

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

5903

APPLICANT NAME

Treska Ballard

LOCATION5055 Overlook Road
(Southwest corner of Overlook Road and Joyce Road)**VARIANCE REQUEST****USE:** Use Variance to allow a hair salon in an R-1, Single-Family Residential District.**TREE PLANTING:** Tree Planting Variance to allow reduced tree plantings on a commercial site.**ZONING ORDINANCE
REQUIREMENT****USE:** The Zoning Ordinance requires a minimum B-2, Neighborhood Business District, for a hair salon.**TREE PLANTING:** The Zoning Ordinance requires full compliance with tree plantings on a commercial site.**ZONING**

R-1, Single-Family Residential

AREA OF PROPERTY

0.6± Acre

TRAFFIC ENGINEERING**COMMENTS**

Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards.

**ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 7

ANALYSIS

The applicant is requesting Use and Tree Planting Variances to allow a hair salon, with reduced tree plantings, in an R-1, Single-Family Residential District; the Zoning Ordinance requires a minimum of a B-2, Neighborhood Business District, with full compliance with tree planting requirements.

The site is zoned R-1 and has been in single-family residential use since development. The applicant proposes to operate a commercial hair salon (a B-2 use) on the site and not provide the tree plantings as required for commercial site development. Other site compliance requirements are met or addressed on the site plan submitted.

The applicant has included the following narrative: *"Hello my name is Treska Ballard. I have purchased the property on 5055 Overlook Rd. My plan is to be in business. This will be a hair salon. I have been in business on Moffett Rd for ten years. The reason I chose this area is because of the quietness & the professionalism. The hours of the salon is Tuesday – Friday 8 – 5 also on Saturday 5 – 1. Also I have chosen a zone R-1 instead B-2 so that this will stay a hair salon. We will maintain professional at all times. We will maintain our part in the community just as you have."*

The narrative further states: *"To the City Council of Mobile. Pertaining to the property 5055 Overlook Rd. There are several trees on this property already. By planting more will take away from this property as well as the parking that is required. Enclosed are pictures of the trees that are on this property."*

The site is located within an established single-family residential subdivision. To the North across Overlook Road is B-2 zoning with retail use; to the East across Joyce Road is R-1 zoning with vacant and single-family residential use; adjoining the site is R-1 zoning with a vacant lot to the South and single-family residential use to the West. There are no commercial uses within the immediate vicinity within the residential subdivision in which the subject property is located, nor have any variances been granted for such. Therefore, commercial use of the site would be uncharacteristic with its surroundings.

Commercial use of the property would require ten overstory frontage trees, eleven perimeter trees, and one parking tree. With credits allowed for existing trees, new tree plantings required would consist of seven overstory frontage trees, two understory perimeter trees, and one understory parking tree, for a total of ten required tree plantings. The applicant's argument that there are several trees already on the site and that planting more trees will take away from the property does not indicate any hardship associated with the enforcement of the tree planting requirements. Also, the argument that required tree plantings will take away from required parking has no basis as there is sufficient area on the site to plant required trees without impacting any required parking.

It should be noted that the site plan submitted indicates access to the parking area is proposed to be from Joyce Road, and not from Overlook Road. Joyce Road is a minor street and is considered to be residential in nature. Planning and Traffic Engineering generally restrict commercial site access from a residential street, and Overlook Road provides sufficient road frontage to allow site access from it instead of Joyce Road.

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.

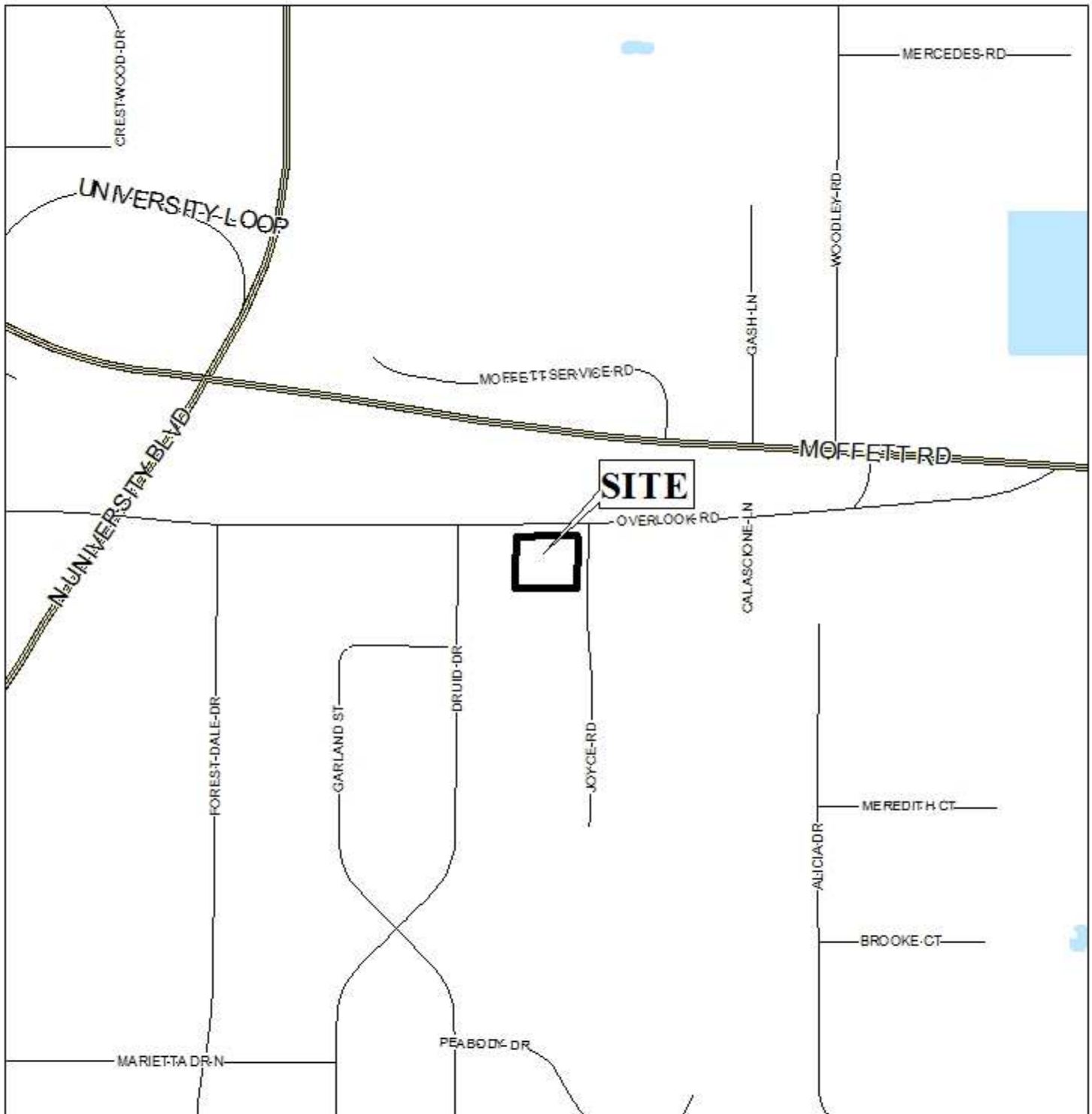
Variances are not intended to be granted frequently. The applicant must clearly show the Board that the request is due to very unusual characteristics of the property and that it satisfies the variance standards. What constitutes unnecessary hardship and substantial justice is a matter to be determined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

Inasmuch as a use variance would be the appropriate approach due to the unlikelihood of rezoning, the applicant has not shown that a literal enforcement of the Ordinance would result in an unnecessary hardship since the property has had a history of single-family residential use and there are no hardships associated with the property which would prevent such further use. Also, the applicant has not illustrated any hardships which would justify the reduction in tree planting requirements. The applicant simply desires to convert the use of the property from residential to commercial without meeting the tree planting requirements for commercial use and the Board should consider both requests for denial.

RECOMMENDATION: Based upon the preceding, staff recommends to the Board the following findings of facts for denial:

- 1) approving the variance request will be contrary to the public interest in that it is contrary to Section 64-3.C.1. of the Zoning Ordinance pertaining to R-1, Single-Family Residential Districts, and Section 64-4.E.A.3. pertaining to tree planting requirements for commercial sites;
- 2) special conditions such as changing land uses within the immediate neighborhood, inadequacy for the structure to be used as a single-family dwelling, and insufficient area to plant trees or unusual site constraints do not exist such 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 surrounding neighborhood by granting the variance because the immediate neighborhood is used as single-family residential and no other Use Variances have been granted within this particular subdivision.

LOCATOR MAP



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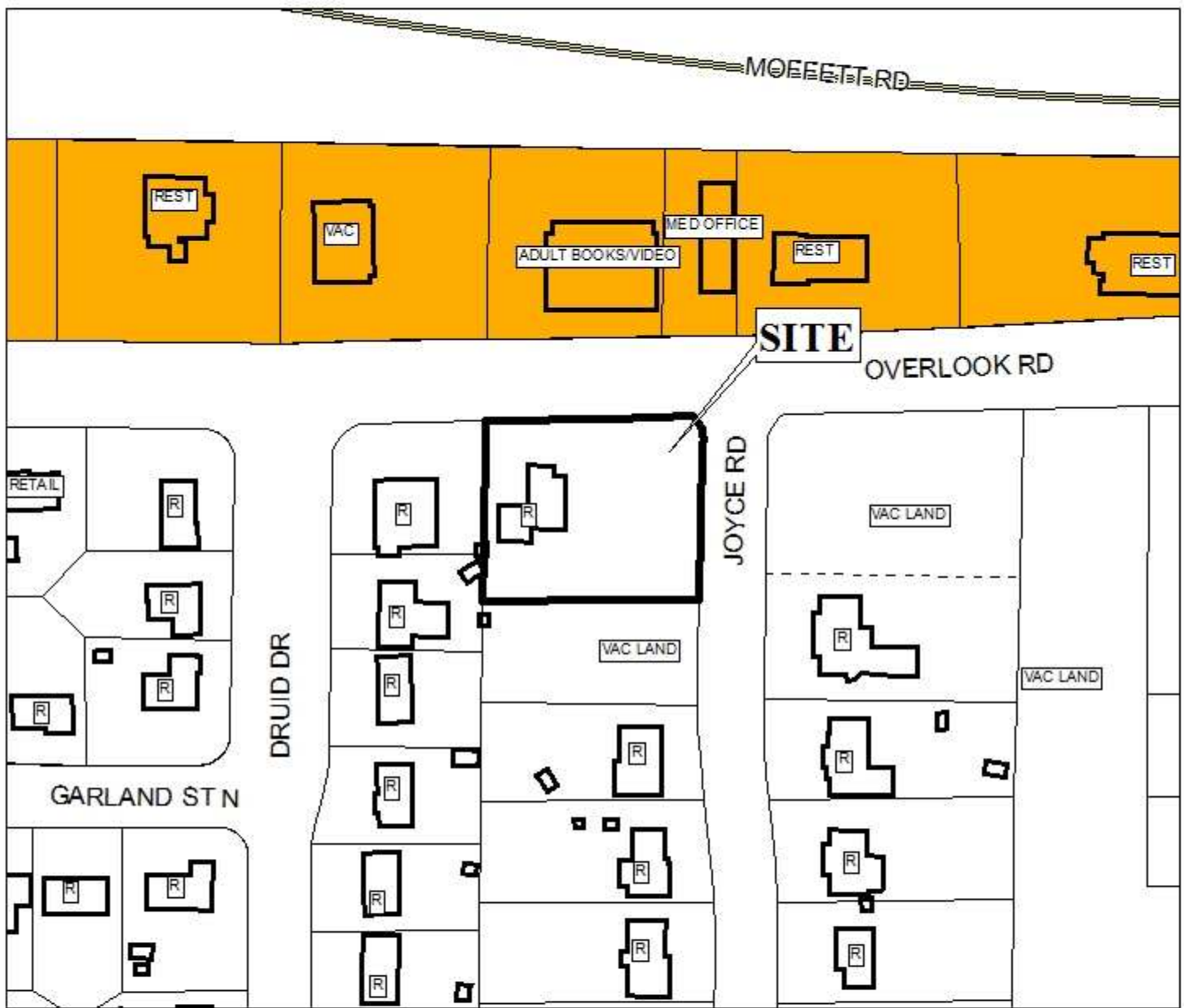
APPLICANT Treska Ballard

REQUEST Use, Tree Planting, and Buffer Variances



BOARD OF ADJUSTMENT

VICINITY MAP - EXISTING ZONING



Single-family residences are located to the west, south, and east of the site. Businesses are located to the north of the site.

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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



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



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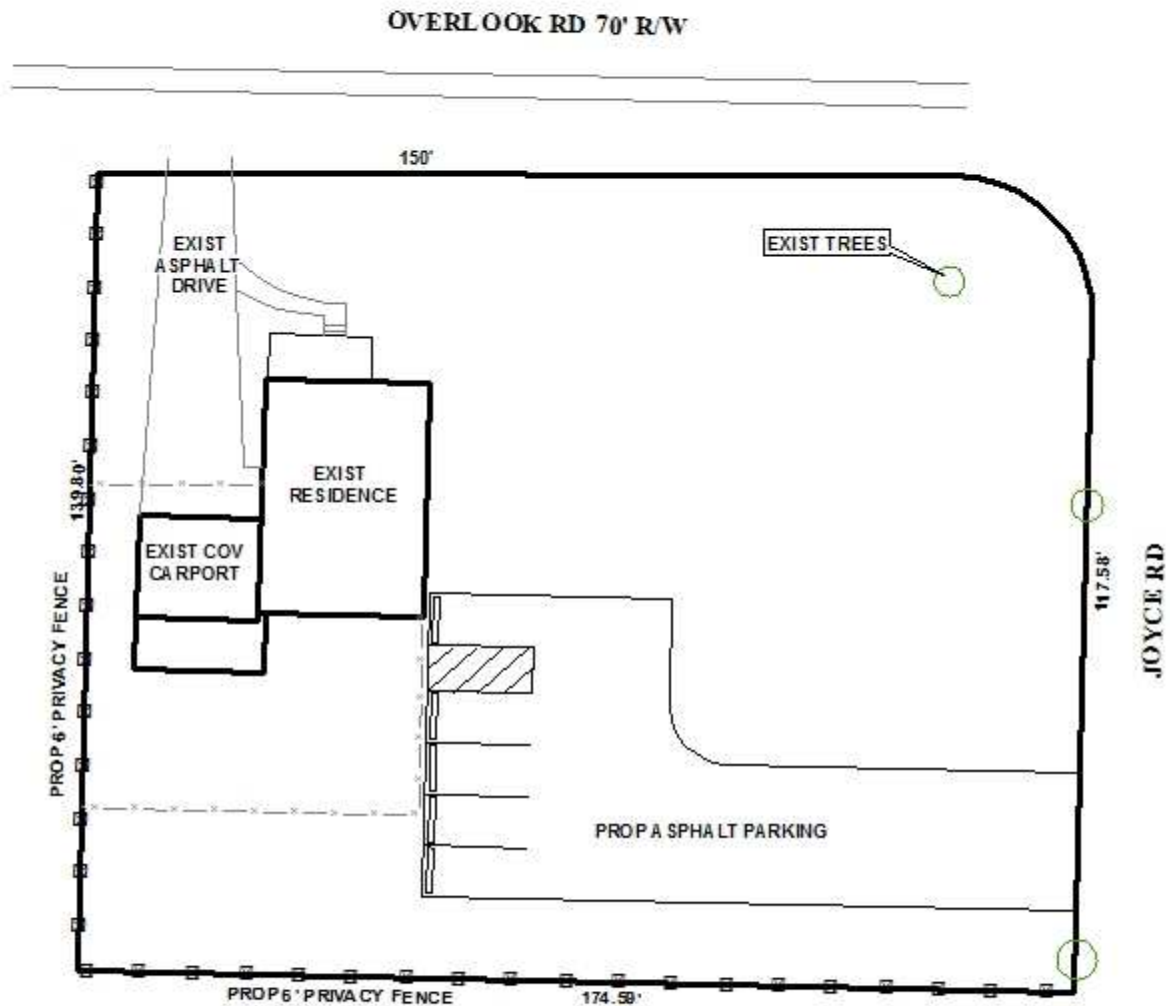
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SITE PLAN



The site plan illustrates the existing residence, improvements, and proposed parking area.

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