Vestavia Hills
City Council Agenda
November 27, 2023
6:00 PM

1. Call to Order
2. Roll Call
3. Invocation - Sam Williamson, 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 13, 2023 Work Session and November 13, 2023 Regular Meeting

Old Business

10. Resolution Number 5485 - A Resolution Approving and Assenting to a Declaration of Vacation of certain undefined easements located at 1459 and 1467 Montgomery Highway; Vestavia 31 RE, LLC., owners; Chris Eckroate, Caprine Engineering, representing
11. Ordinance Number 3201 - Conditional Use Approval - 3010 Healthy Way; Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; Conditional Use to allow construction and operation of an indoor/outdoor plant nursery; Patchwork Retail Venture LLC, Owner
12. Ordinance Number 3203 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an agreement for purposes of a mine reclamation effort at the Sicard Hollow Athletic Complex (SHAC), acceptance of a masterplan, and declaration of surplus and conveyance of property between the City of Vestavia Hills and the Liberty Park Joint Venture to facilitate said masterplan.

New Business

13. Ordinance Number 3199 - A - An Ordinance Amending Ordinance Number 3199 to Amend Language in the Joint Services Agreement (Exhibit A) Between City of

Vestavia Hills, Jefferson County, and City of Birmingham In Order to Share Responsibilities for Improvements to the Blue Lake Drive and Sicard Hollow Road Intersection for Jefferson County Project No. 37-19-400

New Business Requesting Unanimous Consent

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

14. Resolution Number 5486 - 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
15. Resolution Number 5487 - A Resolution authorizing and directing the City Manager to take any and all legal actions necessary to complete the dispute resolution process for replacement and installation of a new chiller at the Vestavia Hills Civic Center
16. Resolution Number 5388 - Vacation of a Public Utility Easement on the property located at 1636 Panorama Drive; Lot 3, Caffee's Addition to Panorama; David Brouilette, Owner
17. Ordinance Number 3204 - An Ordinance defining Short-term rentals and prohibiting said use in dwellings and/or dwelling units
18. Citizens Comments
19. 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.

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

WORK SESSION

NOVEMBER 13, 2023

The City Council of Vestavia Hills met in a regular work session on this date at 5:00 PM, following publication and posting pursuant to Alabama law. Mayor Curry called the work session to order and the roll was checked with the following:

MEMBERS PRESENT:
Mayor Ashley C. Curry
Rusty Weaver, Mayor Pro-Tem
Kimberly Cook, Councilor*
George Pierce, Councilor
Paul J. Head, Councilor

OTHER OFFICIALS PRESENT:
Jeff Downes, City Manager
Patrick Boone, City Attorney
Cinnamon McCulley, Asst. City Manager
Rebecca Leavings, City Clerk
Conrad Garrison, City Planner
Jason Hardin, Interim Police Chief
Umang Patel, Court Director*
Marvin Green, Fire Chief
Ryan Farrell, Deputy Fire Chief
**attended via Zoom*

HOME-SHARING BUSINESSES

Mr. Downes opened the work session.

Ms. Leavings explained that, when this topic was first explored by a committee back in 2018, the staff recommended that there were ample ordinances to regulate home-sharing, or the short-term rental of single-family residential properties. For a while, those ordinances did work in preventing the illegal operation of these in residential zones. However, when an owner recently applied to bring the home into compliance and legally operate, staff discovered was no clear method of allowing this to happen while still staying in compliance with all zoning ordinances. She and City Planner Conrad Garrison researched the issue and circulated to Council and city staff a proposed ordinance to ban the short-term rental and advertisement of such for a single-family residence. The draft

ordinance defines a short-term rental as 90 days or less and gives clear direction that a rezoning from single-family residential would be required in order to run a home-sharing business.

Mr. Weaver explained the thoughts of the Planning and Zoning Commission when a request was recently presented.

Mr. Garrison further explained the ordinances of sister cities and reasons for recommending 90 days rather than 30 days. He stated that adopting a clear, simple ordinance will make it easier for the general public to understand and comply.

Ms. Leavings noted that Mrs. Cook submitted some minor revisions and indicated that the ordinance will be a first read at the next November Council meeting with action in early December.

SMALL CELL DEPLOYMENT

Mr. Downes stated that the City is still awaiting an Attorney General's opinion on the city's powers regarding small cell deployment. The Crossgate requests that prompted the request for an opinion are on hold pending an opinion. However, there is one approval that was postponed by the Council on Forest Haven Lane, and staff is ready to proceed along with three other requests along Massey Road that were delayed because of the improvement project along that roadway. Crown Castle is anxious to get started on these so they will move forward in December to avoid any issues with the legal shot clock on these requests.

There being no further business, the work session adjourned at 5:34 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

Vestavia Hills
City Council Minutes
November 13, 2023
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 general 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

MEMBERS PRESENT: Ashley C. Curry, Mayor; Rusty Weaver, Mayor Pro-Tem; Kimberly Cook, Councilor*; Paul Head, Councilor; George Pierce, Councilor

OTHER OFFICIALS PRESENT: Jeff Downes, City Manager; Patrick H. Boone, City Attorney; Cinnamon McCulley, Asst. City Manager; Rebecca Leavings, City Clerk; Marvin Green, Fire Chief; Jason Hardin, Interim Police Chief; Melvin Turner, Finance Director; Zachary Clifton, Asst. Finance Director; Lori Beth Kearley, Public Services Director; Umang Patel, Court Director*

*attended virtually via Zoom

3. Invocation - Don Richards, Vestavia Hills Senior Chaplain

4. Pledge Of Allegiance

5. Approval Of The Agenda

MOTION: Approve the agenda as presented. Motion By: Rusty Weaver. Seconded By: George Pierce. Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce. No: None. Abstain: None. Motion passed.

6. Proclamation - Small Business November - November 2023

The Mayor presented a Proclamation designating November 2023 as "Small Business Month." Mr. Downes read the Proclamation aloud and the Mayor presented it to Michelle Hawkins, President/CEO, Vestavia Hills Chamber of Commerce. She was joined by Chamber Board members: Donny Dobbins, Board of Directors Chair; Clabe Dobbs,

Boardmember; Katherine McRee, Boardmember; Tracy Thornton, Chamber of Commerce Membership and Marketing Director.

Mrs. McRee stated that she is a small business owner and stressed how vital these businesses are to the City and that they appreciate the support and recognition of the Council.

7. Proclamation - Diwali, the Festival of Lights Day - November 12, 2023

The Mayor presented a Proclamation designating November 12, 2023 as "Diwali, The Festival of Light Day." Mr. Downes read the Proclamation aloud and the Mayor presented it to Sataya Grandihi, President of the Hindu Temple and Cultural Center. Also attending were Pritesh Patel, President of the BAPS Swaminarayan Temple and Krupa Patel, BAPS Swaminarayan Temple, and others.

Mr. Patel thanked the Mayor and Council for the recognition. He read a passage from an address to the United Nations General Assembly at the inaugural Peace Summit.

Krupa Patel, gave his best wishes to the residents of the city. He stated that this is a big honor for the Vestavia Hills Hindu community and invited them forward to share in this recognition and celebration.

8. Announcements, Candidates and Guest Recognition

- Mr. Pierce recognized Tyler Kime, a Chamber Board member who was present representing the Board.
- Mayor Curry stated that this past weekend there was a celebration at the Library in the Forest recognizing the "Artstober" art event and the participating artists.
- Mr. Head stated that the Parks and Recreation Board will meet tomorrow at 7:30 AM at the Vestavia Hills Civic Center.

Announcement of closing of applications for Vestavia Hills Library Board and listing of applicants. Interviews begin December 4, 2023 at 8 AM in the Executive Conference Room - Mayor Curry

The Mayor stated that the City has received 7 applications for the upcoming vacancy on the Vestavia Hills Library Board. He read the applicants: Michael Sweeney; Kevin Archer; Emily Lawrence; Stephanie Butler; Whitney Schrimsher; Christopher Gerety and Catie Bell.

Announcement of closing of applications for the Vestavia Hills Parks and Recreation Board and listing of applicants. Interviews begin December 4, 2023 at 8 AM - Councilor Head

Mr. Head stated that the City received 8 applications for the upcoming vacancy on the Vestavia Hills Parks and Recreation Board. The applicants are: Justin Palmore; Mary Ashley; Roderick White; Thomas A. Casey; Daniel Payne; Jamie McClure; Joey Marquez and Michael Sweeney.

9. City Manager's Report

- Mr. Downes recognized city employees who, once again, contributed more than last year to the United Way, continuing to lead all the surrounding municipalities. He stated City employees are generous in their support for this important charity, especially the fire department, which doubled their giving from last year.

- Mr. Downes stated that the staff have been talking a good bit about customer service. Mr. Pierce forwarded a commendation to Mark Pettaway, a park employee. He was present at a baseball tournament and encountered an out-of-town visitor with a flat tire. This employee took the tire off the vehicle, repaired it at the City shop nearby, and was able to reinstall it to allow that resident to make it back home safely. He stated that he wanted to recognize Mr. Pettaway's remarkable actions.
- Mr. Downes stated that during construction at the new Civic Center, a chiller stopped working, so the City has been renting a portable chiller unit that kept the building cool during the heat of the summer and all during last year's operation. During this period, the City paid for the rental of the chilldre using retainage from the original contract, but that money is running out and the need to obtain a final solution is becoming critical. The contractor, two sub-contractors, and several insurance companies have all denied responsibility. The contract states the general contractor is ultimately the one responsible. Mr. Downes stated that the City is not confident that the contractor will fulfill this duty and he is recommending that the City call the bond on the contractor so that the new chiller can be purchased. This is a serious situation and the clock continues to run. If there is no clear resolution by the next Council meeting, the Council's next agenda will include a business item to give the City permission to call the contractor's bond.
    - Mr. Boone explained details of the contract, stressing the responsibilities of the contractor, and the overall construction time of 430 days which was triple what was stipulated in the contract. The City’s contract was only with the general contractor. The contract sets out the steps the City would need to follow to put the contractor on notice, which starts with requesting a meeting with the bonding company and contractor; if the resolution is not made at that stage, the contractor is at fault and the case will go to mediation. Mrs. Cook asked if this statement in the Council meeting constitutes proper notice of calling the bond. Mr. Boone answered not, it does not. Mr. Downes explained that the Council will vote to approve calling the bond at the next meeting if the matter is not resolved by then.
    - Mrs. Cook asked what would happen if there was no resolution prior to the funds running out for rental. Mr. Downes explained this early notice is an attempt to bring the parties to the table for a resolution before this happens

10. Councilors’ Reports

- Mrs. Cook thanked the Chaplain for his prayers for the employees and city officials. The City's employees are valuable to this City, especially the heavy burden that the first responders carry. She stated that she personally witnessed the support that Chaplain Butch Williams provided at the deathbed of a previous city board member. Their work is appreciated.
- Mrs. Cook stated that she attended the Veterans Day celebration that was held in the Civic Center and it was a wonderful way to honor the city's servicemembers. She said it was a beautiful event.
- Mrs. Cook also thanked the employees for contributions to United Way, especially the fire department, and commended the actions of Mr. Pettaway and his actions in serve residents and present a helpful and hospitable presence to visitors.
- Mr. Pierce stated that it was important to honor small businesses and he was happy with the proclamation presented earlier because small businesses are the lifeblood of the City.

- Mr. Pierce attended Deck the Heights which turned out well despite the weather. He indicated Mrs. McRee would update the Council at a later date on this event.
- Mr. Pierce also attended the Veterans program at the Civic Center and the one at New Merkel Senior Center in Cahaba Heights. Both events were fantastic events.
- Mr. Weaver announced that the Planning and Zoning Commission had a regular meeting on Thursday. He stated that all of the items were merely plat approvals and ministerial items.

11. Approval Of Minutes - October 23, 2023 (work session) and October 23, 2023 (regular meeting)

MOTION: Approve the minutes of the October 23, 2023 Work Session and Regular meeting as presented. Motion By: George Pierce. Seconded By: Paul Head. Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Paul Head, George Pierce. No: None. Abstain: Kimberly Cook. Motion passed.

Old Business

New Business

12. Resolution Number 5482 - A Resolution rescheduling regular meeting and/or work session of the Vestavia Hills CIty Council in observance of a City holiday

MOTION: Approve Resolution Number 5482 as presented. Motion by Rusty Weaver. Seconded by: George Pierce.

The Mayor stated that this Resolution would reschedule the Council meeting from December 25 to December 18 in observance of the Christmas holiday. This would also move the work session to begin at 5 PM that same evening.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce. No: None. Abstain: None. Motion passed.

13. Resolution Number 5483 - A Resolution Authorizing The City Manager To Issue A Refund On Sales Taxes Which Were Remitted To The City In Error

MOTION: Approve Resolution Number 5483 as presented. Motion by Rus Weaver. Seconded by: George Pierce.

Mr. Downes explained that the business paid these sales taxes in error because the business located in Hoover. This Resolution authorizes a refund of funds that were remitted in err following the review and accounting by the Finance Director.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Hea George Pierce. No: None. Abstain: None. Motion passed.

14. Resolution Number 5484 - A Resolution declaring certain personal property as surplus and authorizing the City Manager to sell/dispose of said surplus property

MOTION: Approve Resolution Number 5484 as presented. Motion by Rusty Weaver. Seconded by: George Pierce.

Mr. Downes explained that these vehicles are beyond their useful years.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce. No: None. Abstain: None. Motion passed.

15. Ordinance Number 3202 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an agreement to provide fire/paramedic services to the Woodmere Creek Apartments

MOTION: Approve Ordinance Number 3202 as presented. Motion by George Pierce. Seconded by: Rusty Weaver.

Chief Green stated that these apartments are located in unincorporated Jefferson County and have contracted for years with the City for fire and paramedic services. This is the renewal of the contract with an increase in fees and an escalator fee over the next three years. This contract is similar to other existing contracts.

Discussion ensued as to the previous and new proposed amounts and how they were calculated. Chief Green stated that they studied rates of sister cities and the cost of servicing the units.

VOTE: Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, Paul Head, George Pierce. No: None. Abstain: None. Motion passed.

New Business Requesting Unanimous Consent

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

16. Resolution Number 5485 - A Resolution Approving and Assenting to a Declaration of Vacation of certain undefined easements located at 1459 and 1467 Montgomery Highway; Vestavia 31 RE, LLC., owners; Chris Eckroate, Caprine Engineering, representing

17. Ordinance Number 3201 - Conditional Use Approval - 3010 Healthy Way; Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; Conditional Use to allow construction and operation of an indoor/outdoor plant nursery; Patchwork Retail Venture LLC, Owner

18. Ordinance Number 3203 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an agreement for purposes of a mine reclamation effort at the Sicard Hollow Athletic Complex (SHAC), acceptance of a masterplan, and declaration of surplus and conveyance of property between the City of Vestavia Hills and the Liberty Park Joint Venture to facilitate said masterplan.

19. Citizens Comments

- None.

20. Time Of Adjournment

There being no further business, Mr. Pierce made a motion to adjourn. The Mayor adjourned the meeting at 6:40 PM.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk

CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Resolution Number 5485 - A Resolution Approving and Assenting to a Declaration of Vacation of certain undefined easements located at 1459 and 1467 Montgomery Highway; Vestavia 31 RE, LLC., owners; Chris Eckroate, Caprine Engineering, representing

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Background:
Currently vacant property located at 1459 and 1467 Montgomery Highway, is presently being considered for the development of a small shopping center. Within the current 2 lots are two undefined easements that traverse the common lot lines of both lots. This request is to vacate those easements. The easements are shown in Exhibit A, attached to this request, along with letters of release from all utility companies, Jefferson County and Vestavia Hills Engineering Department.

Recommendation:
n/a

Fiscal Impact:
n/a

Attachments:

1. Resolution 5485

RESOLUTION NUMBER 5485

A RESOLUTION APPROVING AND ASSENTING TO A DECLARATION OF VACATION

WITNESSETH THESE RECITALS

WHEREAS, a Declaration signed by the owners of all the lands abutting the following described easements situated in the City of Vestavia Hills, Jefferson County, Alabama, vacating said easements, has been duly presented to the City Council of the City of Vestavia Hills, Alabama, for assent and approval of said governing body; and

WHEREAS, a copy of said Declaration with map attached is marked as "Exhibit A", attached hereto and incorporated into this Resolution by reference as though set out fully herein; and

WHEREAS, the above-referenced easements are commonly referred to as "easements" and is more particularly described as follows:

> Parcel I – 10' undefined easement to be vacated: A parcel of land lying and being in the NW 1/4 of the NE quarter Section 1, Township 19 South, Range 3 West, Jefferson County Alabama and being more particularly described as follows: Begin at the northbound ROW of US Highway 31 and extending approximately 275LF Westerly along the North boundary line of Lot 2 of the map of Emerald Petroleum Co.'s Survey (MB 79, PG 90) containing 2,718.99 square feet or 0.062 acres, more or less; and
>
> Parcel II – 5' undefined easement to be vacated: A parcel of land lying and being in the NW 1/4 of the NE quarter Section 1, Township 19 South, Range 3 West, Jefferson County Alabama and being more particularly described as follows: Begin at the northbound ROW of US Highway 31 and extending approximately 250LF westerly along the south boundary line of Lot 1, Survey of Motel Investors, Inc. addition to Vestavia Hills (MB8 86, PG 14) containing 1,371.00 square feet or 0.031 acres, more or less.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, that the vacation of the hereinabove described easements is assented to and approved and the same is hereby vacated pursuant to the provision of Section 23-4-20 of the Code of Alabama, 1975.

RESOLVED, DONE AND ORDERED, on this the 27th day of November, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION

I, the undersigned qualified Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true copy of a Resolution lawfully passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the 27th day of November, 2023, and that such Resolution is of record in the Minute Book of the City at page _____ thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk

City of Vestavia Hills

CITY CLERK/PLANNING AND ZONING DEPARTMENT

1032 Montgomery Highway
Vestavia Hills, AL 35216

DECLARATION OF VACATION OF EASEMENT

STATE OF ALABAMA
JEFFERSON COUNTY

We, the undersigned, constituting all of the owners of all property abutting 275LF of undefined 10' easement and 250LF of undefined 5' easement as same appears on the Plat of Map of Emerald Petroleum Co.'s Survey (MB79, PG90) and Motel Investors, Inc. Addition to Vestavia Hills (MB86, PG14), which Plat is recorded in Plat Book MB79 & MB86, at Page PG90 & PG14, in the Probate Office of Jefferson County, Alabama, do hereby declare that each of said Plats embraced within the boundaries of said 275LF of undefined 10' easement and 250LF of undefined 5' easement as the same appears of record on the Plat to be vacated, and said 275LF of undefined 10' easement and 250LF of undefined 5' easement is hereby declared vacated. The undersigned do hereby respectfully represent and warrant as follows:

1. This Declaration of Vacation of 275LF of undefined 10' easement and 250LF of undefined 5' easement is prepared, executed, delivered and recorded to and in accordance with the provisions of Section 23-4-20 and Section 35-2-54, Code of Alabama, 1975.

2. It is in the best public interest that 275LF of undefined 10' easement and 250LF of undefined 5' easement be closed and vacated.

3. Such vacation will not deprive other property owners of a convenient and reasonable means of ingress and egress to their property.

4. Said 275LF of undefined 10' easement and 250LF of undefined 5' easement is situated in the City of Vestavia Hills, Jefferson County, Alabama, and appears at 1467 Montgomery Hwy. and 1459 Montgomery Hwy.. A copy of the map reflecting the location of 275LF of undefined 10' easement and 250LF of undefined 5' easement is attached hereto and incorporated into this Declaration of Vacation as a part hereof.

5. The street address and legal descriptions of all property abutting 275LF of undefined 10' easement and 250LF of undefined 5' easement and the names and addresses of the owner of said abutting properties are as follows:

A. Owner's Name: Vestavia 31 RE, LLC

Street Address/Legal Description: 1467 Montgomery Hwy.; LOT A OF THE MAP OF EMERALD PETROLEUM CO.'S SURVEY

B. Owner's Name: Vestavia 31 RE, LLC

Street Address/Legal Description: 1459 Montgomery Hwy.; LOT 1 OF THE SURVEY OF MOTEL INVESTORS, INC. ADDITION TO VESTAVIA HILLS

C. Owner's Name:

Street Address/Legal Description: ;

C. Owner's Name:

Street Address/Legal Description: ;

6. All of the undersigned do hereby declare 275LF of undefined 10' easement and 250LF of undefined 5' easement to be vacated and respectfully request the assent of the City Council of the City of Vestavia Hills, Alabama, to said vacation of 275LF of undefined 10' easement and 250LF of undefined 5' easement.

SIGNATURES ATTACHED.

Property Address: 1467 Montgomery Highway
& 1459 Montgomery Highway

OWNER'S SIGNATURE AFFIDAVIT
VACATION OF EASEMENT PETITION

IN WITNESS THEREOF, the undersigned have hereunto set my hand and seal on this the 11th day of October, 2023.

SIGNATURE OF ABUTTING PROPERTY OWNER:

Signed: Cole Bodner *(notary below)*

Printed name of signer: COLE BODNER

STATE OF ALABAMA
JEFFERSON COUNTY

GENERAL ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that COLE BODNER, OWNER'S and AUTHORIZED REPRESENTATIVE, whose names are signed to the foregoing Declaration of Vacation, and who are known to me, acknowledged before me on this day that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 11th day of October, 2023.

Notary Public

JEFFRY B GORDON
NOTARY PUBLIC
ALABAMA STATE AT LARGE
MY COMMISSION EXPIRES
DECEMBER 02, 2026

VEAS Number:_____ (administrative use only).

OWNER:	VESTAVIA 31 RE, LLC 3009 PUMP HOUSE ROAD, STE 100 VESTAVIA HILLS, AL 35243 (205)329-8476
ZONING:	B-3. CONDITIONAL BUSINESS DISTRICT
LOT SIZE:	81,954SF± (1.88AC±)

GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

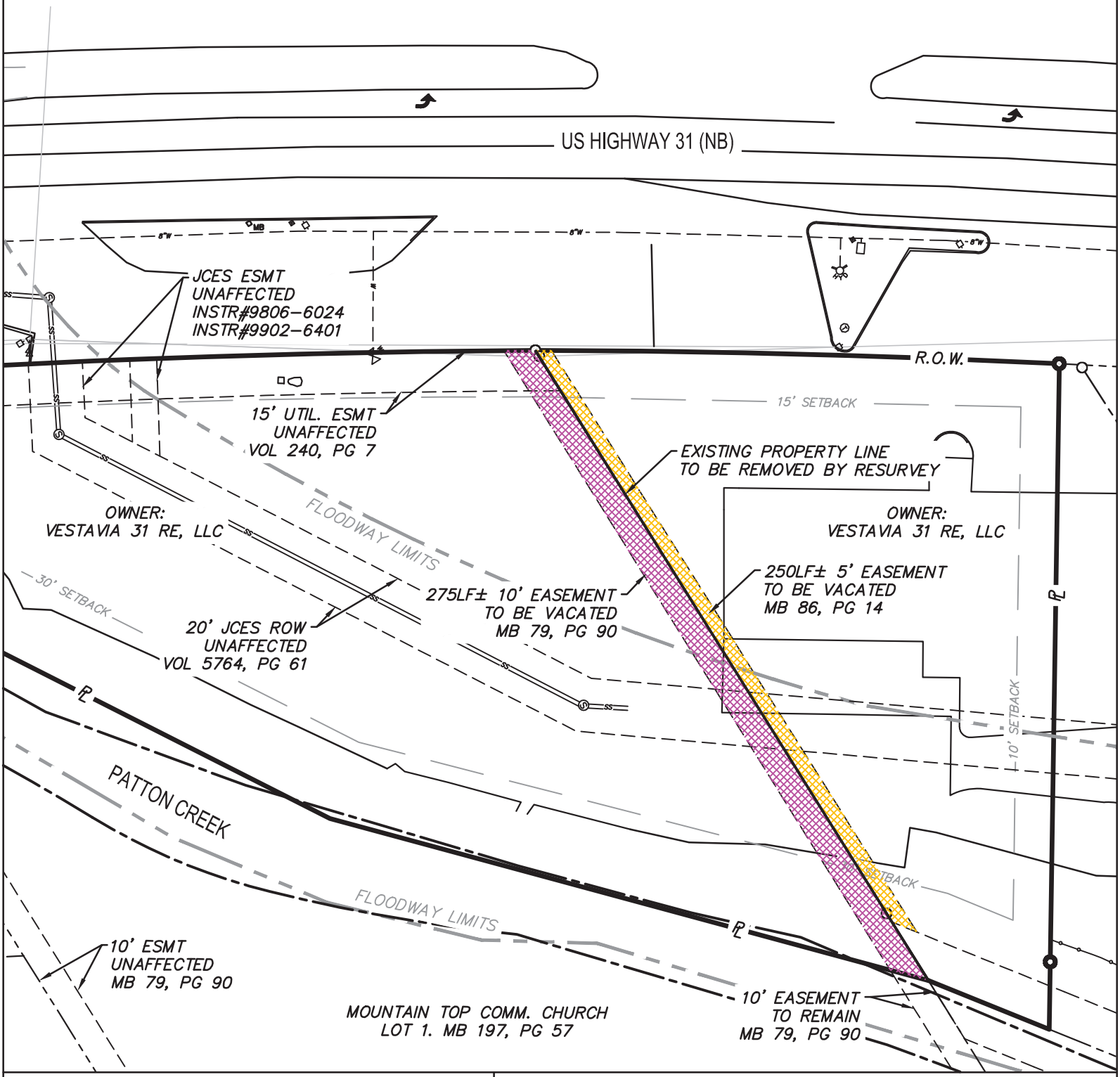


EXHIBIT - EASEMENTS TO BE VACATED

PATTON PLACE DEVELOPMENT
VESTAVIA HILLS, ALABAMA

DATE: 10.05.2023
SCALE: 1"=50'
SHEET 1 OF 2

CAPRINE
PLANNING • CIVIL ENGINEERING • CONSULTING
3 OFFICE PARK CIRCLE, SUITE 226 BIRMINGHAM, ALABAMA 35223 O:(205)423-5082

LEGAL DESCRIPTION: 10’ UNDEFINED EASEMENT TO BE VACATED

A PARCEL OF LAND LYING AND BEING IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SECTION 1, TOWNSHIP 19 SOUTH, RANGE 3 WEST, JEFFERSON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHBOUND RIGHT-OF-WAY OF U.S. HIGHWAY 31 AND EXTENDING APPROXIMATELY 275LF WESTERLY ALONG THE NORTH BOUNDARY LINE OF LOT A OF THE MAP OF EMERALD PETROLEUM CO.’S SURVEY (MB79, PG90) CONTAINING 2,718.99 SQUARE FEET OR 0.062 ACRES, MORE OR LESS.

LEGAL DESCRIPTION: 5’ UNDEFINED EASEMENT TO BE VACATED

A PARCEL OF LAND LYING AND BEING IN THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, SECTION 1, TOWNSHIP 19 SOUTH, RANGE 3 WEST, JEFFERSON COUNTY, ALABAMA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHBOUND RIGHT-OF-WAY OF U.S. HIGHWAY 31 AND EXTENDING APPROXIMATELY 250LF WESTERLY ALONG THE SOUTH BOUNDARY LINE OF LOT 1 OF THE SURVEY OF MOTEL INVESTORS, INC. ADDITION TO VESTAVIA HILLS (MB86, PG14) CONTAINING 1,371.00 SQUARE FEET OR 0.031 ACRES, MORE OR LESS.

Public Works Director Review

Complete

Complete

Assignee

Lori Beth Kearley

Due date

None

Lori Beth Kearley Remove Note • Nov 6, 2023 at 9:44 am

@Rebecca Leavings Engineering is good with the proposed vacation and does not have any issues.

Comment | Internal Note

Say something about this ...

Comment

This step was assigned to Lori Beth Kearley - Oct 27, 2023 at 9:18 am
Lori Beth Kearley approved this step - Nov 3, 2023 at 10:22 am

AT&T Alabama
1876 Data Dr
Hoover, Al 35244
T: 205-531-1211
www.att.com

October 18, 2023

E. Chris Eckroate, P.E., LEED GA, Principal
Caprine Engineering, LLC
3 Office Park Circle, Suite 226
Birmingham, AL 35223

Dear Mr Chris Eckroate,

We have examined the two undefined easements and find no conflicts associated with the provided documents. Accept this as your no objection letter to vacate those easements. If you have any additional questions or concerns please let me know.

Sincerely,

Dennis Russ

Dennis Russ
SR SPECIALIST-OSP DESIGN ENGINEER
• ACCESS - CONSTRUCTION & ENGINEERING

BIRMINGHAM WATER WORKS

October 11, 2023

#618

Caprine Engineering, LLC
Attention: E. Chris Eckroate
3 Office Park Circle, Suite 226
Birmingham, AL 35223

To whom it may concern:

You may present this letter to interested parties as evidence that The Birmingham Water Works Board has no existing facilities within that portion of a 10' utility easement extending along the northernmost property line of Lot A according to Map of Emerald Petroleum Company's Survey as recorded in Map Book 79, Page 90 in the Probate Office of Jefferson County, Alabama. Nor does the Birmingham Water Works Board have existing facilities within that portion of a 5' utility easement extending along the southernmost property line of Lot 1 according to Motel Investors, Inc. Addition to Vestavia Hills as recorded in Map Book 86, Page 14 in the Probate Office of Jefferson County, Alabama, situated in the northeast corner of the NW ¼ of the NE ¼ of Section 01, Township 19 South, Range 3 West, located in the City of Vestavia Hills Alabama. Therefore, the Water Board has no objection to the proposed vacation of said utility easements.

Should you have questions or need additional information, please feel free to contact Ms. Antris Betts, at (205) 244-4262; or you may reach Ms. Betts via email at **antris.betts@bwwb.org**.

Very truly yours,

Douglass W. Stockham, IV
Manager - System Development

AB/ sj
D.P. 484-2
Gradient: SMI

I:\emp SAJ\WAL LTR 2019.20\2023\Wa ltr re NO CONFLICT w Vacation of Utility Easments J-484-2.docx

JEFFERSON COUNTY COMMISSION

JAMES A. "JIMMIE" STEPHENS – PRESIDENT
LASHUNDA SCALES
SHEILA TYSON
Mike Bolin
T. JOE KNIGHT

CAL MARKERT
CHIEF EXECUTIVE OFFICER

DAVID DENARD
Director of Environmental Services Department
SUITE A300
716 Richard Arrington Jr. Blvd. N
Birmingham, Alabama 35203
Telephone (205) 325-5496
Fax (205) 325-5981

MEMORANDUM

TO: Chris Eckroate, P.E.
Principal, Caprine Engineering, LLC

FROM: Emily Kemp, Chief Civil Engineer
Environmental Services Department

DATE: October 26, 2023

RE: Proposed Vacation of Public Easement, City of Vestavia Hills
1467 Montgomery Highway, Vestavia Hills
Lot A Emerald Petroleum Co's Survey; Map Book 79, Page 90
NW ¼ -NE ¼ 1-19S-3W; PID 39-00-01-1-001-003.000

This memo responds to a public easement vacation request received for the above referenced property. (said easement is cross-hatched in red and yellow on attached drawing) It appears, to the best of our knowledge, that no County maintained sanitary sewer exists within this public easement. Based on the aforementioned, we have no objection to the vacation of said public easement insofar as sanitary sewers are concerned. This memorandum should not be construed that this department warrants the accuracy of information provided to us by others.

cc: Hubert Chapman, Senior Land Acquisition Agent
Ben Pate, ESD Plans Examiner
File

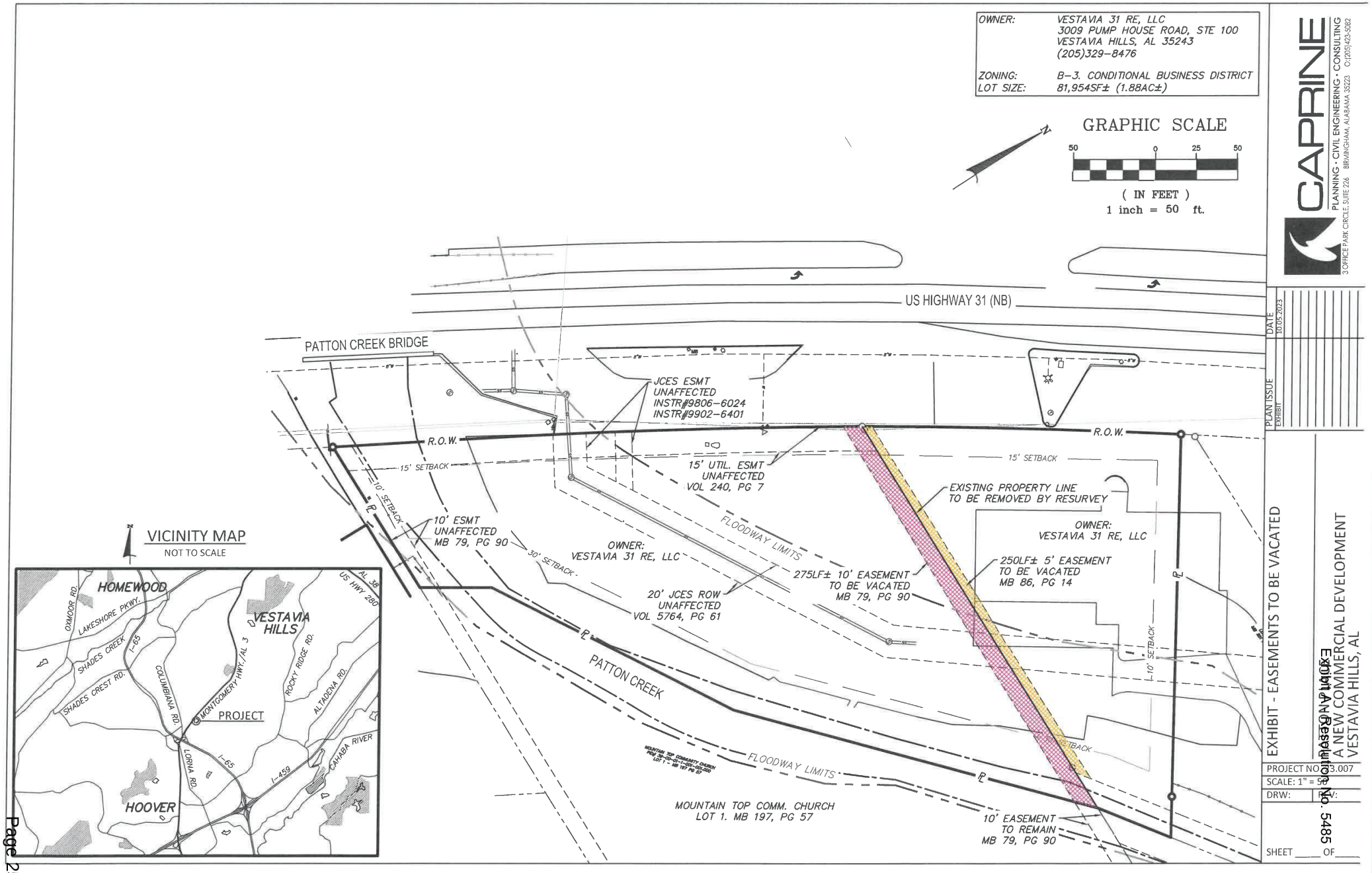


Exhibit A
Ordinance No. 5485

Spectrum

Date: 10/23/2023

Attention:
E. Chris Eckroate, P.E., LEED GA, Principal
Caprine Engineering, LLC
3 Office Park Circle, Suite 226
Birmingham, AL 35223

Dear Chris Eckroate,

Spectrum has examined the two easements in the provided documents and find no conflicts. Please accept this as your no objection letter to vacate those easements.

Sincerely,

Alan Harvin

Construction Coordinator II

Spectrum

Spire Alabama Inc.
605 Richard Arrington Jr. Blvd. North
Birmingham, AL 35203

10/17/2023

Chris Eckroate
Caprine Engineering LLC
3 Office Park Circle # 226
Birmingham, Alabama 35223

Re: Proposed Release of Platted Easement(s)

Dear Chris Eckorate,

Spire Alabama Inc. has no objection to the release of easement(s) being platted on, part of Lot 1 of Motel Investor's INC. addition to Vestavia Hills in map book 79 at page 90, Part Lot A of Emerald Petroleum Lot A , Map Book 79 at Page 90, and as shown hachured on the attached drawing. Spire Alabama Inc. does not have facilities on such hachured property at this time.

If the property owner wishes to officially release the designated platted easement(s), a letter of request accompanied with a legible exhibit is required by Spire Alabama Inc.

If a property owner places any structures, decks (attached or free standing), fences, buildings, retaining walls or other personal property within easements that do contain installed natural gas mains or other natural gas facilities, they do so at their own risk and they must comply with applicable law, including the Alabama Underground Damage Prevention Act, set forth in the Alabama Code Title §37, Chapter 15, Sections 1-11, and contact Alabama 811.

In the event that Spire Alabama Inc. or its successors and assigns, requires the utilization of the easement referenced above for the installation or maintenance of facilities in said easement, we can make no promises that any structures, decks (attached or free standing), fences, buildings, retaining walls or other personal property will not be disturbed. Furthermore, the property owner will be responsible for all costs associated with the removal of such personal property and Spire Alabama Inc. shall have no obligation to repair or replace such personal property.

Sincerely,

Dorman Chapman

Dorman Chapman
Right Of Way Representative
205-389-1753
Dorman.chapman@spireenergy.com

Enclosures

OWNER:	VESTAVIA 31 RE, LLC 3009 PUMP HOUSE ROAD, STE 100 VESTAVIA HILLS, AL 35243 (205)329-8476
ZONING:	B-3. CONDITIONAL BUSINESS DISTRICT
LOT SIZE:	81,954SF± (1.88AC±)

GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

US HIGHWAY 31 (NB)

PATTON CREEK BRIDGE

JCES ESMT
UNAFFECTED
INSTR#9806-6024
INSTR#9902-6401

R.O.W.

15' SETBACK

10' SETBACK

15' UTIL. ESMT
UNAFFECTED
VOL 240, PG 7

EXISTING PROPERTY LINE
TO BE REMOVED BY RESURVEY

OWNER:
VESTAVIA 31 RE, LLC

250LF± 5' EASEMENT
TO BE VACATED
MB 86, PG 14

10' ESMT
UNAFFECTED
MB 79, PG 90

30' SETBACK

FLOODWAY LIMITS

OWNER:
VESTAVIA 31 RE, LLC

275LF± 10' EASEMENT
TO BE VACATED
MB 79, PG 90

20' JCES ROW
UNAFFECTED
VOL 5764, PG 61

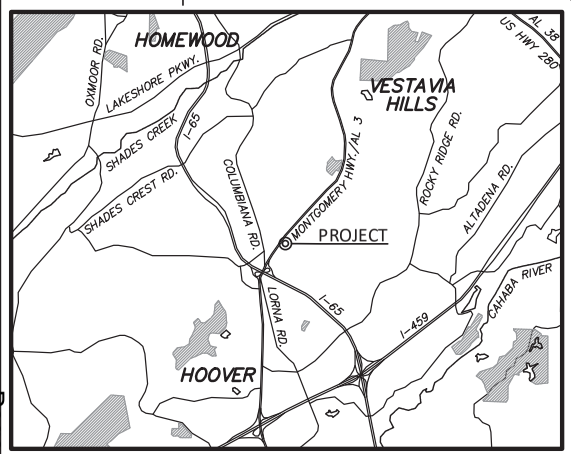
PATTON CREEK

MOUNTAIN TOP COMMUNITY CHURCH
PER MB 197 PG 57
LOT 1 - MB 197 PG 57

MOUNTAIN TOP COMM. CHURCH
LOT 1. MB 197, PG 57

10' EASEMENT
TO REMAIN
MB 79, PG 90

VICINITY MAP
NOT TO SCALE



CAPRINE
PLANNING - CIVIL ENGINEERING - CONSULTING
3 OFFICE PARK CIRCLE, SUITE 226 BIRMINGHAM, ALABAMA 35223 O:(205)423-5082

PLAN ISSUE	DATE
EXHIBIT	10.05.2023

EXHIBIT - EASEMENTS TO BE VACATED

A NEW COMMERCIAL DEVELOPMENT
VESTAVIA HILLS, AL

PROJECT NO: 23.007
SCALE: 1" = 50'
DRW: REV:

EXHIBIT PLAT
PATTON REPLAT No. 5485

SHEET ____ OF ____

Uniti Fiber
DBA Southern Light, LLC.

107 St. Francis Street
Suite 1800
Mobile, AL 36602

Date: 10/12/2023

Caprine Engineering, LLC
Attention: E. Chris Eckroate
3 Office Park Circle, Suite 226
Birmingham, AL 35223

To whom it may concern:

You may present this letter to interested parties as evidence that Uniti Fiber has no existing facilities within that portion of a 10' utility easement extending along the northernmost property line of Lot A according to Map of Emerald Petroleum Company's Survey as recorded in Map Book 79, Page 90 in the Probate Office of Jefferson County, Alabama. Nor does Uniti Fiber have existing facilities within that portion of a 5' utility easement extending along the southernmost property line of Lot 1 according to Motel Investors, Inc. Addition to Vestavia Hills as recorded in Map Book 86, Page 14 in the Probate Office of Jefferson County, Alabama, situated in the northeast corner of the NW ¼ of the NE ¼ of Section 01, Township 19 South, Range 3 West, located in the City of Vestavia Hills Alabama. Therefore, Uniti Fiber has no objection to the proposed vacation of said utility easements.

Should you have questions or need additional information, please feel free to contact Brandon Whigham @ (251)709-7749; or you may reach Brandon Whigham via email at **Brandon.Whigham@uniti.com**

BRANDON WHIGHAM
Project Manager, OSP (AL)
Cell: 251-709-7749
tech support (noc): 877-652-2321
Email: Brandon.whigham@uniti.com
Uniti Fiber
www.unitifiber.com

CITY OF VESTAVIA HILLS
PLANNING & ZONING
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Ordinance Number 3201 - Conditional Use Approval - 3010 Healthy Way; Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; Conditional Use to allow construction and operation of an indoor/outdoor plant nursery; Patchwork Retail Venture LLC, Owner

---

Background:
Patchwork Farms was developed under the City's PUD Ordinance. The Ordinance defines the permitted uses in a PUD PB (planned business) and doesn't list an indoor/outdoor plant nursery as a permitted use. However, a provision in the code does allow an onwer to request conditional use approval for any use not expressly permitted. A company wishes to construct and operate an indoor/outdoor plant nursery on the property located at 3010 Healthy Way. This conditional use approval would be to allow that use on the property.

Recommendation:
The Planning and Zoning Commission at its regularly scheduled meeting of October 2023 unanimously voted to recommend approval of the condtional use request as presented (see certificate attached).

Fiscal Impact:
n/a

Attachments:
1. Ordinance 3201

ORDINANCE NUMBER 3201

AN ORDINANCE GRANTING A CONDITIONAL USE APPROVAL FOR A INDOOR/OUTDOOR PLANT NURSERY BUSINESS

WHEREAS, on June 27, 2022, the City Council of the City of Vestavia Hills, Alabama approved and adopted Ordinance Number 3099, re-establishing a Zoning Code for the City of Vestavia Hills, Alabama; and

WHEREAS, Wade Lowery, Engineering Design Group, LLC, on behalf of Patchwork Retail Venture, LLC, owner of the property located at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat, has submitted application for conditional use approval for construction and operation of a plan nursery to be located on said property, Alabama; and

WHEREAS, it was indicated in the application for conditional use approval to allow the construction and operation of an enclosed and/or unenclosed retail plant nursery for retail and/or wholesale trade; and

WHEREAS, a copy of said application dated September 7, 2023 is attached and hereby incorporated into this Ordinance Number 3201.

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

1. Conditional Use Approval is hereby approved for a the construction and operation of an enclosed and/or unenclosed retail plant nursery for retail and/or wholesale trade to be located at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat; and
   (1) A City of Vestavia Hills Business License shall be issued upon application and payment by the proposed nursery pursuant to the rules and regulations outlined in the Vestavia Hills Business License Code and shall be renewed each year that the business is operated from the location at 3010 Healthy Way, Lot 1, Patchwork Farms Retail Venture Resurvey of Lot 1D, Patchwork Farms Final Plat, Vestavia Hills, Alabama; and
   (2) At any time should the tenant vacate the premises, discontinue or relocate the business and the use is removed from the property for 12-

months, this conditional use approval shall be nullified and said Ordinance Number 3201 shall be automatically repealed.

ADOPTED and APPROVED this the 27th day of November, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

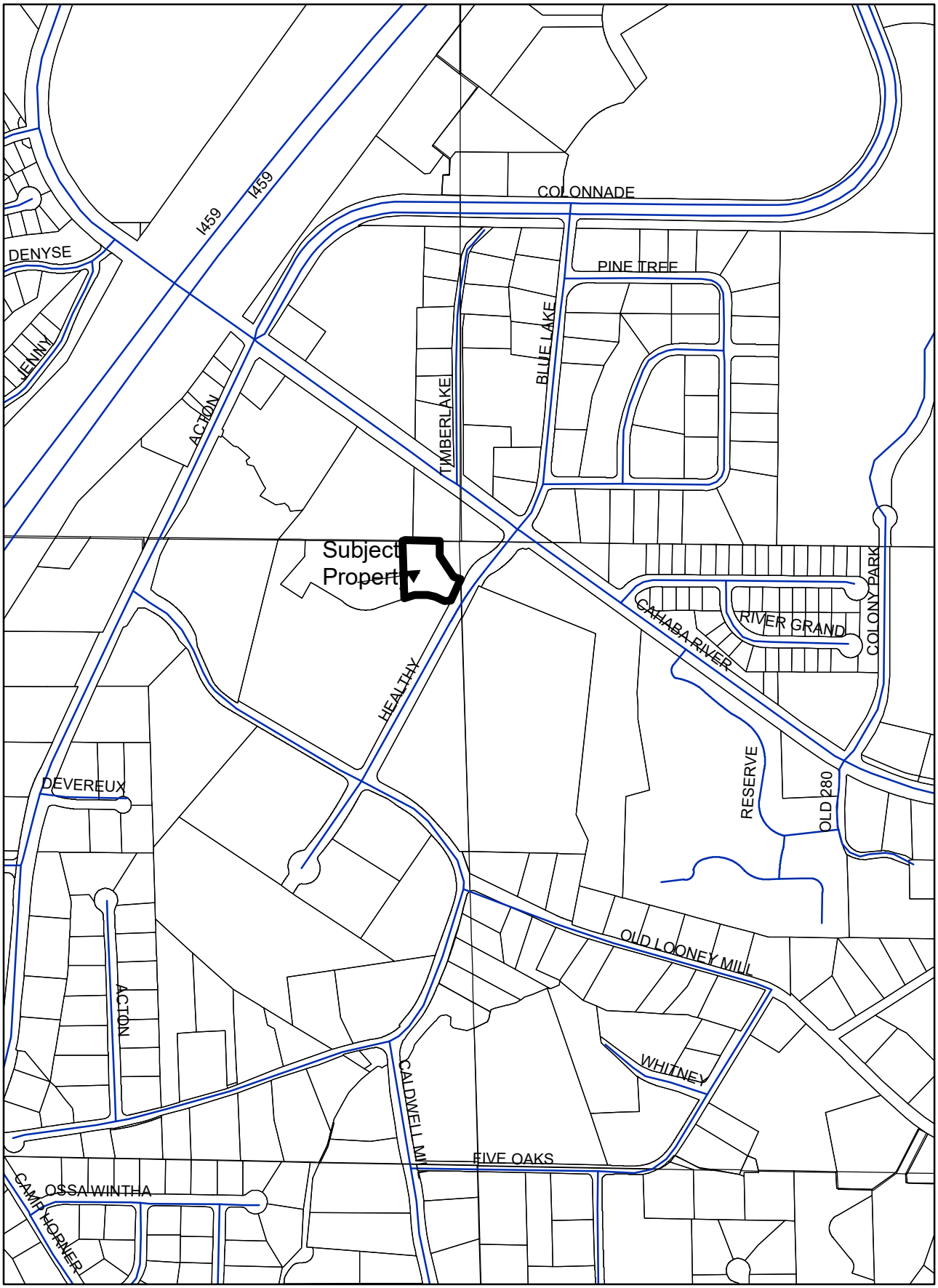
CERTIFICATION:

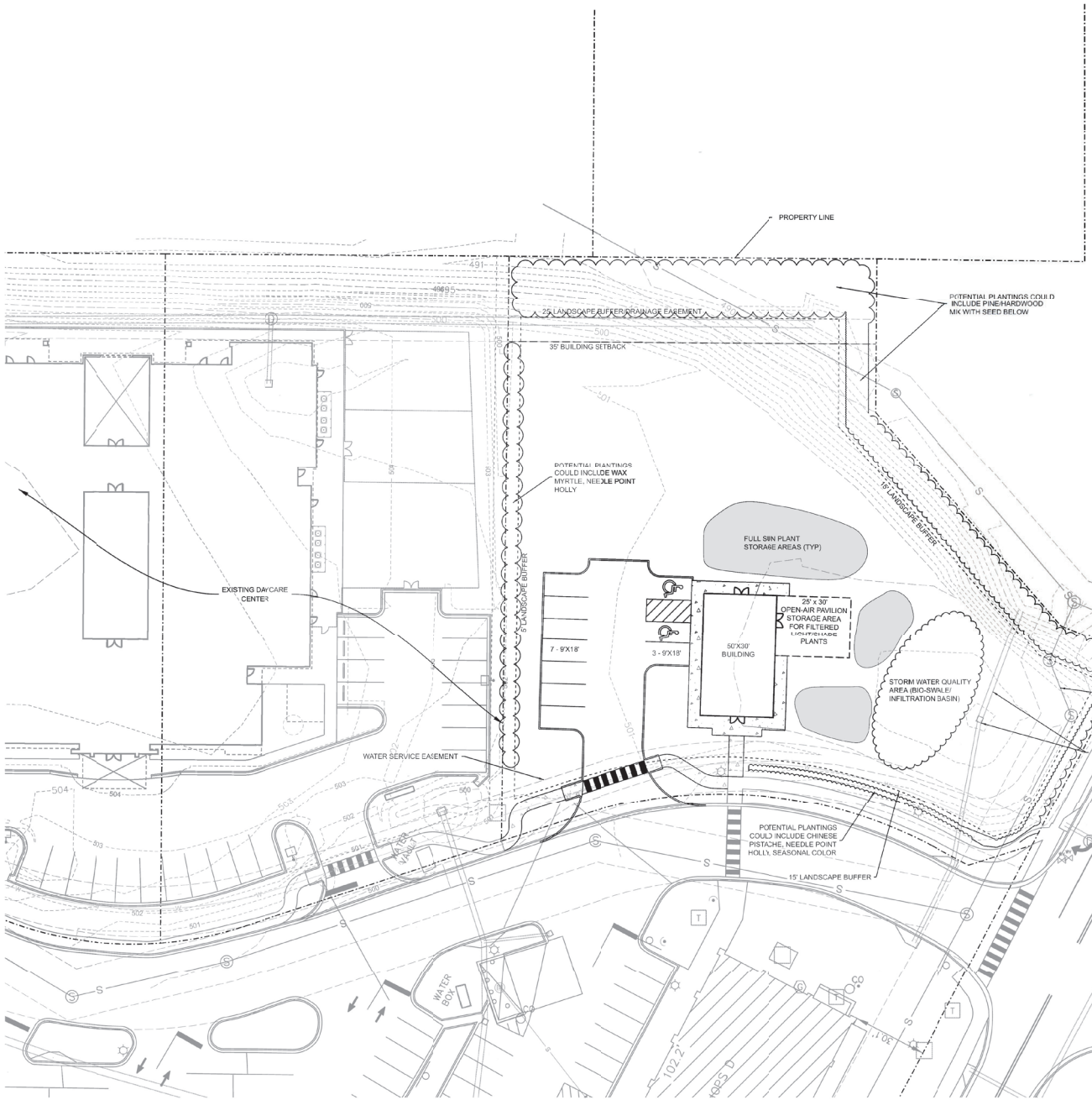
I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 3201 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 27th day of November, 2023 as same appears in the official records of said City.

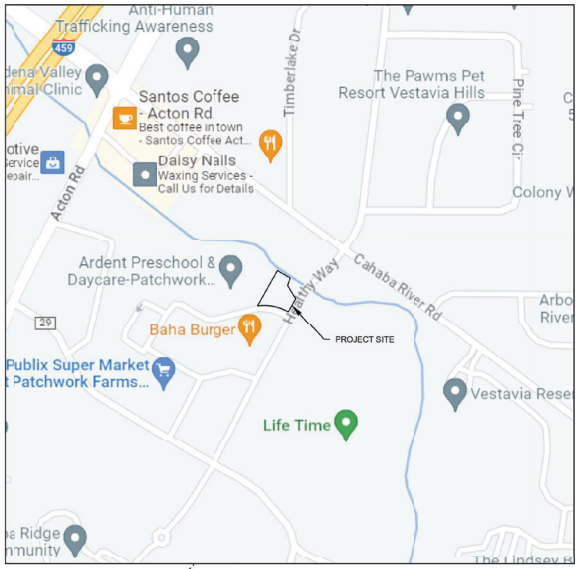
Posted at Vestavia Hills Municipal, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk

3010 Healthy Way







VICINITY MAP
N.T.S.

SITE DATA TABLE:

PARCEL ID:	28 00 34 2 000 001.009
LOT SIZE:	1.02 AC
ZONING:	PUD
PROPOSED USE:	PLANT NURSERY (CONDITIONAL USE)
BUILDING SF:	1,500 SF
PARKING REQUIRED:	8 (1 SPACE PER 200 SF)
PARKING PROVIDED:	10 (INCLUDING 2 ADA SPACES)

GRAPHIC SCALE
20 0 10 20 40 80
(IN FEET)
1 inch = 30 ft.

PRELIMINARY
NOT FOR CONSTRUCTION

EDG
ENGINEERING DESIGN GROUP
PELHAM, AL
120 BISHOP CIRCLE SUITE 300
PELHAM, AL 35124
(205) 403 - 9158
FOLEY, AL
21106 STATE HIGHWAY 98
FOLEY, AL 36535
(251) 943 - 8960

REVISIONS

PROJECT ADDRESS:
3010 HEALTHY WAY
VESTAVIA HILLS, ALABAMA

SHEET TITLE:
CONCEPTUAL SITE PLAN

PROJECT NAME:
TRELLIS AT PATCHWORK FARMS

DRAWN BY: JCS
CHECKED BY: WHL
PROJECT No.: MHOLL0001
CAD FILE: Base Plan.dgn
DATE: SEPTEMBER 6, 2023
SHEET NO.: EXB

City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation

of Conditional Use

Case Number:	CU-23-2	Representative:	Engineering Design Group, LLC
Owner Name:	Patchwork Retail Venture, LLC	Rep. Address:	120 Bishop Circle, Pelham, AL 35214
Owner Address:	700 Montgomery Highway, Suite 186, Vestavia Hills, AL 35216		

Project Address:	3010 Healthy Way, Vestavia Hill, AL 35243
Legal Description:	LOT 1 PATCHWORK FARMS RETAIL VENTURE RESURVEY OF LOT 1D PATCHWORK FARMS FINAL PLAT PB 242 PG 100
Parcel ID Number:	28 00 34 2 000 001.009
Current Zoning:	PUD
Request Conditional Use:	Construction of a plant nursery (retail sale of plants). See uploaded attachments accompanying this application.

Date of P&Z Meeting: 10/12/23

MOTION Mr. Weaver made a motion to recommend Conditional Use Approval for a plant nursery at 3010 Healthy Way. Second was by Mr. Romeo. Motion was carried on a roll call; vote as follows:

P&Z Recommendation:

Mr. Maloof – yes	Mr. Farrell – yes
Mr. Weaver – yes	Mr. Romeo– yes
Mr. Sykes – yes	Mrs. Honeycutt– yes
Mr. Barnes – yes	Motion carried.

Authorized by: Vestavia Hills Planning and Zoning Commission, Michael Vercher, Chair

Issued by: Conrad Garrison, City Planner

Conditional Use Application

CU-23-2

Submitted On: Sep 7, 2023

Applicant

Wade Lowery
2054039158
@ wade@edgalabama.com

Primary Location

3010 HEALTHY WAY
VESTAVIA HILLS, AL 35243

Owner Information

A notarized Owner's Affidavit must be submitted with this Conditional Use Application before it can be processed. Please prepare this affidavit prior to submission or it will not be properly filed. All documents must be filed prior to the application date to be considered on the next meeting date. If any required information is received after the application date, the application will be held until the next month.

Property Owner:

Patchwork Retail Venture, LLC

Mailing Address of Property Owner Including City, State, Zip Code:

700 Montgomery Highway, Suite 186, Vestavia Hills, AL 35216

Property Owner Email:

luke@blackwaterresources.com

Property Owner Telephone Number:

205-969-1000

Check Below if Property Owner is Responsible for Postage Costs

--

Representing/Responsible Party

Representing Agent:

Engineering Design Group, LLC

Mailing Address of Representing Agent Including City, State, Zip:

120 Bishop Circle, Pelham, AL 35214

Representing Agent Email:

wade@edgalabama.com

Representing Agent Telephone No.:

205-403-915

Check Below if Representing Agent is Responsible for Postage Charges

true

Property Information

Property Address:

3010 Healthy Way, Vestavia Hill, AL 35243

County Parcel ID Number:

28 00 34 2 000 001.009

Legal Description of Subject Property:

LOT 1 PATCHWORK FARMS RETAIL VENTURE RESURVEY OF LOT 1D PATCHWORK FARMS FINAL PLAT PB 242 PG 100

Current Zoning Classification of Subject Property:

PUD

Requested Conditional Use Including Intended Use, Citing Appropriate Section of the Zoning Code, etc.:

Construction of a plant nursery (retail sale of plants). See uploaded attachments accompanying this application.

Explanation of Reasons for Conditional Use

Upon acceptance of an application, the Commission shall consider the application during a public hearing. The Commission shall, after the public hearing, make a recommendation to the Council. Following the recommendation by the Commission, the Council shall hold a public hearing regarding the application and upon completion of said hearing, shall approve with conditions or deny the request within the time limit required by law. The recommendation by the Commission may be to approve or deny the application, which said recommendation shall be advisory only. Zoning is a legislative matter decided by the Council. The Council shall not be bound by the recommendation of the Commission. A Conditional Use approval shall lapse and be of no effect if, after the expiration of one (1) year from the date of Council approval, no construction or change in use pursuant to such Conditional Use has taken place, provided that the Council may, for good cause shown, specify a longer period of time in conjunction with its action to approve a Conditional Use.

Determination. Conditional Uses shall only be approved upon a finding by the Governing Body that all of the following criteria are satisfied. Please FULLY explain each of these conditions relative to this Conditional Use Request.

1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area:

Correct. The use will include the retail sale of household plants and various related items.

2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area:

Yes. The proposed use is in concert with the surrounding area.

3. The request is consistent with all applicable provisions of the Comprehensive Plan:

Yes. The request is related to a retail establishment well suited for the intended use as described in the comprehensive plan.

4. The request shall not adversely affect adjacent properties:

Correct. No adverse effects will be placed on adjacent properties.

5. The request is compatible with the existing or allowable uses of adjacent properties:

Correct. The request is related to a retail establishment and is compatible with adjacent properties and their uses.

6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed:

Correct. The request is related to an outparcel of land within the Patchwork Farms development. All utilities area vailable to the site.

7. The request can demonstrate adequate provision for maintenance of the use and associated structures:

Correct. As with other retail establishments within the development, maintenance of the facility/structure will be performed.

8. The request has minimized, to the degree possible, adverse effects on the natural environment:

Yes. The use includes a plant nursery, and the enclosed conceptual site plan illustrates mitigation of storm water runoff. The proposed improvements will cause no additional adverse effects to the natural environmenta as the land is part of a developed retail center.

9. The request will not create undue traffic congestion:

Correct. The commercial development was designed with the anticipated development of the outparcel. the intended use develops very little traffic when compared to other uses (fast food, etc.).

That such development will comply with all applicable regulations and conditions specified within this Ordinance:

Correct. The enclosed conceptual site plan illustrates how the improvements will comply with the ordinance.

Conditional Use Application

CU-23-2

Submitted On: Sep 7, 2023

Applicant

Wade Lowery
2054039158
@ wade@edgalabama.com

Primary Location

3010 HEALTHY WAY
VESTAVIA HILLS, AL 35243

Owner Information

A notarized Owner's Affidavit must be submitted with this Conditional Use Application before it can be processed. Please prepare this affidavit prior to submission or it will not be properly filed. All documents must be filed prior to the application date to be considered on the next meeting date. If any required information is received after the application date, the application will be held until the next month.

Property Owner:

Patchwork Retail Venture, LLC

Mailing Address of Property Owner Including City, State, Zip Code:

700 Montgomery Highway, Suite 186, Vestavia Hills, AL 35216

Property Owner Email:

luke@blackwaterresources.com

Property Owner Telephone Number:

205-969-1000

Check Below if Property Owner is Responsible for Postage Costs

--

Representing/Responsible Party

Representing Agent:

Engineering Design Group, LLC

Mailing Address of Representing Agent Including City, State, Zip:

120 Bishop Circle, Pelham, AL 35214

Representing Agent Email:

wade@edgalabama.com

Representing Agent Telephone No.:

205-403-915

Check Below if Representing Agent is Responsible for Postage Charges

true

Property Information

Property Address:

3010 Healthy Way, Vestavia Hill, AL 35243

County Parcel ID Number:

28 00 34 2 000 001.009

Legal Description of Subject Property:

LOT 1 PATCHWORK FARMS RETAIL VENTURE RESURVEY OF LOT 1D PATCHWORK FARMS FINAL PLAT PB 242 PG 100

Current Zoning Classification of Subject Property:

PUD

Requested Conditional Use Including Intended Use, Citing Appropriate Section of the Zoning Code, etc.:

Construction of a plant nursery (retail sale of plants). See uploaded attachments accompanying this application.

Explanation of Reasons for Conditional Use

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Determination. Conditional Uses shall only be approved upon a finding by the Governing Body that all of the following criteria are satisfied. Please FULLY explain each of these conditions relative to this Conditional Use Request.

1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area:

Correct. The use will include the retail sale of household plants and various related items.

2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area:

Yes. The proposed use is in concert with the surrounding area.

3. The request is consistent with all applicable provisions of the Comprehensive Plan:

Yes. The request is related to a retail establishment well suited for the intended use as described in the comprehensive plan.

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Correct. The request is related to a retail establishment and is compatible with adjacent properties and their uses.

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Correct. The request is related to an outparcel of land within the Patchwork Farms development. All utilities area vailable to the site.

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Correct. As with other retail establishments within the development, maintenance of the facility/structure will be performed.

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Correct. The commercial development was designed with the anticipated development of the outparcel. the intended use develops very little traffic when compared to other uses (fast food, etc.).

That such development will comply with all applicable regulations and conditions specified within this Ordinance:

Correct. The enclosed conceptual site plan illustrates how the improvements will comply with the ordinance.

EDG

ENGINEERING DESIGN GROUP, LLC

September 7, 2023

City of Vestavia Hills
Planning and Zoning Commission

Re: Conditional Use Application-Trellis at Patchwork Farms

Dear Planning Commission,

Engineering Design Group, LLC (EDG) has been retained by Marci Hollingsworth to provide professional services associated with proposed improvements to a parcel of land within the Patchwork Farms PUD. More specifically, the site is identified as 3010 Healthy Way, Vestavia Hills, AL 35243 (Parcel Identification Number 28 00 34 2 000 001.009). The parcel is currently un-developed/vacant land, and it is zoned PUD.

Proposed improvements include the construction of a retail plant nursery (approximately 1,200SF), necessary parking/access, and other appurtenances. The improvements are illustrated on the attached Conceptual Site Plan.

Per feedback received during a meeting with the City's staff, it is understood that the development of a plant nursery is not an expressly prohibited use within the current PUD. Conversely, a plant nursery is not specifically allowed/permitted by the PUD. Staff recommended a conditional use application for consideration by the Planning Commission.

Please accept this letter as our explanation/rationale for the request.

Respectfully submitted,
Engineering Design Group, LLC

Wade H. Lowery, P.E., AL Reg. No. 27002

Cc: Marci Hollingsworth

enclosure

120 BISHOP CIRCLE, SUITE 300, PELHAM, ALABAMA 35124 · 205-403-9158 · FAX: 205-403-9175

5. Planned Business (PB).

   a. Permitted Uses. Those permitted uses allowed by PR-1 and PNC; schools; retail establishments, including but not limited to, shopping centers; veterinary clinics (no outside kennels); auto dealerships; auto parts stores; building material sales; department stores; radio and TV stations; domestic equipment rental, furniture stores; motels or hotels; in-door motion picture theatres and/or auditoriums; hospitals; automotive gasoline service establishments which may also serve auto functions such as muffler, tire, battery, brake and transmission shops; establishments for the design and distribution of printed material, coin-operated laundromats; car washes; card/gift shops; cosmetic studios; craft or hobby shops; dance studios; photographic studios; duplicating or copying service; health food stores; interior decorating stores; opticians, medical clinics; shoe repair, audio video; tanning salons; assisted living care facilities; hardware stores; jewelry stores; sporting goods stores; sales showrooms for appliances, furniture, carpet, lighting fixtures, medical and office equipment; toy stores; indoor sports facilities (bowling, health club or spa, racquet club, skating rink); and factory outlet stores, and accessory structures and uses customarily incidental to such permitted uses.

   b. Conditional Uses. Those conditional uses allowed by PNC; commercial recreation and amusement facilities; self-service storage facilities; telecommunications facilities; and other uses not listed in this §6.9.5.5 as may be approved by the Council following recommendation by the Commission.

6. Planned Light Industrial (PI).

   a. Permitted Uses. Those permitted uses allowed by PB; major auto repair or renovation facilities not housed in the same structure or accessory structure to an auto sales establishment; bottling plants; construction yards; distribution yards for gasoline and fuel or tanks; domestic animal kennels; farm machinery and farm supply sales; heavy equipment sales and service; highway maintenance yards and buildings; janitorial and maintenance service; laundry and dry cleaning plants; printing establishments; light industrial, fabricating, processing, assembling and manufacturing uses; sanitary sewage and/or waste water treatment facilities; research and development laboratory facilities; warehouses; water or liquid storage tanks; wood working shops; and self-service storage facilities and accessory structures and uses customarily incidental to such permitted uses.

   b. Conditional Uses. Those conditional uses allowed by PB, except multi-family; live entertainment; telecommunications facilities; and other uses not listed in this §6.9.5.6, all as may be approved by the Council following recommendation by the Commission.

6.9.6. Requirements for Accessory Structures, Fences, Signs, Off-street Parking, Loading Areas, Landscaping, and Buffer Strips

It is intended that the development criteria submitted with the application for the PUD will set forth requirements for accessory structures, fences, landscaping, buffer strips, signs, off-street parking, and loading areas. If the application does not contain such information, then the provisions of §4.4 Accessory Structures,

longer period of time in conjunction with its action to approve a Conditional Use.

2. When such use is abandoned or discontinued for a period of one (1) year, it shall not be reestablished, unless authorized by the Council. Conditional Use approval shall be revoked when the applicant fails to comply with the conditions imposed by the Council.

13.3.4. Determination. Conditional Uses shall only be approved upon a finding that all of the following criteria are satisfied:

1. The use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of the surrounding area.
2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area.
3. The request is consistent with all applicable provisions of the Comprehensive Plan.
4. The request shall not adversely affect adjacent properties.
5. The request is compatible with the existing or allowable uses of adjacent properties.
6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
7. The request can demonstrate adequate provision for maintenance of the use and associated structures.
8. The request has minimized, to the degree possible, adverse effects on the natural environment.
9. The request will not create undue traffic congestion.
10. That such development will comply with all applicable regulations and conditions specified within this Ordinance.

The Council shall describe and have recorded in the minutes, the conditions imposed on the development to assure satisfaction of these criteria.

§13.4. Amendments

The provisions of this Ordinance, including the Zoning map, may from time to time be amended, supplemented, changed, modified, or repealed by the Council in accordance with Alabama Law.

13.4.1. Petition to Amend. Petitions to amend this Ordinance with respect to rezoning land may be initiated only upon filing of an application with the Commission by the owner of the land or the owner's authorized agent, in which case a notarized letter is required. Any member of the Council may initiate the rezoning of any land by introduction of a resolution for such purpose. An application for any change of zoning shall be filed in the office of the Commission at least twenty-five (25) working days prior to the next regularly scheduled meeting of the Commission. The petition shall state the nature of the proposed amendment, and a legal description of the property involved and the names and addresses of the owner(s) of the property. No application shall be taken out without descriptive information as to how the petitioner proposes to utilize the parcel of land (plot plan, drawings, sketches, et cetera).

13.4.2. Action on Petition. The Commission shall consider the petition at the first regularly scheduled meeting following the proper filing of the petition. The Commission shall, after the public hearing, make recommendations to the Council. The recommendations of the

5. Planned Business (PB).

   a. Permitted Uses. Those permitted uses allowed by PR-1 and PNC; schools; retail establishments, including but not limited to, shopping centers; veterinary clinics (no outside kennels); auto dealerships; auto parts stores; building material sales; department stores; radio and TV stations; domestic equipment rental, furniture stores; motels or hotels; in-door motion picture theatres and/or auditoriums; hospitals; automotive gasoline service establishments which may also serve auto functions such as muffler, tire, battery, brake and transmission shops; establishments for the design and distribution of printed material, coin-operated laundromats; car washes; card/gift shops; cosmetic studios; craft or hobby shops; dance studios; photographic studios; duplicating or copying service; health food stores; interior decorating stores; opticians, medical clinics; shoe repair, audio video; tanning salons; assisted living care facilities; hardware stores; jewelry stores; sporting goods stores; sales showrooms for appliances, furniture, carpet, lighting fixtures, medical and office equipment; toy stores; indoor sports facilities (bowling, health club or spa, racquet club, skating rink); and factory outlet stores, and accessory structures and uses customarily incidental to such permitted uses.

   b. Conditional Uses. Those conditional uses allowed by PNC; commercial recreation and amusement facilities; self-service storage facilities; telecommunications facilities; and other uses not listed in this §6.9.5.5 as may be approved by the Council following recommendation by the Commission.

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   a. Permitted Uses. Those permitted uses allowed by PB; major auto repair or renovation facilities not housed in the same structure or accessory structure to an auto sales establishment; bottling plants; construction yards; distribution yards for gasoline and fuel or tanks; domestic animal kennels; farm machinery and farm supply sales; heavy equipment sales and service; highway maintenance yards and buildings; janitorial and maintenance service; laundry and dry cleaning plants; printing establishments; light industrial, fabricating, processing, assembling and manufacturing uses; sanitary sewage and/or waste water treatment facilities; research and development laboratory facilities; warehouses; water or liquid storage tanks; wood working shops; and self-service storage facilities and accessory structures and uses customarily incidental to such permitted uses.

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longer period of time in conjunction with its action to approve a Conditional Use.

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2. The use is necessary or desirable and provides a service or facility that contributes to the general well-being of the surrounding area.
3. The request is consistent with all applicable provisions of the Comprehensive Plan.
4. The request shall not adversely affect adjacent properties.
5. The request is compatible with the existing or allowable uses of adjacent properties.
6. The request can demonstrate that adequate public facilities, including roads, drainage, potable water, sanitary sewer, and police and fire protection exist or will exist to serve the requested use at the time such facilities are needed.
7. The request can demonstrate adequate provision for maintenance of the use and associated structures.
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CITY OF VESTAVIA HILLS
OFFICE OF THE CITY MANAGER
INTER-DEPARTMENT MEMO

November 27, 2023

To: Mayor and City Council

Cc:

From: Jeff Downes, City Manager

RE: Ordinance Number 3203 - An Ordinance authorizing the Mayor and City Manager to execute and deliver an agreement for purposes of a mine reclamation effort at the Sicard Hollow Athletic Complex (SHAC), acceptance of a masterplan, and declaration of surplus and conveyance of property between the City of Vestavia Hills and the Liberty Park Joint Venture to facilitate said masterplan.

Background:
The Alabama Department of Labor- Mine Reclamation Section has offered the City of Vestavia Hills the opportunity for their chosen contractor (subject to competitive bid laws) to reclaim reusable lands and remedy safety concerns associated with property owned by the City referred to as SHAC and the Liberty Park Joint Venture (LPJV) that were the result of legacy mining operations on said property. The mass grading efforts would eliminate an existing "high wall" condition and provide a regraded property that will be helpful in the implementation of a masterplan proposed in Exhibit A of this ordinance. Furthermore, a land swap as shown in Exhibit B between the City of Vestavia Hills and LPJV would facilitate the reuse of 3.8 acres at SHAC as a potential commercial property that would provide additional tax revenue for the City while receiving a larger 22.4 acre portion of property from the LPJV

that could be used for public purposes including police, library, maintenance and park facilities as noted in masterplan Exhibit A.

Recommendation:
To proceed with this project, it is recommended that the City Council grant authority to the Mayor and City Manager to execute and deliver any and all documents required to implement this effort upon concurrence of the City Attorney. These documents would authorize the following actions:

- Grant a Right of Entry to the Alabama Department of Labor and their contractor to perform mine reclamation activities
- Declare property owned by the City of Vestavia Hills and illustrated in Exhibit B as surplus and to allow the property to be swapped with LPJV consistent with the same exhibit
- Formally accept the masterplan document provided as Exhibit A as the appropriate guide for future funding considerations and land planning activities

Fiscal Impact:
The mine reclamation activities are funded in whole by the Alabama Department of Labor. The property conveyance does not involve any compensation from either party to the other party. Third-party engineering expenses already appropriated as a part of the FY 24 budget would be utilized to perform the work required for survey and legal description of conveyed property.

Attachments:
1. Ordinance 3203
2. EXHIBIT-CONCEPT PLAN-230918
3. EXHIBIT-LAND SWAP-230918
4. Pine Ridge - ROE Consent Form_City Of Vestavia Hills
5. PH Boone Legal Opinion to City Manager October 25 2023

ORDINANCE NUMBER 3203

AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A STATE OF ALABAMA CONSENT FOR RIGHT-OF-ENTRY (CONSTRUCTION) AGREEMENT TO ACCESS AND CONSTRUCT WITHIN PORTIONS OF TWO PARCELS OF LAND AT THE SICARD HOLLOW ATHLETIC COMPLEX; TO ACCEPT A MASTERPLAN OF SHAC AND AREAS ADJACENT TO SHAC (ALSO KNOWN AS THE "PINE RIDGE PROJECT"); TO DECLARE CERTAIN PARCELS AS SURPLUS AND AUTHORIZE THE MAYOR AND CITY MANAGER TO DO ALL ACTIONS NECESSARY TO PROVIDE FOR THE COVEYANCE OF PROPERTIES BETWEEN THE CITY AND LIBERTY PARK JOINT VENTURE IN ORDER TO FACILITATE SAID MASTER PLAN

THIS ORDINANCE NUMBER 3203 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 27th day of November, 2023.

WITNESSETH THESE RECITALS:

WHEREAS, Title 11-40-1, *Code of Alabama, 1975,* declares municipalities corporate and gives them the power to contract and be contracted with; and

WHEREAS, Title 11-43-56, *Code of Alabama, 1975,* provides that the City Council shall have the management and control of the finances and all of the property, real and personal, belonging to the City; and

WHEREAS, Title 11-47-20, *Code of Alabama, 1975,* provides that the City Council may, by ordinance to be entered in its minutes, direct the disposal of any real property not needed for public or municipal purposes and direct the Mayor to make title thereto, and a conveyance made by the Mayor in accordance with such ordinance invests the grantee with the title of the municipality; and

WHEREAS, Title 11-43A-28, *Code of Alabama, 1975,* provides that the City Manager shall be the head of the administrative branch of the government of the City of Vestavia Hills and shall be responsible to the City Council for the proper administration of all municipal affairs; and

WHEREAS, Title 11-43A-48, *Code of Alabama, 1975,* provides that all contracts for the City of Vestavia Hills shall be made and approved by ordinance and signed in the

name of the City of Vestavia Hills by the mayor and countersigned by the city manager; and

WHEREAS, Title 11-45-8(b), *Code of Alabama, 1975,* provides that if an ordinance is published by posting, then in such event said ordinance shall take effect five days thereafter; and

WHEREAS, the City Council of the City of Vestavia Hills is desirous to accept a masterplan of the Sicard Hollow Athletic Complex ("SHAC") which includes some further constructed amenities and improvements and requires the exchange of properties with the Liberty Park Joint Venture ("LPJV"); and

WHEREAS, a copy of said Master Plan is marked as Exhibit A, attached to and incorporated into this Ordinance Number 3203 as if written fully therein; and

WHEREAS, in order to accomplish or facilitate the fulfillment of this Master Plan, the City would need to exchange some parcels of properties with the LPJV. A map depicting said exchange is marked as Exhibit B, attached to and incorporated into this Ordinance Number 3203 as if written fully therein; and

WHEREAS, in the attached Exhibit B, the areas outlined in purple and labeled "potential commercial," the City Council of the City of Vestavia Hills, Alabama finds and determines that the subject property is not needed for municipal or public purposes is determined to be of no further public use to the City and the Council deems and declare said property as surplus and authorizes the Mayor and City Manager to negotiate the sale of said property; and

WHEREAS, in the attached Exhibit B, the areas outlined in red and marked as "LPJV 22.4 Ac+/-" would be negotiated by the Mayor and City Manager and the property purchased by the City from Liberty Park Joint Venture; and

WHEREAS, legal descriptions and resurveys would be required and detailed in sale/purchase agreements to be determined at a later date; and

WHEREAS, the Mayor and City Manager are hereby authorized to take all actions necessary to perform and record all needed surveys and resurveys in order to facilitate the Master Plan; and

WHEREAS, in order to obtain and assist in funding said improvements, a State of Alabama Consent for Right-of-Entry (Construction) agreement for Project 2018 AMLER

Grant – Pine Ridge Project would need to be executed and delivered by the Mayor and City Manager, a copy of which is marked as Exhibit C, attached to and incorporated into this Ordinance 3203 as if written fully therein; and

The Council feels it will be in the best public interest to authorize the Mayor and City Manager to take all actions and execute all documents necessary in order to facilitate completion of the accepted proposed Master Plan.

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

1. The proposed Master Plan as detailed in the attached Exhibit A is accepted by the Mayor and City Council; and

2. The above detailed property shown in Exhibit B, attached and labeled "potential commercial" is found and determined to not be needed for public or municipal purposes by the City of Vestavia Hills and is hereby declared as surplus property all in accordance with the requirements of Title 11-47-20, *Code of Alabama, 1975*; and

3. The above detailed property shown in Exhibit B, attached and labeled as "LPJV 22.4 Ac+/-", the Mayor and City Manager are hereby authorized to negotiate and purchase said property in order to facilitate the fulfillment of the Master Plan; and

4. The Mayor and City Manager are hereby authorized and directed to execute and deliver all documents and complete and record any and all surveys required to close and convey said sale and purchase of the properties as detailed in the attached Exhibit B on behalf of the City of Vestavia Hills; and

5. A copy of said real estate closing documents, along with said payment, will be submitted upon closing and kept on file in the office of the City Clerk of the City of Vestavia Hills, Alabama for inspection by members of the general public.

6. Upon approval, adoption and enactment of this Ordinance Number 3203 the Mayor and City Manager are hereby authorized and directed to execute and deliver the "State of Alabama Consent for Right-of-Entry (Construction) agreement for Project: 2018 AMLER Grant – Pine Ridge Project" as detailed in the attached Exhibit C; and

7. This Ordinance shall become effective upon its approval, adoption, enactment and publication by posting as set forth in Title 11-45-8(b), *Code of Alabama, 1975.*

8. If any part, section or subdivision of this Ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this Ordinance which shall continue in full force and effect notwithstanding such holding.

DONE, ORDERED, APPROVED and ADOPTED this the 27th day of November, 2023.

CITY OF VESTAVIA HILLS, ALABAMA

By_____
Ashley C. Curry
Mayor

ATTESTED BY:

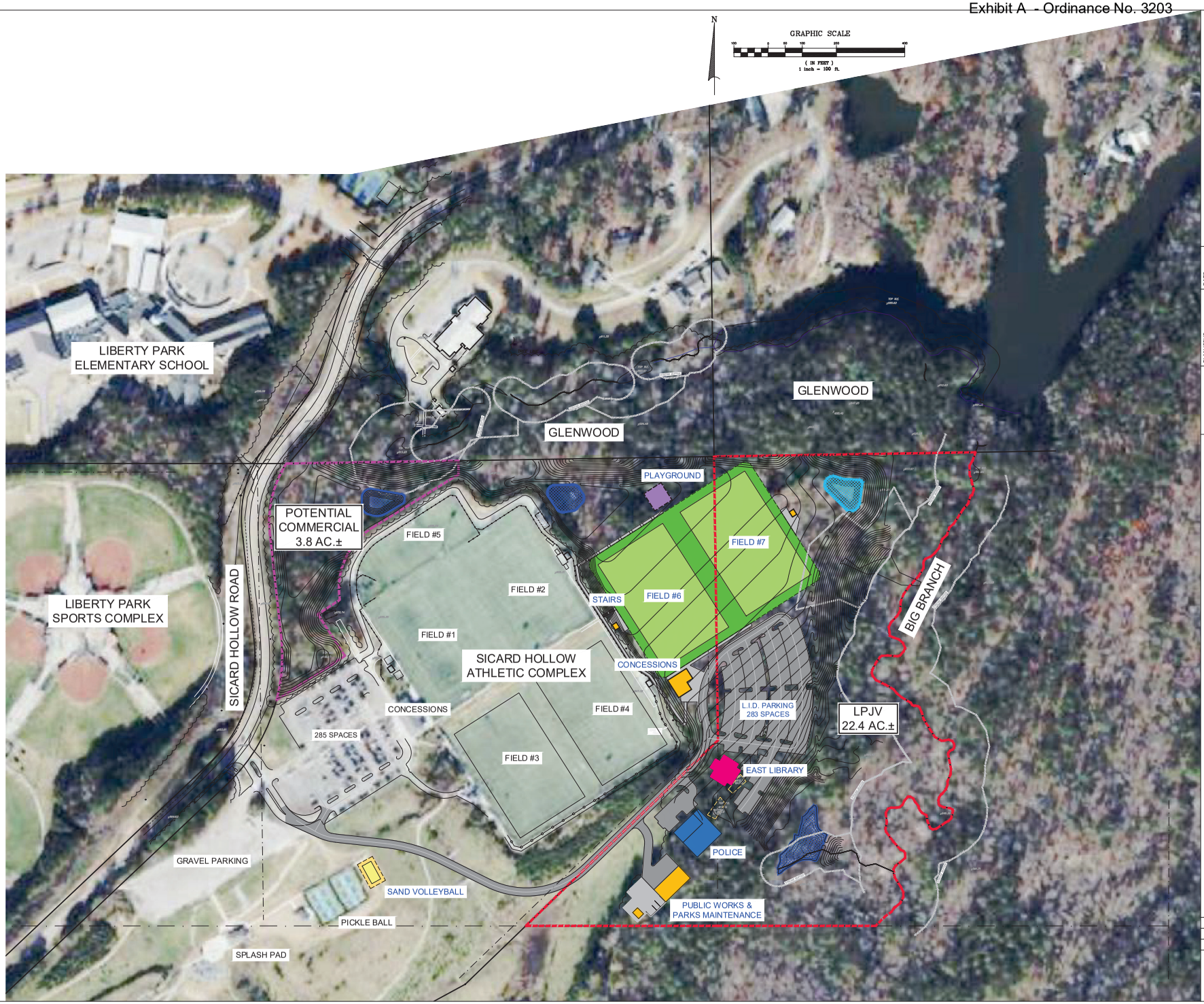
_____
Rebecca Leavings
City Clerk

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 # 3203 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 27th day of April, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills New Merkel House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk



CAPRINE
PLANNING-CIVIL ENGINEERING-CONSULTING
3 CIRCLE PARK CIRCLE SUITE 226 BIRMINGHAM, ALABAMA 35223 O:(205)423-0382

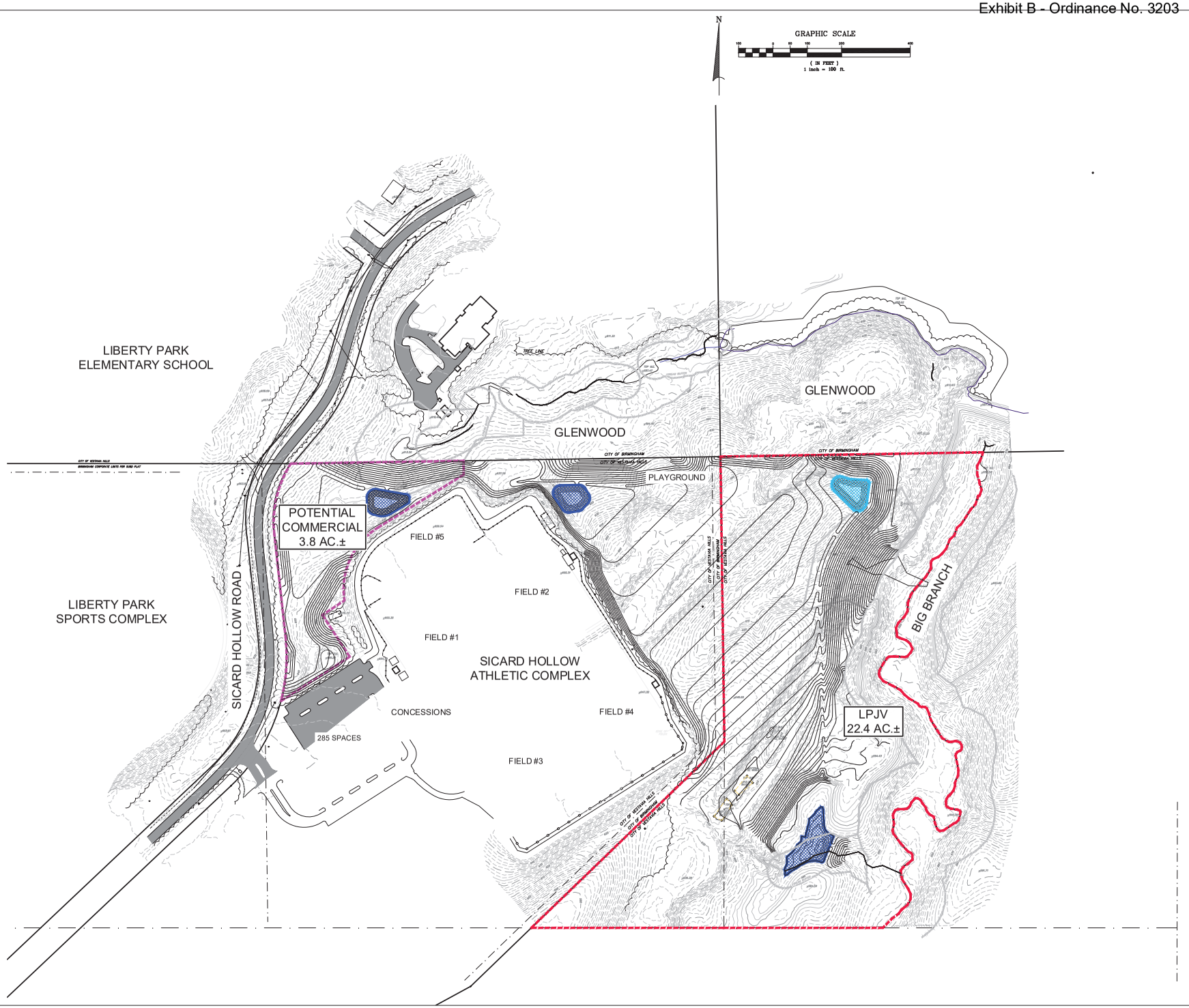
PLAN ISSUE
EXHIBIT - CONCEPTUAL PLAN
DATE
09.18.2023

EXHIBIT - CONCEPTUAL PLAN

LIBERTY PARK JOINT VENTURE PROPERTY & CITY OF VESTAVIA HILLS

SICARD HOLLOW ROAD - VESTAVIA HILLS, AL

PROJECT NO. 21.011
SCALE: 1"= 100'
DRAWN: . REVIEW: .
SHEET __ . __ OF __ . __



CAPRINE
PLANNING - CIVIL ENGINEERING - CONSULTING
3 OFFICE PARK CIRCLE SUITE 226 BIRMINGHAM, ALABAMA 35223 O (205) 423-0382

PLAN ISSUE	DATE
EXHIBIT - LAND SWAP	09.18.2023

EXHIBIT - LAND SWAP

LIBERTY PARK JOINT VENTURE PROPERTY & CITY OF VESTAVIA HILLS

SICARD HOLLOW ROAD - VESTAVIA HILLS, AL

PROJECT NO. 21.011

SCALE: 1"= 100'

DRAWN: . REVIEW: .

SHEET __ : __ OF __ : __

PROJECT: 2018 AMLER Grant – Pine Ridge Project

STATE OF ALABAMA
CONSENT FOR RIGHT-OF-ENTRY (CONSTRUCTION)

I/We, the owner(s) of the following described properties:

Parcel # 27-00-08-3-000-003.000 & Parcel # 27-00-08-3-000-003.002

Access to and construction within a 10.31-acre portion of Parcel #27-00-08-3-000-003.000 and a 0.54-acre portion of Parcel #27-00-08-3-000-003.002 to reclaim / eliminate two highwall segments, associated impoundments, and spoil material remaining from previous coal mining activities, as well as sitework to create conditions favorable for future development. The dangerous highwall segments total approximately one thousand, three hundred and sixty (1,360) feet in length and average approximately twenty-five (25) feet in height. The overall project site for reclamation work totals approximately 22.54 acres and includes backfilling of the dangerous highwall segments and impoundments using onsite mine spoil material and grading and shaping of the onsite material to promote positive drainage and match the surrounding topography The subject properties lie east of Sicard Hollow Road within the NE ¼ of the SW ¼ of Section 8, Township 18 South, Range 1 West, Jefferson County. Included is a Project Realty Map for reference.

I/We do hereby grant the State of Alabama Department of Labor (Department), its agents, employees and contractors retained by the Department, the right, privilege and consent to enter upon the above-described property with all necessary and convenient materials and equipment to perform reclamation work to restore, abate, control or prevent the adverse effects of coal mining practices, and to protect the public health and safety of the citizens of the State of Alabama.

Any reclamation work performed by the Department, its agents, employees and contractors is done pursuant to Title IV of the Surface Mining Control and Reclamation Act of 1977, (30 U.S.C., 1231 *et seq.*), the Code of Alabama (1975) Section 9-16-126, and the *Guidance for Project Eligibility Under the Abandoned Mine Land Reclamation Economic Development Pilot Program for Fiscal Year 2018* as provided by the Office of Surface Mining and Reclamation and Enforcement.

As used in this agreement "RECLAMATION WORK" means the construction of temporary or permanent facilities on the Property to restore, abate, control or prevent the adverse effects of coal mining practices and to protect the public health and safety. Construction of temporary or permanent facilities can include all grading, excavation, installation of access roads, use of soil from borrow areas, mulching, planting of vegetative cover, installation of drainage structures, development of dams, pipes, diversion ditches, subsurface exploratory drilling, installation of monitoring wells and any other necessary or expedient work deemed necessary to protect the public health and safety of the Owner and the citizens of the State of Alabama.

In consideration of the reclamation work which benefits the Owner and the general public, and intending to be legally bound, I/we agree as follows:

1. The Owner assumes no liability for injury or damage by or to employees and/or agents providing reclamation work for the Department.

2. Prior to the start of reclamation work, the Owner agrees to contact & gain consent to the reclamation work from all the leaseholders of interest in the property that the reclamation work will affect.

3. During the term of this Right of Entry, the Owner will not, without the express written consent of the Department, mine or remove, lease mining or removal rights in, or permit mining or removal of coal or other minerals on the Property; or do any act or permit any act to be done that will interrupt or interfere with, destroy, damage or alter the reclamation work, or the equipment, materials and facilities placed on the Property pursuant to this Right-of-Entry. In the event that this property is sold, exchanged or leased during the term of this Right-of-Entry, it is the Owner's responsibility to advise the prospective owners or lessees of this Agreement and its terms and to ensure that they are in agreement.

4. The Department bears no responsibility or liability for any mine-related damage to the property (or improvements thereon) which occurred prior to, or which might occur during or after the reclamation. Persons contracted by the Department to perform reclamation work are required to carry comprehensive liability insurance.

5. The Department is not authorized to repair structures which have suffered mine-related damage.

6. In giving consent to this Right-of-Entry, the Owner does not waive any legal remedies available under applicable law.

7. Prior to commencement of any reclamation activities, the Department shall provide defined construction limits to the Owner for approval. Approval of the limits by the Owner shall be provided in writing to the Department prior to commencement of any construction / reclamation activities by the Department.

8. THE OWNER UNDERSTANDS THAT EXECUTION OF THIS CONSENT FOR RIGHT OF ENTRY DOES NOT OBLIGATE THE DEPARTMENT TO PERFORM ANY PART OF THE CONTEMPLATED OR PROPOSED RECLAMATION WORK ON THE PROPERTY.

9. The Owner understands that it may be necessary to make changes to the reclamation work during construction to adjust for conditions encountered on the Property.

10. The Department shall bear the expense for the design and construction of the reclamation work, if any.

11. The term of this Right-of-Entry shall extend for the length of time necessary to complete the reclamation work and provide maintenance on the Property for a period of two years following completion of the reclamation work; and shall terminate upon completion of such reclamation work and two-year maintenance period; provided, however, that the term of the Right-of-Entry may be altered at any time by written agreement of the parties to this Right-of-Entry.

12. The Department shall have the continuing right during and after the term of this Right-of-Entry to inspect and maintain any and all reclamation work performed, including facilities constructed; however, the Department shall have no obligation to maintain the results of such reclamation work.

13. The Department cannot warrant the success of the project and the proposed work may not accomplish the intended result.

14. <u>Indemnification & Additional Insured</u>

a. **<u>Indemnification:</u>** To the fullest extent permitted by law, the Contractor awarded the construction project by the Department, shall defend, indemnify and hold harmless the City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor, and other elected public officials and employees, as Owner (hereinafter collectively referred to as the

"Indemnitees") from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of, related to, or resulting from performance of the Reclamation Work done by the Contractor, including specifically, but not limited to claims alleged to have been caused by faulty, negligent or defective design and/or other related services, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use resulting therefrom, and is caused in whole or in part by negligent acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether such claim, damage, loss or expense is caused in part, or is alleged but not legally established to have been caused in whole or in part by the negligence or other fault of a party indemnified hereunder. This indemnification shall extend to all claims, damages, losses and expenses for injury or damage to adjacent or neighboring property, or persons injured thereon, that arise out of, relate to, or result from performance of the Reclamation Work.

b. **Additional Insured:** The Contractor shall cause all the insurance policy coverages described in the Contract (expect for Worker's Compensation coverages) to include:

1) The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations and/or performance of the Reclamation Work; and

2) The City of Vestavia Hills, Alabama, a municipal corporation, its City Manager, Mayor and its elected public officials and employees, as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations and/or performance of the Reclamation Work; and

3) The insurance policy coverages shall state that these coverages shall be primary insurance for the additional insureds; and

4) Contain no exclusions of the additional insureds relative to job accidents; and

5) The policies must be on an "occurrence" basis; and

6) **Certificates of Insurance Policy Coverages:** The Contractor shall deliver to the City insurance certificates to evidence that all insurance policies and coverages described in the Contract are in full force and effect. Delivery of said certificates by the Contractor to the City shall be made prior to the commencement of the Reclamation Work by the Contractor. In other words, Contractor shall not begin work unless and until the Contractor has delivered the insurance certificates to the City.

In giving my/our consent to this entry, I/we do not waive any rights conferred upon me/us by virtue of the language contained in the Code of Alabama (1975) Sections 9-16-120 through 9-16-135

ALL CO-OWNERS OF THE PROPERTY MUST SIGN THIS RIGHT OF ENTRY AND EACH SIGNATURE MUST BE WITNESSED. (Attach additional sheets as needed)

IN WITNESS HEREOF, the Owner(s) or authorized representative has caused this Consent for Right of Entry to be executed this_____day of _____2023.

Owner: City of Vestavia Hills

Sign: _____

Print: _____
Address: _____
City: _____
State: _____ Zip: _____
Phone: _____

Witnessed By:

Sign: _____

Print: _____

Sign: _____

Print: _____
Address: _____
City: _____
State: _____ Zip: _____
Phone: _____

Witnessed By:

Sign: _____

Print: _____

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720

TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295
E-Mail patrickboone@bellsouth.net

October 25, 2023

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
P. O. Box 660854
Vestavia Hills, Alabama 35266-0854

In Re: 2018 AMLER Grant--Pine Ridge Project

Dear Mr. Downes:

On October 24, 2023, you sent to me via electronic mail a revised State of Alabama Consent for Right of Entry (Construction) ("Consent") regarding the above captioned Pine Ridge Project with a request that I review it and provide you with my written legal opinion. The purpose of this letter is to comply with your request.

I. LEGAL OPINION

From a legal standpoint, I approve the State of Alabama Consent for Right of Entry (Construction).

II. BASIS FOR LEGAL OPINION

On October 28, 2022, I recommended to you that the Consent Form add the language requiring the Contractor to indemnify and hold harmless the City and to name the City and its officials and employees as additional insureds on its general comprehensive liability insurance policy.

I base my present opinion upon the fact that the Alabama Department of Labor accepted my recommendations and added the requested language to the Consent as Section 14 thereof.

Please call me if you have any questions regarding this matter.

Sincerely,

Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp
cc: City Clerk Rebecca Leavings (by e-mail)

CITY OF VESTAVIA HILLS
PUBLIC SERVICES
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc: Rebecca Leavings, City Clerk

From: Lori Beth Kearley, Public Services Director

RE: Ordinance Number 3199 - A - An Ordinance Amending Ordinance Number 3199 to Amend Language in the Joint Services Agreement (Exhibit A) Between City of Vestavia Hills, Jefferson County, and City of Birmingham In Order to Share Responsibilities for Improvements to the Blue Lake Drive and Sicard Hollow Road Intersection for Jefferson County Project No. 37-19-400

Background:
Ordinance Number 3199 was approved by Vestavia Hills City Council on October 9, 2023. Changes are required to the Agreement itself (Exhibit A) based upon legal reviews by City of Birmingham and Jefferson County.

Recommendation:
I have reviewed the revisions and recommend acceptance by the City of the changes. The financial obligations did not change, and the overall content and terms remain the same.

A tracked changes version of the document has been included in order to outline the requested revisions.

Fiscal Impact:
The City's contribution toward the construction of the project remains the same and is budgeted in approved FY24 budget's Capital Fund.

Attachments:
1. Ordinance 3199A
2. 37-19-400 Joint Service Agreement
3. 37-19-400 Joint Service Agreement - Revisions per City of Birmingham Legal Review
4. resized exhibits

ORDINANCE NUMBER 3199-A

AN ORDINANCE AMENDING ORDINANCE NUMBER 3199 AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER A JOINT SERVICES AGREEMENT WITH JEFFERSON COUNTY AND THE CITY OF BIRMINGHAM IN ORDER TO SHARE RESPONSIBILITIES FOR IMPROVEMENTS TO THE BLUE LAKE DRIVE AND SICARD HOLLOW ROAD INTERSECTION FOR JEFFERSON COUNTY PROJECT NO. 37-19-400

WHEREAS, in 2019, the intersection of Blue Lake Drive and Sicard Hollow Road was studied through the Regional Planning Commission of Greater Birmingham's Advanced Planning, Programming, and Logical Engineering (APPLE) program; and

WHEREAS, as part of this study, Sain Associates reviewed this intersection and determined that a roundabout design would help to improve the overall safety and operations of this intersection; and

WHEREAS, in April 2020, the City entered into an agreement with Sain Associates to perform further engineering and surveying due diligence to develop a conceptual layout of the roundabout and determine potential right-of-way and utility impacts; and

WHEREAS, following that effort, the City entered into another agreement with Sain Associates in June 2022 to complete the intersection design and provide construction documents. These design and coordination services will carry the project through design to the project bid; and

WHEREAS, the total sum of both Sain design contract amounts is $269,650 and

WHEREAS, the project traverses through three jurisdictions: City of Vestavia Hills, Jefferson County, and City of Birmingham which would require that all entities join together to approve said improvements; and

WHEREAS, based on the construction plans prepared by Sain Associates, the estimated construction cost estimate for the Project is $2,000,000; and

WHEREAS, the City's Engineering Department has reviewed a proposed Joint Services Agreement ("the Agreement") with the City of Birmingham, and Jefferson County that outlines a 50% equal cost share of the total combined costs of Engineering and Construction between Jefferson County and the City of Vestavia Hills, of which the City has already encumbered $269,650; and

WHEREAS, Jefferson County will be the responsible party to bid the project and will invoice Vestavia Hills for their respective share of the construction costs; and

WHEREAS, on the 10th of October, 2023, the City Council adopted and approving Ordinance Number 3199 subject to legal reviews of Jefferson County and the City of Birmingham; and

WHEREAS, some minor revisions were suggested by both entities which are detailed in the Exhibit A, attached to and incorporated in this Ordinance Number 3199-A as if written fully therein; and

WHEREAS, the City's Public Works Director has reviewed the revised Agreement; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to accept the recommendation of the Public Works Director and authorize the Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY MANAGER OF THE CITY OF VESTAVIA HILLS, ALABAMA, AS FOLLOWS:

1. The Mayor and City Manager are hereby authorized to execute and deliver the revised Joint Services agreement as authorized in the attached Exhibit A; and
2. The City Manager is hereby authorized to execute and deliver any subsequent documents needed to secure said construction plans, bidding, etc., for a project cost of $2,000,000; and
3. Jefferson County will be the responsible party to bid said project and invoice the City of Vestavia Hills its pro-rata share of said expense of improvement; and
4. This Ordinance Number 3199-A shall become effective immediately upon adoption and publishing/posting as required by Alabama law.

ADOPTED and APPROVED this the 27th day of November, 2023.

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 3199-A a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 27th day of November, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of November, 2023.

Rebecca Leavings
City Clerk

JEFFERSON COUNTY)

STATE OF ALABAMA)

AGREEMENT

TO

SHARE RESPONSIBILITIES

(Joint Services Agreement)

Jefferson County Project #37-19-400

Blue Lake Drive and Sicard Hollow Road Intersection Improvement

JEFFERSON COUNTY, ALABAMA (County), the CITY OF BIRMINGHAM, ALABAMA (Birmingham) and the CITY OF VESTAVIA HILLS, ALABAMA (Vestavia), (Collectively, the "Parties") enter into this agreement on the _____ day of _____, 202_.

WHEREAS, the County, Birmingham, and Vestavia, desire to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road to include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway reconfiguration as shown in the attached Exhibit A (the "Project"); and

WHEREAS, the Project traverses through the three jurisdictions: County, Birmingham and Vestavia; and

WHEREAS, Vestavia solicited and contracted for preliminary engineering services to be provided by a qualified engineering firm; and

WHEREAS, the cost for said preliminary engineering services is $269,650; and

WHEREAS, the total cost of the Project is expected to exceed $2,000,000; and

WHEREAS, the County and Vestavia desire to divide the total combined costs of Preliminary Engineering and Construction costs equally at 50% each; and

WHEREAS, Birmingham is agreeable to and desirous of the improvements to be made at Sicard Hollow Road; and

WHEREAS, the Project improvements shall meet ALDOT standards and specifications; and

WHEREAS, the Parties have determined that the Project provides a benefit to the traveling public by allowing for the efficient flow of traffic through all three jurisdictions; and

WHEREAS, the Parties desire to establish their agreement herewith; and

WHEREAS, the Alabama Legislature adopted Alabama Code §41-16-50(b) which provides in pertinent part, that:

> (b) The governing bodies of two or more contracting agencies, as enumerated in subsection (a), or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing or bidding agent, and the agent shall comply with this article. Purchases, contracts, or agreements made pursuant to a joint purchasing or bidding agreement shall be subject to all terms and conditions of this article.

; and

WHEREAS, the Alabama Legislature adopted Alabama Code §11-102-1 which provides that:

> Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. For purposes of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

; and

WHEREAS, all parties find that it is in the public interest that the parties enter into a joint purchasing/service agreement in accordance with Alabama Code §41-16-50(b) and §11-102-1, *et seq*., in order to authorize County to engage in the purchase of certain services and materials through the competitive bid process for use by the Parties, i.e. in order for County, Birmingham and Vestavia to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road.

IN CONSIDERATION OF THE PREMISES stated herein the Parties mutually agree as follows:

I. PURPOSE: The Parties agree to jointly undertake to provide for the following improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road (Project): construct roundabout with associated roadway realignment and widening, drainage, resurfacing, and lighting necessitated by the roundabout installation, as shown in the attached Exhibit A.

II. BIDDING: Vestavia and the County have authorized this agreement pursuant to similar ordinances passed by Vestavia and a similar resolutions passed by the County, adopted by the governing body of each party, which sets forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of this agreement. The Parties agree to the following:

a. County is designated as the joint purchasing or bidding agent and will advertise and accept bids for the construction of the Project.

b. County will determine the low bidder and enter into a separate Agreement with the contractor for the construction of the Project.

c. County will invoice Vestavia for their respective share of the construction costs, accounting for the Preliminary Engineering costs paid by Vestavia to the qualified engineering firm.

d. Vestavia's and the County's share of expenditures for purchases under this agreement shall be appropriated and paid in the manner set forth in this agreement and in the same manner as for other expenses of the entity.

e. All advertising costs incurred by the County on behalf of the joint purchasing agreement shall be included in the total combined cost of the project.

f. Any permitting costs associated with the project incurred by either the County or Vestavia shall be included in the total combined cost of the project.

g. This agreement shall be subject to all terms and conditions of the applicable Alabama Bid Laws.

h. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.

III. TERM: The duration of this contract shall not exceed three years from the date of its final execution or end of the Project, whichever first occurs.

IV. IMPLEMENTATION: The Parties agree as follows:

a. Management of the Project: The County will assume responsibility for the management of the Project, ensuring that all work performed by the contractor is completed per contract requirements. The Project shall include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway configuration to tie to the roundabout as shown in the attached Exhibit A. The County will provide Construction, Engineering & Inspection during the construction phase of the Project. All Parties, including Birmingham, Vestavia, and the County shall inspect and approve the construction before the project is completed and the municipalities assume responsibility and liability for the roadways within their respective jurisdictions. 10% of the total bid price shall be included in the total combined cost of the Project for Construction, Engineering & Inspection services.

b. Cost and Payment: The County and Vestavia will split the total cost of the Project equally at 50%. The County will invoice Vestavia for its portion of the cost upon award of the construction contract, with the invoice to be paid within 30 days of receipt. Vestavia acknowledges and agrees that any overrun in costs of the Project shall be born equally by Vestavia and the County. If final costs are less than initially invoiced and paid, a refund will be issued to Vestavia accordingly. Birmingham will not be responsible for providing any funding for the construction of this project.

c. Coordination: Prior to project bid, the Parties shall have the right to review and approve the traffic control plans and detour plan, if included. The Parties shall be invited and/or notified of all construction meetings, project updates, design construction modifications, and final project walk thru/acceptance. All parties shall have the right to review the final project prior to acceptance.

d. Future Liability: Except as otherwise provided herein, the Parties expressly agree that neither the County, Vestavia, nor Birmingham assume any risk or future liability, or any future responsibility for any portion of the Project located outside of their municipality.

e. Future Maintenance: The Parties expressly agree that the County shall have jurisdictional authority and responsibility for the maintenance and operation of the roundabout, with exception of the roadway lighting, constructed within the Project, limits bounded to the back of radius of the approach lanes of Blue Lake Drive, Sicard Hollow Road, and Cahaba Heights Road as shown in the attached Exhibit B.

f. Lighting: At the completion of the project, each Party shall notify Alabama Power and be responsible for electrical service for roadway lighting facilities that are to be located within each of the Parties' jurisdiction respectively, as shown in the attached Exhibit C.

g. Incurring Debt: Except as expressly provided in this agreement, no party to the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party.

h. Relationship of the Parties: Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.

i. Jurisdictional Authority: Except as otherwise provided by law and as limited by this agreement between the Parties, any entity which contracts to perform or exercise any service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting Parties to the extent necessary to carry out the purposes of the contract.

j. Authorizations: Each Party to this agreement shall adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities. Each of the Parties hereto does represent and warrant that it has taken all necessary action for the approval of this Agreement and the signature of its representative below has been duly authorized and is binding upon such Party. An executed copy of this Agreement shall be filed at the administrative offices of each Party.

V. TERMINATION:

a. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.

b. Upon termination, all unused materials purchased by the County under this agreement shall be returned to the County within 30 days of termination.

VI. MISCELLANEOUS PROVISIONS:

a. Immigration Law Compliance: By signing this Agreement, the 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.

b. Non-Discrimination: During the performance of this contract the Parties agree as follows:

i. The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be 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. The Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

ii. In the event of a Parties' noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole

or in part and the contractor may be declared ineligible for further municipal contracts with the other Party.

c. Boycotting Activities: By signing this contract, the Parties represent and agree that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

VII. SEVERABILITY: If any provision of this agreement is declared by a court having jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular provision held to be invalid.

VIII. GOVERNING LAW: This agreement shall be governed by and construed in accordance with the laws of the State of Alabama. The parties agree that jurisdiction and venue over all disputes arising under this Agreement shall be the Circuit Court of Jefferson County, Alabama, Birmingham Division.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as reflected below.

JEFFERSON COUNTY, ALABAMA

_____ BY:_____

Date James A. (Jimmie) Stephens, President
Jefferson County Commission

I, Aleshia Y. Coleman, Minute Clerk of the Jefferson County Commission, hereby certify that the above and foregoing is a true and correct copy and/or transcript of a resolution duly adopted and approved by the Jefferson County Commission at its regular meeting held on the _____day of _____, 2023, as same appears and is recorded in Minute Book_____Page(s)_____of the Official Minutes and Records of said County Commission.

GIVEN, under my hand and seal of Jefferson County, Alabama this the___day of _____, 2023.

BY:_____

Aleshia Y. Coleman, Minute Clerk
Jefferson County Commission
My Commission Expires: December 14, 2026

CITY OF BIRMINGHAM, ALABAMA

_____ BY:_____

Date Randall L. Woodfin, Mayor

ATTEST:

_____

City Clerk

APPROVED AS TO FORM BY LAW DEPARTMENT:

_____

Assistant City Attorney / Date

CITY OF VESTAVIA HILLS, ALABAMA

_____ BY:_____
Date Ashley Curry, Mayor

ATTEST:

_____
City Clerk

_____ BY:_____
Date Jeff Downes, City Manager

ATTEST:

_____
City Clerk

JEFFERSON COUNTY)

STATE OF ALABAMA)

AGREEMENT

TO

SHARE RESPONSIBILITIES

(Joint Services Agreement)

Jefferson County Project #37-19-400

Blue Lake Drive and Sicard Hollow Road Intersection Improvement

JEFFERSON COUNTY, ALABAMA (County), the CITY OF BIRMINGHAM, ALABAMA (Birmingham) and the CITY OF VESTAVIA HILLS, ALABAMA (Vestavia), (Collectively, the "Parties") enter into this agreement on the _____ day of _____, 202_.

WHEREAS, the County, Birmingham, and Vestavia, desire to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road to include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway reconfiguration as shown in the attached Exhibit A (the "Project"); and

WHEREAS, the Project traverses through the three jurisdictions: County, Birmingham and Vestavia; and

WHEREAS, Vestavia solicited and contracted for preliminary engineering services to be provided by a qualified engineering firm; and

WHEREAS, the cost for said preliminary engineering services is $269,650; and

WHEREAS, the total cost of the Project is expected to exceed $2,000,000; and

WHEREAS, the County and Vestavia desire to divide the total combined costs of Preliminary Engineering and Construction costs equally at 50% each; and

WHEREAS, Birmingham is agreeable to and desirous of the improvements to be made at Sicard Hollow Road; and

WHEREAS, the Project improvements shall meet ALDOT standards and specifications; and

WHEREAS, the Parties have determined that the Project provides a benefit to the traveling public by allowing for the efficient flow of traffic through all three jurisdictions; and

WHEREAS, the Parties desire to establish their agreement herewith; and

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WHEREAS, the Alabama Legislature adopted Alabama Code §41-16-50(b) which provides in pertinent part, that:

> (b) The governing bodies of two or more contracting agencies, as enumerated in subsection (a), or the governing bodies of two or more counties, or the governing bodies of two or more city or county boards of education, may provide, by joint agreement, for the purchase of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property for use by their respective agencies. The agreement shall be entered into by similar ordinances, in the case of municipalities, or resolutions, in the case of other contracting agencies, adopted by each of the participating governing bodies, which shall set forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of the agreement. Each contracting agency's share of expenditures for purchases under any agreement shall be appropriated and paid in the manner set forth in the agreement and in the same manner as for other expenses of the contracting agency. The contracting agencies entering into a joint agreement, as herein permitted, may designate a joint purchasing or bidding agent, and the agent shall comply with this article. Purchases, contracts, or agreements made pursuant to a joint purchasing or bidding agreement shall be subject to all terms and conditions of this article.

; and

WHEREAS, the Alabama Legislature adopted Alabama Code §11-102-1 which provides that:

> Except as otherwise provided in this chapter or as otherwise prohibited by law, any county or incorporated municipality of the State of Alabama may enter into a written contract with any one or more counties or incorporated municipalities for the joint exercise of any power or service that state or local law authorizes each of the contracting entities to exercise individually. For purposes of this chapter, it is sufficient if each of the contracting entities has the authority to exercise or perform the power or service which is the subject of the contract regardless of the manner in which the power or service shall be exercised or performed, provided that at least one of the contracting parties has the authority to exercise the power or service in the manner agreed upon by the parties. The joint contract may provide for the power or service to be exercised by one or more entities on behalf of the others or jointly by the entities.

; and

WHEREAS, all parties find that it is in the public interest that the parties enter into a joint purchasing/service agreement in accordance with Alabama Code §41-16-50(b) and §11-102-1, *et seq*., in order to authorize County to engage in the purchase of certain services and materials through the competitive bid process for use by the Parties, i.e. in order for County, Birmingham and Vestavia to make certain improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road.

IN CONSIDERATION OF THE PREMISES stated herein the Parties mutually agree as follows:

I. PURPOSE: The Parties agree to jointly undertake to provide for the following improvements to the intersection of Blue Lake Drive, Cahaba Heights Road, and Sicard Hollow Road (Project): construct roundabout with associated roadway realignment and widening, drainage, resurfacing, and lighting necessitated by the roundabout installation, as shown in the attached Exhibit A.

II. BIDDING: ~~The parties~~Vestavia and the County have authorized this agreement pursuant to similar ordinances passed by ~~Birmingham and~~ Vestavia and a similar resolution passed by the County, adopted by the governing body of each party, which sets forth the categories of labor, services, or work, or for the purchase or lease of materials, equipment, supplies, or other personal property to be purchased, the manner of advertising for bids and the awarding of contracts, the method of payment by each participating contracting agency, and other matters deemed necessary to carry out the purposes of this agreement. The Parties agree to the following:

a. County is designated as the joint purchasing or bidding agent and will advertise and accept bids for the construction of the Project.

b. County will determine the low bidder and enter into a separate Agreement with the contractor for the construction of the Project.

c. County will invoice Vestavia for their respective share of the construction costs, accounting for the Preliminary Engineering costs paid by Vestavia to the qualified engineering firm.

d. ~~Each Parties'~~Vestavia and the County's share of expenditures for purchases under this agreement shall be appropriated and paid in the manner set forth in this agreement and in the same manner as for other expenses of the entity.

e. All advertising costs incurred by the County on behalf of the joint purchasing agreement shall be included in the total combined cost of the project.

f. Any permitting costs associated with the project incurred by either the County or Vestavia shall be included in the total combined cost of the project.

g. This agreement shall be subject to all terms and conditions of the applicable Alabama Bid Laws.

h. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.

III. TERM: The duration of this contract shall not exceed three years from the date of its final execution or end of the Project, whichever first occurs.

IV. IMPLEMENTATION: The Parties agree as follows:

a. Management of the Project: The County will assume responsibility for the management of the Project, ensuring that all work performed by the contractor is completed per

contract requirements. The Project shall include construction of a roundabout, installation of roadway lighting, drainage structures, and associated roadway configuration to tie to the roundabout as shown in the attached Exhibit A. The County will provide Construction, Engineering & Inspection during the construction phase of the Project. All Parties, including Birmingham, Vestavia, and the County shall inspect and approve the construction before the project is completed and the municipalities assume responsibility and liability for the roadways within their respective jurisdictions. 10% of the total bid price shall be included in the total combined cost of the Project for Construction, Engineering & Inspection services.

b. Cost and Payment: The County and Vestavia will split the total cost of the Project equally at 50%. The County will invoice Vestavia for its portion of the cost upon award of the construction contract, with the invoice to be paid within 30 days of receipt. Vestavia acknowledges and agrees that any overrun in costs of the Project shall be born equally by Vestavia and the County. If final costs are less than initially invoiced and paid, a refund will be issued to Vestavia accordingly. Birmingham will not be responsible for providing any funding for the construction of this project.

c. Coordination: Prior to project bid, the Parties shall have the right to review and approve the traffic control plans and detour plan, if included. The Parties shall be invited and/or notified of all construction meetings, project updates, design construction modifications, and final project walk thru/acceptance. All parties shall have the right to review the final project prior to acceptance.

~~b.~~

~~c.~~d. Future Liability: Except as otherwise provided herein, t~~T~~he Parties expressly agree that neither the County, Vestavia, nor Birmingham ~~does not~~ assume any risk or future liability, or any future responsibility for any portion of the Project~~, including lighting,~~ located ~~within the municipalities of Birmingham or Vestavia Hills~~outside of their municipality.

~~d.~~e. Future Maintenance: The Parties expressly agree that the County shall have jurisdictional authority and responsibility for the maintenance and operation of the roundabout, with the exception of the roadway lighting, constructed within the Project, limits bounded to the back of radius of the approach lanes of Blue Lake Drive, Sicard Hollow Road, and Cahaba Heights Road as shown in the attached Exhibit B.

~~e.~~f. Lighting: At the completion of the project, e~~E~~ach Party shall ~~enter into an agreement with~~notify Alabama Power and be responsible for electrical service for roadway lighting facilities that are to be located within each of the Parties' jurisdiction respectively, as shown in the attached Exhibit C.

~~f.~~g. Incurring Debt: Except as expressly provided in this agreement, no party to the contract shall have any power to incur any debt which shall become the responsibility of any other contracting party.

~~g.~~h. Relationship of the Parties: Except as specifically provided in this agreement, the execution of this agreement or the performance of any act pursuant to the provisions thereof shall not be deemed or construed to have the effect of creating between the parties the relationship of principal or agent or of partnership or of joint venture.

~~h.~~i. Jurisdictional Authority: Except as otherwise provided by law and as limited by this agreement between the Parties, any entity which contracts to perform or exercise any

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service or power pursuant to this chapter shall have the full power and authority to act within the jurisdiction of all contracting Parties to the extent necessary to carry out the purposes of the contract.

~~i.~~j. Authorizations: Each Party to this agreement shall adopt all ordinances, resolutions, or policies necessary to authorize the other contracting entities to carry out their contractual duties and responsibilities. Each of the Parties hereto does represent and warrant that it has taken all necessary action for the approval of this Agreement and the signature of its representative below has been duly authorized and is binding upon such Party. An executed copy of this Agreement shall be filed at the administrative offices of each Party.

V. TERMINATION:

a. Should the bid amounts received for the Project exceed the total amounts budgeted by the County or Vestavia, this Agreement may be terminated by the County or Vestavia prior to the execution of the construction contract without penalty or further obligation by any Party.

b. Upon termination, all unused materials purchased by the County under this agreement shall be returned to the County within 30 days of termination.

VI. MISCELLANEOUS PROVISIONS:

a. Immigration Law Compliance: By signing this Agreement, the 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.

b. Non-Discrimination: During the performance of this contract the Parties agree as follows:

   i. The Parties will not discriminate against any employee or applicant for employment because of race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. The Parties will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, gender identity, sexual orientation, disability, familial status, or national origin. Such action shall include but not be 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. The Parties agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

   ii. In the event of a Parties' noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further municipal contracts with the other Party.

c. Boycotting Activities: By signing this contract, the Parties represent and agree that it is not currently engaged in, nor will it engage in, any boycott of a person or entity based in

or doing business with a jurisdiction with which the State of Alabama can enjoy open trade.

VII. SEVERABILITY: If any provision of this agreement is declared by a court having jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular provision held to be invalid.

VIII. GOVERNING LAW: This agreement shall be governed by and construed in accordance with the laws of the State of Alabama. The parties agree that jurisdiction and venue over all disputes arising under this Agreement shall be the Circuit Court of Jefferson County, Alabama, Birmingham Division.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as reflected below.

JEFFERSON COUNTY, ALABAMA

_____
Date

BY:_____
James A. (Jimmie) Stephens, President
Jefferson County Commission

~~ATTEST:~~

~~BY:~~
~~Millie Diliberto, Minute Clerk~~

I, Aleshia Y. Coleman, Minute Clerk of the Jefferson County Commission, hereby certify that the above and foregoing is a true and correct copy and/or transcript of a resolution duly adopted and approved by the Jefferson County Commission at its regular meeting held on the day of _____, 2023, as same appears and is recorded in Minute Book Page(s) of the Official Minutes and Records of said County Commission.

GIVEN, under my hand and seal of Jefferson County, Alabama this the day of _____, 2023.

BY:_____
Aleshia Y. Coleman, Minute Clerk
Jefferson County Commission
My Commission Expires: December 14, 2026

CITY OF BIRMINGHAM, ALABAMA

_____ BY:_____
Date Randall L. Woodfin, Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM BY LAW DEPARTMENT:

_____

Assistant City Attorney / Date

CITY OF VESTAVIA HILLS, ALABAMA

_____ BY:_____
Date Ashley Curry, Mayor

ATTEST:

_____
City Clerk

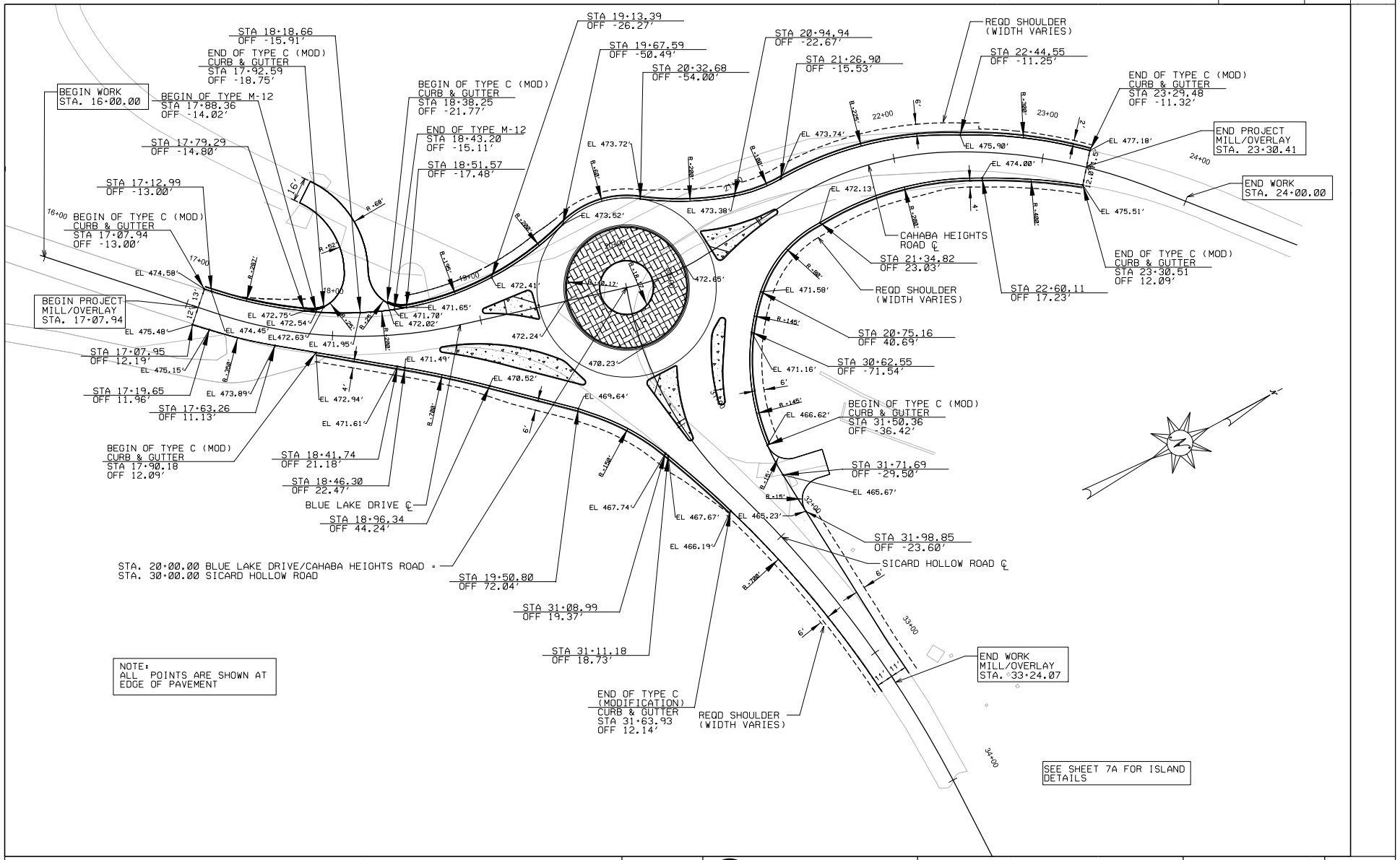
_____ BY:_____
Date Jeff Downes, City Manager

ATTEST:

_____
City Clerk

Exhibit A

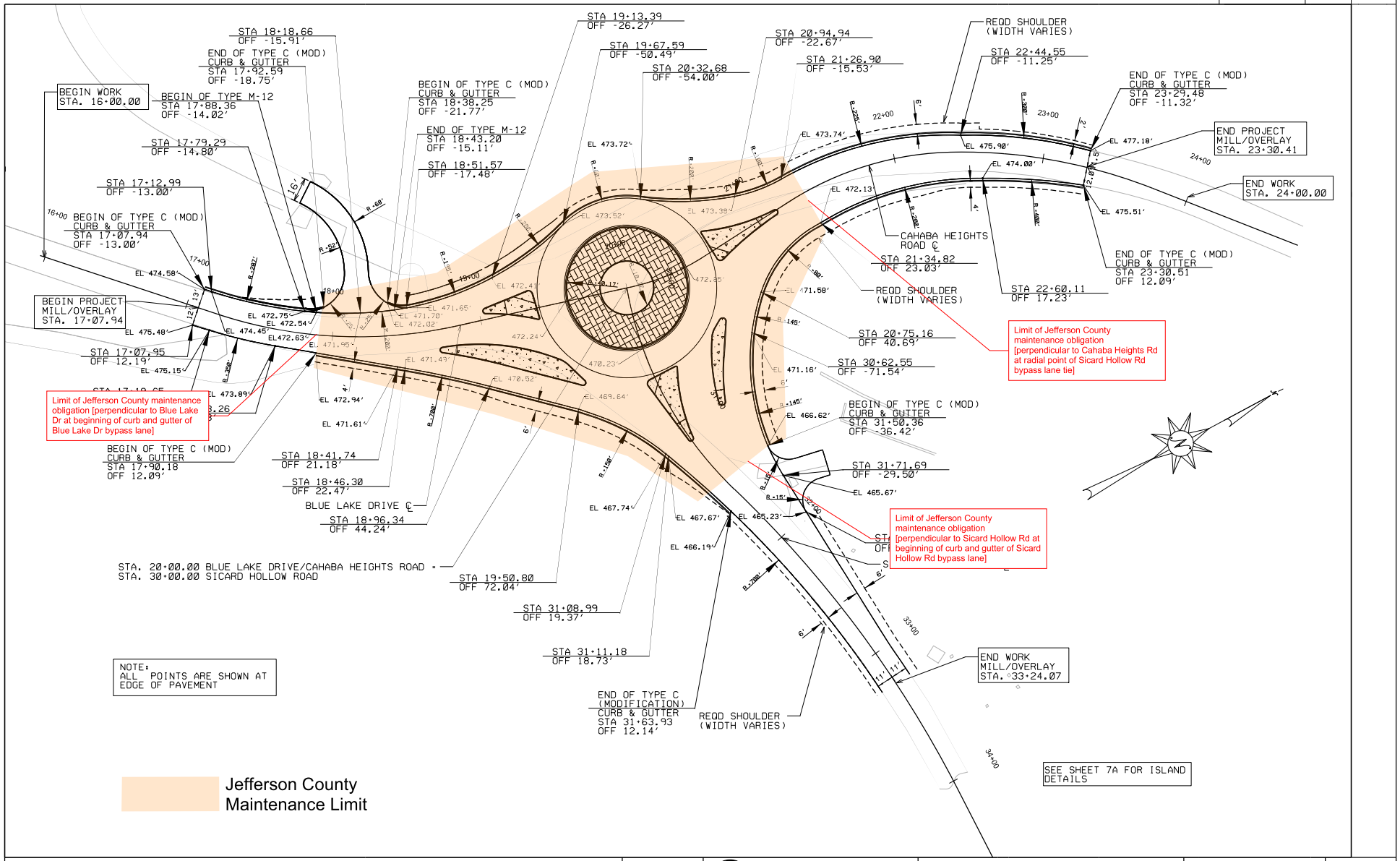
REFERENCE PROJECT NO	FISCAL YEAR	SHEET NO
37-19-400	2023	7



PLAN SUBMITTAL	JEFFERSON COUNTY COMMISSION	HORIZ 30 0 30 SCALE (FEET)	SHEET TITLE	ROUTE
100%			PAVING LAYOUT SHEET	BLUE LAKE/ SICARD HOLLOW

Exhibit B

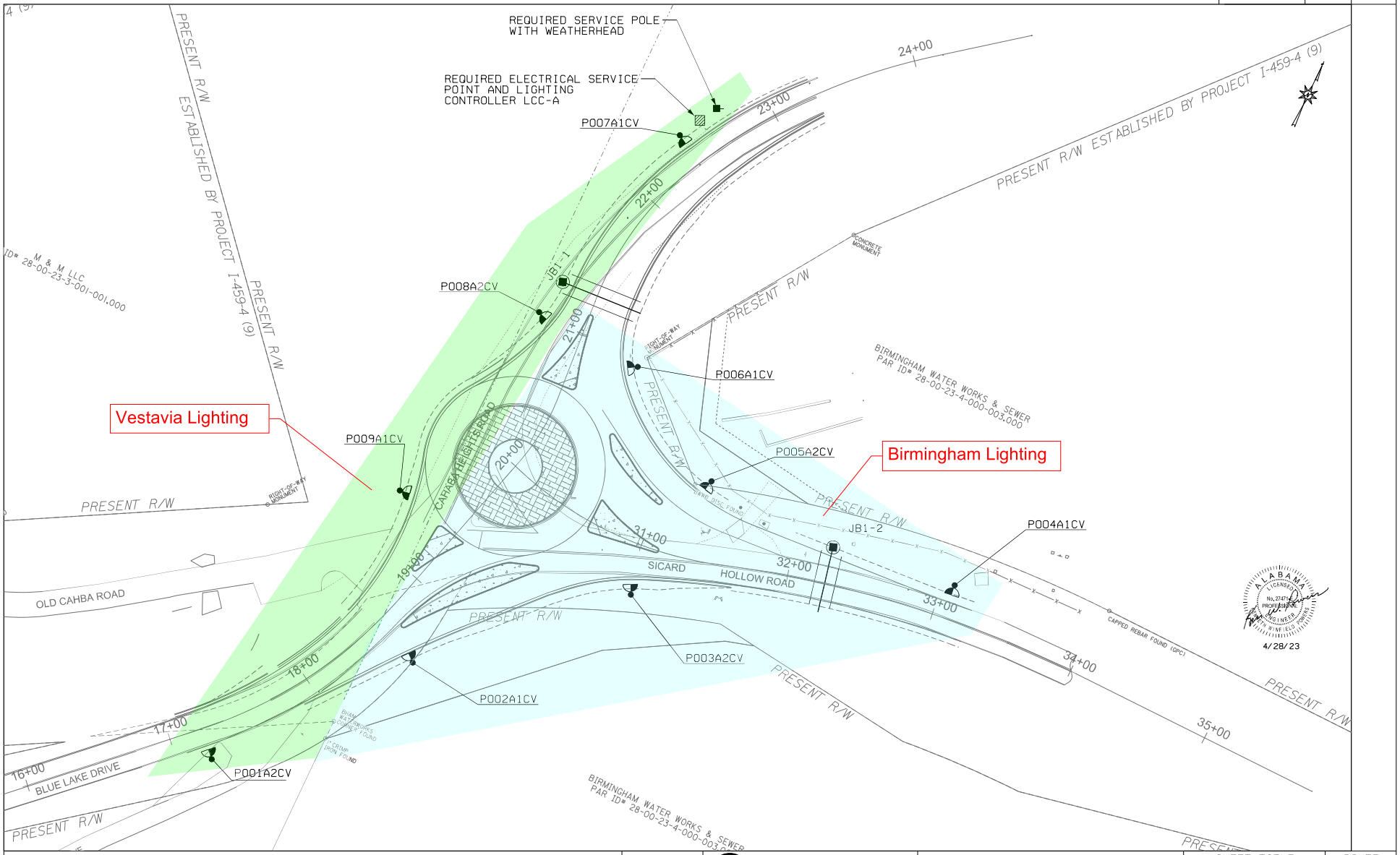
REFERENCE PROJECT NO	FISCAL YEAR	SHEET NO
37-19-400	2023	7



PLAN SUBMITTAL	JEFFERSON COUNTY COMMISSION	HORIZ 30 0 30 SCALE (FEET)	SHEET TITLE	ROUTE
100%			PAVING LAYOUT SHEET	BLUE LAKE/ SICARD HOLLOW

Exhibit C

REFERENCE PROJECT NO	FISCAL YEAR	SHEET NO
37-19-400	2023	25B



ALABAMA LICENSED PROFESSIONAL ENGINEER No. 27471 WINFIELD MORRIS
4/28/23

PLAN SUBMITTAL	JEFFERSON COUNTY COMMISSION	HORIZ 30 0 30 SCALE (FEET)	SHEET TITLE	ROUTE
100%			REQUIRED LUMINAIRE ASSEMBLY LAYOUT	BLUE LAKE/ SICARD HOLLOW

User Is: rob.vermillion@volkert.com 28-APR-2023 15:39 Plot Scale=30.000000:1.000000 $$COLORTABLE$$ $$PENTABLE$$
Projects#1181400 - Roundabout Lighting - Blue Lake Drive\Project Design\Plans Assembly\25B_LTG REQ.dgn

CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Resolution Number 5486 - 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

---

Background:
Ordinance Number 2814A regulates the installation of new support structures for small cell deployment. Applications for these locations were submitted more than a year ago. However, the proposed improvements to Massey Road postponed approval of three proposed locations. Also, Council action postponed the approval of a structure on Forest Haven Lane. These locations have been studied and relocated and are now being submitted for approval. Notifications were sent to property owners on November 9, 2023 with information to refer to the City's website for an abundance of information concerning small cell deployment.

Recommendation:
n/a

Fiscal Impact:

n/a

Attachments:

1. Resolution 5486

RESOLUTION NUMBER 5486

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 11th day of October, 2022, Acquanetta Love, on behalf of Crown Castle Fiber, LLC, 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 5486 as if written therein: (1) 1829 Forest Haven Drive; (2) 210 Williamsburg Office Park; (3) 2007 Massey Road and (4) 3049 Massey Road; and

WHEREAS, a sign was erected on the ROW and the surrounding property owners were notified of the request and contact information on November 9, 2023 and a public hearing to be held on December 11, 2023 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) 1829 Forest Haven Drive; (2) 210 Williamsburg Office Park; (3) 2007 Massey Road and (4) 3049 Massey Road as detailed in the supporting information marked as Exhibit A, attached to and incorporated into this Resolution 5486 as if written fully therein; and
2. This Resolution shall become effective immediately upon adoption and approval.

DONE, ORDERED, ADOPTED and APPROVED this the 11th day of December, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

VESTAVIA HILLS

A LIFE ABOVE

ASHLEY C. CURRY
Mayor

REBECCA LEAVINGS
City Clerk

November 3, 2023

RE: Small Cell/Fiber Deployment

Dear Property Owner:

A new technology for cellular phone data and fiber internet is currently being deployed across the USA. Crown Castle, one of the companies deploying this technology, has indicated a need to locate a small micro-site cellular pole in the City of Vestavia Hills right-of-way adjacent/near your property and has submitted application for a support pole to be erected there. (See attached for location information.)

Small micro-site cellular poles are located in strategic areas which help to offload the larger macro cell towers as the need for cellular data increases in urban areas. Additional information concerning this technology is available on the City of Vestavia Hills website at https://vhal.org/small-cell-technology.

Please note that this request has not been approved by the City Council, but City staff is in the process of evaluating this request from Crown Castle and a public hearing on this matter has been set. Please review the included information along with the information on our website. If you need additional information, have questions or would like to discuss any concerns that you may have, please contact me at rleavings@vhal.org or call 205.978.0184. If I am unable to assist you, I will share your contact information with a Crown Castle representative and have them contact your directly.

Thank you in advance for your attention to this request.

Sincerely,

Rebecca Leavings
City of Vestavia Hills City Clerk

VESTAVIA HILLS CITY HALL
1032 Montgomery Highway | Vestavia Hills, AL 35216
P. O. Box 660854 | Vestavia Hills, AL 35266-0854
205.978.0131 | VHAL.ORG

CITY OF VESTAVIA HILLS

1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, ALABAMA 35216

OFFICIAL NOTICE OF A PUBLIC HEARING

November 9, 2023

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. December 11, 2023 Monday
PLACE OF HEARING:	Vestavia Hills City Hall 1032 Montgomery Highway
BOARD:	Vestavia Hills City Council
ACTION REQUESTED:	Consideration of Installation of 45' Brown Wood Utility Pole with 6'6" embedment to be placed within the public right-of-way for Node Placement, Small Cell Wireless Facility
LOCATION OF PROPERTY:	ROW adjacent to 1829 Forest Haven Lane; See Enclosed Details for location and visual
NAME OF APPLICANT:	Crown Castle Fiber LLC
REPRESENTED BY:	Acquanetta Love

Sincerely,

Rebecca Leavings
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.

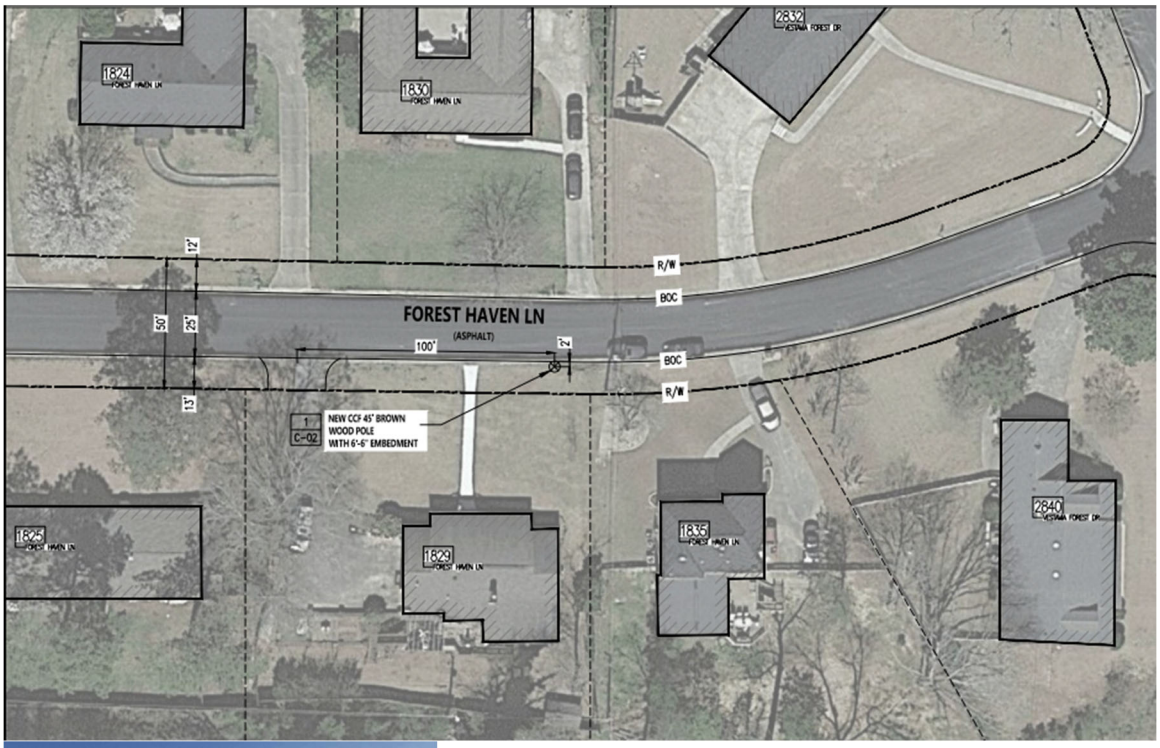
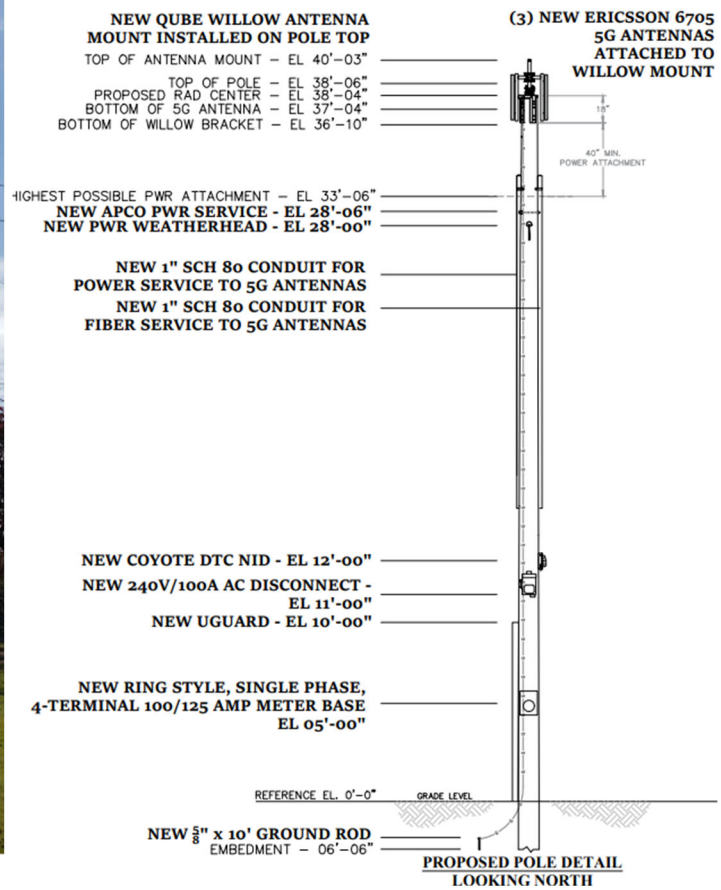




PHOTO SIMULATION



PROPOSED POLE DETAIL
LOOKING NORTH

CITY OF VESTAVIA HILLS

1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, ALABAMA 35216

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BOARD:	Vestavia Hills City Council
ACTION REQUESTED:	Consideration of Installation of 45' Brown Wood Utility Pole with 6'6" embedment to be placed within the public right-of-way for Node Placement, Small Cell Wireless Facility
LOCATION OF PROPERTY:	ROW adjacent to 220 Williamsburg Office Park; See Enclosed Details for location and visual
NAME OF APPLICANT:	Crown Castle Fiber LLC
REPRESENTED BY:	Acquanetta Love

Sincerely,

Rebecca Leavings
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.

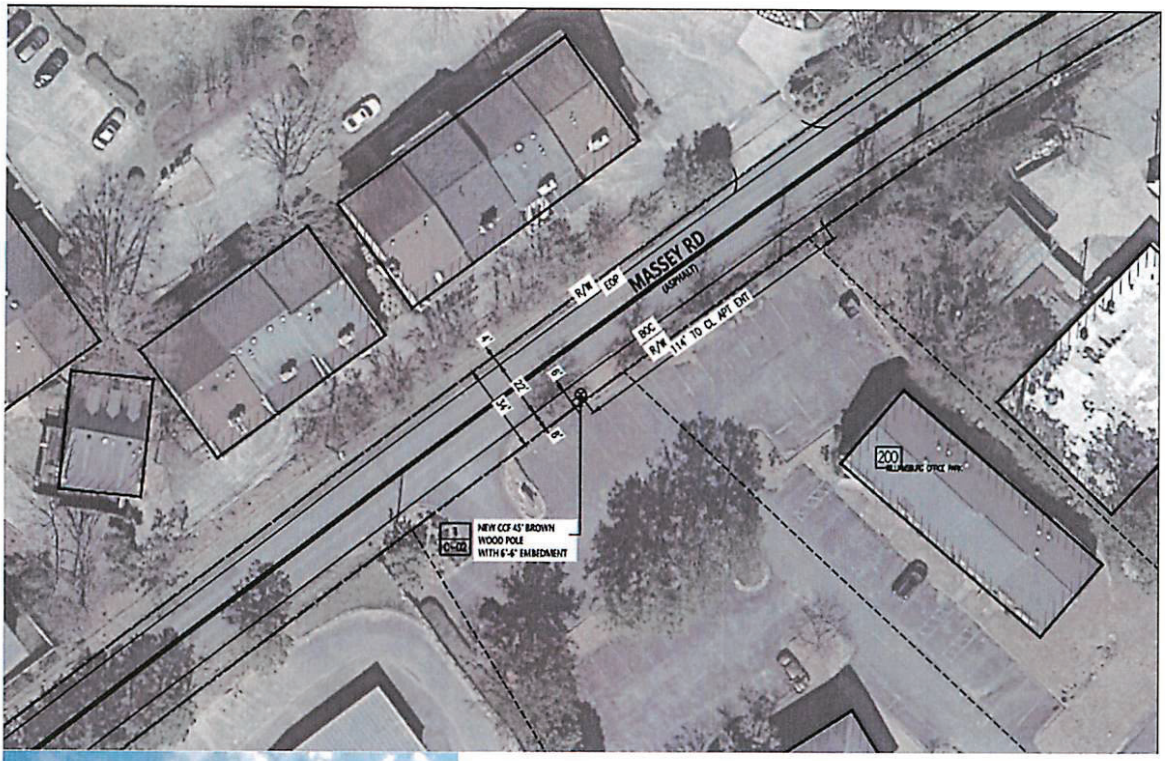
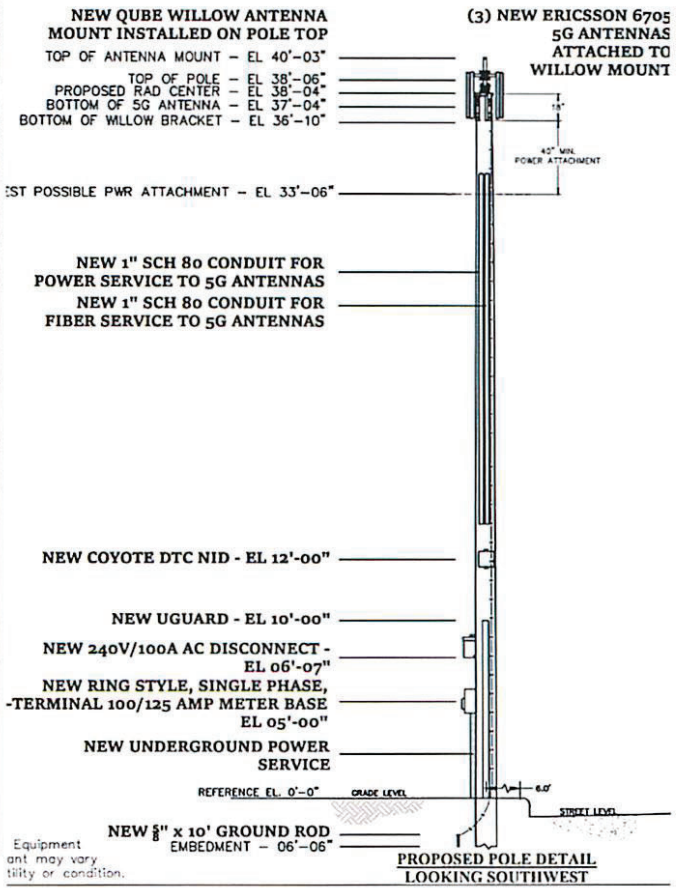




PHOTO SIMULATION



Equipment
ant may vary
tility or condition.

PROPOSED POLE DETAIL
LOOKING SOUTHWEST

CITY OF VESTAVIA HILLS

1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, ALABAMA 35216

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BOARD:	Vestavia Hills City Council
ACTION REQUESTED:	Consideration of Installation of 45' Brown Wood Utility Pole with 6'6" embedment to be placed within the public right-of-way for Node Placement, Small Cell Wireless Facility
LOCATION OF PROPERTY:	ROW adjacent to 3007 Massey Road; See Enclosed Details for location and visual
NAME OF APPLICANT:	Crown Castle Fiber LLC
REPRESENTED BY:	Acquanetta Love

Sincerely,

Rebecca Leavings
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.

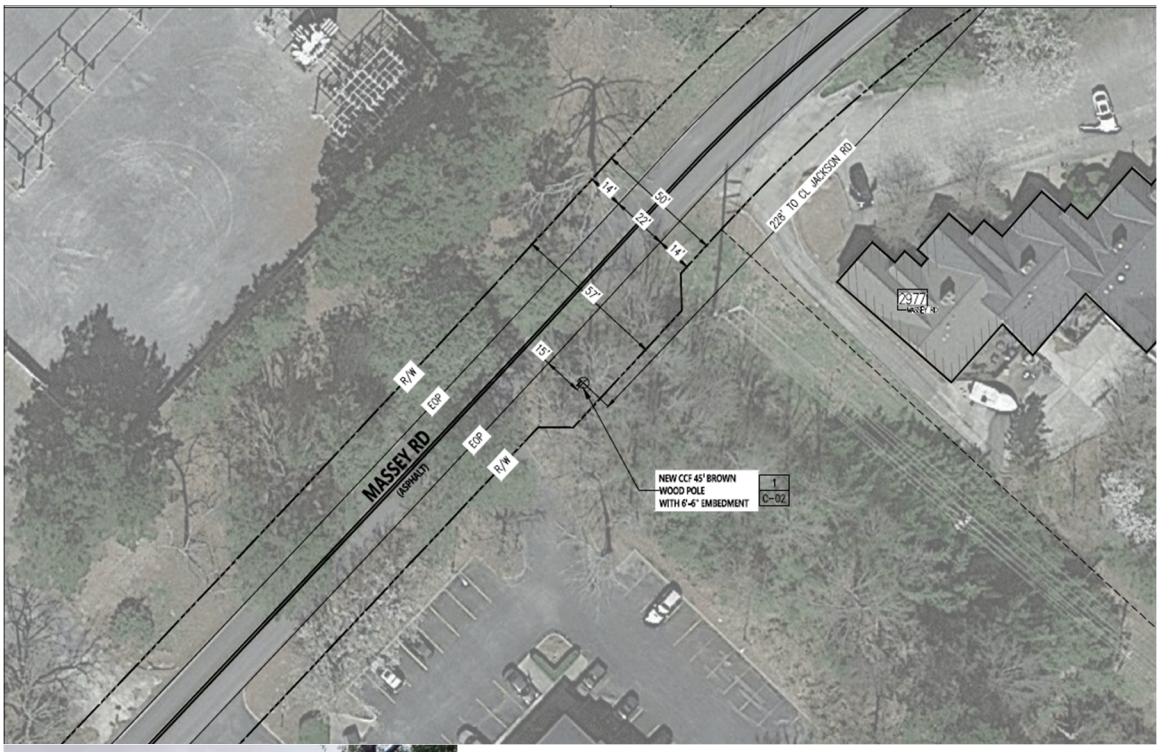
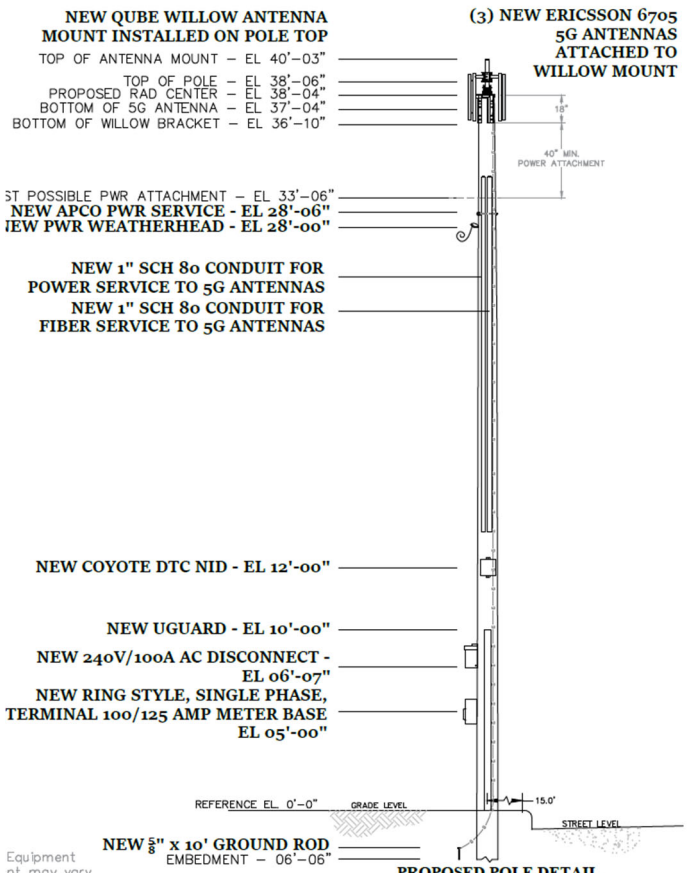




PHOTO SIMULATION

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PROPOSED POLE DETAIL
LOOKING SOUTHWEST

CITY OF VESTAVIA HILLS

1032 MONTGOMERY HIGHWAY
VESTAVIA HILLS, ALABAMA 35216

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BOARD:	Vestavia Hills City Council
ACTION REQUESTED:	Consideration of Installation of 45' Brown Wood Utility Pole with 6'6" embedment to be placed within the public right-of-way for Node Placement, Small Cell Wireless Facility
LOCATION OF PROPERTY:	ROW adjacent to 3049 Massey Road; See Enclosed Details for location and visual
NAME OF APPLICANT:	Crown Castle Fiber LLC
REPRESENTED BY:	Acquanetta Love

Sincerely,

Rebecca Leavings
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.



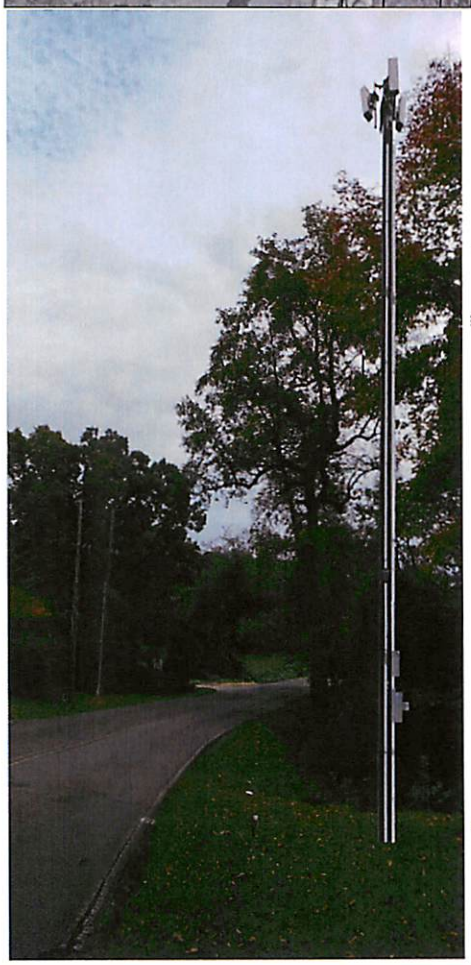
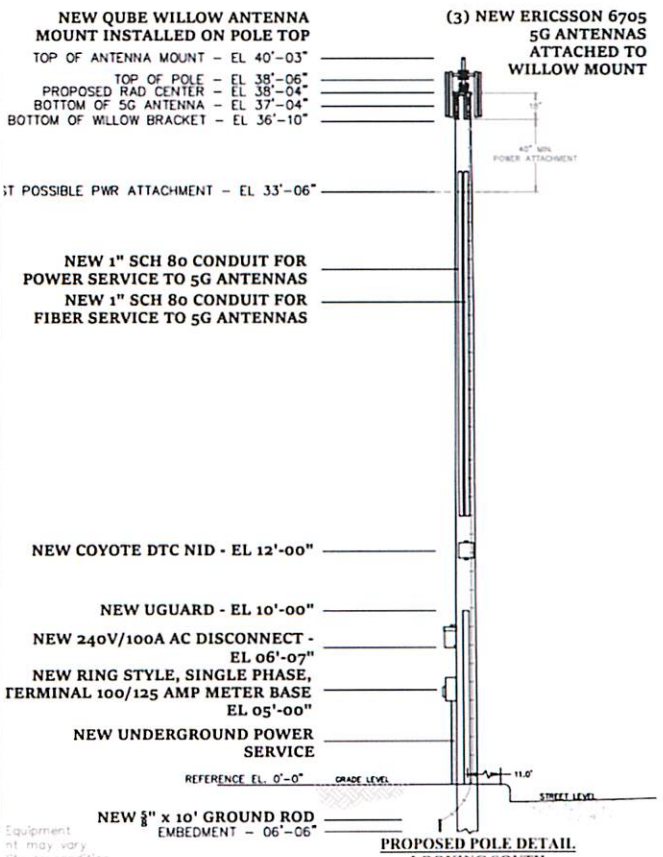


PHOTO SIMULATION



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lity or condition

PROPOSED POLE DETAIL
LOOKING SOUTH

RESOLUTION NUMBER 5487

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO TAKE ANY AND ALL LEGAL ACTIONS NECESSARY TO COMPLETE THE DISPUTE RESOLUTION PROCESS FOR REPLACEMENT AND INSTALLATION OF A NEW CHILLER AT THE VESTAVIA HILLS CIVIC CENTER.

WITNESSETH THIS RESOLUTION NUMBER 5487 approved and adopted by the Vestavia Hills City Council on this the 11th day of December, 2023.

WITNESSETH THESE RECITALS:

WHEREAS, on June 15, 2020, the City of Vestavia Hills, as "Owner," and Amason & Associates, Inc., as "Contractor," entered into a contract for the construction of a new Vestavia Hills Civic Center at an agreed upon contract sum in the amount of Thirteen Million Six Hundred Twenty-three Thousand Nine Hundred Dollars ($13,623,900.00); and

WHEREAS, Alabama law at Title 39-2-8, *Code of Alabama, 1975,* requires that the contractor for a public works project furnish a performance bond executed by a surety company duly authorized and qualified to make such bonds in the State of Alabama equal to one hundred percent (100%) of the amount of the contract price; and

WHEREAS, the Contractor furnished the required Performance Bond in the amount of $13,623,900.00 with Contractor, Amason & Associates, Inc., as Principal, and Liberty Mutual Insurance Company, as Surety; and

WHEREAS, the chiller installed on the new building prior to the opening thereof is defective and needs replacement; and

WHEREAS, TCU Consulting Services, LLC ("TCU") is the Owner's representative that advised the Contractor about the defective chiller prior to the opening of the new Civic Center; and

WHEREAS, the Owner and Contractor agreed pursuant to Section 5.1.7 of the Contract that the City would withhold the sum of Three Hundred Thousand Dollars ($300,000.00) as retainage, which said sum would be used for the rental of a chiller until a new chiller is replaced and installed; and

WHEREAS, the City has spent approximately Thirteen Thousand Dollars ($13,000.00) per month for the rental of a chiller pending the replacement and installation of a new chiller by the Contractor; and

WHEREAS, certain negotiations by and among the Contractor, the electrical subcontractor for the Contractor, the mechanical subcontractor for the Contractor and the manufacturer of the chiller have taken place; and

WHEREAS, those negotiations have made little progress to date; and

WHEREAS, the City Council finds and determines that it is in the best public interest for the City to initiate any and all legal processes for dispute resolution pursuant to the contract documents so that the chiller will be replaced and installed without further delay.

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

1. The recitals set forth above are incorporated herein by reference as thought set out fully herein.

2. The City Manager is hereby authorized and directed to take any and all actions necessary for the City to complete the dispute resolution process set forth in and required by the contract documents to have the Contractor to replace and install a new chiller at the Civic Center, specifically including but not limited to, the hiring of experts, attorneys, consultants and others and the execution and delivery of any and all documents necessary for the completion of the dispute resolution process.

3. This resolution shall become effective immediately upon adoption and approval.

RESOLVED, DONE, ADOPTED and ORDERED, on this the 11th day of December, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

PATRICK H. BOONE
ATTORNEY AND COUNSELOR AT LAW
NEW SOUTH FEDERAL SAVINGS BUILDING, SUITE 705
215 RICHARD ARRINGTON, JR. BOULEVARD NORTH
BIRMINGHAM, ALABAMA 35203-3720

TELEPHONE (205) 324-2018
FACSIMILE (205) 324-2295

E-Mail: patrickboone@bellsouth.net

November 17, 2023

By Electronic Mail

City Clerk Rebecca Leavings
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Resolution Number 5481/Dispute Resolution Process/Chiller

Dear Becky:

I forward you in "Word" format Resolution Number 5481 authorizing and directing the City Manager to take any and all legal actions necessary to complete the dispute resolution process for the replacement and installation of a new chiller at the Vestavia Hills Community Center.

It is my understanding that Resolution Number 5481 will be introduced for a first read at the City Council meeting on November 27, 2023. It is my further understanding that the matter will be on the agenda for the last meeting in December for consideration of approval.

With the Thanksgiving holidays approaching, I wanted to send you Resolution Number 5481 early in order to make your job easier in preparing the agenda for the meeting scheduled on November 27, 2023. Regards.

Sincerely,

Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp
Enclosure
cc: City Manager Jeffrey D. Downes

CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Resolution Number 5388 - Vacation of a Public Utility Easement on the property located at 1636 Panorama Drive; Lot 3, Caffee's Addition to Panorama; David Brouilette, Owner

---

Background:
The owner is attempting to make improvements to his property and is relocating a pipe. To do this, he must vacate the original easement and file a plat to relocate the new easement in order to continue his property improvements. This resolution has been requested as the first step to vacate the original easement.

Recommendation:
This request has been reviewed by the City Engineer who find no problems with the request, conditioned that it be followed by a plat to relocate the easement.

Fiscal Impact:

Attachments:

1. Resolution 5488

RESOLUTION NUMBER 5488

A RESOLUTION APPROVING AND ASSENTING TO A DECLARATION OF VACATION

WITNESSETH THESE RECITALS

WHEREAS, a Declaration signed by the owners of all the lands abutting the following described public utility easement situated in the City of Vestavia Hills, Jefferson County, Alabama, vacating said public utility easement, has been duly presented to the City Council of the City of Vestavia Hills, Alabama, for assent and approval of said governing body; and

WHEREAS, a copy of said Declaration with map attached is marked as "Exhibit A", attached hereto and incorporated into this Resolution by reference as though set out fully herein; and

WHEREAS, the above-referenced public utility easement are commonly referred to as "public utility easement" and is more particularly described as follows:

> A 15-foot easement located on lot 3, block 1 of Caffee's Addition to Panorama South, as recorded in map book 138, page 5 in the office of the judge of probate in Jefferson County, Alabama. Said 15-foot easement is located in the northeasterly portion of said lot 3, running in a southeasterly direction from the north line of said lot 3 to its intersection with the westerly right of way line of panorama drive. Said right of way line also being the most easterly property line of said lot 3, said 15 foot easement being more particularly described as follows: commence at the northeast corner of said lot 3; thence westerly along the north line of said Lot 3, 131.00 feet to the point of beginning of the centerline of said 15 foot easement; thence deflect left from said north line of lot 3 138 degrees 36 minutes 41 seconds in a southeasterly direction, 147.91 feet to the intersection with said westerly right of way line of Panorama Drive and end of herein described 15 foot easement. Said 15-foot easement lying 7.5 feet each side of and parallel to described centerline.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, that the vacation of the hereinabove described public utility easement is assented to and approved and the same is hereby vacated pursuant to the provision of Section 23-4-20 of the Code of Alabama, 1975.

RESOLVED, DONE AND ORDERED, on this the 11th day of December, 2023.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION

I, the undersigned qualified Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true copy of a Resolution lawfully passed and adopted by the City Council of the City named therein, at a regular meeting of such Council held on the 11th day of December, 2023, and that such Resolution is of record in the Minute Book of the City at page _____ thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City on this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk

STATE OF ALABAMA
JEFFERSON COUNTY

DECLARATION OF VACATION

We, the undersigned, constituting all of the owners of all property abutting 1636 Panorama Drive as same appears on the Plat of Coffees addition Panorama South which Plat is recorded in Plat Book 133, at Page 5, in the Probate Office of Jefferson County, Alabama, do hereby declare that each of said Plats embraced within the boundaries of said storm sewer as the same appears of record on the Plat to be vacated, and said storm sewer is hereby declared vacated. The undersigned do hereby respectfully represent and warrant as follows:

1. This Declaration of Vacation of storm sewer is prepared, executed, delivered and recorded to and in accordance with the provisions of Section 23-4-20 and Section 35-2-54, Code of Alabama, 1975.

2. It is in the best public interest that storm sewer be closed and vacated.

3. Such vacation will not deprive other property owners of a convenient and reasonable means of ingress and egress to their property.

4. storm sewer is situated in the City of Vestavia Hills, Jefferson County, Alabama, and appears at 1636 Panorama Drive Lot 3, Block 1 Coffees addition Panorama South

. A copy of the map reflecting the location of storm sewer is attached hereto and incorporated into this Declaration of Vacation as a part hereof.

5. The street address and legal descriptions of all property abutting storm sewer and the names and addresses of the owner of said abutting properties are as follows:

6. All of the undersigned do hereby declare storm sewer to be vacated and respectfully request the assent of the City Council of the City of Vestavia Hills, Alabama, to said vacation of storm sewer and its approval of the same.

IN WITNESS THEREOF, the undersigned have hereunto set our hands and seals on this the 22nd day of October, 2023.

SIGNATURES OF ABUTTING PROPERTY OWNERS:

(notary on following pages)

STATE OF ALABAMA

JEFFERSON COUNTY

GENERAL ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that _____ and _____, whose names are signed to the foregoing Declaration of Vacation, and who are known to me, acknowledged before me on this day that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the _____ day of _____, 20_____.

_____
Notary Public

STATE OF ALABAMA

JEFFERSON COUNTY

GENERAL ACKNOWLEDGMENT

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that Frederick W Aderholt and Kathryn G. Aderholt, whose names are signed to the foregoing Declaration of Vacation, and who are known to me, acknowledged before me on this day that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 24th day of October, 2023.

Allison Edmond Fernambucq
Notary Public

ALLISON G FERNAMBUCQ
My Commission Expires
NOTARY
PUBLIC
11-15-2026
ALABAMA STATE AT LARGE

STATE OF ALABAMA

GENERAL ACKNOWLEDGMENT

JEFFERSON COUNTY

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that Kristi Bell and [illegible], whose names are signed to the foregoing Declaration of Vacation, and who are known to me, acknowledged before me on this day that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the 25 day of October, 2023.

5-6-2024

Notary Public

STATE OF ALABAMA

GENERAL ACKNOWLEDGMENT

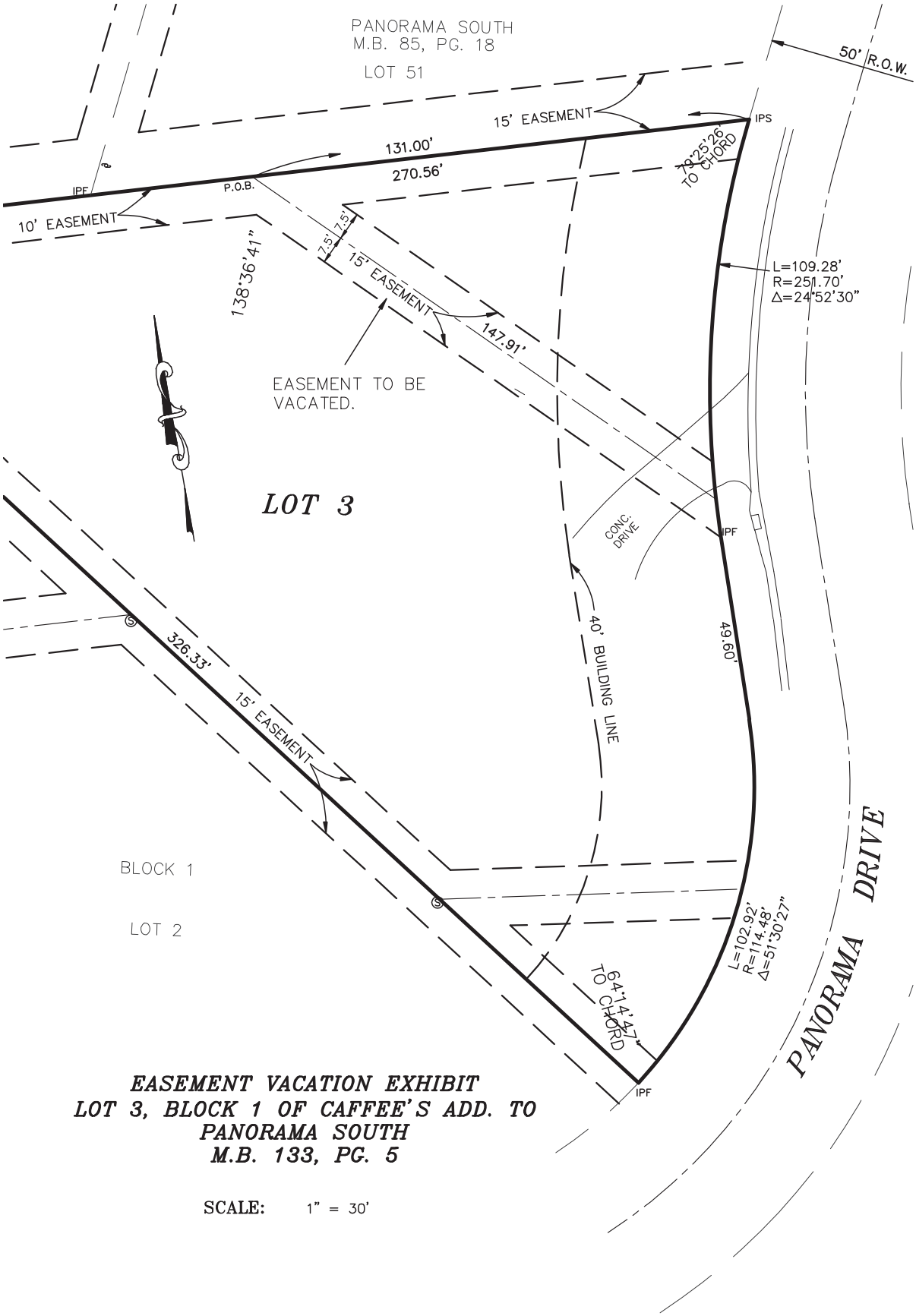
JEFFERSON COUNTY

I, the undersigned authority, a Notary Public, in and for said County, in said State, hereby certify that _____ and _____, whose names are signed to the foregoing Declaration of Vacation, and who are known to me, acknowledged before me on this day that being informed of the contents of the instrument, they executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this the _____ day of _____, 20_____.

_____

Notary Public



EASEMENT VACATION EXHIBIT
LOT 3, BLOCK 1 OF CAFFEE'S ADD. TO PANORAMA SOUTH
M.B. 133, PG. 5

SCALE: 1" = 30'

15 FOOT EASEMENT VACATION DESCRIPTION

A 15 FOOT EASEMENT LOCATED ON LOT 3, BLOCK 1 OF CAFFEE'S ADDITION TO PANORAMA SOUTH, AS RECORDED IN MAP BOOK 138, PAGE 5 IN THE OFFICE OF THE JUDGE OF PROBATE IN JEFFERSON COUNTY, ALABAMA. SAID 15 FOOT EASEMENT IS LOCATED IN THE NORTHEASTERLY PORTION OF SAID LOT 3, RUNNING IN A SOUTHEASTERLY DIRECTION FROM THE NORTH LINE OF SAID LOT 3 TO ITS INTERSECTION WITH THE WESTERLY RIGHT OF WAY LINE OF PANORAMA DRIVE. SAID RIGHT OF WAY LINE ALSO BEING THE MOST EASTERLY PROPERTY LINE OF SAID LOT 3, SAID 15 FOOT EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 3; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 3, 131.00 FEET TO THE POINT OF BEGINNING OF THE CENTERLINE OF SAID 15 FOOT EASEMENT; THENCE DEFLECT LEFT FROM SAID NORTH LINE OF LOT 3 138 DEGRESS 36 MINUTES 41 SECONDS IN A SOUTHEASTERLY DIRECTION, 147.91 FEET TO THE INTERSECTION WITH SAID WESTERLY RIGHT OF WAY LINE OF PANORAMA DRIVE AND END OF HEREIN DESCRIBED 15 FOOT EASEMENT. SAID 15 FOOT EASEMENT LYING 7.5 FEET EACH SIDE OF AND PARALLEL TO DESCRIBED CENTERLINE.

Nov 16, 2023

VEAS-23-1

Engineering Approval

Vacation of Easement

Status: Complete

Assignee: Christopher Brady

Became Active: Nov 13, 2023

Completed: Nov 16, 2023

Applicant

David Brouillette
david@bbholdings.biz
1636 Panorama Drive
Vestavia Hills, Alabama 35216
2059199081

Primary Location

1636 PANORAMA DR
VESTAVIA HILLS, AL 35216

Owner:

David Brouillette
1636 Panorama Drive Vestavia Hills, Alabama 35216

Comments

David Brouillette, Nov 14, 2023

Christopher Brady, would you please call me today, I have a question about VEAS-23-1 and Driveway permit. Thanks David B. 205-919-9081

Christopher Brady, Nov 16, 2023

I added attachment pulled from other permit requests files to show the area of easement vacation, and the needed new easement to be dedicated at work completion.

Approval of this vacation is contingent.of storm drainage pipe being relocated as shown and a new easement to be dedicated.

David Brouillette, Nov 16, 2023

Christopher, does this mean we may proceed with relocating pipe?

Rebecca Leavings, Nov 16, 2023

Mr. Brouilette, this needs to be approved by the City Council and the resolution recorded. Then I will give you the information to be added to the plat that your engineer needs to prepare and bring to P&Z for approval. Once the new resurvey is recorded and a copy given to my department, then Mr.

JEFFERSON COUNTY COMMISSION

JAMES A. "JIMMIE" STEPHENS – PRESIDENT
LASHUNDA SCALES
SHEILA TYSON
Mike Bolin
T. JOE KNIGHT

CAL MARKERT
CHIEF EXECUTIVE OFFICER

DAVID DENARD
Director of Environmental Services Department
SUITE A300
716 Richard Arrington Jr. Blvd. N
Birmingham, Alabama 35203
Telephone (205) 325-5496
Fax (205) 325-5981

MEMORANDUM

TO: David Brouillette

FROM: Emily Kemp, Chief Civil Engineer
Environmental Services Department

DATE: October 27, 2023

RE: Proposed Vacation of Public Utility Easement, City of Vestavia Hills
1636 Panorama Drive, Vestavia Hills
Lot 3, Block 1 of Caffee's Addition to Panorama South; Map Book 138, Page 5
SE ¼ -NW ¼- 6-19S-2W; PID 40-00-06-2-001-081.001

This memo responds to a public utility easement vacation request received for the above referenced property. (said easement is highlighted yellow on attached drawing) It appears, to the best of our knowledge, that no County maintained sanitary sewer exists within this public utility easement. Based on the aforementioned, we have no objection to the vacation of said public easement insofar as sanitary sewers are concerned. This memorandum should not be construed that this department warrants the accuracy of information provided to us by others.

cc: Hubert Chapman, Senior Land Acquisition Agent
Ben Pate, ESD Plans Examiner
File

BIRMINGHAM WATER WORKS

October 29, 2023

#618

David Brouillette
1636 Panorama Drive
Vestavia Hills, Alabama 35216

To whom it may concern:

You may present this letter to interested parties as evidence that The Water Works Board of the City of Birmingham has no existing facilities within that portion of a 15' utility easement proposing to be vacated within Lot 3 Block 1 Caffee's Addition to Panorama South as recorded in Map Book 133 Page 5 Probate Court of Jefferson County Alabama, situated in the SE¼ of the NW ¼ of Section 06, Township 19 South, Range 2 West, located in the City of Vestavia Hills, Alabama. Therefore, the Water Board has no objection to the vacation of said easement.

Should you have questions or need additional information, please feel free to contact Ms. Antris Betts, at (205) 244-4262; or you may reach Ms. Betts via email at **antris.betts@bwwb.org**.

Very truly yours,

Douglass W. Stockham, IV
Manager - System Development

AB/
D.P. J-483-1
Gradient: CVS

I:\emp SAJ\WAL LTR 2019.20\2023\Wa ltr NO CONFLICT w vacation of utility easment J-483-1 10-29-23.docx

Spectrum

11/2/2023

David Brouillette
Property Owner
1636 Panorama Dr
Vestavia Hills, AL 35216

RE: Vacation of Easement

Dear Mr. Brouillette,

We are in receipt of your request regarding the Subject Property that is located at:

Lot 3, Block 1
Caffees addition to Panorama south
Map 133, Page 5
1636 Panorama Drive,
Vestavia Hills, AL. 35216

This letter is to confirm that there is no conflict with our facilities related to the vacation and relocation of the storm sewer easement at the above referenced location.

Please let me know if anything else is needed.

Sincerely,

Lee Walden

Lee Walden
Construction Supervisor
Lee.Walden@charter.com
Office: 205-573-6815
Cell: 205-490-3098

2 Industrial Park Drive| Pelham, AL 35124

Alabama Power

APC Doc #72292695-001

October 24, 2023

David Brouillette
1636 Panorama Dr
Vestavia Hills, AL 35216

RE: Proposed vacation of the fifteen-foot wide utility easement shown on the plat (attached) of the subject property address above and more particularly described as follows: Lot 3, Block 1, according to the Map of Caffees Addition to Panorama South, as recorded in Map Book 138, Page 5, in the Probate Office of Jefferson County, Alabama. Said property lies in the Southeast ¼ of the Northwest ¼ of Section 6, Township 19 South, Range 2 West, City of Vestavia Hills, Alabama in Jefferson County, Alabama.

Mr. Brouillette,

Alabama Power Company presently has no facilities (and makes no claim of any being there) and has no objection to the vacation of above said easement as shown on the Survey mentioned above (and attached).

However, should the need arise in the future for any power line to be installed on the property described above, Alabama Power Company will acquire the necessary rights of way from the owner of record on that date.

Sincerely,

Dean Fritz
Real Estate Specialist
Corporate Real Estate
Alabama Power Company
205-226-1754

October 23, 2023

David Brouillette
1636 Panorama Dr
Vestavia Hills Al, 35216

Dear Mr. David Brouillette,

We have examined the easements and find no conflicts associated with the provided documents. Accept this as your no objection letter to vacate those easements. If you have any additional questions or concerns, please let me know.

Sincerely,

Dennis Russ
SR SPECIALIST-OSP DESIGN ENGINEER
• ACCESS - CONSTRUCTION & ENGINEERING
205-531-1211, dr8424@att.com

CITY OF VESTAVIA HILLS
CITY CLERK
INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From: Rebecca Leavings, City Clerk

RE: Ordinance Number 3204 - An Ordinance defining Short-term rentals and prohibiting said use in dwellings and/or dwelling units

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Background:
Short-term rentals have been opening in various parts of the City and becoming a frequent complaint from area residents. The City issued a report many years ago addressing said businesses, however, the existing ordinances never gave a clear definition of a short-term rental or remedies for compliance. This ordinance clearly defines a short-term rental and prohibits this type of business in dwellings within the City.

Recommendation:

Fiscal Impact:

Attachments:
1. Ordinance 3204

ORDINANCE NUMBER 3204

AN ORDINANCE DEFINING SHORT-TERM RENTALS AND PROHIBITING SAID USE IN DWELLINGS AND/OR DWELLING UNIT

WHEREAS, The City of Vestavia Hills is committed to maintaining and preserving the quality of its residential neighborhoods, scenic beauty, and the natural resources that are the foundation of its economic strength and quality of life; and

WHEREAS, The rental of residences for short-term occupancy has been identified as a community concern due to the potential for increased traffic, noise, and population density; high rate of occupant turnover; and general diminution of residential neighborhood character; and

WHEREAS, the allowance of short-term rentals in residential neighborhoods has the potential to negatively impact the health, safety, and general welfare of property owners, residential neighborhoods, and nearby residential properties; and

WHEREAS, The restrictions established by this ordinance are necessary to protect the integrity and residential character of the city's residential neighborhoods, and promote the health, safety, and general welfare of the residents of Vestavia Hills; and

WHEREAS, This ordinance is required to prohibit the short-term rental of residences and the promotion and advertisement of short-term rentals of residences for periods of less than ninety (90) consecutive days, in order to protect the public health, safety, and welfare, and maintain the existing community standards in the City of Vestavia Hills relating to residentially zoned property;

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

ARTICLE I. DEFINITIONS: For the purposes of this article, the following definitions shall apply:

1. "Advertise" or "advertisement." Any written, electronic, or oral publication, dissemination, solicitation, or circulation which is intended to directly or indirectly induce any person to enter into an agreement for the rental of a residence in violation of this article or other applicable provisions of the Zoning Ordinance of the City of Vestavia Hills. This definition includes but is not limited to mailings, print advertisements, internet listings, e-mail publications, Facebook publications, or other oral, printed, or electronic means.
2. (b) "Dwelling." A building containing one or more dwelling units. For a part of a building to constitute a separate dwelling unit it must be separated from the remainder

of the building by one or more party walls. The word "dwelling" shall not include boarding houses, rooming houses, tents, hotels, mobile homes or other structures designed or used primarily for transients.

3. " Dwelling unit." Any building or any part of a building used or designed as a separate residence for a family, including an apartment or one or more rooms forming a single residential unit.
4. "Enterprise." Any corporation, association, firm, partnership, LLC, or other legal entity.
5. "Facilitate." A person, operator, or enterprise "facilitates" if, acting with knowledge that an operator, managing agency or rental agent is committing or intends to commit the offense of renting a residence in violation of this article, the person or enterprise knowingly provides the operator, managing agency or rental agent with means or opportunity for the commission of said offense.
6. "Managing agency" or "rental agent." A person, operator, enterprise, or agency representing the owner of the residence, or a person, enterprise or agency owning more than one residence.
7. "Operator." A person or enterprise who is owner or proprietor of a residence, whether in the capacity of owner, lessee, sub-lessee, mortgagee in possession, licensee, managing agency, rental agent, or any other capacity. Where the operator performs his or her functions through a managing agency of any type or character, or where the operator performs his or her functions through a managing agency or the rental agent, the operator has the same duties as its principal.
8. "Person." Any individual or a group of individuals, enterprise, managing agency, rental agent, operator, or any entity.
9. "Remuneration." Compensation, money, or other consideration given in return for occupancy, possession, or use of real property.
10. "Rent." The consideration or remuneration charged whether or not received, for the occupancy or possession of space in a residence, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, property or services of any kind.
11. "Rental." An arrangement between a transient and an operator whereby rent is received in exchange for the right to possess a residential structure.
12. "Residence." Any dwelling, dwelling unit, or structure (in whole or in part) located in any residential zoning district as defined in the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, including detached single-family dwellings, attached single family dwelling, duplexes, and multi-family dwellings.
13. “Short Term Rental” shall mean the rental of any Residence or any part thereof to a Transient for overnight occupancy for a period less than ninety (90) consecutive calendar days, counting portions of calendar days as full days.
14. "Solicit" A person "solicits" if, with the intent to promote or facilitate the short-term rental of a residence in violation of this article, or if such person commands, encourages, requests or solicits another person to engage in conduct which would constitute a violation of this article.
15. "Transient." Those who reside, possess, or inhabit a residence (or a portion thereof) as defined by this article for a period of less than ninety (90) consecutive calendar days, counting portions of calendar days as full days.

ARTICLE II. PROHIBITED RENTAL DURATION: It shall be unlawful for any Person to rent or possess to rent for any type of remuneration, any residence, as defined by this article, for a period of time of less than Ninety (90) consecutive days in duration to any transient.

ARTICLE III. ADVERTISEMENT OF SHORT-TERM RENTALS OR RESIDENCES PROHIBITED. It shall be unlawful for any person to advertise, solicit, or facilitate the rental for a duration less than ninety (90) consecutive days of any residence as defined by this article. Such activity is prohibited, whether by mailings, print advertisements, internet listings, or any other means for communicating such advertisement.

ARTICLE V. REPEALER. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Vestavia Hills, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

ARTICLE VI. SEVERABILITY. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

ARTICLE VII. FINES AND PUNISHMENT. It shall be unlawful to violate any of the terms and provisions of this ordinance. Any person, firm or corporation violating any of the said terms and provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fines and penalties as allowed by the State of Alabama for a misdemeanor violation for each such offense. Each day any violation of this ordinance shall continue shall constitute a separate offense.

ARTICLE VIII. EFFECTIVE DATE. This ordinance shall become effective immediately upon adoption and posting/publication as provided by law.

DONE, ORDERED, ADOPTED and APPROVED this the 11th day of December, 2023.

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 3204 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 11th day of December, 2023 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkel House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2023.

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS

INTER-DEPARTMENT MEMO

November 27, 2023

To: Jeff Downes, City Manager

Cc:

From:

RE: Citizens Comments

Background:

Recommendation:

Fiscal Impact:

Attachments:
None