

**REZONING STAFF REPORT****Date: April 7, 2005****APPLICANT NAME**

Fortune Investments, LLC

**LOCATION**

1957 Government Street

**CITY COUNCIL****DISTRICT**

District 3

**PRESENT ZONING**

B-1, Buffer Business

**PROPOSED ZONING**

B-2, Neighborhood Business

**AREA OF PROPERTY**

1.10± Acres

**CONTEMPLATED USE**

Retail Shopping Center

**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:

“Intended use for this parcel requires B-2 zoning. The property immediately east of this property is a lawyer’s office and is zoned B-1. Immediately to the west is a car wash, a drug store and a retail shoe store, all of which are zoned B-3. All of these parcels front Government Street and are bordered on the rear property line with residential zoning. Likewise, the parcel being considered for rezoning fronts Government Street and is bordered on the back property line with residential zoning. Across Government Street from this parcel is a mixture of B-2 and B-3 zoning.

Obviously, the area surrounding this parcel has gradually changed into a business area; therefore, these changes in condition justify the re-zoning of this parcel. Since all of the commercial zoning in this area is either B-2 or B-3 (except the aforementioned lawyer’s office) the re-zoning of this parcel to B-2 is obviously compatible with the adjacent commercial properties.”

**TIME SCHEDULE**

Immediate

**ENGINEERING****COMMENTS**

Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.

**TRAFFIC ENGINEERING****COMMENTS**

Driveway number, sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards. Parking aisle on the south side of the development should be widened to twenty-four feet.

**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 (City Code Chapters 57 and 64 and State Act 61-929). Full compliance with landscaping and tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry. Due to existing trees on right of way, curb cuts are to be coordinated with Urban Forestry.

**REMARKS**

The applicant is proposing development of the site as a retail strip center.

An application for B-3 zoning was recently tabled by the Commission due to inaccuracies on the application relating to ownership. The application now before the Commission is in the name of the corporation that owns the property, and requests rezoning to B-2 instead of the previously requested B-3. Otherwise, the plans are virtually identical.

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.

Government Street is a major street as shown on the Major Street Plan and as such requires some method of access management. 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.

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.

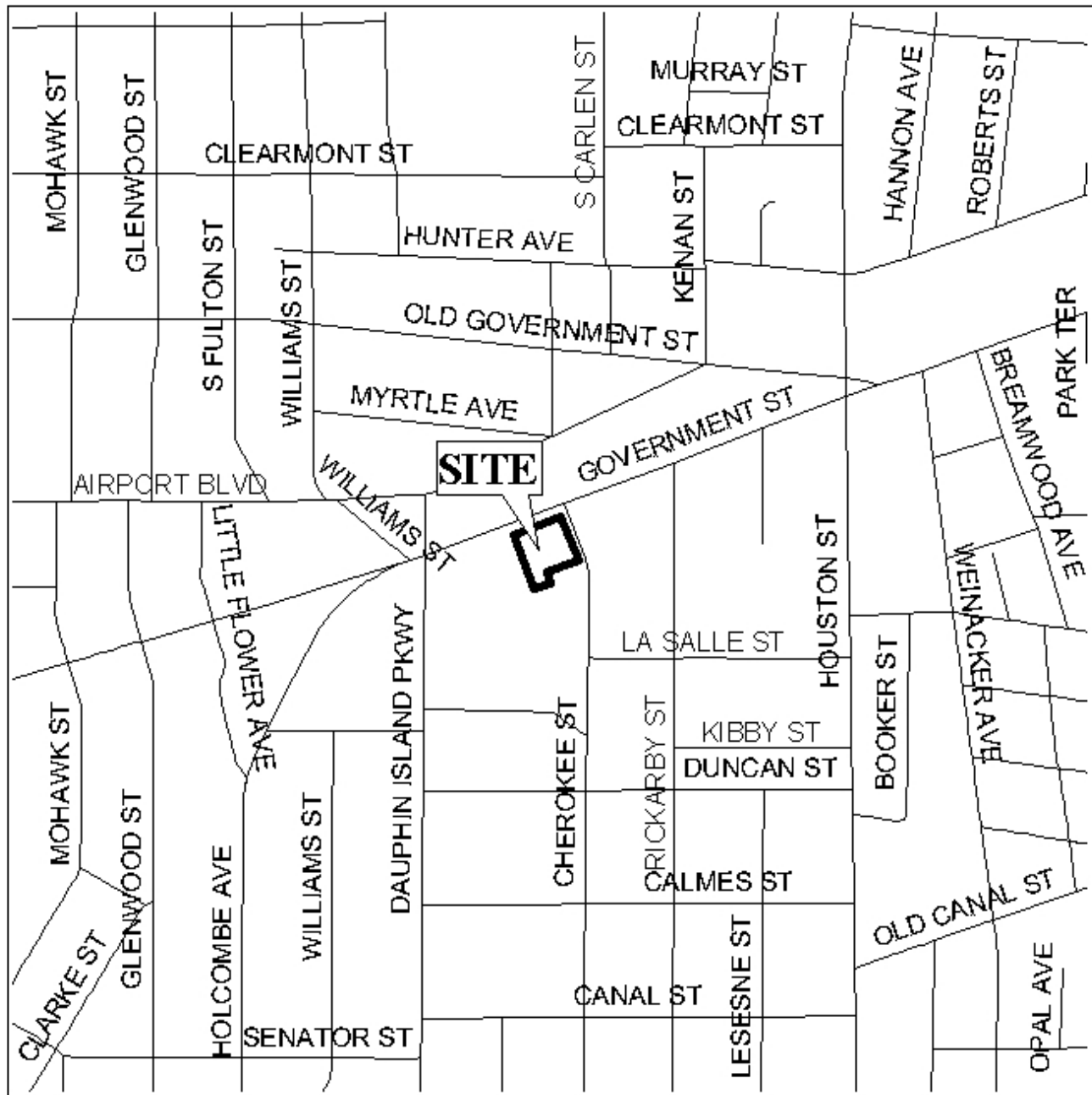
Another concern is that of parking. The proposed development exceeds the minimum parking requirements (by six spaces); however, there is not adequate parking on site to allow for any type of food or beverage establishment. While this “discrepancy” should not have a direct bearing on whether the site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

The legal description provided with the application is a metes and bounds legal description describing the overall parcel. However, the 1995 application (which included a one lot subdivision), the City of Mobile Lot and Block Maps, and the legal description used for the Government Street Zoning Study indicated that the site was in fact two parcels. Therefore, a subdivision application to establish the site as one legal lot of record would be required.

**RECOMMENDATION**  
application be denied.

Based on the preceding, it is recommended that this

## LOCATOR MAP



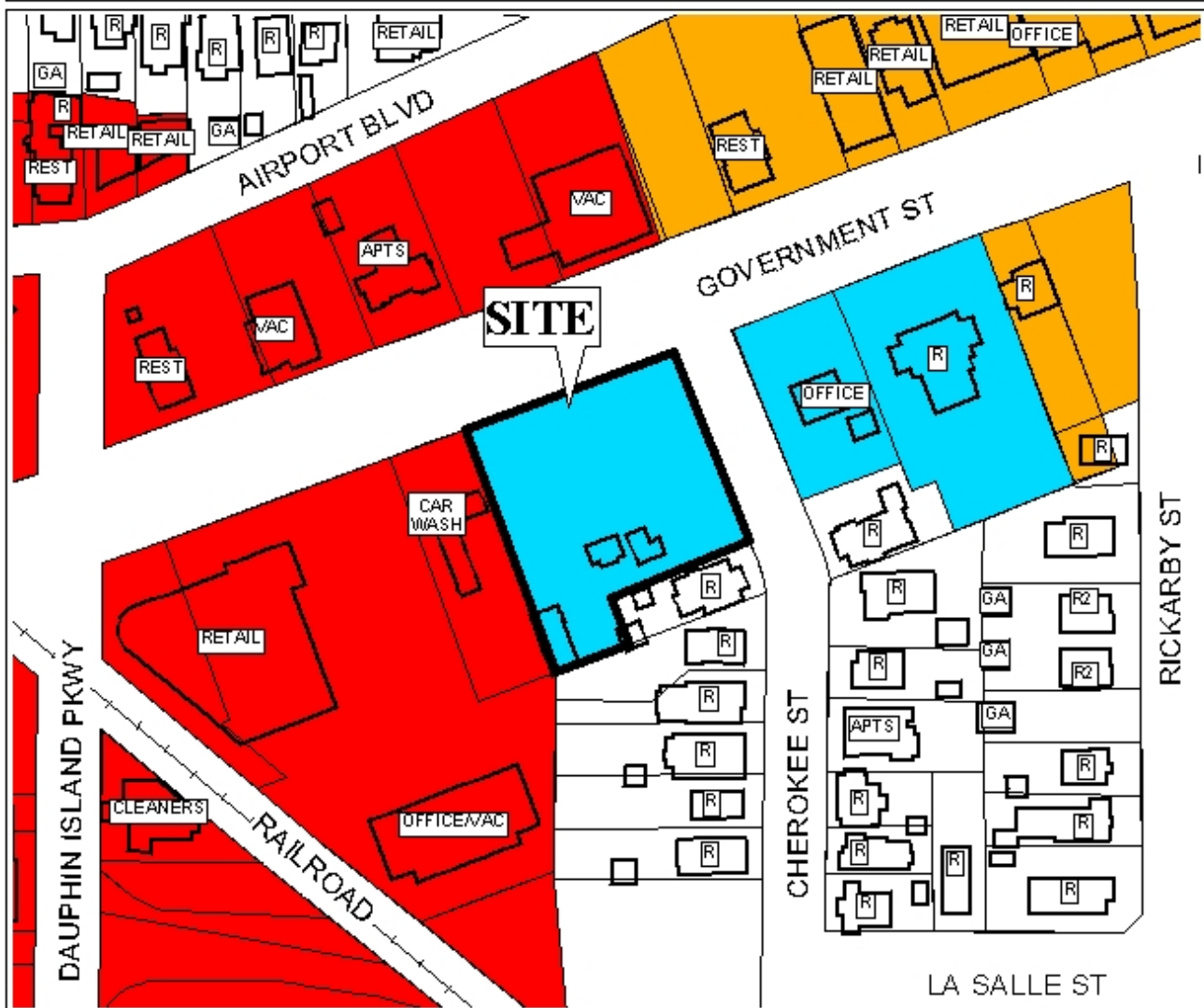
APPLICATION NUMBER 8 DATE April 7, 2005

APPLICANT Fortune Investments, LLC

REQUEST Rezoning from B-1 to B-2



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is located in a area of mixed commercial and residential land use.

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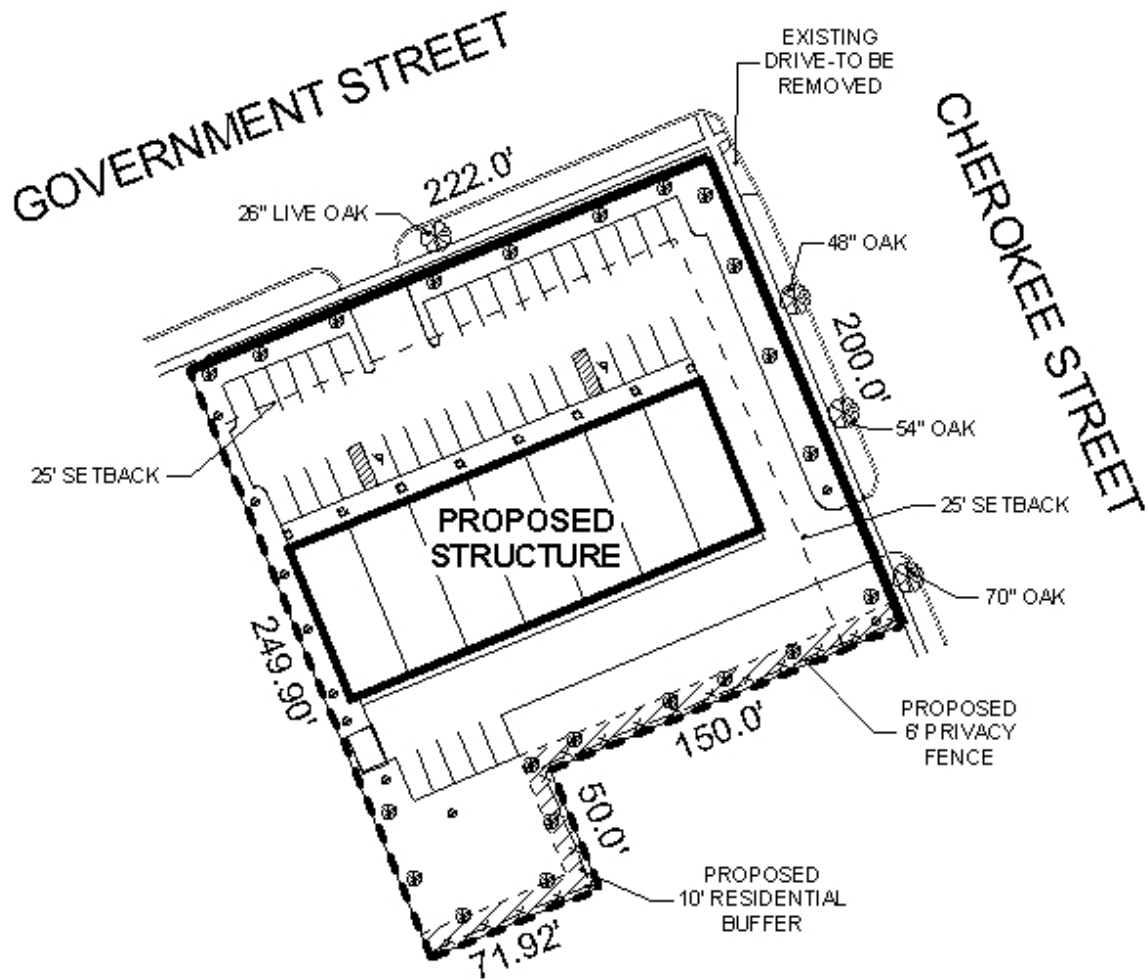
LEGEND

R-1	R-2	R-3	R-A	R-B	H-B	B-1	LB-2	B-2	B-3	B-4	B-5	I-1	I-2
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# SITE PLAN



The site is located at the Southwest corner of Government Street and Cherokee Street.  
The plan illustrates the proposed structure, parking and landscaping.

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