

ZONING AMENDMENT STAFF REPORT

Date: August 19, 2010

NAME

Albert B. Hunter

LOCATION

4456 Old Shell Road
(North side of Old Shell Road, 215'± West of North
McGregor Avenue)

**CITY COUNCIL
DISTRICT**

District 7

PRESENT ZONING

B-1, Buffer Business District

PROPOSED ZONING

B-2, Neighborhood Business District

AREA OF PROPERTY

0.5 Acre ±

CONTEMPLATED USE

Rezoning from B-1, Buffer Business District, to B-2, Neighborhood Business District to accommodate existing retail businesses.

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**

Currently Developed

**ENGINEERING
COMMENTS**

Must comply with all storm water and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right of way (including easements) will require a right of way permit, in addition to any required land disturbance permits. Drainage from any new 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.

**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).

Full compliance with landscaping and tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry.

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 B-1, Buffer Business District, to B-2, Neighborhood Business District to accommodate existing retail businesses.

The site is bounded to the East by B-2, Neighborhood Business District; to the West by B-2, Neighborhood Business District and R-1, Single-Family Residential District; to the North across Austill Lane by R-1, Single-Family Residential District; and to the South across Old Shell Road by B-2, Neighborhood Business District.

The site fronts onto Old Shell Road, which functions as a collector street, and Austill Lane, which is a minor street.

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.

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 applicant states in the application that all of the surrounding businesses are zoned B-2, Neighborhood Business District, which is an accurate statement. Further, portions of the site have functioned in a legal non-conforming capacity regarding use for many years. Specifically, businesses allowed in B-2 zoning districts have consistently been located at the site. This application has been necessitated due to the legal non-conforming use status expiring for some of the suites in the building. The applicant specifically states in the application that they believe that changes in conditions in the area make the change in the ordinance necessary and desirable. Available data seems to also suggest that this is indeed the case.

Section 64-9.A.2.b. of the Zoning Ordinance states that the minimum size guideline for a new B-2 district is two (2) acres. However, because the site is already surrounded by B-2 zoning, this guideline should be waived.

Given the surrounding land uses, and the previous non-conforming uses, rezoning could be considered appropriate. As a portion of the site directly abuts an R-1, single-family residential zone, construction of a buffer compliant with Section 64-4.D.1. of the Zoning Ordinance should be required as a condition of approval. Further, as previously stated, across Austill Lane from the site, is an R-1, Single-Family Residential District. Additionally, Austill Lane is primarily a residential street. As such, it would be prudent to limit the amount of commercial traffic accessing the street, and reduce the impact of the commercial business on the neighborhood by requiring the closure of the western curb cut to Austill Lane, as well as requiring a parking lot buffer in compliance with Section 64-6.A.3.i. of the Zoning Ordinance along Austill Lane.

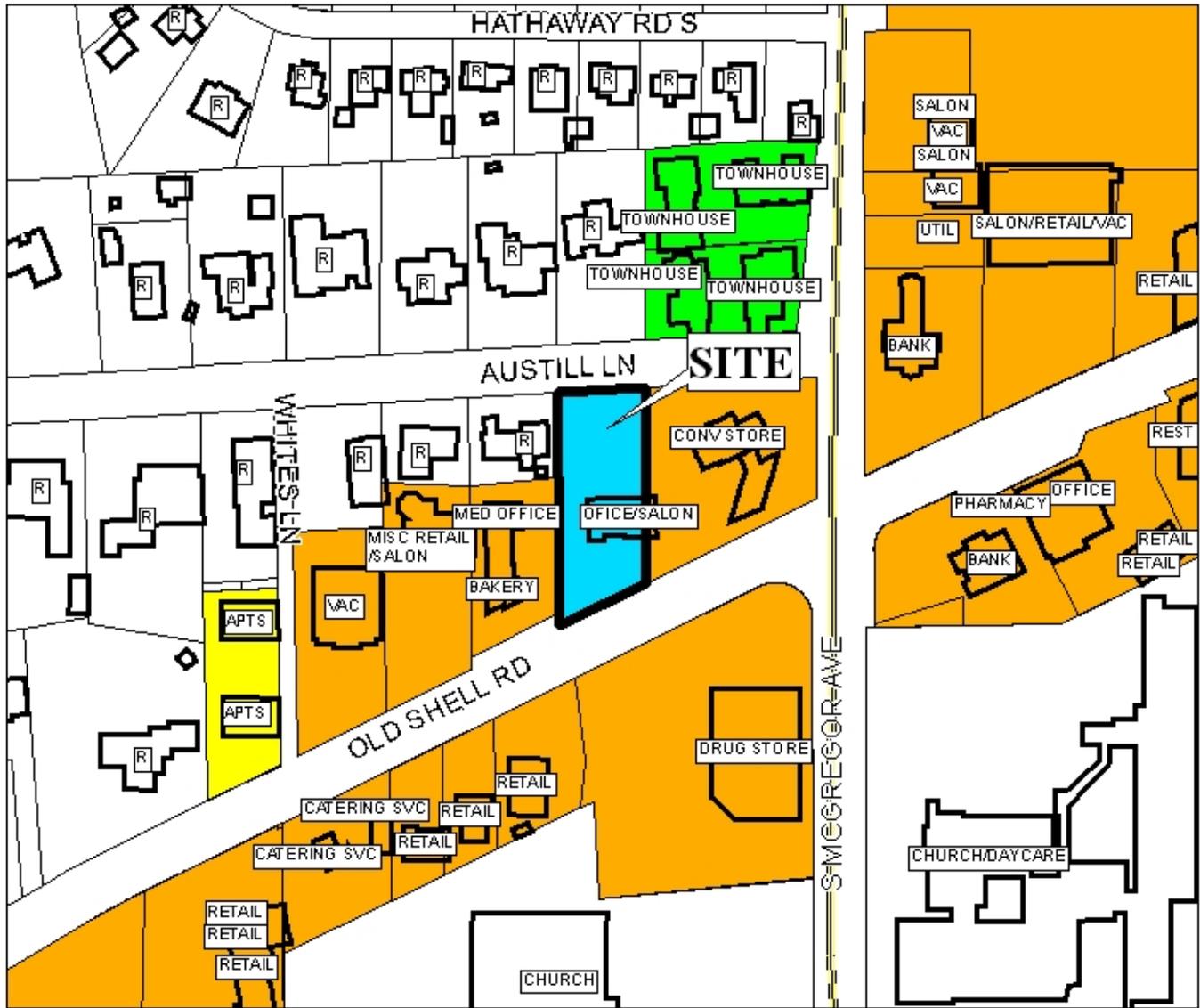
Lastly, it has been the Commission's policy in the past to require full landscaping and tree planting compliance for sites which are being rezoned. In this case, the site is already substantially developed, and full compliance with the ordinance would be nearly impossible without parking ratio or access and maneuvering variances, and possibly other variances. With that stated, compliance with the landscaping and tree planning ordinance should be required, to the greatest extent possible, to be coordinated with the Urban Forestry Section of the Urban Development Department.

RECOMMENDATION

Based on the preceding, the application is recommended for approval subject to the following conditions:

- 1) Construction of a buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance where the site directly abuts R-1 zoned property;
- 2) Closure of the western curb cut to Austill Lane;
- 3) Construction of a buffer in compliance with Section 64-6.A.3.i. of the Zoning Ordinance along Austill Lane;
- 4) Compliance with Engineering comments (*Must comply with all storm water and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right of way (including easements) will require a right of way permit, in addition to any required land disturbance permits. Drainage from any new dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.*);
- 5) Compliance with landscaping and tree planting requirements of the Zoning Ordinance to the greatest extent possible, to be coordinated with the Urban Forestry Section of the Urban Development Department; and
- 6) Full compliance with all municipal codes and ordinances.

PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

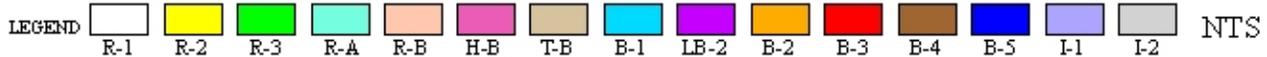


The site is surrounded by miscellaneous land use. The site is located in Spring Hill Village.

APPLICATION NUMBER 11 DATE August 19, 2010

APPLICANT Albert B. Hunter

REQUEST Rezoning from B-1 to B-2



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING

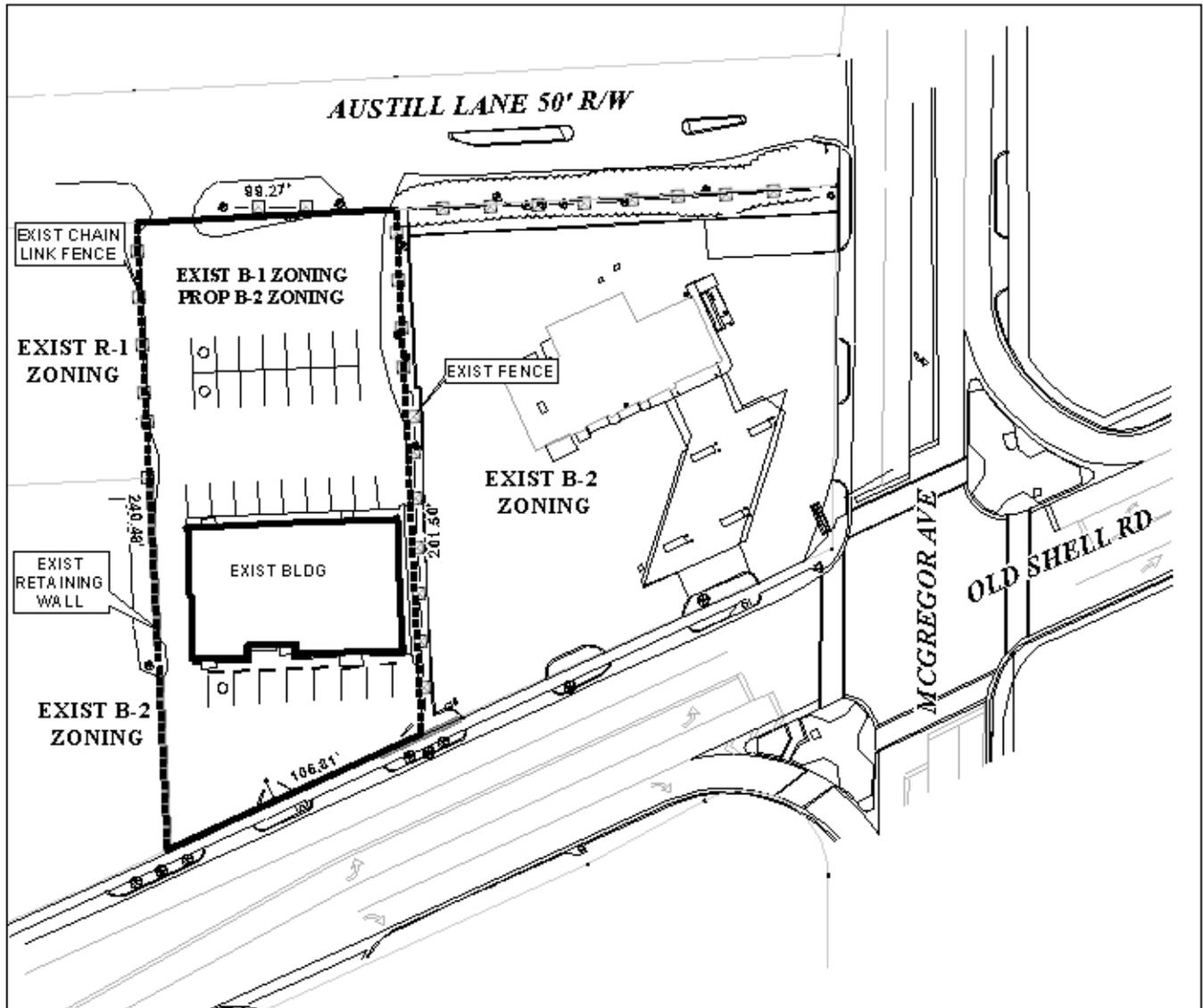


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SITE PLAN



The site plan illustrates the existing development and proposed zoning.

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