

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: December 5, 2011**

<u>CASE NUMBER</u>	5724
<u>APPLICANT NAME</u>	Travis Leon Sims
<u>LOCATION</u>	1885 Staples Road (South side of Staples Road, 450'± West of Tulsa Drive).
<u>VARIANCE REQUEST</u>	USE: Allow a second dwelling unit on a lot in an R-1, Single-Family Residential District.
<u>ZONING ORDINANCE REQUIREMENT</u>	USE: Only one dwelling unit is allowed on a lot in an R-1, Single-Family Residential District.
<u>ZONING</u>	R-1, Single-Family Residential District
<u>AREA OF PROPERTY</u>	5.0 Acres ±
<u>TRAFFIC ENGINEERING COMMENTS</u>	None received.
<u>CITY COUNCIL DISTRICT</u>	District 3

ANALYSIS The applicant is requesting a Use Variance to allow a second dwelling unit in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum zoning of R-2, Two-Family Residential District for a property with two dwelling units.

The applicant has constructed a second dwelling unit on the subject property. Aerial photographs indicate that the construction took place between 2006 and 2010. The Planning Section was made aware of the second dwelling unit by a citizen complaint. The investigation revealed that a second dwelling unit had been constructed, and that power and water services were being shared by the two dwelling units. The applicant now wishes to obtain after-the-fact permits and approvals.

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 did not state what, if any, hardship exists on the property regarding the use. There is no hardship or special circumstance readily apparent. Further, the second dwelling was constructed without any permits or approvals, thus, the fact that the building is there is not sufficient to grant a variance, as this is a self-imposed hardship due to the lack of permitting. It should also be noted that the area is entirely single-family residential, and there have been no variances for this type of use ever granted in this area, and may have the effect of creating a precedent for future approvals of this type, which may be undesirable for the neighborhood.

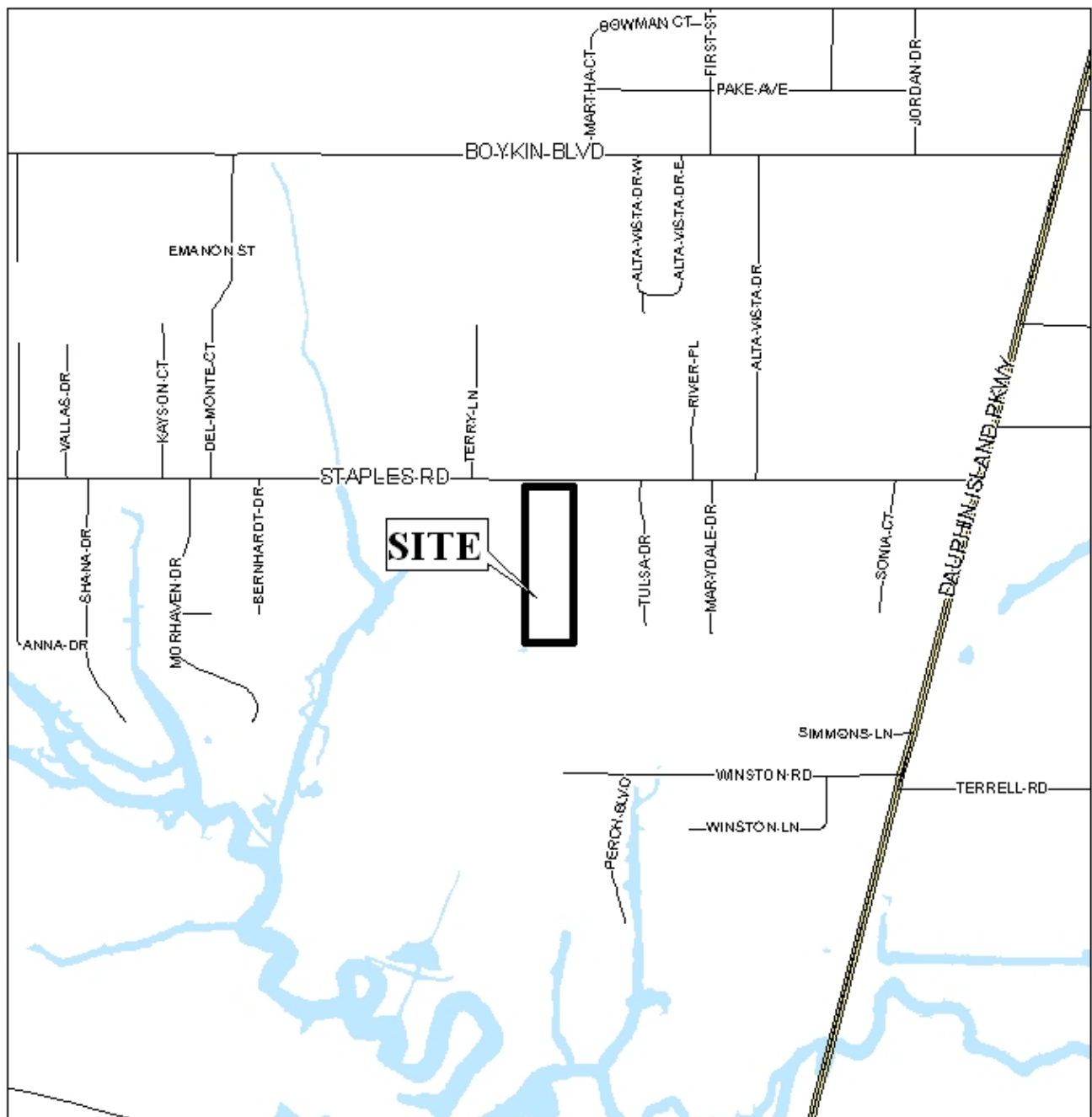
As no hardship or special circumstance exists, this request should be denied.

Based upon the preceding, the application is recommended for denial.

Revised for the January 9, 2012, meeting

This application was heldover at the applicant's request. No new information was received; as such, the recommendation for denial is unchanged.

LOCATOR MAP



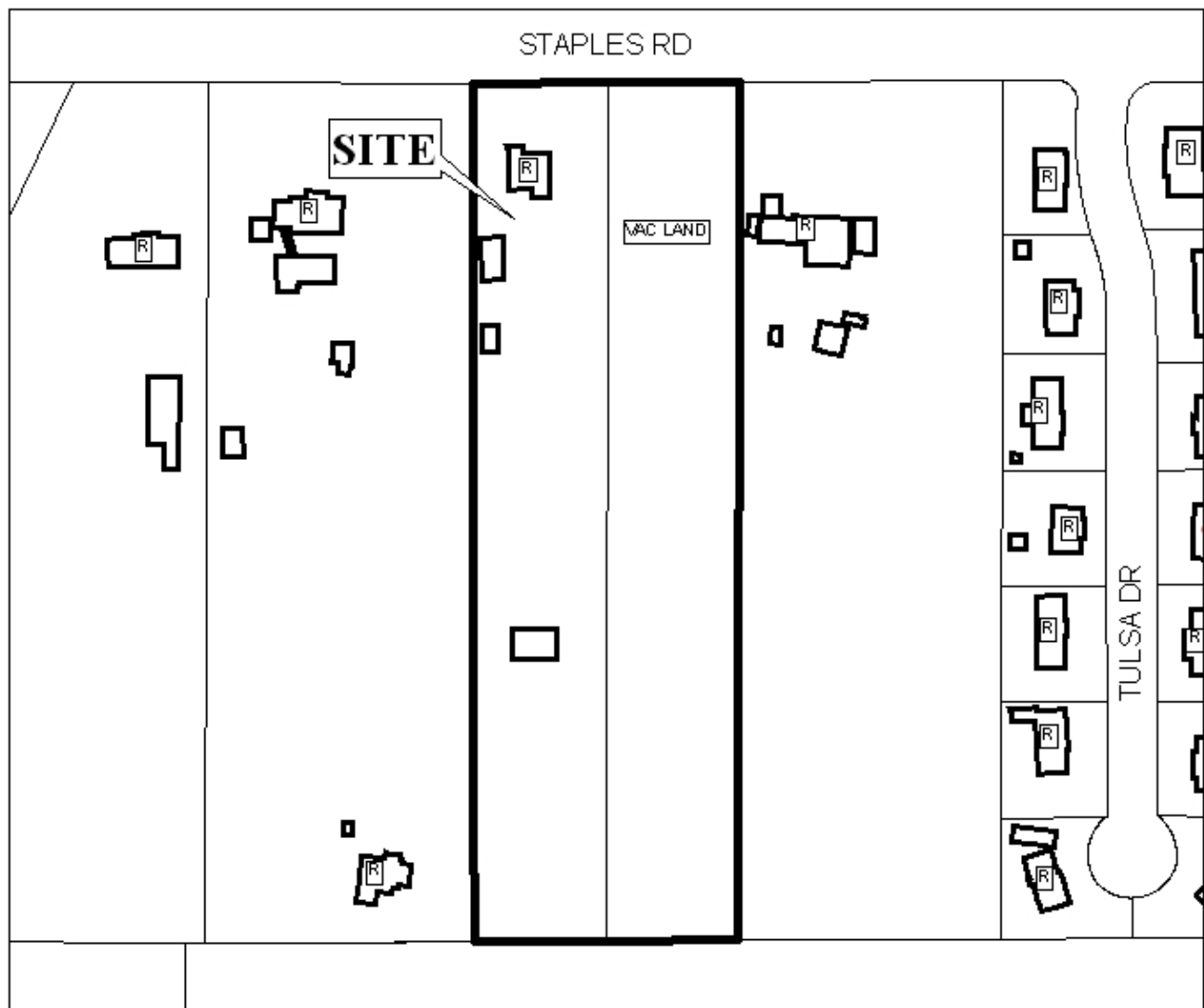
APPLICATION NUMBER 5724 DATE January 9, 2012

APPLICANT Travis Leon Sims

REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential land use.

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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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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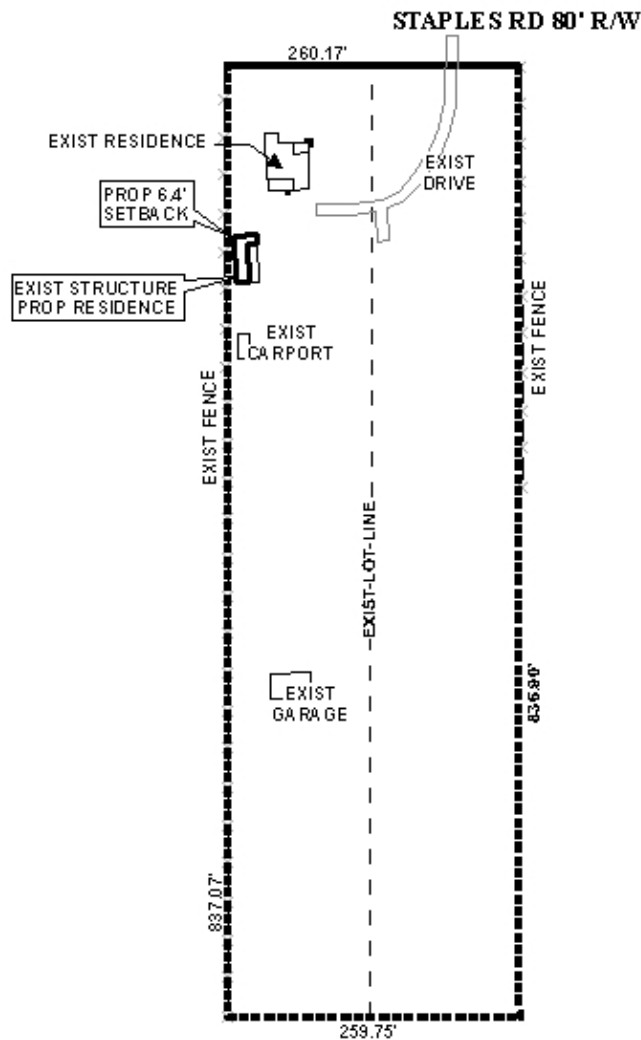
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SITE PLAN



The site plan illustrates the existing improvements and structure to be used as a residence.

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