

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

5738

**APPLICANT NAME**

Lee, Lorin, &amp; Todd, LLC

**LOCATION**

354 St. Francis Street  
(North side of St. Francis Street, 53'± West of North  
Claiborne Street)

**VARIANCE REQUEST**

**SURFACING:** Surfacing variance to allow gravel  
surfacing in a B-4, General Business District

**MANEUVERING:** Maneuvering variance to allow a  
substandard accessway

**TREE PLANTING:** Tree planting variance to allow  
development with no tree plantings

**LANDSCAPE AREA:** Landscape area variance to allow  
development with no landscape area

**ZONING ORDINANCE  
REQUIREMENT**

**SURFACING:** The Zoning Ordinance requires  
commercial parking lots to be paved with asphalt, concrete,  
or an approved alternative surfacing in a B-4, General  
Business District

**MANEUVERING:** The Zoning Ordinance requires  
accessways for two-way traffic to be at least 24 feet in  
width in a B-4, General Business District

**TREE PLANTING:** The Zoning Ordinance requires  
frontage tree, perimeter tree and parking tree plantings for  
parking lots in a B-4, General Business District

**LANDSCAPE AREA:** The Zoning Ordinance requires  
12% landscape area for parking lots in a B-4, General  
Business District

**ZONING**

B-4, General Business District

**AREA OF PROPERTY**

10,716 ± Square Feet

**TRAFFIC ENGINEERING****COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

**CITY COUNCIL****DISTRICT**

District 2

**ANALYSIS**

The applicant is requesting Surfacing, Maneuvering, Tree Planting, and Landscape Area Variances to allow a commercial parking lot partially surfaced with gravel with a substandard accessway and no tree plantings or landscaping area in a B-4, General Business District; the Zoning Ordinance requires commercial parking lots to be paved with asphalt, concrete, or an approved alternative surfacing, and requires accessways for two-way traffic to be at least 24 feet in width in a B-4, General Business District. Additionally, tree plantings and landscaping area must be provided.

The applicant proposes to maintain an existing gravel surface, created after the demolition of a building in 2009, for use as a parking area. The applicant states that the original intention was to renovate the former structure into apartments, but after a feasibility analysis, it was determined that the best route was to demolish the old structure and construct a new building. The present economic downturn has prevented the applicant from moving forward with new construction, however, it is still their intent.

Because of the intention to eventually develop a new building on the gravel portion of the site, the applicant requests waivers from paving, maneuvering, tree and landscaping requirements of the Zoning Ordinance, as implementation of these requirements at this time will hinder future redevelopment of the site. The applicant wishes to lease the paved and gravel parking areas to adjacent businesses until such time as economic conditions improve sufficiently to allow redevelopment of the gravel portion of the site: the existing paved parking lot will remain as a parking area. The applicant does state that lighting will be provided for the parking area, in conformance with the requirements of the Zoning Ordinance.

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.

On November 29, 2011, staff was contacted via email by the applicant regarding the use of the gravel portion of the site for parking. In response, staff replied on that date as follows:

*Since the site at 354 St Francis St was cleared of the previous building, any new development of the site, including for a parking lot, must come into full compliance with the Zoning Ordinance, including tree and landscape compliance: 12% of the site must be landscaped, and frontage, perimeter and parking area trees must be provided.*

*The parking area must also be lighted if used at night.*

*Additionally, new commercial parking lots in the downtown area must also comply with this requirement from the Zoning Ordinance: "vehicles must be screened from view with a 3'--5' tall evergreen hedge and/or landscaped berm in B-4 districts along street frontage (privacy fence may be used along side and rear property lines)."*

*Also, it appears the property is not a legal lot of record, which means at minimum an application for a one lot subdivision must be approved by the Planning Commission prior to any requests for permits to develop a new parking lot.*

On January 19, 2012, staff observed the gravel area marked off for parking, including striping and parking bumpers. Staff notified the applicant once again that the site cannot be used for parking until brought into compliance with the requirements of the Zoning Ordinance, hence the application at hand. A Notice of Violation was also issued to the applicant.

The applicant states that it is their intention to construct a new building on a portion of the site, and that any improvements to the gravel portion of the site will be burdensome as it regards future redevelopment. Since the site was entirely cleared, any new construction, even of a building, will require full compliance with the Zoning Ordinance, including the provision of trees and landscaping areas, thus a waiver of these requirements for the proposed parking lot use will only be temporary: compliance will still be required at a future date.

Furthermore, the economic conditions, while understandably bleak for new construction, cannot be considered a hardship as it relates to Board of Zoning Adjustment consideration. The applicant, by leasing the parking area to adjacent businesses, will be realizing revenue, yet the failure to improve the parking area with trees and landscaping will contribute to the blighting influence in the downtown area of unimproved parking areas. Therefore hardship regarding tree and landscaping compliance is not adequately addressed.

In July 2011, the applicant obtained a permit to fence the property, however, it was not indicated on the application that the fence would include a gate to control vehicular access to the property. The gate, as currently placed, does not provide adequate queuing space from St. Francis Street for a vehicle to pull out of the right-of-way to operate the gate. Additionally, the gate width on the site plan is apparently only 20 feet, which does not meet the minimum 24-foot requirement for two-way access, and which may not meet requirements of the 2009 Fire Code, as adopted by the City of Mobile. The gate as constructed, was never appropriately permitted, and does not

comply with the maneuvering and queuing requirements of the Zoning Ordinance. Any hardship relating to the maneuvering and queuing requirements is self-imposed.

As for the gravel surfacing, Section 64-6.A.4.a. of the Zoning Ordinance specifically prohibits gravel as a surfacing material for commercial parking lots within the Hank Aaron Loop. As the applicant will be generating revenue from the leasing of the parking area to adjacent businesses, and as asphalt paving can be easily removed, there is no hardship illustrated regarding the paving of the site.

Any hardships associated with the site are self-imposed, or are due to economic hardships related to the global economic downturn: the applicant was appropriately instructed by staff regarding the use of the property as proposed, and the improvements correspondingly required. As such, the variances requested are without merit, and thus should be denied.

**RECOMMENDATION:** Based on the preceding, the requested Surfacing, Maneuvering, Tree Planting, and Landscape Area Variances are recommended for denial for the following reasons:

- 1) The variances requested would be contrary to the public interest through the expansion of blight associated with unimproved parking lots in the downtown area, and through the creation of unsafe conditions due to the narrow, gated entry into the site;
- 2) There are no special conditions which exist that make the literal enforcement of the provisions of the Zoning Ordinance an unnecessary hardship; and
- 3) The applicant was duly notified of the Zoning Ordinance requirements for use of the site for parking, prior to the use of the gravel portion of the site for parking.

# LOCATOR MAP



APPLICATION NUMBER 5738 DATE April 2, 2012  
APPLICANT Lee, Lorin, & Todd, LLC  
REQUEST Surfacing, Maneuvering, Tree Planting, and Landscape Area Variances



The map shows a grid of streets including St. Michael St, N Claiborne St, N Franklin St, and St. Francis St. A central block is outlined and labeled 'SITE'. Surrounding areas are labeled with building types: 'UTIL' (utility), 'OFFICE', 'APTS' (apartments), 'LOUNGE', 'RECEPTION HALL', 'WHSE' (warehouse), 'STORAGE YARD', and 'VAC' (vacant). A 'PRINTING' facility is also indicated at the top. The map is oriented with North at the top.

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N  
NTS



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

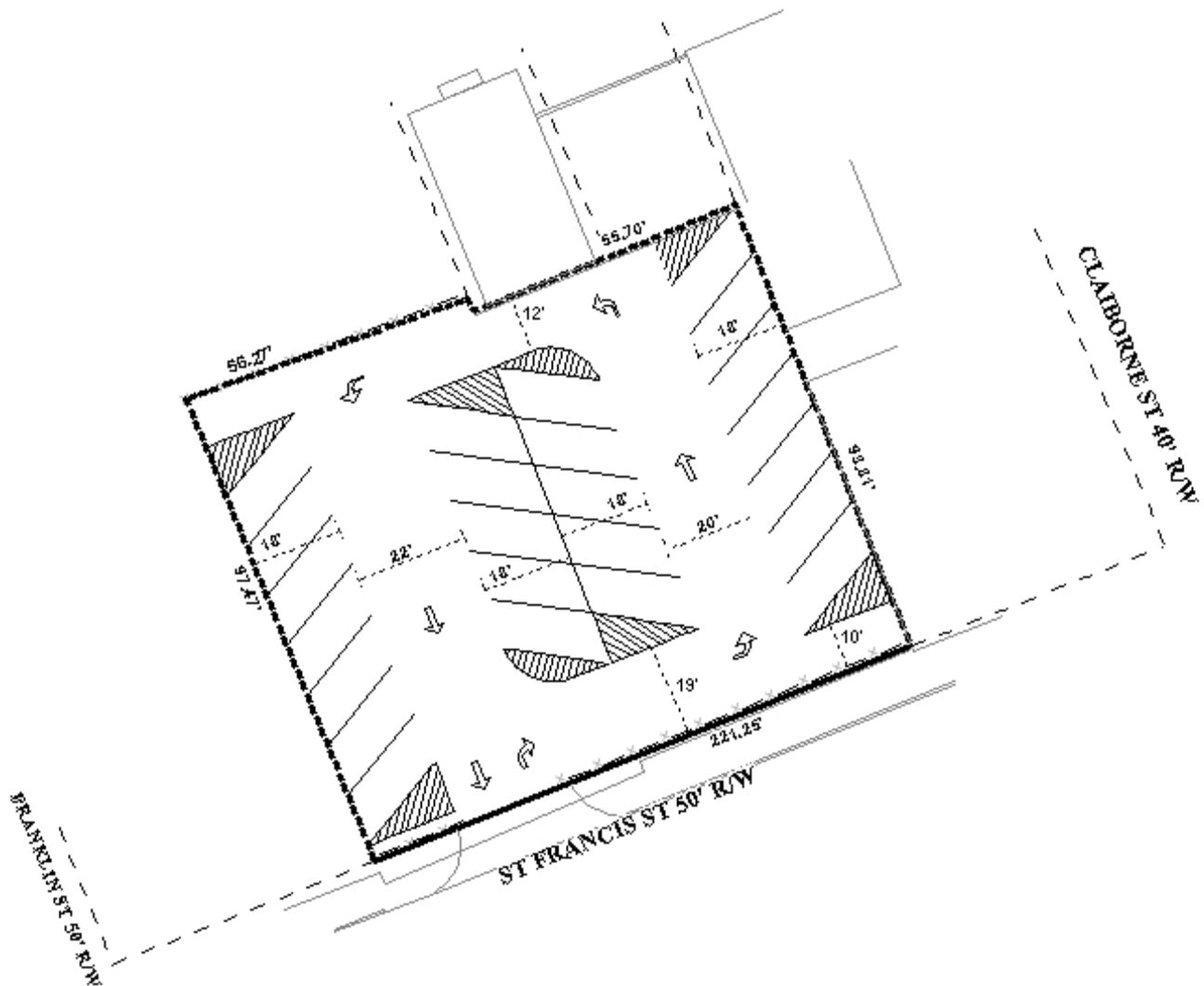


The site is surrounded by commercial land use. A single-family residence is located to the north of the site.

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# SITE PLAN



The site plan illustrates the proposed parking lot.

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N  
  
 NTS