

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: March 4, 2013**

<b><u>CASE NUMBER</u></b>	5818
<b><u>APPLICANT NAME</u></b>	Estate of Marie Fritz
<b><u>LOCATION</u></b>	5456 U. S. Highway 90 West (Northwest corner of U. S. Highway 90 West and Tillman's Corner Parkway).
<b><u>VARIANCE REQUEST</u></b>	<b>SIGN VARIANCE:</b> To allow off-premise signage in a B-3, Community Business District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	The Zoning Ordinance does not allow off-premise signs in a B-3, Community Business District.
<b><u>ZONING</u></b>	B-3, Community Business District
<b><u>AREA OF PROPERTY</u></b>	0.6± Acres
<b><u>ENGINEERING COMMENTS</u></b>	No Comment
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	If approved by ALDOT (251-470-8200) and the City Board of Zoning and Adjustment, please contact Traffic Engineering (David Robert, 251-208-2960) to arrange a site visit to ensure that there will be no line of sight hazards associated with the placement of the sign.
<b><u>FIRE DEPARTMENT COMMENTS</u></b>	No Comment
<b><u>CITY COUNCIL DISTRICT</u></b>	District 4
<b><u>ANALYSIS</u></b>	The applicant is requesting a Sign Variance to allow off-premise signage in a B-3, Community Business District; the Zoning Ordinance does not allow off-premise signage in any zoning district.

The applicant received a Notice of Violation on May 5, 2012 and subsequently a Municipal Offense Ticket on May 30, 2012 for off-premise advertising.

The applicant states as current business owners serving the community since 1989, feel the opportunity to invest in their own property and building would benefit both themselves and the community.

The area was annexed October 17, 2008; the applicant submitted a copy of a photo taken around 2003 clearly illustrates the Gulf Pecan Company sign painted on the South side of the building, a State Farm agent banner, a National Collision and RV repair banner and a small banner on the upper right side of this building wall. Researching the internet, staff copied a photo from Google street view with the image data as December 2007, the Google photo is identical to the photo taken in 2003 submitted by the applicant. It should be noted at the time of annexation, staff surveyed all signs within the annexed area and compiled a file, a photo was taken of the site and noted that the building besides having the same signs and banners as the photo supplied by the applicant taken in 2003 and the Google street view photo taken in December 2007, the photo taken by staff at the time of annexation illustrated the building had another banner (Estes Remodeling).

Chapter 64-11.3.c. Nonconforming signs/annexed signs state "Where signs have been made nonconforming due to annexation, such signs shall be removed or modified so as to conform according to the amortization schedules established herein, but the initiation date of the schedules shall be effective date of the annexation ordinance which brought the affected property into the city rather than that of this section".

Therefore, as per the Ordinance, the only nonconforming signs from the October 23, 2008 photo and the May 8, 2012 photo are the Gulf Pecan Company sign and the National Collision and RV Repair banner. The Advanced Plumbing and Intown Suites banners must be removed since both were installed after the annexation date.

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.

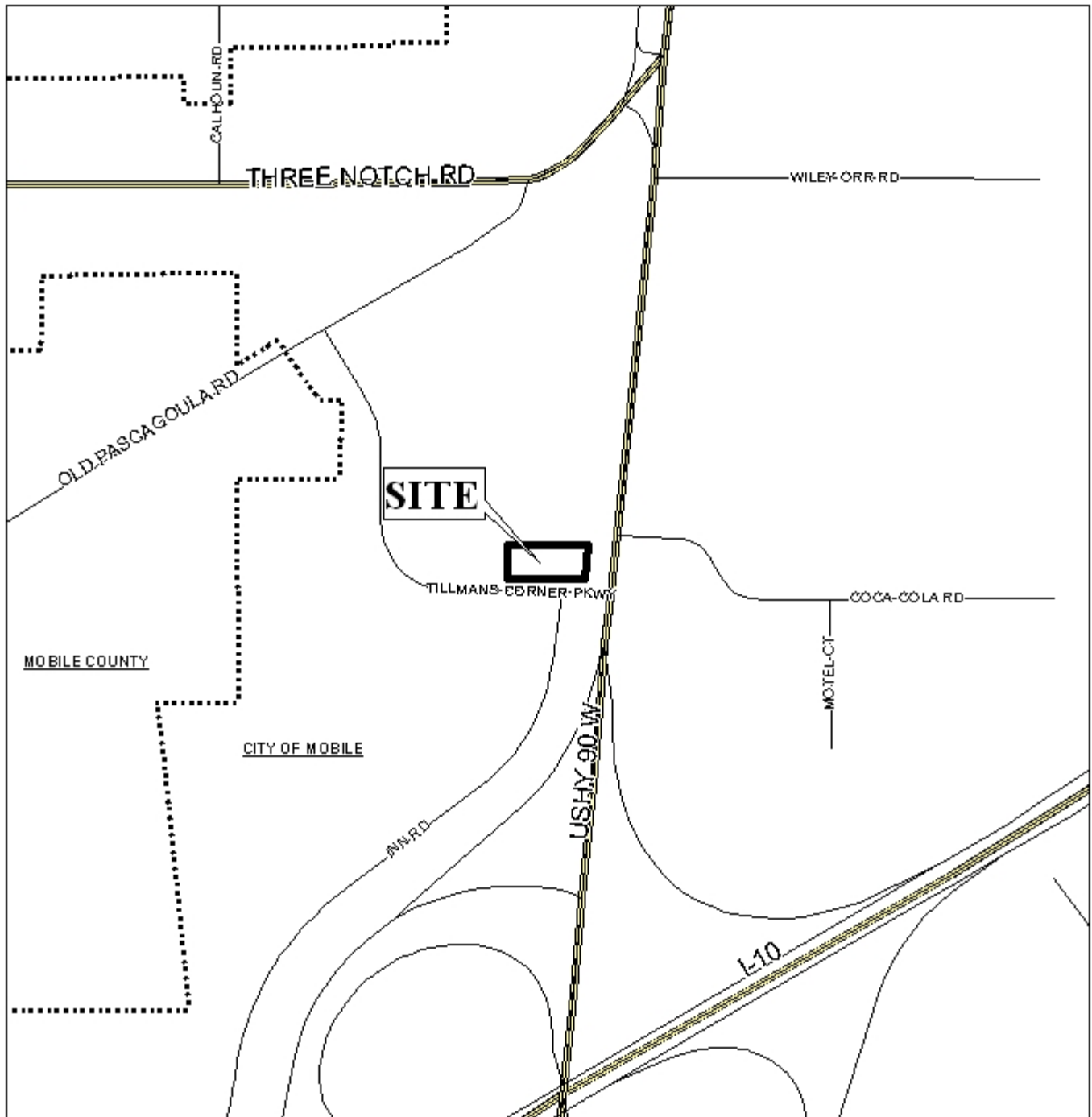
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

The applicant did state the heirs rely on the payments from the signs for their personal income, if the variance were not successful; the loss of that income would constitute a real hardship. The Zoning Ordinance states that NO variance shall be granted where economics are the basis for the application. Clearly, this application is entirely about economics and not the public interest and

special conditions; therefore, if any, there is no hardship or special circumstance readily apparent, that exists on the property that would keep it from being in compliance of the Zoning Ordinance.

**RECOMMENDATION:** Based upon the preceding, the application is recommended for denial as no hardship or special circumstance exists.

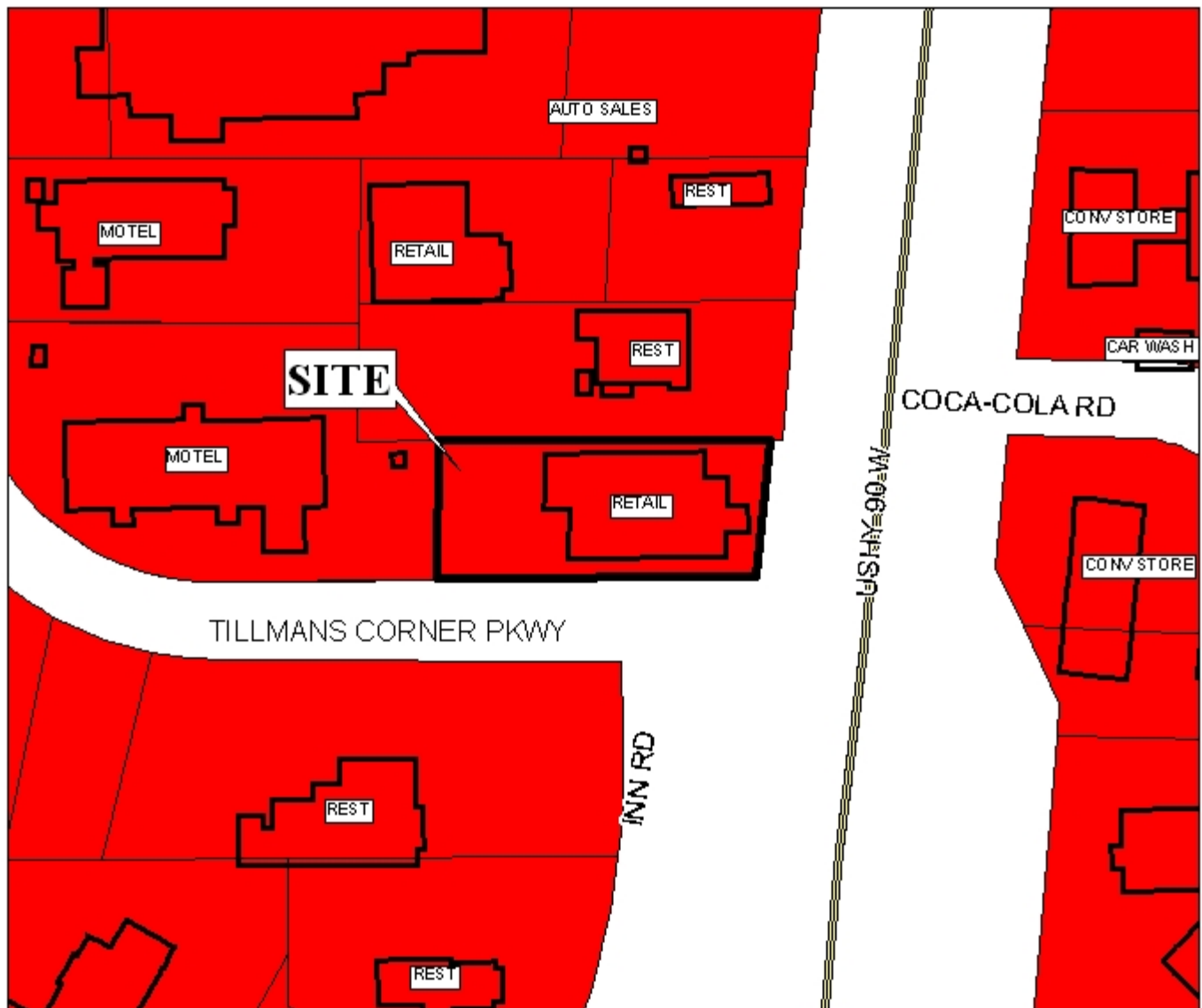
# LOCATOR MAP



APPLICATION NUMBER 5818 DATE March 4, 2013  
APPLICANT Estate of Mary Fritz  
REQUEST Sign Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

APPLICATION NUMBER 5818 DATE March 4, 2013

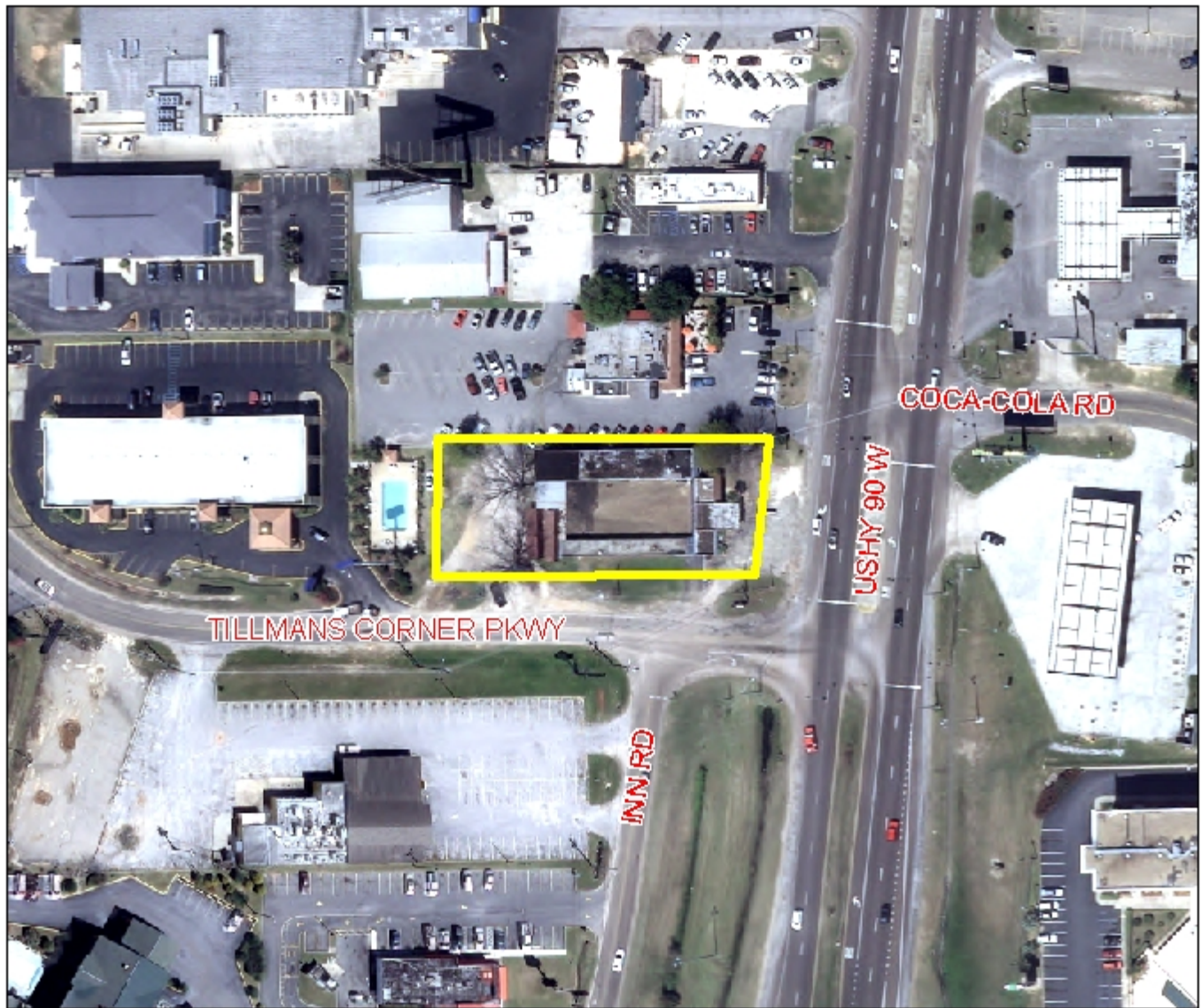
APPLICANT Estate of Mary Fritz

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LEGEND



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

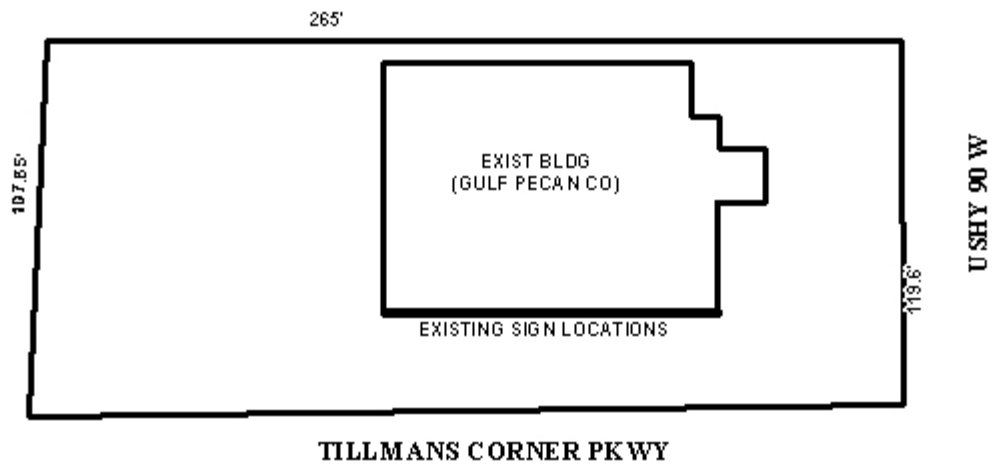


The site is surrounded by commercial land use.

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N  
NTS

## SITE PLAN



The site plan illustrates the existing sign locations.

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N  
↑  
2  
↑  
NTS

## DETAIL SITE PLAN



PHOTO TAKEN AROUND 2003. PRIOR TO THIS THE SIGN WAS FOR DICK RUSSELL'S BAR-B-QUE

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N  
↑  
NTS