

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: October 2, 2017****CASE NUMBER**

6133

**APPLICANT NAME**

Sean Patrick Thomas

**LOCATION**

161 Dunn Avenue  
(East side of Dunn Avenue, 340'± South of Emogene Street.)

**VARIANCE REQUEST**

**FRONT AND SIDE YARD SIDE STREET SETBACKS:** Front and Side Yard Setback Variances to allow a structure within 7.8' of the front property line and 2.1' from the side property line in an R-1 Single-Family Residential District.

**ZONING ORDINANCE  
REQUIREMENT**

**FRONT AND SIDE YARD SIDE STREET SETBACKS:** The Zoning Ordinance prohibits any structures exceeding 3' in height within 25' of the front property line and within 8' of the side property line in an R-1, Single-Family Residential District

**ZONING**

R-1, Single-Family Residential

**AREA OF PROPERTY**

0.2 ± Acres

**CITY COUNCIL  
DISTRICT**

District 5

**ENGINEERING  
COMMENTS**

No Comments.

**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 61-929 and City Code Chapters 57 and 64).

**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). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code (2012 IFC).

**ANALYSIS**

The applicant is requesting Front and Side Yard Setback Variances to allow a structure within 7.8' of the front property line and 2.1' from the side property line in an R-1 Single-Family Residential District; the Zoning Ordinance prohibits any structures exceeding 3' in height within 25' of the front property line and within 8' of the side property line in an R-1, Single-Family Residential 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 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:

*"..Current improvements consist of a One Car Garage, located between the residential Dwelling and Dunn Avenue Right of Way. There exists a concrete drive which the current garage was built on top of which increases the site impervious area by approximately 6.8 square feet.*

*The currently constructed one car garage does not meet the current setback requirements of the city of Mobile Zoning Ordinance. The current garage is 7.8 feet from the right of way line of Dunn Avenue, where a 25 feet setback is required. The garage is 2.1 feet from the right side property line, where an 8 feet setback is required. The current total site coverage of buildings, walks and concrete slabs is 31 percent which is less than the 35 percent allowed by the Zoning Ordinance. Building site coverage does not include the wood patio deck and wood steps. The currently constructed garage does not meet the current setback requirements of the Mobile Zoning Ordinance which is the reason for this request for a Bulk/Site Variance. When the garage was constructed, it was constructed on top of the existing concrete drive and the owner and builder were not aware of the current setback requirements. There are currently existing structures within the subdivision of Westlawn that in violations of the city's setback requirements. See attached photographs of the 161 Dunn Avenue Site and other's in the subdivision."*

As stated, the applicant is seeking relief, from the Zoning Ordinance to allow a one-car garage that will encroach in the required front and side yard setbacks. Based on the statement from the applicant, this is an after-the-fact request. The applicant believes that the variance should be granted because the property owner as well as the builder of the garage was unaware of the requirements. The applicant also feels that the placement of the garage is consistent with others in the area that have structures that encroach in the 25' minimum building setback.

According to the applicant, there are several properties in the vicinity that appear to be in violation of the front and side yard setback requirements. The applicant has included photographs of the properties located at 150 Glenn Avenue and 2905 Ralston Road. The house at 150 Glenn Avenue located 590'± to the northwest, at the intersection of Glenn Avenue and Emogene Street, was permitted in 2011, and included a site plan that indicated a compliant front setback. As for 2905 Ralston Road, located 1,480'± to the southwest, it appears a garage or carport has existed in the front yard since 1975, per aerial photos.

It should be noted that the Planning & Zoning Department denied the request to permit the garage structure at 161 Dunn Avenue on June 23, 2017.

There have been several variances approved by the Board of Zoning Adjustment for properties in the vicinity in the past for reduced side yard setbacks. However, there are no known approvals for reduced front yard setbacks. The two properties that the applicant has identified appear to be in violation and do not appear to be permitted. This however, is not justification for approval.

It should also be noted that due to the configuration of the lot, the applicant has no vehicular access to the rear of the property. However, the dwelling is about 39'± from the front property line at its furthest distance. The applicant may have the option to re-orient or reduce the dimensions of the garage in order to come into compliance.

Also, it appears that various items in front of the garage limit vehicular access to the garage; instead the use of the structure may only be for storage.

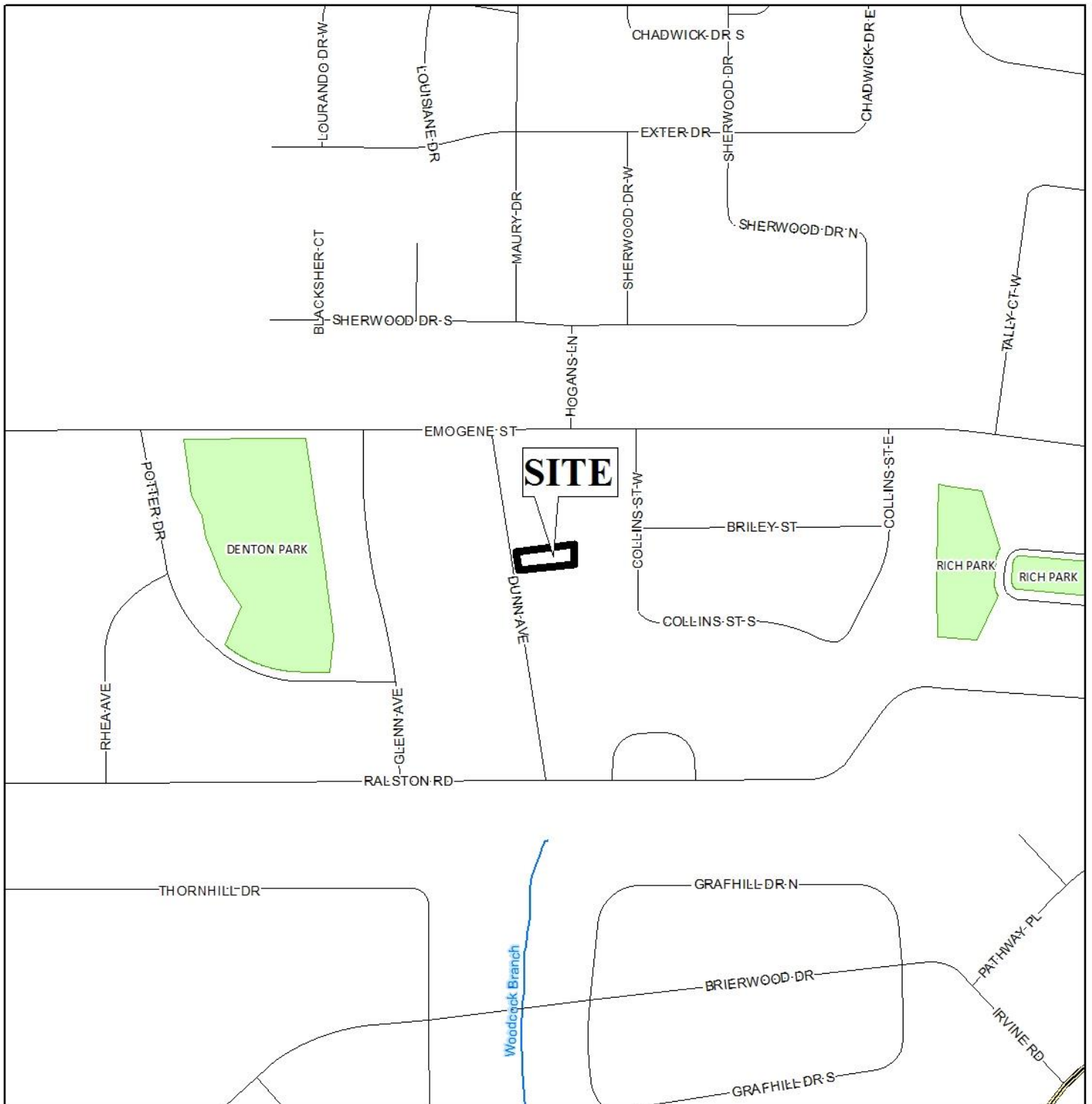
There are no conditions which exist at this site that would require the applicant to have a structure in the front yard that would encroach in the required 25' building setback. This application seems to be the merely the applicant's desire but does not appear to be a necessity. The applicant has not presented any hardship associated with the property or its configuration that would necessitate the approval of this request.

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

- 1) Granting the variance will be contrary to the public interest in that The Zoning Ordinance prohibits any structures exceeding 3' in height within 25' of the front property line and within 8' of the side property line in an R-1, Single-Family Residential District;
- 2) Special conditions do not exist and there are no hardships which exist, in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site can be developed without the requirement for a variance ; 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 the site can be developed in such a way that the garage could meet the setback requirements.

# LOCATOR MAP



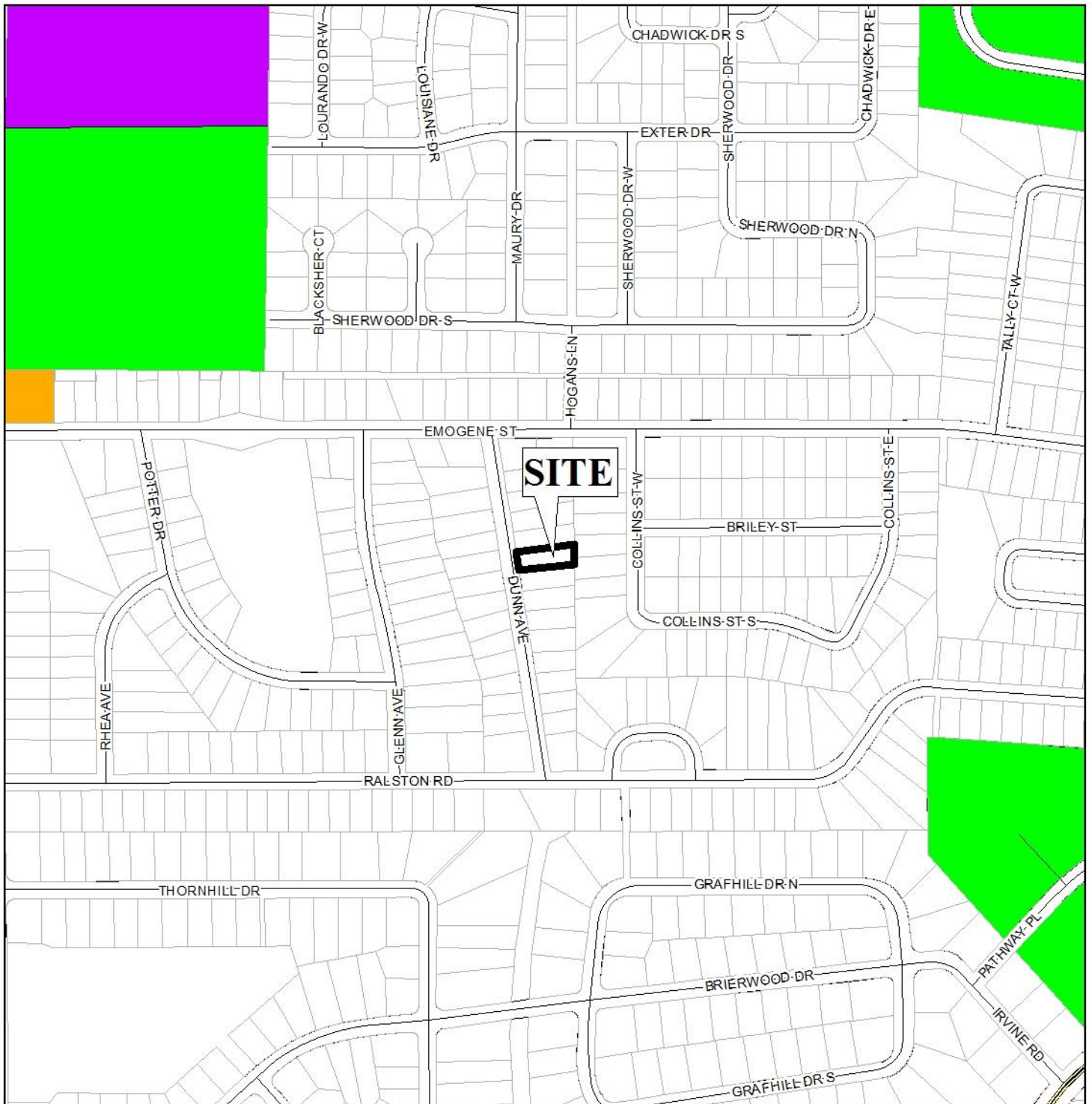
APPLICATION NUMBER 6133 DATE October 2, 2017

APPLICANT Sean Patrick Thomas

REQUEST Front and Side Yard Setback Variances



# LOCATOR ZONING MAP



APPLICATION NUMBER 6133 DATE October 2, 2017

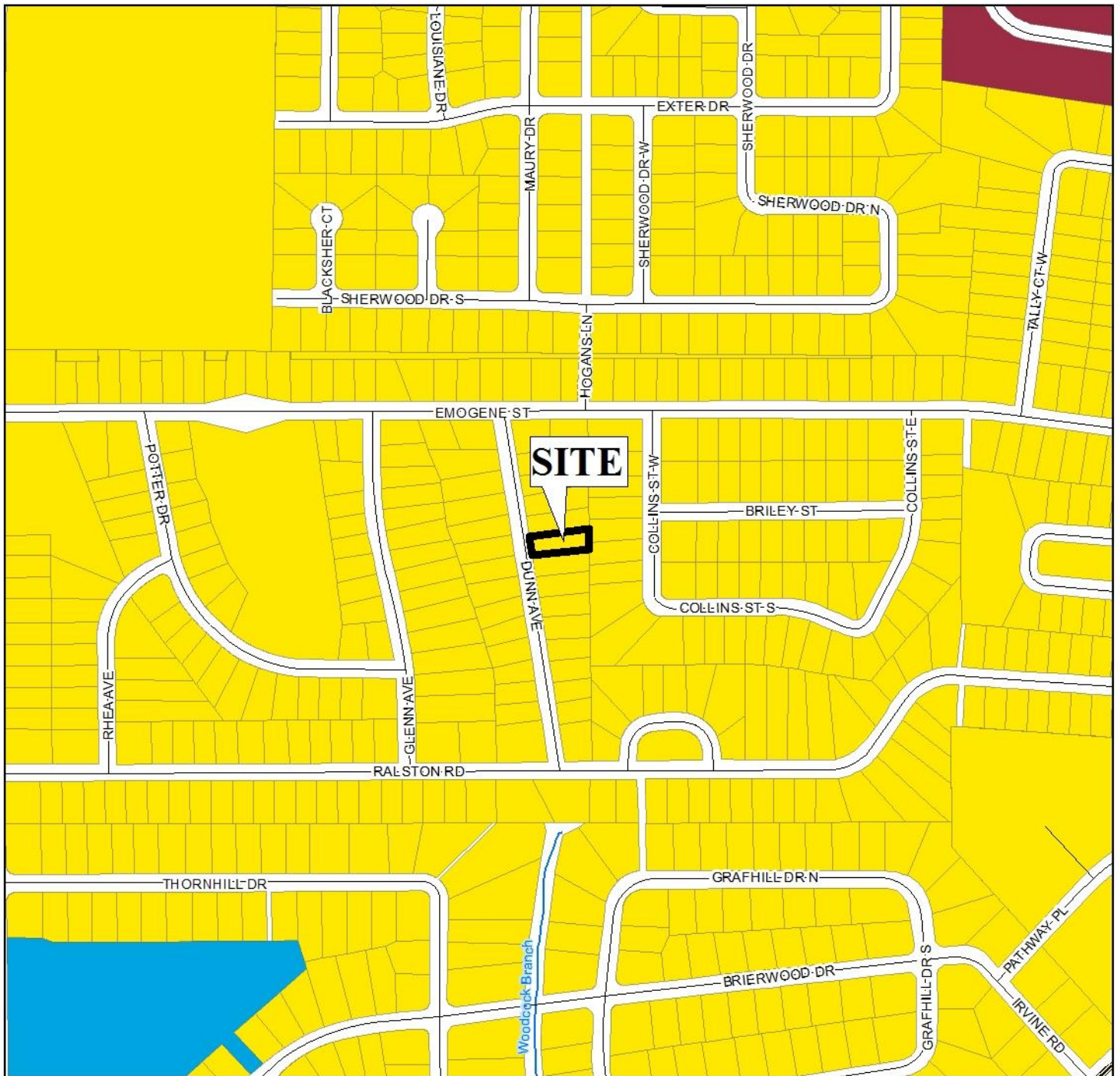
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# FLUM LOCATOR MAP



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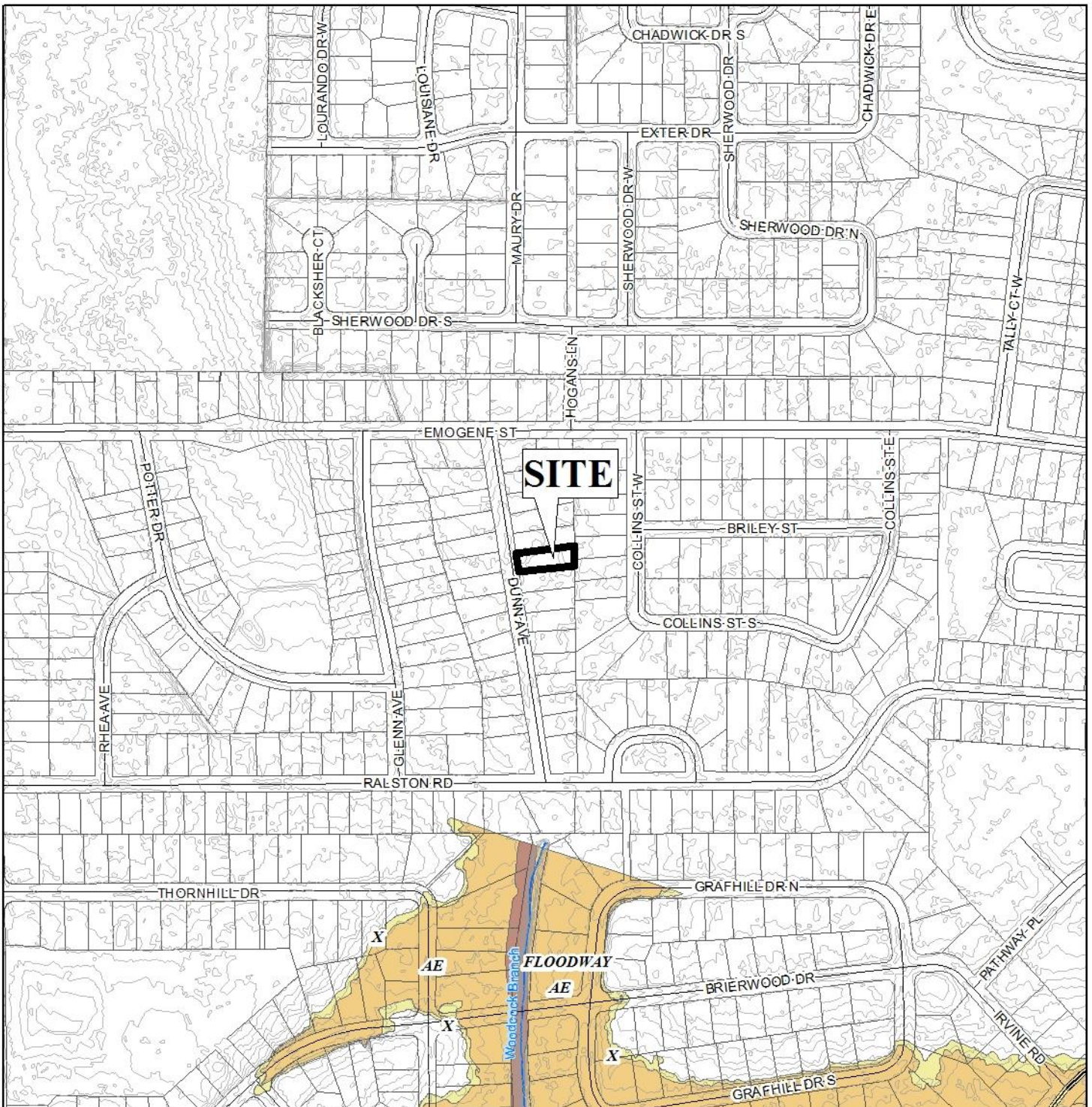
REQUEST Front and Side Yard Setback Variances

Low Density Residential	Neighborhood Center- Traditional	Downtown Waterfront	Water Dependent
Mixed Density Residential	Traditional Corridor	Light Industry	Parks & Open Space
Downtown	Neighborhood Center- Suburban	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 single family residential units.

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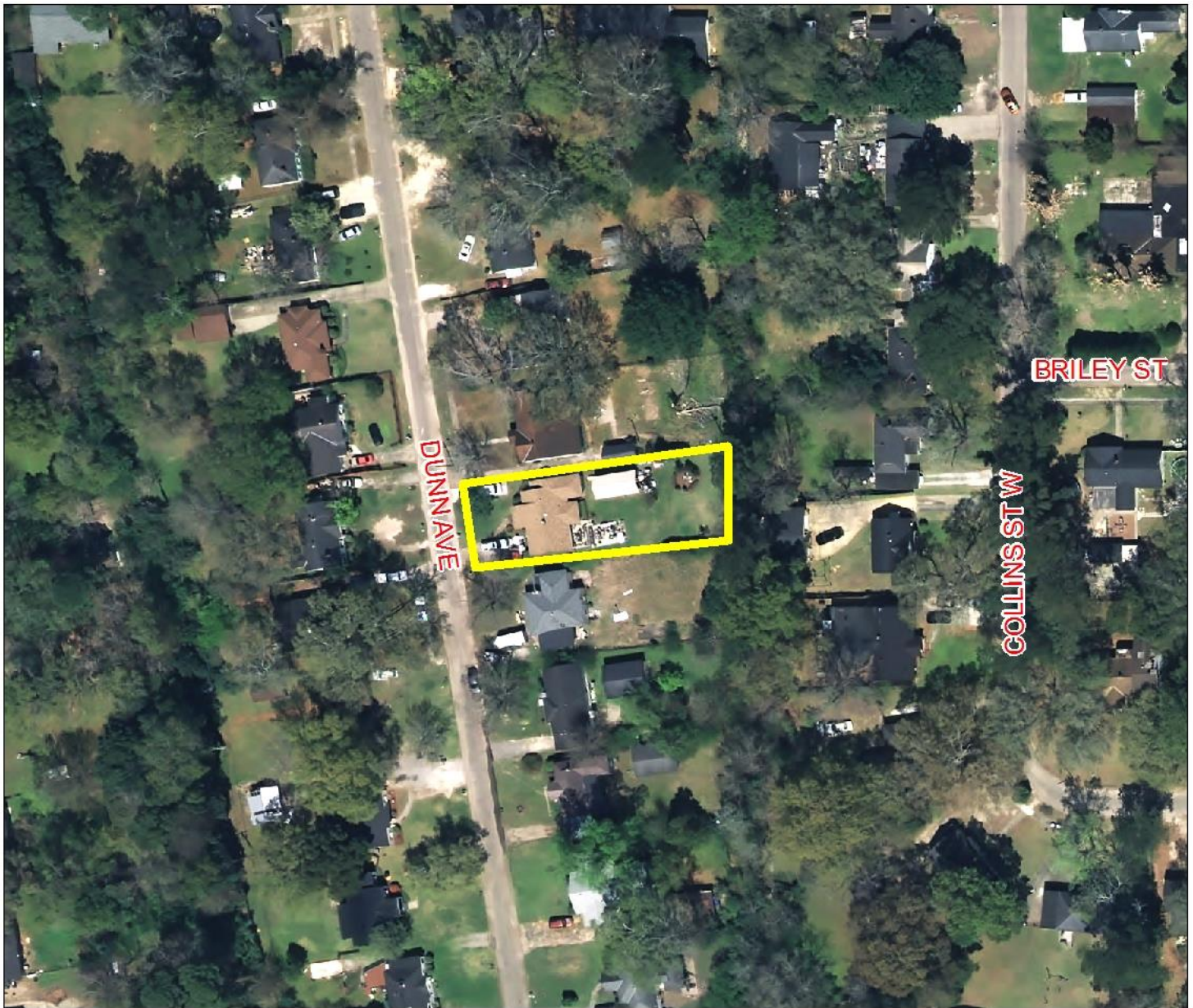
APPLICANT Sean Patrick Thomas

REQUEST Front and Side Yard Setback Variances

<span style="background-color: cyan; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-A	<span style="background-color: green; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> R-3	<span style="background-color: brown; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T-B	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-2	<span style="background-color: blue; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> B-5	<span style="background-color: yellow; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> MUN	<span style="background-color: orange; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> SD-WH	<span style="background-color: purple; border: 1px solid black; display: inline-block; width: 15px; height: 10px;"></span> T5.1
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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL



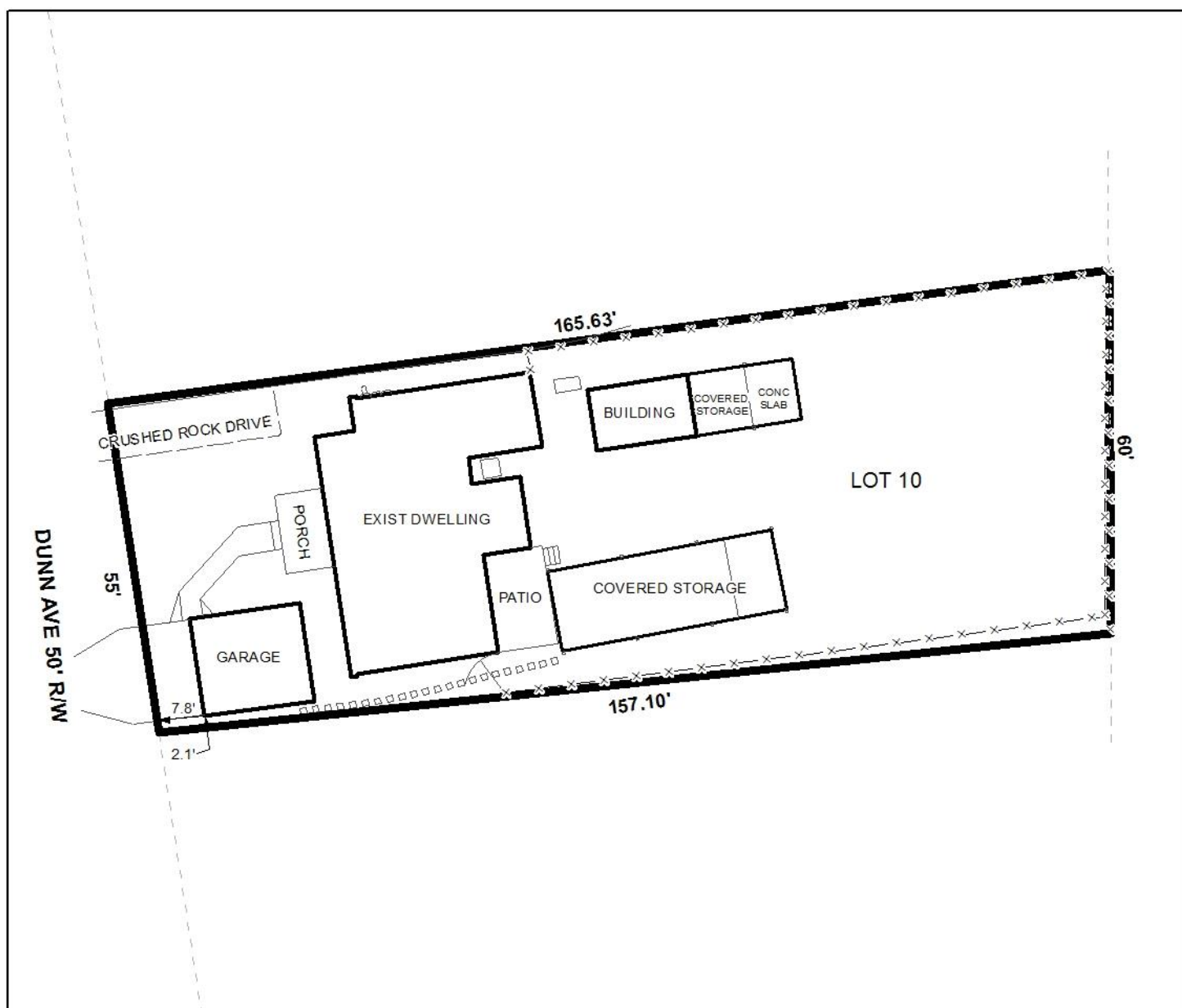
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# SITE PLAN



The site plan illustrates the existing buildings, slabs, and storage.

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