

**ZONING AMENDMENT,**  
**PLANNED UNIT DEVELOPMENT &**  
**SUBDIVISION STAFF REPORT**

**Date: September 15, 2005**

<b><u>NAME</u></b>	Ashland Park (Pete Vallas ,Agent)
<b><u>LOCATION</u></b>	2175, 2177, and 2179 Old Shell Road (South side of Old Shell Road, 160 feet $\pm$ east of Wisteria Avenue)
<b><u>CITY COUNCIL DISTRICT</u></b>	District 1
<b><u>PRESENT ZONING</u></b>	R-1, Single-Family Residential
<b><u>PROPOSED ZONING</u></b>	R-2, Two-Family Residential
<b><u>AREA OF PROPERTY</u></b>	1.2 acres
<b><u>CONTEMPLATED USE</u></b>	Single-Family dwellings with reduced lot sizes and setbacks, increased site coverage, and a private gated drive. <b>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.</b>
<b><u>TIME SCHEDULE FOR DEVELOPMENT</u></b>	Immediate
<b><u>ENGINEERING COMMENTS</u></b>	In accordance with the Storm Water Ordinance, Engineering will require plans to show how stormwater runoff will be conveyed to a COM maintained system OR a hold harmless agreement will be required for increased and concentrated storm water. If the storm water will be conveyed to a COM system, the developer must confirm that the system can handle the additional runoff. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.
<b><u>TRAFFIC ENGINEERING COMMENTS</u></b>	Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Widen access roads to twelve feet along city right-of-way and include a minimum of a fifteen-foot turning radius.

**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 commercial projects shall comply with the 2003 International Fire Code and Appendices B through G, as adopted by the City of Mobile on July 6, 2004. All One- or Two-Family residential developments shall comply with Appendices B, C, and D of the 2003 International Fire Code, as adopted by the City of Mobile on July 6, 2004.

**REMARKS**

The applicant is requesting Rezoning, Planned Unit Development, and Subdivision Approvals to allow single-family dwellings with reduced lot sizes, increased site coverage, and a gated private drive. Single-family dwellings are allowed by right in an R-2, Two-Family Residence District.

The site was the subject of Planned Unit Development, Subdivision and Variance applications in the Fall of 2001. The PUD and Subdivision applications were to create a four-lot single-family subdivision with shared access, while the Variance was for privacy wall exceeding the allowed maximum height. All three applications were approved, with conditions, and extensions were approved for the PUD and Subdivision in September 2002 and 2003. No units have been constructed since the approvals. The conditions applied to the PUD and Subdivision approvals in 2001 are as follows:

- 1) the construction of the drive, including sidewalks and tree plantings as illustrated on the plat submitted;*
- 2) the provision of six trees along Old Shell Road, as proposed, to be coordinated with Traffic Engineering and the Urban Forester;*
- 3) that the eight-foot wall be setback a minimum of five feet and approved by Traffic Engineering (it should be noted that Traffic Engineering may require a greater setback), and;*
- 4) full compliance with all municipal codes and ordinances.*

This application is to create six lots served by a private gated street. The proposed lots will range from 5,675 to 9,066 square feet in size, and have a maximum site coverage of 55 percent. The applicant is also requesting 10 foot front yard setbacks from the private street, 20 foot side yard setbacks from Old Shell Road for lots 1 and 6, 8 foot side yard setbacks from the south property line for lots 3 and 4, 10 foot rear yard setbacks for lots 1-3 and 4 and 5, and 8 foot rear yard setbacks for lot 4. The applicant is also requesting rear yard access to (private) alleys that are proposed for the east and west sides of the property. A detailed site plan has not been submitted with the application.

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 Subdivision request addresses the creation of the 6 lots, the Rezoning request addresses the increased density resulting from the smaller lots, and the PUD request addresses the desire to have reduced front, side and rear yard setbacks, rear yard alley access, increased site coverage, and a private gated street.

The site fronts Old Shell Road to the north, a minor street with adequate right-of-way, and is surrounded on all sides by single-family residential uses within an R-1, Single-Family Residential District. No R-2 districts exist within several blocks of the site, however, a B-2, Neighborhood Business District occurs approximately 200 feet east of the site.

The site is 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.

Regarding the proposed Subdivision, the average lot size for the development will be 7,077 square feet, just less than the minimum required by Section V.D.2. of the Subdivision Regulations. As the applicant is requesting the rezoning of the site to R-2, which would permit two dwelling units on a lot of 10,000 square feet, a waiver of Section V.D.2. would be appropriate.

The applicant is also requesting reduced front yard setback; along Old Shell Road the proposed setback is 20 feet, while along the private drive, the proposed setback is 10 feet. Section V.D.9. of the Subdivision Regulations requires a 25-foot minimum front yard setback. As previously mentioned, the applicant is proposing an innovative subdivision with a private street, and is proposing an 8-foot high wall along Old Shell Road. Furthermore, the Zoning Ordinance permits side yard setbacks on corner lots to be a minimum of 20 feet where lots abut other lots that front the side street, thus a waiver of Section V.D.9. would be appropriate

Old Shell Road is a minor street, however, access management is a concern. The applicant is proposing three access points onto Old Shell Road: 1) a private gated street with a 50-foot right-of-way, and; 2) two 10-foot wide access and utility easements along the east and west property lines of the site. The applicant states that the 10-foot wide access easements are to be used as alleys. It should be noted that the original application in 2001 also proposed alleys, and that Traffic Engineering recommended the removal of the alleys from the proposal. Furthermore, proposed Lots 1 and 6 have frontage onto Old Shell Road; the applicant is proposing the construction of an 8-foot high wall along Old Shell Road, precluding access for these two lots, however, a note should be placed on the Final Plat and Site Plans, if approved, stating that direct access to Old Shell Road from Lots 1 and 6 be denied.

The applicant is requesting that the proposed subdivision be a gated community with a private street. Section VIII. of the Subdivision Regulations permits modifications to standard regulatory requirements under three circumstances: 1) Unusual difficulties, generally related to natural circumstances, where the normal application of the Regulations would cause undue hardship; 2) Innovative design, which can include cluster or Traditional Neighborhood Development subdivisions, as well as townhomes, terrace houses, multi-family projects, and commercial development; or 3) Family subdivisions, which allow a private street to serve up to 5 lots. The proposed provision of a gate for the subdivision indicates “innovative” design, however, if the subdivision is approved, the gate must remain operational and in use as a condition of the continuation of private street status.

It should be noted that the right-of-way around the cul-de-sac portion of the private street does not meet, with a diameter of 75-feet, the turn-around diameter of 100-feet required by Section V.B.14 of the Subdivision Regulations. The straight portion of the proposed private right-of-way, however, complies with the minimum width requirements. A waiver of Section V.B.14. may be considered appropriate, as the length of the cul-de-sac, as measured along the centerline, is 185 feet.

Section VIII.E.2.f. of the Subdivision Regulations requires that a legal covenant be recorded with the Final Plat in Mobile County Probate Court, that: 1) provides for continuing maintenance of the street by an owners’ association or other entity; 2) grants right of ingress and egress for emergency and utility maintenance vehicles; and 3) saves harmless the governing body from damages to any owner within the association arising or which may arise out of the existence of such a private street. Furthermore, each and every owner of property abutting upon and with legal access to the proposed private street shall be a part to such document and agreement.

Section VIII.E.2.i. of the Regulations additionally requires that a sign shall be posted and maintained at the entrance to the private street, with the sign including the street name, and identifying the street as a private street. The sign shall be constructed to City standards, and must be approved by Traffic Engineering.

The following items from Section VIII.E.2. will be required on the Final Plat, if approved with a private street: 1) designation on the plat of utility easements acceptable to the appropriate provider of utility services within the subdivision; 2) a note on the plat stating that the street is privately maintained and not dedicated to the public; and 3) a note on the plat stating that if the private street is not constructed and maintained to the appropriate City standard, and is ultimately dedicated for public use and maintenance, 100 percent of the cost of the improvements required to bring the street up to the prevailing standard shall be assessed to the property owners at the time the private street is dedicated, with the assessment running with the land to any subsequent property owners.

As stated in Section IX. 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.

Section III.A.5.b. of the Zoning Ordinance recommends that a proposed new R-2 district should contain at least 4-acres of gross area. Approval of this rezoning application would create an isolated R-2 district, approximately 670 feet northwest of the nearest R-2 district located on Dauphin Street at Upham Street. It should be noted that the site is located in an older section of the city, where garage apartments were at one time a fairly common phenomena, thus allowing a smaller district size to facilitate single-family residential development on smaller lots may be appropriate.

The provision of a innovative six-lot subdivision on a private, gated street, reflects changing conditions in the “Midtown” area of Mobile. New residential construction within the Midtown area has been very limited over the last several decades because of the lack of vacant lots available for development. While the Zoning Ordinance is not erroneous, the minimum required lot size of 7,200 square feet does not reflect a national trend towards smaller lot sizes as it relates to infill development and traditional neighborhood development. Furthermore, there is a need to increase the number of residential sites available in the Midtown area for new construction, and the subdivision of the land as proposed makes reclassification necessary and desirable. Thus rezoning of the site to R-2 is recommended.

Planned Unit Development review examines the site with regard to its location to ensure that it is generally compatible with neighboring uses; that adequate access is provided without generating excess traffic along minor residential streets in residential districts outside the PUD; and that natural features of the site are taken into consideration. PUD review also examines the design of the development to provide for adequate circulation within the development; to ensure adequate access for emergency vehicles; and to consider and provide for protection from adverse effects of adjacent properties as well as provide protection of adjacent properties from adverse effects from the PUD.

The site is currently vacant, as residential structures originally on the site were removed several years ago. The site is within a stable residential neighborhood that was developed primarily since the 1900s. The Midtown area is characterized by a variety of lot sizes, thus the PUD would not be uncharacteristic in this regard. The development, however, would be one of the first gated private streets within the Midtown area.

The requested reduction in front and side yard setbacks, 10 feet and 5 feet respectively, are not anticipated to impact the neighborhood, as the reduced setbacks would apply to the interior sections of the development, not where the development abuts adjacent properties.

The main issues regarding compatibility within the area relates to the proposed 8-foot high wall along Old Shell Road, and the proposed alley accesses. The wall, as proposed, appears to be near the edge of pavement of Old Shell Road, thus creating visibility concerns and concerns regarding the provision of a sidewalk along Old Shell Road. The location of the wall should be

coordinated with Traffic Engineering, and should permit the provision of a sidewalk along Old Shell Road and trees, in coordination with the Urban Forester.

Regarding the proposed alley accesses, the previous application in 2001 included a similar provision, which was recommended for denial by staff and Traffic Engineering. Recent national shifts to traditional neighborhood design concepts have resulted in the reintroduction of the alley to residential developments. The Midtown area has (public) alleys that were created as the area developed, thus the provision of (private) alleys would not be uncharacteristic for the area.

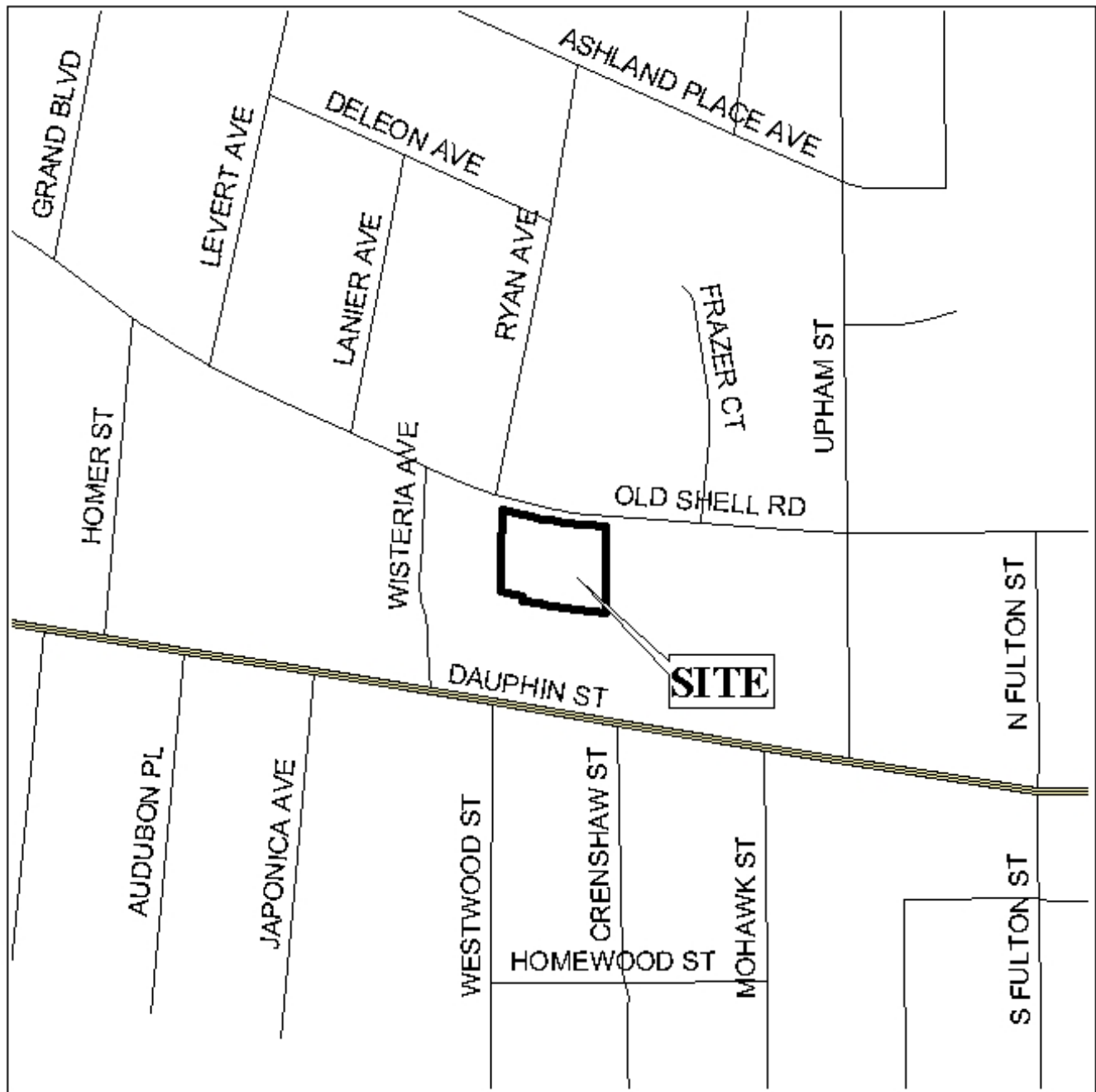
### **RECOMMENDATION**

**Rezoning:** Based upon the preceeding, the rezoning request is recommended for Approval, subject to the following conditions: 1) provision of a sidewalk along Old Shell Road; 2) compliance with the tree and landscaping requirements of the Zoning Ordinance, in coordination with Urban Forestry; 3) widening of alley access roads to twelve feet along City right-of-way and include a minimum of a fifteen foot turning radius onto Old Shell Road; 4) coordination with Traffic Engineering regarding the design and location of the proposed wall along Old Shell Road; 5) development is limited to the accompanying “as approved” PUD and Subdivision, and; 6) full compliance with all other municipal codes and ordinances.

**Planned Unit Development:** Based upon the preceeding, the PUD request is recommended for Approval, subject to the following conditions: 1) provision of a sidewalk along Old Shell Road; 2) compliance with the tree and landscaping requirements of the Zoning Ordinance, in coordination with Urban Forestry; 3) widening of alley access roads to twelve feet along City right-of-way and include a minimum of a fifteen foot turning radius onto Old Shell Road; 4) coordination with Traffic Engineering regarding the design and location of the proposed wall along Old Shell Road; 5) completion of the Rezoning and Subdivision process, and; 6) full compliance with all other municipal codes and ordinances.

**Subdivision:** With waivers of Sections V.B.14., V.D.2., and V.D.9. of the Subdivision Regulations, the Subdivision request is recommended for Tentative Approval, subject to the following conditions: 1) the placement of a note on the Final Plat stating that Lots 1 and 6 are denied direct access to Old Shell Road; 2) widen access roads to twelve feet along city right-of-way and include a minimum of a fifteen foot turning radius onto Old Shell Road; 3) Compliance with Section VIII., regarding the provision of a private street; 4) designation on the plat of utility easements acceptable to the appropriate provider of utility services within the subdivision; 5) placement of a note on the plat stating that the street is privately maintained and not dedicated to the public; 6) placement of a note on the plat stating that if the private street is not constructed and maintained to the appropriate City standard, and is ultimately dedicated for public use and maintenance, 100 percent of the cost of the improvements required to bring the street up to the prevailing standard shall be assessed to the property owners at the time the private street is dedicated, with the assessment running with the land to any subsequent property owners; 7) placement of a note on the plat stating that the gate must remain operational and in use as a condition of the continuation of private street status, and; 8) compliance with all other Municipal codes and ordinances.

## LOCATOR MAP



APPLICATION NUMBER 1 & 2 & 3 DATE September 15, 2005

APPLICANT Ashland Park, LLC (Pete Vallas, Agent)

REQUEST Rezoning, PUD, Subdivision



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



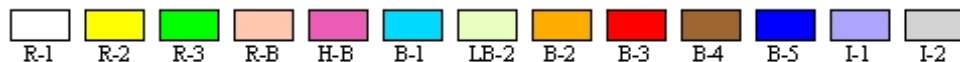
The site is surrounded by single family residential dwellings.

APPLICATION NUMBER 1 & 2 & 3 DATE September 15, 2005

APPLICANT Ashland Park, LLC (Pete Vallas, Agent)

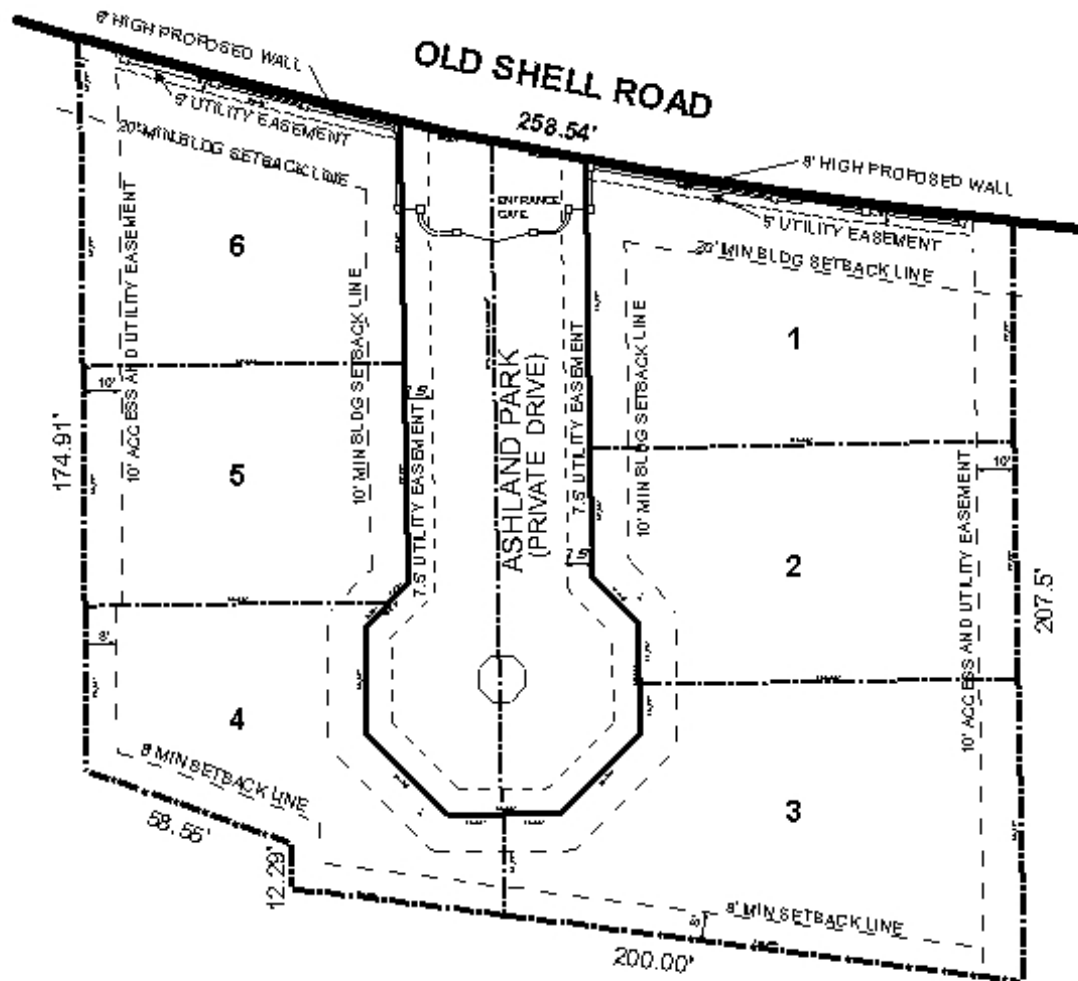
REQUEST Rezoning, PUD, Subdivision

LEGEND





# SITE PLAN



The site is located on the South side of Old Shell Road, 160' East of Wisteria Avenue. The plan illustrates the proposed subdivision with private drive.

APPLICATION NUMBER 1 & 2 & 3 DATE September 15, 2005  
 APPLICANT Ashland Park, LLC (Pete Vallas, Agent)  
 REQUEST Rezoning, Planned Unit Development, Subdivision

