

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: July 2, 2012****CASE NUMBER**

5760 / 5674

APPLICANT NAME

Gulf Coast Hub Caps & Wheels, Inc.

LOCATION3257 Spring Hill Avenue
(Southwest corner of Spring Hill Avenue and Durant
Street).**VARIANCE REQUEST****SIDE STREET SETBACK:** Side Street Setback
Variance to allow a building expansion within 4.5' of a side
street property line in a B-3, Community Business District**SITE COVERAGE:** Site Coverage Variance to allow
54% site coverage in a B-3, Community Business District.**ZONING ORDINANCE
REQUIREMENT****SIDE STREET SETBACK:** The Zoning Ordinance
requires a 20' side street building setback in a B-3,
Community Business District.**SITE COVERAGE:** The Zoning Ordinance allows 50%
maximum site coverage in a B-3, Community Business
District.**ZONING**

B-3, Community Business

AREA OF PROPERTY

0.5± Acre

**TRAFFIC ENGINEERING
COMMENTS**If you will be working in the roadway or performing any
activities that will affect traffic, you must submit a Traffic Control Plan at least two working
days prior to proceeding.**CITY COUNCIL
DISTRICT**

District 1

ANALYSISThe applicant is requesting Side Street Setback and Site
Coverage Variances to allow a building expansion within 4.5' of a side street property line and
54% site coverage in a B-3, Community Business District; the Zoning Ordinance requires a 20'
side street building setback and allows 50% maximum site coverage in a B-3, Community
Business District.

The site was the subject of a variance application and subsequent approval by the Board at its July 11, 2011 meeting, however, the approval expired prior to any request for building permits. As the site is still operating without compliance with the requirements of the Zoning Ordinance, new variance requests are required. It should be noted that the application at hand, specifically the site plan, is different than the revised site plan approved by the Board at its July 11, 2011 meeting.

The subject site has been used for hubcap and wheel sales since approximately 1992, originally from an existing building containing approximately 1400 square feet. In 1999, a 2,000 square-foot building was approved via the plan review process, permitted and constructed. Since then there have been at least three building expansions done without any reviews or permits: one addition was constructed to the front property line and one across the side street property line into the Durant Street right-of-way, along with a large cargo storage container and fence enclosure. In early 2011, a public complaint was submitted of un-permitted construction work being done at the site and a Stop Work Order was issued. In preparation for obtaining permits, the site plan revealed setback encroachments and over-building.

The applicant proposes to remove an older nonconforming building from within the front setback along Spring Hill Avenue, in order to create additional parking, and to completely remove the Durant Street right-of-way encroachments. However, the plan submitted illustrates an encroachment into the required 20 foot side street setback to within 4.5 feet of the side street property line. Also, there is proposed to be total site coverage of 54% as opposed to the 50% allowed in B-3 districts. Four new parking spaces are proposed in the Southeast portion of the site, which will require a new curb-cut: an existing curb-cut near this location will be removed. All other existing curb-cuts are proposed to remain as-is.

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 states that over time the business increased to the point that expansion was needed and a contractor was hired who, unfortunately, never obtained permits. He also stated that a theft problem was eliminated when the 12 foot high fence was constructed around the property.

In order to try to correct the situation and add parking, the above-mentioned changes are proposed. In this instance, the building area would increase from the originally-permitted 2,000 square-foot building to one of 10,400 square feet, in itself more than a 50% increase in the legal conforming structure. That increase would require full site compliance for landscaping and

trees, none of which is proposed. The increase in the size of the structure on site indicates that the business has outgrown the site, which is not a hardship with the property. The site can still be used by a business that meets all site coverage, landscaping and parking requirements. Any hardships associated with the over-development of the site are self-imposed, as the responsibility of compliant site planning and permitting ultimately rests with the property owner.

It should also be noted that the unpermitted building additions to the site have multiple Building, and Fire code issues, thus approval of any requested variances would still not allow for the continued operation of the business without other substantial improvements to the unpermitted structures on site.

Since the July 2011 approval by the Board, the applicant has added signage to the site without appropriate permits. While this issue is not directly related to the requested variances, it is mentioned to point out that additional non-compliant activities have occurred on the site.

Finally, it should be noted that this application is based upon a site plan prepared on March 30, 2011, where as the Board's approval in July 2011 was based upon a revised site plan submitted on May 23, 2011, and which included some level of tree and landscaping compliance, a dumpster, new and revised curb-cuts, and other improvements not shown for the application at hand.

The applicant has failed to illustrate that a literal enforcement of the Ordinance would present an undue hardship with respect to setbacks or site coverage. In this instance the hardships are self-imposed and the Board should consider this application for denial. Furthermore, the placement of unpermitted signage on the site illustrates a lack of concern for compliance with City of Mobile regulations.

RECOMMENDATION:

Based on the preceding, this application is recommended

for denial.

Revised for the August 6th meeting:

The application was heldover from the July 2012 meeting in order to allow the applicant to make revisions to the submitted site plan.

The revised site plan is very similar to the site plan eventually approved by the Board at its July 11, 2011 meeting, however the site plan submitted additionally reflects the conditions of approval required by the Board, which are as follows:

- 1) the dumpster truck maneuvering area must be completely on site and approved by Traffic Engineering; and
- 2) full compliance with all other municipal codes and ordinances.

The revised site plan shows the proposed dumpster within the Durant Street setback, and served by two 24-foot wide curb-cuts to allow truck maneuvering to service the dumpster: the curb-cuts to service the dumpster would include the widening of one existing curb-cut, and the creation of one new curb-cut. No revised comments were received from Traffic Engineering regarding this curb-cut arrangement.

The revised site plan also shows the removal of an existing curb-cut to Durant Street near Spring Hill Avenue, and the closure and/or modification of curb-cuts along Spring Hill Avenue to create one 36-foot wide curb-cut and one curb-cut for exit-only use.

Five (5) new live oak trees are proposed in the right-of-way along Spring Hill Avenue, and two (2) new live oak trees are proposed in the right-of-way along Durant Street. Two (2) additional live oak trees are proposed along both of the setbacks along Spring Hill Avenue and Durant Street, for a total of four (4) new trees planted on the actual site. The site will be short on the total number of trees required: full compliance is required because the building size was expanded by over 50% of what was already there. The site will need a total of 13 frontage trees, 11 perimeter trees and 1 parking area tree, thus the site will be 15 trees short on the site itself (6 credits are included for existing trees saved). The site also appears to be short in the amount of landscape area provided on the property, versus what is being claimed in the right-of-way, however, the site plan is not sufficiently clear regarding this information. It would appear that an application for a tree and landscape variance will also be required for the site.

The existing buildings and structures will be modified as well. The oldest existing building on the site will have about 26-feet of its front removed along Spring Hill Avenue, so that it complies with the front building setback line. Along Durant Street, the structures will be removed to be at least a minimum of 4 1/2 feet from the right-of-way. The changes to the existing building and structures are the same as the Board approved in 2011.

Finally, a total of 10 parking spaces will be provided on site. Information with the revised site plan indicates that this number of spaces will meet the minimum requirements for the use of the site.

As the revised site plan complies with the Board's approval from July 2011, it would seem that re-approval would be appropriate.

It is recommended, however, that a sidewalk be provided along Durant Street, as there is adequate room within the right-of-way once the encroaching buildings and structures are removed. The site plan should be revised to reflect the provision of a sidewalk along Durant Street.

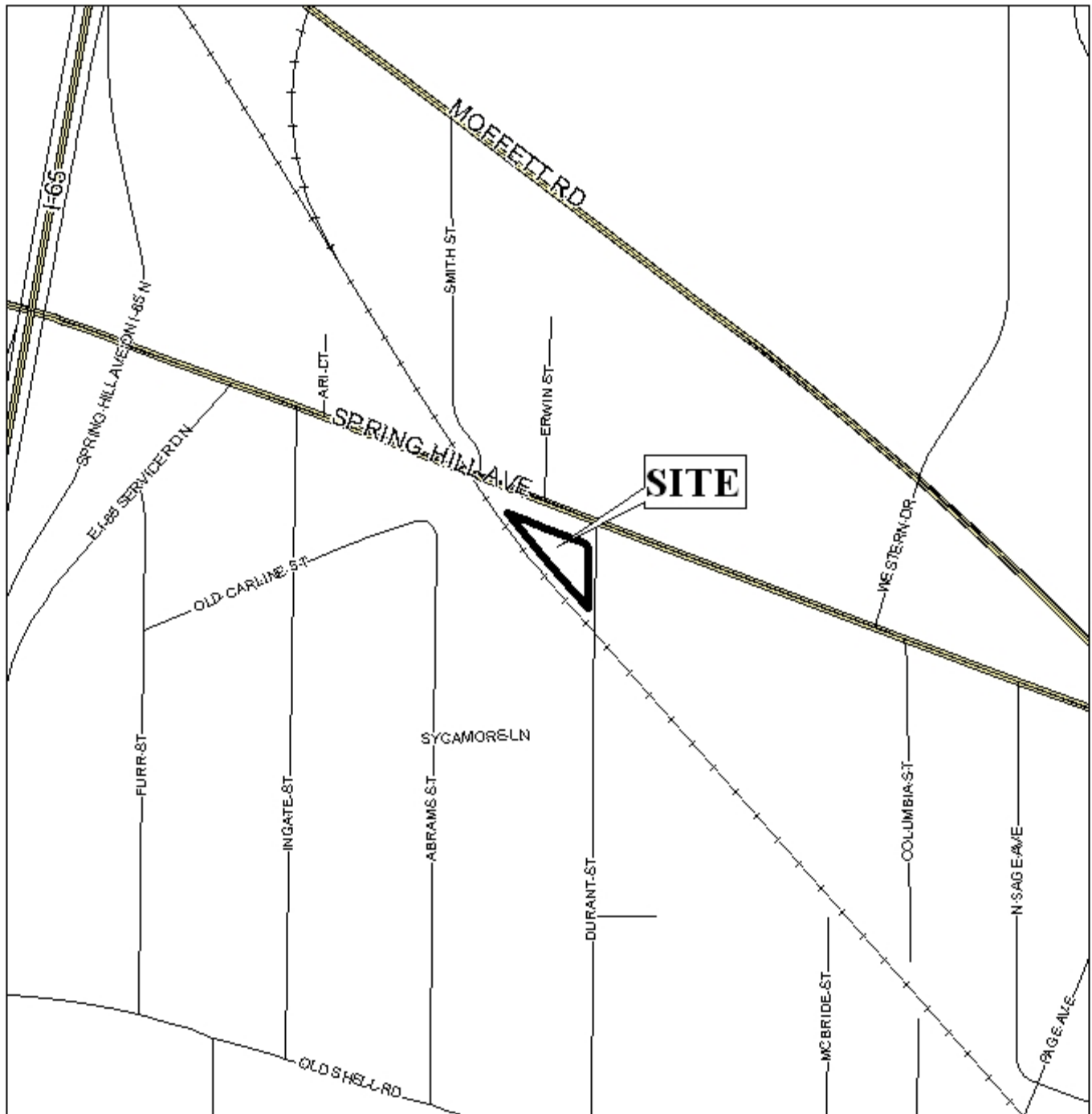
It is also recommended that any approval be limited to the site plan submitted, with the sidewalk revision. As significant building code, fire code, electrical code and other code compliance issues still exist, it is anticipated that the site plan may require additional modification – thus any changes to the site plan required for code compliance will require a new application to the Board to reflect the modifications.

Finally, if compliance activities have not been acted upon by the expiration of the variance, if approved, enforcement activities will be pursued.

RECOMMENDATION: Based on the preceding, this application is recommended for Approval, subject to the following conditions:

- 1) Revision of the site plan to depict a sidewalk along Durant Street;
- 2) Submission of a revised site plan to the Planning Section for the variance files reflecting the sidewalk provision;
- 3) Approval limited to the revised site plan;
- 4) Submission of a variance application for tree and landscape deficiencies prior to any issuance of a land disturbance permit; and
- 5) Full compliance with all other municipal codes and ordinances, including Building Code, Fire Code, Electrical Code, Mechanical Code, Plumbing Code and the sign regulations of the Zoning Ordinance (for the unpermitted signs at the business), with submittal for permits for all code compliance to take place prior to the expiration of the variance approval.

LOCATOR MAP



APPLICATION NUMBER 5760/5674 DATE August 6, 2012

APPLICANT Gulf Coast Hub Caps & Wheels, Inc.

REQUEST Side Street Setback and Site Coverage Variances



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Commercial land use is located to the north and east of the site. Residential land use is located to the south of the site.

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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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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

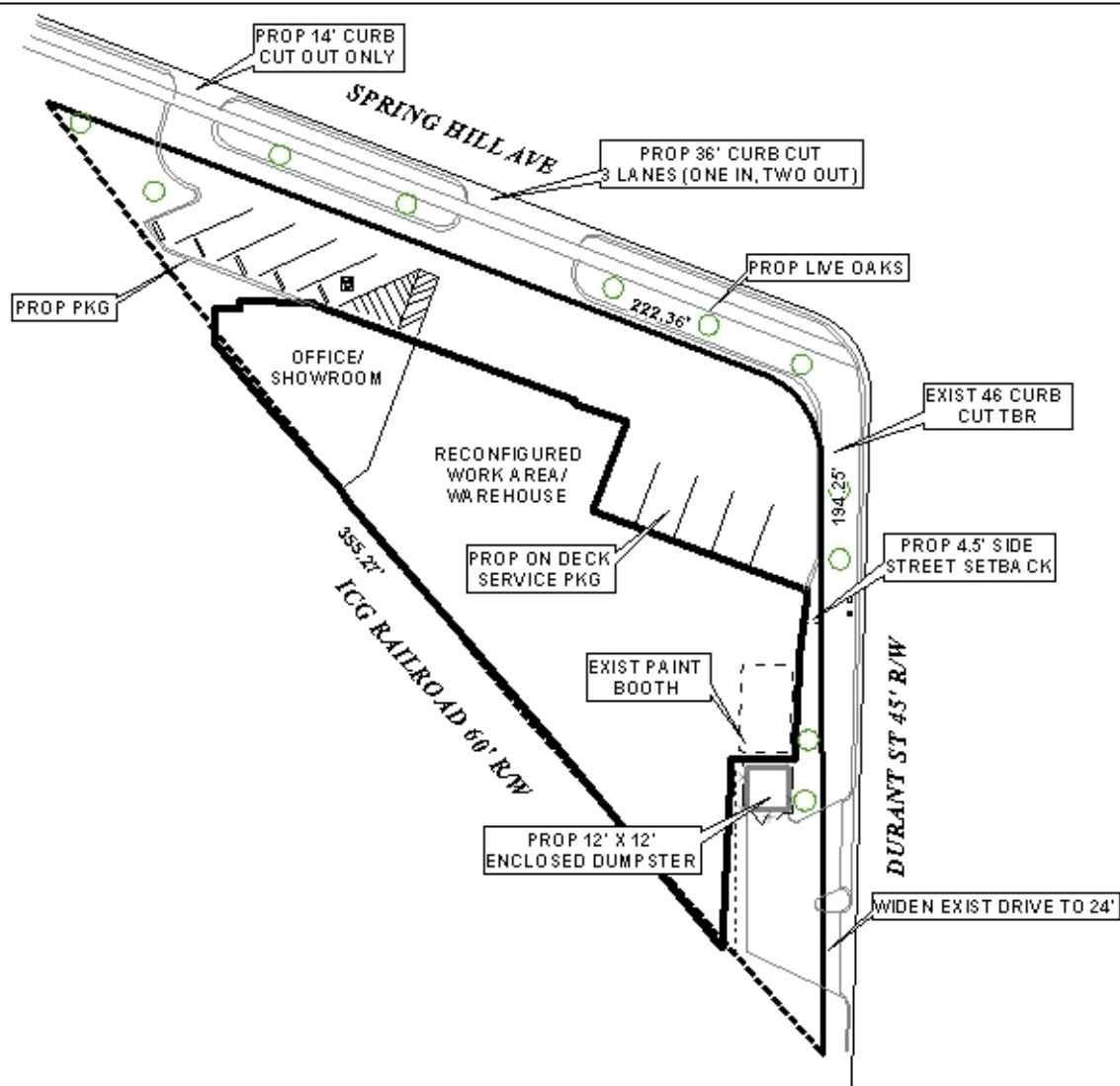


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SITE PLAN



The site plan illustrates the proposed development.

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