

ZONING AMENDMENT STAFF REPORT**Date: May 4, 2006****NAME**

Marvin Hewatt Enterprises

LOCATION5662 Cottage Hill Road
(Northeast corner of Cottage Hill Road and Knollwood Drive)**CITY COUNCIL
DISTRICT**

District 6

PRESENT ZONING

R-1, Single Family Residential

PROPOSED ZONING

B-2, Neighborhood Business

AREA OF PROPERTY

1.0± acres

CONTEMPLATED USE

Convenience Store and retail shops

It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning were changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.

REASON FOR REZONING

Applicant states several factors that make the passage of the zoning amendment necessary; 1) the commercial development diagonal to the proposed development; 2) site is located at the intersection of two major streets (Cottage Hill Road and Knollwood Drive); and 3) would create a neighborhood business; therefore, there would be no adverse effect of rezoning the site.

**TIME SCHEDULE
FOR DEVELOPMENT**

Completion within one year of approval.

**ENGINEERING
COMMENTS**

There are probable outfall problems and no apparent location for stormwater to discharge. Any concentrated and/or increased stormwater discharge onto an adjacent property will require a hold harmless agreement from the affected property owner(s). Development 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, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. The two-way drive located on

Knollwood Drive needs to be located farther away from the intersection or converted to a right out only drive.

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).

Preservation status is to be given to the 56" Live Oak Tree and the 48" Live Oak Tree located on the South East side of the Lot. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

Due to existing trees on right of way, all new curb cuts are to be coordinated with Urban Forestry. Any work to the trees on right of way will require a permit from the Mobile Tree Commission.

FIRE DEPARTMENT

COMMENTS

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REMARKS

The applicant is requesting Rezoning approval to rezone a metes and bounds parcel from R-1, Single Family Residential, to B-2, Neighborhood Business, to allow the applicant to construct a 5,200 square-foot multi-tenant building as a convenience store/retail space with a detached 2,496 square-foot canopy over four proposed gas pumps.

The site is located on the northeast corner of Cottage Hill Road and Knollwood Drive, both are designated as major streets on the Major Street Plan which require a minimum 100-foot right-of-way. However, the applicant has not illustrated the right-of-way widths of either major street.

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.

The applicant states that due to the high traffic volume and location of the site at the intersection of two major streets (Cottage Hill and Knollwood Drive), and with an existing B-2 district located on the Southwest corner of this intersection, the site would be appropriate for the location of a convenience store with retail shops. Additionally, they contend that rezoning the property would have no adverse effect on the neighborhood.

This site is depicted on the General Land Use component of the Comprehensive Plan as residential. However, the Comprehensive Plan is meant to be a general guide, not a detailed lot and district plan or mandate for development. The Planning Commission and City Council may 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.

Section II.A.5.b of the Zoning Ordinance recommends that a proposed new B-2 district should contain at least 2-acres of gross area; the nearest existing B-2 district is located (diagonal) at the southwest corner of Cottage Hill Road and Knollwood Drive, and is approximately 2.5-acres in size. Approval of this rezoning application would set a precedent on the other adjacent residences to be converted to commercial uses.

As referenced in Urban Forestry comments the preservation of the 56" and 48" Live Oak Trees located on the South East side of the lot are not illustrated on the site plan.

Although a few uses may be compatible with adjacent residential uses, other uses permitted within a B-2 district, would be less desirable for location next to residences, including high traffic-generating uses such as: convenience stores with gas stations, daycares, drug stores, liquor stores, restaurants with drive-thrus, and video stores. Access to Knollwood Drive for such high-traffic uses would negatively impact the adjacent residential neighborhoods along Knollwood Drive. A LB-2, Limited Neighborhood Business or B-1, Buffer Business District designation would be more appropriate for this location.

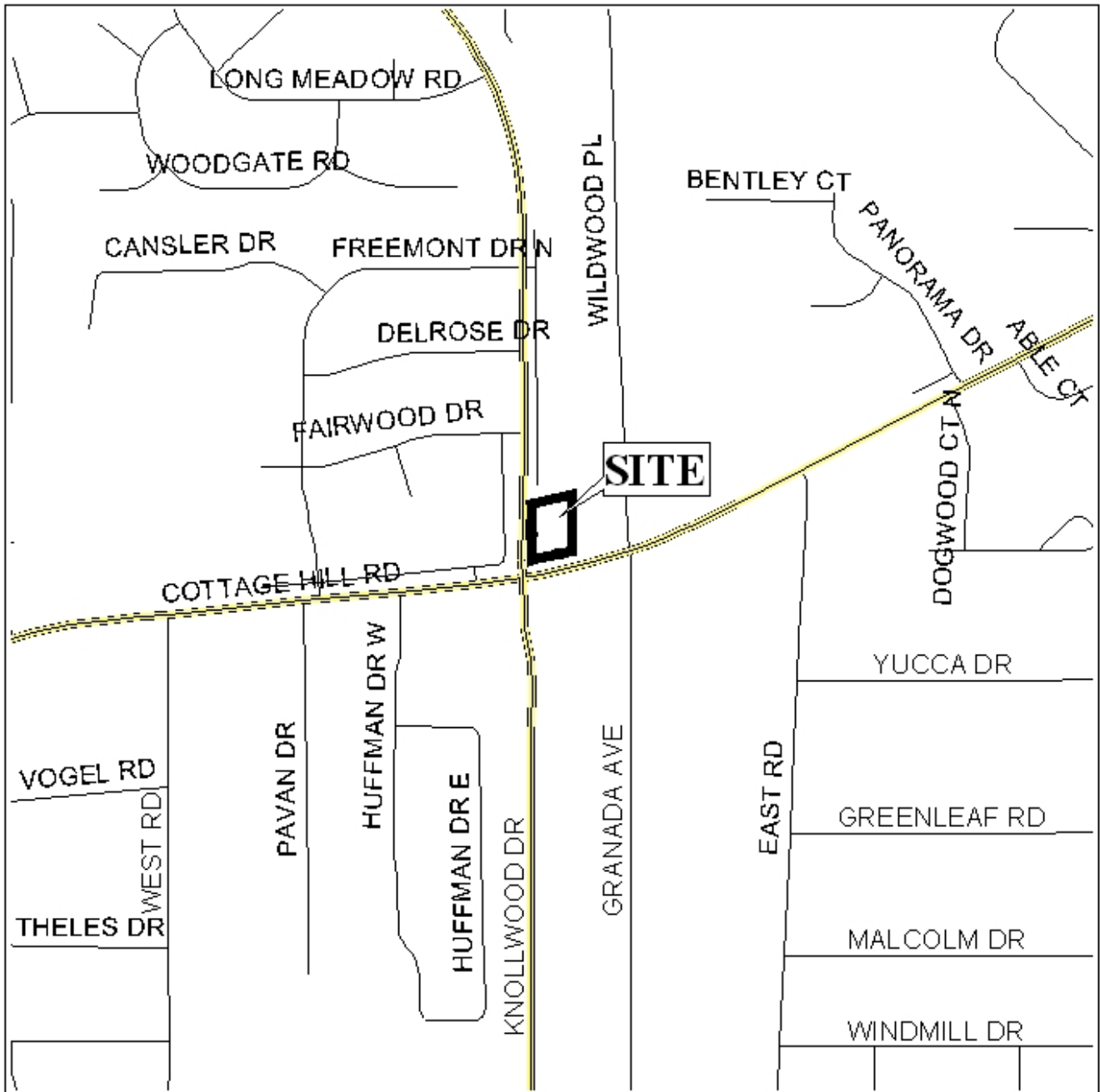
This intersection is mixed in zoning, with the majority of the intermediate area zoned and used residentially. While the site in question would not adjoin commercial property, it would be located (diagonal) from an existing B-2 site and R-1 sites (across the street and adjacent); this is an ideal position for a LB-2, Limited-Neighborhood district. Furthermore, as the site in question would appear to benefit from redevelopment, rezoning the site for "Limited Neighborhood Business" appears to be the best response to the existing conditions. However, LB-2 districts allow convenience stores but prohibit gas pumps.

As the site is not a legal lot of record, submission and approval of a one-lot subdivision application would be required, to "clean up" the legal description of the property, because the parcel was created after 1952. It should also be noted that approval of the rezoning application does not constitute site plan approval, and that the site will be subject to review for full compliance with all municipal codes and ordinances. Changes will likely be required by the transition to commercial zoning. In addition, a buffer in compliance with Section IV.D.1 of the Zoning Ordinance would be required where the site adjoins residentially zoned or residentially developed property.

RECOMMENDATION

Based upon the preceding, the rezoning request is recommended for denial for the following reasons: 1) the range of uses permitted within the B-2 zoning category are not compatible with the existing residential uses adjacent to the site; 2) the B-2 zoning district would not conform to the size guidelines of Section III.A.5.b of the Zoning Ordinance; and; 3) the rezoning would set a precedent for commercial expansion for the single-family residences adjacent to the site to the North and East; and 4) the proposed rezoning would not comply with the General Land Use Component of the Comprehensive Plan.

LOCATOR MAP



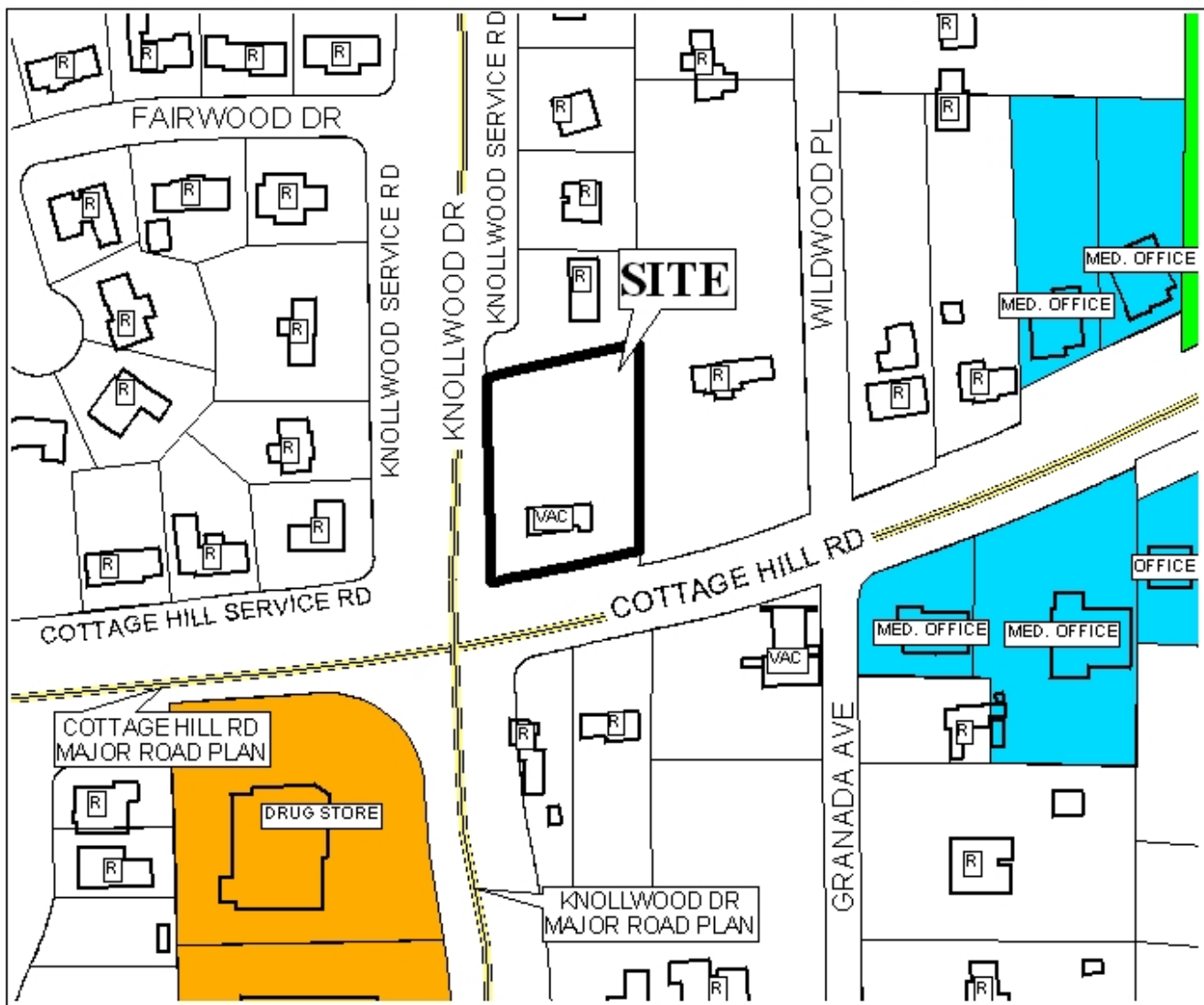
APPLICATION NUMBER 11 DATE May 4, 2006

APPLICANT Marvin Hewatt Enterprises

REQUEST Rezoning from R-1 to B-2



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is located in an area of single-family residential dwellings.

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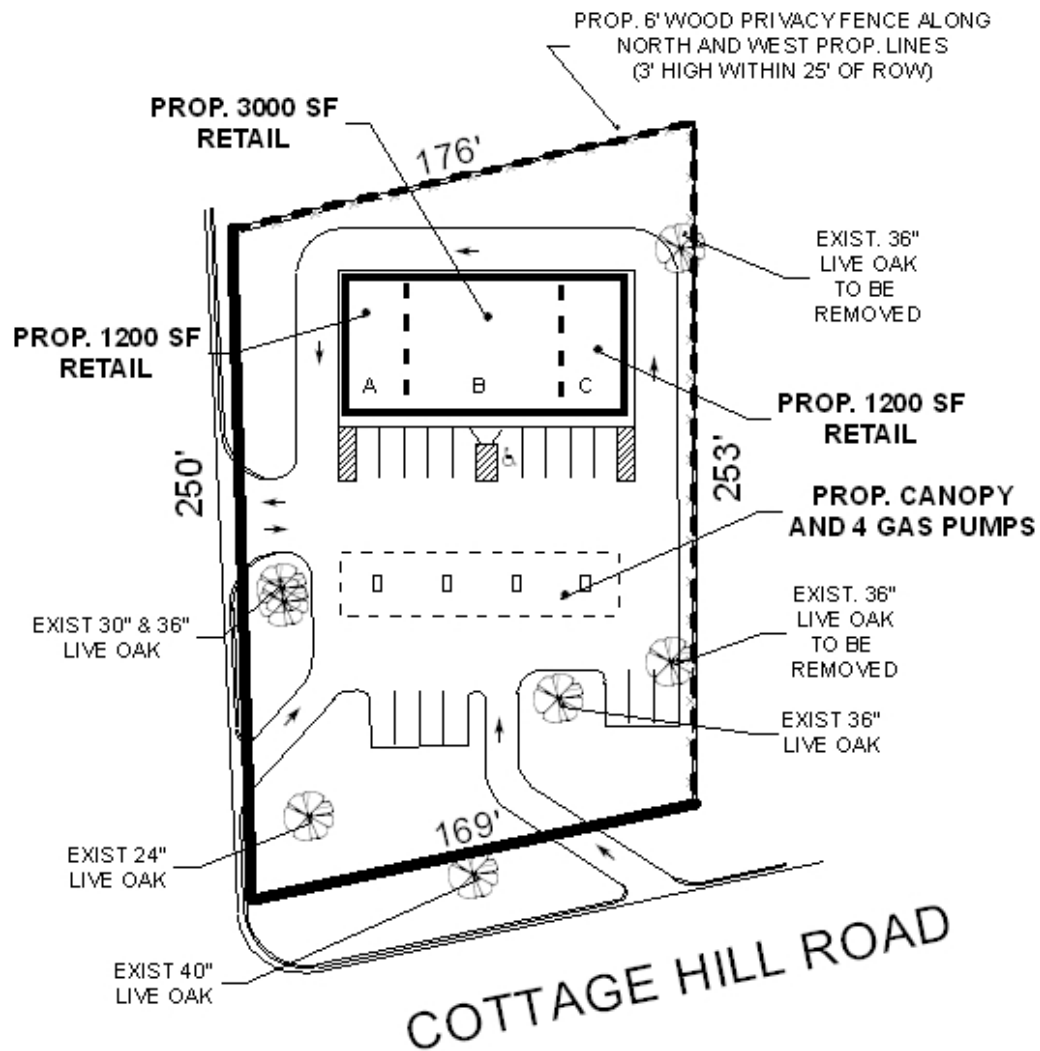
LEGEND

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

KNOLLWOOD DRIVE



The plan illustrates the proposed development.

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