

**ZONING AMENDMENT  
& SUBDIVISION STAFF REPORT****Date: November 6, 2008****APPLICANT NAME**

Derrick Marks

**SUBDIVISION NAME**

Derrick Marks Subdivision

**LOCATION**77 North Sage Avenue  
(West side of North Sage Avenue, 120' ± North of Heather Street)**CITY COUNCIL  
DISTRICT**

District 1

**PRESENT ZONING**

R-1, Single-Family Residential District

**PROPOSED ZONING**

B-1, Buffer Business District

**AREA OF PROPERTY**

1 Lot / 0.2± Acre

**CONTEMPLATED USE**

Subdivision approval to create a legal lot of record from an existing metes and bounds parcel, and Zoning approval to rezone the site from R-1, Single-Family Residential, to B-1, Buffer Business, to allow professional offices.

**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 professional offices due to locations in the vicinity being already zoned commercially.

**TIME SCHEDULE  
FOR DEVELOPMENT**

Not given.

**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. Final approval for all

driveways, proposed and existing will be given upon submittal of final plans. Driveway radii should be increased to twenty feet and the minimum driveway width is twenty-four feet.

## **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 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. Fire hydrants shall be provided per Section 508.5.1 of the 2003 IFC. Access to building shall be provided per Section 503.1.1 & 503.2.1 of the 2003 IFC.

### **REMARKS**

The applicant is requesting Subdivision approval to create one legal lot of record from an existing metes and bounds parcel, and Zoning approval to rezone proposed lot from R-1, Single-Family Residential, to B-1, Buffer Business, to allow professional offices.

The site is currently occupied by a single-family dwelling and is bounded to the East by Sage Avenue and to the North, West, and South by R-1, Single-Family Residential, zoned property which is occupied by single family dwellings.

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 there are commercially zoned properties in the vicinity and that there are new businesses coming into this part of Mobile, *implying*, but not specifically stating that there is a need to increase the number of sites available to business or industry and that the character of the neighborhood is changing. There are no prior rezoning or Board of Adjustment applications on file for this property.

Property to the North and South of, but not directly adjacent to, the subject property are zoned commercially, and there appears to also be some non-conforming uses in the area. While the General Land Use Plan does show this area as a commercial future land use, the immediately surrounding properties, as well as most of the properties in the vicinity or zoned for single-family residential development. Indeed, the subject property is currently occupied by a single family dwelling which is proposed to be renovated into a commercial office.

As the property is already developed, one must consider whether or not the existing structure will meet the buffer requirements between commercial and residential properties as outline in Chapter 64-4.D.1. In this case the existing structure is within the 10 foot buffer that would be required. If the rezoning were to be approved, a variance would need to be requested to relieve this requirement of the Zoning Ordinance.

Traffic Engineering has commented that the driveway radii should be increased to twenty feet and the minimum driveway width is substandard and should be twenty-four feet. These changes to the site would have to be made should any rezoning be approved.

In general, it would seem that this request would be akin to spot zoning due to the aforementioned facts, and the applicant has failed to adequately demonstrate that there is a change in the immediate area of this request and has also failed to demonstrate that there is indeed a need for more commercial business sites in this area. Also, the argument could be made that a rezoning would have a detrimental effect on the established single-family residential uses in the immediate area. For this reason, it is recommended that this request for rezoning be denied.

Subdivision review examines the site with regard to promoting orderly development, protecting general health, safety and welfare, and ensuring that development is correlated with adjacent developments and public utilities and services, and to ensure that the subdivision meets the minimum standards set forth in the Subdivision Regulations for lot size, road frontage, lot configuration, etc.

The plat illustrates the proposed .19 acre  $\pm$ , 1 lot subdivision which is located at 77 North Sage Avenue (West side of North Sage Avenue, 120'  $\pm$  North of Heather Street), and is in Council District 1. The applicant states that the subdivision is served by both public water and sanitary sewer.

The purpose of this application is to create a legal lot of record from an existing metes and bounds parcel.

The plat illustrates public roadway frontage of 59.73 feet, which is .27 feet less than the required 60 feet of frontage as stipulated in Section V.D.2 of the Subdivision Regulations. As this is an existing metes and bounds parcel, a waiver of Section V.D.2 as it relates to public street frontage would seem to be appropriate.

The site fronts onto Sage Avenue, a minor street provided with curb and gutter. The right-of-way is depicted on the plat as 50 feet, which is adequate for this type of street. Because of this,

no dedication should be required. As the site is existing, it should be limited to the existing curb cuts.

The 25-foot minimum building setback is depicted for the proposed lot, and should be retained on the final plat. Also, the plat should be revised to with a note depicting the size of the lot in square feet.

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 denial.

**Subdivision:** With a waiver of Section V.D.2 of the Subdivision Regulations, the subdivision request is recommended for tentative approval subject to the following conditions:

- 1) Revision of the plat to show lot size or provision of a table on the plat with the same information;
- 2) Placement of a note on the final plat which limits the lot to its existing curb cuts; and
- 3) Full compliance with all municipal codes and ordinances.

#### ***Revised for the December 4, 2008 meeting:***

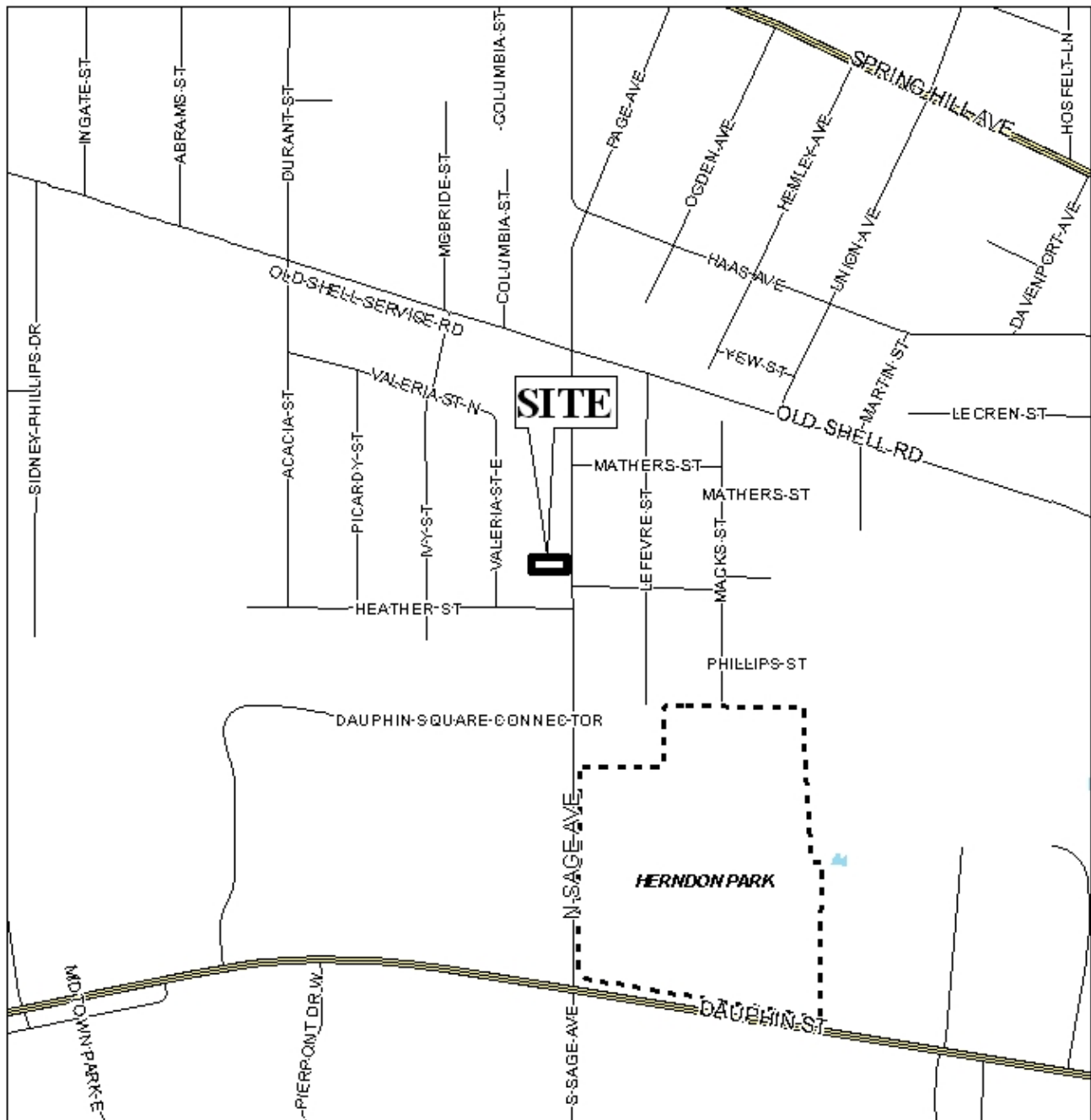
*A revised site plan was submitted by the applicant. The applicant is still requesting a rezoning from R-1, Single-Family Residential to B-1, Buffer Business District. The applicant's modified site plan reflects Traffic Engineering's comments regarding driveway radii; however, the illustrated driveway width continues to be less than 24 feet at the narrowest point. The applicant also failed to provide any further justification for rezoning and also failed to provide for a solution to the encroachment of the existing structure into the 10 foot buffer which would be required per Section 64-4.D.1 of the Zoning Ordinance.*

### **RECOMMENDATION**

**Rezoning:** Based upon the preceding, the application for rezoning is recommended for denial for the following reasons:

- 1) The applicant has failed to illustrate that there is a manifest error in the Ordinance; that there are changing conditions in the area that make a change in the Ordinance necessary and desirable; that there is a need to increase the number of sites available to business or industry; or that the subdivision of land into building sites makes reclassification of the land necessary and desirable; and
- 2) The existing building which is proposed to remain on the property would encroach into the protection buffer as required by Section 64-4.D.1 of the Zoning Ordinance.

# LOCATOR MAP



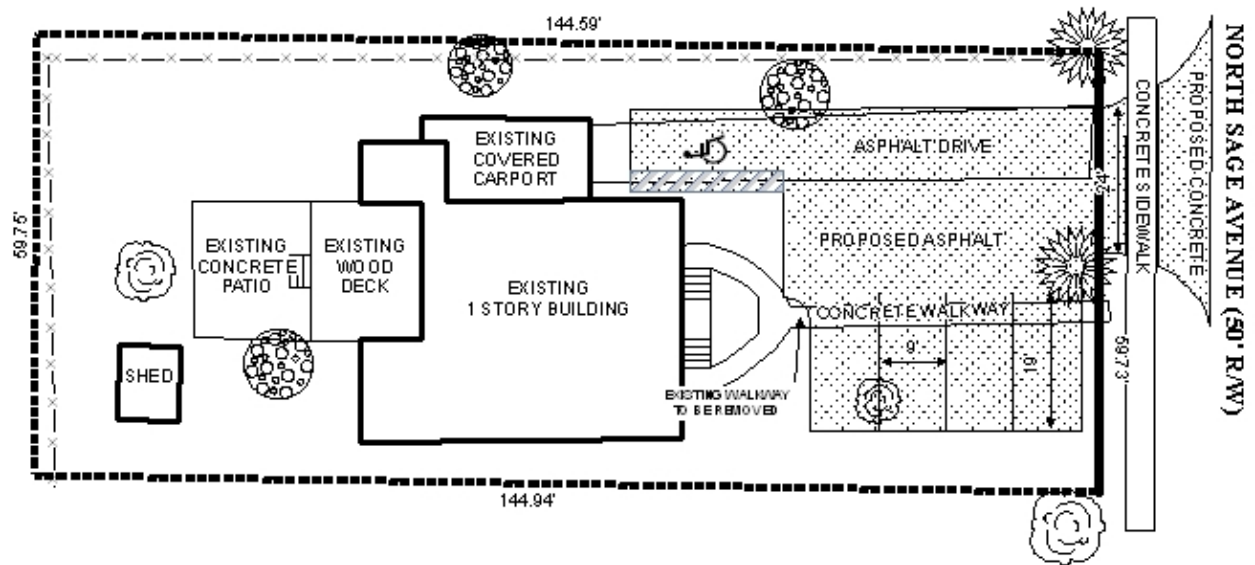
APPLICATION NUMBER 8 DATE December 4, 2008

APPLICANT Derrick Marks Subdivision

REQUEST Rezoning from R-1 to B-1



# SITE PLAN



This site plan illustrates proposed lot improvements

APPLICATION NUMBER 8 DATE December 4, 2008

APPLICANT Derrick Marks Subdivision

REQUEST Rezoning from R-1 to B-1



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



This site is surrounded by residential land  
use with business land use to the north and south.

APPLICATION NUMBER 8 DATE December 4, 2008

APPLICANT Derrick Marks Subdivision

REQUEST Rezoning from R-1 to B-1

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



## DERRICK MARKS SUBDIVISION



APPLICATION NUMBER 8 DATE December 4, 2008

