

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 6, 2020****CASE NUMBER**

6301/5741

APPLICANT NAME

Joseph M. Fesenmeier

LOCATION3771 Amruth Drive
(South side of Amruth Drive, 255'± East of Fenwick Road)**VARIANCE REQUEST****USE:** Use Variance to allow an accessory dwelling unit to include kitchen facilities in an R-1, Single-Family Residential District;**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance does not allow accessory dwelling units to include kitchen facilities in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.5± Acre

**ENGINEERING
COMMENTS**

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

1. Submit and receive a Land Disturbance Permit through Central Permitting for any proposed site development.
2. Submit a ROW Permit for any proposed work within the Public ROW.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

**URBAN FORESTRY
COMMENTS**

No comments.

**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).

CITY COUNCIL
DISTRICT

District 5

ANALYSIS

The applicant is requesting a Use Variance to allow an accessory dwelling unit to include kitchen facilities in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow accessory dwelling units to include kitchen facilities in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) 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 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 semidetached, 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.

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's narrative states:

To whom it may concern:

Please accept this as my description of our project and request for a variance on our property at 3771 Amruth Dr., Mobile, AL 36608.

We purchased the house at 3771 Amruth Dr. in May of 2019. In September of this year my wife's mother sold her house and 10 acres that it sat on. She asked if she could live with us. We are requesting approval to build a small structure connected to our house by a carport and breezeway for her to live in. We are also asking for a stove variance for her space. My wife's mother is 74 years old and in good health, but it is important for us and for her well being for her to be with us in case anything would happen.

The addition will be at the end of the driveway and in the back yard. It will consist of a 2 car carport and an enclosed storage area. Attached to the carport will be the approx. 1100 sq ft living space for my mother in law. We are also planning on adding an improved "outdoor living space" on the back of the house. Enlarging the covered back patio and pouring cement floor. All the additions will be in the back of the house and nothing is going above one story. There will be no change, or disruption to the aesthetics of the street or the neighborhood. We plan to start on the project immediately after approval.

Thank you for your consideration,

It should be noted that a Side Yard Setback Variance was granted for a previous owner in 2012 to allow a proposed carport addition within 5' of a side property line. However, the building permit for that addition was cancelled and the addition was never added.

The applicant proposes to add a garage/accessory dwelling addition onto the existing single-family dwelling on the subject property. Accessory units are allowed in R-1 districts, but are limited to activities such as recreational rooms and occasional overnight guest use. The inclusion of full kitchen facilities would constitute a second dwelling unit on a property zoned for use as a single-family dwelling; thus this Variance request.

The building design plans submitted with the application indicate the 1,100± square foot living area addition to include a full kitchen, two bedrooms, one bath, and a large living room. In essence, the proposed addition would be capable of accommodating a full family.

Pertaining to the request, the applicant has not provided justification as to what hardships would prevent the property from being used in compliance with the current R-1 zoning classification.

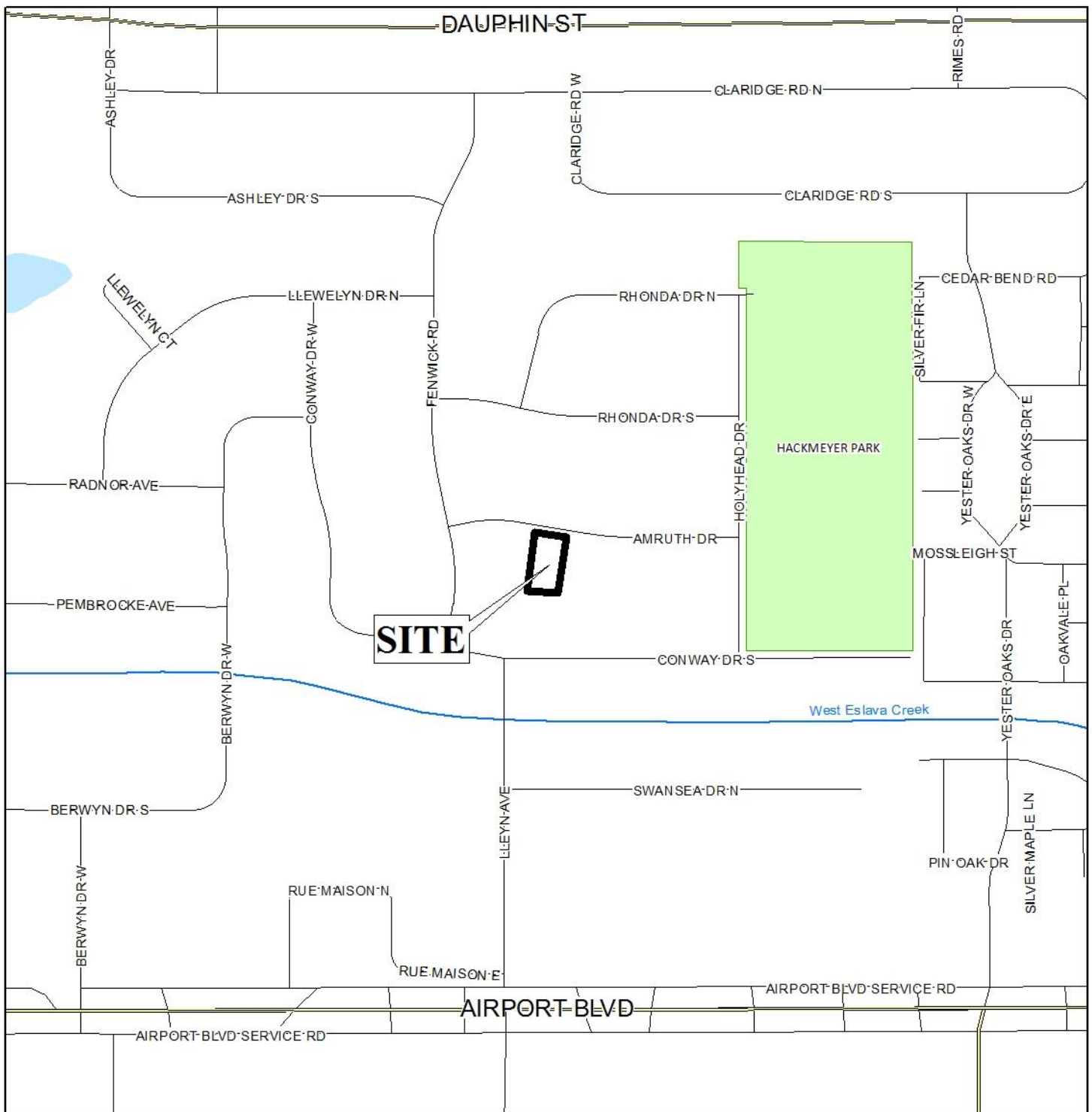
The subject site is within a developed single-family residential subdivision and surrounded by R-1 zoning and use. There have not been any similar Use Variance requests granted within the immediate area, and the allowance of the proposed use as a second dwelling unit would be out of character with the surrounding single-family residential uses.

The applicant has not illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship. As the subject site and surrounding neighborhood were developed as single-family housing, there are no unusual characteristics of the property that satisfy variance standards; therefore, the Board should consider this request for denial.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Denial of the Use Variance request:

- 1) Approving the variance will be contrary to the public interest in that the use would be contrary to the established zoning classification and use of both the site and surrounding neighborhood as single-family residential;
- 2) Special conditions were not illustrated such that the literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 use would be incompatible to an established R-1 District.

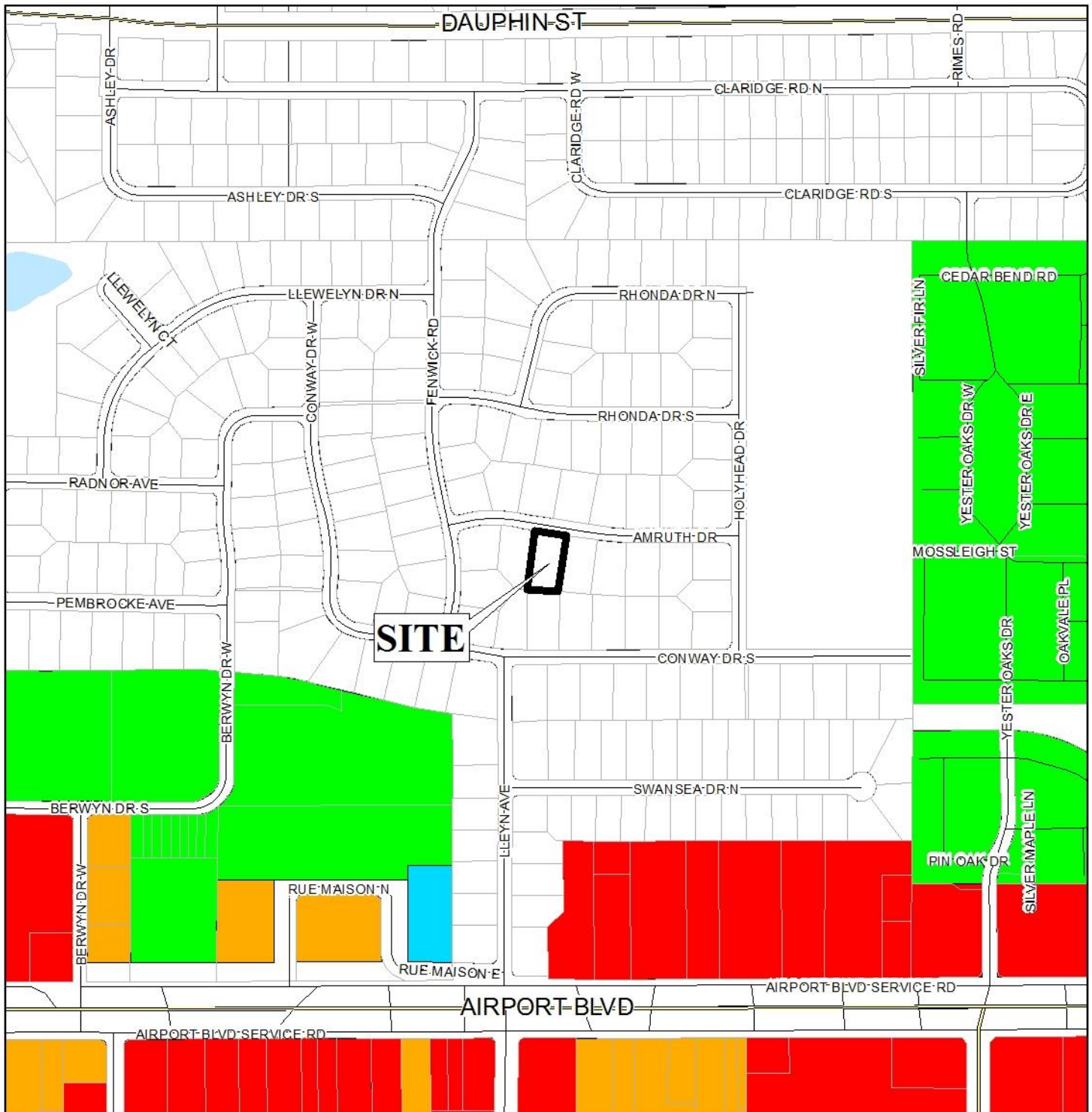
LOCATOR MAP



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LOCATOR ZONING MAP



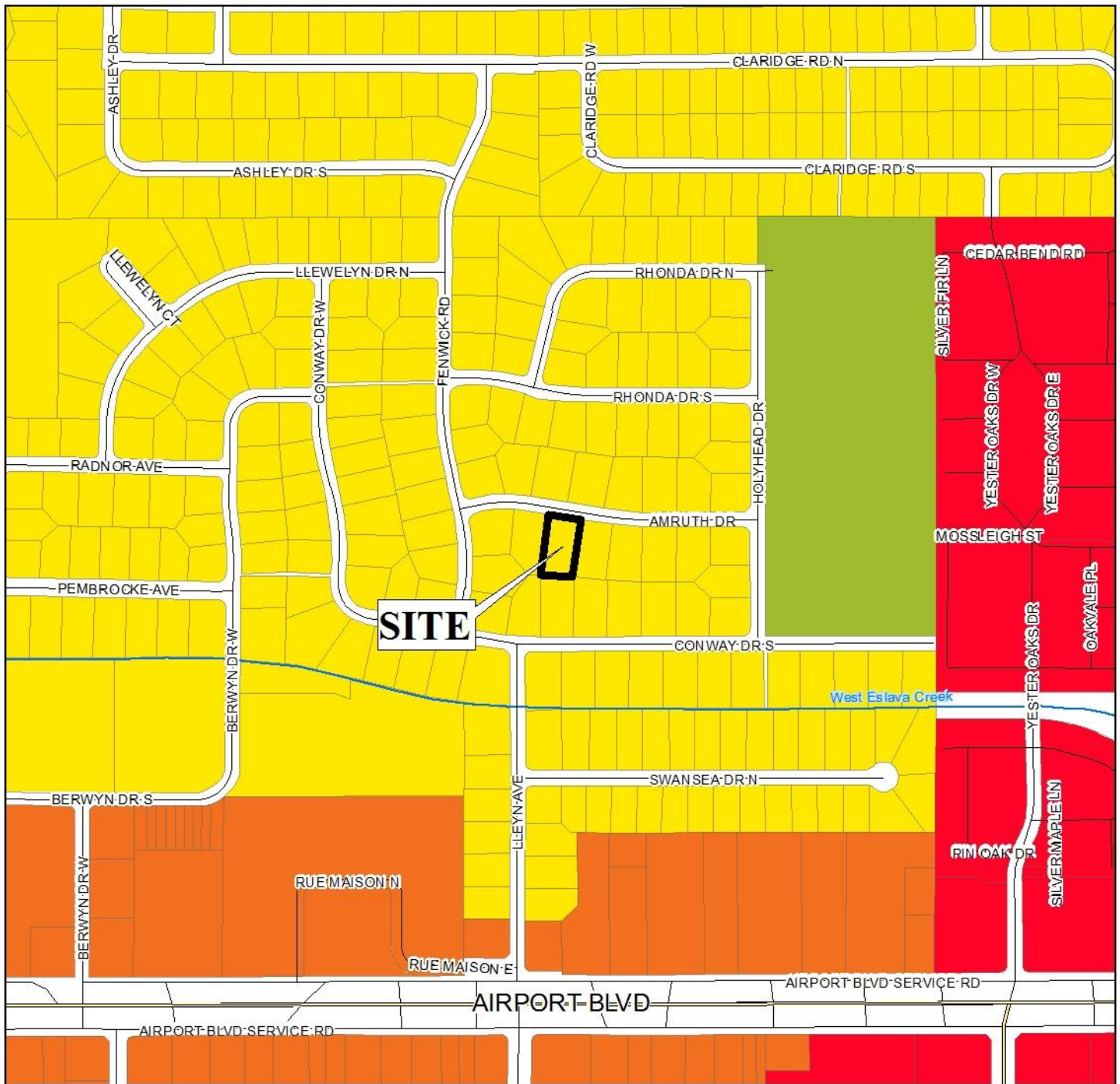
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FLUM LOCATOR MAP



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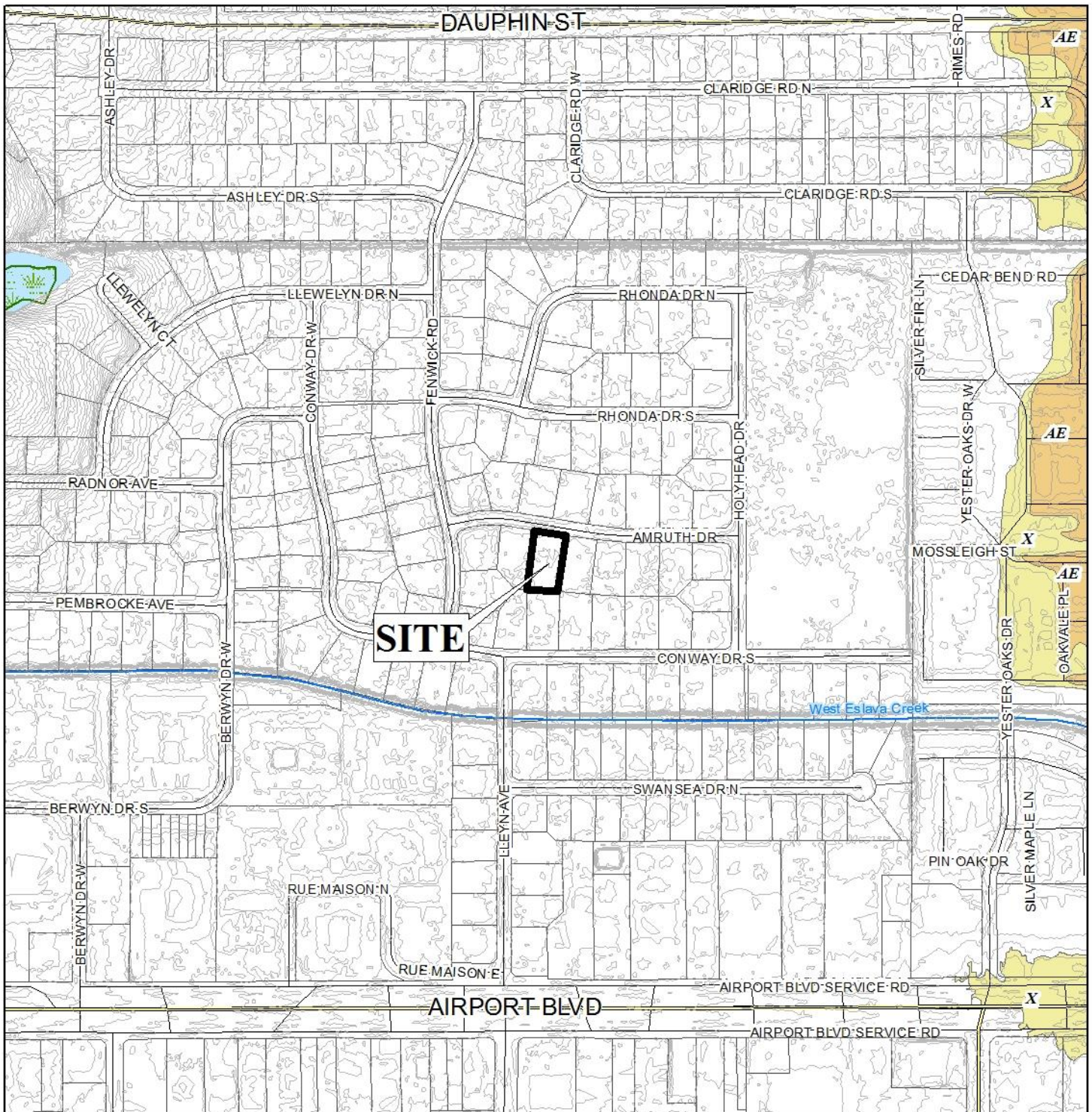
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REQUEST Use Variance

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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VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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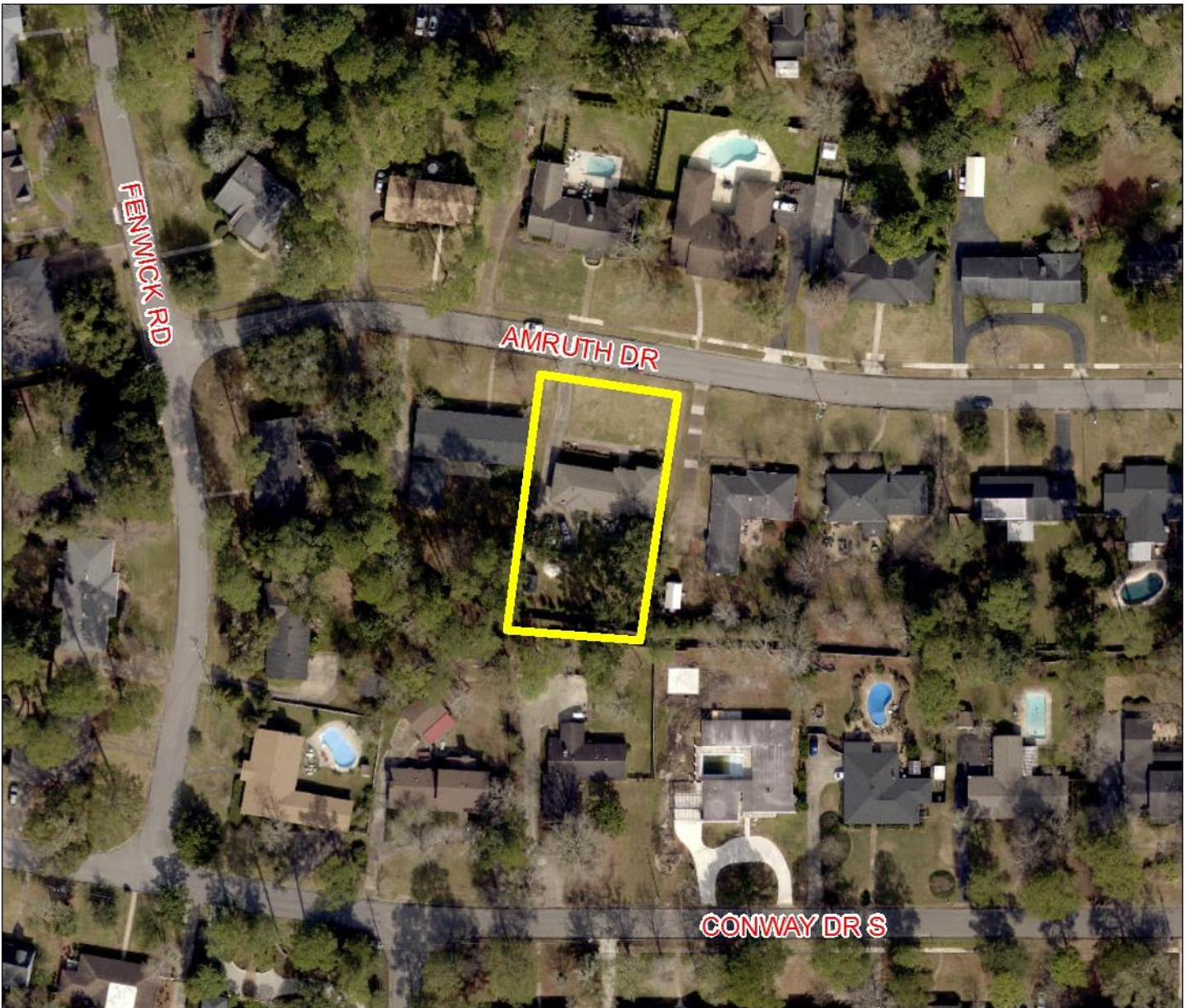
REQUEST Use Variance

 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



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VICINITY MAP - EXISTING AERIAL

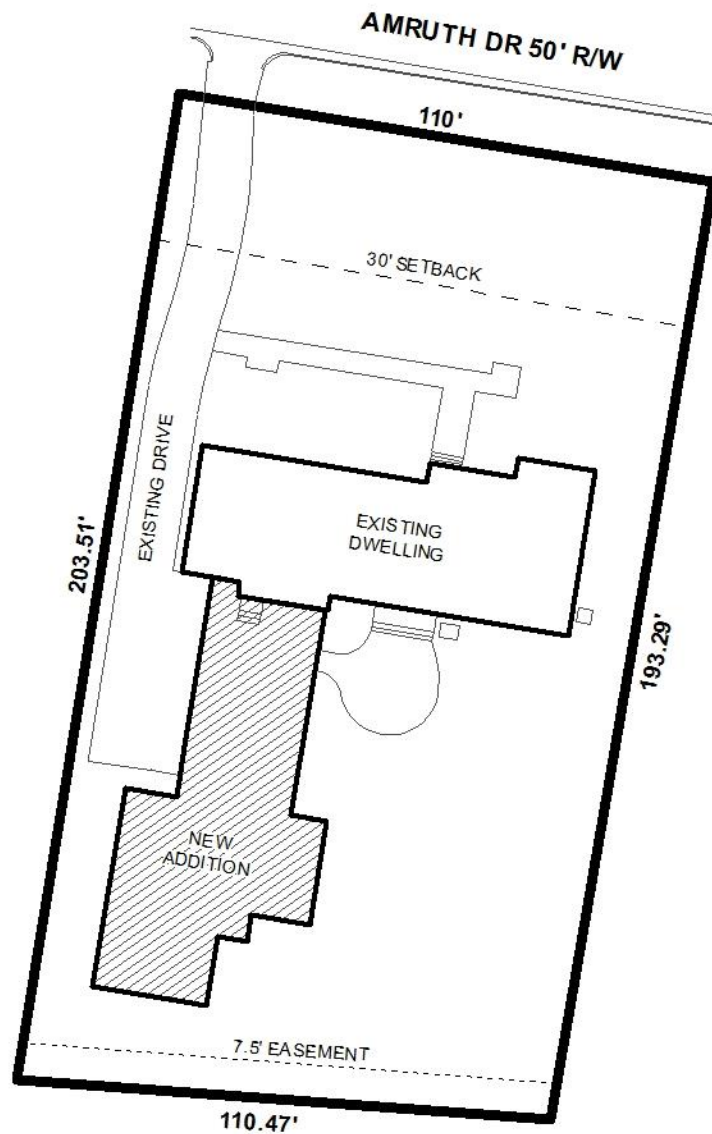


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SITE PLAN

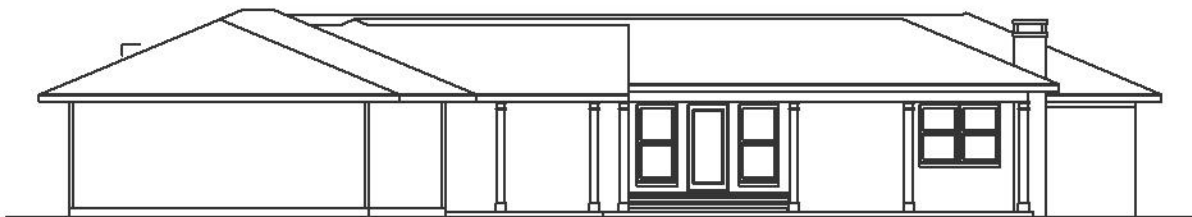
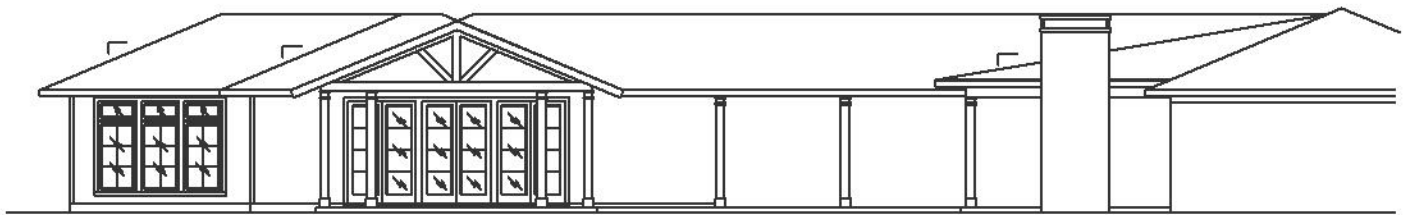
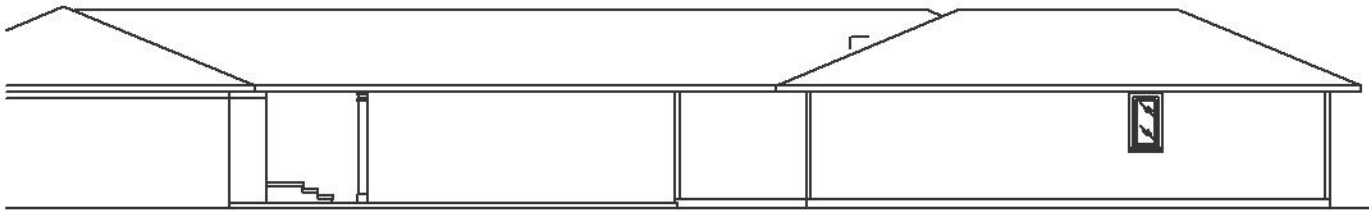


The site plan illustrates the new addition, existing dwelling, setbacks and easements.

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DETAIL SITE PLAN



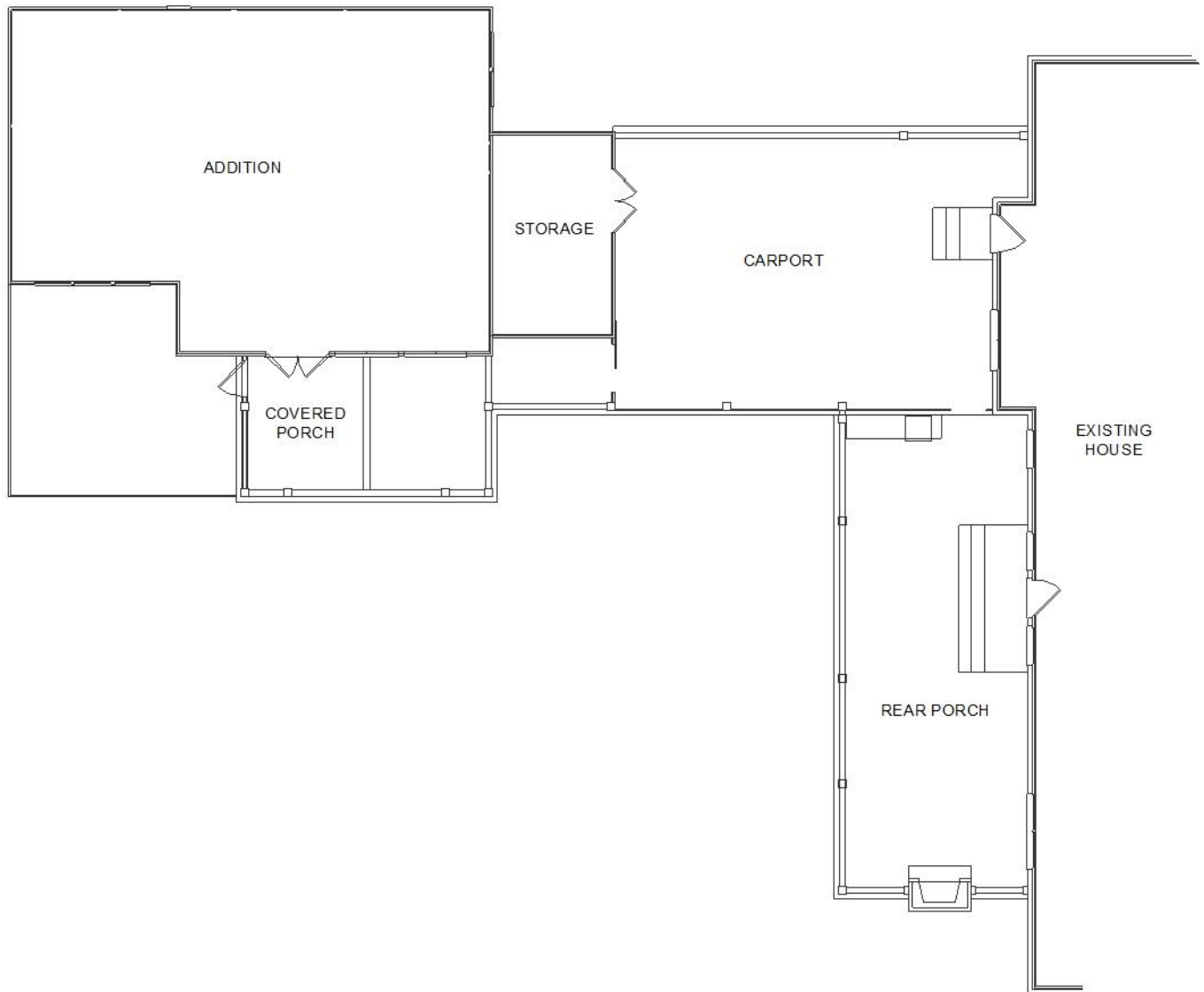
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