

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: January 4, 2016

CASE NUMBER

6024

APPLICANT NAME

Don Williams

LOCATION

3703 Old Shell Road
(Southwest corner of Old Shell Road and Wacker Lane South).

VARIANCE REQUEST

USE: Use Variance to allow professional offices in an R-1, Single-Family Residential District.

SURFACING: Surface Variance to allow a gravel parking surface.

ACCESS: Access Variance to allow a 12'-wide driveway for two-way traffic.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum of B-1, Buffer Business District, for professional offices.

SURFACING: The Zoning Ordinance requires concrete, asphaltic concrete, asphalt, or an approved alternative paving surface for parking.

ACCESS: The Zoning Ordinance requires 24' wide driveways for two-way traffic.

ZONING

R-1, Single-Family Residential District

AREA OF PROPERTY

0.49± Acre

**ENGINEERING
COMMENTS**

USE VARIANCE:

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

1. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The proposed improvements 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. Submit a ROW Permit (City of Mobile) for the work within the Old Shell Rd. and Wacker Lane South ROW.

SURFACING VARIANCE:

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

1. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The proposed improvements 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. Submit a ROW Permit (City of Mobile) for the work within the public ROW.
3. Aggregate surfacing will NOT be allowed within the public ROW; only pavement will be allowed.

ACCESS VARIANCE:

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

1. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The proposed improvements 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. Submit a ROW Permit (City of Mobile) for the work within the public ROW.

TRAFFIC ENGINEERING

COMMENTS

If on street parking becomes an issue, on street parking restrictions may have to be installed based on the width of Wacker Lane South. If the surface variance is approved, bumper stops should be provided to prevent parking from extending into the landscaped areas. The owner/developer is responsible for ADA accessibility to the building, which may require asphalt/concrete surface for the designated space(s) and the path to the building. Gravel surface shall not extend into the ROW. A 20' driveway would be the recommended minimum width for a commercial driveway. With or without the driveway widening, the owner/developer should take into account the line-of-sight entering and exiting the driveway, and trim and/or remove any obstacles that may block the view of oncoming vehicles.

URBAN FORESTY

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).

FIRE

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)

CITY COUNCIL

DISTRICT

District 7

ANALYSIS

The applicant is requesting Use, Surfacing, and Access Variances to allow a professional office with gravel parking and a 12’ wide driveway for two-way traffic in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-1, Buffer Business District for professional offices, all parking to be paved with concrete, asphaltic concrete, asphalt, or approved alternative parking surface, and 24’ wide driveways for two-way traffic.

The applicant states the following reasons to explain the need for the variance:

“We plan to restore the main building, former kitchen building and former chapel building to comply with requirements of the historic preservation agreement with Mobile Historic Development Commission, U.S. Interior Department standards for rehabilitation for tax credits and City Historic Development guidance. We plan to place a gravel parking lot at the rear of the site and restore the gardens. The buildings are on the National Register of Historic Places. We expect the work will begin in the first quarter of 2016, to be finished by the end of the year.”

“With Board of Zoning Adjustment approval, we plan to place compatible-with-the-neighborhood B-1 professional office space tenant(s) in all three buildings.”

“The house was constructed in 1862. The house has been unoccupied (abandoned) for many years and is danger of being beyond structural rescue. The closeness of the main structure to Old Shell Road has made residential use unattractive for many years. Property taxes are in arrears. The current owner’s historic preservation easement with MHDC has made expansion of the house, movement of the house away from Old Shell Road, and subdivision of the lot impossible. We believe a sensitive B-1 use will benefit the neighborhood and the community.”

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.

Variations 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 desires to use a residentially zoned property for commercial purposes. A description of the Use Variance states to *“Allow professional office space use to tenant(s), as restricted to the B-1 zoning category.”*

The site is surrounded to the North (across Old Shell Road), West and South by R-1 zoning and use. Directly to the East across Wacker Lane South is R-3, Multi-Family Residential District zoning and use, and diagonally across Old Shell Road to the East is B-3, Community Business District zoning used as medical offices.

The applicant cites the proximity of the main dwelling being so close to Old Shell Road as rendering it unattractive for residential use. Limitations placed by the Mobile Historic Development Commission and the National Register of Historic Places upon expansion and/or movement of the structure and subdivision of the property do not facilitate such endeavors. The small size of the dwelling, approximately 1,050 square feet, would further complicate modern housing desires. It should be noted that a Front Yard Setback Variance to allow additions to the dwelling to within 9'-5" of the front property line (the existing front of the porch), was denied by the Board in 1994 mainly due to the fact that the additions would “de-list” the structure from the National Register. Therefore, the applicant has illustrated that a hardship exists with regard to the Use Variance request in that future residential use is unlikely and, even if pursued, historic regulatory restrictions placed upon the site would effectively negate modifications to overcome residential obsolescence. The uses allowed should be limited to strictly professional offices and not others allowed in B-1, such as employment services and clinics.

With regard to the Surfacing Variance request to allow a gravel parking area, the applicant does not cite a specific hardship associated with the property which would prevent surfacing compliance. However, the desire to make the proposed use compatible with the adjacent R-1 use and the fact that the site is listed on the National Register of Historic Places would lend credence to the proposed gravel surfacing. As per the Traffic Engineering comments, bumper stops should be provided to prevent parking from extending into the landscaped areas. And the owner/developer is responsible for ADA accessibility to the building, which may require asphalt/concrete surface for the designated space(s) and the path to the building. Also, the type of gravel surface used should be limited to a finely-crushed diameter not readily picked up by vehicular tires and coordinated with Traffic Engineering.

As to the Access Variance request, the current 12'-wide curb cut is bordered along the North side by a wall approximately 18 inches high which would require a driver to enter and depart the driveway in such a manner as to not deviate over the Northern limit of the curb cut. Wacker Lane South is two-lane/two-way with an approximately 24'-wide pavement. Given the vehicular

parking along the East side of Wacker Lane South, this would effectively limit this section of the street to an approximate 12' width. That, combined with the tight turn needed to enter the driveway so as to not impact the retaining wall, could tighten the congestion in this area. Traffic Engineering has recommended that a 20' driveway would be the minimum width for a commercial driveway and an on-site review indicates that there would be sufficient space to expand the driveway to the South to obtain this width and not have to remove any of the large trees to the North of the curb cut. Only small trees to the South would have to be removed.

The site plan does not depict a public sidewalk proposed within the right-of-way of Wacker Lane South. However, in discussions with staff, it was revealed that the current metes-and-bounds legal description for the site was created at some point after 1952 when the previous Southern portion of the site was parceled into various lots for residential development without going through the required Subdivision process. Therefore, the applicant must submit a one-lot Subdivision to make the remaining property a legal lot of record and it has been suggested that a Sidewalk Waiver request also be submitted with the Subdivision application. Also the site plan does not indicate any buffering along the adjacent residential property lines to the West or South; therefore, a revised site plan indicating such should be submitted to the Planning Division. A landscaping and tree planting plan should also be coordinated with Urban Forestry due to the wooded nature of the site and submitted to the Planning Division.

The applicant has illustrated that a hardship would be imposed by a literal interpretation of the residential use restrictions of the Zoning Ordinance and that a viable alternative would be for a low-impact professional office use. It has also been demonstrated that the requested Surfacing Variance would be in order due to the historic status of the site and its proximity to residential use. However, no literal hardship has been illustrated for the Access Variance request and the current tight ingress/egress conditions of the site would warrant the widening of the curb cut and driveway to the minimal standards acceptable to Traffic Engineering.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for Approval of the Use and Surfacing Variance requests:

- 1) Approving the Variance request will not be contrary to the public interest in that the property is on the National Register of Historic Places and any modifications to make the main dwelling more residentially suitable would not be allowed; and the gravel parking surface would be more in keeping with the adjacent residential uses and historic character of the site than would compliantly-surfaced parking;
- 2) Special conditions associated with the site exist, such as its listing on the National Register of Historic Places and the inability to make modifications to overcome residential obsolescence, that a literal enforcement of the provisions of the chapter will result in an 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 a viable alternative to unlikely residential use is proposed while at the same time, preserving a significant amount of the residential character of the site.

Therefore, the requests for Use and Surfacing Variances are recommended for approval, subject to the following conditions:

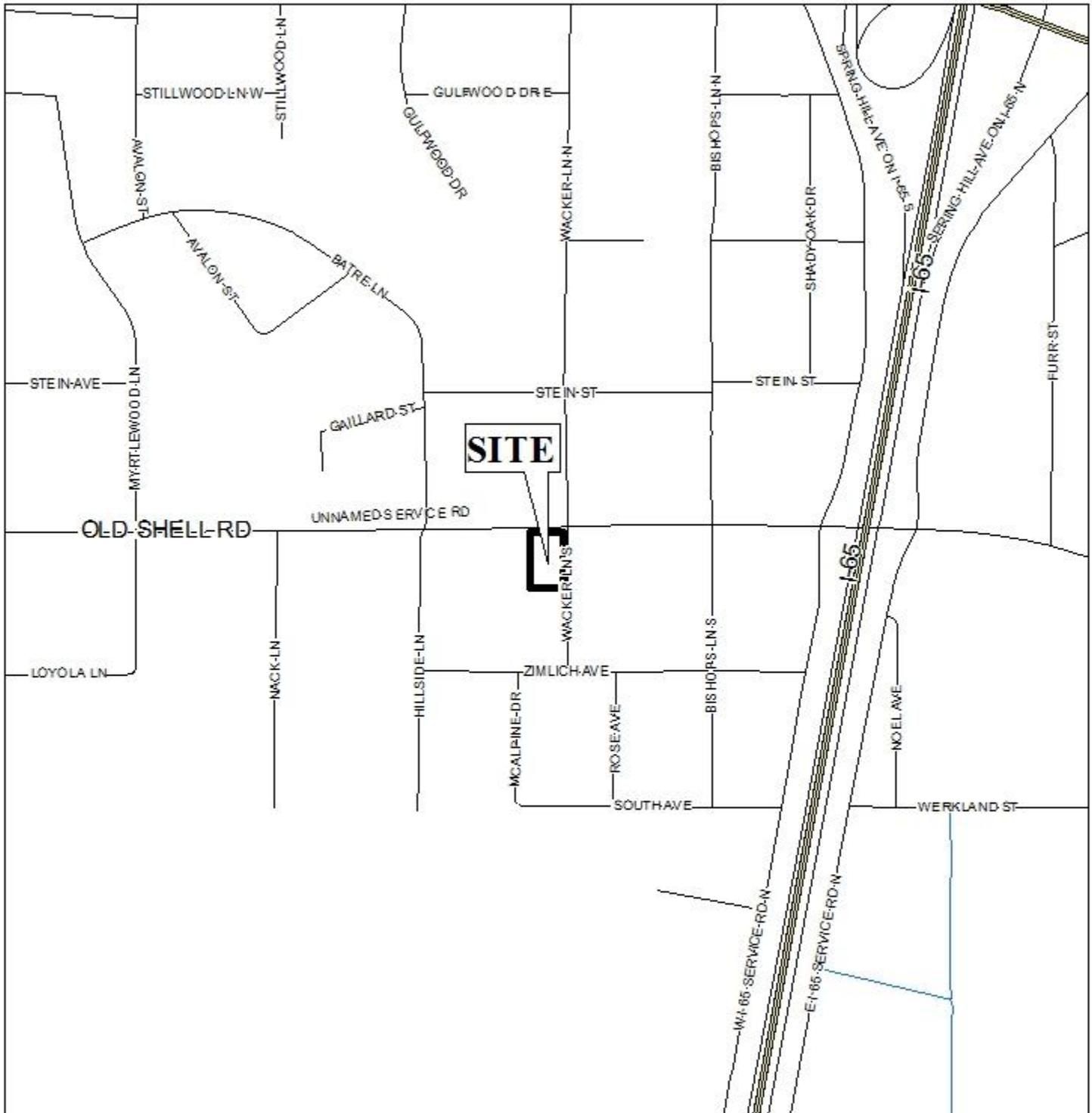
- 1) limited to professional offices and not allow uses such as employment services and doctors' clinics;
- 2) revision of the site plan to provide bumper stops to delineate the parking spaces;
- 3) gravel surface limited to a finely-crushed diameter not readily picked up by vehicular tires;
- 4) widening of the existing driveway to a minimum of 20', to be coordinated with Traffic Engineering;
- 5) revision of the site plan to indicate buffering along adjacent residential sites;
- 6) submittal of a landscaping/tree planting plan, to be coordinated with Urban Forestry;
- 7) submittal and approval of a one-lot Subdivision application to create a legal lot of record for the site;
- 8) submittal and approval of a Sidewalk Waiver application;
- 9) subject to the Engineering comments: (**USE VARIANCE:** *If the variance is approved for use the applicant will need to have the following conditions met: 1. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The proposed improvements 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. Submit a ROW Permit (City of Mobile) for the work within the Old Shell Rd. and Wacker Lane South ROW. **SURFACING VARIANCE:** *If the variance is approved for use the applicant will need to have the following conditions met: 1. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting. The proposed improvements 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 Submit a ROW Permit (City of Mobile) for the work within the public ROW. 3. Aggregate surfacing will NOT be allowed within the public ROW; only pavement will be allowed.);**
- 10) subject to the Traffic Engineering comments: (*If on street parking becomes an issue, on street parking restrictions may have to be installed based on the width of Wacker Lane South. If the surface variance is approved, bumper stops should be provided to prevent parking from extending into the landscaped areas. The owner/developer is responsible for ADA accessibility to the building, which may require asphalt/concrete surface for the designated space(s) and the path to the building. Gravel surface shall not extend into the ROW. A 20' driveway would be the recommended minimum width for a commercial driveway. With or without the driveway widening, the owner/developer should take into account the line-of-sight entering and exiting the driveway, and trim and/or remove any obstacles that may block the view of oncoming vehicles.);*
- 11) subject to the Fire 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)*]; and

- 12) full compliance with all other municipal codes and ordinances.

Staff recommends to the Board the following findings of facts for the Denial of the Access Variance request:

- 1) Granting the request will be contrary to the public interest in that traffic congestion along Wacker Lane South could be increased due to the time required for vehicles to maneuver into the tight driveway;
- 2) Special conditions, such as a hardship to the property, do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 sufficient area exists to the South of the driveway to expand it to a width satisfactory to meet the minimum Traffic Engineering standard.

LOCATOR MAP



APPLICATION NUMBER 6024 DATE January 4, 2016
APPLICANT Don Williams
REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units and medical offices to the northeast.

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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**

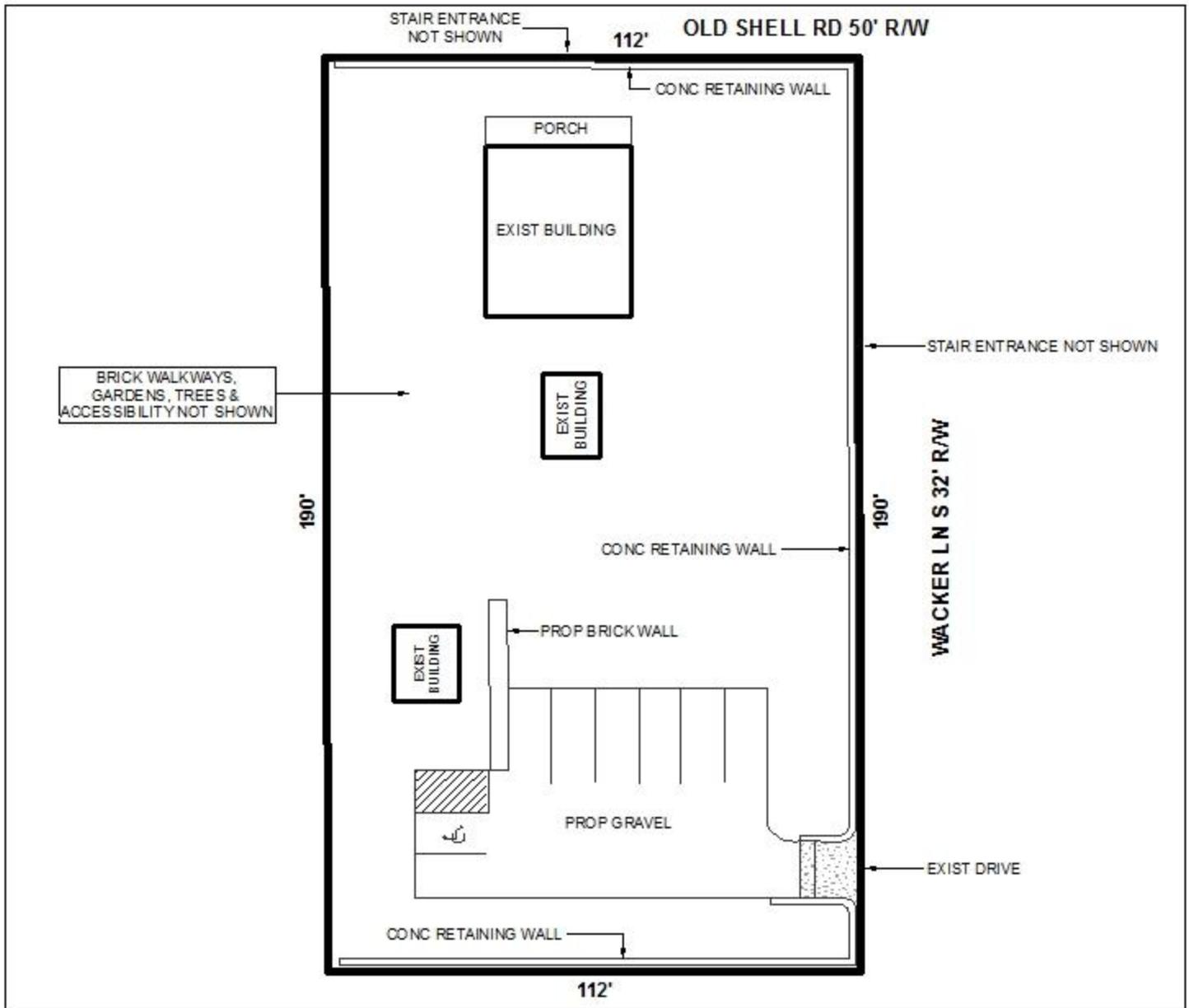


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SITE PLAN



The site plan illustrates the existing buildings, concrete retaining walls, existing drive, proposed brick walk, and proposed gravel parking facility.

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