

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: April 5, 2021

CASE NUMBER 6373

APPLICANT NAME Steven R. Sheridan

LOCATION 1 Ridgelawn Drive East
(Northwest corner of Ridgelawn Drive East and Old Shell Road).

VARIANCE REQUEST **SETBACK:** To allow a ten-foot side yard setback and an eight-foot high wall along the side street property line in an R-1, Single-Family Residential District.

ZONING ORDINANCE REQUIREMENT **SETBACK:** The Zoning Ordinance requires a 25’ side yard setback, and requires any structure three feet high or more to meet the 25’ setback in an R-1, Single-Family Residential District.

ZONING R-1, Single-family Residential District

AREA OF PROPERTY 0.3± 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

Intersection line of sight should not be adversely affected by the construction of the wall proposed along Old Shell Road. In addition, the traffic signal at this intersection operates twenty-four hours a day with no programmed flashing operation.

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 a Setback Variance to allow a ten-foot side yard setback and an eight-foot high wall along the side street property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' side yard setback, and requires any structure three feet high or more to meet the 25' 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.

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:

We are submitting variance for a 2-lot subdivision along Ridgelawn Road East to allow a reduced setback along Old Shell Road. We have submitted for the 2-lot subdivision and are bringing a variance to this board to seek a reduction of setback along Old Shell Road at the recommendation of the Planning Department. We are requesting a 10-foot setback along Old Shell Road to allow the home as shown on the site plan for proposed Lot 1-B to be placed in a manner that fits surrounding conditions. Also, as part of this request the owner would like to build an 8-foot wall along the existing right of way to provide additional physical barrier between the right of way and this property. It would also serve as a noise reducer to both this property and surrounding properties. We believe both the request for an allowance for an 8-foot wall along Old Shell Road and reduction of setback to 10 feet on this side street would not be out of character for this and other developments that exist in the area. We ask that this request be considered to allow Lot 1-B to obtain both of these requests and have attached our site plan to show the proposed use and character.

We thank you in advance for your consideration

The site was the subject of a two-lot subdivision which was approved by the Planning Commission at its March 18, 2021 meeting. On the preliminary plat for that subdivision, for Lot 1-B (the subject site for this application), a ten-foot minimum building setback line was proposed

from the Old Shell Road right-of-way, as was an eight-foot high wall along the Old Shell Road right-of-way, the same as indicated on the site plan for this application. One of the conditions of approval of the subdivision was “*retention of the ten-foot minimum building setback line along Old Shell Road, or whatever reduced setback is approved by the Board of Zoning Adjustment, or revision of the plat to indicate a 25-foot minimum building setback line along Old Shell Road if the Setback Variance request is not approved*”. As this portion of Old Shell Road is not on the Major Street Plan, and has a compliant 50-foot right-of-way width, no dedication of right-of-way was required by the subdivision approval.

It should be noted that walls exist in the neighborhood, either by variance or are “grandfathered”, and the proposed wall would not be out of character with the neighborhood. There have been other similar structural setback variance requests in the area approved by the Board to allow fences or walls directly on the right-of-way line. Staff can substantiate the applicant’s claim that the proposed wall would be in character with others in the neighborhood. In those instances, as in this, no clear hardship was identified related to the property but, instead, emphasis was put on privacy and neighborhood harmony. To that end, this request would follow in that same spirit and would not seem to be out of character in this neighborhood given the fact that other similar requests have been approved setting a precedence for approval of this request.

Pertaining to the requested ten-foot side yard setback, it would follow that, as the future right-of-way width of Old Shell Road is proposed to remain the same, and as variances for other reduced side street yard setbacks have been approved within the area, the request at hand would be similar to previous approvals and the Board should consider the current request for approval.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for approval of requests for a ten-foot side yard setback and an eight-foot high wall along the side street property line in an R-1, Single-Family Residential District:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that similar requests have been approved by the Board for nearby properties for walls of similar size and location;
- 2) Special conditions exist, such as the fact that other properties within the neighborhood have fences and walls close to the street property line, and reduced side street setbacks have been approved, 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 request is similar to and not uncommon for other properties within the Spring Hill area.

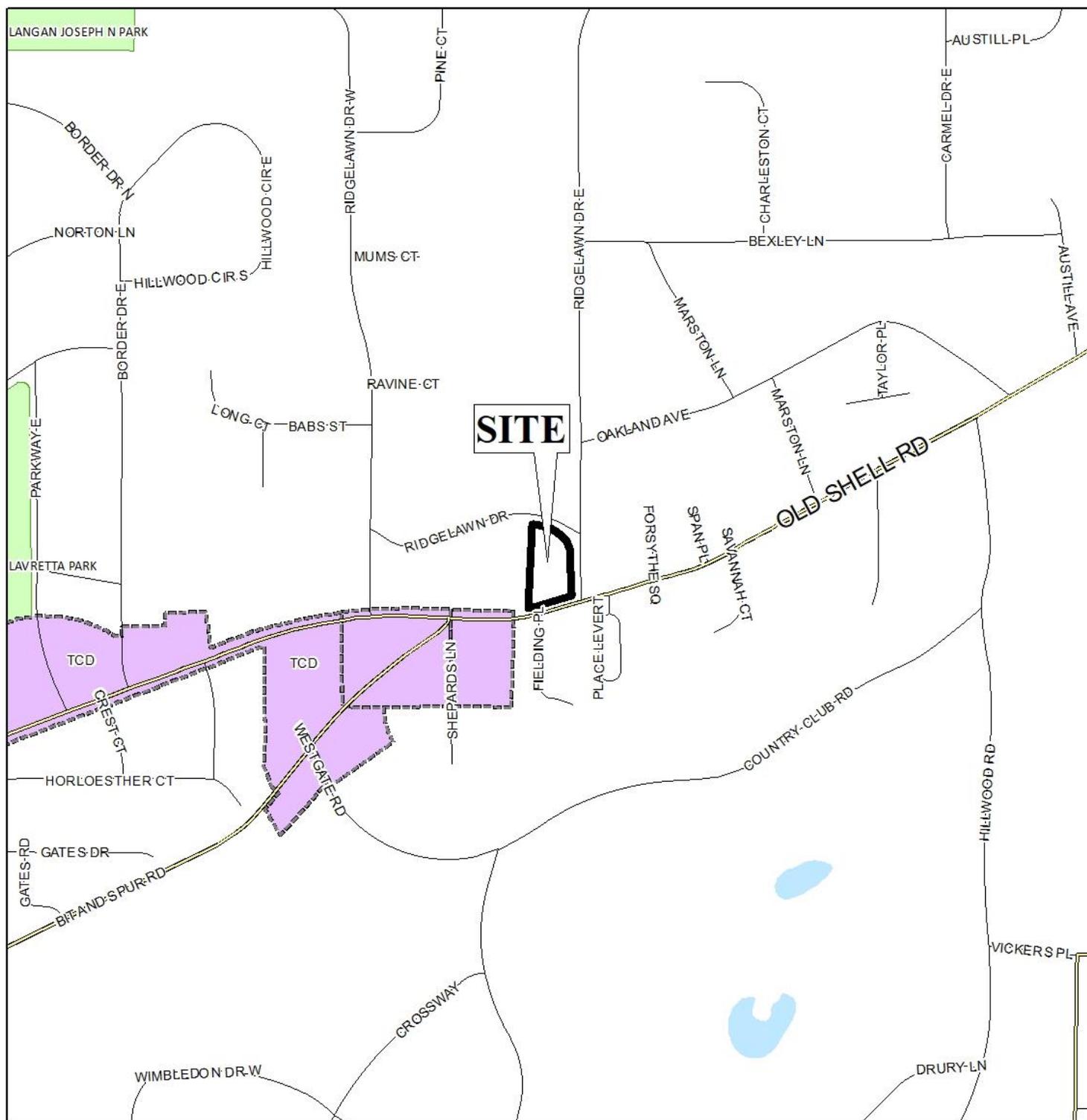
The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the wall;
- 2) subject to the 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.); and

- 3) full compliance with all municipal codes and ordinances.

LOCATOR MAP



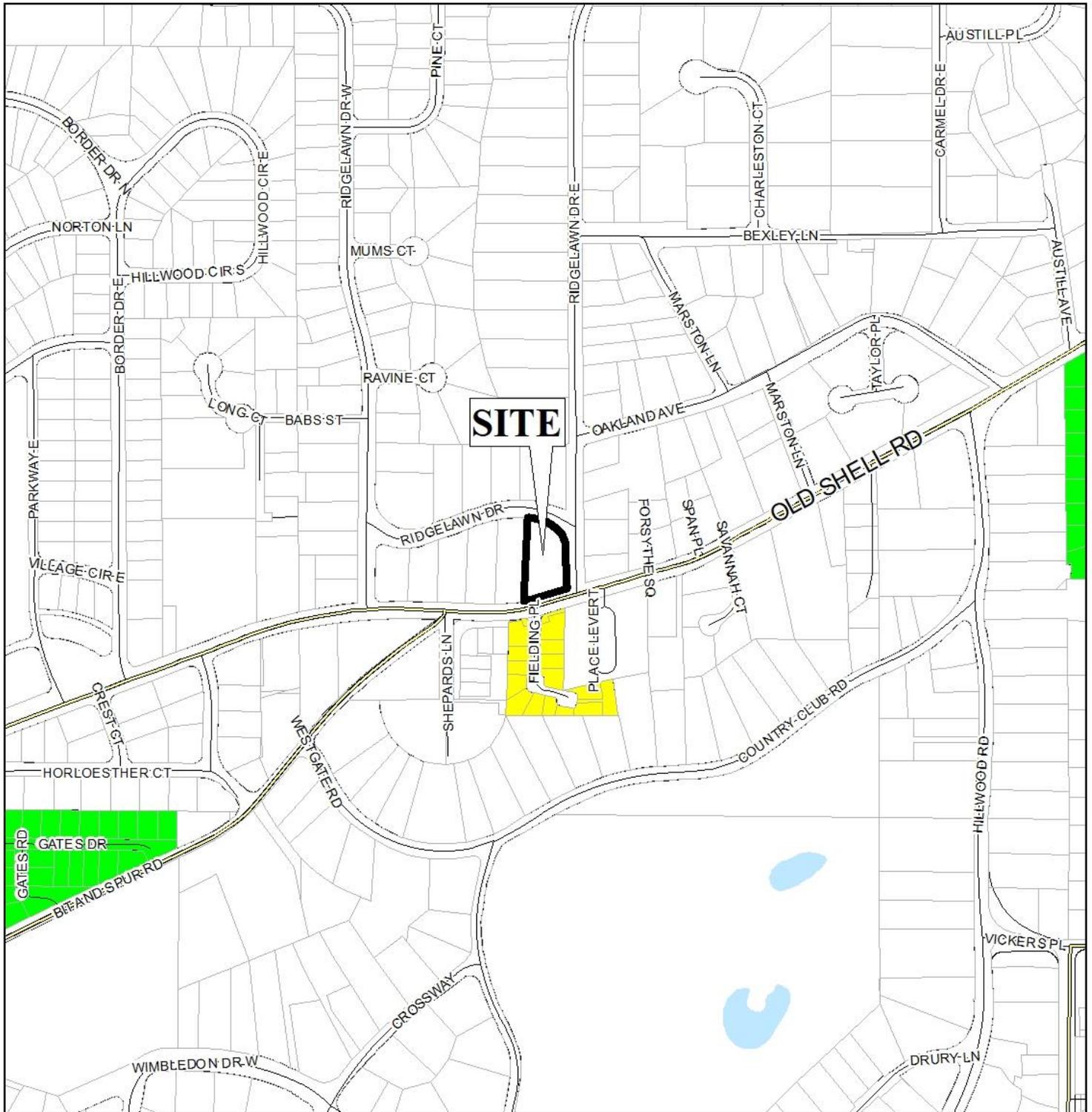
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REQUEST Setback Variance



LOCATOR ZONING MAP



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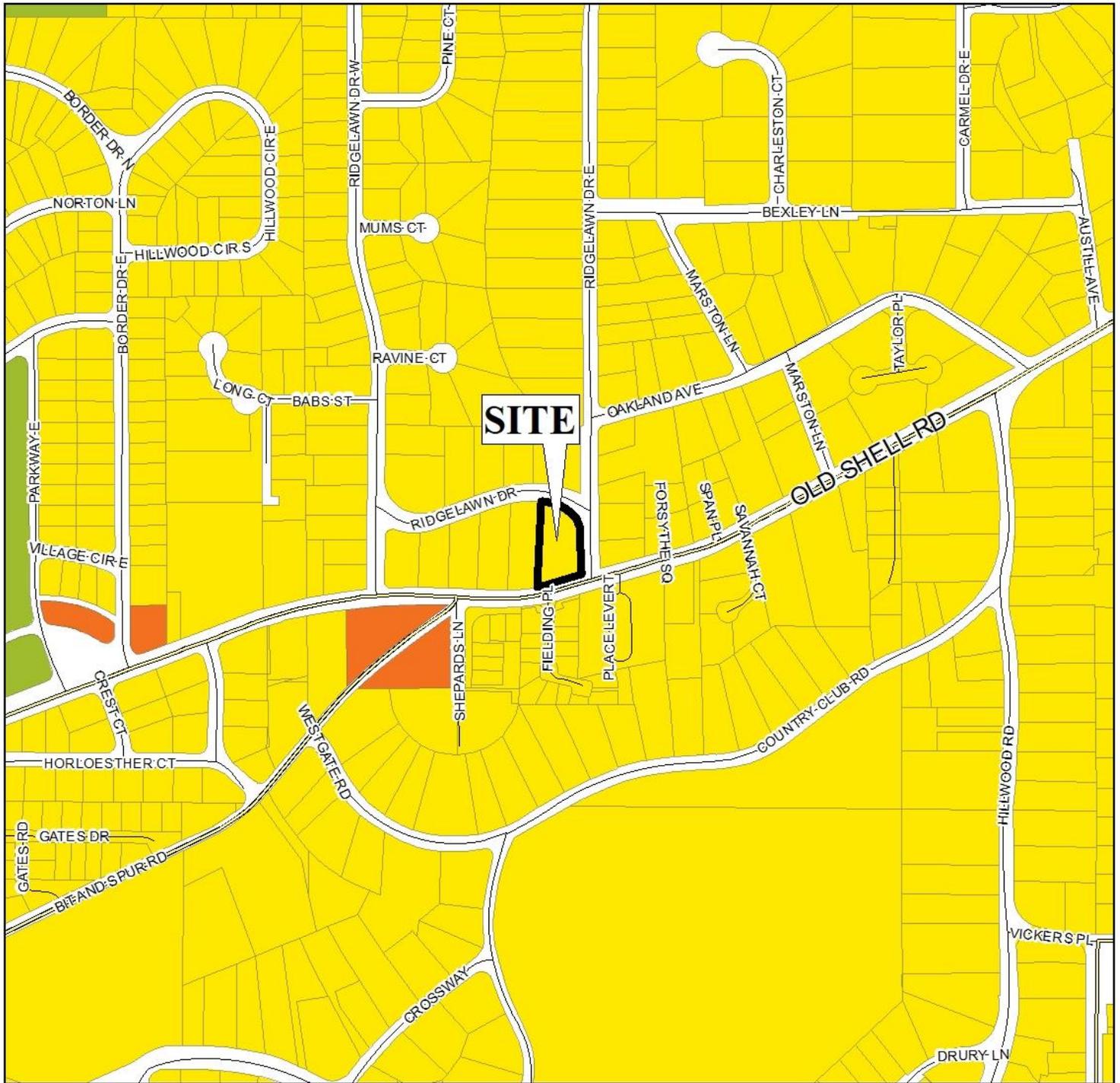
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FLUM LOCATOR MAP



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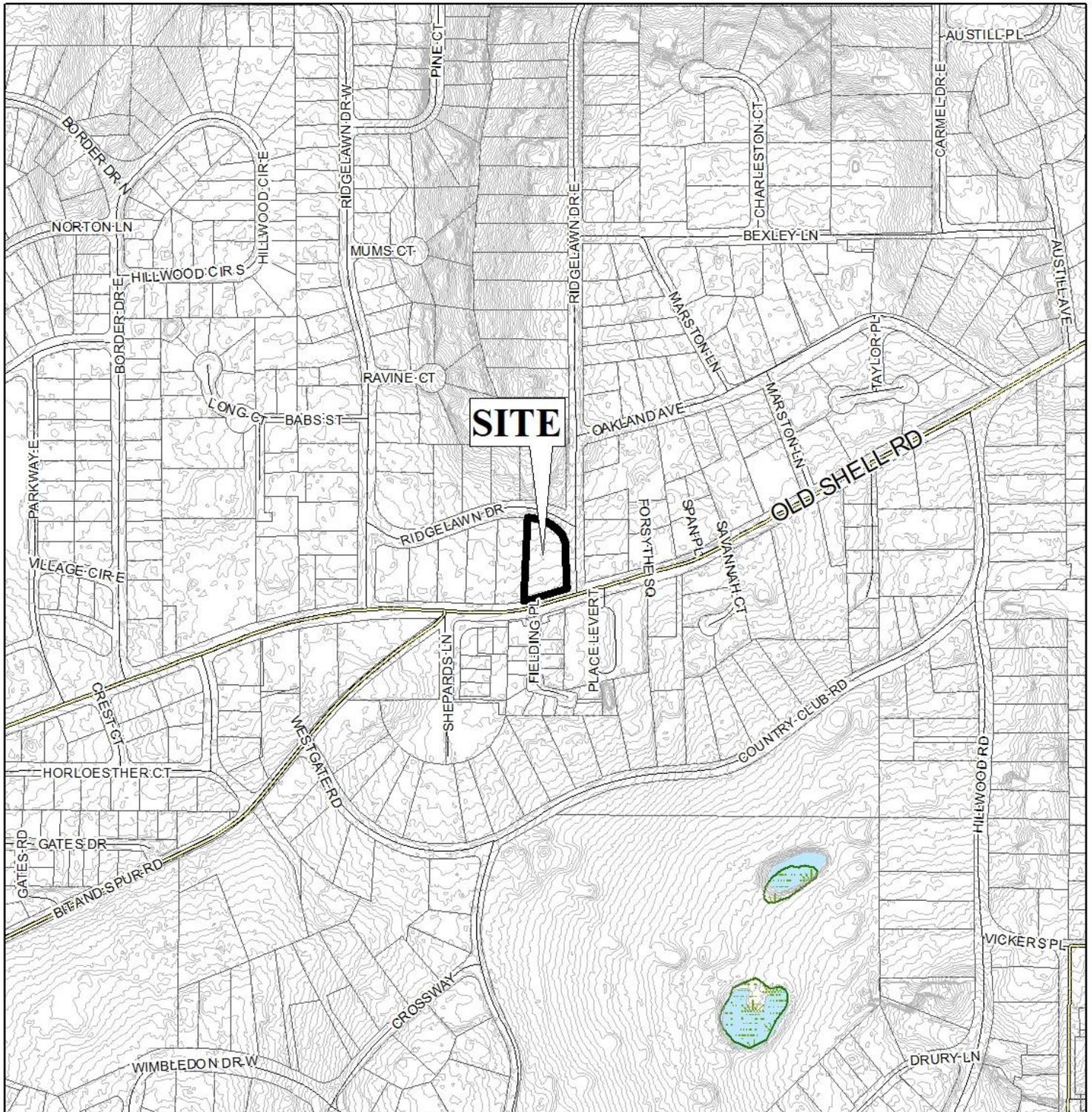
REQUEST Setback Variance

- | | | | |
|---|--|---|--|
| 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 | |



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ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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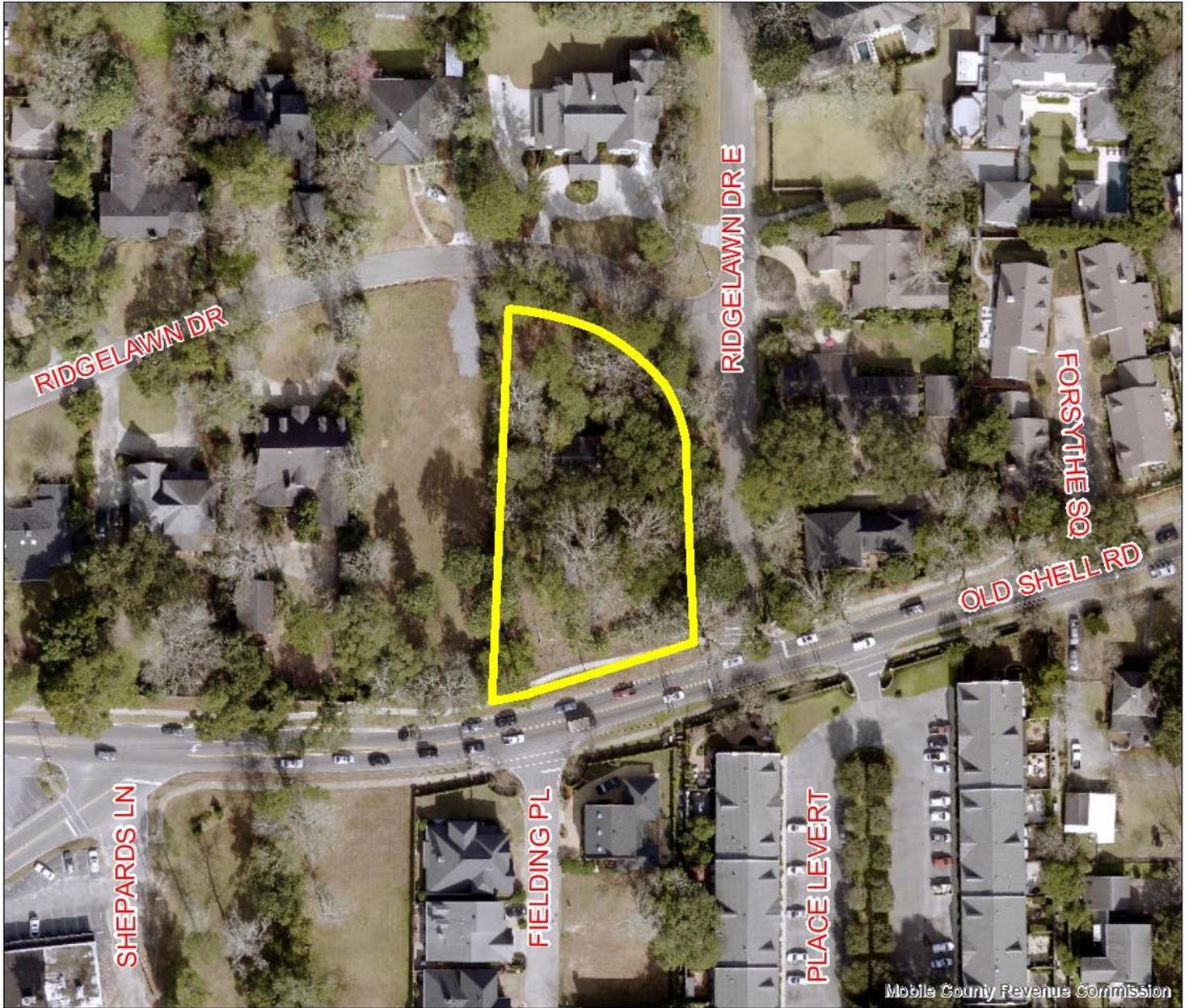
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

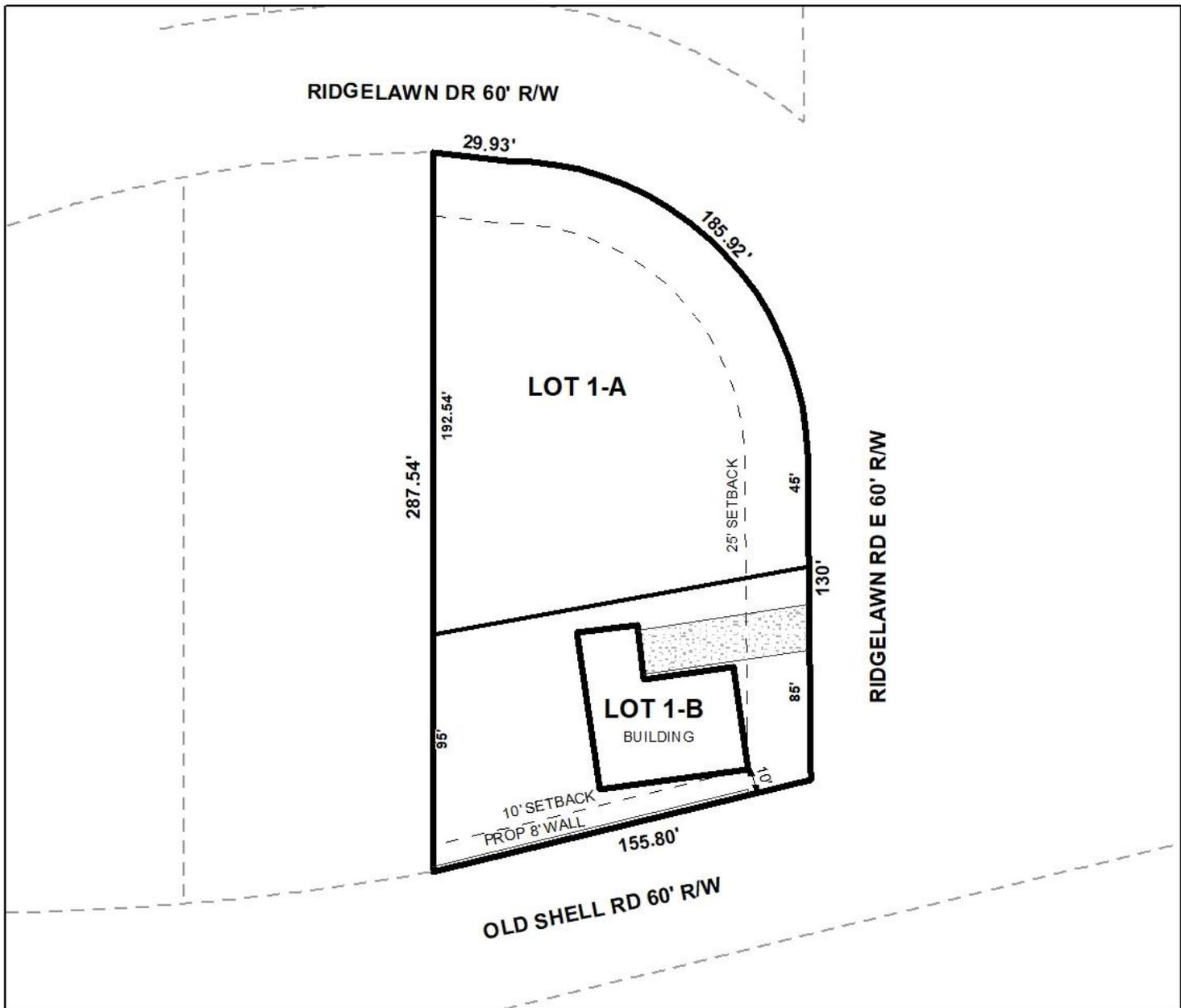


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SITE PLAN



The site plan illustrates the proposed building, proposed 8' wall, and setbacks.

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