

APPLICATION NUMBER

5142

A REQUEST FOR

**USE VARIANCE TO ALLOW THE CONSTRUCTION OF A
4,800 SQUARE FOOT, FOUR (4) UNIT COMMERCIAL
BUILDING FOR PROFESSIONAL OFFICES IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT;
PROFESSIONAL OFFICES ARE ALLOWED IN B-1,
BUFFER BUSINESS DISTRICTS**

LOCATED AT

(Southwest corner of Moffett Road and Powell Drive)

APPLICANT/OWNER

IKE MILLER

BOARD OF ZONING ADJUSTMENT

NOVEMBER 2002

The applicant is requesting a Use Variance to allow the construction of a 4,800 square foot, four (4) unit commercial building for professional offices in an R-1, Single-Family Residential District; Professional Offices are allowed in B-1, Buffer Business Districts.

The applicant proposes to construct a 4,800 square foot, single-story building, which will contain three or four separate offices for professional use. The applicant states that the property cannot be used as it is presently zoned because no one wishes to build a residence on a busy road such as Moffett Road. The applicant states that he owns property surrounding the subject property and would provide buffers for any neighboring properties that would be adversely affected by this development.

The applicant submitted a 2-lot subdivision and a rezoning application (for B-1, Buffer Business) to the Planning Commission, which denied the applications at the August 16th, 2001 meeting.

Properties across Powell Drive were originally subdivided sometime in the late 1950's (Acropolis Subdivision), and then portions resubdivided as recently as 1993, indicating that the area is still viable for residential development. Additionally, the district regulations for an R-1, Single-Family Residential District are designed to protect the residential character by prohibiting all commercial activities and to encourage a suitable neighborhood environment for family life.

Use Variance applications are typically submitted requesting an existing structure to be used for a specific use, such as an office for an attorney. In this particular case the applicant is requesting that the property be allowed professional offices. The approval of this request would essentially create a new B-1, Buffer Business District allowing any professional office use. Use Variances may alter the character of a neighborhood forever beginning a domino effect, as adjacent properties seek similar requests due to the now changing character of the area.

The Ordinance states that no variance shall be granted where economics are the basis for the application. Additionally, no variance shall be granted 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.

The applicant failed to illustrate that a literal enforcement of the Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to construct professional offices in an R-1, Single-Family Residential District.

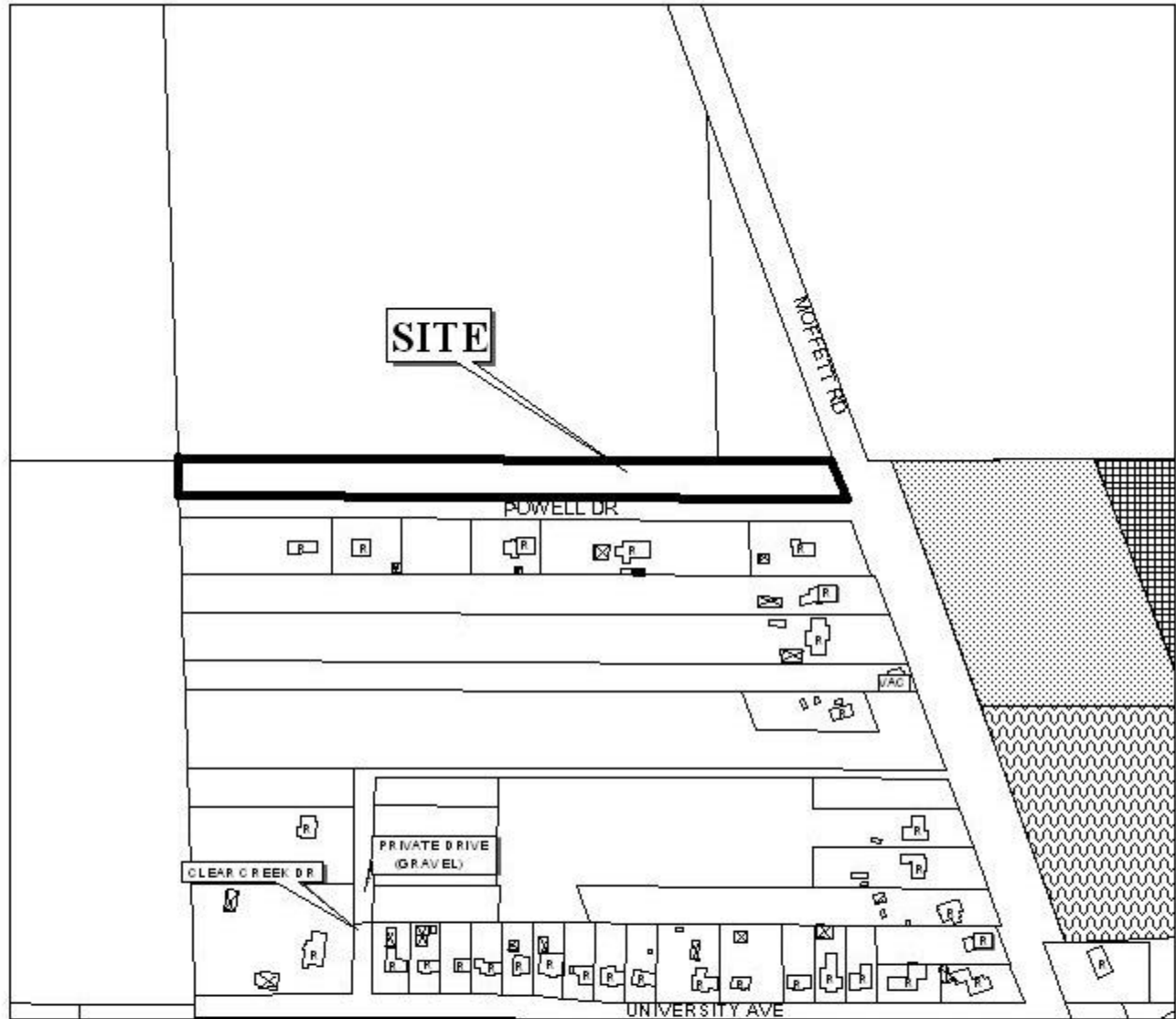
In addition, the granting of such a variance would set an undesirable precedent and would encourage future applications of a similar nature, specifically for the remainder of the property extending westward along Powell Drive.

RECOMMENDATION 5142

Date: November 4, 2002

Based on the preceding, it is recommended that this application be denied.

BOARD OF ZONING ADJUSTMENT
VICINITY MAP - EXISTING ZONING



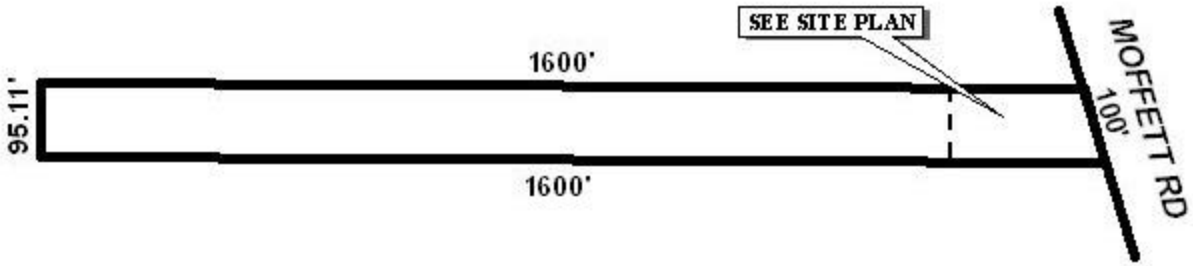
The site is surrounded by single-family, residential units. A church is located to the south of the site.

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LEGEND												
	R-1	R-2	R-3	R-B	H-B	B-1	B-2	B-3	B-4	B-5	I-1	I-2



SITE PLAN

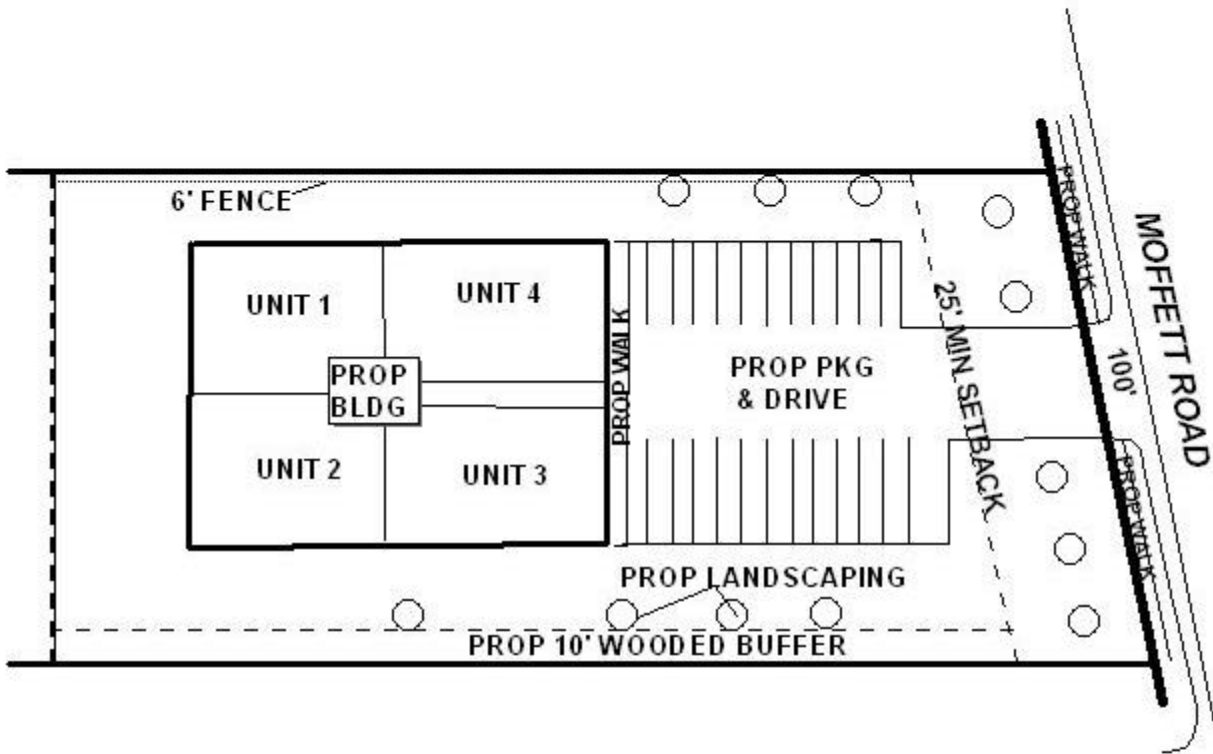


Southwest corner of Moffett Road and Powell Drive, the site plan illustrates the proposed building, parking, landscaping, setback, and wooded buffer.

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SITE PLAN



Southwest corner of Moffett Road and Powell Drive, the site plan illustrates the proposed building, parking, landscaping, setback, and wooded buffer.

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