

TUSCALOOSA PLANNING AND ZONING COMMISSION  
MAY 16, 2006

ZONING

Z-34-05: Southeast Real Estate Acquisitions, LLC petitions to rezone properties located near the northeast corner of the intersection of 14<sup>th</sup> Avenue and 12<sup>th</sup> Street and immediately south of **University Circle** subdivision from R-3 to RMF-2U. (Council District 4) (CONTINUED FROM LAST MONTH – previously Z-33-05 & Z-34-05)

This petition took up the most time in the meeting and there were numerous citizens present to protest the rezoning.

The developers plan to build a 4-story condominium on the block immediately to the south of University Circle. An alley would separate the condo from the back yards of the homes in U. Circle which back up to it. The condo consists of 3 stories of residences and one story of parking underneath. The condo will be set back 52' from the alley which is 20' wide for a total distance of 72'. Currently on the property is an apartment complex that was built before the zoning ordinance was adopted and is, therefore, a non-conforming use. If the apt. complex is torn down and the zoning not changed, then only single family homes in compliance with R-3 zoning would be allowed to be built there.

A representative of the developer stated that they had met with the staff of the Tuscaloosa City Department of Planning and Zoning and with adjacent neighbors. (See *further discussion below on meetings with neighbors.*) He claimed that the development does not adversely affect the neighbors because it will have a reduced number of units, increased setbacks and will result in an increase in surrounding property values. He claimed that the condos will sell for between \$300,000 and \$500,000 and will be targeted to alumni who come to town for home games approximately 8 weekends a year or who will buy them for their children to live in while they go to school. (*I wish I lived in a \$300-500,000 residence when I was in school; heck, I wish I lived in one NOW.*)

One of the P&Z Committee members asked if there were restrictive covenants connected to the units that would prohibit the units being rented. The developer's rep responded that they had not been drafted yet. Later, the Commission attached the prohibition of renting the units as a condition of their yes vote on the zoning change.

There was a bit of discussion between the commission members and the representative about the kind of buffer that would be placed between the development and the neighborhood. There is supposed to be a landscape buffer of Leyland Cypress trees and a hedge to prevent the car headlights from illuminating the back yards of the U. Circle homes. The developer wouldn't commit to a certain size of trees because of the cost of larger trees, but when the Commission voted to recommend the zoning change it attached a requirement that the developer plant 10' Leyland Cypress trees.

At this point, members of the community spoke in opposition to the development. First, was the President of the University Circle Neighborhood Association. He

described the history of the neighborhood which was created in 1937 and named some of the well-known people who have lived there. He stated that the neighborhood was concerned with the sheer density (number of people) that the project would bring into the area. He said that the project is not aesthetically what one would expect next to a Historic Neighborhood: the appearance, lights, noise, etc. He claimed that the developer only met with the neighborhood one time and promised another meeting but never followed through on that promise. The neighborhood representative said that at the meeting, the developer presented vague, non-specific plans. As an example, he said the developer wouldn't be specific about the type/size of trees it planned to plant as a buffer. The resident was disappointed that the developer did not have any alternative plans for redeveloping the property in compliance with its current single-family zoning, but was only willing to do the project in the form of the condominium. The resident stated his scepticism that they would be able to sell this many units at the price named and, finally, although perhaps most importantly, he stated that this rezoning was not in compliance with the MASTER PLAN and with the city's intent to protect HISTORIC districts.

The next resident who spoke was Glen Cain, 22 University Circle. He said that the traffic this development would bring would be a problem and that parking would be a problem. The development apparently is being planned with 1.5 parking places per bedroom, but, realistically, when all the students live there and have their boy and girl friends over that will not be enough parking and they will end up parking along the streets. He also complained that the condo residents will be staring down into the back yards of the University Circle homes. *(In that regard, a commissioner asked the developer's representative if there would be balconies on the north side of the building. The developer carefully responded that there would not be external balconies. He described some sort of inset window arrangement that would apparently result in porches of some type that just don't extend beyond the exterior wall of the complex. The Commission was satisfied by this response, although it seems to me that people will still be effectively outside staring down into the University Circle yards.)*

The next resident who spoke was Ted Major, representative of the Original City Association, who lives at 12 Guildswood. Mr. Major asked what the purpose of zoning was at all when a massive, incompatible structure was being allowed that violates the very spirit of the zoning ordinance.

Linda Albritton, of Bryant Drive, then spoke. She stated that the City and the State had legislated into existence the Historic Preservation Commission as a statement that historic districts are important to the City and to the State. Her question was, "what is appropriate next door to a Historic District?" To go directly from single family to the most dense zoning category does not seem logical. The developer could still develop the property with single family homes that were rentals.

Next, Walter Flowers, of University Circle spoke. He stated that the back yards of University Circle are the only private outdoor areas the residents have and the looming structure of the condominium would ruin that privacy.

Eric Nelson, 30 University Circle, stated that the neighborhood had worked hard to meet the qualifications of becoming a designated Historic Neighborhood and this project is simply not needed in the area.

At this point, the Commissioners again questioned the representative of the developer. Commissioner Aaron Christian asked what kind of lighting would be on the north side of the building. The representative replied that there would be none except for the parking area. Commissioner Joe Duncan asked about balconies. This is when the representative stated there would be no "open" balconies on the north side. Commissioner McClure asked if they could get rid of the access drive on the north so that the condo residents would not have access to the alleyway. I believe the developer said they could do that, although my notes don't indicate what his answer was. Bill Snowden, Director of Planning and Zoning, asked if there would be a fence or barrier of any type. The developer's representative replied there would not be - only trees and shrubs. Commissioner Aaron Christian then asked if the developer would "entertain the idea of a fence on the north side?" The developer's representative replied, "I think we can entertain that." (Later when the Commission voted to recommend approval of the rezoning, it attached a condition of a decorative fence of some type on the north side.)

Commissioner/Councilman Bobby Howard then asked the developer's representative why they only met with the neighborhood one time. The developer said that when they met, "only three people showed up and two of them lived in the same house," insinuating that there was a lack of interest by the residents. *(Later, this allegation was rebutted by the neighborhood president who stated that the residents who met with the developer did so in a representative capacity as a neighborhood association and that what they told the developers was reflective of the sentiment of the entire neighborhood - which had been consulted.)* He also said that the site plans were only completed yesterday and they couldn't schedule it.

Commissioner Phillips asked the audience what their main objection to the project was and the general consensus was its height. He then asked the developer's representative if they could make height concessions. The developer responded, no, they are only interested in doing the project as a 4 story condo.

Resident, Chapman Greer, then spoke about the current residents of the apartments and said that they are good neighbors and that the proposed project would violate the buffer zone for the Historic District. She also wondered why the owner was not present, at which the owner, Jane Webb of Echola, came forward and identified herself.

AT THIS POINT, COMMISSIONER JIMMY WARREN STATED THAT MUCH TIME AND EFFORT WAS PUT INTO THE UNIVERSITY AREA PLAN AND THE HISTORICAL DISTRICT PLAN AND HE ASKED BILL SNOWDEN IF THERE WAS NOTHING IN THE PLAN TO RESTRICT THIS REZONING. BILL SNOWDEN STATED THAT HE HAD ASKED THE AUTHOR OF THE PLAN AND THE ANSWER IS, NO, THERE IS NOTHING IN THE PLAN TO RESTRICT THIS TYPE OF REZONING. HE THEN ALLUDED TO HIS PERSONAL 6 CRITERIA BUT DID NOT NAME THEM OTHER THAN STATING THAT THIS PROJECT MEETS THEM.

**Commissioner Robert Reynolds said that he differs with Planning and Zoning (Bill Snowden). Mr. Reynolds described the several meetings during which this particular piece of property was discussed in the course of creating the University Plan. Early in that process, it was proposed that this particular piece of property be rezoned as is currently being petitioned and it was specifically decided not to do so for the reasons stated by the various residents who have spoken and because there is ample property only blocks away which were rezoned to allow just this sort of project. The Legends condominium project at 12<sup>th</sup> and 12<sup>th</sup> is an example of that.** (As a resident pointed out when someone asked why not build this when the 6-story Legends development is only a block or two away, Legends borders a cemetery. The residents of a cemetery do not care what the height is of its neighboring buildings.) **What was the purpose, he asked, of the two years of work that went into the comprehensive plan by citizens, businesses, interest groups and the government, if it is just going to be ignored?**

Commissioner Christian then asked if they can recommend approval with conditions of no balconies, no access to the alley, height of trees and building a fence.

Commissioner Phillips then asked if the developer would request a continuance and meet with the residents again. The developer said that what the residents want is a height reduction and they are not willing to do that, so, no, they won't ask for a continuance. There must be a vote tonight.

Then the staff of the Tuscaloosa City Planning and Zoning Commission (Bill Snowden) recommended approval of the rezoning!!!! Granted, with "conditions, including 20' trees. The developer balked at that and said it wouldn't commit to 20' trees because they would be too expensive. It will commit to 10' trees. Commissioner Warren then asked about the fence and suggested a continuous hedge might be more attractive than the chain link fence the developer might put up if it is not more specifically defined. Bill Snowden then required a wooden, decorative fence.

Commissioner/Councilman Bobby Howard then moved to approve the project with the conditions stated. Commissioner Warren then asked that a condition be added that covenants be attached to the deeds to the properties that would restrict the use of the condos to relatives of the owners.

Commissioner Reynolds then requested that the petition be denied because of (1) the height of the project and (2) the fact that it flies in the face of 2 years of cooperative work mandated by this commission to draw up the master plan. There are already lots of areas zoned this way and zoned this way on purpose. This project shouldn't be placed adjacent to a residential historic district. This is effectively blowing away all the work done by the people on the comprehensive plan and on historic districts and it conflicts with the University plan.

Commissioner Phillips then asked why, in the comprehensive plan, the Calvary Church parking lot was not rezoned. The answer is that it was a compromise to leave property to the greatest degree possible in the same zoning.

A vote was then taken with the following results:

Yes: Warren, Romaneck, McClure, Phillips and Christian

No: Howard, Reynolds

Z-5-06: Leon Clay petitions to rezone property located at 1449 – 39<sup>th</sup> Avenue East (part of Lot No. 4 Box Springs Subdivision) from BGO to R-4. (Council District 5)

The request is to rezone this property to R-4 (Tuscaloosa Code, Art. III, Section 34-21: “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.”) The property is currently zoned BGO (Tusc. Code, Art. IV, Sec.24-51(2): “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.”

The house currently on the property would be demolished and 6 residential units would be built.

The Commissioners asked the Staff (Bill Snowden) what its recommendation was. My notes indicate that Robert Reynolds then asked Bill Snowden, “You’re *not* recommending this rezoning?” Mr. Snowden then spoke privately to Mr. Reynolds and the content of his remarks were later stated to have been that a former Planning and Zoning employee made that recommendation and Mr. Snowden doesn’t know why.

The Commission unanimously approved the petition and will recommend the rezoning to the Council.

Z-6-06: Rental Properties, LLC & Pointon Properties, LLC petition to rezone Lots 3,6, and part of Lots 7 & 8 of the Subdivision<sub>st</sub> of Lot 438 of the Original Survey of Tuscaloosa (located on the east side of 21<sup>st</sup> Avenue, between 12<sup>th</sup> Street and 13<sup>th</sup> Street) from R-3H to BGOH. (Council District 1)

Dr. Pointon and her husband live in the large, gray house on the corner of Queen City Blvd. and 13<sup>th</sup> Street downtown. Dr. Pointon has her psychology practice in a house located at the corner of 13<sup>th</sup> Street and 21<sup>st</sup> Avenue. The house is well maintained and by all outward appearances seems to be a residence. Dr. Pointon has bought the dilapidated house further down 21<sup>st</sup> Avenue for the sole purpose of

controlling it and getting rid of the undesirable activities that were going on in the house before she bought it. She has not made any improvements to it and, in fact, would like to tear the house down and leave a wooded lot without any buildings on it. In fact, she would agree to restrict development on the parcel. The other property concerned is a parking lot belonging to the engineering firm Almon Associates. The house/office, the run down house and the parking lot are all currently zoned R-3H (Tuscaloosa Code, Art. III, Sec. 34-21: "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." The parking lot and the professional office are non-conforming uses for which variances have been granted by Zoning Bd. Of Adjustments. Dr. Pointon's variance was for one year only. Mr. Almon, when he spoke, indicated that he has been operating under a variance for 20 years.

The Staff of the P&Z office brought this petition itself to clean up the zoning and make the zoning conform to the uses.

Commissioner Reynolds asked why Dr. Pointon can't be allowed to get another variance. Answer: the Staff of P&Z recommended a one-year limitation on variances in order to have conforming uses.

Dr. Pointon's husband addressed the commission saying that they would rather the property remain R-3. They are only seeking this rezoning because it is being required by the P&Z staff.

Katie Ferguson, a resident of Alaca Place across the street from the Pointon's home, asked why the Staff is pushing this? She states that she never sees anyone going in or out of the house/office and that it is no bother whatsoever, but that rezoning it away from residential use is not good for the surrounding residential areas.

Commissioner Christian has the Staff confirm that in order for Dr. Pointon to keep her office there, the property will have to be rezoned. Staff (John McConnell) stands behind its recommendation.

Commissioner/Councilman Howard asks if, once the property is rezoned, if the current owners have to leave, what else can the property be used for. The possible uses that would comply with BGO were discussed.

Resident Linda Albritton emphasized to the Commission that once it is zoned BGO, it will, in all likelihood, remain and not revert to residential. The Commissioners replied that there are and have been instances when property is zoned back "up" to residential.

Commissioner Warren stated that there is an argument that if it is ok to give an exception, then it is ok to rezone it.

Ted Miller, president of the Druid City Neighborhood Association, stated that the neighbors are fine with the property's current use and that they want to preserve the residential nature of the neighborhood.

Commissioner/Councilman Howard moves to approve the petition. Commissioner Reynolds moves to amend the petition to exclude the vacant house and approve the rest.

At this point, Mr. Almon, of Almon Associates Engineering, speaks in opposition to excluding the vacant house calling that "spot zoning." He is for the rezoning and this is when he stated that he has been operating under a variance for 20 years.

Commissioner Christian agrees that it would create spot zoning.

There is a vote on the amendment as follows:

Warren (Y), Howard (N), Romanek (N), McClure (Y), Phillips (N), Christian (N), Duncan (Y), Reynolds (Y). Since the vote was tied, the motion did not carry. There was then a vote on the original petition which carried 7 for and 1 against (Reynolds).

Z-7-06: Joseph M. Thames petitions to rezone property located at 1502 University Boulevard from R-1 to R-4. (COUNCIL DISTRICT 4)

This is on the north side of University Blvd. to the immediate east of the house currently owned and occupied by Mr. Thames. He also owned the property he is seeking to have rezoned. He wants to build a 2 family dwelling that appears on the front to be a single home. The parking will be behind a courtyard in a carriage house to the rear of the property. He plans to move into one of the units and Peyton Cochrane, who currently lives in Audubon Place, plans to move into the other unit. This is because they are both down-sizing for their older age. The petitioner shows the Commission and beautiful rendering of a beautiful residence.

This property is not in a buffer zone of a Historic District. There was no opposition to this from the floor, in fact, there was support. The Audubon Place Neighborhood Association representative stated their approval. Commissioner Warren proposes an amendment to the petition that the Planning and Zoning Commission have to approve the appearance of the structure and that it be limited to a 2-family dwelling. He stressed that this was just meant to protect against the slim possibility that something happen and the property be sold to someone who wanted to develop it differently. The petition was unanimously approved.

Z-8-06: Chris Sentell petitions to rezone property located at 2100 Fosters Ferry Road (Lot 1 Martha Reed Subdivision) from R-4 to RMF-1. (Council District 1)

No site plans were submitted to the Commission. The developer (Chris Sentell) did not come to the meeting but sent an unprepared substitute. The owner of the property, Jesse Daniels, was present but was unprepared to comment because he had been relying on Sentell to do so. It was stated that they plan to build an 8-unit apartment building of 2 bedroom and 2 bathroom apartments for Stillman College students.

Resident, Maime Newton, spoke to the Commission and stated that no one has contacted her about this project.

The Commission requested that the developer continue the petition and, in the meantime, get a site plan and meet with the adjoining property owners.

#### PLANNED UNIT DEVELOPMENT SUBDIVISION PLATS

P-10-06: BRAELIN PARC, consisting of 8 lots located on the west side of Old Marion Road and north of Fields Crossing subdivision. (Out of City) (CONTINUED FROM LAST MONTH)

Ron Henderson was present to represent the owner, Ms. Wheat. The 8 proposed lots will be on City sewer and utilities. They will fence the lots. They ask for a waiver of sidewalks because they “don’t see any need for them.” That didn’t go over very well and the waiver was not granted. They will be required to include covenants prohibiting the enclosing of the garages and parking in lawns. The petition was approved with those conditions.

P-11-06 – (1): TOWNES OF NORTH RIVER, AMENDMENT TO THE MASTER PLAN, The purpose of this amendment is to change the minimum rear setback requirement on lots 15-48 from 25 feet to 15 feet and to change the layout of lots 171-180 and 446-451 in order to reduce these lots from 16 lots to 8 lots. This subdivision is located west of Rice Mine Road Northeast and west of Lesley Place subdivision. (Council District 3)

There was little-to-no discussion on this petition and it was approved unanimously.

#### PRELIMINARY SUBDIVISION PLATS

S-35-06: ABIGAIL DOWNS, consisting of 101 lots 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)

This is near the intersection of I-20/59 and University out past Cottdale. It is a subdivision of 101 long, narrow lots arranged on either side of an approximately one-mile long, straight road. The owner wants to eventually annex the property into the City zoned R-3 and this subdivision can only be approved subject to annexation. TDOT (Joe Robinson) is concerned about the length of the proposed subdivision and the speed of the traffic it will create.

Commissioner Reynolds asked if the road could be curved some. The developer hesitates to do this because of the terrain in the area. Commissioner Phillips asked how the traffic will be slowed. There has been no traffic study done. The petitioner

also asks for waiver of sidewalks. The Commissioners nearly laughed at that. With the straight-away road and people driving too fast and then no sidewalks so people will be in the street - formula for misfortune.

A nearby resident, L.J. Banks spoke concerning the drainage problems the development will cause on his own property. Other than concerns of drainage, he is for the subdivision.

The developer ended up asking for a continuance until the next meeting.

S-36-06: TRADITIONS CONDOMINIUMS, consisting of 144 dwelling units located on the north side of Veterans Memorial Parkway and east of Freemont Drive subdivision. (Council District 5)

This was originally a controversial development that brought out many local residents, however, through cooperation between the neighborhoods and the developer, concessions were made and both sides seem to have reached peace with each other. Credit must be extended to Bill Snowden (City of Tuscaloosa Planning Director) in getting the sides to talk.

This petition is simply for the subdivision approval. It was granted forthwith.

S-37-06: HOUNDS TOOTH, consisting of 130 condominium dwelling units located on the north side of 15<sup>th</sup> Street and immediately east of First Addition to Preview subdivision. (COUNCIL DISTRICT 2)

This is across 15<sup>th</sup> Street from the new Central High School that is being constructed. They will demolish the old, multi-building, red brick apartment complex and replace it with this condominium development. This is the same developer as the Traditions Condominiums discussed above. They have moved the back wall of the development in, away from the neighbors and will provide parking there.

There was no opposition from the floor and the subdivision was approved.

S-38-06: HARLESS SUBDIVISION, consisting of two lots located at the intersection of Bear Creek Cut-Off Road and Old Montgomery Highway. (Out of City)

There will be no change of use or redevelopment associated with this subdivision. It is a large parcel of property, part of which is occupied by a car repair shop. The owner of the property has been leasing part of the property to the owner of the car repair shop and now the repair shop owner wants to buy that parcel. This subdivision is for that purpose. In the transaction, an extra 5' of R-O-W will be ceded to the City which will come in handy if they ever decide to widen the road there.

One resident whose name I did not catch spoke of her concerns about what types of future activities could be carried on on this property and about the potential increase in traffic. (Remember, this parcel is in the County which has no zoning regulation.) The appropriate response came from TDOT director Joe Robinson, "That's one disadvantage of living in the County - there's no zoning." To which the resident replied, "That's true."

Approved.

S-39-06: REMINGTON BUSINESS PARK PHASE II, consisting of three lots located at the northeast corner of the intersection of Highway 69 South and Patriot Parkway. (Out of City)

This is near Hillcrest School. The re-design of the master plan has already been approved and there was little discussion on this other than on the issue of drainage.

Approved.

S-40-06: FOREST LAKE CONDOMINIUMS, consisting of 47 dwelling units located on the east side of Forest Lake Drive, between 22<sup>nd</sup> Street East and Hargrove Road East. Phase One will consist of one building containing 14 two bedroom units. This is a conversion of an existing apartment complex to condominiums. (Council District 2)

This is an apartment complex behind the car detailing shop on Hargrove Road that is being converted to condominiums. The developer states that the exterior of the buildings will not change (!!!) and there is already adequate parking.

Howard White, whose architecture office backs up to the apartments opposes the project, or at least, voiced concerns. He stated that the apartments did not meet code when they were built and don't now and should not be allowed to be non-conforming use since they didn't meet code to begin with. He describes a retaining wall that is leaning at a 10-degree angle. He states that the units flood, the apartments are not maintained and that the tenants throw their garbage on the ground behind the building rather than in the provided dumpster.

The developer states that he is aware of all of Mr. White's complaints and promises that they will be addressed in the renovation. There may be an issue concerning how many bedrooms will be allowed depending on how the windows in the units can be re-configured because bedrooms are required to have a window of a certain size that will allow emergency ingress and egress. The petition is requested on the condition that the Zoning Board of Adjustment give exceptions to the assorted non-conforming items. There is also a problem with the zoning. One parcel has been zoned improperly for apartment use all this time and that zoning will have to be corrected.

Approved subject to the conditions.

## AMENDMENTS TO THE ZONING ORDINANCE

The Planning Commission will also consider certain amendments to the Zoning Ordinance, as follows:

■ Amend Section 24-124 (g) to read as follows:

“Violations of §24-124(a) shall be parking violations administered by §10-10 of the Code of Tuscaloosa. Violations of §24-124(b) through §24-124(f) are hereby declared to be misdemeanors punishable in accordance with the provisions of section 1-8 of this Code.”

This amendment allows TDOT personnel (the people who give parking tickets downtown mainly) to ticket lawn-parkers in historic districts. Approved.

There were no annexations this month and there was one petition for vacation. The vacation request was for a small strip of a road near the First Baptist Church complex downtown. That was a given, but what caused discussion was a further request for vacation of air space that would allow the church to build a crosswalk connecting two multi-story buildings. There was some question as to whether they should allow the vacation to state that it was up to 100' - a distance much greater than required for the simple crosswalk. Commissioner Reynolds suggested that with that kind of distance they could, conceivable, simply connect the two buildings, creating a tunnel below. He also emphasized that once the air space is vacated, the city doesn't get it back and while connecting the buildings might not be part of their current plan, in 40 or 50 years, it might be. None of the other commissioners shared this concern and the vacation was approved.