

**ZONING AMENDMENT
& SUBDIVISION STAFF REPORT****Date: January 19, 2017****APPLICANT NAME**

David H. Smith

SUBDIVISION NAME

Parkway Corner Subdivision

LOCATION3300 Dauphin Island Parkway
(Southwest corner of Dauphin Island Parkway and Gill Road)**CITY COUNCIL
DISTRICT**

District 3

PRESENT ZONING

B-2, Neighborhood Business District

PROPOSED ZONING

B-3, Community Business District

AREA OF PROPERTY

1 lot / 0.5 ± Acres

CONTEMPLATED USE

Rezoning from B-2, Neighborhood Business District, to B-3, Community Business District, to allow automobile sales. **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.**

**TIME SCHEDULE
FOR DEVELOPMENT**

In operation

**ENGINEERING
COMMENTS**

FINAL PLAT COMMENTS (should be addressed prior to submitting the FINAL PLAT for review and/or signature by the City Engineer):

- A. Provide all of the required information on the SUBDIVISION PLAT (i.e. signature blocks, signatures, certification statements, written legal description, required notes, legend, scale, bearings and distances) that is required by the current Alabama State Board of Licensure for Professional Engineers and Land Surveyors.
- B. Provide a vicinity map.
- C. Revise the Plat to label each lot.
- D. Show and label the existing lots that were subdivided by the RESUB OF LOTS 1 AND 2 EDWIN TOWNSEND SUBDIVISION.

- E. *Review and revise the Plat so that the written distances match the written legal description.*
- F. *Dedicate the corner radius (25' minimum or as approved by the City Engineer and Traffic Engineer) at the northeast corner of the lot.*
- G. *Revise the Final Plat to provide legible text that is not lost in the background information.*
- H. *Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer.*
- I. *Provide the Surveyor's Certificate and Signature.*
- J. *Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures.*
- K. *Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.*
- L. *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.*
- M. *Add a note that sidewalk is required to be constructed, and/or repaired, along the frontage of each lot, or parcel, at time of new development or construction, unless a sidewalk waiver is approved.*
- N. *Provide a copy of the FINAL SUBDIVISION PLAT to the Engineering Dept. for review. No signatures are required on this drawing.*
- O. *After addressing all of the FINAL SUBDIVISION PLAT review comments by the Engineering Dept. provide the ORIGINAL and one (1) copy of the revised Final Plat with all of the required signatures including Owner's (notarized), Planning Commission, and Traffic Engineering signatures.*

TRAFFIC ENGINEERING

COMMENTS

Dauphin Island Parkway is an ALDOT maintained roadway. Upon redevelopment, site is limited to no more than one curb cut to Dauphin Island Parkway and one curb cut to Gill Road, with size, location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. New 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 (State Act 2015-116 and City Code Chapters 57 and 64).

FIRE DEPARTMENT

COMMENTS

All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code)

REMARKS

The applicant is requesting rezoning from B-2, Neighborhood Business District, to B-3, Community Business District, to allow automobile sales.

The site is developed with a building and paved parking area, and was originally a convenience store with gas pumps.

In 1979, a variance request to allow an automotive transmission shop was denied by the Board of Zoning Adjustment.

In 2005, the Planning Commission considered a request to rezone the property from R-1, Single-Family Residential to B-3, Community Business, to allow a restaurant; upon staff recommendation, the Planning Commission approved a rezoning instead to B-2, Neighborhood Business, which was subsequently approved by the City Council in September 2005. The approval was subject to the following conditions:

- 1) *that the site be brought into compliance with the parking requirements of the Zoning Ordinance, the landscaping and tree planting requirements of the Ordinance, and all stormwater and flood control ordinances;*
- 2) *limited to one curb cut to Dauphin Island Parkway, and one curb-cut to Gill Road to be approved by Traffic Engineering;*
- 3) *the submission of a subdivision application, and completion of the subdivision process; and*
- 4) *full compliance with all municipal codes and ordinances.*

At its October 6, 2011 meeting, the Planning Commission approved a one lot subdivision of the property to create a legal lot, subject to the following conditions:

- 1) *dedication to provide a 25' minimum corner radius at the intersection of Dauphin Island Parkway and Gill Road;*
- 2) *revision of the plat to indicate the 25' minimum building setback line along both Dauphin Island Parkway and Gill Road;*
- 3) *placement of a note on the Final Plat stating that the subdivision is limited to one curb-cut to Dauphin Island Parkway, to be approved by ALDOT, and one curb-cut to Gill Road, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;*
- 4) *revision of the plat to label the lot with its size in square feet and acres after any required street dedication, or the furnishing of a table on the Final Plat providing the same information;*
- 5) *placement of a note on the Final Plat stating that development of this site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,*
- 6) *subject to the Engineering Comments: "At the intersection of Dauphin Island Parkway (DIP) and Gill Rd, need to provide dedication of a minimum radius of 25', or as otherwise approved by the City Engineer. Must comply with all stormwater and flood control ordinances. Detention must be provided for all impervious area(s) added to the site in excess of 4,000 square feet since 1984. Sidewalk needs to be shown on the plans and constructed per City of Mobile (C.O.M.) standards along Gill Rd unless a sidewalk*

waiver is applied for and approved. In addition to any required land disturbance permit, any work performed in the right of way along Gill Rd will require a City C.O.M. Right-of-Way (ROW) permit and since the DIP ROW is maintained by ALDOT (with the exception of sidewalk); any work performed in the DIP ROW will require an ALDOT ROW permit. Any existing sidewalk panels that are damaged along DIP need to be replaced and will require a C.O.M. ROW permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer."

It should be noted that the Subdivision approval expired, and that none of the conditions of rezoning were ever satisfied.

The site is bounded to the North, across Gill Road, and East, across Dauphin Island Parkway, by commercial uses in a B-2 district, to the South by commercial uses in a B-3 district, and to the West by residential uses in an R-1 district.

The site fronts onto Dauphin Island Parkway, a proposed major street and ALDOT regulated facility, and Gill Road, a minor street.

The entire site appears to be depicted as an "Edge Corridor" Development Area, per the recently adopted Map for Mobile Plan. The intent of an Edge Corridor Development Area is to:

- Retain natural character to emphasize the transition from the rural to more developed areas
- Connect to other nearby areas through sidewalks, bike routes, and transit accommodations
- Minimize leapfrog development that is not connected to other development

It should be noted that the Map for Mobile Plan is meant to serve as a general guide, not a detailed lot and district plan or mandate for development. Moreover, the Plan 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.

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 applicant provided the following regarding the rezoning request:

That the proposed property is currently zoned B-2. That said property is located on the corner of Dauphin Island Parkway and Gill Road. That the property adjoining the subject to the South is presently zoned B-3 as are numerous properties in the direct

vicinity. That commercial use is the norm as to the surrounding properties. Located on Dauphin Island Parkway.

That the property is presently operating in the sale of used automobiles. That it will be used as such in the future. That there are no current plans to extend and/or expand the existing structures and ground coverage. That changing the zoning of this property would have minimal impact as to any surrounding properties and would be in character with the current use of adjoining properties. Changes in conditions over time, along with the B-3 zoning of adjoining properties support a reclassification as to zoning on this property from B-2 to a B-3 designation.

Staff first spoke with Mr. Smith around January 12, 2015, regarding his desire to sell cars at 3312 Dauphin Island Parkway, which is a B-3 property located three properties to the South, on the same block, from the site currently in question. After a nearly year-long process involving the applicant, engineers, staff, elected and appointed officials, staff worked with the applicant to allow him to only park/store vehicles at 3300 Dauphin Island Parkway, with all car sales occurring at 3312 Dauphin Island Parkway: a business license was issued for both the 3300 and 3312 locations, with the caveat that the 3300 location would be for storage and parking only, no sales. This arrangement was undertaken to give the applicant time to make the required improvements to 3312 Dauphin Island Parkway, so that the 3312 site would be compliant regarding requirements for automobile sales. A land disturbance permit was issued on January 25, 2016, to allow for the site improvements to 3312 Dauphin Island Parkway, and staff has verified via a site visit that improvements have been made to the 3312 site: how will the location of auto sales at the 3300 location impact the applicant's other location at 3312 - will both operate as auto sale sites?

Regarding the rezoning request, if auto sales are currently occurring at the site, the applicant is violating the conditions of approval of his business license for this location. The applicant states that conditions have changed over time to warrant the rezoning, however, the site itself represents the most recent rezoning in the vicinity with its 2005 application. The abutting B-3 site was first rezoned to B-3 in 1982, with an addition in 1993. This abutting B-3 property has a history of uses from 1990 that are allowed in a B-2 district, and none that would have required a B-3 district. The other B-3 property on the block, located at 3312 DIP, is the only property that appears to have a history of uses that actually require a B-3 designation. Of the commercially zoned properties within 1000 feet of the site in question, the majority of them are within a B-2 district, with the last rezoning of a property to B-3 approved in 2001, 15 years ago. Thus there have been few actual changes over the last 15 years within the vicinity, and the site itself is part of a four commercial properties where three of the four have a history of B-2 uses. Thus an additional rezoning to B-3 may be inappropriate given the fact that the abutting B-3 property and the B-3 property at 3312 DIP were rezoned more than 33 years ago.

The site plan provided with the application does not indicate that there will be any improvements associated with the rezoning request. As the site improvements required by the 2005 rezoning from R-1 to B-2 have never been fulfilled, an expectation that the request at hand might be reasonable, should the Commission consider approving the request. However, the site plan should at minimum be revised to depict customer parking areas, including an accessible parking

space, auto display areas and any other proposed improvements that might be made to the site, including the provision of a dumpster.

The Peninsula of Mobile, a 501 (c) (3) non-profit community based organization, recently completed "The Mobile Peninsula Corridor Master Plan". The Plan outlines seven (7) key development areas (centers) that run the length of the peninsula to Dog River, including the site under consideration with this application. The Plan identifies this site as a "redevelopment opportunity," and additionally recommends that sidewalks be provided along Gill Road. It should be noted, however, that this plan has not yet been adopted by the Planning Commission.

Since, however, the site is not a legal lot of record, the rezoning request should be heldover to allow the applicant to submit a Subdivision application.

RECOMMENDATION

Based on the preceding, the rezoning request is recommended for Holdover until the January 19, 2017 meeting so that the following can be provided to the Planning and Zoning Department by December 21, 2016:

- 1) submission of an application for a one lot Subdivision by December 21, 2016; and
- 2) revision of the site plan to show customer parking areas, accessible parking areas, auto display areas, a dumpster if one will be used, and any other anticipated site improvements required as part of the 2005 zoning approval.

Revised for the January 19, 2017 meeting:

The rezoning aspect of the requests was heldover from the December 15, 2016 meeting in order to allow the applicant to submit a request for a one lot Subdivision, and to allow the applicant to revise the site plan to address compliance requirements from the 2005 rezoning approval (from R-1 to B-2). A Subdivision application was submitted, as requested, but a revised site plan depicting compliance with the 2005 rezoning conditions of approval was not provided.

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 site fronts onto Dauphin Island Parkway, a proposed major street and ALDOT regulated facility, and Gill Road, a minor street. The preliminary plat shows that Gill Road has a 50-foot right-of-way, but GIS data available to staff shows that the right-of-way may in fact be 60 feet. The applicant should confirm the actual right-of-way width and, if necessary, revise the plat to reflect the width. As a proposed major street, the right-of-way of Dauphin Island Parkway should be at least 100 feet, however the plat indicates that the width of the right-of-way varies: again, the applicant should determine the minimum width of the existing right-of-way and label such on the plat, and, if necessary, dedicate sufficient right-of-way to provide 50 feet, as measured from the centerline.

Because of the angle of the intersection between Gill Road and Dauphin Island Parkway, a corner radius is required for the lot. The plat should be revised to reflect Engineering's requirement of a 25-foot corner radius.

The 25-foot minimum building setback line, required in Section V.D.9., is not shown for the subdivision, but would be required on the final plat, if approved.

The lot size is shown in acres but not in square feet. If approved, the final plat should depict the lot size in both square feet and acres, adjusted for any required dedication.

The lot otherwise meets minimum size and area requirements outlined in the Subdivision Regulations.

A revised site plan was submitted on January 11, 2017 for the Zoning aspect of the applications. No changes from existing conditions were indicated on the revised site plan, and no narrative was provided indicating that any changes would be undertaken to comply with the original rezoning conditions of approval for the site from R-1 to B-2, which occurred in 2005: full tree and landscaping compliance, parking compliance, storm water compliance and curb-cut limitations. Additionally, no information to identify the auto sale display area was provided, thus staff cannot determine if there will be sufficient maneuvering area on site for customers to access parking spaces, and for vehicles to be delivered for sale by truck and unloaded on the site.

The existing building on the site is approximately 2,100 square feet, thus 7 parking spaces are required. The correct number of parking spaces is shown on the site plan, however, the accessible parking space does not include the necessary access aisle adjacent to the parking space for van accessibility. Thus the site plan does not appear to comply with the requirements of the 2012 International Building Code/ 2009 ICC/ ANSI 117.1.

As the site does not currently comply with the conditions of approval attached to the property when it was rezoned to B-2, and as the current rezoning request does not indicate any intent to fulfill those same conditions, and, finally, as the request does not adequately address that any one of the following conditions prevail, the Commission should consider a denial:

- 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.*

RECOMMENDATION

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

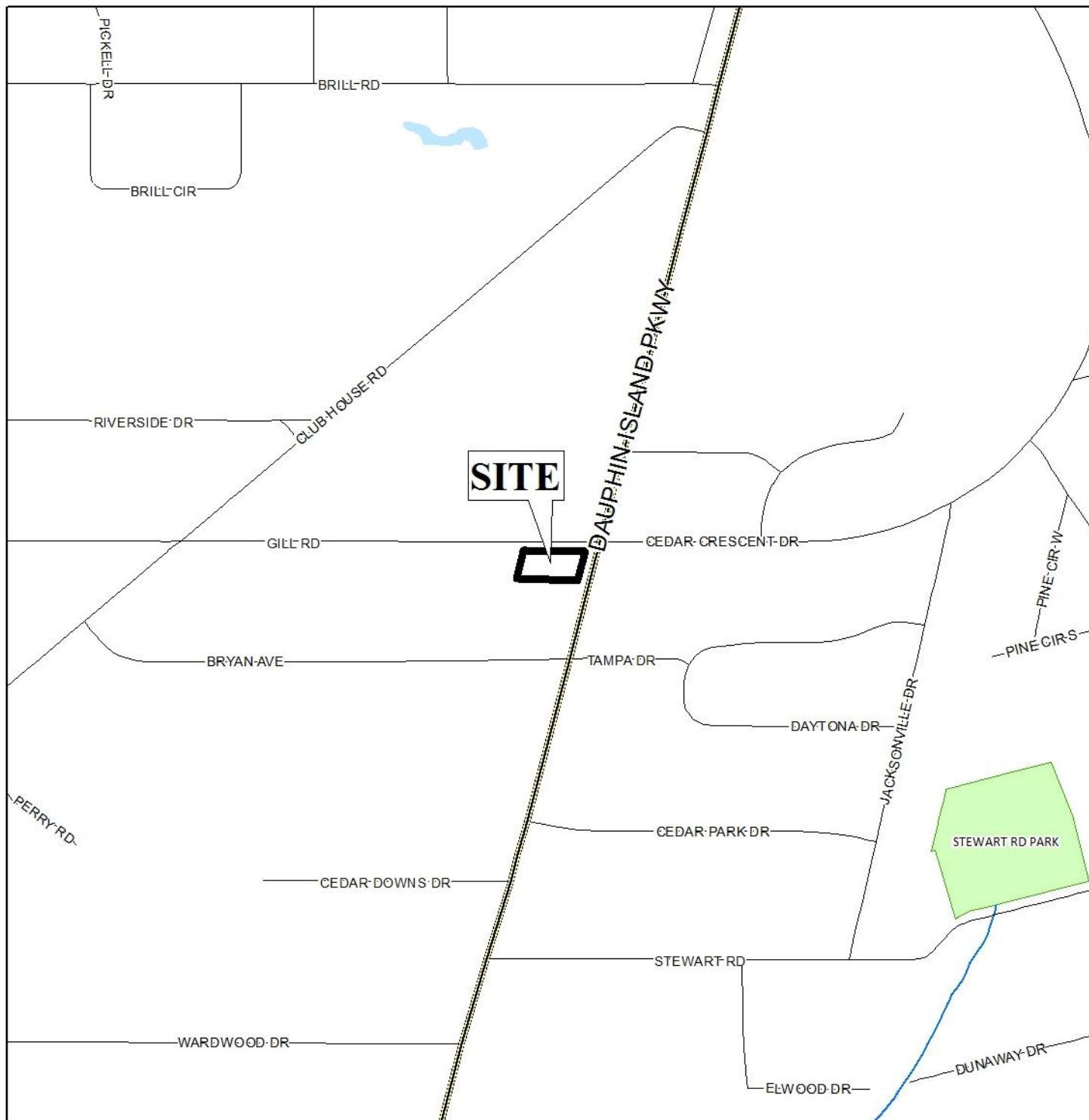
- 1) Verification of the minimum right-of-way widths of the abutting streets, and the labeling of those minimum widths on the final plat;
- 2) Dedication of sufficient right-of-way along Dauphin Island Parkway to provide 50-feet from centerline, if the right-of-way width is less than 100 feet;
- 3) Compliance with Traffic Engineering comments and placement as a note on the plat (*Dauphin Island Parkway is an ALDOT maintained roadway. Upon redevelopment, site is limited to no more than one curb cut to Dauphin Island Parkway and one curb cut to Gill Road, with size, location and design to be approved by ALDOT (where applicable) and Traffic Engineering and conform to AASHTO standards. New 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.*);
- 4) Compliance with Engineering comments, including the dedication of a 25-foot corner radius (*FINAL PLAT COMMENTS (should be addressed prior to submitting the FINAL PLAT for review and/or signature by the City Engineer): A. Provide all of the required information on the SUBDIVISION PLAT (i.e. signature blocks, signatures, certification statements, written legal description, required notes, legend, scale, bearings and distances) that is required by the current Alabama State Board of Licensure for Professional Engineers and Land Surveyors. B. Provide a vicinity map. C. Revise the Plat to label each lot. D. Show and label the existing lots that were subdivided by the RESUB OF LOTS 1 AND 2 EDWIN TOWNSEND SUBDIVISION. E. Review and revise the Plat so that the written distances match the written legal description. F. Dedicate the corner radius (25' minimum or as approved by the City Engineer and Traffic Engineer) at the northeast corner of the lot. G. Revise the Final Plat to provide legible text that is not lost in the background information. H. Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer. I. Provide the Surveyor's Certificate and Signature. J. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures. K. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with Mobile City Code, Chapter 17, Storm Water Management and Flood Control; the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. L. 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. M. Add a note that sidewalk is required to be constructed, and/or repaired, along the frontage of each lot, or parcel, at time of new development or construction, unless a sidewalk waiver is approved. N. Provide a copy of the FINAL SUBDIVISION PLAT to the Engineering Dept. for review. No signatures are required on this drawing. O. After addressing all of the FINAL SUBDIVISION PLAT review comments by the Engineering Dept. provide the ORIGINAL and one (1) copy of the revised Final Plat with all of the required signatures including Owner's (notarized), Planning Commission, and Traffic Engineering signatures.*);

- 5) 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 2015-116 and City Code Chapters 57 and 64).*);
- 6) Compliance with Fire comments (*All projects within the City Limits of Mobile shall comply with the requirements of the City of Mobile Fire Code Ordinance. (2012 International Fire Code)*);
- 7) Depiction and labeling of the 25-foot minimum building setback line, required by Section V.D.9. of the Subdivision Regulations; and
- 8) The labeling of the lot size in acres and square feet, adjusted for any required dedication.

Rezoning: Based upon the preceding, the Rezoning request is recommended for Denial for the following reasons:

- 1) The site has not been brought into compliance with the 2005 conditions of approval, when the site was rezoned from R-1 to B-2, and there is no evidence that the applicant proposes to undertake improvements to comply with those conditions; and
- 2) The applicant has failed to sufficiently justify which of the four conditions found in Section 64-9.A.1 of the Zoning Ordinance apply to the rezoning request.

LOCATOR MAP



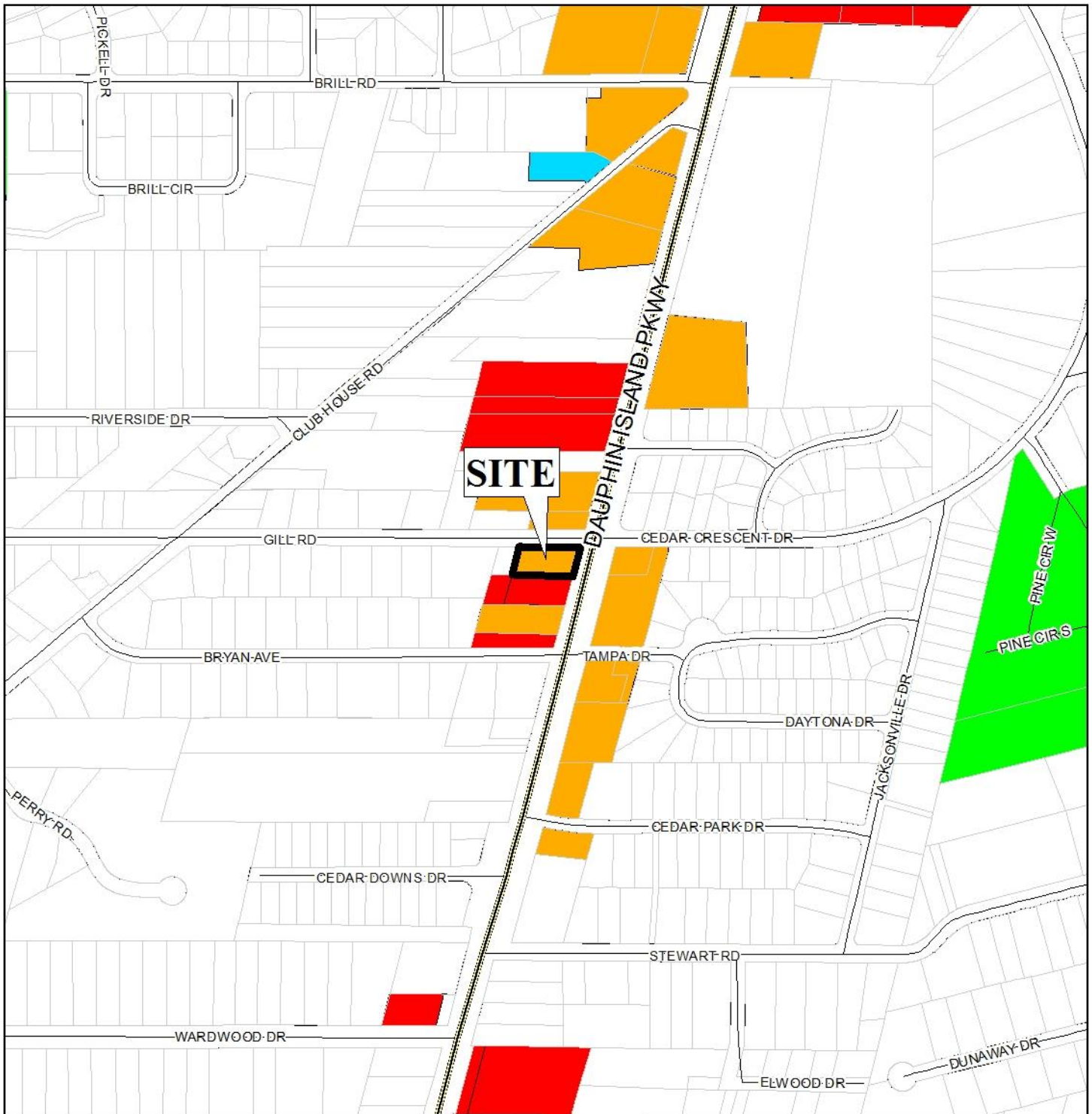
APPLICATION NUMBER 7 DATE January 19, 2017

APPLICANT Parkway Corner Subdivision

REQUEST Subdivision, Rezoning from B-2 to B-3



LOCATOR ZONING MAP



APPLICATION NUMBER 7 DATE January 19, 2017

APPLICANT Parkway Corner Subdivision

REQUEST Subdivision, Rezoning from B-2 to B-3



























[illegible]

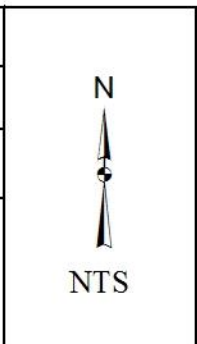
The site is surrounded by commercial and residential units.

APPLICATION NUMBER 7 DATE January 19, 2017

APPLICANT Parkway Corner Subdivision

REQUEST Subdivision, Rezoning from B-2 to B-3

 R-A
  R-3
  T-B
  B-2
  B-5
  MUN
  SD-WH
  T5.1
 R-1
  R-B
  B-1
  B-3
  I-1
  OPEN
  T3
  T5.2
 R-2
  H-B
  LB-2
  B-4
  I-2
  SD
  T4
  T6



PLANNING COMMISSION VICINITY MAP - EXISTING AERIAL



The site is surrounded by commercial and residential units.

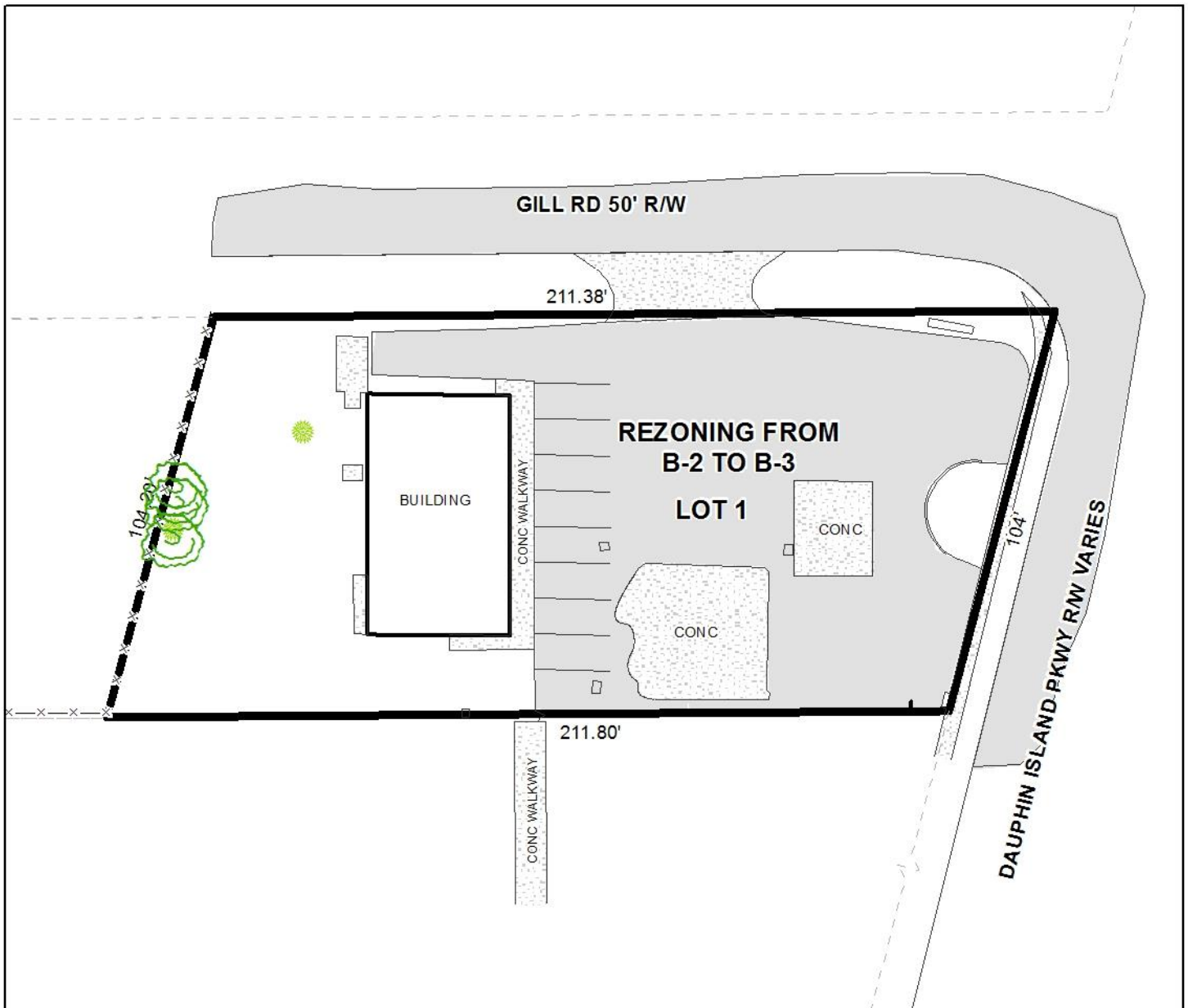
APPLICATION NUMBER 7 DATE January 19, 2017

APPLICANT Parkway Corner Subdivision

REQUEST Subdivision, Rezoning from B-2 to B-3



SITE PLAN



The site plan illustrates the existing building, parking, and trees.

APPLICATION NUMBER 7 DATE January 19, 2017

APPLICANT Parkway Corner Subdivision

REQUEST Subdivision, Rezoning from B-2 to B-3

