

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

6000

**APPLICANT NAME**

Fisher Properties, LLC

**LOCATION**5600 U.S. Highway 90 West  
(West side of U.S. Highway 90 West, 415'± South of  
Sermon Road South)**VARIANCE REQUEST****SURFACING:** To allow gravel parking in a B-3,  
Community District.**TREE PLANTING:** To allow no frontage tree plantings.**ZONING ORDINANCE  
REQUIREMENT****SURFACING:** The Ordinance requires parking surfaces  
be paved with asphalt, concrete, or an approved alternative  
paving surfaces in a B-3, Community Business District.**TREE PLANTING:** The Ordinance requires one frontage  
tree per every 30' of linear frontage.**ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

2.39± Acres

**CITY COUNCIL  
DISTRICT**

District 4

**ENGINEERING  
COMMENTS**If the aggregate surfacing is approved for use the applicant  
will need to have the following conditions met:

- a. Submit and receive a Land Disturbance Permit for the proposed site development through Central Permitting.
- b. Submit a ROW Permit (ALDOT and City of Mobile) for the work within the Public ROW. Aggregate surfacing will NOT be allowed within the public ROW.

**TRAFFIC ENGINEERING  
COMMENTS**If the surface variance is approved, bumper stops should be  
included on the gravel surface for any required parking spaces. The owner/developer is  
responsible for ADA accessibility, which may require asphalt/concrete surface for the designated

space(s) and the path to the building with any future development. Gravel surface shall not extend into the ROW, and any changes in the ROW will require ALDOT approval.

### **ANALYSIS**

The applicant is requesting Surfacing and Tree Planting Variances to allow gravel parking and no frontage tree plantings in a B-3, Community Business District; the Zoning Ordinance requires parking surfaces be paved with asphalt, concrete, or an approved alternative paving surface and one frontage tree per every 30' of linear frontage in a B-3, Community Business District.

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 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.

Applicant's statement: *The property located at 5600 Highway 90 South is a property that was formerly used as a mobile home sales lot. The property has gravel surfacing dating back 25 plus years on-site, where these mobile homes were stores. The site was previously located within the county jurisdiction prior to the annexation into the city. The property was recently subdivided and shares an access with lot 1, Snowball-Fisher subdivision, out to Highway 90. The site has been fenced for the front half of the property right up to the setback line shown on the recorded plat. This area is being used for storage of pull behind camper trailers at this time and our client is looking to continue this use here. Outside of the fence being placed, the only change to the site has been the placement of new gravel in the front over existing gravel. This was done during construction of the neighboring property, where the contractor kept coming across his front portion of this site to exit while the entrance was being constructed. This caused big ruts to form and he felt it was appropriate to place down gravel over what had existed there for years. We are submitting this application to get within compliance of the zoning ordinance and ask that the gravel surfacing be allowed to stay because of maneuvering needed for the storage area. Next, we are asking that the storage of camper trailers be allowed within the secured fence area already in place. The maneuvering of these vehicles can cause damage to asphalt and the gravel is more appropriate to allow this to take place without causing ruts in the traveled areas. Once again, this surfacing is being placed over existing gravel surfacing.*

*Tree plantings: We have the adequate plantings for the sides and rears based on credits of what is in place. We are asking for relief for frontage trees as not to wanting to block visibility to Highway 90.*

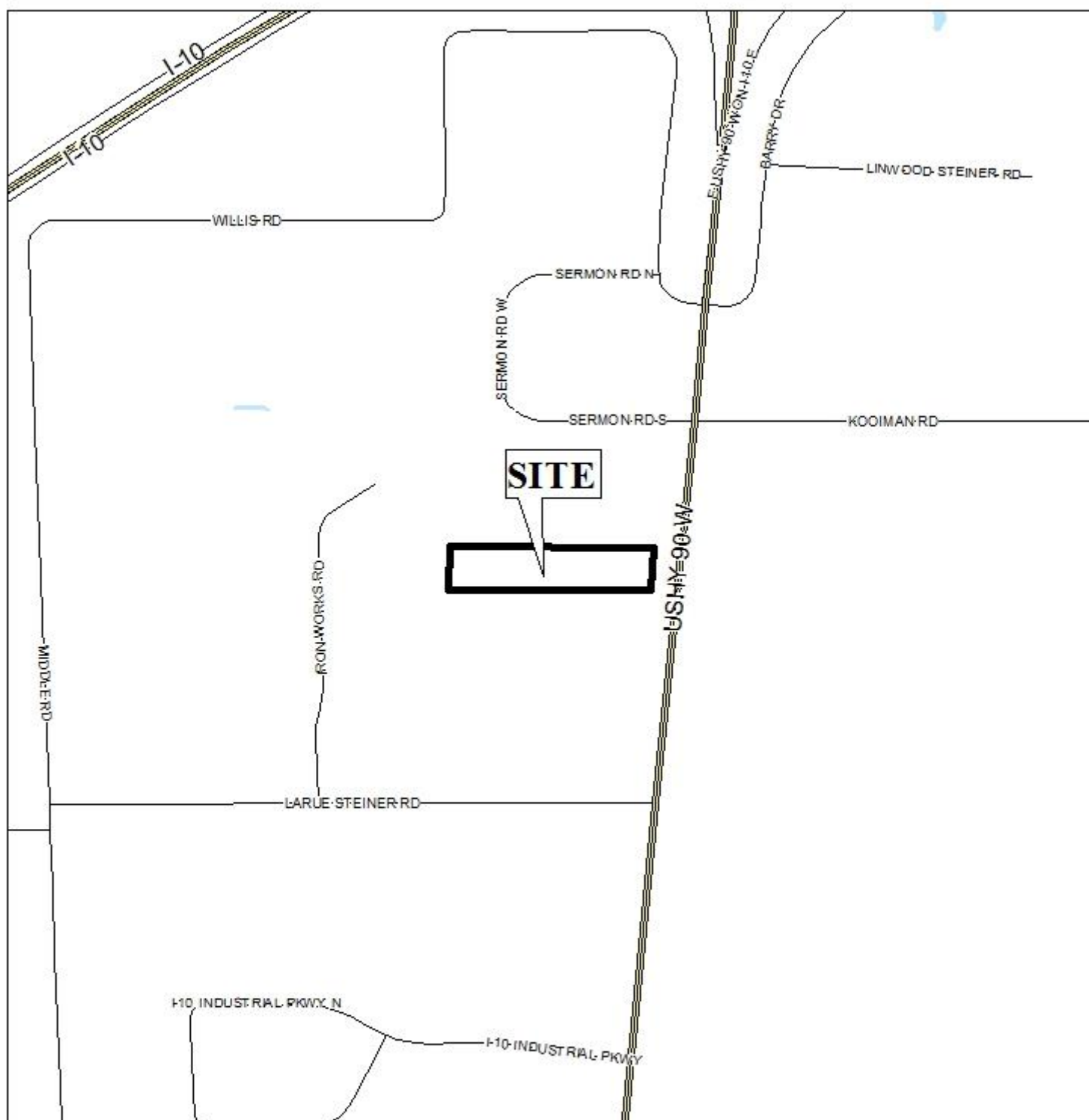
It should be pointed out that this site was annexed into the City of Mobile in 2008. This is the first commercial use of the site since annexation, as such, full compliance should be required. The presence of gravel from commercial uses prior to annexation does not justify the waiver of paving. Furthermore, the few trees elsewhere on the property do not satisfy in spirit the reasons behind the frontage tree requirement.

In regards to tree plantings, although the applicant mentions visibility concerns, due to the extensive right-of-way width of U.S. Highway 90, the actual roadway is located a distance of nearly 60' to the east of the property line where frontage trees would be planted, thus potentially allowing sufficient visibility for ingress/egress onto the highway. Further, the two most recent post-annexation commercial developments in the vicinity appear to be the Lowe's Market and the fruit and vegetable stand on the adjacent lot to the north and the Tractor Supply Co. (TSC) site, which is located at the northwest corner of U.S. Highway 90 and Larue Steiner Road, and is approximately 300'± to the south. To approve the current variance request may be contrary to the public interest since the TSC site is a corner lot and was required frontage tree plantings as well as the Lowe's Market to the north, per the Zoning Ordinance. A total of 4 frontage trees are required along the front property line of the subject site and it appears the request is simply the applicant's desire to not comply with the Ordinance.

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

- 1) Approving the variance request will be contrary to the public interest since properties on both sides have developed in compliance with the Zoning Ordinance;
- 2) Special conditions appear not appear to exist that a literal enforcement of the provisions of the chapter will appear to result in unnecessary hardship; and
- 3) That the spirit of the chapter will not be observed and substantial justice not done to the applicant or surrounding neighborhood by granting the variance since other properties have developed in compliance with the Ordinance.

# LOCATOR MAP



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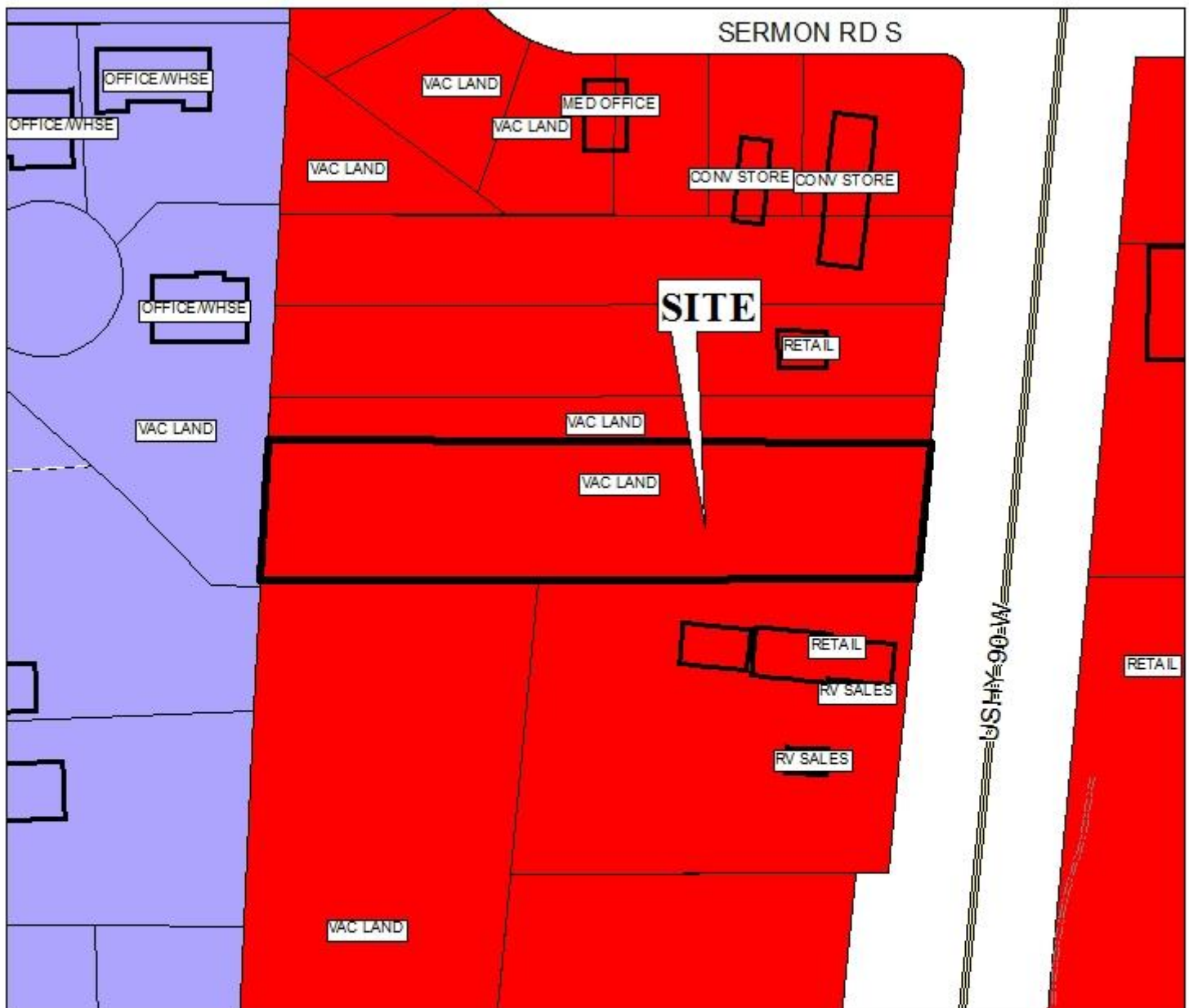
APPLICANT Fisher Properties, LLC

REQUEST Surfacing and Tree Planting Variances



# BOARD OF ADJUSTMENT

## VICINITY MAP - EXISTING ZONING



The site is surrounded by commecial units.

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<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> T5.1
<span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> T3	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkpurple; border: 1px solid black;"></span> T5.2
<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: peachpuff; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: gray; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpurple; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

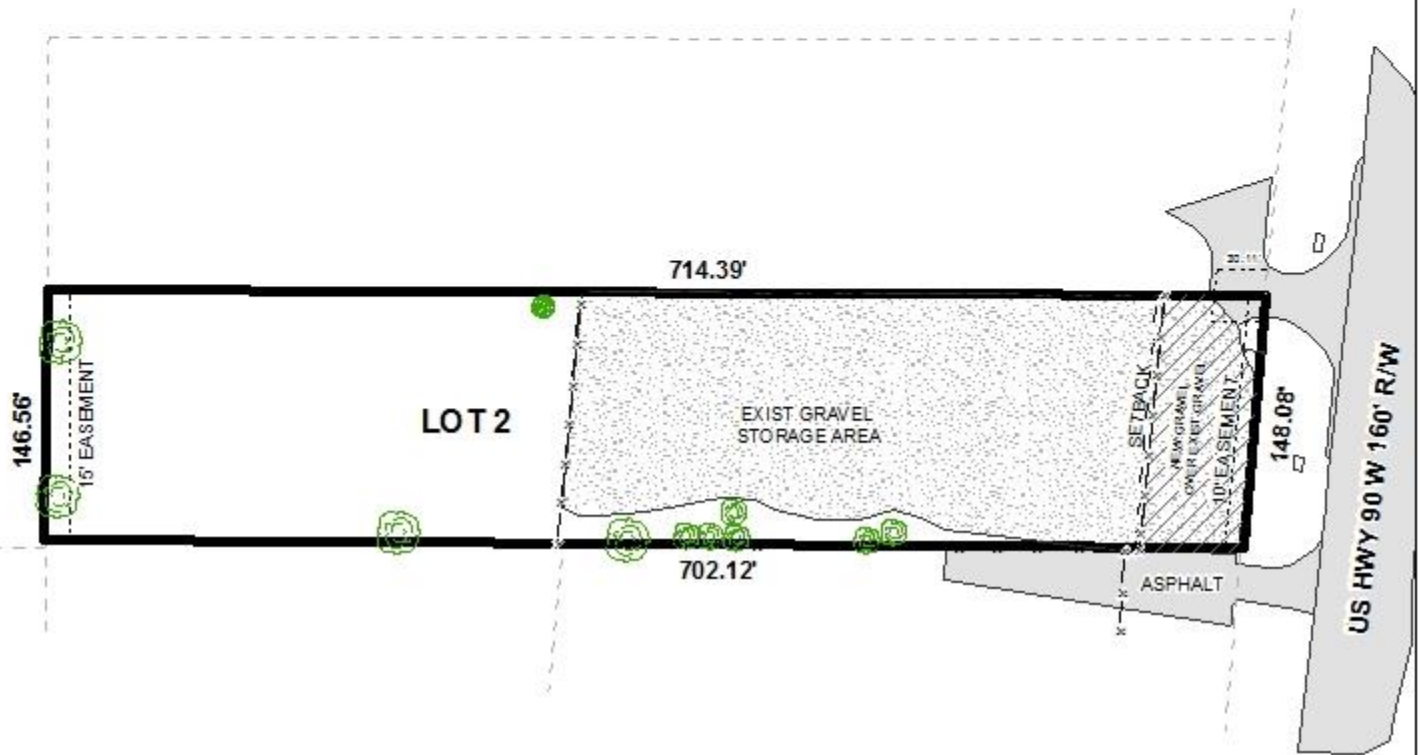
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# SITE PLAN



The site plan illustrates the existing gravel area, new gravel area, easements, and setback.

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