

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 1, 2013****CASE NUMBER**

5820

APPLICANT NAME

Laura Cantrell Rogers

LOCATION

1916 Airport Boulevard
(North side of Airport Boulevard, 405'± West of Myrtle Avenue)

VARIANCE REQUEST

PARKING RATIO: Parking Ratio Variance to allow a 3,420 square-foot commercial building with four compliant parking spaces in a B-3, Commercial District.

ACCESS AND MANEUVERING: Access and Maneuvering Variance to allow stacked driveway parking within a 9' wide one-way driveway and maneuvering within the right-of-way.

SIDE YARD SETBACK: Side Yard Setback Variance to allow a 2' side yard setback from both adjacent commercial and residential properties.

LANDSCAPING AND TREE PLANTING: Landscaping and Tree Planting Variances to allow no landscaping or tree plantings.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires twelve compliant parking spaces for a 3,420 square-foot commercial building in a B-3, Community Business District.

ACCESS AND MANEUVERING: The Zoning Ordinance does not allow stacked parking, requires driveways to be at least twelve feet wide, and all maneuvering area to be out of the right-of-way.

SIDE YARD SETBACK: The Zoning Ordinance requires side yard setbacks to be a minimum of 5' off adjacent commercial and 10' off adjacent residential properties.

LANDSCAPING AND TREE PLANTING: The Zoning Ordinance requires all landscaping and tree planting requirements to be met.

ZONING

B-3, Community Business

AREA OF PROPERTY

5,071 Square Feet

**ENGINEERING
COMMENTS**

1. If approved, the proposed site layout will require the submission of a Land Disturbance Permit and a ROW Permit prior to any construction of the proposed site work. The Land Disturbance Permit would be reviewed for conformance to the Storm Water Management and Flood Control Ordinance; and the ROW Permit would be reviewed for conformance to the Rights of Way Construction and Administration Ordinance. 2. A Non-Utility Right-of-Way Use Agreement for the proposed parking spaces and maneuvering within the Airport Blvd ROW will be required prior to obtaining a land disturbance or building permit. 3. Based on our 1984 aerial photos historical credit for the existing impervious area will be available for use by the applicant's Engineer in determining the detention requirements.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting Parking Ratio, Access and Maneuvering, Side Yard Setback, and Landscaping and Tree Planting Variances to allow a 3,420 square-foot commercial building with four compliant parking spaces, stacked driveway parking within a 9' wide one-way driveway and maneuvering within the right-of-way, with a 2' side yard setback from both adjacent commercial and residential properties, and no landscaping or tree plantings in a B-3, Community Business District; the Zoning Ordinance requires twelve compliant parking spaces for a 3,420 square-foot commercial building, no stacked parking, driveways to be at least twelve feet wide, and all maneuvering area to be out of the right-of-way, side yard setbacks to be a minimum of 5' off adjacent commercial and 10' off adjacent residential properties, and meeting all landscaping and tree planting requirements in a B-3, Community Business District.

The applicant proposes to construct a new photography studio and office building to replace the one destroyed in the Christmas, 2012, tornado. That 3,517 square-foot structure was legal nonconforming in that it was developed prior to the adoption of the current Zoning Ordinance and did not meet the required setbacks, did not have adequate parking or access and maneuvering area, and did not meet the landscaping and tree planting requirements of the current Ordinance. The Ordinance allows for nonconforming sites to be re-developed to the previous nonconforming design (same size/same place) if construction for such is begun within one year and completed within two years of the date of destruction. For sites where there is more than a 50% combination of destruction/rebuild, full compliance with the landscaping and tree planting requirements would be required, as is the case in this instance. The applicant proposes to rebuild the structure to a different configuration and location on the site; hence this application.

The proposed structure would now meet the 25' minimum front yard setback as opposed to the 18.7' setback of the previous structure which would at least allow vehicles to now be parked completely out of the right-of-way. However, only four compliant parking spaces are indicated, with other spaces stacked in the 9' wide driveway to the rear along the West side of the proposed structure. Aerial photographs indicate this to be the same parking ratio as the previous configuration. And all vehicles would still have to back into the right-of-way to maneuver. Given the increasing volume of traffic along Airport Boulevard in this area, this could cause a potentially dangerous situation. It should be pointed out that the depicted "accessible" parking space must be "van accessible", requiring a striped access area plus parking space width of 16 feet. It appears that the site plan does not comply with van accessible requirements, per building code requirements. However, the site plan submitted does lessen the severity of the previous situation with regard to the reduced maneuvering area.

Although not specified on the site plan submitted, the proposed side yard setbacks seem to be identical to those of the previous structure as shown on the 1994 survey of the site furnished. B-3 districts allow a zero or 5'+ side yard setback off adjacent commercial properties. As only about a 2' setback is proposed on the East side, this would not be compliant with the current requirements. Setbacks less than 5' may require a fire-rated wall, per the adopted building code requirements. A zero setback is allowed with the proper fire-rated wall, or a 5' minimum setback is required in order to allow Fire Department access in case of emergency. As the proposed structure would be placed further to the rear than the previous structure to within approximately 17' of the rear property line, and as a portion of the adjacent residential site to the East (behind the commercial site fronting Airport Boulevard) is within approximately 13' of the rear property line, this would place the Northeast corner of the proposed structure within approximately 4' of the residential property. The intent of the 10' minimum setback off adjacent residential properties is to provide a protection buffer and open space and to lessen visual encroachment. However, with a modification to the Northeast corner of the proposed building, the 10' setback off the adjacent residential site could be met.

With regard to the landscaping and tree planting requirements, the site could potentially provide adequate area to meet those requirements. However, as the rebuild is to be essentially the same size as the original structure, and as the site did not lend itself to satisfying many of those landscaping and tree planting requirements, the downsizing of the proposed building and the drastic reconfiguration of the site would seem harsh. There does appear to be some area in the rear yard to potentially provide a degree of compliance with the landscaping and tree planting requirements, though.

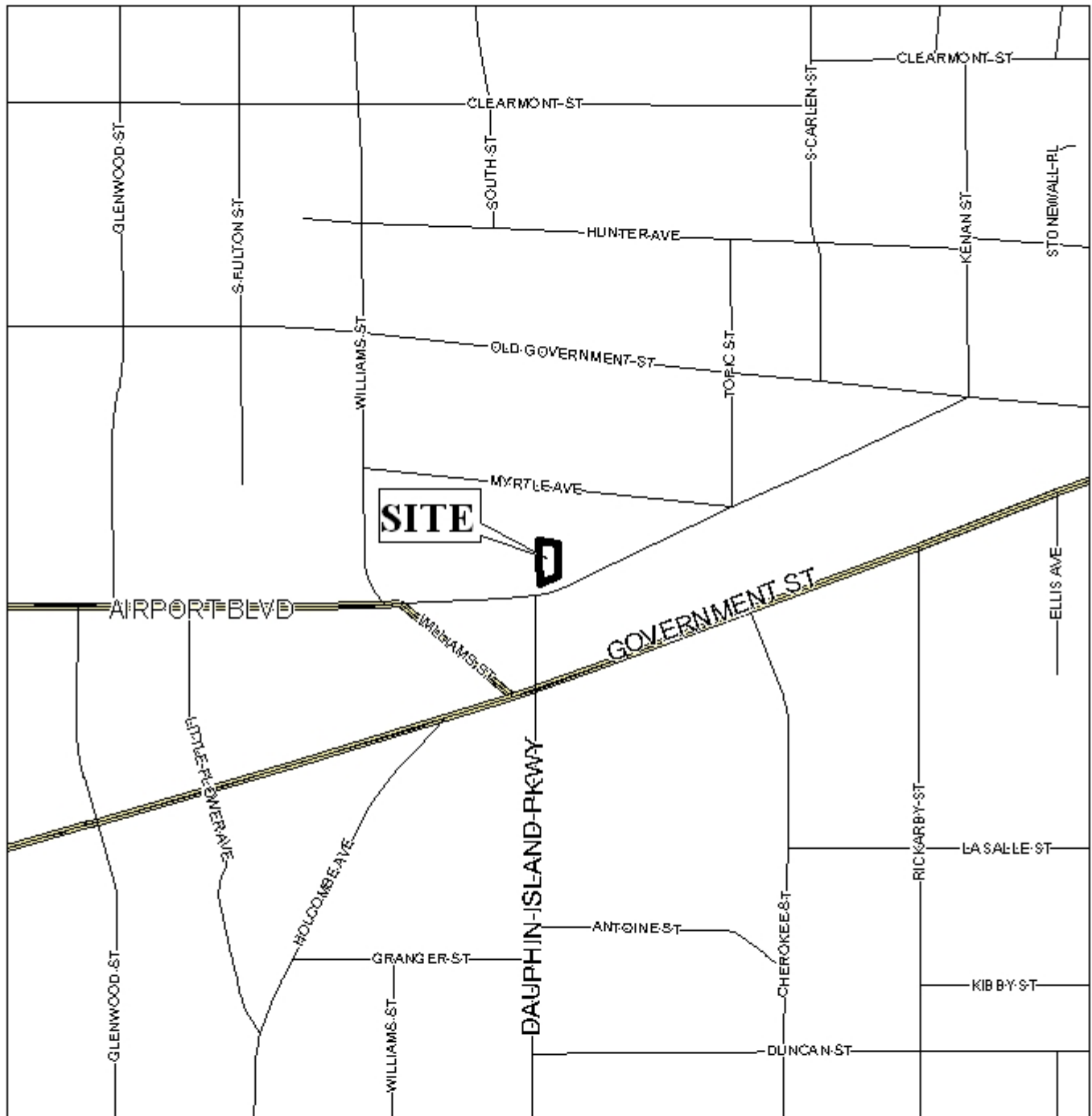
Given the fact that the proposed rebuild is essentially the same size as the previous structure, and the fact that additional maneuvering area is to be provided on-site, consideration could be given for the approval of this application, subject to certain conditions.

RECOMMENDATION: Based on the preceding, this application is recommended for approval, subject to the following conditions:

- 1) revision of the site plan to indicate the exact building setbacks off all adjacent properties;

- 2) revision of the Northeast corner of the proposed building to meet a 10' setback off all portions of the adjacent residential property to the East behind the adjacent commercial site on Airport Boulevard;
- 3) revision of the site plan to depict a compliant 'van accessible' parking space and access aisle;
- 4) revision of the site plan to provide as much compliance with the landscaping and tree planting requirements within the rear yard as practicable; to be coordinated with Urban Forestry;
- 5) full compliance with all other municipal codes and ordinances, including any firewall ratings required;
- 6) subject to the Engineering comments: *(1. If approved, the proposed site layout will require the submission of a Land Disturbance Permit and a ROW Permit prior to any construction of the proposed site work. The Land Disturbance Permit would be reviewed for conformance to the Storm Water Management and Flood Control Ordinance; and the ROW Permit would be reviewed for conformance to the Rights of Way Construction and Administration Ordinance. 2.A Non-Utility Right-of-Way Use Agreement for the proposed parking spaces and maneuvering within the Airport Blvd ROW will be required prior to obtaining a land disturbance or building permit. 3. Based on our 1984 aerial photos historical credit for the existing impervious area will be available for use by the applicant's Engineer in determining the detention requirements); and*
- 7) submission of two (2) copies of a revised site plan to Planning indicating compliance with these conditions.

LOCATOR MAP



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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial land use is located to the west, east, and south of the site. Residential land use is located 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 NTS

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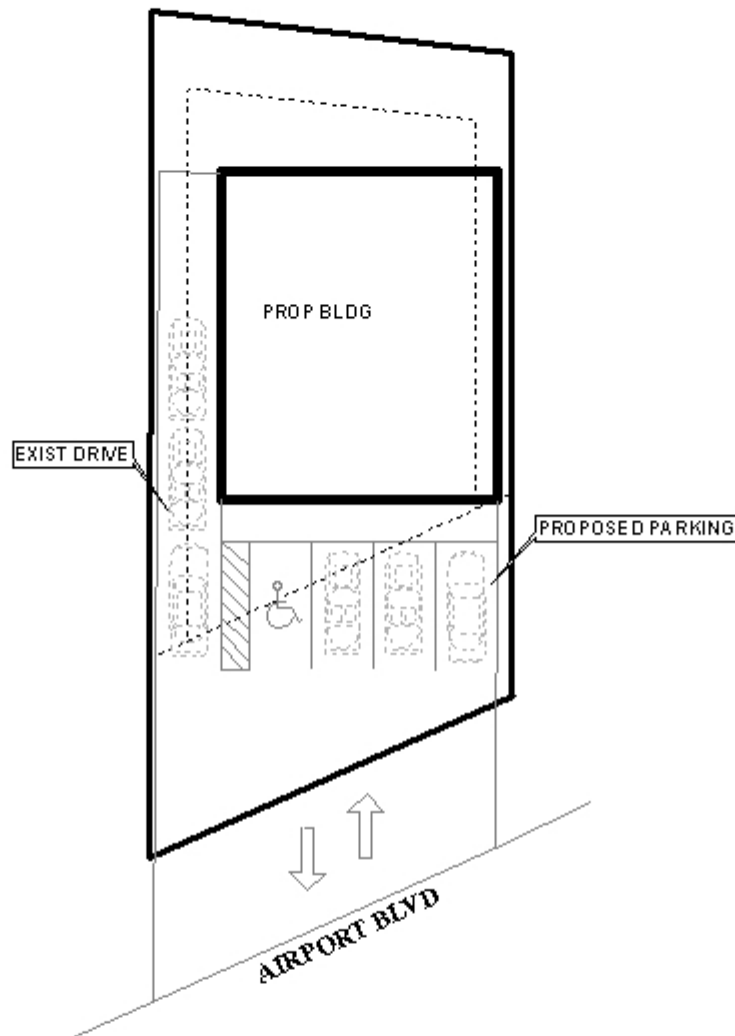
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SITE PLAN



The site plan illustrates the proposed building.

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