

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT**

Date: November 3, 2014

CASE NUMBER

5927

APPLICANT NAME

CIMCO Refrigeration, Inc.

LOCATION

2508 Commercial Park Drive
(North side of Commercial Park Drive, 360'± East of
Government Boulevard Service Road, extending to the
South side of Eslava Creek Parkway, 130'± East of
Government Boulevard Service Road)

VARIANCE REQUEST

SURFACE: Surface Variance to allow gravel surfacing for
an equipment lay-down yard in a B-3, Community
Business District.

**ZONING ORDINANCE
REQUIREMENT**

SURFACE: the Zoning Ordinance requires an equipment
lay-down yard to be paved with asphalt, concrete, or an
approved alternative paving surface in a B-3, Community
Business District.

ZONING

B-3, Community Business District

AREA OF PROPERTY

67,607 sf / 1.55 ±Acres

**CITY COUNCIL
DISTRICT**

District 5

**ENGINEERING
COMMENTS**

If the Variance is approved as requested the applicant will
need to have the following conditions:

- a. Submit and receive a Tier 2 Land Disturbance Permit for the proposed site development.
- b. Submit a ROW Permit for the work within the Public ROW (Eslava Creek Parkway).
- c. Repair deficiencies within Eslava Creek Parkway ditch (erosion and steep side slopes).

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**URBAN FORESTRY
COMMENTS**

No comments.

FIRE DEPARTMENT
COMMENTS

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

ANALYSIS

The applicant is requesting a Surface Variance to allow gravel surfacing for an equipment lay-down yard in a B-3, Community Business District; the Zoning Ordinance requires an equipment lay-down yard to be paved with asphalt, concrete, or an approved alternative paving surface in a B-3, Community Business District.

The applicant is requesting permission for a lay-down yard with aggregate surfacing. The site was the subject of an Administrative Planned Unit Development, which was approved by staff on February 18, 2013. The applicant was required to go through the Administrative PUD process in order to allow for the rebuilding of their main facility, which was destroyed by a fire in December 2012: during the review of the rebuild request by staff, it was determined that several structures had been placed on the site without permits.

During site inspections to obtain Certificates of Occupancy, staff determined that the site had not been constructed as approved through the Administrative PUD process, and that a second Administrative PUD would be required. On May 23, 2014, staff issued a determination that the plans submitted for the second Administrative PUD did not, in fact, accurately reflect "As Built" conditions. Furthermore, it was determined that what had been proposed to be landscaped areas were being used as aggregate surfaced lay-down yards. As staff cannot administratively approve the use of aggregate as a surface, this variance application was necessary.

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 submitted the following statement:

This letter serves as a request to the City of Mobile to allow gravel in lieu of grass in the lay-down area. CIMCO Refrigeration is located in zone B-3. At the north side end of the property adjacent to Eslava Creek Parkway, is a gravel area, located inside the perimeter fencing, measuring approximately 1,800 ft². Current zoning ordinances require grass to be in this area. It is infeasible and detrimental to the business operations of CIMCO Refrigeration to replace the gravel with grass. CIMCO Refrigeration is an industrial refrigeration contractor, serving both the industrial and recreational (ice

rinks) sector. The Mobile facility houses approximately 30 employees, with work hours 7:00 am — 5:00 pm, Monday through Friday. This area serves several purposes, as identified below.

- The Mobile facility builds the underground high-density polyethylene pipe headers that transfer calcium chloride from the refrigeration plant to the rink floor. Once fabricated, these headers are moved, by a forklift, to the pipe rack, located on the gravel, for a period of time, until shipped to job sites nationwide.
- The Mobile facility assembles refrigeration packages for industrial customers nationwide. Assembly requires the usage of carbon steel pipe. During assembly, pipe is stored on the same pipe rack as the rink floor headers, where again, the forklift is required to drive across the gravel to the rack. After assembly is completed under the awning, the packages are slid onto the gravel, where a crane, positioned on the adjacent concrete driveway, lifts the package onto a flat-bed truck, for shipment.
- The Mobile facility rebuilds compressors for industrial customers nationwide. Defective compressors are delivered on pallets, offloaded by the forklift, and stored on the gravel, until being moved into the compressor rebuild shop for rework. There is no other suitable and available storage area on the property.

CIMCO Refrigeration has a 100% commitment to safety. The gravel is necessary to ensure safety. The forklift is a 10,000 pound diesel-powered, all-terrain machine. It is heavy and requires sturdy ground in order to support the load of not only the forklift, but any load it carries, and the pipe rack. Grass would cause the forklift and any stored materials to sink, causing an uneven surface with the potential of incident. Grass would be a huge detriment to the business of CIMCO Refrigeration and a safety hazard. We respectfully request that the City of Mobile allow gravel to remain in the area in lieu of grass.

It should be noted that the staff's concern regarding this site is not that the lay down yard be required to be surfaced in grass, but that there is a lay down yard that was not proposed as part of the original Administrative Planned Unit Development. If the applicant had proposed to pave the lay down yard in an asphalt or concrete paved surface, a variance application would not be required: the applicant is choosing to maintain an aggregate surface.

The applicant has two rubber tired forklifts, which could operate on an asphalt or concrete paved surface. Also, it appears that the items kept on the aggregate surfacing would also be suitable for placement on an asphalt or concrete paved surface.

Because two buildings on the site were demolished, the site was required to be rebuilt to full compliance with the tree and landscaping requirements of the Zoning Ordinance. Tree and landscape calculations provided with the variance application are the same as originally approved in early 2013, yet the variance application shows aggregate surfacing over what had

been thought by staff to be landscape area. Thus staff cannot verify that the site complies with the landscape area requirements of the Zoning Ordinance.

The site plan presented is not accurate, as it does not accurately depict all of the area covered in aggregate and used for lay-down purposes, and it does not depict a storage shed which appears in the photographs submitted by the applicant. Furthermore, a driveway connection has been added between the site in question and the property located at 2499 Eslava Creek Parkway, thus new applications for Planned Unit Development review will be required, with the addition of a Subdivision application to make the 2502 Commercial Park property one legal lot (it is currently multiple lots), if the variance request is approved.

Finally, it should be noted that as the site is being used as a contractor's storage yard, the rear portion of the site must be enclosed with a six foot high wooden privacy fence.

RECOMMENDATION: Based on the preceding, this application is recommended for Holdover until the December 1, 2014 meeting, with the following revisions due by November 17th:

- 1) Revision of the site plan to accurately reflect "As-Built" conditions, including clearly delineating all aggregate surface areas that are or will be used for storage of materials, landscape areas (with each individual landscape area calculated in square feet), trees depicted in the actual locations planted, and showing all existing structures.

LOCATOR MAP



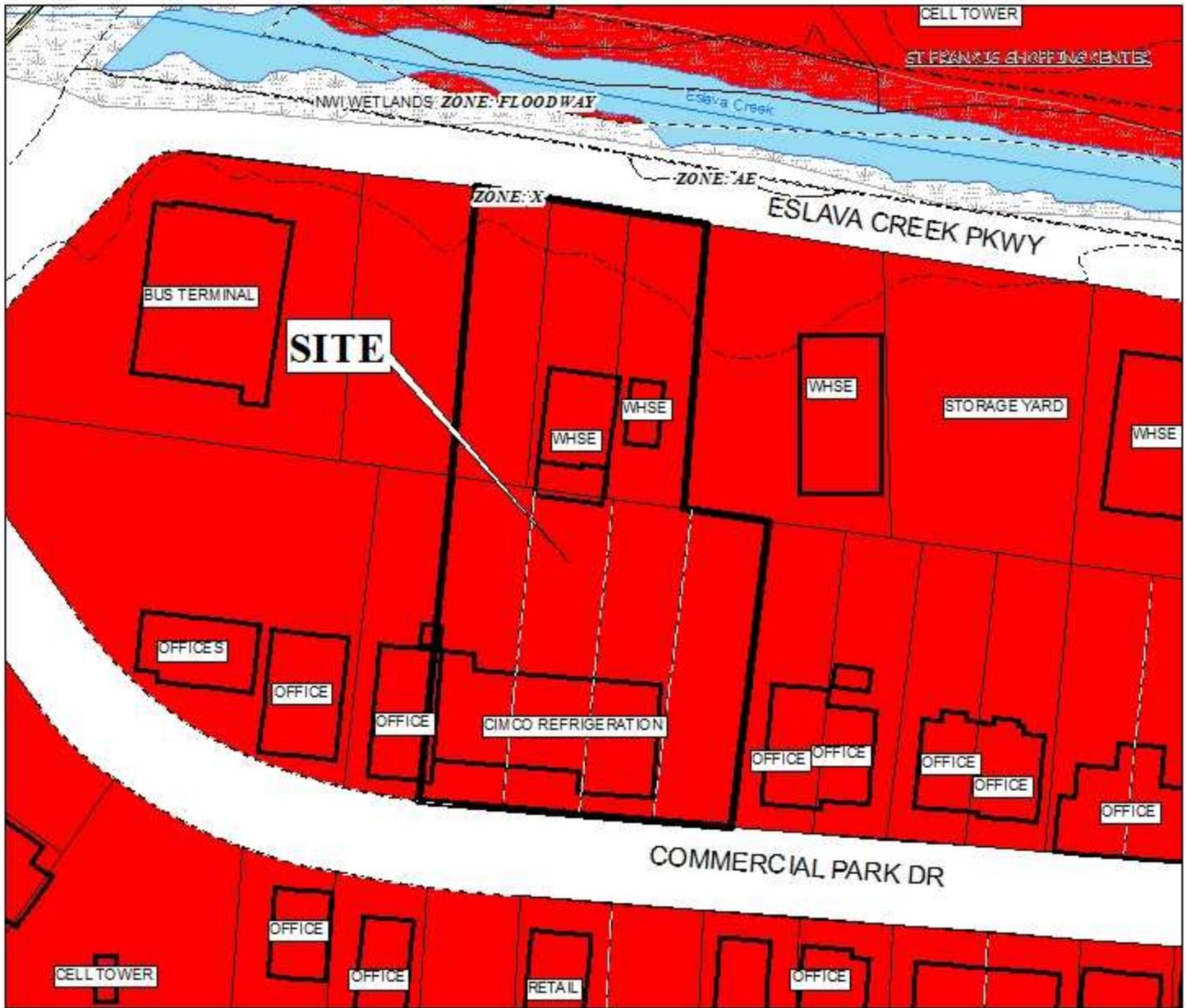
APPLICATION NUMBER 5927 DATE November 3, 2014

APPLICANT Cimco Refrigeration, Inc

REQUEST Surface Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units.

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 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



**BOARD OF ADJUSTMENT
VICINITY MAP - EXISTING ZONING**



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