

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: November 2, 2015****CASE NUMBER**

6013/1752

APPLICANT NAME

Mt. Zion Primitive Baptist Church

LOCATION1023 Nellie Street
(Southwest corner of Nellie Street and I-10 Service Road,
extending to Duval Street)**VARIANCE REQUEST****TREE PLANTING:** Tree Planting Variance to allow the planting of understory trees instead of overstory trees along street frontage in a B-2, Neighborhood Business District.**ZONING ORDINANCE
REQUIREMENT****TREE PLANTING:** The Zoning Ordinance requires at least one (1) overstory tree for every thirty (30) feet of road frontage in a B-2, Neighborhood Business District.**ZONING**

B-2, Neighborhood Business District

AREA OF PROPERTY

1.3± Acres

**ENGINEERING
COMMENTS**

No comments

**TRAFFIC ENGINEERING
COMMENTS**

No traffic impacts anticipated by this variance request.

**CITY COUNCIL
DISTRICT**

District 3

ANALYSIS

The applicant is requesting Tree Planting Variances to allow the planting of understory trees instead of overstory trees along street frontage in a B-2, Neighborhood Business District; the Zoning Ordinance requires at least one (1) overstory tree for every thirty (30) feet of road frontage in a B-2, Neighborhood Business District. Specifically, the applicant is proposing 11 understory trees (crepe myrtles) instead of 11 understory trees.

Building permits were issued for the site on November 14, 2014 to allow the construction of a new church. At the time of permitting, the applicant submitted a tree plan that fully complied with the tree planting requirements of the Zoning Ordinance. The applicant now wishes to plant understory trees instead of overstory trees to fulfill frontage tree planting requirements along the I-10 Service Road, with overstory trees to be planted along Nellie Street and Duval Street.

The applicant states that:

The proposed use for this property is a church which has been under construction and is close to being finished.

A variance is requested for frontage trees along I-10 service road. The applicant requests to plant crepe myrtles in lieu of overstory trees required by landscape ordinance. There is a seven foot sloped planting strip between the new asphalt and the existing fence along the service road and crepe myrtles would be a better fit for these conditions. In addition, there are existing overstory trees in the southeast corner of the property which would hamper the growth of new trees due to existing foliage. (New trees in this area would have to be planted under existing tree canopies).

The site plan submitted with the variance application shows the proposed location of several new trees in a different configuration than the site plan illustrated at time of permitting. The approved tree plan illustrated the proposed 11 frontage trees in such a way that allowed for adequate room for the proposed trees, whereas the site plan submitted with the application has more trees illustrated in the area of several existing trees on site which are to remain.

It should be noted that while the applicant states that there is insufficient landscape area to accommodate 11 overstory trees, there are at least 97 different types of overstory trees options available for use where no above ground utilities exist, such as the subject site. The applicant should be able to review the list of acceptable overstory trees and find options which would be suitable for the landscape areas provided, for example

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 has failed to illustrate that a hardship exists with the site making the provision of understory trees instead of overstory frontage trees along I-10 Service Road necessary. It is simply the applicant's wish to provide understory trees.

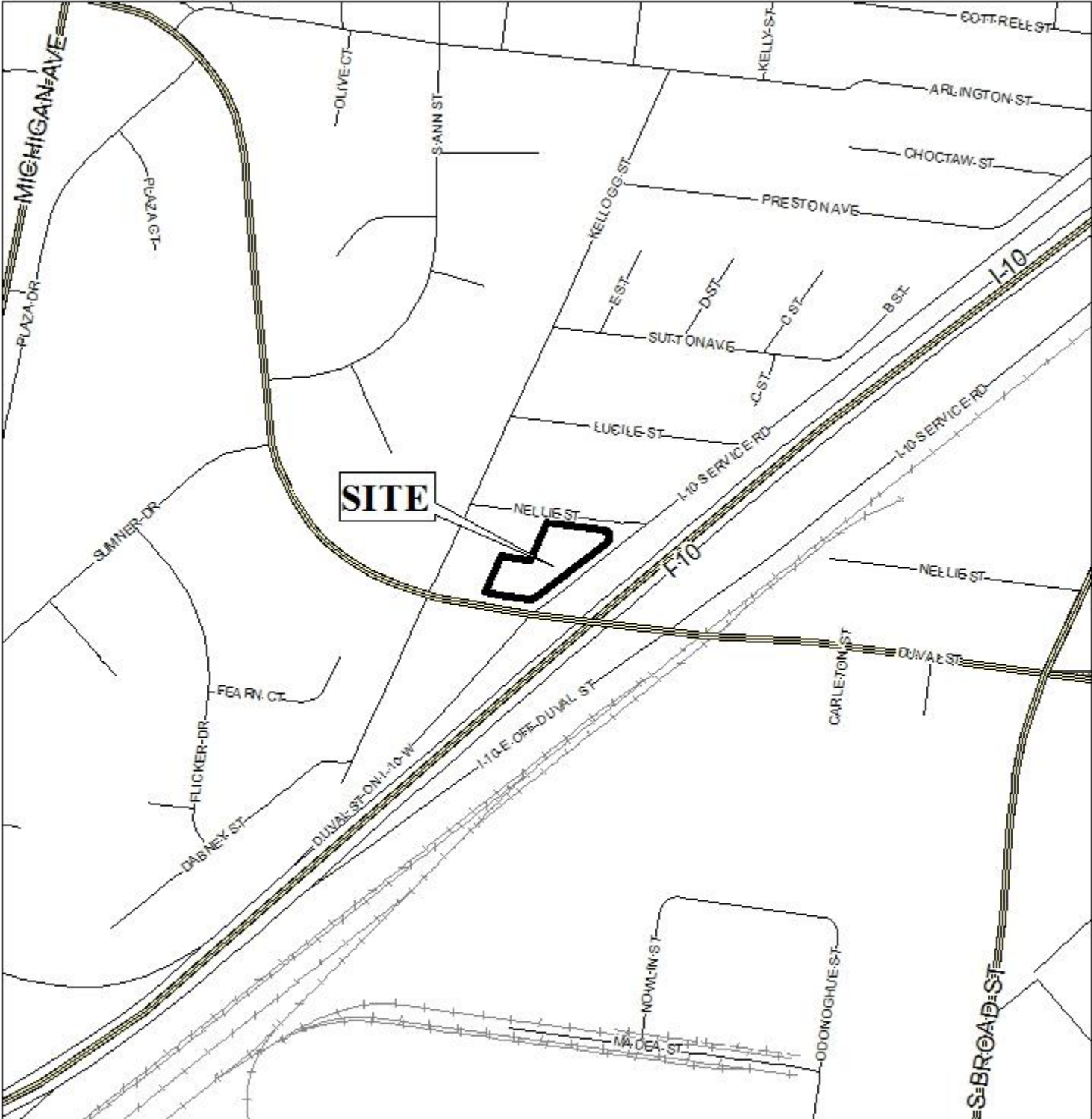
RECOMMENDATION:

Staff recommends to the Board the following findings of fact for Denial:

- 1) approving the variance will be contrary to the public interest in that the subject site has sufficient landscape area to provide the required 11 overstory frontage trees;

- 2) special conditions do not exist and there are no hardships which exist along the I-10 Service Road frontage that make the provision of understory trees preferable instead of overstory trees for frontage tree requirements as the applicant has at least 97 tree species to choose from which would be acceptable; 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 site has adequate room to accommodate the required 11 overstory trees.

LOCATOR MAP



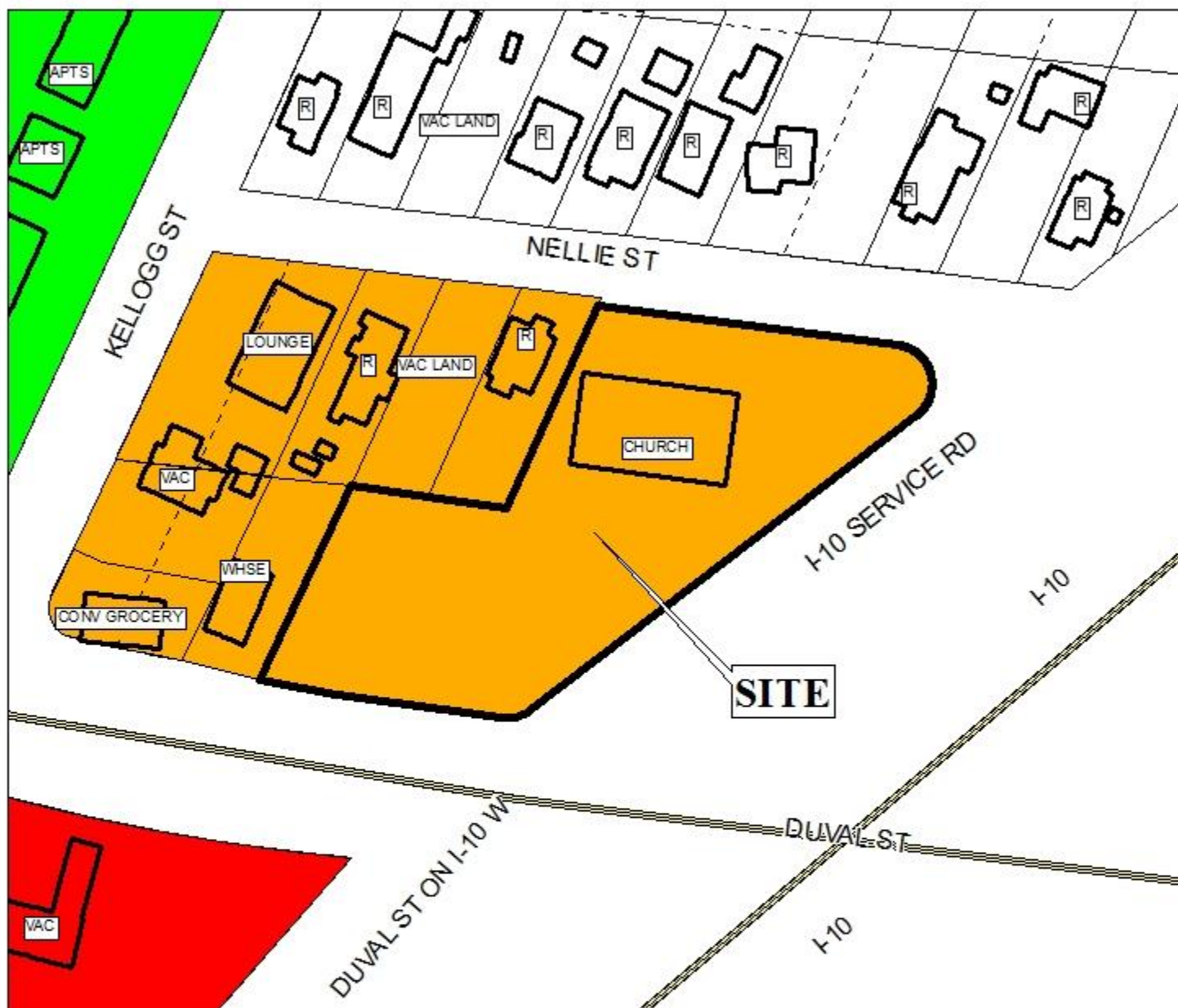
APPLICATION NUMBER 6013 DATE November 2, 2015

APPLICANT Mt. Zion Primitive Baptist Church

REQUEST Tree Planting Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by residential uses to the north and commercial uses to the west.

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REQUEST Tree Planting Variance

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



The site plan illustrates the proposed building, proposed parking facility, and setbacks.

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