

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 4, 2013****CASE NUMBER**

5868

APPLICANT NAME

Jay Todia

LOCATION

918 Government Street
(North side of Government Street, 460'± West of Broad Street)

VARIANCE REQUEST

PARKING RATIO: Parking Ratio Variance to allow 19 parking spaces for a 9,900 square-foot commercial building in a B-1, Business Buffer District.

ACCESS AND MANEUVERING: Access and Maneuvering Variance to allow a 21'-4" access/maneuvering drive and aisle.

LANDSCAPING AND TREE PLANTING: Landscaping and Tree Planting Variances to allow 1,126 square feet of frontage/ total landscaping area with no tree plantings.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires 33 compliant parking spaces for a 9,900 square-foot commercial building in a B-1, Business Buffer District.

ACCESS AND MANEUVERING: The Zoning Ordinance requires at least 24' wide access/ maneuvering drive and aisle for two-way traffic.

LANDSCAPING AND TREE PLANTING: The Zoning Ordinance requires 1,633 square feet of total landscaping area with 980 square feet apportioned along both street frontages and 19 total trees in a B-1, Buffer Business District.

ZONING

B-1, Business Buffer District

AREA OF PROPERTY

13,610 Square Feet

TRAFFIC ENGINEERING**COMMENTS**

The shape of the parcel is not square, and the property narrows from Conti Street to Government Street. Therefore, at the middle of the property around the back of the building and the A/C units, the reduced width of the property is approximately 56' 10". With 2 rows of 18' parking spaces, the aisle width is reduced even more than the 21' 4", to approximately 20' 10". For reference purposes, sedans and mid-sized SUVs typically vary in length from 14' – 17', however a typical pick-up truck is around 20' in length. It is possible for vehicles to extend into the already reduced aisle width. If a variance is approved, the varying aisle width should be acknowledged to avoid variance compliance issues when a dimensioned site plan is submitted for approval. Also, bumper stops would be needed in the spaces along the east property line to prevent vehicles from encroaching or cutting through the adjacent property.

URBAN FORESTRY
COMMENTS

Due to existing trees located on right of way, at the front of the building, staff is recommending 1 overstory tree or 2 understory trees be planted on the Conti St. side and coordinate with Urban Forestry.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting Parking Ratio, Access and Maneuvering, and Landscaping and Tree Planting Variances to allow a 9,900 square-foot commercial building with 19 compliant parking spaces, a 21'-4" drive aisle with two 90 degree, 18'-0" parking aisles, and no landscaping or tree plantings in a B-3, Community Business District; the Zoning Ordinance requires 33 compliant parking spaces for a 9,900 square-foot commercial building, a 24' wide drive aisle, and meeting all landscaping and tree planting requirements in a B-3, Community Business District.

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 proposes to use the site as a personal fitness training facility. The site does not have adequate parking or access and maneuvering area, nor does it meet the landscaping and tree planting requirements of the current Zoning Ordinance. However, the site has legal non-conforming history in that it was developed prior to the adoption of the current Zoning Ordinance. The site is relatively small and aerial photos show the structure has existed since at least the early 1970s.

It should be noted that the use of a fitness training facility in a B-1, Buffer Business District requires Planning Approval. The applicant has submitted an application to the Planning Commission for the November 7, 2013 meeting. If the use is approved by the Planning Commission, the application now before the Board of Zoning Adjustment would still be required for the parking, access/ maneuvering, and tree planting and landscaping issues. However, without the Planning Approval for the use, the variances would be inappropriate.

The applicant requests two variances to the existing parking lot based on the following reasons:

- “1) The existing lot is extremely faded. The old striping appears to have approximately 12 spaces designated. According to the Zoning Ordinance, 33 spaces are required for this 9,900 sf office building. The applicant wished to provide new striping for 19 parking spaces (including 1 accessible space).*
- 2) To achieve the number of parking spaces as shown and due to the narrow width of the lot, a full 24’-0” aisle width is not possible. The applicant request the drive aisle to be reduced to 21’-4” with two 90 degree, 18’-0” parking aisles.”*

The applicant also states he *“previously operated a personal fitness training facility at this location from 1999-2008. Due to multiple copper thefts/ vandalism of HVAC units, he was forced to move to another location. With the improvement to the downtown area and the increased business development at Brookley Field, the applicant would like to take advantage of the current environment and reopen the training studio at this location”*.

Records show Mr. Todia was occupying the building as a personal fitness center in 1998 however, due to conflicting information regarding the business license, there are no records indicating how long the site was occupied as a fitness facility.

The Zoning Ordinance requires a total of 33 parking spaces for this site. Currently the parking lot appears to have only 12 stripped spaces. The site does not appear to have the capacity to physically provide 33 adequate parking spaces that would comply with the standards of the Ordinance.

The site provides approximately a 21’-4” wide access/ maneuvering space for the parking area. The Zoning Ordinance requires a minimum of a 24’ wide maneuvering area for an area with two-way traffic. The narrow width of the lot prevents a 24’ wide maneuvering space unless the parking spaces are reduced in length from their compliant 18’. However it should be pointed out that due to the shape of the property the drive aisle will decrease as the aisle gets closer to the

building. The access/ maneuvering variance should be approved to allow a drive aisle no less than 20.5' as the aisle gets closer to the building. Based on this and previous approvals, it may be appropriate to grant this request.

The site would require a total of 1,633 ± square feet of landscape area, with 980± square feet apportioned along both street frontages. A total of 19 trees would be required, of which most would be overstory trees. Due to the existing trees provided along Government Street the tree planting and landscaping request should be approved for the front of the property. However, Urban Forestry has determined that 1 overstory tree or 2 understory trees should be planted on Conti St. to coordinate with the existing trees located on right of way, at the front of the building along Government Street.

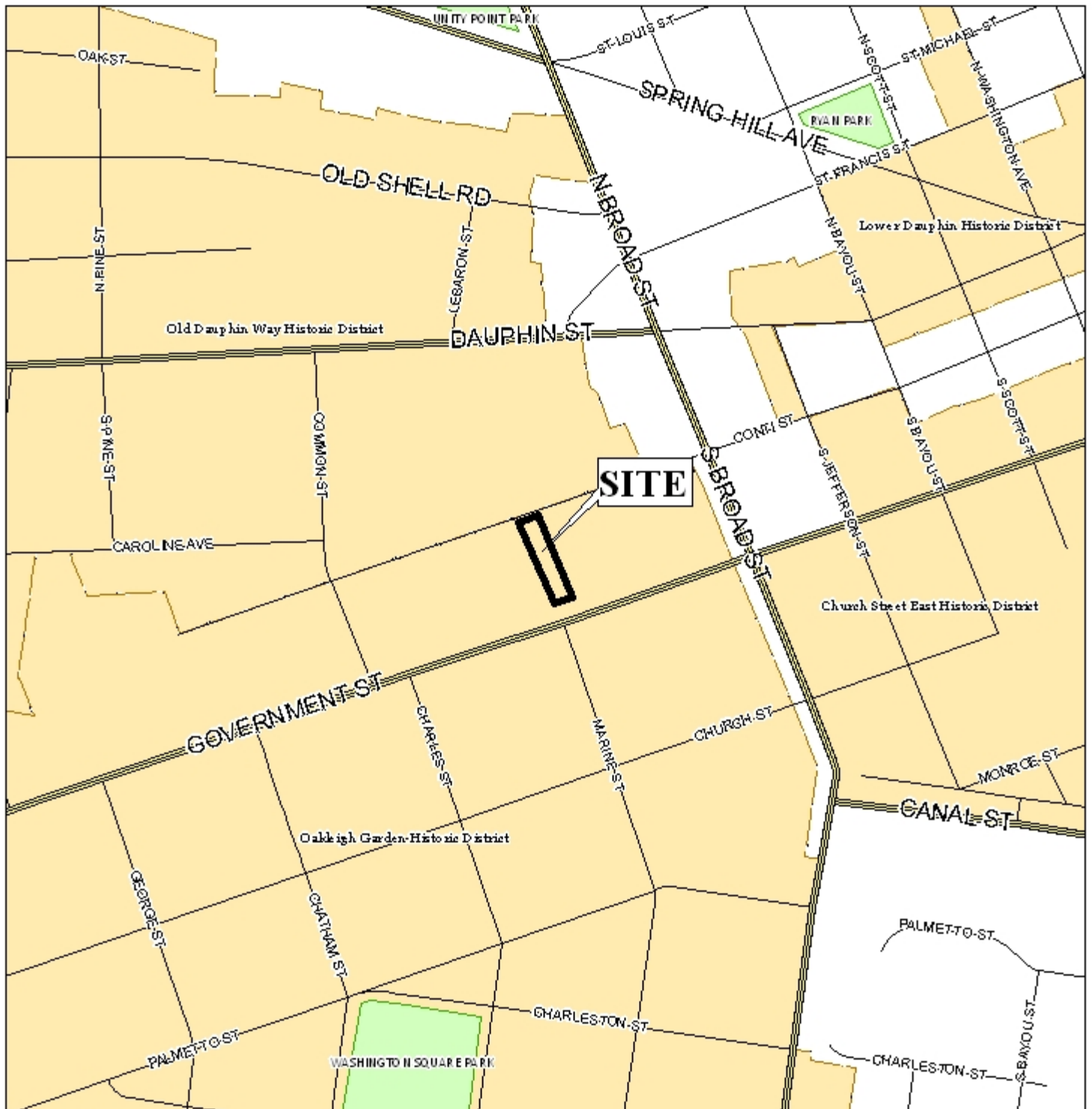
It should be noted there is no dumpster illustrated on the site plan, nor is there a note stating that curbside pickup will be utilized. If approved, the site plan should be revised to either illustrate a dumpster in compliance with Section 64-4.D.9. of the Zoning Ordinance or place a note stating that curbside service will be utilized.

The applicant has illustrated that a hardship exists within the site. Consideration should be given for the approval of this application, subject to certain conditions.

RECOMMENDATION: Based on the preceding, this application is recommended for Holdover until the December 2, 2013 meeting to address the following:

1. recommendation is contingent upon the verdict of the Planning Commission application for Planning Approval;
2. revisions to site plan to indicate a dumpster will be provided or a note on the plan stating that curbside pickup will be utilized;
3. subject to Urban Forestry comments: *"Due to existing trees located on right of way, at the front of the building, staff is recommending 1 overstory tree or 2 understory trees be planted on the Conti St. side and coordinate with Urban Forestry."*;
4. subject to Traffic Engineering comments: *"The shape of the parcel is not square, and the property narrows from Conti Street to Government Street. Therefore, at the middle of the property around the back of the building and the A/C units, the reduced width of the property is approximately 56' 10". With 2 rows of 18' parking spaces, the aisle width is reduced even more than the 21' 4", to approximately 20' 10". For reference purposes, sedans and mid-sized SUVs typically vary in length from 14' – 17', however a typical pick-up truck is around 20' in length. It is possible for vehicles to extend into the already reduced aisle width. If a variance is approved, the varying aisle width should be acknowledged to avoid variance compliance issues when a dimensioned site plan is submitted for approval. Also, bumper stops would be needed in the spaces along the east property line to prevent vehicles from encroaching or cutting through the adjacent property".;* and
5. full compliance with all other municipal codes and ordinances.

LOCATOR MAP

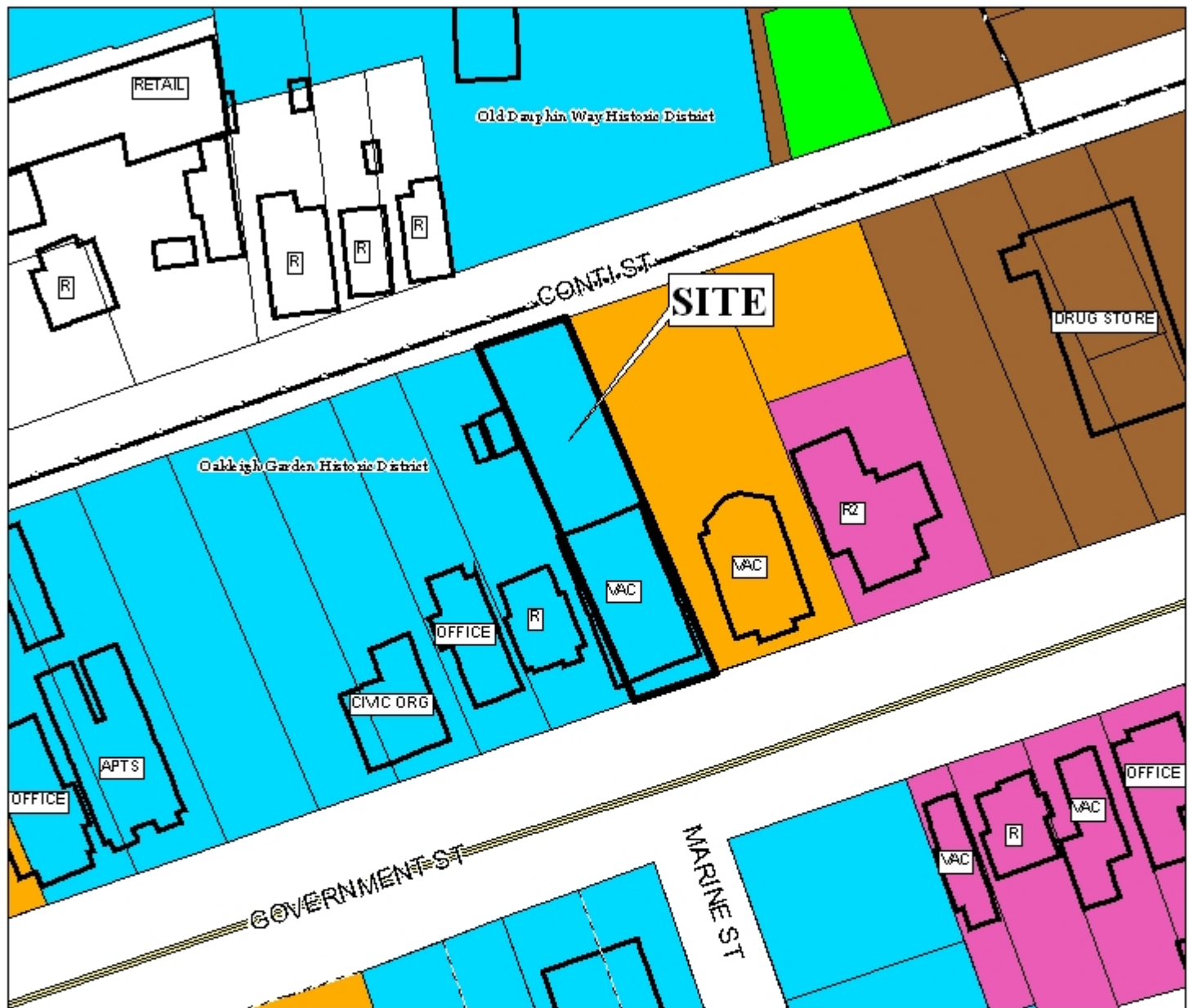


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NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by mixed residential and commercial 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

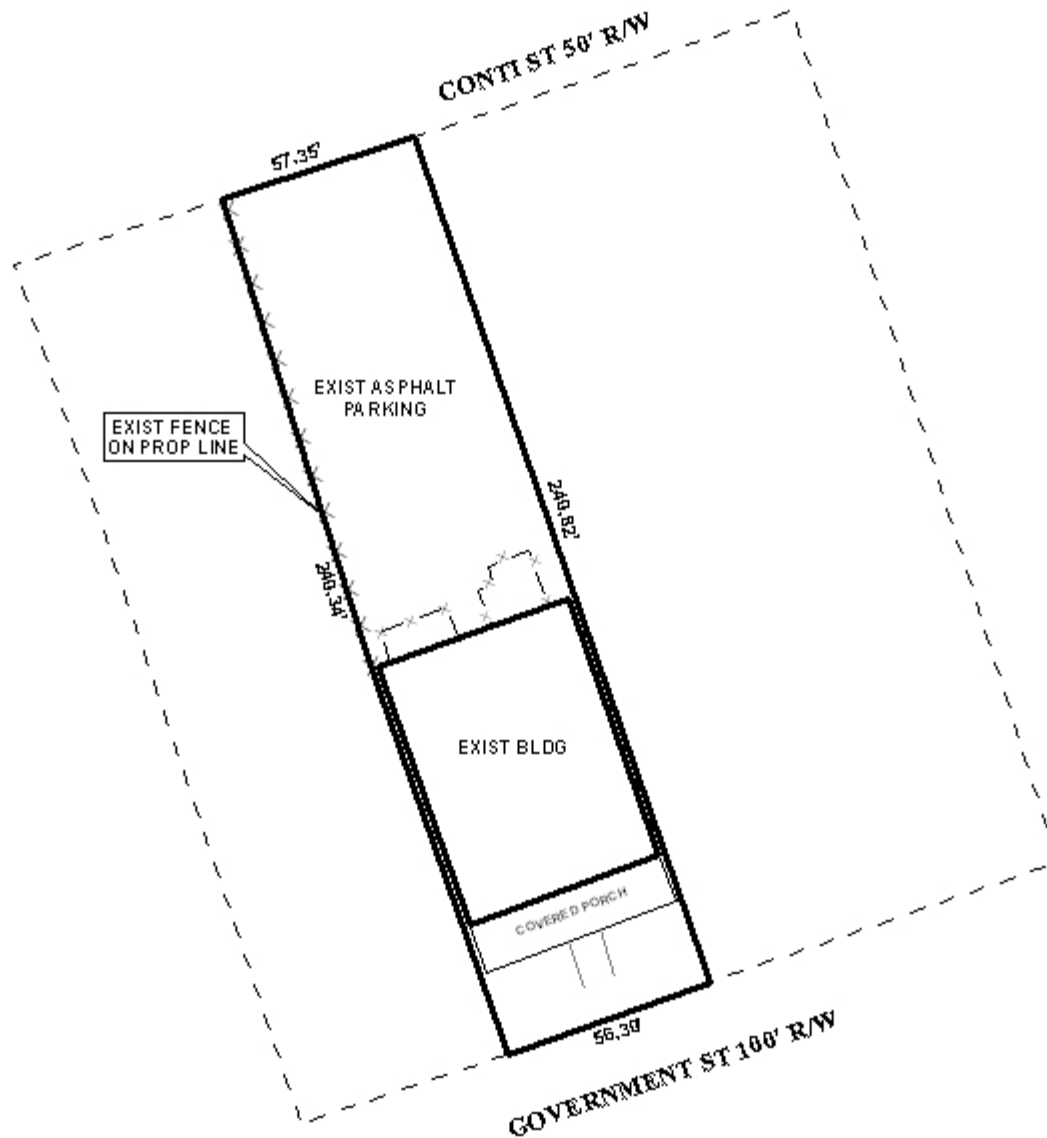


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SITE PLAN



The site plan illustrates the existing improvements.

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