

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: March 7, 2022

CASE NUMBER

6444

APPLICANT NAME

Jacquelyn R. Benedict

LOCATION

2159 Old Government Street
(Southeast corner of Old Government Street and Crenshaw Street).

VARIANCE REQUEST

SIDE STREET SIDE YARD SETBACK: To allow a privacy fence over three feet high within the required 20-foot side street side yard setback in an R-1, Single-Family Residential District.

ZONING ORDINANCE REQUIREMENT

SIDE STREET SIDE YARD SETBACK: The Zoning Ordinance does not allow structures over three feet high within the required 20-foot side street side property line in an R-1, Single-Family Residential District.

ZONING

R-1, Single-Family Residential District

AREA OF PROPERTY

7,560± square feet / 0.17± Acres

CITY COUNCIL DISTRICT

District 1

ENGINEERING COMMENTS

If the proposed variances are approved for use the applicant will need to have the following conditions met:

1. 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.
2. 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 [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 (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 commercial buildings and 600' of sprinkled commercial buildings.

ANALYSIS

The applicant is requesting Side Street Side Yard Setback Variance to allow a privacy fence over three feet high within the required 20-foot side street side yard setback in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow structures over three feet high within the required 20-foot side street side 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 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:

I am requesting a site variance to allow a privacy / security fence to be placed within a portion of the 20' side yard side street setback.

There will be three employees with two trucks. One truck will park in my driveway, the other on Crenshaw St. There will be no excessive noise, orders, or air pollution. The project should take no more than five days. I anticipate no negative impacts on the surrounding properties.

This will be a 6' fence with a gate to replace and improve a prior existing fence.

This lot is located in the DuBroca Tract, said subdivision is dated 1909, at that time there were no set back lines. The building set back, which includes a portion of my home, was added some 50 years later in a blanket ordinance. My property dimensions are 54' by 140'. The setback line reduces the size of my lot by 37%.

A sidewalk runs along the side yard which makes my back yard feel like public property. A fence and gate will allow for privacy, security to walk out my back door and to open windows. The inability to utilize this portion of my property for my wellbeing is a hardship.

There is a 2 way stop at the corner, of Crenshaw St. and Old Government St. The fence line is more than 80' from the stop sign and in no way does the fence cause an obstruction. The provided pictures show that the visibility for the driveway access and the stop sign is more than adequate. The fence will not have a negative impact upon either.

Section 64-4.D.6.a. of the Zoning Ordinance states: “No fence or wall that obstructs sight shall be erected or altered in any required front yard to exceed a height of three (3) feet, and no fence or wall shall be erected or altered in any required side or rear yard to exceed a height of eight (8) feet. On a corner building site not having to its rear a building site facing toward the intersecting or side street, no fence or wall that obstructs sight shall be erected in the required side yard to exceed a height of three (3) feet.”

As the applicant has mentioned, the subject site is in an older part of the City of Mobile, but is not located in a locally regulated historic district, and is therefore not subject to the Historic District Overlay (HDO). If the site were subject to the HDO, the proposed fence would be allowed due to the existence of a wall of similar height at the property on the Northwest corner of Old Government Street and Crenshaw Street. Furthermore, the proposed fence is to replace a previously erected (without permits) fence, which has not generated any complaints to the City regarding traffic sight problems. Therefore, the request could be considered appropriate due to the surrounding development.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 1) Approving the variance will not be contrary to the public interest because the proposed fence is in keeping with the character of existing fences/walls in the area;
- 2) Special conditions were illustrated 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 surrounding neighborhood by granting the variance, as the fence would be allowed by-right if in a locally regulated historic district.

The approval should be subject to the following conditions:

- 1) Obtain associated building permits; and
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 6444 DATE March 7, 2022

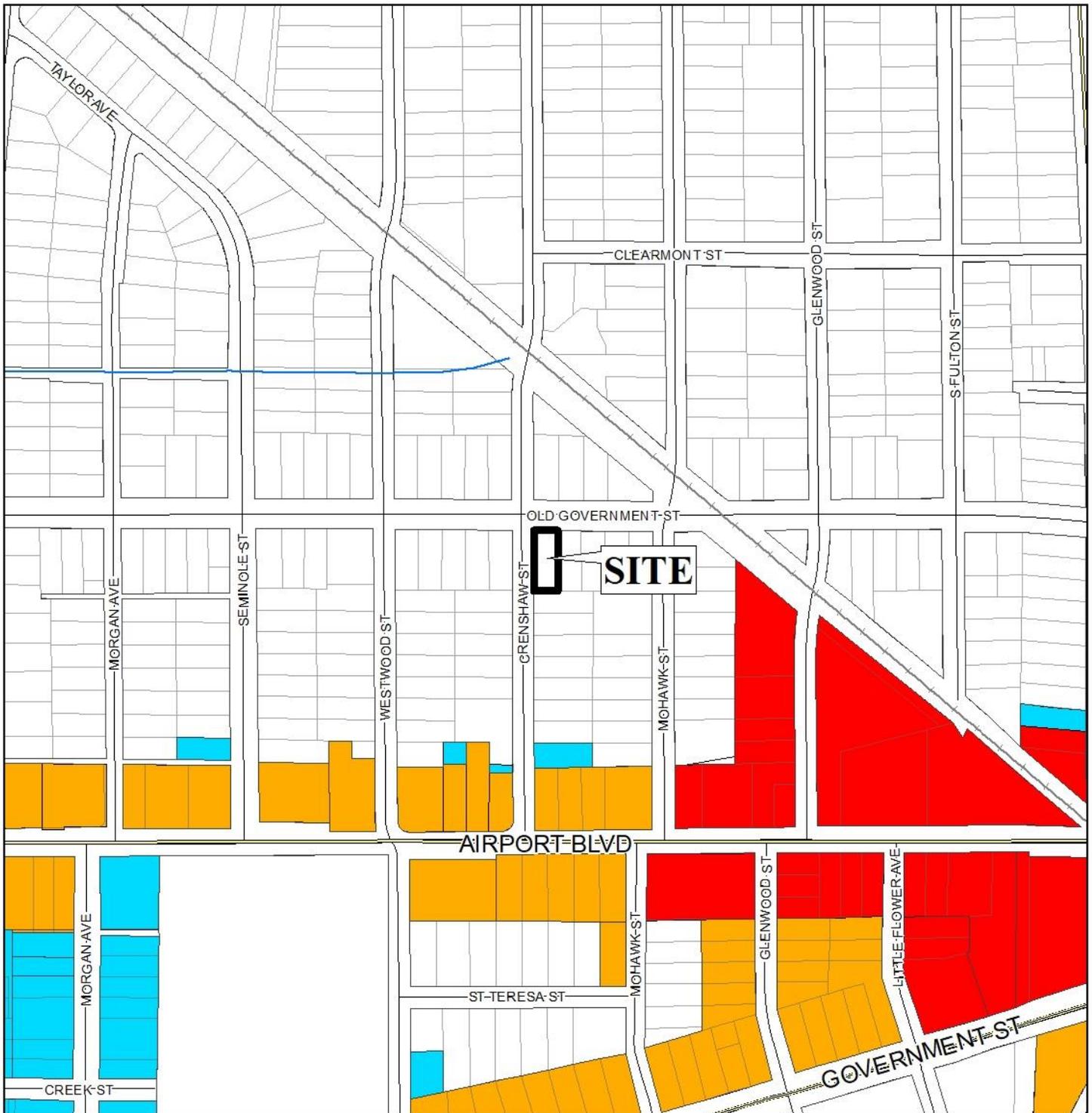
APPLICANT Jacquelyn R. Benedict

REQUEST Side Street Side Yard Setback Variance



NTS

LOCATOR ZONING MAP



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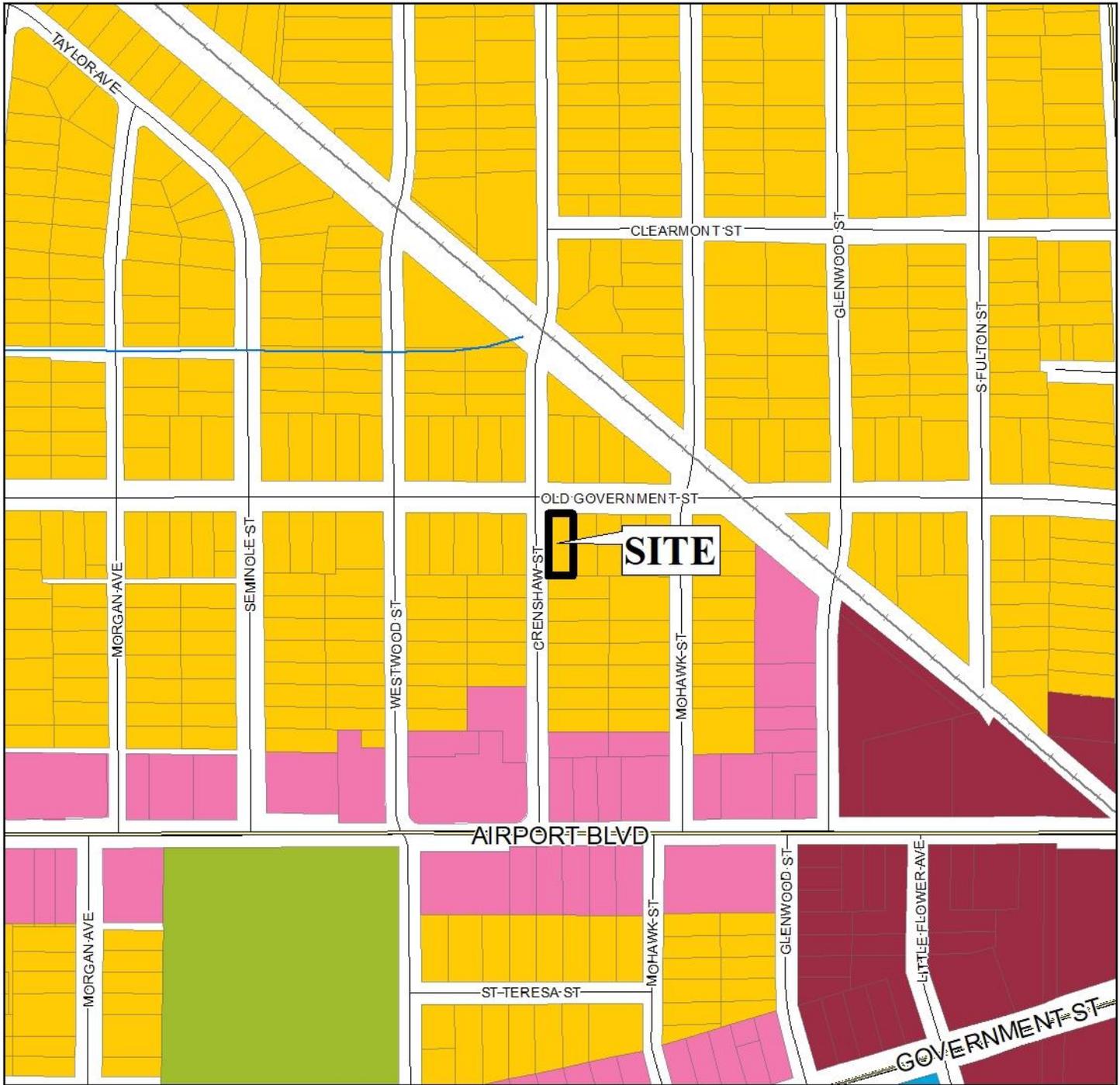
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NTS

FLUM LOCATOR MAP



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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 | |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



OLD GOVERNMENT ST

CRENSHAW ST

SITE

MOHAWK ST

UTIL

The site is surrounded by residential units.

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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**



The site is surrounded by residential units.

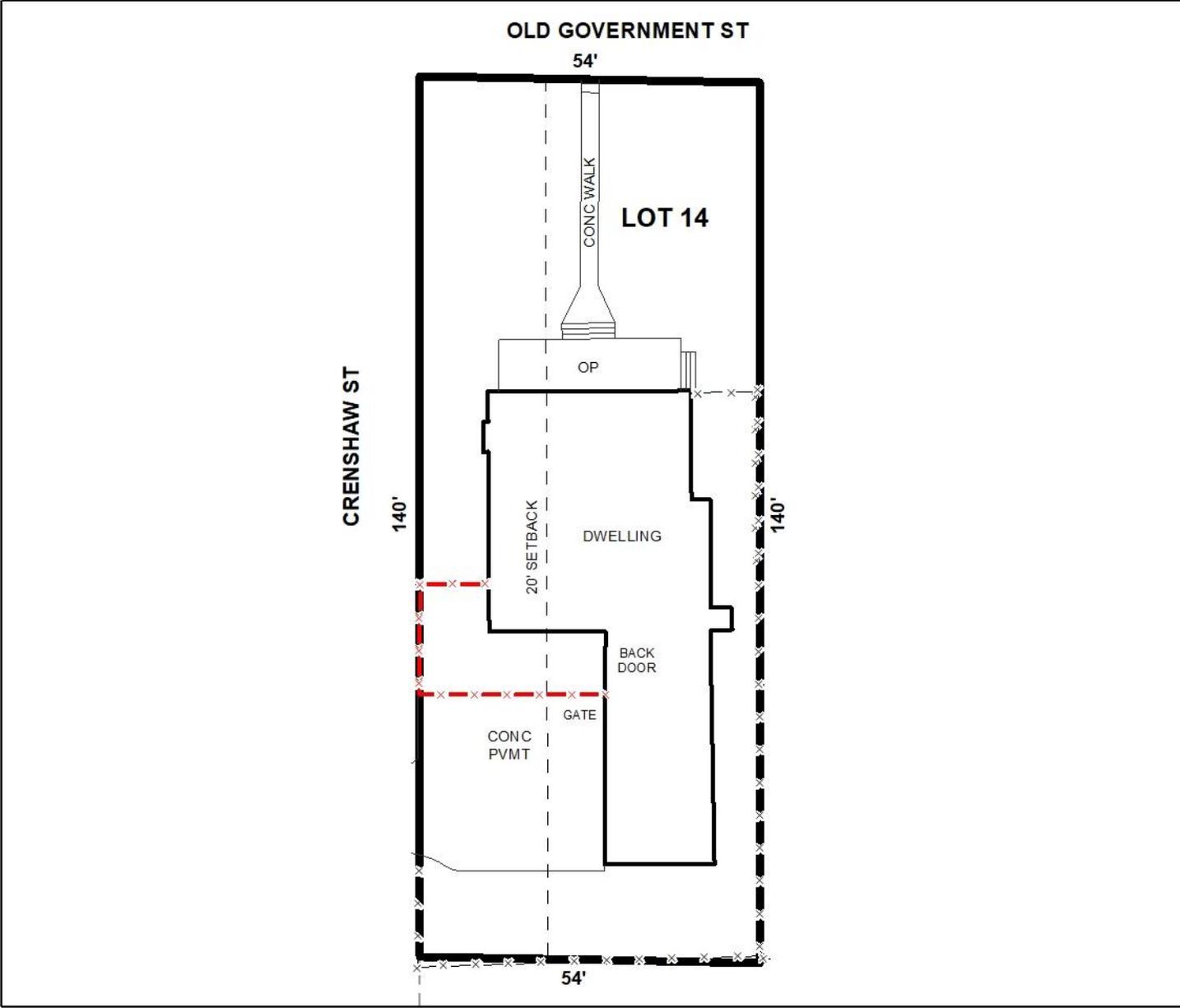
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SITE PLAN



The site plan illustrates the existing dwelling, setback, and fences.

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