

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 1, 2011****CASE NUMBER**

5696

APPLICANT NAME

Bruce Bender, Inc.

LOCATION

5450 US Highway 90 West
(West side of US Highway 90 West, 214' ± North of
Tillmans Corner Parkway).

VARIANCE REQUEST

SIGN: Sign Variance request to allow a total of six (6) signs, three (3) wall signs and three (3) freestanding signs, with two (2) of the wall signs exceeding 30% of the usable wall area on a single-business site in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

SIGN: The Zoning Ordinance allows a single business in a B-3, Community Business District, to have three signs, with no more than one of those signs being a freestanding sign, and each wall sign limited to 30% of the usable wall area up to a maximum of 350 square feet.

ZONING

B-3, Community Business

AREA OF PROPERTY

0.5± Acre

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Sign Variance to allow a total of six (6) signs, three (3) wall signs and three (3) freestanding signs, with two (2) of the wall signs exceeding 30% of the usable wall area on a single-business site in a B-3, Community Business District; The Zoning Ordinance allows a single business in a B-3, Community Business District, to have three signs, with no more than one of those signs being a freestanding sign, and each wall sign limited to 30% of the usable wall area up to a maximum of 350 square feet.

The applicant states that the site was in the County until the Theodore area annexation and that, being unfamiliar with the Zoning Ordinance with respect to signage, the building was recently painted and the signage was added. It is further stated that, due to the presence of adjacent and

surrounding buildings, the business is almost hidden when viewed from Highway 90 and I-10. The front of the building is approximately 260' from Highway 90 and there is a small open space between adjacent buildings on the South side and the signs have been strategically located so they can be seen from I-10.

The applicant states that both Mobile Shoe Hospital and Safety Wear House have business licenses for the site and that each business would be allowed two wall signs. Mobile Shoe Hospital indeed has a City business license for the site, but no record of any City business license is found for Safety Wear House for this site. The applicant has stated in telephone conversation that Safety Wear House has been incorporated, but the City business license has not actually been acquired at the time of this report. The lack of a City business license would disqualify Safety Wear House to have any signage on the site. Also, if there were indeed two City-licensed businesses on the site, that would constitute a multi-tenant site allowing only one wall sign per business. And since the site is land-locked with no public street frontage, it is not allowed any off-site freestanding signage except the refacing of legal nonconforming signage. The site plan indicates that there are two existing pole signs on the adjacent property near the entrance drive along Highway 90, and there is one pole sign within the public right-of-way on Highway 90.

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.

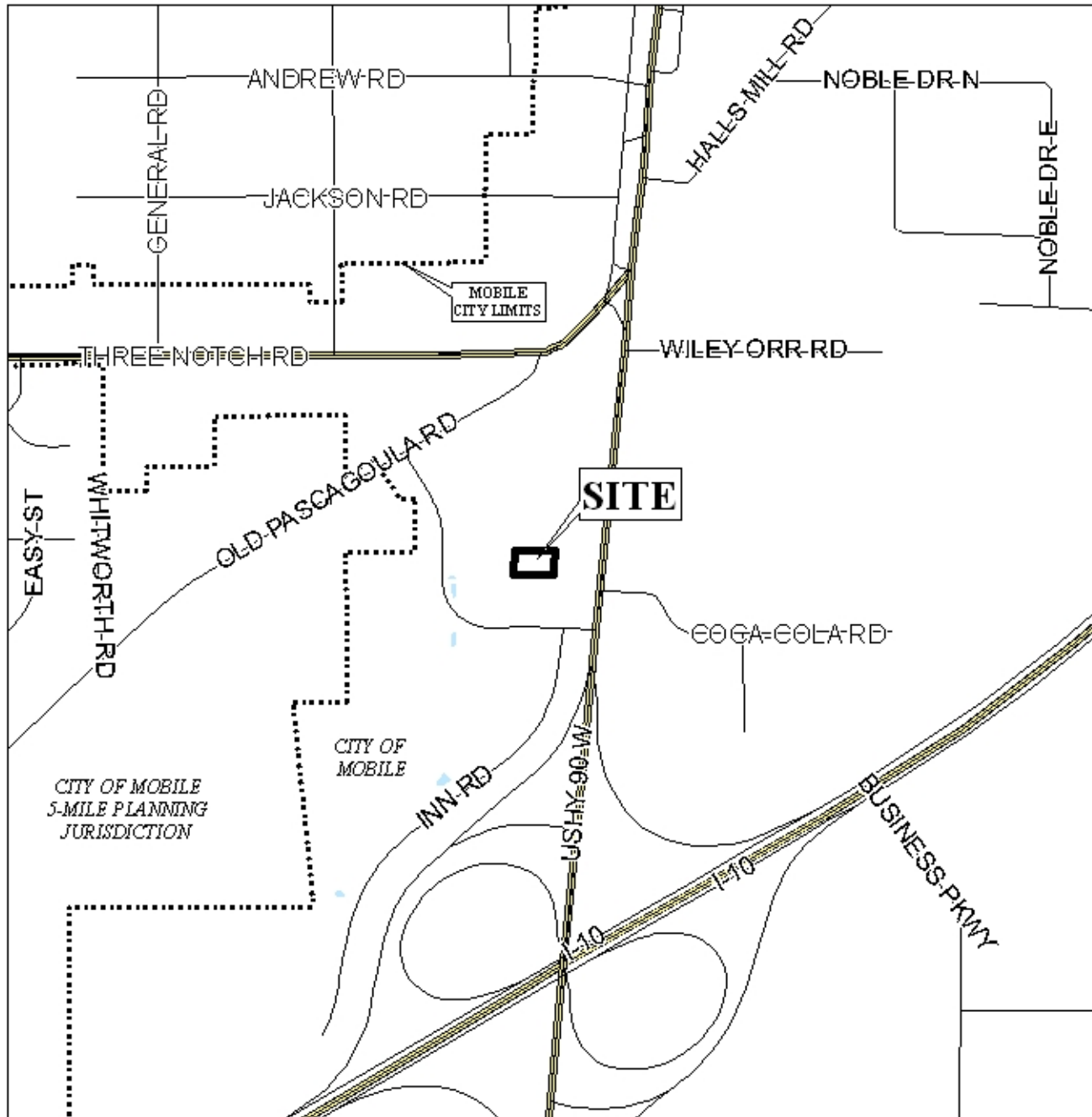
The applicant's reason for hardship as being hidden from view from both Highway 90 and I-10 would seem illogical since there is a sign on Highway 90 at the entrance drive with a directional arrow to the site, and other businesses within the immediate area do not seem to find it necessary to request excessive signage. Also, it is the responsibility of business and property owners to investigate what is required by local codes and ordinances of the governing municipality prior to the commencement of improvements. The signage was added after annexation and unfamiliarity with the law is not justification for a variance. Failure to inquire about required permits would be a self-imposed hardship.

The applicant has failed to illustrate that a literal enforcement of the Zoning Ordinance would cause an unnecessary hardship with respect to allowable signage, especially since one of the businesses is apparently operating without the proper City licensing.

RECOMMENDATION:
for denial.

Based on the preceding, this application is recommended

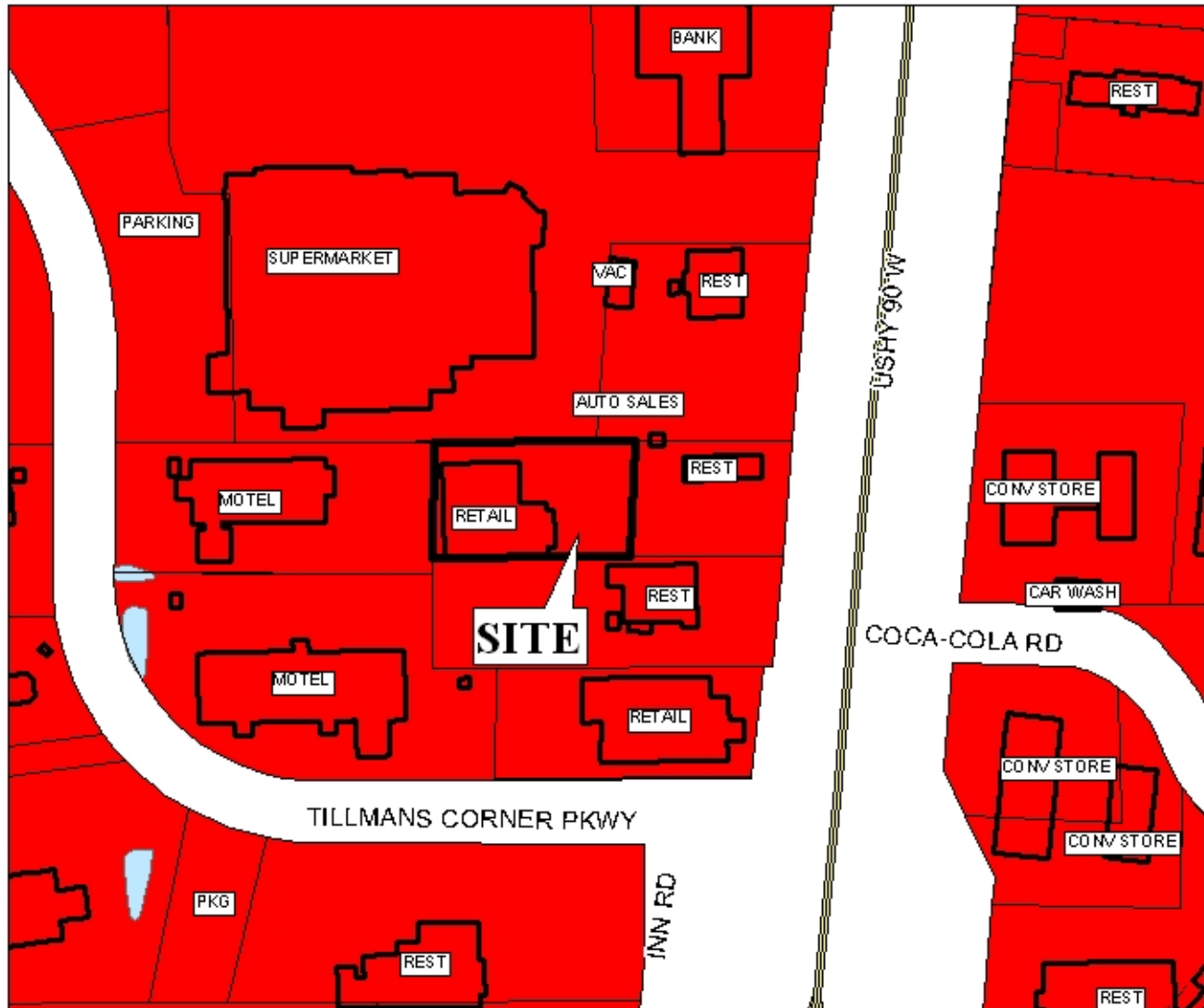
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There is a motel to the west of the site, an auto sales business to the north, a convenience store to the east, and a restaurant to the south.

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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	NTS
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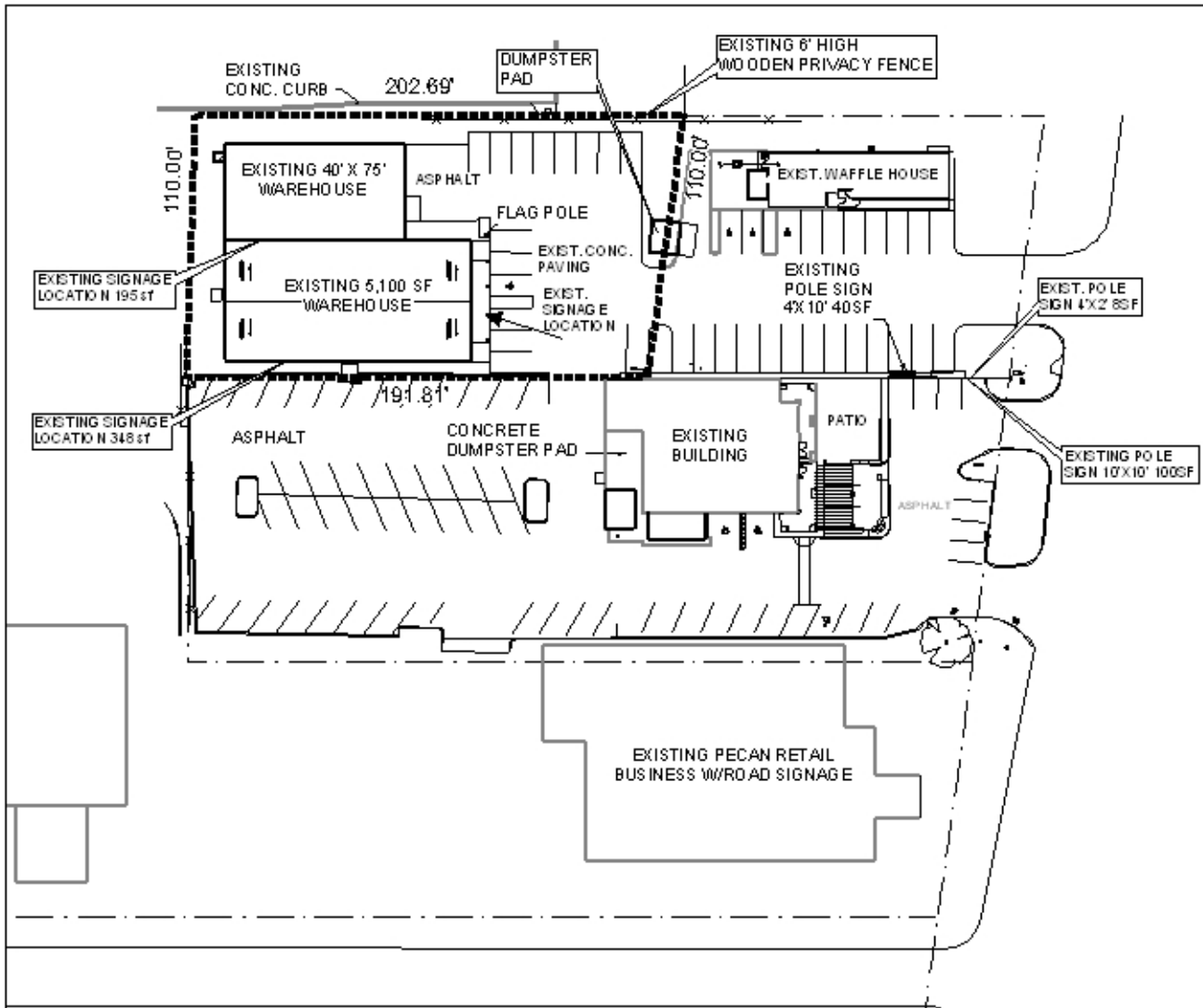
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SITE PLAN



The site plan illustrates the existing buildings, sign locations, and surrounding businesses.

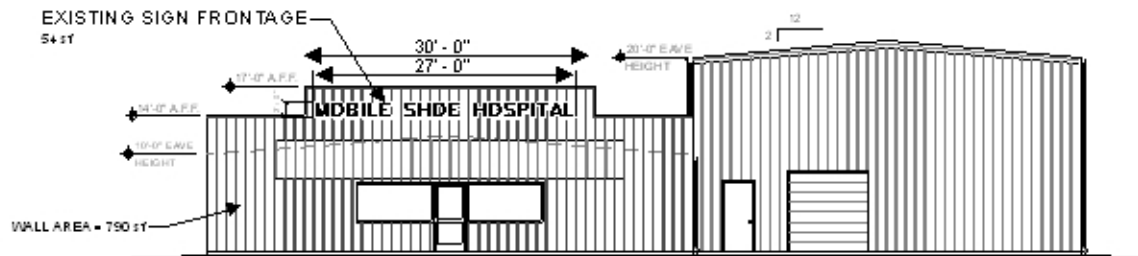
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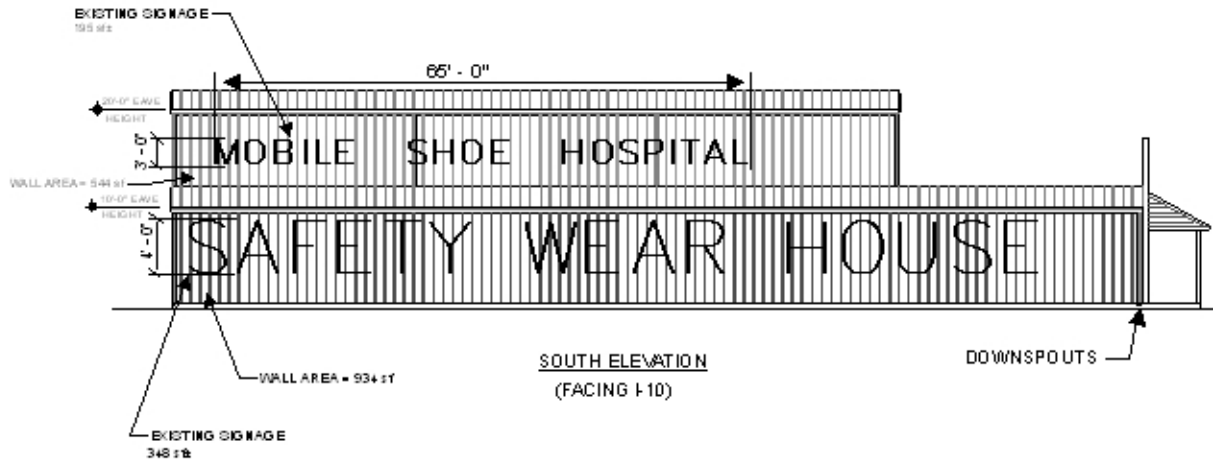
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DETAIL SITE PLAN



FRONT/EAST ELEVATION
(FACING HWY 90)



SOUTH ELEVATION
(FACING I-10)

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