

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 8, 2018****CASE NUMBER**

6222

APPLICANT NAME

Steven Sheridan

LOCATION

4404 Stein Street
(North side of Stein Avenue, 200' ± East of North
McGregor Avenue.

VARIANCE REQUEST

SIDE YARD SETBACK VARIANCE: Side Yard Setback Variance to allow the construction of a dwelling within 5.2' ± of a side property line and allow an existing carport within 0.3' 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 all structures over 3' tall in an R-1, Single-Family Residential District.

ZONING

R-1, Single-Family Residential

AREA OF PROPERTY

0.19 ± Acres

**CITY COUNCIL
DISTRICT**

District 7

**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 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
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 dwelling within 5.2' ± of a side property line and allow an existing carport within 0.3' of a side property line in an R-1, Single Family Residential District; The Zoning Ordinance requires a minimum 8' side yard setback for all structures over 3' tall in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) 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 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:

“Single family home to be constructed on a lot with an existing carport (detached). Construction will begin after the variance and permit are granted.

The adjacent homes are currently located within 5 feet of the side yard setbacks (as are a majority of the homes in the neighborhood).

There is an existing carport on the property which is to remain. It is within 5 feet of the setback on one end and appears to be within 3 feet on the other. (please see included pictures of the existing carport as well as pictures of the neighbors on each side located within 5 feet of the setback).

The total square footage of the lot is 8400 sq. ft. and the proposed new construction is approximately 2300 sq. ft. (footprint). There is also an existing credit for a building that was removed from this lot. All efforts will be employed to prevent erosion of the property and adjacent properties.

As stated, the applicant is seeking relief from the Zoning Ordinance to allow the construction of a new single-family dwelling; and to allow an existing carport on a Single-Family Residentially zoned property that encroaches into the required minimum side yard setback.

The Zoning Ordinance states in Section 64-3.C.e. that the sum of the widths of two (2) side yards 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 submitted a site plan that depicts the proposed 2,300 square foot dwelling to be located 5'.2' from the West property line and the existing 20.3' x 24.0' (487.20 square feet) detached carport located 0.3' from the Northeast corner of the property. The previous dwelling was removed from the property earlier this year.

It should be noted that the Board has approved several side yard variances within the surrounding area of the subject site. In fact, the adjacent site to the east received approval from the Board to allow an addition within 5' of the side property line and 2' from the rear property line in 1992 and 1997.

The applicant did not provide any justification or identify a hardship for their request to construct the new dwelling within the required setbacks. While the carport is present and already constructed within the setbacks, there are no conditions which exist at this site that would require the applicant to construct a new dwelling that will encroach into the side yard setbacks. It appears that it is merely the applicant's desire. While no hardships have been presented that

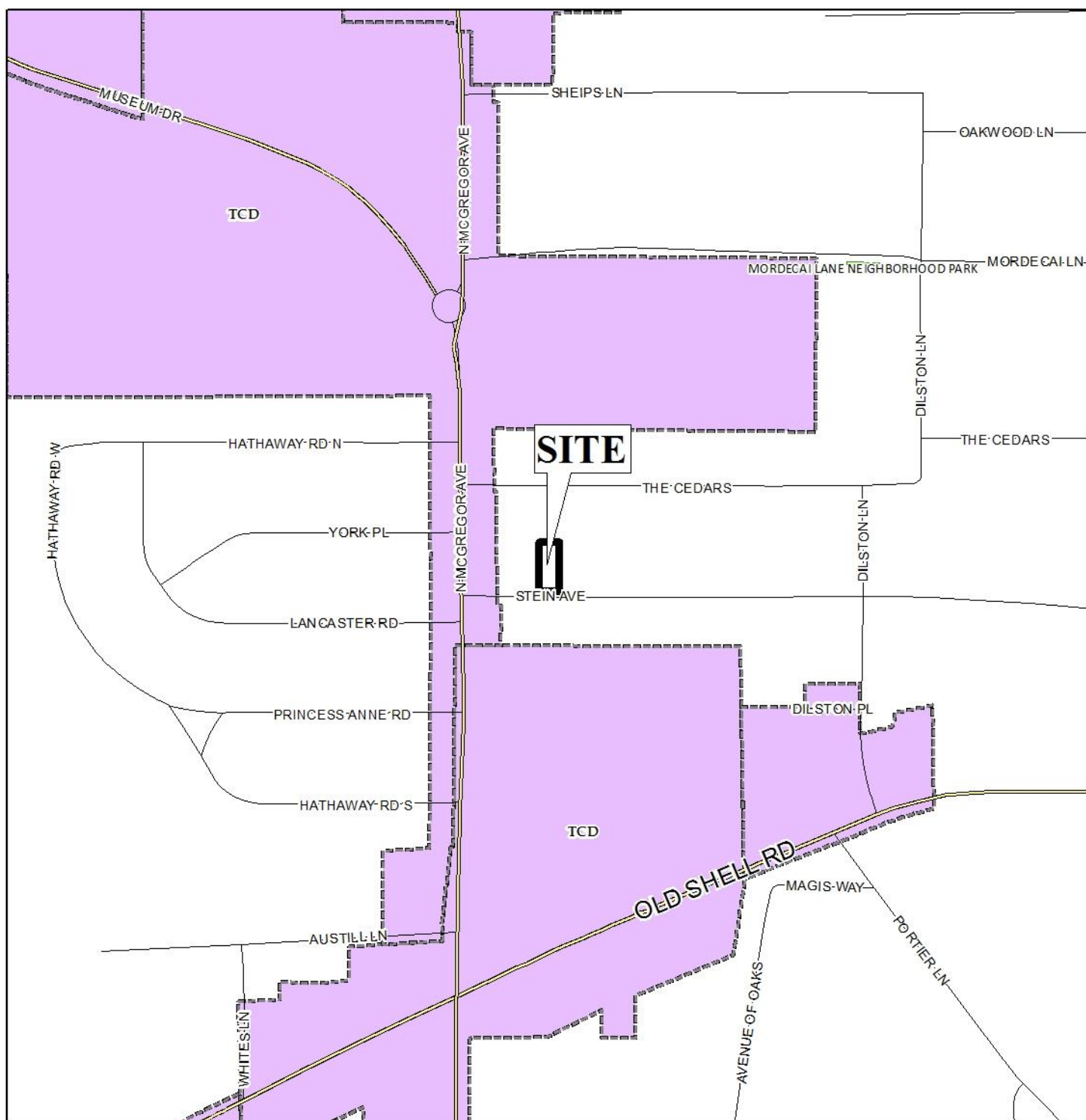
would necessitate the approval of the variance for encroachment for both the dwelling and the carport, a precedent has been established by the Board for reduced side yard setbacks within this area, although it appear only for carports and additions to existing dwellings.

It should be pointed out that a new dwelling could be built to compliant setbacks and that homes within the area have been built to meet setbacks with variances only allowing additions to the existing homes. It should be noted, however that the existing carport is considered to have non-conforming status and as such, if the side yard setbacks are not approved for the construction of the new dwelling unit the carport can remain as a non-conforming structure.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Denial:

- 1) granting the Variance will be contrary to the public interest since the reduced side yard setbacks are in the area have been for additions to homes and not new construction;
- 2) special conditions with the site or unusual site constraints do not exist such that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship;
- 3) the spirit of the chapter shall not be observed and substantial justice done to the surrounding neighborhood by granting the Variances because the new dwelling can be constructed to meet the required setbacks.

LOCATOR MAP



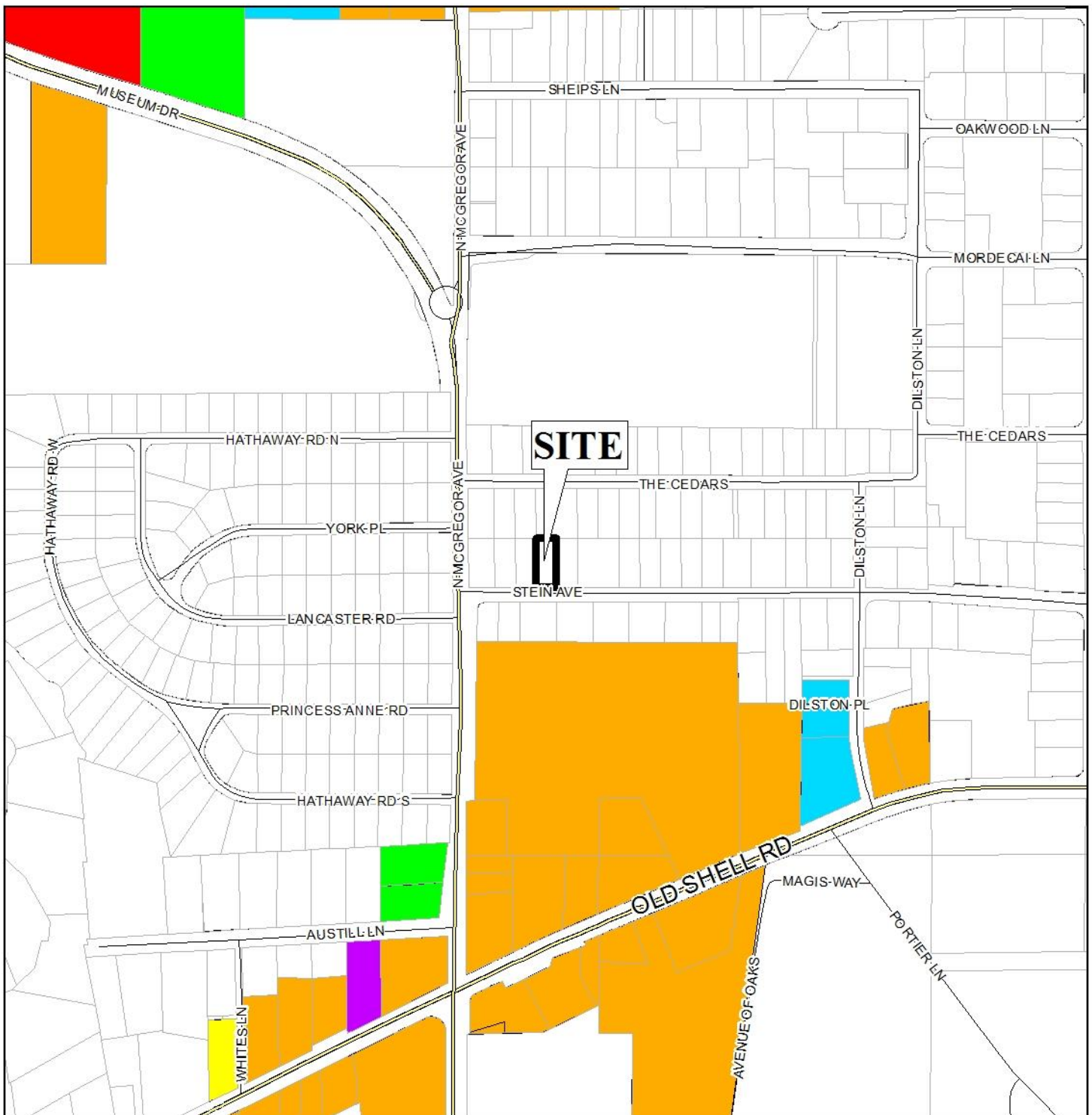
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LOCATOR ZONING MAP



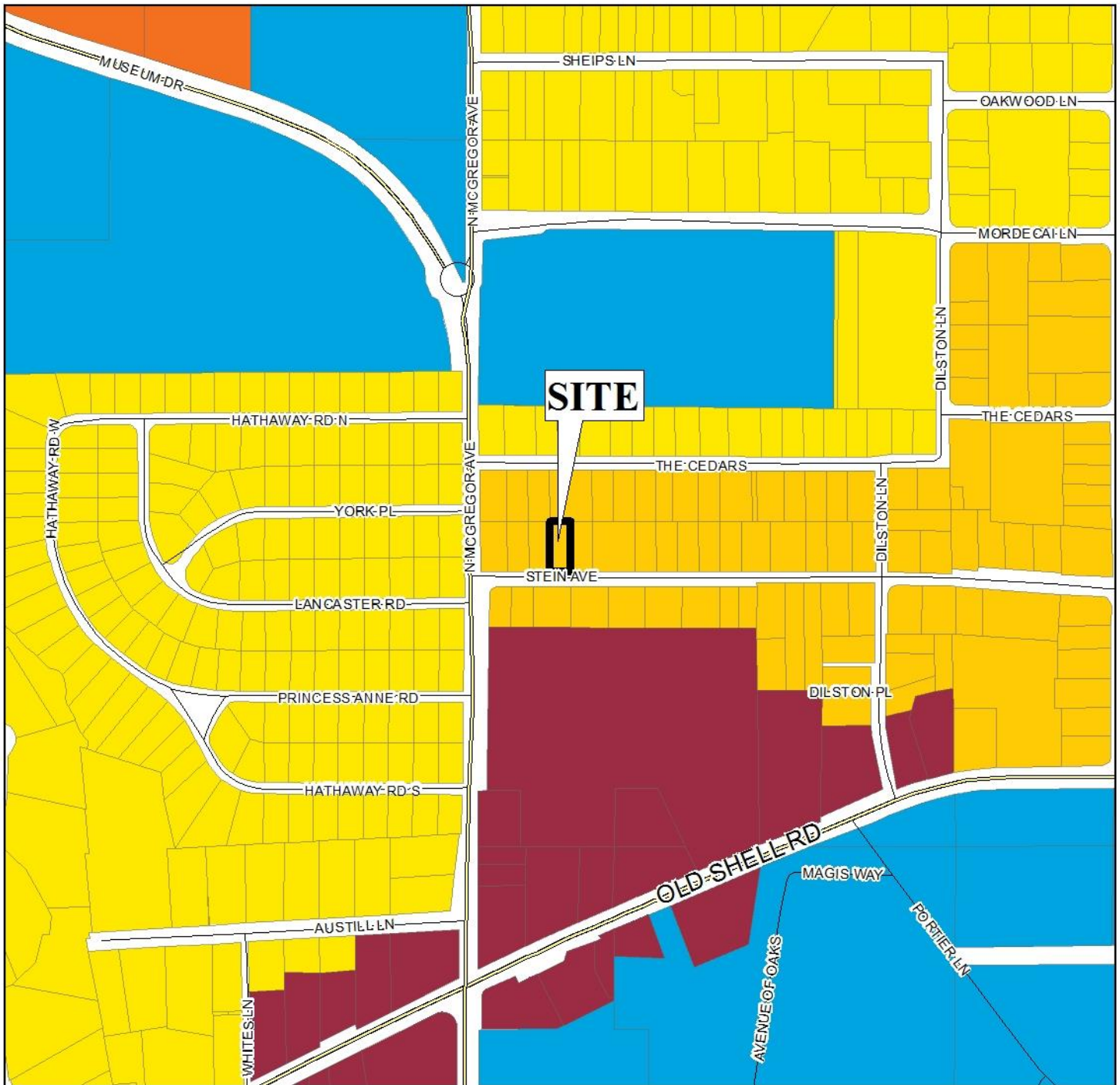
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FLUM LOCATOR MAP



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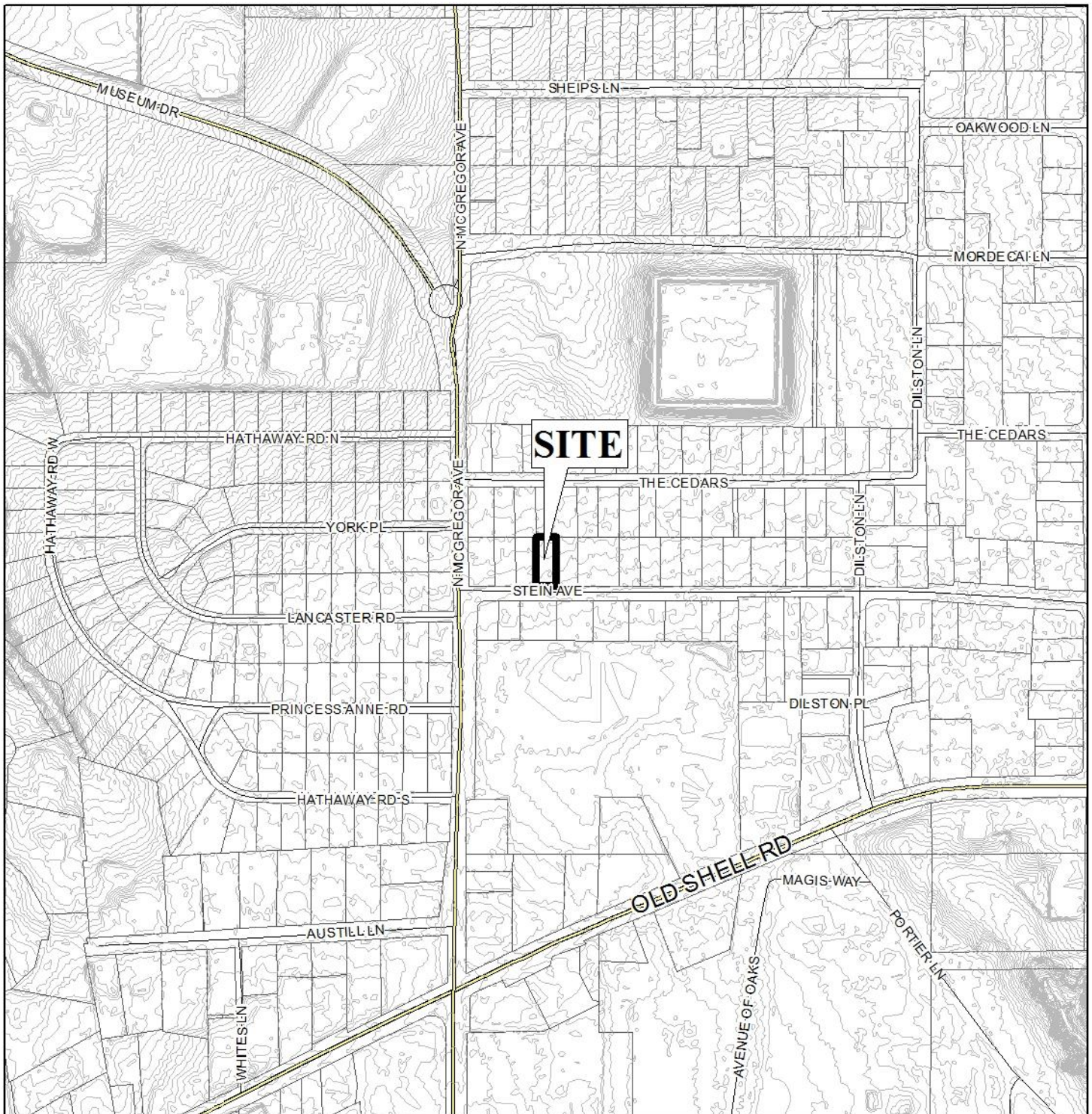
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



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

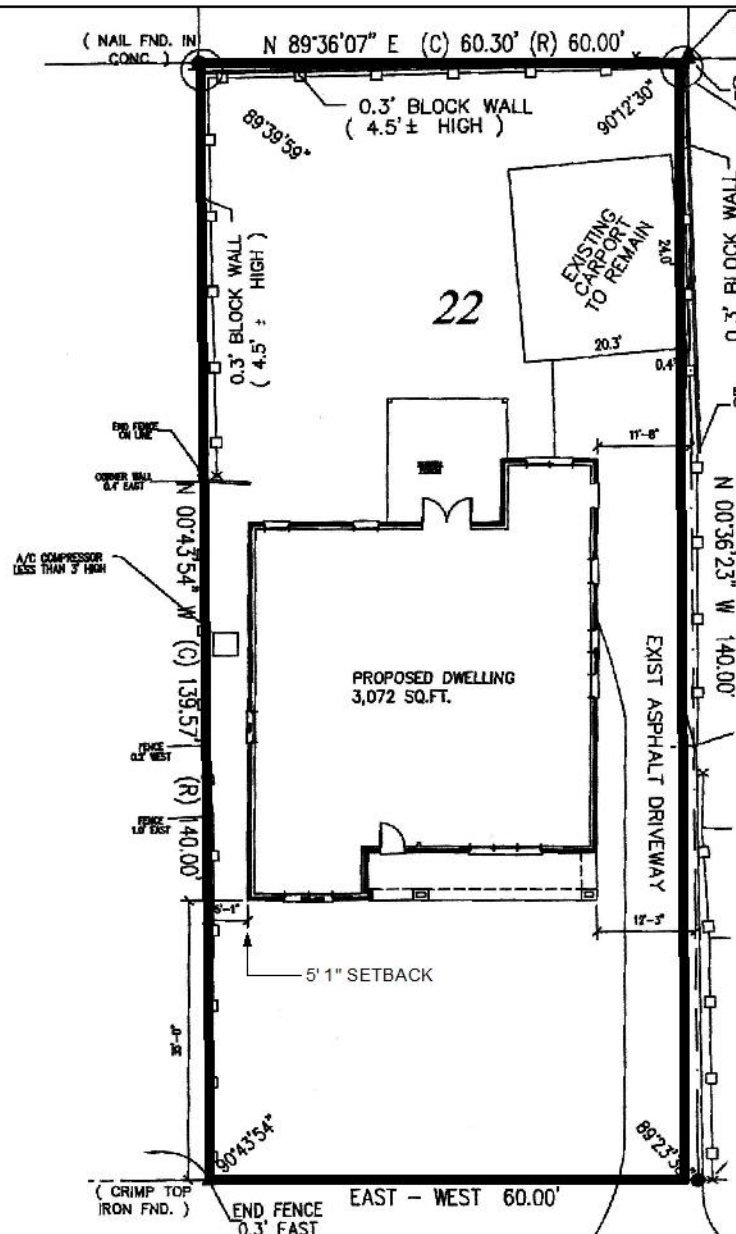


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SITE PLAN



The site plan illustrates the existing carport, existing drive, and proposed building.

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DETAIL SITE PLAN

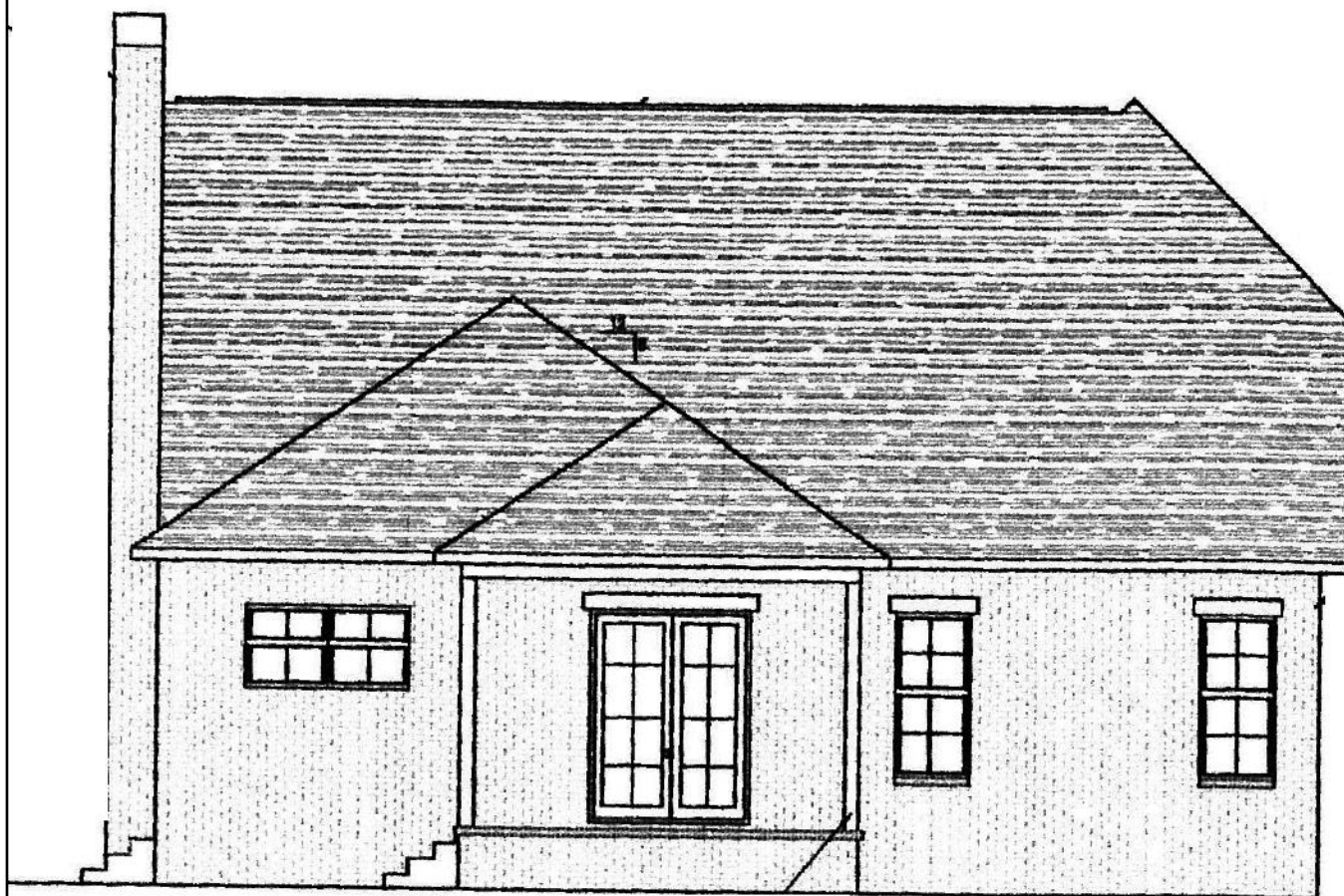


FRONT ELEVATION
SCALE: 1/4" = 1'-0"

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DETAIL SITE PLAN

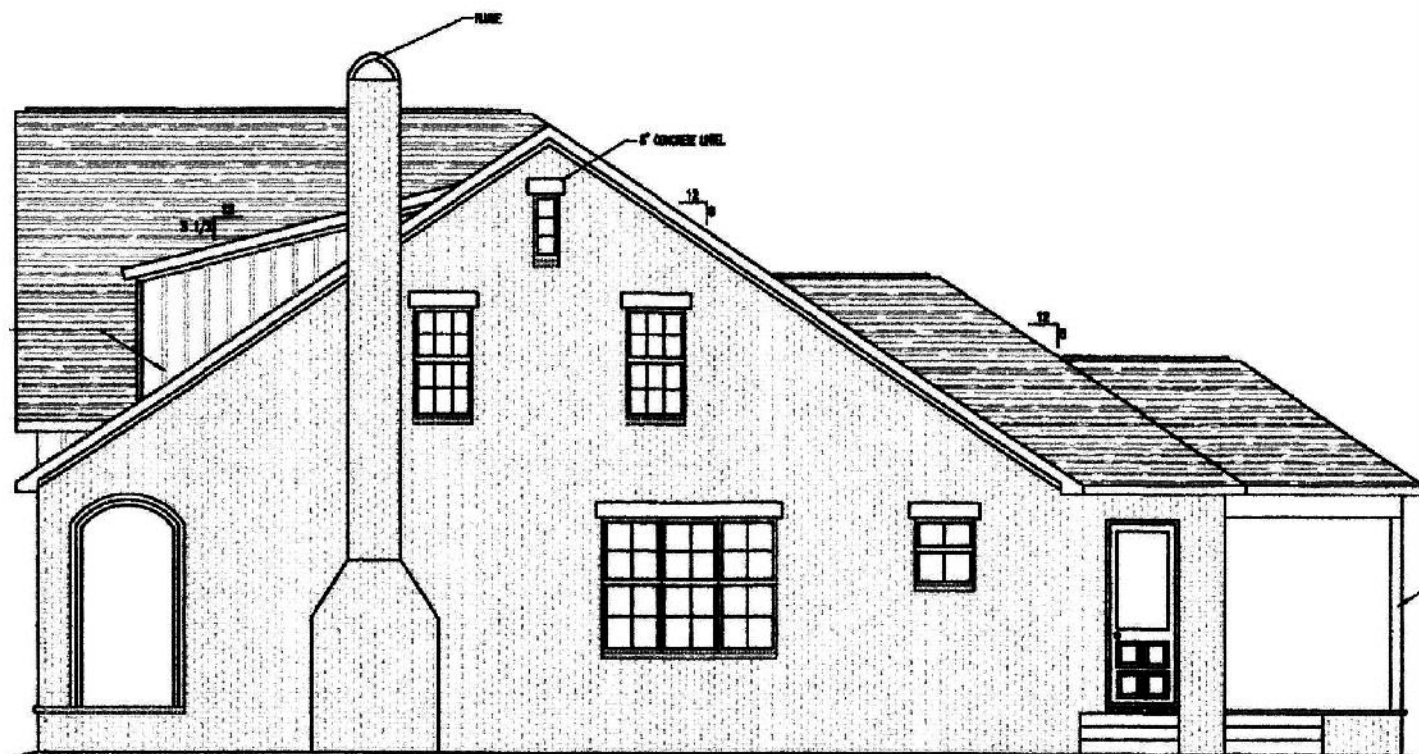


REAR ELEVATION
SCALE: 1/4" = 1'-0"

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DETAIL SITE PLAN

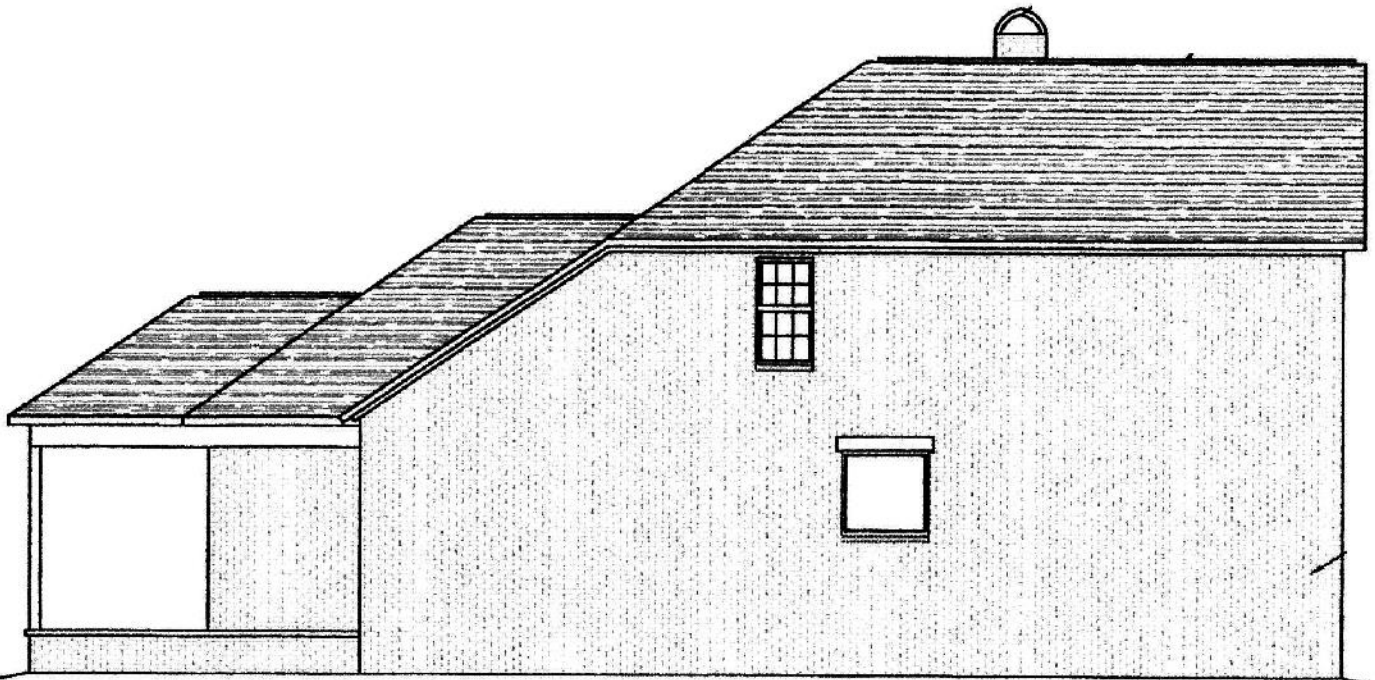


RIGHT SIDE ELEVATION
SCALE: 1/4" = 1'-0"

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DETAIL SITE PLAN



LEFT SIDE ELEVATION
SCALE 1/4" = 1'-0"

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