



DUMFRIES, VIRGINIA
Virginia's Oldest Continuously Chartered Town
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To: Town Council
From: David Moss, Town Planner / Zoning Administrator
Date: October 6, 2011
RE: Conditional Use Permit for Reliable Tires
17286 Dumfries Road

STAFF REPORT

Conditional Use Permit #11-70, Reliable Tires
Town Council Public Hearing Date: October 11, 2011
Staff Recommendation: Recommend Approval with Conditions

I. Background is as follows:

- A. Request - This is a request to approve a conditional use permit for tires sales and installation, light mechanical service, emissions and safety inspections, and the office for a towing company (no tow trucks or vehicle storage onsite) in the B-1, General Business district.
- B. Site Location - The site is identified by the GPIN number 8289-05-7538, and the address is 17286 Dumfries Road. The site is located on Route 234, Dumfries Road, between Lyon's Auto and McDonald's. The current use of the property is for a church. The church would retain part of the building, and the automobile-related uses proposed would take a portion of the building and a portion of the site.
- C. Comprehensive Plan - The site is designated Retail/Service General Business in the Future Land Use Map dated January 1993.
- D. Zoning - The site is currently zoned B-1, General Business.
- E. Surrounding Land Uses - The subject site is bordered to the west by auto-related uses including the current site of the businesses which is proposing to move next door to this location. The site is bordered to the north by Route 234, and across the road in the County is a proposed site for multifamily housing, the Briarwood project. To the east is a McDonald's restaurant. To the southeast is a vacant property zoned B-1 but only accessible through the Tripoli Heights neighborhood. To the southwest are residences. As the site is already developed, a buffer already exists between the subject site and the adjacent residential properties.

- F. Initial Request – The applicant’s initial application was for a conditional use permit for tires sales and installation, used motor vehicle sales, light mechanical service, emissions and safety inspections, and the office for a towing company (no vehicle storage onsite).
- G. Planning Commission Public Hearing and case review - A public hearing was held before the Planning Commission on September 12, 2011. No one spoke at the public hearing. Subsequent to the hearing, the case was heard by the Planning Commission during the regular meeting that night. The applicant was on hand to answer various questions that the Planning Commission had. The Planning Commission recommended adding specific conditions regarding lighting and accessory structures. The Planning Commission ultimately voted to recommend the tire sales and installation, light mechanical service, emissions and safety inspections, and the office for a towing company (no vehicle storage onsite). The Planning Commission did not recommend the motor vehicle sales.
- H. Amendment to request – Based on the input of the Planning Commission, the applicant altered their request to eliminate the request for motor vehicle sales.

II. Current Situation is as follows:

- A. Applicant has requested a public hearing and wishes to move forward with this conditional use permit application. The applicant’s lease is ending at their current location, and is looking to stay in town. The total extent of the proposed use includes tires sales and installation, light mechanical service, emissions and safety inspections, and the office for a towing company (no vehicle storage onsite). The applicant has a towing storage lot further up Route 234 in the County on property that is zoned M/T, Industrial/Transportation, and is appropriately zoned for motor vehicle storage lots. The towing business mentioned in the application is for an office for a towing company only, with the storage lot on Route 234 to be used for the actual storage of vehicles related to the towing business. No storage of vehicles related to the towing business will be allowed onsite.
- B. The applicant completed and submitted the application prior to the Zoning Text Amendments that became effective September 20, 2011. As stated in the adopted ordinance, the applicant is entitled to continue to apply for this use which was allowed with a conditional use permit in the B-1 zone. The Zoning Text Amendment that no longer allows this use with or without a conditional use permit does not apply to this case. All references made hereafter to the Zoning Ordinance are specifically referencing the Zoning Ordinance in effect at the time of the application.
- C. Town Council Public Hearing - A public hearing before the Town Council has been advertised for October 11, 2011.

III. Issues in order of importance are as follows:

A. Zoning Ordinance

1. Intent of B-1 zoning – Does the proposed use further the intent of the B-1 zoning district?
 - a) The intent for the B-1 zoning district is as follows:

“This district is intended to provide sufficient space in appropriate locations for a wide variety of commercial and miscellaneous service activities, generally serving a wide area and located particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, or noise associated with manufacturing.”
2. Zoning requirements – Does the site otherwise meet the requirements of the Zoning Ordinance?
 - a) The applicable sections of Section 70-247 related to uses allowed in the B-1 zoning district are as follows:
 - (2) Automobile and truck sales and sales and service establishments subject to securing a conditional use permit as follows:
 - b. Automobile sales and service, lot size shall be not less than one acre.
 - d. All automobiles or trucks whether for sale, lease or waiting for service or repair, when not inside a work bay, shall be placed in a marked parking space conforming to section 70-13
 - e. Site plans for new establishments or tenant layouts for alteration of existing establishments shall contain a certified parking plan, a vehicle delivery statement, a landscaping plan and a lot parking calculation table. Site plans shall conform to article III, division 11 of this chapter and tenant layouts shall be drawn to scale.
 - f. Vehicle lifts and pits, dismantled and wrecked vehicles and all parts and supplies shall be located inside a building enclosed on all sides and all repair and servicing of all vehicles shall be conducted in a building enclosed on all sides. Truck stops are excluded from this zoning district.
3. Conditions – Are there any conditions that should be applied to the use to limit the impact of the use on the surrounding area?

B. Legal Uses of the Property – What uses are allowed on the property? How are legal issues resulting from the Town Council action addressed?

C. Timing – What effect would the conditional use permit have on future use of the property?

IV. Alternatives beginning with the staff recommendation are as follows:

A. Recommend approval of CUP #11-70, Reliable Tires, with conditions, with an expiration date for the conditional use permit 5 years from the date of approval so that the Town might revisit the conditional use approval in 5 year's time, if the applicant wishes to continue the use at that site.

1. Zoning Ordinance

- a) Intent of B-1 zoning – The application meets with the general intent of the B-1 zoning district. Conditions attached to this approval would maintain the intent of the B-1 zoning by ensuring that frequent heavy trucking activity or open storage of material are prohibited. While the Town is currently considering an amendment to the Zoning Ordinance that would restrict this use in the B-1 zone, the property the applicant is considering was previously used as an automobile-related business, for the inspection of vehicles. Therefore the use of a portion of this property for this business may be acceptable given the design of the building. Conditions attached to this approval would mitigate any additional impacts on the surrounding area such as unsightly vehicles and truck traffic.
- b) Zoning requirements – Section 70-247(2)b. is satisfied, as the property is over one acre in size (site is 2.2768 acres). Section 70-247(2)d. will automatically be listed as a condition of approval. Section 70-247(2)e. is satisfied because the existing site has already been approved with a certified parking plan and landscaping plan. A lot parking calculation is shown below, showing ample parking on the site for the proposed uses. It is important to note that the Zoning Ordinance does not list a specific requirement for parking for motor vehicle repair uses. In this instance, based on this case, I used automobile rental agencies as a close proximity to determine required number of parking spaces. The pertinent portions of Section 70-247(2)f. will automatically be listed as a condition of approval.

| <u>Use</u> | <u>Requirement</u> | <u>Space planned for use</u> | <u>Parking spaces required</u> |
|--|---|--|--------------------------------|
| Automobile rental agencies | 1 for each 200 square feet of floor area, plus 1 space for each vehicle to be rented | 1180 square feet of retail and office space for business | 21 |
| Gasoline filling station | 1 for each lubrication pit or maintenance stall plus 1 for service vehicle, plus 3 for employees | 2 inspection/ service bays | 6 |
| Churches, synagogues, temples, and other places of worship; and civic fraternal, political, private, religious, and social nonprofit | 1 for every 4 seats of the maximum seating capacity in the main place of assembly or 1 for each 100 square feet of usable floor area in the main place of assembly in | 1950 square feet of primary assembly area | 20 |

| organizations | places which do not have fixed seats | | |
|---|---|-------------------|----|
| Future use in portion of building closest to McDonald's | No requirement can be established until a use is proposed | none at this time | 0 |
| Total required parking | | | 47 |
| Total available parking onsite | | | 90 |

- c) Conditions – Conditions set forth in the Zoning Ordinance which are automatically set forth as conditions of approval for this use, as well as conditions set forth by the Zoning Administrator, and conditions set forth by the Planning Commission. The Town Council may add additional conditions that they deem necessary for the mitigation of impacts from this use on the surrounding community.
- i) All automobiles or trucks waiting for service or repair, when not inside a work bay, shall be placed in a marked parking space conforming to section 70-13.
 - ii) Vehicle lifts and pits, dismantled and wrecked vehicles and all parts and supplies shall be located inside a building enclosed on all sides and all repair and servicing of all vehicles shall be conducted in a building enclosed on all sides.
 - iii) This approval includes an office for a towing company. At no time will tow trucks or vehicles that have been towed by the company be parked onsite except when the vehicle has been towed to the lot specifically for maintenance otherwise approved as part of this conditional use permit.
 - iv) Vehicles awaiting maintenance, if damaged or unsightly, will be stored behind the building and away from other uses on the property.
 - v) Any changes to the lighting plan for the property will include a zero-cutoff at the property lines to avoid light encroaching on neighboring properties.
 - vi) Any additional structures erected on the site for storage of automobile parts will be built at least 25 feet from the adjacent residential properties.
 - vii) This approval will expire 5 years from the date of approval, with the opportunity for the applicant to re-apply for an extension of the conditional use permits with separate expiration dates and possibly additional conditions imposed at that time. Amendments to the Zoning Ordinance shall not prohibit the applicant from applying for continuations of this conditional use permit in the future.
2. Legal Uses of the Property – Upon approval of the conditional use permit, the applicant would locate the tire/maintenance/towing office in the portion of the building shown on the attached drawings. A church already occupies the remainder of the building. A third tenant will be pursued for the portion of the building closest to McDonald's. This approval does not extend to the portions of the building not part of this conditional use permit application, and any future uses that might require a conditional use permit to occupy the other portions of the building will be required to apply for a conditional use permit for that use in

that part of the building. Zoning Text Amendments adopted September 20, 2011 no longer allow this use in this zone, even with a conditional use permit. If the CUP is approved, the rights vesting in the applicant and owner of the property, running with the land, shall not be construed to be restricted by the adopted changes to the Zoning Ordinance. This would allow for future applications for conditional use permits to continue this use in the future. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.

3. Timing – The proposed conditional use permit would be given an expiration date 5 years from the date of approval, requiring an additional application and public hearing process 5 years from now if the applicant proposes to remain on the site.

B. Recommend denial of CUP #11-70, Reliable Tires.

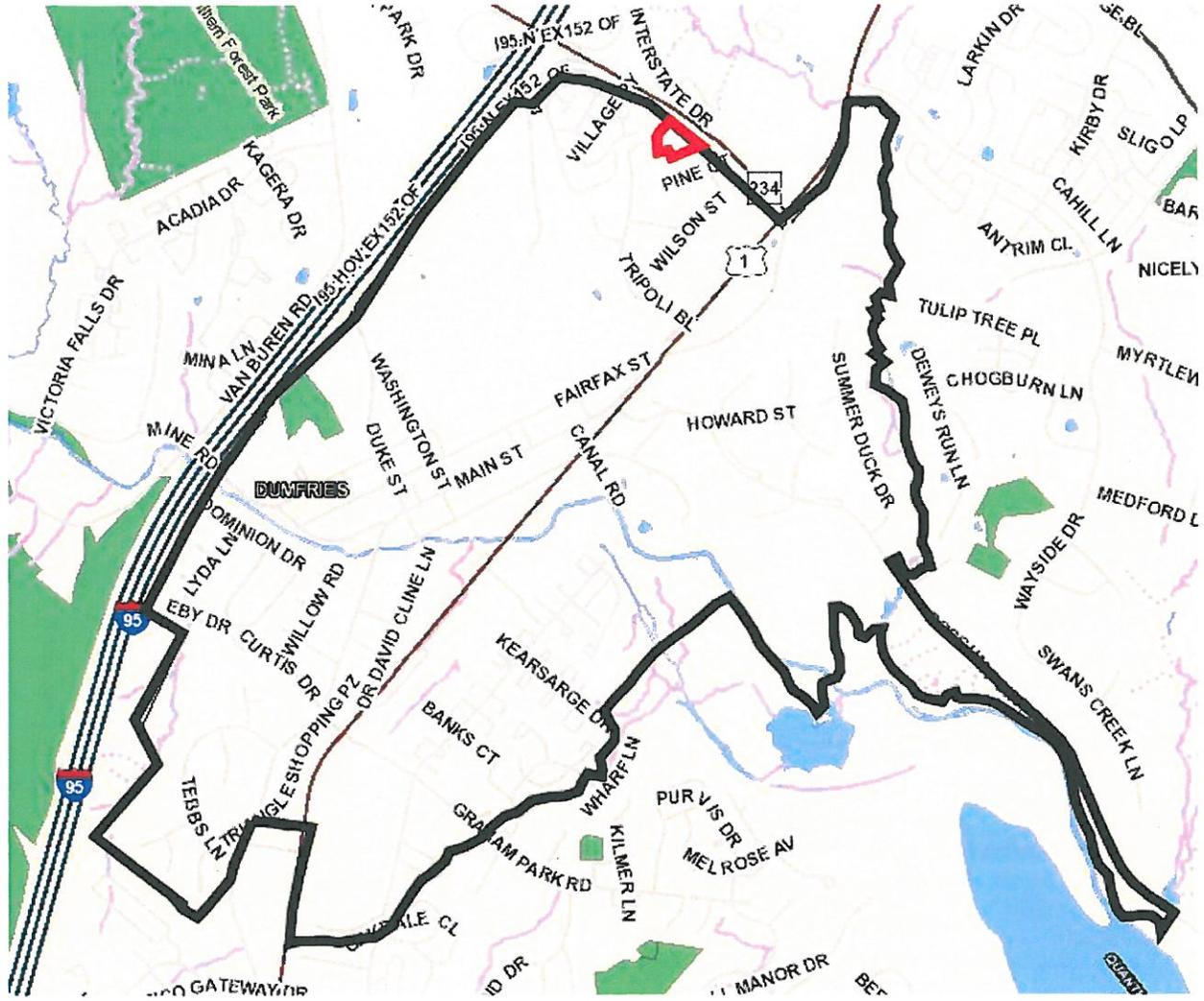
1. Zoning Ordinance

- a) Intent of B-1 zoning - If the application is denied, future use of the property could still further the intent of the B-1 zoning district.
 - b) Zoning requirements – If the application is denied, further analysis of zoning requirements would be moot.
 - c) Conditions – If the application is denied, further analysis of conditions would be moot.
2. Legal Uses of the Property – Upon denial of the conditional use permit, the use would remain a church, which is lawfully nonconforming based on the Zoning Text Amendments adopted by the Town Council on September 20, 2011. Legal issues resulting from Town Council action are appropriately addressed by the Town Attorney.
 3. Timing – If the application is denied, further analysis of timing would be moot.

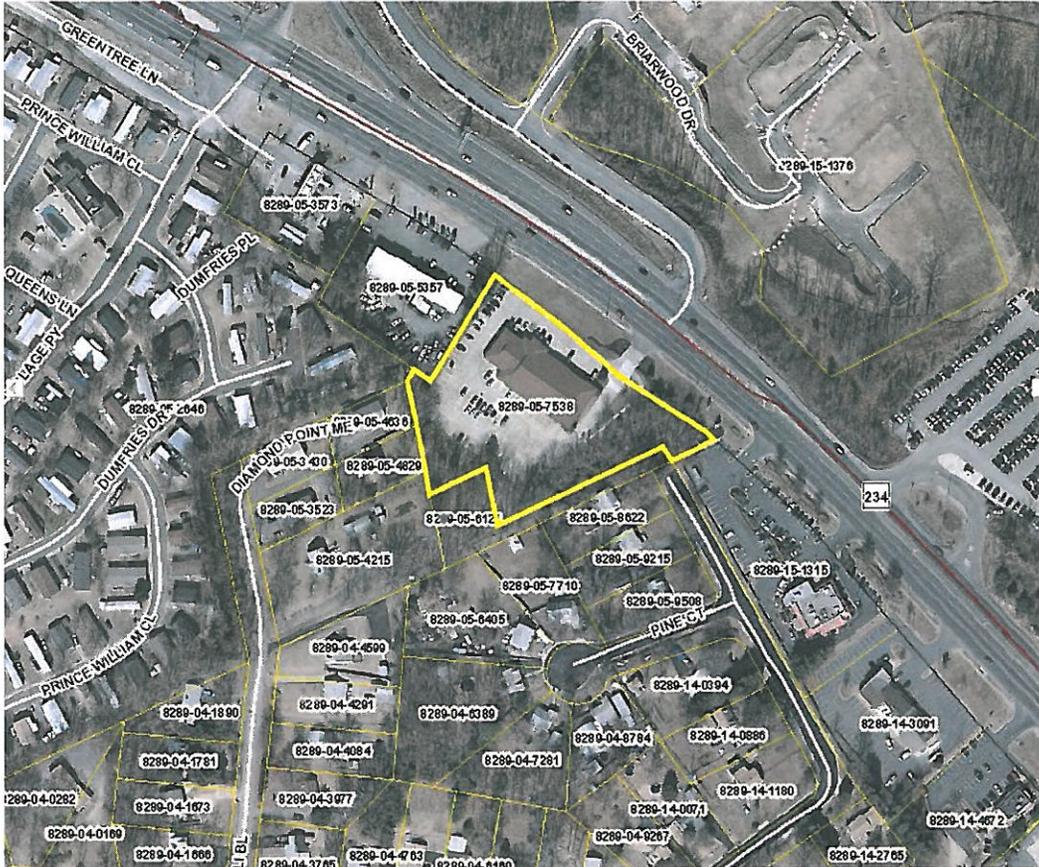
V. Recommendation is that the Town Council accept Alternative A and recommend approval of Conditional Use Permit #11-70, Reliable Tires, with conditions, with an expiration date for the conditional use permit 5 years from the date of approval so that the Town might revisit the conditional use approval in 5 year's time, if the applicant wishes to continue the use at that site.

Attachments

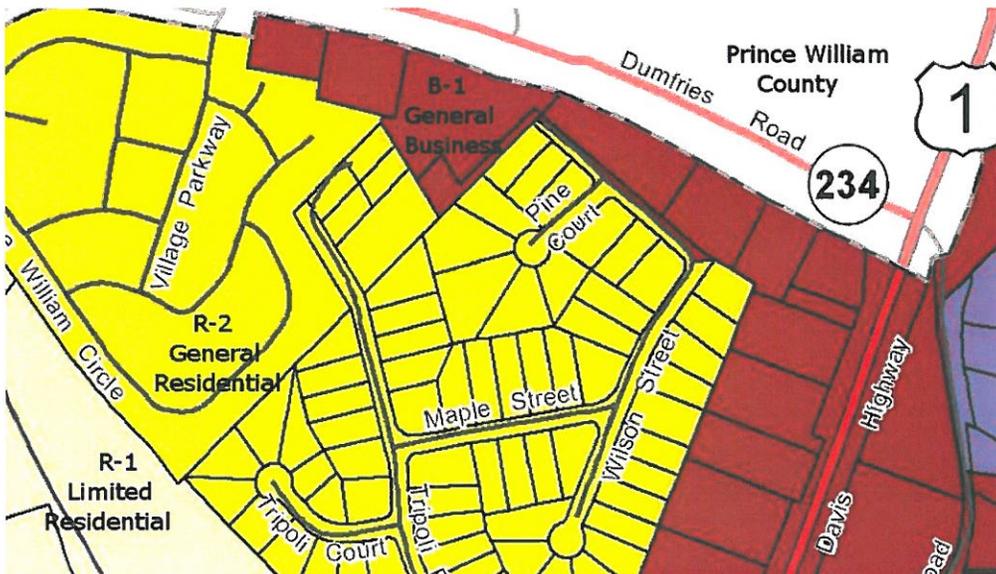
- A. Area Maps
- B. Drawings showing area to be used for conditional use permit



Location of the site in relation to the Town

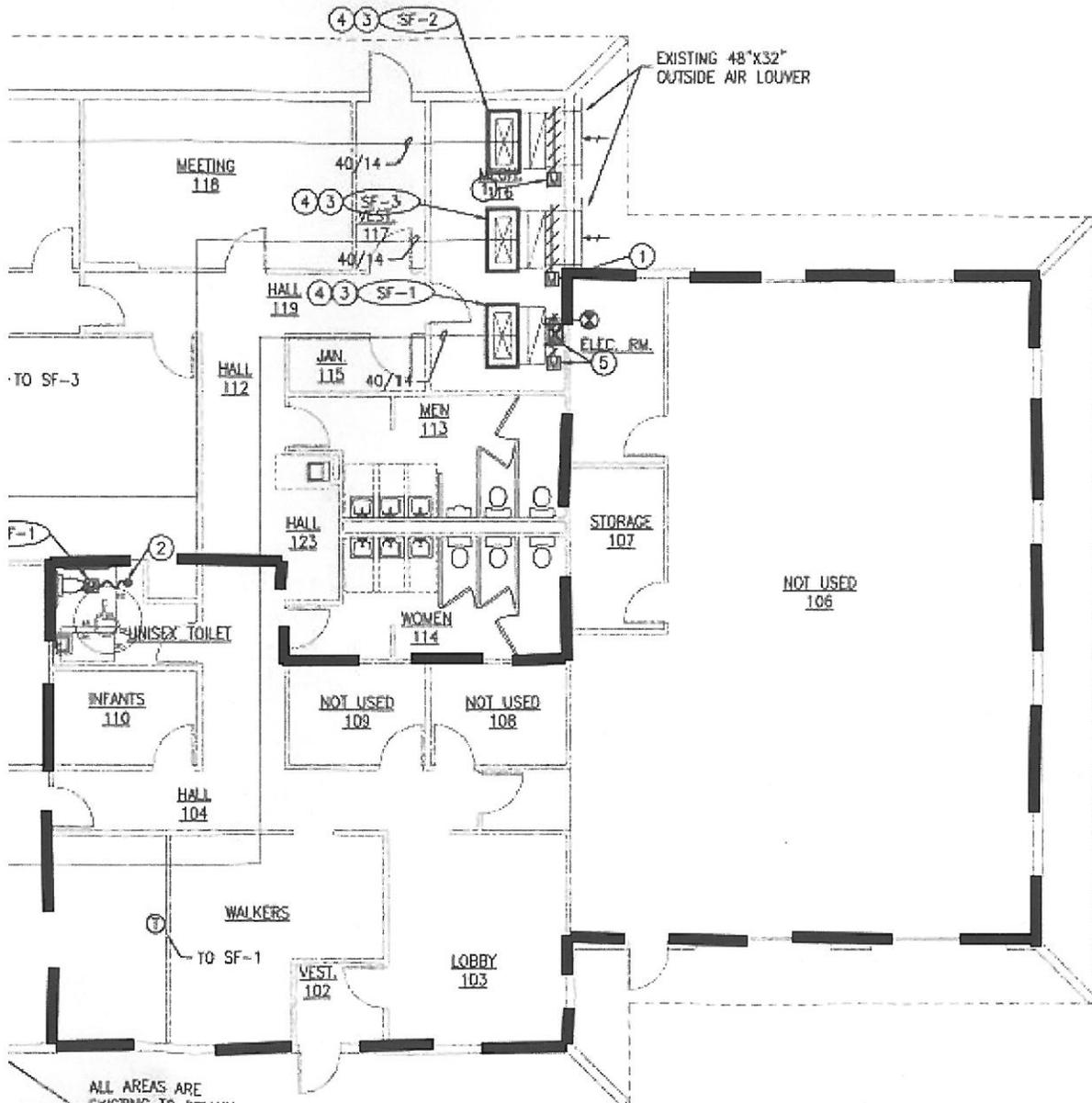


Location of the site and adjacent properties



Zoning surrounding the property

Area of building covered by CUP.
Does not indicate full limits of CUP,
as part of parking lot is also
designated for the use of this CUP.



Portion of the building to be devoted to this use