

**ZONING AMENDMENT,
PLANNED UNIT DEVELOPMENT &
SUBDIVISION STAFF REPORT**

Date: September 15, 2011

<u>NAME</u>	Mr. Rooter Plumbing
<u>SUBDIVISION NAME</u>	Mr. Rooter Subdivision
<u>LOCATION</u>	2409 Wolf Ridge Road (Southwest corner of Wolf Ridge Road and Feed Mill Road [private street]).
<u>CITY COUNCIL DISTRICT</u>	District 1
<u>PRESENT ZONING</u>	R-1, Single-Family Residential District
<u>PROPOSED ZONING</u>	B-3, Community Business District
<u>REASON FOR REZONING</u>	Changing conditions.
<u>AREA OF PROPERTY</u>	3.4 Acres ±
<u>CONTEMPLATED USE</u>	<p>Subdivision approval to create one legal lot of record from an existing metes-and-bounds parcel, Planned Unit Development Approval to allow multiple buildings on a single building site with shared access between multiple building sites, and Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow a commercial plumbing business.</p> <p>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.</p>
<u>TIME SCHEDULE</u>	Currently being used.

ENGINEERING

COMMENTS

If the proposed improvements increase the total impervious area of the site to over 4,000 square feet the owner will be required to provide on-site detention. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.

TRAFFIC ENGINEERING

COMMENTS

Driveway number, size, location, and design to be approved by 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).

MAWSS COMMENTS

MAWSS has only water services available.

Preservation status is to be given to the 48" Live Oak Tree located on the Lot along Wolf Ridge Road. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

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, Planned Unit Development Approval to allow multiple buildings on a single building site with shared access between multiple building sites, and Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow a commercial plumbing business. The property had been used as a single-family residence until 2006, when the applicant purchased it. At some time after the purchase, the applicant began to use the site for a plumbing business and obtained a home occupation business license in April, 2009. In February, 2011, it was discovered by Planning Staff that the site was not being used as a home occupation, but actually a full-scale commercial operation developed without any of the required plan reviews, permits, or Zoning approvals. The applicant attempted to obtain variances for the use and various site non-compliance issues, but was denied such by the Board of Zoning Adjustment in July, 2011. Now, Rezoning with associated Subdivision and Planned Unit Development approvals is sought.

The site plan/preliminary plat submitted has many deficiencies which can be bundled into a common review of revisions required before an in-depth analysis for the viability of the individual applications can be attempted.

The proposed lot meets the minimum size requirements, as regulated by the Subdivision Regulations. However, Wolf Ridge is indicated to currently have a 70' right-of-way width. As this is a component of the Major Street Plan with a planned 100' right-of-way, dedication would be required to provide 50' from the centerline of Wolf Ridge Road, with the 25' minimum building setback measured from any required dedication. As this would impact structures placed near the front along Wolf Ridge Road without proper permits after the applicant's purchase, the plat should be revised to indicate the un-permitted structures relocated to a compliant location on the site. The proposed 6' high wood privacy fence should also be relocated to meet the required setback after dedication.

Access management is also a concern. The plat illustrates a substandard 10' wide driveway along Wolf Ridge Road leading to a 2-stall substandard parking area. The driveway should be revised to a compliant 24' width with a compliant parking area outside of the required dedication. Since the site shares access to other commercial and residential sites in the area via Feed Mill Road, a private street with a substandard 30' right-of-way, and the fact that the owner of the street does not wish to participate in the P.U.D., such access to Feed Mill Road cannot be considered. Therefore, the site plan should be revised to eliminate all access to Feed Mill Road. The parking area associated with the Feed Mill Road entrance should be incorporated into any parking area associated with a revised Wolf Ridge Road access. The gravel pavement should be revised to compliant paving as gravel surfaces are not allowed in B-3 districts.

The site plan does not indicate a dumpster, a sidewalk along Wolf Ridge Road, landscaping calculations, tree planting, or parking calculations. For the Planned Unit Development and Rezoning, the site plan should be revised to include such.

Due to the many deficiencies found in the site plan/preliminary plat, this application should be heldover to the meeting of October 20th to allow the applicant to make necessary revisions.

RECOMMENDATION

Subdivision: The Subdivision request is recommended for Holdover until the October 20, 2011, meeting, with revisions due to the Planning Section by September 26, 2011, to address the following:

- 1) revision of the plat to provide dedication of 50' from the centerline of Wolf Ridge Road;
- 2) revision of the plat to illustrate the 25' minimum building setback line along Wolf Ridge Road as measured from any required dedication; and
- 3) revision of the plat to indicate the lot size after dedication.

Planned Unit Development: The Planned Unit Development request is recommended for Holdover until the October 20, 2011, meeting, with revisions due to the Planning Section by September 26, 2011, to address the following:

- 1) revision of the site plan to provide dedication of 50' from the centerline of Wolf Ridge Road;
- 2) revision of the site plan to illustrate the 25' minimum building setback line along Wolf Ridge Road as measured from any required dedication;
- 3) revision of the site plan to relocate un-permitted structures to a compliant location on the site meeting the revised 25' minimum building setback;
- 4) revision of the site plan to relocate the 6' wood privacy fence along Wolf Ridge Road to a compliant location on the site meeting the revised 25' minimum building setback;
- 5) revision of the 10' driveway along Wolf Ridge Road to a compliant 24' width;
- 6) revision of the front parking area to be out of any required dedication;
- 7) revision of the site plan to eliminate any access to Feed Mill Road;
- 8) revision of the site plan to incorporate the parking area off Feed Mill Road into any parking area associated with a revised Wolf Ridge Road access;
- 9) revision of the site plan to indicate compliant paved parking in the area indicated as gravel parking;
- 10) revision of the site plan to include a compliant dumpster, or the placement of a note on the site plan stating that refuse service will be either private or curbside;
- 11) revision of the site plan to indicate a compliant City-standard sidewalk along Wolf Ridge Road;
- 12) revision of the site plan to include landscaping area calculations; and
- 13) revision of the site plan to include required parking calculations.

Rezoning: The rezoning request is recommended for Holdover until the October 20, 2011, meeting, with revisions due to the Planning Section by September 26, 2011, to address the following:

- 1) revision of the site plan to accommodate the PUD and Subdivision revisions.

Revised for the October 20th meeting:

These applications were heldover from the September 15th meeting to allow the applicant to make required revisions to the site plan/preliminary plat to correct numerous deficiencies, with revisions due to Planning by September 26th. As no revisions or additional information has been submitted as required, an in-depth analysis for the viability of the individual applications cannot be attempted. Therefore, all applications should be considered for denial.

RECOMMENDATION

Subdivision: *The Subdivision request is recommended for denial for the following reasons:*

- 1) the revisions to the preliminary plat were not submitted as required;*
- 2) dedication of right-of-way along Wolf Ridge Road is not provided; and*
- 3) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Planned Unit Development: *The Planned Unit Development request is recommended for denial for the following reasons:*

- 1) the revisions to the site plan were not submitted as required;*
- 2) the site plan does not comply with the requirements of the Zoning Ordinance; and*
- 3) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Rezoning: *The Rezoning request is recommended for denial for the following reasons:*

- 1) the revisions to the site plan were not submitted as required; and*
- 2) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Revised for the November 17th meeting:

These applications were heldover from the October 20th meeting at the applicant's request with revisions due to Planning by November 3rd. As there still have been no revisions or additional information submitted as required at the September 15th and October 20th meetings, an in-depth analysis for the viability of the individual applications cannot be attempted. Therefore, all applications should be considered for denial.

RECOMMENDATION

Subdivision: *The Subdivision request is recommended for denial for the following reasons:*

- 1) the revisions to the preliminary plat were not submitted as required;*
- 2) dedication of right-of-way along Wolf Ridge Road is not provided; and*
- 3) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Planned Unit Development: *The Planned Unit Development request is recommended for denial for the following reasons:*

- 1) the revisions to the site plan were not submitted as required;*
- 2) the site plan does not comply with the requirements of the Zoning Ordinance; and*
- 3) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Rezoning: *The Rezoning request is recommended for denial for the following reasons:*

- 1) the revisions to the site plan were not submitted as required; and*
- 2) insufficient information was submitted for staff to conduct an in-depth analysis of the viability of the application.*

Revised for the December 15th meeting:

This application was heldover from the November 17th meeting at the applicant's request. A revised plat/site plan and narrative have been submitted by the applicant's professional.

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.

The revised Subdivision plat addresses the major concerns which prompted the original holdover for this application. Dedication is indicated to provide 50' from the centerline of Wolf Ridge Road, and the 25' minimum building setback line has been revised to be measured from the required dedication. As the lot would have over 200' of frontage along Wolf Ridge Road, a note should be required on the final Plat stating that the lot is limited to two curb cuts to Wolf Ridge Road, with the size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. As Feed Mill Road is a private street, a note should be required on the Final Plat stating that direct access to Feed Mill Road is denied until such time it becomes a public right-of-way developed to City standards.

The lot is not labeled with its size on the plat; therefore, the plat should be revised to label the lot with its size in acres and square feet, after any required dedication, or a table should be furnished on the Final Plat providing the same information.

The geographic area defined by the City of Mobile and its planning jurisdiction, including this site, may contain Federally-listed threatened or endangered specie 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.

Planned Unit Development review examines the site with regard to its location to ensure that it is generally compatible with neighboring uses; that adequate access is provided without generating excess traffic along minor residential streets in residential districts outside the PUD; and that natural features of the site are taken into consideration. PUD review also examines the design of the development to provide for adequate circulation within the development; to ensure adequate access for emergency vehicles; and to consider and provide for protection from adverse effects of adjacent properties as well as provide protection of adjacent properties from adverse effects from the PUD. PUD approval is site plan specific, thus if any new construction is anticipated that will change an approved site plan, an application to amend an existing, approved PUD must be made prior to any construction activities.

The revised site plan addresses the major concerns which prompted the original holdover for the PUD application. Dedication has been indicated along Wolf Ridge Road and the 25' minimum building setback has been revised accordingly. All un-permitted structures, fences, and parking areas are indicated to be relocated to compliant locations on-site meeting setbacks and/or allowing for frontage dedication. The driveway off Wolf Ridge Road is indicated to be a compliant 24' width, and the gate for such is indicated to be automatic; therefore, no vehicle stacking area would be required. Parking areas are indicated to be paved and compliant, and direct access to Feed Mill Road has been eliminated. A dumpster is not proposed; however a note on the site plan states that garbage will be placed in cans and removed either via private or public collection services. Although no frontage sidewalk is indicated, a note on the site plan indicates that a Sidewalk Waiver will be applied for if the PUD is approved or constructed if the Sidewalk Waiver is denied. The site plan also includes compliant landscaping, tree planting, and parking ratio calculations.

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 is depicted as residential 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 site is surrounded entirely by R-1 zoning with some B-3, I-1, and I-2 uses inter-mixed. All commercial uses within the area are legal nonconforming and have existed for many years. There are no nonconforming uses within the area which have been granted variances to operate and there have been no rezonings for commercial uses within the immediate area. The applicant states that the existing use of the site as a plumbing contractor is the “softest” of the existing uses and that the existence of a dirt pit in the rear of the site is a definite deterrent to any future R-1 use of the site. It is further stated that the changes in conditions within the area justify the rezoning and uphold the spirit and intent of the zoning Ordinance.

The applicant’s argument that the existing use of the site is the “softest” in the area cannot be credibly used as justification for the rezoning as the use was falsely portrayed by the applicant as a home occupation business, expanded without any permits or zoning approvals, and the subsequent Use Variance request for its continued use was denied by the Board of Zoning Adjustment. And there have never been any Use Variances or rezonings granted within the area which would qualify as changing conditions to justify this particular rezoning. The rezoning of this one particular site would create spot-zoning within the area which is primarily residential in nature. Although the site plan has been revised to address the concerns lacking in the original submittal, the argument to justify the rezoning is insufficient.

RECOMMENDATION

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

- 1) dedication to provide 50’ from the centerline of Wolf Ridge Road;*
- 2) illustration of the 25’ minimum building setback line as measured from any required dedication;*
- 3) placement of a note on the Final Plat stating that the lot is limited to two curb cuts to Wolf Ridge Road, with the size, location and design to be approved by Traffic Engineering and conform to AASHTO standards;*
- 4) placement of a note on the Final Plat stating that direct access to Feed Mill Road is denied until such time that it becomes a public right-of-way developed to City standards;*
- 5) labeling of the lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;*
- 6) 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;*
- 7) provision of a revised PUD site plan, if necessary, prior to permitting; and*
- 8) subject to the Engineering comments: (If the proposed improvements increase the total impervious area of the site to over 4,000 square feet the owner will be required to provide on-site detention. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit.*

Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer).

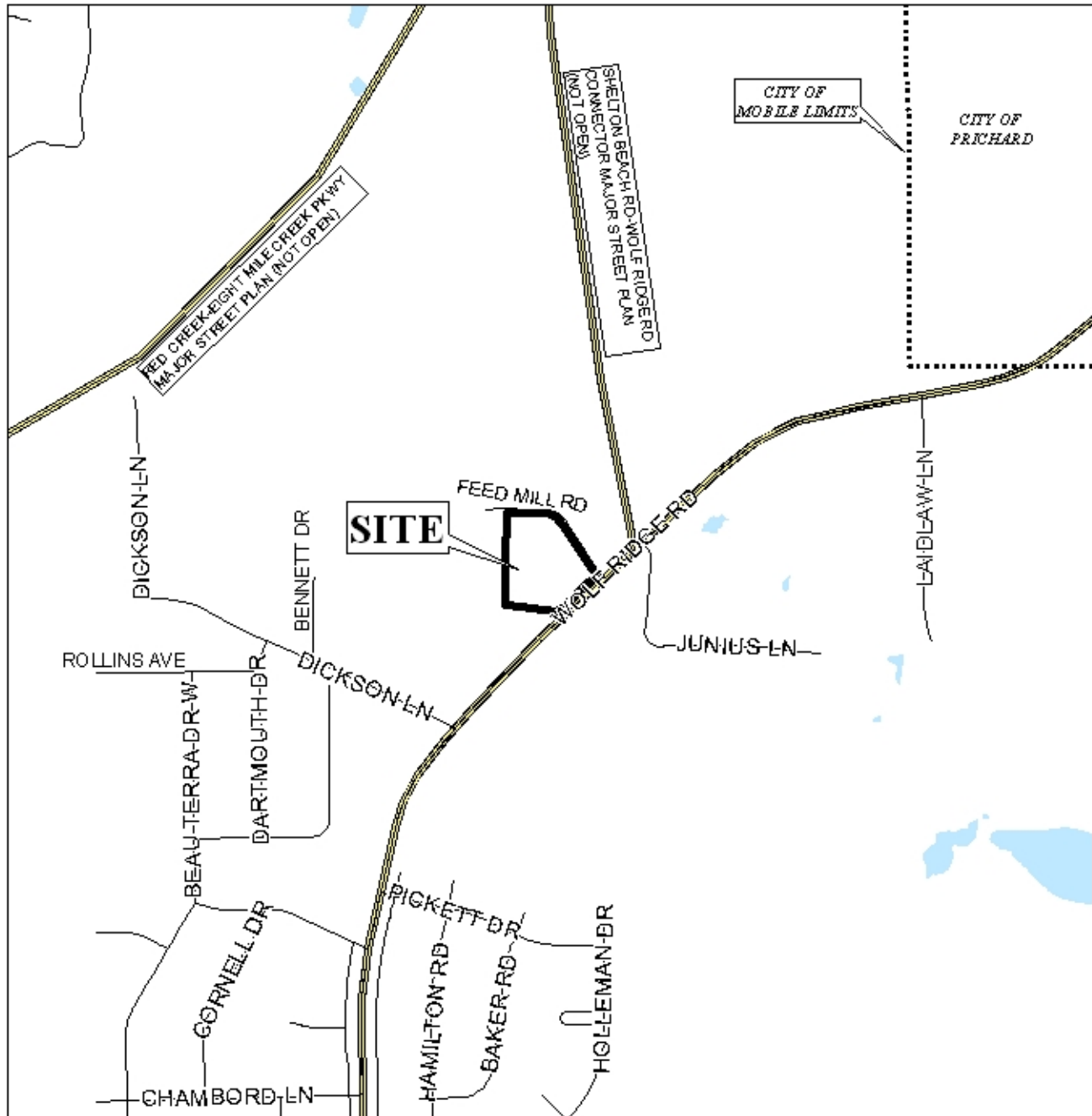
Planned Unit Development: *The Planned Unit Development request is recommended for denial for the following reason:*

- 1) the PUD is for a commercial development dependent upon rezoning which is not recommended for approval.*

Rezoning: *The Rezoning request is recommended for denial for the following reasons:*

- 1) changing conditions within the area which would justify the rezoning have not been demonstrated; and*
- 2) the rezoning would create a spot-zoning situation within the area.*

LOCATOR MAP



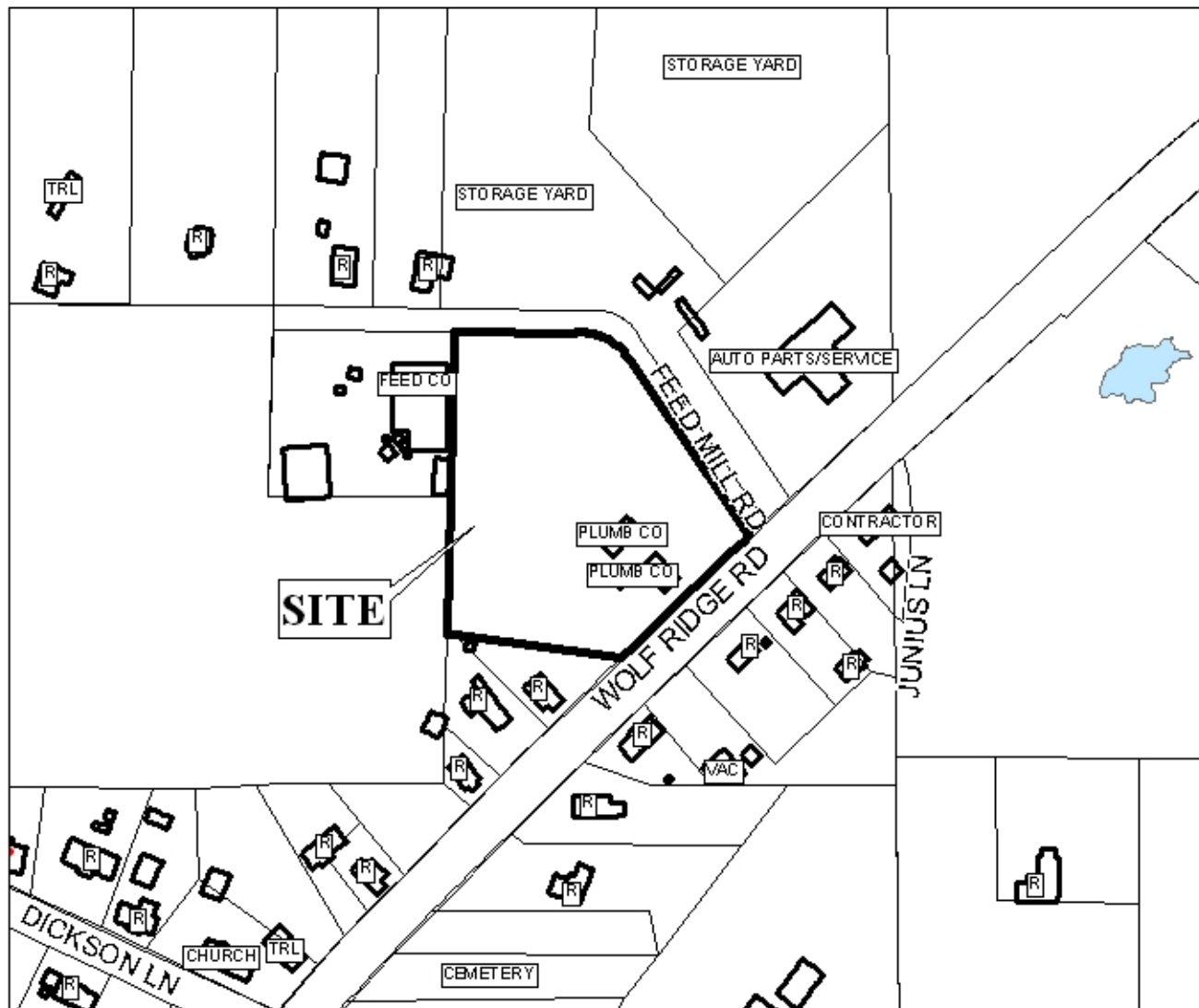
APPLICATION NUMBER 5,6 & 7 DATE December 15, 2011

APPLICANT Mr. Rooter Plumbing

REQUEST Subdivision, PUD, Rezoning from R-1 to B-3



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



There is an auto repair business to the northeast of the site, single family residential units are to the south and southeast, and a storage yard is to the north.

APPLICATION NUMBER 5,6 & 7 DATE December 15, 2011

APPLICANT Mr. Rooter Plumbing

REQUEST Subdivision, PUD, 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
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PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



There is an auto repair business to the northeast of the site, single family residential units are to the south and southeast, and a storage yard is to the north.

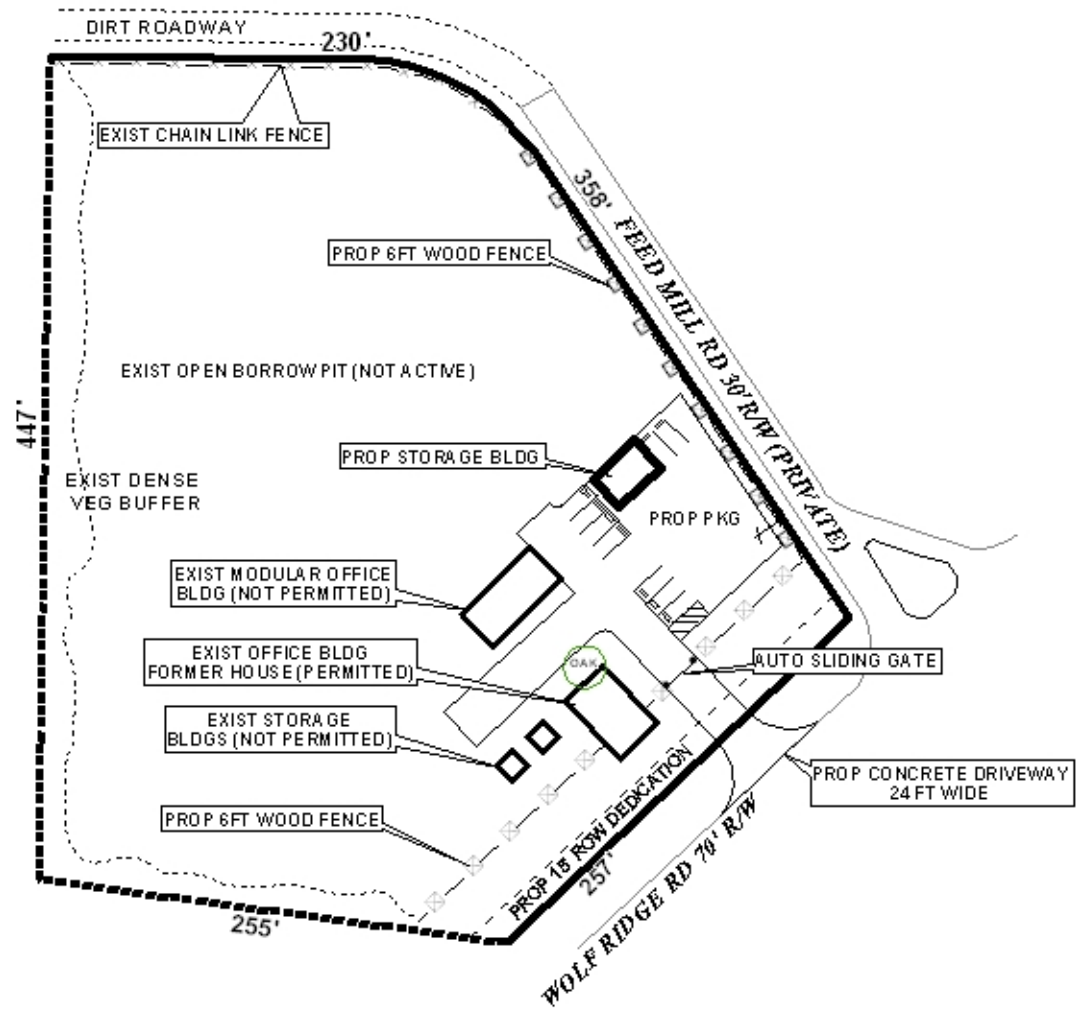
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REQUEST Subdivision, PUD, Rezoning from R-1 to B-3



SITE PLAN



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

APPLICATION NUMBER 5,6 & 7 DATE December 15, 2011

APPLICANT Mr. Rooter Plumbing

REQUEST Subdivision, PUD, Rezoning from R-1 to B-3

