

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: January 3, 2011****CASE NUMBER**

5657

APPLICANT NAME

Mid-Bay Ventures, LLC

LOCATION

Northwest corner of US Highway 90 West and Larue Steiner Road

VARIANCE REQUEST

PARKING: Parking Ratio Variance to allow 64 parking spaces for a 19,097 square-foot showroom/office building and 15,000 square-foot fenced outdoor display area (34,097 square feet total) in a B-3, Community Business District.

ADMINISTRATIVE APPEAL: Appeal of a staff determination that a 15,000 square-foot fenced outdoor display area should also be included in the parking calculations requiring a total of 114 parking spaces.

**ZONING ORDINANCE
REQUIREMENT**

PARKING: The Zoning Ordinance requires 114 parking spaces for a 19,097 square-foot showroom/office building and 15,000 square-foot fenced outdoor display area.

ADMINISTRATIVE APPEAL: Staff has determined that a 15,000 square-foot fenced outdoor display area should also be included in the parking calculations.

ZONING

B-3, Community Business District

AREA OF PROPERTY

138,320 square feet / 3.2±Acres (after ROW dedication)

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Parking Ratio Variance and Administrative Appeal of a Staff Determination to allow 64 parking spaces for a 19,097 square-foot showroom/office building and 15,000 square-foot fenced outdoor display area (34,097 square feet total) in a B-3, Community Business District, and Administrative Appeal of that parking requirement determination by staff; the Zoning Ordinance requires 64 parking spaces for a 19,097 square-foot showroom/office building and staff has determined that a 15,000 square-

foot fenced outdoor display area should also be included in the parking calculations requiring a total of 114 parking spaces for the entire 34,097 square feet of combined area in a B-3, Community Business District.

The applicant proposes to construct a new 19,097 square foot showroom/office building, with a 15,000 square-foot fenced outdoor display area. The new building will be occupied by a single tenant, Tractor Supply Company (TSC). TSC operates 948 retail farm and ranch stores in 44 states, serving the needs of recreational farmers and ranchers. TSC stores typically carry the following merchandise:

- (1) equine, pet and small animal products;
- (2) hardware and seasonal products, including lawn and garden power equipment;
- (3) truck, towing and tool products;
- (4) work/recreational clothing and footwear;
- (5) maintenance products for agricultural and rural use; and
- (6) home décor, candy, snack food and toys.

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 parking ratio request is based upon a staff review of the proposed site plan as part of a Zoning verification letter. In that review, staff determined that the fenced-in outdoor display area should be included in the area calculated for required parking, however, the unfenced display areas would not be required to be a part of this calculation. Because of the determination by staff, a total of 114 parking spaces should be provided for the proposed development, versus the 64 proposed by the applicant.

The fenced-in outdoor display area will be used for the storage and sales of bulkier merchandise offered by TSC, including fencing, farm gates, feed bins, propane tanks and other similar items.

The site was recently the subject of a one-lot subdivision application, which was approved by the Planning Commission at its December 16, 2010 meeting. One of the conditions of approval was the dedication of 35-feet of property for right-of-way for U.S. Highway 90 West. The applicant states that this has created a hardship in that space that could have been used for parking is now no longer available for the proposed development.

The applicant additionally posits that the fenced outdoor display area includes a 20-foot wide drive-through loading zone for customers, which should not be included as part of the parking calculations. With this in mind, the required parking would be reduced to a total of 104 parking spaces.

Staff's determination that the fenced outdoor display area be included as part of the parking calculations is consistent with parking calculations for Lowe's (I-65 Service Road) and Home Depot (Montlimar) stores located within the city at the time of construction: these stores provided parking sufficient to include their fenced uncovered garden areas at a ratio of 1 parking space per 300 square feet. Staff agrees that the drive-through loading zone should not, perhaps, be included within the parking calculations if, however, the drive-through area is kept clear of merchandise. Thus the applicant should be required to provide 40 additional parking spaces, and/or correspondingly reduce the fenced-in outdoor display area to provide additional parking and reduce the amount of overall parking required.

The applicant's argument that the 35-foot area dedicated for ROW could have been used for required parking is erroneous, as required parking cannot be located in an area set-aside for future widening. Furthermore, this area could not have been used for any required landscaping (beyond 3% which can be in the right-of-way) or frontage trees.

A request was included in the application for a landscape variance, however, no specific quantitative information was included: staff cannot determine if the site is in compliance or not in compliance with any tree or landscape area requirements. It is possible that the requirement of additional parking may reduce total landscape area, necessitating a variance for landscape area and possibly trees.

The purpose of an Administrative Review by the Board of Zoning Adjustment is to hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit, decision or refusal made by the zoning administrator or other administrative office in the enforcement of this chapter or of Article 4, Section 11-52-70 et seq., of the 1975 Code of Alabama, as amended.

The applicant states that staff has made an error in determining that the fenced-in outdoor display area should be part of the "gross floor area" that should be part of the calculations to determine required parking for the development. The applicant also states that they have never been required to "park" the fenced outdoor display area in other jurisdictions where TSC stores have been constructed.

Gross floor area is defined in the Zoning Ordinance as follows:

The sum of the gross horizontal areas of the several floors of a building, including interior balconies and mezzanines, and any exterior open porches or galleries which serve as an extension of those activities conducted within the enclosed structure; all horizontal dimensions shall be measured between the exterior faces of walls, including the walls or railings of roofed porches. The gross floor area of a building shall include the floor area of accessory buildings on the same building site, measured the same way.

As such the applicant is correct in that the term "gross floor area" refers to floor area enclosed within a structure. Staff points out, however, that the Zoning Ordinance also requires that "Every use in any district other than R-A, I-1 or I-2, or as specifically noted in the chart, shall be conducted entirely within a completely enclosed structure, except accessory uses." The

proposed use of the site does not include a specific notation in the Chart of Permitted Uses to allow outdoor sales.

As previously mentioned, it has been the policy of staff to require enclosed/secured outdoor sales areas to be part of parking calculations, as evidenced by similar uses that have been constructed within city limits.

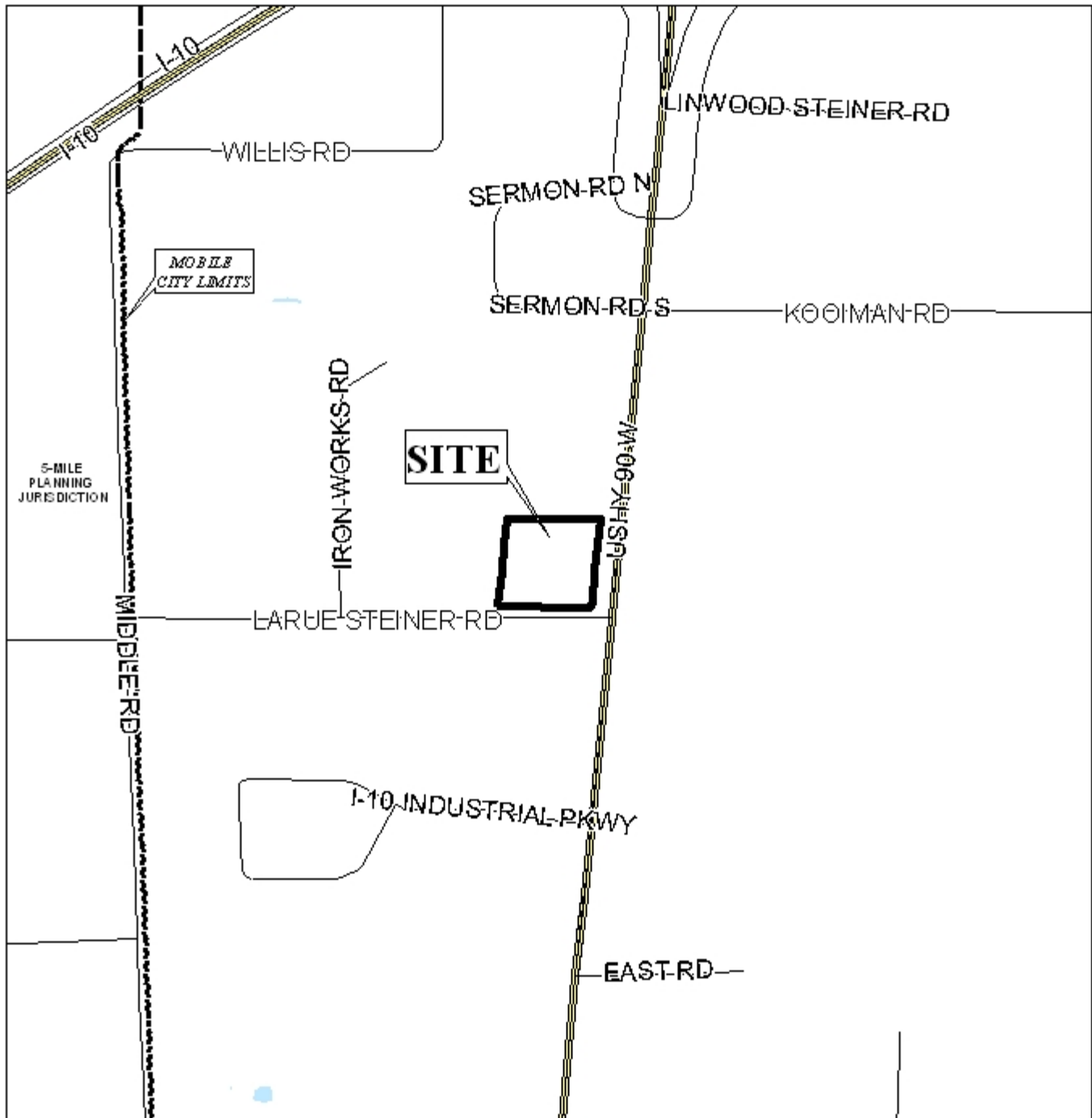
The applicant has failed to show that literal enforcement of the Ordinance will result in an unnecessary hardship.

RECOMMENDATION:

PARKING RATIO VARIANCE: Based on the preceding, this application is recommended for denial.

ADMINISTRATIVE APPEAL: Based on the preceding, this application is recommended for denial.

LOCATOR MAP



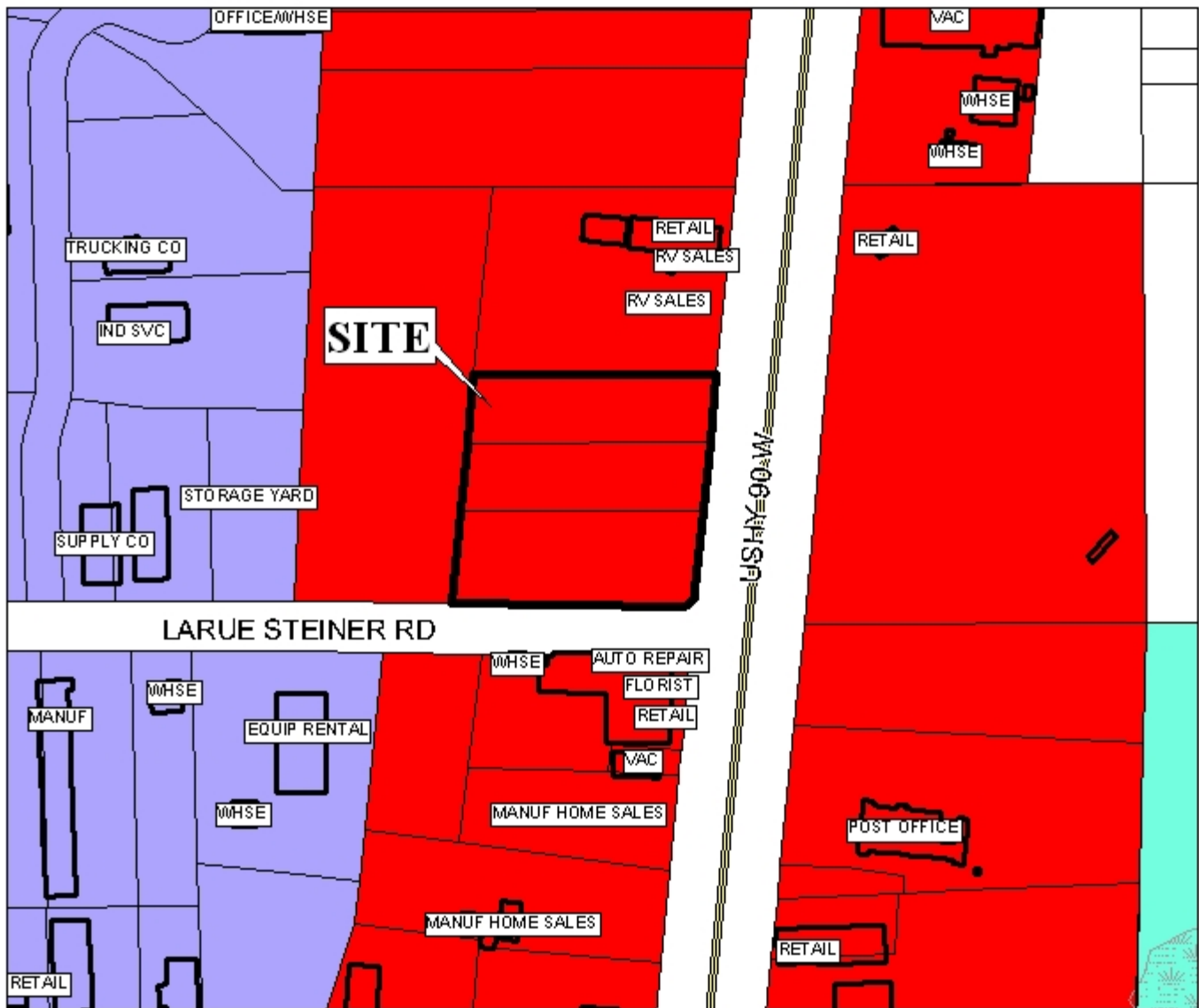
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APPLICANT Mid-Bay Ventures, LLC

REQUEST Parking Ratio Variance, Administrative Appeal



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

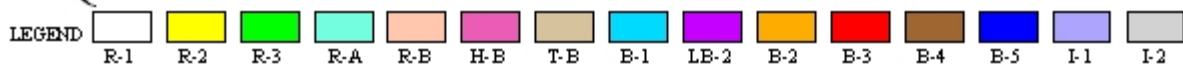


The site is surrounded by commercial land use.

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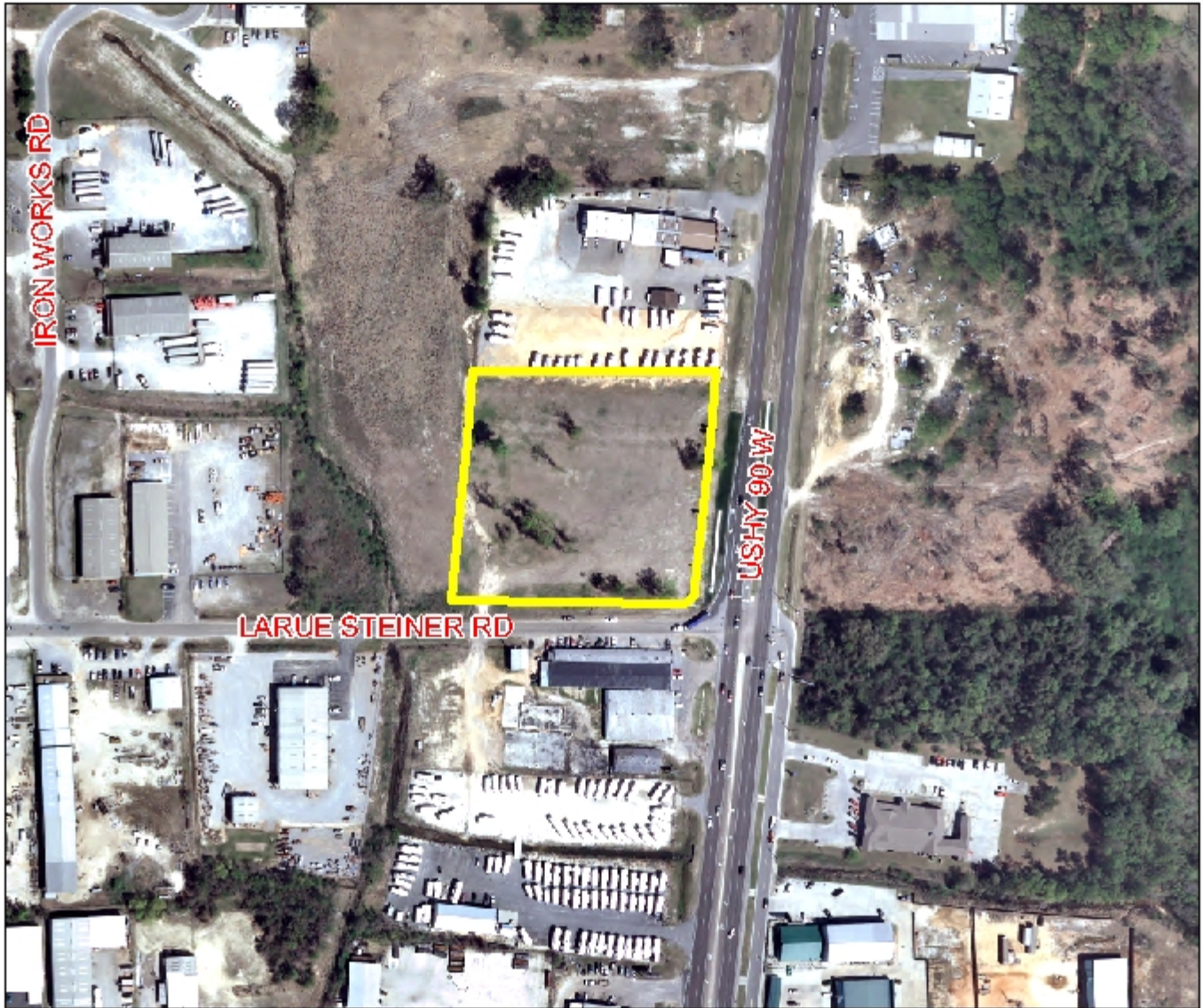
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



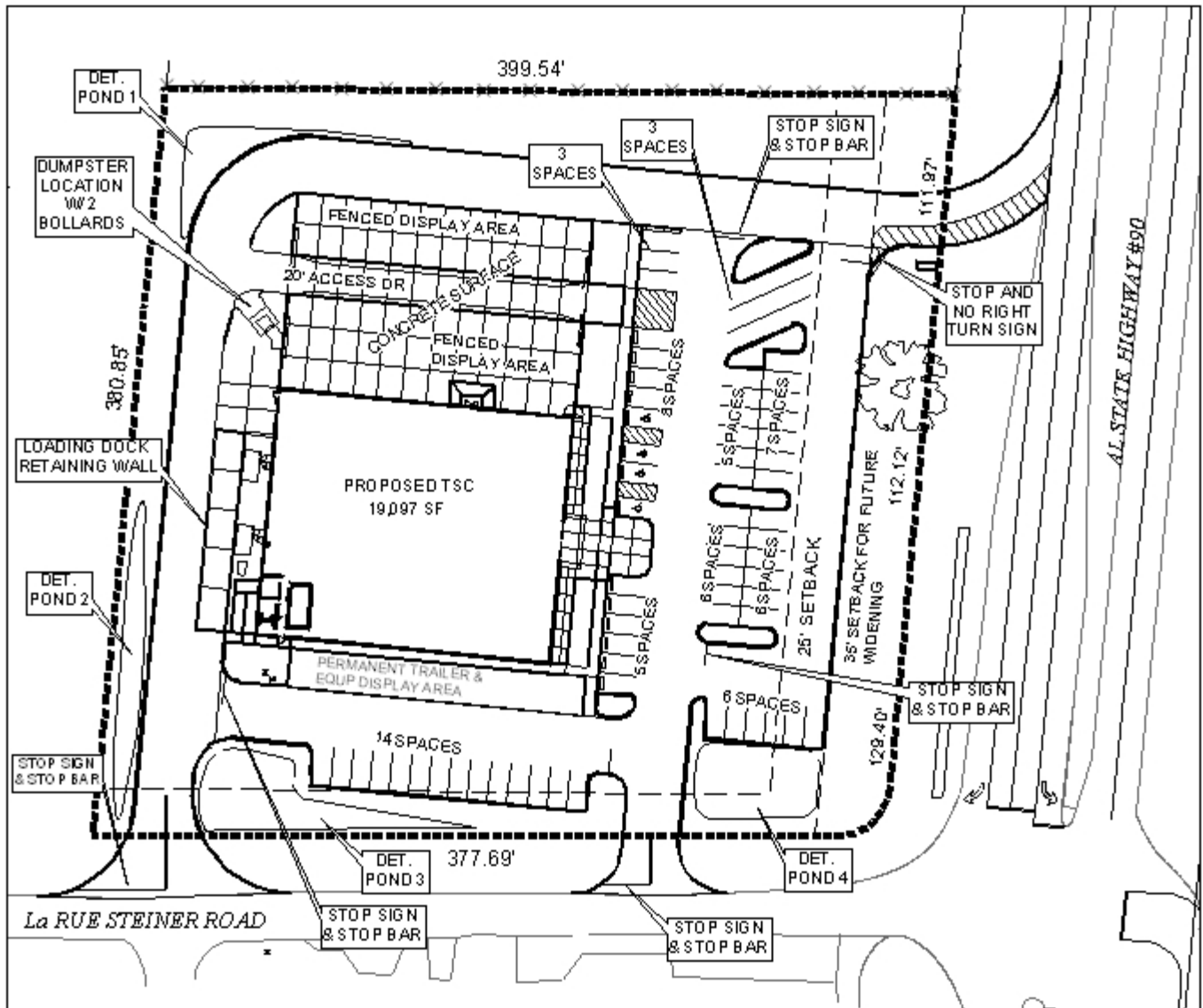
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SITE PLAN



The site plan illustrates the existing lot configuration, setbacks, and parking.

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