

**MINUTES OF THE SPECIAL MEETING OF THE
CITY COUNCIL OF THE CITY OF MOUNTAIN BROOK
JUNE 20, 2023**

[As a convenience, members of the public were invited to listen and observe in the public meeting by Internet video conference. There was 1 virtual attendee at the meeting.]

The City Council of the City of Mountain Brook, Alabama met in person at 5:30 p.m. on the 20th day of June, 2023 (others were invited to listen to the meeting by way of Internet video conference—1 attended virtually). Council President Virginia Smith called the meeting to order and the roll was called with the following results:

Present: Virginia Smith, Council President
William S. Pritchard III, Council President Pro Tempore
Gerald A. Garner
Lloyd C. Shelton
Graham L. Smith

Absent: Stewart Welch III, Mayor

Also present were City Attorney Whit Colvin, City Manager Sam Gaston, and City Clerk Heather Richards.

Council President Virginia Smith stated that a quorum was present and that the meeting was open.

1. CONSIDERATION: RESOLUTION AUTHORIZING THE EXECUTION OF ROW ACQUISITION CLOSING DOCUMENTS WITH RESPECT TO THE OLD BROOK TRAIL BRIDGE PROJECT (RESOLUTION NO. 2023-094 EXHIBIT 1, APPENDIX 1)

Council President Pro Tempore Pritchard made a motion to approve the resolution authorizing the execution of ROW acquisition closing documents with respect to the Old Brook Trail bridge project. The motion was seconded by Council Member Graham Smith. Thereupon, Council President Virginia Smith called for vote with the following results:

Ayes: Virginia C. Smith
William S. (“Billy”) Pritchard III
Gerald A. Garner
Graham L. Smith
Lloyd C. Shelton

Nays: None

Council President Virginia Smith declared Resolution (No. 2023-094) is hereby adopted by a vote of 5—0 (Exhibit 1, Appendix 1)

2. PUBLIC HEARING-REQUEST TO REZONE PROPERTY FROM RESIDENCE B DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD) DISTRICT-2305 MONTEVALLO ROAD, MONTEVALLO ROAD PARTNERS, LLC

Charlie Beavers-4301 Dolly Ridge Road (Represents Applicant)

- Introduced team

Louis Nequette-2227 2nd Avenue North (Principal at Nequette Architecture and Design)

- Project vision has not changed
- Project is made up of 1 condominium unit, 3 townhomes, and 13 single family houses
- Removed the stand along trash building (moved into building)
- The entrance into Chester Road is unchanged
- Provided more detail as to control the volume of the townhouse buildings
- There will be an 8 foot tall masonry wall in the back (also an evergreen hedge starting at 6' and growing to 20' over time)
- The elevation of condominium building as it faces Montevallo is not different, the changes were to the back of the building
- Character and details of townhomes will match the design guidelines of the single family houses
- Provided more detail of the zoning overlay requirements around the single family parcels that include the requirements of the interior courtyard and defined that by percentage
- The required interior courtyard as well as the setback would equate to at least a 35% open space
- Put a 4 area ratio governance in place that limits the maximum square footage of each house with relation to the lot size

Virginia Smith-Council President

- Inquired if all of the elevation and height requirements meet the city's code and would not need to go to the BZA

Louis Nequette

- No it would not need to go to the BZA
- As part of the PUD there will be a governing list of zoning requirements that specifically apply to the lots as part of the document, for setbacks and design requirements

Virginia Smith

- Inquired if the utilities will be buried

Charlie Beavers

- There is a commitment in the documents that the utilities will be buried
- The only condition will be if utilities attached to poles will need consent, the commitment would be contingent on the consent

Virginia Smith

- Inquired about the larger trees in the back

Gerald Clarke-7500 South Memorial Parkway (Landscape)

- Recommending the evergreen trees be at least 6' (at planting) with a mature height of 20'
- Can expect 2' of growth on the trees per year (assuming well maintained and irrigated)

Virginia Smith

- Inquired if there will be any other tool shed or trash facility on the exterior of the townhomes or condominium unit

Charlie Beavers

- There will be no other exterior buildings
- The site plans do not reflect any exterior building, must stick with site plan

Virginia Smith

- Inquired as to the construction access and construction parking on Chester Road

Charlie Beavers

- There are provisions in the PUD plan that prohibit the use of Chester Road and requires all construction activity to come off Montevallo Road
- The document provides until the last house is built, no construction access on Chester Road is allowed

Lloyd Shelton-Council Member

- Inquired as to the service traffic using alley only

Charlie Beavers

- To the extent association contracts for landscape, the contract will provide it must come off Montevallo Road
- There will be no community pool at the condominium, townhomes, or single family homes

Gerald Garner-Council Member

- Inquired if the 8' wall and greenery acts as a buffer for headlights

Louis Nequette

- Yes it would act as a buffer

Graham Smith-Council Member

- Inquired about lighting restrictions

Louis Nequette

- There are lighting restrictions in the guidelines for the single family houses

Jared Callhoun-2227 2nd Avenue North

- Most of the lighting restrictions put on the single family houses require it to be wall sconces, accent lighting, and low intensity
- No large overhead street lighting
- The intent was to keep all levels low and fixtures low intensity

Lloyd Shelton

- Inquired as to the lighting for the condominiums

Jared Callhoun

- There is nothing in the PUD for the lighting for the condominiums

Louis Nequette

- The reason the lighting requirement are in the single family and not condominiums is because the single family homes will be sold as lots and designed by other designers and owners
- The condominiums and townhouses will be designed by developer-following the design guidelines
- Intent is to provide same approach to lighting as facing toward the neighborhood

Whit Colvin-City Attorney

- To the extent of ROW, the lighting on ROW will be handled like any other project
- In terms of lighting on building themselves, will hold the applicant to their commitment

Virginia Smith

- There were concerns raised on how storm water will be managed and general rain water (particularly during construction) and its effect on Chester Road
- Asked Schoel representative to address this concern

James Parsons-1001 22nd Street South (Schoel Engineering)

- There will be a basement waterproof barrier between the walls where it site drains toward Chester
- Will have erosion control measures, required by state, that requires permit
- The permit requires monthly inspection

Charlie Beavers

- In the documents is a requirement for a construction barrier that keeps the water from going into Chester road

Virginia Smith

- Inquired if the island and tree will remain on Chester if the PUD was approved

Charlie Beavers

- Yes the tree and island will remain as is

Graham Smith

- Inquired if the Chester Road residents can park and use the motorcourt

Charlie Beavers

- There is a provision that allows for the Chester Road residents to use the parking area for events

Trip Galloway-4144 Stone River Road

- Asked the council to make it a requirement that the trees be 8 feet tall at the time of installation
- Asked the council to consider lowering the height limitations of the three townhomes
- Feels it has relevance with respect to how the street will be developed down to Bromberg's (if the townhomes are allowed to remain at the same height with what is proposed)
- Asked the council to consider requiring the townhomes to comply with the height requirements of Residence B (35 feet)

Louis Nequette

- If Residence B height restrictions were applied, there would be a 35 foot setback and 35 foot allowable height which would allow two full stories (which would be closer to the rear property line)
- This would also allow a roof line that could occupy three stories of space (two levels and attic space) all over a basement
- Feels this would be more looming and closer to the property line than the stepping consideration given

Victor Hansen-2328 Chester Road

- Asked the council to increase the wall height beyond 8 feet (because it is only 5 feet in the back)
- Feels it needs to be higher to provide the same amount of privacy to the back side as it does the front

Virginia Smith

- There will be a green buffer next to the wall which could be better than a taller wall

Lloyd Shelton

- Inquired what is industry standard when planting trees (6 feet, 8 feet)

- Inquired if the range could be 8 feet at planting

Gerald Clarke

- When trees are specified, the height range is specified
- Changing the tree height at installation is not an uncommon change to make; however, sometimes a certain size is not available

Jane Grant-2317 Chester Road

- Asked the council why the development has to use Chester Road
- Chester Road is quiet and charming and should not be connected to this development

Dan McCreary-2334 Chester Road

- All the time spent on this development has yielded little change
- There has been no change to the use of Chester Road since day 1
- The developer changed one of the condominiums (Building B) to three townhomes which will tower over the homes on Chester
- The Chester residents have raised many issues and arguments regarding PUD application while the applicant has remained silent
- The property is zoned Residential B and the developer knew this when they closed on the property
- The applicant is asking for permission to change the existing zoning
- It is not up to the council to come up with something the applicant likes or satisfies economic wants and wishes
- As a citizen, he expects the council to scrutinize the application and ensure the proposed PUD conforms to all governing state and city laws, codes, and policies
- Feels this matter came before the council prematurely as there are elements to the current design that have never been reviewed by the Planning Commission
- Does not think the role of the Planning Commission can be bypassed at will
- Referenced 129-264(c) of the Code of Mountain Brook that pertains to PUD applications
- Density-Stand-alone family homes-13 houses sitting on 2.24 acres (includes roads, parking, and common areas)
- Lots laid out are under 4700 square feet as compared to Residence B minimum lot of 10,000 square feet
- The 2.24 acres could only contain 8 Residence B houses
- This portion of the proposed PUD is not compatible with the Chester Road neighborhood with regard to density
- 2 solutions: 1) applicant retain high density housing area and close off Chester Road and only use Montevallo Road-two alternate layouts were provided to applicant that did not utilize Chester Road 2) reduce the number of homes in that portion of the PUD to be in compliance with the requirements of Residence B homes (8 or less homes)
- The effect of the tall townhome is made worse by the terrain
- Feels the council should require applicant to bring the townhomes in compliance with Residence B height restrictions of 35 feet
- Asked the council to articulate how and in what manner its ultimate decision in this preceding comports with governing requirements and policies
- (Submitted letter to be included in the record, Appendix 2)

Charlie Beavers

- Significant changes were made: lighting, construction traffic limitations, removed pool, moved trash building indoors, included wall, took out powerlines (will bury them), shifted density to the North West corner (felt it was a better plan), put barrier at entrance to Chester and development during construction, agreed to allow Chester Road residents to park at the development for events

- The idea the developer has no right to use Chester Road is not true, Chester Road is a public road
- Chester Road is changing
- Experts have said the traffic would be greater if the site was Residence B than what is proposed
- Offered to meet with the engineer that provided the alternatives; however, there was no meeting
- Their engineer stated only accessing Montevallo is not appropriate due to site distance
- The planting of the trees says 6 feet but it can be put on record that the planting will be 8 feet (or better)
- Feels the development is much needed in the city
- Despite the fears, this development will not be a deterrent to the neighboring properties

Gerald Garner

- Inquired about the alley behind townhomes with respect to vehicular traffic

Louis Nequette

- Driveways have to go to the back to create access to the garages at the back of the lot

Lloyd Shelton

- Inquired if Residence B is different from Townhome height

Dana Hazen-Director of Planning, Building, and Sustainability

- Residence B is limited to 35 feet and is limited to 2 stories
- Townhomes in a PUD allows 3 stories, 36 feet plus up to 16 feet for the ridge with a maximum of 46 feet
- The property by Bromberg's (if developed) as townhomes, they would be held to 3 stories, 36 feet plus up to 16 feet for the ridge with a maximum of 46 feet
- In the PUD, they are modeling the zoning restrictions for townhomes, but they are not limited to it in a PUD, whereas, the smaller lots by Bromberg's would not be eligible to a PUD

Trip Galloway

- Inquired if a PUD zoning was granted, if that PUD zoning be expanded by adjoining properties if the council thought it was appropriate in the future

Virginia Smith

- This is a legal question, does not have an answer
- This is not what is before the council
- The council is prepared to vote and has scrutinized this PUD application very closely
- Did not feel it was needed to ask the developer to reduce the number of lots (of the single family housing portion)
- Likes this plan better than the previous plan that had two large condominiums
- Satisfied with this development and changes of the PUD

Billy Pritchard-Council President Pro Tempore

- Fundamental issue has always been that this proposal is not in keeping with the character of the surrounding neighborhoods in Mountain Brook
- Property has been zoned Residence B for decades, everything around it is Residence B
- The density is overwhelming in this application and is not in keeping with the character
- Does not feel it is in the best interest and welfare of the surrounding neighborhood
- Was hopeful there would be a plan that the neighborhood could get behind

Lloyd Shelton

- Disagrees with Council President Pro Tempore Pritchard

- Is in favor of this application

Virginia Smith

- Closed the public hearing

Council President Virginia Smith introduced the ordinance in writing. It was then moved by Council Member Shelton that all rules and regulations which, unless suspended, would prevent the immediate consideration and adoption of said ordinance be suspended and that unanimous consent to the immediate consideration of said ordinance be given and that the reading of the ordinance at length be waived. The motion was seconded by Council Member Garner and was unanimously carried, as follows:

Ayes: Virginia C. Smith
 Gerald A. Garner
 Lloyd C. Shelton
 Graham L. Smith

Nays: William S. (“Billy”) Pritchard III

Council President Virginia Smith declared the motion carried by a vote of 4—1.

After said ordinance had been considered in full by the Council, Council Member Garner then moved for the adoption of said ordinance. The motion was seconded by Council President Virginia Smith. Thereupon, Council President Virginia Smith called for vote with the following results:

Ayes: Virginia C. Smith
 Gerald A. Garner
 Lloyd C. Shelton
 Graham L. Smith

Nays: William S. (“Billy”) Pritchard III

Council President Virginia Smith declared that the ordinance (No. 2143) is hereby adopted by a vote of 4—1 and, as evidence thereof, she signed the same (Exhibit 2, Appendix 3).

3. ANNOUNCEMENT

The City Council will have a Special Meeting on Tuesday, May 2nd, 2023 at 5:30 p.m. to discuss drainage options for Richmar Drive and Mountain Avenue

4. ANNOUNCEMENT

The next regular meeting of the City Council is June 26, 2023 at 7:00 p.m.

5. ADJOURNMENT

There being no further business to come before the City Council, Council President Virginia Smith adjourned the meeting at approximately 7:06 p.m.

6. CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, certify the above is a true and correct transcript of the special meeting of the City Council of the City of Mountain Brook, Alabama held at City Hall, Council Chamber (Room A-108) on June 20, 2023, 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 July 24, 2023

EXHIBIT 1

RESOLUTION NO. 2023-094

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that the City Council hereby authorizes either the Mayor, Stewart Welch III, the City Manager, Sam Gaston, or the Assistant City Manager, Steven Boone to execute the following right-of-way acquisition closing and any other such documents deemed necessary with respect to the Old Brook Trail bridge project (Resolution No. 2023-029):

1. Phillip and Kristin Madonia, Tract 1 - \$15,000
2. Houston and Sheri Cook, Tract 2 - \$42,950
3. Edmund and Ann Perry, Tract 3 - \$18,500
4. Naonal and Vance Plumb, Tract 4 - \$58,550

APPENDIX 1

APPENDIX 2

EXHIBIT 2

ORDINANCE NO. 2143

WHEREAS, after due consideration, the City Council has determined that the zoning classification of the real estate owned by Montevallo Road Partners, LLC, which is located along Montevallo Road, as more particularly described below, should be zoned Planned Unit Development (PUD) District, such property being presently zoned Residence B District.

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

1. Amendment of Zoning Ordinance and Map. The zoning ordinance of the City of Mountain Brook and zoning map established under authority of Section 129-17 of the Mountain Brook City Code are hereby amended by rezoning the property described hereinbelow from its present Residence B District under Chapter 129, Article IV, of said Code to Planned Unit Development (PUD) District as described in Chapter 129, Article XVI. The zoning ordinance of the City of

Mountain Brook shall further be amended to set forth that the development of the subject property shall be governed by the zoning standards set forth in the PUD Rezoning Application and Master Development Plan.

2. 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, are made a part hereof and are specifically incorporated herein by reference, said plan and materials constituting regulatory standards for use of the affected property, subject to modification only as provided for in Article XVI, Chapter 129 of the Mountain Brook City Code

3. Description of Affected Property. The property that is the subject of the rezoning approved by this ordinance is described as follows:

PARCEL I:

Lots 330 and 331, according to the Survey of Mountain Brook Estates, Chester Road, as recorded in Map Book 24, page 37, in the Probate Office of Jefferson County, Alabama.

+/- 17,256 Square Feet or 0.4 Acres

PARCEL II:

Begin at the center of the North boundary line of the NW 1/4 of the SW 1/4 of Section 8, Township 18, Range 2 West; thence run South along the center line of said NW 1/4 of SW 1/4 790 feet; thence East and parallel with the North boundary line of the said NW 1/4 of SW 1/4 234 feet; thence North 790 feet to the North boundary line of said 40 acre tract; thence West along the said North boundary line 234 feet to Point of Beginning.

LESS AND EXCEPT any portion of subject property lying in US Highway 280. Situated in Jefferson County, Alabama.

+/- 151,035.66 Square Feet or 3.5 Acres

4. 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.

5. Severability. The provisions of this ordinance are severable. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid, such invalidity shall in no way affect the remaining provisions of this ordinance.

6. Effective Date. This ordinance shall become effective when published by posting the same as required by law.”

APPENDIX 3

STATE OF ALABAMA
COUNTY OF JEFFERSON

THIS AGREEMENT made between the City of Mountain Brook in the State of Alabama, party of the first part, and J. Houston & Shari Cook, party of the second part.

For and in consideration of the sum of one dollar (\$1.00) in hand paid by the party of the first part to the party of the second part, receipt of which is hereby acknowledged, the parties herein agree as follows:

1. The party of the first part agrees to purchase in fee simple from the party of the second part certain property known as Right-of-Way Tract No. 2 of the subject project, as identified from the records of the City of Mountain Brook for the purpose of constructing and maintaining a public highway identified as Project No. STPBH-3716(256) as shown by the right-of-way map of said project.

2. The party of the second part agrees to sell and convey the property to the party of the first part in fee simple, free of all encumbrances, and will execute and deliver a warranty deed to the party of the first part, conveying the property in fee simple free of all encumbrances to the party of the first part upon payment of the sum of \$ 42,250.00 dollars to the party of the second part by the party of the first part at the time of delivery of such deed. The party of the second part agrees to satisfy all liens for ad valorem taxes outstanding against the above tract that becomes due and payable October 1 next, following date of execution of the agreement.

The party of the second part understands the above mentioned sum includes payment for the following: 0.11 ac of land, 0.03 ac temporary construction easement, paving & landscaping

3. The party of the second part agrees to give the party of the first part and its contractors immediate right-of-entry to the property being acquired: Yes or No .

4. Exceptions and additional conditions: The temporary construction easement will revert back to the project owner upon completion of said project.

IN WITNESS WHEREOF the parties herein have set their hands and seals this the 3rd day of February, 2023

WITNESSES:

J. Houston & Shari Cook
Owner

STATE OF ALABAMA
COUNTY OF JEFFERSON

THIS AGREEMENT made between the City of Mountain Brook in the State of Alabama, party of the first part, and Edmund & Ann Perry, party of the second part.

For and in consideration of the sum of one dollar (\$1.00) in hand paid by the party of the first part to the party of the second part, receipt of which is hereby acknowledged, the parties herein agree as follows:

1. The party of the first part agrees to purchase in fee simple from the party of the second part certain property known as Right-of-Way Tract No. 3 of the subject project, as identified from the records of the City of Mountain Brook for the purpose of constructing and maintaining a public highway identified as Project No. STPBH-3716(256) as shown by the right-of-way map of said project.

2. The party of the second part agrees to sell and convey the property to the party of the first part in fee simple, free of all encumbrances, and will execute and deliver a warranty deed to the party of the first part, conveying the property in fee simple free of all encumbrances to the party of the first part upon payment of the sum of \$ 18,500.00 dollars to the party of the second part by the party of the first part at the time of delivery of such deed. The party of the second part agrees to satisfy all liens for ad valorem taxes outstanding against the above tract that becomes due and payable October 1 next, following date of execution of the agreement.

The party of the second part understands the above mentioned sum includes payment for the following: 0.04 ac of land, 0.04 ac temporary construction easement, paving, curbing and landscaping

3. The party of the second part agrees to give the party of the first part and its contractors immediate right-of-entry to the property being acquired: Yes or No .

4. Exceptions and additional conditions: Temporary construction easement will revert back to the property owner upon completion of said project.

IN WITNESS WHEREOF the parties herein have set their hands and seals this the _____ day of _____, 20____.

WITNESSES:

Edmund & Ann Perry
Owner

STATE OF ALABAMA
COUNTY OF JEFFERSON

THIS AGREEMENT made between the City of Mountain Brook in the State of Alabama, party of the first part, and Phillip & Kristin Madonia, party of the second part.

For and in consideration of the sum of one dollar (\$1.00) in hand paid by the party of the first part to the party of the second part, receipt of which is hereby acknowledged, the parties herein agree as follows:

1. The party of the first part agrees to purchase in fee simple from the party of the second part certain property known as Right-of-Way Tract No. 3 of the subject project, as identified from the records of the City of Mountain Brook for the purpose of constructing and maintaining a public highway identified as Project No. STPBH-3716(256) as shown by the right-of-way map of said project.

2. The party of the second part agrees to sell and convey the property to the party of the first part in fee simple, free of all encumbrances, and will execute and deliver a warranty deed to the party of the first part, conveying the property in fee simple free of all encumbrances to the party of the first part upon payment of the sum of \$ 15,000.00 dollars to the party of the second part by the party of the first part at the time of delivery of such deed. The party of the second part agrees to satisfy all liens for ad valorem taxes outstanding against the above tract that becomes due and payable October 1 next, following date of execution of the agreement.

The party of the second part understands the above mentioned sum includes payment for the following: 0.04 ac of land

3. The party of the second part agrees to give the party of the first part and its contractors immediate right-of-entry to the property being acquired: Yes or No .

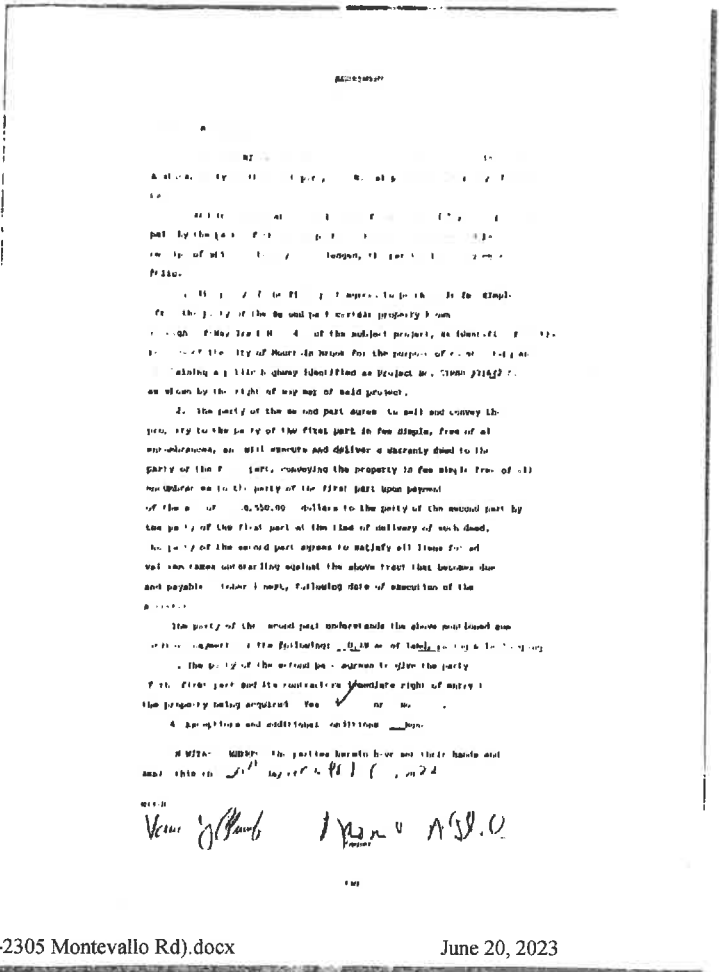
4. Exceptions and additional conditions: None

IN WITNESS WHEREOF the parties herein have set their hands and seals this the 2nd day of February, 2023.

WITNESSES:

Phillip Madonia Phillip Madonia
Owner
Kristin Madonia Kristin Madonia
Owner

APPENDIX I



January 19, 2023

February 1, 2023

City of Mountain Brook
Public Works Department
3579 East Street
Mountain Brook, AL 35243

Attn: Mr. Ronnie Vaughn, Public Works Director

Re: Project STPBH-3716(256)
Bridge Replacement on Old Brook Trail
City of Mountain Brook
Tract 3

Dear Mr. Vaughn:

Attached you will find an offer letter, agreement, negotiator report and W-9 for the above referenced tracts. Please add these documents to your files for these tracts.

We have asked our attorney to begin with preparing documents for closing these tracts. Payment will be as follows:

Tract 3 Edmund & Ann Perry \$18,500.00

Our attorney has researched the title on these tracts and any questions concerning encumbrances or ownership will be reviewed by his office. If you should have any questions concerning this correspondence, please do not hesitate to call.

Sincerely,

Bradley Wisener

City of Mountain Brook
Public Works Department
3579 East Street
Mountain Brook, AL 35243

Attn: Mr. Ronnie Vaughn, Public Works Director

Re: Project STPBH-3716(256)
Bridge Replacement on Old Brook Trail
City of Mountain Brook
Tract 1

Dear Mr. Vaughn:

Attached you will find an offer letter, agreement, negotiator report and W-9 for the above referenced tracts. Please add these documents to your files for these tracts.

We have asked our attorney to begin with preparing documents for closing these tracts. Payment will be as follows:

Tract 1 Phillip & Kristin Madonia \$15,000.00

Our attorney has researched the title on these tracts and any questions concerning encumbrances or ownership will be reviewed by his office. If you should have any questions concerning this correspondence, please do not hesitate to call.

Sincerely,

Bradley Wisener

APPENDIX I

February 7, 2023

October 31, 2022

City of Mountain Brook
Public Works Department
3579 East Street
Mountain Brook, AL 35243

Attn: Mr. Ronnie Vaughn, Public Works Director

Re: Project STPBH-3716(256)
Bridge Replacement on Old Brook Trail
City of Mountain Brook
Tract 2

Dear Mr. Vaughn:

Attached you will find an offer letter, agreement, negotiator report and W-9 for the above referenced tracts. Please add these documents to your files for these tracts.

We have asked our attorney to begin with preparing documents for closing these tracts. Payment will be as follows:

Tract 2 Houston & Sheri Cook \$42,950.00

Our attorney has researched the title on these tracts and any questions concerning encumbrances or ownership will be reviewed by his office. If you should have any questions concerning this correspondence, please do not hesitate to call.

Sincerely,

Bradley Wisener

City of Mountain Brook
Public Works Department
3579 East Street
Mountain Brook, AL 35243

Attn: Mr. Ronnie Vaughn, Public Works Director

Re: Project STPBH-3716(256)
Bridge Replacement on Old Brook Trail
City of Mountain Brook
Tract 4

Dear Mr. Vaughn:

Attached you will find an offer letter, agreement, negotiator report and W-9 for the above referenced tracts. Please add these documents to your files for these tracts.

We have asked our attorney to begin with preparing documents for closing these tracts. Payment will be as follows:

Tract 4 Naonal and Vance Plumb \$58,550.00

Our attorney has researched the title on these tracts and any questions concerning encumbrances or ownership will be reviewed by his office. If you should have any questions concerning this correspondence, please do not hesitate to call.

Sincerely,

Bradley Wisener

BE IT RESOLVED by the City Council of the City of Mountain Brook, Alabama, that City Council hereby approve the right-of-way purchase agreements from the following individuals (Exhibit A) with respect to the Old Brook Trail bridge project:

- J. Houston and Sheri Cook
- Phillip and Kristin Madonia
- Edmund and Ann Perry
- Naonal and Vance Plumb

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to take any and all action necessary to finalize and complete the right-of-way acquisitions that are the subject of the agreements approved hereby.

ADOPTED: This 13th day of February, 2023.


 Council President

APPROVED: This 13th day of February, 2023.


 Mayor

CERTIFICATION

I, Heather Richards, City Clerk of the City of Mountain Brook, Alabama, hereby certify the above to be a true and correct copy of a resolution adopted by the City Council of the City of Mountain Brook at its meeting held on February 13, 2023, as same appears in the minutes of record of said meeting.


 City Clerk

APPENDIX 1

MINUTE BOOK 93

753

Dan H. McCrary
2334 Chester Road
Mountain Brook, Alabama 35223

June 6, 2023

Dear Council Members,

As you know, my wife and I are among the ten (10) owners on Chester Road who have joined together in opposition to the PUD rezoning application currently before the City Council (Case No. P-22-16). We recently received notice that the matter has been specially set for a Council meeting on June 20, 2023. I am hand delivering this letter to each of you in advance of the meeting because it is not clear whether or to what extent further public comment will be allowed at that time. I am also providing copies to Whit Colvin (City Attorney) and Heather Richards (City Clerk), with a request that this letter be included in the official record compiled by the City in connection with this case.

As a threshold matter, the Chester neighborhood believes it is procedurally improper for the City Council to proceed on the merits of the pending PUD application. This is because governing state law (Alabama Code § 11-52-8), when read in conjunction with Mountain Brook Zoning Code Section 129-265(g) and Article XXV, requires that the matter be returned to the Planning Commission for review and input regarding aspects of the PUD that have never been considered by that body – specifically, (i) the greatly enlarged Condominium A building (from 16 to 26 units) and (ii) the elimination of Condominium B building in favor of three (3) large and very tall townhouses. The procedural requirement for initial review and input by the Planning Commission regarding these revisions serves an important purpose that may not be bypassed, circumvented or reasoned away. It is certainly no answer to observe that the Planning Commission has no decisional authority and that the revised application will “wind up at the Council anyway”, for that convenient excuse would apply to all matters that, by law, must first be considered by the Planning Commission.

Turning to the elements of the proposed PUD, the Chester neighborhood has offered a number of substantive arguments concerning its adverse impacts on our street. One such impact involves the predictable traffic burden that would result from adding 13-14 high density single family houses at the end of a Residential B street that currently comprises only 11 homes. In response, the developer points to a “traffic study” to support assurances that this will not be a problem. While a host of defects and shortcomings have been identified respecting that study (e.g., reliance on a single 24-hr data pull; ignoring actual higher use periods; limited sight lines and other location-specific factors), the City Council may nonetheless elect to embrace the developer’s assurances. In that event, it might prove difficult (but not impossible) to successfully challenge what amounts to a subjective assessment of future projections of traffic on our street.

In contrast to debates involving the legitimacy and reliability of a predictive traffic study, the City Council enjoys *no discretionary latitude* to disregard clear (and mandatory) requirements of the Mountain Brook Zoning Code. Specifically, Section 129-264(c) provides:

Property development standards. Property development standards for a PUD shall be determined by the city council after receiving recommendations from the planning commission. The development of the PUD must be compatible with the topography of the parcel and must preserve any unusual topographic or natural features of the parcel. **The development shall not adversely affect the developed or undeveloped property in the vicinity of the PUD, and the development must be compatible with such other property with regard to density, size of buildings, architectural style and type of use.** The city council’s determination as to whether the proposed development of the PUD is compatible with the neighboring properties with regard to the forgoing criteria shall be presumptively correct. Adequate water, sewer, streets, open spaces and other facilities and utilities must be available for the proposed PUD or there must be a definite proposal for making them available at the expense of a party other than the city. Depending upon the density of the proposed PUD and the type of uses proposed for the PUD, the city council may require such building setbacks for any front yards, side yards, or back yards, along with such buffers, walls, hedges, shrubs, trees, and other designed transitions as the city council deems necessary and appropriate for the preservation of the character of the other property in the vicinity of the PUD. The city council may impose such reasonable conditions, terms or limitations which it finds necessary or helpful for the protection and promotion of the public health, safety, morals and welfare of the city. (emphasis added).

As to density, undisputed information presented to the City Council shows that the PUD contemplates at least thirteen (13) single family houses of which ten (10) are on lots of less than 4700 ft², which would make them the smallest detached single family lots in all of Mountain Brook. In contrast, the Residential B houses on Chester Road have a minimum lot requirement of 10,000 ft². The existing lots along Chester Road are thus at least twice as large as those in the high-density housing area proposed for the PUD, and some are actually three times as large. By any reasonable measure, the single family housing portion of the proposed PUD fails the “compatibility test” vis-à-vis density, as it would be two to three times more dense than the existing neighborhood on Chester Road and increase the number of houses accessing Chester Road by more than 100 percent. Such high density housing is neither consistent nor compatible with the properties on the residential street on which access is sought.

Equally non-compliant are the newly-proposed townhouses with respect to the requirements that the PUD be compatible with property in the vicinity vis-à-vis **size of buildings**. The Chester neighborhood comprises single family homes – many only one story, including those directly below the proposed townhouses. At the last hearing, representatives of the developer confirmed that the townhouses would be three (3) stories over a basement, soaring to a height well over 50 feet when measured from the rear (towards Chester Road). The towering nature of these townhouses is exacerbated by the fact that their proposed location (to the north of Chester Road) is higher in ground elevation than the Chester Road houses below. Undeniably relevant in this regard is the restriction reflected in the Village Master Plan for the Brook Manor area to the south of Chester Road, which limited higher scale buildings to no more than two (2) stories “so as to cause no adverse impact on these [Chester Road] homes”. Significantly, that limitation was imposed in circumstances where the grade to the south was roughly the same as (if not lower than)

APPENDIX 2

that of the Chester neighborhood, whereas the site elevation at issue here is higher than Chester Road.

The Chester neighborhood recognizes that Section 129-264(c) provides that a presumption of correctness applies to determinations by the City Council regarding compatibility of a proposed PUD with the neighboring properties. But such a presumption is not insurmountable, nor does it shield determinations that are contrary to undisputed facts and thus arbitrary, capricious and an abuse of discretion. Moreover, it bears repeating that a PUD applicant has no legal right or entitlement to any aspect of its proposed development, and thus has the burden to overcome legitimate objections to its plans and affirmatively demonstrate compliance with governing ordinances. It is respectfully submitted that the proposed PUD is patently non-compliant with the density and size requirements of this Code section. Accordingly, the City Council – with input from the Planning Commission – must explore additional changes necessary to address these shortcomings.

Thank you in advance for your thoughtful consideration of these matters, which are of immense importance to our group. Long after others forget this proceeding, we will be living with the permanent consequences of the decision before you. Should there be a vote to allow the PUD to move forward as currently proposed, we specifically request a written explanation that reconciles such action with the requirements of Alabama and municipal law, including those discussed above.

If you have any questions regarding this letter, or would like to discuss any aspect of the proposed PUD and the views of the Chester neighborhood, please feel free to reach out to me or our attorney, Trip Galloway.

Very truly yours,


Dan H. McCrary

cc: Whit Colvin, Esq.
Ms. Heather Richards

Notice is hereby given that at a special meeting of the City Council of the City of Mountain Brook to be held on Tuesday June 20, 2023, at 5:30 p.m., in the Council Chamber of the Mountain Brook City Hall located at 56 Church Street, Mountain Brook, Alabama 35213, the City Council will hold a public hearing regarding a proposal that the City Council adopt an ordinance in words and figures substantially as follows:

"ORDINANCE NO.

AN ORDINANCE TO REZONE CERTAIN PARCELS OF LAND IN THE CITY OF MOUNTAIN BROOK, ALABAMA FROM RESIDENCE B DISTRICT TO PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

WHEREAS, after due consideration, the City Council has determined that the zoning classification of the real estate owned by 2305 Montevallo Road Partners, LLC, which is located along Montevallo Road, as more particularly described below, should be zoned Planned Unit Development (PUD) District, such property being presently zoned Residence B District.

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

1. Amendment of Zoning Ordinance and Map. The zoning ordinance of the City of Mountain Brook and zoning map established under authority of Section 129-17 of the Mountain Brook City Code are hereby amended by rezoning the property described hereinbelow from its present Residence B District under Chapter 129, Article IV, of said Code to Planned Unit Development (PUD) District as described in Chapter 129, Article XVI. The zoning ordinance of the City of Mountain Brook shall further be amended to set forth that the development of the subject property shall be governed by the zoning standards set forth in the PUD Rezoning Application and Master Development Plan.

2. 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, are made a part hereof and are specifically incorporated herein by reference, said plan and materials constituting regulatory standards for use of the affected property, subject to modification only as provided for in Article XVI, Chapter 129 of the Mountain Brook City Code

3. Description of Affected Property. The property that is the subject of the rezoning approved by this ordinance is described as follows:

PARCEL I: Lots 330 and 331, according to the Survey of Mountain Brook Estates, Chester Road, as recorded in Map Book 24, page 37, in the Probate Office of Jefferson County, Alabama.

+/- 17,256 Square Feet or 0.4 Acres

PARCEL II: Begin at the center of the North boundary line of the NW 1/4 of the SW 1/4 of Section 8, Township 18, Range 2 West; thence run South along the center line of said NW 1/4 of SW 1/4 790 feet; thence East and parallel with the North boundary line of the said NW 1/4 of SW 1/4 234 feet; thence North 790 feet to the North boundary line of said 40 acre tract; thence West along the said North boundary line 234 feet to Point of Beginning.

LESS AND EXCEPT any portion of subject property lying in US Highway 280. Situated in Jefferson County, Alabama.

+/- 151,035.66 Square Feet or 3.5 Acres

4. 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.

5. Severability. The provisions of this ordinance are severable. If any provision of this ordinance is held by a court of competent jurisdiction to be invalid, such invalidity shall in no way affect the remaining provisions of this ordinance.

6. Effective Date. 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.

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

A map of the property, a development plan proposed for the property, and other documents, information, and materials filed in conjunction with the application for rezoning may also be viewed on the City's website by going to:

- www.mtnbrook.org
- Calendar (upper right corner)
- City Council (June 20, 2023)
- Meeting Information (for agenda) and Supporting Documents (to view proposed plans and related materials select link associated with the case number P-22-16)

For inquiries, please contact Dana Hazen at 802-3816 (hazen@mtbrook.org).

APPENDIX 3

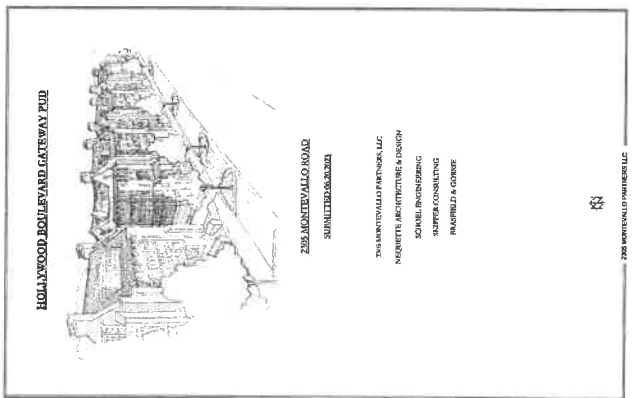
CERTIFICATION

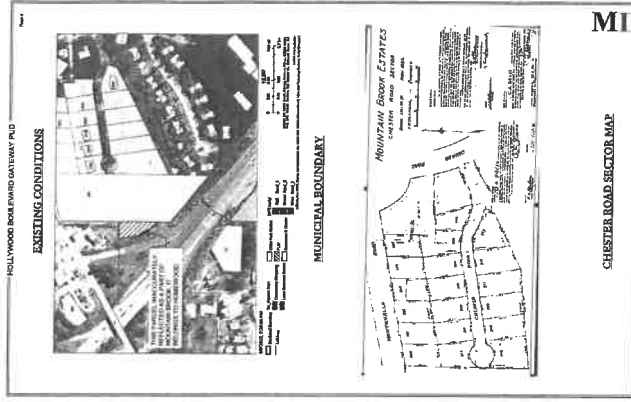
I, Tammy Reid, Administrative Analyst for the City of Mountain Brook, Alabama, do hereby certify that I have caused notice of the proposed rezoning and of public meeting thereupon set forth above to be published and provided in the manner specified by Article XXV, Sec. 129-431, of the Mountain Brook 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, said places being:

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

Tammy Reid, Administrative Analyst

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9. Map
10. Supporting Documents





HOLLYWOOD BOULEVARD GATEWAY PUD
A. DEVELOPMENT OBJECTIVES

Development objectives for the Hollywood Boulevard Gateway PUD are to provide a high quality residential environment that is consistent with the City's vision and goals for the area. The objectives are as follows:

1. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
2. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
3. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
4. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
5. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
6. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.
7. To provide a high quality residential environment that is consistent with the City's vision and goals for the area.

CHESTER ROAD SECTOR MAP

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