

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: August 3, 2020****CASE NUMBER**

6337

**APPLICANT NAME**

Shawn Conklan

**LOCATION**4287 Horloesther Court  
(Southwest corner of Old Shell Road and Horloesther Court)**VARIANCE REQUEST****FRONT YARD SETBACK:** To allow the construction of an eight (8) foot high privacy fence within the required front yard setback in an R-1, Single-Family Residential District.**SIDE STREET SIDE YARD SETBACK:** To allow the construction of an eight (8) foot high privacy fence within the required front yard setback in an R-1, Single-Family Residential District.**ZONING ORDINANCE  
REQUIREMENT****FRONT YARD SETBACK:** The Zoning Ordinance requires fences three (3) feet high or taller to be setback at least 25' from the front yard property line in an R-1, Single-Family Residential District.**SIDE STREET SIDE YARD SETBACK:** The Zoning Ordinance requires fences three (3) feet high or taller to be setback at least 25' from the side street property line in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential District

**AREA OF PROPERTY**

14,856± square feet / 0.34± Acres

**CITY COUNCIL  
DISTRICT**

District 5

**ENGINEERING  
COMMENTS**

Please attach the following CONDITIONS to any approval:

1. If the proposed fence is going to be located within the Horloesther Ct. or Old Shell Rd. ROW a ROW Permit must be obtained from the City of Mobile. The fence should not change the existing drainage patterns to the adjoining properties or the public ROW.

**TRAFFIC ENGINEERING  
COMMENTS**

The fence as proposed along Old Shell Road is not likely to cause an adverse sight line looking to the west from Horloesther Court. The owner may want to reconsider the placement as proposed along Horloesther Court because it does appear to be a line of sight exiting from their own driveway. Visibility of vehicles approaching from the west and turning right onto Horloesther Court appears to be obstructed with the fence as proposed at the corner.

**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 Front Yard and Side Street Side Yard Setback Variances to allow the construction of an eight (8) foot high privacy fence within the required front yard and side street side yard setbacks in an R-1, Single-Family Residential District; the Zoning Ordinance requires fences three (3) feet high or taller to be setback at least 25' from the front yard and side street side yard property lines in an R-1, Single-Family Residential District.

The site has been given a Low Density Residential (LDR) 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 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 applicant states:

***Site Variance Description:***

*Our home & property are situated on the corner of Old Shell Rd & Horloesther Ct. We would like to be granted a variance to construct an 8ft cap top privacy fence within the setback zone of our property. We are specifically requesting permission to construct this fence within 7.2 ft of or property line facing Old Shell, up to the property line at the corner of Old Shell & Horloesther, and within 5 ft of the property line for about 27 ft facing Horloesther Ct. This will stop at the edge of our existing driveway.*

***Benefits:***

*Not only will this offer privacy and security for us but will also be consistent with many residential properties along Old Shell Rd specifically in the Springhill Area. Additionally, our property is located directly across the street from the International Food Park. We love them, but often at night cars sit in the parking lot with their head lights facing our*

*home (including squad cars regularly). This fence will block some of the light that pierces thru our front windows at night.*

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.”

Per the applicant’s statement, there do seem to be a number of residential properties with fencing along Old Shell Road. In fact, a line of houses within the same neighborhood as the subject property have wood privacy fencing in the back yards of said properties which extend East from the subject property approximately 369’± along Old Shell Road. This older fencing appears to have been installed potentially as a buffer from Old Shell Road and is a common practice among developers when developing subdivisions that have properties fronting multiple streets; especially when the rear frontage is a high traffic street such as this portion of Old Shell Road. While it does not appear that a variance was granted for the existing fencing in the area, it does not appear that approving the variance request would be out of character with the area.

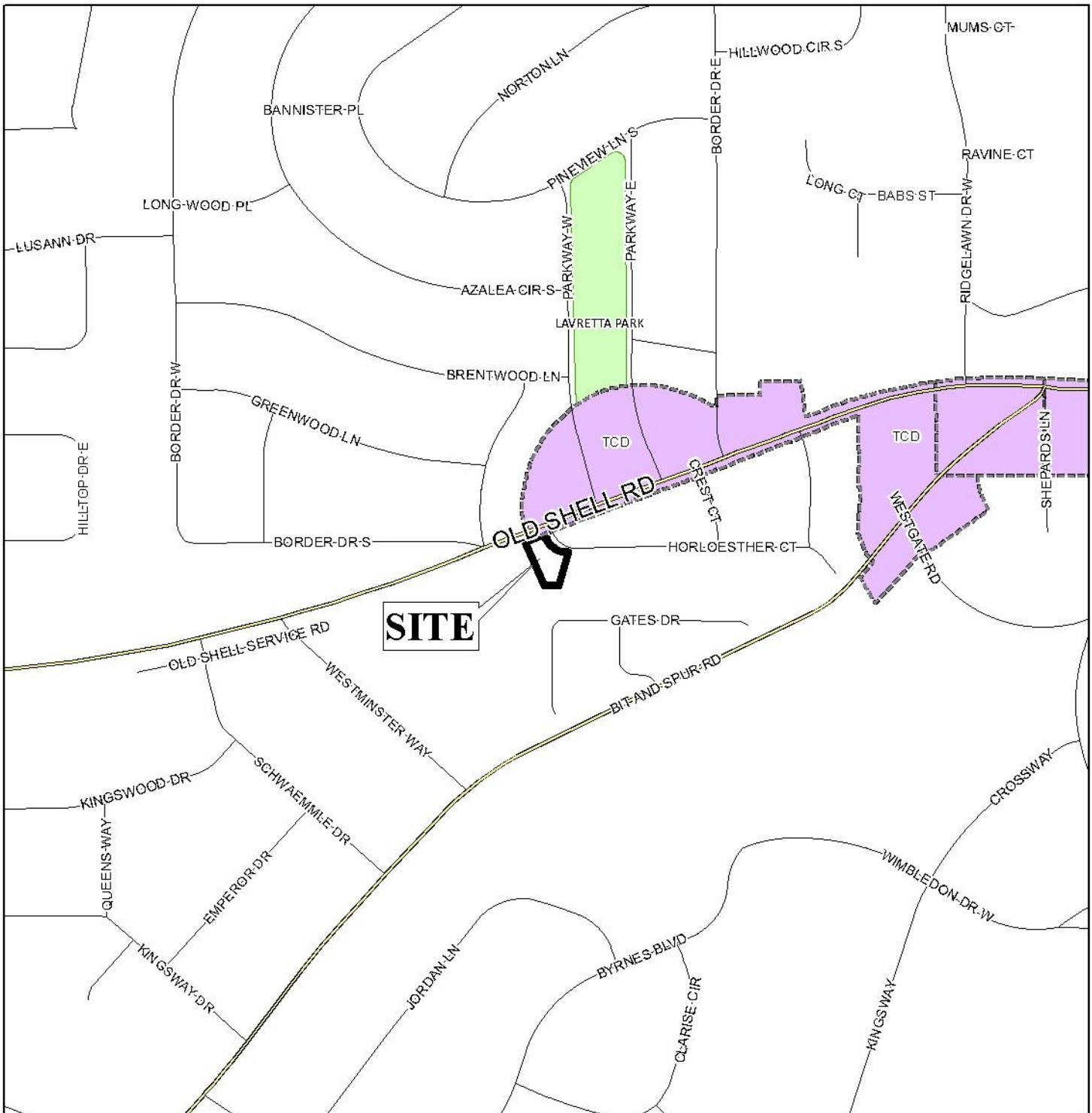
**RECOMMENDATION:** Based on the preceding, staff recommends to the Board the following findings of fact for Approval:

- 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 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.

The approval should be subject to the following conditions:

- 1) Obtain associated building permits;
- 2) The approval of the Traffic Engineering Department for the specific location of the proposed fence; and
- 3) Full compliance with all municipal codes and ordinances.

# LOCATOR MAP



APPLICATION NUMBER 6337 DATE August 3, 2020

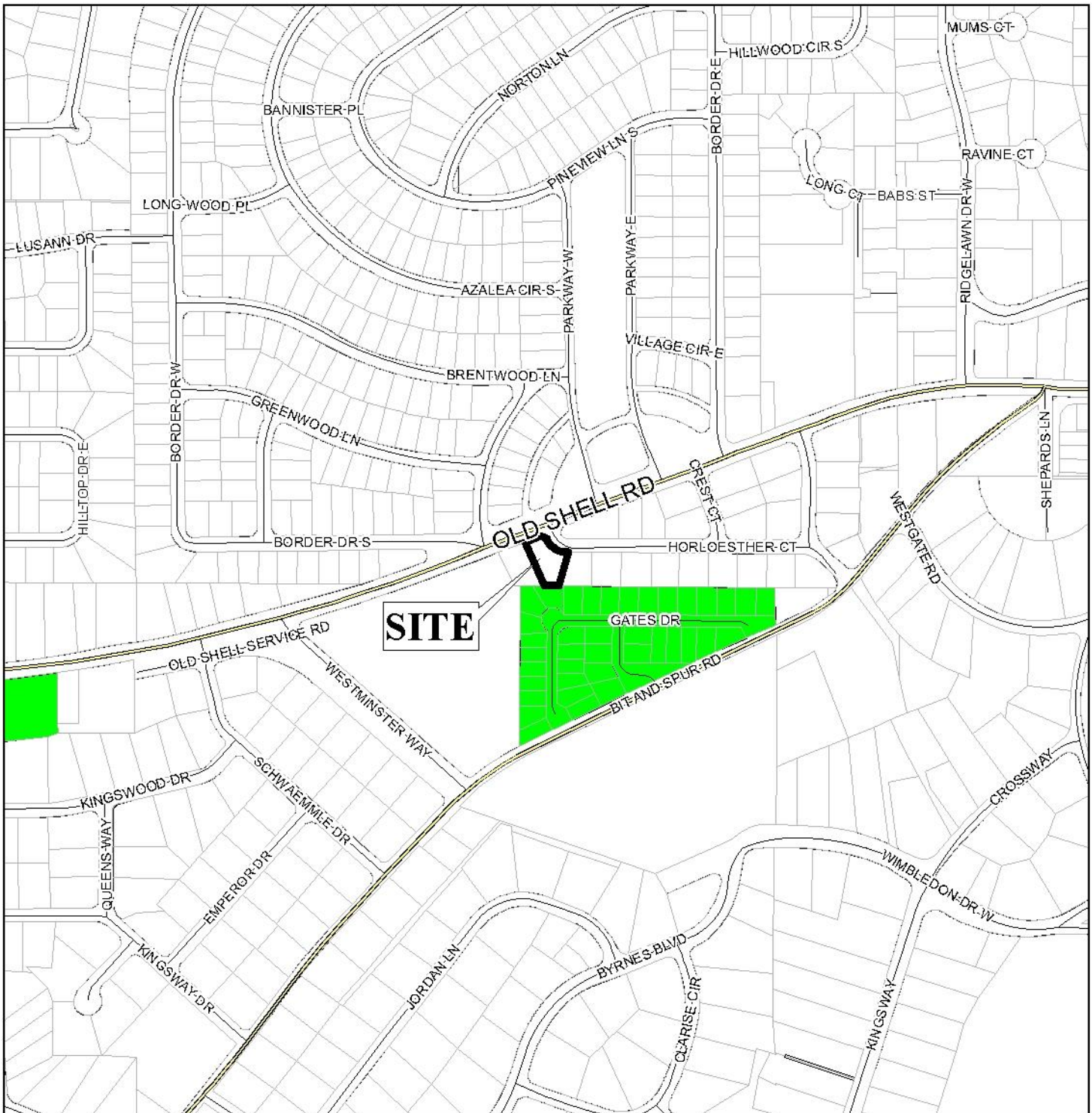
APPLICANT Shawn Conklan

REQUEST Front Yard and Side Street Side Yard Setback Variances



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# LOCATOR ZONING MAP



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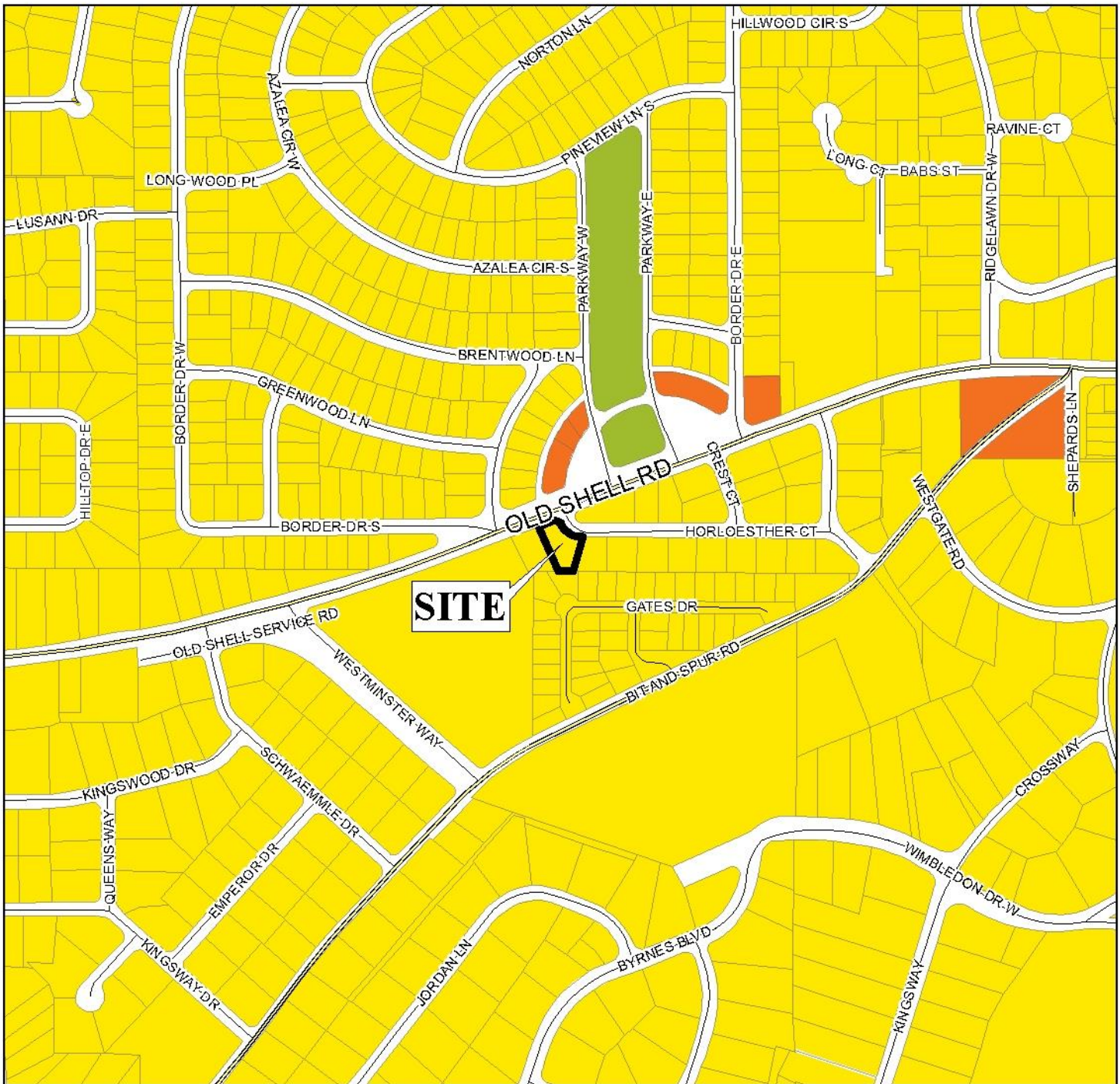
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# FLUM LOCATOR MAP



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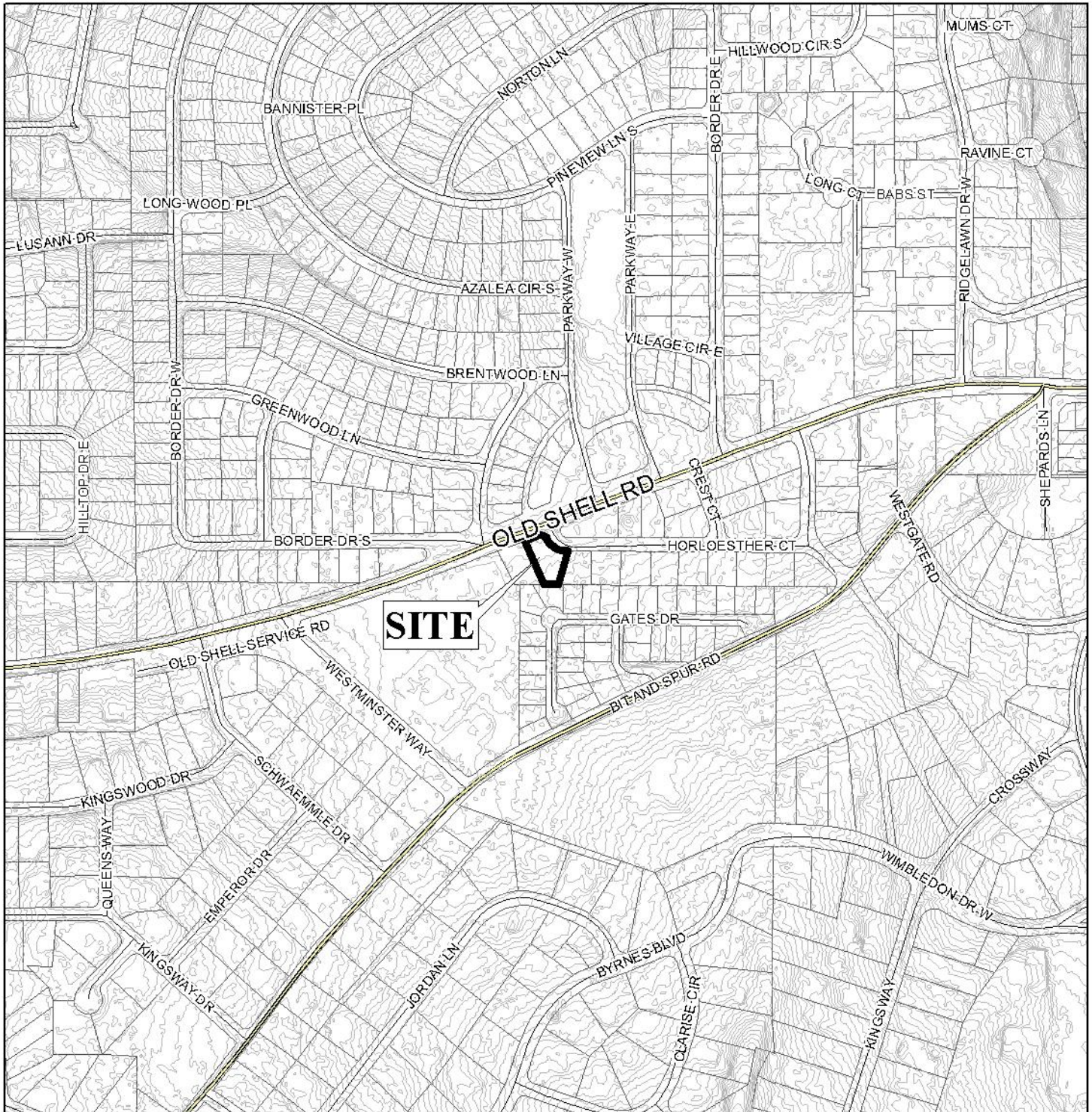
REQUEST Front Yard and Side Street Side Yard Setback Variances

|                           |                                   |                     |                    |
|---------------------------|-----------------------------------|---------------------|--------------------|
| 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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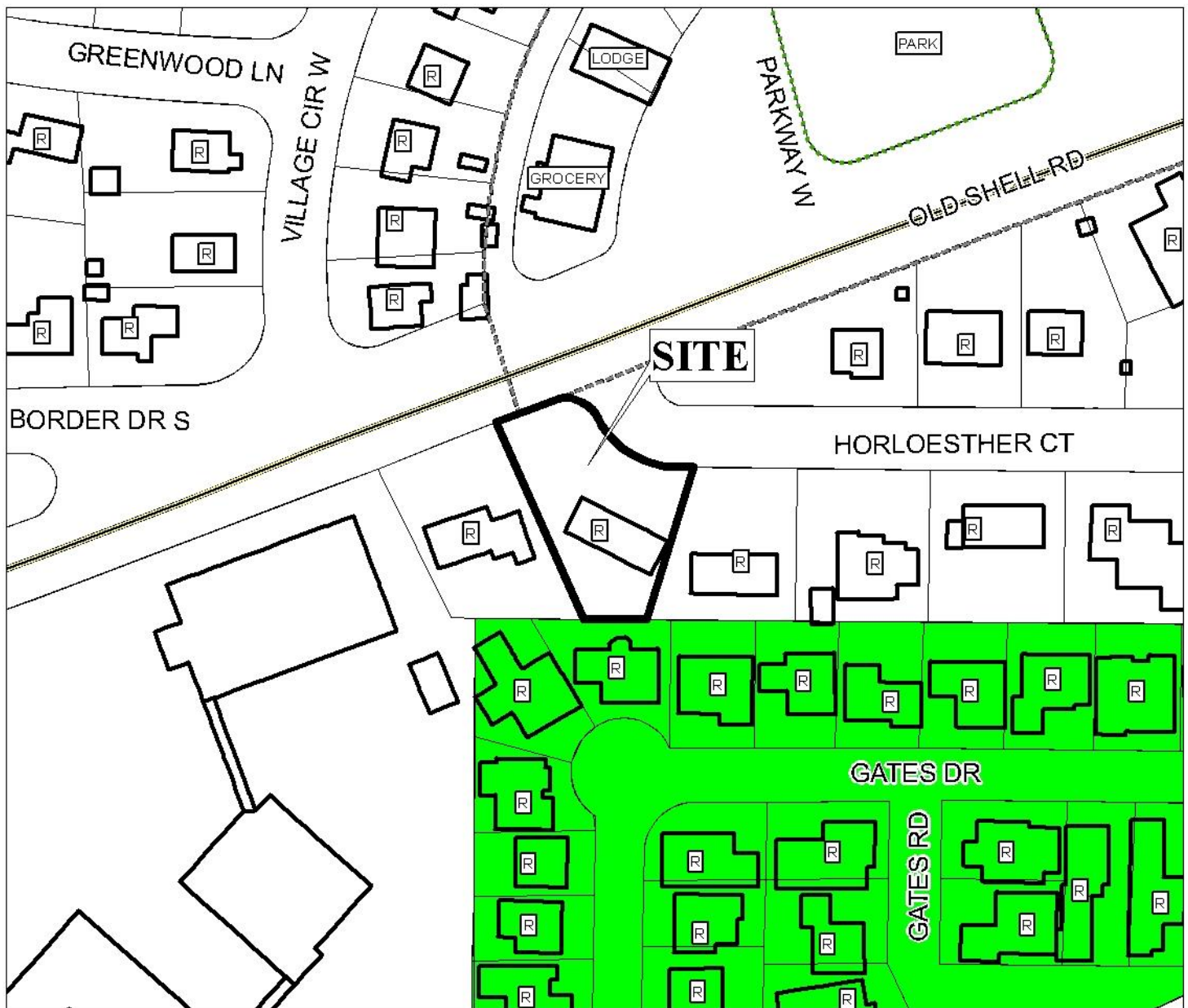


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# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential and commercial units.

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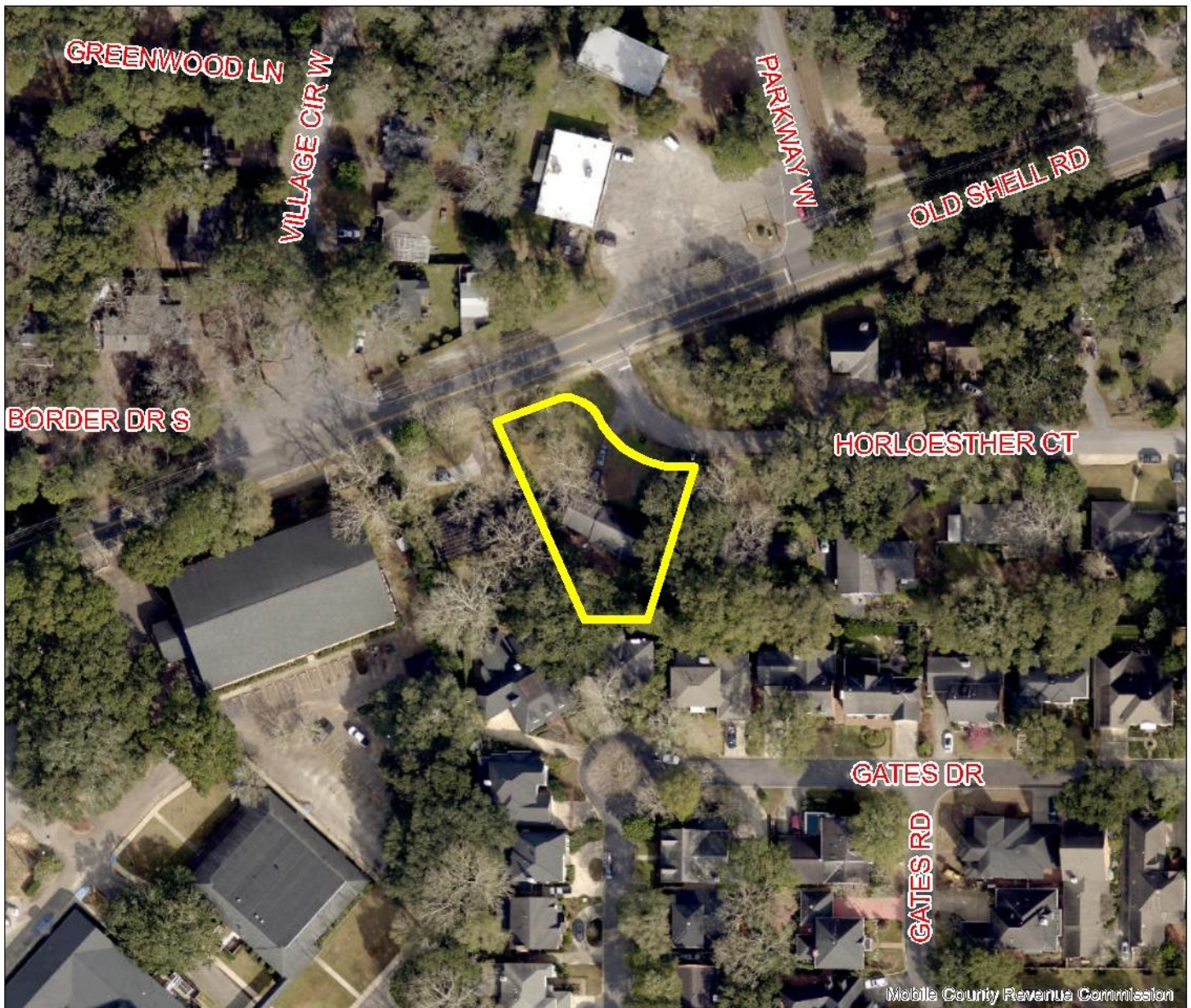
|     |     |      |     |     |      |       |      |
|-----|-----|------|-----|-----|------|-------|------|
| R-A | R-3 | T-B  | B-2 | B-5 | MUN  | SD-WH | T5.1 |
| R-1 | R-B | B-1  | B-3 | I-1 | OPEN | T3    | T5.2 |
| R-2 | H-B | LB-2 | B-4 | I-2 | SD   | T4    | T6   |





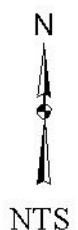
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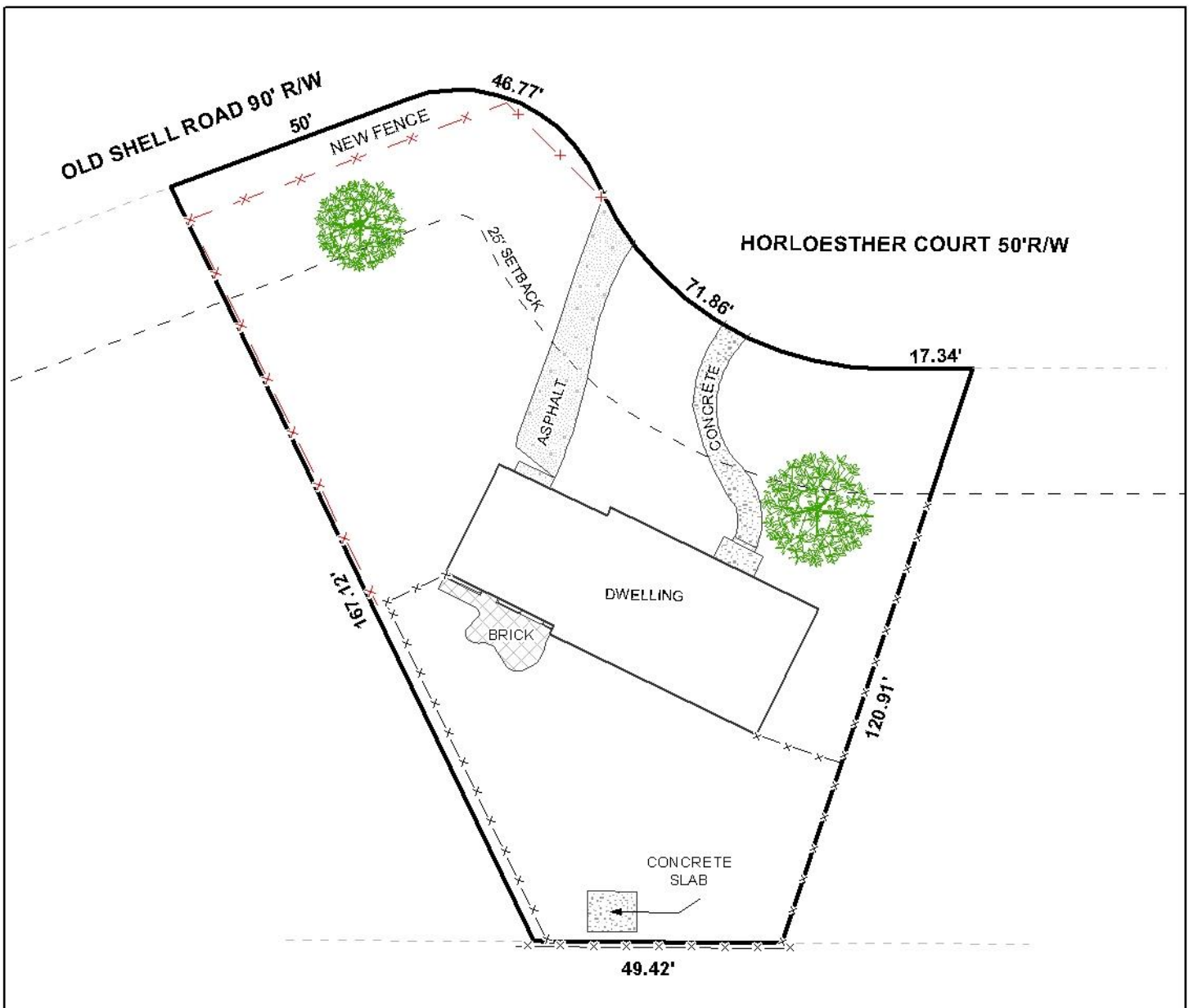


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# SITE PLAN



The site plan illustrates existing setback, dwelling, fencing and proposed fence.

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