

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: October 5, 2020****CASE NUMBER**

6348

**APPLICANT NAME**

Merrill Pratt Thomas, Jr.

**LOCATION**4458 Emperor Drive  
(North side of Emperor Drive, 240'± West of Schwaemmle Drive).**VARIANCE REQUEST****SIDE YARD SETBACK:** To allow a carport/storage structure less than 8' from a side property line in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****SIDE YARD SETBACK:** The Zoning Ordinance requires at least an 8' side yard setback for structures in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential District

**AREA OF PROPERTY**

0.4± Acre

**ENGINEERING  
COMMENTS**

of property line):

SIDE YARD SETBACK VARIANCE (structure within 4'

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.
3. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting.

**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 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 Side Yard Setback Variance to allow a carport/storage structure less than 8' from a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires at least an 8' side yard setback for structures in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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 acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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 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 site plan submitted with the application indicates the proposed structure with a compliant eight-foot rear yard setback, and four-foot West side yard setback. The subject site is surrounded by R-1 zoning and use.

The applicant provided the following narrative regarding the request:

*I plan to build a carport at the end of the existing driveway at my residence. The structure will be placed 8' off the rear property line to maintain the rear setback and utility easement requirement. Pete J. Vallas A.I.A Architect designed the elevations of the structure to match the existing architecture of the home. The site plan has designed to allow two vehicles to enter the structure. In order for both vehicles to enter the structure must be situated a maximum of 4' off the rear property line. Please note the vehicles shown on the floorplan and site plan reflect the size of a sedan. However, I drive a truck and my wife drives a suburban. In the first two photos you will see how the vehicles are situated with the suburban approximately 8' off the property line. The truck is not able to straighten out and would collide with the proposed structural column. In the second set of photos the suburban is 4' off the property line. The truck is able to straighten out and avoid the proposed structural column. Please note the radius the truck will have to back out of the driveway. Ideally I would build up to the property line, but I am trying to save the satsuma tree which sits on the property line I share with my neighbor, Bill Skinner, at 4462 Emperor Dr and has sentimental value. I have discussed my plans with Bill, and enclosed you will find an email from Bill in support of my plan. I have also enclosed a photo of another neighbor, Danner Frazer's, carport and home at 4466 Emperor Dr. This carport is situated within 2' of his shared property line with Bill Skinner. My request is similar in nature except I'll maintain 4' off the property line.*

It should be noted that the applicant erroneously states that the structure must be situated a maximum of four feet off the rear property line instead of the side property line as illustrated on the site plan.

As indicated by the site plan, vehicle maneuvering would seem to be severely restricted if the proposed structure were to be built meeting the required eight-foot side yard setback. As the structure is proposed to meet the required eight-foot rear setback, there would be approximately 12' of vehicle maneuvering area between the rear of the house and the carport. If the carport were to also meet the required 8' side yard setback, the angle of approach to the carport would be too great to allow a safe maneuvering area for a vehicle to enter and exit the Eastern stall of the carport.

Furthermore, it appears that existing stairs for a deck would prevent the proposed structure from being located any closer to the house.

In 1988, on the East side of Queens Way just North of Emperor Drive, the Board granted a Side Yard Variance allowing a carport to be constructed with a varying side yard setback ranging from one foot to four feet. In similar instances where variances have been granted to allow structures within five feet of a property line, gutters and downspouts have been required to control rainwater runoff. Such should be the case if the current request is granted.

The applicant has indicated that a hardship may be imposed by a literal interpretation of the Zoning Ordinance; therefore, the Board should consider this request for Approval.

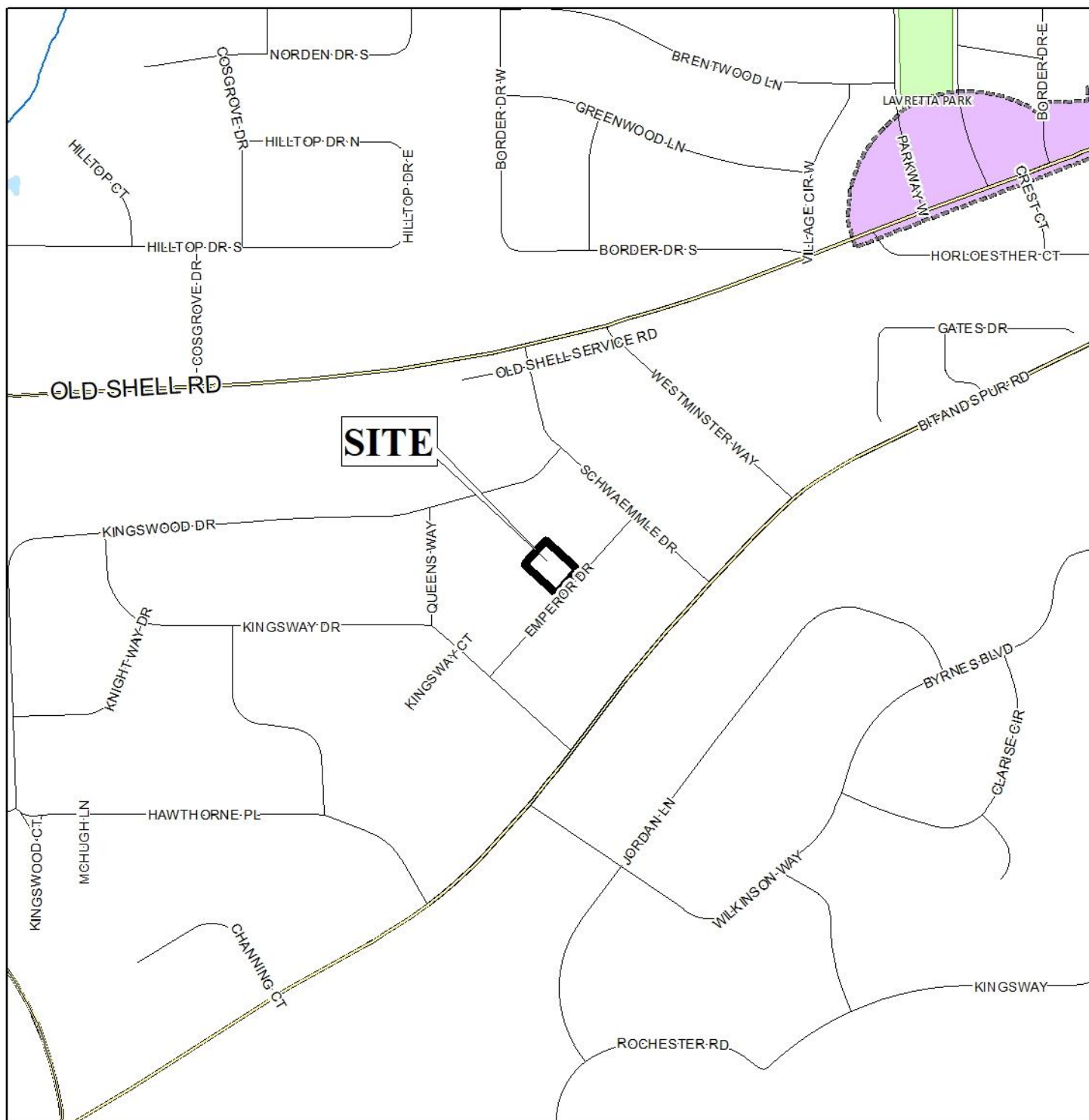
**RECOMMENDATION:** Based upon the preceding, Staff recommends to the Board the following findings of fact for Approval of the Side Yard Setback Variance request:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that a similar variance has been approved within the vicinity of this site;
- 2) Special conditions appear to exist, primarily the restricted vehicle maneuvering area which would result if the required side yard setback were met, such that a literal enforcement of the provisions of the Chapter will result in unnecessary hardship; and
- 3) That the spirit of the Chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that it will allow a carport/storage structure harmonious with the existing dwelling.

The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the structure;
- 2) the provision of gutters and downspouts along the West side of the structure; and
- 3) full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



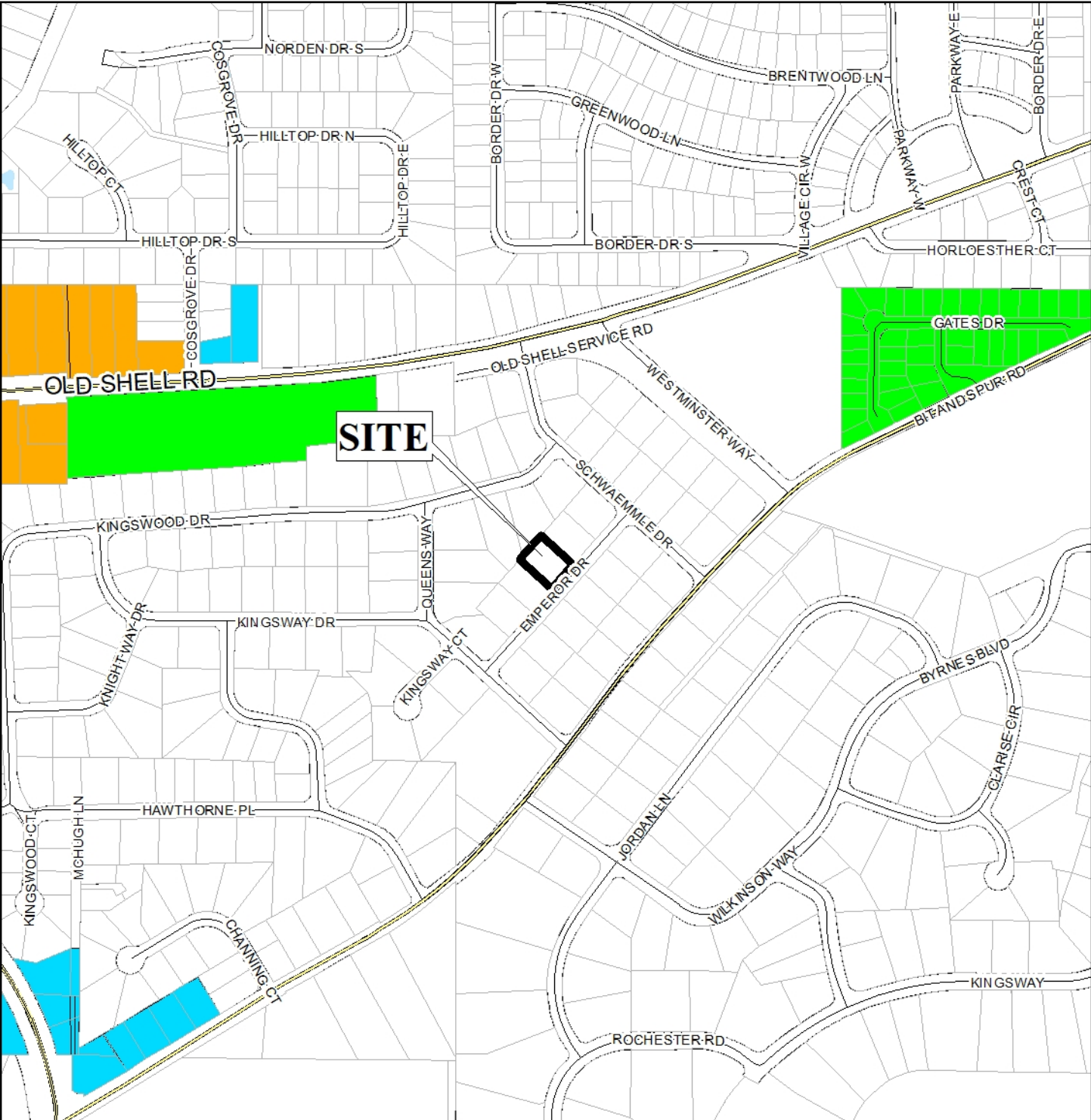
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REQUEST Side Yard Setback Variance



# LOCATOR ZONING MAP

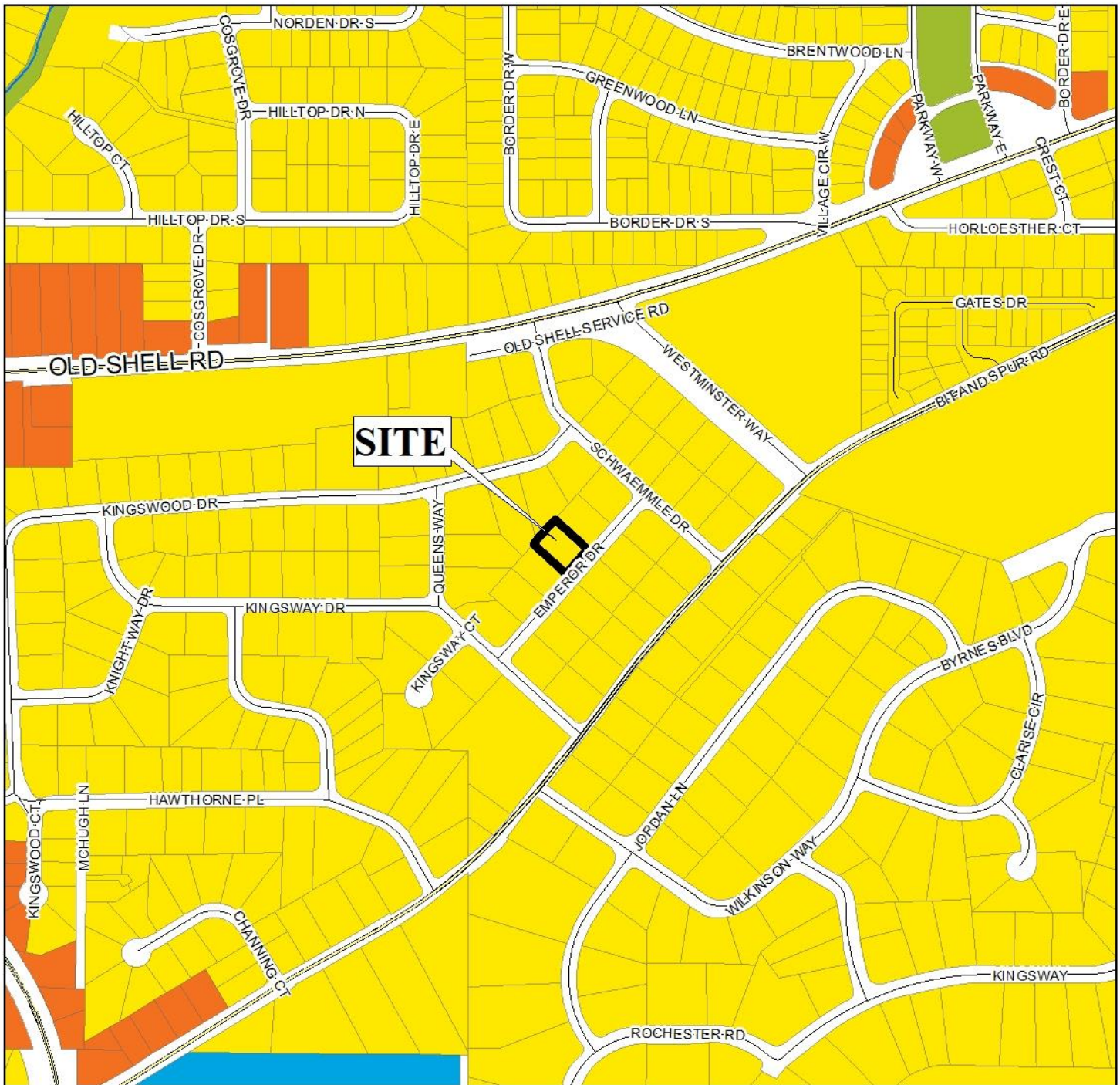


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# FLUM LOCATOR MAP



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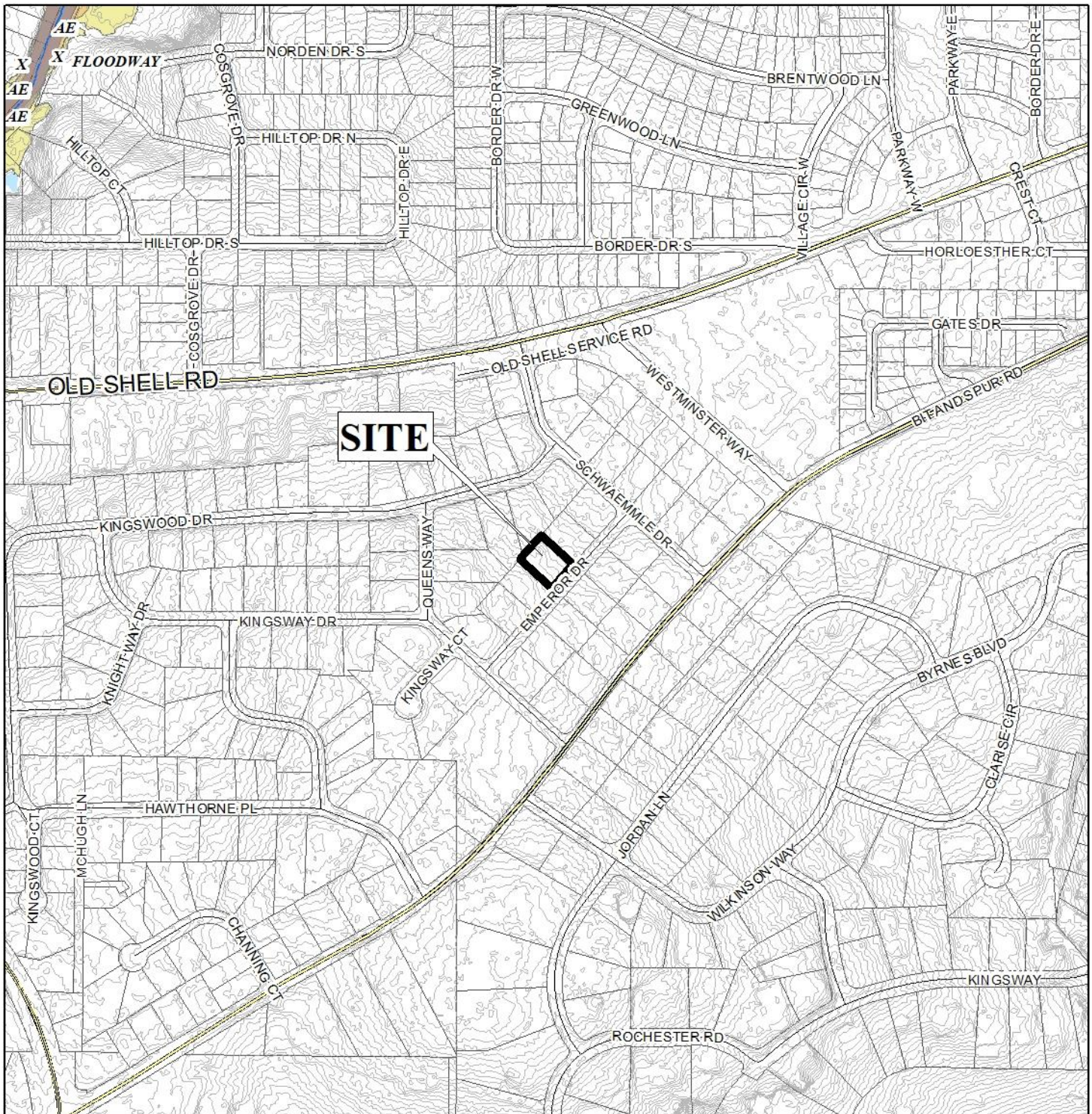
REQUEST Side Yard Setback Variance

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	





# 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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<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: tan; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> T5.1
<span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: magenta; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> T3	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkpurple; border: 1px solid black;"></span> T5.2
<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: peachpuff; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: gray; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpurple; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

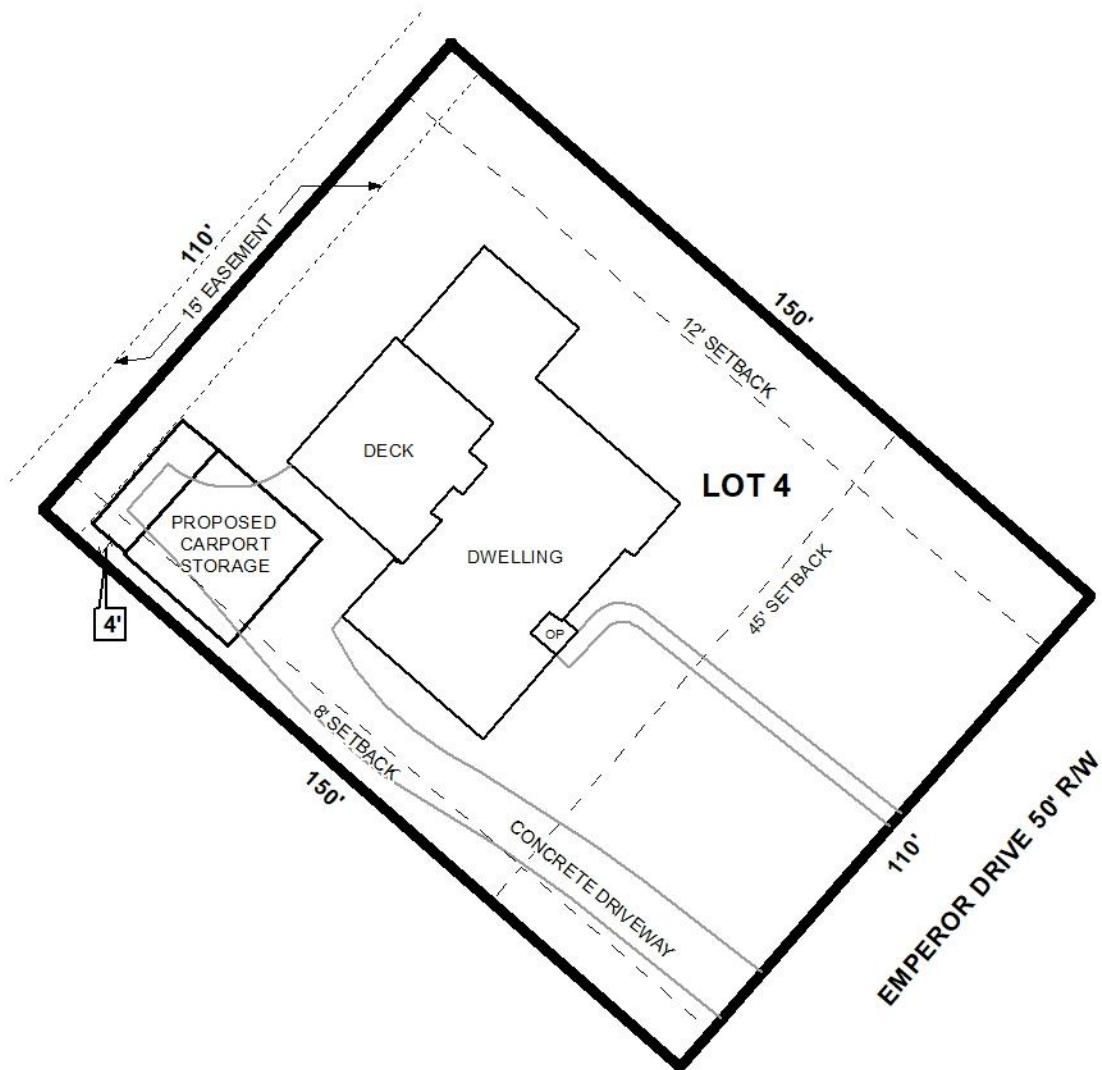


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# SITE PLAN



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

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