

**ZONING AMENDMENT
& SUBDIVISION STAFF REPORT****Date: January 7, 2016****APPLICANT NAME**

E Square, LLC

SUBDIVISION NAME

E Square Subdivision

LOCATION2724 Old Shell Road and 104 & 106 Bay Shore Avenue
(Northeast corner of Old Shell Road and Bay Shore Avenue).**CITY COUNCIL
DISTRICT**

District 1

PRESENT ZONINGLB-2, Limited-Neighborhood Business District, and
R-1, Single Family Residential District**PROPOSED ZONING**

B-2, Neighborhood Business District

AREA OF PROPERTY2 Lots / 1.7 \pm Acres**CONTEMPLATED USE**

Subdivision approval to create 2 lots, and Zoning approval to rezone the site from LB-2, Limited-Neighborhood Business District, and R-1, Single Family Residential District, to B-2, Neighborhood Business District, to allow a retail business and restaurant.

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.

**REASON FOR
REZONING**

Changes in conditions in the area make a change in zoning necessary and desirable.

**TIME SCHEDULE
FOR DEVELOPMENT**

Not provided

**ENGINEERING
COMMENTS****Subdivision**

The following comments should be addressed prior to submitting the FINAL PLAT for acceptance and 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 and label the monument set or found at each subdivision corner.
- C. Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer.
- D. Provide the Surveyor's Certificate and Signature.
- E. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures.
- F. 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.
- G. 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.
- H. Add a note that sidewalk is required to be constructed, and/or repaired, along the frontage of each lot, or parcel, at time of development, unless a sidewalk waiver is approved.
- I. Provide a copy of the FINAL PLAT to the Engineering Dept. for review prior to obtaining any signatures.
- J. Provide a copy of the Final Plat along with the original when submitting for City Engineer signature.

Zoning

- 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 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, paving, and all above ground structures, 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. The application and proposed work shall 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.
- 3. 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.
- 4. The proposed development must comply with all Engineering Department design requirements and Policy Letters.

TRAFFIC ENGINEERING**COMMENTS**

Each lot is limited to one curb cut per street frontage, with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. The existing parking area in the right-of-way, if approved, would be excluded from the curb cut restriction and may remain as approved. Any new 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 61-929 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 Subdivision approval to create 2 lots, and Zoning approval to rezone the site from LB-2, Limited-Neighborhood Business District, and R-1, Single Family Residential District, to B-2, Neighborhood Business District, to allow a retail business and restaurant. The site is located in Council District 1, and the applicant states that the site is served by public water and sanitary sewer.

The site is partially developed, however, the existing commercial structure has been vacant for several years. The site is bounded to the East by a vacant property in a B-2 district and residentially developed property in an R-1 district. To the North, across Caruthers Way, is a vacant commercial structure in an R-1 district. To the West, across Bay Shore Avenue, are two single family residences and a church, all in an R-1 district. To the South, across Old Shell Road, is a private K-12 school in an R-1 district.

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 appears to be depicted as commercial 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 applicant's justification for rezoning is that changes in conditions in the area make a change in zoning necessary and desirable.

The site has been the subject of several applications to the Planning Commission and the Board of Zoning Adjustment. The most recently approved applications in 2011 and 2012 were to resubdivide the site and rezone the property to allow for a commercial use with a new parking area. The zoning process was completed through the City Council, but the subdivision process was not completed, and the associated approval expired.

The applicant now wishes to combine multiple tax parcels and legal lots into two legal lots, and to rezone the property to B-2 in order to allow restaurant and retail uses. As one of the anticipated uses may include the sale of wine or beer for off-site consumption, rezoning from LB-2 is necessary as such is not allowed. It should be noted that if the rezoning is approved by the Planning Commission and City Council, the question of beer and wine sales, either for on or off premise consumption, will still require separate City Council approval.

While the site is primarily bounded by residentially zoned property, most of the properties surrounding the site are actually utilized for commercial (by variance) or institutional uses (church and school). The adjacent church and the adjacent school have expanded over the last few years, and at least half of the properties along Bay Shore Avenue appear to be either commercially zoned or commercially used.

It should be noted that the applicant has excluded some of the existing B-2 property included within the proposed Lot A from the rezoning request. Staff believes that all property that will comprise proposed Lot A should be included in the rezoning request so that any conditions that may be imposed by the Planning Commission or City Council will apply to the entirety of proposed Lot A.

Proposed Lot B, for which no development is proposed at this time, may best serve the neighborhood as a B-1 Buffer Business District instead of the requested B-2 district. A B-1 district allows fewer uses that may be considered potentially of negative impact to adjacent residential uses.

While Zoning approval is not site plan specific, it should be noted that the dumpster depicted on the site plan for Lot A is within the 10-foot residential buffer, thus it must be relocated elsewhere on the site.

It should also be noted that a total of 52 parking spaces are shown, but that only 43 will actually be on private property: the remainder are within the right-of-way of Bay Shore Avenue. Given that a new parking area will be built, full compliance with the parking and site lighting requirements of the Zoning Ordinance should be required.

The number of parking spaces will not support the use of the entire building for a restaurant or café, thus the applicant must determine the appropriate mix of food service and retail or office uses that can occur on the site given the proposed number of parking spaces. If any of the parking spaces in the right-of-way will be required to meet parking requirements, an application to the Board of Zoning Adjustment will be required in order to allow the counting of those spaces, as well as for that portion of the building that extends into the right-of-way of Bay Shore Avenue.

A proposed drive-through is shown on the site plan. An order station is not depicted, however the pick-up window is shown. If an order station will be provided, the applicant must ensure adequate queuing space between the property line and the order station, and between the order station and the pick-up window.

As the only proposed new construction relates to the new parking area, the removal of parking along Old Shell Road, and the proposed new entrance from Old Shell Road, it would be in keeping with the previously approved and adopted LB-2 zoning conditions to only require tree, landscape and buffering requirements where new construction will take place. Therefore, frontage trees should not be required for that portion of the site where the building abuts Bay Shore Avenue.

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 Old Shell Road, Bay Shore Avenue and Caruthers Way, all minor streets. Old Shell Road and Bay Shore Avenue each have adequate rights-of-way, thus no dedication other than a corner radius will be required. Caruthers Way only has a 40-foot right-of-way, which is less than the 50 feet required. Therefore, the plat should be revised to depict dedication sufficient to provide 25-feet from the centerline of Caruthers Way. A corner radius should be provided, in compliance with Section V.D.6. of the Subdivision Regulations.

Regarding access, the site plan depicts one new curb-cut to Old Shell Road and one new curb-cut to Bay Shore Avenue for Lot A. An existing continuous curb-cut along Old Shell Road is proposed to be closed. Another existing nearly continuous curb-cut along Bay Shore Avenue is proposed to remain open, due to the presence of existing parking spaces that the applicant wishes to retain. No development is shown on proposed Lot B, thus no proposed curb-cuts are depicted.

Lot A should be limited to one curb-cut to Old Shell Road, one new curb-cut to Bay Shore Avenue, and allowed to retain the existing nearly continuous curb-cut to Bay Shore Avenue (subject to obtaining the necessary approvals for use of the right-of-way for parking). As Caruthers Way leads to Randolph Street, which is primarily residential, Lot B should be limited to one curb-cut to Bay Shore Avenue and denied access to Caruthers Way. Any modifications to existing curb-cuts that will remain, and the size, design and location of any new curb-cuts are to be approved by Traffic Engineering and comply with AASHTO standards.

Any unused curb-cuts should be removed and the public right-of-way restored with curbing, grass and sidewalk.

The 25-foot minimum building setback is depicted along Old Shell Road and Bay Shore Avenue, but is not depicted for Lot B along Caruthers Way. The plat should be revised to depict the minimum building setback line along all street frontages, adjusted for any required dedication.

The existing building on proposed Lot A will be reduced in size from 12,641 square feet to 11,681 square feet. A small portion of the building that will remain is located within the right-of-way for Bay Shore Avenue. Per conditions placed upon previous Subdivision approvals, a condition should be required that the applicant either remove that portion of the existing structure that extends into the right-of-way of Bay Shore Avenue, or obtain approval of a Right-of-Way Use Agreement for the building (non-utility for the building) and for the parking by the City of Mobile.

RECOMMENDATION

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

- 1) Dedication along Caruthers Way to provide 25-feet from the centerline;
- 2) Depiction of the 25-foot minimum building setback from all street frontages;
- 3) Revision of the lot sizes to reflect dedication;
- 4) Provision of corner radii in compliance with Section V.D.6. of the Subdivision Regulations;
- 5) Placement of a note on the Final Plat stating that Lot A is limited to one curb-cut to Old Shell Road and one new curb-cut to Bay Shore Avenue, and that Lot B is limited to one curb-cut to Bay Shore Avenue and is denied access to Caruthers Way, with the size, design and location of all curb-cuts to be approved by Traffic Engineering and comply with AASHTO standards.
- 6) Removal of any unused curb-cuts and the restoration of curbing, grass and sidewalks;
- 7) The existing parking and curb-cut access to Bay Shore Avenue, within the right-of-way, subject to the obtaining of a Right-of-Way use agreement;
- 8) The existing building within the Bay Shore Avenue right-of-way to remain only if a non-utility Right-of-Way use agreement is secured;
- 9) Compliance with Engineering comments (*The following comments should be addressed prior to submitting the FINAL PLAT for acceptance and 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 and label the monument set or found at each subdivision corner. C. Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer. D. Provide the Surveyor's Certificate and Signature. E. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures. F. 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. G. 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. H. Add a note that sidewalk is required to be constructed, and/or repaired, along the frontage of each lot, or parcel, at time of development, unless a sidewalk waiver is approved. I. Provide a copy of the FINAL PLAT to the Engineering Dept. for review prior to obtaining any signatures. J. Provide a copy of the Final Plat along with the original when submitting for City Engineer signature.);

- 10) *Compliance with Traffic Engineering comments (Each lot is limited to one curb cut per street frontage, with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. The existing parking area in the right-of-way, if approved, would be excluded from the curb cut restriction and may remain as approved. Any new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.);*
- 11) *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 61-929 and City Code Chapters 57 and 64).); and*
- 12) *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)).*

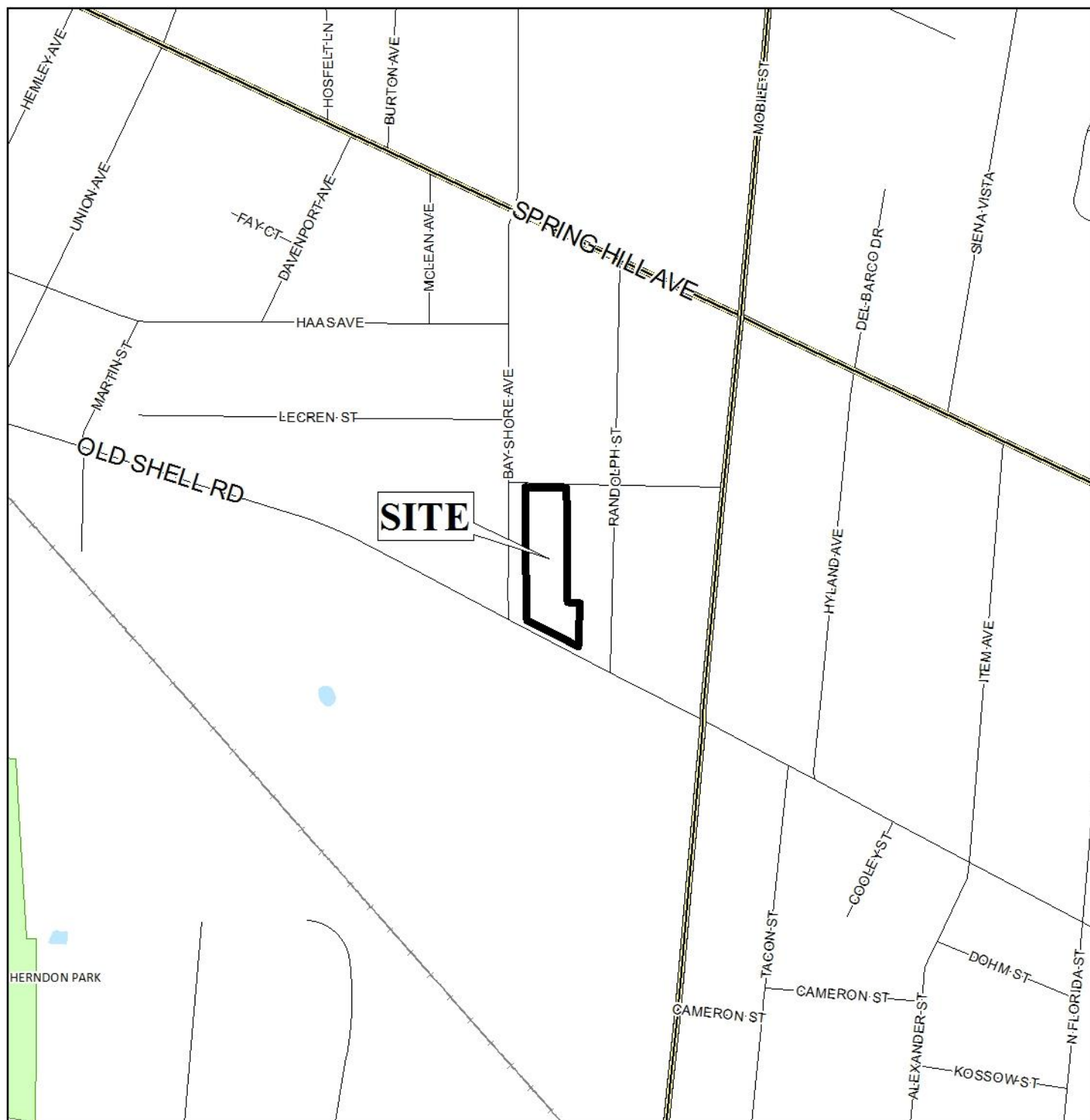
Rezoning: Based upon the preceding, the Rezoning request for **Lot A** as a B-2, Neighborhood Business District is recommended for Approval, subject to the following conditions:

- 1) Completion of the Subdivision process;
- 2) New construction and site development to comply with buffering, lighting, tree, and landscaping requirements of the Zoning Ordinance; and,
- 3) Full compliance with all municipal codes and ordinances.

Rezoning: Based upon the preceding, the Rezoning request for **Lot B** is recommended for Approval as a **B-1, Buffer Business District** (*instead of as a B-2, Neighborhood Business District*), subject to the following conditions:

- 1) Completion of the Subdivision process; and
- 2) Full compliance with all municipal codes and ordinances.

LOCATOR MAP



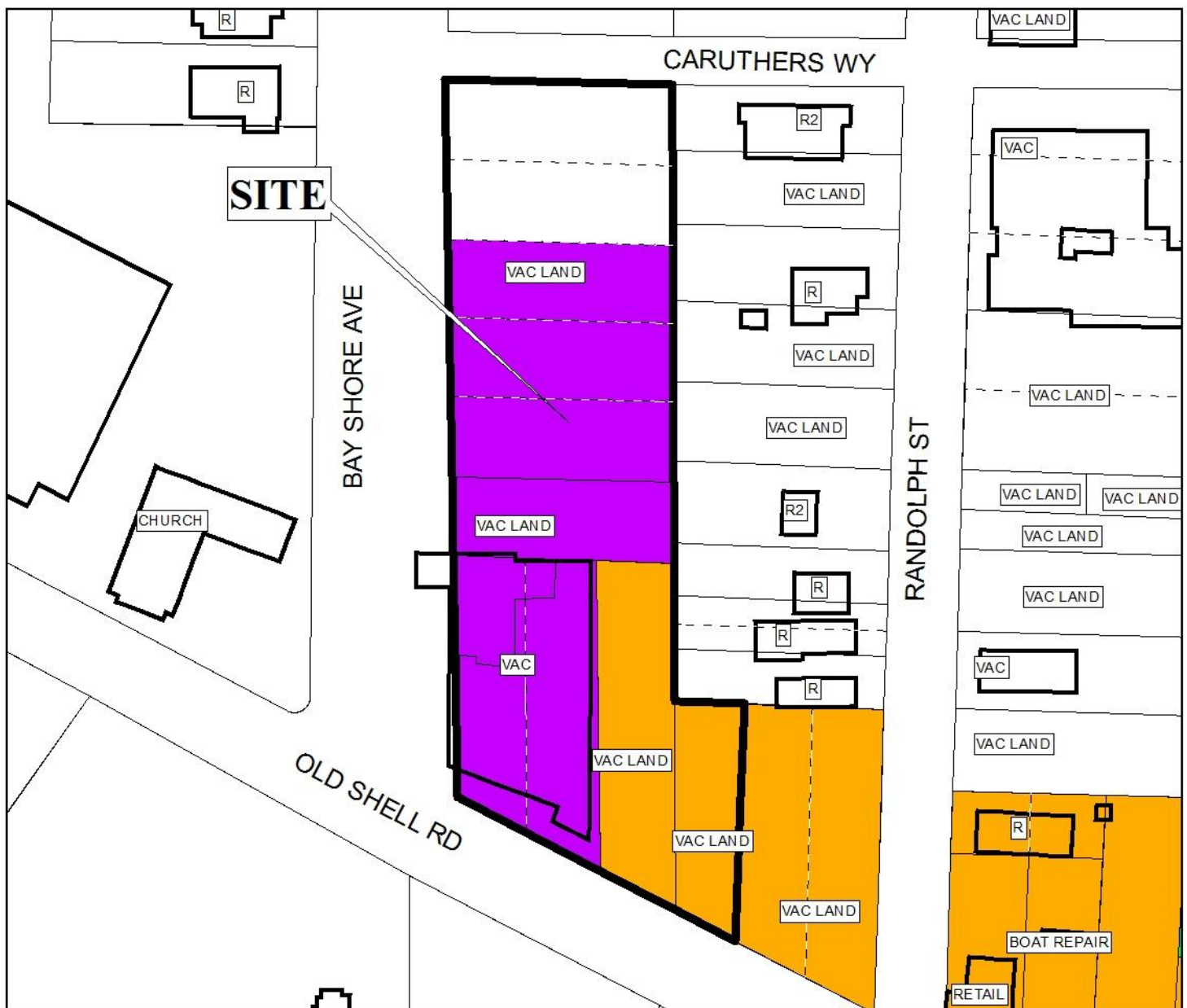
APPLICATION NUMBER 16 DATE January 7, 2016

APPLICANT E Square Subdivision

REQUEST Subdivision, Rezoning from LB2 and R-1 to B-2



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by commercial units. A church lies west of the site, and commercial units lie southeast.

APPLICATION NUMBER 16 DATE January 7, 2016

APPLICANT E Square Subdivision

REQUEST Subdivision, Rezoning from LB2 and R-1 to B-2

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 ZONING



The site is surrounded by commercial units. A church lies west of the site, and commercial units lie southeast.

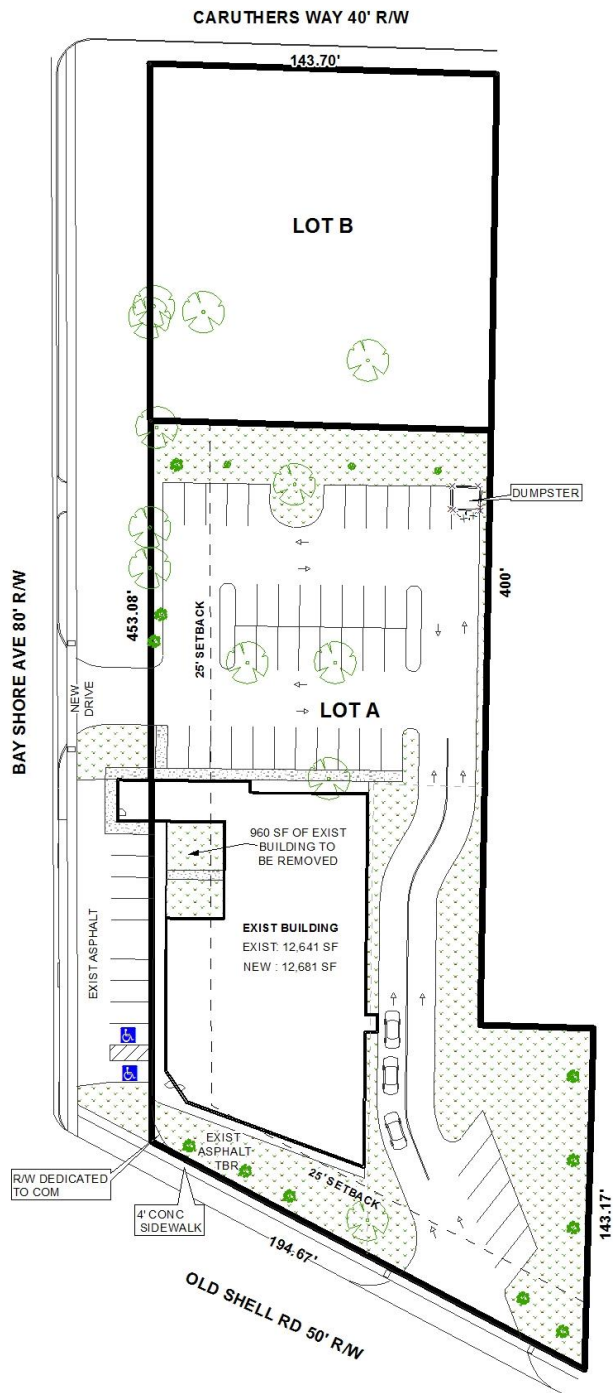
APPLICATION NUMBER 16 DATE January 7, 2016

APPLICANT E Square Subdivision

REQUEST Subdivision, Rezoning from LB2 and R-1 to B-2



SITE PLAN



The site plan illustrates the existing building, the parts if the building to be removed, trees, parking, and setback.

APPLICATION NUMBER 16 DATE January 7, 2016
APPLICANT E Square Subdivision
REQUEST Subdivision, Rezoning from LB2 and R-1 to B-2



NTS