

**ZONING AMENDMENT,  
& PLANNING APPROVAL STAFF REPORT**

**Date: July 2, 2009**

**NAME**

Ashbury Manor, Inc.

**LOCATION**

6562 Old Shell Road  
(North side of Old Shell Road, 140'± West of Dickens  
Ferry Road)

**CITY COUNCIL  
DISTRICT**

District 7

**PRESENT ZONING**

R-1, Single-Family Residential and R-3, Multiple-Family  
Residential

**PROPOSED ZONING**

R-3, Multiple-Family Residential

**REASON FOR  
REZONING**

Changing conditions in the area

**AREA OF PROPERTY**

1 Lot / 1.8 ± Acres

**CONTEMPLATED USE**

Rezoning from R-1, Single Family Residential and R-3, Multiple-Family Residential to R-3, Multiple-Family Residential to eliminate split zoning and Planning Approval to amend a previous Planning Approval to allow the addition of an emergency evacuation holding area and a walking area for residents to an assisted living/hospice facility in an R-3, Multiple-Family Residential District.

**It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.**

**TIME SCHEDULE**

No timeframe provided.

**ENGINEERING  
COMMENTS**

Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit..

**TRAFFIC ENGINEERING****COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Traffic Engineering is unable to adequately review the application as no details are given for the driveway radius and parking areas and circulation are not shown on the drawing.

**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 61-929 and City Code Chapters 57 and 64).

Due to road construction of Old Shell widening, a revised landscape plan is required to show the site in compliance, to the greatest extent possible, with the city's landscape and tree requirements of the Zoning Ordinance. Compliance to be Coordinated with Urban Forestry.

**FIRE DEPARTMENT****COMMENTS**

All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate. Fire hydrants shall be installed to comply with 2003 IFC 508.5.1

**REMARKS**

The applicant is requesting rezoning from R-1, Single Family Residential and R-3, Multiple-Family Residential1 to R-3, Multiple-Family Residential1 to eliminate split zoning and Planning Approval to amend a previous Planning Approval to allow the addition of an emergency evacuation holding area and a walking area for residents to an assisted living/hospice facility in an R-3, Multiple-Family Residential District.

As part of the Old Shell Road widening project, property on the North side of Old Shell Road was acquired for the project, significantly reducing the front yard area for the Ashbury Manor site, as well as leaving a remnant of a parcel immediately to the east of the Ashbury Manor site where a single-family residence had been located. The applicant states that the leftover parcel was "uneconomic" and this property was deeded to Ashbury Manor as part of the compensation for the loss of part of their property for the right-of-way acquisition. On April 2, 2009, the Planning Commission approved a preliminary plat for a one lot subdivision combining the remaining Ashbury Manor site and the remnant parcel, subject to a rezoning application and a planning approval application. As such, these applications have been submitted.

Regarding the rezoning request, the entire site appears to be depicted as residential on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. Moreover, the General Land Use Component 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 zoning classification.

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The applicant states that due to the right-of-way acquisition for the Old Shell Road widening project, as well as the previously approved subdivision request, that there are changing conditions in the area. Indeed, the immediate area does appear to be in transition. In the immediate vicinity, the University of South Alabama, while nominally R-1, Single-Family Residentially zoned, is exempt from zoning regulations, and has developed a large student housing complex on property less than 300 feet from this location. Additionally, there are other R-3 zoned and utilized properties in the area, as well as legal non-conforming R-3 uses in the immediate area. As such, rezoning to remove the split zoning for this site would seem to be appropriate.

The review required for Planning Approval examines the applicant's location and site plan with regard to transportation, parking and access, public utilities and facilities, traffic congestion and hazard, and to determine if the proposal is in harmony with the orderly and appropriate development of the district.

It is very important to note that the Planning Approval review is site plan specific; therefore *any* future changes to the site plan by current or future applicants must be submitted for Planning Approval.

In this case, the applicant is adding the remnant parcel from the right-of-way acquisition, and proposing to develop the area as a "secure wandering area" and also an "area of refuge" in case of emergency. These improvements, including fencing, landscaping, and sidewalks represent a minimal impact on transportation, circulation, access, and neighborhood impact. It should again be noted that this application is a direct result of the road widening project. As such, the planning approval application should be approved.

Urban Forestry has commented that a revised landscape plan will be needed. It should be noted that, as the rear of the site is wooded, there are likely enough credit trees to compensate for any perimeter or parking trees that may be required. The shortage will result from frontage trees being removed as a result of the right-of-way acquisition. A total of three live oaks planted at the time of construction and one 36-inch oak counted for credit have been removed.

As the existing building is now located partially within the building setback, it may be impractical to require full compliance with the frontage tree requirements. As such, with coordination with the Urban Forestry and Planning Sections of the Urban Development Department, compliance to the greatest extent possible with the landscaping and tree planting ordinance should be required.

## **RECOMMENDATION**

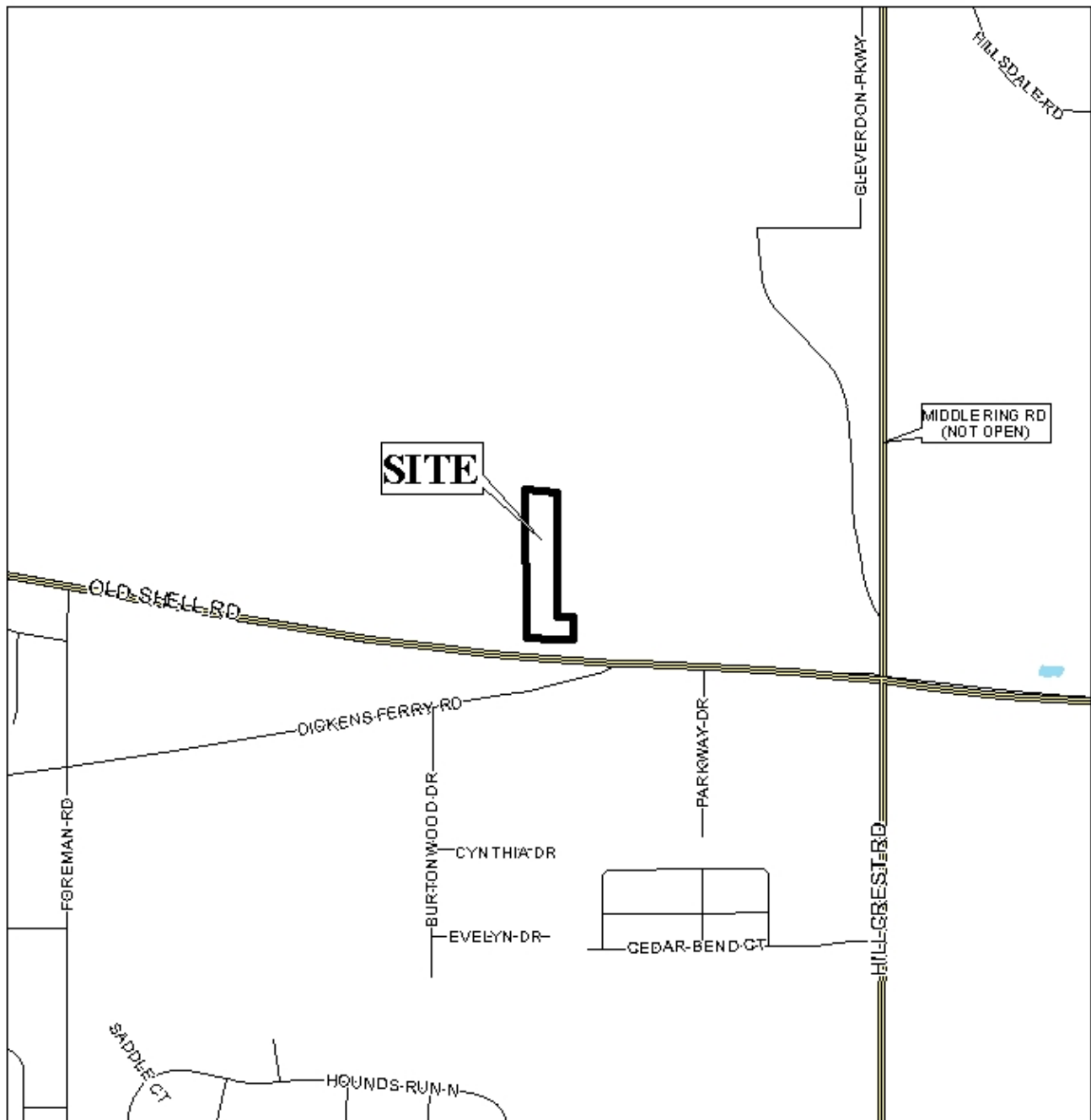
**Rezoning:** The rezoning request is recommended for approval subject to the following condition:

- 1) Full compliance with all municipal codes and ordinances.

**Planning Approval:** The planning approval request is recommended for approval subject to the following condition

- 1) Compliance to the greatest extent possible with the landscaping and tree planting ordinance, to be coordinated with the Urban Forestry and Planning Sections of the Urban Development Department;
- 2) Compliance with Traffic Engineering Comments: *Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Traffic Engineering is unable to adequately review the application as no details are given for the driveway radius and parking areas and circulation are not shown on the drawing;*
- 3) Submittal of a revised site plan showing any changes required by Traffic Engineering or Urban Forestry; and
- 4) Full compliance with all municipal codes and ordinances.

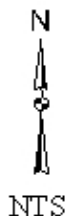
## LOCATOR MAP



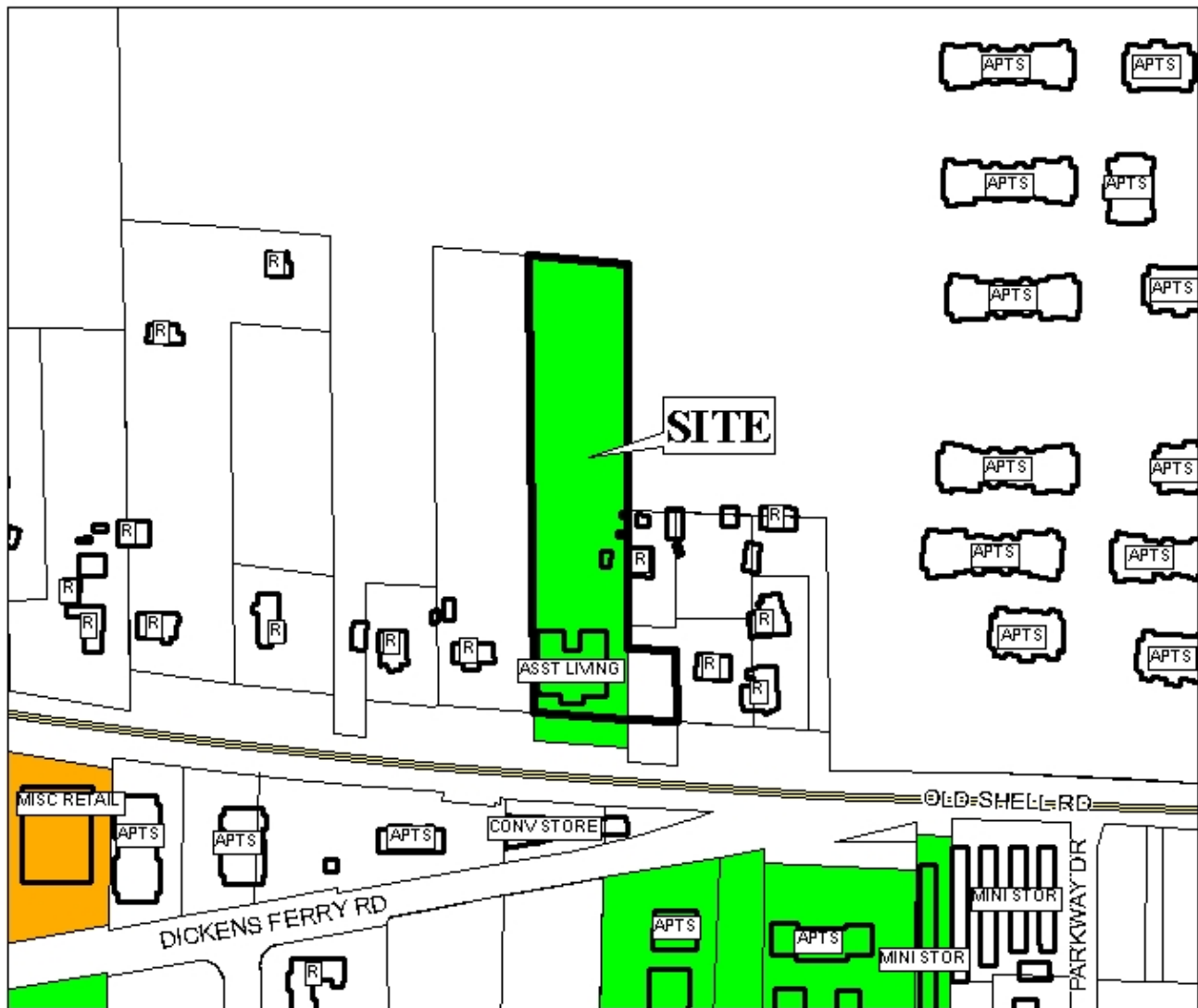
APPLICATION NUMBER 26 & 27 DATE July 2, 2008

APPLICANT Ashbury Manor, Inc.

REQUEST Planning Approval, Rezoning from R-1 and R-3 to R-3



# **PLANNING COMMISSION VICINITY MAP - EXISTING ZONING**



This site is surrounded by residential land use with business land use to the south.

APPLICATION NUMBER 26 & 27 DATE July 2, 2008

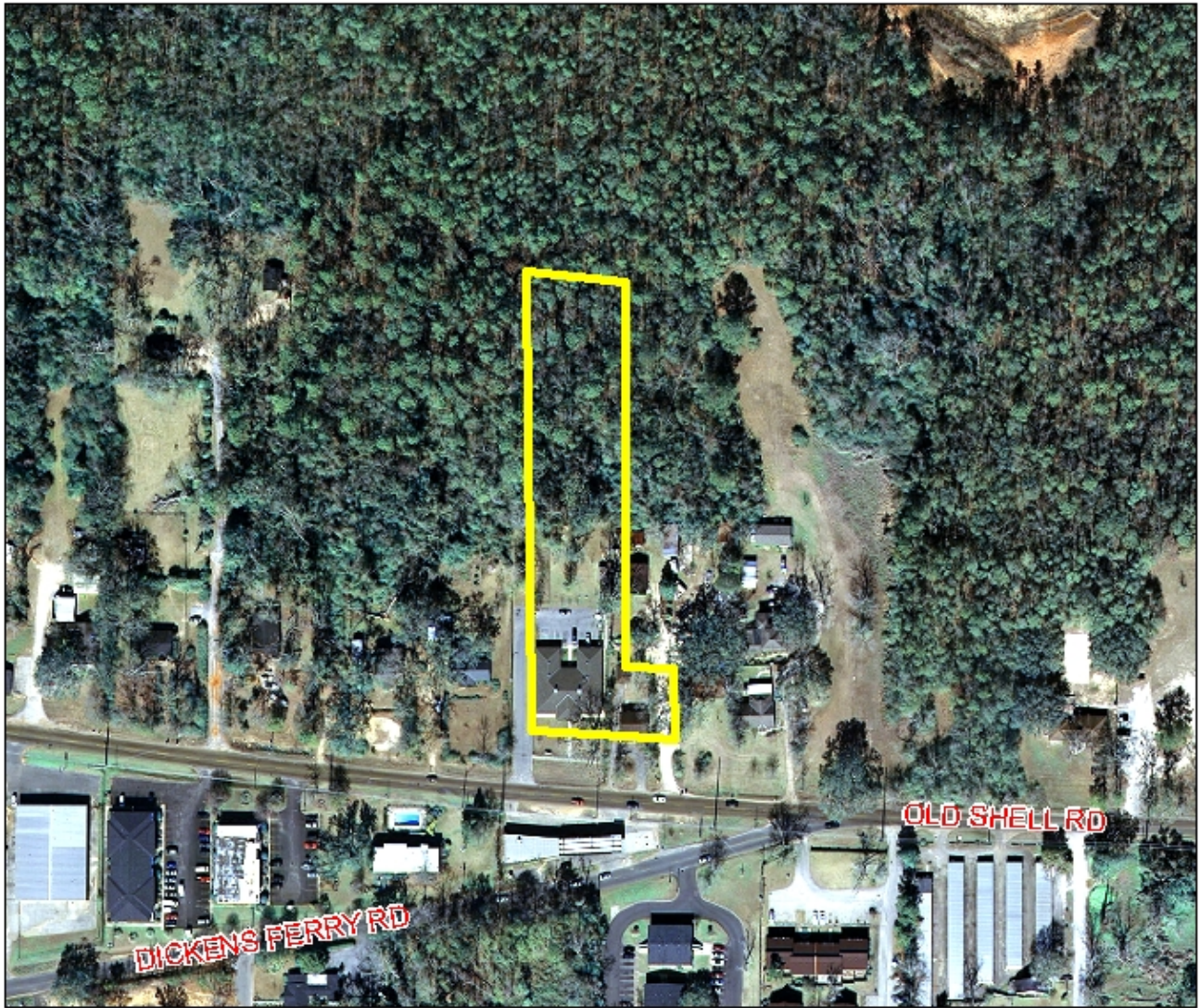
APPLICANT Ashbury Manor, Inc.

REQUEST Planning Approval, Rezoning from R-1 and R-3 to R-3

LEGEND  R-1  R-2  R-3  R-A  R-B  H-B  T-B  B-1  LB-2  B-2  B-3  B-4  B-5  I-1  I-2 NTS



## PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

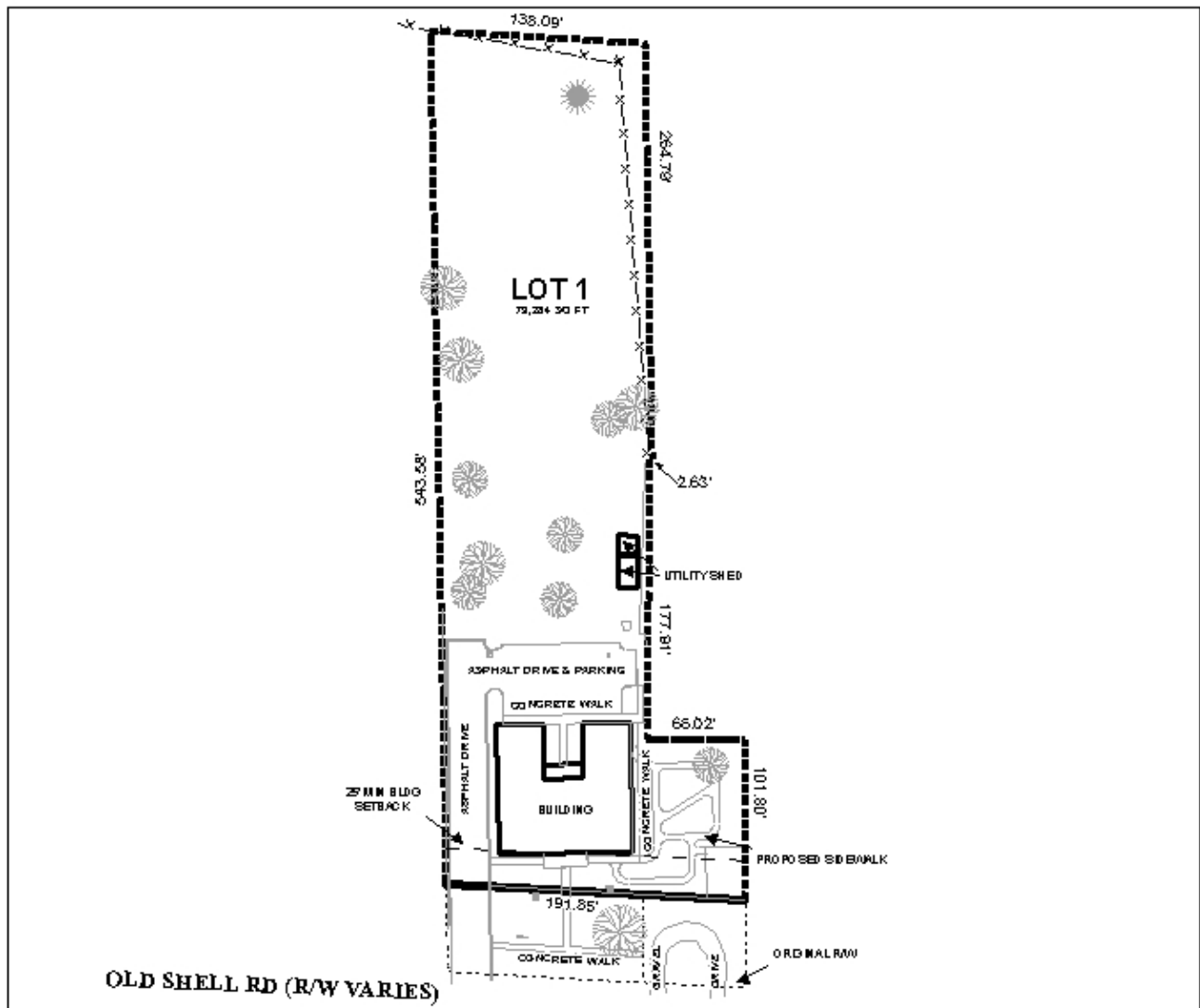


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N  
NTS

# SITE PLAN



This site plan illustrates the existing lot configuration and proposed improvements.

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N  
 NTS