

**MOUNTAIN BROOK CITY COUNCIL
PRE-MEETING DISCUSSION
AUGUST 26, 2019**

The City Council of the City of Mountain Brook, Alabama met in public session in the Pre-council Room (A106) of City Hall at 6:15 p.m. on the 26th day of August, 2019. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston and City Clerk Steven Boone.

1. AGENDA

1. Feral cat issues in Crestline—John Allen Roberts of 704 Euclid Avenue (Appendix 1). Also present who were in attendance to express their concern about the feral cats were four neighbors including Jeremy Herskowitch and Alex Mattheyses of 120 Fairmont Drive. It was suggested that Council members Black and Shelton and Police Chief Cook meet to develop a plan to address the issues raised by the residents.
2. Transit system update—Richard Goldstein
3. Concerns about low hanging utility lines on Salisbury Road—Robert Walthall (Appendix 2). The City Manager shall continue to press the utility providers to clean-up the low hanging lines and other issues and make contact with the Public Service Commission to seek their assistance in the matter considering the City's has no authority over the easements or utility providers.
4. Review of the other matters to be considered at the formal (7 p.m.) meeting. Resolution No. 2019 and Motion Mo. 2019-121 were added to the formal meeting agenda.

2. ADJOURNMENT

There being no further matters for discussion, Council President Smith adjourned the meeting at approximately 7 p.m.

3. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct synopsis of the discussion from the work session of the City Council of the City of Mountain Brook, Alabama held at City Hall, Pre-Council Room (A106) on August 26, 2019, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that no formal action or votes were conducted at said work session.



City Clerk

Approved by City Council September 9, 2019

ARTICLE I. IN GENERAL

Sec. 6-1. Noisy animals or fowl.

It shall be unlawful to confine, harbor or keep on a lot, place or premises any animal or fowl that habitually, continuously or intermittently makes or emits sounds or noises of such volume, nature or extent so as to be a public nuisance by reason of being obnoxious or annoying to the ordinary persons in that neighborhood.
(Code 1996, § 3-1; Ord. No. 50, § 40)

Sec. 6-2. Wild animals.

(a) *Keeping or harboring.*

- (1) *Prohibited.* It shall be unlawful for any person to keep or harbor at any place within the city any wild animal, regardless of the age or size of any such animal, and regardless of whether or not such animal was born and/or raised in captivity.
- (2) *Violation.* Any person violating the provisions of this section shall, upon conviction, be punished by a fine not to exceed \$500.00, or by imprisonment not to exceed 90 days, or by both such fine and imprisonment.

(b) *Feeding.*

- (1) *Definitions.* For purposes of this subsection, the following words and their derivations shall have the meaning given herein:

Wild animal means any animal of a species that in its natural life is usually untamed and undomesticated, including animals that, as a result of their natural or wild condition, cannot be vaccinated effectively for rabies.

- (2) *Prohibited.* Except as otherwise provided in this subsection, it shall be unlawful for any person to knowingly feed, offer food, or in any manner provide food to any wild animal on private or public property within the city limits for the purpose of attracting or harboring such animals. For purposes of this subsection, living food sources

such as trees and other live vegetation shall not be considered food for wild animals. This prohibition does not apply to any of the following:

- a. The feeding of wild birds or squirrels;
 - b. Employees or agents of the city, county, state, and federal government or veterinarians who, in the course of their official duties, have wild animals in their custody or under their management;
 - c. The provision of food to domesticated dogs or cats that are household pets and that are owned by or whose care and feeding has been entrusted to the person providing the food;
 - d. The provision of food that is incidental to other lawful activities and that is not intended to attract wild animals as defined herein; and
 - e. The provision of food in connection with the human trapping of wild animals for the purposes of relocating said animals to nonresidential areas.
- (3) *Violation.* Persons believed to have committed an offense shall first be given three days' written notice by the city or its duly authorized representative to cease and desist the activities that constitute an actual or suspected violation of subsection (b)(2) of this section. Such notice may be sent by United States mail, by personal delivery, or by other customary and generally accepted means of transmittal and delivery. If additional evidence that the recipient of the notice heretofore described has violated subsection (b)(2) of this section on or after the fourth business day following mailing of the notice, the person shall be guilty of a misdemeanor.
(Code 1996, §§ 3-1-1, 3-1-2; Ord. No. 1032, §§ 1, 2, 12-10-1990; Ord. No. 1692, § 1, 11-28-2005)

Sec. 6-3. Impoundment of stray, feral, or abandoned cats and felines.

- (a) The City of Mountain Brook or its representatives, including the dog warden, animal control officer, or person serving in like capacity, or

such persons or firms as may be designated or employed by the city or with whom the city may contract for such purposes, shall have the authority to trap or collect by humane means and impound any cat or member of the feline family that appears to be stray, abandoned, feral, undomesticated, or uncared for based on the behavior or physical condition of the cat, and the absence of any collar, tag, microchip, or other means of identifying the name, address, or telephone number of the owner of the cat.

(b) If the impounded cat is not redeemed by its owner or placed with a new owner, the city or its representatives shall be authorized to euthanize and/or dispose of the cat in a merciful manner after following the process prescribed by section 6-110 of this Code.

(c) The collection, care, and disposition of any impounded cat shall be subject to state law governing such practices, including but not limited to sterilization requirements set forth in the Code of Ala. 1975, § 3-9-2.

(d) If the impounded cat is determined by reasonable means to be infected with rabies, the cat shall be deemed a public nuisance and a danger to the health and safety of the community and shall be euthanized in a merciful manner.

(e) A cat that is trapped and impounded pursuant to subsection (a) herein may be released into the general area from which it was trapped subject to the following requirements:

- (1) The cat is determined by reasonable means to be feral or undomesticated and not suitable for adoption;
- (2) The cat is determined by reasonable means to be healthy and without disease or infection of any kind, including not falling within the purview of subsection (d) herein;
- (3) The cat is sterilized pursuant to the sterilization requirements set forth in the Code of Ala. 1975, § 3-9-2 and other state law governing such practices;
- (4) The cat is vaccinated for rabies; and
- (5) The cat is marked with ear tags, a clipped ear, or other means to identify that said cat has been sterilized.

(f) The purpose of this section is to authorize the humane trapping, collection, and sterilization and/or disposal of cats that are reasonably believed not to be owned or under the care of any person and which, by virtue of such status and other indicia, are deemed to represent an actual or potential threat to the health, safety, and welfare of the public. Nothing herein shall be deemed to prevent the city and its employees or agents from using reasonable discretion in discharging the functions and activities hereby authorized. Nothing herein shall be interpreted or deemed to create or to impose on the city, its agents, employees, persons, or entities acting on behalf thereof any duty, standard of care, or liability to the public generally or to any member thereof with respect to the collection, care, or disposition of cats impounded under the authority hereof.
(Ord. No. 1741, § 1, 8-27-2007)

Secs. 6-4—6-22. Reserved.

ARTICLE II. RABIES CONTROL

Sec. 6-23. Confinement of animal that has bitten or injured a human being.

It shall be the duty of the owner or person in charge of any dog, cat or other animal, which has bitten or otherwise injured a human being to immediately notify the city clerk of such fact upon learning thereof, and it shall thereupon be the duty of such owner or person in charge to securely confine such animal, so as to prevent its disappearance or escape, for not less than 14 days or until such time as such animal shall have been examined by the county health officer and discharged by him from confinement.
(Code 1996, § 3-18; Ord. No. 50, § 43)

Sec. 6-24. Confinement of animal that is rabid or thought to be rabid.

It shall be unlawful for any person to keep, harbor or maintain on or about any place or premises a dog or other animal, which is known to have or reasonably suspected of having rabies, unless such animal is securely confined in such a manner as to effectually prevent contact with or

Sam Gaston
From: MCHWITER, JEFFREY A.
Sent: Saturday, August 15, 2019 11:20 AM
To: WILLIAMS, TERRI Q
Cc: Sam Gaston
Subject: RE: Mt Brook

Mystery has been resolved. We followed the cable back down Mountain/Country Club Rd and finally found an ID tag on it. This cable is a 24 fiber cable and belongs to Century Link (I'm on tag ID 1-800-950420).

I have given this information to Mr. Walthall.

Please call if I can be further assistance.

Jeff

Jeffrey A. McWhiter
Manager Construction & Eng
ALMGA

AT&T
3422 Emma Lane, Hoover, AL 35226
M: 205-960-1339 | F: 205-979-1111
O: 205-979-1111
F: 205-979-1111

MINUTIZING YOUR WORLD.

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From: MCHWITER, JEFFREY A. [mailto:jmchwi1@att.com]
Sent: Saturday, August 17, 2019 4:14 PM
To: WILLIAMS, TERRI Q [mailto:twilliams@mtbrook.org]
Cc: Sam Gaston [mailto:sgaston@mtbrook.org]
Subject: Re: Mt Brook

I have been trying to identify who this cable belongs to for Mr. Walthall. I spoke with him last week and he told me his concerns about some other issues, that I have not had time to address. I will go to his property again with some techs on Monday and look at the other lines that he told me about last week. Sorry for some of the delay, but I took a couple of days off last week. I will also call Mr. Walthall on Monday.

Please call me if you have any questions.

Sam Gaston
Minute Book 90
Monday, August 19, 2019 7:56 AM
From: Sam Gaston
To: Mr. Walthall
Subject: RE: [EXTERNAL] RE: Image001.png; Image002.png; Image003.png

Yes
Please put me on the agenda.
I have not heard from whatever cable company is responsible -owns the low hanging cable on my property, unless you have some different understanding of this matter?
Robert

Sent from my iPhone

On Aug 19, 2019, at 7:27 AM, Sam Gaston [mailto:sgaston@mtbrook.org;mailto:sgaston@mtbrook.org] wrote:

The city council meets on Monday, August 26th. Would you like to be on the pre-meeting agenda?
I am disappointed in your comments that the city will not act on this matter. I have responded and coordinated with the three utility companies on this, plus they all have been in touch with you. As I told you the first time we talked, it might take a little while, but in all most all cases, the utility companies will get the lines removed or raised.

Sam S Gaston
City Manager
City of Mountain Brook, AL
56 Church Street
P.O. Box 130009
Mountain Brook, AL 35213
(205) 802-3803 Phone
(205) 870-3577 Fax
From: Walthall, Robert [mailto:rwalthal@joneswalker.com;mailto:rwalthal@joneswalker.com]
Sent: Friday, August 16, 2019 12:42 PM
To: Sam Gaston
Cc: Vice, Taylor C [mailto:taylor.vice@att.com;mailto:t2790@att.com]
Subject:

Sam,
Another week has passed with no action taken to correct the illegal and unsafe low hanging cable line on my property near the ground-low hanging cable lines on the adjacent property.
Both AT&T and Charter state that the low hanging cable line on my property is not theirs, so it must be owned by some other cable company operating in the City which the City has no knowledge of, etc.
Also, AT&T states that the ground-low hanging lines on the adjacent property are theirs but they have taken no action to correct these problems.
It appears that the City either has no authority to monitor-oversee that cable companies operating in the City comply with applicable safety codes and other legal standards for cable lines or that the City simply will not act on these serious matters.
So, I want to present this matter to the City Council and I hereby request that you notify me of a meeting in which I can make such presentation to the Council.
Robert

Robert C. Walthall | Partner
D: 205.244.5272 | M: 205.218.4345
RWalthal@joneswalker.com;mailto:RWalthal@joneswalker.com

989

sgaston1.png;http://www.joneswalker.com/professionals/robert-c-walthall.html;image002.png;http://www.joneswalker.com/professionals/robert-c-walthall/vcard.vcf

image001.png

Jones Walker LLP
422 20th St N, Ste 1100
Birmingham, AL 35203
joneswalker.com/http://www.joneswalker.com/

Sam Gaston
From: Howell, Alison Dyan
Sent: Friday, August 16, 2019 2:49 PM
To: Sam Gaston [mailto:sgaston@mtbrook.org]
From: Terry Williams
Subject: Low hanging line at 3522 Salisbury Road
Re: 7.jpg; 8a.1.jpg; 8a.2.jpg

Our engineers went out and did a field visit and determined that the lines belong to AT&T and Comcast. AT&T being the lowest. Our lines are on the top. We plan to raise our system aerial to make more room.

See detailed email below from our supervising engineer and please let me know if you have any questions.

Thanks and have a great weekend!

Alison
Alison Howell Steiner
Alabama Power Company
C: 205-981-0209

From: Lowman, Wade [mailto:wlowman@southernco.com]
Sent: Friday, August 16, 2019 2:37 PM
To: Howell, Alison Dyan
Cc: Recker, Tera Shanae; Ware, Megan
Subject: FW: Low hanging line at 3522 Salisbury Road

Alison,
After a field visit to this location we have been able to identify that the low cables in question do belong to AT&T and Comcast, with AT&T being the lowest. It appears that for some reason along this pole route that these utilities have attached well below acceptable attachment points. APC specs say they can be attached at 40" below our system neutral and they are attached significantly lower than this in this area. At the mentioned address APC does have an opportunity to raise our system neutral to allow for the other utilities to be able to raise their facilities if they so choose. APC will move forward with getting this raised in the following weeks. If you have additional questions or concerns please let me know.

Thanks,
Wade Lowman | Metro Central | Office: 205.226.1155
Alabamiana Power



From: Ware, Megan [mailto:mware@sjouthernco.com]
Sent: Friday, August 16, 2019 2:29 PM
To: Lowman, Wade [mailto:wlowman@southernco.com]
Subject: AL: Low hanging line at 3522 Salisbury Road

Wade,
Sorry for the delayed response. I was in class Tuesday and Wednesday and busy with customer meeting yesterday. But after looking at the line today, there are several cables that are low but 2 of the 5 had tags that say AT&T and COMCAST. Our neutral is low so we could raise it to give cable/phone more attachment room but their attachments are low on every pole on this line. Let me know if I need to do anything else or contact customer.

Thanks,
Megan

Meghan Ware | Distribution Engineer
Metro Central | O: 205-226-1181
mware@southernco.com



From: Lowman, Wade [mailto:wlowman@southernco.com]
Sent: Tuesday, August 13, 2019 3:40 PM
To: Ware, Megan [mailto:mware@sjouthernco.com]
Cc: Howell, Alison Dyan [mailto:ahowell@southernco.com]; Clements, Terrence Kordeil [mailto:tclements@southernco.com]
Subject: FW: Low hanging line at 3522 Salisbury Road

Megan,
Will you please look at this situation tomorrow to see if we can identify the cable owner? I'm confident that we don't own APC owned cable, however we may be able to get Outage number and look at our GIS maps to see who may have facilities in this area.

Thanks,
Wade Lowman | Metro Central | Office: 205.226.1155
Alabamiana Power



From: Howell, Alison Dyan [mailto:ahowell@southernco.com]
Sent: Tuesday, August 13, 2019 3:28 PM
To: Lowman, Wade [mailto:wlowman@southernco.com]
Cc: Recker, Tera Shanae [mailto:tsrecker@southernco.com]
Subject: Low hanging line at 3522 Salisbury Road

Wade,
Sam Gaston has asked that we take a look at a low hanging line issue 3522 Salisbury Road, Mountain Brook. I believe this is 127 street territory, but I would like to be right on the line.

According to Sam, AT&T and Charter have both reviewed it and do not know who the cable belongs to. See email chain below. Since the customer is pretty upset below, Sam is curious if any of the lines on the pole are ours as well.

Thanks so much for your help!
Alison

Alison Howell Steiner
Alabama Power Company
M: 205-981-0209
O: 205-226-1742

From: Sam Gaston [mailto:sgaston@mtbrook.org]
Sent: Tuesday, August 13, 2019 3:07 PM
To: Howell, Alison Dyan [mailto:ahowell@southernco.com]
Subject: FW:

Do you might having APCO check these lines at 3522 Salisbury Road and the house next door? AT&T and Charter have reviewed it.

Sam S Gaston
City Manager
City of Mountain Brook, AL
56 Church Street
P.O. Box 130009
Mountain Brook, AL 35213
(205) 802-3803 Phone
(205) 870-3577 Fax

From: WILLIAMS, TERRI Q [mailto:twilliams@mtbrook.org]
Sent: Tuesday, August 13, 2019 2:16 PM
To: Sam Gaston
Subject: Fwd: Mr Walthall

Hi - per network manager, I have talked to Mr. Walthall and made a visit to his property. I do not know who the cable belongs to, but I am having the turf engineer check with APCO about what companies have rights on this pole.

Also Mr. Walthall understands that it may take a week or so to ID the cable."

Terry Williams
Regional Director of Legislative & External Affairs
AT&T Alabama

Sent from my iPhone

From: Walthall, Robert [mailto:rwalthal@joneswalker.com]
Sent: Tuesday, August 13, 2019 8:31 AM
To: Sam Gaston
Cc: t2790@att.com
Subject:

Sam:

This is a followup on our earlier communications regarding the AT&T ground-low hanging cables on the property adjacent to my home (see attached photos sent earlier) and the low hanging cable behind my home (see photos of me standing under such cable) and the fact that AT&T has not corrected its unlawful and unsafe cable lines and that charter has not responded-followed up on its illegal and unsafe cable line.

Please have the City legal counsel contact each of these public companies and demand that they immediately correct their illegal and unsafe cable lines.
If these problem continue I will file a formal complaint against AT&T and Charter with the APCO and also request an appearance before the City Council to address these problems.
Robert

Robert C. Walthall | Partner
D: 205.244.5272 | M: 205.218.4305
RWalthal@joneswalker.com



Jones Walker LLP
422 20th St N, Ste 1100
Birmingham, AL 35203
joneswalker.com [mailto:www.joneswalker.com]

**MINUTES OF THE REGULAR OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
AUGUST 26, 2019**

The City Council of the City of Mountain Brook, Alabama met in public session in the City Hall Council Chamber at approximately 7:00 p.m. on the 26th day of August, 2019. The Council President called the meeting to order and the roll was called with the following results:

Present: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack
Stewart Welch III, Mayor

Absent: None

Also present were City Attorney Whit Colvin, City Manager Sam Gaston and City Clerk Steven Boone.

The Council President stated that a quorum was present and that the meeting was open for the transaction of business

1. RECOGNITION OF GUEST

Council President Smith recognized Elle Warren from Boy Scout from Troop 86 in attendance for the Communications merit badge.

2. CONSENT AGENDA

Council President Smith announced that the following matters will be considered at one time on the consent agenda provided no one in attendance objects:

Approval of the minutes of the August 12, 2019, regular meeting of the City Council

2019-112	Reappoint Katie Wohlwend to the Villages Design Review Committee to service without compensation through August 23, 2022 (re: Resolution No. 2019-106)	Exhibit 1, Appendix 1
2019-113	Recommend to the ABC Board the issuance of a 020 – Restaurant Retail Liquor license to Bobby Carl's Table, 2031 Cahaba Road Suite A, Mountain Brook, AL 35223	Exhibit 2, Appendix 2
2019-114	Declare certain property surplus and authorizing its sale at public Internet auction	Exhibit 3
2019-115	Award the bid for the purchase of a storage building for use by the Police Department at the target range	Exhibit 4, Appendix 3
2019-116	Authorize the execution of an agreement between the City and Kadco, LLC with respect to public improvements to be constructed along Poe Drive	Exhibit 5, Appendix 4
2019-117	Authorize the display of a plant stand in the right-of-way by Leaf 'n Petal	Exhibit 6, Appendix 5

2019-118	Authorize the establishment of a checking account for the 10 cent state gasoline taxes	Exhibit 7
2019-119	Approve the tentative fiscal year 2020 street resurfacing list	Exhibit 8
2019-120	Award the bid for the purchase and maintenance of chest compression devices (B-20190724-536) submitted by Henry Schein Incorporated	Exhibit 9, Appendix 6
2019-121 Motion	Authorize the expenditure of \$1,250 payable to Walter Schoel Engineering to review the roundabout project drainage plans	

Thereupon, the foregoing minutes, resolutions and motion were introduced by Council President Smith and a motion for their immediate adoption made by Council member Black. The minutes, resolutions and motion were then considered by the City Council. Council President Pro Tempore Pritchard seconded the motion to adopt the foregoing minutes, resolutions and minutes. Then, upon the question being put and the roll called, the vote was recorded as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith thereupon declared that said minutes, resolutions (Nos. 2019-112 through 2019-120) and motion (No. 2019-121) are adopted by a vote of 5—0 and as evidence thereof she signed the same.

3. PUBLIC HEARING TO CONSIDER AN ORDINANCE REZONING THE PROPERTY ALONG FAIRHAVEN DRIVE REGARDING THE OVERTON VILLAGE TOWNHOMES (APPENDIX 7)

Council President Smith introduced the ordinance in writing and invited comments from the applicant or representative thereof.

Tommy Brigham of 2548 Ashford Place, 35243 representing the applicant Ron Durham, stated that the applicant wishes to continue the public hearing until the September 9, 2019 meeting of the City Council.

There being no further comments or discussion, Council President Smith called for a motion. Council member Black moved that the public hearing be continued until September 9, 2019. The motion was seconded by Council President Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Philip E. Black
Lloyd C. Shelton
Alice B. Womack

Nays: None

Council President Smith declared the motion carried by a vote of 5—0.

4. PUBLIC HEARING: CONSIDERATION AN ORDINANCE AMENDING THE LANE PARKE PLANNED UNIT DEVELOPMENT (PUD) MASTER DEVELOPMENT PLAN WITH RESPECT TO DRIVE-THROUGHS (EXHIBIT 10, APPENDIX 8)

Council President Smith introduced the ordinance in writing and invited opening comments from the developers' representatives.

Mel McElroy of 1901 6th Avenue North, Suite 2400, representing the applicant, Evson, Inc.:

- After hearing the comments from the community, elected officials, City Attorney and City Planner Hazen at the August 12, 2019, public hearing, the applicant requests a continuance of the public hearing until September 23, 2019
- The applicants intends to amend the PUD language to clarify or amend the following:
 - 1) the proposed drive-through in the Treadwell block will not include either food or coffee shop as a permitted use (permitted uses shall include a bank, pharmacy or dry cleaners)
 - 2) Skipper Consulting is performing further traffic analysis the report of which will be available for the next public hearing

There being no further comments or discussion, Council President Smith called for a motion. Council member Black moved that the public hearing be continued until September 23, 2019. The motion was seconded by Council President Smith and was unanimously carried, as follows:

Ayes: Virginia C. Smith, Council President
 William S. Pritchard III, Council President Pro Tempore
 Philip E. Black
 Lloyd C. Shelton
 Alice B. Womack

Nays: None

Council President Smith declared the motion carried by a vote of 5—0.

5. ANNOUNCEMENTS

The next regular meeting of the City Council will be September 9, 2019, at 7:00 p.m. in the Council Chamber of City Hall located at 56 Church Street, Mountain Brook, AL 35213.

The City Council shall conduct an open work session concerning the proposed budget for the year ending September 30, 2020, on August 29, 2019, starting at 8:00 a.m. in the Room A106 of City Hall located at 56 Church Street, Mountain Brook, AL 35213. Just prior to the budget work session, the City Council shall convene in executive session to discuss a matter involving a real estate negotiation.

6. ADJOURNMENT

There being no further business to come before the City Council, Council President Smith adjourned the meeting at approximately 7:05 p.m.

7. CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the regular meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A108) on August 26, 2019, and that the meeting was duly called and held in all respects in accordance with the laws of the State of Alabama and bylaws of the City and that a quorum was present.



City Clerk

Approved by City Council September 9, 2019

EXHIBIT 1**RESOLUTION NO. 2019-112**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that Katie Wohlwend is hereby reappointed to the Village Design Review Committee, to serve without compensation, through August 23, 2022 (re: Resolution No. 2019-109 adopted August 12, 2019).

APPENDIX 1**EXHIBIT 2****RESOLUTION NO. 2019-113**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby recommends to the State of Alabama, Alcoholic Beverage Control Board, the issuance of a 020 – Restaurant Retail Liquor license to Bobby Carl's, LLC (trade name: Bobby Carl's Table), 2031 Cahaba Road, Suite A, Mountain Brook, AL 35223.

BE IT FURTHER RESOLVED that the City Clerk is hereby instructed to forward a copy of this resolution to the State of Alabama, Alcoholic Beverage Control Board.

APPENDIX 2**EXHIBIT 3****RESOLUTION NO. 2019-114**

**A RESOLUTION AUTHORIZING THE SALE OR DISPOSAL
OF CERTAIN SURPLUS PROPERTY**

WHEREAS, the City of Mountain Brook, Alabama, has certain items of personal property which are no longer needed for public or municipal purposes; and

WHEREAS, Section 11-43-56 of the Alabama Code of 1975 authorizes the municipal governing body to dispose of unneeded personal property.

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

Section 1. It is hereby established and declared that the following property owned by the City of Mountain Brook, Alabama is not needed for public or municipal purposes and is hereby declared surplus property:

Description**Public Works**

- 2006 Ford F-150 XLT VIN#1FTPX14V46NB26864, Asset No. 13343
- 2006 Ford F-150 Lariat VIN#1FTPX14V06NB18258, Asset No. 13344
- 2005 Ford Crown Victoria VIN#2FAFP74W15X138951, Asset No.13166
- 2003 Chevrolet S-10 VIN#1GCCS19X33188760, Asset No. 1197
- 2008 Dodge Dakota VIN#1D7HW48N58S638744, Asset No. 13632
- 2004 Case 95xt Skid Steer VIN#IC86284-JAF386284, Asset No. 13028
- 2007 Polaris Ranger VIN#4XARF68A07D045083, Asset No. 13487
- 2006 Ford F-550 VIN#1FADAW56P57EB21619, Asset No. 13481

Police Department

- 2009 Smart Car VIN#WMEEJ31X79K296220, Asset No. 13851
- 2016 Chevrolet Tahoe VIN#1GNLCDEC6GR338160, Asset No. 14704
- 2014 Chevrolet Tahoe VIN#1GNLC2E04ER210636, Asset No. 14410
- 2014 Chevrolet Tahoe VIN#1GNLC2E08ER212339, Asset No. 14408
- 2006 Dodge Durango VIN#1D8HB38N16F145862, Asset No. 13331
- 2006 Honda Civic VIN#2HGFG12616H560872, Asset No. 14824
- 2014 Chevrolet Tahoe VIN#1GNLC2E01ER213574, Asset No. 14409

Section 2. That the City Manager, or his designated representative, is hereby authorized and directed to sell said property by way of public Internet auction.

EXHIBIT 4
RESOLUTION NO. 2019-115

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the bid for the purchase and installation of a Conex storage building for the Police Department target range (B-20190719-534) submitted by Falcon Structures is hereby accepted having been determined to meet specifications and to represent the best and lowest bid.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manager of the City is hereby authorized and directed to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 3

EXHIBIT 5
RESOLUTION NO. 2019-116

WHEREAS the City Council previously authorized the expenditure of \$20,000 in conjunction with certain public improvements to be installed along Poe Drive in Mountain Brook, Alabama by a private developer (Resolution No. 2019-089, dated June 24, 2019); now, therefore,

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manager is hereby authorized and directed to execute, for and on behalf of the City Council, a Development Contract for Improvements Along Poe Drive, in the form as attached hereto as Exhibit A.

APPENDIX 4

EXHIBIT 6
RESOLUTION NO. 2019-117

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes the placement by Leaf & Petal of 2817 Cahaba Road of a metal plant display in the right-of-way at the corner of Cahaba Road and Canterbury Road alley (as more fully described in Exhibit A attached hereto) subject to the conditions outlined in said Exhibit A.

APPENDIX 5

EXHIBIT 7**RESOLUTION NO. 2019-118**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes establishment of an interest-bearing checking account for the recently enacted 10 cent gasoline tax.

BE IT FURTHER RESOLVED that the City Council of the City of Mountain Brook, Alabama hereby authorizes the execution of an Account Agreement and such documents determined necessary by the financial institution.

EXHIBIT 8**RESOLUTION NO. 2019-119**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama that the City Council hereby approves the proposed street paving/resurfacing list for fiscal 2020 under the City's 3-year street resurfacing contract (see Resolution No. 2017-058 adopted May 8, 2017) as follows:

Glencoe Circle
 Glenview Circle
 Crestview Drive
 Crestwood Drive
 Sheridan Place
 Delmar terrace
 Sheridan Drive
 Crestview Circle
 Oak Canyon Drive
 Oak Canyon Circle

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama that the cost of said paving projects shall be paid from the State of Alabama gasoline tax revenues along with supplemental funds transferred thereto from the General Fund as necessary.

EXHIBIT 9**RESOLUTION NO. 2019-120**

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the bid for the purchase and maintenance of chest compression devices (B-20190724-536) for the Fire Department submitted by Henry Schein Incorporated is hereby accepted having been determined to meet specifications and to represent the best and lowest bid.

BE IT FURTHER RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the Mayor or City Manager of the City is hereby authorized and directed to issue a purchase order and to execute such other documents that may be determined necessary with respect to said purchase.

APPENDIX 6

EXHIBIT 10

ORDINANCE NO.

DRAFT

AN ORDINANCE AMENDING THE LANE PARKE PUD

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

1. **Development Standards.** The Master Development Plan and the materials submitted by the applicant, as required by Section 129-265 of the Mountain Brook City Code, as approved upon the adoption of Ordinance 1871 dated May 21, 2012 are hereby amended to include the changes specified as attached hereto.
2. **Description of Affected Property.** The property that is the subject of the rezoning approved by this ordinance is described as follows:

A parcel of land being situated in the Northeast quarter of the Northwest quarter and the Southeast quarter of the Northwest quarter of Section 8, Township 18 South, Range 2 West, more particularly described as follows:

Begin at the Southwest Corner of the Northeast Quarter of the Northwest Quarter of Section 8, Township 18 South, Range 2 West; being the Point of Beginning; thence run Northerly along the West line of said Quarter - Quarter a distance of 665.12 feet; thence right 91°-08'-04" a distance of 1325.11 feet; thence right 88°-58'-55" a distance of 74.22 feet; thence right 37°-49'-05" a distance of 736.41 feet; thence right 52°-46'-30" a distance of 62.37 feet; thence right 00°-14'-22" a distance of 179.92 feet; thence left 90°-58'-32" a distance of 355.39 feet; thence right 88°-43'-29" a distance of 24.53 feet; thence left 87°-29'-35" a distance of 139.13 feet; thence right 89°-27'-49" a distance of 14.61 feet; thence left 117°-30'-00" a distance of 175.92 feet; thence right 84°-32'-17" a distance of 46.85 feet; thence tangent to a curve to the left having a radius of 1243.26 feet and a central angle of 9°-20'-05" along the curve an arc distance of 202.55 feet; thence right 62°-49'-52" from the tangent of said curve a distance of 329.33 feet; thence tangent to a curve to the left having a central angle of 18°-00'-50" and a radius of 66.12 feet an arc distance of 20.79 feet; thence left 2°-03'-01" to the tangent of a curve to the left having a central angle of 34°-34'-36" and a radius of 60.77 feet, an arc distance of 36.67 feet; thence continue from the tangent of said curve a distance of 45.64 feet; thence right 90°-00'-00" a distance of 119.49 feet; thence right 33°-25'-36" a distance of 245.11 feet; thence right 0°-00'-42" a distance of 377.82 feet to the Point of Beginning.

Said Parcel contains 27.59 acres more or less.

3. **Repealer.** 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.
4. **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.
5. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

~~[Signature page follows]~~

2019-112

KW DESIGN

Katie Wohlwend

CONTACT

407718.3312
katie@kw-design.com
www.kw-design.com

EDUCATION

Samford University
B.S., Graphic Design

WORK EXPERIENCE

KW Design (winter 2014 - present)
Owner & Designer

Specializing in branding systems and custom graphic design services
Clients include Massachusetts Institute of Technology, Fritos - Gourmet Popsicles, Robins & Morton, US Assure, Hare Wynn Newell & Newton, Ronald McDonald House of Jacksonville, Greater New Orleans Foundation

IT Rockstars (fall 2011 - winter 2014)

Lead Graphic Designer

Print and web design, responsibilities included:

- Complete creative direction from logo and branding systems to user experience design including all web creative for client projects
- Clients included Express Oil Change, Books-A-Million, Iron Tribe Fitness
- Familiarized with and prepared files for development within .NET platform

Panorama Public Relations (summer 2010 - fall 2011)

Creative Director

Print and web design, responsibilities included:

- Branded media collateral for FedEx, Inc., consisting of media kit and microsite design
- Media materials for publicly traded, world-wide company GD Copper
- Solely responsible for all internal branding efforts including website and client creative needs

The Basinger Design Group (spring 2009 - spring 2010)

Graphic Designer

Print and web design, responsible for projects distributed nationwide.

- Clients included Centrix Pharmaceuticals, Royal Cup Coffee and Valmont Nevmark
- Developed advanced Photoshop techniques and skills

The Samford Crimson (fall 2008 - spring 2010)

Art Director

Infographics and advertising design, page layout

TECHNICAL SKILLS

Strong working knowledge in both Macintosh and PC platforms.
Adobe Photoshop, InDesign, Illustrator, Dreamweaver, Flash, Acrobat, Bridge, Fireworks; Microsoft Powerpoint and Word.

Knowledgeable and capable in HTML, CSS, and Wordpress.

APPENDIX 1

KW DESIGN

Katie Wohlwend

CONTACT

407718.3312
katie@kw-design.com
www.kw-design.com

EDUCATION

Samford University
B.S., Graphic Design

KW DESIGN

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STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION

Confirmation Number: 20190815091820102

Type License: 020 - RESTAURANT RETAIL LIQUOR State: 1300.00 County: 1300.00
Trade Name: BOBBY CARLS TABLE Filing Fee: \$50.00
Applicant: BOBBY CARLS LLC Transfer Fee:

Location Address: 2031 CAHABA RD, SUITE A MOUNTAIN BROOK, AL 35223
Mailing Address: 2031 CAHABA RD, SUITE A MOUNTAIN BROOK, AL 35223
County: JEFFERSON Tobacco sales: NO Tobacco Vending Machines:
Type Ownership: LLC

Table with 4 columns: Name, Title, Date and Place of Birth, Residence Address. Includes entries for CHRISTIE LOWE and BOBBY CARLS MCLEMORE III.

Has applicant complied with financial responsibility ABC RR 20-X-5-14? YES
Does ABC have any actions pending against the current licensee? NO
Has anyone, including manager or applicant, had a Federal/State permit or license suspended or revoked? NO

Contact Person: CHRISTIE LOWE Home Phone: 205-901-5411
Business Phone: 205-901-5411 Cell Phone: 205-901-5411
Fax: E-mail: CHRISTIE@BOBBYCARLSSTABLE.COM

PREVIOUS LICENSE INFORMATION: Trade Name: Applicant:



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION

Confirmation Number: 20190815091820102

If applicant is leasing the property, is a copy of the lease agreement attached? YES
Name of Property owner/lessor and phone number: ENGLISH VILLAGE LLC 205-624-5411
What is lessors primary business? REAL ESTATE
Is lessor involved in any way with the alcoholic beverage business? NO

Does the premise have a fully equipped kitchen? YES
Does the establishment have restroom facilities? YES
Is the premise equipped with services and facilities for on premises consumption of alcoholic beverages? YES

Will the business be operated primarily as a package store? NO
Building Dimensions Square Footage: 2533 Display Square Footage:
Building seating capacity: 60 Does Licensed premises include a patio area? YES
License Structure: ONE STORY License covers: OTHER
Location is within: CITY LIMITS Police protection: CITY

Has any person(s) with any interest, including manager, whether as sole applicant, officer, member, or partner been charged (whether convicted or not) of any law violation(s)?

Table with 4 columns: Name, Violation & Date, Arresting Agency, Disposition. Includes entry for ROBERT CARL MCLEMORE III with a 15-year sentence for robbery.

APPENDIX 2



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION

Confirmation Number: 20190815091820102

Private Clubs / Special Retail / or Special Events licenses ONLY

Private Club

Does the club charge and collect dues from elected members?
Number of paid up members:
Are meetings regularly held?
How often?
Is business conducted through officers regularly elected?
Are members admitted by written application, investigation, and ballot?
Has Agent verified membership applications for each member listed?
Has at least 10% of members listed been confirmed and highlighted?
Agent's Initials:
For what purpose is the club organized?
Does the property used, as well as the advantages, belong to all the members?
Do the operations of the club benefit any individual member(s), officer(s), director(s), agent(s), or employee(s) of the club rather than to benefit of the entire membership?

Special Retail

Is it for 30 days or less?
More than 30 days?
Franchisee or Concessionaire of above?
Other valid responsible organization:
Explanation:

Special Events / Special Retail (7 days or less)

Starting Date: Ending Date:
Special terms and conditions for special event/special retail:

Other Explanations

License Covers: SUITE A



STATE OF ALABAMA ALCOHOLIC BEVERAGE CONTROL BOARD ALCOHOL LICENSE APPLICATION

Confirmation Number: 20190815091820102

Initial each

Signature page
In reference to law violations, I attest to the truthfulness of the responses given within the application.
In reference to ACT No. 89-529, I understand that if my application is denied or discontinued, I will not be refunded the filing fee required by this application.
In reference to Special Retail or Special Events retail license, I agree to comply with all applicable laws and regulations concerning this class of license, and to observe the special terms and conditions as indicated within the application.
In reference to the Club Application information, I attest to the truthfulness of the responses given within the application.
In reference to the transfer of license/location, I attest to the truthfulness of the information listed on the attached transfer agreement.
In accordance with Alabama Rules & Regulations 20-X-5-01(4), any social security number disclosed under this regulation shall be used for the purpose of investigation or verification by the ABC Board and shall not be a matter of public record.
The undersigned agree, if a license is issued as herein applied for, to comply at all times with and to fully observe all the provisions of the Alabama Alcoholic Beverage Control Act, as appears in Code of Alabama Title 20, and all laws of the State of Alabama relative to the handling of alcoholic beverages.
The undersigned, if issued a license as herein requested, further agrees to obey all rules and regulations promulgated by the board relative to all alcoholic beverages received in this State. The undersigned, if issued a license as herein requested, also agrees to allow and to hereby invites duly authorized agents of the Alabama Alcoholic Beverage Control Board and any duly commissioned law enforcement officer of the State, County or Municipality in which the license premises are located to enter and search without a warrant the licensed premises or any building owned or occupied by him or her in connection with said licensed premises. The undersigned hereby understands that he or she violate any provisions of the aforementioned laws his or her license shall be subject to revocation and no license can be again issued to said licensee for a period of one year. The undersigned further understands and agrees that no changes in the manner of operation and no deletion or discontinuance of any services or facilities as described in this application will be allowed without written approval of the proper governing body and the Alabama Alcoholic Beverage Control Board.
I hereby swear and affirm that I have read the application and all statements therein and facts set forth are true and correct, and that the applicant is the only person interested in the business for which the license is required.

Applicant Name (print): Christie Lowe
Signature of Applicant: [Signature]
Notary Name (print): Valencia Johnson
Notary Signature: [Signature] Commission expires: 4/22/22
Application Taken: App. Inv. Completed: Forwarded to District Office:
Submitted to Local Government: Received from Local Government:
Received in District Office: Reviewed by Supervisor: Forwarded to Central Office:

2019-115

BID TABULATION AND RECOMMENDATION
BID NUMBER B-20190719-534
CITY OF MOUNTAIN BROOK
CONEX STORAGE BUILDING

Four bids were received on August 15, 2019 by 10:00 am at Mountain Brook City Hall.

Falcon Structures	\$15,455.00
Decatur Container Sales and Rental	\$18,230.00
Mobile Mini	\$16,602.00
Mobile Mini Alternate Bid	\$16,832.00

It is my recommendation to award the bid to Falcon Structures.

Four bids were received on August 15, 2019 by 10:00 am at Mountain Brook City Hall.
 Lt. Jason Carmack
 Patrol Division Commander
 Mountain Brook Police Dept.

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 Lt. Jason Carmack
 Patrol Division Commander
 Mountain Brook Police Dept.

Decatur Container Sales and Rental	\$18,230.00
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APPENDIX 3

DEVELOPMENT CONTRACT FOR IMPROVEMENTS ALONG POE DRIVE

This Development Contract For Improvements Along Poe Drive (the "Contract") is entered into by and between the City of Vestavia Hills, Alabama, a municipal corporation (hereinafter referred to as "City"), and Kadco, LLC, an Alabama limited liability company, with its principal address 2505 Bent River Road, Birmingham, Alabama 35216 (hereinafter referred to as "Developer"). This Contract will be effective on the last date that is executed below by a party (the "Effective Date").

RECITALS:

WHEREAS, Poe Drive is a public street in Jefferson County, Alabama, that lies and runs between Overton Road in the City and the Cahaba Heights area in the City of Vestavia Hills, Alabama ("Vestavia Hills");

WHEREAS, the Developer is constructing improvements on private properties that lie along Poe Drive (the "Project");

WHEREAS, as part of the Project, Developer desires to construct a sidewalk on public rights of way along Poe Drive in both the City and in Vestavia Hills (the "Sidewalk"), and, per the Plans (as defined below), obtain and install in the City a new light pole that is similar in design and functionality to those poles being placed in Vestavia Hills in connection with the Project (collectively, the "Other Improvement");

WHEREAS, the Sidewalk to be constructed in the City lies on the west side of Poe Drive and will extend approximately 120 linear feet (the "City Section of Sidewalk");

WHEREAS, at or near the municipal boundary of the City and Vestavia Hills along Poe Drive, the City Section of Sidewalk will connect to another section of sidewalk that, pursuant to a Contract that the Developer previously has entered or will enter with Vestavia Hills, it will construct and which will extend approximately 850 linear feet in Vestavia Hills (the "Vestavia Hills Section of Sidewalk");

WHEREAS, the construction of the City Section of Sidewalk and Other Improvement lying in the City collectively may be referenced herein as the "Work";

WHEREAS, Developer has requested that, on successful completion of the Work lying in the City, the City pay it an amount not to exceed Twenty Thousand Dollars (\$20,000.00) to partially defer the Developer's expense for that Work (the "City Contribution");

WHEREAS, the City is authorized by Title 11-48-4, Code of Alabama, 1975, to make the City Contribution and pay other public funds for the construction, repair, maintenance and improvements of public streets and sidewalks; and

WHEREAS, the City and Developer agree to enter this Contract for it to perform the Work and the City pay the City Contribution pursuant to the terms, provisions, conditions and requirements set forth below.

WITNESSETH

In consideration of the mutual covenants, promises and premises contained herein and other good and valuable consideration, the receipt and sufficiency is whereof is hereby acknowledged by each of the parties hereto, the City and the Developer agree as follows:

I. RECITALS

The recitals set forth above are incorporated into this Contract by reference as though set out fully herein.

II. THE WORK

Developer shall cause and arrange for the Work in the City to be completed in the City pursuant to the following terms, provisions, conditions and requirements:

A. Developer, at its sole expense, will arrange for the preparation by a professional engineer (or other design professionals) of the design, drawings, plans, and specifications for the Work (the "Plans"). The parties anticipate a common set of Plans will address both the Work in the City and the component of the Project to be constructed in Vestavia Hills.

B. The Plans, which have been prepared by the professional engineering firm of Hager Co., LLC, and technical specifications for the City Section of Sidewalk and Other Improvement, and must be submitted to the City for its approval of the Work.

C. The location of the City Section of Sidewalk is depicted on the map attached hereto as Exhibit 1, which map is incorporated herein by reference as though set out fully herein.

D. The City Section of Sidewalk will be constructed on existing City right of way along Poe Drive. The City grants Developer and its General Contractor a license for purposes and uses contemplated in this Contract to enter and make improvements on the affected sections of City right of way along Poe Drive.

E. Developer agrees that the City Section of Sidewalk and Other Improvements will be constructed only on City right of way. Developer will procure a survey from a professional engineer to confirm the limits of that right of way and assist in restrict the constructions of those improvements to that area. The City has no obligation to purchase additional right of way or obtain construction easements that may be required for the Work. The Developer exclusively will be responsible to secure from third parties who may own properties near Work area any additional right of way or construction easements required for the Work. Developer also agrees to restore any private property damaged or affected by Work operations.

F. The Work shall be constructed all in accordance with the Plans.

III. LICENSED GENERAL CONTRACTOR

The parties anticipate that the Developer will enter a construction contract(s) (the "Construction Contract") with a licensed general contractor as defined by Title 34-8-1, Code of Alabama, 1975 (the "General Contractor") to perform both the Work lying in the City and construct the Vestavia Hills Section of Sidewalk.

IV. DEVELOPER'S RESPONSIBILITY FOR COST/ESTIMATED COST/PAYMENT OF CITY CONTRIBUTION

A. Cost. Developer is fully responsible to arrange for and bear the expense of all labor, materials and services incurred, related or required for the Work and completing that part of the Project lying in the City, including, without limitation, the following: compensating the General Contractor for their operations; compensating any consultant, surveyor, engineer, architect or other design professional or entity or third person for their services; permitting; preparation of the Plans; surveying expense; construction; supervision of the Work; landscaping; locating utilities; traffic control; compliance with insurance or other requirements in this Contract; furnishing all needed equipment and associated power; and providing any other incidentals related to the Work.

B. Estimated Cost. The estimated cost of constructing the Work lying in the City is approximately Fifty Thousand Dollars (\$50,000.00) (the "Estimated Cost"), but the final cost of it may exceed that amount. Notwithstanding whether the actual costs of the Work exceeds the Estimated Cost, the Developer exclusively is responsible to pay all expense of the Work.

C. City Contribution. Within fifteen (15) days following receipt of Developer's invoice indicating completion of the Work, the City will pay it the City Contribution (i.e., \$20,000.00). This payment is conditioned on occurrence of all of the following:

- (i) completion of the Work by the General Contractor in compliance with the Plans approved by the City; and
- (ii) compliance by the Developer with the terms, provisions, conditions and requirements herein;
- (iii) final inspection, written approval and acceptance by the City of the Work performed by the General Contractor; and
- (iv) substantial completion by the Developer of the Vestavia Hills Section of Sidewalk.

V. TERM OF CONTRACT/SCHEDULE FOR WORK

This Contract will commence on the Effective Date and thereafter continue for a period of twelve (12) months (the "Term").

Time is of the essence in performing the Work. Developer will arrange for the General Contractor to substantially complete the Work within approximately ninety (90) days after issuance of a written Notice to Proceed by the City. The City will not issue a notice to Proceed until after it

- A. approves the final Plans in writing; and
- B. receives from Developer the Certificate(s) of Insurance required herein.

VI. EARLY TERMINATION

Effective thirty (30) days after giving written notice to Developer, the City may terminate this Contract before the expiration of its Term for any of the following reasons:

- A. Substantial evidence indicates that the Work will not be completed within the specified time, and the Developer fails to cure that deficiency within thirty (30) days after the date of that notice.
- B. The Developer breaches any material obligation owed the City or responsibility hereunder, and fails to cure that breach within 30 days after the date of that notice.

The City's exercise of the right to terminate provided in this provision does not preclude it from utilizing other remedies available at law or in equity.

VII. CONSTRUCTION CONTRACT

The following understandings apply concerning the contemplated Construction Contract(s) that the Developer will enter for the Work:

- A. The City must approve any Construction Contract.
- B. Among other customary provisions for a project of the nature of the Work, any Construction Contract between the Developer and the General Contractor shall include provisions addressing the following matters and substantially stating as follows:

- (i) Quality of Work. All labor, materials and supplies applied/installed for the Work shall be executed in a professional, proficient and workmanlike manner; Further, General Contractor warrants the Work will be free from defects in material or workmanship for a period of twelve (12) months from the date of final acceptance of it.
- (ii) Insurance Requirements of General Contractor. The General Contractor shall carry the following types of insurance throughout the term of the Development Contract and performance of the Work:

- (1) General Comprehensive Liability and Public Liability Insurance with limits of One Million Dollars (\$1,000,000.00), per person, and Two Million Dollars (\$2,000,000.00), per occurrence, to cover and protect the City, and its officials, employees or representatives, against claims or injury to or death of any person because of accidents which may occur or result from operations under the contract; such insurance shall cover the use of any and all equipment, including but not limited to machinery, tractors, rollers, mixers, motor vehicles and other related equipment necessary to perform the Work.
- (2) Property damage insurance in the amount of not less than Five Hundred Thousand Dollars (\$500,000.00) to protect the Developer, the Licensed General Contractor and its subcontractors from claims for property damage which might arise from the Work performed.
- (3) Worker's Compensation Insurance in accordance with the State of Alabama Worker's Compensation Law. This coverage shall provide protection from any and all claims for bodily injury or death which may arise from the performance of any servant, agent, employee or other representative of the General Contractor and its subcontractors under the Construction Contract.

Before commencing the Work, the General Contractor shall submit evidence of the coverages required above to the City for review and approval. The policies must be on an "occurrence" basis. The evidence of coverages may be in the form of Certificate(s) of Insurance. A Notice to Proceed for the commencement of the Work shall not be issued by the City unless and until the City has provided

Such insurance shall be carried with financially responsible insurance companies who are licensed in the state and approved by the City and shall be kept in full force and effect until the Work is accepted by the City. Contracts of insurance (covering all operations under this contract) which expire before the Developer's work is accepted by the City shall be renewed and evidence of such renewal shall be submitted to the City for its approval.

Except for the Worker's Compensation policy, the required insurance coverages shall name the City and its employees, officials and representatives as additional insureds for claims caused in whole or in part by the General Contractor's negligent acts or omissions during its operations. The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds.

- (iii) Indemnification. The General Contractor shall indemnify and save harmless the City, and its employees, officials and representatives (the "City Representatives") from any and all claims, demands, controversies, actions, causes of action, liabilities of action, lawsuits, liabilities, damages and losses and expenses (including but not limited to attorney fees) (collectively, "Claims") arising out of or resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of the negligent or willful acts of the General Contractor, a subcontractor and anyone directly or indirectly employed by them in performing the Work. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to or result from the Work. Further, the scope of this indemnification obligation includes Claims against the City or any City Representative in which their negligence causes or is alleged in part to have caused the alleged damage, expense or loss, but does not extend to Claims caused or allegedly caused by the sole negligence or conduct of the City or the City Representatives.
- (iv) Other Provisions to be Included in Construction Contract.

- (1) Compliance with Applicable Laws. The General Contractor shall comply with the provisions of any and all federal, state and local laws, statutes, codes, rules, regulations, ordinances and resolutions that are applicable to the performance of the Work or this Contract, including, without limitation those related to protection of workers or environmental laws intended to protect the water, air, health or safety of the public.
- (2) Existing Underground Utilities. Before any Work is done in the vicinity of an existing underground utility line, the General Contractor or Developer shall check with the owner of the utility lines to determine and verify its exact location. The Developer shall be held liable for any damage to utilities in the execution of this Contract.
- (3) Safety/Accident Prevention. In performing the Work the General Contractor is exclusively responsible for the safety of its workers and third persons. It shall exercise proper precaution at all times to protect persons and property, either on or off the site, for damage or loss that may occur as a result of its prosecution of the Work. The City makes no representations that the Work site is safe, free of any defect (latent or patent), or otherwise fit and appropriate for performance of the Work.

2019-116

- (4) **Removal of Debris & Cleaning.** During the progress of the Work, the General Contractor shall remove and legally dispose of all surplus excavated material and debris, and keep the Project site and public rights of way reasonably clear. Upon completion of the Work, it shall remove all temporary construction facilities, debris and unused materials, and put the whole site and public rights of way in a neat and clean condition. Trash burning on the site will be subject to the approval of the City and existing state and local regulations.
- (5) **Immigration Law Compliance.** General Contractor represents and warrants to the City: (i) it does not knowingly employ, hire for employment, or continue to employ, in Alabama, an "unauthorized alien," as defined by the Beaumont-Hammond Alabama Taxpayer and Citizen Protection Act, §31-13-1, et seq., Code of Alabama 1975, as amended (the "Act"); (ii) it will enroll in the E-Verify program prior to performing any Services in Alabama and shall provide documentation establishing that it is enrolled in the E-Verify program. During the performance of this Agreement, the General Contractor shall participate in the E-Verify program as required under the terms of the Act and shall verify every employee in Alabama that is required to be verified according to the applicable federal rules and regulations; (iii) it will comply with all applicable provisions of the Act with respect to subcontractors, if any, that it engages for the Work by entering into an agreement with or by obtaining an affidavit from such subcontractors providing work on the in Alabama that such subcontractors are in compliance with the Act with respect to their participation in the E-Verify program. General Contractor further represents and warrants that it shall not hire, retain or contract with any subcontractor to perform the Work in Alabama which it knows is not in compliance with the Act; and (iv) by signing this Agreement, it affirms, for the duration of the Agreement, that it will not violate federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. If the General Contractor is found to be in violation of this provision, it shall be deemed in breach of the Agreement and shall be responsible for all damages resulting therefrom.
- (6) **Compliance with Boycott Limitations.** Act 2016-312 of the Alabama Legislature (which is codified at Ala. Code § 41-16-5 (1975)) prohibits a governmental entity from entering into certain public contracts with a business entity unless the contract includes

a representation that the business is not currently engaged in, and an agreement that the business will not engage in, the boycott of a person or an entity based upon the person or business doing business with a jurisdiction with which the state can enjoy open trade. The General Contractor represents and warrants that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade."

C. Right of Inspection. During the construction of the Work, the City has the right, but not the obligation, to inspect, examine and test the materials and workmanship to be furnished by the General Contractor to determine compliance with applicable Plans and specifications. The City also shall have the right to reject defective materials and non-compliant work and/or require its correction. Unacceptable workmanship shall be satisfactorily corrected by the Developer or General Contractor at its expense to the City. Rejected material shall be promptly segregated and removed from the project area and be replaced with material of specified quality without charge therefore. If the General Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City may contract for or otherwise have the defects remedied or rejected materials removed from the project area and charge the cost of the same against any monies which may be due the Developer under this Contract without prejudice to any other rights or remedies of the City to cure those deficiencies.

VIII. DEVELOPER GUARANTEE AND INDEMNIFICATION BY DEVELOPER

Developer unconditionally guarantees to the City that the General Contractor (i) will successfully construct that part of the Work lying in the City and the Vestavia Hills Section of Sidewalk pursuant to the Plans and specifications, and (ii) faithfully perform all of its obligations in the contemplated Construction Contract (the "Developer Guarantee"). If the part of the Project lying in the City is not so constructed pursuant to Plans or the General Contractor breaches its obligations under the Construction Contract, Developer, at its expense, agrees to take whatever necessary action is required to so complete the Work (including, without limitation, hiring another construction contractor or making other arrangements to finish any incomplete operations or cure any defects in material or workmanship) or otherwise remedy any dispute, claim, circumstance, condition, matter or issue arising from the General Contractor's failure to perform its obligations in the Construction Contract.

Further, Developer agrees to indemnify and save harmless the City, and its employees, officials and representatives (collectively, the "City Representatives"), from any and all claims, demands, controversies, actions, causes of action, liabilities, lawsuits, liabilities, damages and losses and expenses (including but not limited to attorney fees) (collectively, "Claims") asserted against them by any third person, entity or governmental agency arising out of, related to or

resulting from (i) any acts, operations, conduct or omissions of either the General Contractor or the Developer in performing or failing to perform the Work, or (ii) the General Contractor's failure to perform its obligations under the Construction Contract. The scope of this indemnification obligation includes Claims made against the City or any City Representative in which their negligence causes or is alleged in part to have caused the alleged damage, expense or loss, but does not extend to Claims caused or allegedly caused by the sole negligence or conduct of the City or the City Representatives.

IX. MISCELLANEOUS CONTRACT PROVISIONS

- A. Independent Contractor.** The Developer is an independent contractor of the City. Nothing herein creates, or should be construed to create, a principal-agent or employer/employee relationship between the City and Developer.
- B. No Assignment by Developer.** Developer may not assign this Contract or any of its responsibilities, benefits or rights hereunder to any third person or party in any respect without having first obtained the written consent of the City.
- C. Non-Waiver.** The failure of the City to insist, in any one or more instances, upon a strict performance of any of the covenants of this Contract, or to exercise any option herein contained, shall not be construed as a waiver, or a relinquishment for the future of such covenant or option, but the same shall continue and remain in full force and effect.
- D. Amendment/Modification.** This Contract may not be amended except by a subsequent written agreement of the parties. Any waiver, alteration or modification of any of the provisions of this Contract or cancellation or replacement of this agreement shall not be valid unless in writing and signed by the parties hereto.
- E. Contract Representatives.** Each Party shall appoint a representative who shall coordinate with the other party on all matters related to the performance of the Work and the administration of this Contract (the "Contract Representative").
- F. Notices.** Any notice required or contemplated hereunder shall be sufficiently given when sent to the appropriate Contract Representative via United States certified mail, return receipt requested, or via overnight courier with receipt verification to the address set forth herein, or by personally delivering such notice to the party intended to be in receipt thereof.
- G. Governing Law.** This agreement shall be interpreted, construed and governed to the laws of the State of Alabama.
- H. Headings.** The article and section headings and captions contained herein are included for convenience only and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.
- I. Construction of Terms.** If any ambiguity in the terms of this Contract is determined to exist, neither party shall be deemed its author, and no presumption shall be made that one party

drafted this instrument.

K. Execution in Counterparts. The Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

H. Binding Effect. The Contract shall inure to the benefit of, and shall be binding upon City and Developer and any of their heirs, successors and permitted assigns.

I. Severability. In the event any provision of this Contract shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

J. Entire Agreement. This writing contains the entire agreement between the City and the Developer concerning the Work and Project.

(Signature Page Follows)

IN WITNESS WHEREOF, the City and Developer have hereunto caused this Development Contract to be executed by their respective undersigned duly authorized officers or representatives.

CITY:
CITY OF MOUNTAIN BROOK,
ALABAMA
A Municipal Corporation
By: 
Its: Mayor
Date: 8/26/2019

ATTESTED
By: 
City Clerk, City of Mountain Brook, Alabama

DEVELOPER:
KADCO, LLC
An Alabama limited liability company
By: _____
Its: _____
Date: _____

ATTESTED
By: _____

STATE OF ALABAMA
JEFFERSON COUNTY

ACKNOWLEDGEMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that STEVEN P. MOORE, whose name as Mayor of the City of Mountain Brook, Alabama, a municipal corporation, is signed to the foregoing Development Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said City.

Given under my hand and official seal, this the 26th day of August, 2019.


Notary Public

My Commission Expires:
9/13/2021
SEAL

STATE OF ALABAMA
JEFFERSON COUNTY

ACKNOWLEDGEMENT

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that _____, whose name as _____ of Kadco, LLC, an Alabama limited liability company, is signed to the foregoing Development Contract, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such officer and with full authority, executed the same voluntarily for and as the act of said Kadco, LLC, an Alabama limited liability company.

Given under my hand and official seal, this the _____ day of _____, 2019.

Notary Public

My Commission Expires:

SEAL



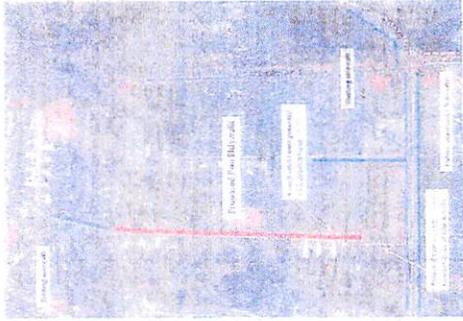


EXHIBIT 1 - MAP OF WORK AREA

13

See attached.





1004

CITY OF MOUNTAIN BROOK
Dana O. Hayes, M.P.A.
Director of Planning, Building & Sustainability
10 Church Street
Mountain Brook, Alabama 35223-0207
Telephone: 205.962.2812
Fax: 205.962.2813
info@mountainbrook.org
www.mountainbrook.org

DATE: August 26, 2019
TO: Mayor, City Council, and City Manager
FROM: Dana Hayes, City Planner
RE: 2817 Cahaba Road
Leaf & Petal Plant Stand - Right Of Way Peninsula

Leaf and Petal proposes a metal plant stand in the right-of-way peninsula at the corner of Cahaba Road and Leaf & Petal Alley (see attached zoning map). The Village Design Review committee reviewed the plant stand on August 21, 2019, and recommended approval with the attached design changes (see attached VDR document letter).

Public Works has evaluated the planting of a new tree in this location, and has submitted design suggestions that will allow for future tree growth and peninsula tree maintenance. Said design considerations have been incorporated into the VDR's recommendations.

The Police Department has indicated that the height of the stand, taken together with any plants thereon placed, should not exceed 42 inches in height above the grade, within the vehicular sight distance triangle at the intersection of Cahaba Road and Canterbury Alley. Said design consideration has been incorporated into the VDR's recommendations.



Minute Book 90

CITY OF MOUNTAIN BROOK
Dana O. Hayes, M.P.A.
Director of Planning, Building & Sustainability
10 Church Street
Mountain Brook, Alabama 35223-0207
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VILLAGE DESIGN REVIEW COMMITTEE
CASE SUMMARY LETTER

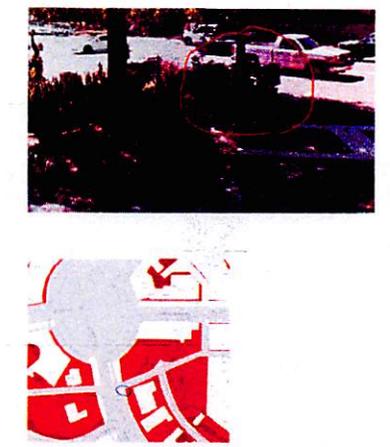
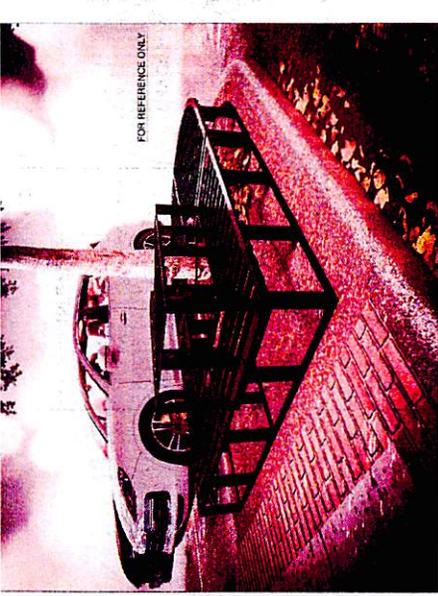
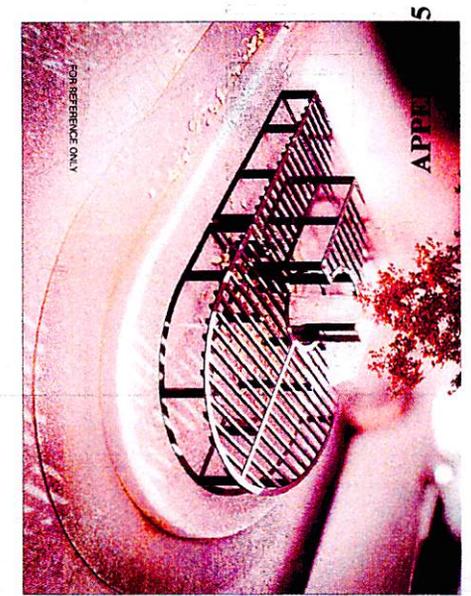
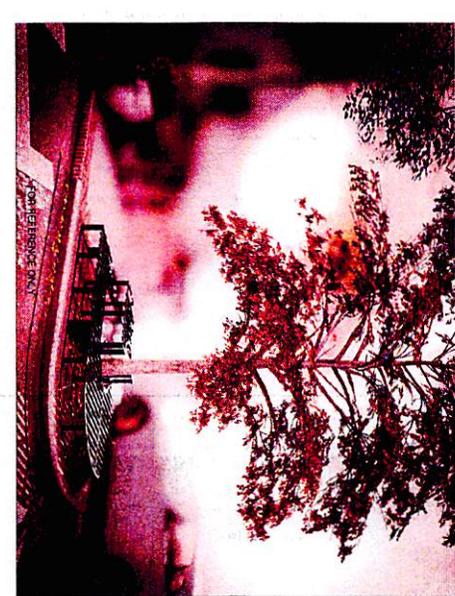
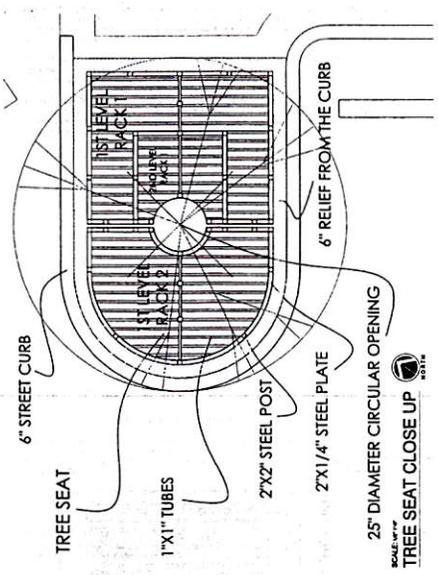
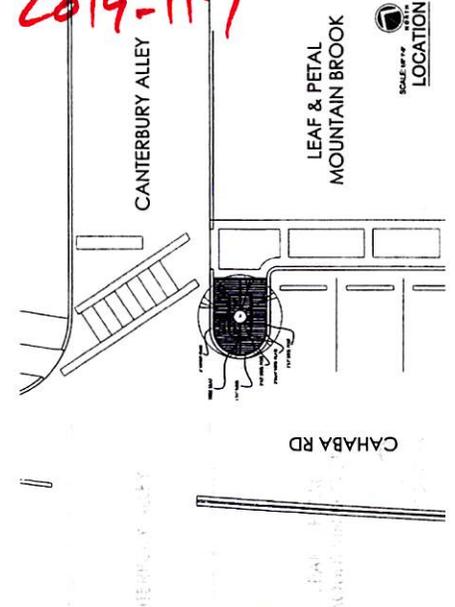
Case: V-19-21
Meeting Date: August 21, 2019
Location: 2817 Cahaba Road
Business name: Leaf & Petal
Applicant: Pam Clark
pam@leafandpetal.com

The Village Design Review Committee recommends approval of the plan, in and to the right of a peninsula at Leaf & Petal. The following design components are recommended to the city council:

1. That there be a minimum 6-inch clearance from the outer edge of the plant stand to the "back" of the curb. That the intersect tree "well" (or circular opening) be at least 18 inches in diameter.
2. That the stand be composed of at least 2 pieces that could "break away" for tree and peninsula maintenance.
3. That the lower tier be a minimum of 12 inches below the grade below.
4. That the upper tier be allowed up to 24 inches above the top face of the lower tier (for a total height not to exceed 36 inches from the grade below).
5. That the upper tier be located in locations at the sides and ends of the tree trunk (away from Cahaba Road), for improved vehicular sight distance.
6. That any plants, taken together with the plant stand, shall not exceed and exceed height of 42 inches measured from the grade below the plant stand (in locations to the front west of the tree trunk), for improved vehicular sight distance.

Dana O. Hayes, M.P.A., AICP
Director of Planning, Building & Sustainability

2019-117



2019-120

Chief Mullins,

Bids were submitted to the City by both Henry Schein Incorporated and Stryker Sales Corporation for **BID # B-20190724-536** (Supply and Maintain Automated Chest Compression Devices). After careful review of both bids, it is my recommendation that the City award the contract to Henry Schein Incorporated based on a total bid of **\$28,977.00** and ability to meet the specifications without exceptions. Stryker Sales Corporation's total bid was an additional **\$6,225.00** (\$35,202.00 after trade-in of two old Zoll devices). Stryker's bid was also without exceptions.

Stacey L. Cole

Deputy Chief / Emergency Operations
Mountain Brook Fire Department
Office: (205) 802-3831
Cell: (205) 438-2569
Email: Coles@mtbrook.org

APPENDIX 6

OVERTON VILLAGE TOWN HOMES

P-19-23



Planning Commission Application PART I

Address of Subject Property 3790 Fairhaven Drive 35249
 Zoning Classification R-10 Single-Family
 Name of Property Owner(s) Overton Village Condos, LLC, by Marc Redman
 Phone Number (205) 987-3000 Email mrc@overtonvillage.com
 Name of Representative Agent (if applicable)
 Name
 Phone Number
 Name of Engineer or Surveyor Walter Schaefer, Engineering
 Phone Number (205) 333-6166 Email wschaefer@wpsurvey.com

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.

Section 3. The provisions of this ordinance are severable. If any provision of this ordinance is held to be invalid, such invalidity shall in no way affect the remaining provisions of this ordinance.

Section 4. This ordinance shall become effective when published by posting the same as required by law.

At the aforesaid time and place, all interested parties will be heard in relation to the changes proposed by said ordinance.

CERTIFICATION

I, Tammy Reid, Administrative Analyst for the City of Mountain Brook, Alabama, do hereby certify that I have caused notice of the proposed amendment to the zoning ordinance and of public meeting thereon set forth above to be published and provided in the manner specified by Article XXV, Sec. 129-431, of the Mountain Brook City Code. I further certify that I have posted said notice in four conspicuous places within the City of Mountain Brook, in the manner and within the time permitted by law, and places being:

- Mountain Brook City Hall, 56 Church Street
- Gilchrist Pharmacy, 2350 Cahaba Road
- Cahaba River Walk, 3501 Overton Road
- Overton Park, 3020 Overton Road

Tammy Reid, Administrative Analyst

ZONING NOTICE

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, August 26, 2019, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35211, the City Council will consider and may adopt an ordinance regarding a proposal that the City Council adopt an ordinance to amend the zoning ordinance as follows:

ORDINANCE NO.

AN ORDINANCE TO REZONE A PARCEL OF LAND IN THE CITY OF MOUNTAIN BROOK, ALABAMA FROM RESIDENCE-G DISTRICT TO RESIDENCE-F DISTRICT

WHEREAS, after due consideration, the City Council has determined that the zoning classification of the real estate owned by Overton Village Condos, LLC, which is located along Fairhaven Drive, in the City of Mountain Brook, Alabama, should be zoned Residence-F District; and such property being presently zoned Residence-G District;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK AS FOLLOWS:

Section 1. The zoning map of the City of Mountain Brook, as referred to in Chapter 129, Article VII of the Mountain Brook City Code, as amended from time to time, is hereby further amended by zoning to Residence F District the following described real property, said property currently zoned Residence-G District:

3790 Fairhaven Drive;

A parcel of land situated in the corporate limits of the City of Mountain Brook, being a part of Lot 1, Block 2, Overton Village as recorded in Map Book 227, Page 52, in the Probate Office of Jefferson County, Alabama and more particularly described as follows:

Begin at the Southeast corner of Lot 1, Block 2, Overton Village as recorded in Map Book 227, Page 52, in the Probate Office of Jefferson County, Alabama, said point also being on the Westerly right-of-way line of Fairhaven Drive; thence in a Northerly direction along the Easterly line of said Lot 1 and along the Westerly right-of-way line of Fairhaven Drive a distance of 269.94 feet to the easterly corner of said Lot 1; thence in a Northerly direction along said Lot 1; thence 91.5107 feet to the left in a Southerly direction along a line of said Lot 1 and its prolongation a distance of 349.93 feet to a point on the Southerly line of said Lot 1; thence 88°32'43" to the left in an Easterly direction along the South line of said Lot 1 a distance of 144.99 feet to the Point of Beginning.

Contains 21,163.9 Square Feet or 1.2 Acres

P-19-23

Statement of Purpose

In support of Request for Rezoning at: 3790 Fairhaven Drive, 35249

The subject property is currently zoned Residence G' Stacked Flats, which was granted by the City on May 14, 2018. Prior to this date, the property was zoned Mixed Use for approximately 6.0 acres with a proposed 10-unit townhome development. The property is currently zoned with 3-units, height restriction, and low building with 4-units. Each unit will contain a two-car garage accessed from a common drive along the rear of the property.

The subject property is located within the Overton Village designation, and all buildings/units will be subject to the Village Overlay standards. Those include, but are not limited to a density of units, height restriction, exterior facade materials and landscape requirements.

The requested rezoning will reduce the number of units permitted in the Residence G' zoning from 23 units to 10 units total.

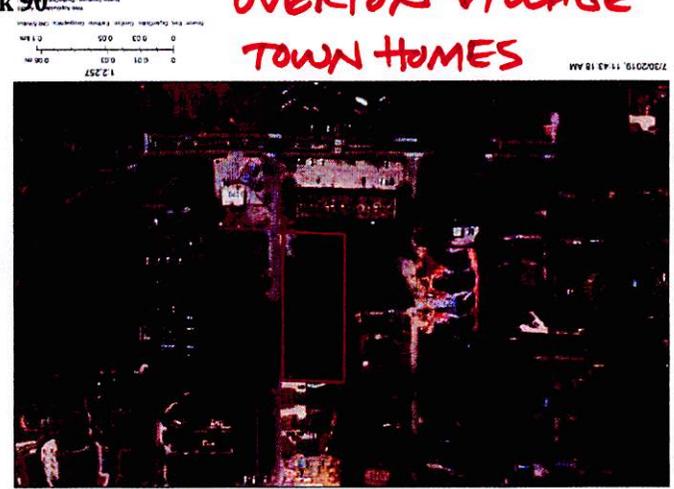
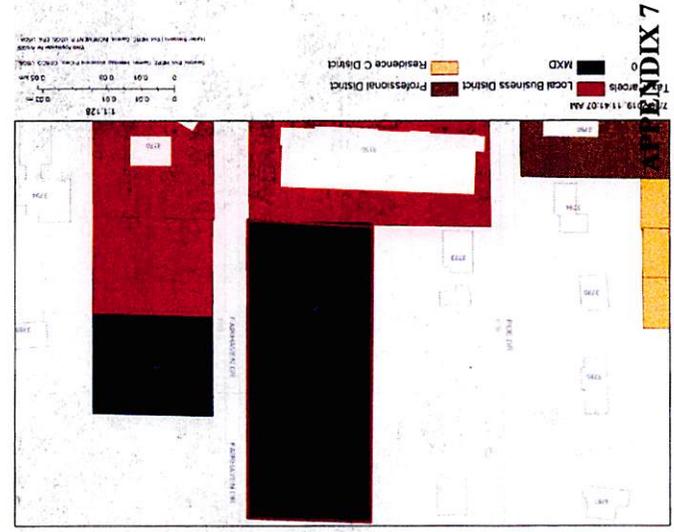
The subject property (3790 Fairhaven Drive) proposed for the town buildings of 10 units is 6.0 acres with a proposed 10-unit townhome development. The property is currently zoned with 3-units, height restriction, and low building with 4-units. Each unit will contain a two-car garage accessed from a common drive along the rear of the property.

All units proposed for the Overton Village development will be designed to attract purchasers who are primarily desiring to own-size from larger single family homes in Mountain Brook who are willing to pay a premium for the location and amenities of the development, and those who are to remain in the community where they have lived for a significant period of time, such as courts, businesses, or daycares in the development.

I trust that the above narrative satisfactorily describes the scope of the project.

By: Marc Redman
For Overton Village Condos, LLC

Date: 8/17



P-19-23

Petition Summary

Request to rezone a parcel of land in the City of Mountain Brook from Residence-G District (stacked flats) to Residence-F District (townhomes) for a 10-unit townhome development.

Recent Background

On August 5, 2019, the planning commission recommended approval of the proposed rezoning (Case P-19-23) as submitted.

Previous Rezoning Approval

On May 14, 2018 the city council approved the following:

- Rezoned two Fairhaven Drive parcels from Mixed Use District (44 stacked flats atop 18,000 sq ft retail) to Residence-G District for 23 stacked flats (west side of Fairhaven Drive) (subject property); and from Mixed Use to Residence-F District for 4 town homes (east side of Fairhaven Drive);
- Amended the corresponding Overton Village Building & Development Regulating Plan from "Secondary Frontage" to "Residential Neighborhood Frontage";
- Approved alternate exterior materials in accordance with Section 129-556(b)(5) of the Mountain Brook City Code (approved by planning commission on October 2, 2017 - Case P-17-12)

Current Project Scope

The previously-approved townhome development on the east side of Fairhaven is moving forward. The subject rezoning to Res-F involves the property on the west side of Fairhaven, and is proposed for 10 townhomes, in lieu of the previously-approved 23 stacked flats. The Res-F zoning district is designed for implementation in the villages and is encouraged by the Village Master Plan.

Res-F Purpose & Applicability and other Code Provisions

Section 129-515 "The Residence F district may be applied to limited sites which can establish an effective transition from the villages to adjacent neighborhoods. The sites shall provide a high degree of pedestrian connectivity within the villages to increase accessibility and patronage of businesses, and to enhance the pedestrian character of the villages."

In addition to the development standards outlined in the Village Overlay for townhomes, the Res-F District outlines the following additional requirements specific to the Res-F district:

- ✓ **Sidewalks.** Sidewalks of not less than 5 feet in width shall be provided between any parking area and the building or buildings which they serve, and there shall be a curb between all parking areas and any adjacent sidewalk.

- ✓ The provision of alternative residential formats that are needed to add viability to any future village-like development;

And while the proposed multi-family project does not conform to the strict interpretation of the land use plan it does conform to the spirit and intent of mixing compatible, neighborhood-oriented uses that create human interaction and synergy.

Resurvey Approved

On December 3, 2018, the planning commission approved Case P-18-32, which was a resurvey, separating the large MB piece (west side of Fairhaven) from the Vestavia Hills piece (Poe Drive); these lots having been previously combined in conjunction with the approved mixed use project in 2007.

In October 2007, the Planning Commission approved Case 1731, a resurvey of Lots 2-7 & 33-35 of Block 2 and Lots 33 and 34 of Block 1, Glass's 3rd Addition to New Market; the plat was recorded in the Office of the Probate Judge of Jefferson County; no improvements to Fairhaven Drive were required.

Vestavia Hills Property on Poe Drive

The project is not inherently dependent on the approved townhome project to the west in Vestavia Hills for the purposes of shared parking, but there is a shared driveway for improved ingress/egress and emergency access/turn-around. The applicant has indicated that an shared ingress/egress easement.

Subject Property and Surrounding Land Uses

The property is undeveloped and is surrounded by a mixture of uses. To the north and west are single family dwellings, to the south are commercial uses and to the east are institutional uses (a church and an assisted living facility).

Affected Regulation

Article XXIX, Residence F District.

Article XXXI, Village Overlay Standards; Section 129-552(b), Permitted Uses and Building Type

Article XXXI, Village Overlay Standards; Section 129-555(b)(3), Parking, Vehicle and Pedestrian Access Standards, Shared or Off-Site Parking Management Agreement

Article XXXI, Section 129-556 (5), Alternate Materials

Appendix

LOCATION: 3790 Fairhaven Drive

EXISTING ZONING DISTRICT: Res-G (stacked flats)

APPLICANT: Overton Village Condos, LLC

- ✓ **Exterior lighting.** If artificial illumination is provided for a parking area, it shall be arranged so as to shine and reflect away from any adjacent residential areas and away from any streets adjacent to or near the parcel. No lighting fixtures used for any parking area shall be elevated more than 14 feet above the ground, except for a light which is installed on the ceiling of a porch of a dwelling unit and is designed to illuminate only such porch. Each lighting fixture shall be designed and installed so as to direct its beam of light below the horizontal plane of such lighting fixture.

✓ **Total Parking:**

- 15 spaces required
- 15 proposed
- ✓ Parking for all residential uses shall be located in the rear of any residential building, and no parking shall be permitted in any front yard, provided, however, that required parking for visitors may be permitted in the front of any building if located on-street and if said spaces are new spaces either dedicated or made available for public use.

Off-Street Parking:

- Required minimum per dwelling unit: 2 spaces.
- ✓ Proposed: 10 units x 0.5 = 5
- ✓ Proposed: 10 units x 2 = 10 off-street parking spaces.

Visitor Parking:

- Required minimum for 1-10 units: 0.5 parking space/dwelling unit
- ✓ Proposed: 10 units x 0.5 = 5
- ✓ Providing 5 spaces on Fairhaven Drive.

✓ **The proposed plan meets all above provisions for Res-F.**

Traffic Assessment

In conjunction with the previous 2017 plan, Skipper Consulting, Inc., conducted the attached traffic assessment. The major conclusions of the 2017 assessment were that the levels of service on Overton Road would be acceptable, and that a left turn lane onto Poe Drive from eastbound Overton Drive was warranted (townhome units on Poe Drive were an integral part of the MB project reviewed in 2017; such is not the case today; Vestavia has already approved townhomes on the Poe Drive parcel, without the requirement for a left turn lane.

In addition to the traffic analysis submitted by the applicant, the City contracted with Sain Associates to review Skipper's traffic analysis on behalf of the City. Sain's comments concur with that of Skipper Consulting (see attached memo from Becky White at Sain Associates).

Landscape Plan

The proposed landscape and planting plans reflect an overall design of landscape (placement of trees and shrubs, and an alternate species plant list). There are no required landscape regulations in Res-F.

Section 129-296, Buffers:

No buffer is required in Res-F; however, a 6-foot high fence is shown along the north and west property lines, and the landscape plan indicates the installation of trees and shrubs along portions of the north and west property lines.

Storm Water

Storm water detention is proposed to limit runoff rates from the developed site; underground detention facilities are proposed on each site, and are reflected on the attached civil drawing by School.

Effect on Schools

While the applicant has indicated that there will be no amenities provided for the development that would normally entice families with school-age children (such as play grounds or swimming pools), this does not guarantee a zero impact on the schools.

Based on the 2018 study of school-aged children by housing type in the city of Mountain Brook: 10 townhomes @ city average of 0.17 students/townhome = 1.7 students projected

Alternate Materials

Section 129-556 of the Village Overlay denotes specific exterior materials that may be used for residential building facades in the villages. Part 5 of said section allows the use of alternate facade materials with the approval of the Planning Commission. The proposed project utilizes a mix of alternate materials and, as such, requires Planning Commission approval in this regard.

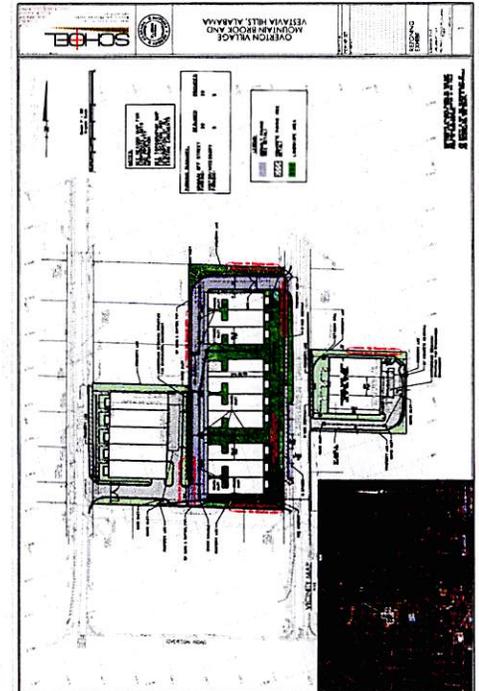
On October 2, 2017, the Planning Commission approved Case P-17-12, which included approval of the use of alternate exterior materials as set forth in the Village Design Review Committee case summary letter for Case V-17-15, with final VDR approval required for the placement and design of materials. The materials for this current project will follow the same format as previously approved.

Village Master Plan

The Village Master Plan was adopted in June 2007 and was being studied during the same time frame that the original Mixed Use rezoning proposal for this site was being considered by the Planning Commission (January 2007) and adopted by the City Council (February 2007). Therefore, the master plan recommendations for the subject site were purposely aligned with the mixed-use rezoning for this property at that time (such is actually noted in the master plan for Overton Village). Therefore, the master plan anticipates and recommends mixed use development for the subject site because that is what had been approved just prior to its adoption.

The rezoning proposal put forth today is not for mixed use, but for multi-family residential. And while the proposed use does not perfectly align with the land use plan policy map (because it excludes a commercial component), it does align with the overall master plan goals for Overton Village with respect to:

APPENDIX 7



P-19-23

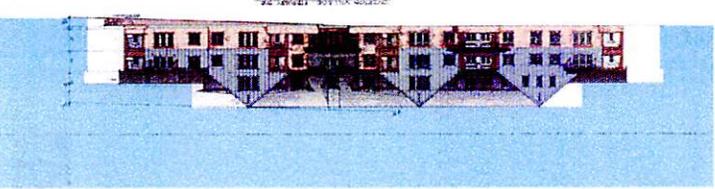
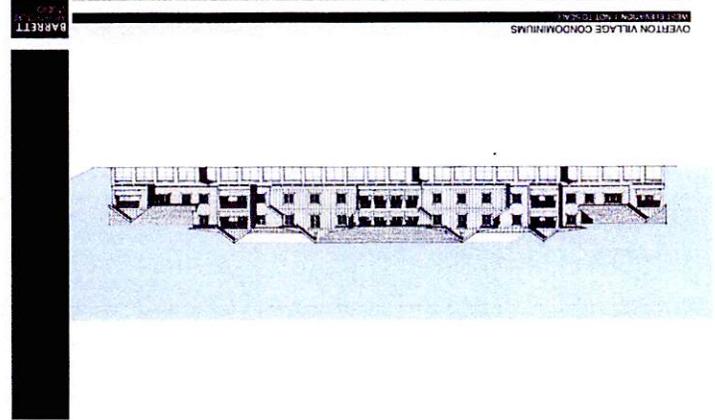
primary development plan of a new preliminary development plan according to other... and shall consider the plan based on the current circumstances at the time of the new submittal. (Ord. No. 1797, § 1(19-14-4), 2-25-2009, Ord. No. 1770, §(19-4-4), 5-12-2008)

P-19-23

A development schedule indicating the approximate commencement and completion dates... The development schedule will be submitted to the planning commission... (1) Approve the development plan, which approval would be evidenced by the signature of the... (2) Disapprove the development plan... (3) Make any comments on the development plan and, with the approval of the applicant, continue its consideration of the development plan to a future meeting of the city council or... (4) Approve the development plan subject to the applicant making certain specified minor revisions... (5) An application for rezoning to the Mixed Use District may be served by the city council based upon any one or more of the items of information included in the development plan or any supplemental... (6) An approved preliminary development plan shall be effective for up to 365 days from the date of the city council approval, after which time it shall be considered lapsed if substantial progress has not been made. The city council may grant one extension up to an additional 365 days. If prior to the expiration of the development plan, the applicant has not submitted a final preliminary development plan, the applicant shall be deemed to have abandoned the development plan and shall be ineligible to re-submit a new preliminary development plan until such time as the city council shall consider any future...

P-19-23

Signs, no development signage is allowed. Address numbers will be installed on the wall... The height of each building... The maximum height permitted for Townhomes with a Village... The roof structure height for a proposed building shall be 15.2 meters (50 feet) maximum... The total maximum... building is 15.2 meters from the maximum... The total height of all... The number of floors in each building... The number of square feet included within the parcel... The number of parking spaces and the location thereof relative to the... The materials with which the parking, driveway and sidewalk areas will be covered... The density of land use of the parcel, with tabulations by acreage and the percentage of the parcel to be covered by each proposed use... A copy of any proposed covenants or restrictions which will be imposed upon the parcel or any instruments thereon... The city council will be deemed to have approved the development plan and shall be available to all residents of the townhomes units.



APPENDIX 7



November 6, 2017

Ms. Dana Hazen
Director of Planning, Building & Sustainability
City of Mountain Brook
56 Church Street
Mountain Brook, AL 35213

Subject: Traffic Study Review for Overton Village Residential Development
SA # 17-0244

Dear Ms. Hazen:

At the City's request, I conducted a review of the traffic impact study assessment prepared by Mr. Aubrey Long, P.E. of Skipper Consulting, Inc. for the proposed Overton Village residential condominium development to be located on Fairhaven Drive and Poe Drive in Mountain Brook and Vestavia Hills. Overall I found the study accurate and in conformity with accepted traffic engineering practices.

Following is a summary of specific items that I believe are noteworthy:

- The new turning movement counts conducted in September 2017 compared to the counts from 2006 show an unusually high increase (more than 200%) in traffic volume for westbound Overton Road during the morning peak hour (394 vehicles in 2006 increased to 824 vehicles in 2017). The increase for this movement is much higher than for any other movement. It would be helpful to have Mr. Long's perspective on why the westbound morning traffic is so much higher than in the previous study.
- The reported intersection levels of service are what I would expect to see for stop controlled side street movements.
- On Friday, November 3, I conducted an observation of traffic operations during the morning peak from 7:30-8:00. I sampled wait times for traffic exiting Fairhaven Drive and Poe Drive. For Fairhaven Drive I was able to sample wait times for 8 vehicles; the times ranged from 3.4 seconds to 45.3 seconds with an average wait time of 14.45 seconds. Two vehicles were sampled for Poe Drive; their wait times were 15.9 seconds and 18.2 seconds. The sampled data wait times corroborate Mr. Long's assertion that the adjacent traffic signals at Crosshaven Drive and Asbury Place provide adequate gaps for traffic to exit the Fairhaven and Poe side streets.
- I concur with Mr. Long's estimation of trip making by the proposed development and the conclusion that this development proposal will generate fewer trips than the previous approved development proposal.

Two Pelham Park Court, Suite 500 East | Birmingham, Alabama 35243 | p: 205.940.4470 | f: 205.940.4433 | sain.com

Ms. Dana Hazen
November 6, 2017
Page 2

- I agree with the analysis that shows a turn lane is warranted on Overton Road eastbound approach to Poe Drive, however I wonder if there is sufficient right-of-way to install the turn lane or if the developer has the ability to acquire the necessary right-of-way. Has Mr. Long explored the feasibility of constructing the turn lane? How long would the lane need to be and what, if any, impact would it have to the intersection of Asbury Place and Overton Road.

I hope this summary will be helpful to the City as you consider the development request. If you have questions or need additional assistance, please contact me.

Sincerely,

Becky White, PIP
Principal / Owner
Sain Associates, Inc.



3644 Vanni Road, Suite 100
Birmingham, Alabama 35235
Phone (205) 655-8855 Fax (205) 655-8825

ATT: Dana Hazen
RE: Overton Village Development Traffic Study

November 9, 2017

Mr. Ron Durham
Durham Developers
1860 Stonegate Drive
Vestavia Hills, AL 35242

Mr. Durham,

The following paragraphs detail additional information/data collected and address comments received since the Overton Village traffic study assessment was completed on September 7, 2017.

Existing Traffic Observations:

Skipper Consulting conducted observations of traffic operations along Overton Road on October 30th 2017 during the morning and afternoon peak periods (7:30am-4:00pm). Heavy traffic volumes were noted along Overton Road during both periods and was very noticeable with most of the traffic leaving west in the morning and east in the afternoon. Key items noted during the observations were the impact of both signals on Overton Road (Crosshaven & Asbury Pl). The signals are located at each end of the study corridor, which allows for gaps in traffic flows along Overton Road. These gaps were considered acceptable as no significant queues were noted on the side streets during our observations.

Proposed Alternate Routes:

As noted previously, trips generated by the proposed development are anticipated to utilize Poe Drive and Fairhaven Drive via Overton Road to access the property. Based on comments received regarding additional traffic along other local streets, we reviewed potential alternate routes that could be utilized to access the subject property. After reviewing the local roadways, it was determined that trips exiting the proposed development could potentially utilize Poe Drive and/or Fairhaven Drive to connect to Crosshaven Drive. This movement could be beneficial due to the traffic signal at Overton Road and Crosshaven Drive. However, this route would not be considered a cut-thru route as it covers a longer distance to reach Overton Road. It is our opinion that only existing vehicles heading east at Overton Road would potentially use Crosshaven Drive to access Overton Road (as noted previously in the study).



3644 Vanni Road, Suite 100
Birmingham, Alabama 35235
Phone (205) 655-8855 Fax (205) 655-8825

September 7, 2017

Mr. Ron Durham
Durham Developers
1960 Stonegate Drive
Vestavia Hills, AL 35242

Mr. Durham,

At your direction, we have undertaken and completed an updated traffic study assessment for the proposed Overton Village residential condominium development to be located along Fairhaven Drive and Poe Drive in Mountain Brook & Vestavia Hills, Alabama. The focus of this assessment is to update a previous traffic study conducted in July 2006 based on changes to the proposed land uses and existing traffic along the study roadways. The following paragraphs summarize the steps taken as well as our findings and recommendations.

Background Information

The purpose of the traffic assessment was to determine the impacts of revising the proposed land uses for the Overton Village development. The previous traffic impact study was based on multiple land uses, including residential condominiums, office space and specialty retail. The results of the previous study indicated the study intersections would operate with acceptable levels of service along Overton Road and poor levels of service on the side streets. However, the traffic signals along Overton Road would provide acceptable gaps to allow vehicles to enter Overton Road from Poe Drive and Fairhaven Drive without major delays. Also, a left-turn lane was warranted along Overton Road at the Poe Drive intersection (eastbound). The previous conducted traffic impact study is attached to this memo for reference (Exhibit A).

It is important to note, the Overton Village development as previously proposed was approved by the City of Vestavia Hills and the City of Mountain Brook in 2007. The proposed revised land uses of the Overton Village development would reduce the amount of expected land use units and therefore reduce the amount of traffic expected to be generated by the development.

Existing Conditions - 2017

Traffic counts used in the previous 2006 traffic study are more than ten years old and potentially would not be an accurate representation of current traffic in the area. Therefore, new turning movement counts at the study intersections were conducted as part of this assessment. Also, guidelines used for conducting capacity analysis

Based on the projected outbound development trips, a range of 0 to 10 vehicles in the morning peak hour and 0 to 5 vehicles in the afternoon peak hour could potentially utilize the Crosshaven Drive route to access Overton Road.

Traffic Volume Increases

An external review of previous (2006) and current (2017) traffic counts was conducted. It was noted that westbound traffic volumes along Overton Road approximately doubled over the ten year period, which is an unusually high increase. It is our opinion that this substantial increase can be attributed to traffic conditions along U.S. Highway 280, Overton Road provides access to U.S. Highway 280 and I-450 (via Liberty Parkway). Due to congested traffic flows along U.S. Highway 280, drivers have been using Overton Road as an alternative route. Historical traffic counts conducted by the Alabama Department of Transportation (ADOT) support this idea as well. Daily traffic volumes along Overton Road increased approximately seventy-five percent from 2011 to 2014. It is important to note that from 2014 to 2016 volumes increased approximately five percent, which is a normal growth rate for this area.

Left Turn Lane Feasibility

As previously noted in our traffic study, a left-turn lane along Overton Road at the Poe Drive intersection was warranted based on existing traffic volumes and lane geometry. After reviewing roadway conditions in this area, potential constraints that could affect construction of a turn lane at this location were identified. Adding lanes to this approach would require the roadway to be widened. It appears that right of way would have to be acquired to widen the roadway (Skipper Consulting does not have a survey of this location). Also, the close proximity between Poe Drive and Asbury Place intersections would restrict the total length of the turn lane. No extended or major delays of eastbound traffic along Overton Road were noticed during our observations due to left-turns. Based on the potential constraints and existing traffic operations, a left-turn lane may not be feasible and/or necessary at this location.

This concludes our additional information review of the revised 2017 Overton Village development. If you have any questions, please contact us.

Sincerely,

Aubrey Long, P.E.
Skipper Consulting, Inc.
205-655-8855

have been updated since the 2006 study was completed. Therefore, intersection capacity analysis was updated based on the new guidelines and traffic volumes.

Capacity Analysis:

Existing turning movement counts were collected during the morning and afternoon peak hour of a typical weekday at the existing intersection of Poe Drive/Overton Road and Fairhaven Drive/Overton Road. Detailed traffic volume figures are attached to this document for reference (Exhibit B).

Using methods as outlined in the Highway Capacity Manual 2010 Edition, capacity and operation of the study intersections were evaluated for existing 2017 conditions. According to this method of analysis, traffic capacities are expressed as levels of service, ranging from "A" (best) to "F" (worst). In general, a level of service "C" is considered desirable, while a level of service "D" is considered acceptable during peak hours of traffic flow. The level of service for each approach is illustrated in Table 1.

Table 1—Existing 2017 Intersection Levels of Service

Intersection (Traffic Control)	Approach	Existing Conditions At Peak Hour	
		AM Peak	PM Peak
Poe Drive at Overton Road (unsignalized)	Overton Road (Eastbound)	A	A
	Public Access (Westbound)	F	E
Fairhaven Drive at Overton Road (unsignalized)	Poe Drive (Southbound)	D	C
	Overton Road (Westbound)	A	A
Overton Road at Overton Road (unsignalized)	Overton Road (Westbound)	A	A
	Public Access (Northbound)	C	E
Fairhaven Drive (Southbound)	Overton Road (Eastbound)	E	E
	Fairhaven Drive (Southbound)	C	E

As indicated in Table 1, the Overton Road approaches currently experience acceptable levels of service during existing conditions. Some of the side street approaches currently experience poor levels of service under existing conditions. Poor levels of service at stop controlled side street approaches are to be expected due to the heavy volumes along Overton Road. As stated in the previous traffic study, the traffic signals currently provide adequate gaps in traffic to allow access for the side streets. Printouts of the existing capacity analysis are attached to this memo for reference (Exhibit C).

Proposed Conditions - 2017

Land Uses:

Previously planned land uses (2006) and revised proposed land uses (2017) are listed below.

Previous Land Uses (2006):

Residential Condominiums	62 units
Office Space	6,450 sf
Specialty Retail	19,350 sf

Proposed Land Uses (2017):

Residential Condominiums	41 units
--------------------------	----------

Trip Generation:

Trip generation estimates were determined for the proposed revised 2017 conditions based on data contained in the Trip Generation Manual, Ninth Edition, as published by the Institute of Transportation Engineers (ITE). Morning and afternoon peak hour trip generation estimates for the 2017 conditions are presented in Table 2. Also, trip generations of the previous 2006 study conditions are presented in Table 3 for comparison.

Table 2 - Proposed 2017 Trip Generation Estimates (ITE)

Land Use	Size	AM Peak		PM Peak	
		In	Out	In	Out
Residential Condominiums	62	6	7	7	6
Office	6,450	18	1	15	71
Specialty Retail	19,350	12	7	30	38
Total	30	36	44	52	115

Table 3 - Previous 2006 Trip Generation Estimates (ITE)

Land Use (ITE Code)	Size	AM Peak		PM Peak	
		In	Out	In	Out
Residential Condominiums	62	6	7	7	6
Office	6,450	18	1	15	71
Specialty Retail	19,350	12	7	30	38
Total	30	36	44	52	115

As indicated in Tables 2 and 3, the proposed revised 2017 development land uses would generate substantially less traffic compared to the previous 2006 conditions.

Trip Distribution:

The trip distribution patterns used in the previous 2006 study were still considered applicable and were applied to this updated assessment. A global distribution of site generated traffic of fifty percent (50%) to and from the east and fifty percent (50%) to and from the west via Overton Road was utilized. A driveway distribution of site generated traffic was determined that seventy percent (70%) of traffic would access the site via Fairhaven Drive and thirty percent (30%) would access the site via Poe Drive.

Proposed Traffic Volumes:

New turning movement volumes were projected for the revised 2017 assuming the distribution patterns listed previously. Detailed traffic volume figures are attached to this document for reference (Exhibit D).

Proposed Capacity Analysis:

Using methods as outlined in the Highway Capacity Manual 2010 Edition, capacity and operation of the study intersections were evaluated for proposed 2017 conditions. According to this method of analysis, traffic capacities are expressed as levels of service, ranging from "A" (best) to "F" (worst). In general, a level of service (LOS) "C" is considered desirable, while a level of service "D" is considered acceptable during peak hours of traffic flow. The level of service for each approach is illustrated in Table 4.

Table 4 - Proposed 2017 Intersection Levels of Service

Intersection (Traffic Control)	Approach	Proposed Conditions	
		AM Peak	PM Peak
Poe Drive at Overton Road (un-signalized)	Overton Road (Eastbound)	A	A
	Overton Road (Westbound)	A	A
	Public Access (Westbound)	F	F
Fairhaven Drive at Overton Road (un-signalized)	Fairhaven Drive (Eastbound)	D	C
	Overton Road (Eastbound)	A	A
	Overton Road (Westbound)	A	A
Fairhaven Drive at Overton Road (un-signalized)	Public Access (Westbound)	C	C
	Overton Road (Westbound)	A	A
	Fairhaven Drive (Southbound)	F	F

As indicated in Table 4, the Overton Road approaches would experience acceptable levels of service during proposed 2017 conditions. Some of the side street approaches continue to experience poor levels of service under proposed 2017 conditions. As stated previously, poor levels of service at stop controlled side street approaches are to be expected due to the heavy volumes along Overton Road. However, the traffic signals would provide adequate gaps in traffic to allow access for the side streets. Printouts of the proposed 2017 capacity analysis are attached to this memo for reference (Exhibit E).

Turn Lane Warrant Assessment

Using the existing 2017 and proposed 2017 traffic volumes described previously, a left turn lane warrant assessment was conducted at the Poe Drive/Overton Road intersection under existing and proposed conditions. An assessment was conducted of the need for a left turn lane (eastbound approach of Overton Road) by utilizing methodologies found in the National Cooperative Highway Research Program Report 457. The results of the turn lane assessment are listed in Table 5.

Table 5 - Existing & Proposed Turn Lane Warrant Evaluation

Intersection Approach	Number of Lanes	Speed Limit (mph)	Approaching Volume (V _A)	Opposing Volume (V _O)	Left-Turn Volume (V _L)	Left-Turn Warranted
EB Overton Road at Poe Drive (EXISTING)	2	30	674	412	6%	Yes
EB Overton Road at Poe Drive (PROPOSED)	2	30	585	458	6%	Yes

As indicated in Table 5, it was determined a left turn lane would be warranted at the study intersection approach under existing and proposed 2017 conditions. A summary of the assessment is attached to this memo for reference (Exhibit F).

This concludes our traffic impact assessment of the revised 2017 Overton Village development. If you have any questions, please contact us.

Sincerely,

Aubrey Long
Aubrey Long, PE
Skipper Consulting, Inc.
205-655-8855

Exhibit A



Overton Village
Mountain Brook/Vestavia Hills, Alabama

Traffic Impact Study

Prepared For:
Lettman, Perlman & Rich

Prepared By:
SKIPPER CONSULTING, INC.
15415 Vann Road, Suite 100
Birmingham, Alabama 35225
(205) 655-8855

Prepared For:
Lettman, Perlman & Rich

July 2006



APPENDIX 7

OVERTON VILLAGE
Mountain Brook/Vestavia Hills, Alabama

SIGNAL IMPACT STUDY

Prepared for:
Lettman, Perlman & Rich

Prepared by:
SKIPPER CONSULTING, INC.
3644 Vann Road, Suite 100
Birmingham, Alabama 35225
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July 2006

Overton Village - Mt. Brook/Vestavia Hills, Alabama

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Skipper Consulting, Inc.

Overton Village - Mt. Brook/Vestavia Hills, Alabama

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Skipper Consulting, Inc.

Overton Village - Mt. Brook/Vestavia Hills, Alabama

INTRODUCTION

The purpose of this report is to document the analyses and findings of a traffic study conducted for a proposed mixed-use development that would be located in the office of Mountain Brook, Alabama and Vestavia Hills, Alabama. The proposed mixed-use development will be housed in four buildings and contain 62 residential condominiums, 19,850 square feet of specialty retail and 8,450 square feet of office. The proposed development site is located north of Overton Road with three buildings located between Poe Drive and Fairhaven Drive and one building located along the east side of Fairhaven Drive. Buildings One, Two and Three are in the City of Mountain Brook and Building Four is in the City of Vestavia Hills. The location of the proposed mixed-use development is illustrated in Figure 1. The traffic study has been conducted to accomplish the following objectives:

- Describe the existing traffic conditions at the study intersections;
- Estimate future traffic to be generated by the proposed development;
- Predict the directional distribution of site generated traffic;
- Identify any infrastructure improvements needed to accommodate traffic generated by the proposed development; and
- Develop an access concept for the proposed development.

Sources of information used in the report include: Federal Highway Administration; the Institute of Transportation Engineers; Letman, Parkman & Rice; the City of Mt. Brook; the City of Vestavia Hills; Cohen, Carmaglio, Reynolds Architecture; the Transportation Research board; Traffic Data, LLC; and field reconnaissance and other information collected by Skipper Consulting, Inc.

Skipper Consulting, Inc.

SKIPPER CONSULTING, INC.

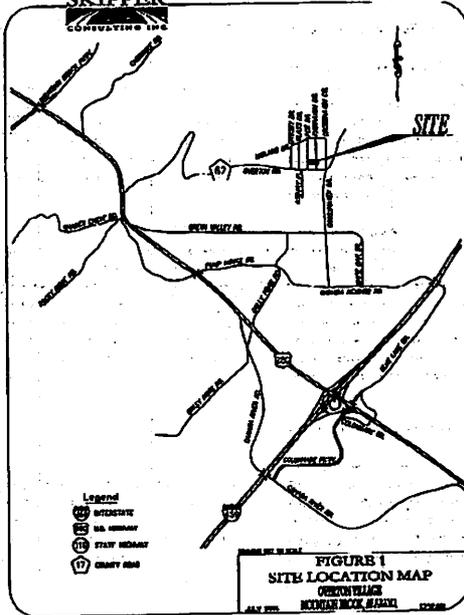


FIGURE 1 SITE LOCATION MAP OVERTON VILLAGE MOUNTAIN BROOK, ALABAMA

Overton Village - Mt. Brook/Vestavia Hills, Alabama

BACKGROUND INFORMATION

Site Description and Access
The proposed mixed use development is to be contained in four buildings. Buildings One, Two and Four would be located north of Overton Road between Poe Drive and Fairhaven Drive. Building three would be located on the eastside of Fairhaven Drive north of Overton Road. Access to Buildings One, Two and Four will be from an access drive that extends between Poe and Fairhaven. Access to Building four will be directly from Fairhaven Drive. The site plan is included in Appendix A.

Study Area Roadways
In the vicinity of the proposed development, Overton Road is a two-lane roadway with a posted speed limit of 30 miles per hour. Fairhaven Drive is a local street located across Overton Road from the proposed east access near the site's eastern property line. Poe Drive is a local street located across Overton Road from the proposed west access near the site's west property line. Both Fairhaven Drive and Poe Drive intersect Overton Road from the north forming two "T" intersections approximately three hundred fifty feet apart and will herein be referred to as the study intersections.

EXISTING TRAFFIC CONDITIONS

Existing Traffic Volumes
Turning movement traffic counts were conducted at the intersections of Overton Road and Poe Drive and Overton Road and Fairhaven Drive on Thursday June 29, 2000 from 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m. Existing peak hour turning movement traffic volumes are summarized in Figure 2. Complete turning movement count data is provided in Appendix B.

Skipper Consulting, Inc.

APPENDIX 7

SKIPPER CONSULTING, INC.

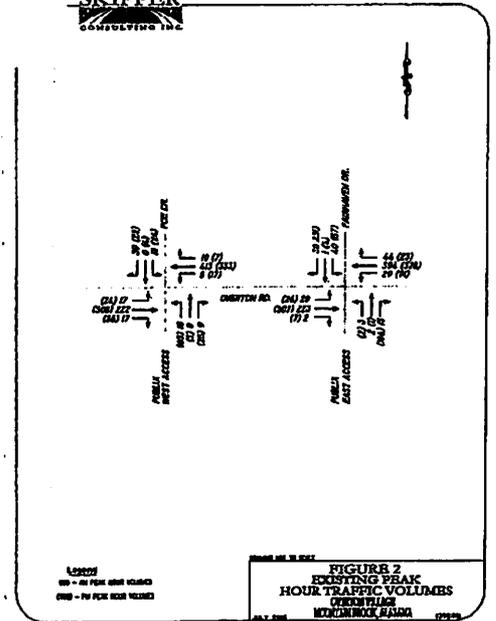


FIGURE 2 EXISTING PEAK HOUR TRAFFIC VOLUMES OVERTON VILLAGE MOUNTAIN BROOK, ALABAMA

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Existing Intersection Capacity Analysis
 Overton Pkwy - J&J Beach/Fairhaven DR, Gilman

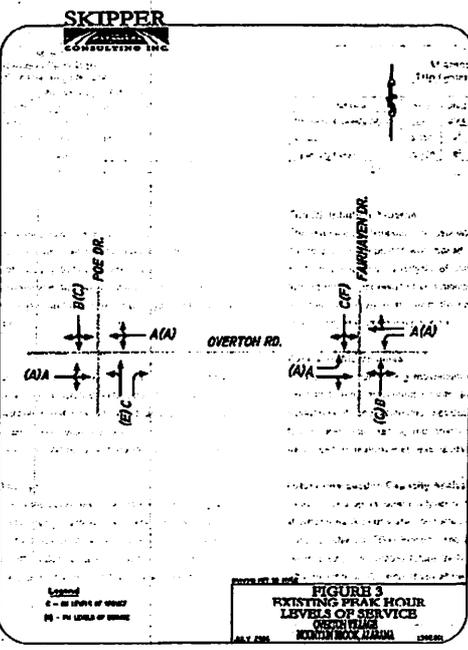
Using methods as outlined in the *Highway Capacity Manual, 2000 Edition*, published by the Transportation Research Board, the capacity and operation of the study area intersections were evaluated. According to this method of analysis, traffic capacities are expressed as levels of service, ranging from "A" (best) to "F" (worst). In general, a level of service (LOS) "C" is considered desirable, while a level of service "D" is considered acceptable during peak hours of traffic flow. The description of levels of service is described in Appendix C.

The study intersections are currently controlled by stop street stop signs. Capacity analyses indicate the northbound approach to the Overton Road and Poe Drive intersection and the southbound approach to Overton Road and Fairhaven Drive is currently experiencing unacceptable levels of service during afternoon peak period. Existing morning and afternoon peak hour intersection levels of service are summarized in Figure 3. Capacity priorities are provided in Appendix D.

FUTURE TRAFFIC CONDITIONS

Trip Generation Estimates
 Traffic volumes expected to be generated by the proposed mixed use development were estimated according to information outlined in *Trip Generation, Seventh Edition*, published by the Institute of Transportation Engineers. Trip generation estimates were based on the land uses of residential condominium, offices and specialty retail. Morning and afternoon peak hour trip generation estimates and intercept rates are summarized in Table 1.

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Overton Pkwy - J&J Beach/Fairhaven DR, Gilman
 Table 1
 Afternoon Peak Hour
 Trip Generation Estimates

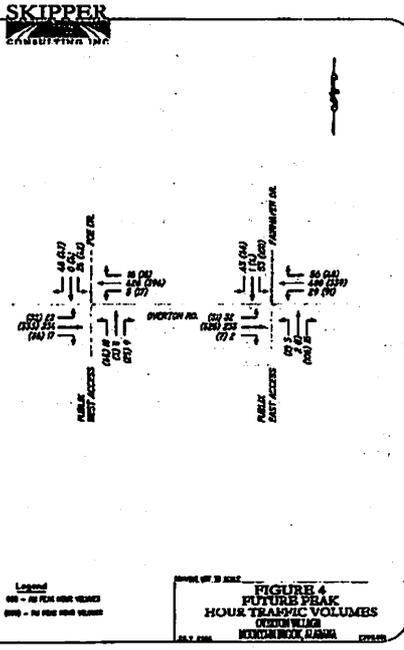
Category	Area	Area	Area	Area	Area	Area
Residential Condominiums	62	100	100	8	70	13
Offices	6,450	8	100	10	10	10
Specialty Retail	10,000	8	100	10	7	10
TOTALS	1,400	30	30	77	13	13

Trip Distribution Patterns
 The directional distribution of estimated new traffic generated by the proposed mixed-use development was based upon existing distribution patterns at the study intersections. Analysis of existing traffic volume data from peak hour turning movement resulted in a directional distribution of the generated traffic of fifty percent (50%) to and from the east and fifty percent (50%) to and from the west during the afternoon peak hour.

Future Traffic Volumes
 Future peak hour turning movement traffic volumes were developed based on existing turning movement counts, trip generation estimates for the proposed development, and estimated distribution patterns described above. Estimated future peak hour turning movement traffic volumes, summarized in Figure 4, were used to determine access needs for the proposed mixed-use development.

Future Intersection Capacity Analysis
 Capacity and operational analyses of the study intersections for the morning and afternoon peak hour were conducted using methods as outlined in the *Highway Capacity Manual, 2000 Edition*. The analysis of future conditions was based on the following: estimated future traffic volumes; and provision of an eastbound left-turn lane on Overton Road at the intersection of Poe Drive. Results of the

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Capacity Analysis
 Overton Pkwy - J&J Beach/Fairhaven DR, Gilman

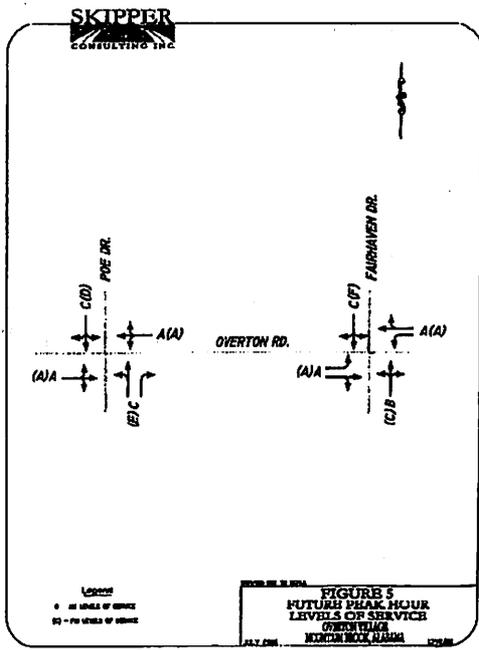
capacity analyses are summarized in Figure 5. Capacity worksheets for future conditions are provided in Appendix D. As noted in Figure 5, the northbound approach to the intersection of Overton Road and Poe Drive and the southbound approach to the intersection of Overton Road and Fairhaven Drive will continue to experience unacceptable levels of service during the afternoon peak period. Additionally, the southbound approach to the Overton Road and Poe Drive intersection will experience unacceptable levels of service during the afternoon peak period. The unacceptable levels of service at these intersections are due to the traffic volumes along Overton Road. However, the traffic signals along Overton Road will provide acceptable gaps to allow vehicles to enter Overton Road from Poe Drive/Fairhaven Drive without inordinately long delays.

Left-Turn Lane Warrant Guidelines
 The need for left-turn lanes at the study area intersections were evaluated using methods outlined in the *Intersection Channelization Design Guide, Report 279*, published by the Transportation Research Board. According to the design guide, the following guidelines are suggested when considering the addition of a left-turn lane:

- Left-turn lanes should be considered at all median cross-overs on divided, high-speed highways.
- Left-turn lanes should be provided at all unstoppped (i.e. through) approaches of primarily high-speed rural highway intersections with other arterials or collectors.
- Left-turn lanes are recommended at approaches in intersections for which the combination of through/turn, and opposing volumes exceeds the warrants outlined in TRB Report 279.
- Left-turn lanes on stopped or secondary approaches should be provided based on the analysis of the capacity and operations of the unsignalized intersection. Considerations include minimizing delays to right turning or through vehicles, and total approach capacity.

SKIPPER CONSULTING, INC.

APPENDIX 7



Overton Village - Mt. Brook/Yazooia Hill, Alabama

- Left-turn lanes should be considered at intersection approaches that experience a significant number of left-turn involved accidents. A total of four (4) or more such accidents in twelve (12) months or six (6) or more in twenty-four (24) months, is considered appropriate.

Left-Turn Lane Warrant Evaluation

The volume warrants for left-turn lanes at unsignalized intersections were evaluated for the intersection of Overton Road and Poe Drive and. As shown in Table 2, a left-turn lane is warranted at the northbound approach to the intersection of Overton Road and Poe Drive.

**Table 2
Left-Turn Lane Warrant Evaluation**

Intersection Approach	Number of Lanes	Reported Left-Turn Accidents (12-M)	Approach Average Volume (V _{AV})	Capacity Volume (V _C)	% Left-Turn	Left-Turn Warranted
NB Overton Road At Poe Drive	2	30	603	478	6%	Yes

Jasper Consulting, Inc.

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Overton Village - Mt. Brook/Yazooia Hill, Alabama

CONCLUSIONS

Based upon the analyses and evaluations presented in this report, the following conclusions can be stated:

1. Access to buildings One, Two and Four of the mixed-use development will be from an access road that will extend from Poe Drive to Fairhaven Drive. Access to building Three will be directly from Fairhaven Drive.
2. Existing conditions capacity analyses indicate the northbound approach to the Overton Road and Poe Drive intersection and the southbound approach to Overton Road and Fairhaven Drive is currently experiencing unacceptable levels of service during afternoon peak period.
3. The proposed mixed use development is expected to generate approximately 75 new trips during the morning peak hour and 185 new trips during the afternoon peak hour.
4. Analyses indicated, to accommodate the proposed planned unit development, an eastbound left turn lane should be constructed on Overton Road at its intersection with Poe Drive.
5. Future conditions capacity analyses indicate the study area intersections would operate at acceptable levels of service during the morning peak period with the forecasted development traffic volumes in place and the proposed roadway improvements in place. The northbound approach to the Overton Road and Poe Drive intersection and the southbound approach to the intersection of Overton Road and Fairhaven Drive will continue to experience unacceptable levels of service during the afternoon peak period. Additionally, the southbound approach to the Overton Road and Poe Drive intersection will experience unacceptable levels of service during the afternoon peak period. The unacceptable levels of service at

Jasper Consulting, Inc.

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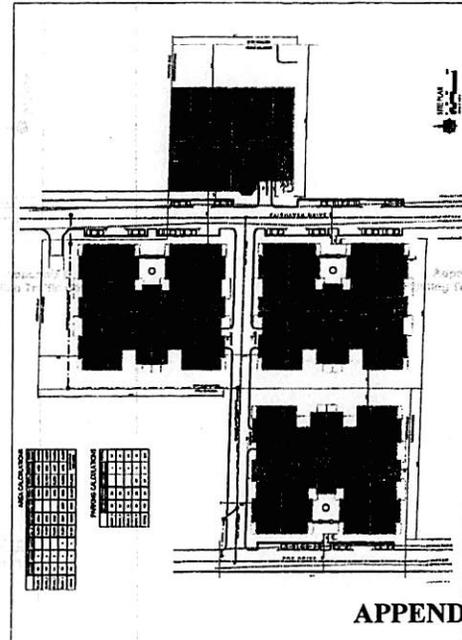
Overton Village - Mt. Brook/Yazooia Hill, Alabama

these intersections are due to the traffic volumes along Overton Road. However, the traffic signals along Overton Road will provide acceptable gaps to allow vehicles to enter Overton Road from Poe Drive and Fairhaven Drive without inordinately long delays.

Jasper Consulting, Inc.

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**Appendix A
Site Plan**



APPENDIX 7

**Appendix B
Existing Traffic Count Data**

TWO-WAY STOP CONTROL SUMMARY						
General Information			Site Information			
Analyst	DJT	Intersection	Overton at Pee Public			
Client	SKIPPER CONSULTING, INC.	Jurisdiction	City of Mountain Brook			
Study Period	7/7/08	Analysis Year	Future			
Analysis Time Period	PM Peak					
Project Description	Overton Village					
East/West Street	Overton Road	North/South Street	Pee Drive/Peak			
Intersection Orientation	East-West	Study Period (Days)	0.25			
Vehicle Volumes and Adjustments						
Major Street	Eastbound		Westbound			
Movement	1	2	3	4	5	6
Volume (veh/h)	35	333	60	17	292	18
Peak-Hour Factor, PHF	0.80	0.80	0.80	0.80	0.80	0.80
Hourly Flow Rate, HFR (veh/h)	38	692	66	18	440	20
Percent Heavy Vehicles	0	0	0	0	0	0
Median Type	Unshaded					
RT Channelized	0					
Lanes	1	1	0	0	1	0
Configuration	L		TR	LTR		
Upstream Signal	0					
Minor Street	Northbound			Southbound		
Movement	7	8	9	10	11	12
Volume (veh/h)	65	3	20	42	4	27
Peak-Hour Factor, PHF	0.80	0.80	0.80	0.80	0.80	0.80
Hourly Flow Rate, HFR (veh/h)	72	3	27	46	4	32
Percent Heavy Vehicles	0	0	0	0	0	0
Percent Grade (%)	N					
Flared Approach	N					
Storage	0					
RT Channelized	0					
Lanes	0	1	1	0	1	0
Configuration	LT		R	LTR		
Delay, Queue Length, and Level of Service						
Approach	Eastbound		Westbound		Southbound	
Movement	1	4	7	8	10	11
Lane Configuration	L	LTR	LTR	R	LTR	LTR
Volume (veh/h)	38	18	75	27	102	102
Q (s) (veh/h)	1112	818	133	478	234	234
w	0.02	0.02	0.56	0.08	0.44	0.44
DRF queue length	0.11	0.09	2.78	0.18	2.06	2.06
Control Delay (s/veh)	8.4	9.0	60.8	12.0	31.8	31.8
LOS	A	A	F	B	D	D
Approach Delay	-		48.1		31.8	

file://C:\Documents and Settings\MHail\Local Settings\Temp\2KA8.tmp 7/13/2006

Approach	LOG	-	-	E	D
Copyright © 2004 University of Florida. All Rights Reserved.	HCS-TR	Version 3.2	December 21/2004	234	PM

file://C:\Documents and Settings\MHail\Local Settings\Temp\2KA8.tmp 7/13/2006

Exhibit B

HCM 2010 TWSC Existing AM 5/16/2017
3: Public Access/Peo Drive & Overton Road

Intersection												
Int Delay, s/veh 2.4												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBR	
Lane Configurations	T			T			T		T			
Table Vol, veh/h	14	287	21	2	858	14	12	0	2	12	44	
Future Vol, veh/h	14	287	21	2	858	14	12	0	2	12	44	
Conflicting Peak, Mov	0	0	0	0	0	0	0	0	0	0	0	
Sign Control	Free			Free			Stop		Stop			
RT Channelized	None											
Storage Length	-											
Vol in Median Storage, #	-											
Grade, %	-											
Peak Hour Factor	93	93	93	89	89	89	58	58	58	71	71	
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2	
Max Flow	15	287	23	2	964	18	21	0	3	17	62	
Intersection	Mov 1	Mov 2	Mov 3	Mov 4	Mov 5	Mov 6	Mov 7	Mov 8	Mov 9	Mov 10	Mov 11	
Conflicting Flow All	960	0	0	310	0	0	1336	1312	298	1304	1316	
Stage 1	-	-	-	-	-	-	328	328	-	978	978	
Stage 2	-	-	-	-	-	-	1008	984	-	328	340	
Critical Hdwy	4.12	-	-	4.12	-	-	7.12	6.52	6.22	7.12	6.52	
Critical Hdwy Stg 1	-	-	-	-	-	-	6.12	5.52	-	6.12	5.52	
Critical Hdwy Stg 2	-	-	-	-	-	-	6.12	5.52	-	6.12	5.52	
Follow-up Hdwy	2.218	-	-	2.218	-	-	3.516	4.018	3.318	3.516	4.018	
Plat Cap 1 Maneuver	704	-	-	1250	-	-	130	158	741	137	158	
Stage 1	-	-	-	-	-	-	685	647	-	302	329	
Stage 2	-	-	-	-	-	-	290	327	-	665	639	
Platoon blocked, %	-	-	-	-	-	-	-	-	-	-	-	
Mov Cap 1 Maneuver	704	-	-	1250	-	-	101	154	741	133	153	
Mov Cap 2 Maneuver	-	-	-	-	-	-	101	154	-	133	153	
Stage 1	-	-	-	-	-	-	687	636	-	294	328	
Stage 2	-	-	-	-	-	-	229	326	-	664	622	
Approach	EB	WB	SB	NB								
HCM Control Delay, s	0.5	0	43.9	27.8								
HCM LOS	E	-	E	D								
Minor Lane/Minor Street	WBL	WBT	WBR	SBL	SBR	NBL	NBT	NBR	SBL	SBR		
Capacity (veh/h)	101	241	704	-	-	1250	-	-	227	-		
HCM Lane V/C Ratio	0.205	0.005	0.021	-	-	0.022	-	-	0.239	-		
HCM Control Delay (s)	49.6	9.9	10.2	0	0	7.9	0	0	27.8	0		
HCM Lane LOS	E	A	B	A	-	A	A	-	D	-		
HCM Min. Side Q, (veh)	4.7	0	0.1	-	-	0	-	-	1.4	-		

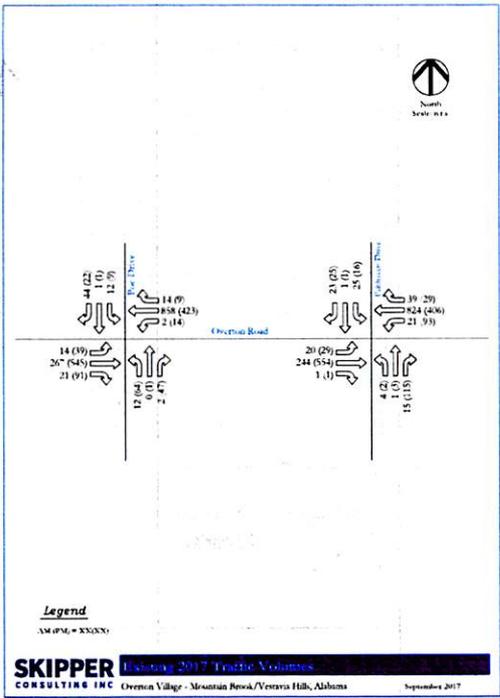


Exhibit C

APPENDIX 7

HCM 2010 TWSC Existing AM
 5: Publix Access/Fairhaven Dr & Overton Road 8/6/2017

Intersection											
In Delay, s/veh 2.4											
Intersection	ESL	EST	ESL								
Lane Configurations	%	%	%	%	%	%	%	%	%	%	%
Traffic Vol, veh/h	20	244	1	21	824	39	4	1	15	25	1
Future Vol, veh/h	20	244	1	21	824	39	4	1	15	25	1
Conflicting Pkts, Mhr	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	None	-								
Storage Length	100	-	100	-	-	-	-	-	-	-	-
Veh In Median Storage, #	-	0	-	0	-	0	-	0	-	0	-
Grade, %	-	0	-	0	-	0	-	0	-	0	-
Peak Hour Factor	91	91	91	86	86	86	71	71	71	77	77
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2
Min/Flw	22	226	1	24	858	40	6	1	21	32	1

Baseline Synchro 9 Report Page 2

Exhibit D

HCM 2010 TWSC Existing PM
 3: Publix Access/Poe Drive & Overton Road 8/6/2017

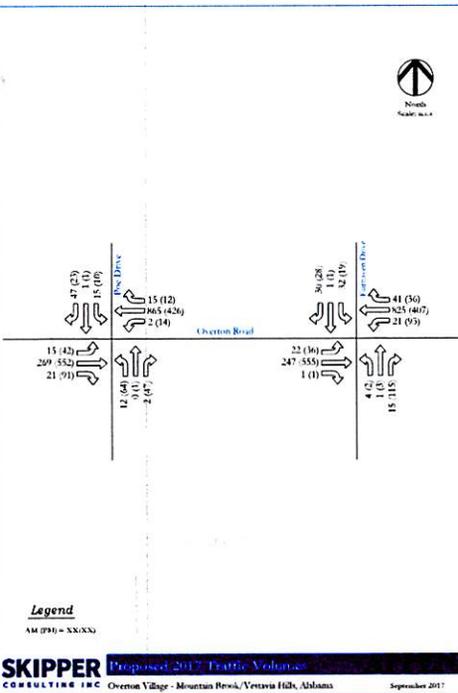
Intersection											
In Delay, s/veh 6											
Intersection	ESL	EST	ESL								
Lane Configurations	%	%	%	%	%	%	%	%	%	%	%
Traffic Vol, veh/h	38	545	91	14	423	9	64	1	47	9	1
Future Vol, veh/h	38	545	91	14	423	9	64	1	47	9	1
Conflicting Pkts, Mhr	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	None	-								
Storage Length	-	-	-	-	-	-	-	-	-	-	-
Veh In Median Storage, #	-	0	-	0	-	0	-	0	-	0	-
Grade, %	-	0	-	0	-	0	-	0	-	0	-
Peak Hour Factor	87	87	87	94	94	94	76	76	76	89	89
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2
Min/Flw	44	826	105	15	450	10	84	1	62	10	1

Baseline Synchro 9 Report Page 1

HCM 2010 TWSC Existing PM
 5: Publix Access/Fairhaven Dr & Overton Road 8/6/2017

Intersection											
In Delay, s/veh 4.1											
Intersection	ESL	EST	ESL								
Lane Configurations	%	%	%	%	%	%	%	%	%	%	%
Traffic Vol, veh/h	29	554	1	93	406	29	2	3	115	16	1
Future Vol, veh/h	29	554	1	93	406	29	2	3	115	16	1
Conflicting Pkts, Mhr	0	0	0	0	0	0	0	0	0	0	0
Sign Control	Free	Free	Free	Free	Free	Free	Stop	Stop	Stop	Stop	Stop
RT Channelized	-	None	-								
Storage Length	100	-	100	-	-	-	-	-	-	-	-
Veh In Median Storage, #	-	0	-	0	-	0	-	0	-	0	-
Grade, %	-	0	-	0	-	0	-	0	-	0	-
Peak Hour Factor	89	89	89	95	95	95	81	81	81	81	81
Heavy Vehicles, %	2	2	2	2	2	2	2	2	2	2	2
Min/Flw	33	822	1	98	427	31	2	4	142	20	1

Baseline Synchro 9 Report Page 2



Legend
 AM (PH) = XX(X)
SKIPPER CONSULTING INC
 Proposed 2017 Traffic Volumes
 Overton Village - Mountain Road, Vestavia Hills, Alabama
 September 2017

Exhibit E

HCM 2010 TWSC Future AM
3: Public Access/Poe Drive & Overton Road 9/9/2017

Table with 10 columns: Lane Configurations, Traffic Vol, Future Vol, Conflicting Peak, Sign Control, RT Channelized, Storage Length, Veh In Median Storage, Peak Hour Factor, Heavy Vehicles, Mixed Flow. Includes sub-tables for Conflicting Flow All, HCM Control Delay, Capacity, HCM Lane V/C Ratio, HCM Control Delay, HCM Lane LOS, HCM 95th %ile Q(vak).

HCM 2010 TWSC Future AM
8: Public Access/Fairhaven Dr & Overton Road 9/9/2017

Table with 10 columns: Lane Configurations, Traffic Vol, Future Vol, Conflicting Peak, Sign Control, RT Channelized, Storage Length, Veh In Median Storage, Peak Hour Factor, Heavy Vehicles, Mixed Flow. Includes sub-tables for Conflicting Flow All, HCM Control Delay, Capacity, HCM Lane V/C Ratio, HCM Control Delay, HCM Lane LOS, HCM 95th %ile Q(vak).

HCM 2010 TWSC Future PM
3: Public Access/Poe Drive & Overton Road 9/9/2017

Table with 10 columns: Lane Configurations, Traffic Vol, Future Vol, Conflicting Peak, Sign Control, RT Channelized, Storage Length, Veh In Median Storage, Peak Hour Factor, Heavy Vehicles, Mixed Flow. Includes sub-tables for Conflicting Flow All, HCM Control Delay, Capacity, HCM Lane V/C Ratio, HCM Control Delay, HCM Lane LOS, HCM 95th %ile Q(vak).

HCM 2010 TWSC Future PM
8: Public Access/Fairhaven Dr & Overton Road 9/9/2017

Table with 10 columns: Lane Configurations, Traffic Vol, Future Vol, Conflicting Peak, Sign Control, RT Channelized, Storage Length, Veh In Median Storage, Peak Hour Factor, Heavy Vehicles, Mixed Flow. Includes sub-tables for Conflicting Flow All, HCM Control Delay, Capacity, HCM Lane V/C Ratio, HCM Control Delay, HCM Lane LOS, HCM 95th %ile Q(vak).

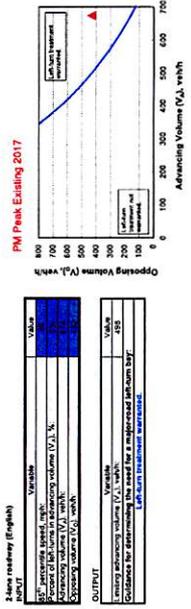


Figure 2 - 4. Guideline for determining the need for a major-road left-turn bay at a two-way stop-controlled intersection.

Exhibit F

APPENDIX 7

ORDINANCE NO.

AN ORDINANCE AMENDING THE LANE PARKS PUD

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

1. **Purpose and Authority.** The Master Development Plan and the materials submitted by the applicant, as required by Section 123-263 of the Mountain Brook City Code, as approved upon the adoption of Ordinance 1871 dated May 21, 2012 are hereby amended to include the changes specified as attached hereto.

2. **Description of Adjoined Property.** The property that is the subject of the rezoning approved by this ordinance is described as follows:

A parcel of land being situated in the Northeast quarter of the Northeast quarter and the Southeast quarter of the Northeast quarter of Section 8, Township 18 South, Range 2 West, more particularly described as follows:

Begin at the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 8, Township 18 South, Range 2 West; being the Point of Beginning; thence run Northerly along the West line of said Quarter - Quarter a distance of 645.12 feet; thence right 91°-09'-04" a distance of 1223.11 feet; thence right 89°-58'-45" a distance of 74.32 feet; thence right 37°-49'-40" a distance of 774.41 feet; thence right 33°-46'-33" a distance of 62.37 feet; thence right 08°-16'-22" a distance of 179.92 feet; thence left 90°-58'-32" a distance of 333.39 feet; thence right 88°-43'-23" a distance of 24.33 feet; thence left 87°-29'-23" a distance of 129.13 feet; thence right 89°-27'-09" a distance of 14.61 feet; thence left 117°-20'-09" a distance of 175.93 feet; thence right 84°-32'-17" a distance of 44.85 feet; thence tangent to a curve to the left having a radius of 140.24 feet and a central angle of 7°-29'-02" along the curve an arc distance of 202.55 feet; thence right 82°-49'-32" from the tangent of said curve a distance of 129.33 feet; thence tangent to a curve to the left having a central angle of 13°-05'-59" and a radius of 66.12 feet an arc distance of 20.79 feet; thence left 7°-40'-01" to the tangent of a curve to the left having a central angle of 34°-34'-38" and a radius of 60.77 feet, an arc distance of 34.67 feet; thence continue from the tangent of said curve a distance of 45.64 feet; thence right 80°-09'-03" a distance of 119.49 feet; thence right 33°-25'-34" a distance of 245.11 feet; thence right 0°-40'-42" a distance of 377.82 feet to the Point of Beginning.

Said Parcel contains 27.59 acres more or less.

3. **Repeal.** 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.

4. **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 impact the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

5. **Effective Date.** This ordinance shall become effective immediately upon adoption and publication as provided by law.

(Signature page follows)

ORDINANCE NO. 2019

AN ORDINANCE AMENDING THE LANE PARKS PUD-CONTINUED

ADOPTED: This 26th day of August, 2019.

APPROVED: This 26th day of August, 2019.

Council President

Mayer

CERTIFICATION

I, Steven Boone, City Clerk of the City of Mountain Brook, Alabama, hereby certify that the above to be a true and correct copy of an ordinance adopted by the City Council of the City of Mountain Brook, Alabama at its meeting held on August 26, 2019, as same appears in the minutes of record of said meeting, and published by posting copies thereof on August 27, 2019, at the following public places, which copies remained posted for five (5) days as required by law:

City Clerk

NOTICE OF PUBLIC HEARING

PROPOSED ZONING NOTICE

Notice is hereby given that at a regular meeting of the City Council of the City of Mountain Brook to be held on Monday, August 12, 2019, at 7:00 p.m., in the Council Chamber of the Mountain Brook City Hall located at 34 Church Street, Mountain Brook, Alabama 35110, the City Council will hold a public hearing to consider proposed amendments to the Lane Parks PUD, as approved upon the adoption of Ordinance 1871 dated May 21, 2012.

Proposed PUD changes (with respect to the number of drive-thrus and their locations) are available for review during regular business hours at City Hall or by going to: www.mountainbrook.org - Calendar - August 12, 2019 - City Council - Supporting Documents - Lane Parks PUD Amendment.

ORDINANCE NO.

AN ORDINANCE AMENDING THE LANE PARKS PUD

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

1. **Purpose and Authority.** The Master Development Plan and the materials submitted by the applicant, as required by Section 125-263 of the Mountain Brook City Code, as approved upon the adoption of Ordinance 1871 dated May 21, 2012 are hereby amended to include the changes specified as attached hereto.

2. **Description of Adjoined Property.** The property that is the subject of the rezoning approved by this ordinance is described as follows:

A parcel of land being situated in the Northeast quarter of the Northeast quarter and the Southeast quarter of the Northeast quarter of Section 8, Township 18 South, Range 2 West, more particularly described as follows:

Begin at the Southwest Corner of the Northeast Quarter of the Northeast Quarter of Section 8, Township 18 South, Range 2 West; being the Point of Beginning; thence run Northerly along the West line of said Quarter - Quarter a distance of 645.12 feet; thence right 91°-09'-04" a distance of 1223.11 feet; thence right 89°-58'-45" a distance of 74.32 feet; thence right 37°-49'-40" a distance of 774.41 feet; thence right 33°-46'-33" a distance of 62.37 feet; thence right 08°-16'-22" a distance of 179.92 feet; thence left 90°-58'-32" a distance of 333.39 feet; thence right 88°-43'-23" a distance of 24.33 feet; thence left 87°-29'-23" a distance of 129.13 feet; thence right 89°-27'-09" a distance of 14.61 feet; thence left 117°-20'-09" a distance of 175.93 feet; thence right 84°-32'-17" a distance of 44.85 feet; thence tangent to a curve to the left having a radius of 140.24 feet and a central angle of 7°-29'-02" along the curve an arc distance of 202.55 feet; thence right 82°-49'-32" from the tangent of said curve a distance of 129.33 feet; thence tangent to a curve to the left having a central angle of 13°-05'-59" and a radius of 66.12 feet an arc distance of 20.79 feet; thence left 7°-40'-01" to the tangent of a curve to the left having a central angle of 34°-34'-38" and a radius of 60.77 feet, an arc distance of 34.67 feet; thence continue from the tangent of said curve a distance of 45.64 feet; thence right 80°-09'-03" a distance of 119.49 feet; thence right 33°-25'-34" a distance of 245.11 feet; thence right 0°-40'-42" a distance of 377.82 feet to the Point of Beginning.

Said Parcel contains 27.59 acres more or less.

3. **Repeal.** 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.

F-10-20

LANE PARKS Mountain Brook, Alabama

PUD AMENDMENT APPLICATION

The Project Owner previously submitted an application for the rezoning of the Property from Local Business District and Residence D Districts to a Planned Unit Development District in accordance with Article XVI of the City Code, which application was, following public hearing, approved by the City Council upon the adoption of Ordinance 1871 dated May 21, 2012 (as amended from time to time, the "Approved PUD"). All capitalized terms not otherwise defined herein shall have the meanings given to them in the Approved PUD.

The current owners of the Property subject to the Approved PUD are hereby submitting an application to the Planning Commission and the City Council (the "PUD Amendment Application") for the approval of certain amendments to the Approved PUD, which will provide an alternate Drive Thru and Access Plan for Parcel 6 in the Approved PUD. Specifically, the owners request that the Approved PUD be amended by replacing the Table of Contents and pages 10 and 57 and of the Approved PUD with the changed pages, and by adding a new Appendix G to the Approved PUD, each as set forth in Exhibit "A" attached hereto. The names and addresses of all property owners whose property lies within 500 feet of Parcel 6 of the Property, as certified by Street View Geospatial Company, are listed on Exhibit "B" attached hereto.

Accordingly, the owners hereby submit the information included herein to the City pursuant to the application requirements of Article XVI of the City Code in order to amend the Approved PUD.

Planning Commission Application PART I Project Data Address of Subject Property 2455 Lane Parks Rd, 400 Mountain Ln, 1090 Jonikas Ln Zoning Classification Lane Parks PUD Name of Property Owner(s) EVSON, INC., et al Phone Number 205.960.4428 Email john@evsoninc.com Name of Representative Agent (if applicable) Mel McEvoy, Regional Contact, GALE, PC Phone Number Email Name of Engineer or Surveyor Jeff Slaton, Geodays, Miller & Leonard, Inc. Phone Number 205.679.4442 Email jslaton@geodays.com

APPENDIX 8

P-19-20

Petition Summary
Request for approval of an amendment to the Planned Unit Development (PUD) for Lane Park.

Recent Background
At its meeting of August 12, 2019, the city council held a public hearing on this case, announcing at the beginning of the meeting the no vote would be taken at that time, in the absence of two of its members.

- Analysis
The proposed PUD amendment has 3 prongs:
1. To amend the Traffic & Access Plan to add Block 8 to the list of blocks that may contain a drive-thru.
2. To amend the Base Zoning Standards to allow 4 drive-thrus.
3. To add language to require a stacking/queue analysis and city council approval for each and every proposed drive-thru in the project, every time a new tenant drive-thru is proposed.

Planning Commission Recommendation
At its meeting of July 1, 2019, the planning commission recommended approval of the proposed drive-thru amendment (P-19-20), with a condition that the language be tightened up with regard to specific proposed tenant types and specific locations within Lane Park.

Traffic Study of Drive-Through Queue

Proposed Coffee Shop (Block 10)
The proposed drive-thru lane that is to access a coffee shop (Block 10) has the capacity to store nine vehicles. At the bottom of Page 5 (Skipper Queue Study), based on a Skipper study of a Starbucks in Trussville, it is anticipated that the queue for the proposed coffee shop would exceed the nine-queue storage available for 6 minutes per day, as follows:

- The queue will exceed storage by one vehicle for three (3) minutes
The queue will exceed storage by two vehicles for one (1) minute
The queue will exceed storage by three vehicles for one (1) minute
The queue will exceed storage by four vehicles for one (1) minute

If the queue exceeds the nine car available queue storage, vehicles will interfere with the flow of traffic on Jenison Lane.

Proposed Fast Casual Restaurant (Block 8)
The proposed drive-thru lane that is to access a fast-casual restaurant (Block 8) has the capacity to store two vehicles. Charts on Pages 5 and 6 of the Skipper Queue Study indicate frequent excesses of the 2-car queue storage limit throughout the day (between 4-6 cars in the queue). At the bottom of Page 6, the study indicates that no queue is expected to impede traffic on Culver Road.

However, if the queue exceeds the two car available queue storage, vehicles will interfere with the use of on-site parking (behind the Ray & Poyner building) and it would seem that there is at least some unknown risk a queue could impede traffic flow on Culver Road.

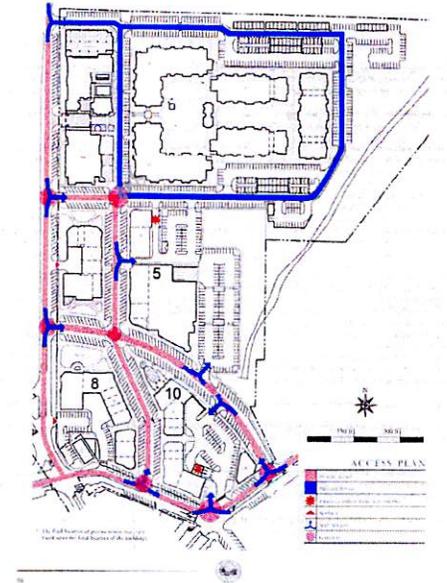
Landscape Plan for Phase 2
The PUD contains a list of approved plant species, and indicates that street trees and other landscaping along street frontages should resemble that of the traditional village and be compatible with it. The PUD also indicates that the landscape plan is subject to the Village Design Review process.

Likewise, the city council, in its review of any proposed PUD amendment, is not bound by any landscape plan previously approved by the VDR. This does not preclude the council from taking into consideration an approved landscape plan, during the course of its review of all factors of a PUD amendment.

Affected Regulation
Article XVI, Planned Unit Development District, Section 129-266, Additional Requirements and Provisions

Append
LOCATION: 2655 Lane Parke Road
ZONING DISTRICT: Planned Unit Development
OWNER: Evoxon, Inc.

PARKING, ACCESS AND TRAFFIC PLAN



Proposed PUD



TABLE OF CONTENTS

Table listing various planning documents and their page numbers, including PUD Amending Application, Design Standards, and various engineering reports.

Proposed PUD

BASE ZONING DISTRICT STANDARDS

Table of zoning standards for different building types (Retail, Office, etc.) and uses (Drive-thru, etc.), detailing requirements for setbacks, parking, and signage.

- Additional notes regarding signage, drive-thru requirements, and parking standards.

Proposed PUD

DESIGN STANDARDS & PATTERNS BOOK

DRIVE THROUGH FACILITIES
This is a contemporary interpretation of the building within Lane Parke that is to be used for a building project in accordance with the requirements of Section 129-266 through Section 129-268 of the City Code. The design shall be in accordance with the design standards set forth in the Design Standards & Patterns Book.

DESIGN REVIEW
In consultation with the participation of various design disciplines for the building, the Project Owner shall submit to the City Council for review and approval the design standards and patterns book for the project.

TRAFFIC AND ACCESS

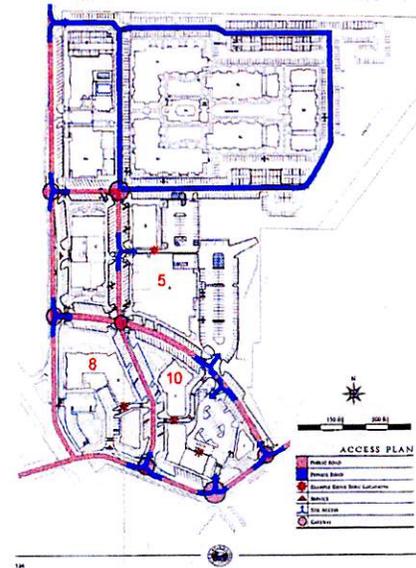
The proposed development is located on the east side of the intersection of...

The traffic and access plan for the proposed development is consistent with the...

The traffic impact analysis for the proposed development is consistent with the...

- Within Lane Parke, the proposed development is consistent with the...
• The proposed development is consistent with the...
• The proposed development is consistent with the...

It is recommended that the proposed development be approved...



DRIVE-THROUGH QUEUE TRAFFIC STUDY

Lane Parke PUD
Mountain Brook, Alabama

Prepared for:
Evson, Inc.
2621 Lane Park Road
Mountain Brook, Alabama 35223

Prepared by:
Skipper Consulting, Inc.
3844 Vanni Road, Suite 100
Birmingham, Alabama 35225



June 10, 2019

Lane Parke PUD Drive-Through Analysis

Mountain Brook, Alabama

Introduction

This report documents a traffic analysis to support a change in PUD use for the Lane Parke PUD in Mountain Brook, Alabama, in order to allow construction of two uses with drive-through windows.

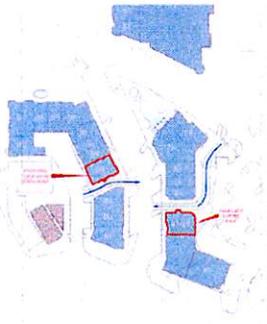


Figure 1: Drive-Through Locations

Drive-Through Storage

The drive-through lane for the Coffee Shop has the capacity to store approximately nine (9) vehicles beginning at the window before the queue begins to block traffic flow on Jernison Lane.

Lane Parke PUD Drive-Through Analysis

Mountain Brook, Alabama

Existing Queue Length Studies

Existing studies for drive-through queues for Coffee Shops are limited to one report containing maximum queue lengths for six Coffee Shops located in Minnesota and Kansas.

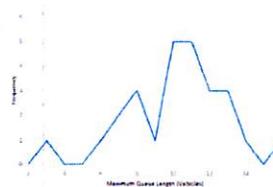


Figure 3.12 - Drive-Through Coffee Shop Maximum Queue Frequency - Mn & KS Data

The data collected in Minnesota and Kansas can be statistically analyzed to yield the following:

- Average Maximum Queue - 10.2 vehicles
• 85th Percentile Queue - 13 vehicles
• Maximum Queue - 16 vehicle

No existing studies for drive-through queues for Fast-Casual Restaurants were located in literature search

New Queue Length Data Collection

Existing queue length studies available were determined to be insufficient for the purposes of this report in order to provide a complete picture of the queues, not only the length of the maximum queues must be determined, but also the duration (in minutes) of any queues which exceed the storage available needs to be known in order to make sound decisions regarding the proposal.

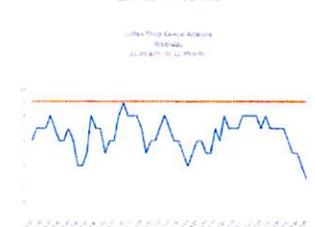
- Coffee Shops
o Starbucks on U.S. Highway 11 in Trussville

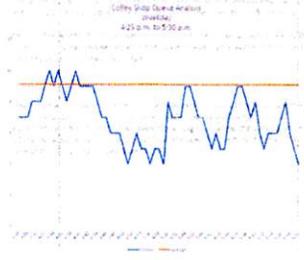
Lane Parke PUD Drive-Through Analysis

Mountain Brook, Alabama

- o Starbucks on Montclair Road in Birmingham
• Fast-Casual Restaurant
o Panera Bread on U.S. Highway 11 in Trussville

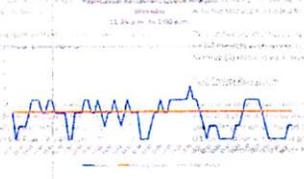
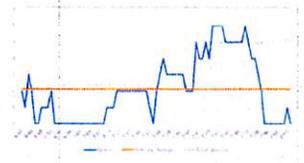
Data collection was performed by observing the queues during the morning, midday, and afternoon peak periods, with the queue data collected minute-by-minute. The results of the queue length data collection are depicted in the following graphs.





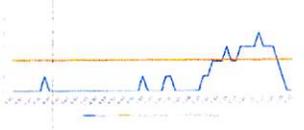
FAST-CASUAL RESTAURANT QUEUES

Fast-Casual Restaurant Queue Analysis
Monday, 8:45 a.m. to 9:05 a.m.



FAST-CASUAL RESTAURANT QUEUES

Fast-Casual Restaurant Queue Analysis
Monday, 12:30 p.m. to 1:00 p.m.



Analysis of Queue Lengths
Coffee shop

The longest queues (both in length and duration) for the Coffee Shop is during the morning peak period. Based on the data collected, it is estimated that the queue for the proposed Coffee Shop will exceed the available storage of nine (9) vehicles for six (6) minutes during the morning peak period. More specifically,

- The queue will exceed storage by one vehicle for three (3) minutes
- The queue will exceed storage by two vehicles for one (1) minute
- The queue will exceed storage by three vehicles for one (1) minute
- The queue will exceed storage by four vehicles for one (1) minute

During the midday peak period, it is projected that the queue will never exceed the storage. And during the afternoon peak period, it is projected that the queue will exceed the storage for three (3) minutes, with the storage exceeded by one (1) vehicle during those three (3) minutes.

Or, in other words, there is would be projected to be minor disruption to traffic flow on Jenison Lane for six (6) minutes each weekday, with the possibility of both directions of traffic flow being disrupted for up to three (3) minutes each weekday.

Fast-Casual Restaurant

The queue length data collected for the Fast-Casual Restaurant shows that the primary storage of two (2) vehicles is projected to be frequently exceeded during the time periods analyzed. However, the projected queue lengths never exceed the available storage including the parking areas behind shops D1, D2, and D3. Or, in other words, it is projected that the drive-through for the Fast-Casual Restaurant would never impact traffic flow on Culver Road.

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