

**STATE OF ALABAMA  
SHELBY COUNTY**

**SHELBY COUNTY PLANNING COMMISSION MINUTES**

**Regular Meeting – February 5, 2017 – 6:00 PM**

**Members Present:** Michael O’Kelley, Chairman; Jim Davis, Vice Chairman; Bob Land; Samuetta Nesbitt; Kenneth Wilder; Amy Smith; Bill Kinnebrew

**Members Absent:** None

**Staff Present:** Chad Scroggins, Development Services Manager; Christie Pannell-Hester, Planning Services Supervisor; Sharman Brooks, Senior Planner; Kristine Goddard, Principal Planner; Josh Cameron, Planner; John Slaughter, Chief Civil Engineer

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**PUBLIC HEARING**

The meeting was called to order at 6:00 P.M. by Michael O’Kelley, Chairman. **Commissioner O’Kelley** introduced the members of the Planning Commission and the County staff. There were approximately 12 audience members present in addition to the Planning Commission members and County staff.

**Approval of the Minutes of the December 18, 2017 Planning Commission Meeting.**

**Commissioner Davis** made a motion to approve the minutes of the December 18, 2017 meeting with a correction to the commissioners that voted in favor of the 2018 Planning Commission schedule and was seconded by **Commissioner Kinnebrew**. By a unanimous vote of six (6-0), with Commissioners O’Kelley, Land, Davis, Kinnebrew, Smith and Wilder voting in favor the minutes of the December 18, 2017 meeting were approved.

**Approval of the Minutes of the January 16, 2018 Planning Commission Meeting.**

No action needed.

**1. Case No. SN17-023 A Resubdivision of Kirkwood Family Subdivision # 1  
(Continued from December 4, 2017) **POSTPONED FROM JANUARY 16, 2018  
DUE TO INCLEMENT WEATHER****

This is a request from William Kirkwood, property owner, for the approval of a final plat to resubdivide Lot 2 of Kirkwood Family Subdivision #1 into four (4) residential lots to be known as a Resubdivision of Lot 2 of Kirkwood Family Subdivision #1. The resubdivision of Lot 2 will result in a total of five (5) lots and complete the family subdivision.

The subject property is zoned A-1 and located off Highway 119. Parcel Identification Nos. 58-10-6-13-0-001-001.000; 58-09-3-07-0-001-020.000.

Ms. Kristine Goddard described the request and presented the following information to the Planning Commission.

**UPDATE WITH LEGAL OPINION AS REQUESTED**

During the December 4, 2017 Planning Commission meeting, Mr. and Mrs. Martin, the adjoining property owners and owners of Lot 1 of Kirkwood Family Subdivision #1, indicated that the approval of the subject re-subdivision would eliminate the possibility to further divide Lot 1 of the Kirkwood Family Subdivision #1 and requested that the subdivision not be approved. The Planning Commission continued the case to allow time for the County Attorney to render a legal opinion regarding the family subdivision requirements and to allow time for staff to gather additional information regarding the original recording of the Kirkwood Family Subdivision # 1 and Kirkwood Family Subdivision #2.

The County Attorney continues to examine the questions posed with regard to this request. He did, however, provide the following partial opinion regarding the subject application:

- According to the *Shelby County Subdivision Regulations* Art. 1, Sec. 1.09- the definition of “family subdivision” limits these subdivisions to five lots or less.
- The spirit and purpose of the family subdivision regulations would be thwarted if one of the lot owners could “use up” all of the potential benefits and rights without the consent of the other lot owners. The benefits or rights in a family subdivision are benefits for all of the lot owners, not just the owners of one of the lots. It just seems to us that once it is in a family subdivision, limited to five lots, all of those family members involved have to act together to use or preserve the family subdivision benefits.

Although the property associated with the Graves Subdivision, Oak Alley Estates, Kirkwood Family Subdivision #1 and Kirkwood Family Subdivision #2 were all part of a family estate, they were each reviewed and recorded as separate subdivision applications. Kathryn Kirkwood Martin and William Kirkwood are the original assigns for the Kirkwood Family Subdivision #1. Neither Mrs. Kathryn Martin nor Mr. William Kirkwood was assigned to the Kirkwood Family Subdivision #2.

Staff continues to communicate with both parties regarding potential solutions.

**DISCUSSION**

The subject property is located at 6021 Cahaba Valley Road, approximately 900 feet north of the intersection of Cahaba Valley Trace on the east side of the road. Access to the property is via a shared access easement that presents visually as a shared driveway. Lot 1 of the family subdivision contains one single family residential structure. The surrounding area on the east side of Cahaba Valley Road is primarily rural single family development on large tracts of land. Further north is the Briarwood Christian School campus. Located on the west side of Cahaba Valley Road are the Broken Bow and Broken Bow South residential neighborhoods, zoned R-1, Single Family Residential.

The original Kirkwood Family Subdivision was reviewed administratively and approved on September 10, 2008 (Case No. S-41-08). The applicant intends to divide 18.4 acres (Lot 2), into four single family lots. Proposed Lot 2A will contain 2.00 acres, proposed Lot 2B will contain 4.43 acres, proposed Lot 2C will contain 10.94 acres and proposed Lot 2D will contain 1.03 acres. The proposed resubdivision is the first request to subdivide a lot in the Kirkwood Family Subdivision #1. The proposed resubdivision of Lot 2 into four lots will create a total of five lots and complete the family subdivision.

The subject property is zoned A-1. Each proposed lot contains one acre or more. Currently there are no homes on any of the proposed lots. Access via an existing easement from Cahaba Valley

Road spans Bishop Creek and the 100 year flood plain. All construction would occur outside of the 100 year flood plain.

Chief Buddy Tyler of the North Shelby Fire and EMR District initially reviewed the requested resubdivision and noted that a fire hydrant located within 1000 feet of the furthest potential home site would be preferred; however, after meeting with the applicant, the fire chief has determined that a hydrant would not be required at this time due to current water availability to the site. The nearest fire hydrant is located on Keith Drive in Broken Bow South approximately 1,200 feet from the driveway access to the subject property. The existing access easement will continue along the northern most property line of all lots to proposed Lot 2D.

Water Service from Shelby County is not available. The subject property is located in the Pelham Water Works Service area.

The subject property is located within the Cahaba River Basin and within the area that is subject to the Phase I Municipal Separate Storm Sewer System (MS4) permit issued to Shelby County by the Alabama Department of Environmental Management. Land disturbance should include Best Management Practices (BMPS) that are designed and installed in accordance with the *Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas* to prevent sediment from entering drainage ways or streams. If disturbance area is one acre or greater, a NPDES construction permit should be acquired from ADEM prior to disturbance.

## CONCLUSION

According to the *Subdivision Regulations of Shelby County*, a family subdivision is a subdivision of land into no more than five parcels, including remnant parcels, for the purpose of dividing land among the following designated legally related family members: spouse, siblings, children, grandchildren, parents, grandparents, or step-related individuals of the same status. The purpose of this subdivision is to create three additional lots in the family subdivision from Lot 2. The resubdivision will create a total of five lots and complete the family subdivision. The proposed subdivision plat meets the requirements of the *Subdivision Regulations of Shelby County* subject to the following items:

- Applicant submitting a record map for approval and recording;
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

At this time, however, staff recommends that the case be continued until March 5<sup>th</sup> to allow the County Attorney to further examine the questions posed by this request.

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Davis** made a motion in Case **SN17-023 A Resubdivision of Kirkwood Family Subdivision # 1** to Continue to the March 5, 2018 Planning Commission Meeting for additional information to be presented at that time. The motion was seconded by **Commissioner Wilder** and by a unanimous vote of seven (7-0), with Commissioners O’Kelley, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, the following resolution was approved:

**WHEREAS**, William Kirkwood, property owner, has petitioned the Shelby County Planning Commission for the approval of a final plat to resubdivide Lot 2 of Kirkwood Family Subdivision #1 into four (4) residential lots to be known as a Resubdivision of Lot 2 of Kirkwood Family Subdivision #1; and,

**WHEREAS**, the subject property is zoned A-1 and located off Highway 119, Parcel Identification Nos. 58-10-6-13-0-001-001.000; 58-09-3-07-0-001-020.000; and,

**WHEREAS**, according to the *Subdivision Regulations of Shelby County*, a family subdivision is a subdivision of land into no more than five parcels, including remnant parcels, for the purpose of dividing land among the following designated legally related family members: spouse, siblings, children, grandchildren, parents, grandparents, or step-related individuals of the same status; and,

**WHEREAS**, the resubdivision of Lot 2 would result in a total of five (5) lots and complete the family subdivision; and,

**WHEREAS**, on December 4, 2017 the Planning Commission continued the case to January 16, 2018 but said meeting was cancelled due to inclement weather and all scheduled cases were moved to the February 5, 2018 regular meeting; and

**WHEREAS**, the owner of Lot 1 of Kirkwood Family Subdivision #1 has requested the subdivision not be approved due to the maximum number of lots in a family subdivision being five and the approval of the subject division would remove the ability to further divide Lot 1 of the Kirkwood Family Subdivision #1; and,

**WHEREAS**, the Planning Commission has requested a legal opinion from the County Attorney regarding the family subdivision regulations and additional information on the original recording of the Kirkwood Family Subdivision # 1 and #2; and

**WHEREAS**, the County Attorney has requested additional time to research case precedent related to the additional division of a family subdivision lot by one family member at the detriment of other members of the same family subdivision;

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the request from William Kirkwood, property owner, for approval a final plat to resubdivide Lot 2 of Kirkwood Family Subdivision #1 into four (4) residential lots to be known as A Resurvey of Lot 2, Kirkwood Family Subdivision #1 located off Highway 119, Parcel Identification Nos. 58-10-6-13-0-001-001.000; 58-09-3-07-0-001-020.000 be, and the same is hereby *Continued*, to **March 5, 2018**.

**2. Case No. SD17-008 Griffin Park Commercial – Amended Special District  
POSTPONED FROM JANUARY 16, 2018 DUE TO INCLEMENT WEATHER**

This is a request from Tony DeJohn, Highpointe Investments, LLC, for the approval of a Special District Amendment to the approved Master Plan. The amendment proposes to subdivide the existing community area lot into three lots for the clubhouse, pool and two existing office buildings.

The subject property is zoned R-2 SD and is located at the 4500 Eagle Point Drive (former Eagle Point Golf Course and Driving Range), in the North Shelby – I-65 Zoning Beat, situated in Section 8, Township 19 South, Range 1 West; Parcel Nos. 58-09-3-08-0-002-001.000.

Ms. Sharman Brooks described the request and presented the following information to the Planning Commission.

This is a request from Tony DeJohn, Highpointe Investments, LLC, for the approval of a Special District Amendment to the approved Master Plan. The amendment proposes to subdivide the existing community area lot into three lots for the clubhouse, pool and two existing office buildings.

The subject properties, previously the Eagle Point Golf Course Clubhouse and Pro Shop, were the subject of a rezoning request on June 6, 2016. At that time the Planning Commission approved a rezoning to R-2 SD along with a site development plan to allow the redevelopment of the Eagle Point Golf Course and Driving Range for single family residential development. There have been two amendments to the Special District Plan since the original June 2016 approval. This request constitutes the third amendment and proposes to subdivide the existing non-residential lot (Community Area) into three lots.

The subject properties are located at the intersection of Eagle Point Parkway and Eagle Point Drive approximately one half mile west of Highway 280. The Eagle Point Development, a 750 lot single-family residential subdivision established in 1990, adjoins the subject properties.

### **June 6, 2016 Approved Special District Plan**

Griffin Park at Eagle Point was approved as a 304-lot single-family residential subdivision with varying lot sizes and an overall gross density of 2 lots per acre. Proposed lot sizes range from 0.15 acres (6,600 square feet) up to 5.03 acres.

The proposed clubhouse and community center will utilize three of the existing stone structures and a portion of the existing parking lot (see graphic to right).

### **September 19, 2016 Approved Special District Plan – 1<sup>st</sup> Amendment**

The June 6, 2016 Approved Special District plan recognized the general street layout and established density patterns for the development.

The amended special district site plan approval included several layout modifications and added 2 residential lots.

### **August 21, 2017 Approved Special District Plan – 2<sup>nd</sup> Amendment**

The August 21, 2017 amendment to the Griffin Park at Eagle Point Special District Plan included the following designated uses for the three (3) existing non-residential buildings in the community area of the development:

- Clubhouse and community pool
- Mortgage Broker Administrative office
- Sub-Contractor Administrative office with no heavy equipment stored on site

### **January 16, 2018 Proposed Special District Plan – 3<sup>rd</sup> Amendment**

The current request proposes to amend the Special District Plan by subdividing the existing community area lot into three lots for the clubhouse and pool and the two existing office buildings. Each of the existing buildings within the Community Area of the development is proposed to be located on a separate lot (see graphic left). The Subcontractor Administrative Office is shown on proposed Lot 1, the Mortgage Broker Administrative Office is shown on proposed Lot 2 and the Clubhouse and pool are shown on proposed Lot 3. The proposed lots will have shared access to the existing parking lot via Griffin Park Drive.

The overall existing layout will remain unchanged with the exception of the addition of the proposed pool and required landscaping. A subdivision plat is in review for compliance with the Subdivision Regulations. The subdivision application must be reviewed and approved by the Planning Commission. A site plan is in review for compliance with the Zoning Ordinance. The site plan application is being reviewed administratively.

The proposed subdivision does not increase or decrease the number of residential lots; however,

the overall number of lots will increase by two lots for a total of 308 lots.

### **Additional Approvals Required**

Pursuant to amendment approval, the applicant is required to submit a final plat that meets all requirements of the *Subdivision Regulations of Shelby County* and a fully engineered site plan that is consistent with the approved Special District plan. The final plat must be reviewed and approved by the Planning Commission. Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

***NOTE: A site plan for the pool has been submitted and is being reviewed for compliance with the Zoning Ordinance, Subdivision Regulations and the approved Special District plan.***

The subject site is located within the Cahaba River Basin and within the area that is subject to the Phase I Municipal Separate Storm Sewer System (MS4) permit issued to Shelby County by the Alabama Department of Environmental Management. Land disturbance should include Best Management Practices (BMPS) that are designed and installed in accordance with the *Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas* to prevent sediment from entering drainage ways or streams. A NPDES construction permit should be acquired from ADEM prior to disturbance. *Low impact development techniques are encouraged to offset the creation of impervious surfaces through development.* ***This project must comply with the requirements set forth in the Shelby County MS4 permit.***

### **Planning Analysis**

Special districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill development. Areas so established shall be characterized by a unified building and site development program providing for coordinated open space and architectural treatment. The Special District overlay binds the amendment request to a specific development proposal and site development plan.

The approved Special District plan for Griffin Park contains approximately 4.25 acres identified for non-residential uses, formally designated as a Mortgage Broker Administrative office, a Sub-Contractor Administrative office with no heavy equipment stored on site and the Clubhouse and Community Pool.

The proposed subdivision does not increase or decrease the number of residential lots; however, the overall number of lots will increase by two lots for a total of 308 lots. The overall existing layout will remain with the addition of the proposed pool and required landscaping. A thorough review of the “community area” parking indicates that adequate parking exists to accommodate the clubhouse, community pool and administrative office buildings.

The following information should be submitted pursuant to amendment approval:

- Applicant submitting a final plat that meets all requirements of the Subdivision Regulations;
- Applicant submitting a fully engineered site plan that meets all requirements of the Zoning Ordinance;
- Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

**Commissioner O’Kelley** asked if there are any public utilities that will require easements.

Ms. Brooks replied no they are all outside. She pointed out that there is an ingress, egress, utility and cross access easement for all three lots to have access to existing utilities and the parking lot.

**Commissioner Kinnebrew** stated that lots 1 and 2, if sold in the future would not have problems with the cross access, but if lot 3 should sell would it have an access issue.

Ms. Brooks replied no. She explained that the easement will be a permanent cross access easement and would have to be vacated for it to go away. She stated that there is no room on lot 3 for individual parking and access.

**Commissioner Smith** asked if the access easement includes shared parking.

Ms. Brooks replied yes and the subdivision plat will identify ingress/egress, utilities, cross parking and access easement.

**Commissioner Smith** asked if there is currently enough parking for the proposed landings.

Ms. Brooks replied yes and stated that it has been determined that they are over by about 10 – 15 spaces.

Mr. Connor Farmer deferred speaking unless there were questions.

**Commissioner Davis** asked if the purpose to divide the property is to sell lots 1 and 2.

Ms. Brooks replied yes and pointed out that creating the two additional commercial lots does not affect the residential lot count at all.

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Davis** made a motion in Case **SD17-008 Griffin Park Commercial – Amended Special District** the evidence and testimony warrant Approval. The motion was seconded by **Commissioner Kinnebrew** and by a unanimous vote of seven (7-0), with Commissioners O’Kelley, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, the following resolution was approved:

**WHEREAS**, Tony DeJohn, Highpointe Investments, LLC, requests the approval of a Special District Amendment to subdivide the existing community area lot into three lots for the clubhouse, pool and two existing office buildings; and,

**WHEREAS**, the subject property is located at 4500 Eagle Point Drive (former Eagle Point Golf Course and Driving Range), in the North Shelby – I-65 Zoning Beat, situated in Section 8, Township 19 South, Range 1 West; Parcel Nos. 58-09-3-08-0-002-001.000; and,

**WHEREAS**, the Griffin Park at Eagle Point Special District Plan was originally reviewed and approved by the Planning Commission in June 2016 as a 304-lot single family residential subdivision with a community center including a clubhouse and community pool; and,

**WHEREAS**, the Special District Plan for Griffin Park at Eagle Point was amended in September 2016 to include the relocation of the northern entrance, incorporation of unusable open space into adjoining lots and resulted in an increased total of 306 single family residential lots and a community center for the development; and,

**WHEREAS**, the Special District Plan for Griffin Park at Eagle Point was amended in September 2017 to include the following designated uses for the three (3) existing non-residential buildings in the community area of the development:

- Clubhouse and community pool
- Mortgage Broker Administrative office
- Sub-Contractor Administrative office with no heavy equipment stored on site; and,

**WHEREAS**, the September 2017 amendment to the Griffin Park at Eagle Point Special District Plan did not include an increase or reduction to the number of residential lots; and,

**WHEREAS**, this amendment to the Special District Plan for Griffin Park at Eagle Point includes the subdivision of the existing community area lot into three lots for the clubhouse, pool and two existing office buildings; and,

**WHEREAS**, this amendment to the Griffin Park at Eagle Point Special District Plan does include an increase or reduction to the number of residential lots; and,

**WHEREAS**, the overall number of lots will increase by two lots for a total of 308 lots; and

**WHEREAS**, the Commission finds that based upon the evidence and testimony presented that this amendment is compatible with the surrounding properties; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the request from Tony DeJohn, Highpointe Investments, LLC, for the approval of a Special District Amendment to the approved Master Plan to subdivide the existing community area lot into three lots for the clubhouse, pool and two existing office buildings; located at 4500 Eagle Point Drive (former Eagle Point Golf Course and Driving Range), in the North Shelby – I-65 Zoning Beat, situated in Section 8, Township 19 South, Range 1 West; Parcel Nos. 58-09-3-08-0-002-001.000, and the same is hereby **APPROVED**, subject to:

- Applicant submitting a fully engineered site plan, as necessary, that meets all requirements of the Zoning Ordinance;
- Applicant submitting an application for final plat approval by the Planning Commission;
- Any amendments, additions, deletions, alterations or changes to the approved Special District plan shall require the review and approval of an amendment to the approved Special District plan by the Shelby County Planning Commission.

**3. Case No. Z17-003 Brook Highland Community Church – Rezoning A-1 to B-2 (Continued from December 4, 2017)**

This is a request from Randy Goggans, Goggans Properties, representing the property owner, Brook Highland Community Church Inc., for approval of a change in the zone district boundaries from A-1, Agricultural District to B-2, General Business District for approximately 7.2 acres to allow the re-development of the site of the former Brook Highland Community Church into three new professional office/retail buildings and the renovation of the existing church building. The proposed redevelopment plan includes 35,000 square feet of new professional office and/or retail space.

The subject property is zoned A-1 Agricultural District and is located at 7160 Cahaba Valley Road. Parcel Identification No. 58-03-9-32-0-001-004.000.

Ms. Kristine Goddard described the request and presented the following information to the Planning Commission.

This is a request from Randy Goggans, Goggans Properties, representing the property owner, Brook Highland Community Church Inc., for approval of a change in the zone district boundaries from A-1, Agricultural District to B-2, General Business District for approximately 7.2 acres to allow the re-development of the site of the former Brook Highland Community Church into three new professional office/retail buildings and the renovation of the existing church building. The proposed redevelopment plan includes 35,000 square feet of new professional office and/or retail space. The subject property is zoned A-1 Agricultural District and is located at 7160 Cahaba Valley Road, Parcel Identification No. 58-03-9-32-0-001-004.000.

**UPDATE—Request to Withdraw**

On December 4, 2017 the Planning Commission continued the above case to allow the applicant additional time to consider modifying his rezoning request from B-2, General Business District to B-1, Neighborhood Business; O-I, Office and Institutional or a Special District designation. The applicant continued discussions with staff about the suggested modification and met separately with the Church Board who retains ownership of the property. At this time the applicant has decided to withdraw his request to rezone the property.

**Commissioner O’Kelley** verified that the applicant requested to withdraw the case.

Ms. Goddard confirmed.

No discussion

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner O’Kelley** made a motion in Case **Z17-003 Brook Highland Community Church – Rezoning A-1 to B-2** to accept the applicant’s request for withdrawal. The motion was seconded by **Commissioner Wilder** and by a unanimous vote of seven (7-0), with Commissioners O’Kelley, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, the following resolution was approved:

**WHEREAS**, Randy Goggans, Goggans Properties, as authorized by the property owner, has petitioned the Shelby County Planning Commission for approval of a change in the zone district boundaries from the A-1, Agricultural District to B-2, General Business District for approximately 7.2 acres to allow the re-development of the former Brook Highland Community Church into three (3) new professional office/retail buildings and the renovation of the existing church building; and,

**WHEREAS**, the subject property is located in the North Shelby I-65 Corridor Zoning Beat at 7160 Cahaba Valley Road, zoned A-1 Agricultural District, Parcel Identification No. 58-03-9-32-0-001-004.000; and,

**WHEREAS**, the Planning Commission suggested identifying specific retail and business uses for the re-development of the subject property as part of a special district or consideration by the applicant of a B-1, Neighborhood Business or O-I, Office and Institutional Zoning District; and,

**WHEREAS**, at the December 4, 2017 meeting the Planning Commission continued the case to February 5, 2018 at the request of the applicant to allow additional consideration of their suggestions, and

**WHEREAS**, the applicant has requested that the Planning Commission withdraw the case from consideration;

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the request from Randy Goggans, Goggans Properties, as authorized by the property owner, for approval of a change in the zone district boundaries from the A-1, Agricultural District to B-2, General Business District for approximately 7.2 acres to allow the re-development of the former Brook Highland Community Church into three (3) new professional office/retail buildings and the renovation of the existing church building; in the North Shelby I-65 Corridor Zoning Beat at 7160 Cahaba Valley Road, Parcel Identification No. 58-03-9-32-0-001-004.000, be and the same is hereby **WITHDRAWN**.

#### **4. Case No. Z17-007 Terry's Towing, Inc. – Rezoning A-1 to M-1**

This is a request from Terry McGiboney, Terry's Towing, property owner, for approval of a change in the zone district boundaries from A-1 Agricultural District to M-1 Light Industrial District for approximately 1.4 acres to allow for the construction of a garage storage building to house towing equipment to prevent exposure to the elements.

The subject property is zoned A-1 and located at 2543 Highway 16. Parcel Identification No. 58-28-4-20-0-000-004.004.

Mr. Josh Cameron described the request and presented the following information to the Planning Commission.

The subject property is located at 2543 Highway 16 near the intersection of Highway 63 and Highway 16. The subject property was zoned A-1, Agricultural District as part of Beat Three in 1988.

Directly northeast and adjoining this property, begins Calera's city limits. Properties in this area of Calera are zoned M-1 Light Industrial District. These properties contain a mix of business and automotive uses consistent with Calera's M-1 zoning district, which is substantially similar to Shelby County's M-1 District. To the north, west, and south are properties located in unincorporated Shelby County and zoned A-1, Agricultural District. These properties contain a mix of single family residential uses.

The subject property is the location of Terry's Towing, a local towing service in operation for over 20 years. The property currently has a fenced-in area for holding towed vehicles as well as a few storage structures. Until recently the property had a residence on-site as well.

#### **Proposed Development**

The applicant, Mr. McGiboney, requests that the subject property be rezoned from A-1, Agricultural to M-1, Light Industrial to expand the existing towing business. Mr. McGiboney states that a fire recently destroyed the residence on-site and he would like to use the newly available space to expand his towing operations on the property. Mr. McGiboney proposes to build a garage in the place of the previous residence and utilize his property more efficiently for his towing business. The new garage would allow Mr. McGiboney to store his towing equipment in a temperature-controlled environment and prevent exposure to the elements as well as storage for towed vehicles.

#### **Additional Approvals Required**

Pursuant to rezoning approval, the applicant will be required to submit an engineered set of site plans and meet all requirements of the Zoning Regulations. The site plan will be reviewed internally by staff and will not require Planning Commission approval.

#### **Planning Analysis**

The primary purpose of zoning land is to provide for the public health, safety and welfare in the development of land by ensuring that property is developed in an appropriate manner within the context of its immediate surrounding and the larger community of which it is a part. There are times when changes in the zoning of certain property are justified. For example, when a community is experiencing frequent requests for rezoning in a relatively small area, this is an indication that local trends and conditions may have changed, altering the assumptions underlying the existing zoning. Terry's Towing is currently a legal, non-conforming use within an A-1, Agricultural District.

The Shelby County Comprehensive Plan identifies the subject property as a "Rural Landscape". The goal of this designation is to establish a land use pattern that protects and maintains the rural characteristics and integrity of the rural fabric that make Shelby County a desirable place to live. The Shelby County Comprehensive Plan maintains the existence of rural businesses as integral to achieving this goal.

### **Conclusion**

The request to change the zoning district from A-1 Agricultural, to M-1, Light Industrial is consistent with other established uses and zoning in the surrounding area. The proposed use is consistent with the Shelby County Comprehensive Plan. Although some of the land uses surrounding and nearby to the subject property are primarily residential, other uses along Highway 16 nearby are consistent with both Calera's and Shelby County's M-1 Districts. The proposed change in zoning to M-1 will ensure the zoning district on the subject property is consistent with the historical and current use of the property.

**Commissioner O'Kelley** asked if the pictures were taken before or after the structure burned.

Mr. Cameron stated that the pictures were taken after it burned.

**Commissioner Kinnebrew** asked if the mobile home that is currently on the property is being used as an office or residential and can it be used as residential if it is zoned M-1.

Mr. Cameron explained that a residence is not allowed in an M-1 district. He stated that the mobile home is currently being used as an office.

**Commissioner Smith** asked if the property to the west is in the City of Calera and what type of land use is that.

Mr. Cameron stated that the property to the west is mostly single family homes. He pointed out the areas that are mostly vacant. He also pointed out that there is a manufacturing business, junkyard and a trucking business to the north.

Mr. Terry McGiboney, 2543 Highway 16, applicant, stated that staff summed up everything.

**Commissioner Davis** asked if the trailer is being used an office or residential.

Mr. McGiboney explained that it is being used as storage to maintain records for 7 years.

**Commissioner O'Kelley** asked if anyone was present to speak in favor of the proposal.

Mr. Jerry South, 3755 Corporate Woods Drive, stated that B-2 would be an acceptable zoning, but M-1 would be better considering that the property to the east is M-1 and has a drilling company that stores equipment there. He stated that the new building will be going in the same location where the building burned down. He stated that there is no adverse drainage effects. He explained that the business is not expanding, this is just to facilitate the operation.

No one spoke in opposition to the proposal.

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Kinnebrew** made a motion in Case **Z17-007 Terry’s Towing, Inc. – Rezoning A-1 to M-1** the evidence and testimony warrant Approval. The motion was seconded by **Commissioner Wilder** and by a unanimous vote of seven (7-0), with Commissioners O’Kelley, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, the following resolution was approved:

**WHEREAS**, Terry McGiboney, Terry’s Towing, property owner, has requested approval of a change in the zone district boundaries from A-1, Agricultural to M-1, Light Industrial District for approximately 1.4 acres to allow for the construction of a garage storage building to house towing equipment; and,

**WHEREAS**, the subject property is located at 2543 Highway 16 and within zoning Beat Three and situated in Section 20, Township 22 South, Range 2 West. Parcel Identification No. 58-28-4-20-0-000-004.004; and,

**WHEREAS**, Terry’s Towing is a legal non-conforming business use that predates the implementation of zoning in Beat Three in 1988; and,

**WHEREAS**, the use of the subject site is currently being utilized as office and automotive space; and,

**WHEREAS**, the B-2 zoning district restricts outdoor storage of any materials; and

**WHEREAS**, properties and uses on Highway 16 and in the surrounding unincorporated and incorporated areas are predominantly commercial;

**WHEREAS**, a request for rezoning must be in the interest of and not be detrimental to the health, safety and welfare of the immediate, surrounding and larger community;

**WHEREAS**, the Commission finds that based upon the evidence and testimony presented the proposed use is compatible with the surrounding properties and the *Shelby County Comprehensive Plan*;

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application of Terry McGiboney for the approval of the amendment of the zone district boundaries to include one tract totaling 1.4 acres from the A-1, Agricultural District to the M-1, Light Industrial to allow for the construction of a storage garage located within Beat Three and situated in Section 20, Township 22 South, Range 2 West. Parcel Identification No. 58-28-4-20-0-000-004.004, and the same is hereby **APPROVED**.

#### **5. Case No. V17-003 Mt Laurel Phase 3B Lot 21-21 & 21-22**

This is a request from Town Builders, Inc. for approval of a front yard variance of 19 feet to increase the setbacks from 12 feet to 31 feet to accommodate a drainage area.

The subject property is zoned SD and is located on the Southside of Burnham Street within the Mt. Laurel Subdivision within the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat and situated in Section 2, Township 19 South, Range 1 West; Parcel Nos. 58-09-1-02-2-002-054.000 and 58-09-1-02-2-002-053.000.

Mr. Josh Cameron described the request and presented the following information to the Planning Commission.

The subject properties are located on the northern end of the Mt. Laurel Subdivision near the intersection of Burnham Street and Elyton Street. Mt. Laurel is a master planned community that predates the implementation of zoning in this area. The entire subdivision is zoned SD. The

subject properties were recorded in Mt. Laurel Phase IIIB Sector 2 in 2009 in accordance with the area's master plan.

Mt. Laurel is a master planned community created in 2000. Development and construction within the community is governed by *The Town of Mt. Laurel Design Code Book* that establishes the general layout of the subdivision as well as housing and design standards. Zoning in this area was adopted in 2005 and is currently designated as SD, Special District, although development is governed by *The Town of Mt. Laurel Design Code Book*. Within this design book is a regulating plan that establishes housing types to be used in certain areas of the subdivision based on the topography and their proximity to the village center. The housing types establish setbacks, lot widths, height restrictions, and parking standards much like a typical zoning ordinance.

Both lots included in this variance are within the "Low Edge" district of the regulating plan. This district is intended for "Lots on the hillside rising above the village center, typically constrained by moderate slopes." The Low Edge district allows for six different housing types, each with its own set of defined setbacks. The applicant would like to build a "Type XI: Large House" on both lots (shown right). This housing type has a 12-foot front yard setback.

Setbacks in Mt. Laurel function differently than setbacks in the *Shelby County Zoning Ordinance*. Typically, setbacks are understood as the minimum distance a structure can be built from the front, rear and side lot lines. In Mt. Laurel, emphasis is placed on location of the home in regard to the street. As such, the 12-foot front yard setback for the "Type XI: Large House" setback is understood to be a *maximum* setback as opposed to a minimum setback. The Type XI homes are required to be a maximum of 12 feet from the lot line as measured from the front door.

Lots 21-21 and 21-22 both have a drainage swale that runs through each of the lots front yard and parallel to Burnham Street. Town Builder's, Inc. wishes to preserve this drainage area but cannot do so under the current setbacks. In order to preserve the drainage area, the buildings must be set back a farther distance from the front lot line. The applicant is requesting the required front yard setback be increased from 12 feet to 31 feet, as measured to the front door. Due to Mt. Laurel's unique interpretation as a maximum distance, the applicant has requested the setbacks be increased on both lots to 31 feet. Thus, if approved, homes on lots 21-21 and 21-22 could be built somewhere between 0 feet and 31 feet from the front lot line as measured to the front door. Most other lots on Burnham Street conform to the current 12 foot maximum.

Section 3 of Article XXIII of the *Zoning Regulations of Shelby County, Alabama* identifies that the Planning Commission may authorize a variance based on the existence of the following conditions:

1. *That the special circumstances or conditions applying to the building or land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.*
2. *That the granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.*
3. *That the authorizing of the variance will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County.*

## CONCLUSION

Staff acknowledges the importance of preserving existing drainage ways. The current setback would require altering existing drainage patterns along Burnham Street. It is the staff's opinion, that the granting of this variance would not cause an undue burden and "will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County."

Mr. Brian Phillips, 1 Mt Laurel Drive, Vice President Town Builders, explained that there is a drainage swale that is causing a hardship for construction.

No one spoke in favor of the proposal.

No one spoke in opposition to the proposal.

With no further discussion, **Commissioner O'Kelley** called for a motion. **Commissioner Land** made a motion in Case **V17-003 Mt Laurel Phase 3B Lot 21-21 & 21-22** the evidence and testimony warrant Approval. The motion was seconded by **Commissioner Davis** and by a unanimous vote of six (6-0), with Commissioners, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, and Commissioner O'Kelley abstaining the following resolution was approved:

**WHEREAS**, Bryan Phillips, Town Builders, Inc., property owner, has petitioned the Shelby County Planning Commission for approval of a front yard variance of 19 feet to increase the required front yard setback from 12 feet to 31 feet for the construction of single family homes; a variance of Section 3, Article XVIII, pursuant to Section 3, Article XXIII; and,

**WHEREAS**, the subject properties are located at Lot 21-21 and 21-22 in The Town of Mt. Laurel in the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat, situated in Section 2, Township 19 South, Range 1 West. Parcel Identification Nos. 58-09-1-02-2-002-054.000 and 58-09-1-02-2-002-053.000.; and,

**WHEREAS**, The Town of Mt. Laurel is zoned SD, Special District; and,

**WHEREAS**, The Town of Mt. Laurel is a master planned community with setbacks established in *The Town of Mt. Laurel Design Code Book* which predates the implementation of zoning in this area; and,

**WHEREAS**, the setbacks for "House Type XI: Large House" requires a 12 foot setback; and,

**WHEREAS**, a drainage swale exists in the front yard of lots 21-21 and 21-22 running parallel to Burnham street and within the required 12 foot setback; and,

**WHEREAS**, the applicant wishes to preserve this existing drainage area; and,

**WHEREAS**, increasing the front yard setback requirement by 19 feet will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Shelby County; and,

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the application of Bryan Phillips, Town Builders, Inc., property owner, has requested approval of a 19 foot front yard variance resulting in a 31 foot front yard setback instead of 12 feet to permit the construction of single family residential homes on lots 21-21 and 21-22 in the SD, Special District of

The Town of Mt. Laurel, ; a variance of Section 3, Article XVIII, pursuant to Section 3, Article XXIII for properties located at lots 21-21 and 21-22 in the Town of Mt. Laurel and within the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat and situated in Section 2, Township 19 South, Range 1 West; Parcel Identification Nos. 58-09-1-02-2-002-054.000 and 58-09-1-02-2-002-053.000 be, and the same is hereby **Approved**, subject to:

- Compliance with the regulations, policies and guidelines of Shelby County.

#### **6. Case No. SD17-009 The Village at Highland Lakes Amended Master Plan**

This is a request from Doug Eddleman, owner, The Village at Highland Lakes, Inc., for the approval of an Amended Master Plan for The Village at Highland Lakes to relocate the pool and cabana on the north side of the property.

The subject property is located on the north side of County Road 41 (Old Dunnivant Valley Road) approximately 3.5 miles northeast of U.S. 280, in the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat and situated in Section 3, and the E ½ of Section 4, Township 19 South, Range 1 West; Parcel No. 58-09-2-03-0-007-999.999.

**Commissioner O’Kelley** stated that the applicant has requested that the case be withdrawn based on neighbor concerns.

No discussion

With no further discussion, **Commissioner O’Kelley** called for a motion. **Commissioner Land** made a motion in Case **SD17-009 The Village at Highland Lakes Amended Master Plan** to accept the applicant’s request for withdrawal. The motion was seconded by **Commissioner Kinnebrew** and by a unanimous vote of seven (7-0), with Commissioners O’Kelley, Land, Davis, Nesbitt, Smith, Kinnebrew and Wilder voting in favor, the following resolution was approved:

**WHEREAS**, Doug Eddleman, The Village at Highland Lakes, property owner, has petitioned the Shelby County Planning Commission for the approval of The Village at Highland Lakes Amended Master to relocate the community pool and cabana on Highland Village Trail; and,

**WHEREAS**, The subject property is located on the north side of County Road 41 (Old Dunnivant Valley Road) approximately 3.5 miles northeast of U.S. 280, in the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat and situated in Section 3, and the E ½ of Section 4, Township 19 South, Range 1 West; Parcel No. 58-09-2-03-0-007-999.999; and,

**WHEREAS**, the applicant has requested that the Planning Commission withdraw the case from consideration due to concerns of residents of The Village at Highland Lakes;

**NOW, THEREFORE, BE IT RESOLVED** by the Shelby County Planning Commission that the request from Doug Eddleman, The Village at Highland Lakes, property owner, for the approval of The Village at Highland Lakes Amended Master to relocate the community pool and cabana on Highland Village Trail; in the Chelsea North – Dunnivant Valley South – Westover North Zoning Beat; Parcel No. 58-09-2-03-0-007-999.999, be and the same is hereby **WITHDRAWN**.

**DISCUSSION ITEMS**

Ms. Brooks stated that a Vice Chair will be elected at the February 19, 2018 meeting. She provided a list of officers and terms since 2002 and pointed out that the next group to come up for re-appointment will be in 2019.

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There being no further business, **Commissioner Kinnebrew** made a motion to adjourn. The motion was seconded by **Commissioner Nesbitt** and by a unanimous vote of seven (7-0), with Commissioners O'Kelley, Davis, Nesbitt, Wilder, Smith, Kinnebrew and Land voting in favor, the meeting of February 5, 2018 was adjourned at 6:36 P.M.

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Christie Pannell-Hester  
Planning Services Supervisor

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Michael O'Kelley, Chairman  
Shelby County Planning Commission