

ORDINANCE NO. 1765

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, the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of RW Battles, LLC, is generally located at the northwest corner of Greeno Road and Old Battles Road in Fairhope, Alabama.

PPIN # 17515, 391379, 391372, 391373, 391374, 391375, 391376

**Legal Description:** (Case number ZC 22.09)

LOTS 1, 2, 3, 4, 5, 7 & 9, RW BATTLES LLC REPLAT, AMENDED PLAT, AS RECORDED ON SLIDES 2785 A-C OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA;

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

**The property is hereby initially zoned B-2, General Business District, concurrent with annexation into the City of Fairhope.** 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.

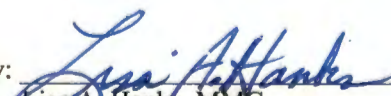
**Severability Clause** - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

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

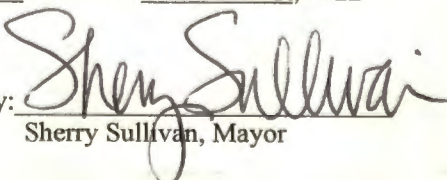
ADOPTED AND APPROVED THIS 12TH DAY OF DECEMBER, 2022

By:   
Jay Robinson, Council President

Attest:

By:   
Lisa A. Hanks, MMC  
City Clerk

ADOPTED AND APPROVED THIS 12TH DAY OF DECEMBER, 2022

By:   
Sherry Sullivan, Mayor


Ord. No. 1765 Published in  
FAIRHOPE COURIER  
on Wednesday, December 21, 2022  
 City Clerk



Exhibit A: The Property of RW Battles, LLC.  
Conditional Annexation to B-2  
(ZC 22.09)



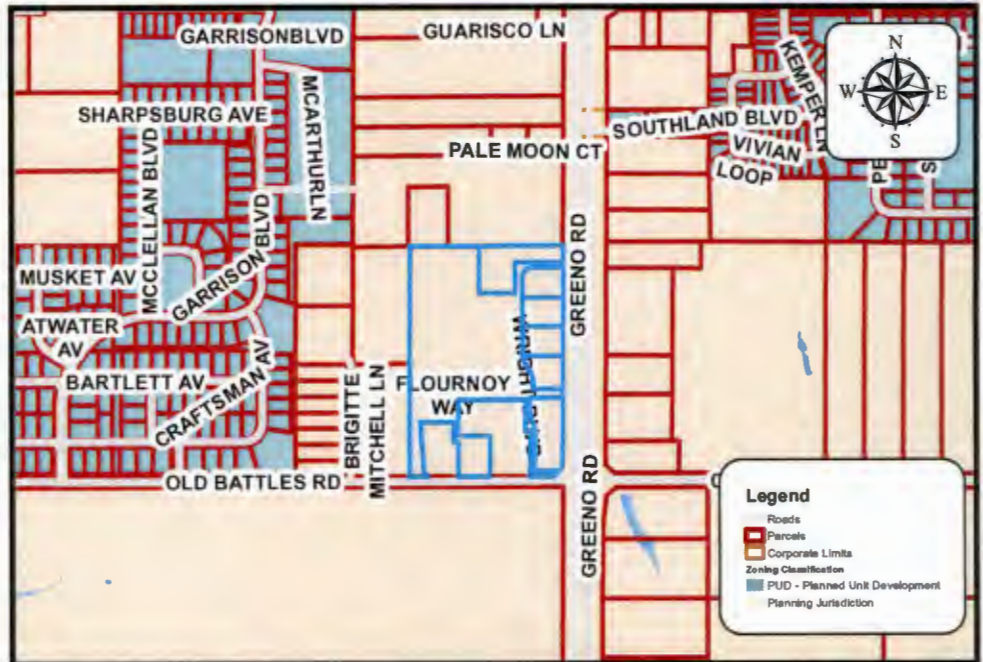
# City of Fairhope City Council



November 28, 2022

The Planning Commission unanimously (8 Ayes, 0 Nays) voted to recommend approval of ZC 22.09.

## ZC 22.09 Shoppes at Point Clear



**Project Name:**

Shoppes at Point Clear

**Site Data:**

21.18 Acres

**Project Type:**

Cond. Annexation w/ Rezoning to B-2

**Jurisdiction:**

Fairhope Planning Jurisdiction

**Zoning District:**

Unzoned

**PPIN Number:**

17515, 391379, 391372, 391373, 391374, 391375, 391376

**General Location:**

Northwest corner of Greeno Road and Old Battles Road

**Surveyor of Record:**

**Engineer of Record:**

Trey Jinright, Jade Consulting

**Owner / Developer:**

RW Battles, LLC

**School District:**

Fairhope Elementary School  
Fairhope Middle and High Schools

**Recommendation:**

Approval

**Prepared by:**

Hunter Simmons





**APPLICATION FOR ZONING DISTRICT CHANGE**

**Property Owner / Leaseholder Information**

Name: RW Battles, LLC Phone Number: 334-481-0510  
 Street Address: 418 Scott St.  
 City: Montgomery State: AL Zip: 36106

**Applicant / Agent Information**  
*If different from above*  
*Notarized letter from property owner is required if an agent is used for representation*

Name: JADE Consulting, LLC Phone Number: 251-928-3443  
 Street Address: 208 N. Greeno Rd., Ste C  
 City: Fairhope State: AL Zip: 36532

Current Zoning of Property: County Unzoned  
 Proposed Zoning/Use of the Property: B-2  
 Property Address: 18153 18155, 18157, 18159 18161, 18163, 18165, 18167 18169, 18171, 18173, 18175, 18177, 18179 Wright Blvd  
 Parcel Number: 05-46-09-29-0-000-087.012, 05-46-09-29-0-000-087.003, 05-46-09-29-0-000-087.010, 05-46-09-29-0-000-087.014, 05-46-09-29-0-000-087.011 05-46-09-29-0-000-087.017 05-46-09-29-0-000-087.013  
 Property Legal Description: See enclosed  
 Reason for Zoning Change: The reason for zoning change is to request initial zoning after proposed annexation of the property  
This property is currently 'Baldwin County Unzoned' & the initial zoning requested is B2 to allow for development of Public Grocery & 18,800 sf of new retailers

- Property Map Attached  YES  NO
- Metes and Bounds Description Attached  YES  NO
- Names and Address of all Real Property Owners within 300 Feet of Above Described Property Attached.  YES  NO

Character of Improvements to the Property and Approximate Construction Date: \_\_\_\_\_  
 See attached Narrative

Zoning Fee Calculation:  
 Reference: Ordinance 1269

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. \*If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Chris Wrightman  
 Property Owner/Leaseholder Printed Name  
7/21/2022  
 Date

[Signature]  
 Signature  
 \_\_\_\_\_  
 Fairhope Single Tax Corp. (If Applicable)

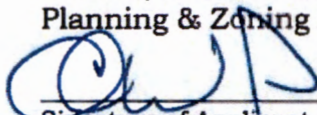


**CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST**  
As Required by the City of Fairhope

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Hearings on Zoning Change 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.

By signing below, I Chris Wightman, (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 Planning & Zoning Commission.

  
Signature of Applicant or Authorized Agent

7/11/2022  
Date of Application

**Summary of Request:**

Applicant, Jade Consulting LLC, acting on behalf of the Owner, RW Battles LLC, is requesting to establish an initial zoning of B-2, General Business District, concurrent with conditional annexation into the City of Fairhope. The property is approximately 21.18 acres and is located on the northwest corner of Greeno Road and Old Battles Road.

**Comments:**

The subject property is currently outside the City of Fairhope’s municipal boundary and un-zoned. The subject property lies within the City of Fairhope’s permitting jurisdiction and a permit has been issued for the site. Construction has begun on Publix and one outbuilding. The property to be annexed is generally located on the map below. The property to north currently has an application for conditional annexation to B-2 as well. The annexation of the northern property will make this property contiguous to Fairhope Corporate Limits.



This site is not within a commercial/village node within Fairhope’s current Comprehensive Plan. However, the City is currently in the process of updating its Comprehensive Plan and acknowledge the intersection of Greeno Rd and Old Battles Rd development pattern change since the last update and will need to be considered a future node at this intersection. If annexation and B-2 Zoning are approved, future uses for the outparcels shall meet the Fairhope Zoning Ordinance requirements.

The outparcels were created via an Administrative Replat (City)/Common Lot Line Exemption (County). The Publix site received approval for a 16-unit Multiple Occupancy Project (Case SD 21.09) in 2021. Important to note, this is a straight re-zoning request and does not include a site plan for intended uses.

**Update: When this application was received the subject property was un-zoned, but within the City of Fairhope Planning Jurisdiction. On July 19, 2022, the Baldwin County Commission enacted zoning for Planning Districts 8 and 37. The subject property is now zoned B4 (Major Commercial District) as shown on the map below.**



The Zoning Ordinance defines B-2 General Business District as follows:

*“B-2 General Business District: This district is intended to provide opportunity for activities causing noise and heavy traffic, not considered compatible in the more restrictive business district. These uses also serve a regional as well as a local market and require location in proximity to major transportation routes. Recreational vehicle parks, very light production and processing activities are included.”*

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

**(1) Compliance with the Comprehensive Plan;**

**Response:**

Meets

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

**Response:** Staff is appreciative of the application, which intends to annex into the City of Fairhope and fall under the City's development guidelines.

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

**Response:** Meets

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

**Response:** This is a re-zoning request, without a Site Plan review. The subject property lies within the City's permitting jurisdiction. Site Construction has begun on the approved Multiple Occupancy Project.

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

**Response:** Construction was permitted through the City of Fairhope.

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

**Response:** At the time of any redevelopment all applicable laws of the City will be applied. If granted, any use within B-2 zoning will be allowed 'by right'.

***(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:** Prior to application for annexation and rezoning, the subject property was reviewed as a Multiple Occupancy Project for Lot 5. That review considered the above-mentioned impacts. Future development on outparcels may require further reviews, depending on the projects proposed on those parcels.

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

**Response:** Staff does not anticipate any significant issues relating to this criterion.

**Recommendation:**

Staff recommends 22.09 Shoppes at Point Clear be approved for conditional annexation, with initial zoning of B-2 General Business District, with the following condition:

1. Case ZC 22.11 shall be approved by City Council, or lot lines adjusted, to ensure subject property is contiguous to Fairhope Corporate Limits.



**RW BATTLES, LLC  
418 Scott St.,  
Montgomery, AL 36106**

July 6, 2022

Mayor Sherry Sullivan  
City of Fairhope  
555 South Section Street  
Fairhope, AL 36533

Re: Shops at Point Clear, Fairhope, AL

Dear Mayor Sullivan:

RW Battles, LLC is the corporate entity which is developing the 21-acre project known as the Shops at Point Clear. This development is located on the NWC of U.S. 98 (Greeno Road) and Old Battles Road. The Shops at Point Clear will consist of a new 48,387 square foot Publix Grocery Store as well as 18,800 square feet of new retailers and five (5) new outparcels. This is a development that should be very convenient to those living in the Point Clear area of Fairhope.

Construction has been underway at the site since the Spring of 2021, and the project should open in October 2022. RW Battles, LLC is excited to bring this new retail project online for all those customers who were not served by a development such as this in the area. Some developers build a project and then sell it when it opens. However, RW Battles, LLC plans on keeping this project for years to come, and to operate it efficiently and maintain it as a Class-A center.

A lot of money is being spent on landscaping this project. It should be a very attractive landscaping area of Fairhope. Many trees have been kept in different areas of the site and coupled with the new landscaping, the Shops at Point Clear should stand out to the citizens of Fairhope.

Sincerely,

RW Battles, LLC



**U.S JUSTICE DEPARTMENT INFORMATION**

- Size of property (acres or square feet) 25.08
- If property is occupied, give number of housing units 0
- Number of Persons residing in each unit, and their race 0
- If property is unoccupied, give proposed use MOP
- If property is being developed as a subdivision, give subdivision name \_\_\_\_\_
- Number of lots within proposed subdivision \_\_\_\_\_

I, Nancy A. Butler a Notary Public in and for said State and County, hereby certify that Chris Wightman whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this 11<sup>th</sup> day of July, 20 22.



Nancy A. Butler  
 NOTARY PUBLIC  
 Muscogee County, Georgia  
 My Commission Expires  
 May 6, 2025

Nancy A. Butler  
 Notary Public

My commission expires May 6, 2025

I, \_\_\_\_\_ a Notary Public in and for said State and County, hereby certify that \_\_\_\_\_ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,

(Seal)

\_\_\_\_\_  
 Notary Public

My commission expires \_\_\_\_\_

I, \_\_\_\_\_ a Notary Public in and for said State and County, hereby certify that \_\_\_\_\_ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_,

(Seal)

\_\_\_\_\_  
 Notary Public

My commission expires \_\_\_\_\_

July 23,2022

Ms. Casey Potts  
Planner  
City of Fairhope  
555 S. Section Street  
Fairhope, AL 36533

Re: Zoning Change, Greeno and Old Battles Roads Area

Dear Ms. Potts:

Thank you again for your assistance the other day. You provide excellent customer service. It is our understanding the Planning Commission will be considering a zoning change on August 1, 2022, for an area north of the Shoppes at Point Clear shopping center and east of the Old Battles Village subdivision. The change will allow for high density residential development, which potentially could mean the construction of apartment buildings. We also understand the zoning change was approved by the Baldwin County Commissioners; However, the zoning change is within the extraterritorial area of Fairhope for zoning and planning purposes. Our concerns are threefold:

- 1) Drainage. It is our understanding Truland Builders had to buy out the owners of five homes on Craftsman Avenue that have their backyards abutting Point Clear Creek due to flooding. We also understand that drainage issues on Point Clear Creek are a point of contention between the City of Fairhope and Baldwin County as to which entity bears responsibility for improvements. We suspect the construction of apartments and sizeable parking lots with resulting increases in runoff will only exacerbate the drainage problem.
- 2) Traffic. We think most homeowners in Old Battles Village are looking forward to the opening of the Shoppes at Point Clear. However, we are sure many of them have concerns about traffic congestion on Old Battles Road and the intersection of Old Battles and Greeno.
- 3) Property values. If the construction of high-density residences impacts drainage and traffic issues, it might impact property values adversely in Old Battles Village.

Thank you for sharing our concerns with the Planning Commission.

Sincerely,

*Terry and Judith Ullrich*

Terry and Judith Ullrich  
229 Garrison Blvd.  
Fairhope, AL 36532  
(504) 625-5809  
tullri@bellsouth.net

## LEGAL DESCRIPTION

STATE OF ALABAMA  
COUNTY OF BALDWIN

LOTS 1, 2, 3, 4, 5, 7 & 9, RW BATTLES LLC REPLAT, AMENDED PLAT, AS RECORDED ON SLIDES 2785 A-C  
OF THE RECORDS IN THE OFFICE OF THE JUDGE OF PROBATE, BALDWIN COUNTY, ALABAMA;



# STATE OF ALABAMA

## DOMESTIC LIMITED LIABILITY COMPANY (LLC) CERTIFICATE OF FORMATION

MONTGOMERY COUNTY, ALABAMA  
Probate Judge:  
J C LOVE, III  
Filed: 06/25/2020 04:46 PM  
Total: \$55.00 3 PAGES  
Certified Copy

5101469

(FOR COUNTY PROBATE OFFICE USE ONLY)

1. THE NAME OF THE LIMITED LIABILITY COMPANY

**RW Battles, L.L.C.**

2. THIS FORM WAS PREPARED BY:

Ray W. Roark II

3. THE NAME AND STREET (NO PO BOXES) ADDRESS OF THE REGISTERED AGENT LOCATED AT THE REGISTERED OFFICE (MUST BE LOCATED IN ALABAMA):

Ray W Roark II  
418 Scott Street  
Montgomery, AL 36106  
MONTGOMERY

MAILING ADDRESS IN ALABAMA OF REGISTERED OFFICE (IF DIFFERENT FROM STREET ADDRESS):

4. THE UNDERSIGNED CERTIFY THAT THERE IS AT LEAST ONE MEMBER OF THE LIMITED LIABILITY COMPANY.

5. CHECK ONLY IF THE TYPE APPLIES TO THE LIMITED LIABILITY COMPANY BEING FORMED:

- NON-PROFIT LLC
- NON-PROFIT SERIES LLC
- PROFESSIONAL SERIES LLC
- PROFESSIONAL LLC COMPLYING WITH TITLE 10A, CHAPTER 5A, ARTICLE 8
- SERIES LLC COMPLYING WITH TITLE 10A, CHAPTER 5A, ARTICLE 11

(FOR SOS OFFICE USE ONLY)

Alabama	
Sec. Of State	
635-732	DLI
Date	06/25/2020
Time	16:47:00
File	\$100.00
Exp	\$0.00
	-----
Total	\$100.00

6. THE UNDERSIGNED SPECIFY 06/25/2020 16:41:40 AS THE EFFECTIVE DATE AND THE TIME OF FILING

ATTACHED ARE ANY OTHER MATTERS THE MEMBERS DETERMINE TO INCLUDE HEREIN

7. ORGANIZER(S) - OPTIONAL

Not Applicable

06/25/2020

DATE

Ray W Roark II Manager/Member

ELECTRONIC SIGNATURE & TITLE

John H. Merrill  
Secretary of State

P.O. Box 5616  
Montgomery, AL 36103-5616

# STATE OF ALABAMA

**I, John H. Merrill, Secretary of State of Alabama, having custody of the Great and Principal Seal of said State, do hereby certify that**

pursuant to the provisions of Title 10A, Chapter 1, Article 5, Code of Alabama 1975, and upon an examination of the entity records on file in this office, the following entity name is reserved as available:

**RW Battles, L.L.C.**

This name reservation is for the exclusive use of Ray W. Roark II, 418 Scott Street, Montgomery, AL 36104-0000 for a period of one year beginning September 05, 2019 and expiring September 05, 2020



RES853686

**In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State, at the Capitol, in the city of Montgomery, on this day.**

September 05, 2019

Date

Handwritten signature of John H. Merrill in cursive script.

John H. Merrill

Secretary of State