

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 7, 2021****CASE NUMBER**

6394/2013

APPLICANT NAME

Richard Noblet

LOCATION133 Eaton Square
(Southwest corner of Old Shell Road and Eaton Square).**VARIANCE REQUEST****SIDE STREET SIDE YARD SETBACK:** To allow the construction of a garage less than 25 feet from a side street side yard property line in an R-3, Multi-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****SIDE STREET YARD SETBACK:** The Zoning Ordinance requires a 25-foot side street side yard setback in an R-3, Multi-Family Residential District.**ZONING**

R-3, Multi-Family Residential District

AREA OF PROPERTY

0.3± Acre

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. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.

**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 commercial buildings and 600' of sprinkled commercial buildings.

CITY COUNCIL**DISTRICT**

District 5

ANALYSIS

The applicant is requesting a Side Street Side Yard Setback Variance to allow the construction of a garage less than 25 feet from a side street side yard property line in an R-3, Multi-Family Residential District; the Zoning Ordinance requires a 25-foot side street side yard setback in an R-3, Multi-Family Residential District.

The site has been given a Low Density Residential land use designation per the Future Land Use Plan and Map, adopted by the Planning Commission at its May 18, 2017 meeting. 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 acknowledges existing commercial development that is spread along Mobile's transportation corridors in a conventional strip pattern or concentrated into shorter segments of a corridor.

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 site plan submitted with the application indicates the proposed structure is to be within 10.5 feet of the Old Shell Road side street side yard property line at its closest point. The subject site is within a single-family residential subdivision, and is surrounded by R-3 zoning to the East and South, and by R-1, Single-Family Residential, to the North and West. It should be mentioned that the property which is now Eaton Square Subdivision was the subject of a Special Exception Variance in 1965 to allow a 100-unit apartment complex in R-1. The Board did not act on the request and recommended that the application, instead, be sent to the Planning Commission, which recommended the rezoning of the site from R-1 to R-3. The complex was never developed, but the R-3 zoning remained, which allows for R-1 use.

The applicant provided the following narrative regarding the request:

We are requesting a variance for our property building setback line because of a hardship specific to our current setback variance. The recent survey is attached with a proposed drawing of the perfect location on our property to add a garage. We have talked to our surrounding neighbors, and we have enclosed their names and addresses in order for you to contact them.

The subject residence does not appear to have been built with a garage. There appears to be adequate area available adjacent to the North side toward the front of the dwelling in which a garage of the size proposed could be constructed meeting both the 25-foot front yard and side

street side yard setbacks. However, this location may not be compatible with the existing interior lay-out of the dwelling.

The request at hand is similar in nature to others in this area of Spring Hill where relief from the required setbacks has been sought to allow the construction of walls and other structures. As similar requests have been granted for such, the Board should consider this request for Approval.

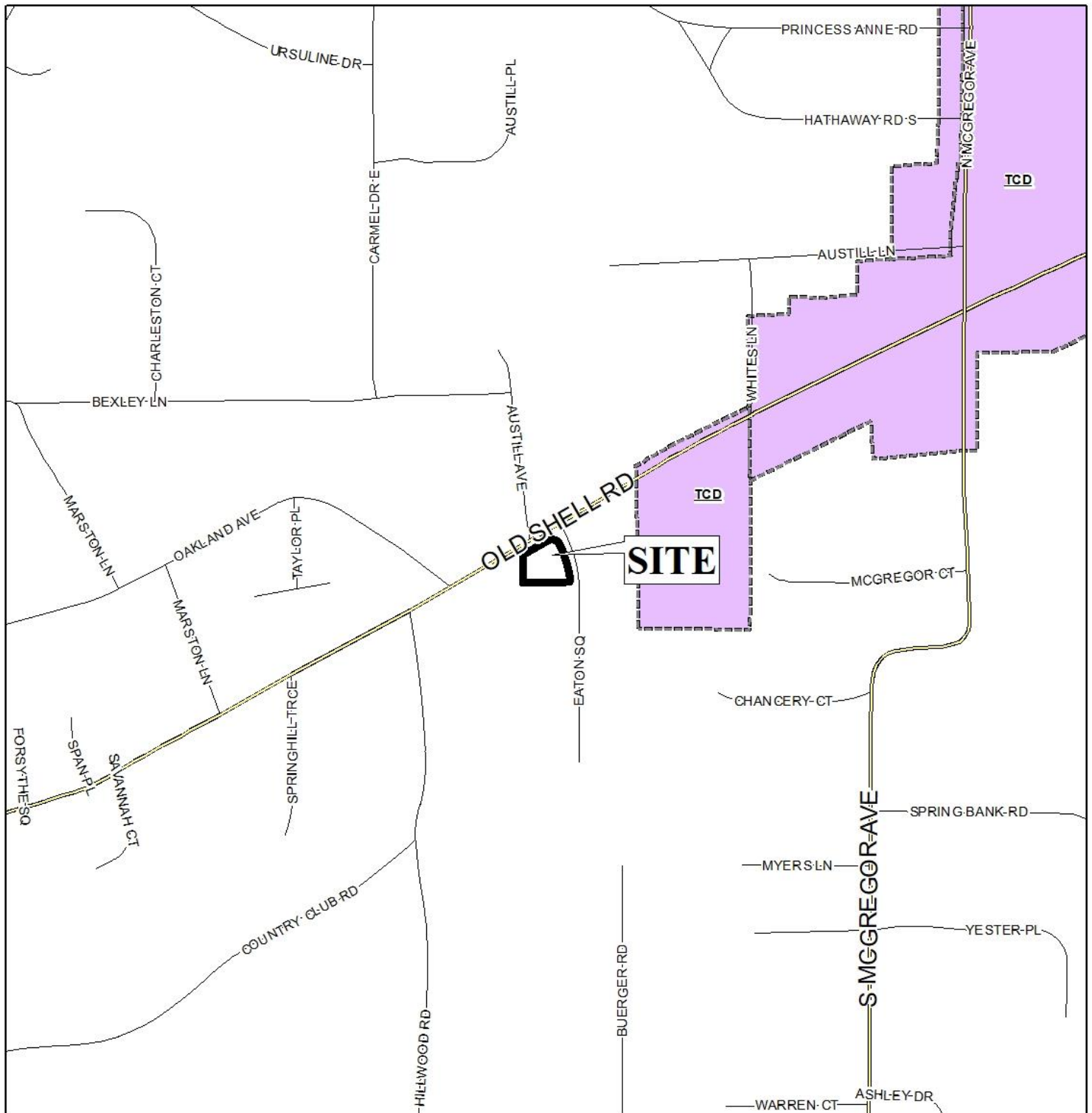
RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for Approval of the Side Yard Setback Variance request:

- 1) Approving the variance request will not be contrary to the public interest due to the fact that similar variance requests have been approved within the vicinity of this site;
- 2) Special conditions appear to exist, primarily the limited area on the site available for the construction of the proposed garage, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that it will allow a garage harmonious with the existing dwelling.

The approval is subject to the following conditions:

- 1) 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. Any and all proposed land disturbing activity within the property will need to be submitted for review and 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.)*
- 2) the obtaining of the proper permit(s) for the construction of the structure; and
- 3) full compliance with all other municipal codes and ordinances.

LOCATOR MAP



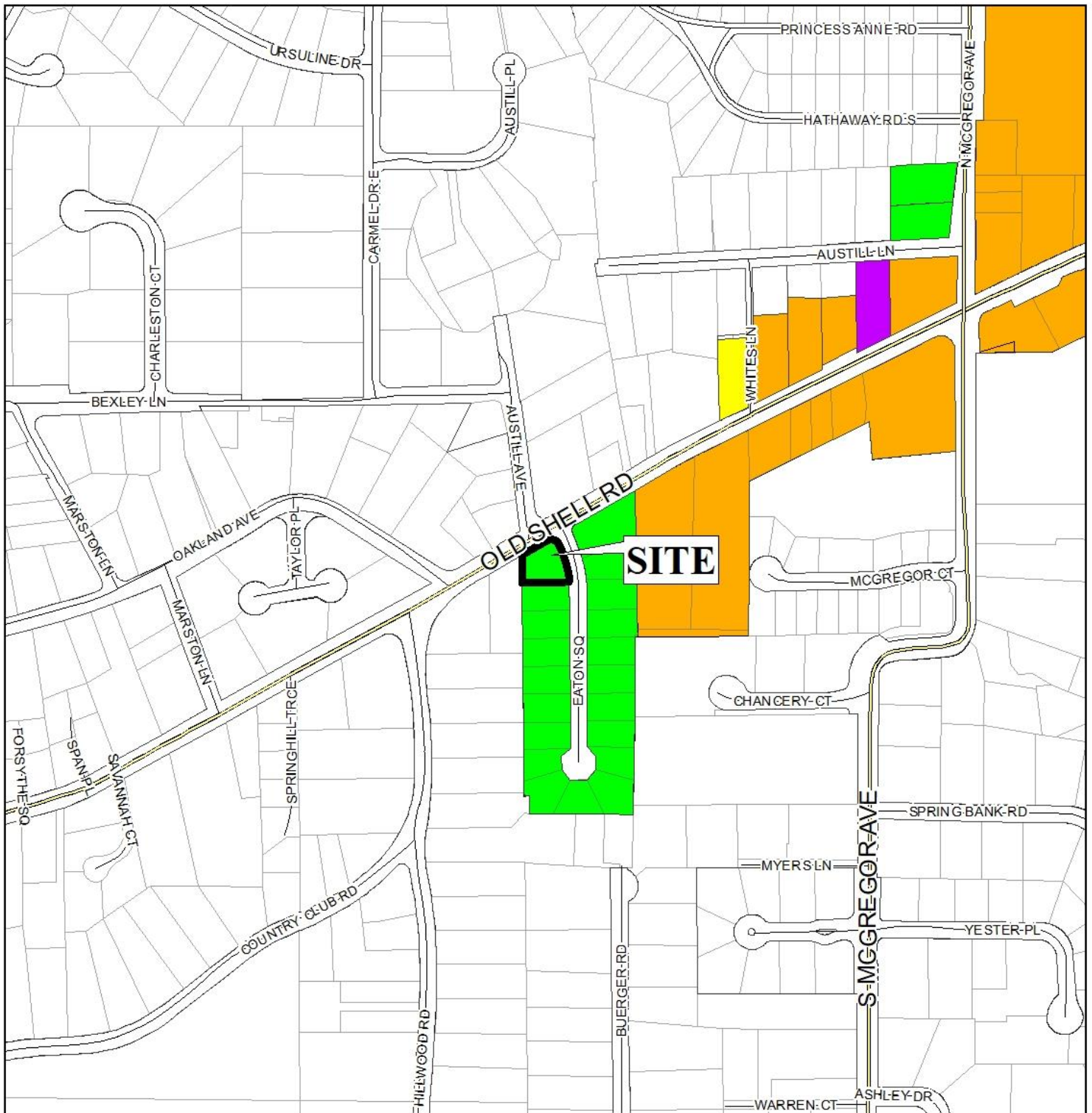
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APPLICANT Richard Noblet

REQUEST Side Street Side Yard Setback Variance



LOCATOR ZONING MAP



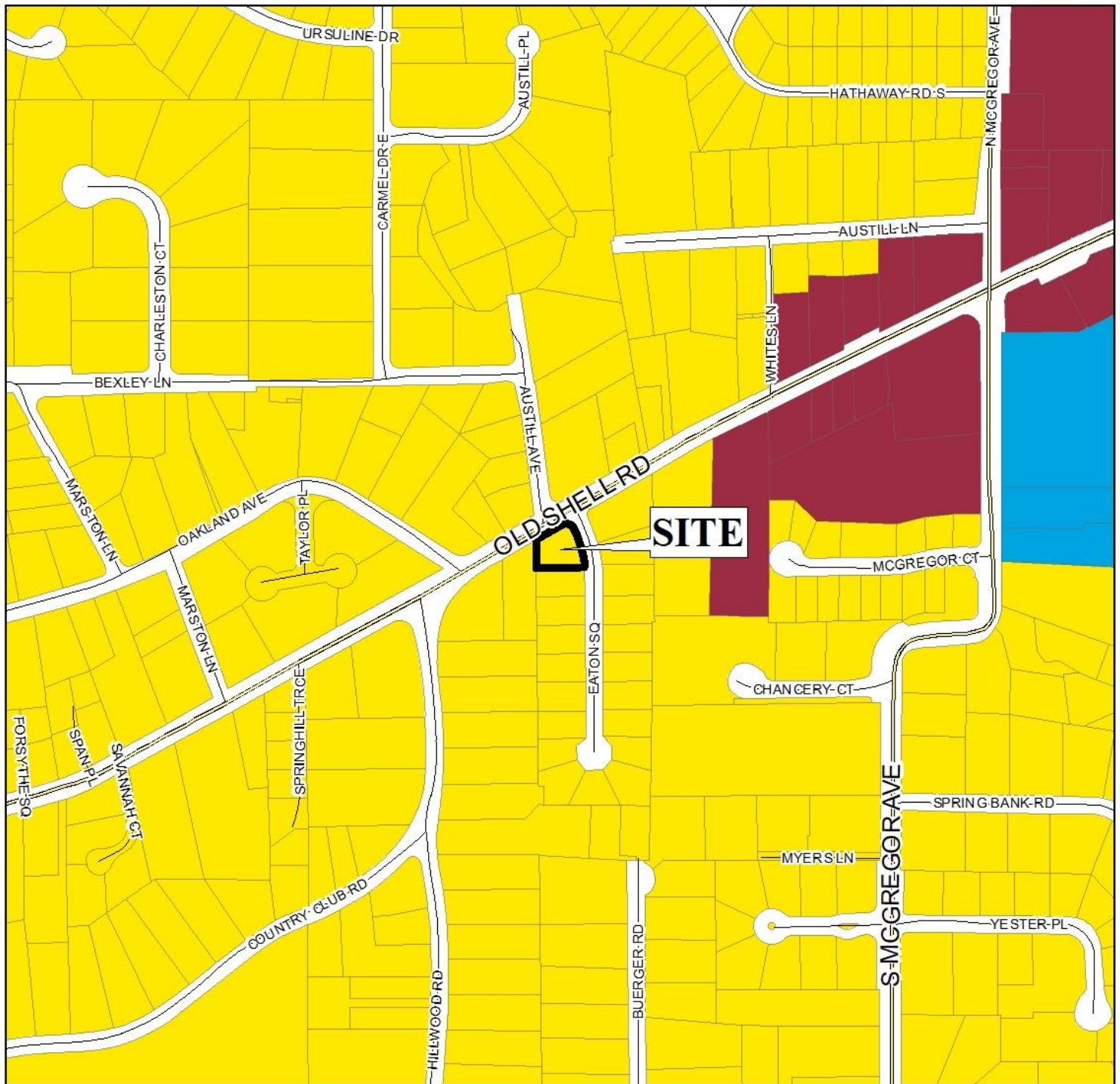
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FLUM LOCATOR MAP



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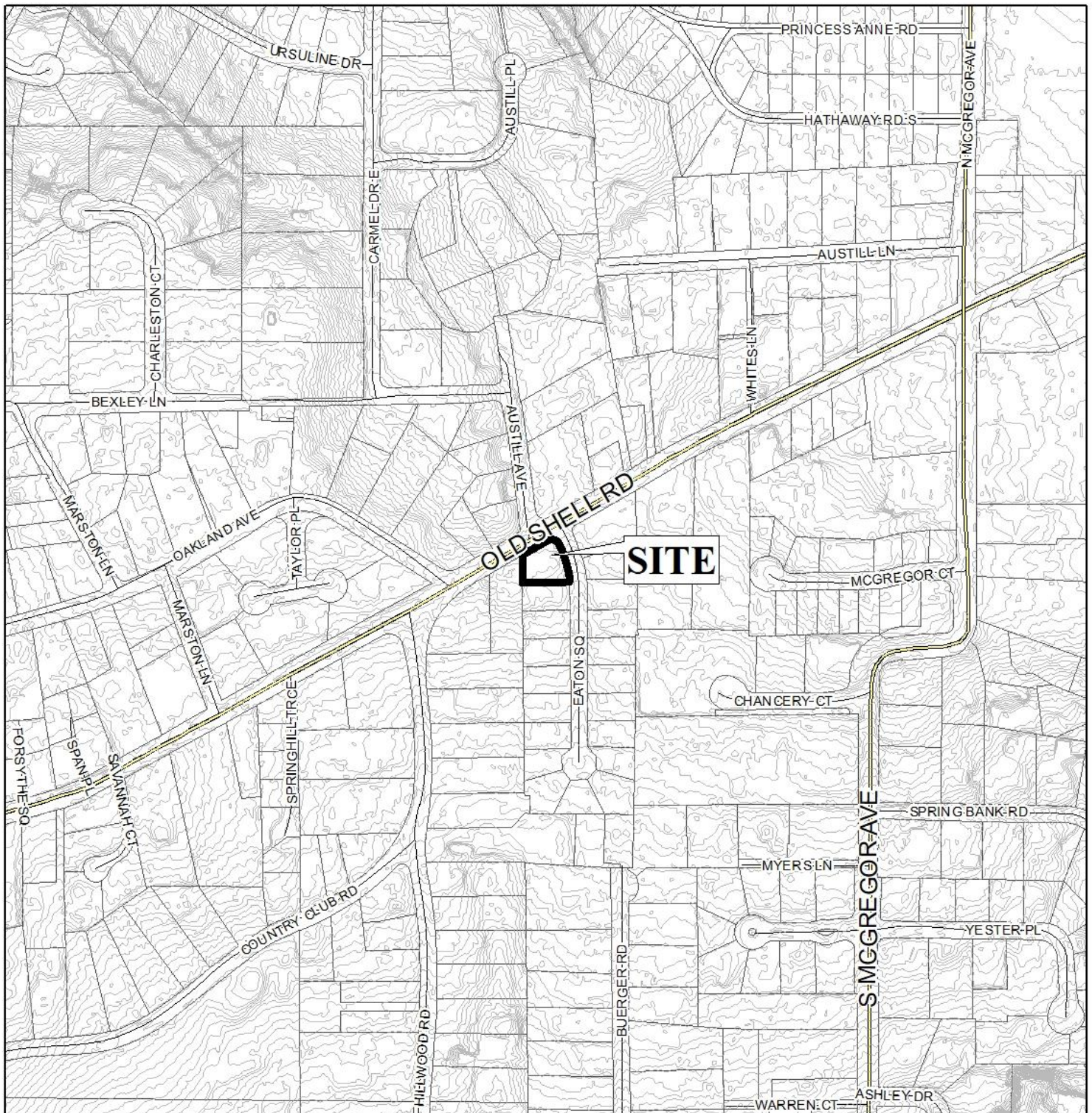
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| Low Density Residential | Neighborhood Center - Traditional | Downtown Waterfront | Parks & Open Space |
| Mixed Density Residential | Neighborhood Center - Suburban | Light Industry | Water Dependent |
| Downtown | Traditional Corridor | Heavy Industry | |
| 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 residential units.

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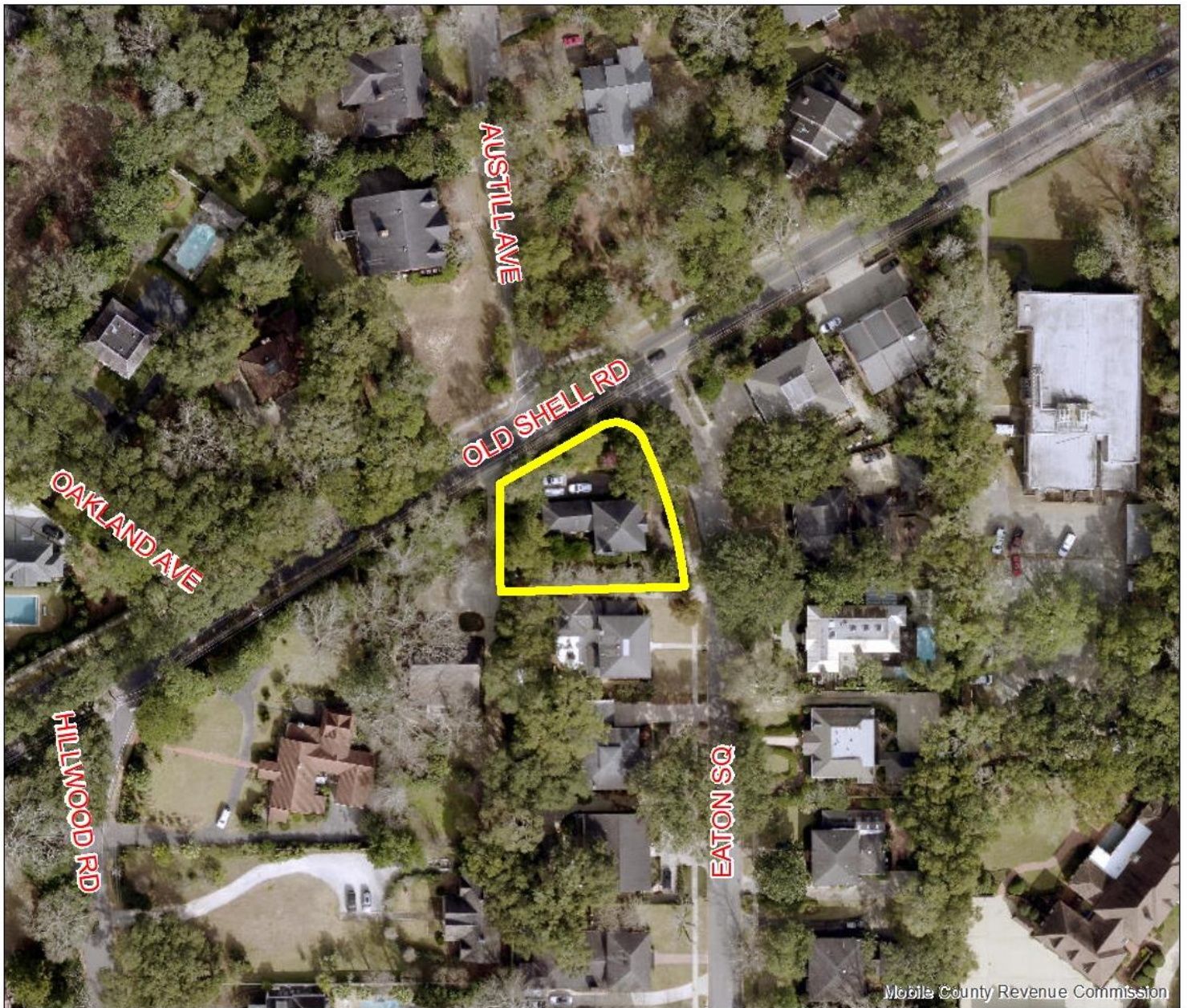
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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING AERIAL

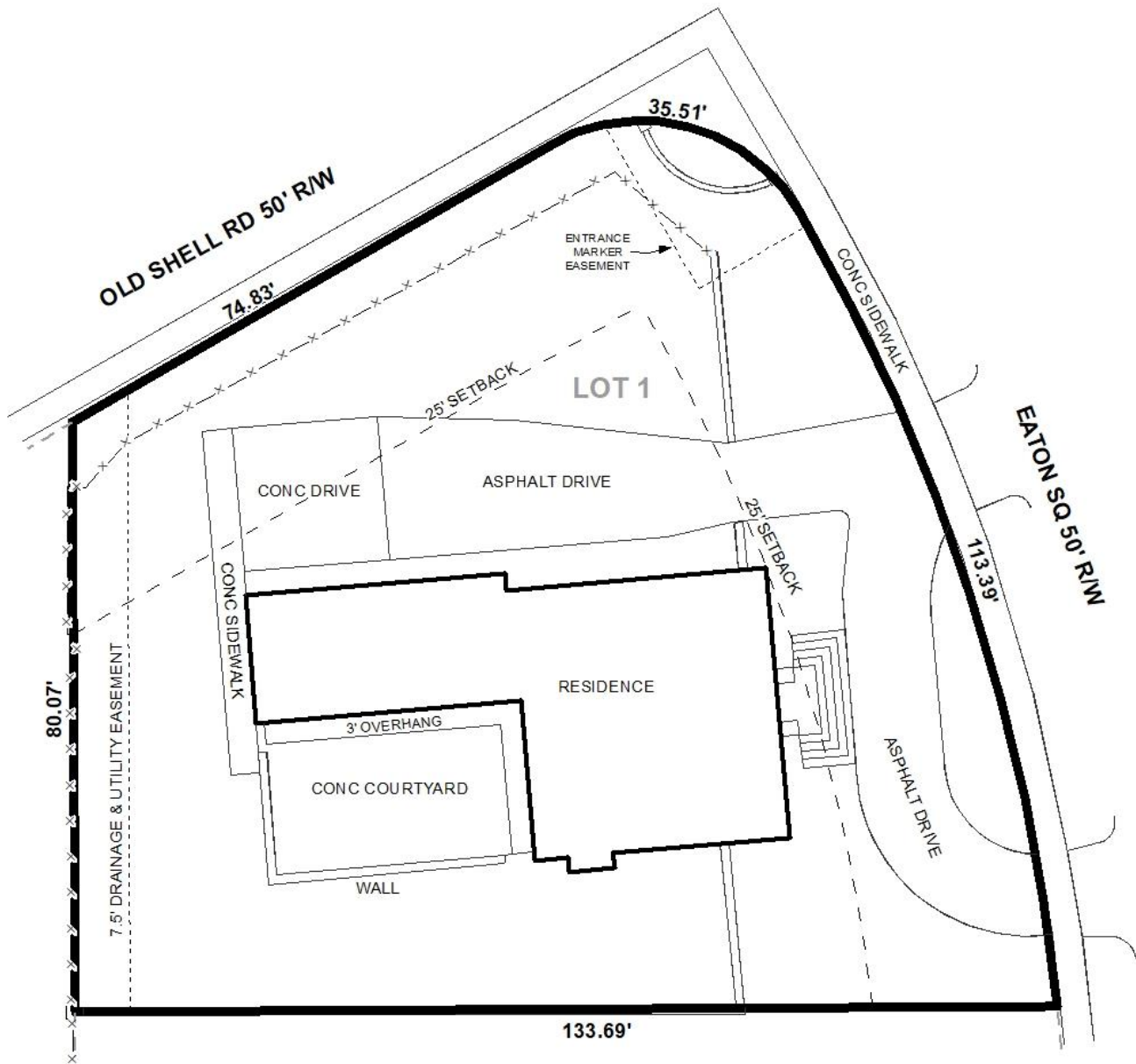


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EXIST SITE PLAN



The site plan illustrates the existing residence, courtyard, easement, and setback.

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