

PLANNING COMMISSION
OF THE
CITY OF GADSDEN

Minutes of Meeting
June 25, 2013

Acting Chairman, Bill Stewart, called the meeting to order at 5:00 p.m. in the City Council Chamber, First Floor, City Hall, with the following members present:

Buster Porch
Gerald Maxwell
Shane Ellison
Kay Moore

Nick Hall, Director of Planning, Jeramy Ward, Chief Engineering Aide, Brian Harbison, City Building Official, Laura Lloyd, Legal Counsel, and Tina Cody, Secretary to the Planning Commission were also present.

Item 1 – Approval of minutes for the meeting held April 23, 2013. On a motion by Mr. Porch and a second by Ms. Moore, the minutes were approved by unanimous vote.

Item 2 – Brian Bowman – A request to rezone property located at 105 Clubview Circle from R-1, One-Family Residence District, O-1, Office District.

Brian Bowman, property owner, spoke on behalf of the request. Mr. Bowman explained that he plans to remove the home and maintain the front yard which is approximately one third of the property. This area will be green space that will assist with storm water retention. The rear portion of the property will be used to extend the parking area of the pediatric clinic.

Mr. Stewart verified that the rezoning request is to allow additional parking to be used primarily by employees of the pediatric clinic. Mr. Bowman stated that is correct.

Mr. Echols, Councilman, District 4, asked if there would be ingress/egress on Clubview Circle and if curb and gutter would be installed to ensure vehicles couldn't enter or exit. Mr. Bowman stated there would not be ingress / egress on Clubview Circle and he would be installing curb and gutter.

Jim Moss, 211 Hollywood Road, spoke in opposition to the request. Mr. Moss presented a packet to each board member for review.

Mr. Moss stated he sold Mr. Bowman the property where the pediatric clinic now sits. He asked for verification that the rezoning request covered the entire property, not just the rear section of the lot. I stated that the request was for the entire lot. If the rezoning is approved, any use allowed under City code could be located on the property. In the past, the City of Gadsden has expressed concern over what is located along Rainbow Drive. There are plans to construct a medical facility on the lot adjacent to the pediatric clinic.

Mr. Moss stated he still owns Lot Number 10 located at the corner of Rainbow Drive and Clubview Circle. The current zoning for this lot is R-2, Multiple-Family Residence District. Mr.

Moss stated there isn't a buffer requirement in an O-1, Office District. All the trees and fencing have been removed from the property. Concrete has been placed and striped for parking at the rear of 105 Clubview Circle in anticipation of approval. This has created an issue with water runoff that flows onto Highway 411.

Mr. Moss explained that studies showing the necessary parking were done at the time of the property sale. He referenced a photo in his packet that shows the property sold to Mr. Bowman and the corner lot retained by Mr. Moss. This photo shows that prior to construction both parcels were the same height. The next photograph shows the pediatric clinic on an elevated lot. Mr. Moss stated the lot was built up approximately three (3) feet which changed the parking availability.

Mr. Moss stated that the City of Gadsden installed a pipe that caused severe flooding on Lot Number 10. This flooding also affects Highway 411 (Rainbow Drive). The Alabama Department of Transportation (DOT) has expressed concerns over this issue and has written a letter to the City of Gadsden addressing these concerns.

Mr. Moss stated a Land Disturbance Permit was never obtained by Mr. Bowman. In Mr. Moss' opinion, if a Land Disturbance Permit had been obtained, the parking issue would not have been created.

Mr. Moss referenced an engineering drawing completed three (3) months after he sold property to Mr. Bowman. On this drawing, his adjacent lot at the corner of Rainbow Drive and Clubview Circle was shown as a parking lot for the pediatric clinic. The rezoning request for that lot was not approved so it could not be used for parking. Mr. Moss stated that engineering drawings prepared by his engineer do not match the drawings provided by Mr. Bowman's engineer.

Mr. Moss spoke about a rezoning that took place approximately 10 years ago in which eight residents in the Clubview area requested their properties be rezoned to R-1, One-Family Residence District.

Mr. Moss stated he is in favor of progress along Highway 411. He is opposed to the existing codes and laws not be utilized in an equitable manner for everyone. He feels the board and council should certainly be thoughtful about change. The proposed rezoning does not front Rainbow Drive. This parcel is part of a subdivision. Mr. Moss stated he is not opposed to the property being used for additional parking. He is opposed to the potential problems this will cause.

Mr. Moss stated that Mr. Bowman has acquired an additional piece of property across Clubview Circle which could also be changed to O-1, Office District.

Mr. Stewart stated he did not understand the issue and asked Mr. Moss if he felt the additional parking would be detrimental to his property. Mr. Moss stated it would be detrimental because of the flooding it would cause.

Mr. Moss stated the City of Gadsden acquired a 10 foot easement behind Lot Numbers 8, 9, and 10 in 1995 and there were many discussions about flooding issues. It was decided that a pipe should not be installed because that would speed up the flow of water. It was later determined that nothing would be done until the property was developed.

Mr. Stewart asked any residents of the Clubview area in favor of the rezoning request to stand. A gentleman in audience verified that he was asking for those in favor to stand. At this time, four (4) persons stood.

After further discussion, on a motion by Mr. Porch and a second by Mr. Maxwell, the Planning Commission voted unanimously to recommend to the City Council that the property located at 105 Clubview Circle be rezoned from R-1, One-Family Residence District, to O-1, Office District.

Item 3 – Triune Baptist Church – A request for a special exception to construct an addition to an existing church, said addition to be located in the secondary front setback, approximately four (4) feet and three (3) inches from the property line in an R-2, Multiple-Family Residence District.

Pastor Bruce Word spoke on behalf of the request. The growth of the church has been such that more space is needed. When the church was originally constructed it was a one room structure. There has since been an addition but that is no longer sufficient. The proposed addition will provide two (2) Sunday school rooms.

Mr. Ellison asked if the addition would match the appearance of the existing structure. Mr. Word stated it would.

David Tyler, a trustee at Triune Baptist Church, spoke on behalf of the church. The proposed addition will be within three (3) to four (4) inches of the existing church. Attendance is higher than it has ever been and more space is needed to accommodate this growth.

There was no opposition present.

After further discussion, on a motion by Ms. Moore and a second by Mr. Ellison, the Planning Commission voted unanimously to grant the special exception to construct an addition to an existing church, said addition to be located in the secondary front setback, approximately four (4) feet and three (3) inches from the property line.

Item 4 – Spencer Gray – A request for a special exception to operate a group assisted living facility housing up to 12 persons in an R-2, Multiple-Family Residence District.

Sheila Hurley, Director, CED Mental Health Center, spoke on behalf of the request. Mr. Gray has a structure that can be used to house persons receiving round the clock treatment. CED has partnered with the State Department of Mental Health as well as the Jefferson, Blount, and St. Clair Mental Health Departments to facilitate this venture.

Mr. Stewart inquired as to the number of staff for this facility. Ms. Hurley explained this will be a therapeutic facility that will have Master's level therapists, and two (2) Case Managers. The facility will operate 24 hours a day for seven (7) days a week so a staff member will always be on duty. Residents will have round the clock supervision.

Mr. Stewart asked when the home would be ready for CED to occupy. Ms. Hurley stated the goal is October 1, 2013.

Ms. Moore asked if there are any other such homes in this area. Ms. Hurley stated there are not. There is a facility similar to this one on McDuffie Street.

Mr. Porch asked if the maximum occupancy would be 12 persons. Ms. Hurley stated that is correct. Ms. Hurley stated the building would be inspected by Life Safety of Alabama. It would be maintained by their reviews which are conducted every six (6) months.

Mr. Stewart stated he is opposed to private entities that establish unregulated group homes. He serves on the board of CED Mental Health and their facilities are excellent.

Mr. Stewart asked if there was anyone wishing to speak in opposition to the request. I advised him that two (2) letters of opposition have been received.

John Floyd spoke in opposition to the request. Mr. Floyd stated he represents 18 residents and two (2) tenants whose homes are immediately adjacent to the proposed home. Mr. Floyd provided petitions containing signatures of those opposed.

Mr. Floyd stated his mother-in-law and father-in-law, whose property is immediately adjacent to the proposed home, are present. They are opposed to the request as is Mr. Floyd.

A concern is the increase in traffic the home will create. Vehicles for five (5) staff members and 12 residents will create parking issues. The home will be operated 24 hours a day which could disturb other residents in the neighborhood. The zoning for this property is R-2, Multiple-Family Residence District but it has always been primarily a single-family neighborhood.

Mr. Floyd stated there are other group homes in the area, with the closest one being located in the 1200 block of Walnut Street.

Mr. Stewart asked Ms. Hurley if she would like to address these concerns. Ms. Hurley stated the home would have a van for staff members to take residents to their appointments. The residents will not all have vehicles.

Ms. Moore asked if any of the residents would have vehicles. Ms. Hurley stated the residents must earn the privilege to have a vehicle. They have to pass all requirements for obtaining a valid driver's license and insurance. The resident's whereabouts are monitored at all times and they are not allowed to leave the facility unattended.

Mr. Ellison asked how the vacant lot adjacent to the home would be used. Ms. Hurley stated the van would be parked in this area.

Mr. Hall asked who would drive the van and how many employees would be in the home. Ms. Hurley stated only employees would operate the van. At any given time, there will be three (3) to four (4) employees present. Ms. Hurley stressed this is a treatment facility not a group home.

Mr. Hall asked if parking would be required for the van and employee vehicles only. Ms. Hurley stated that is correct.

Mr. Floyd pointed out that according to Ms. Hurley's earlier statement, each resident has the opportunity to have a vehicle. The possibility exists for twelve residents to have a vehicle in addition to the employee vehicles and the facility van.

Mr. Stewart stated the majority of the persons in these homes are in need of care and are not capable of having vehicles.

Mr. Stewart explained that he serves on the CED Mental Health Board and would abstain from voting.

Mr. Maxwell asked if the facility is complete and ready for occupancy. Ms. Hurley advised that renovations are currently under way.

Ms. Moore asked if it would be accurate to say that the petition was signed by residents who are older and have lived in this area for a number of years. For them, this change is probably a scary proposition. Mrs. Wiggins stated that a number of the residents who signed the petition are middle age. There are also a number of younger couples with small children.

Mr. Floyd advised the signatures represent persons living within the circle on the map provided in the notification letter. (The circle represents a 300 foot radius of the property).

Mr. Ellison asked if anyone else who had signed the petition was present to speak. Mr. Floyd stated there was not.

Mr. Stewart stated these type facilities will become more prevalent as mental health hospitals across the state continue to close.

Mr. Ellison asked if state law prohibits limitation of special needs persons up to a certain number in residential settings. Ms. Hurley stated this is a therapeutic home that will probably not exceed 10 persons. This facility is about oversight. The residents will be receiving treatment in the home and they cannot be left unattended.

Mr. Ellison asked the maximum number allowed without a special exception. Ms. Hurley stated with this setting it is usually 10 to 16 but this facility will most probably be limited to 10.

Mr. Ellison asked Mr. Harbison about the regulation allowing five (5) persons. Mr. Harbison stated that is the City of Gadsden's definition of a family. Up to five (5) unrelated persons can occupy a residence.

Mr. Ellison asked if five (5) unrelated persons could occupy this residence without a special exception. Mr. Stewart stated they could but it would not be a regulated facility.

After further discussion, on a motion by Mr. Porch and a second by Mr. Maxwell, the Planning Commission voted three to one, with Ms. Moore casting the dissenting vote and Mr. Stewart abstaining, to approve the special exception to operate a group assisted living facility housing up to 12 persons in an R-2, Multiple-Family Residence District.

Item 5 – William Greer – A request to rezone property located at 105 Thomas Drive from I-1, Light Industry District, to B-2, General Business District.

Will Greer spoke on behalf of the request. Mr. Greer stated that the current industrial classification has forced potential tenants to be turned away. This is not an industrial building.

Mr. Hall stated there are some concerns about parking for the proposed use as a church. Mr. Stewart stated it would be up to whoever occupies the building to meet the parking requirements.

Ms. Moore asked if there was additional space at the rear of the building that could be used for parking. Mr. Greer stated there is space that could be cleared and used for parking.

There was no opposition present.

After further discussion, on a motion by Mr. Porch and a second by Ms. Moore, the Planning Commission voted unanimously to recommend to the City Council that the property located at 105 Thomas Drive be rezoned from I-1, Light Industry District, to B-2, General Business District.

Item 6 – Daniel Browning – A request to rezone property located at 1501 West Grand Avenue (101 Thomas Drive) from I-1, Light Industry District, to B-2, General Business District.

Bethann Staton spoke on behalf of the request. Ms. Staton advised she wants to establish an indoor play facility at this location. Similar facilities exist in Birmingham and Huntsville and they have been very successful. Ms. Staton stated she is purchasing a franchise from Air Walk to establish the facility.

Mr. Ellison asked the age limitations. Ms. Staton stating it is for persons 99 years and younger.

Ms. Moore asked if the facility would be open to the public all the time. Ms. Staton advised it would be.

Ms. Osborn, Gadsden Commercial Development, spoke on behalf of the request. Ms. Osborn stated the building has been vacant at least eight (8) years. She feels this facility will be a great use for the building.

There was no opposition present.

After further discussion, on a motion by Mr. Ellison and a second by Mr. Porch, the Planning Commission voted unanimously to recommend to the City Council that the property located at 1501 West Grand Avenue (101 Thomas Drive) be rezoned from I-1, Light Industry District, to B-2, General Business District.

Item 7 – River Trace Ventures, LLC – A request for approval of a final plat for the River Trace Shopping Center Subdivision.

Phillip McAfee, River Trace Ventures, LLC, spoke on behalf of the request. The commission granted approval of the preliminary plat in April. At this time, River Trace Ventures is requesting approval of the final plan.

Mr. Stewart stated the Engineering Department has made a recommendation that the final plat be approved.

Mr. Ellison asked Mr. McAfee to explain to the commission why the request for final plan approval has been submitted before construction has started. Mr. McAfee stated final plan approval is needed in order to facilitate the sale of one (1) of the lots proposed in the subdivision. This is an anchor tenant who required River Trace Ventures obtain final plan approval in order to close. This will allow them to begin construction. The request for final plan approval is being submitted much earlier than desired by River Trace.

Mr. Ellison stated the final plan is being reviewed with some conditions. Mr. McAfee stated if the final plan is approved, it will not be recorded until two (2) items have been addressed.

- The tri-party agreement must be completed.
- Additional backup for the bond amounts be provided. Information regarding the bond amounts was provided to Mr. Hare. He requested additional information on the numbers provided.

The condition is that the final plan will not be recorded nor will signatures be obtained until both these items have been satisfactorily addressed.

Mr. McAfee noted the plan has been modified per Mr. Hare's request. There are two (2) easements that were originally proposed to vacate by virtue of the plat. However, due to the need to expedite the final plan, there was not enough time to get the paperwork in order for those easements.

Mr. McAfee asked if the easements are vacated between now and date of recording, will it be necessary to come back before the commission.

Mr. Hall stated the preliminary plat was approved contingent upon completion of the tri-party agreement. That is very close to completion and all parties are working diligently to complete the agreement. Both the Planning and Engineering Departments are fine with approval of the final plan with the stipulation that signatures will not be obtained and recording will not take place until the two (2) remaining issues have been addressed.

There was no opposition present.

After further discussion, on a motion by Ms. Moore, and a second by Mr. Porch, the Planning Commission voted unanimously to approve the final plan for the River Trace Shopping Center Subdivision, with the stipulation that signatures not be obtained and recording does not take place until the tri-party agreement has been completed and additional backup for the bond amounts have been provided.

Tina Cody, Secretary

APPROVED:

Ronald Cannon, Chairman