



**PLANNING & ZONING COMMITTEE MEETING**  
**VALERIE ABBOTT, CHAIR**  
**WEDNESDAY, FEBRUARY 23, 2022**  
**3:30 PM**  
**CITY COUNCIL CHAMBERS**  
<https://www.facebook.com/citycouncilbham>

**AGENDA**

**I. CALL TO ORDER**

**II. APPROVAL OF MINUTES**

**III. ZONING ITEMS**

**A. ZAC2021-00019.....Roosevelt**  
Application for a change in zone district boundaries from “Q” D-5 (Qualified Multi-Family District) to I-1 (Light Manufacturing District), filed by Marquan Brown, representing the owner, Roosevelt First Baptist Church, for the property located at 5201 Sugar Ray Drive and situated in the NW ¼ of Section 26, Township 18-S, Range 4-West. (35228, District 7).

**Proposed Use:** A wholesale bakery, a private sports instruction facility, and business incubator

***Property and Abutting Land Uses***

The subject property is the former Roosevelt School and sits on approximately 2 acres. The property was rezoned in 2008 to allow the operation of a child care center (ZAC2008-00038) with the following “Q” condition:

1. The use shall be limited to uses in the R-3, Single Family District and/or a Child Care Center and its accessory structures and uses.

(As part of the rezoning in the area for the adoption of the Southwest Framework Plan (ZAC2017-00004) the adopted ordinance maintained the exiting Q condition under “Q” D-5\*15).

North and south of the property is zoned D-3 (Single Family District). East of the property is Valhalla Cemetery, outside the city limits of Birmingham. Property to the west of the site is industrial and is also outside the city limits of Birmingham.

### ***Applicant’s Proposal***

Edolyn's Pies, LLC is currently a retail bakery located within The Pizitz Food Hall in downtown Birmingham, operating since 2014. They are the daughter company of a wholesale bakery located in northern New Jersey, Sweet Potato Pie, Inc. who has been in business since 1980 and continues to produce and distribute desserts all over the east coast. The applicant plans to use the site for wholesale distribution. The school already has a large and well-appointed industrial kitchen that would be the perfect foundation for wholesale baking needs. The attached cafeteria has adequate square footage necessary for the assembly and packaging of desserts. The second structure, a gymnasium, would be used for private sport instruction for the surrounding communities. The third structure on the school campus is the former school that contains 20 classrooms. The applicant plans to have the building serve as a business incubator for Midfield and the surrounding communities. The aspiration is to create spaces where local entrepreneurs can come and make small business dreams come true.

### ***Long Range Land Use Plan***

The City’s Long Range Land Use Plan identifies the property as Institutional. This land use category is intended for hospitals, colleges, nonprofit research facilities and universities. Primary and secondary schools, as well as churches, are not included in this category. These land uses, whether public or private, are designated as separate land uses because of their campus-like character, which requires special attention to edges and relationships with adjacent areas.

The proposed rezoning request is not consistent with the Long Range Land Use Plan; however, the Southwest Area Framework Plan does recommend the repurposing of vacant and/or abandoned schools to meet the needs of the community. Closed schools can be repurposed into senior facilities, community recreation centers and family resource centers.

### ***Zoning Ordinance***

The applicant’s site plan shows an existing school building (25,600 SF), and existing gym (8,700 SF) and an existing cafeteria/kitchen (4,900 SF). The parking requirement would be 64 spaces for the business incubator (office = 1per 400 Sf of GFA), 5 spaces for the wholesale bakery distribution (general industry = 1 per 1,000 SF of GFA plus 1 per 400 SF of GFA for any office space) and 44 spaces for the private sport instruction (indoor recreation = 1 per 200 SF of GFA). The site appears to have 39 existing parking spaces. The

applicant will have to apply for a parking modification to satisfy the parking requirements for all of the proposed uses at the site.

The property is bisected by a public alley that has never been vacated. The applicant will need to go through the subdivision process to vacate the alley prior to the approval of any permits.

### ***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. The City's Landscape Architect reviewed the preliminary plan and states that the applicant will need to provide a "C" buffer on the property that abuts D-3 zoning. Additionally, on the side of the property with the parking, the applicant will need to provide landscaping.

### ***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***

All projects within the area will be required to meet the Standards in the Post Construction Stormwater Ordinance for water quality and water volume control.

### ***Neighborhood Recommendation***

The Roosevelt Neighborhood Association held a regularly scheduled meeting on 10/14/2021 and voted to support the proposed rezoning request. The vote was 16 approved and 0 denied.

### ***Framework Plan Implementation Committee Recommendation***

This property is located within the Southwest Framework Plan Area. The framework plan was adopted in May 2017; however, the Implementation Committee is not active at this time.

### ***Staff Recommendation***

The applicant's rezoning request is not consistent with the future land use plan, however, staff believes the proposal has merit for approval. The Southwest Area Framework Plan recommends the repurposing of vacant/abandoned schools for the benefit of the community. Recreational facilities and a business incubator would be assets to the community, in addition to providing new jobs. Although there are single family homes in the area, there is also an industrial use adjacent to the site as well as a cemetery. Staff does recommend the following "Q" conditions:

- 1) Landscape buffer adjacent to single family residential uses
- 2) Only the following uses shall be allowed:
  - a. Accessory Structure

- b. Amusement, Indoor
- c. Bakery, Retail
- d. Bakery, Wholesale
- e. Business Service
- f. Business Service with Distribution
- g. Child Care Center
- h. Community Garden
- i. Mobile Grocery Store
- j. Office
- k. Park/Greenway
- l. Public Building
- m. School, Business
- n. Solar Panel, Building Mounted
- o. Solar Panel, Ground Mounted
- p. Urban Farm, Indoor

***ZAC Recommendation***

The ZAC held a regularly scheduled meeting on 1/18/2022 and voted to approve the proposed rezoning request with the Q conditions recommended by Staff.

**B. ZAC2020-00028.....Overton**

An application to pre-zone territory proposed for annexation from HZ (Holding Zone-Jefferson County) to D-5 (Multiple Dwelling District-City of Birmingham), filed by C. Randall Minor, representing the owner, Brock Maddox, LLC and Wayne & Pattie Graves, for the properties located at 3520, 3504, 3506, & 3540 Cahaba Valley Road and 3456, 3468, and 3472 Grants Mill Rd 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 264 units

***Property and Abutting Land Uses***

The subject properties sit on 16 acres of land that are currently outside the city limits of Birmingham. The adjacent property to the west of the site is zoned HZD (Holding Zone District-City of Birmingham). To the north and west is HZD (Holding Zone District-City of Birmingham). 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-City of Birmingham). 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 multi-family housing, with 264 dwelling units (a total of 12 separate buildings). The unit mix has not been finalized but, based on current plans, it is assumed that the majority of the buildings will consist of an equal mix of one-and two-bedroom and there will be several buildings consisting primarily of 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.

### ***Long Range Land Use Plan***

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, schools, 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 guests, 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. The applicant exceeds the parking requirement for the site. 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. The applicant has provided a traffic impact study for this development. The Alabama Department of Transportation (ALDOT) requirements must be met also for this proposed development.

***Annexation***

After the properties have been pre-zoned by the City of Birmingham, the applicant plans to annex the subject properties into the City Limits of Birmingham.

***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.

***Subdivision***

A subdivision action would be required to combine lots.

***Neighborhood Recommendation***

***The Overton Neighborhood Association*** met on February 2, 2021 and voted to approve the proposed 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 east of this location are 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 (co-chair) of the Framework Implementation Committee and have not received a final response regarding the committee's recommendation.

***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.

***ZAC Recommendation***

The ZAC held a regularly scheduled meeting on April 20, 2021, and voted to not recommend approval.

**III. ANNEXATION ITEM**

**1. 3520, 3526, 3505, 3500, 3540 Cahaba Valley Rd and 3456 Grants Mill Rd**

Land Use / Development Request

Wayne Graves is requesting the annexation of five properties that are located near the intersection of Cahaba Valley Road (Highway 119) and Grants Mill Road in unincorporated Jefferson County and adjoining the Overton neighborhood in the City of Birmingham. It is the intent of Wayne Graves to resurvey the newly annexed parcels with property that he currently owns that is located in the City of Birmingham with the goal of developing a 200-unit apartment development and 30,000 square feet of retail to include a potential grocer. In addition, the applicant will seek to rezone all of his holdings from AG, C-1 and HZD to D5 (multi-family housing) and C-1 (neighborhood commercial) for the proposed retail development along Highway 119 and multi-family development in the rear with access from Grants Mill Road.

Method of Annexation

The applicant will apply for a pre-zoning of the identified properties prior to initiating their annexation. All parcels identified in the annexation application will follow the provisions of Section 11-42-21 of the Code of Alabama (1975).

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 Open Space (for all parcels owned by Birmingham Water Works Board), Neighborhood Commercial (for 3460 Eastern Valley Road) and Residential-Low (for remaining parcels). Input from the surrounding residents during the development of its Framework Plan wanted to preserve the rural character of the area and were fearful of any improvements to Grants Mill Road that would encourage more development. The sites proximity to Lake Purdy would be in conflict with the future land use plan established by the Northeast Area Framework Plan.

Watershed Impacts

The site's proximity to Lake Purdy 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 the northwest corner of Cahaba Valley Road (Highway 119) and Grants Mill Road. Both of these thoroughfares are two-lane roads. They would require the installation of turn lanes at the intersection as well as an access road off Grants Mill Road to provide access to the proposed multi-family development. In earlier development proposals for the site, the applicant had sought to realign Grants Mill Road to form a four-way intersection with Saddle Creek Parkway, but was withdrawn due to an inability to acquire the necessary parcel. At present, there are no proposed projects along Highway 119

within proximity to the site to increase lanes or add signalization at its intersection with Grants Mill Road.

*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 (undeveloped wooded site); the annexation area, bounded by Cahaba Valley Road to the south, is comprised of farm houses and the Saddle Creek subdivision. Local residents oppose the proposed development because a) its size would increase traffic along Highway 119, b) its proximity to 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 (one-acre) 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 conflict with the existing Comprehensive Plan and the adopted future land use map from the Northeast Birmingham Framework Plan. The applicant would be responsible for completing any required applications for a potential rezoning of these parcels prior to their official annexation into the City of Birmingham as permitted by statute in the State of Alabama for pre-zoning parcels. 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 proposed 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 Grants Mill Road @ Highway 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.

Our emergency response assessment of the properties on Hwy-119 and Grants Mill Rd. also demonstrated that there would be an extended response time for the closest Birmingham Fire station which is Fire Station 32. Fire Station 32's current longest response is to Lake Purdy. The proposed properties are approximately 4 miles (four miles) past Lake Purdy. With Hwy 280 traffic our fire response for our first arriving apparatus will be approximately 10 to 12 minutes (for reference ISO requirements for the first arriving Fire Engine is 4 minutes on 90% of responses). There are Mutual/Automatic Aid agreements with Cahaba Valley Fire District, Rocky Ridge Fire District and Hoover Fire Department in place that could assist in our response.

*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 Rd (Hwy 119) and Grants Mill Rd - EO is not in support of the project. Based on PEP description and review of the project the following matters are major concerns of the project as follows: conflict with existing Comprehensive plan, potential i.e.-zoning issues, transportation impact, watershed and stormwater runoff. The Project appears to primarily residential with minimal commercial development, thus providing limited economic impact.

*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. Regarding the Graves request at the Grants Mill Rd and Hwy 119 intersection, there were concerns with the development as requested due to its proximity to

Lake Purdy. Attached are communications I received objecting to this development from the Cahaba Valley Homeowners Association, the Cahaba River Keeper, and the Cahaba River Society.

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.

*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.

**III. OLD & NEW BUSINESS**

**IV. 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](mailto:Kimberly.Garner@birminghamal.gov) or calling her at (205) 254-2036.*