

APPLICATION NUMBER

**5625 / 3806**

A REQUEST FOR

**USE, PARKING RATIO, PARKING SURFACING, ACCESS AND MANEUVERING, TREE AND LANDSCAPING, AND PROTECTION BUFFER VARIANCES TO ALLOW A BEAUTY SHOP WITH NO DELINEATED PARKING SPACES, GRASS AND AGGREGATE PARKING AND MANEUVERING AREAS, SUBSTANDARD ACCESSWAYS, NO TREE PLANTING OR DESIGNATED LANDSCAPING AREA, AND NO RESIDENTIAL PROTECTION BUFFER IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES A MINIMUM OF B-2, NEIGHBORHOOD BUSINESS DISTRICT FOR A BEAUTY SHOP, 6 PARKING SPACES, SURFACING OF EITHER CONCRETE, ASPHALT, ASPHALTIC CONCRETE, OR AN APPROVED ALTERNATIVE PARKING SURFACE, 12' WIDE ACCESSWAYS FOR ONE-WAY TRAFFIC, A MINIMUM OF 12% OF THE TOTAL TO BE LANDSCAPED WITH 60% OF THAT LANDSCAPING LOCATED ALONG THE FRONTAGE, A MINIMUM OF 3 FRONTAGE TREES, 16 PERIMETER TREES, AND 1 PARKING LOT TREE, AND AN APPROPRIATE BUFFER BETWEEN THE SITE AND RESIDENTIALLY ZONED PROPERTY.**

LOCATED AT

**4558 MOFFETT ROAD**

(North side of Moffett Road, 160'± East of Northview Drive)

APPLICANT

**YOLANDA CARSTARPHEN**

**BOARD OF ZONING ADJUSTMENT**

AUGUST 2010

The applicant is requesting Use, Parking Ratio, Parking Surfacing, Access and Maneuvering, Tree and Landscaping, and Protection Buffer Variances to allow a beauty shop with no delineated parking spaces, grass and aggregate parking and maneuvering areas, substandard accessways, no tree planting or designated landscaping area, and no residential protection buffer in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of B-2, Neighborhood Business District for a beauty shop, 6 parking spaces, surfacing of either concrete, asphalt, asphaltic concrete, or an approved alternative parking surface, 12' wide accessways for one-way traffic, a minimum of 12% of the total to be landscaped with 60% of that landscaping located along the frontage, a minimum of 3 frontage trees, 16 perimeter trees, and 1 parking lot tree, and an appropriate buffer between the site and residentially zoned property.

The applicant is proposing to purchase this site for use as a beauty salon. The site is currently zoned R-1, Single-Family Residential and enjoys a use variance (#3806) that was granted on May 3, 1982 by the Board of Adjustment. The use variance allows general offices, food services, and retail sales. Beauty salon services are not covered by this previous variance.

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's justification for the use variance is that the site has been used commercially since the variance was granted. The question of hardship for the original 1982 variance does not appear to have been addressed. There does not appear to be a substantial hardship on the site that would justify the need for another use variance. Further, the allowance of a beauty shop on the site would amount to a *de facto* rezoning to B-2 as most of the uses allowed in B-2 would be covered under the two variances. It should be noted that a rezoning to B-2 would not seem to be unreasonable for the site, however this is a legislative matter that must be considered by the Planning Commission and the City Council. As such, another use variance would seem to be inappropriate.

Regarding the site development, the site is underdeveloped. The site has remained in basically an unimproved state, with only aggregate and grassed parking areas, no clear

maneuvering area, delineations, and no residential buffers. The applicant proposes to maintain status quo at the site and not make any improvements. Again, the applicant's justification for hardship is that the site has functioned this way since 1982. The applicant also states that the addition of pavement would require extensive storm water management, which appears to indicate that their basis for hardship is partially economic.

With regards to landscaping of the site, the area between the building front and the street, which must account for 12% of the total landscaping area, is quite limited. This is likely due to acquisition of additional right-of-way for Moffett Road. In this case, though the applicant does not specifically state this, there may be justification to reduce the frontage landscaping area, however the frontage landscaping area should be made up in total landscaping. Regarding frontage trees, the applicant states the sufficient room does not exist along the 103 feet of frontage. Only three (3) frontage trees would be required, and there appears to be sufficient area to plant these trees. As such, the frontage tree planting variance should be denied. Regarding perimeter and perimeter tree plantings, the applicant has submitted additional information which indicates that there are a sufficient amount of credit-eligible trees to meet the perimeter and parking tree planting requirements.

Parking and accessways on the site are not delineated or marked. Parking standards are in place to ensure safe and orderly parking and maneuvering of vehicles. No justification was given to waive parking requirements, and, as such, this variance should also be denied.

Similarly, no justification was given to justify a waiver of the residential buffer requirements. These regulations are required to shield adjacent residential properties from the effects of commercial development. Accordingly, this request should be denied.

**RECOMMENDATION 5625/3806**

**Date: August 2, 2010**

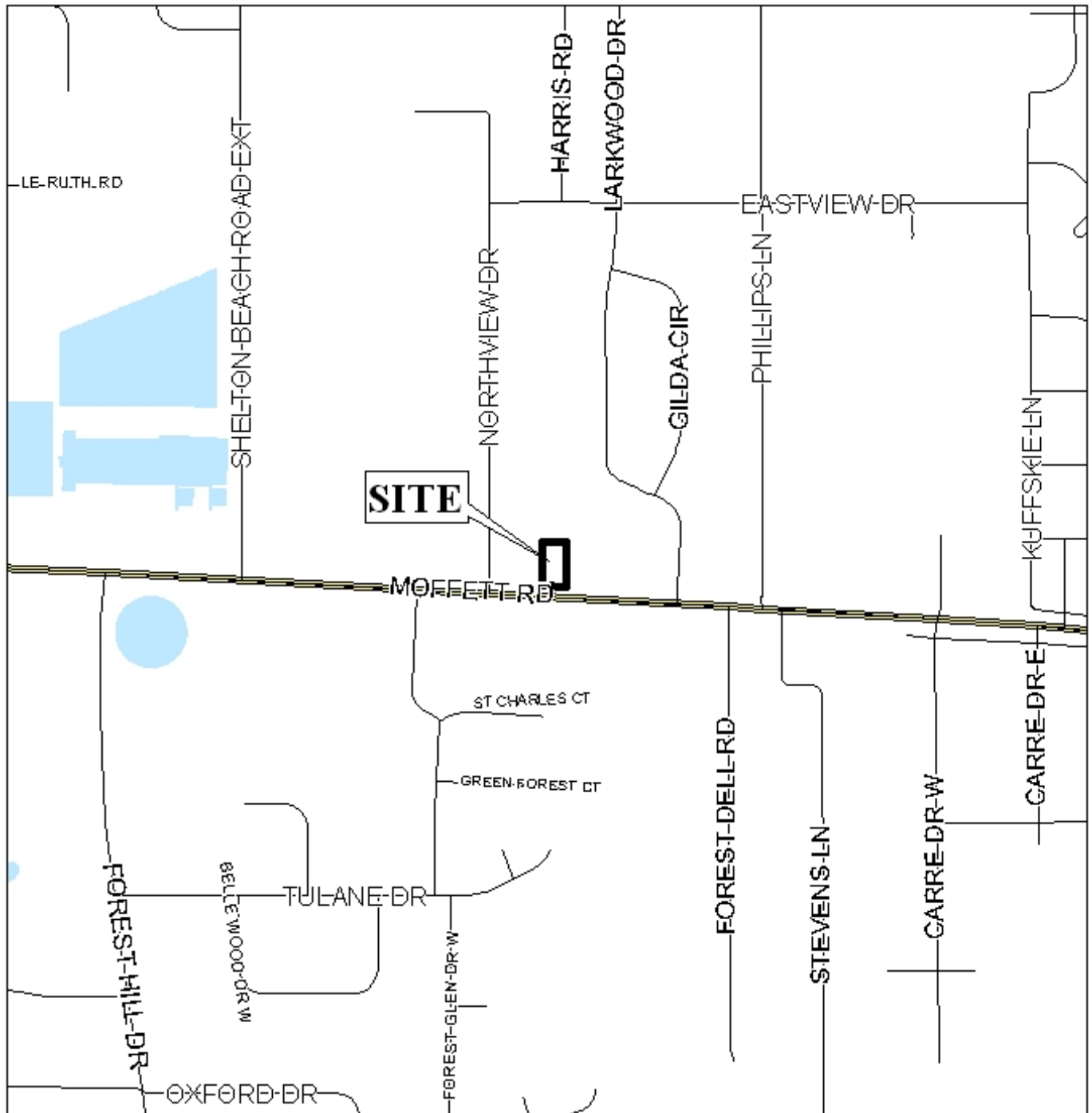
The front landscaping area variance request is recommended for approval.

The request for a Perimeter and Parking Tree Planting Variance is not needed, and is thus moot.

The request for Use Variance is recommended for denial, with the further recommendation that the applicant pursue rezoning to B-2, Neighborhood Business District, with the Planning Commission.

The requests for Parking Ratio, Parking Surfacing, Access and Maneuvering, Frontage Tree Planting, Total Landscaping Area, and Protection Buffer Variances are recommended for denial as the applicant provided no justification for hardship.

# LOCATOR MAP



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APPLICANT Yolanda Carstarphen

Use, Parking Ratio, Parking Surfacing, Access and Maneuvering,  
REQUEST Tree and Landscaping, and Protection Buffer Variances



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



There are single family residential units to the east, south, and north of the site, and a school to the southwest

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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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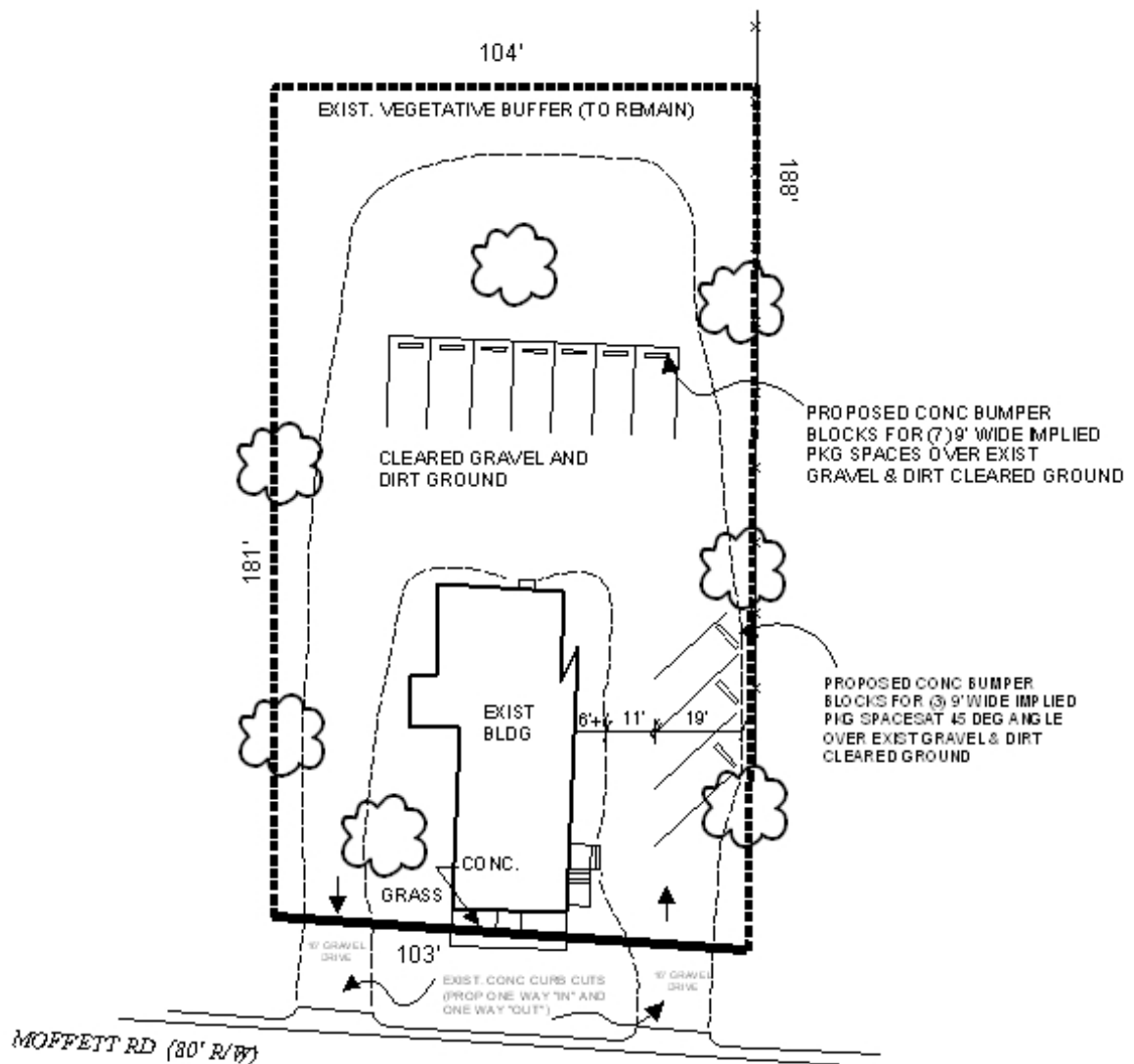
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# SITE PLAN



The site plan illustrates drives, parking, and vegetation.

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