

ZONING AMENDMENT STAFF REPORT**Date: May 6, 2010****NAME**

T. E. Montgomery Construction Co., Inc.

LOCATION4020 Dauphin Island Parkway
(West side of Dauphin Island Parkway, 465'± South of Staples Road)**CITY COUNCIL
DISTRICT**

District 3

PRESENT ZONING

R-1, Single-Family Residence District

PROPOSED ZONING

B-3, Community Business District

AREA OF PROPERTY

.39 ± Acre

CONTEMPLATED USE

Rezoning from R-1, Single Family Residential, to B-3, Community Business District, to allow a construction company office and warehouse.

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**

Currently Developed

**ENGINEERING
COMMENTS**

Must comply with all storm water and flood control ordinances. The construction of any new dumpster pads will require connection to sanitary sewer, cannot discharge to storm sewer. Any work performed in the right of way will require a right of way permit.

**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**

Must comply with the following sections of the 2003 International Fire Code: B105.1 Fire Flow Requirements; C103.1 Fire Hydrants Available; D103.4 Dead Ends.

REMARKS

The applicant is requesting rezoning from R-1, Single-Family Residential District to B-3, Community Business District, to allow a construction company office and a warehouse.

The site is bounded to the North and South by existing businesses (zoned B-3) and to the West by single-family residences (zoned R-1). Across Dauphin Island Parkway to the East is vacant land which is zoned B-3.

The site fronts onto Dauphin Island Parkway, which is a major street as defined on the Major Street Plan Component of the Comprehensive Plan.

The entire 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. 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.

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 does not state which of the four conditions that warrant rezoning is applicable. The owner does state that the zoning change is requested "so that the zoning will match the current and longstanding usage as well as match the current zoning of surrounding properties." This implies that conditions are changing in the area.

To be sure, the property is currently developed in a commercial manner. The site was the subject of a Board of Zoning Adjustment case in April, 1978. At that time, the Board approved a Use Variance to allow a seafood market (a B-3 use), at this location. The last zoning clearance for the site was issued in 1998 for a restaurant, which was technically not an allowed use. The applicant purchased the site in 2004 and has been using that site, albeit improperly, as a warehouse since 2004. Because the last legal use of the site was a restaurant, there may be building code issues with the proposed use, which should be resolved if the rezoning is approved.

Given the surrounding land uses and zoning districts, as well as the current development of the site, rezoning to B-3 could be considered appropriate.

As the property to the West of the site is zoned and developed as Single-Family, a buffer compliant with Section 64-4.D.1. of the Zoning Ordinance should be required. Further, as there has not been a legal business at the site in several years, and because of likely building code issues, the site should be brought up to current zoning code, including trees, landscaping, and parking. Additionally, because of shared access with an adjacent building site to the North, a Planned Unit Development application should be submitted or the shared access should be removed.

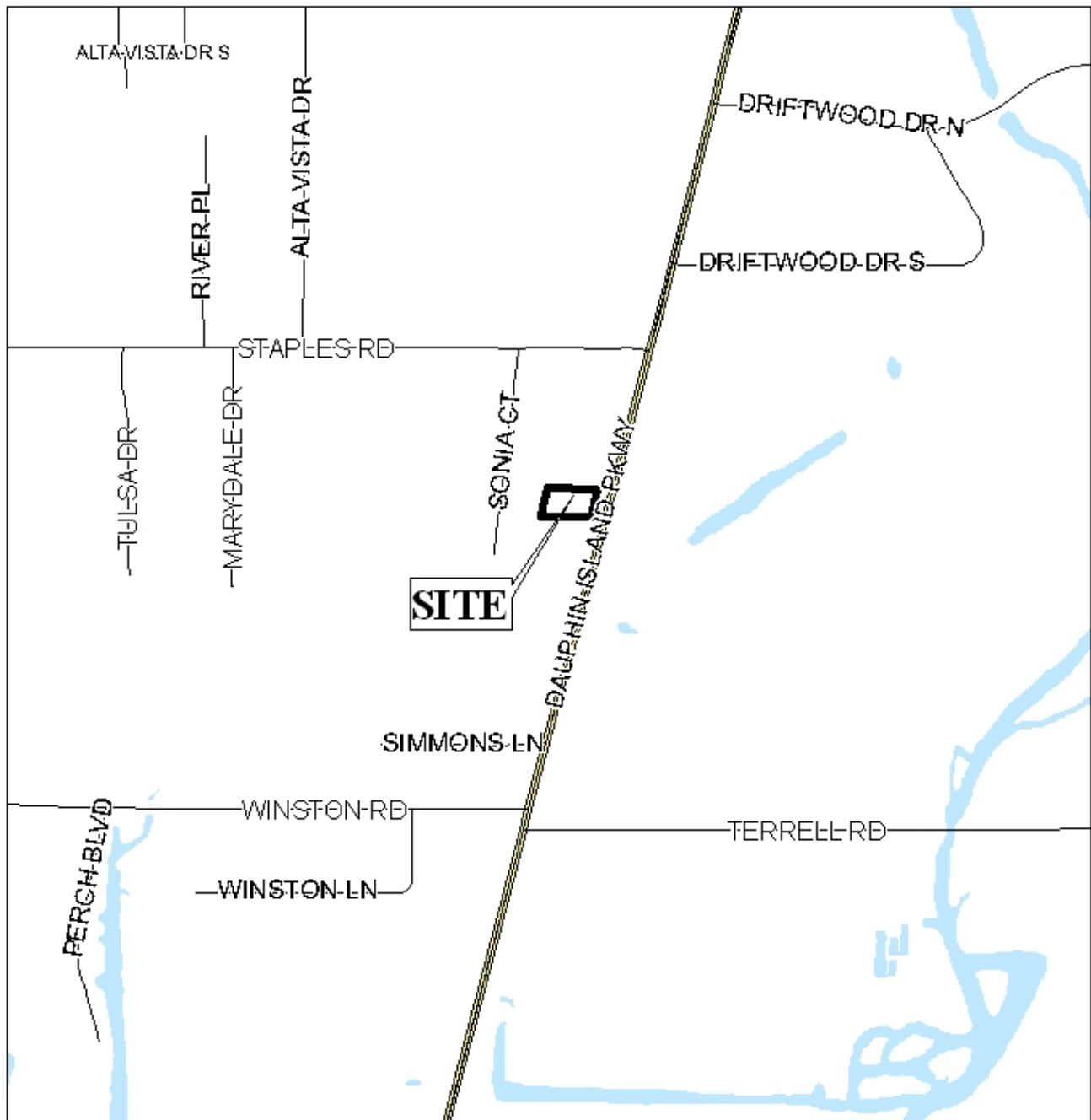
Lastly, the applicant states, and the site plan indicates, that the dumpster that is on site encroaches onto the property to the North. Because the dumpster will be moved, the dumpster should be placed on a dumpster pad, equipped with a connection to sanitary sewer and enclosed with a proper enclosure.

RECOMMENDATION

Based on the preceding, the application is recommended for approval subject to the following conditions:

- 1) submittal and approval by the Planning Commission of an appropriate Planned Unit Development Application or the removal of the shared access with the adjacent building site to the North;
- 2) provision of tree planting and landscaping areas to comply with the Zoning Ordinance;
- 3) provision of striped parking in compliance with the Zoning Ordinance;
- 4) movement of the dumpster to relieve the encroachment, and provision of a dumpster pad (with connection to sanitary sewer) and an enclosure of appropriate screening around the same;
- 5) provision of two copies of the revised site plan indicating the conditions noted; and
- 6) full compliance with all municipal codes and ordinances.

LOCATOR MAP



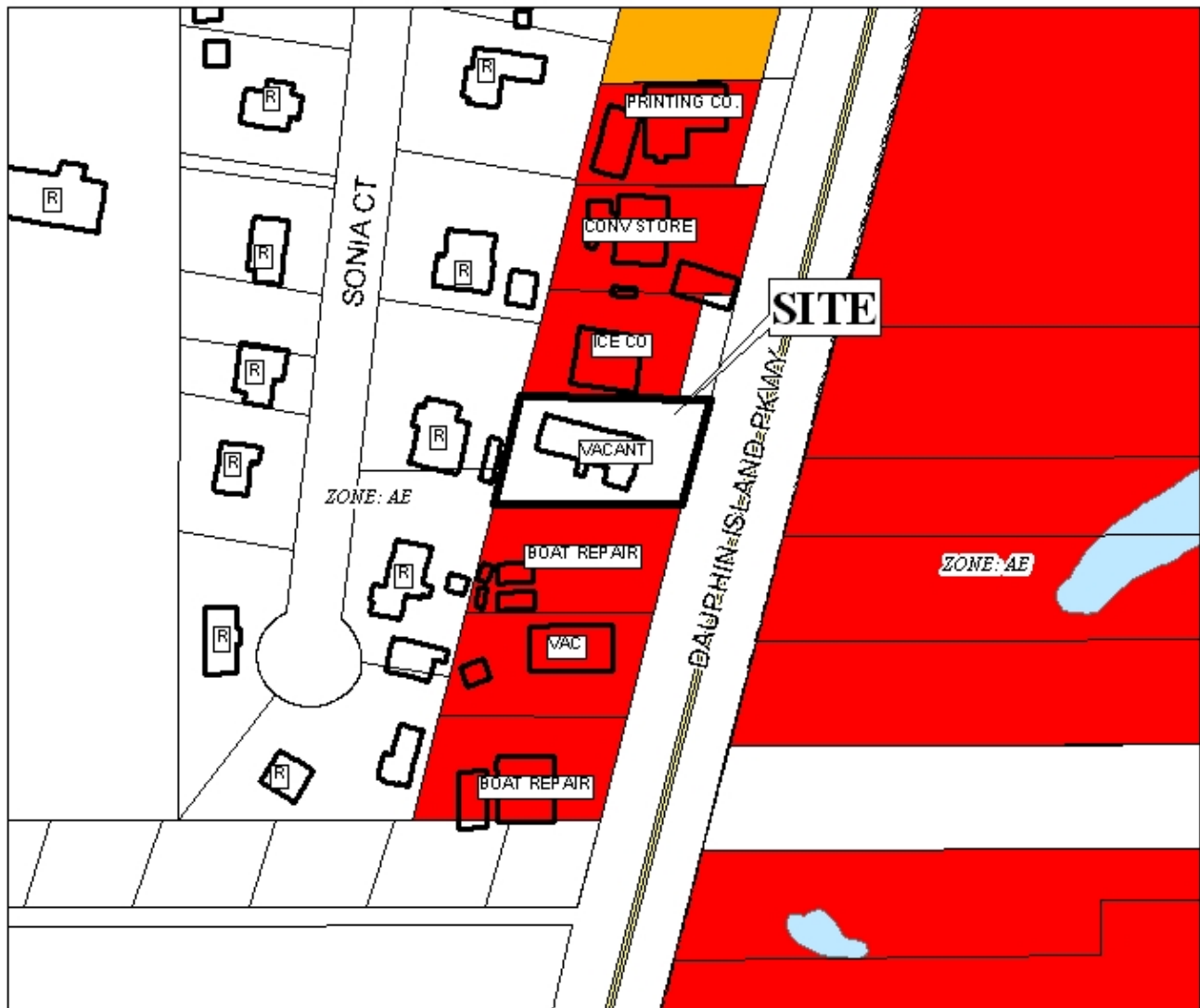
APPLICATION NUMBER 16 DATE May 6, 2010

APPLICANT T. E. Montgomery Construction Co., Inc.

REQUEST Rezoning from R-1 from B-3



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



An ice company and convenience store are to the north of the site, a single family residential unit is to the west, and a boat repair business is south of the site.

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LEGEND

R-1	R-2	R-3	R-4	R-B	H-B	T-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2	NTS
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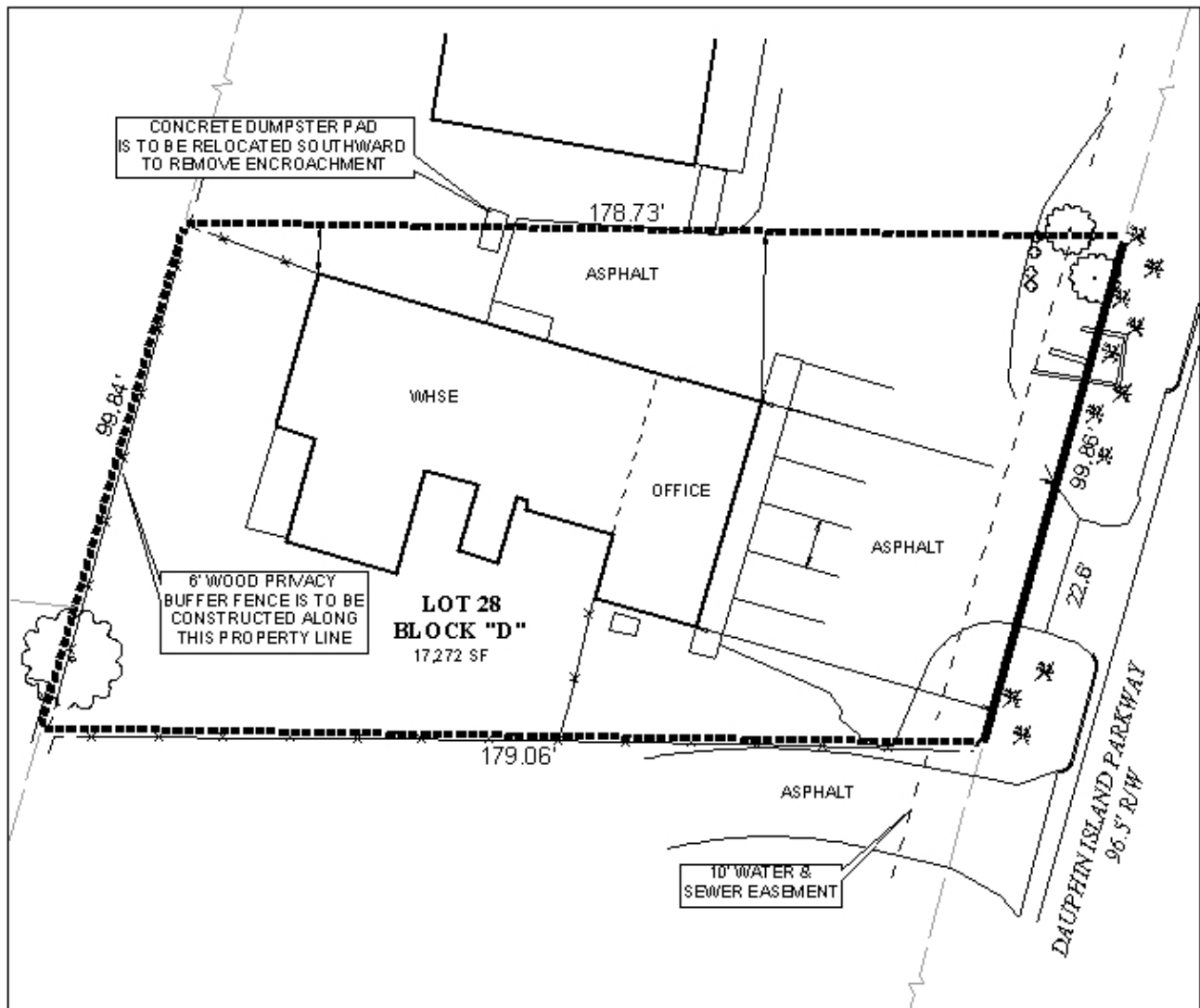
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N
NTS

SITE PLAN



Existing and proposed improvements are illustrated in the site plan.

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