

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 4, 2016****CASE NUMBER**

6049

APPLICANT NAME

Colonial Trailways, Inc.

LOCATION2521 Halls Mill Road
(Southeast corner of Halls Mill Road and Navco Road)**VARIANCE REQUEST****FRONT SETBACK:** To allow a dumpster to be located within the front 25' setback in a B-3, Community Business District.**ZONING ORDINANCE
REQUIREMENT****FRONT SETBACK:** The Zoning Ordinance requires all structures be located outside of the front 25' setback in a B-3, Community Business District.**ZONING**

B-3, Community Business District

AREA OF PROPERTY

179,076± square feet/4.11± Acres

**ENGINEERING
COMMENTS**

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

- a. The dumpster pad must be constructed in accordance with current Engineering Department requirements – including connecting the surface drain to the sanitary sewer system.

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**URBAN FORESTRY
COMMENTS**

No Comments

**FIRE DEPARTMENT
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 3

ANALYSIS

The applicant is requesting a Front Setback Variance to allow a dumpster to be located within the front 25' setback in a B-3, Community Business District; the Zoning Ordinance requires that all structures be located outside of the front 25' setback in a B-3, Community Business District.

The site was recently the subject of Subdivision and Planned Unit Development applications that were approved at the Planning Commission's August 6, 2015 meeting. It should be noted that Planned Unit Development approvals are site plan specific, and that any changes to a site plan that has been previously approved by the Planning Commission must also be approved by the Planning Commission.

The applicant states:

The applicant is requesting a setback variance to allow a dumpster servicing their newly constructed building to be located within the 25' minimum building setback.

This dumpster was originally shown on the approved site plan as being located behind the newly constructed building in the SE corner of the site. During construction it became apparent that the dumpster location is not very well suited due to conditions that were not known during the design phase of the project. These conditions are as follows:

- 1. The existing sewer lateral in that area is higher than normal, therefore requiring the dumpster to be located as close as possible to the right-of-way to allow for a gravity feed sewer versus having to install a grinder pump solely for the dumpster pad drain.*
- 2. There is no sewer along the back side of this development where the dumpster drain could be tied into.*
- 3. There are overhead doors located in an existing second building that would be blocked if the dumpster was to be moved any farther south.*
- 4. There is a 10' r/w dedication along Halls Mill Road which moved the existing setback 10' farther into the property, causing the dumpster to be located in the 25' min. building set back.*

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 obtained building permits for the proposed site improvements that were approved by the Planning Commission, and during final inspections it was observed that the dumpster was placed within the required front building setback. Because the site was developed differently than what was approved as part of the Planned Unit Development site plan by the Planning Commission, the reduced setback request should go back to the Planning Commission to have the new location of the dumpster approved.

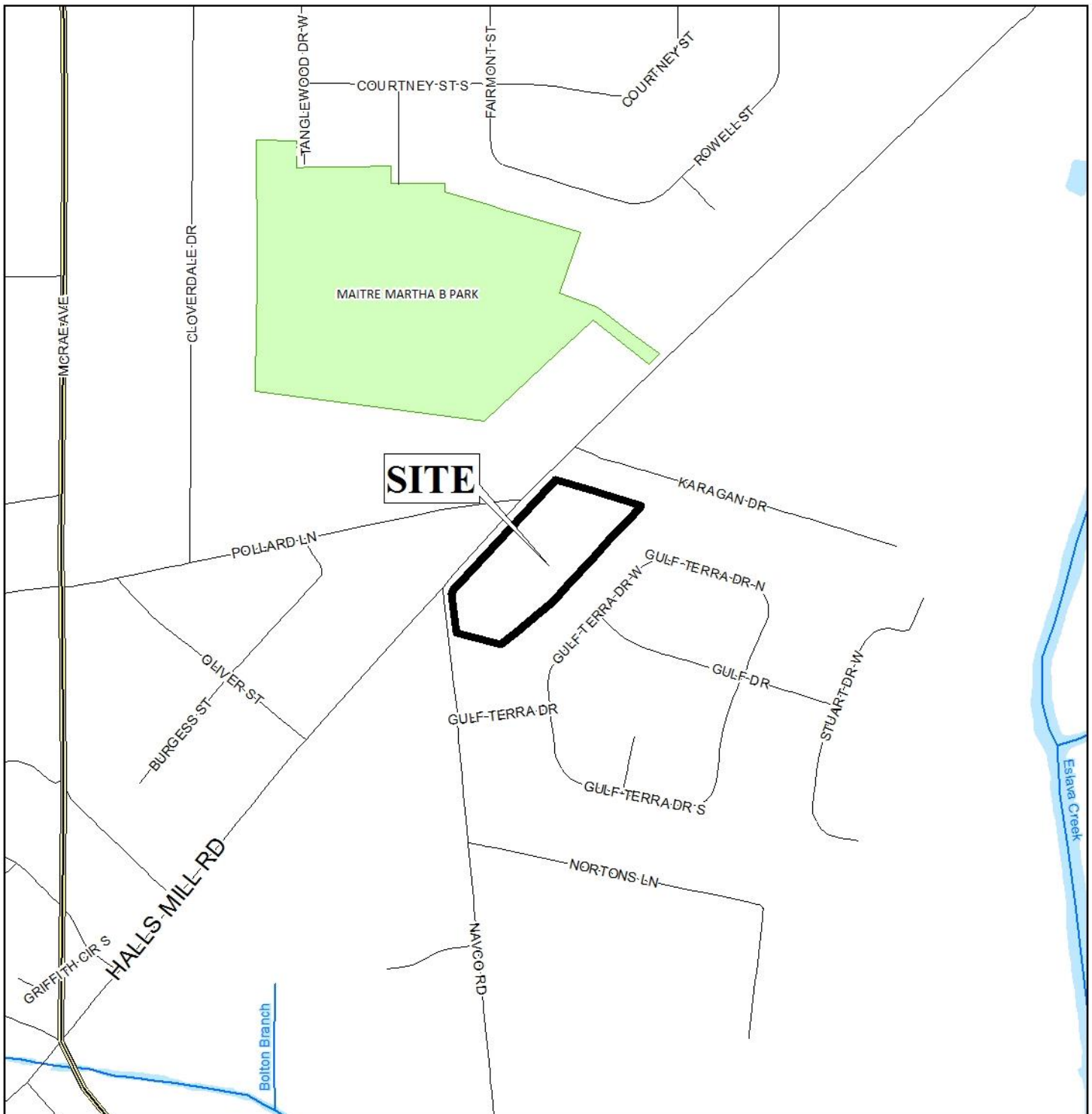
Consideration of a setback variance request by the Board, given that the site is a Planned Unit Development, is not administratively or procedurally appropriate. Instead, the purview of the request should be with the Planning Commission, which can consider reduced setbacks as part of the Planned Unit Development.

It should also be noted that access to the dumpster, as it has been built, is not paved in asphalt or concrete, as is required in a B-3 districts.

RECOMMENDATION: Staff recommends to the Board the following findings of fact for Denial:

- 1) approving the variance will be contrary to the public interest in that the subject site received site plan specific Planned Unit Development approval from the Planning Commission, and therefore must have revisions approved by the Planning Commission;
- 2) special conditions do not exist and there are no hardships which exist in that there appears to be sufficient room on the site to locate the dumpster in such a way that it meets all required setbacks; 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 the site was the subject of a Planned Unit Development application approved by the Planning Commission, and therefore the request to revise the site plan should be considered by the Planning Commission.

LOCATOR MAP



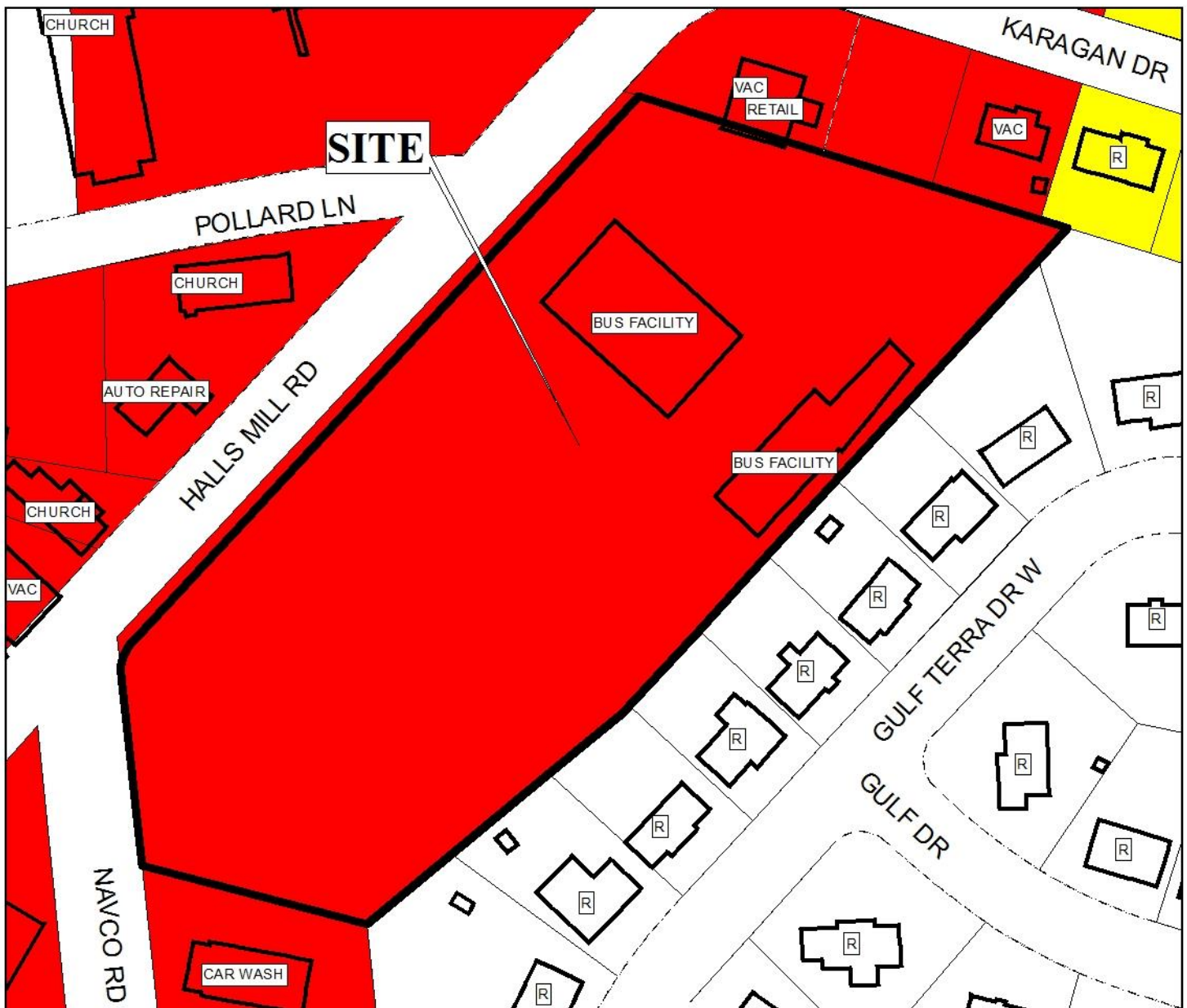
APPLICATION NUMBER 6049 DATE July 11, 2016

APPLICANT Colonial Trailways, Inc.

REQUEST Setback Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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

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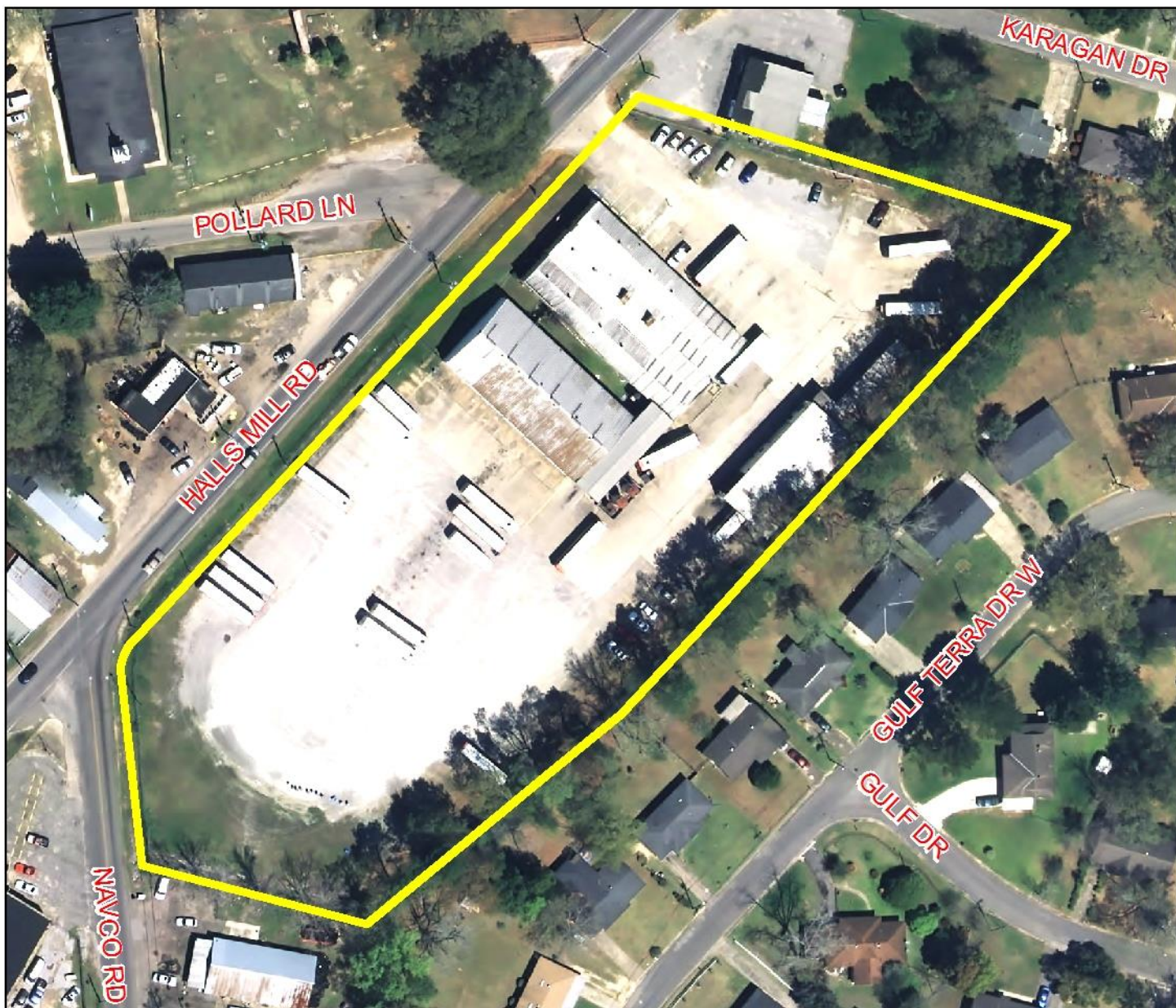
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 R-A	 R-3	 T-B	 B-2	 B-5	 MUN	 SD-WH	 T5.1
 R-1	 R-B	 B-1	 B-3	 I-1	 OPEN	 T3	 T5.2
 R-2	 H-B	 LB-2	 B-4	 I-2	 SD	 T4	 T6



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

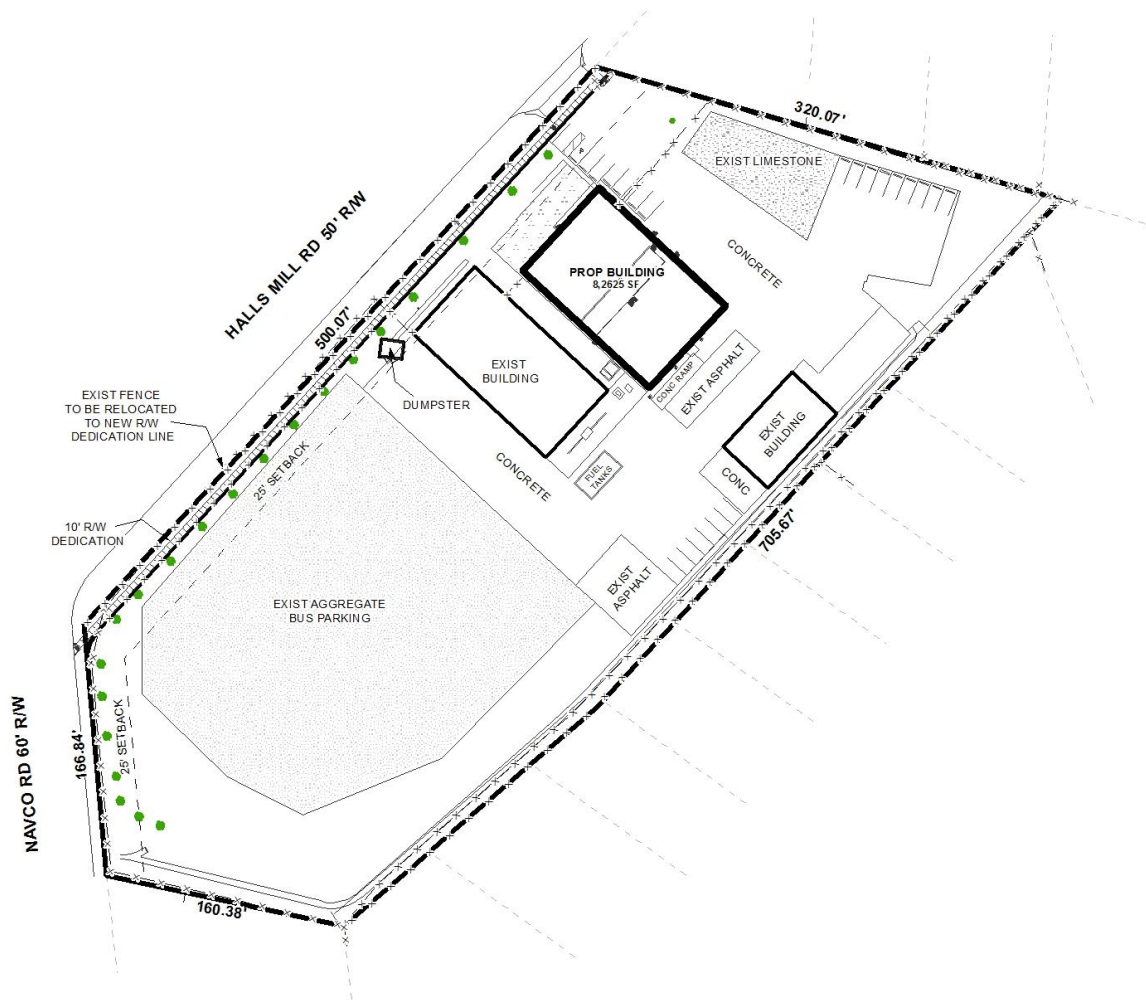
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SITE PLAN



The site plan illustrates the existing buildings, proposed building, trees, setback, parking, and fences.

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NTS