

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 7, 2013****CASE NUMBER**

5863

APPLICANT NAME

Corporate Property Services

LOCATION4707 Airport Boulevard
(South side of Airport Boulevard, 2/10± mile West of
University Boulevard)**VARIANCE REQUEST****SITE:** Site Variances to allow a menu board and a 50' flag pole within the 25' front yard setback in a B-3, Community Business District.**ZONING ORDINANCE
REQUIREMENT****SITE:** Zoning Ordinance does not allow structures over 3' tall within the 25' front yard setback and no structure higher than 45' in a B-3, Community Business District.**ZONING**

B-3, Community Business District

AREA OF PROPERTY

0.59 ± Acres

**CITY COUNCIL
DISTRICT**

District 6

ANALYSIS

The applicant is requesting Site Variances to allow a menu board and a 50' flag pole within the 25' front yard setback in a B-3, Community Business District; the Zoning Ordinance does not allow structures over 3' tall within the 25' front yard setback and no structure higher than 45' in a B-3, Community Business District.

The applicant is in the beginning stages of developing the subject site as a new fast food restaurant. The applicant states that several layouts were considered to be proposed for the site, however, it was determined that the currently proposed layout provides the most functionality and compatibility with the existing shopping center the subject site has shared access with. The proposed layout includes two drive-thru lanes for customers to place their orders, and one of these order stations is located with the 25' front yard setback.

The applicant is also requesting permission to place a 50' high flag pole that is also within the 25' front yard setback, and exceeds the maximum allowable height for any structure in a B-3, Community Business District by 5'. The applicant states that the increase in maximum allowable height is necessary to insure the visibility of the American flag over the existing trees along Airport Boulevard.

The applicant has a separate variance request before the Board of Zoning Adjustment to allow more menu boards than are allowed by the Zoning Ordinance. Staff has recommended that request for denial.

Regarding the request for the allowance of the proposed 50' high pole, there are several trees along Airport Boulevard surrounding the subject site, which could make visibility of the flag reduced. The site plan provided indicates the existing trees will remain, and those trees in combination with existing trees on adjacent properties, may make the granting of the request appropriate. The applicant should be aware that only governmental flags will be allowed to be displayed on the pole, with no commercial advertisement of any kind.

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.

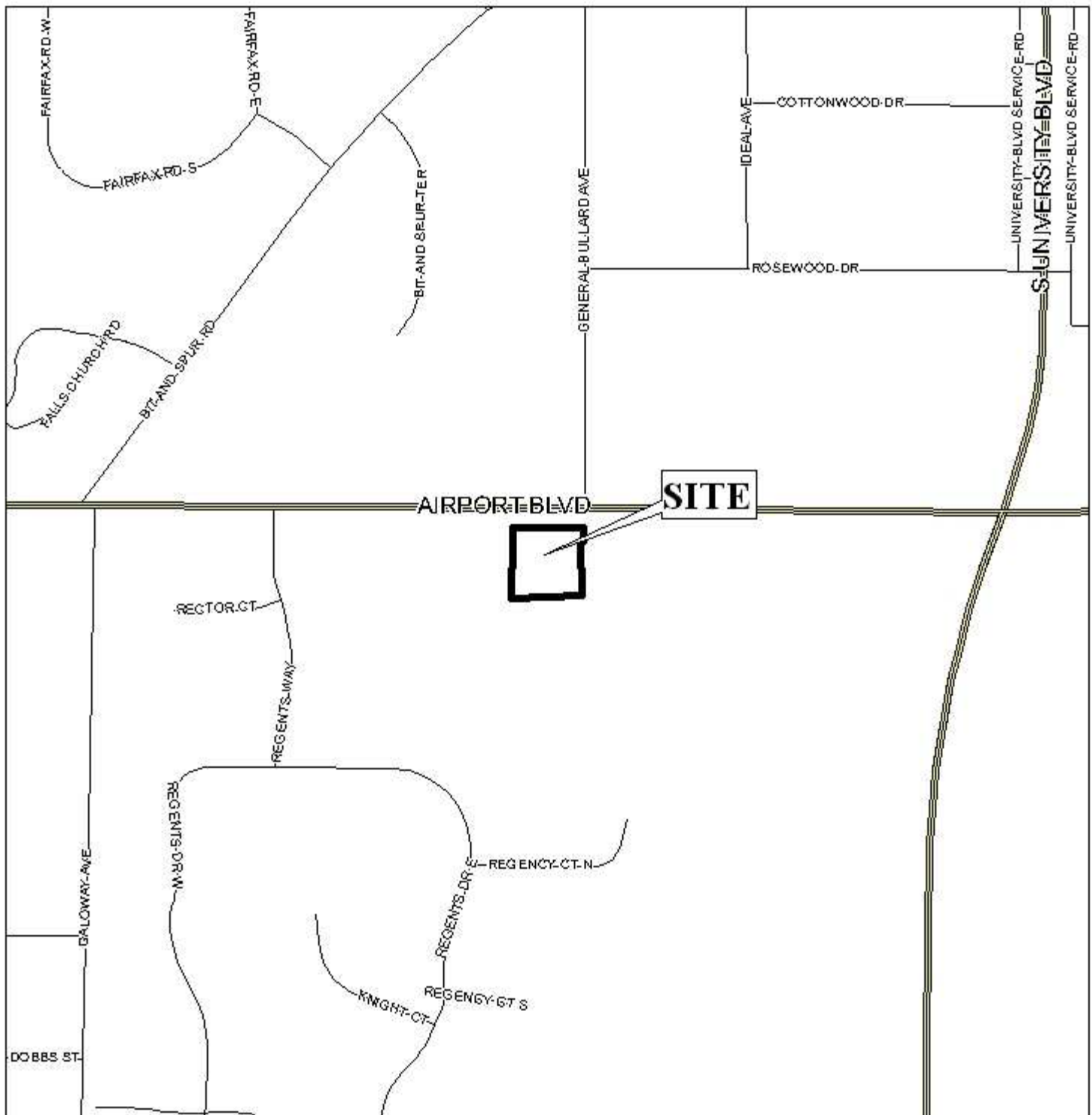
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

The applicant has not adequately provided justification to approve the presence of a menu board in the 25' front yard setback; however, there may be justification enough to allow a 50' high flag pole in the 25' front yard setback.

RECOMMENDATION: Based on the preceding, the request to allow a menu board in the 25' front yard setback is recommended for denial, and the request to allow a 50' high flag pole is recommended for approval subject to the following conditions:

- 1) placement of a note on the site plan stating that no commercial advertisement will be placed on the flag pole; and
- 2) provision of two (2) revised site plans.

LOCATOR MAP



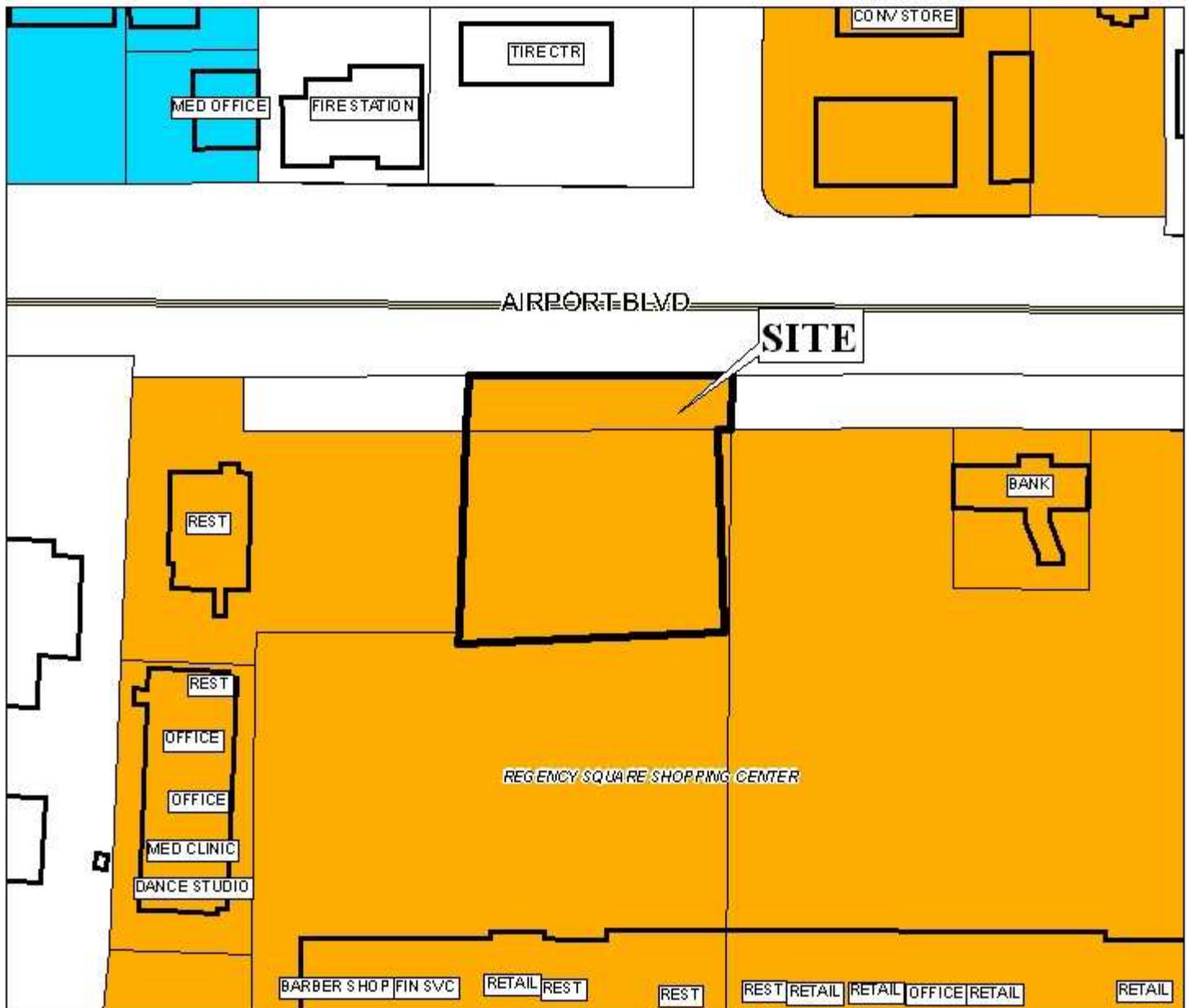
APPLICATION NUMBER 5863 DATE October 7, 2013

APPLICANT Corporate Property Services, Inc.

REQUEST Site Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

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REQUEST Site Variances

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
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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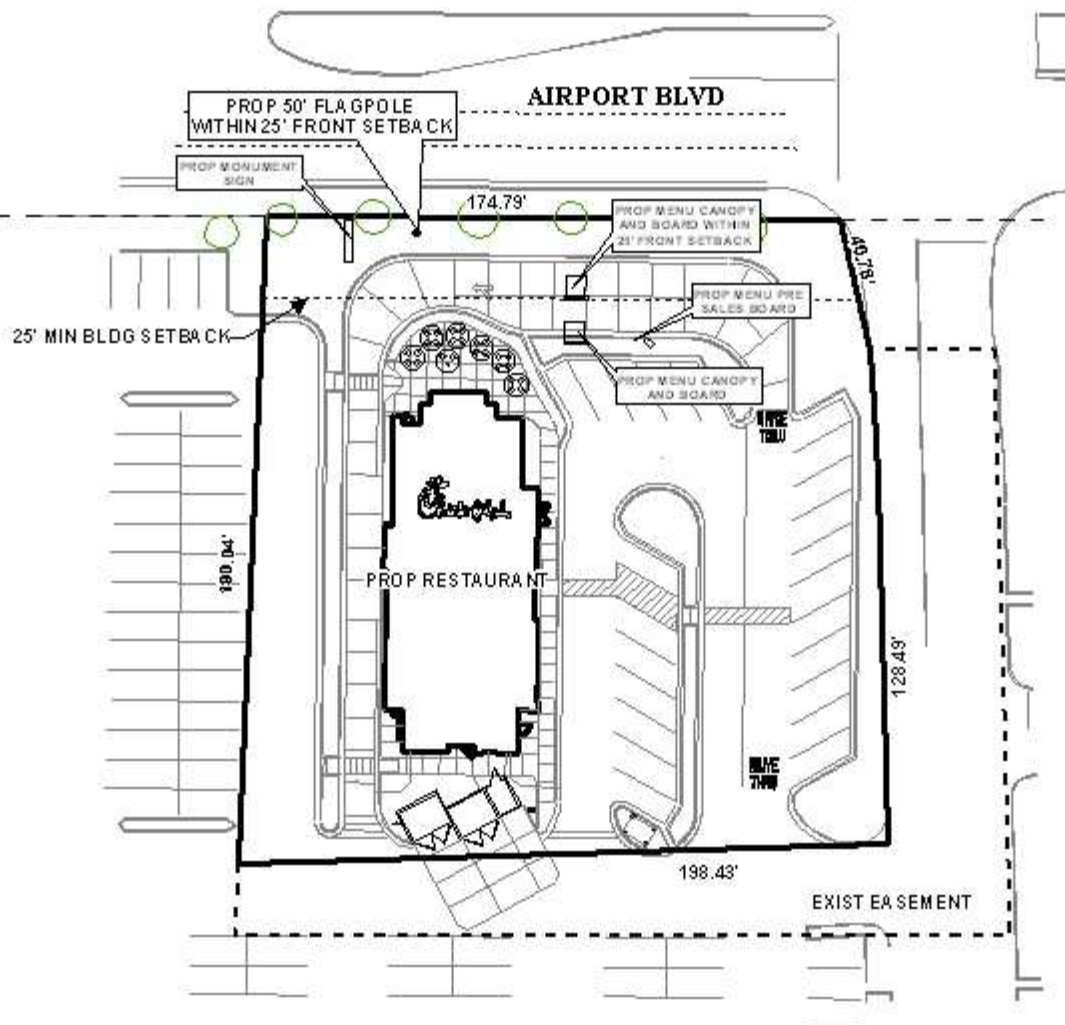
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NTS

SITE PLAN



The site plan illustrates the proposed development and signs.

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