

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: May 3, 2021

CASE NUMBER 6382

APPLICANT NAME Bethel Engineering

LOCATION 4103 Ridgelawn Drive
(South side of Ridgelawn Drive, 215'± West of Ridgelawn Drive East).

VARIANCE REQUEST **SETBACK:** To allow a ten-foot rear yard rear street setback and an eight-foot high wall along the rear street property line in an R-1, Single-Family Residential District.

ZONING ORDINANCE REQUIREMENT **SETBACK:** The Zoning Ordinance requires a 25' rear yard rear street setback, and requires any structure three feet high or more to meet the 25' setback in an R-1, Single-Family Residential District.

ZONING R-1, Single-family Residential District

AREA OF PROPERTY 0.7± Acre

CITY COUNCIL DISTRICT District 7

ENGINEERING COMMENTS If the proposed variance is approved for use the applicant will need to have the following conditions met:

1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – Single Family Residential Affidavit be submitted through Central Permitting.
2. 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.
3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites 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). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled buildings and 600' of sprinkled buildings.

ANALYSIS

The applicant is requesting a Setback Variance to allow a ten-foot rear-yard, rear-street, setback and an eight-foot high wall along the rear street property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a 25' rear-yard, rear-street, setback, and requires any structure three feet high or more to meet the 25' setback in an R-1, Single-Family Residential District.

The site has been given a Mixed Density Residential (MxDR) land use designation, per the Future Land Use Plan and Map, adopted on May 18, 2017 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 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:

This lot fronts Ridgelawn Drive and backs up to Old Shell Road. Access is currently denied to Old Shell Road. The adjacent property to the east just received a variance that allows for the same 2 requests we are requesting, a reduced setback on Old Shell Road and approval for an 8' high masonry fence / wall along Old Shell Road at the property line. This will not present any sight distance concerns and will be similar to other approvals along Old Shell Road. The reason for the 10' setback is to allow for a future detached garage structure on the property in the future.

The applicant cites the similar Setback Variance that was approved by the Board for the adjacent property at the Northwest corner of Ridgelawn Drive East and Old Shell Road at the April 2021 meeting. This portion of Old Shell Road is not on the Major Street Plan, and has a compliant 60-foot right-of-way width; thus, the current location of the rear property line of the subject site is not likely to be impacted by future infrastructure improvements.

It should be noted that, in addition to the proposed wall allowed by the recent Setback Variance on the adjacent property, other walls exist in the neighborhood, either by variance or are “grandfathered,” and the proposed wall would not be out of character with the neighborhood. There have been other similar structural setback variance requests in the area approved by the Board to allow fences or walls directly on the right-of-way line. Staff has verified the applicant’s claim that the proposed wall would be similar to other approvals along Old Shell Road. In those instances, as in this, no clear hardship was identified related to the property but, instead, emphasis was put on privacy and neighborhood harmony. In this instance, the emphasis is on the fact that the wall would be similar to other approvals along Old Shell Road. To that

end, this request follows in that same spirit and would not seem to be out of character in this neighborhood.

Pertaining to the requested ten-foot rear yard setback, it would follow that, as the future right-of-way width of Old Shell Road is proposed to remain the same, and as a variance for a ten-foot setback, albeit a side yard setback along Old Shell Road, was granted for the adjacent site to the East, the request at hand would be similar to previous approvals and the Board should consider the current request for approval.

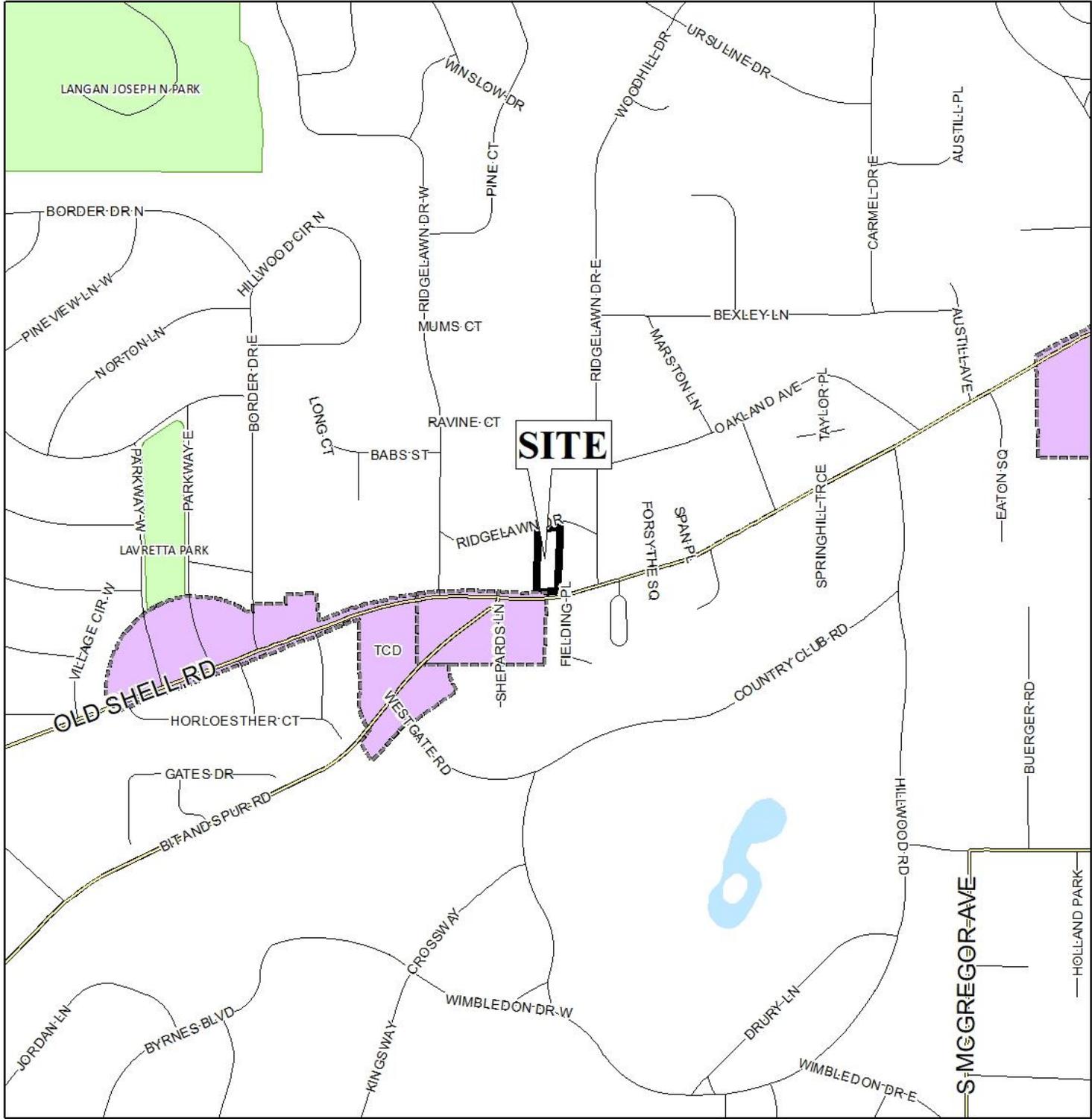
RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for approval of requests for a ten-foot rear yard rear street setback and an eight-foot high wall along the rear street property line in an R-1, Single-Family Residential District:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that similar requests have been approved by the Board for nearby properties for walls of similar size and location;
- 2) Special conditions exist, such as the fact that other properties within the neighborhood have fences and walls on the street property line, and reduced street setbacks have been approved, 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 applicant and the surrounding neighborhood by granting the variance because the request is similar to and not uncommon for other properties within the Spring Hill area.

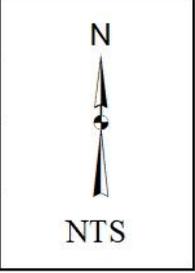
The approval is subject to the following conditions:

- 1) the obtaining of the proper permit(s) for the construction of the wall;
- 2) subject to the Engineering comments: *(If the proposed variance is approved for use the applicant will need to have the following conditions met: 1. The proposed improvements shown on the submitted plans will require a Land Disturbance Permit – Single Family Residential Affidavit be submitted through Central Permitting. 2. 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. 3. Any and all proposed land disturbing activity within the property will need to be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. Applicant agrees to install adequate BMPs during construction to protect from sediment/pollutants leaving the site.); and*
- 3) full compliance with all municipal codes and ordinances.

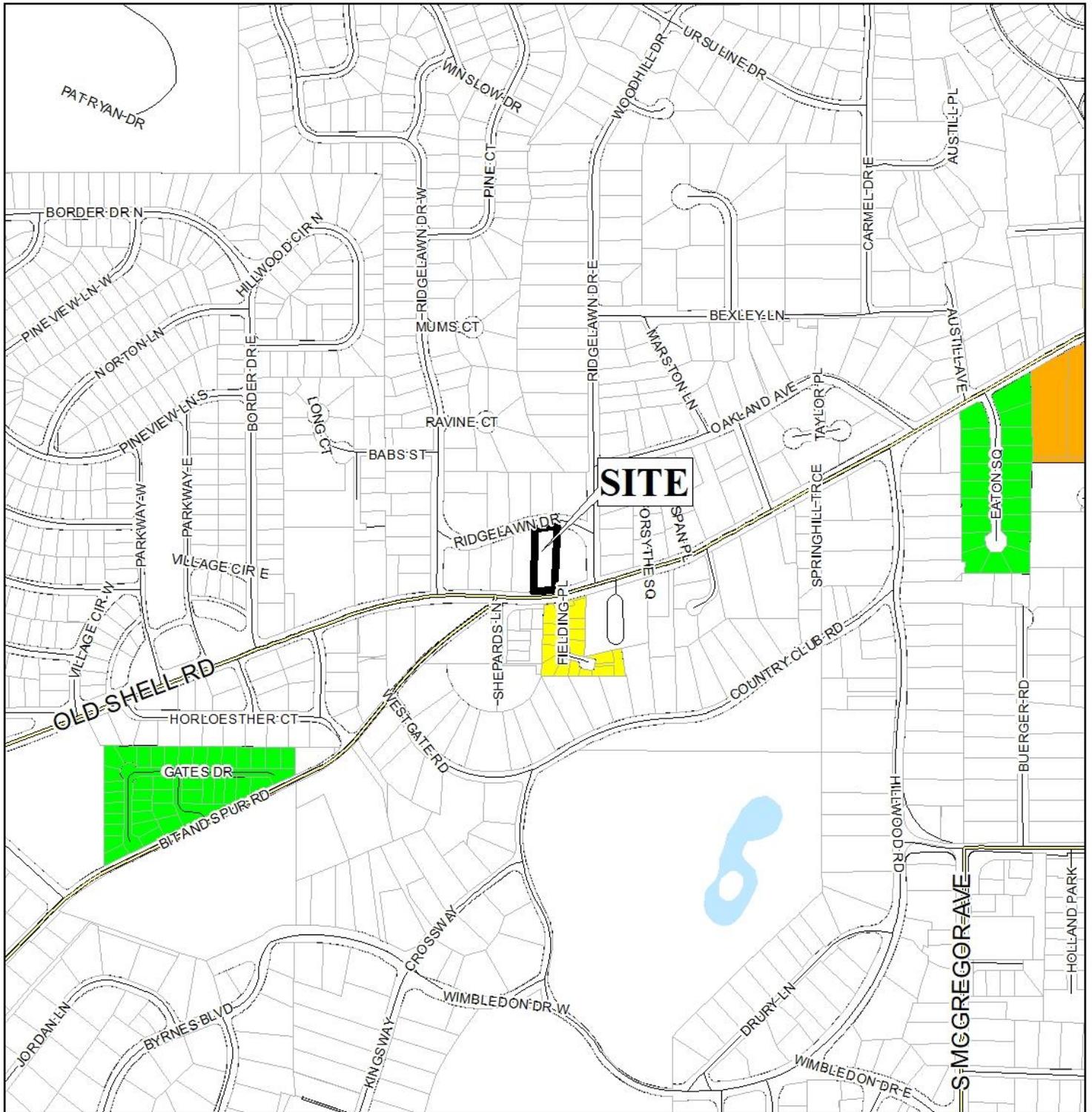
LOCATOR MAP



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| REQUEST | Setback Variance | | |



LOCATOR ZONING MAP



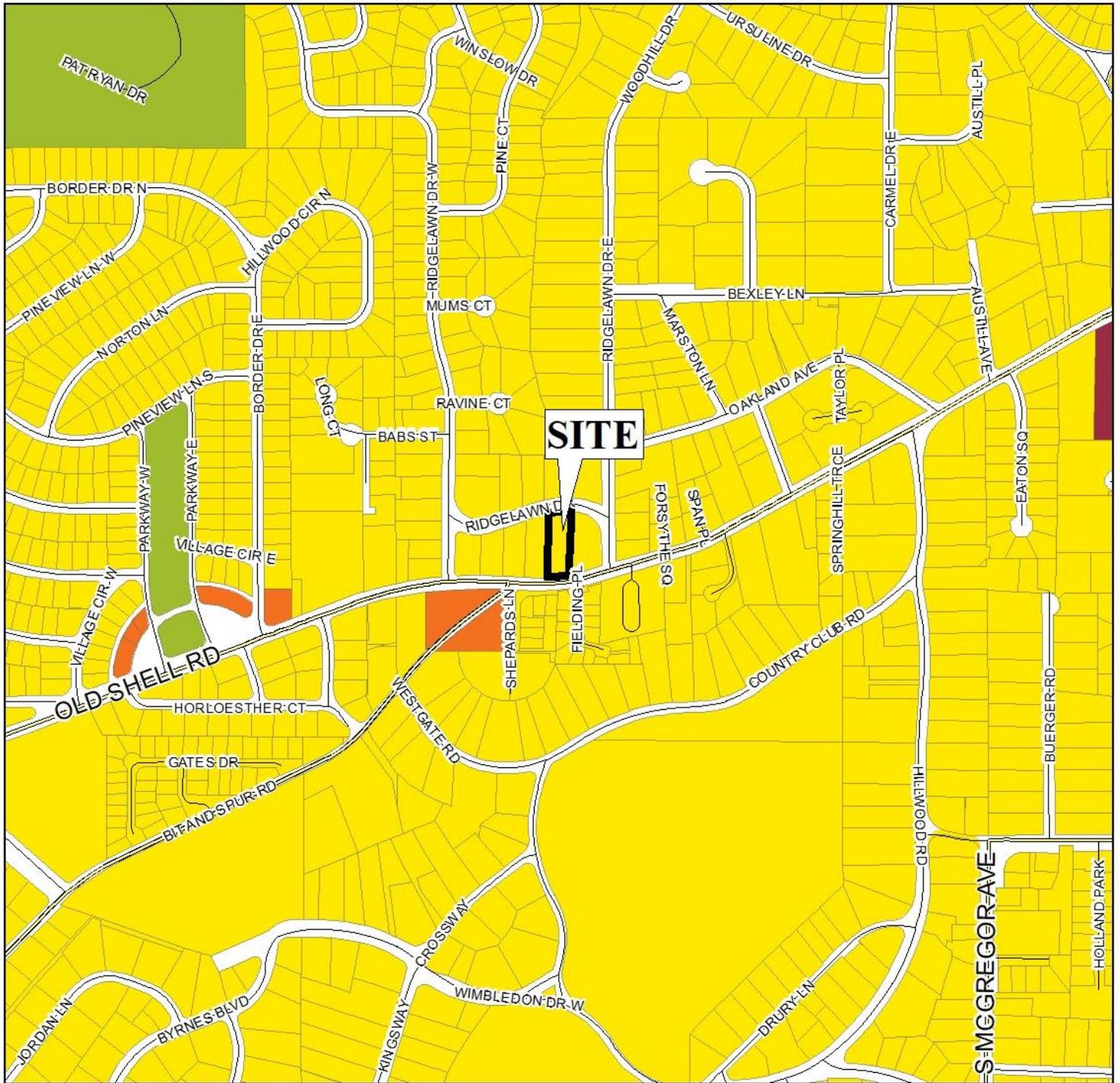
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APPLICANT Bethel Engineering

REQUEST Setback Variance



FLUM LOCATOR MAP



APPLICATION NUMBER 6382 DATE May 3, 2021

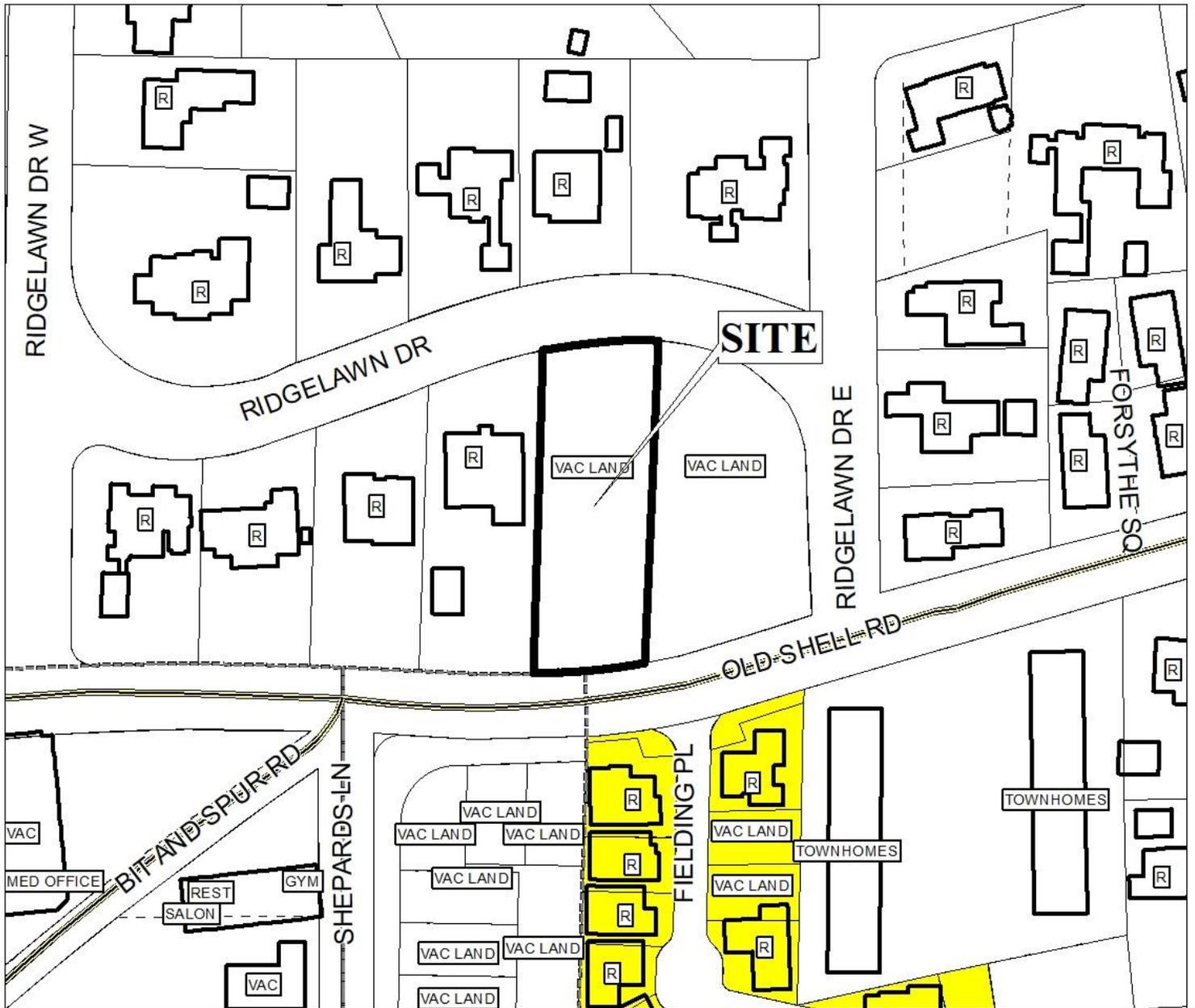
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|---------------------------|-----------------------------------|---------------------|--------------------|
| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family units, townhomes, vacant lands 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 |



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

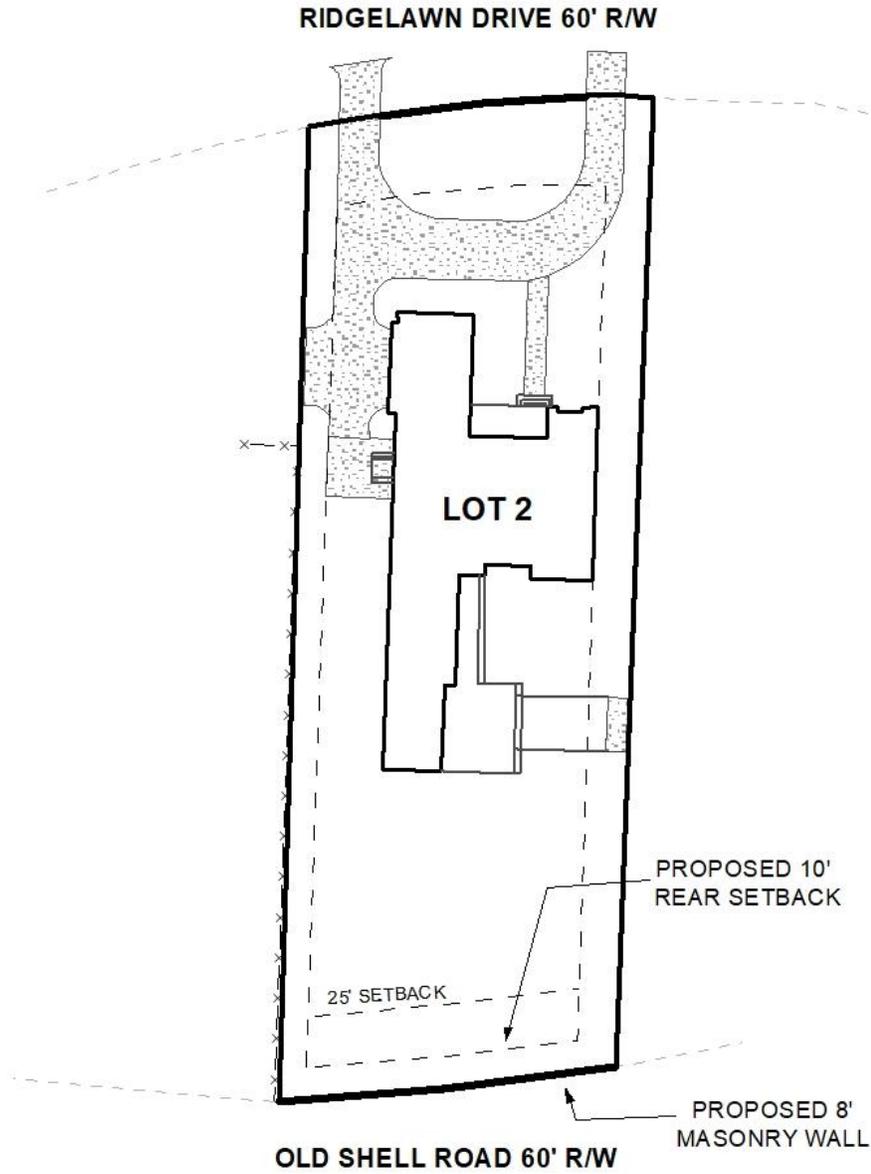


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SITE PLAN



The site plan illustrates existing lot and setback, and a proposed rear setback and 8' wall.

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