

**STAFF RECOMMENDATIONS**

**ZONING ADVISORY COMMITTEE**

**Birmingham Planning Commission**

**Meeting Date:** June 2<sup>nd</sup>, 2020

**Time:** 6:00 P.M.

**Pre-Meeting:** 5:30 P.M.

**Place:** <https://birmingham.webex.com/meet/calvin.abram>

**ZAC2020-00003** ..... **Arlington-West End**  
Application to change zone district boundaries from C-1 (Neighborhood Commercial District) to C-2 (General Commercial District) in order to allow for a private club, filed by Edward Fletcher, representing the owner, We Cut Grass LLC, for the property located at 1417 Pearson Avenue SW and situated in the NE ¼ of Section 09, Township 18-S, Range 3-West (Council District 6).

**Proposed Use:** Private Club

**Property and Abutting Land Uses:**

The subject property is 0.17 acres and currently zoned C-1 (Neighborhood Commercial District). Abutting the subject property to the north is the Bushelon Funeral Home, zoned Mixed-Use Low. To the south is a vacant commercial building zoned C-1. To the east of the property are single family homes and apartments, zoned D-5. Vacant, undeveloped property is to the west of the site, zoned D-3.

**Applicant’s Proposal:**

The applicant plans to utilize the existing structure as a private club called The Shop @ 1417. It will be a member’s only club. In order to become a member, an interested party must be sponsored by a current member and provide a letter of recommendation along with a membership application form. Membership includes access to entertainment, including live music (indoor and outdoor). Members will also have the ability to utilize the facility for business and social functions.

The City’s **Long Range Land Use Plan** identifies the property as **Mixed-Use Low**. This land use category allows for the development of compact, walkable, residential and commercial areas, often with a “Main Street” spine that historically served as a town center with two to three story buildings. The land uses can be mixed horizontally (side-by-side), or vertically (one above the other) and include multi-family, townhouse, cottage and small-lot single family residential, neighborhood supporting retail and services, offices, hotels and live/work structures. These “Main Street” areas would typically be characterized by ground floor uses including small markets, convenience retail and services, restaurants and cafes, and existing or potential residential uses on upper floors. The proposed rezoning request is **Not Consistent** with the **Long Range Land Use Plan**.

**Zoning Ordinance:**

The applicant’s site plan shows a fence around the perimeter of the entire site. The parking requirement for the use is 18 spaces and 6 are provided on-site. A parking modification (ZBA2019-00082) was granted by the Zoning Board of Adjustment on January 23, 2020, subject to the following conditions:

1. Review by the appropriate zoning inspector to insure compliance with the Board’s decision.
2. Approval of a rezoning request to allow for the proposed club use.
3. Applicant must obtain all permits associated with the approval of this request within two years from the date of approval.
4. A Certificate of Occupancy (CO) or Certificate of Completion (CC) must be issued.

A Subdivision action is required to combine the property into 1 lot. All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening).

**Neighborhood Recommendation:**

The **Arlington West End Neighborhood Association** met at its regularly scheduled meeting on March 10<sup>th</sup>, 2020, to review the proposed project and voted to recommend the request. The vote was 8 approved and 0 denied.

The West End Implementation Committee did not have a meeting scheduled for the applicant to attend. The chair of the Implementation Committee decided to attend the Neighborhood Association meeting instead.

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

The applicant's rezoning request is ***not consistent*** with the future land use plan and Staff recommends that it not be approved.

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**ZAC2020-00004** ..... **Liberty Highlands**  
Application to change zone district boundaries from D-1 (Single-Family District) and I-1 (Light Manufacturing District) to I-2 (Heavy Industrial District) to allow a Copart facility, filed by Kent Haney, representing the owner, GKH, LLC, for the property located at 5750 Highway 78E and situated in the SE ¼ of Section 15, Township 17-S, Range 1-West (Council District 2).

**Proposed Use:** New Copart facility

**Property and Abutting Land Uses:**

The subject property is 110.5 acres and is currently zoned D-1 (Single-Family District) and I-1 (Light Manufacturing District). Abutting the subject property to the north is a single family home, zoned AG and D-1. To the south (across Highway 78) are several single family homes located outside the Birmingham City limits. To the east of the property is a towing and recovery service for disabled motor vehicles, zoned QI-2 (rezoned per ZAC2016-00027). Ridout’s Forest Crest Cemetery is located to the west of the site and is outside the Birmingham City limits.

**Applicant’s Proposal:**

The applicant plans to redevelop the site into a Copart facility. Copart, Inc., (“Copart”), and its subsidiaries, provide cutting edge asset liquidation services (“Copart Asset Services”) to institutional, commercial, and private owners (collectively “Sellers”) of used undamaged or damaged, operable and inoperable, vehicles, trailers, watercraft, and powersports, industrial and construction machinery and equipment (collectively, “Assets”). Most Sellers are insurance companies, licensed dealers, financial institutions, charities, municipalities, and fleet operators. Copart Asset Services include short-term storage and sale of Assets, and ancillary receiving, shipping, lien sale and administrative activities. All Assets are liquidated intact, meaning no dismantling, draining of fluids, crushing, or sale of parts occurs at a Copart facility (“Facility”).

A typical Facility will consist of an office building, customer parking, a shipping and receiving area, and a short-term storage area for Assets. After being received at a Facility, Assets are inspected, photographed, catalogued, and placed in ground-level short-term storage designed for quick retrieval. Assets are never stacked, and remain in short-term storage for an average of only 50 to 60 days.

After being placed in short-term storage, Assets are listed for sale through Copart’s proprietary online auction-style website and mobile apps for purchase only by Copart registered members (collectively, “Members”). Members are primarily licensed dealers, dismantlers, rebuilders, and exporters, and in some cases are end users. All offers are submitted and accepted electronically, without the use of a live auctioneer. Members are provided the opportunity to inspect Assets at a Facility, although most Asset inspections are limited to viewing images and information made available online. Members may electronically submit preliminary offers from (a) anywhere in the world via a personal computer or mobile device with internet access (each, a “Remote Online Device”), or (b) a limited number of computer kiosks located at the Facility. The high preliminary offer is carried over to the online virtual sale, during which Members may submit offers electronically only from a Remote Online Device.

Assets are sold to the Member with the highest offer (“Buyer”), who then arranges for pickup and transportation of their Assets from a Facility. Payment for sold Assets may be made electronically, via wire-transfer, or in person at a Facility. Titles to sold Assets are either picked up by the Buyer along with the sold Assets, or mailed by Copart to the Buyer.

The site will be redeveloped per the following:

1. Will use existing building (with a minor remodel) for office operations.
2. Hours of operations will be Monday through Friday, 8:00 a.m. to 5:00 p.m.
3. Plan to employ up to 20 people at facility.
4. Will include paved customer and employee parking lot.
5. Shipping and receiving area will be paved, separated from storage by fencing, and will be used for loading and unloading.
6. Storage area perimeter will be surrounded and screened by 8 foot engineered panel fence.
7. Surface treatment will be millings or base amo rock.
8. Storage area will not be lit at night. Shipping and receiving area will have lighting.
9. Assets are not operated under own power, and are moved, unloaded and loaded by Caterpillar loaders with forks
10. Will include 600 gallon above ground fuel storage for on-site large Caterpillar loaders.
11. Storage area security will be provided by chain link and barb wire fencing and security cameras

The City's *Long Range Land Use Plan* identifies the property as *Planned Development and General Commercial*. The planned development category allows for large recreational facilities, healthcare institutions and mixed-use districts. Locations in the Northeast Framework Plan Area include Liberty Highlands, Echo Highlands, Alabama Industrial School for Boys, and the Cahaba Community. The general commercial category allows for commercial / service, general and large tenant retail, restaurants and food stores. The proposed rezoning request is *Somewhat Consistent* with the *Long Range Land Use Plan*.

**Zoning Ordinance:**

The applicant's site plan shows an existing parking lot that will be used for employee and customer parking (66 parking spaces). The parking requirement is 1 space per 500 square feet of GFA; therefore, the total number of spaces required is 32.

Per the Stormwater Staff, the normal stormwater and land disturbance permit requirements will apply and the USCOE permits will apply to the streams and any wetlands.

A Subdivision action is required to combine the parcels into 1 lot.

All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening).

Any necessary permits/licenses required by the City of Birmingham must be approved and obtained prior to opening.

**Neighborhood Recommendation:**

The *Liberty Highlands Neighborhood Association* met at its regularly scheduled meeting on February 27<sup>th</sup>, 2020, to review the proposed project and voted to recommend approval of the request. The vote was 5 approved and 0 denied.

The Northeast Area Framework Plan Implementation Committee was notified of the rezoning request. The Committee does not have a meeting scheduled within the next month.

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

The applicant's rezoning request is ***somewhat consistent*** with the future land use plan and has ***merit*** for approval, subject to the following Q conditions:

- 1) No parts sales allowed
- 2) No clearing, grading or construction activities shall occur within 100 feet of the creek boundaries.
- 3) The following uses shall not be allowed:
  - a. Heliport
  - b. Landfill
  - c. Off-Premise Sign
  - d. Railroad Station
  - e. Railroad Yard
  - f. Reservoir/Water Tank
  - g. Scrap Metal Processor
  - h. Solid Waste Transfer Facility
  - i. Tank Farm
  - j. Utility Substation
  - k. Water Treatment Plant
  - l. Water/Sewer Pumping Station

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ZAC2020-00005 ..... Liberty Highlands  
Application to change zone district boundaries from I-3 (Planned Manufacturing District) to C-2 (General Commercial District) to allow a wedding event center, filed by Frederick Chatman, representing the owner, Keffie Berryhill, for the property located at 1780 John Rogers Drive and situated in the NE ¼ of Section 17, Township 17-S, Range 1-West (Council District 2).

**Proposed Use:** Wedding event center

**Property and Abutting Land Uses:**

The subject property is 15.6 acres and is currently zoned I-3 (Planned Manufacturing District). Abutting the subject property to the north is the Guiding Light Church, zoned C-2. To the east are several single family homes zoned D-1. To the south and west of the property is forest area (undeveloped) zoned I-3.

**Applicant’s Proposal:**

The applicant plans to construct a wedding event center. Access to the site will be located from Gun Club Road. The site will have a 6,000 square foot building, a garden area and 60 parking spaces. The applicant intends to use the building for weddings and receptions. The building will contain a chapel-like area, prep kitchen, changing room for the Bride and Groom and chandelier lighting. The building exterior will include a combination of brick/stone, hardie siding and a metal roof pending design review approval. Hours of operation will be Sunday to Wednesday from 9am to 11pm and Thursday to Saturday from 9am to 12am. The extended hours will allow for clean-up of the facility after events are completed. Security will be provided for staff safety.

The City’s *Long Range Land Use Plan* identifies the property as *Planned Development*. The planned development category allows for large recreational facilities, healthcare institutions and mixed-use districts. Developments in the Northeast Framework Plan Area include Liberty Highlands, Echo Highlands, Alabama Industrial School for Boys, and the Cahaba Community. The proposed rezoning request is *consistent* with the *Long Range Land Use Plan*.

**Zoning Ordinance:**

The applicant’s site plan shows a 6,000 square foot building with a parking lot containing 60 parking spaces. The parking requirement is 1 space per 1,000 square feet of GFA; therefore, the total number of spaces required is 60. The Stormwater Division of PEP stated that civil stormwater permits will be required.

**Traffic Engineering:**

The proposed driveway access to the site has challenges. The “street” labeled as Gun Club Road is only a narrow dirt drive currently, and is not concurrent with the small piece of ROW stubbed out. To build a new access drive in the ROW stub would be too close to the existing church driveway entrance to meet our safety requirements.

A solution could be to connect the development to the existing church driveway, pursuing an access easement from the church to use the driveway. Other benefits of this approach is avoiding the expense of crossing the ditch in front of the property, and the potential to use the church parking lot as overflow parking for events.

A Subdivision action is required to subdivide the parcel into 1 lot.

Per the City’s Landscape Architect, the subject property must have a Standard C-2 buffer along the boundary that is adjacent to the residentially zoned property. All landscaping must comply with the

requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening).

If the rezoning is approved, the applicant will need to apply to the Zoning Board of Adjustment for a Special Exception. The Zoning Ordinance allows an event center in a C-2 district by special exception subject to the following:

A special exception may be granted by the Board provided that the following conditions are met:

1. A traffic study may be required by the City Traffic Engineer.
2. If the event center is within 200 feet of a dwelling district, the hours of operation shall be limited to 7:00a.m.-12:00a.m.

***Neighborhood Recommendation:***

The applicant attended the February meeting of the Liberty Highlands Neighborhood Association to share the project. This was prior to the applicant submitting the application to the City so no vote was taken on the project. The Liberty Highlands Neighborhood Association did not meet in March, April or May (the Neighborhood President Ms. Doris Clanton stated that she does not know if a June meeting will be held). The Neighborhood President requested that the item not go to ZAC until they have a Neighborhood Meeting.

The Northeast Area Framework Plan Implementation Committee was notified of the rezoning request.

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

The applicant's rezoning request is *consistent* with the future land use plan and has *merit* for approval.

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**ZAC2020-00006 ..... Eastwood**

Application to change zone district boundaries from CB-2 (Contingency General Business District) to I-1 (Light Manufacturing District) in order to convert the existing building into a package distribution center, filed by Schoel Engineering, representing the owner, Edwin B. Lumpkin, Jr., for the property located at 7680 Crestwood Boulevard and situated in the NW ¼ of Section 26, Township 17-S, Range 2-West (Council District 2).

**Proposed Use:** Package distribution center

**Property and Abutting Land Uses:**

The subject property is the former Century Plaza Mall and is currently zoned CB-2 (Contingency General Business District). Abutting the subject property to the north is Interstate 20. To the south is the Village East Shopping Center, zoned CB-2. To the east of the property is Family Leisure Birmingham, also zoned CB-2. West of the subject property is the Aldi Grocery Store zoned CB-2 and undeveloped land zoned CR-5 and R-3.

**Applicant's Proposal:**

The proposed building will be a single-story industrial building. It will provide for automobile and delivery van storage parking; truck unloading; and van staging and loading areas as well as a specific traffic pattern to support the successful operation of the facility. The proposed facility is designed for a package delivery service. The packages arriving at the facility are prepackaged in cardboard boxes and labeled for shipping within local neighborhoods and areas surrounding the facility. The facility will allow residents to receive their orders within one to two hours of completing their orders online. The facility will contain around 11,000 square feet of office space and will operate 24 hours per day seven (7) days a week.

The City's **Long Range Land Use Plan** identifies the property as **General Commercial**. The general commercial category allows for commercial /service, general and large tenant retail, restaurants and food stores. The applicant's proposed use would be consistent with development along the Crestwood Blvd. corridor; however, the proposed rezoning request is **Not Consistent** with the **Long Range Land Use Plan** due to the light industrial destination.

**Zoning Ordinance:**

The applicant's site plan shows multiple parking lots surrounding the new building. The parking requirement for the office use is 28 spaces (1 per 400 square feet of office area). The parking requirement for the warehouse is 95 spaces (1 per 2,000 GFA of warehouse space). The site plan shows over 1,500 parking spaces. The excess parking spaces would be allowed due to the applicant utilizing LID techniques to the site which has been confirmed by Stormwater Staff. *When the proposed number of parking spaces exceeds 100% of the maximum number of parking spaces allowed all excess parking spaces provided must be constructed utilizing Low Impact Development techniques such as, bio-retention cells, vegetated swales, extended detention systems, infiltration trenches, pervious paving or dry wells, to reduce run-off at a rate as established in City of Birmingham, Engineering Design Guidelines, is required for those parking spaces which exceed the maximum number of spaces allowed as determined by the Director. Permeable solutions can be based on: porous asphalt and concrete surfaces, concrete pavers (permeable interlocking concrete paving systems - PICP). Grass pavers are excluded for commercial uses. All designs must meet the minimum design specifications of the City Engineer and shall be provided with the site plan.* The Stormwater Division of PEP recommends that green infrastructure be provided to the maximum extent possible.

The subject property is located in the Eastwood Urban Renewal boundary; therefore, development of the site is subject to the requirements in the Eastwood Design Guidelines.



All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening). Per the City's Landscape Architect, the conceptual plan appears to have sufficient landscaping. A more detailed landscape plan is required for permit review.

**Traffic Engineering:**

All request and/or concerns have been addressed by the applicant.

**Neighborhood Recommendation:**

The *Eastwood Neighborhood Association* held a teleconference meeting on May 7<sup>th</sup>, 2020, to review the proposed project and voted to **Not Recommend** approval of the request. The vote was 5 approved and 6 denied.

The subject property is adjacent to the Oak Ridge Park, Crestline and Crestwood South Neighborhoods. Notices were mailed to the Neighborhood Presidents.

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

1. The site shall reduce impervious area and comply with the City Stormwater Ordinance

**Staff's Recommendation to ZAC:**

The applicant's proposed use to the site is consistent with development along the Crestwood Blvd. corridor; however, the rezoning request is **not consistent** with the future land use plan but the request does have **some merit** for approval.

If approved Staff recommends the following Q-Conditions

1. No delivery vehicles larger than 30' shall enter or exit from Oporto Madrid Blvd;
2. Wayfinding signage shall be displayed for visitors to the site;
3. Tractors with or without trailers shall only enter and exit from the western most driveway to the site which is a signalized controlled access;
4. The applicant shall comply with the Eastwood sign guidelines
5. These following condition(s) are **Prohibited Uses**
  - o Contractor Yard
  - o Dairy, Factory
  - o Distillery, Artisanal
  - o Mini-Storage Warehouse
  - o Private Club
  - o Opioid Replacement Therapy Treatment Facility
  - o Animal Kennel
  - o Wrecker Impound Lot
  - o Adult Establishment
  - o Off-Premise Sign
  - o Payday Loan
  - o Title Loan/Pawnshop
  - o Broadcast Tower
  - o Broadcast Satellite