

The Planning Commission met Thursday, January 5, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner, Chairman; Rebecca Bryant, Vice-Chair; Art Dyas; Harry Kohler; Hollie MacKellar; Erik Cortinas, Building Official; Jack Burrell, City Council Liaison; Hunter Simmons, Planning and Zoning Manager; Michelle Melton, City Planner; Casey Potts, City Planner; Allie Knutson, Secretary; and Chris Williams, City Attorney.

Absent: Clarice Hall-Black.

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

**Approval of the Minutes December 5, 2022:**

John Worsham made a motion to approve the minutes as presented from the December 5, 2022, meeting.

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

AYE: Lee Turner, Art Dyas, John Worsham Harry Kohler, Clarice Hall-Black, Hollie MacKellar, and Councilman Burrell.

NAY: None.

Abstain: Erik Cortinas and Rebecca Bryant

Chairman Turner announced that the Applicant had requested to withdraw Case SR 23.02, the Site Plan Review for Belle Vie, from the agenda and announced that Old/New Business would be moved to the front of the agenda.

**Old/New Business:**

SD 20.52 Laurelbrooke, Phase 1 and Phase 2 – Request of a 12-month extension to obtain final plat approval.

Hunter Simmons, Planning and Zoning Manager, stated that the development was currently under construction and there had been some delays due to a large 86-inch oak tree being removed by mistake. He supported the request for the extension. Cathy Barnett with Dewberry was present.

**Motion:**

Councilman Burrell made a motion to approve the request for the 12-month extension.

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

AYE: Lee Turner, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas, and Councilman Burrell.

NAY: None.

Abstain: Rebecca Bryant.

**Storm Water Management Program Plan (SWMPP) review and approval.**

**Summary:**

Kim Burmeister, Code Enforcement, presented a 5-minute informational video.

Art Dyas asked if the City was doing water quality testing. Mrs. Burmeister replied that the City is not, ADEM tests for swimming quality at some of the beach areas. The City was previously doing testing, but the certification had expired and was not currently being offered by staff at Week's Bay. The testing is not mandatory, but is suggested for the City's type of MS4. Christina Lejeune is interested in getting certified again when able. She was previously testing for pathogens. Art Dyas asked when ADEM does testing. Mrs. Burmeister replied that ADEM tests when there is 3/4-inch of rainfall, or once a month.

Chairman Turner clarified that SWMPP only applies within City limits. Mrs. Burmeister confirmed that was correct and that they do not have any authority for maintaining drains in the County. The County has their own MS4, and they meet with them more than once per year.

**Motion:**

Art Dyas made a motion to approve the renewal of SWMPP.

Erik Cortinas seconded the motion and the motion carried with the following vote:

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas and Councilman Burrell.

NAY: None.

Mr. Simmons announced that Erik Cortinas, the City's Building Official, had joined the Planning Commission, filling the staff position.

He also stated that Allie Knutson, Secretary, would no longer be employed with the City of Fairhope and that it would be her last Planning Commission Meeting.

**UR 23.01 Request of AT&T for an 11.52.11 Utility Review and approval of the proposed directional boring of approximately 1,800 LF of fiber cable in the Parkstone Subdivision.**

**Summary:**

Mr. Simmons showed a map of the proposed installation route and an aerial of the subject property. There is a new requirement with these installation permits that the Applicant will need to provide a video when working in the right-of-way where sewer lines are to ensure that lines have not been penetrated.

**Recommendation:**

Staff recommends approval of UR 23.01 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 the 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.
8. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
9. Utilities boxes shall be concentrated near existing boxes.
10. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Councilman Burrell stated that there was a discrepancy regarding the linear footage between the staff report and the agenda. Mr. Simmons replied that the correct amount should be 1,800. Erik Cortinas added that the Right-of-Way Ordinance only allows fees to be charged for what is inside the right-of-way, not in a private easement. The amount of 250 LF could be what is proposed for the City's right-of-way.

A representative from AT&T was not present.

**Motion:**

Councilman Burrell made a motion to approve Case UR 23.01, the installation of up to 1,800 LF, subject to staff's conditions.

Rebecca Bryant seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas, and Councilman Burrell.

NAY: None.

**SR 23.01 Request of the Applicant, Jade Consulting, LLC, acting on behalf of the Owner, FST Section Street Hospitality Group, LLC for Site Plan Approval of the Fairhope Hotel. The property is approximately .25 acres and is located at 158 N. Section Street. PPIN #: 112977**

**Summary:**

Mr. Simmons presented the case summary, showing the site plan, elevations, and renderings.

Non-residential buildings in the Central Business District shall be built to the right-of-way line. No side-setback is required for non-residential buildings in the Central Business District, except that corner lots shall have the same building line on the side street as in on the front street. Setback requirements are met.

The building meets the 40' height restriction of B-2 within the Central Business District. Materials for the building are primarily painted stucco and wood siding with window shutters and decorative railings. A rooftop terrace is proposed on the roof of the proposed building. The provided plans meet the requirements of the Rooftop Terrace Ordinance.

Landscape plans were reviewed by the City Horticulturalist. The generator location coincides with a tree planting location. Either the generator or the tree will need to be relocated subject to Planning staff approval.

Sidewalks are required to be a minimum of 8' wide in the CBD. The Section Street sidewalk is 8'. The Oak Street sidewalk is 6'. The 8' requirement can be reduced upon satisfactorily demonstrating to the City Council that the site constrains the sidewalk to the point that 8' is not feasible.

As proposed by the Applicant, there are fourteen units on site. While on-street parking is encouraged in the CBD, parking is not required for non-residential uses in the CBD. The Applicant proposes a total of 13 spaces to service the building – six on-site spaces and seven parallel, on-street spaces. Parking is provided behind the building and is screened from the public rights-of-way via fencing and plantings. Two existing, on-street parking spaces were removed for curb cuts. Overflow parking is expected to park at the Civic Center across Section Street.

Fences are not proposed or required on site. There is an existing fence approximately 0.9' from the eastern property line. One hundred forty-four (144) feet of retaining wall are proposed along the eastern and southern property lines.

The dumpster is proposed at the northeast corner of the site. It is screened by a masonry enclosure. All signs shall meet the City of Fairhope Sign Ordinance. ADA Requirements: All Federal, State, and local ADA requirements shall be met. A traffic study is not required for this project.

**Recommendation:**

Staff recommends conditional approval of Case SR 23.01 Fairhope Hotel with the following condition:  
1. Relocation of either the generator or the conflicting tree, subject to Planning staff approval.

The Owner, Jay Watkins was present along with Paul Marcinko with Jade Consulting.

Paul Marcinko stated that they were agreeable to staff's condition.

Rebecca Bryant asked for clarification for dumpster access. Mr. Marcinko stated that the dumpster is on private property in an enclosure fronting the street. The garbage truck will use the driveway to pick it up. John Worsham asked if the pickup would take up a parking spot. Mr. Marcinko replied that it would, and it may need to be made an employee parking spot.

Rebecca Bryant added that the renderings look beautiful and asked if anything had changed since the renderings were done as the east side looked like it had been changed. Jay Watkins responded that the stairway had been brought in on Oak Street, the renderings do not reflect doorways, and the arches had been enclosed with glass due to humidity and rain.

Chairman Turner asked about meter boxes. Mr. Marcinko replied that the meters are on site. Mr. Simmons added that staff is satisfied with the locations of the meter boxes.

Councilman Burrell stated that he likes the plan as well and asked if the outdoor grilling area on the rooftop would require a commercial hood. Mr. Watkins replied that it would not be a true kitchen space,

just an outdoor area and should not need a hood. Mr. Cortinas added that their plans may require sprinkler heads on the back side of the catering area.

**Motion:**

Councilman Burrell made a motion to recommend approval of Case SR 23.01 to City Council, subject to staff's condition.

Hollie MacKellar seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas, and Councilman Burrell.

NAY: None.

**SD 23.02 Public hearing to consider the request of the Applicant, Jade Consulting, LLC, acting on behalf of the Owner, FST Section Street Hospitality Group, LLC, for Preliminary Approval of the Fairhope Hotel, a 14-unit Multiple Occupancy Project (MOP). The property is approximately .25 acres and is located 158 N. Section Street. PPIN #: 112977**

**Summary:**

Mr. Simmons presented the case summary, showing the site, plat, elevations, and renderings.

All connections and work in ALDOT right-of-way will require permitting from ALDOT. Water will connect to an existing 8" line along Oak Avenue. The final location of the water meters shall be approved by the Water Superintendent. The fire protection line needs to be shown on plans. The 6" water line needs to show where it is intended to be servicing as well as be labeled on the plans. Sewer will gravity feed to an existing sanitary sewer manhole to the north of the subject property. Power will run underground from the building to an existing line located along the eastern side of Section Street. Gas is available along Oak Avenue. Communications will be provided by AT&T. Trash pickup will be via dumpster located at the northeast corner of the subject property. A traffic study was not required. The developer is proposing to relocate the S-1 inlet top located at the southwest corner of the property. On site, two 8" HDPE roof drains will convey stormwater to the alley.

Landscape plans were reviewed by the City Horticulturalist. The generator location coincides with a tree planting location. Either the generator or the tree will need to be relocated subject to Planning staff approval.

As proposed by the Applicant, there are fourteen units on site. While on-street parking is encouraged in the CBD, parking is not required for non-residential uses in the CBD. The applicant proposes a total of 13 spaces to service the building – six on-site spaces and seven parallel, on-street spaces. Parking is provided behind the building and is screened from the public rights-of-way via fencing and plantings. Two existing, on-street parking spaces were removed for curb cuts. Overflow parking is expected to park at the Civic Center across Section Street.

Sidewalks are required to be a minimum of 8' wide in the CBD. The Section Street sidewalk is 8'. The Oak Street sidewalk is 6'. The 8' requirement can be reduced upon satisfactorily demonstrating to the City Council that the site constrains the sidewalk to the point that 8' is not feasible. The proposed sidewalks are constructed with pavers.

Drainage work will need to be relocated, some Aid to Construction costs are still being worked out.

**Recommendation:**

Staff recommends approval with the following conditions.

1. Approval of SR 23.01 Fairhope Hotel Site Plan.
2. The fire protection line shall be shown in the plans.
3. The 6” water line shall show where it is intended to be servicing and be labeled on the plans.

Chairman Turner stated that the project fit well with the Comprehensive Plan, but that two public parking spaces were going to be taken. He asked if other municipalities gave up public parking spaces as easily and suggested having Applicants pay to be able to take up parking spaces. Mr. Simmons replied that the CBD does not require parking for non-residential uses and does not require setbacks. The fee idea would be something to look into because there is public parking being taken away. The Parking Committee that Mr. Worsham heads has goals that align with that idea. Chairman Burrell asked to have a discussion regarding parking with Chairman Turner and Mr. Worsham and stated that the project will be adding more spaces than are being taken away.

Rebecca Bryant asked if the dumpster could be located on the south side. Mr. Watkins replied that they had not considered that, and that the dumpster location may be an ongoing evaluation although the current location provides easy access. Mr. Simmons added that there are no parking meters downtown and a car could be parked next to the dumpster for days, not allowing pickup. Chairman Turner suggested installing a sign that states that parking in that spot is not allowed during garbage pickup hours.

Hollie MacKellar stated that the project was similar to the Collegiate Hotel in Auburn and asked if valet parking had been considered. Mr. Watkins replied that valet parking was part of the plan when there are events like the Arts and Crafts Festival and Mardi Gras.

Chairman Turner opened the public hearing. Having no one present to speak, the public hearing was closed.

**Motion:**

John Worsham made a motion to approve Case SD 23.02, subject to staff’s conditions.

Councilman Burrell seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas and Councilman Burrell.

NAY: None.

**SD 22.25 Public hearing to consider the request of the Applicant, Seth Moore with Moore Surveying, Inc., on behalf of the Owner, FST Ellenberg, John W. Etux Belinda W., for Plat Approval of Ellenberg Place, a 2-Lot Minor Subdivision. The property is approximately 5.04 acres and is located on the south side of Morphy Avenue, 0.9 miles west of County Road 13.**

**PPIN #: 14689**

**Summary:**

Casey Potts, City Planner, presented the case summary, showing an aerial of the property and the proposed plat.

The drainage conveyance system existing on site was modified in 2022 without staff's review or approval. Both Planning and Building staff made site visits and contacted the Corps of Engineers to discuss the changes. The Corps of Engineers confirmed that the drainage ditch modification was not in violation. However, due to the drainage ditch relocation, staff requested a drainage easement be shown along PPIN 101012, the adjacent parcel to the west of proposed Lot 2. The easement shall be shown on the plat and approved by Planning Staff.

The Applicant requested two waivers from the Subdivision Regulations – a sidewalk installation waiver and a wetland buffer signage waiver.

1. Sidewalk Installation Waiver: Staff is amenable. An adjacent minor subdivision, Walker Place, was approved in 2020 with said waiver.
2. Wetland Buffer Signage Waiver: Staff is not amenable. Wetland buffer signs will be installed along all wetlands on site and be verified by Code Enforcement. The Plat shall not be signed until the buffer signage is installed and verified.

The two lots are within 450 feet of a fire hydrant, front on a publicly maintained road, and meet the lot size requirements. All lots shall only be accessed via Morphy Avenue. The final plat must be recorded within 120 days after the date of final approval.

**Recommendation:**

Staff recommends approval of SD 22.25 Ellenberg Place Minor Subdivision minor subdivision with the following conditions:

1. Wetland buffer signs shall be installed and verified by Code Enforcement prior to plat signature by the Planning Department.
2. Drainage discharge easement shall be added to PPIN 101012, subject to staff approval.

The Applicant, Seth Moore, was present.

Chairman Turner asked about existing sidewalks and stated that he had been talking to Richard Johnson, Public Works Director, about filling in sidewalks with Fairhope Single Tax. Seth Moore replied that there is an existing residence on the front lot and usually sidewalks would be installed during construction. Chairman Turner stated that Morphy Avenue is the last major road that does not have sidewalks

Mr. Moore asked Mrs. Potts to clarify the drainage easement condition. Mrs. Potts showed the plans and stated that it needed to extend past the property line because of the drainage work that was done.

Chairman Turner opened the public hearing. Having no one present to speak, the public hearing was closed.

Erik Cortinas stated that both Planning and Building staff walked the site and Mr. Cortinas spoke with the Corps of Engineers to ask about the drainage easement. A drainage easement was connected from an upper jurisdictional wetlands to a lower one, which COE did not see as a negative. The wetland buffer

signs are needed so work will not be done inside the buffer. Installing the signs so that area is delineated is helpful, so problems do not need to be corrected later.

Chairman Turner asked if there was an existing sidewalk easement, Mr. Moore stated there was an existing easement. Councilman Burrell suggested making it a condition of approval that a sidewalk must connect across the property if ever built on the East or West side of the subject property. Mr. Simmons replied that the condition would be difficult to enforce. Chairman Turner added that the property owners are paying Fairhope Single Tax dues which can fund sidewalk installation. Mr. Simmons stated that there were internal discussions being had for “in lieu of” fees for not installing sidewalks.

Councilman Burrell asked if the two lots could be further subdivided. Mrs. Potts confirmed that the lots could be subdivided again into a maximum of two more lots. Mr. Moore added that it would probably require roads and that there are a lot of wetlands. Councilman Burrell replied that there needed to be stricter restrictions for minor subdivisions being subdivided again,

**Motion:**

- Art Dyas made a motion to approve Case 22.25, subject to staff’s conditions, plus an added condition:
1. Wetland buffer signs shall be installed and verified by Code Enforcement prior to plat signature by the Planning Department.
  2. Drainage discharge easement shall be added to PPIN 101012, subject to staff approval.
  3. Reflect the sidewalk easement on the plat.

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

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas and Councilman Burrell.

NAY: None.

**SD 22.30 Public hearing to consider the request of the City of Fairhope’s Planning and Zoning Department, to accept Resolution 2022-06 for various proposed amendments to the City of Fairhope’s Subdivision Regulations.**

**Summary:**

Mr. Simmons stated that there were no amendments proposed for this meeting. Staff plans to redline the Subdivision Regulations and contact Commissioners before the February meeting.

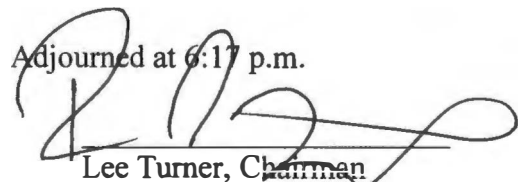
**Adjournment**

John Worsham made a motion to adjourn, and the motion carried unanimously with the following vote:

AYE: Lee Turner, Rebecca Bryant, Art Dyas, Harry Kohler, John Worsham, Hollie MacKellar, Erik Cortinas, and Councilman Burrell.

NAY: None.

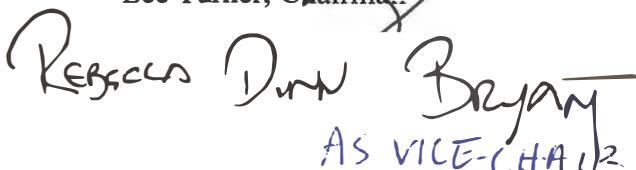
Adjourned at 6:17 p.m.



Lee Turner, Chairman



Allie Knutson, Secretary



Rebecca Dawn Bryant  
AS VICE-CHAIR