

JOINT PLANNING AND ZONING  
AND SPECIAL CALLED COMMITTEE OF THE WHOLE MEETING  
WEDNESDAY, AUGUST 5, 2020 | 3:30 P.M.  
COUNCIL CHAMBERS

## MINUTES

Council President William Parker, Committee Chair  
Councilor Valerie A. Abbott & Councilor John R. Hilliard, Committee Members

Councilor(s) Present: Parker, Abbott, Hilliard

### I. CALL TO ORDER

Council President Parker called the meeting to order.

### II. ZONING ITEMS

#### 1. ZAC2019-00013, Ensley

Application for a change in zone district boundaries from R-3 (Single Family Residential District) to C-2 (General Commercial District), filed by Varnie Barker, representing the owner, Birmingham City Schools, for the properties located at 1301 15<sup>th</sup> Street and 1400 Avenue M and situated in the SE¼ of Section 31, Township 17-S, Range 3-West. (35218, District 9).

**Proposed Use:** To adaptively re-use the former Council School for a Business Incubator

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.

#### Neighborhood Recommendation:

The Ensley Neighborhood Association met at its regularly scheduled meeting on July 18, 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.

#### Zoning Advisory Committee Action:

The Zoning Advisory Committee met at its regularly scheduled meeting on February 4<sup>th</sup>, 2020, to review the applicant's rezoning request and voted to **RECOMMEND** approval with the following "Q" Conditions:

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1. Office use and accessory uses to office use and civic uses.
2. Signage limited to those sign requirements that are allowed in a B-1, Neighborhood Business District. A monument sign is allowed and not to exceed 36SF of sign area.

**Action Taken:**

**Councilor Hilliard:** Moved to Approve.

**Councilor Abbott:** Seconded.

**Item Recommended to the City Council Agenda.**

**2. 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

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.

**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.

**Zoning Advisory Committee Action:**

The Zoning Advisory Committee met at its regularly scheduled meeting on June 2<sup>nd</sup>, 2020, to review the applicant's rezoning request and voted **NOT TO RECOMMEND** approval.

**Action Taken:**

**Councilor Hilliard:** Moved to Approve.

**Councilor Parker:** Seconded.

**Item Recommended to the City Council Agenda.**

**3. ZAC2020-000, 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

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.



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**5. ZAC2020-00008, Five Points South**

Application to change zone district boundaries from M-1 (Light Industrial District) to MU-D (Mixed -Use District) in order to allow for a new business office suite, filed by Mike Gibson, representing the owner, 409 LLC, for the property located at 409 Richard Arrington Jr. Blvd. South and situated in the SE ¼ of Section 36, Township 17-S, Range 3-West (Council District 6).

**Proposed Use:** New Business Office Suite

The City's Long Range Land Use Plan identifies the property as Mixed-Use Downtown. This land use category allows for the development medium-to high-density office, residential, retail and entertainment areas that create vibrant 18-24 hours, 7-days a week live-work-play environments, typically mid-rise to high-rise; artisanal industries and small warehouse that may be characterized as light industry that do not have noise, odor, illumination, trucking, or other adverse impacts on adjacent land uses. This district is focused in the downtown area, and should be transit-accessible. Uses in this district include: high density multi-family, loft, townhouse, retail and services, offices, hotels, large entertainment facilities, and live/work structures. The proposed rezoning is **Consistent** with the Long Range Land Use Plan.

**Neighborhood Recommendation:**

The Five Points South Neighborhood Association had a regularly scheduled meeting on June 4<sup>th</sup>, 2020, to review the proposed project and voted to **RECOMMEND** the request. The vote was **5 approved and 0 denied.**

**Zoning Advisory Committee Action:**

The Zoning Advisory Committee met at its regularly scheduled meeting on June 16<sup>th</sup>, 2020, to review the applicant's rezoning request and voted to **RECOMMEND** approval.

**Action Taken:**

**Councilor Abbott:** Moved to Approve.

**Councilor Parker:** Seconded.

**Item Recommended to the City Council Agenda.**

**6. ZAC2020-00009, Crestwood South**

Application to change zone district boundaries from B-6 (Health & Institutional District) to C-2 (General Commercial District) & B-6 (Health & Institutional District) to MU-H (Mixed-Use High District) in order to construct a multi-family apartment complex and a mixed-use development, filed by Schoel Engineering Company, representing the owner, Birmingham Metro LLC, for the property located at 800 Montclair Road and situated in the NE ¼ of Section 33, Township 17-S, Range 2-West (Council District 3).

**Proposed Use:** Multi-Family Complex/Mixed-Use Development

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. The proposed rezoning request is **Consistent** with the Long Range Land Use Plan.

**Neighborhood Recommendation:**

The Crestwood South Neighborhood Association had a regularly scheduled meeting on June 22<sup>nd</sup>, 2020, which was a teleconference call to review the proposed project and voted to **APPROVE** the project. The vote was **13 approved and 0 denied.** This location is in the **Southern Area Framework Plan**, but it has not officially started.

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If approved the neighborhood **Recommends** the following conditions are **Prohibited Uses**:

Lower Tract (C-2)	Upper Tract (MU-H)
<ol style="list-style-type: none"> <li>1. Adult Establishment</li> <li>2. Arena</li> <li>3. Automobile Sales</li> <li>4. Automobile Service</li> <li>5. Automobile/Light Truck Repair</li> <li>6. Bus Station</li> <li>7. Car Wash, Automated</li> <li>8. Chicken Coop</li> <li>9. Convenience Store</li> <li>10. Donation Center</li> <li>11. Family Day/Night Care Home</li> <li>12. Family Group Day/Night Care Home</li> <li>13. Funeral Home</li> <li>14. Garage Sale/Yard Sale</li> <li>15. Internment, Columbarium</li> <li>16. Internment, Mausoleum</li> <li>17. Off-Premise Sign</li> <li>18. Opioid Replacement Therapy Treatment Facility</li> <li>19. Payday Loan</li> <li>20. Recycling Collection Center</li> <li>21. Reservoir/Water Tank</li> <li>22. Rummage Sale</li> <li>23. Shopping Center</li> <li>24. Solar Panel, Ground Mounted</li> <li>25. Stadium</li> <li>26. Title Loan/Pawnshop</li> </ol>	<ol style="list-style-type: none"> <li>1. Adult Establishment</li> <li>2. Arena</li> <li>3. Automobile Sales</li> <li>4. Automobile Service</li> <li>5. Automobile/Light Truck Repair</li> <li>6. Bus Station</li> <li>7. Car Wash, Automated</li> <li>8. Convenience Store</li> <li>9. Donation Center</li> <li>10. Family Day/Night Care Home</li> <li>11. Funeral Home</li> <li>12. Garage Sale/Yard Sale</li> <li>13. Internment, Columbarium</li> <li>14. Internment, Mausoleum</li> <li>15. Off-Premise Sign</li> <li>16. Opioid Replacement Therapy Treatment Facility</li> <li>17. Payday Loan</li> <li>18. Recycling Collection Center</li> <li>19. Reservoir/Water Tank</li> <li>20. Rummage Sale</li> <li>21. Shopping Center</li> <li>22. Solar Panel, Ground Mounted</li> <li>23. Stadium</li> <li>24. Title Loan/Pawnshop</li> <li>25. Warehouse</li> </ol>

**Additional Notes:**

- Utility Substation shall be permitted only when it is constructed to support the needs of the proposed development on parcels C-2 and MU-H.
- Car Wash, Manual shall be permitted only as an accessory to the site and NOT as a primary use.
- Mini-Storage Warehouse shall be permitted only as an accessory to the site and NOT as a primary use.
- Drive- In/Drive Through shall be permitted; however, any fast food establishment will not be allowed to utilize a drive through as an accessory to the site.
- Cellular, Microwave or Two-Way Antennas shall be permitted; however, they must be constructed with a stealth design as approved by PEP.
- Cellular, Microwave or Two-Way Towers shall be permitted; however, they must be constructed with a stealth design as approved by PEP.

**Zoning Advisory Committee Action:**

The Zoning Advisory Committee met at its regularly scheduled meeting on July 21<sup>st</sup>, 2020, to review the applicant's rezoning request and voted to **RECOMMEND** approval subject to the following "Q" Conditions:

1. No buildings for LOT 1 MU-H (Mixed-Use High District) will exceed 125 feet in height;
2. No buildings for LOT 2 C-2 (General Commercial District) will exceed 75 feet in height;

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3. The portion of the property abutting Montclair Road will have an approximately 60-80-foot natural buffer that shall maintain the natural vegetation and coverings on site to the maximum extent possible;
4. The applicant will preserve the two (2) existing ponds on the site to the maximum extent possible;
5. The applicant will maintain a minimum of 50% of the existing trees on the site on LOT 2;
6. A Reservoir/Water Tank or Utility Substation shall be permitted only when constructed to support the needs of the propose development on parcels Lot 2 (C-2) and Lot 1 (MU-H);
7. On-premise signage to the site will be allowed to advertise retail and/or residential services located on the Lot 2 (C-2) and the Lot 1 (MU-H) on any On-premise signage as approved by the Planning, Engineering and Permits Department;
8. Car Wash, Manual shall be permitted only as an accessory to other uses on the site and not as a primary use;
9. Mini-Storage Warehouse shall be permitted only as an accessory to residential uses on the site and not as a primary use;
10. Drive-In/Drive Through shall be permitted; however, any fast food establishment will not be allowed to utilize a drive through as an accessory to the site;
11. Cellular, Microwave or Two-Way Antennas shall be permitted; however, they must be constructed with a stealth design as approved by the Planning, Engineering and Permits Department;
12. Cellular, Microwave or Two-Way Towers shall be permitted; however, they must be constructed with a stealth design as approved by the Planning, Engineering and Permits Department;
13. These following condition(s) are **Prohibited Uses**:

Lot 2 (C-2) Lower Tract	Lot 1 (MU-H) Upper Tract
<ol style="list-style-type: none"> <li>1. Adult Establishment</li> <li>2. Arena</li> <li>3. Automobile Sales</li> <li>4. Automobile Service</li> <li>5. Automobile/Light Truck Repair</li> <li>6. Bus Station</li> <li>7. Car Wash, Automated</li> <li>8. Chicken Coop</li> <li>9. Convenience Store</li> <li>10. Donation Center</li> <li>11. Family Day/Night Care Home</li> <li>12. Family Group Day/Night Care Home</li> <li>13. Funeral Home</li> <li>14. Garage Sale/Yard Sale</li> <li>15. Internment, Columbarium</li> <li>16. Internment, Mausoleum</li> <li>17. Off-Premise Sign</li> <li>18. Opioid Replacement Therapy Treatment Facility</li> <li>19. Payday Loan</li> <li>20. Recycling Collection Center</li> <li>21. Reservoir/Water Tank</li> <li>22. Rummage Sale</li> <li>23. Stadium</li> <li>24. Title Loan/Pawnshop</li> </ol>	<ol style="list-style-type: none"> <li>1. Adult Establishment</li> <li>2. Arena</li> <li>3. Automobile Sales</li> <li>4. Automobile Service</li> <li>5. Automobile/Light Truck Repair</li> <li>6. Bus Station</li> <li>7. Car Wash, Automated</li> <li>8. Convenience Store</li> <li>9. Donation Center</li> <li>10. Family Day/Night Care Home</li> <li>11. Funeral Home</li> <li>12. Garage Sale/Yard Sale</li> <li>13. Internment, Columbarium</li> <li>14. Internment, Mausoleum</li> <li>15. Off-Premise Sign</li> <li>16. Opioid Replacement Therapy Treatment Facility</li> <li>17. Payday Loan</li> <li>18. Recycling Collection Center</li> <li>19. Reservoir/Water Tank</li> <li>20. Rummage Sale</li> <li>21. Stadium</li> <li>22. Title Loan/Pawnshop</li> <li>23. Mini-Storage Warehouse</li> </ol>

**Action Taken:**

**Councilor Abbott stated off premises signage shall be limited to what the applicant says they are going to do.**

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Change the language to limited to what the developer says they are going to do.

Planning and Zoning Staff spoke with the applicant, looked at condition #7 and worked to change the wording based on what the applicant presented.

New Language: Changed the wording based on what the applicant presented: On premise signage to the site will be allowed to advertise retail and/or residential services located on the lower track C2 and the upper track MUH on any on premise signage as approved by the Planning, Engineering and Permits Department, notwithstanding the prohibitions of below. Signage shall be permitted on each of the lower tracks C2, the upper track MUH for customary and usual signage to support the operation leasing of users of the other tracks as approved by the Planning and Engineering Department.

Q conditions items #1-13; amended version #7; edits suggested 3 and 5 (3-make 60 to 80)

#3 - Montclair Road will have an approximately 55-70 foot average width buffer that would have the least amount to the natural vegetation and coverings as possible.

#5 - The applicant will have a goal of maintaining 50% of the site natural or mildly disturbed on lot 2.

Councilor Hilliard: Moved to Approve with the recommended amendments to the language #3,5,7,13 (Redline Version)

Councilor Parker: Seconded.

Item Recommended to the City Council Agenda.

**7. ZAC2020-00010, Forest Park**

Application to change zone district boundaries from O&I (Office & Institutional District) to MU-L (Mixed-Use Low District) in order to allow for a new 2-Story Office & Condo building, filed by Lance Black, representing the owner, White group, for the property located at 617 37<sup>th</sup> Street South and situated in the NW ¼ of Section 32, Township 17-S, Range 2-West (Council District 5).

**Proposed Use:** 2-Story Office & Condominium Building

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 **Consistent** with the Long Range Land Use Plan.

**Neighborhood Recommendation:**

The Forest Park Association took a vote on July 9<sup>th</sup>, 2020, to review the proposed project and voted to **Recommend** the request. The vote was **13 approved and 0 denied.**

This location is in the Southern Area Framework Plan, but it has not officially started.

**Zoning Advisory Committee Action:**

The Zoning Advisory Committee met at its regularly scheduled meeting on July 21<sup>st</sup>, 2020, to review the applicant's rezoning request and voted to **RECOMMEND** approval.

**Action Taken:**

Councilor Abbott: Moved to Approve.

Councilor Hilliard: Seconded.

Item Recommended to the City Council Agenda.

**8. ZAC2020-00012, Citywide**

Proposed amendments to the City's Zoning Ordinance - including revisions to allow an animal kennel in MXD; amend the parapet height requirement; amend the ZAC hearing section (to allow special called meetings of the

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Planning & Zoning Committee); and to amend the date for heavy industrial buffer requirements, filed by the Department of Planning, Engineering & Permits

**Zoning Advisory Committee Action:**

The Zoning Advisory Committee met at its regularly scheduled meeting on July 21<sup>st</sup>, 2020, to review the text changes and voted to **RECOMMEND** approval.

**Action Taken:**

**Councilor Hilliard: \_\_\_\_\_ Moved to Approve.**

**Councilor Parker: \_\_\_\_\_ Seconded.**

**Item Recommended to the City Council Agenda.**

**III. AKA HOUSE – VARIANCE EXTENSION**

**Action Taken:**

**This action was forwarded to the August 11, 2020 City Council Meeting.**

**IV. MINI-STORAGE WAREHOUSE UPDATE**

**Action Taken:**

**No Discussion**

**V. ZBA AND PLANNING COMMISSION APPLICATION UPDATE**

**Action Taken:**

**No Discussion**

**VI. OLD AND NEW BUSINESS**

None

**VII. ADJOURN**

**Councilor Hilliard: \_\_\_\_\_ Moved to Adjourn.**

**Councilor Abbott: \_\_\_\_\_ Seconded.**

**Meeting Adjourned.**