

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 7, 2014****CASE NUMBER**

5895/5797/5726

APPLICANT NAME

New Hope Baptist Church

LOCATION

1270 & 1272 Pecan Street, 608 Live Oak Street, 1261 & 1263 Persimmon Street
(Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street).

VARIANCE REQUEST

TREE PLANTING: Reduce the number of Frontage Heritage Trees required for a church in an R-2, Two-Family Residential District.

**ZONING ORDINANCE
REQUIREMENT**

TREE PLANTING: The Zoning Ordinance requires a minimum of one frontage heritage tree per 30 linear feet of street frontage for a church in an R-2, Two-Family Residential District.

ZONING

R-2, Two-Family Residential District

AREA OF PROPERTY

0.91± Acre

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**ENGINEERING
COMMENTS**

No comments.

FIRE DEPARTMENT**COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

**CITY COUNCIL
DISTRICT**

District 2

ANALYSIS

The applicant is requesting a Tree Planting Variance to reduce the number of Frontage Heritage Trees required for a church in an R-2, Two-Family Residential District; the Zoning Ordinance requires a minimum of one frontage heritage tree per 30 linear feet of street frontage for a church in an R-2, Two-Family Residential District.

The applicant wishes to construct a 246-seat sanctuary addition, as well as offices and classrooms, to an existing non-conforming church building. The applicant received Subdivision, Planned Unit Development (PUD), and Planning Approval approvals for the church addition from the Mobile City Planning Commission in December, 2011. The Subdivision was recorded and the Planning Approval is still current, but the PUD expired and has been resubmitted and is scheduled to be heard at the June 5th Planning Commission meeting. A request of the PUD is to reduce the building setback along Live Oak Street to 8 feet as was originally requested in 2011 and approved. Due to the reduced building setback, the applicant contended that there was insufficient area to plant the required Live Oak trees along Live Oak Street and sought and was granted a Tree Planting Variance in December 2011. That Variance expired and the applicant re-applied for and was granted the same Variance in December, 2012. Due to construction delays, that variance also expired and the applicant again seeks a re-approval for the same request; hence this application.

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 states *“New Hope Baptist Church has occupied the property at the northeast corner of Live Oak Street and Pecan Street for several decades and is proposing to construct a new Sanctuary building and paved parking area as shown on the attached drawing. The Board of Zoning Adjustment previously granted a variance to New Hope Baptist Church giving permission to reduce the number of required Frontage Heritage Trees along Live Oak Street. The approval was subject to the following condition: ‘coordination with Urban Forestry for the frontage tree planting requirements of the ordinance to allow the planting of understory trees instead of overstory trees within the location of the building’. Upon coordinating with Urban Forestry, an agreement was reached to provide 6 crepe myrtles as shown on the attached site plan in place of 6 Heritage Trees. Due to delays in construction, the variance has expired. The purpose of this application is to reinstate the expired variance.”*

The applicant has complied with the original condition of coordination with Urban Forestry and reflected such on the site plan. It should be noted that all other required perimeter trees and parking lot trees are shown to be provided. However, the site plan should be revised to specify

Live Oak trees as the heritage frontage trees due to the presence of overhead power lines along all three street frontages.

In light of the fact that the same request was twice previously approved, the Board should consider this request for approval, subject to conditions.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for approval:

- 1) Based on the fact that this same request has been granted to the applicant twice in the past, the variance will not be contrary to the public interest;
- 2) These special conditions (lack of sufficient area to plant overstory trees within close proximity to the building) exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that all other tree planting requirements will be met and the total number of required trees planted will still be met.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) coordination with Urban Forestry for the frontage tree planting requirements of the Ordinance to allow the planting of understory trees instead of overstory trees within the location of the building;
- 2) revision of the site plan to specify Live Oak trees as the heritage trees along all three street frontages due to the presence of overhead power lines;
- 3) submittal of three (3) copies of a revised site plan showing required revisions prior to the submittal of plans for building permitting; and
- 4) full compliance with all other municipal codes and ordinances.

Revised for the July 7th meeting:

This application was heldover from the June 2nd meeting due to no one being present to represent the applicant at the meeting. Since there have been no revisions to the application, the original recommendation would stand.

RECOMMENDATION: Staff recommends to the Board the following findings of facts for approval:

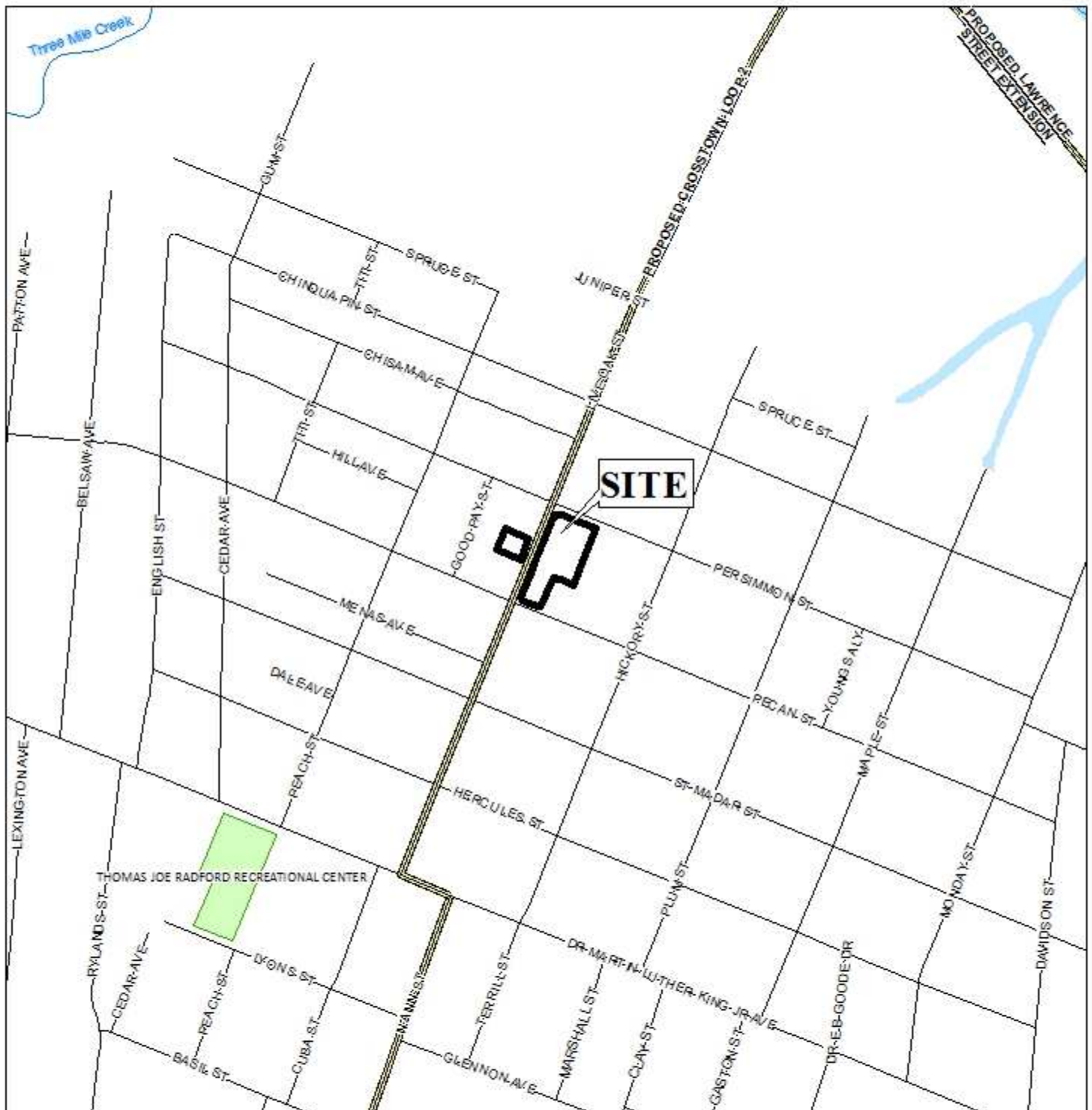
- 1) *Based on the fact that this same request has been granted to the applicant twice in the past, the variance will not be contrary to the public interest;*
- 2) *These special conditions (lack of sufficient area to plant overstory trees within close proximity to the building) exist such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and*
- 3) *That the spirit of the chapter shall be observed and substantial justice done to the applicant and the surrounding neighborhood by granting the variance in that all other*

tree planting requirements will be met and the total number of required trees planted will still be met.

Therefore, this application is recommended for approval, subject to the following conditions:

- 1) coordination with Urban Forestry for the frontage tree planting requirements of the Ordinance to allow the planting of understory trees instead of overstory trees within the location of the building;*
- 2) revision of the site plan to specify Live Oak trees as the heritage trees along all three street frontages due to the presence of overhead power lines;*
- 3) submittal of three (3) copies of a revised site plan showing required revisions prior to the submittal of plans for building permitting; and*
- 4) full compliance with all other municipal codes and ordinances.*

LOCATOR MAP



APPLICATION NUMBER 5895 DATE July 7, 2014

APPLICANT New Hope Baptist Church

REQUEST Tree Planting Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

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REQUEST Tree Planting Variance

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



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



The site is surrounded by residential land use.

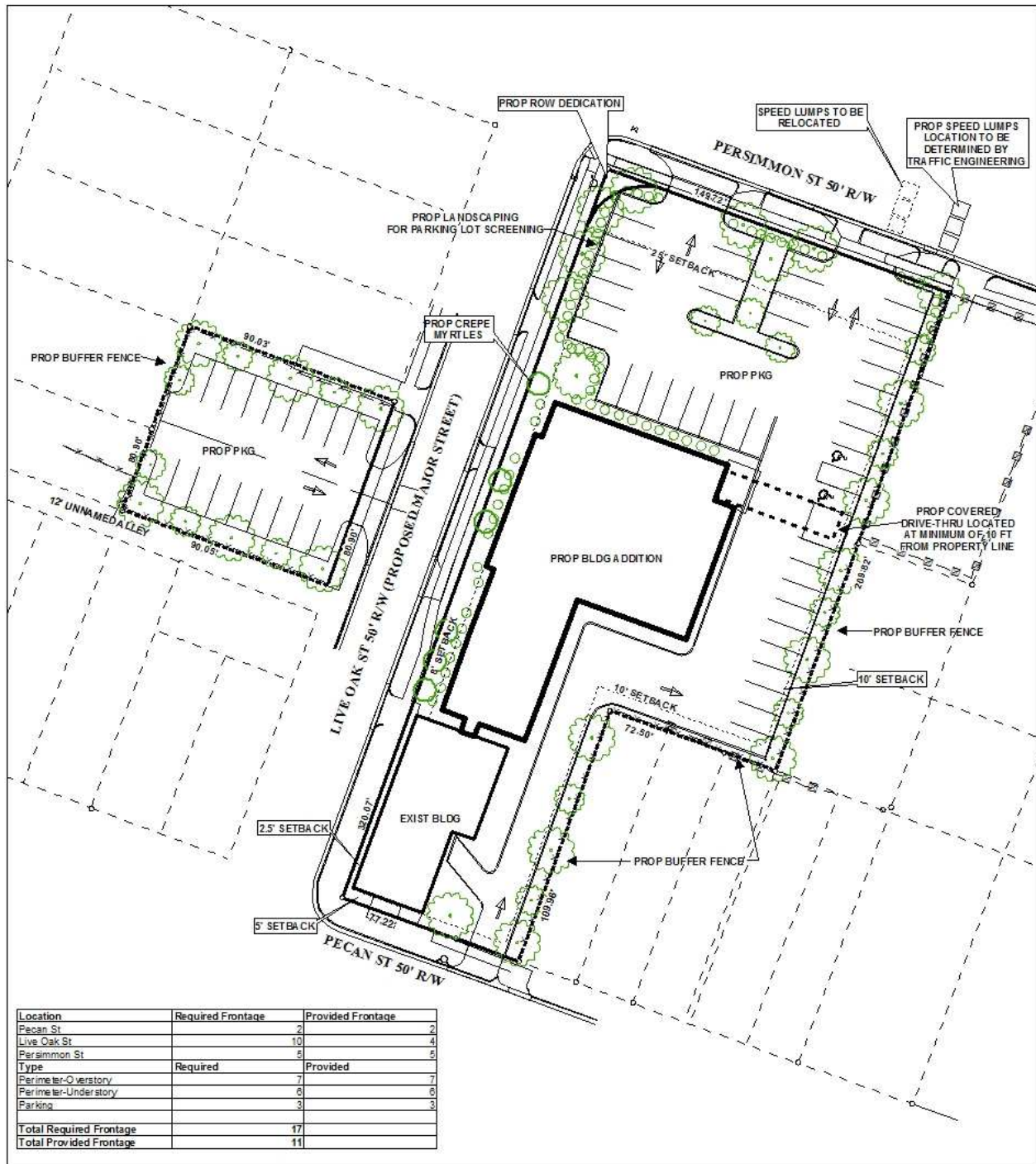
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SITE PLAN



The site plan illustrates the proposed building and parking.

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