

**ZONING AMENDMENT  
& SUBDIVISION STAFF REPORT****Date: August 18, 2011****APPLICANT NAME**

Bernard Malkove

**SUBDIVISION NAME**

2056 Corporation Subdivision

**LOCATION**

2056 Dr. Martin Luther King Jr. Avenue  
(East side of Dr. Martin Luther King Jr. Avenue, 100'±  
South of Crawford Lane)

**CITY COUNCIL  
DISTRICT**

District 1

**PRESENT ZONING**

R-1, Single-Family Residential District

**PROPOSED ZONING**

B-2, Neighborhood Business District

**AREA OF PROPERTY**

1 Lot / 0.9 ± Acres

**CONTEMPLATED USE**

Subdivision approval to create 1 lot, and Zoning approval to rezone the site from R-1, Single-Family Residential, to B-2, Neighborhood Business, to allow a medical facility. **It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.**

**REASON FOR  
REZONING**

Applicant is requesting rezoning of the site to allow a medical facility. The applicant states that changing conditions in the area make the rezoning necessary and desirable.

**TIME SCHEDULE  
FOR DEVELOPMENT**

Developed

**ENGINEERING  
COMMENTS**

Must comply with all storm water and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right of way will require a right of way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.

**TRAFFIC ENGINEERING****COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

**URBAN FORESTRY****COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

Full compliance of the landscaping and tree requirements to be coordinated with Urban Forestry.

**FIRE DEPARTMENT****COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

**REMARKS**

The applicant is requesting Subdivision approval to create 1 lot, and Zoning approval to rezone the site from R-1, Single-Family Residential, to B-2, Neighborhood Business, to allow a medical facility.

The site is bounded to the East by single-family residences in an R-1 district, to the South by a vacant lot in an R-1 district, across Dr. Martin Luther King Jr. Avenue by various single-family and multi-family uses in a B-2 district, and to the North by a City of Mobile fire station in an R-1 district.

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site appears to be depicted as commercial and residential on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. The accuracy of recommended land uses on the General Land Use Component map is limited due to the large scale of the map. Moreover, the General Land Use Component allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and zoning classification.

Subdivision review examines the site with regard to promoting orderly development, protecting general health, safety and welfare, and ensuring that development is correlated with adjacent

developments and public utilities and services, and to ensure that the subdivision meets the minimum standards set forth in the Subdivision Regulations for lot size, road frontage, lot configuration, etc.

The applicant's justification for rezoning from R-1 to B-2 is that changing conditions in the area make the rezoning necessary and desirable. Review of rezoning requests indicate that there have been no changes in zoning within 800 feet of the site along Dr. Martin Luther King Jr. Avenue over the last 20 years.

The site is currently developed and in use as a dialysis facility due to a use variance granted in 1993. A previous variance was granted in 1978 to allow a beauty college on the site. There are 31 parking spaces depicted on the site plan.

The applicant has requested a B-2 zoning district, however, medical clinics that do not include in-patient care or operating rooms for major surgery are allowed by right in B-1 and LB-2 districts. Staff recommends that the Planning Commission consider the lowest commercial zoning possible to allow the existing use to remain, thus staff recommends a B-1 district in lieu of the requested B-2 district. A B-1 designation also is more appropriate due to the fact that the site abuts a single-family subdivision, and the nearest commercial zone on the same side of the street, one property to the East, is also B-1.

The site fronts onto Dr. Martin Luther King Jr. Avenue, a minor street with an adequate 60-foot wide right-of-way.

The site has two curb-cuts onto Dr. Martin Luther King Jr. Avenue, and should be limited to two curb-cuts. Any changes to the size, design and location of the curb-cuts must be approved by Traffic Engineering, and should conform to AASHTO standards.

The 25-foot minimum building setback is depicted on the plat and the site plan. The size of the proposed lot, in square feet, is not indicated on the plat.

While Zoning review is not site plan specific, staff would like to point out that the site plan does not depict an existing drive-through canopy. Also, the site plan does not depict one-way circulation under this canopy, which should be required, due to the narrowness of the drive-through. One way arrows and signage should be required.

As this request marks the first commercial zoning of the site, if approved, full compliance with the tree and landscaping requirements of the Zoning Ordinance is anticipated. It appears that the landscape area requirements will be met, but that the frontage tree and overstory tree requirements will not be met. The applicant should be required to add trees to the site to fully comply with the requirements of the Zoning Ordinance.

As the site abuts residentially zoned property on three sides, a 6-foot high privacy fence or evergreen vegetative buffer must be provided, as should a 10-foot wide buffer area: it appears that the existing building is partially within the 10-foot wide buffer area, however, this non-

conforming intrusion may remain until the site is redeveloped. A similar buffer requirement in Section V.A.8. of the Subdivision Regulations also applies.

The site has 31 parking spaces, thus the parking lot must be illuminated if used at night. Any lighting of the parking area or site must comply with the requirements of the Zoning Ordinance: the lighting cannot shine directly onto adjacent residential properties or into the right-of-way. Existing or new lighting should be modified to comply with the requirements of the Zoning Ordinance.

The site plan depicts an existing dumpster pad. Any dumpsters should be enclosed with a 6-foot high enclosure, and per Engineering comments, dumpster pads must be connected to the sanitary sewer system.

While the Zoning Ordinance does not require compliance with the Americans with Disabilities Act, it should be pointed out that the site plan does not appear to comply with the parking requirements of the ADA. Specifically, there should be at minimum one “van accessible” space with an adjacent 96-inch wide access aisle, and all other designated handicap spaces must be adjacent to a 60-inch wide access aisle. The ADA additionally requires the placing of signs at each space indicating that the parking is reserved for handicapped individuals, and the site should have an accessible route to the adjacent public sidewalk.

Finally, the geographic area defined by the city of Mobile and its planning jurisdiction, including this site, may contain Federally-listed threatened or endangered species as well as protected non-game species. Development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.

## **RECOMMENDATION**

**Rezoning:** Based upon the preceding, a Rezoning request to **B-1, Buffer Business District** *instead of* B-2 Neighborhood Business, is recommended for Approval, subject to the following conditions:

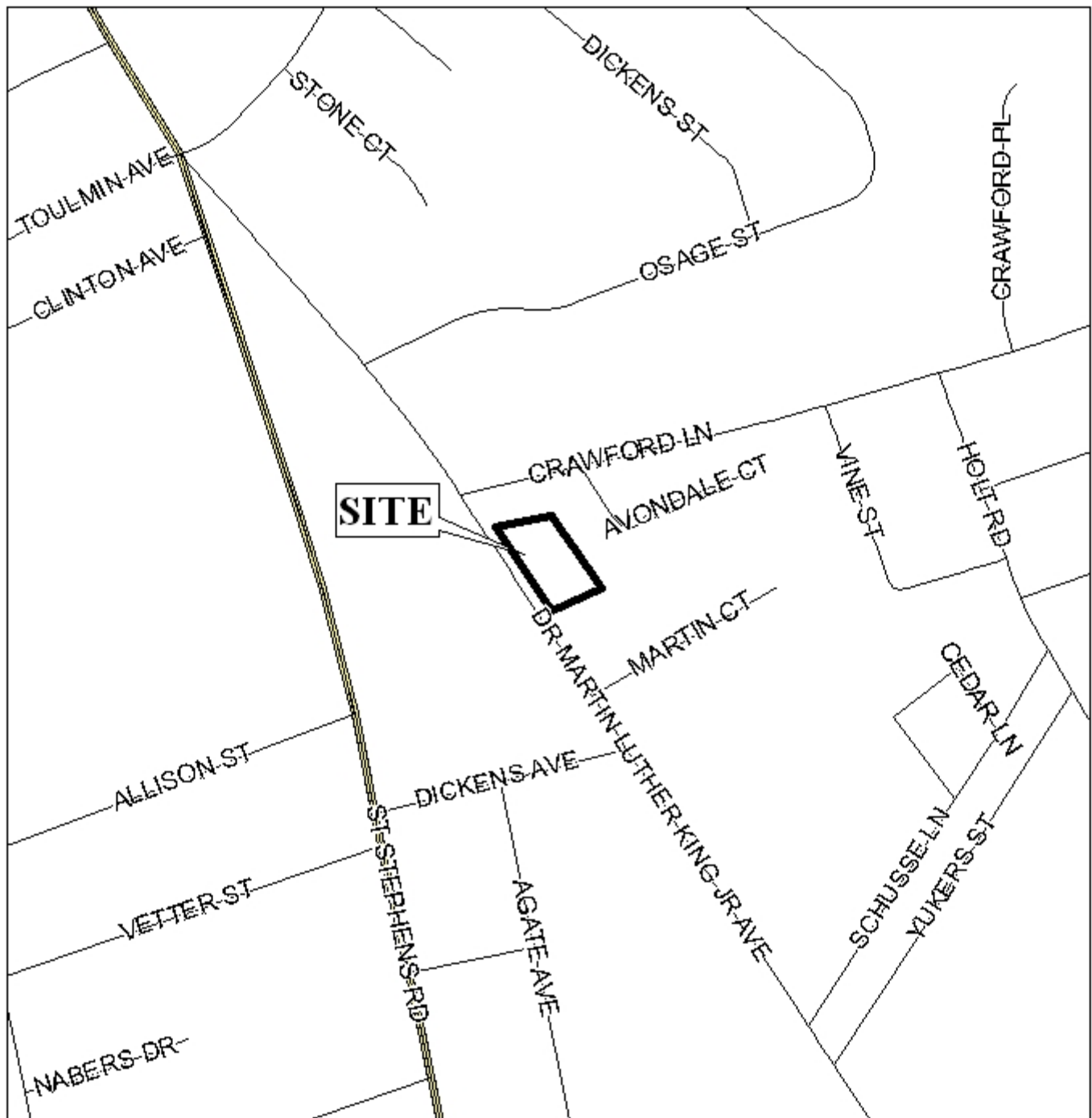
- 1) Marking of the drive-through area as one-way, to include pavement and signage markings;
- 2) Compliance with Urban Forestry comments (*Full compliance of the landscaping and tree requirements to be coordinated with Urban Forestry. Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). ;*
- 3) Compliance with Engineering comments (*Must comply with all storm water and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right of way will require a right of way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.);*
- 4) Provision of a buffer and buffer area where the site abuts adjacent residentially-zoned property, in compliance with Section 64-4.D.1. of the Zoning Ordinance;
- 5) Provision of a 6-foot high enclosure around the dumpster pad area;

- 6) Modification of any existing or proposed site or parking lot lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance;
- 7) Verification by the design professional that the site and parking complies with the requirements of the Americans with Disabilities Act;
- 8) Obtaining of building permits as needed to make any required site improvements; and
- 9) Full compliance with all other municipal codes and ordinances.

**Subdivision:** The Subdivision request is recommended for Tentative Approval, subject to the following conditions:

- 1) The site is limited to two curb-cuts, with any change to the size, design or location to be approved by Traffic Engineering and to comply with AASHTO standards;
- 2) Placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations;
- 3) Compliance with Urban Forestry comments (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).*);
- 4) Revision of the final plat to label the size of the lot in square feet; and
- 5) Placement of a note on the final plat stating that the site must be developed in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.

## LOCATOR MAP



APPLICATION NUMBER 10 & 11 DATE August 18, 2011

APPLICANT Bernard Malkove

REQUEST Subdivision, Rezoning from R-1 to B-2



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.  
A fire station is located to the north of the site.

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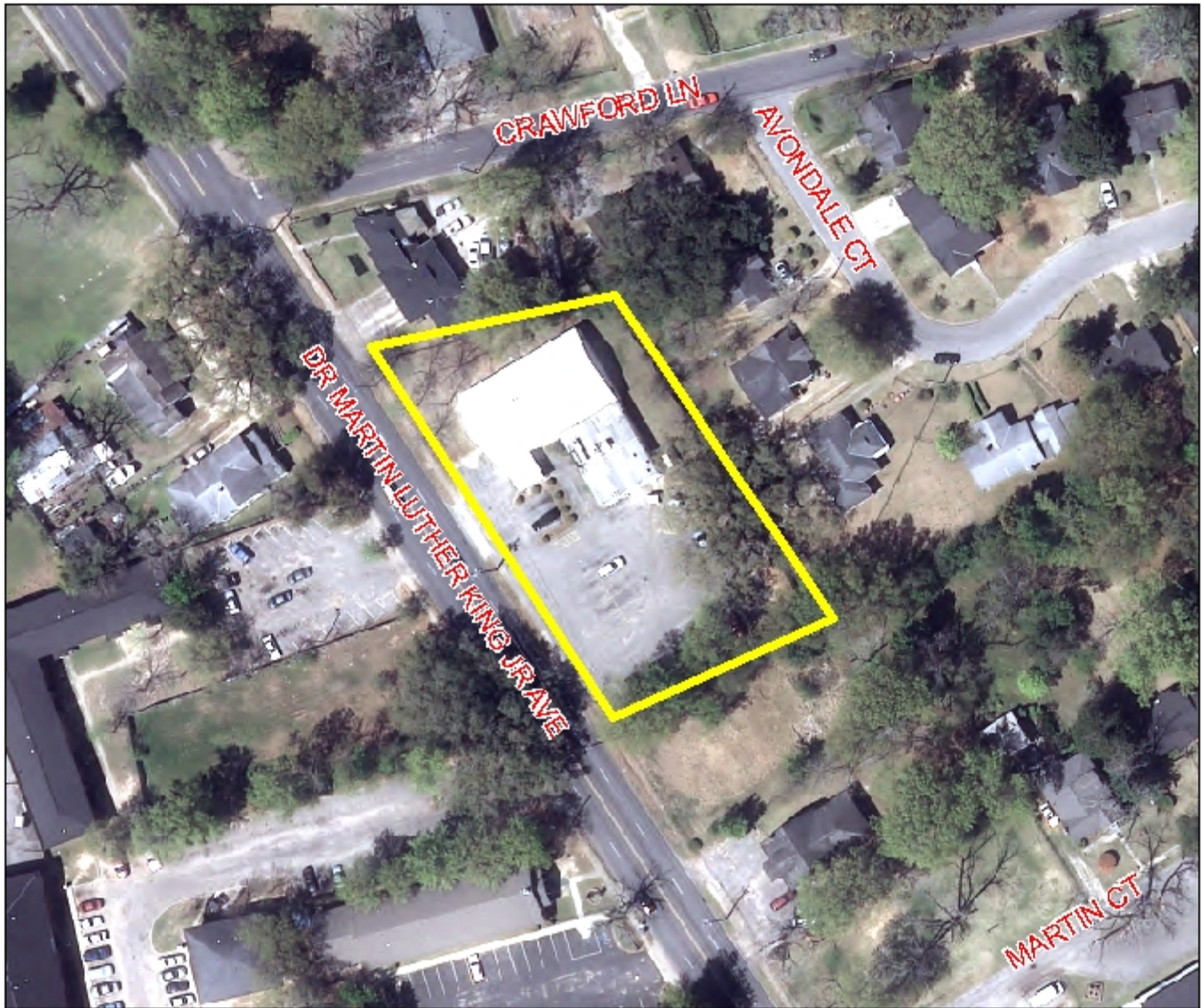
LEGEND 

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





# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



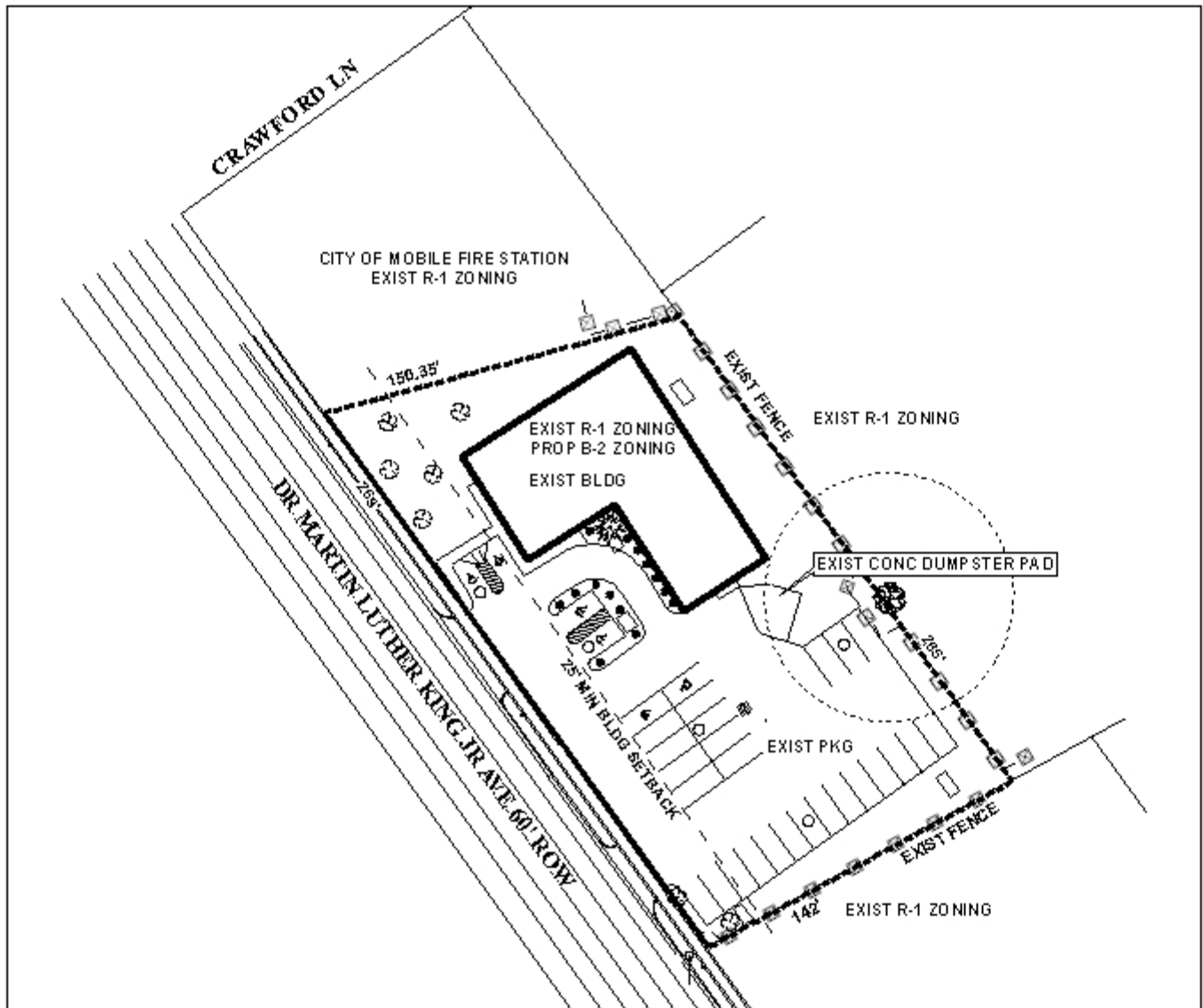
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N  
NTS



# SITE PLAN



The site plan illustrates the existing development.

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N  
 NTS