

STATE OF ALABAMA)(
 :
 COUNTY OF BALDWIN)(

The City Council, City of Fairhope met in regular session at 6:00 PM, Fairhope Municipal Complex, Council Chamber, 161 N. Section Street, Fairhope, Alabama, on Monday, November 24, 2008.

Present were Council President Debbie W. Quinn, Councilmembers: Daniel Stankoski, Lonnie L. Mixon, Michael A. Ford, and Rick Kingrea, Mayor Timothy M. Kant, City Attorney Marion E. Wynne, and Acting City Clerk, Betty Rivenbark.

There being a quorum present, Council President Quinn called the meeting to order. The invocation was given by Reverend Don Smith and the Pledge of Allegiance was recited. The minutes of the November 10, 2008 meeting were considered and approved on motion by Councilmember Mixon, with a second by Councilmember Stankoski, and passed unanimously with a voice vote. The minutes of the Special meeting held November 18, 2008 were considered and approved on motion by Councilmember Kingrea, with a second by Councilmember Mixon and passed unanimously with a voice vote.

Sherry Sullivan made the following announcements:

- The Christmas Parade will be held December 5th at 7:00 PM.
- Santa Saturdays will be held December 6th and 13th at the Welcome Center from 10:00 AM-12:00 noon.
- She also said they have sent out applications for New Year's Eve.

Mayor Kant and Gregg Mims recognized the three 2008 Planning Project Winners, Dillon McKenzie, Tanner Vincent and Russell Silva. Gregg said the students in Mr. Lee's class were presented a photo of Volanta Park and asked to suggest programs and submitted posters. He said these posters with suggestions will be forwarded to the Recreation Board.

A Public Hearing was held as advertised on a proposed ordinance to amend the Zoning Ordinance No. 1253. Councilmember Kingrea introduced in writing Ordinance No. 1373. The Planning & Zoning Commission recommended approval of this ordinance, an ordinance for Christopher L. Haley for Parker Place Subdivision with zoning as a PUD conditional upon annexation. The property is generally located at 7220 Parker Road, on the southeast corner of Scenic Highway 98 and Parker Road. The property is approximately 3.79 acres and 8 lots are proposed.

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Jonathan Smith explained the proposed ordinance:

STAFF INTERPRETATION:

Application History:

The applicant is requesting to annex into the City of Fairhope and rezone the subject property to Planned Unit Development. The property is approximately 3.79 acres and is located at the Southeast corner of Scenic Highway 98 and Parker Road. The site is zoned in Baldwin County Commission Planning District 16 with the zoning designation of R-2A (Single Family Residential).

The investors associated with the development are as follows: Henry W. Morgan Jr. and Christopher Lee Haley.

The issues associated with this request are as follows:

Comprehensive Plan: The zoning amendment is not contrary to the Comprehensive Plan.

Impacts on Natural Resources: This site is situated in the Fly Creek watershed. The applicant shall take all necessary best management steps during development to minimize runoff of sediment to Fly Creek and maintain the area as naturalized as possible. Staff recommends the lots be cleared as they are sold and ready for a building permit, to minimize soil loss and potential deposition to Fly Creek and recommends minimal land disturbance during construction.

Building Height: A maximum building height of 30 feet is proposed for all structures.

Density, Setbacks and Lot Sizes: The minimum building set backs are as follows: Front Setback of 15 feet; Rear Setback of 20 feet; Side Setback of 10 feet ; Front Garage Setback of 20 feet.

Staff recommends the 8 lots with 20% open space and a maximum lot coverage of 40%. A note shall be placed on the preliminary plat, the site plan and the construction drawings stating the maximum lot coverage is 40%.

Pedestrian Circulation: The applicant has worked with the City of Fairhope Director of Public Works, to route the sidewalk in such a way to work for maximum tree preservation.

The Eastern Shore Trail runs along Scenic Highway 98. Staff recommends that the pedestrian circulation plan provide pedestrian connectivity in the Southern Common area to the Eastern Shore Trail with minimal impact to the natural vegetation in the buffer and the addition of a sidewalk along Parker Road.

Public Street Access: The applicant is proposing a public street to the city. The street meets the minimum street standards; however, the PUD site plan shall be revised to reflect utility easements at the front of lots.

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Screening/ Buffer Zones/ Landscaping: The landscaped buffers along Highway 98 and Parker Road shall remain natural and heavily wooded creating a dense buffer. Any modification to this buffer shall be approved by the Public Works Director. A tree protection and barrier plan specifying the barrier detail shall be submitted for all trees over 20"DBH.

Drainage: The applicant is proposing an underground drainage system utilizing three pipes, 300 hundred feet long.

Exterior Construction Material: No buildings have been proposed at this time. All building materials used on future development shall be in character and consistent with the surrounding neighborhood developments.

Accessory Buildings: All accessory structures proposed in the future shall meet the requirements of Article III Section C2 and Article III Section D 9 of the City of Fairhope Zoning Ordinance.

Exterior Lighting: Any lighting from the site shall not spill over on to adjacent properties.

Other: All outside agency approvals (i.e., Baldwin County turnout, ADEM, COE, etc.) shall be obtained prior to the issuance of a land disturbance permit.

PLANNING COMMISSION RECOMMENDATION:

The application was heard on September 2, 2008. The Planning Commission voted to approve conditional upon the following:

- 1) The following notes shall be added to the PUD site plan:
 - The required maximum lot coverage is 40%.
 - Twenty (20) % open space is required.
- 2) The PUD site plan shall be revised to reflect utility easements at the front of lots.
- 3) The pedestrian circulation plan shall provide pedestrian connectivity in the Southern Common area to the Eastern Shore Trail.
- 4) All common area areas shall be maintained by the property owners association including the on-site drainage.

The Planning Commission voted unanimously to recommend approval.

Respectfully Submitted for Consideration,

Nancy Milford
Planner
City of Fairhope

B. Gregg Mims
Planning Director
City of Fairhope

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Council President Quinn opened the Public Hearing at 6:11 PM. Trey Jinright spoke on behalf of Chris Haley giving an overview of the proposed project. Chris Haley then spoke and requested that the building height maximum be amended to 35 ft. He said when this was before the Planning Commission he did not realize a height restriction of 30 ft. was suggested. Discussion followed on height request and concerns voiced about runoff in this project, Mr. Jinright said he is addressing runoff concerns and heights of surrounding and newer subdivisions were mentioned.

Councilmember Stankoski mentioned he did not particularly care for the fact that issues were brought to the City Council before being discussed at Planning & Zoning and the public had no input at that level. He said we need to be consistent with height requirements, as well as any other requirements, in order to be equitable to all.

Gregg Mims informed the Council he did not have a problem with height amendment request but it is up to the City Council to approve or deny. That the Planning office is reviewing some of requirements and height requirement is one being looked at. The public hearing was closed at 6:22 PM.

In order to take immediate action Councilmember Kingrea moved for immediate consideration, seconded by Councilmember Nixon, motion for immediate consideration passed unanimously by the following vote: AYE –Stankoski, Nixon, Quinn, Ford, and Kingrea. NAY- none. Councilmember Kingrea then moved for final adoption of Ordinance No. 1373 with the 35 ft height amendment to run to the medium roof line. Seconded by Councilmember Nixon, motion for final adoption passed unanimously by the following votes: AYE – Stankoski, Nixon, Quinn, Ford and Kingrea. NAY – none.

Standing Committee Reports – Councilmember Nixon reported on his meeting with the Department Heads. It was announced that the next Finance Committee meeting would be December 8th at 4:15 PM before the City Council Meeting.

Special Boards and Commissions – Council President Quinn said in promoting transparency the Council will be receiving minutes from standing boards and committees and reviewing them, they had been presented minutes from:

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Items A-G:

Planning & Zoning – October 6, 2008

Board of Adjustments & Appeals – October 20, 2008

Fairhope Airport Authority – October 21, 2008

Recreation Board – October 15, 2008

Council President Quinn said she would like to be able to allow the Recreation Board to advertise for five new employees. Then, Mayor Kant reported only one employee was needed at the moment. A motion was made by Councilmember Mixon, seconded by Councilmember Ford to advertise for one new employee, motion passed unanimously by voice vote. Mayor Kant said this will allow the Recreation Board to start interviewing for people to help install and instruct on the new equipment that will be used in the new Recreation Center that will be opening after the first of the year.

Recycling Committee – November 4, 2008

Historic Preservation Committee – November 6, 2008

Joe Birendelli spoke and announced a Historic Preservation Committee meeting with speaker David Snyder and other experts to talk about Tax Credits and Insurance on December 11, 2008 at 6:30 PM and asked permission to hold it in the City Council Chambers. Councilmember Ford moved to grant permission to use the Council Chambers, Councilmember Stankoski seconded the motion and it passed unanimously by voice vote. Ross Hobbs and Joe Birendelli were names also presented as new members of the committee. Councilmember Mixon moved to add these two as new members to the committee. Councilmember Kingrea seconded the motion and it passed unanimously by voice vote.

Fairhope Tree Committee - October 16, 2008

Item H – Strategic Planning Committee – Councilmember Stankoski moved to appoint Pam Caudill, John Brown and Diane Thomas. Councilmember Mixon seconded the vote, Motion carried by voice vote with one abstention by Mike Ford.

Growth & Sustainability Study Group – Councilmember Mixon moved to add Clyde Panneton and Bethany Craft as members of this group. Councilmember Stankoski seconded the motion and it passed unanimously by voice vote.

Mayor's Report - Mayor Kant had made a recommendation for reappointment to the Planning & Zoning Commission of Bob Clark, whose term had expired, for six years to run until August 2012, and reappoint Jean Wilson, whose term had expired, for a six year term to run until August 2013. He also appointed Jennifer Fidler to replace Dan McCrory as the City representative.

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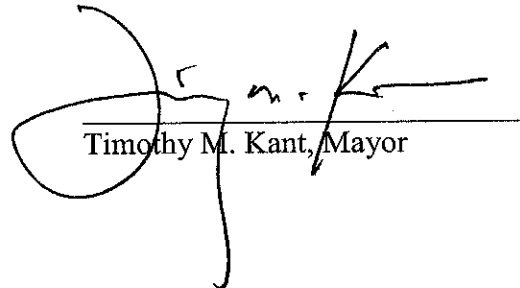
Public Works – Jennifer Fidler – Jennifer Fidler gave a report on the MS4 Program – Stormwater Monitoring Plan. She gave a summary of the MS4 Program and had provided a copy of the interjurisdictional agreement along with a letter from Mobile Group, Inc. (consultant) and a letter from the county clarifying the payment process for Mobile Group, Inc. She said she also had available a booklet on MS4 Program guidance, Statement of Qualifications for Mobile Group, Inc., and storm event monitoring data throughout our watershed.

Councilmember Ford introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Kant to execute an Indemnification and Hold Harmless Agreement between the City of Fairhope, the State of Alabama, and the Alabama Department of Transportation for the traffic signal installation at the intersection of U.S. 98 and Parker Road. Gregg Mims said that this week the traffic light will be ordered, and that it is one of many that ALDOT requires. It was pointed out that this will be paid for by the developer and once installed the city will take over maintenance. Rick Kingrea questioned having second agreement from developer indemnifying the city. Tut Wynne said he did not know what contract documents existed. Further discussion led to Councilmember Ford amending his motion to say that the Mayor be authorized to act accordingly and sign Resolution No. 1473-08 only after he gets indemnification from the developer. Councilmember Mixon seconded the motion and it carried unanimously by voice vote.

RESOLUTION NO. 1473-08

BE IT RESOLVED, by the City Council of Fairhope Alabama that Mayor Timothy M. Kant is hereby authorized to execute an Indemnification and Hold Harmless Agreement between the City of Fairhope, the State of Alabama, and the Alabama Department of Transportation for the traffic signal installation at the intersection of U.S. 98 and Parker Road in Fairhope, Alabama.

Adopted and Approved this 24th day of November, 2008


 Timothy M. Kant, Mayor

Attest:


 Lisa A. Hanks, City Clerk

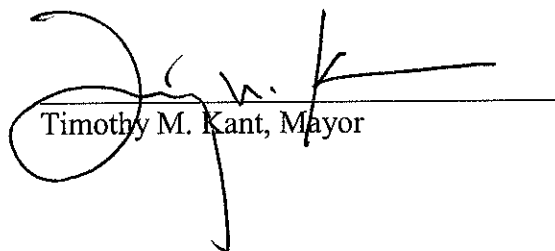
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Councilmember Stankoski introduced in writing, and moved for the adoption of the following resolution appointing the City Clerk. Council President Quinn said she had interviewed Lisa Hanks and recommended the appointment. Councilmember Kingrea seconded the motion and it passed unanimously by voice vote.

RESOLUTION NO. 1474-08

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, That Lisa A. Hanks is hereby appointed as City Clerk. The term of the City Clerk shall serve until the next general municipal election and until a successor is elected by the Council and qualified. Section 11-43-3, Code of Alabama, 1975.

Adopted this 24th day of November, 2008.


Timothy M. Kant, Mayor

Attest:


Lisa A. Hanks, City Clerk

Councilmember Ford questioned why we were doing these piecemeal and why the appointment of the Police Chief and City Attorney had not been made. He said the delay was causing questions/problems with the employees and public. Council President Quinn said she had asked Councilmember Stankoski and Councilmember Kingrea to handle these two appointments and that once they had studied the two positions they would report back and these positions would also be handled; that due diligence was being done.

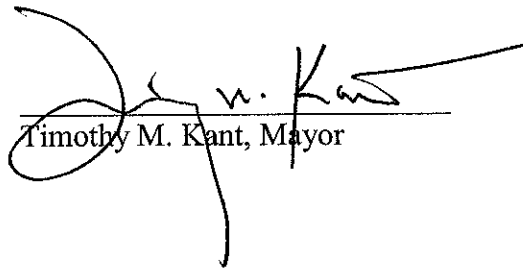
Councilmember Mixon introduced in writing and moved for the adoption of the following Resolution, a resolution appointing the City Treasurer. Councilmember Mixon said he had interviewed Mrs. Wilson and recommended the appointment. Councilmember Ford seconded the motion and it passed unanimously by voice vote.

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RESOLUTION NO. 1475-08

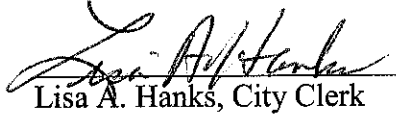
BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, That Nancy K. Wilson is hereby appointed as Treasurer. The term of the Treasurer shall serve until the next general municipal election and until a successor is elected by the council and qualified. Section 11-43-3, Code of Alabama, 1975.

ADOPTED THIS 24th DAY OF NOVEMBER, 2008.



Timothy M. Kant, Mayor

ATTEST:



Lisa A. Hanks, City Clerk

Final Adoption of An Ordinance for Election and Appointment of City Officers and City Council as Appointing Authority (introduced at the November 10, 2008 City Council Meeting) was discussed. Councilmember Mixon said he and Councilmember Kingrea had met with the Mayor and they were proposing an amendment to the Ordinance as it was presented tonight. Further discussion of the proposed amendments by the different council members led to decision that immediate action did not have to be taken tonight and a motion was made by Councilmember Mike Ford to lay over the ordinance so it can be presented with the correct wording and studied before presentation for adoption at the next council meeting. Councilmember Mixon seconded the motion and it passed unanimously by voice vote.

Bobby Hall, golf pro at Quail Creek, had presented information and addressed the Council requesting permission to renew the annual contract for Quail Creek advertising in The Yellow Book (Eastern Shore Area) and also renew the annual contract for Quail Creek advertising in The Yellow Book USA (Alabama Gulf Coast Area). He explained he had sought bids for advertising and The Yellow Book was the lowest for both and provided a location map. He went on to say he thought advertising is essential in attracting all visitors and those who vacation to the Baldwin County area. Discussion followed and ultimately a motion was made Councilmember Ford to approve both contracts as presented. Councilmember Stankoski seconded the motion and it carried by voice vote with one no vote by Lonnie Mixon.

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Purchasing Agent Dan Ames presented the bid information for the Water & Sewer Department – Annual Contract for Lift Station Odor Control Chemicals. He said after an evaluation of bids, Water and Sewer Supt. Dan McCrory had recommended acceptance of Biomagic, Inc. bid. A motion was made by Councilmember Ford to accept the bid recommendation provided all specifications are met. Councilmember Stankoski seconded the motion and it carried unanimously by voice vote.

Dan Ames presented Change Order No. 2 – Greeno Road Pedestrian Improvements (Hoyle Avenue at Greeno Road) for construction services increasing the contract by \$4,000.00. Mayor Kant reported he had signed the change order as he had been authorized to do so and it was money covered by the grant and it was still under budget. Councilmember Mixon moved to approve this change order. Councilmember Kingrea seconded the motion and it passed unanimously by voice vote.

Paul Ripp addressed the Council regarding the Publix project, presenting documents to be included in the minutes as follows. He said he is a resident of High Ridge Road and his major concern is Parker Road, that literally this area had been destroyed from an environmental prospect. He said he had pursued all avenues in addressing problems with this project and they are not following dictates and had arrived back at the City Council as he had not gotten any answers. He said there are so many issues that he is suggesting an investigative committee be formed and that Publix be directed to come before the City Council and report why they have not followed city rules.

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The documents provided are public record. The Planning and Zoning meetings are consolidated in '06, '07, '08, are my notes handwritten. Please enclose this complaint document in the minutes of the November 24, 2008 City Council meeting.

Planning & Zoning ZC-06.12 Aug 6 Pg.2 "Buffers-A 50' Natural/Landscape buffers off of Greeno Road 40' natural/landscape buffer off of Parker Road"

The buffer on Parker Road starts at the right -of-way line, Appx. 30-40 ft. from pavement. This gives approximately 75 to 80 feet of pavement.

Planning & Zoning Dec. 3 '07 /sr-07-11 Regency Center - Mr. Bill Coates said they believed in developing "Environmentally Friendly".

In the same meeting " Mayor Kant asked about clearing out the buffer area on Greeno Road and was told it would not be cleared out. They were talking about the entrance area, that all area on Hwy 98 and turning onto Parker Road would not be touched".

"A motion was amended to include that the buffer along Hwy 98 and around the corner would not be disturbed, only at the entrance on Hwy 98 and the driveway entrance on Parker Road." Pg.14

"Arthur Corte did say that they agreed to all staff recommendations" (same meeting SR-07-41 Dec 3, '07, Pg.14

Preliminary Plat Approval, staff "recommendation was to approve conditions upon; A revised landscape plan and a tree survey and protection plan meeting the approval of Jennifer Fidler"

May 5, '08, Planning & Zoning SD08-06 Final Plat approval, staff recommendation to approve Final Plat. NO discussions came up about the developer being able to REMOVE the right-of-way and to REMOVE the buffer area and all trees, four major pecans. No discussion came up about changing the landscape plan for Parker.

Two examples were used by developers, first the Publix Building would be appx 7' deep, resembling the Target in Daphne, and it currently is appx 28 to 32 feet deep affording the neighborhood the view of the roof, exactly what they promised would not happen.

The end result is 100% destruction of every living thing on the site. Furthermore, they destroyed 50% of the buffer area and on Parker Road actually removed it.

No aerial photo's, no tree survey, no protection plan, no permits to remove buffer on Parker, no notice to City Council, Planning & Zoning or the public about the "Revised Landscape Plan", no on site engineers for inspection oversights, as promised, and no "greenspace" in Publix Parking.

Even more disturbing than this is how our city managers have overwhelmingly favored the developer's every request, while refusing to discuss the matter with the public. Many more questions exist from the Tree Committee, Environmental Committee, Traffic Committee and the Public.

There are questions as to how this project ever was interpreted as complying with the Comprehensive Plan. Many more concerns about compliance to Storm Water Management.

The public was promised a lot by the city and the city has not protected its citizens. The entire project warrants a City Council Investigative Committee to answer the questions someone must be accountable for these abuses.

The City Council should issue a stop work order or work at your own risk notice to the developer about Parker Road Buffer and Right-of-way.



24 November 2008

letter to editor

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letter to editor

From: Chris Warner <cawarner@mindspring.com>
To: "courier@gulfcoastnewspapers.com"
Subject: letter to editor
Date: Nov 19, 2008 11:08 AM

Dear Editor,

Not long ago when our community felt threatened by the corporate giant Wal-Mart, many organized to stop them. Fairhope residents were concerned about increased traffic, poor planning and a decreasing quality of life resulting from Wal-Mart's newest development.

Many of these concerns were warranted, because Wal-Mart, in retrospect, has done a good job of managing these stated public concerns. Community organizers were successful in being heard, and Wal-Mart acted accordingly, promoting stewardship.

There is another large development project in Fairhope that, in my opinion, is much more threatening to our area's well-being with respect to traffic, planning and life quality.

The Parker Road Project is a perfect example of what is wrong with our local planning apparatus as well as its many misguided players. The Parker Road Project does not comply with the comprehensive plan. Moreover, it does not follow the rules and regulations prescribed for the project by our own city planning department. Specifically, the inevitable water runoff and exacerbated traffic issues with respect to the plan, are egregious.

The developer intends to build 850 homes behind this big box strip center. The intersection at Parker Road and Highway 98 cannot handle the increased traffic, and neither can the Eastern Shore.

It is not the responsibility of the media to do the right thing in these instances. Instead, the people must be proactive toward demanding accountability and integrity from our public officials.

Our working papers prescribe to prevent such projects from happening, yet they do nevertheless.

I encourage concerned citizens to examine what is currently being done at the Parker Road site with respect to the plan approved by the City of Fairhope, and the comprehensive plan approved by the people.

There is little rhyme apparent; and the reason is greed.

Chris Warner
115 Bonham Lane
Fairhope, AL 36532
(251) 213-5006

24 November 2008

08/23/2008 01:38 2519370227

BALDWIN CD HIGHWAY

PAGE 01/05

Baldwin County Commission

Baldwin County
Highway Department
Permit Division
P.O. Box 220 - Silverhill, AL 36576

Phone: (251) 937-0278
FAX: (251) 937-0227

Facsimile:

To: Paul Ripp

Fax: 928-0445

From: RDJ @ Permit Div.

Date: August 25, 2008

Re: Publix/Parker Rd.

Pages: 5, including cover

No Traffic Expansion!

Comments:

Thanks,

RDJ

*Developer now
has allot right of
way and removed the
Junk!*

*No Permit
County or City to Remove
Buffer and Right of Way*

~~RDJ~~

24 November 2008

08/23/2008 01:38 2519378227

BALDWIN CO HIGHWAY

PAGE 02/05

Richard Johnson

From: Richard Johnson
Sent: Wednesday, August 20, 2008 4:27 PM ✓
To: jcameron@volkert.com
Cc: John A. Lundy; Joey Nunnally; Greg B. Smith; gregg.mims@cofairhope.com; Cal Market
Subject: Parker Road - Publix Project
Attachments: ROW Pictures 08-20-2008.pdf

Tracking:	Recipient	Delivery	Read
	jcameron@volkert.com		
	John A. Lundy	Delivered: 8/20/2008 4:27 PM	Read: 8/21/2008 7:37 AM
	Joey Nunnally	Delivered: 8/20/2008 4:27 PM	Read: 8/20/2008 4:51 PM
	Greg B. Smith	Delivered: 8/20/2008 4:27 PM	Read: 8/21/2008 7:02 AM
	gregg.mims@cofairhope.com		
	Cal Market	Delivered: 8/20/2008 4:27 PM	Read: 8/20/2008 4:28 PM

John:

Please see the attached photographs taken today. Two issues exist that must be immediately addressed:

1st - We have not approved the turn lane permit or the proposed construction drawings. There is no permitted or implied permission for work to be conducted on the Parker Road ROW. The ROW lines various from 30 to 40 feet south of existing edge of pavement. The construction fence in the pictures is set 12 feet south of the edge of existing pavement indicating that the cut and grading shown is encroaching 18-28 feet onto the public ROW. The insistence that no work on the ROW has occurred to date is not supported by evidence observed in the field.

2nd - The non-permitted work conducted so far appears not to reflect the design shown in the un-approved construction plans submitted to the Baldwin County Highway Department. Either the plans have been changed and no revisions were provided for our review or the contractor is not following the plans provided to them. This is worrisome.

Please provide us with an update set of plans for our review and commentary. If the majority of the southern rights-of-way are consumed to facilitate a back slope in order to maximize the development's facilities, this is done at the detriment of the public. As a Planning Engineer for the County, the public's best interests are served by keeping the back slope of the cut entirely on the development's property. Any continued un-permitted work conducted on the County's ROW is done so at the developer's own risk.

Yours,

RDJ
 Richard D. Johnson, E.I.
 Planning Engineer
 Baldwin County Highway Department, Permit Division
 Central Annex II
 22070 Highway 59
 Robertsdale, AL 36567

Mail: P.O. Box 220
 Silverhill, AL 36578

Phone: (251) 937-0278
 Fax: (251) 937-0227

8/25/2008

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08/23/2008 01:38 2519378227

BALDWIN CO HIGHWAY

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Richard Johnson

From: Richard Johnson
Sent: Friday, August 22, 2008 8:09 AM
To: jcameron@volkert.com
Cc: Greg B. Smith; Cal Markert; Neal T. Stuart; Joey Nunnally; John A. Lundy; Kevin A. Harnecz; gregg.mims@cofairhope.com
Subject: Parker Road/Publix project

Tracking:	Recipient	Delivery	Read
	jcameron@volkert.com		
	Greg B. Smith	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 8:09 AM
	Cal Markert	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 8:14 AM
	Neal T. Stuart	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 8:09 AM
	Joey Nunnally	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 8:16 AM
	John A. Lundy	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 9:09 AM
	Kevin A. Harnecz	Delivered: 8/22/2008 8:09 AM	Read: 8/22/2008 1:38 PM
	gregg.mims@cofairhope.com		

John:

As a result of multiple conversations with Sammy Masengil with Summit Industries, the Contractor on the Parker Road/Publix project, they have agreed to refrain from any more work within the County RAW until they are suitably permitted. He acknowledged that they may have been over-aggressive in their grade work and have encroached into the RAW. Furthermore, they acknowledge their responsibility to remediate the area to pre-existing condition if the County deems necessary. Volkert needs to review the site work already conducted in the RAW and revise the plans accordingly. We need updated plans for final approval, along with an approved engineer's cost estimate and bond reflecting 125% value of that estimate posthaste. It is the opinion of the Permit Engineer that slight grading (6% or less) in the RAW is acceptable to facilitate drainage; however the steep grades should be confined to the developments property. Any design revision must provide for enough shoulder to accommodate the proposed right turn radius and acceleration taper to the east from the proposed development's entrance on Parker Road.

Please forward this email to all applicable parties. Our staff will work with yours in the most expedient manner, to get these required RAW improvements bonded and permitted. The longer this site remains disturbed and destabilized the more environmental exposure there is.

Yours,

RDJ

Richard D. Johnson, E.I.
 Planning Engineer
 Baldwin County Highway Department, Permit Division
 Central Annex II
 22070 Highway 59
 Robertsdale, AL 36567

Mail: P.O. Box 220
 Silverhill, AL 36576

Phone: (251) 937-0278
 Fax: (251) 937-0227

8/25/2008

24 November 2008

Print

Page

From: Paul Ripp (fpaulripp@yahoo.com)
To: gregg.mims@cofairhope.com
Date: Monday, August 18, 2008 10:23:16 AM
Cc: jwavrunek@bellsouth.net; &
Subject: Publix Site

Mr. Mims, the issues brought before P&Z on Aug 4, 08 raised many questions yet to be answered. Twice the Publix sit Fly Creek have been compromised. Late Friday afternoon and again this morning excavation along Parker has shrunk 80' setback to only 10' with a 45 degree slope and drop of appx 12' to 27' below grade. An explanation is deserved. This is an accident waiting to happen. Now traffic for the site has to park on one lane of Parker Road. What safety measures prevent a vehicle from going down the grade? The Publix site does not remotely resemble what I witnessed the last 3 years at Council and P&Z. My concerns are those outlined - the most urgent being traffic, site violations and enforcement. However, other groups, agencies, and citizens have raised many more serious concerns.

I wish to be informed of any and all public meetings relative to Publix site. As you may know there is a group considering litigation, seeking a complete review of the entire project. I for one hope that this does not happen. The Mayor, Council President, Council and P&Z remain mute. "Call Greg" is the standard answer when they are questioned.

We are in hurricane season with Faye on the way. The rain Aug 7 was appx 1.5 by my rain gauge on Highridge Rd - 1 above the site. A serious rain - 4-7 inches - would be a nightmare. I would hope some sort of dialog among those concerned would prevent a bad situation from becoming worse.

No Permit
County
TO REMOVE
of WAY
TO REMOVE BUFFER AREA
NO CITY PERMIT
TOTALLY AGAINST
PLAN
POP
NO ANS.
SEE
EMMIE
BANDON COUNTY
COMM.
NOTE

24 November 2008

NO
PUBlix

Planning & Zoning
Aug 4, 08

I request that this document be entered in the minutes of this meeting, not as an attachment.

Request the subject of Publix be put on the September Planning & Zoning agenda.

Since I only have 3 minutes, I will highlight major concerns and rely on the Board to provide answers at the September meeting.

More public information about this project has been requested from the city and will certainly develop further questions that will be submitted to Planning & Zoning in Sept.

What we have is a Big Box Strip Center with a traffic problem.

Issues:

NO TREE SURVEY, SR07-41 Dec 3, 07 staff recommendations #2 A revised landscape plan and a tree survey and protection plan meeting the approval of Jennifer Fidler. This responsibility is Jennifer Fidler's. How can you make issue with Shellbrook Point and not Publix? This is a serious issue and warrants a detailed explanation.

Buffer Areas discussed with specific guidelines - 50 ft. on 98 - 40 ft on Parker. ZC-06-12 Aug 7, 06, SD7-11 Dec 07, SD7-41 Dec 3, 07, SR07-11 Dec 3, 07, SD08-06 May5, 08. Six times the issue came up. The buffer zone on Parker was partially cleared, and on 98, from southern corner to 98 entrance and entirely around Wachovia. Please do not use any excuse relative to grade. The property is 213 acres; developers had plenty of room to comply. On 8-4-08 I spoke with the owner of the Wachovia building and he is very unhappy. He does not understand how Fairhope allowed this to happen and is taken aback that the project was allowed to establish such a monstrosity of a wall on his property line. You can be assured this has depreciated his property, monetarily and aesthetically. Now if a comparison can be made to Hamburger Hill or Airport Blvd, just view the wall of over 20 ft. that is wrapped around an existing business and stripped of any buffer.

Set back on Parker is only 40 ft. on the west ending with a drop in grade of 27 feet. We were told the Publix would be appx 80 ft from Parker with only a 7 ft drop. Now we will be looking at the roof tops, plus the drop will be next to a sidewalk. What about safety?

Parker Road driveway was more to the east than its present location. From the present location, at least 100 ft. of buffer is missing. Is this driveway supposed to accommodate 56 ft delivery trucks and exiting cars at the same time? Another concern is the limited distance to Hwy 98 from the driveway, allowing appx. 5-6 cars between. A major problem will exist at this location if left alone.

Traffic Congestion is already at max stage at Hwy 98 & Parker. Between 104 and Parker Road will become U-turn crazy. The entire traffic plan needs attention now, not upon completion. (See SD-08-06 May 5, 08) The plantation Pines cut through, as a result of "right turn only" off of Veterans Blvd. is presently a dangerous situation.

The project had major opposition and concerns dating back to Aug 7, 06, ZC06-12, from the Woodlands, Rock Creek, Parker Road only to be assured what has happened would not happen. Let's not forget there is already one lawsuit against the city relative to the same project.

Is the answer to the traffic to wait until the 11th hour and try to force the Woodlands or Rock Creek to take some of the load?

24 November 2008

Let me remind you of your previous positions....

QUOTES:

Dick Charles, Baldwin Press 8-9-06

"The majority opinion felt the positive factors outweighed the negative factors for this property"
Many surrounding property owners had "unsubstantiated allegations"

*ATTACHED BY
Parker By
Ward/Dennis
Revised*

*THAT'S
WHO MR.
CHARLES IS
TALKING TO*

Jean Wilson, Baldwin Press 8-9-06

"I thought there were too many outstanding issues for us to make a recommendation to the City Council"

Dan Moore, Baldwin Press 8-9-06 ✓

Said his concern centered on landscape buffers between Corte's development and surrounding properties and the distance between his proposed commercial buildings and nearby roads, such as 98. "Those are permanent fixtures" Moore said of the commercial buildings, "if they are not screened with distance and in a greenbelt manner, it can begin to look like Hamburger Hill in Daphne".

✓ Mayor Kant, Citizens for Responsible Government, July 16, 08

"If violations exist with Publix, regarding the buffer zone, report this to the tree committee. I will not issue a certificate of occupancy if the problem is not answered".

✓ August 7, 06, ZC 06 12

Bob Clark asked about the big box issue with Comprehensive Plan and Arthur said this was approved in 95 and pre-dated comprehensive plan adoption regarding Greeno Road.

*HOW IS THIS
RELEVANT*

✓ August 7, 06 ZC 06 12

Gary Moore suggested at least 100 ft. greenbelt buffer around commercial with 75 ft. on Parker. Two nay votes - Moore and Wilson

SR 07 11 Dec. 3, Pg. 13

Gregg Minus said his staff would be monitoring this project and will have someones on site every day.

SR 07 11 Dec. 3, 07

Mayor Kant asked about clearing out the buffer area on Greeno Road and was told it would not be cleared out, they were only talking about the entrance area, that all areas on Hwy 98 and turning on Parker Road would not be touched.

SD 08 06 May 5, 08

Bob Gentle said the issue tonight is not traffic
Lee Turner agreed saying that all traffic concerns would be addressed

ZC 06 12 Aug 7, 06

Arthur Corti's reply to Bob Clark's reference to Big Box Store issue with Comprehensive Plan - Mr. Corti replied that B2 approved in 95 and pre-dated Comprehensive Plan adoption regarding Greeno Road.

BS

24 November 2008

IS IT TRUE??

Bob Gentle was the deciding vote on Publix property.

The Publix site is a part of a 49 acre parcel upon which Corte paid \$133.00 in taxes last year (2.72 an acre).

The county does not recognize that parcel as having been rezoned by Fairhope or they would have to re-access it and bill in arrears for 3 past years at a commercial rate rather than timber rates.

County revenue map also shows the two small parcels on Parker as separate from the larger 49 acres. Oddly they get current use rate as well!

A handwritten signature in black ink, appearing to read "A. B. Kipp". The signature is written in a cursive style with a horizontal line underneath it.

Copies: All Mayor Candidates, Local Press, Rock Creek Homeowners Assoc., Woodlands Homeowners Assoc., City Council, League of Municipalities

24 November 2008

Ordinance No. 1317
 Fly Creek - PUD
 Page -2-

DEGREES 02 MINUTES 14 SECONDS WEST, 34.06 FEET TO A CONCRETE MONUMENT FOR THE POINT OF BEGINNING OF THE PROPERTY HEREIN DESCRIBED; CONTINUE THENCE SOUTH 00 DEGREES 02 MINUTES 14 SECONDS WEST, 379.69 FEET TO A CAPPED REBAR MARKER; CONTINUE THENCE SOUTH 00 DEGREES 02 MINUTES 14 SECONDS WEST, 21.32 FEET, FOR A TOTAL DISTANCE FROM THE POINT OF BEGINNING OF 601.01 FEET, TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 35 DEGREES 30 MINUTES 59 SECONDS WEST, 278.76 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 58 DEGREES 49 MINUTES 31 SECONDS WEST, 154.03 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 38 DEGREES 05 MINUTES 48 SECONDS WEST, 151.33 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 17 DEGREES 39 MINUTES 41 SECONDS WEST, 202.34 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE NORTH 65 DEGREES 45 MINUTES 10 SECONDS WEST, 120.69 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 45 DEGREES 07 MINUTES 09 SECONDS WEST, 95.00 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 59 DEGREES 59 MINUTES 44 SECONDS WEST, 193.06 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE NORTH 55 DEGREES 08 MINUTES 01 SECONDS WEST, 114.06 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE NORTH 79 DEGREES 39 MINUTES 45 SECONDS WEST, 240.69 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 71 DEGREES 34 MINUTES 24 SECONDS WEST, 146.36 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 08 DEGREES 00 MINUTES 08 SECONDS WEST, 30.33 FEET TO A POINT IN THE CENTER OF FLY CREEK; RUN THENCE SOUTH 46 DEGREES 12 MINUTES 14 SECONDS EAST, DEPARTING THE CENTER OF FLY CREEK, 14.19 FEET TO A CAPPED REBAR MARKER ON THE TOP OF THE SOUTH BANK OF FLY CREEK; RUN THENCE SOUTHWESTWARDLY, ALONG THE TOP OF THE SOUTH BANK OF FLY CREEK, 463 FEET, MORE OR LESS, TO A CAPPED REBAR MARKER ON THE EAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 98, LYING SOUTH 65 DEGREES 33 MINUTES 52 SECONDS WEST, 430.57 FEET FROM THE LAST CALLED MARKER; RUN THENCE NORTH 19 DEGREES 51 MINUTES 15 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, 468.75 FEET TO A CAPPED REBAR MARKER; RUN THENCE NORTH 70 DEGREES 06 MINUTES 38 SECONDS EAST, 197.79 FEET TO A CAPPED REBAR MARKER; RUN THENCE NORTH 19 DEGREES 51 MINUTES 15 SECONDS WEST, 140.00 FEET TO A CAPPED REBAR MARKER; RUN THENCE SOUTH 70 DEGREES 06 MINUTES 38 SECONDS WEST, 217.79 FEET TO A CAPPED REBAR MARKER ON THE AFORESAID EAST RIGHT-OF-WAY LINE; RUN THENCE NORTHWESTWARDLY ALONG SAID EAST RIGHT-OF-WAY LINE, FOLLOWING A CURVE TO THE RIGHT HAVING A RADIUS OF 8054.00 FEET, AN ARC DISTANCE OF 905.37 FEET (CHORD: NORTH 16 DEGREES 36 MINUTES 31 SECONDS WEST, 904.89 FEET) TO AN IRON PIPE MARKER; RUN THENCE NORTH 76 DEGREES 29 MINUTES 38 SECONDS EAST, 182.02 FEET TO A CONCRETE RIGHT-OF-WAY MONUMENT; RUN THENCE NORTH 03 DEGREES 10 MINUTES 54 SECONDS WEST, 13.59 FEET TO AN IRON PIPE MARKER ON THE SOUTH RIGHT-OF-WAY LINE OF PARKER ROAD; RUN THENCE SOUTH 88 DEGREES 55 MINUTES 29 SECONDS EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF PARKER ROAD, 252.47 FEET TO AN IRON

24 November 2008

Ordinance No. 1317
 Fly Creek -- PUD
 Page -3-

PIPE MARKER; RUN THENCE SOUTH 89 DEGREES 57 MINUTES 23 SECONDS EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 512.61 FEET TO A CAPPED REBAR MARKER; RUN THENCE SOUTH 00 DEGREES 06 MINUTES 15 SECONDS WEST, 148.00 FEET TO A CAPPED REBAR MARKER; RUN THENCE SOUTH 89 DEGREES 57 MINUTES 23 SECONDS EAST, 148.00 FEET TO A CAPPED REBAR MARKER; RUN THENCE NORTH 00 DEGREES 06 MINUTES 15 SECONDS EAST, 188.00 FEET TO AN UNCAPPED REBAR MARKER; RUN THENCE SOUTH 89 DEGREES 59 MINUTES 03 SECONDS EAST, 168.05 FEET TO A CAPPED REBAR MARKER; RUN THENCE SOUTH 00 DEGREES 28 MINUTES 32 SECONDS EAST, 7.13 FEET TO A CONCRETE MONUMENT; RUN THENCE SOUTH 88 DEGREES 10 MINUTES 42 SECONDS EAST, ALONG AN OLD POST AND WIRE FENCE, 180.35 FEET TO A CONCRETE MONUMENT; RUN THENCE SOUTH 88 DEGREES 14 MINUTES 00 SECONDS EAST, 695.46 FEET TO THE POINT OF BEGINNING; CONTAINING 53.33 ACRES, MORE OR LESS.

A map of the property to be zoned is attached as Exhibit A

1. That, Attached as "Exhibit A" is an approved site plan. The property must develop in substantial conformance with the approved site plan.
2. That, the following development regulations shall govern:

✓ **Building Heights:**

- Residential- 35'; Mixed-Use/Commercial- 40'

Connectivity:

- The street stub-out into the Woodlands Subdivision indicated on the Outline Development Plan shall be dedicated and maintained as a natural easement and shall remain unopened.

Development Phases:

- Construction for any portion of this development abutting Rock Creek Subdivision or Sandy Ford Subdivision shall be allowed but street stubs shall not be constructed or connected to Rock Creek Subdivision or Sandy Ford Subdivision until the site is connected to County Road 13.
- A bridge over the wetlands shall be installed connecting the northeastern-most section of the development to the southern portion of the development, or the subject site must be connected to an additional access point before the portion of the property between the wetlands and the Woodlands Subdivision is developed.

✓ **Buffers:**

- 50' Natural/Landscaped Buffer off of Greeno Road; 40' Natural/Landscaped Buffer off of the existing Parker Road

Setbacks:

- Single Family Lots Abutting the Woodlands Subdivision: Front Setback-

24 November 2008

Ordinance No. 1317
 Fly Creek - PUD
 Page -5-

The property (05-46-02-04-0-000-001.00 and 05-46-02-04-0-000-002.000) is hereby zoned as a Planned United Development concurrent with Annexation. This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253. ✓

The property (05-46-03-08-0-000-001.000 and 05-46-03-08-0-000-003.000) is hereby rezoned B-2 General Business to a Planned Unit Development (PUD). This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of The City of Fairhope and that any such structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.

Severability Clause - if any part, section of subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Effective Date -- This ordinance shall take effect immediately upon its due adoption and publication as required by law.

Adopted and approved this 23rd day of October, 2006. ✓

 Timothy M. Kant, Mayor

Attest:

 Geniece Johnson, City Clerk

Attachment - Approved Amendments:

24 November 2008

The Planning & Zoning Commission of the City of Fairhope met Monday, May 5, 2008 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

Present: Jean Wilson, Chairman; Tim Kant, Fran Slade, Dan McCrory, Gary Moore, Dick Charles, Lee Turner, Bob Gentle. Gregg Mims, City Planner; Jonathan Smith and Nancy Milford, Planning Department; Chris Gill, Attorney; Betty Rivenbark, Secretary. Absent: Bob Clark

Jean Wilson welcomed our new member Fran Slade.

The minutes of the April 7, 2008 meeting were duly approved on motion by Dick Charles, 2nd by Bob Gentle. Gary Moore and Fran Slade abstained. Motion carried.

SD08-06 Final Plat approval of Fairhope Village at Fly Creek, Phase II. Volkert & Associates is representing the owner Arthur Corte. Property generally located on the southeast corner of the intersection of US Highway 98 and Parker Road. Jonathan Smith gave the staff report saying the property is zoned as a PUD and has a total site area of 42.28 acres with three lots indicated on the plat. The Fairhope Village at Fly Creek subdivision received preliminary plat on December 3, 2007 and the PUD zoning was granted by the City Council on October 23, 2006. This property is being developed in phases and Phase I of the development received subdivision approval on April 7, 2008. This subdivision application is for the second phase of the development and includes Lot 3 as indicated on the Phase II plat. The initial site plan for the Fly Creek PUD shows the property included in lot 3 of the subdivision to be developed into residential lots and townhomes. Staff recommendation was to approve the Fairhope Village at Fly Creek, Phase II. Steve Pumphrey was present representing Volkert & Associates and said he would be glad to answer any questions. Ms. Wilson said that two people had signed up to speak and called on the first one who was Dr. H.C. Mullins of 7395 Parker Road. Dr. Mullins had given the commission members copies of two letters right before the meeting, both pertaining to this project. He asked that they be included in the minutes and then referred to the issues he had stated in his letters, safety, traffic flow and road quality. He had submitted the first one in July 2006. Letters shown below:

53.33
SR-07-41

24 November 2008

H. C. Mullins, M.D.
7935 Parker Road
Fairhope, Alabama 36532

May 5, 2008

Fairhope Planning and Zoning Board
P.O. Box 429
Fairhope, AL 36533

Re: Z.C. 08-06

Dear Board Members:

The following is submitted in response to the latest proposal for the Fly Creek PUD. Attached is a copy of a letter outlining my earlier concerns, submitted to you in August of 2006.

I am in general very supportive of the development as described, but have serious concerns limited to Parker Road:

- Safety
- Traffic flow
- Road quality

Recommendations:

- 1) A requirement for turning lanes for traffic both entering and exiting Parker Road on the east side of US 98
- 2) That the design and specifications for upgrading/rebuilding Parker Road require:
 - a. That the base requirements be sufficient to sustain the type of traffic anticipated with full development of the PUD, commercial as well as residential. (The current base may be totally inadequate.)
 - b. Parker Road to be a divided 4 lane boulevard (as assured at the public meeting held to rezone a 5 acre residential parcel on Parker Road to business).
- 3) The sidewalk on the south side of Parker Road extend east from US 98 to Highridge Road.

Rationale:

- 1) The short distances from the US 98 Parker Road intersection will allow only a few cars between the entrance/exits to the proposed grocery store/commercial area resulting in severe congestion that can be alleviated somewhat by turning lanes as suggested above.
- 2) The sidewalk as currently shown ends short of Highridge road, failing to provide safe walking for both children and adults living on Highridge Road.
- 3) Parker Road was originally a dirt and gravel road. The base under the surface asphalt put in place when it was converted to a paved road is questionable. The anticipated traffic to this first phase of commercial development could result in severe damage.
- 4) Initially, a 4 lane road will be necessary to effectively handle cars entering and exiting the PUD from Parker Road, especially the congestion mentioned in #1

24 November 2008

- above, and even more so with full PUD development.
- 5) The design and specifications required for Parker Road in this initial phase of development must take into account the future full development of the PUD with the tremendous amount of anticipated traffic on Parker Road to and from both commercial and residential areas. The initial design and specifications for a divided 4 lane road with an adequate base is needed for this initial phase but is absolutely essential for the long term.

Sincerely,

H. C. Mullins, Jr.

24 November 2008

H. C. Mullins, M.D.
7935 Parker Road
Fairhope, Alabama 36532

July 28, 2008

Fairhope Planning and Zoning Board
P.O. Box 429
Fairhope, AL 36533

Re: Z.C 08.12

Dear Board Members:

The following is submitted in response to your letter of July 14th regarding the proposed Fly Creek PUD.

My home and property lie immediately adjacent to and north of the proposed development. I have reviewed the plat made available earlier and have met with both the developer and the engineering company. Though I am supportive of the development as described, I have some questions, concerns, and recommendations that are listed below.

Questions

Safety:

1. What are the recommendations of the City of Fairhope Traffic Committee for the US 98 corridor between Highway 104 and Parker Road both in general and for the future, as regards this proposed development?
What do traffic studies of the City suggest?
2. What is the position of the Baldwin County Commission with regards this corridor as above?
3. What are the recommendations of the State DOT regarding traffic plans for this development and the future?
4. What is the request of the developer regarding traffic flow, traffic lights, etc to accommodate the development?

Privacy:

1. What specific provisions are planned for privacy?
2. What are the specific locations and dimensions for a "green belt"?
3. What are the specific plans for entering the proposed development from the East end of Parker Road?

24 November 2008

Future Access To Adjoining Property:

What are the location and dimensions of access from the proposed development to both the East and South side my property?

Concerns and Recommendations

Safety:

The Problem

The US 98 corridor from State Hwy 104 to Parker Road is extremely dangerous and unsafe. The proposed Fly Creek Project along with the proposed East Bay Development will result in a tremendous increase in traffic along this corridor and on Parker Road proper, rendering it much more dangerous and much less safe.

Conditions for Support of Development

Unless a meaningful solution to the anticipated danger can be assured, I, and most all residents in the adjoining area strongly oppose the approval of this development.

Recommendation

After speaking with Fairhope, Baldwin County, and State DOT officials, the following is my personal recommendation for traffic flow on the US 98 corridor from 104 to Parker Road.

- A proper interchange at Highway 104 and US 98
- A proper interchange at Parker Road and US 98
- Close all crossovers on US 98 between 104 and Parker Road
- At the intersection of the north extension of Section Street and US 98, allow only a right turn (South).
- Allow only right turn in and right turn out on US 98 from 104 to Parker Road
- A proper interchange at the intersection of Section Street and Highway 104

Privacy:

An adequate green belt be present on all boundaries to assure privacy for adjacent property owners.

A privacy fence be placed between my property and the proposed development.

The entrance to the proposed development at the East end of Parker road be engineered so that it does not violate the privacy of my personal property

Future Access To Adjoining Property

Provision for future access to my property on both the East and south side.

24 November 2008

I will attend the hearing on August the 7th and look forward to hearing your responses and possibly making some verbal comments.

Sincerely,

H. C. Mullins, Jr.

Discussion was held between the commission members and Dr. Mullins on these concerns with all agreeing that they are legitimate concerns. Paul Ripp of High Ridge Road also spoke saying ditto to letters being included in the minutes and that the Parker Road intersection is a nightmare now, that the boulevard question has come up before.

Mr. Pumphrey was asked how the traffic is proposed to be handled and what are the planned improvements, he said he did not know, did not have the plans and was not prepared to answer this question tonight. Gregg said currently ALDOT has a permit pending on Parker Road

24 November 2008

Phase I and as the balance of these come in they will have to come back and submit preliminary plat with traffic data. He said when the PUD was approved there were discussions on improving Parker Road and that plans have been submitted to ALDOT and they are looking at them right now and there will be extensive road improvements. Included in these improvements are additional turn lanes and deceleration lanes on Greeno Road, additional lanes on Parker Road, and a traffic signal at Parker Road and Greeno Road. He said the question of the base being strong enough is a legitimate concern and that will surely be looked into. He said Wayne Curry of ALDOT is here tonight if anyone wanted to ask him questions. Further discussion led to Dick Charles saying that since these letters were not presented until meeting time he moved that approval be delayed 30 days to give time to answer the questions presented. Motion died for lack of a second. Bob Gentle said the issue tonight is not the traffic issue. Lee Turner agreed saying that all traffic concerns would be addressed and moved to accept staff recommendation to approve. Motion carried with one no vote by Dick Charles and one abstention by Fran Slade.

SD08-07 Final Plat approval of Steel Branch, Thompson/Achee. EDS, LLC. is representing the developers. The property is generally located just south of the street stub-outs for Quail Creek Drive and Dover Lane. Nancy Milford gave the staff report saying the property is zoned R2 containing 9.55 acres and 18 lots are planned. Preliminary approval was given on July 2007. Staff recommendation was to approve contingent upon any deficiencies identified at the time of final inspection shall be corrected. Jeff Wright 18960 Quail Creek Drive spoke citing a huge drainage problem, that his back yard is washing away, that on an original drawing a swale was shown and that has gone away. George Thorpe, 18951 Quail Creek Drive spoke citing drainage, asking about lighting of sign and also requesting a speed hump. He said that he heard villas were going to be put in and was told no, that these are single family residences. Joe Bullock in response to comment about swale not on plans said that it was decided to keep some trees that would have been removed to put swale in instead of doing swale decision was to keep trees, and they were contacted today about drainage and will definitely look into problems mentioned, they will work with the property owner. He also said some of the problem might be Copper Key not this development. He said there is a catch basin at the rear of the property. Jean Wilson asked if the water flowed south and he said yes. Bob Gentle said isn't there a catch basin at the southeast corner of Copper Key, Joe said yes. Gregg and his staff were also asked to work with Mr. Wright and EDS in solving drainage problems mentioned. All comments answered, a motion was made by Dick Charles to accept staff recommendation for final plat approval contingent upon any deficiencies identified at the time of the Final Inspection shall be corrected. Gary Moore 2nd the motion and it carried with one abstention by Fran Slade. Mayor Kant told Mr. Thorpe that he should direct his request for a stop sign to his office to be considered.

24 November 2008



City of Fairhope
Planning and Zoning Commission Agenda
5:00 PM
City Council Chambers
December 3, 2007

City Council
City Manager
City Clerk
City Attorney
City Engineer
City Planner
City Auditor
City Treasurer
City Director of Public Works
City Director of Parks and Recreation
City Director of Community Development
City Director of Economic Development
City Director of Information Technology
City Director of Human Resources
City Director of Finance
City Director of Administration
City Director of Public Safety
City Director of Health and Human Services
City Director of Cultural and Arts
City Director of Environmental Services
City Director of Transportation
City Director of Public Works
City Director of Parks and Recreation
City Director of Community Development
City Director of Economic Development
City Director of Information Technology
City Director of Human Resources
City Director of Finance
City Director of Administration
City Director of Public Safety
City Director of Health and Human Services
City Director of Cultural and Arts
City Director of Environmental Services
City Director of Transportation

1. Call to Order
2. Approval of the Minutes of the November 5, 2007 Meeting
3. Consideration of Agenda Items:

A. ZC 07-07 Request to consider the application of Scott A. Hutchinson of HMR, LLC for a PUD (Planned Unit Development) Amendment to the Village North PUD (The Triangle). The property is located on the north and south sides of where Section Street (Eastern Shore Parkway) meets U.S. Highway 98.

B. ZC 07-08 Request of Doug Bailey of HMR, LLC to amend the Swini Fitness Tennis Center PUD within the Rock Creek Subdivision. The Property is located on the south side of Honours Lane, just north of the Tennis Courts in Rock Creek.

C. SD 07-42 Request of Doug Bailey of HMR, LLC for Minor Subdivision approval of Park Lane Town-homes Subdivision; two (2) lots are proposed. The property is located on the south side of Honours Lane, just north of the Tennis Courts in Rock Creek.

D. SR 07-11 Request of Arthur Corte for Site Plan approval of the Commercial Retail Shopping Center in the Fly Creek PUD (Planned Unit Development). The property is located on the southeast corner of U.S. Highway 98 and Parker Road.

24 November 2008

Second PUD
 RUBIX DOES
 NOT FIT
 COMPLAN

The Planning & Zoning Commission met Monday, December 3, 2007, at 5:00 PM at the City Administration Building, 161 N. Section Street.

Present: Jean Wilson, Chairman; Tim Kant, Dan McCrory, Bob Clark, Gary Moore, Dick Charles, Lee Turner, Ed Brinson, Bob Gentle. Gregg Mims, Planner, Jonathan Smith, Nancy Milford, planning staff. Chris Gill, Attorney, Betty Rivenbark, Secretary. Absent none.

The minutes of the November 5, 2007 meeting were duly considered and approved as written on motion by Dick Charles, 2nd by Ed Brinson. Dan McCrory and Gary Moore abstained as they were not present at the meeting.

ZC07-07 Request of Scott A. Hutchinson of HMR, LLC to amend the Village North PUD (The Triangle) The property is generally located on the north and south sides of where Section Street (Eastern Shore Parkway) meets U.S. Highway 98. Jonathan Smith gave the staff interpretation saying the subject property consists of 108+ acres and was previously approved as Village North PUD. He said the first Village North PUD was approved in November 2001 and amended on December 11, 2002. The application now is to amend the 2002 PUD to accommodate a larger commercial building footprint and a change in the commercial and residential layout. The commercial sections of the development have been reconfigured and a 46,031 big box footprint is shown. The 2002 plan has a maximum 18,000 sq ft single tenant building. The previously approved and newly proposed plan allows for 180,000 sq ft of commercial area. The 2002 plan shows 514 total dwelling units proposed; the new plan shows 494 dwelling units. This is a residential density reduction of 20 units.

Throughout the review process the applicant has worked with staff in the following ways: The big box shown on the site plan has been reduced from 54,817 square feet to 46,031 square feet, buffer areas have been revised, and the total commercial square footage proposed for the amendment has been reduced from 200,000 square feet back to the original 180,000 square feet.

The PUD process allows for creative site design and flexibility. The process is not only beneficial to an applicant; it can also be beneficial for the City to accomplish development and community goals. Each PUD request is unique and must stand on its own merit and falter on its own weakness.

Greeno Road borders the property to the east, north is Fairhope R-1 (Low Density Single Family Residential) and Baldwin County B-1 (Commercial) property. West of the site lies Baldwin County R-2a (Single Family) and Fairhope R-1 property, and south is Fairhope R-1 and R-4 (Low Density multi-Family Residential) property.

24 November 2008

Planning & Zoning – December 3, 2007

Page Two

Issues Associated with this Request:

Building A4 ("Big Box"): Building A4 shown on the proposed site plan has a 46,031 square foot building footprint. Staff met with the applicant on November 27, 2007 to discuss various issues relating to the proposed amendment. The applicant informed staff that the proposed building footprint could possibly be reduced to 38,000 square feet. Staff feels that reducing the "big box" building footprint to 38,000 square feet is more in keeping with the original ideas and integrity of the 2002 Village North PUD approved Site Plan. The applicant should reduce the 46,031 building square footage to 38,000 square feet.

- In order to get an idea of the mass and scale of a typical grocery store, staff researched the dimensions of some single tenant grocery store buildings in Fairhope. The square footage for Food world is approximately 42,848 square feet and the square footage for Winn Dixie is approximately 52,000 square feet.
- Staff contacted Glen LeRoy, who was the City's Planning and Architectural consultant throughout the Village North PUD approval process. Staff requested that he address the issue of the "big box" and the allotted 180,000 square feet of commercial space. His commentary letter is attached to this staff report.

Grocery Store Building Placement: The proposed grocery store is approximately 25 feet from the required 40' buffer line along Section Street. The building should be at least 80' from the Section Street Right of Way line. The Grocery Store should set back at least 40' from the inside line of the required 40' buffer along Section Street. While the building may be architecturally pleasing, the architectural features of the grocery store should not compromise the intrinsic nature of Section Street.

Architectural Features: The articulation of the "big box" grocery store is very important. The box should be broken up to make it appear to be three or four separate buildings. All buildings fronting Market Street should be similar in architectural style and maintain a pedestrian oriented design.

Pervious Parking: At least 25% of all parking areas should be constructed of pervious materials.

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Overall Building Height: Maximum building heights are defined for the proposed amendment as follows: "All residential 35' to the average between the eave and ridge; all businesses 40' to the average between the eave and ridge; Non habitual architectural features have a 50' limit." The applicant has agreed to revise the building heights to reflect typical building heights outlined in the Fairhope Zoning Ordinance. Building heights should be revised to reflect the following: 35' maximum building height for commercial/ mixed-use and live work; 30' maximum building height for residential. Building height should be measured as described in the Zoning Ordinance: "The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof."

Building Heights for Buildings F1, F2 and H1: For the area in which buildings F1, F2 and H1 are positioned, the 2002 Village North PUD Ordinance defines the maximum building height as 25'. Staff feels that this building height is appropriate due to the nature of the area and that the area is part of the primary entrance in to the City of Fairhope. The applicant should revise the maximum building heights for buildings F1, F2 and H1 to a maximum height of 25'. Currently, 40' maximum height is proposed for buildings F1, F2 and H1.

Green-space: The area, in which the parking lot is situated between buildings F1 and H1, was shown as a green space area on the 2002 Village North PUD site plan. Staff feels this helps to buffer the project from a heavily trafficked thoroughfare in and out of the City. The parking lot should be revised to show at least half (50%) of the southern portion of the parking lot as heavily vegetated (left natural) green space. This will help to maintain the appearance and integrity of Section Street as the gateway into Fairhope.

Percentage of Space Allotted for Retail Development: The 2002 Village North Ordinance (Ordinance No. 1163) states: "Village North is limited to 180,000 square feet of office or retail space as set forth in the Site Plan. No more than 60% of such square footage may be devoted to either office or retail use." The amended plan states: "No more than 70% of the proposed commercial square footage will be devoted to either office or retail use." Staff feels the amended plan should state: "No more than 60% of the proposed commercial square footage will be devoted to retail use." This will help to ensure a mixture of uses within the development without devoting too much space to either office or retail.

Parking in Front of Buildings A2 and A3: The parking lot in front of buildings A2 and A3 should be reconfigured to look like the parking situated in front of buildings A5 and A6. This helps in the continuity of the pedestrian

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feel and design of the site. Site walkability and pedestrian oriented storefronts is key in a development such as this.

Service Way: The “Exit Only Service Way” labeled on the proposed plans should be removed in order to maintain the intrinsic character of Section Street as the gateway into the Fairhope community. With the Service Way as it is on the plans, one will drive into Fairhope and see the corner of a grocery store and a loading/unloading area, rather than the lush buffer area that is there currently.

Building A1: Building A1 on the proposed site plan should be removed. The building is not especially significant in the overall pedestrian oriented theme and design of the development. The space gained from eliminating the building will help in eliminating the Service Way off of Section Street to allow for better truck delivery traffic flow off of U.S. Highway 98. The area gained by removing building A1 may also be used to make up for parking spaces lost by revising the parking areas in front of buildings A2 and A3.

Buildings A2 and A3: Buildings A2 and A3 could be used for retail establishments as currently defined in the proposed amendment package. The use for buildings A1, A2 and A3 should be restricted to office to limit “strip-style” retail developments along Greeno Road.

Building A8: Building A8 shown on the proposed plan should be in the place of the parking lot adjacent to the north, and the parking lot should be in the place of building A8 in order to maintain the character and Integrity of Section Street and pedestrian oriented streetscape of the development.

Sidewalks: A sidewalk should be incorporated into the development along the west side of Greeno Road and northwest side of Section Street on the north parcel of the proposed plan.

Ordinance No. 1163 Village North: All provisions and conditions in the 2002 Village North PUD approved Site Plan and Ordinance shall remain unless otherwise specified by the applicant’s submittal package or staff recommendation.

STAFF RECOMMENDATION:

Staff recommends the Planning Commission review the two approval options listed below and choose the best option for the City of Fairhope:

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Option A:

Approve the proposed Village North PUD Amendment contingent upon the following conditions:

1. The building footprint for Building 4A (Grocery Store) shall be reduced to 38,000 square feet.
2. Building 4A (Grocery Store) shall be at least 80' from the Section Street Right of Way line.
3. Building 4A (Grocery Store) shall be broken up to make it appear to be three or more separate buildings. All buildings fronting Market Street shall be similar in architectural style and maintain a pedestrian oriented design.
4. At least 25% of all parking areas shall be constructed of pervious materials.
5. Maximum building heights for commercial mixed use and live work buildings shall be thirty-five feet (35'). PUBLN HD
6. Maximum building heights for residential structures shall be thirty feet (30').
7. Building heights for buildings F1, F2 and H1 shall be capped at twenty-five feet (25').
8. The parking lot between buildings F1 and H1 shall be revised to show at least half (50%) of the southern portion of the parking lot as heavily vegetated (left natural) green space.
9. The proposed amended Village North PUD plan shall state: "No more than 60% of the proposed commercial square footage will be devoted to retail use."
10. The parking lot in front of buildings A2 and A3 shall be reconfigured to look like the parking situated in front of buildings A5 and A6.
11. The "Exit Only Service Way" labeled on the proposed plans shall be removed in order to maintain the intrinsic character of Section Street as the gateway into the Fairhope community. The area in which the Service Way occupies shall remain a natural buffer between the Section Street Right of Way and the proposed development.

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12. Building A1 on the proposed site plan shall be removed.
13. The use for buildings A2 and A3 shall be restricted to office use to limit "strip-style" retail developments along Greeno Road.
14. Building A8 shown on the proposed plan shall be in the place of the parking lot adjacent to the north, and the parking lot shall be in the place of building A8 in order to maintain the character and Integrity of Section Street and pedestrian oriented streetscape of the development.
15. A sidewalk shall be incorporated into the development along the west side of Greeno Road and northwest side of Section Street on the north parcel of the proposed plan.
16. All provisions and conditions in the 2002 Village North PUD approved Site Plan and Ordinance shall remain unless otherwise specified by the applicant's submittal package or staff recommendation.

Option B:

1. The 2002 Village North PUD Site Plan shall remain unchanged with the exception of allowing the 18,000 square foot building shown as building H8 on the original plan to expand to 38,000 square feet. The use for the 38,000 square foot building shall be limited to grocery store use only. The 180,000 square foot cap on commercial space within the development shall remain.

Christopher Baker spoke for the applicant and HMR, he did a slide presentation explaining again what was approved in 2002 and the PUD amendment they are requesting noting the changes on a map. A handout of the slide presentation is in the file. He introduced Bill Metzger who told of the traffic study done for the project, and the developer. After the presentation the public hearing was opened at 5:30 PM and the following people spoke:

Cheryl Stankoski handed out a letter asking that it be included in the minutes. She asked the members why have a comprehensive plan if you don't use it? She said no change should be made, leave as is, that everything affects our values. We are unique, keep or be like everyone else.

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City of Fairhope
 Planning and Zoning Commission
 December 3, 2007

Members of Planning and Zoning Commission:

Why have a Comprehensive Plan if it will not be followed? Ask you to deny the request to rezone zoning in Village North that will allow a "Big Box". In 2001, this Commission approved Village North as a self contained village for the residents of the village with small shops for the convenience of the residents. To insure its village character and prevent a "Big Box" from coming, you wisely limited the size of any one store. The village was to complement not compete with other village centers and the downtown area.

At the internal review last month, a different plan was presented. You were told the "Triangle" does not have a natural attraction such as a beach or a waterfront. Therefore, the new plan is to create an artificial commercial attraction with a "Big Box" anchor store and five work housing all designed to draw shoppers and clients regionally and to artificially create a destination.

This proposal is in complete opposition to what was envisioned for Village North. The Comprehensive Plan, page 25, section 4.3 (attached) states, "A neighborhood Village Center is a mix of residential uses supporting small commercial retail development with locally focused services. Neighborhood centers should not be converted to community or regional centers and are intended to provide convenient goods and personal services for a one mile radius and are inferior to other centers." You should deny this request because it changes Village North to "Shopping Center Area".

The Mobile Press Register (attached) featured an article about 500 Spring Hill residents hiring a planning firm to create "The Village of Spring Hill" with small shops and flowers which "will rival Fairhope", no big boxes or office stores. I have been told these planners had been to Fairhope to see what we already have in order to use Fairhope as a model for the "Village of Spring Hill" and not the "Shopping Center of Spring Hill".

As for the "Big Box" store, is there a guarantee that Public is the store? If you re-zone and Public does not come, what will you get? I am not against Public but they should not come here and tell us when they want to locate but rather should be good corporate citizens and comply with our zoning and plans. They should locate in an area better suited for their size store. We can survive without a Public in it, we want somebody that we are willing to compromise downtown, have vacant buildings in Census East, and destroy the small village and uniqueness that is Fairhope.

I have been told if this rezoning is not approved, the triangle can not be profitably developed. We should not be concerned as to whether a developer makes a profit or how much, that is his concern. I believe our obligation is to protect the charm and beauty of our neighborhood and city. If the triangle can not be developed as approved, let it revert to single family residences.

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In summary, what are the benefits to denying this re-zoning?

- 1. Protect down town, Greener Road, and future village centers
- 2. Preserve the Comprehensive Plan
- 3. Protect the gateway to Fairhope
- 4. Reduce traffic and increase public safety
- 5. Protect Fly Creek watershed

✓
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 APPLIED AT
 PUBLIC

Lastly and most importantly, re-zoning should be denied based on the totality of this issue. It is larger than the triangle. Approval will render the Comprehensive Plan a useless piece of paper and set a dangerous precedent for future zoning.

There should be an easement and the request should be denied and not amended in any way.

Sincerely,

Cheryl Shankster
22223 Main Street
Fairhope, AL 36532

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SECTION 4
LAND USE PLAN

4.3 DEVELOPMENT FRAMEWORK: VILLAGE CENTERS

The Fairhope Development Framework recognizes three types of Village Centers: neighborhood, community and regional. Each is described below:

Village Center	
Description	A Neighborhood Village Center is a unit of residential lots supporting a small commercial retail development with locally focused services. The Fairhope Comprehensive Plan outlines up to six (6) Neighborhood Village Centers. Neighborhood Village Centers are located in the following areas:
Service Area	Neighborhood Village Centers are intended to provide convenience goods and personal services within an approximately 1-mile service area radius. These centers should be dispersed throughout Fairhope so that there is no overlap in service areas and to allow each of the centers to function without interference from other Neighborhood Village Centers.
Size	These centers are small and focused on providing neighborhood level services, for example: grocery store, personal care shop (drycleaning, beauty salon, bank, restaurant and gas station). These convenience user centers provided in an area of 60,000 to 100,000 square feet or approximately 8-10 acres.
Location	Neighborhood Village Centers should be located on or directly adjacent to the intersection of arterial streets. The preferred location is to occupy all or a portion of the intersection and maintain a permeable pattern of streets through multi-family and residential units. Intersections of arterial streets and arterial streets of the intersection may be acceptable provided sidewalk connectivity is maintained for all adjacent quarters.
Uses	<ul style="list-style-type: none"> Part of public space Recreation facility School and day care (infant or adult) Public transit station Small professional offices and clinics Neighborhood market Local retail and personal services Multi-family residential Single family residential
Policies	<ul style="list-style-type: none"> Provide the inclusion of amenities as local points Protect existing neighborhood from intrusion of incompatible uses; ensure that neighborhood village have identifiable centers and edges Ensure pedestrian accessibility Provide a public gathering place Encourage street and sidewalk connections Non-residential buildings should provide space for multiple tenants and users Provide a natural system of trails, pedestrian and cycling

VERY IMPORTANT TO UNDERSTAND THIS

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Creek, hurt downtown area and local supermarkets. Hank Miner spoke in support of the project. The public hearing was closed at 6:20 PM. The Chairman asked the commissioners for comments and Mr. Metzger was asked again about the traffic study and if it was a combined study, he said no, he went over the recommendations saying that there is good East- West flow, separation and good movement. He recommended a signal at Parker Road and a signal at Hwy 98 & Veterans Drive. Bob Gentle said they had met with AL DOT about Village North earlier and that ALDOT predicted a one year time period to what's already proposed. Mr. Metzger went on to say that he talked to Wayne Curry today and that they support a signal at Veterans Drive. Further discussion led to Bob Clark saying that last month there was an informal review and he had objections to buildings larger than what allowed and it is not smart planning, he said that everyone who spoke tonight had it "just right" and we need to protect downtown Fairhope. He further moved to recommend denial to the City Council, leave existing PUD as is. Bob Gentle 2nd the motion and the vote was: For motion: Bob Clark, Tim Kant, Dan McCrory, Jean Wilson, Bob Gentle. Against motion: Dick Charles, Lee Turner, Ed Brinson. Gary Moore abstained.

The Chairman said that items ZC07-08 and SD07-42 had been withdrawn from tonight's agenda.

SR07-11 Request of Arthur Corte for Site Plan approval of the Fairhope Village at Fly Creek Site Plan. The subject property is located on the southeast corner of U.S. Highway 98 and Parker Road. Jonathan Smith gave the staff review saying that this is the first commercial phase of the Fly Creek PUD approved by the City Council in October 2006. There are four buildings proposed in the site plan. A 54,340 sq ft grocery store and 3 smaller buildings reserved for retail. Shops (1 @ 9,800, 3A and 3B – 11,000 sq ft) split between two floors. It was noted four- sided architecture will be incorporated throughout the Fly Creek development. He said Drainage calculations and structures have been designed to accommodate a 100 year storm. He said it is bordered to the east by the remainder of the Fly Creek PUD property, on the West is US Highway 98 and B2 property, to the north lies R1 Residential B2 and unzoned property, and south there is R2 Medium Density Single Family Residential property. In staff recommendation he said the submitted site plan is in substantial compliance with the PUD approval granted by the City Council on October 26, 2007. The Staff recommends approval of the Fairhope Village at Fly Creek Site Plan contingent upon the following conditions: 1. The dry detention pond on the site plan shall be changed to wet detention pond that can be expanded to accommodate future development phases. 2. Sidewalks on the southwest

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portion of the property shall be added to the landscape plan as shown on the overall site plan. The sidewalk along Greeno Road shall extend north to Parker Road. 3. At least 25% of the parking lot shall be constructed of pervious materials. Additional landscaping shall be added to the large parking area. 4. All trees shall be 2" caliper. 5. Pipe number 14 shown on the drainage plans shall be upgraded to a 42" or possibly a 48" pipe. This determination will be made by the Fairhope Village at Fly Creek site engineer and City staff prior to the issuance of any land disturbance or building permits. 6. Median areas within the southernmost street going east and west shall be landscaped rather than striped. 7. All buffer areas shall be marked with tree protection fencing prior to any land disturbance of building permit. Any clearing within the right of way shall be approved by City's Horticulturalist, Jennifer Fidler. 8. Compliance with all City Ordinances and Codes. 9. Approval by the Planning Staff of the architectural design of the "big box" space to reflect the appearance of multiple store fronts. 10. All outside agency approvals and permits shall be submitted prior to the issuance of a building permit. 11. Approval of the intersection improvements at the intersection of Highway 98 & Parker Road by ALDOT and the City of Fairhope. Arthur Corte spoke regarding the project. He introduced Bill Coates of Regency Center who spoke saying they own 450 neighborhood centers in the US and they believe in developing environmentally friendly. Steve Pumphrey, the Engineer of Record spoke. The applicant made a formal slide presentation showing architectural drawings and explained how there will be double frontage because of the grade of the project. He said he is working with Jennifer and there will be a buffer of 50 ft on Hwy 98, 40 ft on Parker Road and 50 ft off of the wetlands. He went over the same points as Jonathan noting the parking and sidewalks. He said the project will be built in two phases and they will maintain the buffer, build up front the pond and take all erosion control measures before site construction. He said Volkert & Associates will be handling stormwater. The commissioners were asked if they had questions and Dick Charles questioned parking plans and walk thru, they assured him there would be walk-thrus. Bob Gentle asked what assurance Fly Creek would be protected. Gregg Mims said his staff would be monitoring this project and will have someone out on site every day. The detention pond will be built before the project starts. Mayor Kant asked about cleaning out the buffer area on Greeno Rd and was told it would not be cleaned out they were talking about the entrance area, that all area on Hwy 98 and turning on Parker Road would not be touched. The Mayor asked who was paying for the traffic light at Parker Road that it is not in the City plan. Bob Gentle said he thought we had already worked this out. Mayor Kant said he thought only Veterans Drive and Hwy 104 had been approved. Gary Moore

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asked why build the commercial first and then asked for a time-line. The reply was the residential market down but residential is now under contract. Arthur said the commercial should be built out by this spring and start in 2008 the residential which should take a year. Arthur Corte did say that they agreed to all staff recommendations. All questions answered satisfactorily, Dick Charles moved to accept staff recommendations and recommend approval to the City Council. Lee Turner 2nd the motion. The motion was amended to include that the buffer along Hwy 98 and around the corner would not be disturbed, only at the entrance on Hwy 98 and the driveway entrance on Parker Road. This amendment was accepted by Mr. Charles and Mr. Turner. Motion carried unanimously. Arthur said he is working with Ms. Fidler, make it prettier than it is now, only clean out briars and would be replanting bigger trees.

BS

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SR07-41 Preliminary Plat approval for the Fairhope Village Subdivision within the Fly Creek PUD/Steve Pumphrey of Volkert and Associates.

The property is located on the southeast corner of Highway 98. Nancy Milford gave the staff report saying the property consists of 53.3 acres and the applicant is creating 5 lots. It was granted PUD approval by the City Council on October 23, 2006. Drainage being a big issue in this area, she said a drainage plan and engineer's certification has been provided. In addition, the Planning Staff has asked another engineering firm for a second opinion. Staff recommendation was to approve conditional upon:

1. All water and sewer issues approved by the City of Fairhope Water and Sewer Superintendent
2. A revised landscape plan and a tree survey and protection plan meeting the approval of Jennifer Fidler.
3. Submittal of a set of revised construction plans reflecting all approved changes listed in the discussion above.
4. The dry detention pond on the site plan shall be changed to a wet detention pond, with an appropriate aerator, that can be expanded to accommodate future development phases.
5. Submittal of revised construction drawings reflecting that the outside limit of the buffer must be clearly marked on-site with permanent signs placed every 100 feet prior to any land disturbing activities.

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DID NOT HAPPEN *

Steve Pumphrey spoke for the project and said they agree with all conditions. Lee Turner moved to accept staff recommendations. Ed Brinson 2nd the motion and it carried unanimously.

SR07-10 Site Plan Review Eastbay Plaza Office Center/Suncoast Center, LLC. The property located on the south side of Estella Street just west of Greeno Road. The staff report was given by Nancy Milford

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City of Fairhope
 Planning and Zoning Commission Agenda
 5:00 PM
 City Council Chambers
 August 7, 2006

1. Call to Order
2. Approval of the minutes of the July 5th meeting
3. Approval of the minutes of the July 17th Special Meeting
4. Consideration of Agenda items:
 - A. ZC 06.12 Request to Consider the Application of Volkert for an Initial Zoning of PUD (Planned Unit Development) concurrent with Conditional Annexation for Property Located at the Southeast corner of Highway 98 and Parker Road (Fly Creek). ✓
 - B. SD 06.37 Request of EDS for Preliminary Plat Approval of Fairhope Falls, Phases 1A, 1B & 2, a 150-lot division. (Generally located on the West side of Fish River, adjacent to the south side of Highway 104 and the west side of Langford Road.)
 - C. SD 06.40 Request of Moore Engineering for Site Plan Approval of Berrington Place, a 225-lot Village Plan. (Generally located on the west side of Langford Road just south of Highway 104.)
 - D. SD 06.44 Request of EDS for Final Plat Approval of Copper Key, a 19-lot subdivision. (Generally located South of Lawrence Road East of and adjacent to Quail Creek Estates, Unit Four "B")
 - E. SD 06.45 Request of McCrory & Williams for Preliminary Plat Approval of East Park Subdivision, a 47-lot division. (Generally

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located on the north side of Parker Road just east of Highway 98.)

- F. SD 06.46 Request of Baskerville-Donovan for Plat Approval of Peterson Medical Park, a 3-lot Minor subdivision. (Generally located on the southwest corner of Greeno Road and Middle Street, just south of Holiday Inn Express.)
- G. IR 06.10 Request of Richard Casey for an Informal Review of a proposed 4-lot subdivision located on the west side of North Bancroft Street just north of Pine Avenue.

5. Old/New Business

- A. Further Discussion of the Proposed Amendments to the Comprehensive Plan

6. Adjourn

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The Planning & Zoning Commission of the City of Fairhope met Monday, August 20, 2008 at 5:00 PM at the City Municipal Complex in the Council Chamber at 161 N. Section Street.

Present: Dick Charles, Chairman; Tim Kant, Dan McCrory, Bob Clark, Gary Jore, Jean Wilson, Lee Turner, Cecil Christenberry. Gregg Mims, Planning Director, Jonathan Smith, Planner and Betty Rivenbark, Secretary
Absent: Ed Brinson

The minutes of the July 5, 2007 meeting were considered and approved as written on motion by Tim Kant, 2nd by Dan McCrory with two abstentions by Jean Wilson and Lee Turner. The minutes of the July 17, Special Meeting were considered and approved as written on motion by Tim Kant, 1st by Dan McCrory with one abstention by Bob Clark.

It was announced that SD06.45 would be held over until the September meeting.

Gregg Mims introduced Nancy Milford who has started working with his Department as a Planner and David Powell, GIS Technician.

ZC06.12 Request of Leonard Wormser of I-10 Development, LLC for zoning change approval of a PUD approximately 213 acres (Generally located at the southeast corner of Parker Road and Highway 98) Gregg said the 53.33 westernmost acres are zoned B-2 (General Business) and the remaining 159.67 acres are un-zoned in Baldwin County. A PUD is proposed which consists of commercial, retail, condos, townhomes, live/work units and single family residential lots. Broken down: commercial 108,000 square feet; condos, 132 units; town homes, 181 units; live/work units, 11; single-family, 511 units. There are a total of 835 residential units proposed. Fly Creek runs through all parcels involved in the project. North of the site is Parker Road and the Sandy Ford subdivision, south of the site is The Woodlands subdivision, west of the property lies Hwy 98, unzoned county properties, and the properties in the City of Fairhope zoned R-1; east of the site lies unzoned County land. He said he and Jennifer Fidler met with Wayne Curry of ALDOT during the preliminary review process and they discussed a traffic signal at Parker Road/Highway 98, and the necessary turn lanes. He indicated that ALDOT did not at this time say that they would install a signal at the entrance of the PUD. He passed out a sheet saying that in working with the developer they had agreed to the following prior to the meeting which is an update on the printout received with agenda information:

Building Heights – Residential 35' and Commercial 45'

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Buffers – A 50' Natural/Landscaped buffer off of Greeno Road; 40' Natural/landscaped buffer off of Parker Road

Setbacks – Single Family lots abutting the Woodlands S/D: Front Setback 10' Rear Setback 30'; Side yard setback 5'

Single Family lots where rear yards abut wetlands: Front setback – 10' rear setback 30'; side yard setback 5'

Remaining Single family lots: Front setback 10'; rear setback 10'; side-yard setback 5'

Town-homes: Front setback 10'; Rear setback 20'; side-yard setback 0; End unit – 10'; from Wetlands -30'.

Village Center – Commercial/Retail/Condominium: Front(facing Hwy 98)-50'; from Parker Rd –40" All other sides-10'.

Open Space: - An open space/green space feature shall be incorporated into the design of the commercial parking area in order to provide a more pedestrian friendly village center environment. This requirement will be approved by the Planning Department.

Site Access – Approval and Permits from ADOT shall be obtained and submitted to the Fairhope Planning Department

Adjacent Site Concerns – All lots on the south side of the project immediately abutting The Woodlands subdivision shall have a minimum lot width of at least 90 feet at front setback line and a rear setback of not less than 30 feet.

Facade Requirements – Four-sided architectural features shall be incorporated into the design of all commercial buildings, no metal exposed.

Wetlands – The applicant has volunteered to dedicate the wetlands on the site as a locally designated permanent Conservation Easement. The applicant shall work with staff to coordinate this effort.

He said further, all items listed above shall be completed to staff's satisfaction prior to the issuance of a building permit. It is noted that a drainage and storm water management analysis must be presented to show the impact of the proposed development on adjacent properties and the Fly

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Creek watershed. The purpose and influence of the lakes must be articulated. This would be required at the time the project is submitted for subdivision approval and/or request for permits. Robin Gregory of Volkert & Associates did a power point presentation showing the whole layout of what proposed. Arthur Corte spoke to the Commission saying he met with all the homeowners associations. He said this is a continuation of part of the development of his family's timberland. He said in 1995 he was asked to annex into the city and agreed to do so with the 53 acres coming in as B-2 and the other 160 acres are part of Fred Corte's land for a total of 213 acres. He said they have worked extensively to preserve the Fly Creek area, they plan to enhance/preserve this with walk trails and boardwalks. He talked about the different companies he is using for the development. Bill Tunnell of Tunnell/Spangler Walsh spoke saying they wanted to design and develop this property so it fits the Fairhope Comprehensive Plan, he also showed through a power point presentation buildings they propose for each portion of the development. Arthur spoke again saying that this will be at least a ten year project, it will be done in phases. The public hearing was opened and Mike Perkins, President of The Woodlands property owner's association, spoke saying the density will only add to the problems, they are adamantly opposed to it as presented and oppose any connection to the Woodlands. Jeffrey Phillips, President of Rock Creek POA, also expressed adamant opposition and cited South Drive problem. Rhonda Jones, a resident of the Woodlands spoke and told of the time and effort spent on her property and how they hand cut each tree, bush, she is opposed to connection that is planned into her property. Doug Montgomery asked if there is an ordinance that requires a connection. Several others spoke voicing concerns. Dr. Mullins spoke for PUD citing how Corte's had developed the other property surrounding him including Rock Creek, The Woodlands, Sandy Ford and how it was first class. Robbin Gregory spoke to the question of not having stub out going into other subdivisions. He said they would not be opposed to eliminating them, they were just adhering to requirements. Mr. Montgomery asked if they would be in compliance with one way in and one way out. He was told this could be handled through the subdivision regulations and an exception could be made but the answer was yes. The public hearing was closed. There was a ten minute break and when the meeting resumed at 6:40 the Commission members asked questions of the developer regarding the heights as proposed, development not looking like Airport Blvd in Mobile, possibly setting commercial 100 ft back and conceal as much as possible. Gregg injected that as late as today they are still working with them on site plan. Bob Clark asked about the big box issue with comprehensive plan and Arthur said this was approved in 1995 and predated comp plan adoption regarding Greeno Road. Gary

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WHAT THE HELL DOES THAT MEAN

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Moore suggested at least 100 ft. greenbelt buffer around commercial with 75 ft on Parker Road. Mr. Corte was thanked for working with the subdivisions and planning department and commission. After all questions answered satisfactorily, Mayor Kant moved to recommend approval of the PUD to the City Council with the following conditions:

The proposed height would not be more than 40 feet on mixed use and 35 feet on everything else.
They would maintain the natural easement to the Woodlands

Any phase going into Rock Creek and Sandy Ford would not be opened until such time Highway 13 is developed.

A natural bridge or access to Highway 13 be put in before the southeast corner phase next to the Woodlands is developed.

and to include the conditions of approval that Gregg Mims presented at the outset of the meeting.

Lee Turner 2nd the motion and it carried with two nay votes by Gary Moore and Jean Wilson.

SD06.37 Preliminary Plat Approval request of EDS of Fairhope Falls, Phases 1A, 1B & 2, 150 lot subdivision (generally located on the west side of Fish River, adjacent to the south side of Highway 104 and the east side of Langford Road) This had been carried over from the July 5th meeting to give Dan McCrory time to work with the developers on how the city would serve the development. Jonathan Smith read the staff recommendation saying the water and sewer issue had been resolved and all requirements met. The property is not located in the city and is not zoned. These phases contain 120.54 acres and 150 lots and will be a village subdivision. The design and concept is in keeping with the goals and objectives of the comprehensive plan. The greenspace exceeds the minimum requirements of the subdivision regulations and copies of the traffic impact and access needs study have been provided showing turn lanes being provided into the subdivision which have been approved by ALDOT. General requirement - FFE of 24" above the highest centerline elevation on the adjacent roadway will be required for lots located in the flood zone and a note placed on the plat saying this. Staff recommendation was to approve. Discussion led to a motion by Dan McCrory to approve, Cecil Christenberry 2nd the motion and it carried unanimously.

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SD06.40 Site Plan Approval of Berrington Place a 225 lot Village Plan/Moore Engineering & Surveying(Generally located on the west side of Langford Road, south of Highway 104) Jonathan Smith said this was also carried over from the July meeting and was tabled in order for the applicant to address concerns associated with double frontage lots and additional access. He said the proposed common area along Langford Road has been increased from 10' to 20'. In addition the developer has agreed to incorporate a sidewalk, berm and irrigation system. The design of the berm, landscaping details and irrigation design will be submitted for approval at the preliminary approval submittal. A note has been placed on the plat that all lots within the subdivision that abut this common area shall only have access from the streets within the subdivision and not via Langford Road. The streets will be built to city standards and the developer has committed to planting a minimum of 350 over-story trees along the streets, park areas and retention areas. A second access street has been proposed to connect the subdivision to Langford Road. He said a draft copy of detailed covenants and restrictions has been submitted and a total of 9.44 acres has been provided for greenspace. Staff recommendation was to approve. Seth Moore spoke for the developer. He said the sidewalk would be woven throughout the subdivision. When questioned about the turnarounds he said he plans a T-type. Mayor Kant reminded him that a fire truck or garbage truck needed to be able to maneuver in these spaces. Mabry Stone, adjacent property owner spoke saying he that this ought to be done right from the start. The comment was made that the developer is committed to the irrigation system on the berm and this will not be turned over to the property owners until the last lot sold. Further discussion led to a motion to approve staff recommendation. Dan McCrory 2nd the motion and it carried with Gary Moore and Jean Wilson opposed.

SD06.44 Final Plat Approval of Copper Key, request of EDS (Generally located south of Lawrence Road east of and adjacent to Quail Creek Estates Unit Four B) Jonathan reported that the property is located in the city and is zoned R-1and contains 13.04 acres and 19 lots. He said a final inspection was completed on June 23 and all items have been completed. Staff recommendation was to approve. Joe Bullock was representing EDS. A motion was made by Dan McCrory to approve, Bob Clark 2nd the motion and it carried unanimously.

SD06.46 Minor Plat Approval of Peterson Medical Park/Baskerville-Donovan (Generally located on the southwest corner of Greeno Road and Middle Street, just south of Holiday Inn Express) Jonathan said the property is not located in the city and is not zoned. The property contains 2.87 acres

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Fundamentals of Municipal Government

In Alabama, all municipalities operate under what is known as the Dillon rule. The Dillon rule is a concept that dates back to 1868 and means that all municipalities function at the pleasure of the state legislature. Alabama Code states that in cities of 12,000 or more population which have a mayor-council form of government, the legislative functions of the city must be exercised by a council while the executive functions are exercised by the mayor, who is not a member of the council.

The Alabama state legislature in its wisdom has left to the council the discretion to take the responsibility to be a "strong council" or "not." This means that the grants of power are not effective until the council takes legislative action to set them in motion. Thus, if the council chooses to exercise its powers, it must pass ordinances, resolutions or motions to do so.

Some of the powers entrusted to a municipal council, which is the legislative branch of city government, include:

- Has authority over all legislative aspects of municipal government;
- Determine what sort of services the municipality will offer;
- Has authority over finance and all property of the city;
- Establishes policies that will be followed in the administration of the city;
- Sets tax levels;
- Passes ordinances to provide: Safety, preserves health, promotes prosperity, improve morals, comfort and convenience for the citizens;
- Make appointments of department heads (by ordinance);
- Establish all salaries;
- Specify the duties to be performed;
- Designate who shall be authorized to sign checks;
- Appoints: City Clerk, City Attorney, Police Chief, and Treasurer;
- Appoint committees to study the needs of the various departments and make recommendations to the Council; and,
- ✓ Appoint investigative committees to see if the Council wishes are being carried out;
- Keep in mind that neither the Council nor any Council member may direct or supervise in any way the daily task of city employees. Also, remember, individual Council members have no authority other than regular citizens of the municipality. The City Council functions as a body; not as individuals.

Legislative Powers of the Council

The council as a body establishes municipal policy, and the mayor is charged with the duty of implementing that policy. For instance, in Attorney General's Opinion 89-00243, the issue was whether the mayor or the council had authority to establish the working conditions of a police dispatcher. The attorney general concluded that the mayor could require the dispatcher to work at city hall unless the council provided otherwise.

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The question of where the dispatcher performed her duties was a matter of policy, a decision for the council to resolve. Until the council acted, it was the mayor's decision. However, once the council acted, the mayor was required to implement that policy.

Another example of the legislative power of the council is found in Attorney General's Opinion 92-00289. It concluded that the council is responsible for establishing policies which will be followed by municipal departments. Department heads may not set policies unless the council has delegated the authority to them. A council may delegate authority to set policy to the mayor, who may authorize department heads to determine policies which their departments will follow. Where the council has not acted, department heads may set informal procedures to follow until the council acts.

The Attorney General has ruled that if a city council exercises its powers to appoint officers of the city or town, the appointment would be as "otherwise provided by law." This bill would specify that a mayor would appoint officers unless otherwise provided by state law. Thus, if the council wants to appoint officers, department heads, and/or employees, it must enact a properly drafted ordinance stating such. If the council does not enact ordinances, the mayor has the power to appoint all officers, whose appointment is not otherwise provided for by law. (Section 11-43-81, Code of Alabama, 1975).

Mayoral Duties and Authority

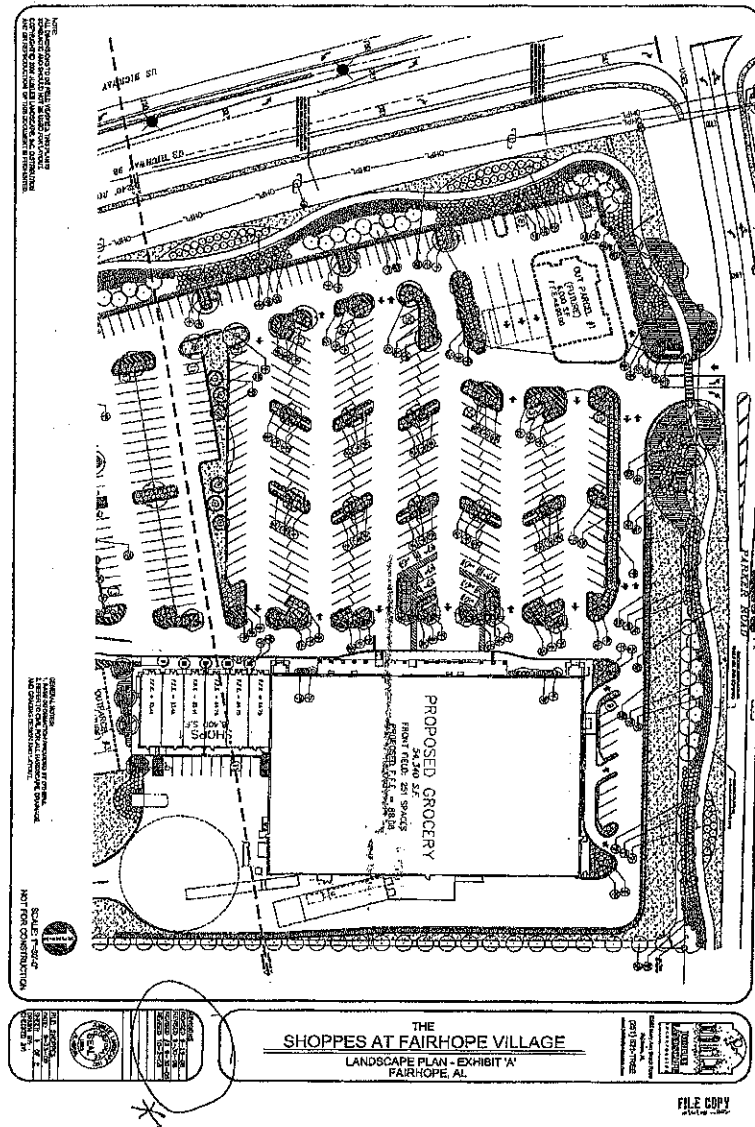
Some of the responsibilities of the Mayor, who is the executive branch of city government, include:

- Acts as figurehead for the City
- Oversees day to day operations of the City;
- Oversees the municipal employees;
- Sees that bills are paid on time;
- Makes recommendations to the Council;
- Ensures that an annual audit is conducted;
- Presents a budget to the council if required;
- Has responsibility to see that the officers and employees of the City faithfully execute the laws and policies established by the Council;
- Execute municipal contracts;
- Appoint members to the Planning Board;
- Has veto power over ordinances and resolutions, however, the veto can be overturned by a 2/3 vote of the Council.

According to the Handbook for Mayors and Council Members, it is imperative that a harmonious working relationship develops between mayor and the council. It is recommended that the mayor take the initiative to establish a working relationship between the council and the office of the mayor.

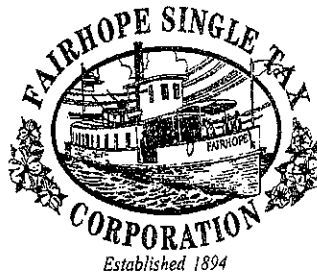
REAP

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Larry Thomas addressed the Council on behalf of the Fairhope Single Tax Corporation and also presented a letter as follows. He congratulated the council on their election and reiterated the good relationship that the Single Tax and City have had in the past and emphasized it would continue. He said that one thing troubling to the Single Tax at this time is that they have heard that the Revenue folks are planning to again significantly increase the property appraisals in what they refer to as downtown and old Fairhope. He wished to draw attention to this and hoped his information was incorrect.

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November 24, 2008

Remarks to City Council
Fairhope, AL

Good evening folks, I am Larry Thomas, here tonight as President of the Fairhope Single Tax Corporation.

1st I would like to congratulate you on your election (or reelection as the case may be) to serve our wonderful community. What you are doing and will do in this leadership position is very important to our citizens and our future. I would also like to use this opportunity to sincerely thank all those that ran for the various offices this year, I know from experience that is not an easy task, but it is important that we have good folks to choose from to govern our City. We certainly had some really good choices this election!

I come to you tonight representing the FSTC to reiterate the good relationship that we have had with the City of Fairhope in the past, especially the recent past and to tell you that it is our sincere intention to maintain that spirit of cooperation between two very important leadership entities here in our community. Together we have accomplished much and together we will continue to accomplish a lot! The FSTC supports you and our entire community.

One thing that is troubling us at this time is we are hearing from several sources that the Revenue folks are planning to again significantly increase the property appraisals in what they refer to as "Downtown and Old Fairhope." Now to be honest I can't believe after last year's huge increases and appeals and considering the condition of the real estate market and just the economy in general that would even be an issue. But we are hearing it and have already taken some steps in anticipation and are planning others. We have again this year already reduced our demonstration modifier for next year, which is applied to the land appraisal only, not to any of the improvement appraisals. That factor is now only 2/10 of 1 percent of the appraised value of the land and is the way we obtain revenues for projects to better our community, a *partial list* of which is part of our hand out tonight. As you can see, we have done and are continuing to do much for our community. However increases in taxes certainly limit any projects we might undertake. Be assured that we are not taking this laying down, and as I said are looking at several ways to help our members and lessees combat the burden more increases in the appraisal put on them. We will keep you informed of our efforts and solicit your assistance and cooperation in this vital to our community matter.

Again, thank you for your service to our community.

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What has the Fairhope Single Tax Corporation done for the City of Fairhope and the surrounding community? A partial list follows:

- Gave the City of Fairhope the Deed to all parks, with reservations, along the bay front (1931)
- Gave the City of Fairhope the Deed to the Wharf (1932)
- Gave the original utilities to the City of Fairhope
- Paved streets, sidewalks and alleys in and around the City of Fairhope with the standing offer for more
- Helped fund the new Library (joint venture with the City of Fairhope)
- Majority funding of the new Museum (joint venture with the City of Fairhope)
- Ongoing new direction for Knoll Park (joint venture with the City of Fairhope)
- Gave the 24 acres for new ball fields & soccer fields – Founders Park
- Helped fund the new emergency room for Thomas Hospital
- Helped fund Centennial Hall on the Faulkner campus (joint venture with City of Fairhope)
- Funded equipment for the new female athletic facility at Fairhope High School and Fairhope Middle School
- Sponsor a girls & boys sports team in each City League
- Sponsor the Baldwin Pops concert for Founders Day every year
- Contribute to Ecumenical Ministries yearly
- Yearly contribution to Fairhope Band program
- Yearly support of Week Bay Estuary
- The recent Gully addition with the Baldwin County School Board and the City of Fairhope and surrounding community
- Ongoing construction of Nature Park
- Yearly sponsor of Thomas Hospital Golf Tournament
- Contributed to Fairhope Art Center addition
- Provided the parking lots in downtown
- Contributed to the Fairhope Elementary School pavilion
- Contributed to Museum Plaza
- Contributed to Alzheimer Wing at The Snook Center
- Contributed to the Marietta Johnson Statue
- Contributed to the Vietnam Memorial
- Paved Windmill and Thompson Hall Roads with the County
- Paved Estella Drive

The Fairhope Single Tax Corporation has done and will continue to do the work our forefathers started in making Fairhope a model community.

Mike Perkins of 145 Willow Lake Drive spoke saying he supported Paul Ripp's recommendation and hoped the City Council would follow through on it. He had heard of discontent from the citizens also and hoped City Council would review approved Fly Creek PUD and Site Plan and request a presentation on what has been done to date.

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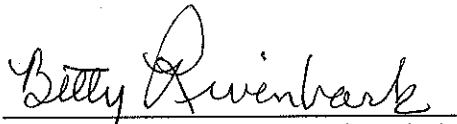
Wendell Barnhill spoke saying he owned property off High Ridge Road and his concern was how this would impact residents of High Ridge Road as far as setbacks and rooftops.

John Meyer spoke requesting an update of the web site. Sherry Sullivan responded that an update is in the works and should be out by the first of the year that she and Jason Colee had looked at information this week.

There being no further business, Councilmember Ford moved to adjourn at 7:35 PM. Councilmember Kingrea seconded the motion and it carried unanimously by voice vote.

A handwritten signature in black ink, appearing to read "Debbie W. Quinn", written over a horizontal line.

Debbie W. Quinn, Council President

A handwritten signature in black ink, appearing to read "Betty Rivenbark", written over a horizontal line.
Betty Rivenbark, Acting City Clerk