

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 2, 2015****CASE NUMBER**

6015

APPLICANT NAME

Courtney & Brandon George

LOCATION2309 River Forest Road
(Southwest side of River Forest Road, 2,720' ± Southeast of
Alba Club Road).**VARIANCE REQUEST****SIDE YARD SETBACK:** Side Yard Setback Variance to
allow mechanical equipment within 6.5 feet of a side
property line in an R-1, Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE YARD SETBACK:** The Zoning Ordinance requires
a minimum 8' setback for mechanical equipment from side
property lines in an R-1, Single-Family Residential District.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

88,754± Square Feet / 2.04± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**ENGINEERING
COMMENTS:**

No comments.

**CITY COUNCIL
DISTRICT**

District 3

ANALYSIS

The applicants are requesting a Side Yard Setback Variance to allow mechanical equipment within 6.5 feet of a side property line in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum 8' setback for mechanical equipment from side property lines in an R-1, Single-Family Residential District.

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 applicants state that:

We are requesting a variance for 2 A/C units located on the west side of the existing dwelling. We are asking that the A/C's be allowed to stay in their current location as to not have to move A/C connection throughout the home. Once again this is a new construction and asked that a variance be granted to allow them to stay where shown.

The site plan illustrates that a two story, single-family dwelling with two air conditioning units elevated above 36" currently exist on the property. The air conditioning units infringe upon the minimum 8' side yard setback requirement by 1.5'. Staff was made aware of the violation on August 30, 2015 upon inspection of the site for compliance with the Zoning Ordinance regarding construction of the dwelling. The site plan approved during the initial permitting of the residence depicted a compliant setback for the house and air conditioning units; apparently it was decided not to construct the house in accordance with the approved site plan. As a result, approval of the site was conditional upon submission of an as-built site plan showing the correct location of the air conditioning units. However, upon further review, the as-built site plan illustrated that the air conditioning units exceeded the minimum 8' side yard setback requirement of the Zoning Ordinance; this was subsequently verified by an additional inspection of the site. The applicants wish to keep the air conditioning units in their current location citing that their required mechanical connections would need to be re-routed throughout the home, if moved, as justification for approval of the variance application by the Board of Zoning Adjustment.

Per Section 64-4.D.11. of the Zoning Ordinance, mechanical equipment with a height of 36" or more above grade is subject to the underlying setback requirements of the zoning district in which it is located. It appears to Staff that the air conditioning units do not exceed heights of 36", however the site is located in a flood zone associated with Dog River; as such, the air conditioning units are raised on a platform at least 8 feet above ground level to avoid potential complications inherent of flooding, thus requiring their compliance with side yard setback requirements.

It should be noted that there appear to be few limitations to where the air conditioning units could be re-located: the house abuts the 8' side yard setback of the lot in the west, 103'± from the east side of the house to the 25' wide drainage easement minimum, and a remaining 5'± to the 12' east side yard setback; the front of the house is 190'± from the 50' minimum building setback line in the north; and the rear of the house is 237'± from the 8' rear yard setback line in the south.

As the applicants mention, the house is newly constructed; however, it should be noted that construction of the house took place with a building permit that indicated the structure would meet all zoning requirements. Unfortunately, as was discovered upon inspection of the site, the

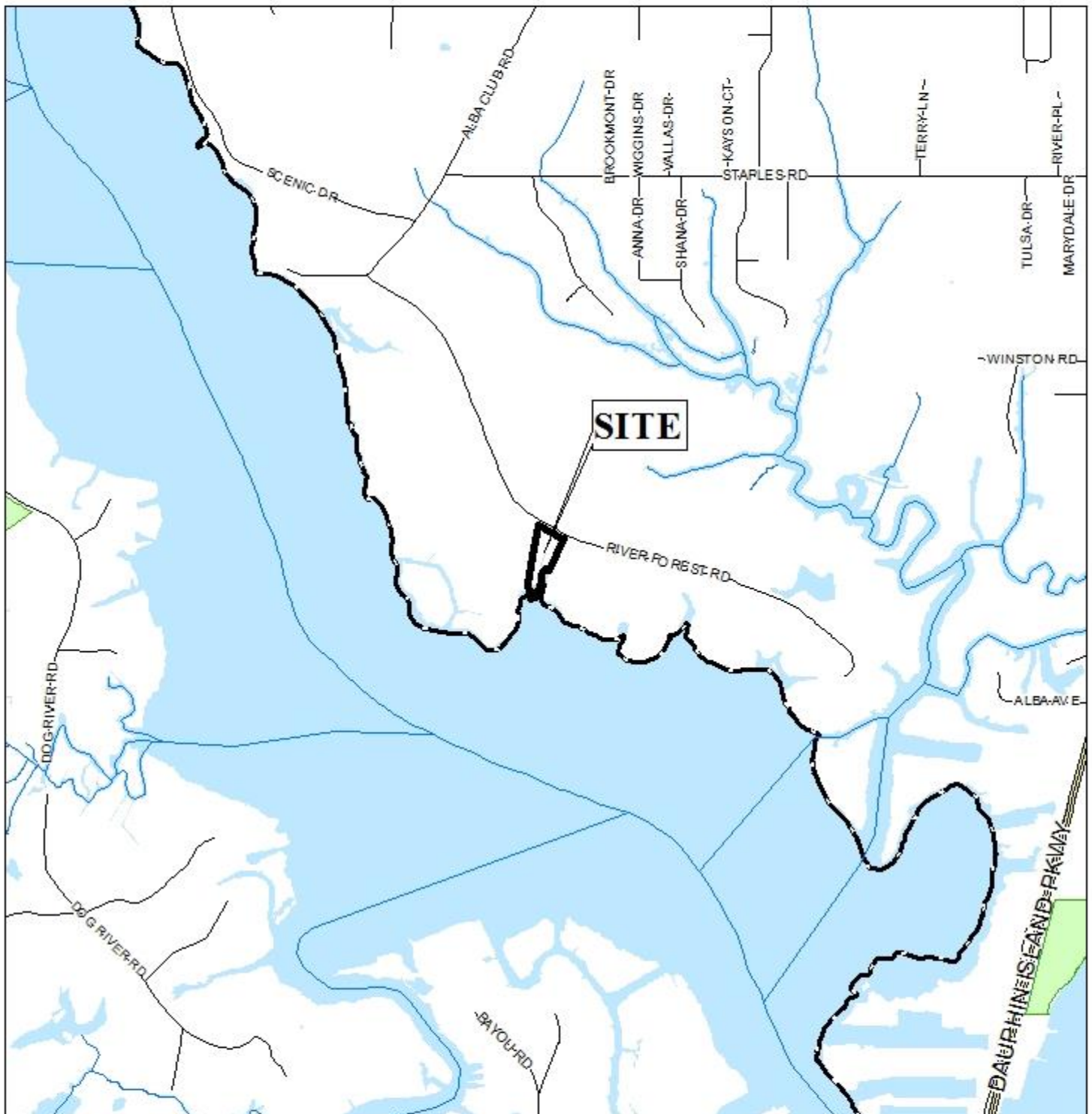
violation still exists and suggests a disregard for City of Mobile ordinances, consequently resulting in a self-imposed hardship.

Staff is aware that there may be limitations on moving the air conditioning units with regards to their established connections to the house; however, to what extent the relocation of the air conditioning units would be limited cannot be substantiated without further evidence of a hardship. Also, it should be noted that residentially zoned lots in the immediate vicinity appear to have been developed in observance of Section 64-3.C.1.e. of the Zoning Ordinance regarding side and rear yard setback requirements. As such, approving the variance application may not be appropriate.

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

- 1) Granting the variance will be contrary to the public interest in that other properties in the area have been developed in compliance with setback requirements of the Zoning Ordinance;
- 2) Special conditions do not exist in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, especially since there is nothing on the site that prevents the air conditioning units from being located outside of required setbacks; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because the air conditioning units could be relocated to comply with setback requirements of the Zoning Ordinance.

LOCATOR MAP



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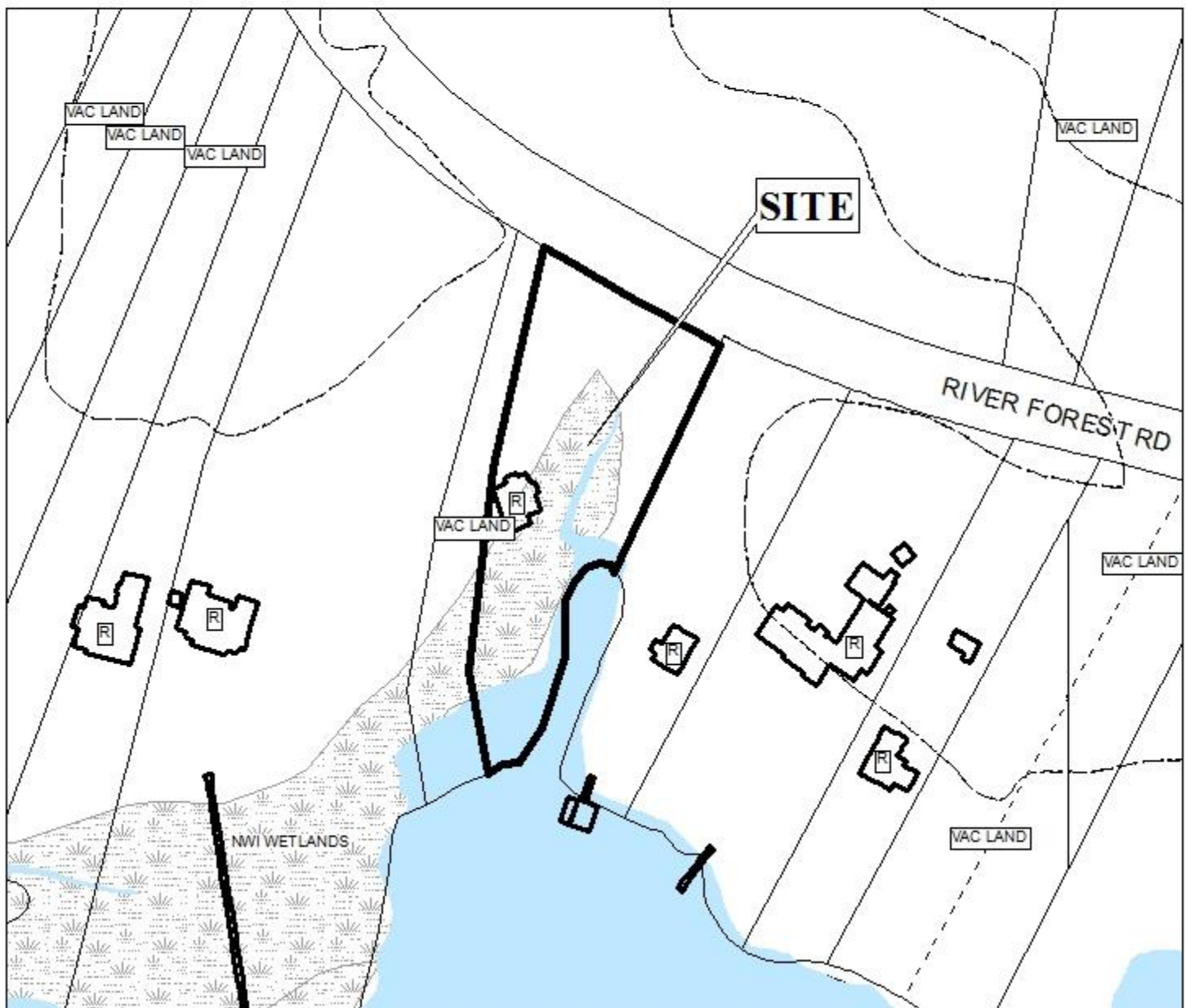
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VICINITY MAP - EXISTING ZONING



The site is surrounded by residential uses.

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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 ZONING



The site is surrounded by residential uses.

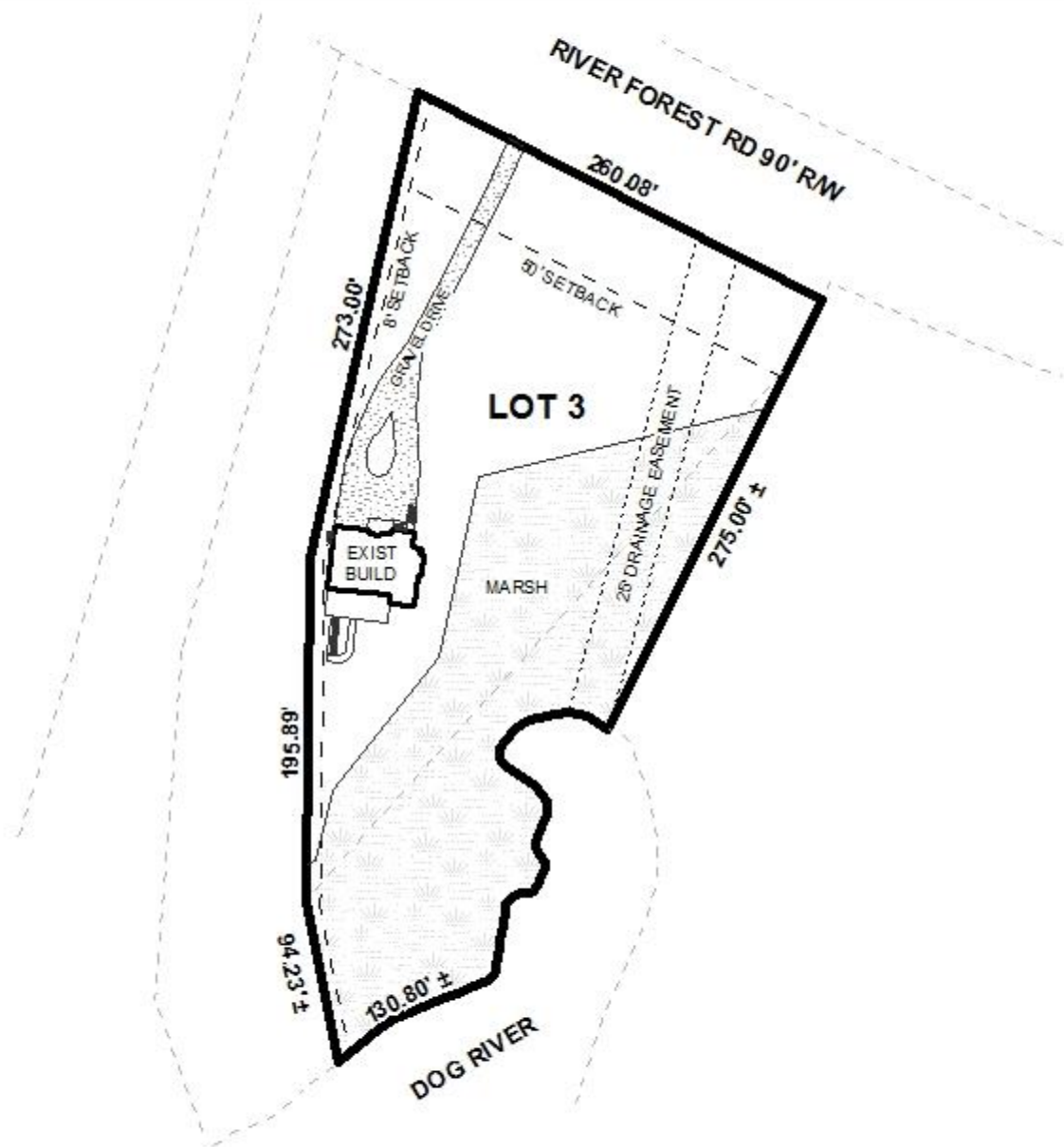
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SITE PLAN



The site plan illustrates the existing building, gravel drive, setbacks, and easements.

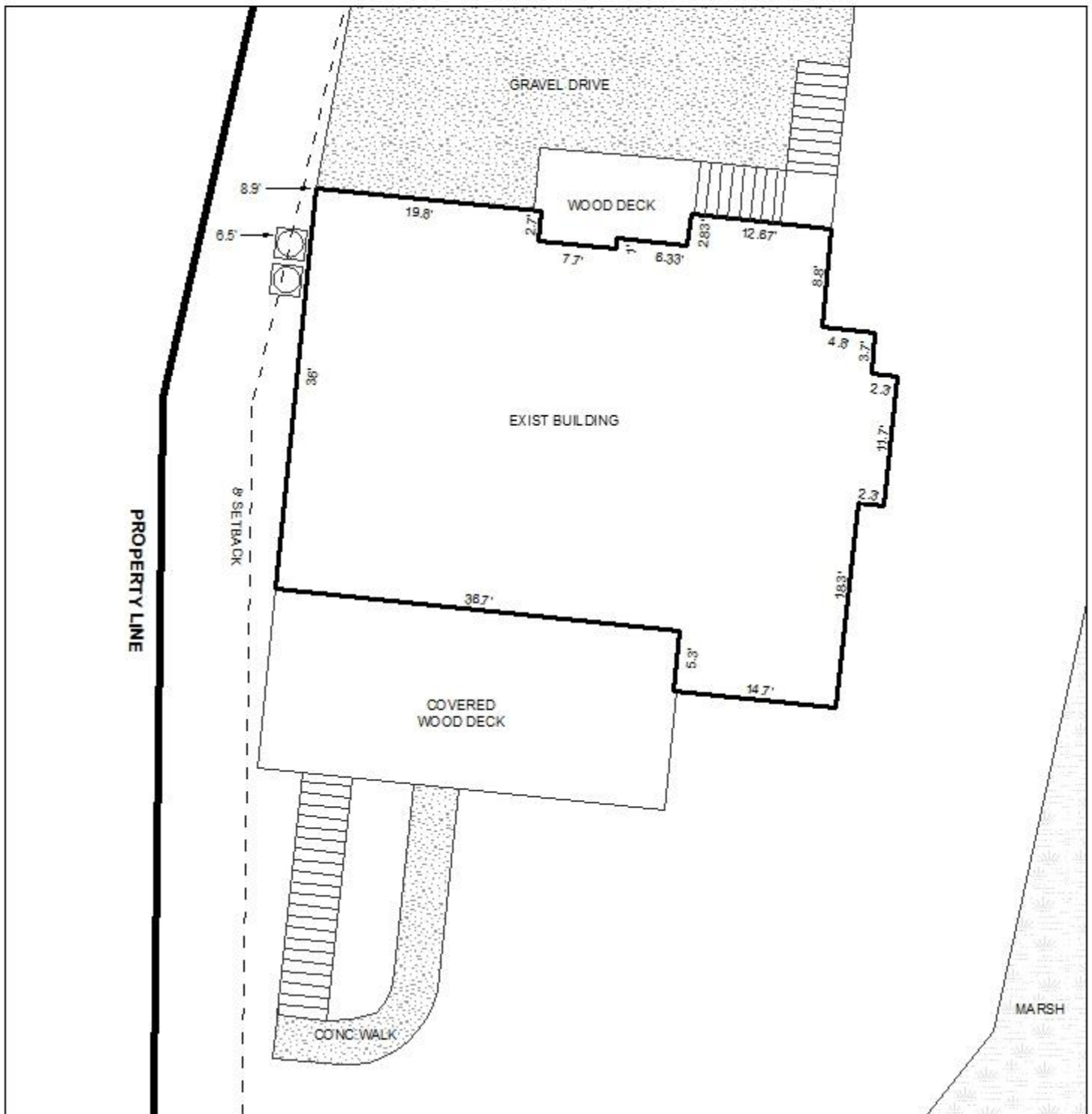
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DETAIL SITE PLAN



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