

**ZONING AMENDMENT STAFF REPORT****Date: June 7, 2012****NAME**

Anthony L. Smeraglia

**LOCATION**

3915 Cottage Hill Road  
(South side of Cottage Hill Road, 250' East of Azalea Road, extending to the North side Shelley Drive, 230'± East of Azalea Road)

**CITY COUNCIL  
DISTRICT**

District 4

**PRESENT ZONING**

B-1, Buffer Business District

**PROPOSED ZONING**

B-2, Neighborhood Business District

**AREA OF PROPERTY**

0.9 ± Acres

**CONTEMPLATED USE**

Rezoning from B-1, Buffer Business District, to B-2, Neighborhood Business District, to allow construction of a retail store.

**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**

Not specified

**ENGINEERING  
COMMENTS**

No comments.

**TRAFFIC ENGINEERING  
COMMENTS**

Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. A radius is recommended at the driveway connection with the parking lot, where a 90° angle is currently shown.

**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).

Due to existing trees located on right of way along Cottage Hill Road, all new curb cuts for Lot 1 shall be coordinated with Urban Forestry. Any removal of existing trees on the right of way will require a permit from the Mobile Tree Commission.

## **FIRE DEPARTMENT**

### **COMMENTS**

All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.

### **REMARKS**

The applicant is requesting rezoning from B-1, Buffer Business District, to B-2, Neighborhood Business District, to allow construction of a retail store.

The site is illustrated 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 requested, the surrounding development, the timing of the request, and the appropriateness and compatibility of the proposed use and zoning classification.

The property has a fairly extensive zoning history. When the property was zoned B-1 in 1986, a condition of approval was that the site be developed in accordance with the submitted site plan. Access to Shelley Drive was prohibited, and a vegetative buffer was required along Shelley Drive. In 2000, the applicant requested that the site plan specific condition be removed. The Planning Commission recommended removal of the site plan specific condition; however, access to Shelley Drive was denied. The applicant did not obtain final approval from the City Council within one year and the Commission's recommendation expired.

The applicant resubmitted the application in June 2002, again requesting the site plan specific condition be removed and to have access to Shelley Drive (the property would remain B-1). The Commission recommended approval of the application; removed the site plan specific condition; and allowed access to Shelley Drive with the provision of a traffic-calming device on Shelley Drive. However, the City Council prohibited access to Shelley Drive, and correspondingly removed the traffic calming condition. It should also be noted that in November 2002, the applicant applied for B-2 zoning, but ultimately withdrew the request.

In January 2005, the Planning Commission denied a request to rezone the site to LB-2 to allow a dentist office and retail sales (with access to Shelley Drive) for the following reasons:

- (1) the rezoning of the property would eliminate an appropriate buffer business district between the existing residences to the East and the B-2 district to the West; and
- (2) the placement of a driveway to Shelley Drive would place additional commercial traffic on a minor residential street.

Unlike the application in 2005, the current application does not propose any access to Shelley Drive. Instead, the submitted site plan depicts access only to Cottage Hill Road. The site plan

also reflects the 50-foot minimum building setback line from Shelley Drive, as per the recorded plat.

The applicant is requesting B-2, however, the proposed use can be accommodated in an LB-2 zoning district. However, LB-2 still allows many traffic intensive uses such as a restaurant, and it does not function as a buffer between commercial and residential development. B-1 is a buffer business district and is intended to buffer heavier commercial districts from adjoining residential properties.

The site plan provided with the application depicts the proposed 4,400 square foot building, 20 parking spaces, a dumpster location, and trees and landscape areas. The site plan does not depict a buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance, where the site abuts residential properties. Zoning review, however, is not site-plan specific.

The site is bounded to the North by commercial properties in a B-2 district across Cottage Hill Road, to the East by residences in an R-1 district, to the South by Shelley Drive and residences in an R-1 district, and to the West by commercial uses in a B-2 district.

The applicant stated the following regarding the rezoning request:

*"We are requesting a rezoning of the above referenced project from B-1 to B-2 to allow Loop Coin and Jewelry to construct their new store at this location...They intend to access only from Cottage Hill Rd. and not from Shelley Dr. The business operating hours will be Monday through Friday from 9:00 AM to 5:00 PM."*

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.

Zoning approval is not site plan specific, and any use allowed within the approved district can, in fact, be developed on the site. Thus while the current zoning request is for a specific business, there is nothing to say that the specific business will be developed at this location: any other B-2 use can be located at this site.

### **RECOMMENDATION**

Based on the preceding, the rezoning request is recommended for Denial, for the following reasons:

- 1) The rezoning of the property would eliminate an appropriate buffer business district between the existing residences to the East and the B-2 district to the West; and
- 2) The request did not indicate which of the four conditions for zoning amendment apply.

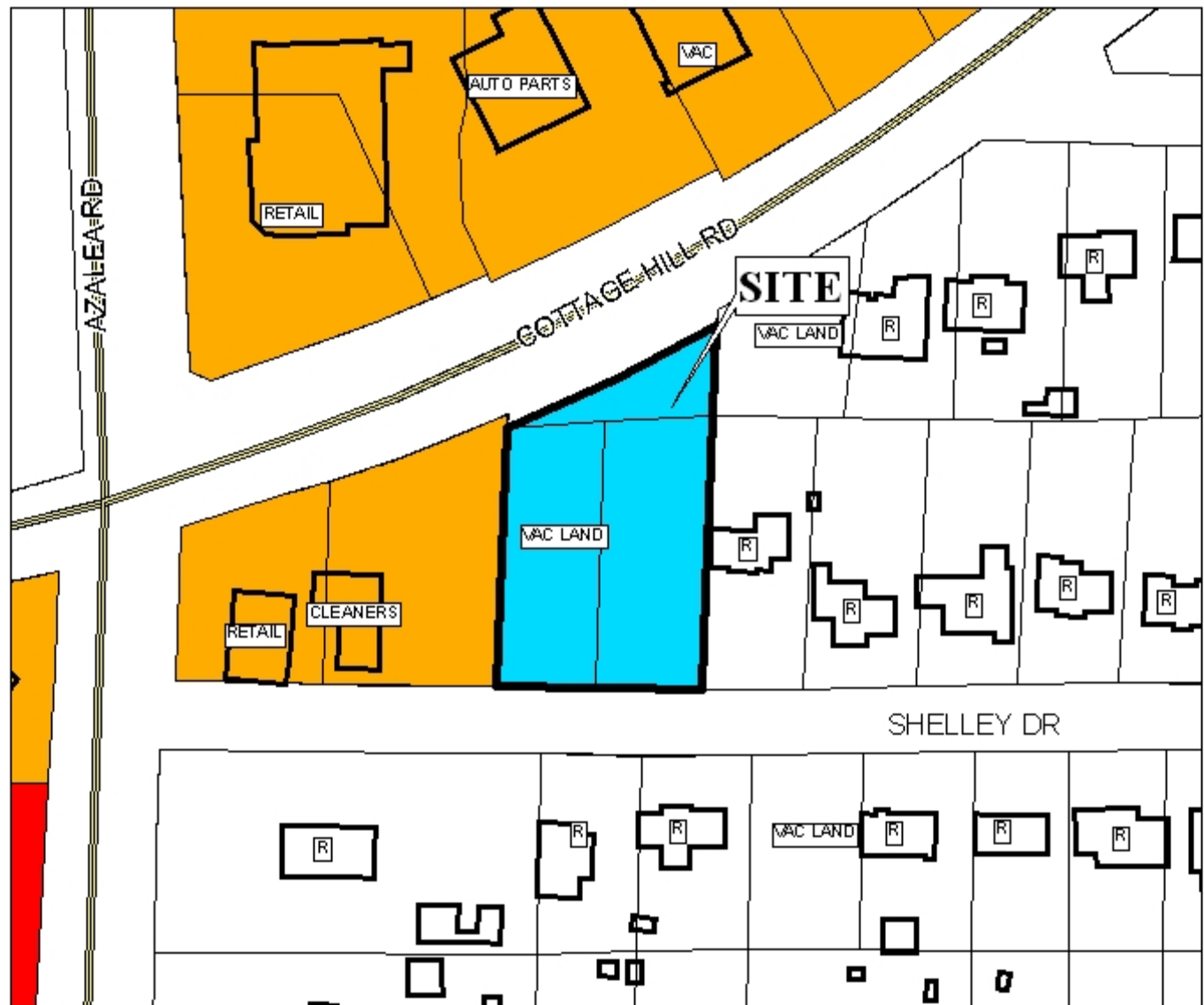
# LOCATOR MAP



APPLICATION NUMBER 7 DATE June 7, 2012  
APPLICANT Anthony L. Smeraglia  
REQUEST Rezoning from B-1 to B-2



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



Businesses are located to the north and west of the site.  
Residential units are located to the east and south of the site.

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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
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N  
NTS

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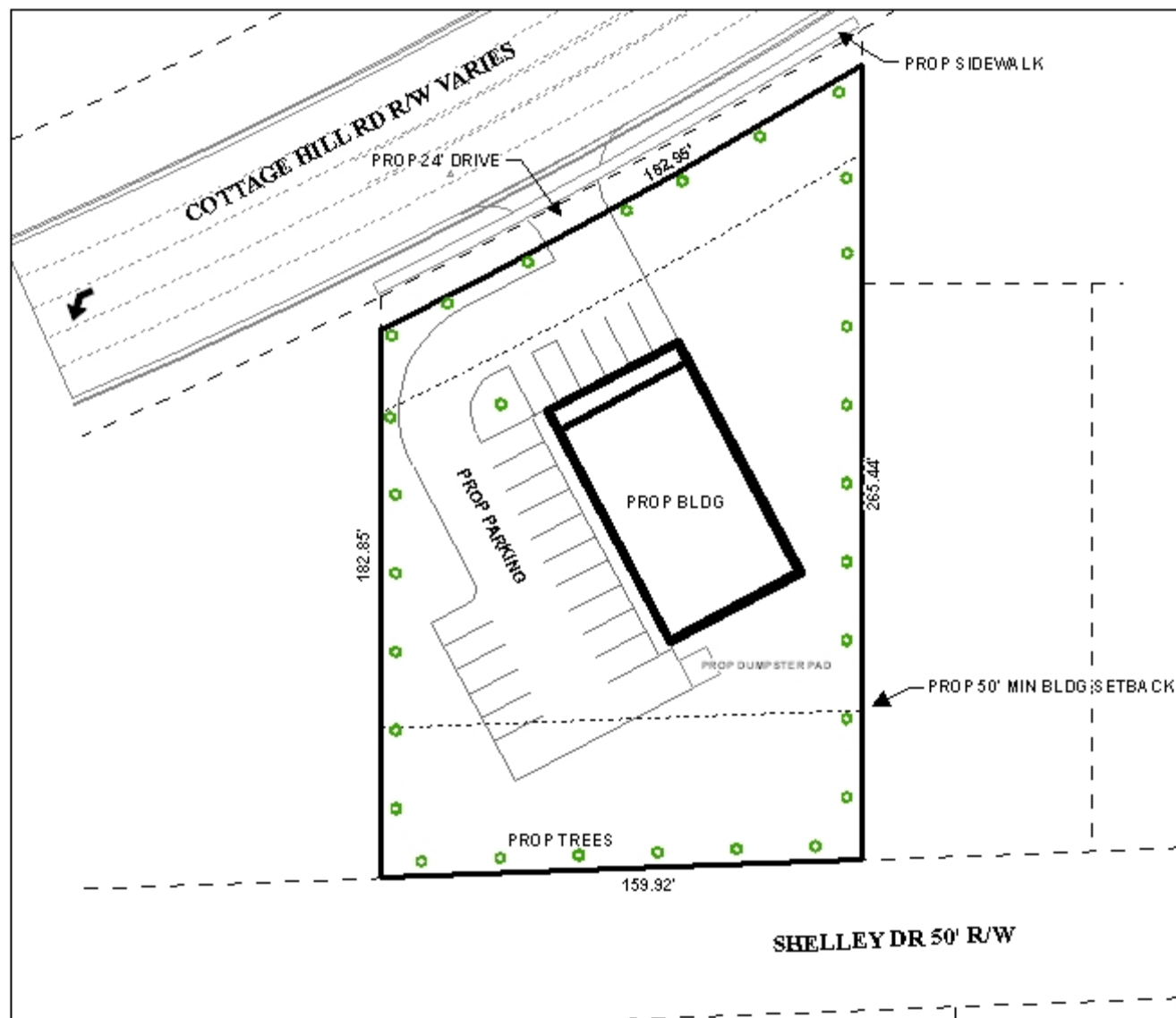
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N  
NTS



# SITE PLAN



The site plan illustrates the proposed development.

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N  
  
 NTS

## BUILDING ELEVATION DETAIL



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N  
↑  
NTS