

Tuscaloosa Planning & Zoning Commission January 16, 2007

GP – Commissioner Gary L. Phillips, Chairman
JD - Commissioner Joe Duncan
JM - Commissioner Jimmy Warren
VD - Commissioner Vince Dooley
BH - Councilman Bobby Howard
JR - Commissioner Joe Romanek
RR - Commissioner Robert Reynolds
AC - Commissioner Aaron Christian
HS – Harold Skelton
JM – John McConnell
JWo – Jimbo Woodsen
JRob – Joe Robinson

GP called the meeting to order at 6:32 PM. All Commissioners except Commissioner Stephen Rumsey were present. GP notified all in attendance of the following changes to the agenda:

1. S-63-06 is continued until next month.
2. S-7-07 is withdrawn.
3. Hearing on a proposed zoning ordinance amendment pertaining to on-site signs and billboards will be heard next month. Staff work on that amendment is still in process.

Z-24-06 - R&B Properties, LLC (Continued from Last Month)

JM presented the petition facts.

Pit Stop located at 1811 University Boulevard (across from Partlow) petitions to rezone property from BN to RMF-1.

Petitioner – Mark Verns 1677 Arielle Circle

GP questioned if parking requirements were met and Petitioner replied that they are.

RR asked about HVAC location and Petitioner replied that he was unsure but thought they would hang on the side of the buildings.

GP asked if the HVAC units would be on the University side and Petitioner replied they would not.

VD asked about building materials and Petitioner said they would be brick and stucco.

JW asked about rental rate and Petitioner said they would rent from \$800 to \$1,000.

JD asked about height. Petitioner referred to drawings.

JW asked about square footage and Petitioner said they would be minimum 1000 to 1800.

RR asked if there were existing sidewalks that would be maintained and Petitioner confirmed.

VD asked how wide the parking deck was and Petitioner referred to drawings.

GP asked for anyone wishing to speak in support or opposition. There being none RR made motion to approve subject to landscape being as shown and that lighting was down-directed from existing residences.

GP asked staff if other provisions applied. HS replied elevations.

VD seconded.

Motion passed unanimously.

Z-1-07 – Tuscaloosa Planning & Zoning Commission

JM presented the petition facts.

North side of Rice Valley Road North -Existing site of Dunn's Nursery Commission proposes to rezone from R-1 to R-4.

JW - Is current use consistent with R-4?

GP – Current use not permitted under R-1 or R-4, no applicable zoning for nursery.

RR – Require dedication of additional right-of-way?

JM – Would do so if subdivided.

RR – (to staff) Can't we make that request?

JWo – Think that's possible. Last year and a half more zoning conditions than usual; concerned about subsequent property owners and confusion over amendments.

RR – Looking at adjacent subdivisions.

(Some confusion existed about the presentation of this as the Commissions own amendment and some questions arose from Commissioners as to how this motion was made and placed on agenda. JWo replied that the Planning Director had requested it and JWo believed that he was approached by the owners. At this point Al Cabiness arose to represent Harris Stewart, the Petitioner.)

Mr. Cabiness stated that this property was located in the County when purchased and must have been the subject of an “island annex”. He acknowledged that the current use was not compliant with current zoning but questioned the Commission as to what the best zoning would be.

JW asked if there was not applicable zoning why the change should be made from one non-confirming zoning to another.

Various zoning options were discussed by the Commission and staff and Mr. Cabiness interjected that their preference was R-4 with restrictions imposed by the Commission.

JWo asked Mr. Cabiness about the density of Highland Manor, an adjacent subdivision, and Mr. Cabiness replied that he did not know.

AC asked for confirmation that the owner had no knowledge of the annexation and Mr. Cabiness replied that was correct.

GP stated that there was formerly a residence that was inhabited in front of the nursery.

GP asked for comments from the floor.

Joe Junkin of 5 Highland Manor asked that the Commission add conditions concerning height restrictions and down-directed lighting.

Roscoe Shamblin joked that he could ask for, “about 18 more conditions” but expressed serious concerns about what the future might bring if this property were to be zoned R-4.

GP reminded him that a PUD, etc. would have to come back before the Commission.

Mr. Shamblin asked if R-4 would allow for any “common wall” dwellings.

GP referred to HS, who responded that recommendation was single-family.

JWo stated that a consideration had been made to discontinue PUDs, then what?

RR suggested petitioner, residents, City Legal establish stipulations outside the Commission meeting.

At this point the owner addressed the group and stated that, “the house is still on site,” and he, “wants to continue to run it as a nursery,” and he has, “no plans for development.”

Diane Gatewood Sauls of 2 Highland Manor had concerns over notification and GP offered a list of notice recipients.

RR moved to continue for the group to proceed as he described above and JW seconded.

Motion passed unanimously.

P-11-03 - Crescent Gardens Amendment (Continued from last month)

HS presented the petition facts.

(This is the situation where an owner’s home was built on top of a storm drain and the homeowner was unaware. He has been living in the home for over a year.)

A representative from McGuire and Associates stated that the intention was to relocate the line and reconstruct the sidewalk.

GP reminded him that they are looking for a 20’ easement that cannot be located in someone’s yard.

JRob interjected that plans received the previous day still showed fences, etc. that the Commission had asked be removed.

McGuire rep stated that easement would be clear.

(Conversation between McGuire rep, HS, JRob, JWo and GP over location or even existence of sidewalk and/or gate through the area and potential liability of homeowner who offered to give easement but not relinquish property.)

AC asked what happens to existing line and McGuire replied that it would be filled with stone, plugged and abandoned in place.

At this point the homeowner of Lot 26 (lot in question) spoke. He does not want the sidewalk or its potential liability and he does not want an unlocked gate for unlimited access due to personal security concerns. He is further concerned about the effect of this line being moved on his

existing home's foundation. Finally, he stated that he has not been contacted by engineers concerning the activities.

GP asked of McGuire rep how drainage was to be accomplished if homeowner had not been contacted.

McGuire rep stated that it was his understanding that had been done.

JW suggested continuing until a future meeting.

RR moved that the issue be continued with the condition that the involved parties present some type of agreement that shows gate, sidewalk, etc.

Motion was seconded and approved unanimously.

S-69-06 and S-73-06 Bama Breeze West and Bama Breeze East (Continued from last month)

GP confirmed with staff that these could be heard together.

HS presented the facts.

Tidmore Investments proposes to construct two multi-condominium complexes, one on Convent Street and one on Oak Avenue. Several exceptions had been requested at previous meetings and the Commission continued the issues asking the Petitioner to bring additional information.

Joe Powell spoke on behalf of the Petitioner reminding those assembled of the history and previous problems with crime, etc. in this area and how great improvements have come about as a result of the 14th Avenue Improvement Project. He described that the Petitioner wanted the improvement to continue and was proposing high-end housing with copper awnings, wrought iron balconies, and starting prices of \$450k.

AC – Does two-story overlook other residents?

Mr. Powell – Technically three stories, and yes, they will overlook other residences.

GP – Solid brick parapet wall on roofs of structures is being designed to shield looking over.

Petitioner has requested a couple of waivers.

JRob – drainage is a problem and drainage engineer has required additional drawings.

AC – Asked JRob if the drawing would need to pass his approval.

JRob – Yes, they must.

Linda Albritton, resident of Bryant Drive and Secretary of the Original City Association spoke on behalf of the OCA. She expressed concerns about the noise and visual intrusion of having the “open space” on the roof. She also asked that the condominiums be only owner-occupied.

Mr. Powell replied that price point should keep the property from being rental property.

Mrs. Albritton continued by asking question concerning directional lighting, trash containers, noise of exterior HVAC units.

Mr. Powell replied that the lighting would be directed away from other residences; trash containers would be City trash carts, not dumpsters; HVAC units were “whisper quiet” models.

Ballard Champion a resident of nearby Myrtlewood Drive spoke to voice his concerns about the effect that the Bryant Drive Apartments have had on his property (noise, traffic, light). Those apartments are located adjacent to his backyard, and these proposed condos would be in close proximity to his neighbors' backyards and his front door.

LaDonnah Roberts, President of the Myrtlewood Historic District Homeowners Association, spoke to thank Mr. Powell for addressing some of the concerns that nearby Myrtlewood residents had expressed at previous meetings, but further asked the Commission to take into account a number of factors when considering exceptions requested by the Petitioner and/or conditions requested by the neighbors. She asked that the Commission revisit Mrs. Albritton's request to add “owner occupation” to the covenants of the condos, the narrow nature of Convent Street (25 feet), privacy concerns of Myrtlewood residents whose backyards face Convent, etc. Two other residents of Myrtlewood spoke and another Myrtlewood resident's letter was read reiterating the concerns. Mr. Powell replied that he did not believe that requiring owner-occupied status of units could be a legal condition of ownership. JW responded that he believed that it was and insisted that it be included.

RR made a motion that the petition be approved on the following conditions:

1. parapet wall 5' in height on all sides except Myrtlewood where it would be 61/2'
2. no onsite dumpsters, City trash carts only

3. exterior openings on 3rd story can be windows only, no doors
4. any balconies shall be built so as to not support people (decorative only)
5. no additional structures on roof (i.e., a bandstand)
6. units must be owner occupied
7. landscape and quality of construction materials must be as shown in drawings presented to Commission,
8. vehicular storage areas (i.e., garages) can only be used for vehicular storage (this condition proposed by AC)

JW stated that he was unsure that the Commission could add these conditions. RR replied that the Commission could conversely choose not to grant the requested waivers.

Joe Powell spoke to say that he was ok with the conditions. AC asked directly if the Petitioner would make them part of the condo covenants and Mr. Powell affirmed.

The Petition was passed unanimously with the above-listed conditions.

Separate issue addressed on Bama Breeze East:

RR – Wall on University Circle side 6 ½' as was done for Myrtlewood?

JW get Petitioner to agree with doing so.

Mr. Powell – not planning to build taller wall on University Circle side, asking a lot of Petitioner

RR – Efforts to encourage people to live, work, raise families downtown. Petitioner is likewise asking a lot of Commission to waive existing requirements.

S-1-07 Resurvey of Lot 175 Monticello Estates No. 2

HS presented facts

Owner requesting waivers to resurvey as two lots (half street improvements for Monticello Drive, entire street improvements for unnamed public right of way, capped sewer for both lots)

GP asked for comments.

Dan Corden 11310 Monticello Drive, Petitioner, stated that he doesn't run a business there and is only doing this because he needs more storage.

No further discussion – unanimously approved.

S-2-07 Fox Trot

HS presented facts.

Owner requesting waiver of curb & gutter and capped sewer on four lots located on the southwest side of Holt Lock and Dam Road.

GP asked for comments.

Steve McPherson stood to answer questions on behalf of owner, Bill Roy Hubbard.

RR – Does owner own any other property on that road? (Answered 'yes')

JRob – Don't routinely waive half street improvements outside City

RR – Does owner anticipate subdivision? (Answered 'no')

No other speakers.

Petition passed unanimously.

S-3-07 Premier Self Storage

HS presented facts.

Owner requesting additional right-of-way on Old Greensboro Road, existing street cross-section due to no improvement at this time, and 200' infrastructure due to no improvements at this time.

Tracy from McGuire and Associates stood on behalf of Owner discussing the isolation of mini storage from undeveloped part.

AC asked about access to public right-of-way

Tracy indicated on Commission's copy of plans Knight Avenue; stated everything there is existing, nearest server is 300 feet away.

Carl [last name inaudible] resident of 1610 Honey Locust and son of adjacent property owner stated that he wanted to ensure that his father's access to his property would not be inhibited by these actions.

Tracy responded that it was not the Owner's intention to block ROW and plans indicate the required 20'.

No further comments; approved unanimously

S-4-07 Trade Mart

HS present facts.

Petitioner is leasing three lots, which have two parcel ID numbers. He is looking to join all lots as one parcel in anticipation of constructing a Shell station/convenience store.

*(Note: It was noted in conversation that Petitioner could construct proposed project on any **single** existing parcel without appearing before Commission; it was the joining of parcels that required Commission approval. It was further noted that in order for the project to proceed Petitioner's building permit must be issued prior to January 25, which is when City Council is scheduled to pass the Building Overlay Code. If Code is passed, this project would not be an approved use of Overlay Zone property.)*

GP asked for comments.

Mr. Steele, owner of the funeral home adjacent to the property, expressed three concerns: 1. building is 2' from his chapel, safety of that corner (already high accident area and adding more traffic would be problematic), sale of alcohol in close proximity to funeral home.

Tracy of McGuire Associates spoke on behalf of Petitioner to state that the project meets BC zoning setback requirements. HS confirmed that where BC meets other commercial property there is 0 setback required.

RR restated that petition was for two lots with three parcel IDs to be joined for this project. He asked 'what if' approval of Commission not given? Could project move forward?

HS stated that the building code would not allow it as submitted.

JWo restated that after the public hearing of the Overlay Code on the 25th a project like this would not be allowed in that location so building permit must be issued prior to 25th.

Pastor George Harris of the First African Baptist Church stated that they were frustrated by lack of communication from the owner. He further stated that the church would like to have had the opportunity to purchase the property. He asked to delay any decisions until the meeting on the 25th.

BH asked what resulting changes would occur with passage of Overlay Code.

JWo stated that a couple of changes would be that projects would be required to have design standards consistent with other downtown buildings, and the Code would control uses allowed – one of which that would not be allowed is a service station

Audry Ellins of First African Baptist Church reiterated concerns about alcohol sales that close to church, stated historic nature of their Church and the fact that the proposed project would not compliment what existed in that area.

JW asked staff if there is a City code with mention of alcohol sales and proximity to a church.

JWo stated that there was not but reminded that the license to sell alcohol would have to be obtained under its own separate process

Jim Phifer stood to say that he was leasing land for project and he had no knowledge of Overlay Code and thought joining of lots was a "technicality". He listed other businesses that face Lurleen Wallace in the area as examples of other commercial developments. He said that he built and ran "a nice operation" and apologized for lack of communication with neighboring owners/occupants. He also stated that he did intend to build a fence in between his and Steele's property.

BH asked how the wall would be maintained.

(Various conversations started in various parts of the room at this point.)

RE: the conversation on the Overlay District

JWo stated that the Commission had recommended to the City Council that the Overlay District be approved based on the draft presented to the Commission.

RR – Overlay recommended using small lots and he was concerned about going against that recommendation

Dorothy Richardson, trustee of the Church, gave history of church and its plans to build a family life center. She noted again that the site in question is part of the revitalization effort and asked the Commission to consider the impact of this type of business along Lurleen Wallace.

GP – Posed question to staff that if service station is not permitted by Overlay, is a parking lot (as would be built by the Church)?

JWo stated that the issue is public health/safety issues or waivers requested as reasons to vote 'no'

BH stated that he would like to table until Overlay heard by City Council

JWo stated that request to table must come from Petitioner, and if that occurred and no further action were taken the petition would be automatically approved in 30 days

RR stated that if a motion were made to approve he would vote no due to several factors including life/safety issues, amount of time and effort expended to develop Overlay, number of businesses built recently that would have been more in line with Overlay (McGuire & Associates used as an example)

BH stated that he was aware of the concern over accidents and fatalities in that area, and ingress/egress there did present a public safety and welfare concern; in his opinion a smaller business would equate to less traffic

GP – Is parking lot as proposed by Church safer?

BH – People would not constantly be coming and going; fatal accident occurred after-hours; He is for economic development in his District but has overriding concerns about safety for this project.

Mr. Phifer – Planning Department gave its approval. There are lots of drive-thru businesses on Lurleen Wallace. This development would not allow direct Lurleen Wallace access; traffic would enter and exit from side streets instead. "I would build a nice building."

Pastor Harris stated that 11 days prior TDOT was not able to provide him with any information.

JW – Staff knew that there was a proposed Overlay, why did they not mention to Petitioner?

GP – Has developer already signed lease? (Answered 'yes')

JWo – Developer has said that they **could** build building on only one lot

GP – "That was my concern."

JRob – That would cause direct access to Lurleen Wallace, which is more dangerous than what is proposed.

RR – Stated that he was confident that Petitioner would build quality building. Could he contemplate using landscape and berm along Lurleen Wallace?

Mr. Phifer stated that he definitely would consider it but would want approval of TDOT to avoid it being a visual hazard.

GP – Attempted to summarize and bring issue to closure stating that it was obvious that all were concerned due to amount of time and energy invested. Asked for a motion and vote. Informed Commissioners that a "no" vote must be accompanied by the reason for that vote.

In favor – JR, GP, JD, JW

Opposed and reason given:

BH – reiterated desire for economic development of his District but this project having overriding health/safety concerns, hoped a later agreement could be reached

VD – stated that his concerns mirrored BH's and RR's

RR – present project does not contribute to overall benefit and welfare of City; small lot usage would be for a great good toward accomplishing that. Serious safety concerns relative to ingress and egress.

AC – public health, safety and traffic concerns

Petition denied.

(Various negative comments by Petitioner; GP stated he needed to pursue by other means.)

S-5-07 Resurvey of Lot 1 of One East Phase I and Lots 3-7 of One East Phase II

HS gave facts.

Townsend Honda wants to do an expansion that will cross platted lot lines.

GP asked for comments.

Jason from McGiffert Associates appeared on behalf of the Petitioner.

RR asked the following questions:

Historic structure(s)?

Historic significance?

Municipal historic district?

Overlay District?

HS replied, "Not to my knowledge."

Nearby homeowner [name inaudible] spoke with concerns about drainage, lights, noise.

RR – Drainage question should be address by site plan.

Jason replied that the Petitioner has an approved site plan including construction of curbing for retainage and slower release of water.

Another nearby homeowner [name inaudible] stated that a prior site plan was supposed to have included drainage plans and it did not. GP stated that an engineer was now involved and, "we have to reply on the site plan."

RR – (to Jason) Any problem with down-directed lighting being a condition? (Answered 'no')

1st Homeowner restated concern over noise was boom boxes, foul language of construction crews.

JW asked Jason to relay concerns over noise/language to Owner.

RR moved to approve.

Petition approved unanimously.

S-6-07 Valley Square Condominiums

HS presented the facts.

Owner plans to convert existing apartments (behind Wendy's on Skyland near Sam's Club) to condos. Condo parking requirements are not met and no room to expand.

GP asked for comments.

Bobby Herndon appeared for Danny Smith. Stated apartments had been there for 18 years.

Required number of parking spaces would be 180 and 130 exist.

JW asked if the units would be upgraded or if the Owner was just converting to condo. Mr.

Herndon stated that there would be new HVAC, new appliances.

JW – Sales price? Size?

Mr. Herndon - \$85k to \$90k; 748 sqft

HS stated that Petitioner has filed for exception with Zoning Board of Adjustment; reminded Commission that they can approve this subject to the condition that the ZBA grants exception.

JW moved to approve under condition that the ZBA grants exception.

Vote: Romanek – no, all others – yes

No Annexations on Agenda

Street Vacations

McKenzie Courts – approved unanimously

New Rules/Procedures

Planning Commission Meetings moved to 3rd Monday at 6:30 – approved unanimously via voice vote

GP adjourned the meeting at 9:40 PM.