

The Board of Adjustments met Thursday, June 10, 2021, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Richard Schneider; John Avent; Cathy Slagle; Hunter Simmons, Planning and Zoning Manager; Allie Knutson, Secretary.

Absent: Christina Stankoski; David Martin, Alternate; and Donna Cook, Alternate.

Chairman Vira called the meeting to order at 5:08 PM.

Minutes: There were no minutes for approval

Motion:

Chairman Vira made a motion to appoint Allie Knutson as Secretary.

Cathy Slagle 2nd the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Richard Schneider, John Avent, and Cathy Slagle

Nay: None.

**BOA 21.07 - Request of Fairhope Utilities for a Special Exception to allow a Public Utility for property located at 8300 Morphy Avenue.
PPIN # 108954**

Hunter Simmons, Planning and Zoning Manager, presented the proposed site. Five other sites were considered, but the proposed site on Morphy Avenue was selected due to topography, availability, and proximity to existing infrastructure.

Fairhope Public Utilities is requesting a public utility use – an electrical substation that will allow for Fairhope Public Utilities to better serve its customers. The subject property is zoned R-3PGH, High-density Single-Family Patio/Garden Home District.

In 2019, Stewart Engineering performed a comprehensive engineering report that focused on the age, capacity, and future growth projections for each of the current six substations. The Fairhope Avenue Substation was at 106% of the base capacity in 2019. That has increased to 110% since 2019. Due to its location, the Fairhope Avenue Substation cannot be expanded.

There are five homes that will be most affected by the substation. The site for the substation was moved North to save 60-inch and 40-inch live oaks and so the detention area would be kept out of a stream buffer. The retaining wall was also moved in the second set of plans, and in the third set of plans, the pad for the substation was moved to the East with 13 feet of space between the retaining wall and the property line. A landscape plan was done to show the preservation of existing live oaks and river birch

trees. In addition to the existing landscape, 76 Carolina Sapphire Cypress trees will be planted to create a visual barrier from the west side (there is a single row of Carolina Sapphires at the Nichols station, for example). It is 20-feet from the property line to the retaining wall with five-feet between the wall and an 8-foot fence for additional screening.

Hunter Simmons read a letter from the neighborhood that was sent in recently, stating that they are concerned with the impact the substation will have on the enjoyment of their property and their resale values. They would like for it to be returned to the original site deeper in the lot as the original location was changed to preserve wetlands (which turned out to be smaller than originally thought) and the new site places the station directly behind their homes.

Hunter Simmons showed a map where the wetlands are located and stated that the city requires wetland buffers. There is a 30-foot wetland buffer that you cannot build within and there is a 50-foot stream buffer as well. Trees would have to be removed to put the site there and the site would be more visible from the south.

Staff recommends approval with condition of the appeal for public utility facility uses at 8300 Morphy Avenue with the following condition:

- 1. A 20-foot landscape buffer is provided along Morphy Avenue.**

Chairman Vira opens the public hearing.

Frank Lamia, 271 Hawthorn Circle, Fairhope, AL 36532: Frank stated that since the city saved money by choosing this site, more mature trees should be put in rather than the 5–6-foot cypress trees so that they could have an immediate buffer.

Andrew King, 539 Salem Street, Fairhope, AL 36532: Andrew stated that he was very disappointed that the city continues to push this site. He had heard that it would cost one million dollars to fill the ABC site to make it viable, which seems like a really high number. All other substations seem to be in a more commercial spot. The substation will affect the whole neighborhood, not just the five houses around it. Also mentioned that the city purchased the lot in April but has not touched it since then and the grass is about a foot tall. He asked for examples of other substations that are in or next to neighborhoods in the city and wanted to know if there will be lighting at the facility and what the illumination would be like.

James McCarthy, 625 Nathaniel Avenue, Fairhope, AL 36532: James stated that he agrees that bigger trees need to be put in as five-foot trees will not fix the visual problems.

Trey Canida, 522 Salem Street, Fairhope, AL 36532: Trey asked for clarification on the retainer wall, fence, and river birch trees. Also wanted to know about the possible noise, light, adverse health effects, and where the other four sites were that were considered for the substation.

Kent White, 535 Salem Street, Fairhope, AL 36532: Kent urged the Board to vote against the substation and stated that the city needs to find a better site to put it.

Francis Ripp, 225 High Ridge Road, Fairhope, AL 36532: Francis does not live in the neighborhood but stated that the city had previously said that the substation was going to go behind the ABC Store. It would make more sense to put it there because it would be in a Commercial Zoning District and where they are trying to put it now is in Single-Family Zoning District. He also mentioned that the proposed property was listed for sale at \$290,000 but sold for \$250,000 and the city has already hired a contractor and engineer without an application approval and without letting the neighborhood know what was going on. He thinks that this site is a political payback.

Chairman Vira closed the public hearing.

Eric Cortinas, Building Official and Flood Plan Administrator, addressed the previous substation site. In the April 2019 flood maps that FEMA issued, they mapped Cowpen Creek as a flood zone when it was not previously. The detention pond behind Winn Dixie is a FEMA designated flood zone. Per the city's Flood Damage Prevention Ordinance, it is prohibited to put a critical facility in a flood zone. The only way to possibly put the substation there, is to fill the site, build a retaining wall, have an engineer submit a map revision or a letter of map amendment to FEMA to try to have that area removed from the flood maps and then sent to Region 4 in Atlanta for them to evaluate for whether it can come off. The Morphy site is out of the flood zone and there is a detention pond between the flood zone and the site, making it safer and more practical.

Hunter Simmons spoke, he said that the Board of Adjustments Members could make upsizing the trees/shrubs a condition of approval. He also stated that he would pass the info along about the grass being overgrown at the Morphy site. There is a substation that just went in next to R-6 on Nichols and there is an existing one next to residential that has been there for some time. Twin Beech substation is also near a residential area, there is not a place that they could put the substation that would not be near a residential area.

John Avent asked about the buffer and said that it is very important to have the substation be out of site, out of mind.

Jeremy Morgan, Electric Superintendent, stated that they cannot expand the Fairhope Avenue substation due to the water tower and well that are next to it. There were two more sites on Morphy that were looked at, but the property was not for sale. The new substation cannot be too close to the one on Volanta or the one on Nichols. Lighting will be required for security reasons, there are LED lights that will be diverted down to keep illumination to a minimum.

Jay Robertson with Sawgrass Consulting also mentioned that there are shields and different kinds of deflectors that can be put on the lights to reduce the light pollution and focus the lights down.

Richard Schneider stated that he thought that the city has tried to accommodate most of the comments that have been made so far and understands that there are people who are upset about the growth in Fairhope.

Chairman Vira asked if there was a timeline for this project and asked if people will not have power if this substation does not go in.

Jeremy Morgan stated that the contractors are working on a project on Volanta right now that should finish in July and after that, they would like to start on the Morphy site. It is a possibility that people would be without power. The Volanta substation is already 110% overloaded and will affect many people if it goes down.

Cathy Slagle asked what kind of recourse there would be if the requested plantings were not completed.

Hunter Simmons advised that the city does not have a public review process so if the plantings were not completed, it would turn into a civil matter.

John Avent asked what is the largest tree that can be planted. He does not want to approve something that the city can't meet. A lot of the trees that get put in the subdivisions are put in at 10-foot tall.

Hunter Simmons replied that there are mature trees that are providing decent screening, but they do not have an understory which is why they would plant the cypresses. It is not his authority to say how large the trees can be, but that the Board of Adjustments can make having larger landscape, a condition. They can make it a condition that the final landscape plan needs to be approved by the Tree Committee.

Motion:

John Avent made a motion to accept staff's recommendation of approval with conditions:

1. A 20-foot landscape buffer is provided along Morphy Avenue.
2. Staff looks into getting the largest trees possible for the screening.
3. Light shields be added to the West side of the substation.

Cathy Slagle 2nd the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Richard Schneider, John Avent, and Cathy Slagle.

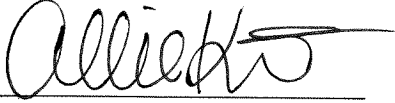
Nay: None.

No Old/New Business.

Adjournment

Cathy Slagle made a motion to adjourn. Dick Schneider 2nd the motion.
Adjourned at 6:13 p.m.


Anil Vira, Chairman


Allie Knutson, Secretary