

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: March 5, 2012

CASE NUMBER

5737

APPLICANT NAME

Ian Thorneycroft

LOCATION

21 Hillwood Road
(East side of Hillwood Road, 600'± South of Old Shell Road)

VARIANCE REQUEST

SETBACK: Side Yard Setback Variances to allow the necessary mechanical equipment within 4' of a side property line in an R-1, Single Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

SETBACK: Zoning Ordinance allows necessary mechanical equipment to project not more than 2' into any yard in an R-1, Single-Family Residential District, in this case no closer than 6' to the side property line.

ZONING

R-1, Single Family Residential

AREA OF PROPERTY

1.18 ± acres

**TRAFFIC ENGINEERING
COMMENTS**

No Comments

**CITY COUNCIL
DISTRICT**

District 5

ANALYSIS

The applicant is requesting a side yard setback variances to allow necessary mechanical equipment within 4' of a side property line in an R-1, Single Family Residential District; the Zoning Ordinance allows necessary mechanical equipment to project not more than 2' into any yard in an R-1, Single-Family Residential District, in this case no closer than 6' to the side property line.

The applicant recently built a new single-family residence and is currently awaiting the issuance of the certificate of occupancy. During the final inspections of the property, it was determined that three of the four air conditioner units on site were placed within 4' of a side property line. Upon review of the approved site plan submitted at the time the building permit was issued, none of the air conditioning units were illustrated, and thus staff did not know that the units would be placed within the required setback.

The applicant states that the required efficiency rating for the A/C units results in the necessity for units that measure over 36" in height, thus encroaching into setback requirements. However, there is no justification for why the units could not be placed elsewhere on the property where required setbacks would be met. The applicant goes on to state that the units are not visible to the adjacent property due to the existence of a wooden privacy fence and a vegetated hedge. Also, the applicant says that noise production from the units should not be a factor because the units would be allowed in their current location if they were less than 36" tall. Despite the lack of visibility of the units to the adjacent property, the larger size of the units would suggest that they may produce more noise than a smaller unit would.

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.

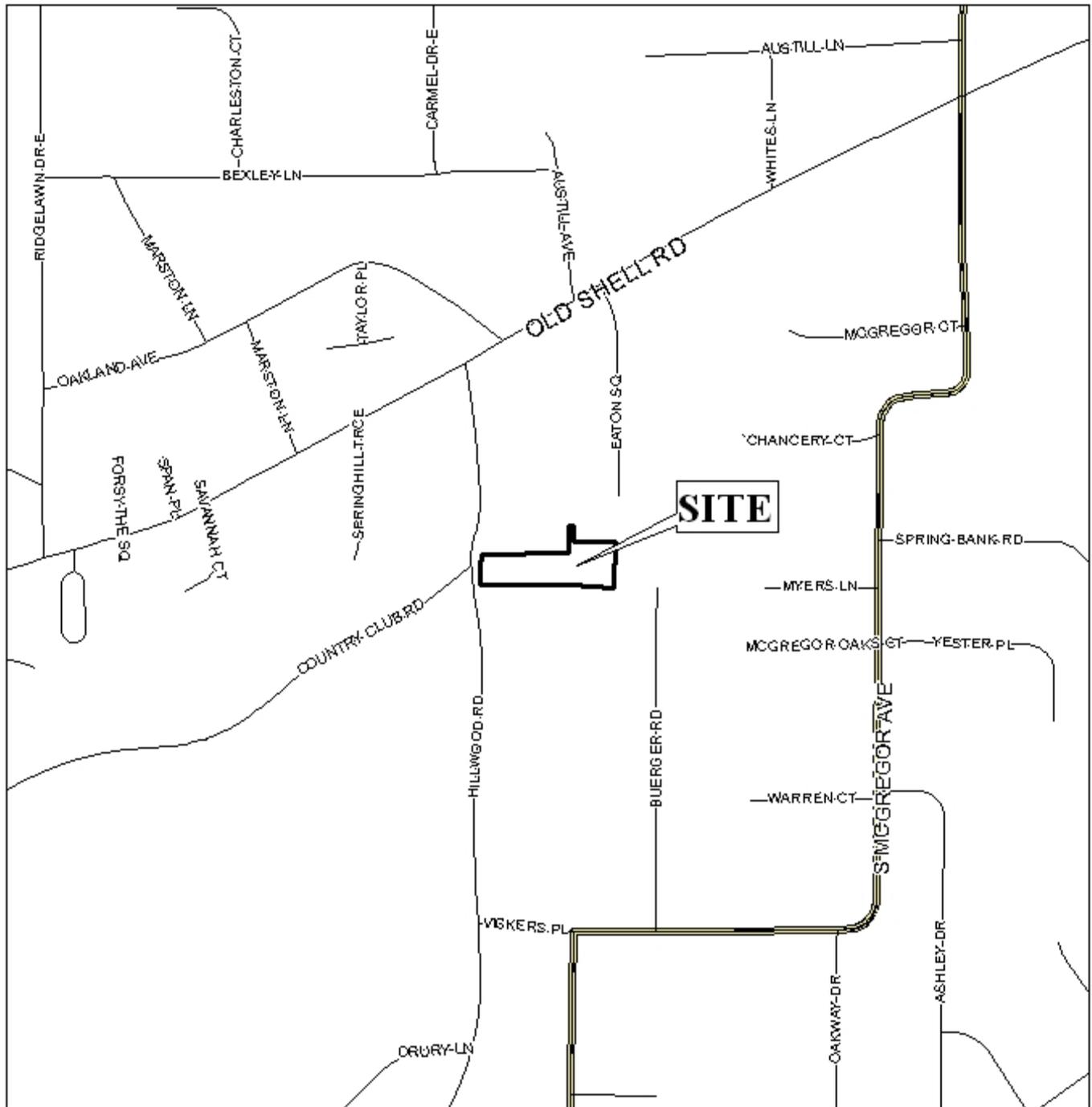
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The applicant did not consider all setback requirements at the time of construction, resulting in a self-imposed hardship. Further, had the units been depicted on the site plan for permitting, this issue would have been addressed at that time.

RECOMMENDATION:

Based on the preceding, this application is recommended for denial.

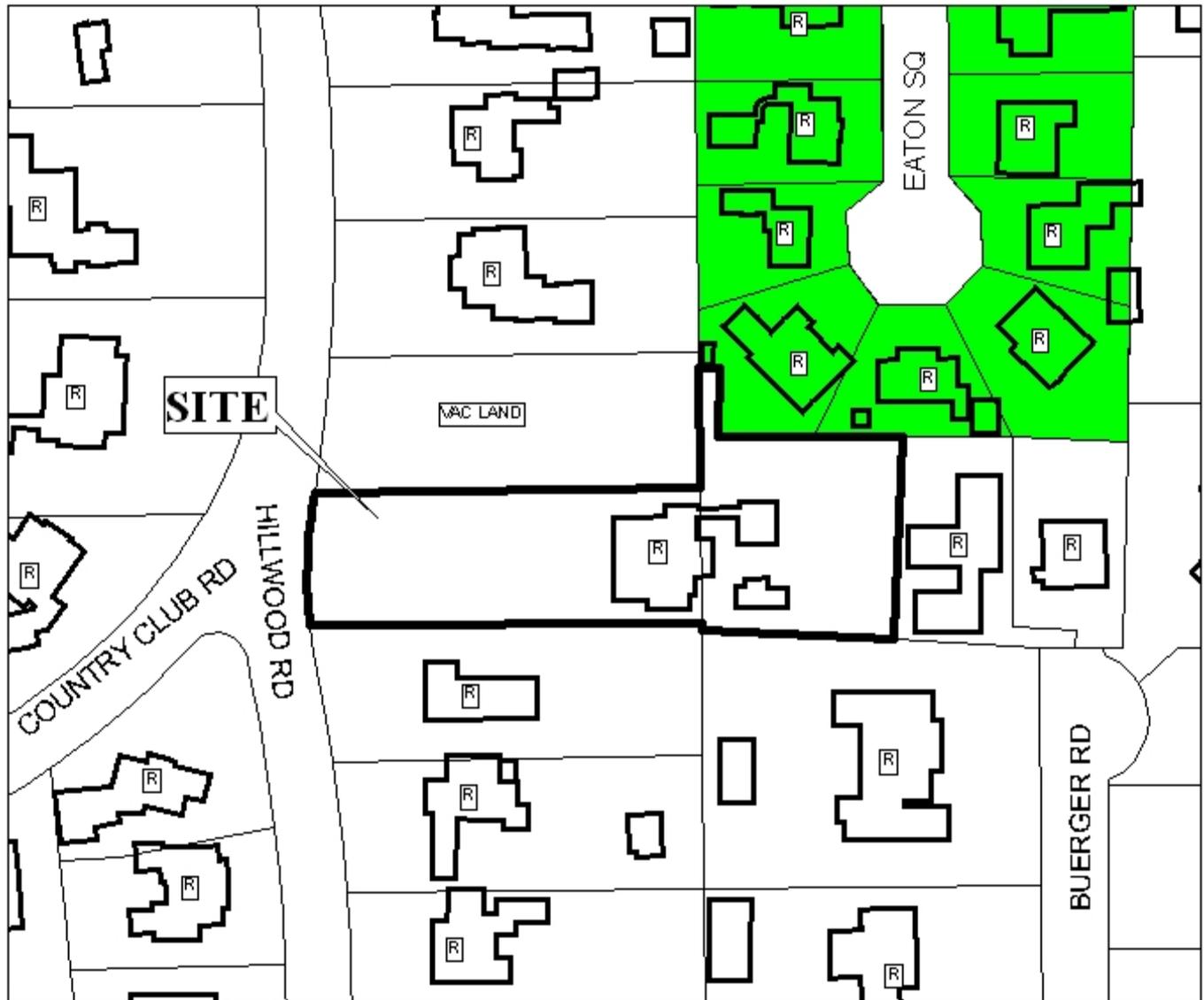
LOCATOR MAP



APPLICATION NUMBER 5737 DATE March 5, 2012
APPLICANT Ian Thomeycroft
REQUEST Side Yard Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

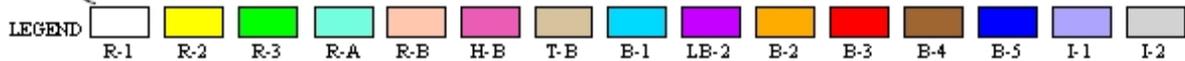


The site is surrounded by single-family residential land use.

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**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**

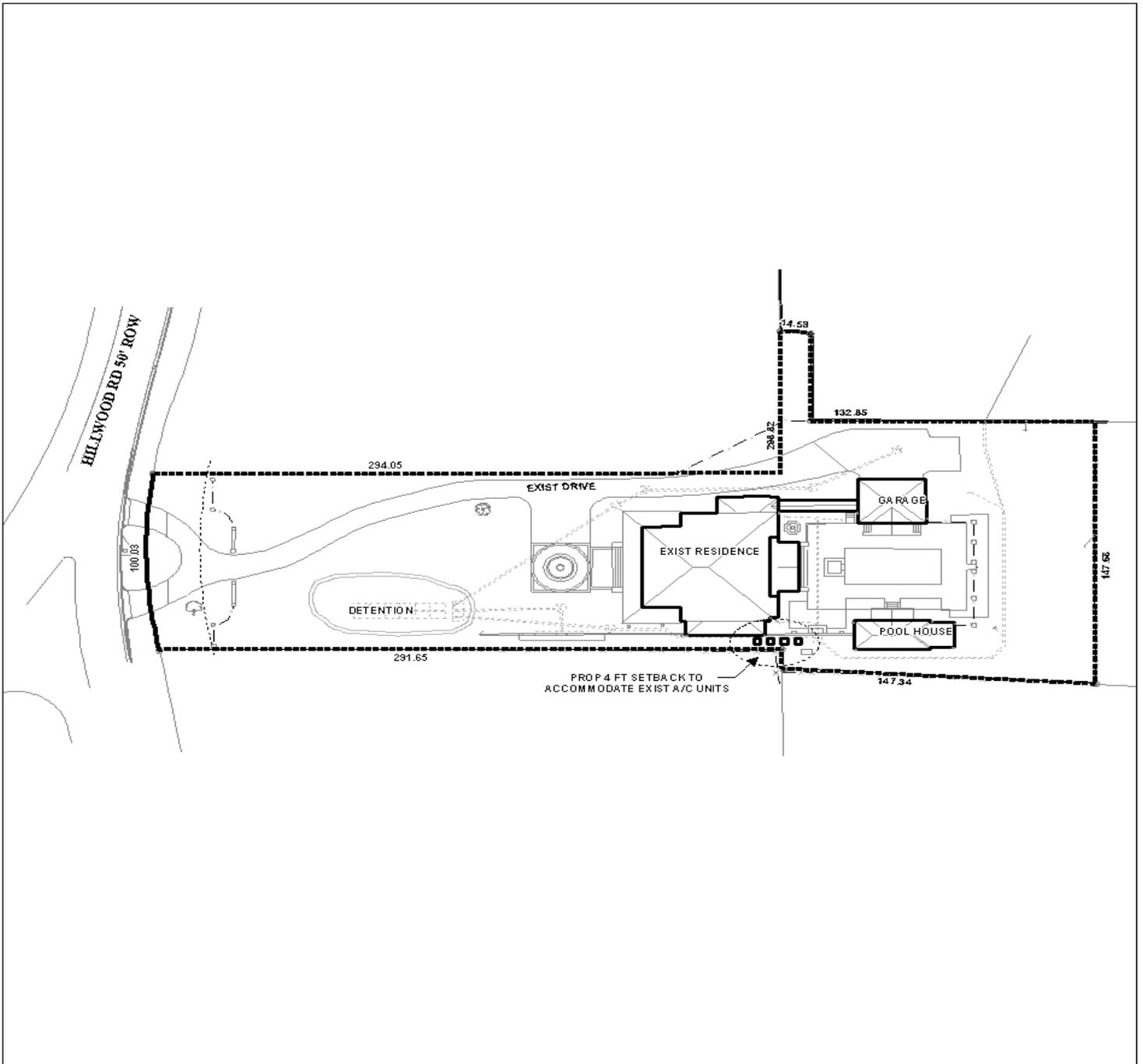


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SITE PLAN



The site plan illustrates the existing residence.

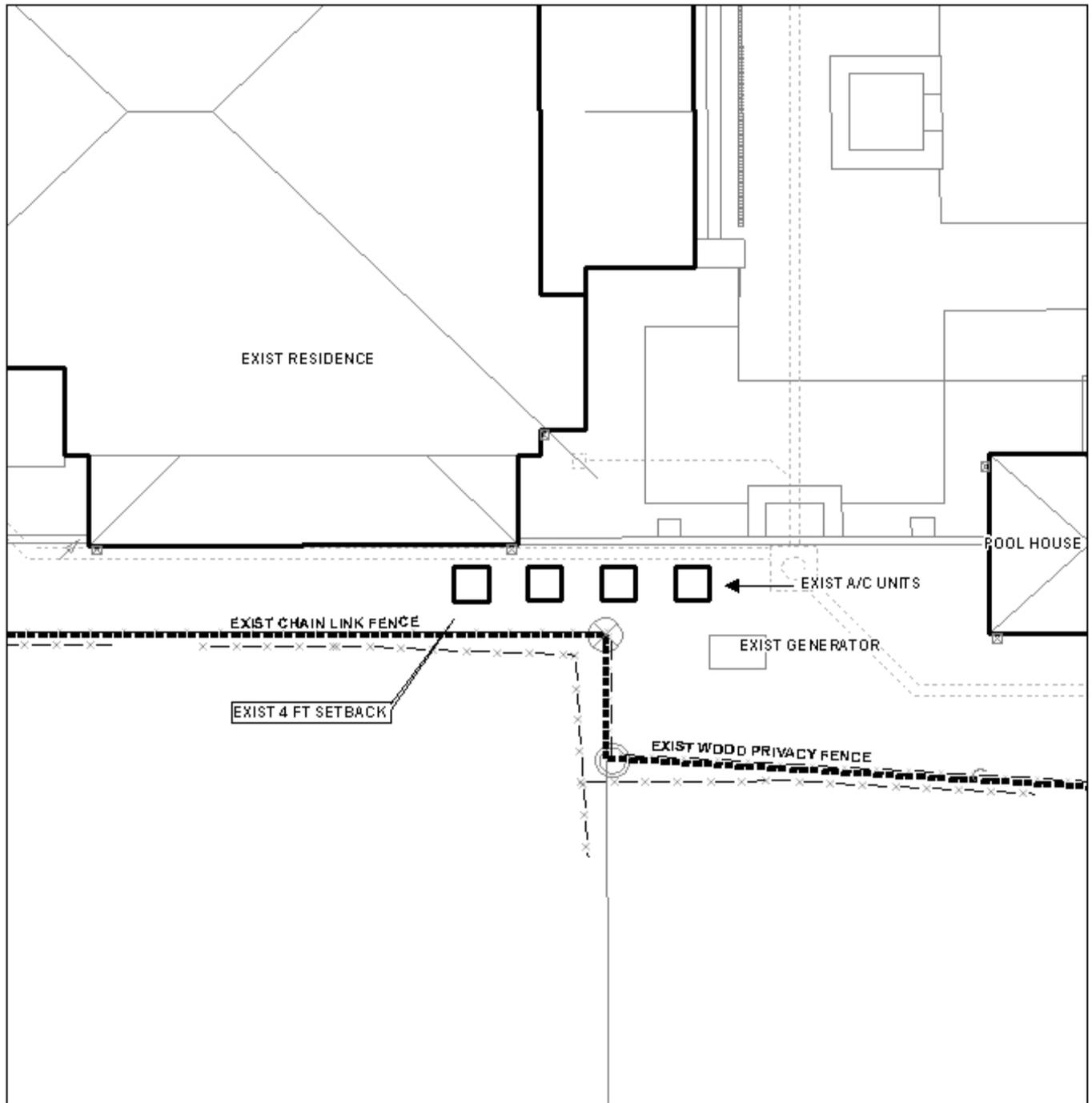
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DETAIL SITE PLAN



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