

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 6, 2013**

<b><u>CASE NUMBER</u></b>	5829
<b><u>APPLICANT NAME</u></b>	Tracey Glover
<b><u>LOCATION</u></b>	7125 Hitt Road (Southwest corner of Hitt Road and Cody Road South).
<b><u>VARIANCE REQUEST</u></b>	<b>USE:</b> Use Variance to allow a commercial meal preparation and delivery service at an existing church in an R-1, Single-Family Residential District.
<b><u>ZONING ORDINANCE REQUIREMENT</u></b>	<b>USE:</b> The Zoning Ordinance does not allow a commercial meal preparation and delivery service at an existing church in an R-1, Single-Family Residential District.
<b><u>ZONING</u></b>	R-1, Single-Family Residential District
<b><u>AREA OF PROPERTY</u></b>	7.2± Acres
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	No comments
<b><u>CITY COUNCIL DISTRICT</u></b>	District 6

**ANALYSIS** The applicant is requesting a Use Variance to allow a commercial meal preparation and delivery service at an existing church in an R-1, Single-Family Residential District; the Zoning Ordinance does not allow a commercial meal preparation and delivery service at an existing church in an R-1, Single-Family Residential District.

The subject site is currently developed and in use as a church, and was annexed by resolution 02-408 in October 2008. Since this site was annexed with the existing building and amenities, it becomes grandfathered until such time as expansion, demolition or any change/addition to the grandfathered use/site.

The applicant proposes to create a commercial meal preparation and delivery service, preparing meals in a kitchen facility approximately two days a week (Sundays and Mondays). The applicant states she has no current employees, implying the possibility of hiring staff if the business grows. Furthermore, the applicant does not anticipate customers coming to the kitchen; therefore, the applicant states no additional parking would be needed.

The site enjoys a nonconforming/grandfathered status and the applicant is requesting an additional use; therefore, a thorough examination of the site and business operation should be required. The applicant states that the business would be open on Sundays between the hours of 12:30PM and 6:00PM and Mondays between the hours of 9:00AM and 5:00PM, with no employees or customers coming to the location.

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.

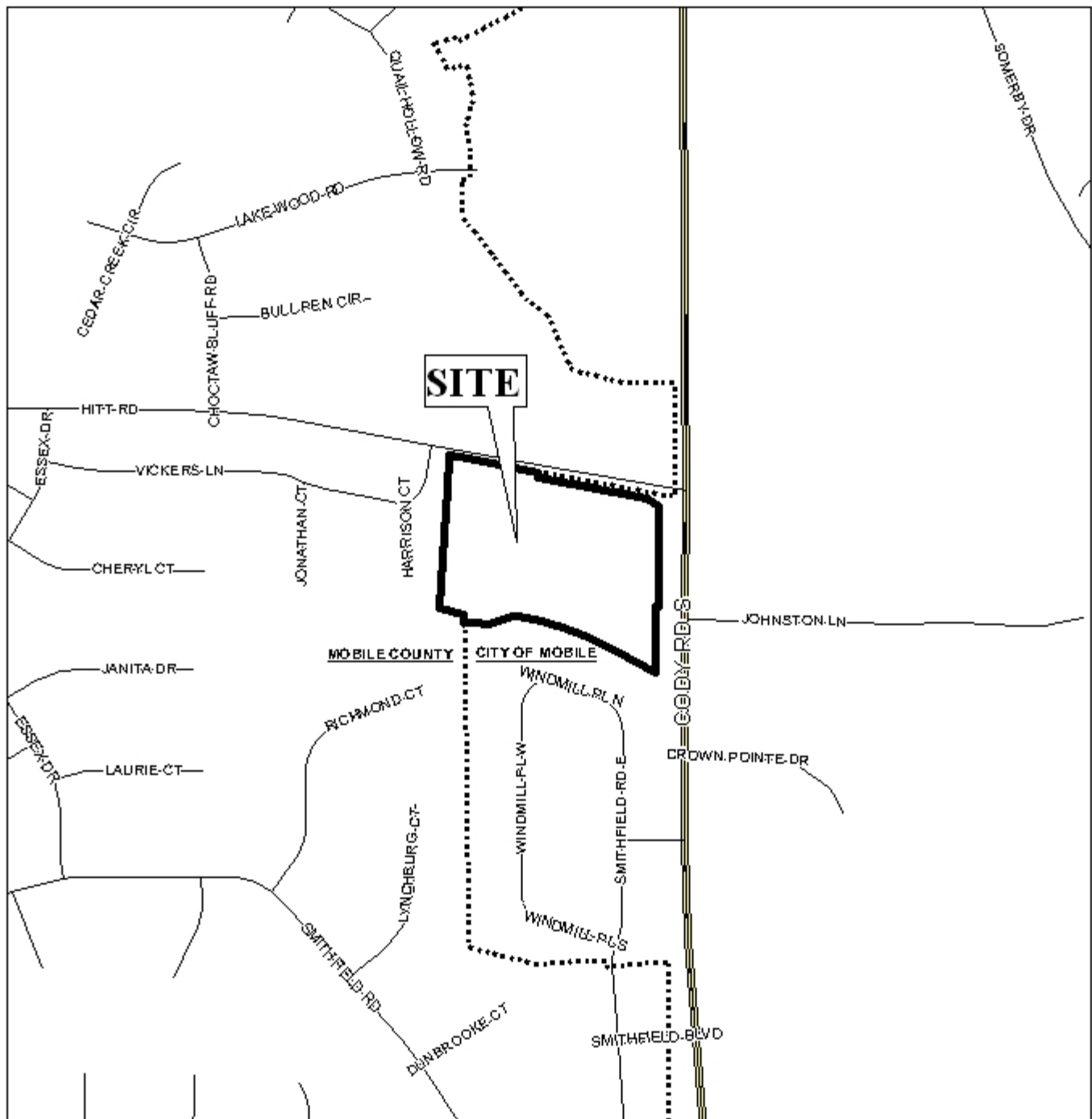
The applicant does not illustrate the area of the building that will be occupied meets ALL building codes and fire codes of a commercial kitchen.

Regarding the over-all site, the site plan does indicate a dumpster, and if approved, a revised site plan illustrating the dumpster, screened from view and in compliance with Section 64-4.D.9. of the Zoning Ordinance, and with a compliant sanitary sewer connection, should be submitted.

**RECOMMENDATION:** Based on the preceding, this application is recommended for denial, for the following reason:

- 1) the applicant doesn't illustrate that the request is due to very unusual characteristics of the property and doesn't satisfy the variance standards.

# LOCATOR MAP



APPLICATION NUMBER 5829 DATE May 6, 2013  
APPLICANT Tracey Glover  
REQUEST Use Variance



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residences.

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APPLICANT Tracey Glover

REQUEST Use Variance

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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N  
NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

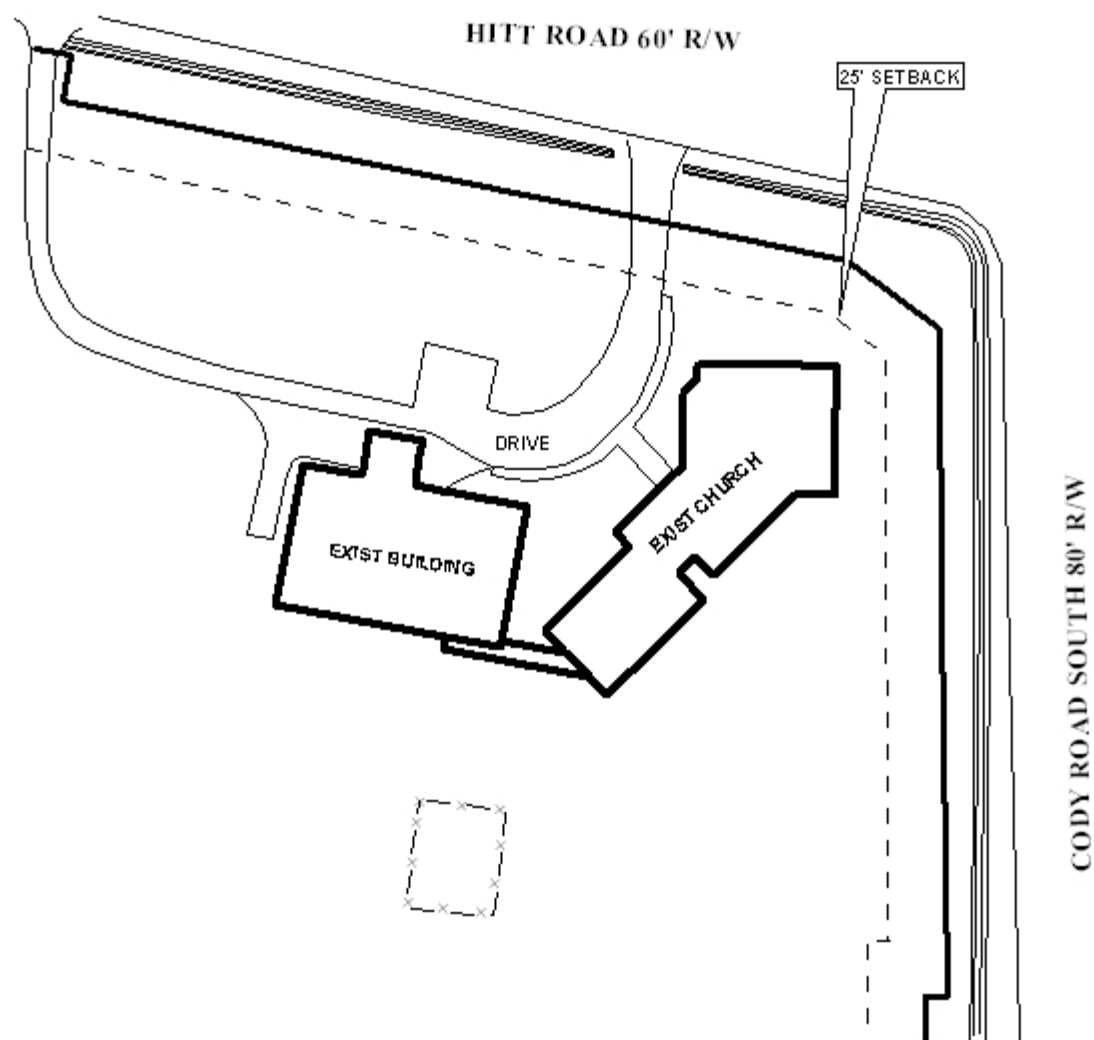


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N  
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# SITE PLAN



The site plan illustrates existing building and church.

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N  
 NTS