

ZONING AMENDMENT STAFF REPORT

Date: April 19, 2007

NAME

Horace L. Long, Jr.

LOCATION

Northeast corner of Old Shell Road and Parkway East, and extending East to Border Drive East, and North to an unnamed city right-of way

**CITY COUNCIL
DISTRICT**

District 7

PRESENT ZONING

R-1, Single-Family Residence District

PROPOSED ZONING

B-1, Buffer Business District

AREA OF PROPERTY

0.5 ± Acres

CONTEMPLATED USE

Rezoning from R-1, Single Family Residential, to B-1, Buffer Business District, to allow a business office for a cable television company (no service provided from this location).

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**

Within 12 months

**ENGINEERING
COMMENTS**

If the site is receiving public water, then a drainage easement is required. If greater than 4000 square feet of impervious area is proposed, storm water detention is required, per Storm Water Ordinance. The storm water ordinance does not allow water to be concentrated onto an adjacent property without a hold harmless agreement. All storm water must tie to the City of Mobile storm drainage system. 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).

Preservation status is to be given to the 40" Live Oak Tree and 54" Live Oak Tree located in the center of the lot. Any work on or under these trees are to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

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-1, Buffer Business District, to allow a business office for a cable television company (no service provided from this location). Specifically, the applicant intends to build a 2,400 square foot building for office space, and provide 8 parking spaces. The site is currently vacant. The applicant states that the building "*would be constructed to be compatible with the surrounding residences.*"

B-1 districts are districts composed of land and structures occupied by or suitable for such uses as offices, studios and automobile storage (commercial), including parking lots. Although usually located between residential areas and business areas, these districts are in some instances free-standing in residential areas or they may include hospital, college or other public or semipublic groups and related uses. The district regulations are designed to protect and encourage the buffer character of the districts by limiting the permitted uses to dwellings and uses of a semi-commercial nature and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in the residence districts.

The maximum building site coverage allowed in B-1 is 45% (35% for R-1), with a maximum height of 45 feet (35 feet for R-1). The setbacks for B-1 (R-1) are as follows: front 25 feet (25 feet), side 0 or 5 feet, or 10 feet where adjacent to residential uses (minimum of 8 feet), and rear of 0 or 5 feet, or 10 feet where adjacent to residential uses (minimum of 8 feet).

The site is bounded to the North by single-family residences, to the East by a non-conforming auto repair business in an R-1 district, to the South by vacant public right-of-way, Old Shell Road, and single-family residences, and to the West by Lavretta Park. West of Lavretta Park is a convenience store (without gas pumps) and a membership-based private club, both non-conforming uses located in an R-1 district.

The site fronts onto Border Drive East, Parkway East, right-of-way associated with Old Shell Road, and an unopened 20-foot wide alley. All streets are minor streets, and all streets lack curb-and-gutter. The right-of-way for Old Shell Road is adequate, while the right-of-way for East

Border Drive is 50-feet, and the right-of-way for Parkway East is 30-feet. Due to the substandard right-of-way width for Parkway East, access to the street should be denied for this site, as well as the unopened alley located along the North property line.

The entire site appears to be 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.

The applicant states the following regarding the rezoning request:

“This site is surrounded by property that is zoned R-1, but across East Border Drive is an automotive repair shop that has been in business for many years and 600 feet west of this site is a convenience store with beer and wine sales that has existed for many years. The developer of Country Club Village designated this site and one other parcel for commercial purposes and the restrictions confirm the statement on the recorded plat. The City Parks Department is planning to construct a parking lot between this site and Old Shell Road to serve Lavretta Park. With this construction and the existing businesses in the area, rezoning for a business office should have a minimal affect on the neighborhood.”

The original plat from 1943 for Country Club Village does in fact indicate that this site and the site on the West side of Lavretta Park, which contains a convenience store and a lodge, are for commercial use. It should also be pointed out that the existing convenience store would normally require T-B, Transitional-Business, LB-2, Limited-Neighborhood Business, or a B-2, Neighborhood Business classification, while the membership-based club (Masonic Lodge) would require a B-1 with Planning Approval, T-B, or LB-2 classification. The auto repair business at the corner of East Border Drive and Old Shell Road would require a B-3, Community Business classification. Research of previous city directories show that both the convenience store and the auto repair business site were commercial uses at least as far back as 1961, prior to the adoption of the Zoning Ordinance.

The site plan indicates that the 8-space paved parking area will only access East Border Drive, while the proposed 2,400 square foot building will be built on the West side of the site. The site is designed so that there is sufficient space to provide buffering between the proposed commercial use and adjacent residential uses, as required by the Zoning Ordinance. The site plan is not sufficiently detailed, however, to determine if the proposed landscaping meets tree quantity requirements, or if the parking area screening required in Section 64-6.3.i. is provided (screening of parking area from adjacent residential uses, including across the street).

It should also be pointed out that Section 64-4.A.2., *Illumination of uses*, states 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 site plan does not indicate the location of a dumpster or other private waste facility, thus the site plan should be revised to depict the dumpster location. The location, furthermore, should be located away from adjacent residential uses, not only in terms of protecting residences from offensive odors, but also from the noise of the dumpster being emptied during the day or night.

New development normally requires the provision of a sidewalk along the adjacent public right-of-way, therefore a sidewalk should be shown on any future site plans, should the rezoning be approved.

Finally, there is no indication of any stormwater detention facility on the site plan, however, such a facility may be required as part of the development.

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.

Per the applicant's statement, which was verified by staff, the site is labeled as "commercial" on the original 1943 plat for the Country Club Village development. While the site itself has not been used for commercial purposes, sites to the immediate East and to the West have been commercial uses since prior to the adoption of the Zoning Ordinance in 1967. The nearest B-1 site (and commercially zoned property) is approximately 2,600 feet West of the site at the intersection of Old Shell Road and Cosgrove Drive. The nearest commercially zoned site to the East is approximately 3,900 feet away, just East of Eaton Square, however there are other intervening non-conforming commercial uses located at the intersection of Old Shell Road and Bit and Spur Road. It would appear that the Zoning Ordinance can be considered in error for the adjacent non-conforming uses, but not necessarily for the site in question.

Section 64-3.A.5.b. of the Zoning Ordinance states as a guideline that new B-1 and B-2 districts should be a minimum of 2 acres. The site in question is only 0.5 acres, however, when combined with existing non-conforming commercial uses in the proximity of the site, it could be considered part of a commercial district of approximately 1.25 acres.

The renovated playground at the park has become a very popular location with area residents. The portion of land between the site and Old Shell Road is occasionally used as overflow parking for Lavretta Park and the playground, and the City is planning on converting the overflow area into a legitimate parking lot within the next 6 to 12 months. Creation of a parking lot adjacent to the site in question may preclude traditional single-family use of the site. Thus, conditions may be changing next to the site that would make rezoning of the site desirable.

Finally, rezoning of the site could be considered compatible to previous efforts of the staff and the Planning Commission to promote "Smart Growth" and "Traditional Neighborhood

Development” ideals. With this in mind, consideration of the new Transitional-Business classification may be more appropriate for the site.

RECOMMENDATION

Based on the preceding, the rezoning request is recommended for Approval, subject to the following conditions:

- 1) compliance with 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). Preservation status is to be given to the 40” Live Oak Tree and 54” Live Oak Tree located in the center of the lot. Any work on or under these trees are to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*);
- 2) compliance with Engineering comments (*If the site is receiving public water, then a drainage easement is required. If greater than 4000 square feet of impervious area is proposed, storm water detention is required, per Storm Water Ordinance. The storm water ordinance does not allow water to be concentrated onto an adjacent property without a hold harmless agreement. All storm water must tie to the City of Mobile storm drainage system. 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.*);
- 3) compliance with Traffic Engineering comments (*Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.*);
- 4) the site is denied access to Parkway East, the unopened alley abutting the North property line, and the Old Shell Road right-of-way to the South of the site; and
- 5) full compliance with all other applicable municipal codes and ordinances.

Revised for the May 17, 2007 meeting:

At its meeting on April 19th, the Planning Commission decided to holdover this application until the meeting of May 17, to give staff the opportunity to evaluate the rezoning of the site to T-B, Transitional-Business, instead of B-1, Buffer Business.

According to the Zoning Ordinance, the Transitional Business District (T-B) is intended for small sites in or near dense residential neighborhoods on, at or near a Major or Collector Street. The district regulations encourage the provision of small-scale retail and service uses for nearby residential areas. Some uses that are not retail or service in nature are also allowed so a variety of uses may locate in existing buildings. Uses are restricted in size, number and character to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be pedestrian-oriented and compatible with the scale of surrounding residential areas. Parking areas are restricted, since their appearance is generally out of character with the surrounding residential development and the desired orientation of the uses.

B-1, Buffer business districts are composed of land and structures occupied by or suitable for such uses as offices, studios and automobile storage (commercial), including parking lots. Although usually located between residential areas and business areas, these districts are in some instances free-standing in residential areas or they may include hospital, college or other

public or semipublic groups and related uses. The district regulations are designed to protect and encourage the buffer character of the districts by limiting the permitted uses to dwellings and uses of a semi-commercial nature and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in the residence districts.

The specific site requirements for T-B, B-1 and R-1 districts are as follows:

Zoning Category	Building Site Area	Site Coverage	Height Limit	Yards		
				<i>Front</i>	<i>Side</i>	<i>Rear</i>
R-1	One Fam - 7,200 SF Other Use - 10,000 SF	35%	35 ft	25 ft	8 ft <i>Total 20 ft</i>	8ft
T-B	One Fam - 5,000 SF Two Fam - 6,000 SF MF - 6,000 SF for first 2 + 1,500 SF for additional unit Other Use - No Minimum	50% <i>Max Bldg Size:</i> Sing Ten - 7,500 SF Mult Ten - 10,000 SF (5K SF per unit max)	45 ft	10 ft Max setback 45 ft	0 ft <i>10 ft Res Buff</i>	0 ft <i>10 ft Res Buff</i>
B-1	7,200 SF	45%	45 ft	25 ft	5 ft <i>10 ft Res Buff</i>	5 ft <i>10 ft Res Buff</i>

As shown above, the Zoning Ordinance regulates the maximum building site coverage, height and minimum building setbacks for structures. The T-B district additionally controls (as opposed to the normal requirements of the Zoning Ordinance) maximum building size, maximum building setbacks, maximum parking ratios, hours of operation and signage.

The site is approximately 0.49 acres, or 21,344 square feet. The maximum building site coverage for R-1, 35%, would allow a residential structure with a ground floor area (porches, garages, house, etc) of 7,470 square feet. For T-B, at 50% maximum building site coverage, the maximum building size would be limited by the single tenant size (7,500 square feet total building area) and multi-tenant size (10,000 square feet total building area). For B-1, at 45% maximum building site coverage, a structure with a ground floor area of 9,604 square feet could be built. It should be pointed out that for both R-1 and B-1, the maximum building site coverage does not take into account the fact that a multi-story house or building could be constructed, while the T-B district explicitly limits the maximum size of the building in gross square feet, regardless of the number of stories. It should also be pointed out that the maximum building site coverage restrictions do not apply to paving, thus a resident could theoretically pave the entire property, while a commercial use would be required to set aside a minimum of 12% of the site for landscaping.

The maximum size of any commercial structure on the site, in addition to the maximum building site coverage, will be limited by the amount of parking that can be provided to serve the building. Parking located off of the site cannot be counted towards meeting the parking requirement for any commercial use of the site.

Regarding specific uses, an R-1 district allows 7 uses “by right” and 23 uses with Planning Approval. Transitional-Business allows 130 uses “by right” and 9 uses with Planning Approval. A B-1 district allows 69 uses “by right” and 39 uses with Planning Approval. It is not so much the number of uses that are allowed as, perhaps, the actual types of uses and the nature of those uses. The T-B district allows a mixture of office, service, and retail uses, including a restaurant use (without drive-through or curb service) and a convenience store use (without gas pumps). The B-1 district allows primarily office uses, but also allows a few services, retail (antique sales), and churches. Both the T-B and B-1 districts also allow from single-family to multi-family residential development, although the residential uses must be above the ground floor in the T-B district. The R-1 district would essentially only allow single-family residential use of the site.

The Zoning Ordinance does not differentiate between a restaurant that is a “French bistro” or a national fast food chain, nor does the Ordinance establish requirements regarding the specific architectural appearance of the resulting building (thus a metal building or a Greek Revival style would be equally allowed if they meet the minimum building and fire code requirements). Architectural controls may be present in Zoning Ordinances around the United States, but have not been incorporated into the regulations in Mobile. The only places in Mobile where the City regulates the appearance of buildings is within National Register historic districts (Oakleigh Garden, Old Dauphin Way, DeTonti Square, etc). Country Club Village meets at least one of the criteria to become a historic district: many of the structures are at least 50 years old. If property owners within Country Club Village wish to consider becoming a historic district, they should contact the Mobile Historic Development Commission for more information.

Regarding the residential use of the site, the lot is large enough to be subdivided to allow two single-family homes. If the site were developed for condominiums or townhomes, which would require at minimum an R-3, Multi-Family Dwelling district, the site could theoretically support up to 10 dwelling units, however, the requirements for parking might reduce the actual number that could fit on the site. Again, the architectural design of the homes, condominiums or townhomes is beyond the purview of the City of Mobile.

The staff’s recommendation for approval is based upon the following ideas:

- *Mixed-use development provides convenience for residents and a consumer base for businesses;*
- *produces high value for builders, investors, and homeowners, and multiplies the tax base for the city;*
- *supports compact building, which is pedestrian-friendly, land efficient, supports mass transit and reduces auto-dependency; and*
- *provides opportunities for mixed-income housing and community interaction.*

Due to the age of the Zoning Ordinance and the overall Comprehensive Plan, there may not be an extensive enough range of zoning districts from which to choose, and there may be an insufficient regulatory structure that reflects the vision of the residents, business community and stakeholders within Mobile.

While the extra development restrictions provided by the T-B district (maximum building size, maximum parking amount, hours of operation restrictions) might be beneficial for this site, the possible negative of the total number of possible uses may out weigh the possible positive of additional development restrictions. Therefore, staff believes that the B-1 district may be the most compatible commercial zoning category for the site in question, as the T-B district allows a wider variety of uses that the neighborhood may deem as incompatible. The B-1 designation, however, may still contain uses that the area residents feel are incompatible with the adjacent residential and park uses.

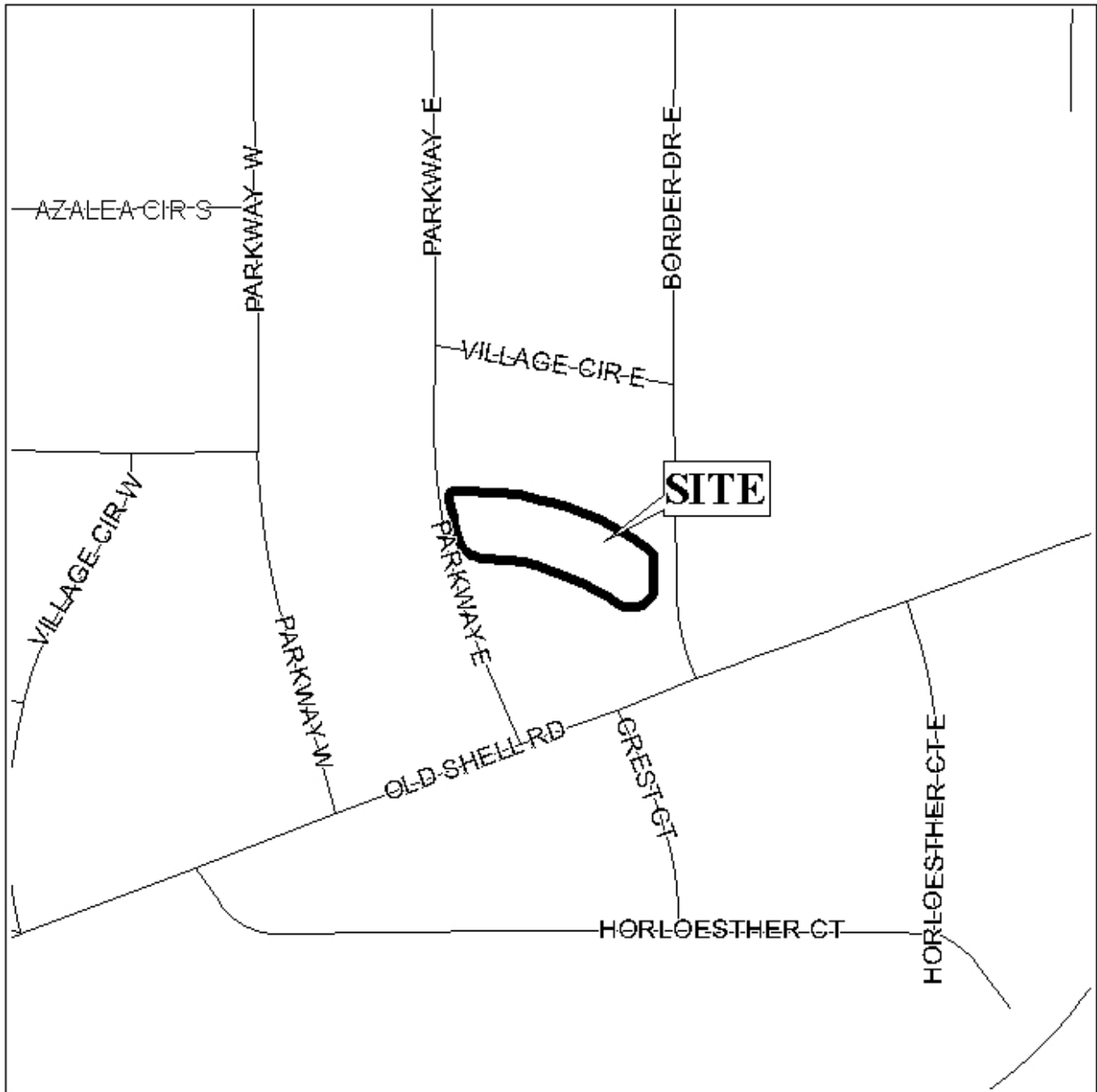
Finally, it should be pointed out that The Village of Spring Hill, Inc., a non-profit organization with a self-defined area that includes the site in question, recently received a Comprehensive Community Grant from the Alabama Department of Economic and Community Affairs. The grant will be used to fund the development of “comprehensive urban plan” for a study area that is bounded by Intestate 65 to the East, Airport Boulevard to the South (excluding commercial areas along Airport), University Boulevard to the West, and the railroad tracks (formerly Illinois Central Gulf, now Canadian National) to the North. The Village representatives state that the planning effort will include a public involvement process, and that they intend to “work with the City to refine existing zoning – or develop new zoning if needed – to enable smart growth in Spring Hill and even City-wide.”

RECOMMENDATION

Based on the preceding, the rezoning request from R-1 to B-1 is recommended for Approval, subject to the following conditions:

- 1) *compliance with 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). Preservation status is to be given to the 40” Live Oak Tree and 54” Live Oak Tree located in the center of the lot. Any work on or under these trees are to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.);*
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- 3) *compliance with Traffic Engineering comments (Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.);*
- 4) *the site is denied access to Parkway East, the unopened alley abutting the North property line, and the Old Shell Road right-of-way to the South of the site; and*
- 5) *full compliance with all other applicable municipal codes and ordinances.*

LOCATOR MAP

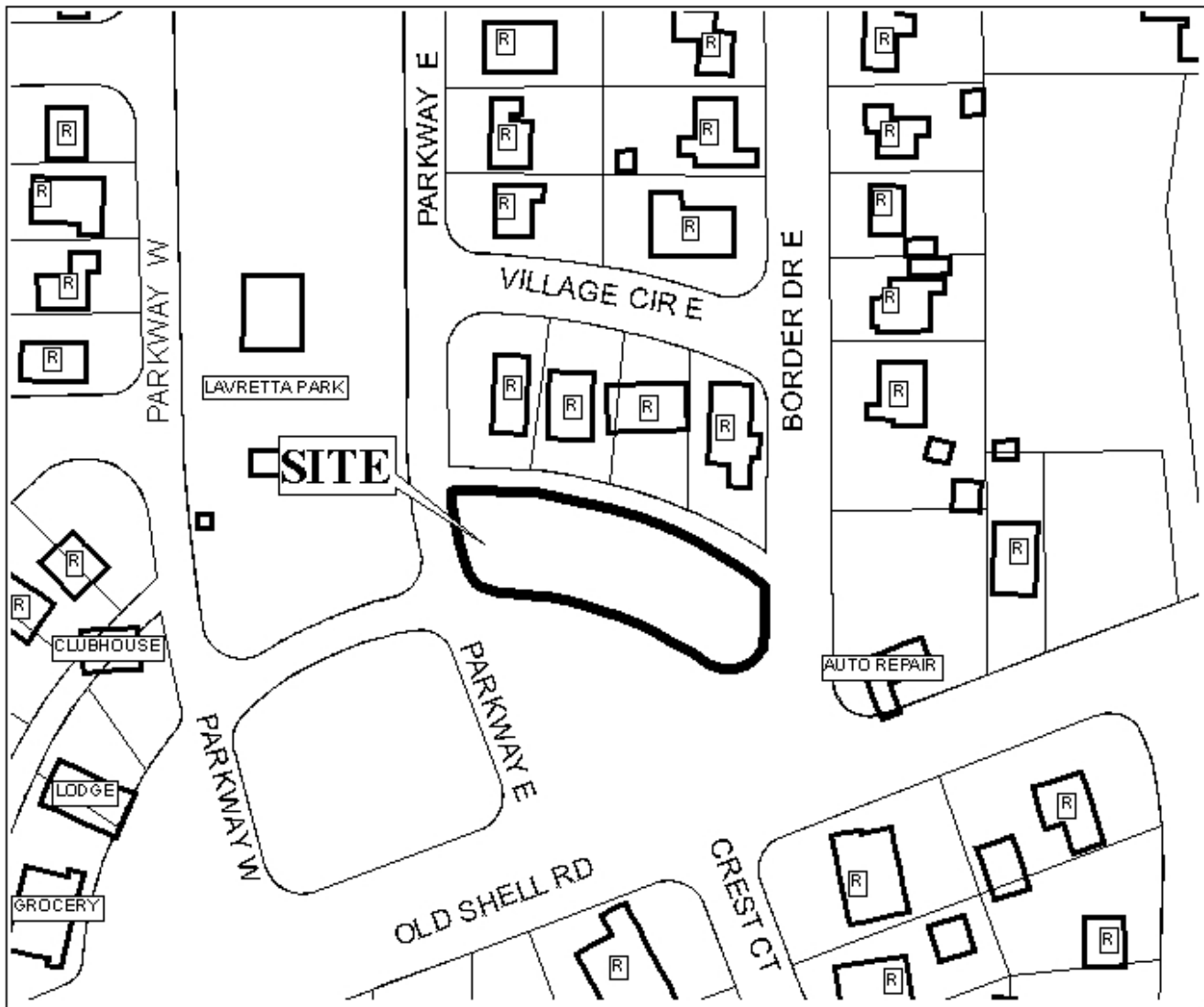


APPLICATION NUMBER 3 DATE May 17, 2007
APPLICANT Horace L. Long, Jr.
REQUEST Rezoning from R-1 to B-1



NTS

PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by single-family residential units. A park, lodge, and grocery store are located to the west of the site. An automotive repair facility is located to the east of the site.

APPLICATION NUMBER 3 DATE May 17, 2007

APPLICANT Horace L. Long, Jr.

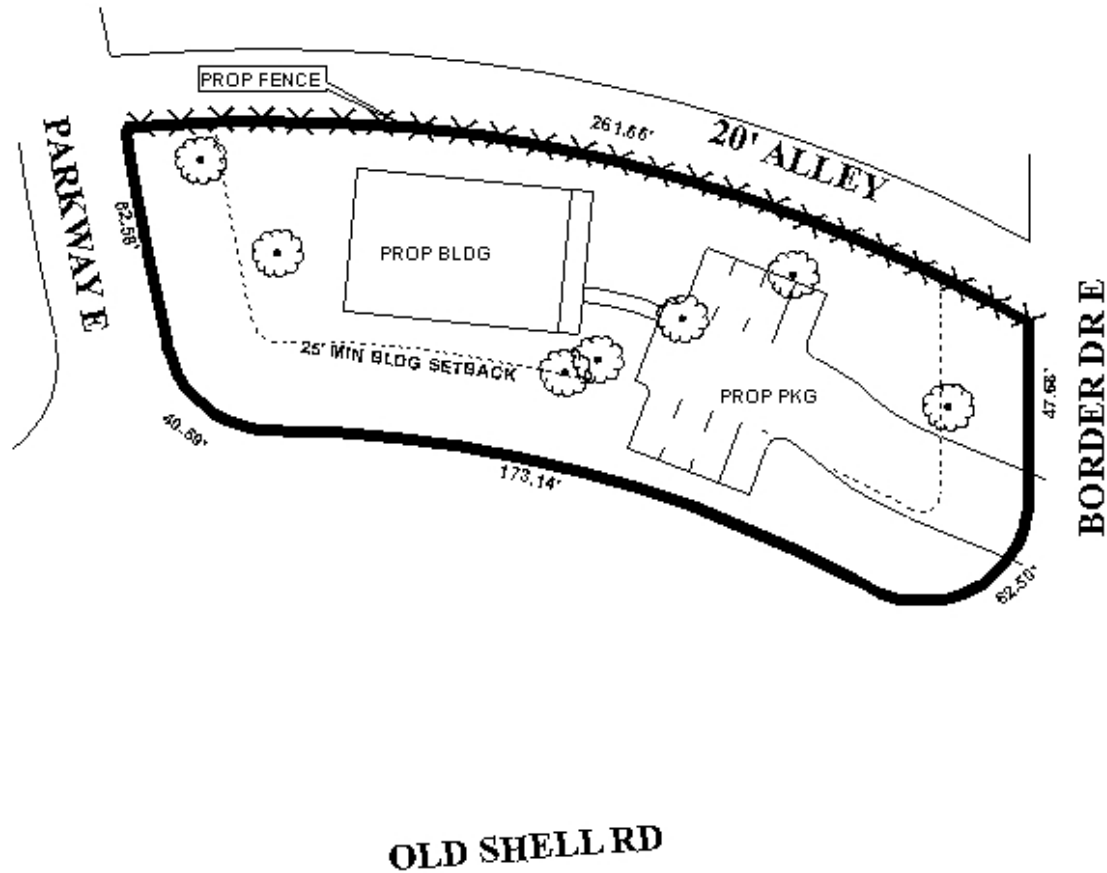
REQUEST Rezoning from R-1 to B-1

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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NTS

SITE PLAN



The site plan illustrates the proposed building, parking, and privacy fence

APPLICATION NUMBER 3 DATE May 17, 2007

APPLICANT Horace L. Long, Jr.

REQUEST Rezoning from R-1 to B-1



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