

**ZONING AMENDMENT STAFF REPORT****Date: July 16, 2009****NAME**

Karen and Kelly Douglas  
(M. Don Williams, Agent)

**LOCATION**

5265 Noble Drive North  
(Southwest corner of Noble Drive and Noble Drive East).

**CITY COUNCIL  
DISTRICT**

District 4

**PRESENT ZONING**

B-3, Community Business District

**PROPOSED ZONING**

R-2, Two-Family Residential District

**AREA OF PROPERTY**

2.0 ± Acres

**CONTEMPLATED USE**

Rezoning from B-3, Community Business District to R-2, Two-Family Residential District to allow construction of a duplex apartment home and allow an existing duplex.

**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**

Within 60 days of approvals.

**ENGINEERING  
COMMENTS**

If greater than 4000 square feet of impervious area is proposed, storm water detention is required, per Storm Water Ordinance. The storm water ordinance does not allow water to be concentrated onto an adjacent property without a hold harmless agreement. All storm water must tie to the City of Mobile storm drainage system. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit.

**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).

**FIRE DEPARTMENT****COMMENTS**

Must comply with the following sections of the 2003 International Fire Code: B105.1 Fire Flow Requirements; C103.1 Fire Hydrants Available; D103.4 Dead Ends.

**REMARKS**

The applicant is requesting rezoning from B-3, Community Business District to R-2, Two-Family Residential District to allow construction of a new duplex apartment home and allow an existing duplex. Specifically, the applicant intends to build a 2,100 square foot residential duplex on one lot, and keep an existing dwelling and garage apartment on an adjacent lot.

This request was submitted as a change from R-1, Single-Family Residential to R-2, Two-Family Residential. This site is located in the newly annexed Theodore/Tillman's Corner area. Section 64-1.C of the Zoning Ordinance states that whenever property is annexed into the city, it becomes R-1, Single-Family Residential automatically. The site was rezoned by the City Council and July 7, 2009, to B-3, Community Business District, along with all of the surrounding property. Uses not allowed in B-3 zoned, but which are already present have legal, non-conforming, or "grandfathered" status.

The site fronts onto Noble Drive North to the North and Noble Drive East to the East. By are streets of adequate right-of-way. It should be noted that the subdivision in which this site is located, Noble Drive East Subdivision, was approved by the Planning Commission on January 17, 2008, with the condition that each lot be limited to one curb cut. The site plan submitted by the applicant shows two existing curb cuts on Lot 2 where the existing two-family development is located and shows two proposed curb cuts on Lot 1 where the applicant proposes a new two-family development.

Both of these situations are violations of the subdivision approval. It should further be noted that 2006 aerial photos, Google Street View, and Microsoft Aerial Photos do not show the gravel driveway depicted as existing on the site plan. It therefore seems likely that this gravel driveway was placed on the lot in violation of the Subdivision approval, and thus, should be removed. Additionally, the site plan should be updated to reflect the removal of one of the curb cuts on Lot 1.

The entire appears to be depicted as residential and commercial 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.

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 applicant has stated that there are changing conditions in the area, namely, that the City of Mobile has now annexed the site and has zoned the area B-3, Community Business District. The applicant also seems to imply that is now an error in the ordinance since the site and surrounding area have been rezoned by the Council.

Two-family residential development is only allowed above the first floor in B-3 zoning districts. As previously stated, the existing development is now legal non-conforming, and may be a candidate for a variance; the new two-family development proposed on the vacant lot could not be built in this zone.

The applicant states that they believe B-3 commercial development of this neighborhood is “years away” and they would like to develop their property now. This assertion is suspect as to the south of and directly adjacent to the site is a large and fairly new commercial warehouse development, and to the north across the street is the back of a Super Wal-Mart, all of which indicates increasing heavy commercial intrusion into this neighborhood, and thus, justification for the council rezoning of the property.

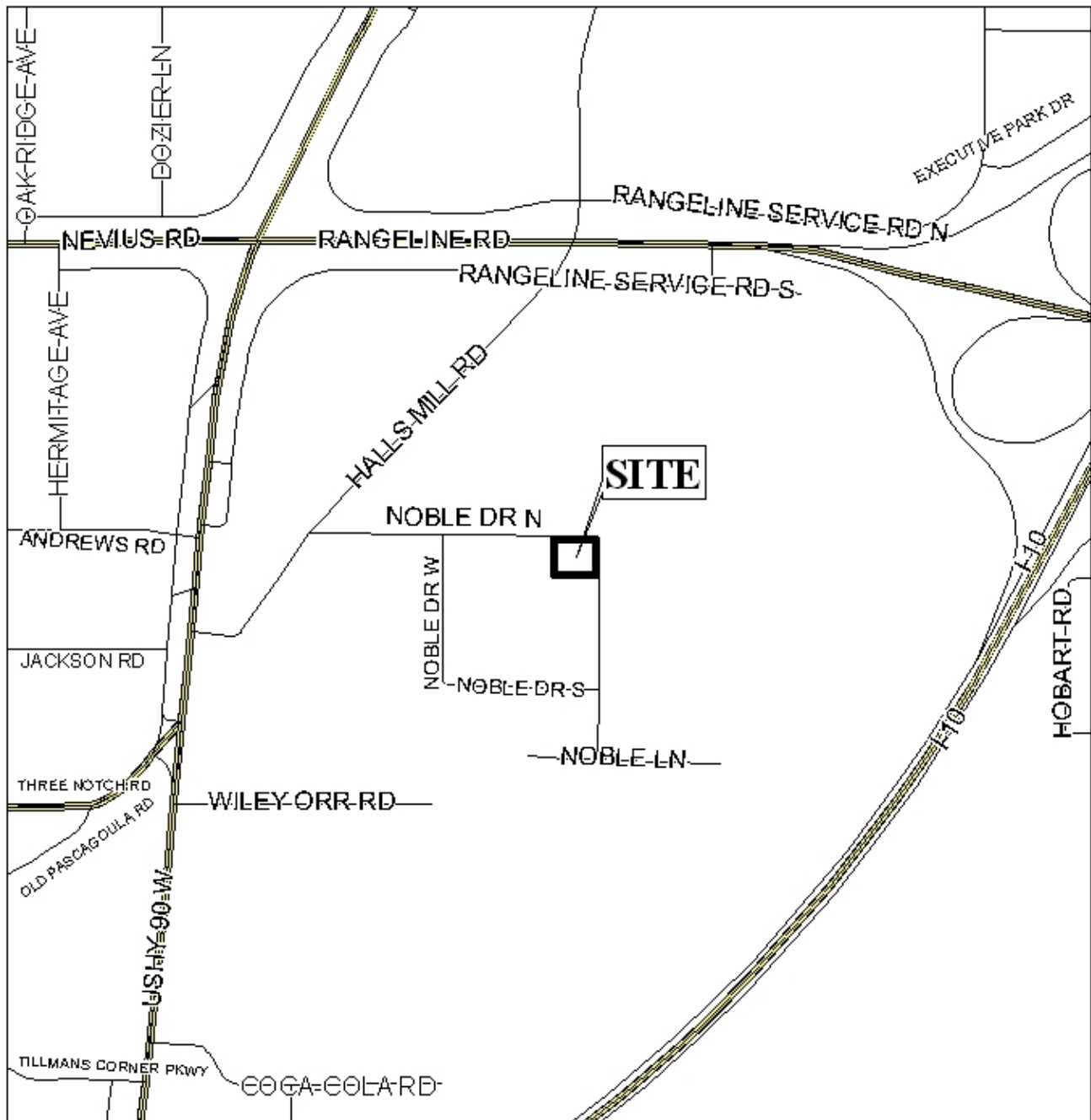
It would seem that a more prudent action would be to apply for a zoning variance for the existing duplex and modify their development plans for the vacant lot to construct multi-family housing instead of a duplex. The vacant lot is 17,421 square feet in area, which meets the space requirement for a 3-unit multi-family development, as such, the applicant’s goal of having dense residential development could be accomplished, in tandem with the existing zoning, by simply adding an additional dwelling unit. Additionally, the applicant could also subdivide the two lots and develop the new duplex structure in combination with the existing development (with an approved Planned Unit Development) and achieve multi-family development. Given these facts, the application is recommended for denial.

**RECOMMENDATION**

Based on the preceding, the rezoning is recommended for denial due to the following reasons:

- 1) There is no error in the ordinance; and
- 2) Conditions have not changed sufficiently since July 7, 2009, to warrant a rezoning.
- 3) Options available to the applicant are development of 3 or more dwelling units on the undeveloped lot, or subdivision and planned unit development approval to combine the new development with the existing development on one lot of land.

# LOCATOR MAP



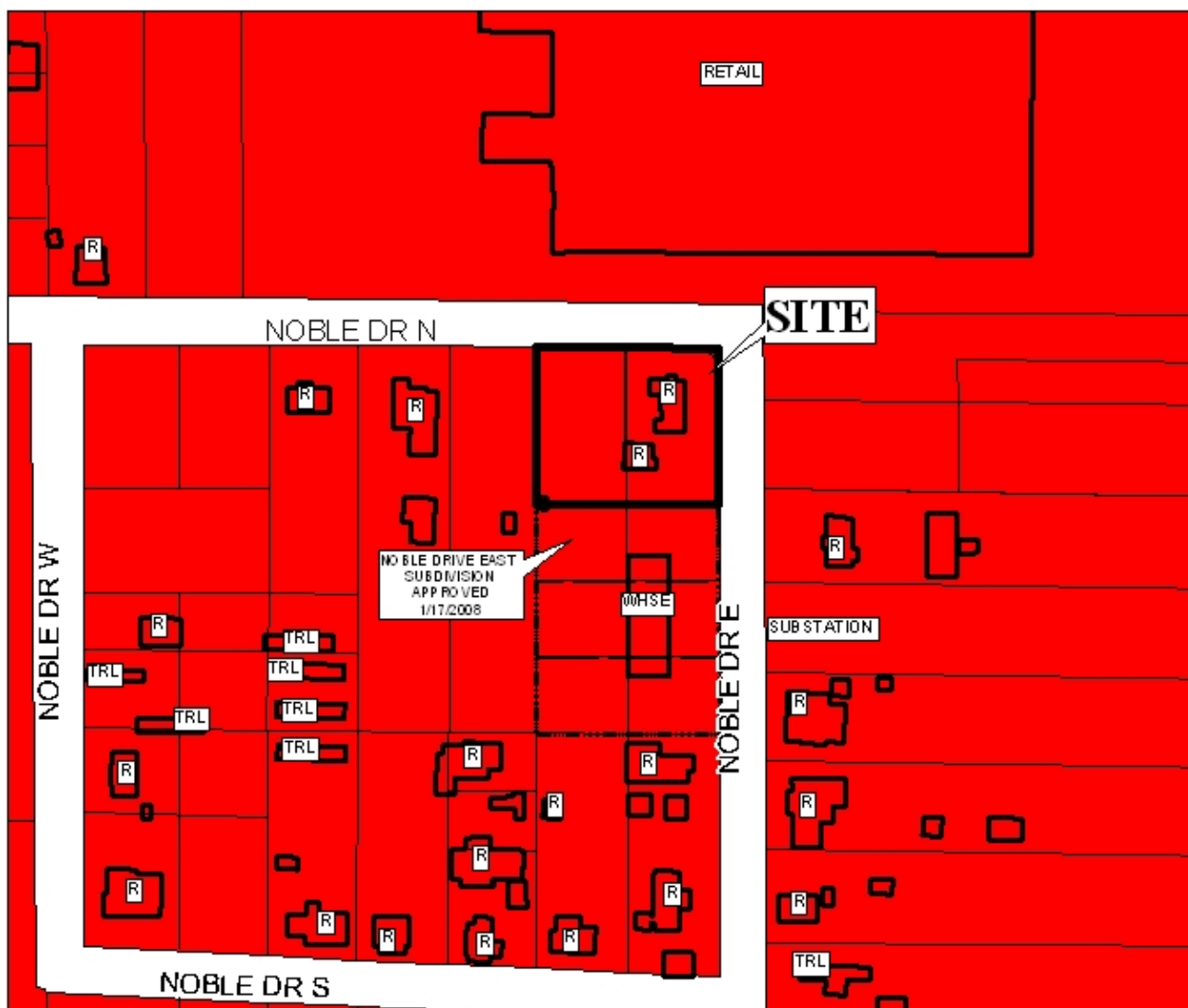
APPLICATION NUMBER 22 DATE July 16, 2009

APPLICANT Karen & Kelley Douglas

REQUEST Rezoning from B-3 to R-2



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



There are single family residential units to the east and west of the site, a department store to the north, and a warehouse to the south.

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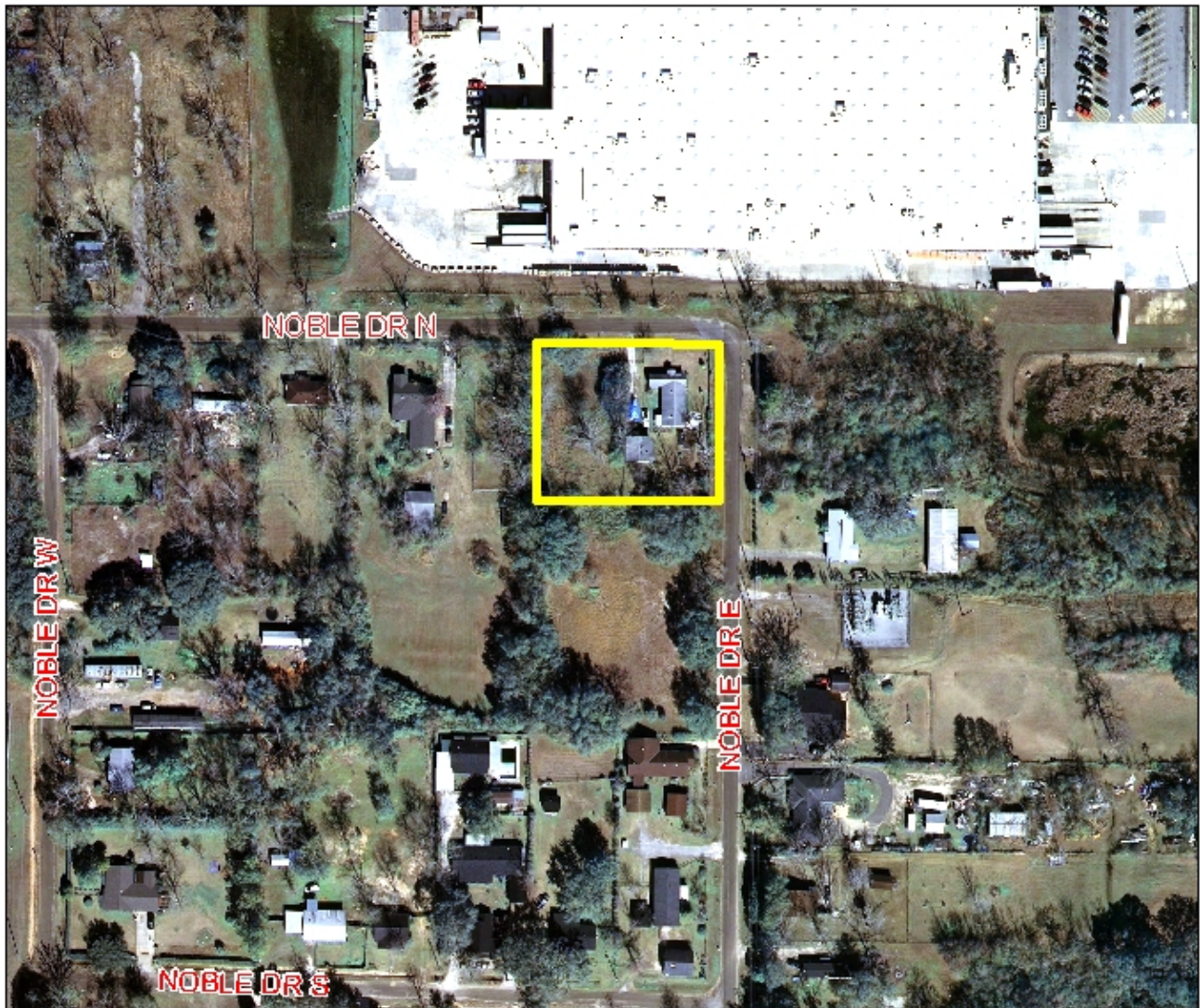
LEGEND

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
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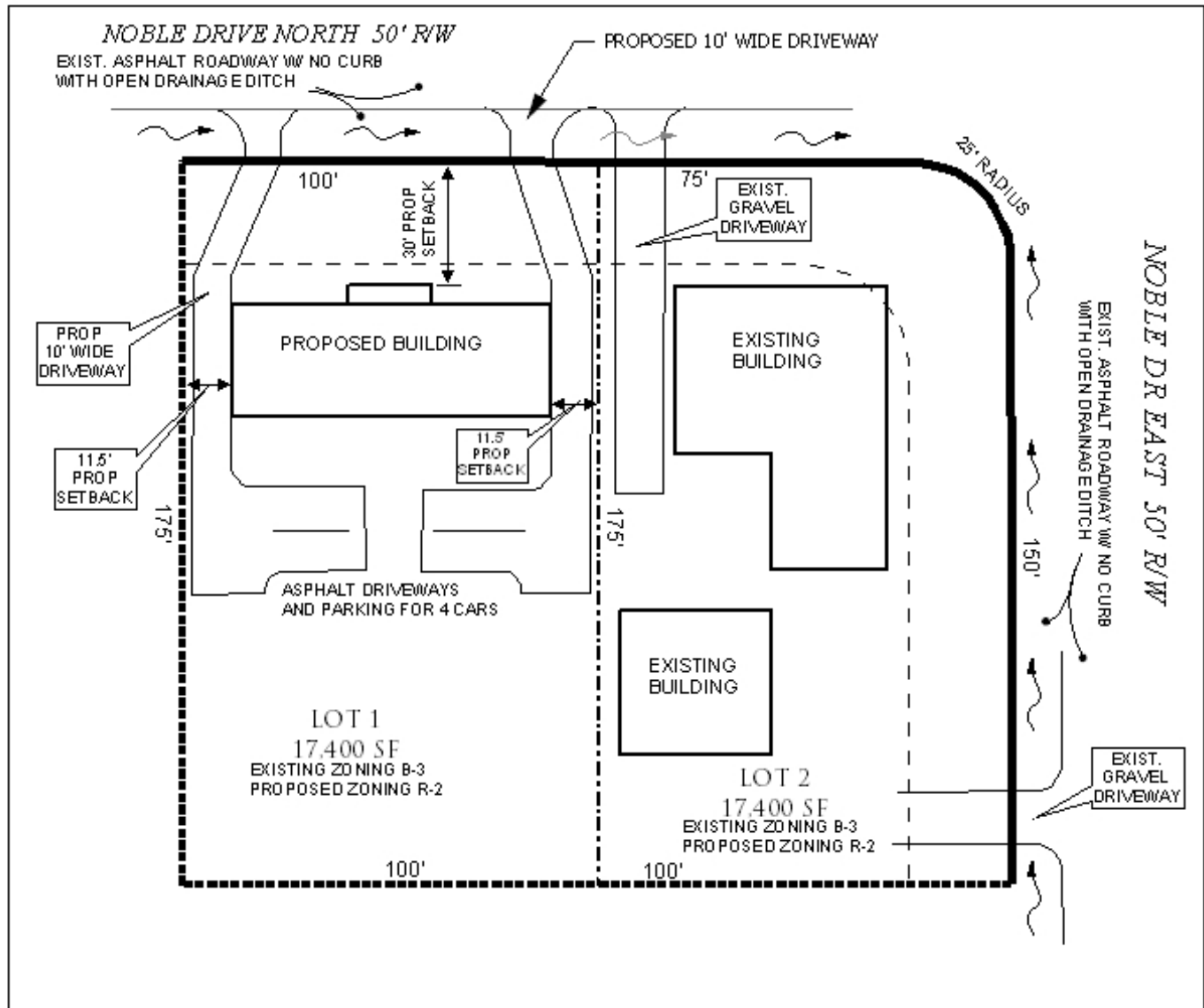
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N  
NTS

# SITE PLAN



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

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