

**ZONING AMENDMENT STAFF REPORT****Date: December 3, 2015****NAME**

George Coburn

**LOCATION**4484 Rutgers Road  
(North side of Rutgers Road, 450'± West of Tufts Road).**CITY COUNCIL  
DISTRICT**

District 4

**PRESENT ZONING**

R-1, Single-Family Residential District

**PROPOSED ZONING**

B-1, Buffer-Business District

**AREA OF PROPERTY**

1-Lot/ 1.84 ± Acres

**CONTEMPLATED USE**

Rezoning from R-1, Single-Family Residential District, to B-1, Buffer-Business District, to allow an office for a tree trimming service.

**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.**

**TIME SCHEDULE  
FOR DEVELOPMENT**

Not specified.

**ENGINEERING  
COMMENTS**

1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, 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).
2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work.
3. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain

Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.

4. The approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. The Owner/Developer is responsible for acquiring all of the necessary permits and approvals.
5. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

## **TRAFFIC ENGINEERING**

### **COMMENTS**

Aggregate surface should not extend into the right-of-way. City standard driveway should be required.

*Revised for the February 18<sup>th</sup> meeting:* Aggregate surface should not extend into the right-of-way. Truck traffic to the site could be limited by the angling the driveways 45°-60° and allowing only one-way circulation (12' – 16' recommended). Deviation from the city standard driveway dimensions would be required, as it pertains to radii, to prevent large vehicles from travels on Rutgers Road east of this site, as stated in the voluntary conditions.

## **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 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).

## **REMARKS**

The applicant is requesting rezoning from R-1, Single-Family Residential District, to B-1, Buffer-Business District, to allow an office for a tree trimming service.

It should be noted, this site was reported through the City's 311 complaint system in December 2014 for operating a business in a residential area. Staff visited the site and found commercial equipment as well as a commercial office trailer was located on the site. After receiving a Notice of Violation the applicant submitted use and parking surface variances to the Board of Zoning Adjustment. On March 2, 2015 the Board of Zoning Adjustment denied the applications based on the following:

- 1) *Approving the variance request will be contrary to the public interest in that the property is located along a street segment with no other commercial uses, and as such, the increase in noise as well as heavy truck and employee traffic would negatively impact the adjacent residential uses;*

- 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 the majority of the adjacent properties are zoned and used for residential uses, R-1, Single Family Residential, and the few business that are within the area appear to be in compliance with the surfacing requirements of the Zoning Ordinance, and no other Surface Variances have been granted within the neighborhood.*

The applicant is proposing to develop the property as a tree trimming service office and locate a 12' x 44' office trailer on the property, as well a gravel driveway and gravel contractor storage yard to store commercial equipment for the business. It should be pointed out, the commercial office trailer has been located on the site since at least December 2014. Staff research shows that no permits have been issued for the placement of the trailer, such as for an electrical connection or plumbing connection. Furthermore, there is no information regarding if the trailer meets the wind zone requirements for this portion of Mobile County.

The site is shown 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. 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.

Properties to the North, East and South of the subject site are zoned R-1 and used as such, and the property to the West is a railroad.

The applicant's narrative states that there is commercial property located in the vicinity including I-1, B-2, and B-3 surrounding this property. The I-1 and B-3 properties are separated from the site by a railroad track, and the B-2 property is approximately 450' away, on the other side of 3 residentially zoned properties. The applicant also states *"The property abuts the most intense commercial use that you can have in the form of a Railroad. It also abuts B-3, R-1, and a non-conforming use for a trucking company. These are adjoining the property through the right of way for the railroad."* However staff does not consider a railroad to be a part of public right-of-way, and staff can only consider adjacent properties that are along the public rights-of-way as justification for rezoning.

As stated in Section 64-9.A.1. 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 applicant has not illustrated that any of the four conditions prevail which would justify the requested rezoning. The proposed rezoning would create a spot-zoning situation not justified by the proposed use. It should also be taken in consideration that the variances that would have allowed a limited type of use were denied. The approval of a rezoning will allow any use which falls within the B-1, Buffer Business District zoning classification to be located within this residential neighborhood.

It should also be noted that the site plan submitted with the application does not show city code compliant development of the site, including paved access, paved parking, accessible parking spaces, etc.

**RECOMMENDATION**

Based upon the preceding, the rezoning request is recommended for Denial for the following reasons:

- 1) the applicant has failed to show that any of the four conditions prevail to justify rezoning according to Section 64-9 of the Zoning Ordinance;
- 2) the subject site is within a single-family residential district, and does not lend itself to being developed commercially;
- 3) the proposed use would not be in character with the existing single-family residential use of the surrounding neighborhood along the East side of the railroad corridors, and would establish a precedent for commercial rezoning of adjacent properties.

***Revised for the January 7th meeting:***

*This application was heldover from the December 3<sup>rd</sup> meeting at the applicant's request. As stated previously in the initial report, the proposed rezoning would create a spot-zoning situation not justified by the proposed use. The fact that a variance request for this proposed site was denied reiterates the fact that the proposed use of this property is outside of the character of this area.*

*The applicant is awaiting the outcome of another rezoning application that is adjacent to this proposed site, which is #12 on the January 7<sup>th</sup> agenda. The adjacent property is currently zoned R-1, Single Family Residential, and the request is for a B-3, Community Business District zoning. Staff is of the opinion that both rezoning applications should be recommend for denial as this request has previously been denied by the Board of Zoning Adjustment as well as recommended for denial by staff in the initial report.*

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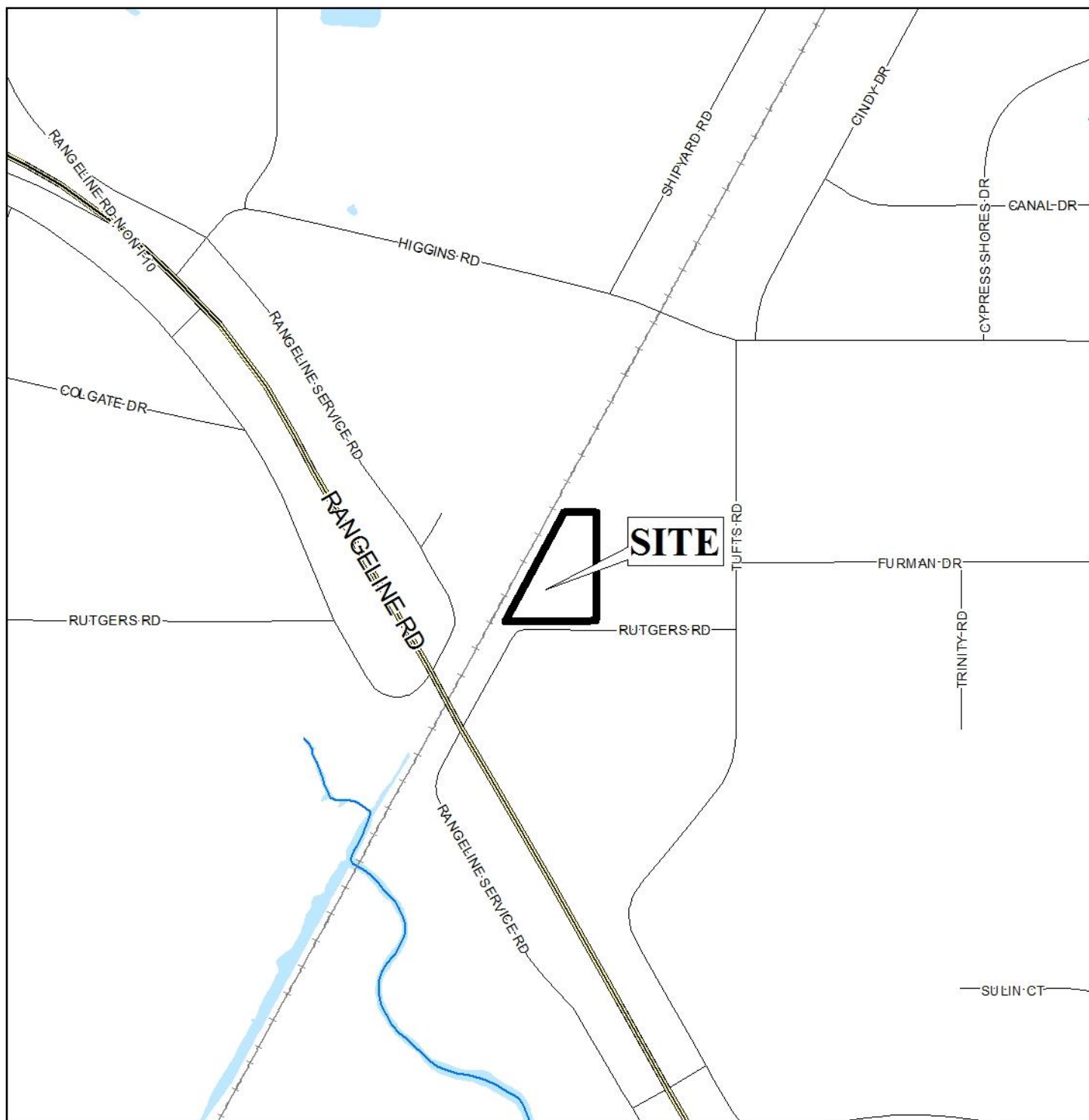
***Revised for the February 18<sup>th</sup> meeting:***

*This application was heldover from the January 7<sup>th</sup> meeting to allow the applicant to submit a revised site plan and voluntary use restrictions. The applicant provided a voluntary conditions and use restrictions document that states the following: "The access located at this property is to remain and be reconfigured as a left turn in and right out for all heavy trucks and equipment. The commercial traffic for this site will exit and enter from the west under the Rangeline Road overpass." Revised site plans depicting the proposed layout of the site, as well as the "left turn in and right out only" were also provided. It should be noted that the use of this property as a contractor's office will only allow outside storage under the following restrictions: "said construction storage area shall be completely screened by a 6' privacy fence; all materials stored shall not be stacked higher than 6'; heavy equipment such as bull dozers, dump trucks, etc. are not allowed". Should the applicant wish to store heavy equipment such as large trucks on the site, such will require an I-1 or I-2 zoning classification, which would not be appropriate for this site.*

*Based upon the preceding, the rezoning request is recommended for Approval, subject to the following conditions:*

- 1) full compliance with the voluntary use conditions provided by the applicant;*
- 2) outside storage allowed with the following restrictions: construction storage area shall be completely screened by a 6' privacy fence; all materials stored shall not be stacked higher than 6'; heavy equipment such as bull dozers, dump trucks, etc. are not allowed;*
- 3) use and development of the site to comply with all commercial site requirements; and*
- 4) full compliance with all municipal codes and ordinances.*

# LOCATOR MAP



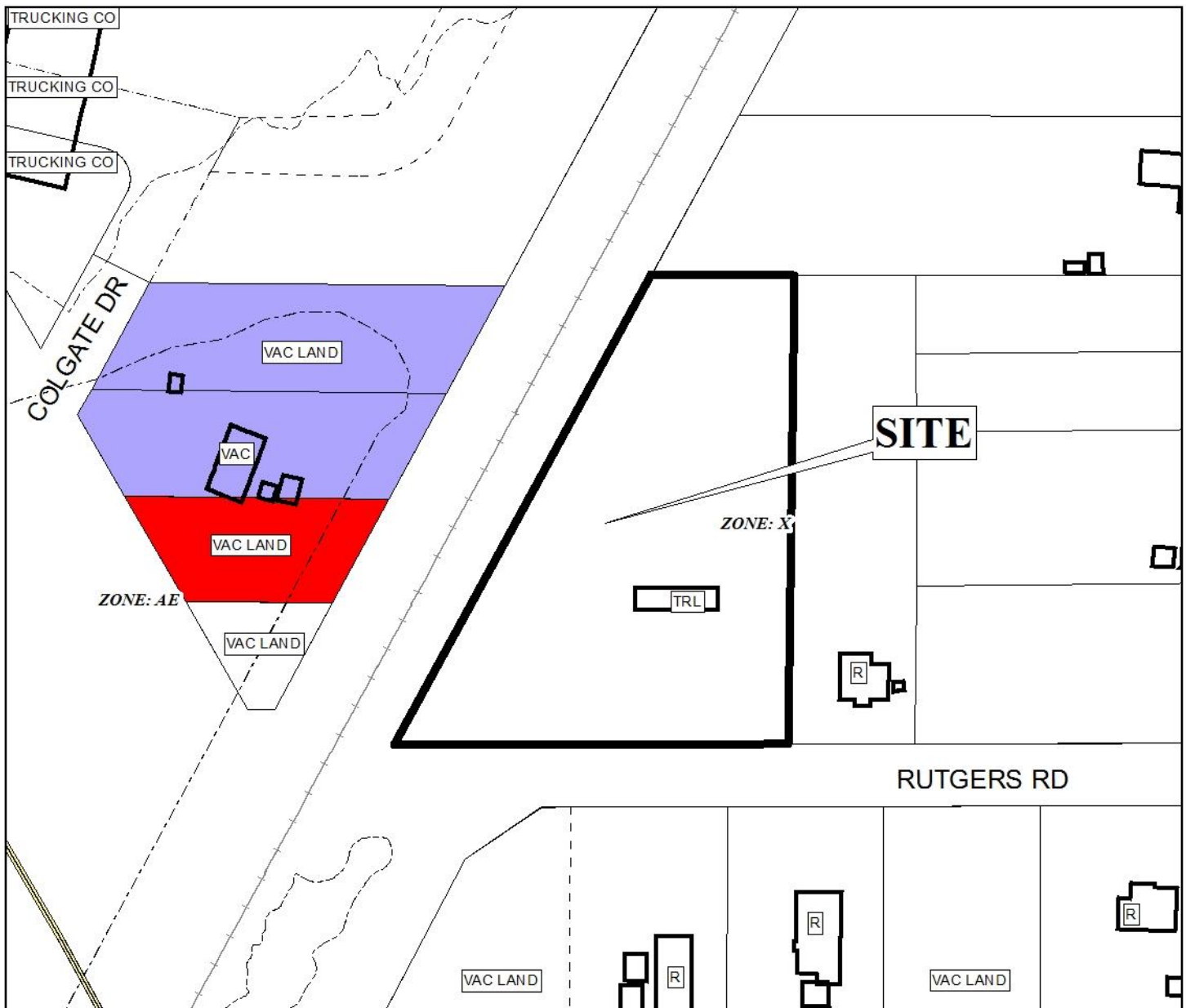
APPLICATION NUMBER 2 DATE February 18, 2016

APPLICANT George Coburn

REQUEST Rezoning from R-1 to B-1



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the east, and south.

APPLICATION NUMBER 2 DATE February 18, 2016

APPLICANT George Coburn

REQUEST Rezoning from R-1 to B-1

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



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

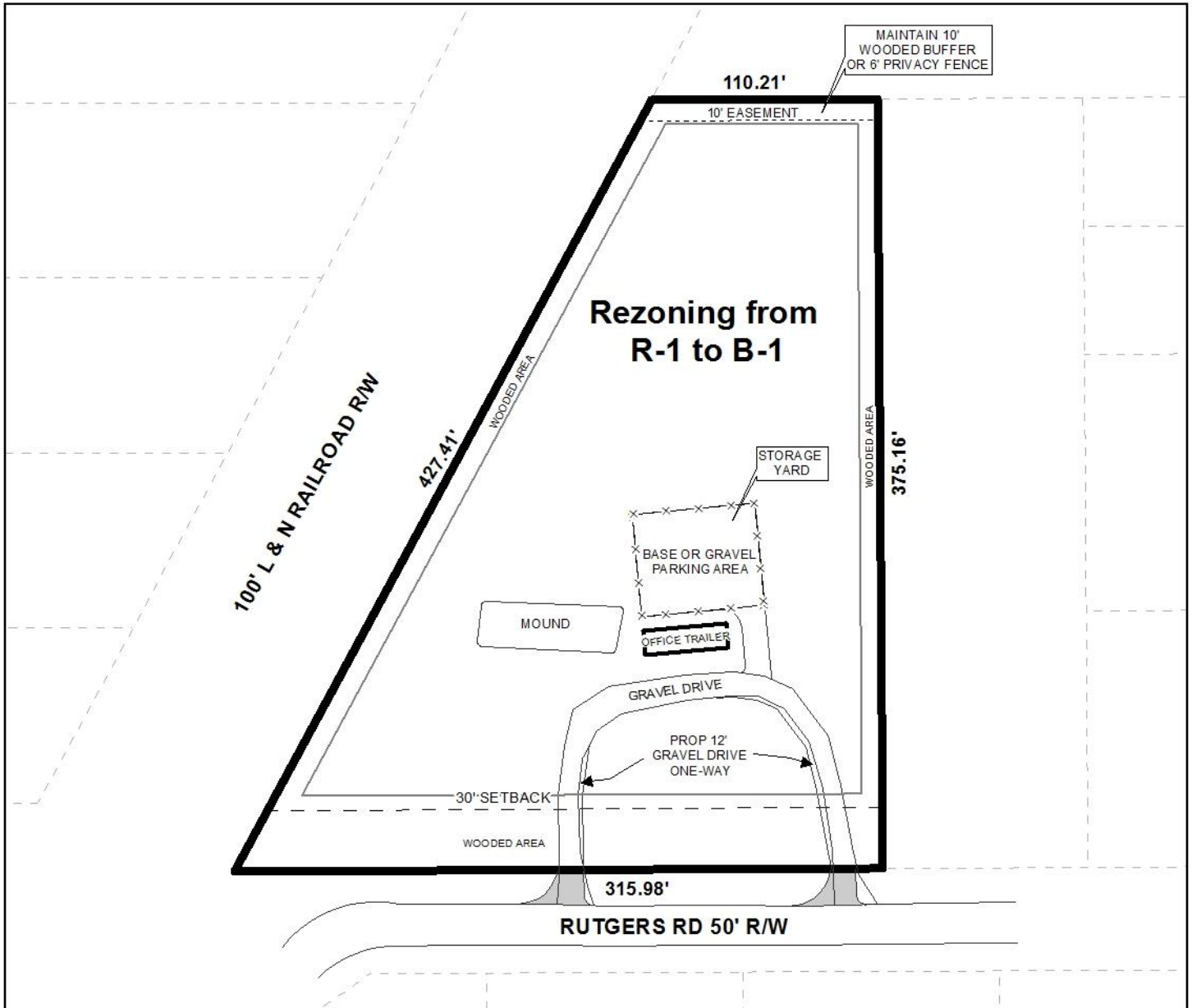


The site is surrounded by residential units to the east, and south.

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# SITE PLAN



The site plan illustrates the office trailer, setback, easement, and wooded areas.

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