

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 5, 2013****CASE NUMBER**

5843

APPLICANT NAME

Awadhesh K. Gupta

LOCATION

7155 Airport Boulevard
(South side of Airport Boulevard, 108'± East of Park
Avenue South)

VARIANCE REQUEST

PARKING RATIO: Parking Ratio Variance to allow
thirteen parking spaces for a 4,401 square foot building in a
B-3, Community Business District.

TREE PLANTING: Tree Planting Variance to allow no
frontage trees on a 107' street frontage site.

ACCESS: Access Variance to allow a 15' wide two-way
access aisle.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires
fifteen parking spaces for a 4,401 square-foot building in a
B-3, Community Business District.

TREE PLANTING: The Zoning Ordinance requires three
over-story frontage trees for a 107' street frontage site.

ACCESS: The Zoning Ordinance requires a 24' wide two-
way access aisle.

ZONING

B-3, Community Business District

AREA OF PROPERTY

0.44± Acres

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

URBAN FORESTRY**COMMENTS**

Compliance with frontage tree requirements of the Zoning Ordinance; number and location of trees shall be coordinated with Urban Forestry.

CITY COUNCIL**DISTRICT**

District 6

ANALYSIS

The applicant is requesting Parking Ratio, Tree Planting and Access Variances to allow thirteen parking spaces for a 4,401 square-foot building, no frontage trees on a 107' street frontage site, and a 15' wide two-way access aisle in a B-3, Community Business District; the Zoning Ordinance requires fifteen parking spaces for a 4,401 square-foot building, three over-story frontage trees for a 107' street frontage site, and a 24'-wide two-way access aisle in a B-3, Community Business District.

The subject site was annexed into the City in 2007 as a legal nonconforming site in that it was not originally developed to City Zoning Ordinance requirements and had insufficient parking for the building size, no over-story frontage trees, and a substandard access aisle between an end parking space and a freestanding sign within the front area of the parking lot. A Zoning Clearance was denied for use of the site for used vehicle sales due to the lack of required parking for the building size plus the fact that there is no parking space on the site to accommodate inventory vehicles; thus this application. A review of the site plan submitted also indicates other deficiencies such as a 15' wide curb cut, no vehicle bumper stops along landscaped areas, no dumpster, and unspecified fencing along adjacent residential property to the rear.

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.

As the site has more than 6,179 square feet of front landscaping area and is required to have 1,366 square feet of such, there exists an excess of 4,813 square feet of front landscaping area, mainly West of the existing parking area. This would provide sufficient room to provide at least the total number of fifteen parking spaces required for the building, and possibly more. The applicant states that only about 300 square feet of the building will be used for the proposed auto sales business which would require one parking space. However, with the revision of the site plan to provide at least two more compliant parking spaces, the site can be made compliant with the current parking requirements.

With regard to the frontage tree planting requirements, there are currently no frontage trees but the site has sufficient trees to meet the perimeter and parking tree requirements. Urban Forestry has determined that the site has sufficient area to provide the required three Live Oak trees within the front 25' along the West side near the billboard sign.

With regard to the Access Variance, a reconfiguration of the parking area to move the handicap parking space to be beside the small front asphalt walk would provide space for a 12' wide one-way drive to an expanded parking area along the West boundary. The relocation of the Northern-most parking space just South of the existing freestanding sign on the two support columns to an expanded West parking area would allow for a compliant 12' wide one-way drive from the expanded parking area thus negating the need for the Access Variance.

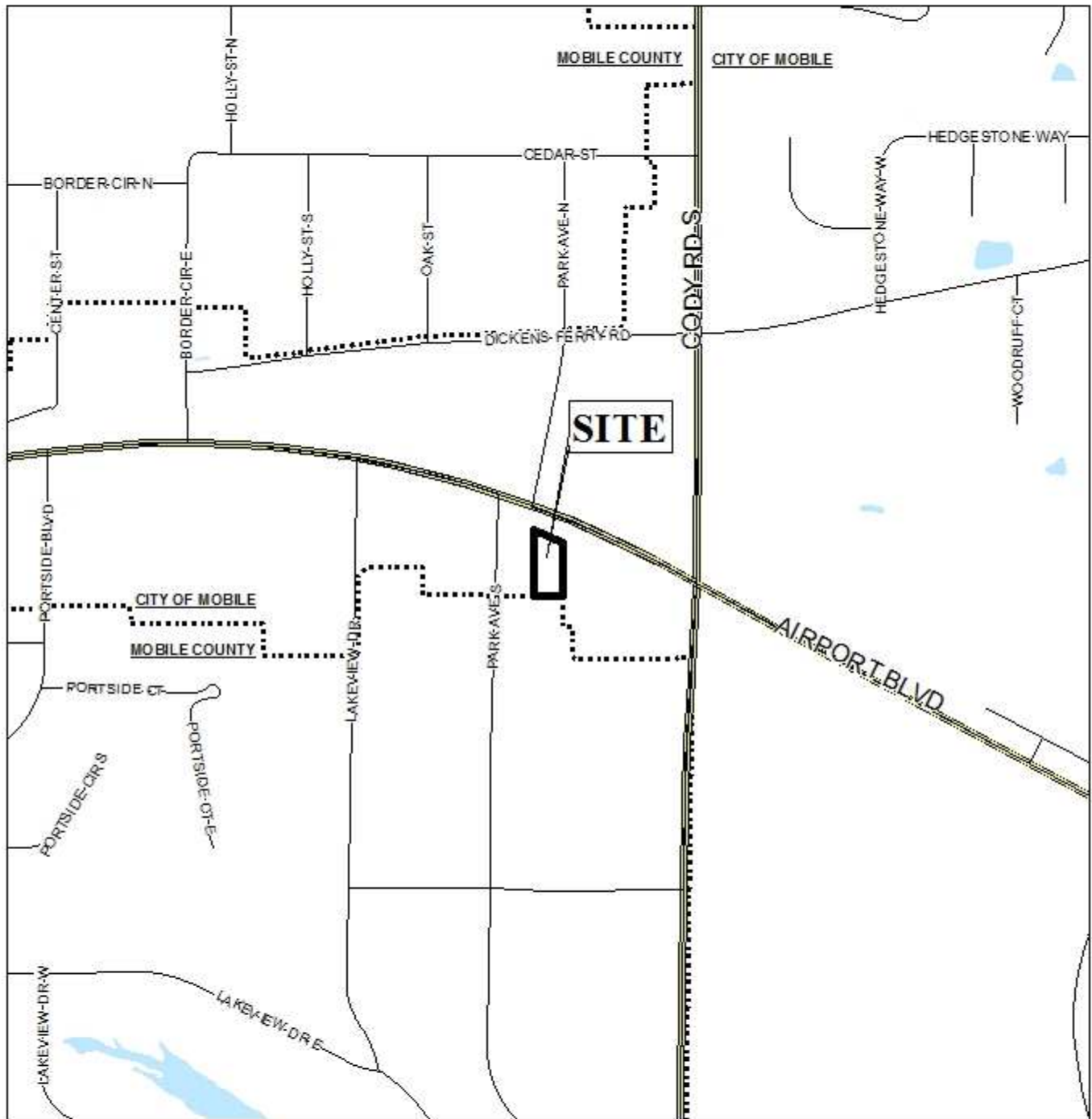
Other aspects of the site plan not in compliance with current standards are the substandard 13' wide entrance curb cut, the lack of parking area bumper stops, the non-specification of the rear fence adjoining adjacent residential property to the South, and no provision of a dumpster and enclosure, or a note specifying none will be utilized and that refuse collection will be curbside or via private collection. As these aspects were not requested relief via additional variance requests, they should be corrected prior to further commercial use of the property. Sufficient area exists along the Airport Boulevard right-of-way to provide a compliant 24' wide, two-way curb cut.

In instances where nonconforming sites have requested variances where there are clearly hardships which would be imposed by a literal interpretation of the Zoning Ordinance, staff and the Board have been sympathetic to such variance requests. However, in this instance, the site can be brought into compliance with regard to all aspects for which variances are requested, as well as those noncompliant aspects for which variances were not requested. The applicant has not demonstrated that a hardship would be imposed by a literal interpretation of the Zoning Ordinance, and the Board should consider this application for denial.

RECOMMENDATION:

Based on the preceding, this application is recommended for denial.

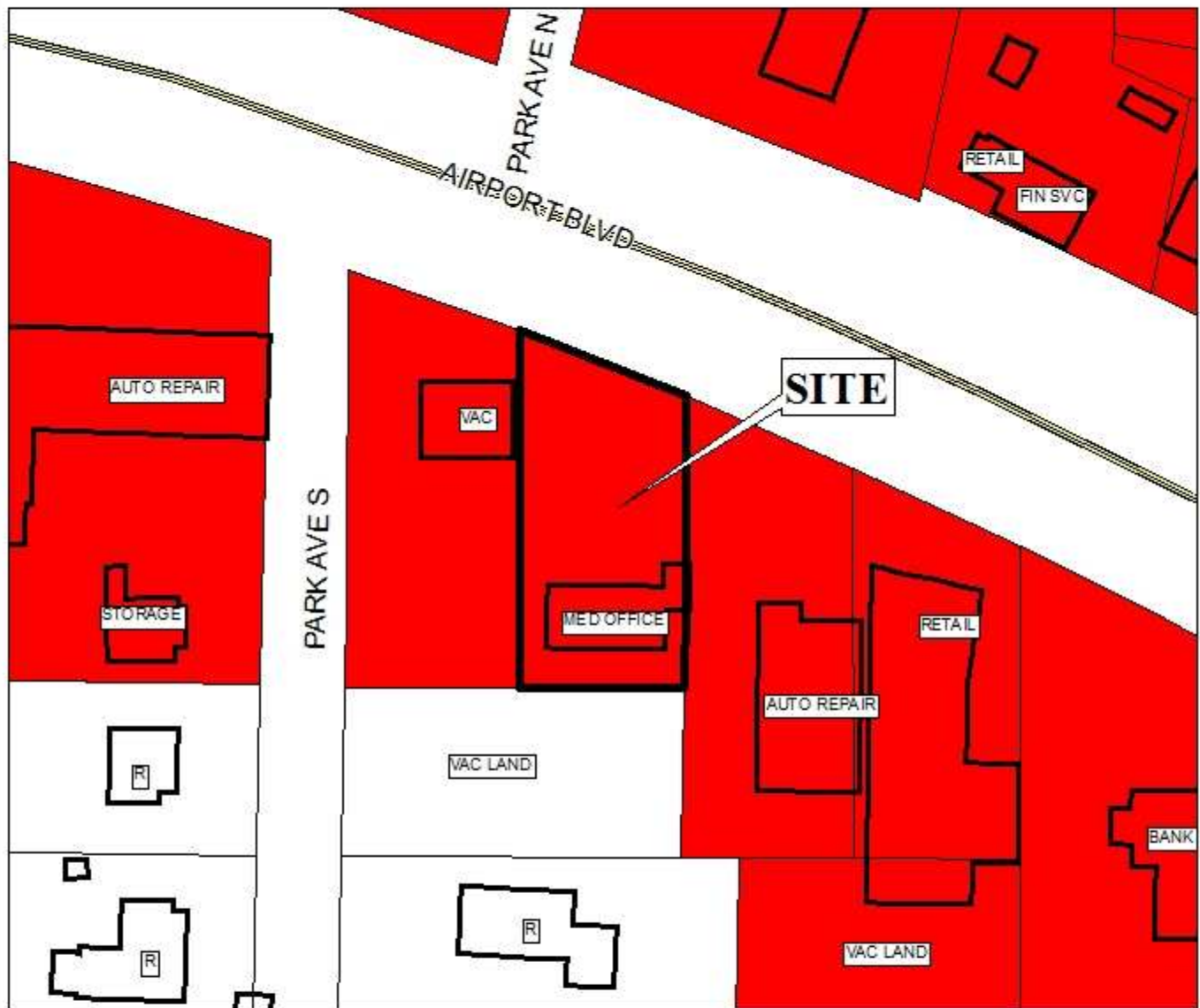
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use.

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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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

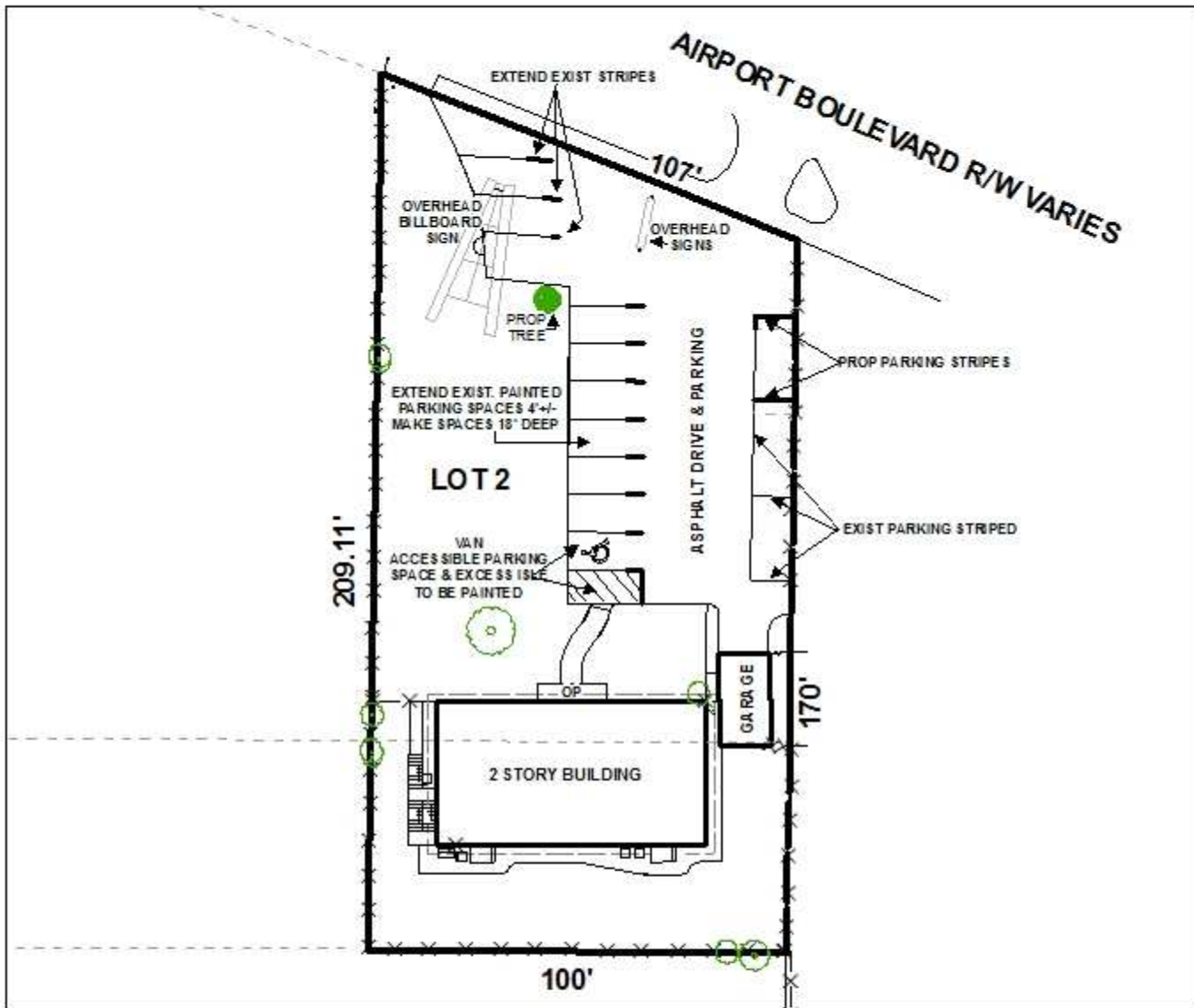


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SITE PLAN



The site plan illustrates the existing building, garage, parking spaces, and trees.

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