

**STAFF RECOMMENDATIONS**

**ZONING ADVISORY COMMITTEE**

**Birmingham Planning Commission**

**Meeting Date:** December 15<sup>th</sup>, 2020

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

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

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

**ZAC2020-00026..... Crestline**  
Application to change zone district boundaries from R-3 (Single Family District) to D-5 (Multiple Dwelling District) to allow the construction of townhomes, filed by Cory Johnston, the owner, for the properties located at 4424, 4428, 4432 & 4446 Montevallo Road and situated in the NE ¼ of Section 34, Township 17-S, Range 2-West, 35213 (Council District 2).

**Proposed Use:** New construction of 23 townhomes

**Property and Abutting Land Uses:**

The subject properties are 2.42 acres and are currently zoned R-3 (Single Family District). Abutting/adjacent the subject property to the north is zoned, R-3(Single Family District) & Q-R-5 (Multiple Family District). To the south it is currently zoned R-3 (Single Family District). To the east of the property is, zoned R-2 (Single Family District). To the west of the location it is currently zoned R-3 (Single Family District). This proposed rezoning request is currently surrounded by Single Family Residence.

**Applicant's Proposal:**

The applicant's proposed plan for the subject properties is for a private gated community of 23 modern townhomes, and each townhome will have a 2 car garage and parking for guest. The HOA will provide care of the common grounds and for the yards of each home. These townhomes will be of great comfort and extravagant living at an affordable price. Master bedrooms will be on the first floor with additional bedrooms and storage upstairs; at the same time the popular open floor plans with high ceilings will create a feeling that today's homebuyers desire. This project will replace an abandoned church building, asphalt parking lot, and 2 homes in declining state of repair.

The City's **Long Range Land Use Plan** identifies the property as **Residential- Low District**. This residential low district is designed to allow for single-family residential development at a variety of densities, these districts may be applied to preserve the character of developed residential areas that are predominately single-family in nature and recommended to remain so by the comprehensive plan; however, the uses in these districts include single-family homes, schools, churches and neighborhood-serving public uses. The proposed rezoning request is **Not Consistent** with the **City's Long Range Land Use Plan**.

**Zoning Ordinance:**

The applicant's proposed site plan shows 23 townhomes as a multi-family development on 4 Lots. This proposal meets the density requirement and lot width requirements. The parking requirement for 2 or more bedrooms is 1.5 per dwelling unit, for a combined total requirement of 35 parking spaces. The front yard setback (on Montevallo Road) is 15 feet, the rear setback is 20 feet, the side yard setback minimum is 5 with a total of both sides being a minimum of 14 feet and the maximum height is 45 feet. The additional parking spaces as proposed should comply with engineering guidelines for excessive parking spaces. When a development includes parking in excess of the maximum required (equal to the minimum), then pervious paving systems are required for those parking spaces which exceed the maximum number of spaces allowed. The Zoning Ordinance states:

*The number of parking spaces required is equal to the maximum allowed. When a development includes parking in excess of the maximum allowed, then 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, except in the following instance: 1. When parking spaces, over the maximum, are covered by a structure such that no stormwater will fall on*

*those parking spaces, those spaces will not count against the maximum allowed. 2. In the B-4 and MU-D districts, the maximum parking requirement shall be equal to that of the same use in the B-3 or MU-H districts, but only for the purpose of determining when LID will be required for any proposed parking.*

The proposed development will require the owner to resurvey the 4 lots into 1 lot for approval by the **Subdivision Committee of the Birmingham Planning Commission**. Once approved, the final plat will have to be recorded at the Judge of Probate.

***Stormwater:***

The City's Stormwater Staff recommends that any new construction or re-development will have to comply with the post-construction ordinance and zoning parking requirements.

***Birmingham Department of Transportation:***

The Birmingham Department of Transportation (BDOT), states that all driveway/sidewalk permits will be required. Any new construction or re-development must comply with the BDOT requirements.

***Landscaping:***

All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening). Prior to permit issuance, a fully developed detailed landscape plan will be required, per the City's Landscape Architect.

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

***Neighborhood Recommendation:***

**The Executive Committee of the Crestline Neighborhood Association** held a meeting on **November 23, 2020**, to review the proposed project and voted to not recommend the request. The vote was **1** approved and **4** denied. Their decision to not support the rezoning request are for the following reason(s):

1. The committee felt there are too many unknown factors (originally the project had 17 units and now they are proposing 23 units);
2. The space is too small to house 23 units;
3. Their property value has decreased due to the excess rental properties in the area and would prefer R-3 (Single Family District) zoning to remain for their neighborhood.

**If approved the neighborhood recommends the following "Q" Condition(s) to be prohibited:**

1. Bed & Breakfast Inn
2. Child Care Center
3. Community Garden
4. Family Day/Night Care Home
5. Family Group Day/Night Care Home
6. Market, Farmer's
7. Personal Instructor
8. Place of Worship
9. School, Elementary/Middle
10. School, High School
11. Solar Panel, Ground Mounted
12. Adult Care Center
13. Cellular, Microwave or Two-Way Towers
14. Communal Living Facility
15. Internment, Cemetery
16. Manufactured Housing
17. Market Stand
18. Reservoir/Water Tank
19. Utility Substation
20. Water/Sewer Pumping Station

21. Accessory Child Care Center
22. Amphitheater
23. Apiary
24. Arena
25. Dwelling, Accessory
26. Fitness Center
27. Internment, Columbarium
28. Internment, Mausoleum
29. Rummage Sale
30. Stadium
31. Temporary Storage

This location is in the Southern Area Framework Plan, which is in progress; however, an Implementation Committee has not been formed.

The *Planning and Zoning Committee of the City Council* will review this case at its regularly scheduled meeting on Wednesday, January 6, 2021 (tentative date).

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

The proposed rezoning request is not consistent with the City's Long Range Land Use Plan and is also incompatible with the single family residential uses located immediately east and west-creating an encroachment into the single family residential neighborhood which could possibly cause land use conflicts. It is therefore the recommendation of Staff that the proposed rezoning is ***Not Recommended*** for approval.

**If approved the neighborhood and staff recommends the following "Q" Condition(s);**

1. The following uses are prohibited:
  - a. Bed & Breakfast Inn
  - b. Child Care Center
  - c. Community Garden
  - d. Family Day/Night Care Home
  - e. Family Group Day/Night Care Home
  - f. Market, Farmer's
  - g. Personal Instructor
  - h. Solar Panel, Ground Mounted
  - i. Adult Care Center
  - j. Cellular, Microwave or Two-Way Towers
  - k. Communal Living Facility
  - l. Internment, Cemetery
  - m. Manufactured Housing
  - n. Market Stand
  - o. Reservoir/Water Tank
  - p. Utility Substation
  - q. Water/Sewer Pumping Station
  - r. Accessory Child Care Center
  - s. Amphitheater
  - t. Apiary
  - u. Arena
  - v. Dwelling, Accessory
  - w. Fitness Center
  - x. Internment, Columbarium
  - y. Internment, Mausoleum
  - z. Rummage Sale
  - aa. Stadium
  - bb. Temporary Storage

2. The townhomes fronting Gladstone Avenue and Montevallo Road should use those streets as the front of the structure to create a more walkable since of community;

3. Any fence/wall construction must comply with the requirements in Title 1, Chapter 4 Section 5 of the Zoning Ordinance (Walls and Fences).

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**ZAC2020-00027.....Overton**  
Application to change zone district boundaries from HZ (Holding Zone Shelby County) and B-2 (Shelby County General Business District) to D-5 (Multiple Dwelling District) to construct a new 187 residential unit development, filed by Jim Beatty, representing the owner, Abbey-Greystone, LLC/Frank Barfield, for the properties located at 7273 & 7277 Cahaba Valley Road and situated in the SW ¼ of Section 29, Township 18-S, Range 1-West ,35242 (Council District 2).

**Proposed Use:** A new 187 residential development

**Property and Abutting Land Uses:**

The subject properties are 29.9 acres and is currently outside the city limits of Birmingham. The adjacent property to the west of the site is zoned Q-D5 (Qualified Multiple Dwelling District). To the north, it is currently outside the city limits of Birmingham. To the south and east it is also outside of the city limits of Birmingham. The applicant currently has an application for annexation into the City of Birmingham, subsequent to and contingent upon rezoning of the properties.

**Applicant's Proposal:**

The applicant's proposal plan is to develop a low-density multifamily development that incorporates a "new urbanism" style neighborhood, tied in with sidewalks and pedestrian-friendly features that create a true sense of community.

This proposed property is outside the City Limits of Birmingham; however, the **City's Long Range Land Use Plan** identifies the adjacent property as **D-5 Multiple Dwelling District**. This residential high (Multifamily) district is designed to allow for multifamily rental and condominium structures and townhouse, typically in large developments or mid-rise and high-rise buildings. Uses in this district include: high density multi-family, schools, churches, and neighborhood-serving public uses. The proposed rezoning request would be **Consistent** with the **City's Long Range Land Use Plan** that is adjacent to the proposed rezoning request.

**Zoning Ordinance:**

Applicant's proposed site plan shows a total of 328 parking spaces. The total parking required would be 319 parking spaces; therefore, the applicant is meeting the parking requirement for the site. The additional parking spaces as proposed should comply with engineering guidelines for excessive parking spaces. When a development includes parking in excess of the maximum required (equal to the minimum), then pervious paving systems are required for those parking spaces which exceed the maximum number of spaces allowed. The Zoning Ordinance states:

*The number of parking spaces required is equal to the maximum allowed. When a development includes parking in excess of the maximum allowed, then 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, except in the following instance: 1. When parking spaces, over the maximum, are covered by a structure such that no stormwater will fall on those parking spaces, those spaces will not count against the maximum allowed. 2. In the B-4 and MU-D districts, the maximum parking requirement shall be equal to that of the same use in the B-3 or MU-H districts, but only for the purpose of determining when LID will be required for any proposed parking.*

***Stormwater:***

The City's Stormwater staff recommends that any new construction or re-development would have to comply with the post-construction ordinance and zoning parking requirements.

***Birmingham Department of Transportation:***

The Birmingham Department of Transportation (BDOT), states that all driveway/sidewalk permits will be required. Any new construction or re-development must comply with the BDOT requirements. The Alabama Department of Transportation (ADOT) requirements must be met also for this project.

***Landscaping:***

All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening). Prior to permit issuance, a fully developed detailed landscape plan will be required, per the City's Landscape Architect.

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

***Neighborhood Recommendation:***

**The Overton Neighborhood Association** held an executive meeting on December 4, 2020 and voted to approve the rezoning request. The vote was 2 approved and 0 denied.

***Framework Plan:***

This property is *not* located within the Northeast Framework Plan Area, because it is outside the city limits of Birmingham; however, the adjacent properties to the west of this location is in the Northeast Framework Plan. The Northeast Framework Plan area does have an active Implementation Committee. Staff discussed the proposed rezoning application with Ken Johnson (chair) of the Framework Implementation committee and have not received a final response regarding the committee's recommendation on this request.

The ***Planning and Zoning Committee of the City Council*** will review this case at its regularly scheduled meeting on Wednesday, January 6, 2021 (tentative date).

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

The applicant's rezoning request is consistent with the future land use plan of the adjacent properties; however, staff recommends the approval of the rezoning request with the following "Q" conditions:

1. The uses shall be limited to the following:
  - a. The site plan shall be developed in substantial conformance with the site plan as submitted and approved by the Zoning Advisory Committee;
  - b. The applicant must complete the process and have the property annexed to the City of Birmingham