

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: April 2, 2012****CASE NUMBER**

5740

APPLICANT NAME

Patricia D. Jackson

LOCATION

2667 Government Street
(South Side of Government Boulevard Service Road, 315'±
West of Kreitner Street)

VARIANCE REQUEST

USE: Use Variance to allow an automotive repair business in an R-1, Single-Family Residential District and B-2, Neighborhood Business District.

TREE PLANTING AND LANDSCAPE AREA: Tree Planting and Landscape Area Variance to allow no tree plantings and reduced landscape area.

**ZONING ORDINANCE
REQUIREMENT**

USE: The Zoning Ordinance requires a minimum B-3, Community Business District, for an automotive repair business.

TREE PLANTING AND LANDSCAPE AREA: The Zoning Ordinance requires full compliance with tree planting and landscaping areas.

ZONING

R-1, Single-Family Residential District
B-2, Neighborhood Business District

AREA OF PROPERTY

.31± Acres

**TRAFFIC ENGINEERING
COMMENTS**

No Comments

**CITY COUNCIL
DISTRICT**

District 5

ANALYSIS

The applicant is requesting Use, Tree Planting, and Landscape Area Variances to allow an automotive repair business with no tree plantings and reduced landscape area in an R-1, Single-Family Residential District and B-2, Neighborhood Business District; the Zoning Ordinance requires a minimum of a B-3, Community Business District zoning for an automotive repair business and full compliance with the tree planting and landscaping areas.

The site had legal non-conforming status that allowed B-3, Community Business District uses from 1957 until 2008. During this time, the site was occupied by a heating and air conditioning service, an automotive rental service, and an automotive detail and body shop. In 2008, a business license was issued at the location for an automobile accessories store, and in 2010, a businesses license was issued for tire sales and installation; both are B-2, Neighborhood Business District uses. With this four-year period of being occupied by B-2, Neighborhood Business District uses, the legal non-conforming status has been lost.

The applicant made a similar variance request at the Board of Zoning Adjustment's November 7, 2011 meeting to allow an automotive detail and body shop at the same location, which was denied.

The applicant states that the nearby businesses are mostly zoned B-3, Community Business District. However, it should be noted that the nearest B-3, Community Business District to the property is 300'± to the South, with properties adjacent to the site being zoned B-2, Neighborhood Business District and R-1, Single-Family Residential District.

It should be pointed out the site currently has split zoning. The site was previously zoned solely as B-2, Neighborhood Business District until it illegally incorporated an adjacent strip of land to the East which was zoned R-1, Single-Family Residential.

It should also be noted that the site is adjacent to an R-1, Single-Family Residential district, and the site plan does not illustrate a proper buffer as required by Section 64-4.D.1. of the Zoning Ordinance. If approved, the placement of a 6' high privacy fence along the East property line should be required.

The Zoning Ordinance requires 12% of the total site to be landscaped, with 60% of the landscaped area located between the building and the front property line. The subject site does not currently provide any frontage landscaping, and does not provide the 12% landscaping area. The site is also required to have a total of 3 frontage trees, 12 perimeter trees, and 1 parking tree. The site plan illustrates there is an existing 24" oak tree on the North property line, however, this would only be counted as credit towards 4 perimeter overstory trees. Furthermore, the site plan submitted with the previous variance application illustrated the site was to be brought into full compliance with landscape requirements, demonstrating that the site is able to comply.

There is no dumpster illustrated on the site plan. If approved, a revised site plan with a note stating that curbside pickup will be used, or illustrating a dumpster, screened from view and in compliance with Section 64-4.D.9. of the Zoning Ordinance should be submitted.

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 failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. The two most recent uses of the site illustrate it can be used for a conforming use, it is simply the applicant's desire to have a B-3, Community Business District use in an R-1, Single-Family District and B-2, Neighborhood Business District. Furthermore, the previous site plan submitted illustrated that it is possible for the site to meet the minimum landscaping and tree planting requirements.

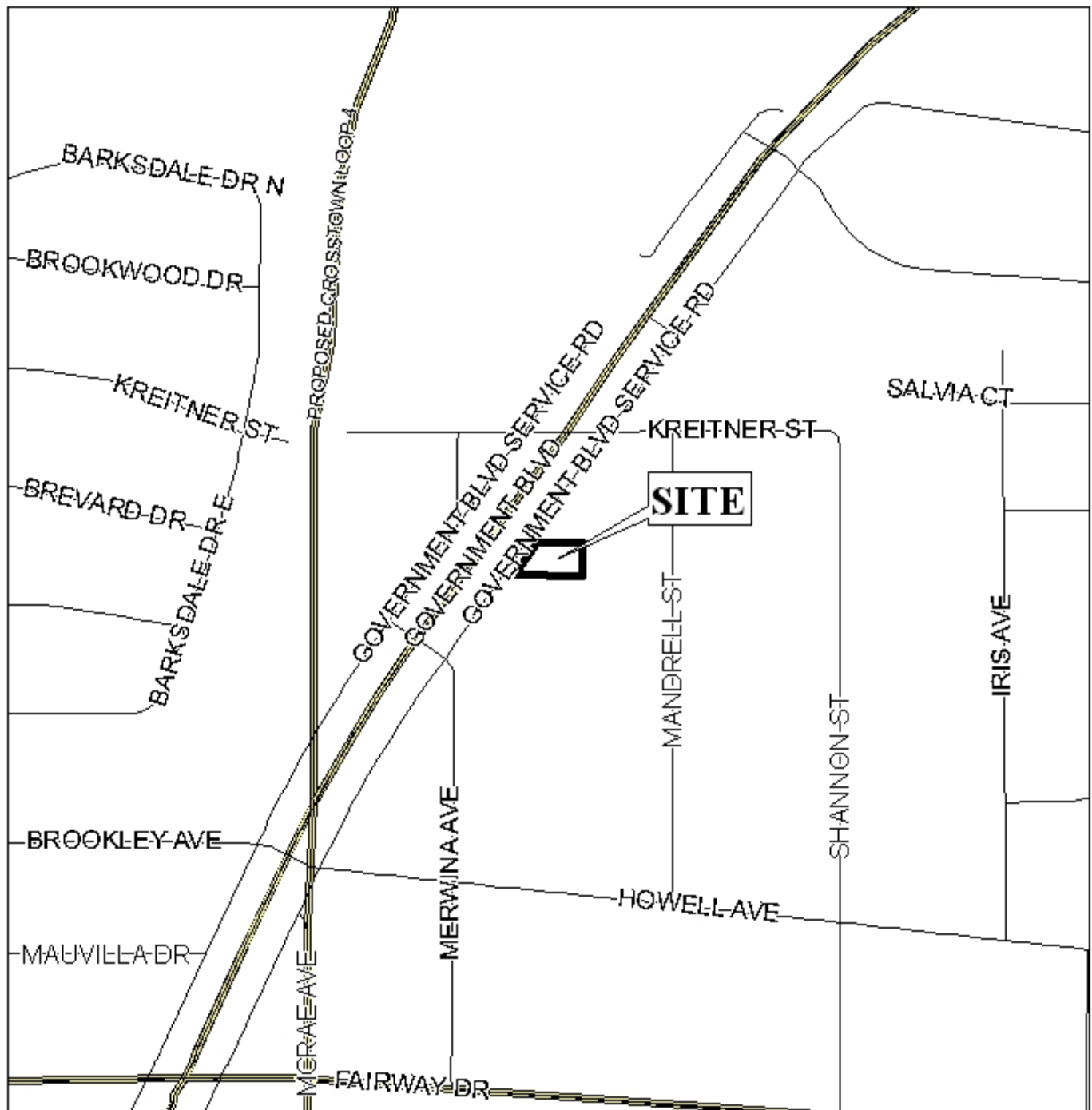
RECOMMENDATION:

Based on the preceding, the Use Variance is recommended

for denial.

With the Use Variance application denial makes the Tree Planting and Landscape Area Variance moot.

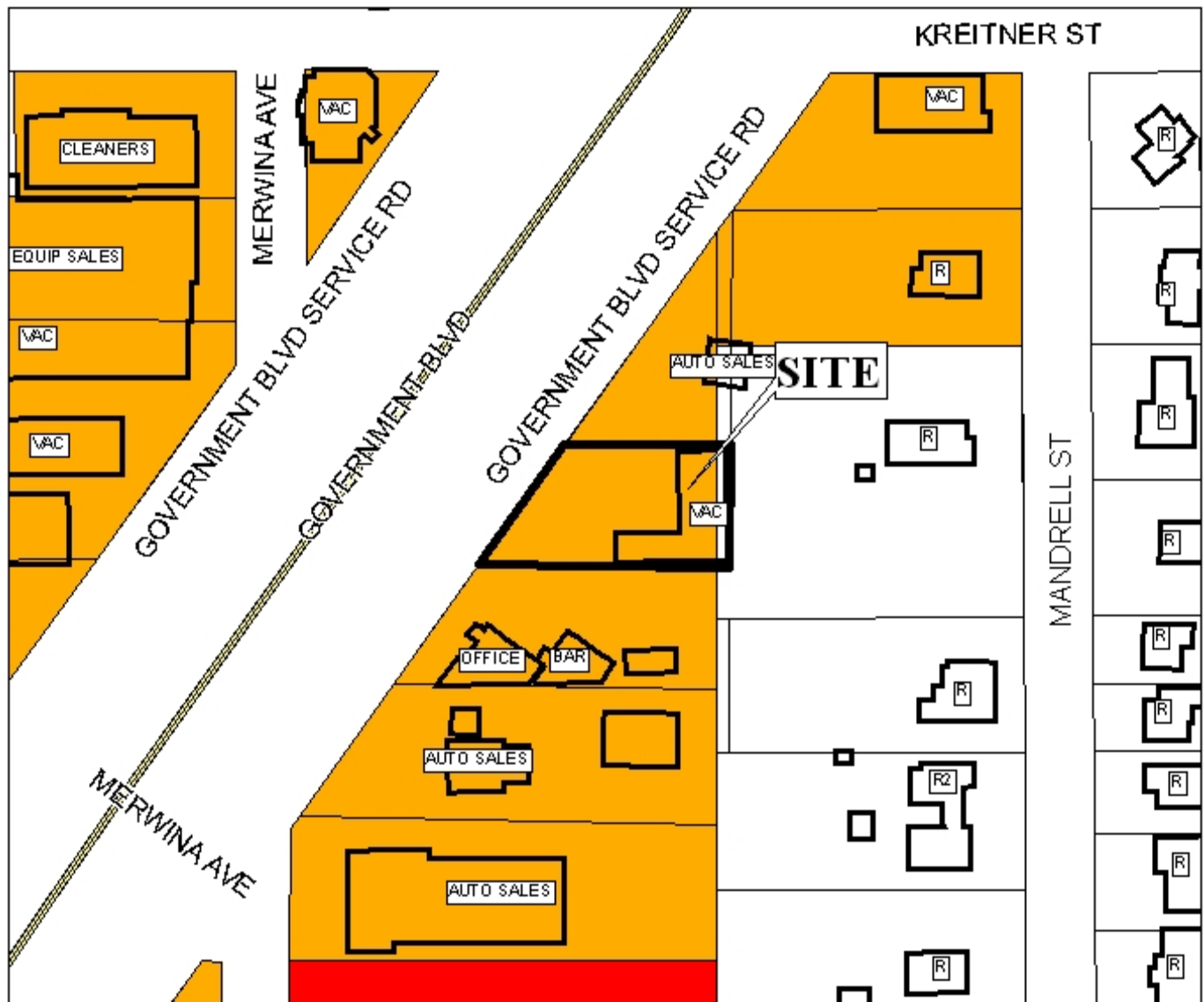
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Business land use is located to the south and west of the site. Residential land use is located to the east of the site.

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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
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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

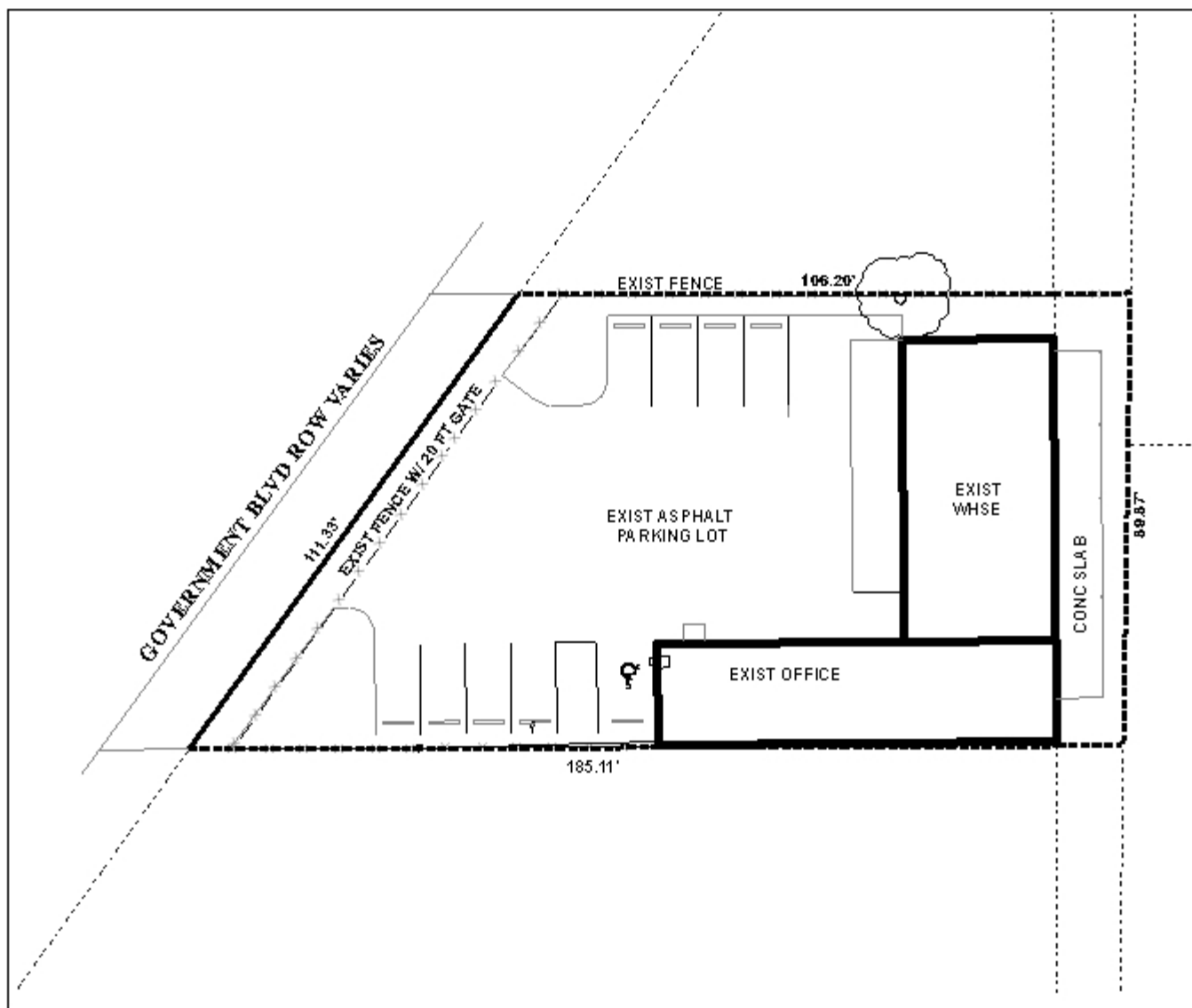


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SITE PLAN



The site plan illustrates the existing improvements.

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