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ZONING AMENDMENT STAFF REPORT Date: January 4, 2007

NAME David Roberts

LOCATION 201 South University Boulevard
(Southeast corner of South University Boulevard and Sunset Drive South)

CITY COUNCIL DISTRICT District 5

PRESENT ZONING R-1, Single-Family Residence District

PROPOSED ZONING B-1, Buffer Business District

AREA OF PROPERTY 15,000 square feet

CONTEMPLATED USE Rezoning from R-1, Single-Family Residential District to B-1, Buffer Business District, to allow an insurance 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.**

TIME SCHEDULE FOR DEVELOPMENT Within 6 months

ENGINEERING COMMENTS Storm drainage must tie subsurface to City of Mobile storm drainage system; to concentrate storm water onto an adjacent property, a hold harmless agreement is required. 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).

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FIRE DEPARTMENT COMMENTS No comments.

REMARKS The applicant is requesting rezoning from R-1, Single-Family Residential District to B-1, Buffer Business District, to allow an insurance office. Offices are allowed by right in B-1 districts. Specifically, the applicant intends to build a 2,800 square foot "residential-style" building for professional office space, and provide 12 parking spaces. The site is currently vacant.

B-1 districts are districts are composed of land and structures occupied by or suitable for such uses as offices, studios and automobile storage (commercial), including parking lots. Although usually located between residential areas and business areas, these districts are in some instances free-standing in residential areas or they may include hospital, college or other public or semipublic groups and related uses. The district regulations are designed to protect and encourage the buffer character of the districts by limiting the permitted uses to dwellings and uses of a semi-commercial nature and to protect the abutting and surrounding residential areas by requiring certain minimum yard and area standards to be met, standards that are comparable to those called for in the residence districts.

The maximum building site coverage allowed in B-1 is 45% (35% for R-1), with a maximum height of 45 feet (35 feet for R-1). The setbacks for B-1 (R-1) are as follows: front 25 feet (25 feet), side 0 or 5 feet, or 10 feet where adjacent to residential uses (minimum of 8 feet), and rear of 0 or 5 feet, or 10 feet where adjacent to residential uses (minimum of 8 feet).

The site is bounded to the East, North and West (across University Boulevard) by residential development in an R-1 district. South of the site is a medical office in a B-1 district, and beyond that are various uses in a B-2, Neighborhood Business District.

The site fronts onto the service road for University Boulevard, a major street with adequate right-of-way, and Sunset Drive South, a minor street with adequate right-of-way. It should be pointed out that the site, a corner lot, is located at one of the entrances into the Sunset Hills Subdivision.

The entire site appears to be depicted as residential 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 the following regarding the rezoning request:

> *"Before the residence on our lot was removed, the residence functioned as a day-care center. We believe professional office space is quieter and more compatible with the surrounding residential neighborhood. Our parking lot shall be reasonably discreet and buffered with landscaping and wood privacy fence. The residential architecture of our building (not yet designed) will blend into the neighborhood."*

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The applicant goes on to state:

> *"We believe the existence of two major streets, with their associated vehicular traffic makes the future of residential [sic] at this lot problematic. The neighborhood deserves a regulated boundary step-down from B-2 to B-1 to R-1. Filling in this corner lot with professional office space is logical and desirable. Because the office space will not function, more than likely, in the evenings, we will be a quiet neighbor with 'eyes on the street' during the daytime."*

The site was previously used for a home-based daycare, limited to 6 children. In June 1995, an application was made to the Board of Adjustment to allow a daycare for up to 9 children at the location, but the application was denied due to lack of hardship.

The property immediately South of the site in question was the subject of a rezoning request from R-1 to B-1 in June 2003. Both staff and the Planning Commission recommended denial of the request as it would represent an encroachment into an existing residential area. The rezoning request was approved on appeal to the City Council.

The site plan indicates that the 12-space paved parking area will access Sunset Drive South, while the proposed 2,800 square foot building will be built on the West side of the site. The site is designed so that there is sufficient space to provide buffering between the proposed commercial use and adjacent residential uses, as required by the Zoning Ordinance. The site plan is not sufficiently detailed, however, to determine if the proposed landscaping meets tree quantity requirements, or if the parking area screening required in Section 64-6.3.i. is provided (screening of parking area from adjacent residential uses, including across the street).

It should also be pointed out that section 64-4.3.c. states that parking areas containing 10 or more cars must be illuminated during the hours of operation, but that the lighting cannot shine directly into adjacent residential properties or into traffic.

Finally, no dumpster or other private waste disposal location is depicted on the site plan, thus the site plan should be revised to depict the dumpster location. The location, furthermore, should be located away from adjacent residential uses, no only in terms of protecting residences from offensive odors, but also from the noise of the dumpster being emptied during the day or night.

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 implies that the recent rezoning next to the site, and the location of the site near the intersection of two major streets makes the site qualify under the "changing conditions" criteria.

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The "step-down" in zoning that the applicant states is desirable already could be considered as occurring with the existing B-1 site South of the present application acting as a buffer to the B-2 district at University and Airport Boulevard.

It is staff's opinion that continued residential use of the site is possible, and in fact the site could potentially be subdivided to accommodate two single-family homes. However, if the site is rezoned and developed commercially, it will likely spur additional requests for commercial zoning for those residential lots in Sunset Hills which front University Boulevard.

RECOMMENDATION Based on the preceding, the rezoning request is recommended for Denial for the following reasons: 1) no manifest error in the Zoning Ordinance has been shown; 2) changing conditions have not been adequately documented to justify a change in zoning; 3) a need to increase the number of commercial sites has not been demonstrated; 4) no subdivision of land has occurred; and 5) the proposed commercial use would be located at a primary entrance to an existing residential subdivision, and would be across the street from existing single-family residences.

Revised for the January 18th meeting:

This application was Heldover by the Planning Commission so that the staff could develop recommendations for possible approval. Staff still recommends denial of this request.

Approval of the rezoning request should be subject to the following conditions: 1) the development is limited to one curb-cut to Sunset Drive South, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards; 2) provision of a protection buffer on the East side of the property, in compliance with Section 64-4.D. of the Zoning Ordinance, to include a 6-foot high privacy fence (except within the street setback area) and a 10-foot wide vegetative buffer; 3) full compliance with the tree and landscaping requirements of Section 64-4.E. of the Zoning Ordinance; 4) provision of a sidewalk along all street frontages; 5) location and screening of any garbage or dumpster facilities, in compliance with Section 64-4.D. of the Zoning Ordinance; 6) provision of required parking lot lighting, in conformance with Section 64-6.A.3.c. of the Zoning Ordinance, to ensure that lighting does not shine onto adjacent residential uses or into traffic (recommended use of shielded or full cut-off fixtures, and control of lighting so that they do not operate after the business is closed for the day); 7) screening of the parking area from adjacent residential uses, even if across the street, in conformance with section 64-6.A.3.c. of the Zoning Ordinance; 8) prohibition of any commercial signage along the Sunset Drive South; 9) full compliance with all other municipal codes and ordinances.

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LOCATOR MAP

APPLICATION NUMBER Holdover DATE January 18, 2007

APPLICANT David Roberts

REQUEST Rezoning from R-1 to B-1

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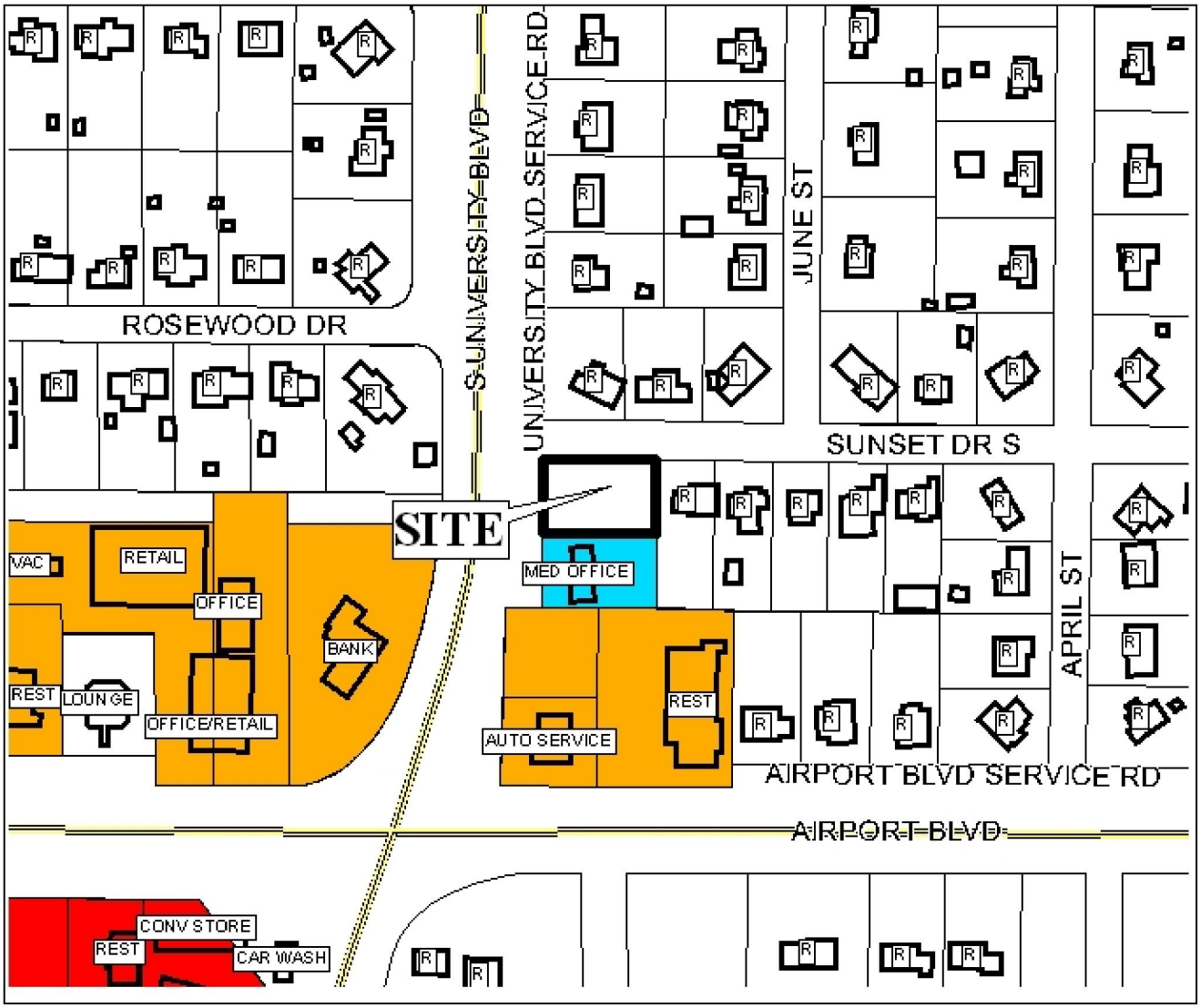
PLANNING COMMISSION
VICINITY MAP - EXISTING ZONING



An medical office, auto service business, and restaurant are to the south of the site. Single family residential units are east, north, and south of the site. And, miscellaneous businesses are to the south west.

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REQUEST Rezoning from R-1 to B-1

LEGEND R-1 R-2 R-3 R-A R-B H-B B-1 LB-2 B-2 B-3 B-4 B-5 I-1 I-2

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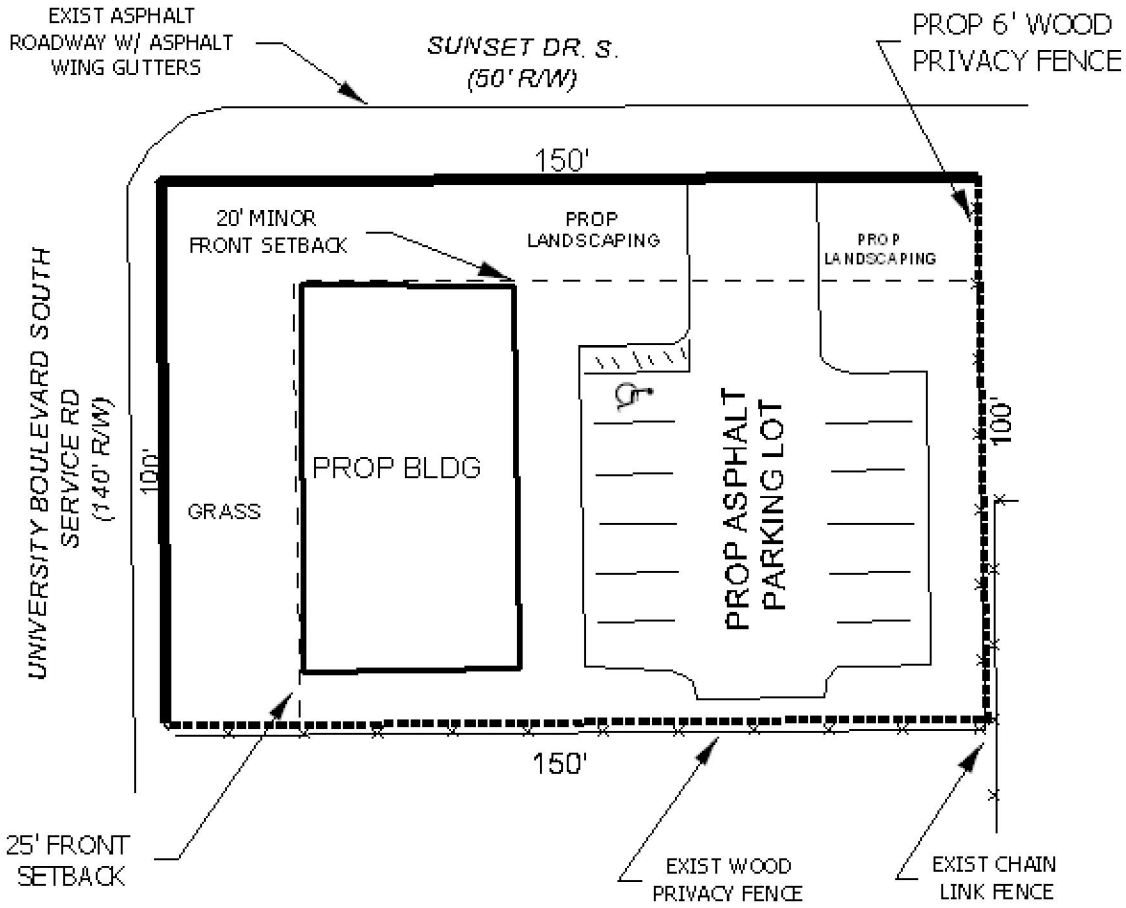
SITE PLAN



The site plan illustrates the proposed building, parking, fence, and landscaping.

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