

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: May 6, 2019****CASE NUMBER**

6257

APPLICANT NAME

Smith, Clark, & Associates, LLC

LOCATION3950 Old Shell Road
(Northwest corner of Old Shell Road and Provident Lane).**VARIANCE REQUEST****SIDE AND REAR YARD SETBACK:** Setback Variance to allow the construction of a garage with reduced side and rear yard setbacks in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE AND REAR YARD SETBACK:** The Zoning Ordinance requires 8' minimum side and rear yard setbacks for structures over 3' tall in an R-1, Single Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.73 ± Acres

**CITY COUNCIL
DISTRICT**

District 7

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

**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

It should be pointed out that the language in the variance description for this request is incorrect. The applicant is indeed requesting a side and rear yard setback, but the Zoning Ordinance requires an 8' minimum rear yard setback and a 20' side street side yard setback for structures over 3' tall in an R-1, Single Family Residential District. The applicant is proposing a 5' rear yard setback and a 16' side street side yard setback; thus the reason for this application.

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 the following reason to explain the need for the variance:

“The Lamar family would like to build a detached garage to serve their home. The current configuration of the home and the driveway on the property has created some challenges for completing this project. We are requesting a variance to the side street setback of 20' and the rear setback of 8' to allow for 15' setback on the side street and 5' setback on the rear. This will allow the Lamar family to build a 27' x 35' garage.

In this particular area of Mobile similar circumstances are prevalent. There are numerous accessory structures that were either constructed over the setback lines or were built prior to the establishment of the setbacks as they exist now. In addition, the McRee Place subdivision just across Provident Lane from the subject property was approved in 2013 with 5' Side yard setbacks and 10' street side setbacks. We variance that we are seeking will still meet or exceed the restrictions set forth for McRee Place. We ask that you consider this application for approval.”

The applicant states in the narrative that there are numerous accessory structures that were either constructed over the setback lines or were built prior to the establishment of the setbacks as well as referenced another site across Provident Lane that received approval from reduced side yard setbacks. McRee Place across Provident Lane from the site, is a Planned Unit Development, the Planning Commission approved the PUD in July 2012, allowing a private street, reduced setbacks and increased site coverage. After further research staff was able to determine that there were at least a minimum of 6 other sites within the area that received reduced setback approvals from the Board regarding side street, rear, and side yard setbacks. The most recent setback approval in the area appeared before the Board in 2015 to allow a bulk/site and side yard setback variance (which then was re-approved in 2016 due to the fact permits were never pulled and work was never constructed). Thus, an approval for this site would seem approvable and in keeping with the surrounding area.

There are no conditions which exist at this site that would require the applicant to have to place the garage within the setbacks, nor has a hardship been presented by the applicant. However, there have been several past variance approvals with similar side and or rear yard setback request within a close proximity of the area. Thus it would seem that the Board has set a precedent and this request would not be out of character of the general neighborhood.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Approval:

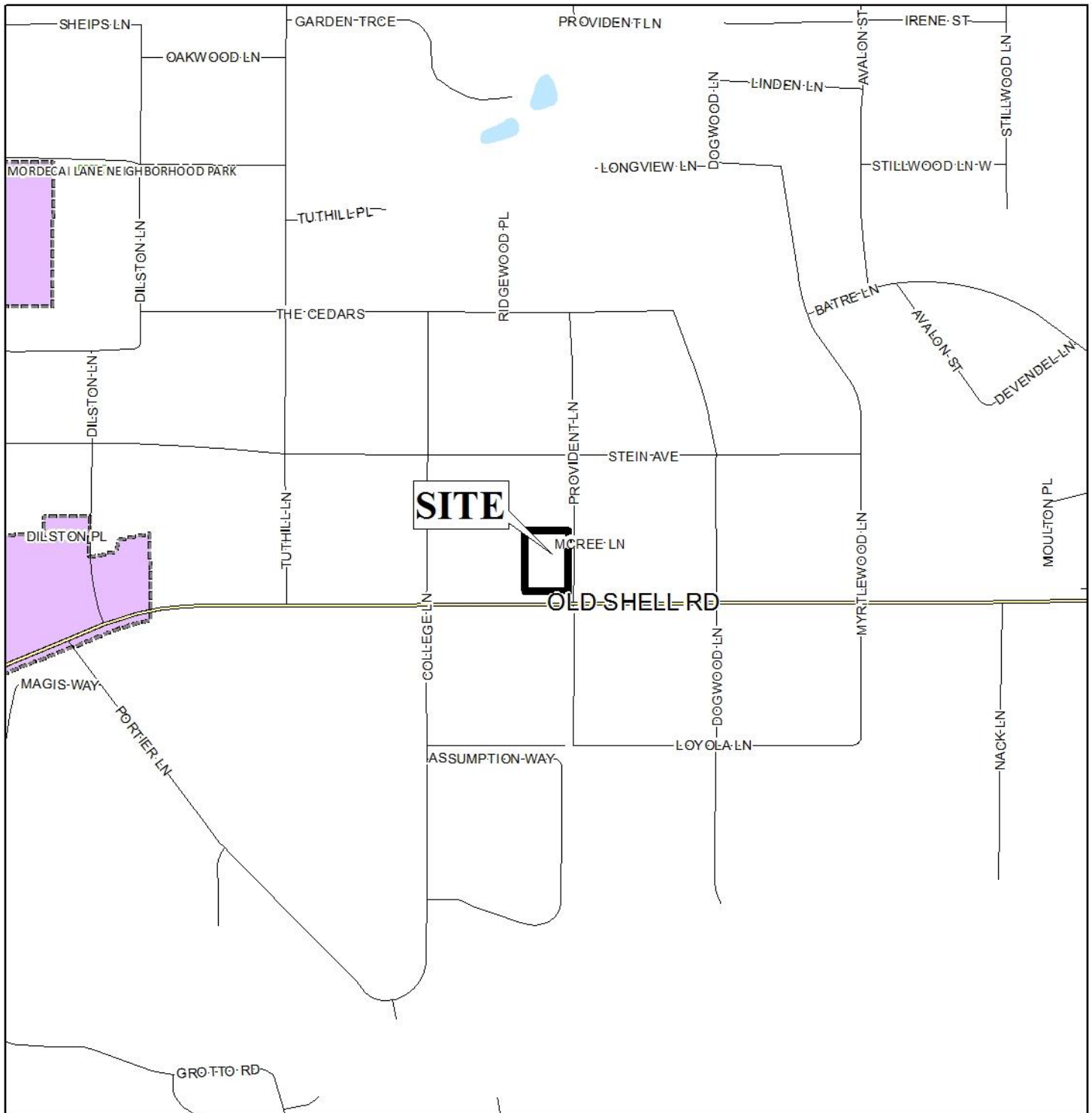
- 1) Approving the variance will not be contrary to the public interest in that it would be in similar to other sites within the area that have been approved for reduced yard setbacks;

- 2) Special conditions and hardships exists in such a way 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 because it would be in keeping with the characteristics of the surrounding area.

The approval is subject to the following conditions:

- 1) Obtain all proper permits;
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



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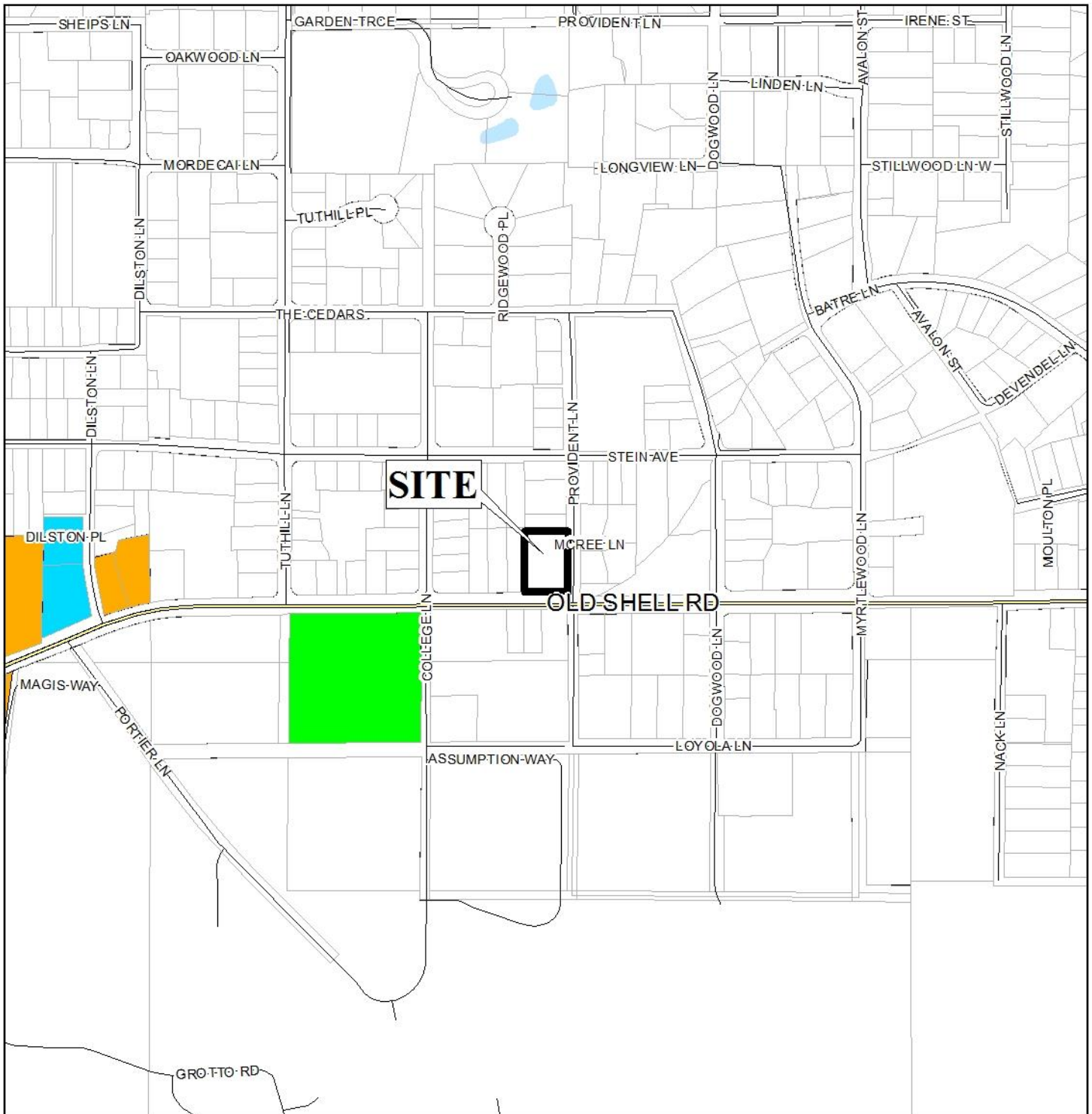
APPLICANT Smith, Clark & Associates LLC

REQUEST Setback Variance



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LOCATOR ZONING MAP



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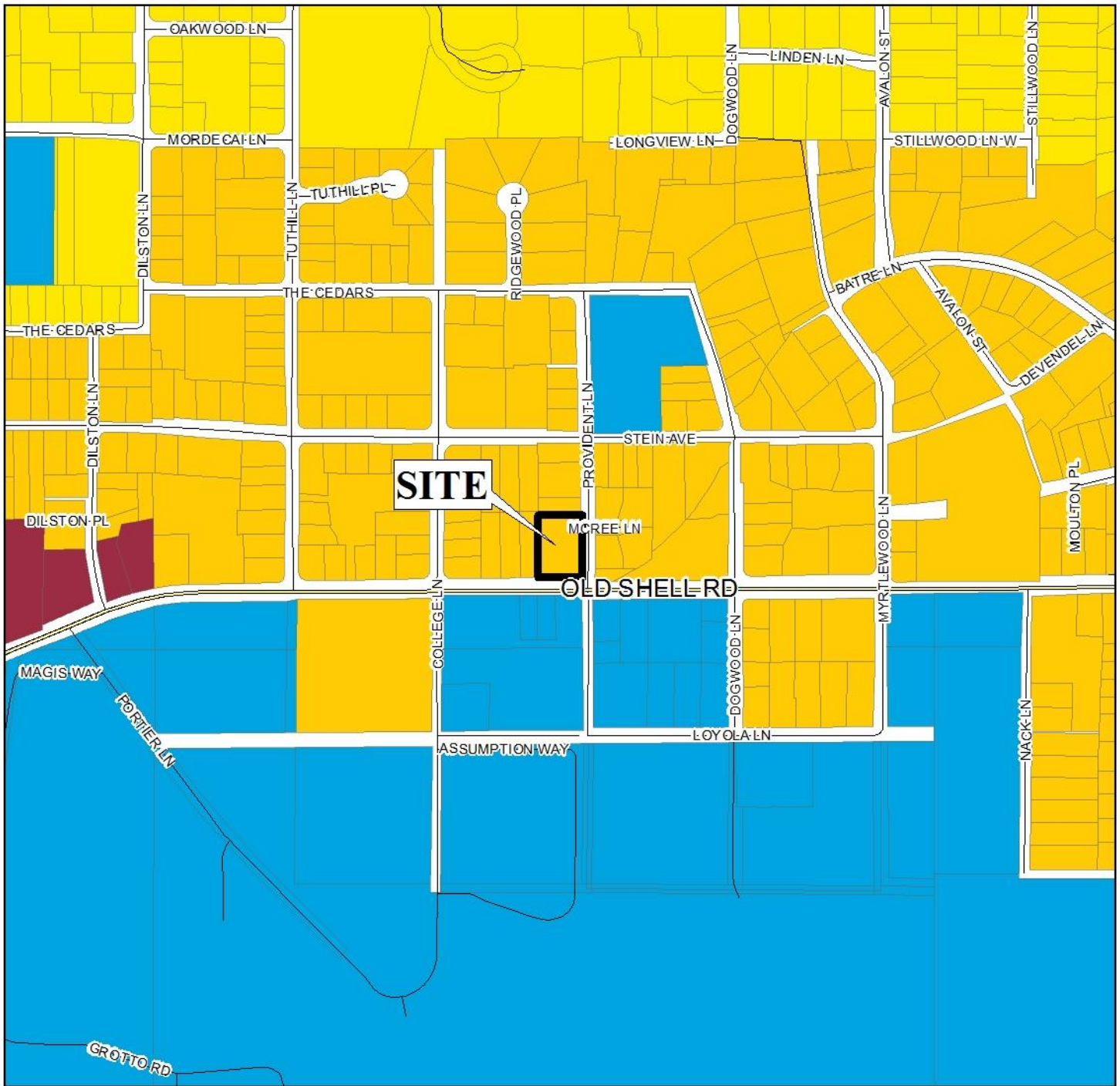
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FLUM LOCATOR MAP



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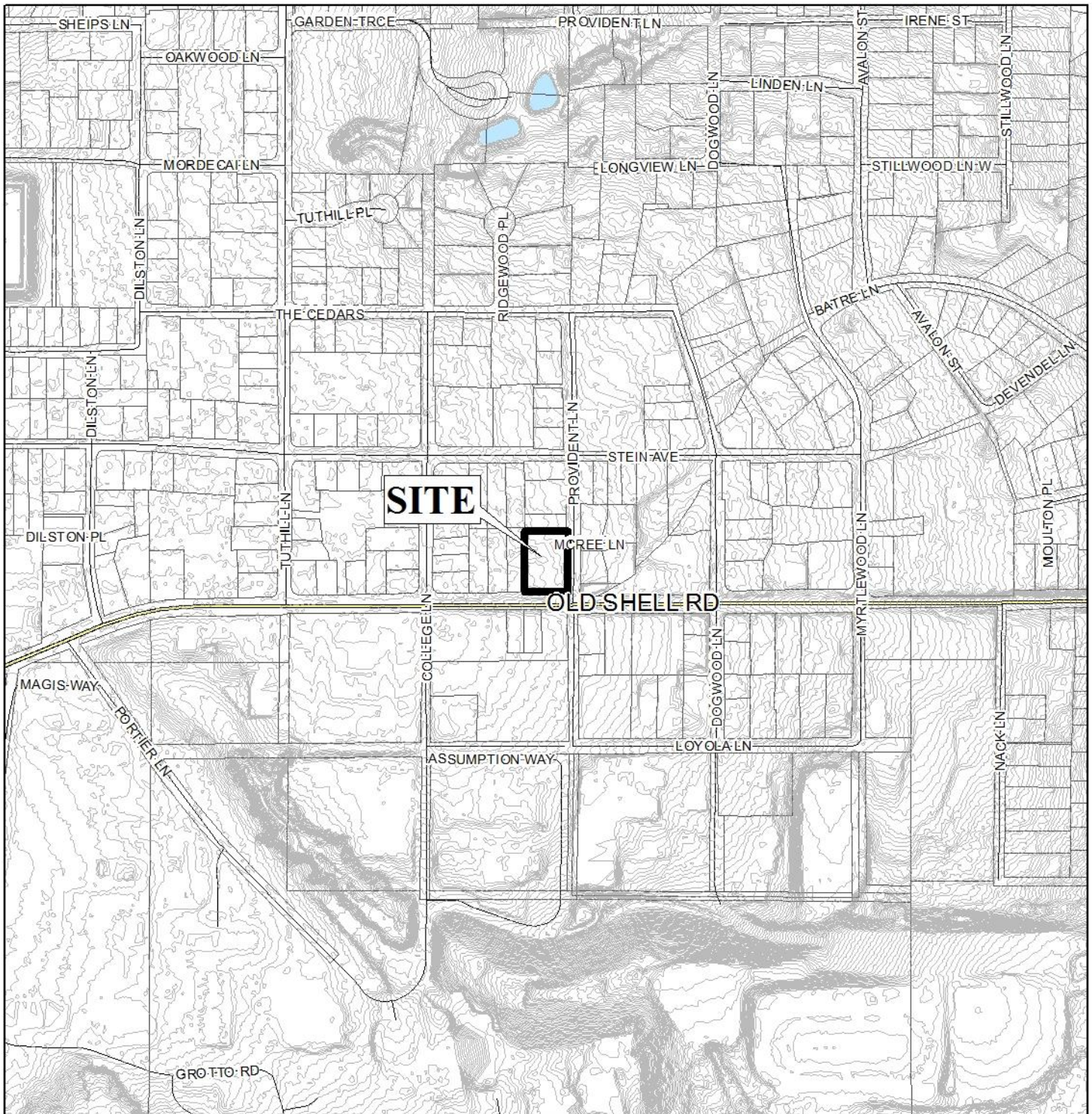
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Low Density Residential	Neighborhood Center - Traditional	Downtown Waterfront	Parks & Open Space
Mixed Density Residential	Neighborhood Center - Suburban	Light Industry	Water Dependent
Downtown	Traditional Corridor	Heavy Industry	
District Center	Mixed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



ENVIRONMENTAL LOCATOR MAP



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BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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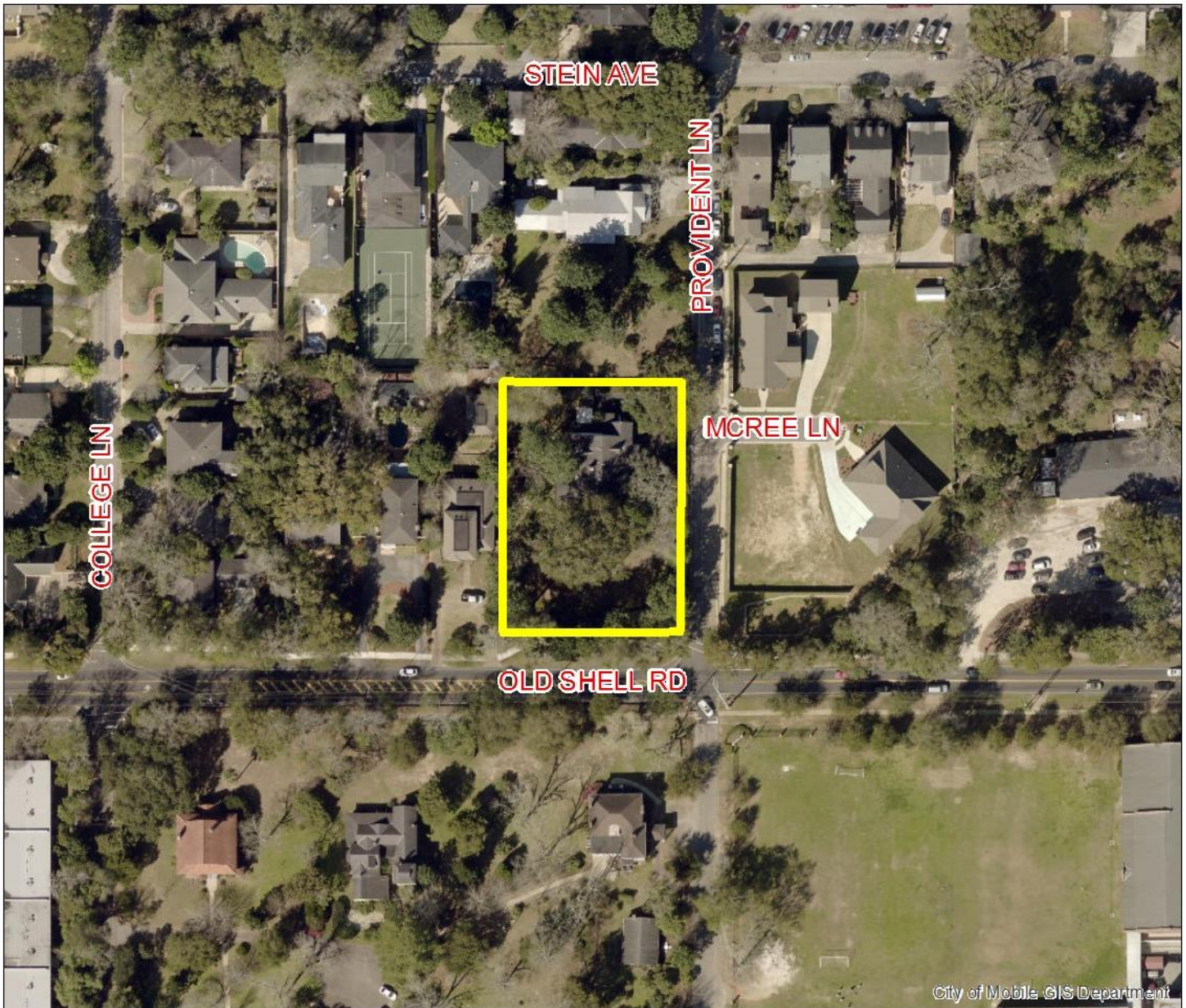
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

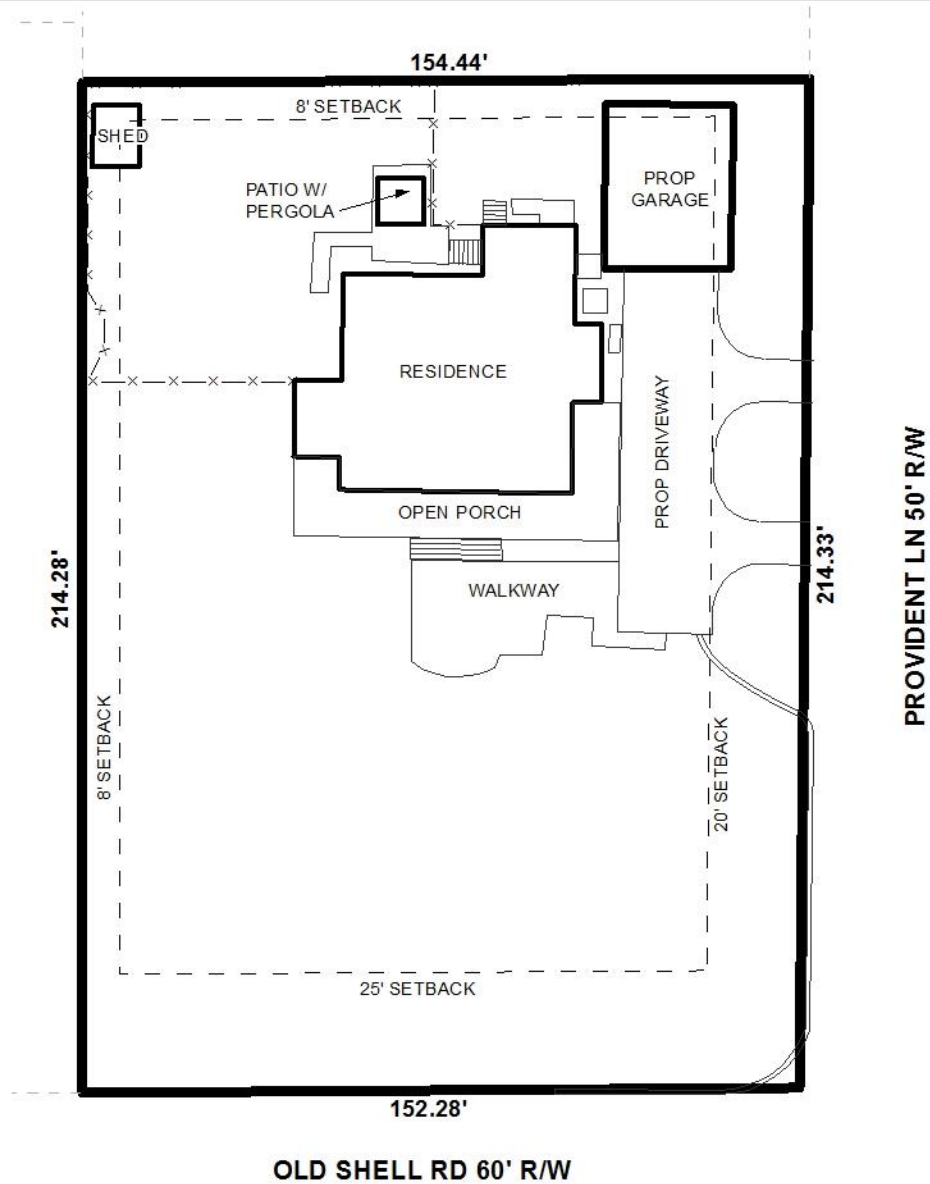


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SITE PLAN



The site plan illustrates the existing residence, proposed garage, proposed driveway, and setbacks.

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