

The Planning Commission met Monday, February 6, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Rebecca Bryant, Vice-Chair; Art Dyas; Harry Kohler; John Worsham; Hollie MacKellar; Clarice Hall-Black; Erik Cortinas, Building Official; Jack Burrell, City Council Liaison; Hunter Simmons, Planning and Zoning Manager; Mike Jeffries, Development Services Manager; Michelle Melton, City Planner; Casey Potts, City Planner; and Chris Williams, City Attorney.

Absent: Lee Turner, Chairman.

Vice-Chairman Bryant called the meeting to order at 5:01 PM.

Old/New Business:

Appointment of Planning Commission Secretary

Summary:

Staff recommends Hunter Simmons be appointed as Planning Commission Secretary, in the interim, until the Planning Clerk position is filled.

Motion:

Erik Cortinas made a motion to appoint Hunter Simmons as Planning Commission Secretary.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

SD 20.11 – Hilltop Subdivision, Phase II – Request of the applicant, Jade Consulting, LLC, for an extension of 6 months to submit for final plat approval.

Summary:

Hunter Simmons, Planning and Zoning Director, presented the extension request. A one-year extension was already granted and construction has begun. Staff does not have an issue with granting the six (6) month extension for the Hilltop Subdivision, Phase II Final Plat.

Rebecca Bryant clarified that the extension request is in addition to the one (1) year already granted. Mr. Simmons confirmed.

Rebecca Bryant then requested information regarding typical extension timeframes. Mr. Simmons responded that once the project is under construction, a one (1) year extension is typical. Additional time has been granted in the past under specific circumstances. A full second-year extension is not typical. However, six (6) months falls into what staff has recommended in the past.

Motion:

John Worsham made a motion to grant a six (6) month extension of SD 20.11 Hilltop Subdivision, Phase II.

Clarice Hall-Black seconded the motion.

Councilman Burrell asked to discuss. Councilman Burrell asked if the applicant had been granted an extension request prior.

Mr. Simmons responded that the six (6) month extension request is the second extension request for the project, the first extension being for one (1) year. Mr. Simmons explained that the project was originally outside of the City of Fairhope City Limits and later was annexed and zoned PUD, which created some delays for the project.

The motion carried unanimously with the following vote:

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

Approval of the Minutes January 5, 2023:

Councilman Burrell made a motion to approve the minutes as presented from the January 5, 2023, meeting.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

Consideration of Agenda Items:

UR 23.02 Request of Mediacom for a Section 11.52.11 (Ala. Code) Utility Review and approval of the proposed underground installation of approximately 13,605 LF of fiber in the Twin Beech Estates & Live Oaks Subdivision.

Summary:

Hunter Simmons presented on behalf of staff.

Recommendation:

Staff recommends approval of UR 23.02 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. An additional right-of-way permit may be required for the potholing procedures.

4. Follow-up activities below required by staff and the applicant:
5. 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.
6. Provide draft door hanger for approval at time of pre-construction.
7. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
8. 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.
9. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
10. Utilities boxes shall be concentrated near existing boxes.
11. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Motion:

Art Dyas made a motion to approve Case UR 23.02, the underground installation of approximately 13,605LF of fiber, subject to staff's recommendation.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

ZC 23.01 Public hearing to consider the request of the Applicant, Kenneth Kleban, acting on behalf of the Owner, FST and Encounter Development, LLC, to establish an initial zoning of B-2, General Business District, concurrent with annexation into the City of Fairhope. The property is approximately 1.1 acres and is located near the northeast corner of State Highway 181 and State Highway 104. PPIN #77558

Summary:

Casey Potts, City Planner presented on behalf of staff. Staff recommends approval of ZC 23.01.

Councilman Burrell asked if the historical significance of the site was known to the public. Mr. Simmons clarified that the subject parcel is not the filming location of the "Close Encounters of the Third Kind" movie. The filming site is located further north on US Hwy 181. Mr. Simmons also notes that the subject property appears to not have had a portion acquired by ALDOT, like adjacent properties.

Vice-Chair Bryant opened the public hearing. Having no one present to speak, the public hearing was closed.

Motion:

Art Dyas made a motion to recommend approval of Case ZC 23.01 to City Council.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

SD 23.05 Public hearing to consider the request of the Applicant, Dewberry, acting on behalf of the Owner, North Hills at Fairhope, LLC for Final Plat Approval of North Hills, Phase 2, a 63-Lot Major Subdivision. The property is approximately 49.30 acres and is located north of State Highway 104, east of County Road 13, near the Waters Subdivision. PPIN #: 98367

Summary:

Casey Potts presented the case summary, showing the site, plat, and drone footage. The remaining punch list items were discussed, specifically:

- Two (2) chimney seals and one (1) rain stopper have not been installed. The materials have been delivered to the contractor and installation is pending.
- All fire hydrant road markers have not been installed. An invoice has been provided.
- Aerator installation is pending the installation of power services. Invoice has been provided.

The applicant requested a waiver from the Preliminary Plat requirement of installing speed humps, per the approved design. The applicant proposes the installation of two (2) additional speed limit signs in lieu of the speed humps. The speed limit signs were ordered and would be installed promptly. Staff supports the waiver request.

Drone footage of the site was shown. Mr. Simmons clarified that the site is presently tidier than depicted in the footage.

Follow up activities are required by the applicant:

- Copy of the recorded plat. Final plat must be recorded within 120 days after the date of final approval.
- 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

Sidewalks and street trees were installed with the Final Plat request. As such, a performance bond was not required.

Recommendation:

Staff recommends approval with the following conditions.

1. Installation of the remaining punch list items.
2. Complete required follow up activities.

Staff believes this is a good opportunity to amend the subdivision regulations in the future to address alternatives to speed humps, which are not favored by Public Works or Planning Staff due to ongoing maintenance issues. Existing traffic control measures are vague, which inhibits input in preliminary stages of design and review.

Mike Jeffries added that speed humps can be added to the development at a later date by City Council approval, if needed.

Vice-Chair Bryant opened the public hearing. Having no one present to speak, the public hearing was closed.

Rance Reehl, the developer, was present and spoke to the waiver request. He stated that discussions were had between the Right-of-Way Inspector and Planning Staff and the consensus was that the speed humps were not necessary. He clarified that, if the Commission required their installation, he would install the speed humps. He stated that speed limit signs will be added to regulate traffic in lieu of the speed humps.

Motion for Waiver Request:

Councilman Burrell agreed with Mr. Reehl's comments and made a motion to grant a waiver from installing the speed humps.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

Motion for SD 23.05:

Erik Cortinas made a motion to approve Case SD 23.05. Mr. Simmons then clarified if the intent was to approve subject to staff conditions. Mr. Cortinas then amended the motion to approve subject to staff conditions.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

SD 23.06 Public hearing to consider the request of the Applicant, S.E. Civil, acting on behalf of the Owner, 68V Overland Villas, LLC, for Final Plat Approval of Overland Townhomes, a 16-Unit Multiple Occupancy Project (MOP). The property is approximately 2.42 acres and is located on the south side of County Road 48, east of the River Mill Subdivision. PPIN #: 43640

Summary:

Michelle Melton presented the case summary, showing the site, plat, and drone footage. In order to close out the MOP, the Applicant will need to complete the following "Follow Up Requirements of Applicant":

1. Provide Maintenance Bond and Agreement for utilities being accepted by the City of Fairhope. Be sure to include a clear exhibit of what is being accepted.
2. Provide a copy of the recorded O&M Agreement.
3. Record a copy of the As-Built Site Plan with corrected "Property Zoning" as "PUD" in the site data table. (Labeled MOP Site Plan in Applicant submittals)
4. A specific note on the recorded As-Built Site Plan pursuant to Subdivision Regulations, Art. V, Section F(3)(d)(4). *"A property owners association (POA) is required to be formed. The POA is required to maintain any and all storm water facilities and structures located outside the publicly accepted right-of-way."*

5. A specific note on the recorded As-Built Site Plan stating the following:

"The internal right-of-ways, roads, easements and drainage facilities are private and will be maintained by the POA. The internal right-of-ways, roads, easements and drainage facilities will not be maintained by the City of Fairhope. If individual lots, sites, units, etc. are to be sold, the developer/owner shall be required to meet the current City of Fairhope Subdivision Regulations in effect at that time, and the property shall be brought into compliance with those regulations prior to such sale or attempted sale."

Recommendation:

Staff recommends approval with the following conditions.

1. Install fencing for safety around pond.
2. Complete the aforementioned "Follow Up Requirements of Applicant"

Mrs. Bryant expressed her disappointment that the fence alters the greenspace applicability of the pond. She states that this case presents an opportunity for greenspace regulation changes in the future.

Vice-Chair Bryant opened the public hearing. Having no one present to speak, the public hearing was closed.

Larry Smith, engineer, was present and elected to speak to the project. He stated that the pond is lined with bentonite clay, which will keep it from infiltrating. The pond is able to keep a static water level. He stated the confusion probably stemmed from pumping the water level down to make repair to a mitered in section that was not poured and then inspecting the repair. The pond is tied to irrigation to maintain a static water level.

Motion:

Mr. Simmons requested to clarify the conditions recommended by staff. He recommended removal of condition #1 from the recommendation, since the applicant has addressed this item.

John Worsham made a motion to approve Case SD 23.06 subject to Condition #2, the completion of the aforementioned "Follow Up Requirements of Applicant."

Art Dyas seconded the motion.

Jack Burrell requested to discuss the application further. He questioned whether removing the fence condition of approval would remove the requirement to have a fence installed in perpetuity.

Mr. Smith offered to add a note on the MOP as-builts that fencing shall be required.

John Worsham amended his motion to approve with the following conditions:

1. Complete the aforementioned "Follow Up Requirements of Applicant."
2. Adding the fencing around the pond on the as-built drawings.

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

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:

Hunter Simmons presented the proposed Subdivision Regulation amendment. He stated that the majority of the changes are due to the change in enforcement of the Subdivision Regulations in the Extra-Territorial Jurisdiction that were approved by Planning Commission in December 2022. The definition and responsibility of the Subdivider, Contractor, and other parties are also clarified in the amendment.

Mr. Simmons noted that a modification was made to the proposed Subdivision Regulations amendment proposed with the Staff Report. As presented at the meeting, Article V, Section C of the Subdivision Regulations was revised to address the impact of County maintained rights-of-way on development within the City Limits.

Erik Cortinas requested that the definition of "flood insurance study" in Article II be amended to state "current Flood Insurance Rate Map (FIRM) published for Fairhope, AL (#010006)" in lieu of "the floodways as identified or delineated in the Flood Insurance Study for Baldwin County, Alabama."

Motion:

Mr. Cortinas made a motion to approve the proposed Subdivision Regulations amendment subject to amending the definition of Floodway (a) in Article II to read "the floodways as identified or delineated in the current Flood Insurance Rate Map (FIRM) published for Fairhope, AL (#010006)" in lieu of "the floodways as identified or delineated in the Flood Insurance Study for Baldwin County, Alabama."

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

AYE: Rebecca Bryant, Art Dyas, John Worsham, Harry Kohler, Clarice Hall-Black, Hollie MacKellar, Councilman Burrell, and Erik Cortinas.

NAY: None.

Adjournment

Rebecca Bryant made a motion to adjourn. 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.

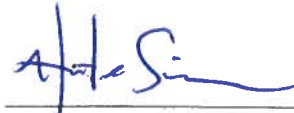
NAY: None.

Adjourned at 5:52 p.m.

February 6, 2023
Planning Commission Minutes



Lee Turner, Chairman



Hunter Simmons, Interim
Secretary