

HOLDOVER

APPLICATION NUMBER

5457/4570

A REQUEST FOR

**FRONT YARD SETBACK VARIANCE TO ALLOW THE
CONSTRUCTION OF A CONVENIENCE STORE
GASOLINE PUMP CANOPY WITHIN 4' OF A FRONT
PROPERTY LINE IN A B-3, COMMUNITY BUSINESS
DISTRICT; A 25' FRONT YARD SETBACK IS REQUIRED
FOR ALL STRUCTURES IN A B-3, COMMUNITY
BUSINESS DISTRICT.**

LOCATED AT

810 DAUPHIN ISLAND PARKWAY

(Southwest corner of Dauphin Island Parkway and Halls Mill Road)

APPLICANT

CHARTERSOUTH, INC

OWNER

OLLIE GOMILLION

BOARD OF ZONING ADJUSTMENT

MAY/2008

HOLDOVER

ANALYSIS APPLICATION 5457/4570

Date: March 3, 2008

The applicant is requesting a Front Yard Setback Variance to allow the construction of a convenience store gasoline pump canopy within 4' of a front property line in a B-3, Community Business District; a 25' front yard setback is required for all structures in a B-3, Community Business District.

This application was held over at the Board's January meeting and again at the March meeting to await a decision from ALDOT regarding the right-of-way dedication for Dauphin Island Parkway.

The site is located at the intersection of Halls Mill Road and Dauphin Island Parkway, both proposed major streets. The 1.41 acre lot is roughly triangular in shape with significant frontage on both streets. The applicant plans to demolish the existing structures (car wash, auto parts store, miscellaneous retail) and construct a modern Texaco Convenience Store with gasoline pumps under a canopy. The site was recently approved for a two-lot subdivision to separate the existing Telecommunications Tower from the subject site and avoid a Planned Unit Development application. Conditions of the subdivision approval included the dedication of 50' from the centerline of Halls Mill Road. The applicant maintains that, given the unusual shape of the lot and the right-of-way dedication, they are still unable to meet the required setback from Halls Mill Road for the convenience store.

With regard to the applicant's request, the applicant's proposal has several issues. The convenience store, required frontage trees, and a parking space are all in the right-of-way of Halls Mill Road, which is strictly prohibited by the Zoning Ordinance. The applicant has been notified, but has failed to address these issues. Furthermore, it is the opinion of staff that the site could be redesigned to comply with the Zoning Ordinance.

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 Zoning Ordinance would result in an unnecessary hardship. It is simply the applicant's desire to have a convenience store, along with the associated parking and trees, within the right-of-way of Halls Mill Road.

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RECOMMENDATION 5457/4570

Date: March 3, 2008

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

LOCATOR MAP



APPLICATION NUMBER #5457/4570 DATE January 7, 2008

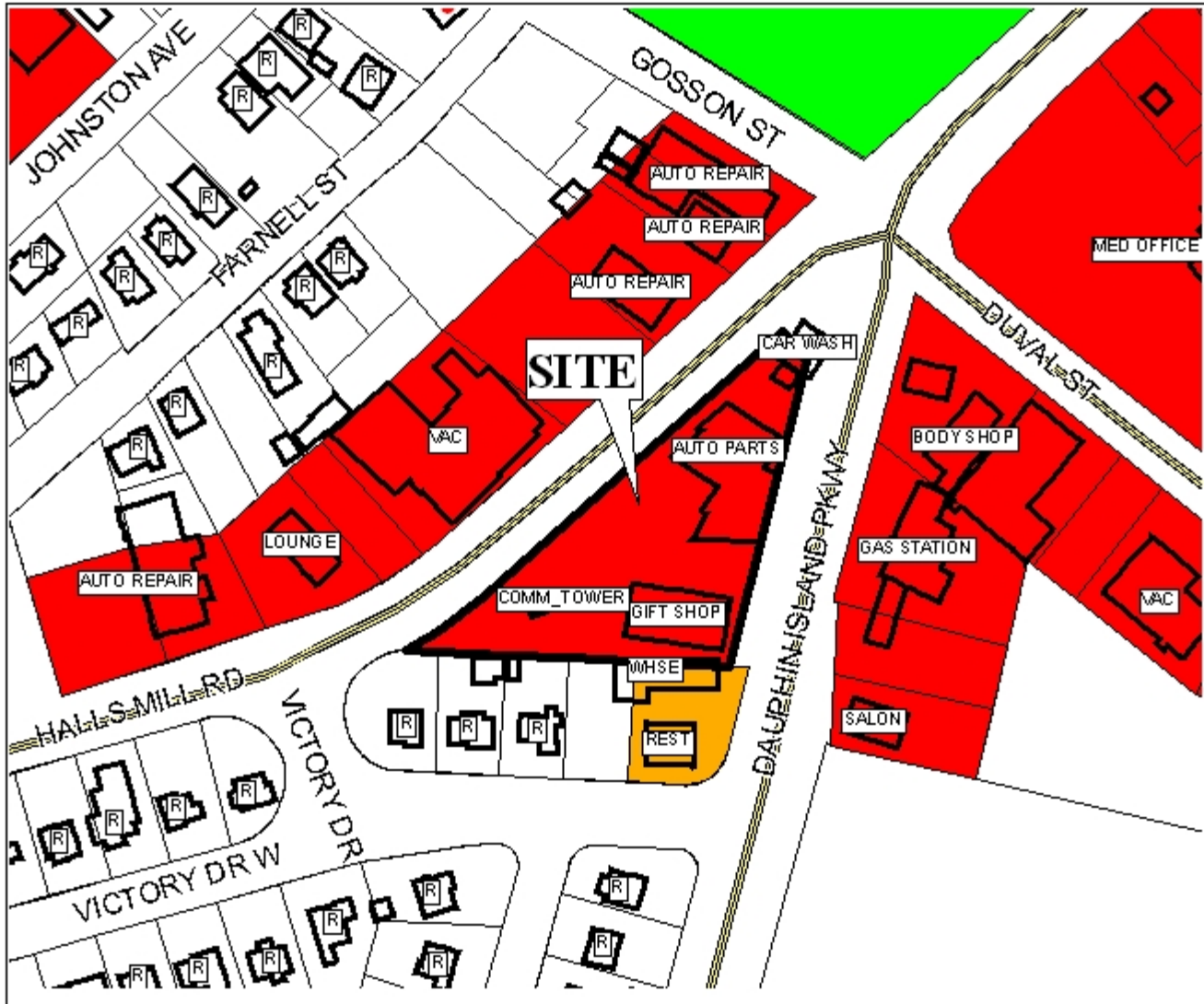
APPLICANT CharterSouth, Inc.

REQUEST Front Yard Setback Variance



NTS

BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

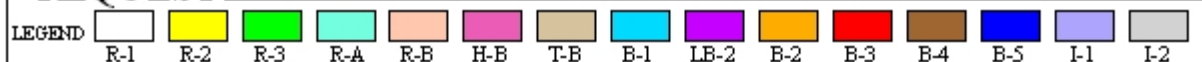


This site is surrounded by miscellaneous landuse.

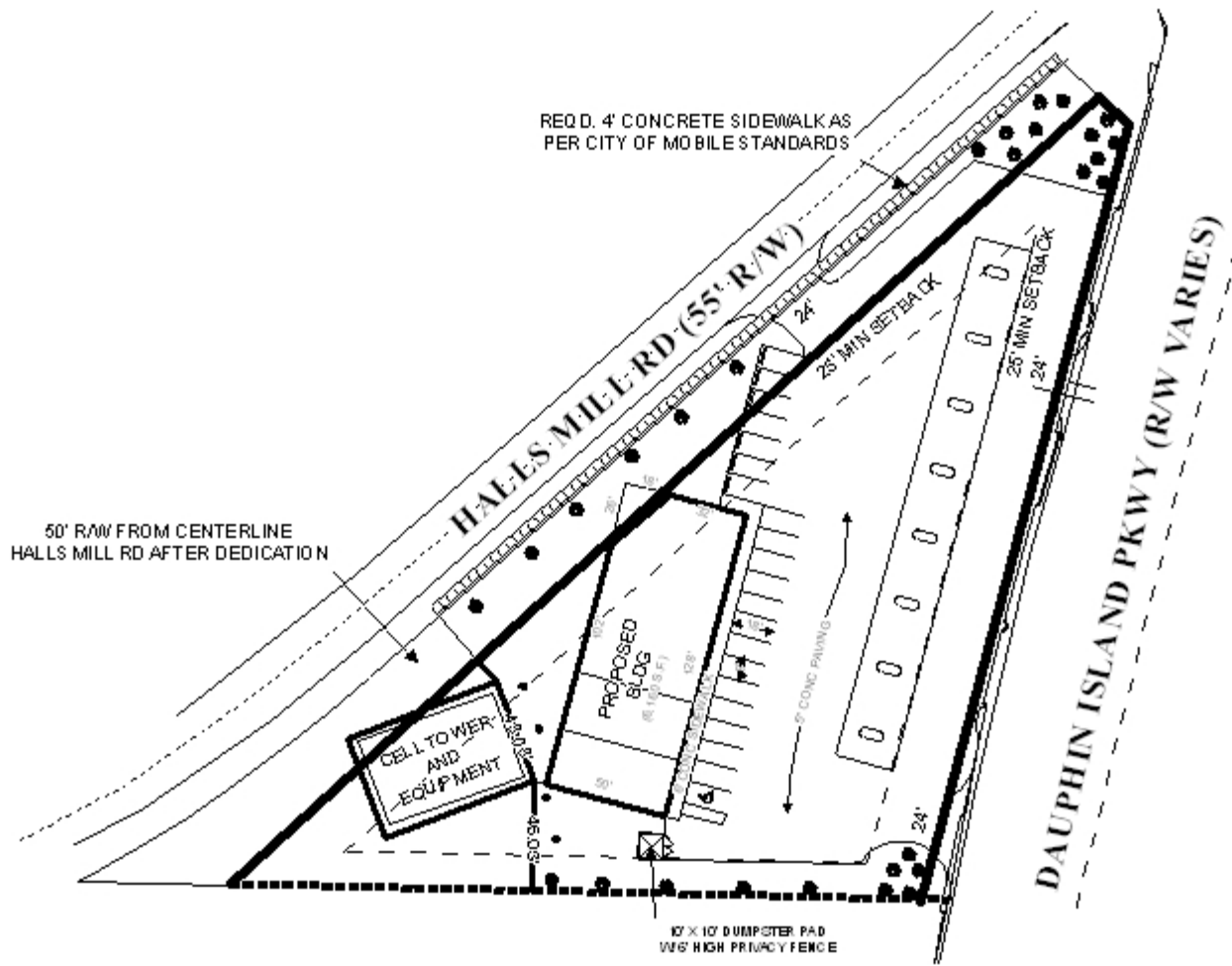
APPLICATION NUMBER #5457/4570 DATE January 7, 2008

APPLICANT CharterSouth, Inc.

REQUEST Front Yard Setback Variance



SITE PLAN



This site plan illustrates proposed buildings and lot configuration.

APPLICATION NUMBER #5457/4570 DATE May 5, 2008

APPLICANT CharterSouth, Inc.

REQUEST Front Yard Setback Variance



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