

The Planning Commission met Monday, May 3, 2010 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

Present: Jean Wilson, Chairperson; Dick Charles, Vice-Chair; Bob Clark; Tim Kant; Jennifer Fidler; Lee Turner; Fran Slade. Jonathan Smith, Planning and Building Director; Chris Gill, Attorney; Nancy Milford, Planner; Emily Boyett, Secretary.  
Absent: Gary Moore and Lonnie Mixon

Chairperson Jean Wilson called the meeting to order at 5:02 PM and announced the meeting is being recorded. The minutes of the April 5, 2010 meeting were considered and Dick Charles moved to accept the minutes as written and was 2<sup>nd</sup> by Jennifer Fidler. Motion carried unanimously.

**SD 10.01 Request for Multiple Occupancy Project approval of Celebration Church of Fairhope, Driven Engineering.** The property is located on the southeast corner of the intersection of Dyer Road and Jubilee Trail. Mrs. Wilson stated at the April meeting there was a motion to table this request until this meeting. Fran Slade moved to un-table the request and was 2<sup>nd</sup> by Dick Charles. The motion to un-table carried unanimously. Nancy Milford gave the staff report saying the applicant is requesting the approval of a multi-use building on unzoned property located in Baldwin County. The total site is approximately 4.3 acres and the proposed building is approximately 11,989 sf with a building height of 35'. She stated at the April 5, 2010 meeting the application was tabled pending a response from Richard Johnson with Baldwin County regarding drainage. Staff contacted Mr. Johnson and he subsequently provided an e-mail response. Ms. Milford stated Mr. Johnson's response is only an opinion on the City of Fairhope's Subdivision Regulations and is not a full outside review with a professional engineering stamp and signature attached. Mr. Johnson's response stated "I think you will find that the proposed design meets or exceeds the City of Fairhope's Subdivision Regulations for the two areas reviewed." Staff recommendation is to approve as requested with the following condition: 1) An executed Maintenance Bond and Agreement that meets the approval of the City of Fairhope legal counsel. Mrs. Wilson opened the public hearing. Paul Davis, the applicant's architect, was present to answer any questions. Tim Simmons, applicant and Pastor of the Celebration Church of Fairhope, came forward and said the Church wants to do everything the City requires and go above and beyond to be good neighbors. Victor Koch of 21145 Bishop Road wanted to remind everyone that the water from this property goes to Rolling Oaks North. He said there is a known drainage problem in the area and a lawsuit had even been filed due to drainage for the property to the south, but it has been settled. Having no further comments, Mrs. Wilson closed the public hearing. Mrs. Wilson asked if the building would be insulated for noise. Mr. Davis responded the entire building will be insulated for noise, even the ceiling. He stated the exterior of the building will be metal panels with cement board and brick on the front. He added the building will be landscaped and use trees to create a buffer. Dick Charles stated all of the complaints have been with drainage issues and everything in the staff report says the drainage is adequate, including statements by Richard Johnson. Lee Turner moved to accept the staff recommendation to approve conditional upon the following: 1) An executed Maintenance Bond and Agreement that meets the approval of

the City of Fairhope legal counsel. Dick Charles 2<sup>nd</sup> the motion. Mrs. Wilson stated that Baldwin County Engineer Richard Johnson did look at the drainage with regards to the County and City requirements and he stated the drainage does meet or exceeds the requirements. Fran Slade asked if a decision on fencing has been made to help with the outside noise. Mr. Davis responded that they will be using perimeter trees in the landscaping, but the building insulation will be the biggest buffer. Mr. Simmons stated he is open to continue conversation with the neighbors in Porch Place to reach a reasonable place. Mrs. Wilson clarified that the City can not require any fencing on the project. The church would have to do the fence on their own. Mrs. Wilson called for a vote and the motion carried unanimously.

**UR 10.01 Request of the Fairhope Volunteer Fire Department for an 11.52.11 Utility Review and Approval of a proposed education building, John Saracino.** The proposed site is located on the property of the existing Fire Station #2 at 19875 Thompson Hall Road. Jonathan Smith gave the staff report saying the proposed building is approximately 1,500 sf and has an approximate building height of 12'-3". A 15' breezeway is proposed to connect this accessory structure to the principle structure. The property is zoned R-1 Low Density Single Family Residential District. Mr. Smith explained the proposed building will be classified as an accessory structure and per the R-1 regulations an accessory structure is to be built in the rear yard of any subject property; however, due to the existing flow line (natural drainage path of water) in the rear yard of the property, the Fire Department is asking to construct the building beside the existing fire station. Mr. Smith stated due to a true hardship on the subject property relating to the topography, staff does not have a problem with the proposed location and both the existing fire station and the proposed structure fit within the allowable building footprint area for the principle structure on the lot, per the R-1 setback regulations. Staff recommendation is to approve the proposed location, character and extent of a new education building for the Fairhope Volunteer Fire Department to be located on the property of the existing Fire Station #2 at 19875 Thompson Hall Road. Lee Turner asked if the building would be burned for training purposes. Mr. Smith responded it will be a classroom and would not be burned. Volunteer fireman, Ken Eslava came forward and said the building is strictly for educational purposes and classroom training. He stated there will not be any pit burns, live explosions or anything of that nature. He added the department will be very considerate of the neighbors and the reason for the location is due to the drainage way that runs across the rear of the property. Mrs. Wilson opened the floor for public comments, but no one wished to speak. Dick Charles asked if there would be restrooms and if it would be lecture style classes. Mr. Eslava responded yes there would be restrooms for those who attended the classes and the training would be slides and lectures. Mr. Charles asked who would be doing the construction. Mr. Eslava stated Wayne Kahlbau will be the contractor. Mrs. Wilson asked for clarification on the drainage issue and the building location. Mr. Smith explained the proposed building should be located behind the rear building line of the principle structure but due to a natural drainage way the fire department is requesting the proposed building be located beside the existing fire station. Lee Turner moved to accept the staff recommendation to approve the request. Dick Charles 2<sup>nd</sup> the motion and the motion carried unanimously.

## Old/New Business

**ZC 10.03 Sign Ordinance Amendment – Article IV, Section G. (Signs)** – Jonathan Smith stated on December 7, 2009 the Commission established a Sign Ordinance Committee to review the City’s sign ordinance and discuss possible revisions. The committee consists of Bob Clark, Jennifer Fidler and Jonathan Smith. Mr. Smith said with the guidance of the committee, staff has prepared several amendments to the sign ordinance as part of some Zoning Ordinance “clean-up” efforts as well as efforts to assist business owners throughout the community. With the exception of a couple of amendments that will help with consistency throughout the Ordinance, the most substantial of the proposed amendments are as follows:

- a reduction in maximum height allowed for freestanding signs from twenty feet (20’) to eight feet (8’);
- establishing provisions specifically addressing political signs;
- establishing a 30 day time limit and a maximum allowed face area of four (4) square feet for temporary signs;
- reducing the face area allowed for certain real estate signs;
- reducing the additional maximum allowable face area for Complex Signs from fifty (50) square feet to twenty (20) square feet; and
- a provision to allow for A-Frame signs in all commercial districts

Mrs. Wilson stated this would be a recommendation to the City Council and they would have the final decision. Mr. Smith said the amendments are not up for a vote tonight, he explained that staff wanted to have the Commission’s input before the amendments were advertised. Mr. Charles asked if there has been any public feedback since it has not been advertised and Mr. Smith responded he has not received any. Tim Kant asked if there would be a distinction between temporary signs and political signs. Mr. Smith stated there will be specific provisions for political signs. Mr. Turner asked if complex signs were for shopping centers and for clarification on the size reduction. Mr. Smith explained the Ordinance currently allows complex signs fifty (50) square feet to identify the tenants in the complex in addition to fifty (50) square feet to identify the complex itself. Mr. Smith said the proposed amendment will limit the complex identification to twenty (20) square feet with the tenant listing to remain at fifty (50) square feet. Mrs. Wilson asked if the A-Frame signs would be allowed for all businesses. Mr. Smith responded the A-Frame signs would be allowed in all commercial districts. Mrs. Wilson commended the committee on a good job.

**Alabama Planning Institute – CAPZO Certification** – Emily Boyett announced the CAPZO classes will be held on June 17<sup>th</sup> and June 18<sup>th</sup> in Gulf Shores. She said if anyone would like to attend these classes to please let her know. She stated the certification is effective for 24 months and then must be renewed annually.

**13<sup>th</sup> Annual Alabama Land Use Law Update** – Mrs. Boyett said the Annual Land Use Law Update will be held on October 8, 2010 in Gulf Shores. This seminar will serve as recertification for anyone with their CAPZO. She added if anyone would like to attend to please let her know.

Tim Kant stated at the previous City Council meeting there was lengthy discussion over the rezoning of property on Greeno Road and he would like to see a committee set up to look at the possibilities for Greeno Road and how the Commission wants to deal with it. Mr. Smith stated he and Councilmember Debbie Quinn are scheduled to meet regarding this issue and he feels this is a good idea. Dick Charles asked if this could piggy back with the Medical Overlay District Committee and Mr. Kant responded yes. Fran Slade stated the MOD Committee currently consists of two Planning Commissioners and one City Council member and planning staff. Mr. Kant asked to add several citizens and another councilmember.

**Executive Session** - Chris Gill addressed the Commission and requested they enter and Executive Session by reading the following letter:

Christopher M. Gill

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**DECLARATION AND OPINION**

My name is Christopher M. Gill. I am over the age of nineteen (19), and I make this Declaration and Opinion based upon my own personal knowledge, information and belief. I am an attorney licensed to practice law in the State of Alabama. I am offering this Declaration and Opinion in compliance with Section 36-25A-7 of the *Code of Alabama* (1975).

On the 3<sup>rd</sup> day of May, 2010, at a meeting of the Planning and Zoning Commission of the City of Fairhope, Alabama (the "Commission"), there has been or will be made a motion calling for an executive session to discuss with the Commission's attorney the legal ramifications of and legal options for pending litigation.

Prior to voting to convene the executive session, I am offering this Declaration and Opinion for the purpose of stating that Section 36-25A-7 of the *Code of Alabama* (1975) is applicable to the planned discussion, and I hereby request that this written Declaration and Opinion be reflected in the minutes for said meeting. I have further advised the Commission that if any deliberation begins among them regarding what action to take relating to pending or threatened litigation based upon the advice of counsel, the executive session shall be concluded, and the deliberation shall be conducted in the open portion of the meeting or the deliberation shall cease.

This Declaration and Opinion shall not constitute a waiver of the attorney-client privilege.

Dated this 3<sup>rd</sup> day of May, 2010

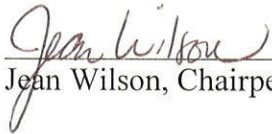


Christopher M. Gill, Esq.  
Attorney for the Planning and Zoning Commission  
of the City of Fairhope, Alabama

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Bob Clark moved for the Commission to enter an Executive Session to reconvene no later than 5:50 p.m. Dick Charles 2<sup>nd</sup> and motion passed unanimously by the following voice vote AYE – Mayor Kant, Jennifer Fidler, Bob Clark, Jean Wilson, Dick Charles, Lee Turner, and Fran Slade. NAY – None. The Commission entered Executive Session at 5:27 p.m. The Commission returned at 5:55 p.m. and Jennifer Fidler moved to end the Executive Session. Dick Charles 2<sup>nd</sup> and the motion carried unanimously.

Having no further business, Dick Charles moved to adjourn and was 2<sup>nd</sup> by Jennifer Fidler. Motion passed unanimously and the meeting was duly adjourned at 5:56 pm.

  
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Jean Wilson, Chairperson

  
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Emily Boyett, Secretary