

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 2, 2015****CASE NUMBER**

5947

APPLICANT NAME

George Coburn

LOCATION4484 Rutgers Road
(North side of Rutgers Road, 450' ± West of Tufts Road).**VARIANCE REQUEST****USE:** Use Variance to allow a commercial tree service with equipment storage in an R-1, Single Family Residential District.**PARKING SURFACE:** Surface Variance to allow aggregate parking surfaces in an R-1 Single-Family Residential District.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a minimum of an I-1, Light Industry District for a commercial tree service.**PARKING SURFACE:** The Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface for parking areas in an I-1, Light Industry Business District.**ZONING**

R-1, Single Family Residential

AREA OF PROPERTY

1.84± Acres

ENGINEERING**COMMENTS**

If the aggregate surfacing is approved for use as requested the applicant will need to have the following conditions met:

- a. Submit a Land Disturbance Permit for any required site improvements; and for any unpermitted site improvements made since 1984.
- b. Submit a ROW Permit for any proposed work within the Rutgers Rd. ROW. Aggregate surfacing will not be allowed within the Rutgers ROW.

TRAFFIC ENGINEERING**COMMENTS**Aggregate surface should not extend into the right-of-way.
City standard driveway should be required.

CITY COUNCIL
DISTRICT

District 4

ANALYSIS

The applicant is requesting a Use and Parking Surface Variance to allow a commercial tree service with equipment storage and aggregate parking surfaces in an R-1, Single Family Residential District; the Zoning Ordinance requires a minimum of a I-1, Light Industry for a commercial tree service and requires asphalt, concrete, or any approved alternative paving surface for parking areas in a I-1, Light Industry District.

This application was prompted by a citizen compliant that was received by the Urban Development Department. The applicant was found to be using the site as a contractor's storage yard to operate his tree service business; thus the reason for this application.

The subject site appeared before the Planning Commission in 1991 to allow the placement of a mobile home on an R-1, Single-Family Residential property. The Commission approved the request for the mobile home.

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

"Mr. Coburn recently purchased the property submitted as part of this application. The property is currently zoned R-1 and has 2 existing driveways to access the property. Rezoning this property is not an option based on R-1 in proximity. There is commercial property located in the vicinity including I-1, and B-3 across the railroad that adjoins the property. Mr. Coburn has brought in a 12' x 44' office trailer on-site. He has a small tree service that he would like to manage from this location. He lives in Cypress Shores and this provides close access to his equipment that he plans to store on-site. This would consist of a few trucks that he uses for his tree service. He plans to store them behind the office trailer that is shown on the survey.

The site being developed is being used as a contractor's storage yard with a few large trucks to be stored behind the office trailer. We are asking for the gravel surfacing variance because the trucks he uses for his tree business will tear up asphalt. We propose to place an 8' tall privacy fence with a gate for access around the storage area. We also will provide one-way traffic signs along the existing gravel drives and widen them to 12 feet where needed. We will provide a tree table along the frontage. We meet and exceed any tree requirements per the city ordinance."

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 applicant desires to use a residentially-zoned property for a commercial use. The property has been within the city limits since 1993, and was purchased by the applicant in December 2014.

This segment of Rutgers Road appears to be residential in nature, and is separated from other commercial and industrial uses by either railroad tracks or an elevated segment of Rangeline Road. There are commercial and industrial uses abutting the residential properties on the South side of Rutgers Road, but these non-residential uses only have frontage on Tufts Road.

The applicant's use of the property is not in keeping with the residential nature of the street: the storage of large trucks and associated trailered equipment is out of character with the neighborhood, and results in employees coming to and from the site in the personal vehicles as well as in the trucks associated with the commercial use.

There is also a concern that equipment related to the tree business might be operated, maintained or tested on the site. So that could result in the sound of chainsaws, wood chippers and bobcat tractors emitting sound on the site.

The applicant, as stated, has already brought in a commercial office trailer. Staff research shows that no permits have been issued for the placement of the trailer, such as for an electrical connection or plumbing connection. Furthermore, there is no information regarding if the trailer meets the wind zone requirements for this portion of Mobile County.

The site plan depicts a 50 by 60 foot area that will be enclosed with a privacy fence for use as a contractor's storage yard. Both the storage yard and the driveways are to be surfaced in aggregate rather than in asphalt or concrete, as would be required for a commercial site. There is no indication of any parking area for employees, thus staff assumes that they will park on unimproved surfaces on the property. The site plan also indicates the existing curb-cuts and driveways will be widened to 12' feet driveways and will only allow one-way traffic for the drives

While aggregate might be an appropriate surface for a residential driveway, use on this site with heavy trucks will result in much of it becoming engrained within the soil. As more aggregate is placed on the site, the future residential use of the property becomes more and more questionable. Additionally, the large trucks would have a greater tendency to track aggregate into the roadway, versus a normal car.

The site plan shows that a 10' vegetative/ wooded buffer or a 6' privacy fence will be maintained around the East, North and West perimeters of the site.

The property is also located within an X-Shaded flood zone, thus any improvements to the site, including the placement of the office trailer, must be done in compliance with Federal FEMA requirements and applicable local building and engineering requirements. While the Board can

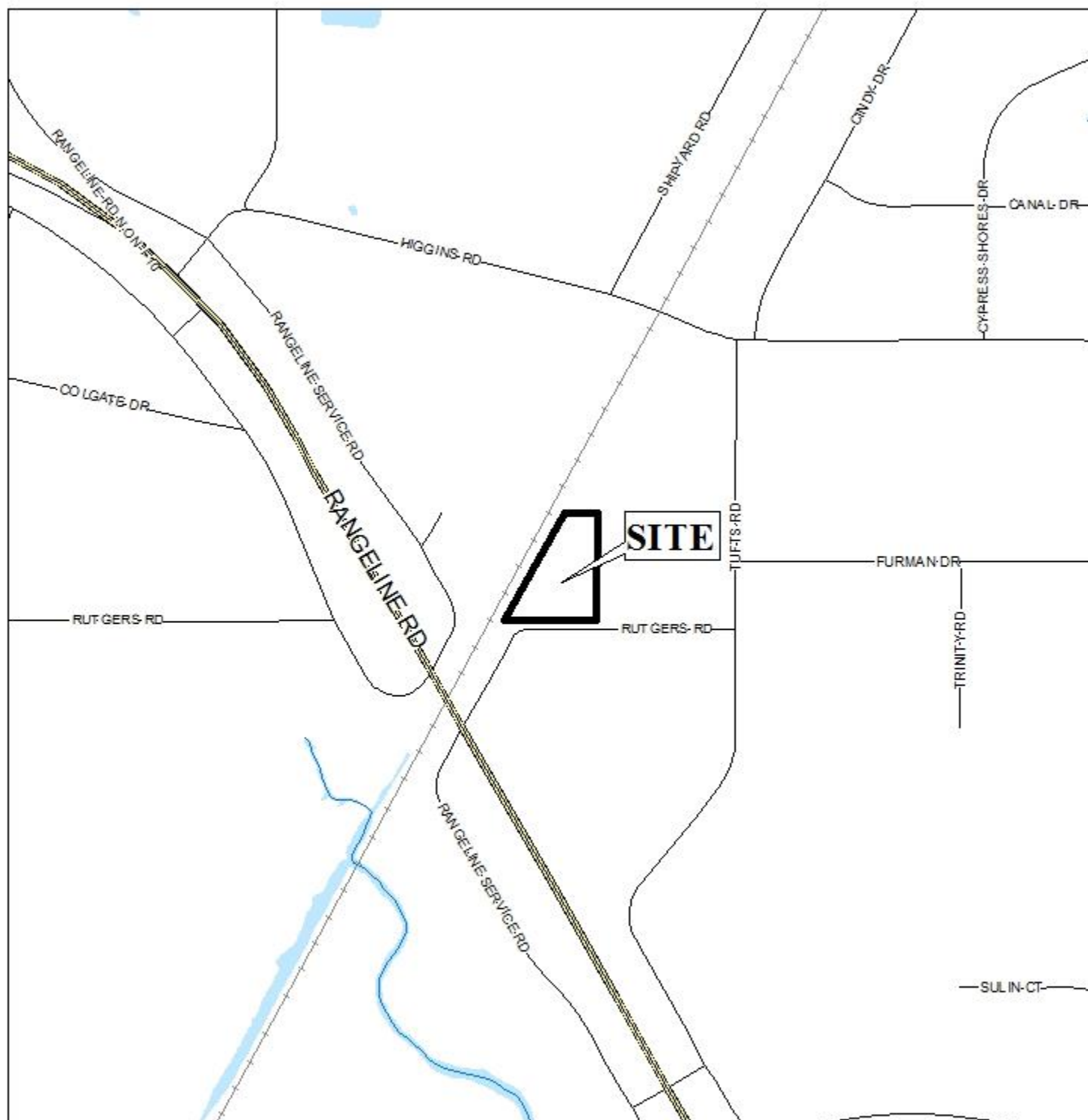
waive Zoning Ordinance requirements, it has no authority or jurisdiction over any other local regulations or requirements.

The applicant has not illustrated that a hardship would be imposed by a literal interpretation of the residential use requirements of this R-1 site, nor if the proposed use were allowed, that providing properly paved surfacing would be a hardship (*especially as it appears that all equipment depicted in the submitted photos appear to have tires rather than tracks*). Instead, it simply appears that requests are based upon the applicants desire to utilize the property as a contractor's storage yard. Thus, the Board should consider this application for denial.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for denial:

- 1) approving the variance request will be contrary to the public interest in that the property is located along a street segment with no other commercial uses, and as such, the increase in noise as well as heavy truck and employee traffic would negatively impact the adjacent residential uses;
- 2) special conditions with the site or unusual site constraints 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 variances because the majority of the adjacent properties are zoned and used for residential uses, R-1, Single Family Residential, and the few business that are within the area appear to be in compliance with the surfacing requirements of the Zoning Ordinance, and no other Surface Variances have been granted within the neighborhood.

LOCATOR MAP



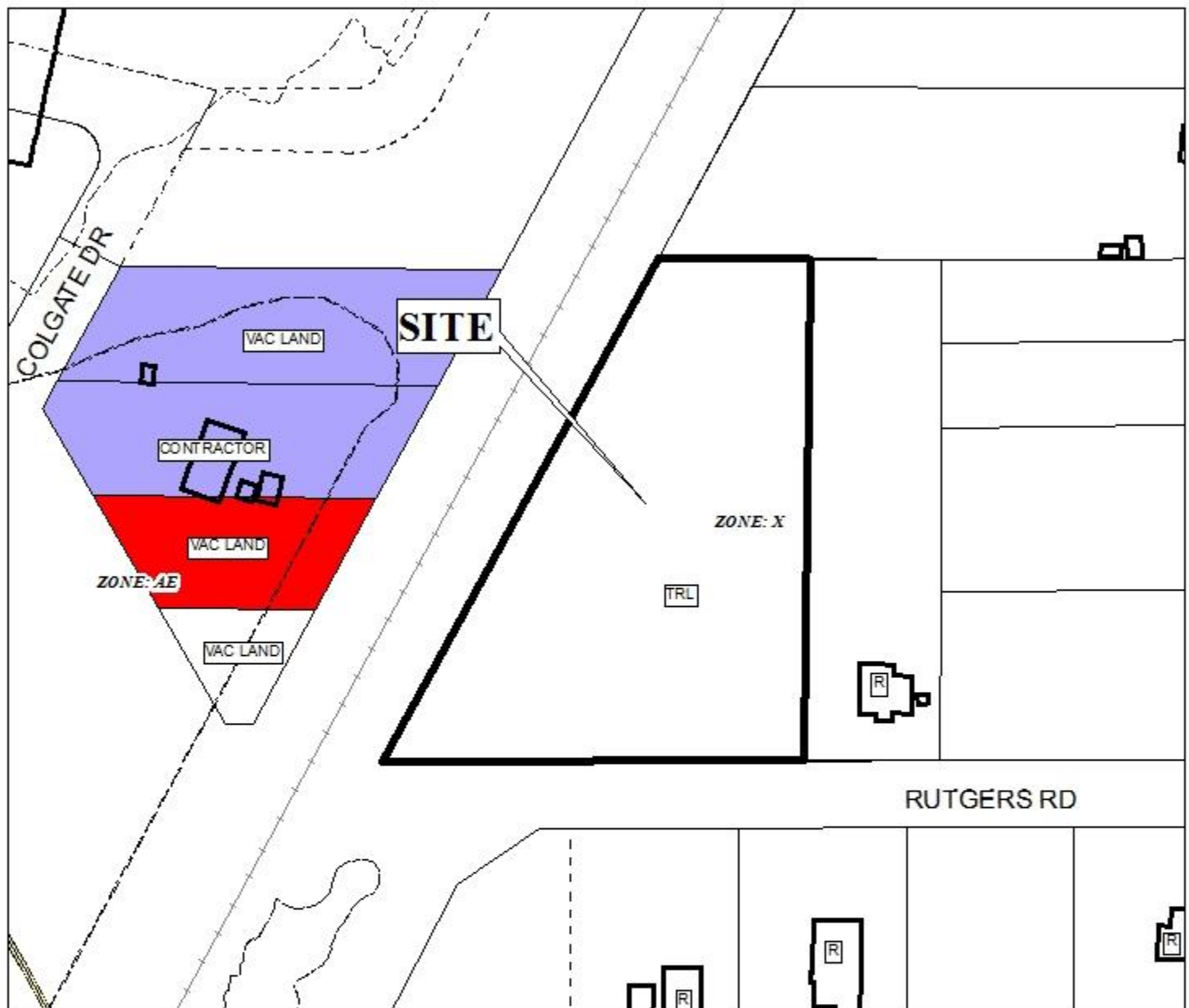
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REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the west and residential units to the south.

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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

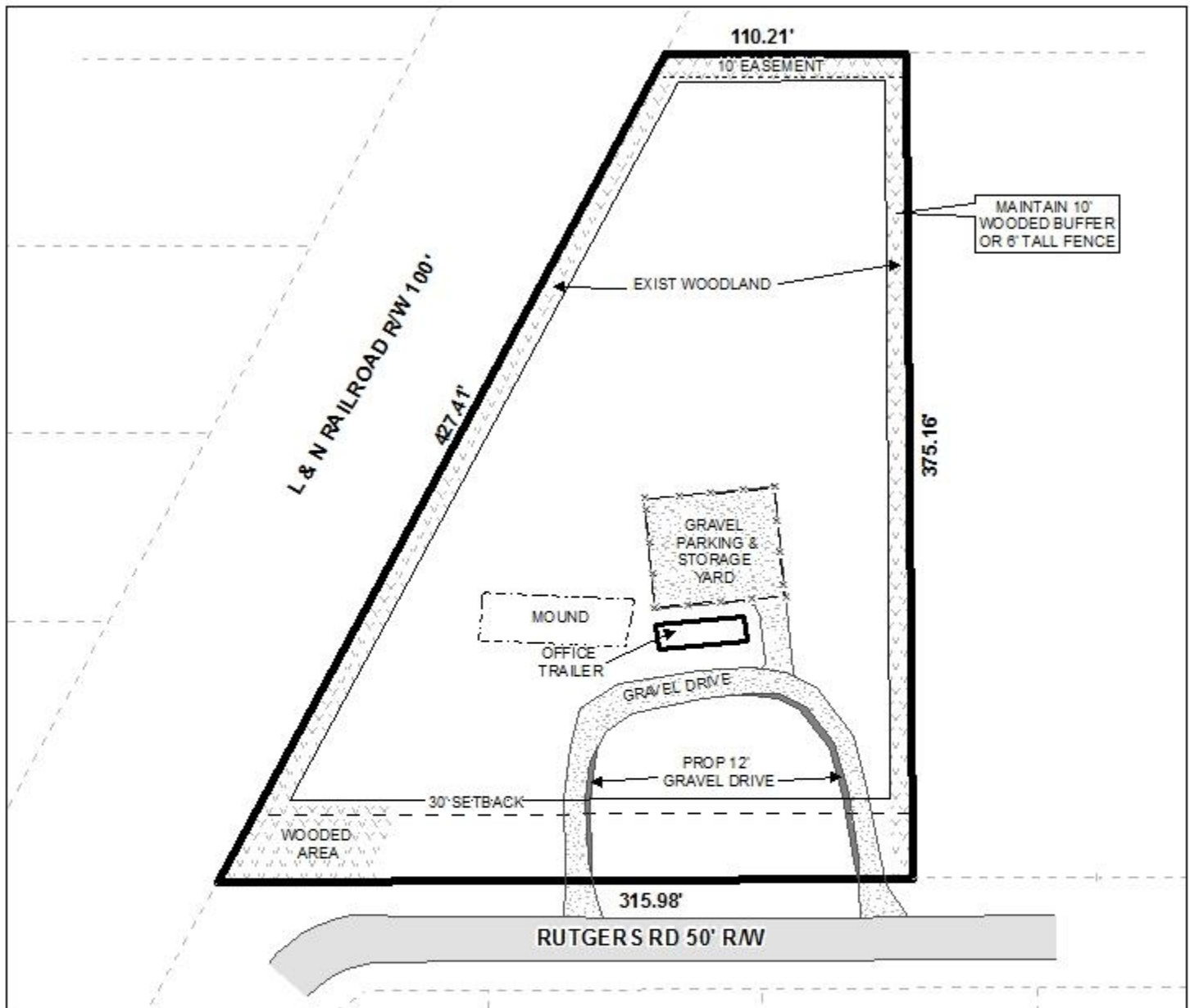


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SITE PLAN



The site plan illustrates the office trailer, setback, easement, and wooded area.

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