

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: February 2, 2015**

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| <u>CASE NUMBER</u> | 5945/5090 |
| <u>APPLICANT NAME</u> | Sharon Townsend |
| <u>LOCATION</u> | 2643 Bear Fork Road (West side of Myers Road [private street], 1300'± South of Bear Fork Road) |
| <u>VARIANCE REQUEST</u> | USE: To allow a mobile home as a residence in an R-1, Single-Family Residential District. |
| <u>ZONING ORDINANCE REQUIREMENT</u> | USE: The Zoning Ordinance does not allow mobile homes by right in an R-1, Single-Family Residential District. |
| <u>ZONING</u> | R-1, Single-Family Residential District |
| <u>AREA OF PROPERTY</u> | 4.94± acres |
| <u>ENGINEERING COMMENTS</u> | No comments. |
| <u>TRAFFIC ENGINEERING COMMENTS</u> | No comments received. |
| <u>FIRE DEPARTMENT COMMENTS</u> | All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile. |
| <u>CITY COUNCIL DISTRICT</u> | District 1 |
| <u>ANALYSIS</u> | The applicant is requesting a Use Variance to allow a mobile home as a residence in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow mobile homes by right in an R-1, Single-Family Residential District. |

More specifically, this site most recently appeared before the Mobile City Planning Commission at its December 4, 2014 meeting where the Commission considered a Subdivision and Planning Approval request. As this site previously appeared before the Board of Zoning Adjustment at its January 8, 2002 meeting, the Planning Approval request was denied as the Commission was of

the opinion that the decision to allow the mobile home to remain on the site and within a setback should again lie with the Board. The Subdivision request to allow the mobile home its own lot was approved, subject to an approved variance by the Board, hence the current variance request.

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.

Applicant's statement: *We are submitting a use variance to allow for a mobile home to be separated off and comply with the zoning regulations. Mrs. Townsend lives on lot 1 and her son lives on lot 2. Both her husband and son are disabled from being in the military, she helps care for both of them and the proximity to her son makes things much easier. Her son has a mobile home he has lived in for years on the proposed lot 2, and we are asking for variance to allow this to remain. Their access comes down through an easement from Bear Fork Road.*

There was a case in January 2002, (application #5090) where the property has been approved to be divided to remove a violation of the zoning ordinance. We are asking that the mobile home be allowed to remain in its location despite the setback violation. It should be noted that the mobile home sits on a ridge and has significant slopes that start at the rear of the mobile home. The family had the 'mobile home placed there after hurricane Katrina for emergency purposes. They were unaware that the installer did not pull permits and will gladly do so. There is a financial hardship because both her son and husband are on disability. We ask that the mobile home be allowed to remain on this property.

We ask that you consider the application for approval to allow Mrs. Townsend to watch over both her husband and son. This is very important to them and their family.

As mentioned previously, this site appeared before the Board in January 2002 when the Board granted a time-limited approval for an existing mobile home that was illegally placed on the site with the following condition:

- 1) that the Mobile Home remain on the subject property for a term not to exceed three years;*

The time limited approval was granted for the temporary use of the existing trailer until a house was constructed. Instead, it appears that the applicant replaced the single-wide mobile home

with what appears to be a double-wide mobile home illegally instead of a house sometime between 2002 and 2006, per GIS aerial photos – which coincides with the timing of Hurricane Katrina, as mentioned by the applicant. Although the mobile home was placed on the property in direct violation of the previous variance condition, without proper permitting and approvals and given fact that the hardship appears to be self-imposed by the applicant, to deny the variance request may appear to be contrary to the public interest as a mobile home has existed on this site for at least 13 years.

The applicant also references a setback violation due to the existing topographic conditions of the site and Staff substantiates the applicant's claim via GIS elevation contour data. The site plan depicts a portion of the existing mobile home within the 25' front yard setback and although there may be special conditions to the site resulting in a hardship, it appears no setback variance has been requested for relief.

Should the Board consider approving this request, the spirit of the chapter would be observed as the applicant has presented hardships and has demonstrated that this property is unique, thus no precedence would be created in the approval of similar variance requests as no two sites are the same.

The applicant would also be required to obtain after the fact permits for building, plumbing and electrical code compliance, including verification that the mobile home is appropriate for the U.S. Department of Housing & Urban Development (HUD) designated wind zone. It should be pointed out that as the previous approval was time-limited, Staff is of the opinion that the current request should also include time limitations, if approved; however, the applicant may request the time limit be waived, if necessary.

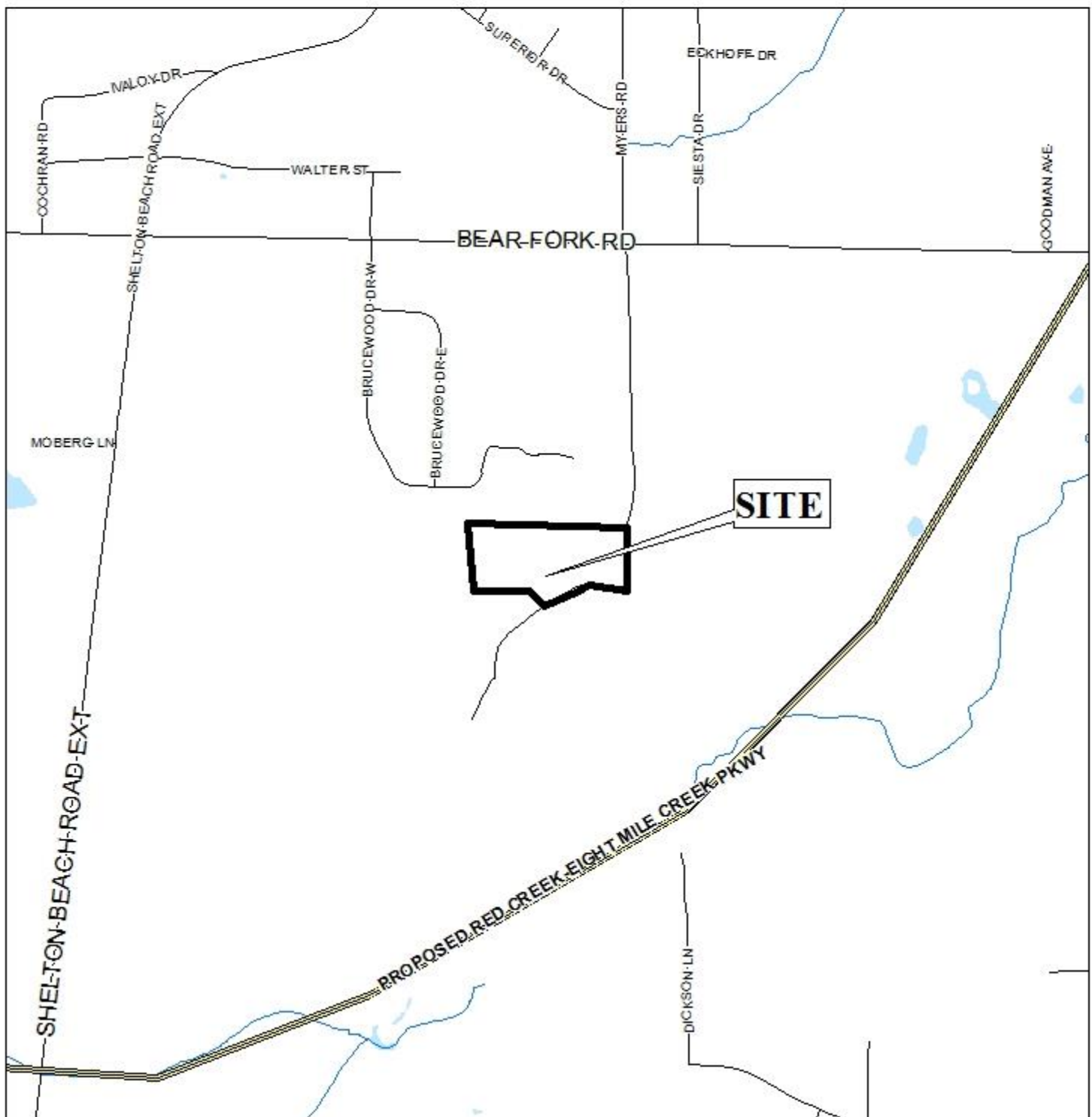
RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for approval:

- 1) Approving the variance request will not be contrary to the public interest since a mobile home has existed on the site for at least 13 years;
- 2) Special conditions appear to exist, including the duration of the existing mobile home on the site and the current topographic conditions, 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 since the applicant would be required to obtain the proper building code-related permits.

The approval is subject to the following conditions:

- 1) After the fact permits for building, plumbing and electrical code compliance, including verification that the mobile home is appropriate for the HUD wind zone;
- 2) Approval limited to three (3) years; and
- 3) Completion of the Subdivision process.

LOCATOR MAP



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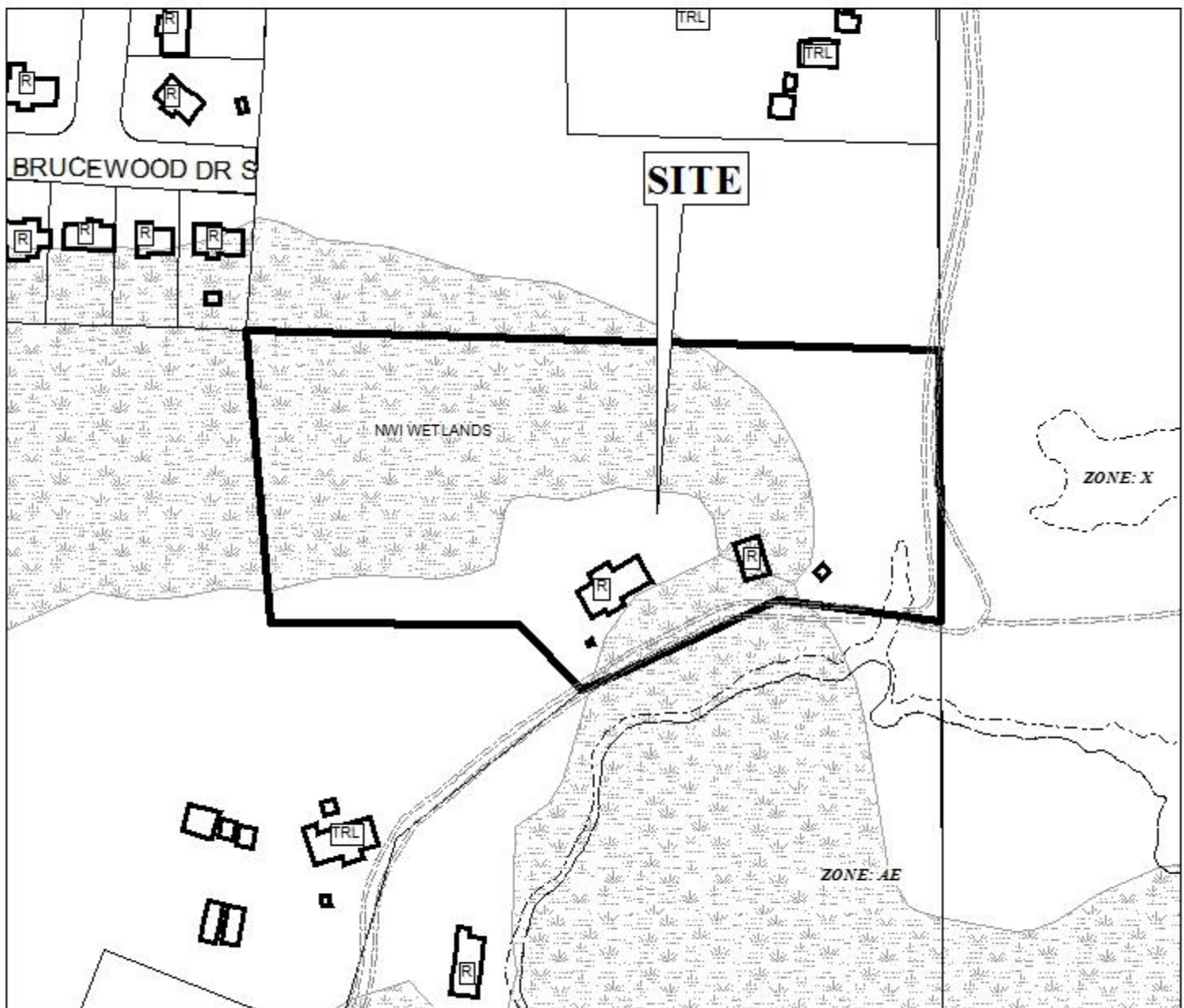
APPLICANT Sharon Townsend

REQUEST Use Variance



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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APPLICANT Sharon Townsend

REQUEST Use Variance

| | | | | | | | |
|--|---|--|--|---|---|--|---|
| 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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VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

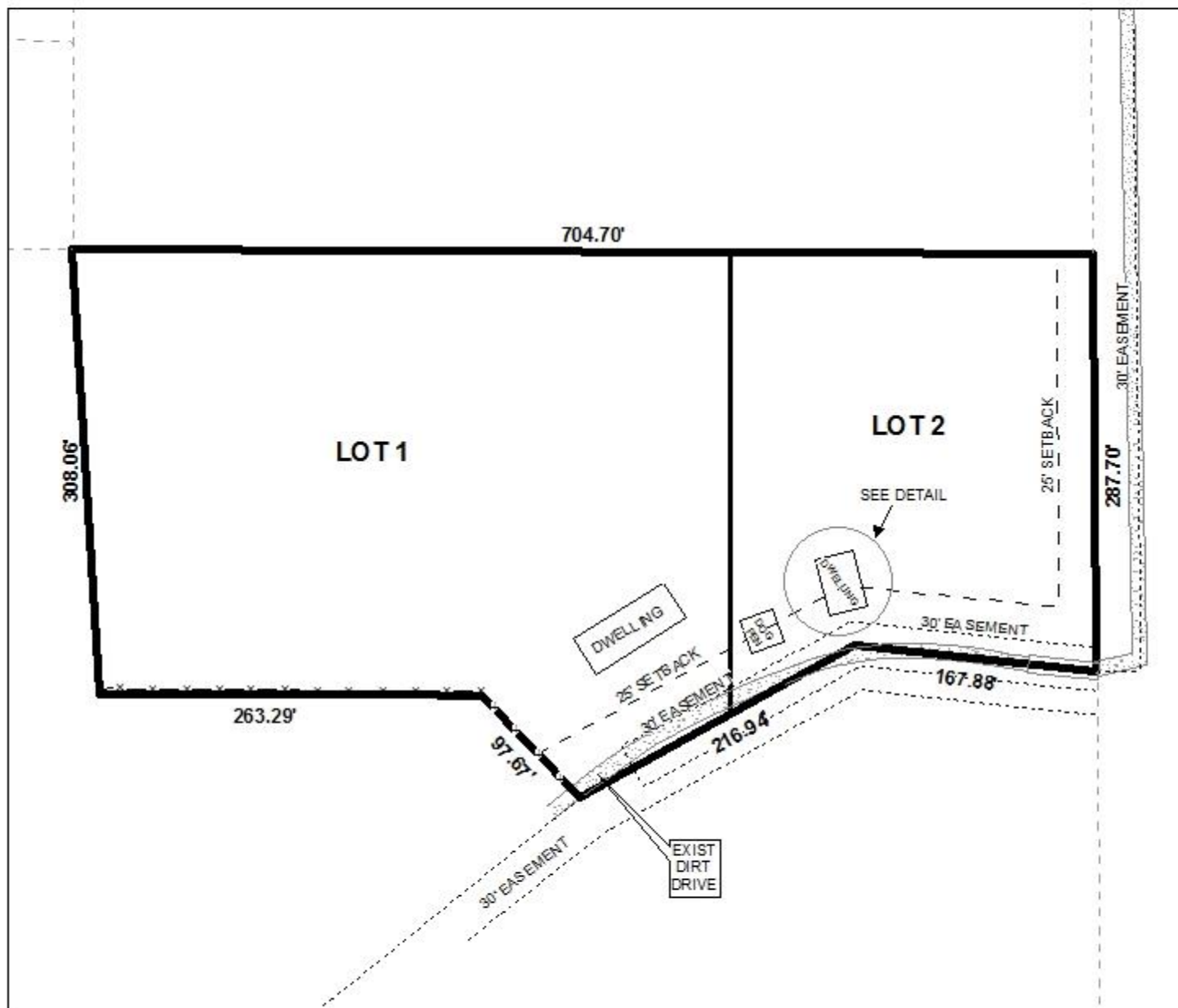
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SITE PLAN

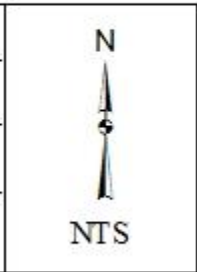


The site illustrates the proposed lots, existing buildings, setback, and easement.

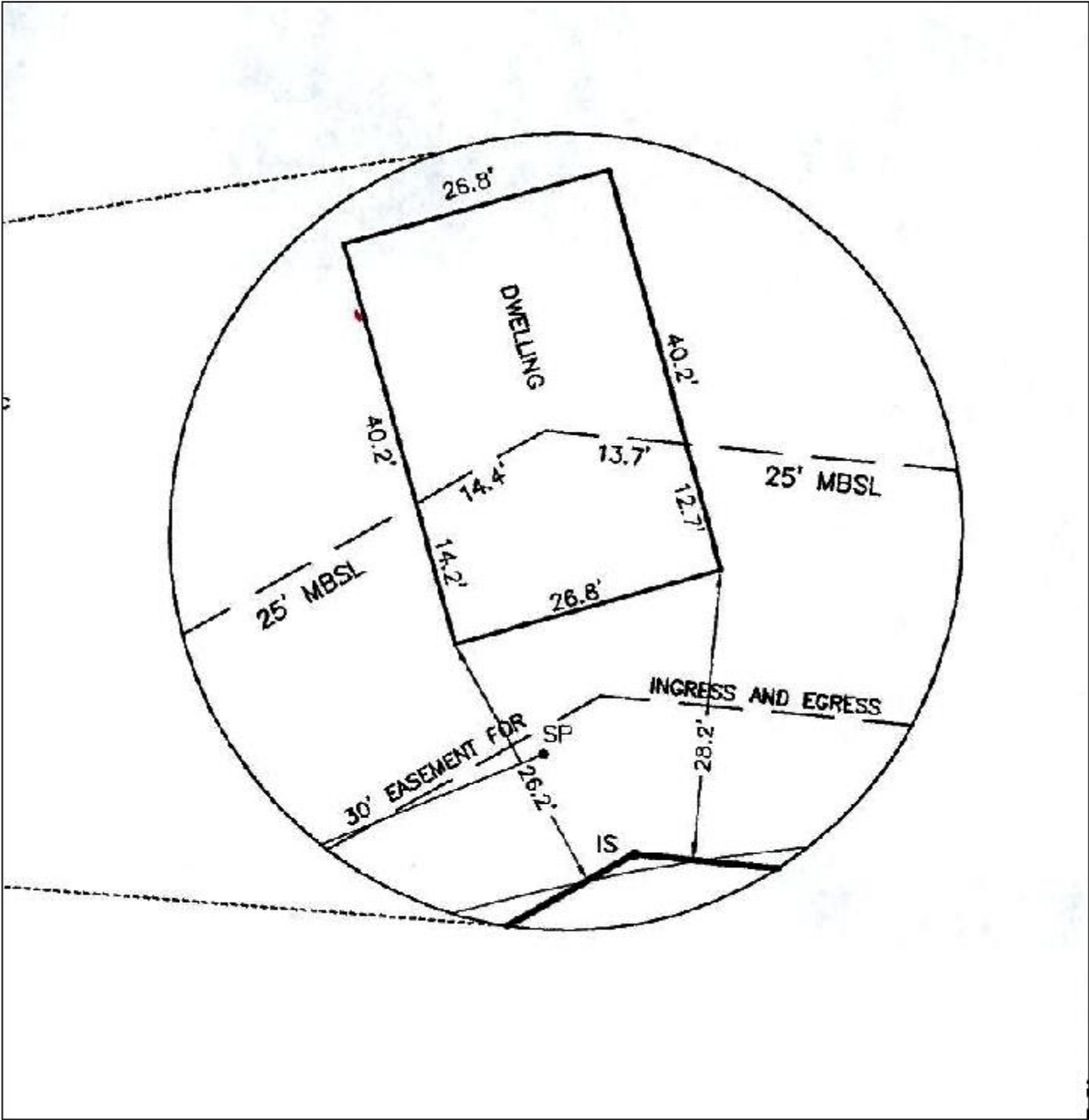
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APPLICANT Sharon Townsend

REQUEST _____ Use Variance _____



DETAIL SITE PLAN



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APPLICANT Sharon Townsend

REQUEST_____Use Variance_____

