

**BOARD OF ZONING ADJUSTMENT  
STAFF REPORT****Date: May 6, 2013****CASE NUMBER**

5827

**APPLICANT NAME**

H &amp; H Motorcars (Tom Horst, Agent)

**LOCATION**5706 U. S. Highway 90 West  
(West side of US Highway 90 West, 56'± South of  
Plantation Road).**VARIANCE REQUEST****ACCESS AND PARKING SURFACE:** Access and  
Parking Surface Variance to allow gravel access and  
parking area for a business in a B-3, Community Business  
District.**ZONING ORDINANCE  
REQUIREMENT****ACCESS AND PARKING SURFACE:** The Zoning  
Ordinance requires that all parking surfaces be paved with  
asphalt, concrete or an approved alternative surface in B-3,  
Community Business districts.**ZONING**

B-3, Community Business

**AREA OF PROPERTY**

16,206 Square-feet/0.037± Acres

**TRAFFIC ENGINEERING  
COMMENTS**

No comments.

**CITY COUNCIL  
DISTRICT**

District 4

**ANALYSIS**

The applicant is requesting an Access and Parking Surface Variance to allow gravel access and parking area for a business in a B-3, Community Business District; the Zoning Ordinance requires that all surfaces be paved with asphalt, concrete, or an approved alternative surfacing in a B-3, Community Business District.

The applicant states that H & H Motorcars leases the site for the sale of used cars. The applicant further states that the inventory would be parked in existing gravel display area located along U.S. Highway 90 West. The applicant states that the property owner provided nonconforming documentation in November 2011; therefore, the applicant is requesting that no change be required in that area of the proposed parking.

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 reason aggregate is not an approved surface is because of the possibility of the aggregate migrating onto the right-of-way and adjacent properties via tires, and the area quickly turns into a quagmire. In cases where the basis for an Access and Parking Surface Variances have been the fact that tracked or large off-road tired construction equipment could adversely affect the surface due to crushing and/or chipping, a surface variance has been justified. In this instance, a Parking Surface Variance would not be justified.

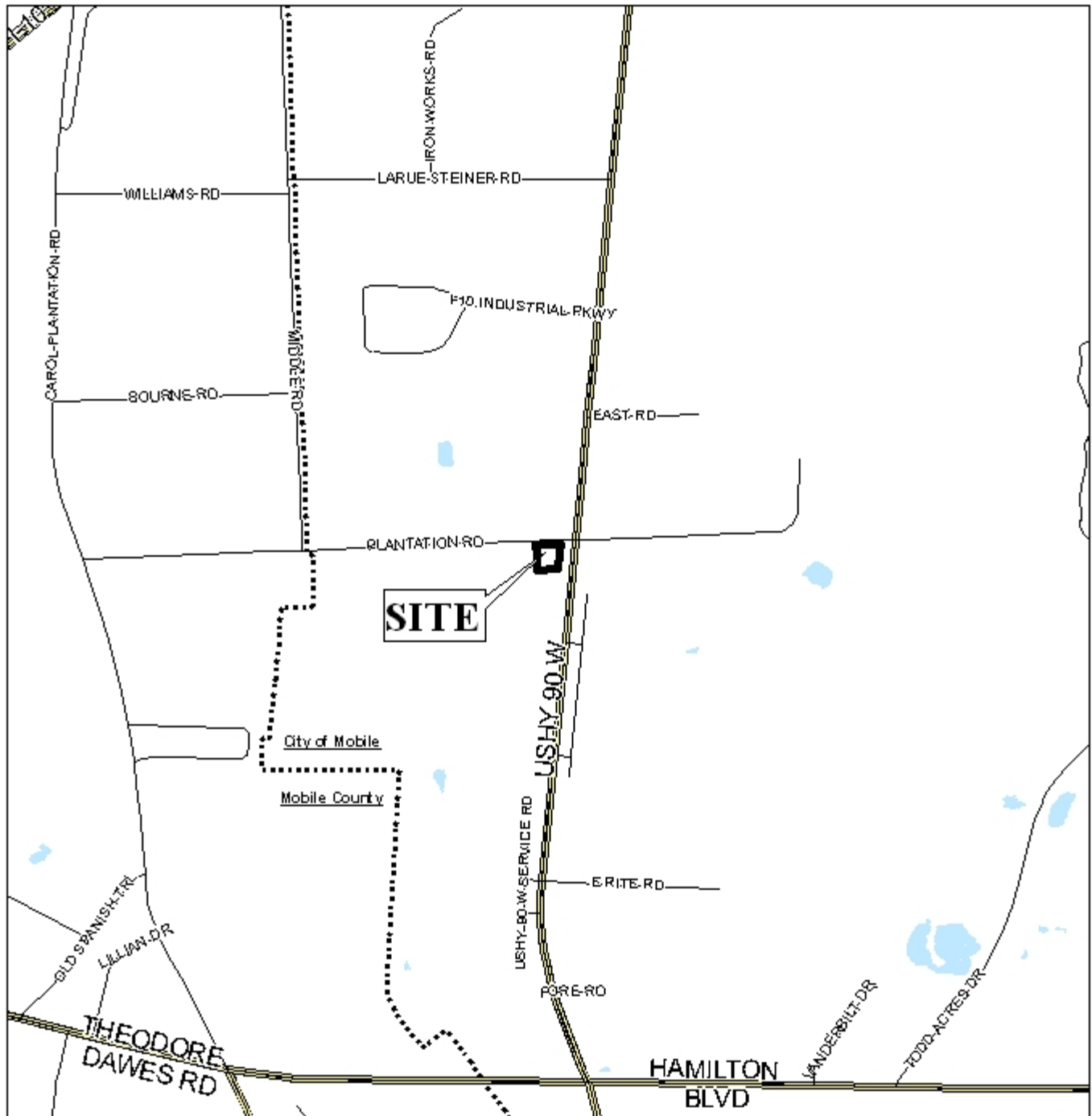
The site which is a multiple tenant site has been used in the past as used car lots, locksmith, and the most recent licensed use in 2013 for Suite A is a tattoo shop.

The applicant has not illustrated that a literal enforcement of the Ordinance would present an undue hardship with respect to the access and paving surface requirement.

**RECOMMENDATION:** Based on the preceding, this application is recommended for denial, for the following reason:

- 1) the applicant has not illustrated that a literal enforcement of the Ordinance would present an undue hardship.

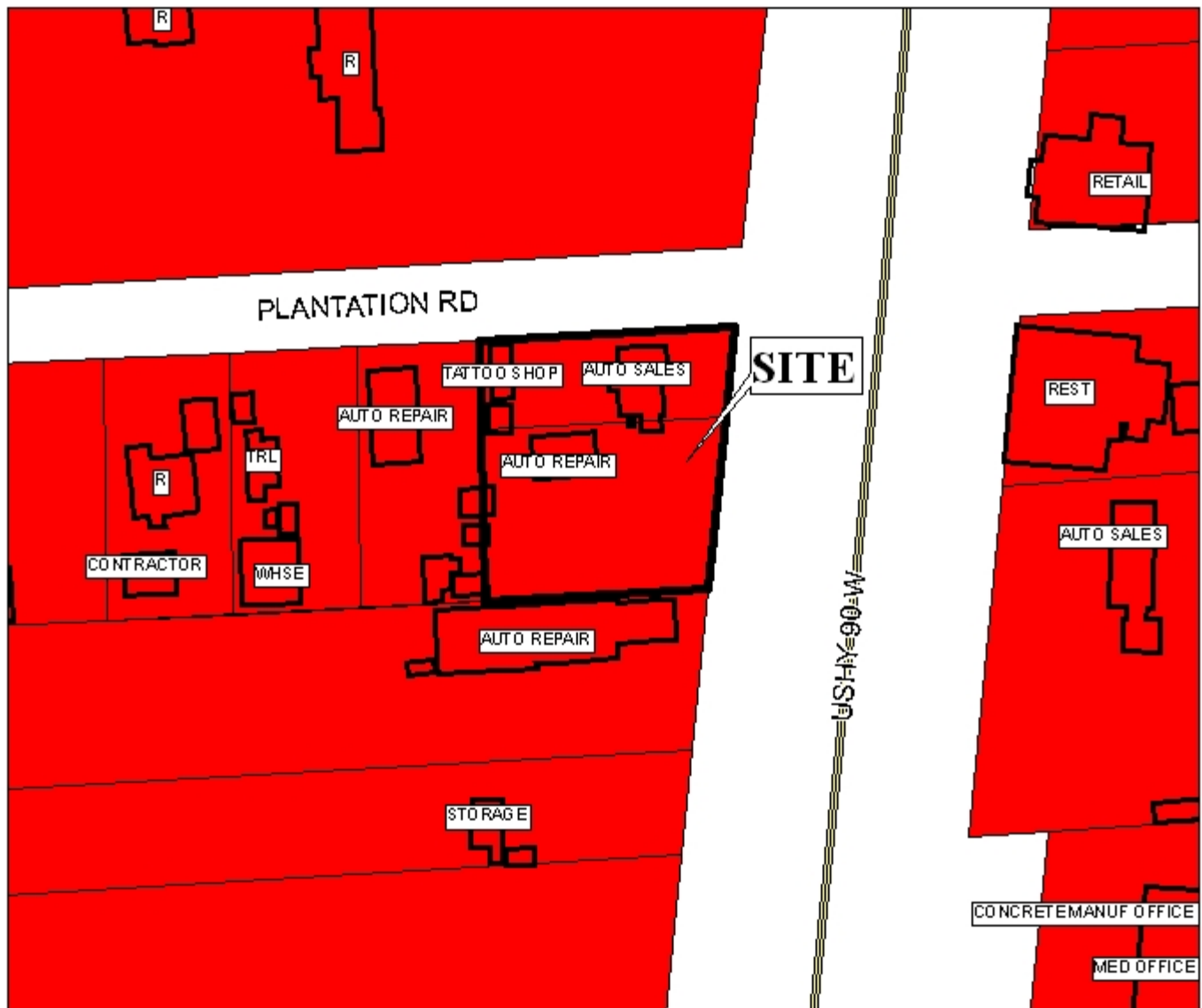
# LOCATOR MAP



APPLICATION NUMBER 5827 DATE May 6, 2013  
APPLICANT H & H Motorcars, Tom Horst, Agent  
REQUEST Access and Parking Surface Variances

N  
NTS

# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial land use.

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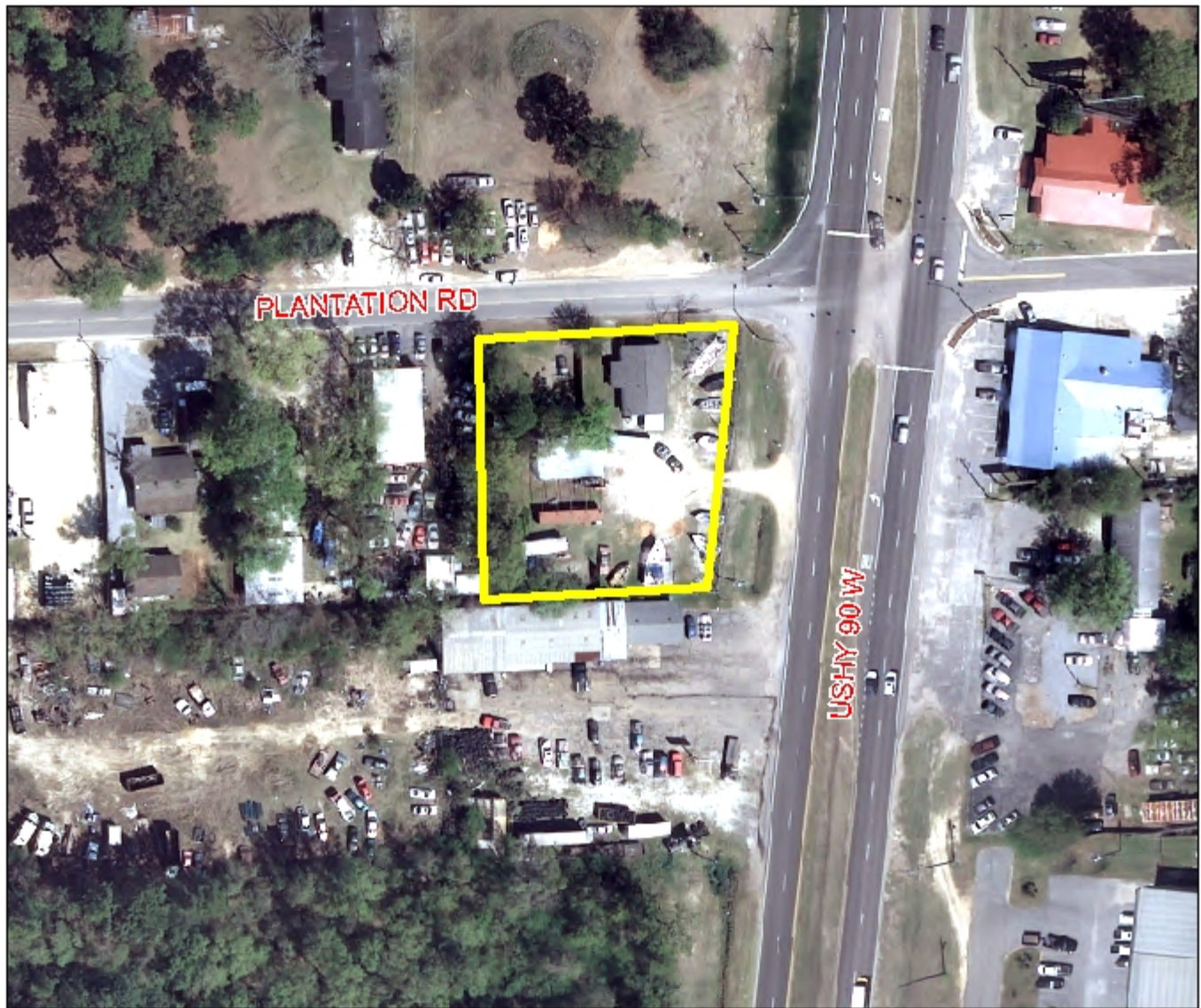
REQUEST Access and Parking Surface Variances

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



# BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING

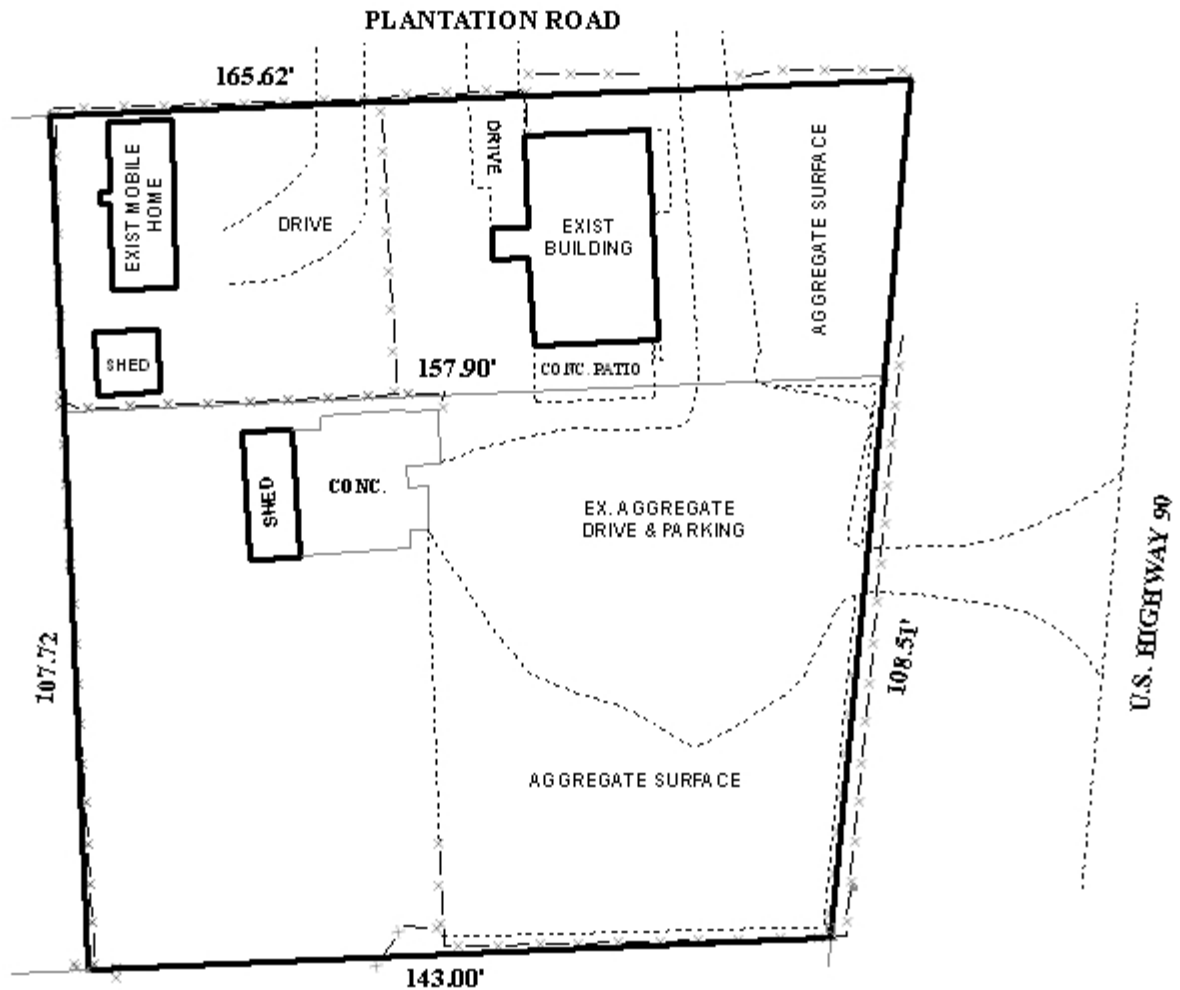


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N  
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# SITE PLAN



The site plan illustrates the existing structures and surfaces.

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N  
  
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