

Tuscaloosa Neighborhoods Together notes on  
TUSCALOOSA PLANNING AND ZONING COMMISSION

JULY 18, 2006

Present:

Commissioners: Bobby Howard, Joe Romanek, Vince Dooley, Dean McClure, Gary Phillips, Jimmy Warren, Joe Duncan and Robert Reynolds

City Staff: Joe Robinson (TDOT), Jimbo Woodson (Legal), Bill Snowden, John McConnell and Harold Skelton (Planning and Zoning)

[During the Pre-meeting there was a discussion of progress on the Downtown Renewal project and, specifically, on the parking deck proposed for the current location of the Good Samaritan Clinic.]

ZONING

Z-11-06: White Oaks Investments, Ltd. petitions to rezone approximately eleven (11) acres located along the Oliver Lock & Dam Fishing Deck Access Road and north of Snow Terrace and Country Club Lane subdivisions from R-1<sup>1</sup> and ML to MH. (Council District 1. Map: <http://www.tuscaloosaneighborhoods.org/pdf/District1.pdf>)

*This is out past Tuscaloosa Country Club, near the Lock and Dam. The property is being used by Elk Roofing for storing palletized packs of roofing shingles. They need more room for the same type of storage and want to expand onto another portion of the property that is zoned R-1. A portion of the R-1 parcel has already been cleared and there may be some pallets stored on it now. The parcel that is already being used for storage is zoned ML. There is a question as to whether this kind of storage use is consistent with ML zoning, but it is definitely allowed in MH zoning and that's why they want to rezone all of it. There are neighboring homes in residential zones. Commissioner Jimmy Warren asked if the company had plans to plant any vegetation as a buffer between the storage area and the neighboring homes. Commissioner Gary Phillips asked if they would extend a berm as a buffer. Commissioner Robert Reynolds asked Staff what other activities may be conducted in a MH zone. Staff member Harold Skelton stated that the current zoning on part of the property, ML, already allows manufacturing. There was no one present in opposition. The owner's representative stated there were no current plans to do any more land clearing, but they wanted all the land zoned alike. Commissioner Robert Reynolds asked Staff if the storage of the palletized shingles was an existing non-conforming use and Harold Skelton replied that he did not know. Commissioner Reynolds expressed concern about some future usage causing light pollution for the neighboring residences. Commissioner Warren moved that the petition be approved with the conditions that they use only directional lighting and that they install a buffer berm. APPROVED.*

Z-12-06: Rumsey Properties petitions to rezone property located at 1401 – 10<sup>th</sup> Avenue (Lot No. 13 Homewood No. 2 Subdivision) from R-3 to BGO. (Council District 4. Map: <http://www.tuscaloosaneighborhoods.org/pdf/District4.pdf>)

*This is on 10<sup>th</sup> Avenue going toward the stadium, immediately after you cross the railroad tracks. The first house on the right is the Rumsey Properties office and the second house on the left is currently a rental house owned by Rumsey. The petition is to rezone it to BGO. The petitioner was NOT present. Staff member, Harold Skelton stated that the petitioner had called this afternoon asking for a continuance. The rules require that continuances be requested five days in advance and in writing, so he did not continue it. Planning Director Bill Snowden pointed out that the Commission can continue an item on its own motion. Such motion was made by Commissioner Joe Duncan and the Commission voted to continue it. Commissioner Reynolds stated that when the item comes back before them, he wants the petitioner to address parking. CONTINUED.*

Z-13-06: Neron Real Estate, LLC petitions to rezone property located on the north side of Cedarbrook Drive and west of Rice Mine Road Northeast (Lot No. 2 Hassell Subdivision) from R-1 to BGO. (Council District 3. Map: <http://www.tuscaloosaneighborhoods.org/pdf/District3.pdf>)

*This is out by the Publix on Rice Mine Road across the river. The property in question is inside the city limits but the lot in front of it is not. It is pretty checker-boarded out there with lots in and lots out of the city limits.*

*Jimmy Duncan, an engineer with McGiffert & Assoc. was present for the developer. He stated they were proposing an office building and parking.*

*A Mr. Roberts from the neighborhood spoke in opposition to the rezoning. He said that Lot 1 (the lot mentioned above that is in the County) got “rezoned” without anyone out there knowing anything about it. Commissioner Gary Phillips explained to Mr. Roberts that since the lot is in the County there is NO ZONING! It is possible that the covenants of the subdivision may address whether such use is allowable, but Planning and Zoning doesn’t have the authority to enforce Subdivision Covenants. To confuse matters further, it seems part of the road there belongs to the city and part doesn’t. Mr. Roberts is concerned about the increase in traffic for their neighborhood.*

*Commissioner Reynolds asked how wide Cedar Brook Road was and was told maybe 30', but later another resident said that it was much more narrow than that.*

*Another resident, Jimmy Smith, spoke in opposition. He said, “I know things change, but they don’t always change for the best.” He complained that he had not received notice and since he is an abutting land owner he should have. The staff secretary checked her notes that indicated notice had been mailed to him via regular mail. (There was a discussion a bit later about the requirement of mailing notice. They are not required to do mail via registered mail, in fact, the mailing is really just a courtesy. Their legal notification requirements are the sign on the lot and the listing in the legal ads in the newspaper...) One of the Commissioners asked Mr. Smith why he had annexed his*

property into the City and he said it was as a favor to a neighbor who wanted it done so that his children could go to city schools. He also stated that he likes the City's services better than those of the County - a remark which the Commission appreciated. Commissioner Reynolds restated the fact that the Commission has no control over land use in the County. Mr. Smith said he had no idea that was the case...

Another resident, Wayne Junkins, spoke in opposition. He described a small neighborhood served by a small road and said he would appreciate it if the property was not rezoned.

Commissioner Dean McClure asked about ingress and egress from the proposed office building. I didn't catch the answer if there was one. They are proposing a three story office building and they don't know yet what the construction materials will be. It is intended for office use. Lot 1 (the one in the County) is going to be a Taco Casa. The developer's representative stated that they plan to widen their portion of the road to 31' and curb and gutter it. This widening will also happen on the Taco Casa portion of the road.

I got confused here because the Commission asked the engineer if his client was going to bring the property into the City. I thought the subject property was already in the city, else how could it be before this Commission. Maybe they were talking about the Taco Casa lot and maybe the same engineer represents them too... At any rate the engineer said the client needed to weigh tap-in fees against costs associated with being inside city limits.

The Commission asked the Staff what its recommendation was. Bill Snowden said he was recommending the rezoning as a transition to the residential, but that was before he knew the project was part of a larger project. Now his recommendation is to allow the rezoning with the condition of the (I guess the other piece) lot being annexed. The engineer asks if annexation can legally be imposed as a condition. City Attorney Jimbo Woodson stated that the developer can request the Commission vote on the petition without the condition or it can request a continuance.

Commissioner Reynolds said he is very concerned about this development requiring 77 parking places all of which represent cars which will have to get out onto a street that the neighbors can already hardly get out on.

The petitioner ended up asking for a continuance but asks for assurance that the next time they are before the commission, the discussion won't come full circle. The answer from Commissioner Phillips is, "without a vote, you won't know."

Then the Commission asked for a show of hands in the audience of those in favor and those opposed. Only one person (the developer or property owner?) raised his hand in favor. The rest of the people raised their hands in opposition.

Commissioner Warren then stated that he wanted it to be known that for him there are issues other than just the annexation question. He is very concerned about a three story building being placed next to a neighborhood. Commissioner Phillips commented that there was a protection issue. Commissioner Reynolds said they are concerned about the integrity of subdivisions and a three story building with 77 parking lots "gravely" concerns him.

The Commission voted to continue the petition.

Z-14-06: LLM Property, LLC petitions to rezone property located west of Wood Industrial Park First Addition and west of Rice Mine Road Northeast from R-2 to MG. (Council District 3; for map, see link above.)

*This property is behind Coral Industries on Rice Mine Road. Coral Industries is expanding and this will be additional parking. (The subdivision on this property was before the board last month.)*

*The petitioner was not present.*

*Bob Singleton, a neighboring resident, stated that he was not necessarily opposed to the rezoning, but he was concerned about what the use of the property would be. The property is visible from his house. Commissioner Reynolds asked if they could request the petitioner to provide this information when they did come before the commission later. Commissioner Howard expressed his disappointment that the petitioner was absent. The Commission voted to continue the petition.*

*Continued.*

Z-15-06: Jewel Tune & Jerry W. Pate petition to rezone Lot No. 11 Princeton Heights subdivision located on the south side of 31<sup>st</sup> Street East and east of McFarland Boulevard East from R-1 to R-4. (Council District 6. Map: <http://www.tuscaloosaneighborhoods.org/pdf/District6.pdf>)

*This property is in a neighborhood that is on a dead end street located off McFarland behind the Haverty's furniture store. There are four structures on the property in question: three single family homes, and one fallen-in house. It was not stated whether the single family homes are occupied.*

*Ron Henderson was present for the petitioners. He stated they want to build something similar to Crimson Place. Commissioner Phillips asked the developer why they want to build apartments in a residential area. I couldn't hear his answer if there was one. He asked how many people in the audience were here in opposition and nearly the entire room (which was a capacity crowd) raised their hand.*

*The first resident who spoke in opposition was Bill Ellis, 1333 31<sup>st</sup> St. East. He said there are 54 single family dwellings which are all owner occupied except for four. The neighborhood has always been zoned R-1. The largest investment that a middle class citizen makes is his home. When it's rezoned, he said they will take a 3-5% hit automatically. He discussed the problem that traffic from 32 apartment units would cause. He presented a petition with 80 names on it against the rezoning. He said that he has lived in the neighborhood for 50 plus years and that the neighborhood is taking this very seriously. He received applause when he concluded his remarks.*

*The next person who spoke was Joe L. Ball of 3048 11<sup>th</sup> Ave. East. He said that the entire subdivision is served by 31<sup>st</sup> Street East. There are 54 homes on a dead end street 4/10 of a mile long. Also served by this road is Ridgecrest Baptist Church and a doctor's office. This development will increase the population and traffic there by 60% and will cause a decrease in the fair market value of the homes. He stated that it "cannot be*

*progress unless it's a good deal for everybody: the petitioners, the homeowners and the City" and this is not a good deal for everybody. (Applause)*

*Commissioner Warren made a motion that the petition be denied. There were many seconds from the commissioners.*

*Even though the commissioners discouraged further speakers because they had already decided to deny the petition, two more people stood up. Harold Spencer said the church is fixing to add on which will further burden the road. Mary Underwood talked about the congenial and multi-racial nature of the neighborhood and the fact that they don't have sidewalks and don't want the road to become dangerous for children.*

*The petition was unanimously DENIED.*

### PLANNED UNIT DEVELOPMENT SUBDIVISION PLATS

P-5-06: (1): CAMDEN LAKE, AMENDMENT TO THE MASTER PLAN, This revised layout will reduce the number of lots on the original layout from 164 lots to 160 lots. This revision is necessary due to wetland issues on the site which must be avoided. This development is located west of Buttermilk Road, between The Links at Woodland Forest Gardens and Huntland subdivisions. (Council District 6. For map, see link above.)

*This PUD has been before the Commission before and whenever that was, a number of conditions were placed on the Commission's approval of it. They voted to approve the change in the plan with reference back to the conditions previously placed.*

### PRELIMINARY SUBDIVISION PLATS

S-46-06: OAK KNOLL SUBDIVISION, consisting of 19 lots located on the southwest side of Nicol Park Road in Section 9, Township 20 South, Range 9 West. (Out of City)

*This subdivision plat has been before the Commission before too. Since the last time, they have moved the road, eliminated two cul de sacs and turned one small lot into open space. Commissioner Reynolds acknowledged that the subdivision was way out from town, but wondered why they were asking for a waiver of the sidewalks. The developer said they didn't see the need for them and, in fact, Staff member Harold Skelton said that with lots that large, sidewalks are not required.*

*Approved.*

S-47-06: HARKEY PROPERTY PHASE I, consisting of two (2) lots located at the northwest corner of the intersection of Rice Mine Road Northeast and Old Colony Road (Under Construction). (Out of City)

*This is also out across from the Rice Mine Road Publix. I'm not totally sure, but this might be the Lot 1 that was referred to repeatedly in the zoning petition (Z-13-06)*

*discussed above in this same location. The petition is to divide the property into two lots. They are out of the city. The engineer on this is Jimmy Duncan, McGiffert & Assoc. He stated that only Lot 1 of the proposed subdivision has a buyer. He will not give any assurance that it will come into the city. Commissioner Dean McClure asked the engineer to explain the hesitation to go ahead and annex this property since there is a potential buyer and he doubts very seriously that the buyer is only interested in the property because it is outside the City limits. The engineer stated that the hesitation mainly had to do with the balance of the property that was not being sold. He explains to the engineer that he is simply asking the developer to help the City when it wouldn't negatively impact him at all since he is selling it anyway.*

*The developer is asking for the usual waivers (curb, gutter, half-road improvement), and a discussion ensued, but the engineer mumbled so badly and spoke so softly that I couldn't understand anything he was saying.*

*Commissioner Phillips then said that he really has reservations about this property not coming into the city. Attorney Jimbo Woodson reiterated that the Commission cannot make annexation a condition of approval of the subdivision, but it can deny the waiver request. At this point, Bob Monfore, one of the developers, came to the podium to explain why half street improvements would be a waste of money. They will do it but due to the scheduled construction on the neighboring property, it will be torn out in 45 days. He then stated that he was not going to be forced into annexation. He said that Lot 2 of the subdivision will be brought into the city eventually, but he won't be forced in. He offered no explanation and it appears to be a test of wills. Traffic Engineer, Joe Robinson, asked Mr. Monfore if it was an economic decision. Commissioner Phillips again explained that they are just trying to get him to help the City. Commissioner Warren moved to approve the subdivision with waiver. This was done, but none of the commissioners looked satisfied.*

*Approved.*

*After the vote, a man named Mr. Elmore rose to ask a question about how this would effect his driveway. Commissioner Phillips apologized for not asking if there was anyone present who wanted to comment. The developer assured Mr. Elmore that he would get an easement giving him access to his driveway. A motion was made and approved that this be included on the final plat.*

(TNT Note:

No one appeared in opposition presenting any evidence of the grounds upon which the Commission may legally turn down a subdivision - health, safety, etc. - so the Commission had no choice but to approve the subdivision. To deny the request to waive the curb, gutter, etc., requirements would have been petty under our current regulations.

It has been my observation, that almost every developer presenting a subdivision requests that it not be required to do these improvements. Since I cannot locate the Tuscaloosa Subdivision Regulations on the City's web site and I don't have time to go down to the Clerk's office to read them, I cannot provide you with the language of our

regulation about this, but there are other cities in America that have a system by which a fee is paid in lieu of making such improvements, instead of just letting them off the hood. For example, see the following ordinance from Kirkland, Washington:

**110.72 Voluntary Agreements for Fee-in-Lieu of Street Improvements**

1. General – The provisions of this chapter establish the circumstances under which the applicant may propose and the City may accept a fee-in-lieu of installing a street improvement in the right-of-way abutting the subject property.
  2. Amount of Fee-in-Lieu – In each instance where the City approves a proposed fee-in-lieu under the provisions of this section, the amount of the fee-in-lieu shall be 75 percent of the then estimated cost of constructing the street improvements that would otherwise be required under this chapter, based on information compiled and kept current by the Department of Public Works on the cost of street improvement construction.
  3. Use of In-Lieu Funds – In each instance where the City accepts a fee-in-lieu of installing a street improvement under the provisions of this section, the City shall deposit those funds into a reserve account and expend the funds collected within five years of the date collected to fund other pedestrian safety improvements in the City.
  4. No Further Obligation from the Property – In each instance where the City accepts a fee-in-lieu of installing sidewalk, the subject property will not be subject to participation in future sidewalk improvement costs (along the property frontage) unless redevelopment occurs to a more intense land use than what was occurring on the property at the time of the fee-in-lieu payment.
- <http://www.mrsc.org/mc/Copy%20of%20kirkzoning/kzc110.html#110.72>

Such a system would seem to be a good solution here in Tuscaloosa. At times there is a good reason to not have to do them *at the time they are building* - like when further development would just undo the improvements. But, these are usually situations where, at some later point in time, the improvements will be needed and then the City, i.e., the taxpayer, is left to foot the bill. With the ordinance above, the money is essentially put into escrow and spent on the improvements at the appropriate time. *End of TNT editorial note.)*

S-48-06: SKYLAND SUMMIT PHASE II, consisting of two (2) lots located at the south end of Summit Ridge with frontage along Jug Factory Road in Section 6, Township 22 South, Range 9 West. (Out of City)

*This is somewhere up by the new Woods and Water store. The developers are going to close access to Jug Factory Road and have access from somewhere else.  
Approved.*

## AMENDMENT TO THE ZONING ORDINANCE

The Planning Commission approved an amendment to Chapter 24, Article IX, Off Street Parking and Loading, by the addition of Section 24-137 as follows:

### Sec. 24-137

- (a) Except for the owner of a private motor vehicle offering not more than 1 vehicle for sale on his/her own property, no person shall offer or allow to be offered for sale a motor vehicle, whether attended or not, upon any private property within the City not properly zoned and licensed for the sale of motor vehicles.
- (b) This section shall not prohibit a person from operating a vehicle on a public-right-of-way or legally parking a vehicle in a public parking space, bearing a for sale sign for a period of time reasonably necessary for said person to accomplish a purpose unrelated to the display or offering for sale of the vehicle.

*This ordinance change was initiated by the legal department in response to complaints from the used car lot association (or something like that) which complained that their business was being hurt by the various places around town where people leave cars with signs for sale. After some discussion the amendment was APPROVED.*

## OTHER MATTERS

The Planning Commission will also approved an amendment to condition number 6 of Ordinance No. 6869 (Midtown Village) concerning the location of the requirement of a landscaped berm.

*Bill Snowden explained that there was some oversight in the plans about where a decorative wall was to be located in relation to a berm. Commissioner Reynolds asked if the Forest Lake Neighborhood Association had been consulted and they had and they approved.*

*After some discussion about the location of the chain link construction fence that is located right on the edge of 5<sup>th</sup> Ave., and whether it could be moved, the amendment to the condition was APPROVED.*

## ANNEXATION

*City Councilman Bob Lundell has apparently been pushing for the annexation of Peach Grove Subdivision, but only about half of the residents will agree. The City is requesting that the Commission go ahead and approve the annexation of however many of the residences as they are able to convince. This is being requested in order to save*

*time procedurally. This is important because school will be starting soon and the children who enter the city need to be able to go ahead and go to city schools rather than have to change schools possible very soon after school starts.*

*APPROVED.*

## STREET VACATION

*This is in the Black Warrior Business Park. They want part of a cul de sac vacated that would appear to leave four lots without access via a public street. The Commission recommends that the petitioner get a survey and resubmit their request.*

Finally, It was announced that this was Commissioner Dean McClure's last meeting on the Planning and Zoning Commission. His term has expired and his replacement was not announced.

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1. Here are the definitions of the various zoning categories discussed in tonight's petitions. To see the exact restrictions of each category, please refer to the Municipal Code chapter on Zoning <http://www.municode.com/Resources/gateway.asp?pid=10302&sid=1>:

R-1 Residence District: This district is created to provide minimum standards for the development and use of single-family detached housing built on separate lots and fully meeting modern standards with respect to light, air, open space, and off-street parking.

R-2 Residence District: This district is created to provide minimum standards for the development and use of single-family detached housing built on lots somewhat smaller than the ideal, but which meet generally adequate standards with respect to light, air, open space, and off-street parking.

R-3 Residence District: This district is created in recognition of the existence of substantial areas developed for single-family detached housing on lots with dimensions adequate to provide necessary light, air, and open space, but which may be difficult to provide with properly designed off-street parking.

R-4 Moderate Density Residence District: This district is created for two (2) purposes:

- a. To provide minimum standards for the development and use of low density multifamily housing meeting modern standards with respect to light, air, open space, and parking; and
- b. To provide minimum standards for the use and redevelopment of existing areas developed predominately for single-family dwellings on lots too small to provide adequate light, air, open space, and parking. It is intended to encourage the consolidation and/or replatting of such lots for low density, multi-family housing, or for single-family dwellings meeting modern standards.

BGO General Business-Office Districts: This district is created to provide minimum standards for the development and use of offices, business establishments, and similar uses which do not require large volumes of walk-in or drive-in patrons and do not rely on impulse sales. It is not intended to zone small, isolated parcels in the midst of residential areas as BGO districts.

ML, MH, MG: The Industrial Districts are created to provide minimum standards for the development and use of three (3) classes of industrial uses. In ML Light Industrial Districts, industrial facilities and uses are permitted whose appearance and normal operating characteristics will have substantially no adverse effects upon adjacent property. In MG General Industrial Districts, industrial facilities and uses are

permitted whose normal operating characteristics require a moderate degree of regulation and geographic separation to prevent adverse effects upon other property. In MH Heavy Industrial Districts, industrial facilities and uses are permitted whose operating characteristics are potentially harmful to many kinds of adjacent uses, but which can be rendered acceptable by appropriate regulations and geographic separation. The facilities and uses permitted in each of the industrial districts are delineated by two (2) means:

(1) A list of the general categories of uses permitted in the district concerned, provided that they comply with the applicable performance standards; and (2) Performance standards, with which all uses and facilities in the district must comply.