

APPLICATION NUMBER

5609

A REQUEST FOR

**USE, PARKING SURFACING, AND ACCESS AND
MANEUVERING VARIANCES TO ALLOW AN
ATTORNEY'S OFFICE IN AN R-1, SINGLE-FAMILY
RESIDENTIAL DISTRICT, WITH AGGREGATE
SURFACING, AND MANEUVERING AREA OF 12 FEET;
THE ZONING ORDINANCE REQUIRES A MINIMUM R-B,
RESIDENTIAL-BUSINESS DISTRICT ZONING, PARKING
SURFACES PAVED WITH ASPHALT, CONCRETE,
ASPHALTIC CONCRETE, OR AN APPROVED
ALTERNATIVE SURFACE, AND 24-FEET OF ACCESS
AND MANEUVERING AREA.**

LOCATED AT

215 SOUTH CEDAR STREET

(East side of South Cedar Street, 110'± North of Eslava Street)

APPLICANT/AGENT

FRANK H. KRUSE

OWNER

FRANK H. KRUSE

BOARD OF ZONING ADJUSTMENT

APRIL 2010

The applicant is requesting Use, Parking Surfacing, and Access and Maneuvering Variances to allow an attorney's office in an R-1, Single-Family Residential District, with aggregate surfacing, and maneuvering area of 12 feet; the Zoning Ordinance requires a minimum R-B, Residential-Business District zoning, parking surfaces paved with asphalt, concrete, asphaltic concrete, or an approved alternative surface, and 24-feet of access and maneuvering area.

The subject site was rezoned from R-B, Residential Business, to R-1, Single-Family Residential, in July, 1998, as part of a blanket rezoning of the Church Street East Historic District by the City in an effort to promote more downtown residential use and development. The site had been in use as offices since 1991 prior to the rezoning, and such use was allowed to continue as a legal nonconforming use. Documentation on file within the Planning Section establishes continuous use as offices since the rezoning. The applicant primarily desires to provide on-site parking with a crushed limestone surface and substandard access/maneuvering area. Since a variance is required for the substandard access/maneuvering area, staff also advised the applicant to request the Use Variance and the Parking Surface Variance. Normally, Planning Approval by the Planning Commission is required for an aggregate parking surface within the Hank Aaron Loop, but in similar cases where relief has been sought for multiple aspects of the Zoning Ordinance within the Hank Aaron Loop, aggregate parking requests have been handled via variances.

With regard to the Use Variance request, since the property has been in continuous use as professional offices since 1991, and no expansion of the use is proposed, it would stand that such should be allowed to continue, especially when considering the fact that the use was a conforming use in R-B prior to the rezoning, and approximately three other commercial sites are located within the same block.

As mentioned, the site is located within the Church Street East Historic District, and the proposed crushed limestone parking surface has been approved by the Architectural Review Board. Since the site is located within a predominately residential neighborhood, the use of an aggregate parking surface would be in keeping with the neighborhood's residential character.

The applicant proposes to place three parking spaces in the rear yard of the site. As the site is within the Hank Aaron Loop, it is afforded relief from the standard parking ratio of the Zoning Ordinance (1 parking space per 300 square feet of gross floor area), and is required 1 parking space per 600 square feet of gross floor area, requiring three on-site parking spaces in this instance. However, the access to the parking area and the associated maneuvering space is limited by site constraints. The distance between the wall of the existing building and the property line beside the proposed drive varies from approximately 20' at the front to 16' at the rear which would make a two-way drive

impracticable. Entry into the parking stalls would be severely restricted as proposed on the site plan, and exiting from the last two stalls would be restricted. However, with a revision of the parking stalls to be located further to the South, more maneuvering area could be achieved for vehicles both entering and exiting the stalls. This should be coordinated with Traffic Engineering.

GIS land use data indicates commercial use adjacent to the North of the site and a small portion to the rear. All other adjoining uses are single-family residential. Therefore, a 6' high wooden privacy fence should be required along the East (rear) and South side of the site, decreasing to 3' high within the front 25' of the Cedar Street property line. Also no landscaping and tree planting is indicated on the site plan. As this is a commercial site, albeit with limited area available for landscaping and tree planting compliance, such should be provided to some degree, to be coordinated with Urban Forestry.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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 has illustrated that use of the property for an attorney's office would be consistent with its use for the past 19 years and the Board should consider the Use Variance for approval, subject to conditions. The Parking Surface Variance should also be considered for approval, especially in light of the Architectural Review Board's approval of such and the residential character it imparts. The applicant has illustrated that a literal enforcement of the Ordinance would result in an unnecessary hardship with respect to the substandard driveway access to the proposed rear parking area. However, the access/maneuvering area hardship associated with the parking stalls entry and exit could be relieved by the revision of the site plan to place the stalls further to the South.

RECOMMENDATION 5609**Date: April 5, 2010**

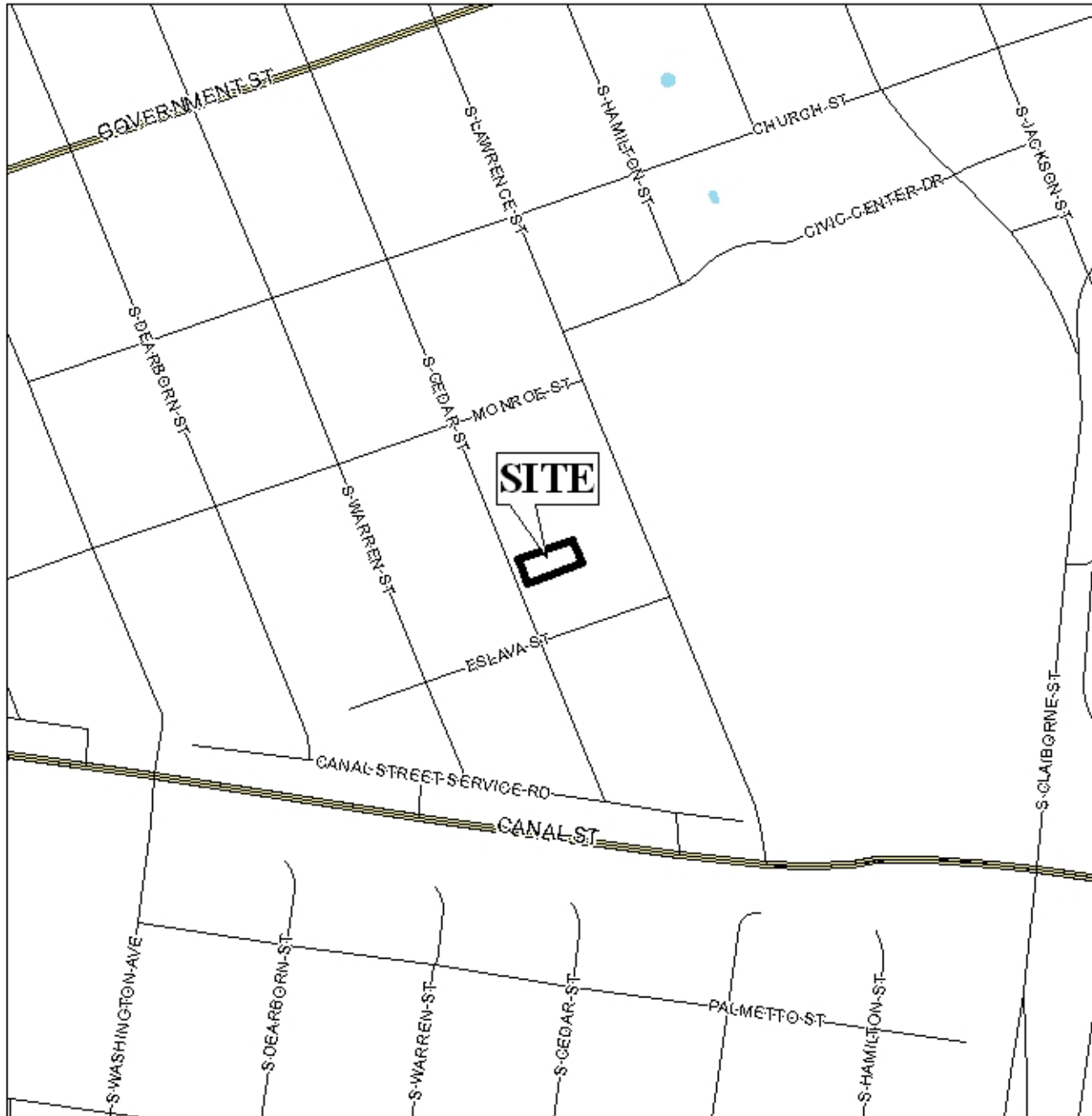
Base on the preceding, it is recommended that the Use and Parking Surface Variances be approved; subject to the following conditions:

- 1) provision of a 6' high wooden privacy fence along the East and South sides of the property, decreasing to 3' in height within the front 25' of the property; and
- 2) compliance with the landscaping and tree planting requirements of the Ordinance as much as practicable, to be coordinated with Urban Forestry.

The Access/Maneuvering Variance request is recommended for approval with the modification of the site plan to relocate the parking stalls to the South to provide as much access/maneuvering area as practicable, subject to the following conditions:

- 1) coordination with Traffic Engineering on the revised location of the parking stalls; and
- 2) submission of a revised site plan to the Planning Section reflecting all approval conditions prior to the obtaining of any permits.

LOCATOR



APPLICATION NUMBER 5609 DATE April 5, 2010

APPLICANT Frank H. Kruse

REQUEST Use, Parking Surfacing and Access, and Maneuvering Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site plan is surrounded by residential land use and offices.
The Mobile Civic Center is located to the east.

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LEGEND

R-1	R-2	R-3	R-4	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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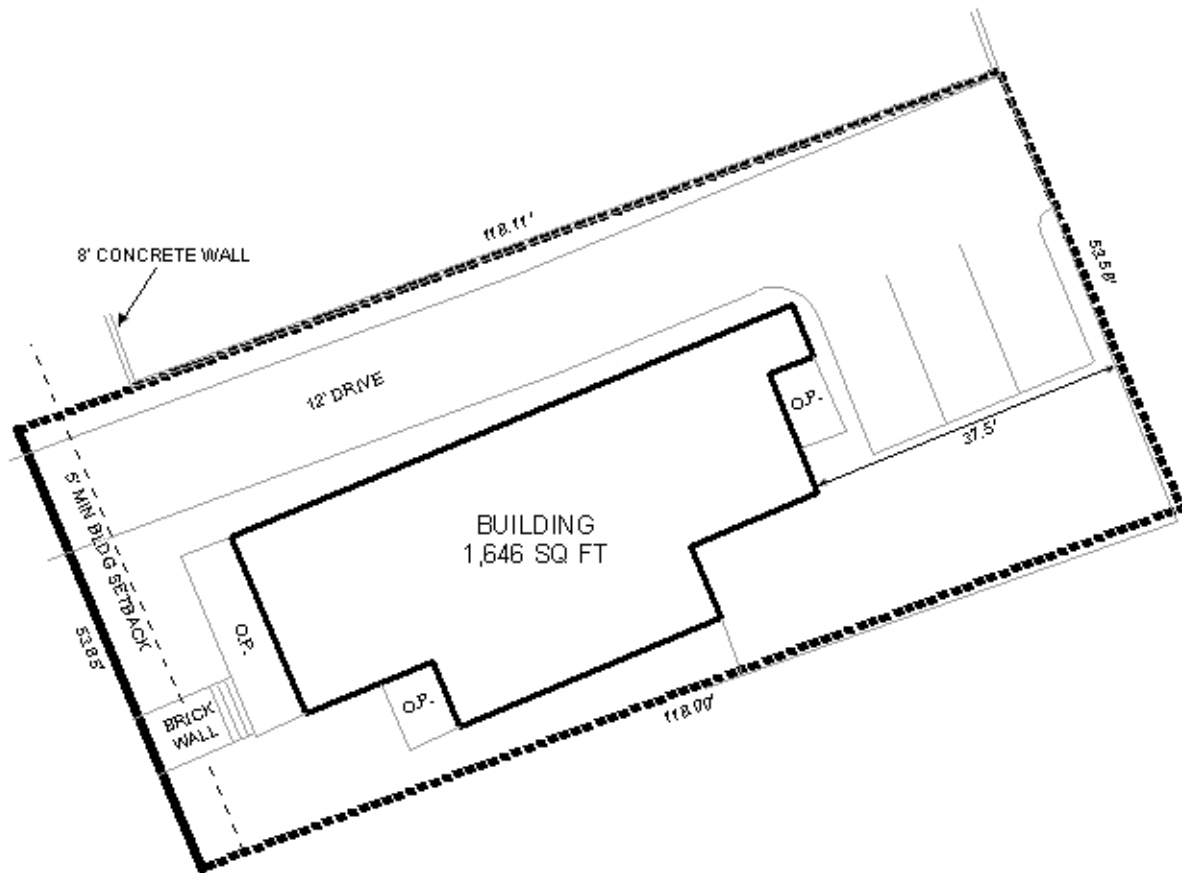
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SITE PLAN



This site plan illustrates the existing building
and proposed drive with associated parking.

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