



**Vestavia Hills
City Council Agenda
July 22, 2024
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation - Chaplain Tom Bryson
4. Pledge Of Allegiance
5. Approval Of The Agenda
6. Announcements, Candidates and Guest Recognition
7. City Manager's Report
8. Councilor Reports
9. Approval Of Minutes - July 8, 2024 Work Session and July 8, 2024 Regular Meeting

Old Business (Public Hearing)

10. Public Hearing - Ordinance Number 3230 - Rezoning - 3916 Waynely Drive; Rezone from Vestavia Hills R-4 to Vestavia Hills O-1; Jacpla, LLC

New Business

11. Ordinance Number 3232 - An ordinance to declare that the present condition of a portion of Pizitz Drive is in such state of disrepair that it endangers the public health, safety and welfare of members of the general public; to declare that the situation is an emergency; to describe the nature of said emergency; to authorize and direct the repair of Pizitz Drive without advertising for competitive bids or bidding pursuant to the authority of Title 39-2-2(e), Code of Alabama, 1975, at a cost estimated at one hundred thirty-seven thousand dollars (\$137,000.00); to authorize and direct the City Manager and Mayor to execute and deliver a construction contract and any and all other documents necessary to have the repair work performed and completed

New Business Requesting Unanimous Consent (Public Hearing)

12. Public Hearing - Resolution Number 5522 - A Resolution authorizing the City Manager to purchase two (2) rifle rated ballistic shields for the Vestavia Hills Police Department

and to reimburse said purchase through donated funds from the Sunrise Rotary Club and the Vestavia Hills Police Foundation

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

13. Citizens Comments
14. Time Of Adjournment

PUBLIC HEARING PROCEDURES

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

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

SPECIAL NOTICE CONCERNING CITY COUNCIL MEETINGS

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

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

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

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



**Vestavia Hills
City Council Minutes
July 8, 2024
5:00 PM**

1. Call to Order

The City Council of Vestavia Hills met in a special called work session on this date at 5:00 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. The Mayor called the meeting to order and the City Clerk called the roll with the following:

2. Roll Call

Roll call was as follows:

MEMBERS PRESENT: Mayor Ashley Curry, Mayor Pro-Tem Rusty Weaver, City Councilor Kimberly Cook, City Councilor George Pierce

MEMBERS ABSENT: City Councilor Paul Head

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; Shane Ware, Police Chief; Umang Patel, Court Director*

Executive Session

Mr. Downes indicated that an Executive Session was needed for an estimated 30 minutes for the purpose of discussing matters of commerce. The Mayor stated that there may be additional business to be discussed after that Executive Session if time permits. He opened the floor for a motion.

MOTION: Approve that the Council move into Executive Session for an estimated 30 minutes for the purpose of discussing matters of commerce. Motion By: Kimberly Cook. Seconded By: Rusty Weaver.

Roll call vote as follows: Yes: Ashley Curry, Rusty Weaver, Kimberly Cook, George Pierce.

No: None. Abstain: None. Motion passed.

At 5:01 PM the Council exited the Chamber and moved into Executive Session. At 5:35 PM, the Council re-entered the Chamber and the Mayor called the work session back to order.

Update on Opioid Settlement Funds

Mr. Downes stated that he wanted to update the City Council on use of opioid settlement funds. Ordinance Number 3171 governs the usage of these proceeds. Uses include retaining an additional SRO with a focus on substance abuse and items such as: paramedic training, opioid response supplies, advanced life support equipment, and drug education programs. To date, the City has been awarded approximately \$213,000, and has spent just over \$100,000. These anticipated revenues are an estimate, and funds are spent as they are received.

Chief Ware introduced Officer Allie Miller to the City Council. She was selected to participate as the City's representative to the COMPACT program with Shelby County. She works as a school resource officer, providing school security, but also focuses on addiction prevention education in all our schools. Officer Miller is an exceptional addition to the force along with being SWAT-certified and other assets. Chief Ware also introduced Shane Plyler who serves as the Executive Director for COMPACT Shelby County.

Discussion ensued.

Chief Greene stated that Battalion Chief Scott Ferrell heads up their safety team.

Ferrell stated that the most important advantage to the fire department was funding to train additional paramedics to recognize and treat opioid emergency cases. He introduced Clay Burke, the most recent medic to finish training. Vestavia Hills has a high percentage of our fire department trained as medics. NARCAN is the drug used to counteract overdoses. There was one recent call with three overdose cases, each requiring two NARCAN doses to take effect, so they used a total of six doses. Treating one overdose case costs about \$75, and opioid funding offsets that cost. Funds were also used to upgrade life support capability on our truck units to advanced life support level. This funding allows medics onto the truck to administer some life-saving measures before the medic truck actually shows because it was on another call.

Discussion ensued.

Mr. Downes closed by saying there have been some questions around the state about the use of these proceeds, so it is helpful to show our residents how the City has benefited from these funds.

Adjournment

There being no further business, Mrs. Cook made a motion to adjourn. The Mayor adjourned the meeting at 6:00 PM.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk



**Vestavia Hills
City Council Minutes
July 8, 2024
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. The Mayor called the meeting to order and the City Clerk called the roll with the following:

2. Roll Call

Roll call was as follows:

MEMBERS PRESENT: Mayor Ashley Curry, Mayor Pro-Tem Rusty Weaver, City Councilor Kimberly Cook, City Councilor George Pierce

MEMBERS ABSENT: City Councilor Paul Head

OTHER OFFICIALS PRESENT: Jeff Downes, City Manager; Patrick H. Boone, City Attorney; Cinnamon McCulley, Asst. City Manager; Rebecca Leavings, City Clerk; Shane Ware, Police Chief; Zachary Clifton, Asst. Finance Director; Lori Beth Kearley, Public Works Director; Umang Patel, Court Director*

3. Invocation - Chaplain Huey Davis

4. Pledge Of Allegiance

5. Approval Of The Agenda

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

MOTION: Approve the agenda as presented. Motion By: Rusty Weaver. Seconded By: George Pierce.

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

6. Announcements, Candidates and Guest Recognition

- Mr. Pierce welcomed Randy McClendon, long-time resident, who will bring an issue to the Council's attention later in the meeting.
- Mayor Currey recognized Diane Westhoven. Miss Westhoven was recently crowned Miss Alabama USA 2024. She is a student at Auburn University and will represent the State of Alabama and the City of Vestavia Hills in the Miss USA national competition which will be held next month. The Mayor presented her a Certificate of Recognition congratulating her on this accomplishment.
 - Miss Westhoven thanked the Mayor and Council for the recognition and stated everything has happened very quickly with the national competition occurring next month. She is grateful to represent the State of Alabama and looks forward to promoting her platform which focuses on empowering young women and advocating for mental health awareness.

7. City Manager's Report

- No report.

8. Councilor Reports

- No reports.

9. Approval Of Minutes - June 24, 2024, Regular Meeting Minutes

The Mayor announced that the minutes of the June 24, 2024, regular meeting are being presented for approval. He opened the floor for a motion.

MOTION: Approve the minutes of the June 24, 2024, regular meeting minutes as presented. Motion By: Kimberly Cook. Seconded By: George Pierce.

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

Old Business (Public Hearing)

10. Public Hearing - Ordinance Number 3229 - An Ordinance establishing rules and policies for electronic submission of public works bids

MOTION: Approve Ordinance Number 3229 as presented. Motion by: Kimberly Cook. Seconded by: Rusty Weaver.

Mayor Curry stated that Alabama law recently changed to allow municipalities to collect public works bids digitally, through a secure platform, once the governing body has approved rules and procedures for doing so. This ordinance was drafted and reviewed by the City Attorney and, according to the Alabama League of Municipalities, Vestavia Hills is the first to adopt electronic submission of public works bids.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

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

New Business

11. Resolution Number 5520 - A Resolution Granting an Alabama Power Easement at the new restroom facility at Altadena Valley Park

MOTION: Approve Resolution Number 5520 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Downes explained that this resolution would grant Alabama Power an easement for electrical services to the newly constructed bathroom facility at Altadena Valley Park. He thanked Shelby County for constructing this facility. A ribbon cutting to officially thank Shelby County for this contribution will be scheduled at a later date.

There being no further discussion, the Mayor called for the question.

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

New Business Requesting Unanimous Consent (Public Hearing)

The Mayor indicated that the next items, Ordinance Number 3231 and Resolution Number 5521, require unanimous consent for immediate consideration and action. He opened the floor for a motion.

MOTION: Approve unanimous consent for immediate consideration and action on Ordinance Number 3231 and Resolution Number 5521. Motion by: Rusty Weaver. Seconded by: Kimberly Cook.

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

12. Public Hearing - Ordinance Number 3231 - An Ordinance authorizing the Mayor and City Manager to enter a funding agreement with the Regional Planning Commission of Greater Birmingham to receive funding for a marketing program to promote economic development

MOTION: Approve Ordinance Number 3231 as presented. Motion by: Kimberly Cook. Seconded by: Rusty Weaver.

Mr. Downes stated that Mrs. McCulley previously briefed the Council on this request. This is a \$10,000 grant for new signage making use of QR codes at our city parks to encourage local shopping.

Discussion ensued.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

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

13. Public Hearing - Resolution Number 5521 - A Resolution authorizing the City Manager to make application through the FY 2025 Recreational Trails Program for trail improvements at Altadena Valley Park

MOTION: Approve Resolution Number 5521 as presented. Motion by: Rusty Weaver. Seconded by: George Pierce.

Mr. Downes stated that this is ADECA funding for recreation trails. This is consistent with future phases of the Altadena Valley Park Master Plan to connect and repair the trail system throughout this park and make bridge improvements.

Mrs. Cook noted that this grant is an 80/20 split. This earmarks the city's 20% contribution.

Randy McClendon, 1437 Panorama Drive, stated that seniors like to bike around area greenways. He asked if the golf cart paths would be resurfaced and be connected eventually.

Mr. Downes explained that this would be done in phases because there are several disconnected paths. He stated this would be a start to connect these paths. He showed a map of the approved master plan which was color-coded to show plans for future connectivity.

Mr. McClendon stated that he knows it takes a good deal of funding for these pathways and was pleased to learn there are other grants that the City is currently seeking.

Mr. Downes explained that there are several grant opportunities the City is aggressively seeking, including enough to add a Veteran's Memorial.

Mr. McClendon asked that paved access to the paths be constructed as there is currently a gravel area that must be crossed to gain access to paths. Doing so might prevent accidents for those on bicycles. Mr. Downes stated he believes that is the area of the Veteran's Memorial and it should be improved at a later date.

The Mayor opened the floor for a public hearing. There being no one present to address the Council on this issue, the Mayor closed the public hearing and called for the question.

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

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

14. Public Hearing - Ordinance Number 3230 - Rezoning - 3916 Waynely Drive; Rezone from Vestavia Hills R-4 to Vestavia Hills O-1; Jacpla, LLC

15. Citizens Comments

- None.

16. Time Of Adjournment

There being no further business, Mr. Pierce made a motion to adjourn. The Mayor adjourned the meeting at 6:29 PM.

Ashley C. Curry, Mayor

ATTESTED BY:

Rebecca Leavings, City Clerk



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

July 22, 2024

To: Jeff Downes, City Manager

From: Rebecca Leavings, City Clerk

Cc:

RE: Public Hearing - Ordinance Number 3230 - Rezoning - 3916
Waynely Drive; Rezone from Vestavia Hills R-4 to Vestavia Hills O-1; Jacpla, LLC

Background:

Property is currently at the end of Waynely Drive located behind Sherwin Williams Paint store. The Pita Stop is located just south and apartments are adjacent to the other 2 sides of this property. Property Owner wishes to rezone for construction of an office building. The property comprises 2 lots and some acreage, so the Commission recommended that the zoning not be effective until a resurvey into one lot is recorded and submitted to the Office of the City Clerk.

Recommendation:

The P&Z Commission recommended approval subject to a resurvey of the property into a single lot.

Fiscal Impact:

na

Attachments:

1. Ordinance 3230

ORDINANCE NUMBER 3230

**AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE
AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS,
ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST
AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING
OF PROPERTY FROM VESTAVIA HILLS R-4 TO VESTAVIA HILLS
O-1**

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-4 (medium density residential district) to Vestavia Hills O-1 (office park district):

3916 Waynely Drive
Jacpla, LLC, Owner(s)

Being More particularly described as follows:

Parcel 1. Lots 6 & 7, Block 1, Survey of Glass's Addition to New Merkle as recorded in Map Book 25, Page 60, in the Probate Office of Jefferson County, Alabama.

Parcel 2. The south ½ of a vacated alley lying north of Lots 6&&, Block 1, according to the survey of Glass's Addition to New Merkle, as recorded in Map Book 25, Page 60, in the Probate Office of Jefferson County Alabama as vacated in Real 4155, page 611, in said Probate Office.

BE IT FURTHER ORDAINED that said zoning shall be conditioned upon the following: (1) the property shall be resurveyed into a single lot and the recorded resurvey shall be presented to the Office of the City Clerk and affixed to and incorporated into this Ordinance.

APPROVED and ADOPTED this the 22nd day of July, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

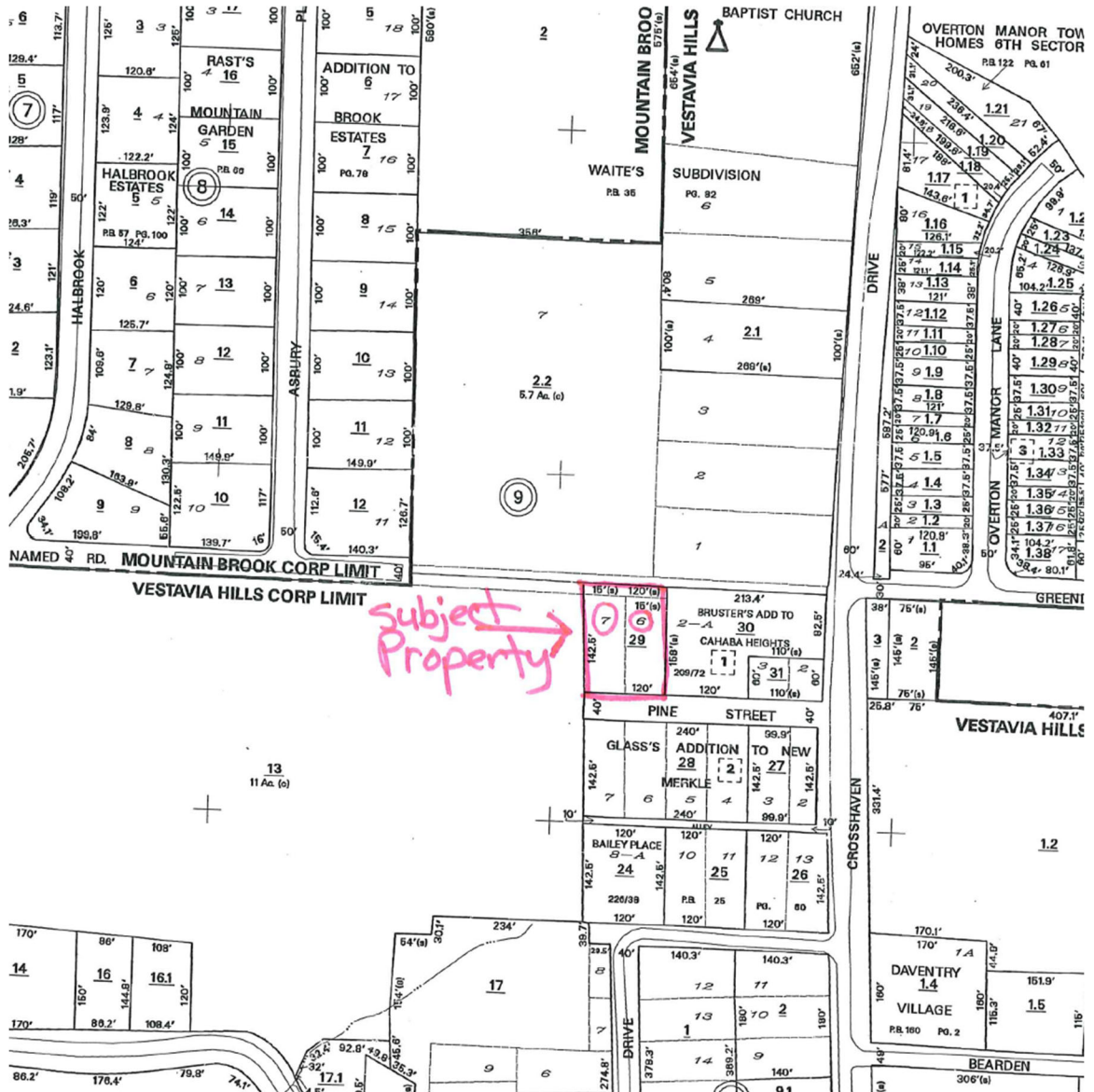
Rebecca Leavings
City Clerk

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 3230 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 22nd day of July, 2024 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills Civic Center and Vestavia Hills New Merkel House this the _____ day of _____, 2024.

Rebecca Leavings
City Clerk





City of Vestavia Hills

Planning and Zoning Commission Review and Recommendation



Case Number: RZ-24-4

Owner Name: Jacpla, LLC

Owner Address: 3921 Hwy 280; Birmingham AL 35243

Representative: Draper McMillan

Rep. Address: 2814 Stillman Blvd; Tuscaloosa, AL 35401

Project Address: 3916 WAYNELY DR VESTAVIA HILLS, AL 35243

PARCEL I:

Lots 6 and 7, Block 1, according to the Survey of Glass's Addition to New Merkle, as recorded in Map Book 25, page 60, in the Probate Office of Jefferson County, Alabama.

Legal Description: PARCEL II:

The South 1/2 of a vacated alley lying North of Lots 6 and 7, Block 1, according to the Survey of Glass's Addition to New Merkle, as recorded in Map Book 25, page 60, in the Probate Office of Jefferson County, Alabama, as vacated in Real 4155, page 611, in said Probate Office.

Parcel ID Number: 28 00 15 4 009 029.000

Current Zoning: VH R-4

Requested Zoning: VH O-1

Intended Purpose: Office Building

MOTION Mr. Honeycutt made a motion to recommend Rezoning for 3916 Waynely Dr. from Vestavia Hills R-4 to Vestavia Hills O-1 with the following conditions:

1. Rezoning is not final until Final Plat has been recorded.

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

P&Z Recommendation: Mr. Farrell – yes Ms. Cochran – yes
Mr. Romeo – yes Mr. Honeycutt– yes
Mr. Maloof – yes Mr. Blakenburg– yes
Mr. Vercher– yes
Motion carried.

Date of P&Z Meeting: June 13, 2024

Authorized by:

Issued by:

Vestavia Hills Planning and Zoning Commission,
Michael Vercher, Chair
Conrad Garrison, City Planner







Future Land Use

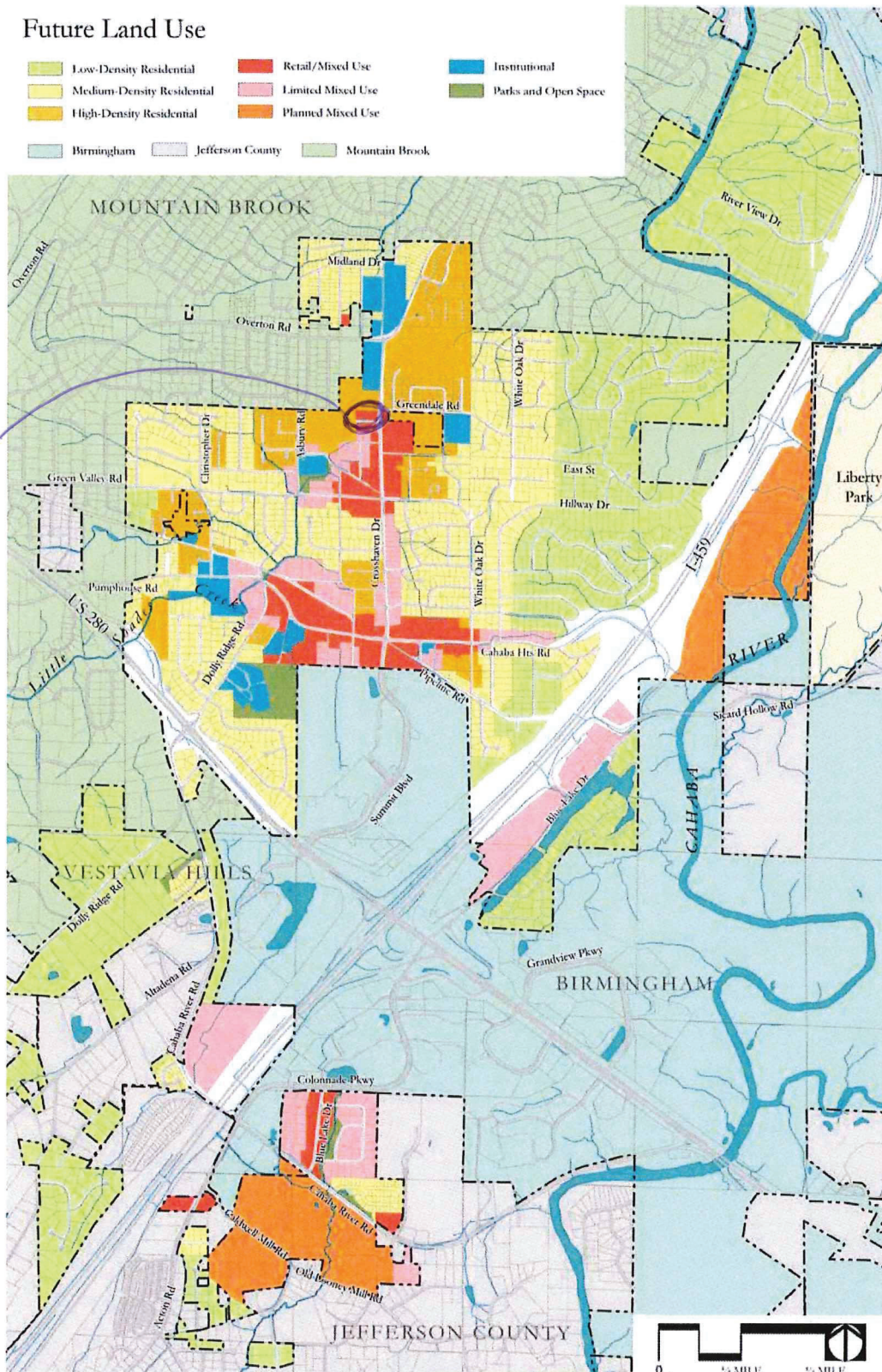


Figure 4: Future Land Use Map

Rezoning Application	Applicant	Primary Location
RZ-24-4	 Draper McMillan	3916 WAYNELY DR
Submitted On: May 8, 2024	 205-759-1521	VESTAVIA HILLS, AL 35243
	 dmcmillan@mcgiffert.com	

Property Information

Subject Property Address	Tax Parcel ID Number
3916 WAYNELY DR VESTAVIA HILLS, AL 35243	28 00 15 4 009 029.000
Legal Description	
PARCEL I: Lots 6 and 7, Block 1, according to the Survey of Glass's Addition to New Merkle, as recorded in Map Book 25, page 60, in the Probate Office of Jefferson County, Alabama.	
PARCEL II: The South 1/2 of a vacated alley lying North of Lots 6 and 7, Block 1, according to the Survey of Glass's Addition to New Merkle, as recorded in Map Book 25, page 60, in the Probate Office of Jefferson County, Alabama, as vacated in Real 4155, page 611, in said Probate Office.	
Existing Parking Spaces	Proposed Parking Spaces
0	18
Submission Date	Type of Project
05/08/2024	New Non-Residential Development/use

Action Requested:

From Existing Zoning Classification	To Requested Zoning Classification
VH R-4	VH O-1
For the Intended Purpose of:	
Office Building	
Acreage of Subject Property	Acreage of Property to be Disturbed
.43	.43

Setbacks

Front	Back
30	30
Side	Open Space
20	0.17
Lot Coverage Percentage	Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).
60	true

Owner Information

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

Owner Address City State Zip

3921 Hwy 280; Birmingham AL 35243

Owner's Phone Number

850-225-2753

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

true

Mailing Address of Responsible Party

2814 Stillman Blvd; Tuscaloosa, AL 35401

Phone No. of Responsible Party

205-523-2134

Property Owner Name

Jacpla, LLC

Company Name

Comer Companies

Email Address of Owner

jason@comercompanies.com

Owner Representative/Responsible Party

Draper McMillan

Company Name

McGiffert and Associates, LLC

Contact Email of Responsible Party

dmcmillan@mcgiffert.com

Email Address of Responsible Party

dmcmillan@mcgiffert.com

Project Engineer Information (if applicable)

Name

Draper McMillan

Company

McGiffert and Associates, LLC

Mailing Address

2814 Stillman Blvd; Tuscaloosa, AL 35401

Email

dmcmillan@mcgiffert.com

Phone Number

205-523-2134

Rezoning Application	Applicant	Primary Location
RZ-24-4	 Draper McMillan	3916 WAYNELY DR
Submitted On: May 8, 2024	 205-759-1521	VESTAVIA HILLS, AL 35243
	 dmcmillan@mcgiffert.com	

Property Information

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Existing Parking Spaces	Proposed Parking Spaces
0	18
Submission Date	Type of Project
05/08/2024	New Non-Residential Development/use

Action Requested:

From Existing Zoning Classification	To Requested Zoning Classification
VH R-4	VH O-1
For the Intended Purpose of:	
Office Building	
Acreage of Subject Property	Acreage of Property to be Disturbed
.43	.43

Setbacks

Front	Back
30	30
Side	Open Space
20	0.17
Lot Coverage Percentage	Tree Save Plan - I acknowledge that a if this is a new non-residential development or is a residential development in excess of 3 units, that I am required to submit a tree save plan concurrent with this application (excludes PUDs).
60	true

Owner Information

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

Owner Address City State Zip

3921 Hwy 280; Birmingham AL 35243

Owner's Phone Number

850-225-2753

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

true

Mailing Address of Responsible Party

2814 Stillman Blvd; Tuscaloosa, AL 35401

Phone No. of Responsible Party

205-523-2134

Property Owner Name

Jacpla, LLC

Company Name

Comer Companies

Email Address of Owner

jason@comercompanies.com

Owner Representative/Responsible Party

Draper McMillan

Company Name

McGiffert and Associates, LLC

Contact Email of Responsible Party

dmcmillan@mcgiffert.com

Email Address of Responsible Party

dmcmillan@mcgiffert.com

Project Engineer Information (if applicable)

Name

Draper McMillan

Mailing Address

2814 Stillman Blvd; Tuscaloosa, AL 35401

Phone Number

205-523-2134

Company

McGiffert and Associates, LLC

Email

dmcmillan@mcgiffert.com



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

July 22, 2024

To: Jeff Downes, City Manager

From: Ethan Fisher, City Engineer

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

RE: Ordinance Number 3232 - An ordinance to declare that the present condition of a portion of Pizitz Drive is in such state of disrepair that it endangers the public health, safety and welfare of members of the general public; to declare that the situation is an emergency; to describe the nature of said emergency; to authorize and direct the repair of Pizitz Drive without advertising for competitive bids or bidding pursuant to the authority of Title 39-2-2(e), Code of Alabama, 1975, at a cost estimated at one hundred thirty-seven thousand dollars (\$137,000.00); to authorize and direct the City Manager and Mayor to execute and deliver a construction contract and any and all other documents necessary to have the repair work performed and completed

Background:

The engineering department has been pursuing the design and public bidding of the lining of double 96" corrugated metal pipes under Pizitz Drive. It has

been brought to our attention that the subsurface conditions have recently worsened causing concerns for the integrity of the roadway, adjacent sidewalk, and utilities along the roadway.

Recommendation:

Given the proximity to schools and the anticipated timeframe to complete the bidding process, we are requesting an emergency declaration to assist with the lining of the pipes as soon as possible pursuant to section 39-2-2(e). Code of Alabama 1975.

Fiscal Impact:

Estimated costs associated with contractor assistance to line the pipes are attached. Budgeted FY24 Capital Project drainage funds are available to cover the estimated cost of the project.

Attachments:

1. Ordinance 3232
2. Exhibits Ord 3232

ORDINANCE NUMBER 3232

AN ORDINANCE TO DECLARE THAT THE PRESENT CONDITION OF A PORTION OF PIZITZ DRIVE IS IN SUCH STATE OF DISREPAIR THAT IT ENDANGERS THE PUBLIC HEALTH, SAFETY AND WELFARE OF MEMBERS OF THE GENERAL PUBLIC; TO DECLARE THAT THE SITUATION IS AN EMERGENCY; TO DESCRIBE THE NATURE OF SAID EMERGENCY; TO AUTHORIZE AND DIRECT THE REPAIR OF PIZITZ DRIVE WITHOUT ADVERTISING FOR COMPETITIVE BIDS OR BIDDING PURSUANT TO THE AUTHORITY OF TITLE 39-2-2(e), CODE OF ALABAMA, 1975, AT A COST ESTIMATED AT ONE HUNDRED THIRTY-SEVEN THOUSAND DOLLARS (\$137,000.00); TO AUTHORIZE AND DIRECT THE CITY MANAGER AND MAYOR TO EXECUTE AND DELIVER A CONSTRUCTION CONTRACT AND ANY AND ALL OTHER DOCUMENTS NECESSARY TO HAVE THE REPAIR WORK PERFORMED AND COMPLETED.

THIS ORDINANCE NUMBER 3232 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 22nd day of July, 2024.

WITNESSETH THESE RECITALS:

WHEREAS, Pizitz Drive is a public road in the City of Vestavia Hills, Alabama, which said public road is owned by the City of Vestavia Hills, Alabama (“City”); and

WHEREAS, a portion of Pizitz Drive is in such a state of disrepair that it endangers the public health, safety and welfare of members of the general public; and

WHEREAS, on July 17, 2024, the Department of Public Services and the Office of the City Engineer made a written request to the City Manager that the Pizitz Drive be repaired on an emergency basis pursuant to Title 39-2-2(e)(1), *Code of Alabama, 1975*, a copy of which is attached hereto and marked as Exhibit 1; and

WHEREAS, a copy of a Proposal dated July 16, 2024 submitted by Video Industrial Services, Inc. offering to perform the repair work for and in consideration of One Hundred Thirty-seven Thousand Dollars (\$137,000.00) is attached hereto and marked as Exhibit 2; and

WHEREAS, City Attorney Patrick H. Boone has submitted a legal opinion dated July 17, 2024, a copy of which is attached hereto and marked as Exhibit 3.

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

I. **RECITALS:** The recitals set forth in the premises above are hereby incorporated into this Ordinance Number 3232 by reference as though set out fully herein.

II. **EXHIBIT:** Exhibit 1, Exhibit 2 and Exhibit 3 are attached hereto and incorporated into this Ordinance Number 3232 by reference as though set out fully herein.

III. **EMERGENCY DECLARED:** The City Council finds, determines and declares that Pizitz Drive, in its present state of disrepair, constitutes an “emergency” situation as contemplated by Title 39-2-2(e)(1), *Code of Alabama, 1975*.

IV. **STATE OF EMERGENCY:** In accordance with the requirements of Title 39-2-2(e)(1), *Code of Alabama, 1975*, the City Council hereby states and documents its reasons for taking the actions authorized by the enactment of this Ordinance Number 3232:

A. To delay the work to repair Pizitz Drive in order to advertise for sealed bids and complete the bidding process would be detrimental to the health, safety and welfare of the members of the general public.

B. The emergency situation must be repaired promptly in order to reduce, to the greatest extent possible, personal injuries and property damages.

C. The City has a legal duty to keep public streets and sidewalks in reasonably safe conditions for members of the general public.

D. The City has a legal duty to repair defective public streets and sidewalks upon notice.

E. Delay in the repair of Pizitz Drive could possibly result in liability to the City pursuant to Title 11-47-190, *Code of Alabama, 1975*.

F. Under the circumstances, immediate repair of Pizitz Drive is the only and best action for the City to take.

G. Time is of the essence.

V. **EXPENDITURE OF PUBLIC FUNDS:** The City Manager is hereby authorized to spend an amount of City funds estimated at One Hundred Thirty-seven Thousand Dollars (\$137,000.00) for the repair of Pizitz Drive; said funding to be derived from the City’s Capital Projects Fund.

VI. **EXECUTION AND DELIVERY OF CONSTRUCTION CONTRACT AND OTHER CONTRACT DOCUMENTS:** The City Manager is hereby authorized and directed to execute and deliver a Construction Contract for and on behalf of the City of Vestavia Hills for

the performance of work and purchase of materials necessary to complete the repair of Pizitz Drive with Video Industrial Services, Inc. attached as Exhibit 2. In addition, the City Manager is hereby authorized and directed to take any and all other actions that may be necessary for the performance and completion of said repair work.

VII. SEVERABILITY CLAUSE: 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.

VIII. ARTICLE AND SECTIONS HEADINGS: The article and section headings and captions contained herein are included for convenience only, and shall not be considered a part hereof or affect in any manner the construction or interpretation hereof.

IX. ENACTMENT: This Ordinance Number 3232 is approved and adopted pursuant to the authority of Title 11-45-2(b), *Code of Alabama, 1975*, because of the reasons set forth herein.

X. EFFECTIVE DATE: This Ordinance Number 3232 shall become effective immediately upon adoption and posting as required by law.

DONE, ORDERED, ADOPTED and APPROVED this 22nd day of July, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance No. 3232 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 22nd day of July, 2024, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, and Vestavia Hills New Merkel House and Vestavia Hills Recreational Center this the _____ day of _____, 2024.

Rebecca Leavings
City Clerk

CITY OF VESTAVIA HILLS
DEPARTMENT OF PUBLIC SERVICES
OFFICE OF CITY ENGINEER
INTER-DEPARTMENT MEMO

July 17, 2024

To: Jeff Downes, City Manager

CC: Lori Beth Kearley, Director of Public
Christopher Brady, City Engineer
Rebecca Leavings, City Clerk

From: Ethan Fisher, City Engineer

RE: Emergency drainage repair/ lining of drainage pipes on Pizitz Drive

The engineering department has been pursuing the design and public bidding of the lining of double 96" corrugated metal pipes under Pizitz Drive. It has been brought to our attention that the subsurface conditions have recently worsened causing concerns for the integrity of the roadway, adjacent sidewalk, and utilities along the roadway.

Given the proximity to schools and the anticipated timeframe to complete the bidding process, we are requesting an emergency declaration to assist with the lining of the pipes as soon as possible pursuant to section 39-2-2(e). Code of Alabama 1975.

Please see attached estimated costs associated with contractor assistance to line the pipes. Budgeted FY24 drainage funds are available to cover the estimated cost of the project.

Please let me or Christopher know if you have any questions,

Sincerely,

Ethan Fisher
City Engineer
City of Vestavia Hills

Exhibit 1



PRICE PROPOSAL

ESTIMATED TOTAL	\$137,000.00
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VIDEO INDUSTRIAL SERVICES, INC.
GENERAL TERMS & CONDITIONS

General Conditions: These general conditions are incorporated by reference into the proposal by and are part of the Agreement under which services are to be performed by the Contractor for the Customer.

Customer Supplied Labor: Where the Customer supplies labor for the Contractor, the Customer will indemnify the Contractor for liability, loss or expense for work related injuries to the Customer's employees. The Customer agrees to waive all rights or subrogation against the Contractor arising out of the work in this Agreement.

Damage Limitations: Under no circumstances will the Contractor be responsible for indirect, incidental or consequential damages. The Contractor also is not responsible for the rendering of or failure to render architectural, engineering or surveying professional services.

Preexisting Conditions: The Contractor will not be responsible for liability, loss or expense (including damage caused by the backup of basement sewers) where the primary cause of the claim or damage is preexisting conditions including faulty, inadequate or defective design, construction, maintenance or repair of property or contamination of the subsurface where the condition existed prior to the start of the Contractor's work. Customer is responsible for loss of service equipment caused by the preexisting conditions at the jobsite.

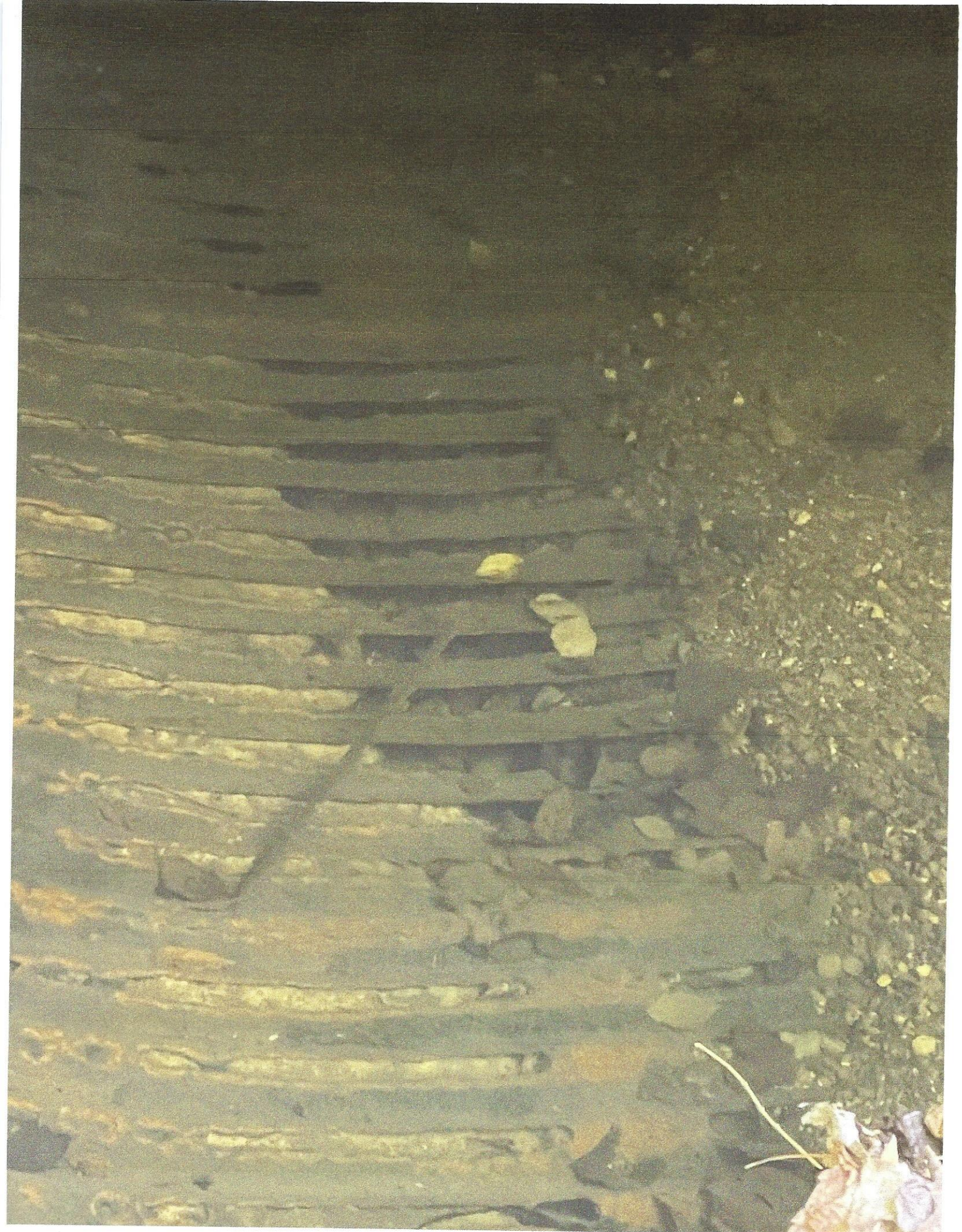
Environmental Conditions: The debris is represented to Contractor to be non-hazardous, requiring no manifesting or special permitting. The Customer will be responsible for any additional costs or claims associated with the treatment, storage, disposal of the removed debris, or breach of the above representation, at any time during or after the completion of this project.

Indemnification: The Customer and Contractor will each indemnify the other for liability, loss and expense incurred by the other party resulting from a negligent act or omission in performance of work under this Agreement. If both parties are jointly at fault, each will indemnify the other in proportion to their relative fault. The Customer also will indemnify Contractor for liability, loss and expense resulting from Contractor's services if the Contractor is acting at the direction or instruction of the Customer, or where the primary cause of any damages is due to information provided by the Customer.

Credit Policy: Regular Terms are Net 30 Days. The company may charge interest at the rate of 1-1/2% per month on all invoices outstanding 60 days past invoice date.

Entire Agreement: This proposal together with any written documents which may be incorporated by specific reference herein constitutes the entire agreement between the parties and supersedes all previous communications between them, either oral or written. The waiver by contractor of any term, condition or provision herein stated shall not be construed to be a waiver of any other term, condition or provision hereof.









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

July 17, 2024

By Electronic Mail

City Manager Jeffrey D. Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Emergency Repair of Pizitz Drive
Pursuant to Title 39-2-2(e)(1), Code of Alabama, 1975

Dear Mr. Downes:

You telephoned me earlier today and requested my legal opinion regarding whether or not the City of Vestavia Hills, Alabama ("City") may spend the sum of One Hundred Thirty-seven Thousand Dollars (\$137,000.00) to repair a public street and a public sidewalk on an emergency basis pursuant to Title 39-2-2(e)(1), *Code of Alabama, 1975*. The purpose of this letter is to comply with your request.

I. FACTS

The City has been planning a public works project on Pizitz Drive that will involve the cleaning and rehabilitation of a 96-inch double barrel corrugated metal storm pipe with centrifugally cast concrete pipe (CCCP). Each pipe is approximately 65 LF for a total footage of 130 LF. Hazen has been selected as the engineer for the project.

The City Department of Public Services and the City Engineer have recently inspected the proposed work site and have determined that the subsurface conditions have worsened causing concerns for the integrity of the roadway, adjacent sidewalk, and utilities along the roadway. Both departments recommend that Pizitz Drive be repaired on an emergency basis pursuant to Title 39-2-2(e)(1), *Code of Alabama, 1975*.

Video Industrial Services, Inc. has agreed to provide all materials and to perform all labor necessary to complete the repair work for and in consideration of the payment of One Hundred Thirty-seven Thousand Dollars (\$137,000.00).

II. ALABAMA LAW

A. PUBLIC IMPROVEMENT PROJECTS:

1. **Bids Required:** Title 39-2-2(a)(1), *Code of Alabama, 1975*, provides in pertinent part as follows:

“(a) (1) Before entering into any contract for a public works involving an amount in excess of one hundred thousand dollars (\$100,000), the awarding authority shall advertise for sealed bids.”

2. **Exception for Emergency Situations:** Title 39-2-2(e), *Code of Alabama, 1975*, reads as follows:

“(e) (1) In case of an emergency for which a delay in remedying would cause immediate harm to a person or public property, contracts may be let to the extent necessary to meet the emergency without public advertisement or bidding.

(2) In case of an emergency affecting public health, safety, or convenience, as declared in writing by the awarding authority, setting forth the nature of the danger to the public health, safety, or convenience which would result from delay, contracts may be let to the extent necessary to meet the emergency without public advertisement.

(3) Any action taken under subdivision (1) or (2), and the reasons for the action taken, shall immediately be made public by the awarding authority and published in writing.”

B. DUTY OF A MUNICIPALITY TO MAINTAIN PUBLIC STREETS AND SIDEWALKS:

1. **Statutory Law:** A city has a legal duty to maintain public streets in a reasonably safe condition and may be held liable for its failure to do so (Title 11-47-190, *Code of Alabama, 1975*).

2. **Supreme Court of Alabama:**

(a) In 1963, the Supreme Court of Alabama decided the case of *City of Florence v. Stack*, 275 Ala. 367, and held that it is the duty of municipalities to exercise ordinary and reasonable care to keep its streets in a reasonably safe condition for travel.

(b) Municipalities in Alabama have the duty and obligation to exercise ordinary and reasonable care to keep its streets and sidewalks in a reasonably safe condition for travel (*Benson v. City of Tuscumbia*, 553 So.2d 109 (Ala.1989)).

C. **MUNICIPALITIES HAVE THE DUTY TO REMEDY DEFECTS IN PUBLIC STREETS AND SIDEWALKS UPON NOTICE THEREOF:** A municipality has the duty to remedy defects upon receipt of actual or constructive notice, and proof of notice is prerequisite to liability (*City of Scottsboro v. Johnson*, 436 So.2d 859 (Ala.1983)). The duty is based on the responsibility and accountability of the city to remedy such defects upon receiving actual notice, or after the same has remained for such length of time and under such conditions and circumstances that the law will infer that the defect ought to have been discovered and remedied (*City of Tallassee v. Harris*, 431 So.2d 111 (1983)).

D. **MUNICIPALITIES MAY BE LIABLE FOR NEGLIGENCE:** Title 11-47-190, *Code of Alabama*, 1975, provides that municipalities in Alabama may be liable for negligence and reads in pertinent part as follows:

“No city or town shall be liable for damages for injury done to or wrong suffered by any person or corporation, unless such injury or wrong was done or suffered through the neglect, carelessness, or unskillfulness of some agent, officer, or employee of the municipality engaged in work therefor and while acting in the line of his or her duty, or unless the said injury or wrong was done or suffered through the neglect or carelessness or **failure to remedy some defect in the streets, alleys, public ways, or buildings after the same had been called to the attention of the council or other governing body or after the same had existed for such an unreasonable length of time as to raise a presumption of knowledge of such defect on the part of the council or other governing body** (*emphasis added*) and whenever the city or town shall be made liable for damages by reason of the unauthorized or wrongful acts or negligence, carelessness, or unskillfulness of any person or corporation, then such person or corporation shall be liable to an action on the same account by the party so injured.”

III. **LEGAL ISSUE**

May the City legally enter into a contract with Video Industrial Services, Inc. and pay said contractor the sum of \$137,000.00 for the performance of the work without public advertisement or bidding?

IV. **LEGAL OPINION**

It is my legal opinion that the answer to the legal question is in the affirmative.

V. BASIS FOR LEGAL OPINION

I base my legal opinion upon the established Alabama law cited above requiring municipalities to keep and maintain public streets and sidewalks in a reasonably safe condition for members of the general public, and to remedy defects upon receipt of actual or constructive notice thereof. If a city fails to do so, then in such event it is exposed to liability for the payment of money damages pursuant to Title 11-47-190, *Code of Alabama, 1975*.

VI. MY RECOMMENDATION

I have prepared and enclose Ordinance Number 3232 wherein the City Council finds, determines and declares that this situation is an emergency and authorizes the City Manager and Mayor to enter into a contract with Video Industrial Services, Inc. on an emergency basis pursuant to Title 39-2-2(e)(1), *Code of Alabama, 1975*.

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

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

Enclosure

cc: City Clerk Rebecca Leavings (by e-mail)
Public Works Director Lori Beth Kearley (by e-mail)
Assistant City Engineer Ethan Fisher (by e-mail)



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

July 22, 2024

To: Jeff Downes, City Manager

From: Shane Ware, Police Chief

Cc: Rebecca Leavings, City Clerk

RE: Public Hearing - Resolution Number 5522 - A Resolution authorizing the City Manager to purchase two (2) rifle rated ballistic shields for the Vestavia Hills Police Department and to reimburse said purchase through donated funds from the Sunrise Rotary Club and the Vestavia Hills Police Foundation

Background:

The Vestavia Hills Police Department is in need of rifle rated ballistic shields to replace two heavier, outdated shields. There is funding for these shields through donations made possible through the Sunrise Rotary Club and the Vestavia Hills Police Foundation. This is a celebrated purchase from these donated funds and the VHPD thanks each of these groups for this funding.

Recommendation:

Recommend approval.

Fiscal Impact:

Purchase from the Donations Fund for purchase price with expenses to be reimbursed through the described donations.

Attachments:

1. Resolution 5522

RESOLUTION NUMBER 5522

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SPEND FUNDS FROM DONATIONS RECEIVED BY THE VESTAVIA HILLS POLICE DEPARTMENT

WHEREAS, the Chief of the Vestavia Hills Police Department has determined a dire need to replace two outdated and heavier version of rifle rated ballistic shields; and

WHEREAS, pricing information has research and determined that the total purchase price for replacement of said rifle rated ballistics shields would cost \$23,150.40 to replace; and

WHEREAS, the Sunrise Rotary Club has donated \$15,000 toward the purchase of the two (2) rifle rated ballistic shields; and

WHEREAS, the Vestavia Hills Police Foundation has contributed another \$8,150 for the purchase of the two needed shields; and

WHEREAS, the Vestavia Hills Police Department gratefully celebrates the donations of these two generous groups and requests the permission of the Vestavia Hills City Council to authorize the City Manager to replace said shields; and

WHEREAS, the Mayor and City Manager feel it is in the best public interest to accept said donations and authorize the City Manager to replace the shields to two shields that are lighter weight and rifle rated ballistics shields.

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

1. The City Manager is hereby authorized to purchase two (2) rifle rated ballistics shields to replace the current outdated versions; and
2. Said shields shall be expensed from the City's General Fund and reimbursed through donations from the Sunrise Rotary Club in the amount of \$15,000 and the Vestavia Hills Police Foundation in the amount of \$8,150; and
3. This Resolution Number 5522 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 22nd day of July, 2024.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk