

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: July 10, 2017****CASE NUMBER**

6118/5748/5627/3332

**APPLICANT NAME**

Don Williams

**LOCATION**1514 South Broad Street  
(West side of South Broad Street, 260'± South of Baker Street)**VARIANCE REQUEST****SETBACK:** Front Yard Setback Variance to allow a covered porch structure to encroach 14' into the 25' front setback in a B-5 Office-Distribution District.**LANDSCAPE AREA:** Landscape Area Variance to allow reduced front landscaped area in a B-5 Office-Distribution District.**ZONING ORDINANCE  
REQUIREMENT****SETBACK:** Zoning Ordinance prohibits the erection of structures within the 25' front setback in a B-5 Office-Distribution District.**LANDSCAPE AREA:** Zoning Ordinance requires full compliance with minimum landscape area requirements in a B-5, Office-Distribution District.**ZONING**

B-5, Office-Distribution District

**AREA OF PROPERTY**

3.5 ± acres

**ENGINEERING  
COMMENTS**

No comments

**TRAFFIC ENGINEERING  
COMMENTS**

No traffic impacts anticipated by this variance request.

**CITY COUNCIL  
DISTRICT**

District 3

**ANALYSIS**

The applicant is requesting Front Yard Setback and Landscape Area Variances to allow a covered porch structure to encroach 14' into the 25' front setback and reduced front landscaped area in a B-5, Office-Distribution District; the Zoning

Ordinance prohibits the erection of structures within the 25' front setback and full compliance with minimum landscape area requirements in a B-5, Office-Distribution District.

The site came to the Planning Commission on February 5, 2009 as part of a 2-lot subdivision and a rezoning from R-1, Single-Family Residential and B-3, Community Business District to I-1, Light Industry District. Both applications were approved, but the subdivision was not recorded. The applicant then submitted a 1-lot subdivision that increased the size of the previously proposed lot, and was approved by the Planning Commission at its March 4, 2010 meeting. At the Planning Commission's September 2, 2010 meeting the applicant revised the 1-lot subdivision to remove a portion of the Lucille Street right-of-way to the South of the site when the applicant failed to have it vacated, as well as another rezoning request since the 2009 approval had expired. The Planning Commission approved the subdivision and the rezoning, with the site to be rezoned as B-5, Office-Distribution District. The subdivision was recorded on November 2, 2010, and the conditions of approval for the rezoning were all met.

The recorded 2010 subdivision required a dedication to be made to the City of Mobile to provide 50' of right-of-way from the centerline along South Broad Street, resulting in a portion of the existing structure being located in the new 25' front building setback. The applicant also had a variance approved by the Board of Zoning Adjustment at its September 13, 2010 meeting to allow frontage landscaping and portions of the front parking access/maneuvering area to be located within a dedicated right-of-way; as well as May 7, 2012 to allow the addition of an awning to the front of the structure within the front setback, in addition to an entrance gate to a parking area that did not allow sufficient queuing spaces as depicted on site plans approved by staff.

A portion of the existing structure on the subject site is occupied by the Mobile County Probation Office, and the Federal General Services Administration (GSA) office intends to locate in the remainder of the structure. With the newly proposed tenant, the applicant is proposing to make improvements to the site including additional parking, security fencing, a new front porch, and storm water detention areas. As a result of these improvements, gates to secured parking areas will be moved further back from the front property lines, and will allow for proper queuing spaces.

The applicant states:

*In September, 2010, the site was granted variances for front yard landscaping and front yard parking/ maneuvering within dedicated right of way. In May, 2012, the site was granted variances for front door awning within front building setback and driveway gate vehicle stacking distance. We understand all four variances are site plan specific.*

*The current building tenant for about 1/3 of the building is Mobile County Probation Office. The new building owner would like to place Federal GSA offices within the remaining 2/3 of the building.. The building footprint shall not be expanded. Our revised parking plan creates separate public parking and secure employee parking for both building tenants. Each tenant would have their own driveway from South Broad Street. Each tenant would have their own front door entrance, with a proposed porch covering. This proposed revised parking plan would eliminate the need for front yard parking/*

*maneuvering within the dedicated right of way and driveway gate vehicle stacking distance. We would still need variances for front yard landscaping, building within the front building setback and front door porch awning for Probation within the front building setback.*

*It should be noted that the site plan which accompanied the May, 2012 Board of Zoning Adjustment application incorrectly indicated that Lucille Street (not open) to our south had been vacated. We can produce no information that Lucille Street has ever been vacated, and we are not requesting vacation. The proposed site plan shows 22 parking spaces and a chain link fence as encroachments into existing Lucille Street right of way. We are currently pursuing a non-utility right-of-way usage agreement with City Engineering to allow the parking to be constructed as shown. We will not place parking in Lucille Street right of way until we receive permission from City Engineering/ Right of Way.*

*Based upon our total site area of 140,000 sf, the front yard landscaping area should be 19,500 sf (7.2%). The proposed site plan shows 8,000 sf. Because of the 2010 dedication of 25 right of way to South Broad Street, the existing building encroaches 6.25' into the resultant 25' front building setback. The proposed porch covering for Probation will encroach 14' into the resultant 25' front building setback. This May, 2017 Board of Zoning Adjustment application requests these three variances.*

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.

It should be noted that the proposed site plan does illustrate an 8' chain link fence with razor wire along the Western property line abutting the existing CSX Railroad right-of-way. While the use of razor wire will be allowed in this area, it does require a separate permit prior to installation.

Also, the site plan depicts a new dumpster to be provided on the site as well as notes stating that the dumpster will be connected to sanitary sewer and have a compliant 6' high wooden privacy fence. If approved, this information should be retained on the site plan.

As the applicant has stated, a portion of the proposed parking area will extend into the unopened right-of-way associated with Lucille Street, and is seeking a non-utility right-of-way use

agreement with the City of Mobile to allow such encroachment. Based on information available to staff, the application will be heard at the July 6, 2017 meeting of the committee that reviews these applications. It should be noted that the site plan illustrate 121 parking spaces and only 77 are required by the Zoning Ordinance and that should the site's use of the right-of-way not be allowed, the site will lose 20 parking spaces and still be in compliance with minimum parking requirements. The site plan does incorrectly state that 123 parking spaces are proposed, and should be corrected, if approved, to correctly state the total number of parking spaces to be on site. Furthermore, as the site plan is proposing to increase the amount of parking by more than 25%, a photometric site plan will be required at the time of permitting.

In regards to the proposed new porch, it is in the same area as the previously approved awning on the site. The awning that was approved was a total of 15' from the front property line, and the currently proposed porch structure would be 11' 1" from the front property line. It should be noted that the previously approved awning was allowed to extend into the setback after it was discovered that it had been erected without appropriate approvals. However, as the building itself extends into the setback after required dedication, the Board allowed the entrance covering to encroach further into the setback. It should be noted that the proposed porch covering is significantly more substantial, and is simply the applicant's desire to have an entrance covering that extends even further into the required setback, and there is no hardship that prevents the continued use of the existing awnings.

The applicant is also requesting a variance to allow reduced front landscaped area. It should be noted that, as mentioned previously, a variance to allow reduced landscaped area was granted in 2010. Due to proposed parking layout changes, the site will still have less landscape area than the Zoning Ordinance requires, however, will have substantially more than the site currently has. Despite the increase to the amount of landscaped area, it should be noted that there is a significant amount of undeveloped property to the rear of the building that would allow for the parking area to be shifted in order to accommodate full compliance with Zoning Ordinance requirements. The applicant has not provided information as to why this option was not considered.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The applicant is aware of front building setback issues as is evidenced from prior applications to the Board, and it is simply the applicant's desire to continue to encroach further into the required front setback. Furthermore, the applicant has not provided any justification for maintaining the deficient front landscaped area. As the site will be undergoing substantial redevelopment of the parking area and there is a significant amount of property that is to remain undeveloped, the proposed parking could be reconfigured and the site brought into compliance.

### **RECOMMENDATION**

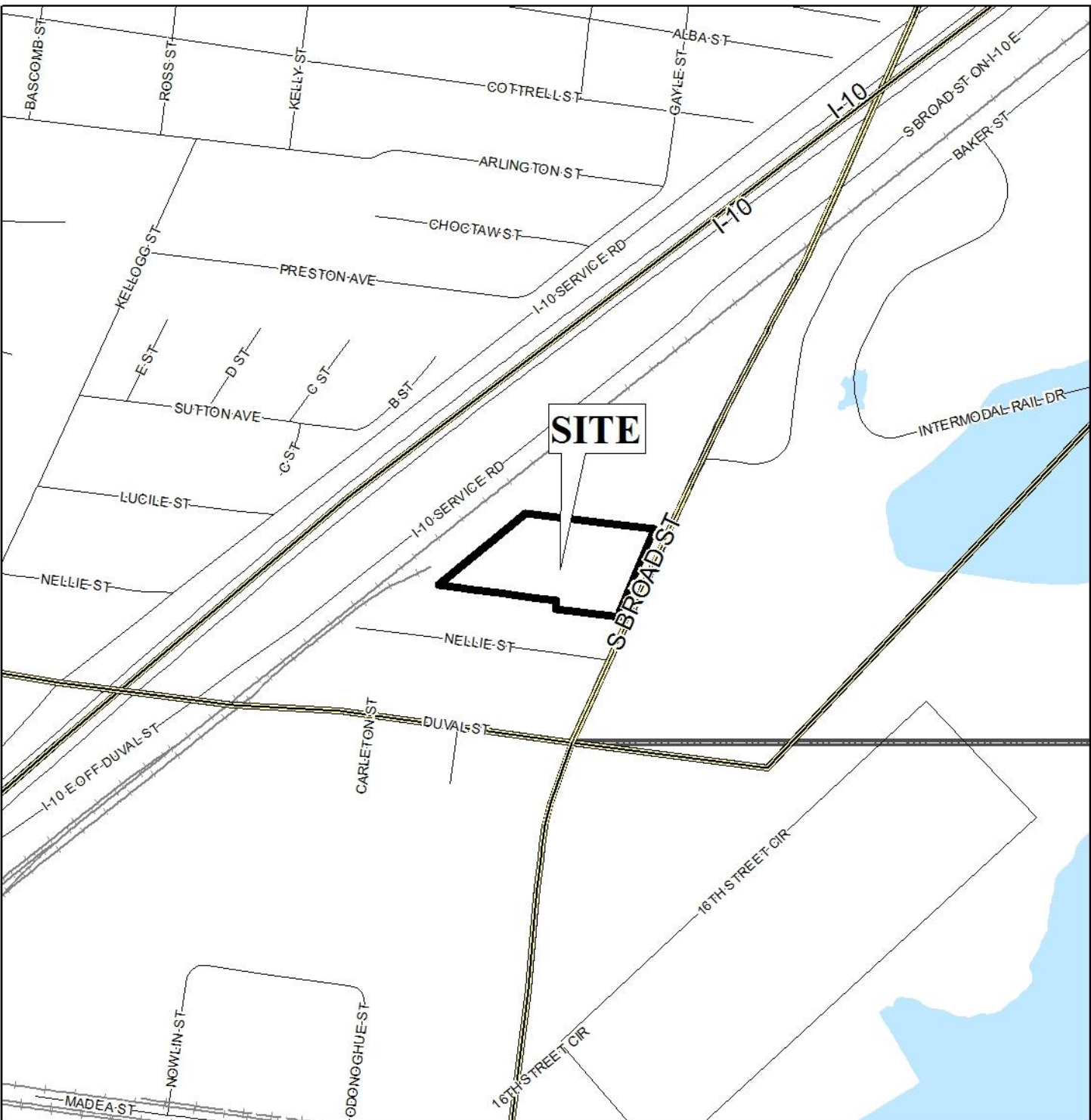
facts for Denial:

Staff recommends to the Board the following findings of

- 1) allowing the proposed front entry to encroach further into the required front setback would be contrary to the public interests inasmuch as the existing awnings that encroach into the setback can continue to be utilized;

- 2) that special conditions do not exist in preventing the site from complying with front landscaped area requirements in such a way that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship, due to the availability of an undeveloped area on the site to the rear of the structure and the ability of the applicant to redesign the parking configuration to accommodate full compliance with front landscape area requirements ; and
- 3) that 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 it is simply the applicant's desire to increase non-compliance with front setback requirements and to ignore the opportunity to bring the site into full compliance with front landscape are requirements.

# LOCATOR MAP



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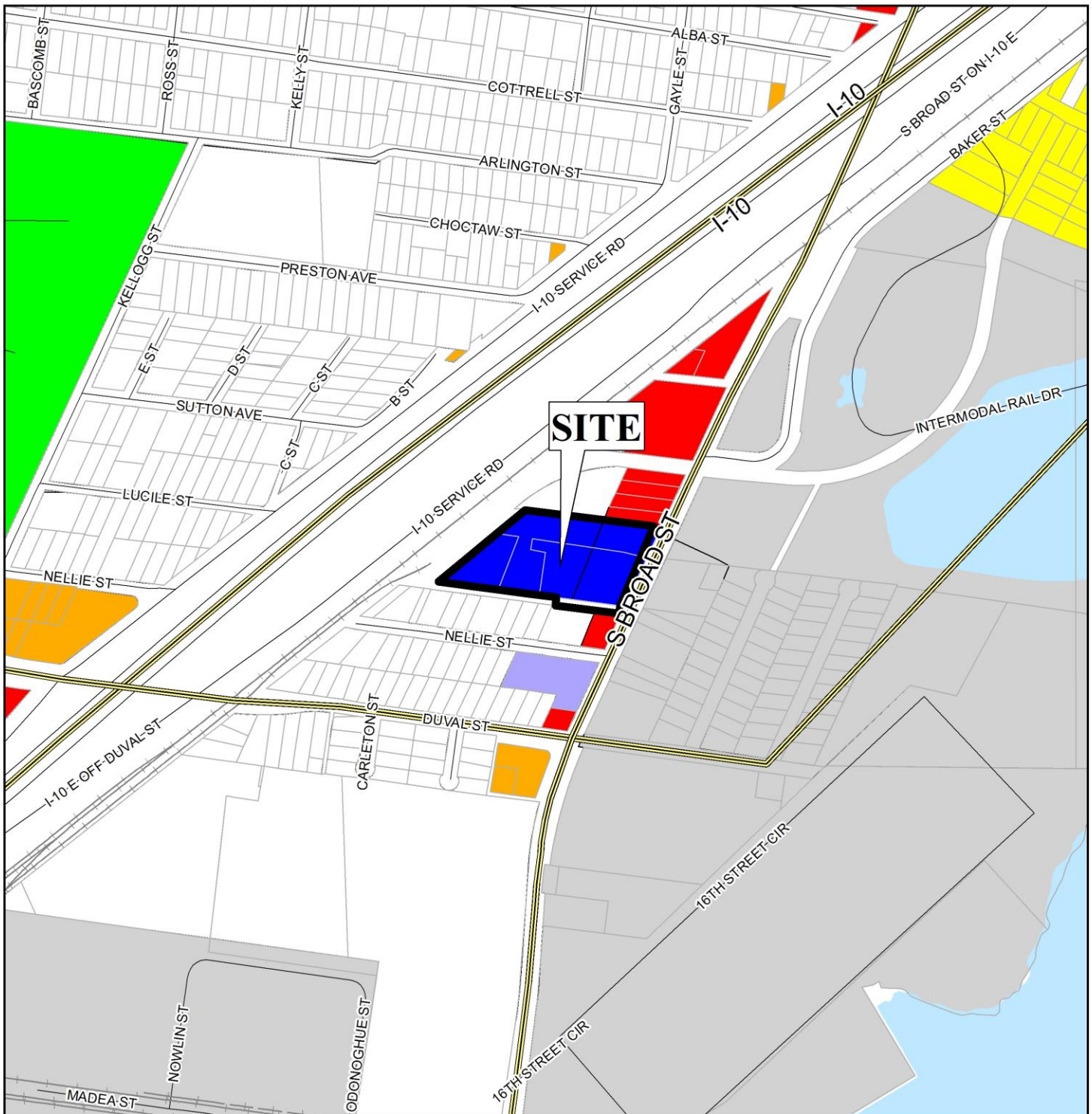
REQUEST Front Yard Setback and Landscape Area Variances



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# LOCATOR ZONING MAP



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# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the southwest and industrial units to the south and east.

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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

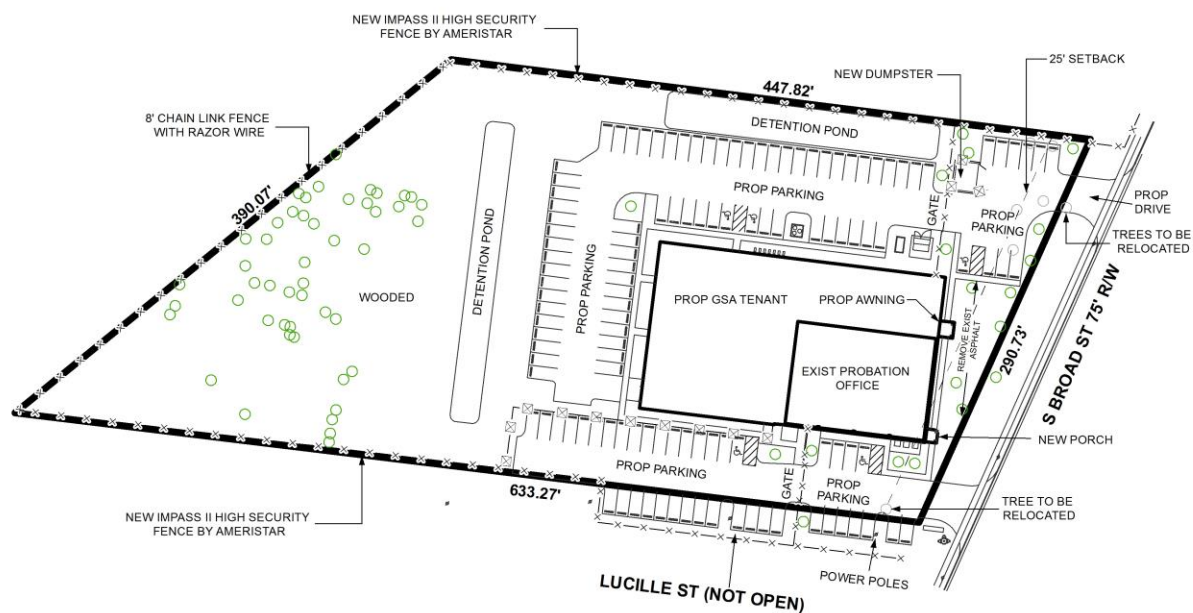


The site is surrounded by residential units to the southwest and industrial units to the south and east.

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# SITE PLAN



The site plan illustrates the existing tenant, setback, detention ponds, proposed parking, new fences, new porch, proposed tenant, and proposed awning.

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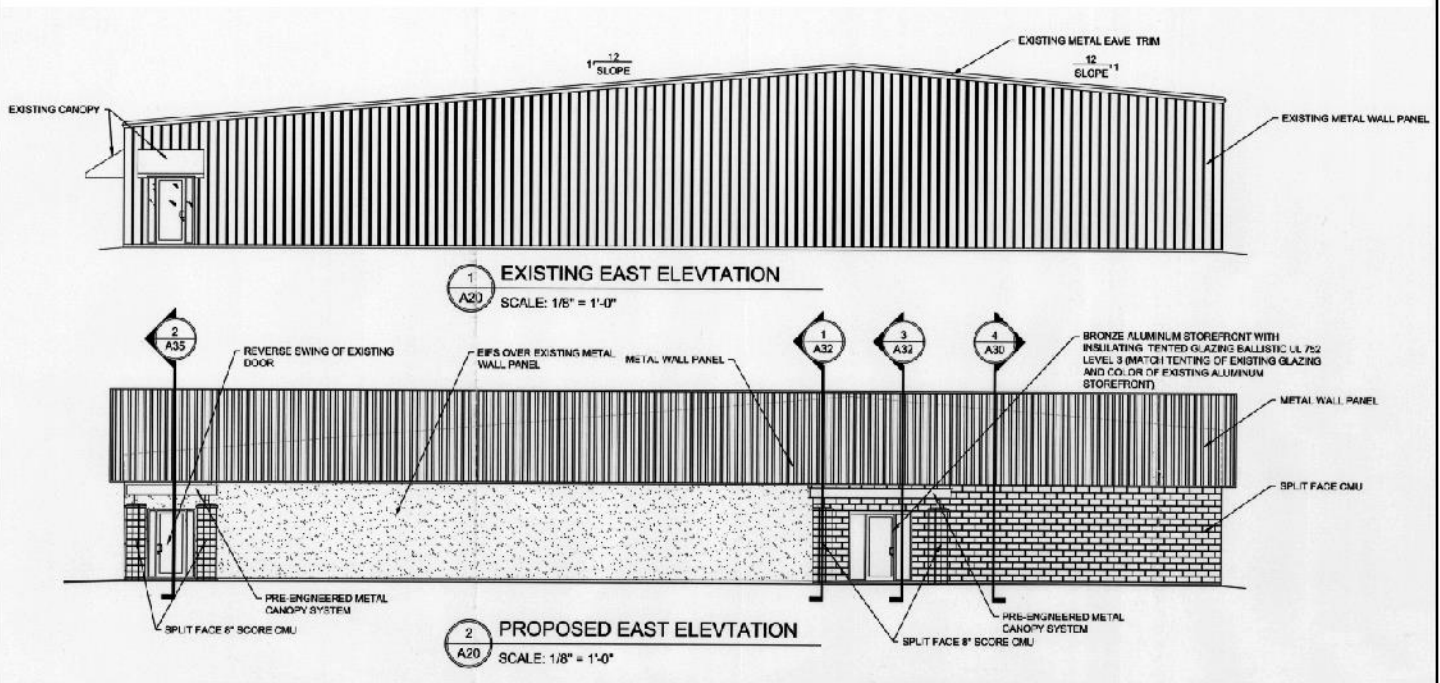
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# DETAIL SITE PLAN



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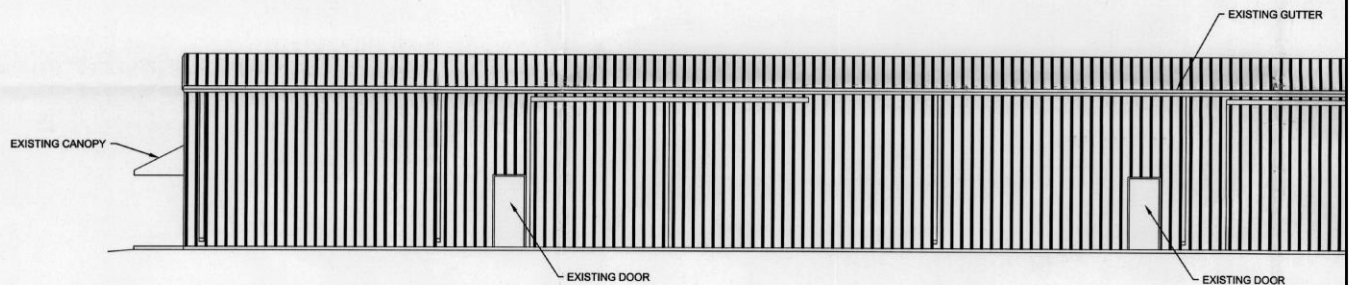
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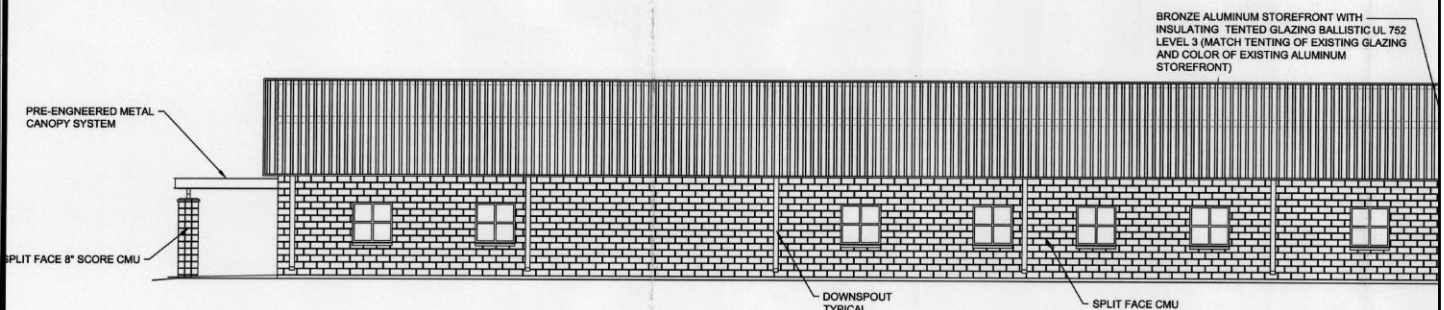


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# DETAIL SITE PLAN



3 EXISTING NORTH ELEVATION  
A20 SCALE: 1/8" = 1'-0"



4 PROPOSED NORTH ELEVATION  
A20 SCALE: 1/8" = 1'-0"

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