

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: March 2, 2015****CASE NUMBER**

5952 / 5760 / 5674

APPLICANT NAME

Gulf Coast Hubcaps & Wheels (Don Williams, Agent)

LOCATION3257 Spring Hill Avenue
(Southwest corner of Springhill Avenue and Durant Street)**VARIANCE REQUEST****FRONTAGE LANDSCAPE AREA:** Front landscape area variance to allow only 2% frontage landscape area.**TREE PLANTING:** Tree planting variance to allow only 7 trees.**ACCESS AND MANEUVERING:** Access and maneuvering variance to allow only a 10' wide drive aisle.**DUMPSTER ENCLOSURE:** Dumpster enclosure variance to allow a roll off dumpster with no enclosure.**ZONING ORDINANCE
REQUIREMENT****FRONTAGE LANDSCAPE AREA:** A frontage landscape area of 7.2% is required.**TREE PLANTING:** A total of 26 trees are required.**ACCESS AND MANEUVERING:** A drive aisle of at least 12' in width is required.**DUMPSTER ENCLOSURE:** All dumpsters must be enclosed with up to an 8 foot high wooden fence or masonry wall on three sides.**ZONING**

B-3, Community Business District

AREA OF PROPERTY

22,000 square feet/0.5±Acres

**CITY COUNCIL
DISTRICT**

District 1

ENGINEERING**COMMENTS**

If the proposed changes to the site are approved, the applicant will need to have the following conditions met:

- a. Submit a Land Disturbance Permit for any required site improvements; and for any unpermitted site improvements made since 1984.
- b. Submit a ROW Permit for any proposed work within the ROW.

TRAFFIC ENGINEERING**COMMENTS**

A parking variance may also be required for the site as currently proposed. The parallel spaces on the side of the building should be 23' long for the southern four spaces, and 20' for the northernmost space. That required 112' in length; currently the spaces total 105' in length. Also, the van accessible space should be 16' in total width. Currently, it is only 15' in width. There appears to be enough asphalt to modify the striping to accommodate the addition 1'. The driveway on Durant Street is called out to be 12' wide existing, but only measures 8' at its narrowest width. This driveway should be a minimum of 10' in width at its narrowest point.

URBAN FORESTRY**COMMENTS**

Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Mobile Tree Commission permit is required before removing any existing trees from the right of way.

FIRE 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 Landscape, Tree Plantings, Access and Maneuvering and Dumpster Enclosure Variances to allow an automotive repair service with 7 trees and 2% of frontage landscaping, 10' wide drive aisle, and a roll off dumpster for a 22,000 square foot lot in a B-3, Community Business District; the Zoning Ordinance requires 26 trees and 7.2% frontage landscaping, 12' drive aisles, and all dumpsters to be enclosed in a B-3, Community Business District.

The site has been the subject of two previous applications to the Board of Zoning Adjustment. The current submittal is due to a pending City of Mobile case against the applicant in Circuit Court, scheduled for March 18, 2015.

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 structural 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 regarding 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 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. A second variance application was approved by the Board at its August 6, 2012 meeting. Once again, the approval expired prior to any request for building permits, hence the City's pending case against the applicant in Circuit Court.

The applicant states:

“Several unpermitted building additions have occurred on this site since 1999. We are proposing several modifications of the buildings and site to comply, as close as possible, with current regulations. If approved by Board of Zoning Adjustment and several City departments, we will complete the proposed work within 9 months of approval.

See attached site plans for the requested variances. Springhill Avenue right of way was widened over the years, thus making our buildings too close to the front property line to allow full front-yard compliance with current site regulations. Our corner lot, bounded on the rear by railroad tracks, makes development complicated.”

Specifically, the applicant proposes to remove unpermitted structures to provide a 10 foot setback along the rear property line abutting the railroad, and to provide a 20 foot setback along Durant Street (removing the encroachment into the Durant Street right-of-way). Building site coverage will consequently drop to 48% (10,560 square feet), which will comply with the 50% maximum allowed in B-3 districts. The applicant states that the remaining unpermitted structures will be modified to comply with all applicable Building and Fire codes.

The modifications to the unpermitted structures will allow for the total landscape area to increase to 3,590 square feet, or 16% of the total site (12% is the minimum required), however, the frontage landscape area proposed will only be 440 square feet, or 2% of the site (1584 square feet, or 7.2% is required).

The applicant proposes to remove four trees from the right-of-way along Spring Hill Avenue (one of which would be an after-the-fact permit request), and plant a total of 4 new trees on the site to augment the 3 other existing trees on the site, for a total of 7 trees. A total of 26 trees are required on the site, of which 8 must be frontage along Spring Hill Avenue, 6 must be frontage along Durant Street, and 12 must be placed on the remainder of the site.

Regarding dumpster enclosures, the applicant will no longer keep a regular dumpster and instead will utilize cans. The roll-off dumpster, which is used to dispose of scrap tires, is proposed to be brought onto the site every two weeks, filled, and removed within three days: the applicant requests that the enclosure requirement for the roll-off dumpster be waived.

The applicant proposes to provide 7 parking spaces on site, of which 5 will be parallel parking spaces. The parallel spaces will be accessed by a one way 10-foot wide aisle (12-feet is required). No information is provided regarding the size of the office area within the buildings, nor the number of employees working in the remainder of the facility, thus staff cannot determine if 7 parking spaces will comply with Zoning Ordinance requirements.

Finally, one existing curb-cut will be removed from the Spring Hill Avenue frontage, and two existing curb-cuts will be removed from the Durant Street frontage.

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.

All of the applicant's variance requests are to reduce non-compliance due to the multiple unpermitted improvements to the site that have occurred since the one appropriately permitted 2,000 square foot building was built on the site in 1999 by the applicant. It appears that of the 13,885 \pm square feet of roofed structure on the site, only 3,400 \pm square feet was either permitted or considered pre-existing. Thus approximately 10,000 square feet of roofed structure was added to the site with no known compliance with applicable Building, Electrical, Mechanical, Plumbing or Fire codes, as well as encroaching into the public right of way. Furthermore, had the applicant gone through the appropriate processes for making improvements to the site, full compliance with the tree and landscaping requirements, dumpster enclosure, as well as the parking requirements of the Zoning Ordinance would have been possible.

It should also be pointed out that there has been no widening of the Spring Hill Avenue right of way since before the one permitted structure was built in 1999, thus the only structure impacted by the widening of Spring Hill Avenue is the original building that has existed on the site since approximately 1960 (according to aerial photos).

Since all of the variances being requested by the applicant are due to self-imposed hardships, and as the applicant has failed to take action regarding two previous Board approvals, the Board should consider this application for denial.

RECOMMENDATION: Based on the preceding, staff recommends to the Board the following findings of fact for Denial:

- 1) Based on the fact that the hardships are self-imposed, that the applicant has failed to act regarding two previous Board approvals, and that the business continues to operate in a

structure that does not comply with applicable Building and Fire codes, granting the variance will be contrary to the public interest;

- 2) No special conditions exist with the property itself, such as steep slopes, trees or other site development challenges, such that a literal enforcement of the provisions of the chapter will result in unnecessary hardship; and
- 3) The spirit of the chapter shall not be observed and substantial justice shall not be done to the applicant and the surrounding neighborhood by granting the requested variances, as the applicant has not shown good faith regarding compliance with two previous Board approvals, nor regarding compliance with the Zoning Ordinance and the Building, Electrical, Plumbing, Mechanical and Fire Codes.

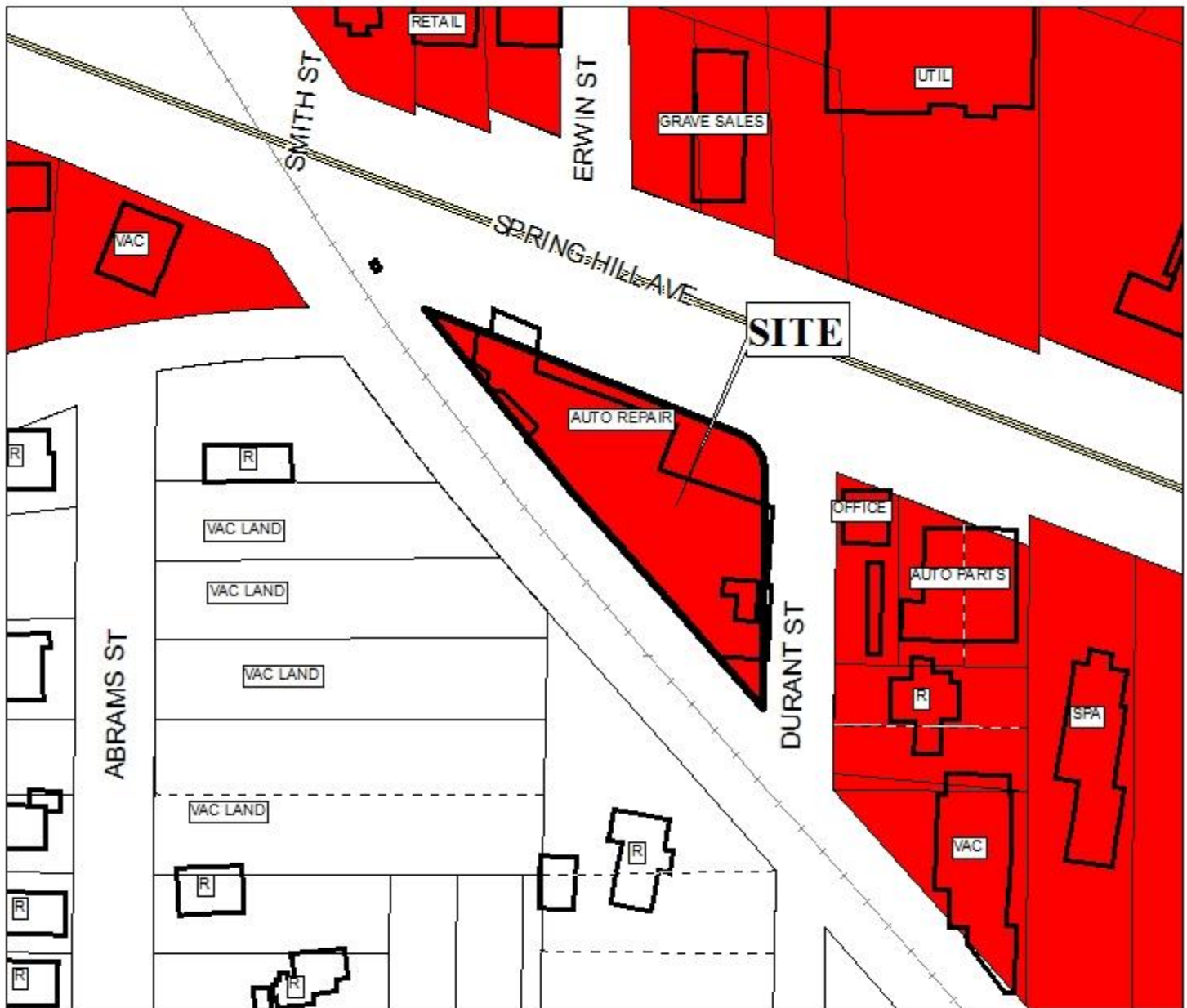
LOCATOR MAP



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BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the north and east.
Residences lie southwest of the site.

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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



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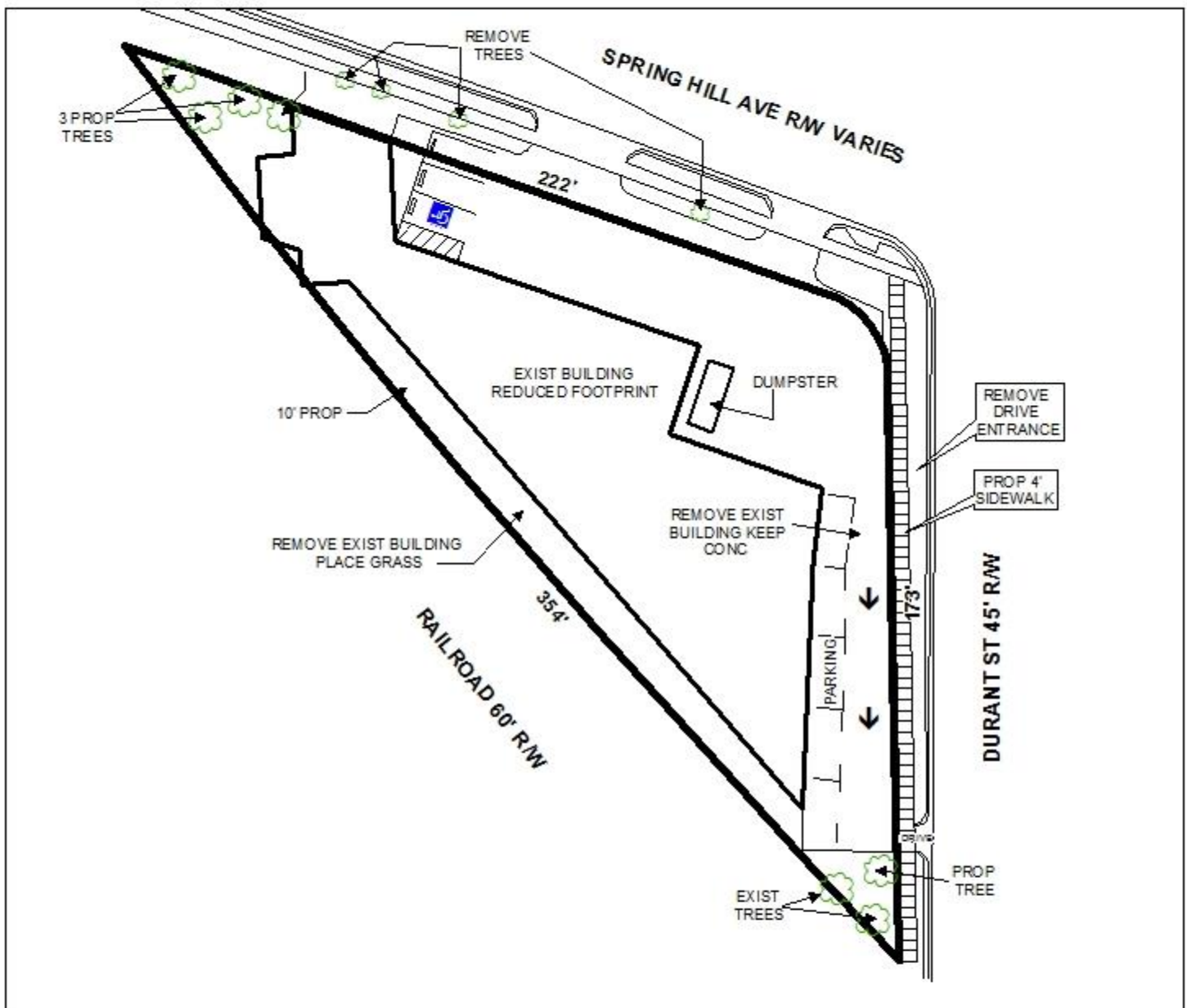


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SITE PLAN



The site plan illustrates the reduced existing building, proposed trees, and parking.

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