City of Fairhope Board of Adjustment and Appeals 5:00 PM City Council Chambers August 16, 2021

- 1. Call to Order
- 2. Approval of Minutes
 - July 19, 2021
- 3. Consideration of Agenda Items:
 - A. BOA 21.08 Public hearing to consider the request of Walcott Adams Verneuille Architects, Inc. for a Special Exception to allow Restaurant Use for property located at 805 S. Mobile Street.

PPIN #: 61363

- 4. Old/New Business
- 5. Adjourn

The Board of Adjustments met Monday, July 19, 2021, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle; Donna Cook; Michael Baugh; Frank Lamia; David Martin, Alternate I; Ryan Baker, Alternate II; Hunter Simmons, Planning and Zoning Manager; Samara Walley, City Planner; and Allie Knutson, Secretary.

Chairman Vira called the meeting to order at 5:00 PM.

Chairman Vira introduced three new Board Members: Michael Baugh, Frank Lamia, and Ryan Baker.

Minutes

June 10, 2021

Motion:

Cathy Slagle made a motion to approve the minutes with no changes.

Chairman Vira seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Michael Baugh.

Nay: None.

BOA 21.05 – Public hearing to consider the request of Justin and Emily Chappell to allow a front setback variance for an accessory structure located at 7275 Wild Oaks Road. PPIN # 51895

Samara Walley, City Planner, presented the case summary:

The Applicants, Justin and Emily Chappell, are requesting a variance to the front yard setback for an addition to the primary structure. The property is zoned R-1, Single Family Residential, and the proposed addition would be a carport with additional storage space. According to the Applicant, the current configuration prohibits adding additional structures anywhere on the lot.

It should be noted that the Applicant previously submitted an application to allow a detached accessory structure that would be situated closer to Clearwater Circle. The Zoning Ordinance requires that detached accessory structures be situated no nearer than the principle structure along side streets and behind the rear building line of the principle structure. The original drawing was revised to indicate an addition. Therefore, the primary structure setback is applicable. The submitted drawing is not to scale and does not provide the rear setback line. The addition must meet the rear setback requirement.

According to the recorded plat, there is a 35' setback requirement along Clearwater Circle. The proposed addition would be 20' from Clearwater Circle. The property across the street to the east has a 35' front setback as well, but the house appears to be situated 20' from the front property line on Clearwater Circle. Using this property as a precedent, Staff can determine that the encroachment of the subject property would not change the character of the neighborhood.

Staff recommends of BOA 21.05 subject to the following conditions:

- 1. The addition shall not encroach in the 35' rear setback requirement. All setbacks shall be illustrated on any plans submitted for building permit.
- 2. Submission of revised application document stating that the addition is attached.

Frank Lamia asked if the surrounding neighbors were notified of the variance request. Hunter Simmons, Planning and Zoning Manager, stated that property owners within 325' of the Chappell's property were notified via mail. One letter of support was received and no objections. Mr. Simmons also explained the difference between a variance and a hardship.

The Applicant, Justin Chappell, was present, but no further comments were made. The Board Members had no further questions.

Chairman Vira opened the public hearing, no one spoke, and the public hearing was closed.

Motion:

Cathy Slagle made a motion to accept staff's recommendation of approval with conditions:

- 1. The addition shall not encroach in the 35' rear setback requirement. All setbacks shall be illustrated on any plans submitted for building permit.
- 2. Submission of revised application document stating that the addition is attached.

Michael Baugh seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Michael Baugh.

Nay: None.

Old/New Business

Hunter Simmons, Planning and Zoning Manager, proposed the idea of having a Work Session for the new Board Members prior to next month's meeting on August 4, 2021, at 11:30 AM at the Nix Center.

July 19, 2021 Board of Adjustment Minutes

Motion:

Cathy Slagle made a motion to set the Work Session August 4, 2021, at 11:30 AM at the Nix Center (upon availability).

Chairman Vira seconded the motion and the motion carried unanimously.

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Michael Baugh.

Nay: None.

Adjournment

Chairman Vira made a motion to adjourn.

Cathy Slagle seconded the motion.

Adjourned at 5:16 PM.

Anil Vira, Chairman	Allie Knutson, Secretary

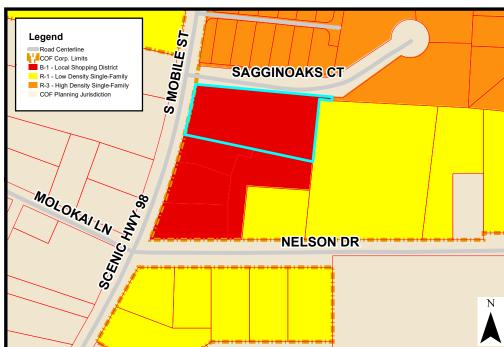
City of Fairhope Planning Commission



August 16, 2021

BOA 21.08 - Chimes Restaurant





Project Name:

805 S Mobile Street

Application Type:

Special Exception

Variance Type:

Special Exception - Restaurant

Jurisdiction:

City of Fairhope

Zoning District:

B-1, Local Shopping District

PPIN Number:

61363

General Location:

East side of S. Mobile Street and south

of Saggin Oaks Court

Owner / Applicant:

Ocro Properties LLC - Tyler Hood

Recommendation:

Approval w/ conditions

Prepared by:

Samara Walley





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type:	☐ Administrative Appeal	✓ Special Exce	ption Variance
Name: Ocro Properties	coperty Owner / Leasels LLC - Tyler Hood Phone		
Street Address: 808 City: Fairhope	State: AL	Zip: _	36532
	Applicant / Agent If different from		
Name: Walcott Adams	ter from property owner is required Verneuille Architects Phone S School Street	if an agent is used for	representation. -928-6041
City: Fairhope	State: _	AL Zip:	36532
	Conditions Attached:	YES NO YES NO YES NO YES NO	
Please attach as a separate sh regarding the use seeking ap	neet(s) information regarding the acproval. Please feel free to be as specified to the Board before the actuation or proposal.	dministrative decision ecific or as general as	you wish in your description
submit this application Corp. an authorized Sin Tyler Hood	operty owner/leaseholder of to the City for review. *If pro gle Tax representative shall s	pperty is owned by sign this application	Fairhope Single Tax
Property Owner/Leaseho		Signature	
7/9/21 Date		N/A	O WCA 11
Date	г	airnope Single Ta	x Corp. (If Applicable) RECLIVEI
			JUL 1 2 2021
			BY: ML



VARIANCE REQUEST INFORMATION

What characteristics of th	ne property preve	nt / preclude its	development?:	
Too Narrow	E	levation	Soil	
Too Small	s	lope	Subsurface	
Too Shallow	s	hape	✓ Other (specify) Use Type for Zon	ing
Describe the indicated con is only permitted on appeal	ditions:_The prop	perty is zone B-1.	Per Table 3-1 for Use, Restaurant use	
How do the above indicated While the property has histon on file (due to age), therefore	rically been used	as a restaurant, p	able use of your land? past approval does not appear to be as a restaurant in this application.	
What type of variance are y Use as a restaurant.	ou requesting (b	e as specific as po	ossible)?	
be contrary to the public	al in specific cases su interest, where, owin ill result in unnecess	ich variance from the ig to special condition ary hardship and so t	30): terms of the (zoning) ordinance as will not as, a literal enforcement of the provision of that the spirit of the (zoning) ordinance	
BOA Fee Calculation:				
	Residential	Commerc	rial	
Filing Fee:	\$100	\$500		
Publication:	\$20	\$20		
TOTAL:	\$ 520.00			
I certify that I am the prope submit this application to the	rty owner/leaseh ne City for review	older of the above.	e described property and hereby	

Property Owner/Leaseholder Printed Name

Signature

Corp. an authorized Single Tax representative shall sign this application.

Tyler Hood

7/9/21 Date

Fairhope Single Tax Corp. (If Applicable)

The applicant is requesting a special exception to allow a restaurant at the property located at 805 South Section Street. The property is zoned B-1 Local Shopping District. According to the Zoning Ordinance this district is "intended to provide for limited retail convenience goods and personal service establishments in residential neighborhoods and to encourage the concentration of these uses in one (1) location for each residential neighborhood rather than in scattered sites occupied by individual shops throughout a neighborhood. Restaurants in the B-1 zoning district may be permitted only on appeal to the Board of Adjustments and may be subject to special conditions. Drive thru restaurants shall not be permitted in the B-1 zoning district."

Comments:

The City of Fairhope Zoning Ordinance defines a special exception as follows:

Special Exception: Permission granted by the Board of Adjustment for a use indicated in this ordinance as a use limited to a special exception procedure, subject to conditions specified in this ordinance and any conditions the Board deems necessary to ensure that community interests are furthered by permission of the use.

The Board of Adjustments is authorized to grant special exceptions through Article II.A.d(2) which states the following:

- d. Duties and Powers: The Board shall have the following duties and powers:
- (2) Special Exceptions To hear and decide special exceptions to the terms of this ordinance upon which the board is required to pass under this ordinance.

The Ordinance provides guidance for special exception requests through the following criteria:

Article II.C.3.e.

Criteria - (2) Any other application to the Board shall be reviewed under the following criteria and relief granted only upon the concurring vote of four Board members:

- (a) Compliance with the Comprehensive Plan;
- (b) Compliance with any other approved planning document;
- (c) Compliance with the standards, goals, and intent of this ordinance;
- (d) The character of the surrounding property, including any pending development activity;
- (e) Adequacy of public infrastructure to support the proposed development;
- (f) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
- (g) Compliance with other laws and regulations of the City;
- (h) Compliance with other applicable laws and regulations of other jurisdictions;
- (i) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values;
- (j) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.
- (k) Overall benefit to the community;
- (I) Compliance with sound planning principles;

- (m) Compliance with the terms and conditions of any zoning approval; and
- (n) Any other matter relating to the health, safety, and welfare of the community.

When a special exception is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.f.

Effect of Appeal – An appeal to the Board stays all legal proceedings in furtherance of the application appealed from unless the Director certifies to the Board that a stay would cause imminent peril to life and property. In such cases, proceedings will not be stayed, unless by operation of a court of competent jurisdiction. If an appeal fails for any reason, the stay shall be lifted.

Analysis and Recommendation:

Special Exception Criteria:

(b) Compliance with any other approved planning document

Response:

"Restaurant" is an allowable use within the B-1 zoning classification as indicated in the City of Fairhope Zoning Ordinance Article III, Section B., Table 3-1 Use Table. However, "Restaurant" is not allowable by right and a special exception is required to allow the use. Further, Table 3-1 indicates the use is allowed "only on appeal and subject to special conditions".

Staff has reviewed the application under the guidelines found in Article II.C.3.e. regarding special exceptions. The previous use was a restaurant at this location and the proposed restaurant is similar in style and is not changing the existing building footprint.

It should be noted that the applicant submitted a site plan of the existing and proposed conditions of the site. They anticipate both interior and exterior renovations including parking lot improvements. It is important to the note that the application is for the use as a restaurant. The site plan is subject to change. Compliant parking and tree preservation shall be required prior to the issuance of a business license.

The applicant submitted the following statement.

"Chimes Restaurant recently purchased 805 S Mobile Street, previously the Wintzell's Oyster House. Chimes intends to reopen the building as a restaurant.

They will give the building a fresh new look on the exterior. They intend to replace the roof and paint the building. The interior will be completely renovated to work with Chimes theme and branding.

The large oak trees are features that attracted Chimes to the property. They intend on doing everything possible to keep the oak trees and allow them to flourish. They have hired an arborist to help them keep healthy during construction and beyond.

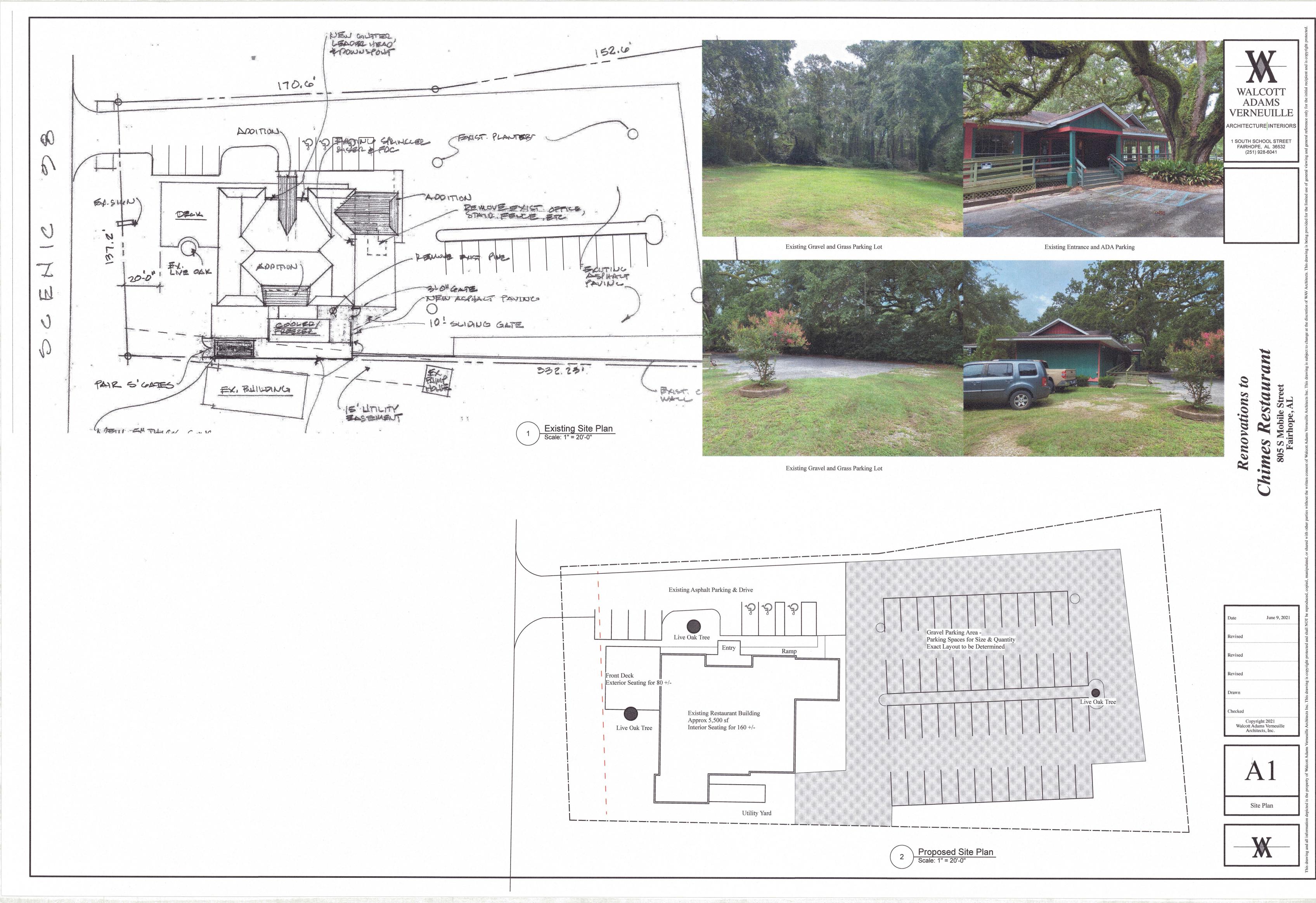
They also understand there has been a history of drainage issues on the property. They have hired Lieb engineering to help with the final parking and drainage design. The parking lot was previously paved and has been converted to gravel and grass. The long term solution is intended be a pervious parking material, like gravel. This will help drainage and be a better solution for the trees.

The Chimes Restaurant & Tap room has been a Baton Rouge and LSU tradition serving fine patrons for over 25 years. We have continued to grow and have brought this tradition to our second location in Baton Rouge and now a third, located in Covington. Our goal is to provide a relaxed, family friendly experience while serving the best made-from-scratch menu possible..."

Recommendation:

Staff recommends APPROVAL of BOA 21.08, subject to the following conditions:

1. Submission of a revised site plan illustrating complaint parking and tree protection prior to the issuance of a business license.



From: <u>Hunter Simmons</u>
To: <u>Allie Knutson</u>

Subject: Fwd: Special Exception, Case BOA 21.08 **Date:** Thursday, August 5, 2021 7:31:55 AM

Get Outlook for iOS

From: Pat lewis <lewis1304@comcast.net>
Sent: Wednesday, August 4, 2021 5:08:53 PM
To: planning <planning@fairhopeal.gov>
Subject: Special Exception, Case BOA 21.08

SENT FROM AN EXTERNAL ADDRESS

Dear Sir,

I received your recent letter requesting feedback regarding an exception request for a restaurant on a property that is 300' from my residence.

I do not want a restaurant in the middle of our residential area. It will decrease property values, increase noise and traffic and lead to a larger rodent problem that we have had to fight since the closure of another restaurant down the road. Please do not approve an exception. These same reasons, were the reasons for listing the lot residential, no restaurant.

Respectfully submitted,

Mary Lewis 45 Bay Pointe Ct

Sent from my iPad

Catherine Mangon 2 Paddock Drive

Allie spoke with Ms. Mangon on 8/6/2021. She was concerned with outdoor seating restaurant noise such as music, clanking of dishes, and customers being loud. She stated that with the previous restaurants, she was able to hear the noise while in her bedroom.

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WALCOTT ADAMS VERNEUILLE

ARCHITECTS

One South School Street Fairhope, AL 36532

251-928-6041 FAX 251-928-6045 www.wavarchitects.com

July 12, 2021

Hunter Simmons, Planing & Zoning Manager City of Fairhope P.O. Box 429 Fairhope, Alabama 36533

Re: 805 S Mobile Street, Chimes Restaurant

Board of Adjustments & Appeals Application

Dear Mr. Simmons:

Chimes Restaurant recently purchased 805 S Mobile Street, previously the Wintzell's Oyster House. Chimes intends to reopen the building as a restaurant.

They will give the building a fresh new look on the exterior. They intend to replace the roof and paint the building. The interior will be completely renovated to work with the Chimes theme and branding.

The large oak trees are features that attracted Chimes to the property. They intend on doing everything possible to keep the oak trees and allow them to flourish. They have hired an arborist to help keep them healthy during construction and beyond.

They also understand there has been a history of drainage issues on the property. They have hired Lieb engineering to help with the final parking and drainage design. The parking lot was previously paved and has been converted to gravel and grass. The long term solution is intended be a pervious parking material, like gravel. This will help with drainage and be a better solution for the trees.

The Chimes Restaurant & Tap Room has been a Baton Rouge and LSU tradition serving fine patrons for over 25 years. We have continued to grow and have brought this tradition to our second location in Baton Rouge and now a third, located in Covington. Our goal is to provide a relaxed, family friendly experience while serving the best made-from-scratch menu possible. https://thechimes.com

Sincerely,

WALCOTT ADAMS VERNEUILLE ARCHITECTS, INC.

Ryan Baker, Principal Architect

RECEIVED

JUL 1 2 2021

BI: AL



July 9, 2021

WALCOTT ADAMS VERNEUILLE

ARCHITECTS

One South School Street Fairhope, AL 36532 251-928-6041 FAX 251-928-6045 www.wavarchitects.com

Hunter Simmons, Planing & Zoning Manager City of Fairhope P.O. Box 429 Fairhope, Alabama 36533

Re: 805 S Mobile Street, Chimes Restaurant

Authorized Agent

Dear Mr. Simmons:

Tyler Hood, Managing Member of Ocro Properties, authorizes and permits Ryan Baker and any employees of Walcott Adams Verneuille Architects to act as his representative and agent in any manner regarding this application which relates to property located at 805 S Mobile Street, Fairhope, Alabama and described as tax parcel ID# 46-04-19-3-000-013.003.

Sincerely,

WALCOTT ADAMS VERNEUILLE ARCHITECTS, INC.

Ryan Baker, Principal Architect

Tyler Hood, Owner

I, <u>Cynthia C. Saxon</u>, a Notary Public in and for the State of Alabama at Lard, hereby certify that <u>Ryan Baker and Tyler Hood</u>, whose names are signed on the foregoing document, and who are known to me, acknowledged before me on this day that, being informed of the contents of the above and foregoing document they executed the same voluntarily on the day the same bears data.

voluntarily on the day the same bears date.

Cynthia C. Saxon

Notary Public:

My Commission Expires February 17, 2025

RECEIVED

JUL 1 2 2021

BY: ALL



CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST

As Required by the City of Fairhope

Hearings on Board of Adjustments & Appeals applications require notification to all property owners within 300 feet of the property under consideration for the change. This list must be the most current property owners' records available from the Baldwin County Revenue Office.

Ryan Baker,
By signing below, I Walcott Adams Verneuille Architects, (applicant) do hereby certify that the property owner list attached to this application was obtained from the Baldwin County Revenue Office and is a complete list of all real property owners/lessees within 300 feet of the parcel submitted for consideration by the Board of Adjustments & Appeals.

Signature of Applicant or Authorized Agent

7/9/21

Date of Application

RECEIVED

JUL 1 2 2021

BY:__Ak

			Fairhope Bo	Board of Adjustments & Appeals Application for	Appeals Applicat	ion for				
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						********	Property			
Parcel Number	Fin	Owner Name	Address	Address	į			Property Street		
05-46-03-37-0-012-022.000	1537	TACON, LEE B JR ETAL TACON, ANN C	738 SOUTH MOBILE ST	3000 3000	HOPE	State Zip	Number	Name	Land Use Type	Actions
05-46-04-19-3-000-012.000	3698	STEINMETZ, JOHN C ETAL SINNOCK-STEINMETZ	6081 NELSON DR			Ī	32	/38 MOBILE ST	COMMERCIAL	1537
05-46-04-19-3-000-013.000	11839	MONKEY BIZ L L C	17674 HITCHINGPOST CIR				322	6081 NELSON DR	RESIDENTIAL	3698
05-46-03-37-0-012-023.000	23003	JONES, WILLIAM H (1/2 INT) ETAL JONES, R	P O BOX 526			T	32	821 MOBILE ST S	COMMERCIAL	11839
05-46-03-37-0-012-024,000	24330	KOMAREK, SUSAN ANNE ETAL BLANNO,	1417 SPYGLASS CT			At 36533	33	742 MOBILE ST S	COMMERCIAL	23003
05-46-04-19-3-000-013.001	36229	TONSMEIRE DEVELOPMENT CORPORATION	6 S SUMMIT ST		90	T	43	746 MOBILE ST S	COMMERCIAL	24330
05-46-04-19-3-000-010.000	44034	MOFFETT, DEBORAH H ETVIR WILLIAM H	6125 NELSON AVE				32	19452 SCENIC HWY 98	COMMERCIAL	36229
05-45-06-24-4-000-001.000	45260	HALL, ROBERT PHYFER ETAL HALL, HARRIOT H	19493 SCENIC HWY 98		FAIRION		32	6125 NELSON AVE	RESIDENTIAL	44034
05-46-04-19-3-000-013.002	60675	BAY BOUTIQUE L.L.C	10821 ST HWY 104	7,000			32	19493 SCENIC HWY 98	COMMERCIAL	45260
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05-46-04-19-3-000-017.007	367548	BRELAND, CHARLES K JR	P O ROY 7430				32	0	VACANT	257614
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05-46-03-37-0-013-117.013	341800	BAY POINTE OWNERS ASSOCIATION INC	P O BOX 802				26	0 BAY POINTE CT	VACANT	341799
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	21222	COUNTY DISERVET IN CITAL DAILY, NAT IN	29 BAY POINTE CI		FAIRHOPE	36532	32	29 BAY POINTE CT	RESIDENTIAL	109075