

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT**

**Date: May 2, 2016**

**CASE NUMBER** 6040/4499

**APPLICANT NAME** LL&T Properties, Inc.

**LOCATION** 3938 Government Boulevard  
(North side of Government Boulevard, 740'± East of Azalea Road).

**VARIANCE REQUEST** **USE VARIANCE:** Use Variance to allow a spa facility to operate in a B-1, Buffer-Business District.

**ZONING ORDINANCE REQUIREMENT** **USE VARIANCE:** The Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a spa.

**ZONING** B-1, Buffer-Business District

**AREA OF PROPERTY** 0.58 ± Acres

**CITY COUNCIL DISTRICT** District 4

**ENGINEERING COMMENTS** No Comments

**TRAFFIC ENGINEERING COMMENTS** No traffic impacts anticipated by this variance request.

**URBAN FORESTY 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).

**ANALYSIS** The applicant is requesting a Use Variance to allow a spa facility to operate in a B-1, Buffer-Business District. The Zoning Ordinance requires a minimum B-2, Neighborhood Business District for the operation of a spa.

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.

Variations 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 regarding the variance requests:

*The applicant has a prospective tenant to lease 1,600 SF. in this existing building. The property is zoned B-1, however, the prospective tenant's type of business requires B-2 zoning. The applicant does not wish to rezone the entire property, therefore, a use variance is requested to allow the prospective tenant to operate her business in a B-1 zoning.*

*The prospective tenant proposes to offer Spa and Tea parties for little girls, with no more than 10-12 guests at a time. Individual spa services for children will also be offered. There are no set business hours, services will be available by appointment only on Friday afternoon, Saturdays and Sundays.*

*This type of business will not create any excessive noise, odor, or excessive traffic and will not have a negative impact on the surrounding properties. The neighboring properties to the west are zoned B-2 (occupied by an insurance and a bank), and B-3 (occupied by fast food restaurants). The property faces Highway 90 with B-2 and B-3 on the other side of Highway 90. Bordering properties to the east and north are zoned R-1. There are large trees along these properties lines serving as a buffer between this property and the residential properties, in addition to a high brick privacy fence. The parking lot is in front of this L-shaped building, therefore any traffic going in and out of this site will not be visible to the residential neighbors.*

*The prospective tenant will be the only tenant in this building at this time. Parking requirements for this prospective tenant will be 16 parking spaces. The applicants states that there is an existing PUD with the adjacent B-2 zoned property, allowing the subject building usage of the adjacent parking lot for a total of 71 spaces (see site plan for detailed parking data).*

As stated, the applicant wishes to operate a spa facility in property zoned B-1, Buffer Business District; however, per the Zoning Ordinance, spa facilities are allowed, at minimum, in a B-2, Neighborhood Business District.

Buffer business districts are composed of land and structures occupied by or suitable for such uses as offices, studios and automobile storage (commercial), including parking lots. The district regulations are designed to protect and encourage the buffer character of the districts by limiting the permitted uses to dwellings and uses of a semi-commercial nature and to protect the abutting

and surrounding residential areas by requiring certain minimum yard and area standards be met, standards that are comparable to those called for in residential districts. On the other hand, B-2, Neighborhood Business Districts, are composed of land and structures occupied by or suitable for furnishing the retail goods, such as groceries and drugs, and the services, such as barbering and shoe repairing, to satisfy the daily household needs of the surrounding residential neighborhoods. Often located on a thoroughfare or near the intersection of two (2) thoroughfares, these districts are small and within walking distance of most of the areas they will serve.

This site received approval for a variance at the Board of Zoning Adjustments July 10, 1995 meeting to allow two freestanding signs on a multi-tenant site; however, there have not been any variance requests received or approved in the past that pertain to the use and/or change in use of the subject site.

The subject property is part of a Planned Unit Development that is comprised of two lots with shared access and parking. Lot 1 contains 31 parking spaces and an existing 6,300± square foot building and is zoned B-2, Neighborhood Business District. Lot 2 contains 41 parking spaces and an existing 7,813± square foot office building of only which 1,600 square feet is being allocated towards the proposed business use. As mentioned previously, Lot 2, the subject site, is zoned B-1, Buffer Business District, as it is sited between residential and other business district types. The subject property has been occupied by various office-types, such as real estate, attorney, and consultant services, over the past years.

Based off the size and proposed use of the subject suite, the spa facility is required to have a minimum of five parking spaces per the Zoning Ordinance. The applicant states that the operation will take place Friday afternoons, and on Saturday and Sunday by appointment only and will only be limited to 10-12 guests at a time, which may potentially aid in mitigating any adverse effects to the property and the surrounding neighborhood. It appears that the site plan illustrates sufficient parking to accommodate the existing and proposed uses; however, the remainder of the building on Lot 2 is currently vacant and the uses and businesses hours of future tenants are unknown at this time.

As the term spa is broad, a number of services frequently fall within this category. Spas offer services such as manicures, pedicures, hair cutting and styling services, massage, facial, health, and overall body treatments. It should be noted, that if hair styling services, such as shampooing, are being offered, building/plumbing code regulations require that each shampoo bowl be equipped with a hair trap. Although the applicant has stated the proposed use of the suite, accompanied with parking calculations and illustrations, the applicant has not provided any significant details regarding the extent of the spa services to be offered to party guests.

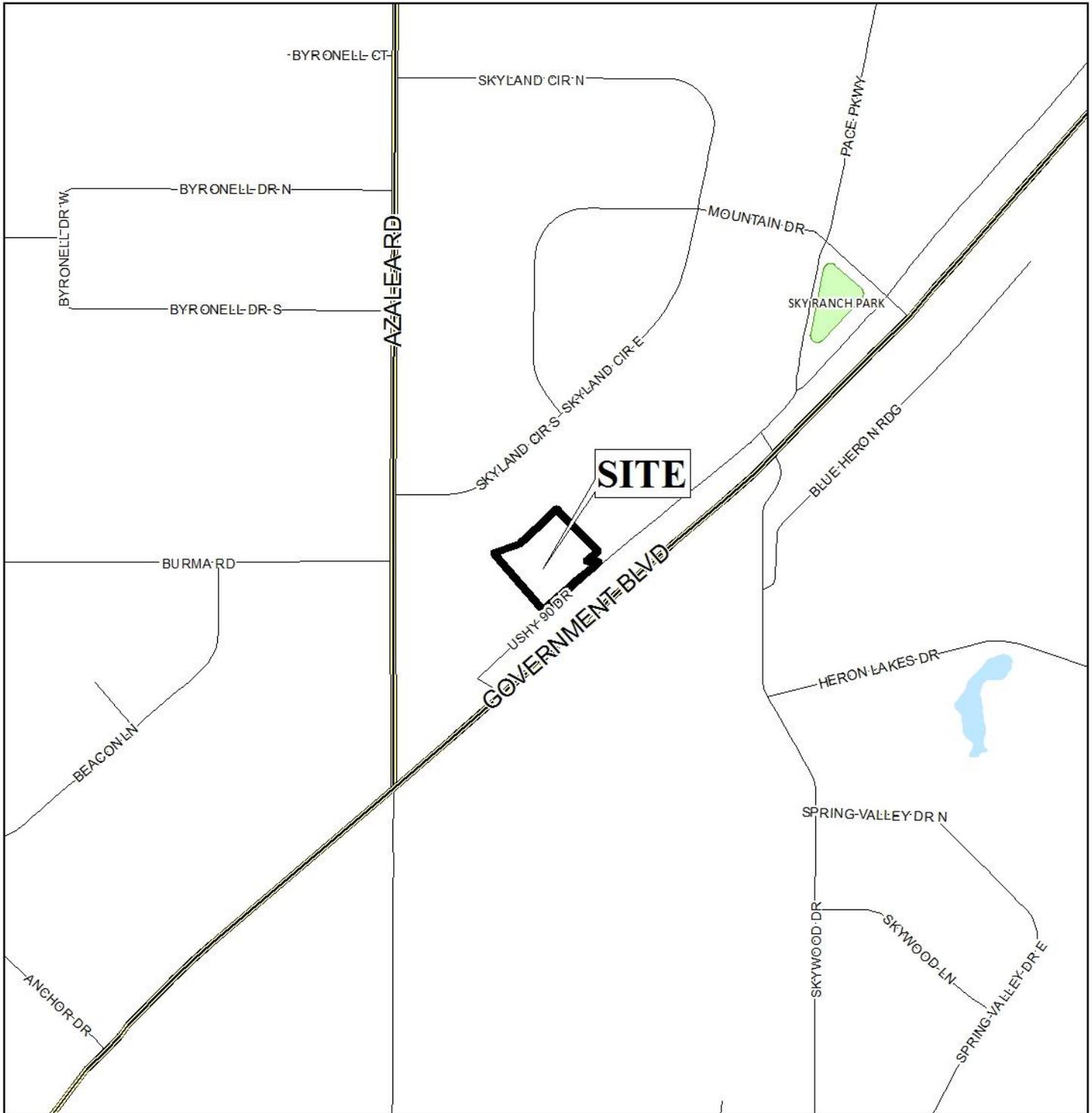
As previously stated, the applicant has provided a few details regarding the nature of the proposed business use and the existing characteristics and features of the subject site that would possibly accommodate such use, but the request does not clearly indicate the need for a variance due to any unusual characteristics or special conditions of the property that will result in an undue hardship. Nor, has the applicant stated how the proposed use will be beneficial, and not contrary, to the public's interest as the business can be placed in a more commercially-compliant

zoning district. Essentially, the proposed use is not commensurate with the type of uses B-1, Buffer Business Districts, generally support and seems to be inappropriate for this site.

Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Granting the variance will be contrary to the public's interest due to the fact that the lot is zoned for B-1 type uses, as the subject site is located between residential and other business district types;
- 2) Special conditions do not appear to exist as the applicant can place the proposed business in a compliantly-zoned commercial location; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variance, as the proposed use does not fit the overall character of the property as exhibited in its past uses and its current zoning designation.

# LOCATOR MAP



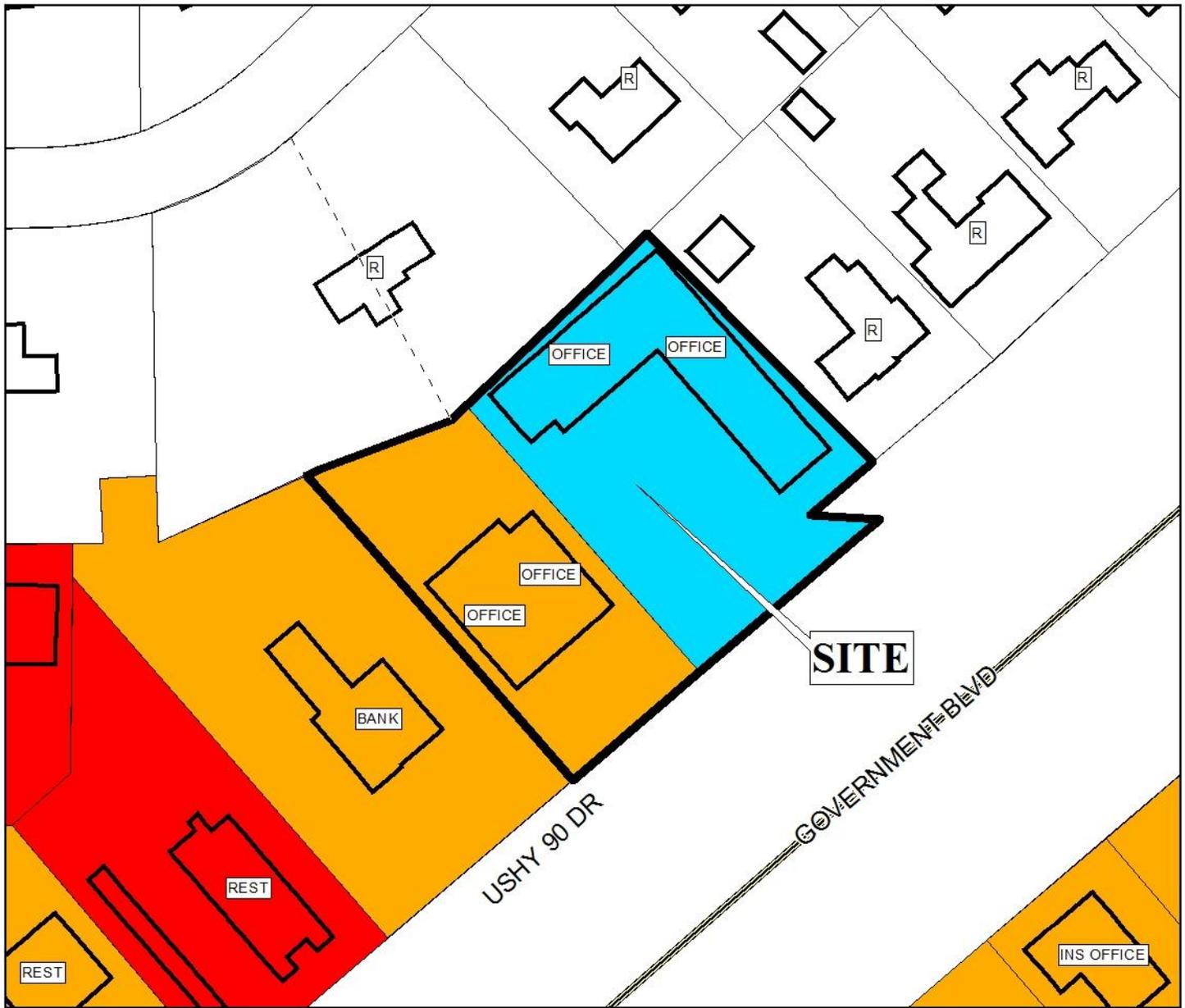
APPLICATION NUMBER 6040 DATE May 2, 2016

APPLICANT L L & T Properties, Inc.

REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the west, and residential units to the north and east.

APPLICATION NUMBER 6040 DATE May 2, 2016

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<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> R-A	<span style="display: inline-block; width: 15px; height: 15px; background-color: green; border: 1px solid black;"></span> R-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: tan; border: 1px solid black;"></span> T-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> B-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: blue; border: 1px solid black;"></span> B-5	<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> MUN	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD-WH	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> T5.1
<span style="display: inline-block; width: 15px; height: 15px; background-color: white; border: 1px solid black;"></span> R-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> R-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: cyan; border: 1px solid black;"></span> B-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: red; border: 1px solid black;"></span> B-3	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightblue; border: 1px solid black;"></span> I-1	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgreen; border: 1px solid black;"></span> OPEN	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpink; border: 1px solid black;"></span> T3	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkpurple; border: 1px solid black;"></span> T5.2
<span style="display: inline-block; width: 15px; height: 15px; background-color: yellow; border: 1px solid black;"></span> R-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: peachpuff; border: 1px solid black;"></span> H-B	<span style="display: inline-block; width: 15px; height: 15px; background-color: purple; border: 1px solid black;"></span> LB-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: brown; border: 1px solid black;"></span> B-4	<span style="display: inline-block; width: 15px; height: 15px; background-color: gray; border: 1px solid black;"></span> I-2	<span style="display: inline-block; width: 15px; height: 15px; background-color: orange; border: 1px solid black;"></span> SD	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightpurple; border: 1px solid black;"></span> T4	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> T6



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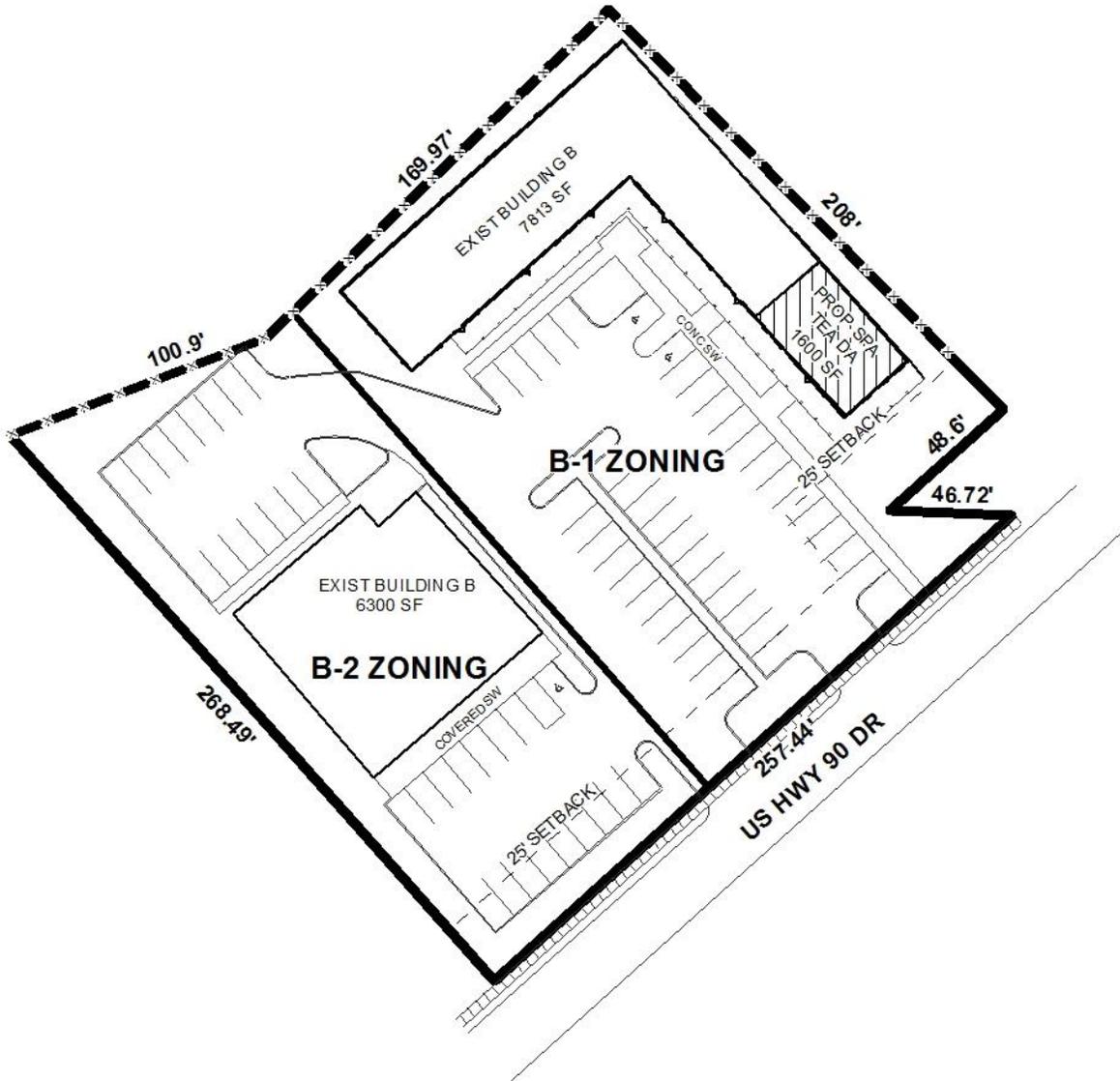
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# SITE PLAN



The site plan illustrates the existing buildings, the proposed Spa Tea DA space, setbacks, fences, and parking.

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