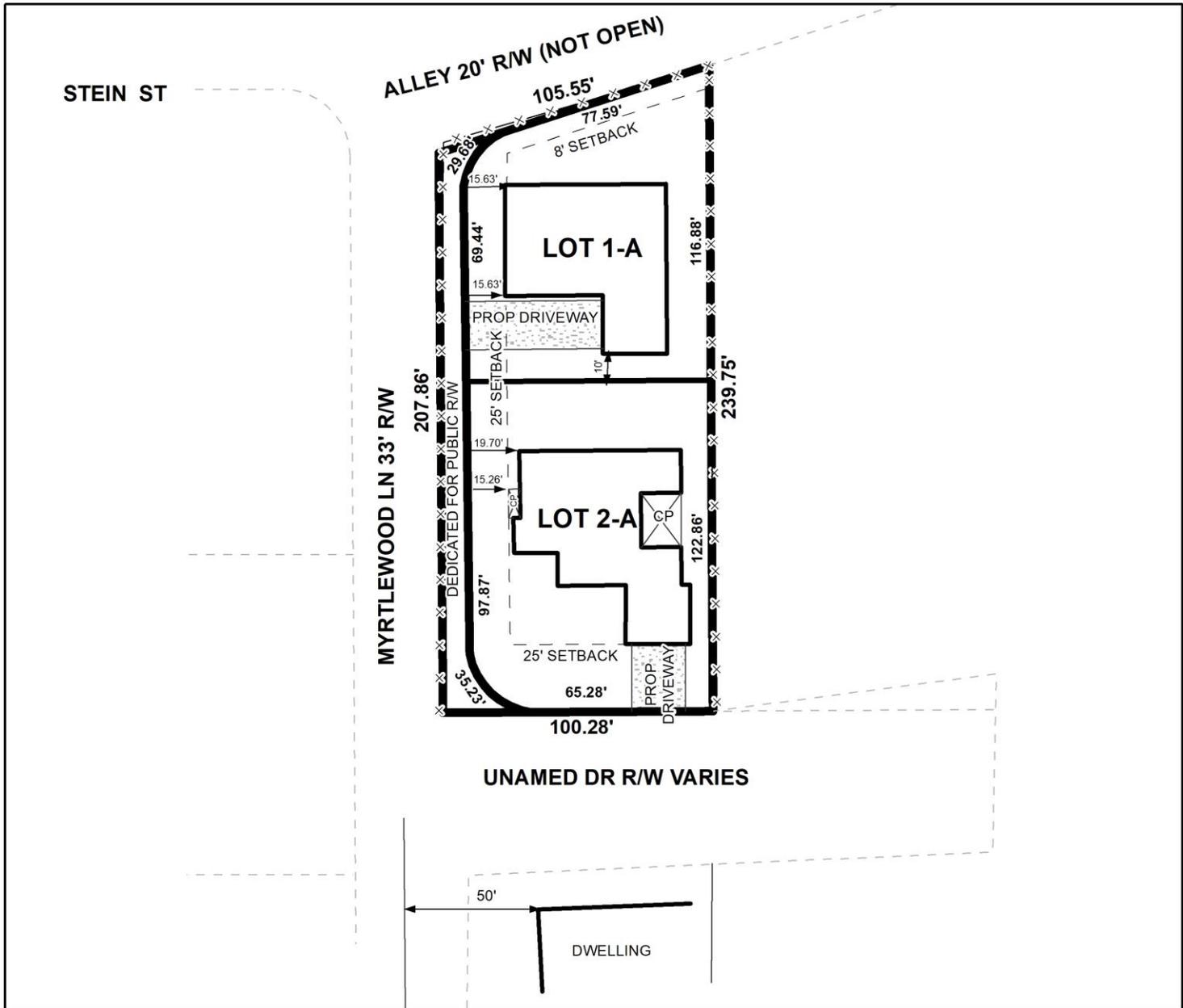


The site is surrounded by single family residential units.

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SITE PLAN



The site plan illustrates the proposed buildings, driveways, and setbacks.

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APPLICANT <u>Steven Sheridan</u>	
REQUEST <u>Front Yard Setback Variance</u>	