

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: October 5, 2015****CASE NUMBER**

6004

**APPLICANT NAME**

Retif Oil &amp; Fuel

**LOCATION**

6955 Cary Hamilton Road  
(East side of Cary Hamilton Road, 105'± North of  
Washington Boulevard extending to the North terminus of  
Burroughs Lane).

**VARIANCE REQUEST**

**USE:** Use Variance to allow a petroleum distribution  
facility in an I-1, Light Industry District.

**SURFACING:** Surface Variance to allow aggregate  
parking surfacing in a truck maneuvering area in an I-1,  
Light Industry District.

**ZONING ORDINANCE  
REQUIREMENT**

**USE:** The Zoning Ordinance requires a minimum of an I-2,  
Heavy Industry District, with Planning Approval, for a  
petroleum distribution facility.

**SURFACING:** The Zoning Ordinance requires surfaces to  
be paved with asphalt, concrete, or an approved alternative  
paving surface in all truck maneuvering areas and requires  
a minimum of an I-2, Heavy Industry District.

**ZONING**

I-2, Heavy Industry District

**AREA OF PROPERTY**

940, 889 Square Feet/ 21.59 ± Acres

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

If the surface variance is approved, bumper stops should be  
included on the gravel surface for any required parking spaces.

**CITY COUNCIL**  
**DISTRICT**

District 4

**ANALYSIS**

The applicant(s) is requesting a Use and Surfacing Variance to allow aggregate surfacing in a truck maneuvering area for a petroleum distribution facility in an I-1, Light-Industry District; the Zoning Ordinance requires surfaces be paved with asphalt, concrete, or an approved alternative paving surface in all truck maneuvering areas and requires a minimum of a I-2, Heavy Industry District, with Planning Approval, for a petroleum distribution facility.

The subject site was most recently before the Planning Commission at its December 18, 2014 meeting, to request a 2-lot subdivision, with the third lot labeled as future development, and to request rezoning to change a portion of the site from R-1, Single-Family Residential District to I-1 Light-Industry District, to allow access for an existing commercial business. There was no mention of new a commercial business/ facility or operations at the time of submission for the Planning Commission applications. The applicant now proposes to operate a facility that requires a minimum I-2 zoning with Planning Approval, and use limestone as a parking surface; thus the reason for this application.

The applicant(s) states the following reasons to explain the need for the variances:

*"This property was originally developed by Norden Paper Company as a manufacturing and storage facility for rolls of paper. They were also operating a company called Accelerated Freight out of this facility, which ran a fleet of 60+ transport trucks. The development consists of a 105,974 S.F. warehouse, parking facilities and truck loading docks. The building is fully sprinkled.*

*The proposed improvements to the site consist of the additional of a 24,620 S.F. graveled truck maneuvering area and the addition of 3 overhead doors into the building. All other improvements and/or alterations will be inside of the building.*

*The interior of the building will be utilized as a storage facility for petroleum products. The majority of the storage will be bulk oil stored in 30 - 4000 gallon tanks and 20 - 8000 gallon tanks. In addition, there will be rack storage of various petroleum products in small containers such as brake fluid, hydraulic fluid, power steering fluid, transmission fluid, etc. In all, there are approximately 200 different types of materials that will be stored and distributed from this warehouse. All of the materials are classified as Class III-B liquids. Class III-B liquids are products which have a flash point of 200 degrees F or greater and are not classified as hazardous. The time schedule for development of this property is within the 30 days of receipt of required building permit.*

*This property will function as a distribution warehouse for the products outlined above. All loading/unloading will be done within the building; therefore, this operation will generate no excessive noise, odors or air pollution. Distribution of products will be via bobtail, stake body and transport trucks and the anticipated traffic will be 15 trucks per day. The facility will have approximately 26 employees on site, which includes office and*

*warehouse personnel, sales people and drivers. The warehouse/office hours of operation are 7am -5pm.*

*According to the zoning ordinance the distribution of petroleum products requires an I-2 zoning and this property is zoned I-1. Based on a review of the zoning ordinance it appears that what Retif Oil stores in their facilities throughout the country is not covered in a finite category, but is grouped into the broad category of "Petroleum and petroleum products". The word petroleum or petroleum products includes everything from high octane jet fuel to a jar of Vaseline that you buy at Wal Mart. This wide range of products should not be grouped into one all encompassing category. That being said, our justification in requesting a variance is that the zoning ordinance is flawed per the reasons stated above.*

*A rezoning of the property to I-2 would, in our opinion, have a negative impact since a rezoning to I-2 would allow the site to be utilized for almost any use imaginable. By allowing a variance all other uses requiring an I-2 would not be allowed.*

*As stated above, all of the products stored or distributed are classified as Class III-B products. In conjunction with this project, we have, on several occasions, consulted with the City of Mobile Bureau of Fire Prevention and they have tentatively approved the proposed use of the building."*

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(s) summarized the improvements of the proposed business and scope of work but did not justify the rational for the 24,620 square feet gravel truck maneuvering area. The purpose of this area appears to be to save 3 new overhead doors. Since the truck dock on the north side of the building has paved access, it would appear that proposed access to the south side should also be paved.

The applicant(s) also states that the justification for requesting a variance is because the Zoning Ordinance is "flawed" and it categorizes petroleum and petroleum products all under the same classification. However, it should be pointed out, the process for classifying facilities that store or manufacture petroleum and petroleum products, and the process of which is required to do so has essentially been the same since 1967 with some updates to our current Zoning Ordinance.

Therefore, a precedence has been set and the understanding that all petroleum and petroleum products whether the facility is distribution, storage, or manufacturing all require Planning Approval and an I-2, Heavy Industry District. In this instance, the applicant proposes to store a minimum 280,000 gallons, or 6,667 barrels, of petroleum products within the existing 106,000 ± square foot building. There are several facilities within the city that operate with petroleum and petroleum products and the same classification categories were used and the same approvals were required of those facilities.

It was mentioned that the applicant(s) believe the rezoning of the property to I-2 would have a negative impact since a rezoning to I-2 would allow the site to be utilized for almost any use imaginable. However, there are other methods through the rezoning and planning approval processes that can be used that would have prevented such “negative impacts”.

It should be noted, this area is eligible to receive CDBG (Community Development Block Grant) funding, and it is possible that placement of a facility that stores petroleum and petroleum products may possibly hinder or compromise the ability of nearby properties to obtain CDBG funding. It appears based on measurements calculated by staff that the facility, from the corner of the building to the nearest corner of the adjacent apartment complex building is approximately 420’. The facility appears to be, from the corner of the building to nearest residential structure approximately 580’ and from the nearest corner of the facility to the nearest corner of Burroughs Elementary School approximately 460’. Staff is concerned with the proximity of the facility to the apartment complex, single family residence, and the elementary school. Therefore, staff would like the applicant to calculate the “Acceptable Separation Distances” for the facility using the U.S Department of Housing and Urban Development’s Acceptable Separation Distances determination process. This will better inform the Board of possible impacts to the adjacent apartment complex, single family residences, and Burroughs Elementary school.

Since there is no associated hardship with this property or reasons that any approvable I-1 use could not occupy this site, staff cannot support the proposed variance request.

**RECOMMENDATION:** Staff is recommending a Holdover to allow the applicant(s) to demonstrate that the proposed use will not impair the eligibility of adjacent properties for Community Development Block Grant funds by calculating the “Acceptable Separation Distances” of the proposed use utilizing the U.S Department of Housing and Urban Development formulas.

***Revised for the November 2, 2015 meeting:***

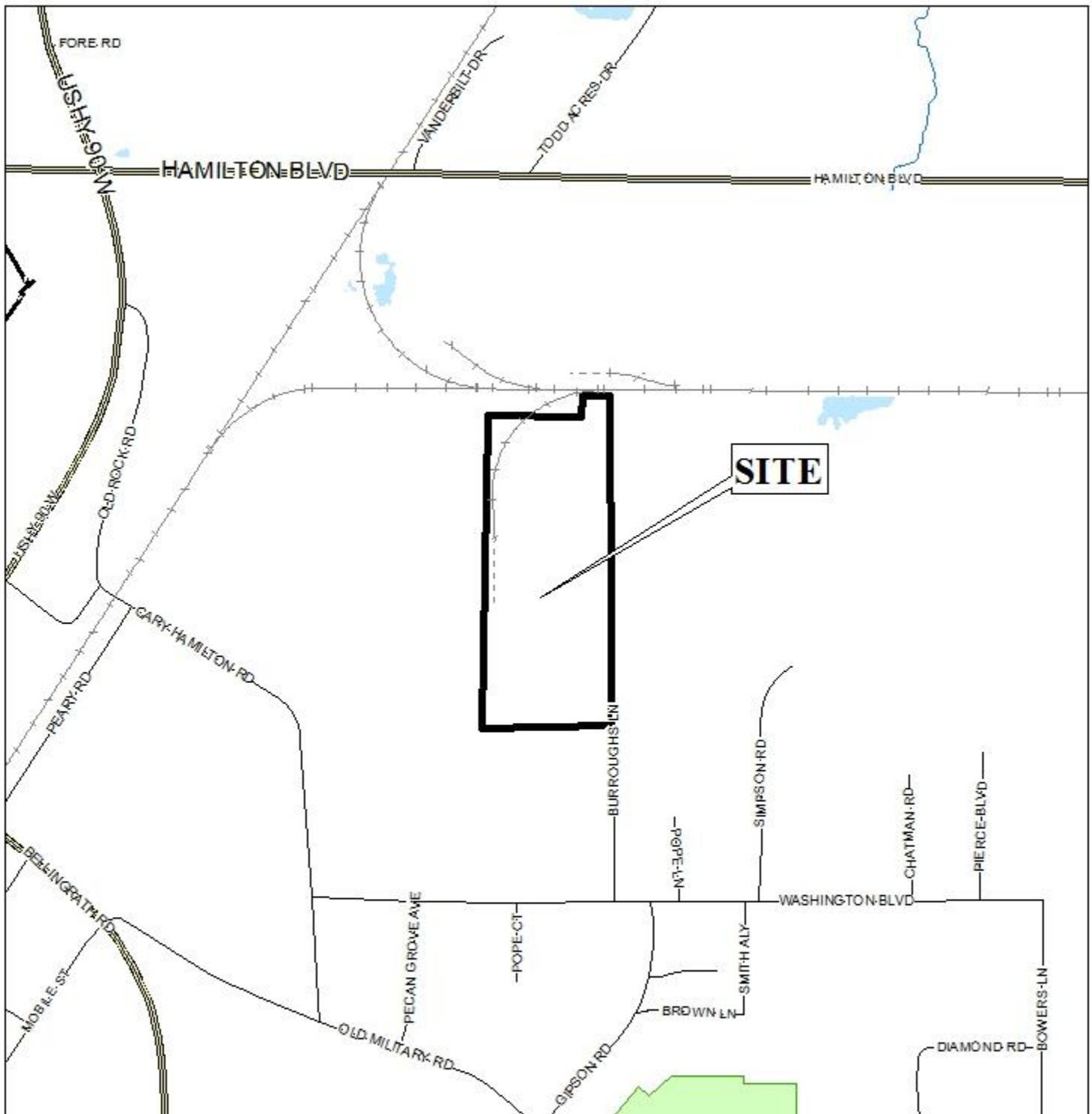
*This application was heldover from the October 5, 2015 meeting until the November 2, 2015 meeting due to a lack of a quorum to vote on the request. The applicant submitted a HUD flow chart and nomographs to illustrate compliance with the “Acceptable Separation Distance” prior to the October 5<sup>th</sup> meeting. Based on ASD (Acceptable Separation Distance) a minimum distance of 75’ is required for buildings and a minimum distance of 400’ is required for people. The documentation provided depicts what appears to be an acceptable distance from the facility to the apartment complex, single family residences, and the elementary school. Therefore, no additional information has been required by the applicant.*

*As previously stated, since there is no associated hardship with this property or reasons that any approvable I-1 use could not occupy this site, staff cannot support the proposed variance request. Also, no hardship has been demonstrated that would support the request for aggregate surfacing.*

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

- 1. the variances will be contrary to the public interest in that any I-1 use could occupy this site without requiring the Board's approval and that no hardship has been demonstrated that would support the request for aggregate surfacing ;*
- 2. special conditions do not appear to exist with the site or the building, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardships; and*
- 3. the spirit of the chapter shall be observed and substantial justice shall be done to the applicant and surrounding area by not granting the variances as they would seem to have an adverse effect on the surrounding area, which includes an elementary school, apartment complex, and single family residences.*

# LOCATOR MAP

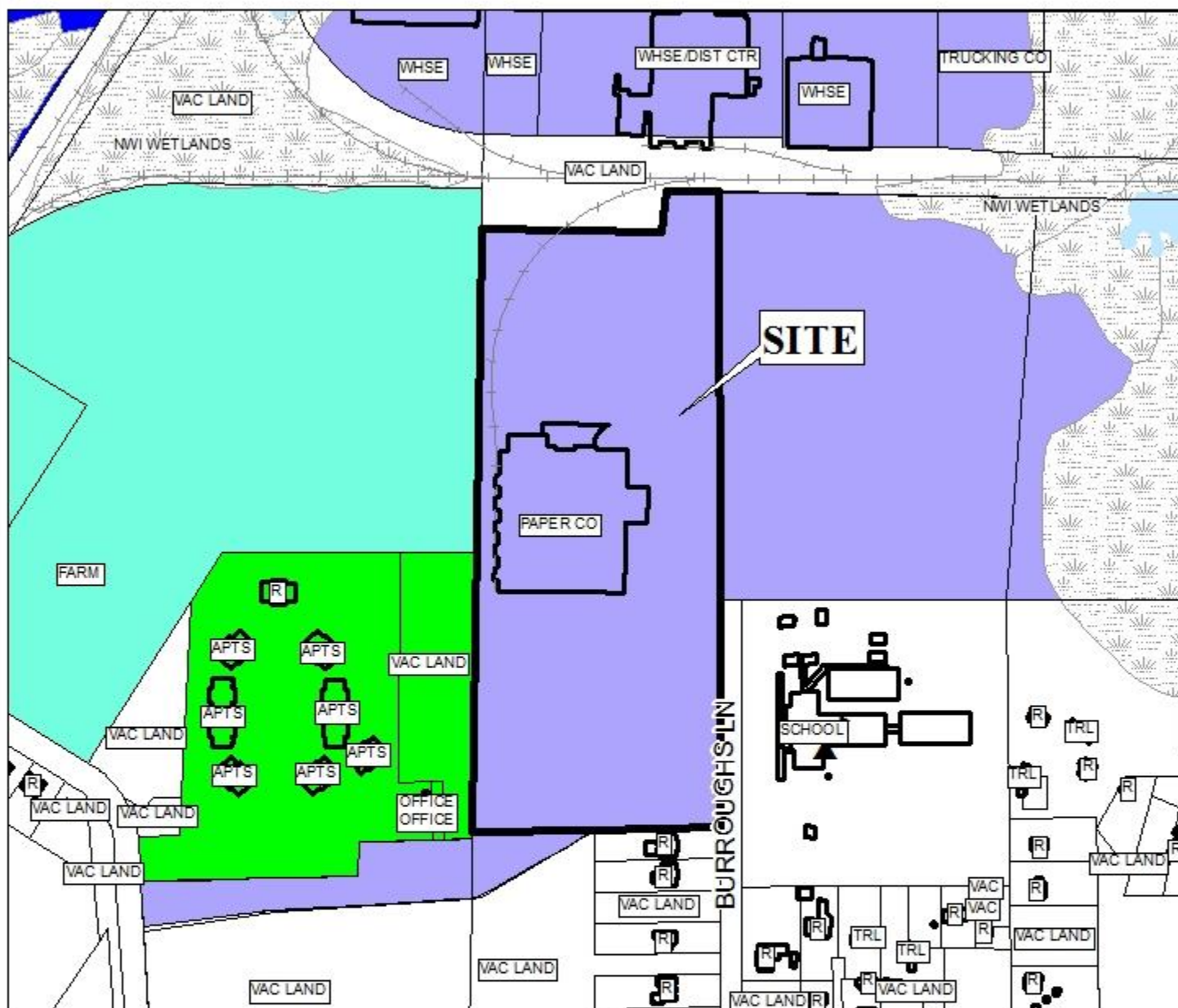


APPLICATION NUMBER 6004 DATE November 2, 2015  
APPLICANT Retif Oil & Fuel  
REQUEST Use Variance



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the south, a school to the southeast, a farm to the west, and industrial units to the north.

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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



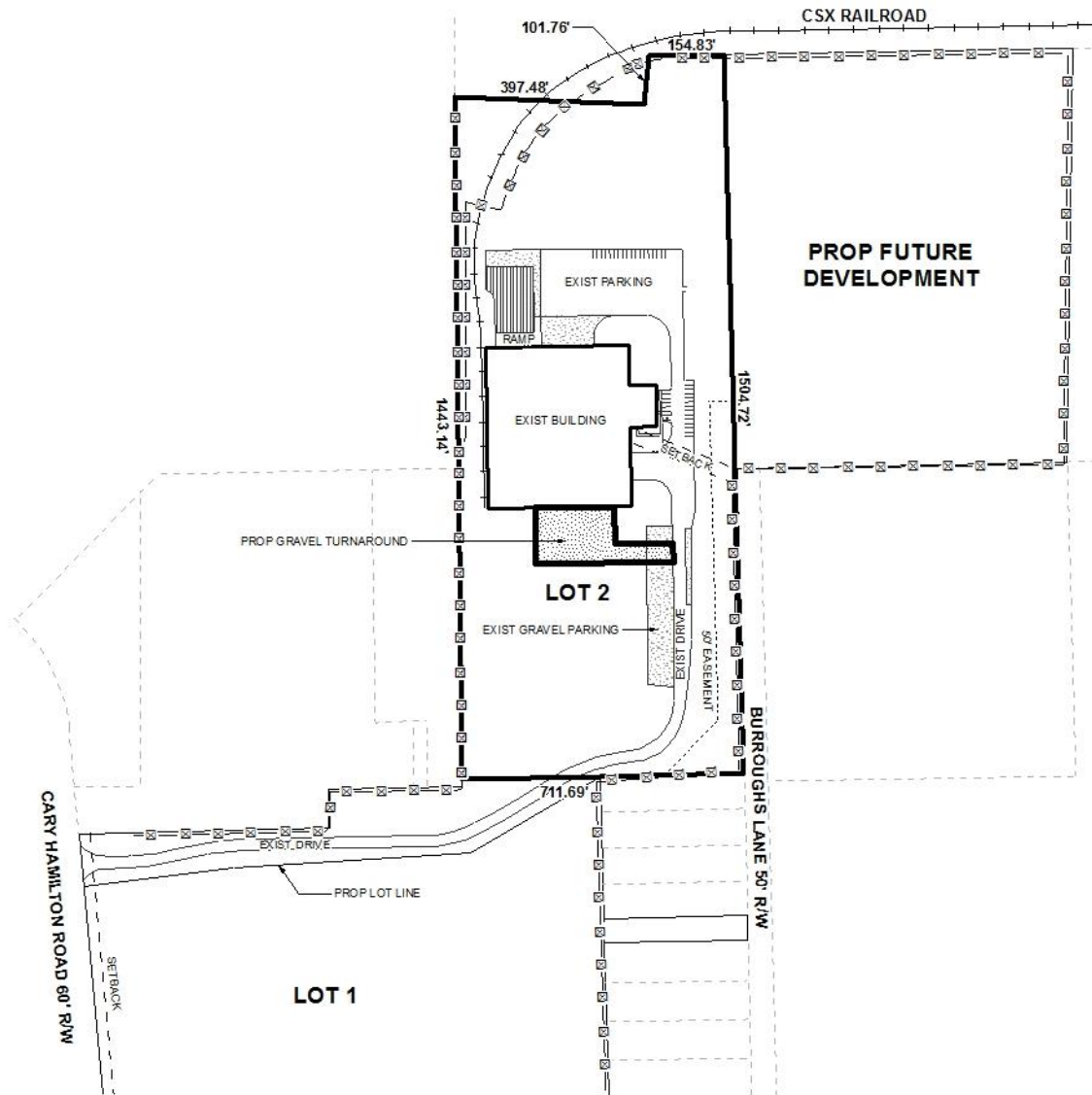
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# SITE PLAN



The site plan illustrates the existing buildings, driveways, parking, and proposed gravel turnaround.

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