

The Planning Commission met Monday, April 5, 2010 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

Present: Jean Wilson, Chairperson; Dick Charles, Vice-Chair; Bob Clark; Tim Kant; Jennifer Fidler; Gary Moore; Lee Turner; Fran Slade; Lonnie Mixon. Jonathan Smith, Planning and Building Director; Nancy Milford, Planner; Emily Boyett, Secretary.
Absent: Chris Gill, Attorney

Chairperson Jean Wilson called the meeting to order at 5:00 PM and announced the meeting is being recorded. The minutes of the March 1, 2010 meeting were considered and Dick Charles moved to accept the minutes as written and was 2nd by Lonnie Mixon. Motion carried with one abstention by Gary Moore.

UR 10.02 Request of Riviera Utilities for an 11.52.11 Utility Review for the proposed extension of a transmission and distribution line, Gary Carnley. The project will run along the west side of County Road 13 from State Highway 181 to just north of Gayfer Road Extension. Mrs. Wilson stated this case was heard at the March 1, 2010 Commission meeting, but was held over to obtain more information. Nancy Milford gave the staff report saying Riviera proposes to construct a transmission line, with underbuilt distribution circuits on approximately 90-95 feet tall concrete poles. This extension will provide an alternate transmission feed for the Point Clear Substation and enable decommissioning of the old Fairhope Substation on Dyer Road. Ms. Milford stated a request was made at the previous meeting for verification and review of the easement agreement between Riviera and Auburn and to determine if there are any options for reducing the pole height. She said Mr. Carnley has provided copies of the easement agreements and they appear to allow the proposed extension as requested. She added that Riviera has indicated they are willing to adjust their framing and design to shorten the pole height as much as possible; however, this will require Riviera to clear an additional 10' of the easement to accommodate the spreading out of the lines. Staff recommendation is to approve as requested with the three following conditions: 1) When poles or any equipment is installed, at least five feet of separation should be maintained between utilities. Riviera Utilities should coordinate with the City of Fairhope Water and Sewer Superintendent, Dan McCrory, on water and sewer utility issues. 2) The applicant should comply with all required City of Fairhope storm water best management practices and submit a formal BMP plan to the City of Fairhope. 3) Any mechanical equipment proposed shall be screened by painting the equipment Munsell Green. Mayor Kant said he looked into legal opinions in the state of who has control of right-of-ways and trees and found that since this is a road that the City does not have any control over, it is in the County and is a County maintained road and a state highway, then the Commission can ask but ultimately it is up to the utility company and they have the final say. Mayor Kant stated he spoke with Auburn and Riviera has agreed to move the poles to the front of the 20' easement they have acquired and will not have to cut as many trees. Tom Debell of Riviera Utilities was present to answer any questions. Dick Charles asked about the pole height and the number of lines on the poles. Mr. Debell responded the height has not been decided yet. Mr. Debell stated he hopes to see 5' or 10' off of the 90' or 95' pole, even though it does not seem like much; however, it will help with the maintenance and cost of

the poles. He added that there will be a total of six lines with a set of three lines at the top of the poles and a set of three lines at the bottom. Fran Slade asked if the change in pole height will affect the number of trees to be cut. Mr. Debell stated it does not look like they will have to clear the entire 25' easement and Riviera will work with Auburn to limit the number of trees that will be cut. Dick Charles moved to accept the staff recommendation approve the request subject to the three conditions. Jennifer Fidler 2nd the motion with an amendment to add the condition to move the lines as close to the east side of the easement to save trees. Mr. Debell expressed concerns with the condition to maintain the 5' of separation between utilities conflicting with the condition to move the lines as close to the edge of the easement. Mr. Smith suggested the wording of the condition be that the applicant work for maximum tree preservation within the constraints of their easement with Auburn University and any right-of-way agreements. Mrs. Fidler amended the 2nd to when not in conflict with existing utilities the lines will be moved as close to the east side of the easement as possible. Dick Charles accepted the amendment to the motion and the motion passed unanimously.

UR 10.04 Request of AT&T for an 11.52.11 Utility Review of a proposed installation of 35 linear feet of innerduct, 50 linear feet of 2" pipe and a broadband cabinet,

Chris Dodd. The project will be located on the southeast corner of the intersection of Nichols Avenue and Wisteria Street. Nancy Milford gave the staff recommendation to approve as requested with the following five conditions: 1) The applicant should work with the City of Fairhope Horticulturist to protect existing trees. 2) All existing utilities must be located and proper separation must be maintained between utilities. 3) All mechanical equipment should be screened by painting the equipment Munsell Green. 4) Any work performed in a drainage way should have positive drainage and be restored to pre-disturbance grades. 5) Stabilize right-of-way cuts at the end of each day and revegetate disturbed areas with sod when the project is completed. No one was present to represent AT&T. Mrs. Fidler stated concerns with some of the previous projects like this one that the Commission has approved. She noted sight visibility issues with driveways and at intersections due to the pedestals and that several of the pedestals are very close to the edge of pavement in the Fruit and Nut area. She added she would like to see this pedestal at least 10' off of the edge of pavement to increase the sight visibility on Wisteria Street. Mayor Kant stated there are standards for sight visibility at intersections. Mr. Smith said the City has sight triangle requirements and they appear to have been met. Mrs. Fidler stated there is a 25' setback at intersections for sight visibility. Mrs. Wilson asked if the Commission would like to table the request for 30 days to have the applicant present. Mr. Smith stated the Commission can make it a condition that all clear sight lines are adhered to. Jennifer Fidler moved to accept the staff recommendation to approve as request with the following six conditions: 1) The applicant should work with the City of Fairhope Horticulturist to protect existing trees. 2) All existing utilities must be located and proper separation must be maintained between utilities. 3) All mechanical equipment should be screened by painting the equipment Munsell Green. 4) Any work performed in a drainage way should have positive drainage and be restored to pre-disturbance grades. 5) Stabilize right-of-way cuts at the end of each day and revegetate disturbed areas with sod when the project is completed. 6) Pedestal location shall be a minimum of 10' off the edge of pavement and 25' from the intersection of Nichols

Avenue and Wisteria Street. Dick Charles 2nd the motion and the motion carried unanimously.

SD 10.01 Request for Multiple Occupancy Project approval of Celebration Church of Fairhope, Driven Engineering. The property is located on the southeast corner of the intersection of Dyer Road and Jubilee Trail. Nancy Milford gave the staff report saying the applicant is requesting the approval of a multi-use building on unzoned property located in Baldwin County. The total site is approximately 4.3 acres and the proposed building is approximately 11,989 sf with a building height of 35'. She stated the Commission does not have zoning authority on property outside city limits but is allowed to exercise specific technical requirements under the subdivision regulations. Ms. Milford said a drainage report was provided and has been reviewed by Richard Johnson with Baldwin County and he had some comments regarding the original report and Ken Eslava, Assistant Public Works Director, has concerns regarding the positive flow from the site. Staff recommendation is to approve as requested with the following six conditions: 1) approval form the Assistant Public Works Director, Ken Eslava, regarding positive site drainage. 2) A letter from the Baldwin County Engineer approving the proposed drainage plans. 3) A flow model approved by the City of Fairhope Water & Sewer Superintendent, Dan McCrory. 4) A landscape plan approved by the City of Fairhope Horticulturist, Jennifer Fidler. 5) The applicant shall provide the engineers' signature and seal on the Operations and Maintenance Plan. 6) An executed Maintenance Bond and Agreement that meets the approval of the City of Fairhope legal counsel. Mrs. Wilson opened the public hearing. Matt Rogers of Driven Engineering was present to answer any questions. Theda Eurick of 7 Porch Place had several concerns regarding noise and soundproofing, storm water run-off, building uses, exterior building materials, multi-story and fence materials. Mr. Rogers stated he has not seen the architectural drawing for the building and does not know if the building will be soundproof or what the exterior building materials will be. He stated the building will be used as a one-story sanctuary and limited to a 35' building height. John Frank of 4 Porch Place stated concerns with noise. He said currently the noise generated by the church comes into their neighborhood and disturbs himself and his neighbors. He asked what he could do without a county noise ordinance. Mr. Turner said he thought the county does have a noise ordinance for certain hours during the night. Mr. Mixon suggested annexing into the City and then they would be covered by the City's noise ordinance. Mayor Kant explained that the residents of Porch Place are already in the corporate limits and the problem is the church is not, which excludes the church from the City's noise ordinance. Victor Koch of 21145 Bishop Road stated concerns with drainage in the area and noise from the church. He said that currently water stands in the ditches in front of the church and the area does not drain at all. John Kitch of 16 South Rolling Oaks asked the Commission to explore alternative storm water management practices such as bio-retention, grass swales, rain gardens or pervious pavement or pavers to help with the known drainage problems in the area. Having no one else present to speak Mrs. Wilson closed the public hearing. Mrs. Wilson asked for an explanation of how the drainage will be handled and where it will be discharged. Mr. Rogers explained the pond has been over-designed and will discharge less than the pre-developed rate, which should help the current drainage. He stated the pond will discharge to the west and under the current

drive into an existing culvert under Dyer Road going north and from there down the ditch to the east. Mr. Charles noted a statement from the applicant's engineer indicating this site is not suitable for pervious paving and asked if this was due to the site having grady soils. Mr. Rogers stated he did not know what type of soils the site contains but it does not drain. Mrs. Fidler questioned what was being done with the storm water on the southeast corner of the property. Mr. Rogers responded that a swale will be installed in that area to bring the water to the north side of the property and will end up in the ditch on the north side of Dyer Road. He stated the property is very flat and the break line will run through the buildings, which will allow the water to sheet-flow to either north or south. Mr. Moore asked if the site would be sloped or the water piped to the pond on the north side of the property. Mr. Rogers responded the site does not have enough depth to use pipes. Mr. Turner stated he would like to see the pond hold more water to lessen the amount of runoff on the south and east sides of the property. Mr. Rogers said the pond is designed for the entire site so that overall the site will not discharge more than pre-development. Mrs. Wilson said the Commission would like to see less runoff going to the east and south sides of the property than there is now. Mayor Kant stated he would like to table this request until the County Engineer has reviewed and signed-off on the drainage. Ms. Milford responded that Mr. Johnson has issued a R.O.W Access & Drainage Impact Permit, which states the project was found to be in compliance with the County Development Standards. She added that all of the plans and calculations shall be stamped and signed by the engineer of record. Mayor Kant said he would like a letter from the County Engineer stating the submitted drainage plan will not flood people that are already there. Mrs. Slade stated this area is all grady soils, which does not drain and if a pond is put in then it will overflow. Mr. Smith explained that the County will have to sign-off on the drainage plans, but the Commission can approve the application contingent upon the County approval. Mrs. Wilson asked if the project follows the County requirements then does that mean it complies with the City requirements. Mr. Smith said the applicant's engineer signs and stamps the plans, which certifies it meets the City's Subdivision Regulations. Mrs. Slade stated the project may only disturb 2.7 acres, but it will significantly affect the rest of this property and the surrounding area. Mayor Kant said he wants the County to review the drainage calculations based on the City's requirements and verify that it meets our requirements. Mrs. Wilson asked about requesting a second opinion from an outside source. Mr. Smith responded that County will verify the drainage, but not with the City's requirements. He added that the City Council would have to approve the engineering cost of an outside opinion. Mrs. Fidler and Mrs. Wilson agreed that a review to verify the compliance with the City's drainage requirements was needed due to the location of the property and the drainage problems in the area. Mr. Charles reiterated the neighbors have a valid complaint with the noise. Mr. Clark stated that is it a valid complaint, but that is not for this Commission to address. He recommended the neighbors contact their County Commissioner regarding a noise ordinance. Mrs. Fidler added the proposed fence should help with the noise and will be better than what they have now. Mrs. Wilson also suggested communicating with the church the concerns about the noise. Mrs. Wilson asked if the request can be tabled. Mr. Smith responded the Commission will have to meet within 30 days if the application is tabled and he reminded the Commission that the project will not proceed without Mr. Johnson's approval. Mr. Smith stated he would ask Mr. Johnson to review the project

against the City's requirements. Mrs. Slade asked what questions the Commission want answers to if the application is tabled. Mrs. Wilson said she wants to know that the drainage complies with the City's Subdivision Regulation requirements. Mr. Turner wants to know if any areas of the site will be releasing more water run-off at post-development compared to pre-development. Fran Slade moved to table the request until the next scheduled Planning Commission meeting to receive further information and have the following two questions answered: 1) Does the drainage comply with the drainage requirements in the City of Fairhope's Subdivision Regulations. 2) Will any area of the site release more water run-off at post-development compared to pre-development. Gary Moore 2nd the motion and the motion carried unanimously.

Old/New Business – Jonathan Smith stated he will be presenting an amendment to the sign ordinance at the May meeting.

Having no further business, Dick Charles moved to adjourn and was 2nd by Gary Moore. Motion passed unanimously and the meeting was duly adjourned at 5:58 pm.

Jean Wilson, Chairperson

Emily Boyett, Secretary