

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: January 9, 2017

CASE NUMBER 6083/6058

APPLICANT NAME PHX Investments Group, LLC (Demetrius Moore, Agent)

LOCATION North side of Sussex Drive, 95'± East of Center Drive.

VARIANCE REQUEST **SITE VARIANCE:** To allow construction of a duplex on a 5,688.9 square-foot lot in an R-2, Two-Family Residence District.

ZONING ORDINANCE REQUIREMENT **SITE VARIANCE:** The Zoning Ordinance requires a minimum of 8,000 square feet for the construction of a duplex in an R-2, Two-Family Residence District.

ZONING R-2, Two-Family Residence District

AREA OF PROPERTY 0.2± Acres

CITY COUNCIL DISTRICT District 6

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

1. 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 Comments.

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 2015-116 and City Code Chapters 57 and 64).

ANALYSIS

The applicant is requesting a Site Variance to allow construction of a duplex on a 5,688.9 square-foot lot in an R-2, Two-Family Residence District; the Zoning Ordinance requires a minimum of 8,000 square feet for the construction of a duplex in an R-2, Two-Family Residence 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.

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 site was the subject of 2-lot subdivision approval at the August 18, 2016 meeting of the Planning Commission. The applicant hoped to develop one lot with a two-family residence, and the other lot with a single-family residence. However, given the small sizes of the lots resulting from their subdivision, the applicant decided to combine the lots to accommodate one multi-family residential structure larger than the two smaller lots would accommodate, but was ultimately denied a Site Variance to do so at the October 3, 2016 meeting of the Board of Zoning Adjustment. A subdivision application to combine the two lots was then approved at the October 6, 2016 meeting of the Planning Commission, but neither subdivision has been presented to the Planning and Zoning Department for signatures; therefore, it appears the applicant prefers to maintain the subdivision layout approved at the August 18, 2016 Planning Commission to accommodate their original intent of developing both lots, separately – the larger of the two with a duplex, and the smaller of the two lots with a single-family residence.

The applicant states:

“We are seeking a variance for a substandard lot size; with the variance we will build a duplex.”

The site plan illustrates the proposed duplex with two-stories, 3,588 square feet of living space, and a 1,794± square-foot footprint on proposed Lot B. The proposed dwelling unit would be accessed by a driveway to a private alley in the rear of the property, the result of an 18’ nonreciprocal easement that is due to previous denial of access to Sussex Drive by the Planning Commission.

It should be noted that, in addition to the reciprocal easement there is a 150 square-foot utility easement behind the 25’ minimum building setback line along the East property line; a 5’ easement within the 25’ minimum building setback line, also along the East property line; and a 5’ gas line easement in the rear of the property. As such, a note should be placed on a revised site

plan stating that no structures will be erected in any easements, if approved. Also, retention of the 25' minimum building setback line illustrated on the site plan should be required.

The site plan depicts a 10' setback along the East property line, and a 1' setback along the West property line for the proposed structure. It should be noted, however, that a note on the preliminary plat of the proposed Subdivision states the lots are approved for 0' side yard setbacks. Considering the subdivision in which the proposed structure will be located was originally approved at the November 1, 1979 meeting of the Planning Commission, prior to the adoption of regulations regarding Planned Unit Developments, similar approval of reduced side yard setbacks may be appropriate. This information should be provided on a revised site plan, if approved.

The proposed dwelling would not exceed the 35% maximum site coverage allowed for a structure in an R-2, Two-Family Residence District. However, the site plan should be revised to illustrate the size of the proposed structure in square feet, and the size of the proposed lot in square feet and acres; or, a table may be placed on the site plan providing the same information, if approved.

No air conditioning units are illustrated on the site plan; therefore, Staff cannot determine their compliance with regards to height and setback requirements. While air conditioning units are depicted on the rear elevation of the architectural plans, revision of the site plan to illustrate the proposed air conditioning units should be required, if approved.

The area of the proposed site is 5,688.9 square feet and is substandard for the development of a duplex in an R-2, Two-Family Residence District. A minimum of 8,000 square feet is required for duplexes to be developed in an R-2, Two-Family Residence District. While the applicant has not indicated a hardship associated with the property that would exempt the proposed use from aforementioned site requirements, there is development within the vicinity similar to the proposed site improvements.

A majority of Sussex Drive has been developed for attached dwelling units, and the subdivision of each individual residence as a separate lot contributes to each lot being substandard with respect to the dwelling units with which they have been developed. While rezoning of a neighboring site to R-3, Multiple-Family District in 1979 may have facilitated such development, it was again rezoned to R-2, Two-Family Residence district in 2002 to prevent similar, future multi-family developments. None of the other lots on Sussex Drive have more than one dwelling unit per lot, regardless of lot size. The R-3 and R-2 zoning designations were sought to allow reduced lot sizes for each dwelling unit.

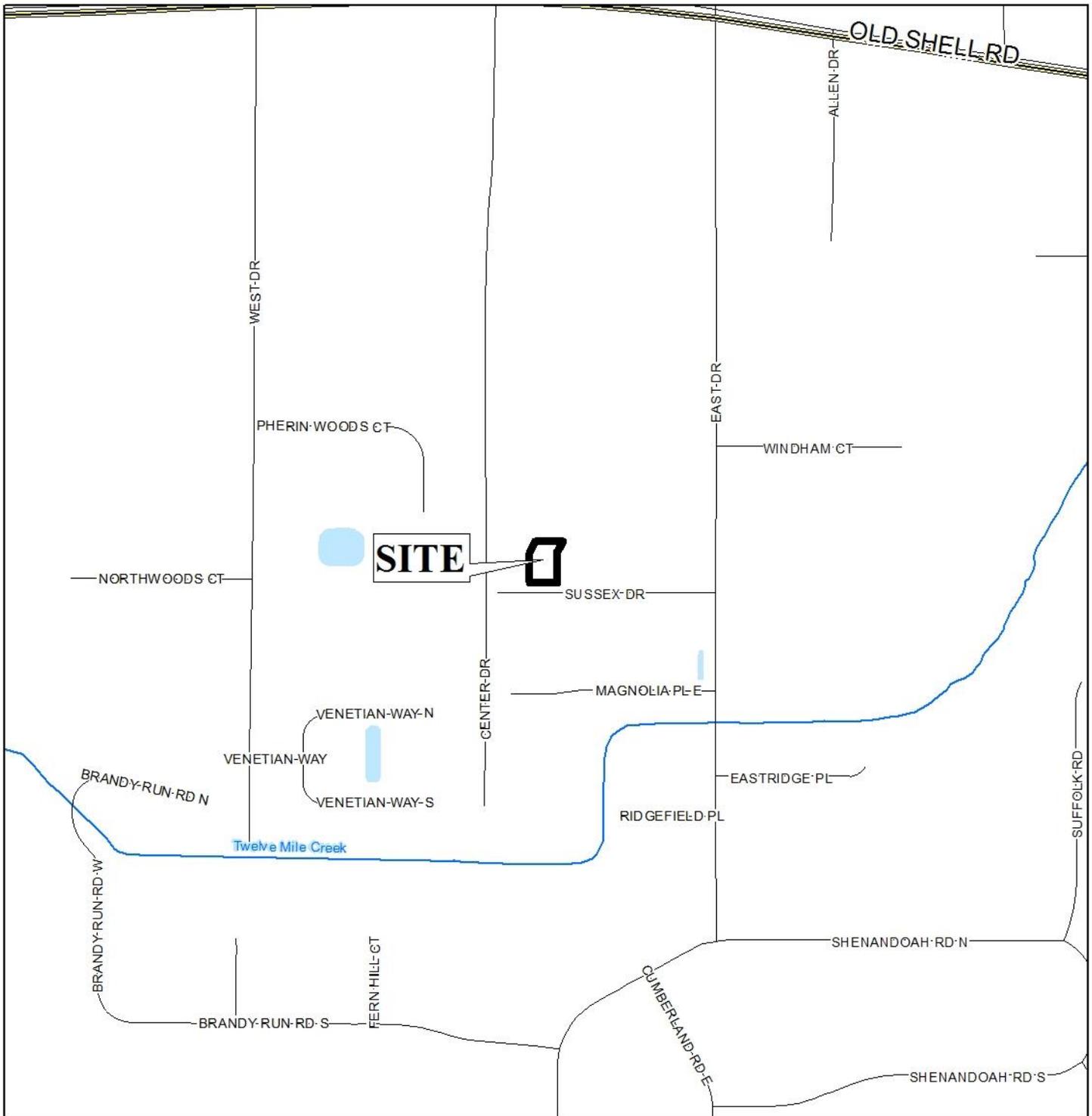
Finally, it should be noted that, as a result of reproduction, the provided site plan is not to scale. If approved, any revised site plan should be to scale.

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 due to the single-family character of the surrounding neighborhood;
- 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 due to the fact that the lot may be developed with a single-family residence; 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 since evidence of the intended character of the neighborhood does not suggest use of the property as a two-family residence, would be appropriate.

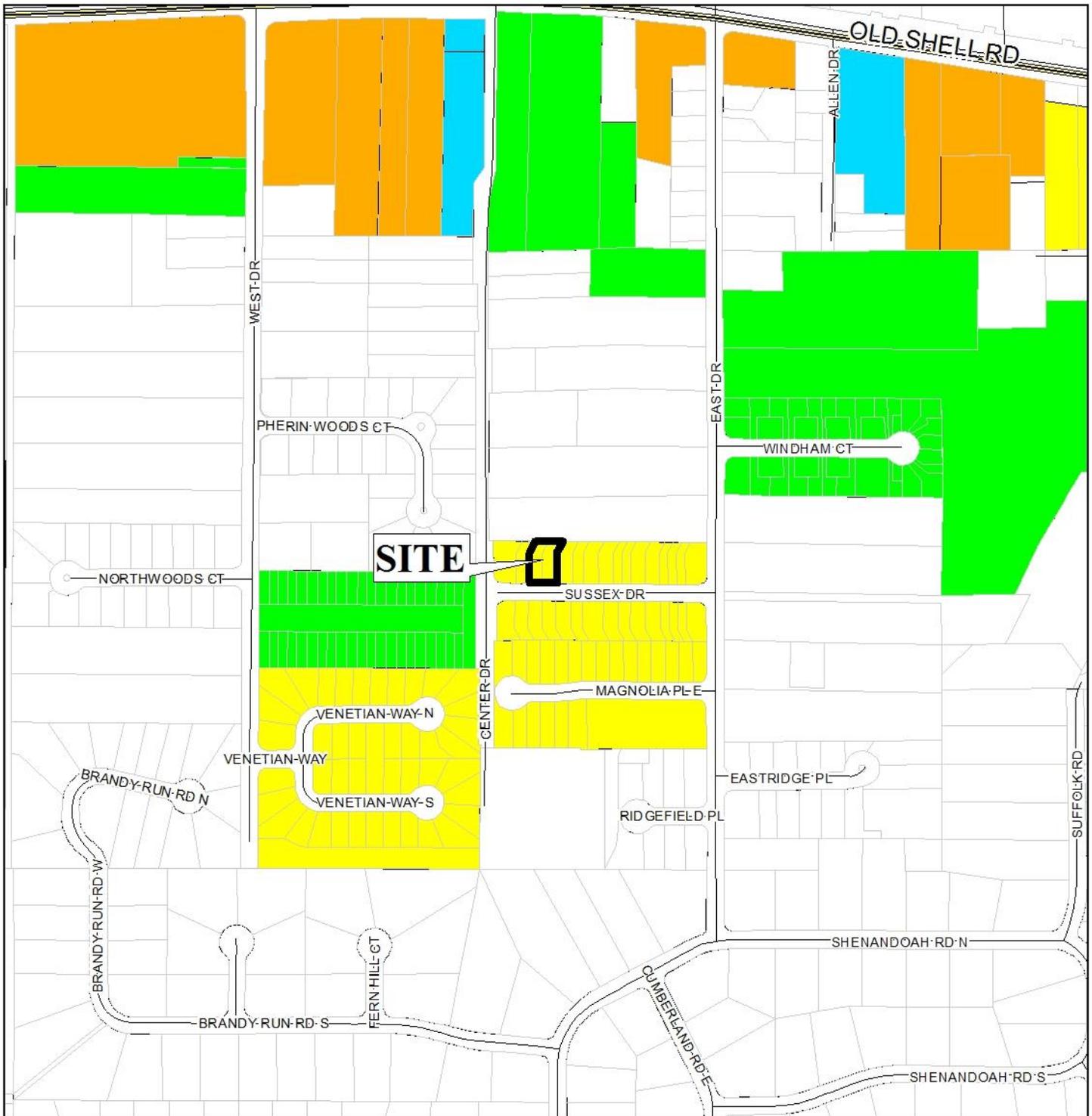
LOCATOR MAP



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LOCATOR ZONING MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

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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

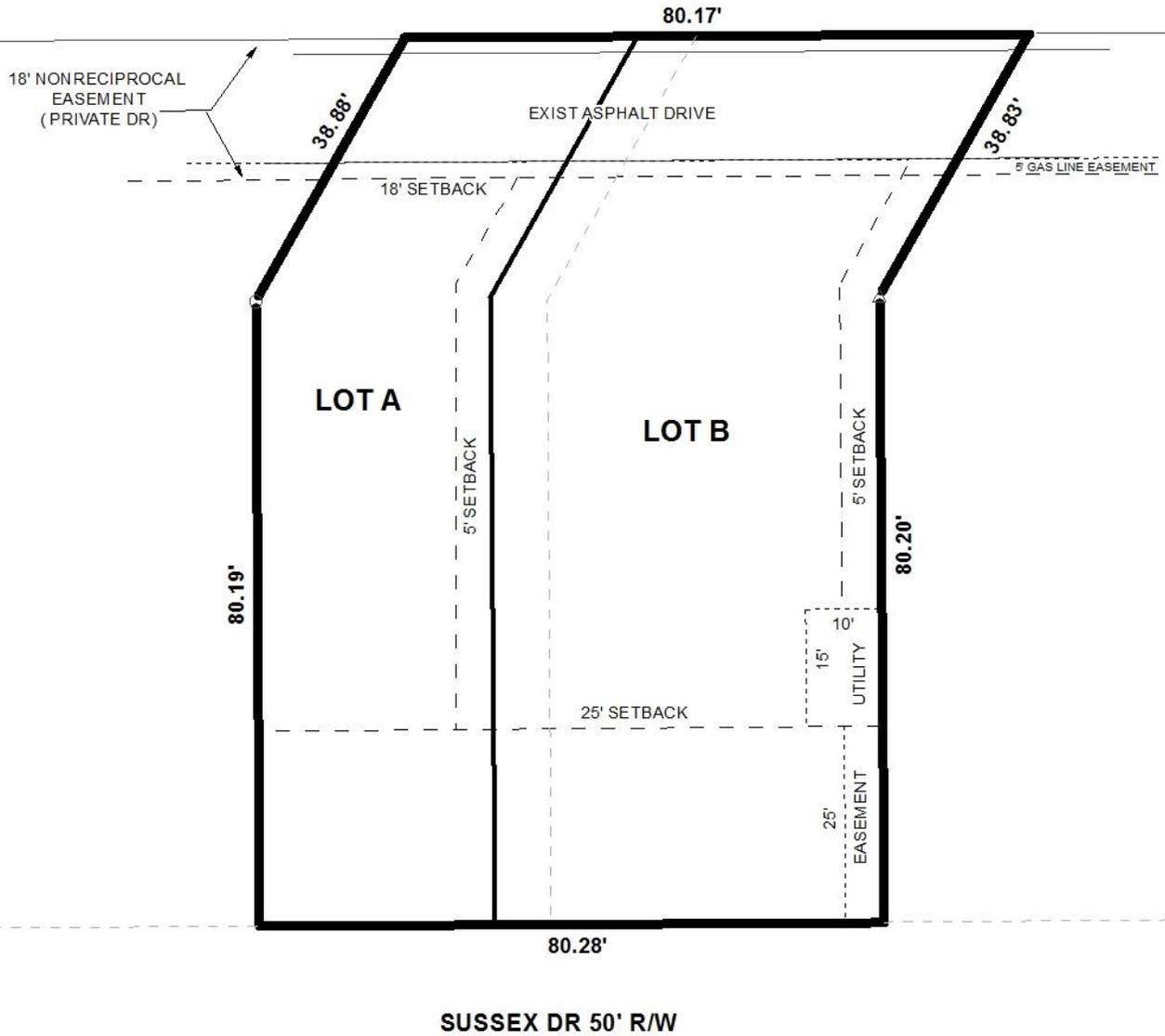


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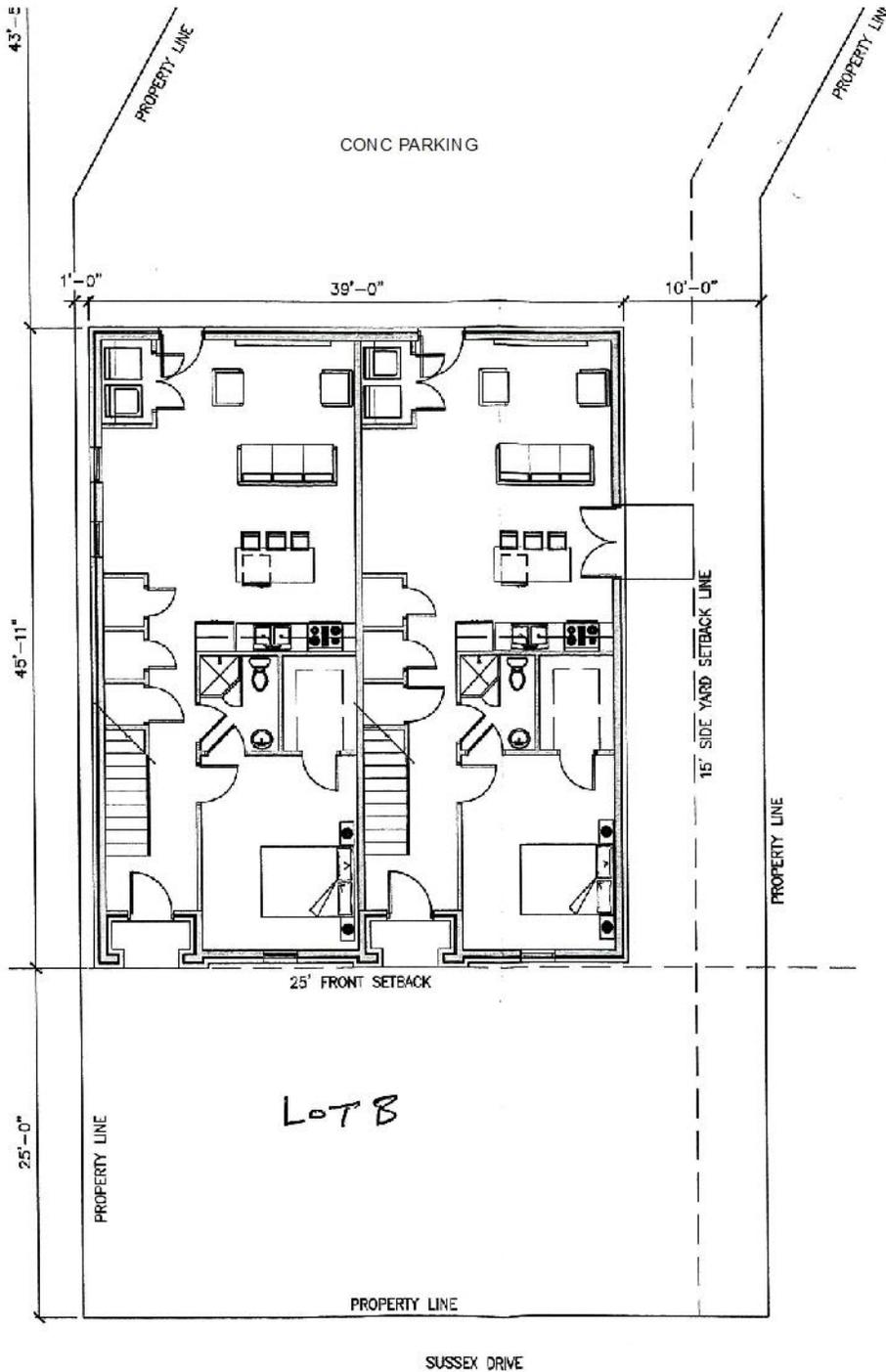
DETAIL SITE PLAN



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DETAIL SITE PLAN

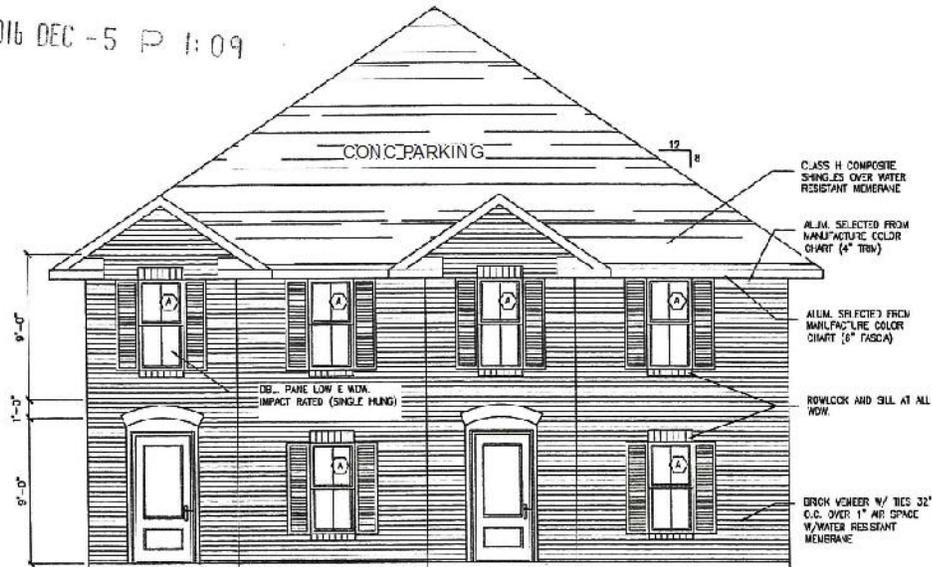


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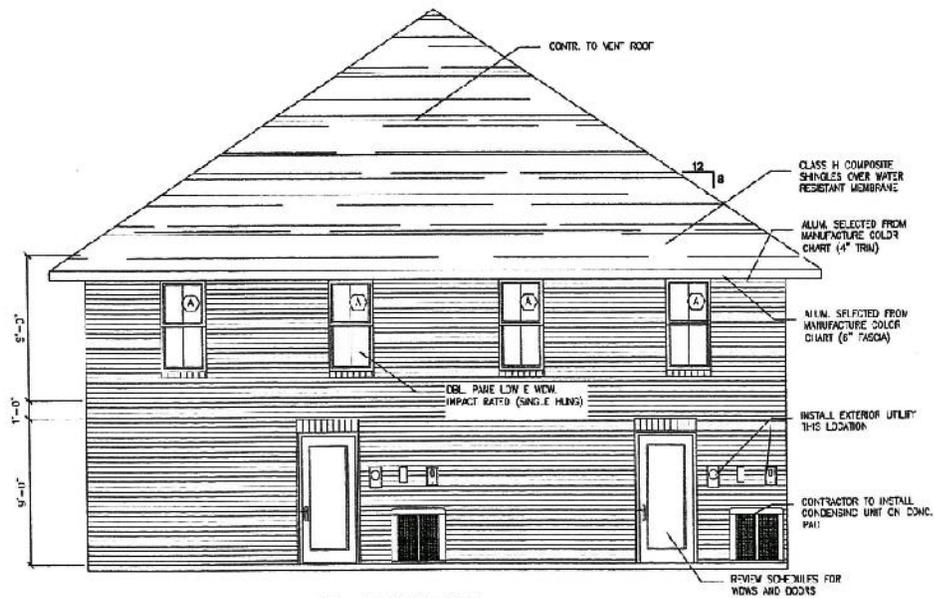


DETAIL SITE PLAN

2016 DEC -5 P 1:09



1 ELEVATION
A4.1 SCALE: 1/4" = 1'-0"

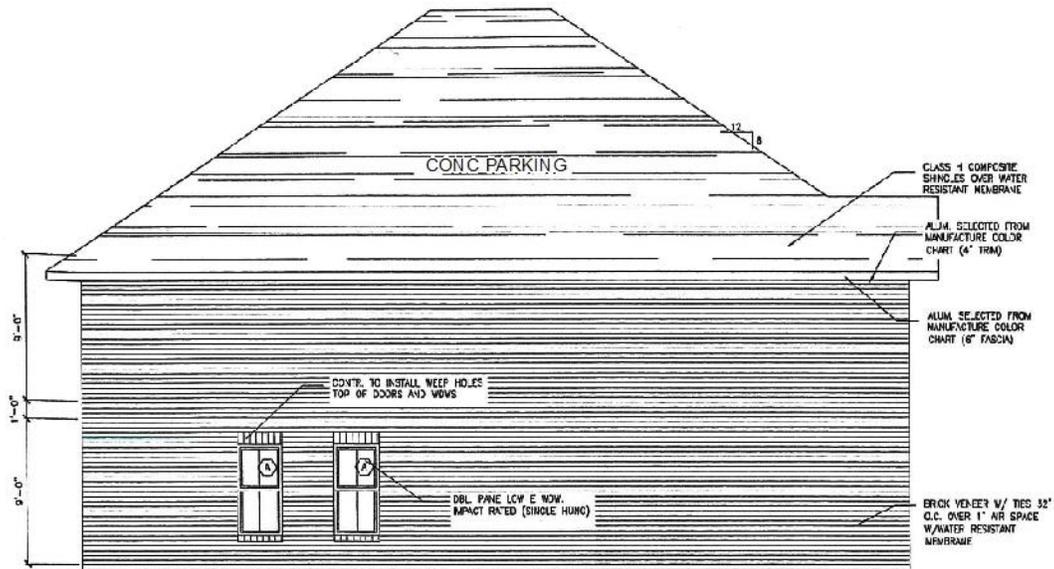


3 ELEVATION
A4.1 SCALE: 1/4" = 1'-0"

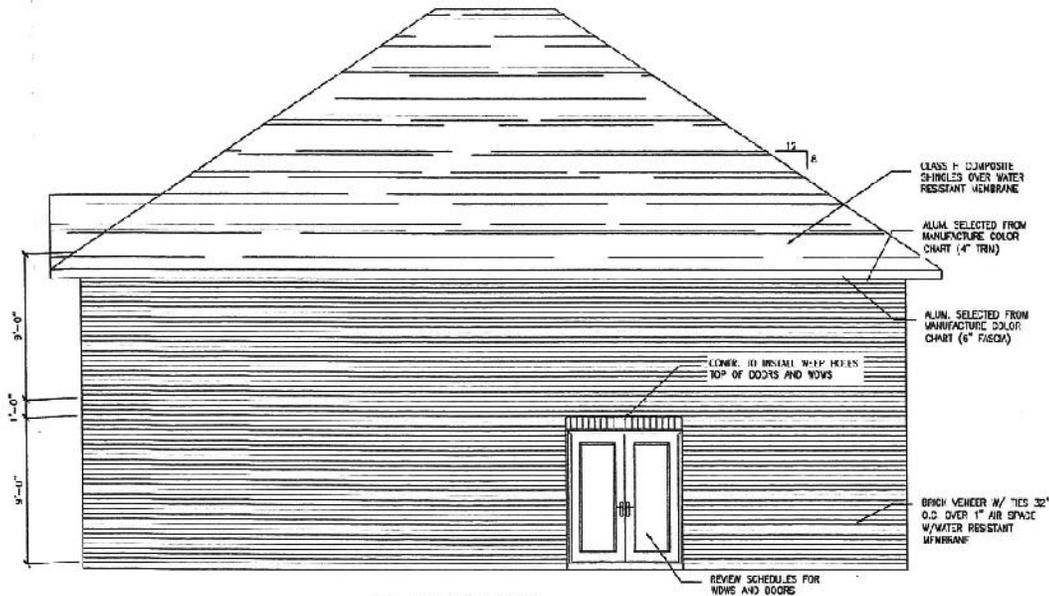
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DETAIL SITE PLAN



2 ELEVATION
A4.1 SCALE: 1/4" = 1'-0"



4 ELEVATION
A4.1 SCALE: 1/4" = 1'-0"

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