



*City of Jonesboro City Council*  
**Staff Report – RZ 11-12: Duyen Tran/ Colony Dr.**  
**Huntington Building - 900 W. Monroe**

*For Appeal to the Council as recommended for Denial by MAPC on May 10, 2011*

- REQUEST:** To consider an appeal of a denial of a rezoning of a parcel of property containing approximately 8.60 acres more or less from R-1 Single Family to RM-4 L.U.O. Low Density Multi-Family by the MAPC.
- PURPOSE:** A request to consider a denial by the Metropolitan Area Planning Commission as recommend to City Council for final action as **RM-4 L.U.O.**
- APPLICANT/ OWNER:** Andrea Tate, 402 S. Main St., Jonesboro AR 72401  
 Duyen Tran, 1005 Brownstone, Jonesboro AR 72404
- LOCATION:** The North side of Colony Dr. / Between Antosh & Richardson Rd., East of Railroad Crossing.
- SITE DESCRIPTION:** Tract Size: Approx. 8.60 +/- acres, 374,616 Sq. ft. +/-  
 Frontage: Approx. 394.11 ft. along Colony Dr.  
 Topography: Flat  
 Existing Developmt.: Vacant
- |                                |                |  |
|--------------------------------|----------------|--|
| <b>SURROUNDING CONDITIONS:</b> | <u>ZONE</u>    | <u>LAND USE</u>                          |
|                                | North: R-1     | Residential                              |
|                                | South: R-1     | Residential                              |
|                                | East: R-1/C-3  | Residential/Commercial Automotive Repair |
|                                | West: C-3, R-3 | Commercial, Multi-family                 |
- HISTORY:** Un-platted/un-built subdivision.
- ZONING ANALYSIS:** City Planning Staff has reviewed the proposed Zone Change and offers the following findings.

**Approval Criteria- Section 117-34- Amendments:**

The criteria for approval of a rezoning are set out below. Not all of the criteria must be given equal consideration by the planning commission or city council in reaching a decision. The criteria to be considered shall include but not be limited to the following:

- (a) Consistency of the proposal with the Comprehensive Plan
- (b) Consistency of the proposal with the purpose of the zoning ordinance.
- (c) Compatibility of the proposal with the zoning, uses and character of the surrounding area;
- (d) Suitability of the subject property for the uses to which it has been restricted without the proposed zoning map amendment;
- (e) Extent to which approval of the proposed rezoning will detrimentally affect nearby property including, but not limited to, any impact on property value, traffic, drainage, visual, odor, noise, light, vibration, hours of use/operation and any restriction to the normal and customary use of the affected property;
- (f) Length of time the subject property has remained vacant as zoned, as well as its zoning at the time of purchase by the applicant; and
- (g) Impact of the proposed development on community facilities and services, including those related to utilities, streets, drainage, parks, open space, fire, police, and emergency medical services.

**COMPREHENSIVE PLAN FUTURE LAND USE MAP**

The Future Land Use Map adopted on January 5, 2010 shows this area to be within the Southeast Sector and to be recommended as a High Density Single Family residential. Currently the City is updating the Comprehensive Plan, which is predicted to be adopted by February 2012. If the propose site were to be rezoned and developed consistently with the current land use map, an RS-8 High Density Single family district could be considered having a potential for 68 single family homes.



Zoning Vicinity Map  
Master Street Plan

The property is located along Colony Dr. which is recommended as a local street on the adopted Master Street Plan from its current status. A 60-ft. right-of-way is denoted on the submitted rezoning plat for lots 1-4. Access management and the drive location must be approved by the City Engineer.

**Staff Findings:**

The proposal will result in the existing R-1 Residentially zoned property to be rezoned to RM-4 L.U.O. This area is zoned and utilized as a mixture of several single family homes, multi-family, and a few commercial/industrial uses in that segment of the city (see zoning map on previous page).

The applicant is proposing to develop low density townhomes at the lowest available multi-family district level. The applicant has expressed the difficulty in attracting/developing single family next to the railroad, in hopes of providing a transition and buffering from the higher intense uses toward the less intense single family abutting neighborhoods.

**Zoning Analysis**

Absent a conceptual or preliminary layout, Staff can only provide the allowable uses/parameters of the RM-4 Zoning Classification. Specifics and detailed compliances shall be required during the site plan review process before the MAPC if rezoning is approved.

**RM-4 Zoning District**

Requires 10,890 s.f. per unit= Gross units permitted: **34 apartment units**

**Front Setback:** 20 ft.

**Side:** 7.5 ft.

**Rear:** 15 ft.

-Multi-family Structures over one story or 15ft in height shall have an additional 8-ft. side and rear setback for every additional story or 15ft. in building height.

**Parking required:** 1.25 spaces per efficiency unit; 2.25 spaces per 2-bedroom units; 3 spaces per 3-bedroom units.

**Buffering/Screening:**

All parking areas shall be screened or buffered to any abutting single family residential. All dumpster locations shall be properly shielded per Section 117-326 of the Jonesboro Code of Ordinances. Perimeter privacy fencing should be considered to minimize impact on abutting single family residences. Exterior lighting shall be designed to minimize light spilling onto surrounding properties.

**MAPC Record of Proceeding- Public Hearing held on May 10, 2011:**

Applicant: Andrea Tate, Applicant's architectural Agent. Owner: Mr. Duyen Tran who is proposing to RM-4 at 4 units per acre. Ms. Tate stated that he would like to do 16 units for phase one. There will be four (4) four-plexes in townhouse style. Samples were passed out to the Commission. She added that they passed out 50 flyers stating that they were having a informative meeting.

Ms. Tate: Of the people who showed up, we asked that they would give their concerns and their comments and have them help us develop the property; so it could be something they could be proud of. We welcomed their input. All at the meeting were in agreement and they said they didn't oppose us in any way and we had their support. They didn't feel that the development would decrease their property values in any way.

Ms. Tate asked the Commissioners if they wanted to hear some of the concerns. She proceeded on stating that regarding security- there was a comment about it. It will be a gated

community; they will have swipe security cards. There will be security cameras in use at all times. The townhouses will range from \$800 to \$1,000 per month in rent, with no governmental assistant-living of any sort. The owner will conduct background checks before approving any tenants. The traffic was a concern. My client has also spoken with the City and has offered to put up a new traffic light as Stadium Blvd. if the City wish so; and he agreed to pay for it. We can't do anything about the train track, and we can't control the trains. There was a concern about back-up, because Colony is an outlet for all of the residents on that side.

Ms. Tate: Flooding. We have addressed all concerns about the flooding issues in that area. There will be no excess water on any neighbors; there will be detention ponds and a playground for children. Miscellaneous items: My client has agreed to build an 8 ft. privacy fence around the whole property; he chose 8-ft., because of the Colony Rd. properties fronting the street. And he has also agreed not to build any building near their residences. He would also like to build a safe-room storm shelter for the community's use. Mr. Halsey: How many townhouses? Mrs. Tate: there will be 16 in phase (all four-plexes). Mr. Halsey: Will he do all the amenities up front, prior to occupying any of the units? Ms. Tate: Yes; Once it is approved, the fence will go up immediately, and we would start with everything.

### **Opponents:**

Doug Ward, 3407 Colony Dr. (Passed out a petition). I am the only remaining original home owner on Colony Dr. In the 19 years that I have lived there, there have been a few zoning issues that have come before the Commission and Council. We currently have a commercial zoning directly across from my house. It was spot zoned after an annexation in the late 1980's. There is a 3-acre vacant residential property between this and the C-3 Commercial, where there is an automobile repair place with a lot of unusable automobiles in back. Between this development and the C-3 there is R-1 Single Family property and it is bound on 3 sides by R-1 Single Family. Immediately to the west is the railroad tracks. In the early 90's the Council gave a strong desire to keep commercial to the west of the railroad tracks, and to this time that has happened. They also voiced a strong concern to keep it residential to the east. We have a list of signatures from at least 160 residents within a ½ mile of this property that are opposed to this. I would put that on record. The first page, handout "B" is the Colony Park Subdivision; In "A" to the east of Richardson Dr., there are 179 houses, and in Colony Park Subdivision, there are 93 houses. That totals 272 homes not counting isolated homes in between. I've watched this go from a gravel road, where you could stand in the road and not have anyone pass by. It is a major access road.

Mr. Ward: The 3<sup>rd</sup> page marks 5 crossings to the railroad tracks. Colony Drive is the preferred road for all those residents to try to get to Stadium Blvd. He commented about driving at 7:30 AM down Colony Dr., and someone with their blinker on is trying to turn south on Stadium; you better hope a train don't come. Nettleton Schools runs 9 school buses in morning and 13 in afternoon through Colony, because it is the preferred route between the schools.

Mr. Ward- Planning and Zoning have a bigger problem than this rezoning. Colony Drive is flooded with cars now, and this vacant land to the east of Richardson Rd., south and north of Colony Dr.; and it is going to eventually development as Jonesboro grows. Mr. Ward also commented on deaths in the past on the rail crossings 3, 4, and 5. He noted that the only access into this property is to the immediate east of the railroad tracks. He noted that he can foresee in the afternoon at 4:30, when residents are coming on to this property it won't take 3 or 4 car

lengths to cause issues on the rail road tracks with the arms coming down; there is not much room there.

Mr. Ward: There is not housing in that corner because the developer and the City are in dispute over a major water issue in Colony Park Subdivision. The developer says it is the City's fault; City says it's the developer; now you have to put in a detention pond. Mr. Ward stated we have a water problem. He concluded with a newspaper's article of Jonesboro official's tracking crime in rental property areas. Mr. Ward showed a map of high crime areas, and noted Colony Park does not have a lot of crime nor apartments.

**Staff:**

Mr. Spriggs: In terms of the history of this tract, there was only a concept of a single family subdivision for 22 lots from a previous owner. It was never platted, developed nor successfully marketed for single family. On the Land Use Map, the property is recommended for High-Density Single Family Residential. If this property were zoned to an equivalent district, it could result in approximately 68 single family homes on this site. The master street plan recommends "local street" designation for Colony Dr.- 60 ft. right of way. The staff report recognizes the surrounding use types of a mixture of single family, multi-family, commercial and railroad. The applicant is requesting a total of 34 units. We have listed the RM-4 district regulations, and the buffering standards. Some issues of drainage were raised; the property is adjacent to the flood plain. Michael Morris of the Engineering Department is available to answer any drainage questions. Staff has listed a number of recommended conditions if approval is considered.

Mr. Kelton asked where are we on this battle with the developer over the drainage issue? Spriggs: Staff is unaware of problems with the subject tract. Mr. Halsey: What about the storm water drainage? Mr. Spriggs: They would have to comply with our storm water regulations. Mr. Halsey: For the whole site? Mr. Spriggs: Yes.

Mr. Tomlinson: Was the drainage problem to the south side of Colony Dr. Mr. Spriggs: The south side of Colony and to the east of Richardson Rd.

Mr. Kelton asked for clarification on the drainage problems. Mr. Morris: Currently where the homes are built south of this site- Jeridon Cove, is actually in the floodplain. We are working with the developer to do some channel improvements and put some culverts in there. That is the plan for improvement.

Mr. Kelton: Was there actually water on Colony Dr.? Mr. Morris: there was some water in a number of homes on southeast corner. Mr. Kelton: the natural drainage of the land- does it drain north to south? Mr. Morris , yes. Mr. Kelton: Will the detention pond by this developer on the north side of Colony stop the water from crossing Colony? Mr. Morris: The developer to the north will not increase any run off. Mr. Halsey: Will it help any of the flooding. Mr. Morris: No. Mr. Kelton: So there would be no benefit of a detention pond on the north side to the people on the south side? Mr. Morris: They would have to mitigate for their own increase storm water.

Mr. Spriggs: It appears that you are asking if the subject site could be considered for a regional detention pond, and that is not the intent here. Mr. Halsey: They would have to take care of their own water.

**Opposition:**

Terry Easley: 5200 Richardson Rd., There's a large ditch that runs behind my property. He noted that when he took his mother home (during storm this week) there wasn't water at first,

water was going across the road. Five minutes later, at Boston Proper Subdivision, on Beacon St. there was water crossing the road. Stated he lives just pass the ditch and his whole yard was like a lake. They cleaned the ditch out years ago, and he gave them property to do so. Mr. Easley gave further comments on the drainage flow from Antosh through to Richardson and noted that he didn't think a retention pond is the answer.

Mr. Johnny White made the observation that this isn't the only large tract in this quadrant between Richardson Road and the railroad tracks. Most of it is single family homes with a couple of exceptions. If this tract is developed in the future this way, there are other tracts and other developers will be buying other large tracts and doing the same thing. We are deciding how this area might be developed or transition.

Mr. Joe Tomlinson asked if this is considered spot zoning? Mr. Spriggs: Given the fact that Multi-family is a form of residential; it would be difficult to make that argument, comparing it to what our Master Land Use Plan is recommending- High Density Single Family Residential. The applicant is requesting a very low density development- 4 units per acre. This is lower than the surrounding R-1 Single Family density which is 5.4 units per acre. Mr. Tomlinson concurred with what Mr. White was saying that we could open the door for a flood of multi-family development. I have seen that happen, he noted.

Mr. Spriggs stated that he understands that argument, but as noted in the staff report, the difficulty with this site is- it is adjacent to commercial on the west, a railroad to the west, adjacent to R-3 Multi-family (Antosh Development); also further east on Colony Rd.- Boston Proper, in which much of it is zoned R-2/R-3 Multi-family, but developed as single family homes; We have a collage of various uses in the area. The applicant attempted to provide for some form of transition to the railroad/commercial uses to the west.

Mr. Kelton: Would any of us live long enough to see a traffic light at Colony/Stadium. Mr. Spriggs stated that we have already a traffic light planned one block north at Fox Meadow Lane; so it may be many years. Mr. Kelton: Stated he listened carefully to Mr. Spriggs' description to the surrounding area. However, when you have an area that has a known drainage problem, and a severe drainage problem, why would we approve any future development or any additional development until we have solved that drainage problem. I realize we have some negotiations going on; but those negotiations do not stop the rain. I sympathize with this property owner and the others in this room. If I owned the land, I would want to do something other than pay taxes on it. But things have to be done sometimes intelligently, and one of the things here is: Solve the water problem in the area, and then come back and ask for permission to develop that property.

Mr. Tomlinson: Noted that he is still confused on the problem of the water; he was thinking that it is to the south. He didn't know that this property was being tagged as being dangerous/ and flood prone. He doesn't think this has been established- has it? Mr. Morris reiterated the storm water regulations; they cannot have any negative impact downstream. Mr. Tomlinson noted that they would still have to have detention.

Mr. Johnny White raised a question for legal counsel: In terms of motions in the affirmative/negative- I am prepared to make a motion on this item and it would be a straight forward motion. Ms. Carole Duncan stated that she understood the concerns, but we will hold off another month (On MAPC rules) until we get a determination though the Robert's Rules of

Order, in voicing motions in the positive. She noted that she understands that if a commissioner intends to vote in the negative and feels that it would have some effect on how you are perceived but also the votes of other members potentially. If you chose to make a motion in the negative you may. We do not have a recommendation on procedure today.

**MAPC ACTION:**

Mr. Johnny White: In view of the facts and discussion this evening, and the fact that the proposal that has been made doesn't comply with what we are suppose to do as a body. I think we are asked by the citizens to be sure that Planning is coordinated, adjusted, and harmonious. That it promotes the general welfare of the district that it is proposed in, the citizens that live there, convenience of traffic, and for that reason- I make a motion that this item be denied: Motion was seconded by Mr. Kelton.

Roll Call Vote: Mr. Kelton- Aye; Mr. Scurlock (after clarification- Aye; Mr. Tomlinson-Nay; Ms. Norris- Aye; Mr. White- Aye; Motion failed lacking the 5 votes. Mr. Spriggs stated that this is the very reason we are suggesting the motion be made in the affirmative.

Ms. Tate asked if she could request that the matter be tabled to address the concerns of the residents. Mr. Halsey stated that the applicant has one option of withdrawal available. Mr. Spriggs confirmed. Mr. Halsey: Applicant do you wish to withdraw the case or have it tabled?

Ms. Tate asked for clarification of both. Mr. Halsey explained. Ms. Tate requested tabling. No motion was made to table.

Mr. White made a motion to recommend to City Council approval of the case; Seconded by Mr. Kelton;

Roll Call Vote:

Mr. Kelton- Nay; Mr. Scurlock - Nay; Mr. Tomlinson-Aye; Ms. Norris- Nay; Mr. White- Nay. Case is recommended to City Council as denied.

**Conclusion:**

The MAPC voted (4 to 1) that the requested Zone Change submitted by Duyen Tran, Case RZ11-12, RM-4 L.U.O. (4 units per acre) be recommended for denial by the City Council for rezoning of 8.60 acres as RM-4 L.U.O.

Respectfully Submitted for Council Consideration,



Otis T. Spriggs, AICP  
Planning & Zoning Director



## SITE PHOTOGRAPHS



*View looking West along Colony Dr.*



*View looking East along Colony Dr.*





*View looking Northeast towards site*



*View looking East along subject property frontage.*



*View looking North on Railroad tracks abutting western boundary.*



*View looking North at the subject property.*





*View looking West along Colony Dr of subject frontage and adjacent drive.*