

STAFF RECOMMENDATIONS

ZONING ADVISORY COMMITTEE

Birmingham Planning Commission

Meeting Date: January 5, 2021

Time: 6:00 P.M.

Pre-Meeting: 5:30 P.M.

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

ZAC2019-000014.....West End Manor
Application for a change in zone district boundaries from R-3, Single Family Residential District to D-5, Multiple Dwelling District, filed by Varnie Barker, representing the owner, Birmingham City Schools for the properties located at 1401 16th Way SW and situated in the SE¼ of Section 09, Township 18-S, Range 3-West. (35211, District 6).

Proposed Use: *To adaptively re-use the former Jackson Elementary School for a Senior Living Facility.*

Property and Abutting Land Uses:

The subject property sits on approximately 4.64 acres of land, all of which is currently zoned R-3, Single Family District and is the former site of Jackson Elementary School. The subject property is mainly surrounded by single family homes all of which are zoned R-3, Single Family District, while south of the subject property is Lowery Park.

Applicant’s Proposal:

The proposed development includes the adaptive re-use of the existing Jackson Elementary School for a Senior Living Facility. The Senior Living Facility will place emphasis on fostering active, healthy, and wholesome living designed to support, sustain and encourage active residents. The facility will have approximately 110 dwelling units, this will include approximately 35 one-bedroom units and approximately 75 two bedroom units. The units will be handicap accessible and laundry facilities will be housed on each floor.

The City’s *Long Range Land Use Plan* identifies the property as *Residential Low*; a designation applied to single-family homes, schools, churches and neighborhood-servicing public uses; therefore, the proposed rezoning request *is Not Consistent* with the *Long Range Land Use Plan*.

Zoning Ordinance:

A multi-family structure is permitted in the D-5, Multiple Dwelling District. Although the use is permitted in the D-5 District. The parking requirement for multi-family are as follows, 1 parking spaces per dwelling unit is required for 1 bedroom units and 1.5 parking spaces are required for 2 or more bedroom units; therefore, the parking requirement for the site is 148 parking spaces. Applicant’s site plan shows 100 parking spaces; therefore, the applicant **is not** meeting the parking requirement for the site. The applicant can add 48 parking spaces or go to the Zoning Board of Adjustment and request a variance to allow 100 parking spaces instead of the required 148 parking spaces or request a parking modification by identifying additional surplus parking within walking distance. A detailed landscaping plan will also be required.

Neighborhood Recommendation:

The West End Manor Neighborhood Association met at its regularly scheduled meeting on **August 12, 2019** to review the proposed project and voted **“To Recommend Approval”** of the proposed rezoning request. The vote was **12 approved** and **1 denied**.

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

- *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.*
- *A review meeting with City Personnel is recommended prior to any construction.*

Staff's Recommendation to ZAC:

Although the proposed use presents an opportunity to adaptively re-use a vacant school building, the applicant's rezoning request ***is not consistent*** with the future land use plan and ***does not has merit*** for approval. In order to protect the surrounding single family district, Q Conditions, limiting the use of the property could be considered.

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(Continued Case 12/15)

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.

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.

Staff's Recommendation to ZAC:

The applicant's rezoning request is *consistent* with the future land use plan of the adjacent properties and staff recommends the *approval* of the rezoning request.

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ZAC2020-00028.....Overton

Application to change zone district boundaries from HZ (Holding Zone Jefferson County) to D-5 (Multiple Dwelling District) and C-1 (Neighborhood Commercial District), filed by C. Randall Minor, representing the owner, Brock Maddox, LLC and Wayne & Pattie Graves, for the properties located at 3520, 3526, 3506, & 3540 Cahaba Valley Road; 3500 Eastern Valley Road and 3456 Grants Mill Rd (Outside City Limits of Birmingham) and 3504 Cahaba Valley Road situated in the SE ¼ of Section 10, Township 18-S, Range 1-West ,35242 (Council District 2).

Proposed Use: A new multi-family development consisting of up to 300 units and approximately 24,400 sf of supporting neighborhood retail and services

Property and Abutting Land Uses:

The subject properties sit on 6.15 acres of land that is currently outside the city limits of Birmingham. The adjacent property to the west of the site is zoned HZD (Holding Zone District). To the north and west is HZD (Holding Zone District). To the south the property is outside of the city limits of Birmingham. To the east of the properties is zoned D-1 (Single-Family District). The applicant currently has an application for annexation into the City of Birmingham, subsequent to and contingent upon rezoning of the properties listed.

Applicant’s Proposal:

The applicant’s proposal plan is to develop a mixed-use development, consisting of up to 300 dwelling units (a total of 10 separate buildings), and accessory retail (approximately 24,400 sf). The unit mix has not been finalized but, based on current plans, it is assumed that it buildings will mostly consist of an equal mix and one-and two-bedroom units with some three-bedroom units. As proposed, each apartment building would be three stories tall and feature either neutral or earth color tones, a blend of siding, brick and/or stone accents and shingle roofing.

These proposed properties are outside the city limits of Birmingham; however, the **City’s Long Range Land Use Plan** identifies the properties adjacent to the proposed rezoning request as **Residential-Low and Open Space**. The residential–low (single-family) district is designed to allow for districts to ensure that they reflect existing or desired character and consolidate residential zoning districts that do not result in significant variations in development. Uses in this district include: single-family homes, school’s churches, and neighborhood-serving public uses. The open space is land not covered by man-made water-resistant surfaces, parking or buildings, other than recreational structures, pools or stormwater facilities, which may be landscaped or preserved in a natural state for private use of owners or quests, or for public access as may be required by the provisions of these regulations or the zoning ordinance. The proposed rezoning request is **Not Consistent** with the **Long Range Land Use Plan** that is adjacent to the proposed rezoning request.

Zoning Ordinance:

The applicant’s conceptual site plan shows multi-family use, retail and leasing office with a total of 492 parking spaces on site. Multi-family shows 96 x 1=96 (1-bedrooms); 132 x 1.5=198 (2-bedrooms) and 36 x 1.5=54 (3-bedrooms) total required parking spaces for multi-family use is 348 spaces. Retail- 1 per 300 sf of GFA (24,350 SF=81spaces). Leasing Office- 1 per 300 sf of GFA (6,700 SF=22 spaces). 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 reviewed the applicant's proposal and concluded a conceptual review meeting with the stormwater staff should be scheduled as early as possible in the design process and Civil/Stormwater and Soil Erosion Control permits will be required.

Birmingham Department of Transportation:

The Birmingham Department of Transportation (BDOT), states that any new construction or re-development must comply with the BDOT requirements. A traffic study will be required at some point for this proposed rezoning request.

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 did not have a regular scheduled meeting on this proposed rezoning request, they are wanting to meet with the applicant for more details on the proposed request.

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 east 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 or co-chair) of the Framework Implementation Committee and have not received a final response regarding the committee's recommendation on this request.

Staff's Recommendation to ZAC:

The applicant's rezoning request is ***not consistent*** with the future land use plan of the adjacent properties, and staff does not recommend the approval of the rezoning request.

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ZAC2020-00030 **Ensley**
Application to change zone district boundaries from R-3 (Single- Family District) to MU-M (Mixed-Use Medium District) in order to allow for the construction of multi-family units and a 15,000 sf. commercial space for a grocery store, filed by Timothy Bullard, representing the owner, The City of Birmingham, for the property located at 2301 Avenue J and situated in the NW ¼ of Section 6, Township 18-S, Range 3-West ,35218 (Council District 8).

Proposed Use: Multi-family units & 15,000 sf commercial space for a grocery store

Property and Abutting Land Uses:

The subject property sits on approximately 9.97 acres of land, currently zoned R-3 (Single Family District) and is the former site of Ensley High School that was founded in 1901. In 2006, Ensley High School merged with the newly built Jackson-Olin High School and in 2018, the school caught fire and has been an eye sore for the community. The subject property is surrounded by single family homes to the south, west, east and north.

Applicant's Proposal:

The applicant is requesting the MU-M (Mixed-Use Medium) zoning district to allow for a greater flexibility for current and future uses within the proposed mixed-use development. The overall project plan is to re-develop the Old Ensley High School and preserve several historic buildings if possible.

The City's **Long Range Land Use Plan** identifies the property as **Residential-Low**. The proposed rezoning request is **not consistent** with the **Long Range Land Use Plan**.

Zoning Ordinance:

The applicant's site plan shows multi-family units and 15,000 sf of commercial space for a grocery store with a total of 385 parking spaces on site. The parking requirement for multi-family: 60 x 1 (1-Bedroom) =60; + 92 x 1.5= 138 (2-Bedrooms); + 92 x 1.5=138 (3-Bedrooms) total required parking spaces for multi-family use is 336 spaces. Retail- 1 per 300 sf of GFA (14,667 SF=49 spaces). The applicant is meeting the parking requirement for the site.

Landscape Review:

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.

The City's Stormwater:

The city's stormwater staff reviewed the applicant's proposal and concluded a conceptual review meeting with the stormwater staff should be scheduled as early as possible in the design process, and Civil/Stormwater and Soil Erosion Control permits will be required.

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.

Neighborhood Recommendation:

The **Ensley Neighborhood Association** held a special call meeting on **December 17, 2020** and voted to approve the proposed rezoning request. The vote was 7 approved and 1 denied.

Staff's Recommendation to ZAC:

The applicant's rezoning request is ***not consistent*** with the future land use plan; however, the rezoning request does have merit for approval. The applicant is proposing to rehab some structures as potential commercial development where applicable, while providing remote parking to assist with new developments to revitalize and enhance transit opportunities, while attempting to maintain the character of the surrounding uses and adhering to the long range land use plan. Staff recommends approval of the rezoning request.