

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

AUGUST 2009

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ANALYSIS APPLICATION 5531

Date: August 3, 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 1st meeting:

This application was held over at the May 4th 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 21st Planning Commission meeting would effectively annul this application.

Revised for the July 6th meeting:

This application was held over at the June 1st meeting to allow a revised site plan to be submitted addressing the following issues for each lot:

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.*

A revised site plan was submitted addressing most of the issues. Some curb cut issues could not be corrected due to the location of utility poles in the right-of-way. Further Traffic Engineering concerns beyond those cited in the holdover reasons were coordinated with that department and incorporated into the site plan. And the site plan now includes a properly located dumpster and enclosure, and elimination of the privacy fence and paving encroachments onto the neighboring property along St. Stephens Road.

As the existing lounge building contains approximately 3,400 square feet, it requires 34 on-site parking spaces by the current Zoning Ordinance. However, nonconforming use documentation on file with the Planning Section indicates that the parking on the adjacent property South of the building, which would allow approximately 25 parking

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spaces, has always been unstriped. The unpermitted rear expansion of the building further increased the previous deficit and increased the parking requirement to 34 spaces. The substandard parking ratio could be considered as a hardship condition imposed by the property, and the off-site expansion of the parking area with compliant paving, striping and traffic control measures would eliminate this condition. However, buffer fencing variance requests should not be considered for approval as no hardship is indicated to justify granting of such. Buffer fencing should be of the required 6' height along adjacent residentially zoned or used properties, dropping to 3' high within 25' of respective street rights-of-way. There do not appear to be any site constraints which would prevent the construction of 3' high wooden privacy fences along the street frontages of the parking lots where there are residentially zoned properties directly across from those street frontages. The site plan indicates some areas where minimal amounts of landscaping and tree plantings may possibly be provided, but these are insufficient to comply with the minimum requirements.

This application was heldover from the Board's scheduled July meeting due to a lack of quorum to hold the meeting.

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RECOMMENDATION 5531

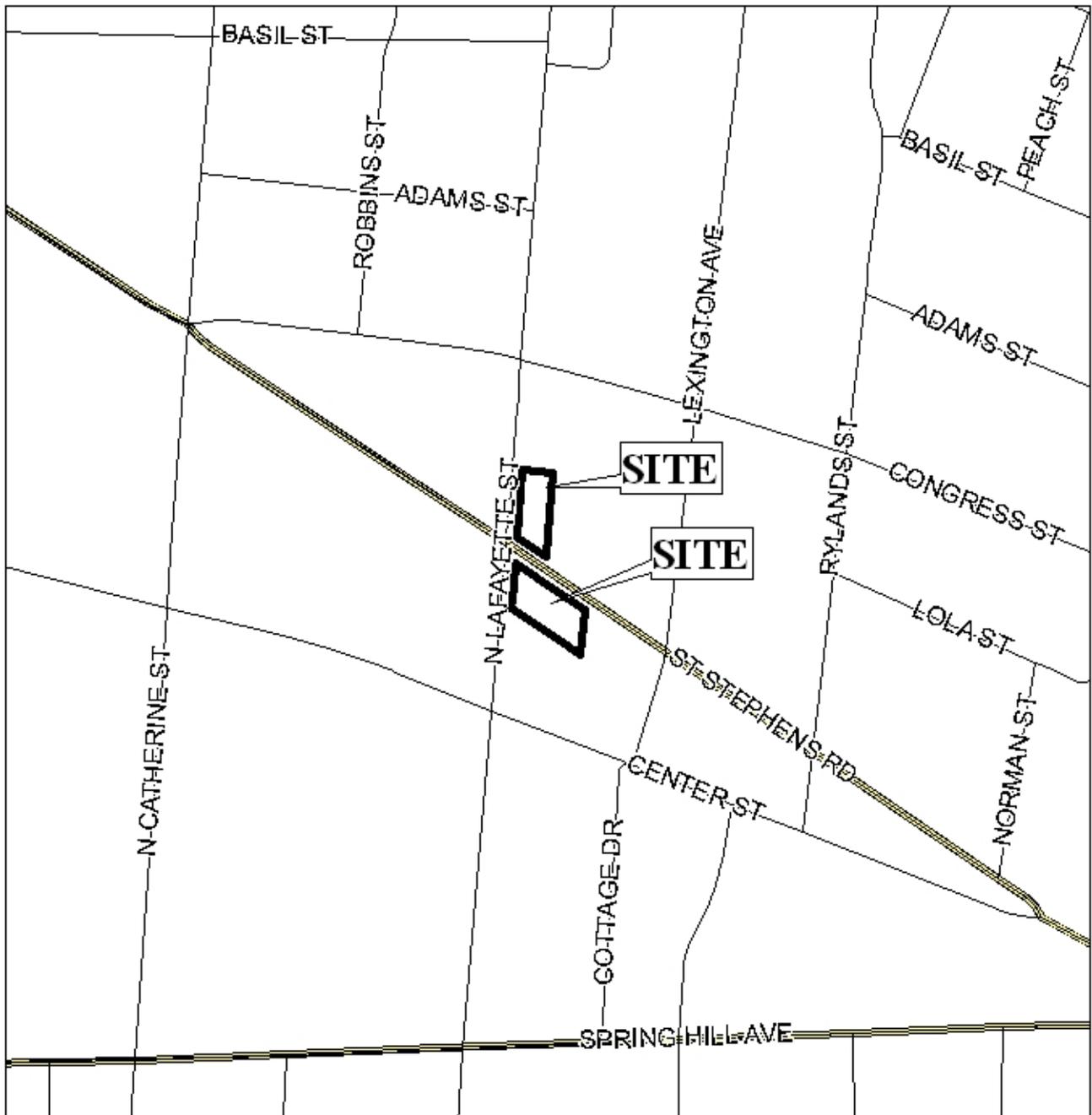
Date: August 3, 2009

Based on the preceding, the requests for use and off-site parking in R-1 and B-2 zoning districts are recommended for approval, subject to the following conditions:

- 1) modification of the recently-added parking areas to match the revised site plan of June 19, 2009, and to provide landscaping and tree plantings in compliance with numbers and ratios required for commercial development, to be coordinated with Urban Forestry;*
- 2) all directional arrows applied to paving to be Thermoplastic as approved by Traffic Engineering;*
- 3) installation of parking lot lighting in compliance with Section 64-6.A.3.c. of the Zoning Ordinance, specifically so arranged that the source of light does not shine directly into adjacent residential properties or into traffic; and*
- 4) obtaining of any “after-the fact” permits normally required for improvements already made, and obtaining of any permits required for further improvements.*

The requests for buffer fencing and buffer fence height variances are recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5531 DATE August 3, 2009

APPLICANT Napoleon McCoverly

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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

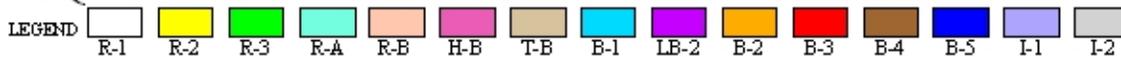


Commercial land use is located to the west of the site. Residential land use is located to the south, north, and east of the site.

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**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.

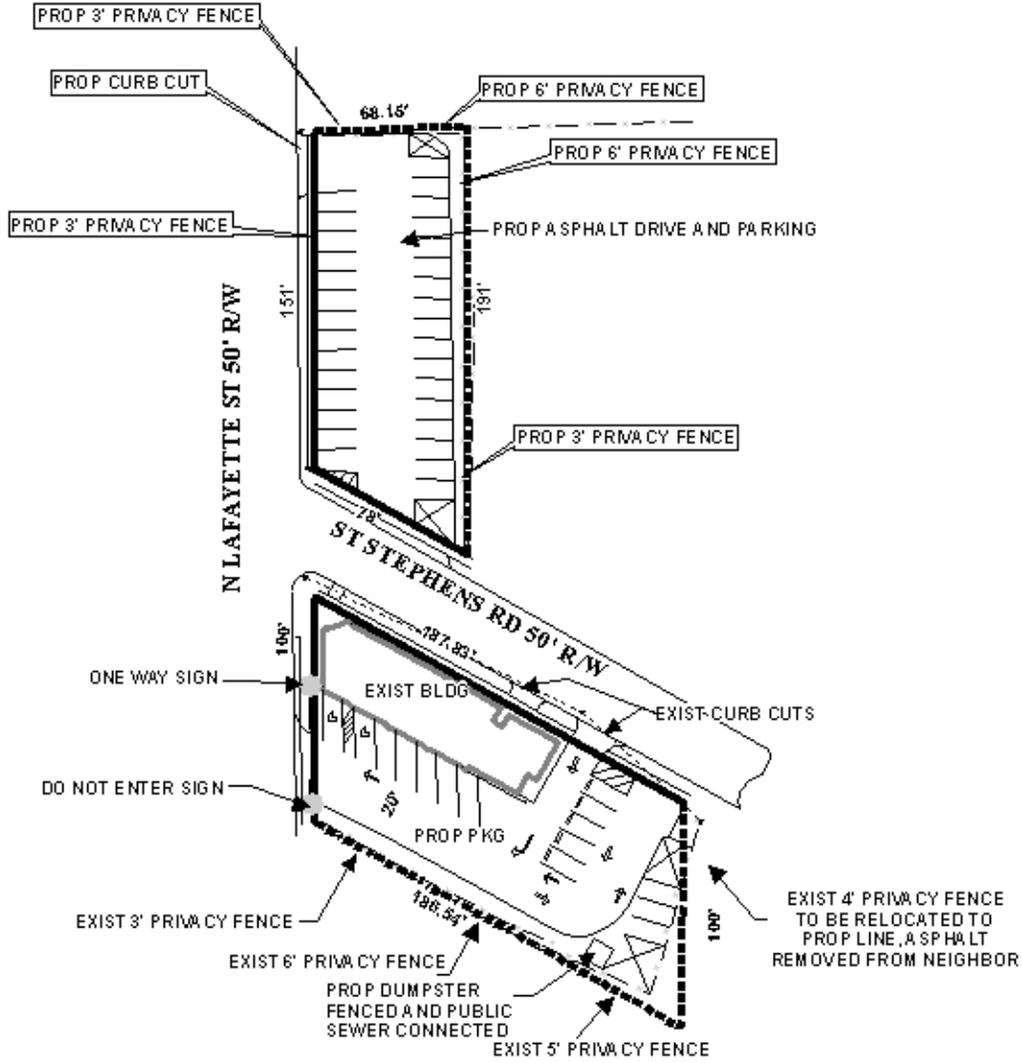
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SITE PLAN



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

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