

**BOARD OF ZONING ADJUSTMENT
STAFF REPORT****Date: September 9, 2013****CASE NUMBER**

5856/5366

APPLICANT NAME

3400 Government LLP

LOCATION

1790 West I-65 Service Road South
(West side of West I-65 Service Road South, 270' ± North
of Government Boulevard)

VARIANCE REQUEST

SURFACING: Surfacing Variance to allow aggregate parking surface for parking/vehicle storage in a B-3, Community Business District.

**ZONING ORDINANCE
REQUIREMENT**

SURFACING: The Zoning Ordinance requires concrete, asphaltic concrete, asphalt, or alternative parking surfaces for all parking areas in a B-3, Community Business District.

ZONING

B-3, Community Business

AREA OF PROPERTY

3.2± Acres

**ENGINEERING
COMMENTS**

The surface of all driving and maneuvering areas is required to be paved with asphalt, concrete or an approved surface (Mobile City Code, Chapter 64, Section 64-4). The Engineering Department did not receive any request to review an alternate surface. If the Variance is approved the following conditions should be added:

1. Before beginning any work on this site a Land Disturbance Permit must be submitted and approved. Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
2. According to the FEMA flood map information, this property is located adjacent to a Special Flood Hazard Area and Floodway. Any site work will require a BMP Plan.

**TRAFFIC ENGINEERING
COMMENTS**

No comments.

**CITY COUNCIL
DISTRICT**

District 4

ANALYSIS

The applicant is requesting a Surfacing Variance to allow aggregate parking surface for parking/vehicle storage in a B-3, Community Business District; the Zoning Ordinance requires concrete, asphaltic concrete, asphalt, or alternative parking surfaces for all parking areas in a B-3, Community Business District.

The site is currently used for used car sales and portable building sales. In 2006, a Surface Variance was granted to allow aggregate surfacing for the portable buildings display area, and in 2012, permits were issued for the inclusion of a 50' by 12' trailer further to the South for use as the car sales office. Follow-up inspections on the site revealed inventory vehicles and portable storage buildings located on grassy areas of the site and not on approved surfaces. A Notice of Violation was issued, and now the applicant desires to seek permission to enlarge the aggregate surface area to accommodate the inventory vehicles and portable buildings; hence this application.

The applicant states that porous surfaces are a desirable alternative to traditional asphalt surfaces due to reducing water runoff speed, improving groundwater supply, and reducing non-point source water pollution from runoff. It is further stated that allowing parking on the existing porous surface is particularly beneficial at the site given its proximity to the Montlimar Drainage Canal adjacent to the West. The applicant also states that as the areas for which the variance is sought are primarily used for parking and vehicle/inventory storage, they experience a substantially lower traffic volume and related issues than traditional parking lots which might require an asphalt surface. It is stated that the existing surface has functioned without issues throughout the history of the other businesses which have operated at the site and that the requested surface is common usage by other businesses in the immediate vicinity.

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 refers to other sites within the immediate vicinity having similar parking surfaces. However, only one (across Montlimar Canal) is by variance. All others are either legal nonconforming or have evolved into such use without approvals. A study of aerial photographs as far back as 1975 seems to indicate that the over-all site has had an aggregate surface since at least that time when it was used for mobile home sales and/or storage. But since that surfacing has no history of a variance, and since the vehicle sales and portable building sales now covers almost all of the over-all site, a variance to cover such is required. The proposed re-use of the aggregate surfacing would not be out of character with its original use, especially in light of the fact that the 2006 variance granted such, though for a smaller portion of the over-all site.

Over time, the effect of compaction causes aggregate surfaces to no longer be porous. But uneven compaction leaves porous areas, and since the site is partially used for used vehicle sales, the possibility exists for fluids leakage directly into the soil. As the site is adjacent to a Special Flood Hazard Area and Floodway, according to FEMA flood maps, containment of potential contaminants would be crucial.

Photographs and an on-site inspection indicate that the applicant has inventory vehicles parked within the required front landscaping area. If this variance is granted it should be conditioned upon no parking or inventory display/storage occurring within the required front landscaping area. Other parts of the site should be delineated as required landscaping areas where there is to be no parking of inventory vehicles and storage buildings in order to maintain the required square footage of landscaped area. Since it is assumed that the over-all site was originally aggregate-surfaced and has largely overgrown in most parts with grass, approval of this variance should also be conditioned upon all display and inventory parking and storage not being on any areas which do not have an aggregate base. A revised site plan should be submitted to the Planning Section delineating the required areas of landscaping for which parking and inventory storage building display are denied.

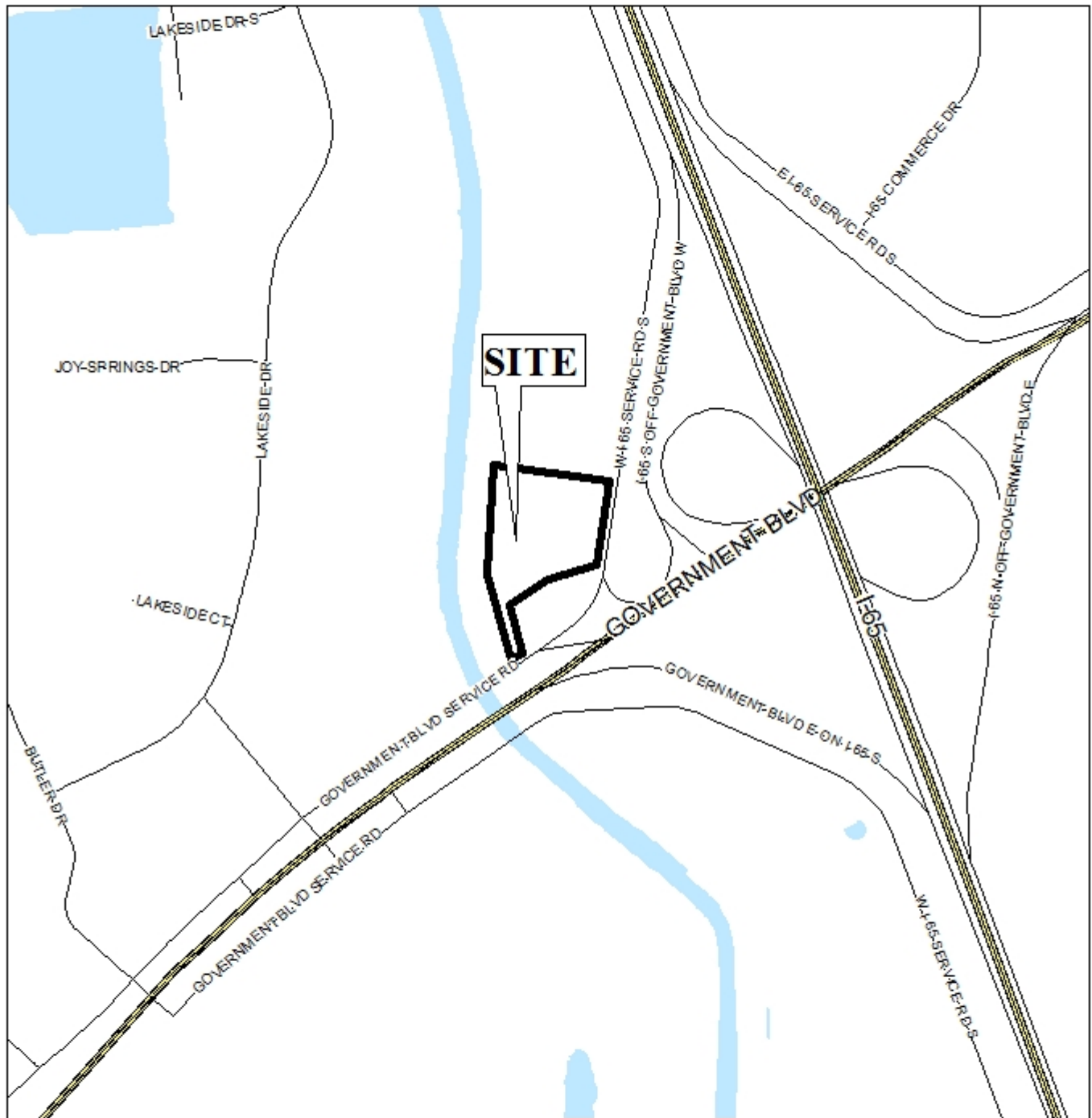
The applicant has not illustrated that a literal enforcement of the Zoning Ordinance would impose an undue hardship. Although the granting of this request would be in keeping with the original surfacing for the site and the granted 2006 Surfacing Variance, the expanded vehicle display area onto aggregate surfacing would cause environmental concerns upon the watershed and the Board should consider this application for denial.

RECOMMENDATION:

Denial.

Based on the preceding, this application is recommend for

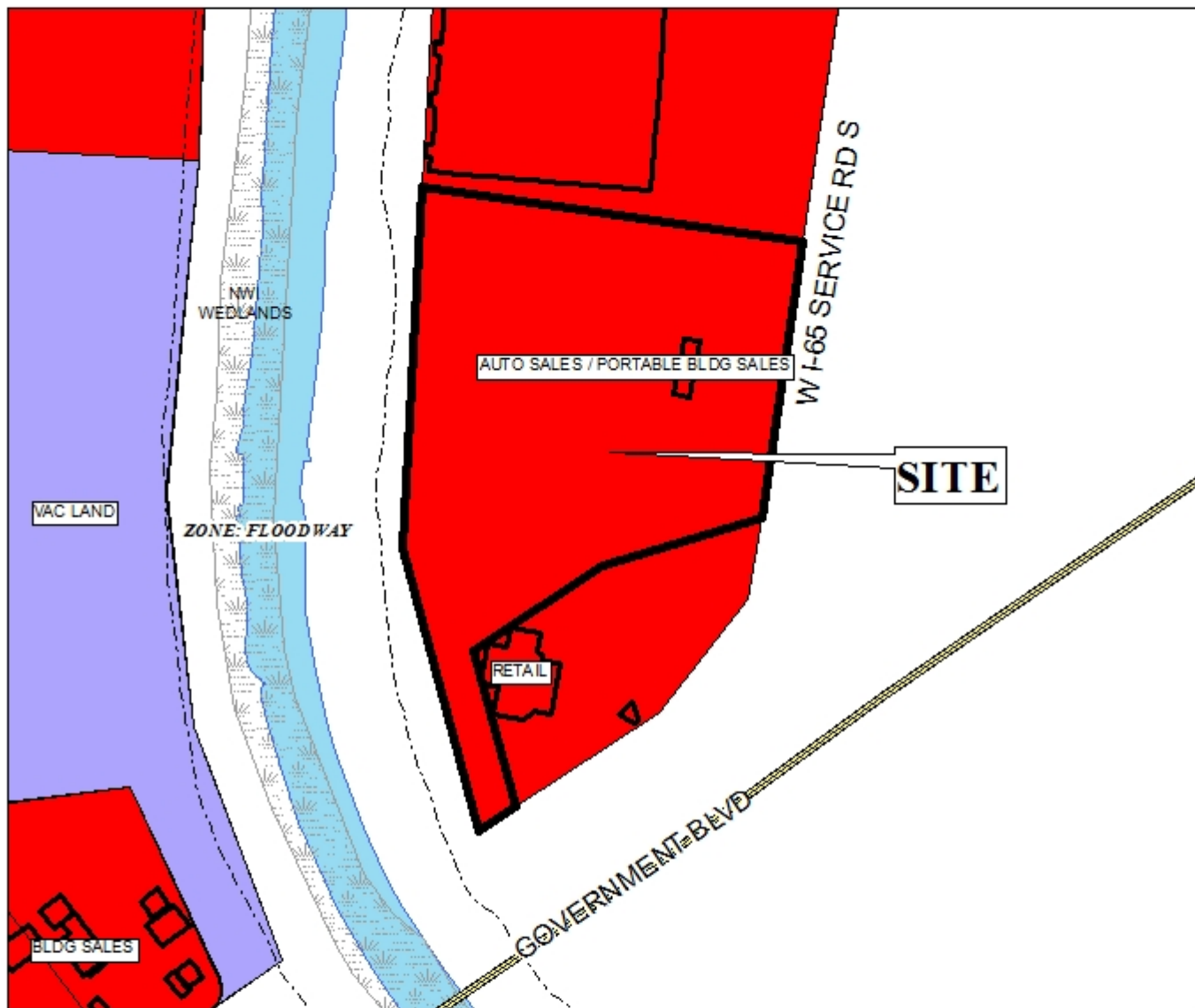
LOCATOR MAP



APPLICATION NUMBER 5856 DATE September 9, 2013
APPLICANT 3400 Government LLP
REQUEST Surfacing Variance



BOARD OF ADJUSTMENT VICINITY MAP - EXISTING ZONING



Retail units are located to the north and south of the site.

APPLICATION NUMBER 5856 DATE September 9, 2013

APPLICANT 3400 Government LLP

REQUEST Surfacing Variance

LEGEND

													NTS	
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

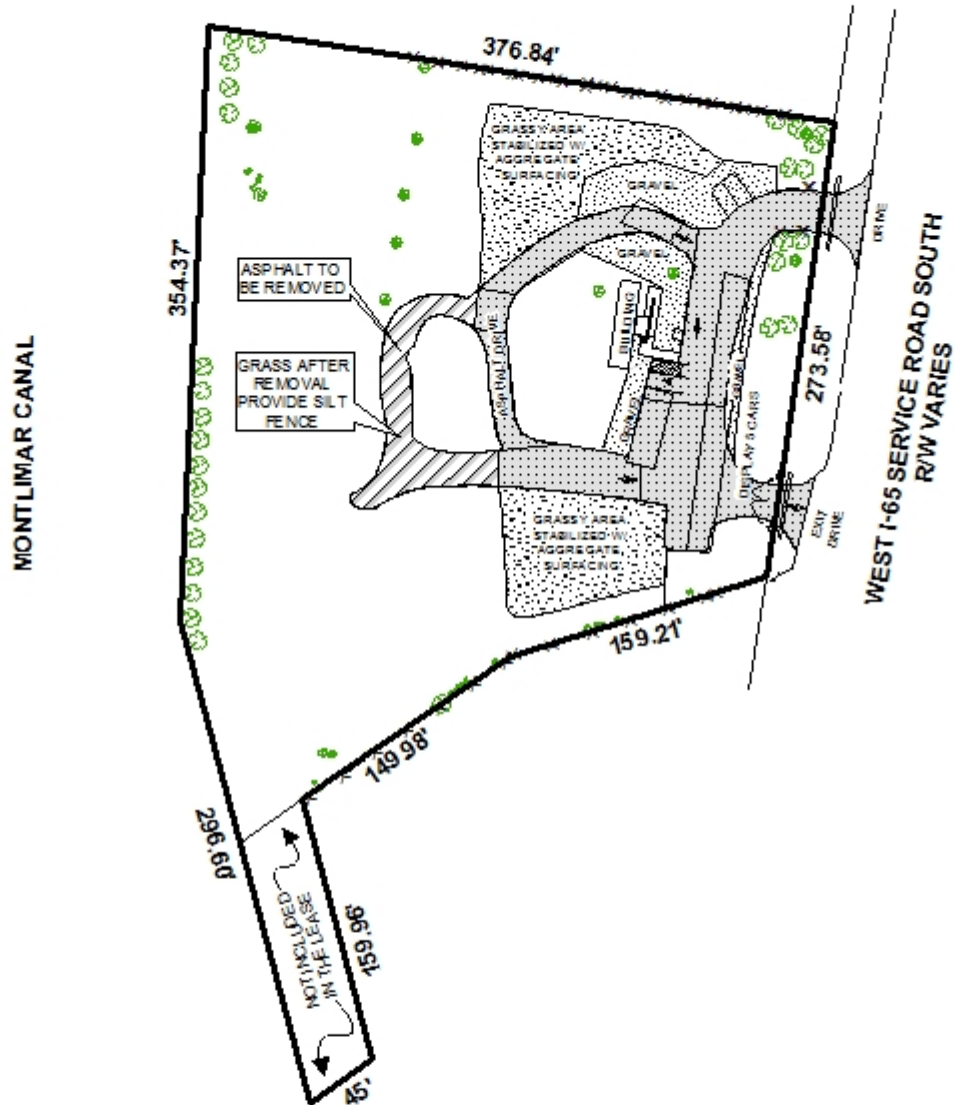


Retail units are located to the north and south of the site.

APPLICATION NUMBER 5856 DATE September 9, 2013
APPLICANT 3400 Government LLP
REQUEST Surfacing Variance



SITE PLAN



The site illustrates the proposed parking, existing building, and its various surfaces

APPLICATION NUMBER 5856 DATE September 9, 2013
 APPLICANT 3400 Government LLP
 REQUEST Surfacing Variance

