



**SPECIAL CALLED PLANNING & ZONING MEETING
COUNCIL PRESIDENT WILLIAM PARKER, CHAIR
TUESDAY, JULY 6th
4PM
WEBEX**

Event address for attendees:

<https://birmingham.webex.com/birmingham/onstage/g.php?MTID=e6210bc35e69b2262c567a319cc78a3fb>

1-415-655-0002 Access code: 146 951 1372

AGENDA

I. CALL TO ORDER

II. APPROVAL OF MINUTES

- February 17, 2021
- April 7, 2021
- April 21, 2021

III. ANNEXATION ITEM

1. 7273 and 7277 Cahaba Valley Road

Land Use / Development Request

Jim Beatty, representing Capstone Properties, is requesting the annexation of two properties that are located on Cahaba Valley Road (Highway 119) in unincorporated Shelby County and adjoining the Overton neighborhood in the City of Birmingham. The site also abuts the City of Hoover and the nearby Greystone subdivision. The site is within proximity to the St. Vincent's 119 medical campus and the Tattersall Park retail development. It is the intent of Capstone to resurvey the parcels with the goal of developing a 170-unit rental development comprised of individual cottages and townhomes. In addition, the applicant will seek to rezone all of his holdings from B-2 and HZD (Shelby County zoning) to D5 (multi-family housing).

Method of Annexation

The parcels will be annexed into Birmingham through six separate applications. Each application is for a portion of the subject property which will extend no further than half way toward the boundary of the property with the City of Hoover, in compliance with Section 11-42-21 of the Code of Alabama. Each application will be scheduled and heard separately until all of the property is within the corporate boundary of the City.

Zoning / Land Use Merits of Request

The adjoining properties in Birmingham were included in the Northeast Framework Plan in 2017. The future land use was designated as General Commercial. Input from the surrounding residents during the development of its Framework Plan wanted to preserve the rural character of the area that lies further east from the site and were fearful of any additional development would further degrade the existing traffic problems along Highway 119 directly and Highway 280 indirectly.

Watershed Impacts

The site's proximity to Lee Branch, which is part of the Cahaba River basin, poses concerns about stormwater runoff into the City's primary water source. The applicant would need to provide strict compliance to any development regulations established by the Birmingham Water Works Board and the recently adopted Stormwater Ordinance of the City of Birmingham. In addition, regional environmental advocates such as the Cahaba Riverkeeper Society believe that the proposed development would cause harm to the water supply.

Transportation Impacts

The proposed site is located on Cahaba Valley Road (Highway 119). Adjoining the site, the thoroughfare is currently a two-lane road. Between Highway 280 and Brook Highland Parkway / Greystone Way, the thoroughfare is four-lanes plus a center turn lane. The applicant has had discussions with the Alabama Department of Transportation about the installation of turn lanes at the primary entrance of the development. Residents of the Greystone subdivision in Hoover as well as residents in the Brook Highland subdivision have deep concerns about the current capacity of Highway 119 to handle additional cars and increased traffic due to recent developments along the corridor (Tattersall Park).

Proponents and Opponents of the Request

The property is bounded on three sides by the City of Birmingham. The parcels located to the west and north of the proposed annexation are owned by the Birmingham Water Works Board (BWVB) (undeveloped wooded site). BWVB has stringent guidelines for developments within the Cahaba watershed. Considering its proximity to Lake Purdy, BWVB would place additional restrictions (density, allowed uses, stormwater) that would not allow for the development as proposed by the applicant.

Local residents oppose the proposed development because a) its size would increase traffic along Highway 119, b) its proximity to Lee Branch / Lake Purdy would pose a hazard to the water supply, and c) the Northeast Framework Plan had designated the future land use as open space and agricultural which would limit any potential redevelopment to farms, forestry and estate lots.

The City Property Committee has had an opportunity to review this potential application and wanted to be certain that City services could be extended to this site. However, Finance has the

opinion that the City should not be annexing projects that are strictly residential due to the cost of extending services and not receiving enough revenue to support the activity.

Staff Recommendations

The Department of Planning, Engineering and Permits has examined the proposed annexation case and the opinion of staff is that the proposed rezoning for these properties would be in not conflict with the existing Comprehensive Plan and the adopted future land use map from the Northeast Area Framework Plan. Parcels across Highway 119 that lie within the City of Birmingham are currently zoned C-2 General Commercial and have been developed into large campuses for places of worship and multi-family housing. The applicant would be responsible for completing any required applications for a potential rezoning of these parcels after they have been officially annexed into the City of Birmingham. In addition, the Department of Planning, Engineering and Permits would require any future development of these parcels would be in compliance with the developmental regulations established by the Birmingham Water Works Board as it relates to density, soil erosion, stormwater controls and landscaping.

Reports / Comments from Other Birmingham Departments

The Department of Planning, Engineering and Permits, as part of its investigation for this annexation request, solicited information from other Departments within City Hall in order to assess the potential impact of the annexation of this property as well as its proposed development plan.

Birmingham Department of Transportation

Transportation related issue for the site:

- To our knowledge there are currently no transportation projects planned for the roads adjacent to this development.
- Any street improvements recommended by Transportation Impact Studies would have to be implemented by the developers.
- Cost for repaving any dedicated city streets within 15 years of initial construction would come to \$2/s.f. of street area in today's dollars.

Birmingham Fire and Rescue Analysis

Our fire departments water officer Fire Inspector Beneva Nelson has previously spoken with developers about proposals along HWY-119 (Cahaba Valley Parkway). She is familiar with the proposal for Capstone at 119. The recurring issue with these proposed developments is that the number of proposed units trigger the code requirement of alternate fire department access. Subdivisions are required to stand in their own right, meaning they are not able to borrow property or get easements from another adjacent property owner to meet code requirements. These designs are usually landlocked and the developers do not favor the idea of abandoning lots or portions of lots in order to provide for the secondary/alternative emergency access code requirement. This is a major public safety issue from the perspective of fire department access because HWY-119 is already a extremely busy thoroughfare and one roadway incident/accident can impede traffic flow and delay emergency access for hours, halting traffic for miles.

Additionally, since most of the property and fire hydrants on the South side of HWY-119 belong to Shelby County, hydrants that meet Birmingham Fire and Rescue specification are required to be installed in the public right of way and water main extensions have to be completed to add private hydrants on the property (to be maintained by the property owner) that are also required to meet Birmingham Fire and Rescue Service fire hydrant specifications. A significant portion of HWY 119 is included in either of the watersheds and the approval time for main extensions in this area can be quite extensive/expensive.

Birmingham Police Department

After driving the area and referencing Maps, the Overton Neighborhood of Birmingham is already spread out around the proposed annex sites. The Birmingham Police Department will be able to respond for calls for service for the proposed annexed area. It should also be stated that as more development comes to the area BPD would recommend hiring additional officers to patrol the area.

Birmingham Department of Innovation and Economic Opportunity

Cahaba Valley Road (Tattersall Park) - This project appears to all residential without a commercial component. IEO will support the COB PEP recommendation for the project. The project would be in accordance the comprehensive plan, IEO will offer support for developer to proceed with the next courses of actions for the project.

Birmingham Department of Community Development

City Housing Policy for Proposed Annexation - If annexed into the City of Birmingham the subject property would be located in the Overton Neighborhood. The 2020 Birmingham Housing Plan Neighborhood Market Atlas classifies the Overton Neighborhood in the Growth Typology. Neighborhoods in the Growth Typology are generally experiencing strong growth in population, median home values, median gross rent, median incomes, and have an adequate balance of older and new properties, higher average land value per square foot, and a lower number of condemned properties.

In general, these neighborhoods may also be viewed as “traditional neighborhoods,” which encompass single-family dwelling units, cul-de-sacs, and are in close proximity to desirable community amenities, such as parks, shopping and retail districts, employment hubs, or the City Center.

Birmingham Property Committee

The Birmingham Property Committee was informed of this item at its January 14, 2021. Regarding the Capstone request, I was Acting Chair of the Property Committee in Chairman Lester Smith’s absence. It was decided that without a cost-benefit analysis the Property Committee did not have enough data to make an informed decision regarding the logistics and the cost for the City to provide services to this area. Also, there were questions in the meeting if the Birmingham Board of Education had been informed of the request and consulted? The last communication I had regarding these matters was that PEP was going to request the applicants seek annexation before any action from zoning.

Birmingham Department of Public Works

The Department does not see an impact of this annexation to its operations. Garbage pick-up would be commercial due to the amount of units and would not be the City’s responsibility. The ROW in the area is also scattered with a mix of city in the area already, so any ROW functions should be minimal.

IV. ZONING ITEMS

1. ZAC2020-00002 **Glen Iris**
Application to change zone district boundaries from B-5 (Mixed Business District) to “Q” C-2 (Qualified General Commercial District) in order for the property to be redeveloped into an automobile dealership and service center, filed by Ray Jones, representing the owner, ATLAS NC 1 SPE LLC, for the property located at 488 Palisades Boulevard and situated in the NE ¼ of Section 14, Township 18-S, Range 3-West (Council District 3).

Proposed Use: Automobile dealership to include a service center

Property and Abutting Land Uses:

The subject property is currently zoned B-5 (Mixed Business District). The proposed rezoning is proposed for the Palisades Shopping Center – from the Regional Finance tenant to the east end of the property. Abutting the subject property to the North is vacant, heavily wooded property (zoned B-5). To the South is a mix of commercial uses, including Extra Space Storage, Marathon Gas, Taco Bell, Popeyes, Guthrie’s and Speedy Cash, all zoned B-5. To the East of the property is the Alden Apartments, zoned B-5. The Marc-1 Car Wash is also South of the property, zoned B-5. The remainder of the Palisades Shopping Center is located to the West of the property, zoned B-5 (including the Wal-Mart Neighborhood Market).

Applicant’s Proposal:

The applicant plans to redevelop the former Virginia college portion of the shopping center, The project will contain a nationally branded, new and used car dealership and a service department. In addition, one to two new to market automotive brands would also be accommodated at the site. There are ongoing discussions to salvage all or portions of the building. A structural engineer and architect have been hired to vet this further. Typical hours of operation will be 9am-7pm Monday – Saturday for sales and 7am- 6pm Monday - Friday for service.

Long Range Land Use Plan:

The City’s **Long Range Land Use Plan** identifies the property as **General Commercial**. This land use category is characterized by commercial and service uses, general and large retail uses, restaurants and food stores. Additional uses include hotels, motels, movie theatres, offices, schools and multi-family residential. This property is in the Northside/Southside Framework Plan. The Plan identifies this property as General Commercial and recommends that the zoning be changed to C-2 (B-5 does not exist in the new zoning classifications). The proposed rezoning request is **Consistent** with the **Long Range Land Use Plan**.

Zoning Ordinance:

The applicant's site plan shows tenant spaces 17-22 (172,739 square feet) as the proposed car dealership. Total parking required would be 345 spaces. The shopping center has 912 parking spaces on the portion being rezoned (with access easements to allow for parking across lot lines). The requirement for all tenants in the rezoned portion would be 716 spaces.

A Subdivision action is not required unless the proposed car dealership wants to include all of its property on one lot. All landscaping must comply with the requirements in Title 1, Chapter 6 of the Zoning Ordinance (Landscaping, Buffering and Screening).

Staff Recommendation:

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

Neighborhood Recommendation:

The ***Glen Iris Neighborhood Association*** met at its regularly scheduled meeting on **February 3rd, 2020**, to review the proposed project and did not take a vote on the rezoning request. The ***Glen Iris Neighborhood Association*** met at its regularly scheduled meeting on **March 2nd, 2020**, and voted to ***recommend*** approval subject to the following "Q" Condition:

1) Submission to and approval by the local Neighborhood Association and the Zoning Advisory Committee (ZAC) of a site development plan to include but not be limited to, the location and heights of all structures; parking; ingress and egress (including a traffic circulation plan); landscaping; location, size and number of all signs; storm water drainage; buffering and screening; exterior lighting plan; 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 HVAC units and satellite dishes. In addition, the site development plan should include details regarding the proposed hours of operation, delivery schedule (if applicable), noise mitigation plan and any other information required by the PEP Staff. All on and off site improvements shall be developed and maintained in strict conformance with the approved site development plan. All landscaping as per 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. Any amendments, additions, deletions, alteration or changes to any of the above listed standards of the approved site development plan, shall require approval of an amendment to the approved site development plan by the local Neighborhood Association and the Zoning Advisory Committee (ZAC).

Zoning Advisory Committee Recommendation:

The Zoning Advisory Committee met at its regularly scheduled meeting on **February 4th, 2020**, and voted to ***recommend*** approval of the applicant's request.

Planning and Zoning Committee Recommendation:

The ***Planning and Zoning Committee*** met on **July 15th, 2020**, and voted to ***recommend*** approval of the request subject to the following "Q" conditions:

1. The following uses are not permitted:

- a. Funeral Home (including a crematorium)
- b. Internment, Columbarium
- c. Internment, Mausoleum
- d. Internment, Cemetery

2. Submission to and approval by the local Neighborhood Association and the Zoning Advisory Committee (ZAC) of a site development plan to include but not be limited to, the location and heights of all structures; parking; ingress and egress (including a traffic circulation plan); landscaping; location, size and number of all signs; storm water drainage; buffering and screening; exterior lighting plan; 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 HVAC units and satellite dishes. In addition, the site development plan should include details regarding the proposed hours of operation, delivery schedule (if applicable), noise mitigation plan and any other information required by the PEP Staff. All on and off site improvements shall be developed and maintained in strict conformance with the approved site development plan. All landscaping as per 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. Any amendments, additions, deletions, alteration or changes to any of the above listed standards of the approved site development plan, shall require approval of an amendment to the approved site development plan by the local Neighborhood Association and the Zoning Advisory Committee (ZAC).

The item was scheduled for a public hearing before the Birmingham City Council on August 25, 2020, and the item was withdrawn by the applicant. The applicant is now requesting that the item move forward for consideration by the City Council.

2. 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.

Long Range Land Use Plan:

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.

Staff Recommendation:

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

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 **May 14 2021**, 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

Zoning Advisory Committee:

The Zoning Advisory Committee met at its regularly scheduled meeting on **May 25, 2021**, and voted to ***recommend*** approval of the applicant's request subject to the following 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
- aa) Multi-Family Dwellings of 5 units or more
- bb) College or University

3. 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 (12th Avenue Properties, LLC.), for the property located at 3020 12th 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.

Long Range Land Use Plan:

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 12th 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 12th Avenue North and 31st 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.

Staff Recommendation:

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.

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.

Zoning Advisory Committee:

The Zoning Advisory Committee met at its regularly scheduled meeting on **May 25, 2021**, and voted to ***recommend*** approval of the applicant's request subject to the following Q conditions:

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. Solar Panels will only be allowed if they are screened from view
6. 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
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- vv. Adult Establishment
- ww. Amphitheater
- xx. Arena
- yy. Amusement, Indoor
- zz. Amusement, Outdoor
- aaa. Driving Range Free-Standing
- bbb. Stadium

4. ZAC2021-00009.....Roebuck-Springs
Application to change zone district boundaries from MU-H (Mixed-Use High District) to I-1 (Light Manufacturing District) in order to construct a new Advanced Auto Parts Retail and Warehouse Facility, filed by Ashley Klein, representing the owner, Elsie Gurley, for the properties located at 9125 & 9127 Parkway East and situated in the NW ¼ of Section 01, Township 17-S, Range 2-West (Council District 2).

Proposed Use: A new Advanced Auto Parts Retail and Warehouse Facility

Property and Abutting Land Uses:

The subject properties contain approximately 2 Acres and are currently zoned MU-H (Mixed-Use High District). Abutting/adjacent the subject property to the north is zoned, MU-H (Mixed-Use High District). To the south of the property is Interstate 59 and to the south of the Interstate is zoned D-1 (Single-Family District). To the east of the property is Dr. Daniel A. Nix office, which is zoned MU-H (Mixed-Use High District). To the west of the property is Gallery Smoke Tobacco Shop, which is also currently zoned MU-H (Mixed-Use High District).

Applicant’s Proposal:

The applicant’s proposed plan is to combine the two parcels for the construction of an Advanced Auto Parts Retail and Warehouse Facility. The two parcels are contiguous and provide frontage along Parkway East at the southwest corner of Parkway East and Eubanks Street. The combined area of the parcels is 1.96 acres.

Long Range Land Use Plan:

City’s ***Long Range Land Use Plan*** identifies the property as ***Mixed-Use High District (MU-H)***. The mixed-use high district is designed to be accommodate medium to high-density office, residential, retail, artisanal industries and small warehouses 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 will also include entertainment areas, and be transit-accessible or transit-ready locations. Intensity of development would vary by area. Uses in this district include: high density multi-family, loft, townhouse, and small-lot residential, retail and services, offices, hotels, large entertainment facilities, and live/work structures. Ground-floor uses encouraged on desired pedestrian-intensive streets. The proposed rezoning request is *somewhat consistent* with the **Long Range Land Use Plan** in the sense that retail is a permitted use by right and warehouse use is permitted with conditions.

Zoning Ordinance:

The applicant’s proposed site plan shows 25 regular parking spaces and 2 handicapped parking spaces for a total of 27 parking spaces. The applicant’s proposal includes 10,527 SF of warehouse/storage space, 5,243 SF of retail space and 230 SF of office space. The parking requirements for a warehouse with office space is 1 per 2000 sf of GFA plus 1 per 400 sf of office area. The parking requirements for retail of vehicle equipment sales is 1 per 500 GFA. The Zoning Ordinance states that when any requirement of these regulations results in a fraction of a dwelling unit or parking space the fraction if less than 0.5 shall be rounded down to the nearest whole number, and if equal to or greater than 0.5 shall be rounded up to the nearest whole number; therefore, the total number of required parking spaces is 13. Therefore, the proposed site plan would exceed the maximum parking requirements by 14 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.

The applicant’s site plan shows a dumpster (Solid Waste Container) located in the front yard off of Eubanks St. The Zoning Ordinance states:

New and expanded structures shall provide an area for a solid waste container that is not located in the public right-of-way. The container must be located on the same lot as the principal building and no closer than 25 feet to dwellings off-site. Except for uses having small containers serviced by the City of Birmingham’s Public Works Department, solid waste containers must be: 1) in rear or side yards or within the principal building; 2) exterior sites must be below grade OR have a solid opaque screening walls or gate on all sides made of concrete, masonry material and/or wood matching the principal building at a height taller than the container; 3) when a proposed use

includes a food service establishment enclosure must be compliant with county health department regulations.

The applicant will need to either relocate the dumpster to a side or rear yard or will need to apply for a variance with the Zoning Board of Adjustment (ZBA).

Stormwater:

The City's Stormwater staff recommends construction permits will be required and that plans must meet the City of Birmingham Stormwater post-construction ordinance, civil construction guidelines and the SEC ordinance. A Stormwater Management Pre-Concept Plan Review is recommended prior to final designs.

Birmingham Department of Transportation:

The Birmingham Department of Transportation (BDOT), states that the maximum driveway and drive isle width is 24' and that concrete driveway apron is required with 2% maximum cross slope at sidewalk.

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. A landscape plan was submitted to the City's Landscape architect to be reviewed. The City's Landscape Architect stated that while the plan is ok, the applicant will be required to install an evergreen shrub hedgerow between the parking spaces and the street prior to the plan being approved.

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

Subdivision:

A subdivision action would be required to combine the two parcels.

Staff Recommendation:

The applicant's rezoning request is ***somewhat consistent*** with the Long Range Land Use Plan.

Neighborhood Recommendation:

The Roebuck Springs Neighborhood Association held a meeting on **April 8, 2021**, to review the proposed project and voted to approve the request with the following "Q" Condition. The vote was **12** approved and **0** denied.

"Q" Condition:

"Adequate parking, sidewalks, and access to Hwy 11 should be on the site plan."

The Neighborhood Association gave the following reason for supporting the rezoning: "The redevelopment of this abandoned, blighted property will benefit the neighborhood and community."

Framework Plan:

This property is located within the Northeast Area Framework Plan Area, and the co-chair (Frank Hamby) of the Northeast Framework Plan Implementation Committee, reviewed the proposed rezoning request and supports this development.

Zoning Advisory Committee:

The Zoning Advisory Committee met at its regularly scheduled meeting on **June 1, 2021**, and voted to ***recommend*** approval of the applicant's request subject to the following Q conditions:

1. The applicant must relocate the proposed dumpster (solid waste container) to a rear or side yard or must apply for a variance from the Zoning Board of Adjustment (ZBA).
2. Adequate parking, sidewalks, and access to US Highway 11 should be on the site plan.

V. OLD AND NEW BUSINESS

V. ADJOURN

If accommodation is required for an event or meeting, please contact: Kimberly Garner, Director of Public Information, with reasonable advance notice by e-mailing her at Kimberly.Garner@birminghamal.gov or calling her at (205) 254-2036.