

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 7, 2014**

<u>CASE NUMBER</u>	5899
<u>APPLICANT NAME</u>	McLain and Associates, Inc.
<u>LOCATION</u>	1312 West I-65 Service Road South (West side of West I-65 Service Road South, 410'± South of Key Street).
<u>VARIANCE REQUEST</u>	USE: Use Variance to allow a retail and lounge business in an I-1, Light Industry District;
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: the Zoning Ordinance does not allow retail or lounge business in an I-1, Light Industry District.
<u>ZONING</u>	I-1, Light Industry District.
<u>AREA OF PROPERTY</u>	18,000 square feet
<u>ENGINEERING COMMENTS</u>	No comments.
<u>TRAFFIC ENGINEERING COMMENTS</u>	New parallel parking spaces are proposed on the south side of the lot. Parallel spaces should be a minimum length of 23', unless they are unencumbered in which case 20' length is permitted. An access and maneuvering variance should also be considered, as there is parking that requires backing into the right-of-way, and the aisle width at the southeast corner of the property is less than the desired 24' width.
<u>CITY COUNCIL DISTRICT</u>	District 5
<u>ANALYSIS</u>	The applicant is requesting a Use Variance to allow a retail and lounge business in an I-1, Light Industry District; the Zoning Ordinance does not allow a retail or lounge business in an I-1, Light Industry District.

The applicant proposes to utilize an existing 4,000± square foot building that was previously utilized as a retail furniture store, to operate as a retail tobacco store and upscale cigar bar/lounge. The applicant plans to sell specialty tobacco products, smoking accessories, and gift items seven days a week from "8-10:00 am until 5-6 pm". The applicant would also like to open the lounge/ bar "weekdays from 2-3:00 pm until 10-12 midnight, and on weekends from 12 noon until midnight".

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(s) give the following reasons to explain the request for the use variance:

"We are an existing store that has been in Bel Air Colonial Mall since 1975. (we have owned the store for 10 years) Our retail store sell specialty tobacco products, smoking accessories and gift items. Our new location will also have a quiet upscale Cigar Bar that will allow a relaxing atmosphere for customers to enjoy a leisurely smoke, test some our tobacco products while enjoying a beverage of choice. At present we are open seven days a week 10-9. With our new location we are expecting the keep the retail open from 8-10:00 am until 5-6 in the evening and the lounge area open on Weekdays from around 2:00-3:00 until 10:00-12 midnight and Weekends from 12 noon until Midnight. At present we have 3 employees in the retail portion and do not intend to hire any additional staff as the retail area can easily be handled with 1 employee during normal shopping days. The Lounge will require 2-3 employees depending on the time of the day and weekdays vs. weekends.

This property is currently zone I-1 and our retail and lounge are not a permitted business in I-1 zoning according to the City. The neighboring properties are either hotels or retail uses, so our use will enhance what is there and should have only a positive effect on the area.

We request variances pertaining to zoning, landscaping and sidewalks. The surrounding properties (including hotel that was just constructed) do not have sidewalks, as there is no area for sidewalks to be installed. The landscaping variance is necessary for somewhat the same reason-there is no area in the front of the building that is suitable for landscaping. There are some very limited areas on the side that we can do some limited planting, but if we are required to be in compliance with code, the landscaping could only be in the rear of the property, which abuts vacant land, and we would then require a variance for parking.

Attached are pictures of the property as it is now. The only exterior improvements will be a new mansard, columns and painting as outlined on the sketch attached. Also attached is the proposed floor plan of the interior of the premises."

It should be pointed out that the site is already developed and there are no proposed changes to the foot print of the building; thus there is not a need for a tree and landscaping variance because there will be no additional tree and landscaping requirements.

Because the site will be going from a warehouse/ commercial use to a commercial business, bar/ lounge, parking requirements will change. Based upon staff's calculations, a total of 26 parking spaces, to include one van accessible parking space, should be provided.

It appears that the applicant has striped a total of 26 parking spaces on the proposed site plan. The Zoning Ordinance requires all standard off-street parking spaces to be a minimum of 9' x 18'. The Zoning Ordinance also states that all "parallel parking spaces shall be at least eight (8) feet wide, and interior stalls shall be at least twenty-three (23) feet long. End parallel parking stalls shall be at least twenty (20) feet long if their entry/exit area is unencumbered." According to the site plan 8 of the 26 proposed parking spaces do not meet the required parallel parking dimensions as depicted on the proposed site plan. However, the site plan is not to scale, thus, making it difficult for staff to determine the exact dimensions of the proposed parking spaces and to accurately determine how many spaces are being proposed.

A revised site plan, to scale, must be submitted so staff can determine the actual dimensions and number of proposed parking spaces. If the applicant is unable to provide the appropriate number of parking spaces a parking ratio variance will be required. If required, the applicant must amend the variance application to add a parking ratio variance and provide new mailing labels, notification fees, and the additional variance fee.

It should be noted the site plan also fails to illustrate any wheel stops, bumper stops, or curbing for the parking spaces as required by Section 64-6.3 of the Zoning Ordinance.

Since the proposed development will provide more than 25 parking spaces, any new lighting on the site will have to comply with the requirements of Sections 64-4.A.2., 64-6.A.3.c., and 64-6.A.8. of the Zoning Ordinance to ensure the lighting does not bleed over onto adjacent properties and roadways. A photometric plan will be required at the time of permitting.

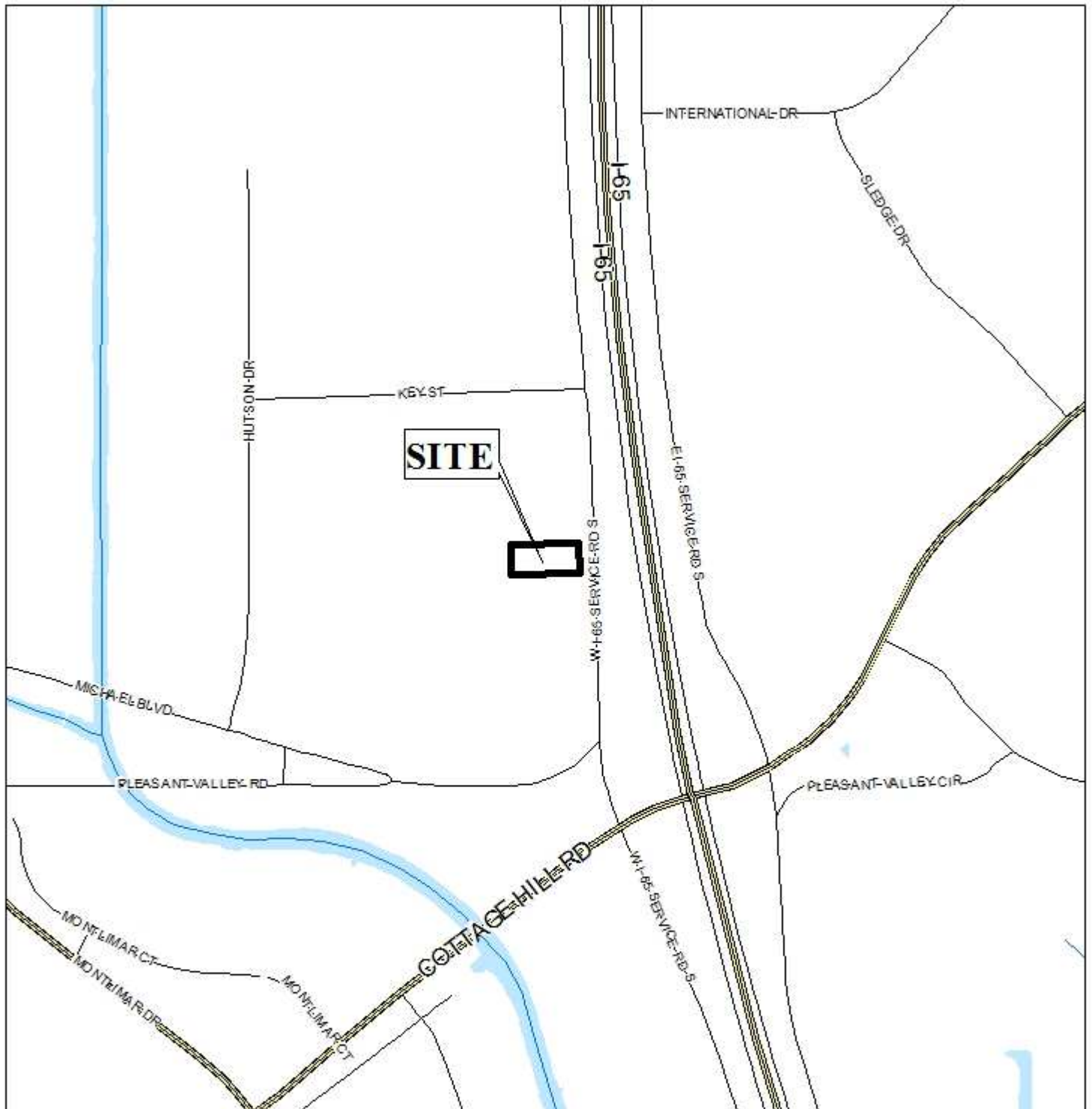
The applicant has not provided evidence of any hardship that would justify the granting of this use variance: a request to rezone the property would have been more appropriate to address the use-related issues. It is simply the applicants desire to utilize the site as a retail tobacco store and upscale cigar bar/ lounge. The applicant has also failed to depict important information of the site plan; thus, this application should not be considered as proposed.

RECOMMENDATION: Based on the preceding, this application is recommended for Holdover until the August 4, 2014 meeting, with revisions due by July 14th to address the following:

- 1) submission of 7 revised site plans, drawn to scale;
- 2) revise the site plan to depict standard off-street parking spaces that are a minimum 9' x 18' and parallel parking spaces that are a minimum 8' x 23' , or submit a revised narrative to include a parking ratio variance and payment of associated application fees; and notification labels and notification fees;
- 3) revise the site plan to clearly depict the total number of parking spaces;
- 4) revise the site plan to depict wheel stops, bumper stops, or curbing for the proposed parking spaces; and

- 5) revision of the site plan to comply with Traffic Engineering comments: *“New parallel parking spaces are proposed on the south side of the lot. Parallel spaces should be a minimum length of 23’, unless they are unencumbered in which case 20’ length is permitted. An access and maneuvering variance should also be considered, as there is parking that requires backing into the right-of-way, and the aisle width at the southeast corner of the property is less than the desired 24’ width.”*

LOCATOR MAP



APPLICATION NUMBER 5899 DATE July 7, 2014

APPLICANT McLain and Associates, Inc.

REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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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 commercial units.

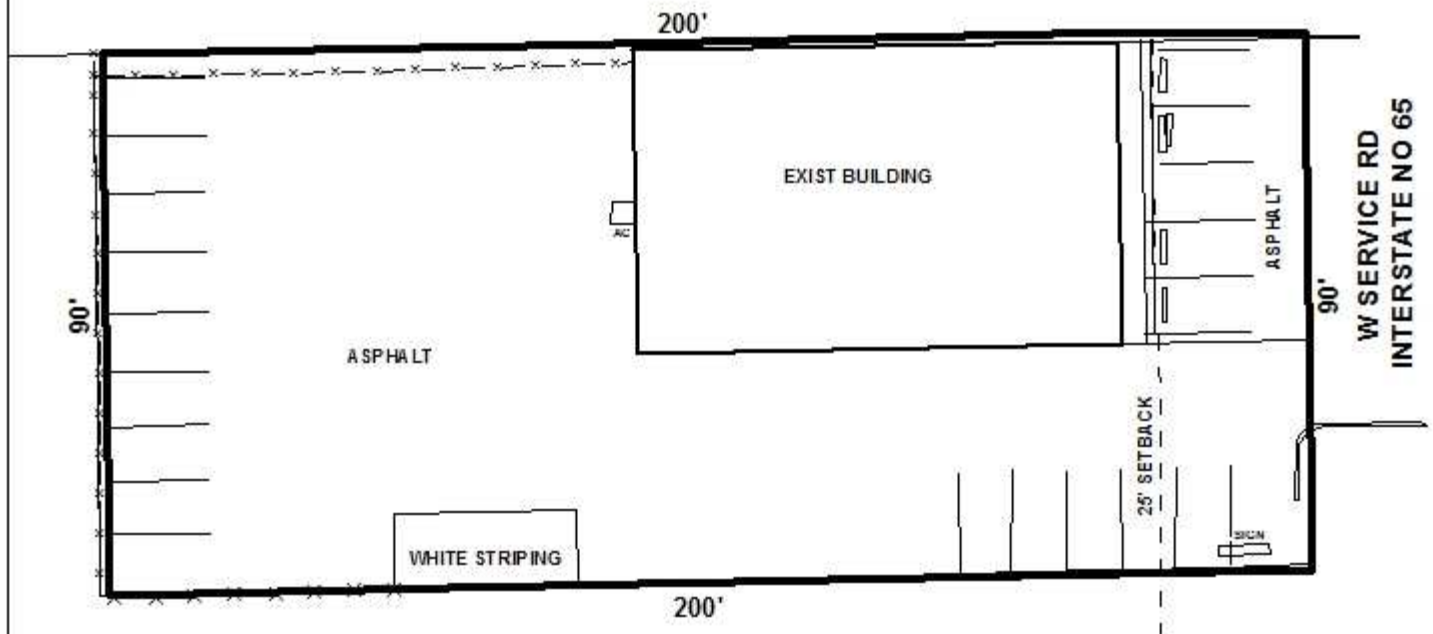
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EXISTING SITE PLAN



The site plan illustrates the existing building, setback, and parking.

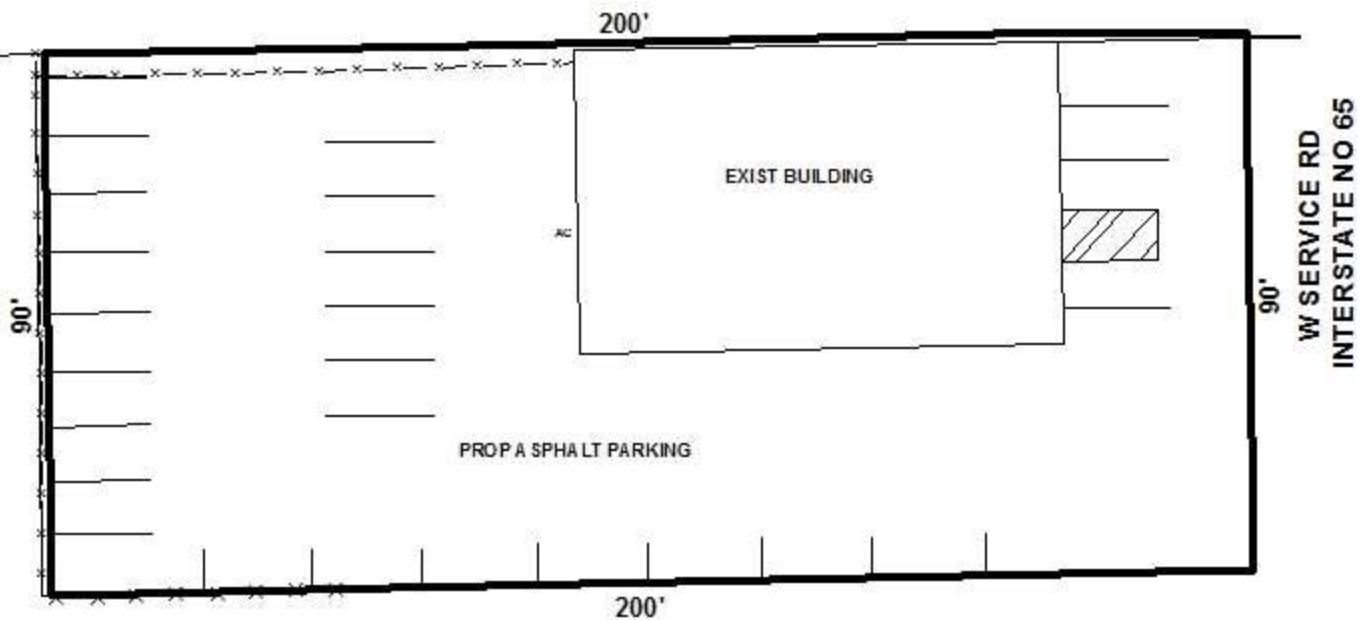
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PROPOSED SITE PLAN



The site plan illustrates the existing building and proposed parking configuration.

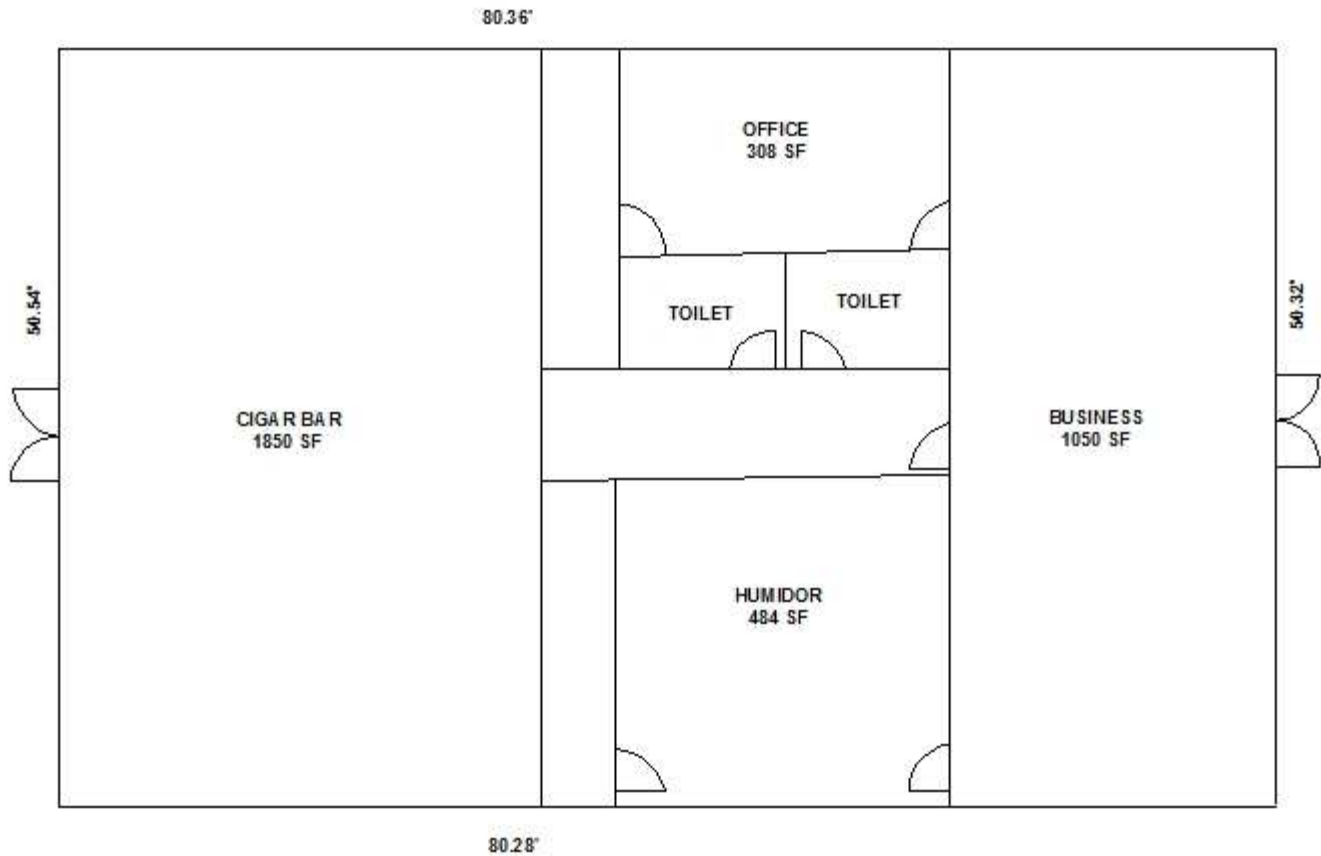
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PROPOSED FLOOR PLAN



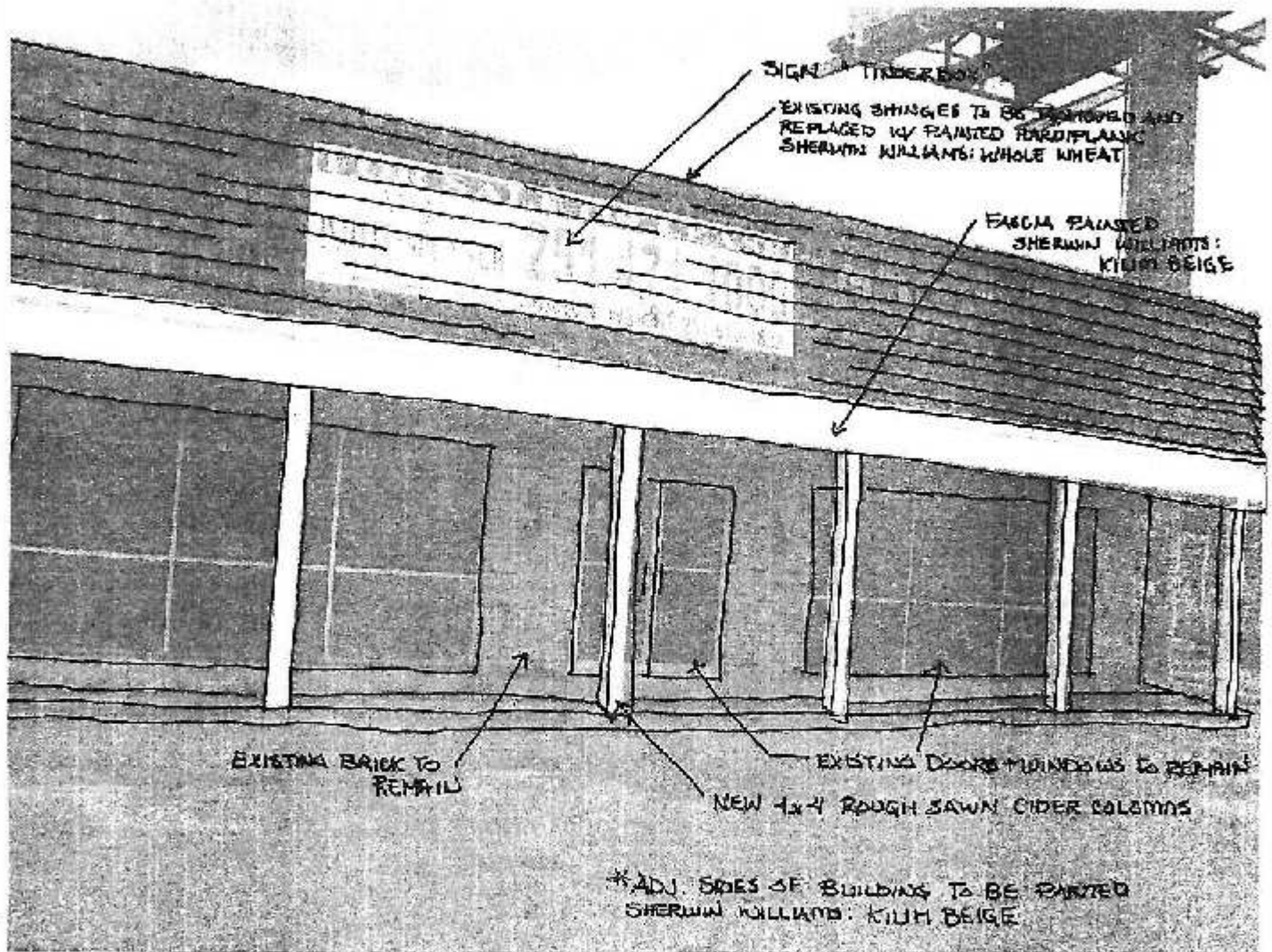
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DETAIL SITE PLAN



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REQUEST Use Variance

