

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: August 6, 2012****CASE NUMBER**

5762

APPLICANT NAME

The Creel Company

LOCATION

3804 Norwood Lane
(North side of Norwood Lane, 70'± West of Stimpson Lane [not open] extending to the South side of Isabella Lane [not open], 100'± West of Stimpson Lane [not open]).

VARIANCE REQUEST

SURFACING: Surfacing Variance request to allow aggregate parking in a contractor's storage yard in an I-1, Light Industry District (Planning Commission rezoning request pending).

TREE PLANTING: Tree Planting Variance request to allow no tree planting.

SCREENING: Screening Variance to allow a partially open vegetative buffer.

**ZONING ORDINANCE
REQUIREMENT**

SURFACING: The Zoning Ordinance requires the equipment parking are to be paved in asphalt, concrete, or an approved alternative paving surface in a contractor's storage yard in an I-1, Light Industry District (Planning Commission rezoning request pending).

TREE PLANTING: The Zoning Ordinance requires full compliance with tree plantings.

SCREENING: The Zoning Ordinance requires an 8' high wall or privacy fence.

ZONING

R-1, Single-Family Residential District
I-1, Light Industry District (Planning Commission rezoning request pending)

AREA OF PROPERTY

2.2± Acres

ENGINEERING**COMMENTS**

The surface of all driving and maneuvering areas are required to be paved with asphalt, concrete or an approved surface. The Engineering Department did not receive a request to review an alternate surface. Any development, whether gravel or paved, will need to be reviewed for conformance to the Storm Water and Flood Control Ordinance prior to construction.

TRAFFIC ENGINEERING**COMMENTS**

No comments.

CITY COUNCIL**DISTRICT**

District 1

ANALYSIS

The applicant is requesting Surfacing, Tree Planting and Screening Variances to allow a contractor's storage yard in an I-1, Light Industry District, (Planning Commission rezoning request pending) with a partially open vegetative buffer, aggregate parking surface, and no tree plantings; the Zoning Ordinance requires the storage area to be completely enclosed with an 8' high wall or privacy fence, the equipment parking area to be paved in asphalt, concrete, or an approved alternative paving surface, and full compliance with tree plantings.

The proposed rezoning from R-1 to I-1 is scheduled to be heard by the Planning Commission at its July 5th meeting, in conjunction with a one-lot subdivision to create a legal lot of record for the site. Other properties are included in the rezoning; therefore, if the rezoning is approved, and this variance is approved, the variance approval would pertain only to this subject site.

The site has been a vacant lot in the past and the applicant purchased it in 2007 and began to use it in 2008 as a storage yard for his construction business located approximately 175' East of the subject site. No permits for a change of occupancy for the site or any zoning reviews or approvals were sought prior to the applicant establishing the current storage yard on the site and Notices of Violation were issued. The applicant now wishes to begin the approvals process, hence these variance requests.

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 that the site is simply a storage yard with no parking spaces necessary. Two on-site parking spaces are proposed for employees. It is contended that as the operations are industrial in nature on the site with the movement of heavy equipment, any pavement provided would suffer constant damage. In similar instances where surfacing variances have been sought in I-1 districts, heavy equipment movement and materials storage have been viable reasons for the approval of surfacing variances. The site does appear, however, to contain ample room for the provision of at least two employee paved parking spaces and a paved access to those spaces.

With regard to the Tree Planting Variance request, if rezoned to I-1, as proposed, the site would only require frontage tree plantings, with one tree per every thirty feet of linear street frontage. Since the subject site has 275' of linear street frontage, nine frontage trees would be required. The applicant states that due to the use of the site, frontage trees will be highly affected by the traffic generated by trucks entering and leaving the site and the survival of trees would be greatly limited by such. As the site was begun to be used without consideration for zoning compliance, the current traffic patterns along the frontage may be impact the area where tree plantings are required. However, this would be a hardship imposed by the applicant due to the initiation of operations on the site without reviews and approvals. The site has ample street frontage to provide a compliant entrance drive and also provide the area for protected tree plantings.

With regard to the Screening Variance request, the applicant states that the site is currently half-screened from view by heavy vegetation on its East and North sides which can serve as a natural vegetative buffer allowed by the Ordinance. The front and West sides are open and the request applies to those areas. It is stated that there is an existing chain link fence along those two sides and that a privacy fence would seem unnecessary. It is further stated that the applicant has an agreement with the occupant of the dwelling to the West to act as additional security for the site and that a privacy fence would eliminate his visibility to the site. But it should be noted that the chain link fence (with barbed wire) was erected without a permit or approval for the barbed wire, and there is no traffic queuing space provided at the entrance. As the site has ample area for the required frontage tree plantings, the required 8' high privacy fence or wall should be erected meeting the minimum 25' front yard setback, with a compliant traffic queuing entrance, if gated. The existing vegetated area described is, however, on the adjacent property to the East which is not part of this application, but is proposed to be rezoned to I-1. If the rezoning is approved for it, no buffer along the East side of the subject site would be required. If not, the existing vegetated area on that site would not qualify toward meeting the buffer requirements for this particular site.

The site plan submitted does not indicate a compliant dumpster; therefore, the site plan should be revised to either indicate a compliant dumpster or a note should be placed on the site plan stating that no dumpster will be utilized and trash collection will be curb-side or private collection service.

As Norwood Lane is a substandard right-of-way which would possibly require dedication if the subdivision is approved, the site plan would require revisions before an accurate review can be completed. Therefore, it is recommended that this application be heldover to the August meeting to allow the applicant to make any necessary revisions to the site plan to accurately reflect the

site based upon possible Planning Commission approvals of the one-lot subdivision and the rezoning applications.

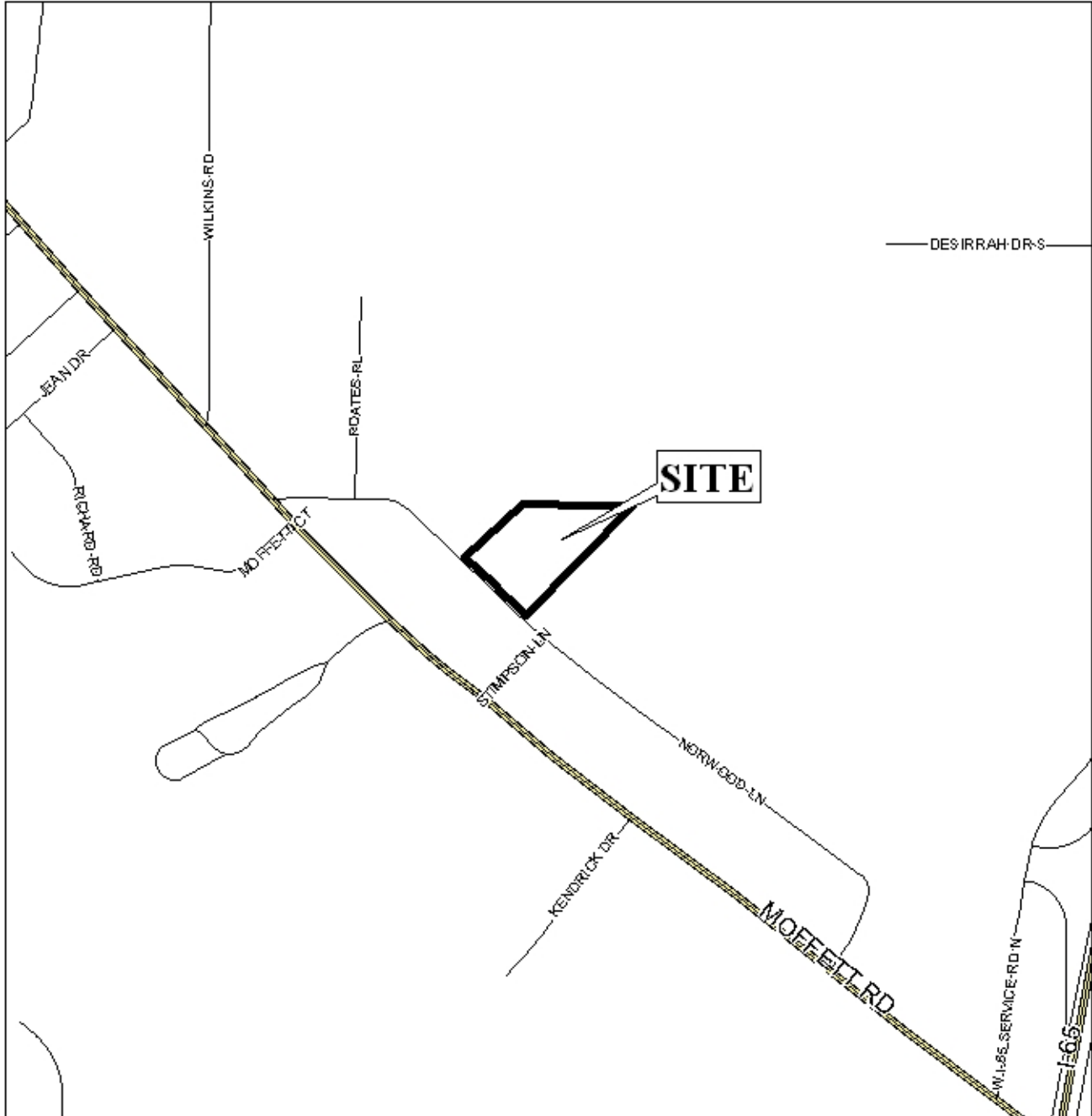
RECOMMENDATION: Based on the preceding, this application is recommended for holdover to the August meeting to allow the applicant to revise the site plan to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both are approved.

Revised for the August meeting:

This application was heldover from the July meeting to allow the applicant to revise the site plan to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both were approved. However, the Planning Commission heldover both of those applications until the August meeting. Therefore, this application should be heldover to the September meeting to allow the applicant to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both should be approved at the Planning Commission's August meeting.

RECOMMENDATION: Based on the preceding, this application is recommended for holdover to the September meeting to allow the applicant to revise the site plan to incorporate any pertinent conditions of approval of the subdivision and rezoning, if both should be approved at the Planning Commission's August meeting.

LOCATOR MAP



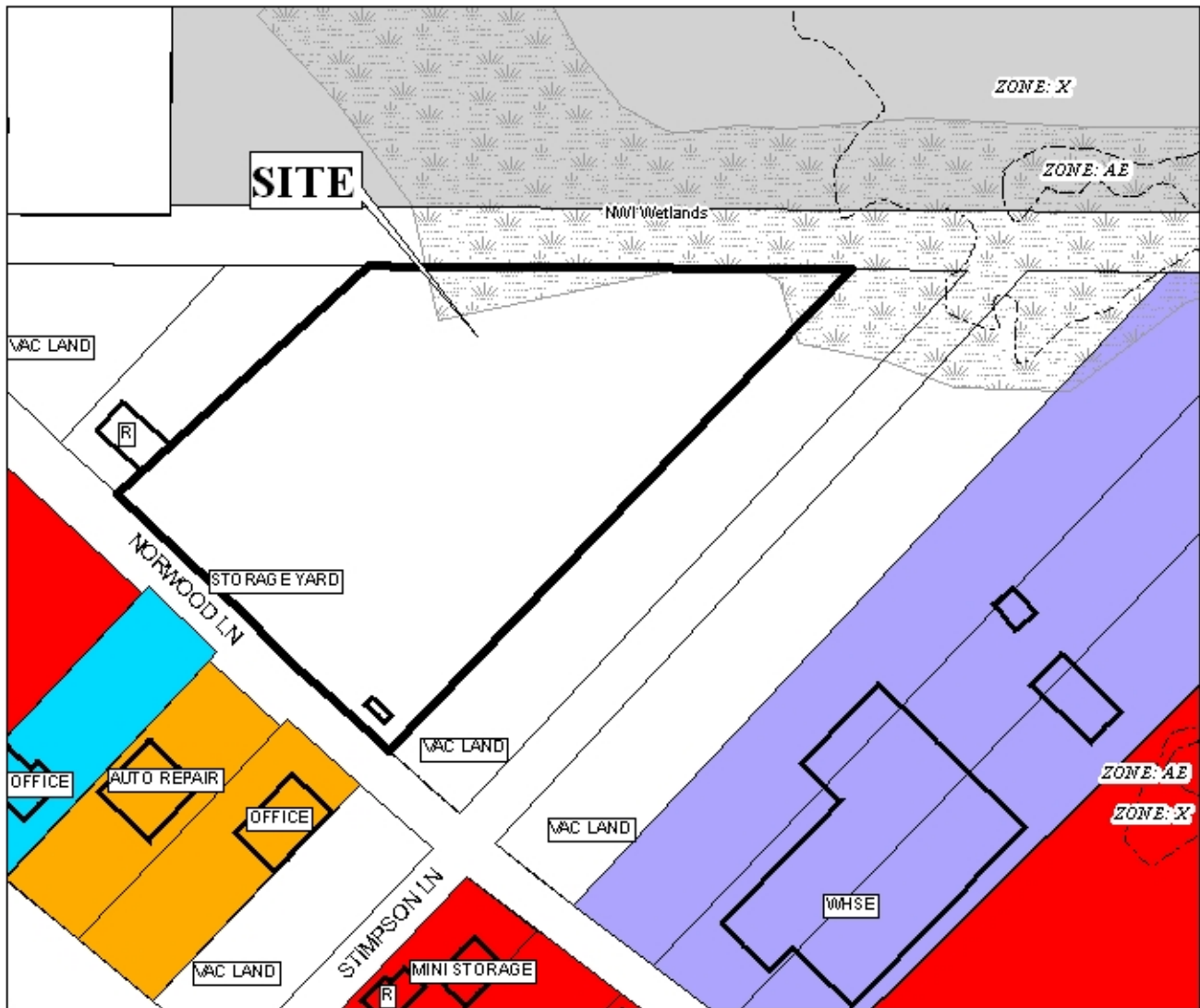
APPLICATION NUMBER 5762 DATE August 6, 2012

APPLICANT The Creel Company

REQUEST Surfacing, Tree Planting and Screening Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial uses are located to the south and east of the site.
A single-family residence is located to the west of the site.

APPLICATION NUMBER 5762 DATE August 6, 2012

APPLICANT The Creel Company

REQUEST Surfacing, Tree Planting and Screening Variances

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

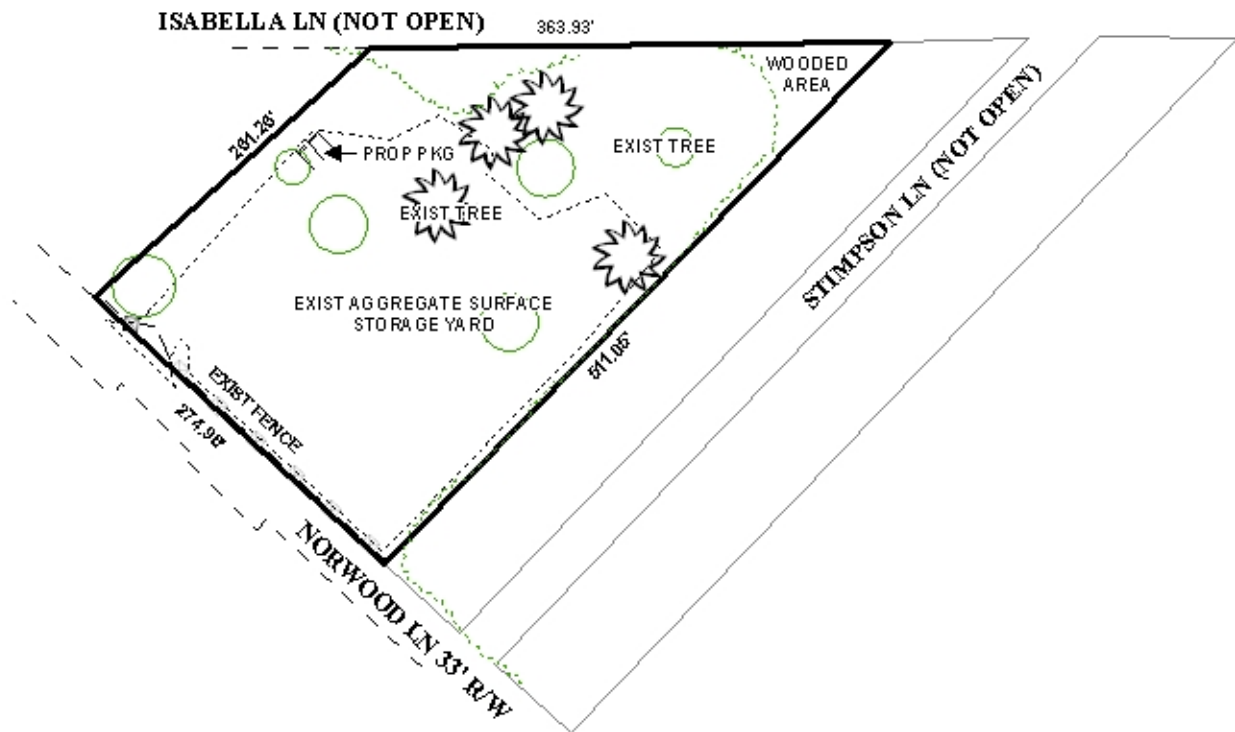


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SITE PLAN



The site plan illustrates the existing storage yard and proposed parking.

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