

**ZONING AMENDMENT,  
& SUBDIVISION STAFF REPORT****Date: January 17, 2008****APPLICANT NAME**

Steven F. Weller

**SUBDIVISION NAME**

Trax Tires Subdivision

**LOCATION**

Southeast corner of Old Shell Road and East Drive

**CITY COUNCIL  
DISTRICT**

District 5

**PRESENT ZONING**

R-1, Single-Family Residential District

**PROPOSED ZONING**

B-3, Community Business District

**AREA OF PROPERTY**

1 Lot / 0.7 ± Acres

**CONTEMPLATED USE**

Subdivision approval to create 1 lot, and Zoning approval to rezone the site from R-1, Single-Family Residential, to B-3, Community Business, to allow a retail tire store.

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**

Applicant is requesting rezoning of the site to allow a retail tire store.

**TIME SCHEDULE  
FOR DEVELOPMENT**

Construction to begin April 2008 and end September 2008.

**ENGINEERING  
COMMENTS**

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 50" Live Oak Tree located on the Northeast portion of the lot. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

## **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 R-1, Single-Family Residential, to B-3, Community Business, to allow a retail tire store.

A recent decision from the Alabama State Court system requires that names and addresses of adjacent property owners be verified through ownership data listed in probate court records in order to ensure that the most up to date ownership information is utilized. Staff was notified by a former adjacent property owner that they are no longer an owner: they received notification of the Subdivision and Zoning requests. Additional research by staff shows that the adjacent property in question was sold in May 2007, and that the deed was recorded in Mobile County Probate Court in June 2007, thus the Subdivision and Zoning applications should have included notification for the current owner rather than the previous owner, per the requirements of the Alabama State Court decision. The applications must be heldover one month to allow the applicant to submit correct labels and postage for all current property owners, as verified through Mobile County Probate Court. Labels and postage for both applications must be submitted by Wednesday, January 23, in order to be heard at the February 21, 2008 meeting.

## **RECOMMENDATION**

**Rezoning:** Based upon the preceding, the Rezoning request is recommended for Holdover so that the following can take place:

- 1) Provision of new labels for adjacent property owners within 300 feet, as verified through Mobile County Probate Court, with appropriate postage, to be submitted by 4:00 PM on Wednesday, January 23, 2008;

**Subdivision:** Based upon the preceding, the Subdivision request is recommended for Holdover so that the following can take place:

- 1) Provision of new labels for adjacent property owners, as verified through Mobile County Probate Court, with appropriate postage, to be submitted by 4:00 PM on Wednesday, January 23, 2008.

***Revised for the February 21<sup>st</sup> meeting:***

*The applicant provided new labels and postage for adjacent property owners.*

*The site is currently vacant, as the structure on the site was demolished during the summer of 2007. Non-conforming documentation indicates that the site had been used as an auto repair shop since 1953.*

*The site is bounded to the East by a restaurant operating with a use variance in an R-1 district, to the South by residences in an R-1 district, to the West, across East Drive, by a vacant lot in an R-1 district and a restaurant in a B-2, Neighborhood Business District, and to the North, across Old Shell Road, by the campus of the University of South Alabama, in an R-1 district.*

*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 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. The accuracy of recommended land uses on the General Land Use Component map is limited due to the large scale of the map. 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's justification for rezoning is that the area along Old Shell Road has changed from residential to commercial uses over the years, and with the widening of Old Shell Road from a 2-lane to a 5-lane road, use of the site for residential uses is unlikely. Staff agrees that the changes to Old Shell Road itself, and the uses bordering it, make single-family residential use of the site unlikely. Furthermore, the small size of the site makes multi-family use somewhat unlikely.*

*The applicant has requested a rezoning of the site from R-1 to B-3 to allow a 5,684 square foot retail tire sales and service store. According to the Chart of Permitted uses within the Zoning Ordinance, it appears that the proposed use could occur with a B-2 district, which might be more in keeping with the existing zoning and uses along the South side of Old Shell Road. Staff believes that an LB-2, Limited Neighborhood Business District, would be most appropriate for the site, but an LB-2 district would not allow the proposed use. The proposed use, however, does not seem to be consistent with other uses along this segment of Old Shell Road.*

*It should also be pointed out that there are no B-3 zoning districts located along Old Shell Road between University Boulevard and Hillcrest Road. Furthermore, Section 64-3.A.5.a. of the Zoning Ordinance states that new B-3 districts should be a minimum of 4 acres in size: this site falls well short of this recommendation. A new B-2 site, on the other hand, could be considered an expansion of the existing B-2 district located across East Drive from the site.*

*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.*

*Old Shell Road is a proposed major street, thus the right-of-way should be a minimum of 100-feet in width instead of the 80-feet depicted on the plat (staff also wonders if the 80-foot right-of-way width is correct – the applicant should verify the right-of-way with Engineering). The plat depicts the dedication of sufficient right-of-way to provide the to centerline width of 50 feet, as required. It should be pointed out, however, that proposed trees and landscaping are depicted in the to be dedicated area, thus the site plan would fail the commercial site plan review process.*

*As Old Shell Road is a proposed major street, and as East Drive is a minor street serving single and multi-family residential developments, access management is a concern. The site plan submitted with the Zoning application depicts two curb-cuts – one to Old Shell Road and one to East Drive. The on-site circulation indicates that the two curb-cuts would be required so that the dumpsters at the rear of the site could be serviced, however, the location of the curb-cut onto East Drive implies that the dumpster service vehicle may back into East Drive after emptying the dumpster. The curb-cut onto East Drive will also be across the street from a vacant residential lot. It should also be pointed out that a 50-inch caliper live oak occurs on the site, and the site development plan is designed to retain the tree, thus complicating site layout options. With the previous comments in mind, it is recommended that the site be limited to one curb-cut onto Old Shell Road, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards.*

*The site is a corner lot, thus the corner should be modified to provide a radius, as required by Section V.D.6. of the Subdivision Regulations.*

*Development of the site must comply with the requirements of the Zoning Ordinance in order to minimize negative impacts to adjacent residential development. Buffers and control of site lighting should be provided, as required by the Zoning Ordinance. The depicted 10-foot buffer should either be landscaped, or a 6-foot high wooden privacy fence should be provided along the Eastern and Southern perimeter of the site (except where the fence is within the required 25-foot setback, where the fence may only be 3-feet in height).*

*Finally, the geographic area defined by the city of Mobile and its planning jurisdiction, including this site, may contain Federally-listed threatened or endangered species as well as protected non-game species. Development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.*

## **RECOMMENDATION**

**Rezoning:** Based upon the preceding, the Rezoning request is recommended for a modified Approval as a **B-2, Neighborhood Business District**, subject to the following conditions:

- 1) Completion of the Subdivision process prior to the submittal for building permits;

- 2) The site is limited to one curb-cut onto Old Shell Road, and denied access onto East Drive, with the size, design and location to be approved by Traffic Engineering and comply with AASHTO standards;
- 3) 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 50" Live Oak Tree located on the Northeast portion of the lot. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*);
- 4) Provision of appropriate residential buffers required by Section 64-4.D.1. of the Zoning Ordinance, such as a 6-foot high wooden privacy fence or 10-foot wide landscaped buffer;
- 5) Compliance with the site lighting requirements specified in Section 64-4.A.2. and Section 64-6.A.3.c. of the Zoning Ordinance; and
- 6) Full compliance with all other municipal codes and ordinances.

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

- 1) Dedication of 10 feet along Old Shell Road, as depicted on the preliminary plat, subject to verification with City Engineering that dedication is required, or revision of the plat to correct any errors;
- 2) Dedication of sufficient right-of-way at the intersection of Old Shell Road and East Drive for radius, in compliance with Section V.D.6. of the Subdivision Regulations, to be approved by Traffic Engineering;
- 3) Placement of a note on the final plat stating that the site is limited to one curb-cut onto Old Shell Road, and denied access onto East Drive, with the size, design and location to be approved by Traffic Engineering and comply with AASHTO standards;
- 4) Placement of a note on the plat stating that approval of all applicable Federal, state and local agencies is required for endangered, threatened or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 5) Compliance with Urban Forestry comments and placement of those comments as a note on the plat (*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 50" Live Oak Tree located on the Northeast portion of the lot. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*); and
- 6) The labeling of the lot with its size in square feet.

# LOCATOR MAP



APPLICATION NUMBER 5 & 6 DATE February 21, 2008

APPLICANT Steven F. Weller

REQUEST Subdivision, Rezoning from R-1 to B-3



NTS

# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



A university is located to the north of the site. Residential and commercial land uses are located to the west, south, and east of the site.

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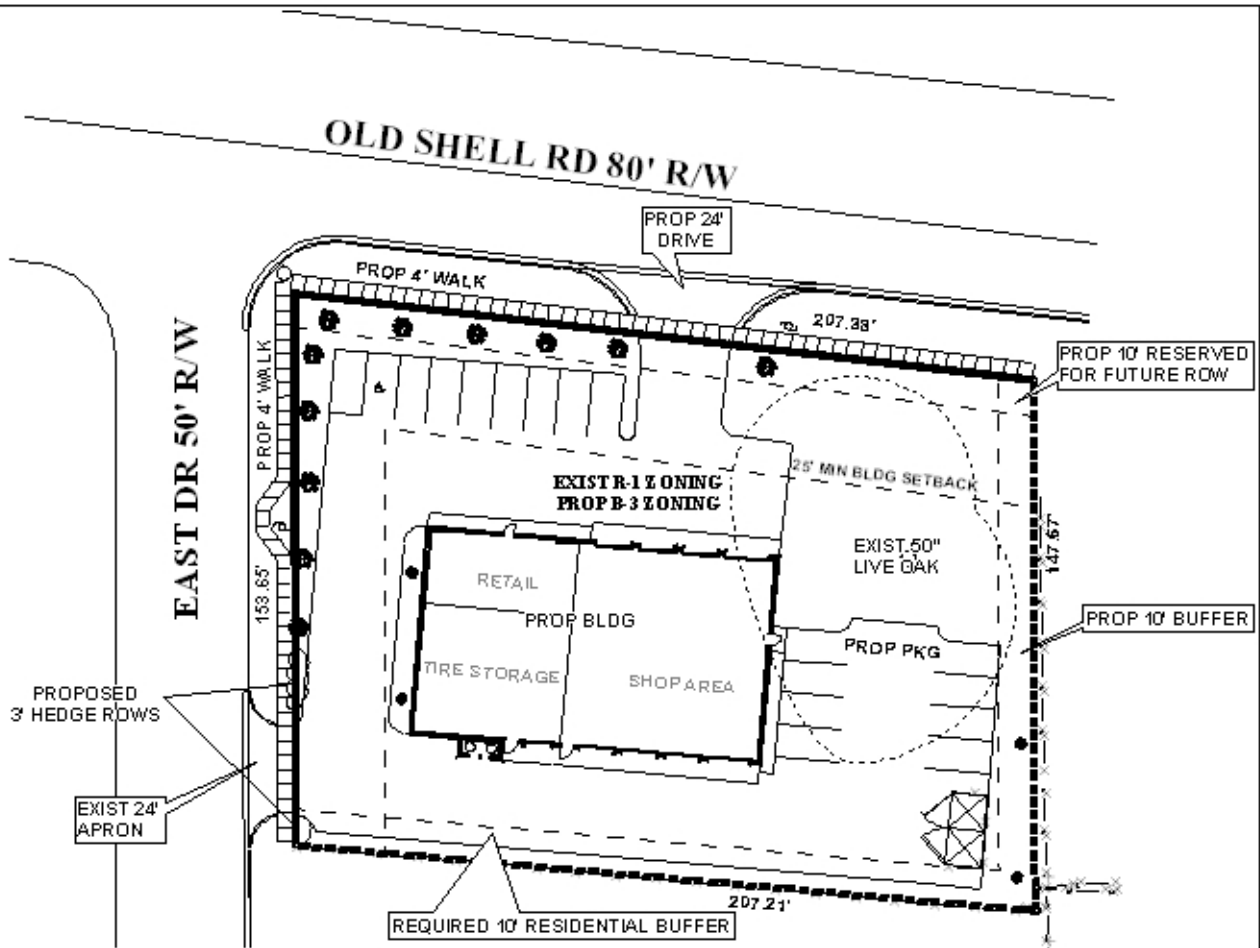
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REQUEST Subdivision, Rezoning from R-1 to B-3

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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# SITE PLAN



The site plan illustrates the proposed building, parking, drives, buffers, and landscaping

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NTS