

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: March 10, 2014****CASE NUMBER** 5879/4504/2211**APPLICANT NAME** Damu Kunche**LOCATION** 2306 & 2308 Airport Boulevard  
(Northeast corner of Airport and Morgan Street)**VARIANCE REQUEST** **SETBACK:** Front Yard Setback Variance to allow a 20' X 36' gas pump canopy 4.5' from the front property line in a B-2 Neighborhood Business District.**ZONING ORDINANCE  
REQUIREMENT** **SETBACK:** The Zoning Ordinance requires a minimum 25' front yard setback of for all structures in a B-2, Neighborhood Business District.**ZONING** B-2, Neighborhood Business District**AREA OF PROPERTY** 22,500 square feet**ENGINEERING  
COMMENTS** No comments.**TRAFFIC ENGINEERING  
COMMENTS** The proposed location of the canopy columns and gas pumps will not be located within the sight triangle of Morgan Avenue, and therefore should not obstruct a driver's line of sight. The removal of the existing sign post and foundation will improve visibility from Morgan Avenue to the east along Airport Boulevard. In regards to the driveway closure, any work to be performed in the right-of-way will require a permit from the Engineering Department.**URBAN FORESTRY  
COMMENTS** No comments received.**CITY COUNCIL  
DISTRICT** District 1**ANALYSIS** The applicant is requesting a Front Yard Setback Variance to allow a 20' X 36' gas pump canopy 4.5' from the front property line in a B-2 Neighborhood Business District. The Zoning Ordinance requires a minimum 25' front yard setback of for all structures in a B-2, Neighborhood Business District.

A front yard variance application was submitted to the Board of Zoning Adjustment in August of 1995 to allow a 24' X 24' canopy within 2' of the front property line. The application was denied based on the fact that insufficient evidence was presented that the Zoning Ordinance caused an unnecessary hardship to the property. A new application has been submitted and the applicant is proposing to install an additional gas pump with an island to be located next to an existing pump, as well as a 20' X 36' canopy to cover the existing and proposed pumps, to be located only 4.5' from the front property line.

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.

Variances 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 applicant operates an existing convenience store with a single gas pump located 14.5 feet north of the Airport Boulevard right of way line. He proposes to install another pump and construct a canopy over both pumps. The new pump would be located in line with the existing pump (14.5 north of Airport Boulevard) and the canopy support columns would be in line with the gas pumps. There is a similar situation at 811 Dauphin Island Parkway (Exxon station) with the gas pumps and canopy columns located 15' from the right of way line. The canopy would be 20' X 36' at a height of 16' above ground, thereby making the south edge 4.5' from the right of way line. This may seem close to Airport Boulevard but the canopy would not create a visual obstruction to the motorist as some existing business signs in this area. A sign 100' east of the subject site (ace title loan) is located 2' from the right of way line with the bottom being 12' above ground and a total sign size of 4' X 15'. The location of the existing gas pump was permitted when installed and to relocate the pumps and canopy behind a 25' building setback would eliminate parking and drives therefore would not be feasible. In conjunction with this construction, the applicant is proposing to remove an old sign post and concrete base and to close the middle driveway on Airport Boulevard which adds confusion to the traffic circulation on the site."*

It should be pointed out the subject site is located along the portion of Airport Boulevard that is a planned major street, as shown on the Major Street Plan Component of the Comprehensive Plan, which requires 80' right-of-way at this location. The site plan depicts a right-of-way width of 65'. If approved, and expansion of Airport Boulevard were to occur, the proposed canopy would then be located in the right-of-way.

The applicant stated that the canopy would not create visual obstruction to the motorists along Airport Boulevard. However, the issue is not as much a concern of visual obstruction but the placement of a large structure that would be located within the 25' setback on a major road.

The applicant also makes reference to a gas station located at 811 Dauphin Island Parkway with gas pumps and canopy columns located 15' from the right-of-way, however; the gas station located on DIP is over a mile away, which is quite a distance from the site in question. Staff would not use a site located a mile away to set precedence for this location.

The site has been used as a convenience store since approximately 1970 and has functioned without a canopy for at least 44 years. Furthermore, there is a service station to the East of the site that has a canopy which was built in compliance with setback requirements between 1984 and 1997.

It should be pointed out the proposed canopy extends over the property line onto the adjacent lot (Lot 5). Although both properties belong to the same owner(s), if the proposed canopy remains as depicted on the submitted site plan a 1-lot subdivision may be required, or a PUD application will be required.

It should also be pointed out that a pizza restaurant has been added to the site and a drive-through was constructed without proper permits and without the appropriate zoning review. Plans were never received or reviewed depicting a drive-through lane and appropriate queuing spaces. The site plan submitted, therefore, does not accurately reflect the existing site. Circulation issues are a concern and the non-permitted drive-through along with the proposed canopy and gas pumps may affect circulation on the site. The site plan can not fully be reviewed until a revised site plan is submitted that depicts the drive-through with Zoning Ordinance compliant queuing spaces and the proposed canopy. The application should not be considered as proposed because it does not reflect accurate conditions on the site.

**RECOMMENDATION:** Based on the preceding, this application is recommended for Holdover until the April 7, 2014 meeting to address the following:

- 1) revise site plan to illustrate existing drive-through with Zoning Ordinance compliant queuing spaces and the proposed canopy; and
- 2) revise site plan to depict the correct right-of-way width of Airport Boulevard.

***Revised for the April 7<sup>th</sup> meeting:***

*This application was requested to be heldover by the applicant. Staff had previously requested that a revised site plan illustrating 1) an existing drive-through with Zoning Ordinance compliant queuing spaces and the proposed canopy; and 2) a revised plan illustrating the correct right-of-way width of Airport Boulevard be submitted.*

*No new information has been submitted. The application is recommended for denial because staff can not fully review the site based on its inaccuracy. Furthermore, the applicant has not illustrated that a hardship would be imposed by a literal interpretation of the Zoning Ordinance.*

**RECOMMENDATION:** Based upon the preceding, staff recommends to the Board the following findings of fact for denial:

- 1) *The site plan submitted for review does not accurately represent existing conditions of the site;*
- 2) *Granting the variance will be contrary to the public interest in that it is contrary to Section 64-3.E.2 of the Zoning Ordinance regarding setbacks within an B-2, Neighborhood Business District;*
- 3) *That special conditions, such as a hardship to the property, do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and*
- 4) *The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance because most of the near-by businesses appear to be in compliance with the front yard setback provisions of the Zoning Ordinance.*

# LOCATOR MAP



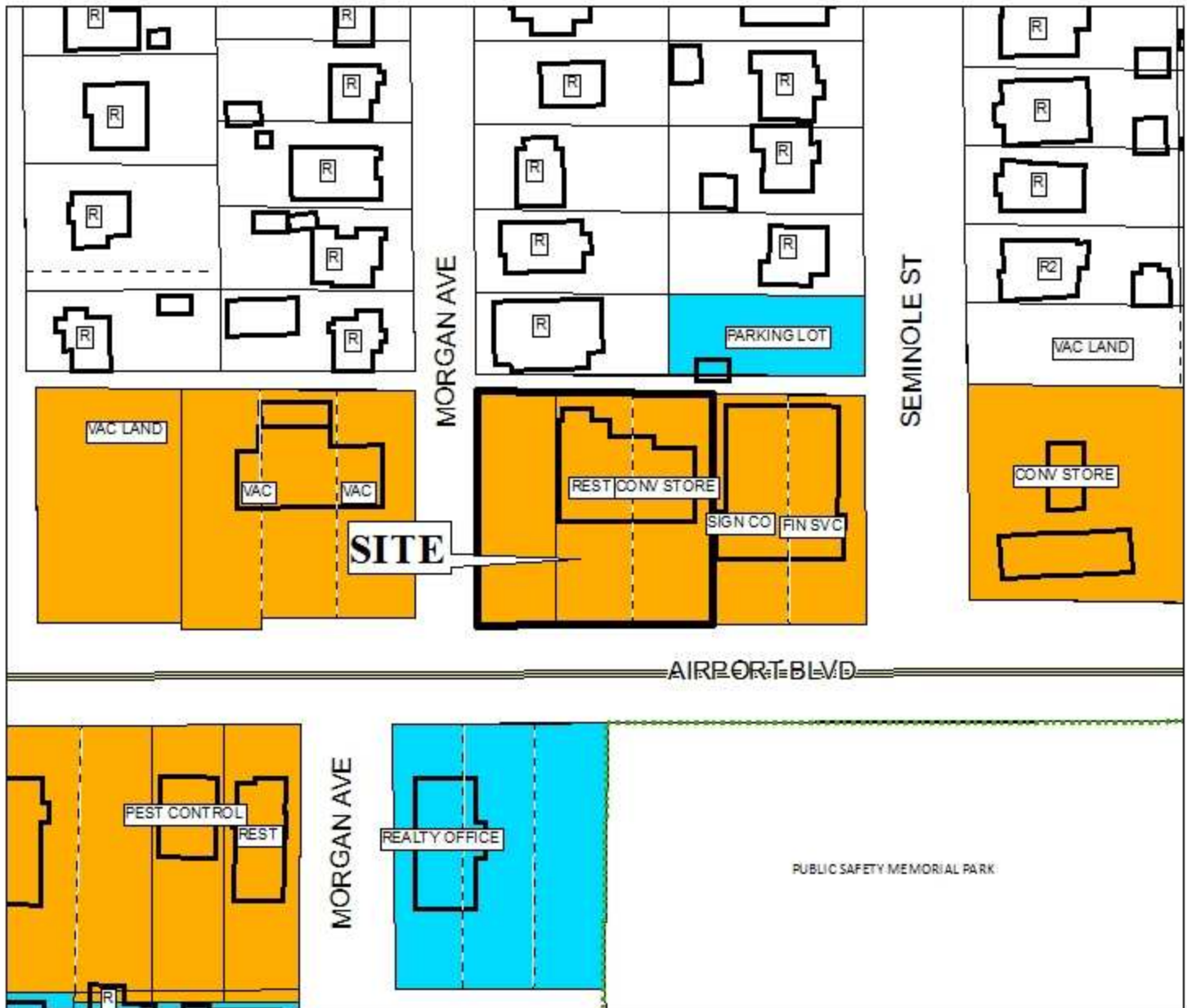
APPLICATION NUMBER 5879 DATE April 7, 2014

APPLICANT Damu Kunche

REQUEST Front Yard Setback Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial units lie to the south, west, and east of the site. Single family residential units lie to the north.

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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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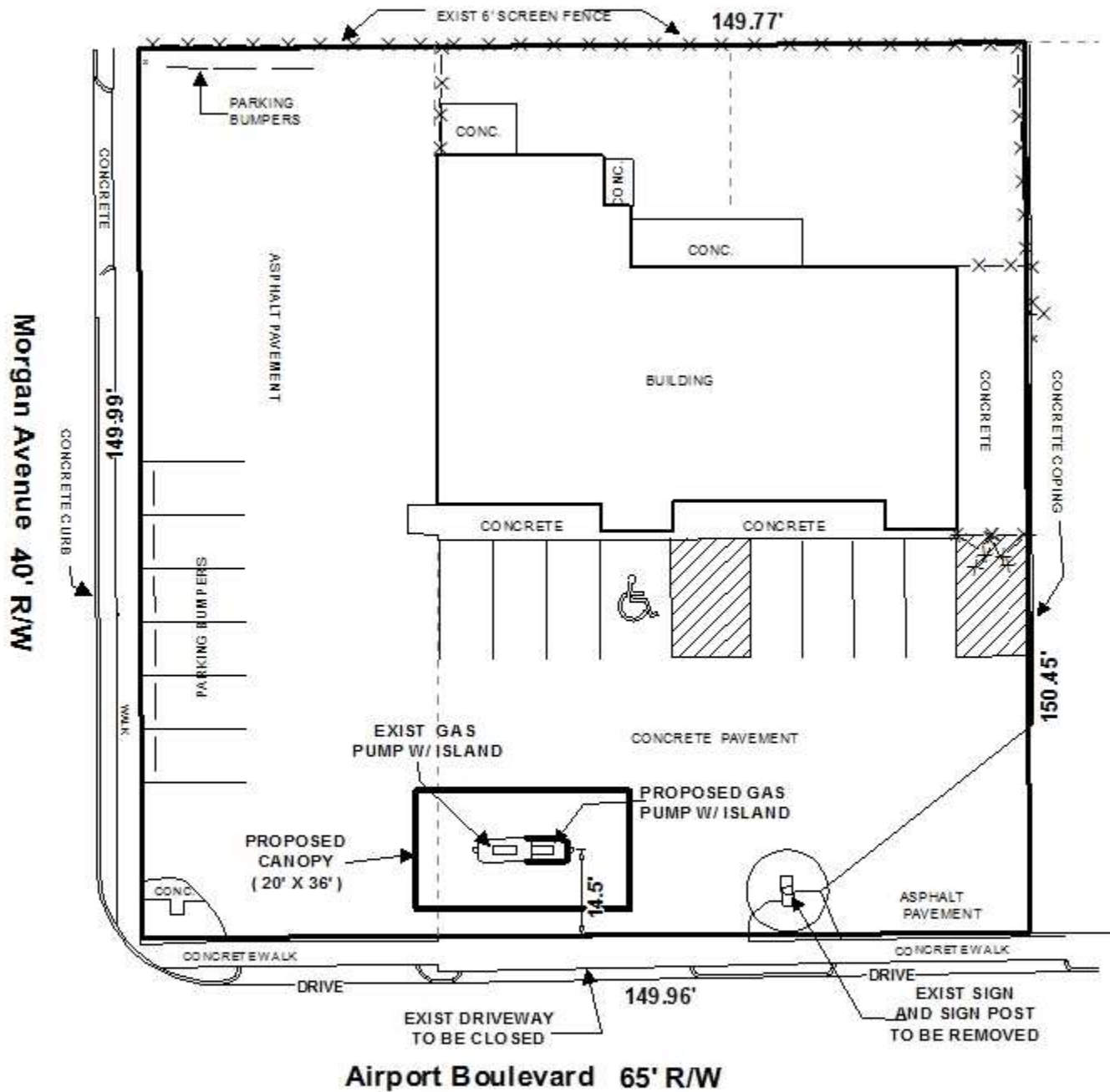
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# SITE PLAN



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