

APPLICATION NUMBER

5601

A REQUEST FOR

**USE VARIANCE TO ALLOW TWO SINGLE-FAMILY
DWELLINGS ON A SINGLE BUILDING SITE IN AN R-1,
SINGLE-FAMILY RESIDENTIAL DISTRICT; THE
ZONING ORDINANCE REQUIRES A MINIMUM R-2,
TWO-FAMILY RESIDENTIAL DISTRICT FOR A TWO-
FAMILY RESIDENTIAL USE.**

LOCATED AT

**SOUTHEAST CORNER OF FIRST AVENUE AND PRINCE
STREET**

APPLICANT

KENTRIS MORRISSETTE

BOARD OF ZONING ADJUSTMENT

MARCH 2010

The applicant is requesting a Use Variance to allow two single-family dwellings on a single building site in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum R-2, Two-Family Residential District for a two-family residential use.

The applicant first proposed to develop this existing vacant property in March, 2009. At that time, the applicant submitted a Subdivision, Rezoning, and Planned Unit Development request to allow an eight (8) unit apartment complex with two buildings on a single building site. The Planning Commission, on April 2, 2009, approved a revised request for one (1) building, four (4) unit apartment complex. Rezoning requests require the approval of the City Council, and, as such, the rezoning request was sent to the City Council, where it was denied by the council, rendering the Planning Commission approval moot. The applicant, however, recorded the one-lot subdivision to combine the existing two (2) legal lots-of-record.

The applicant now proposes to construct two, single-family dwelling units on the lot that was created by the subdivision.

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.

Planning Commission approval of the subdivision required dedication of 10 feet of right-of-way along Prince Street and also restricted the lot to one curb cut. The applicant states correctly that before the subdivision, the site consisted of two buildable lots-of-record. It should be noted that, although the lots were buildable in their previous state, they were in fact legal non-conforming lots that did not meet current lot standards as regulated by the Subdivision Regulations of the City of Mobile.

The applicant further correctly states that the site can no longer be resubdivided into the original two lots due to the dedication for Prince Street, and the fact that the new lots would not meet the current lot size regulations as stated previously. The applicant states that this has created a hardship in that the applicant can longer use the site for its "intended use" meaning two dwelling units.

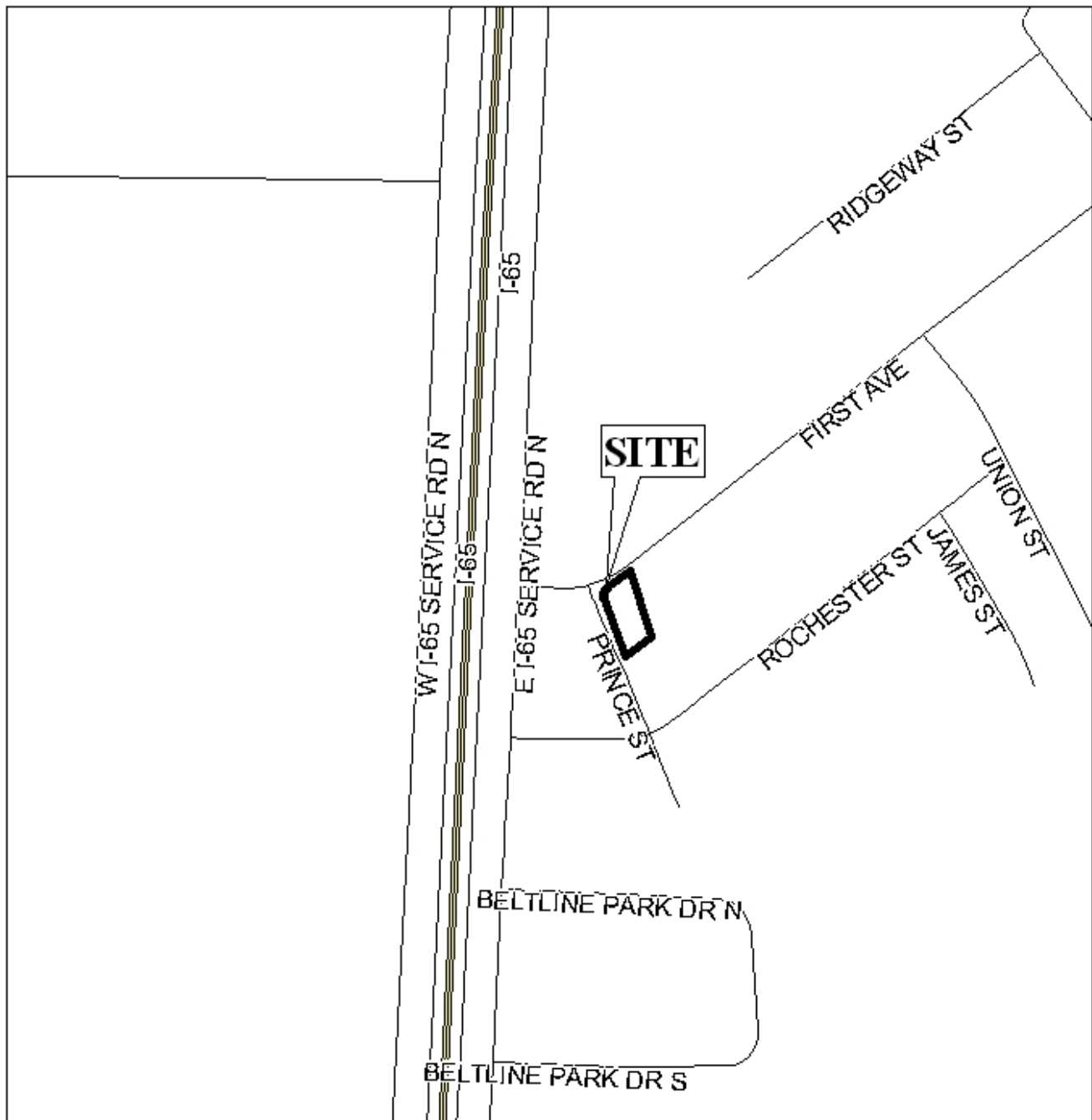
The applicant does state in the narrative that he assumed that because the Planning Commission recommended approval of the rezoning request (which was recommended for denial by staff), that the City Council would follow suit. Strong community opposition to the proposed four (4) unit apartment building, culminating with a community meeting called by Councilman Richardson in the Trinity Gardens area resulted in the ultimate denial of the application by the City Council.

Because the applicant made an assumption about the rezoning approval and went ahead and recorded the subdivision really makes any hardship on the site a self-imposed hardship, and, as such, should be recommended for denial.

RECOMMENDATION 5601**Date: March 1, 2010**

The variance request is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5601 DATE March 1, 2010

APPLICANT Kentris Morrisette

REQUEST Use Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING


















There is an auto body shop to the west of the site, a warehouse to the northwest, and single family residential units to the east.

APPLICATION NUMBER 5601 DATE March 4, 2010

APPLICANT Kentris Morrisette

REQUEST Use Variance

LEGEND

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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	

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

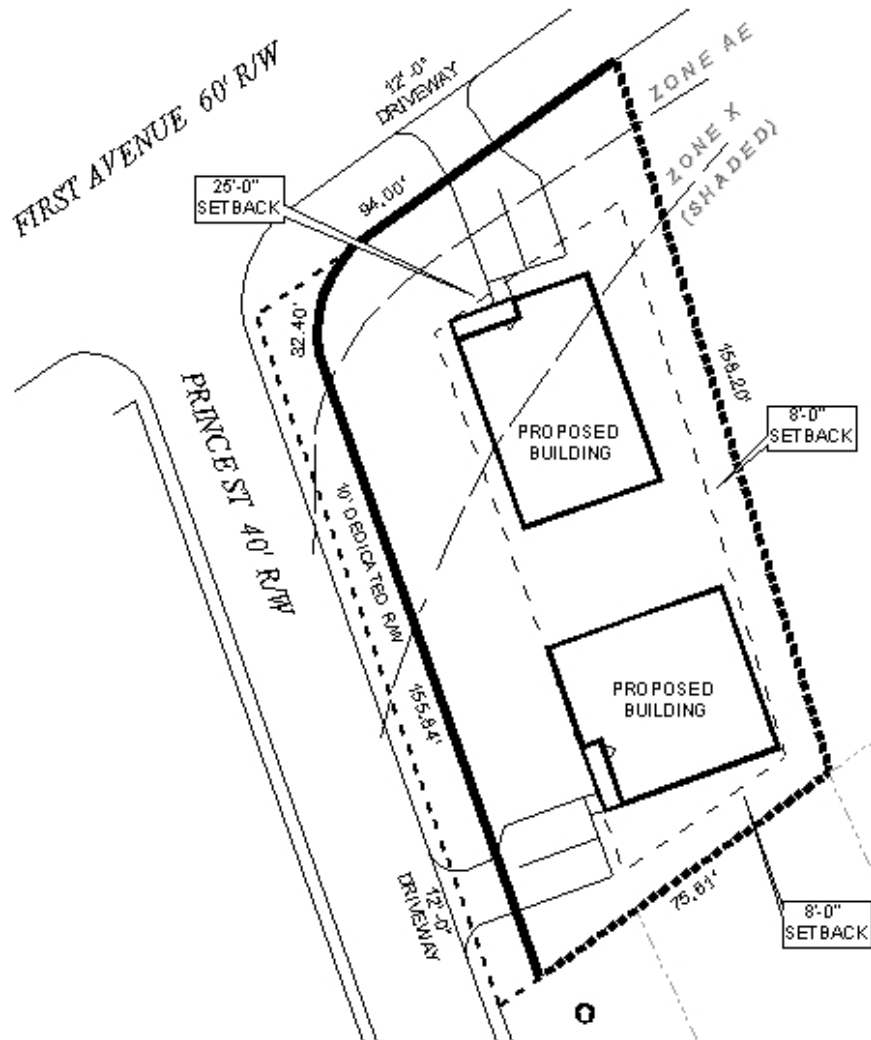


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APPLICATION NUMBER 5601 DATE March 1, 2010
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NTS

SITE PLAN



Proposed buildings, dedicated right of way, setbacks, and drives are illustrated in the site plan.

APPLICATION NUMBER 5601 DATE March 1, 2010
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