

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

Date: September 15, 2011

<u>NAME</u>	La Belle LLC.
<u>SUBDIVISION NAME</u>	La Belle Subdivision, Re-subdivision and Addition to Lot 1
<u>LOCATION</u>	5951 & 5955 Old Shell Road and 14 East Drive (Southwest corner of Old Shell Road and East Drive)
<u>CITY COUNCIL DISTRICT</u>	District 6
<u>PRESENT ZONING</u>	R-1, Single-Family Residential District, and B-2, Neighborhood Business District
<u>PROPOSED ZONING</u>	B-2, Neighborhood Business District
<u>REASON FOR REZONING</u>	Subdivision of land, and resolution of a split-zoning issue created by the proposed Subdivision.
<u>AREA OF PROPERTY</u>	1 Lots / 1.3 ± Acres
<u>CONTEMPLATED USE</u>	<p>Subdivision approval to create 1 lot, Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site, and Rezoning from R-1, Single-Family Residential District, and B-2, Neighborhood Business District, to B-2, Neighborhood Business District to eliminate split zoning in a proposed Subdivision and allow construction of a parking lot.</p> <p>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.</p>
<u>TIME SCHEDULE</u>	No timeframe provided.
<u>ENGINEERING COMMENTS</u>	Must comply with all storm water and flood control ordinances. Detention required for the approximately 1,300 square feet of impervious area

added to the site since 1984 in addition to the proposed parking lot as shown on the submitted site plan. Any work performed in the right of way will require a right of way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.

TRAFFIC ENGINEERING

COMMENTS

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. The proposed concrete driveway on East Drive is skewed at an approximate 60° angle. Exiting traffic is aimed away from Old Shell Road; vehicles not likely to exit at this angle will block southbound vehicles from entering the driveway. Driveway should be designed with minimum skew; 90° angle is desired. A 20' radius is typical for passenger cars and a 30' radius is desirable for large trucks. The distance between the edge of pavement and right-of-way line (approximately 10') and the proximity of live oak trees may prohibit the proper radius; if so largest possible radii are desired.

Revised for the December 15th meeting:

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Driveway has been modified to minimize skew at roadway. Centerline striping between East Drive and parking spaced to the west is highly recommended to delineate travel lanes for entry and exit.

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 of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

REMARKS

The applicant is requesting Subdivision approval to create 1 lot, Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site, and Rezoning from R-1, Single-Family Residential District, and B-2, Neighborhood Business District, to B-2, Neighborhood Business District to eliminate split zoning in a proposed Subdivision and allow construction of a parking lot. Parking lots are allowed by right in B-2 districts.

The applicant proposes to create one (1) lot from two existing lots, and utilize the lot for two existing restaurants and associated parking, including the construction of an additional parking area and a new entrance to the site from East Drive.

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. PUD approval is site plan specific, thus if any new construction is anticipated that will change an approved site plan, an application to amend an existing, approved PUD must be made prior to any construction activities.

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.

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 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.

The applicant states that the subdivision of land, combining the existing residentially-zoned lot with the existing developed commercially-zoned property makes the reclassification of the residential site necessary and desirable. The proposed subdivision will create a split-zoned condition, thus the applicant desires to eliminate the split-zoning condition.

The applications at hand are the result of the property owner being cited in 2008 for unpermitted use of a residential site for commercial parking, unpermitted fence construction, and unpermitted gravel surfacing of the site. After several appearances in the City's Environmental Court, the applicant is taking the steps necessary to obtain legitimate approval of the commercial use of the residential property.

The site is bounded to the North by Old Shell Road and the University of South Alabama campus, to the East by East Drive and a tire store in a B-2 district, and residences in an R-1 district, to the South by residences and vacant land in an R-1 district, and to the West by a fraternity house in an R-1 district and vacant land in an R-3 district.

The site has frontage on Old Shell Road, a proposed major street, and East Drive, a minor street. Both streets appear to have compliant right-of-ways, thus no additional dedication will be required.

The applicant proposes to develop the residentially-zoned portion of the site to include paved parking, trees, landscaping and an additional entrance for the development from East Drive. Currently, the site does not have access to East Drive, thus all traffic associated with the restaurants enters and exits the site via curb-cuts onto Old Shell Road. Access to East Drive will afford access to and from Old Shell Road via an intersection with a traffic signal. As designed, however, the curb-cut to East Drive will be angled, creating an awkward turning angle for vehicles entering the site from southbound East Drive. A large live oak tree in the proximity of the proposed curb-cut may be the reason for the proposed design, however, Traffic Engineering has requested as close to a 90-degree driveway as possible.

The current restaurants share the existing parking, and the site currently requires 62 parking spaces (staff measurements, including outdoor seating areas), however, only 60 are provided as two were removed when a concrete driveway apron was constructed without permits to the R-1 property. The proposed additional parking will only add 12 parking spaces to the overall site. Elimination of the unpermitted access would allow the restaurants to comply with the minimum parking requirements, and allow the R-1 site to be utilized for a residence (a permit for a single-family residence was issued by the Urban Development Department in 2004, however, the house was never constructed).

The applicant states that the proposed new parking area will be closer to the existing restaurants, and will consequently reduce the use of the existing parking further South, adjacent to several residences. A reduction in use of the more southerly parking will reduce the impact to the adjacent residences, according to the applicant, while making parking for the restaurant patrons more convenient.

Staff agrees that additional parking closer to the existing restaurants will be more convenient for patrons, but disagrees that the additional parking will reduce the impact to adjacent residences. The proposed parking will instead increase the commercially proximity burden on an existing residence, by increasing the proximity of vehicles to the site, increasing the light penetration of vehicle headlights, through required lighting of the parking lot site, and by creating vehicular traffic along the North property of the residence. Furthermore, the access proposed to East Drive will increase traffic on East Drive, including delivery trucks, garbage trucks and patrons.

It should also be pointed out that when the original site was rezoned in 2001, one of the conditions was *“denial of access to East Drive and the elimination of the existing curb cut to East drive with the installation of city standard curb and gutter and appropriate fill.”* The request at hand will circumvent the denial of access to East Drive if approved by the Planning Commission. Additionally, the existing Zoning conditions also include the requirement of a 15-foot wide vegetative buffer and 6 foot high wooden privacy fence between where the site abuts residentially zoned property, but the proposed new parking area will not provide such protection, yet its impact will be the same.

RECOMMENDATION

Rezoning: The rezoning request is recommended for Denial for the following reasons:

- 1) The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;
- 2) The proposed commercial development will not be generally compatible with the adjacent residential uses;
- 3) The proposed access to East Drive will increase commercial traffic on a primarily residential street, and will circumvent the previous denial of access to East Drive associated with the original B-2 Zoning ordinance; and
- 4) The proposed parking area expansion will not be adequately buffered from adjacent residential development.

Planned Unit Development: The request is recommended for Denial for the following reasons:

- 1) The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;
- 2) The proposed commercial development will not be generally compatible with the adjacent residential uses; and
- 3) The proposed access to East Drive will increase commercial traffic on a primarily residential street;

Subdivision: The Subdivision request is recommended for Denial based upon the denial of the Zoning and Planned Unit Development requests, and because of the following:

- 1) The subdivision will create a split-zoned condition;
- 2) A split-zoned lot is in violation of the Zoning Ordinance; and
- 3) Adequate buffers are not provided between the proposed additional lot area and the abutting residences.

Revised for the October 20th meeting:

The application was heldover from the September 15th meeting to allow the applicant to meet with staff regarding design and location of access to East Drive and additional buffering. Staff was not contacted during this period.

RECOMMENDATION

Rezoning: *The rezoning request is recommended for Denial for the following reasons:*

- 1) The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;*
- 2) The proposed commercial development will not be generally compatible with the adjacent residential uses;*
- 3) The proposed access to East Drive will increase commercial traffic on a primarily residential street, and will circumvent the previous denial of access to East Drive associated with the original B-2 Zoning ordinance; and*

- 4) *The proposed parking area expansion will not be adequately buffered from adjacent residential development.*

Planned Unit Development: *The request is recommended for Denial for the following reasons:*

- 1) *The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;*
- 2) *The proposed commercial development will not be generally compatible with the adjacent residential uses; and*
- 3) *The proposed access to East Drive will increase commercial traffic on a primarily residential street.*

Subdivision: *The Subdivision request is recommended for Denial based upon the denial of the Zoning and Planned Unit Development requests, and because of the following:*

- 1) *The subdivision will create a split-zoned condition;*
- 2) *A split-zoned lot is in violation of the Zoning Ordinance; and*
- 3) *Adequate buffers are not provided between the proposed additional lot area and the abutting residences.*

Revised for the November 17th meeting:

The application was heldover from the October 20th meeting to allow the applicant to meet with staff regarding the design and location of access to East Drive and additional buffering. Revised information was submitted on November 9th, however, there was inadequate time to distribute the revised information to the reviewing departments prior to the completion of the staff report.

RECOMMENDATION

Rezoning: *The rezoning request is recommended for Denial for the following reasons:*

- 1) *The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;*
- 2) *The proposed commercial development will not be generally compatible with the adjacent residential uses;*
- 3) *The proposed access to East Drive will increase commercial traffic on a primarily residential street, and will circumvent the previous denial of access to East Drive associated with the original B-2 Zoning ordinance; and*
- 4) *The proposed parking area expansion will not be adequately buffered from adjacent residential development.*

Planned Unit Development: *The request is recommended for Denial for the following reasons:*

- 1) *The proposed commercial development of the site will adversely impact adjacent residential properties through increased light pollution, air pollution and noise pollution;*
- 2) *The proposed commercial development will not be generally compatible with the adjacent residential uses; and*
- 3) *The proposed access to East Drive will increase commercial traffic on a primarily residential street.*

Subdivision: *The Subdivision request is recommended for Denial based upon the denial of the Zoning and Planned Unit Development requests, and because of the following:*

- 1) The subdivision will create a split-zoned condition;*
- 2) A split-zoned lot is in violation of the Zoning Ordinance; and*
- 3) Adequate buffers are not provided between the proposed additional lot area and the abutting residences.*

Revised for the December 15th meeting:

The application was heldover from the November 17th meeting to allow staff time to review the revised information submitted by the applicant on November 9th.

The revised site plan depicts a realigned entranced onto East Drive, to address Traffic Engineering concerns, new 3-foot high vegetative buffering where the site abuts existing single-family residences, a fenced in dumpster area, and new trees for tree compliance: it should be noted that three of the required frontage trees are located outside of the frontage area due to site constraints, according to the applicant. Frontage area for new tree planting, especially live oaks, is constrained, thus relocation of frontage trees to other areas of the site, as proposed, is a reasonable request.

The vegetative buffering and greenspace between the new parking area and the abutting residence will only be 5-feet in width, which is less than that required for that portion of the existing parking lot extending behind the residences. Staff recommends that this greenspace area be expanded to 15-feet in width (to match a previous Zoning buffer requirement), eliminating six (6) proposed parking spaces. Staff also recommends that all proposed vegetative buffering be evergreen, and six (6) feet high at the time of planting, in addition to 6-foot high privacy fencing. As the site also abuts residentially-zoned properties to the South and West, a 6-foot high privacy fence or 10-foot wide vegetative buffer with 6-foot high evergreen hedge should be provided.

As a new curb-cut is proposed onto East Drive, staff recommends that the existing one-lane wide driveway on the West side of site be eliminated. The paving should be removed along the entire length abutting the Picklefish restaurant, the area landscaped, and curbing added to prevent access from Old Shell Road or from the existing parking lot.

Access to the new parking area from the existing parking area will be via a 24-foot wide driveway that will extend between two existing parking spaces. As no curbing or radius is provided for the driveway, cars parked in the existing parking spaces will likely be at high risk for damage by other vehicles, including delivery trucks, which will inevitably choose to enter or exit via the East Drive curb-cut. Staff recommends that the two abutting parking spaces be eliminated and replaced with curbed planting islands.

A sidewalk along East Drive is not depicted where the new parking area is proposed. As the site is commercial, a sidewalk waiver request must be submitted to the Planning Commission for consideration, or a sidewalk must be provided.

The existing dumpsters do not meet the 10-foot setback requirement for commercial sites abutting residentially zoned properties. While an appropriate dumpster enclosure is proposed, there appears to be sufficient room to relocate the dumpsters and the proposed enclosure to meet all setback requirements.

Finally, parking areas with more than 10 spaces and that are used at night must be illuminated. Any existing and any new lighting must comply with the Zoning Ordinance requirements, including the provision that "lighting facilities used to illuminate signs, parking areas, or for other purposes shall be so arranged that the source of light does not shine directly into adjacent residence properties or into traffic." The applicant must submit information regarding new parking area lighting fixtures (including photometrics), indicate the locations on the site plan, and submit information regarding how any existing site lighting will be modified to comply with the requirements of Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance.

RECOMMENDATION

Rezoning: *The rezoning request is recommended for Approval, subject to the following conditions:*

- 1) All site lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance;*
- 2) Provision of a 15-foot wide greenspace area, with 6-foot high (at time of planting) evergreen vegetative buffer and 6-foot high wooden privacy fence, where the site abuts single-family residences fronting East Drive;*
- 3) Provision of a protection buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance along the Southern and Western boundaries of the site, where it abuts residentially zoned properties;*
- 4) Limited to an approved Planned Unit Development; and*
- 5) Full compliance with all other municipal codes and ordinances.*

Planned Unit Development: *The request is recommended for Approval, subject to the following conditions:*

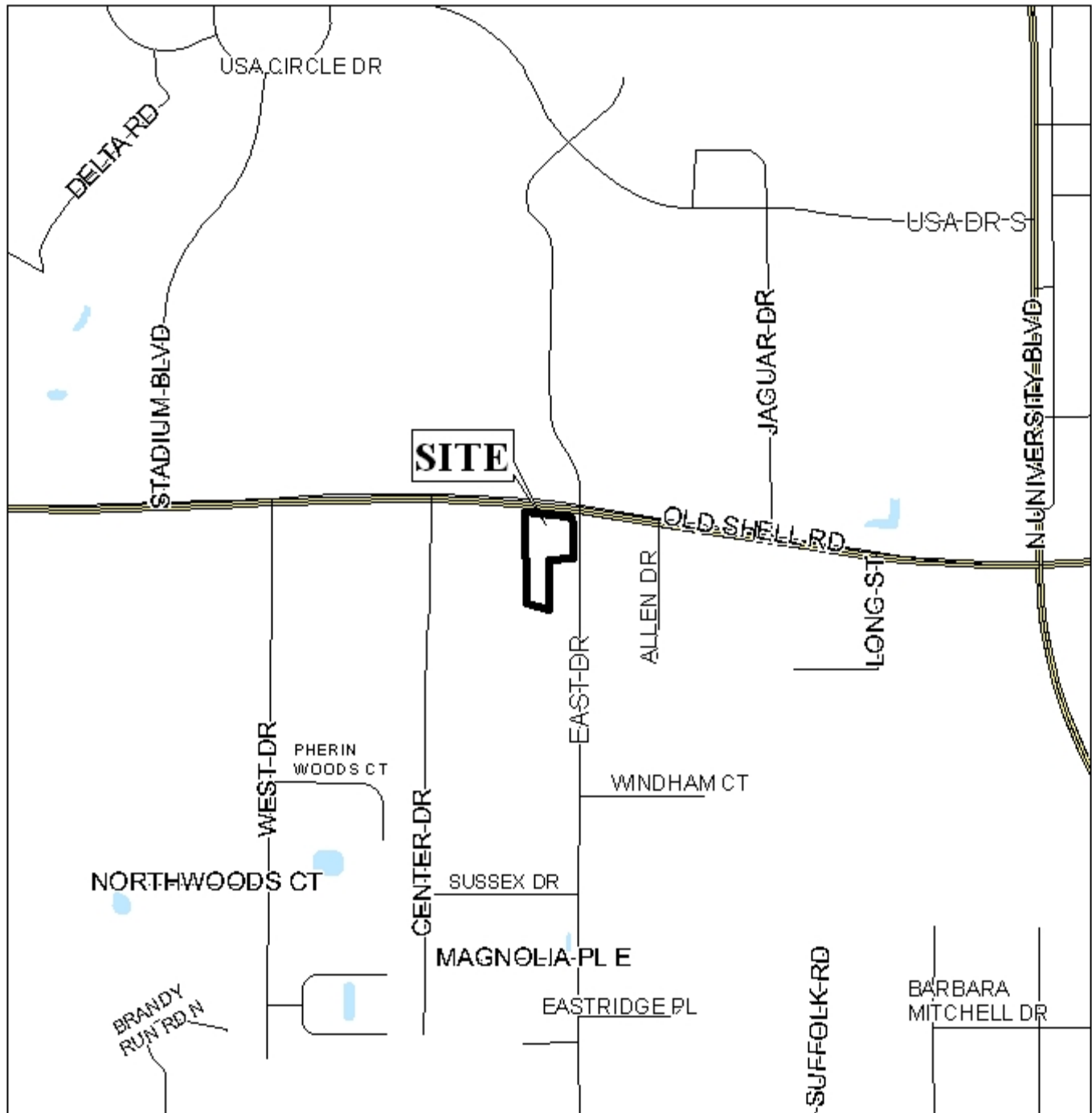
- 1) All site lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance, and the applicant must submit documentation regarding lighting compliance, including the physical location of new lighting on the property and a photometric plan of the lighting;*
- 2) Provision of a 15-foot wide greenspace area, with 6-foot high (at time of planting) evergreen vegetative buffer and 6-foot high wooden privacy fence, where the site abuts single-family residences fronting East Drive, revising the site plan to eliminate 6 proposed parking spaces;*
- 3) Provision of a protection buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance along the Southern and Western boundaries of the site, where it abuts residentially zoned properties;*

- 4) *Removal of the western-most driveway access to Old Shell Road, with curbing and landscaping to prohibit use of the driveway area, and removal of all paving abutting the Picklefish restaurant on the western side;*
- 5) *Elimination of two parking spaces adjacent to the proposed 24-foot driveway linking the existing parking area to the new parking area, and replacing the parking spaces with curbed landscaped islands;*
- 6) *Compliance with revised Traffic Engineering comments (Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Driveway has been modified to minimize skew at roadway. Centerline striping between East Drive and parking spaced to the west is highly recommended to delineate travel lanes for entry and exit.);*
- 7) *Revision of the site plan to depict the relocation of the existing dumpsters and the proposed enclosure to meet a minimum 10-foot setback from any property line where the site abuts residentially zoned property;*
- 8) *Application for a sidewalk waiver along East Drive prior to any request for permits for land disturbance;*
- 9) *Provision of a revised PUD site plan prior to the signing of the final plat; and*
- 10) *Full compliance with all other municipal codes and ordinances.*

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

- 1) *The lot is limited to one curb-cut to Old Shell Road and one curb-cut to East Drive, with the size, design and location to be approved by Planning, Urban Forestry and Traffic Engineering, and to comply with AASHTO standards;*
- 2) *Depiction and labeling of a 15-foot wide greenspace protection buffer along that portion of the lot that abuts properties that front East Drive; and*
- 3) *Provision of a revised PUD site plan prior to the signing of the final plat.*

LOCATOR MAP



APPLICATION NUMBER 2,3 & 4 DATE December 15, 2011

APPLICANT La Belle LLC

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



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



There are apartments to the west, a tire service to the east, single family residential units to the south, and student facilities surrounding the site.

APPLICATION NUMBER 2,3 & 4 DATE December 15, 2011

APPLICANT La Belle LLC

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

LEGEND

R-1	R-2	R-3	R-A	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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PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



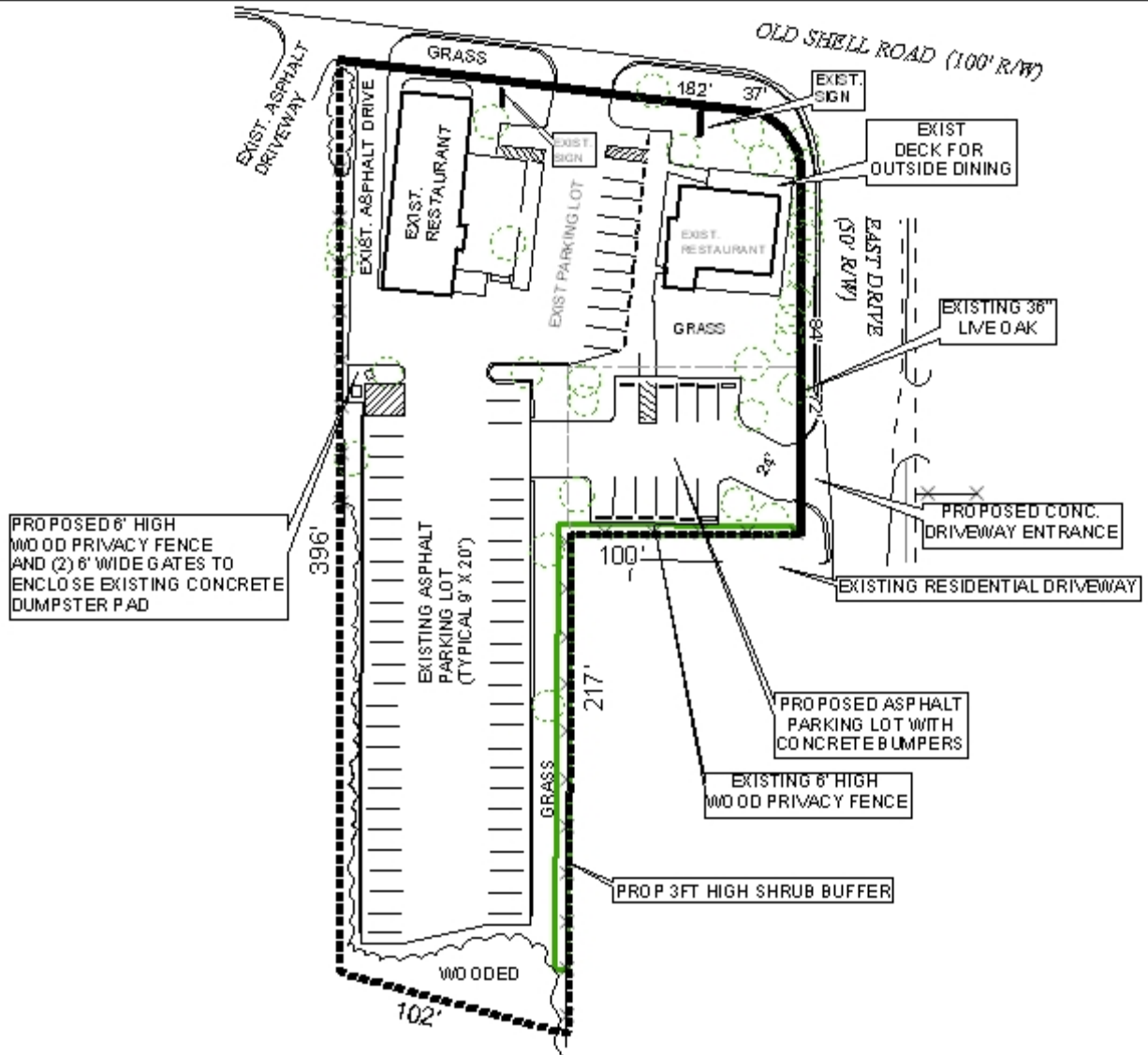
There are apartments to the west, a tire service to the east, single family residential units to the south, and student facilities surrounding the site.

APPLICATION NUMBER 2,3 & 4 DATE December 15, 2011
APPLICANT La Belle LLC
REQUEST Subdivision, PUD, Rezoning from B-2 and R-1 to B-2



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SITE PLAN



The site plan illustrates existing and proposed buildings and parking.

APPLICATION NUMBER 2,3 & 4 DATE December 15, 2011

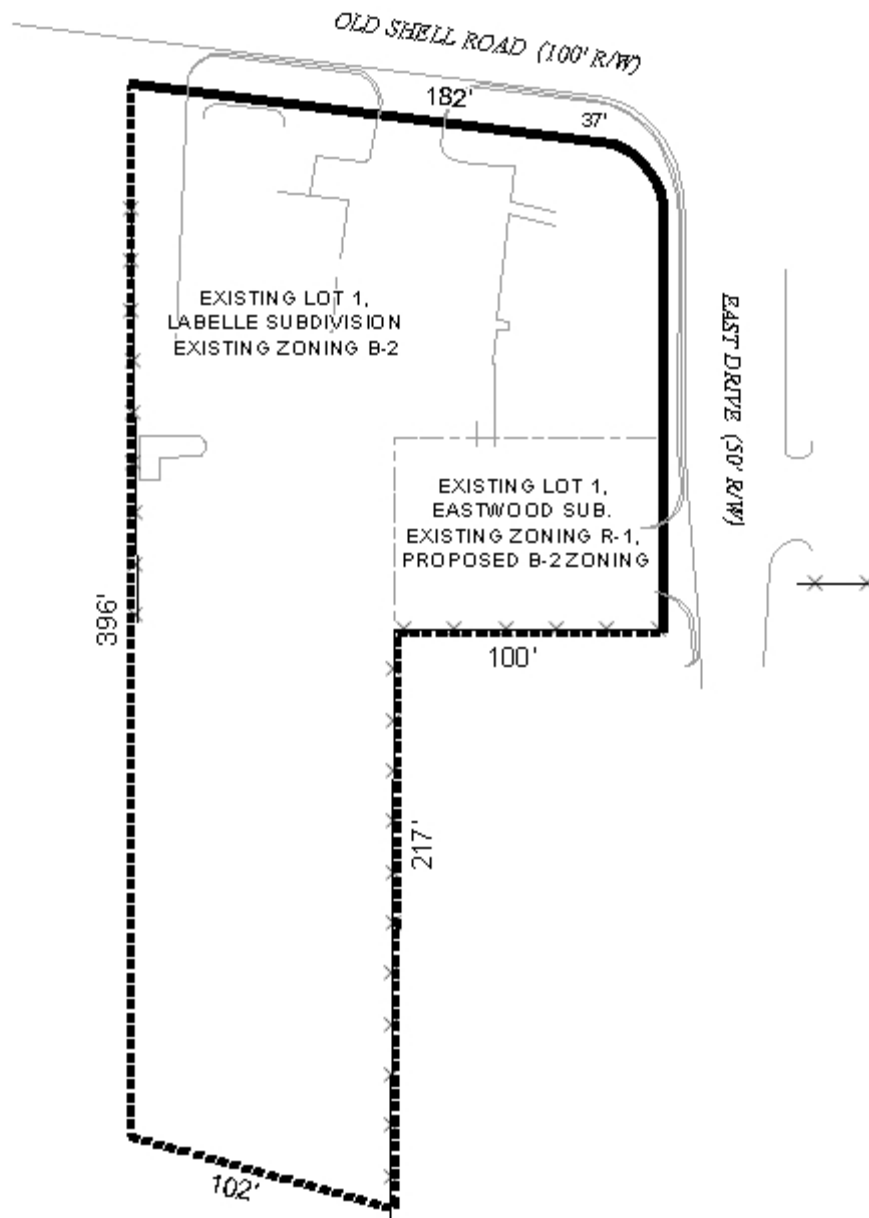
APPLICANT La Bella LLC

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



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ZONING DETAIL



APPLICATION NUMBER 2,3 & 4 DATE December 15, 2011

APPLICANT La Bella LLC

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

