In response to COVID-19 social distancing mandates, the meeting was held via audio conferencing.

The meeting of the Planning Commission of the City of Mountain Brook, Alabama, was held on Monday, December 7, at 5:30 p.m., via audio conferencing. The roll was marked as follows:

Members Present: Rob Walker, Chairman  
Carey Hollingsworth, Vice-Chairman  
Michael Mouron, Secretary  
Philip Black  
Barney Lanier  
Frank Lassiter  
Graham Smith  

Absent: None  

Also present: Whit Colvin, City Attorney  
Dana Hazen, Director of Planning, Building and Sustainability  
Glen Merchant, Building Official  
Tammy Reid, Administrative Analyst  

1. Call to Order: Chairman Walker called the meeting to order at approximately 5:30 p.m., there being a quorum present.  

2. Approval of Agenda: Chairman Walker presented the agenda for consideration.  

Motion: Mr. Black, motion to approve the agenda as printed.  
Second: Mr. Hollingsworth  
Aye: Black  
Hollingsworth  
Lanier  
Lassiter  
Mouron  
Smith  
Walker  
Nay: None  

Motion carries.  

3. Approval of Minutes: Mr. Walker presented the November 2, 2020, minutes.  

Motion: Mr. Lanier, motion to approve the November 2, 2020, minutes as printed.  
Second: Mr. Lassiter  
Aye: Black - abstained  
Hollingsworth  
Nay: None  

Motion carries.
4. **Case P-20-35: Country Club Road/ Roger and Katherine Smith**

Smith’s Resurvey of Rockridge Park being a Resurvey of Rockridge Park Lot 10 & 11 Resurvey as recorded in Map Book 250, Page 13, in the Office of the Judge of Probate, Jefferson County, Alabama; situated in the NE ¼ and SE ¼ of the NE ¼ of Section 5, Twp-18S, R-2W, Jefferson County, Alabama.

Ray Weygand, Weygand Surveyors, 169 Oxmoor Road, Homewood, represented the applicants, Roger and Catherine Smith. The owner requests that the case be removed from this agenda and carried to the next meeting.

There were no public comments. Chairman Walker called for a motion.

Motion: Mr. Black, motion to carry the case over to the January 4, 2021 meeting.
Second: Mr. Hollingsworth
Aye: Black
Hollingsworth
Lanier
Lassiter
Mouron
Smith
Walker
Nay: None

Motion carries.

5. **Case P-20-32: 3080 Overton Road/ Paul Yacko**

Yacko Addition to Mountain Brook, being a survey of SW ¼ of Section 15, Twp-18S, R-2-W, Jefferson County, Alabama.

Ray Weygand, Weygand Surveyors, 169 Oxmoor Road, Homewood, Alabama, represented the applicant, Paul Yacko. He presented the resurvey request.

History: The Board of Zoning Adjustment approved Case A-20-34 on October 19, 2020, variances from the area and dimensional requirements of the Residence-A District, to allow 17,757 square feet in lieu of the required 30,000 square feet and an 87-foot width in lieu of the required 100 feet. The request before this commission is the creation of a substandard lot that does not meet the minimum zoning requirement for square feet or lot width; but which may now be considered by the commission since variances have been granted for the size and width.
Public Comments:

Jack Levy, 3712 Wimbledon Lane, Mountain Brook; his property adjoins the subject property. Overview of comments:

- He did not receive notice of the BZA meeting where variances were considered until after the meeting. Other neighbors received notices late as well.
- No architectural plans were submitted with the Planning Commission application. The height of the proposed structure is not known nor how they will build on the lot. He asks that the committee not act on this case until the neighbors have the additional information so they can express their opinions.
- Concerned that soil will be added to the lot thereby raising the build line, allowing for a taller structure.
- Possible water flow issues. Concerned about protections for neighboring properties.
- The lot is very small lot; the owners will have to build on one side or the other of the easement or changes will need to be made to the easement; other homeowners will be at a disadvantage.
- Approval to change this property to a lot poses a problem because it is approximately 70% in size compared to other surrounding lots.
- He has heard rumors that there are plans to change the easement; it appears the property is under contract for purchase.
- Citizens should have the opportunity to go before BZA to present their concerns. He said he was told the only thing he could do is to come to this committee; now being told this committee has no jurisdiction. Concerned citizens should be allowed to challenge the action of the BZA since notifications were not received prior to the meeting.
- Please postpone a decision until the next meeting.

Mrs. Patterson, 3068 Overton Road, Mountain Brook, said that she heard that the property owner plans to move power lines and change setbacks; she is concerned about water runoff. She also received her notice for the BZA meeting after the hearing; when she called to complain that notice of the meeting was received late, she said that she was told that the only way to be heard on this matter was to come to this meeting. She stated that another city was sued in the past because citizens did not receive notices and that their complaint in that case was upheld.

Chairman Walker stated that the Planning Commission cannot change the existing setbacks.

Dana Hazen, Director of Planning, Building and Sustainability:

- Offered her apologies that the notices were not delivered in a timely manner; the meeting was properly noticed on the part of the city by mailing 10 days prior to the hearing, according to State law; unfortunately, the city does not have control over what happens once the notices are in the hands of the Postal Service. The city keeps records of all who are notified and when stamped upon receipt by the Post Office. Delayed delivery does happen on occasion. The Board of Zoning Adjustment held a proper hearing.
- She clarified that the BZA approved the lot size and width that is less than required by code in Residence-A. Once those variances were approved, it became a legal lot and that is the only way it could come before the Planning Commission.
- The existing power easement is to remain.
• The setback requirements for this zone are 40-foot front and rear setbacks, 15-foot side setbacks, and a maximum height limit of 40 feet (two-story).
• Building plans are not required as a part of the application process for a resurvey.
• Drainage concerns will be addressed according to the storm water regulations at the time of construction permit application.
• This is a hearing to give the property a lot number. The zoning of this lot is not changing and will be held to the Residence-A zoning standards.

Mr. Black stated that his past experience during his ten year tenure on the Board of Zoning Adjustment is that the circuit court system seldom overrules a decision of a quasi-judicial body, which the BZA is.

Mr. Hollingsworth asked for clarification of the meeting for which notice was received late, BZA or Planning Commission. Mrs. Hazen said it was the BZA meeting.

Ray Weygand, Weygand Surveyors, said that the property is for sale and he is unaware of any building plans at this point. Mrs. Hazen stated that the existing easement is to remain; a structure will have to be built on either side of that easement.

Chairman Walker stated that the applicant presented a legal lot for resurvey.

Mr. Mouron asked what would be the issue with extending the request to the next meeting. Mrs. Hazen stated that unless the applicant asks to carry over, a decision must be made within 30 days of application or the request is automatically approved. Mr. Colvin, City Attorney: The law provides that once the request is presented, if not denied within 30 days, it is thereby approved in 30 days if it meets all requirements. Should the BZA approval be overturned in circuit court, the variances would drop and the lot would be non-conforming and could not be built upon.

Mr. Black: If the complaint is with the BZA, that is where relief should be sought; if that ruling is overturned, the action taken by the Planning Commission tonight will not affect BZA actions.

Mr. Hollingsworth stated that he understands the concerns presented, but all that this commission is considering is the approval of the lot. Procedures are in place to protect the neighbors and neighborhood once the construction plans are submitted for permitting. In general, this lot is similar in size to other lots in the neighborhood. Based on the parameters of the Planning Commission’s jurisdiction, there are no measures by which the commission can deny the request if all requirements are met.

Whit Colvin said that the commission has limited powers. If a subdivision plan is submitted that meets subdivision regulations, the commission lacks the authority to deny based on dislike or if not up to our personal standards. The action of the BZA made this lot a legal Residence-A lot. Mr. Colvin stated that he understands the concerns expressed but the commission has limited jurisdiction that does not allow them to review the actions of the Board of Zoning Adjustment.

Mr. Mouron: If the property is under contract, will the commission be interfering with that contract if action is postponed? He said that he is uncomfortable second-guessing the action of the BZA.
Mr. Levy: Please consider postponing action for 30 days to give concerned citizens an opportunity to work with those purchasing the property. If this commission cannot help, what are other options so as to avoid litigation?

Mrs. Hazen: The next step, if approved, is that the applicant has 60 days to have the resurvey recorded; if not recorded, they cannot get a building permit. If recorded, the property owner will seek building permits in accordance with Residence-A zoning standards.

Mr. Levy asked if the neighborhood will be notified when permit applications are submitted. Mrs. Hazen said there would be no notification. Should the property owner decide that they need a variance, they would make application to the BZA and notification would be sent out; but, if they can build within the Residence-A requirements, no notification will be sent because a variance will not be required. Mrs. Patterson said that in that case, if they did not receive timely notification again, they are just out of luck.

Mrs. Hazen stated that tonight will be the last hearing on this case. Should the property owner determine that the proposed house cannot fit with the setbacks and choose to request a variance; a public hearing will be set. The city will submit the certified notices to the Post Office as required by State law; however, the city cannot control what happens once the notices are at the Post Office. Unfortunately, this does happen on occasion. She stated that it is frustrating for all when notices are not received. Mrs. Patterson stated that she understands that the COVID-19 pandemic has been affecting mail delivery but that in this situation it is unfortunate.

Chairman Walker called for a motion.

Motion: Mr. Lanier, motion to approve the resurvey request as submitted.
Second: Mr. Mouron
Aye: Black
      Lanier
      Mouron
      Smith
      Walker
Nay: Hollingsworth
     Lassiter

Motion carries.

6. Case P-20-34: 3750 West Jackson Boulevard & 3751 East Fairway Drive  EXHIBIT 3


Hamilton and Kim Huber/Bill Dore of Enterprise Blvd, LLC, are the applicants. Mr. Huber:

- The resurvey request would allow the reconfiguration of three existing lots. All lots will meet zoning requirements.
- One of the lots is proposed to be a through lot, facing West Jackson Boulevard.
- Proposed is a 10-foot tall landscape buffer along East Fairway Drive (secondary front) to screen the rear of the proposed new house; the buffer will not provide access to the lot.
- He plans to build on lot 5BB as submitted in the application. This house will front West Jackson.
- Restricted Covenants are proposed that will require the buffer, as well as to restrict the secondary front to no detached accessory buildings or swimming pools, and no fencing over 4-feet high. These covenants will be recorded when the property is purchased.
- He has talked with several neighbors and has addressed their concerns.

Mrs. Hazen stated that the lot meets all subdivision requirements.

Mr. Mouron asked if this case meets all the subdivision regulations, what justification could the commission have to deny the request. Mr. Colvin stated that the regulations give some latitude to the Planning Commission with regard to configuration of lots. The size of the lot was the issue with the previous case and that is outside the commission’s purview.

Mr. Lanier said that the design element to create a through lot in a neighborhood where it is uncommon is not something he could support. Mr. Hollingsworth voiced his agreement; suggested leaving the lots as they are.

Chairman Walker asked Mrs. Hazen about regulations regarding through lots. Mrs. Hazen said that in the subdivision regulations, through lots are discouraged in new subdivisions. In this situation, it is not a new subdivision; it is a small subdivision. The proposed covenants provide an additional layer of protection but are not required; covenant issues would be addressed between the neighbors because it is a private agreement. The BZA is not bound by covenants.

Mr. Black feels this proposal is consistent with the neighborhood and will create buildable lots in keeping with the quality of the neighborhood.

Mr. Hollingsworth said that he has a similar situation in his neighborhood. He is not in favor of the request.

Mrs. Smith asked if the driveway will be shared. Mr. Huber said that the new driveway will be on West Jackson. The existing driveway will be moved.

Mr. Merchant, Building Official, added that the new drive on lot 4A cannot be dictated until the lot coverage percentage is calculated during the permitting process. Driveway access for the new lot will require two parking spaces.

Public Comment:

Shanda Williams, City of Mountain Brook Parks and Recreation Department, 3698 Bethune Drive, said that her department maintains the park next to the subject property. Please contact her with any issues with the island improvements.

Helen Drennen, 4608 Old Leeds Circle, Mountain Brook, said that she is representing the seller of the property. She feels that this proposal will be positive for the neighborhood.
for through lots, there are some near this location; if buffered correctly, they can be esthetically appealing.

Mr. Hollingsworth asked if 3751 East Fairway Drive could be subdivided. Mrs. Hazen said that she did not believe it could be.

Chairman Walker called for a motion.

Motion: Mr. Black, motion to approve the resurvey request as submitted, with covenants and proposed buffer included.

Second: Mr. Mouron

Aye: Black
    Lassiter
    Mouron
    Smith
    Walker

Nay: Hollingsworth
    Lanier

Motion carries.

NOTES: Philip Black recused himself from the next two cases. He excused himself from the meeting.

A 5-minute break was called.

7. **Case P-20-33: 205 Overbrook Road/Mountain brook Jr High School**

Amendment to master development plan for Mountain Brook Junior High School, 205 Overbrook Road.

Dave Reece, Turnerbatson Architects, 1950 Stonegate Drive, Birmingham, provided a project overview:

- Proposed is a new 3-story addition that connects the existing second floor levels and third floor level together. The addition will be composed of a new main entrance with a 2-story volume lobby space and grand stair. It will also house the ICC-500 rated storm shelter on the first floor. The second and third floors of the addition will consist of eighteen classrooms.
- There will be renovations throughout the interiors including expanding the existing cafeteria and connecting it to a multi-purpose, overflow space. The renovations will help eliminate congestion and increase safety during class change. Also, the existing classroom wing along Overbrook Road is scheduled for a new roof as part of needed building maintenance.
- New pitched roofs and a turret next to the library at Overbrook Road will be added, in scale with the surrounding community.
- No increase in student or faculty population is proposed; the classroom sizes are to be enlarged to be made more efficient and better equipped, with a new increase of eighteen classrooms.
- No increase in on-site parking demand is anticipated as a result of the improvements.
● Temporary classrooms are to be located on the fields behind the tennis courts during construction. No construction staging on the fields.
● Minimal light noise proposed.
● Construction is planned to begin when school is out; completion by fall of 2022.
● The Baptist Church location will provide additional parking during construction.

Mr. Lassiter asked about carpool access. Mr. Reece said it will be reduced to two lanes during construction. Student entrance during construction will remain as is.

Shanda Williams, City of Mountain Brook Parks and Recreation Department, asked about access for irrigation maintenance of the fields. Mr. Reece said that he will be glad to meet with her regarding this matter.

Public Comments:

James Dorsten, 200 Richmar Drive, Mountain Brook, asked about the construction entrance. Mr. Reece said that the last two bays of parking closest to the cafeteria will be fenced off. Also, there will be drainage system improvements in Mr. Dorsten’s neighborhood. He will be happy to get additional information to him.

Carole Wills, 61 Overbrook Road, Mountain Brook, asked where the A/C units will be located after construction. Mr. Reece said they will be concealed by a tall building and a parapet. Ms. Wills: Once construction is completed, will carpool access return to four lanes? Mr. Reece: They will return as they are now.

Chairman Walker called for a motion.

Motion: Mr. Lassiter, motion to approve amendments to the master development plan for Mountain Brook Junior High School, as submitted.
Second: Mrs. Smith
Aye: Hollingsworth
     Lanier
     Lassiter
     Mouron
     Smith
     Walker
Nay: None

Motion carries.

8. Case P-20-36: 3701 S. Brookwood Road/Brookwood Forest Elementary School  EXHIBIT 5

Amendment to master development plan for Brookwood Forest Elementary School, 3701 South Brookwood Road.

Richard Simonton, Goodwyn Mills Cawood, 2701 1st Avenue S., Birmingham, provided an overview of the proposal which includes additional parking, interior alterations and expansion of the facility footprint.
• Proposed is a one-story, 13,900sf addition on the west end of the existing gymnasium that will include an administration suite, kitchen, restrooms and a cafeteria.
• There are two proposed alternatives for parking layout; the first reorganizes parking to keep the same number of spaces and the second adds a new parking lot with 38 additional spaces. Upon receipt of bids, it will be determined which option will be administered.
• There will be a new entry focal point.
• There will be a construction driveway added from the back of the lower parking lot to the soccer fields.

Shanda Williams, City of Mountain Brook Parks and Recreation Department, expressed concern regarding access to the fields with maintenance equipment. A ramp would be the best solution. Mr. Simonton said they will work with her on this matter.

Public Comments: None.

Chairman Walker called for a motion.

Motion: Mr. Lassiter, motion to approve the amendments to the master development plan for Brookwood Forest Elementary School, as submitted.
Second: Mr. Lanier
Aye: Hollingsworth
Lanier
Lassiter
Mouron
Smith
Walker
Nay: None

Motion carries.

9. **Next Meeting:** January 4, 2021.

10. **Adjournment:** There being no further business to come before the Planning Commission at this time, the meeting stood adjourned.

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Tammy Reid, Administrative Analyst