

APPLICATION NUMBER

5398

A REQUEST FOR

**USE, PARKING SURFACE, FENCE TYPE AND FENCE
HEIGHT VARIANCES TO ALLOW A CONTRACTOR'S
STORAGE YARD WITH LIMESTONE PARKING, AND
CHAIN LINK FENCING OVER 8' HIGH IN A B-3,
COMMUNITY BUSINESS DISTRICT; CONTRACTORS'
STORAGE YARDS REQUIRE A MINIMUM I-1, LIGHT
INDUSTRY DISTRICT, PARKING SURFACES MUST BE
ASPHALT, CONCRETE, OR AN APPROVED
ALTERNATIVE PAVING SURFACE, FENCING MUST BE
A WOODEN PRIVACY FENCE, AND 8' IS THE
MAXIMUM FENCE HEIGHT ALLOWED IN A B-3,
COMMUNITY BUSINESS DISTRICT.**

LOCATED AT

West side of Bolton's Branch Drive, 620'± South of Halls Mill Road

APPLICANT/OWNER

AMERICAN TENNIS COURTS

AGENT

M. DON WILLIAMS ENGINEERING

BOARD OF ZONING ADJUSTMENT

DECEMBER 2006

The applicant is requesting Use, Parking Surface, Fence Type and Fence Height Variances to allow a contractor's storage yard with limestone parking, and chain link fencing over 8' high in a B-3, Community Business District; contractor's storage yards require a minimum I-1, Light Industry District, parking surfaces must be asphalt, concrete, or an approved alternative paving surface, fencing must be a wooden privacy fence, and 8' is the maximum fence height allowed in a B-3, Community Business District.

The subject site consists of two lots of record which are proposed to be combined into one lot via a subdivision application scheduled to be heard at the December 7th Planning Commission meeting. In conjunction with the subdivision application, there is a Planned Unit Development application to allow an office/warehouse building, above-ground fuel tanks, and four containerized storage units on a single building site. The site plan is the same submitted with this variance application. The proposed development on the site would be first-time commercial use of the property, and requires proper zoning for its use and full site compliance. The applicant must vacate the business's current location and has proposed to begin clearing the site by November 15 and construct a temporary modular building around December 1 for office space and be operational in such about December 20. Limestone paving for the entire planned paving area is initially proposed, and as the site is developed, asphalt paving will be placed for access drives, parking, and some of the outside storage area. Construction on the permanent building is proposed to begin around December 30 with completion around June, 2007.

The limestone paving portion requested to remain on the site begins approximately 50' from the rear property line and would be in the area to be used for paint mixing and storage, above-ground fuel tanks, and storage of containerized storage units over 6' high. Other storage on the site would consist of tractors and transport trailers, light poles, tall fence posts, fence fabric for tennis court enclosures, and miscellaneous items associated with tennis court construction. Activities on the site would consist of receiving 18-wheeler trucks about twice a week. The applicant states that there will be about six on-site employees and about 15 off-site employees on job sites. Very few customers are expected on-site, and business hours would be from 7:AM to 5:00 PM Monday through Friday. It is further stated that operation is not expected to create excessive noise, odors, traffic or air pollution. Trucks will not operate on the site, but would be refueled there. The applicant further states that the owners of the commercial park understand the proposed operations, and apparently have no objections, because they sold the applicant the two lots. The applicant believes the operations will be compatible with the commercial neighborhood.

In addition to the use of the site as a contractor's storage yard with limestone paving, the applicant is proposing that chain link fencing 8' high with razor wire extending above be allowed along the side and rear property lines. At the rear property line, an 8'-high

wooden privacy fence would run parallel with and outside the chain link fence where the site adjoins residentially zoned and used property. The applicant states that all of these items are deemed important for efficient operation of the business at the proposed site.

Currently, there is only one business operating in the Bolton's Branch Commercial Park, that being a medical equipment sales service. There is one vacant speculatively-built warehouse building on the lot adjacent to the North side of the subject site. The remainder of the lots are vacant and undisturbed. The approval of this request would essentially create a new I-1, Light Industry District in the midst of B-3, Community Business Districts and would set a precedence for the granting of higher-classified uses with reduced site compliance within the commercial park. Moreover, it should be noted that Use Variances may alter the character of a surrounding neighborhood beginning a domino effect, as adjacent properties seek similar requests due to the changing character of the area. Other than immediately along Halls Mill Road, all properties surrounding Bolton's Branch Commercial Park are either zoned R-1, Single-Family Residential, or R-3, Multi-Family Residential., and most are in residential use.

With regard to the limestone parking surface request, the applicant has not demonstrated a reason as to why asphalt or concrete surfacing could not be placed within the subject area as no equipment activity heavier than that utilizing the areas intended to be asphalt-paved has been defined. With regard to the chain link fence request, solid wooden privacy fences are required as a means of blocking the visual and noise impact on adjacent properties. The proposed extended height of the fence within the B-3 district would not be deemed appropriate, and the use of razor wire for such an extension would require approval outside the powers granted to the Board.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

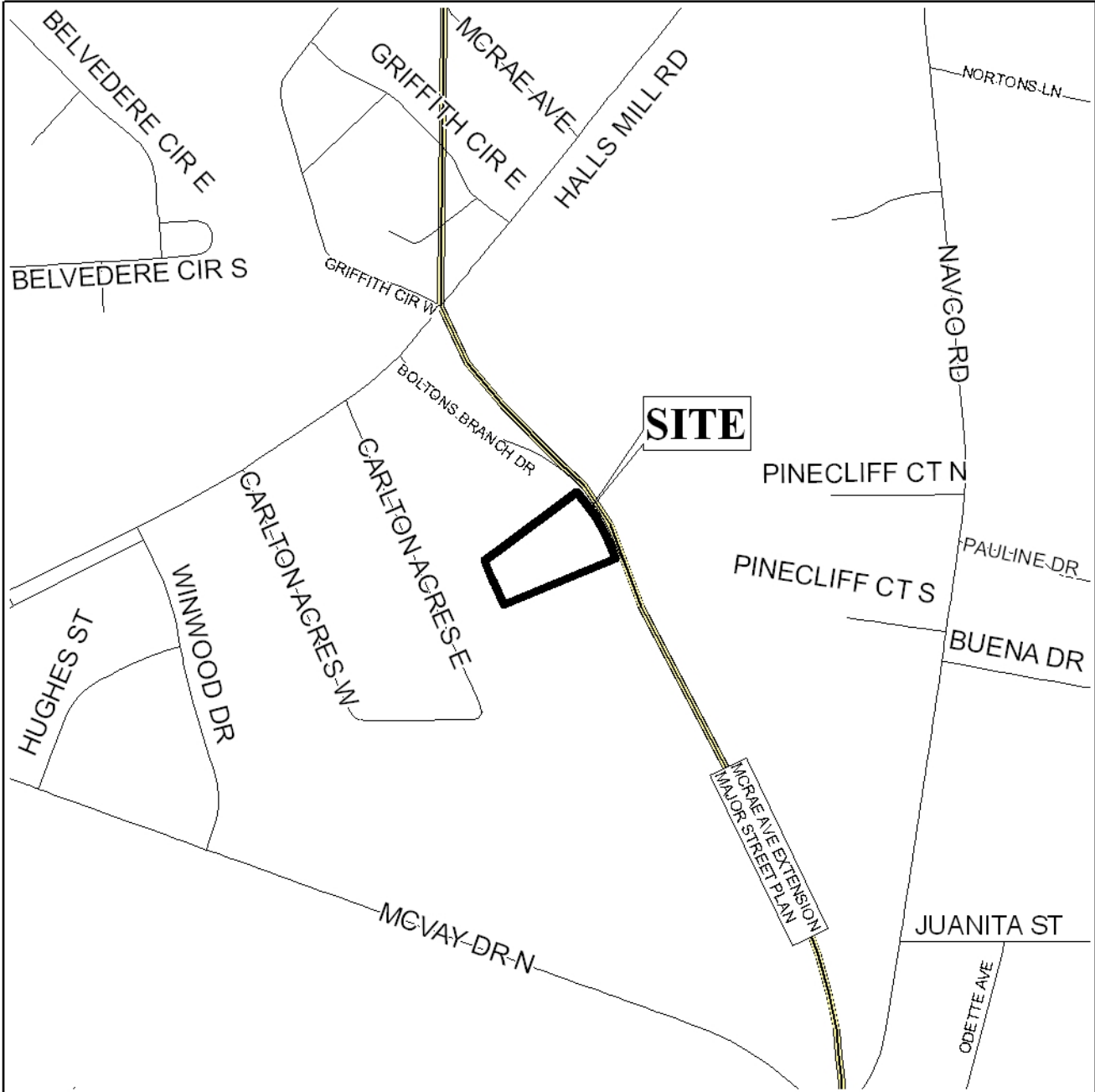
The applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to use a B-3, Community Business District site for an I-1, Light Industry District use with reduced site compliance standards and increased fence height allowances. For the use and site variances being requested, and due to the applicant's apparent security concerns, a more appropriate and properly zoned site should be sought.

RECOMMENDATION 5398

Date: December 4, 2006

Based upon the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5398 DATE December 4, 2006

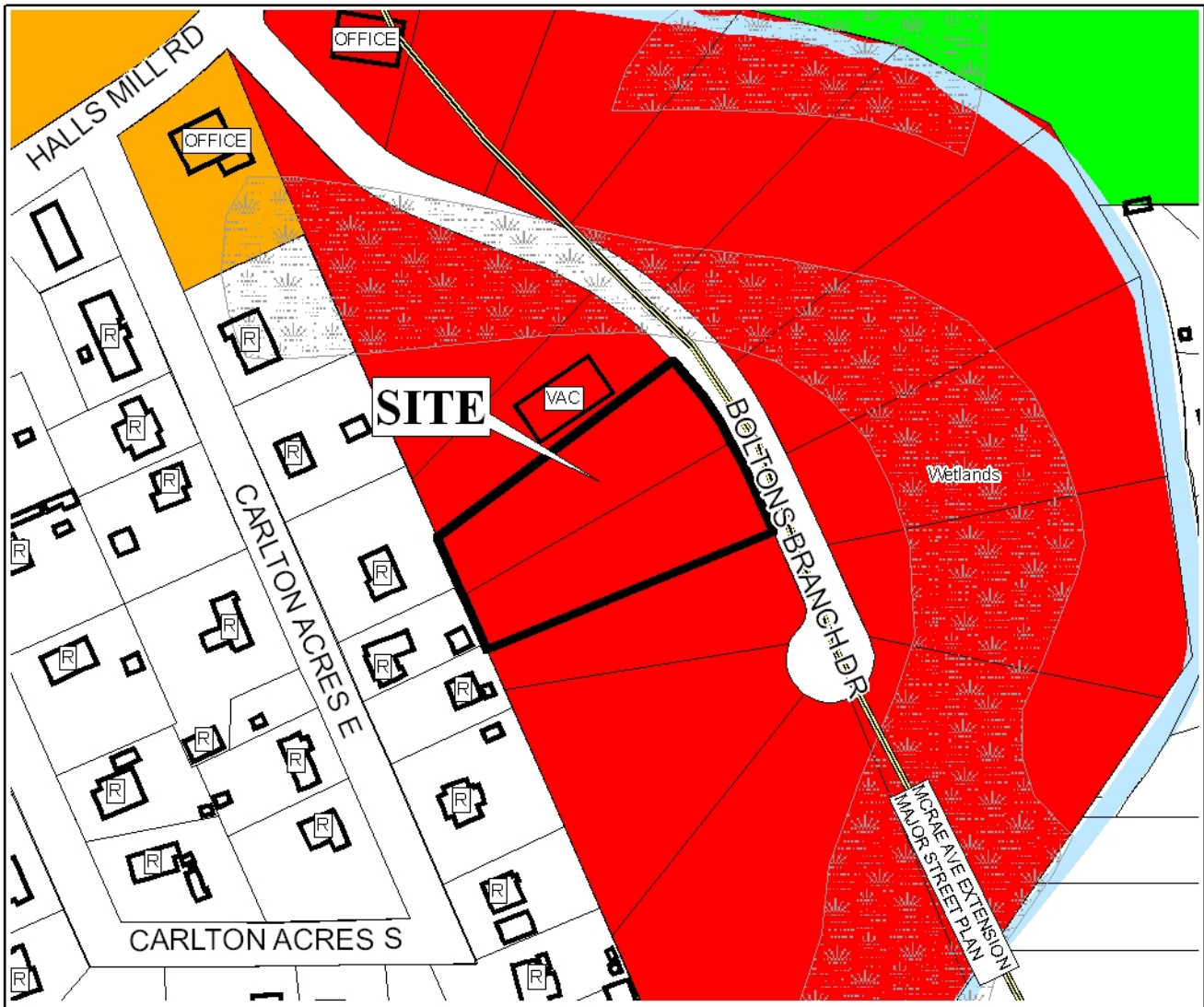
APPLICANT American Tennis Courts

REQUEST Use, Parking Surface, Fence Type, Fence Height Variance



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Single-family residential units are located to the west of the site. An office is located to the north of the site.

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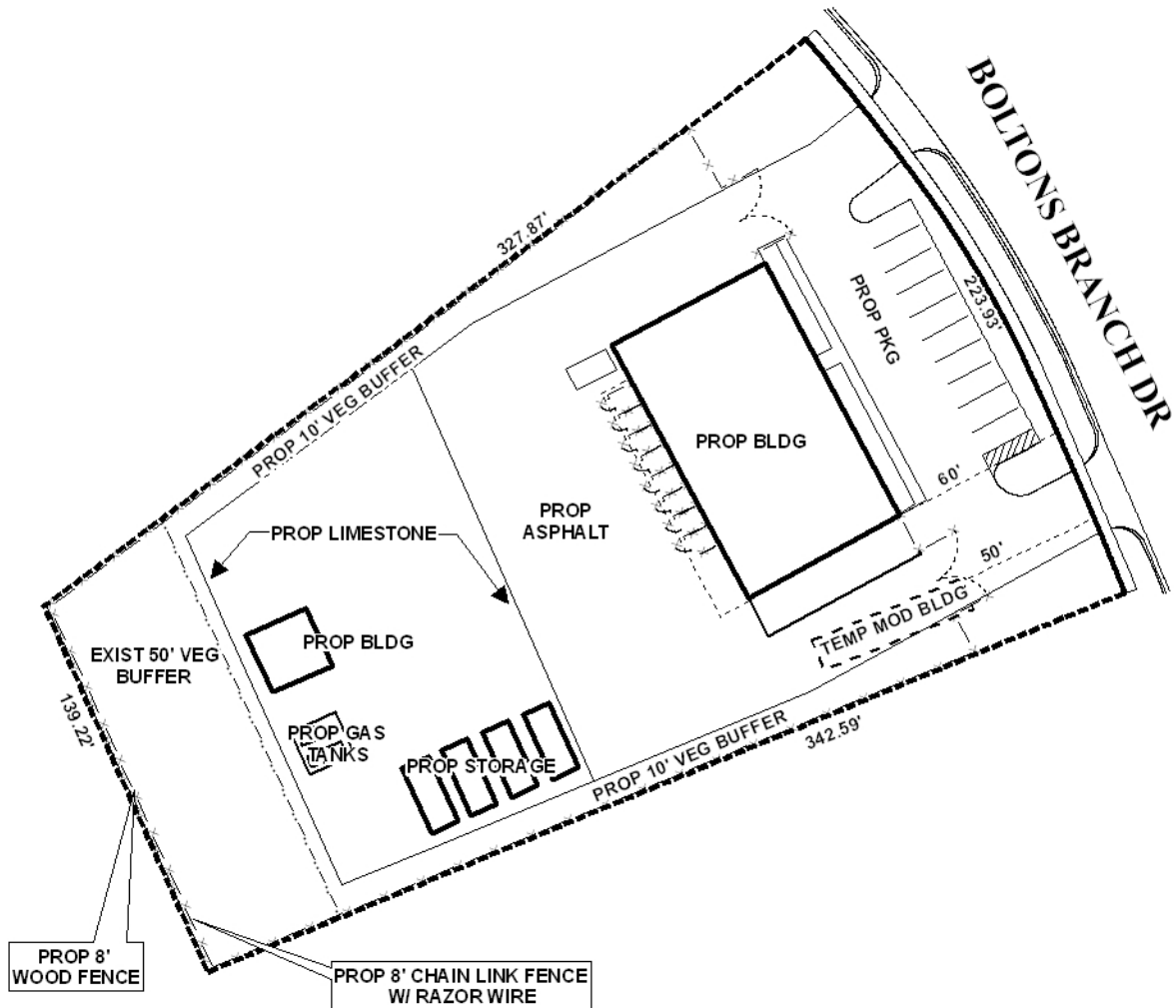
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LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2

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SITE PLAN



The site plan illustrates the proposed buildings, parking, fencing, and paved surfaces.

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