

The Planning Commission met Tuesday, January 3, 2017 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairperson; George Roberds, Vice-Chair; Jennifer Fidler; Bernie Fogarty; Ralph Thayer; David Martin; Hollie MacKellar; Jimmy Conyers; Jonathan Smith, Planning Director; Emily Boyett, Secretary; and Tut Wynne, City Attorney  
Absent: Bob Clark

Chairman Turner called the meeting to order at 5:05 PM and announced the meeting is being recorded.

The minutes of the December 5, 2016 meeting were considered and Ralph Thayer moved to accept the minutes as written and was 2<sup>nd</sup> by Bernie Fogarty. The motion carried unanimously.

Jimmy Conyers stated he has a conflict with Items A - E. He recused himself and left the room.

Mayor Wilson addressed the Commission and introduced Sherry-Lea Bloodworth Botop as the City's new Economic and Community Development Director. She also recapped the moratorium and showed pictures of drainage issues due the recent rain events.

Chairman Turner suggested hearing cases SD 16.25 and SD 16.34 together.

**SD 16.25 Request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Old Battles Village, Phase 3 a 43-lot subdivision, John Avent.** The property is located west of Huntington Woods and north of Old Battles Village, Phase 1 and 2. Mr. Smith gave the staff report saying the Master Plan for this development was approved in 2005 and a PUD amendment was approved in August 2016. Mr. Smith stated all the conditions listed in the Staff Report have been met. Staff recommendation is to approve. Mrs. Fidler stated she has reviewed the landscaping.

**SD 16.34 Request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Old Battles Village, Phase 4 a 40-lot subdivision, John Avent.** The property is located west of Huntington Woods and north of Old Battles Village, Phase 1 and 2. Mr. Smith gave the staff report saying the applicant has been working with staff to address concerns with access and Alabama Power will not allow their easement to be used. Ms. Milford said the residents have safety concerns and the POA is working with an engineer for possible alternatives. Mr. Smith stated all the conditions listed in the Staff Report have been met. Staff recommendation is to approve. Dr. Thayer asked if the water and sewer issues have been addressed and Mr. Smith responded the Water and Sewer Superintendent, Dan McCrory, has stated the application is okay to proceed. Dr. Thayer recommended having an addendum for the Commission if changes are made after the Staff Report is written.

Mr. Avent was present to answer questions.  
Chairman Turner opened the public hearing.

Earl Eldridge of 7878-A Palemoon Court – He stated concerns with the amount of water that run along the back of his property and said it is a safety issue. He also requested a barrier along his property line to keep people off his property.

Bonnie Gulsby of 410 Bartlett Avenue – She stated concerns with the construction traffic and the safety of the residents. She also had pictures of the detention pond flooding and the red discharge to Point Clear.

Chairman Turner stated a Stop Work Order was issued to Phase 2 of construction because of the blow-out.

Debbie Ellis of 7194 Brodbeck Lane – She stated concerns with clay flooding onto their property and the sewer capacity issues.

David Ellis of 7194 Brodbeck Lane – He said the development is too much, too fast and the sewer is only going to get worse with the apartments.

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

Mr. Avent addressed the public comments saying the construction entrance route was agreed upon at the time of Phase 2 and now the residents want to change it. He said they are working with the POA but the roads are public and any route will make someone unhappy. He stated the drainage for Phase 2, 3, and 4 does not flow to Old Battles Road. He explained they have an agreement with Huntington Woods to use their facilities. He said the drainage is engineered to the City's regulations and they are using the existing drainage way. Mr. Avent said he has met with Mr. Eldridge and they will look at the possibility of a fence along his property. He addressed the sewer comments saying this is a PUD and the Phase schedule has been laid out since the beginning. He said the sewer has never been an issue. He said it will be 18 to 24 months before houses are built and that will allow time for the sewer issues to be addressed by the City. Dr. Thayer stated the drainage is not allowed to discharge on to someone else's property and Mr. Avent stated the water is being handled through Huntington Woods. Mrs. Fidler asked what storm event was the site designed for and Mr. Avent stated the regulation require a 100-year storm with an overflow for more. Mrs. MacKellar asked when the sewer study will be done and Mr. Smith responded it will be done soon. Mr. McCrory assured staff the sewer will be taken care of and the problem is not with capacity but with collection and the lift stations. Mayor Wilson stated there are 68 lift stations and they need to be upgraded but there is a study being done. Mrs. Fidler stated the developers should pay an appropriate portion to upgrade the system. Mr. Avent disagreed saying tap fees will be paid and the developer installs the infrastructure.

David Martin made a motion for SD 16.25 to accept the staff recommendation to approve contingent upon the sewer study being completed. George Roberds 2<sup>nd</sup> the motion.

Mrs. Fidler asked if the development will be held up until the study is completed. Mr. Martin said we don't know where the City stand until the study is done. Mr. Avent asked for a time frame to be set.

David Martin withdrew his motion for SD 16.25 and George Roberds withdrew the 2<sup>nd</sup>. Mr. Smith stated he just spoke with Dan McCrory and he does not feel the development should be held up. He said the study will take 45 days and it could be approximately 2 weeks before the City Council approves it. Mrs. Fidler said her concern is if the study shows the system needs to be upgraded then who will pay for it.

Jennifer Fidler made a motion to accept the staff recommendation to approve. George Roberds 2<sup>nd</sup> the motion. The motion failed with the following vote: AYE – Jennifer

Fidler, Lee Turner, and George Roberds. NAY – Bernie Fogarty, Ralph Thayer, Hollie MacKellar, and David Martin.

Bernie Fogarty made a motion for SD 16.25 to deny the request because no sewer study has been done. Ralph Thayer 2<sup>nd</sup> the motion and the motion carried with the following vote: AYE - Bernie Fogarty, Ralph Thayer, Hollie MacKellar, and David Martin. NAY - Jennifer Fidler, Lee Turner, and George Roberds.

Bernie Fogarty made a motion for SD 16.34 to deny the request because no sewer study has been done. Ralph Thayer 2<sup>nd</sup> the motion and the motion carried with the following vote: AYE - Bernie Fogarty, Ralph Thayer, Hollie MacKellar, and David Martin. NAY - Jennifer Fidler, Lee Turner, and George Roberds.

Chairman Turner suggested hearing cases SD 16.26 and SD 16.35 together.

**SD 16.26 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Phase 3 of Greenbriar at Firethorne, a 29-lot subdivision, John Avent.** The property is located west Quail Creek Villas and north of Stone Creek Villas. Mr. Smith gave the staff report saying the property is zoned PUD in the City of Fairhope and 29 lots are proposed on approximately 16.27 acres. Staff recommendation is to approve contingent upon the following condition:

1. The engineer of record shall provide a definitive narrative with regards to adverse effects of drainage (as noted in the staff report) and shall provide an engineer's certificate for the drainage plan.

**SD 16.35 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Phase 4 of Golden Oaks at Firethorne, a 31-lot subdivision, John Avent.** The property is located on the north side of Narrowleaf Blvd and west of Quail Creek Villas. Mr. Smith gave the staff report saying the property is zoned PUD in the City of Fairhope and 31 lots are proposed on approximately 14.48 acres. Staff recommendation is to approve contingent upon the following condition:

1. The engineer of record shall provide a definitive narrative with regards to adverse effects of drainage (as noted in the staff report) and shall provide an engineer's certificate for the drainage plan.

Mr. Avent was present to answer questions.

Chairman Turner opened the public hearing. Having no one present to speak Chairman Turner closed the public hearing.

Jennifer Fidler made a motion for SD 16.26 to accept the staff recommendation to approve contingent upon the following condition:

1. The engineer of record shall provide a definitive narrative with regards to adverse effects of drainage (as noted in the staff report) and shall provide an engineer's certificate for the drainage plan.

Hollie MacKellar 2<sup>nd</sup> the motion and the motion carried unanimously.

Jennifer Fidler made a motion for SD 16.35 to accept the staff recommendation to approve contingent upon the following condition:

1. The engineer of record shall provide a definitive narrative with regards to adverse effects of drainage (as noted in the staff report) and shall provide an engineer's certificate for the drainage plan.

Hollie MacKellar 2<sup>nd</sup> the motion and the motion carried unanimously.

**SD 16.27 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Fairhope Falls, Phase 2 and Phase 3, a 67-lot subdivision, John Avent.** The property is located on the south side of St. Hwy. 104 and west of Yosemite Blvd. Mr. Smith gave the staff report saying the property is located outside of the City of Fairhope and is not zoned. The property is also outside the City of Fairhope Police and Permit Jurisdictions. Phase 2 and Phase 3 are approximately 43.24 acres and 67 lots are proposed. Staff recommendation is to approve contingent upon the following condition:

1. Submittal of a landscape plan that meets the approval of the City of Fairhope. Mr. Avent was present to answer any questions. Dr. Thayer asked if the water model has been approved and Mr. Smith responded yes.

Chairman Turner opened the public hearing. Having no one present to speak Chairman Turner closed the public hearing.

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

1. Submittal of a landscape plan that meets the approval of the City of Fairhope. David Martin 2<sup>nd</sup> the motion and the motion carried unanimously.

Mrs. MacKellar requested the school district be included in the staff report.

Mr. Conyers returned to the dais.

Chairman Turner suggested hearing cases SD 16.37 and SD 17.03 together.

**SD 16.37 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Plat approval of The Verandas, Phase 1, a 62-lot subdivision, Trae Corte.** The property is located at the southwest corner of the intersection of St. Hwy. 104 and Lawrence Road. Mr. Smith gave the staff report saying the property is unzoned and located in Baldwin County. The total site area is approximately 75.26 acres and 62 lots are proposed. Staff recommendation is to approve contingent upon the following:

1. The applicant shall revise the plans to reflect the correction of the deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.

**SD 17.03 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Plat approval of The Verandas, Phase 2, 3, and 4, a 114-lot subdivision, Trae Corte.** The property is located at the southwest corner of the intersection of St. Hwy. 104 and Lawrence Road. Mr. Smith gave the staff report saying the property is unzoned and located in Baldwin County. The total site area is approximately 57.88 acres and 114 lots are proposed. Staff recommendation is to approve contingent upon the following:

1. The applicant shall revise the plans to reflect the correction of the deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.

Trae Corte was present to answer questions.

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

Mrs. Fidler asked if a traffic calming device is needed on the straight away and Mr. Smith responded the distance is less than 660'. Mrs. Fidler stated she needs to re-review the landscape plan.

Jennifer Fidler made a motion for SD 16.37 to accept the staff recommendation to approve contingent upon the following:

1. The applicant shall revise the plans to reflect the correction of the deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.
2. The landscape plan shall be approved by the City Horticulturist.

Jennifer Fidler made a motion for SD 17.03 to accept the staff recommendation to approve contingent upon the following:

1. The applicant shall revise the plans to reflect the correction of the deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.
2. The landscape plan shall be approved by the City Horticulturist.

**SD 16.38 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Plat approval of Graceway Subdivision, a 2-lot minor division, Steve Pumphrey.**

The property is located on the west side of Bishop Road, just north of Edwards Avenue. Mr. Smith gave the staff report saying the property is zoned R-5 High Density Multi-Family Residential District in the City of Fairhope and is approximately 5.44 acres with 2 lots proposed. Staff recommendation is to approve as proposed.

Mr. Avent was present to answer questions.

Chairman Turner opened the public hearing.

Toni King of 20841 Bishop Road – She said the tax records show the property is agriculture, not multi-family. She stated concerns with septic tanks for 40 units. She said she did not understand what was being proposed.

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

Mr. Smith clarified the property is zoned R-5 and explained the subdivision is to split off the wetlands. He stated the multiple occupancy project will be heard next month and this request is just for the minor subdivision of 2 lots.

Ralph Thayer made a motion to accept the staff recommendation to approve as requested. Bernie Fogarty 2<sup>nd</sup> the motion and the motion carried unanimously.

Mr. Smith stated Dan McCrory is here to explain the sewer situation for the Old Battles Village case heard earlier. Mr. McCrory stated the City is going to hire an engineer to do a study on the collection system of the City's sewer and propose a 5, 10, and 15 year plans to address upgrades and maintenance of the system. He said the study will take 45 day and will also address immediate needs. Mr. Martin asked when the study will be done and the Mayor responded once it is approved by the City Council the study itself will take 45 days. She asked the Commission to reconsider the denial of the applications. Bernie Fogarty rescinded his motion for SD 16.25 and Ralph Thayer rescinded his 2<sup>nd</sup>.

David Martin made a motion for SD 16.25 to accept the staff recommendation to approve contingent upon the following condition:

1. The sewer utility study being completed, the findings being reported, and the City of Fairhope acting to address any issues within 60 days.

Ralph Thayer 2<sup>nd</sup> the motion and the motion carried with two abstentions by Jimmy Conyers and Ralph Thayer.

David Martin made a motion for SD 16.34 to accept the staff recommendation to approve contingent upon the following condition:

1. The sewer utility study being completed, the findings being reported, and the City of Fairhope acting to address any issues within 60 days.

Ralph Thayer 2<sup>nd</sup> the motion and the motion carried with one abstention by Jimmy Conyers.

**SD 17.01 Public hearing to consider the request of HMR, LLC for a Village Subdivision approval of Colony Woods, a 4-lot subdivision, Tim Lawley.** The property is located at the east end of Hawthorne Lane. Mr. Smith gave the staff report saying the subject property is located outside the City of Fairhope and is unzoned. The total site is approximately 7.17 acres and 4 lots are proposed. Staff recommendation is to approve as proposed.

Chairman Turner opened the public hearing. Having no one present to speak, Chairman Turner closed the public hearing.

Dr. Thayer commended the applicant and stated this is a great idea.

Jimmy Conyers made a motion to accept the staff recommendation to approve as proposed. Hollie MacKellar 2<sup>nd</sup> the motion and the motion carried unanimously.

**SD 17.02 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for Preliminary Plat approval of Anthem Oaks, a 23-lot subdivision, John Avent.** The property is located on the southeast corner of the intersection of County Road 32 and Mandrell Lane. Mr. Smith gave the staff report saying the property is unzoned in Baldwin County and consists of approximately 30 acres with 23 lots proposed. The applicant is requesting a waiver to the LID requirements. Staff recommendation is to approve contingent upon the following conditions:

1. The applicant shall revise the plans to reflect the minor deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.

Mr. Avent addressed the Commission saying the proposal is 1 acre lots designed around the existing oak grove.

Chairman Turner opened the public hearing.

Harry Sherman of 12113 Mandrell Lane – He stated he is opposed to an entrance on Mandrell Lane.

Ron Anderson of 16870 River Park Road – He stated the property has already been subdivided with restrictive covenants and he asked how they are putting another subdivision on top of it. He said the reason everyone moved out to this area is to be outside the city and he asked why this must be approved by the city. He expressed concerns with tree preservation, traffic, and drainage.

Brenda Johnson of 16846 River Park Road – She said this project affects more people than just the adjacent property owners. She stated there are already issues with the amount of water on Old Timney Lane and this will just compound the problems. She asked why this is before the City when the property is in the County.

James Long of 12484 County Road 32 – He stated concerns with stormwater runoff and how it will be handled.

James Johnson of 16846 River Park Road – He asked for an explanation of the waiver request.

Stacy Coate of 12119 Mandrell Lane – She said the proposed entrance will be in her front yard. She said this development will cause more traffic and she moved to the county for because she likes the quiet.

Kenneth Palmer of 12422 County Road 32 – He wants to make sure the oak grove is protected.

Jo Owens of 16772 River Park Road – She stated concerns with stormwater runoff and traffic. She said she likes the area the way it is and it is becoming too populated.

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

Chairman Turner explained though this property is outside city limits it is in the City's Extra-Territorial Jurisdiction and the Planning Jurisdiction in which the City has subdivision control. Mr. Avent stated this request is a re-subdivision of the existing lots and the restrictive covenants are being met because each lot is at least 1 acre. Chairman Turner asked how the stormwater is being handled and Mr. Avent explained they are using 10 LID techniques to mimic the existing conditions and will help with the downstream affects. Dr. Thayer suggested the applicant meet with the surrounding neighbors. Andy Bobe of Preble-Rish, LLC stated they tried to save as many trees as possible with the layout and he noted the County has already approved the subdivision. George Roberds made a motion to grant a waiver to the LID requirements and to accept the staff recommendation to approve contingent upon the following conditions:

1. The applicant shall revise the plans to reflect the minor deficiencies noted by Mr. Larry Smith of S.E. Civil Engineering.

Ralph Thayer 2<sup>nd</sup> the motion and the motion carried unanimously.

**UR 16.15 Request of Southern Light for an 11.52.11 Utility Review and approval of the proposed installation of approximately 500 linear feet of fiber optic cable, Avein Thompson.** The project will run along the north side of Morphy Avenue from Greeno Road to Lottie Lane to provide service to Goodwill Easter Seals at 199 Baldwin Square. Mr. Smith gave the staff report saying the project consists of placing approximately 500 linear feet of fiber optic cable underground and installing one handhole. The method of installation shall be directional bore, no trenching is allowed. Staff recommendation is to approve conditional upon the following:

1. The applicant shall follow the general comments related to utility work as stated in the staff report.
2. All mechanical and locator equipment shall be painted munsell green.
3. The plans shall be revised to show the correct depth placement prior to the issuance of a permit.

Mrs. Fidler stated this location was just bored by AT&T.

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

1. The applicant shall follow the general comments related to utility work as stated in the staff report.
2. All mechanical and locator equipment shall be painted munsell green.
3. The plans shall be revised to show the correct depth placement prior to the issuance of a permit.

Ralph Thayer 2<sup>nd</sup> the motion and the motion carried unanimously.

**IR 17.01 Request of Bobby and Debra Green for an Informal Review to rezone property located at 415 N. Greeno Road from R-1 Low Density Single Family Residential District to a Business/Commercial district.** Mr. Smith gave the staff report saying the subject property is approximately 2.6 acres and is the current site for Green Nurseries. Staff recommendation is to provide insight and comments regarding the proposed zoning change from R-1 to a business/commercial zoning district. Mr. Green gave a PowerPoint presentation highlighting the current and proposed intentions for the site. Their proposal includes maintaining the existing business and expanding to become a more upscale village atmosphere with a café and retail sales with a 130' buffer between the site and the existing residential to the west. Mrs. Green stated this area cannot handle a high-density development and it is not fit for single family. She noted all the surrounding neighbors are in favor of the proposal. Mr. Green said Greeno Road is changing and this development can set a standard. Mr. Turner stated he loves the idea but is concerned with Greeno Road becoming striped out and Mr. Conyers agreed. He suggested working to have 3 acres and proposing a PUD instead of a straight zoning change. Dr. Thayer recommended asking for a special exception or a variance to the 3 acre requirement for a PUD. He stated he likes the concept and would like to see it developed. Mrs. Fidler said the Comprehensive Plan has villages out lined and Greeno Road is already too dense; however, she loves the idea but there is no way to stop the domino effect of rezoning the adjacent properties. Mr. Fogarty was in favor of the concept. Mrs. MacKellar said she loved the idea and suggested the City look at the overlay district again. Mr. Roberds supported the concept but preferred a PUD rather than straight zoning. He also said he liked the idea of a special exception to the 3 acre requirement for a PUD. Mr. Martin stated he loves the idea and would like to see more details. Mr. and Mrs. Green thanked the Commission for their input.

### **Old / New Business**

**Chris Haley – Portico, 56-unit Multiple Occupancy Project at the northeast corner of Fairhope Avenue and Brown Street.** Mr. Haley gave a PowerPoint presentation of the proposed mixed use project. He explained there has been contention with the proposed design including parking on Fairhope Avenue and Brown Street as well as a 20' greenspace buffer along the street. Mr. Haley stated the Central Business District (CBD) stops at the library and expressed interest in the potential to expand the CBD to the subject property. He said this site is eastern gateway into Downtown and this proposal is a great transition from residential to commercial. Mr. Martin stated he loves the project and the parking could be a means of traffic calming on Fairhope Avenue. Mr. Roberds said he liked the project and on-street parking is fine to him and Mr. Conyers agreed. Mrs. MacKellar said she loves the proposal and she encouraged Mr. Haley to include golf cart and bicycle parking. She stated the project looks great and it will be a real improvement to the area. Mr. Turner said he likes the project and keeping the commercial Downtown. He commented he would like to see the Post Office worked on to provide more greenspace and parking. Mr. Haley noted the City has allowed on-street parking in multiple locations. Dr. Thayer stated the parking is dangerous and any proposal is better than what is there now. He asked how the water will be handled for the site and Mr. Haley explained they will be using LID techniques to reduce the amount of



water for the site. Mr. Fogarty stated he likes the concept but not the parking on Fairhope Avenue due to safety issues. He suggested parallel parking along the streets and Mr. Haley explained parallel parking would reduce the number of spaces from 28 to approximately 10. Mr. Fogarty said there is a need for apartment living in this area. Mrs. Fidler stated the 20' greenspace buffer is required per the Tree Ordinance and everyone else has been required to do it. Mr. Haley asked if there is a deviation allowed to the Tree Ordinance and Mr. Smith responded the only relief is to the City Judge. Mrs. Fidler stated the drainage and watershed needs to be studied for this site because all the water flows through this property. Mr. Haley said he is not responsible for the entire watershed.

Having no further business, Bernie Fogarty made a motion to adjourn. David Martin 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 9:05 PM.



Lee Turner, Chairman



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Emily Boyett, Secretary