

**ZONING AMENDMENT
& SUBDIVISION STAFF REPORT****Date: June 19, 2014****APPLICANT NAME**

C & S Bateh Properties, LLC

SUBDIVISION NAME

C & S Bateh Properties, LLC

LOCATION

East side of Government Boulevard, 964' ± North of Rochelle Street.

**CITY COUNCIL
DISTRICT**

District 4

PRESENT ZONING

R-1, Single-Family Residential District

PROPOSED ZONING

B-3, Community Business District

AREA OF PROPERTY

1 Lot/ 22.7± Acres

CONTEMPLATED USE

Subdivision to create 1 legal lot of record from a metes and bounds parcel, and Zoning to rezone the site from R-1, Single-Family Residential District to B-3, Community Business, to allow a future commercial development.

It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.

**REASON FOR
REZONING**

Applicant is requesting rezoning of the site to allow for future commercial development.

**TIME SCHEDULE
FOR DEVELOPMENT**

None given.

**ENGINEERING
COMMENTS**

Subdivision: The following comments should be addressed prior to acceptance and signature by the City Engineer: A. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with the of the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045), latest edition. Storm water detention may be required for any existing development (since 1984) that did not receive Land Disturbance permitting and for any future addition(s) and/or land disturbing activity. B. Add a note to the SUBDIVISION PLAT stating that as shown on the 1984 aerial photo (FLIGHT 22 - #91) the Lot will receive historical credit of impervious area towards storm water detention requirement per

the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045), latest edition. Coordinate with City Engineering Department staff to establish the exact amount prior to the submittal of the Land Disturbance Permit application. C. Add a note to the Plat stating that the approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. D. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures. E. Add a note that sidewalk is required to be constructed along the frontage of the lot, at time of development, unless a sidewalk waiver is approved. F. Any areas receiving drainage from a public street will require a drainage easement, the width and alignment of any required easement shall be coordinated with, and approved by, the City Engineer. G. Provide a copy of the Final Plat along with the original when submitting for City Engineer's signature.

TRAFFIC ENGINEERING

COMMENTS

Government Blvd (Highway 90) is an ALDOT maintained roadway. Site is limited to one curb-cut, with, size, location and design to be approved by ALDOT and Traffic Engineering and conform to AASHTO standards.

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).

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.

REMARKS

The applicant is requesting Subdivision approval to create one legal lot of record from an existing metes and bounds parcel, and Zoning approval to rezone the site from R-1, Single-Family Residential District to B-3, Community Business District to allow for future commercial development.

The site was previously used to operate a motel that was built prior to the 1967 adoption of the current Zoning Ordinance. In 2002 the motel was demolished, and the site has remained vacant since that time; any non-conforming status has been lost. The owner(s) would like to sell the property as a commercial lot, but in order to do so, they must go through the Rezoning and Subdivision process.

The site is bounded to the South by an existing hotel in an R-1, Single Family Residential District and a contractor storage yard in a B-3, Community Business District. It is bounded to the North by a used motor vehicle sales business in an R-1, Single Family Residential District, to the West by an existing hotel and general offices in a B-2, Neighborhood Business District, and to the East by single family dwelling units in an R-1, Single-Family Residential District.

Subdivision review examines the site with regard to promoting orderly development, protecting general health, safety and welfare, and ensuring that development is correlated with adjacent developments and public utilities and services, and to ensure that the subdivision meets the minimum standards set forth in the Subdivision Regulations for lot size, road frontage, lot configuration, etc.

As stated in Section 64-9. of the Zoning Ordinance, the intent of the Ordinance and corresponding Zoning Map is to carry out the comprehensive planning objective of sound, stable and desirable development. While changes to the Ordinance are anticipated as the city grows, the established public policy is to amend the ordinance only when one or more of the following conditions prevail: 1) there is a manifest error in the Ordinance; 2) changing conditions in a particular area make a change in the Ordinance necessary and desirable; 3) there is a need to increase the number of sites available to business or industry; or 4) the subdivision of land into building sites makes reclassification of the land necessary and desirable.

The site appears to be depicted as both residential and commercial on the General Land Use Component of the Comprehensive Plan, which is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. The accuracy of recommended land uses on the General Land Use Component map is limited due to the large scale of the map. Moreover, the General Land Use Component allows the Planning Commission and City Council to consider individual cases based on additional information such as the classification request, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and zoning classification.

The applicant states the following justification for rezoning:

“The subject property is zoned R-1, but operated a motel for many years. This property is in an area of Government Boulevard that already has B-3 Zoning 80 feet, more or less, to the East and immediately to the West, and has B-2 Zoning all across the street. We submit that there was a manifest error in the ordinance that allowed a motel to operate on an R-1 Zoned property, and we are requesting that this property be rezoned to B-3 in conformance with zoning and uses of adjacent properties.”

While there are R-1 zoned properties to the east of the site, many of the properties in the area have been rezoned from the R-1, Single Family Residential District to commercially zoned properties. Most recently, in 2003, property to the north of the site was rezoned from R-1, Single Family Residential to B-3, and Community Business District along with other sites within the area, indicating a commercial trend for this section of Government Boulevard.

However, it should be pointed out that the site plan submitted with the application does not depict any proposed structures on the site or any proposed development. While a rezoning application is not site plan specific, a site plan illustrating proposed conditions should be provided. Section 64-9.B.2.b of the Zoning Ordinance requires the submitted plot plan to show *“the land area which would be affected, easements bounding and intersecting the designated area, the locations of existing and proposed structures with supporting open facilities, and the ground area to be provided and continuously maintained for the proposed structure or structures.”* The applicant(s) state that *“there are, at present, no plans for this property.”* Although staff can envision the possible change in zoning from R-1 to B-3, staff would ask the

Commission to deny the proposed rezoning until a site plan depicting proposed development is presented; otherwise the rezoning is merely speculative.

The site fronts onto Government Boulevard, a major street as shown on the Major Street Plan Component of the Comprehensive Plan. The preliminary plat depicts Government Boulevard with an adequate 250' right-of-way, thus no dedication will be required.

The site has one existing curb-cut to Government Boulevard. If approved, a note should be placed on the Final Plat limiting the site to one curb-cut to Government Boulevard with any changes to the size, design, and location to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards.

The lot size is labeled in square feet and acres. If approved, the lot size in square feet and acres should be retained on the Final Plat.

The 25-foot minimum building setback line is depicted on the preliminary plat and should be retained on the Final Plat, if approved.

It should be noted, due to the fact the site abuts residential property, that a 6' high 10' wide vegetation buffer or 6' high wooden privacy fence will be required where the site abuts residential property at the time of development.

A sidewalk is not depicted on the zoning site plan. Prior to any development of the site, the applicant should submit a sidewalk waiver or provide a sidewalk at time of development as required by the Subdivision Regulations.

Finally, the geographic area defined by the city of Mobile and its planning jurisdiction, including this site, may contain Federally-listed threatened or endangered species as well as protected non-game species. Development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.

RECOMMENDATION

Subdivision: The Subdivision request is recommended for Tentative Approval, subject to the following conditions:

- 1) retention of the right-of-way width of Government Boulevard on the Final Plat;
- 2) retention of the labeling of the lot size in square feet and acres on the Final Plat;
- 3) retention of the 25-foot minimum building line to be depicted along Government Boulevard on the Final Plat;
- 4) prior to any development of the site, the applicant should submit a sidewalk waiver or provide a sidewalk at time of development as required by the Subdivision Regulations.
- 5) placement of a note on the Final Plat stating that a buffer in compliance with Section V.A.8. of the Subdivision Regulations will be required at the time of development;
- 6) placement of a note on the Final Plat stating that the lot is limited to one curb-cut to Government Boulevard with any changes to the size, design, and location to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;

- 7) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.
- 8) compliance with Engineering comments: *“The following comments should be addressed prior to acceptance and signature by the City Engineer: A. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with the of the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045), latest edition. Storm water detention may be required for any existing development (since 1984) that did not receive Land Disturbance permitting and for any future addition(s) and/or land disturbing activity. B. Add a note to the SUBDIVISION PLAT stating that as shown on the 1984 aerial photo (FLIGHT 22 - #91) the Lot will receive historical credit of impervious area towards storm water detention requirement per the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045), latest edition. Coordinate with City Engineering Department staff to establish the exact amount prior to the submittal of the Land Disturbance Permit application. C. Add a note to the Plat stating that the approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. D. Provide the Surveyor’s, Owner’s (notarized), Planning Commission, and Traffic Engineering signatures. E. Add a note that sidewalk is required to be constructed along the frontage of the lot, at time of development, unless a sidewalk waiver is approved. F. Any areas receiving drainage from a public street will require a drainage easement, the width and alignment of any required easement shall be coordinated with, and approved by, the City Engineer. G. Provide a copy of the Final Plat along with the original when submitting for City Engineer’s signature.”*
- 9) compliance with Traffic Engineering comments: *“Government Blvd (Highway 90) is an ALDOT maintained roadway. Site is limited to one curb-cut, with, size, location and design to be approved by ALDOT and Traffic Engineering and conform to AASHTO standards. ”;*
- 10) compliance with 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).”; and*
- 11) compliance with 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.”*

Rezoning: Based upon the preceding, this application is recommended for denial based on the following conditions:

- 1) the justification for rezoning submitted does not correspond with the four reasons specified in Section 64-9 of the Zoning Ordinance, as no development is proposed for this site, and the previous commercial use supporting a “manifest error” claim has been removed from the site.

Revised for the July 3rd meeting:

This application was heldover from the June 19th meeting at the applicants' request. There has been no additional information submitted; thus staff's previous recommendations for approval of the subdivision and denial of the rezoning still stand.

RECOMMENDATION

Subdivision: *The Subdivision request is recommended for Tentative Approval, subject to the following conditions:*

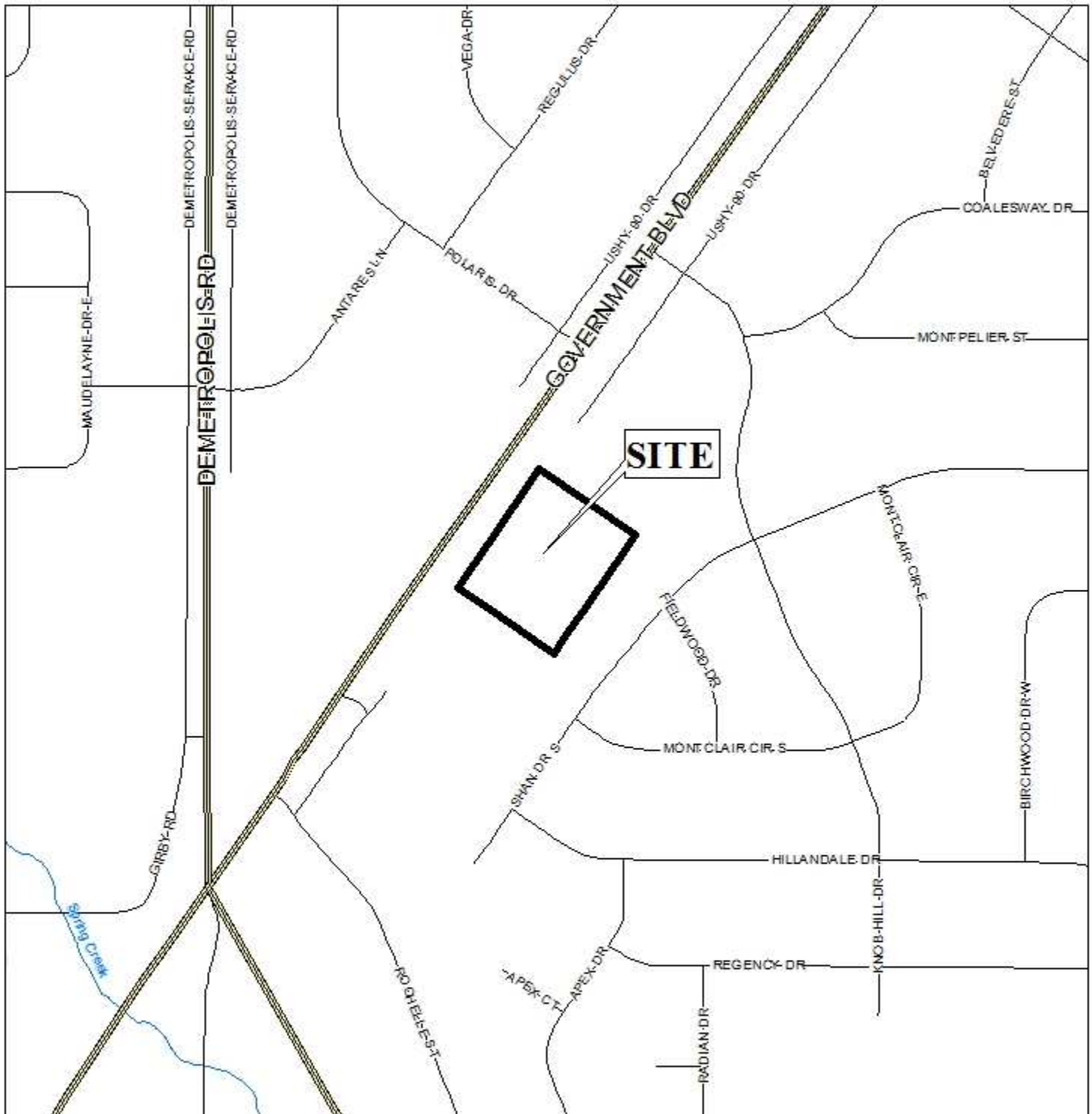
- 1) retention of the right-of-way width of Government Boulevard on the Final Plat;*
- 2) retention of the labeling of the lot size in square feet and acres on the Final Plat;*
- 3) retention of the 25-foot minimum building line to be depicted along Government Boulevard on the Final Plat;*
- 4) prior to any development of the site, the applicant should submit a sidewalk waiver or provide a sidewalk at time of development as required by the Subdivision Regulations.*
- 5) placement of a note on the Final Plat stating that a buffer in compliance with Section V.A.8. of the Subdivision Regulations will be required at the time of development;*
- 6) placement of a note on the Final Plat stating that the lot is limited to one curb-cut to Government Boulevard with any changes to the size, design, and location to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;*
- 7) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.*
- 8) compliance with Engineering comments: "The following comments should be addressed prior to acceptance and signature by the City Engineer: A. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with the of the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045), latest edition. Storm water detention may be required for any existing development (since 1984) that did not receive Land Disturbance permitting and for any future addition(s) and/or land disturbing activity. B. Add a note to the SUBDIVISION PLAT stating that as shown on the 1984 aerial photo (FLIGHT 22 - #91) the Lot will receive historical credit of impervious area towards storm water detention requirement per the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045), latest edition. Coordinate with City Engineering Department staff to establish the exact amount prior to the submittal of the Land Disturbance Permit application. C. Add a note to the Plat stating that the approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. D. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures. E. Add a note that sidewalk is required to be constructed along the frontage of the lot, at time of development, unless a sidewalk waiver is approved. F. Any areas receiving drainage from a public street will require a drainage easement, the width and alignment of any required easement shall be coordinated with, and approved by, the City Engineer. G. Provide a copy of the Final Plat along with the original when submitting for City Engineer's signature."*

- 9) *compliance with Traffic Engineering comments: "Government Blvd (Highway 90) is an ALDOT maintained roadway. Site is limited to one curb-cut, with, size, location and design to be approved by ALDOT and Traffic Engineering and conform to AASHTO standards. ";*
- 10) *compliance with 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)."; and*
- 11) *compliance with 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."*

Rezoning: *Based upon the preceding, this application is recommended for denial based on the following conditions:*

- 1) *the justification for rezoning submitted does not correspond with the four reasons specified in Section 64-9 of the Zoning Ordinance, as no development is proposed for this site, and the previous commercial use supporting a "manifest error" claim has been removed from the site.*

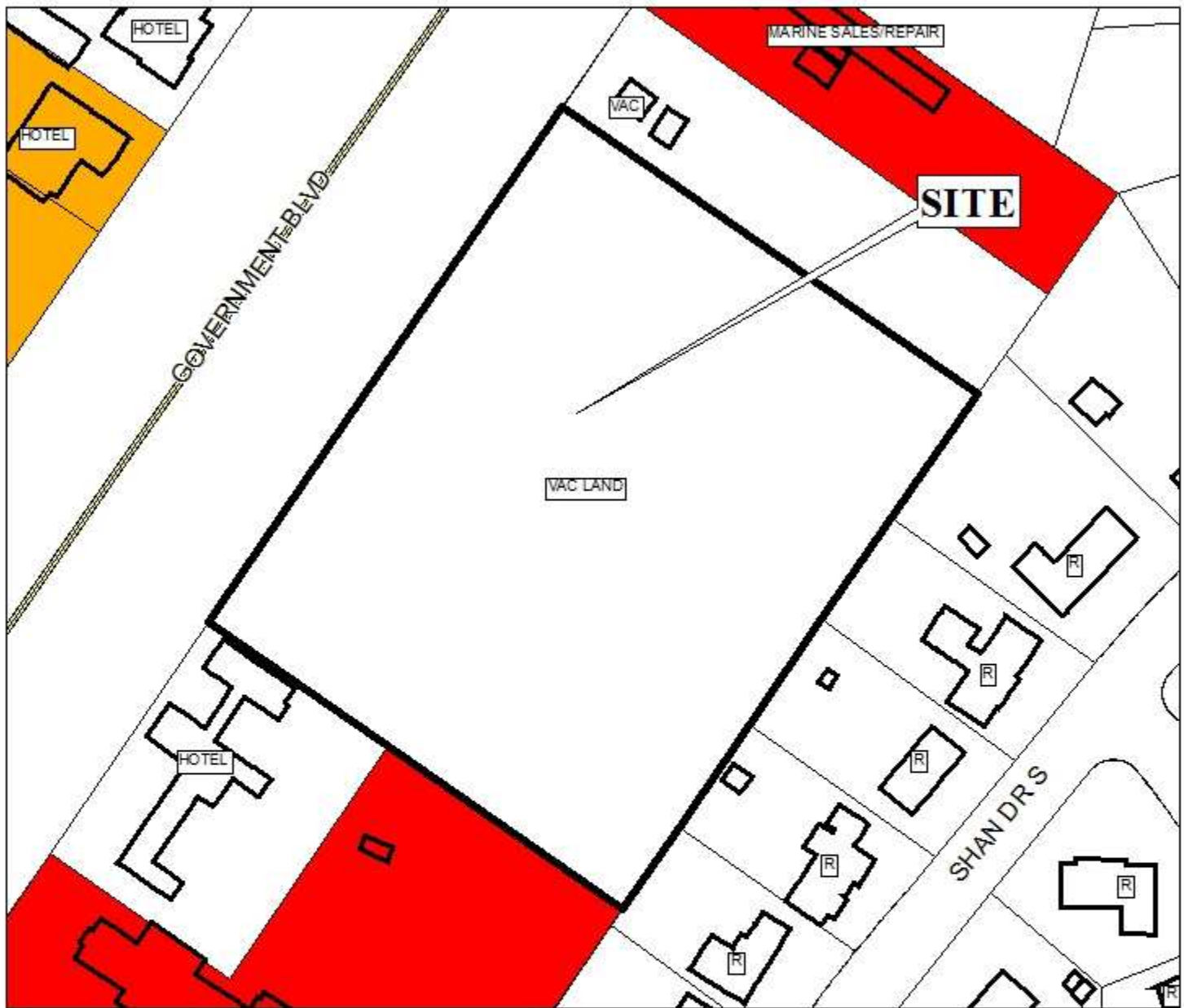
LOCATOR MAP



APPLICATION NUMBER 1 & 2 DATE July 3, 2014
APPLICANT Government Boulevard Subdivision, Bateh Addition to
REQUEST Subdivision, Rezoning from R-1 to B-3



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units to the north, south, and west. Single family residential units lie east of the site.

APPLICATION NUMBER 1 & 2 DATE July 3, 2014
 APPLICANT Government Boulevard Subdivision, Bateh Addition to
 REQUEST Subdivision, Rezoning from R-1 to B-3

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 |



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

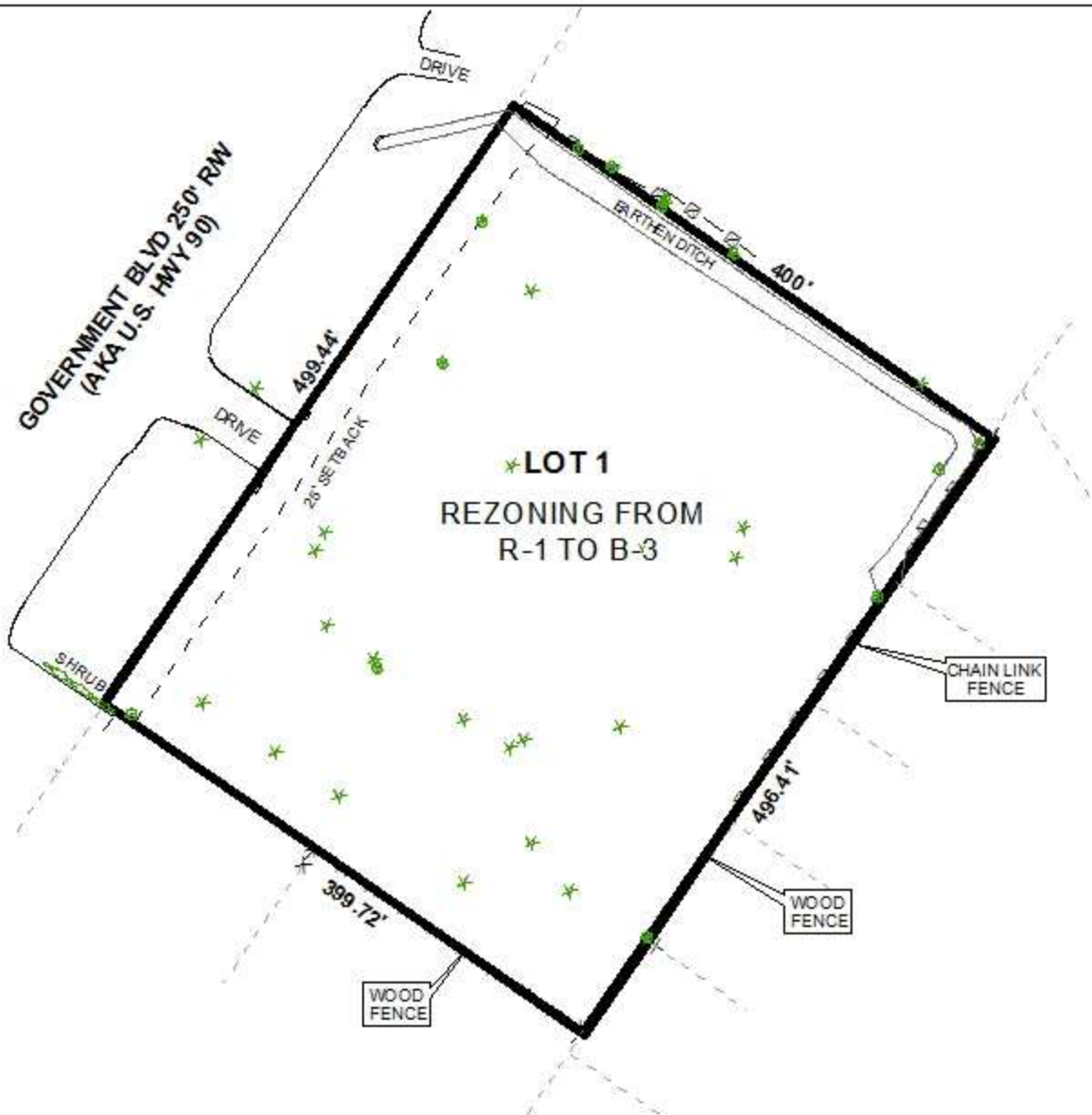


The site is surrounded by commercial units to the north, south, and west. Single family residential units lie east of the site.

APPLICATION NUMBER 1 & 2 DATE July 3, 2014
APPLICANT Government Boulevard Subdivision, Bateh Addition to
REQUEST Subdivision, Rezoning from R-1 to B-3



SITE PLAN



The site plan illustrates the setback, trees, fences, and drive.

APPLICATION NUMBER 1 & 2 DATE July 3, 2014
APPLICANT Government Boulevard Subdivision, Bateh Addition to
REQUEST Subdivision, Rezoning from R-1 to B-3

