

**ZONING AMENDMENT &  
SUBDIVISION STAFF REPORT****Date: June 17, 2004****NAME**

Darryl Anderson

**DEVELOPMENT NAME**

Everglaze Subdivision

**LOCATION**5358 Moffett Road  
(North side of Moffett Road, 225'± East of Colonial Circle  
South)**CITY COUNCIL  
DISTRICT**

District 7

**PRESENT ZONING**

R-1, Single-Family Residential

**PROPOSED ZONING**

B-3, Community Business

**AREA OF PROPERTY**

6.1± Acres

**CONTEMPLATED USE**

Nursery Stock Sales

**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**

None Given

**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, size, location, and design to be approved by Traffic Engineering and ALDOT 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). The 42" Live Oak in the South corner of the property, the 40" Live Oak in the South green space, the 72" Live Oak in the Southwest corner, the cluster of two Live Oak Trees, 35" and 48" to the West side of the property in the green

space, the 36" Live Oak on the East side of the property are to be given preservation status. 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. As a reminder to the developer, all 24" and larger Live Oaks require a permit from Urban Forestry to be removed or trimmed (roots or canopy).

**REMARKS**

The applicant is requesting rezoning from R-1, Single-Family Residential to B-3, Community Business for nursery stock sales. A plant nursery is allowed by right in a B-3 district.

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.

Section III.5. of the Zoning Ordinance recommends that a new B-3 district contain at least four acres of property. However, this is simply a general guide, and while the site exceeds four acres and is located on a major thoroughfare, there are other important factors that indicated this property is not an appropriate B-3 site.

First, as outlined above, the site is illustrated as residential on the General Land Use Plan. Although the plan is a guide for development and not a mandate, it is a long-term statement of policy for the development of the City. Additionally, this site abuts residential development on three sides.

The most important issue in any rezoning is not the proposed use, but rather is the site an appropriate site for the rezoning classification requested. If approved, any use allowed in a B-3 district could locate on the site, including car sales, car repair and warehousing; consequently, if these uses are not appropriate for this site, then it may be inappropriate to rezone the site to B-3.

Additionally, the proposed site plan contains multiple buildings, thus PUD approval would be required. It should also be noted that the proposed shade house does not provide an adequate setback from the adjacent residential property line. Likewise, the walking path around the greenhouses abuts the residential property line to the rear which could infringe upon the privacy of the adjoining residential properties. Furthermore, gravel parking is proposed, but is prohibited in B-3 districts.

Regarding the request for subdivision, the plat meets the minimum requirements of the Subdivision Regulations.

**RECOMMENDATION**

**Rezoning:** based upon the preceding, this application is recommended for denial.

**Subdivision:** The plat meets the minimum requirements of the Subdivision Regulations and is recommended for Tentative Approval.

REVISED JULY 15<sup>TH</sup> MEETING:

*At the June 17<sup>th</sup> meeting, the Commission heldover this application to allow the applicant to submit a Planned Unit Development application and revised Voluntary Condition and Use Restriction information. The PUD application was submitted on Thursday, July 8<sup>th</sup> thus the PUD could not be considered on this agenda. At this point, the rezoning application should be heldover until the August 5<sup>th</sup> meeting so that the PUD and rezoning may be considered simultaneously. This would also allow the applicant time to submit revised Voluntary Condition and Use Restriction information.*

*In regard to the subdivision, state law requires that the Planning Commission take action on an application within 30 days. Whereas the zoning of the property would have no impact on the subdivision, the Commission may approve the subdivision request.*

*Based upon the preceding, it is recommended that the request for Rezoning be heldover until the Commission's August 5<sup>th</sup> meeting to allow the rezoning and PUD applications to be considered together. The Subdivision is recommended for Tentative Approval.*

REVISED AUGUST 5<sup>TH</sup> MEETING:

*The applicant has submitted a Planned Unit Development application; however, many of the site plan concerns remain; all buildings and walkways should be setback at least 10-feet from residential property lines and all parking must be paved.*

*The applicant has resubmitted Voluntary Conditions and Use Restrictions; however, the form is incomplete—there is no reference to a specific property, and the wording is inaccurate. The applicant's agent was contacted and a revised form will be submitted prior to the meeting.*

*It should be noted that the site plan does not illustrate a buffer adjoining residentially property; and a buffer in compliance with Section IV.D.1, is required where the site adjoins residential zoning. Furthermore, the provision of a sidewalk along Moffett Road, and the approval of the location and design of the curb cut by Traffic Engineering and Alabama Department of Transportation (ALDOT) will also be required.*

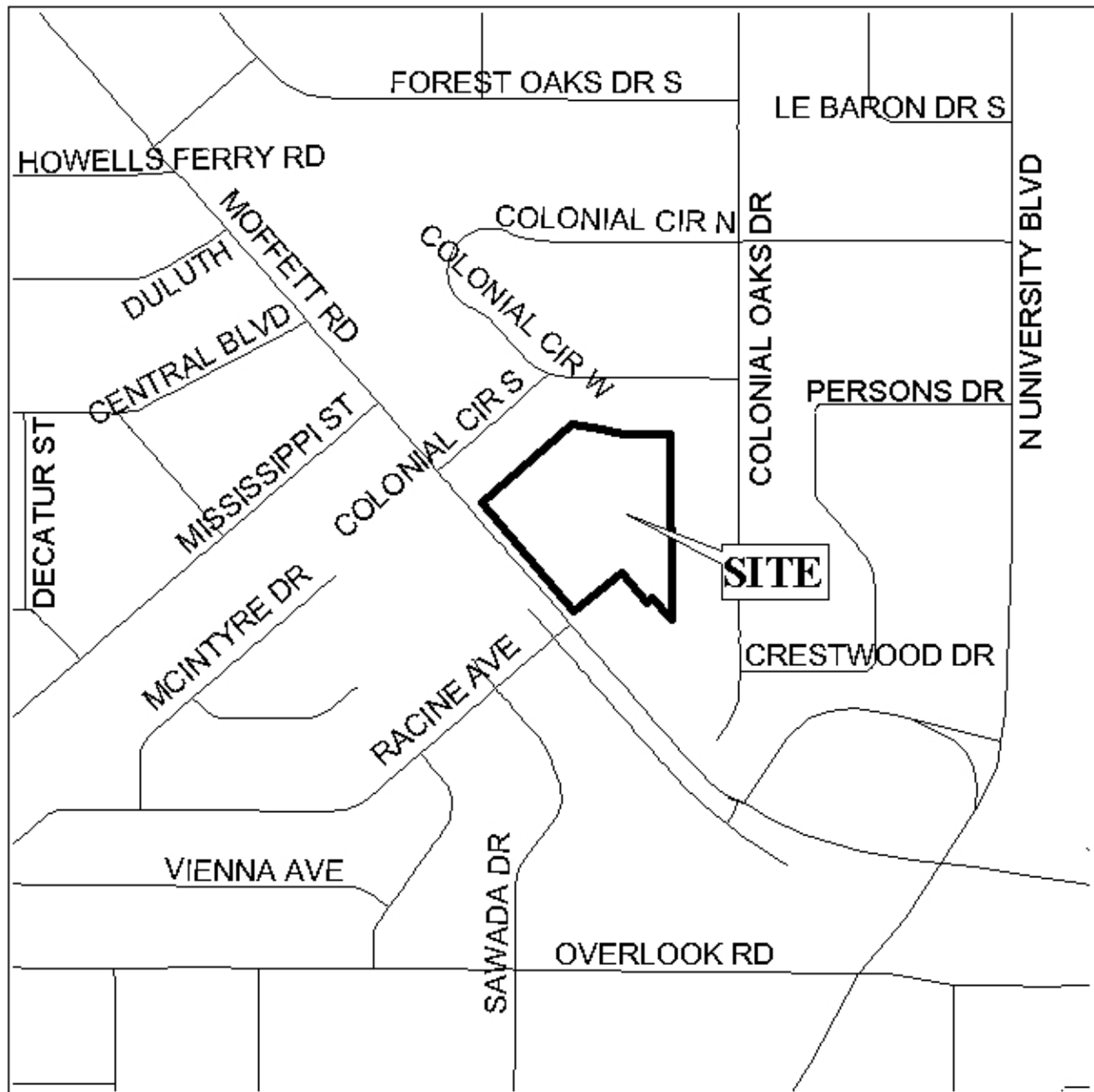
**RECOMMENDATION**

**Rezoning:** *Based upon the preceding, this application is recommended for approval subject to the following conditions: 1) Voluntary Conditions and Use Restrictions as submitted by the applicant; 2) that all buildings and walkways be setback at least 10-feet from residential property; 3) the provision of paved parking; 4) the provision of a buffer, in compliance with Section IV.D.1. of the Zoning Ordinance, where the site adjoins residential property; 5) the provision of a sidewalk along Moffett Road; 6) the approval of the curb cut by both Traffic Engineering and the Alabama Department of Transportation; 7) full compliance with the 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]; that the 42" Live Oak in the South corner of the property, the 40" Live Oak in the South green space, the 72" Live Oak in the Southwest corner, the cluster of two Live Oak Trees, 35" and 48" to the West side of the property in the green space, the 36" Live Oak on the East side of the property be given preservation status [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. As a*

*reminder to the developer, all 24" and larger Live Oaks require a permit from Urban Forestry to be removed or trimmed--roots or canopy]); 8) full compliance with all municipal codes and ordinances.*

***Subdivision:*** *The plat meets the minimum requirements of the Subdivision Regulations and is recommended for Tentative Approval subject to the following conditions: 1) the provision of a sidewalk along Moffett Road; and 2) the approval of the curb cut by both Traffic Engineering and the Alabama Department of Transportation;*

## LOCATOR MAP



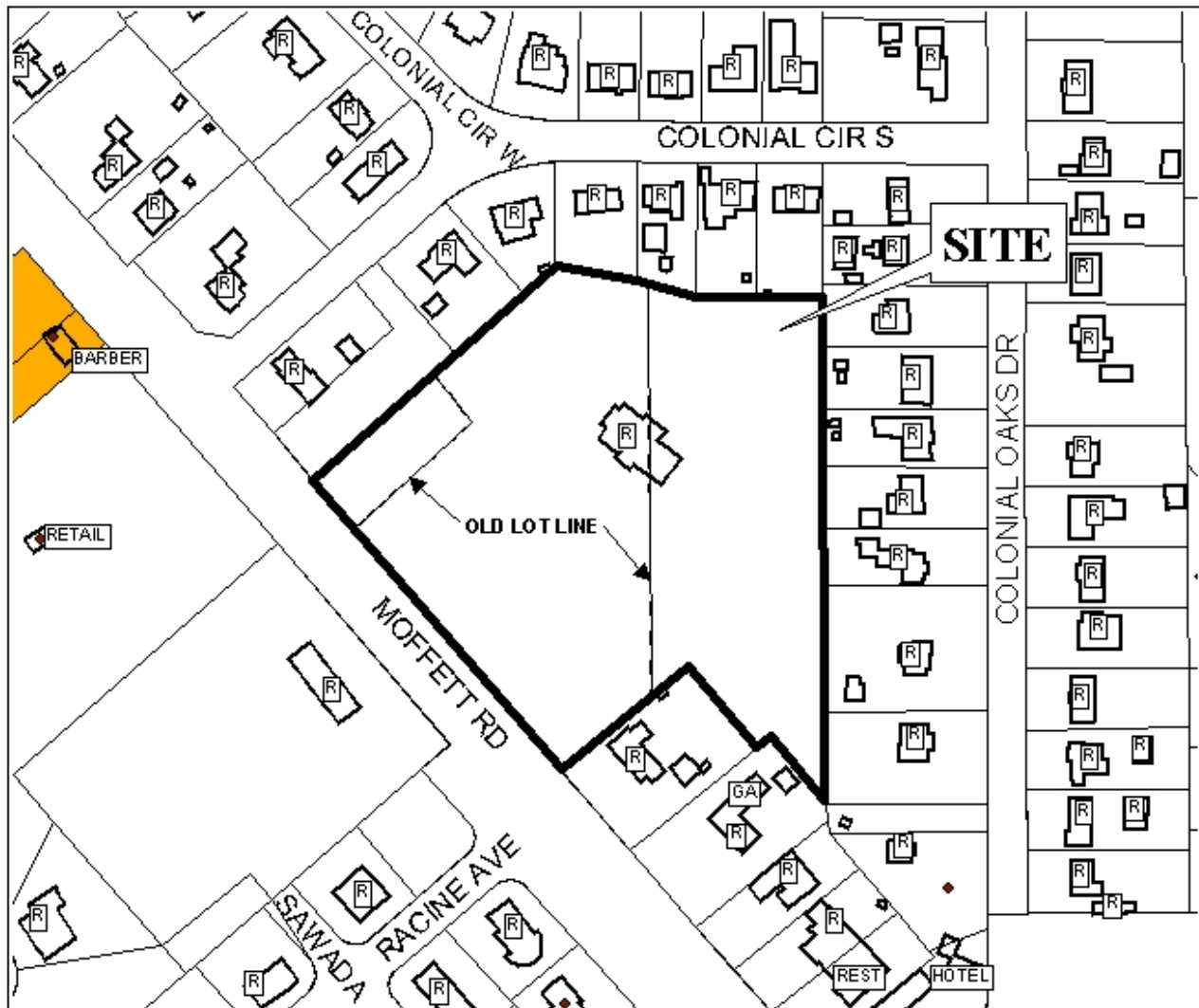
APPLICATION NUMBER 1 & 2 & 3 DATE August 5, 2004

APPLICANT Darryl Anderson

REQUEST Rezoning, Planned Unit Development, Subdivision



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



The site is surrounded by single family residential dwellings.

APPLICATION NUMBER 1 & 2 & 3 DATE August 5, 2004

APPLICANT Darryl Anderson

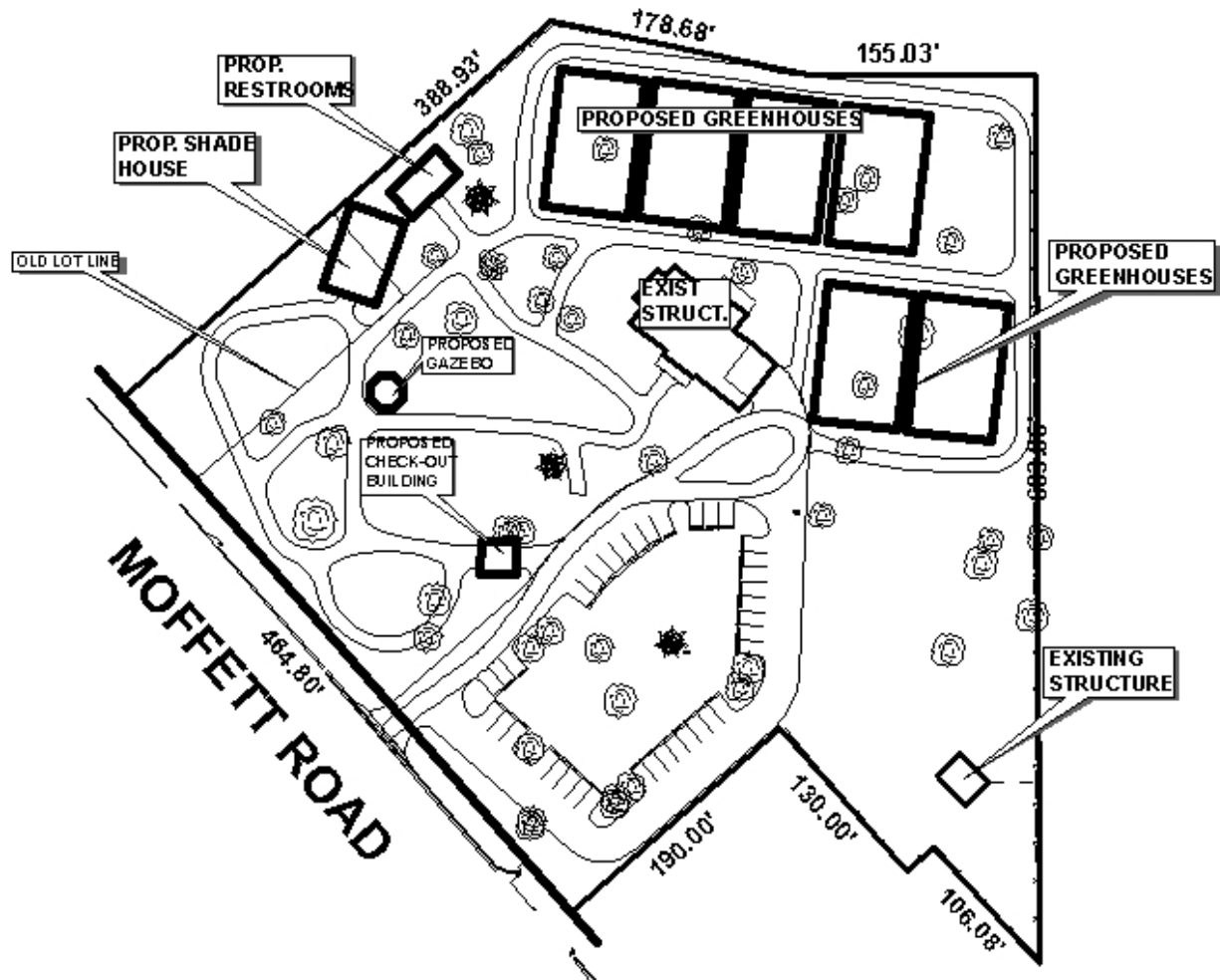
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LEGEND

													
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

N  
NTS

## SITE PLAN



The site is located on the North side of Moffett Road, 225' East of Colonial Circle South. The plan illustrates the existing buildings and drive, along with the proposed structures and drive.

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