

**CITY OF FAIRHOPE  
CITY COUNCIL WORK SESSION AGENDA**

**MONDAY, 13 NOVEMEBR 2017 – 4:30 P.M. – COUNCIL CHAMBER**

1. Fairhope Alley Transit Hub Project – Richard Johnson
2. Public Works Sanitation Fees
3. Committee Updates
4. Department Head Updates

**Next Regular Meeting Monday, November 27, 2017 at 4:30 p.m. and Same Place**

**CITY OF FAIRHOPE  
CITY COUNCIL AGENDA**

**MONDAY, 13 NOVEMBER 2017 - 6:00 P.M. - CITY COUNCIL CHAMBER**

**Invocation and Pledge of Allegiance**

1. Approve minutes of 23 October 2017 Regular City Council Meeting, minutes of 23 October 2017 Work Session, and minutes of 23 October 2017 Agenda Meeting.
2. Report of the Mayor
3. Public Participation – Agenda Items – (3 minutes maximum)
4. Council Comments
5. **Public Hearing** - Ordinance - Amend Zoning Ordinance No. 1253.  
Request to zone the property of Todd Roberts to R-2 Medium Density Single Family Residential District concurrent with annexation. This property is generally located at 19870 County Road 13, known as Parcel B, Fairhope, Alabama. Tax PPIN: 235434.
6. **Public Hearing** - Ordinance - Amend Zoning Ordinance No. 1253.  
Request to rezone the property of Sweetwater Investments, LLC from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District. This property is generally located at 20040 State Highway 181, Fairhope, Alabama. Tax PPIN: 77292.
7. **Public Hearing** - Ordinance - Amend Zoning Ordinance No. 1253.  
Zoning Ordinance Amendment – Article IX, Section C. Definitions
  - Building Height: The vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building.
8. **Public Hearing** - Ordinance - Amend Zoning Ordinance No. 1253.  
Zoning Ordinance Amendment
  - Article V, Section B. Central Business District Overlay Proposed Expansion.
9. **Final Adoption** - Ordinance - Amend Zoning Ordinance No. 1253.  
Request to rezone the property of CDA, LLC and Carrigan Properties, LLC from R-1 Low Density Single Family Residential District and R-4 High Density Multi-Family Residential District to PUD (Planned Unit Development). This property is located at 806 and 812 N. Greeno Road, Fairhope, Alabama. Tax Parcels: 05-46-03-39-0-001-001.001 and 05-46-03-39-0-001-009.000. (Introduced at the October 23, 2017 City Council Meeting)
10. **Final Adoption** - Ordinance - Amend Zoning Ordinance No. 1253.  
Request to rezone the property of Robert and Debra Green from R-1 Low Density Single Family Residential District to B-2 General Business District. This property is generally located 415 N. Greeno Road, Fairhope, Alabama. Tax Parcels: 05-46-03-39-0-002-152.017, 05-46-03-39-0-002-152.018, Portion of 05-46-03-39-0-002-152.010, and Portion of 05-46-03-39-0-002-152.000. (Introduced at the October 23, 2017 City Council Meeting)

11. Resolution – Accepting the public streets, public right-of-ways, and all of Fairhope’s public utilities located in public right-of-ways within Old Battles Village, Phase Two, for maintenance subject to the bond posted; and authorizes Mayor Karin Wilson to execute the Maintenance and Guaranty Agreements between the City of Fairhope and Truland Homes, LLC.
12. Resolution – Accepting the public streets, public right-of-ways, and all of Fairhope’s public utilities located in public right-of-ways within Phase 2 of Silverleaf at Firethorne for maintenance subject to the bond posted; and authorizes Mayor Karin Wilson to execute the Maintenance and Guaranty Agreements between the City of Fairhope and Firethorne Development, LLC.
13. Resolution – That the City Council authorizes Mayor Karin Wilson to temporary fill the position of Special Events Coordinator at a pay grade of 20 with a salary not to exceed the minimum of that grade; and to allow the temporary employee to work up to 40 hours per each week which does not include benefits as long as the employee does not work over the 90 days or until Special Events Coordinator returns to work plus seven (7) working days.
14. Resolution – That the Budget for the fiscal year ending September 30, 2017 be extended through December 18, 2017 to allow the invoices and expenditures to continue as needed.
15. Resolution – That the City of Fairhope hereby adopts and approves the Community Development Budget for the FY 2017-2018.
16. Public Participation – (3 minutes maximum)
17. Adjourn

**City Council Work Session - 4:30 p.m.  
on Monday, November 13, 2017 – Council Chambers**

**City Council Agenda Meeting - 5:30 p.m.  
on Monday, November 13, 2017 – Council Chamber**

**Next Regular Meeting – Monday, November 27, 2017 - Same Time and Place**

STATE OF ALABAMA            )  
  :  
COUNTY OF BALDWIN        )

The City Council, City of Fairhope, met in regular session at 6:00 p.m., Fairhope Municipal Complex Council Chamber, 161 North Section Street, Fairhope, Alabama 36532, on Monday, 23 October 2017.

Present were Council President Jack Burrell, Councilmembers: Jay Robinson, Jimmy Conyers, Robert Brown, and Kevin Boone, Mayor Karin Wilson (arrived at 6:20 p.m.), City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks.

There being a quorum present, Council President Burrell called the meeting to order. The invocation was given by Deacon George Yeend of St. Lawrence Catholic Church and the Pledge of Allegiance was recited. Councilmember Robinson moved to approve minutes of the 09 October 2017, regular meeting; minutes of the 09 October 2017, work session; and minutes of the 09 October 2017, agenda meeting. Seconded by Councilmember Brown, motion passed unanimously by voice vote.

Lynn Maser, on behalf of Mayor Wilson, addressed the City Council regarding the following items:

- 1) Fairhope High School Band was recognized for winning every award in its class during The Heart of Dixie Band Competition: Best in Class Drum Majors, Best in Class Percussion, Best in Class Color Guard, Best in Class Band, and earned the highest composite score and secured the Grand Champion award. This March they have been invited to represent Fairhope at Universal Studios in Orlando, Florida.
- 2) The Moratorium Report is out, and the Mayor will post it on her blog this week. Ms. Maser asked everyone to take time to read it and mentioned the sewer study, ordinance amendments, etc. She said one of the things being adopted immediately is recognition that our various departments actually function best when they function together.
- 3) Complaints continues to come to City Hall about the poor service being experienced by AT&T customers since they took their tower off the water tower. AT&T had been advised one year in advance that we had to paint the tower and were given plenty of notice to make arrangements to maintain their service levels to their customers.
- 4) Our Building Department is being crushed with commercial plans; and have 9 active construction sites downtown before Christmas and with more coming after Christmas. The Building Department will be working with the contractors to relieve any resulting congestion as possible.
- 5) The past weekend we had 138 teams in a soccer tournament. Despite the inclement weather, the tournament was a huge success. Recreation Director Tom Kuhl was told how happy the parents and coaches were because Fairhope had a plan for any eventuality.

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- 6) Fairhope is all about entrepreneurship; we were founded on it and we foster it. Mayor Wilson will be attending the Mayor's Conference on Entrepreneurship in Oakland, CA, October 25, 2017 through October 27, 2-17. It is presented by the Kaufmann Foundation which covers the participants' costs 100%.
- 7) Joseph Tarabella was presented a Certificate of Achievement: "In special recognition of the community service to the Eastern Shore Art Center in which you designed and built twelve new easels for use by the artists and in the various classes offered to the community there; to achieve the Eagle Scout Award and the outstanding qualities you have shown in the achievement thereof. We commend your dedication, attention to detail and hard work; and deem it an honor and privilege to present you with this Certificate of Achievement. On behalf of the City of Fairhope, we are pleased to commend you for your fine efforts and extend this token of admiration with which you are regarded in our City. Best wishes in your future endeavors; you are sure to succeed."

Council President Burrell stated there was a need to add on two agenda items one after Agenda Item Number 18 and one after Public Participation, Agenda Item Number 19: a Resolution the City of Fairhope hereby states its support for Mobile Bay Keeper's sampling plan to identify the source of the elevated bacteria levels in Fly Creek and Mobile Bay and to help Fairhope obtain the tools to resolve the issue. Further, the City Council authorizes the payment of up to \$6,500.00 to pay the estimated cost of the study in cash or in-kind services; and an Executive Session to Discuss Pending Litigation and Possible Settlement Options regarding said Pending Litigation.

Councilmember Brown moved to add on the above-mentioned items not on the printed agenda. Seconded by Councilmember Boone, motion passed unanimously by voice vote.

Councilmember Conyers stated the FEEF event was successful, the Alabama Association of Regional Councils is here for three days, and Homecoming is Friday night so everyone come support our Team. He said the Eastern Shore Repertory Theatre will present Peter Pan on November 3, 2017 through November 5, 2017; and that Erin Langley made the 40 Under 40 in Mobile Bay Magazine.

Councilmember Brown commented that Team Subway was Best of the Bay; and said Happy Halloween to everyone.

Councilmember Boone said he reiterated Councilmember Conyers for everyone to get out and support the Fairhope Pirates Football Team.

Council President Burrell said he personally thanked Joseph Tarabella for obtaining the Eagle Scout Award.

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Building Official Erik Cortinas addressed the City Council regarding Battles Road and Section Street; and the building permits for Old Battles Place. He said the fifth Stop Work Order was issued today for erosion controls and water turbidity. Mr. Cortinas commented that water clarity is dependent on ADEM; and if ADEM suspends fines, how can we fine the developer. He said the culvert issues are with Baldwin County. Mr. Cortinas said the Erosion and Sediment Control Ordinance has been updated for better control.

Council President Burrell thanked all of the veterans for being here tonight. Jim Jeffries introduced all of the former Veterans of the Year and asked for them to stand. He gave a brief explanation of the criteria the Veteran of the Year must possess: exemplary record, continue to serve, and chosen by a peer group. Mr. Jeffries announced Jerry Cherne (American Legion Post 199 and Veterans of Foreign Wars Post 5660, Fairhope, Alabama) the City of Fairhope's 2017 Veteran of the Year. This prestigious honor is awarded for his distinguished military service and continuing service to veterans and the community. Mr. Cherne is also the 2017 Marine of The Year, Marine Corps League, Department of Alabama. Ms. Jeffries said that Mr. Cherne was also a "Mustang" in the Marine Corps.

Mr. Cherne thanked Mayor Wilson and the City Council for having this award and the Veterans Day Parade. He said his role models were fellow past Veterans of the Year. He also thanked his wife for all of her support. Mr. Cherne said the Marine Corps League is a team effort. Then, he said "Semper Fi – Oorah."

A Public Hearing was held as advertised on a proposed ordinance to amend Zoning Ordinance No. 1253. Councilmember Conyers introduced in writing an ordinance to rezone the property of CDA, LLC and Carrigan Properties, LLC from R-1 Low Density Single Family Residential District and R-4 High Density Multi-Family Residential District to PUD (Planned Unit Development). This property is located at 806 and 812 N. Greeno Road, Fairhope, Alabama. Tax Parcels: 05-46-03-39-0-001-001.001 and 05-46-03-39-0-001-009.000. The Planning Commission gave a favorable recommendation of this ordinance. Council President Burrell read the proposed ordinance.

Planning Director Wayne Dyess briefly explained the proposed ordinance. He mentioned the proposal does not meet the Comprehensive Plan, but the Planning Commission gave a favorable recommendation. Larry Smith, on behalf of the owner and developer, addressed the City Council and mentioned the increased buffer and conceptual landscape plan. He said that four difference accesses were reduced to two. Mr. Smith also stated this is a triangular piece of property and landlocked which is not good for residential.

Council President Burrell opened the Public Hearing at 6:36 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:37 p.m.

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Due to lack of a motion for immediate consideration, this ordinance will layover until the November 13, 2017 City Council meeting.

A Public Hearing was held as advertised on a proposed ordinance to amend Zoning Ordinance No. 1253. Councilmember Conyers introduced in writing an ordinance to amend Ordinance No. 1273 known as East Park Subdivision the Planned Unit Development (PUD). The property of Wendell and Charlotte Barnhill is located on the north side of Parker Road between U. S. Hwy. 98 and High Ridge Road, at 7625 Parker Road. Tax Parcel: 05-46-03-05-0-000-010.007. The Planning Commission gave a favorable recommendation of this ordinance. Council President Burrell read the proposed ordinance.

Planning Director Wayne Dyess briefly explained the proposed ordinance. He said this will be used for a church school site and B-2 is consistent with County zoning. Mr. Dyess said the Planning Commission approved with a 20-foot buffer maintained. Council President Burrell questioned what would be built. Mr. Dyess replied a school building was discussed. Council President Burrell stated a PUD allows us to decide what is built and B-2 does not. Councilmember Robinson asked are we not working on limitations and expirations. Mr. Dyess replied yes, we are and believes the proposed limitation is four years. Councilmember Brown questioned if a traffic study was required. Mr. Dyess said only in subdivision regulations.

Council President Burrell opened the Public Hearing at 6:44 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 6:44 p.m.

Due to lack of a motion for immediate consideration, this ordinance will layover until the November 13, 2017 City Council meeting.

A Public Hearing was held as advertised on a proposed ordinance to amend Zoning Ordinance No. 1253. Councilmember Robinson introduced in writing an ordinance to rezone the property of Robert and Debra Green from R-1 Low Density Single Family Residential District to B-2 General Business District. This property is generally located 415 N. Greeno Road, Fairhope, Alabama. Tax Parcels: 05-46-03-39-0-002-152.017, 05-46-03-39-0-002-152.018, Portion of 05-46-03-39-0-002-152.010, and Portion of 05-46-03-39-0-002-152.000. The Planning Commission gave a favorable recommendation of this ordinance. Council President Burrell read the proposed ordinance.

Planning Director Wayne Dyess briefly explained the proposed ordinance. He stated the zoning was done in the 1960s and the business established prior to that. Mr. Dyess said this is a heavily traveled road and not conducive for residential. He said buffering is required for the rezone; and both the Planning Commission and Staff recommend approval.

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Council President Burrell commented he was surprised with approval without a site plan. Mr. Dyess replied staff cannot demand for site plan approval. He did state that the process for site plan approval is moving to Planning Commission. Councilmembers Conyers and Burrell both mentioned possible self-imposed restrictions on property.

Robert and Debra Green, owners of the property, presented a Power Point Presentation with background information on the zoning and other attempts by the family to rezone. Mr. Green said neighbors had concerns and all have been addressed. He thanked City Clerk Lisa Hanks and his wife Debra for their thorough research for this rezone. He said it has been B-2 for the last 40 to 45 years, yet has been denied rezoning and has received permits to expand business. Mr. Green said the nursery was founded in 1932 and gave a brief history of the business.

Councilmember Conyers brought up deed restrictions. Ms. Green commented since 1962 we did nothing but give up; and the Mayor at that time said someone has to sacrifice. She said we will not give up anything else; and asking me to, is insulting to me. Ms. Green said it is not up for sale and is not contingent on a sale. Mr. Green said the business has been here for 85 years and has given back to the City of Fairhope.

Council President Burrell opened the Public Hearing at 7:19 p.m. No one present opposed the proposed ordinance, the Public Hearing closed at 7:19 p.m.

Due to lack of a motion for immediate consideration, this ordinance will layover until the November 13, 2017 City Council meeting.

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council approves the selection of TischlerBise, Inc. to perform Professional Financial Consulting Services to Study Update of Impact Fees for the City of Fairhope (RFQ No. PS001-18), and hereby authorizes Mayor Karin Wilson to establish a fee schedule; and to execute the associated contract with a not-to-exceed limit of \$68,000.00. (Tabled at the October 9, 2017 City Council Meeting). Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

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23 October 2017

**RESOLUTION NO. 2904-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA,** That the City Council approves the selection of TischlerBise, Inc. to perform Professional Financial Consulting Services to Study Update of Impact Fees for the City of Fairhope (RFQ No. PS001-18), and hereby authorizes Mayor Karin Wilson to establish a fee schedule; and to execute the associated contract with a not-to-exceed limit of \$68,000.00.

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

Attest:

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution appointing a Director to the Educational Building Authority of the City of Fairhope, Alabama – St. Michael Catholic High School: reappoint James C. Bailey for a term ending on the second Monday of November 2023. Seconded by Councilmember Brown, motion passed unanimously by voice vote.

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23 October 2017

RESOLUTION NO. 2905-17

A RESOLUTION APPOINTING A DIRECTOR TO THE  
EDUCATIONAL BUILDING AUTHORITY OF THE CITY OF  
FAIRHOPE, ALABAMA - ST. MICHAEL CATHOLIC HIGH SCHOOL

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA  
(the "City Council"), as follows:

Section 1. The City Council has found and determined and does hereby find, determine  
and declare as follows:

(a) The City Council has heretofore authorized the incorporation, and appointed the  
directors, of The Educational Building Authority of the City of Fairhope, Alabama - St. Michael's  
Catholic High School (the "Authority").

(b) The initial term of Mr. James C. Bailey as a director of the Authority will expire on  
the second Monday of November, 2017.

(c) It is in the best interests of the Authority and the City to reappoint Mr. James C.  
Bailey as a director of the Authority.

Section 2. Pursuant to Section 16-17-5 of the Code of Alabama 1975, the City Council  
does hereby appoint the following person as a director of the Authority for the term ending on the  
date and year set opposite the name thereof:

<u>Name</u>	<u>End of Term</u>
Mr. James C. Bailey	Second Monday of November, 2023

Section 3. All ordinances, resolutions, orders, or parts of any thereof, of the City in  
conflict, or inconsistent, with any provision of this resolution hereby are, to the extent of such conflict  
or inconsistency, repealed.

Section 4. This resolution shall take effect immediately.

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Duly passed and adopted this 23rd day of October, 2017.

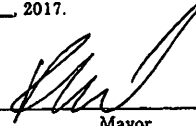
  
Council President

SEAL

Attest:   
City Clerk

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Transmitted to the Mayor for approval on October 24, 2017.

  
Mayor

Councilmember Robinson introduced in writing, and moved for the adoption of the following resolution, a resolution approving the Holidays for FY 2017 - 2018. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2906-17**

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, THAT THE FOLLOWING 2017 – 2018 HOLIDAYS WILL BE OBSERVED BY ALL CITY PERSONNEL EXCEPT EMERGENCY EMPLOYEES:

<b>Veterans Day</b>	-	<b>Friday, November 10, 2017</b>
<b>Thanksgiving Holidays</b>	-	<b>Thursday &amp; Friday, November 23 &amp; 24, 2017</b>
<b>1/2 Day Christmas Eve</b>	-	<b>Friday, December 22, 2017</b>
<b>Christmas Holidays</b>	-	<b>Monday &amp; Tuesday, December 25 &amp; 26, 2017</b>
<b>New Year's Day</b>	-	<b>Monday, January 1, 2018</b>
<b>Martin Luther King, Jr.</b>	-	<b>Monday, January 15, 2018</b>
<b>Memorial Day</b>	-	<b>Monday, May 28, 2018</b>
<b>Independence Day</b>	-	<b>Wednesday, July 4, 2018</b>
<b>Labor Day</b>	-	<b>Monday, September 3, 2018</b>

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

Attest

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council approves the selection of Sawgrass Consulting, LLC to perform Professional Land Surveying Services for PS003-18 (Project No. REC001-18) Survey of Fairhope Docks Marina and Boatyard, and hereby authorizes Mayor Karin Wilson to negotiate a fee schedule, and establish a not-to-exceed figure. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2907-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City Council approves the selection of Sawgrass Consulting, LLC to perform Professional Land Surveying Services for PS003-18 (Project No. REC001-18) Survey of Fairhope Docks Marina and Boatyard, and hereby authorizes Mayor Karin Wilson to negotiate a fee schedule, and establish a not-to-exceed figure.

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

Attest:

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Brown introduced in writing, and moved for the adoption of the following resolution, a resolution authorizing Mayor Wilson and the Fairhope Airport Authority/City of Fairhope to make application for airport improvement funding assistance from the State of Alabama Department of Transportation, for the purpose of undertaking a project to make improvements at the H. L. "Sonny" Callahan Airport. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

**RESOLUTION NO. 2908-17**

WHEREAS, the City of Fairhope intends to make application for State matching funds for an airport improvement project for the H. L. Sonny Callahan Airport during fiscal year 2018.

THEREFORE BE IT RESOLVED, by the City of Fairhope as follows:

1. That the City of Fairhope, by and through its Mayor, Council President, or other City Official designated by the City Council, is authorized to make an application for airport improvement funding assistance from the State of Alabama Department of Transportation, for the purpose of undertaking a project in fiscal year 2018 to make improvements at the H. L. Sonny Callahan Airport.

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2. That the application shall be submitted for and on behalf of the City of Fairhope, by and through its Mayor, Council President, or other City Official designated by the City Council, who his hereby authorized by this Resolution to sign the application and any related forms or documents on behalf of the City of Fairhope.
3. That the City of Fairhope is authorized to enter into an airport improvement funding agreement with the State of Alabama, acting by and through the Alabama Department of Transportation, for the purpose of undertaking a project to make improvements at the H. L. Sonny Callahan Airport, with a portion of the funding for this airport improvement project to be provided by the State of Alabama.
4. That the agreement be executed in the name of the City of Fairhope for and on behalf of the Fairhope Airport Authority and the City of Fairhope.
5. That the authority of the City of Fairhope to enter into contracts with the State of Alabama has been reviewed by the City of Fairhope attorney, and in his opinion, the City of Fairhope is duly authorized to commit the City of Fairhope to an agreement with the State of Alabama Department of Transportation.
6. That the either the Mayor, the City Council President, or other City Official specially designated by the City Council, shall be authorized to execute the both the application for funding and also the agreement with the State of Alabama Department of Transportation.

BE IT FURTHER RESOLVED, that the City of Fairhope, in reliance upon Resolution No. 427 of the Fairhope Airport Authority, hereby affirms that the local matching share of funds in the amount required for this airport improvement project has been officially approved, placed into the budget of the Fairhope Airport Authority and is available for expenditure by the Fairhope Airport Authority upon execution of the State of Alabama's funding agreement and the start of the project.

I, the undersigned qualified and acting as the City Clerk of the City of Fairhope, Alabama do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City of Fairhope named therein, at a regular meeting of such body held on the 23rd day of October 2017, and that such resolution is on file in the office of the City of Fairhope.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Fairhope on this 23rd day of October, 2017.

CITY OF FAIRHOPE

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Karin Wilson, Mayor

ATTEST:

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Lisa Hanks, MMC  
City Clerk

23 October 2017

Councilmember Robinson introduced in writing, and moved for the adoption of the following resolution, a resolution that the City of Fairhope hereby approves and adopts the Franchise Agreement for granting franchises to install, maintain and operate a business on the City's public rights-of-ways or public property as presented and a copy is on file in the Office of the City Clerk; and that Resolution No. 2124-13 is hereby repealed. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

**RESOLUTION NO. 2909-17**

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City of Fairhope hereby approves and adopts the Franchise Agreement for granting franchises to install, maintain and operate a business on the City's public rights-of-ways or public property as presented and a copy is on file in the Office of the City Clerk; and that Resolution No. 2124-13 is hereby repealed.

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

ATTEST:

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that Mayor Karin Wilson is hereby authorized to execute a contract with Christian Preus Landscape Architecture, LLC to perform Professional Architectural Services for MPO Downtown Traffic, Pedestrian Safety and Wayfinding Signage and Parking Study (RFQ No. PS039-17), with a not to exceed \$30,000.00. The total Project cost is \$30,000.00 through MPO Planning funds: Federal match not to exceed \$24,000.00 and a local match of \$6,000.00. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

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**RESOLUTION NO. 2910-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that Mayor Karin Wilson is hereby authorized to execute a contract with Christian Preus Landscape Architecture, LLC to perform Professional Architectural Services for MPO Downtown Traffic, Pedestrian Safety and Wayfinding Signage and Parking Study (RFQ No. PS039-17), with a not to exceed \$30,000.00.

The total Project cost is \$30,000.00 through MPO Planning funds: Federal match not to exceed \$24,000.00 and a local match of \$6,000.00.

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

Attest:

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Robinson mentioned the intent of the bid law and the intent that people know what they are asked to do. The company was not here and why let them use third party inspection to attend. Mr. Peterson said this was the first time he ever saw this. Councilmember Robinson commented if it says you have to send someone you must send someone; not person who actually was going to do the work. Mr. Peterson said the intent and experience is there; and no infraction by Tank Pro; and stated it was not major. Councilmember Boone said you set rules for the bid and someone else may not have bid because they could not attend. He said this was not minor; it was major.

Council President Burrell said if someone was there, then not signing is not major. He said mandatory to attend is specific; sign in as Tank Pro and use their e-mail address; 25 to 30 photos needed; and need diagrams. Councilmember Burrell commented it was \$75.00 to do this on September 28, 2017.



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On September 27, 2017, Ethan K. will report to meeting, instructions are highlighted and bold. He said on the same day, Express Pro sent a thank you to Ethan. On September 28, 2017, Express Pro to Tank Pro stating Erik will attend meeting. On October 2, 2017, e-mail stating Jason H. on way to get measurements and photos. On invoice dated October 4, 2017 paid Erik. It appears Tank Pro did not follow instructions and it looks like an afterthought. Mr. Peterson said he contacted the other company and they were supplied the same.

Laura Strachan and Sean Alverson, attorneys for Tank Pro, addressed the City Council and said it was not unusual to hire someone to attend meetings. Express Pro is who they used and told Erik Reed to attend for Tank Pro; and did its best to comply with bid specifications. Mr. Alverson said the bid law states must award to lowest responsible bidder; and there was no infraction since it is not part of the bid law. Mr. Alverson said you have a letter from Express Pro stating Erik Reed represented Tank Pro.

Councilmember Robinson said we must have integrity for bid process; and we cannot dispute letter from Express Pro. Councilmember Brown said six submitted bids; and at what point did we request if Tank Pro had representation. Mr. Alverson stated the letter was received between the pre-bid meeting to submitting bids; and we believe our clients met the requirements. Mr. Peterson said the attorneys would prepare affidavits stating documents are true and correct. Councilmember Boone said we need to see signature on sign-in sheet; whoever was there for Tank Pro should have signed in. Councilmember Robinson said the affidavit would need to be signed by Erik Reed stating he attended meeting for Tank Pro and was requested prior to pre-bid meeting. Councilmember Robinson said if there is no infraction we should award to Tank Pro if we believe the letter is real.

Councilmember Robinson introduced in writing, and moved for the adoption of the following resolution, a resolution to Award Bid to the lowest responsible bidder Tank Pro, who was compliant to bid specification criteria, the contract for Painting of Two Million Gallon Water Tower for the Water Department. The motion was seconded by Councilmember Conyers. Councilmember Robinson then decided to withdraw his motion.

Councilmember Robinson introduced in writing, and moved for the adoption of the following resolution, a resolution to Award Bid to the lowest responsible bidder Tank Pro, who was compliant to bid specification criteria, the contract for Painting of Two Million Gallon Water Tower for the Water, contingent upon receiving a signed affidavit by Eric Reed that he was employed by Express Pro to be Tank Pro's agent prior to the pre-bid meeting. The signed affidavit must be received by the City of Fairhope by 5:00 p.m. on Friday, October 27, 2017. Seconded by Councilmember Conyers, motion passed by the following voice votes: AYE – Burrell, Robinson, and Conyers. NAY – Brown and Boone.

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Councilmember Boone moved to add that “In the event the signed affidavit is not received by 5:00 p.m. on Friday, October 27, 2017, the City Council will award to Utility Service Company, Inc., the second lowest responsive bidder for Bid No. 002-17.” Seconded by Councilmember Conyers, motion passed unanimously by voice vote. City Attorney Wynne said it should not take long to get an affidavit signed and returned.

**RESOLUTION NO. 2911-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:**

[1] That the City of Fairhope, by and through Operations Director Richard Peterson, Project Engineer, did request, receive, and open bids for Painting of Two Million Gallon Water Tower 2017 (Bid No. 002-17) for the Water Department.

[2] At the appointed time and place, the following bids were opened and tabulated as follows:

Please see attached Bid Tabulation for  
Painting of Two Million Gallon Water Tower  
for the Water Department

[3] After evaluating the bid proposals with the required bid specifications, The City Council awards to Tank Pro, Inc. the bid for Painting of Two Million Gallon Water for the Water Department, contingent upon receiving a signed affidavit by Eric Reed that he was employed by Express Pro to be Tank Pro’s agent prior to the pre-bid meeting. The signed affidavit must be received by the City of Fairhope by 5:00 p.m. on Friday, October 27, 2017.

[4] In the event the signed affidavit is not received by 5:00 p.m. on Friday, October 27, 2017, the City Council will award to Utility Service Company, Inc., the second lowest responsive bidder for Bid No. 002-17.

DULY ADOPTED THIS 23RD DAY OF OCTOBER, 2017

---

Karin Wilson, Mayor

Attest:

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Lisa A. Hanks, MMC  
City Clerk



23 October 2017

				Item 1			Item 2 (sum of unit price items 1-4)							
Mandatory Pre-Bid Attendance Signature	BID BOND	Addenda 1,2,3	Bid Response forms Executed / Signed / Notarized	Paint Two (2) million gallons	Allowance of \$20,000 for cellular antenna work	Total Bid for Item 1 including Allowance	ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL PRICE	Total Bid for Item 2 (Sum of Items 1-4)	Total Bid (Sum of Bid Items 1 & 2)	
Utility Service Co., Inc.	YES	YES	1,2,3	YES	\$ 897,903.00	\$ 20,000.00	\$917,903.00	PR Repair by Welding Rods	Each	100	\$ 18.50	\$ 1,850.00	\$58,500.00	\$976,403.00
							PR Repair by Epoxy Filler	Each	100	\$ 12.50	\$ 1,250.00			
							Replace Tank Ladder	Lin Ft	80	\$ 82.25	\$ 6,580.00			
							Cable (Add at Tank Riser)	Lin Ft	80	\$ 21.50	\$ 1,720.00			
							Treat Exterior of Tank for Chlorides (if required)	Lump Sum	1		\$ 10,000.00			
							Treat Interior (Dry) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 8,000.00			
							Treat Interior (Wet) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 7,300.00			
							Bypass Drain Line	Lump Sum	1		\$ 17,600.00			
				Item 1			Item 2 (sum of unit price items 1-4)							
Mandatory Pre-Bid Attendance Signature	BID BOND	Addenda 1,2,3	Bid Response forms Executed / Signed / Notarized	Paint Two (2) million gallons	Allowance of \$20,000 for cellular antenna work	Total Bid for Item 1 including Allowance	ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL PRICE	Total Bid for Item 2 (Sum of Items 1-4)	Total Bid (Sum of Bid Items 1 & 2)	
Classic Protective Coatings	YES	YES	1,2,3	YES	\$ 847,500.00	\$ 20,000.00	\$867,500.00	PR Repair by Welding Rods	Each	100	\$ 20.00	\$ 2,000.00	\$47,200.00	\$1,014,700.00
							PR Repair by Epoxy Filler	Each	100	\$ 10.00	\$ 1,000.00			
							Replace Tank Ladder	Lin Ft	80	\$ 125.00	\$ 10,000.00			
							Add/Replace Safety Climb Cable (Add at Tank Riser)	Lin Ft	80	\$ 40.00	\$ 3,200.00			
							Treat Exterior of Tank for Chlorides (if required)	Lump Sum	1		\$ 9,000.00			
							Treat Interior (Dry) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 8,100.00			
							Treat Interior (Wet) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 8,500.00			
							Bypass Drain Line	Sum	1		\$ 8,000.00			
				Item 1			Item 2 (sum of unit price items 1-4)							
Mandatory Pre-Bid Attendance Signature	BID BOND	Addenda 1,2,3	Bid Response forms Executed / Signed / Notarized	Paint Two (2) million gallons	Allowance of \$20,000 for cellular antenna work	Total Bid for Item 1 including Allowance	ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL PRICE	Total Bid for Item 2 (Sum of Items 1-4)	Total Bid (Sum of Bid Items 1 & 2)	
Worldwide Industries Corp	YES	YES	1,2,3	YES	\$ 1,229,000.00	\$ 20,000.00	\$1,249,000.00	PR Repair by Welding Rods	Each	100	\$ 28.00	\$ 2,800.00	\$82,910.00	\$1,331,910.00
							PR Repair by Epoxy Filler	Each	100	\$ 20.00	\$ 2,000.00			
							Replace Tank Ladder	Lin Ft	60	\$ 280.00	\$ 16,800.00			
							Add/Replace Safety Climb Cable (Add at Tank Riser)	Lin Ft	80	\$ 40.00	\$ 3,200.00			
							Treat Exterior of Tank for Chlorides (if required)	Lump Sum	1		\$ 14,400.00			
							Treat Interior (Dry) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 24,100.00			
							Treat Interior (Wet) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 18,610.00			
							Bypass Drain Line	Lump Sum	1		\$ 1,400.00			

23 October 2017

Item 1										Item 2 (sum of unit price items 1-6)				Total Bid for Item 2 (Sum of Items 1-6)	Total Bid (Sum of Bid Items 1 & 2)
Mandatory Pre-Bid Attendance Signature	BID BOND	Addenda 1,2,3	Bid Response forms Executed / Signed / Notarized	Paint Two (2) million gallons	Allowance of \$20,000 for other contract work	Total Bid for Item 1 including Allowance	ITEMS	UNITS	QUANTITY	UNIT PRICE	TOTAL PRICE				
TAKK PRO Inc.	no	YES	1,2,3	yes	\$ 888,973.00	\$ 20,000.00	\$888,973.00	Pin Repair by Welding Rods	Each	100	\$ 15.00	\$ 1,500.00	\$22,500.00	\$911,473.00	
							Pin Repair by Epoxy Filler	Each	100	\$ 18.00	\$ 1,800.00				
							Replace Tank Ladder	Lin Ft	80	\$ 56.25	\$ 4,500.00				
							Add/Replace Safety Climb Cable (Add at Tank Riser)	Lin Ft	80	\$ 14.25	\$ 1,100.00				
							Treat Exterior of Tank for Chlorides (if required)	Lump Sum	1		\$ 6,000.00				
							Treat Interior (Dry) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 100.00				
							Treat Interior (Wet) Surfaces for Chlorides (if required)	Lump Sum	1		\$ 100.00				
							Bypass Drain Line	Lump Sum	1		\$ 8,000.00				

Recommendation: Award Bid to \_\_\_\_\_ in the amounts listed in their Bid Response for a total bid of \$ \_\_\_\_\_



10/19/2017

Richard Petersen, P.E.  
Director of Operations and EOR

To my knowledge this is an accurate Bid Tabulation

\_\_\_\_\_ Buyer  
for Daniel P Ames, Purchasing Manager

NOTE: RECOMMENDATION  
FORTH COMING.

Councilmember Boone introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council agrees to contribute the required twenty percent (20%) local match for the Downtown Fairhope Transit Shelter (Project) amounting to \$120,000.00 of the total Project cost of \$600,000.00. Seconded by Councilmember Brown, motion passed unanimously by voice vote.

23 October 2017

**RESOLUTION NO. 2912-17**

**WHEREAS**, the City Council adopted on June 8, 2015 Resolution No. 2369-15 to provide the local match for the estimated cost between \$200,000.00 and \$300,000.00 available Federal funding through the Eastern Shore Metropolitan Planning Organization (“MPO”) for transit projects; a transit shelter in downtown Fairhope (“Project”); and

**WHEREAS**, the City of Fairhope (“City”) has learned that the Federal funding available for transit projects is now \$600,000.00; and

**WHEREAS**, the local match for the Project is now \$120,000.00; and

**WHEREAS**, the MPO requires a resolution from a sponsoring local government committing to provide the 20% local match for Project funds;

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE**, that the City Council agrees to contribute the required twenty percent (20%) local match for the Downtown Fairhope Transit Shelter (Project) amounting to \$120,000.00 of the total project cost of \$600,000.00.

ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

ATTEST:

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Lisa A. Hanks, MMC  
City Clerk

Councilmember Boone moved to grant the request of the Fairhope Volunteer Fire Department requesting to close Equality Street between North Section Street and North Bancroft; and a section of Bancroft between Magnolia to Pine Street for its 2nd BBQ Cook-Off (Smoke’m If You Go EM) Fundraiser to benefit the Fire Department on Saturday, April 7, 2018 from 6:00 a.m. to Sunday, April 8, 2018 at 12:00 a.m. Services needed will be Barricades, Electric Junction Boxes, Water, Trash and Recycling bins, Trash Truck, AC Restroom Trailer, 2 Light Towers, City Stage, Police Officers during the closure, and several of the City tail gate tents.

23 October 2017

Requesting permission to sell alcohol (beer) during the street closure time: alcohol contingent upon ABC and City licenses and approval of same; to have a live band from 9:00 p.m. to 11:00 p.m. and to grant a variance of the noise ordinance for one hour. The Fire Department also requests that all fees be waived for this event; and permission to utilize the Fairhope Civic Center as a rain location for the same dates, times, and requests as above for this location. Seconded by Councilmember Brown, motion passed unanimously by voice vote.

Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution the City of Fairhope hereby states its support for Mobile Bay Keeper's sampling plan to identify the source of the elevated bacteria levels in Fly Creek and Mobile Bay and to help Fairhope obtain the tools to resolve the issue. Further, the City Council authorizes the payment of up to \$6,500.00 to pay the estimated cost of the study in cash or in-kind services. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

**RESOLUTION NO. 2913-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA, as follows:**

The City of Fairhope hereby states its support for Mobile Bay Keeper's sampling plan to identify the source of the elevated bacteria levels in Fly Creek and Mobile Bay and to help Fairhope obtain the tools to resolve the issue.

Further, the City Council authorizes the payment of up to \$6,500.00 to pay the estimated cost of the study in cash or in-kind services.

DULY PASSED AND ADOPTED THIS 23RD DAY OF OCTOBER, 2017

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Karin Wilson, Mayor

Attest:

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Lisa A. Hanks, MMC  
City Clerk

23 October 2017

The following individuals spoke during Public Participation for Non-Agenda Items:

- 1) T. J. Murphy, Tensaw Avenue, addressed the City Council regarding the inconsistency from the Planning Commission, Planning Department, and now the City Council. He stated you must follow the rules; and gave the example of the insurance broker and not opening his amended quote. He stated you should have awarded to the second lowest bidder.

At the request of the City Attorney, Marion E. Wynne, the City Council will rise from the meeting to go into Executive Session to discuss Pending Litigation and Possible Settlement Options regarding said Pending Litigation. The approximate time to be in Executive Session is 45 minutes. Councilmember Boone moved to go into Executive Session. Seconded by Councilmember Robinson, motion passed unanimously by voice votes: AYE – Burrell, Robinson, Conyers, Brown, and Boone. NAY - None.

Exited the dais at 8:10 p.m. Returned at 8:43 p.m.

Council President Burrell stated there was a need to add on two agenda items: aa resolution that the City Council takes our attorneys' advice on settlement agreement concerning the Solomon Case: for cash payment and construction improvements needed to be made on Cuscowilla Lane; and gives our Counsel, Matt McDonald, authority to settle the claim on the terms submitted by our attorneys; and a resolution that the City Council takes our attorneys' advice on settlement agreement concerning the Solomon Case: for cash payment and construction improvements needed to be made on Cuscowilla Lane; and gives our Counsel, Matt McDonald, authority to settle the claim on the terms submitted by our attorneys.

Councilmember Robinson moved to add on the above-mentioned items not on the printed agenda. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

Councilmember Robinson introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council takes our attorneys' advice on settlement agreement concerning the Solomon Case: for cash payment and construction improvements needed to be made on Cuscowilla Lane; and gives our Counsel, Matt McDonald, authority to settle the claim on the terms submitted by our attorneys. Seconded by Councilmember Conyers, motion passed unanimously by voice vote.

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23 October 2017

**RESOLUTION NO. 2914-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA,** that the City Council takes our attorneys' advice on settlement agreement concerning the Solomon Case: for cash payment and construction improvements needed to be made on Cuscowilla Lane; and gives our Counsel, Matt McDonald, authority to settle the claim on the terms submitted by our attorneys.

Adopted on this 23rd day of October, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

Council President Burrell stated Councilmember Robinson would be abstaining from this item. Councilmember Conyers introduced in writing, and moved for the adoption of the following resolution, a resolution that the City Council takes our attorneys' advice on settlement agreement concerning the Sherry Sullivan Claim; and authorizes our Counsel, Matt McDonald, to proceed with settlement of claim in the dollar amount specified by our attorneys. Seconded by Councilmember Brown, motion passed by the following voice votes: AYE – Burrell, Conyers, Brown, and Boone. NAY – None. ABSTAIN – Robinson.

**RESOLUTION NO. 2915-17**

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA,** that the City Council takes our attorneys' advice on settlement agreement concerning the Sherry Sullivan Claim; and authorizes our Counsel, Matt McDonald, to proceed with settlement of claim in the dollar amount specified by our attorneys.

Adopted on this 23rd day of October, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

23 October 2017

Councilmember Boone moved to adjourn the meeting. Seconded by Councilmember Robinson, motion passed unanimously by voice vote.

There being no further business to come before the City Council, the meeting was duly adjourned at 8:47 p.m.

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Jack Burrell, Council President

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Lisa A. Hanks, MMC  
City Clerk

STATE OF ALABAMA                    )(  
  :  
COUNTY OF BALDWIN                )(

The City Council met in a Work Session at 3:30 p.m.,  
Fairhope Municipal Complex Council Chamber,  
161 North Section Street, Fairhope, Alabama 36532,  
on Monday, 9 October 2017.

Present were Council President Jack Burrell, Councilmembers: Jay Robinson, Jimmy Conyers, Robert Brown, and Kevin Boone, City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks. Mayor Karin Wilson was absent.

Council President Burrell called the meeting to order at 4:30 p.m.

The following topics were discussed:

- The first item on the agenda was Committee Updates. Councilmember Brown stated that the Pedestrian and Bicycle Committee will begin a Bike to School on the first Fridays of the month. He announced an Education Advisory Committee meeting will be held for FEEF to give a presentation regarding the K-1 property on November 1, 2017. He mentioned the Fly Creek Sampling Plan that Mobile Bay Keeper presented at the last meeting. Councilmember Brown said the cost is \$6,5000.00 and would like to add this item on the agenda.
- Councilmember Boone announced the Personnel Board met and discussed job descriptions being more efficient; and they will do an in-house compensation study.
- Council President Burrell mentioned the Airport Authority and a resolution for an FAA Grant being on tonight’s agenda.
- The next item on the agenda was an update on the storm damage by Public Works Director Richard Johnson. He said the wooden piers were damaged and the City is waiting on a possible FEMA declaration to help with costs. He suggested replacing as one project; and if FEMA declares, we will do in-house. Mr. Johnson said the cost will be approximately \$250,000.00; and hope to rebuild at minimum standard.
- Gregg Redditt, representing St. Michaels Catholic High School, addressed the City Council regarding the reappointment of James Bailey for the Educational Building Authority. He mentioned these appointments are on staggered terms, so there will be reappointments the next two years.
- Department Head Updates was next on the agenda. Community Affairs Director Sherry-Lea Botop addressed the City Council and mentioned the Moratorium Report. She said grants are moving forward: Wayfinding Grant (PL Grant) is for a recommendation for safety and plan.; and the Grant for the Parking Garage Project is being increased to \$600,000.00 for completion along with Transit Shelter. Mr. Johnson commented we are looking for Local Project approval. Ms. Botop also mentioned the South Community Action Plan Meeting.
- Planning Director Wayne Dyess addressed the City Council reported that the moratorium is over, so projects must be first approved by the Planning Commission.

Work Session

Monday, 23 October 2017

Page -2-

- Chief Joseph Petties addressed the City Council and announced that November 3, 2017 is First Friday, Pirates Football game; and an event at Fairhope United Methodist Church. He reminded everyone about the Veterans Day Parade scheduled for November 4, 2017.
- Building Official Erik Cortinas addressed the City Council and stated he would be attending the Downtown Merchants meeting to address the nine projects in the downtown area for delivery issues. He said these are residential and commercial which includes five new restaurants.
- Electric Superintendent Joe Wolchina addressed the City Council and mentioned the Gayfer and Volanta traffic lights and the magnetic pods to be ordered. Council President Burrell suggested a 15 second change on traffic lights for our main roads.
- Operations Director Richard Peterson addressed the City Council regarding new standards for sewer systems, storage for wet wells, and trial basis for equipment.

Mr. Peterson also brought up the Water Tower Painted Bid, the mandatory pre-bid meeting, and no one signed in for Tank Pro. He stated that Tank Pro called a couple of days after requesting notes from pre-bid meeting; and said representative was there for them. Mr. Peterson said that after receiving all of the documents; he recommends that this being an informality and award the bid to Tank Pro. He said we should follow the intent of the bid law and take the lowest responsible bid.

City Attorney Marion Wynne stated this was a mandatory pre-bid meeting; and we have been told the agent for one company was also there for Tank Pro but did not sign in for them. Mr. Wynne commented the City Council could say this is a minor technicality or irregularity; or failure to attend may not be minor and affects being not responsive. He said the City Council has final "say so" and the Courts will not interfere. Council President Burrell said he has comments, but will wait until the Council meeting.

Mr. Peterson said fuel tanks and pumps have been removed from the Fairhope Docks.

- Councilmember Brown asked about the lights at the Tennis Courts; and was told these should be installed in mid-November.
- City Treasurer Michael Hinson addressed the City Council and said he has a steep learning curve; and is establishing relationships with all departments. He is working on understanding the whole process and has been encouraged by everyone.
- The budget was mentioned next by Council President Burrell and said he and Councilmember Brown met for about three hours on personnel requests. He said they had requested the spreadsheet from Jill Cabaniss to get overall positions and requests. It was mentioned that Department Heads may not get all of their requests.

Councilmember Conyers said he met with Mayor Wilson and Ms. Cabaniss; and 16 of the positions are promotions. He said we need totals first and the budget before Department Heads present to the City Council. Council President Burrell stated they would go over the Community Budget this week.

Work Session  
Monday, 9 October 2017  
Page -3-

There being no further business to come before the City Council, the meeting was duly adjourned at 5:31 p.m.

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Jack Burrell, Council President

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Lisa A. Hanks, MMC  
City Clerk

STATE OF ALABAMA            )  
  :  
COUNTY OF BALDWIN        )(

The City Council met in an Agenda Meeting at 5:30 p.m.,  
Fairhope Municipal Complex Council Chamber,  
161 North Section Street, Fairhope, Alabama 36532,  
on Monday, 23 October 2017.

Present were Council President Jack Burrell, Councilmembers: Jay Robinson, Jimmy Conyers, Robert Brown, and Kevin Boone, City Attorney Marion E. Wynne, and City Clerk Lisa A. Hanks. Mayor Karin Wilson was absent.

Council President Burrell called the meeting to order at 5:31 p.m. The City Council reviewed and discussed the agenda for their meeting to be held today at 6:00 p.m. Building Official Erik Cortinas explained Agenda Item Number 9: a resolution approving TischlerBise to perform consulting services for a Study Update of Impact Fees for the City of Fairhope. Council President Burrell mentioned the need to add two items on the agenda: [1] a resolution that the City of Fairhope hereby states its support for Mobile Bay Keeper’s sampling plan to identify the source of the elevated bacteria levels in Fly Creek and Mobile Bay and to help Fairhope obtain the tools to resolve the issue. Further, the City Council authorizes the payment of up to \$6,500.00 to pay the estimated cost of the study in cash or in-kind services; and [2] an Executive Session to discuss pending litigation and possible settlement options regarding said pending litigation.

There being no further business to come before the City Council, the meeting was duly adjourned at 5:41 p.m.

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Jack Burrell, Council President

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Lisa A. Hanks, MMC  
City Clerk

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a favorable recommendation,

The property of Todd Roberts generally located at 19870 County Road 13, known as Parcel B, Fairhope, Alabama.

**TAX PPIN: 235434**

**Legal Description:** (Case number ZC 17.10)

COMMENCING FROM A RAILROAD SPIKE AT THE NORTHWEST CORNER OF SECTION 22, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 00°09'15" WEST A DISTANCE OF 665.70 FEET TO A POINT; THENCE RUN NORTH 89°54'30" EAST A DISTANCE OF 31.25 FEET TO A ½" IRON REBAR WITH CAP (LS10675) ON THE EAST RIGHT-OF-WAY OF COUNTY ROAD 13; THENCE RUN SOUTH 89°37'39" EAST A DISTANCE OF 571.95 FEET TO A ½" IRON REBAR WITH CAP (CA604) FOR THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°37'39" EAST A DISTANCE OF 325.40 FEET TO A ½" IRON REBAR WITH CAP (LS10675); THENCE RUN SOUTH 00°21'45" WEST A DISTANCE OF 140.16 FEET TO A ½" IRON REBAR WITH CAP (LS10675); THENCE RUN NORTH 89°36'17" WEST A DISTANCE OF 324.30 FEET TO A ½" IRON REBAR WITH CAP (CA604); THENCE RUN NORTH 00°05'14" WEST A DISTANCE OF 140.04 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 1.04 ACRES, MORE OR LESS.

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

**The property is hereby zoned R-2 Medium Density Single Family Residential District concurrent with annexation into the City of Fairhope.** 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.

**Severability Clause** - if any part, section or 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 THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

# EXHIBIT A



**GENERAL INFORMATION:**  
 THIS IS A SURVEY OF THE COMMON LOT LINE MOVEMENT OF THE LAND SHOWN AND DESCRIBED IN THE ATTACHED INSTRUMENT OF DEED, DATED [Date], AND IS FOR THE PURPOSE OF RECORDING THE SAME IN THE PUBLIC RECORDS OF THE STATE OF ALABAMA. THE SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS AND IS ACCORDING TO THE INSTRUMENT OF DEED. THE SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS AND IS ACCORDING TO THE INSTRUMENT OF DEED. THE SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS AND IS ACCORDING TO THE INSTRUMENT OF DEED.

**DESCRIPTION OF THE SUBJECT LAND:**  
 The subject land is located in the [County], State of Alabama, and is described as follows: [Detailed description of the land, including acreage and boundaries].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

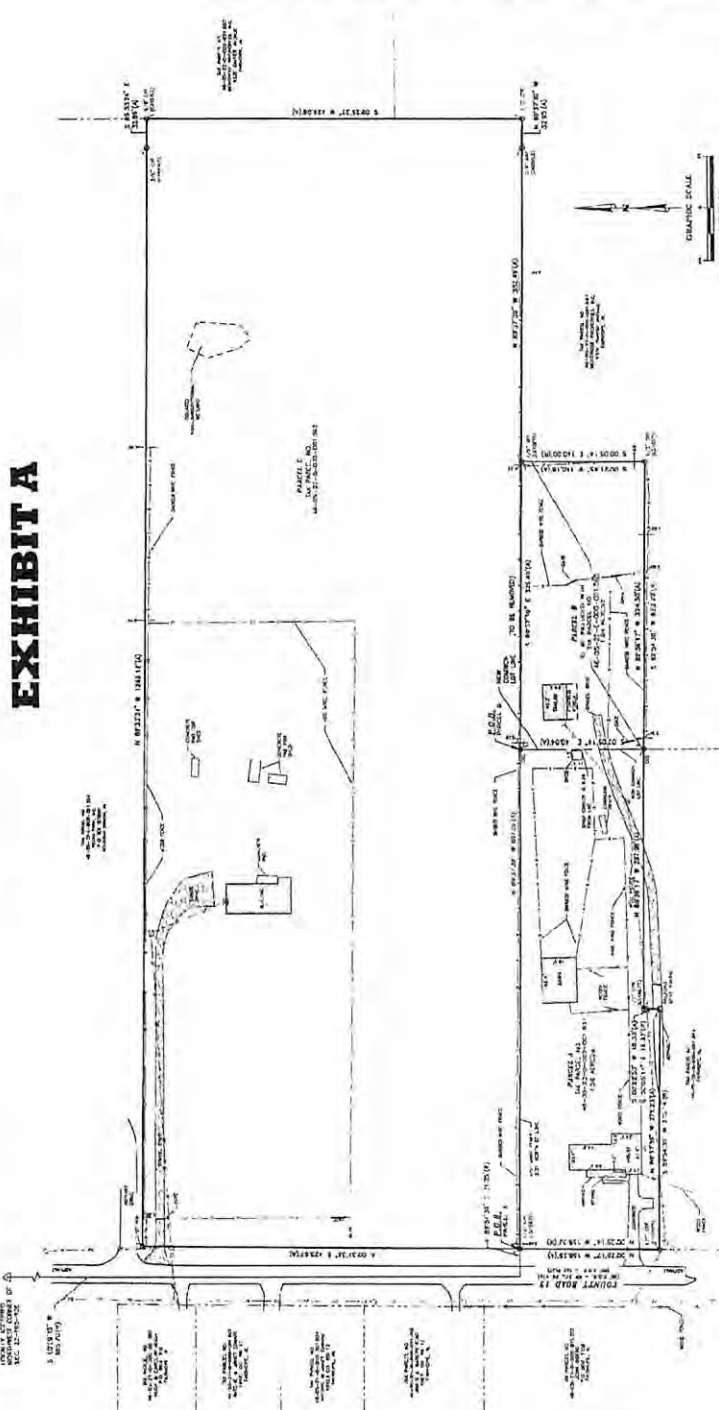
**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
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**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

		1 OF 1
<b>MONITROSE PROPERTIES, INC.</b>		
DATE	BY	SHEET
1-400	8724/2017	1
<b>SPECIFIC PURPOSE SURVEY FOR COMMON LOT LINE MOVEMENT</b>		
<b>TAX PARCEL NO. 46-03-22-0-00-001-061</b>		
<b>MONITROSE PROPERTIES, INC.</b>		
<b>46-03-22-0-00-001-061</b>		

**HUTCHINSON, MOORE & RAUCH, LLC**  
 ENGINEERS & SURVEYORS  
 2019 MAIN STREET  
 DAPHNE, ALABAMA 36526

TEL (256) 626-8828  
 FAX (256) 626-8938  
 hmr.com



**GENERAL INFORMATION:**  
 THIS IS A SURVEY OF THE COMMON LOT LINE MOVEMENT OF THE LAND SHOWN AND DESCRIBED IN THE ATTACHED INSTRUMENT OF DEED, DATED [Date], AND IS FOR THE PURPOSE OF RECORDING THE SAME IN THE PUBLIC RECORDS OF THE STATE OF ALABAMA. THE SURVEY WAS MADE BY THE SURVEYOR AND HIS ASSISTANTS AND IS ACCORDING TO THE INSTRUMENT OF DEED.

**DESCRIPTION OF THE SUBJECT LAND:**  
 The subject land is located in the [County], State of Alabama, and is described as follows: [Detailed description of the land, including acreage and boundaries].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

**LEGAL DESCRIPTION:**  
 The subject land is described as follows: [Legal description of the land, including lot numbers and block information].

26  
 26  
 26

REMOVED AS PER SURVEYOR'S REQUEST





CITY OF FAIRHOPE  
P.O. DRAWER 429  
FAIRHOPE, AL 36533  
251/928-2136

**PETITION FOR ANNEXATION**

STATE OF ALABAMA            )  
COUNTY OF BALDWIN        )

We, the undersigned PETITIONER(S), owner(s) of the lands in fee simple described in the attached EXHIBIT A, such property being without the Corporate Limits of the City of Fairhope, Alabama, but being contiguous to the said Corporate Limits; and such property not lying within the corporate limits or police jurisdiction of any other municipality, do, by these presents, hereby petition the City of Fairhope, a municipal corporation, that said property be annexed into the City of Fairhope, Alabama.

The subject land is delineated on the map attached hereto as EXHIBIT B.

This petition is filed under authority of Section 11-42-21, Code of Alabama, 1975, as amended.

- This petition is for R-1 Zoning
- The condition of the Petition is that zoning be established as           R-2            
Concurrent with Annexation. (Zoning Request)

*JJ* 8/23/17

Is this property colony property   X   Yes   X   No. If this property is colony property the Fairhope Single Tax Office must sign as a petitioner.

*Todd Roberts*  
Signature of Petitioner

Todd Roberts  
Print petitioner's name

*Jennifer Evans Sanford*  
Signature of Petitioner  
*as Office Manager  
of FSTC*

Jennifer Evans Sanford  
Print petitioner's name

Signature of Petitioner

Print petitioner's name

Physical Address of property being annexed:           19870 CO RD 13 (Parcel B per attachment)          

Petitioner's Current Physical Address:  
          19870 CO RD 13            
          Fairhope, AL 36533          

Petitioner's Current Mailing Address:  
          Same          

Telephone Number(s):           (251) 210-3938                     Same            
Home Work

County Tax Parcel Number:           46-05-22-0-000-001.681          

JUL 25 2017  
*EB*

**U.S JUSTICE DEPARTMENT INFORMATION**

- Size of property (acres or square feet) 1.04 Acres
- If property is occupied, give number of housing units \_\_\_\_\_
- Number of Persons residing in each unit, and their race \_\_\_\_\_
- If property is unoccupied, give proposed use Residential
- If property is being developed as a subdivision, give subdivision name \_\_\_\_\_
- Number of lots within proposed subdivision \_\_\_\_\_

I, Pamela Cox Hill a Notary Public in and for said State and County, hereby certify that Jennifer Evans Sanford whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this 27 day of July, 2017,

(Seal)

Pamela Cox Hill  
Notary Public

NOTARY PUBLIC  
**PAMELA COX HILL**

My commission expires 10/31/2018

ALABAMA STATE AT LARGE  
My Commission Expires October 31, 2018

I, Barbara L. Garner a Notary Public in and for said State and County, hereby certify that Jesse Roberts whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this 24<sup>th</sup> day of July, 2017,

(Seal)

Barbara L. Garner  
Notary Public

My commission expires \_\_\_\_\_

**BARBARA L. GARNER**  
Notary Public - State of Alabama  
My Commission Expires  
February 20, 2018

I, \_\_\_\_\_ a Notary Public in and for said State and County, hereby certify that \_\_\_\_\_ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

(Seal)

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

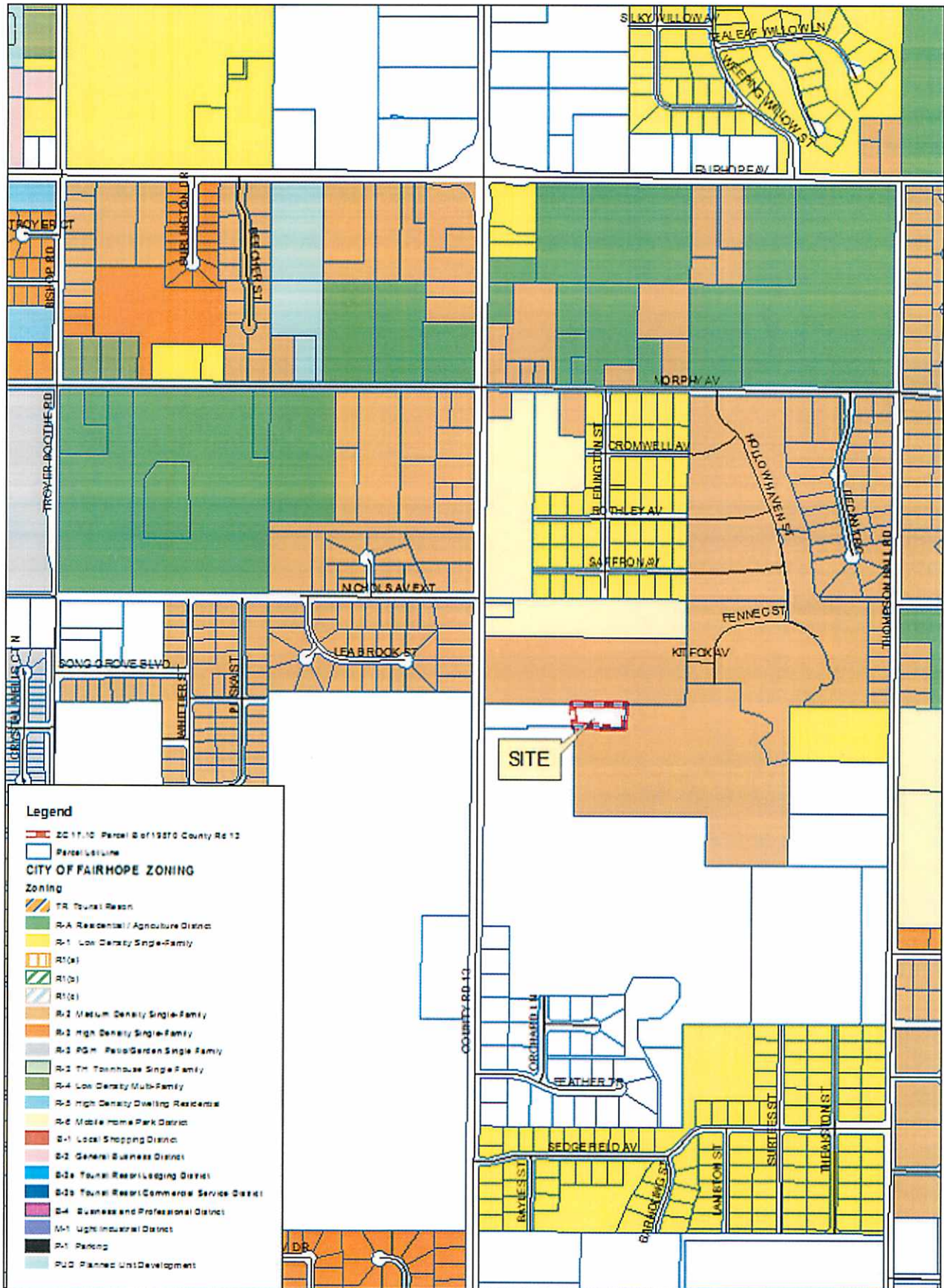
# ZC 17.10 Parcel B of 19870 County Rd 13



ZC 17.10 Parcel B of 19870 County Rd 13  
Parcel No. : 46-05-22-0-000-001.681



# ZC 17.10 Parcel B of 19870 County Rd 13



**Legend**

- ZC 17.10 Parcel B of 19870 County Rd 13
- Parcel Outline

**CITY OF FAIRHOPE ZONING**

**Zoning**

- TR Tourist Resort
- R-A Residential Agriculture District
- R-1 Low Density Single-Family
- R1(a)
- R1(b)
- R1(c)
- R-2 Medium Density Single-Family
- R-3 High Density Single-Family
- R-3 PGM Patio Garden Single Family
- R-3 TH Townhouse Single Family
- R-4 Low Density Multi-Family
- R-5 High Density Dwelling Residence
- R-6 Mobile Home Park District
- S-1 Local Shopping District
- S-2 General Business District
- S-2a Tourist Resort/Leisure District
- S-2b Tourist Resort/Commercial Service District
- S-4 Business and Professional District
- M-1 Light Industrial District
- P-1 Parking
- P-2 Planned Unit Development

ZC 17.10 Parcel B of 19870 County Rd 13  
 Parcel No. : 46-05-22-0-000-001.681





# City of Fairhope City Council

Case: ZC 17.10 Parcel "B" of 19870 County Road 13

**Applicant Name:**

Hutchinson, Moore, and Rauch, LLC

**Owner:**

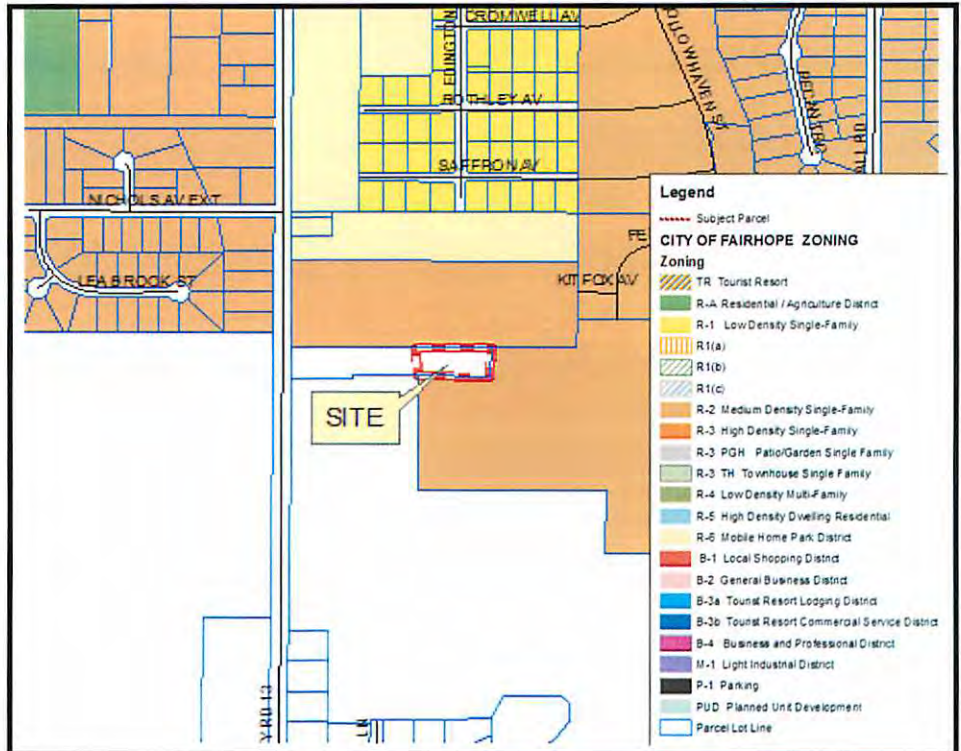
Todd Roberts

**Site Data:**

Number of lots: 1  
Total Acreage: 1.04 +/-

**Project Type:**

Rezoning Request from:  
**Unzoned, Unincorporated Baldwin County**  
to  
**R-2 Medium Density Single Family**



**PPIN Number:**  
235434

**General Location:**  
19870 County Road 13  
Approximately 1 mile north of  
Twin Beech Road / CR44

**School District:**  
Fairhope Elementary, Middle,  
and High School

**Staff Recommendation:**  
Conditional Approval

**PC Recommendation:**  
Conditional Approval



**Summary of Request:**

The applicant is seeking concurrent annexation and rezoning of one parcel of approximately 1.04 acres +/- from unzoned Baldwin County to City of Fairhope R-2 Medium Density Single Family. The subject property is located approximately one mile north of Twin Beech Road (Baldwin County Road 44) at 19870 County Road 13. Applicant is further requesting an administrative approval of a common lot line movement that will allow the subject property, identified as Parcel "B" on the plat to be incorporated into Parcel "C" located adjacent to and immediately north of the subject property. Tax Parcel Number 46-05-22-0-000-001.565 will be retained for the unified parcels. Parcel "C" is located in the City of Fairhope and currently zoned R-2 Medium Density Single Family. The parcel immediately east of subject property is zoned City of Fairhope R-2 Medium Density Single Family, and partially envelopes the subject property in a "C" shape. Parcels due south and due west of the subject property are unzoned Baldwin County, however the parcel immediately northwest of subject property west of CR 13 is zoned City of Fairhope R-2 Medium Density Single Family.

**Comments:**

The subject property is a rectangular lot approximately 324' x 140'. The subject property is currently a component of the property at 19870 County Road 13, Tax Parcel number 46-05-22-0-000-001.681. Subject property does not have frontage on CR 13. Site photos below depict the remnant parcel portion of 19870 CR 13 visible from the public right-of-way. The remnant parcel of 19870 CR 13 will remain unzoned Baldwin County. A mobile home is located on the subject property according to the plat of subject property.

**Site Photos:**



19870 CR 13 Looking Northeast



19870 CR 13 Looking East



19870 CR 13 Looking North



19870 CR 13 Looking Southeast

As stated previously, the subject property is located in unzoned, Baldwin County. The requested zoning for the subject property is R-2 Single Family Medium Density.

*City of Fairhope Zoning Ordinance, Article III.A.* provides the following purpose for the requested district:

***R-2 Medium Density Single-Family Residential District: This district is intended as a medium density single family urban residential district, with lots of moderate size.***

*Article III.C. Dimensional Standards*

Excerpt of Table 3-2: Dimension Table – Lots and Principle Structure, R-2 Medium Density Single-Family Residential District

<b><i>District</i></b>	<b><i>Min. Lot Size</i></b>	<b><i>Min. Lot Width</i></b>	<b><i>Front</i></b>	<b><i>Rear</i></b>	<b><i>Side</i></b>	<b><i>Max.Coverage</i></b>	<b><i>Max. Height</i></b>
R-2	10,500sf	75'	35'	35'	10'	37%	30'

**School Student Analysis:**

The plat of the subject property contains 1 single family lot, pending annexation and rezoning. Applying the student yield factors (SYF) provided by the Baldwin County Board of Education listed

below, the development is expected to generate 0.39 (1 x 0.39) elementary school students, 0.11 (1 x 0.11) middle school students and 0.17 (1 x 0.17) high school students.

Development Name	Application Type	Housing Type	Total Units	Attendance Zone	SYF	Expected Number of Students
	Final Plat for common lot line movement	SF	1	Fairhope Elementary	0.39	0.39
" "	" "	"	"	Fairhope Middle	0.11	0.11
" "	" "	"	"	Fairhope High	0.17	0.17
				<b>Total Students</b>		0.67

*Article III. Section B. Allowable Uses*

Excerpt of Table 3-1, Allowable uses, R-2 Zoning District

Zoning District Use Categories / Specific Uses	
<b>Dwelling</b>	
Single-family	●
<b>Civic</b>	
Elementary School	●
Secondary School	●
Education Facility	●
Library	●
Place of Worship	
Cemetery	○
Public Open Space	●
Common Open Space	●
Community Center or Club	○
Public Utility (??)	○
<b>Office</b>	
Home Occupation	⊃
<b>Retail</b>	
<b>Service</b>	
Convalescent or Nursing Home	○
Clinic	○
Outdoor Recreation Facility	○
Day Care	○
<b>Manufacturing</b>	
<b>Rural</b>	

- Permitted subject to general ordinance standards and conditions.
- ⊃ Permitted subject to special conditions listed in the ordinance
- Permitted only on appeal and subject to special conditions



**Zoning History of Nearby Properties:**

Case ZC 06.08 was a request of Cliff Pitman on behalf of Montrose Properties to concurrently annex tax parcels 05-46-05-22-0-000-001.674 and 05-46-05-22-0-000-001.687 from unzoned Baldwin County into the City of Fairhope as well as establish zoning for said parcels as R-2 Medium Density Single Family Residential District. The properties are generally located south of Windmill Road and west of Thompson Hall Road. The Planning Commission recommended approval of the annexation and zoning change at their June 5, 2006 meeting. The City Council adopted the annexation and zoning change on July 10, 2006. The parcels are a component of Fox Hollow Subdivision.

Case no ZC 06.09 was a request of Engineering Development Services, LLC on behalf of Cliff Pitman to rezone property from R-6 Manufactured Home District to R-2 Medium Density Single Family Residential District. The property is generally located south of Morphy Avenue and west of Thompson Hall Road. (Tax Parcel no's 05-46-05-22-0-000-001.602 and 05-46-05-15-0-000-003.554) The Planning Commission recommended approval of the Zoning Change at their June 5, 2006 meeting. The City Council adopted the zoning change on July 10, 2006. The property is a component of Fox Hollow Subdivision.

Case no ZC 16.09 was a request of Dewberry/Preble-Rish, LLC on behalf of Cliff Pitman to rezone property from RA Residential/Agriculture District to R-2 Medium Density Single Family Residential District. The property is located on the east side of County Road 13, just south of Pecan Park and immediately north of the subject property at 19940 County Road 13. (Tax Parcel 05-46-05-22-0-000-001.565) The Planning Commission recommend approval of the zoning change at their November 10, 2016 meeting. The City Council adopted the zoning change at their February 23, 2017 meeting. The property is likely to become a future phase of Fox Hollow Subdivision. As stated previously, subject property will be incorporated into Tax Parcel 05-46-05-22-0-000-001.565 pending administrative approval of a common lot line movement as well as approval of rezoning.

**Fairhope Comprehensive Plan Guidance:**

The subject property is located approximately 1.2 miles southwest of the HWY 181/Fairhope Avenue Village Node, and 1.3 miles southeast of the Greeno Road/Fairhope Avenue Village Node. The subject property does not abut the Village Nodes described above, and given the distance from the Village Nodes to the subject property, there is no conflict of compatibility between the uses.

**Staff Recommendation:**

Staff recommends that the rezoning be **APPROVED** subject to the following conditions:

- 1) Annexation of subject property into the City of Fairhope as adopted by the City Council.
- 2) Administrative approval of a common lot line movement of Parcel "B" and "C" to unify the two parcels into one parcel under Tax Parcel number 46-05-22-0-000-001.565.

**Planning Commission Recommendation:**

On September 5, 2017, the Planning Commission voted unanimously to approve the proposed amendments and forward a **favorable** recommendation to the City Council subject to the following conditions:

- 1) Annexation of subject property into the City of Fairhope as adopted by the City Council.
- 2) Administrative approval of a common lot line movement of Parcel "B" and "C" to unify the two parcels into one parcel under Tax Parcel number 46-05-22-0-000-001.565.

**ORDINANCE NO. \_\_\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of Sweetwater Investments, LLC generally located at 20040 State Highway 181, Fairhope, Alabama.

**TAX PPIN: 77292**

**Legal Description:** (Case number ZC 17.08)

LOT 3, OLSEN ACRES SUBDIVISION IN SOUTHWEST QUARTER OF SOUTHWEST QUARTER, SECTION 14, T6S, R2E, RECORDED IN PROBATE RECORDS, BALDWIN COUNTY, ALABAMA IN MAP BOOK 11, PAGE 196.

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

**The property is hereby rezoned from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District.** 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.

**Severability Clause** - if any part, section or 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.

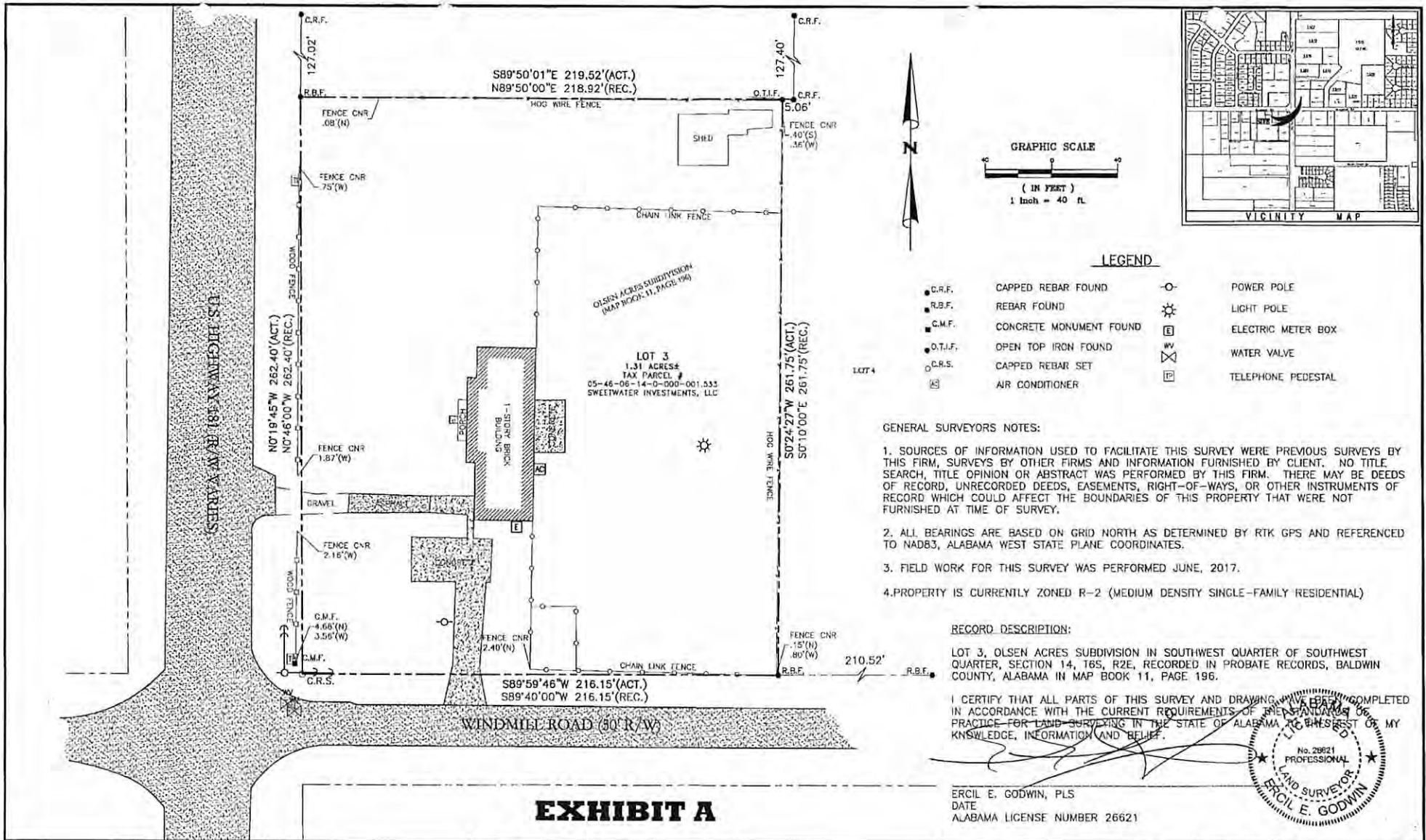
**Effective Date** – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk



**EXHIBIT A**

NUMBER:	REVISION:	DATE:

**Sawgrass**  
CONSULTING, LLC  
ENGINEERING - SURVEYING - CONSTRUCTION MANAGEMENT

1140 Old Highway 21, Spanish Fort, AL 36527  
819 E. McLachlan Street, Foley, AL 36850

Phone (251) 947-7000  
FAX (251) 947-7000

BOUNDARY SURVEY	RECEIVED
LOT 3, OLSEN ACRES SUBDIVISION	JUN 27 2017
SWEETWATER INVESTMENTS, LLC	JB

SCALE: 1"=40'
DATE: JUNE 22, 2017
DRAWN BY: QM
CHECKED BY: EG
SHEET: 1 OF 1



# City of Fairhope City Council

Case: ZC 17.08 20040 State Highway 181

**Project Name:**  
20040 St. Hwy. 181

**Project Type:**  
Re-zoning to B-4

**Jurisdiction:**  
City of Fairhope Corporate Limits

**Zoning District:**  
R-2

**PPIN Number:**  
77292

**General Location:**  
Located on the northeast corner of the intersection of State Highway 181 and Windmill Road, at 20040 St. Hwy. 181.

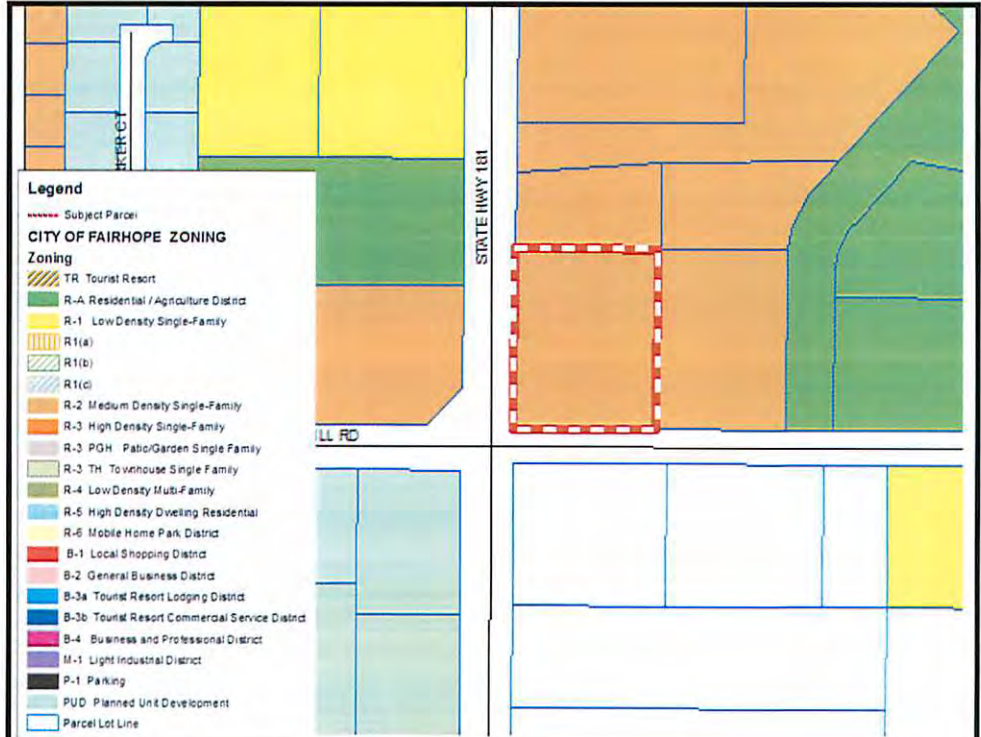
**Engineer:**  
None

**Owner:**  
Todd Boothe and Matt Byrne

**School District:**  
Fairhope School District

**Staff Recommendation:**  
Favorable recommendation

**PC Recommendation:**  
Approve as requested



**Summary of Request:**

Public hearing to consider the request of Sweetwater Investments, LLC to rezone property from R-2 Medium Density Family Residential District to B-4 Business and Professional District. The property is located at the northeast corner of the intersection of State Highway 181 and Windmill Road, at 20040 St. Hwy. 181.

**Comments:**

The subject property is approximately 1.31 acres in size. The subject property is zoned R-2 (Medium Density Single-Family Residential).

***R-2 Medium Density Single-Family Residential District: This district is intended as a medium density single family urban residential district, with lots of moderate size.***

Article III. C. Dimension Standards

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
R-2	10,500 s.f./ -	75'	35'	35'	10' <sup>b</sup>	20'	37%	30' <sup>a</sup>

The requested zoning for the subject property is B-4. ***B-4 Business and Professional District: This district is intended to provide opportunity for business establishments of a professional nature and is restricted to offices and businesses, which provide specific corporate functions or professional services to the general public.***

Article III. C. Dimensional Standards

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by principle structure	Max. height
			Front	Rear	Side	Street side		
B-4	None/ -	none	20'	20'	10'		30' <sup>1</sup>	

**Article IX Definitions and Interpretation B. Defined Uses:  
Office Use Category**

***The Office Use Category consists of the use of buildings for administrating the business of professional firms, organizations, or government, whose products or services are of the nature that generally do not involve the frequent and intensive interactions with clients, customers, or patrons on the premises, and where delivery of the product does not necessarily need to occur on the premises.***

- a. ***General – any building used for the administrative affairs of a firm, organization or government.***
- b. ***Professional – a building occupied by a profession and offering professional services to clients, customers, or patrons which may involve occasional on-site contact with clients, customers or patrons. Examples include architect, accountant, real estate, engineer, lawyer, or other similar professions.***

- c. **Home Occupation – an operation for gain or support conducted only by members of a family residing on the premises limited in its use and not in a manner detrimental to the character of the surrounding neighborhood.**

The allowable uses in the B-4 Business and Professional District:

Zoning District	
Uses Categories / Specific Uses	B-4
Dwelling	
Single-family	●
Two-family	
Townhouse	□
Patio Home	
Multiple-family / Apartment	
Manufactured Home	
Mixed-use	●
Accessory Dwelling	□
Estate	
Civic	
Elementary School	●
Secondary School	●
Education Facility	●
Library	●
Place of Worship	
Cemetery	
Hospital	○
Public Open Space	●
Common Open Space	●
Community Center or Club	
Public Utility (??)	
Office	
General	●
Professional	●
Home Occupation	□
Retail	
Grocery	
Convenience Store	
General Merchandise	
Shopping Center	
Automobile Service Station	
Outdoor Sales Limited	
Outdoor Sales Lot	
Garden Center	
Service	
Convalescent or Nursing Home	○
Clinic	
Outdoor Recreation Facility	○
Day Care	○

General Personal Services	
Mortuary or Funeral Home	○
Automobile Repair	
Indoor Recreation	
Dry Cleaner / Laundry	
Personal Storage	□
Bed & Breakfast	
Hotel / Motel	
Boarding House or Dormitory	●
Recreational Vehicle Park	
Restaurant	
Bar	
Entertainment Venue	
Marina	
Kennel or Animal Hospital	
Warehouse	
Junk Yard or Salvage Yard	
Manufacturing	
Limited	○
Light	

The surrounding properties are zoned as follows:

- North: R-2,
- South: Unzoned,
- East- R-2, West: R-2

Other zoning designations within the immediate vicinity include: R-A (Residential/Agricultural District), PUD (office use), and R-1 (Low Density Single-Family Residential District).

**Site Photos:**



View of the subject property from the southeast (Highway 27 Grill Parking area)





View of the Subject Property from the northwest.



View of the Subject Property from the southwest corner of the intersection (PUD Parcel)

**Current businesses in the area:** The businesses in the general area include a restaurant (Hwy 27 Grill) and some Law and Business offices on the southwest corner of the intersection and surrounding residential properties R-1, R-2 and R-A.

**Zoning History:** Just south of Wal-Mart, a parcel was re-zoned to B-4 on February 23, 2014, for the purposes of a dental office, Advanced Dental Office. The site plan was approved in August 2015.

The property on the southwest corner of Windmill Road was rezoned PUD (Moorehaven PUD) in 2003. The PUD was initially addressed as an informal review and received positive feedback from Planning Commission. According to the minutes from Planning Commission meeting regarding this development, multi-family and only B-4 uses will be allowed. The PUD approved included a gravel parking lot, two offices on front and 7 duplex units in the rear. The two office buildings were required to have a 2-sided front so the back of the building did not face Windmill Road. The building height was limited to a maximum building height of 30 feet measured as defined in the Zoning Ordinance. The Lot coverage was limited as follows: Lot 1 impervious area to be 13.2%. Lot 2 impervious area to be 13.1%. Duplex lot impervious area to be 17.8%. The application passed unanimously through Planning Commission on September 2, 2003 and through City Council on Monday October 13, 2003.

Another PUD, Ellington Place was located at Parker Court, near Elanor Drive. This PUD was approved in August 2003. It is a residential PUD with reduced setbacks and a higher building footprint than typically allowed in an R-2 residential zone. Discussion In the staff cover letter states that the "Density allowed at this location may not be a bad buffer from the impacts of 27, if it develops residentially or commercially." The original PUD (approved on September 22, 2003) was proposed with storm water injection wells. ADEM would not approve this method of handling storm water so the applicant came back before Planning and Zoning in 2004 for a PUD amendment change to alter the layout of the subdivision to reduce the number of lots, and to move the storm water pond to the common area. The PUD amendment was passed through Planning Commission on October 11, 2004.

**Fairhope Comprehensive Plan Guidance:** The subject property is located between the Fairhope Avenue/Hwy 181 Village Node and the commercial node at Twin Beech Road and Hwy 181. The property is located approximately one-quarter of the way between Walmart (Hwy 181 Village Node) and the commercial node at the intersection of Twin Beech Road and Highway 181. Highway 181 is a well-traveled main thorough fare. There are currently commercial activities on two of the existing street corners with the remaining two residents up for sale at the other corners. The Implementation Matrix on page 48 of the Comprehensive plan supports approval of commercial growth that is contiguous to existing commercial activity, thereby eliminating leap frog commercial development. The subject property is being proposed as B-4 zoning which is contiguous to an existing unzoned commercial (Hwy. 27 Grill restaurant) parcel, which would not present any leap frog commercial development. Therefore, the application is consistent with the Comprehensive Plan in that it is a reduced level of contiguous commercial zoning between two nodes and compatible surrounding businesses.

**Staff Recommendation:**

Upon the Planning Commission finding that this application is not commercial creep and leap frog development, staff would offer a favorable recommendation.

**Planning Commission Recommendation:**

On August 7, 2017, the Planning Commission voted unanimously to approve the proposed rezoning and forward a **favorable** recommendation to the City Council.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, is changed and altered as described below;

**WHEREAS**, the City of Fairhope Planning Commission directed the Planning Department to prepare amendments to our Zoning Ordinance; and,

**WHEREAS**, the proposed amendments relate to measuring of building height; and,

**WHEREAS**, after the appropriate public notice and hearing of ZC 17.12, the Planning Commission of the City of Fairhope, Alabama has forwarded a favorable recommendation;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA;**

1. **THAT**, Article IX, Section C. Definitions, Building, Height be hereby amended to read as follows:

*Building, Height: The vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building.*

**Severability Clause** - if any part, section or 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 THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

# MEMO

Date: October 11, 2017

To: Fairhope City Council

From: Wayne Dyess, AICP

Planning Director

Re: ZC 17.12 Building Height Definition Amendment

\*\*\*\*\*

The City of Fairhope Zoning Ordinance currently defines the building height as:

***Article IX. Section C. Building, Height: The vertical distance measured form the average natural elevation of the lot at the front of the building to the height point of the roof.***

The purpose of this amendment is to provide continuity between the Zoning Ordinance and the Building Code.

The proposed amendment shall read:

***Building, Height: The vertical distance measured from the average natural elevation of the lot ~~at the front of the building~~ to the highest mean point of the roof of the building.***

**Planning Commission Recommendation:**

On September 5, 2017, the Planning Commission voted unanimously to approve the proposed amendment and forward a **favorable** recommendation to the City Council.

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, is changed and altered as described below;

**WHEREAS**, the City of Fairhope Planning Commission directed the Planning Department to prepare amendments to our Zoning Ordinance; and,

**WHEREAS**, the proposed amendments relate to the Central Business District; and,

**WHEREAS**, after the appropriate public notice and hearing of ZC 17.11, the Planning Commission of the City of Fairhope, Alabama has forwarded a favorable recommendation;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA;**

1. **THAT**, Article V, Section B. Central Business District Overlay, be hereby amended to read as follows:

**B. CBD – Central Business District Overlay**

1. **Intent** – The Central Business District overlay is intended to preserve downtown Fairhope as the “Regional Village Center” and focal point for the City. The CBD overlay shall provide an environment for shopping, restaurant and entertainment, cultural and artistic institutions, offices, governmental functions, and residential uses. The CBD is intended to have a unique character in the City and serve the entire community by:
  - generating high levels of pedestrian and bicycle traffic;
  - providing a mix of uses;
  - create a focal point for activities throughout the City;
  - link to adjacent areas and areas throughout the City through a variety of modes of transportation;
  - strengthen non-automobile connections to adjacent neighborhoods;
  - buffer surrounding neighborhoods from any adverse impacts of activities in the CBD; and
  - provide small parks and trails.
2. **Location and Size** – The CBD overlay includes: From the southeast corner of the intersection of Oak Avenue and N. Church Street run east along the south side of Oak Avenue to a point on the east side of N. Section Street; one parcel on the north side of Oak Avenue from N. Section to the east end of Oak Avenue; one parcel on the east side of N. Bancroft Street from the north side of Oak Avenue to a point on the south side of Pine Avenue and along the east property line one parcel east of N. Bancroft Street; thence run east along the north property line of one parcel to a point; thence run south along the east property line to the south side of Equality Street; the west side of N. School Street from Equality Street to the south side of Stimpson Avenue; the south side of Stimpson Avenue to the east end of Stimpson Avenue; south to a point on the south side of Fairhope Avenue that is one parcel west of Mershon Street; one parcel on the south side of Fairhope Avenue from one parcel west of Mershon Street to the west side of S. School Street; to a point one parcel south of Morphy Avenue on the west of S. School Street; south to the west end of the unopened portion of right-of-way of Fels Avenue; along the north side of Fels Avenue from the northwest corner of the intersection of Fels Avenue and Oswalt Street to a point at the northeast corner of Fels Avenue and S. Church Street; north one parcel to a point one parcel south of Morphy Avenue; west to a point two lots west of S. Church Street; north to the north side of Morphy Avenue west to the northeast corner of the intersection of Morphy Avenue and S. Summit Street; along the east side of Summit Street to the southeast corner of the intersection of N. Summit Street and Magnolia Avenue; along the south side of Magnolia Avenue to the southeast corner of the intersection of Magnolia Avenue and N. Church Street; along the east side of N. Church Street to the southeast corner of the intersection of N. Church Street and Oak Avenue.

3. **Uses** – All uses permitted in the underlying zoning district are allowed in the CBD Overlay, provided that uses of property shall meet the intent of the Comprehensive Plan and Section E.1 of this Article. Any future rezoning in the CBD overlay may be conditioned so that the goals and intent of the Comprehensive Plan and Article V., Section B.1. of the Zoning Ordinance are achieved.
4. **Dimension Standards** – All dimension standards for the underlying districts shall apply in the CBD overlay except as follows:
  - a. Non-residential buildings in the CBD shall be built at the right-of-way line, unless a courtyard, plaza or other public open space is proposed.
  - b. No side-setback is required for non-residential buildings in the CBD, except that corner lots shall have the same building line on the side street as is on the front street.
  - c. Building heights for all structures shall not exceed 40 feet or 3 stories.
  - d. **Parking** –
    - (1) No parking is required for non-residential uses in the CBD. If parking is provided, it shall be located behind the building, screened from public rights-of-way, and have a direct pedestrian connection to the primary building entrance of the public right-of-way.
    - (2) Residential and office is encouraged on the upper floors of buildings; lower floors are encouraged to be retail or restaurants.
  - e. Sidewalks shall be a minimum of eight feet (8') in width for all new construction. This may be reduced, through the site plan approval process, upon satisfactorily demonstrating to the City Council that streetscape improvements constrain the site to the extent that eight feet (8') is not feasible. In no case shall the sidewalk width be less than six feet (6') in width. A written request must be made with accompanying justification statement and drawings for consideration of reduction in sidewalk width.

**Severability Clause** - if any part, section or 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.

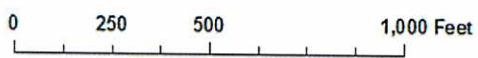
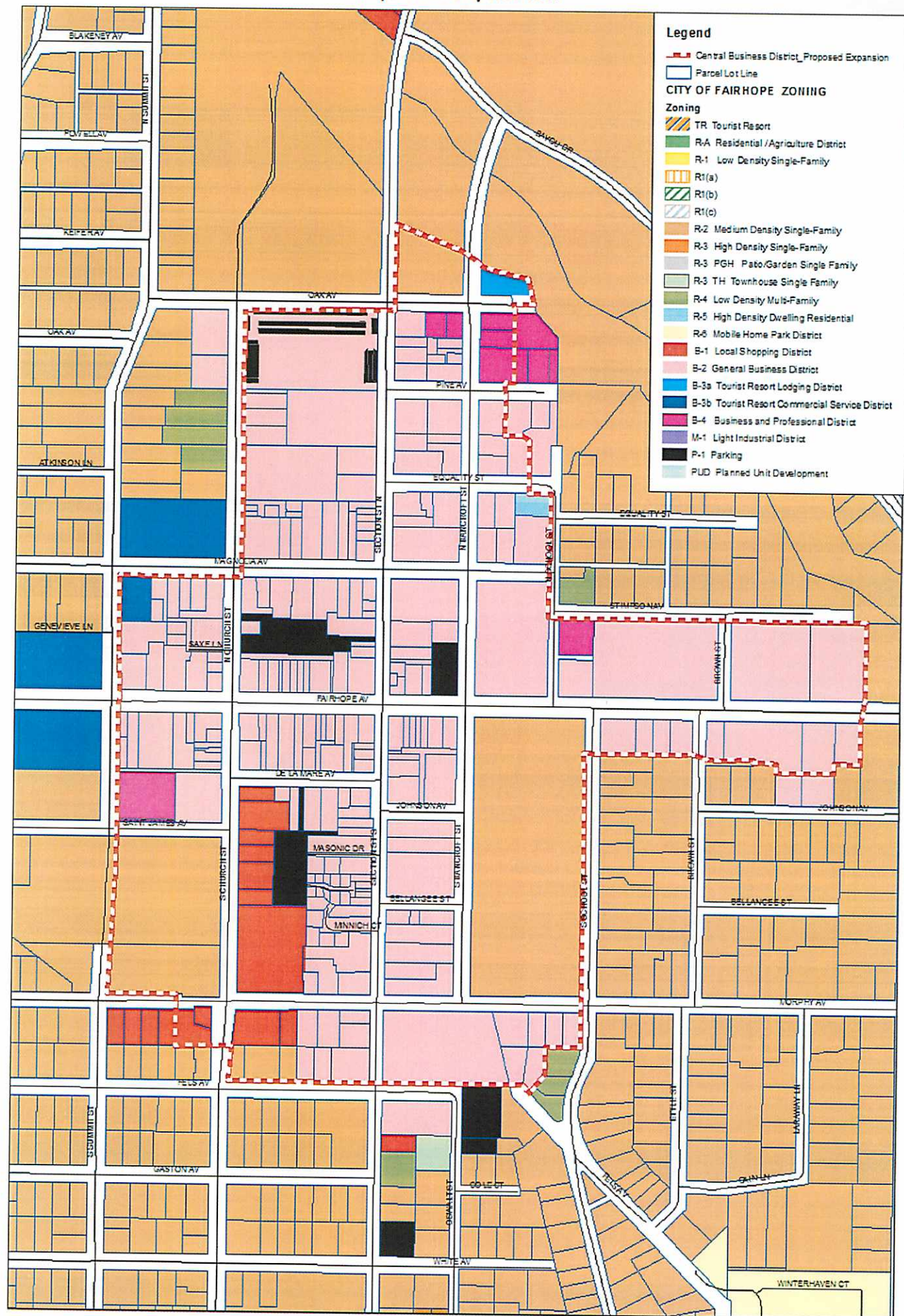
ADOPTED THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

# Proposed Expansion





1 City of Fairhope Zoning Ordinance

2 Article V.

3 B. CBD – Central Business District Overlay

4 1. Intent – The Central Business District overlay is intended to preserve downtown Fairhope as  
5 the “Regional Village Center” and focal point for the City. The CBD overlay shall provide an  
6 environment for shopping, restaurant and entertainment, cultural and artistic institutions,  
7 offices, governmental functions, and residential uses. The CBD is intended to have a unique  
8 character in the City and serve the entire community by:

- 9 • generating high levels of pedestrian and bicycle traffic;
- 10 • providing a mix of uses;
- 11 • create a focal point for activities throughout the City;
- 12 • link to adjacent areas and areas throughout the City through a variety of modes of  
13 transportation;
- 14 • strengthen non-automobile connections to adjacent neighborhoods;
- 15 • buffer surrounding neighborhoods from any adverse impacts of activities in the CBD; and
- 16 • provide small parks and trails.

17 2. Location and Size – The CBD overlay includes: ~~From one lot back (along the rear property~~  
18 ~~line) from the South side of Morphy Avenue to one lot back from the North side of Oak Street~~  
19 ~~and from one lot back from the East side of Bancroft Street to one lot back from the West side~~  
20 ~~of Church Street.~~ From the southeast corner of the intersection of Oak Avenue and N. Church  
21 Street run east along the south side of Oak Avenue to a point on the east side of N. Section  
22 Street; one parcel on the north side of Oak Avenue from N. Section to the east end of Oak  
23 Avenue; one parcel on the east side of N. Bancroft Street from the north side of Oak Avenue to  
24 a point on the south side of Pine Avenue and along the east property line one parcel east of N.  
25 Bancroft Street; thence run east along the north property line of one parcel to a point; thence  
26 run south along the east property line to the south side of Equality Street; the west side of N.  
27 School Street from Equality Street to the south side of Stimpson Avenue; the south side of  
28 Stimpson Avenue to the east end of Stimpson Avenue; south to a point on the south side of  
29 Fairhope Avenue that is one parcel west of Mershon Street; one parcel on the south side of  
30 Fairhope Avenue from one parcel west of Mershon Street to the west side of S. School Street;  
31 to a point one parcel south of Morphy Avenue on the west of S. School Street; south to the  
32 west end of the unopened portion of right-of-way of Fels Avenue; along the north side of Fels  
33 Avenue from the northwest corner of the intersection of Fels Avenue and Oswalt Street to a  
34 point at the northeast corner of Fels Avenue and S. Church Street; north one parcel to a point  
35 one parcel south of Morphy Avenue; west to a point two lots west of S. Church Street; north to  
36 the north side of Morphy Avenue west to the northeast corner of the intersection of Morphy

CODING: Underscore indicates additions; ~~strikethrough~~ indicates deletions.

37 Avenue and S. Summit Street; along the east side of Summit Street to the southeast corner of  
38 the intersection of N. Summit Street and Magnolia Avenue; along the south side of Magnolia  
39 Avenue to the southeast corner of the intersection of Magnolia Avenue and N. Church Street;  
40 along the east side of N. Church Street to the southeast corner of the intersection of N. Church  
41 Street and Oak Avenue.

42 3. Uses – All uses permitted in the underlying zoning district are allowed in the CBD Overlay,  
43 provided that uses of property shall meet the intent of the Comprehensive Plan and Section E.1  
44 of this Article. Any future rezoning in the CBD overlay may be conditioned so that the goals and  
45 intent of the Comprehensive Plan and Article V., Section B.1. of the Zoning Ordinance are  
46 achieved.

47 4. Dimension Standards – All dimension standards for the underlying districts shall apply in the  
48 CBD overlay except as follows:

49 a. Non-residential buildings in the CBD shall be built at the right-of-way line, unless a courtyard,  
50 plaza or other public open space is proposed.

51 b. No side-setback is required for non-residential buildings in the CBD, except that corner lots  
52 shall have the same building line on the side street as is on the front street.

53 c. Building heights for all - structures shall not exceed 40 feet or 3 stories.

54 ~~i. Non-residential structures shall not exceed 35 feet.~~

55 d. Parking -

56 (1) No parking is required for non-residential uses in the CBD. If parking is provided, it shall be  
57 located behind the building, screened from public rights-of-way, and have a direct pedestrian  
58 connection to the primary building entrance of the public right-of-way.

59 ~~(2) Dwelling units in the CBD shall provide the required parking. It shall be located behind the~~  
60 ~~building, screened from public rights of way, and have a direct pedestrian connection to the~~  
61 ~~primary building entrance of the public right of way.~~

62 (3) Residential and office is encouraged on the upper floors of buildings; lower floors are  
63 encouraged to be retail or restaurants.

64 e. Sidewalks shall be a minimum of eight feet (8') in width for all new construction. This may be  
65 reduced, through the site plan approval process, upon satisfactorily demonstrating to the City  
66 Council that streetscape improvements constrain the site to extent that eight (8') is not  
67 feasible. In no case shall the sidewalk width be less than six (6') in width. A written request  
68 must be made with accompanying justification statement and drawings for consideration of  
69 reduction in sidewalk width.

# MEMO

Date: October 11, 2017

To: Fairhope Planning Commission

From: Wayne Dyess, AICP  
Planning Director

Re: ZC 17.11 Central Business District (CBD) Amendments

\*\*\*\*\*

## Central Business District Expansion

The CBD has been the historic center of Fairhope dating back to the Single Tax Colony. It historically served as the center of economic, social, cultural, civic, and political life of Fairhope. Through growth in population in and around Fairhope as well new roads and thoroughfares leading to more auto oriented development, demand for additional commercial centers have developed. This development pattern can best be described as the multiple nuclei concept and sub nuclei concept<sup>1</sup>. This concept helps explain city development beginning in a CBD and, based on growth, expanding to other commercial centers. The CBD serves as the dominant nuclei but over time other sub nuclei develop. This theory enjoins the village concept outlined in the Fairhope Comprehensive Plan. Downtown Fairhope Village Core (CBD) is the dominant village and the social, cultural, civic and political center of Fairhope and the other village nodes serve as "sub villages". The nature and purposes of the "sub villages" is very different and distinct from the Downtown and do not compete for social, cultural, civic or political status. They are much more utilitarian from a commercial service perspective and lack the focus of community activities that Downtown has.

Modern urban design concepts and development is focused on walkable communities and connectivity with less dependence on the automobile. When defining walkability and connectivity, a pedestrian shed analysis is used. A "pedestrian shed," is the distance that can be covered in five minutes at a normal walking pace of an average person.<sup>2</sup> This 5-minute walk equates to approximately 0.25 miles or 1,320 linear feet measured from the town center or neighborhood center<sup>3</sup>. The pedestrian shed has large impact on how to design neighborhoods

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<sup>1</sup> <https://planningtank.com/settlement-geography/multiple-nuclei-model-1945-harris-ullman-model>

<sup>2</sup> <https://www.cnu.org/publicsquare/2017/02/07/great-idea-pedestrian-shed-and-5-minute-walk>

<sup>3</sup> [http://pedshed.net/?page\\_id=5](http://pedshed.net/?page_id=5)

and building complete communities. Pedestrian sheds are useful tool in defining neighborhoods and compact and pedestrian walkable centered development.

Staff reviewed the pedestrian shed for the Fairhope Central Business District for a better understanding of appropriate size and boundaries and on how this concept may impact downtown development and proposed expansions of the CBD. The pedestrian shed for downtown Fairhope was measured in a radial fashion with the center being the intersection of Fairhope Avenue and Section Street. The results were mapped (see figure 1.) and compared to the current and proposed CBD boundaries. The proposed CBD changes indicates that each parcel in the proposed CBD will intersects with the pedestrian shed. Other villages defined by the Comprehensive Plan were mapped to show each's pedestrian shed and the proximity to each other. Therefore, staff feels that the slight alteration in size of the CBD east of School Street to Mershon Street for parcels fronting Fairhope Avenue, taking in four parcels at the corner of School Street and Equality Street, and four parcels at the corner of Fels Avenue and Section Street are in keeping with intent of the CBD and functional urban design of the CBD.

Figure 1.

Downtown Fairhope Pedestrian Shed

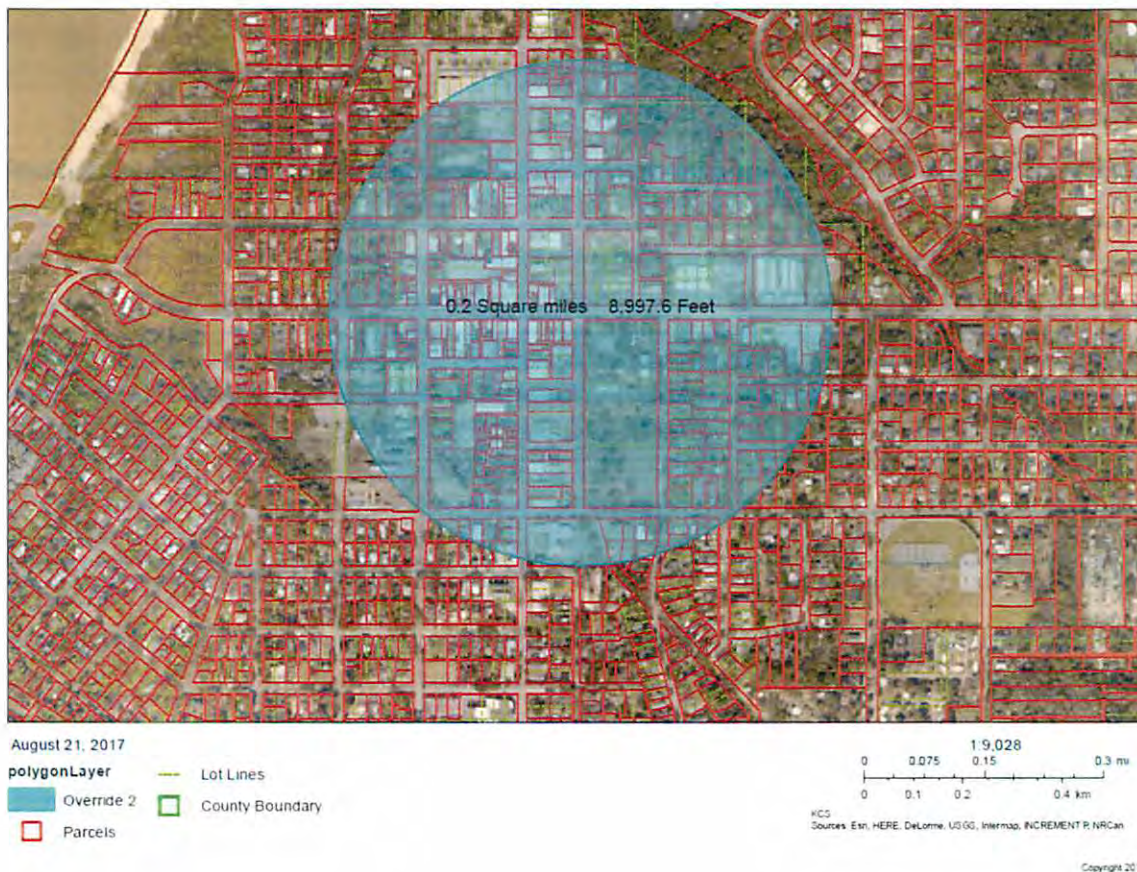
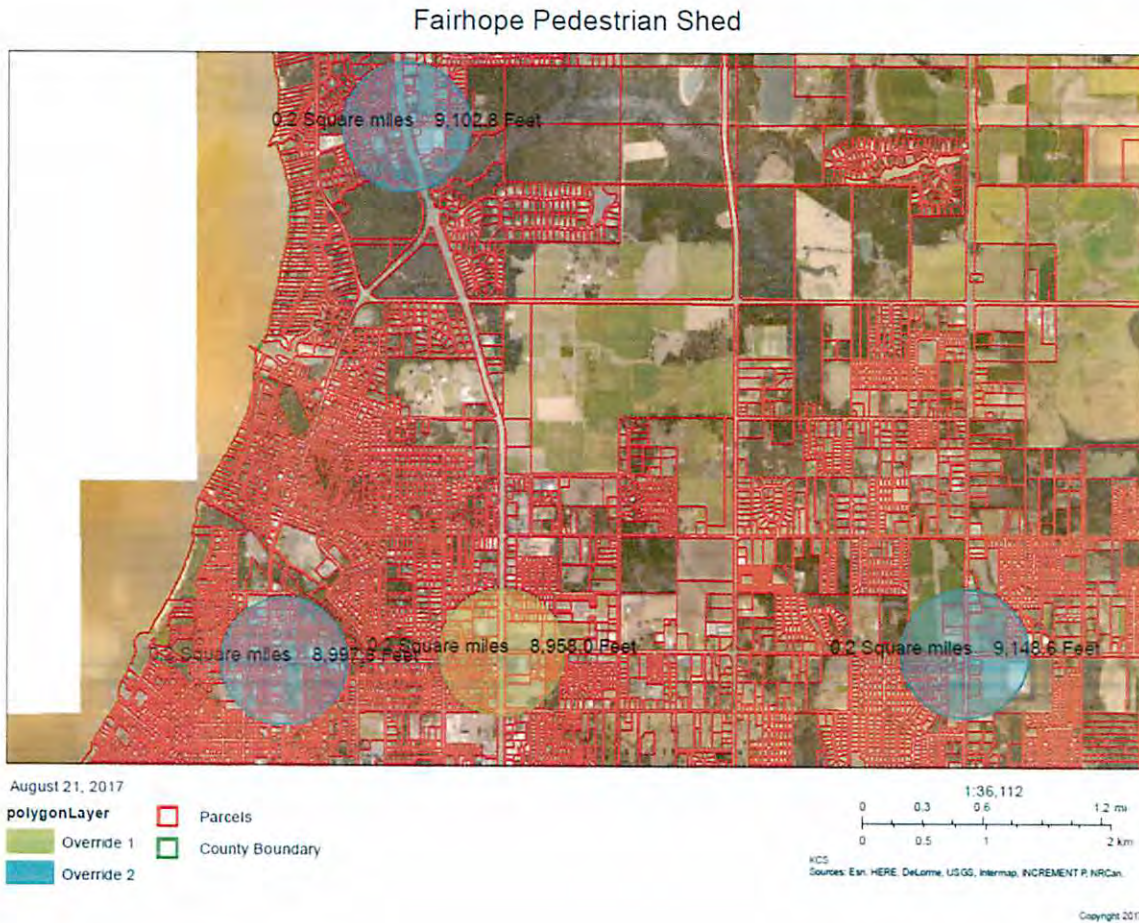


Figure 2.



### Alteration of Height in the CBD and Mixed Use

The current ordinance allows for a maximum height for non-residential structures (commercial) of 35'. The building height and the method of defining building height limits the architectural style of buildings within the CBD which inhibits mixed use potential re-investment.

Dwelling units in the CBD must provide the required parking (1 space for mixed use dwelling) on site. Most developed sites in the CBD do not have space or configuration to provide parking on site for residential use, thereby inhibiting mixed use downtown. Parking for non-residential is not required. However, the current CBD ordinance says "Residential and office is encouraged on the upper floors of buildings; lower floors are encouraged to be retail or restaurants."<sup>4</sup> Staff feels that additional measures are needed to follow through with this measure due to the constraints of existing development downtown. Additionally, the City is working to ensure that

<sup>4</sup> Fairhope Zoning Ordinance, Article V. Section B (3). Page 50.

the existing parking deck downtown is fully utilized (top 2 floors are rarely full) through a proper signage wayfinding program.

The City has provided methods to incentivize re-investment downtown. However, significant barriers still exist such as mixed use parking and building height.

The goal for the CBD or “downtown” is insure its continued viability as the center of the City from an economic, social, cultural, civic, and political perspective. To do so, we must encourage redevelopment and re-investment downtown. Mixed use residential projects in particular, bring people and activity downtown on a consistent basis throughout the day. It is staff’s position that the proposed amendments for the CBD will further this goal.

**Planning Commission Recommendation:**

On September 5, 2017, the Planning Commission voted unanimously to approve the proposed amendments and forward a **favorable** recommendation to the City Council.

ORDINANCE NO. \_\_\_\_

AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of CDA, LLC and Carrigan Properties, LLC located at 806 and 812 N. Greeno Road, Fairhope, Alabama.

TAX PARCELS: 05-46-03-39-0-001-001.001  
05-46-03-39-0-001-009.000

**Legal Description:** (Case number ZC 17.04)

COMMENCE AT A 2-INCH IRON PIPE MARKER AT THE "LOCALLY ACCEPTED" NORTHEAST CORNER OF GRANT SECTION 39, TOWNSHIP 6 SOUTH, RANGE 2 EAST, ST. STEPHENS MERIDIAN, AND RUN THENCE SOUTH, A DISTANCE OF 329.31 FEET FOR A POINT OF BEGINNING; THENCE CONTINUE SOUTH, A DISTANCE OF 699.45 FEET TO AN OLD 1-INCH OPEN END IRON PIPE MARKER; THENCE RUN WEST 83.03 FEET TO AN IRON PIN MARKER ON THE EAST MARGIN OF U.S. HIGHWAY NUMBER 98, A/K/A GREENO ROAD; THENCE RUN NORTH 23 DEGREES 23 MINUTES 12 SECONDS WEST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 182.58 FEET TO AN IRON PIN MARKER; THENCE RUN NORTHWESTWARDLY, CONTINUING ALONG SAID RIGHT-OF-WAY, ALONG A CURVE TO THE RIGHT, HAVING A RADIUS OF 3738.72 FEET, AN ARC LENGTH OF 471.53 FEET (CHORD BEARS NORTH 19°46'27" WEST, 471.21 FEET) TO A 6-INCH X 6-INCH CONCRETE RIGHT-OF-WAY MONUMENT AT ALIGNMENT "A" STATION 122+16.02 (± CONSTRUCTION STATION 122+20.97); THENCE RUN NORTH 16°10'21" WEST, CONTINUING ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 92.19 FEET TO AN IRON PIN MARKER; THENCE RUN SOUTH 89°59'00" EAST, 340.6 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 3.57 ACRES, MORE OR LESS, AND LIES IN THE NORTH 1/3 OF GRANT SECTION 39, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA.

AND

LOT 2, ART'S SUBDIVISION AS RECORDED IN MAP BOOK 11, PAGE 181 OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA.

1. **That**, Attached as "Exhibit A" is an approved site plan. The property must develop in substantial conformance with the approved site plan and supporting documents. Any substantial deviation from the attached site plan, as determined by the Director of Planning, will require re-approval by the Planning Commission and the City Council of the City of Fairhope, Alabama, as a PUD amendment.

Ordinance No. \_\_\_\_\_

Page -2-

2. That, the following development regulations shall govern:

Uses:

- **Office / Professional / Personal Service** – General and professional offices. Various service-related businesses. Professional office of all kinds including architecture, engineering, accounting, law, real estate, financial planner, bank with up to two drive through lanes, investment manager, IT consultant, computer services, insurance, beauty salon, barber shop, etc.
- **Medical / Professional** – Medical tenants of all kinds including doctor's offices and clinics, dentistry, optometry, dermatology, chiropractic, psychiatry, counseling, pharmacy (with up to two drive through lanes), medical supplies, medical testing/laboratory, etc.
- **Retail** – Limited to businesses that support the office/medical/professional tenants in the development, these tenants typically will occupy spaces on the first floor. Retail use shall not exceed 25% (15,000 sf) of the total gross square footage for the entire development. The type of businesses we propose for acceptance would include the following: Sandwich shop or deli, coffee shop, juice/smoothie shop, ice cream/candy shop, office supplies, gift shop, boutique merchandise, general merchandise (big box stores prohibited), restaurant (no drive through food service will be allowed), sidewalk cafes in patio/park areas.
- **Residential (Mixed Use)** – Residential units will be limited to the second or third floor on building fronting Greeno road (US 98). All other buildings can have residences on any floor. Residential use shall not exceed 25% (15,000 sf) of the total gross square footage for the entire development.
- **Other** – Other potential uses would include boutique hotels and churches.

Setbacks: These are indicated on the site plan.

Building Height: A maximum of three stories is allowed. Building height will be subject to the regulations at the time of building permit submittal.

Parking: The development will maintain a parking ratio of 1 space per 300 square feet of floor area. The total number of parking spaces is 201 spaces.

Hours of Operation: The hours of operation for the commercial development will be in the range of 7:00 AM to 12:00 PM.

Buffers:

- **Greeno Road buffer** – The landscape strip along Greeno Road (US 98) shall be a minimum of 25'. It shall meet all landscaping requirements and shall include understory and canopy trees.
- **North, east, and south buffer** – The landscape strip along the north, east, and south property line shall be a minimum of 10'. It shall meet all landscaping requirements and shall include at a minimum an opaque 8' fence in height and a 4' wide strip of evergreen plantings which will grow to at least 6' in height within three full growing seasons on the inside of the fence.

Building Square Footage: The total building area is 60,000 square feet. The maximum ground floor footprint of the building is 41,160 square feet.



Ordinance No. \_\_\_\_\_

Page -3-

**The property is hereby rezoned from R-1 Low Density Single Family Residential District and R-4 High Density Multi-Family Residential District to PUD (Planned Unit Development).** 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.

**Severability Clause** - if any part, section or 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 THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

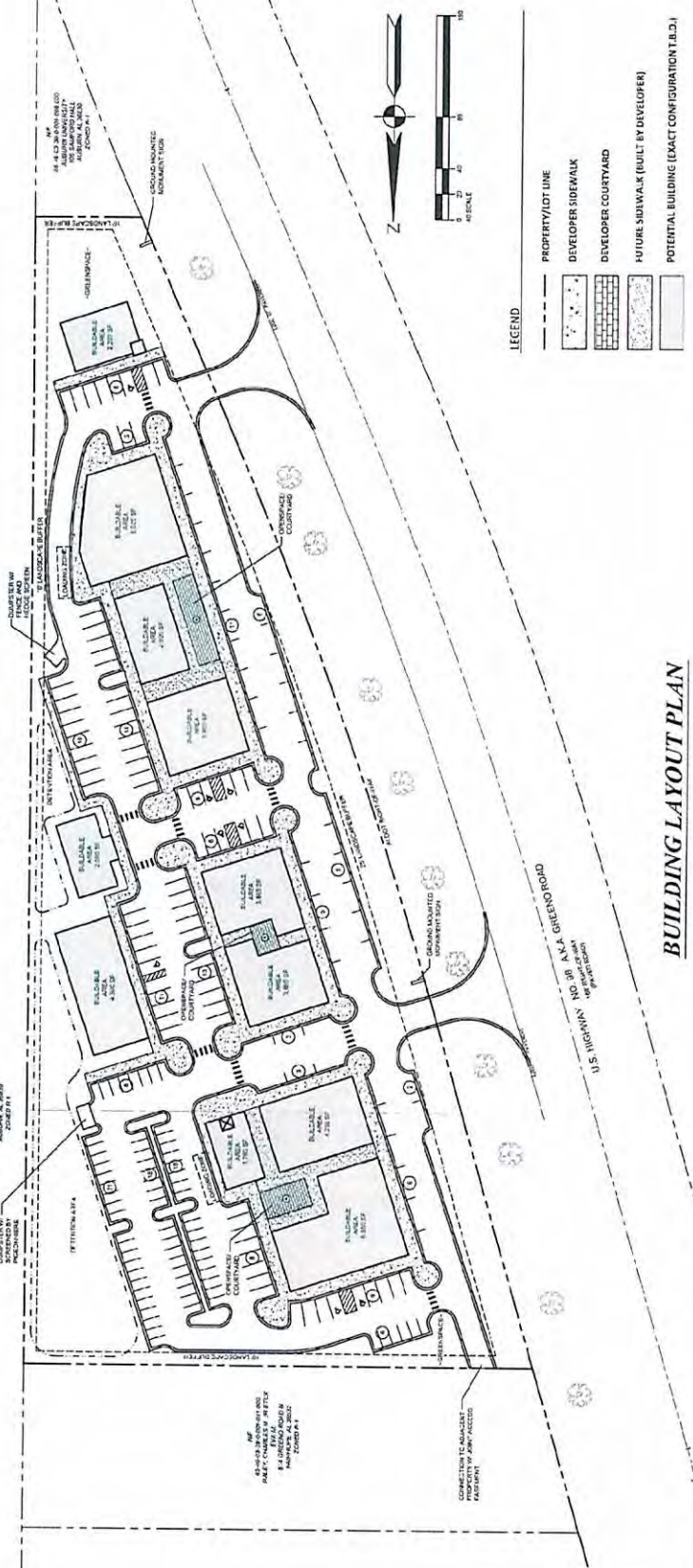
ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

# Park Place on Greeno

## A Planned Unit Development

### July 2017



### LEGEND

- PROPERTY/LOT LINE
- DEVELOPER SIDEWALK
- DEVELOPER COURTYARD
- FUTURE SIDEWALK (BUILT BY DEVELOPER)

### PROPOSED USES

OFFICE/RESIDENTIAL	• Single detached
COMMERCIAL	• Office/retail
RECREATION	• Recreation
RESIDENTIAL	• Multi-family
	• Single detached

**PROPOSED USES (EXACT CONFIGURATION T.B.D.)**

**PROPOSED PROFESSIONAL SERVICES**  
Contact: Jonathan Carrigan  
Fairhope, AL 36533  
P.O. Box 241  
251-776-8787

**CONTACT**  
CARRIGAN PROPERTIES, LLC  
Fairhope, AL 36533  
P.O. Box 241  
251-776-8787

**REVISIONS**

NO.	DATE	REVISION
1		ISSUED FOR PERMITTING

## BUILDING LAYOUT PLAN

### SITE DATA

**MAPS**  
Total acreage of property is 5.27 acres.  
Total lots (including easements, 18' setbacks, setbacks) 132,115 square feet (4.75)  
The total amount of impervious cover is as follows:  
• Existing impervious cover: 34,320 square feet (1.24)  
• Proposed impervious cover: 111,795 square feet (4.51)

**EXISTING BUILDINGS**  
Total existing square feet: 132,115 square feet (4.75)

**PROPOSED BUILDINGS**  
Total proposed square feet: 1,317,117 square feet (50.0)

The total building area is 1,449,232 square feet (54.75). The maximum ground floor footprint of the building is 132,115 square feet (4.75). Building height will be subject to the regulations of the City of Fairhope.

**PARKING**  
The proposed building contains 200 parking spaces. The proposed building contains 200 parking spaces. The proposed building contains 200 parking spaces. The proposed building contains 200 parking spaces.

**CONCRETE**  
Total concrete volume is approximately 1,000 cubic yards.

**FOOTING**  
Total footing volume is approximately 1,000 cubic yards.

**FOUNDATIONS**  
Total foundation volume is approximately 1,000 cubic yards.

**UTILITIES**  
The building will be connected to the utility systems of the City of Fairhope.

### LEGAL DESCRIPTION

Parcel 2, as a subdivision in unrecorded plat Book 1, Page 133 of the records in the office of the Judge of Probate in Baldwin County, Alabama.

### NOTES

- This site plan shows the proposed building layout and is subject to the approval of the City of Fairhope.
- Any building permit shall be subject to the requirements of the City of Fairhope.
- The building shall be constructed in accordance with the City of Fairhope.
- The building shall be constructed in accordance with the City of Fairhope.
- The building shall be constructed in accordance with the City of Fairhope.

### VICINITY MAP

The vicinity map shows the project location relative to major roads including Greeno Road, U.S. Highway 99, and various local streets like Park Place, Greeno Road, and Highway 99. It also shows nearby landmarks like the Airport and various residential areas.

**CREATED BY:** Jonathan Carrigan  
**DATE:** July 2017  
**SCALE:** As Shown

CONTRACT NO. 17-000001  
PROJECT NO. 17-000001-01  
SHEET NO. 1 OF 3

WALCOTT ADAMS VENABLE ARCHITECTS  
251-776-8787

CHRISTIAN PREUS  
251-776-8787

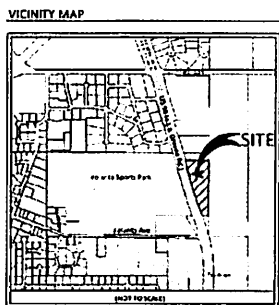
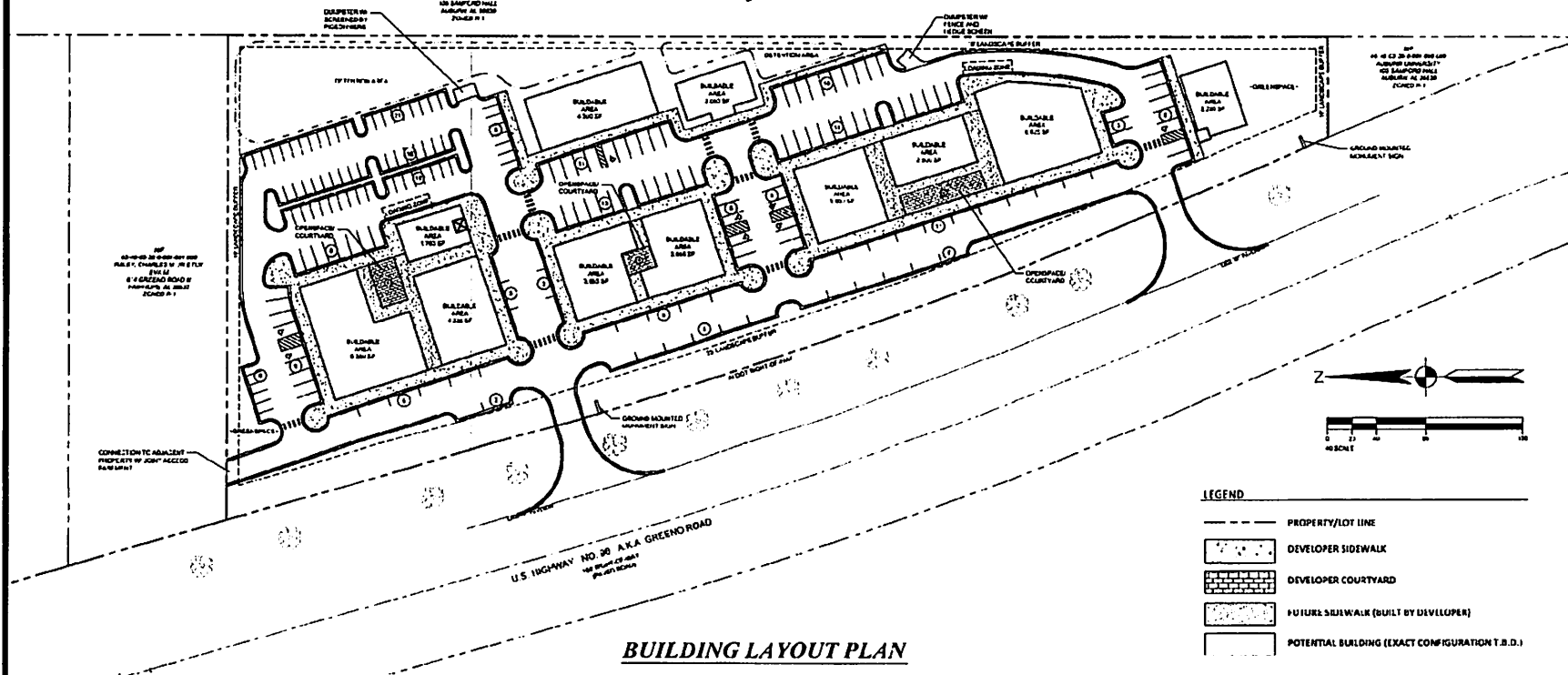
1 of 3

Exhibit A

# Park Place on Greeno

## A Planned Unit Development

July 2017



**LEGAL DESCRIPTION**

Subsection 26.6 of 2nd and 3rd sections north of the "Meridian company" subdivision corner of Greeno Road 26.6, Subsection 26.6, Range 17 East, 9th Township, Meridian, and north-west corner of the block of 500 (13) feet for a part of the Block, Block 2000 North, a distance of 530 (13) feet to an old 3 inch pipe and iron pipe connection. Thence south 69 degrees 31 minutes 14 seconds East to the center of the old 3 inch pipe 111.7 (13) feet to the corner of Greeno Road, thence north 69 degrees 31 minutes 14 seconds West, along said right-of-way, a distance of 150 (13) feet to the center of the old 3 inch pipe, thence east 14 degrees 24 minutes 48 seconds along said right-of-way, along a curve to the right, having a radius of 3750 (13) feet, an arc length of 475 (13) feet toward Greeno Road 17' 00" wide, 111.7 (13) feet to the block of 500 (13) feet. Thereafter, thence north 14 degrees 24 minutes 48 seconds East to the center of the old 3 inch pipe, thence north 11 degrees 28 minutes 12 seconds West, along Greeno Road 17' 00" wide, a distance of 82 (13) feet to the center of the old 3 inch pipe, thence south 69 degrees 31 minutes 14 seconds East, a distance of 10 (13) feet to the point of beginning. To wit: contains 3.32 acres, more or less, and lies between 47' 00" of Greeno Road NE, Township 9 North, Range 17 East, Section 26, T10N, R17E, S26E.

and

Lot 7, 4th Subdivision as recorded in Map Book 1, page 152 of the records in the office of the judge of Probate, District of Columbia, contains

**NOTES**

- The exact number of driveway spaces and locations will be determined during permitting with the relevant Department of Transportation.
- Setting lotteries and easements for the property will be allowed to contain 1/2 lot distribution ground public building permit is issued for Department of the city of Columbia will also be approved PUD.
- Approved public utility lines and easements will be shown in the requirements of the city of Columbia ordinance.
- The quantity of potential potential and any area will be an as shown with the PUD zoning, or other, as the facts and conditions will allow otherwise shown.

**SITE DATA**

**AREA**

Total acreage of property is 3.32 acres.

Total open land (developable, undeveloped, undeveloped) 1112.15 square feet 0.0258 AC

Total amount of impervious cover is as follows:

Buildings (approx) 441,188 square feet (1.01)

Paving 151,623 square feet (0.34)

Edwards/Courtyard/Paving 13,163 square feet (0.30)

Total impervious covering 606,974 square feet (1.36)

Total impervious covering 606,974 square feet (1.36)

**FREEDOMS**

The total building area is 606,974 square feet (The Usable Area). The maximum ground floor use per lot of buildings is 47,188 square feet. A maximum of 17 use stories is allowed. Building height will be subject to the regulations in the City of Columbia zoning code.

**PROPOSED**

The development will maintain a parking ratio of 1 space per 100 square feet of floor area. The total number of parking spaces are 607 spaces. Maximum parking spaces of 4 for limited uses, the development is set back with 100' setbacks.

Site is on zoning/land use 1 (residential medium density) with 100' setbacks.

**HOURS OF OPERATION**

The hours of operation for the commercial development will be to the 7:00 AM to 12:00 PM.

**LEGEND**

- PROPERTY/LOT LINE
- DEVELOPER SIDEWALK
- DEVELOPER COURTYARD
- FUTURE SIDEWALK (BUILT BY DEVELOPER)
- POTENTIAL BUILDING (EXACT CONFIGURATION T.B.D.)

**PROPOSED USES**

**OFFICE / PROFESSIONAL / PROFESSIONAL SERVICE**  
General and professional offices, business service related businesses, professional offices of all kinds including architecture, engineering, accounting, law, real estate, financial planning, bank and up to five drive through bank, restaurant, manager, restaurant, computer services, restaurant, beauty salon, bar, shop, etc.

**RETAIL/PROFESSIONAL**  
Retail stores of all kinds including dealer's offices and clinics, dentistry, optometry, dermatology, computer, psychology, consulting, of services/health care services through bank, bank of supplies, health of service, laboratory, etc.

**RESIDENTIAL**  
Residential 1+1 townhomes that support the all-around development trends in the development, these townhomes typically will occupy space on the first floor. Retail use shall not exceed 75% (75) of the total gross square footage for the entire development. The type of businesses or services for customers would include the following:

- Sandwich shop or cafe
- Coffee shop
- Ice cream/confection shop
- Office building
- Retail store
- Restaurant
- Group of 100-150 residents by four stories or higher
- Restaurant
- An drive through food service will be provided
- Suburban office or services center

Exhibit A

PROJECT: PARK PLACE ON GREENO SHEET: 1 OF 3 DATE: 7/20/17 DRAWN BY: JTC CHECKED BY: JTC	DESIGN: JTC PLANNING: JTC ENGINEERING: JTC SURVEYING: JTC LANDSCAPE ARCHITECTURE: JTC
<p style="font-weight: bold; font-size: 1.2em;">ChristianPRELUS</p> <p style="font-size: 0.8em;">Landscape Architecture</p> <p style="font-size: 0.8em;">1230 N. STREET, SUITE 100 COLUMBIA, SC 29201 TEL: 803-732-1000</p>	
<p style="font-weight: bold; font-size: 1.2em;">WALCOTT ADAMS VENEVILLE</p> <p style="font-size: 0.8em;">ARCHITECTS</p> <p style="font-size: 0.8em;">111 N. STREET, SUITE 100 COLUMBIA, SC 29201 TEL: 803-732-1000</p>	
<p style="font-weight: bold; font-size: 1.2em;">STE Civil</p> <p style="font-size: 0.8em;">Engineering</p> <p style="font-size: 0.8em;">1230 N. STREET, SUITE 100 COLUMBIA, SC 29201 TEL: 803-732-1000</p>	
<p style="font-weight: bold; font-size: 1.2em;">Corrigan Properties, LLC</p> <p style="font-size: 0.8em;">P.O. Box 34563 FARMSBORO, SC 29109</p> <p style="font-size: 0.8em;">FAX: 803-767-8757</p> <p style="font-size: 0.8em;">Contact: Jonathan Corrigan</p>	
JOB NO: 2017-07 DATE: 7/20/17	SHEET NO: 1 OF 3 DATE: 7/20/17
<p style="font-size: 0.8em;">5-011</p> <p style="font-weight: bold; font-size: 1.5em;">1 of 3</p>	



# City of Fairhope City Council

Case: ZC 17.04 Park Place PUD

**Project Name:**  
Park Place PUD

**Project Type:**  
Rezoning

**Jurisdiction:**  
City Limits

**Zoning District:**  
R-1 Low Density (1 acre) and  
R-4 Low Density Multi-family

**PPIN Number:**  
51434 and 12782

**General Location:**  
806 and 812 North Greeno  
Road, east side across  
from Volanta Sports Park

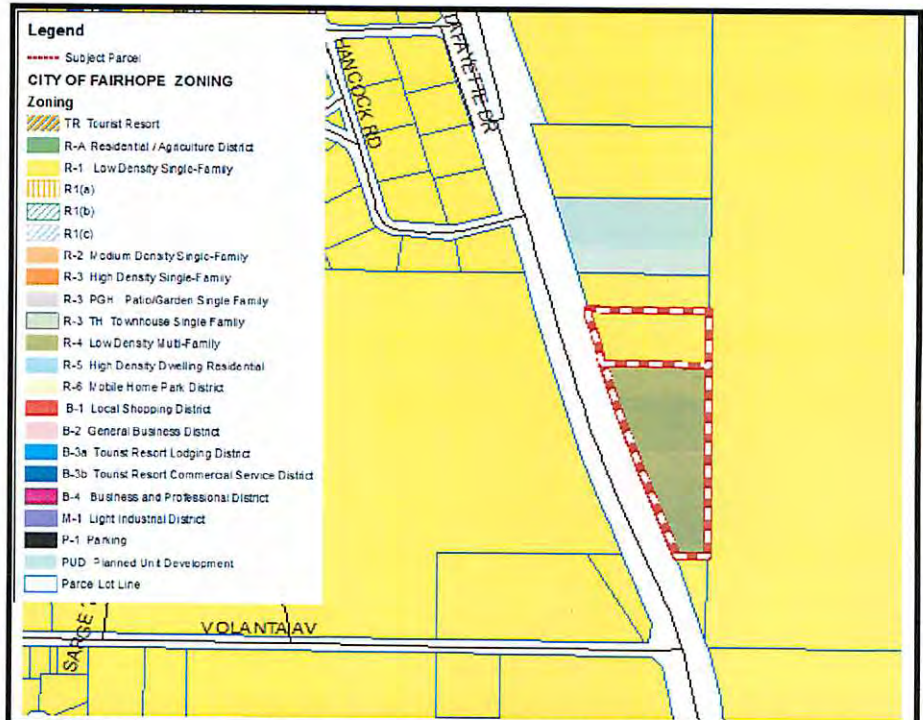
**Engineer:**  
Larry Smith P.E.  
S.E. Civil Engineering, LLC

**Applicant:**  
Carrigan Properties, LLC

**School District:**  
Fairhope Elementary, Middle,  
and High School

**Staff Recommendation:**  
Denial

**PC Recommendation:**  
Favorable recommendation to  
approve with one condition



**Summary of Request:**

The applicant is requesting to rezone the subject property from R-1 Low Density Single-Family and R-4 Low Density Multi-family to Planned Unit Development (PUD). The PUD consists of 11 buildings of 2 and 3 stories totaling 60,000 sq.ft. for office, retail, medical and residential mixed use component. The residential mixed use will be located on the 2<sup>nd</sup> and 3<sup>rd</sup> floors and will comprise 15,000 sq.ft. and an estimate of approximately 7 residential units (15,000 sq.ft. / 2,000 sq.ft. estimated average of a residential unit sq.ft.) number of residential units or 25% of the total building area.

**Zoning History of Nearby Properties:**

Case No. ZC 15.11 was a request of Fred Hayek to rezone property from R-1 Low Density Single Family Residential District to PUD (Planned Unit Development) consisting of 4, 2-story buildings for office/professional, retail, medical and food service uses. The property is located on the east side of Greeno Road across from Hancock Road, at 848 N. Greeno Road (Parcel #: 05-46-03-08-0-003-062.000), one parcel north of the subject property. The Planning Commission recommended approval of the PUD at their November 2, 2015 meeting. City Council approved the PUD on May 27, 2016. As of the writing of this report, the Hayek property has not submitted for Article II, Site Plan Approval per the Zoning Ordinance, Article IV. Multiple Occupancy Project per the Subdivision Regulations, or a building permit application and therefore has not developed the approved PUD.

**Current Conditions:**

The subject properties contain a single-family home and a manufactured home park.



*Photo date June 2, 2017*



*Photo date June 2, 2017*



*Photo date June 2, 2017*



*Photo date June 2, 2017*

**Comments:**

Municipal comprehensive plans are authorized by the Code of Alabama, §11-52-8, which allows municipalities to develop a master plan (comprehensive plan) for the physical development of the municipality. Further, §11-52-72, states that municipal zoning shall be established and made “in accordance with a Comprehensive Plan.” A municipality’s primary tool in implementing a comprehensive plan is through zoning ordinances and subdivision regulations as these tools are the basics of a municipalities physical development and appearance. The process of municipal review of changes to the zoning map of a city (re-zonings) is a very important and essential part of the zoning plan as changes to the zoning map sets allowable uses and sets precedent for subsequent rezoning’s.

Consistency in the rezoning process is central to the comprehensive planning process. When these pieces are “synced” together with a comprehensive plan, results are an orderly, planned, well thought out development process, hinging on a vision for the community. It also provides consistency and equity in the development process especially in terms of rezoning’s because the long-term development goals and intent are provided in the comprehensive plan. Additionally, it provides stability in the municipal development process because all parties, developer and public alike, have knowledge of how, when and where and to what extent the city desires and can accommodate growth.

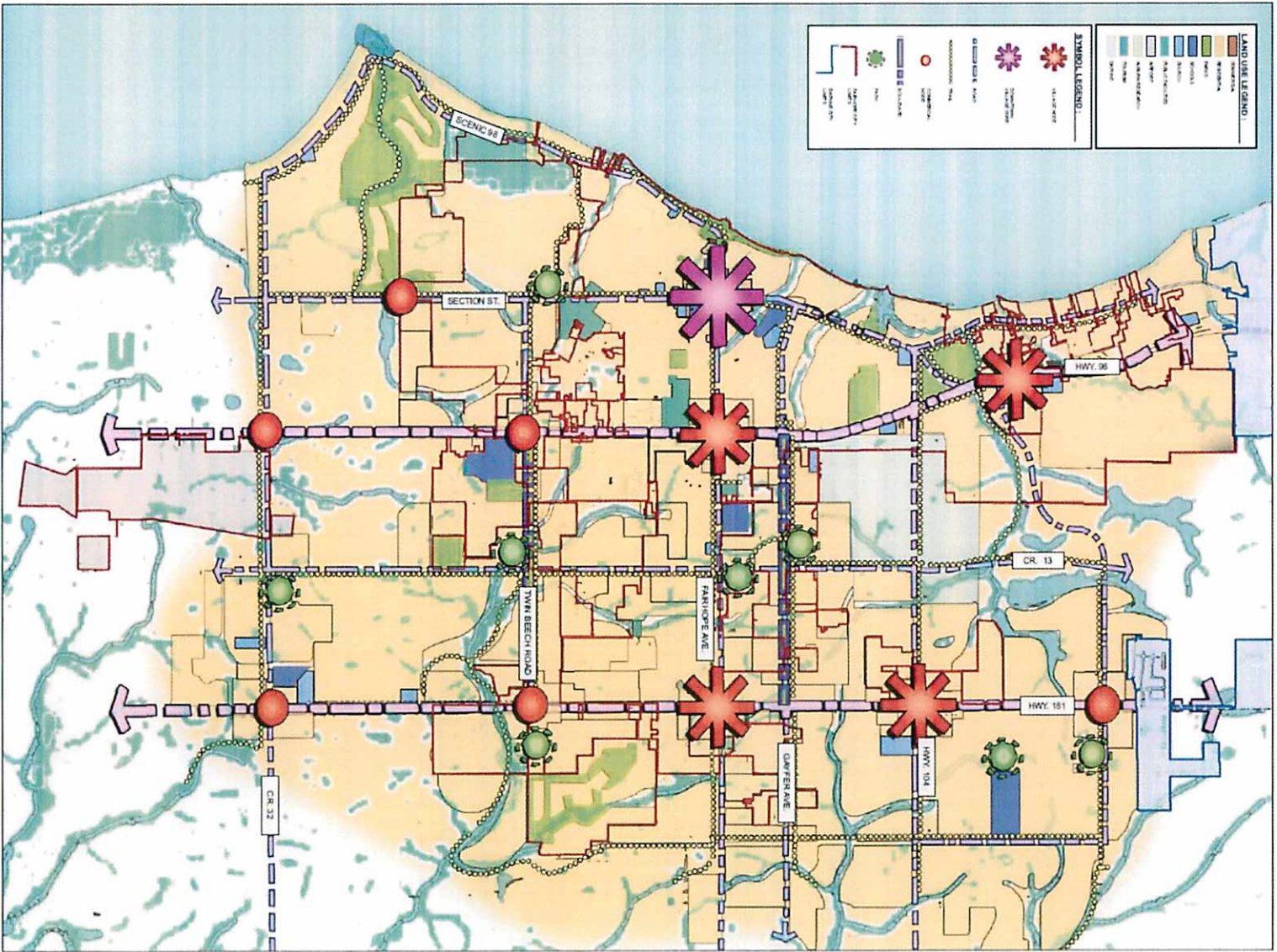
The Fairhope Comprehensive Plan has been based on a “village concept” since 2001<sup>1</sup>. The most recent Comprehensive Plan update was adopted on June 14, 2016. The village concept provides commercial development at designated locations or “nodes”, with mixed use and higher residential densities cascading to lower densities as you move from the village center. see *Figure 1. City of Fairhope Preferred Plan Concept*.

This planning approach is commonly known as Rural to Urban Transect development pattern. The Transect planning approach is characterized by a series of zones that transition from sparse rural areas to the dense urban center with each zone containing a similar transition from the edge to the center of the neighborhood. Integration and transition of uses, connectivity, form and walkability are all key components in Transect based planning. In contrast, the typical Euclidean Zoning model is characterized by density restrictions based on larger geographic single use districts segregated from “incompatible” uses with the goal of creating uniformity of uses and development. Euclidean Zoning is the most prevalent type of zoning in the United States and its history has proven that the development pattern it creates is auto-dependent and oriented, dependent on isolation and separation of uses which detracts from walkability and connectivity. The resulting development and design pattern is spread out without consideration of community form which can create an un-unique prototypical development. During the 2016 Plan Update, maintaining and creating the uniqueness of Fairhope was a common theme.

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<sup>1</sup> City of Fairhope Comprehensive Plan, page 52





CITY OF FAIRHOPE  
COMPREHENSIVE PLAN  
BALDWIN COUNTY, ALABAMA



CITY OF FAIRHOPE  
PREFERRED PLAN CONCEPT

PROJECT NO. 14-1101-0A32  
DATE MAY 17, 2018

Figure 1. City of Fairhope Preferred Plan Concept

The current Plan clarified the location of the two existing villages on Greeno Road that affect the subject property. The “North Village” which is the site of the Fairhope Publix shopping center is located north of the subject property and the “Greeno Road Village”<sup>2</sup> located at intersection of Greeno Road and Fairhope Avenue, see *Figure 2. City of Fairhope Preferred Plan Concept - Excerpt*. Villages are contemplated to have between 30,000 to 180,000 sq.ft. of commercial area at each location<sup>3</sup>.

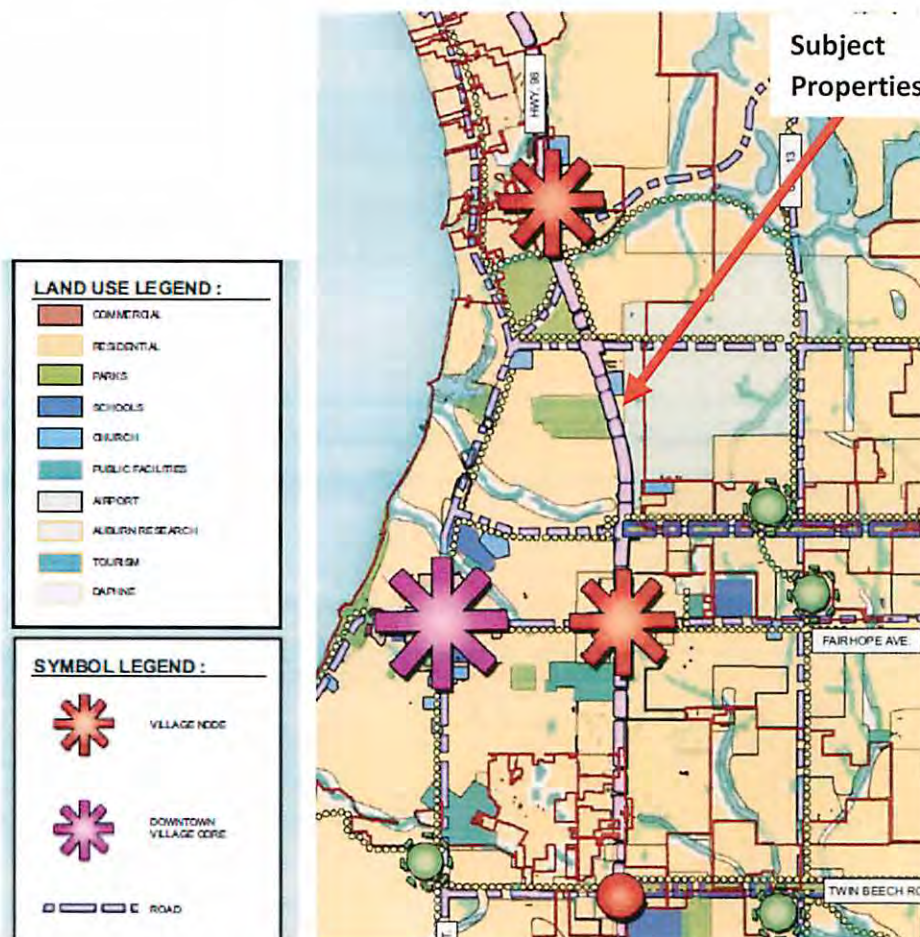


Figure 2. City of Fairhope Preferred Plan Concept - Excerpt

Specific to Greeno Road/U.S. 98 corridor, the Comprehensive Plan calls to “limit the north and south commercial creep<sup>4</sup>” along Greeno Road and to create edges along Greeno to indicate “where it (commercial) stops and where it begins<sup>5</sup>”. The Zoning Ordinance goes so far to identify the Greeno Road Village Center and impose limits on the size of free standing “single use or tenant retail building.<sup>6</sup>”

<sup>2</sup> City of Fairhope Comprehensive Plan, page 13

<sup>3</sup> City of Fairhope Comprehensive Plan, page 34

<sup>4</sup> City of Fairhope Comprehensive Plan, page 36

<sup>5</sup> City of Fairhope Comprehensive Plan, page 36

<sup>6</sup> City of Fairhope Zoning Ordinance, Article III, Section C.4., page 22

Further, under the 2016 Plan, the Development Framework, provides the following objective: “Guide commercial and high density growth to locations that can be efficiently and effectively served with utilities and public services such as police, fire, and public works.” A strategy under this object calls for the City to “Define the commercial growth of Greeno Rd. with edges, thus, ensuring an appropriate ending point<sup>7</sup>”. The Greeno Road Village and North Village fulfills this goal by creating definable locations to accommodate commercial growth rather than creating an unplanned strip commercial corridor.

The Plan contains permissible language for commercial development along Greeno Road per the following: “Only approve commercial growth that is contiguous to existing commercial activity, thereby eliminating leap frog commercial development<sup>8</sup>” No commercial zoning or existing development is contiguous to the subject property. An existing, undeveloped PUD containing commercial uses is contiguous to the northern boundary of the property. Since this PUD has not been developed and is therefore not an “existing commercial activity”, the proposed PUD is inconsistent with the Plan.

The subject property is located between the two villages, with a residential land use in the Comprehensive Plan. The land use indicated in the Comprehensive Plan for the subject property is residential. To the north the land use is “Church”, south is “Auburn Research”, east is “Auburn Research”, and west is “Parks”.

The specific proposal in the Park Place PUD is 5.27 acres with 44% open space, with 11 buildings with a building coverage of 41,160 (ground floor footprint), 60,000 sq. net. The propose uses of the PUD are:

1. Office/Professional (zoning ordinance equivalent of B-1, B-2, B-3b and B-4)
2. Medical/Professional (zoning ordinance equivalent B-1, B-2, B-3b and B-4 for professional and only on appeal for clinic which is the medical equivalent pursuant to definition of clinic in the Zoning Ordinance, Section B, Article IX.5. Definitions and Interpretation, Description of Uses.)
3. Retail (zoning ordinance equivalent of primarily B-1, B-2, and B-3b and on appeal for Automobile Service Station, Outdoor Sales Limited, Outdoor Sales Lot and Garden Center.)
4. Residential/Mixed Use (zoning ordinance equivalent of B-1, B-2, B-3a, B-3b, B-4 and VRM – Village Residential Mix)

**Staff Recommendation:**

Staff recommends DENIAL of the Park Place PUD based on the following:

1. The proposed PUD is a commercial/mixed use development which is located between two villages in the Comprehensive Plan (North Village and Greeno Road Village). These villages are intended to accommodate for commercial and mixed use development along the Greeno Road corridor, thereby creating boundaries of future commercial uses which limits “commercial creep” and

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<sup>7</sup> City of Fairhope Comprehensive Plan, Page 20

<sup>8</sup> City of Fairhope Comprehensive Plan, Page 46, Goals and Tasks

strip commercial development along Greeno Road. Further, the subject properties zoning is residential as well as its Comprehensive Plan land use designation. The proposed development is not located at a designated “village” center and lies between two villages. Due to the location, size, scale and uses of the PUD, the proposed development is inconsistent with the Comprehensive Plan and its village concept and is therefore “not in accordance with” the Plan. Staff believes that to achieve the vision of the Comprehensive Plan of a village development strategy along Greeno Road, committed adherence to the Plan is necessary.

2. The proposed PUD contains references to medical and professional uses. Referencing the medical uses, the City adopted a Medical Overlay District, Section H. Article V. Fairhope Zoning Ordinance, with the intent to “establish and provide for the logical expansion of medical office needs to accommodate the growing community and region.” Although there is no outright prohibition of medical uses outside this overlay, to fulfill the intent of the overlay, medical uses should be encouraged to locate with the overlay. This may explain why the clinic or medical uses are only allowed “on appeal” and not allowed by right, pursuant Table 3.1 – Use Table of the Article III, Section B of the Zoning Ordinance.

**Planning Commission Recommendation:**

On July 3, 2017 the Planning Commission voted 4 to 1 with one abstention to approve the request and forward a **favorable** recommendation to the City Council to approve the zoning change from R-1 Low Density Single Family Residential District and R-4 Low Density Multi-Family District to PUD (Planned Unit Development) with the following condition:

1. Increase the buffer and landscaping to include understory and canopy trees.

The applicant has revised the proposed Site Plan to incorporate the Planning Commission’s condition.



**APPLICATION FOR ZONING DISTRICT CHANGE**

**Property Owner / Leaseholder Information**

Name: CDA, LLC & Carrigan Properties, LLC Phone Number: 251-776-8767  
 Street Address: P.O. Box 241  
 City: Fairhope State: AL Zip: 36533

**Applicant / Agent Information**  
(if different from above)  
Notarized letter from property owner is required if an agent is used for representation.

Name: Larry Smith, PE Phone Number: 251-990-6566  
 Street Address: 1 S. School Street  
 City: Fairhope State: AL Zip: 36532

Current Zoning of Property: R-4  
 Proposed Zoning/Use of the Property: PUD  
 Property Address: 806 N. Greeno Road 5812 N. Greeno Road  
 Parcel Number: 05-46-03-39-0-001-009.000 & 05-46-03-39-0-001-001.001  
 Property Legal Description: See attached.  
 Reason for Zoning Change: Re-development of the property into an office/retail complex.

- Property Map Attached  YES  NO
- Metes and Bounds Description Attached  YES  NO
- Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached.  YES  NO

Character of Improvements to the Property and Approximate Construction Date: \_\_\_\_\_  
The first parcel has several rental trailers (Fairhope Trailer Court). The second parcel has a single family residence used for rental. Construction date unknown.

Zoning Fee Calculation:  
 Reference: Ordinance 1269

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. \*If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Jonathan Carrigan  
 Property Owner/Leaseholder Printed Name  
5-22-17  
 Date

[Signature]  
 Signature

Fairhope Single Tax Corp. (If Applicable)

**RECEIVED**  
 MAY 23 2017  
 BY: EP

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

Present: Lee Turner, Chairperson; Charles Johnson; Richard Peterson; Jimmy Conyers; Ralph Thayer; Hollie MacKellar; Wayne Dyess, Planning Director; Nancy Milford, Planner; Buford King, Planner; Emily Boyett, Secretary; and Ken Watson, City Attorney  
Absent: David Martin and Rebecca Bryant

Chairman Turner called the meeting to order at 5:00 PM and announced the meeting is being recorded.

The minutes of the June 5, 2017 meeting were considered and Ralph Thayer moved to accept the minutes with one correction and was 2<sup>nd</sup> by Jimmy Conyers. The motion carried with an abstention by Charles Johnson.

\* **ZC 17.04 Public hearing to consider the request of S.E. Civil Engineering, LLC to rezone property from R-1 Low Density Single Family Residential District and R-4 Low Density Multi-Family District to PUD (Planned Unit Development), Larry Smith.** The property is located on the east side of US Hwy. 98 (a.k.a. Greeno Road) just north of Volanta Avenue, to be known as Park Place PUD. Mr. Dyess gave the staff report saying the PUD consists of 11 buildings of 2 and 3 stories totaling 60,000 sq.ft. for office, retail, medical and residential mixed use component. The residential use will be located on the 2<sup>nd</sup> and 3<sup>rd</sup> floors and will comprise 15,000 sq.ft. and an estimate of approximately 7 residential units or 25% of the total building area.

Staff recommends DENIAL of the Park Place PUD based on the following:

1. The proposed PUD is a commercial/mixed use development which is located between two villages in the Comprehensive Plan (North Village and Greeno Road Village). These villages are intended to accommodate for commercial and mixed-use development along the Greeno Road corridor, thereby creating boundaries of future commercial uses which limits “commercial creep” and strip commercial development along Greeno Road. Further, the subject properties zoning is residential as well as its Comprehensive Plan land use designation. The proposed development is not located at a designated “village” center and lies between two villages. Due to the location, size, scale and uses of the PUD, the proposed development is inconsistent with the Comprehensive Plan and its village concept and is therefore “not in accordance with” the Plan. Staff believes that to achieve the vision of the Comprehensive Plan of a village development strategy along Greeno Road, committed adherence to the Plan is necessary.
2. The proposed PUD contains references to medical and professional uses. Referencing the medical uses, the City adopted a Medical Overlay District, Section H. Article V. Fairhope Zoning Ordinance, with the intent to “establish and provide for the logical expansion of medical office needs to accommodate the growing community and region.” Although there is no outright prohibition of medical uses outside this overlay, to fulfill the intent of the overlay, medical uses should be encouraged to locate with the overlay. This may explain why the clinic or medical uses are only allowed “on appeal” and not allowed by right, pursuant Table 3.1 – Use Table of the Article III, Section B of the Zoning Ordinance.

Mr. Smith addressed the Commission saying he disagrees with the staff's interpretation of the Comprehensive Plan. He stated the Hayek PUD was approved 1 year ago and it was 17 days prior to the Comp. Plan adoption. He explained the layout will provide buffers along US Hwy. 98 and the Auburn property, shield parking from the street, and maximize walkability and open space. Mr. Smith stated the Hayek PUD set a precedent and there needs to be defined edges for the nodes outlined in the Comp. Plan. He noted the Comp. Plan does not dictate land use and the Commission recommended the properties come together and submit a plan.

Mr. Dyess stated the staff report is based on the existing regulations, ordinances, and Comp. Plan and staff does not feel it meets the requirements.

Mr. Turner opened the public hearing.

T.J. Murphy of 204 Tensaw Avenue – He noted there are issues with the Comp. Plan but we should be able to look at a master plan to know where the City is headed. He said the City needs to be workable and not over looked.

Matt Miller of 22741 Main Street – He said even though we have a Comp. Plan, the site is an eyesore and as the entrance into the City it needs to be upgraded.

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

Mr. Smith stated the property can't be developed like a normal piece because of the location and characteristics. It is bordered by Auburn to the east and US Hwy. 98 on the west and it widens from 83' to 400'. Dr. Thayer noted the letter from Auburn and commended Mr. Smith for this very workable site plan. He suggested additional buffering and landscaping along US Hwy. 98 and adding lights at the entrance. He said he does not completely agree with staff interpretation. Mr. Turner commented he agrees with Dr. Thayer and the property is an unusual shape and currently is an unattractive site. He stated he likes the plan over all but would encourage more buffering on US Hwy. 98. Mr. Turner noted concerns with the existing structures on the site not meeting hurricane standards. Mr. Peterson noted the property can accommodate residential just as well as commercial. He explained the proximity of the City facilities would encourage high density residential. Mr. Smith stated the site could accommodate approximately 7 or 8 residential units. Dr. Thayer asked about a traffic study and if ALDOT has given approval of the curb cut. Mr. Dyess recommended the Commission be specific if additional landscaping and buffering is desired. He explained the existing requirements do not specify understory or canopy trees. Mr. Peterson stated the decision at hand is for the use of the property not the aesthetics. He said landscaping will be required regardless of the use. Mr. Smith stated ALDOT is aware of the curb cuts. Mr. Conyers stated he sees both sides of the situation but he is conflicted.

Richard Peterson made a motion to deny based on the staff recommendation. Motion failed for lack of a second.

Mrs. MacKellar asked how long the site can be dormant and Mr. Dyess responded there is no limit. He recommended adding limits. Mr. Turner asked the linear footage along US Hwy. 98 and Mr. Smith answered approximately 900'. Mr. Turner stated there could be 8 or 9 lots and as many curb cuts if developed as it is currently zoned. He said he likes the proposal. Mrs. MacKellar stated she likes the proposal and said the area needs a facelift. She noted a boutique hotel is also needed. Mr. Johnson stated he likes the plan and something needs to be done in this area.

Ralph Thayer made a motion to approve the request with an increased buffer and landscaping to include understory and canopy trees. Charles Johnson 2<sup>nd</sup> the motion.

Mr. Peterson asked if there's such a demand for this type development why is the Hayek PUD still undeveloped. Dr. Thayer responded we cannot ask if there is a need for the project but review to make sure it meets the requirements.

The motion carried with the following vote: AYE – Charles Johnson, Ralph Thayer, Lee Turner, and Hollie MacKellar. NAY – Richard Peterson. ABSTAIN – Jimmy Conyers.

**ZC 17.05 Public hearing to consider the request of S.E. Civil Engineering, LLC to rezone property from R-1 Low Density Single Family Residential District to B-1 Local Shopping District, Larry Smith.** The property is located on the northwest corner of the intersection of Edwards Avenue and US Hwy. 98 (a.k.a. Greeno Road), at 861 Edwards Avenue. Ms. Milford gave the staff report saying the property is approximately .9 acres and the proposed use is a bank. Upon the Commission finding that this application is not commercial creep and leap frog development, staff would offer a favorable recommendation. Mr. Smith addressed the Commission saying the site is contiguous with B-4 zoned property and commercial PUD across the street.

Mr. Turner opened the public hearing.

Elmer Vick of 102 Ingleside Terrace Circle – He stated access to Greeno Road from Edwards Avenue is already very difficult and this development will compound the problem. He noted B-1 allows much more than just a bank and he requested the Commission deny the request.

T.J. Murphy of 204 Tensaw Avenue – He stated this rezoning will set a precedent for the R-1 properties along Greeno Road. He said the Commission seems to be granting a lot of exceptions to the Comp. Plan. He explained the plans are not bad but they don't fit with the current Comp. Plan vision and should be denied. He said development should be driven by the community.

Mr. Dyess stated this request is different from the last case because this property is contiguous with existing commercially zoned property. He noted buffering would also be required between the incompatible uses if approved. He added the site falls under the threshold for site plan requirements and will not come back before the Commission.

Ronna Field Yeager of 105 Ingleside Terrace Circle – She stated concerns with the entrance into the property and the increased traffic on Edwards Avenue. She asked what is proposed. Mr. Turner explained the applicants have indicated a bank is to be developed but he noted there are multiple uses allowed in the B-1 zoning district.

Jerome O'Brien of 9985 Gayfer Road Extension – He stated he is representing the bank for real estate purposes. He explained there will be a 20' buffer along the east and west sides of the property. He noted the hours will be 9 to 5 Monday through Friday with an ATM and drive-thru. He stated the applicant would have requested a more stringent zoning but B-1 is the only zoning district which allows a bank. Mr. Dyess explained the property will have to meet the requirements of the Zoning Ordinance for use and buffering if the application is approved. He cited Article IV, Section B. for buffering requirements.

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

Dr. Thayer asked if there will be an ATM and noted at other locations the lighting seems to be intrusive but necessary due to safety. Mr. Dyess stated lighting is a valid concern and a 10' pole height limit with no-spill covers will help to alleviate those issues. He stated, if approved, the site plan will be reviewed to verify compliance with all current regulations. Mr. Conyers asked if there is another more restrictive zoning district which allows a bank and Mr. Dyess responded no. Mr. Peterson asked for a definition of the





Revised  
July 28, 2017

**Mr. Wayne Dyess**  
**Planning and Zoning Director**  
**City of Fairhope**  
**555 S. Section Street**  
**Fairhope, Alabama 36526**

**Re: PUD Application for Park Place on Greeno**

Dear Wayne:

Attached is the PUD application for Park Place on Greeno. The properties addresses are 806 & 812 North Greeno Road. The site is directly across from the Municipal Pool. The existing properties consist of a trailer park and residential rental property. Carrigan Properties is proposing to construct a professional office and commercial complex. The site is unique in the fact that it is triangular in nature, narrow at the southern end and widening as you head north. The idea is to create a unique walkable mixed use development having opportunities for professional, medical, residential, and commercial/retail uses.

The proposed layout will consist of one (1) full access off of Greeno Road and one (1) limited access off of Greeno Road. The site will also promote cross access by providing an access drive to the property to the north. The site will have landscape buffers along the residential properties to the north and East. The property will have the required landscaped strip along Greeno Road. The proposed site will include sidewalks, courtyards, greenspace, approximately 200 parking spaces, and multiple buildings. Below are the specifics of what we are proposing.

**PUD Approval Requirements:**

*Encourage opportunities for development innovation tailored to a particular site, that while clearly furthering the goals of the comprehensive plan, could not explicitly be established by generally applicable standards or guidelines:*

The two properties that make up this proposed PUD are currently zoned R-1 and R-4. The current uses are a single family residence and a trailer park. The property cannot be developed into a standard residential development due to depth issues. The property is bound on the East by the Auburn Extension, so there is not the ability to assemble additional property in order to create a traditional residential neighborhood. This PUD will allow the land to be developed in a manner that is tailored to this particular site. The property is triangular in nature. The southern end of the property is narrow and it widens out as you head north. By utilizing a PUD we are able to provide a mixed use development. The development will shift the majority of the parking towards the northern end of the development, allowing businesses and residences on the southern end which would not have worked due to depth constraints. The development also utilizes parallel parking on the front (Green Road Side) of the development in order to not create a "sea of parking" as your view corridor from Green Road. The majority of the parking 79% is behind the front wall of the buildings.

Looking at the comprehensive plan, the development lies between the North Village and the Greeno Road Village. Please note the comprehensive plan does not define the extents of these villages. On the Composite Analysis Map the drawing does provide a “growth crescent” where growth is most likely to occur. It then states “Of course, growth is not always dictated by maps and analysis—the private sector and property owners must make investment and market conditions must be favorable. Based on this map, the proposed PUD is on the outside edge of both the North Village and Greeno Road Village. We have based our analysis on the Greeno Road Village.

Per the Comprehensive Plan the Greeno Road Village reflects the “Fairhope Image” through controlled signage, interconnectivity, sidewalks, trails, and extensive landscaping. We are meeting the signage aspect by providing common ground mounted signage for the development. We are meeting the interconnectivity aspect by providing a connection point to the property to the north. There is not a potential for development to the East or South. We are meeting the sidewalk aspect by providing sidewalks throughout linking the development internally and through future developments along this corridor. We are meeting the extensive landscaping aspect by providing a landscape buffer along Greeno Road and providing a design that has 31% landscaping.

*Allow mixed-use development which offer a greater variety in type, design, and layout of buildings:*

The proposed PUD will be mixed use allowing residential uses mixed within the development. The development proposes to have up to 15,000 sf of residential uses which is 25% of the total buildable square footage. The PUD will allow unique setbacks which will allow the buildings to be built arranged in a manner that will offer courtyards, sidewalks between buildings, and open space to prevent the feel of a commercial strip center.

*Encourage land conservation, and more efficient use of open space:*

The PUD will allow the buildings to be arranged to create common courtyards and walkways. The central placing of the buildings will allow greater perimeter greenspace.

*Permit modification of certain controls in a manner so as to produce large area development arranged to better serve community needs:*

By allowing the PUD versus a traditional rezoning to commercial, the city will be protected in the style and look of the development along with the types of uses that are permitted.

**Surrounding Zoning:**

South: R-1

West: R-1

North: R-1

East: R-1

**Surrounding Uses:**

South: Undeveloped – Landscaping (Auburn Extension)

West: Municipal Pool

North: Residential

East: Agriculture (Auburn Extension)

**Buffers:**

The development will provide ten (10) foot landscape buffers along the residentially zoned parcels (East and North). The buffers will conform to the City of Fairhope Landscape Ordinance and include at a minimum an opaque eight (8) feet fence in height and a four foot wide strip of evergreen plantings which will grow to at least six (6) feet in height within three (3) full growing seasons on the inside of the fence.

**Landscape Strip:**

The development will provide a twenty-five (25) foot landscape strip along Greeno Road. The landscape strip will conform to the City of Fairhope Landscape Ordinance. The landscape strip will contain approximately 17 shade trees, approximately 8 understory accent trees, and approximately 1,300 shrubs. This is in addition to the 11 mature Live Oaks, and +/- 10 Crapemyrtles that are situated between the Greeno Road pavement and the edge of the right-of-way along the Park Place frontage.

**Areas**

Total acreage of property is ±5.27 acres.

Total open space (courtyards, sidewalks, landscaping): ±112,176 square feet (48.9%)

The total amount of impervious cover is as follows:

Buildings (ground floor): ±41,160 square feet (18.0%)

Paving: ±58,026 square feet (25.3%)

Sidewalks/Courtyards/Plazas: ±31,020 square feet (13.5%)

Total pervious paving: ±18,176 square feet (7.9%)

Total landscaping: ±81,156 square feet (35.3%)

**Buildings**

The total building area is 60,000 square feet (Net Usable Area). The maximum ground floor footprint of the buildings is 41,160 square feet. A maximum of three stories is allowed. Building height will be subject to the regulations at the time of building permit submittal.

**Parking**

The development will maintain a parking ratio of 1 space per 300 square feet of floor area. The total number of parking spaces is 201 spaces. Handicap parking spaces will be located around the development in accordance with ADA regulations. The development will have two (2) loading/unloading spaces with dimensions of approximately 11'x40'. The unloading spaces shall be centrally located.

**Hours of Operation:**

The hours of operation for the commercial development will be in the range of 7:00 am to 12:00 pm.

**Proposed Uses:**Office/Professional/Personal Service

General and professional offices. Various service-related businesses. Professional office of all kinds including architecture, engineering, accounting, law, real estate, financial planner, bank with up to two drive through lanes, investment manager, IT consultant, computer services, insurance, beauty salon, barber shop, etc.

Medical/Professional

Medical tenants of all kinds including doctor's offices and clinics, dentistry, optometry, dermatology, chiropractic, psychiatry, counseling, pharmacy (with up to two drive through lanes), medical supplies, medical testing/laboratory, etc.

Retail

Limited to businesses that support the office/medical/professional tenants in the development, these tenants typically will occupy spaces on the first floor. Retail use shall not exceed 25% (15,000 sf) of the total gross square footage for the entire development. The type of businesses we propose for acceptance would include the following:

- Sandwich shop or deli
- Coffee shop
- Juice/smoothie shop
- Ice cream/candy shop
- Office Supplies
- Gift Shop
- Boutique Merchandise
- General Merchandise, big box stores prohibited
- Restaurant
- No drive through food service will be allowed.
- Sidewalk cafes in patio/park areas

Residential (Mixed Use)

Residential units will be limited to the second or third floor on buildings fronting Greeno Road (US 98). All other buildings can have residences on any floor. Residential use shall not exceed 25% (15,000) of the total gross square footage for the entire development.

Other

Other potential uses would include boutique hotels and churches.

We respectfully request that the Planning Commission recommend approval to and the City Council approve the rezoning of these parcels (05-46-03-39-0-001-009.000 & 05-46-03-39-0-001-001.001) from R-1 & R-4 to PUD. We feel this project conforms to the comprehensive plan and is compatible with the Hayek PUD (ZC 15.11) approved in May of 2016 which is located north of this site.

If you have any questions, please let me know.

Sincerely,



Larry Smith, PE  
larry@secivil.pro

## LEGAL DESCRIPTION

Commence at a 2-inch iron pipe marker at the "locally accepted" Northeast corner of Grant Section 39, Township 6 South, Range 2 East, St. Stephens Meridian, and run thence South, a distance of 329.31 feet for a Point of Beginning; thence continue South, a distance of 699.45 feet to an old 1-inch open end iron pipe marker; thence run West 83.03 feet to an iron pin marker on the east margin of U.S. Highway Number 98, a/k/a Greeno Road; thence run North 23 degrees 23 minutes 12 seconds West, along said right-of-way, a distance of 182.58 feet to an iron pin marker; thence run Northwestwardly, continuing along said right-of-way, along a curve to the right, having a radius of 3738.72 feet, an arc length of 471.53 feet (chord bears North 19° 46' 27" West, 471.21 feet) to a 6-inch x 6-inch concrete right-of-way monument at alignment "a" station 122+16.02 (construction station 122+20.97); thence run North 16° 10' 21" West, continuing along said right-of-way, a distance of 92.19 feet to an iron pin marker; thence run South 89° 59' 00" East, 340.6 feet to the point of beginning. Tract contains 3.57 acres, more or less, and lies in the North 1/3 of Grant Section 39, Township 6 South, Range 2 East, Baldwin County, Alabama.

and

Lot 2, Art's Subdivision as recorded in Map Book 11, page 181 of the records in the office of the Judge of Probate, Baldwin County, Alabama.

RECEIVED  
MAY 23 2017  
BY: *EA*



Park Place on Greeno  
Planned Unit Development  
Legal Description

## Emily Boyett

---

**From:** Mark Stirling <ms0001g@auburn.edu>  
**Sent:** Thursday, June 22, 2017 12:46 PM  
**To:** Emily Boyett  
**Subject:** FW: Park Place PUD, Case ZC 17.04

Emily – I received the notice of public hearing for the rezoning on Park Place PUD. Thank you for reaching out for Auburn University's input into the planned development. While we have no problem in the proposed change from the mobile home park to the proposed use, we do have some concerns about increasing the density adjacent to our operation. The zoning change should bring in a different type of neighbor rather than the current ones who occasionally toss trash onto our property. One concern would be the need for screening or fencing between the two properties. Our stations tend to be treated very similar to rural farms in that some people use them for their own off-road tracks, dog runs, garbage sites, and hiking trails. Having some type of barrier between AU property and the edge of their property would be a suggestion that we would support.

Please give me a call if we need to discuss.



auburn.edu

**Mark Stirling**

*Director of Real Estate  
President's Office*

06 Samford Hall  
Auburn, AL 36849-5113  
334-844-5874  
Fax: 334-844-7146  
Cell: 334-750-9229  
ms0001g@auburn.edu

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE AMENDING ORDINANCE NO. 1253  
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of Robert and Debra Green generally located 415 N. Greeno Road, Fairhope, Alabama.

**TAX PARCELS:   05-46-03-39-0-002-152.017  
                      05-46-03-39-0-002-152.018  
                      Portion of 05-46-03-39-0-002-152.010  
                      Portion of 05-46-03-39-0-002-152.000**

**Legal Description:** (Case number ZC 17.07)

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 OF BLOCK 24, OF GREEN SUBDIVISION AS RECORDED IN DEED BOOK Y PAGE 740 IN JUDGE OF PROBATES OFFICE, BALDWIN COUNTY, ALABAMA, THENCE RUN SOUTH ALONG THE WEST LINE OF SAID BLOCK 24 A DISTANCE OF 350.8 FEET TO A POINT ON THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT, THENCE RUN SOUTH 30 DEGREES 00 MINUTES ALONG SAID NORTHEASTERLY LINE A DISTANCE OF 287.7 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LIVE OAK AVENUE; THENCE RUN EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 71 FEET, MORE OR LESS TO A POINT; THENCE RUN NORTH 45 DEGREES 00 MINUTES EAST, A DISTANCE OF 35 FEET, MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF GREENO ROAD; THENCE RUN NORTH, ALONG SAID WEST RIGHT-OF-WAY LINE. A DISTANCE OF 550 FEET, MORE OR LESS TO A POINT; THENCE RUN NORTH 45 DEGREES 00 MINUTES WEST, A DISTANCE OF 35 FEET, MORE OR LESS TO A POINT LYING ON THE SOUTH RIGHT-OF-WAY LINE OF HOYLE AVENUE; THENCE RUN WEST, ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 215 FEET, MORE OR LESS TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 2.8799. MORE OR LESS ACRES.

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

**The property is hereby rezoned from R-1 Low Density Single Family Residential District to B-2 General Business District.** 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.

Ordinance No. \_\_\_\_\_

Page -2-

**Severability Clause** - if any part, section or 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.

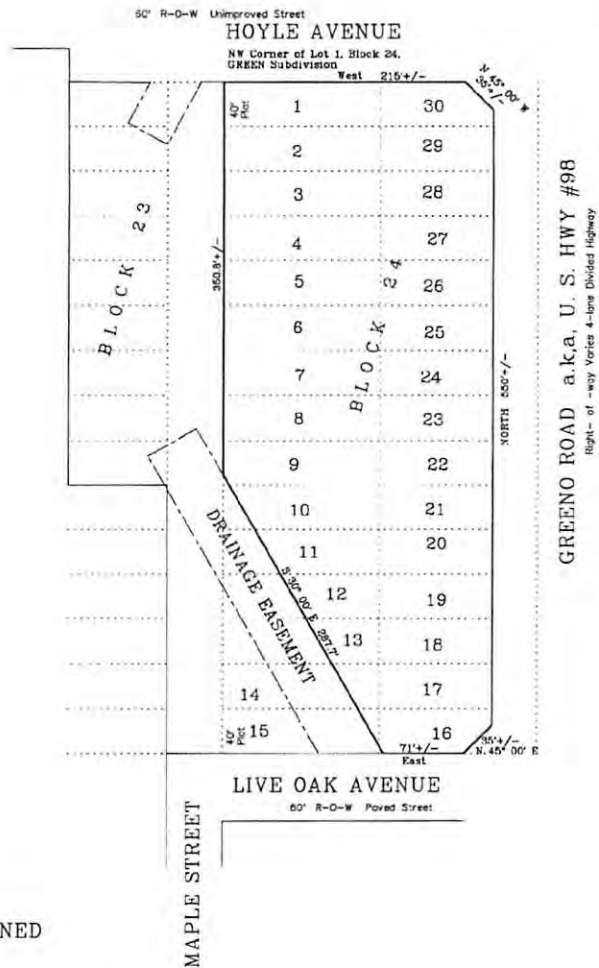
ADOPTED THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk





**PROPOSED PROPERTY TO BE RE-ZONED**

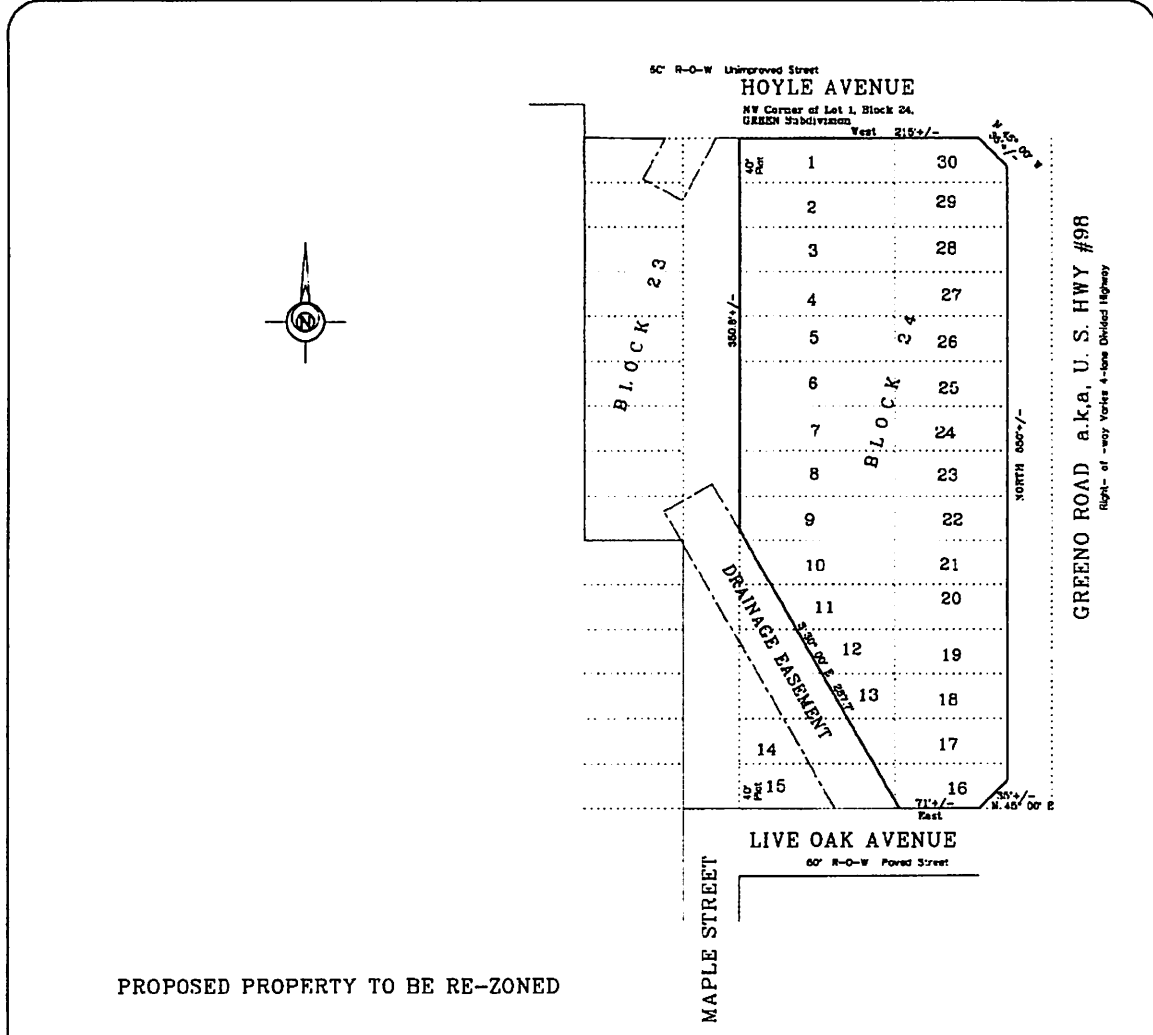
LEGAL DESCRIPTION:  
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<p><b>MOORE SURVEYING, INC.</b> PROFESSIONAL LAND SURVEYING 555 NORTH SECTION STREET, FAIRHOPE, ALABAMA 36532 PHONE (251) 928 - 6777 Email mooresurveying@bellsouth.net</p>	<p>MR. BOB GREEN</p>	<p><b>LEGEND</b></p> <p>PR = Private Right C = Centerline UD = Underground M = Marker MCO = Monument CA = Corner FC = Fence Corner R = Rodded APC = Air Photo TTL = Telephone BM = Bench Mark F.V. = Flag S = Set Back TTL = Tower F.P. = Fixed Iron Pin</p>	<p>SCALE 1" = 100'</p>
			<p>DATE 6/23/2017</p>
			<p>FIELD WORK DATE</p>
			<p>DRAWN BY SWM</p>
			<p>JOB NO. 2017 91</p>
			<p>REVISIONS</p>

**Exhibit A**



**PROPOSED PROPERTY TO BE RE-ZONED**

**LEGAL DESCRIPTION:**  
 BEGINNING AT THE NORTHWEST CORNER OF LOT 1 OF BLOCK 24, OF GREEN SUBDIVISION AS RECORDED IN DEED BOOK Y PAGE 740 IN JUDGE OF PROBATES OFFICE, BALDWIN COUNTY, ALABAMA, THENCE RUN SOUTH ALONG THE WEST LINE OF SAID BLOCK 24 A DISTANCE OF 350.8 FEET TO A POINT ON THE NORTHEASTERLY LINE OF A DRAINAGE EASEMENT, THENCE RUN SOUTH 30 DEGREES 00 MINUTES ALONG SAID NORTHEASTERLY LINE A DISTANCE OF 287.7 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LIVE OAK AVENUE, THENCE RUN EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 71 FEET, MORE OR LESS TO A POINT; THENCE RUN NORTH 45 DEGREES 00 MINUTES EAST, A DISTANCE OF 35 FEET, MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF GREENO ROAD; THENCE RUN NORTH, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 550 FEET, MORE OR LESS TO A POINT; THENCE RUN NORTH 45 DEGREES 00 MINUTES WEST, A DISTANCE OF 35 FEET, MORE OR LESS TO A POINT LYING ON THE SOUTH RIGHT-OF-WAY LINE OF HOYLE AVENUE; THENCE RUN WEST, ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 215 FEET, MORE OR LESS TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 2.8799, MORE OR LESS ACRES.

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**MOORE SURVEYING, INC.**  
 PROFESSIONAL LAND SURVEYING  
 656 NORTH SECTION STREET,  
 FAIRHOPE, ALABAMA 36532  
 PHONE (251) 928 - 6777  
 Email mooresurveying@bellsouth.net

MR. BOB GREEN

<b>LEGEND</b>	APP - Survey File	SCALE	1" = 100'
	CL - Conveyance	DATE	8/23/2017
	CON - Conveyance	FIELD WORK DATE	
	PLAN - Conveyance	DRAWN BY	SWM
APP - App. Lease	JOB NO.	2017 91	
CON - Conveyance	REVISIONS		
PLAN - Conveyance			
APP - App. Lease			
CON - Conveyance			
PLAN - Conveyance			

Exhibit A

SEE 2004 227



# City of Fairhope City Council

Case: ZC 17.07 Green Nurseries

**Project Name:**  
Green Nurseries

**Project Type:**  
Rezoning

**Current Zoning District:**  
R-1 Low Density Single-Family  
Residential District

**Proposed Zoning District:**  
B-2 General Business District

**PPIN Number:**  
17231, 114269, 200528, and  
202819

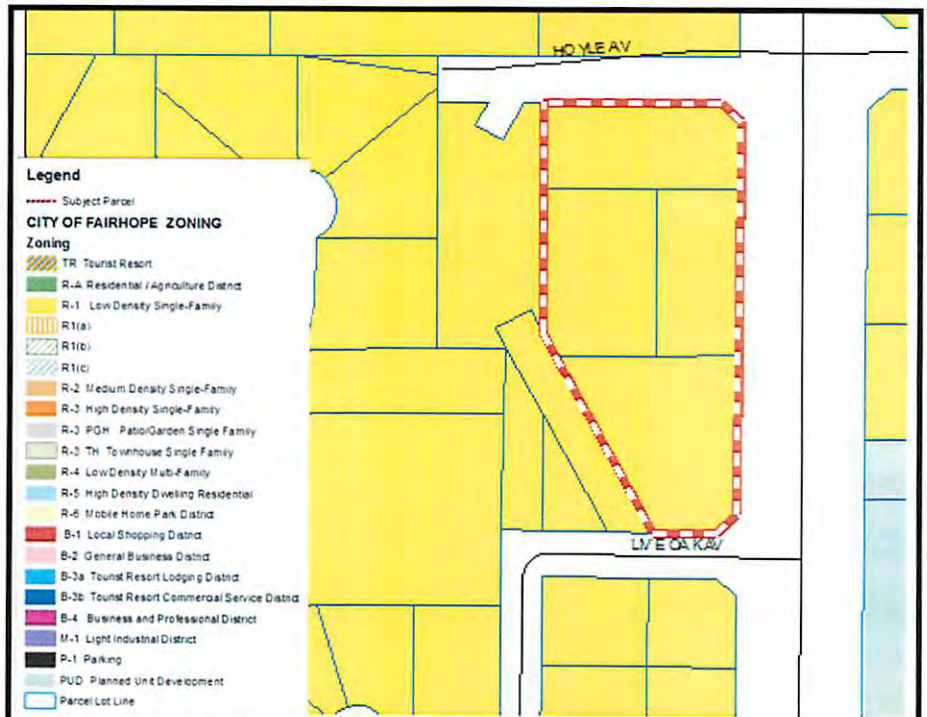
**General Location:**  
415 N. Greeno Road

**Owner:**  
Robert and Debra Green

**School District:**  
Not Applicable

**Staff Recommendation:**  
Approve as requested

**PC Recommendation:**  
Unanimous favorable  
recommendation to approve



**Summary of Request:**

Robert and Debra Green, owners of Green Nurseries, are requesting to rezone the subject property along Greeno Road, commonly known as Green Nursery, from R-1 Low Density Single-Family Residential District to B-2 General Business District. The site is currently occupied by an operating retail nursery.

The subject property is located at 415 North Greeno Road. It consists of 2.6 acres and currently has a retail nursery operation and has been a retail nursery operation historically.

Per the City Revenue Office, the subject properties have 3 business licenses issued:

1. Landscape Architecture
2. Landscape Retail
3. Misc. Retailer (this license code includes florist, gift, novelty, pet, art. Tobacco and used merchandise). This license has been issued by the City since the 1980's.





According to the Fairhope Zoning Ordinance, Article III, Section A, the purpose of the zoning district is as follows:

**B-2 General Business District: This district is intended to provide opportunity for activities causing noise and heavy traffic, not considered compatible in the more restrictive business district. These uses also serve a regional as well as a local market and require location in proximity to major transportation routes. Recreational vehicle parks, very light production and processing activities are included.**

The allowable uses in the B-2 District are as follows:

<b>B-2 General Business District *</b>
<b>Permitted by Right</b>
Single Family
Two Family
Mixed Use
Elementary School
Secondary School
Education Facility
Library
Public Open Space
Common Open Space
General Office
Professional Office
Grocery
General Merchandise
Shopping Center
General Personal Services
Automobile Repair
Indoor Recreation
Boarding House or Dormitory
Restaurant
Bar
Entertainment Venue
<b>Permitted Subject to Special Conditions</b>
Townhouse
Accessory Dwelling
Home Occupation
Convenience Store
Recreational Vehicle Park
<b>Permitted Only on Appeal and Subject to Special Conditions</b>
Cemetery
Hospital
Community Center or Club
Public Utility
Automobile Service Station
Outdoor Sales Limited
Outdoor Sales Lot

Garden Center
Convalescent or Nursing Home
Clinic
Outdoor Recreation Facility
Day Care
Mortuary or Funeral Home
Dry Cleaner / Laundry
Personal Storage
Hotel / Motel
Kennel or Animal Hospital
Limited Manufacturing

***\*Any free standing single use or tenant retail building in any other business zoning district shall not have a building footprint larger than 8,000 square feet.***

**Comments:**

**Surrounding Properties**

Directly south of the subject property and across Live Oak Street, fronting Greeno Road, is the Linwood Subdivision, platted in 1958. The Linwood Subdivision is zoned R-1 Low Density Single-Family Residential District and consists of 10 lots, 133’x118’ in size, with 5 lots fronting Greeno Road and 5 lots fronting Maple Avenue. Of the 5 lots, fronting Greeno Road, 3 lots are vacant and 2 lots are occupied with residential structures. Of the 5 lots, fronting Maple Avenue, 4 lots are vacant and 1 lot is occupied with a residential structure.

South and east of the subject property is the Arbor Gates apartment community which was approved as a PUD. Directly east of the subject property, across Greeno Road are 3 lots zoned R-1 Low Density Single-Family Residential District. These lots are approximately 24,000 square feet each with 2 of 3 of the lots containing single residences of 1,680 square feet, built in 1945 (520 North Greeno Road - homesteaded) and single residences of 1,560 square feet, built in 1955 (546 North Greeno Road - not homesteaded) according to the Baldwin County Revenue Commission records.

Directly north of the subject property is approximately 16 acres of undeveloped property zoned R-1 Low Density Single-Family Residential District, fronting Greeno Road, owned by Seaman Capital, LLC, currently for sale.

Directly west of the subject property is the Deep Tree Forest 4th edition subdivision plat recorded in 1977 and Deep Tree Forest 3<sup>rd</sup> edition subdivision plat recorded in 1971. These lot sizes range from approximately 15,000 – 20,000 square feet and are zoned R-1 Low Density Single Family Residential District.

**Zoning History**

It appears that the subject property has been zoned single family residential since at least 1961, based on a 1961 City of Fairhope Zoning Map.

In 2002, the Greeno Road Professional Village PUD (Dyas PUD ZC 02.01) was approved. The property is located on the east side of Greeno Road, south of Gayfer Road extension. It was rezoned from R-1 Low Density Single Family Residential, R-3 High Density Single Family Residential and R-4 Multi-family to

Planned Unit Development (PUD). The PUD contains a series of lots fronting Greeno Road. The permitted uses shall be business and professional offices.

In 2007, the Greeno-Gayfer Medical Park PUD (ZC 06.18) was approved. The property is located on the west side of Greeno Road at the corner of Gayfer Avenue and Greeno Road. It was rezoned from R-1 Low Density Single Family Residential to PUD. The PUD contains 2 - 2 story buildings for a combined gross floor area of 48,900 square feet. The permitted uses are medical facilities and related uses.

In 1993, the Arbor Gates Apartments was approved as a PUD.

In 2016, Case No. ZC 15.11 was a request of Fred Hayek to rezone property from R-1 Low Density Single Family Residential District to PUD (Planned Unit Development) consisting of 4, 2-story buildings for office/professional, retail, medical and food service uses. The property is located on the east side of Greeno Road across from Hancock Road, at 848 N. Greeno Road (Parcel #: 05-46-03-08-0-003-062.000). The Planning Commission recommended approval of the PUD at their November 2, 2015 meeting. The Fairhope City Council approved the PUD on May 27, 2016.

In July of 2017, the Park Place PUD requested to rezone their property from R-1 Low Density Single-Family and R-4 Low Density Multi-family to Planned Unit Development (PUD). The property is located on the east side of Greeno Road across from the City Recreation Center/Volanta Park. The PUD consists of 11 buildings of 2 and 3 stories totaling 60,000 sq.ft. for office, retail, medical and residential mixed use component. The residential mixed use will be located on the 2nd and 3rd floors and will comprise 15,000 sq.ft. and an estimate of approximately 7 residential units (15,000 sq.ft. / 2,000 sq.ft. estimated average of a residential unit sq.ft.) or 25% of the total building area. The Planning Commission recommended approval of the PUD request, the case will be scheduled to be heard by the City Council.

### Non-conforming

The subject Green Nursery property is currently non-conforming and is subject to Article VII of the Fairhope Zoning Ordinance. Essentially what non-conforming means is that the current use of the property fails to conform to current zoning which it is in. Therefore, the subject property's use cannot be enlarged or extended and no additional structures can be added. In this case, the subject property is occupied with a retail nursery, landscape architect office, and miscellaneous retail. The current zoning of the subject property is R-1 Low Density Single-Family Residential District, which only allows single family homes. No commercial or retail uses are allowed. Clearly, the current use is non-consistent with current zoning. Records indicate that subject property has been nonconforming since at least 1960 according to historical Planning and Zoning Commission minutes.

### Comprehensive Plan

The City of Fairhope Comprehensive, Development Framework, provides the following guidance for commercial development along Greeno Road:

*“Evaluate proposed development with careful consideration to the long term vitality of downtown and the other existing and potential villages<sup>1</sup>.”*

---

<sup>1</sup> City of Fairhope Comprehensive Plan, Page 20



*“Define the commercial growth of Greeno Rd. with edges, thus, ensuring an appropriate ending point<sup>2</sup>.”*

The Comprehensive Plan calls for a Greeno Road Village Center at the intersection of Greeno Road and Fairhope Avenue. The Comprehensive Plan acknowledged the long and controversial debate regarding the commercialization of Greeno Road<sup>3</sup>. The Comprehensive Plan says the following: “The people of Fairhope spoke loudly and clearly that it is the community’s overwhelming desire to limit the north and south “commercial creep”, thereby creating edges to the more automobile-oriented nature of the Greeno Road<sup>4</sup>. It also calls for “Edges - Greeno Road commercialization must have a clear edge--where it stops and where it begins<sup>5</sup>”.

The current Plan clarified the location of the two existing villages on Greeno Road that affect the subject property. The “North Village”, which is the site of the Fairhope Publix shopping center, is located north of the subject property and the “Greeno Road Village” located at intersection of Greeno Road and Fairhope Avenue, as depicted in Figure 1. City of Fairhope Preferred Plan Concept - Excerpt. Villages are contemplated to have between 30,000 to 180,000 sq.ft. of commercial area at each location.

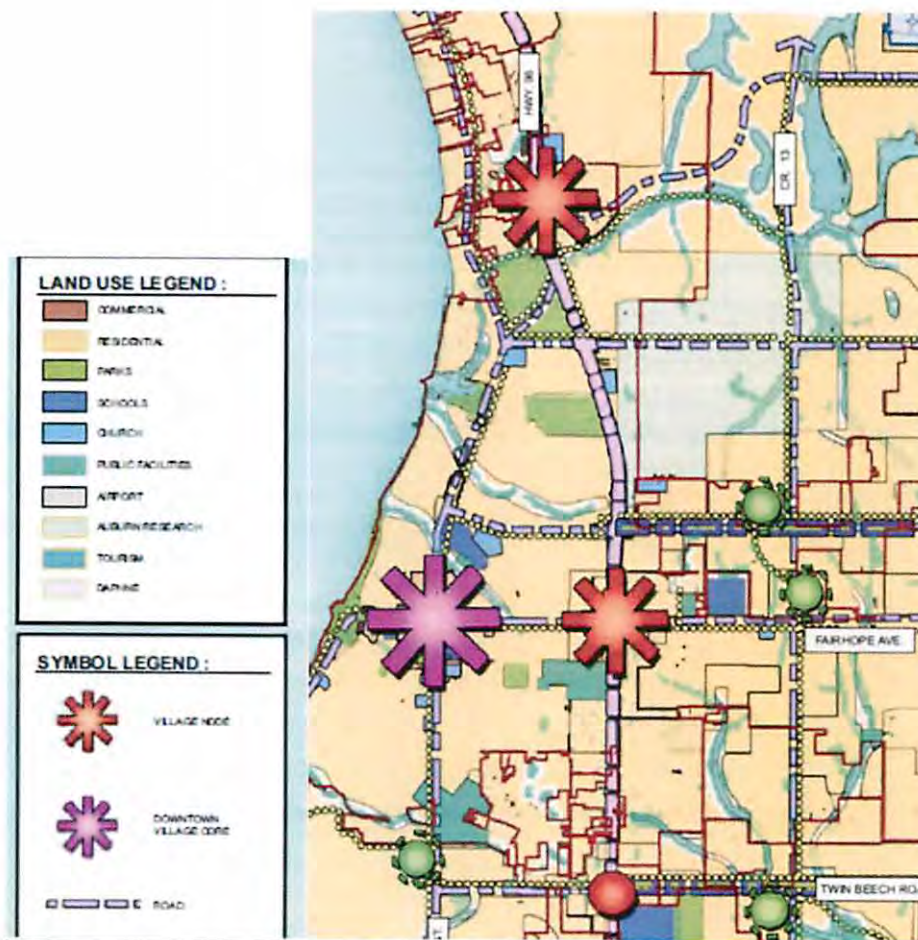


Figure 1. City of Fairhope Preferred Plan Concept – Excerpt

<sup>2</sup> City of Fairhope Comprehensive Plan, Page 20

<sup>3</sup> City of Fairhope Comprehensive Plan, Page 36

<sup>4</sup> City of Fairhope Comprehensive Plan, Page 36

<sup>5</sup> City of Fairhope Comprehensive Plan, Page 36

Specific to Greeno Road/U.S. 98 corridor, the Comprehensive Plan calls to “limit the north and south commercial creep<sup>6</sup>” along Greeno Road and to create edges along Greeno to indicate “where it (commercial) stops and where it begins<sup>7</sup>”. The Zoning Ordinance goes so far to identify the Greeno Road Village Center and impose limits on the size of free standing “single use or tenant retail building<sup>8</sup>” along Greeno Road.

Further, under the 2016 Plan, the Development Framework, provides the following objective: “Guide commercial and high density growth to locations that can be efficiently and effectively served with utilities and public services such as police, fire, and public works.” A strategy under this objective calls for the City to “Define the commercial growth of Greeno Rd. with edges, thus, ensuring an appropriate ending point<sup>9</sup>”. The Greeno Road Village and North Village fulfills this goal by creating definable locations to accommodate commercial growth rather than creating an unplanned strip commercial corridor.

The Plan contains permissible language for commercial development along Greeno Road per the following: “Only approve commercial growth that is contiguous to existing commercial activity, thereby eliminating leap frog commercial development<sup>10</sup>.”

Approximately 600’ separates the subject property from the Greeno-Gayfer Medical Park PUD (ZC 06.18) on the south side of the subject property, the Arbor Gates PUD is contiguous to the subject property on the east side. In reviewing the historical development of the Linwood Subdivision, the age of the existing 2 homes located on Greeno Road, its apparent that single family residences are not desirable at this location. Additionally, the Greeno Road Professional Village PUD is located south Gayfer Road Extension.

Historically, commercial development along Greeno Road has been difficult and controversial. Concerns have been expressed through the years about Greeno Road development jeopardizing the viability of the downtown commercial district area. This concern has also been expressed in the City of Fairhope Comprehensive Plan update of 2015/16 through the Development Framework statements.

Although this may have been a valid concern many years ago, downtown Fairhope today is a vibrant shopping and entertainment experience, pedestrian and bike oriented, filled with cafes, restaurants and shops. Downtown is the center for community activity and cultural and civic events, which distinguishes it from other commercial/village center areas of the City. In many regards, this strategy worked. However, the significant change in population and visitors over the years has created larger proportionate demands for commercial goods and services in Fairhope.

Strip commercial development was also viewed as a threat to the aesthetics and viability of Greeno Road and neighboring properties and the fear that Fairhope would lose its unique identity. This has again been reflected in the City of Fairhope Comprehensive Plan with statements calling for clear edges and defining the perimeters of commercial development along Greeno Road.

---

<sup>6</sup> City of Fairhope Comprehensive Plan, page 36

<sup>7</sup> City of Fairhope Comprehensive Plan, page 36

<sup>8</sup> City of Fairhope Zoning Ordinance, Article III, Section C.4., page 22

<sup>9</sup> City of Fairhope Comprehensive Plan, Page 20

<sup>10</sup> City of Fairhope Comprehensive Plan, Page 46, Goals and Tasks

However, it should be noted that the City has adopted measures to protect against the strip commercial development that many fear. For example, the Fairhope Zoning Ordinance, Article III, Section C. 4. Free-standing Commercial Structures states the following:

***a. Any freestanding single use or tenant retail building in the Greeno Road Village Center as contemplated in the Comprehensive Plan shall not have a building footprint larger than 18,000 square feet.***

***b. Any free standing single use or tenant retail building in any other business zoning district shall not have a building footprint larger than 8,000 square feet.***

This section of the Zoning Ordinance creates a hierarchy of commercial uses and sizes of those uses by establishing that the Village Center (in this area, the Greeno Road Village Center) is the dominant commercial area allowing up to 18,000 square feet of free standing non-contiguous building footprint and all other commercial areas are subordinate at 8,000 square feet of free standing non-contiguous building footprint. This subordinate role of non-village district commercial uses is validated further by dimensional and use tables of the village districts<sup>11</sup>.

In addition, Ordinance No. 1444 (Tree Ordinance) requires a front perimeter 10' landscape strip adjacent to the right-of-way<sup>12</sup>, at least 1 over story tree within the 30' setback per each 30 linear feet of frontage<sup>13</sup>.

Although there are more enhancements that could be made regarding curbing strip development, these measures combined have an impact and do provide safeguards against strip commercial development.

#### Traffic Data

According to the Alabama Department of Transportation, the 2015 annual average daily traffic (AADT) data for Greeno Road, very near the subject property is 23,610 trips per day on the section of Greeno Road north of Gayfer Avenue and south of Hoyle Avenue. As a frame of reference, the AADT for the commercial corridor in Daphne, slightly south of I-10 is 35,920 trips<sup>14</sup>.

#### Compatibility

The term "compatibility" is commonly defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. In reviewing the subject properties in terms of compatibility with the adjacent properties, several issues are evident.

The subject properties contain a gully to the rear (west side) of the property represented with a drainage easement. This gully serves as a natural physical barrier and buffer to the residential properties to the west. This gully is shown on the map in Figure 2. below through the topographic changes near Lillian Circle. In addition, a 20' landscape buffer is required by the Zoning Ordinance to

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<sup>11</sup> City of Fairhope Zoning Ordinance, Article VI. Section B. table 5-2

<sup>12</sup> Tree Ordinance No. 1044, Section 20.5-4

<sup>13</sup> Tree Ordinance No. 1044, Section 20.5-5

<sup>14</sup> <https://aldotgis.dot.state.al.us/atd/default.aspx>

minimize impact between uses<sup>15</sup>. It is staff's opinion that the natural topographic features and the required buffers provides necessary measures to protect against potential negative impacts. However, this use has been in existence for many years, likely before the neighboring properties were developed and homes constructed.

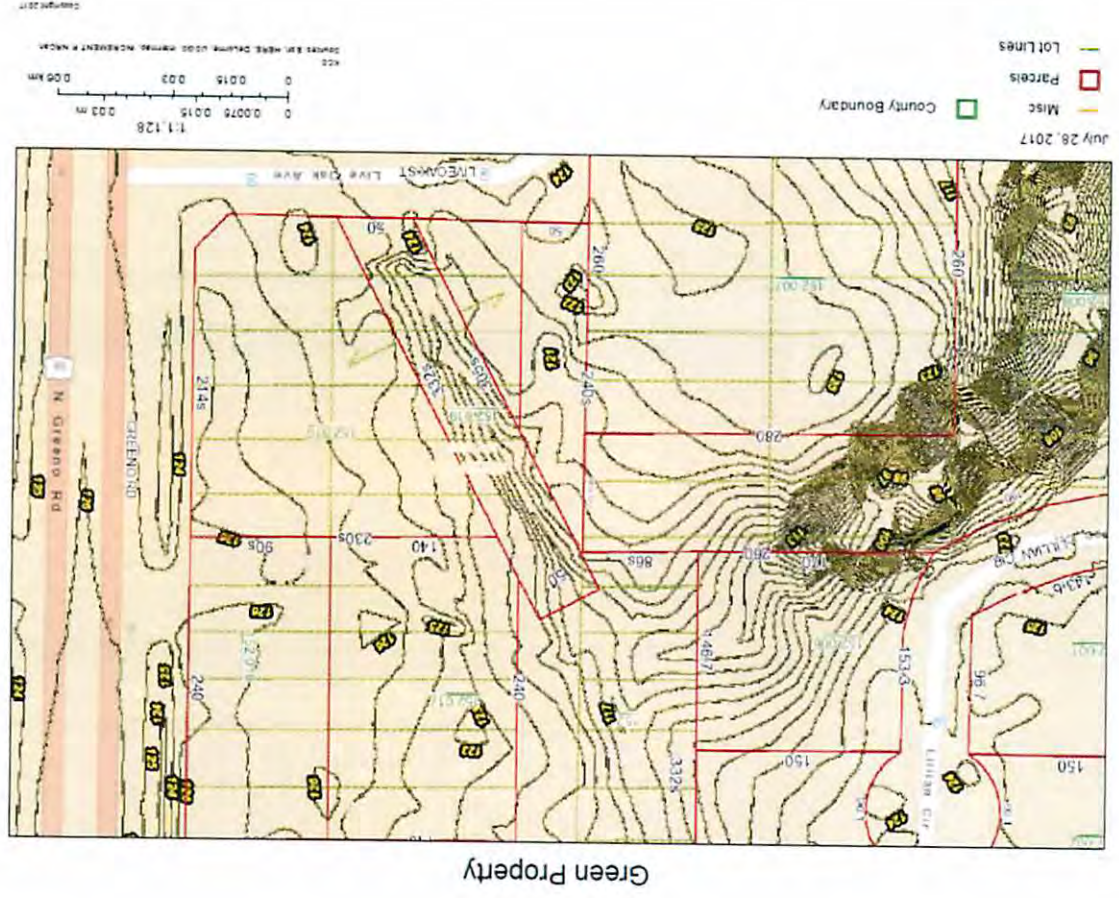


Figure 2.

The Linwood Subdivision south of the subject property is zoned residential. However, only 3 out of 10 lots have been developed since 1958, with 2 homes fronting Greeno Road built in the early 1960's. This subdivision separates the subject property from the PUD at the intersection of Greeno Road and Gayfer Avenue.

Commercial Creep

The Comprehensive Plan uses the term "commercial creep"<sup>16</sup> and the need to establish clear edges of commercial development. However, it is clear from data on residential construction along Greeno Road, that single family residences are not desirable or marketable.

The Comprehensive Plan does not necessarily define the boundary or limits of commercial development along Greeno Road. However, it is staff's opinion that logical boundaries should be

<sup>15</sup> City of Fairhope Zoning Ordinance, Article IV Section B, 2 (a)  
<sup>16</sup> City of Fairhope Comprehensive Plan, page 36

discussed and addressed at some point so that they can be effectively communicated to the public. In this case, a natural boundary already exists on the east of Greeno Road, north of Dyer Road, through the Auburn University Gulf Coast Research and Extension Center. This area is exclusively agriculture/open space which is not developed and not likely to be developed. On the west side of Greeno Road, north of Volanta Avenue, is the City of Fairhope Volanta Park property and the “triangle property”. These two land use features establish a “gateway” into Fairhope and therefore naturally limits “commercial creep” and establishes a clear edge of commercial development. The subject property would not be beyond this “gateway”.

**Staff Recommendation:**

Based on the comments herein, staff recommends case: ZC 17.07 Green Nurseries be approved.

**Planning Commission Recommendation:**

On August 7, 2017, the Planning Commission voted unanimously to approve the request and forward a **favorable** recommendation to the City Council to rezone the subject property from R-1 Low Density Single Family Residential District to B-2 General Business District.

The Planning Commission met Monday, August 7, 2017 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairperson; Art Dyas; Charles Johnson; Richard Peterson; Rebecca Bryant; Ralph Thayer; Hollie MacKellar; and David Martin; Wayne Dyess, Planning Director; Nancy Milford, Planner; Buford King, Planner; Emily Boyett, Secretary; and Ken Watson, City Attorney  
Absent: Jimmy Conyers

Chairman Turner called the meeting to order at 5:05 PM and announced the meeting is being recorded. He welcomed Art Dyas to the Commission.

The minutes of the July 3, 2017 meeting were considered and Ralph Thayer moved to accept the minutes as written and was 2<sup>nd</sup> by Charles Johnson. The motion carried with abstentions by Art Dyas, Rebecca Bryant, and David Martin.

\* **ZC 17.07 Public hearing to consider the request of Bobby and Debra Green to rezone property from R-1 Low Density Single Family Residential District to B-2 General Business District.** The property is located on the west side of US Hwy. 98 (a.k.a. Greeno Road) between Hoyle Avenue and Live Oak Avenue, at 415 N. Greeno Road. Mr. Dyess gave the staff report saying the site consists of 2.6 acres and is currently occupied by an operating retail nursery and has been a retail nursery operation historically. The property is currently non-conforming and has been non-consistent with the current zoning since at least 1960 according to historical Planning Commission minutes. Mr. Dyess stated there are concerns with Greeno Road becoming stripped out and hurting Downtown if the area is zoned commercial. He said Fairhope's population can support additional commercial and not hurt Downtown. Mr. Dyess explained there are existing edges to limit the commercial boundaries with Volanta Park to the north, Auburn Experimental Station to the East, and the gulley to the west. He noted no new single family homes have been constructed on Greeno Road since the 60's. Staff recommendation is to approve the zoning change request.

Mr. Green addressed the Commission and gave Power Point presentation of the history of the subject property. He stated his family has owned the property since 1932 and the nursery has been in operation on the site since 1940. He explained they propose to have a micro village and to grow organically.

Mrs. Green explained they are asking for B-2 zoning based on historical documents and use. She noted the nursery has always had business licenses with the City and the only thing that has not been commercial has been the zoning.

Mr. Turner opened the public hearing.

Taylor Wilkins, III of 330 Bay Hill Drive – He stated he recently purchased an adjacent lot to the Green's property and he does not have any problems with their proposal. He said Greeno Road has seen a lot of changes and it is not residential anymore. He suggested a plan be put in place for the Greeno Road corridor to guide the development and allow the property owners to do something with their property.

Larry Stejskal of 60 N. Ingleside Street – He thanked staff and the Commission for starting to acknowledge that Greeno Road is not suitable for residential. He stated the market is driving the changes on Greeno Road and he said he is in favor of the application.

Lawanna Maidstone of 512 Lillian Circle – She stated concerns with drainage and asked what guarantees she has that it will not be an issue. She said this rezoning will set a precedent.

Bill and Susan Rosburg of 508 Lillian Circle – She stated she liked the presentation but asked how the gulley will be protected. He said he liked the plan but he had concerns with traffic and the plans for the residential area.

Mac Walcott of 12330 Live Oak Street – He stated his project, Van Antwerp, is at the end of this watershed. He encouraged property owners to partner with one another to help the issues facing the City.

TJ Murphy of 204 Tensaw Avenue – He stated he would like to see details of an overlay for Greeno Road. He said the area needs boundaries and a plan and not done piece-meal. He suggested taking what the Greens are proposing and continuing it along Greeno Road. He said this will set a precedent and the City needs the Comprehensive Plan to guide it.

Claude Puckett of 406 Maple Street – He said he remembers when the Greens were against rezoning Greeno Road. He stated the property will become worthless if something is not done. He said Comp. Plans cost money and there aren't any cities that go by them. He stated he is in favor of the request.

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

Mr. Dyess stated the buffer requirements are 20' of landscaping and the drainage will be addressed at the time of site plan or building permit. He explained Alabama

Comprehensive Plans are not legal documents but they give good guidance. Mr. Dyas stated the proposed area to be rezoned is only 2.8 acres. He asked if the remaining property will remain residential and if the buffer will be maintained. Mr. Green explained too much water drains to the little ravine but the water flows across their property not from it. He stated there will remain 112' of buffer between the commercial use and the residential area. He said they will be upgrading the existing structures and emphasizing retail again but it will not be all at once. Mrs. Bryant asked the difference between incremental development versus a PUD. Mr. Dyess explained with incremental development each project is reviewed against the Zoning Ordinance by either Administrative Review or Site Plan and a PUD would be review all at once. Mrs. MacKellar asked if there is a time frame the applicant has to get started and Mr. Dyess responded no.

Richard Peterson made a motion to accept the staff recommendation to approve the zoning change request. David Martin 2<sup>nd</sup> the motion and the motion carried unanimously.

**ZC 17.08 Public hearing to consider the request of Sawgrass Consulting, LLC to rezone property from R-2 Medium Density Single Family Residential District to B-4 Business and Professional District, Quinn Middleton.** The property is located on the northeast corner of the intersection of State Hwy. 181 and Windmill Road, at 20040 State Hwy. 181. Mr. Dyess gave the staff report saying the property is approximately 1.31 acres and the applicant is proposing an office. Staff recommendation is favorable if the Planning Commission finds the application is not commercial creep and leap frog development.

Mr. Turner opened the public hearing.

Mac Walcott of 12330 Live Oak Street – He stated State Hwy. 181 is the next train wreck and the City needs to learn from Greeno Road. Mr. Dyess stated he would apply the



APPLICATION FOR ZONING DISTRICT CHANGE

**Property Owner / Leaseholder Information** 583-0471  
 Name: GREEN, Robert M & DEBRA Phone Number: 928-8469 583-8473  
 Street Address: 415 N. GREENO ROAD  
 City: FAIRHOPE State: AL Zip: 36532

**Applicant / Agent Information**  
 Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_  
 Street Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Current Zoning of Property: R-1  
 Proposed Zoning/Use of the Property: B 2  
 Property Address: 415 N. GREENO ROAD FAIRHOPE AL 36532  
 Parcel Number: SEE ATTACHED  
 Property Legal Description: SEE ATTACHED  
 Reason for Zoning Change: HISTORICAL NATURE & CITY SANCTIONED EXPANSION OF BUSINESS

Property Map Attached  YES NO  
 Metes and Bounds Description Attached  YES NO  
 Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached.  YES NO

Character of Improvements to the Property and Approximate Construction Date: TO BE DETERMINED

Zoning Fee Calculation:

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. \*If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

ROBERT M. GREEN / DEBRA GREEN  
Property Owner/Leaseholder Printed Name

[Signature] [Signature]  
Signature

6-25-17  
Date

Fairhope Single Tax Corp. (If Applicable)



## GREEN NURSERIES REZONING NARRATIVE

Green Nurseries and Landscape Design has operated without interruption in the City of Fairhope since 1932. At the time of its formation by Robert Green, Sr., the City did not have a zoning ordinance, and would not enact such an ordinance until 1961<sup>1</sup>, some 29 years after the nursery went into operation. At all times since Fairhope has operated under a zoning ordinance, Green Nurseries has been classified as a non-conforming use under one or more residential zoning classifications. The property is presently zoned either R-1 or R-2<sup>2</sup>.

The City's refusal to place the nursery property into a commercial zoning category has been a long and contentious affair. Shortly after the initial zoning ordinance was adopted, approximately 15 properties within the City were rezoned to a commercial zoning classification at the request of the property owners. However, Green Nurseries was not offered this same opportunity, and its efforts to achieve a commercial zoning classification have been rebuffed on each and every occasion over the last 50 plus years when rezoning was requested by the Green family.

Beginning in 1961 and continuing through 1978, Robert Green, Sr. submitted eight separate rezoning applications to the City, together with one application for a variance in 1963. All applications were denied. Meanwhile, Fairhope officials periodically and systematically approved rezoning requests from residential to commercial classifications along Greeno Road both north and south of the nursery property. Some of these rezonings were approved for persons who were either

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<sup>1</sup>The historical records reviewed by the Greens and their counsel do not identify the date of Fairhope's initial zoning ordinance. However, Robert Green, Sr. appeared before the Fairhope Planning and Zoning Board on January 6, 1961 seeking advice about rezoning to a commercial classification (Slide 5). For purposes of this narrative, it will be assumed that Fairhope's first zoning ordinance was adopted as early as 1961.

<sup>2</sup>Current zoning maps show the nursery property to be zoned R-1, but older zoning maps depict the property as being zoned R-2.

elected officials of the City Fairhope, or their spouses. During the intervening 56 years after the adoption of the City's first zoning ordinance, Greeno Road has become a five-lane commercial thoroughfare with the exception of the residential enclave between Gayfer Avenue and Highway 104 where the nursery property is located. The last single-family residence constructed on Greeno Road was built in the mid-1960's in Linwood Subdivision (Slide 3). This home is located directly south of Green Nurseries, and has been operated as a short-term rental for approximately 20 years. Commercial uses between Gayfer Avenue and Highway 104 include Fairhope's "Big Box" recreational complex (which sells amenities to the public), Arbor Gates Apartments, Fairhope Trailer Park, Auburn University Extension Center, a church and Green Nurseries.

In the October 5, 1978 edition of the Fairhope Courier (Slide 46), a developer seeking a rezoning along Greeno Road was quoted as follows on the subject of highest and best use along Greeno Road:

On Greeno Road, you can't sell a house for what it's worth anymore, because no one wants to live on that busy road. In the earlier years, the area was residential in nature, but the highest and best use is not residential now.

Today, 39 years after the author of the above quote opined about highest and best use along Greeno Road, the Green property is an island of residential zoning surrounded by a sea of commercial zoning and land use.

#### Summary of Rezoning Attempts

Robert Green, Sr. was a persistent man. Between 1961 and 1978, Mr. Green submitted eight rezoning applications and one variance request, all of which were denied. A

summary of these rezoning and variance requests, the date of the attempt and the corresponding slide number of the attached Power Point presentation is as follows:

1961	Rezoning Request	Slide 5
1963	Rezoning Request	Slide 10
1963	Rezoning Request	Slide 12
1963	Variance Request	Slide 14
1964	Rezoning Request	Slides 19-20
1968	Rezoning Request	Slides 34-35
1973	Rezoning Request	Slide 37
1975	Rezoning Request	Slides 42-43
1978	Rezoning Request	Slides 47-49

The Fairhope City Council denied each of the above requests despite the continued commercialization of the Greeno Road corridor, and the absence of new residential construction during the years in question.

#### Permitted Expansions of Green Nurseries

As a commercial business which predates Fairhope's first zoning ordinance by approximately 30 years, state law permits Green Nurseries to continue with its commercial operation, provided that the property owner does not "increase the nonconformity" which was in effect at the time the zoning ordinance first became effective. Since that time, and with one notable exception, Fairhope's different iterations of its zoning regulations have included a nonconforming use provision.

Nonetheless, in true Fairhopian tradition, the City has deviated from its own regulations and permitted Green Nurseries, on ten separate occasions, to expand its business in direct violation of its nonconforming use regulations. These expansions are summarized as follows:

1960	Greenhouse and Shade Structure
1975	Greenhouse (permitted after the fact)
1979	Office and Prefab storage building (building permit issued)

1980	Greenhouse (building permit issued)
1982	Greenhouse (building permit issued)
1985	Office Building (building permit issued)
1989	Shade house (building permit issued)
1994	Utility Building with water, gas and electrical upgrades and relocations (building permit issued)
1995	Front Entrance and Wall (building permit issued)
2016	Multi-use Structure (building permit issued).

At all times since the 1970's (and possibly earlier), Fairhope has issued business licenses to Green Nurseries under the "retail and general merchandise" classification. Robert Green, Jr. and his wife Debra, who are the present owners of the nursery, have business licenses issued by the State of Alabama dating back to the 1930's and physical business licenses back to the 1970's. The net effect of these permitted expansions has been to treat Green Nurseries as if it were under a commercial zoning classification, with the attendant right to expand the business as any commercial enterprise would be permitted to do under a B-2 classification. Nonetheless, the City Council has refused to rezone the nursery property despite ample opportunities to do so.

#### The Jim Nix Threat

Throughout most of the 1980's, Greeno Road was a two-lane thoroughfare. Then-Fairhope Mayor Jim Nix pleaded with the state of Alabama for the better part of a decade for Greeno to be widened to four lanes. This is a curious position for the Mayor to have taken, because the City consistently expressed its desire that the road maintain its "pastoral" setting, with all adjacent properties to continue with their residential zoning classifications. During this period, Robert Green, Jr. sought access to some City records, but his request was denied. Mayor Nix and Tim Kant (who was then Public Works Director) paid a visit on Mr. Green and threatened to put him "out of business" if he continued to seek the records which he had requested.

## The ALDOT Fiasco

The most recent squabble in the long history between Green Nurseries and the City took place in 2007-2008 when Fairhope applied for a grant to construct a “Pedestrian Improvement Project” for Greeno Road. What began as a seemingly simple pedestrian improvement project morphed into a proposed median in the center of Greeno Road from Edwards Avenue to Highway 104. Early designs by Volkert Engineering depicted a planted median, without a median cut, extending the entire length of the nursery’s Greeno Road frontage. If constructed, the median would have blocked commercial access to the nursery from the northbound lane and would have required large trucks to deliver and receive product from a different location, rather than from the nursery’s regular shipping and receiving area.

The Greens immediately submitted their concerns to the Mayor and Council. On April 30, 2007, the City held a “Public Involvement Meeting” to discuss the proposed improvements. Not to miss out on the opportunity for “public involvement”, the Greens delivered written comments (Slide 62) to the City, which the City officials somehow “lost”, and never submitted to ALDOT. On July 14, 2008, the Greens delivered a lengthy letter (Slide 63) to the Mayor and Council outlining their concerns with considerable detail. Mayor Kant rebuffed these concerns by stating that “some folks have to be sacrificed for the greater good”. Why Mayor Kant felt that the Greens needed to be “sacrificed” is unclear, but it became obvious to the Greens that they must take their concerns directly to ALDOT for a resolution.

Unlike Fairhope, ALDOT recognized the impact of the median project on Green Nurseries if its northbound access were to be eliminated. D. J. McInnes, who was then the ALDOT director, delivered a letter (Slide 65) to the Mayor and Council on August 25, 2008 admonishing

them to resolve the “impasse” with the Greens. This effort worked, and allowed the Greens to retain their access to Greeno Road. The City was also forced to create an additional access at the north end of the nursery, costing the City a minimum of \$46,000.00. This resolution saved significant municipal funds in defense of the litigation which would have certainly ensued.

### Conclusion

Green Nurseries should never have been placed in a residential zoning classification. Whatever justification may have existed in 1961 is no longer present, as the nursery property occupies a residential enclave along US Highway 98 which is commercial in character all the way from Spanish Fort to County Road 44. This is underscored by the fact that the last single-family residence in the Fairhope sector of Greeno Road was built in the mid-1960's. The opinion voiced to the City Council about highest and best use in 1978 was true then and remains even more true today. The Green Nurseries property should be rezoned to a General Business (B-2) classification consistent with its historical use and the commercial nature of the immediately surrounding area.

August 7, 2017

Fairhope Planning Commission  
PO Box 429  
Fairhope, AL 36533

Re: Case ZC 17.07, PPIN# 17231, 114269, 200528, 202819

Commission Members,

We are writing to express concern about the rezoning request for the property on the west side of US Hwy 98 between Hoyle Avenue and Live Oak Avenue at 415 N Greeno Road. We are concerned this rezoning will set a precedent for the remaining R-1 districts on the west side of North Greeno. The B-2 designation is not restrictive enough for this location.

A few months ago, the property owners presented a rough plan for this property at a Planning Commission meeting. They said they want to add elements to their existing business in a way that meshes with the adjacent residential neighborhood and respects the natural environment. We are not opposed to this idea, given their unique situation and history. The property size is slightly under the required minimum size for a PUD. There is a state-owned easement adjacent to the property. It was suggested that the Greens apply for an exception on the PUD minimum lot size due to the easement. Has this option been pursued?

People who live on or near Greeno will be impacted by new development on Greeno. Every time residential is rezoned to commercial, it's harder to deny the next request. We've heard encouraging ideas about updated ordinances, Comprehensive Plan improvements, and a better development process overall. Will any of these changes happen before we lose North Greeno completely to commercial development?

Thank you for your time and consideration of these comments.

Sincerely,

Jay and Anna Miller  
257 Westley Street  
Fairhope, AL 36532



**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the Owners of Old Battles Village, Phase Two desire to have all public streets and public right-of-ways dedicated on the plat filed for record in the Probate Records of Baldwin County, Alabama, on Slide 2597-A, and all Fairhope public utilities located in public right-of-ways accepted for maintenance by the City of Fairhope, Alabama, and;

**WHEREAS**, the City of Fairhope, Alabama, has received notice from the engineers of the project that the design and capacity of the public improvements have been designed in conformance with City requirements, and;

**WHEREAS**, the Public Works Director has indicated that the improvements meet City requirements, and;

**WHEREAS**, the City of Fairhope, Alabama, has received from the owners of Old Battles Village, Phase Two, maintenance bonds for the public improvements constructed for a period of 2 years, and;

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA** that the public improvements indicated herein for Old Battles Village, Phase Two are hereby accepted for public maintenance subject to the bond posted; and authorizes Mayor Karin Wilson to execute the Maintenance and Guaranty Agreement between the City of Fairhope and Truland Homes, LLC (the "Subdivider").

**BE IT FURTHER RESOLVED** this resolution of acceptance shall not obligate the City of Fairhope to maintain any utility or drainage facilities outside the limits of the right-of-way of the public streets, whether or not such may be located within dedicated easements in any of these developments.

Adopted, this 13th day of November, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk





# MAINTENANCE BOND

USE BLACK INK ONLY

SURETY'S BOND NUMBER  
21BCSHH5394

The "PRINCIPAL" (Name and address of Principal)

Cunningham DeLaney Construction, LLC  
12940 Underwood Road  
Summerdale, AL 36580

The "SURETY" (Name and Principal Place of Business)

HARFORD FIRE INSURANCE COMPANY  
Hartford Plaza  
Hartford, CT 06115

The "CITY"

City of Fairhope, Alabama  
Attn: Jonathan Smith  
555 South Section Street  
Fairhope, Alabama 36532

The "PENAL SUM" of this Bond: One Hundred Twenty Four Thousand  
Three Hundred Seventy and 16 /100 Dollars  
(\$ 124,370.16 ).

Name and date of the "MAINTENANCE AGREEMENT": Maintenance and Guaranty  
Agreement dated Feb. 27, 2017

The "PROJECT": Old Battles Phase 2 Subdivision

- 
1. WE, THE PRINCIPAL AND THE SURETY, jointly and severally, hereby bind ourselves, our heirs, executors, administrators, successors, and assigns to the City in the Penal Sum stated above for the performance of the Maintenance Agreement, which is incorporated herein by reference. If the Principal performs the Maintenance Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
  2. Whenever the Principal fails to perform any term or condition or other obligation of the Maintenance Agreement, the City, acting through any agent of the City, shall have the right to give the Principal and the Surety, at their addresses stated above, a written Notice to Default.

3. The Surety's obligation under this Bond becomes effective after the Surety's receipt of a Notice of Default. Upon the Surety's receipt of a Notice of Default, the Surety shall, at its expense:
  - (a) Immediately take charge of the work required of the Principal by the Maintenance Agreement (the "Work") and be responsible for the safety, security, and protection of the Work, including materials and equipment stored on and off the Project site, and
  - (b) Within fourteen (14) days after the Surety's receipt of the Notice of Default, proceed, or provide the City with written verification that satisfactory positive action is in process to facilitate proceeding promptly, to complete the Work in accordance with the Maintenance Agreement, either with the Surety's resources or through a contract between the Surety and a qualified contractor to whom the City has no reasonable objection.
4. The Surety shall neither require, nor be entitled to, any agreements or conditions other than those of this Bond and the Maintenance Agreement. In taking charge of and completing the Work, the Surety shall assume all rights and obligations of the Principal under the Maintenance Agreement. The presence or possibility of a claim by the Surety against the Principal shall not be just cause for the Surety to fail or refuse to promptly take charge of and complete the Work.
5. Nothing contained in this Bond shall be construed to mean that the Surety shall be liable to the City for an amount exceeding the Penal Sum of this Bond, except in the event that the Surety should be in default under the Bond by failing or refusing to take charge of and complete the Work pursuant to Paragraph 3. If the Surety should fail or refuse to take charge of and complete the Work, the City shall have the authority to take charge of and complete the Work, or have it completed, and the following costs to the City shall be recoverable under this Bond:
  - (a) the cost of completing the Principal's responsibilities under the Maintenance Agreement, including correction of any defective work thereunder;
  - (b) additional design, engineering, managerial, and administrative services, and reasonable attorneys' fees incident to completing the Work;
  - (c) interest on, and the cost of obtaining, funds to necessary to cover the costs of completing the Work; and
  - (d) additional design, engineering, managerial, and administrative services, and reasonable attorneys' fees incident to ascertaining and collecting the City's losses under the Bond.

6. This Bond and the rights and duties of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Alabama without regard to its conflicts of law principles.

SIGNED AND SEALED this 27th day of February, 2017.

ATTEST:

*Debbie R Paul*

PRINCIPAL:

Cunningham DeLaney Construction, LLC

By *[Signature]*

*Mark DeLaney MGR*  
Name and Title

Countersigned by  
Alabama Resident Agent for Surety:

By *J. William Goodloe III*

J. William Goodloe, III  
Name

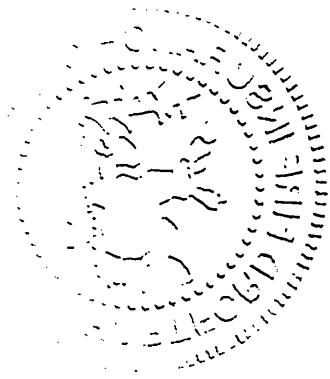
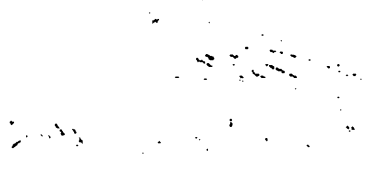
P. O. Box 169027  
Mobile, AL 36616  
Address

SURETY:

HARTFORD FIRE INSURANCE COMPANY

By *J. William Goodloe III*

J. William Goodloe, III, Attorney-in-fact  
Name and Title



# POWER OF ATTORNEY

Direct Inquiries/Claims to:

**THE HARTFORD**

Bond T-4

One Hartford Plaza

Hartford, Connecticut 06155

call: 888-266-3488 or fax: 860-757-5835)

**KNOW ALL PERSONS BY THESE PRESENTS THAT:**

Agency Code: 21-250403

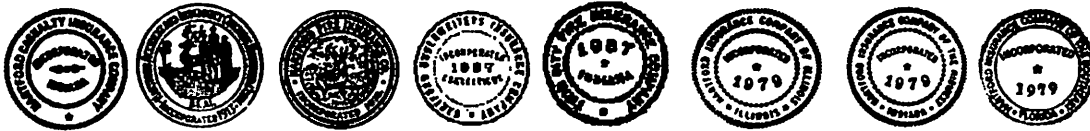
- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited** :

Joanna L. Brinson, Elise C. Buschmann, W.E. Cadden, Roland G. Fry, Jr., J William Goodloe III, Nina Jacobs, Gaylord C. Lyon, Jr., O.M. Otts, IV, Erling Riis, III, Charlene C. Stout, Rebecca Ward of MOBILE, Alabama

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on August 1, 2009, the Companies have caused these presents to be signed by its Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Wesley W. Cowling*

Wesley W. Cowling, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Vice President

STATE OF CONNECTICUT

COUNTY OF HARTFORD

} ss. Hartford

On this 12th day of July, 2012, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Kathleen T. Maynard*

Kathleen T. Maynard  
Notary Public

My Commission Expires July 31, 2016

I, the undersigned, Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of February 27, 2017

Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Vice President



## MAINTENANCE AND GUARANTY AGREEMENT

THIS MAINTENANCE AND GUARANTY AGREEMENT (this "Agreement") is made and entered into by and between Tubal Homes, LLC (the "Subdivider"), and the City of Fairhope, Alabama (the "City of Fairhope") (the "City") (the Subdivider, and the City are sometimes hereinafter referred to singularly as a "Party" and collectively as the "Parties").

### Recitals:

WHEREAS, the Subdivider is the developer of Old Bethel Village, Ph. 2 (the "Subdivision"), which Subdivision is recorded as Instrument Number \_\_\_\_\_ in the records of the Office of the Judge of Probate of Baldwin County, Alabama;

WHEREAS, prior to the City agreeing to accept for maintenance those certain items set forth on Exhibit "A" attached hereto (the "Improvements"), the Subdivider is responsible to maintain the Improvements for a period of two (2) years (the "Maintenance Period") from and after the Effective Date (hereinafter defined).

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby covenant and agree as follows:

1. Recitals. The above recitals shall be included as part of this Agreement as necessary contingencies and as if fully set forth herein.

2. Maintenance and Guaranty of Improvements. The Subdivider shall maintain the Improvements during the Maintenance Period and shall keep the Improvements in good and working order, normal wear and tear excepted. The Subdivider hereby guarantees and warrants the Improvements and the workmanship associated with the construction and installation of the Improvements until the expiration of the Maintenance Period. In the event there is any defect in the Improvements and/or the workmanship associated with the construction and installation of the Improvements (a "Defect") of which the City provides the Subdivider with notice on or before the date that is thirty (30) days following the expiration of the Maintenance Period or of which the Subdivider is otherwise aware prior to the expiration of the Maintenance Period, the Subdivider shall remedy such Defect within ten (10) days of its first obtaining knowledge of such Defect (whether from the City or otherwise); provided, however, that in the event such Defect is not capable of being remedied within said ten-day period, the Subdivider shall have such time as is reasonably necessary to remedy such Defect, but in no event in excess of thirty (30) days, so long as the Subdivider has commenced its remedial efforts within such ten-day period and pursues completion of such remedial efforts with due diligence.

3. Financial Guaranty of Performance. As a condition to the City agreeing to enter into this Agreement, the Subdivider shall provide the City with an acceptable surety/financial guarantee of the payment and performance of its obligations hereunder (the "Guaranty"). The Guaranty shall be provided by a surety and shall be in a form that is acceptable to the City in its sole and absolute discretion and shall be in an amount of \$124,370.16. In the event the foregoing condition precedent is not satisfied within thirty (30) days of the Effective Date, the obligation of the City to accept the Improvements for maintenance under Section 4 hereof shall terminate and be of no further force or effect.

RECEIVED  
FEB 28 2017

BY: JM



4. City to Accept Improvements for Maintenance. Upon performance in full by the Subdivider of this Agreement and the expiration of the Maintenance Period, the City shall accept maintenance of the Improvements.

5. Failure to Perform. In the event the Subdivider shall fail in whole or in part to perform any term, covenant or condition of this Agreement or in the event of a Defect (a "Default"), the City may issue a written notice of default to the Subdivider (a "Notice of Default"). If the Subdivider has not cured the Default within ten (10) days of its receipt of the Notice of Default, the City shall have the right to take any or all of the following actions:

- (a) complete/remedy any Default, including, without limitation, the right to cure any Defect, at the sole cost and expense of the Subdivider;
- (b) call on or otherwise exercise its rights under the Guaranty; and/or
- (c) exercise any other right or remedy available to the City at law or in equity, including the right to pursue and obtain specific performance.

In the event the City exercises any of the foregoing rights and expends any funds in connection therewith, the Subdivider shall reimburse the City for any such expended funds within ten (10) days of demand for such funds by the City. Any funds not so reimbursed by the Subdivider within said ten (10) day period shall thereafter accrue interest at the rate of twelve percent (12%) per annum.

6. Legal Compliance. The Subdivider shall, at its own expense, comply with all applicable laws, ordinances, regulations, rules and orders, whether federal, state or local, or any regulation of any governmental body having jurisdiction over the Subdivision or the Subdivider with respect to the maintenance and repair of the Improvements, regardless of when they become effective. The Subdivider shall not use, nor permit the use of the Improvements for any purpose in violation of such laws, regulations, rules or orders. The Subdivider represents and warrants to the City that the Subdivider is acting with full and legal authority with respect to the Improvements.

7. Indemnification. The Subdivider shall indemnify, defend and hold harmless the City and its affiliates, elected officials, employees, agents, representatives, contractors, subcontractors, licensees and invitees from and against any and all claims, violations of law, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitation, attorneys' fees, arising out of or otherwise related to any approval or activity conducted by, or any act or omission of, the Subdivider made or taken pursuant to this Agreement.

8. Responsibility For Agents. The Subdivider shall be responsible for compliance by its engineers, architects, contractors, subcontractors, employees, agents, and representatives (collectively, the "Representatives") with the terms of this Agreement and for all acts or omissions by any or all of the Representatives relating to the obligations of the Subdivider herein.

9. No Assignment. The Subdivider shall not have the right to assign this Agreement or any rights or obligations hereunder without the City's prior written consent, which consent may be withheld in the sole and absolute discretion of the City. Any attempted assignment shall be void. No assignment shall relieve the Subdivider of its liabilities and obligations herein.

10. Agency. It is neither the express nor the implied intent of the Parties to create an agency relationship pursuant to this Agreement; therefore, any actions of the Parties shall not be considered or implied to create such agency.

11. No Waiver. The failure of the City to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

12. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to the construction of the Improvements and there are no further or prior agreements or understandings, written or oral, in effect between the Parties relating to the subject matter hereof.

13. No Endorsement. The City in no way whatsoever is deemed to have approved, provided, given, or allowed to be given any authorization, endorsement, approval, or consent of the business practices, actions or behavior of the Subdivider. This Agreement, and/or the procedures approving the same, is no way to be considered as a substitute for any regulations, procedure or other requirement of the City. It is the sole responsibility of the Subdivider to comply or to ensure its own compliance with any local, state, or federal law or regulation.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, without regard to its conflicts of law principles.

15. Attorney's Fees. In the event the City initiates litigation or any other legal proceeding for purposes of enforcing its rights, duties and obligations hereunder and is the prevailing party in any such litigation or other legal proceeding, the City shall be entitled to the recovery of its attorney's fees in addition to any other remedy provided hereunder.

16. Counterparts. This Agreement may be executed in one or more counterparts and by the different parties hereto under separate counterparts, any one of which need not contain the signatures of more than one party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all parties have not signed the same counterpart hereof.

17. Headings. The section headings contained in this Agreement are inserted as a matter of convenience and shall not affect in any way the construction of the terms of this Agreement.

18. Effective Date. As used herein the term "Effective Date" shall mean and refer to the date of execution of this Agreement by the Mayor of the City as set forth below.

IN WITNESS WHEREOF, the Parties, having full authority to do so, have fully executed this Agreement by and through their respective duly authorized representatives as of the last date of execution below.

TRULAND HOMES, LLC.

By:  \_\_\_\_\_

Name: Nathan Cox

As Its: Manager

Date: 2/28/17

THE CITY OF FAIRHOPE, ALABAMA

By: \_\_\_\_\_

\_\_\_\_\_  
As Its Mayor

Date: \_\_\_\_\_

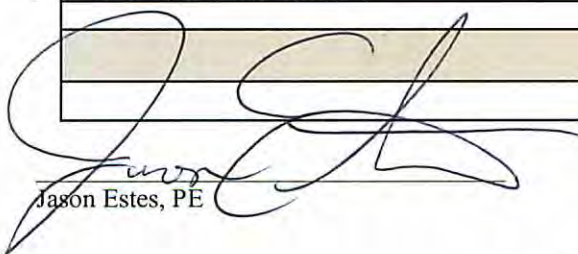
ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, City Clerk

**EXHIBIT "A"**  
**The Improvements**

The improvements include the infrastructure within the rights-of-way to be accepted by the City of Fairhope as part of Old Battles Village Phase 2 (Roadway, drainage, water, and sewer).

ENGINEER'S MAINTENANCE BOND ESTIMATE OLD BATTLES VILLAGE PHASE 2					
ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT PRICE	AMOUNT
<b>GRADING &amp; DRAINAGE</b>					
100	18" RCP, CL 3, RUBBER GASKET JOINTS	336	LF	30.00	10,080.00
101	24" RCP, CL 3, RUBBER GASKET JOINTS	633	LF	42.00	26,586.00
102	30" RCP, CL 3, RUBBER GASKET JOINTS	87	LF	59.00	5,133.00
103	36" RCP, CL 3, RUBBER GASKET JOINTS	48	LF	69.00	3,312.00
104	22" x 13" RCAP, CL 3, RAM NEK JOINTS	73	LF	65.00	4,745.00
105	INLET, TYPE S-1	4	EA	3,300.00	13,200.00
106	INLET, TYPE S-2	6	EA	3,900.00	23,400.00
<b>SUB-TOTAL ROADS &amp; DRAINAGE:</b>					<b>86,456.00</b>
<b>ROADWAYS</b>					
200	TYPE "A", 2'-6" CONCRETE VALLEY GUTTER	4,664	LF	12.00	55,968.00
201	CONCRETE RIBBON CURB	48	LF	11.00	528.00
202	HANDICAP RAMP W/ TACTILE STRIP	20	EA	600.00	12,000.00
203	CONCRETE SIDEWALK, 5' WIDE	780	LF	17.90	13,962.00
204	LOWER LAYER SAND CLAY BASE, 4" THICK	7,470	SY	1.35	10,084.50
205	UPPER LAYER SAND CLAY BASE, 4" THICK	5,888	SY	4.25	25,024.00
206	PRIME COAT	5,888	SY	1.25	7,360.00
207	IMPROVED BITUMINOUS CONCRETE WEARING SURFACE, 165#/SY, 429-A	5,888	SY	8.65	50,931.20
<b>SUB-TOTAL ROADWAYS:</b>					<b>175,857.70</b>
<b>WATER SYSTEM</b>					
301	6" PVC WATER MAIN	2403	LF	11.50	27,634.50
302	6" DUCTILE IRON WATER MAIN	36	LF	31.00	1,116.00
303	6" M.J. GATE VALVE W/ MEGALUGS	5	EA	900.00	4,500.00
304	6" M.J. 22.5ø BEND	4	EA	340.00	1,360.00
305	6" M.J. PLUG	1	EA	200.00	200.00
306	6" M.J. TEE W/ MEGALUGS	3	EA	450.00	1,350.00
307	TIE TO EXISTING WATER MAIN	3	EA	500.00	1,500.00
308	WATER SERVICE	34	EA	615.00	20,910.00
309	FIRE HYDRANT ASSEMBLY (INCL. TEE, VALVE & HYDRANT)	5	EA	3,500.00	17,500.00
<b>SUB-TOTAL WATER SYSTEM:</b>					<b>76,070.50</b>
<b>SEWER SYSTEM</b>					
401	8" PVC GRAVITY SEWER 4' - 6' CUT	679	LF	16.00	10,864.00
402	8" PVC GRAVITY SEWER 6' - 8' CUT	1396	LF	18.00	25,128.00
403	PRECAST CONCRETE MANHOLE 4' - 6'	3	EA	2,750.00	8,250.00
404	PRECAST CONCRETE MANHOLE 6' - 8'	5	EA	2,995.00	14,975.00
405	SEWER LATERAL	34	EA	499.00	16,966.00
<b>SUB-TOTAL SEWER SYSTEM:</b>					<b>76,183.00</b>
<b>TOTALS:</b>					<b>414,567.20</b>
<b>BOND VALUE:</b>				<b>30%</b>	<b>124,370.16</b>



Jason Estes, PE



**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the Owners of Phase 2 of Silverleaf at Firethorne desire to have all public streets and public right-of-ways dedicated on the plat filed for record in the Probate Records of Baldwin County, Alabama, on Slide 2597-E, and all Fairhope public utilities located in public right-of-ways accepted for maintenance by the City of Fairhope, Alabama, and;

**WHEREAS**, the City of Fairhope, Alabama, has received notice from the engineers of the project that the design and capacity of the public improvements have been designed in conformance with City requirements, and;

**WHEREAS**, the Public Works Director has indicated that the improvements meet City requirements, and;

**WHEREAS**, the City of Fairhope, Alabama, has received from the owners of Phase 2 of Silverleaf at Firethorne, maintenance bonds for the public improvements constructed for a period of 2 years, and;

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA** that the public improvements indicated herein for Phase 2 of Silverleaf at Firethorne are hereby accepted for public maintenance subject to the bond posted; and authorizes Mayor Karin Wilson to execute the Maintenance and Guaranty Agreement between the City of Fairhope and Firethorne Development, LLC (the "Subdivider").

**BE IT FURTHER RESOLVED** this resolution of acceptance shall not obligate the City of Fairhope to maintain any utility or drainage facilities outside the limits of the right-of-way of the public streets, whether or not such may be located within dedicated easements in any of these developments.

Adopted, this 13th day of November, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk



CERTIFICATE OF APPROVAL BY BALDWIN EMC (ELECTRIC)  
CITY OF FAIRHOPE (WATER)  
CITY OF FAIRHOPE (SEWER)  
CITY OF FAIRHOPE (GAS)  
MORTGAGEE'S INTEREST

SURVEYOR'S NOTES  
GENERAL NOTES  
SURVEYOR'S CERTIFICATE  
STATE OF ALABAMA  
COUNTY OF BALDWIN

Table with columns: CURVE, RADIIUS, LENGTH, CHORD, CHORD BEG, CHORD END. Lists curve data for lots 34-67.

SITE DATA  
CURRENT ZONING: PUD  
LIN. FT. STREETS: 1,466 LF  
NUMBER OF LOTS: 24  
SMALLEST LOT: 14,422 SF (Lot 51)  
LARGEST LOT: 30,068 SF (Lot 51)  
COMMON AREAS: 0.40 ACRES  
TOTAL AREA: 13.78 AC  
DENSITY: 2.10 LOTS/ACRE  
ALLOWABLE LOT COVERAGE:  
PRINCIPLE STRUCTURE - 40%  
ACCESSORY STRUCTURE - 25%  
(OF REQUIRED REAR YARD)  
MAXIMUM BUILDING HEIGHT - 35'

REQUIRED SETBACKS:  
FRONT: 35 FEET  
REAR: 35 FEET  
SIDE: 10 FEET  
STREET SIDE: 20 FEET  
(UNLESS OTHERWISE SHOWN)

UTILITY PROVIDERS  
WATER: CITY OF FAIRHOPE  
SEWER: CITY OF FAIRHOPE  
GAS: CITY OF FAIRHOPE  
ELECTRIC: BALDWIN EMC  
TELEPHONE: AT&T

LEGEND  
● - CURVES FROM P.W. PLATS (DCA 1100-10)  
--- BUILDING SETBACK LINE

PHASE 2 OF SILVERLEAF AT FIRETHORNE  
FINAL PLAT  
APRIL 5, 2017 SHEET 1 OF 1  
BOUNDARY SURVEY AND FINAL PLAT OF SUBDIVISION

DESIGN	D.E.D.	DRAWN	A.E.F.	CHWD.	M.S.P.
ENG	J.N.E.	SURVEYOR	D.E.D.	PROJ. MGR.	J.G.A.

DEWBERRY PREBLE-RISH  
DAVID E. DEWBERRY, P.L.S. LIC. NO. 26014  
JASON ESTES, P.L.S. LIC. NO. 22774

CERTIFICATION OF OWNERSHIP AND DEDICATION  
I, Nathan L. Cox, Manager of Firethorne Development LLC, hereby certify that the plat is a true and correct copy of the original plat as recorded in the public records of Baldwin County, Alabama, and that I have no interest in the property described herein and do not intend to acquire any interest therein.

CERTIFICATE OF APPROVAL BY THE FAIRHOPE PLANNING COMMISSION  
I, Nathan L. Cox, Manager of Firethorne Development LLC, hereby certify that the plat is a true and correct copy of the original plat as recorded in the public records of Baldwin County, Alabama, and that I have no interest in the property described herein and do not intend to acquire any interest therein.

ENGINEER'S CERTIFICATE  
I, Nathan L. Cox, Manager of Firethorne Development LLC, hereby certify that the plat is a true and correct copy of the original plat as recorded in the public records of Baldwin County, Alabama, and that I have no interest in the property described herein and do not intend to acquire any interest therein.

FLOOD CERTIFICATE  
I, Nathan L. Cox, Manager of Firethorne Development LLC, hereby certify that the plat is a true and correct copy of the original plat as recorded in the public records of Baldwin County, Alabama, and that I have no interest in the property described herein and do not intend to acquire any interest therein.

# MAINTENANCE BOND

USE BLACK INK ONLY

SURETY'S BOND NUMBER  
21BCSHH5395

The **"PRINCIPAL"** *(Name and address of Principal)*  
Cunningham DeLaney Construction, LLC  
12940 Underwood Road  
Summerdale, AL 36580

The **"SURETY"** *(Name and Principal Place of Business)*  
HARFORD FIRE INSURANCE COMPANY  
Hartford Plaza  
Hartford, CT 06115

The **"CITY"**                      City of Fairhope, Alabama  
Attn: Jonathan Smith  
555 South Section Street  
Fairhope, Alabama 36532

The **"PENAL SUM"** of this Bond: Sixty Seven Thousand Three Hundred Thirteen and 37/100 Dollars (\$67,313.37 ).

Name and date of the **"MAINTENANCE AGREEMENT"**: Maintenance and Guaranty Agreement dated Feb. 27, 2017

The **"PROJECT"**:                Firethorne, Phase 2 Subdivision

- 
1. **WE, THE PRINCIPAL AND THE SURETY**, jointly and severally, hereby bind ourselves, our heirs, executors, administrators, successors, and assigns to the City in the Penal Sum stated above for the performance of the Maintenance Agreement, which is incorporated herein by reference. If the Principal performs the Maintenance Agreement, then this obligation shall be null and void; otherwise it shall remain in full force and effect.
  2. Whenever the Principal fails to perform any term or condition or other obligation of the Maintenance Agreement, the City, acting through any agent of the City, shall have the right to give the Principal and the Surety, at their addresses stated above, a written Notice to Default.



3. The Surety's obligation under this Bond becomes effective after the Surety's receipt of a Notice of Default. Upon the Surety's receipt of a Notice of Default, the Surety shall, at its expense:
  - (a) Immediately take charge of the work required of the Principal by the Maintenance Agreement (the "Work") and be responsible for the safety, security, and protection of the Work, including materials and equipment stored on and off the Project site, and
  - (b) Within fourteen (14) days after the Surety's receipt of the Notice of Default, proceed, or provide the City with written verification that satisfactory positive action is in process to facilitate proceeding promptly, to complete the Work in accordance with the Maintenance Agreement, either with the Surety's resources or through a contract between the Surety and a qualified contractor to whom the City has no reasonable objection.
4. The Surety shall neither require, nor be entitled to, any agreements or conditions other than those of this Bond and the Maintenance Agreement. In taking charge of and completing the Work, the Surety shall assume all rights and obligations of the Principal under the Maintenance Agreement. The presence or possibility of a claim by the Surety against the Principal shall not be just cause for the Surety to fail or refuse to promptly take charge of and complete the Work.
5. Nothing contained in this Bond shall be construed to mean that the Surety shall be liable to the City for an amount exceeding the Penal Sum of this Bond, except in the event that the Surety should be in default under the Bond by failing or refusing to take charge of and complete the Work pursuant to Paragraph 3. If the Surety should fail or refuse to take charge of and complete the Work, the City shall have the authority to take charge of and complete the Work, or have it completed, and the following costs to the City shall be recoverable under this Bond:
  - (a) the cost of completing the Principal's responsibilities under the Maintenance Agreement, including correction of any defective work thereunder;
  - (b) additional design, engineering, managerial, and administrative services, and reasonable attorneys' fees incident to completing the Work;
  - (c) interest on, and the cost of obtaining, funds to necessary to cover the costs of completing the Work; and
  - (d) additional design, engineering, managerial, and administrative services, and reasonable attorneys' fees incident to ascertaining and collecting the City's losses under the Bond.

6. This Bond and the rights and duties of the parties hereunder shall be governed by and construed in accordance with the laws of the State of Alabama without regard to its conflicts of law principles.

SIGNED AND SEALED this 27th day of February, 20 17.

ATTEST:

*Jessie R Paul*

PRINCIPAL:

Cunningham DeLaney Construction, LLC

By *[Signature]*

*Mark DeLaney MGR*  
Name and Title

Countersigned by  
Alabama Resident Agent for Surety:

By *J. William Goodloe III*

J. William Goodloe, III  
Name  
P. O. Box 169027  
Mobile, AL 36616  
Address

SURETY:

HARTFORD FIRE INSURANCE COMPANY

By *J. William Goodloe III*

J. William Goodloe, III, Attorney-in-fact  
Name and Title



# POWER OF ATTORNEY

Direct Inquiries/Claims to:

**THE HARTFORD**

Bond T-4

One Hartford Plaza

Hartford, Connecticut 06155

call: 888-266-3488 or fax: 860-757-5835

KNOW ALL PERSONS BY THESE PRESENTS THAT:

Agency Code: 21-250403

- Hartford Fire Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Casualty Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Accident and Indemnity Company, a corporation duly organized under the laws of the State of Connecticut
- Hartford Underwriters Insurance Company, a corporation duly organized under the laws of the State of Connecticut
- Twin City Fire Insurance Company, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of Illinois, a corporation duly organized under the laws of the State of Illinois
- Hartford Insurance Company of the Midwest, a corporation duly organized under the laws of the State of Indiana
- Hartford Insurance Company of the Southeast, a corporation duly organized under the laws of the State of Florida

having their home office in Hartford, Connecticut (hereinafter collectively referred to as the "Companies") do hereby make, constitute and appoint, **up to the amount of Unlimited** :

Joanna L. Brinson, Elise C. Buschmann, W.E. Cadden, Roland G. Fry, Jr., J William Goodloe III, Nina Jacobs, Gaylord C. Lyon, Jr., O.M. Otts, IV, Erling Riis, III, Charlene C. Stout, Rebecca Ward of MOBILE, Alabama

their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign its name as surety(ies) only as delineated above by , and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

In Witness Whereof, and as authorized by a Resolution of the Board of Directors of the Companies on August 1, 2009, the Companies have caused these presents to be signed by its Vice President and its corporate seals to be hereto affixed, duly attested by its Assistant Secretary. Further, pursuant to Resolution of the Board of Directors of the Companies, the Companies hereby unambiguously affirm that they are and will be bound by any mechanically applied signatures applied to this Power of Attorney.



*Wesley W. Cowling*

Wesley W. Cowling, Assistant Secretary

*M. Ross Fisher*

M. Ross Fisher, Vice President

STATE OF CONNECTICUT }  
COUNTY OF HARTFORD } ss. Hartford

On this 12th day of July, 2012, before me personally came M. Ross Fisher, to me known, who being by me duly sworn, did depose and say: that he resides in the County of Hartford, State of Connecticut; that he is the Vice President of the Companies, the corporations described in and which executed the above instrument; that he knows the seals of the said corporations; that the seals affixed to the said instrument are such corporate seals; that they were so affixed by authority of the Boards of Directors of said corporations and that he signed his name thereto by like authority.



CERTIFICATE

*Kathleen T. Maynard*

Kathleen T. Maynard  
Notary Public

My Commission Expires July 31, 2016

I, the undersigned, Vice President of the Companies, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force effective as of February 27, 2017

Signed and sealed at the City of Hartford.



*Gary W. Stumper*

Gary W. Stumper, Vice President




February 22, 2017

Mr. Wayne Dyess  
City of Fairhope  
161 North Section Street  
Fairhope, AL 36532

**Re: FIRETHORNE PHASE 2**  
*SCHEDULE OF VALUES*

Dear Mr. Dyess:

I certify that to the best of my knowledge that the schedule of values for **FIRETHORNE PHASE 2** maintenance bond for are correct.

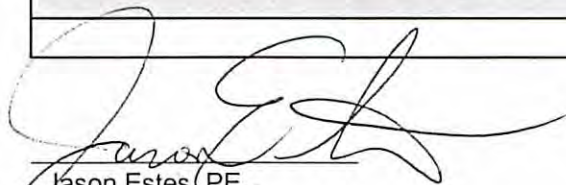
  
Jason Estes, PE  
Project Manager

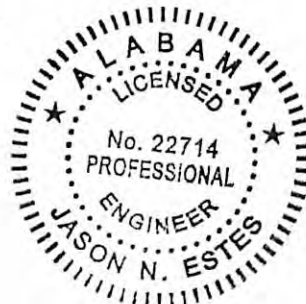



**RECEIVED**  
FEB 28 2017

**FIRETHORNE PHASE 2  
ENGINEER'S BOND ESTIMATE**

ITEM NO.	DESCRIPTION	PLAN QTY.	UNIT	UNIT PRICE	AMOUNT
<b>GRADING &amp; DRAINAGE</b>					
1	18" RCP, CL 3, RUBBER GASKET JOINTS	24	LF	55.00	1,320.00
2	30" RCP, CL 3, RUBBER GASKET JOINTS	159	LF	70.00	11,130.00
3	INLET, TYPE S-2	2	EA	3,920.00	7,840.00
4	SEEDING, FERTILIZING & MULCHING	1.00	AC	2,475.00	2,475.00
<b>SUB-TOTAL ROADS &amp; DRAINAGE:</b>					<b>22,765.00</b>
<b>ROADWAYS</b>					
5	TYPE "A", 2'-6" CONCRETE VALLEY GUTTER	3,028	LF	14.60	44,208.80
6	TYPE "E", MOUNTABLE CONCRETE CURB & GUTTER	125	LF	14.70	1,837.50
7	LOWER LAYER SAND CLAY BASE, 4" THICK	4,204	SY	2.70	11,350.80
8	UPPER LAYER SAND CLAY BASE, 4" THICK	3,116	SY	3.50	10,906.00
9	IMPROVED BITUMINOUS CONCRETE WEARING SURFACE, 165#/SY, 424-A	3,116	SY	9.05	28,199.80
10	HANDICAP RAMP W/ TACTILE STRIP	2	EA	845.00	1,690.00
11	6" UNDERDRAIN PIPE W/ GRAVEL	250	LF	21.00	5,250.00
12	SPEED LIMIT SIGNS W/POST	1	EA	350.00	350.00
<b>SUB-TOTAL ROADWAYS:</b>					<b>103,792.90</b>
<b>WATER SYSTEM</b>					
13	8" PVC WATER MAIN	1433	LF	11.50	16,479.50
14	6" M.J. 22.5ø BEND	5	EA	342.00	1,710.00
15	8" M.J. 45ø BEND	1	EA	350.00	350.00
16	WATER SERVICE	31	EA	675.00	20,925.00
17	FIRE HYDRANT ASSEMBLY (INCL. TEE, VALVE & HYDRANT)	2	EA	3,820.00	7,640.00
<b>SUB-TOTAL WATER SYSTEM:</b>					<b>47,104.50</b>
<b>SEWER SYSTEM</b>					
18	8" PVC GRAVITY SEWER 4' - 6' CUT	711	LF	16.50	11,731.50
19	8" PVC GRAVITY SEWER 6' - 8' CUT	483	LF	18.00	8,694.00
20	PRECAST CONCRETE MANHOLE 4' - 6'	3	EA	2,875.00	8,625.00
21	PRECAST CONCRETE MANHOLE 6' - 8'	2	EA	3,075.00	6,150.00
22	SEWER LATERAL	29	EA	535.00	15,515.00
<b>SUB-TOTAL SEWER SYSTEM:</b>					<b>50,715.50</b>
				<b>TOTALS:</b>	<b>\$ 224,377.90</b>
				<b>BOND VALUE:</b>	<b>30% \$ 67,313.37</b>

  
Jason Estes (PE)  
Project Manager



**RECEIVED**  
FEB 28 2011  
BY: 

## MAINTENANCE AND GUARANTY AGREEMENT

THIS MAINTENANCE AND GUARANTY AGREEMENT (this "Agreement") is made and entered into by and between Firethorn Development LLC (the "Subdivider"), and the City of Fairhope, Alabama (the "City of Fairhope") (the "City") (the Subdivider, and the City are sometimes hereinafter referred to singularly as a "Party" and collectively as the "Parties").

### Recitals:

WHEREAS, the Subdivider is the developer of Firethorn Phase 2 (the "Subdivision"), which Subdivision is recorded as Instrument Number 1631730 in the records of the Office of the Judge of Probate of Baldwin County, Alabama;

WHEREAS, prior to the City agreeing to accept for maintenance those certain items set forth on Exhibit "A" attached hereto (the "Improvements"), the Subdivider is responsible to maintain the Improvements for a period of two (2) years (the "Maintenance Period") from and after the Effective Date (hereinafter defined).

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby covenant and agree as follows:

1. Recitals. The above recitals shall be included as part of this Agreement as necessary contingencies and as if fully set forth herein.

2. Maintenance and Guaranty of Improvements. The Subdivider shall maintain the Improvements during the Maintenance Period and shall keep the Improvements in good and working order, normal wear and tear excepted. The Subdivider hereby guarantees and warrants the Improvements and the workmanship associated with the construction and installation of the Improvements until the expiration of the Maintenance Period. In the event there is any defect in the Improvements and/or the workmanship associated with the construction and installation of the Improvements (a "Defect") of which the City provides the Subdivider with notice on or before the date that is thirty (30) days following the expiration of the Maintenance Period or of which the Subdivider is otherwise aware prior to the expiration of the Maintenance Period, the Subdivider shall remedy such Defect within ten (10) days of its first obtaining knowledge of such Defect (whether from the City or otherwise); provided, however, that in the event such Defect is not capable of being remedied within said ten-day period, the Subdivider shall have such time as is reasonably necessary to remedy such Defect, but in no event in excess of thirty (30) days, so long as the Subdivider has commenced its remedial efforts within such ten-day period and pursues completion of such remedial efforts with due diligence.

3. Financial Guaranty of Performance. As a condition to the City agreeing to enter into this Agreement, the Subdivider shall provide the City with an acceptable surety/financial guarantee of the payment and performance of its obligations hereunder (the "Guaranty"). The Guaranty shall be provided by a surety and shall be in a form that is acceptable to the City in its sole and absolute discretion and shall be in an amount of \$ 67,313.37. In the event the foregoing condition precedent is not satisfied within thirty (30) days of the Effective Date, the obligation of the City to accept the Improvements for maintenance under Section 4 hereof shall terminate and be of no further force or effect.

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4. City to Accept Improvements for Maintenance. Upon performance in full by the Subdivider of this Agreement and the expiration of the Maintenance Period, the City shall accept maintenance of the Improvements.

5. Failure to Perform. In the event the Subdivider shall fail in whole or in part to perform any term, covenant or condition of this Agreement or in the event of a Defect (a "Default"), the City may issue a written notice of default to the Subdivider (a "Notice of Default"). If the Subdivider has not cured the Default within ten (10) days of its receipt of the Notice of Default, the City shall have the right to take any or all of the following actions:

- (a) complete/remedy any Default, including, without limitation, the right to cure any Defect, at the sole cost and expense of the Subdivider;
- (b) call on or otherwise exercise its rights under the Guaranty; and/or
- (c) exercise any other right or remedy available to the City at law or in equity, including the right to pursue and obtain specific performance.

In the event the City exercises any of the foregoing rights and expends any funds in connection therewith, the Subdivider shall reimburse the City for any such expended funds within ten (10) days of demand for such funds by the City. Any funds not so reimbursed by the Subdivider within said ten (10) day period shall thereafter accrue interest at the rate of twelve percent (12%) per annum.

6. Legal Compliance. The Subdivider shall, at its own expense, comply with all applicable laws, ordinances, regulations, rules and orders, whether federal, state or local, or any regulation of any governmental body having jurisdiction over the Subdivision or the Subdivider with respect to the maintenance and repair of the Improvements, regardless of when they become effective. The Subdivider shall not use, nor permit the use of the Improvements for any purpose in violation of such laws, regulations, rules or orders. The Subdivider represents and warrants to the City that the Subdivider is acting with full and legal authority with respect to the Improvements.

7. Indemnification. The Subdivider shall indemnify, defend and hold harmless the City and its affiliates, elected officials, employees, agents, representatives, contractors, subcontractors, licensees and invitees from and against any and all claims, violations of law, demands, liabilities, damages, losses, judgments, costs, and expenses including, without limitation, attorneys' fees, arising out of or otherwise related to any approval or activity conducted by, or any act or omission of, the Subdivider made or taken pursuant to this Agreement.

8. Responsibility For Agents. The Subdivider shall be responsible for compliance by its engineers, architects, contractors, subcontractors, employees, agents, and representatives (collectively, the "Representatives") with the terms of this Agreement and for all acts or omissions by any or all of the Representatives relating to the obligations of the Subdivider herein.

9. No Assignment. The Subdivider shall not have the right to assign this Agreement or any rights or obligations hereunder without the City's prior written consent, which consent may be withheld in the sole and absolute discretion of the City. Any attempted assignment shall be void. No assignment shall relieve the Subdivider of its liabilities and obligations herein.

10. Agency. It is neither the express nor the implied intent of the Parties to create an agency relationship pursuant to this Agreement; therefore, any actions of the Parties shall not be considered or implied to create such agency.

11. No Waiver. The failure of the City to insist upon a strict performance of any of the terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

12. Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to the construction of the Improvements and there are no further or prior agreements or understandings, written or oral, in effect between the Parties relating to the subject matter hereof.

13. No Endorsement. The City in no way whatsoever is deemed to have approved, provided, given, or allowed to be given any authorization, endorsement, approval, or consent of the business practices, actions or behavior of the Subdivider. This Agreement, and/or the procedures approving the same, is no way to be considered as a substitute for any regulations, procedure or other requirement of the City. It is the sole responsibility of the Subdivider to comply or to ensure its own compliance with any local, state, or federal law or regulation.

14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, without regard to its conflicts of law principles.

15. Attorney's Fees. In the event the City initiates litigation or any other legal proceeding for purposes of enforcing its rights, duties and obligations hereunder and is the prevailing party in any such litigation or other legal proceeding, the City shall be entitled to the recovery of its attorney's fees in addition to any other remedy provided hereunder.



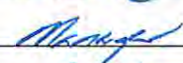
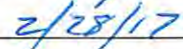
16. Counterparts. This Agreement may be executed in one or more counterparts and by the different parties hereto under separate counterparts, any one of which need not contain the signatures of more than one party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all parties have not signed the same counterpart hereof.

17. Headings. The section headings contained in this Agreement are inserted as a matter of convenience and shall not affect in any way the construction of the terms of this Agreement.

18. Effective Date. As used herein the term "Effective Date" shall mean and refer to the date of execution of this Agreement by the Mayor of the City as set forth below.

IN WITNESS WHEREOF, the Parties, having full authority to do so, have fully executed this Agreement by and through their respective duly authorized representatives as of the last date of execution below.

TRULAND HOMES, LLC.

By:   
Name:   
As Its:   
Date: 



THE CITY OF FAIRHOPE, ALABAMA



By: \_\_\_\_\_

\_\_\_\_\_  
As Its Mayor

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, City Clerk

**EXHIBIT "A"**  
**The Improvements**

The improvements include the infrastructure within the right-of-way to be accepted by the City of Fairhope as part of Firethorne at Silverleaf Phase 2 (Roadway, drainage, water, and sewer).

RESOLUTION NO. \_\_\_\_\_

**BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City Council authorizes Mayor Karin Wilson to temporary fill the position of Special Events Coordinator at a pay grade of 20 with a salary not to exceed the minimum of that grade; and to allow the temporary employee to work up to 40 hours per each week which does not include benefits as long as the employee does not work over the 90 days or until Special Events Coordinator returns to work plus seven (7) working days.

ADOPTED THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk



# CITY OF FAIRHOPE

## Uniform Job Description

Position Title: Special Events Coordinator Position Number: \_\_\_\_\_  
Department: Adult Rec and Special Services Pay Grade: 20  
Reports To: Director of Community Affairs Effective Date: \_\_\_\_\_  
Supervises: \_\_\_\_\_ Supercedes: \_\_\_\_\_

Approvals: _____	
Supervisor	Human Resources Director
_____	_____
Date	Date
FLSA Exempt: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Safety Sensitive: <input type="checkbox"/> Yes <input type="checkbox"/> No
DOT Regulated: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

### I BASIC PURPOSE OF THE POSITION

To create, develop and implement programs related to the promotion of the City of Fairhope for its citizens and tourists.

### II DISTINGUISHING CHARACTERISTICS OF THIS POSITION

Develop, implement and coordinate promotion programs for the Downtown Business District;

Actively solicit groups to shop in Fairhope; coordinate with groups who visit

Assist the Downtown merchants with their marketing and other special events;

Special Events Coordinator

Recruit and supervise volunteers at the Fairhope Welcome Center, Fairhope Museum and for other City special events;

Assist in the development of City communications, prepares or collects information for the City newsletter, news releases and articles regarding Fairhope

Attend various civic, tourist, community, etc. meetings as necessary;

<b>III ESSENTIAL FUNCTIONS AND RESPONSIBILITIES</b>
---

Serve as a liaison between the community and business community and the City of Fairhope;

Assist with and/or coordinate special events such as: Farm Market, July 4<sup>th</sup> Celebration, Downtown Tree Lighting, Christmas Parade, etc.;

Coordinate all aspects of the Fairhope Welcome Center

Maintain Social Media and City website as necessary and develop other communication outlets

#### **IV OTHER DUTIES AND RESPONSIBILITIES**

Assist the Director of Community Affairs as necessary  
Performs other related duties and responsibilities as required

#### **V REQUIRED KNOWLEDGE, SKILLS AND ABILITIES**

Extensive knowledge of modern marketing techniques, including social media;

Extensive knowledge of Fairhope, its founding and history, and the ability to “sell” Fairhope to tourists and other customers.

Working knowledge of a variety of word processing, spreadsheet, financial, and desktop/graphics publishing software, including MS Word and MS Publisher and InDesign.

Ability to plan, schedule, monitor and manage complex and/or detailed marketing projects.

Ability to rapidly learn and perform tasks related to the City’s regulations, policies, rules, functions, procedures or processes.

Ability to communicate effectively verbally and in writing; edit draft reports or correspondence for errors in grammar or structure, meet deadlines; establish and maintain priorities; work under stress.

Ability to maintain physical condition appropriate to the performance of assigned duties and responsibilities, which may include sitting for extended periods of time and operating assigned office equipment.

Ability to establish and maintain courteous working relationships with the general public, volunteers and fellow co-workers.

Ability to operate modern office machines with proficiency. Examples include, but are not limited to, typewriters, copiers, fax machines, personal computers, printers, etc.



Ability to work with only moderate supervision in completing multi-dimensional projects.

Ability to organize records and files.

## **VI ACCEPTABLE EDUCATION, EXPERIENCE AND TRAINING**

Graduation from an accredited college or university with a bachelor's degree in Communications, Marketing, Public Relations or a related field; OR

Any equivalent combination of experience, education or training which provides the knowledge, skills and ability to perform the work.

## **VII EXTENT OF PUBLIC CONTACT**

This position serves as an ambassador for the City of Fairhope and the Fairhope Merchants Association and interacts with many people including City employees, business professionals, tourism groups, volunteers, vendors and the general public.

## **VIII PHYSICAL DEMANDS**

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential function of the job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, stand, sit, climb and descend stairs, and talk or hear. The employee is occasionally required to use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms.

The employee may be occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee may occasionally lift and/or move up to 25 pounds, and occasionally must aide or assist members. Specific vision abilities required by this job include using a computer monitor, close vision, color vision, and the ability to adjust focus

## **IX WORKING CONDITIONS AND ENVIRONMENT**

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job.

Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Special Events Coordinator

*This job description does not constitute either a written or implied contract of employment. The City of Fairhope reserves the right to revise, alter and/or change this job description, as the City deems necessary.*

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the Budget for the fiscal year ending September 30, 2018 has not been adopted by the City Council; and

**WHEREAS**, Resolution No. 2881-17 was adopted on September 25, 2017 to allow invoices and expenditures to continue as needed through November 15, 2017; and

**WHEREAS**, the City invoices need to continue being paid on a weekly basis, in order to take advantage of any available discounts, and to more nearly match the outflow of cash to the receipt of revenue from the three utility billing cycles.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE**, that the Budget for the fiscal year ending September 30, 2017 be extended through December 18, 2017 to allow the invoices and expenditures to continue as needed.

Adopted on this 13th day of November 2017

\_\_\_\_\_  
Karin Wilson, Mayor

Attest:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the City Council has not adopted the proposed Budget for the FY 2017-2018; and

**WHEREAS**, the City of Fairhope is desirous to hold City Events and City Sponsored Events throughout the year which require advanced planning; reserving locations and dates; and

**WHEREAS**, the City Council is now desirous to adopt and approve the Community Development Budget for 2017-2018.

**NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF FAIRHOPE, ALABAMA**, that the City of Fairhope hereby adopts and approves the Community Development Budget for the FY 2017-2018.

ADOPTED THIS 13TH DAY OF NOVEMBER, 2017

\_\_\_\_\_  
Karin Wilson, Mayor

ATTEST:

\_\_\_\_\_  
Lisa A. Hanks, MMC  
City Clerk