

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: July 9, 2018

CASE NUMBER

6189

APPLICANT NAME

Kelly A. McGinley

LOCATION

9 Spring Bank Road South
(East side of Spring Bank Road South, 77'± North of
Rutledge Place.)

VARIANCE REQUEST

SIDE YARD SETBACK VARIANCE: Side Yard
Setback Variance to allow the construction of a carport
within 5'-1" of a side property line in an R-1, Single
Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

SIDE YARD SETBACK VARIANCE: The Zoning
Ordinance requires a minimum 8' side yard setback for
structures in an R-1, Single-Family Residential District.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

4.8 ± Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

If the Side Yard Setback variance is approved the applicant
will need to have the following conditions met:

- a. The existing drainage patterns and surface flow characteristics will not be altered so as to have a negative impact on any adjoining properties.
- b. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.
- c. A Single Family Residential Affidavit (Permitting Section) will need to be submitted with the building permit plans

**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).

ANALYSIS

The applicant is requesting a Side Yard Setback Variance to allow the construction of a carport within 5'-1" of a side property line in an R-1, Single Family Residential District; the Zoning Ordinance requires a minimum 8' side yard setback for structures 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 semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts range 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.

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:

“This Variance is needed for our safety and well-being. We moved here from around the corner where we had a three car garage. We downsized to prepare for retirement. Since then our cars have been broken into almost nightly. A garage is much safer but due to the size of our lot there is not enough room. With a carport, lights, cameras and an upgraded car alarm will help to deter criminals.

As you know Mobile is a very wet city. Getting in and out of house/car in the rain as we age makes life much more precarious.

I appreciate your consideration to help our safety, well-being, and enjoyment living in this fine city.

Thank for all your hard work to make this city a better place [sic] for all of us.”

As stated, the applicant is seeking relief from the Zoning Ordinance to allow the construction of a carport on a Single-Family Residentially zoned property that will encroach into the required minimum sideyard setback. The applicant expresses concern about safety and protection from the rain.

The Zoning Ordinance states in Section 64-3.C.e. that the sum of the widths of two (2) sideyards shall be at least twenty (20) feet with at least 8 feet on one side, in an R-1, Single Family Residential District.

The applicant has submitted a site plan shows the proposed 20’x 21’ attached carport located in the Southeast corner of the property. The submitted site plan does show that there is a 15’ utility easement in the rear of the property and the existing dwelling is about 1’ from the easement. The site plan also includes a garage located on the abutting property at 11 Spring Bank Road South that appears to encroach in the side yard setback. Aerial images appear to confirm that the structure at the neighboring property is in fact too close to the property line and Staff sees no instance of an approved building permit or variance for the garage.

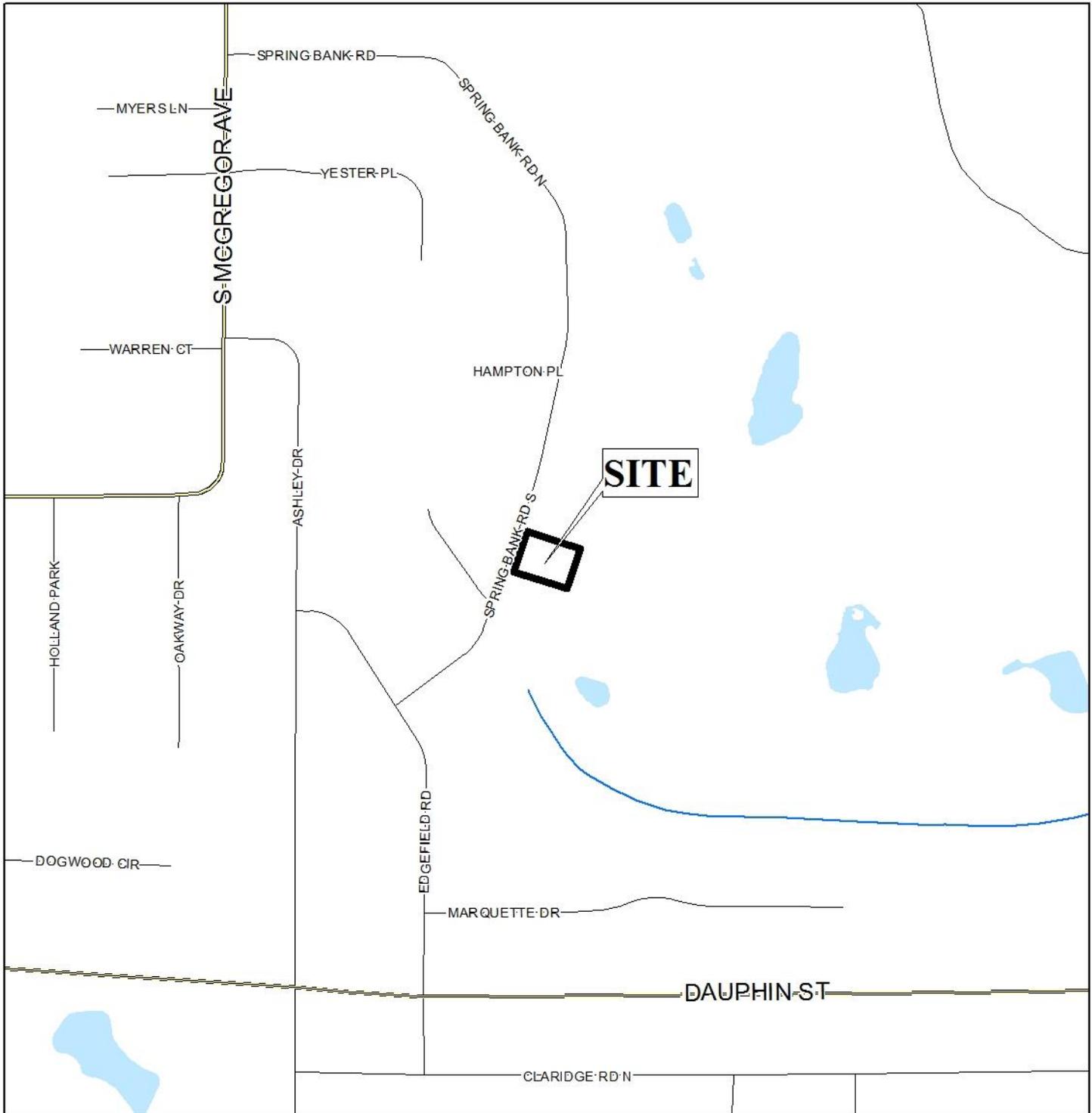
It should be noted that the Board approved a variance at 19 Spring Bank Drive South (located about 370’± from the subject site) in 2001, for the placement of a garage 6’ from the rear property line.

There are no conditions which exist at this site that would require the applicant to construct a carport that will encroach into the sideyard setback. It appears that it is merely the applicant's desire. No hardships have been presented that would necessitate the approval of the variance. A carport may be desirable to the applicant due to safety concerns and various issues noted in the narrative, however, it appears that there is sufficient room on the site to allow the placement of a carport without encroaching in any setbacks.

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 because it will be contrary to the Zoning Ordinance requirement regarding the maximum sideyard building setbacks in an R-1, Single-Family Residential site;
- 2) Special conditions and hardships do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, as the site was 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 a garage/carport could be oriented on the lot in such a way that it would meet the setback requirements.

LOCATOR MAP



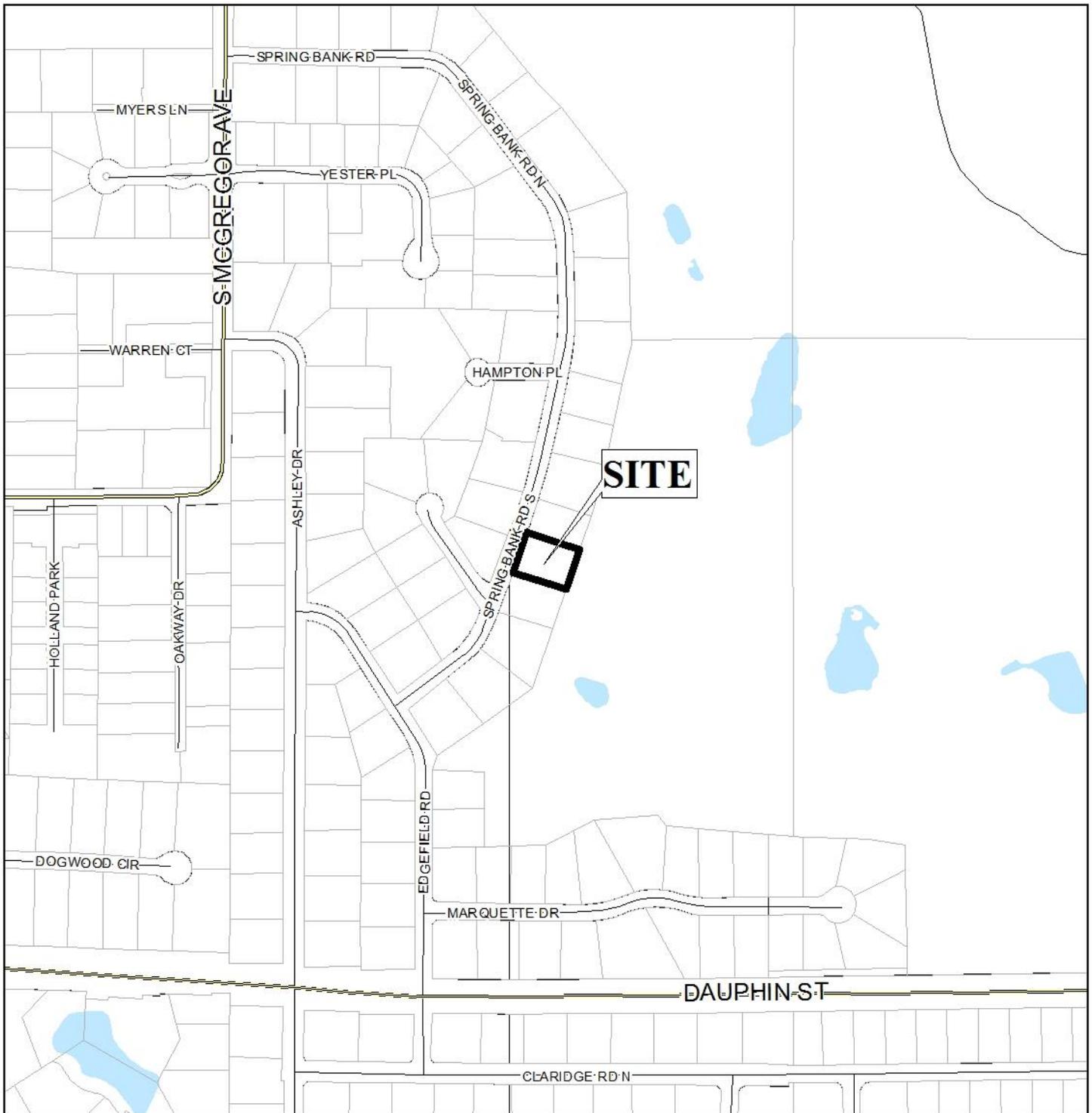
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REQUEST Side Yard Setback Variance



LOCATOR ZONING MAP



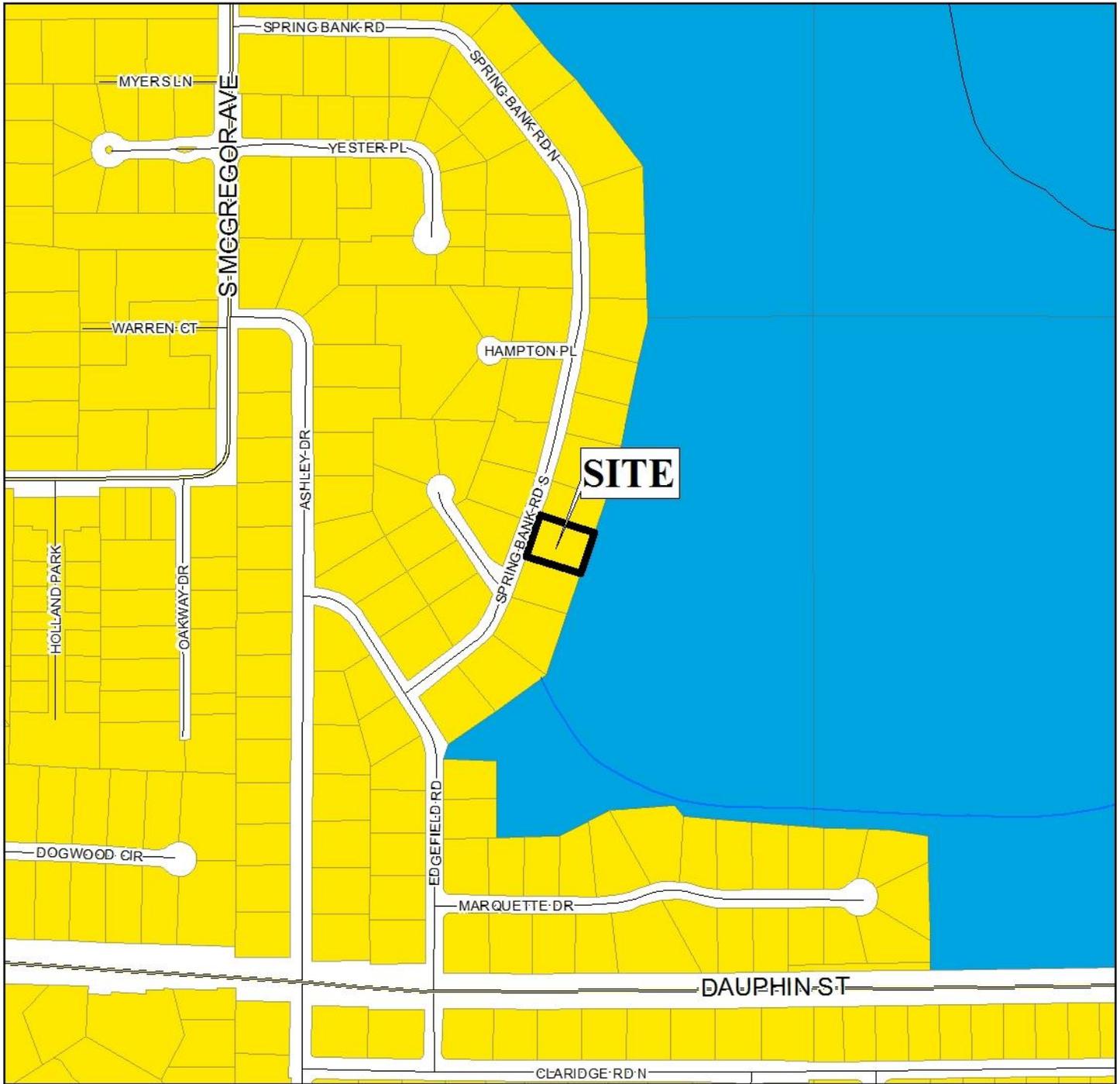
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FLUM LOCATOR MAP



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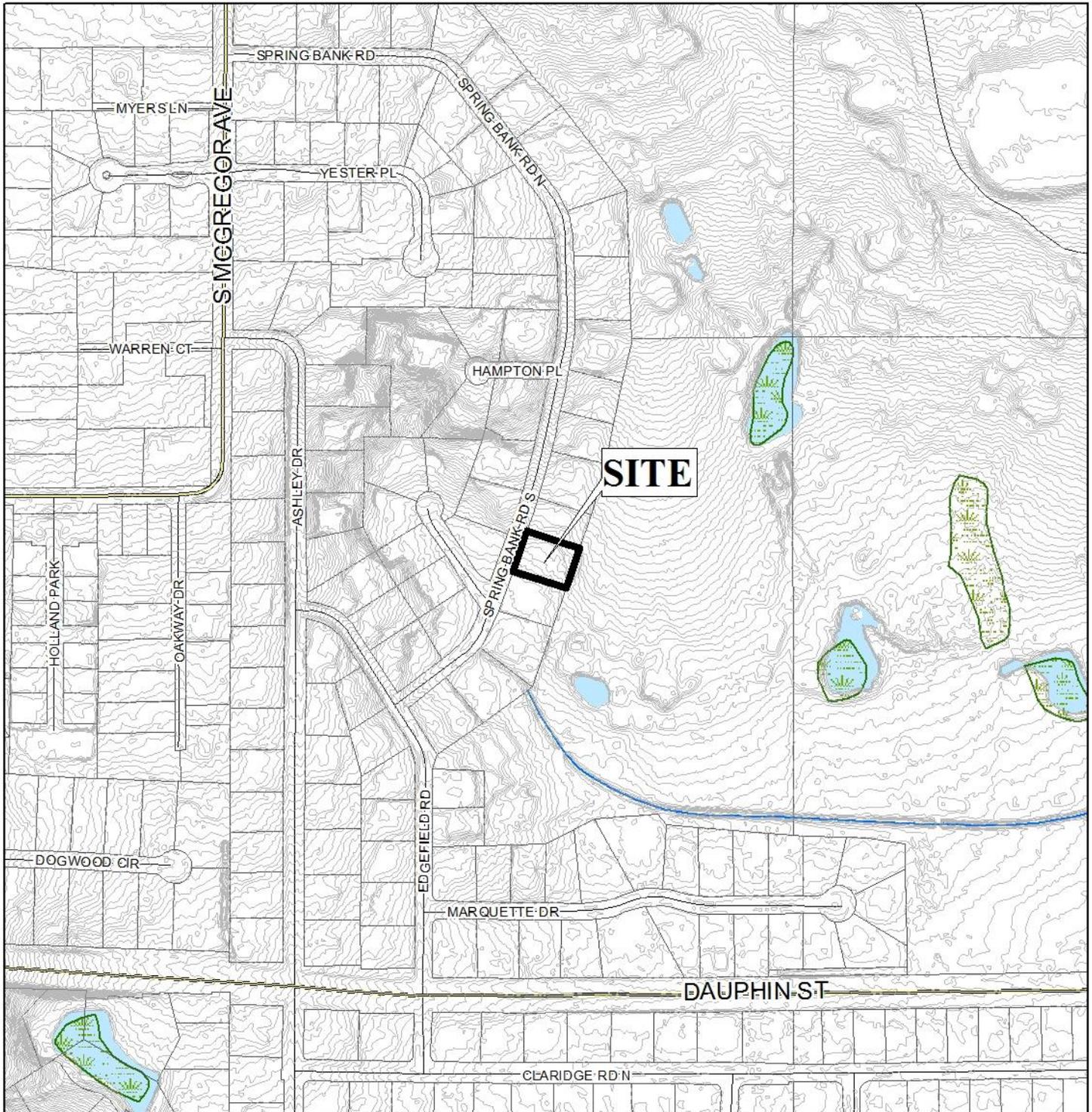
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|---|---|---|--|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood Center - Suburban | Light Industry | Water Dependent |
| Downtown | Traditional Corridor | Heavy Industry | |
| District Center | Mixed Commercial Corridor | Institutional | |



ENVIRONMENTAL LOCATOR MAP



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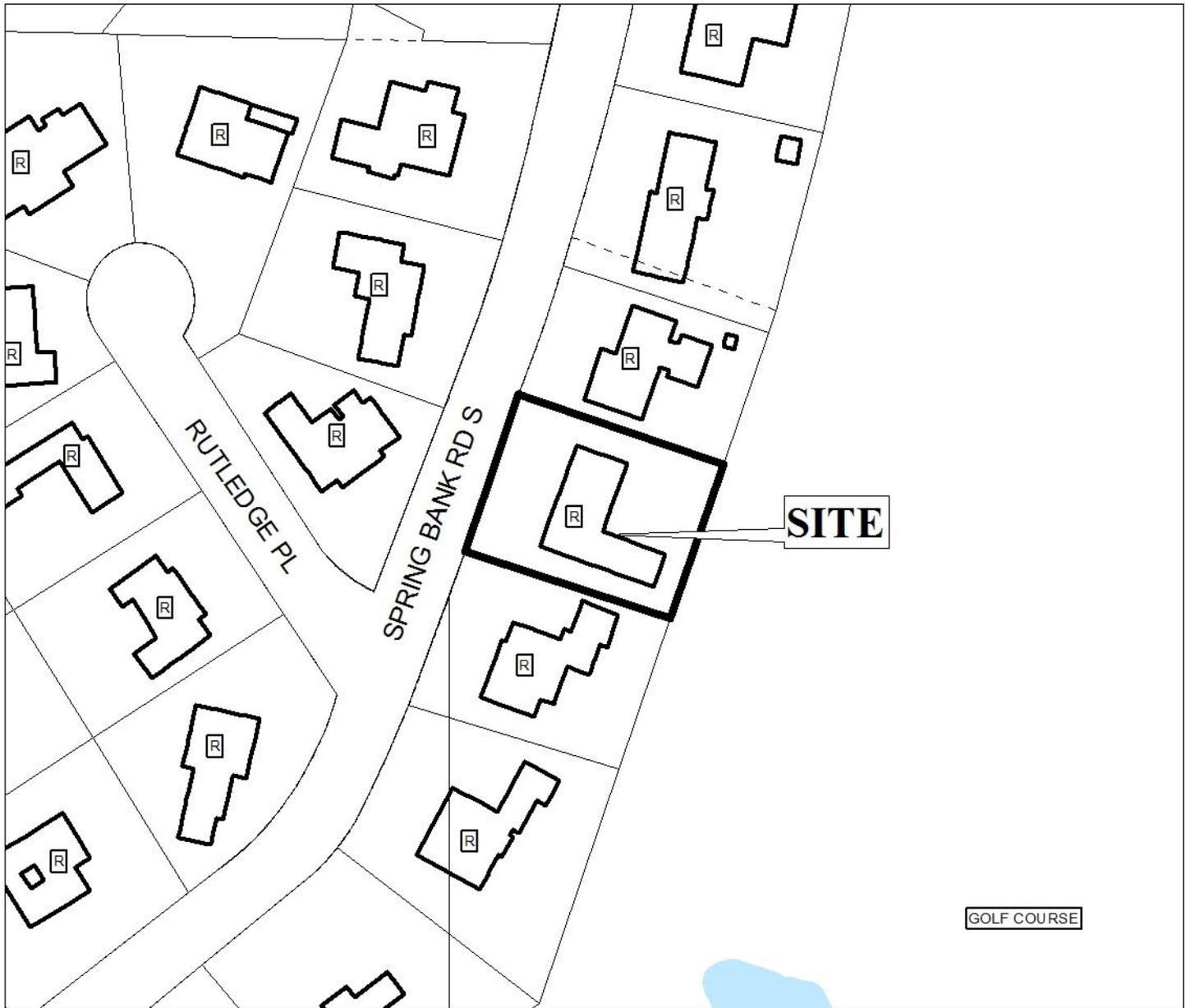
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family 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 single family residential units.

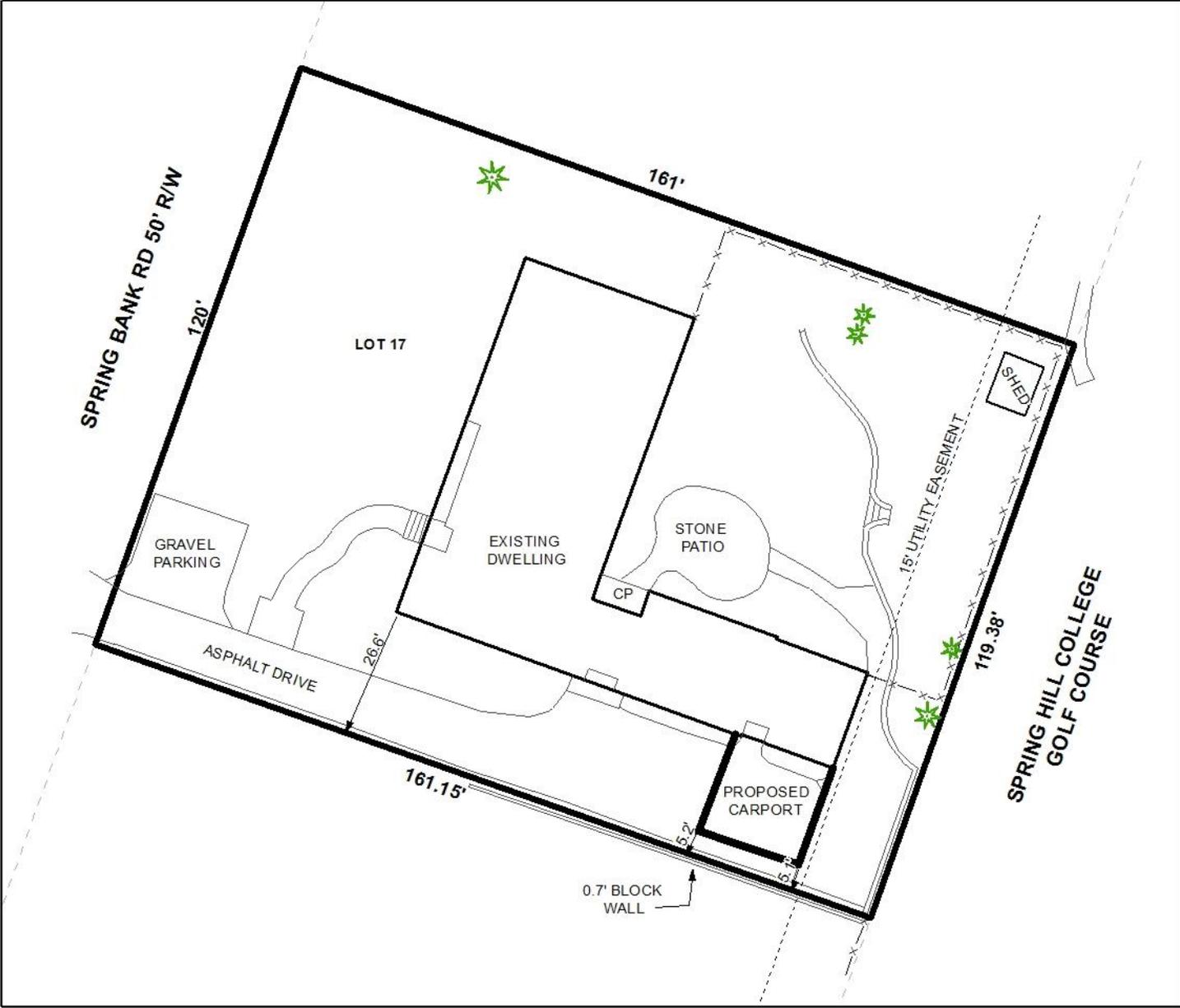
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SITE PLAN



The site plan illustrates the existing dwelling, proposed carport, and easement.

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