



Agenda Item # 7

ZON-CUP-002803

View additional details on this proposal and all application materials using the following link:

[Applicant Materials for Consideration](#)

DETAILS

Location:

5032 Government Boulevard

Property Owner:

Deborah May

Current Zoning:

R-1, Single-Family Residential Suburban

Future Land Use:

Low Density Residential

Applicable Codes, Policies, and Plans:

- Unified Development Code
- Subdivision Regulations
- Map for Mobile Comprehensive Plan

Proposal:

- Conditional Use Permit to allow a home-based daycare for 10 children in an R-1, Single-Family Suburban District.

Commission Considerations:

1. To allow a home-based daycare for 10 children with four (4) conditions.


Report Contents:

	Page
Context Map	2
Site History	3
Staff Comments	3
Commission Considerations	4
Exhibits	7

PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL



The site is surrounded by single family residential units.

APPLICATION NUMBER <u> 7 </u> DATE <u>February 22, 2024</u>	 NTS
APPLICANT <u>Deborah May</u>	
REQUEST <u>Conditional Use Permit</u>	

SITE HISTORY

The site is part of the 95-lot Lansdowne Subdivision, Unit One, which was approved by the Planning Commission in January 1972 and subsequently recorded in Mobile County Probate Court.

At its July 1998 meeting, the Board of Zoning Adjustment denied a variance request to allow a home-based day care for 12 children. The Board denied a similar request for a home-based day care for 10 children at its August 2022 meeting. Staff does not find evidence that the denials were appealed.

STAFF COMMENTS

Engineering Comments:

No comments.

Traffic Engineering Comments:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Any required on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

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 [Act 929 of the 1961 Regular Session of the Alabama Legislature (Acts 1961, p. 1487), as amended, and City Code Chapters 57 and 65]. Private removal of trees in the right-of-way will require approval of the Mobile Tree Commission. Removal of heritage trees from undeveloped residential sites, developed residential sites in historic districts, and all commercial sites will require a tree removal permit.

Fire Department Comments:

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance (2021 International Fire Code). Fire apparatus access is required to be within 150' of all non-sprinklered commercial buildings and within 300' of all sprinklered commercial buildings. Fire water supply for all commercial buildings will be required to meet the guidance of Appendices B and C of the 2021 International Fire Code. The minimum requirement for fire hydrants is to be within 400' of non-sprinkled commercial buildings, within 600' of sprinkled commercial buildings, and within 100' of fire department connections (FDC) for both standpipes and sprinkler systems.

The adopted fire code of the City of Mobile, International Fire Code 2021 Edition, defines a commercial daycare as an I-4 occupancy -definition- buildings and structures occupied by more than five persons of any age who receive custodial care for less than 24 hours by persons other than parents or guardians; relatives by blood, marriage, or adoption; and in a place other than the home of the person cared for.

The adopted Fire Code states that all Group I occupancies require a sprinkler system to be installed.

There is an exception to this rule, which states that a sprinkler system is not required if the day care is at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door. This exception changes the occupancy classification to that of an E-day care facility.

Whether the classification is that of an I or E providing care for more than 5 children makes the facility a commercial business and will require building permits to meet all code requirements. A pre-development meeting is recommended to assist the owner in understanding what will be required to open such a facility inside a private residence.

Planning Comments:

The applicant is requesting a Conditional Use Permit to allow a home-based daycare for ten (10) children in an R-1, Single-Family Residential Suburban District. The applicant currently runs a home daycare at the subject site, but is limited to a maximum of 5 children. The applicant's narrative justifying the request can be viewed using the link on Page 1 of this report.

Home-based daycares are required to provide off-street parking spaces in the amount of two (2) per dwelling unit, one (1) per each employee who does not live at the location, and one (1) space for every three (3) children. The applicant does not indicate how many employees not living at the location will be working at the daycare. Furthermore, the site plan submitted does not depict any compliant parking spaces or maneuvering area, and it is unclear what site improvements currently exist as there are no labels. Aerial photos indicate there may be enough space for at least three (3) parking spaces, but a minimum of four (4) spaces are required for a 10-child daycare. This amount does not include the two (2) off-street parking spaces required for the dwelling or any employees. It should be noted that the site plan also does not illustrate any handicap accessible parking, which may be required by the Building Code. As such, if approved, a revised site plan should be required to illustrate parking and maneuvering sufficient to comply with the standards of Article 3, Section 64-3-12.A.3. of the UDC.

The applicant states in their application that the hours of operation of the daycare will be from 7:00 a.m. until 5:00 p.m., but does note that they are licensed to care for up to two (2) children after-hours, if needed. The applicant should be aware that, if approved, any changes to the hours of operation of the daycare may require additional Conditional Use Permit approval by the Planning Commission and City Council.

Home daycares require an enclosed outdoor play area, but, as mentioned, the site plan submitted does not label any existing site improvements, and no new site improvements appear to be proposed. As such, if approved, the site plan should be revised to illustrate a compliant outdoor play hour enclosed with a fence or wall that is at least four (4) feet in height.

Finally, it should be noted that, if approved, the daycare will be required to comply with the standards of the Building, Plumbing, Electrical, and Mechanical Codes for commercial daycares, in addition to Fire and Health Department Requirements, with all appropriate permits and inspections.

CONDITIONAL USE PERMIT CONSIDERATIONS

Standards of Review:

Conditional Use Permits (CUPs) are required for certain uses in the Use Table (Table 64-2-24.1). These uses may have some special impact which differs from the potential impacts of permitted uses, such as exceeding permitted uses in intensity, or have unique requirements specified for compliance in the Unified Development Code (UDC).

Article 5, Section 6-E. of the Unified Development Codes states the City Council shall not approve an Application for Conditional Use Permit unless the proposed use:

1. Is consistent with all applicable requirements of this Chapter, including:
 - (a) Any applicable development standards; and
 - (b) Any applicable use regulations.
2. Is compatible with the character of the surrounding neighborhood;
3. Will not impede the orderly development and improvement of surrounding property; and
4. Will not adversely affect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood. In making this determination, the Planning Commission and City Council shall consider:
 - (a) The location, type and height of buildings or structures;
 - (b) The type and extent of landscaping and screening;
 - (c) Lighting;
 - (d) Hours of operation; and
 - (e) Other conditions that might require mitigation of the adverse impacts of the proposed development.
5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
6. Is designed to minimize the impact on storm water facilities;
7. Will be adequately served by water and sanitary sewer services;
8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
9. Shall not be detrimental to or endanger the public health, safety or general welfare.
10. Benefits Consideration. In addition, consideration should also be given to the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.
11. Criteria by Use. The Planning Commission and City Council shall give careful consideration to the warrants and criteria set forth in this section in judging applications for Conditional Use Permits involving the following uses. In considering a Conditional Use Permit, the Planning Commission and City Council may attach such reasonable conditions and safeguards in addition to those set forth in this section, as they may deem necessary to implement the purposes of this Chapter.

In addition to the general standards of review above, there are criteria specific to home-based daycares with between 7-12 children, which include:

- (1) All parking shall comply with the Parking Requirements of Article 3, Section 12, except that the parking and driveway may be of an Approved Alternative Paving Surface, and shall comply with the size, location, and other specification requirements set forth in Section 64-3-12.
- (2) The following minimum amount of off-street parking must be provided:
 - a. The minimum number required for residences as set forth in Section 64-3-12 and Table 64-3-12.1 (i.e., two (2) per dwelling unit for a single-family detached dwelling); plus
 - b. One (1) space for each employee who is not a full-time permanent resident of the home; plus
 - c. One (1) space for every three (3) children that the home daycare is licensed to serve by the Department of Human Resources.
- (3) The indoor floor space of the home must be adequate in size to accommodate the number of children served but in no event may be less than the number required by applicable regulations of the Department of Human Resources.

- (4) The outdoor play area shall be adequate in size to accommodate the number of children served but in no event may be less than the number required by applicable regulations of the Department of Human Resources.
- (5) The outdoor play area shall be enclosed by a fence or wall at least four (4) feet in height.
- (6) The home must be the primary residence of the operator of the daycare.

Considerations:

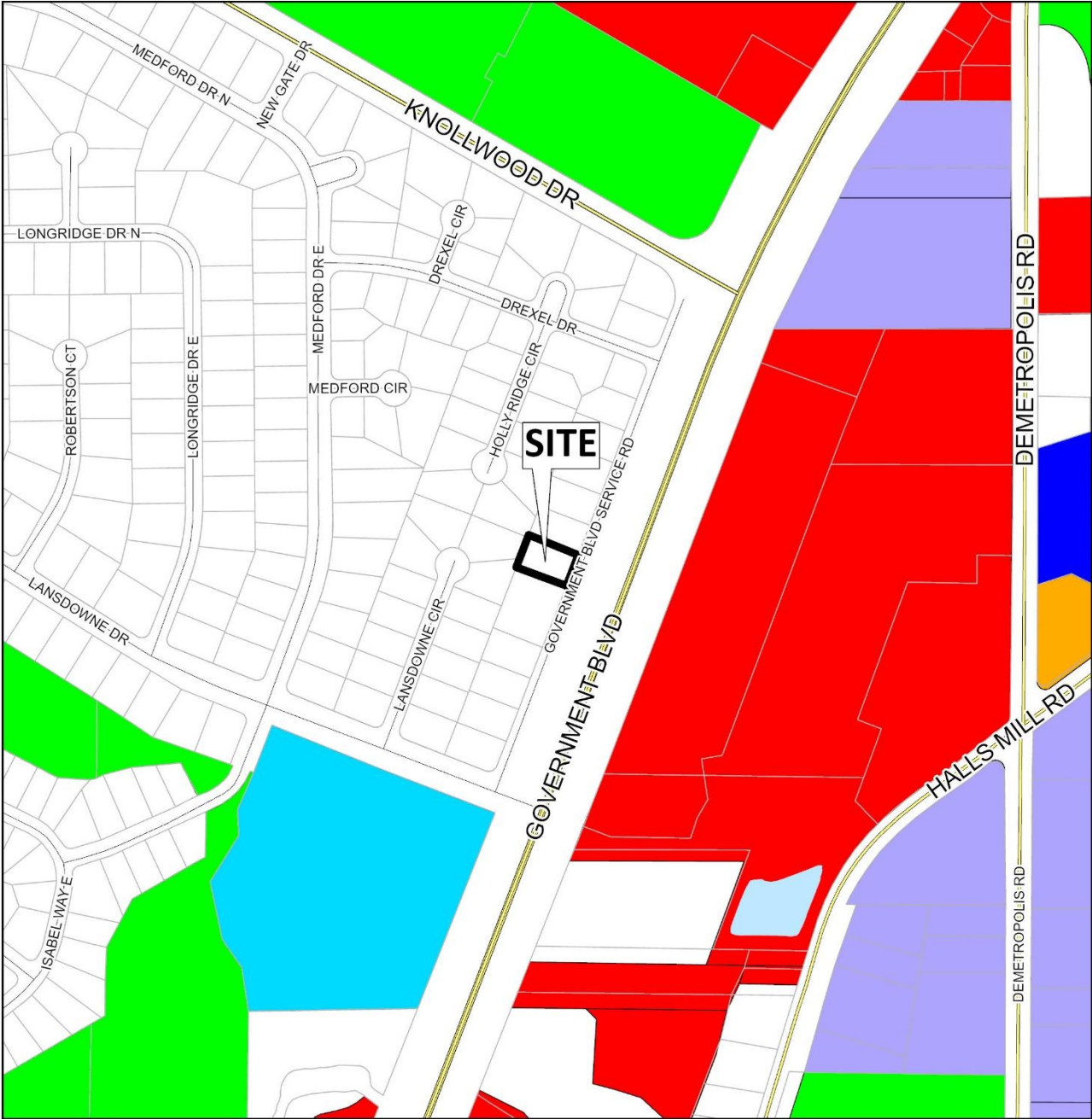
Based on the requested Conditional Use Permit application, if the Commission and City Council consider approval of the request, the following Findings of Fact must be present. The application:

1. Is consistent with all applicable requirements of this Chapter, including:
 - (a) Any applicable development standards; and
 - (b) Any applicable use regulations.
2. Is compatible with the character of the surrounding neighborhood;
3. Will not impede the orderly development and improvement of surrounding property; and
4. Will not adversely affect the health, safety or welfare of persons living or working in the surrounding neighborhood, or be more injurious to property or improvements in the neighborhood. In making this determination, the Planning Commission and City Council shall consider:
 - (a) The location, type and height of buildings or structures;
 - (b) The type and extent of landscaping and screening;
 - (c) Lighting;
 - (d) Hours of operation; and
 - (e) Other conditions that might require mitigation of the adverse impacts of the proposed development.
5. Is designed to provide ingress and egress that minimizes traffic hazards and traffic congestion on the public roads;
6. Is designed to minimize the impact on storm water facilities;
7. Will be adequately served by water and sanitary sewer services;
8. Is not noxious or offensive by reason of emissions, vibration, noise, odor, dust, smoke or gas; and
9. Shall not be detrimental to or endanger the public health, safety or general welfare.
10. The proposed use will meet the City's and the larger community's best interests and the need, benefit, or public purpose of the proposed request.

If the application is considered for approval, it should be subject to the following conditions:

- 1) Revision of the site plan to illustrate compliant parking and include a table of the required number of parking spaces (the amount required for the dwelling, off-site employees, and children);
- 2) Depiction of an outdoor play area enclosed by a four-foot (4') tall fence or wall;
- 3) Placement of a note on the revised site plan stating any changes in the scope of operations (days of operation, number of outside staff, etc.) or to the site (parking layout, playground layout, etc.), will require additional Conditional Use Permit approval by the Planning Commission and City Council; and
- 4) Full compliance with Building, Plumbing, Electrical, Mechanical, Fire Department, and Health Department codes and ordinances.

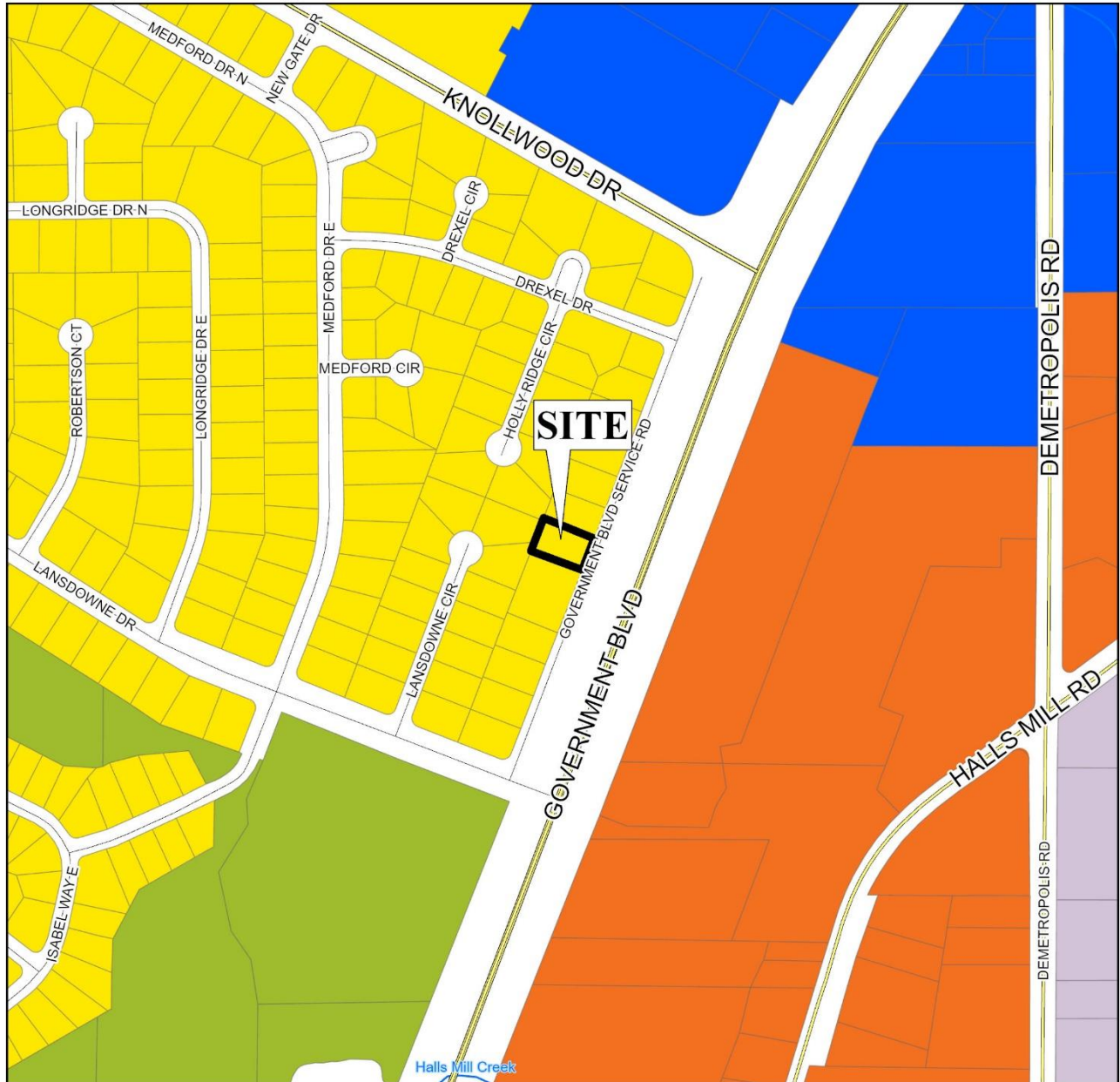
LOCATOR ZONING MAP



APPLICATION NUMBER	7	DATE	February 22, 2024
APPLICANT	Deborah May		
REQUEST	Conditional Use Permit		



FLUM LOCATOR MAP



APPLICATION NUMBER 7 DATE February 22, 2024

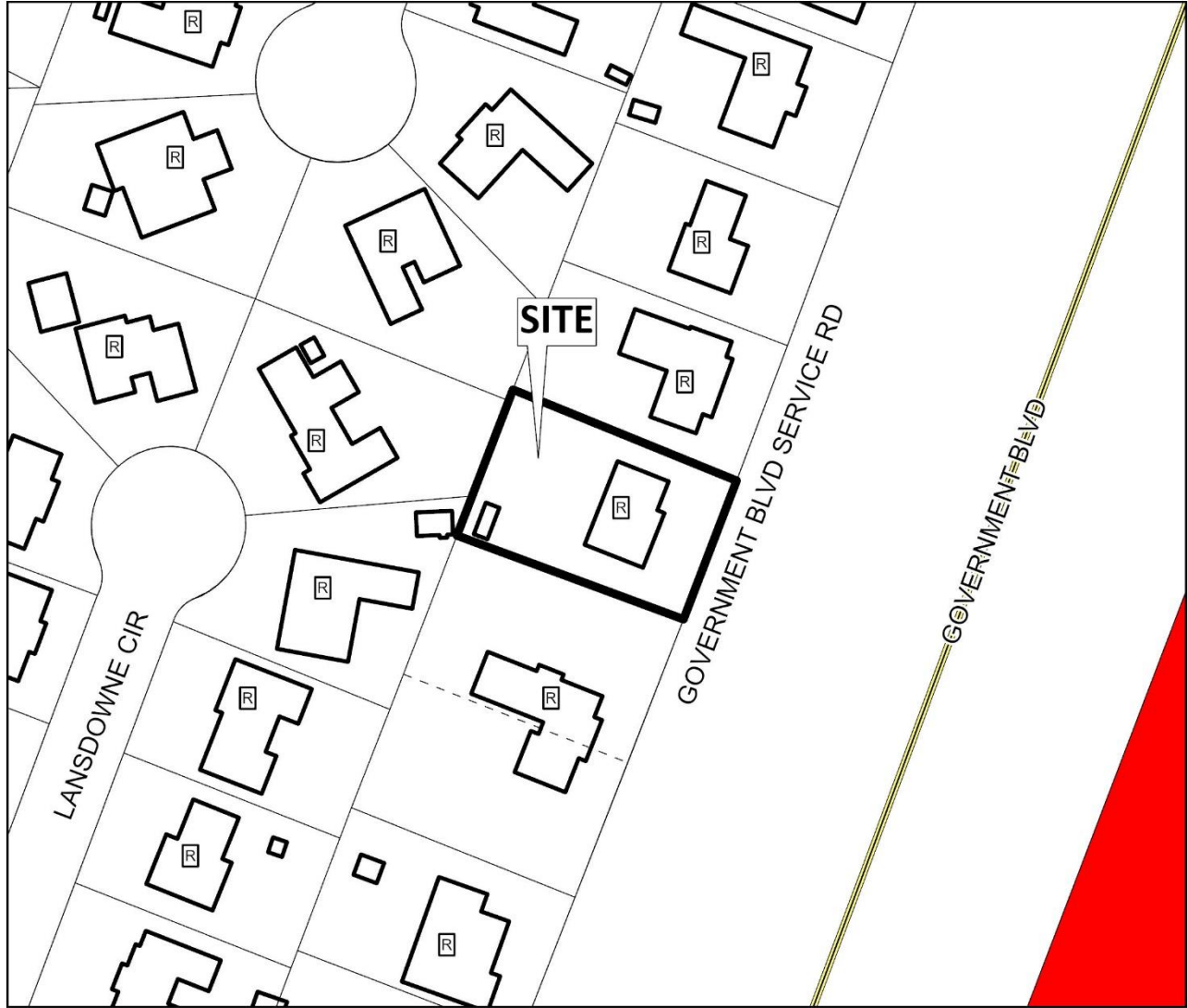
APPLICANT Deborah May

REQUEST Conditional Use Permit


- | | | | |
|---|--|---|--|
| ■ Low Density Residential | ■ Neighborhood Center - Traditional | ■ Downtown Waterfront | ■ Parks & Open Space |
| ■ Mixed Density Residential | ■ Neighborhood Center - Suburban | ■ Light Industry | ■ Water Dependent |
| ■ Downtown | ■ Traditional Corridor | ■ Heavy Industry | |
| ■ District Center | ■ Mixed Commercial Corridor | ■ Institutional | |



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential units.

APPLICATION NUMBER <u> 7 </u> DATE <u>February 22, 2024</u>	 NTS																														
APPLICANT <u>Deborah May</u>																															
REQUEST <u>Conditional Use Permit</u>																															
<table style="width: 100%; font-size: small;"> <tr> <td> R-A</td> <td> R-3</td> <td> B-1</td> <td> B-2</td> <td> B-5</td> <td> ML</td> <td> I-2</td> <td> OPEN</td> <td> T-3</td> <td> T-5.2</td> </tr> <tr> <td> R-1</td> <td> R-B</td> <td> T-B</td> <td> B-3</td> <td> CW</td> <td> MH</td> <td> PD</td> <td> SD</td> <td> T-4</td> <td> T-6</td> </tr> <tr> <td> R-2</td> <td> H-B</td> <td> LB-2</td> <td> B-4</td> <td> MM</td> <td> I-1</td> <td> MUN</td> <td> SD-WH</td> <td> T-5.1</td> <td></td> </tr> </table>		 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2	 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6	 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1	
 R-A	 R-3	 B-1	 B-2	 B-5	 ML	 I-2	 OPEN	 T-3	 T-5.2																						
 R-1	 R-B	 T-B	 B-3	 CW	 MH	 PD	 SD	 T-4	 T-6																						
 R-2	 H-B	 LB-2	 B-4	 MM	 I-1	 MUN	 SD-WH	 T-5.1																							

ZONING DISTRICT CORRESPONDENCE MATRIX

		LOW DENSITY RESIDENTIAL (LDR)	MIXED DENSITY RESIDENTIAL (MXDR)	DOWNTOWN (DT)	DISTRICT CENTER (DC)	NEIGHBORHOOD CENTER - TRADITIONAL (NC-T)	NEIGHBORHOOD CENTER - SUBURBAN (NC-S)	TRADITIONAL CORRIDOR (TC)	MIXED COMMERCIAL CORRIDOR (MCC)	LIGHT INDUSTRIAL (LI)	HEAVY INDUSTRY (HI)	INSTITUTIONAL LAND USE (INS)	PARKS & OPEN SPACE (POS)	DOWNTOWN WATERFRONT (DW)	WATER DEPENDENT USES (WDWRU)
RESIDENTIAL - AG	R-A														
ONE-FAMILY RESIDENCE	R-1	■				■		■					□		
TWO-FAMILY RESIDENCE	R-2	■				■		■					□	○	
MULTIPLE-FAMILY	R-3	○	■			■	■	■					□	○	
RESIDENTIAL-BUSINESS	R-B		○			■		■					□	○	
TRANSITIONAL-BUSINESS	T-B		○		■	■	■	■					□		
HISTORIC BUSINESS	H-B			■		■		■					□		
VILLAGE CENTER	TCD					■	■						□		
NEIGH. CENTER	TCD					■	■						□		
NEIGH. GENERAL	TCD					■							□		
DOWNTOWN DEV. DDD	T-6			■									□		
DOWNTOWN DEV. DDD	T-5.1			■		■		□					□		
DOWNTOWN DEV. DDD	T-5.2			■		■							□		
DOWNTOWN DEV. DDD	T-4			■		■		□					□		
DOWNTOWN DEV. DDD	T-3			■		■							□		
DOWNTOWN DEV. DDD	SD-WH									○	○		□		
DOWNTOWN DEV. DD	SD	○	○	○	○	○	○	○		○	○		□		
BUFFER BUSINESS	B-1		□			□	■	■	■				□	○	
NEIGH. BUSINESS	B-2		○			□	■	■	■				□	○	
LIMITED BUSINESS	LB-2		○			□	■	■	■				□	○	
COMMUNITY BUSINESS	B-3				■				■			○	□	○	
GEN. BUSINESS	B-4			■					■			○	□	○	
OFFICE-DISTRIBUTION	B-5								■	■			□	□	
LIGHT INDUSTRY	I-1									■			□	□	□
HEAVY INDUSTRY	I-2										■		□		□

Zoning District Correspondence Matrix

- Directly Related
- Elements of the zoning category are related to the future LU category, but with qualifications (such as a development plan with conditions)
- Land use category is appropriate, but the district does not directly implement the category (e.g., open space in an industrial district)



LOW DENSITY RESIDENTIAL (LDR)

This designation applies to existing residential neighborhoods found mostly west of the Beltline or immediately adjacent to the east side of the Beltline.

The primary land use in the LDR districts is residential and the predominant housing type is the single-family housing unit, detached or semi-detached, typically placed within a street grid or a network of meandering suburban streets. The density in these districts ranges between 0 and 6 dwelling units per acre (du/ac).

These neighborhoods may also contain small-scale, low-rise multi-unit structures at appropriate locations, as well as complementary retail, parks and civic institutions such as schools, community centers, neighborhood playgrounds, and churches or other religious uses if those uses are designed and sited in a manner compatible with and connected to the surrounding context. The presence of individual ancillary uses should contribute to the fabric of a complete neighborhood, developed at a walkable, bikeable human scale.