



**Vestavia Hills
City Council Agenda
November 24, 2025
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation — David Phillips, Vestavia Hills Chaplain
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager's Report
8. Councilors' Reports
9. Approval Of Minutes - November 10, 2025, regular meeting minutes

Old Business (Public Hearing)

10. Public Hearing - Resolution Number 5599 - A Resolution authorizing the installation of a new support structure for a small cell facility to be located in the right-of-way at 3801 Crosshaven Drive U1; AT&T owners, Allison Crows, Mastec, contractors
11. Public Hearing - Ordinance Number 3300 - Rezoning - 3122, 3128, 3134 and 3136 Sunview Drive; Rezone from Vestavia Hills B-1.2 to Vestavia Hills B-1.2 with a revised plan for a bank
12. Public Hearing - Ordinance Number 3301 - Rezoning - 3951 Wall Street; Rezone from Vestavia Hills B-2 to Vestavia Hills R-9; KSA Holdings, LLC, owners; Jason Kessler, representing

New Business

13. Resolution Number 5604 - A Resolution declaring certain personal property as surplus and authorizing the City Manager to sell/dispose of said vehicles.
14. Resolution Number 5605 - A Resolution rescheduling the January 19, 2026, City Council meeting to January 21, 2026, in observance of the Martin Luther King, Jr., holiday

New Business Requesting Unanimous Consent (Public Hearing)

First Reading (No Action To Be Taken At This Meeting)

15. Public hearing - Ordinance Number 3304 - An ordinance authorizing the Mayor and City Manager to execute and deliver an agreement with the State of Alabama by and through the Alabama Department of Transportation for the funding of the construction of the Greendale Road Sidewalk through the awarded ALDOT TAP grant TAPAA-TA26(920)
16. Citizens Comments
17. Time Of Adjournment

PUBLIC HEARING PROCEDURES

The following procedures shall be followed for every public hearing of the City Council:

- All comments shall be limited to **3 minutes**. A countdown clock will be provided on the video screens.
- Do not duplicate comments made by previous speakers. For example, if traffic is mentioned as an issue, do not readdress that issue.
- All comments shall be directed to the Mayor and/or presiding officer. Do not address the audience or the applicant.
- Each speaker shall identify himself, including full name and address.

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

If you prefer not to attend a City Council meeting or work session in person, you may participate remotely:

- **Videoconference:** To participate by videoconference, you may access the meeting via Zoom at <https://us02web.zoom.us/j/5539517181>. When the Zoom.us window opens in your browser, click "Allow" to be placed in a virtual "waiting room." The host will open the meeting and allow all participants to join the meeting at that time. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, activate the "video" feature and unmute yourself by toggling the mute button. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then you may address the Council. Some useful Zoom functions include: microphone Mute/Unmute; Start/Stop Video; and View Participants – opens a pop-out screen that includes the "Raise Hand" icon that you may use to raise a virtual hand.
- **Teleconference:** To participate by telephone, dial 312.626.6799 and enter the meeting ID: 5539517181. All participants will be automatically muted upon entrance to the meeting. If you wish to speak during time(s) identified for public input, unmute yourself by pressing *6 on your keypad. Then state your name and wait for the Mayor to recognize you. When the Mayor recognizes you and gives you the floor, state your name and address for the record and then address the Council.

Meetings may be recorded. By participating in the meeting, you are consenting to be recorded.

"Zoom-bombing." Zoom-bombing is a cyber-crime and is punishable by law. In the event of an attendee intruding into any City of Vestavia Hills Zoom meeting, the online broadcast will be terminated immediately. Council and/or board members may be readmitted but online attendees will not. Although Zoom-bombing is not a frequent occurrence, those wishing to make public comment should attend the meeting in person.



**Vestavia Hills
City Council Minutes
November 10, 2025
6:00 PM**

1. Call to Order

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. A number of staff and members of the public also attended virtually, via Zoom.com, following publication pursuant to Alabama law. The Mayor called the meeting to order and the City Clerk called the roll with the following:

2. Roll Call

Roll call was as follows:

MEMBERS PRESENT: Mayor Ashley Curry, Mayor Pro-Tem Rusty Weaver*, City Councilors Kimberly Cook*, Ali Pilcher, and Mike Vercher

MEMBERS ABSENT: None.

OTHER OFFICIALS PRESENT: Jeff Downes, City Manager; Patrick H. Boone, City Attorney; Cinnamon McCulley, Asst. City Manager; Rebecca Leavings, City Clerk; Shane Ware, Police Chief; Zachary Clifton, Asst. Finance Director; Marvin Green, Fire Chief

**attended via Zoom*

3. Invocation - Steve Dedmon, Vestavia Hills Chaplain

4. Pledge Of Allegiance

5. Approval Of The Agenda

The Mayor opened the floor for a motion to approve the agenda as presented.

MOTION: Approve the agenda as presented. Motion By: Ali Pilcher. Seconded By: Mike Vercher.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Ali Pilcher, Mike Vercher.

No: None. Abstain: None. Motion passed.

6. Proclamation - Small Business Saturday, November 22, 2025

The Mayor presented a Proclamation designating November 22, 2025, as "Small Business Saturday." Mr. Downes read the Proclamation aloud and the Mayor presented it to Chamber President Michelle Hawkins and Katherine McRee, small business owner and Vestavia Hills Chamber of Commerce Board Member.

The Mayor explained the importance of small businesses in Vestavia Hills and urged the community to continue to support them.

Katherine McRee, owner of Lilipad and Gigi's, explained how it is important for the community to support small businesses who, in turn, support the City. This year, they will be doing Iron Bowl food drive contest to see which team can collect the most food.

Mrs. Hawkins encouraged everyone to shop locally.

7. Announcements, Candidates and Guest Recognition

- The Mayor presented a Certificate of Recognition to Miss Vestavia Hills 2026, Katherine Grigsby, and Miss Vestavia Hills Teen 2026, Lyla Smith. Mr. Downes read the certificates aloud and the Mayor stated that the City is appreciative of their representation of the City.
 - Miss Smith and Miss Grigsby explained their platforms and accomplishments.
- Mayor Curry announced upcoming board vacancies on the Design Review Board and the Board of Zoning Adjustment. He stated that applications may be submitted online on the City's website under online services. The deadline to submit applications will be November 21, 2025, at 5pm. Any questions should be directed to the Mayor's office.
- Mrs. Cook stated that she is out of town at Wheaton College, in Wheaton, Illinois. She stated she is giving a lecture on Faith and Local Government. She stated that she is proud to brag about the great things happening in Vestavia Hills.
- Mr. Vercher announced that the Parks and Recreation Board will be meeting on Tuesday, November 18, at the Civic Center.
- The Mayor announced that nine applications have been received for the Vestavia Hills Parks and Recreation Board vacancy and five applications for the Vestavia Hills Library Board.
- The Mayor welcomed John Hubbard, Vestavia Hills Library Foundation Board Member and Dr. Jimmy Bartlett, Board of Trustees Emeritus and Vestavia Hills Library Foundation Board Member.
- Mrs. Pilcher introduced two visiting Boy Scouts working on merit badges: James Callison and Mason Smith, accompanied by Michael Smith, Scout Leader, Boy Scout Troop 4.

8. City Manager's Report

- Mr. Downes announced that the Council will meet in work session on Monday, November 17, 2025, to hear about the work that Doster Construction has been doing on the first phase of FY26 capital projects that are a part of the "Plan for Growth" which has been discussed at length, over the last 12 months, by the previous administration. The FY26 projects already approved by the previous Council include installation of a pool heater and renovations of Fire Station No. 4, and an access road

along with preliminary designs and basic site work. They will talk about scheduling, budgets and preliminary design plans.

In addition to that, future potential projects that have not yet been approved by the Council include an east-side library, police training and substation facility, park maintenance facility and a new, reconfigured rear access road to the ballfields at the Liberty Park Athletic Complex. These latter projects have not been approved and do not yet have funding. This new Council has not yet had a chance to weigh in on these FY27 projects which were presented to the previous Council as part of a master plan to accommodate growth on the east side of the city. The City will present these projects to get feedback from the Council at the work session. The work session will be 6pm, Monday, November 17.

9. Councilor Reports

- Mr. Weaver announced that the Planning and Zoning Commission will meet in regular session on Thursday, November 13, at 6pm, in Council Chambers.

10. Approval Of Minutes - October 20, 2025, regular work session minutes; October 27, 2025, regular meeting minutes; and November 3, 2025 organizational meeting minutes

The Mayor announced that the minutes of the October 20 regular work session, October 27 regular meeting minutes and November 3 organizational meeting minutes are being presented for approval. He opened the floor for a motion.

MOTION: Approve the minutes as presented. Motion By: Kimberly Cook. Seconded By: Mike Vercher.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Ali Pilcher, Mike Vercher.
No: None. Abstain: None. Motion passed.

Old Business (Public Hearing)

New Business

11. Resolution Number 5603 - A Resolution declaring certain personal property as surplus and authorizing the City Manager to sell/dispose of said property.

MOTION: Approve Resolution Number 5603 as presented. Motion by: Ali Pilcher. Seconded by: Mike Vercher.

Mr. Downes stated that these items are obsolete pieces of IT equipment that have reached the end of usefulness and need to be sold.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Ali

Pilcher, Mike Vercher.
No: None. Abstain: None. Motion passed.

New Business Requesting Unanimous Consent (Public Hearing)

First Reading (No Action To Be Taken At This Meeting)

- 12. Public Hearing - Resolution Number 5599 - A Resolution authorizing the installation of a new support structure for a small cell facility to be located in the right-of-way at 3801 Crosshaven Drive U1; AT&T owners, Allison Crows, Mastec, contractors**
- 13. Public Hearing - Ordinance Number 3300 - Rezoning - 3122, 3128, 3134 and 3136 Sunview Drive; Rezone from Vestavia Hills B-1.2 to Vestavia Hills B-1.2 with a revised plan for a bank**
- 14. Public Hearing - Ordinance Number 3301 - Rezoning - 3951 Wall Street; Rezone from Vestavia Hills B-2 to Vestavia Hills R-9; KSA Holdings, LLC, owners; Jason Kessler, representing**

15. Citizens Comments

- David Harwell, 1803 Catala Road, congratulated the new Councilors for winning the last election. He stated that some of the lights are not working, and some globes are broken. The traffic light system is out of date and is not aesthetically pleasing along the highway. He asked the City to pay attention to these issues.

Mayor Curry stated that traffic lights on Highway 31 are ALDOT responsibility.

Mr. Downes stated that the Highway 31 lights are owned by the City and we have invested over \$1 million to replace the old fixtures with brighter LED fixtures. We have an electrical company that does maintenance when they have issues. He believes the lights with broken globes are in the City Center area and are owned and repaired by Alabama Power. He will look into it any repair issues.

- Donald Harwell, 1357 Willoughby Road, also congratulated the new Council. He stated that Councilor Pierce and Councilor Cook both reached out to him during his times of medical issues, and he appreciated those efforts. He thanked everyone for the prayers and support during that time.

16. Time Of Adjournment

There being no further business, Mr. Vercher made a motion to adjourn. The Mayor adjourned the meeting at 6:31 PM.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk



**CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO**

November 24, 2025

To: Jeff Downes, City Manager

From: Rebecca Leavings, City Clerk

Cc:

RE: Public Hearing - Resolution Number 5599 - A Resolution authorizing the installation of a new support structure for a small cell facility to be located in the right-of-way at 3801 Crosshaven Drive U1; AT&T owners, Allison Crows, Mastec, contractors

Background:

Request is for a 45' wood utility pole at a location in the Crosshaven Drive right-of-way as a support structure for a small cell facility. Location is shown in the attached documentation. The application was submitted by a contractor and the named cellular company is AT&T.

Recommendation:

na

Fiscal Impact:

na

Attachments:

1. Resolution 5599

2. Crosshaven Exhibit
3. 2023 Small Cell opinion
4. 2024 AG opinion concerning small cell facilities

RESOLUTION NUMBER 5599

A RESOLUTION AUTHORIZING THE INSTALLATION OF A NEW SUPPORT STRUCTURE FOR A SMALL CELL FACILITY TO BE LOCATED IN THE RIGHT-OF-WAY ADJACENT TO CERTAIN PROPERTIES IN THE CITY OF VESTAVIA HILLS

WHEREAS, on December 17, 2018, the City Council adopted and approved Ordinance 2814A to adopt regulations for small cell technology facilities (“Nodes”) in the City of Vestavia Hills, Alabama; and

WHEREAS, §2.B.7 recommends that said Nodes shall be collocated when possible, however, when not possible the request shall be recommended by the City Manager and then approved by the City Council following a public hearing; and

WHEREAS, on the 22nd day of September, 2025, Allison Crows, on behalf of AT&T and Mastec, submitted applications for a new support structure to be located in the right-of-way (“ROW”) adjacent to the following properties as detailed in Exhibit A which is attached and incorporated into this Resolution Number 5599 as if written therein; (1) 3801 Crosshaven Dr U1; and

WHEREAS, a sign was erected on the ROW and the surrounding property owners were notified of the request and contact information on in November 2025 and a public hearing to be held on November 24, 2025 regarding said new support request; and

WHEREAS, the City Manager and the City Staff have reviewed the application and recommend approval of said request; and

WHEREAS, the Mayor and the City Council feel it is in the best public interest to accept the recommendation and authorize installation of said new support structure.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Council hereby accept the recommendation of the City Manager and authorize the installation of a new support structure to be located in the ROW adjacent to (1) 3801 Crosshaven Dr U1 as detailed in the supporting information marked as Exhibit A, attached to and incorporated into this Resolution 5599 as if written fully therein; and
2. This Resolution shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 24th day of November, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS

1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, ALABAMA 35216

OFFICIAL NOTICE OF A PUBLIC HEARING

October 6, 2025

This is an OFFICIAL NOTICE to inform you of the time, date and other details of the public hearing which will be held in the Vestavia Hills City Hall on the subject as follows:

TIME/DATE OF HEARING: 6:00 P.M. November 24, 2025 Monday

PLACE OF HEARING: Vestavia Hills City Hall
1032 Montgomery Highway

BOARD: Vestavia Hills City Council

ACTION REQUESTED: Consideration of Installation of 47' Wood Utility Pole with embedment to be placed within the public right-of-way for Node Placement, Small Cell Wireless Facility

LOCATION OF PROPERTY: ROW adjacent to 3801 Crosshaven Drive; See Enclosed Details for location and visual

NAME OF APPLICANT: AT&T

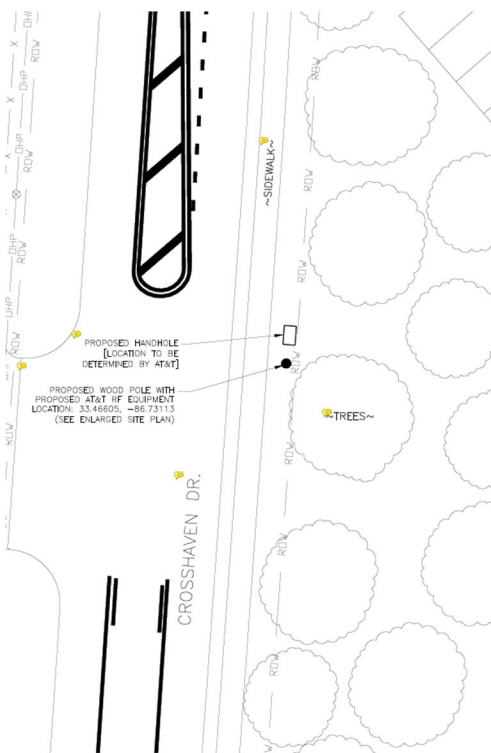
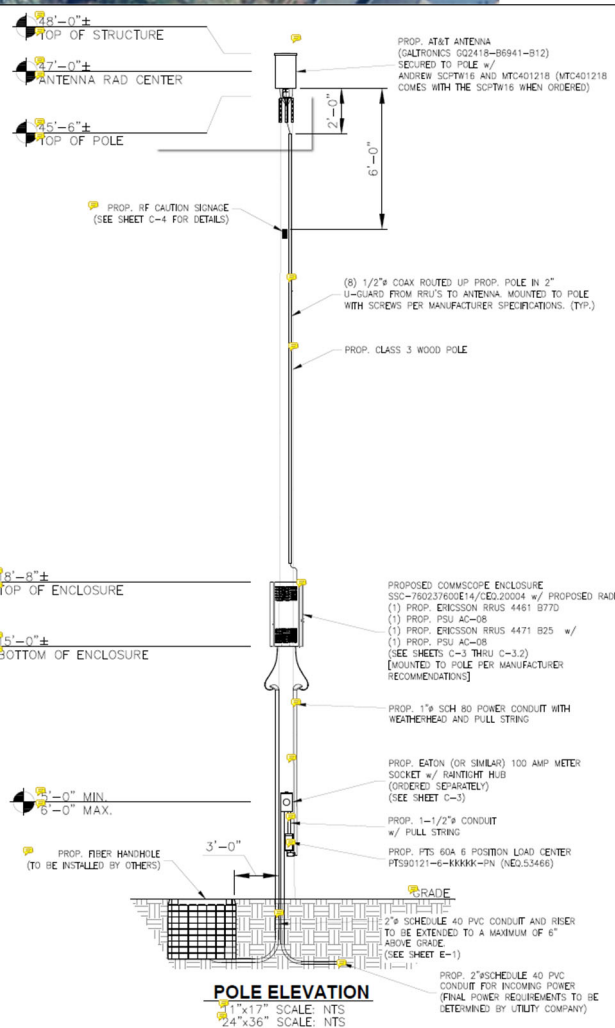
REPRESENTED BY: Michelle Fogle

Sincerely,



Umang Patel
Acting City Clerk

INDIVIDUALS WITH DISABILITIES NEEDING SPECIAL SERVICES TO PARTICIPATE IN APPLICATIONS, ACTIVITIES, PROGRAMS OR SERVICES ARE REQUESTED TO COORDINATE THEIR NEEDS IN ADVANCE, WHEN TIME PERMITS. IF SPECIAL ACCOMMODATIONS ARE REQUIRED, PLEASE CONTACT THE CITY CLERK, (205) 978-0179.



PATRICK H. BOONE
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TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

E-Mail: patrickboone@bellsouth.net

June 7, 2023

By Electronic Mail

Honorable Ashley C. Curry
Mayor of City of Vestavia Hills
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Federal and State Law Regarding the Installation of Small Cell Wireless Facilities

Dear Mayor Curry:

On June 5, 2023, you requested that I provide you with my written legal opinion regarding whether or not the City of Vestavia Hills, Alabama ("City") may deny a small cell wireless provider the right to collocate, mount or install small cell wireless facilities on or adjacent to existing new or replacement poles in the right-of-way owned by the City. The purpose of this letter is to comply with you request.

I. DEFINITION OF STREET

A. CODE OF ALABAMA, 1975:

1. **Title 11-49-80(a)(2) and (4):** Title 11-49-80(a)(2) and (4), *Code of Alabama, 1975*, defines the terms "municipal streets" and "street" as follows:

"§11-49-80. Generally.

(a) For the purposes of this article, the following terms shall have the following meanings:

(2) **Municipal Street.** A public street, road, or bridge that the municipality has the authority or responsibility to control, manage, supervise, regulate, repair, maintain, or improve.

(4) **Street.** A public street, road, bridge, or portion thereof."

2. **Title 32-1-1.1(75):** Title 32-1-1.1(75), *Code of Alabama, 1975*, defines the term “street” as follows:

“(75) **Street.** The entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.”

B. **CITY OF VESTAVIA HILLS ZONING ORDINANCE NUMBER 3099:** The City of Vestavia Hills Zoning Ordinance Number 3099 defines the term “street” in Section 2.1.107 as follows:

“2.1.107. *Street.* Any vehicular way that is (1) an existing state, county, or municipal roadway; (2) shown upon a plat approved pursuant to law; (3) approved by other official action; (4) shown on a plat duly filed and recorded in the office of the applicable county tax assessor; (5) shown on the official map or adopted master plan. The term “street” includes the land between the street lines, but excludes alleyways that are 20’ or less in width, whether improved or not.”

II. **OWNERSHIP OF MUNICIPAL STREETS**

A. **CODE OF ALABAMA, 1975:** Title 35-2-51(b), *Code of Alabama, 1975*, provides that the recording in Probate Court of a properly prepared and approved subdivision plat or map, is deemed to convey title to the streets shown thereon in fee title to the municipality. That statute reads as follows:

“(b) The acknowledgment and recording of such plat or map shall be held to be a conveyance in fee simple of such portion of the premises platted as are marked or noted on such plat or map as donated or granted to the public, and the premises intended for any street, alleyway, common or other public use, as shown in such plat or map, shall be held in trust for the uses and purposes intended or set forth in such plat or map.”

B. **SUPREME COURT OF ALABAMA:** In 1913, the Supreme Court of Alabama decided the case of *Cloverdale Homes v. Town of Cloverdale*, 182 Ala. 419 (1913), and held that the “ultimate fee” to a dedicated street presumptively remains with the abutting landowners subject to the proposition that the town holds only a mere easement over the property on which the street was dedicated.

The Supreme Court decided the case of *City of Orange Beach v. Benjamin*, 821 So.2d 193, in 2001 and expressly overruled the *Cloverdale* case. Relying on the crystal clear language of Title 35-2-51, *Code of Alabama, 1975*, the court in the *Orange Beach* case held that the statutory dedication of a street is deemed to convey title in fee simple to the land underlying the dedicated street to the municipality.

III. CONSENT OF THE MUNICIPALITY IS A PREREQUISITE TO THE USE OF PUBLIC PROPERTY FOR PUBLIC UTILITY OR PRIVATE ENTERPRISE

A. ARTICLE XII, SECTION 220 OF THE CONSTITUTION OF ALABAMA 1901: Article II, Section 220 of the *Constitution of Alabama 1901* reads as follows:

“Sec. 220. Public corporations—Consent of municipal corporation prerequisite to use of public property for public utility or private enterprise purposes. No person, firm, association, or corporation shall be authorized or permitted to use the streets, avenues, alleys, or public places of any city, town, or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town, or village.”

B. CODE OF ALABAMA, 1975: Title 11-49-1(a), *Code of Alabama, 1975*, reads as follows:

“§11-49-1. Consent of municipality to certain uses of streets.

(a) No person, firm, association, or corporation shall be authorized to use the streets, avenues, alleys, and other public places of cities or towns for the construction or operation of any public utility or private enterprise without first obtaining the consent of the proper authorities of the city or town.”

C. SUPREME COURT OF ALABAMA: The Supreme Court of Alabama decided the case of *Operation New Birmingham v. Flynn*, 621 So.2d 1316, in 1993 and wrote,

“This Court has since reaffirmed that it is wholly within the province of the municipal authorities to grant the municipality’s consent or to withhold it from a certain group or individual seeking to use public streets for private or public enterprise. *Bush v. City of Jasper*, 247 Ala. 359, 24 So.2d 543 (1945). In *Crabtree v. City of Birmingham*, 292 Ala. 684, 299 So.2d 282 (1974), the Court summarized the effect of §220:

‘It is well settled in this state that the right to use the public streets for hire is not a right of public or private enterprise but is a privilege—generally called a franchise—subject to the consent and regulation of the municipality.... In such use of the public streets, it is wholly within the province of the municipal authorities under §220, Alabama Constitution, to grant its consent or withhold it to any person or group. Thus, the municipality, in the exercise of this authority granted by §220, coupled with the police powers granted municipalities by the state, has the irrevocable discretion to determine whether, and to what extent, a service is needed, and to fix and determine the streets and to name the grantee of such right.... [T]he municipalities are only limited in the exercise of such discretion by §§22 and 228 of the Constitution which restricts the power to grant franchises to those that are not exclusive or perpetual.’

292 Ala. At 689, 299 So.2d at 287 (citations omitted).”

IV. MANNER OF USE OF PUBLIC STREETS

A. TITLE 11-49-3, CODE OF ALABAMA, 1975: This statute, in essence, grants to municipalities, the authority to require any public utility using the streets to prescribe the manner in which they will use them.

B. TITLE 11-43-62, CODE OF ALABAMA, 1975: This statute similarly authorizes the municipal council to regulate the use of streets for the erection of telegraph, telephone and electric and all other systems of wires and conduits, and authorizes the municipality to require the same to be placed underground if deemed necessary for the public convenience and safety, and generally to control and regulate the use of streets for any and all purposes.

V. FEDERAL LAW PREEMPTS STATE LAW

The doctrine that federal law preempts state law derives from the supremacy clause in Article VI of the *Constitution of the United States*, which reads in part:

“This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.”

The supremacy clause requires that all conflicts between federal and state law be resolved in favor of federal rule. *Richards v. Michelin Tire Corp.*, 786 F.Supp. 959 (1992). The supremacy clause of the *Constitution of the United States* also prohibits the Alabama Supreme Court from rejecting those federal policies with which it may disagree. *Title Max of Birmingham, Inc. v. Edwards*, 973 So.2d 1050 (2007).

VI. FEDERAL LAW REGARDING SMALL CELL WIRELESS FACILITIES

A. FEDERAL AGENCY. The Federal Communications Commission (FCC) made a declaratory ruling and Third Report and Order regarding the installation of small cell wireless facilities on a right-of-way owned by a state, county or municipality.

B. TITLE. “Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment.”

C. AUTHORITY. Telecommunications Act of 1996.

D. PURPOSE. To preempt state and local requirements related to the deployment of fifth generation (5G) wireless infrastructure.

E. DATE ISSUED. September 26, 2018.

F. EFFECTIVE DATE. January 14, 2019.

G. BASIS OF FCC RULING. In very general terms, the ruling provides as follows:

1. Material Inhibitions: States cannot inhibit a mobile service provider’s ability to provide small cell wireless service to an area.

2. Zoning--Aesthetics: Jurisdictions cannot impose zoning regulations that prohibit the installation of small cell wireless facilities.

3. Fees: Jurisdictions cannot charge excessive fees to small cell wireless providers that would inhibit or prohibit the installation of facilities.

4. Shot Clock: Cities must decide an application within sixty or ninety days depending upon whether the installation will be on an existing pole or a new pole.

H. PREEMPTION OF STATE LAW. The federal ruling preempts state law, including the laws set forth in Section III-A, B and C of this legal opinion.

I. SUMMARY. The federal ruling, in substance, provides that states may not inhibit or prohibit a wireless service provider from installing small cell wireless facilities on a public right-of-way.

VII. ALABAMA STATUTES REGARDING SMALL CELL WIRELESS FACILITIES

In accordance with federal law, the Alabama Legislature enacted Act Number 2021-5 to allow wireless providers to collocate, mount or install small cell wireless facilities on or adjacent to existing, new or replacement poles in the City right-of-way. The Act became effective February 19, 2021 and is now codified as Title 37-17-1 through Title 37-17-12, *Code of Alabama, 1975*. Some of the important terms, provisions and conditions of Act Number 2021-5 (the "Act") are set forth below.

A. DEFINITIONS (TITLE 37-17-1(5), CODE OF ALABAMA, 1975): The Act defines an "authority" as a municipality.

B. AUTHORIZATION OF WIRELESS PROVIDERS TO COLLOCATE, MOUNT OR INSTALL SMALL CELL WIRELESS FACILITIES (TITLE 37-17-2, CODE OF ALABAMA, 1975): The Act specifically provides,

"(a) An authority may not deny a wireless provider the right, as a permitted use subject to Section 37-17-3 and the authority's requirements not in conflict with this chapter or a then-existing final order of the Federal Communications Commission (FCC), to do either of the following:

(1) Collocate, mount, or install small wireless facilities on or adjacent to existing, new, or replacement poles in the right-of-way.

(2) Install, modify, or replace its own poles, or, with the permission of the owner, a third party's poles, associated with a small wireless facility, along, across, upon, and under the right-of-way controlled by the authority.

(b) For purposes of this section, any new or modified pole may not exceed the greater of either of the following:

(1) Ten feet in height above the tallest existing pole in place as of July 1, 2021, located within 500 feet of the new pole in the same right-of-way controlled by the authority.

(2) Fifty feet above ground level.

(c) The small wireless facilities and associated poles shall be installed and maintained in accordance with the authority's requirements not in conflict with this chapter or a then-existing final order of the FCC and as not to obstruct or hinder the usual travel and public safety on the right-of-way by utilities.

(d) A wireless provider may collocate a small wireless facility and install, maintain, modify, operate, and replace a pole that exceeds these height limits along, across, upon, and under the right-of-way, subject to applicable zoning regulations or other applicable requirements of the authority.”

C. ZONING REVIEW, APPROVAL EXEMPTIONS AND PERMITTING; SMALL WIRELESS FACILITIES (TITLE 37-17-3, CODE OF ALABAMA, 1975: The Act also provides,

“(a) Subject to the limitations established in this chapter, small wireless facilities and associated poles are not subject to zoning review or approval if they are located in the right-of-way under the control of an authority and otherwise comply with this chapter and a then-existing final order of the Federal Communications Commission.”

“(d) An authority shall approve an application if it complies with the authority’s requirements for deploying small wireless facilities and associated poles in the right-of-way that are written, generally applicable, and adopted in advance.”

VIII. CITY ORDINANCES ENACTED REGARDING REGULATIONS FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF VESTAVIA HILLS, ALABAMA

In compliance federal law, the City Council of the City of Vestavia Hills enacted the following ordinances regarding the regulation for small cell technology facilities in the City of Vestavia Hills, Alabama:

A. ORDINANCE NUMBER 2814. On December 17, 2018, Ordinance Number 2814 entitled “An Ordinance to Adopt Regulations for Small Cell Technology Facilities in the City of Vestavia Hills, Alabama.”

B. ORDINANCE NUMBER 2815. On December 17, 2018, Ordinance Number 2815 entitled “An Ordinance to Establish a Fee Structure for Small Cell Technology Facilities in the City of Vestavia Hills, Alabama as Established by Ordinance Number 2814.”

C. ORDINANCE NUMBER 2814-A. On December 17, 2018, Ordinance Number 2814-A entitled “An Ordinance to Amend Chapter 16.5 Entitled “Telecommunications,” Article III Entitled “Small Cell Technology,” of the City of Vestavia Hills Code of Ordinances and to Amend Ordinance Number 2814 to Adopt Regulations for Small Cell Technology Facilities in the City of Vestavia Hills, Alabama.”

D. **ORDINANCE NUMBER 2815-A.** On August 26, 2019, Ordinance Number 2815-A entitled "An Ordinance Amending Ordinance Number 2815 to Establish a Fee Structure for Small Cell Technology Facilities in the City of Vestavia Hills, Alabama as Established by Ordinance Number 2814."

IX. LEGAL OPINION

Based upon the legal authorities cited above, it is my legal opinion that the City cannot inhibit or prohibit a wireless service provider from installing small cell wireless facilities on a City right-of-way. Federal law regarding this subject preempts state law and must be complied with by all states, counties and municipalities.

Please call me if you have any questions regarding any of the matters set forth in this legal opinion.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

cc: City Manager Jeffrey D. Downes (by e-mail)
City Clerk Rebecca Leavings (by e-mail)



**STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL**

STEVE MARSHALL
ATTORNEY GENERAL

501 WASHINGTON AVENUE
P.O. BOX 300152
MONTGOMERY, AL 36130-0152
(334) 242-7300
ALABAMAAG.GOV

December 27, 2023

Honorable Jeffrey D. Downes
City Manager, City of Vestavia Hills
Post Office Box 660854
Vestavia Hills, Alabama 35266-0854

**Municipalities – Right of Way –
Telecommunications – Jefferson County**

Section 37-17-2 of the Code of Alabama does not allow a city to deny a wireless provider the right to place Small Wireless Facilities in the city's rights-of-way if the wireless provider meets the city's permitting and fee requirements and any other requirements adopted by the city that are not in conflict with the state law or any final order of the FCC (Federal Communications Commission).

The City's requirements for small wireless facilities must also be in writing, generally applicable, and adopted in advance.

The City may not determine the exact location for the installation or placement of a new or replacement pole.

The wireless infrastructure provider, the wireless provider, or the wireless service provider is allowed to determine the exact location for the installation of a new or replacement pole.

Act 2021-5 allows the City to require a pole to be decorative to fit aesthetically within the neighborhood if the requirement is reasonable, in writing, and adopted in advance. The City may not require underground placement and thus preclude pole placement.

Dear Mr. Downes:

This opinion of the Attorney General is issued in response to your request on behalf of the City of Vestavia Hills ("City").

QUESTIONS ONE, TWO, & THREE

(1) Does Act 2021-5 allow the City to reject small cell facilities from being placed in the City rights-of-way and what conditions are valid reasons for such denial?

(2) Does the Act allow the City to determine the exact location for the installation of a new or replacement pole on a City right-of-way?

(3) Does the Act allow the wireless infrastructure provider, the wireless provider, or the wireless service provider to determine the exact location for the installation of a new or replacement pole on a City right-of-way?

FACTS AND ANALYSIS

Your request refers to section 220 of the Constitution of Alabama and section 11-49-1 of the Code of Alabama which provide that consent of a municipality is required before any public or private entity may the use of streets or public property. ALA. CONST. art. XII, § 220; ALA. CODE § 11-49-1(a) (Supp. 2022). Section 220 of the Constitution states as follows:

No person, firm, association, or corporation shall be authorized or permitted to use the streets, avenues, alleys, or public places of any city, town, or village for the construction or operation of any public utility or private enterprise, without first obtaining the consent of the proper authorities of such city, town, or village.

ALA. CONST. art. XII, § 220.

Section 11-49-1(a) of the Code states as follows:

(a) No person, firm, association, or corporation shall be authorized to use the streets, avenues, alleys, and other public places of cities or towns for the construction or operation of any public utility or private enterprise without first obtaining the consent of the proper authorities of the city or town.

ALA. CODE § 11-49-1(a) (Supp. 2022).

Your request also references section 11-43-62 of the Code that states as follows:

The council shall regulate the use of the streets for the erection of telegraph, telephone, electric, and all other systems of wires and conduits and may require the same to be placed underground if deemed necessary for the public convenience and safety and generally to control and regulate the use of the streets for any and all purposes.

The council may sell or lease in such manner as it may deem advisable any franchise which it has power to grant, and the moneys received therefor shall be paid into the city treasury.

ALA. CODE § 11-43-62 (2008).

The provisions cited above require consent of a municipality before any public or private entity may use the street or public property. Act 2021-5 was enacted to allow wireless service providers to install small wireless facilities on the right-of-way and to set forth the conditions for allowing the installation. 2021 Ala. Acts No. 2021-5. The stated purpose of the Act is as follows:

(1) establish a procedure to authorize wireless providers to collocate, mount, or install small wireless facilities on existing poles on the right-of-way of the state or any agency, county, or municipality thereof; (2) to exempt small wireless facilities from certain zoning review and approval procedures; (3) to establish a procedure for the permitting of the development of small wireless facilities and poles in the rights-of-way of the state; and (4) to establish rates and fees for all permits for small wireless facilities.

2021 Ala. Acts No. 2021-5.

The Act is codified in sections 37-17-1 through 37-17-12 of the Code. ALA. CODE §§ 37-17-1 through 37-17-12 (Supp. 2022). A “Small Wireless Facility” is specifically defined in section 37-17-1(14) of the Code, and it must meet several conditions set forth therein. ALA. CODE § 37-17-1(14) (Supp. 2022). Section 37-17-3 of the Code sets the fees that an authority may charge for a small wireless facility. ALA. CODE § 37-17-3 (Supp. 2022). An “Authority” is defined as “[t]he state or any agency, county, *municipality*, district, or instrumentality thereof.” ALA. CODE § 37-17-1(5) (Supp. 2022) (emphasis added).

Section 37-17-2(a) and (c) of the Code states as follows:

(a) An *authority may not deny* a wireless provider the right, as a permitted use *subject to Section 37-17-3 and the authority's requirements not in conflict with this chapter or a then-existing final order of the Federal Communications Commission (FCC)*, to do either of the following:

(1) Collocate, mount, or install small wireless facilities on or adjacent to existing, new, or replacement poles in the right-of-way.

(2) Install, modify, or replace its own poles, or, with the permission of the owner, a third party's poles, associated with a small wireless facility, along, across, upon, and under the right-of-way controlled by the authority.

* * *

(c) The small wireless facilities and associated poles ***shall be installed and maintained in accordance with the authority's requirements not in conflict with this chapter or a then-existing final order of the FCC*** and as not to obstruct or hinder the usual travel and public safety on the right-of-way and adjacent roads and bridges or obstruct the legal use of the right-of-way by utilities.

ALA. CODE § 37-17-2(a) & (c) (Supp. 2022) (emphasis added).

We note that legislative acts are presumed to be valid and constitutional. *McInnish v. Riley*, 925 So. 2d 174, 178 (Ala. 2005). When interpreting a statute, the words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997).

The plain language of section 37-17-2 of the Code does not allow a City to deny a wireless provider the right to place Small Wireless Facilities in the City's rights-of-way if the wireless provider meets the City's permitting and fee requirements and any other requirements adopted by the City that are not in conflict with the state law or any final order of the FCC.

Based upon the language of the act, the City's permitting and fee requirements cannot conflict with the provisions set forth in section 37-17-3 of the Code or the final rulings of the FCC. The FCC issued a Declaratory Ruling and Third Report and Order on September 26, 2018, entitled "Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment," pursuant to the Telecommunications Act of 1966, codified at 47 U.S.C. §§151, *et seq.* The FCC ruling became effective January 14, 2019, and is codified at 83 Fed. Reg. 51867 (2018).

Section 37-17-3(a) and (d) of the Code states:

(a) Subject to the limitations established in this chapter, small wireless facilities and associated poles are ***not subject to zoning review or approval*** if they are located in the right-of-way under the control of an authority and otherwise comply with this chapter and a then-existing final order of the Federal Communications Commission.

(d) An authority ***shall approve*** an application ***if it complies with the authority's requirements*** for deploying small wireless facilities and associated poles in the right-of-way that are ***written, generally applicable, and adopted in advance.***

ALA. CODE § 37-17-3(a) & (d) (Supp. 2022) (emphasis added).

The plain language of section 37-17-3 of the Code provides that an authority shall approve an application that complies with the authority's requirements for small wireless facilities that are written, generally applicable, and adopted in advance. Thus, the City's requirements for small wireless facilities must be in writing, generally applicable, and adopted in advance.

Section 37-17-10(b) of the Code also states as follows:

(b) Except as it relates to small wireless facilities ***subject to the permit and fee requirements established pursuant to this chapter***, and except as it relates to any activities of an electric provider, and except as it relates to regulations or requirements on communications service specifically established by the constitution or by state law, local law enacted by the Legislature, or federal law, ***an authority may not otherwise adopt or enforce regulations or requirements on the placement, operation, or maintenance of communications facilities*** by a communications service provider authorized to be in the rights-of-way; or otherwise impose or collect any additional or separate tax, fee, or charge for any service existing on July 1, 2021, or for the provision of additional communications services provided by a communications service provider that is authorized to be in the rights-of-way.

ALA. CODE § 37-17-10(b) (Supp. 2022) (emphasis added).

Pursuant to section 37-17-10(b) of the Code an authority is allowed to enforce regulations or requirements set by the constitution, by state law, by local law enacted by the Legislature, or federal law. Section 37-17-10(b) of the Code, however, specifically prohibits an authority from adopting or enforcing regulations or requirements on the placement, operation, or maintenance of

communication facilities by a communications service provider authorized to be in the rights-of-way.

With respect to who has the authority to determine the exact location of a new or replacement pole, it is noted that section 37-17-10(b) of the Code prohibits an Authority from adopting regulations or requirements as to the placement of facilities; thus, the City may not determine the exact location for the installation or placement of a new or replacement pole. The wireless infrastructure provider, the wireless provider, or the wireless service provider (as defined in section 37-17-1 of the Code) is allowed to determine the exact location for the installation of a new or replacement pole.

CONCLUSION

Section 37-17-2 of the Code does not allow a city to deny a wireless provider the right to place Small Wireless Facilities in the city's rights-of-way if the wireless provider meets the city's permitting and fee requirements and any other requirements adopted by the city that are not in conflict with the state law or any final order of the FCC (Federal Communications Commission). The city's requirements for small wireless facilities must also be in writing, generally applicable, and adopted in advance.

The City may not determine the exact location for the installation or placement of a new or replacement pole. The wireless infrastructure provider, the wireless provider, or the wireless service provider is allowed to determine the exact location for the installation of a new or replacement pole.

QUESTION FOUR

(4) If a new pole is installed on the City right-of-way, does the Act allow the City to require that the pole be a decorative pole to fit aesthetically with the neighborhood? If so, does the Act further preclude pole placement if the neighborhood has underground utilities and the small cell facility cannot be placed underground due to technical limitations?

FACTS AND ANALYSIS

As stated above, section 37-17-3 of the Code provides that an Authority may require a wireless provider to meet requirements that are written, generally applicable, and adopted in advance. Section 37-17-10(b) of the Code also states that “an authority may not otherwise adopt or enforce regulations or requirements on the *placement, operation, or maintenance* of communications facilities.” ALA. CODE § 37-17-10(b) (Supp. 2022) (emphasis added). This language does not prohibit an authority from adopting and enforcing regulations on the *design* of communication facilities; it only prohibits regulations on the placement, operation, and maintenance. Thus, the City may require a pole to be decorative to fit aesthetically within the neighborhood if the requirement is in writing and adopted in advance. Furthermore, any requirements by the City for the design cannot be in conflict with the final rulings of the FCC.

The Attorney General does not interpret federal law and cannot determine whether local requirements are in conflict with federal law but offers the following for informational purposes. The FCC has issued a ruling with regard to underground requirements which states:

33. *Undergrounding requirements.* The Commission understands that some local jurisdictions have adopted undergrounding provisions that require infrastructure to be deployed below ground based, at least in some circumstances, on the locality's aesthetic concerns. A number of providers have complained that these types of requirements amount to an effective prohibition. In addressing this issue, the Commission first reiterates that while undergrounding requirements may well be permissible under state law as a general matter, any local authority to impose undergrounding requirements under state law does not remove the imposition of such undergrounding requirements from the provisions of Section 253. In this sense, the Commission notes that a requirement that *all* wireless facilities be deployed underground would amount to an effective prohibition given the propagation characteristics of wireless signals. Thus, undergrounding requirements can amount to effective prohibitions by materially inhibiting the deployment of wireless service.

83 Fed. Reg. 51867, at 51872 (2018). The federal courts have ruled that an ordinance requiring all facilities to be underground is preempted by the FCC's orders. *Crown Castle Fiber, L.L.C. v. City of Pasadena, Texas*, No. 22-20454, 2023 WL 4994300, at 8 (5th Cir. Aug. 4, 2023); *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied sub nom. City of Portland, Or. v. FCC*, 141 S. Ct. 2855 (2021). Thus, based upon case law, the FCC ruling prohibits regulations that require that all facilities must be placed underground.

The FCC also issued a ruling with regard to aesthetics which states:

29. *Aesthetics*. The Commission sought comment on whether deployment restrictions based on aesthetic or similar factors are widespread and, if so, how Sections 253 and 332(c)(7) should be applied to them. The Commission provides guidance on whether and in what circumstances aesthetic requirements violate the Act. This will help localities develop and implement lawful rules, enable providers to comply with these requirements, and facilitate the resolution of disputes. The Commission concludes that aesthetics requirements are ***not preempted if*** they are (1) ***reasonable***, (2) no more burdensome than those applied to other types of infrastructure deployments, and (3) objective and ***published in advance***.

83 Fed. Reg. 51867, at 51871 (2018) (emphasis added).

The Ninth Circuit Court reviewed the FCC's aesthetic requirement conclusions as set forth above and held: (1) the requirement that aesthetics requirements be "reasonable" was not unduly vague, (2) the requirement that they be no more burdensome than those applied to other types of infrastructure deployments exceeded the scope of the FCC's authority, and (3) the requirement that aesthetic requirements be "objective" was unduly vague. *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied sub nom. City of Portland, Or. v. FCC*, 141 S. Ct. 2855 (2021). Thus, based upon this decision, the FCC ruling provides that aesthetic requirements adopted by an Authority must be reasonable and published in advance.

Again, the Attorney General does not make determinations as to whether actions or requirements are reasonable or in compliance with federal law. It is the opinion of the Attorney General that the Act allows the City to require a pole to be decorative to fit aesthetically within the neighborhood if the requirement is reasonable, in writing, and adopted in advance. The Attorney General, however,

Honorable Jeffrey D. Downes
Page 10

does not make determinations as whether regulations are reasonable. Furthermore, the City may not require underground placement and thus preclude pole placement.

CONCLUSION

Act 2021-5 allows the City to require a pole to be decorative to fit aesthetically within the neighborhood if the requirement is reasonable, in writing, and adopted in advance. The City may not require underground placement and thus preclude pole placement.

I hope this opinion answers your questions. If this Office can be of further assistance, please contact me.

Sincerely,

STEVE MARSHALL
Attorney General

By:

A handwritten signature in black ink, appearing to read "Ben Baxley", written over the printed name.

BEN BAXLEY
Chief, Opinions Division

SM/BFS/as
3475107/239007



**CITY OF VESTAVIA HILLS
PLANNING & ZONING
INTER-DEPARTMENT MEMO**

November 24, 2025

To: Jeff Downes, City Manager

From: Rebecca Leavings, City Clerk

Cc: Conrad Garrison, City Planner

RE: Public Hearing - Ordinance Number 3300 - Rezoning - 3122, 3128, 3134 and 3136 Sunview Drive; Rezone from Vestavia Hills B-1.2 to Vestavia Hills B-1.2 with a revised plan for a bank

Background:

This request is to revised a business site plan to allow for construction of a bank on this location. The property was previously rezoned to B-1.2 for a different type of business. This request will revise the plan for the bank.

Recommendation:

This was presented to the P&Z Commission in October. Recommendation advisement is attached.

Fiscal Impact:

na

Attachments:

1. Ordinance 3300

ORDINANCE NUMBER 3300

**AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE
AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS,
ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST
AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING
OF PROPERTY FROM VESTAVIA HILLS B-1.2 TO VESTAVIA
HILLS B-1.2 WITH A REVISED PLAN**

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills B-1.2 (planned neighborhood mixed use district) to Vestavia Hills B-1.2 (planned neighborhood mixed use district) with a revised plan:

3122, 3128, 3134, and 3136 Sunview Drive
Parris Holley, owner(s)

More particularly described as follows:

Parcel #1 - A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines and the extension thereof of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 189.04 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run North 63 degrees 41 minutes 47 seconds West along said Northerly right of way for a distance of 84.87 feet to a found PK nail and the POINT OF BEGINNING of the Parcel herein described; thence run North 49 degrees 17 minutes 22 seconds West along said Northerly right of way for a distance of 29.25 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS lying on a curve turning to the right, with a radius of 331.15 feet, with a delta angle of 08 degrees 33 minutes 56 seconds, with a chord bearing of North 37 degrees 16 minutes 00 seconds West, and with a chord length of 49.46 feet; thence run along the arc of said curve and along said Northerly right of way for a distance of 49.51 feet to a set 5/8 inch capped rebar stamped

GSA CA-560LS; thence run North 32 degrees 59 minutes 02 seconds West along said Northerly right of way for a distance of 71.55 feet to a found capped iron stamped EDG 804LS; thence leaving said Northerly right of way run North 41 degrees 48 minutes 11 seconds East for a distance of 4.49 feet to a found capped iron stamped EDG 804LS; thence run North 20 degrees 07 minutes 49 seconds East for a distance of 31.99 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run North 47 degrees 54 minutes 46 seconds East for a distance of 32.36 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run South 89 degrees 36 minutes 14 seconds East for a distance of 92.84 feet to a found capped iron stamped EDG 804LS; thence run South 01 degrees 08 minutes 01 seconds East for a distance of 45.56 feet to a found capped iron stamped EDG 804LS; thence run North 63 degrees 35 minutes 07 seconds West for a distance of 49.78 feet to a found 5/8 inch rebar; thence run South 01 degrees 29 minutes 30 seconds East for a distance of 149.54 feet to the POINT OF BEGINNING. Said parcel contains 11,322 square feet or 0.26 acres more or less.

Parcel #2 - A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines and the extension thereof of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 189.04 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS and the POINT OF BEGINNING of the parcel herein described; thence run North 63 degrees 41 minutes 47 seconds West along said Northerly right of way for a distance of 84.87 feet to a found PK nail; thence leaving said Northerly right of way run North 01 degrees 29 minutes 30 seconds West for a distance of 149.54 feet to a found 5/8 inch rebar; thence run South 63 degrees 35 minutes 07 seconds East for a distance of 49.78 feet to a found capped iron stamped EDG 804LS; thence run South 63 degrees 43 minutes 01 seconds East for a distance of 35.22 feet to a found capped iron stamped EDG 804LS; thence run South 01 degrees 27 minutes 45 seconds East for a distance of 149.40 feet to the POINT OF BEGINNING. Said parcel contains 11,227 square feet or 0.26 acres more or less.

Parcel #3 - A portion of vacated 20th Avenue situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South,

Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 165.58 feet to a found capped iron stamped EDG 804LS marking the Southwest corner of said Lot 11 said point also lying on the Easterly vacated right of way of 20th Avenue and the POINT OF BEGINNING of the parcel herein described; thence run North 59 degrees 21 minutes 36 seconds West along said Northerly right of way for a distance of 23.46 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS lying on the Westerly vacated right of way of 20th Avenue; thence leaving said Northerly right of way run North 01 degrees 27 minutes 45 seconds West said vacated right of way for a distance of 149.40 feet to a found capped iron stamped EDG 804LS; thence leaving said vacated right of way run North 86 degrees 10 minutes 14 seconds East for a distance of 22.48 feet to a found capped iron stamped EDG 804LS lying on the Easterly vacated right of way of 20th Avenue; thence run South 00 degrees 33 minutes 06 seconds East along said vacated right of way and along West lot line of Lots 10 and 11 said Block 2 Glass's Addition to New Merkle for a distance of 162.82 feet to the POINT OF BEGINNING. Said parcel contains 3,318 square feet or 0.08 acres more or less.

Parcel #4 - A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Beginning at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Block 2 Glass's Second Addition to New Merkle for a distance of 165.58 feet to a found capped iron stamped EDG 804LS marking the Southwest corner of said Lot 11 said point also lying on the Easterly vacated right of way of 20th Avenue; thence leaving said Northerly right of way run North 00 degrees 33 minutes 06 seconds West along said vacated right of way and along the West lot line of said Lot 11 for a distance of 116.79 feet to a set 5/8 inch capped rebar stamped GSA CA-50LS marking the Northwest corner of said Lot 11; thence leaving said vacated right of way run North 87 degrees 01 minutes

11 seconds East along the North lot line of said Lots 11, 12, and 13 for a distance of 132.41 feet to a found capped iron stamped EDG 804LS marking the Northeast corner of said Lot 13; thence run South 03 degrees 07 minutes 31 seconds East along the East lot line of said Lot 13 for a distance of 208.36 feet to the POINT OF BEGINNING. Said parcel contains 22,066 square feet, or 0.51 acres more or less.

This Ordinance Number 3300 shall become effective immediately upon adoption and approval following publishing/publication as required by Alabama law.

APPROVED and ADOPTED this the 24th day of November, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

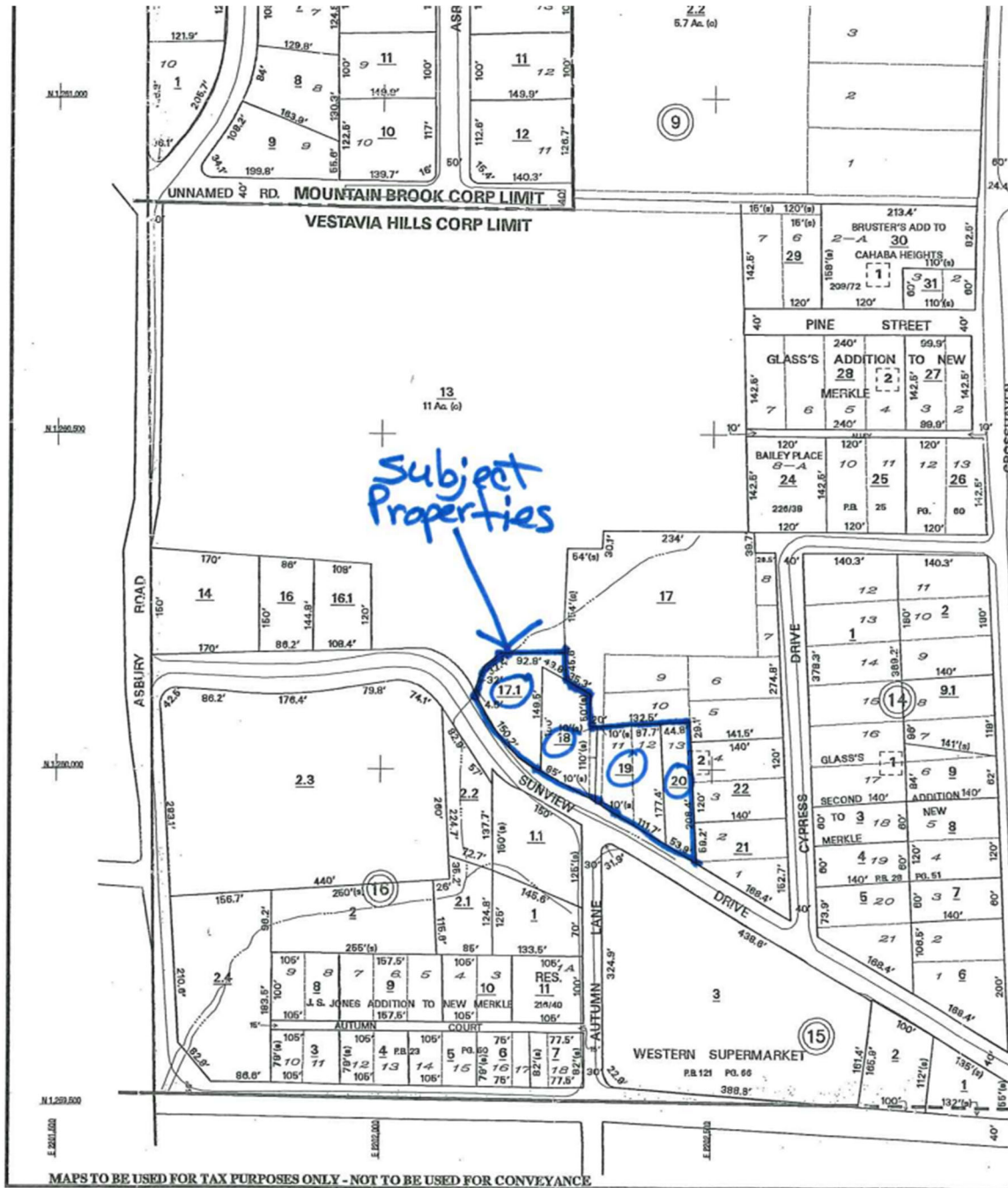
Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3300 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 24th day of November, 2025 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills Civic Center and Vestavia Hills New Merkel House this the _____ day of _____, 2025.

Rebecca Leavings
City Clerk





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-25-8

Owner Name: Parrish Holley

Owner Address: 164 Fairmont Drive, Mt. Brook, 35213

Representative: Todd Thompson

Rep. Address: 3 Riverchase Ridge, Hoover, Al 35244

Project Address: 3122, 3128, 3134 and 3136 Sunview Drive

Legal Description: Parcel #1

A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines and the extension thereof of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 189.04 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run North 63 degrees 41 minutes 47 seconds West along said Northerly right of way for a distance of 84.87 feet to a found PK nail and the POINT OF BEGINNING of the Parcel herein described; thence run North 49 degrees 17 minutes 22 seconds West along said Northerly right of way for a distance of 29.25 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS lying on a curve turning to the right, with a radius of 331.15 feet, with a delta angle of 08 degrees 33 minutes 56 seconds, with a chord bearing of North 37 degrees 16 minutes 00 seconds West, and with a chord length of 49.46 feet; thence run along the arc of said curve and along said Northerly right of way for a distance of 49.51 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run North 32 degrees 59 minutes 02 seconds West along said Northerly right of way for a distance of 71.55 feet to a found capped iron stamped EDG 804LS; thence leaving said Northerly right of way run North 41 degrees 48 minutes 11 seconds East for a distance of 4.49 feet to a

found capped iron stamped EDG 804LS; thence run North 20 degrees 07 minutes 49 seconds East for a distance of 31.99 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run North 47 degrees 54 minutes 46 seconds East for a distance of 32.36 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS; thence run South 89 degrees 36 minutes 14 seconds East for a distance of 92.84 feet to a found capped iron stamped EDG 804LS; thence run South 01 degrees 08 minutes 01 seconds East for a distance of 45.56 feet to a found capped iron stamped EDG 804LS; thence run North 63 degrees 35 minutes 07 seconds West for a distance of 49.78 feet to a found 5/8 inch rebar; thence run South 01 degrees 29 minutes 30 seconds East for a distance of 149.54 feet to the POINT OF BEGINNING. Said parcel contains 11,322 square feet or 0.26 acres more or less.

Parcel #2

A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines and the extension thereof of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 189.04 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS and the POINT OF BEGINNING of the parcel herein described; thence run North 63 degrees 41 minutes 47 seconds West along said Northerly right of way for a distance of 84.87 feet to a found PK nail; thence leaving said Northerly right of way run North 01 degrees 29 minutes 30 seconds West for a distance of 149.54 feet to a found 5/8 inch rebar; thence run South 63 degrees 35 minutes 07 seconds East for a distance of 49.78 feet to a found capped iron stamped EDG 804LS; thence run South 63 degrees 43 minutes 01 seconds East for a distance of 35.22 feet to a found capped iron stamped EDG 804LS; thence run South 01 degrees 27 minutes 45 seconds East for a distance of 149.40 feet to the POINT OF BEGINNING. Said parcel contains 11,227 square feet or 0.26 acres more or less.

Parcel #3

A portion of vacated 20th Avenue situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Commencing at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Northerly right of way and along the South lot lines of Lots 13, 12, and 11 said Block 2 Glass's Second Addition to New Merkle for a distance of 165.58 feet to a found capped iron stamped EDG 804LS marking the Southwest corner of said Lot 11 said point also lying on the Easterly vacated right of way of 20th Avenue and the POINT OF BEGINNING of the parcel herein described; thence run North 59 degrees 21 minutes 36 seconds West along said Northerly right of way for a distance of 23.46 feet to a set 5/8 inch capped rebar stamped GSA CA-560LS lying on the Westerly vacated right of way of 20th Avenue; thence leaving said Northerly right of way run North 01 degrees 27 minutes 45 seconds West said vacated right of way for a distance of 149.40 feet to a found capped iron stamped EDG 804LS; thence leaving said vacated right of way run North 86 degrees 10 minutes 14 seconds East for a distance of 22.48 feet to a found capped iron stamped EDG 804LS lying on the Easterly vacated right of way of 20th Avenue; thence run South 00 degrees 33 minutes 06 seconds East along said vacated right of way and along West lot line of Lots 10 and 11 said Block 2 Glass's Addition to New Merkle for a distance of 162.82 feet to the POINT OF BEGINNING. Said parcel contains 3,318 square feet or 0.08 acres more or less.

Parcel #4

A parcel of land situated in the Southwest one-quarter of the Southeast one-quarter of Section 15, Township 18 South, Range 2 West, Jefferson County being more particularly described as follows:

Beginning at a found capped iron stamped EDG 804LS marking the Southeast corner of Lot 13, Block 2 Glass's Second Addition to New Merkle as recorded in Map Book 28, Page 51 in the Office of the Judge of Probate of Jefferson County, Alabama said point also lying on the Northerly right of way of Sunview Drive (right of way varies); thence run North 59 degrees 21 minutes 51 seconds West along said Block 2 Glass's Second Addition to New Merkle for a distance of 165.58 feet to a found capped iron stamped EDG 804LS marking the Southwest corner of said Lot 11 said point also lying on the Easterly vacated right of way of 20th Avenue; thence leaving said Northerly right of way run North 00 degrees 33 minutes 06 seconds West along said vacated right of way and along the West lot line of said Lot 11 for a distance of 116.79 feet to a set 5/8 inch capped rebar stamped GSA CA-50LS marking the Northwest corner of said Lot 11; thence leaving said vacated right of way run North 87 degrees 01 minutes 11 seconds

East along the North lot line of said Lots 11, 12, and 13 for a distance of 132.41 feet to a found capped iron stamped EDG 804LS marking the Northeast corner of said Lot 13; thence run South 03 degrees 07 minutes 31 seconds East along the East lot line of said Lot 13 for a distance of 208.36 feet to the POINT OF BEGINNING. Said parcel contains 22,066 square feet, or 0.51 acres more or less.

Parcel ID Number: 28-15-4-009-017.001, 018.000, 019.000 and 020.000

Current Zoning: B1.2

Requested Zoning: B1.2

Intended Purpose: NEW COMMERCIAL CONSTRUCTION - bBRANCH bANK WITH DRIVE UP TELLER

MOTION Mr. Romeo made a motion to recommend Rezoning for 3128 Sunview Dr. from Vestavia Hills B-1.2 to Vestavia Hills B-1.2

Second was by Mr. Farrell. Motion was carried on a roll call; vote as follows:

Mr. Farrell – yes Mr. Sykes – yes

Mr. Romeo – yes Mr. Maloof– yes

Mr. Blackenburg – yes Ms. Cochran– yes

Motion carried.

P&Z

Recommendation:

Date of P&Z Meeting: October 9, 2025

Authorized by:

Issued by:

Vestavia Hills Planning and Zoning Commission,
Lindsey Cochran, Chair
Conrad Garrison, City Planner

User Advisory

Property Information

Subject Property Address	Tax Parcel ID Number
3128 Sunview Drive	28-15-4-009-019.000
Legal Description	
Parcel 1, 2, 3 and 4 on the attached survey	
Existing Parking Spaces	Proposed Parking Spaces
0	20
Submission Date	Type of Project
08/30/2025	New Commercial Development

Action Requested:

From Existing Zoning Classification	To Requested Zoning Classification
B1.2	B1.2
For the Intended Purpose of:	
NEW COMMERCIAL CONSTRUCTION - bBRANCH bBANK WITH DRIVE UP TELLER	
Acreage of Subject Property	Acreage of Property to be Disturbed
1.10	0.92

Setbacks

Front	Back
0	30
Side	Open Space
0	89
Lot Coverage Percentage	Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).
39	true

Owner Information

Applications must be either submitted by the owner of the property or a representative duly appointed by the owner by way of a notarized letter and/or power of attorney.

Property Owner Name

Parrish Holley

Company Name

--

Owner Address City State Zip

164 Fairmont Drive, Mt. Brook, 35213

Owner's Phone Number

7277096199

By checking this box, I hereby affirm that I am the representative of the owner duly authorized to represent this petition for rezoning. Simultaneously with this application, I am submitting notarized documentation from the owner which authorizes me to represent this case. If no authorization is provided, this application cannot be processed.

true

Email Address of Owner

tcorbett@floridaconceptsinc.com

Owner Representative/Responsible Party

Todd Thompson

Company Name

MTTR Engineers, inc.

Contact Email of Responsible Party

Tthompson@MTTReng.com

Mailing Address of Responsible Party

3 Riverchase Ridge, Hoover, Al 35244

Phone No. of Responsible Party

205-936-7993

Email Address of Responsible Party

Tthompson@MTTReng.com

Project Engineer Information (if applicable)

Name

Todd Thompson

Company

MTTR Engineers, inc.

Mailing Address

3 Riverchase Ridge, Hoover, Al 35244

Phone Number

2059367993

Email

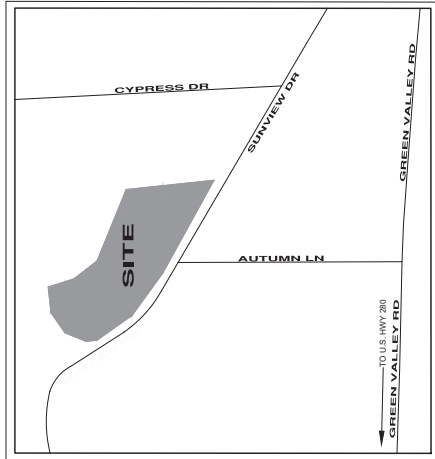
Tthompson@MTTReng.com

WEST ALABAMA BANK

SUNVIEW DRIVE

VESTAVIA HILLS, ALABAMA

SITE DATA TABLE	
PROPERTY AREA= 1.10 AC.	
ZONING:	
81.2	
LAND USE	
CURRENT: VACANT	
PROPOSED: BANK - FINANCIAL INSTITUTION	
BUILDING SETBACKS:	
FRONT = SEE 6.3.2.1 • NONE, MN 20"	
REAR = SEE 6.3.2.2 • NONE	
SIDE = SEE 6.3.2.2 • NONE	
MAX BUILDING HEIGHT: 35 FT OR 3 STORIES WHICHEVER	
MINIMUM SETBACK: SEE 6.3.2.1 • NONE	
PARKING REQUIREMENTS: SEE 6.3.2.1 • 1 SPACE PER 400 SF GFA PLUS 3 STACKING SPACES PER DRIVE THRU LANE. 5,243SF / 400 = 13.1 + 6 = 20	
TOTAL PARKING SPACES PROVIDED:	20 SPACES



SHEET INDEX

C0	COVER SHEET
C1	EXISTING CONDITIONS
C2	DEMOLITION PLAN
C3	SITE LAYOUT PLAN
C4	GRADING AND DRAINAGE PLAN
CSA	BMP PLAN
CSB	UTILITY DETAILS
C5	UTILITY PLAN
C6	SECTION AND DETAILS
C7	



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C0

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3 RIVERCHASE RIDGE, HOOVER, AL 36244
TELEPHONE (205) 320-0114



COVER SHEET
WEST ALABAMA BANK
SUNVIEW DRIVE
VESTAVIA HILLS, ALABAMA
FLORIDA CONCEPTS
TAMPA, FLORIDA

PROJECT

ENGINEER

DATE
2/28/2011
FILE NAME
PROJECT NO
DATE
DATE
DRAWN
CHECKED
J.T.
SCALE
SHEET

REVISIONS	JOB NO.
	202507001
DATE	FILE NAME
	RF5004-RI.DWG
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	T.T.T.
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	J.T.
	SCALE:
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ENGINEER

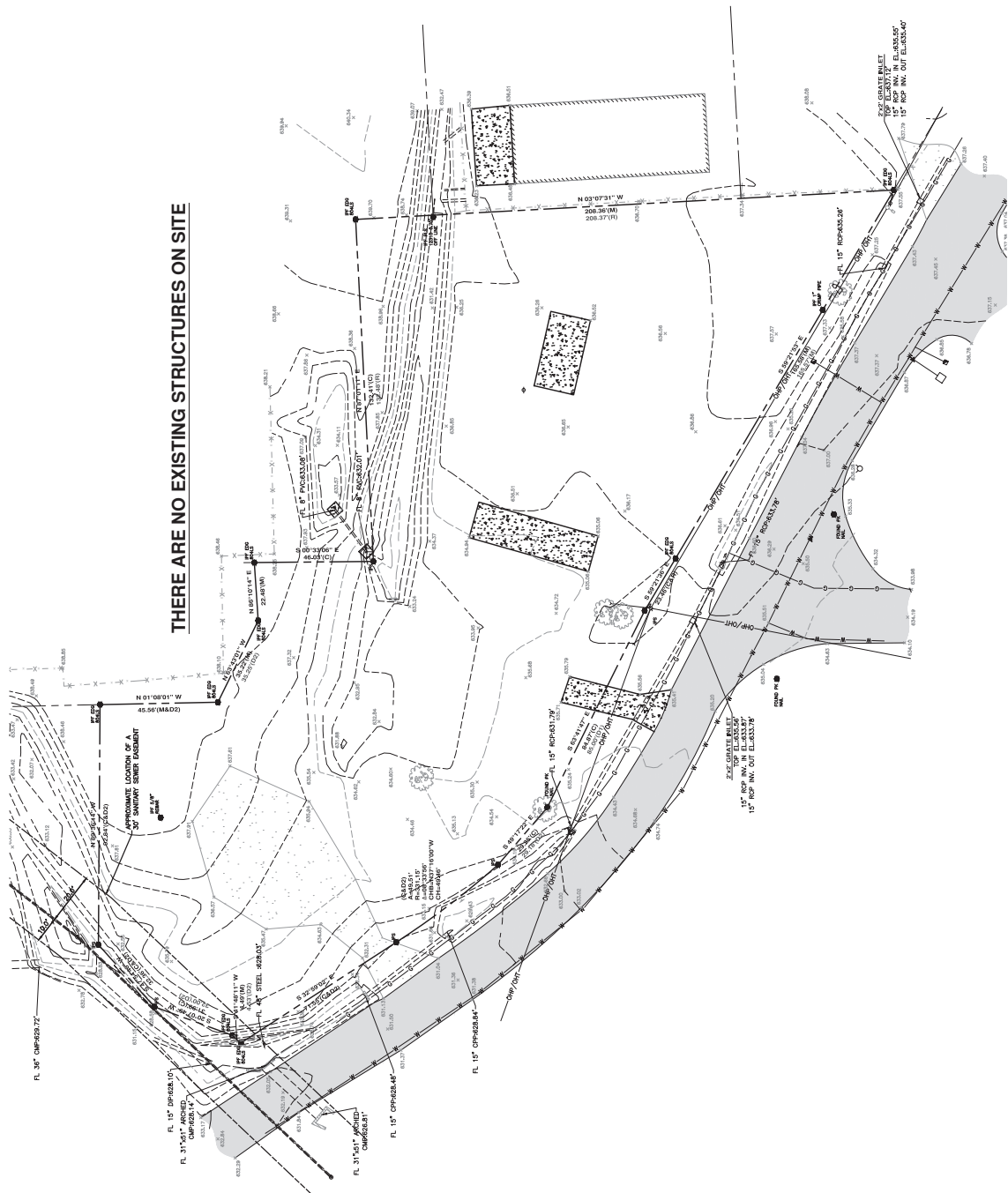
PROJECT

EXISTING CONDITIONS

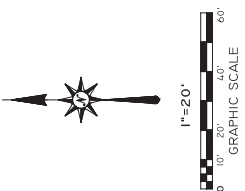
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SUNVIEW DRIVE
VESTAVIA HILLS, ALABAMA
FLORIDA CONCEPTS
TAMPA, FLORIDA

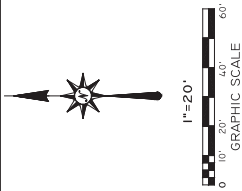


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THERE ARE NO EXISTING STRUCTURES ON SITE



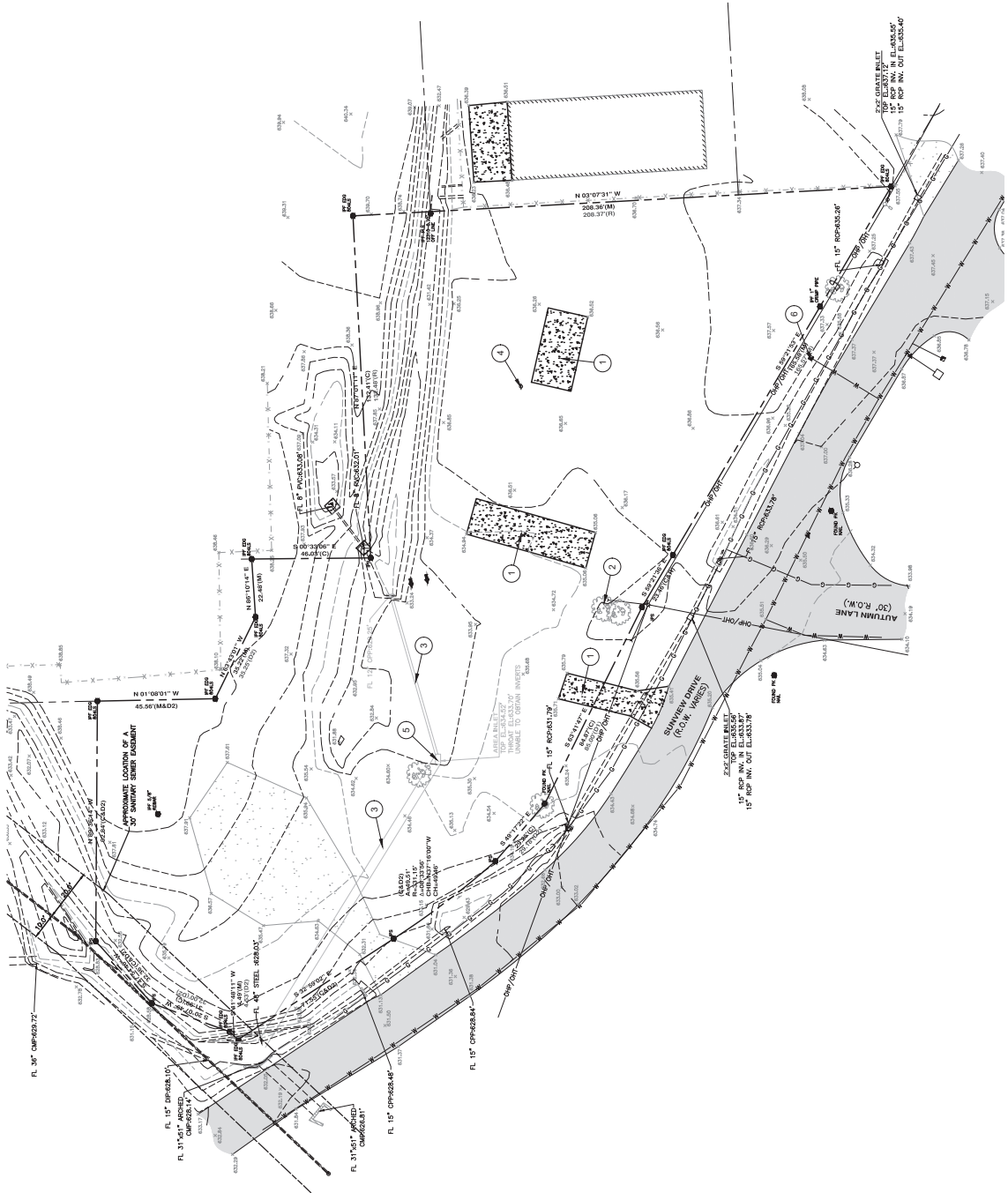


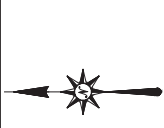
DEMOLITION LEGEND

1. SAWCUT AND REMOVE CONCRETE SLAB ON GRADE
2. REMOVE EXISTING VEGETATION
3. REMOVE EXISTING STORM PIPE
4. REMOVE EXISTING OVERHEAD POWER SERVICE. CONTRACTOR SHALL COORDINATE WITH AL POWER CO FOR THE TERMINATION AND REMOVAL OF SERVICE LINES AND POLES
5. REMOVE EXISTING STORM STRUCTURES
6. REMOVE EXISTING WATER METER

DEMOLITION NOTES

1. CONTRACTOR SHALL PROTECT ALL PROPERTY CORNERS AND BENCHMARKS. IF DESTROYED DURING CONSTRUCTION, CONTRACTOR SHALL REPLACE AT HIS EXPENSE.
2. ALL EXISTING UTILITIES SHALL BE LOCATED AND MARKED PRIOR TO THE SITE PRIOR TO BEGINNING WORK. ALL UTILITIES SHOWN ARE APPROXIMATE.
3. ALL EXISTING UTILITIES SHALL BE REMOVED AND DISPOSED OF IN A LEGAL MANNER. ALL UTILITIES SHALL BE REMOVED AND DISPOSED OF IN A LEGAL MANNER. ALL UTILITIES SHALL BE REMOVED AND DISPOSED OF IN A LEGAL MANNER.
4. CONTRACTOR SHALL SAFEGUARD ALL EXISTING UTILITIES WITHIN ADJACENT RIGHT-OF-WAY AND DEMOLITION LIMITS.
5. ALL EXISTING UNDERGROUND IMPROVEMENTS (STORM, SANITARY, ETC.) MAY NOT BE SHOWN. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
6. ALL EXISTING UNDERGROUND IMPROVEMENTS (STORM, SANITARY, ETC.) MAY NOT BE SHOWN. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
7. ALL EXISTING UNDERGROUND IMPROVEMENTS (STORM, SANITARY, ETC.) MAY NOT BE SHOWN. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
8. ALL EXISTING UNDERGROUND IMPROVEMENTS (STORM, SANITARY, ETC.) MAY NOT BE SHOWN. CONTRACTOR SHALL VERIFY LOCATION AND DEPTH OF ALL UTILITIES PRIOR TO CONSTRUCTION.
9. NO WORK SHALL BE PERFORMED OUTSIDE THE DEMOLITION LIMITS.
10. THE SITE AND ADJACENT TO THE SITE AND SCHEDULE COORDINATE AND ASSIST THE CONTRACTOR IN RELOCATION AND RECONNECTION OF ALL UTILITIES NECESSARY TO PERFORM THE WORK.





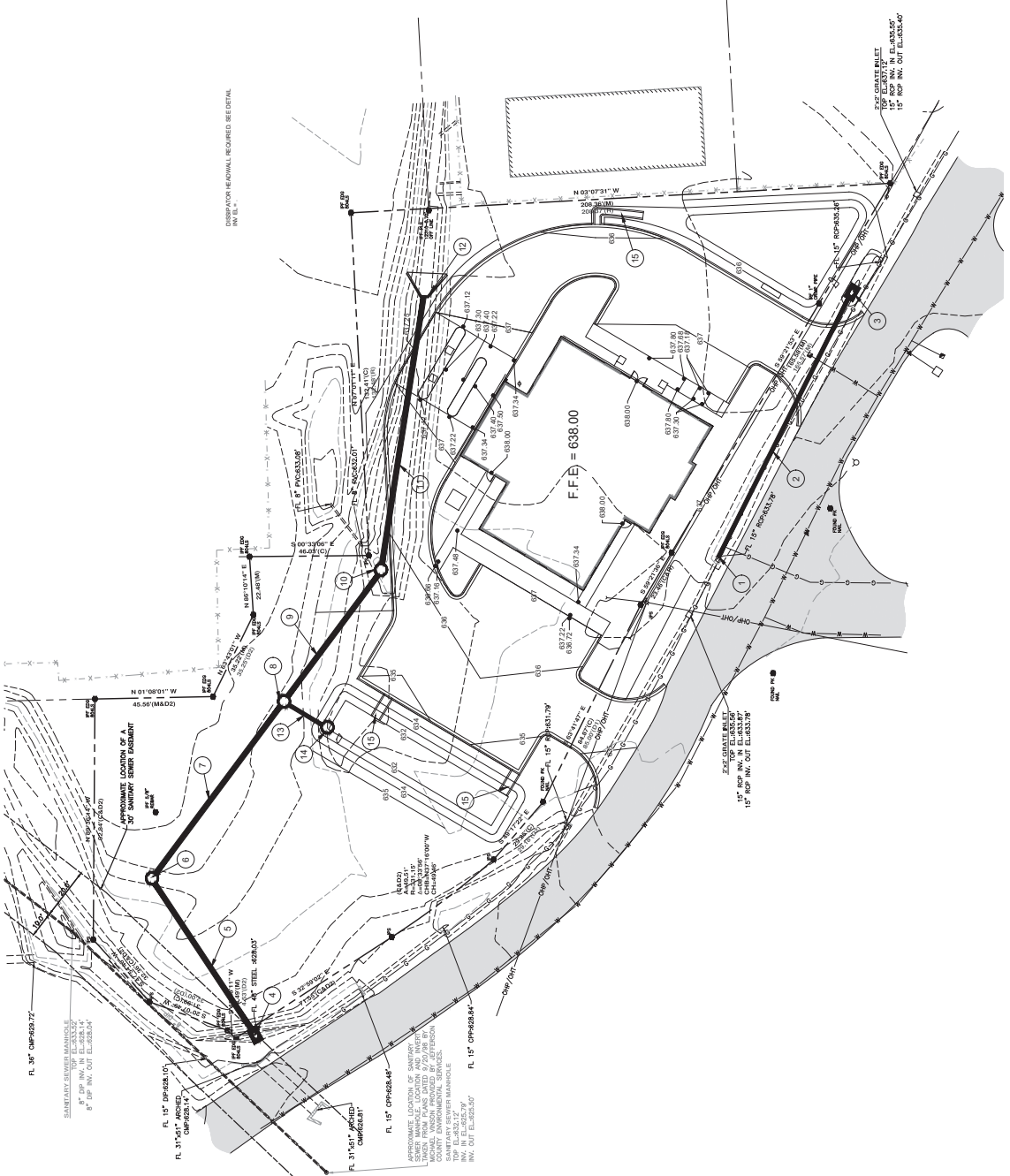
1"=20'
0 10' 20' 30' 40' 50'
GRAPHIC SCALE

KEY NOTE LEGEND

1. CONCRETE COLLAR REQUIRED AT JUNCTION OF EXISTING PIPE AND NEW PIPE
2. 12" F. - 15' RCP PIPE @ 0.5% SLOPE
3. SLOPED DITCHED ROADWAY REQUIRED. SEE DETAIL INV. E.L. = 681.34
4. 12" F. - 15' RCP PIPE @ 0.5% SLOPE. REPAIRS REQUIRED. SEE DETAIL INV. E.L. = 681.34
5. 12" F. - 15' RCP PIPE @ 0.5% SLOPE
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14. 12" F. - 15' RCP PIPE @ 0.5% SLOPE
15. 12" F. - 15' RCP PIPE @ 0.5% SLOPE

GRADING NOTES

1. CONSTRUCTION SHALL BE REQUIRED TO OBTAIN ALL REQUIRED PERMITS AND APPROVALS FROM THE CITY PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES.
2. EXISTING GRADES SHALL BE MAINTAINED UNLESS OTHERWISE SPECIFIED. ANY CHANGES SHALL BE INDICATED BY THE GRADING PLAN.
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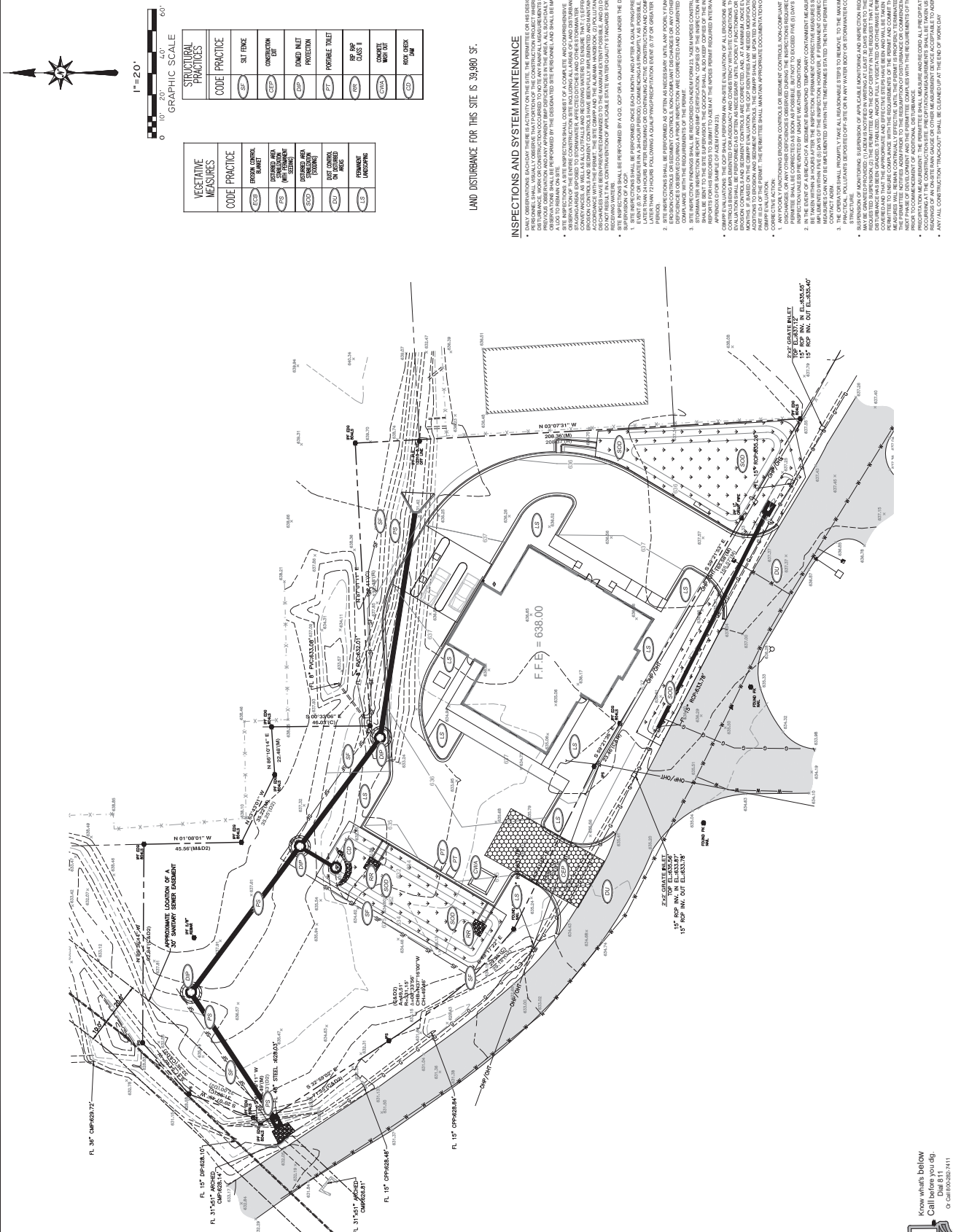


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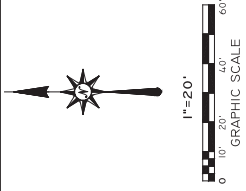
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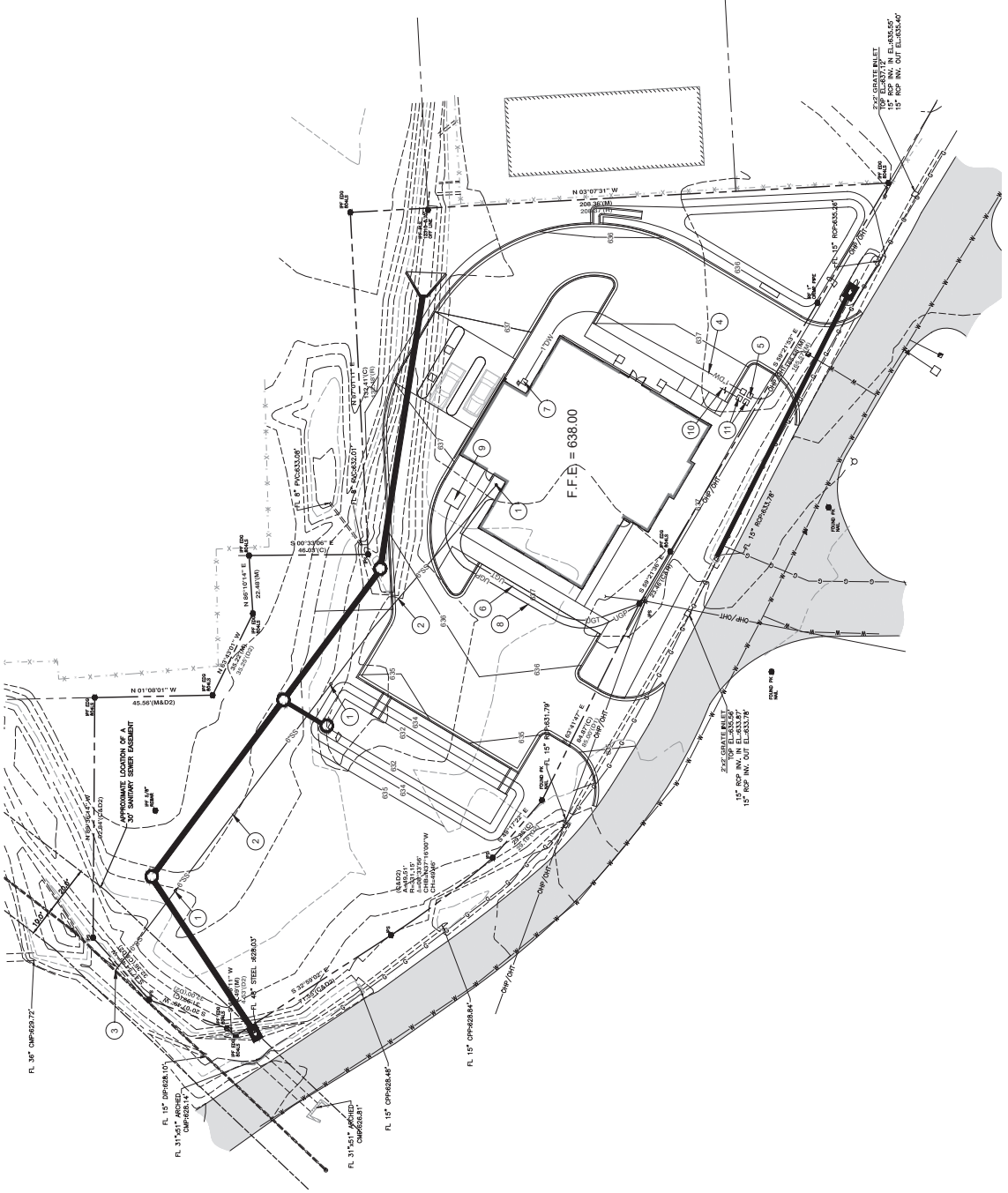


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UTILITY LEGEND

1. SANITARY SEWER CONNECTION TO EXISTING MAIN. CONNECTION TO BE INSTALLED INVERT EL. = 427.57
2. 6" PVC C-90 SANITARY SEWER PIPE AT 1% SLOPE
3. SANITARY SEWER CONNECTION TO EXISTING MAIN. CONNECTION TO BE INSTALLED INVERT EL. = 427.57
4. 10" MANHOLE/ WATER LINE RCD
5. 1" WATERMETER AND BACKFLOW PER BWWIS SPECIFICATIONS
6. 1" WATERMETER AND BACKFLOW PER BWWIS SPECIFICATIONS
7. DOMESTIC WATER SHUT OFF VALVE IN BELOW GRADE CAST IRON VAULT
8. 2" PVC CONDUITS FOR UNDERGROUND TELEPHONE AND DATA SERVICE. CONTACT LOCAL UTILITY PROVIDER FOR COORDINATION
9. 2" PVC CONDUITS FOR UNDERGROUND POWER SERVICE. CONTACT LOCAL UTILITY PROVIDER FOR COORDINATION
10. 2" PVC CONDUITS FOR UNDERGROUND POWER SERVICE. PROVIDE BOLLARD PROTECTION AS REQUIRED BY APCO
11. 10" MANHOLE/ WATER LINE RCD. SEE LANDSCAPE PLAN FOR CONTINUATION
12. 1" WATERMETER AND BACKFLOW (LANDSCAPE IRRIGATION) PER BWWIS SPECIFICATIONS



UTILITY NOTES

1. CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRS TO ANY EXISTING UTILITY DAMAGED DURING CONSTRUCTION AT NO COST TO THE OWNER.
2. THE MINIMUM HORIZONTAL SEPARATION BETWEEN THE CLOSEST TWO POINTS OF THE WATER LINE AND SANITARY SEWER LINE SHALL BE 10 FEET.
3. THE MINIMUM VERTICAL SEPARATION BETWEEN THE CLOSEST TWO POINTS OF THE WATER LINE AND SANITARY SEWER LINE SHALL BE 10 FEET.
4. THE TOP ELEVATION OF MANHOLES CONSTRUCTED IN UNFINISHED AREAS SHALL BE FINISHED GRADE. UNLESS OTHERWISE NOTED.
5. UTILITY EXISTENCES TO INCLUDE, BUT NOT LIMITED TO, SANITARY SEWER, INTERNAL DOMESTIC, AND GAS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR COORDINATING ALL UTILITIES WITH THE APPROPRIATE AGENCIES AND OBTAINING ALL NECESSARY PERMITS AND APPROVALS PRIOR TO CONSTRUCTION.
6. SCHEDULES OF THE PINS AND CONNECTIONS PRIOR TO CONSTRUCTION TO THE LOCATION AND DEPTH OF THE UTILITIES.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES DURING CONSTRUCTION.
8. CONTRACTOR SHALL CONDUCT ALL REQUIRED TESTS AND ANALYSIS PRIOR TO THE SATISFACTION OF THE UTILITY COMPANIES AND THE OWNER.
9. CONTRACTOR SHALL COMPLY WITH THE LATEST STANDARDS OF THE ALABAMA DEPARTMENT OF REVENUE AND TAXATION FOR THE INSTALLATION OF SANITARY SEWER, WATER, AND GAS LINES.
10. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES DURING CONSTRUCTION.
11. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES DURING CONSTRUCTION.
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18. CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL EXISTING UTILITIES AND STRUCTURES DURING CONSTRUCTION.



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CHECKED

SCALE

J.T.

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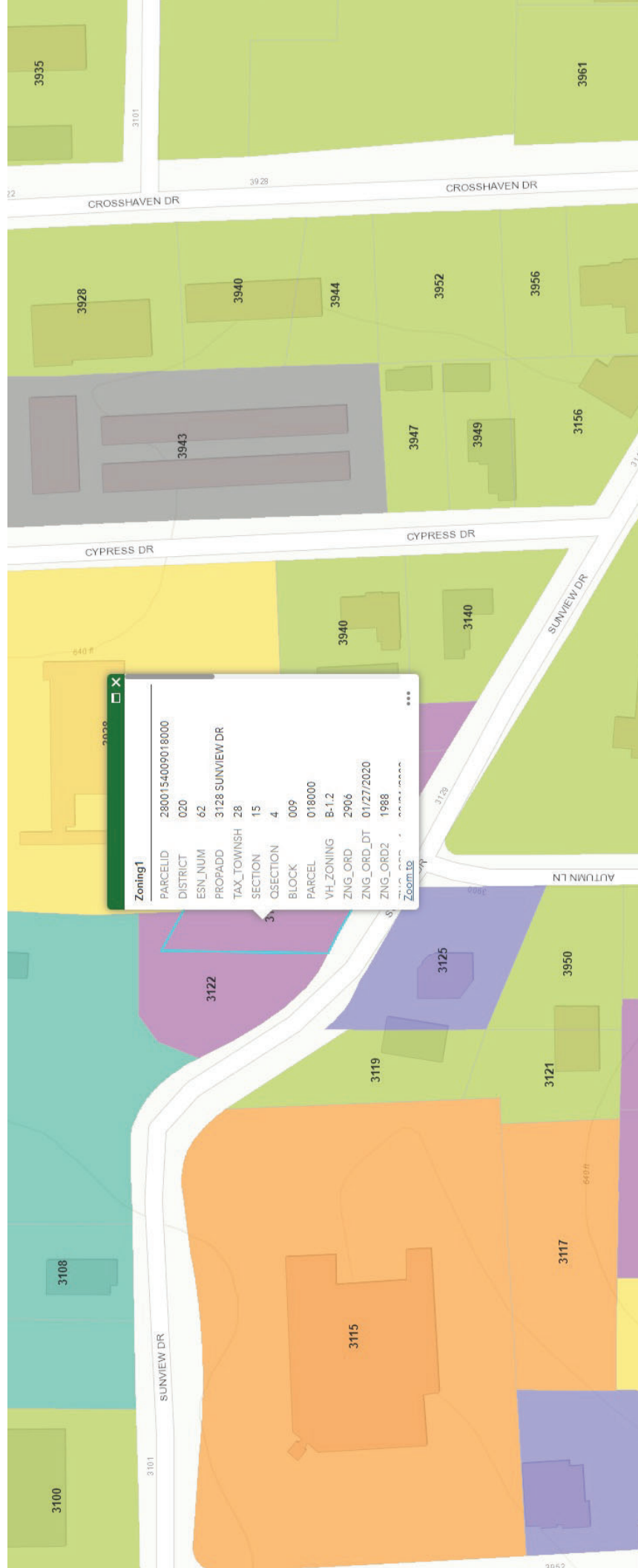
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Future Land Use

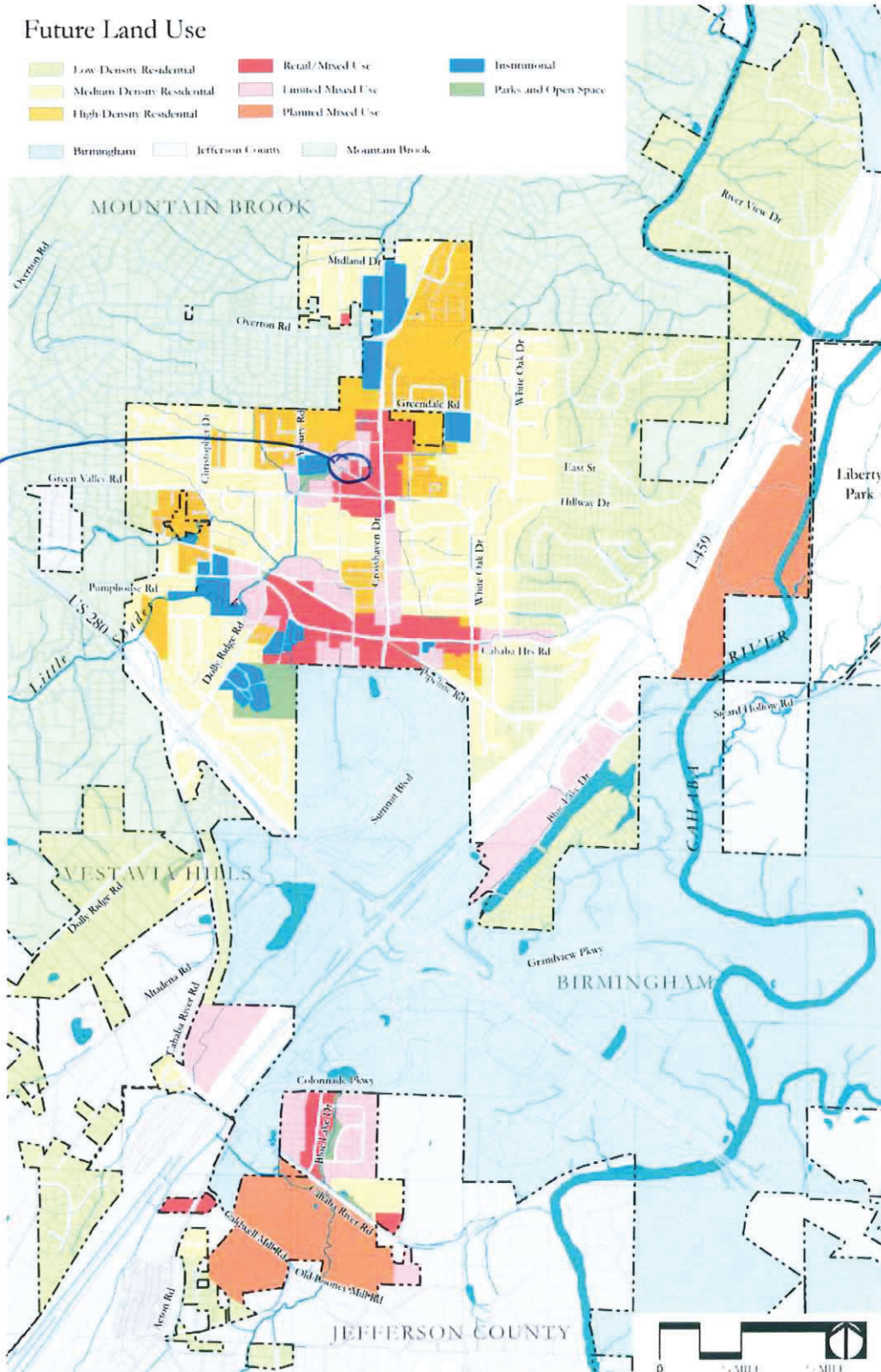
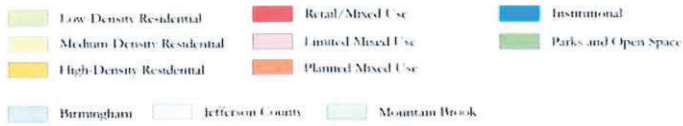


Figure 4: Future Land Use Map



**CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO**

November 24, 2025

To: Jeff Downes, City Manager

From: Rebecca Leavings, City Clerk

Cc: Conrad Garrison, City Planner

RE: Public Hearing - Ordinance Number 3301 - Rezoning - 3951 Wall Street; Rezone from Vestavia Hills B-2 to Vestavia Hills R-9; KSA Holdings, LLC, owners; Jason Kessler, representing

Background:

Property was previously rezoned to commercial for a private swim school. The property owner put the property back on the market. This request is for the construction of eight (8) townhomes. Rezoning requested is for planned residential which ties the request to the preliminary plat presented.

Recommendation:

This was heard by the P&Z Commission in October with recommendation for approval. See attached recommendation.

Fiscal Impact:

na

Attachments:

1. Ordinance 3301
2. Support letter

ORDINANCE NUMBER 3301

**AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE
AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS,
ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST
AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING
OF PROPERTY FROM VESTAVIA HILLS B-2 TO VESTAVIA HILLS
R-9**

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills B-2 (general business district) to Vestavia Hills R-9 (planned residential district):

3951 Wall Street
KSA Holdings, LLC, owner(s)

More particularly described as follows:

A part of the SE 1/4 of SE 1/4 of Section 15, Township 18 South, Range 2 West described as follows: Begin at the SW corner of said SE 1/4 of SE 1/4 and run North 495 feet; thence East 296.00 feet for a point of beginning; thence North 165 feet; thence East 100 feet; thence South 165 feet; thence West 100 feet to the point of beginning.

Situated in Jefferson County, Alabama. Subject property is one and the same property conveyed in deeds recorded in Real 2419, Page 547 and Instrument 2019005646.

This Ordinance Number 3301 shall become effective immediately upon adoption and approval following publishing/publication as required by Alabama law.

APPROVED and ADOPTED this the 24th day of November, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

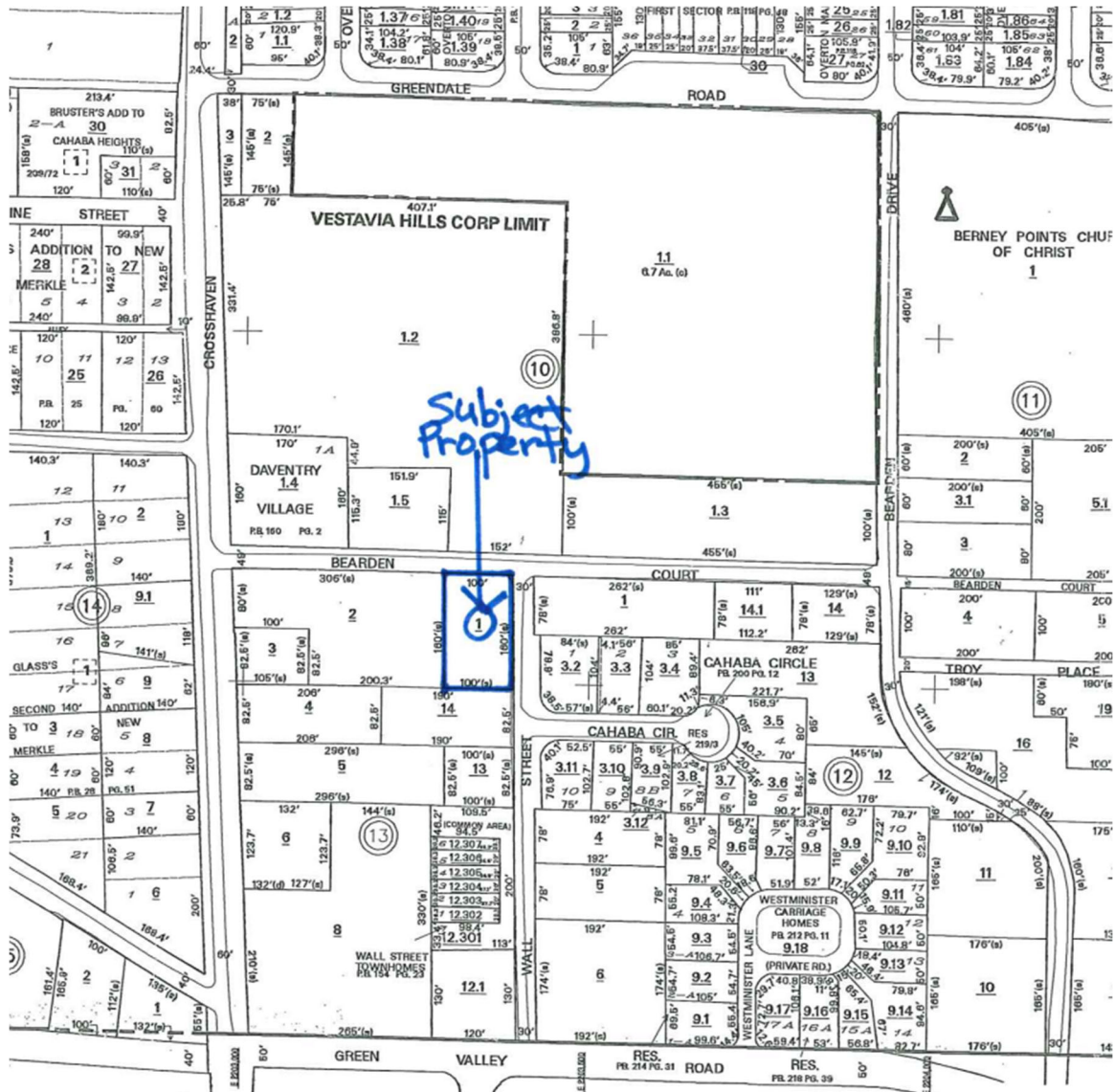
Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 3301 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 24th day of November, 2025 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills Civic Center and Vestavia Hills New Merkel House this the _____ day of _____, 2025.

Rebecca Leavings
City Clerk





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-25-7

Owner Name: KSA Holdings, LLC

Owner Address: 3524 Brookwood Road Mountain Brook, AL
35223

Representative: Jason Kessler

Rep. 3505 Bent River Road Birmingham,
Address: AL 35216

Project Address: 3951 Wall Street

Legal Description: 28-00-15-4-013-001.000

Parcel ID Number:

Current Zoning: B2

Requested Zoning: R9

Intended Purpose: 6 townhomes

MOTION Mr. Sykes made a motion to recommend Rezoning for 3951 Wall St. from Vestavia Hills B-2 to Vestavia Hills R-9.

Second was by Mr. Romeo. Motion was carried on a roll call; vote as follows:

Mr. Farrell – yes Mr. Sykes – yes

Mr. Romeo – yes Mr. Maloof – yes

Mr. Blackburnburg – yes Ms. Cochran – yes

Motion carried.

P&Z

Recommendation:

Date of P&Z Meeting: October 9, 2025

Authorized by:

Issued by:

Vestavia Hills Planning and Zoning Commission,
Lindsey Cochran, Chair
Conrad Garrison, City Planner

User Advisory

Property Information

Subject Property Address	Tax Parcel ID Number
3951 Wall Street	--
Legal Description	
28-00-15-4-013-001.000	
Existing Parking Spaces	Proposed Parking Spaces
--	--
Submission Date	Type of Project
08/07/2025	New Residential Subdivision

Action Requested:

From Existing Zoning Classification	To Requested Zoning Classification
B2	R9
For the Intended Purpose of:	
6 townhomes	
Acreage of Subject Property	Acreage of Property to be Disturbed
0.38	0.38

Setbacks

Front	Back
20	15
Side	Open Space
5	--
Lot Coverage Percentage	Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).
--	true

Owner Information

Applications must be either submitted by the owner of the property or a representative duly appointed by the owner by way of a notarized letter and/or power of attorney.

Property Owner Name

KSA Holdings, LLC

Company Name

--

Owner Address City State Zip

3524 Brookwood Road Mountain Brook, AL 35223

Owner's Phone Number

205-870-8580

By checking this box, I hereby affirm that I am the representative of the owner duly authorized to represent this petition for rezoning. Simultaneously with this application, I am submitting notarized documentation from the owner which authorizes me to represent this case. If no authorization is provided, this application cannot be processed.

true

Email Address of Owner

ablair@lahcommercial.com

Owner Representative/Responsible Party

Jason Kessler

Company Name

KADCO Homes, LLC

Contact Email of Responsible Party

jdkessler84@gmail.com

Mailing Address of Responsible Party

3505 Bent River Road Birmingham, AL 35216

Phone No. of Responsible Party

205-369-5187

Email Address of Responsible Party

--

Project Engineer Information (if applicable)

Name

Bryan Presnell

Company

Forty 4 Engineering Design

Mailing Address

1703 McConnell Lane Mount Olive, AL

Phone Number

205-876-4335

Email

bryan@fortydot4.com

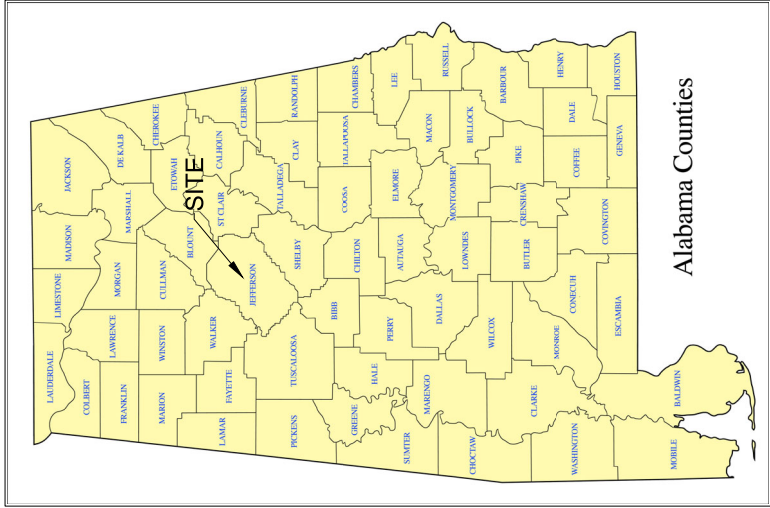
Wall Street Townhomes

3951 Wall St

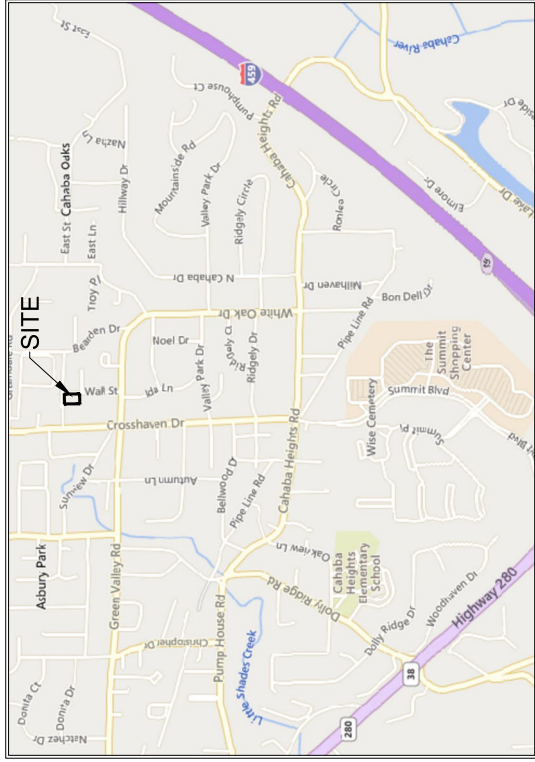
Vestavia Hills, AL 35243

Situated in Section 15, Township 18 South and Range 2 West

Jefferson County, Alabama



Alabama Counties



Vicinity Map
n.t.s.

Sheet #	Description
C0.0	Title Sheet
C1.0	Site Plan
C2.0	Utility Plan
C3.0	Grading Plan
C4.0	CBMP Plan
C5.0	Construction Details

Wall Street Townhomes
3951 Wall St
Vestavia Hills, AL 35243
Sited in Section 15, Township 18 South and Range 2 West
Jefferson County, Alabama

Sheet Title:

Title Sheet

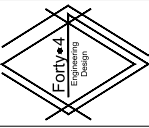
Revisions:
8/9/2025 - ALDOT Comments

File:
C-0.0 Cover Sheet

Date:
October 2, 2025

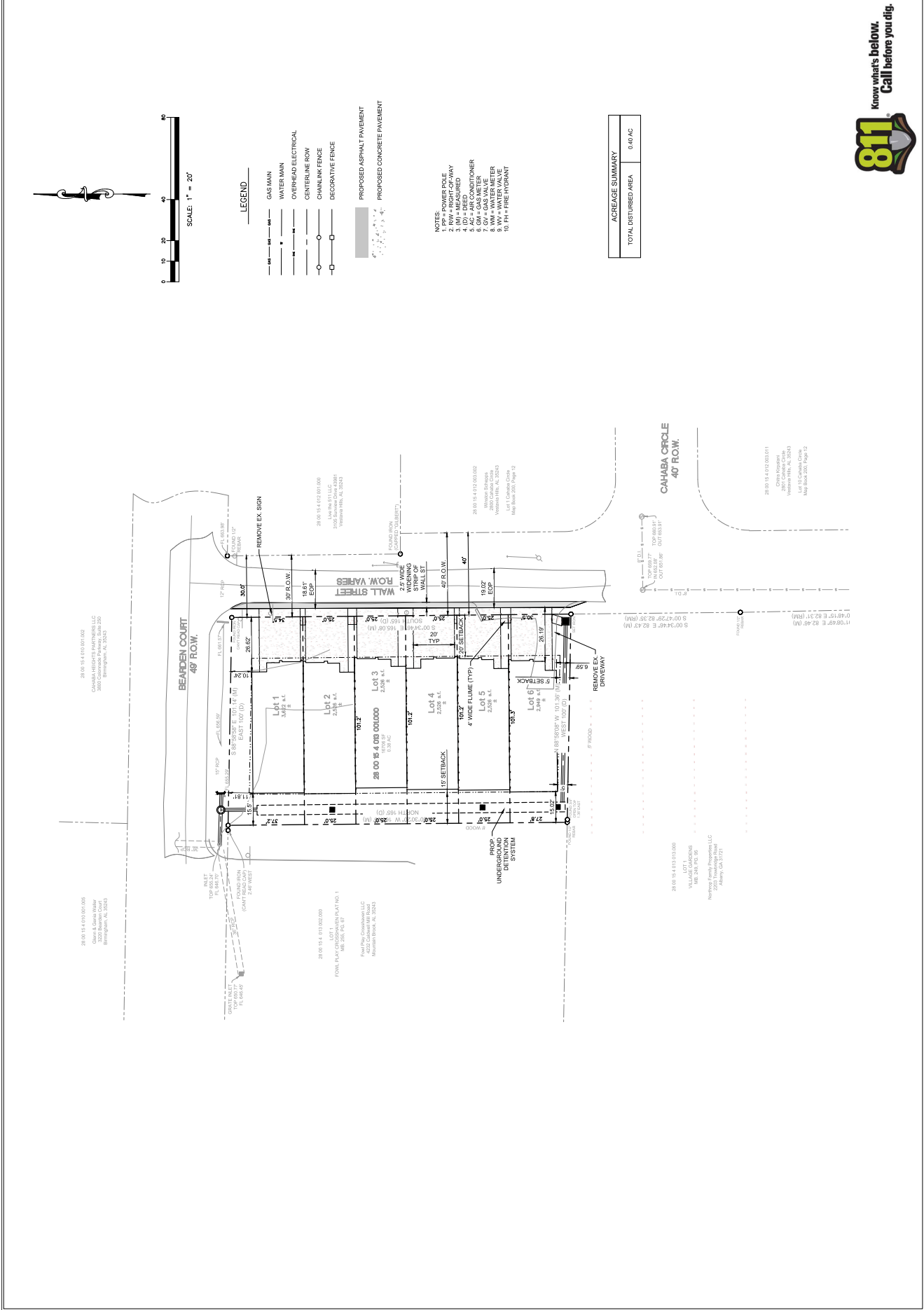
Scale:
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Drawing:
C0.0



1703 McConnell Lane
Birmingham, AL 35202
P: 205.876.4335
fortyfour@44.com

Engineer:
FOR REVIEW
NOT FOR
CONSTRUCTION
10/2/2025



Know what's below.
Call before you dig.



THE ENGINEER HAS CONDUCTED A VISUAL INSPECTION OF THE EXISTING UTILITIES AND HAS NOT GUARANTEED THE ACCURACY OF THE INFORMATION PROVIDED. THE ENGINEER'S SERVICES ARE LIMITED TO THE DESIGN OF THE UTILITY SYSTEMS AND DO NOT INCLUDE THE LOCATION OF EXISTING UTILITIES. THE CONTRACTOR SHALL LOCATE ALL UTILITIES PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR THE PROTECTION OF EXISTING UTILITIES. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE EXCAVATION AND REPAIR OF ANY UTILITIES DAMAGED DURING CONSTRUCTION.

C2.0

Drawing:

Scale:

Date:

Title:

Revisions:

Utility Plan

Sheet Title:

Wall Street Townhomes
3951 Wall St
Vestavia Hills, AL 35243
Sited in Section 15, Township 18 South and Range 2 West
Jefferson County, Alabama

FOR REVIEW
NOT FOR
CONSTRUCTION
Engineer
10/2/2025

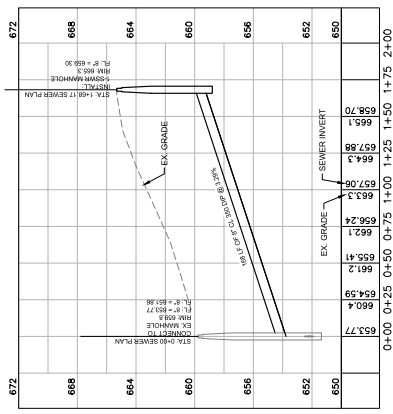
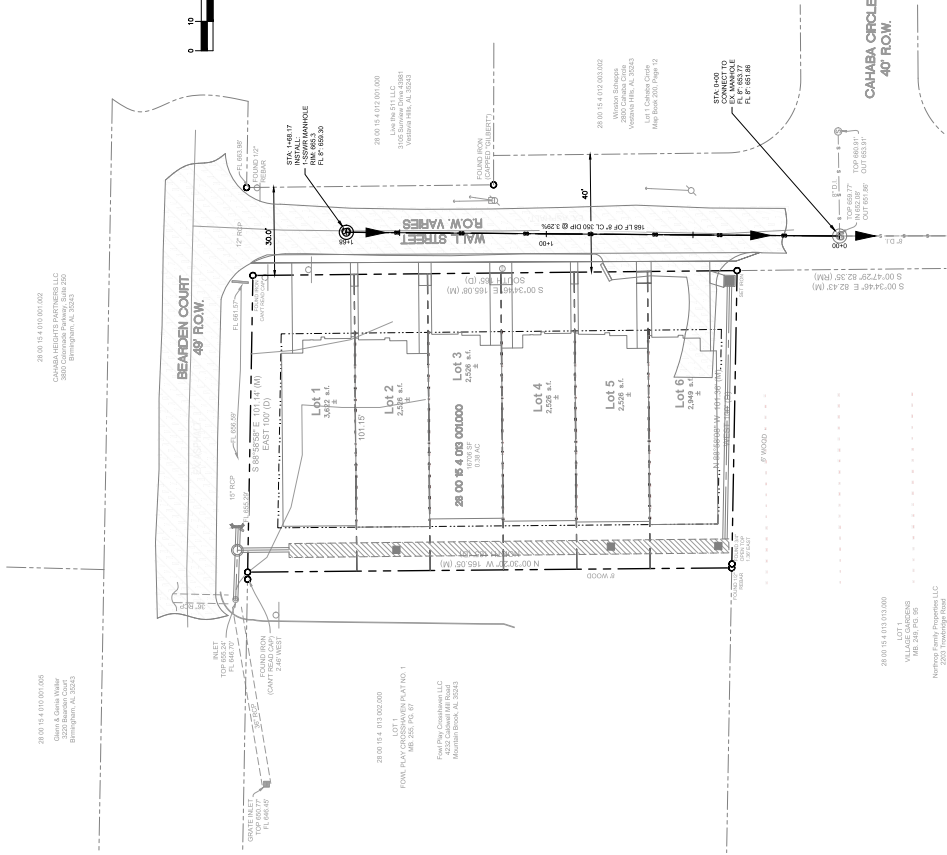
FortyFour
Engineering
Construction
1753 McConnell Lane
Birmingham, AL 35202
P: 205.876.4335
f404@fortyfour.com

LEGEND

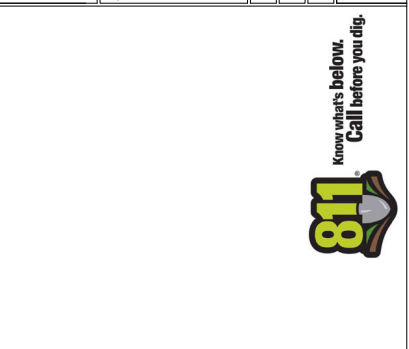
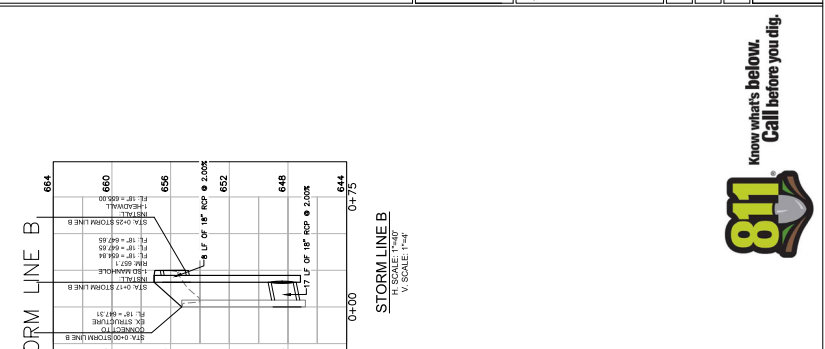
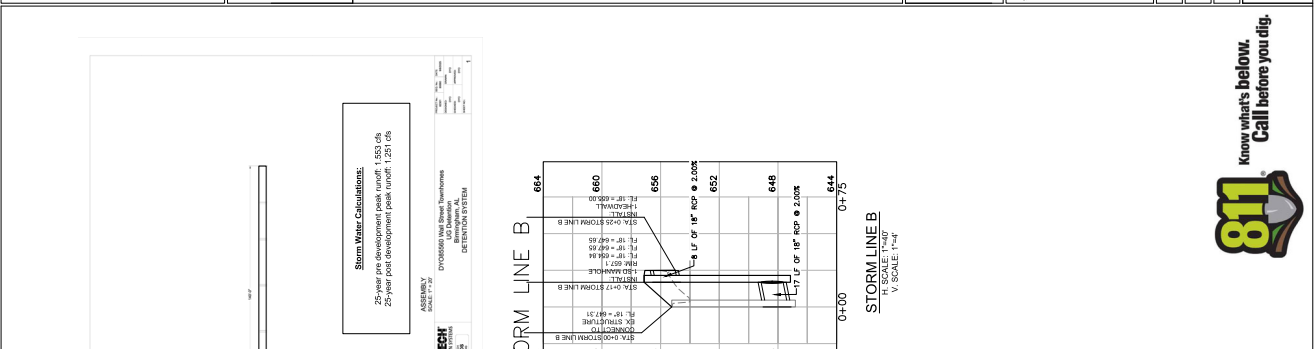
- GAS MAIN
- WATER MAIN
- OVERHEAD ELECTRICAL / UTILITY LINES
- CENTERLINE ROW
- CHAINLINK FENCE
- DECORATIVE FENCE
- PROPOSED ASPHALT PAVEMENT
- PROPOSED CONCRETE PAVEMENT

- NOTES:
1. ROW = RIGHT-OF-WAY
 2. R/W = RIGHT-OF-WAY
 3. R/W = RIGHT-OF-WAY
 4. (D) = DEED
 5. AC = AIR CONDITIONER
 6. G.V. = GAS VALVE
 7. G.V. = GAS VALVE
 8. W.V. = WATER VALVE
 9. W.V. = WATER VALVE
 10. F.H. = FIRE HYDRANT

SCALE: 1" = 20'



SEWER PROFILE
H. SCALE: 1"=40'
V. SCALE: 1"=4'



THE EXISTING UNDERGROUND UTILITIES SHOWN ON PLANS OBTAINED FROM THE RESPECTIVE UTILITY COMPANIES. THIS ENGINEER/SURVEYOR MAKES NO GUARANTEE THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA. ENGINEER/SURVEYOR'S LIABILITY FOR THE ENGINEER/SURVEYOR'S WORK DOES NOT INCLUDE THE EXISTING UNDERGROUND UTILITIES. THE ENGINEER/SURVEYOR HAS NOT INSPECTED. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES. THE CONTRACTOR SHALL LOCATE ALL UTILITIES IN THE AREA PRIOR TO ANY CONSTRUCTION. THE CONTRACTOR SHALL CALL THE MISSISSIPPI UTILITY LOCATING AND CATALOGING ONE CALL AT 1-800-292-8525. THIS WAY ALSO REQUIRE EXPLORATORY HAND EXCAVATION TO DETERMINE THE EXACT LOCATION OF THE UTILITIES.



Future Land Use

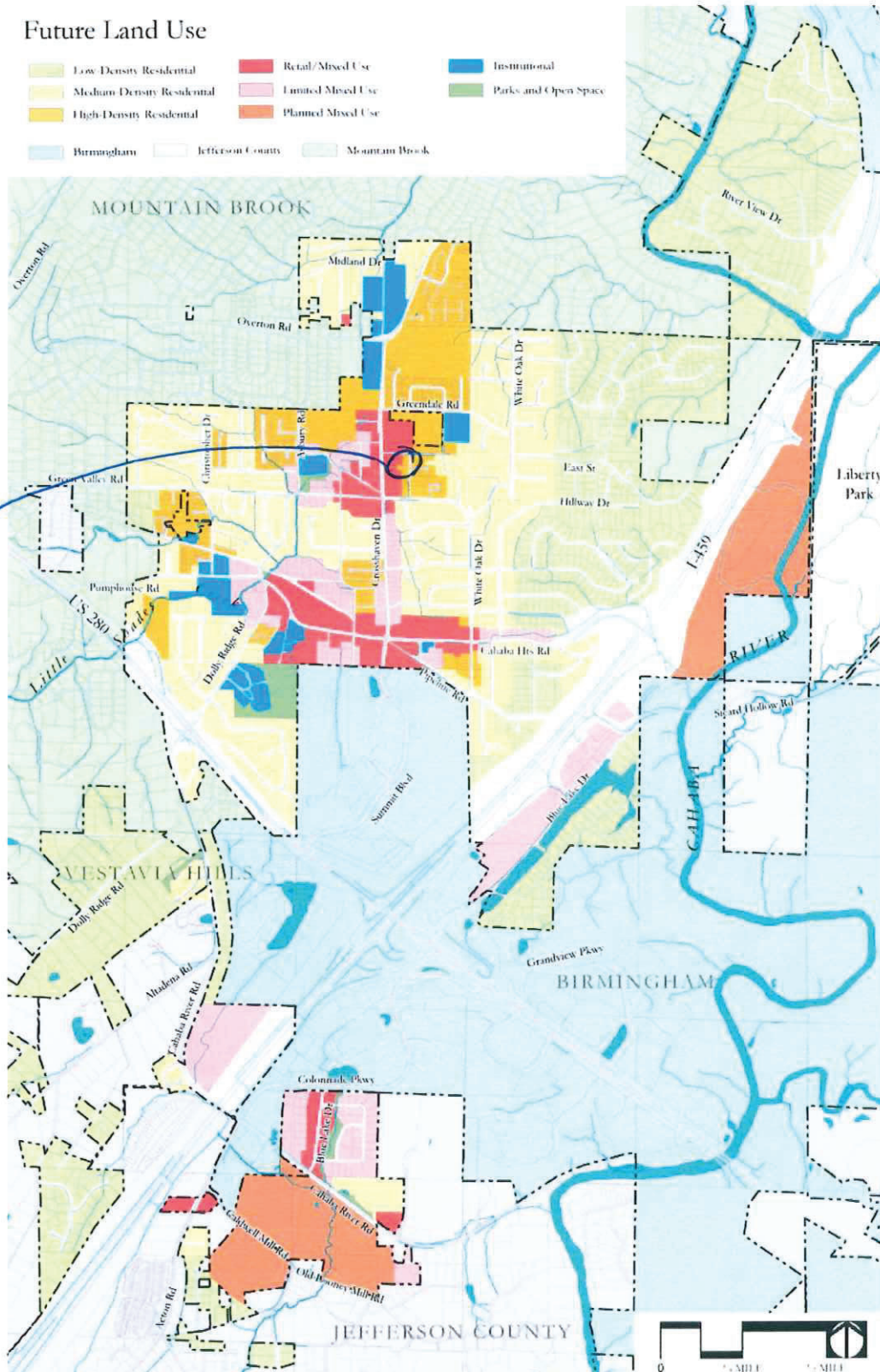


Figure 4: Future Land Use Map



**CITY OF VESTAVIA HILLS
FIRE DEPARTMENT
INTER-DEPARTMENT MEMO**

November 24, 2025

To: Jeff Downes, City Manager

From: Steven Michael, Captain

Cc: Marvin Green, Fire Chief

RE: Resolution Number 5604 - A Resolution declaring certain personal property as surplus and authorizing the City Manager to sell/dispose of said vehicles.

Background:

The following vehicles are ready to be declared surplus:

2013 Pierce Saber Pumper VIN 4P1CS01A4DA013789 City Asset Number 1285 Mileage 56068

2016 Ford F450 Ambulance VIN 1FDUF4HT7GEC34120 City Asset Number 2292 Mileage 92490

Recommendation:

The Fire Chief recommends that the vehicles be declared surplus and disposed of accordingly.

Fiscal Impact:**Attachments:**

1. Resolution 5604

RESOLUTION NUMBER 5604

A RESOLUTION DETERMINING THAT CERTAIN PERSONAL PROPERTY IS NOT NEEDED FOR PUBLIC OR MUNICIPAL PURPOSES AND DIRECTING THE SALE/DISPOSAL OF SAID SURPLUS PROPERTY

WITNESSETH THESE RECITALS

WHEREAS, the City of Vestavia Hills, Alabama, is the owner of personal property detailed in the attached “Exhibit A”; and

WHEREAS, the City has determined that it would be in the best public interest to sell or dispose of said property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:**

1. The City Manager is hereby authorized to sell or dispose of the above-referenced surplus personal property; and
2. This Resolution Number 5604 shall become effective immediately upon adoption and approval.

DONE, ORDERED, APPROVED and ADOPTED on this the 24th day of November, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

From: [Marvin D. Green](#)
To: [Umang Patel](#)
Cc: [Steven R. Michael](#)
Subject: Re: Surplus Vehicles
Date: Monday, November 17, 2025 2:14:08 PM
Attachments: [image001.png](#)

Confirm.

Marvin Dwane Green
Fire Chief
P [205 978 0221](tel:2059780221) | MGreen@vhal.org
F [205 978 0205](tel:2059780205)
City of Vestavia Hills

On Nov 17, 2025, at 2:05 PM, Umang Patel <upatel@vhal.org> wrote:

Good Afternoon,

Just to confirm, the following vehicles are set to be surplus:

2013 Pierce Saber Pumper VIN 4P1CS01A4DA013789 City Asset Number 1285
Mileage 56068
2016 Ford F450 Ambulance VIN 1FDUF4HT7GEC34120 City Asset Number 2292
Mileage 92490

Thank you,

<image001.png>

Umang G. Patel, Esq.
Director of Municipal Courts
P 205 978 0193 | vhal.org
City of Vestavia Hills

RESOLUTION NUMBER 5605

A RESOLUTION RESCHEDULING A REGULAR MEETING OF THE VESTAVIA HILLS CITY COUNCIL

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The regularly scheduled meeting of the Vestavia Hills City Council scheduled for January 19, 2026, is hereby rescheduled for Wednesday, January 21, 2026 beginning at 5:30 PM in observance of Martin Luther King Jr. Day and,
2. This Resolution Number 5605 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 24th day of November, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



**CITY OF VESTAVIA HILLS
PUBLIC SERVICES
INTER-DEPARTMENT MEMO**

November 24, 2025

To: Jeff Downes, City Manager

From: Ethan Fisher, City Engineer

Cc: Lori Beth Kearley, Public Services Director
Christopher Brady, City Engineer

RE: Public hearing - Ordinance Number 3304 - An ordinance authorizing the Mayor and City Manager to execute and deliver an agreement with the State of Alabama by and through the Alabama Department of Transportation for the funding of the construction of the Greendale Road Sidewalk through the awarded ALDOT TAP grant TAPAA-TA26(920)

Background:

The Engineering Department submitted an application for the Transportation Set-aside program (TAP) in line with Resolution Number 5566. The City was awarded the grant and is now preparing the necessary plans to bid and construct the project with ALDOT's oversight. Based on the award, the City is required to enter into a contract with the State of Alabama to establish how the project will be managed and how and when funding is paid and reimbursed. This project is consistent with our sidewalk masterplan priorities.

Recommendation:

The Engineering Department recommends approval of the ordinance to allow for the execution of the contract with the State of Alabama.

Fiscal Impact:

The funding is anticipated to be budgeted in FY27. No current fiscal impact is anticipated.

Attachments:

1. Ordinance 3304
2. TAPAA-TA26(920) 100080926 VESTAVIA HILLS (BLANK)

ORDINANCE NUMBER 3304

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT WITH THE STATE OF ALABAMA ACTING BY AND THROUGH THE ALABAMA DEPARTMENT OF TRANSPORTATION RELATING TO A SIDEWALK PROJECT

BE IT ORDAINED, BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA (“City”), AS FOLLOWS:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation (“ALDOT”) relating to a project for:

Sidewalk along Greendale Rd. from Crosshaven Dr. to White Oak Dr. and along White Oak Dr. from Greendale Rd. to East St.; Project# TAPAA-TA26(920); CPMS Ref# 100080926.

Which agreement is before this Council, and that the agreement, marked as Exhibit A attached to and incorporated into this Ordinance Number 3304 as if written fully therein, be executed in the name of the City, by the Mayor and City Manager for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

DONE, ORDERED, ADOPTED and APPROVED this the 8th day of December, 2025.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, the undersigned qualified and acting Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true copy of Ordinance Number 3304 lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the 8th day of December, 2025, and that such resolution is on file in the City Clerk's Office.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, New Merkel House and Vestavia Hills Civic Center this the ____ day of _____, 2025.

City Clerk

**CONSTRUCTION
AGREEMENT
FOR A
TRANSPORTATION ALTERNATIVES PROGRAM
PROJECT**

**BETWEEN THE STATE OF ALABAMA
AND THE
CITY OF VESTAVIA HILLS
Jefferson County**

**Project No. TAPAA-TA26(920)
CPMS Ref# 100080926**

PART ONE (1): INTRODUCTION

This Agreement is made and entered into by and between the State of Alabama (acting by and through the Alabama Department of Transportation), hereinafter referred to as the STATE; and the City of Vestavia Hills, Alabama, hereinafter referred to as the CITY.

WHEREAS, the STATE and the CITY desire to cooperate in the sidewalk along Greendale Rd. from Crosshaven Dr. to White Oak Dr. and along White Oak Dr. from Greendale Rd. to East St.; Project# TAPAA-TA26(920); CPMS Ref# 100080926.

NOW, THEREFORE, it is mutually agreed between the STATE and the CITY as follows:

PART TWO (2): FUNDING PROVISIONS

- A. **Project Funding:** Funding for this Agreement is subject to availability of Federal Aid funds at the time of authorization. It is expressly understood that federal funds for this project will be provided from Transportation Alternatives Program (TAP) funds as authorized by the U.S. Congress and the STATE will not be liable for any funding. Cost for the project will be financed, when eligible for Federal participation, on the basis of 80 percent Federal funds and 20 percent CITY funds, based on the contract as let price plus CE&I or the estimated costs below, whichever is lower. Any deficiency in Federal Aid or overrun in costs will be borne by the CITY from CITY funds unless approved in writing by the STATE. In the event of an underrun in project costs, the amount of Federal Aid funds will be the amount stated below, or 80% of eligible costs, whichever is less.
- B. The estimated cost and participation by the various parties is as follows:

FUNDING SOURCE	ESTIMATED COSTS
Federal TAP Funds	\$ 767,003.91
City Funds	\$ 191,750.98

TOTAL (Incl CE&I)	\$ 958,754.89

It is further understood that this is a cost reimbursement program and no federal funds will be provided to the CITY prior to accomplishment of the work for which it is requested. Furthermore, no federal funds will be reimbursed for work performed prior to project authorization.

Any cost incurred by the CITY relating to this project which is determined to be ineligible for reimbursement by the FHWA or in excess of the limiting amounts previously stated will not be an eligible cost to the project and will be borne and paid by the CITY.

- C. **Time Limit:** This project will commence upon written authorization to proceed from the STATE directed to the CITY.

The approved allocation of funds for projects containing Industrial Access funds shall lapse if a contract has not been awarded for construction of the project within (12) months of the date of the funding approval by the Board and the approved allocation shall be returned to the IARB for re-allocation. A time extension may be approved by the IARB upon formal request by the applicant.

The approved allocation of funds for projects containing Federal Transportation Alternatives Set-Aside funds may lapse if a project has not been authorized by FHWA within (24) months of the date of the funding approval by the Governor and the approved allocation shall be returned to the STATE for re-allocation. A time extension may be approved by the STATE upon formal request by the applicant. Failure to meet other project milestones, as set forth in the TAP Guidelines, may result in an approved allocation being returned to the STATE.

PART THREE (3): PROJECT SERVICES

- A. The CITY will furnish all Right-of-Way for the project. Associated Right-of-Way acquisition costs will not be an eligible cost to the Project. The Right-of-Way acquisition phase is hereby defined as the appraisal fees, appraisal review fees and the cost of acquisition incurred.

All work accomplished under the provisions of this agreement will be accomplished on property owned by or which will be acquired by the CITY in accordance with applicable Federal and state laws, regulations, and procedures. Any exceptions to this requirement must be approved by the STATE in writing prior to incurring costs for which reimbursement is requested by the CITY. In cases where property is leased, or easements obtained, the terms of the lease or easement will not be less than the expected life of the improvements.

Acquisition of real property by the CITY as a part of this project will conform to and be in accordance with the provisions of the Federal Uniform Relocation Assistance & Real Property Acquisition Policies Act (49 CFR 24, Subpart B), all federal environmental laws, and all other applicable state and federal laws.

Any property acquired shall be in the name of the CITY with any condemnation or other legal proceedings being performed by the CITY.

The CITY shall follow all Federal regulations related to the Management, Leasing, and Disposal of Right-of-Way, uneconomic remnants and excess Right-of-Way as found in CFR 23 § 710 Subpart D. Proceeds for Leases and Disposals shall be credited to the Project or to the Title 23 Collector Account.

No change in use or ownership of real property acquired or improved with funds provided under the terms of this Agreement will be permitted without prior written approval from the STATE or FHWA. The STATE or FHWA will be credited on a prorata share, as provided in Part Two, Section B, any revenues received by the CITY from the sale or lease of property.

- B. The CITY will relocate any utilities in conflict with the project improvements in accordance with applicable Federal and State laws, regulations, and procedures. Associated Utility costs will be an eligible cost to the project, as approved by the application.
- C. The CITY will make the Survey, perform the Design, complete the Plans and furnish all Preliminary Engineering for the project with CITY forces or with a consultant approved by the STATE. Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs will not be an eligible cost to the Project.

If any Associated Survey, Design, Plan Preparation, and Preliminary Engineering costs are an eligible cost to the project, the CITY will develop and submit to the STATE a project budget for approval. This budget will be in such form and detail as may be required by the STATE. At a minimum, all major work activities will be described, and an estimated cost and source of funds will be indicated for each activity. A signature line will be provided for approval by the Region Engineer and date of such approval. All cost for which the CITY seeks reimbursement must be included in a budget approved by the STATE in order to be considered for reimbursement. Budget adjustments may be necessary and may be allowed, subject to the approval of the STATE in writing, in order to successfully carry out the project. However, under no circumstances will the CITY be reimbursed for expenditures over and beyond the amount approved by the STATE.

The CITY will undertake the project in accordance with this Agreement, plans approved by the STATE and the requirements, and provisions, including the documents relating thereto, developed by the CITY and approved by the STATE. The plans, including the documents relating thereto, is of record in the Alabama Department of Transportation and is hereby incorporated in and made a part of this Agreement by reference. It is understood by the CITY that failure of the CITY to carry out the project in accordance with this Agreement and approved plans, including documents related thereto, may result in the loss of federal funding and the refund of any federal funds previously received on the project.

Projects containing Industrial Access funds or State funds, with no Federal funds involved, shall have completed original plans furnished to the STATE in accordance with the Guidelines for Operations for *Procedures for Processing State and Industrial Access Funded County and City Projects*, and attached hereto as a part of this Agreement prior to the CITY letting the contract.

- D. The CITY will furnish all construction engineering for the project with CITY forces or with a consultant approved by the STATE as part of the cost of the project. Construction Engineering & Inspection cost are not to exceed 15%, without prior approval by the State. Associated Construction Engineering & Inspection costs will be an eligible cost to the Project.
- E. The STATE will furnish the necessary inspection and testing of materials when needed as part of the cost of the project. The CITY may request the use of an approved third-party materials inspection and testing provider, as approved by the STATE.

PART FOUR (4): CONTRACT PROVISIONS

- A. The CITY shall not proceed with any project work covered under the provisions of this Agreement until the STATE issues written authorization to the CITY to proceed.
- B. Associated Construction costs will be an eligible cost to the Project.

For projects let to contract by the STATE, the STATE will be responsible for advertisement and receipt of bids, and the award of the Contract. Following the receipt of bids and prior to the award of the Contract, the STATE will invoice the CITY for its pro rata share of the estimated cost as reflected by the bid of the successful bidder plus Engineering & Inspection and Indirect Costs (if applicable). The CITY shall pay this amount to the STATE no later than 30 days after the date bids are opened. Failure to do so may lead to the rejection of the bid.

For projects let to contract by the CITY, the CITY shall comply with all Federal and State laws, rules, regulations and procedures applicable to the advertisement, receipt of bids, and the award of the contract. The CITY will, when authorized by the STATE, solicit bids and make awards for construction and/or services pursuant to this agreement. The CITY shall not solicit bids until the entire bid package (plans, specifications, estimates, etc.) has been reviewed and approved by the STATE. Following receipt of bids, the CITY will provide all bids to the STATE with a recommendation for award. The CITY shall not award the contract until it has received written approval from the STATE.

The purchase of project equipment and/or services financed in whole or in part pursuant to this Agreement will be in accordance with applicable Federal and State laws, rules, regulations, and procedures, including state competitive bidding requirements applicable to counties and municipalities in the State of Alabama when the purchase is made by any such entity.

- C. If necessary, the CITY will file an Alabama Department of Environmental Management (ADEM) National Pollutant Discharge Elimination System (NPDES) Notice of Registration (NOR) (Code Chapter 335-6-12) for this project without cost to the State or this project. The CITY will be the permittee of record with ADEM for the permit. The CITY and the contractor will be responsible for compliance with the permit and the State will have no obligation regarding the permit. The CITY will furnish the State (Region) a copy of the permit prior to any work being performed by the contractor.

The CITY will secure all permits and licenses of every nature and description applicable to the project in any manner and will conform to and comply with the requirements of any such permit or license, and with each and every requirement of any and all agencies, and of any and all lawful authorities having jurisdiction or requirements applicable to the project or to the project activities.

- D. The CITY will comply with the Alabama Department of Transportation Standard Specifications for Highway Construction, Latest Edition, on this project and will ensure that work associated on this project meets the standards of the Alabama Department of Transportation and the project will be built in accordance with the approved plans.
- E. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), to the maximum extent permitted by Alabama law and the Constitution of the State of Alabama, the CITY shall indemnify, and hold harmless the State of Alabama, the Alabama Department of Transportation, its officers, officials, agents, servants, and employees from and against (1) claims, damages, losses, and expenses, including but not limited to attorneys' fees arising out of, connected with, resulting from or related to the work performed by the CITY, or its officers, employees, contracts, agents or assigns (2) the provision of any services or expenditure of funds required, authorized, or undertaken by the CITY pursuant to the terms of this Agreement, or (3) any damage, loss, expense, bodily injury, or death, or injury or destruction of tangible property (other than the work itself), including loss of use therefrom, and including but not limited to attorneys' fees caused by the negligent, careless or unskillful acts of the CITY its agents, servants, representatives or employees, or the misuse, misappropriation, misapplication, or misexpenditure of any source of funding, compensation or reimbursement by the CITY, its agents, servants, representatives or employees, or anyone for whose acts the CITY may be liable.
- F. Subject to the limitations on damages applicable to municipal corporations under Ala. Code § 11-47-190 (1975), the CITY will be obligated for the payment of damages occasioned to private property, public utilities or the general public, caused by the legal liability (in accordance with Alabama and/or Federal law) of the CITY, its agents, servants, employees or facilities.
- G. Upon completion and acceptance of this project by the State, the CITY will assume full ownership and responsibility for the project work and maintain the project in accordance with applicable State law.

PART FIVE (5): ACCOUNTING PROVISIONS

A. The CITY will, when appropriate, submit reimbursement invoices to the STATE for work performed in carrying out the terms of this Agreement. Requests for reimbursement will be made on forms provided by the STATE and will be submitted through the Region Engineer for payment. The CITY may invoice the STATE not more often than once per month for the funds due for work performed under this Agreement. Invoices for payment will be submitted in accordance with state law and will indicate that the payment is due, true, correct, unpaid, and the invoice will be notarized. Invoices for any work performed under the terms of this agreement will be submitted within twelve (12) months after the completion and acceptance by the STATE for the work. Any invoices submitted after this twelve-month period will not be eligible for payment.

B. The CITY will not assign any portion of the work to be performed under this Agreement or execute any contract, amendment or change order thereto, or obligate itself in any manner with any third party with respect to its rights and responsibilities under this Agreement, without the prior written approval of the STATE.

C. The CITY will establish and maintain a cost accounting system that must be adequate and acceptable to the STATE as determined by the auditor of the STATE.

All charges to the Project will be supported by properly executed invoices, contracts, or vouchers, as applicable, evidencing in proper detail the nature and propriety of the charges, in accordance with the requirements of the STATE. All checks, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to the project will be clearly identified, readily accessible and to the maximum extent feasible, kept separate and apart from all other such documents.

The CITY will report to the STATE the progress of the project in such manner as the STATE may require. The CITY will also provide the STATE any information requested by the STATE regarding the project. The CITY will submit to the STATE financial statements, data, records, contracts and other documents and items of any respect related to the project as may be requested by the STATE.

The CITY will permit the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, to inspect, at any time, vehicles and equipment utilized or used in performance of the project; any and all data and records which in any way relate to the project or to the accomplishment of the project. The CITY will also permit the above noted persons to audit the books, records and accounts pertaining to the project at any and all times, and the CITY will give its full cooperation to those persons or their authorized representatives, as applicable.

The CITY will comply with all audit requirements set forth in the 2 CFR Part 200 requirements, or the most current version of those requirements under federal law.

D. The CITY will retain all books, records, and other documents relative to this Agreement for a minimum of three (3) years after project termination, expiration of Federal interest, or close out, and the STATE, the Comptroller General of the United States, and the Secretary of the USDOT, or either of them or their respective authorized representatives, will have full access to, and right to examine any of said materials at all reasonable times during said period.

E. Any user fee or charge to the public for access to any property or services provided through the funds made available under this agreement, if not prohibited by a Federal, State or local law, must be applied for the maintenance and long-term upkeep of the project authorized by this agreement.

F. An audit report must be filed with the Department of Examiners of Public Accounts, upon receipt by the CITY, for any audit performed on this project in accordance with Act No. 94-414.

PART SIX (6): MISCELLANEOUS PROVISIONS

- A. By entering into this agreement, the CITY is not an agent of the STATE, its officers, employees, agents or assigns. The CITY is an independent entity from the STATE and nothing in this agreement creates an agency relationship between the parties.
- B. It is agreed that the terms and commitments contained in this agreement shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment 26. It is further agreed that if any provision of this agreement shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of this agreement, be enacted, then the conflicting provision in this agreement shall be deemed null and void.
- C. By signing this contract, the contracting parties affirm, for the duration of the agreement, that they will not violate Federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.
- D. No member, officer, or employee of the CITY during their tenure of employment, and for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds, profits, or benefits therefrom.
- E. The terms of this Agreement may be modified by revision of this Agreement duly executed by the parties hereto.
- F. This agreement may be terminated by either party upon the delivery of a thirty (30) day notice of termination.
- G. Nothing shall be construed under the terms of this Agreement that shall cause any conflict with Section 23-1-63, Code of Alabama, 1975.
- H. **Exhibits A, E, H, M, and N** are hereby attached to and made a part of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by those officers, officials and persons duly authorized to execute same, and the Agreement is deemed to be dated and to be effective on the date hereinafter stated as the date of its approval by the Governor of Alabama.

City of Vestavia Hills, Alabama

ATTEST:

By: _____
As Mayor/City Manager (Signature)

By: _____
Clerk (Signature)

Ashley C. Curry/ Jeff Downes

Print Name of Mayor/City Manager

Print Name of Clerk
(AFFIX SEAL)

This contract has been legally reviewed and approved as to form.

By: _____
Legal Counsel for
Alabama Department of Transportation

RECOMMENDED FOR APPROVAL:

DeJarvis Leonard, P.E.
East Central Region Engineer

Bradley B. Lindsey, P.E.
State Local Transportation Engineer

Edward N. Austin, P. E.
Chief Engineer

STATE OF ALABAMA, ACTING BY AND THROUGH
THE ALABAMA DEPARTMENT OF TRANSPORTATION

John R. Cooper, Transportation Director

THE WITHIN AND FOREGOING AGREEMENT IS HEREBY EXECUTED AND
SIGNED BY THE GOVERNOR ON THIS _____ DAY OF _____, 20_____.

KAY IVEY
GOVERNOR, STATE OF ALABAMA

RESOLUTION NUMBER _____

BE IT RESOLVED, by the City of Vestavia Hills as follows:

That the City enter into an agreement with the State of Alabama, acting by and through the Alabama Department of Transportation relating to a project for:

Sidewalk along Greendale Rd. from Crosshaven Dr. to White Oak Dr. and along White Oak Dr. from Greendale Rd. to East St.; Project# TAPAA-TA26(920); CPMS Ref# 100080926.

Which agreement is before this Council, and that the agreement be executed in the name of the City, by the Mayor for and on its behalf and that it be attested by the City Clerk and the official seal of the City be affixed thereto.

BE IT FURTHER RESOLVED, that upon the completion of the execution of the agreement by all parties, that a copy of such agreement be kept on file by the City.

I, the undersigned qualified and acting Clerk of the City of , Alabama, do hereby certify that the above and foregoing is a true copy of a resolution lawfully passed and adopted by the City named therein, at a regular meeting of such Council held on the _____ day of _____, 20____, and that such resolution is on file in the City Clerk's Office.

ATTESTED:

City Clerk

Mayor

_____ day of _____, 20____, and that such resolution is of record in the Minute Book of the City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this _____ day of _____, 20____.

City Clerk

(AFFIX SEAL)

EXHIBIT A

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN FEDERAL-AID PROGRAM

Policy. It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this AGREEMENT. Consequently, the DBE requirements of 49 CFR Part 26 apply to this AGREEMENT.

DBE Obligation. The recipient of funds under the terms of this AGREEMENT agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. The recipient shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to see that Disadvantaged Business Enterprises have the opportunity to compete for and perform contracts and shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of U.S. Department of Transportation assisted contracts.

Failure of the recipient of funds under the terms of this AGREEMENT, or failure of its subcontractor (if a subcontractor is authorized) to carry out the DBE requirements of this AGREEMENT shall constitute a breach of contract, and may result in termination of the contract by the STATE, or such other remedy may be undertaken by the STATE as it deems appropriate.

EXHIBIT E

TERMINATION OR ABANDONMENT

- a. The STATE has the right to abandon the work or to amend its project at any time, and such action on its part shall in no event be deemed a breach of contract.
- b. The STATE has the right to terminate this AGREEMENT at its sole discretion without cause and make settlement with the CITY upon an equitable basis. The value of the work performed by the CITY prior to the termination of this AGREEMENT shall be determined. In determining the value of the work performed, the STATE shall consider the following:
 1. The ratio of the amount of work performed by the CITY prior to the termination of the AGREEMENT to the total amount of work contemplated by this AGREEMENT less any payments previously made.
 2. The amount of the expense to which the CITY is put in performing the work to be terminated in proportion to the amount of expense to which the CITY would have been put had he been allowed to complete the total work contemplated by the AGREEMENT, less any payments previously made. In determining the value of the work performed by the CITY prior to the termination, no consideration will be given to profit, which the CITY might have made on the uncompleted portion of the work. If the termination is brought about as a result of unsatisfactory performance on the part of the CITY, the value of the work performed by the CITY prior to termination shall be fixed solely on the ratio of the amount of such work to the total amount of work contemplated by this AGREEMENT.

CONTROVERSY

In any controversy concerning contract terms, or on a question of fact in connection with the work covered by this project, including compensation for such work, the decision of the Transportation Director regarding the matter in issue or dispute shall be final and conclusive of all parties.

CONTRACT BINDING ON SUCCESSORS AND ASSIGNS

- a. This contract shall be binding upon the successors and assigns of the respective parties hereto.
- b. Should the AGREEMENT be terminated due to default by CITY, such termination shall be in accordance with applicable Federal Acquisition Regulations.

EXHIBIT H

Page 1

EQUAL RIGHTS PROVISIONS

During the performance of this contract, the CITY for itself, its assignees and successors in interest agrees as follows:

a. **Compliance with Regulations**

The CITY will comply with the Regulations of the Department of Transportation relative to nondiscrimination in federally-assigned programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, as amended by 23 CFR 710-405(b), hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;

EXHIBIT H

Page 2

- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

b. **Nondiscrimination**

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CITY agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. The CITY will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices where the contract covers a program set forth in Appendix B of the Regulations.

The CITY will comply with all provisions of Executive Order 11246 of September 24, 1965 as amended by Executive Order 11375, and of the rules, regulations (41 CFR, Part 60) and relevant orders of the Secretary of Labor.

c. **Solicitations**

In all solicitations either by competitive bidding or negotiation made by the CITY for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor, supplier or lessor shall be notified by the CITY of the CITY'S obligation under this contract and the Regulations relative to nondiscrimination on the ground of race, color, religion, sex or national origin.

d. **Information and Reports**

The CITY will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books,

EXHIBIT H

Page 3

records, accounts, other sources of information and its facilities as may be determined by the STATE or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a CITY is in the exclusive possession of another who fails or refuses to furnish this information, the CITY shall so certify to the STATE, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance**

In the event of the CITY'S noncompliance with the nondiscrimination provisions provided for herein, the STATE shall impose such contract sanctions as it may determine to be appropriate, including but not limited to,

1. withholding of payments to the CITY under contract until the CITY complies, and/or
2. cancellation, termination or suspension of the contract, in whole or in part.

f. **Incorporation of Provisions**

The CITY will include the foregoing provisions a. through f. in every subcontract, including procurements of materials and leases of equipment, unless excepted by the Regulations, orders or instructions issued pursuant thereto. The CITY will take such action with respect to any subcontract, procurement, or lease as the STATE may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a CITY becomes involved in, or is threatened with, litigation with subcontractors, suppliers, or lessor as a result of such direction, the CITY may request the STATE to enter into such litigation to protect the interest of the STATE.

g. **Equal Employment Opportunity** – The following equal employment opportunity requirements apply to the underlying contract:

1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit laws at 49 U.S.C. § 5332, the CITY agrees to comply with all applicable equal employment requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project.

EXHIBIT H**Page 4**

The CITY agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.

2. Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CITY agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CITY agrees to comply with any implementing requirements FTA may issue.
3. Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CITY agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

COST PRINCIPLES

The STATE'S cost principles for use in determining the allowability of any item of cost, both direct and indirect, in this AGREEMENT, shall be the applicable provisions of Volume I, Federal Acquisition Regulations, Parts 30 and 31. The CITY shall maintain costs and supporting documentation in accordance with the Federal Acquisition Regulations, Parts 30 and 31 and other Regulations referenced with these Parts where applicable. The CITY shall gain an understanding of these documents and regulations. The applicable provisions of the above referenced regulations documents are hereby incorporated by reference herein as if fully set forth.

EXECUTORY CLAUSE AND NON-MERIT SYSTEM STATUS

- a. The CITY specifically agrees that this AGREEMENT shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the STATE beyond the moneys available for this purpose.

EXHIBIT H

Page 5

- b. The CITY, in accordance with the status of CITY as an independent contractor, covenants and agrees that the conduct of CITY will be consistent with such status, that CITY will neither hold CITY out as, or claim to be, an officer or employee of the STATE by reason hereof, and that CITY will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the STATE under the merit system or any other law of Alabama, including but not limited to workmen's compensation coverage, or retirement membership or credit or any Federal employment law. This paragraph also applies in like manner to the employees of CITY.

CITYS' CERTIFICATIONS

The CITY by acceptance of this contract certifies that the rates or composition of cost noted in Article IV - PAYMENTS are based on the current actual hourly rates paid to employees, estimated non- salary direct cost based on historical prices, the latest available audited indirect cost rate, and estimated cost of reimbursements to employees for travel (mileage, per diem, and meal allowance) based on the current policy of the CITY. The CITY agrees that mileage reimbursements for use of company vehicles is based on the lesser of the approved rate allowed by the General Services Administration of the United States Government or the reimbursement policies of the CITY at the time of execution of the AGREEMENT. The CITY agrees that no mileage reimbursement will be allowed for the purpose of commuting to and from work or for personal use of a vehicle. The CITY agrees that the per diem rate will be limited to the rate allowed by the STATE at the time of execution of the AGREEMENT. The CITY agrees that a meal allowance shall be limited to CITY employees while in travel status only and only when used in lieu of a per diem rate.

The CITY shall submit detailed certified labor rates as requested, and in a timely manner, to the External Audits Section of the Finance and Audits Bureau of The Alabama Department of Transportation. The CITY agrees that material differences between rates submitted with a proposal and rates provided as certified for the same proposal are subject to adjustment and reimbursement.

EXHIBIT M

CERTIFICATION FOR FEDERAL-AID CONTRACTS: LOBBYING

This certification is applicable to the instrument to which it is attached whether attached directly or indirectly with other attachments to such instrument.

The prospective participant/recipient, by causing the signing of and the submission of this Federal contract, grant, loan, cooperative AGREEMENT, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, and the person signing same for and on behalf of the prospective participant/recipient each respectively certify that to the best of the knowledge and belief of the prospective participant or recipient and of the person signing for and on behalf of the prospective participant/recipient, that:

- a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the prospective participant/recipient or the person signing on behalf of the prospective participant/recipient as mentioned above, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, or other instrument as might be applicable under Section 1352, Title 31, U. S. Code, the prospective participant/recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U. S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant/recipient also agrees by submitting this Federal contract, grant, loan, cooperative agreement or other instrument as might be applicable under Section 1352, Title 31, U.S. Code, that the prospective participant/recipient shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

EXHIBIT N

FUNDS SHALL NOT BE CONSTITUTED AS A DEBT

It is agreed that the terms and commitments contained herein shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment Number 26. It is further agreed that if any provision of this AGREEMENT shall contravene any statute or Constitutional provision of amendment, either now in effect or which may, during the course of this AGREEMENT, be enacted, then the conflicting provision in the AGREEMENT shall be deemed null and void.

When considering settlement of controversies arising from or related to the work covered by this AGREEMENT, the parties may agree to use appropriate forms of non-binding alternative dispute resolution.

TERMINATION DUE TO INSUFFICIENT FUNDS

- a. If the agreement term is to exceed more than one fiscal year, then said agreement is subject to termination in the event that funds should not be appropriated for the continued payment of the agreement in subsequent fiscal years.
- b. In the event of proration of the fund from which payment under this AGREEMENT is to be made, agreement will be subject to termination.

NO GOVERNMENT OBLIGATION TO THIRD PARTY CONTRACTORS

The STATE and CITY acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations of or liabilities to the STATE, CITY, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The CITY agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided to FHWA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**STATE OF ALABAMA
DEPARTMENT OF TRANSPORTATION
GUIDELINES FOR OPERATION**

**SUBJECT: PROCEDURES FOR PROCESSING STATE AND INDUSTRIAL
ACCESS FUNDED COUNTY AND CITY PROJECTS**

No work can be performed and no contracts can be let prior to having a fully executed project agreement, submittal of project plans to Region and notification from the Region that advertisement for bids can be made, or, in the case of force account projects, work can begin.

A project agreement will be prepared and furnished to the County/City upon receipt of grant award letter signed by the Director or Governor. The Region will prepare and submit a F-7A Budget Allotment request upon receipt of a project funding agreement at the time it is submitted to the County/City for their execution.

The County/City will submit plans prepared and signed by a registered professional engineer showing work to be performed. Plans must match the project agreement description. It is not necessary for the Region to perform an in-depth review of plans. The County/City will submit a certification signed by a Registered Professional Engineer stating that the plans have been prepared so that all items included in the plans meet ALDOT specifications. The County/City will include a letter certifying that the County/City owns all right-of-way on which the project is to be constructed.

Upon receipt of the executed agreement, the executed F-7A, final plans from the County/City, and right-of-way certification, the Region may notify the County/City to proceed with advertising the project for letting or proceed with work in the case of a force account project.

In the case where a County/City is using an inplace annual bid, the County/City will furnish the Region a copy of their bid and this bid price will be used for reimbursement.

Where the County/City is letting a contract locally, the County/City will furnish to the Region the three lowest bids with their recommendation for award. The Region will review the bids, and, if in order, advise the County/City to proceed with award of the contract to the lowest responsible bidder. The County's/City's estimate for reimbursement will be based on the bid prices concurred in by the State and supported with documentation that the contractor has been paid for work performed (copy of cancelled check).

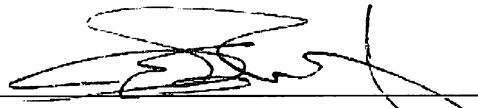
A certification will be submitted with County/City final estimate stating that the project was constructed in accordance with final plans submitted to the State and with the specifications, supplemental specifications, and special provisions which were shown on the plans or with the State's latest specifications which were applicable at the time of plan approval.

The County/City will notify the Region when the project is complete and the Region will perform a final ride-through to determine whether the project was completed in substantial compliance with original final plans. Final acceptance will be made by the Region with a copy of the letter furnished to the Bureau of Local Transportation.

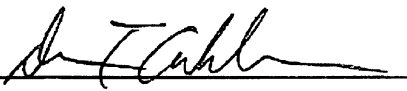
All required test reports, weight tickets, material receipts and other project documentation required by the specifications, applicable supplemental specifications, and special provisions will be retained by the County/City for a period of three (3) years following receipt of final payment and made available for audit by the State upon request. If an audit is performed and proper documentation is not available to verify quantities and compliance with specifications, the County/City will refund the project cost to the State or do whatever is necessary to correct the project at their cost.

All County/City Industrial Access or State funded projects let to contract by the State will follow normal project procedures and comply with all current plan processing requirements.

RECOMMENDED FOR APPROVAL:


BUREAU CHIEF/REGION ENGINEER

APPROVAL:


CHIEF ENGINEER

APPROVAL:


TRANSPORTATION DIRECTOR

NOVEMBER 1, 2017

DATE