

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 2, 2015****CASE NUMBER**

5951/4463/2048

APPLICANT NAME

Malaga Properties Inc. / Julie Beem

LOCATION

359 Church Street
(Southeast corner of Church Street and South Franklin Street extending to the Southwest corner of Church Street and South Claiborne Street).

VARIANCE REQUEST

SIGN VARIANCE: To allow a nonconforming freestanding sign replacement in a Form Based Code T5.1 District.

SIGN MATERIALS VARIANCE: To allow a sign constructed of composite high density urethane in a Form Based Code T5.1 District.

**ZONING ORDINANCE
REQUIREMENT**

SIGN: The Zoning Ordinance does not allow any freestanding sign in Form Based Code T5.1 Districts.

SIGN MATERIALS: The Zoning Ordinance does not allow signs made of urethane materials in Form Based Code T5.1 Districts.

ZONING

FBC T5.1

AREA OF PROPERTY

0.9 ± Acres

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

This request was not reviewed by Traffic Engineering.

**FIRE DEPARTMENT
COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

CITY COUNCIL
DISTRICT

District 2

ANALYSIS

The applicant is requesting a Sign Variance to allow a nonconforming freestanding sign replacement, constructed of composite high density urethane in a Form Based Code T5.1 District; the Zoning Ordinance does not allow any freestanding signs, and does not allow signs made of composite materials in Form Based Code T5.1 Districts.

The site was the subject of a previous Sign Variance approved by the Board in 1995 to allow two nonconforming signs (one freestanding, one awning) with a total of 121.7 square feet to remain in a historic district. Since that time an additional freestanding sign has been added at the Southeast corner of Church Street and Franklin Street without any permit or Architectural Review Board (ARB) approval. Therefore, the site now has two nonconforming signs as freestanding signs are not allowed at all within T5.1 Districts in the Downtown Development District (DDD). The awning sign is allowed in the district under the Form Based Code (FBC) and appears to be conforming in that it is within the allowable size limits.

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 states "*There are a few conditions, items, facts or reasons which prevent us from complying with the zoning ordinance.*

- a. *First, the sign we are replacing is non-conforming and precedes the last two zoning ordinances.*
- b. *Next, the parking lot is at a true corner and the zoning ordinance provides guidance on signage on buildings at true corners but does not provide guidance on freestanding signs on lots at true corners.*
- c. *Additionally, the zoning ordinance does not provided guidance on free standing or post and panel signs at all in the DDD.*
- d. *Finally, the preferred material is a composite "closed cell" rigid polyurethane product made specifically for applications with high sun and heat exposure. This lasts up to 10 times longer than wood, which will not absorb anything, will not crack, rot, or peel. It is also lighter than wood, which makes it a very safe alternative for high-wind applications. The faux sandblasted sign treatment looks exactly like sandblasted wood, and is not distinguishable from wood. The preferred sign material is not allowable by current zoning code.*

The conditions occurred for a few reasons.

- a. *First, the existing sign precedes the current and previous zoning ordinance.*
- b. *Next, there is a gap in guidance on sites at corners.*
- c. *Additionally, freestanding or post and panel signs need guidance.*

The property is different from neighboring properties in that the parking lot is at the corner and the existing on-site sign does not comply with the current zoning ordinance.”

The proposed sign would replace a sign previously-allowed by the 1995 variance at the Southwest corner of Church Street and South Claiborne Street. The un-permitted freestanding sign is located at the Southeast corner of Church Street and South Franklin Street.

It should be noted that the applicant ordered the proposed replacement sign from a sign manufacturer without prior research into the current signage allowances, and without any pre-approval from the ARB since the site is within the Church Street East Historic District.

Not only is a new freestanding sign not allowed in a T5.1 District, but the FBC only allows signs made of painted wood, metal, or metal composite material. The FBC generally has signage standards which are stricter than those of the previous sign regulations within what is now the DDD. But even if the site were still within the previous zoning classification of R-B, Residential-Business, the total site signage would exceed the one freestanding sign allowance and 64 square feet of total signage. If the requested Variance were to be approved, the site would have two nonconforming freestanding signs (one un-permitted) and one awning sign.

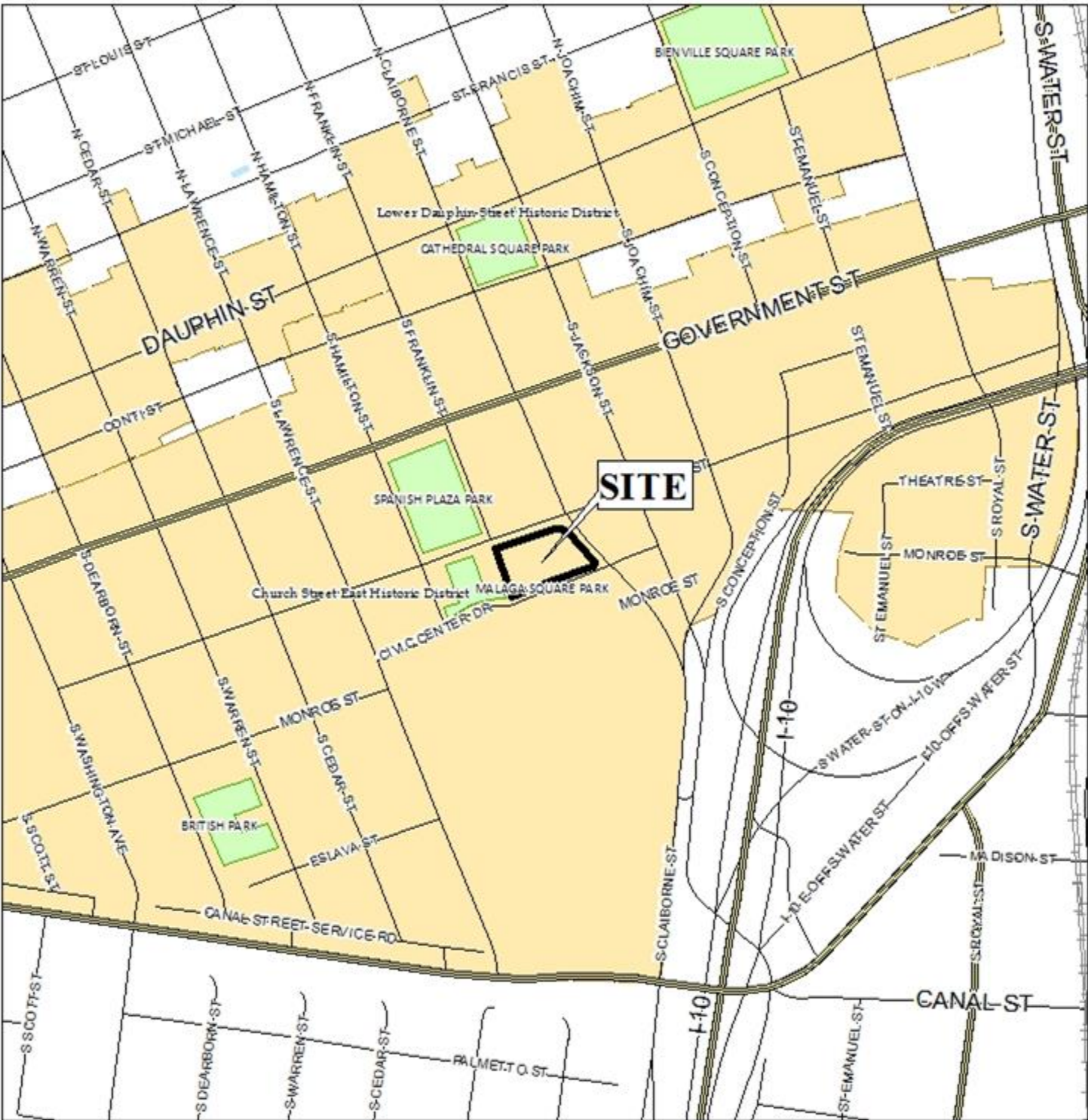
It should be noted that the applicant’s Sign Variance from 1995, regarding the freestanding sign in question, included a statement of need for the tall freestanding sign to allow for visibility and identification from Interstate 10.

The applicant has not illustrated that a hardship would be imposed by a literal interpretation of the Signage Standards for the Downtown Development District. Any perceived hardship would be self-imposed by the applicant’s lack to verify what signage and signage materials would be allowed at the subject site-prior to purchasing the proposed sign.

RECOMMENDATION: Based upon the preceding, Staff recommends to the Board the following findings of fact for denial:

- 1) Approving the variance request will be contrary to the public interest in that the subject site would be allowed two freestanding signs, and would allow the use of non-compliant materials;
- 2) Special conditions such as requiring two nonconforming freestanding signs, with one constructed of non-allowable materials, do not exist that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the surrounding neighborhood by granting the variance in that it will set a precedence for allowing other commercial sites to have nonconforming numbers and types of signage, as well as signage made of non-compliant materials.

LOCATOR MAP



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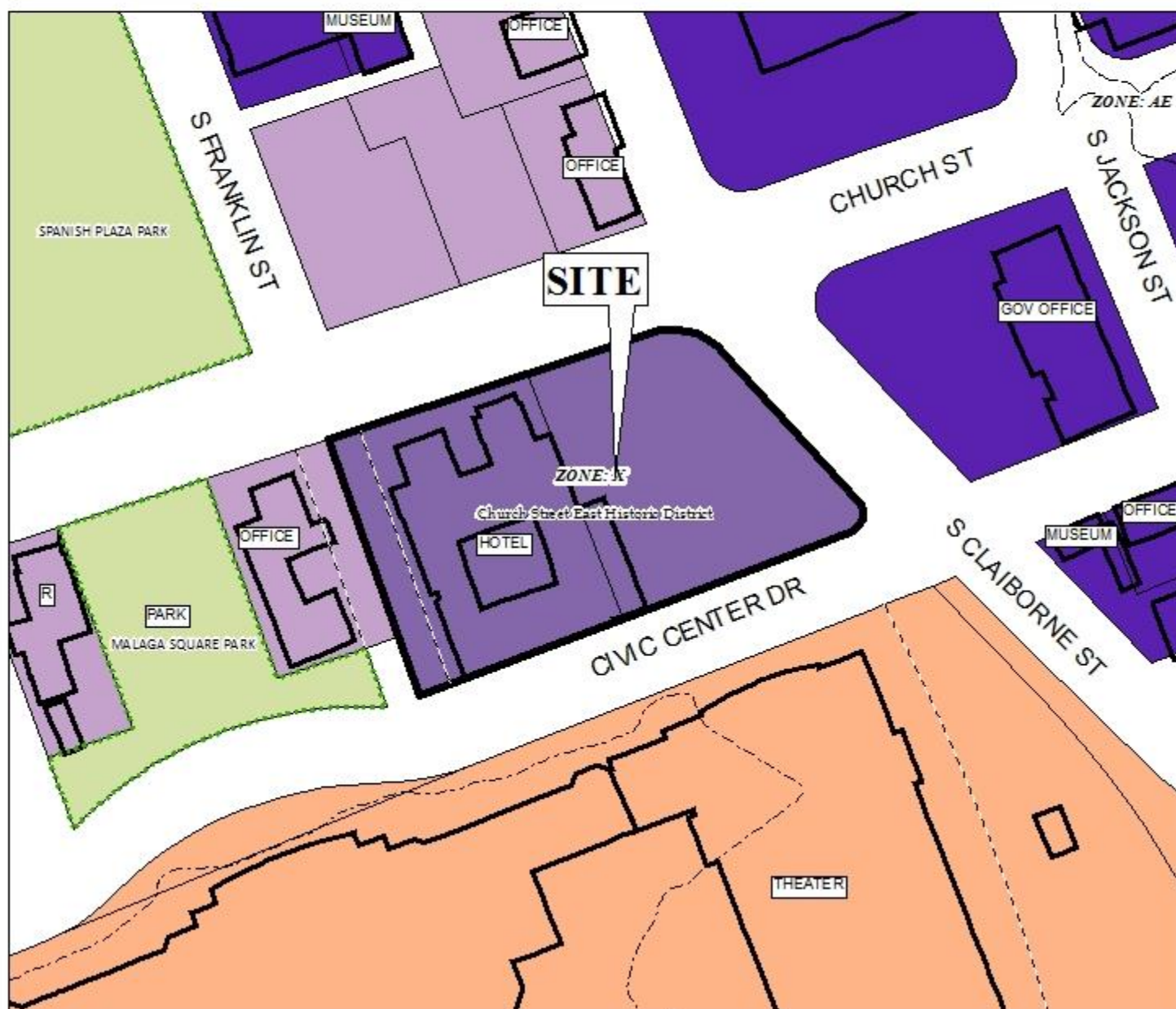
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REQUEST _____ Sign Variance _____



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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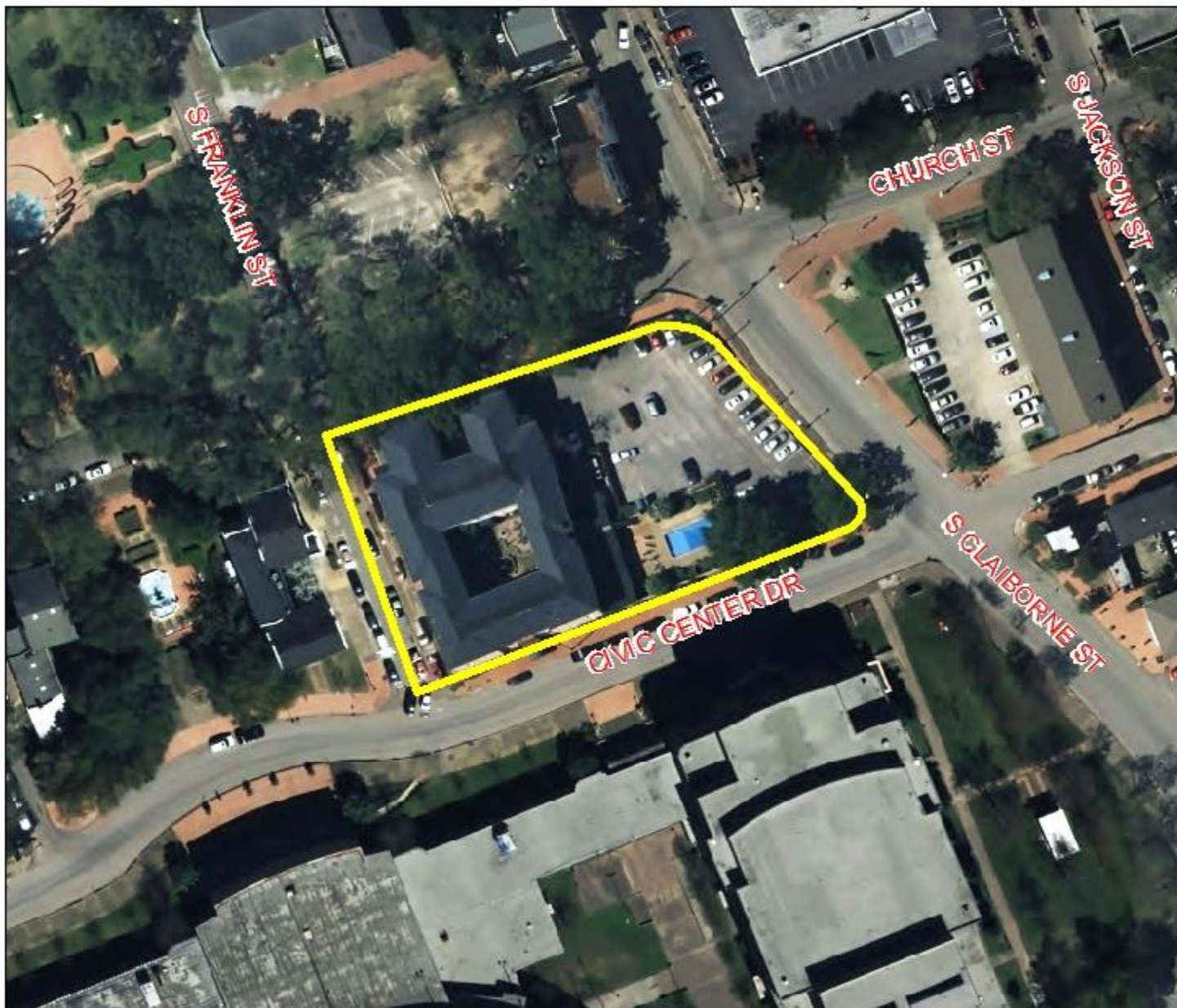
REQUEST Sign Variance

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.

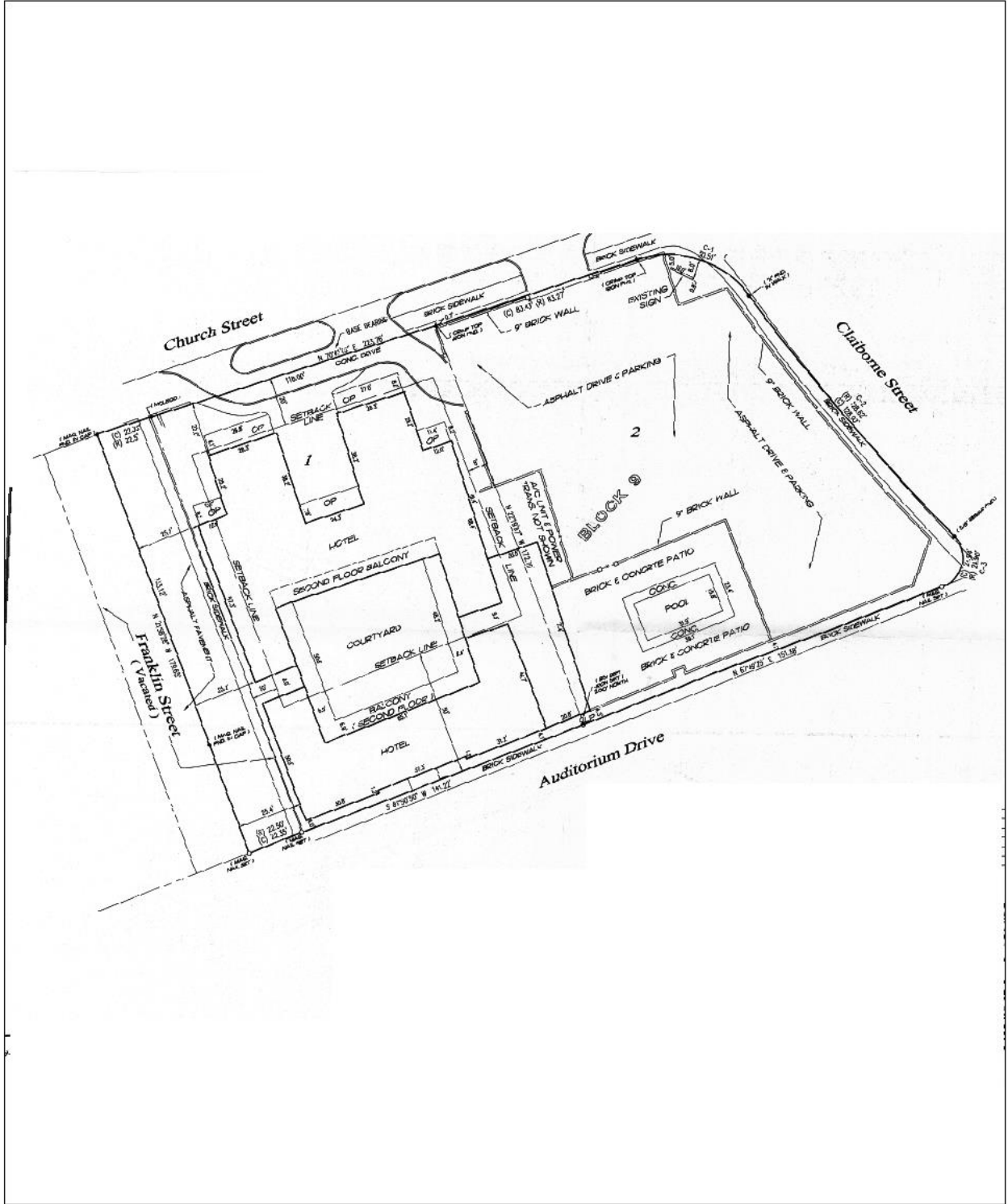
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REQUEST Sign Variance



SITE PLAN



The site illustrates the existing building, setbacks, and parking,

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DETAIL SITE PLAN

Proposed Malaga Inn Sign Specs

**Dimensions:**

Single Sided

4' tall x 8' wide x 1.5' depth

Materials:

Painted HDU or high-density urethane

Decorative HDU 4" posts

2 - Metal, black powder coated,
electric lamp post toppers

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DETAIL SITE PLAN

Malaga Inn Site Plan



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