

REZONING STAFF REPORT

Date: November 18, 2004

APPLICANT NAME

Springhill Properties, L.L.C.
Mike Ward, Agent

LOCATION

North side of Old Shell Road, 550'± East of Pine Street.

CITY COUNCIL DISTRICT

District 2

PRESENT ZONING

R-1, Single-Family Residential

PROPOSED ZONING

B-4, General Business

AREA OF PROPERTY

0.8± Acres

CONTEMPLATED USE

Parking for an adjacent commercial property.
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

Immediate

ENGINEERING COMMENTS

Must comply with all stormwater 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 (City Code Chapters 57 and 64 and State Act 61-929).

REMARKS

The applicant is proposing development of the site as a parking facility for an adjacent (to the North) commercial property.

The site was the subject of a recent subdivision application, the purpose of which was to incorporate the site into the adjacent commercial property(s). Because the subdivision as proposed would have created a split zoned property is approved, the Planning Commission modified the plat, and approved a subdivision that combined the commercially zoned properties into one lot and maintained the site in question as three separate residential lots.

Several neighbors were present in opposition to the request to subdivide. During the procedures, the neighbors learned that the site had been granted nonconforming status for an unpaved commercial driveway based upon documentation submitted by the applicant. The nonconforming status was brought into question with claims that the use had ceased for more than the two years as allowed by the Zoning Ordinance; and as a result, refuting documentation was submitted by the neighbors to the Urban Development Department.

Based upon the conflicting documentation, the staff appealed to the Board of Zoning Adjustment to determine if an error had been made in granting nonconforming status. In addition to the staff appeal, the property owner filed a Use Variance request to allow the off-site parking facility in a residential district.

After considering both oral and written evidence, the Board of Zoning Adjustment found that the site did not have legal nonconforming status as the driveway had not been used continuously for a period of more than two years. In addition, the Board also denied the request for Use Variance, finding that there was insufficient evidence was presented to illustrate that the Zoning Ordinance caused an unnecessary hardship.

The applicant is now requesting that the lots be rezoned to B-4 to allow for the expansion of the parking facility. 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.

No information has been provided to illustrate that any of the above conditions exist. Further, the site is located in the midst of a residential section of Old Shell Road and would create a commercial intrusion into that area.

RECOMMENDATION

Based on the preceding, it is recommended that this application be denied.

