

The Planning Commission met Monday, January 3, 2022, at 5:00 p.m. at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairman; Art Dyas; Harry Kohler; John Worsham; Clarice Hall-Black; Jason Langley, Water and Sewer Director, Hunter Simmons, Planning and Zoning Manager; Mike Jeffries, Development Services Manager; Allie Knutson, Secretary; and Chris Williams, City Attorney.

Absent: Rebecca Bryant; Hollie MacKellar; and Corey Martin, City Council Liaison.

Chairman Turner called the meeting to order at 4:59 p.m.

**Minutes from December 6, 2021, Meeting:**

Art Dyas made a motion to accept the minutes with no further changes.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.

NAY: None.

Abstain: Lee Turner, Chairman (absent at previous meeting).

**Chairman Turner moved SD 19.06 Riverhorse Subdivision from Old/New Business to the front of the agenda.**

**SD 19.06 Public hearing to consider the request of Dewberry Engineers, Inc. acting on behalf of the owner, Dilworth Development, Inc. for Preliminary Plat Approval of Riverhorse Subdivision, a 25-lot subdivision. The property is approximately 22 acres and is located ¼ mile north of Gayfer Avenue on the east side of Blueberry Lane, north of the North Station Subdivision.**

**Summary:**

Hunter Simmons, Planning and Zoning Manager, presented the case summary.

This case was originally before Planning Commission in February of 2019 for Preliminary Plat Approval. It was brought back before Planning Commission after the Planning Department received a Public Records Request for documents pertaining to the Riverhorse Subdivision once construction had begun. In response to the Public Records Request, the subdivision notification letters to adjacent property owners could not be located.

The City and Baldwin County Highway Department are in conversation to possibly extend Blueberry Lane to connect with Calibre Street. If possible, the proposed cul-de-sac would not be required and two lots could possibly be added given the amount of greenspace provided. The City has stated that they will repair Blueberry Lane.

**Recommendation:**

Staff recommends approval of SD 19.06 with the following conditions:

1. Revise Operation and Maintenance Plan to reflect a 5-year maintenance schedule and not 3.
2. 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.
3. If Blueberry Lane connects to Calibre Street, the number of lots approved at Final Plat may be increased from 25 to 27 if all other regulations of the City are met, in lieu of the currently required cul-de-sac nearest to the Blueberry Lane Parcel/ROW.

Art Dyas asked about the repairs that will be done to Blueberry Lane.

Mr. Simmons stated that the City has committed to repairing it the condition that it was before.

Justin Britt with Dewberry Engineers, Inc. was present.

Chairman Turner opened the Public Hearing.

Bob Walsh, HOA President, 505 North Station Drive, stated that North Station homeowners did not have a chance to express their concerns in 2019 because they never received the Subdivision Notice and that properties within 300 feet of Riverhorse should have received letters. He also mentioned that he is against the destruction of wetlands for a crossing and requested that construction vehicles should have to use Blueberry Lane as their primary access.

Leah Biggs, 10491 Canyon Drive, requested that the entrance to Riverhorse from Blueberry Lane be blocked once construction is complete in order to preserve the trees on Blueberry. The extension of Blueberry Lane would destroy the tree line. Ms. Biggs brought photos of the trees and a petition.

Greg Biggs, 10491 Canyon Drive, asked if there were any plans to widen Blueberry Lane to a two-lane road and was concerned with traffic.

Josh Johnson, 10210 Canyon Drive, asked if Blueberry Lane is a county maintained/owned road.

David Barr, 10411 Canyon Drive, stated that Blueberry Lane was paved by the county and would like for Blueberry Lane to be a single-lane access for emergency vehicles.

Richard Wakefield, 21049 Blueberry Lane, stated that he has 25 live oaks on his property and that the expansion of Blueberry Lane would most likely remove the trees, impacting his property.

Chairman Turner closed the Public Hearing.

Mr. Simmons addressed public concerns and stated the difference for adjacent property owner notifications for a zoning case and subdivision case, the Zoning Ordinance does not apply to subdivision notifications. The Wetland Ordinance does allow this crossing and then discussed the City repairing Blueberry Lane.

**Motion:**

John Worsham made a motion to **approve** Case SD 19.06, subject to staff recommendations.

Art Dyas seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None

**Storm Water Management Program Plan (SWMPP) Review and Approval.**

**Summary:**

Kim Burmeister, Code Enforcement Officer, played a five-minute video regarding SWMPP.

**Motion:**

Art Dyas made a motion to **approve** SWMPP.

John Worsham seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None.

**ZC 21.17 Public hearing to consider the request of the City of Fairhope Planning and Zoning Department for an amendment to Article V, Section B, Central Business District, in the City of Fairhope's Zoning Ordinance to allow rooftop terraces.**

**Summary:**

Hunter Simmons, Planning and Zoning Manager, presented the case summary.

The proposed amendment to Article V, Special Districts, shall read as follows:

- a. Rooftop Terraces shall be an allowed Accessory Use permitted on all lots zoned B-2, General Business District located within the CBD. The following standards shall apply to all Rooftop Terraces:
  - (1) Except as provided below in this Section, the height of all structures on or within a Rooftop Terrace shall not exceed forty feet (40').
  - (2) The outer boundary of a Rooftop Terrace shall be defined using a barrier meeting the City of Fairhope Building Code.
  - (3) For Rooftop Terraces located atop three story buildings the following standards apply:
    - a. For the purpose of the Zoning Ordinance and this Section, a Rooftop Terrace shall not be considered a story.
    - b. Elevators and stairwells, providing access to Rooftop Terrace, may be allowed to exceed forty feet (40') by no more than five feet (5') provided: such elevators and stairwells and their associated mechanical equipment and enclosed areas shall not cover more than 7.5% of the total square footage of the rooftop, shall not be viewable from public rights-of-way, and shall be located a minimum of ten feet (10') from any lot line.
    - c. Structures, other than those used for elevators and stairwells, may be opened or enclosed, but shall not cover more than 33% of the total

square footage of the rooftop and shall be located a minimum of ten feet (10') from any lot line.

- (4) Temporary structures, such as tents, awnings, and umbrellas, are prohibited on Rooftop Terraces.

A definition would also be added in Article IX, Section C:

**Rooftop Terrace:** A outdoor amenity area located on the roof of a building. A rooftop terrace shall be accessory to the primary use of the building. Individually owned and operated businesses or venues shall not occupy a rooftop terrace.

**Recommendation:**

Staff recommends adoption of the proposed Zoning Amendment to Article V, Special Districts.

Chairman Turner opened the Public Hearing, having no one present to speak, the Public Hearing was closed.

**Motion:**

Art Dyas made a motion to approve ZC 21.17.

Jason Langley seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.

NAY: None.

**ZC 22.01 Public hearing to consider the request of the City of Fairhope Planning and Zoning Department for an amendment to Article II, Procedures, in the City of Fairhope's Zoning Ordinance.**

**Summary:**

Hunter Simmons, Planning and Zoning Manager, presented the case summary.

When advertised, staff considered an amendment to Article II.C.3, which would have amended the procedures for the Board of Adjustment. As revised, staff believes they can accomplish a similar goal by amending Article III.C.2, instead. Advertisements for the City Council case will be reflected as such.

To preserve historic one-story primary structures, an administrative approval may be given to allow an accessory structure to be no more than five feet taller than the principal structure as measured from the tallest roof peak of the principal structure, excluding chimneys, cupola, spires, and other architectural features. In no case shall an accessory structure exceed thirty feet.

**Recommendation:**

Staff recommends adoption of the proposed Zoning Amendment to Table 3-3: Dimension Table – Residential Accessory Structures.

Chairman Turner opened the Public Hearing, having no one present to speak, the Public Hearing was closed.

**Motion:**

Clarice Hall-Black made a motion to **approve** Case ZC 22.01.

John Worsham seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None.

**SD 21.49 Public hearing to consider the request of the Applicant, Dewberry Engineers, Inc., acting on behalf of the Owner, 68V OBV 2020, LLC, for Final Plat Approval of Old Battles Village, Phase 4-B, a 19-lot subdivision. The property is approximately 7.42 acres and is located at the east terminus of McArthur Lane, south of Old Battles Village, Phase 3.**

**Summary:**

Mike Jeffries, Development Services Manager, presented the case summary.

Follow-Up Activities Required by Staff and the Applicant: Copy of the recorded plat, copy of the recorded O&M Agreement, Maintenance and Guaranty (M&G) Agreement executed by the developer - the mayor signs this agreement to fully execute it (include the instrument # from the recorded plat and include 30 days in paragraph 3).

**Recommendation:**

Staff recommends **APPROVAL** of Case SD 21.49, Old Battles Village, Phase 4-B, subject to the following conditions:

1. Final stabilization of all disturbed areas with 90% growth verified by Planning Department.
2. Provide an amended O&M Agreement for Old Battles Village Ph 3 that includes Phase 4B.
3. Complete required follow up activities listed in staff report.

Chairman Turner opened the Public Hearing.

Bob Roberts, 291 Garrison Boulevard, stated that before the road was put in, he had called the city because he was dissatisfied with the number of trees that were being cut and also mentioned that some of the trees were more than 20-inches in diameter.

Bob Whitfield, 287 Garrison Boulevard, had previously sent in comments that were included in the agenda packet. Mr. Whitfield mentioned that when he bought his home in 2020 there was no mention of future development in the wooded area behind his home.

Chairman Turner closed the Public Hearing.

**Motion:**

John Worsham made a motion to approve Case 21.49, subject to staff recommendations.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.

NAY: None.

**UR 22.01 Request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 2,676 linear foot of fiber optic cable in the easement and right-of-way beginning at Bishop Road, heading north to Edwards Avenue, then continuing west approximately 1,000 feet to Plantation Boulevard.**

**Summary:**

Mike Jeffries, Development Services Manager, presented the case summary and showed a route map for the project.

**Recommendation:**

Staff recommends **APPROVAL** of Case UR 22.01 subject to the following conditions:

1. A pre-construction meeting shall be held with the City prior to issuance of any permits.
2. Consultation with the City's horticulturalist, to determine if the required depth of bore must be increased so that no trees are impacted by the project. The contractor is responsible for any damaged trees.
3. At all street crossing locations, conduct potholing to determine exact location and elevation of existing utilities. Reflect the exact elevation of utilities and GPS coordinates of the pothole locations on a set of as-built drawings.
  - a. An additional right-of-way permit may be required for the potholing procedures.
4. Follow-up activities below required by staff and the applicant:
  - a. Upon satisfactory review and approval by ROW Construction Inspector, as-builts will be submitted to the mapping technician for inclusion in GIS utility maps as needed.
5. Provide draft door hanger for approval at time of pre-construction.
6. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
7. Ensure enough space for proposed work is available within existing easement, if not applicant is responsible for either expanding existing easement or acquiring an additional easement.

**Motion:**

Art Dyas made a motion to approve Case UR 22.01, subject to staff recommendations.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.

NAY: None.

**UR 22.02 Request of Point Broadband for an 11.52.11 Utility Review and approval of the proposed installation of approximately 29,086 linear foot of fiber optic cable in the right-of-way throughout Fairfield Place Subdivision and Destrehan Subdivision.**

**Summary:**

Mike Jeffries, Development Services Manager, presented the case summary and showed a vicinity map of where the project will take place.

**Recommendation:**

Staff recommends **APPROVAL** of Case UR 22.02, subject to the following conditions:

1. A pre-construction meeting shall be held with the City prior to issuance of any permits.

2. Consultation with the City's horticulturalist, to determine if the required depth of bore must be increased so that no trees are impacted by the project. The contractor is responsible for any damaged trees.
3. At all street crossing locations, conduct potholing to determine exact location and elevation of existing utilities. Reflect the exact elevation of utilities and GPS coordinates of the pothole locations on a set of as-built drawings.
  - a. An additional right-of-way permit may be required for the potholing procedures.
4. Follow-up activities below required by staff and the applicant:
  - a. Upon satisfactory review and approval by ROW Construction Inspector, as-builts will be submitted to the mapping technician for inclusion in GIS utility maps as needed.
5. Provide draft door hanger for approval at time of pre-construction.
6. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.

Representatives from Point Broadband were present.

Mr. Simmons inquired about buried pedestals.

A Point Broadband Representative stated that they don't usually do buried pedestals because they like a vertical structure but would explore that option. Their pedestals are 19-inches tall and are dark green.

**Motion:**

Art Dyas made a motion to approve Case UR 22.02, subject to staff recommendations plus an added condition:

1. A pre-construction meeting shall be held with the City prior to issuance of any permits.
2. Consultation with the City's horticulturalist, to determine if the required depth of bore must be increased so that no trees are impacted by the project. The contractor is responsible for any damaged trees.
3. At all street crossing locations, conduct potholing to determine exact location and elevation of existing utilities. Reflect the exact elevation of utilities and GPS coordinates of the pothole locations on a set of as-built drawings.
  - b. An additional right-of-way permit may be required for the potholing procedures.
4. Follow-up activities below required by staff and the applicant:
  - b. Upon satisfactory review and approval by ROW Construction Inspector, as-builts will be submitted to the mapping technician for inclusion in GIS utility maps as needed.
5. Provide draft door hanger for approval at time of pre-construction.
6. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
7. Explore the option of buried pedestals.

John Worsham seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.

NAY: None.

**Old/New Business**

**SD 21.46 Request of Dewberry Engineers, Inc. for a 30-day extension of plat approval to obtain final signatures and record plat for Estates at the Verandas, Phase 1.**

**Motion:**

John Worsham made a motion to approve a 30-day extension.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None.

**Resolution Number 2022-01 – Planning Commission adoption of twelve-month Moratorium.**

Chris Williams, City Attorney, gave brief details regarding the Moratorium.

John Worsham made a motion to adopt Resolution Number 2022-01.

Jason Langley seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None.

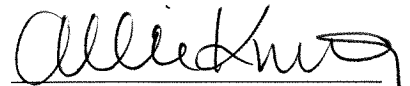
**Adjournment**

Chairman Turner made a motion to adjourn, and the motion carried unanimously with the following vote:

AYE: Lee Turner, Art Dyas, Jason Langley, Harry Kohler, John Worsham, and Clarice Hall-Black.  
NAY: None.

Adjourned at 7:05 p.m.

  
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Lee Turner, Chairman

  
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Allie Knutson, Secretary