

The Planning Commission met Monday, August 1, 2016 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairperson; George Roberds, Vice-Chair; Jennifer Fidler; Bob Clark; Bernie Fogarty; Jay Robinson; Hollie MacKellar; Kevin Boone; Jonathan Smith, Planning Director; and Emily Boyett, Secretary

Absent: Tim Kant

Chairman Lee Turner called the meeting to order at 5:03 PM and announced the meeting is being recorded.

The minutes of the July 5, 2016 meeting were considered and Bernie Fogarty moved to accept the minutes as written and was 2nd by Bob Clark. The motion carried unanimously.

SD 16.09 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Old Battles Village, a 21-lot subdivision, Steve Pumphrey. The property is located on the north side of Old Battles Road, at the end of Garrison Boulevard, Craftsman Avenue, and Musket Avenue. Mr. Smith gave the staff report saying the subject property is currently zoned PUD (Planned Unit Development) and consists of 13.5 acres with 21 lots proposed. The PUD amendment was forwarded to the City Council with a favorable recommendation on March 7, 2016; however, the application has not been approved through the City Council process to date. Staff recommendation is to approve contingent upon the following conditions:

1. The City Council approval of the Old Battles Village, Phase 2 PUD amendment of the Master Plan.
2. The requirements of the traffic study shall be satisfied at the time of build out of the first 21 homes within Old Battles Village, Phase 2.
3. The landscaping plan shall meet the approval of the Public Works Director.
4. The Operations and Maintenance Plans shall be amended to add the final destination (ie. tributary, bay, etc.) that receives the storm water from the site.
5. The "Building Coverage" stated in the site data table shall be changed to the "maximum allowable lot coverage" to clear up any potential confusion between the plat and the PUD.
6. The not "25% of the rear yard" in the site data table shall be reworded to "25% of the required rear yard."
7. The utility and drainage easements are larger than the allowed accessory structure setbacks. No accessory structures can be constructed on drainage or utility easements carrying storm water, pipes, conduit, etc.

Mr. Pumphrey was present to answer any questions.

Mr. Turner opened the public hearing.

Erik Goldschmidt of 516 Bartlett Avenue – He has lived in Old Battles Village for 4 years and the roads are already deteriorating. He provided pictures of cracks in the main entrance. He stated the subdivision's main entrance will become a construction entrance for the new phase and it will ruin the roads. He noted concerns with traffic, safety, and road maintenance.

Anthony Ghilardi of 586 Musket Avenue – He asked the Commission not to approve this request without a separate construction entrance or holding someone accountable for

repair to the existing roads. He stated the construction traffic for 177 lots will cause the already failing roads to be destroyed.

Bob Gentle of 594 Musket Avenue – He asked what amenities will be built for the subdivision and he suggested the developer should use the Alabama Power easement as their construction entrance.

Having no one else present to speak, Mr. Turner closed the public hearing.

Mr. Pumphrey addressed the comments from the public hearing saying there will be two access points for the development, one through Old Battles Village and one through Huntington Woods. He explained Alabama Power has been difficult to work with in the past; however, they will ask to use the power line easement as a construction entrance.

Mr. Pumphrey also stated the amenities will include a pool, cabana, tennis court, basketball court, an open field, and lakes. Mr. Robinson questioned responsibility for any damage to the roads during construction and Mr. Pumphrey responded the existing roads are City right-of-ways. Mr. Robinson asked if a bond would be required for the roads and Jason Estes of Preble-Rish, LLC explained bonds will be provided for the new streets constructed but it is not typical for bonds to be issued on existing streets. Mr. Turner asked how long the bonds are for and Mr. Smith responded 2 years. Mrs. Fidler stated Phase 1 of this development sat vacant for several years prior to being developed and that could be a contributing factor to the condition of the roads. She noted numerous subdivisions have multiple phases to which construction traffic must pass through the existing phases to reach the new sections. She suggested testing or documenting the roads prior to new construction and then retesting during and after construction to monitor the deterioration. Mr. Gentle asked if Truland Homes had a bond before starting to build in Phase 1 and Mr. Turner stated Truland Homes only purchased the lots and no bond was needed. Mr. Ghilardi asked if subdivision streets are held to the same standards as main thoroughfares and Mr. Smith stated he was not sure and Mrs. Fidler would be better suited to answer. Mrs. Fidler said the City relies on the engineer of record to verify the streets meet our requirements. Mr. Turner stated he would like to make sure Alabama Power is contacted for a possible construction entrance via their easement and Mr. Smith explained the Commission cannot mandate the developer to do so but it is a good recommendation. Mrs. Fidler suggested the construction traffic could utilize Craftsman Avenue rather than the main entrance. Mr. Smith said the streets have already been accepted by the City and they are public streets which can be used by anyone. Mr. Boone said whoever tears the streets up needs to be responsible for fixing them and Mr. Clark responded is the City's responsibility to maintain and repair them at this point if we have already accepted them. Mrs. MacKellar asked what the timeline for completion is for the remaining phases and Mr. Smith responded there is no sunset clause for the development. Mr. Smith stated updated Subdivision Regulations and City ordinances need to be in place to protect our citizens.

George Roberds made a motion to accept the staff recommendation to approve contingent upon the following conditions:

1. The City Council approval of the Old Battles Village, Phase 2 PUD amendment of the Master Plan.
2. The requirements of the traffic study shall be satisfied at the time of build out of the first 21 homes within Old Battles Village, Phase 2.
3. The landscaping plan shall meet the approval of the Public Works Director.
4. The Operations and Maintenance Plans shall be amended to add the final destination (ie. tributary, bay, etc.) that receives the storm water from the site.

5. The “Building Coverage” stated in the site data table shall be changed to the “maximum allowable lot coverage” to clear up any potential confusion between the plat and the PUD.
6. The not “25% of the rear yard” in the site data table shall be reworded to “25% of the required rear yard.”
7. The utility and drainage easements are larger than the allowed accessory structure setbacks. No accessory structures can be constructed on drainage or utility easements carrying storm water, pipes, conduit, etc.

Bernie Fogarty 2nd the motion.

Mr. Turner suggested the neighborhood residents go to the City Council with their request to fix the damaged streets.

The motion carried with the following vote: AYE – Jennifer Fidler, Bernie Fogarty, Lee Turner, Jay Robinson, Hollie MacKellar, George Roberds, and Kevin Boone. NAY – Bob Clark.

SD 16.17 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Phase 2 of Silverleaf at Firethorne, Steve Pumphrey.

The property is located on the east side of US Hwy. 181 and on the south side of Narrowleaf Boulevard. Mr. Smith gave the staff report saying the property is zoned PUD in the City of Fairhope. The site is approximately 13.78 acres with 29 lots proposed.

Staff recommendation is to approve contingent upon the following conditions:

1. The applicant shall be advised that the traffic recommendation shall be addressed prior to Phase 3 commencing.
2. The Drainage and Operations and Maintenance Plan shall reflect the final disposition of water in the reports. The Operation and Maintenance Plan shall be recorded.
3. The applicant shall provide a copy of the ADEM NOI.
4. The applicant shall provide a note on the plat that fences shall not be placed in drainage easements.

Mr. Pumphrey was present to answer any questions.

Mr. Turner opened the public hearing. Having no one present to speak, he closed the public hearing. Mrs. MacKellar asked how many phases there will be for this development and how the roads will be in 10 years. Mr. Pumphrey responded there are 6 phases and the roads were constructed to the City’s standards and are currently in great shape. Mr. Turner asked if the proper bonds are in place and Mr. Pumphrey answered yes. Mr. Boone suggested upgrading the City’s street standards but noted this is the first time he remembers there ever being an issue. Mr. Turner agreed and said maybe that particular subdivision should be evaluated because it is the only one he recalls in the past 16 years.

Jennifer Fidler made a motion to accept the staff recommendation to approve contingent upon the following conditions:

1. The applicant shall be advised that the traffic recommendation shall be addressed prior to Phase 3 commencing.
2. The Drainage and Operations and Maintenance Plan shall reflect the final disposition of water in the reports. The Operation and Maintenance Plan shall be recorded.
3. The applicant shall provide a copy of the ADEM NOI.

4. The applicant shall provide a note on the plat that fences shall not be placed in drainage easements.

George Roberds 2nd the motion and the motion carried unanimously.

UR 16.10 Request of AT&T for an 11.52.11 Utility Review and approval of the proposed installation of approximately 1,631 linear foot of fiber optic cable and 2,477 linear foot of innerduct pipe in the City of Fairhope Right-of-Way, Wade Mitchell. The projects will run along Gayfer Road Extension, Ayrshire Lane, and throughout Huntington Woods and Old Battles Village subdivisions. Mr. Smith gave the staff report saying AT&T is upgrading their infrastructure to a new state of the art fiber-to-the-home network. The total installation will consists of 11,250 linear feet of innerduct and 1,631 linear feet of cable with a portion of the work in the City ROW and the remaining work within the utility easements. The method of installation will include trenching, vibratory plows, and directional boring. Staff recommendation is to approve conditional upon the following:

1. The applicant shall follow the general comments related to utility work, as stated in the Staff Report.
2. All mechanical and locator equipment shall be painted munsell green.

Mr. Turner opened the floor to public comments. No one was present to speak.

Mrs. Fidler stated there have been so many of these projects coming in and the City has had several issues where the roads have been damaged. She explained the departments have been working together for new guidelines regarding these projects. Mr. Smith stated the Building Department will not issue any permits if there are any unresolved issues with other sites.

Jennifer Fidler made a motion to accept the staff recommendation to approve conditional upon the following:

1. The applicant shall follow the general comments related to utility work, as stated in the Staff Report.
2. All mechanical and locator equipment shall be painted munsell green.

George Roberds 2nd the motion.

Mr. Boone asked if the issues were caused due to depth or type of installation. Mrs.

Fidler said she is not sure of the cause but we are now asking the contractors to go deeper and making sure bores are all done by directional bore and no push bores. Mr. Roberds suggested the City adopt the same requirements as ALDOT.

The motion carried unanimously.

IR 16.01 Request of Hutchinson, Moore & Rauch, LLC for an Informal Review of the Luce Family Division, a 4-lot subdivision, Robert Cummings. The property is located on the west side of Scenic Highway 98 and north of Confederate Rest Road. Mr. Smith gave the staff report saying the property is a County Zoned District 26 RSF-2 parcel, located at 17423 Scenic 98. The property is approximately 3.2 acres and the applicant is proposing 4 lots. A family division was approved by Baldwin County in 2008 but it was never recorded. The City has no land use authority and has only been involved with these requests since 2009. It would be better for the County to give us a recommendation regarding their position. The applicant is also requesting a waiver to the street frontage requirement as per the Subdivision Regulations. Staff recommendation is to provide insight and comments regarding the proposed subdivision.

Mr. Cummings addressed the Commission saying the County has looked at the proposal and are agreeable to the layout; however, the waiver would be required for the layout to work. Mr. Turner stated he does not like the design of Parcel B. Mr. Roberds stated it appears 3 lots do not meet the County's 3:1 ratio requirements.

Robin Luce addressed the Commission saying the house was built in 1890 and the porch could be removed but they are trying to preserve the house. He said he has spoken with the neighbors and they have some concerns but this has already been approved once and just wasn't recorded. Mrs. MacKellar asked if there have been any drainage problems and Mr. Luce responded yes, on the north property line when a drainage pipe was clogged. Mr. Luce stated there will be 3 structures removed but they intend to keep the main house. Mr. Turner said he would like to see it remain 1 lot but he understands reality and he is glad they are going to preserve the house.

Mr. Turner opened the floor for public comments.

Mary Lou Meaher of 17445 Scenic 98 – She stated she lives next door and wants to know what will be built on the site. She asked for the dates of the next meeting so she can attend.

John Carden, President of Point Clear POA – He said the applicants are trying to squeeze a fourth lot out on the bay and it doesn't fit.

Having no one else present to speak, Mr. Turner closed the floor.


Mr. Cummings stated the County does not have any issue with the waiver request or the layout. Mr. Turner said Parcel B does look like it is jammed in there. Mr. Roberds said the 3:1 ratio is not a City requirement but he did want to make sure the applicant was aware it was not being met.

Old/New Business

March 7, 2016 – Amend meeting minutes, Jonathan Smith. Mr. Smith stated there was an error in the minutes for case ZC 16.03. The minutes have been changed to show the 2nd by Jay Robinson and an abstention by Kevin Boone.

Bernie Fogarty made a motion to amend the minutes of the March 7, 2016 Planning Commission meeting. Bob Clark 2nd the motion and the motion carried unanimously.

Having no further business, George Roberds made a motion to adjourn. Bernie Fogarty 2nd the motion and the motion carried unanimously. The meeting was adjourned at 6:25 PM.



Lee Turner, Chairman



Emily Boyett, Secretary