

APPLICATION NUMBER

5551/3626

A REQUEST FOR

USE, PARKING SURFACE, PARKING RATIO, MANEUVERING, BUFFER, AND FENCE HEIGHT VARIANCES TO ALLOW A CONTRACTOR'S STORAGE YARD WITH RIP-RAP AND AGGREGATE SURFACING FOR VEHICLE MANEUVERING, INADEQUATE QUEING SPACES AT THE GATED ENTRANCE, NO PARKING FACILITIES, INADEQUATE BUFFER FENCING, AND FENCING THAT OBSTRUCTS SITE WITHIN THE REQUIRED FRONT YARD IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT; THE ZONING ORDINANCE REQUIRES AT LEAST AN I-1, LIGHT INDUSTRY DISTRICT, TO ALLOW A CONTRACTOR'S STORAGE YARD AND ALSO REQUIRES ALL VEHICLE MANEUVERING SURFACES TO BE SURFACED IN CONCRETE, ASPHALTIC CONCRETE, OR ASPHALT, THE PROVISION OF AT LEAST ONE PARKING SPACE, BUFFERING BY A SOLID WALL OR FENCE AT LEAST 8 FEET IN HEIGHT, AND FOR FENCES WITHIN ANY REQUIRED FRONT YARD THAT OBSTRUCT SIGHT TO BE NO HIGHER THAT 3 FEET IN HEIGHT.

LOCATED AT

2645 Halls Mill Road
(South side of Halls Mill Road, 50'± East of McRae Avenue)

APPLICANT/AGENT/OWNER

HUGHES PLUMBING AND UTILITY CONTRACTORS, INC.

BOARD OF ZONING ADJUSTMENT
AUGUST 2009

The applicant is requesting Use, Parking Surface, Parking Ratio, Maneuvering, Buffer, and Fence Height Variances to allow a Contractor's Storage Yard with rip-rap and aggregate surfacing for vehicle maneuvering, inadequate queuing spaces at the gated entrance, no parking facilities, inadequate buffer fencing, and fencing that obstructs site within the required front yard in an R-1, Single-Family Residential District; The Zoning Ordinance requires at least an I-1, Light Industry District to allow a Contractor's Storage Yard and also requires all vehicle maneuvering surfaces to be surfaced in concrete, asphaltic concrete, or asphalt, the provision of at least one parking space, buffering by a solid wall or fence at least 8 feet in height, and for fences within any required front yard that obstruct sight to be no higher than 3 feet in height.

The applicant purchased the subject property in January, 2008, with the intent of using it as a construction storage (lay-down) yard and thought the zoning was proper for such use. The site had previously been used as a mobile home display lot (a B-3, Community Business use) by virtue of a variance granted in 1980; however, the site has been vacant for many years. The applicant began to use the site without any site approvals or permits, business license, or zoning approval shortly after purchase. The situation was brought to the City's attention in December, 2008, and a Notice of Violation (NOV) was issued to cease operations and remove materials on the site. The operation continued, and therefore a Municipal Offense Ticket (MOT) was issued. The applicant has continued to use the site. In June, 2009, a second MOT was issued which resulted in this application.

It is stated that the site will be used for the storage of various natural construction materials, spoil, pipe, and trailers, generally termed a lay-down yard. Frontage and perimeter trees are proposed, as is a detention pond. No other compliant site improvements are proposed.

The surrounding area is a mix of commercial and residential uses, with the commercial uses ranging from offices to light warehousing and supply company storage yards. Residential uses are generally single-family residential, but a nursing home is directly behind the subject property. These uses are generally in keeping with the General Land Use Plan for the City in the surrounding area. The subject site appears to be residential on the General Land Use Plan.

With regard to the use variance request, the allowance of such would be the equivalent of an I-1 rezoning in the midst of an area with the highest commercial uses being of a B-3 level. Although offices of contractors are allowed in B-3 with outside storage, heavy equipment storage is not allowed in such, and materials stored cannot be higher than 6' above grade. The applicant stores heavy equipment on this site and materials are stacked higher than 6' above grade. I-1 Districts and activities are normally separated from residential areas by business areas or by natural barriers. In this instance there is commercial buffering primarily to the North along both sides of Halls Mill Road; however, all properties adjoining the site are residential, as are those directly across Halls

Mill Road and along both sides of Halls Mill Road to the West. As proposed, the use would be out of character with and not appropriate for the surrounding area.

With regard to the request for a Parking Surface Variance to allow rip-rap and aggregate surfacing for vehicle maneuvering, the applicant has justified such a request due to heavy tracked equipment damaging asphalt and concrete surfaces in the materials lay-down area. However, such hardships would not apply to the entrance drive, vehicle and truck parking areas since tracked vehicles would be transported on rubber-tired trailers. Similar uses in I-1 districts would be required paved entrance and vehicle parking.

The request for a Parking Ratio Variance is not justified since the site contains ample area to provide at least one compliant vehicle parking space.

The site is gated; therefore adequate provision should be made for transport truck stacking between the gate and the right-of-way. As the gate is at the front property/right-of-way line, no provision is made for *any* vehicle stacking out of the right-of-way, much less transport truck stacking. Inasmuch as a shop keeper is proposed to be available to open the gate, traffic blockage on Halls Mill Road could occur if there is any lack of coordination.

The request for a Buffer Variance is not justified in that the existing 6' high chain link fence was installed by the applicant and that would be considered a self-imposed hardship. Although slat inserts are proposed, nothing prevents a compliant 8' high wooden privacy fence from being installed.

With regard to the Fence Height Variance Request, again, such would not be justified since the applicant installed the noncompliant fence without meeting setbacks and any hardship connected would be considered self-imposed. The 3' height limit for such is primarily associated with traffic visibility within the first 25' of frontage. Although a chain link fence is allowed up to 8' high along a front property line, the existing fence is proposed to be slatted for privacy. The required 8' high wood privacy fence should be at the 25' setback line to be compliant.

The Zoning Ordinance states that no variance shall be granted where economics are the basis for the application. Furthermore, the applicant must present 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.

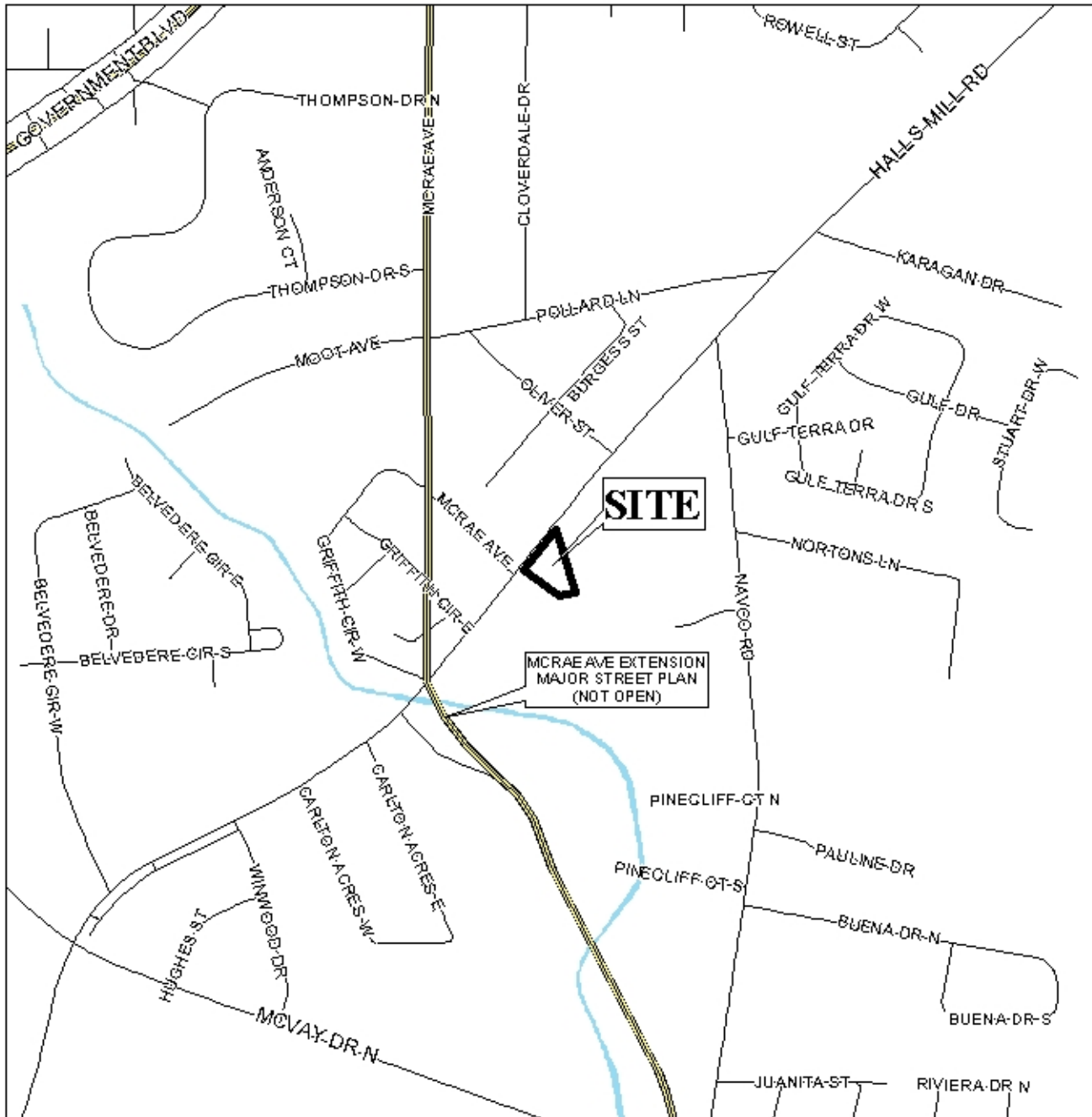
The applicant failed to illustrate that a literal enforcement of the Ordinance would result in an unnecessary hardship with respect to the use of the property and most site compliance requirements. It is simply the applicant's desire to seek the Board's sanction for things that were done without any type of approval or permits with some minor site improvements proposed.

RECOMMENDATION 5551/3626

Date: August 3, 2009

Based on the preceding, this application is recommended for denial.

LOCATOR MAP



APPLICATION NUMBER 5551/3626 DATE August 3, 2009

APPLICANT Hughes Plumbing and Utility Contractors, Inc

REQUEST Use, Parking Surface, Parking Ratio,
Maneuvering, Buffer, and Fence Height Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



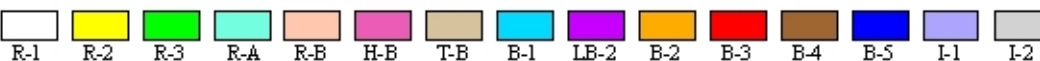
This site is surrounded by residential land use
with commercial land use to the northeast and southwest.

APPLICATION NUMBER 5551/3626 DATE August 3, 2009

APPLICANT Hughes Plumbing and Utility Contractors, Inc

REQUEST Use, Parking Surface, Parking Ratio,
Maneuvering, Buffer, and Fence Height Variances

LEGEND



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land use
with commercial land use to the northeast and southwest.

APPLICATION NUMBER 5551/3626 DATE August 3, 2009

APPLICANT Hughes Plumbing and Utility Contractors, Inc

REQUEST Use, Parking Surface, Parking Ratio,
Maneuvering, Buffer, and Fence Height Variances

N
NTS

