

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 5, 2016****CASE NUMBER**

6076

APPLICANT NAME

Lyle Machinery Co.

LOCATION

4370 Rangeline Road
North side of Halls Mill Road, 690' ± West of Rangeline
Service Road South.

VARIANCE REQUEST

USE: Use Variance to allow a heavy equipment retail sales and repair facility.

SURFACING: Surfacing Variance to allow substandard surfacing for parking and display area in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

USE: the Zoning Ordinance requires a minimum of I-1, Light Industry District for heavy equipment retail sales and repair facility.

SURFACING: the Zoning Ordinance requires all parking areas to be surfaced in asphalt, concrete, or an approved alternative paving surface in all parking and display areas.

ZONING

B-3, Community Business District

AREA OF PROPERTY

4.9 ± Acres

**ENGINEERING
COMMENTS**

SURFACING VARIANCE: 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 any 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**

No traffic impacts anticipated by these variance requests. Any loading and unloading of equipment should be conducted on site, and the site is adequately sized to accommodate various trucks/trailers on site for this purpose. The Service Road is an ALDOT maintained roadway and may require permitting/coordination, in addition to City permitting, if their right-of-way is impacted.

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). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code (2012 IFC).

CITY COUNCIL**DISTRICT**

District 4

ANALYSIS

The applicant is requesting Use and Surfacing Variances to allow a heavy equipment retail sales and repair facility with substandard surfacing for a parking and display area in an B-3, Community Business District; the Zoning Ordinance requires a minimum of an I-1, Light Industry District for a heavy equipment retail sales and repair facility and surfaces to be paved with asphalt, concrete, or an approved alternative paving surface in all parking and display areas.

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 states the following reasons to explain the need for the variances:

"The Property:

The property which is the subject of this Use Variance and Site Variance Application is the old PawPaw's Camper City site located off of the service road on the Southwest corner of Rangeline Road and US Highway 90 in an area commonly referred to as Tillman's Corner. The street address of the property is 5340 Halls Mill Road, Mobile, Alabama 36619 (the "Subject Property"). Pasted below are some Mobile Revenue Commissioner tax maps and satellite photos from the Mobile GIS web mapping site. Attached are copies of the vesting deed into the current owner, legal description, revenue commissioner website information and photos of the Subject Property.

The Applicant:

The applicant is Lyle Machinery Co. headquartered in Jackson, Mississippi ("Lyle Machinery"). Lyle Machinery has several locations across Mississippi, Alabama and Florida. Lyle Machinery currently does business in Mobile as "Bobcat of Mobile" located at 1951 West 1-65 Service Road North, Mobile, Alabama 36618. Lyle Machinery's proposed use of the Subject Property will be the same as, or very similar to, its current use at its West 1-65 Service Road location. Bobcat of Mobile is in the business of renting

and selling small to medium size construction machinery and equipment. Approximately 90% — 95% of the equipment rented and sold by Lyle Machinery at its Mobile location is the small construction equipment manufactured by Bobcat. Examples of the Bobcat equipment sold and rented by Lyle Machinery in Mobile are shown below. Approximately 5-10% of the equipment rented and sold by Lyle Machinery in Mobile is the medium size construction equipment manufactured by Hyundai. Examples of the Hyundai equipment sold and rented by Lyle Machinery in Mobile are also shown below. It is worth noting that Lyle Machinery does not sell or rent any of the large heavy mining equipment at its Mobile location. Additionally, most of the repair work and servicing that Lyle Machinery performs on its equipment is done by technicians on the equipment out in the field and not on the Subject Property. Any repair or maintenance work done to equipment on the Subject Property would be done inside the existing facility and not outside.

The Use Variance:

Lyle Machinery is advised the Planning Department that the Subject Property is currently zoned B-3 for community business and that Lyle Machinery's use of the Subject Property would require a Use Variance and a Site Variance. Lyle Machinery's proposed use would include parking equipment on the rear of the Subject Property (near the Halls Mill Road side) and the existing building facing the service road would remain as an office/show room. There would not be any new construction of improvements - just some renovations to the interior of the existing building. The Subject Property was formerly used to store pre-manufactured mobile homes which were loaded onto 18 wheelers and hauled off to the purchaser's property. Lyle Machinery does not believe its proposed use would generate any more excessive noise, odors, air pollution or excessive traffic than the former use of PawPaw's Camper City did. Lyle Machinery's days and hours of operation would be Monday through Friday 7:30 a.m. to 5:00 p.m. The number of employees on the Subject Property would be approximately 7-10. Lyle Machinery is advised by the Planning Department that its proposed use cannot be used in compliance with the current zoning ordinance of B-3 because it involves heavy machinery which would require a minimum of an I-1 zoning. As mentioned above, Lyle machinery will only be selling and renting mostly small (Bobcat) and a few medium (Hyundai) sized construction equipment. Lyle Machinery believes the Subject Property has plenty of square footage and parking to accommodate its employees and customers and its proposed use will not create any negative impacts on the neighboring properties.

The Site Variance:

Lyle Machinery is further advised by the Planning Department that it will also need a site variance due to the current surface of the Subject Property. The Subject property appears to be a mixture of asphalt paving, grass, dirt and gravel. Lyle Machinery believes the existing surface of the Subject Property is suitable for its proposed uses and does not plan to make any changes to the existing surface unless needed."

The applicant is requesting a Use variance to allow heavy equipment retail sales and a repair facility in a B-3, Community Business District. The Zoning Ordinance requires that such facility be located in an I-1, Light Industry District. The applicant states that they will be selling and renting mostly small and medium sized construction equipment, to include Bobcats and Hyundai equipment.

The applicant's current location on W I-65 Service Road N is within an I-1 District, thus the use is allowed by right.

The site was annexed into the City in late 2008, and Zoning enforcement began on February 17, 2009. A comprehensive zoning study of the annexed area was subsequently undertaken, which resulted in this site being designated as a B-3 District, as approved by the City Council on July 7, 2009. The B-3 designation allowed the use of the site for RV/Camper sales to continue "by-right" as such use is allowed with no additional zoning approvals required. Furthermore, the aggregate surfacing, which existed prior to annexation, could continue to be used for this use as a non-conforming surface.

As shown in the excerpt from the Chart of Permitted Uses, there is a clear zoning district distinction between RV/ Camper sales and heavy equipment sales. The proposed use is possible in a B-3 district, but only with Planning Approval.

Uses and Conditions	B-3	B-4	B-5	I-1	I-2
Automobile and truck fleet maintenance shops and garages: vehicles must be screened from view with a 3'--5' tall evergreen hedge and/or landscaped berm in B-3 districts along street frontage (privacy fence may be used along side and rear property lines); servicing and parking of serviced vehicles must occur entirely within a structure in B-4 districts	P	R	--	R	R
Automobile and truck leasing:	R	R	--	R	R
Automobile and truck sales and service: may not include commercial wrecking, dismantling, or salvage yard; need not be enclosed within structure in B-3, I-1 and I-2 districts; servicing and parking of serviced vehicles must occur entirely within a structure in B-4 districts	R	R	--	R	R
Commercial equipment, distribution--heavy: such as restaurant supplies, store fixtures, vending machines	P	--	R	R	R
Commercial equipment, distribution--light: such as restaurant supplies, store fixtures, vending machines	R	P	R	R	R
Equipment rental and leasing, heavy: including heavy construction equipment, medical equipment; need not be enclosed within structure	P	--	R	R	R
Equipment rental and leasing, light: including tools, medical equipment, office machines, party supplies; but not including heavy equipment or machinery	R	R	R	R	R
Recreational vehicle and trailer sales: need not be enclosed within structure	R	--	--	R	--

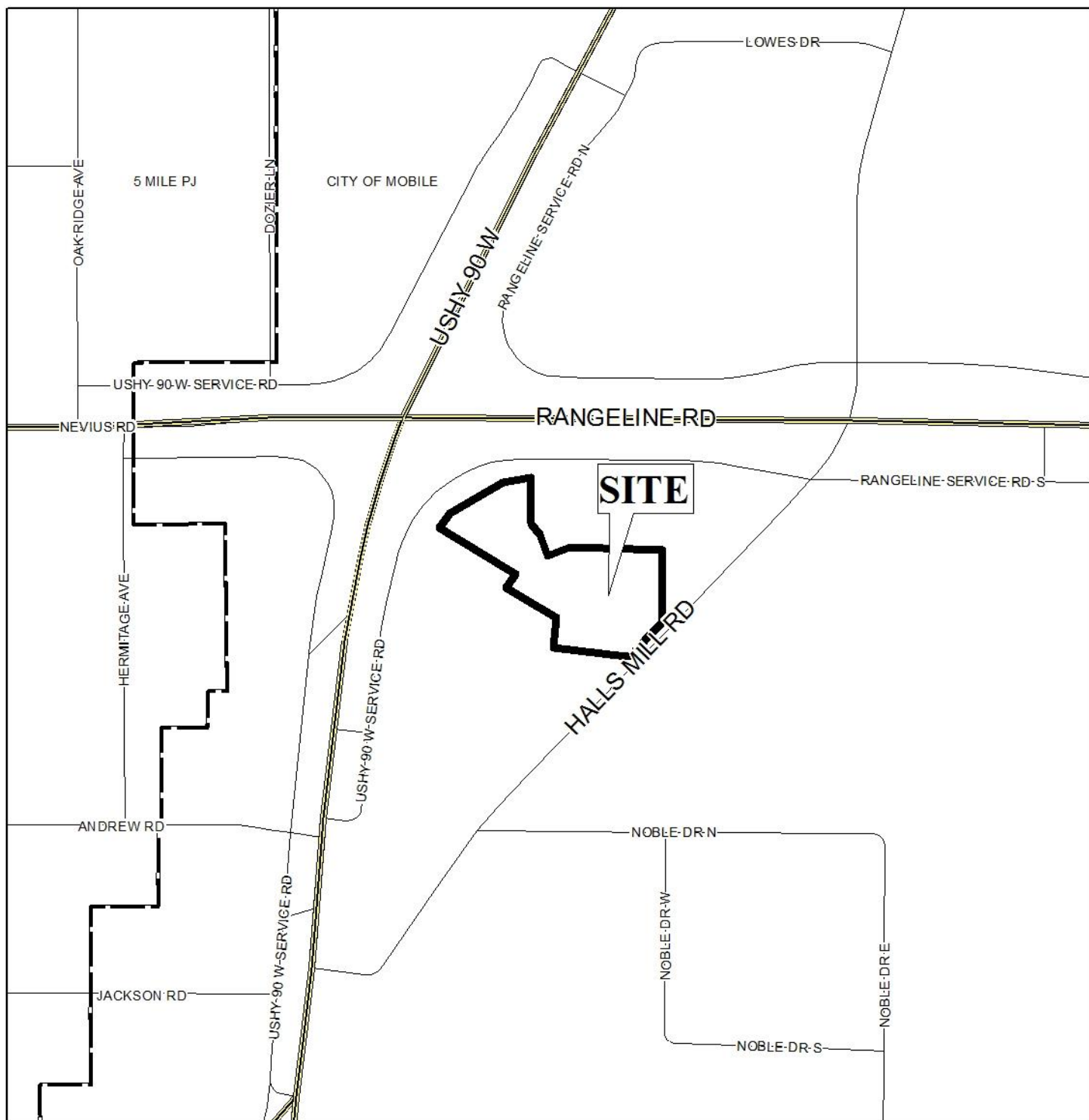
Regarding the surfacing variance request to allow a mixture of: asphalt, grass, dirt, and gravel on the site to store/ rent construction equipment, it appears that the applicant is not proposing any improvements to the site to provide a buffer, tree planting, or landscaping to shield or minimize the view of the equipment. The site plan provided suggest that there is 120,619 square feet of landscaping, of which 23, 554 square feet is front landscaping; however the site plan does not illustrate which portions of the unpaved site are to be set aside for landscaping verses equipment display or storage. Based on the landscape calculations provided on the site plan, over half of the site is “landscaped”, thus all landscaping would need to be identified and protected. The site plan also fails to identify where the designated parking for the construction equipment would be located on the site. There are additional errors on the site plan including the incorrect location of the vicinity map.

There has been no hardship presented by the applicant to allow for the use or the surfacing variance request. There are other B-3 businesses that can operate on the site, as-is without requiring a variance, and the proposed use could be considered for Planning Approval by the Planning Commission. The insufficient information provided on the site plan, combined with the lack of the justification of a hardship for a use and surfacing variance indicates that the applicant simply desires to utilize the property as they see fit without making any improvements.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for denial:

- 1) approving the variance request will be contrary to the public interest in that the property is zoned B-3 for commercial uses, and as such, any B-3 use can go on the site by right and not required a variance request;
- 2) special conditions with the site or unusual site constraints do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; 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 variances because all of the adjacent properties are zoned and used for B-3 Community Business District, and the business all appear to be in compliance with the surfacing requirements of the Zoning Ordinance, and no other Surface Variances have been granted within the neighborhood.

LOCATOR MAP



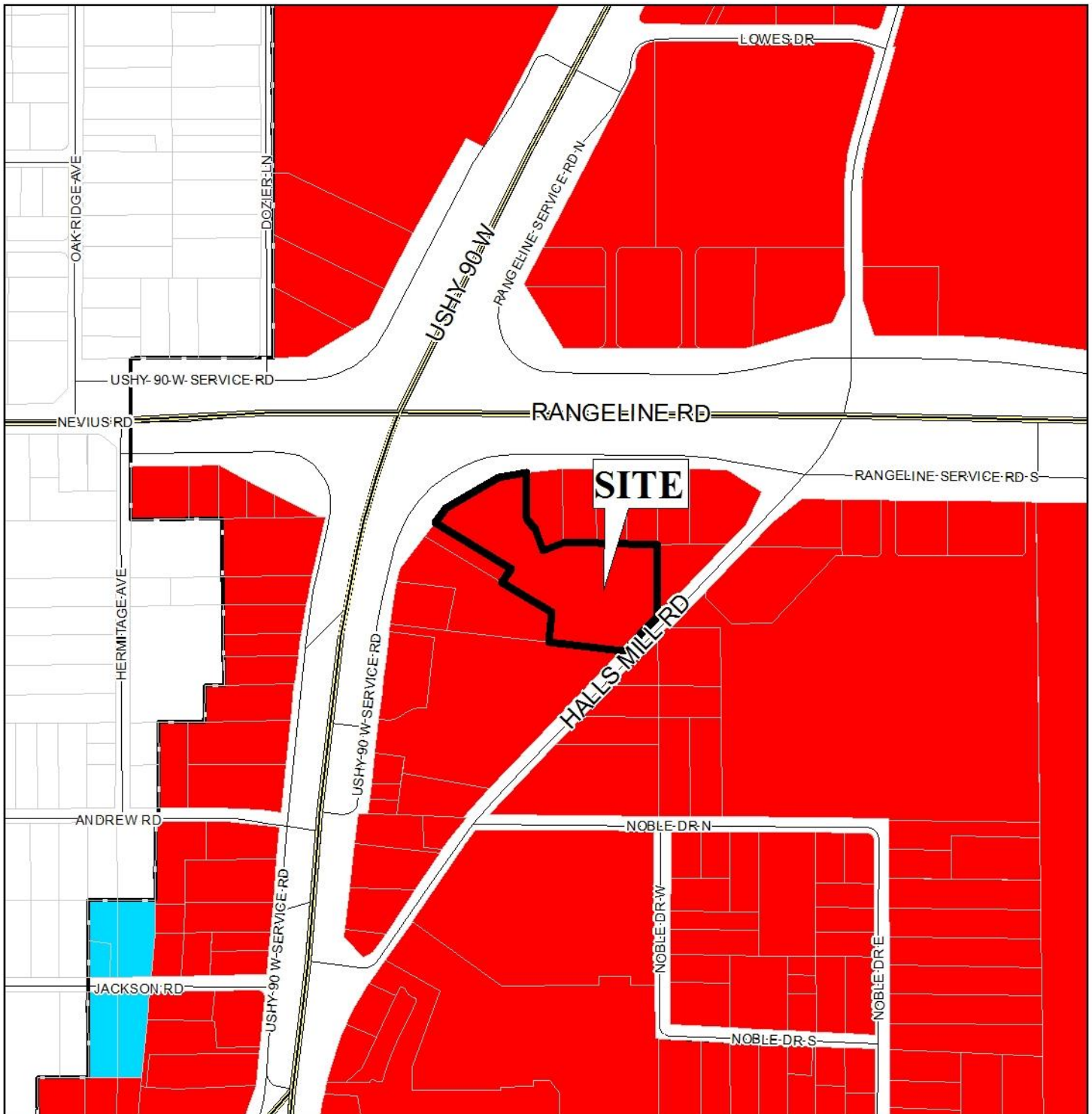
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APPLICANT Lyle Machinery Co.

REQUEST Use and Surfacing Variances



LOCATOR ZONING MAP



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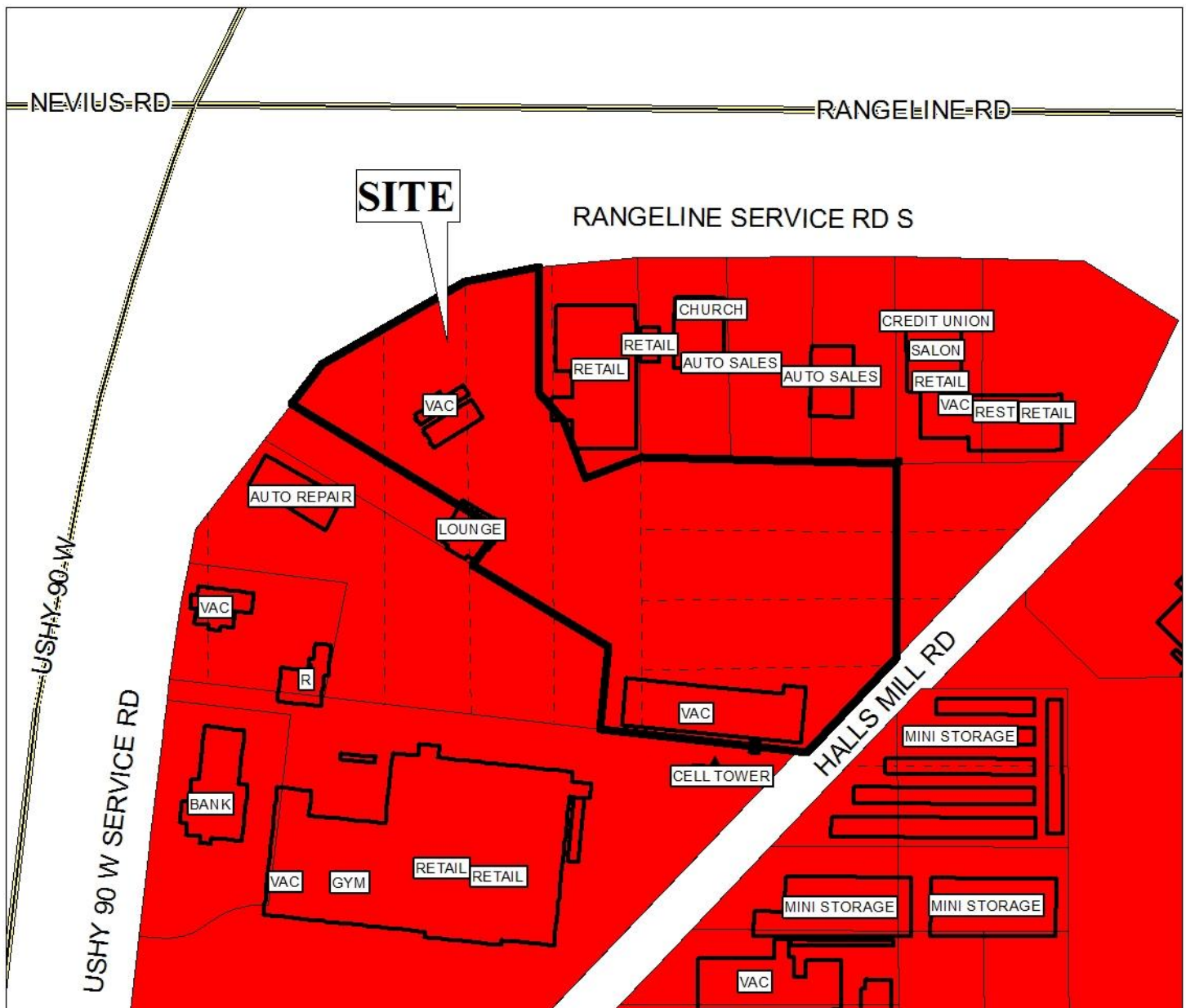
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VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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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

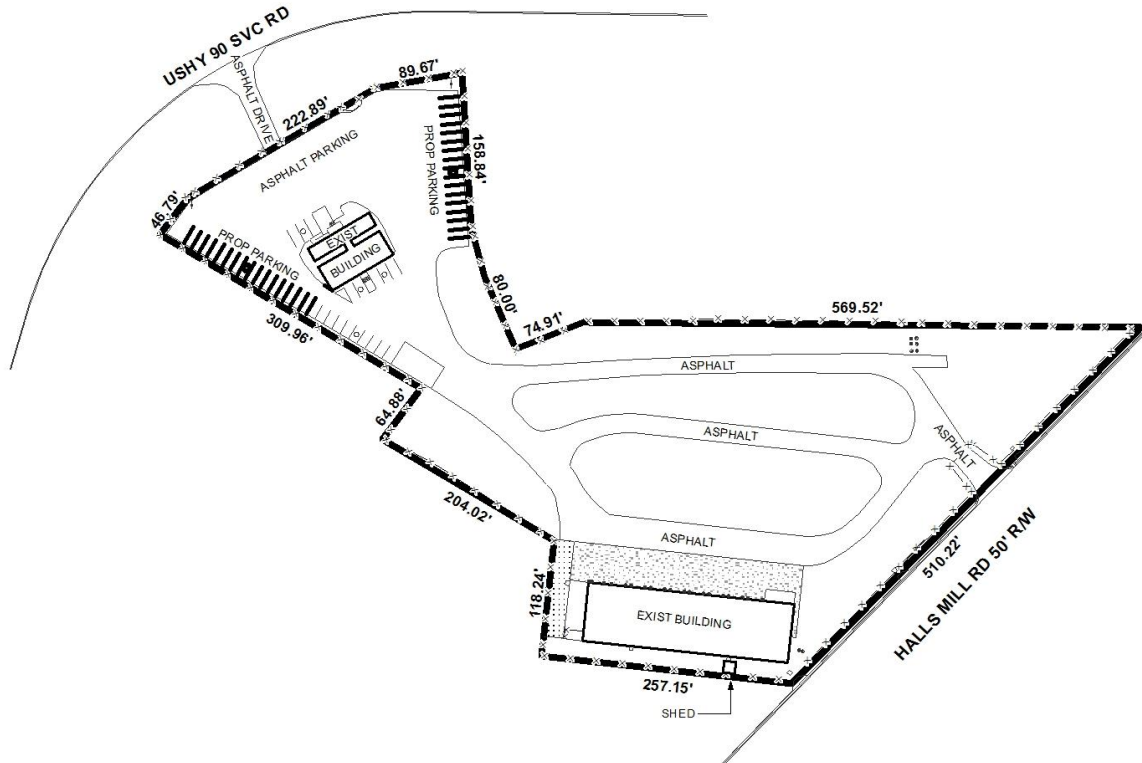


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SITE PLAN



The site plan illustrates the existing buildings, existing parking, and proposed parking.

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