

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: October 5, 2015****CASE NUMBER**

6003 / 5611 / 5475

APPLICANT NAME

Amity Missionary Baptist Church

LOCATION

2451 St. Stephens Road
(South side of St. Stephens Road, extending from Strange Avenue to Como Street and Southwest corner of St. Stephens Road and Como Street)

VARIANCE REQUEST

PARKING RATIO: Parking Ratio Variance to allow 35 on-site parking spaces for a 255-seat church.

REAR YARD SETBACK: Rear Yard Setback variance to allow mechanical equipment placed within a 10' wide residential protection buffer.

**ZONING ORDINANCE
REQUIREMENT**

PARKING RATIO: The Zoning Ordinance requires 64 parking spaces for a 255-seat church.

REAR YARD SETBACK: The Zoning Ordinance prohibits the placement of mechanical equipment within a 10' residential protection buffer.

ZONING

B-2, Neighborhood Business

AREA OF PROPERTY

36,557 square feet / 0.8±Acres

**CITY COUNCIL
DISTRICT**

District 1

**ENGINEERING
COMMENTS**

No comments.

**TRAFFIC ENGINEERING
COMMENTS**

Based on the original site layout, there may be potential for parking an additional 5-6 vehicles in the aisles on the site. Such parking would block the intended two-way traffic flow as designed. There is street frontage that can also handle possible overflow parking. With the curve in Como Street, if on street parking became an issue, it could be restricted in the future. No parking will be permitted in the right-of-way of St Stephens Road.

URBAN FORESTRY**COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64).

FIRE**COMMENTS**

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code) Projects outside the City Limits of Mobile, yet within the Planning Commission Jurisdiction fall under the State or County Fire Code. (2012 IFC)

ANALYSIS

The applicant is requesting Parking Ratio and Rear Yard Setback Variances to allow 35 on-site parking spaces for a 255-seat church and mechanical equipment placed within a 10' wide residential protection buffer; the Zoning Ordinance requires 64 parking spaces for a 255-seat church and prohibits the placement of mechanical equipment within a 10' residential protection buffer.

The applicant is attempting to obtain a Certificate of Occupancy so that the congregation can utilize the church. Planning staff has not been able to approve the request due to the fact that the site does not have adequate parking, and due to the fact that the site was not developed in full compliance with the approved plans, or the previously approved variance.

The applicant states:

"The last hurdle to obtaining a temporary CO will be with the Zoning, and filing an application with the Board of Zoning Adjustment.

The primary items of concerns are listed below.

1. 2nd Parking Lot.

Waiver to move into building until money can be raised to complete second parking lot. The church membership has suffered because of so many problems with the project, and the bank is only willing to consider a loan after a clearance has been given to occupy the building.

2. Deletion of car bumpers in both parking lot

In an attempt to save the parking lot from erosion, and the desire to use the parking lot for church activities, a decision was made to install curving-gutter and sidewalks.

3. Deletion of waste pad for garbage dumpster.

Amity Church on meet twice a week for service here at the church. Cooking and other activities will only be when funerals are held and special services three times a year. The dumpster arrangements would be a sore eye to the church and neighbors when a garbage can would more than sufficient.

Amity's project architect, Mr. Williams Partridge talked with the City engineer; she said that she would be satisfied as long as the other proper drainages were installed.

4. Approval for air conditions location. They are 35 1/2 inches, high, which is 1/2 over code."

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 site was previously before the Board at its May 3, 2010 meeting, where the Board granted the requested off-site parking variance (to allow parking on a lot across Como Street from the site) and the requested reduction by one of the number of required parking spaces (63 instead of 64 spaces, with 27 of the spaces to be off-site). Building permits were then issued in June 2010 based upon the approved variance requests.

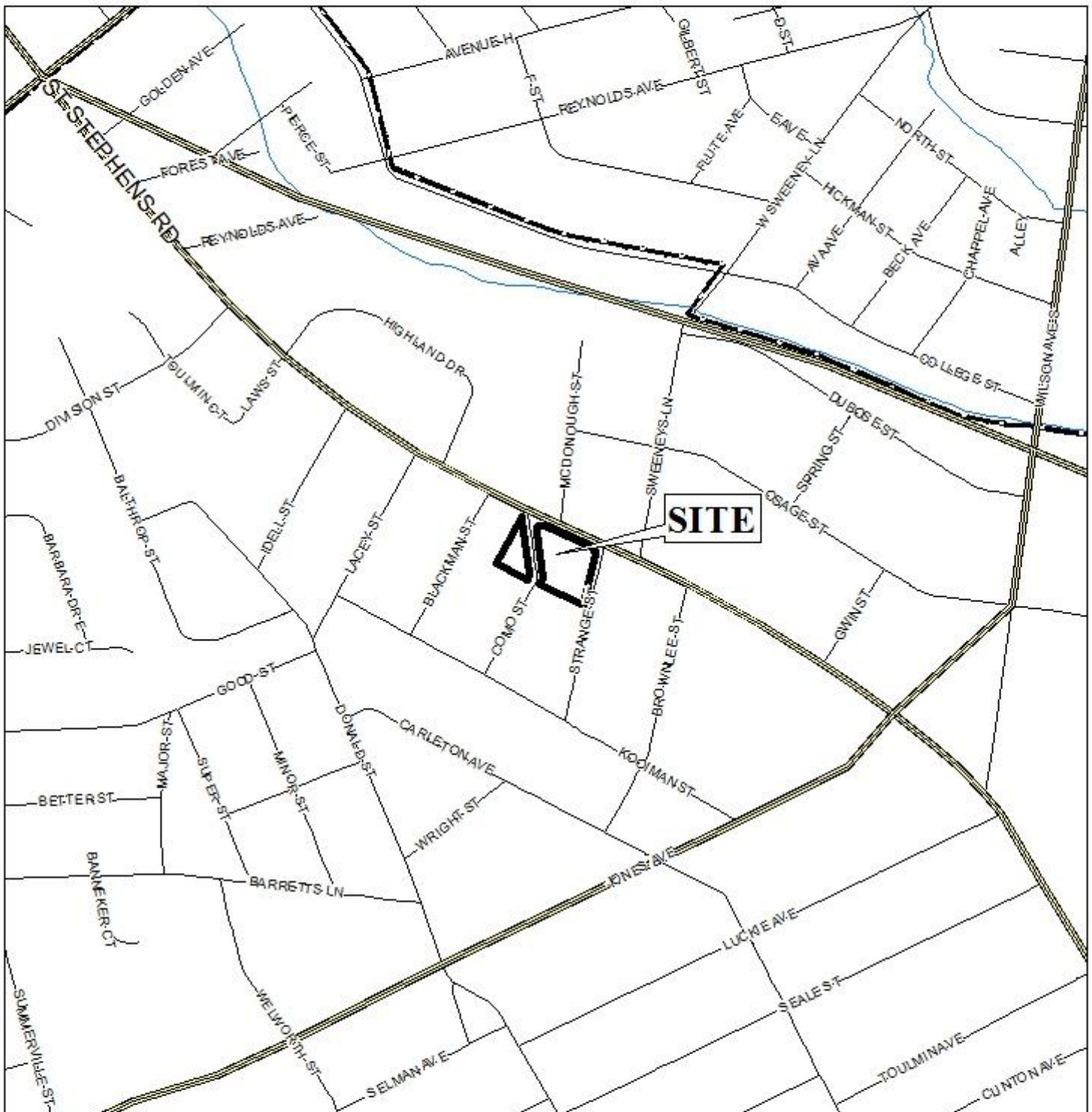
Staff determined that the actual items of concern, requiring a variance, were the provision of only 35 of the required 64 parking spaces, and the fact that the HVAC condenser units were placed within the required 10 foot residential buffer area. Since they are not proposing to use a dumpster, the fact that the dumpster pad was placed in the 10 foot residential buffer area is not an issue at this time. Additionally, the use of curb-and-gutter instead of parking bumpers is not a requirement for a variance, but just a revised site plan depicting "As Built" conditions.

There are no hardships with the site itself, except as it relates to the fact that the HVAC units are now in place. The inability to provide the additional parking spaces on the property across Como Street is primarily a financial issue, however, this is partially due to the fact that the Church's pastor leading the original development of this new facility passed away, and this has led to changing leadership and a reduction in Church attendees.

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

- 1) Based on the fact that the hardships are self-imposed, and that the applicant has not provided sufficient parking nor placed HVAC equipment in accordance to the requirements of the Zoning Ordinance, granting the variance will be contrary to the public interest;
- 2) No special conditions exist with the property itself, other than the fact that the building has been constructed and the HVAC units installed, that a literal enforcement of the provisions of the chapter will result in an unnecessary hardship; and
- 3) 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 requested variances, as the applicant is requesting a significant deviation from the parking requirements and the residential buffering requirements, which could set a precedent for other cases if approved.

LOCATOR MAP



APPLICATION NUMBER 6003 DATE October 5, 2015

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REQUEST Parking Ratio and Rear Yard Setback Variances



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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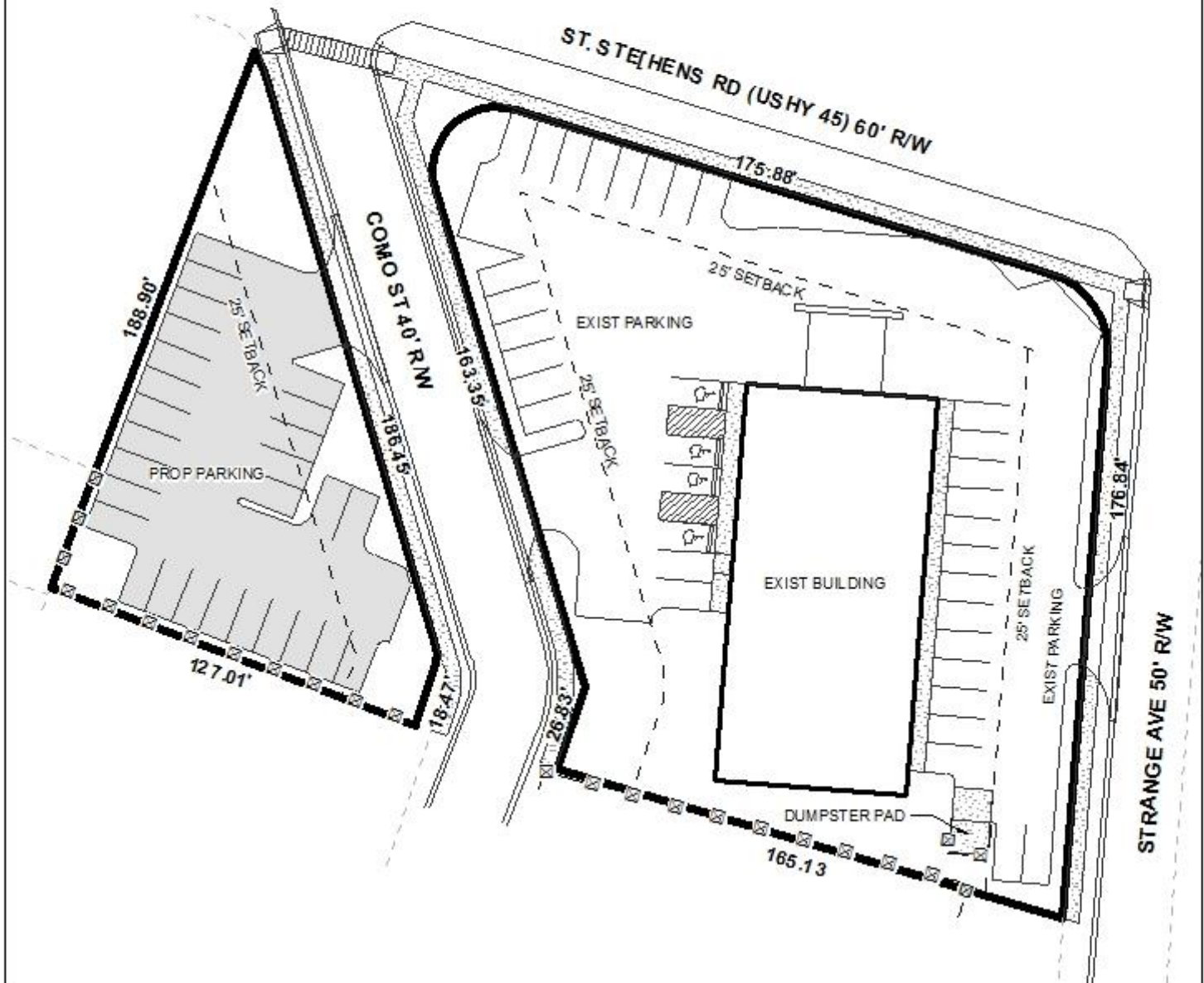
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SITE PLAN



The site plan illustrates the existing building, existing parking facility, and proposed off-site parking facility.

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