

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 1, 2010**

<u>CASE NUMBER</u>	5637 / 3172
<u>APPLICANT NAME</u>	Nephrology Associates Real Estate, LLC
<u>LOCATION</u>	124 South University Boulevard (West side of South University Boulevard, 270' + North of Bit and Spur Road)
<u>VARIANCE REQUEST</u>	SETBACK: Construction of canopy within 1'-3" of a side property line in a B-1, Buffer Business District.
<u>ZONING ORDINANCE REQUIREMENT</u>	SETBACK: 5' side yard setback for structures in a B-1, Buffer Business District.
<u>ZONING</u>	B-1, Buffer Business District
<u>AREA OF PROPERTY</u>	48,000 square feet/1.1±Acres
<u>TRAFFIC ENGINEERING COMMENTS</u>	None received.
<u>CITY COUNCIL DISTRICT</u>	District 6
<u>ANALYSIS</u>	The applicant is requesting a Side Yard Setback Variance to allow the construction of canopy within 1'-3" of a side property line in a B-1, Buffer Business District; the Zoning Ordinance requires a 5' side yard setback for structures in a B-1, Buffer Business District.

The applicant proposes to provide a 20' x 23.5' ± drop-off and pick-up canopy for patient use during inclement weather for the existing doctor's office and lab facility. In addition to the canopy, a ramp will be installed to provide ADA compliant accessibility at the canopy location, which is closer to the main entrance of the building than the current ramp. The applicant also proposes to modify the existing curb-cut onto University Boulevard, for which no variance is required (but which should be shown on the site plan).

It should be noted that the previous variance for the site was a use variance, allowing the development of the site for a dentist office in an R-1, Single Family District. The site was rezoned to B-1, Buffer Business, in 1995.

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 variance request is before the Board due to the fact that the canopy was constructed without proper permits: the applicant is seeking the necessary approvals to allow the canopy to be completed. Drawings prepared by a licensed engineer were submitted with the application.

The site was developed in 1979, and originally consisted of two buildings connected by a common roof.

The canopy, as constructed, is on the North side of the building, extending towards the North property line. Staff measured the supports for the canopy as being 1 foot 2 inches from an existing cinder block wall belonging to the animal clinic on the adjacent property.

Use of the canopy will require that vehicles circulate around the rear of the building, traversing a one way drive with angled parking. The site's existing dumpster is also, apparently, in the rear of the building, thus the truck servicing the dumpster must also pass underneath the canopy. It appears, however, that the 13 foot 4 inch clearance under the canopy will be adequate for truck access.

The applicant states that *"we have investigated other possibilities for location of a covered area but all other options are not as workable as the proposed location as the majority would result in covered parking for only a few spaces in the front of the building."*

A canopy location at the front of the building would have permitted a two-way drop-off/pick-up facility, with the loss of perhaps two parking spaces, and meeting all required setbacks. However, the canopy would have been larger, thus more costly than that which is being requested by the applicant.

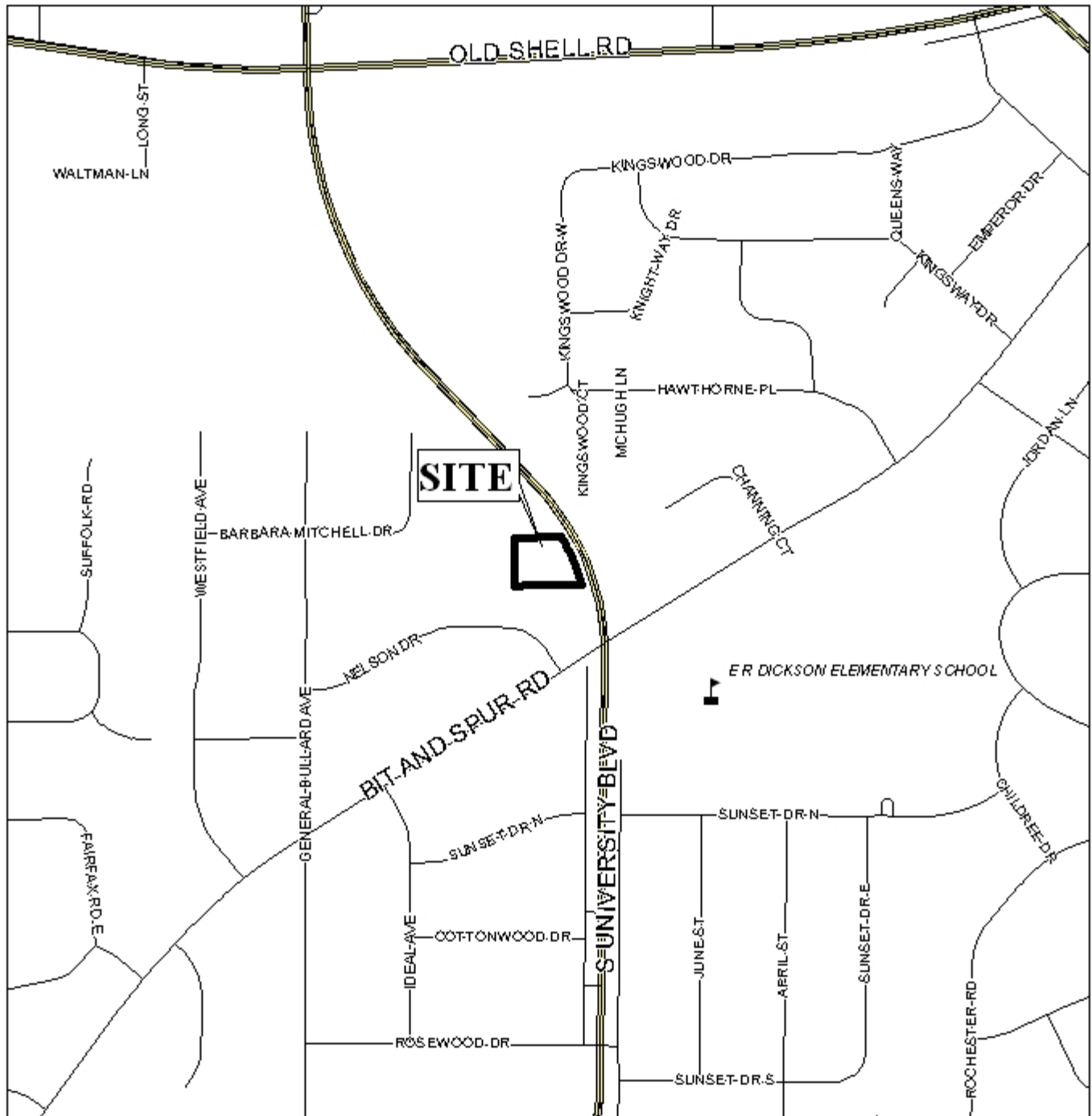
The applicant has failed to prove that the site is the subject of an unnecessary hardship.

RECOMMENDATION:

Based on the preceding, this application is recommended

for denial.

LOCATOR MAP



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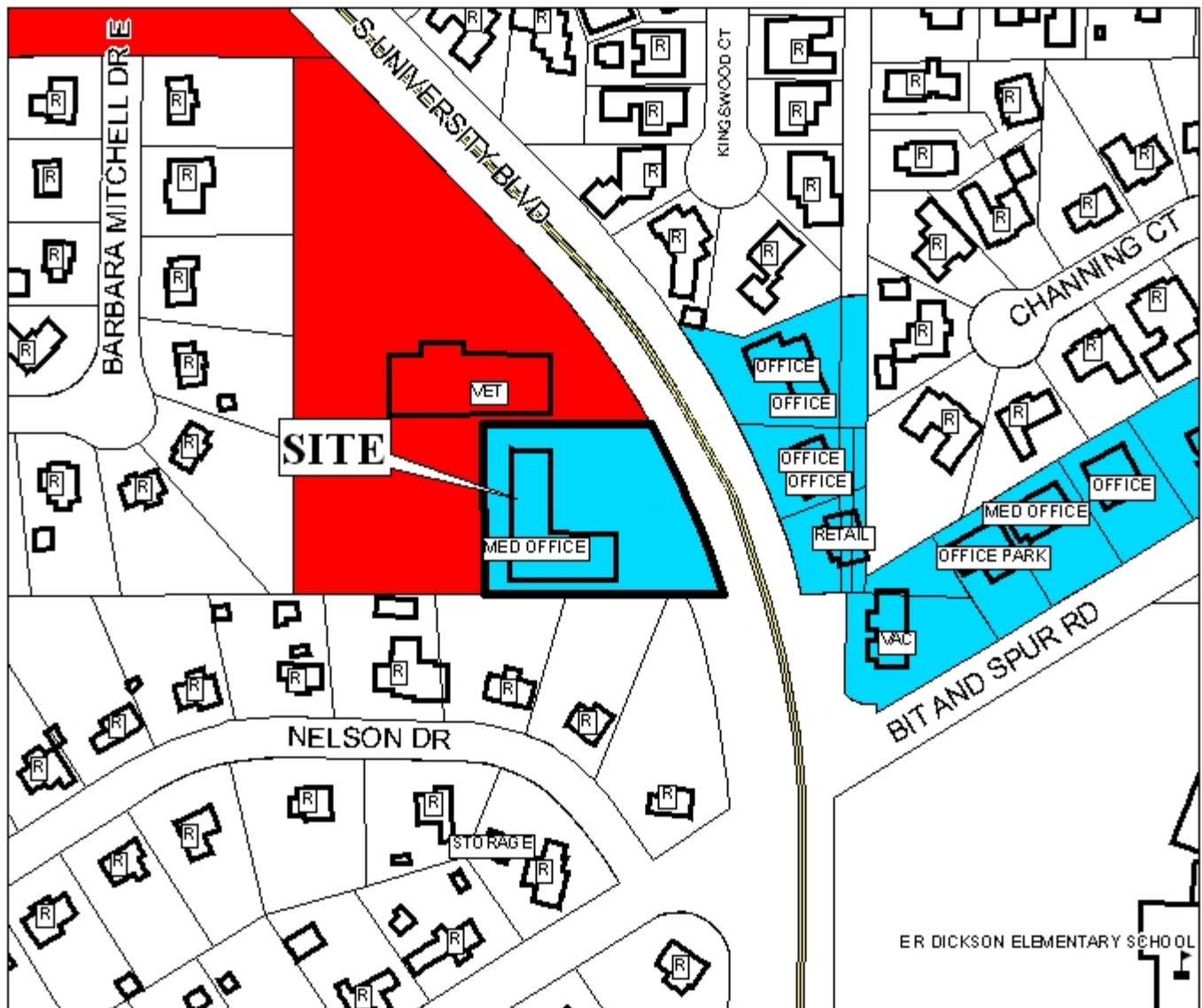
APPLICANT Nephrology Associates Real Estate, LLC

REQUEST Side Yard Setback Variance



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial and residential land use.

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LEGEND R-1 R-2 R-3 R-4 R-5 R-6 R-7 R-8 R-9 R-10 R-11 R-12 R-13 R-14 R-15 R-16 R-17 R-18 R-19 R-20 R-21 R-22 R-23 R-24 R-25 R-26 R-27 R-28 R-29 R-30 R-31 R-32 R-33 R-34 R-35 R-36 R-37 R-38 R-39 R-40 R-41 R-42 R-43 R-44 R-45 R-46 R-47 R-48 R-49 R-50 R-51 R-52 R-53 R-54 R-55 R-56 R-57 R-58 R-59 R-60 R-61 R-62 R-63 R-64 R-65 R-66 R-67 R-68 R-69 R-70 R-71 R-72 R-73 R-74 R-75 R-76 R-77 R-78 R-79 R-80 R-81 R-82 R-83 R-84 R-85 R-86 R-87 R-88 R-89 R-90 R-91 R-92 R-93 R-94 R-95 R-96 R-97 R-98 R-99 R-100

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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

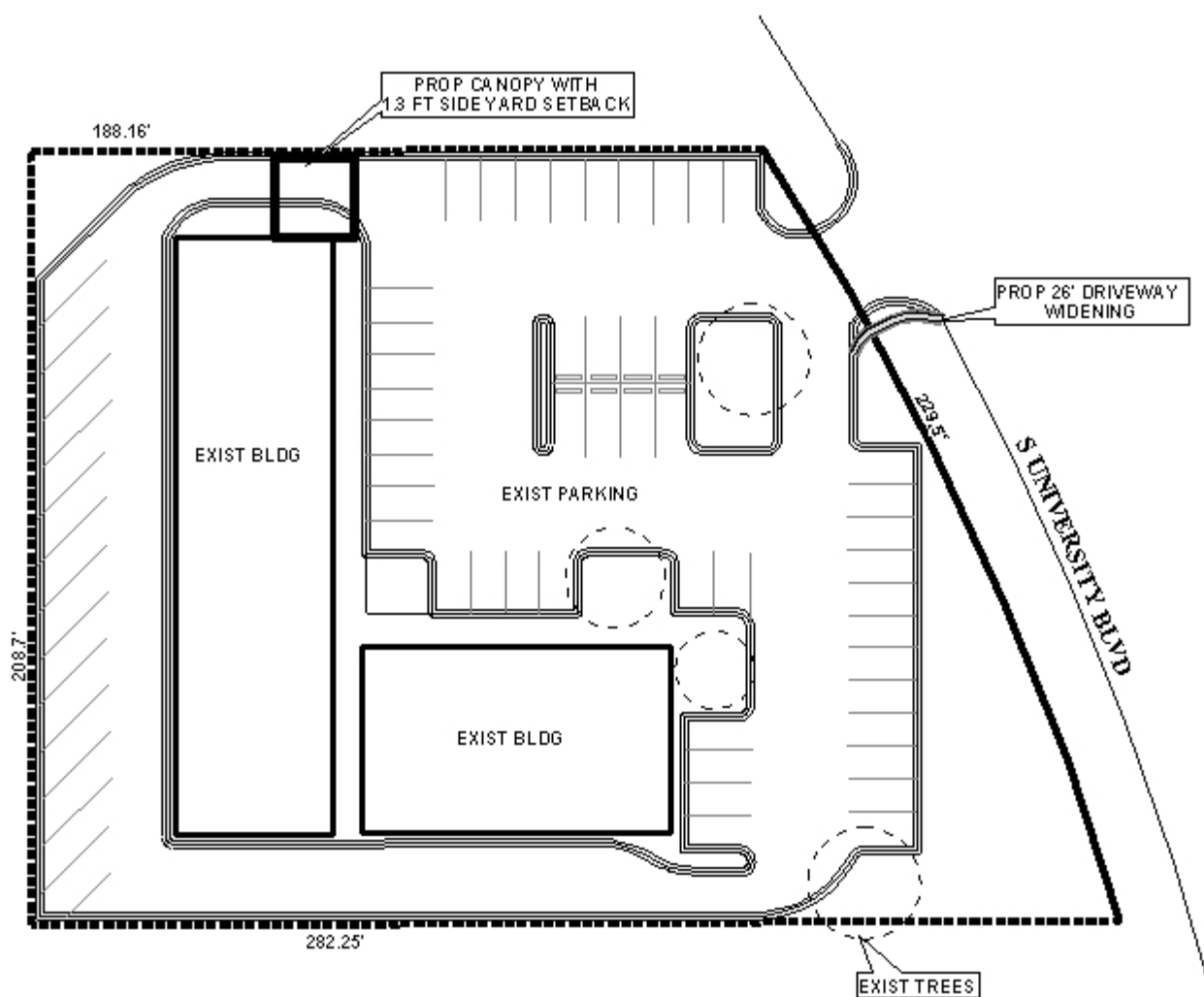


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SITE PLAN



The site plan illustrates the existing development, proposed canopy, and proposed driveway modifications.

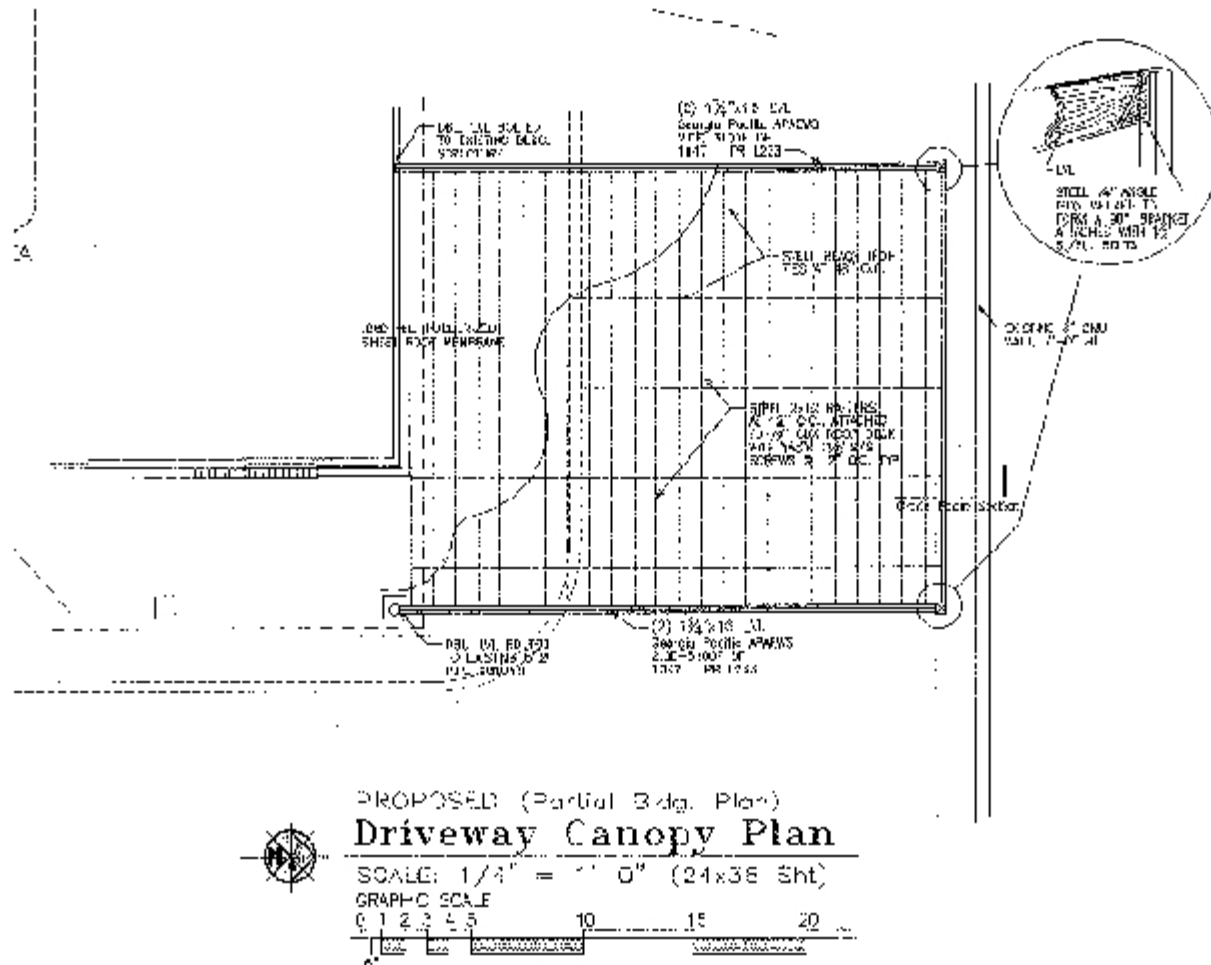
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DETAIL SITE PLAN



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