

**REZONING STAFF REPORT****Date: March 20, 2008****APPLICANT NAME**

Tara Cox

**LOCATION**

9 Upham Street

**CITY COUNCIL****DISTRICT**

Council District 1

**PRESENT ZONING**

R-1, Single-Family Residential

**PROPOSED ZONING**

B-1, Buffer Business

**AREA OF PROPERTY**

3,954 square feet

**CONTEMPLATED USE**

Rezone from R-1, Single-Family Residential to B-1, Buffer Business to allow a real estate office.

**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**

Surrounding commercial uses make the location uninviting as residential.

**TIME SCHEDULE  
FOR DEVELOPMENT**

Immediate

**ENGINEERING**

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, sizes, 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**  
IFC 508.5.1.

Fire hydrants shall be installed to comply with 2003

**REMARKS**

The applicant is requesting rezoning from R-1, Single-Family Residential to B-1, Buffer Business to allow a real estate office.

The site in question has previously been used as home occupations: computer sales and service, software sales, desktop publishing. The applicant claims to have purchased the property after it was on the market for 600 days, and that, due to the location of the business, the property is not inviting as a residence. Businesses currently exist to the North and East across Upham Street, along with associated traffic and noise. While on the market, the applicant states that the site was advertised by agents as having “great commercial potential” as an office-space. Thus, the applicant, a realtor, purchased the property with the intention to use it as a real estate office. A variance was recently applied for and denied by the Board of Adjustment; hence this application.

The Zoning Ordinance states that an amendment is to be made only when one or more of the following conditions prevail: there is a manifest error in the ordinance; changes in conditions in a particular area make a change in the ordinance necessary and desirable; an increased need for business or industrial sites in addition to sites that are available make it necessary and desirable to rezone an area or extend the boundaries of an existing district; the subdivision of land into urban building sites makes reclassification necessary and desirable.

With regard to the applicant’s request, the commission may find that the existence of the businesses near the site, along with the traffic and noise generated, makes the property not fitting as a residence. In 1994, the property directly across Upham Street was also rezoned from residential to commercial, which may support the applicant’s argument regarding the attractiveness of the site to be used commercially. With that said however, it should be noted that all properties expansively to the East are residential in character, including the property adjacent to the South. Therefore, if the highest and best use of the property is indeed commercial, then it is recommended that the commission consider T-B, Transitional Business zoning, rather than B-1, Buffer Business District, due to the limitations of uses, hours of operation, etc.

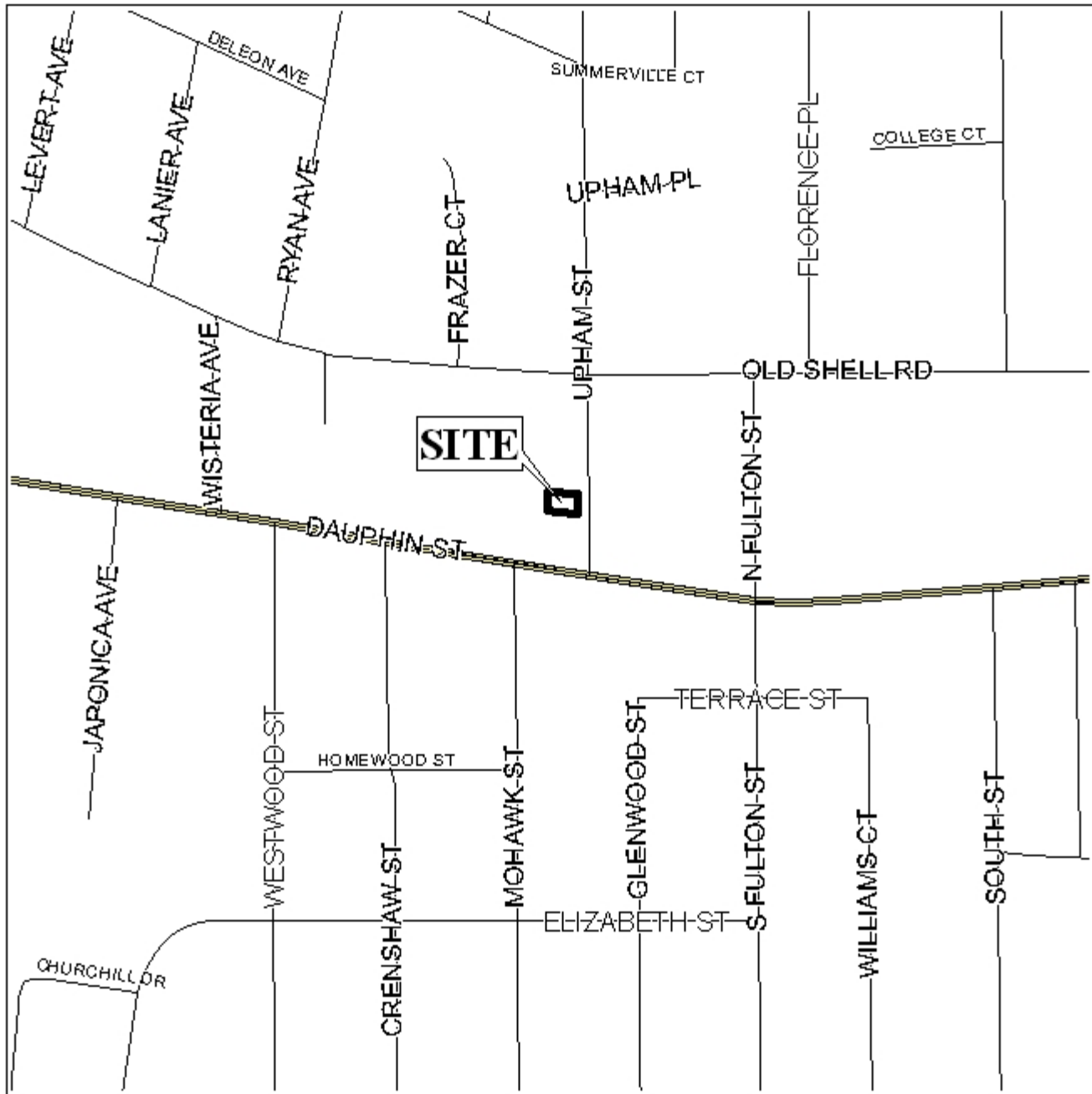
According to the site plan, there appears to be adequate parking and landscaping/tree planting. However, only two spaces are delineated (3 are required), there are no wheel stops, and there is no buffering where the site abuts residentially zoned property. Furthermore, since the conversion of use will be from residential to commercial, the applicant will be required to bring the structure into compliance with appropriate building and fire codes, as well as garbage removal. All improvements will require full commercial site plan review, at which time the aforementioned issues shall be addressed; no business license may be obtained until a certificate of occupancy has been issued.

Furthermore, the site does not appear to be a legal lot of record. Therefore, the applicant should submit an application for a one-lot subdivision or provide evidence that the parcel was created prior to 1952.

**RECOMMENDATION**

Based on the preceding, it is recommended that this application be held over until the April 17<sup>th</sup> meeting to allow the applicant to submit an application for a one-lot subdivision or provide evidence that the parcel was created prior to 1952. The application/information should be provided to the Planning Department of Urban Development by March 28<sup>th</sup>.

# LOCATOR MAP



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APPLICANT Tara Cox

REQUEST Rezoning from R-1 to B-1



NTS

# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



There is an office to the north and east of the site, apartments to the northeast, and single family residential units to the south.

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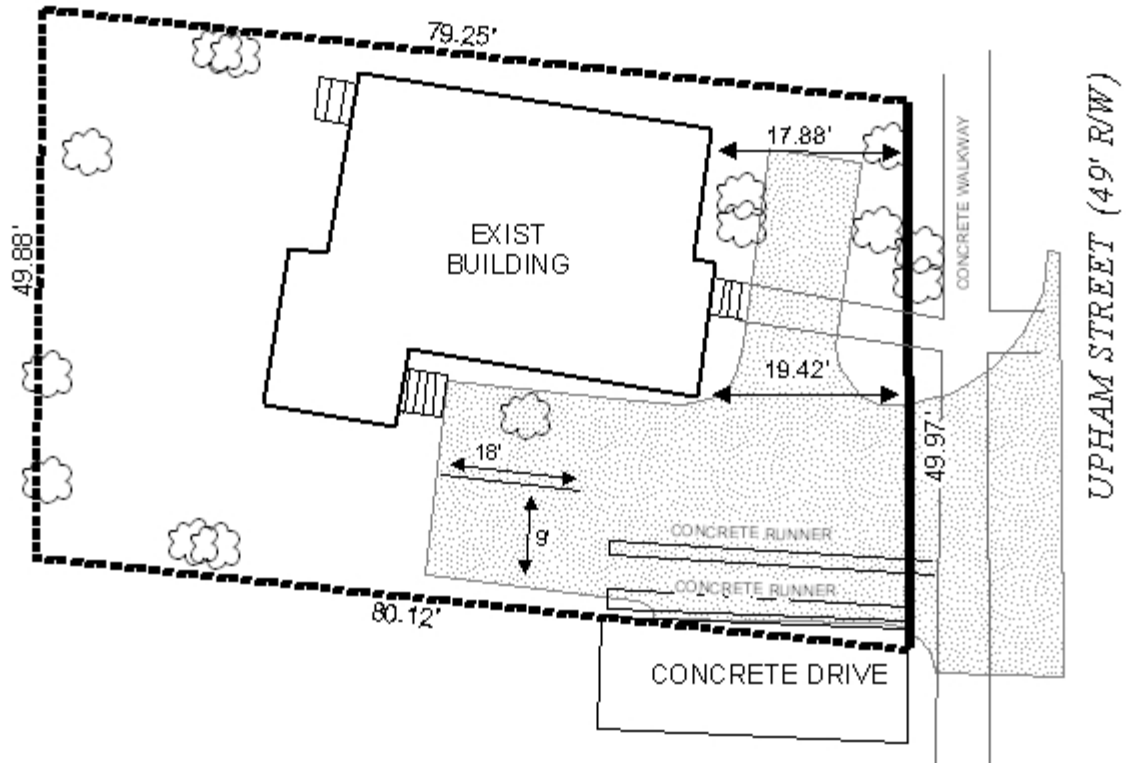
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LEGEND

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 existing building, drive, parking, and walkways.

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