

**RECOMMENDATIONS**  
**ZONING ADVISORY COMMITTEE**  
**Birmingham Planning Commission**  
**Meeting Date:** July 2, 2019  
**Time:** 6:00 P.M.  
**Place:** City Council Chambers  
710 19<sup>th</sup> Street, North

**ZAC2019-00010.....Green Acres**  
**Application for a change in zone district boundaries from C-2, General Commercial District to AG, Agriculture District, filed by Joseph A. Miller, III, representing the owner, Steven L. Humphries., for the property located at 3501 Cleburn Avenue situated in the SW ¼ Section 18, Township 18-S, Range 3-West. (35221, District 7).**

Proposed Use: *To allow a cemetery use.*

***Property and Abutting Land Uses:***

The approximately 20.3 acres subject property is located at 3501 Cleburn Avenue in the Green Acres Neighborhood. North of the subject property are single family homes all of which are zoned D-3, Single Family District; while south and east of the subject property is vacant land that is zoned AG, Agriculture District. Immediately west of the subject property is a light manufacturing business which is zoned I-1, Light Manufacturing District. The subject property is the location of the former Westside Golf driving range.

***Applicant's Proposal:***

The applicant is requesting that the subject property be rezoned in order to allow the creation of the Life Celebration Memorial Park. The applicant states that the cemetery will meet all State of Alabama Requirements for Trust Funds for perpetual care and maintenance. Applicant is proposing that there will be approximately 8,122 cemetery plots and 4 x 1260 SF mausoleums. Maintenance and grave diggings will be performed by a qualified Landscape professional company by contract. There will be graveside services and visitation on the property. Applicant states that the hours of operation for graveside services will be 9 am to 5 pm Monday – Saturday. The Cemetery will be open for visitation 9am – 5 pm seven days a week. For security purposes there will be a gate that will be locked after business hours.

***Zoning Ordinance:***

The applicant's site plan submittal complies with the AG, Agriculture District and the proposed use is permitted and no regulatory actions are foreseen. A cemetery use is permitted in the AG District.

The City's *Long Range Land Use Plan* identifies the property for *Open Space*; a designation applied to lands owned for conservation purposes, cemetery and FEMA-designated floodways; therefore, the proposed rezoning *is somewhat Consistent* with the Plan.

***Neighborhood Recommendation:***

***The Green Acres Neighborhood Association*** met at its regularly scheduled meeting on **June 18, 2019** to review the proposed project and voted to ***Not Recommend*** the rezoning request. The vote was **0 approved, 10 denied.**

As a courtesy, the applicant presented the proposed rezoning to the neighboring ***The Germania Park Neighborhood Association*** at its regularly scheduled meeting on **July 20, 2019**. The Germania Park Neighborhood Association **did not** support the rezoning request. The vote was **0 approved, 16 denied.**

Information on this request was also sent to the ***Five Points West Framework Plan Implementation Committee*** for feedback and to ensure consistency with the goals of the Five Points West Framework Plan. The ***Committee*** **does not support** the rezoning request.

The **City's Watershed Staff** reviewed the applicant's proposal and if the request is approved, recommends the following:

- *If greater than 1 acre is disturbed, ADEM Construction NPDES Permit inclusion will be required prior to the issuance of City SEC permits.*
- *City of Birmingham Soil Erosion Control permit will be required.*
- *City of Birmingham Civil Construction permit will be required.*
- *Post Construction runoff shall not exceed pre-project runoff for the 1,2, 10, and 25-year storm events. The 100-year storm shall safely pass the system.*
- *LID/GI practices are required for the parking space area that is greater than the requirement for the parking space count.*
- *Compliance with the Post Construction Stormwater Ordinance is required.*
- *Portions of the site are in the FEMA Special Flood Hazard Area, and compliance with the floodplain ordinance is required.*

***Staff's Recommendation to ZAC:***

Although the applicant's proposal for a cemetery use ***is somewhat consistent*** with the City's Land Use Plan (due to a cemetery use being similar to an open space use), the current requested zoning classification of Agriculture District is not quite compatible with open space uses, due to other non-open space type uses permitted in the AG District. It is therefore the recommendation of Staff that this application ***may have some merit*** for approval only if approved with the following "Q" Conditions:

1. *For cemetery use only.*
  2. *The minimum site area shall be ten acres. Cemeteries accessory to a religious institution shall be on a one-acre lot, minimum.*
  3. *For cemetery developments of twenty-five acres or greater, primary access shall be from a collector or arterial street.*
  4. *Where the perimeter of a cemetery abuts a dwelling zone district or district permitting dwelling use, a landscape buffer yard shall be required per Chapter 6, Article I, Section 6, Item I of this Ordinance and*
  5. *The following accessory uses shall be permitted: mausoleums, columbariums, chapels, and other facilities incidental to the cemetery use.*
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**ZAC2019-00011.....Central Park**  
**Application for a change in zone district boundaries from I-2, Heavy Industrial District to Mixed-Use High District, filed by The Birmingham City Council, for the properties located at 3240 and 3250 Fayette Avenue situated in the SE ¼ of Section 05, Township 18-S; 3-W. (35208), (Council District 8)**

***Property and Abutting Land Uses:***

The subject 7.55 acres vacant properties are located at 3240 and 3250 Fayette Avenue in the Central Park Neighborhood. The subject properties are surrounded by some industrial and light manufacturing businesses; while west of the subject properties is the Birmingham Crossplex as well as the newly constructed Boys and Girls Club. North of the subject properties is a children’s daycare. The subject properties are the former Sherman Concrete Site.

***Applicant’s Proposal:***

On May 14, 2019, The Birmingham City Council voted on a Resolution to initiate an amendment to the official zoning map (RESOLUTION #1246-19) for the properties located at 3240 and 3250 Fayette Avenue. The current zoning designation for the properties is I-2, Heavy Industrial District and is not consistent with the City’s Long Range Land Use plans of the Five Points West Community. Within the past five (5) years, the City of Birmingham has made substantial financial investments to the geographical area and the Birmingham City Council believes that by amending the official zoning map, The City of Birmingham will be advancing its interest in protecting the healthy, safety, and general welfare of its citizens.

***Zoning Ordinance:***

Title 1, Chapter 9, Article II, Section B of the City of Birmingham’s Zoning Ordinance states an application to amend the official zoning map may be initiated by the Council, the Commission, the ZAC, or by an agent authorized, by the property owner, or an owner of property proposed to be rezoned. Each application will be investigated by the Department and a report submitted thereon including, but not limited to, conclusions as related to the Comprehensive Plan and a recommendation.

The City’s ***Long Range Land Use Plan*** identifies the property for ***Mixed-Use High***; a designation applied to office, residential retail and small artisanal industries; therefore, the proposed rezoning ***is Consistent*** with the Plan.

***Neighborhood Recommendation:***

***The Central Park Neighborhood Association*** met at its regularly scheduled meeting on **June 13, 2019** to review the proposed project and voted to approve it. The vote was **29 approved, 0 denied**.

As a courtesy, the applicant presented the proposed rezoning request to ***The Rising West-Princeton Neighborhood Association*** at its regularly scheduled meeting on **June 10, 2019**. The Rising West-Princeton Neighborhood Association **supported** the rezoning request.

Information on this request was also sent to the *Five Points West Framework Plan Implementation Committee* for feedback and to ensure consistency with the goals of the Five Points West Framework Plan. The *Committee* supports the rezoning request.

***Staff's Recommendation to ZAC:***

The applicant's proposal *is Consistent* with the future land use plan and it is therefore the recommendation of Staff that this application *has merit* for approval.

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