

**PRE-MEETING AGENDA  
MOUNTAIN BROOK CITY COUNCIL**

**CITY HALL PRE-COUNCIL ROOM (A106)  
56 CHURCH STREET  
MOUNTAIN BROOK, AL 35213**

**August 22, 2016 6:00 PM**

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- 1. Lease for two parking lots in English Village-Keith Arendall and Sam Gaston (See attached information. This item could be added to the formal agenda.)**
- 2. Smoking Ordinance-Steve Stine (See attached information. This item may be added to the formal agenda.)**
- 3. Conditional Use for MPower (Pilates) at 2419 Canterbury Road-Dana Hazen (See attached information. This item may be added to the formal agenda.)**
- 4. Restroom for Mountain Brook Elementary Playing Field-Shanda Williams (See attached information. This item may be added to the formal agenda.)**



**Sam Gaston**

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**From:** Keith Arendall  
**Sent:** Friday, August 19, 2016 1:35 PM  
**To:** 'Billy Pritchard'; 'Sam Gaston'  
**Subject:** Parking lot lease

B and S:

Here is what Paul said they will do:

\$6,500 per month, 5-year lease, same tax abatement, 2-1/2% annual bumps, 6 months right to cancel.

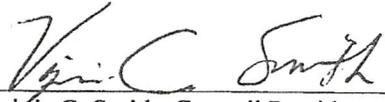
The Homewood comp had absolutely no effect on him.

Keith Arendall  
Lawrence-Arendall-Humphries Real Estate, Inc.  
2850 Cahaba Road  
Birmingham, Alabama  
(205)-870-8580  
Fax (205)-423-3152

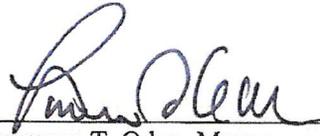
**RESOLUTION NO. 11-122**

**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama, that City Council hereby authorizes either the Mayor or City Manager to execute, for and on behalf of the City, lease agreements with Redstone Holdings, LLC, and Armans, LLC, in the form as attached hereto as Exhibits A-1 and B-1, respectively, with respect to the City's lease of two parking lots located in English Village.

**ADOPTED:** This 8th day of August, 2011.

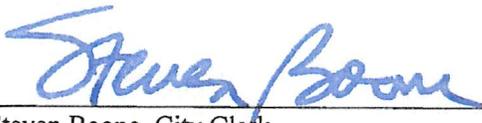
  
\_\_\_\_\_  
Virginia C. Smith, Council President

**APPROVED:** This 8th day of August, 2011.

  
\_\_\_\_\_  
Lawrence T. Oden, Mayor

**CERTIFICATION**

I, Steven Boone, City Clerk of the City of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on August 8, 2011, as same appears in the minutes of record of said meeting.

  
\_\_\_\_\_  
Steven Boone, City Clerk

STATE OF ALABAMA )

JEFFERSON COUNTY )

**LEASE**

This lease made this 8 day of August, 2011, by and between **Redstone Holdings, LLC** (hereinafter called "Lessor") and the **City of Mountain Brook, Alabama**, a municipal corporation (hereinafter called "City").

1. Lessor does hereby lease and rent unto City, and City does hereby take as lessee under said lease, the property located at 2409 Fairway Drive, Mountain Brook, Jefferson County, Alabama, more particularly depicted on Exhibit "A" attached hereto. The property shall be used by City for public parking pursuant to City land-use regulation, during the term of said lease.

2. This lease shall be for a period of five (5) years commencing on October 1, 2011, and ending on September 30, 2016. City shall pay Lessor the sum of three thousand one hundred thirty-one dollars and sixty-five cents (\$3,131.65) per month on the first day of each month, beginning October 1, 2011. During the term of this lease, there shall be an annual increase in the lease payment each October 1, beginning October 1, 2012, in the amount of 2-1/2 percent.

3. City has already improved the property during an earlier lease term and does not anticipate making further improvements. City shall be responsible for maintenance of said property during the term of this lease.

4. City shall provide appropriate signage for the property, which shall be subject to the approval of Lessor; said approval not to be unreasonably withheld.

5. City shall abate the ad valorem taxes on the subject property to the permissible limit of 26.1 mils during the term of this lease.

6. City shall be responsible for monitoring and administering the property according to the terms of this lease. City shall maintain the property in a clean condition.

**EXHIBIT A-1**

EXHIBIT A-1

7. City shall not be responsible for any environmental condition of the property existing prior to the execution of the original lease of the property.

8. A. Lessor shall have the right to cancel this lease at any time, upon ninety (90) days' written notice. Said written notice shall be delivered by first class, United States mail to the attention of the City Manager, City of Mountain Brook, P.O. Box 130009, Mountain Brook, AL 35213-0009.

B. City shall have the right to cancel this lease at any time, upon ninety (90) days' written notice. Said written notice shall be delivered by first class, U.S. mail to Mr. Paul Dreher, P. O. Box 131449, Mountain Brook, AL 35213.

9. This lease shall be binding upon Lessor and City, their respective heirs, personal representatives, successors, and assigns.

Redstone Holdings, LLC  
By: [Signature]  
Its: [Signature]

City of Mountain Brook, Alabama  
By: [Signature]  
Its: Mayor

[Signature]  
Attest: City Clerk

11-122

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public, in and for said county and in said state, hereby certify that PAUL A DREHER, whose name as PARTNER of Redstone Holdings, LLC, a limited liability corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he as such representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office on this the 12 day of August, 2011.

Gerste Daniel Alb  
Notary Public

STATE OF ALABAMA )

JEFFERSON COUNTY )

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: May 18, 2013  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

I, the undersigned authority, a Notary Public, in and for said county and in said state, hereby certify that LAWRENCE T. ODEN, whose name as MAYOR of the City of Mountain Brook, Alabama, a municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he as such representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office on this the 8 day of August, 2011.

Steven R Boone  
Notary Public

commission expires  
4/12/2013

EXHIBIT A-1

Proposed Parking  
English Village

02-22-01 @ approx. cost of paving \$15,000.00

Page

EXHIBIT A - REDSTONE HOLDINGS, LLC

Buffer

376 UNIT  
House  
11-1-2002

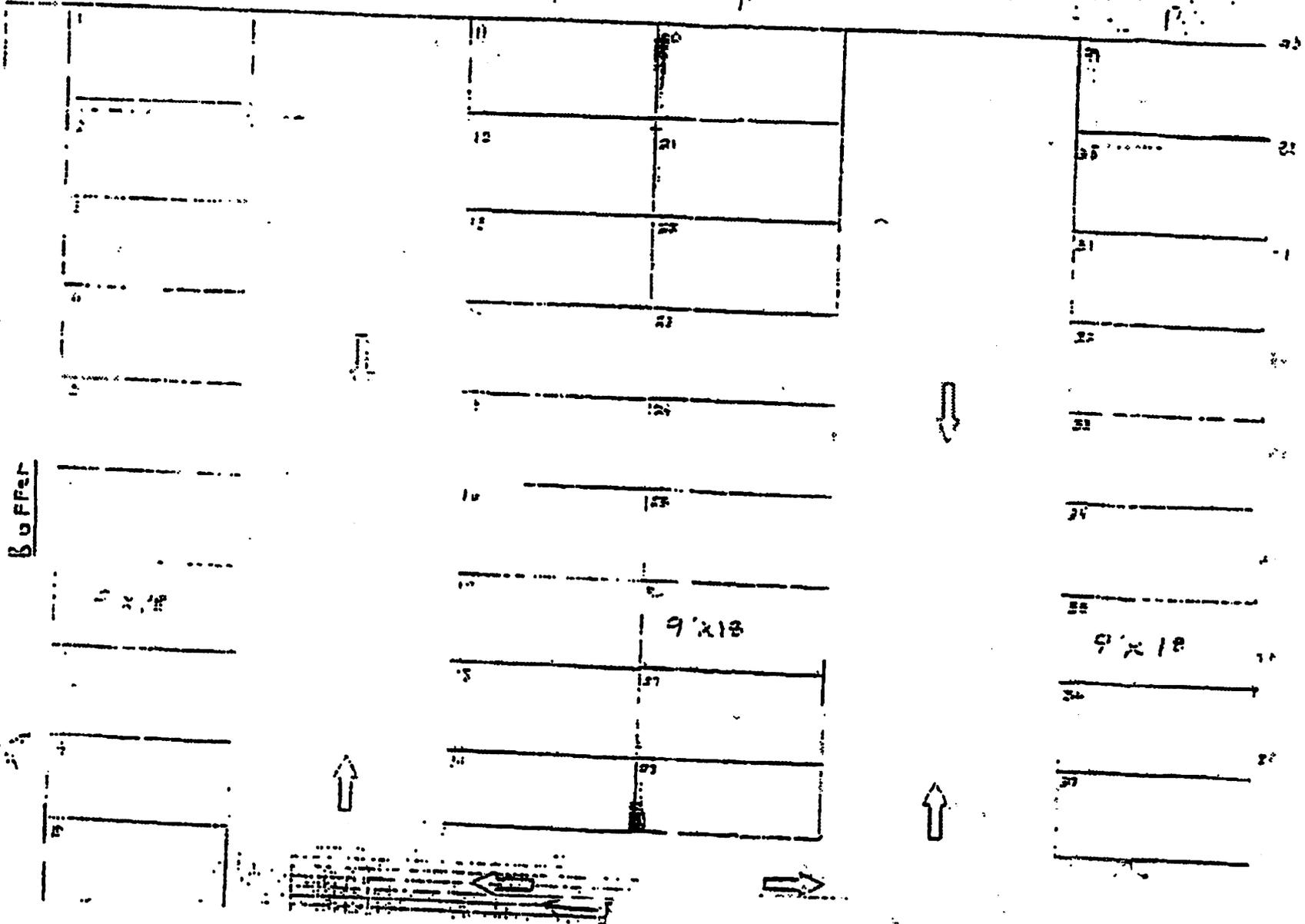


EXHIBIT A-1

STATE OF ALABAMA )

JEFFERSON COUNTY )

**LEASE**

This lease made this 8 day of August, 2011, by and between **Arman, LLC** (hereinafter called "Lessor") and the **City of Mountain Brook, Alabama**, a municipal corporation (hereinafter called "City").

1. Lessor does hereby lease and rent unto City, and City does hereby take as lessee under said lease, the property located at 2101 Cahaba Road, Mountain Brook, Jefferson County, Alabama, more particularly depicted on Exhibit "A" attached hereto. The property shall be used by City for public parking pursuant to City land-use regulation, during the term of said lease.

2. This lease shall be for a period of five (5) years commencing on October 1, 2011, and ending on September 30, 2016. City shall pay Lessor the sum of one thousand six hundred five dollars and eighty cents (\$1,662.11) per month on the first day of each month, beginning October 1, 2011. During the term of this lease, there shall be an annual increase in the lease payment each October 1, beginning October 1, 2012, in the amount of 2-1/2 percent.

3. City has already improved the property during an earlier lease term and does not anticipate making further improvements. City shall be responsible for maintenance of said property during the term of this lease.

4. City shall provide appropriate signage for the property, which shall be subject to the approval of Lessor; said approval not to be unreasonably withheld. The available parking area shall be marked off by removable signs across the main parking lot of Arman's.

5. City shall abate the ad valorem taxes on the subject property to the permissible limit of 26.1 mils during the term of this lease.

**EXHIBIT B-1**

11-122

6. City shall be responsible for monitoring and administering the property according to the terms of this lease. City shall maintain the property in a clean condition.

7. City shall not be responsible for any environmental condition of the property existing prior to the execution of the original lease of the property.

8. A. Lessor shall have the right to cancel this lease at any time, upon ninety (90) days' written notice. Said written notice shall be delivered by first class, U.S. mail to the attention of the City Manager, City of Mountain Brook, P. O. Box 130009, Mountain Brook, AL 35213-0009.

B. City shall have the right to cancel this lease at any time, upon ninety (90) days' written notice. Said written notice shall be delivered by first class, United States mail to Mr. Paul Dreher, P.O. Box 131449, Mountain Brook, AL 35213.

9. This lease shall be binding upon Lessor and City, their respective heirs, personal representatives, successors, and assigns.

Armans, LLC

By:

Its:

City of Mountain Brook, Alabama

By:

Its:

Attest: City Clerk

STATE OF ALABAMA )

JEFFERSON COUNTY )

I, the undersigned authority, a Notary Public, in and for said county and in said state, hereby certify that PAUL A. DREHER, whose name as PARTNER of Armans, LLC, a limited liability corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he as such representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office on this the 12 day of August, 2011.

Herst Daniel All  
Notary Public

STATE OF ALABAMA )

JEFFERSON COUNTY )

NOTARY PUBLIC STATE OF ALABAMA AT LARGE  
MY COMMISSION EXPIRES: May 18, 2013  
BONDED THRU NOTARY PUBLIC UNDERWRITERS

I, the undersigned authority, a Notary Public, in and for said county and in said state, hereby certify that LAURENCE T. ODEJ, whose name as MAYOR of the City of Mountain Brook, Alabama, a municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the foregoing conveyance, he as such representative and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal of office on this the 8 day of August, 2011.

Steven L Boone  
Notary Public

commission expires  
4/12/2013

EXHIBIT B-1

CAHABA Road

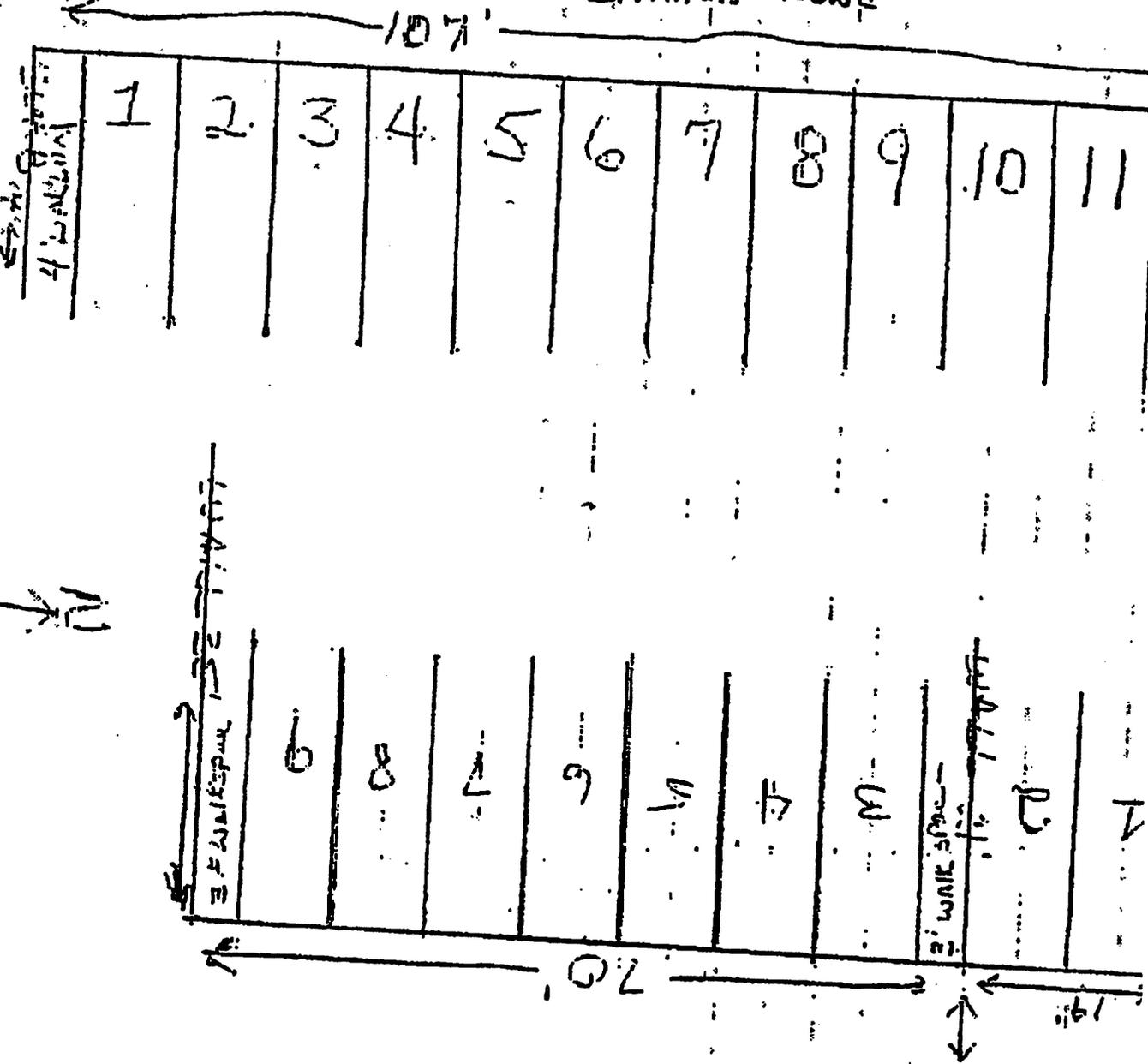


EXHIBIT A - ARMANS, LLC

EXHIBIT B-1

11-12

**ORDINANCE NO. 1956 - AN ORDINANCE TO REPEAL ORINANCE NO. 693 AND TO PROHIBIT SMOKING IN CERTAIN ENCLOSED PLACES AND CERTAIN OUTDOOR PUBLIC PLACES IN THE CITY**

WHEREAS, the City Council of the City of Mountain Brook, Alabama is aware that studies show that (1) second-hand smoke exposure can cause disease and premature death in children and adults who do not smoke; (2) children exposed to second-hand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks; (3) even occasional exposure of adults to second-hand smoke can have immediate adverse effects on the cardiovascular system and can cause coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to second-hand smoke; (5) establishing smoke-free public places and places of employment are the only effective ways to ensure that second-hand smoke exposure does not occur in such places because ventilation and other air cleaning technologies cannot completely control exposure of non-smokers to second-hand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, the Council is aware that studies have shown that (1) residual tobacco contamination, or "third-hand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings; (2) tobacco residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins; (3) sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings; (4) gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds; and (5) even the rapid absorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, exposure to "third-hand smoke" can represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion;

WHEREAS, the Council finds that unregulated electronic smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system, and that their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions;

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing second-hand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasm;

WHEREAS, the City Council of the City of Mountain Brook, Alabama finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in certain enclosed public places, enclosed places of employment, and certain outdoor public places; (2) to regulate the use of electronic smoking devices like other traditional forms of smoking; (3) to promote the right of non-smokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority in certain places over the desire to smoke; and (4) reasonably balance the interests and rights of all its citizens regarding smoking in certain public places.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

1. Definitions. As used in this ordinance, the following words and phrases shall have the following meanings:

- (1) **BAR.** An establishment that is licensed by the City for the serving of alcoholic beverages that are intended for consumption by guests on the premises. In addition to the consumption of those beverages, operations at a bar may include serving of food to the public. The term “bar” may include a tavern, nightclub or cocktail lounge.
- (2) **CIGAR BAR.** A licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories, and in which the sale of the other products is merely incidental.
- (3) **CITY.** The term “City” means the City of Mountain Brook, Alabama, a municipal corporation.
- (4) **ELECTRONIC SMOKING DEVICE.** Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.
- (5) **ENCLOSED.** All area or space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind.
- (6) **GOVERNMENT BUILDING.** Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.
- (7) **GOVERNMENT PROPERTY.** Any real property that is owned, leased or otherwise controlled or utilized by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.
- (8) **HEALTH CARE FACILITY.** "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- (9) **LICENSED BUSINESS.** A person, organization or entity required to obtain a license from the City in order to engage in business or conduct business in the City.
- (10) **OUTDOOR PRIVATE PROPERTY.** Outdoor private property is any outside area, land, space or place that is owned, leased or otherwise controlled by a private person, including any privately-controlled place outside an enclosed place of employment, outside an enclosed public place where the public may congregate or in the outside common area of a residential, business or commercial development.
- (11) **OUTDOOR PUBLIC PLACE.** An outdoor public place is any outside area, land, or space on government property where the public is invited or may use, including, but not limited to, any recreational area, athletic field, stadium, amphitheater, arena, bleachers, stage, grandstand, temporary seating area, playground equipment, pavilion, shelter, concession stand, picnic table, bench, sidewalk, path or other structure, improvement or facility on that place.

- (12) **PLACE OF EMPLOYMENT.** An area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, interior construction sites, temporary offices and vehicles. A “place of employment” does not include either (a) the space or area outside an enclosed place of employment if that area is on outdoor private property, or (b) a private residence (single family or multifamily) that is not used in conjunction with a home occupation involving the employment of persons other than those residing in the private residence.
- (13) **PRIVATE CLUB.** A premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization.
- (14) **PUBLIC PLACE.** An area on public or private property to which the public is invited, including but not limited to licensed businesses, bars, restaurants, hotels, motels, health care facilities, government buildings, government property, recreational areas, athletic facilities, and public transportation shelters.
- (15) **RECREATIONAL AREA.** Any public area in the City open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to parks, athletic fields, playgrounds, gardens, golf courses, trails and sidewalks.
- (16) **RESTAURANT.** An eating establishment (including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias) which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term “Restaurant” shall include a bar area within the restaurant.
- (17) **RETAIL TOBACCO STORE:** A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (18) **SMOKING:** The inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form; the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form; or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

2. **Prohibition.** Except as otherwise provided in this subsection, no person shall smoke in any enclosed public place, in any enclosed place of employment or in an outdoor public place within the City. This prohibition does not apply to any of the following:

- (1) Smoking in private residences (single family or multifamily), unless used in conjunction with a home occupation involving the employment of persons other than those residing there.
- (2) Cigar Bars or retail tobacco stores.
- (3) Private clubs.
- (4) Smoking on outdoor private property.
- (5) Smoking outside in an outdoor public place at a location where a nonsmoker is not within twenty (20) feet of the smoker. If a person commences smoking in a permitted location on outdoor public place and that smoker and a nonsmoker subsequently come within the same twenty (20) foot area at that place, the smoker shall not violate this ordinance if

they walk through or away from that area or otherwise remove themselves from it following the request of the nonsmoker.

3. Signs. (1) The owner, operator, manager, or other person in charge of an enclosed public place or an enclosed place of employment within the City shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol in those places, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, near all entrances to those places.  
  
(2) The owner, operator, manager, or other person in charge of an outdoor public place within the City shall clearly and conspicuously post signs near all regular entrances to any such place stating "No Smoking within Twenty (20) Feet of a Nonsmoker"; provided that no obligation exists to post such signs along sidewalks, streets, alleys, rights of way, public parking lots or trails in recreational areas within the City.
4. Obligation of Person in Charge. The person in charge of an enclosed public place or an enclosed place of employment within the City shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in those places. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe, other tobacco product or electronic smoking device be extinguished or use of same cease, and has asked the smoker to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products or cease use of an electronic smoking device.
5. Fine for Smoking Violation. A person who violates the provisions of this ordinance by smoking in an area or place prohibited by this ordinance shall be guilty of a violation of this ordinance that is punishable by a fine of at least twenty-five dollars (\$25.00), but not to exceed one hundred dollars (\$100.00).
6. Fine for Person in Charge. The owner, operator, manager, or other person in charge of an enclosed public place or an enclosed place of employment within the City who fails to comply with the provisions of this ordinance shall be guilty of an ordinance violation that is punishable by:
  - (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
  - (2) fine not exceeding two hundred dollars (\$200) for a second violation within a one (1) year period;
  - (3) A fine not exceeding five hundred dollars (\$500) for third or subsequent violations within a one (1) year period.

7. Separate Violations. Each day on which a violation of this ordinance occurs shall be a separate and distinct violation.
8. Enforcement. Jurisdiction for violations of this ordinance shall be with the municipal court of the City. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.
9. Repealer. City Ordinance Number 1693 is hereby amended by this ordinance by repealing such ordinance and adopting this ordinance in its place. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.
10. Severability. 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.
11. Effective Date. This ordinance shall become effective November 1, 2016.

**ADOPTED:** This \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Council President

**ADOPTED:** This \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

### **CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on \_\_\_\_\_, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on \_\_\_\_\_, 2016, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
Gilchrist Pharmacy, 2850 Cahaba Road  
Overton Park, 3020 Overton Road  
Cahaba River Walk, 3503 Overton Road

\_\_\_\_\_  
City Clerk

**ORDINANCE NO. 1956 - AN ORDINANCE TO REPEAL ORINANCE NO. 693 AND TO PROHIBIT SMOKING IN CERTAIN ENCLOSED PLACES AND CERTAIN OUTDOOR PUBLIC PLACES IN THE CITY,**

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BUSINESSES AND WORKPLACES
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- Deleted: OF MOUNTAIN BROOK,  
ALABAMA

WHEREAS, the City Council of the City of Mountain Brook, Alabama is aware that studies show that (1) second-hand smoke exposure can cause disease and premature death in children and adults who do not smoke; (2) children exposed to second-hand smoke are at an increased risk for sudden infant death syndrome (SIDS), acute respiratory problems, ear infections, and asthma attacks; (3) even occasional exposure of adults to second-hand smoke can have immediate adverse effects on the cardiovascular system and can cause coronary heart disease and lung cancer; (4) there is no risk-free level of exposure to second-hand smoke; (5) establishing smoke-free public places and places of employment are the only effective ways to ensure that second-hand smoke exposure does not occur in such places because ventilation and other air cleaning technologies cannot completely control exposure of non-smokers to second-hand smoke; and (6) evidence from peer-reviewed studies shows that smoke-free policies and laws do not have an adverse economic impact on the hospitality industry;

WHEREAS, the Council is aware that studies have shown that (1) residual tobacco contamination, or "third-hand smoke," from cigarettes, cigars, and other tobacco products is left behind after smoking occurs and builds up on surfaces and furnishings; (2) tobacco residue can linger in spaces long after smoking has ceased and continue to expose people to tobacco toxins; (3) sticky, highly toxic particulate matter, including nicotine, can cling to walls and ceilings; (4) gases can be absorbed into carpets, draperies, and other upholsteries, and then be reemitted (off-gassed) back into the air and recombine to form harmful compounds; and (5) even the rapid absorption and persistence of high levels of residual nicotine from tobacco smoke on indoor surfaces, including clothing and human skin, exposure to "third-hand smoke" can represent an unappreciated health hazard through dermal exposure, dust inhalation, and ingestion;

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- Deleted: . Sticky
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WHEREAS, the Council finds that unregulated electronic smoking devices, commonly referred to as electronic cigarettes, or "e-cigarettes," closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid nicotine created by heat through an electronic ignition system, and that their use in workplaces and public places where smoking of traditional tobacco products is prohibited creates concern and confusion and leads to difficulties in enforcing the smoking prohibitions;

- Deleted: . The Food and Drug Administration (FDA) has found that tested samples of the product of such electronic smoking devices contained not only nicotine but also detectable levels of known carcinogens and toxic chemicals, including tobacco-specific nitrosamines and diethylene glycol, a toxic chemical used in antifreeze. The FDA's testing also suggested that "quality control processes used to manufacture these products are inconsistent or non-existent." According to a more recent study, electronic smoking device emissions are made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke. Electronic cigarettes produce an aerosol or vapor of undetermined and potentially harmful substances, which may appear similar to the smoke emitted by traditional tobacco products. Their
- Deleted: places of employment and in certain public places and; and (2

WHEREAS, the City Council of the City of Mountain Brook, Alabama is concerned about the health hazards induced by breathing second-hand smoke which include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including bronchospasm;

WHEREAS, the City Council of the City of Mountain Brook, Alabama finds and declares that the purposes of this ordinance are (1) to protect the public health and welfare by prohibiting smoking in certain enclosed public places, enclosed places of employment, and certain outdoor public places; (2) to regulate the use of electronic smoking devices like other traditional forms of smoking; (3) to promote the right of non-smokers to breathe smoke-free air, and to recognize that the need to breathe smoke-free air shall have priority in certain places over the desire to smoke; and (4) reasonably balance the interests and rights of all its citizens regarding smoking in certain public places.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Mountain Brook, Alabama, as follows:

1. Definitions. As used in this ordinance, the following words and phrases shall have the following meanings:

- (1) ~~BAR.~~ An establishment that is licensed by the City for the serving of alcoholic beverages that are intended for consumption by guests on the premises. In addition to the consumption of those beverages, operations at a bar may include serving of food to the public. The term "bar" may include a tavern, nightclub or cocktail lounge. Deleted: :
- (2) ~~CIGAR BAR.~~ A licensed establishment in which the primary activity is the sale, manufacture or promotion of cigars or cigar accessories, and in which the sale of the other products is merely incidental. Deleted: Bar  
Deleted: Bar  
Deleted: :
- (3) ~~CITY.~~ The term "City" means the City of Mountain Brook, Alabama, a municipal corporation.
- (4) ~~ELECTRONIC SMOKING DEVICE.~~ Any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. Deleted: :
- (5) ~~ENCLOSED.~~ All area or space between a floor and a ceiling that is bounded on at least two sides by walls, doorways, or windows, whether open or closed. A wall includes any retractable divider, garage door, or other physical barrier, whether temporary or permanent and whether or not containing openings of any kind. Deleted: AREA:
- (6) ~~GOVERNMENT BUILDING.~~ Any building operated or occupied by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government. Deleted: :
- (7) ~~GOVERNMENT PROPERTY.~~ Any real property that is owned, leased or otherwise controlled or utilized by state, county or city government, or any agencies thereof, or any other separate corporate instrumentality or unit of state, county or city government.
- (8) ~~HEALTH CARE FACILITY.~~ "Health Care Facility" means an office or institution providing care or treatment of diseases, whether physical, mental, or emotional, or other medical, physiological, or psychological conditions, including but not limited to, hospitals, rehabilitation hospitals or other clinics, including weight control clinics, nursing homes, long-term care facilities, homes for the aging or chronically ill, laboratories, and offices of surgeons, chiropractors, physical therapists, physicians, psychiatrists, dentists, and all specialists within these professions. This definition shall include all waiting rooms, hallways, private rooms, semiprivate rooms, and wards within health care facilities.
- (9) ~~LICENSED BUSINESS.~~ A person, organization or entity required to obtain a license from the City in order to engage in business or conduct business in the City. Deleted: : An  
Deleted: of Mountain Brook  
Deleted: -
- (10) ~~OUTDOOR PRIVATE PROPERTY.~~ Outdoor private property is any outside area, land, space or place that is owned, leased or otherwise controlled by a private person, including any privately-controlled place outside an enclosed place of employment, outside an enclosed public place where the public may congregate or in the outside common area of a residential, business or commercial development. Deleted: structure, improvement  
Deleted: facility intended for  
Deleted: to assemble, congregate and  
Deleted: outside  
Deleted: a
- (11) ~~OUTDOOR PUBLIC PLACE.~~ An outdoor public place is any outside area, land, or space on government property where the public is invited or may use, including, but not limited to, any recreational area, athletic field, stadium, amphitheater, arena, bleachers, stage, grandstand, temporary seating area, playground equipment, pavilion, shelter, concession stand, picnic table, bench, sidewalk, path or other structure, improvement or facility on that place. Deleted: or bench. An outdoor public place includes the area within 20 feet of any such structure, improvement or facility constituting that place. For purposes of this ordinance, an outdoor structure, improvement or facility is not an outdoor public place if a person smokes in or about that place and that place is not occupied or being used by at least one other person.

- (12) PLACE OF EMPLOYMENT. An area under the control of a public or private employer, including, but not limited to, work areas, private offices, employee lounges, restrooms, conference rooms, meeting rooms, classrooms, employee cafeterias, hallways, interior construction sites, temporary offices and vehicles. A "place of employment" does not include either (a) the space or area outside an enclosed place of employment if that area is on outdoor private property, or (b) a private residence (single family or multifamily) that is not used in conjunction with a home occupation involving the employment of persons other than those residing in the private residence.
- (13) PRIVATE CLUB. A premise operated by an organization which is not available to and not customarily used by the general public and entry and privileges thereto are established by regulations of that organization.
- (14) PUBLIC PLACE. An area on public or private property to which the public is invited, including but not limited to licensed businesses, bars, restaurants, hotels, motels, health care facilities, government buildings, government property, recreational areas, athletic facilities, and public transportation shelters.
- (15) RECREATIONAL AREA. Any public area in the City open to the public for recreational purposes, whether or not any fee for admission is charged, including but not limited to parks, athletic fields, playgrounds, gardens, golf courses, trails and sidewalks.
- (16) RESTAURANT. An eating establishment (including but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias) which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. The term "Restaurant" shall include a bar area within the restaurant.
- (17) RETAIL TOBACCO STORE: A retail store whose primary business is the sale of tobacco products and accessories and in which the sale of other products is merely incidental.
- (18) SMOKING: The inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe, hookah, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form; the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form; or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Ordinance.

- Deleted:** :
- Formatted:** Indent: Left: 0.5", Hanging: 0.5", Line spacing: Multiple 1.09 li
- Deleted:** ,
- Deleted:** includes
- Deleted:** within 20 feet of the exterior of any building, structure or facility comprising
- Deleted:** place. A
- Deleted:** is not a "place of employment" unless it
- Deleted:** :
- Deleted:** :
- Deleted:** or in which the public is permitted
- Deleted:** , and outdoor common areas of multifamily dwellings. A "public place" includes the area within 20 feet of the exterior of any enclosed public place.
- Deleted:**
- Deleted:** :
- Deleted:** or private
- Deleted:** ~~<R>~~RESIDENTIAL FACILITY. A residential facility includes any house, hotel, motel, nursing home, building or other structure that is used or intended to be used for short or long-term lodging in the City of Mountain Brook. ¶
- Deleted:** :
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- Deleted:** ,

2. Prohibition. Except as otherwise provided in this subsection, no person shall smoke in any enclosed public place, in any enclosed place of employment, or in an outdoor public place within the City. This prohibition does not apply to any of the following:

- Deleted:** , in any enclosed residential facility
- Deleted:** any
- Deleted:** of Mountain Brook
- Deleted:** . (1) . Private Residences.
- Deleted:** . (4) . Smoking outside in the common area of a multifamily residential facility at a point more than 20 feet from any entrance, operable window or ventilation system of that facility.¶
- Deleted:** . (5) . Smoking outside at a point more than 20 feet from the exterior of any of the following: an enclosed public place, an enclosed place of employment, an enclosed residential facility, or an outdoor public place.¶
- Deleted:** . (6) . Smoking outside on a public sidewalk, trail or path in the City (including any recreational area) at a point that is more than 20 feet from ... [1]

- (1) Smoking in private residences (single family or multifamily), unless used in conjunction with a home occupation involving the employment of persons other than those residing there.
- (2) Cigar Bars or retail tobacco stores.
- (3) Private clubs.
- (4) Smoking on outdoor private property.
- (5) Smoking outside in an outdoor public place at a location where a nonsmoker is not within twenty (20) feet of the smoker. If a person commences smoking in a permitted location on outdoor public place and that smoker and a nonsmoker subsequently come within the same twenty (20) foot area at that place, the smoker shall not violate this ordinance if

they walk through or away from that area or otherwise remove themselves from it following the request of the nonsmoker.

3. Signs. (1) The owner, operator, manager, or other person in charge of an enclosed public place or an enclosed place of employment within the City shall clearly and conspicuously post "No Smoking" signs or the international "No Smoking" symbol in those places, which consists of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, near all entrances to those places.

- Deleted: a
- Deleted: , a
- Deleted: , or an outdoor public place
- Deleted: of Mountain Brook
- Deleted: .
- Deleted: ¶
- Deleted: a
- Deleted: or a

(2) The owner, operator, manager, or other person in charge of an outdoor public place within the City shall clearly and conspicuously post signs near all regular entrances to any such place stating "No Smoking within Twenty (20) Feet of a Nonsmoker"; provided that no obligation exists to post such signs along sidewalks, streets, alleys, rights of way, public parking lots or trails in recreational areas within the City.

4. Obligation of Person in Charge. The person in charge of an enclosed public place or an enclosed place of employment within the City shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this ordinance in those places. It shall be an affirmative defense to an alleged violation of this subsection that the person having control of a place has asked that the lighted cigarette, cigar, pipe, other tobacco product or electronic smoking device be extinguished or use of same cease, and has asked the smoker to leave the establishment if that person has failed or refused to extinguish the lighted cigarette, cigar, pipe or other tobacco products or cease use of an electronic smoking device.

- Deleted: of Mountain Brook
- Deleted: that place
- Deleted: ceased
- Deleted: person

5. Fine for Smoking Violation. A person who violates the provisions of this ordinance by smoking in an area or place prohibited by this ordinance shall be guilty of a violation of this ordinance that is punishable by a fine of at least twenty-five dollars (\$25.00), but not to exceed one hundred dollars (\$100.00).

- Deleted: where
- Deleted: the provisions of
- Deleted: an
- Deleted: violation,
- Deleted: a
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- Deleted: of Mountain Brook
- Deleted: .

6. Fine for Person in Charge. The owner, operator, manager, or other person in charge of an enclosed public place or an enclosed place of employment within the City who fails to comply with the provisions of this ordinance shall be guilty of an ordinance violation that is punishable by:

- (1) A fine not exceeding one hundred dollars (\$100) for a first violation;
- (2) fine not exceeding two hundred dollars (\$200) for a second violation within a one (1) year period;
- (3) A fine not exceeding five hundred dollars (\$500) for third or subsequent violations within a one (1) year period.

- 7. Separate Violations. Each day on which a violation of this ordinance occurs shall be a separate and distinct violation. Deleted: Ordinance
  
- 8. Enforcement. Jurisdiction for violations of this ordinance shall be with the municipal court of the City. A charge of a violation shall be treated in the same manner as a traffic citation. Any law enforcement officer may issue a citation pursuant to this section.
  
- 9. Repealer. City Ordinance Number 1693 is hereby amended by this ordinance by repealing such ordinance and adopting this ordinance in its place. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Mountain Brook, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed. Deleted: Ordinance  
Formatted: Font: Not Bold, No underline  
Deleted: number  
Deleted: Ordinance
  
- 10. Severability. 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. Formatted: Font: Not Bold, No underline
  
- 11. Effective Date. This ordinance shall become effective November 1, 2016. Deleted: September  
Formatted: Font: Not Bold, No underline

**ADOPTED:** This \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
 Council President

**ADOPTED:** This \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
 Mayor

**CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama, as its meeting held on \_\_\_\_\_, 2016, as same appears in the minutes of record of said meeting, and published by posting copies thereof on \_\_\_\_\_, 2016, at the following public places, which copies remained posted for five (5) days as required by law.

City Hall, 56 Church Street  
 Gilchrist Pharmacy, 2850 Cahaba Road  
 Overton Park, 3020 Overton Road  
 Cahaba River Walk, 3503 Overton Road

\_\_\_\_\_  
 City Clerk

- (4) Smoking outside in the common area of a multifamily residential facility at a point more than 20 feet from any entrance, operable window or ventilation system of that facility.
- (5) Smoking outside at a point more than 20 feet from the exterior of any of the following: an enclosed public place, an enclosed place of employment, an enclosed residential facility, or an outdoor public place.
- (6) Smoking outside on a public sidewalk, trail or path in the City (including any recreational area) at a point that is more than 20 feet from an outdoor public place.

CITY OF MOUNTAIN BROOK



Dana O. Hazen, AICP  
Director of Planning, Building & Sustainability  
56 Church Street  
Mountain Brook, Alabama 35213  
Telephone: 205/802-3821  
Fax: 205.879.6913  
hazend@mtnbrook.org  
www.mtnbrook.org

3

DATE: August 18, 2016

TO: Mayor, City Council & City Manager

FROM: Dana Hazen, City Planner

RE: Conditional Use – MPower (Pilates) 2419 Canterbury Road

On March 28, 2016, the City Council approved a conditional service use for MPower Pilates, subject to the condition that classes times be limited to that proposed in conjunction with the application (see attached Council Resolution, letter from applicant and staff memo from March 2016).

A key factor in the approval of this use was that the pilates studio would be closed from 10:30 – 4:30 (M-F), thereby not conflicting with the parking needs of surrounding retailers. The applicant is now requesting to add a class on weekdays from 10:30 – 11:20 (10 clients).

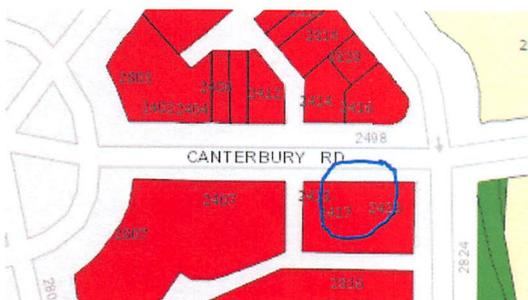
Parking demands along Canterbury have not changed since the original approval of this request. The idea behind limiting class times to early morning and late afternoon was to balance the needs of local merchants. Retailers enjoy a brief period of available street parking between 9:00 and 11:30. The lunch crowd fills street parking between 11:30 and 1:30, and the retailers regain some use of the street parking between 1:30 and 5:00.

It should be noted that the Council limited the class times for Mountain Brook Yoga (across the street at 2414 Canterbury) to early morning and late afternoon; class sessions are not permitted between 10:30 and 4:00. Limiting class times for local fitness uses to early morning and late afternoon is in keeping with the ebb and flow of peaks times for the existing mixture of uses in the area.

The zoning ordinance requires council approval of a service use as a *conditional use*, and states that any proposed conditional use will be reviewed as to the following:

- Whether the use would disparately impact public parking in the area;
- Whether vehicular or pedestrian circulation would be impacted by the use;
- Whether the use is compatible with surrounding existing uses;
- Whether the hours of operation or peak traffic times would impact existing uses.

An approval of this request would not be in keeping with the above-noted considerations.



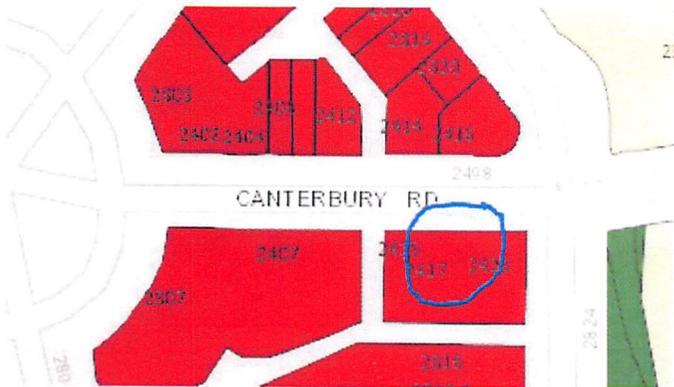


Dana O. Hazen, AICP  
Director of Planning, Building & Sustainability  
56 Church Street  
Mountain Brook, Alabama 35213  
Telephone: 205/802-3821  
Fax: 205.879.6913  
hazend@mtnbrook.org  
www.mtnbrook.org

DATE: March 24, 2016  
TO: Mayor, City Council & City Manager  
FROM: Dana Hazen, City Planner  
RE: Conditional Use – MPower (Pilates)  
2419 Canterbury Road (currently Mulberry Heights Antiques)

The proposed conditional use is a pilates/spinning studio. The pilates method to be employed is reformer pilates, which utilizes large reformer equipment, and the spinning classes utilize stationary bicycles, both of which serve to limit class size.

The attached letter from the applicant details the proposed class schedule and number of instructors/students for each session. Classes will last 45-50 minutes, which will serve to alleviate some potential “stacking” of cars and clients as they exit and enter back-to-back sessions. The applicant has made a commendable attempt to conduct classes during non-business hours Mon-Fri; however some classes are offered on weekends that may compete with neighboring merchants for parking.



The applicant has been encouraged to contact the neighboring Canterbury merchants to let them know the details of the proposal.

**For reference:**

Neighboring conditional use, Mountain Brook Yoga (2414 Canterbury Road), was approved by the council on April 27, 2015 with the following conditions:

*Monday-Saturday*

- Before 9 a.m. <= 25 clients
- Between 9:30 a.m. – 10:30 p.m. <= 15 clients
- Between 11 a.m. – 4 p.m. 1-2 private sessions
- Between 4 p.m. – 5 p.m. <= 15 clients
- After 5 p.m. <= 30 clients

*Sunday*

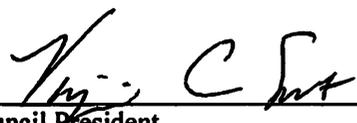
<= 30 clients (30 minutes between classes)

**RESOLUTION NO. 2016-041**

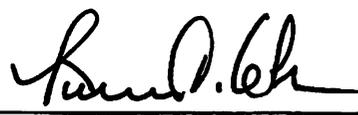
**BE IT RESOLVED** by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the conditional service use application submitted by Emma Suttles to allow pilates and spinning classes at 2419 Canterbury Road, subject to the following condition:

- That class sizes and times be limited to that presented by the applicant in conjunction with the conditional use request (see Exhibit A attached hereto).

**ADOPTED:** This 28th day of March, 2016.

  
\_\_\_\_\_  
Council President

**APPROVED:** This 28th day of March, 2016.

  
\_\_\_\_\_  
Mayor

**CERTIFICATION**

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its regular meeting held on March 28, 2016, as same appears in the minutes of record of said meeting.

  
\_\_\_\_\_  
City Clerk



MPOWER Fitness is interested in the retail space located at 2419 Canterbury Road, currently Mulberry Heights Antiques, and is seeking conditional use approval from Mountain Brook City Council. MPOWER is owned and will be operated by Emma Suttles.

MPOWER will focus on Reformer Pilates classes, but will also offer early morning and evening spin classes Monday-Friday. Each class is extremely small with only 10 available spaces. Realizing parking is at a premium in the area, the proposed class times illustrated in the below table are designed to avoid the peak operating hours of most neighboring businesses. When no classes are scheduled, the studio will be closed.

One of MPOWER's three core principles is giving back to our community. MPOWER is excited to provide a portion of proceeds from every class a student takes to local charities. MPOWER yourself. MPOWER the Community.

EXHIBIT A

Day of Week	Class Time	Type of Class	Maximum Attendance	Anticipated/ Average Attendance	Number of Employees
Monday-Friday	6a	Pilates and Spin	20	12-16 students	3
Monday-Friday	7a	Pilates and Spin	20	12-16 students	3
Monday-Friday	8:30a	Pilates	10	6-8 students	2
Monday-Friday	9:30a	Pilates	10	6-8 students	2
Monday-Friday	Studio closed from 10:30a- 4:30p		0	0	0
Monday-Friday	4:30p	Pilates	10	6-8 students	2
Monday-Friday	5:30p	Pilates and Spin	20	12-16 students	3
Monday-Friday	6:30p	Pilates	10	6-8 students	2
Saturday	8a	Pilates	10	6-8 students	2
Saturday	9a	Pilates	10	6-8 students	2
Saturday	10a	Pilates	10	6-8 students	2
Saturday	11a	Pilates	10	6-8 students	2
Sunday	12:30p	Pilates	10	6-8 students	2
Sunday	1:30p	Pilates	10	6-8 students	2
Sunday	2:30p	Pilates	10	6-8 students	2

Contact Information:  
 Emma Suttles  
[emsuttles@gmail.com](mailto:emsuttles@gmail.com)  
 213-258-7566

August 18, 2016

This is about the proposed location for the restroom at Mountain Brook Elementary. This is a list of reasons why I, Shanda Williams, chose the location at the intersection of Heathermoor Road and Cahaba Road. Maps are included on the last 2 pages.

The very first thing I did was find where all the utilities were located.

- Water lines run under both Heathermoor Rd and Cahaba Rd. The gentleman that locates lines for 811 and the plumber both said that Heathermoor would be easiest and therefore cheapest. The line under Cahaba Rd is further away from the park.
- I spoke with Alabama Power and they said the cheapest and easiest access would be a pole located on Heathermoor. If we chose a location at the lower end of the field, we would need to pull power from across Cahaba Road and clear some trees. This would be over \$5,000 just for Alabama Power fees and not including tree work and electrician fees to get the power to the restroom. It would cost \$0 from Heathermoor for Alabama Power and no tree work would be required.
- I also researched sewer options. There are two locations across Heathermoor that we can connect to and one line that runs across the field at the lower end. Connecting at the lower end would be the cheapest and easiest, but it didn't out weigh the other two utility options. We were denied the option of having a septic tank by Jeff Co Environmental Services.

After all this, I chose to place it by the batting cages. I took it to Planning Commission, there were no objections and it was approved. Right after that meeting, it was brought to my attention that it was in the flood way and we could not build there.

In order to get it out of the floodway and remain by Heathermoor, we chose the area in question now. Weygand surveyed the area and set stakes for us so we would know where to cut and fill. The restroom can be placed even with the sidewalk that runs parallel with Cahaba Road. The Park Board, Board of Education, and the Planning Commission all approved this location with the stipulation that it would be heavily landscaped to hide it from the street view. No one showed up at the Planning Commission to object to it.

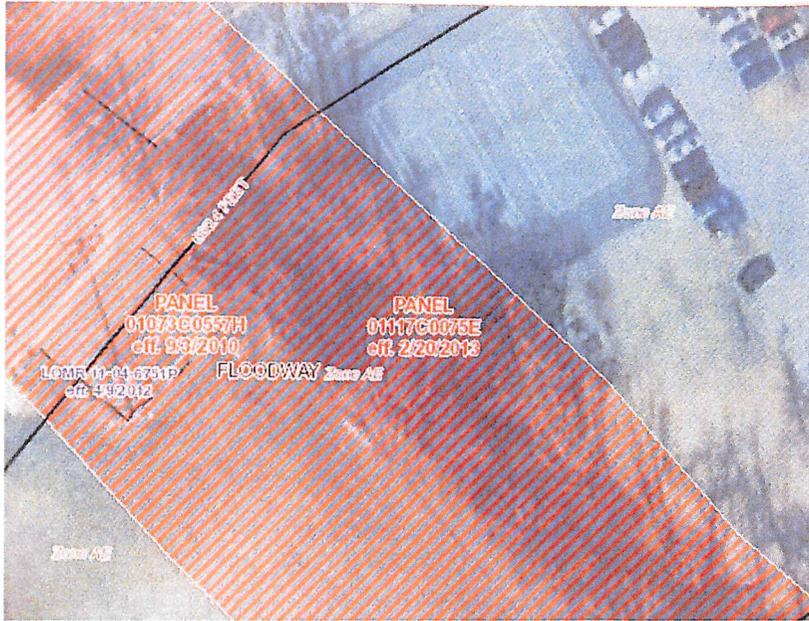
We looked at a location closer to the field, nestled in the trees, but that would require several large trees to be removed and fill dirt added. It would also make the ADA access difficult because it would be so high off the ground. It is my understanding that anywhere else located on the field, the restroom would have to be approximately 3-4ft off the ground to clear the flood level. The handicap ramp that must be provided will have to be one foot for every inch of height off the ground. At 3-4 ft, the ramp will have to be at least 36-48 feet long. At the proposed location, we have to figure out a 1.5-2 ft elevation and ramp to connect to the sidewalk.

I did not consider where the bench is now. That is one of the suggestions from the Garden Club. At the time, I was hoping to not have to disturb it. This location would not be any more difficult than the proposed location.

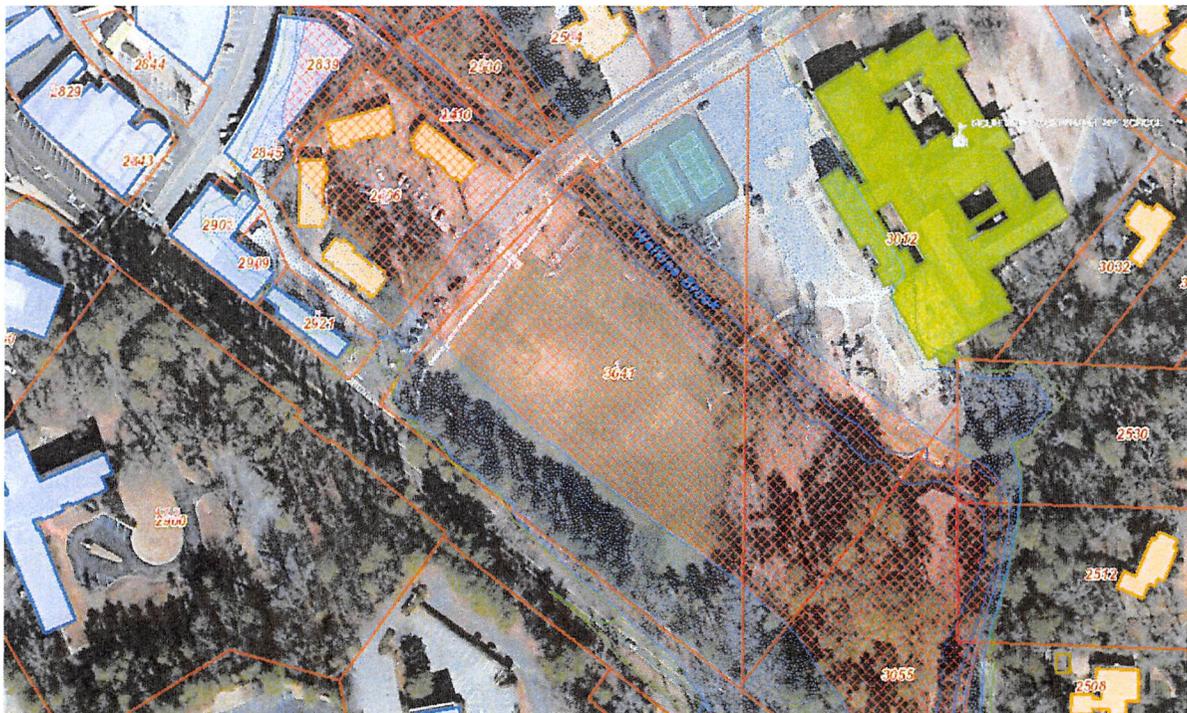
Their other suggestion was a little further down Heathermoor, closer to the water fountain. This location would not work because of a large storm water pipe and that ground is lower than the playing field in places. It is also in front of the homes across the street. Those homeowners and their view were a major concern of the Board of Education.

## Flood Zone maps

This is a map of the Flood Way where we are not allowed to build at all. This is a close up of the area by the batting cages.



On the map below, the red hash marks and blue stippled area represent the Flood Plain. We can build with an elevation certificate of 1' above finished flood elevation. Building and utilities shall be flood proof construction (do not allow entry of water or exit of sewage). Most of this will require the building to be 3-4 ft off the ground and in turn require 36-48 feet of ramp for ADA access.





## Sam Gaston

---

**From:** Faye Clark  
**Sent:** Thursday, August 18, 2016 2:22 PM  
**To:** gastons@MTNBROOK.org  
**Subject:** Restroom scheduled to be placed behind MBE by athletic fields

**Attachments:** IMG\_3184.JPG



IMG\_3184.JPG (2  
MB)

Sam,

Attached is the picture of the proposed public restroom to be placed by the MBE athletic field. The picture in the next email is the view that will be blocked by the restroom and some other information.

Faye Clark

### Proposed Site for a Public Restroom

The City of Mountain Brook Park Board would like to place a prefabricated restroom with two ADA accessible restrooms similar to the one pictured. This would service all patrons of the park and people enjoying a walk along Mountain Brook's scenic sidewalks.

We hope to have it completed by Fall 2016.

If you have questions or comments, please contact:

Tommy Prewitt at [PREWITT@minbrook.k12.al.us](mailto:PREWITT@minbrook.k12.al.us) or  
Shanda Williams at [williamssh@minbrook.org](mailto:williamssh@minbrook.org)



## Sam Gaston

---

**From:** Faye Clark  
**Sent:** Thursday, August 18, 2016 2:45 PM  
**To:** gastons@MTNBROOK.org  
**Cc:** becky smith; Marianne Sharbel; Ann Bloodworth; Katie Dunn; Jgoings929@aol.com  
**Subject:** Fw: The view that will be blocked

**Attachments:** IMG\_3188.JPG



IMG\_3188.JPG (4  
MB)

Sam,

Attached is the view that will be blocked by the restroom.

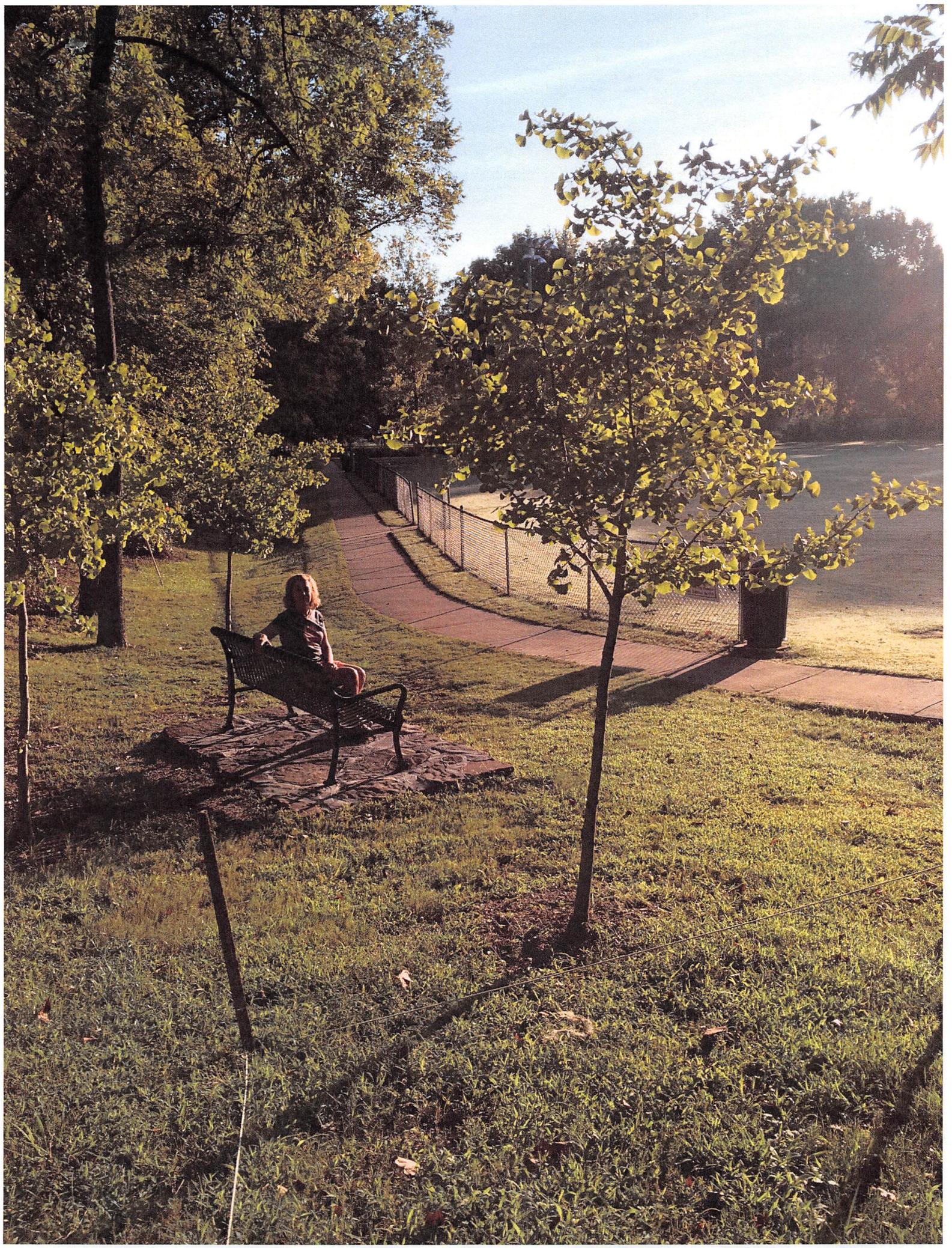
The Village Garden Club recently gave the bench and trees in the picture. The site was chosen because of the view from Cahaba Road and of the field and the use that the bench would get from those watching sports, waiting on children at practice, etc. This beautiful view will be obliterated by the proposed public restroom. I understand that a scoreboard is also proposed for this corner.

This corner has a really nice view from Cahaba Road and the trail, affording a beautiful entrance to MB Village. It should not be marred by a public restroom and scoreboard. I talked with Shanda this morning when she met David Fulmer from Brasfield and Gorrie. She and David were both most cordial and attentive and willing to explore other options.

I, or my daughter, would like to speak at the City Council meeting on Monday night in reference to this project. Do we need to do anything to be placed on the agenda or just speak at the meeting?

Thank you,

Faye Clark



**Sam Gaston**

---

**From:** Shanda Williams  
**Sent:** Friday, August 19, 2016 1:41 PM  
**To:** Sam Gaston  
**Subject:** Fwd: Bathroom

1 of 3

----- Forwarded message -----

**From:** Ann Bloodworth <[annbl@bellsouth.net](mailto:annbl@bellsouth.net)>  
**Date:** Wednesday, August 17, 2016  
**Subject:** Bathroom  
**To:** [williamssh@mtnbrook.org](mailto:williamssh@mtnbrook.org)

I can't believe you would allow a bathroom to be put by the trees and bench that our Garden Club worked so hard to establish. A work of beauty will be completely ruined. Please correct this now! I'm horrified. Ann Bloodworth 2724 Canterbury Road

Sent from my iPhone,  
Ann Bloodworth

--

***Shanda Williams***  
***Parks & Recreation Superintendent***  
***City of Mountain Brook***  
3698 Bethune Drive  
Mountain Brook, AL 35223  
T-205-802-3879  
F-205-967-6522  
[www.mtnbrook.org](http://www.mtnbrook.org)

## Sam Gaston

---

**From:** Shanda Williams  
**Sent:** Friday, August 19, 2016 1:41 PM  
**To:** Sam Gaston  
**Subject:** Fwd: Bathroom

2 of 3

----- Forwarded message -----

**From:** Ann Bloodworth <[ambl@bellsouth.net](mailto:ambl@bellsouth.net)>  
**Date:** Wednesday, August 17, 2016  
**Subject:** Bathroom  
**To:** [williamssh@mtnbrook.org](mailto:williamssh@mtnbrook.org)

Please know that the spot you picked out for the bathroom near the field at MBES will undo the beauty that my Garden Club worked so hard on. It is the worst spot anyone could pick! What are you thinking to let us put so much work into our project and you not appreciate it! Ann Bloodworth 2724 Canterbury Road

Sent from my iPhone,  
Ann Bloodworth

--

***Shanda Williams***  
***Parks & Recreation Superintendent***  
***City of Mountain Brook***  
3698 Bethune Drive  
Mountain Brook, AL 35223  
T-205-802-3879  
F-205-967-6522  
[www.mtnbrook.org](http://www.mtnbrook.org)



## EXHIBIT 1

CITY OF MOUNTAIN BROOK

Department of Planning, Building &  
Sustainability  
56 Church Street  
Mountain Brook, Alabama 35213  
Telephone: 205.802.3810  
[www.mtnbrook.org](http://www.mtnbrook.org)

## P-16-15

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### PLANNING COMMISSION MEETING SUMMARY

Meeting Date: July 5, 2016

Case Number: P-16-15 - 3041 Cahaba Road  
Mountain Brook Elementary School Field

Applicants: Mountain Brook School Board  
City of Mountain Brook Parks and Recreation Department

Representative: Shanda Williams, Superintendent, Mountain Brook Parks and Recreation  
[williamssh@mtnbrook.org](mailto:williamssh@mtnbrook.org)

Type Request: Request for a revised development plan for the Mountain Brook Elementary recreational fields to add a permanent restroom facility and a scoreboard.

Action Taken: The Commission voted to approve the revised development plan as presented.

*Dana O. Hazen*

Dana O. Hazen, MPA, AICP  
Director of Planning, Building and Sustainability



Planning Commission Application  
PART I

Project Data

Address of Subject Property 3041 Cambridge Road (Mountain Brook Elem)

Zoning Classification Res-A

Name of Property Owner(s) Mountain Brook School Board

Phone Number 871-4608 Email \_\_\_\_\_

Name of Representative Agent (if applicable)

Shanda Williams - Mountain Brook Parks + Rec

Phone Number 802-3879 Email williamssh@mtbrook.org

Property owner or representative agent must be present at hearing

Plans

See applicable Section of the Zoning Ordinance for submittal requirements pertaining to your particular application. Applicable Code Section may be found in Part II, list of application types. Contact City Planner with any specific questions as to required plans submittal.

# **EXHIBIT 1**

June 22, 2016

**Restroom and Scoreboard at Mountain Brook Elementary Field**

To Whom It May Concern:

The Park Board would like to install a pre-fabricated restroom near the field at Mountain Brook Elementary. This restroom will be similar to the ones at Brookwood Forest Elementary and Overton Park except that it will have two handicap accessible restrooms. It will be 10' x 18' which includes a small 2 foot porch on the front. It will be 10' tall at the apex of the roof. A photo and plans of the restroom have been included with this request.

The Park Board would also like to install a scoreboard near the restroom. This will be similar to the scoreboards located at Crestline Elementary and each baseball field at the Sports Complex. I believe these are approximately 4' x 8'. A photo of an existing scoreboard is included on the next page. These projects will be installed close together so the electricity can easily be connected from the restroom to the scoreboard.

After the last Planning Commission meeting we found out the location by the batting cages was in the Flood Way where we are unable to build. We had a surveyor come out and help us find a location that would work and that is in the corner of Heathermoor Road and Cahaba Road. It will be approximately 5 foot inside the existing sidewalk that runs parallel with Cahaba Road and approximately 10-12 foot to the outside of the sidewalk that runs along Heathermoor. Photos of the stakes marking the location are included. The string represents how high the restroom will have to be. It will almost be equal to the sidewalk that runs along Cahaba Road and be 19- 24 inches higher than the ground now on the side facing the field. We will have to make the porch 3 foot wider and add a ramp to make it ADA accessible.

We will request a darker brown color than what is pictured in the photo of the restroom and we will landscape around it to help screen it from the road.

This location will also make connecting to the utilities cheaper. It will be closer to a sewer connection, power connection, and water connection.

The scoreboard will be mounted on the existing field light pole across the sidewalk from the restroom. It will still face the field away from traffic.

Because of the cost of the restroom alone, the project will have to be bid out. If everything goes smoothly, we hope to get it installed this summer while school is out. Then the scoreboard can be used for football this Fall.

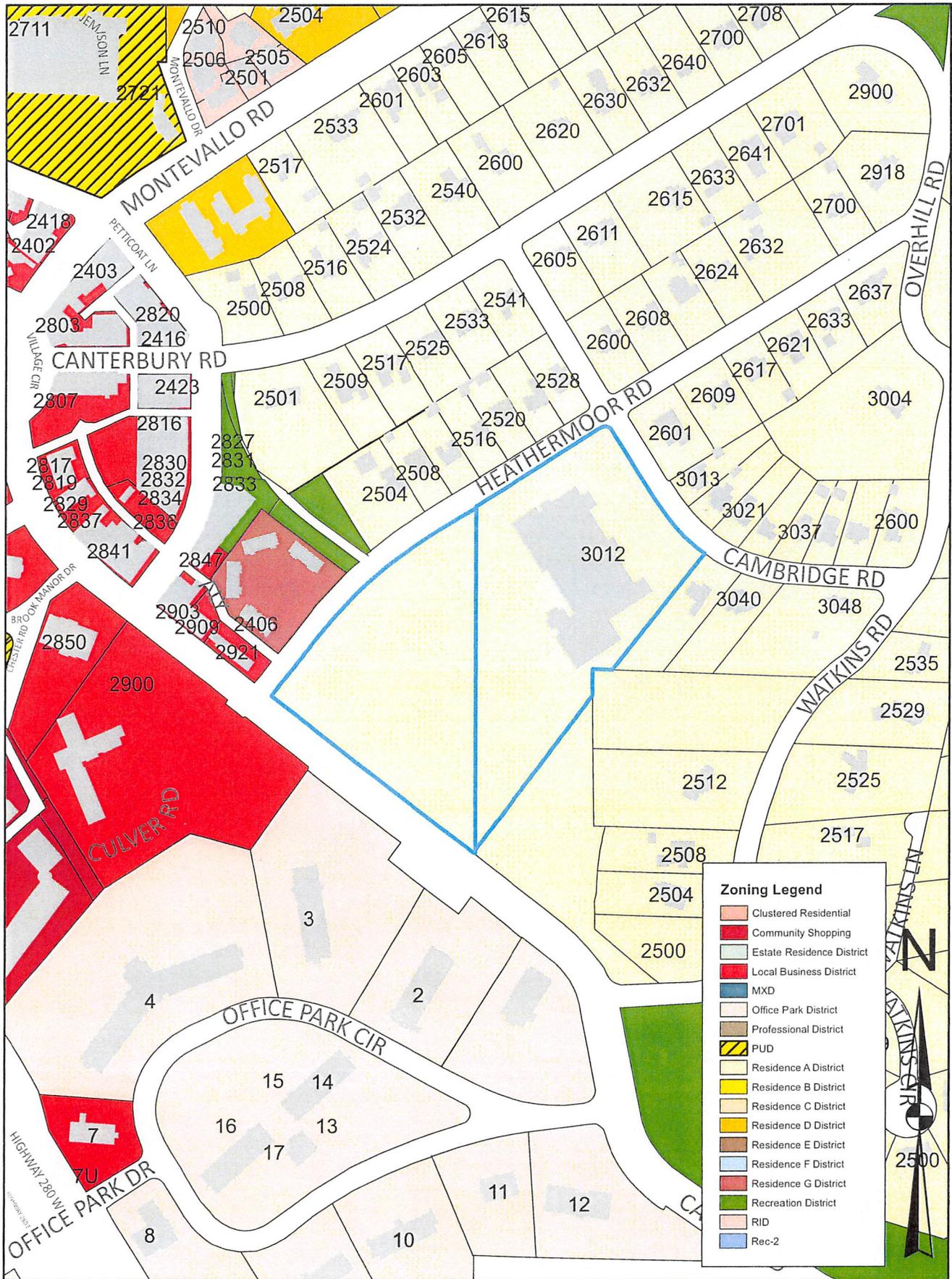
If you have any questions, please contact me at 802-3879 or at [williamssh@mtnbrook.org](mailto:williamssh@mtnbrook.org).

Sincerely,

Shanda Williams  
Superintendent of Parks and Recreation

# EXHIBIT 1

# P-16-15 Zoning



Zoning Legend	
[Light Orange Box]	Clustered Residential
[Red Box]	Community Shopping
[Light Green Box]	Estate Residence District
[Dark Red Box]	Local Business District
[Blue Box]	MXD
[Light Yellow Box]	Office Park District
[Light Brown Box]	Professional District
[Yellow with Diagonal Lines Box]	PUD
[Light Yellow Box]	Residence A District
[Yellow Box]	Residence B District
[Light Orange Box]	Residence C District
[Orange Box]	Residence D District
[Brown Box]	Residence E District
[Light Blue Box]	Residence F District
[Red Box]	Residence G District
[Green Box]	Recreation District
[Light Green Box]	RID
[Blue Box]	Rec-2



# **EXHIBIT 1**

## **P-16-15**

### ***Recent Background***

On May 2, 2015 the Commission approved a restroom facility and score board at the Mountain Brook Elementary fields, but due to flood plain issues, the previous location would not work for the restroom facility. The revised location is near the walking trail along Cahaba Road, and the proposed score board location has moved, along with the restroom, in order to keep electrical lines together.

### ***Petition Summary***

Request for a revised development plan for the Mountain Brook Elementary recreational fields to add a permanent restroom facility and a score board.

Section 129-32 of the zoning code requires Planning Commission approval for improvements to an institutional use in the Residence-A District. See attached letter from the City's Parks and Recreation Director for specifics about the proposed project.

The scoreboard is to be lighted, but the existing field lights are brighter than any light that would be emitted from the scoreboard.

### ***Subject Property and Surrounding Land Uses***

The subject property contains the recreational fields adjoining Mountain Brook Elementary and is surrounded by a mixture of single family, multi-family, institutional office and commercial uses.

### ***Affected Regulation***

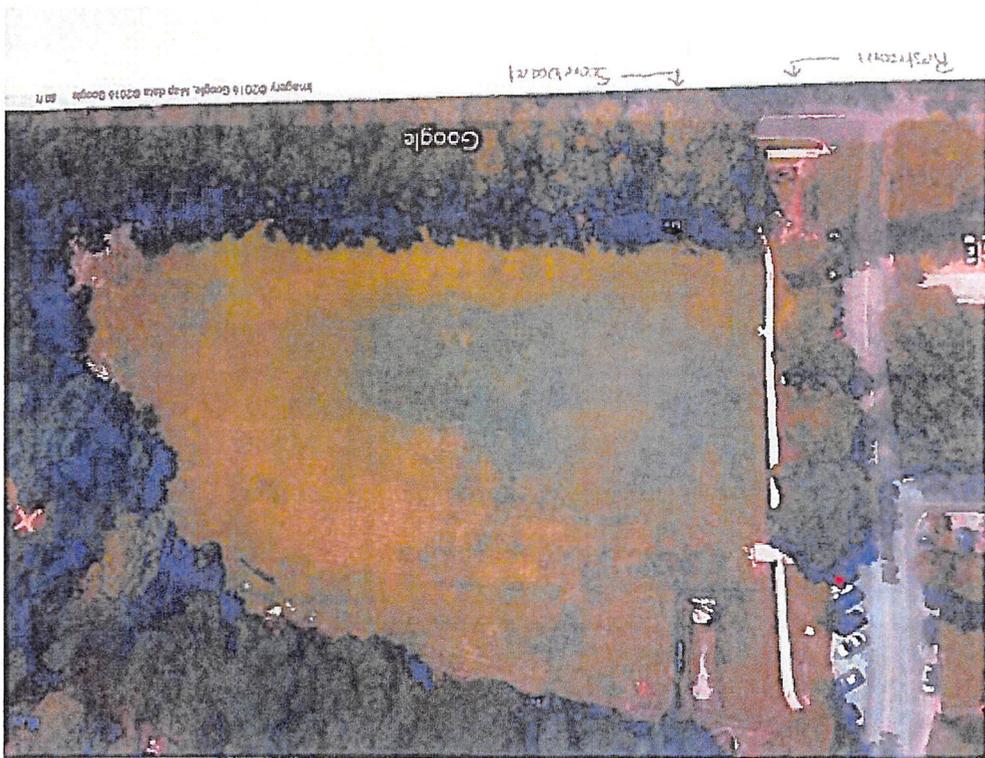
Article III, Residence-A District; Section 129-32 Conditions on Certain Permitted Uses.

### ***Appends***

LOCATION: 3041 Cambridge Road

ZONING DISTRICT: Res-A

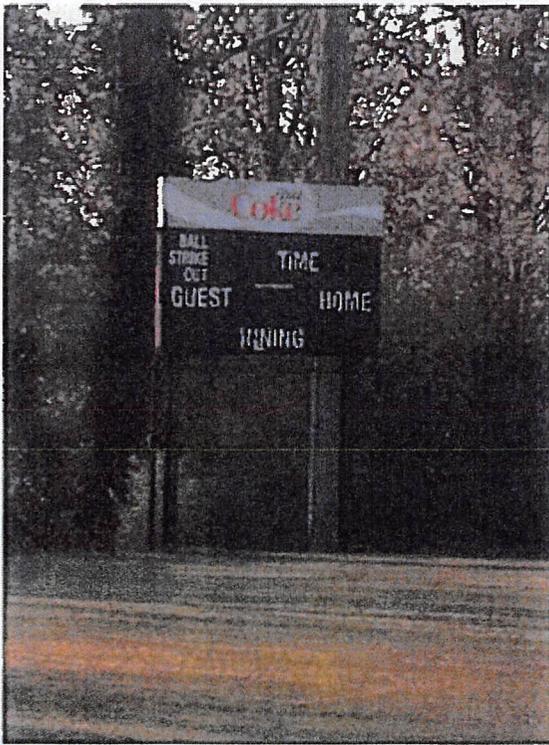
OWNER: Mountain Brook Board of Education



**EXHIBIT 1**

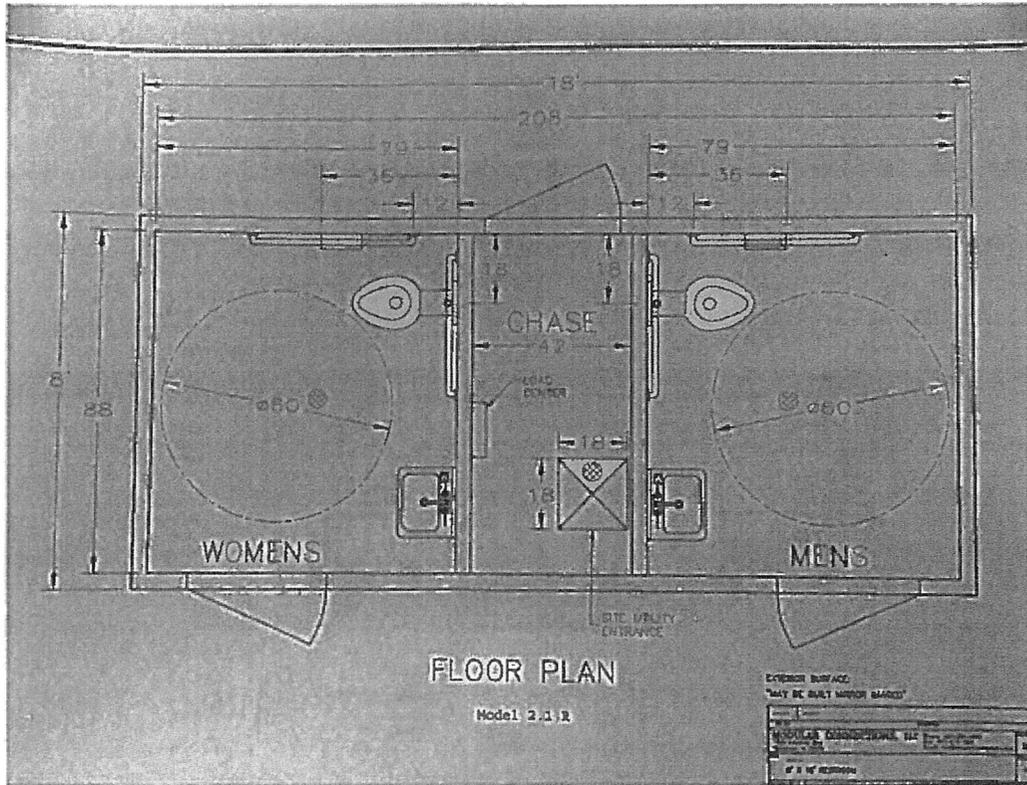
## EXHIBIT 1

This is a photo of the restroom. We can choose a different color wall and roof.

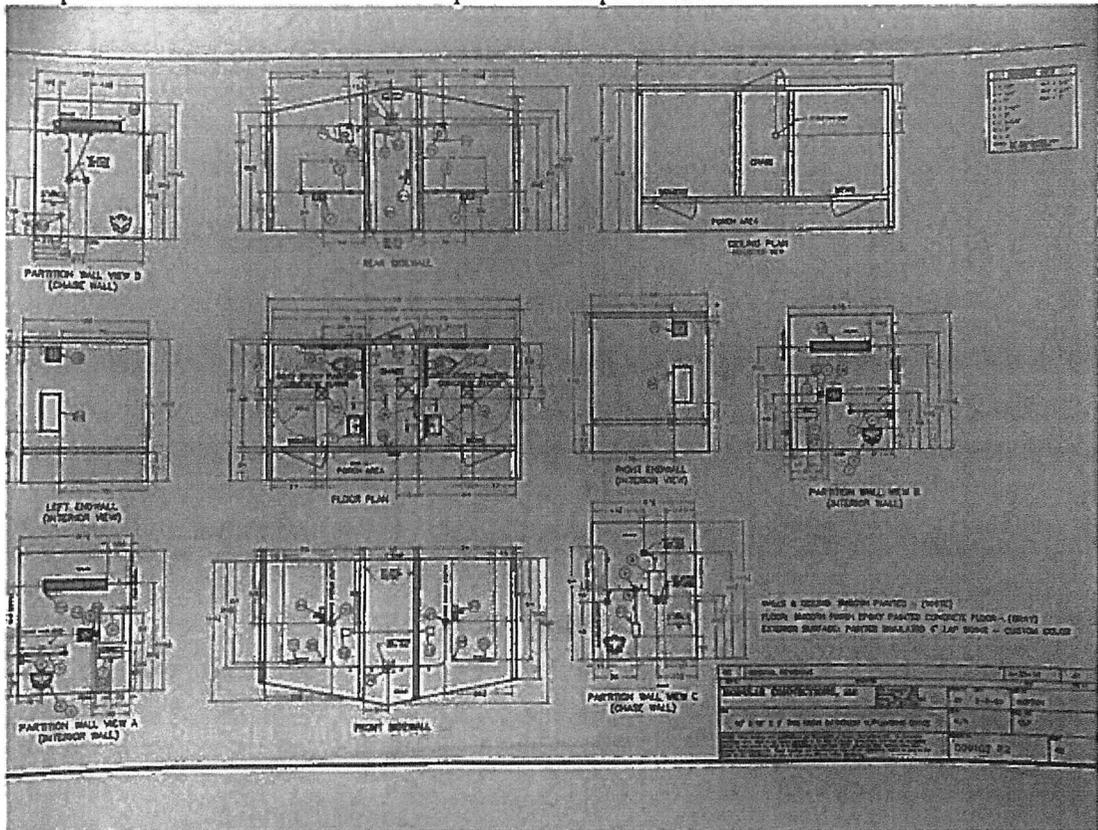


This is a similar scoreboard at the Complex

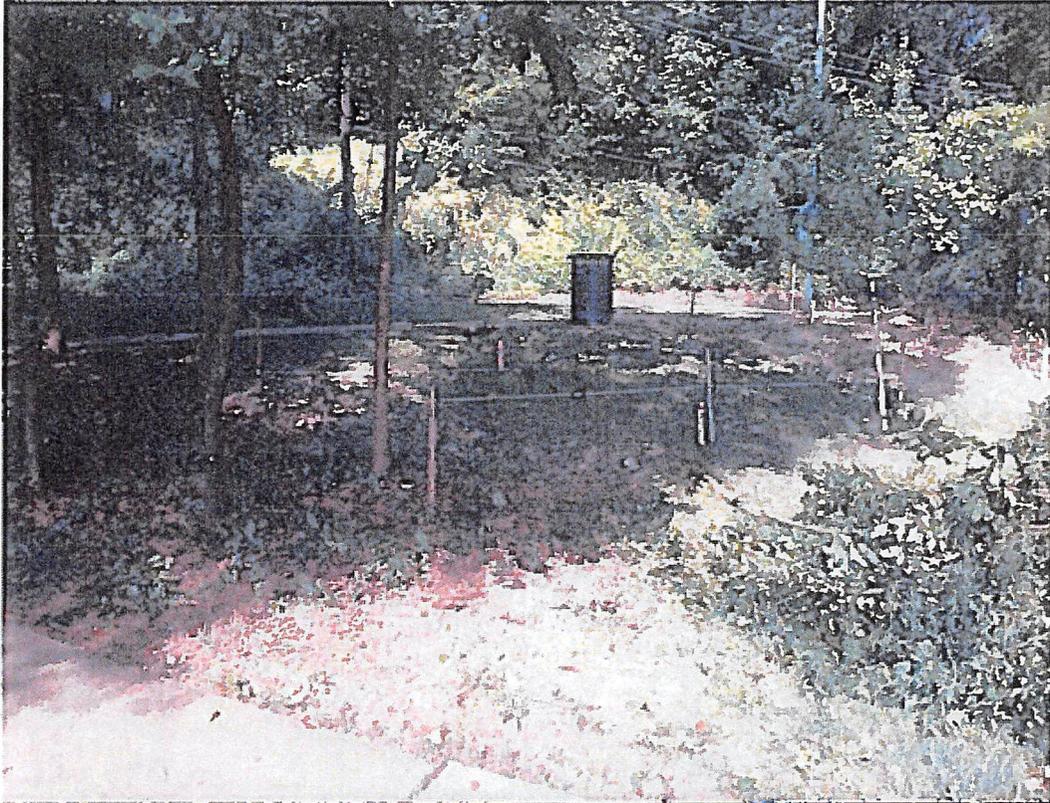
# EXHIBIT 1

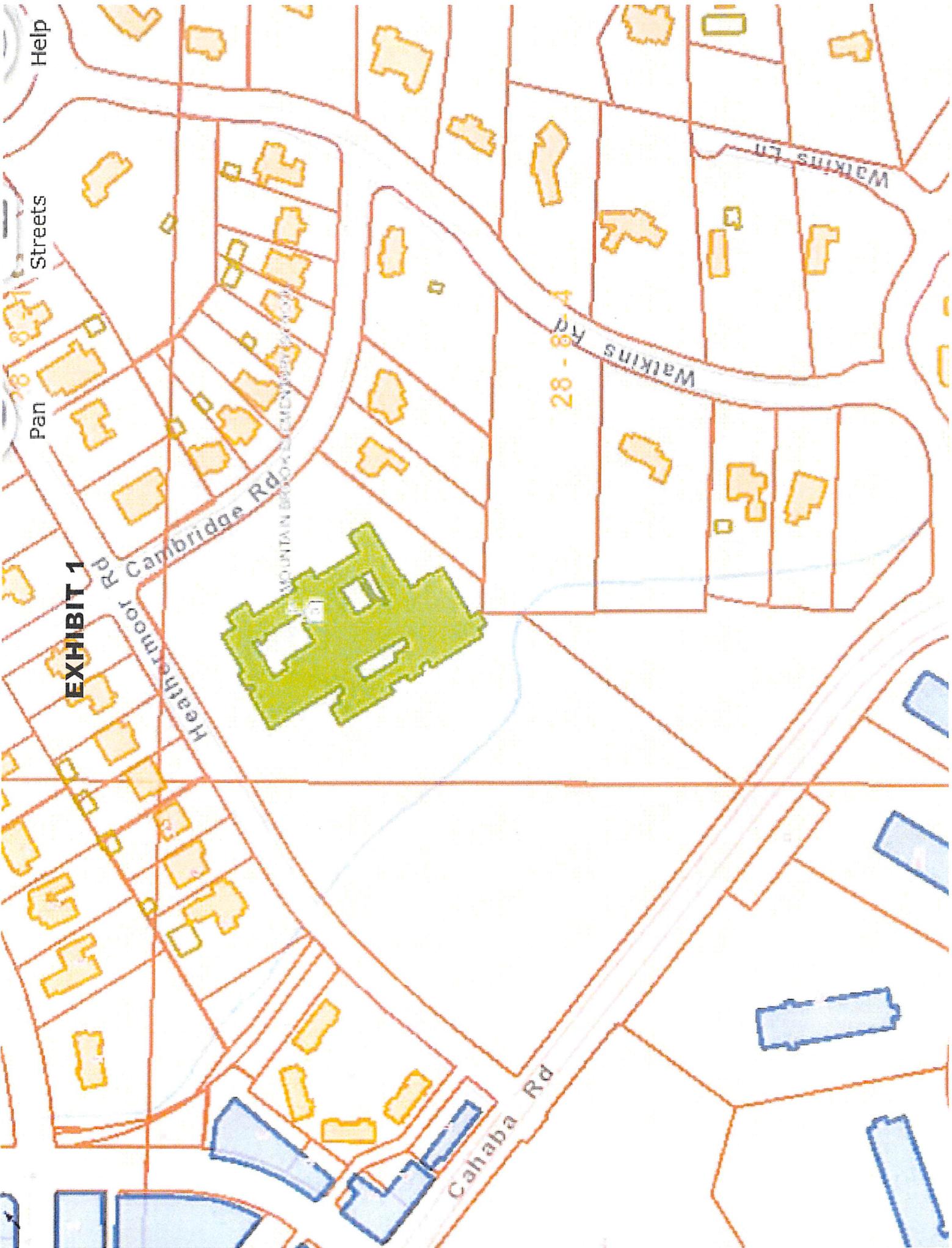


The plan above does not include the porch. The plans below do.



# EXHIBIT 1





**EXHIBIT 1**

Help

Streets

Pan

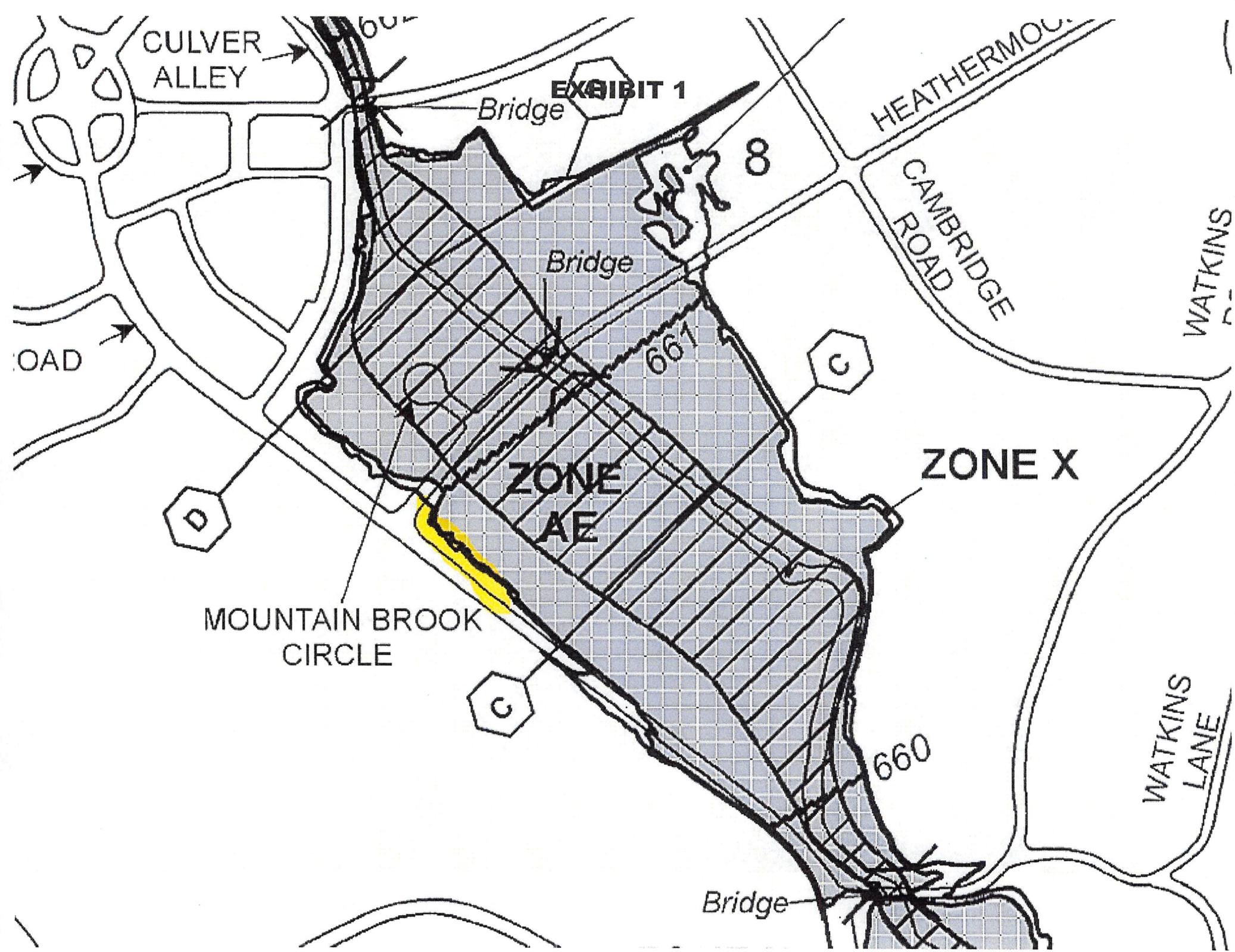
Cambridge Rd  
Heathermoor Rd

MOUNTAIN BROOK ELEMENTARY SCHOOL

Cahaba Rd

28-84  
Watkins Rd

Watkins Ln





# EXHIBIT 1

Name and Address of Sender  
**CITY OF MOUNTAIN BROOK**  
**P O BOX 130009**  
**MOUNTAIN BROOK, AL 35213-0009**

Check type of mail or service:

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- Delivery Confirmation
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P-16-15

1.	Article Number
1.	7015 0640 0002 6427 7036
2.	7015 0640 0002 6427 7043
3.	7015 0640 0002 6427 7050
4.	7015 0640 0002 6427 7067
5.	7015 0640 0002 6427 7074
6.	7015 0640 0002 6427 7081
7.	7015 0640 0002 6427 7098
8.	7015 0640 0002 6427 7104

Addresssee (Name, Street, City, State, & ZIP Code)

LADD, GEORGE  
 P O BOX 130194  
 BIRMINGHAM, AL 35213

PARKER, THOMAS BRANNON  
 SHAW, SARAH REBECCA  
 3013 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35213

REED, WILLIAM L. & NICOLE  
 3017 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35223

PARRISH, CHARLES  
 3021 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35223

BLANTON, M. STANFORD  
 3025 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35323

PEWITT, JAMES P & ANGELA T.  
 3037 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35223

PLACEY, JOHN J. & LAURIE  
 3045 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35223

POWELL, JAMES F. JR. & KIMBERLY T.  
 3032 CAMBRIDGE ROAD  
 MOUNTAIN BROOK, AL 35223

Postage	Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	DC Fee	SC Fee	SH Fee	RD Fee	RR Fee

Total Number of Pieces Listed by Sender	Total Number of Pieces Received at Post Office
8	25

Postmaster, Per (Name of receiving employee)

See Privacy Act Statement on Reverse

# EXHIBIT 1

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- COD
- Delivery Confirmation
- Express Mail
- Insured
- Recorded Delivery (International)
- Registered
- Return Receipt for Merchandise
- Signature Confirmation

Article Number

Addressee (Name, Street, City, State, & ZIP Code)

Postage

Fee

Handling Charge

Actual Value if Registered

Insured Value

Due Sender if COD

DC Fee

SC Fee

SH Fee

RD Fee

RR Fee

1.	7015 0640 0002 6427 7111
2.	7015 0640 0002 6427 7128
3.	7015 0640 0002 6427 7135
4.	7015 0640 0002 6427 7142
5.	7015 0640 0002 6427 7159
6.	7015 0640 0002 6427 7166
7.	7015 0640 0002 6427 7173
8.	7015 0640 0002 6427 7180

EVANS, WALTER B. JR. & JANE H.  
2500 WATKINS ROAD  
MOUNTAIN BROOK, AL 35223

PRATER, HARLAN I. IV & ALICE H.  
2508 WATKINS ROAD  
MOUNTAIN BROOK, AL 35223

McGEHEE, EDWARD S.  
2512 WATKINS ROAD  
MOUNTAIN BROOK, AL 35223

ONE OFFICE PARK CIRCLE, LLC  
1 OFFICE PARK CIRCLE, STE. 300  
MOUNTAIN BROOK, AL 35223

McCONNELL, WHITE TERRY REALTY  
PO BOX 530507  
BIRMINGHAM, AL 35253

VILLAGE RENAISSANCE LLC  
PO BOX 131346  
BIRMINGHAM, AL 35213

RAIS-BAHRAMI SOROUGH & LAURA  
2504 HEATHERMOOR ROAD  
MOUNTAIN BROOK, AL 35223

GARCIA, JENNIFER L.  
2508 HEATHERMOOR ROAD  
MOUNTAIN BROOK, AL 35223

Total Number of Pieces Listed by Sender

Total Number of Pieces Received at Post Office

8

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WELDEN, CHARLES R. 2600 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
2. 7015 0640 0002 6427 7203		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
GOODRICH, BRAXTON & MARY B. 2516 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
3. 7015 0640 0002 6427 7210		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
SYLVESTER, AMY D. 2520 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
4. 7015 0640 0002 6427 7227		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
CONNER, LAUREN L. 2524 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
5. 7015 0640 0002 6427 7234		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
MEADOWS, RICHARD H. & LINDSEY 2528 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
6. 7015 0640 0002 6427 7241		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
MACKENZIE, ROBERT P. & JEANIE H. 2609 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
7. 7015 0640 0002 6427 7258		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
SINOR, ANDREW J. JR. & LINDSAY L. 2512 HEATHERMOOR ROAD MOUNTAIN BROOK, AL 35223															
8. 7015 0640 0002 6427 7265		<input type="checkbox"/> Certified	<input type="checkbox"/> Registered	<input type="checkbox"/> Delivery Confirmation	<input type="checkbox"/> Express Mail	<input type="checkbox"/> Insured									
EVANS, J. PARKER II & JENNIFER W. 2504 WATKINS ROAD MOUNTAIN BROOK, AL 35223															

Total Number of Pieces Listed by Sender: 8 Total Number of Pieces Received at Post Office: 25

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# EXHIBIT 2

Name and Address of Sender

Article Number

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- Express Mail
- Insured

- Recorded Delivery (International)
- Registered
- Return Receipt for Merchandise
- Signature Confirmation

Addressee (Name, Street, City, State, & ZIP Code)

DOYLE, JOHN SCOTT & MARY N.  
2601 HEATHERMOOR ROAD  
MOUNTAIN BROOK, AL 35223

Affix Stamp Here  
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Postmark and Date of Receipt

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Actual Value if Registered

Insured Value

Handling Charge

Fee

Postage

Due Sender if COD

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RD Fee

RR Fee

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