

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: January 4, 2016**

<b><u>CASE NUMBER</u></b>	6023/5672/5608
<b><u>APPLICANT NAME</u></b>	Michael Spina
<b><u>LOCATION</u></b>	1252 Government Street (North side of Government Street, 55'± West of South Georgia Avenue)
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> To amend a previously approved variance to allow a restaurant in a B-1, Buffer Business District.  <b>TREE PLANTING AND LANDSCAPING:</b> To allow no tree plantings or landscaping.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District zoning for a restaurant.  <b>TREE PLANTING AND LANDSCAPING:</b> Requires full compliance with tree planting and landscaping requirements.
<b><u>ZONING</u></b>	B-1, Buffer Business District
<b><u>AREA OF PROPERTY</u></b>	11,769± square feet/0.28±Acres
<b><u>ENGINEERING COMMENTS</u></b>	No Comments
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	It is unclear whether or not the driveway is proposed to be changed from its existing layout as the plan does not illustrate the exiting layout in the right-of-way. Currently, the driveway is on the east side of the property, which may direct entering vehicles into the proposed parking spaces. Any changes in the right-of-way will require ALDOT approval, as Government Street is a state maintained roadway.
<b><u>URBAN FORESTRY COMMENTS</u></b>	Urban Forestry recommends the variance be granted as it pertains to tree planting. The front parking area is entirely paved leaving no green space for planting. There are a variety of existing trees along the property line as well as live oaks on the Right of way.

**FIRE DEPARTMENT****COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code). Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC).

**CITY COUNCIL****DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Use and Tree Planting and Landscaping Variances to amend a previously approved variance to allow a restaurant in a B-1, Buffer Business District and no tree plantings or landscaping; the Zoning Ordinance requires a minimum of B-2, Neighborhood Business District zoning for a restaurant and full compliance tree planting and landscaping requirements.

The site was granted these variances at the Board of Zoning Adjustment's April 5, 2010 and May 2, 2011 meetings with the following conditions:

- 1) hours of operation be limited to 6:00 AM – 6:00PM;
- 2) provision that the dumpster pick-up be between 9:00 AM and 9:00 PM on weekdays only;
- 3) provision that deliveries are restricted to the hours of operation;
- 4) that the site not be allowed the sales of alcohol;
- 5) the smoker be limited to the hours of operation;
- 6) lighting of the site to focus only on the site and not overflow to the adjacent residential properties;
- 7) provision of a hedge or fence along the Northern property line, to be approved by the Architectural Review Board;
- 8) provision of a dumpster, screened from view and in compliance with Section 64-4.D.9 of the Zoning Ordinance;
- 9) provision of a revised site plan to the Planning Section of Urban Development prior to the issuance of any permits or land disturbance activities; and
- 10) full compliance with all other municipal codes and ordinances.

This site has been previously used as a restaurant for many years. Non-conforming use documentation shows that the building housed the former Steak and Egg Restaurant since the 1960's, and later the Saucy Q Bar-B-Q Restaurant from 1998 until January 2005. The site has been vacant since 2005, and, as such, legal non-conforming use status as a restaurant expired in 2007, with variances granted in 2010 and 2011 to allow operation of a restaurant to resume.

The current applicant wishes to have two of the previous conditions of approval removed which limit the hours of operation and deliveries. The applicant also proposes to make minor alterations to the parking lot layout to accommodate Americans with Disabilities Act requirements, and it appears that there is a proposed addition to the front façade of the building which will accommodate an "outdoor eating area" according to a proposed floor plan submitted. The site plan erroneously states that the parking ratio for a restaurant is 1 parking space per 300 square feet, however, the correct parking calculation is 1 parking space per 100 square feet, resulting in

16 required parking spaces, and only 15 provided. The site plan should be revised to illustrate an additional parking space at the rear of the site, behind the building.

It should be noted that a previous condition of approval, “provision of a hedge or fence along the Northern property line, to be approved by the Architectural Review Board” is illustrated on the site plan, but does not say the height or materials of the fence. If approved, the site plan should be revised to note that the fence is a 6’ high, wooden privacy fence.

The applicant states:

*Please consider granting the variances listed below for the future Rockwell's Beef & Dawg Restaurant to be located at 1252 Government Street here in Mobile. This restaurant will renovate and occupy the existing building that has been vacant for several years and serve a variety of unique Chicago Style menu items.*

*Our variance request will modify the existing variance in effect for the site approved in 2011 — reference number ZON2011-00875. The approximate number of employees will be three per shift. The anticipated number of customers per day will vary from 100 — 250. The existing conditions recommended for the variance approval in 2011 are acceptable except for the three modifications listed below:*

**PARKING VARIANCE:**

*Because the existing site plan parking layout does not designate a handicap parking space, we propose the revisions shown on the attached site plan for adding one van accessible parking space.*

**HOURS OF OPERATION VARIANCE:**

*The current variance limits the hours of operation for the restaurant from 6:00 AM to 6:00 PM. In order to serve out target customer demographics, please consider our request to allow the hours of operation for Rockwell's Beef & Dawg Restaurant from 10:00 AM to 11:00 PM Monday — Thursday and from 10:00 AM to 12:00 AM on Friday & Saturday.*

**DELIVERIES:**

*Please consider our request to limit business deliveries from 9:00 AM to 6:00 PM to more closely reflect the anticipated supplier delivery schedule availability.*

*Thank you for your assistance with reviewing the future Rockwell's Beef & Dawg Restaurant. We look forward to the review meeting and input from the Board of Adjustment. Thank you.*

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 this site has historically been a restaurant, and the building is currently set up for a restaurant, it would seem to be reasonable to grant the use variance for a restaurant use. The site can accommodate adequate paved parking for the use, and, as such, would not overburden the site.

In regards to the landscaping and tree planting requests, the site is almost 100% developed, and removing any parking or maneuvering areas to plant trees would result in another variance request either for parking or maneuvering area. Aerial photography reveals a large live oak on the right-of-way directly in front of this site, with the remainder of the right-of-way frontage being taken up by the site's curb-cut. These conditions could be considered hardships, and as such, the landscaping and tree planting variances may be appropriate.

When the site was presented to the Board previously, neighborhood residents voiced concerns about the type of restaurant which would operate at this location. Therefore, restrictions were placed on the site including prohibiting the sales of alcohol, limiting hours of operation for a smoker, lighting not overflowing onto adjacent residential properties, and provision of a buffer along the North property line. It is staff's recommendation that these previous restrictions be maintained on the site.

**RECOMMENDATION:**

Staff recommends to the Board the following findings of fact for Approval:

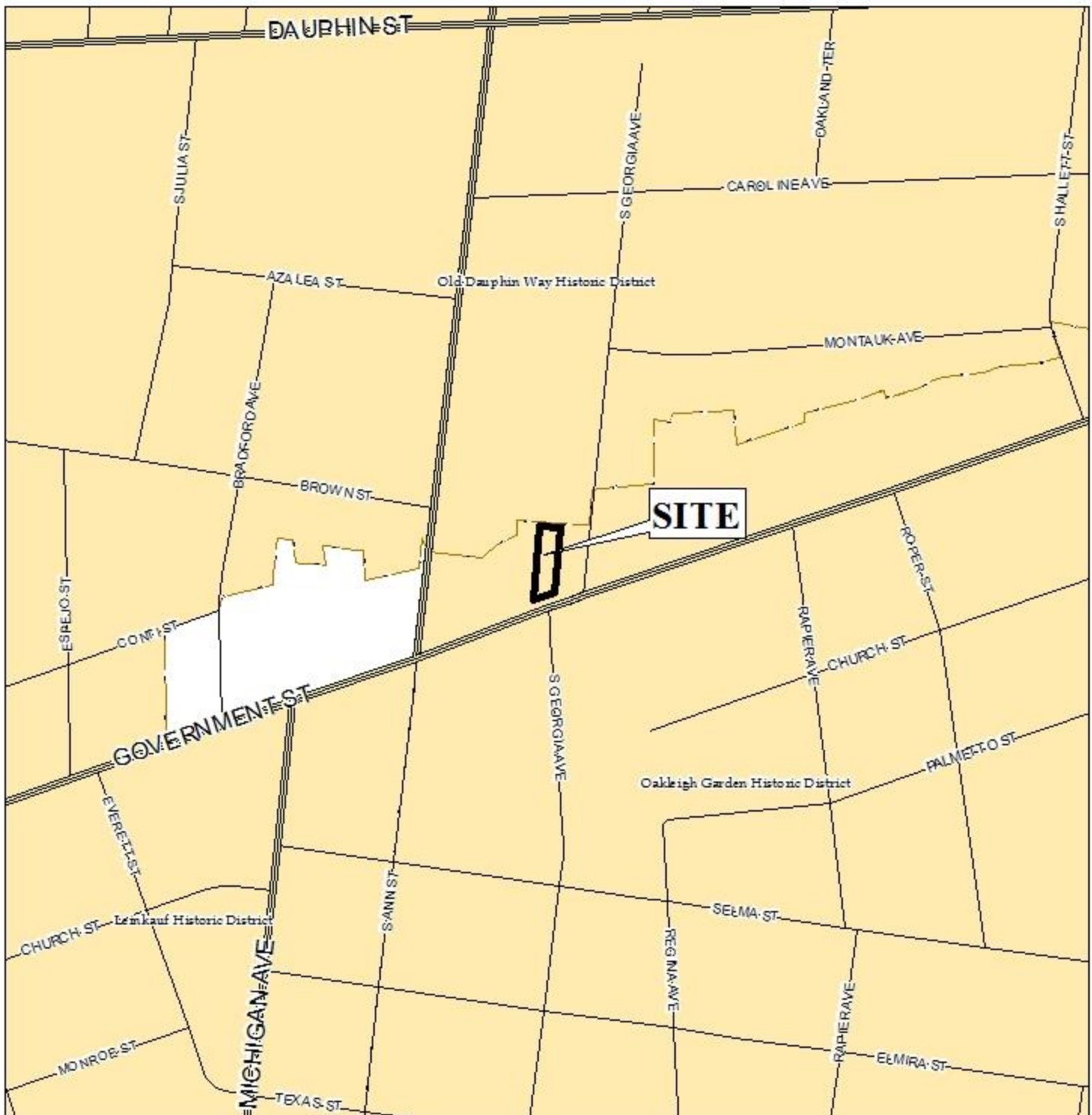
- 1) approving the variance will not be contrary to the public interest in that the subject site has been used a restaurant since the 1960's;
- 2) special conditions do exist and there are hardships which exist in that the site is almost 100% developed and there is not sufficient room for tree plantings and landscaped area; and
- 3) the spirit of the chapter shall be observed and substantial justice shall be done to the surrounding neighborhood by granting the variance because the site has been used as a restaurant for over 50 years without tree plantings and landscaped area.

The approval is subject to the following conditions:

- 1) hours of operation be limited to 10:00 AM to 11:00 PM Monday — Thursday and from 10:00 AM to 12:00 AM on Friday and Saturday;
- 2) provision that the dumpster pick-up be between 9:00 AM and 9:00 PM on weekdays only;
- 3) provision that deliveries are restricted to 9:00 AM to 6:00 PM;
- 4) revision of the site plan to illustrate one additional parking space at the rear of the site, behind the building;
- 5) the site not be allowed the sales of alcohol;

- 6) the smoker be limited to the hours of operation, if applicable;
- 7) lighting of the site to focus only on the site and not overflow to the adjacent residential properties;
- 8) revision of the site plan to indicate a 6' high, wooden privacy fence along the North property line;
- 9) provision of a revised site plan to the Planning & Zoning Development prior to the issuance of any permits or land disturbance activities; and
- 10) full compliance with all other municipal codes and ordinances.

# LOCATOR MAP



APPLICATION NUMBER 6023 DATE January 4, 2015

APPLICANT Michael Spina

REQUEST Use, Tree Planting and Landscape Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north and east, and commercial units to the west and south.

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APPLICANT Michael Spina

REQUEST Use, Tree Planting and Landscape Variances

R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6





# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units to the north and east, and commercial units to the west and south.

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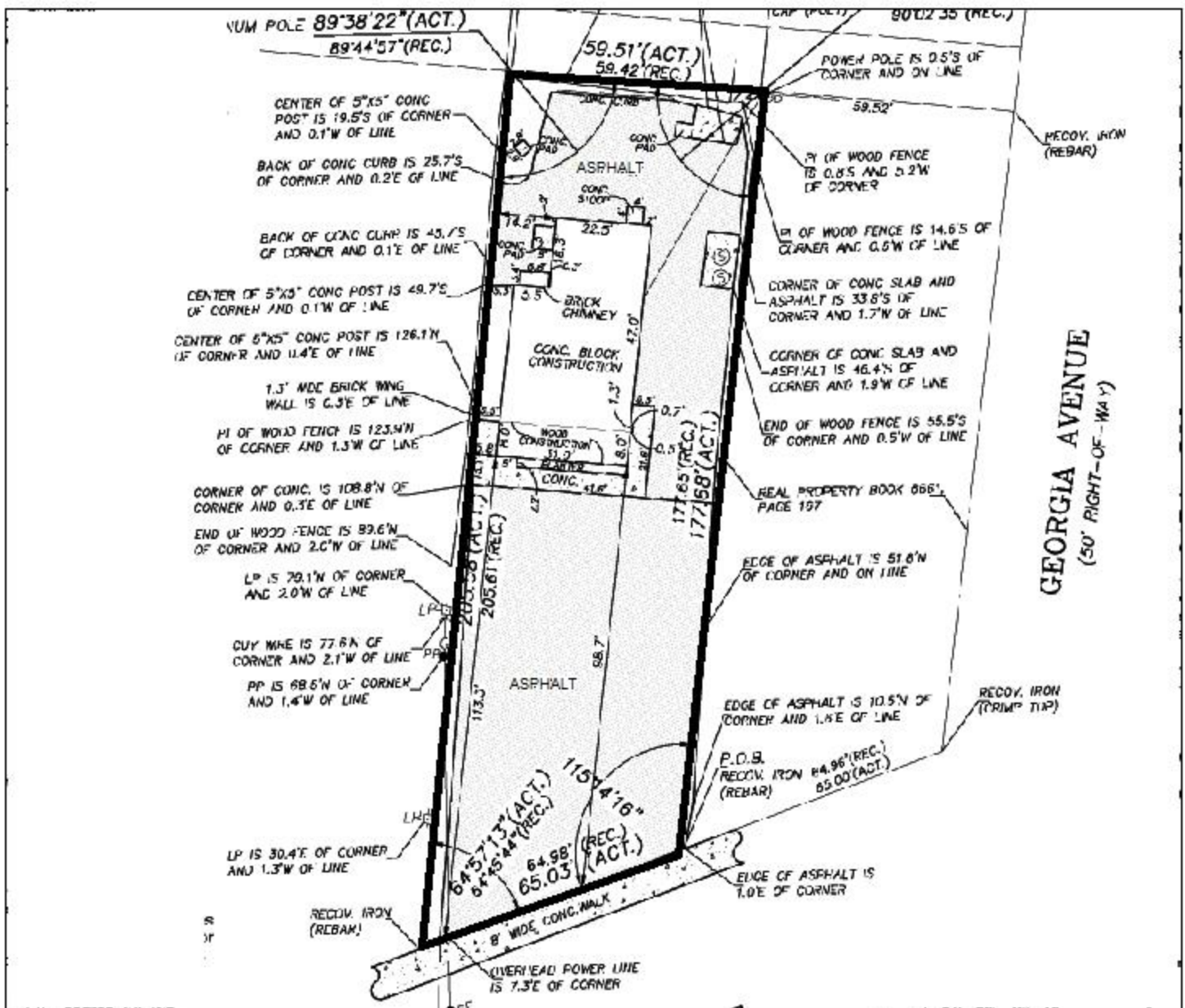
APPLICANT Michael Spina

REQUEST Use Variance





# EXISTING SITE PLAN



The site plan illustrates the existing building, and asphalt parking area.

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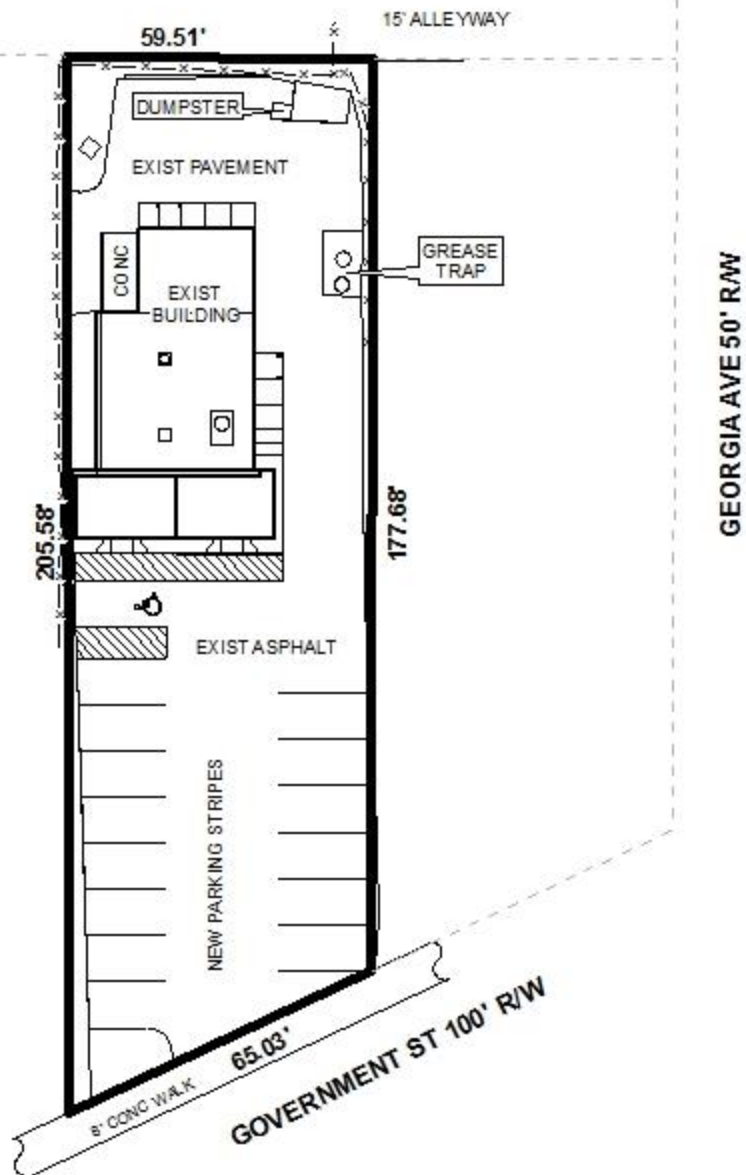
APPLICANT Michael Spina

REQUEST Use, Tree Planting and Landscape Variances



NTS

# PROPOSED SITE PLAN



The site plan illustrates the new parking additions, existing building, and fence.

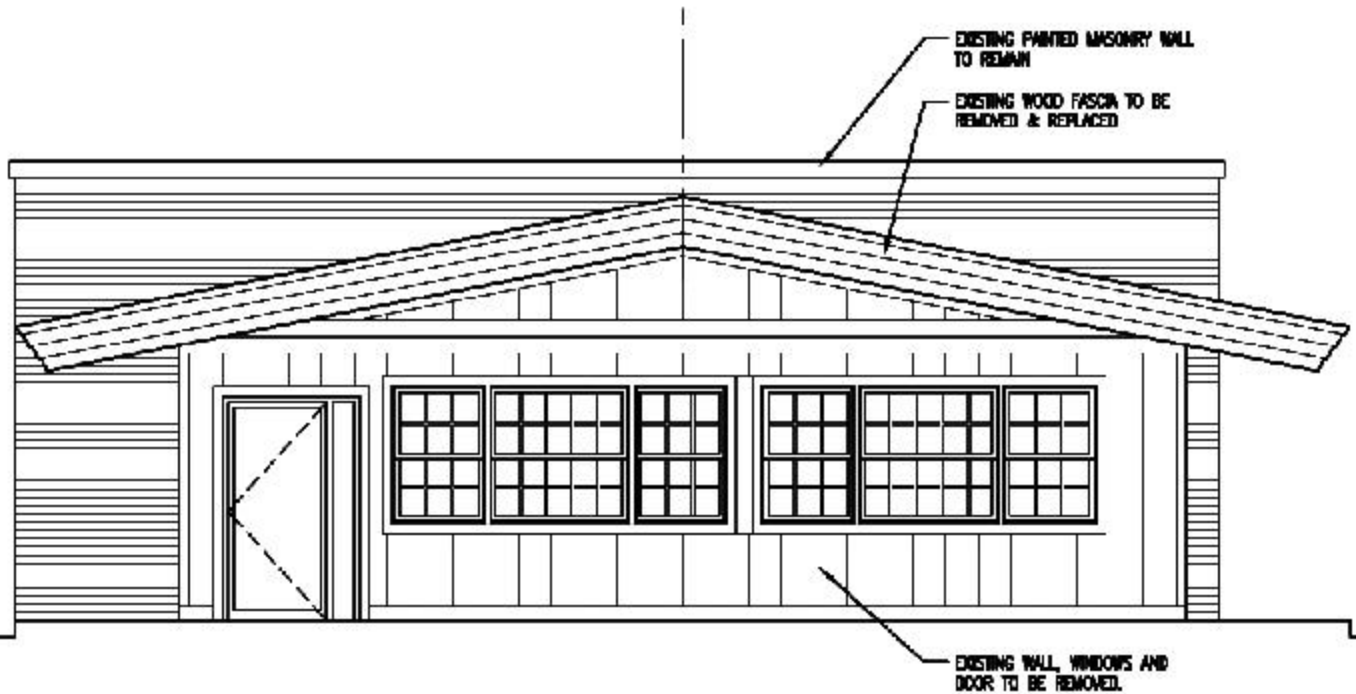
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## DETAIL SITE PLAN



### EXISTING SOUTH ELEVATION

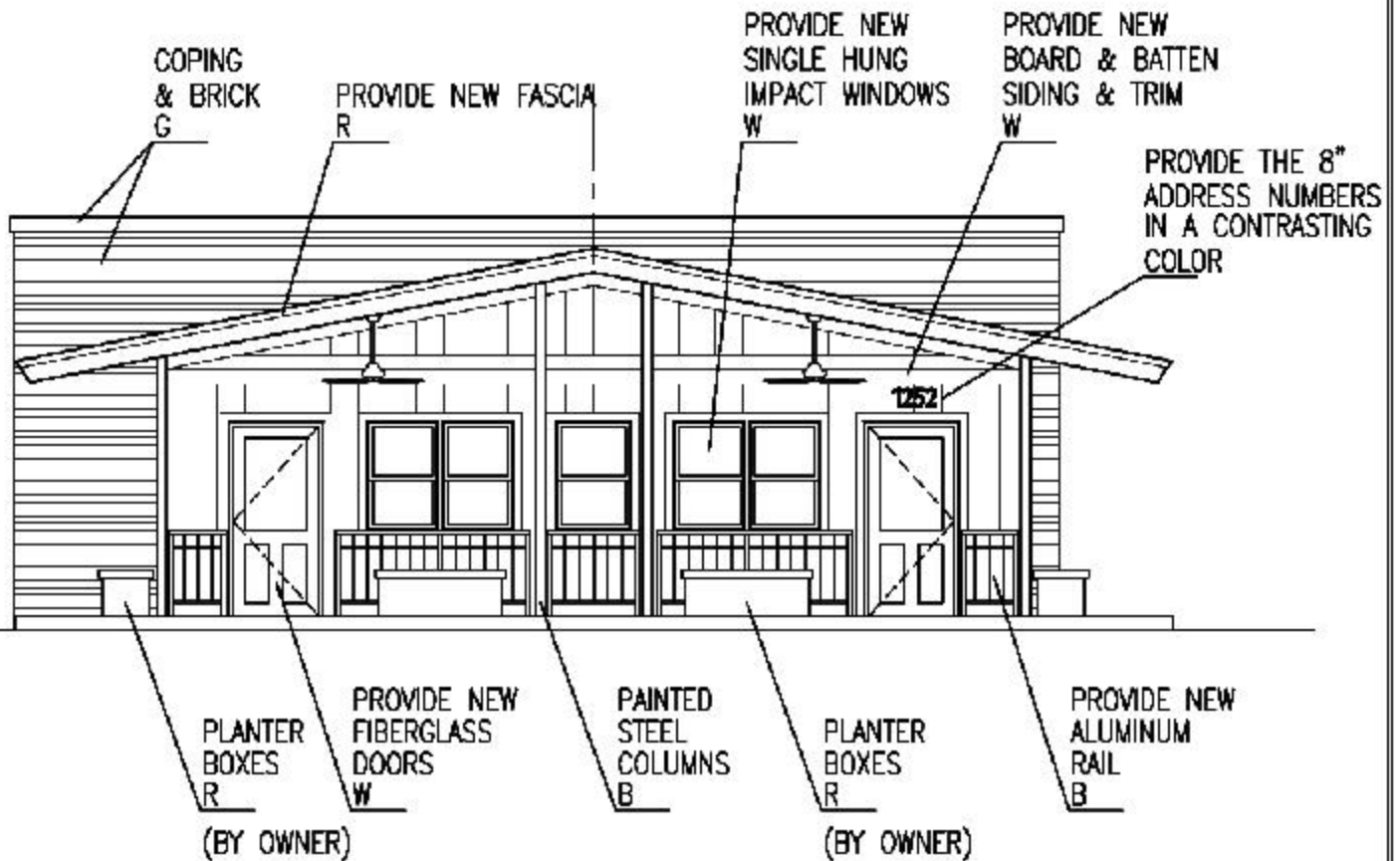
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# DETAIL SITE PLAN



## PROPOSED SOUTH ELEVATION

0 3' 6' 9' 12'

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