

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

**Date: June 5, 2014**

<b><u>NAME</u></b>	Don Williams
<b><u>SUBDIVISION NAME</u></b>	La Belle Subdivision, Re-subdivision and Addition to Lot 1
<b><u>LOCATION</u></b>	5951 & 5955 Old Shell Road and 14 East Drive (Southwest corner of Old Shell Road and East Drive)
<b><u>CITY COUNCIL DISTRICT</u></b>	District 6
<b><u>CURRENT ZONING</u></b>	R-1, Single-Family Residential District, and B-2, Neighborhood Business District
<b><u>PROPOSED ZONING</u></b>	B-2, Neighborhood Business District
<b><u>REASON FOR REZONING</u></b>	Subdivision of land, and resolution of a split-zoning issue created by the proposed Subdivision.
<b><u>AREA OF PROPERTY</u></b>	1 Lots / 1.4± Acres
<b><u>CONTEMPLATED USE</u></b>	<p>Subdivision approval to create 1 legal lot of record, Planned Unit Development Approval to allow multiple buildings on a single building site and shared access between two building sites, 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><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></p>
<b><u>TIME SCHEDULE FOR DEVELOPMENT</u></b>	No timeframe provided.

**ENGINEERING**  
**COMMENTS****Subdivision:** The following comments should be addressed

prior to acceptance and signature by the City Engineer:

- A. Provide all of the required information on the SUBDIVISION PLAT (i.e. signature blocks, signatures, certification statements, written legal description, required notes, legend, scale, bearings and distances).
- B. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with the of the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045), latest edition. Storm water detention may be required for any existing development (since 1984) that did not receive Land Disturbance permitting and for any future addition(s) and/or land disturbing activity.
- C. Add a note to the Plat stating that the approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit.
- D. Provide a vicinity map, including street names.
- E. Revision of the plat to label each lot with its size in acres and square feet, or the furnishing of a table on the Plat providing the same information;
- F. Dedication, or verification, of the corner radius (25' minimum or as approved by the City Engineer and Traffic Engineer) at the Southwest corner of Old Shell Road and East Drive.
- G. Provide a written legal description for the proposed subdivision and matching bearing and distance labels.
- H. Show and label each and every Right-Of-Way and easement.
- I. Provide and label the monument set or found at each subdivision corner.
- J. Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer.
- K. Provide the Surveyor's Certificate and Signature.
- L. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures.
- M. Add a note that sidewalk is required to be constructed along the frontage of each lot, or parcel, at time of development, unless a sidewalk waiver is approved.

**Planned Unit Development:** ADD THE FOLLOWING NOTES TO THE PUD SITE PLAN:

1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII).
2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work.

3. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control.
4. The proposed development must comply with all Engineering Department Policy Letters.

## **TRAFFIC ENGINEERING**

### **COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. All new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.

*Revised for June 19, 2014:*

*The site plan has been revised to eliminate the curb-cut to East Dr. Site is limited to the existing curb cuts, with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. All new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.*

## **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.

The applicant is requesting Subdivision approval to create 1 legal lot of record, Planned Unit Development Approval to allow multiple buildings on a single building site and shared access between two building sites, 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.

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. It should be noted the subject site received the same approvals at the Planning Commission's December 15, 2011 meeting, with a 1-year extension granted at the Planning Commission's February 7, 2013 meeting. All previous approvals have expired as a result of the Subdivision not being recorded in Probate Court, not completing the rezoning process, and no permits obtained to comply with the previous conditions of approval. It should also be noted that the previous extension was granted more than 1-year after approvals were initially granted.

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 April 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 took steps to obtain legitimate approval of the commercial use of the residential property, and subsequently let those approvals expire.

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. It should be noted that a large oak tree in the proximity of the proposed curb-cut is the reason for the proposed design.

While the applicant is requesting almost identical approvals as were granted to the site previously, it should be noted that it has been 6 years since the initial ticket, and recent changes in the area make approval of the current request less desirable. A recent application for a project on the same street brought forth concern from several citizens in the neighborhood about the amount of increased traffic on East Drive. The current proposal would have longer hours of operation, and greater intensity than the other project which resulted in neighborhood concerns. In addition the current proposal would result in further increased traffic, including delivery trucks, garbage trucks and restaurant patrons, on East Drive with customers using the newly proposed curb-cut on East Drive, as well as increasing light penetration of vehicle headlights, required lighting of the parking lot, and the proximity of vehicle to adjacent residences. Also, the current proposal is much closer to the East Drive and Old Shell Road intersection than the other project which raised so much concern in the neighborhood, therefore the likelihood of increasing traffic congestion at the intersection could be much more problematic.

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.

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.

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. Relocation of dumpsters will require sanitary sewer connections.

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 11 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).

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. However, 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, and the proposed new parking area is illustrated as providing this same protection.

Finally, there was an unpermitted addition to the Picklefish building after the initial PUD approval in 2011, and it is not reflected on the submitted site plan.

## **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 approval;

4. the proposed access to East Drive will increase congestion at the East Drive/Old Shell Road intersection;
5. the commercial use of residentially zoned property has been unsolved for six years, and the applicant has had sufficient time to address compliance requirements; and
6. changing conditions in the neighborhood make approval less desirable than previously.

**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;
3. the proposed access to East Drive will increase commercial traffic on a primarily residential street;
4. the proposed access to East Drive will increase congestion at the East Drive/Old Shell Road intersection;
5. the commercial use of residentially zoned property has been unsolved for six years, and the applicant has had sufficient time to address compliance requirements; and
6. changing conditions in the neighborhood make approval less desirable than previously.

**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; and
2. a split-zoned lot is in violation of the Zoning Ordinance.

***Revised for the June 19<sup>th</sup> meeting:***

*The application was heldover from the June 5, 2014 meeting to allow the applicant to submit a revised site plan to reflecting no access to East Drive, and the provision of fencing and landscaping to prohibit access to East Drive.*

*The revised site plan illustrates the removal of the previously proposed additional parking off of East Drive, with a note stating that the existing gravel surfacing will be allowed to revert to grass. Along East Drive where the previously proposed curb cut was located, the existing fence is illustrated as being removed, and five live oak trees are proposed to be planted where the existing fence is currently located. There is also grass, a railroad tie bumper stop, and a 3' high privacy fence illustrated where the internal curb cut to the previously proposed parking addition was located. The applicant has also revised the site plan to illustrate proposed 36-inch high shrubs along the existing 6-foot high privacy fence along the rear of the residential properties on East Drive to better shield car headlights.*

*A previous condition of approval was the removal of the curb cut and drive on the West side of the existing Picklefish restaurant. While the revised site plan illustrates this drive as remaining, a proposed "Service Entrance Only" sign is depicted.*

*As previously mentioned, there was an unpermitted structure at the rear of the Picklefish building. The revised site plan has a note stating that this unpermitted structure will be removed. A demolition permit should be obtained prior to the removal of this structure.*

*Another issue of concern previously noted is that the dumpsters were illustrated within the 10-foot residential buffer. The dumpster location has been changed to illustrate them 15-feet away from the property line, connected to sanitary sewer, and with an appropriate dumpster enclosure.*

## **RECOMMENDATION**

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

- 1) limited to an approved Planned Unit Development; and,*
- 2) 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) the site is limited to the fencing, landscaping, and tree plantings as depicted on the revised Planned Unit Development site plan;*
- 3) compliance with revised Traffic Engineering comments: "The site plan has been revised to eliminate the curb-cut to East Dr. Site is limited to the existing curb cuts, with size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. All new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.";*
- 4) obtaining a demolition permit for the unpermitted structure at the rear of the Picklefish building;*
- 5) compliance with Engineering comments (ADD THE FOLLOWING NOTES TO THE PUD SITE PLAN: 1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). 2. A Land Disturbance Permit application shall be submitted for any proposed land disturbing activity with the property. A complete set of construction plans including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will need to be included with the Land Disturbance permit. This Permit must be submitted, approved, and issued prior to beginning any of the construction work. 3. Any and all proposed land disturbing activity within the property will need to be submitted for review and be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-*



045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 4. The proposed development must comply with all Engineering Department Policy Letters.);

- 6) provision of a revised PUD site plan prior to the signing of the Final Plat; and
- 7) full compliance with all other municipal codes and ordinances.

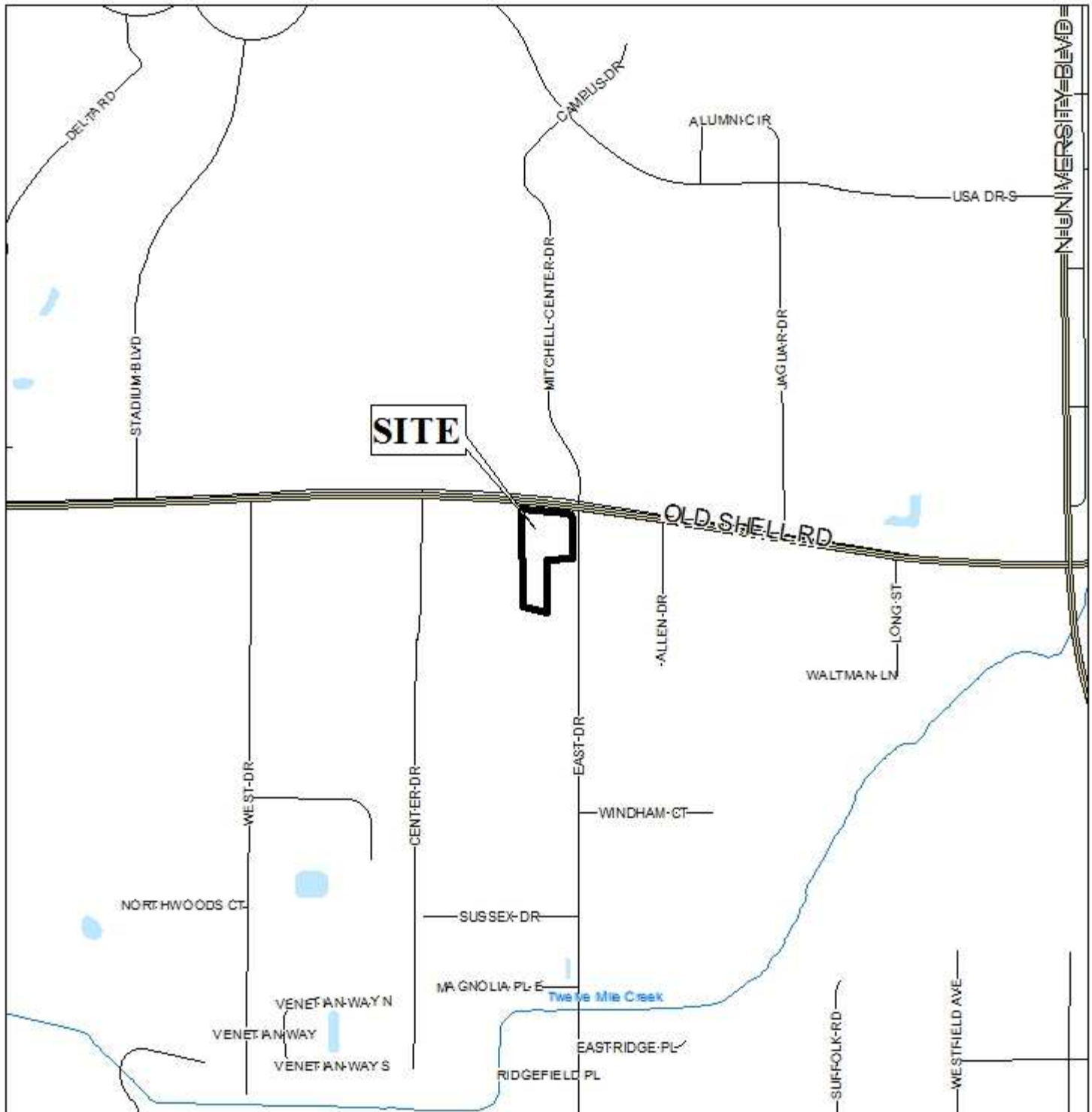
**Subdivision:** The Subdivision request is recommended for Tentative Approval, subject to the following:

- 1) the lot is limited to two curb-cuts to Old Shell Road, with the size, design, and location to be approved by Planning, Urban Forestry and Traffic Engineering, and to comply with AASHTO standards;
- 2) placement of a note on the Final Plat stating the site is denied access to East Drive;
- 3) illustration of the 25' minimum building setback line;
- 4) placement of a note stating the lot size in square feet and acres;
- 5) compliance with Engineering comments (The following comments should be addressed prior to acceptance and signature by the City Engineer: A. Provide all of the required information on the SUBDIVISION PLAT (i.e. signature blocks, signatures, certification statements, written legal description, required notes, legend, scale, bearings and distances). B. Add a note to the SUBDIVISION PLAT stating that a Land Disturbance permit will be required for any land disturbing activity in accordance with the of the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045), latest edition. Storm water detention may be required for any existing development (since 1984) that did not receive Land Disturbance permitting and for any future addition(s) and/or land disturbing activity. C. Add a note to the Plat stating that the approval of all applicable federal, state, and local agencies (including all storm water runoff, wetland and floodplain requirements) will be required prior to the issuance of a Land Disturbance permit. D. Provide a vicinity map, including street names. E. Revision of the plat to label each lot with its size in acres and square feet, or the furnishing of a table on the Plat providing the same information; F. Dedication, or verification, of the corner radius (25' minimum or as approved by the City Engineer and Traffic Engineer) at the Southwest corner of Old Shell Road and East Drive. G. Provide a written legal description for the proposed subdivision and matching bearing and distance labels. H. Show and label each and every Right-Of-Way and easement. I. Provide and label the monument set or found at each subdivision corner. J. Add a signature block for the Owner, Notary Public, Planning Commission, Traffic Engineer, and City Engineer. K. Provide the Surveyor's Certificate and Signature. L. Provide the Surveyor's, Owner's (notarized), Planning Commission, and Traffic Engineering signatures. M. Add a note that sidewalk is required to be constructed along the frontage of each lot, or parcel, at time of development, unless a sidewalk waiver is approved..);
- 6) compliance with 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.);
- 7) compliance with revised Traffic Engineering comments: "The site plan has been revised to eliminate the curb-cut to East Dr. Site is limited to the existing curb cuts, with size, location and design to be approved by Traffic Engineering and conform to AASHTO

*standards. All new on-site parking, including ADA handicap spaces, shall meet the minimum standards as defined in Section 64-6 of the City's Zoning Ordinance.”;*

- 8) 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).;*
- 9) placement of a note on the Final 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; and*
- 10) provision of a revised PUD site plan prior to the signing of the Final Plat.*

# LOCATOR MAP



APPLICATION NUMBER 8, 9 & 10 DATE June 19, 2014

APPLICANT Don Williams

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



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use.

APPLICATION NUMBER 8, 9 & 10 DATE June 19, 2014

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
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# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by miscellaneous land use.

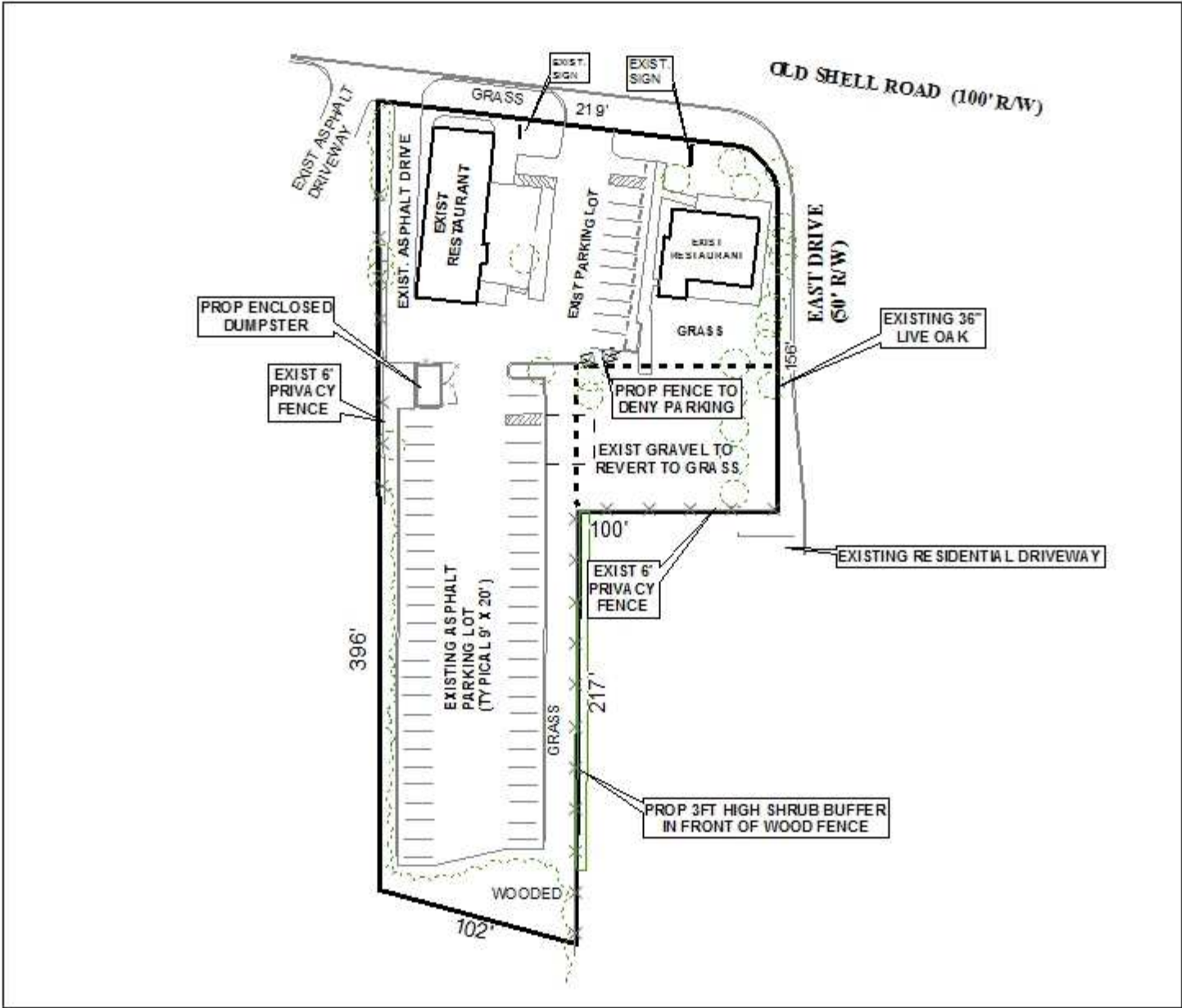
APPLICATION NUMBER 8, 9 & 10 DATE June 19, 2014

APPLICANT Don Williams

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



# SITE PLAN

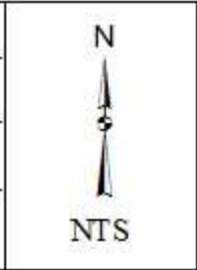


The site plan illustrates the proposed improvements.

APPLICATION NUMBER 8, 9 & 10 DATE June 19, 2014

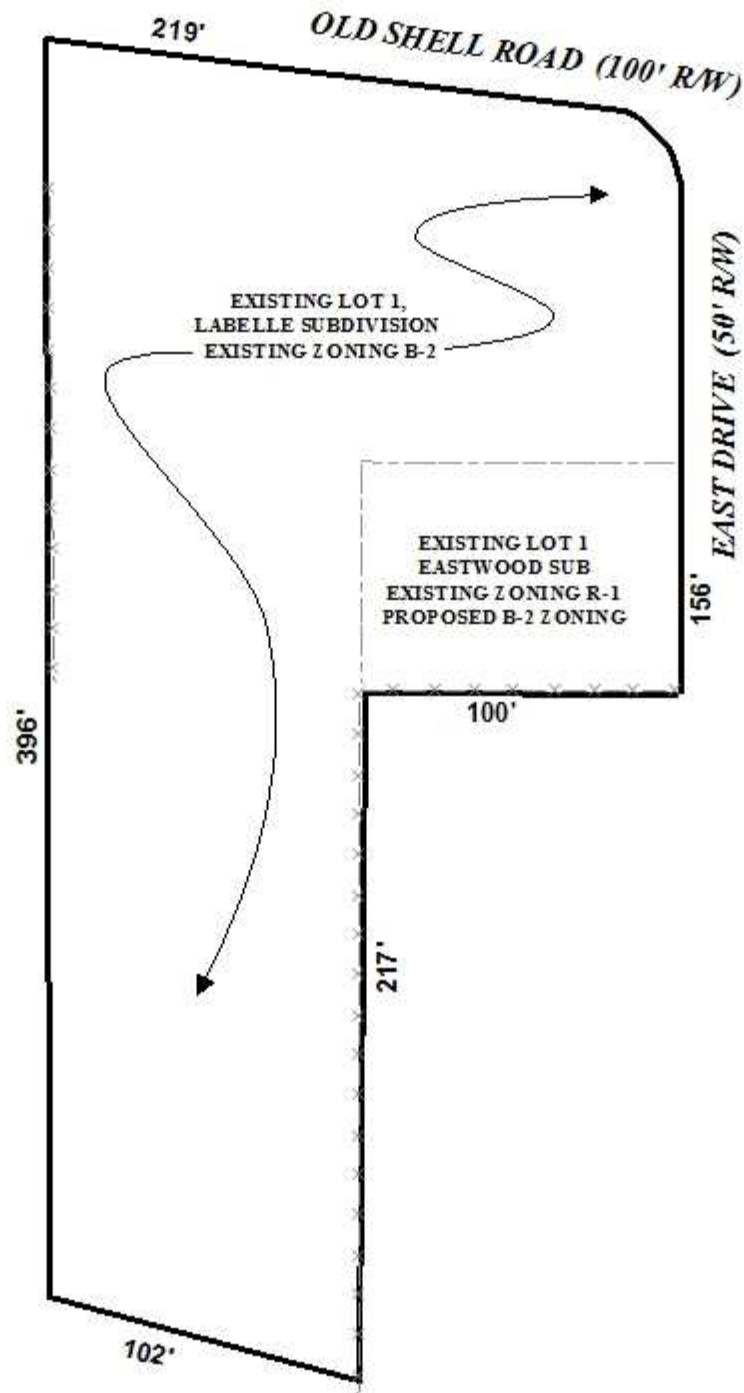
APPLICANT Don Williams

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





# SUBDIVISION AND ZONING DETAIL



APPLICATION NUMBER 8, 9 & 10    DATE June 19, 2014  
APPLICANT Don Williams  
REQUEST Subdivision, PUD, Rezoning from R-1 and B-2 to B-2

