

ZONING AMENDMENT STAFF REPORT**Date: January 20, 2022****NAME**

Sea Pines Mobile Home Park (Gerald Byrd, Agent)

LOCATION1451 Cedar Crescent Drive
(East side of Cedar Crescent Drive, 250'± South of South Drive).**CITY COUNCIL
DISTRICT**

District 3

PRESENT ZONING

R-3, Multi-Family Residential District

PROPOSED ZONING

R-3, Multi-Family Residential District

AREA OF PROPERTY

66± Acres

CONTEMPLATED USE

Rezoning from R-3, Multi-Family Residential District, to R-3, Multi-Family Residential District, to remove conditions of the existing zoning amendment stating that the entire area be fenced with storm fence and that the site have a ten foot buffer zone.

It should be noted 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**

None.

**ENGINEERING
COMMENTS**

1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Permitting Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII).
2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems and paving will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work.

3. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance 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.
4. A 25' riparian buffer may be required, during development, along the edge of anything considered by ADEM to be a water of the state.
5. Any existing or proposed detention facility shall be maintained as it was constructed and approved. The Land Disturbance Permit application for any proposed construction includes a requirement of a Maintenance and Inspection Plan (signed and notarized by the Owner) for the detention facility. This Plan shall run with the land and be recorded in the County Probate Office prior to the Engineering Department issuing their approval for a Final Certificate of Occupancy.
6. 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. The Owner/Developer is responsible for acquiring all of the necessary permits and approvals.
7. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

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 (2012 International Fire Code). Fire apparatus access is required to be within 150' of all commercial and residential buildings. A fire hydrant is required to be within 400' of non-sprinkled commercial buildings and 600' of sprinkled commercial buildings.

REMARKS

The applicant is requesting rezoning from R-3, Multi-Family Residential District, to R-3, Multi-Family Residential District to remove conditions of the

existing zoning amendment stating that the entire area be fenced with storm fence and that the site have a ten-foot buffer zone.

The site has been given a Low Density Residential land use designation per the Future Land Use Plan and Map adopted by the Planning Commission. The Future Land Use Plan and Map complements and provides additional detail to the Development Framework Maps in the Map for Mobile, adopted by the Planning Commission at its November 5, 2015 meeting.

The Low Density Residential 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 Low Density Residential 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 zero (0) and six (6) dwelling units per acre.

Low Density Residential 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.

It should also be noted that the Future Land Use Plan and Map components of the Map for Mobile Plan are meant to serve as a general guide, not a detailed lot and district plan. In many cases the designation on the new Future Land Use Map may match the existing use of land, but in others the designated land use may differ from what is on the ground today. As such, the Future Land Use Plan and Map 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, where applicable, the zoning classification.

Rezoning of the property to R-3, Multi-Family Residential District, was approved at the June 20, 1970 Board of Commissioners (City Council) meeting with conditions that the entire area be fenced with a storm fence, and that a ten (10) foot buffer zone be planted at the outset of development. Special Exception Variance Approval was subsequently granted by the Board of Zoning Adjustment at its July 13, 1970 meeting to allow development of the property as a mobile home park, subject to the same conditions as the rezoning.

It should be noted that, at the time of rezoning, the Zoning Ordinance defined a buffer zone as a planting strip not less than thirty (30) feet in width, with sufficient density and not less than eight (8) feet in height, two (2) years after planting. The Zoning Ordinance permitted the City Council at that time to amend the buffer zone, which was evidently done by reducing the 30-foot buffer requirement to ten (10) feet. Regarding the storm fence, it has been determined that a chain link fence is sufficient. However, since the time of rezoning, full compliance with the fence and

buffer zone requirements has not been met, thus the City has issued citations for violating the conditions of the aforementioned approvals.

A Rezoning application was filed for review at the March 19, 1998 Planning Commission meeting to amend the conditions of the 1970 Rezoning. A recommendation was made to City Council to amend the conditions to require a 6'-tall wooden privacy fence around the perimeter of the property instead of the storm fence and 10' vegetative planting strip. At its December 7, 1998 meeting, the Board of Zoning Adjustment reviewed a request for Variances from the 10' buffer planting strip requirement of the 1970 Rezoning and Special Exception Variance, and to allow a metal panel fence to serve as a protection buffer. The Variances were denied, and the Rezoning application was allowed to expire.

Considering the Zoning Ordinance currently allows either a 10' vegetative planting strip or a 6'-tall privacy fence to serve as a buffer, an interpretation of the rezoning restrictions has been made to allow a 6'-tall privacy fence to serve as the required buffer in lieu of the storm fence and 10' buffer zone. This is further supported by the Planning Commission's recommendation in 1998 to allow a similar substitute for the buffer. However, while such a fence has been constructed along portions of the property, full compliance with the Rezoning and Special Exception Variance restrictions has still not been achieved. Furthermore, portions of the buffer that have been provided have not been maintained properly, which has prompted recent complaints from the surrounding neighborhood and subsequent citations issued to the property owner to make the necessary repairs.

Most recently, at its January 10, 2022 meeting, the Board of Zoning Adjustment approved a Variance to waive the requirement of a buffer along the South property line, subject to the construction of an 8'-tall privacy fence along the East property line, parallel to Bay Front Road, and compliance with the conditions of the 1970 rezoning along all other property lines. Final approval of the variance request is also contingent upon approval of an amendment to the conditions of the rezoning, hence the request at hand.

The applicant states the following:

“THIS PROPERTY WAS ZONED R-3 IN JUNE OF 1970 FOR USE AS A MOBILE HOME PARK WITH A CONDITION THAT THE ENTIRE AREA BE FENCED WITH “STORM FENCE” AND IT WAS FENCED WITH WHAT WE NOW REFER TO AS “CHAINLINK” FENCE. SOME TIME DURING THE LAST 50 YEARS, 3200 LF OF WOODEN PRIVACY FENCE WAS CONSTRUCTED ALONG THE BOUNDARY OF THE PROPERTY. AN ADDITIONAL 187 FEET OF PRIVACY FENCE WAS CONSTRUCTED ON THE EAST LINE OF SEA PINES BOULEVARD (A CITY STREET) WHICH IS THE ENTRANCE TO THE MOBILE HOME PARK. UNFORTUNATELY, TROPICAL STORMS AND HURRICANES DAMAGED THE FENCE BOARDS OR BLEW THEM OFF OF THE FENCE AND ALL THAT REMAINS ARE THE FENCE POSTS WHICH ARE LOCATED WITHIN PUBLIC RIGHT OF WAY.

THE OWNERS RECEIVED A "NOTICE OF VIOLATION" FROM THE PLANNING AND ZONING DEPARTMENT STATING REPAIRS WERE REQUIRED ON THE BUFFER FENCE (REPAIR OR REPLACE ALL MISSING OR DAMAGED WOOD). A WOODEN BUFFER FENCE WAS NOT REQUIRED FOR THIS DEVELOPMENT. IN REALITY THERE SHOULD NOT BE A REQUIRED FENCE ON THE PERIMETER OF THE MOBILE HOME PARK SINCE IT IS ZONED R-3 (RESIDENTIAL) AND ALL OTHER SIDES ARE ZONED R-1 & R-3 (RESIDENTIAL). THE DENSITY OF LIVING UNITS PER ACRE IS VERY LOW (2/ACRE) COMPARED TO THE CURRENT RESIDENTIAL SUBDIVISIONS BEING DEVELOPED (4/ACRE).

THIS REQUEST TO REMOVE THE PERIMETER FENCE REQUIREMENT IS BASED ON ITEM B (CHANGE IN CONDITIONS). WHEN THIS PROPERTY WAS REZONED, THERE WERE 450-500 MOBILEHOME SPACES PROPOSED AND CONSTRUCTED. THE CURRENT OCCUPANCY IS 129 MOBILEHOMES WITH 4 AVAILABLE SPACES AND THE MANAGEMENT COMPANY IMPOSED THIS NUMBER AS THE MAXIMUM SPACES TO BE RENTED."

Section 64-9. of the Zoning Ordinance states that 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 plan illustrates a 66.09-acre site developed with 129 mobile homes and one (1) office/club house structure. A note on the plan states that four (4) additional mobile homes are planned to be placed on the site.

Also depicted is a chain link fence that surrounds a majority of the property and ranges from 4'-6' in height. No vegetative buffer is depicted, and a 6'-tall privacy fence appears to only be placed at the entrance to the mobile home park, and 895'± along a portion of the North property line (according to notes provided on the site plan).

While the site is residentially zoned, Rezoning and Special Exception Variance approvals to allow development of the property as a mobile home park were contingent upon restrictions that required a buffer to be constructed/planted and maintained around the perimeter of the property. Such restrictions were presumably agreed upon by the property owner at that time as no appeal of either decision appears to have been filed; and any attempts to amend or remove the restrictions were not made until 28 years after the Rezoning and Special Exception Variance were approved.

With respect to the applicant's suggestion that changing conditions of the site necessitates a change to the conditions of the rezoning approval, neither the rezoning nor the Special Exception Variance referenced the amount of mobile home dwellings as justification for the restrictions; rather, the conditions were presumably placed upon the property to mitigate any negative impacts a multi-family development may have on the surrounding neighborhood, which is predominantly developed with single-family homes on separate lots.

In reviewing the site plan, the property remains in use as a multi-family development, irrespective of the amount of mobile home dwellings. As such, it can be argued that the conditions of the property have not changed, especially since the property is still permitted by variance approval to contain more mobile homes than there are currently on the site. Therefore, unless there is a restriction on the number of mobile homes permitted on the property, the conditions of the site remain no different than those which originally inspired the Planning Commission and City Council to place buffer restrictions on the property. However, given the decision made by the Board of Zoning Adjustment at its most recent meeting, amending the buffer requirements may have created a change in the conditions of the site that may make a change to the Rezoning Ordinance necessary. A reduced number of mobile home dwellings may also highlight a change in the conditions of the site, further justifying a change to the ordinance.

RECOMMENDATION

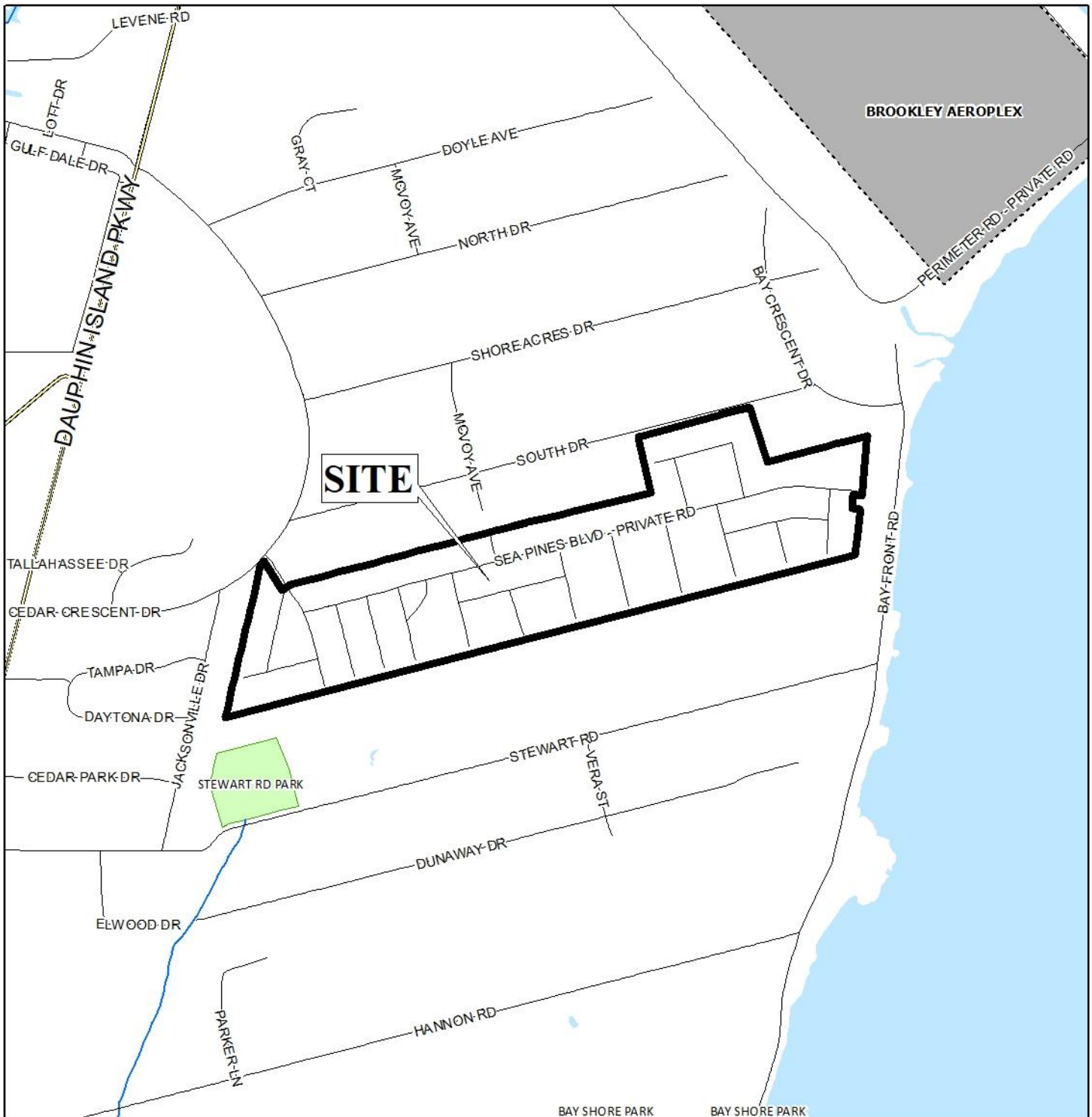
Based on the preceding, this application is recommended for Approval for the following reasons:

- 1) changing conditions in a particular area make a change in the Ordinance necessary and desirable as the Board of Zoning Adjustment's Special Exception/Variance decision, along with a reduced number of mobile home dwellings, may have created a change in the conditions of the site.

The Approval should be subject to the following conditions:

- 1) Provision of a privacy fence 8' in height along the East property line, parallel to Bay Front Road;
- 2) Compliance with the remaining conditions of approval of the 1970 Rezoning (the provision of a storm fence and the planting of a compliant vegetative buffer around the remaining property lines, with the exception of the South property line);
- 3) A limit on the number of mobile dwellings as stipulated in the application (133 mobile homes); and,
- 4) Compliance with all other codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 8 DATE January 20, 2022

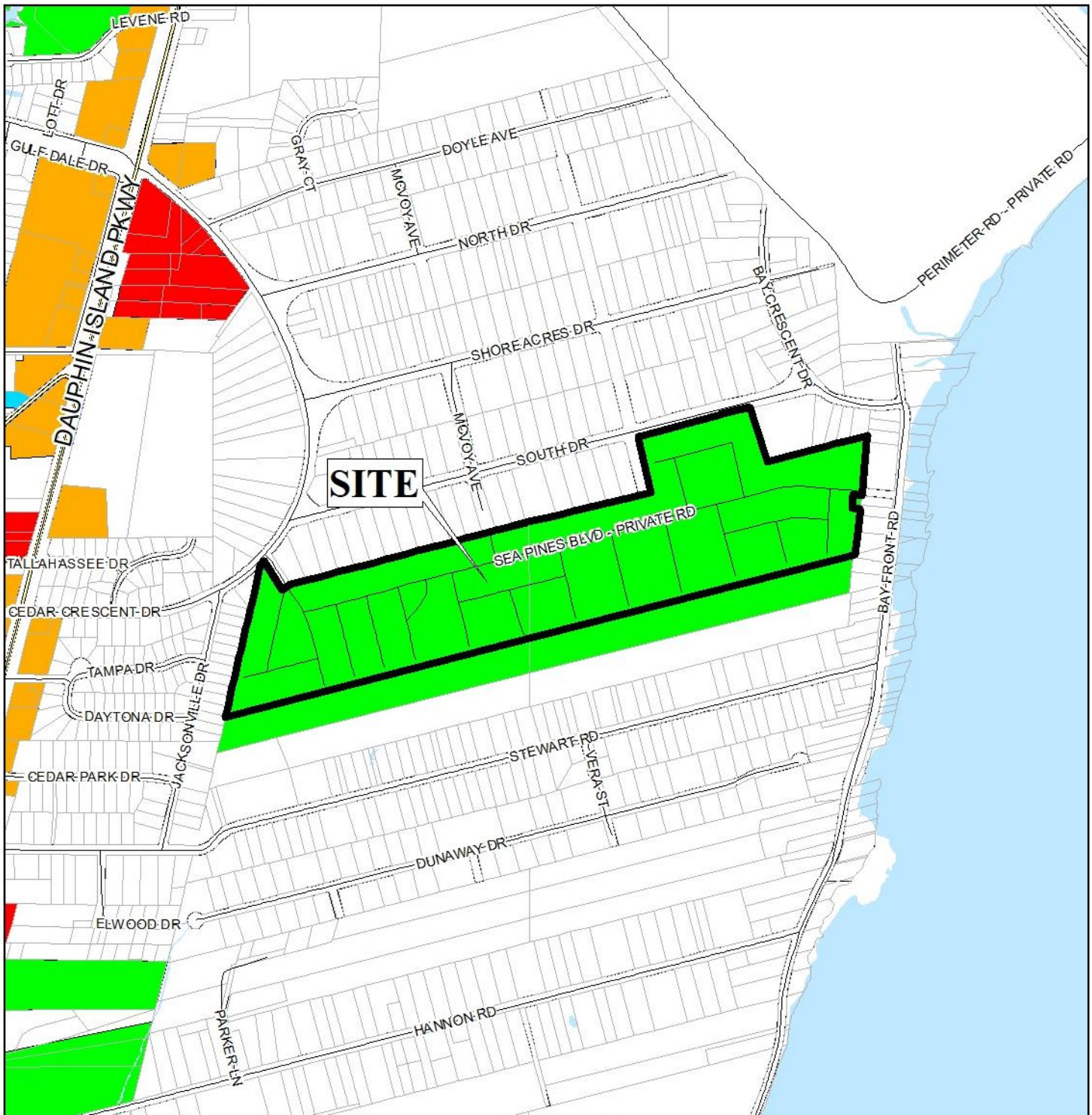
APPLICANT Sea Pines Mobile Home Park (Gerald Byrd, Agent)

REQUEST Rezoning from R-3 to R-3



NTS

LOCATOR ZONING MAP



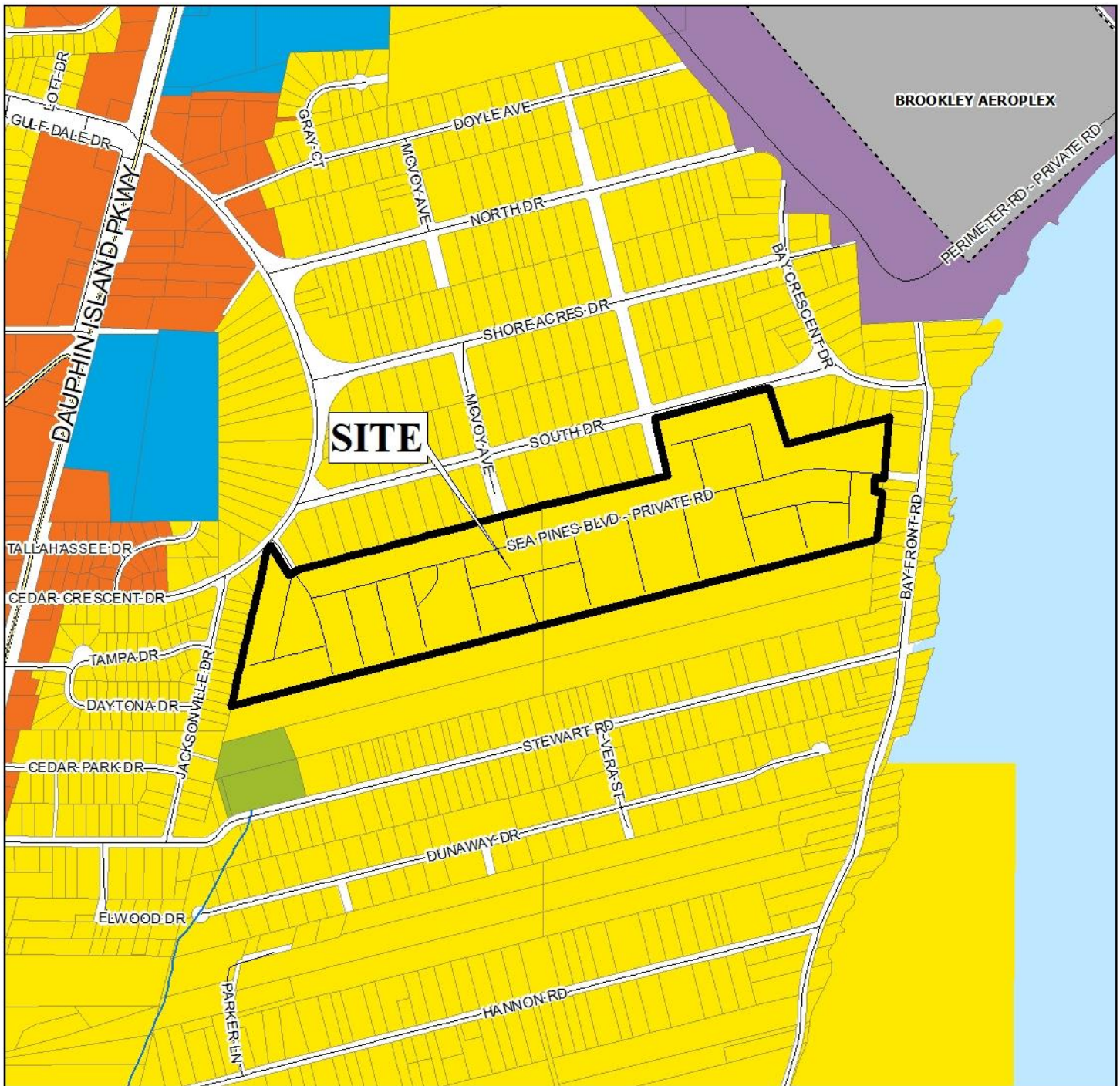
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FLUM LOCATOR MAP



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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 AERIAL



The site is surrounded by residential sites.

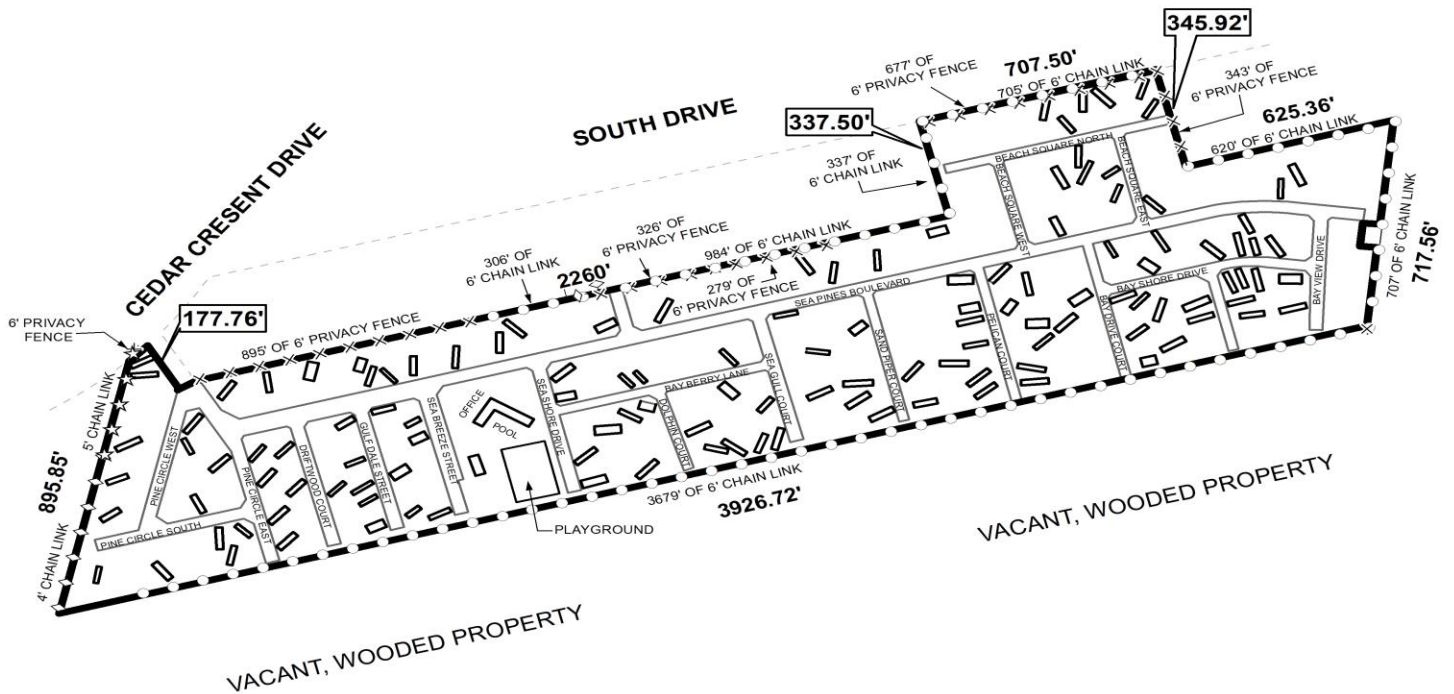
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SITE PLAN



The site plan illustrates existing structures, fencing and right of ways.

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NTS

