

Tuscaloosa Neighborhoods Together

notes on TUSCALOOSA PLANNING AND ZONING COMMISSION DECEMBER 19, 2006

*(***These are not official minutes. They are notes taken by a private citizen and are not to be used or relied on in any way as an official document.***)*

Each item states in which Council District the subject property is located. For reference to district maps, please see:

<http://www.tuscaloosaneighborhoods.org/Resources/Maps.html>

Present:

Commissioners: Bobby Howard, Joe Romanek, Jimmy Warren, Robert Reynolds, Gary Phillips, Aaron Christian, Joe Duncan, and Steve Rumsey

City Staff: Joe Robinson (TDOT), Tom Bobbit (Legal), Harold Skelton and Bill Snowden (Planning & Zoning)

ZONING

Z-18-06: Alabama Excavating petitions to rezone a 5.35 acre parcel located along Garner Road, south of Highland Ridge subdivision and west of Peach Grove subdivision from R-1 to ML. (Council District 6) (CONTINUED FROM LAST MONTH)

There was much discussion of this in the pre-meeting. This is the situation where a piece of property zoned R1 is being used for the storage of heavy, earth-moving equipment for an excavation company. There is a house and large barn on the property. The owners' college aged children are living in the house. The owner wants to rezone the property so that his use of it for daily storage of the earth-moving equipment will be in compliance with the zoning and so that he can use the house as an office for the excavating company. The roadway to this property is not adequate to serve industrial uses if the property is rezoned. Staff indicated that the engineer on the rezoning, Mike McGuire, wanted to continue the petition again. The Board was not inclined to approve the petition or to continue it and they advised McGuire that the petition should be withdrawn. There was discussion of the fact that this petitioner can go to the Zoning Board of Adjustments for a variance and, if granted, it would be for a year and then he would have to go back again.

Z-24-06: R & B Properties, LLC petitions to rezone property located at 1811 University Boulevard East (Lots 1-6 Block B of the Pine Park subdivision) from BN to RMF-1. (Council District 5) (CONTINUED FROM LAST MONTH)

This is the property on the south side of University Boulevard across from Partlow and before the viaduct going over the railroad track where the PitStop gas station used to be. Last month this petition was continued so that the engineer could get some elevation drawings and more detail in general so that the Commission would have a better idea what the project was. Recall that they

are proposing apartments here. The driveway into the complex will be off of the side street, 17th Avenue. Howard White is the architect. This time, they have elevation drawings and site plans to show.

Bob Burns, the developer, stood to speak on the project. He explained that the elevation drawing was one story too tall in appearance because the parking is going to be partially below grade; they are going to dig down for the parking below the structure. You won't see the parking at all from University Blvd. There will be a 6' berm on the University Blvd side.

Commissioner Gary Phillips is still concerned about being able to see parking from University Blvd. The developer explains that the only place you will be able to see parking is from 17th avenue as you enter the complex. The ground level is parking and there are two levels of living area above. These are going to be Luxury Apartments targeted at professionals - not students. "They tear up too much," said the developer.

Then there was a big discussion about how many units are planned and how much parking is required. I gathered that two plans exist: one calling for 18 units if the building is done solely on the property they now own and another plan calling for 28 units if they are able to acquire a neighboring property and get the city to vacate an unopened roadway thereon. This angered Planning Director Bill Snowden, who indicated that he did not have any knowledge of the additional units or of the proposed roadway vacation request (it hasn't been made yet). TDOT Director Joe Robinson didn't know about the roadway vacation request either.

The Commission asks Planning how this project would disrupt the City Wide Land Use plan that is being worked on. Bill Snowden responded that this area is supposed to be a business corridor. Commissioner Jimmy Warren replied that there was a need for development out there though. He pointed out that businesses aren't exactly flocking to the area and this specific property has been empty for some years.

Commissioner Robert Reynolds said that they don't have enough specificity because of the question of the parking and the fact that the elevation drawing is too tall, but he agrees with Commissioner Warren about this residential development not being necessarily in conflict with the Land Use Plan. He is in favor of the rezoning, but wants to be sure they have the appropriate detail submitted to Planning to be able to thoroughly review the project.

Bill Snowden argued that he and his department are the ones that have to regulate or enforce the zoning and he and his department do not have enough detail. Commissioner Phillips retorted that they approved a project last month with far less detail than this, pointing out that the developer has two plans: one if he gets the other property and the roadway vacation and another one if he doesn't.

Commissioner Warren said he had a problem with the developer introducing materials at the meeting that the staff has not seen.

Commissioner Reynolds suggested continuing the petition for one month. The developer said he is ok with continuing it, but doesn't want to be prohibited from this proposed use if the City-Wide Land Use plan is adopted in the meantime. Then there was a discussion that I couldn't follow

about the size of the units and the time frame for construction. Commissioner Reynolds instructed the developer to get together with the Staff and meet all their conditions. He assured him that the Commission likes the project.

Resident Herbert Arnold, Arcadia, then asked about the berm and whether the “canyon” to the rear of the building would be guarded in some way so that people don’t go tumbling down. The developer indicated that the canyon is going to be filled in.

Z-26-06: Foster Mathews, Jr. petitions to rezone properties located at 246 Skyland Boulevard and 1219 – 43rd Street from R-2 and BN to BH. (Council District 7)

This is on the north side of Skyland Boulevard next to the old Shelton State campus. There is a frontage road in the front of the property that runs parallel to Skyland. It used to be a used car lot. There is another used car lot on the other side of the property. The subject property is now vacant. The owner, Foster Mathews, inherited the property from his parents. He stood and gave a history of the use of this property going back to before the time that (a) either this property was inside the city and (b) before zoning. The property is two parcels: one is zoned BN and one, the rear piece, is zoned R-2. He has a potential tenant for the property who wants to use it as a car lot and wants to use the rear parcel for storing used cars. He wants to clean up the zoning so that the use will be in compliance.

A neighbor who lives at 407 42nd Street stood to speak. She has live there 55 years and she says that the uses that Mr. Matthews described did not happen (storing trailers on the rear lot). She doesn’t want the property used for overflow of used cars. She talks about how when Shelton State was there, it leased the property for parking for students. There was a bridge going over a drainage ditch to allow this and since Shelton has left they asked the City to remove the bridge to cut down on the undesirable foot traffic. She thinks that parking overflow cars will attract crime. Commissioner Reynolds asked her if she had an objection to the rezoning of the portion that is already zoned BN, but she just said that she didn’t want a car lot on the portion of the property that is zoned residential.

The owner rose and pointed out that his property will be fenced and not accessible by foot from the residential area. He said there is no future for residential development on the R-2 portion because of the close proximity of the Skyland Blvd businesses. He pointed to two lots across the residential street from his lot which are and have been empty.

Commissioner Reynolds moved to approve the rezoning of the BN portion to BH and to deny the rezoning of the residential portion to BH.

Commissioner Rumsey asked whether the residential property is going to be in a commercial zone when the Comprehensive Land Use Plan comes out. Bill Snowden replied that it will not be. Commissioner Phillips told the petitioner that if he comes back with a request to rezone the residential portion to have a written plan, not just a verbal description.

Approved as to the BN portion; Denied as to the R-2 portion.

Z-27-06: Fred Beck (Fast and Easy Food Stores) petitions to rezone a parcel located at the southeast corner of the intersection of Culver Road and Joe Mallisham Parkway (Lot 14 Ellis Property Development Two, Phase Two) from ML to BH. (Council District 1)

ORIGINAL ZONING

The Planning Commission considered the original zoning to be placed on the following property on which annexation is pending:

- Property located along the north side of Fosters Ferry Road and northeast of Palmore Park (Proposed La'Shayne Gardens PUD) proposed for R-2 (Residence District)

This original zoning is being done at the Planning Department's request. The property is in the County now, but the developer plans to bring it into the City. This original zoning is being done now so that when the developer files the petition for original zoning, the P&Z Commission will have already made its recommendation to the City Council and the petition can then go directly to the City Council.

Approved.

PLANNED UNIT DEVELOPMENT SUBDIVISION PLATS

P-11-03(2): CRESCENT GARDENS AMENDMENT, consisting of 50 lots located on the west side of Crescent Ridge Road East, between Crescent Lane and 7th Street East. The purpose of this amendment is to eliminate open space and relocate a storm drain between lots 25 and 26. (Council District 5)

This was heard last month also. It is a garden home development with a planned 53 homes and target population of 100 to 150 people. One house in this development was built over a storm sewer pipe! There has been much consternation over what to do to remedy the situation because the remedies they have come up with have also resulted in the elimination of some of the required open space for the development - on which the house is also encroaching. Now what they want to do is resurvey the area and move the lot line. They will also relocate the sewer pipe somehow from underneath this house.

Mike McGuire gave the proposed solution which I gather has something to do with a 20' easement for the drainage pipe that will serve also as the ingress and egress to the open space. (It is very difficult to hear what Mr. McGuire says.) Commissioner Reynolds reiterated that the house is on the dedicated open space and he said they will have to make sure there are two fences separating the back yards of the subject property and the neighboring property so that people will be able to walk between them to access the open space. [Note that the engineering and planning comments submitted in writing by McGuire and Associates say, "the open space within this development was always intended to be a natural buffer with the vegetation growing undisturbed."]

City Attorney Tom Bobbit raised a concern regarding the language in the deeds and whether the common space was owned collectively by the Homeowners' Association, or individually - a

percentage by each property owner. The narrative that was originally submitted to the Planning Department indicated that the open space was going to be owned by each individual¹, which would mean that the P&Z Commission does not have the legal right to declare easements on it. Engineer McGuire said they will have to check the deeds. Commissioner Reynolds said that there is too much uncertainty as to the legality of granting an easement and he suggested that the petitioner request a continuance to find out the legality of what's being requested. He also asked for photographs.

Continued. There was also discussion of how the new ordinance passed by the City Council regarding contractors who make mistakes like this will impact this situation. It seems that this contractor's name will be put on a list with the city and if he makes a mistake like this again, there will be some repercussions. I don't have the ordinance to quote what those would be.

Later in the meeting the man who has lived in the house which is built over the sewer pipe for TWO YEARS stood to ask if he was going to have to come back again next month. There was more general talk about this unfortunate situation.

P-9-04(1): THE LAKES AT NORTHRIVER NEPTUNE'S COVE, REVISED PRELIMINARY PLAT AND MASTER PLAN, consisting of 141 lots located north and east of The Lakes at NorthRiver Phase One and being part of Sections 17 and 18, Township 20 South, Range 9 West. The purpose of this revision is to eliminate common areas at street intersections in order to create corner lots. (Council District 3)

This is part of The Lakes at NorthRiver. The developer is Westervelt Realty, Inc. which also developed Lake Crest, Harbor Ridge, and Signal Hill. The development consists of 141 single family detached homes on 54 acres. The gross site density is 2.61 dwellings per acre. Their targeted population is 450-500 people. The selling prices will be \$200,000 to \$275,000.

Paul Burkhalter rose to speak about this petition. They want to change some lots into corner lots in order to allow side-entry garages. This will reduce the common area from 20.7 to 20 acres. Having listened to the discussion on the prior petition about whether the common area is owned by the Homeowners' Association or by individual property owners, Mr. Burkhalter was prepared with his answer that the Homeowners' Association will have to sign off on this change. Approved.

P-8-03(1): RIDGEHAVEN, AMENDMENT TO THE MASTER PLAN, consisting of 134 lots located on the west side of Old Greensboro Road in Sections 26 and 27, Township 22 South, Range 10 West. The purpose of this amendment is to request a change in the front setback requirement for Lot 14 from the approved 15 feet to 11.5 feet. (Out of City)

Ridgehaven consists of 134 lots and has a target population of 268 to 372 people. The houses will sell for between \$180,000 and \$235,000. The PUD is near Englewood Elementary School.

¹ Crescent Gardens Narrative: "Each homeowner will be a joint owner of the common areas or open space and shall be assessed a monthly fee to cover the necessary maintenance of said common areas or open spaces."

The builder, John Rogers, built the house 11.5 feet from the front property line and the required setback is 15 feet. They want to change the setback on this lot only to correct the builder's error. They are asking for this amendment to the PUD so that the title company on the property will not have to write an exception to the policy which causes problems essentially forever in the chain of title.

Commissioner Reynolds asked how the ordinance discussed above will impact this builder and he was told that there is no penalty for this infraction, but his name is now on "the list" and he will be vulnerable to future penalties for future infractions.

EVERY OWNER IN THIS 134 LOT PLANNED UNIT DEVELOPMENT WAS NOTIFIED BY CERTIFIED MAIL OF THIS PETITION AND NOT ONE SHOWED UP TO ADDRESS IT IN OPPOSITION OR SUPPORT!

Approved with two "no" votes from Commissioners Joe Romaneck and Joe Duncan.

PRELIMINARY SUBDIVISION PLATS

S-59-06: HALLMARK HOMES AT GARDEN PARKWAY, consisting of two (2) lots located at the southwest corner of the intersection of McFarland Boulevard East and Garden Parkway. (Part out of City and part in Council District 7) (CONTINUED FROM LAST MONTH)

This is the low income apartment development out by the skating rink and the WindSong Garden Home development that was so controversial. The developer has withdrawn his subdivision request. This does NOT mean that the development will not be built. It simply means that they took their request to subdivide the property off of the table. It is my understanding that they have also reached an agreement with the Planning Department to have the ingress and egress solely from McFarland Blvd, and not from Garden Parkway.

S-62-06: ABIGAIL DOWNS MASTER PLAN/PRELIMINARY PLAT PHASE I, The master plan consists of 4 commercial and 132 residential lots with the preliminary plat of phase I consisting of 4 commercial and 60 residential lots. This property is located on the east side of Clements Road and along the north boundary of Sections 35 and 36, Township 21 South, Range 9 West. (Out of City – Proposed Council District 6) (CONTINUED FROM LAST MONTH)

This was the subdivision past Cottondale and near the intersection with the interstate that was discussed initially in May 2006. There was great concern among the Commission because the development was configured as one long, straight road which would encourage high speed driving. I don't know why, but the petition was WITHDRAWN.

S-63-06: HARKEY PROPERTY PHASE II, consisting of two (2) lots located on the west side of Rice Mine Road Northeast and north of Ol' Colony Road. (Out of City) (CONTINUED FROM LAST MONTH) *Continued again.*

S-69-06: BAMA BREEZE WEST, consisting of 8 condominium units located between Oak Avenue and Convent Street and south of Paul W. Bryant Drive. (Council District 4) (CONTINUED FROM LAST MONTH)

S-73-06: BAMA BREEZE EAST, consisting of 6 condominium units located between Oak Avenue and 14th Avenue and south of Paul W. Bryant Drive. (Council District 4)

Bama Breeze West is planned to contain 8 condos and Bama Breeze East is planned to contain 6 condos. Oak Avenue will run between them. The buildings of BBWest will back up to the historic neighborhood of Myrtlewood. This is currently a vacant lot with pecan trees on it. The engineer says that the development meets the height restrictions and the parking restrictions. He has met with TDOT's Joe Robinson regarding drainage. They have asked for waivers of different items one of which concerns drainage. Joe Robinson criticized this request because he said drainage is a major issue in this project. They asked for waiver of the half-street improvements. Commissioner Gary Phillips asked why they asked for that waiver and the engineer speaking on behalf of the project essentially said because the developer didn't want to do them. Commissioner Reynolds asked how wide the street is and was told it is 12 to 13 feet wide. They have also asked for waiver of the standard grant of right of way because the property is so small that the grant of the ROW will eat into the property too much. Commissioner Reynolds pointed out that with the street that is too narrow already and then adding parking along it and not having sidewalks, this will force people to have to walk down the center of the roadway.

Commissioner Rumsey asked about the parking. It is into and underneath the building. Each unit will have a one car garage. The "Party Deck" on the top of the building is the required Open Space. Commissioner Reynolds asks if this party deck will look down on the Myrtlewood Historic District. At this point, the developer, Tidmore, 4008 Cloverdale, Northport, stands and says that the garages will fit 2 cars because they are so deep. [Of course one car will have to move to let the other one out and we know how often that will happen...] He also asserted that there are no sidewalks on any of these streets. Commissioner Phillips asked if there will be grass strips between the buildings and if so, whether it would even grow. Tidmore said the buildings will be 4 stories tall and the trash receptacle is situated next to the BB East. Commissioner Rumsey interjected that they could also use the green garbage carts (since it is condos and garbage will be part of their water/sewer service) and store them in the garages.

Then Commissioner Rumsey soliloquized that "gunshots have rung out on this street" and that there was someone present who had actually been shot at here. He said that because of this it will be good to fill up this space.

Commissioner Reynolds answered, yes, but we are being asked to grant waivers and we need to see more detail. He is concerned for the Myrtlewood neighborhood; he wants to know where the HVAC systems will be located - are they on the Party Deck/Open Space? He said that they need a project that won't cause problems next door; they need to see a drawing. At this point, Bill Snowden, Planning Director, told the developer who was still in the audience that he was not going to have this approved. That developer rose and told something to the developer who was at the podium. They asked for a continuance which was granted. Commissioner Aaron Christian directed them to work on the drainage issue too.

Continued.

S-74-06: RIVER PINES PHASE II, consisting of 5 lots located along the north side of Holt-Peterson Road in Section 12, Township 21 South, Range 9 West. (OUT OF CITY)

This is a 5 lot subdivision. They request waivers for sidewalks because it is in a remote area of Tuscaloosa County where no sidewalks currently exist. They request waiver for capped sewer because it is over 2 miles to the closest City sewer line and the cost is not feasible. They request waiver for the half street improvements because the Tuscaloosa County Engineering Department has stated that it intends to improve the existing gravel road on which the property is located. Approved.

S-75-06: RESURVEY LOTS 9, 10, 11, & 12 WARRIOR ADDITION, consisting of one (1) lot located on the east side of Kicker Road East and north of 5th Street East. (Council District 5)

This is not actually a subdivision, but a combination. They want to take four separate lots and combine them into one lot. The property is near the fairgrounds in Alberta City. It is behind it on the western side. The owner wants to build a residence on the property. The petitioner is giving the City ample right of way and asking for waiver of sidewalks. Approved.

S-76-06: THE CROSSROADS, consisting of two (2) lots located at the southwest corner of the intersection of U.S. Highway No. 43 and Moore's Bridge Road. (Out of City)
Withdrawn; not within the P&Z Commission's jurisdiction.

AMENDMENT TO THE ZONING ORDINANCE

The Planning Commission was scheduled to consider an amendment to **ARTICLE X** of the Zoning Ordinance pertaining to On-site signs and Billboards but it was continued again.

OTHER MATTERS

The Planning Commission also considered amendments to conditions 2(a), and (b) of Ordinance No. 6868 (Traditions II) concerning the required fencing, berms, and landscaping.

This is the condominium complex being constructed at the end of 15th Street/Veterans' Memorial Parkway. The developer has worked in cooperation with the neighborhoods and they have come to an agreement regarding the type of fences to be constructed. Instead of sound attenuation fences (like are along the interstate in Atlanta), they will construct 2-ply Cedar fencing with brick pillars. There will be some kind of foam placed between the two plies of cedar to assist with sound deadening and the appearance will be much better.

Planning Director Bill Snowden stated that they have had five meetings with the neighborhood association. Resident Herb Arnold stated that the neighborhood is well-pleased and the cooperation from the developer has been very good. Commissioner Reynolds complimented both sides.

Approved.

STREET VACATIONS

The street vacation also had to do with the Traditions II condominium development discussed above. Part of the plan was to vacate the eastern end of Fremont Drive, which is a residential street in the Claymont subdivision which dead-ends into the condo development. They are vacating the end of it so that it can be permanently closed off which will prevent any possibility of thru traffic from the condos.

Approved.

MISCELLANEOUS

There is a huge problem with the sidewalks in the Waterford Place development. The engineer, Mike McGuire, states that the plan originally called for sidewalks on both sides of the road and they are built, but 80% of them do not meet the requirements of the Americans With Disabilities Act. They are too slanted. Commissioner Reynolds has visited the site and he said they are not sidewalks; they are "sidewalls." There was a big discussion about how certificates of occupancy get granted when the sidewalks are so defective. I couldn't really follow the conversation because it was rather informal with people talking over each other, but it seemed like they were trying to work out a procedure that would prevent this from happening again. McGuire said that they are proposing a change to the plan so that it would only call for sidewalks on one side of the road. Granted, the sidewalks will change sides twice, but there will be ADA compliant ramps. The defective sidewalks will be removed

Approved.

Finally, Commissioner Reynolds asked for the Planning Department to provide the Commission with a list of standard conditions that the Commission may place on the various zoning, PUD and subdivision petitions they have to decide. He also discussed an upcoming open work session, but didn't give a date. Commissioner Rumsey said that he would appreciate having photographs of all properties that are subject of the petitions before them, not just the rezoning petitions.

S