The Planning Commission met Monday, October 2, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; Chris Williams, City Attorney; and Cindy Beaudreau, Planning Clerk.

Absent: Rebecca Bryant, Clarice Hall-Black

Chairman Turner called the meeting to order at 5:01 PM.

Approval of the Minutes September 7, 2023:
Hollie MacKellar made a motion to approve the minutes from the September 7, 2023.

John Worsham seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

Old/New Business:
Election of Officers

Hunter Simmons, Planning and Zoning Director, stated that Rebecca Bryant was unable to attend at the last minute, but would support a vote for the same officers.

Harry Kohler made a motion to keep the officers as is.

Hollie MacKellar seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

Approval of 2024 Meeting Schedule

John Worsham made a motion to keep approved the 2024 Meeting Schedule.

Erik Cortinas seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 21.42 Harvest Green East Phase 1 – Request of Applicant, S.E. Civil, for an extension of one year for preliminary plat approval.

Summary: Mike Jeffries, Development Services Manager, presented the request for an extension of one year for preliminary plat approval for Harvest Green East Phases 1 and 2 and Harvest Green West Phases 1 and 2. The extension letter request that was submitted states that the preliminary plat is scheduled to expire on in November 2023. Harvest Green Phase 1 East and West is scheduled to be completed by the end of this year. Harvest Green Phase 2 East and West is scheduled to begin in November 2023.

Hollie MacKellar asked how many units there will be along with the ingress and egress. Mr. Jeffries stated that the development across from Publix is Rockwell. Harvest Green has an entrance directly across from The Waters subdivision and another entrance off Highway 181 to the north side. There is an internal road in Harvest Green that will connect to an already paved and asphalted road, Bushel Drive, inside the Rockwell development to the south that will terminate at the Publix entrance. Ms. MacKellar asked about the traffic in the next year and would it require a new traffic study. Mr. Simmons stated that this is a shared drive across from The Waters. The road coming out across from Publix does have a traffic study looking at future growth. Ms. MacKellar asked if the extension will take into consideration additional traffic. Mr. Simmons stated that does not have an impact on this project. This extension is handling the traffic signal at the intersection of The Waters and Highway 181. The developer to the south, in partnership with the one on the corner is handling the other intersection. The improvements are already being done at the intersection for this phase.

Lee Turner asked if there was anyone from the public to speak or if the engineer wanted to speak.

Staff recommends conditioning the extension requests on requiring that Harvest Green East Phase 1 connects to the existing road "Bushel Drive" on the south property line.

Erik Cortinas made a motion to approve the one-year extension request of Harvest Green East Phase 1 with staff recommendations.

John Worsham seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 21.43 Harvest Green East Phase 2 – Request of Applicant, S.E. Civil, for an extension of one year for preliminary plat approval.

Erik Cortinas made a motion to approve the one-year extension request of Harvest Green East Phase 2.

Hollie MacKellar seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 21.44 Harvest Green West Phase 1 – Request of Applicant, S.E. Civil, for an extension of one year for preliminary plat approval.

John Worsham made a motion to approve the one-year extension request of Harvest Green West Phase 1.

Erik Cortinas seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 21.45 Harvest Green West Phase 2 – Request of Applicant, S.E. Civil, for an extension of one year for preliminary plat approval.

John Worsham made a motion to approve the one-year extension request of Harvest Green West Phase 2.

Hollie MacKellar seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 21.48 Planters Pointe – Request of Applicant, Corte Cave/Mitchell 1, LLC, for an extension of one year for preliminary plat approval.

Summary: Mike Jeffries, Development Services Manager, presented the request for a one-year extension for the Multiple Occupancy and subdivision preliminary plat of Planters Pointe, which expires in November 2023. The project is at the corner of Highway 181 and Highway 104.

Mr. Simmons stated that he visited the site today and there was work being done on the turn lanes and Highway 104. Mr. Turner asked if they were connecting to the north on this project. Mr. Simmons explained that the road to the north at the top right corner is connecting to Highway 181 and the edge of the parking lot is a public road. The acreage to the north is connected to a public road. The empty lot does not have any development, but if anything develops there it can be connected.

John Worsham made a motion to approve the one-year extension request of Planters Pointe.

Erik Cortinas seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

Consideration of Agenda Items:

UR 23.13 Request of Cspire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 5,668 LF of buried fiber optic cable in the City ROW in the River Station subdivision. This subdivision runs along Fairhope Avenue and Northwood Street.

Summary: Mike Jeffries, Development Services Manager, presented the request for installation of approximately 5,668 linear feet of buried fiber optic cable in the River Station subdivision.

Staff recommends approval subject to the following conditions:

1. A pre-construction meeting shall be held with the City prior to issuance of any permits.

2. Consultation with the City's horticulturalist, to determine if the required depth of bore must be increased so that no trees are impacted by the project. **The contractor is responsible for any damaged trees.**
3. At all street crossing locations, conduct potholing to determine exact location and elevation of existing utilities. Reflect the exact elevation of utilities and GPS coordinates of the pothole locations on a set of as-built drawings.
4. An additional right-of-way permit may be required for the potholing procedures.
5. Follow-up activities below required by staff and the applicant:
6. Upon satisfactory review and approval by ROW Construction Inspector, as-builts will be submitted to the mapping technician for inclusion in GIS utility maps as needed.
7. Provide draft door hanger for approval at time of pre-construction.
8. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
9. Ensure enough space for proposed work is available within existing easement, if not applicant is responsible for either expanding existing easement or acquiring an additional easement.
10. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
11. Utilities boxes shall be concentrated near existing boxes.
12. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Motion:
John Worsham made a motion to approve UR 23.13, with staff recommendations.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 23.25 Public hearing to consider the request of the Applicant, Seth Moore, acting on behalf of the Owner, Deborah Moffett, for Preliminary and Final Plat approval for Moffett's Way, a 3-lot minor subdivision. The property is approximately 2.58 acres and is located at 6125 Nelson Drive. **PPIN #44034**

Hollie MacKellar excused herself for this discussion.

Summary: Mike Jeffries, Development Services Manager, presented the request for preliminary and final plat approval for Moffett's Way, a 3-lot minor subdivision, located at 6125 Nelson Drive. There is an existing residence on the property. Mr. Jeffries shared the zoning and aerial views of the property. The proposal does not create any non-conformities with the existing structure. Mr. Jeffries shared the proposed plat showing all three lots. Due to the City's water conservation, the Water Department has suspended all fire flow testing. As a condition of approval, the Flow-Modeling shall be done and approved prior to the signing of the plat. The applicant has provided a 15' sidewalk easement across the front property line, in lieu of installing sidewalks.

Staff recommends approval subject to the following conditions:

Recommendation 1:
Staff recommends preliminary plat approval of SD 23.25 Moffett's Way Minor Subdivision.

Recommendation 2:
Staff recommends final plat approval of SD 23.25 Moffett's Way Minor Subdivision, with the following condition:

1. A fire flow model is completed and approved.

Mr. Kohler asked if there was a plan to build on the lots as of now. Mr. Simmons stated there was not. Mr. Kohler asked if the fire flow modeling would be required before a building permit is issued. Mr. Simmons stated that a condition of the subdivision regulations is that there is a fire hydrant operating and the flow is confirmed. There could be infrastructure improvements needed if there is not sufficient fire flow. The Building Department will check the fire code if there is a zoning change request down the road. Mr. Kohler confirmed that this property was in the City limits.

Seth Moore, Moore Surveying, added that Ms. Moffett confirmed with the Water Department that the fire flow is scheduled for Thursday, October 5, 2023. Mr. Moore stated that he and Ms. Moffett understand the two-part approval.

Chairman Turner opened the public hearing at 5:25pm with no one present to speak, the public hearing was closed at 5:25pm.

Motion:
John Worsham made a motion to approve preliminary plat approval of SD 23.25, Moffett's Way, with staff recommendations.

Erik Cortinas seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Jack Burrell; Erik Cortinas
NAY: None.

Motion:
John Worsham made a motion to approve final plat approval of SD 23.25, Moffett's Way, with staff recommendations.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SD 23.26 Public hearing to consider the request of the Applicant, S.E. Civil, LLC, acting on behalf of the Owner, FST RW LLC, for Vatan Mixed Use Development, a 9-unit Multiple Occupancy Project. The property is approximately 0.52 acres and is located on the northeast corner of Magnolia Avenue and N. Church Street. **PPIN #15164**

Chris Williams, City Attorney, excused himself from the next two cases.

Summary: Hunter Simmons, Planning and Zoning Director, presented the request for Vatan Mixed Use Development, a 9-unit Multiple Occupancy Project located within the CBD. This is a MOP case; the next case is the corresponding Site Plan review. Both cases will be presented at the same time. The Zoning Ordinance was amended to reflect at least 50% of the ground floor is commercial space. This project is a little different because these will be condominiums which you do not see in the CBD, but it is one common owner to maintain the common area. This project went to the Board of Adjustments for review on the use. The Board of Adjustments proposed that each building as a separate condominium lot sharing the benefit of common ownership. The mixed use will result in five residential units in two mixed use buildings which meet the requirements of ground floor mixed space. Mr. Simmons shared the zoning and aerial maps for the area on the northeast corner of Magnolia and Church Street. Plans for ten units have been approved on this site before, which were seven residential and three commercial. This project will save as many trees as possible and add internal driveways. Mr. Simmons shared some renderings of what the project will look like. Mr. Simmons explained that with the slope of the land, some of the buildings will look higher. The decision was made to use each building site and use the natural elevation there. Mr. Simmons shared the site plan layout showing the oak trees that would be saved and how the parking is to the rear of the buildings. Mr. Simmons stated that the CBD requires 8' sidewalks. There are a few areas in this project where the sidewalks would need to be 5' to save more trees. The City Council is authorized to approve the 6' sidewalks. Mr. Turner stated that the sidewalk across the street is 5' and he is not against allowing the sidewalks in this project to go to 5' if necessary. Mr. Simmons stated that staff would like to see that all the land disturbance work is done prior to beginning vertical construction.

Staff recommends approval subject to the following conditions:

1. The developer shall coordinate the installation of the sidewalks with the Public Works Department to minimize disturbance to the existing trees in the ROWs at time of the building permit.
2. Any aid to construction costs shall be paid prior to issuance of building permit.
3. A fire flow model is completed and approved.
4. Provide spot elevations for the building corners, along with building elevations, prior to any land disturbance or issuance of any building permit to confirm building height.
5. Provide a Hold-Harmless agreement for staircases proposed in the ROW.

This application is for preliminary approval. If approved, a final approval by the Planning Commission is required to close out the project prior to vertical construction.

Mr. Kohler asked if parking for the commercial space is required. Mr. Simmons stated that the requirement in the CBD is one parking space per residential unit so seven spaces would be required. There are more than seven spaces provided within this project. They are rear loaded and garages. Commercial parking spaces are not required in the CBD.

Chairman Turner opened the public hearing at 5:43pm.

Alton Johnson, 215 Magnolia Avenue, is concerned about parking on Church Street. He does not believe there is enough room for this project. Other concerns are: where will the lay down yard go and where will the trash cans go? He states that the plans do not show this. He wants to confirm the trees will not be bothered and is concerned about the roots of those trees. Mr. Turner stated that the size of the sidewalks will be modified to allow room for the trees. Mr. Simmons stated that the sidewalks will be in the City ROW on the inside of the curb. Mr. Turner stated that the lay down yard and trash during construction is not under the purview of the Planning Commission. That is handled through permitting. Mr. Cortinas replied that the entry and egress from the property faces Magnolia. A project that was built just north of this was built from the back of the project out to the road so there was room to operate. This project does not show anything coming out on Church Street so everything should be off Magnolia.

Brian Britt, 412 Fairhope LLC, 455 Magnolia Avenue, owns two properties to the east of the project. Mr. Britt is in support of this project. He has seen the renderings and feels it is well thought out and tasteful. This is a huge piece of property with plenty of room to work. It is a real nice addition to downtown.

The public hearing was closed at 5:49pm.

Dave Lavery, S. E. Civil, spoke about how they will protect the trees. They will meet with City staff and horticulturist. There is no parking proposed on Church Street. The residents will have a two-car garage. Mr. Turner spoke about the parking around the library where pavers were used and asked Mr. Lavery if pavers had been considered. Mr. Lavery stated they are open to different methods of construction. Mr. Simmons stated that he met with the applicant and the horticulturist suggested beginning treatment of the roots to prepare them for construction. There may be two trees that may not be able to be saved. Mr. Simmons complimented Mr. Lavery on their willingness to meet with staff prior to submitting plans for projects. Mr. Jeffries addressed the comment made by Mr. Johnson about trash that the trash will be collected by a private company.

Motion:
John Worsham made a motion to approve SD 23.26, with staff recommendations.

Hollie MacKellar seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

SR 23.05 Request of the Applicant, S.E. Civil, LLC, acting on behalf of the Owner, FST RW LLC, for Site Plan Approval of Vatan Mixed Use Development. The property is approximately 0.52 acres and is located on northeast corner of Magnolia Avenue and N. Church Street. **PPIN #: 15164**

Summary: Hunter Simmons, Planning and Zoning Director, presented the request for Site Plan approval of Vatan Mixed Use Development. Mr. Simmons reiterated that approval of this request will move the proposal to the City Council for adoption. Mr. Simmons shared a rendering of the corner of the property where the tree limbs were mapped to show how the project will look and the elevated stairs on Church Street. The buildings will be 40' tall pursuant to the dimension standards of the CBD. B-2 zoning has a front setback of 20'; however, this being located in the CBD allows for non-residential buildings to be built at the right-of-way line, unless a courtyard, plaza, or other public space is provided. Unit 2 is mixed used and has a courtyard. The rest of the units are built to the lot lines. The residential trash receptable is located in each garage and a screened commercial receptacle will be located to the rear of the units.

Staff recommends approval of SR 23.05 – Vatan Mixed Use Development Site Plan to the City Council with the following conditions:

1. No part of any building shall extend beyond 40' from the natural elevation of each building pad.
2. Signage plan shall conform to the Sign Ordinance.
3. Provide a Hold-Harmless agreement for staircases proposed in the ROW.

Erik Cortinas asked about the HVAC and generator locations. Mr. Cortinas stated that this is exclusive to the air conditioning units due to the generators having different requirements. Mr. Simmons stated that staff looked at this a little more than just HVAC due to a previous project that did not leave room for back of the house items and there ended up being approximately ten gas meters where the landscape and water meters needed to be. Staff did not review generator locations. The generator locations can be handled during permitting. Mr. Cortinas stated that he would be happy to talk to the applicant to make sure they are aware that this is in the fire district so sprinklers will be required. Mr. Turner asked if generators were being considered. David Ryan stated there were no plans for generators as of now. Mr. Cortinas stated that a tesla wall that incorporates solar is a great idea.

Motion:
Hollie MacKellar made a motion to approve SR 23.05 to the City Council with staff recommendations.

Harry Kohler seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

ZC 23.06 Public hearing to consider the request of the Applicant, 404 Oak LLC, on behalf of the owner, Brandon Pilot, to rezone property from B-4, Business and Professional District to B-2, General Business District. The property is approximately 0.18 acres and is located at 404 Oak Avenue. **PPIN #14546**

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of 404 Oak LLC, to rezone property located at 404 Oak Avenue from B-4 to B-2 to utilize the property as a restaurant. Mr. Simmons shared the zoning and aerial maps. There is an easement that will provide access. Mr. Simmons shared the use table stating that there are many other uses in B-2 other than restaurant that would be allowed with this approval. Mr. Turner stated that when moving Fairhope forward, protections need to be in place, to enhance the retail business located in the CBD. For instance, Fairhope is known for its downtown and the more companies, such as insurance agencies or attorney offices that take up that space, the fewer retail businesses can move in. Mr. Turner reminded the Planning Commission that this approval opens a door for any of the uses listed in the use table.

Staff recommends approval of ZC 23.06, rezoning 404 Oak Avenue from B-4 to B-2 to the City Council with the following conditions:

1. Regardless of the allowed uses in Table 3-1 of the Fairhope Zoning Ordinance, the following uses shall be prohibited on the subject property:
   a. Automobile Service Station

b. Automobile Repair
c. Personal Storage
d. Boarding House or Dormitory
e. Recreational Vehicle Park
f. Kennel or Animal Hospital
g. Convenience Store
h. Clinic

Mr. Worsham asked why the request was for B-2 rather than B-3b? Mr. Simmons replied that B-3b is on the other side of the street and B-2 is right next door. It is a natural evolution of the zoning.

Mr. Cortinas stated that the uses listed as restricted follow most of the conditional uses on the table.

Chairman Turner opened the public hearing at 6:15pm.

Chelsea Hughes, 709 Fairhope Avenue, has a business on Church Street. Ms. Hughes asked if businesses could be added to the list, for instance, businesses that require lots of parking for long periods of time. Could new businesses being added to B-2 to exclude banks, lawyers and other businesses that do not bring shoppers to downtown. Ms. Hughes would like to see more short-term parking spots. She stated that many employees that work downtown use the parking spaces for long term parking.

The public hearing was closed at 6:18

<u>Motion:</u>
John Worsham made a motion to recommend approval of ZC 23.06 to the City Council subject to the allowed uses.

Erik Cortinas seconded the motion and the motion carried unanimously with the following vote:

Mr. Burrell thought the B-3b question was valid. Mr. Turner stated that across the street should be B-3b and it seemed out of place. Mr. Burrell feels like a bed and breakfast should be allowed in B-2. Mr. Simmons stated that zoning is based on land use. Mr. Simmons stated that B-3b is more spot zoning and a restaurant in B-3b would require additional approvals.

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

<u>Public Forum</u>
Gary Gover, 300 Lincoln Street, spoke about the performance period for preparation of the land use plan was extended until 2025. He asked if there was a preview of the anticipated changes as compared to the draft. Mr. Simmons stated that there is not a preview today, but it is being worked on for a work session for the City Council and that a Comp Plan is scheduled to be presented by February 2024. Mr. Williams stated that the City Council will recommend approval of the Comp Plan to the Planning Commission for adoption.

Gary Gover, spoke about subdivision developments along Highway 181 and Highway 104, the provisions for alternative transportation like pedestrian and bicycle facilities, have been treated in different ways. Sometimes the burden is picked up by the developer and the MPO may pick up others. Mr. Turner replied that normally the developer is required to install the sidewalks, roads, and infrastructure. There were some exceptions in the area that Mr. Gover is asking about and some of those may be due to ALDOT requirements. Mr. Simmons added that he is unaware of any MPO project around there. Mr. Simmons continued that the City asks every project to provide a mixed-use trail and staff are looking to have a standard in the Comp Plan. Mr. Gover asked if the City standard would apply to County roads. Mr. Turner stated that the City does not have authority over ALDOT. Mr. Simmons stated that the City could dictate for subdivisions and make those mixed-use trails on private property. The problem is interconnecting at County highways. Mr. Simmons stated that there is a biking and pedestrian connectivity proposal through the MPO.

Mr. Gover continued that the cost of provision of utility services to large lot properties does not seem equitable with the smaller lot properties. He believes that the small lots have a greater bill than the larger lots and suggests a fee schedule. Mr. Turner stated that he does not believe that falls within the purview of the Planning Commission. Mr. Simmons stated that most of the utilities are scaled, and the use is metered.

Chelsea Hughes spoke about S.E. Civil Magnolia Church project and parking. She suggested a dedicated parking area for employees. Mr. Worsham stated that there is a parking subcommittee with a goal to address those issues. Mr. Turner suggested going to the parking authority to take loading and unloading parking spaces away, make more roads one way and add angle parking. Conversations continued with additional suggestions. Ms. Hughes suggested employee parking stickers with designated parking spots. Mr. Burrell suggested parking in the garage and taking the shuttle. Mr. Turner stated that there are a lot of options that are being looked at.

Adjournment
John Worsham made a motion to adjourn.

AYE: Lee Turner; Harry Kohler; John Worsham; Hollie MacKellar; Jack Burrell; Erik Cortinas
NAY: None.

Adjourned at 6:52pm.

Lee Turner, Chairman

Cindy Beaudreau
Cindy Beaudreau, Secretary