

**STAFF RECOMMENDATIONS**

**ZONING ADVISORY COMMITTEE**

**Birmingham Planning Commission**

**Meeting Date:** May 25<sup>th</sup>, 2021

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

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

**Place:** WebEx

**ZAC2021-00002..... Hooper City**  
Application for a change in zone district boundaries from C-2 (General Commercial District) to I-1 (Light Manufacturing District), filed by C. Randall Minor, Esq., representing the owner, Daniel Payne LLC., for the property located at 225 Daniel Payne Drive and situated in the NE¼ of Section 14, Township 17-S, Range 3-West. (35207, District 9).

**Proposed Use:** Construction and development of an office/warehouse building

**Property and Abutting Land Uses:**

The subject property sits on approximately 30.5 acres of land on the North side of Daniel Payne Drive. North of the property is vacant land, zoned D-3 (Single Family District). To the West of the site is vacant land zoned I-4 (Landfill, Mining and Timbering District). The Flying J Travel Center and Denny’s sit to the South of the site. The property to the East of the site, is outside the city limits of Birmingham.

**Applicant’s Proposal:**

The applicant is proposing to construct a new office/warehouse and delivery facility (approximately 225,000 square feet). This location has great access to major regional transportation networks, as it is located within 1 mile of the I-65/I-22 interchange and within 2 miles of the I-65/I-59/20 interchange. The proposal includes access to the site from Daniel Payne Drive, Sayreton Drive and Campbell Lane. Stormwater will be managed on site with 2 basins and the site will include interior and exterior landscaping. It is likely that there will be multiple tenants, most likely in the office, warehouse, distribution and value-add/assembly industries. These expected tenants could include an HVAC supply company, a packaging related company, a hardware related company, auto parts related company, and a company related to the new Electric Vehicle (EV) industry.

The City’s **Long Range Land Use Plan** identifies the property as **Light Industrial**; therefore, the proposed rezoning request is **consistent** with the **Long Range Land Use Plan**.

**Zoning Ordinance:**

The applicant will need to go through the Subdivision process to dedicate additional right-of-way and combine the property into 1 lot.

The applicant’s site plan shows a 225,000 square foot building. The parking requirement for the warehouse use is 1 per 2,000 square feet of gross floor area and for the office use, 1 per 400 square feet of office area; therefore the required amount of parking is 115 parking spaces. The applicant’s site plan shows 131 parking spaces, therefore the applicant exceeds the parking requirement for the proposed use by 16 spaces. Per the Zoning Ordinance, the number of parking spaces required is equal to the maximum allowed. When a development includes parking in excess of the maximum allowed, 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) are required for those parking spaces which exceed the maximum number of spaces allowed as determined by the Director. The Zoning Ordinance requires 3 loading spaces for this development.

The development must meet all Landscaping requirements outlined in the City’s Zoning Ordinance. This includes perimeter landscaping, as well as interior landscaping and any buffer 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.

***Stormwater:***

The City's Stormwater Staff reviewed the site plan and commented that land disturbance permits will be required including Soil Erosion Control, Civil/Stormwater and Driveway. All projects within the area will be required to meet the Standards in the Post Construction Stormwater Ordinance for volume and water quality control.

***Neighborhood Recommendation:***

***The Hooper City Neighborhood Association*** held a regularly scheduled meeting on 5/3/2021 and voted to approve the proposed rezoning request with "Q" conditions. The vote was 4 approved and 0 denied.

The Following uses should be prohibited:

1. Adult Establishment
2. Bar
3. Payday Loan
4. Title/Pawn Shop
5. Multi-Family Dwellings of 5 units or more
6. College or University

The Neighborhood expressed support for the rezoning for the following reason: It is progress.

***Framework Plan Implementation Committee Recommendation:***

The Business Redevelopment Subcommittee of the North Birmingham Framework Plan Implementation Committee met on Friday, May 14<sup>th</sup> and voted to support the rezoning request with the following "Q" conditions. The vote was 5 approved and 0 denied.

**Q Conditions**

1. Submission to and approval by the planning staff of the PEP Department of a site development plan to include, but not be limited to, the location and height of all structures; parking; ingress and egress; landscaping; location, size and number of all signs; storm water drainage; buffering and screening; exterior lighting; and the location and screening of solid waste disposal container by a fence constructed of wood, masonry brick, or concrete which is architecturally compatible with the primary building sufficient in height on all 4 sides with a double wooded gate at the entrance; and screening of all ground level HVAC units and satellite dishes. Roof mounted HVAC units will be screened by the building parapet. All on and off site improvements shall be developed and maintained in strict conformance with the approved site development plan. All landscaping, as per the approved landscaping plan, shall be installed prior to the occupancy of the development and shall be maintained in a living condition no less than as installed.
2. The site plan for the development, except for emergency responders or as otherwise approved by PEP staff, shall be designed so that ingress and egress to and from the site shall be directed away from Campbell Lane.
3. Uses are limited to those allowed in I-1, Light Manufacturing District, excluding the following:
  - a) Private Club
  - b) Opioid Replacement Therapy Treatment Facility
  - c) Veterinarian Clinic
  - d) Animal Boarding Facility
  - e) Animal Day Care

- f) Animal Kennel
- g) Bar
- h) Off-Premise Sign
- i) Funeral Home
- j) Payday Loan
- k) Title Loan/Pawnshop
- l) Broadcast Satellite
- m) Broadcast Tower
- n) Cellular – Microwave or Two-Way Antennas
- o) Cellular – Microwave or Two-Way Towers
- p) Wrecked Impound Lot
- q) Heliport
- r) Railroad Station
- s) Utility Substation
- t) Reservoir/Water Tank
- u) Water Treatment Plant
- v) Water/Sewer Pumping Station
- w) Adult Establishment
- x) Arena
- y) Amusement, Outdoor
- z) Stadium

**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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**ZAC2021-00008.....Norwood**

Application to change zone district boundaries from CR-5 (Contingency, Multiple Dwelling District) and CB-2 (Contingency, General Business District) to C-2 (General Commercial District) in order to construct a new convenience store, filed by Jimmy Plott, representing the owner, David Bowers (12<sup>th</sup> Avenue Properties, LLC.), for the property located at 3020 12<sup>th</sup> Avenue North and situated in the NE ¼ of Section 25, Township 17-S, Range 3-West (35234, Council District 4).

**Proposed Use:** A new convenience store

**Property and Abutting Land Uses:**

The subject property is 1.04 acres and is currently zoned CB-2 (Contingency, Multiple Dwelling District) and CR-5 (Contingency, Multiple Dwelling District). Abutting/adjacent the subject property to the north is zoned, R-3 (Single-Family District). To the south is the old McDonald's Restaurant, with a zoning of CB-2. To the east of the property is the Texaco Gas/Convenience store which is zoned CB-2 (Contingency, General Business District) and the proposed real-estate office, which per Ordinance No. 2040-G was recently re-zoned to MU-M (Mixed Use Medium District). To the west of the property is Sol's Hot Dogs, zoned CB-2 (Contingency, General Business District) and three properties zoned CR-5 (Contingency, Multiple Dwelling District).

**Applicant's Proposal:**

The applicant's proposed plan is to demo the existing Shell convenience store and build a new modern convenience store. The usual convenience items will be sold, including sodas, coffee, snacks, candies, toiletries, beer, bread and petroleum products. The proposed hours of operation are 7 days a week, 24 hours a day.

The City's *Long Range Land Use Plan* identifies the property as *Mixed-Use Low District (MU-L)*. The mixed-use low district is designed to be compact, walkable, and contain residential and commercial areas, often with a "Main Street" spine that historically served as a town center with two- to three-story buildings. Uses can be mixed horizontally (side-by-side), or vertically (one above the other). Uses in this district include: multi-family, townhouse, cottage and small-lot single-family residential, neighborhood supporting retail and services, offices, hotels and live/work structures. 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 *somewhat consistent* with the *Long Range Land Use Plan*. However, the Northside/Southside Framework Plan, which is in progress, recommends that the Future Land Use for this location be changed to Mixed Use Medium District (MU-M). According to the Framework Plan, "[the Mixed-Use Medium] land use category is similar to those listed in Mixed-Use Low but with provision for up to five story buildings, artisanal industrials and small warehouses that may be characterized as light industry, but that do not have noise, odor, illumination, trucking, or other adverse impacts on adjacent land uses."

**Zoning Ordinance:**

A Convenience store is permitted in C-2 with conditions. The Zoning ordinance states:

*In the following districts: MU-L, MU-M, MU-H, MU-D, C1, C-2, I-1, I-2, I-3, PRD AND MXD a convenience store shall be permitted provided that the following conditions are met:*

- 1. All pumps shall not be closer than 50 feet to any dwelling district, and not closer than 15 feet to a right-of-way line.*
- 2. Any building shall be setback 25 feet from a dwelling district.*
- 3. Automated carwashes in the MU-L, MU-M and C-1 districts shall be allowed as an accessory use by special exception pursuant to Chapter 4, Article III, Section 6, Item C of this Ordinance,*

*and allowed as an accessory use with conditions in the MU-H, MU-D, C-2, I-1, I-2, I-3, PRD AND MXD districts pursuant to Chapter 4, Article IV, Section 5, Item B of this Ordinance.*

The applicant's proposed site plan shows 15 parking spaces. The parking requirement for general retail business or service establishment (not otherwise specified) is 1 per 300 sf of GFA; therefore, the total number of parking spaces required is 12 spaces; however, with the 10% bus stop reduction the required parking for this site is 11 parking spaces. Therefore, the proposed site plan would exceed the maximum parking requirements by 3 spaces. 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.*

***12th Ave N Commercial Revitalization District:***

The property is located in the 12<sup>th</sup> Ave N Commercial Revitalization District. All permits will need to be reviewed by the Design Review Committee.

***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 the minimum driveway spacing is 70' from intersection, only one driveway cut is allowed per street, maximum driveway width is 24', 6' ADA compliant sidewalks with ADA ramps will be required, and a landscaped buffer will be required along entire length of 12<sup>th</sup> Avenue North and 31<sup>st</sup> Street North.

***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; however, an evergreen shrub hedgerow between the parking lot and the streets with 1 tree per 40' of street frontage along each street is recommended (but not the alleys).

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

***Neighborhood Recommendation:***

**The Norwood Neighborhood Association** held a meeting on **March 27, 2021**, to review the proposed project and voted to continue at the next neighborhood meeting, while questions and concerns were addressed.

A meeting was held on **April 24, 2021** and the proposed project was recommended with the following "Q" conditions below. The vote was **17** approved and **0** denied.

1. Must meet all current conditions for landscaping including required buffers, lighting that does not disturb adjacent residential properties and egress
2. Limit hours of operation, Sunday through Thursday closing not later than 10 p.m., Friday and Saturday closing no later than 12 a.m.
3. Limit all business and entertainment to inside
4. Manage and maintain parking to ensure that residents have adequate access to property from street and alley.
5. The following uses are prohibited:
  - a. Communal Living Facility
  - b. Dwelling, Caretaker
  - c. Dwelling, Accessory
  - d. Dwelling Unit, Other
  - e. Accessory Structure (with the exception of dumpster for trash)
  - f. Garage Sale/Yard Sale
  - g. Adult Care Center
  - h. Child Care Center
  - i. Family Day/Night Care Home
  - j. Family Group Day/Night Care Home
  - k. Accessory Child Care Center
  - l. Internment, Columbarium
  - m. Internment, Mausoleum
  - n. Private Club
  - o. Rummage Sale
  - p. Opioid Replacement Therapy Treatment Facility
  - q. Animal Boarding Facility
  - r. Animal Day Care
  - s. Animal Kennel
  - t. Automobile Sales
  - u. Automobile Service
  - v. Automobile/Light Truck Repair
  - w. Off-Premise Sign
  - x. Car Wash, Automated
  - y. Car Wash, Manual
  - z. Donation Box
  - aa. Donation Center
  - bb. Event Center
  - cc. Funeral Home
  - dd. Hotel
  - ee. Market, Public
  - ff. Mini-Storage Warehouse
  - gg. Payday Loan
  - hh. Title Loan/Pawnshop
  - ii. Broadcast Satellite
  - jj. Broadcast Tower
  - kk. Cellular, Microwave or Two-Way Antennas
  - ll. Cellular, Microwave or Two-Way Towers
  - mm. Apiary
  - nn. Chicken Coop
  - oo. Community Garden
  - pp. Urban Farm, Outdoor
  - qq. Bus Station
  - rr. Utility Substation
  - ss. Reservoir/Water Tank
  - tt. Solar Panel, Building Mounted
  - uu. Solar Panel, Ground Mounted
  - vv. Water/Sewer Pumping Station
  - ww. Recycling Collection Center
  - xx. Adult Establishment

- yy. Amphitheater
- zz. Arena
- aaa. Amusement, Indoor
- bbb. Amusement, Outdoor
- ccc. Driving Range Free-Standing
- ddd. Stadium

***Framework Plan:***

This property is located within the Southside/Northside Framework Plan Area. The framework plan for this area is in progress and the Implementation Committee has not been formed.

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

The applicant's rezoning request is *not entirely consistent* with the future land use plan; however, the rezoning request does have merit for approval, since the Northside Framework Plan recommends that the Future Land Use be changed to Mixed Use Medium for this property. The applicant is proposing to rebuild a commercial development 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.