

APPLICATION NUMBER

**5562**

A REQUEST FOR

**BUFFER VARIANCE TO ALLOW A CARWASH WITHOUT A 3' TALL EVERGREEN HEDGE AND/OR LANDSCAPED BERM OR ANY PRIVACY FENCING ALONG ANY PROPERTY LINES IN A B-2, NEIGHBORHOOD BUSINESS DISTRICT; THE ZONING ORDINANCE REQUIRES VEHICLES TO BE SCREENED FROM VIEW WITH A 3'-5' TALL EVERGREEN HEDGE AND/OR LANDSCAPED BERM (PRIVACY FENCE MAY BE USED ALONG SIDE AND REAR PROPERTY LINES) AT A CARWASH IN A B-2, NEIGHBORHOOD BUSINESS DISTRICT.**

LOCATED AT

**3430 SPRING HILL AVE**

(North side of Spring Hill Avenue, extending from I-65 North to Spring Hill Plaza Court.)

APPLICANT

**RICH'S CAR WASH**

**BOARD OF ZONING ADJUSTMENT**

SEPTEMBER 2009

The applicant is requesting a Buffer Variance to allow a carwash without a 3' tall evergreen hedge and/or landscaped berm or any privacy fencing along any property lines in a B-2, Neighborhood Business District; the Zoning Ordinance requires vehicles to be screened from view with a 3'-5' tall evergreen hedge and/or landscaped berm (privacy fence may be used along side and rear property lines) at a carwash in a B-2, Neighborhood Business District.

This location is the site of a new Rich's Car Wash. Buffers, though required by the Zoning Ordinance and depicted on the land disturbance and building permit site plan, were never installed. The applicant is now requesting a modification of their buffer requirements.

The applicant only implies that the buffers are unnecessary and states that they believe that the buffer would "adversely shield" the hotel to the north of the site. While there may be some topographical considerations on the site, the applicant did not state such. Further, the protective hedges and privacy fencing were shown on the site plan when the permits were issued. If there was an issue with the buffer, the variance should have been applied for at that time, instead of indicating the requirements on the construction plan, and not addressing the issue.

It should also be noted that the intent of the buffer is to screen the car wash from view, especially from passing traffic. The applicant's assertion that the buffer would "adversely shield" the hotel to the north is not relative, especially considering the hotel's visibility from the interstate and the large allowance for signage height and area along the interstate (single-business sites within 1000 feet of the centerline of the interstate are allowed a freestanding sign up to 100 feet tall and 200 square feet in area).

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.

The applicant has failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship. However, the east side of the property is bounded by the right-of-way for I-65, specifically, the overpass over Spring Hill Avenue. The

elevation difference between the carwash facility and the roadway is over 25 feet. The elevation difference constitutes an effective buffer, and therefore, the request for waiver of the buffer requirements on the east property line could be considered appropriate.

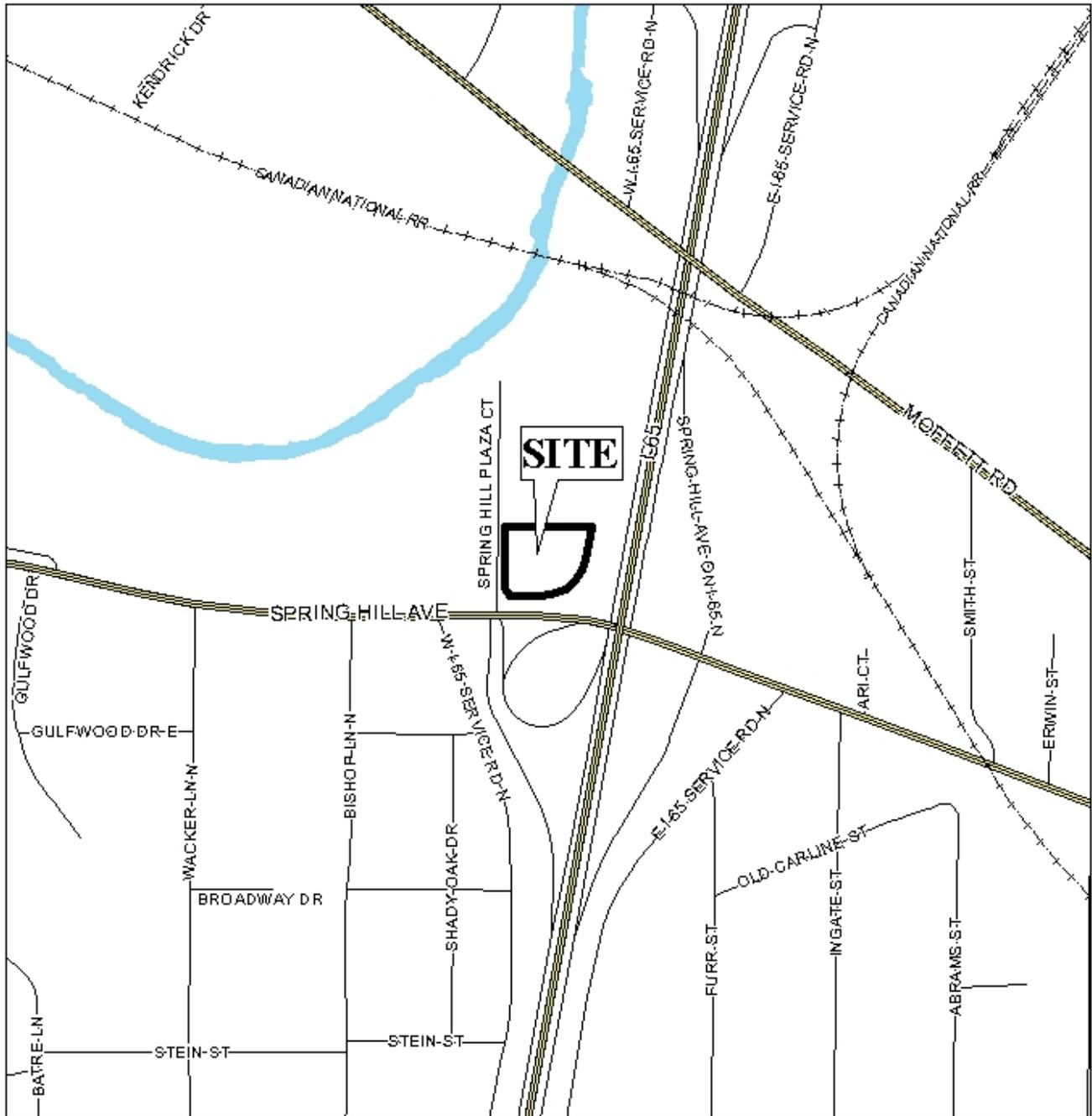
**RECOMMENDATION 5562**

**Date: September 14, 2009**

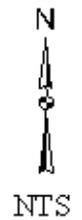
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Based on the preceding, the request for waiver of the buffer requirements on the east property line is recommended for approval. The other requests are recommended for denial, as buffers are required along all property lines.

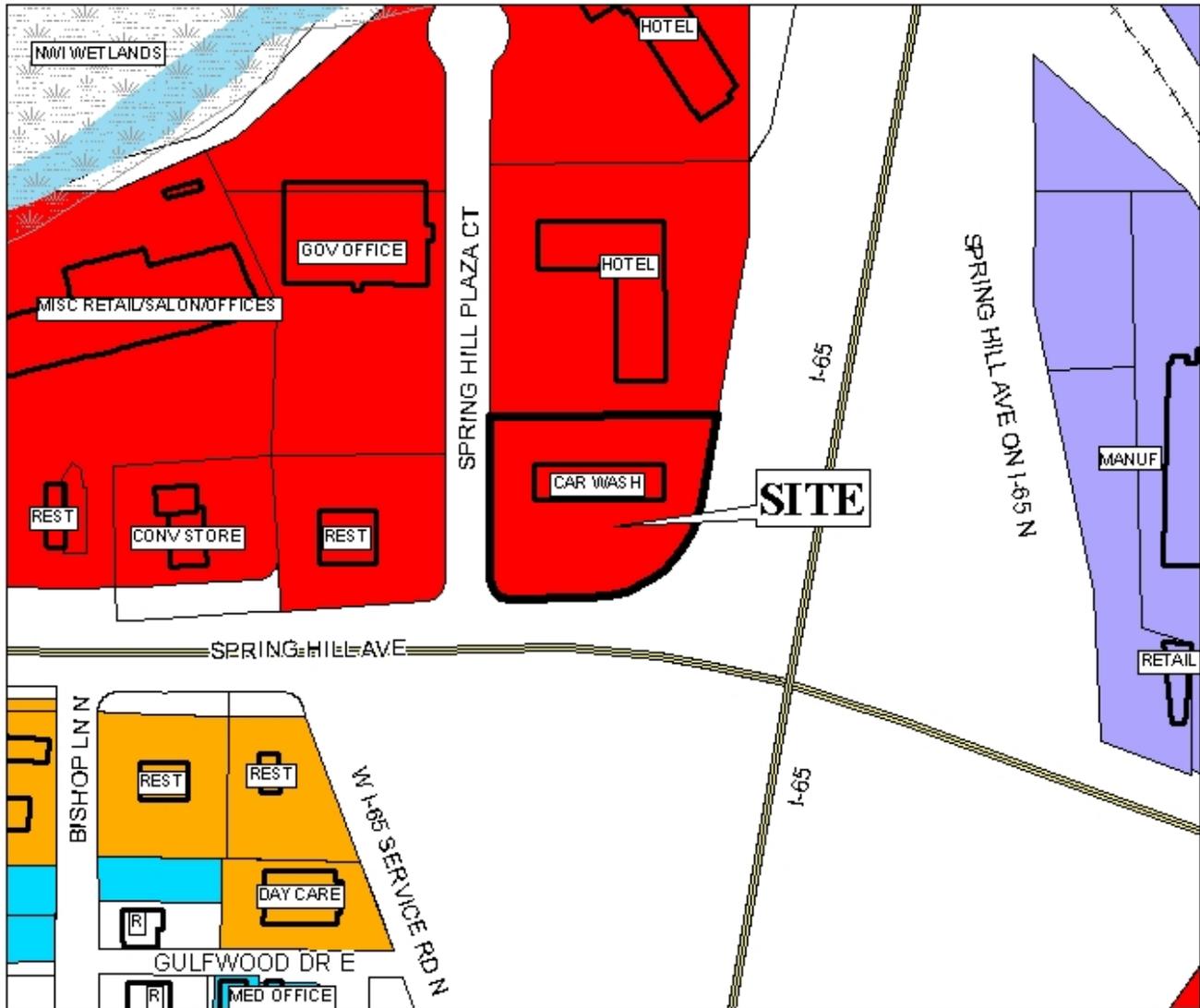
# LOCATOR MAP



APPLICATION NUMBER 5562 DATE September 14, 2009  
APPLICANT Rich's Car Wash  
REQUEST Buffer Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by commercial land use.

APPLICATION NUMBER 5562 DATE September 14, 2009

APPLICANT Rich's Car Wash

REQUEST Buffer Variance

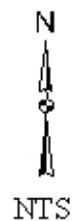


**BOARD OF ADJUSTMENT  
VICINITY MAP - EXISTING ZONING**

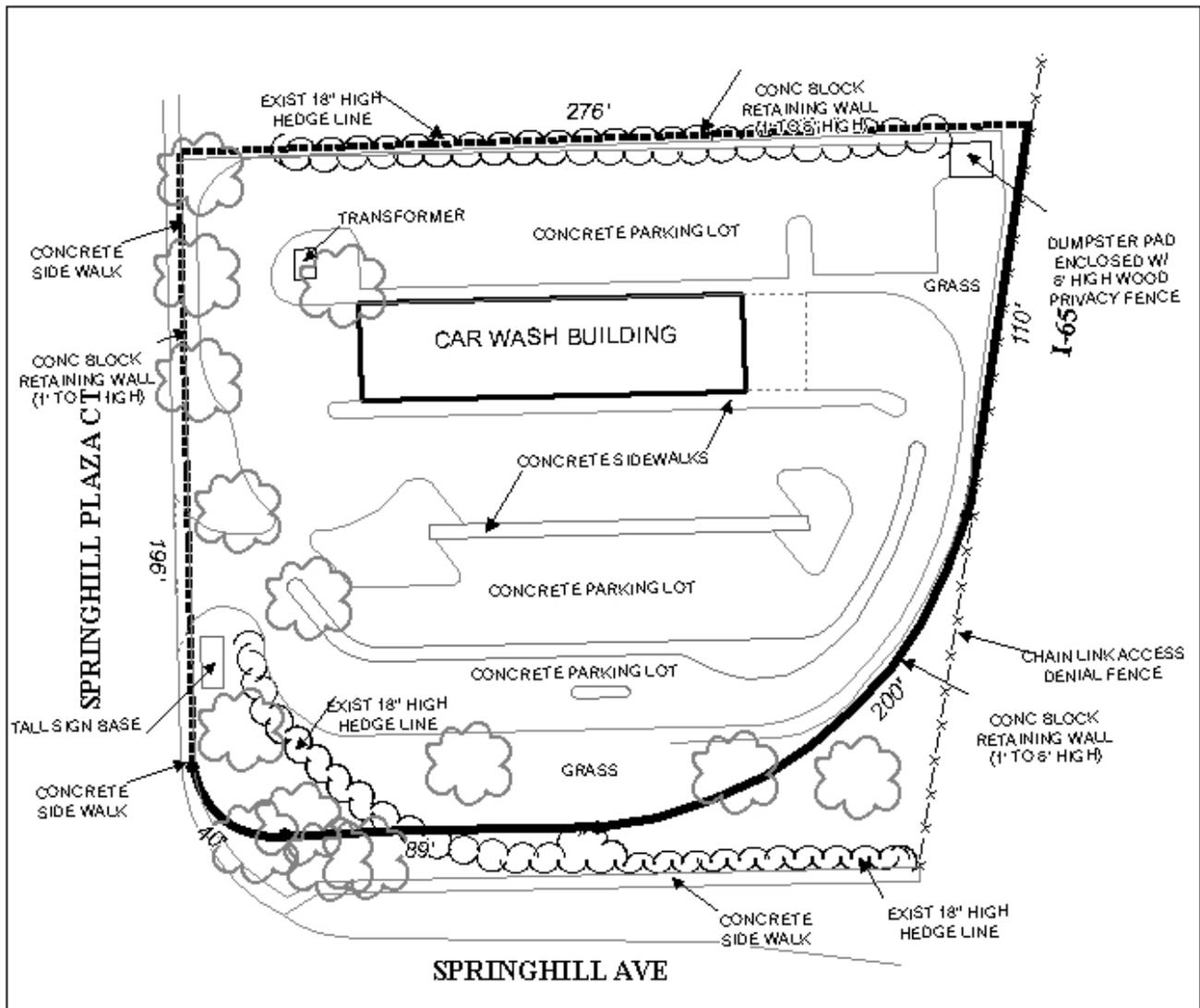


This site is surrounded by commercial land use.

APPLICATION NUMBER 5562 DATE September 14, 2009  
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# SITE PLAN



This site plan illustrates the existing structures and lot configuration.

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