

ZONING AMENDMENT STAFF REPORT**Date: June 15, 2006****NAME**

Jay Eubanks

LOCATION

South side of Zeigler Boulevard, 645'± East of Cody Road North

**CITY COUNCIL
DISTRICT**

District 7

PRESENT ZONING

R-3, Multiple-Family Residence District

PROPOSED ZONING

B-3, Community Business District

AREA OF PROPERTY

9.45 acres ±

CONTEMPLATED USE

Landscaping and lawn maintenance business with office/warehouse facilities

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**

The applicant states: *"This property and other properties on the south side of Zeigler Boulevard have been for sale for many years with no development prospects. The land located west of this site is zoned B-2 & B-3 and the east side is zoned R-3. The rezoning of this property to B-3 should have no impact on the surrounding area."*

**TIME SCHEDULE
FOR DEVELOPMENT**

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. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.

**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).

FIRE DEPARTMENT**COMMENTS**

All commercial projects shall comply with the 2003 International Fire Code and Appendices B through G, as adopted by the City of Mobile on July 6, 2004. All One- or Two-Family residential developments shall comply with Appendices B, C, and D of the 2003 International Fire Code, as adopted by the City of Mobile on July 6, 2004.

REMARKS

The applicant is requesting rezoning from R-3, Multi-Family Residential, to B-3, Community Business, for a landscaping and lawn maintenance business with office/warehouse facilities. Lawn / Landscape services are allowed by right in B-3 districts.

It should be noted that the Zoning Ordinance restricts outside storage in B-3 districts as follows:

“Construction storage area shall be completely screened by a 6-foot privacy fence; all materials stored shall not be stacked higher than 6 feet; heavy equipment such as bull dozers, dump trucks, etc. are not allowed; and said area is allowed only in the rear yard.”

The applicant intends for the proposed building to provide office space and *“sufficient warehouse to park his trucks and equipment inside. Landscape timbers, stones, bricks, mulch, bark, etc...would be stored outside”* in a 200 by 250-foot storage area, setback 75-feet from Ziegler Boulevard. The bulk of the property would remain undeveloped, and thus be left in its natural wooded state, providing a buffer between adjacent uses.

The landscape materials storage area, as proposed, would be located approximately 175 feet east of the proposed office / warehouse building and parking area, and 75-feet South of Ziegler Boulevard. Per the requirements of the Zoning Ordinance, the storage area must be completely surrounded by a 6-foot high privacy fence, and materials cannot be stacked or piled any higher than 6 feet. Furthermore, paved access to the storage yard would be required.

The applicant proposes to store his trucks and equipment inside of the proposed office / warehouse building. The majority of lawn / landscape service providers do not have bull dozers or similar-sized heavy equipment, however, “Bobcats” and heavy duty trucks with trailers are typically the norm.

The property fronts Ziegler Boulevard, a proposed major street, with a right-of-way width of 100 feet. Ziegler Boulevard, at this location, is a four-lane roadway with a median.

North of the site, across Ziegler Boulevard, are single-family homes in an R-1, Single Family Residential district. East of the site is a large vacant lot, while further East are group homes for the disabled and apartments, all in an R-3 district. South and Southeast of the site are vacant lots and single-family residences, located in an R-1 district. Southwest and West of the site are

vacant parcels with R-3, B-2 and B-3 zoning, and a single-family residence located on a parcel zoned B-2, Neighborhood Business.

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

As stated in Section IX. 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 site was rezoned from R-A, Residential-Agriculture, to R-3 in August 1978, and the site has been vacant since that time. Rezoning of the site to B-3, Community Business, would permit a variety of commercial uses, including a lawn / landscaping service. It should be noted, however, that nearby B-3 properties, fronting onto Cody Road, are vacant.

The applicant is correct in stating that the site and adjacent sites “have been for sale for many years with no development prospects.” It would appear, however, that nearby properties that are already zoned B-3, yet remain vacant, indicate that the market for development in the area continues to be stagnant. Thus it appears that the four conditions relating to amending the Zoning Ordinance are not fulfilled, namely that there is no manifest error, that there are no changing conditions, there is no need to increase the number of sites, and there is no subdivision of land necessitating the change in zoning.

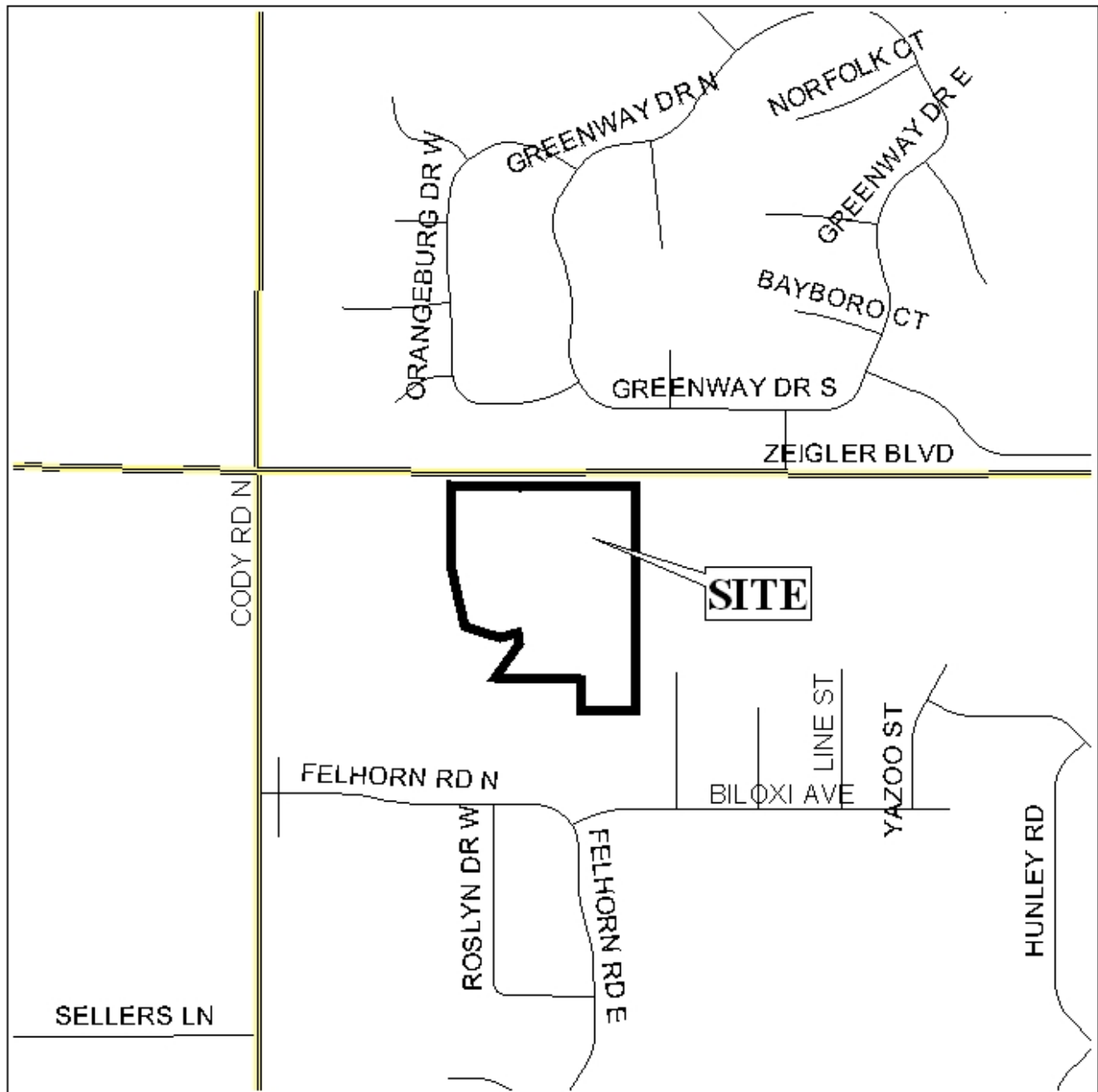
It should be noted that the site in question and the vacant lot to the East appear to have been “borrow” pits at one point. As such, development of the site may be more challenging than might otherwise be the case. Also, as with any rezoning and new development, the site must be brought into full compliance with sidewalk, landscaping and tree planting requirements, as contained in the Zoning Ordinance, as well as the buffer requirements for commercial sites abutting residential uses.

Finally, the site in question appears to contain floodplains and the floodway associated with the upper reaches of Three Mile Creek. Furthermore, the site may also contain wetlands due to manner in which the borrow pit was shaped during excavations. The presence of wetlands and floodplains indicate that the area may be environmentally sensitive; therefore, the approval of all applicable federal, state and local agencies would be required prior to the issuance of any permits or land disturbance activities.

RECOMMENDATION

Based upon the preceding, it is recommended that the rezoning of the lot from R-3 to B-3 be denied for the following reasons: 1) no manifest error in the Ordinance has been shown; 2) the lack of changing conditions in the area do not appear to necessitate a change in the Ordinance; 3) there does not appear to be a need to increase the number of sites available to business or industry; and 4) no subdivision of the land into building sites has been proposed that would make reclassification of the land necessary and desirable.

LOCATOR MAP



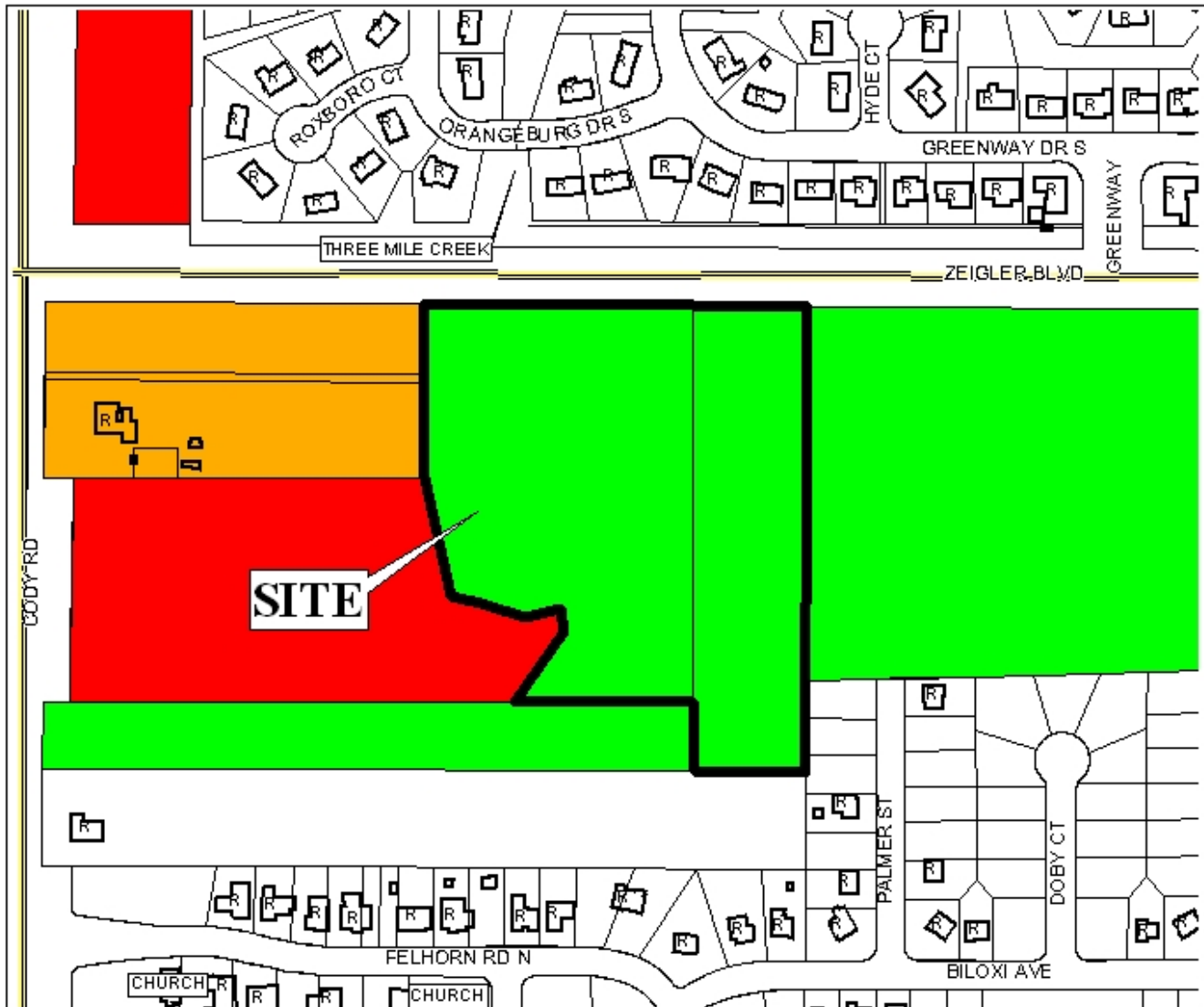
APPLICATION NUMBER 12 DATE June 15, 2006

APPLICANT Jay Eubanks

REQUEST Rezoning from R-3 to B-3



PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential dwellings.

APPLICATION NUMBER 12 DATE June 15, 2006

APPLICANT Jay Eubanks

REQUEST Rezoning from R-3 to B-3

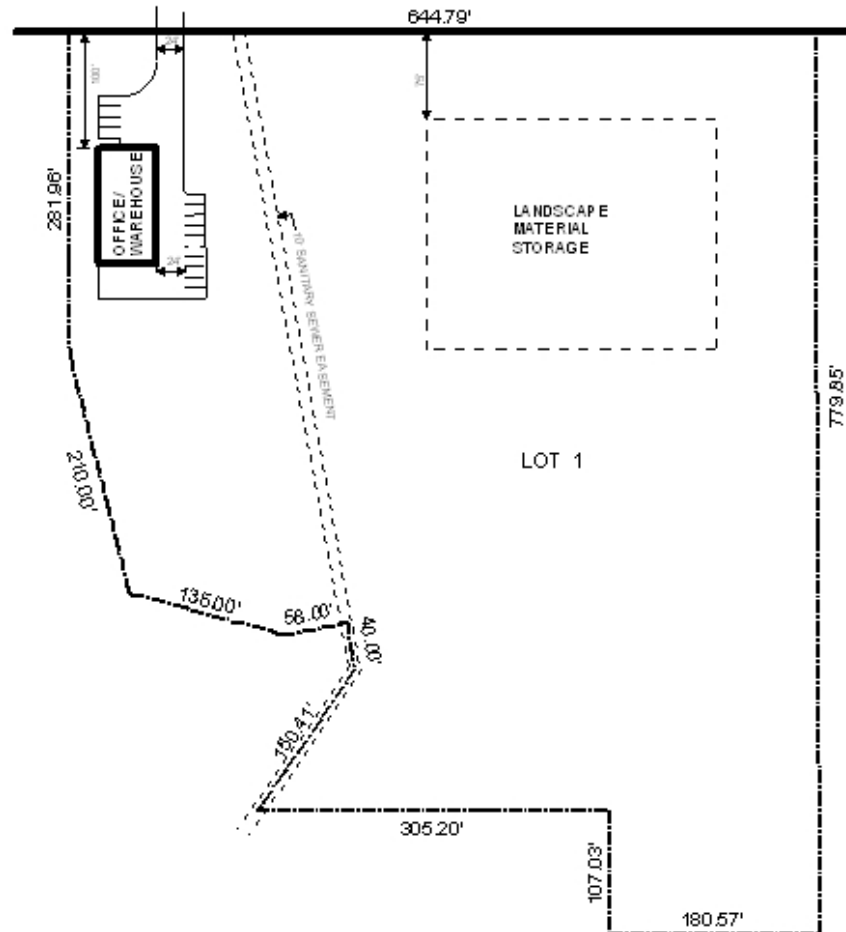
LEGEND

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

Zeigler Boulevard



The site is located on the South side of Zeigler Boulevard, 645' East of Cody Road North. The plan illustrates the proposed building, storage area and parking.

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