

**ZONING AMENDMENT,
& SUBDIVISION STAFF REPORT****Date: September 20, 2007****APPLICANT NAME**

Don R. Wijeratne

SUBDIVISION NAME

Fortune Square Subdivision

LOCATION

Southwest corner of Government Street and Cherokee Street.

**CITY COUNCIL
DISTRICT**

District 3

PRESENT ZONING

B-1, Buffer Business District

PROPOSED ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY1.1 acre \pm / 1 lot**CONTEMPLATED USE**

Subdivision approval to create 1 lot, and Zoning approval to rezone the site from B-1, Buffer Business, to B-2, Neighborhood Business, to allow retail 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.

**REASON FOR
REZONING**

The reason for rezoning provided by the applicant reads as follows:

“The said property is located at an area is increasingly becoming commercial. Given the fact that the property faces Government Street, this land is most suitable to be used as a commercial property. Additionally, the adjacent properties have been zoned B-2, which means that converting to B-2 wouldn’t adversely effect the composition of the area.”

**TIME SCHEDULE
FOR DEVELOPMENT**

No schedule provided.

**ENGINEERING
COMMENTS**

It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS shows wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of

Engineers. 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.

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 Subdivision approval to create 1 lot, and Zoning approval to rezone the site from B-1, Buffer Business, to B-2, Neighborhood Business, to allow retail sales. Retail sales are allowed by right in B-2 districts.

The site was the subject of a rezoning application from B-1 to B-2 that was denied by the Planning Commission at its April 7, 2005 meeting. The application that was denied at the 2005 meeting utilized the exact same site plan as the application currently under consideration. There have been several requests to rezone this site from its current zoning, and all prior requests have either been denied or tabled.

The application does not provide any specifics regarding tenants, but simply states that B-2 zoning is required for the intended use. While some uses that may locate in a retail strip center require B-2 zoning, most would be allowed in an LB-2 district. In fact, several new developments have opted for the slightly more restrictive LB-2, Limited Neighborhood Business, in order to afford a little more protection to neighboring residential properties.

This area is shown on the General Land Use component of the Comprehensive Plan as commercial. However, the Comprehensive Plan is meant to be a general guide, not a detailed lot and district plan or mandate for development. The Planning Commission and City Council may consider individual cases based on additional information such as the classification requested, the surrounding development, the timing of the request and the appropriateness and compatibility of the proposed use and zoning classification.

The site fronts onto Government Street, a major street as shown on the Major Street Plan, and Cherokee Street, a minor street with adequate right-of-way. The site plan and subdivision plat indicate that the right-of-way for Government Street is 60 feet, which if correct, means that additional right-of-way must be dedicated to provide a minimum right-of-way width of 50 feet, as measured from the centerline of Government Street. Government Street's status as a major

street, and the fact that Cherokee Street serves a primarily residential area means that some method of access management would be advisable. Given the nature and character of development in this area, a limitation on the number, size and location of curb cuts would be appropriate.

The site is located on a major street, near the intersection of two major streets, and is adjacent to a B-3 district to the West. The properties across Government Street are zoned B-2 and B-3; and the property across Cherokee Street is zoned B-1. The properties to the South, along Cherokee Street, are zoned R-1, Single-Family Residential.

The Zoning Ordinance states that an amendment or rezoning is appropriate only when one or more of the following conditions prevail: there is a manifest error in the ordinance; changes in conditions in a particular area make a change in the ordinance necessary and desirable; an increased need for business or industrial sites in addition to sites that are available, make it necessary and desirable to rezone an area or extend the boundaries of an existing district; the subdivision of land into urban building sites makes reclassification necessary and desirable.

In general, the applicant states that the reason for rezoning is a gradual change in conditions in the immediate vicinity, and that the properties to the North, East and West are commercial.

The site is located within the area of the Government Street Zoning Study that was adopted in 1984. As a result of that study, the site was rezoned from B-3 to B-1. At that time the Planning Commission and City Council considered B-1 to be the most appropriate zoning classification for the site. Since that time there have been very few changes in conditions in the area. The most significant change in condition is to the site itself – a fire damaged the residential structure located on the property and it was demolished.

An application for rezoning to B-2 was presented to the Planning Commission in 1995. The proposed use at that time was an auto-parts store. That application was denied by both the Commission and the City Council based upon issues specific to the proposed development and considerable opposition from the neighborhood. A subsequent application to rezone the site to B-3 was tabled due to ownership issues.

As with the previous applications, there are issues specific to the proposed development that are of concern and should be addressed. The first is the proposed access to Cherokee Street, a minor residential street. As has been referenced in numerous other applications, commercial access to a minor residential street is not a desirable situation. This is especially true given the intensity of uses that would be permitted and the proximity of the proposed access point to the adjacent residential property.

Another concern is that of parking. The proposed development exceeds the minimum parking requirements (41 provided, 35 required); however, there is not adequate parking on site to allow for any type of food or beverage establishment. While this “discrepancy” should not have a direct bearing on whether the site should be rezoned, it should be noted as a condition if the request is recommended for approval.

On-site circulation for the site appears to be minimally adequate, however, the turning radius within the parking area may result in cars parked near the building, at the Eastern-most end, being clipped by other vehicles. Furthermore, the location of the dumpster and the rear service entry doors for the businesses will likely result in trucks using Cherokee Street to access the rear of the property.

Finally, the corner of Government Street and Cherokee Street should be modified to conform to Section V.D.6. of the Subdivision Regulations. Specifically, a corner radius of 35-feet should be provided.

RECOMMENDATION

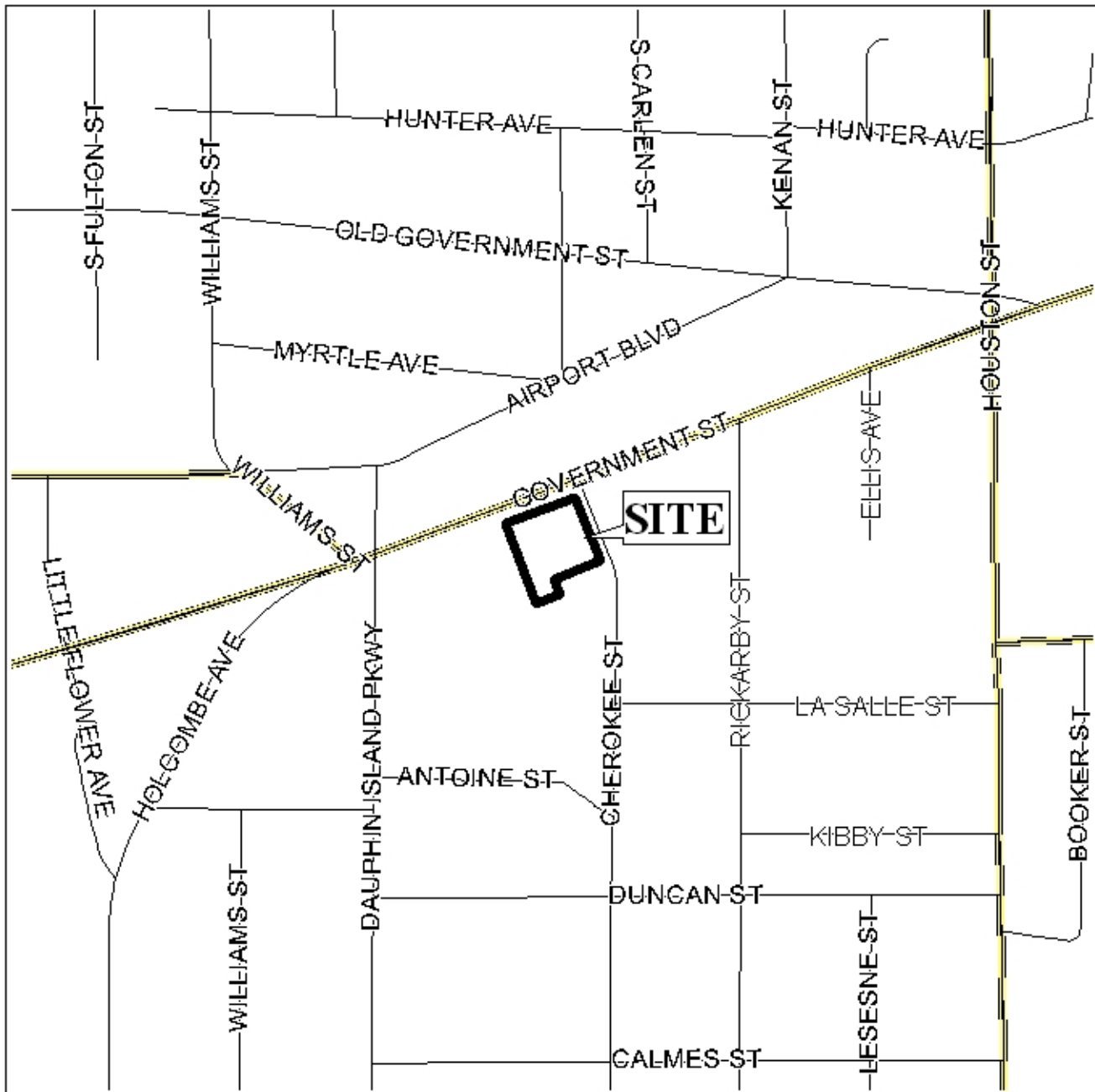
Rezoning: Based upon the preceding, the Rezoning request is recommended for Denial for the following reason:

- 1) Conditions have not significantly changed in the area, since the previously denied application, to justify an intensification of district.

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

- 1) placement of a note on the final plat stating that the lot is limited to one curb-cut onto Government Street, and denied access to Cherokee Street, with the size, design and location of the curb-cut to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;
- 2) dedication of right-of-way sufficient to provide 50 feet, as measured from the centerline of Government Street;
- 3) modification of the plat to provide a corner radius of 35-feet at the intersection of Government and Cherokee Streets;
- 4) the labeling the lot with its size in square feet; and
- 5) development of the site to fully comply with all other municipal codes and ordinances.

LOCATOR MAP



APPLICATION NUMBER 23 & 24 DATE September 20, 2007

APPLICANT Don R. Wijeratne

REQUEST Subdivision, Rezoning from B-1 to B-2



NTS

PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by mixed land use

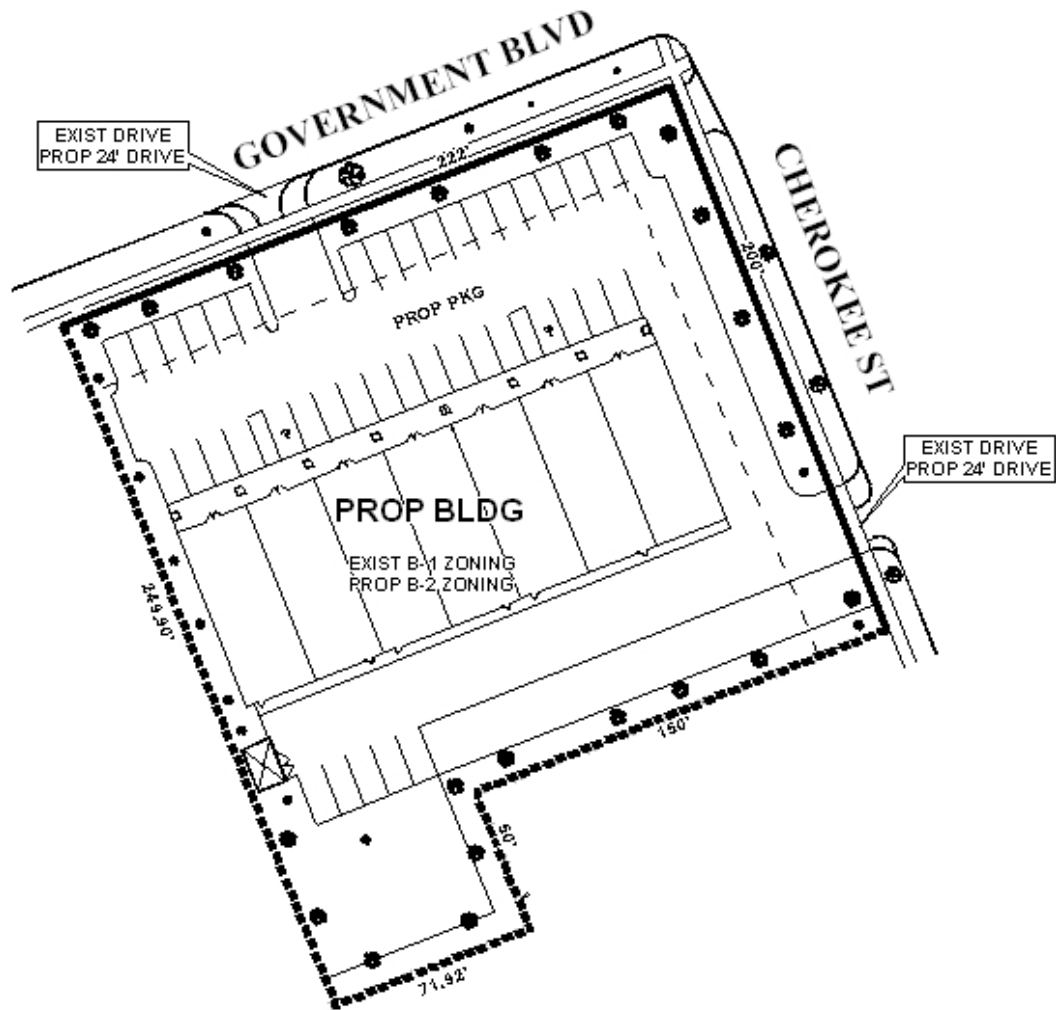
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LEGEND NTS

SITE PLAN



The site plan illustrates the proposed building, parking and drives

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NTS