

**ZONING AMENDMENT,  
PLANNED UNIT DEVELOPMENT &  
SUBDIVISION STAFF REPORT**

**Date: August 2, 2012**

<b><u>NAME</u></b>	Michael A. Rost
<b><u>SUBDIVISION NAME</u></b>	Broad Palmetto Subdivision
<b><u>LOCATION</u></b>	202 South Broad Street (West side of South Broad Street, 55'± South of Palmetto Street and extending West to the South side of Palmetto Street, 130'± West of South Broad Street).
<b><u>CITY COUNCIL DISTRICT</u></b>	District 2
<b><u>PRESENT ZONING</u></b>	R-1, Single-Family Residential District
<b><u>PROPOSED ZONING</u></b>	R-1, Single-Family Residential District and R-B, Residential-Business District
<b><u>REASON FOR REZONING</u></b>	None provided
<b><u>AREA OF PROPERTY</u></b>	0.4 Acres ±
<b><u>CONTEMPLATED USE</u></b>	Subdivision approval to create 2 legal lots of record from one legal lot of record and two metes and bounds parcels; Planned Unit Development Approval to allow reduced lot size and reduced setbacks, to allow renovation of an existing dwelling for office use as well as construction of a new single family dwelling on a proposed substandard lot; and Rezoning from R-1, Single-Family Residential District, to R-B, Residential-Business District to allow the conversion of a dwelling into a professional office building. <b>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.</b>
<b><u>TIME SCHEDULE</u></b>	No timeframe provided.

**ENGINEERING**

**COMMENTS**

Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. A complete set of construction plans for the site work (including drainage, utilities, grading, stormwater systems, paving) will be required to be submitted with the Land Disturbance permit. These plans are to be submitted and approved prior to beginning any of the construction work.

**TRAFFIC ENGINEERING**

**COMMENTS**

Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. One-way (inbound) signage is necessary at the driveway entrance on Broad Street and internal to the parking lot to direct exiting traffic to Palmetto Street.

**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).

**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 2 legal lots of record from one legal lot of record and two metes and bounds parcels; Planned Unit Development Approval to allow reduced lot size, reduced setbacks, and shared access to allow renovation of an existing dwelling for office use as well as construction of a new single family dwelling on a proposed substandard lot; and Rezoning from R-1, Single-Family Residential District, to R-B, Residential-Business District to allow the conversion of a dwelling into a professional office building.

The applicant filed similar requests at the Planning Commission's March 16, 2012 meeting. The applications were denied at that time because the Subdivision did not meet the minimum lot size requirements of Section V.D.2. of the Subdivision Regulations, and the Rezoning did not meet the requirements of Section 64-9.A.2.a. of the Zoning Ordinance. The applicant then requested for an appeal to be heard by the City Council, which was denied on April 18, 2012.

The plat illustrates the proposed 2 lot, 0.4 ± acre subdivision. The applicant states that the subdivision is served by both public water and sanitary sewer.

Lot 2, as depicted, meets the minimum size requirements, as regulated by the Subdivision Regulations; however, Lot 1 is depicted as being 5,041 ± square feet, which is approximately 2,159 square feet smaller than Section V.D.2. of the Subdivision Regulations require, and 579 square feet larger than when the applicant made the previous applications. Because the property is located in a historic district, a waiver of Section V.D.2. of the Subdivision Regulations regarding the 7,200 square foot minimum lot size may be considered appropriate, but would not be consistent with the existing character of the neighborhood. Furthermore, the Subdivision Regulations have minimum lot sizes in order to make sure that the residents of the City of Mobile have adequate light and air, which the approval of this request would reduce greatly.

Section 64-3.A.5. of the Zoning Ordinance states that a newly created R-B, Residential Business district should contain at least 4 acres except in circumstances where the proposed R-B district would abut an existing B-1, B-2, B-3, B-4, I-1, or I-2 district, which does not apply to the subject site. If approved, the currently proposed Lot 2, which is the subject of the current rezoning request, would result in a lot that is less than 1/3 of an acre, could result in changing the character of the neighborhood, and could be considered “spot zoning”.

The lot area sizes are depicted on the plat in square feet and acres, and this should be retained on the Final Plat, if approved. The applicant proposes to have a front setback on Lot 1 of 11.4’, which is the same setback depicted for the adjacent property to the East of Lot 1. The applicant also illustrates the existing 17’ front setback for Lot 2, which is a greater setback than the property adjacent to the North, which has a setback of 10’ ±. Section 64-3.G. 3. of the Zoning Ordinance makes a provision for properties within recognized historic districts, allowing them to have reduced setbacks from what would otherwise be required, this would make a waiver of Section V.D.9. of the Subdivision appropriate, and the illustrated proposed front setbacks in keeping with the area.

The site fronts Broad Street, a major street, to the East, and Palmetto Street, a minor street with curb and gutter, to the North. The Major Street Plan requires a right-of way width of 100 feet for major streets, and a right-of-way width of 50 feet for minor streets with curb and gutter. The preliminary plat illustrates both streets with the required right-of-way width, thus no dedications would be required as part of this subdivision.

Planned Unit Development review examines the site with regard to its location to ensure that it is generally compatible with neighboring uses; that adequate access is provided without generating excess traffic along minor residential streets in residential districts outside the PUD; and that natural features of the site are taken into consideration. PUD review also examines the design of the development to provide for adequate circulation within the development; to ensure adequate access for emergency vehicles; and to consider and provide for protection from adverse effects of adjacent properties as well as provide protection of adjacent properties from adverse effects from the PUD. PUD approval is site plan specific, thus any changes to the site plan / Subdivision plat will require approval by the Planning Commission.

If the proposed Lot 2 is rezoned, as requested, that the applicant will be required to provide a protection buffer of 10' as well as either a 6' high privacy fence or 10' wide screen planting strip no less than 6' in height at time of planting and consisting of evergreen vegetation alongside all adjacent R-1, Single-Family Residential properties. The site plan illustrates existing and proposed fencing along residential properties; however no mention is made of the height or material of the fence. Also, the existing structure proposed to be an office sits 8' ± from the property to the right; therefore the site is unable to provide the required 10' protection buffer. The previous plans also did not make note of the height and type of existing fence, nor did it illustrate a proposed fence on the proposed dwelling on Lot 1.

It should be noted that the landscape plan submitted does not provide the species of trees to be planted, accurate tree planting calculations, or landscaped area information. However, the site plan does appear to illustrate compliance with the number of required tree plantings and total landscaped area, while it appears there is a deficit in the required amount of frontage landscaping, with approximately 750 square feet of frontage landscaped illustrated and 912 square feet of frontage landscaping required. Despite this, a PUD does allow some flexibility concerning the amount of landscaping and tree planting requests

Furthermore, there is no depiction of a dumpster or note provided to determine if the applicant will comply with Section 64-4.D.9. of the Zoning Ordinance.

The applicant depicts an existing 10.5' curb-cut and a driveway that ranges from 10.5' to 11.9' for Lot 2, which is considerably less than the minimum 24' width required for two-way traffic, and is slightly less than what would typically be accepted for one-way traffic, and was of major concern with the last applications for this site. The applicant has revised the site plan to include a 14' wide ingress, egress, and utility easement with the proposed Lot 1 of the subdivision. According to Traffic Engineering comments, if approved, one-way (in-bound) signage should be placed at the Broad Street curb-cut with signage directing traffic to exit at the Palmetto Street curb-cut. Because this would leave the residence of the proposed dwelling on Lot 1 with no place on site to park, the site plan has been adjusted to include 2 parking spaces that are part of the parking lot on Lot 2, to be on the property of Lot 1, thus providing parking for the dwelling. The previously denied site plan illustrated the single curb-cut on Lot 2 as the only entrance and exit to the proposed parking area. The proposed access design would result in conditions that are not in support of the primary purpose of the Zoning Ordinance as stated in Section 64-1.A, in that it may increase traffic congestion on public streets, and could result in dangerous conditions that would threaten the health and general welfare of the citizens of the City of Mobile.

The proposed 2,997 square foot the office building would require 10 parking spaces, and the site illustrates 13 parking spaces to be paved with asphalt, with three of them designated as employee only parking. Also, as mentioned previously, the applicant intends for two parking spaces to be used by the residents of the proposed dwelling on Lot 1. The previously denied site plan only illustrated 10 parking spaces which were to have gravel surfacing with the exception of a single handicapped parking space. If approved, this would place a commercial parking lot in the middle of a primarily residential block, surrounded completely by residences in a historic district which may increase traffic, light, and noise.

The site plan submitted does not depict the existing sidewalks along Broad Street and Palmetto Street. In addition, any required storm detention is not depicted on the site plan as well.

With regards to the rezoning, 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 is depicted as 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.

The existing structure on the proposed Lot 2 has recently been occupied as a duplex, and was approved to operate as a group home by the Board of Zoning Adjustment at its January 8, 1979 meeting. The applicant has stated previously that the rezoning of the proposed Lot 2 to R-B, Residential-Business District is desirable because it can help to transform and revitalize the Broad Street area. However, this is not one of the four conditions stated in Section 64-9 of the Zoning Ordinance that make rezoning favorable.

It should be noted that the subject site and the surrounding area were once zoned R-3, Multi-Family Residential, and were rezoned to R-1, Single-Family Residential in July 1992. Also, there is R-3, Multi-Family Residential District across Broad Street; B-4, General Business District across Palmetto Street; and B-2, Neighborhood Business District in the same block on Broad Street. Compared to these commercial Zoning Districts, the applicant's requested R-B, Residential-Business District may be less intrusive on the neighboring residential properties; however, the rezoning of this site would be considered inappropriate due to the spot rezoning and the site fails to meet the requirements of the standard area of 4 acres. Additionally, spot zoning could be considered a detriment to the adjacent property owners, and could result in more commercial activity overrunning a residential neighborhood.

Generally, once a property is rezoned, any use permitted in the proposed district would be allowed. In response to concerns that were expressed at the previous Planning Commission meeting, a note was placed on the site plan to state that: "Residential/Business (RB) use shall be offices for: architectural, engineering, attorney, insurance, finance, real estate, mortgage, photography, or offices for businesses with low parking requirement demands." This statement tries to insure that any businesses which occupy the site will have minimal impact on the

surrounding area, however it should be noted that even attorney, insurance, and other offices specified are not exempt from the possibility of generating high traffic demands.

There are a number of commercially zoned locations in the City of Mobile that would not present the number of concerns associated with these applications, and would easily be able to comply with all requirements of the Zoning Ordinance. It appears the applicant simply chose a location and disregarded the fact that the site possesses several issues that make it less than desirable for a commercial location.

### **RECOMMENDATION**

**Subdivision:** The Subdivision request is recommended for denial for the following reason:

- 1) does not meet the minimum lot size requirements of Section V.D.2. of the Subdivision Regulations.

**Rezoning:** The rezoning request is recommended for denial for the following reason:

- 1) does not meet the requirements of Section 64-9.A.2.a. of the Zoning Ordinance.

**Planned Unit Development:** The Planned Unit Development request is recommended for denial for the following reasons:

- 1) denial of the Subdivision application; and
- 2) denial of the Rezoning application.

#### ***Revised for the August 2, 2012 meeting:***

*The Planning Commission held the matter over until the August 2, 2012 meeting to allow staff to address internal communication issues and to allow the applicant to meet with neighbors to address concerns.*

*As submitted, the site plan does not reflect discussions with staff prior to submission and cannot be recommended for approval. Staff suggested that the applicant request both proposed lots be rezoned from R-1, Single-Family Residential District to R-B, Residential-Business District. The applicant also changed the lot configuration to include two parking spaces as part of the proposed Lot 1, which staff did not recommend. Because the applicant did not follow staff recommendations and no new information has been submitted for staff review, the original recommendation for denial stands.*

*The applicant received a building permit on August 10, 2011 for repairs and renovations to a single-family residence. If the applicant's requests are approved, it should be noted that new commercial building permits will be required to ensure that the building will meet commercial building code requirements.*

### **RECOMMENDATION**

**Subdivision:** The Subdivision request is recommended for denial for the following reason:

- 1) *does not meet the minimum lot size requirements of Section V.D.2. of the Subdivision Regulations.*

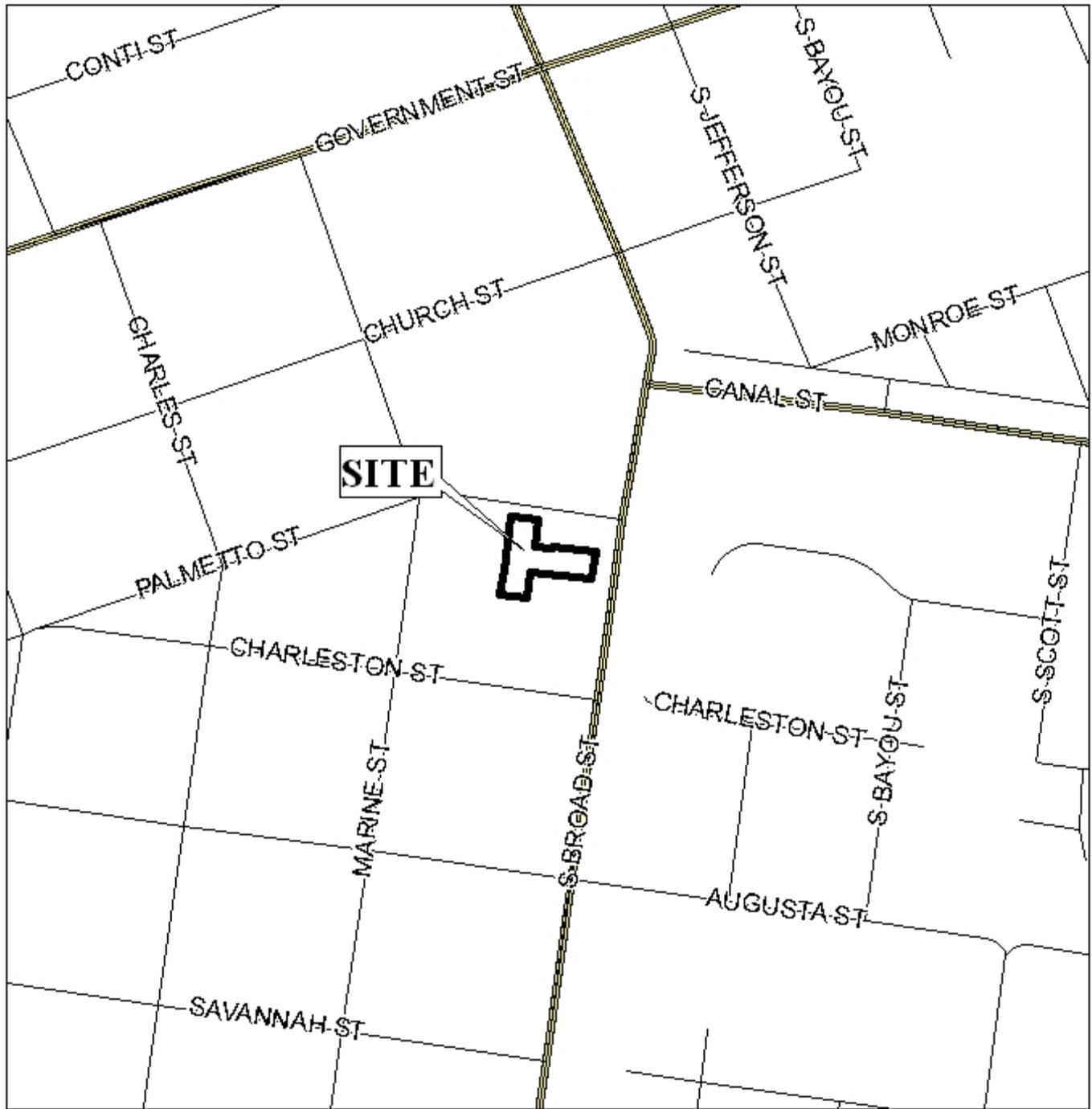
**Rezoning:** *The rezoning request is recommended for denial for the following reason:*

- 1) *does not meet the requirements of Section 64-9.A.2.a. of the Zoning Ordinance.*

**Planned Unit Development:** *The Planned Unit Development request is recommended for denial for the following reasons:*

- 1) *denial of the Subdivision application; and*
- 2) *denial of the Rezoning application.*

# LOCATOR MAP



APPLICATION NUMBER 11, 12 & 13 DATE August 2, 2012  
APPLICANT Michael Rost  
REQUEST Subdivision, PUD, Rezoning from R-1 to R-B



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

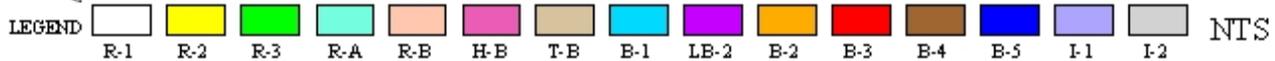


The site is surrounded by residential land use. Businesses are located to the north and south of the site.

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**PLANNING COMMISSION  
VICINITY MAP - EXISTING ZONING**

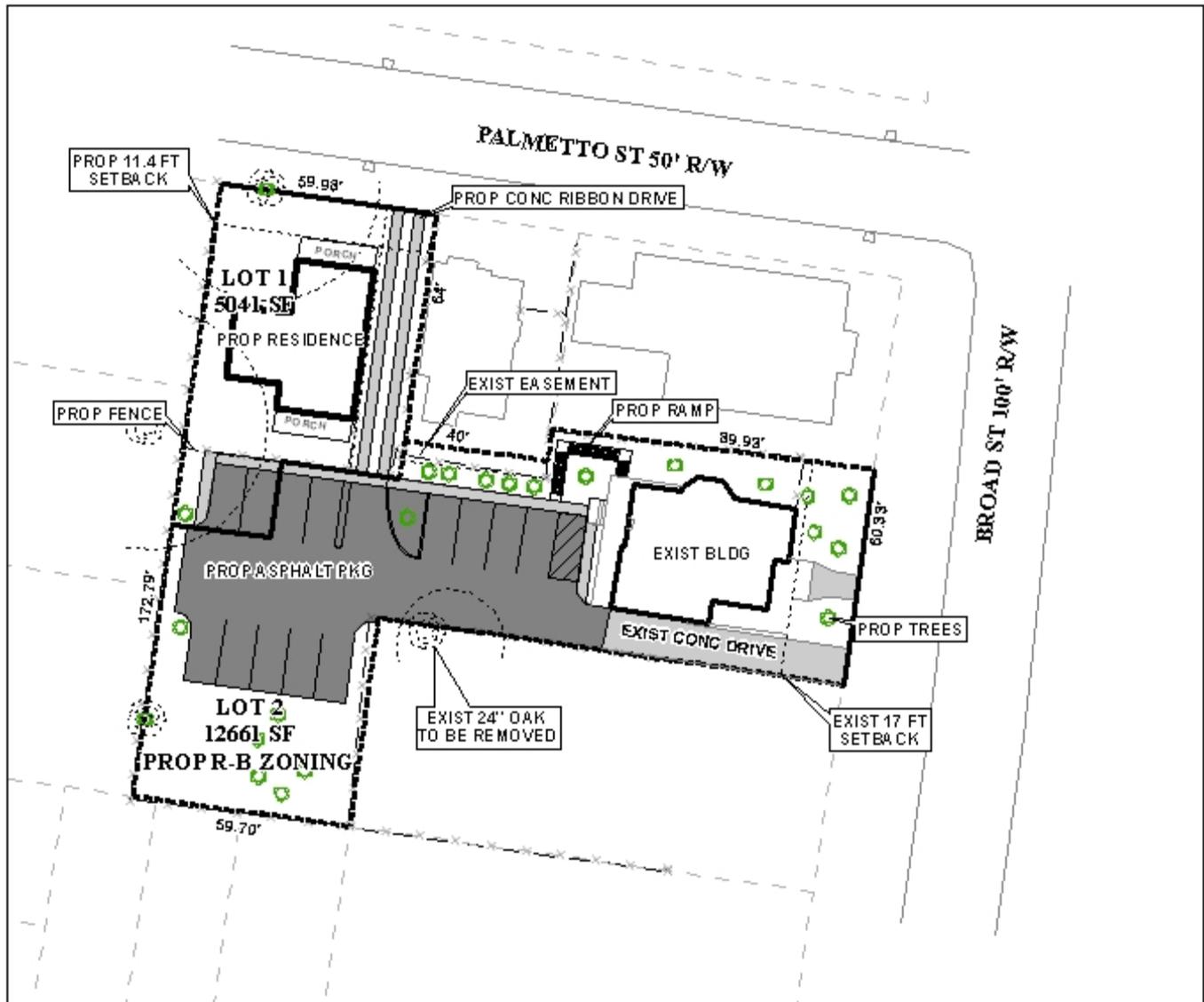


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# SITE PLAN



The site plan illustrates the proposed dwelling, parking, lot configuration, and zoning.

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