

The Planning Commission met Monday, May 7, 2018 at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

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

Absent: Art Dyas

Chairman Turner called the meeting to order at 5:02 PM and announced the meeting is being recorded.

Mr. Turner announced the PUD amendment for Old Battles Village has been withdrawn by the applicant and would not be heard.

Mr. Turner stated the applicants of cases SD 18.19 New Bank and Retail – Ecor Rouge and SD 18.20 Ecor Rouge Condo have requested the cases be tabled.

SD 18.19 Public hearing to consider the request of HMR, LLC for Multiple Occupancy Project approval of a New Bank and Retail – Ecor Rouge, a 6-unit project, Robert Cummings. The property is located on the west side of Greeno Road between Edwards Avenue and Fairhope Avenue. Tim Lawley was present on behalf of the application and requested the applicant be tabled and the 30-day requirement be waived.

Ralph Thayer made a motion to table the request and waive the 30-day requirement. Charles Johnson 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

SD 18.20 Public hearing to consider the request of HMR, LLC for plat approval of Ecor Rouge Condo, a 6-unit condominium development, Robert Cummings. The property is located on the west side of Greeno Road between Edwards Avenue and Fairhope Avenue. Tim Lawley was present on behalf of the applicant and requested the application be tabled and the 30-day requirement be waived.

Ralph Thayer made a motion to table the request and waive the 30-day requirement. Rebecca Bryant 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

SD 18.14 Public hearing to consider the request of Dewberry Engineers, Inc. for Preliminary plat approval of Anthem Oaks, a 9-lot subdivision, Steven Pumphrey. The property is located at the southeast corner of the intersection of County Road 32 and Mandrell Lane. Ms. Milford gave the staff report saying the subject site is approximately 30.07 acres of unzoned Baldwin County land with 9 lots proposed. Staff recommends **approval** contingent upon the following conditions:

- 1) The applicant shall provide the required data as specified in the City of Fairhope Regulations *Article IV Section C 1h, Traffic Data and Traffic Study.*

- 2) The engineer's conditions for adequate fire flow shall be noted on the plat, unless otherwise determined by the Director of Operations, Richard Peterson, PE.
- 3) Utility availability (utility letters) shall be acknowledged by the Director of Operations.
- 4) The applicant shall include lot 9 in the drainage plan and provide drainage calculations to support the case for no storm water detention/LID, to meet the approval of the City of Fairhope Public Works Director, Mr. Richard Johnson, PE.
- 5) The applicant shall provide clarification on this being a phased development. If this is a phased development, then phase lines shall be shown.
- 6) The applicant shall show the request for waiver meets one of the waiver standards or the applicant shall show documentation from the Baldwin County (owner of the right-of-way) that sidewalks would not be allowed in this right of way and the Planning Commission grants the waiver.
- 7) The applicant shall revise the drainage, bmp, and other construction drawings to include the 9th lot which has been added to the subdivision plat so there is consistency between documents.

Mr. Pumphrey stated most of the conditions have been addressed. He noted sidewalks are not required by Baldwin County.

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

Mr. Turner said he is concerned with the lack of sidewalks and wants to see them built at the time of construction. He asked if there is right-of-way available for sidewalks and Mr. Pumphrey responded there should be along County Road 32, but he is not sure about Mandrell Lane. Mrs. Bryant expressed concerns with the numerous conditions and would like to see them addresses prior to the meeting. She also asked if the sidewalk waiver meets the requirements or not and Mr. Dyess responded that is for the Commission to decide. Richard Johnson, Public Works Director, addressed the Commission saying the impervious area will barely be 10% for these size lots. He suggested a 10' sidewalk easement be placed along the front of the lots to allow sidewalks to be constructed even if there is not enough right-of-way. He also noted any re-subdivision will require the drainage to be re-evaluated.

Rebecca Bryant made a motion to accept the staff recommendation for **approval** contingent upon the following conditions:

- 1) The applicant shall provide the required data as specified in the City of Fairhope Regulations *Article IV Section C 1h, Traffic Data and Traffic Study*.
- 2) The engineer's conditions for adequate fire flow shall be noted on the plat, unless otherwise determined by the Director of Operations, Richard Peterson, PE.
- 3) Utility availability (utility letters) shall be acknowledged by the Director of Operations.
- 4) The applicant shall include lot 9 in the drainage plan and provide drainage calculations to support the case for no storm water detention/LID, to meet the approval of the City of Fairhope Public Works Director, Mr. Richard Johnson, PE.
- 5) The applicant shall provide clarification on this being a phased development. If this is a phased development, then phase lines shall be shown.
- 6) A 10' sidewalk easement shall be required along the front of all lots.

- 7) The applicant shall revise the drainage, bmp, and other construction drawings to include the 9th lot which has been added to the subdivision plat so there is consistency between documents.

Ralph Thayer 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

SD 18.15 Public hearing to consider the request of Dewberry Engineers, Inc. for Preliminary plat approval of Phase 5 of Greenbriar at Firethorne, a 30-lot subdivision, Steven Pumphrey. The property is located on the west side of Quail Creek Estates, The Villas. Ms. Milford gave the staff report saying the subject property is approximately 13.90 acres and 30 lots are proposed. Staff recommends **approval** contingent upon the following conditions:

1. Fire Flow and utilities shall meet the approval of the Director of Operations.
2. Utility availability shall be acknowledged by the Director of Operations.
3. Easements shall be as per the City of Fairhope Regulations as per the City of Fairhope Subdivision Regulations *Article V Section D 5. Utility Access and Easements.*
4. The lot number corrections shall be revised throughout the construction drawings.
5. BMP plan shall reflect the minimum requirements (Type A silt fence and construction exit). These requirements shall be reflected on sheet C-2.

Mr. Pumphrey addressed the Commission saying he is aware of the conditions and has made the requested changes.

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

Mrs. Bryant asked how many developments are still undeveloped that were approved prior to the LID requirements and Mr. Dyess responded he is not sure. Dr. Thayer asked if a signal will be installed at the entrance on St. Hwy. 181 and Mr. Pumphrey responded it is not required at this time. He explained the traffic study will be re-evaluated when the 139th house is completed.

Ralph Thayer made a motion to accept the staff recommendation for **approval** contingent upon the following conditions:

1. Fire Flow and utilities shall meet the approval of the Director of Operations.
2. Utility availability shall be acknowledged by the Director of Operations.
3. Easements shall be as per the City of Fairhope Regulations as per the City of Fairhope Subdivision Regulations *Article V Section D 5. Utility Access and Easements.*
4. The lot number corrections shall be revised throughout the construction drawings.
5. BMP plan shall reflect the minimum requirements (Type A silt fence and construction exit). These requirements shall be reflected on sheet C-2.

Charles Johnson 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

SD 18.16 Public hearing to consider the request of Dewberry Engineers, Inc. for Preliminary plat approval of Phase 6 of Golden Oak at Firethorne, a 26-lot subdivision, Steven Pumphrey. The property is located on the west side of Quail Creek Estates, The Villas. Ms. Milford gave the staff report saying the subject property is

approximately 12.68 acres and 26 lots are proposed. Staff recommends **approval** contingent upon the following conditions:

1. Fire Flow and utilities shall meet the approval of the Director of Operations.
2. Utility availability shall be acknowledged by the Director of Operations.
3. Easements shall be as per the City of Fairhope Regulations as per the City of Fairhope Subdivision Regulations *Article V Section D 5. Utility Access and Easements.*

Mr. Pumphrey addressed the Commission saying he is aware of the conditions and has made the requested changes. He said the berm along Quail Creek Drive has also been completed.

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

Mrs. Bryant asked how we know the number of houses completed and Richard Johnson responded the 139th house is in Phase 4 and the Building Dept. is tracking the certificates of occupancy. He explained the trigger will only require the traffic to be re-evaluated but ALDOT could still deny the signal being installed and wait until the 4-lane is constructed. Mrs. MacKellar asked if the ADEM registration has been received and Ms. Milford answered yes.

Rebecca Bryant made a motion to accept the staff recommendation for **approval** contingent upon the following conditions:

1. Fire Flow and utilities shall meet the approval of the Director of Operations.
2. Utility availability shall be acknowledged by the Director of Operations.
3. Easements shall be as per the City of Fairhope Regulations as per the City of Fairhope Subdivision Regulations *Article V Section D 5. Utility Access and Easements.*

Ralph Thayer 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

SD 18.17 Public hearing to consider the request of Dewberry Engineers, Inc. for Preliminary plat approval of The Village at Firethorne, a 20-lot subdivision, Steven Pumphrey. The property is located at the south end of Hemlock Drive and on the west side of Quail Creek Estates, The Villas. Mr. King gave the staff report saying the subject property is approximately 6.27 acres consisting of 3.19 units per acre when divided into 20 lots. Subject application is a new phase of the larger Firethorne PUD, and approval of The Village at Firethorne shall be conditional upon the annexation into the City of Fairhope as a PUD. Staff recommends **approval** contingent upon the following conditions:

- 1) City Council approval of case number ZC 18.03, conditional annexation and rezoning to PUD of subject property
 - a. The Planning Commission is advised the number of lots in case ZC 18.03 was originally 23, but has been reduced to 20 to accommodate the size of the wet pond retention area.
- 2) Prior to land disturbance, submission of “will serve” letters for water and sewer utilities as required by Article IV, Section C.1.b.(8).

Mr. Pumphrey was present to answer any questions.

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

Richard Peterson made a motion to accept the staff recommendation for **approval** contingent upon the following conditions:

- 1) City Council approval of case number ZC 18.03, conditional annexation and rezoning to PUD of subject property
 - a. The Planning Commission is advised the number of lots in case ZC 18.03 was originally 23, but has been reduced to 20 to accommodate the size of the wet pond retention area.
- 2) Prior to land disturbance, submission of “will serve” letters for water and sewer utilities as required by Article IV, Section C.1.b.(8).

Hollie MacKellar 2nd the motion and the motion carried unanimously with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, Richard Peterson, and Jay Robinson. NAY – none.

ZC 18.02 Public hearing to consider the request of Sawgrass Consulting, LLC to establish initial zoning of PUD (Planned Unit Development) conditional upon annexation into the City of Fairhope for property to be known as Twin Beech Estates PUD, Ercil Godwin. The property is located on the north side of County Road 44 (a.k.a. Twin Beech Road) just west of St. Hwy. 181. Mr. King gave the staff report saying the applicant is seeking concurrent annexation and rezoning of eight parcels comprising approximately 22.6 acres from unzoned Baldwin County to the City of Fairhope as a Planned Unit Development (PUD) for a future subdivision of 72 single family residential lots. He stated the applicant has worked with staff to redesign the site to meet the City’s request and fit with the surrounding density. Staff recommends the requested conditional annexation to Planned Unit Development (PUD) be **approved** and forwarded to the City Council for consideration. Mr. Godwin was present to answer any questions. Mr. Turner requested a sidewalk easement be placed along Twin Beech Road and Mr. Godwin agreed to the request. Dr. Thayer was concerned with the usefulness of the greenspace in the middle of the development. Mrs. MacKellar asked how the adjacent bee farm will be protected and Mr. King responded there is a buffer along the west side of the site between the two properties. Mrs. Bryant asked the difference in the current allowable density and the proposed and Mr. Dyess responded the proposal is in line with R-2 zoning. He explained the site is not far from the village center at Hwy. 181 and Fairhope Avenue and is within the sphere of influence so it is not completely out of character with the Comprehensive Plan. Mr. King stated R-1 would allow 65 lots. Mr. Peterson asked why the request is for a PUD and not R-2. Mr. Dyess stated the lots are three different sizes and has a unique design.

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

Mrs. Bryant stated she thinks the plan is more interesting with the proposed design and Mr. Turner agreed.

Richard Peterson made a motion to accept the staff recommendation to **approve** the requested conditional annexation to Planned Unit Development (PUD) and be forwarded to the City Council for consideration. Ralph Thayer 2nd the motion and the motion carried with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Lee Turner, Hollie MacKellar, Tim Simmonds, and Richard Peterson. NAY – none. ABSTAIN – Jay Robinson.

ZC 18.05 Public hearing to consider the request of Sawgrass Consulting, LLC to establish initial zoning of R-2 Medium Density Single Family Residential District

conditional upon annexation into the City of Fairhope for property to be known as Pinewood, Phase 2, Ercil Godwin. The property is located on the south side of Manley Road between Saddlewood Subdivision and the City of Fairhope Soccer Complex. Ms. Milford gave the staff report saying the applicant is seeking conditional annexation and rezoning of approximately 7.42 acres from unzoned Baldwin County to a R-2. The applicant is proposing simultaneous applications including concurrent annexation into the City of Fairhope, rezoning to R-2 and subdivision into 18 lots. R-2 zoning allows for a 37% lot coverage for the principle structure with a 30-foot building height. The applicant is proposing R-2 sized lots (10,500 sq. ft.) which is consistent with the surrounding developments of Southland Subdivision and Saddlewood Subdivision. Staff supports the proposed density for R-2 due to the consistency of the presence of R-2 sized lots in the surrounding developments, the presence of residential units being proposed in close relation to the existing recreational soccer field and to the fact that the area is primarily residential. Staff recommends the requested conditional annexation to R-2 Medium Density Single Family Residential District be approved. Mr. Dyess stated the subject property is surrounded by R-2 size lots. He noted staff has received comments regarding the existing traffic issues along Manley Road but explained the access is existing. Dr. Thayer asked if utility vehicles can access the lots and get back out as designed and Richard Johnson, Public Works Director, answered a hammerhead is required for turn-arounds and will meet the City's standards. Mr. Godwin explained the request is compatible with the surrounding neighborhoods and fits in the area. He said the stub-out was provided with the development of Saddlewood Subdivision for future connection. He stated there is no other access point for this project. Mrs. MacKellar questioned the location and accessibility of the greenspace. Mr. Godwin stated there are pedestrian access points for accessibility and they are over the required percentage of greenspace. Mr. Turner opened the public hearing.

Edward Jackson of 106 Open Field Drive – He said the traffic on Manley Road already blocks the entrances to Saddlewood and more homes will only add to the problem. He also stated concerns with drainage.

Ed Bishop of 123 Open Field Drive – He reiterated concerns with traffic and drainage. He said Manley Road needs improvements for school traffic.

Gary and Brenda Biesenthal of 243 Silo Loop – They stated concerns with traffic and asked if the common area will be shared between the two subdivisions and Mr. Turner responded no.

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

Mrs. MacKellar asked what was approved with Phase 1 and Mr. Godwin stated it was just the 6 lots along Manley Road. Mr. Godwin said the traffic issues on Manley Road are not part of the proposed project. Mr. Turner noted the site is currently unzoned and anything could be put there now. He said it is not perfect but better to zone it R-2 and have some control over the use. Mrs. MacKellar asked if there was a traffic study and Mr. Godwin responded the site does not meet the requirements to mandate a traffic study. Mr. Peterson suggested the school needs the traffic study and Mr. Dyess explained the issue with the carline is not unique and is a problem with every school. Mrs. MacKellar said she is concerned with the location of the greenspace and Mr. Godwin stated it is not ideal, but it meets the City's requirements.

Rebecca Bryant made a motion to accept the staff recommendation to APPROVE the requested conditional annexation to R-2 Medium Density Single Family Residential

District. Ralph Thayer 2nd the motion and the motion carried with the following vote: AYE – Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, Richard Peterson, and Tim Simmonds. NAY – Ralph Thayer. ABSTENTION – Jay Robinson.

SD 18.18 Public hearing to consider the request of Sawgrass Consulting, LLC for Preliminary Plat approval of Pinewood, Phase 2, an 18-lot subdivision, Ercil Godwin.

The property is located on the south side of Manley Road between Saddlewood Subdivision and the City of Fairhope Soccer Complex. Ms. Milford gave the staff report saying the subject property is approximately 7.42 acres and 18 lots are proposed. The applicant is proposing simultaneous applications including concurrent annexation into the City of Fairhope, rezoning to R-2 and subdivision into 18 lots. The original Pinewood Subdivision Phase 1 is located to the north of the subject property and consists of 6 lots fronting on Manley Road, which are unzoned and a 7th remnant parcel which is currently being proposed as Pinewood Phase 2. Staff recommends approval contingent upon the following conditions:

- 1) Engineer's response letter shall have standard letter formatting so that at a minimum the City Planning Department can tell when the letter was sent, who it was addressed to and from whom it was sent.
- 2) Turnarounds and associated easements shall meet the approval of the Mr. Richard Johnson, PE, City of Fairhope Public Works Director.
- 3) Pedestrian landings shall meet the approval of Erik Cortinas, Building Official.
- 4) The applicant shall revise the erosion control plan to include location of construction exit, in the legend and list it under phase 1 activities. Also, the applicant shall provide the NOI and the ADEM registration number.
- 5) Fire Flow shall meet the approval of Richard Peterson, PE. Operations Director.
- 6) The approval of the Pinewood, Phase 2 zoning request by City of Fairhope City Council.
- 7) Adequate access to the lift station shall be provided.
- 8) Sidewalks shall be installed prior to final plat approval.

Mr. Peterson asked if there is access to the lift station and Mr. Godwin stated they are reworking the utility design to meet the gravity sewer requirements and install the lift station. Mr. Simmonds asked if the turn-around can accommodate a school bus and Mr. Godwin responded yes. Mr. Johnson stated the school traffic will require the Board of Education to help redesign the stacking queue. Mrs. Bryant asked what is common area versus detention and Mr. Godwin explained there is approximately one acre of greenspace. Mr. Turner asked if the detention will be usable greenspace and Mr. Godwin responded yes, most of the time it will be usable area. Mr. Dyess stated the regulations only require 10% of greenspace but there is no criteria for the specific use. He said staff can look at changing the regulation to have clear guidance. Mrs. Bryant suggested greenspace be aligned to the street for public exposure and Mr. Dyess said the applicant could make the case the proposed design meets that criteria.

Mr. Turner opened the public hearing.

Bill Poetz of 227 Silo Loop – He said traffic is a major concern as well as safety with only one access for these 18 lots.

Edward Jackson of 106 Open Field Drive – He said the water from these 7 acres drains to the lots in Saddlewood and the developer has already had to install a box drain. He said this is a subdivision in a subdivision and it is not contributing to the POA or maintenance

of the entrance. Mr. Johnson explained the water for this site will be directed to the east and will help the drainage for Saddlewood.

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

Mrs. Bryant stated an additional access to Manley Road could be achieved via Lot 6 in Phase 1 and Mr. Godwin stated there is a home constructed on Lot 6. Mr. Turner said he would like to see a second access for safety and Mr. Godwin explained a second access point is not required for 18 lots.

Ralph Thayer made a motion to accept the staff recommendation to APPROVE contingent upon the following conditions:

- 1) Engineer's response letter shall have standard letter formatting so that at a minimum the City Planning Department can tell when the letter was sent, who it was addressed to and from whom it was sent.
- 2) Turnarounds and associated easements shall meet the approval of the Mr. Richard Johnson, PE, City of Fairhope Public Works Director.
- 3) Pedestrian landings shall meet the approval of Erik Cortinas, Building Official.
- 4) The applicant shall revise the erosion control plan to include location of construction exit, in the legend and list it under phase 1 activities. Also, the applicant shall provide the NOI and the ADEM registration number.
- 5) Fire Flow shall meet the approval of Richard Peterson, PE. Operations Director.
- 6) The approval of the Pinewood, Phase 2 zoning request by City of Fairhope City Council.
- 7) Adequate access to the lift station shall be provided.
- 8) Sidewalks shall be installed prior to final plat approval.

Richard Peterson 2nd the motion and the motion failed with the following vote: AYE – Lee Turner, Richard Peterson, and Tim Simmonds. NAY – Rebecca Bryant, Charles Johnson, Ralph Thayer, Hollie MacKellar, and Jay Robinson.

Rebecca Bryant made a motion to DENY the request based on the greenspace location not meeting the requirements to provide maximum exposure and access to the public.

Ralph Thayer 2nd the motion and the motion carried with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Hollie MacKellar, and Jay Robinson. NAY – Lee Turner, Richard Peterson, and Tim Simmonds.

SD 18.21 Public hearing to consider the request of HMR, LLC for Multiple Occupancy Project approval of Old Battles Place, Phase 2, a 95-unit project, Tim Lawley. The property is located on the northeast corner of the intersection of Old Battles Road and S. Section Street. Mr. King gave the staff report saying the site is approximately 40.89 total acres and is zoned R-5 High Density Multi-Family Residential District. The subject application is an MOP and does not request subdivision of lands or the creation of new lots. Phase 1 of the development has been constructed, consisting of 110 apartment homes. Phase 2 will complete development of the site and add an additional 95 apartment homes of similar configuration and arrangement to Phase 1. Staff recommends **approval** of the MOP request subject to the conditions below:

- 1) A pre-construction conference will be required prior to land disturbance associated with Phase 2.
 - a. Incidental land disturbance associated with Phase 1 may continue prior to the Phase 2 pre-construction meeting.

- b. The sequencing of apartment home construction, procedures for requests for building inspection, and site stabilization requirements for each apartment home site will be clarified during the pre-construction conference.
- 2) Acceptance of the request for waiver of ten (10) LID techniques and acceptance of the use of five (5) LID techniques as was accepted for Phase 1 of subject development.
 - 3) The building official will monitor the progress of the construction of the apartment homes in Phase 2. When the building official determines approximately 75% of the apartment homes have attained certificate of occupancy, staff will conduct the following closeout procedures as well as request the following closeout documents:
 - Maintenance Bond as required by Article IV, Section.D.1.a. for any infrastructure to be dedicated to the City of Fairhope.
 - A fully-executed and recorded copy of the Operations and Maintenance (O&M) Plan and Agreement for maintenance of detention facilities and other storm water quantity and quality BMPs as required by Article IV, Section.D.1.b.(17) and Article V, Section F.3.a.(3)(a)(3).
 - Digital or video image(s) with date and time stamp of storm drains to ensure drainage structures are undamaged and free of debris and sediment as required by Article IV, Section.D.1.b.(16).
 - One copy of the site as-built drawings as well as one copy of the drainage calculations, both containing the engineer's certificate required by Article IV, Section.D.1.b.(18) and Article VI, Section E.6.–8. and identifying the entity responsible for maintenance of drainage facilities outside the public ROW or public easements.
 - One copy of the landscape as-built drawings with a statement from the landscape architect of record indicating the various landscape features have been completed as-designed.
 - Inspection of all other MOP-applicable sections of Article IV, Section D. 1.b.(1) – (18).
 - Inspection of all other MOP-applicable sections of Article VI, *Construction Standards* and Chapter 19 of the *City of Fairhope Code of Ordinances*, testing requirements.

Mr. Turner asked what recourse we have if the landscaping is not installed as designed and Mr. King responded our legal counsel would need to advise for recourse. Mr. Dyess stated staff inspects the site to ensure the site is built in accordance with the approved construction plans.

Mr. Turner opened the public hearing.

Carol Gordon of 17861 S. Section Street – She thanked the Commission for their service to the City. She gave a brief history of the site and said the reduction of units per acre was agreed to so the property would be annexed. She stated concerns with stormwater and the LIDs. She asked if the inline stormwater storage system has been constructed. She said there is a pump in the retention pond that constantly runs and was told it would be removed at the time of completion and the pond re-dug. She asked what recourse the residents have if the drainage systems fail. Mrs. Gordon said sidewalks are needed along Battles Road and Section Street. She referenced a tree plan dated June 23, 2016, and said

trees are being removed on the phase 2 site that could be heritage trees. She explained traffic is major concern at the intersection of Battles Road and Section Street and there have been multiple accidents. She stated the property was rezoned in 2006 and it would be reasonable for the city to have a sunset clause.

Clint Martin of 201 Atwater Avenue – He stated concerns with environmental issues. He said there have been 8 or 9 incidents of red sediment and runoff from this site. He said stop work orders have not been obeyed and the County had to replace the culverts on Section Street because of this development.

Bonnie Gulsby of 410 Bartlett Avenue – She stated concerns with the landscaping and asked who follows up to make sure its completed. She said the site was completely clear cut and even one of the trees she planted were removed. She noted the pond has already been dugout once and now it is being done again. She said our streets and schools are already overloaded and this development will only compound the problems. She said the developer has not been a good neighbor.

Elizabeth Brodbeck of 18320 S. Section Street – She stated she did not receive a letter. She explained the proposed development is completely different from what was presented when the site was rezoned. She stated the proposal has one more unit than is allowed for 40.89 acres. She said the landscaping has not been followed and the stormwater is inadequate. She said the pond has been breached several times and needs to be dugout again. She questioned the third-party review and the lack of LIDs. She said the LID waiver does not need to be continued just because it was allowed with phase 1. She said the speed limit needs to be lowered on Section Street and sidewalks should be installed. She added the site has had many violations and the rules need to be followed. Having no one else present to speak, Mr. Turner closed the public hearing.

Mr. King responded to the comments saying the City has revised the erosion regulations and now each building will have to have their own control measures. He said the drainage system was reviewed by a third-party, Larry Smith of S.E. Civil Engineering, LLC. Mr. Lawley explained the LID waivers were requested due to the site's incompatibility with the available techniques. He stated the in-line storage has been installed and the pump is used to allow the water to filtrate through the site. He explained the County requested the pipe be resized due to the adjacent development discharging to this site and the developer installed 4 culverts at their own expense. He added the County did not want the sidewalks installed. Mr. Turner said he would like to see sidewalks installed even if they are put in an easement on private property. He noted Phase 1 was one of the worst environmental projects he has ever seen but it did cause the City to revise several ordinances to prevent this in the future. Mr. Lawley said there were eight or nine 5" or more rain events in a 6 month timeframe. He said the trees on Phase 1 were planted pines and were intended to be harvested but Phase 2 has a tree preservation plan which is being adhered to. Mr. Lawley explained there is a vegetative buffer along the rights-of-way and the original plan at the time of rezoning proposed 192 units. Mrs. Bryant said this is a great site to use LIDs and to spread them out. Mr. Lawley detailed the LIDs being utilized on the site. Mrs. Bryant said turbid water leaving the site is an issue and Mr. Lawley responded the color was the issue, not the amount. Mr. Turner said he feels the roads not being paved where a big part of the issue. Mrs. MacKellar asked if the in line storage is in place and Mr. Lawley responded yes, and the pipe was even upsized to allow more storage in the pipe. Mrs. Bryant said the LID waiver is a concern for her. Mr. Turner said the waiver is not because the developer doesn't want to do them

but because the site soils are unsuitable for the remaining techniques. Mrs. Bryant suggested adding more of the LIDs that are suitable for the site. Mrs. MacKellar asked about having a sunset clause for zoning changes and Mr. Dyess stated the proposed site plan amendments will tie the zoning to a site plan to help with those concerns. Mr. Peterson disclosed contact with several residents in the area regarding sewer concerns. He stated there are currently 5 project that have been approved and 3 will affect this site. He said we need to continue on the track of progress to stay ahead of the growth. Ralph Thayer made a motion to accept the staff recommendation for **approval** of the MOP request subject to the conditions below:

- 1) A pre-construction conference will be required prior to land disturbance associated with Phase 2.
 - a. Incidental land disturbance associated with Phase 1 may continue prior to the Phase 2 pre-construction meeting.
 - b. The sequencing of apartment home construction, procedures for requests for building inspection, and site stabilization requirements for each apartment home site will be clarified during the pre-construction conference.
- 2) Acceptance of the request for waiver of ten (10) LID techniques and acceptance of the use of five (5) LID techniques as was accepted for Phase 1 of subject development.
- 3) The building official will monitor the progress of the construction of the apartment homes in Phase 2. When the building official determines approximately 75% of the apartment homes have attained certificate of occupancy, staff will conduct the following closeout procedures as well as request the following closeout documents:
 - o Maintenance Bond as required by Article IV, Section.D.1.a. for any infrastructure to be dedicated to the City of Fairhope.
 - o A fully-executed and recorded copy of the Operations and Maintenance (O&M) Plan and Agreement for maintenance of detention facilities and other storm water quantity and quality BMPs as required by Article IV, Section.D.1.b.(17) and Article V, Section F.3.a.(3)(a)(3).
 - o Digital or video image(s) with date and time stamp of storm drains to ensure drainage structures are undamaged and free of debris and sediment as required by Article IV, Section.D.1.b.(16).
 - o One copy of the site as-built drawings as well as one copy of the drainage calculations, both containing the engineer's certificate required by Article IV, Section.D.1.b.(18) and Article VI, Section E.6.–8. and identifying the entity responsible for maintenance of drainage facilities outside the public ROW or public easements.
 - o One copy of the landscape as-built drawings with a statement from the landscape architect of record indicating the various landscape features have been completed as-designed.
 - o Inspection of all other MOP-applicable sections of Article IV, Section D. 1.b.(1) – (18).
 - o Inspection of all other MOP-applicable sections of Article VI, *Construction Standards* and Chapter 19 of the *City of Fairhope Code of Ordinances*, testing requirements.

4) Sidewalks shall be installed on Battles Road and County Road 3 (a.k.a. Section Street). Charles Johnson 2nd the motion and the motion failed with the following vote: AYE – Charles Johnson, Ralph Thayer, Lee Turner, and Richard Peterson. NAY – Rebecca Bryant, Hollie MacKellar, Tim Simmonds, and Jay Robinson.

Mr. Watson explained a statement of denial is needed and the bases of the denial so it can be communicated to the developer. Mrs. MacKellar stated she has never voted for the project and cited stormwater, flooding, traffic, environment, and the LID waivers as reasons she is not in favor of it. Mrs. Bryant stated the project endangers the health, safety, and welfare of property within the jurisdiction, and the LID waivers are reasons for denial.

Jay Robinson made a motion to **deny** the MOP request due to concerns for the health, safety, and welfare of property in the planning jurisdiction, and due to traffic and stormwater concerns which were proven with the construction of Phase 1. Rebecca Bryant 2nd the motion and the motion carried with the following vote: AYE – Rebecca Bryant, Charles Johnson, Ralph Thayer, Hollie MacKellar, Tim Simmonds, and Jay Robinson. NAY – Lee Turner and Richard Peterson.

Old / New Business

Planning Commission Worksession – Mr. Dyess stated there will be Planning and Community Engagement Meeting worksession follow-up on June 4, 2018, at 3:30-4:30 PM in the Council Chambers.

Having no further business, Ralph Thayer made a motion to adjourn. Charles Johnson 2nd the motion and the motion carried unanimously. The meeting was adjourned at 9:05 PM.



Lee Turner, Chairman



Emily Boyett, Secretary