

**ZONING AMENDMENT STAFF REPORT****Date: November 19, 2009****NAME**

Thompson Properties

**LOCATION**

3375, 3405, 3425, 3455, 3465, 3485 and 3495 Hurricane Bay Drive  
(South side of Hurricane Bay Drive at the South terminus of Hurricane Bay Lane and extending to the terminus of Hurricane Bay Drive)

**CITY COUNCIL  
DISTRICT**

District 4

**PRESENT ZONING**

B-5, Office-Distribution District

**PROPOSED ZONING**

I-1, Light Industry District

**AREA OF PROPERTY**

15.6 ± Acres

**CONTEMPLATED USE**

Rezoning from B-5, Office-Distribution District, to I-1, Light Industry District to accommodate existing businesses. **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**

Immediate

**ENGINEERING  
COMMENTS**

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 new 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).

**FIRE DEPARTMENT****COMMENTS**

All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate.

**REMARKS**

The applicant is requesting rezoning from B-5, Office-Distribution District, to I-1, Light Industry District, to accommodate existing businesses on seven existing lots.

I-1 districts are composed of land and structures used for light manufacturing or wholesaling, or suitable for such uses, where the use and its operation do not directly adversely affect nearby residential and business uses. These districts are usually separated from residential areas by business areas or by natural barriers. The district regulations are designed to allow a wide range of industrial activities subject to limitations designed to protect nearby residential and business districts.

The entire site appears to be 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. 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.

It should be pointed out that the General Land Use Plan is part of the Comprehensive Plan, which was last updated in 1998. The General Land Use Plan was a tool used by staff in the development of the rezoning plan for the annexed area. The General Land Use Plan information was supplemented by field verification by staff of land uses along every public street within the annexed area in November 2008, prior to the development of the rezoning plan for the annexed area.

As stated in Section 64-9.A.1. 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 located in the recently annexed Theodore / Tillman's Corner area. Zoning enforcement within the annexed area began on February 17, 2009. Per state law and the Zoning Ordinance, all of the annexed area, including this site, were zoned R-1, Single Family Residential at the time of the annexation. The Mobile City Council approved a rezoning plan for the entire annexed area at its July 7, 2009 meeting; this site was rezoned from R-1 to B-5 as part of the rezoning plan.

The applicant states that, with the exception of the lot fronting the cul-de-sac, all seven lots are developed or currently in use. The existing business, according to the applicant, range from “office/warehouse with truck loading and unloading to office/shop/storage yard facilities.” The applicant goes on to state that “paving surfaces consists of asphalt and crushed aggregate paving.” The applicant believes that the existing businesses and nature of site development are “more characteristic of I-1 rather than B-5 zoning.” These statements do not specifically address the four conditions of rezoning, although they imply 1) *there is a manifest error in the Ordinance.*

The site is bounded to the North, West and East by other businesses located in a B-5 district fronting onto Hurricane Bay Drive, to the South by residential and non-residential uses located in Mobile County, and undeveloped B-5 land. Other I-1 properties are located approximate 800 feet to the South, across Hamilton Boulevard, and 700 feet to the West, across Rangeline Road.

Several of the businesses appear to store heavy equipment on their sites, and to have materials of various sorts stacked over 6-feet in height. The storage of heavy equipment and the stacking of materials would eliminate B-5 or lower zoning from consideration. The applicant has also pointed out the presence of gravel surfacing: such surfacing is generally only allowed for active parking and maneuvering in I-2 districts, however, gravel surfacing can be used for specified “lay-down yard” areas. All existing business can continue to operate under a “Non-Conforming” status.

It should be pointed out that it appears that of the five businesses operating on the site, three **do not** have City of Mobile business licenses, thus if the zoning request is approved, a condition should be added requiring each business to obtain a business license.

Section 64-3.A.5.a. of the Zoning Ordinance recommends that a new proposed I-1 district should contain at least 4 acres. This site, at 15.6 +/- acres, exceeds the recommended minimum district size.

It should also be pointed out that the applicant proposes no improvements to bring the property into compliance with the commercial site requirements of the Zoning Ordinance. All properties annexed into the City come with various non-conforming attributes, such as parking, landscaping and signage. When the rezoning plan for the annexed area was approved by the City Council, there were no requirements to improve sites – the non-conforming attributes were allowed to continue (although compliance over time is expected to occur due to site improvements through building permit, Planning Commission, or Board of Adjustment actions, or site redevelopment). Typically, however, when a specific site (versus a broad area) is considered by the Planning Commission for rezoning, a condition of the rezoning is to bring the site(s) into compliance with all requirements of the Zoning Ordinance, which in this case would include trees, landscaping, parking, and buffering.

Several of the existing sites appear to be fenced with barbed-wire topped chain link fencing. Any new fencing must be permitted through Urban Development, and any new fencing that will

include barbed-wire, electrified materials, or other dangerous materials must be specifically approved by the Director of Urban Development, per Section 21-1 of the City Code.

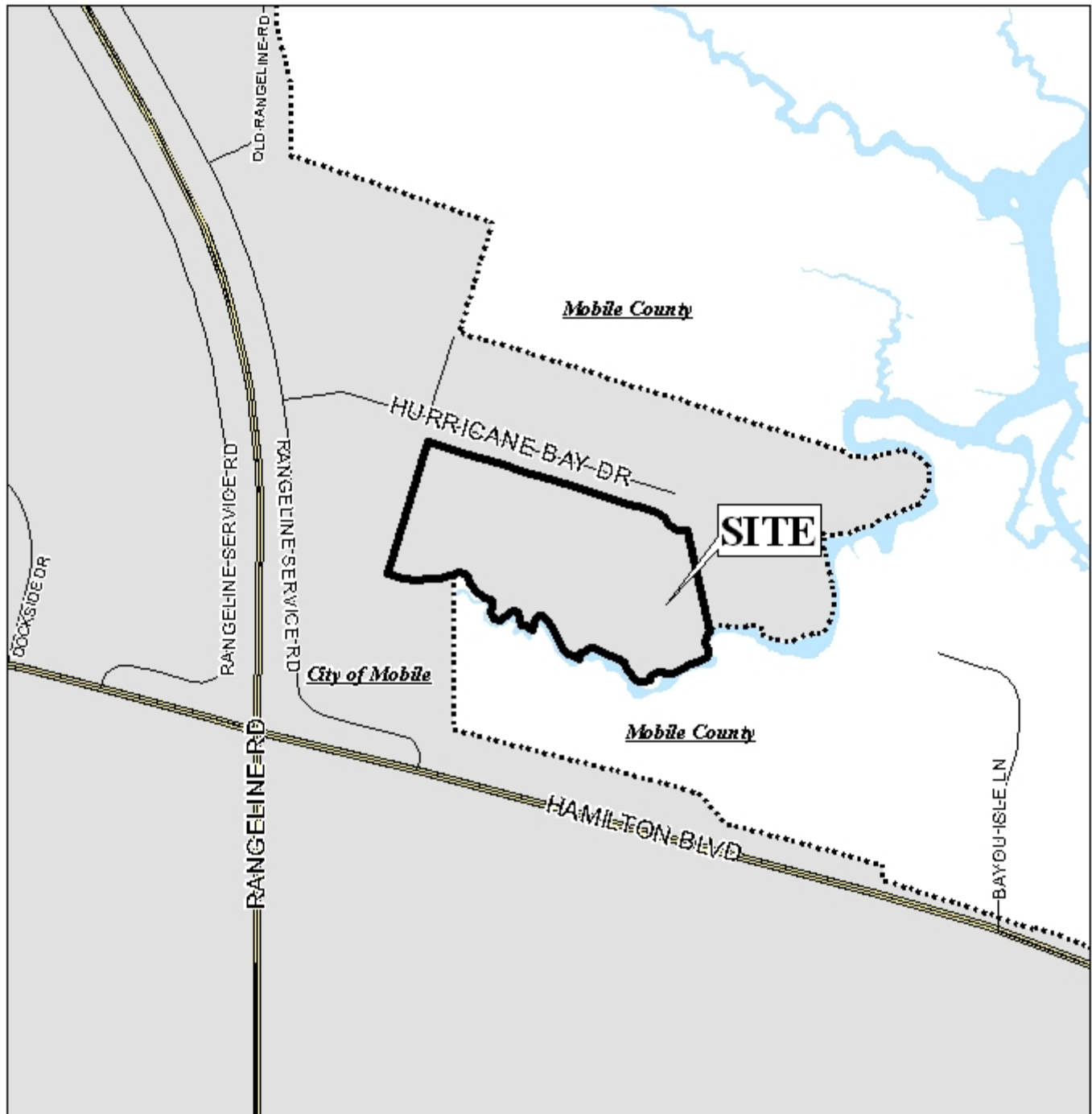
Finally, it appears that much of the site may be within the Zone AE and Zone X-shaded (100 and 500 year) floodplain for Alligator Bayou. Wetlands may also exist on portions of the site. The presence of wetlands and floodplains indicate that the area may be environmentally sensitive, including the possible presence of threatened or endangered species; therefore, the approval of all applicable federal, state and local agencies would be required prior to the issuance of any permits or land disturbance activities for any future development.

### **RECOMMENDATION**

Based on the preceding, the rezoning request to I-1, Light Industrial District, is recommended for Approval, subject to the following conditions:

- 1) Business operating without City of Mobile licenses shall obtain appropriate business licenses within one (1) month of City Council approval of the rezoning;
- 2) Future development to fully comply with local, state and federal regulations relating to threatened and endangered species, wetlands and floodplains;
- 3) Compliance with Engineering comments (*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 new dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.*); and
- 4) Full compliance with all municipal codes and ordinances, including trees, landscaping, parking, and buffering.

# LOCATOR MAP



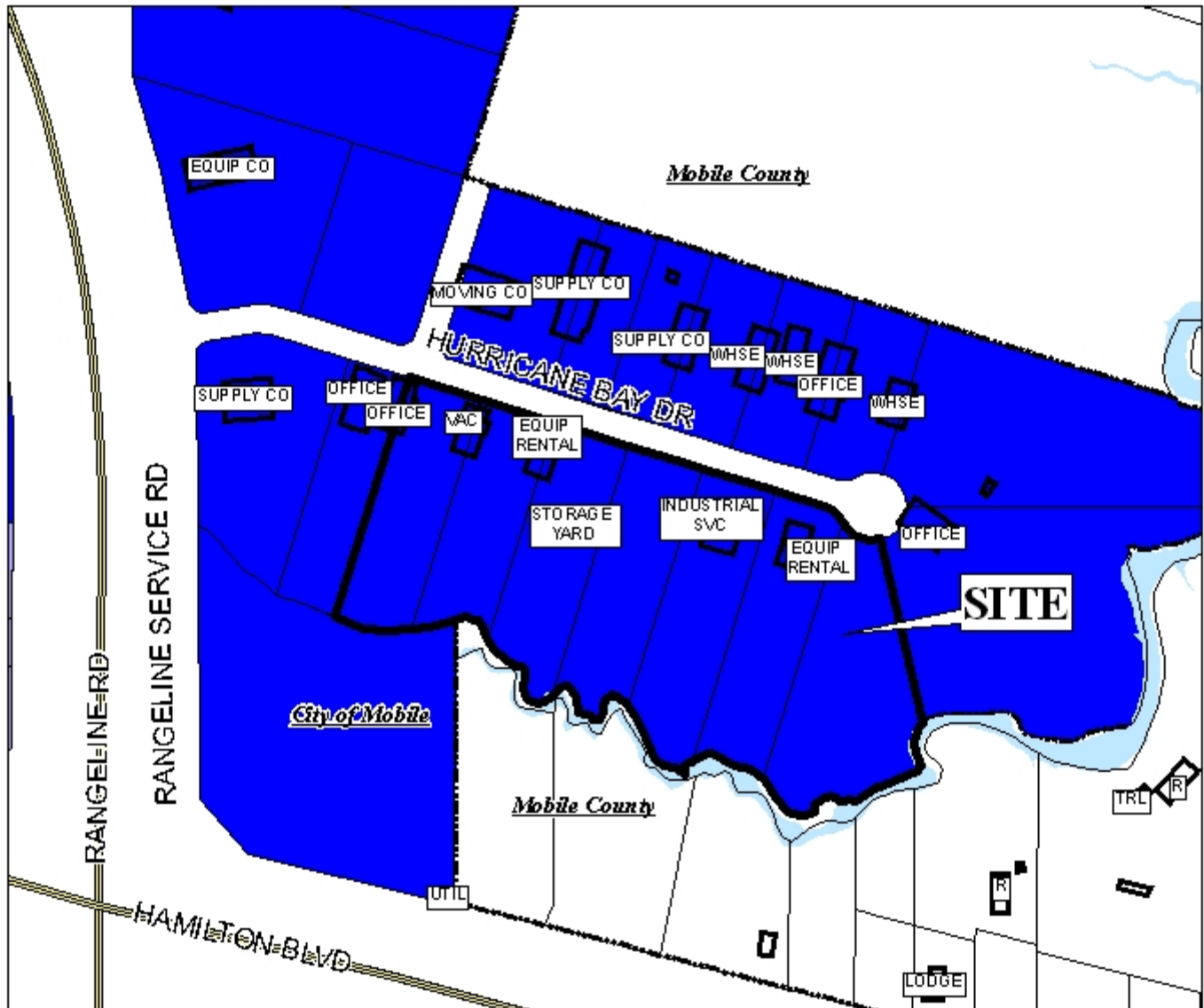
APPLICATION NUMBER 10 DATE November 19, 2009

APPLICANT Thompson Properties

REQUEST Rezoning from B-5 to I-1



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



Commercial and industrial sites are located to the north, east, and west of the site.

APPLICATION NUMBER 10 DATE November 19, 2009

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REQUEST Rezoning from B-5 to I-1

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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N  
NTS

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N  
NTS

## DETAIL SITE PLAN

**Rezoning Request – Theodore Annexation Area**  
**No site plan due to waiver of requirement by**  
**City Council until March 31, 2010**

APPLICATION NUMBER 10 DATE November 19, 2009

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NTS