

The Planning Commission met Thursday, January 4, 2018 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

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

Chairman Turner called the meeting to order at 5:00 PM and announced the meeting is being recorded. He stated agenda Item A will be moved the end of the agenda.

The minutes of the December 4, 2017 meeting were considered and Ralph Thayer moved to accept the minutes as corrected and was 2<sup>nd</sup> by Richard Peterson. The motion carried unanimously.

**SD 17.28 Public hearing to consider the request of S.E. Civil Engineering, LLC for Preliminary plat approval of Van Antwerp Park, an 11-lot subdivision, Larry Smith.** The property is located on the north side of Pensacola Avenue between N. Section Street and N. Mobile Street. Mr. King gave the staff report saying the subject property is generally located near the intersection of N. Mobile Street and the unopened Pensacola Avenue, and is owned by Van Antwerp Park, LLC consisting of 11.29 acres. The smallest of the 11 lots is 0.25 acres and the largest lot size is 0.47 acres with an average lot size of 0.33 acres. The applicant provided a supporting document clarifying there are no planned future phases above and beyond the future phase shown northwest of lot 11.

The applicant has provided two sanitary sewer concepts for the proposed subdivision labeled concepts "A" and "B". Concept "A" proposes a 2" low pressure force main, connected to an existing sanitary sewer manhole in the existing paved portion of Pensacola Avenue. Concept "B" utilizes a combination of low pressure and gravity sewer lines to service the subdivision. Specifically, grinder pumps will be used to collect waste water from each lot and pump the waste water to an 8" gravity sewer main in the ROW along Pensacola Avenue. The waste water will flow through the gravity main to a proposed lift station to be located at the dead end of N. Mobile street and then flow from the lift station via 3" force main along N. Mobile Street, then follow the newly opened Pensacola Avenue and connect to an existing manhole in the existing paved terminus of Pensacola Avenue. Staff and the Engineer of Record (EOR) have not attained concurrence on the allowance of a low-pressure sewer system vs. a gravity system. Though Concept "B" incorporates gravity sewer, and the sewer main in the ROW is a gravity sewer main, the lots comprising Van Antwerp Park are still reliant upon grinder pumps to collect and convey wastewater to the gravity sewer main. The EOR submitted a supporting letter to the subject application dated November 14, 2017 further-clarifying the EOR's request for a lower pressure sewer system. The EOR's November 14, 2017 letter is included with this staff report as a supporting document. Staff's interpretation of *Standard Specifications for Constructing Sanitary Sewer Facilities (Specifications)* is that approval authority of sewer systems deviating from the Specifications resides with the City of Fairhope Public Utilities Director of Operations and if concurrence has not been attained with the Director of Operations, a waiver shall be requested by the applicant for allowance of a low-pressure sewer service. The EOR provided a supporting letter dated December 13, 2017 requesting a waiver from the *Standard Specifications*

Rebecca Bryant 2<sup>nd</sup> the motion and the motion carried with the following vote: AYE – Art Dyas, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, and Tim Simmonds. NAY – Ralph Thayer.

**SD 17.29 Public hearing to consider the request of HMR, LLC for Preliminary plat approval of Battles Trace, Phase 5, a 73-lot subdivision, Tim Lawley.** The property is located on the north side of Battles Road, north of the Colony at the Grand. Ms. Milford gave the staff report saying this application for Battles Trace Phase 5 was heard by Planning Commission on December 4, 2017. The applicant voluntarily tabled the application for the applicant to work with the Director of Operations, Mr. Richard Peterson, PE, on the pending sewer issues. A meeting was held on December 12, 2017 between RSA Representatives, Mr. Tim Lawley, PE, HMR, and Mr. Richard Peterson, PE, City of Fairhope Director of Operations. No agreement was obtained between all the parties. On December 13, 2017, the applicant submitted a waiver request from the Standard Specifications for Constructing Sanitary Sewer and Water Facilities, allowing the installation of low pressure sewer main. Staff recommendation is to approve contingent upon the following conditions:

1. The applicant shall record the O&M amendment at the time of final plat.
2. The City of Fairhope requests clarification on the construction of the Pedestrian Path.
3. The applicant shall provide economic data and supporting plans to support the justification for the waiver, pursuant to Division 2 Design Criteria, Paragraph 8 of the Specifications for Constructing Sanitary Sewer and Water Facilities. Both the Director of Operations and The Planning Commission shall have the economic data prior to rendering a decision on the waiver.

Mr. Dyas asked for further clarification regarding the economic data the applicant shall perform. Mr. Peterson responded that during the discussions with the applicant they did not reach the point where they would know what a gravity sewer system would look like. Mr. Dyas and Mrs. Bryant said they want to have all of the information prior to voting on something. Mr. Turner stated he spoke with Scott Hutchinson regarding this application and the letter the applicant provided.

Mr. Lawley distributed a document and addressed the Commission giving a brief history of the site and subdivision. He stated every phase has been developed with a low pressure sewer system as part of the master plan that was approved and it is stubbed out to connect this phase as well. Mr. Lawley explained it is approximately 3,200' to the closest gravity line and would require extensive work around the existing utilities to install. Mr. Peterson stated there has not been enough investigating to know whether there is an easier path for installation. Mr. Dyas asked how the original development was approved with a low pressure system in 2005 if gravity was required then. Mr. Peterson responded he does not know and he is not here to second guess the decisions of the staff during that time. He added the applicant and himself have not worked through enough details to say whether a gravity system is feasible or not. Mr. Dyas questioned how the Commission is supposed to decide on this application without that pertinent information. Ms. Milford stated she wrote the staff recommendation to allow the applicant a chance to provide the data if they so desired. Mrs. MacKellar asked if there is a timeframe for the data to be submitted and Ms. Milford did not know. Mr. Turner said the applicant wants to tie into the existing system with a phase that is in the middle of the overall development instead of starting from scratch with the fifth phase. Mr. Turner asked if the Commission would be outside of its

authority to approve the waiver for this phase due to the existing conditions. Mr. Watson responded if the data is provided to conclude a waiver is warranted then the Commission can approve a low pressure system but at this time the data has not been received by staff to make that determination. Mrs. MacKellar and Mrs. Bryant asked if the application can be tabled for 30 days to allow the applicant time to provide the required data. Mr. Lawley explained this development is very different from most, due to very narrow rights-of-way and the utilities being located under the roads to maintain as many trees as possible. He said the low pressure system was approved by the previous utility superintendent and it is impractical to dig up the road to install a new system. He said the waiver was already approved and the system constructed to connect to this phase. Ms. Milford and Scott Hutchison stated the roads are private and the homeowners are responsible for the cost of repair to the roads for maintenance of utilities. Mr. Dyas asked if this is the last phase of the development and Mr. Hutchinson responded no, but it is the last phase that needs low pressure sewer. Mr. Lawley explained the remainder of the development can be designed with a gravity system and be constructed from the outer edge in. Dr. Thayer reiterated the Commission and staff needs the economic data to review before a decision can be made. Mr. Hutchison said they will prepare the numbers and come back. Mrs. MacKellar stated this phase is an additional 73 lots and she would like to see the information to compare. Mrs. Bryant said the Commission is also trying to be environmentally conscious and protect the possible overflows from the grinder pumps. Mr. Watson suggested the applicant voluntarily table the application so the information can be provided to staff and heard at the next meeting. Mr. Lawley requested the application be tabled to the next Planning Commission meeting.

**SD 17.31 Public hearing to consider the request of HMR, LLC for Preliminary and Final plat approval of Camellia at the Colony, a 7-lot subdivision, Tim Lawley.** The property is located on the west side of Battles Road just south of Watershed South subdivision. Ms. Milford gave the staff report saying the property is approximately 1.5 acres and 7 lots are proposed. The applicant has petitioned a zoning change concurrent with annexation to Tourist Resort District. Staff recommendation is to approve contingent upon the following conditions:

1. The applicant shall record the O&M amendment at the time of final plat.
2. The City of Fairhope requests clarification on the construction of the Pedestrian Path with regards to a financial guaranty.
3. The gravity sewer installed shall meet the City of Fairhope Standards.

Mr. Lawley was present to answer any questions. Mr. Turner asked if a sidewalk exists along the property and Mr. Lawley responded one is proposed.

Mr. Turner opened the public hearing.

Mac Walcott of 12330 Live Oak Street – He said the city has 63 or so lift stations and only a few have generators. He asked if the City has more generators coming. Mr. Peterson stated the Council is looking at two dry prime pumps for this month as well as more generators. Mr. Walcott also asked the Commission to publicize the cost for the new interpretation of the regulations.

Jim Edens of 517 Owls Nest Place – He had concerns with ingress/egress for the lots directly onto Battles Road. Mrs. Milford stated the City's Public Works Director, Richard Johnson, reviewed the sight distance and approved it.

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

Art Dyas made a motion to accept the staff recommendation to approve contingent upon the following conditions:

1. The applicant shall record the O&M amendment at the time of final plat.
2. The City of Fairhope requests clarification on the construction of the Pedestrian Path with regards to a financial guaranty.
3. The gravity sewer installed shall meet the City of Fairhope Standards.

Ralph Thayer 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE – Art Dyas, Ralph Thayer, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, and Tim Simmonds. NAY – none.

**SD 18.01 Public hearing to consider the request for plat approval of Camellia Bluffs, a 2-lot minor subdivision, Brandon Bailey.** The property is located on the west side of Main Street directly across from Jubilee Lane. Ms. Milford gave the staff report saying the property is approximately 8.21 acres. This site is located along Scenic 98 and has an existing low stone wall marking its entrance. The applicant is providing a 60- foot wide utility and access easement and intends to have one entrance point and then provide an access drive to Lot 2. The applicant met with Baldwin County and according to the applicant, the County suggested the easement due to the existing wall and to limit the number of access points on Main Street. Staff recommendation is to approve the subdivision application. Mr. Turner opened the public hearing. Having no one present to speak, Mr. Turner closed the public hearing.

Ralph Thayer made a motion to accept the staff recommendation to approve the subdivision application.

Art Dyas 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE – Art Dyas, Ralph Thayer, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, and Tim Simmonds. NAY – none.

**SD 18.02 Public hearing to consider the request of S.E. Civil Engineering, LLC for Multiple Occupancy Project approval of Bancroft & Pine Mixed Use Development, a 22-unit project, Larry Smith.** The project is located on the southeast corner of the intersection of Bancroft Street and Pine Street, at 106 N. Bancroft Street. Ms. Milford gave the staff report saying the site is approximately 0.3 acres in size and will have a 100% lot coverage by a single 3 story building, as allowed within the Central Business District. The first floor is 7770 sf (commercial) with the remaining area as parking, the second floor is 12, 508 sf, and the third floor is 12,508 sf. for a total project of 32,786 sf (representing the heated and cooled space per floor). The building footprint on the lot is 14, 357 sf, which includes the balconies overhanging the sidewalks.

Staff recommends approval of the application contingent upon the following condition:

1. The applicant shall provide the appropriate hold harmless agreements, meeting the approval of the City of Fairhope, regarding the balcony over sidewalks.

Dr. Thayer asked how far over the sidewalk will the balcony extend and Ms. Milford deferred to the applicant.

Mr. Smith addressed the commission saying the balcony will be somewhere between 5 to 6 feet. He stated there will be parking provide for the residential units under the building.

Mr. Turner opened the public hearing.

Richard Davis of 7520 O'Hara Drive – He spoke on behalf of Dale Zuehlke of 454 Pine Street to object the site plan. He explained concerns with lot coverage, the solid eastern wall, privacy,

building height, possible encroachment onto adjacent property, setbacks, and buffers. He requested the Commission deny the request or table it for 30 days to resolve the referenced issues.

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

Mr. Dyas asked for clarification regarding the setbacks. Ms. Milford stated the subject property is zoned B-2 and the front setback as defined is the Pine Street frontage. She explained the adjacent property is also zoned B-2, even though a residential building was constructed on the property. Mr. Turner stated have a commercial use abutting a residential home is to be expected when you build in a commercial area, specifically in the Central Business District (CBD). Mr. Dyas stated the adjacent property is not in the CBD. Mr. Turner asked how the eastern wall is designed and Mr. Smith explained a portion of the wall will be inset to allow the windows to be installed in accordance with the fire code. Mr. Peterson asked the setback of the adjacent house and Mr. Davis responded 4'.

Art Dyas made a motion to accept the staff recommendation to approve contingent upon the following condition:

1. The applicant shall provide the appropriate hold harmless agreements, meeting the approval of the City of Fairhope, regarding the balcony over sidewalks.

Charles Johnson 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE – Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

**SR 18.02 Request of S.E. Civil Engineering, LLC for Site Plan approval of Bancroft & Pine Mixed Use Development, a 22-unit project, Larry Smith.** The project is located on the southeast corner of the intersection of Bancroft Street and Pine Street, at 106 N. Bancroft Street. Ms. Milford gave the staff report saying the site is approximately 0.3 acres in size and will have a 100% lot coverage by a single 3 story building, as allowed within the Central Business District. The first floor is 7770 sf (commercial) with the remaining area as parking, the second floor is 12,508 sf, and the third floor is 12,508 sf. for a total project of 32,786 sf (representing the heated and cooled space per floor). The building footprint on the lot is 14,357 sf, which includes the balconies overhanging the sidewalks.

Staff recommends approval of the application contingent upon the following condition:

1. The applicant shall provide the appropriate hold harmless agreements, meeting the approval of the City of Fairhope, regarding the balcony over sidewalks.

Art Dyas made a motion to accept the staff recommendation to approve contingent upon the following condition:

1. The applicant shall provide the appropriate hold harmless agreements, meeting the approval of the City of Fairhope, regarding the balcony over sidewalks.

Hollie MacKellar 2<sup>nd</sup> the motion.

Mr. Peterson asked how the small parcel between the properties will be maintained and Mr. Smith responded the neighbor has 4' between her home and the property line.

The motion carried unanimously with the following vote: AYE – Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

**ZC 18.01 Public hearing to consider the request of Dewberry/Preble-Rish, LLC for a PUD Amendment for Lot 19 Fairfield, Unit VI, Richard Davis.** The property is located on the northeast corner of the intersection of Boothe Road and Norman Lane. Mr. King gave the staff

report saying the subject property is 3.11 acres in size and the subject PUD amendment will modify the exiting PUD's master plan to reflect the establishment of lot lines for the three structures currently existing on Lot 19 (to become lots 19-A, 19-B, and 19-C) as well as reflect the establishment of lots for the remainder of Lot 19 resulting in a total of fifteen (15) lots. A re-subdivision application (case number SD 18.04) has been submitted concurrently for the re-subdivision of Lot 19 of the existing Fairfield Subdivision, Unit VI. Staff recommendation is to approve with the following condition:

1. Approval of case SD 18.04, Re-subdivision of Lot 19, Fairfield Subdivision Unit VI.

Mr. Turner opened the public hearing.

George Wilson of 19242 Fairfax Drive – He stated concerns with additional drainage and stormwater erosion in Fairfield Place. He also asked the relationship between Fairfield Pointe and Fairfield Place. Mr. King responded all the infrastructure is already in place for the site. He explained this request is to allow individual lots for the previously approved structures. Having no one else present to speak, Mr. Turner closed the public hearing.

Mrs. MacKellar asked if there will be a new homeowner's association for this subject property and Mr. King stated was not aware of any changes from the original development of the subdivision.

Ralph Thayer made a motion to accept the staff recommendation to approve with the following condition:

1. Approval of case SD 18.04, Re-subdivision of Lot 19, Fairfield Subdivision Unit VI.

Art Dyas 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE – Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

**SD 18.04 Public hearing to consider the request of Dewberry/Preble Rish, LLC for Preliminary and Final Plat approval of the Resubdivision of Lot 19, Fairfield, Unit VI, Richard Davis.** The property is located on the northeast corner of the intersection of Boothe Road and Norman Lane. Mr. King gave the staff report saying of the re-subdivision of Lot 19 in the existing Fairfield Subdivision. The re-subdivision will establish lot lines for the three structures currently existing on Lot 19 (to become lots 19-A, 19-B, and 19-C) as well as establish lots for the remainder of Lot 19 resulting in a total of 15 lots. The subject property is 3.11 acres in size and the average size of each lot after subdividing will be 0.15 acres. The largest lot is 0.16 acres and the smallest lot is 0.14 acres in size. Staff recommendation is to approve the subdivision application as requested.

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

Art Dyas made a motion to approve subject to the following condition:

1. City Council approval of the zoning change case ZC 18.01 Lot 19, Fairfield, Unit VI PUD Amendment.

Charles Johnson 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

**SR 18.01 Request of Infirmiry Health for Site Plan approval of Thomas Hospital Parking Lot Addition, Phase II, Scott Hutchinson.** The property is located on the southeast corner of the Thomas Hospital campus. Mr. King gave the staff report saying

the subject application is a Site Plan Review and is necessary because the proposed project is for a parking lot addition to Thomas Hospital consisting of impervious parking surfaces covering 70.4% of the site. An existing building was demolished on the site and a new building is not proposed in the subject application, and due to the impervious surface area greater than 30% of the site, a site plan review is required. Staff recommendation is to approve as requested.

Mr. Dyas asked why we don't require more pervious materials to be used for a parking lot this size. Mr. Turner responded Fairhope was the first to require any pervious parking but maybe it is time to revisit our requirements. Mr. Peterson questioned the proximity of the turnouts and Mr. Hutchinson stated the exits are existing. Mr. Peterson suggested removing one of the turnouts.

Art Dyas made a motion to accept the staff recommendation to approve as requested. Ralph Thayer 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

### **Old / New Business**

**SD 17.27 Point Clear Village – Request for a 180 day extension for final plat recording, Scott Hutchinson.** Mr. Dyess stated the applicant has requested a 180 day extension to record the final plat due to litigation. Staff has no objection to the request. Art Dyas made a motion to approve a 180 day extension for final plat recording. Ralph Thayer 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – none.

**ZC 17.20 Request of the City of Fairhope Planning and Zoning Department for a proposed amendment to Article IV, Section E. Parking of the Zoning Ordinance pertaining to Low Impact Development (LID) requirements and the Greeno Road Corridor parking requirements, Wayne Dyess.** Mr. Dyess stated this was previously discussed at an earlier meeting and with several public comments. He noted staff is currently reviewing and revising the amendment based on the public input. He requested this discussion be continued to the February meeting, due to the number of cases and the length of the meeting already.

**Resolution 2017-03 – Request of City of Fairhope Planning and Zoning Department to amend Article V, Section F. Storm Water Standards of the City of Fairhope Subdivision Regulations, Wayne Dyess.** Mr. Dyas stated he has numerous revisions and would like to review these proposed changes with staff prior to hearing this case. Mrs. Bryant agreed she would like to see the Resolution cleaned up a bit more before presenting to the public or the Commission for a vote. Mr. Dyess stated staff has no issue with revising the proposal. He requested the Commission meet with staff one on one to make sure there is not a quorum. Mrs. Bryant suggested have a work session to discuss these changes. Mr. Turner added he would like to invite the engineers, developers, and City Council to attend as well and Mrs. MacKellar agreed.

Having no further business, Richard Peterson made a motion to adjourn. Art Dyas 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 7:21 PM.



Lee Turner, Chairman



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Emily Boyett, Secretary