

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: June 1, 2015****CASE NUMBER**

5971/3540

APPLICANT NAME

Y'all, LLC

LOCATION4219 Moffett Road
(South Side of Moffett Road, 200'± East of Carre Drive
East)**VARIANCE REQUEST****SURFACING:** Surfacing Variance to allow gravel parking and maneuvering surfacing.**RESIDENTIAL BUFFER:** Residential Buffer Variance to allow residential buffering along only 186' of the Western lot line.**REDUCED LANDSCAPING:** Reduced Landscaping Variance to allow 1,938 square feet of frontage landscaping.**ZONING ORDINANCE
REQUIREMENT****SURFACING:** The Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface for parking and maneuvering areas.**RESIDENTIAL BUFFER:** The Zoning Ordinance requires residential buffering for all adjacent residentially utilized building sites.**REDUCED LANDSCAPING:** The Zoning Ordinance requires 7.2% (4,515 square feet) frontage landscaping for commercially utilized building sites.**ZONING**

R-1, Single-Family Residential District (Rezoning to B-1, Buffer Business District, pending)

AREA OF PROPERTY

1.4± Acres

**ENGINEERING
COMMENTS****Surfacing:** If the aggregate surfacing is approved for use the applicant will need to have the following conditions met:

- a. Submit and receive a TIER 2 Land Disturbance Permit for the proposed site development through Central Permitting.

- b. Submit a ROW Permit (ALDOT and City of Mobile) for the work within the Moffett Road ROW. Aggregate surfacing will NOT be allowed within the Moffett Road ROW; only pavement will be allowed.

TRAFFIC ENGINEERING

COMMENTS

If the surface variance is approved, bumper stops should be included on the gravel surface for any required parking space. The owner/developer is responsible for ADA accessibility to the building, which may require asphalt/concrete surface for the designated space(s) and the path to the building. Gravel surface shall not extend into the ROW, and any changes in the ROW will require ALDOT approval.

CITY COUNCIL

DISTRICT

District 7

ANALYSIS

The applicant is requesting Surfacing, Residential Buffer and Reduced Landscaping Variances to allow gravel parking and maneuvering surfacing, residential buffering along only 186' of the western lot line and 1,938± square feet of frontage landscaping in an R-1, Single-Family Residential District (a request for rezoning to B-1, Buffer Business District was approved by the Planning Commission at its May 21, 2015 meeting); the Zoning Ordinance requires asphalt, concrete, or an approved alternative paving surface for parking and maneuvering areas, residential buffering for all adjacent residentially utilized building sites and 7.2% (4,515 square feet) frontage landscaping for commercially utilized building sites in an R-1, Single-Family Residential District.

The site was granted a use variance in 1979 to allow the operation of an accounting office. The site had Subdivision, Planned Unit Development, and Rezoning applications on the Planning Commission's May 21, 2015 meeting to create a legal lot of record, allow multiple buildings on a single building site, and rezone the property to B-1, Buffer Business District to allow the operation of a real estate office.

The applicant states that:

THIS PROPERTY HAS BEEN USED FOR AN ACCOUNTING BUSINESS SINCE 1985 AND UTILIZED GRAVEL DRIVES AND PARKING AREAS TO ACCESS EACH BUILDING. A COMPANION APPLICATION HAS BEEN SUBMITTED FOR REZONING OF THIS PROPERTY.

REQUEST 1: SINCE THE GRAVEL DRIVES AND PARKING ARE EXISTING AND HAS WORKED VERY WELL FOR 30 YEARS, WE ARE ASKING TO CONTINUE TO USE GRAVEL FOR THE DRIVES AND PARKING AREAS IN LIEU OF A HARD SURFACE PAVING.

REQUEST 2: THIS PROPERTY WAS DEVELOPED PRIOR TO THE LANDSCAPE ORDINANCE THAT WAS ADOPTED BY THE CITY. WE ARE DEFICIENT IN THE REQUIREMENT FOR FRONT LANDSCAPING WHICH IS CAUSED BY THE EXCESSIVE DEPTH OF THE PROPERTY WHICH WE ARE NOT PROPOSING TO USE. IF 320' OF THE REAR YARD WAS REMOVED,

THE FRONT LANDSCAPING WOULD COMPLY WITH THE ORDINANCE, AND THIS IS WHERE WE ARE PROPOSING TO LOCATE A 6' PRIVACY FENCE. ALSO, THERE ARE 5 LARGE LIVE OAKS THAT SHADE THE FRONT LANDSCAPE AREA AND SOFTEN THE STREETScape.

REQUEST 3: THE PROPERTY IS CURRENTLY FENCED BUT NOT WITH A PRIVACY FENCE ON THE WEST AND SOUTH PROPERTY LINES. WE ARE ASKING TO ONLY PROVIDE A PRIVACY FENCE AROUND THE NORTH 186' OF THE PROPERTY.

The site plan illustrates 13 parking spaces, however it should be noted that the configuration of the proposed parking results in sub-standard access aisles for two-way traffic, ranging from 12' wide to 16' wide. There is sufficient room on the site to provide fully compliant drive aisles of 24' wide to allow 2-way traffic.

No mention is made of if the site will utilize a dumpster or curb-side pickup. The site plan should be revised to either include a note stating that curb-side pickup will be utilized or illustrate a dumpster enclosure with sanitary sewer connection compliant with Section 64-4.D.9. of the Zoning Ordinance.

The applicant states that because the gravel parking and maneuvering areas exist, that it should be allowed to remain. This is not evidence that the provision of asphalt, concrete, or an approved alternative paving surface for parking and maneuvering areas would be a hardship that exists with the property and/or proposed use; it is simply the applicant's desire to not provide paved parking and maneuvering areas.

The site plan illustrates an existing privacy fence on the East property line bordering an existing apartment complex. The property is illustrated as having a fence along the West property line bordering existing single-family residences in an R-1, Single-Family Residential District, but only specifies that a privacy fence is to be provided for the front 186 feet of the property, which is approximately the depth of the developed portion of the site. It should be noted that based on aerial photos of the site, the rear undeveloped portion appears to be heavily vegetated, which could be sufficient to provide a vegetative buffer compliant with Section 64-4.D.1. of the Zoning Ordinance.

The applicant requests to be allowed reduced frontage landscape area. Based on the size of the site 4,515 square feet of frontage landscape area is required. The applicant argues that the depth of the lot results in an increased amount of frontage landscape area, and the site was developed prior to current tree planting and landscape area requirements. While the site may have been developed prior to the existing requirements, it appears that the site could have adequate front landscape areas if the proposed parking area were relocated to the rear of the existing Building #1. However, if the rear of the site is maintained as green space and not developed for commercial purposes, the Board may wish to consider this request.

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.

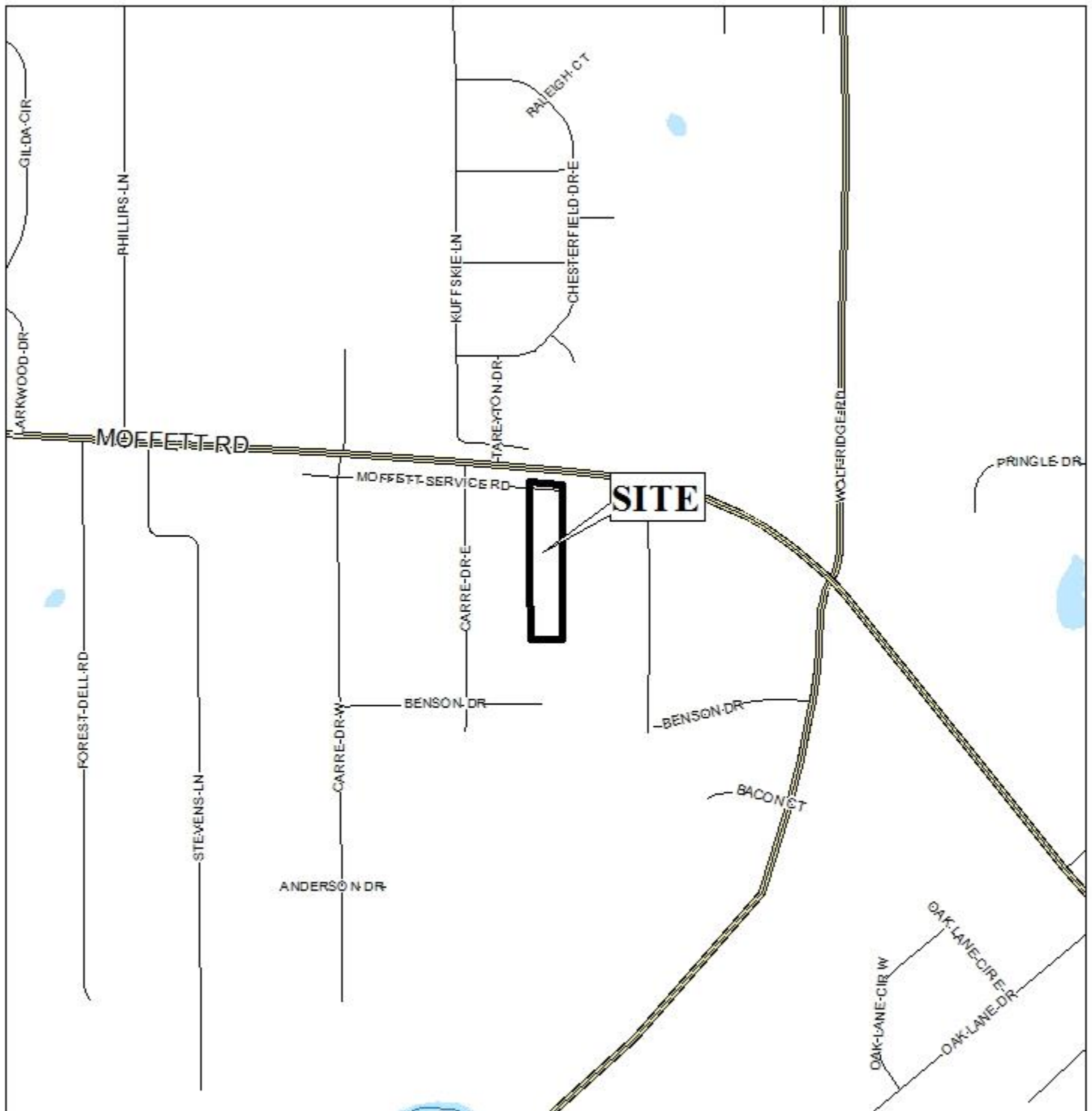
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined from the facts and circumstances of each application.

Unlike the use variance granted in 1979, which allowed the commercial use of the 2,317 square foot primary structure for the accounting office, the applicant intends to also use the 1,181 square foot out building for commercial purposes. This intensification of the commercial use of the property justifies the associated site improvements required via a rezoning of the site – paved parking, landscaping, etc.

RECOMMENDATION: Based on the preceding staff recommends to the Board the following findings of fact for Denial:

- 1) Denying the variance will be contrary to the public interest due to the fact that there is sufficient room on the site to relocate the proposed parking at the front of the site to allow for compliant landscape areas;
- 2) Special conditions do not exist with this site such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship, as it is simply the applicant's desire to not provide asphalt, concrete, or an approved alternative paving surface for parking and maneuvering areas;
- 3) That the spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the variance due to the fact that the site has the ability to comply with paving and landscape area requirements, it is simply the applicant's desire not to do so.

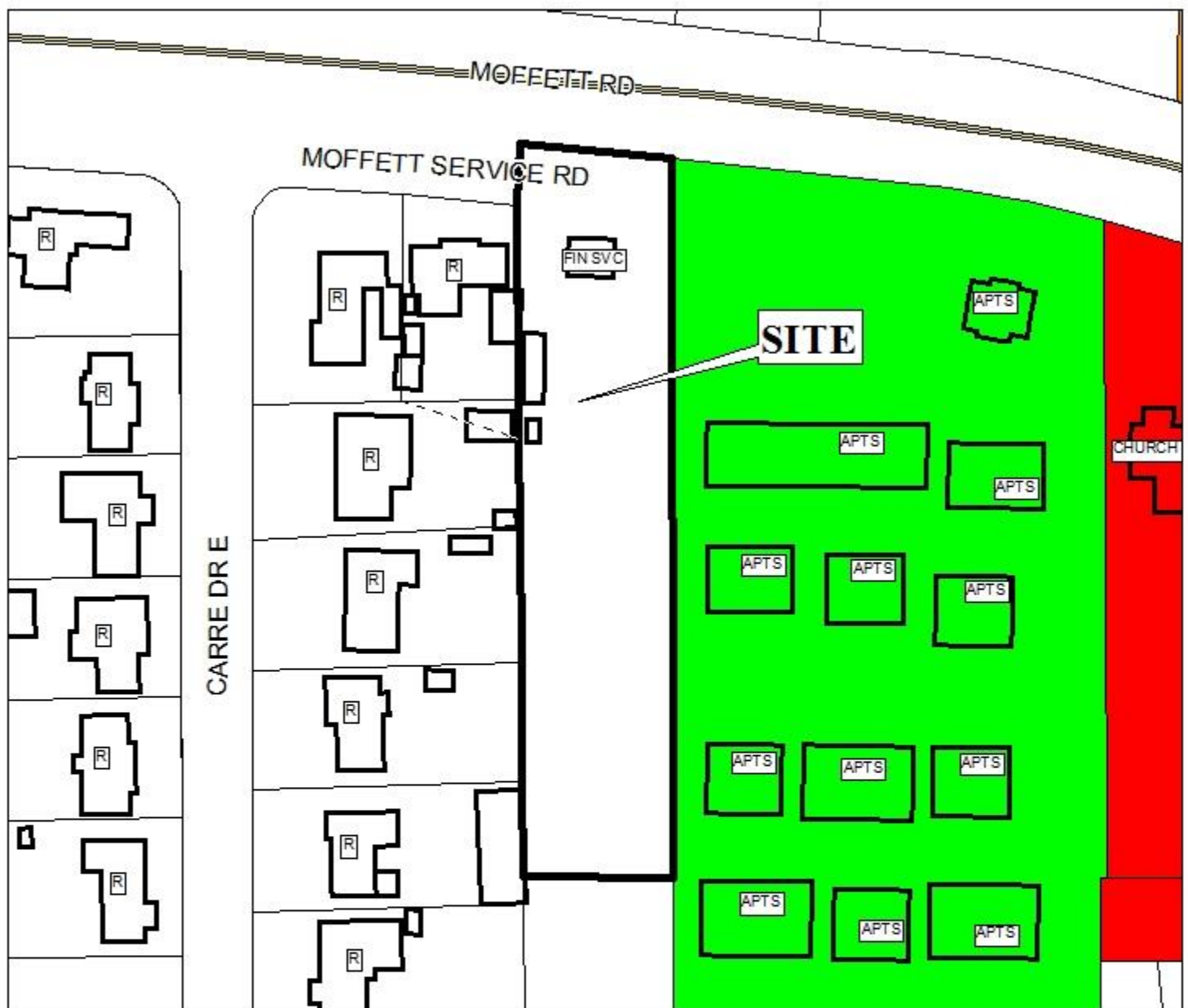
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential units.

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R-A	R-3	T-B	B-2	B-5	MUN	SD-WH	T5.1
R-1	R-B	B-1	B-3	I-1	OPEN	T3	T5.2
R-2	H-B	LB-2	B-4	I-2	SD	T4	T6



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SITE PLAN



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