

ORDINANCE NO. 1721

**AN ORDINANCE AMENDING ORDINANCE NO. 1253
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of Fairhope Single Tax Corporation and MPM Investments LLC is generally located on the west side of State Highway 181, approximately 200-feet north of Windmill Road in Fairhope, Alabama.

PPIN #: 14533

Legal Description: (Case number ZC 21.07)

BEGINNING AT A CAPPED REBAR (FAIRHOPE) AT THE SOUTHEAST CORNER OF ELLINGTON PLACE, AS SHOWN BY MAP OR PLAT THEREOF, RECORDED AT SLIDE 2221-A, BALDWIN COUNTY PROBATE RECORDS, AND RUN THENCE NORTH 00 DEGREES 34 MINUTES 38 SECONDS EAST, ALONG THE EAST MARGIN OF SAID ELLINGTON PLACE, A DISTANCE OF 394.48 FEET TO A CAPPED REBAR (ILLEGIBLE) AT THE SOUTHWEST CORNER OF GAFFORD SUBDIVISION, AS SHOWN BY MAP OR PLAT THEREOF RECORDED AT SLIDE 2106-E, BALDWIN COUNTY PROBATE RECORDS; THENCE RUN SOUTH 89 DEGREES 39 MINUTES 29 SECONDS EAST, ALONG THE SOUTH MARGIN OF SAID GAFFORD SUBDIVISION, A DISTANCE OF 409.83 FEET TO A CAPPED REBAR (FAIRHOPE) ON THE WEST RIGHT-OF-WAY OF ALABAMA HIGHWAY 181; THENCE RUN SOUTH 00 DEGREES 28 MINUTES 07 SECONDS WEST, ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 186.59 FEET TO A REBAR (NO CAP); THENCE DEPARTING SAID WEST RIGHT-OF-WAY, RUN NORTH 89 DEGREES 33 MINUTES 46 SECONDS WEST, A DISTANCE OF 313.06 FEET TO A REBAR (NO CAP); THENCE RUN SOUTH 00 DEGREES 26 MINUTES 40 SECONDS WEST, A DISTANCE OF 208.62 FEET TO A REBAR (NO CAP) ON THE NORTH RIGHT-OF-WAY OF WINDMILL ROAD; THENCE RUN NORTH 89 DEGREES 32 MINUTES 13 SECONDS WEST, ALONG SAID NORTH RIGHT-OF-WAY, A DISTANCE OF 97.61 FEET TO THE POINT OF BEGINNING. TRACT CONTAINS 2.22 ACRES, MORE OR LESS.

A map of the property to be rezoned is attached as Exhibit A

The property is hereby rezoned from RA Residential/Agriculture District to B-4 Business and Professional District. This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.

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Severability Clause - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Effective Date – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

Adopted and approved this 9th day of August, 2021.

By: 

Jack Burrell, Council President

Attest:

By: 

Lisa A. Hanks, MMC

City Clerk

Adopted and approved this 9th day of August, 2021.

By: 

Sherry Sullivan, Mayor

City of Fairhope
City Council
July 26, 2021



ZC 21.07 - Rezone from R-A to B-4



Project Name:

Windmill Road and Hwy 181

Site Data:

2.22 acres

Project Type:

Rezoning

Jurisdiction:

Fairhope Corporate Limits

Zoning District:

R-A to B-4

PPIN Number:

14533

General Location:

West side of State Highway 181, approx.
200 ft north of Windmill Rd.

Surveyor of Record:

Smith, Clark & Associates

Engineer of Record:

Smith, Clark & Associates

Owner / Developer:

FST MPM INVESTMENTS LLC

School District:

Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Approved w/ Conditions

Prepared by:

Samara Walley



Summary of Request:

FST MPM INVESTMENTS LLC is requesting to rezone property from R-A Residential/Agricultural District to B-4 Business and Professional District. The property is approximately 2.22 acres and is located on the west side of State Highway 181, approximately 200 ft north of Windmill Rd.

The applicant has provided a narrative to justify their request. They state that with the expansion of Highway 181, commercial development is inevitable. The area is wooded and does not appear to have attracted any interest as its current zoning classification. Due to their location outside of a village core, the applicant believes that the request for B-4 zoning is more appropriate as it allows for less intensive uses.

Comments:

The drawing illustrates an "L-shaped" lot with frontages on Windmill Road and Highway 181. It is bounded to the North by R-1, Low Density Residential District, to the West by PUD, to the South by PUD (across Windmill Road) and B-4, Business and Professional District, and to the East by B-4 Business and Professional District and R-2, Medium Density Single Family Residential District (across Highway 181).

The Zoning Ordinance defines B-4 Business and Professional District as follows:

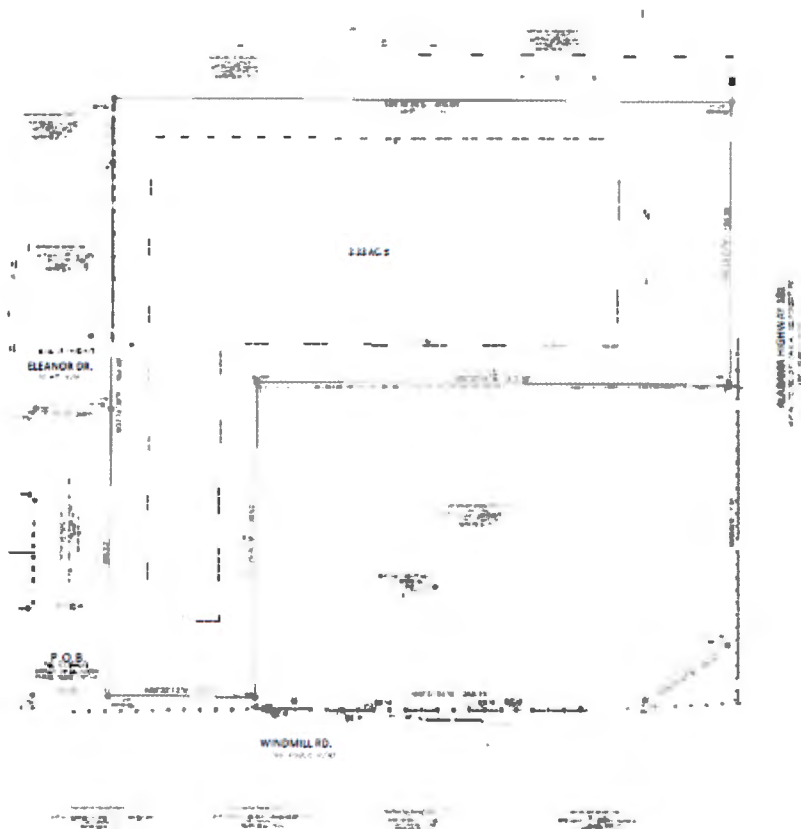
"B-4 Business and Professional District: This district is intended to provide opportunity for business establishments of a professional nature and is restricted to offices and businesses, which provide specific corporate functions or professional services to the general public."

Criteria – The application shall be reviewed based on the following criteria:

(1) Compliance with the Comprehensive Plan;

Response:

Since 2001, the Comprehensive Plan supported a village concept, with village cores containing the highest intensity of business uses. The nearest core radiates from the intersection of Highway 181 and Fairhope Ave. The subject site does not fall within the area of influence of this village center as shown on the map below.



Drawing provided by S.E. Civil



Staff finds that because the subject property does not fall within a village center, as defined by the Comprehensive Plan, it is more appropriate to request a lesser intensive zoning. Staff is in agreement with the applicant's claim that a request for B-4 zoning would be more appropriate.

(2) Compliance with the standards, goals, and intent of this ordinance;

Response: As stated by the applicant, the Zoning Ordinance states the following about R-A Residential/Agricultural District in Article III, Section A.1., "This district may also be used as a "holding zone" for future

development in accordance with the comprehensive plan, when future conditions allow for efficient expansion of urban services." This line implies that changes will occur. Staff finds that the applicant has taken a consideration to the surrounding properties when making the request for B-4, Business and Professional District.

(3) The character of the surrounding property, including any pending development activity;

Response: There is a variety of adjacent zoning types. When development occurs, buffers may be required in accordance with the City of Fairhope Zoning Ordinance.

(4) Adequacy of public infrastructure to support the proposed development;

Response: The applicant states that water and sewer lines exist along Windmill Road that can service the subject property.

(5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;

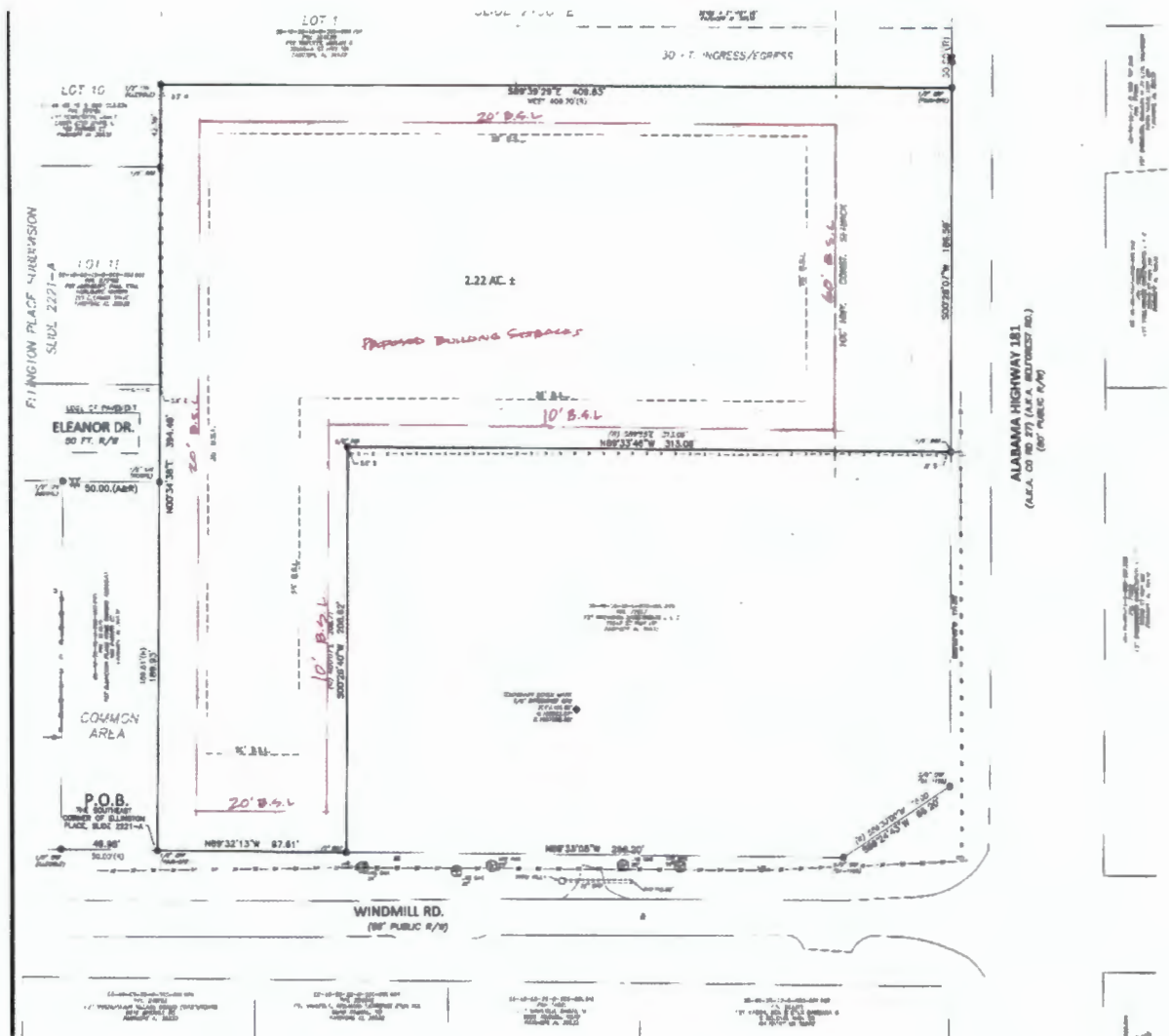
Response: The applicant has no known plans of construction or redevelopment at this time. Additionally, there are no known natural features present.

(6) Compliance with other laws and regulations of the City;

Response: There is no development proposed at this time. At the time of any redevelopment all applicable laws of the City will be applied. If granted, "Uses Permitted subject to general ordinance standards and conditions" will be allowed "by right". "Uses Permitted subject to special conditions listed in the ordinance" or "Uses Permitted only on appeal and subject to special conditions" may be subject to additional approval.

Minimum building setbacks are illustrated on the submitted boundary survey. However, according to the applicant, these are R-A setbacks. The applicant intends to revise the setbacks once the rezoning application is approved. Due to the unique shape of the subject property, Staff has proposed the following:

- 60' minimum building setback along Highway 181
- 20' minimum building setback along Windmill Road
- 20' minimum building setback along the northern and western property lines
- 10' minimum building setback along the interior property lines as shown on the drawing



Drawing provided by S.E. Civil ; setbacks emphasized by Planning Staff

(7) Compliance with other applicable laws and regulations of other jurisdictions;

Response: At the time of a redevelopment all applicable laws will be applied.

(8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,

Response: Because the applicant has not expressed any plans in terms of future use, Staff cannot anticipate any significant issues relating to this criterion at this time. However, if the property is developed commercially in the future, various impacts may be present. Buffers and landscaping may be required per the Zoning Ordinance. It is also important to note that if the property is recommended for approval by Planning Commission and approved by City Council, it is possible that there will not be another public hearing. Building permits would be reviewed by Staff prior to any construction.

(9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Response: Staff cannot not anticipate any significant issues relating to this criterion. However, if the property is rezoned and developed commercially, the various impacts may be presented.

Recommendation:

Staff recommends **APPROVAL** for Case: ZC 21.07 rezoning from R-A, Residential/Agriculture District to B-4, Business and Professional District **subject to the following condition:**

1. Submission of an administrative replat to record setbacks as proposed by Staff.

Planning Commission Recommendation:

At the May 3, 2021 meeting, the Planning Commission voted unanimously to recommend approval of case ZC 21.07 subject to Staff recommendations.