

The Planning Commission met Monday, February 4, 2019 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; Hollie MacKellar; Richard Peterson; Jack Burrell; Wayne Dyess, Planning Director; Buford King, Planner; Nancy Milford, Planner; Mike Jeffries, Planning Technician; Emily Boyett, Secretary; and Ken Watson, City Attorney  
Absent: Clarice Hall-Black

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

Mr. Turner announced the Item D. SD 19.01 Wettermark MOP has been withdrawn by the applicant and will not be heard.

**ZC 19.01 Public hearing to consider the request of Dan Blackburn, on behalf of Michael Hollis, Leslie Hollis, Doris Faust Callies, and William Callies, III, to rezone properties from R-2 Medium Density Single Family Residential District to R-3 High Density Single Family Residential District.** The property is located on the north side of Morphy Avenue and at the south end of Beecher Street. Mr. Dyess gave the staff report saying the applicant wishes to rezone approximately 4.2 from R-2 - Medium Density Single- Family Residential District to R-3 - High Density Single-Family Residential District. The subject property is currently comprised of 8 lots and contains 2 single family homes. The remaining 6 lots are undeveloped. The subject property has a land use of residential and is located between two Village Node (Fairhope Avenue and Greeno Road and State Highway 104 and Fairhope Avenue. The proposed rezoning keeps the property as a residential use. The current use of the surrounding properties is either a plant nursery and residential. The property consisting of the plant nursery (property border subject property to the west) is zoned R-3 - High Density Single-Family Residential District. This rezoning is not anticipated to have an impact to the predominant residential character of the area. The subject property and its 8 lots are currently being served with water, sewer and gas. If a rezoning is approved with a slight increase in density, no adverse impacts are anticipated. Staff recommends that Case: ZC 19.01 Hollis/Callies Property, rezoning 4.3 acres from R-2 Medium Density Single Family Residential District to R-3 High Density Single Family Residential District, be **APPROVED.**

Mr. Blackburn addressed the Commission and gave a brief history of the property. He explained the property has been in litigation since 2014 and this request has been made to satisfy the terms of the trail. Bill Callies addressed the Commission saying a subdivision was approved in 1999 by the Commission and the City even helped install the infrastructure. He stated there is no public access to the subdivision, but the Faust family is present to support the rezoning request and request if the property is developed that it be accessed from Morphy Avenue. He provided a letter with the proposed conditions of approval.

Mr. Turner opened the public hearing.

Matt McDonald, City Attorney – He stated both parties have agreed to the following 3 conditions:

1. The property subject to the rezoning request lies immediately south of eight (8) lots fronting Beecher Street owned by various members of the Faust family. For ease of reference the eight (8) Faust lots on Beecher Street, depicted on the attached Exhibit A, are hereinafter referred to as the "Faust Division." The property leased by the Callies and Hollis families, depicted on the attached Exhibit B, will be referred to as the "Callies Division."
2. The lessees of the Callies Division agree that rezoning can be granted based upon the express condition that, when developed, the rezoned property and lots will be accessed only from Morphy Avenue and not Fairhope Avenue. If the lot currently owned within the Faust Division by Doris Faust Callies lot (PPIN 14655) is included in a future subdivision to be constructed on the Callies Division, this lot also shall have access only from Morphy Avenue and not Fairhope Avenue. If the Doris Callies lot (PPIN 14655) is not so included and remains a part of the Faust Division it shall continue to have access from Fairhope Avenue.
3. The lot and home leased in the Callies Division by Micheal and Leslie Hollis (PPIN 236236) currently has access from Fairhope Avenue and shall continue to have access from Fairhope Avenue in accordance with Beecher Street Common Road and Maintenance Agreement attached as Exhibit C. At such time as the home is demolished and removed in order to develop the lots within the Callies Division, access to this lot shall be only from Morphy Avenue and not Fairhope Avenue.

Mr. Burrell explained these conditions satisfy his concerns expressed at the January meeting regarding this case.

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

Mrs. Bryant asked why connectivity is not being required with in this situation and Mr. Dyess explained Beecher Street is not an actual right-of-way and is not public. Mr. Peterson said he would like to see a pedestrian connection to allow children to walk to school. Mr. Dyas stated Beecher Street is private lane and does not meet the city standards to allow acceptance by the city. Mr. Turner explained the lane is extremely narrow and is very close the homes that front it. Mrs. Bryant asked how many roads are like this in our jurisdiction and Mr. Dyess said he did not have a number but private streets are very common. Mrs. MacKellar agreed there are numerous private roads. Mr. Peterson asked if the City will vacate the southern portion of Beecher Street and Mr. Dyess said the property owners would have to request the vacation at the time of development.

Art Dyas made a motion to accept the staff recommendation to **approve** the request with the following conditions:

1. The property subject to the rezoning request lies immediately south of eight (8) lots fronting Beecher Street owned by various members of the Faust family. For ease of reference the eight (8) Faust lots on Beecher Street, depicted on the attached Exhibit A, are hereinafter referred to as the "Faust Division." The property leased by the Callies and Hollis families, depicted on the attached Exhibit B, will be referred to as the "Callies Division."
2. The lessees of the Callies Division agree that rezoning can be granted based upon the express condition that, when developed, the rezoned property and lots will be accessed only from Morphy Avenue and not Fairhope Avenue. If the lot currently owned within the Faust Division by Doris Faust Callies lot (PPIN 14655) is

included in a future subdivision to be constructed on the Callies Division, this lot also shall have access only from Morphy Avenue and not Fairhope Avenue. If the Doris Callies lot (PPIN 14655) is not so included and remains a part of the Faust Division it shall continue to have access from Fairhope Avenue.

3. The lot and home leased in the Callies Division by Micheal and Leslie Hollis (PPIN 236236) currently has access from Fairhope Avenue and shall continue to have access from Fairhope Avenue in accordance with Beecher Street Common Road and Maintenance Agreement attached as Exhibit C. At such time as the home is demolished and removed in order to develop the lots within the Callies Division, access to this lot shall be only from Morphy Avenue and not Fairhope Avenue.

Jack Burrell 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 Jack Burrell. NAY – Richard Peterson.

**ZC 19.03 Public hearing to consider the request of Robert Evans, on behalf of Evans Family Trust of 2013, to rezone property from M-1 Light Industrial District to B-2 General Business District.** The property is located on the northwest corner of the intersection of Nichols Avenue and Professional Park Drive, to be known as The Hope Farm. Ms. Milford gave the staff report The property is approximately 1.18 acres The Planning Commission was presented the Hope Farm Application on January 4, 2019. The Planning Commission tabled the application to obtain input from the City of Fairhope Industrial Board regarding the impact of this project in removing M-1 property from the small pool of M-1 Properties that currently exists. On January 16, 2019, the Industrial Board met and provided input to staff that the pool of M-1 properties is currently too small and firmly expressed the need to maintain the current number of M-1 properties to have a reserve of light industrial properties for future City needs. After discussing all sides of the issue, the Board came to the decision that a restaurant/bar use within the M-1 Zoning district was not an objectionable use and may actually benefit an industrial area as long as the parameters for the restaurant/bar use was well-defined, such as no drive throughs allowed. They were not supportive of changing the existing zoning of the subject parcel to a B-2 designation. The Industrial Board made the recommendation to allow a restaurant/bar use (with well-defined parameters) in the M-1 zoning designation and asked the City Staff to prepare an ordinance that could be presented to the Industrial Board and City Council. The Industrial Board passed the following recommendation unanimously: The re-zoning request should be denied and the M1 zoning designation in the City Ordinance should be revised to include restaurants and bars with the specific restriction of not allowing drive through service windows. Staff is amending the original staff recommendation based on the concerns of the Industrial Board's concern for the loss of any M-1 zoning designations. The applicant is proposing a primary use of restaurant and bar with the following accessory uses: Hydroponic Shipping Container gardens for produce for the restaurant; entertainment venue; and educational facility. The applicant is proposing a "destination" project with a combination of activities, including a full restaurant/bar as their primary use, which will also occasionally (2-3 times a month) host Guest Chef dinners. The applicant is providing an outdoor gathering space for community-oriented events along with fully enclosed on-site shipping containers that are repurposed for growing plants

hydroponically. At this time, the applicant is proposing enclosed hydroponic gardening within shipping containers. According to the applicant, all processes are fully self-contained with no on-site waste produced. They have a desire to use these agriculture products (lettuces, leafy greens, herbs and mushrooms) grown hydroponically within the restaurant and also use the hydroponic system as an educational venue. Staff has reviewed the application with the regulations as they are listed in our current ordinances which address farming in the conventional way and do not have flexibility for the concept of urban farms which is ultimately a concept the applicant would like to embrace. Staff has discussed this issue with the applicant. The applicant said that they will accommodate their plan to only use what is grown within their own operations as a restaurant instead of selling to the public or other businesses. The applicant has also expressed an interest in selling local artisan, agricultural products and specialty products in a farmers' market format in the open space area. The concept being proposed is very similar to the concept that was embraced in the Windmill Market that was located downtown Fairhope. The applicant has submitted a general conceptual layout of what is proposed. However, this is a zoning application, so details of site plan will not be addressed as part of this application and will be addressed at a later date. Staff recommends the zoning request from M-1 to B-2 be **DENIED** based on the Industrial Board feed back regarding a lack of reserve for M-1 zoning designations. At the request of the Industrial Board, the City Planning Staff will prepare a zoning amendment to the City of Fairhope Zoning Ordinance regarding M-1 zoning designation to include a restaurant/bar use with restrictions on drive throughs. Mr. Dyess explained a zoning text amendment will be presented at a subsequent meeting to amend the M-1 zoning district to establish conditions and guidelines for restaurants and locations in the M-1 district. Mr. Burrell stated the Industrial Development Board asked for the application to be tabled to allow the amendment to the uses in the M-1 district. Mrs. Bryant suggested tying production to the use and Mrs. MacKellar cited Warehouse Baker as an example. Jack Burrell made a motion to **TABLE** the request until the May Planning Commission meeting to allow amendments to the M-1 zoning district. Charles Johnson 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, Richard Peterson and Jack Burrell. NAY – none.

**Resolution 2019-01 Public hearing to consider the request of the City of Fairhope Planning Department to Article V, Section C. Greenspace Standards in the City of Fairhope Subdivision Regulations, Wayne Dyess.** Mr. Dyess gave the staff report and a powerpoint presentation highlighting the proposed changes to the existing ordinance. He explained that over the past several months staff has worked on an amendment to the greenspace standards. The staff has 3 primary goals to achieve with this amendment:

1. Ensure that the amount of was adequate to meet the needs of the neighborhood. One primary change was to calculate amount of greenspace based on the net density of the development. Therefore, public or private rights-of-way, storm water infrastructure, wetlands, water course and undevelopable land based on topography or physical constraints were removed from the density computation. The resulting usable land was then used calculate density.
2. Ensure that greenspace provided is in the proper context of the development type. Rural character is considered 1 dwelling unit per acre or less, suburban character

- is considered 2-4 units per acre and urban character and village center is considered more than 4 units per acre. Table 4-1 provides and visual examples as well descriptions and minimums and maximum sizes of greenspace.
3. Ensure that greenspace becomes an asset to a neighborhood. Greenspace is an important design element of quality neighborhoods. Greenspace, properly provided and designed, increases property values, provides recreational activities and builds identity and pride.

Staff recommendation is to **APPROVE** the proposed amendment to Article V, Section C. Greenspace Standards in the City of Fairhope Subdivision Regulations.

Mr. Turner opened the public hearing.

Gary Gover of 300 Lincoln Street – He asked if there is an overall target percentage of greenspace for the City. He suggested 20% so urban development doesn't take over.

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

Mr. Dyess recommended the City require a fee in lieu of each individual development so the City could purchase and maintain any properties. Mr. Turner stated he liked to see greenspace addressed for Multiple Occupancy Projects (MOP) and R-1. He asked if a clubhouse with indoor activities would be counted as a portion of the required percentage and Mr. Dyess stated it would be a case by case basis and the Commission could decide.

Mr. Dyas stated the Commission needs to be consistent with those decisions. Mrs. MacKellar asked what plans are in place to provide parks in areas where the City is growing and Mr. Dyess explained the Comp. Plan gives some guidance but the new Comp. Plan will have target areas. He explained recreation areas and open space is valuable to the City and the property. Mr. Dyas and Mrs. MacKellar noted county properties and unzoned areas need parks to support the residential growth. Mr. Dyess stated the City is currently purchasing properties for recreation and Mr. Burrell added it is approximately 40 acres is being acquired. Mr. Burrell encouraged the Commissioners to adopt this proposed amendment and said it is a good starting place.

Jack Burrell made a motion to **APPROVE** the proposed amendment to Article V, Section C. Greenspace Standards in the City of Fairhope Subdivision Regulations. Rebecca Bryant 2<sup>nd</sup> the motion and the motion carried unanimously following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, Richard Peterson and Jack Burrell. NAY – none.

**SD 19.06 Public hearing to consider the request of The Bills' No. 2, LLC for Preliminary plat approval of Riverhorse Subdivision, a 25-lot division, Steve Pumphrey.** The project is located on the northeast corner of the intersection of Blueberry Lane and Canyon Drive. Mr. Jeffries gave the staff report saying the applicant is requesting preliminary plat approval of Riverhorse, a 25-lot major subdivision. The property is located ¼ mile north of Gayfer Avenue on the east side of Blueberry Lane. Just North of the subdivision North Station. The subject property is 22 acres. Staff recommends **APPROVAL** with the following conditions:

1. A 10' buffer along Blueberry Lane indicating "Reserved for planting of trees and shrubs".
2. Provide a sign and sealed letter with response to why a tree protection plan is not needed.
3. Revise Operation and Maintenance Plan to reflect a 5-year maintenance schedule and not 3.

4. Add note on plat that the greenspace is not dedicated to the City of Fairhope and that the City of Fairhope is not responsible for maintenance of any or all required greenspace.

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

Mr. Pumphrey stated this development was submitted prior to the greenspace amendment but it meets the new requirements. Mr. Turner questioned the stormwater discharge and requested it be fanned out into the wetland and not have a single point outfall.

Art Dyas made a motion to accept the staff recommendation to **APPROVE** with the following conditions:

1. A 10' buffer along Blueberry Lane indicating "Reserved for planting of trees and shrubs".
2. Provide a sign and sealed letter with response to why a tree protection plan is not needed.
3. Revise Operation and Maintenance Plan to reflect a 5-year maintenance schedule and not 3.
4. Add note on plat that the greenspace is not dedicated to the City of Fairhope and that the City of Fairhope is not responsible for maintenance of any or all required greenspace.

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

**SD 19.07 Public hearing to consider the request of The Bills' No. 2, LLC for Preliminary plat approval of Tracery, a 43-lot subdivision, Steve Pumphrey.** The project is located on the west side of Lawrence Road just north of Sky Lane. Mr. Jeffries gave the staff report saying applicant is requesting preliminary plat approval of Tracery, a 43-lot major subdivision. The property is located ¼ mile north of Gayfer Avenue on the west side of Lawrence Road. The subject property is 31.93 acres. Staff recommends **APPROVAL** with the following conditions:

1. A 10' buffer along Lawrence Road indicating "Reserved for planting of trees and shrubs".
2. Provide a sign and sealed letter with response to why a tree protection plan is not needed.
3. Revise Operation and Maintenance Plan to reflect a 5-year maintenance schedule and not 3.
4. Add note on plat that the greenspace is not dedicated to the City of Fairhope and that the City of Fairhope is not responsible for maintenance of any or all required greenspace.

Mr. Turner asked about connectivity and Mr. Jeffries explained the wetlands prevent the two subdivisions from being connected and Mr. Dyess stated it would cause more harm than good to connect them. Mr. Dyas agreed with staff and Mr. Dyess stated the connectivity index cites wetlands as preclusion to the requirement. Mr. Turner asked if a stub-out could be added to the large parcel to the south. Mr. Peterson suggested defining connectivity to specify pedestrian versus vehicle, and utility and greenspace.

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

Art Dyas made a motion to accept the staff recommendation to **APPROVE** with the following conditions:

1. A 10' buffer along Lawrence Road indicating "Reserved for planting of trees and shrubs".
2. Provide a sign and sealed letter with response to why a tree protection plan is not needed.
3. Revise Operation and Maintenance Plan to reflect a 5-year maintenance schedule and not 3.
4. Add note on plat that the greenspace is not dedicated to the City of Fairhope and that the City of Fairhope is not responsible for maintenance of any or all required greenspace.

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

**SD 19.10 Public hearing to consider the request of The Retirement Systems of Alabama for Final plat 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 the property is owned by the Retirement Systems of Alabama and their authorized representative is HMR, LLC. The total site acreage is 27.58 acres, with the largest lot being approximately 15,185 sf and the smallest lot being 8,125 sf. The Preliminary Plat 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. This application was heard at the January 4<sup>th</sup>, 2018 meeting. The applicant submitted an alternative plan for sewer, which was approved by Richard Peterson, Director of Operations. The application was approved by Planning Commission meeting on February 5, 2018.

Staff recommends **APPROVAL** of the application contingent upon the following conditions:

1. All improvements shall be inspected and accepted by the City of Fairhope by the time of the Planning Commission meeting or the applicant shall submit a performance bond for all incomplete items. All final inspection items shall be completed. The final plat will not be signed until a thorough re-inspection occurs ensuring all pending/remaining work is completed.
2. The building official's note to the plat shall be added.
3. All material test reports shall be submitted, reviewed, approved and accepted prior to the signing of the final plat.
4. All utility related test reports shall be submitted, reviewed, approved and accepted prior to the signing of the final plat.
5. The applicant shall submit the exhibits that go with the agreement.
6. The applicant shall provide a letter verifying the project is 90% complete.

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

Mr. Lawley addressed the Commission saying conditions 2, 3, 4 and 5 have been met.

Jack Burrell made a motion to accept the staff recommendation to **APPROVE** the application contingent upon the following conditions:

1. All improvements shall be inspected and accepted by the City of Fairhope by the time of the Planning Commission meeting or the applicant shall submit a performance bond for all incomplete items. All final inspection items shall be completed. The final plat will not be signed until a thorough re-inspection occurs ensuring all pending/remaining work is completed.
2. The building official's note to the plat shall be added.
3. All material test reports shall be submitted, reviewed, approved and accepted prior to the signing of the final plat.
4. All utility related test reports shall be submitted, reviewed, approved and accepted prior to the signing of the final plat.
5. The applicant shall submit the exhibits that go with the agreement.
6. The applicant shall provide a letter verifying the project is 90% complete.

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

### **Old / New Business**

**March Planning Commission Meeting, Emily Boyett** – Ms. Boyett requested the Commission reschedule the March meeting to Tuesday, March 12, 2019, due to the Mardi Gras holiday. Art Dyas made a motion to move the March Planning Commission meeting to Tuesday, March 12, 2019. Hollie MacKellar 2<sup>nd</sup> the motion and the motion carried unanimously with the following vote: AYE - Art Dyas, Rebecca Bryant, Charles Johnson, Lee Turner, Hollie MacKellar, Richard Peterson and Jack Burrell. NAY – none.

Having no further business, Richard Peterson made a motion to adjourn. Charles Johnson 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 6:44 PM.

  
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Lee Turner, Chairman

  
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Emily Boyett, Secretary