

**HOLDOVER**

APPLICATION NUMBER

**5531**

A REQUEST FOR

**USE, OFF-SITE PARKING, BUFFER FENCING, AND  
BUFFER FENCE HEIGHT VARIANCES TO ALLOW  
PARKING IN AN R-1, SINGLE-FAMILY RESIDENTIAL  
DISTRICT, AND OFF-SITE PARKING IN A B-2,  
NEIGHBORHOOD BUSINESS DISTRICT, NO BUFFER  
FENCING FACING ACROSS-STREET RESIDENTIAL  
ZONING, AND TO ALLOW 4' HIGH AND 5' HIGH  
BUFFER FENCE HEIGHTS; THE ZONING ORDINANCE  
DOES NOT ALLOW PARKING IN AN R-1, SINGLE-  
FAMILY RESIDENTIAL DISTRICT, REQUIRES ALL  
PARKING TO BE ON-SITE IN A B-2, NEIGHBORHOOD  
BUSINESS DISTRICT, REQUIRES A 3' HIGH PRIVACY  
FENCE ALONG A PARKING LOT STREET FRONTAGE  
FACING ACROSS-STREET RESIDENTIAL USE, AND  
REQUIRES A BUFFER FENCE TO BE 6' HIGH ALONG  
ADJACENT RESIDENTIALLY USED PROPERTIES.**

LOCATED AT

Southeast and Northeast corners of North Lafayette Street and St. Stephens Road.

APPLICANT/AGENT/OWNER

**NAPOLEON MCCOVERY**

**BOARD OF ZONING ADJUSTMENT**

JUNE 2009

## **HOLDOVER**

### **ANALYSIS APPLICATION 5531**

**Date: June 1, 2009**

The applicant is requesting Use, Off-Site Parking, Buffer Fencing, and Buffer Fence Height Variances to allow parking in an R-1, Single-Family Residential District, and off-site parking in a B-2, Neighborhood Business District, no buffer fencing facing across-street residential zoning, and to allow 4' high and 5' high buffer fence heights; the Zoning Ordinance does not allow parking in an R-1, Single-Family Residential District, requires all parking to be on-site in a B-2, Neighborhood Business District, requires a 3' high privacy fence along a parking lot street frontage facing across-street residential use, and requires a buffer fence to be 6' high along adjacent residentially used properties.

The applicant purchased the subject properties in May, 2008. The existing building has been used as a lounge since prior to 1968 with legal nonconforming parking both on-site and off-site on the adjacent R-1 property immediately on its South side. Along with the lounge and parking site, the applicant also purchased the vacant and unpaved properties to the rear (East) of the site and at the Northeast corner of North Lafayette Street and St. Stephens Road with the intention of using these additional properties for lounge parking. Old Land Use and Sanborn Insurance maps indicate both of those properties had businesses located on them in the past, but both have been vacant lots for many years. The applicant then added an addition to the building, without permits, and the Health Department forwarded a code investigation request to Urban Development upon which other issues with the site were identified. In pursuit of the planned parking expansion, the applicant submitted Rezoning, Planned Unit Development, and Subdivision applications to the Planning Commission, but all were denied in November, 2008, primarily due to incompatibility with the residential nature of the adjacent properties, the creation of adverse effects, and the fact that the use would legalize parking that was already causing excess traffic and circulation problems. The City Council subsequently denied the Rezoning by lack of action in March, 2009.

At some time after the submittal of the applications to the Planning Commission, the applicant repaved without permits the existing legal nonconforming parking area and the adjacent property to the East and at the Northeast corner of North Lafayette Street and St Stephens Road, both of which were denied uses by the Planning Commission and City Council actions. The applicant now desires to obtain use permission and site noncompliance permission via this variance. Another Subdivision application has also been submitted to be heard by the Planning Commission on May 7, 2009.

With regard to the Use Variance request, the continuation of parking on the adjacent R-1 property to the South adjoining the lounge site would be allowed if there is no lapse of such use for a period of two years or more. But the allowance of parking expansion onto the other two vacant properties would only contradict the reasoning for Planning Commission denials of the applications, i.e. incompatibility with the residential nature of the adjacent properties, creation of adverse effects, and legalization of parking which is already causing excess traffic and circulation problems. By this reasoning, the buffer fencing and buffer fence height variance requests would be moot since the off-site

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parking variance request should not be considered for approval. The applicant did not justify the reasoning for the granting of any of the variance requests by virtue of any hardship associated with the properties. It is simply the applicant's desire to obtain use, off-site parking, buffer fencing, and buffer fence height variances in order to have a parking expansion which was denied by the Planning Commission for appropriate reasons. Basically, the applicant is asking the Board to sanction things that were done without any type of approval or permits.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

### ***Revised for the June 1<sup>st</sup> meeting:***

*This application was held over at the May 4<sup>th</sup> meeting to allow a revised site plan to be submitted showing curb cuts, traffic flow, and parking. A revised site plan was submitted addressing these issues.*

*Traffic Engineering has reviewed the site plan and has determined that it is dysfunctional for the following reasons:*

#### *Lot 1*

- 1) the driveways are not clearly shown;*
- 2) the narrow driveway should be signed "one-way" and/or "do not enter";*
- 3) the driveway radii appear to be less than 20';*
- 4) there is insufficient room for the northern-most parking stall to back out;*
- 5) the 20' wide aisle is too narrow (two-way traffic requires a 24' width).*

#### *Lot 2*

- 1) radii dimensions are not indicated;*
- 2) the asymmetrical stalls must be striped out since they will not accommodate cars;*
- 3) it is unclear if there is to be a drive on the South side, and if so, it should be indicated;*
- 4) the existing Southern most drive on the South side cannot function.*

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*As some of the items would require minor site plan revisions and clarifications, others are truly problematic. Two-way drive aisles must be 24' wide, for instance. Also, parts of the parking area and buffer fence on Lot 1 encroach onto the property to the East of the site. An on-site review of the site also revealed the dumpster against that fence, but there is no provision on the site plan for the dumpster and adequate vehicular access.*

*As this application was originally recommended for denial, but was heldover to address specific traffic issues, and since the revised site plan raises more traffic and site issues, this application should not be considered for approval. Also, the fact that the associated Subdivision application was denied at the May 21<sup>st</sup> Planning Commission meeting would effectively annul this application.*

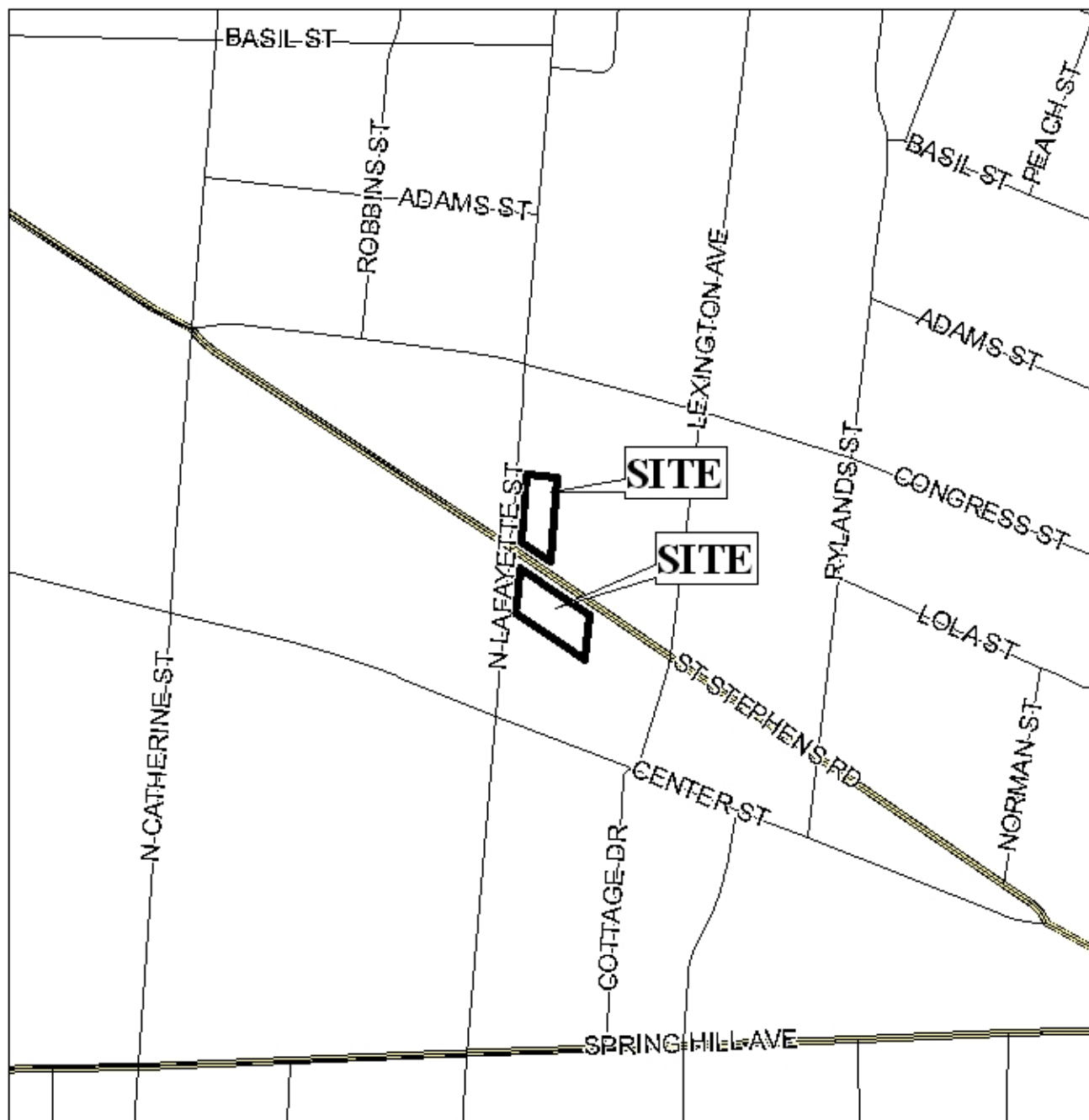
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**RECOMMENDATION 5531**

**Date: June 1, 2009**

*Based on the preceding, this application is recommended for denial.*

## LOCATOR MAP



APPLICATION NUMBER 5531 DATE June 1, 2009

APPLICANT Napoleon McCovery

REQUEST Use, Off-Site Parking, Buffer Fencing, Buffer Fence Height Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial land use is located to the west of the site. Residential land use is located to the south, north, and east of the site.

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LEGEND

R-1	R-2	R-3	R-4	R-5	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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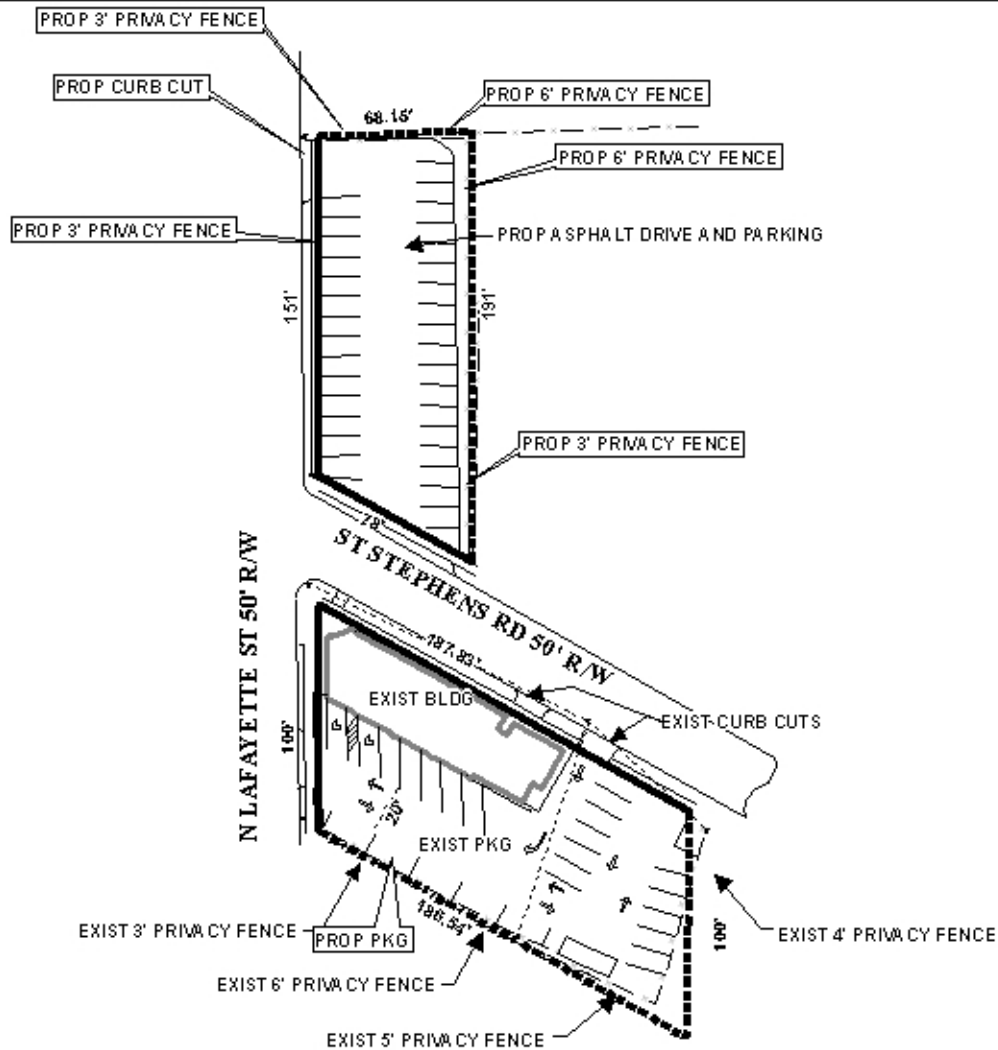
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# SITE PLAN



The site plan illustrates the existing improvements, proposed parking expansion, and proposed fencing

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