



**City of Fairhope
Planning Commission Agenda
5:00 PM
Council Chambers
February 5, 2024**

Sherry Sullivan
Mayor

Council Members

Kevin G. Boone

Jack Burrell, ACMO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC
City Clerk

Kimberly Creech
City Treasurer

1. Call to Order
2. Approval of Minutes
 - January 4, 2024
3. Old/New Business
 - **SD 21.23** Overland PUD, Phase 2 – Request of Applicant, S.E. Civil Engineering, for an additional extension of one year for preliminary plat approval.
 - **SD 23.15** Publix at Point Clear – Request of Applicant, Jade Consulting, LLC, for an extension of one year for final plat approval.
 - **SD 22.02** Rockwell Place MOP – Request of Applicant, Sawgrass Consulting, LLC, for an extension of one year for preliminary plat approval.
 - **SD 23.31** Rockwell Place - Request of the Applicant, Sawgrass Consulting, LLC, for an extension of one year for final plat approval.
4. Consideration of Agenda Items
 - A. UR 24.05** Request of AT&T for an 11.52.11 Utility Review and approval of the proposed installation of approximately 10,998 of LF of aerial fiber cable and 10,423 of LF of buried fiber cable in the City ROW at 111 S. Section Street.
5. Adjourn

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36533

251-928-2136

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The Planning Commission met Monday, January 4, 2024, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; Michelle Melton, Planner; Chris Williams, City Attorney; and Cindy Beaudreau, Planning Clerk.

Absent: Holly MacKellar, John Worsham

Chairman Turner called the meeting to order at 5:00 PM.

Approval of the Minutes December 4, 2023:

Jay Robinson made a motion to approve the minutes from the December 4, 2024.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

Old/New Business

- **SD 23.11** Myrick Place - Request of Applicant, Seth Moore, for an additional one-year extension for preliminary plat approval

Erik Cortinas made a motion to approve the extension of Myrick Place for one additional year.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

Consideration of Agenda Items:

Storm Water Management Program Plan (SWMPP) review and approval.

Hunter Simmons, Planning and Zoning Director, recognized and thanked Kim Burmeister for her years of service. Mr. Simmons introduced Nicole Love and explained her experience. Ms. Love presented the Storm Water Management Program Plan proposed changes to the 2024 SWMPP.

Rebecca Bryant noted that being a coastal community, water quality is extremely important. Ms. Bryant asked about illicit discharges and stormwater enforcement during construction and how the public may be interested in a summary of both to show how well we are doing or where improvements need to be made. Mr. Simmons stated that there is a reporting criterion of how it is reported to ADEM. Ms. Bryant suggested that if there was problem at a certain address, then it could be highlighted in red when presented to the Planning Commission. Ms. Bryant suggested putting water quality improvements into the sub regulations or merge it into the landscape plans. Ms. Bryant asked about the stormwater medallions. Ms. Love stated that she believes it was a one-time event. Ms. Bryant mentioned the

downtown cast iron plates stating that this flows to the bay. Mr. Simmons stated that those plates are on most of the manholes. Ms. Bryant stated that a goal for the city could be to have demonstration projects for every LID measure that we encourage the use of. Ms. Bryant noted that the developers are no longer highlighting the LID measures they are using and only highlighting the performance achievement. Ms. Bryant stated that we need to get back to that. Ms. Bryant noted that there is a requirement in the stormwater pollution ordinance that to not clear land more than 50' from a commercial building and 30' from a residential building. This may need to be emphasized more in the field. Mr. Cortinas stated that four years ago, triggers were added, but a lot in the field are site specific. Mr. Cortinas stated that they ensure that the solid BMPs are followed. Ms. Bryant asked about a stormwater management plan showing where those BMPs will be installed. Mr. Cortinas stated that a BMP is not required for a residence. It is required for a subdivision. Mr. Simmons stated that there is an ESC review on new construction. Mr. Cortinas agreed but it is not common to have an actual plan or drawing where the BMPs are going on a specific lot in a subdivision. Ms. Bryant asked if it would be more helpful to have it in writing.

Lee Turner suggested that suggestions and changes be addressed in a separate meeting.

Ms. Love shared a video created by Mobile Bay NEP and Thompson Engineering for the Eastern Shore Watershed Management Plan.

Erik Cortinas made a motion to accept the Storm Water Management Program Plan as reviewed and presented.

Jay Robinson seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas

NAY: None.

UR 24.01 Request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 11,281 LF of buried fiber cable in the City ROW in Colony Place.

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 11,281 LF of buried fiber cable in the City ROW in Colony Place.

Staff recommends approval of UR 24.01 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. Approved door hangers shall be in place no later than **7 days** prior to construction.
9. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
10. 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.
11. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
12. Utilities boxes shall be concentrated near existing boxes.
13. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Jay Robinson made a motion to approve UR 24.01 with staff recommendations.

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

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

UR 24.02 Request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 18,654 LF of buried fiber cable in the City ROW in Country Woods – North Hills.

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 18,654 LF of buried fiber cable in the City ROW in Country Woods – North Hills.

Staff recommends approval of UR 24.02 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. Approved door hangers shall be in place no later than **7 days** prior to construction.
9. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
10. 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.
11. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).

12. Utilities boxes shall be concentrated near existing boxes.
13. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Jay Robinson made a motion to approve UR 24.02 with staff recommendations.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

UR 24.03 Request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 13,784 LF of buried fiber cable in the City ROW in Fairfield of Fairhope.

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 13,784 LF of buried fiber cable in the City ROW in Fairfield of Fairhope.

Staff recommends approval of UR 24.03 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. Approved door hangers shall be in place no later than **7 days** prior to construction.
9. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
10. 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.
11. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
12. Utilities boxes shall be concentrated near existing boxes.
13. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Jay Robinson made a motion to approve UR 24.03 with staff recommendations.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas

NAY: None.

UR 24.04 Request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 13,520 LF of buried fiber cable in the City ROW in Fairfield Place of Fairhope.

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of C-Spire for an 11.52.11 Utility Review and approval of the proposed installation of approximately 13,520 LF of buried fiber cable in the City ROW in Fairfield Place of Fairhope.

Staff recommends approval of UR 24.04 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. Approved door hangers shall be in place no later than **7 days** prior to construction.
9. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
10. 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.
11. Applicant shall contact Alabama One Call to locate all existing utilities (750ft max per day).
12. Utilities boxes shall be concentrated near existing boxes.
13. For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

Jay Robinson made a motion to approve UR 24.04 with staff recommendations.

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

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas

NAY: None.

SD 24.02 Public hearing to consider the request of the Applicant, Dewberry on behalf of the Owner, 68V OBV 2020, LLC for final plat approval of Old Battles Village, Phase 6, a 36-lot subdivision. The property is approximately 12.37 acres and is zoned as a PUD. The property is located on the north side of phase 5 of the Hamlet At Old Battles Village. **PPIN #380062**

Summary: Hunter Simmons, Planning and Zoning Director, presented the request of the Applicant, Dewberry on behalf of the Owner, 68V OBV 2020, LLC for final plat approval of Old Battles Village, Phase 6, a 36-lot subdivision. Mr. Simmons shared the zoning and aerial maps. Mr. Simmons shared a photo showing a 27' heritage tree within the property of the Bennington Avenue ROW. The tree was not indicated on the preliminary plat or landscape plan. A solution to the heritage tree issue will be a condition of approval.

Staff recommends approval of SD 24.02 subject to the following conditions:

1. Resolution to the Heritage tree conflict.
 - o Staff suggestion: Remove tree and extend road and sidewalks to the north property line. Move barricade and signage accordingly. Submit revised landscape plans to determine if additional tree credits are needed.
2. Completion of Follow-Up Activities.
3. Replacement of the sidewalk panel per the ROW Inspector's letter.

Mr. Turner suggested that a live oak tree be placed on both sides of the road. Mr. Jeffries suggested that live oaks be placed 8' from the property line. Mr. Cortinas asked that the driveway for lot 279 be required to be placed on the south side of the lot line so it does not conflict with where the tree will be.

Chairman Turner opened the public hearing at 5:45pm. Having no one present to speak, the public hearing was closed at 5:45pm.

Erik Cortinas made a motion to approve of SD 24.02 subject to the staff recommendations with adding one live oak on both sides of the road.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

SD 24.03 Public hearing to consider the request of the Applicant, S.E. Civil, LLC on behalf of the Owner, The Waters at East Bay, LLC, for final plat approval of The Flats at East Bay, LLC, a 240-unit multiple occupancy project. The property is approximately 20.19 acres and is located at the southwest corner of the intersection of Twin Beech Road and Thompson Hall Road. **PPIN #254668**

Summary: Mike Jeffries, Development Services Manager, presented the request of the Applicant, S.E. Civil, LLC on behalf of the Owner, The Waters at East Bay, LLC, for final plat approval of The Flats at East Bay, LLC, a 240-unit multiple occupancy project. Mr. Jeffries shared the zoning, aerial maps and a colored phase plan.

Staff recommends approval of SD 24.03 subject to the following conditions:

1. A letter confirming all onsite Sewer, Water, and drives are to remain privately maintained and is not the responsibility of the City of Fairhope or Baldwin County signed by the development and owner.

2. Staff approval at the end of each phase prior to issuance of any building Certificate of Occupancy in the phase including but not limited to the completion of the asphalt.
3. Landscape mitigation and planting is completed and approved by the city Horticultural Supervisor as part of the Phase 5 inspection.
4. A complete As-Built set shall be provided as part of the close out of the final phase.

Mr. Turner asked why this project is coming to the Planning Commission for final plat approval prior to the road being done around the outside. Mr. Jeffries stated that with the vertical construction underway currently, the road would be torn up during construction. The drainage and curbing have been done so the stormwater runoff is being captured. Mr. Jeffries stated that COs are not being issued on those buildings until we get that completion level done. If vertical construction had not been started, the sewer and drainage could have been put in and then come in with vertical construction of each building. The construction fencing clearly delineates which areas are open to the public and which is not. Mr. Simmons stated that the stormwater pond is stable. Mr. Simmons added that he and Mr. Cortinas have discussed not allowing vertical construction until all the things are done. Sometimes that can be problematic for construction. It may be something that is looked at during code revisions after the Comp Plan is complete.

Ms. Bryant remarked that a positive aspect of this project and is integrating the green space and the storm water. She mentioned that other applicants have asked about this. Mr. Jeffries added that the landscape and storm water work well on this project.

Chairman Turner opened the public hearing at 5:55pm. Having no one present to speak, the public hearing was closed at 5:55pm.

Clarice Hall-Black made a motion to approve SD 24.03 subject to the staff recommendations.

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

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

Executive Session – To discuss pending or potential litigation pursuant to Alabama Code Section 36-25A-7(a)(3)

Attorney Chris Williams made a declaration to move to Executive Session to discuss pending litigation. He does not anticipate any action needed following the Executive Session.

Motion:

Rebecca Bryant made a motion to close the public meeting and move to Executive Session.

Clarice Hall-Black seconded the motion and the motion carried unanimously with the following vote:

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

The Commissioners left the dais at 5:57pm.

The Commissioners returned to the dais at 6:14pm.

Adjournment

Erik Cortinas made a motion to adjourn.

AYE: Lee Turner; Rebecca Bryant; Harry Kohler; Clarice Hall-Black; Jay Robinson; Erik Cortinas
NAY: None.

Adjourned at 6:14pm.

Lee Turner, Chairman

Cindy Beaudreau, Secretary



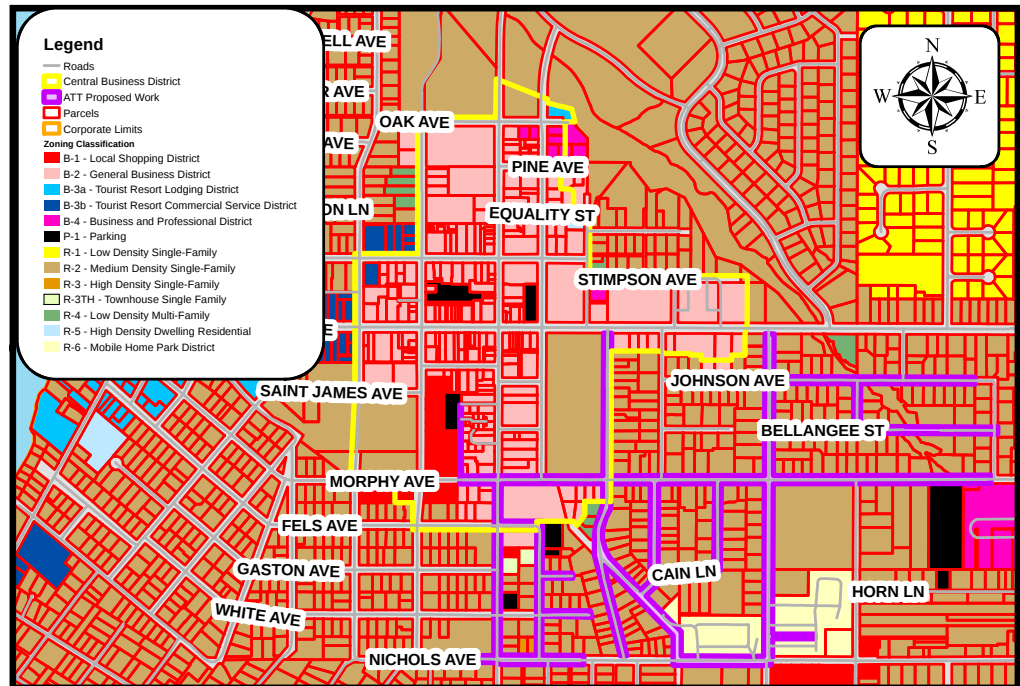
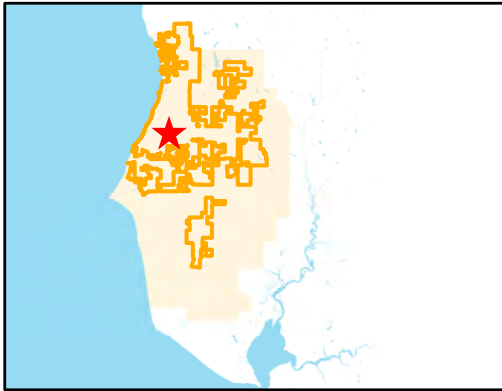
This digital package has been condensed for size and some documents may not contain all the original pages. All submittals were reviewed in full by staff in preparation for the reports prepared for the Planning Commission.

City of Fairhope Planning Commission

February 5, 2024



UR 24.05 - South Section Street

**Project Name:**

AT&T

Site Data:

10,998 LF of Aerial & 10,423 LF of Buried

Project Type:

Fiber Optic Installation

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

Central Business District

PPIN Number:

N/A

General Location:

South of Morphy Avenue and East of South School Street

Surveyor of Record:

BlueStreak LLC

Engineer of Record:

BlueStreak LLC

Owner / Developer:

AT&T

School District:

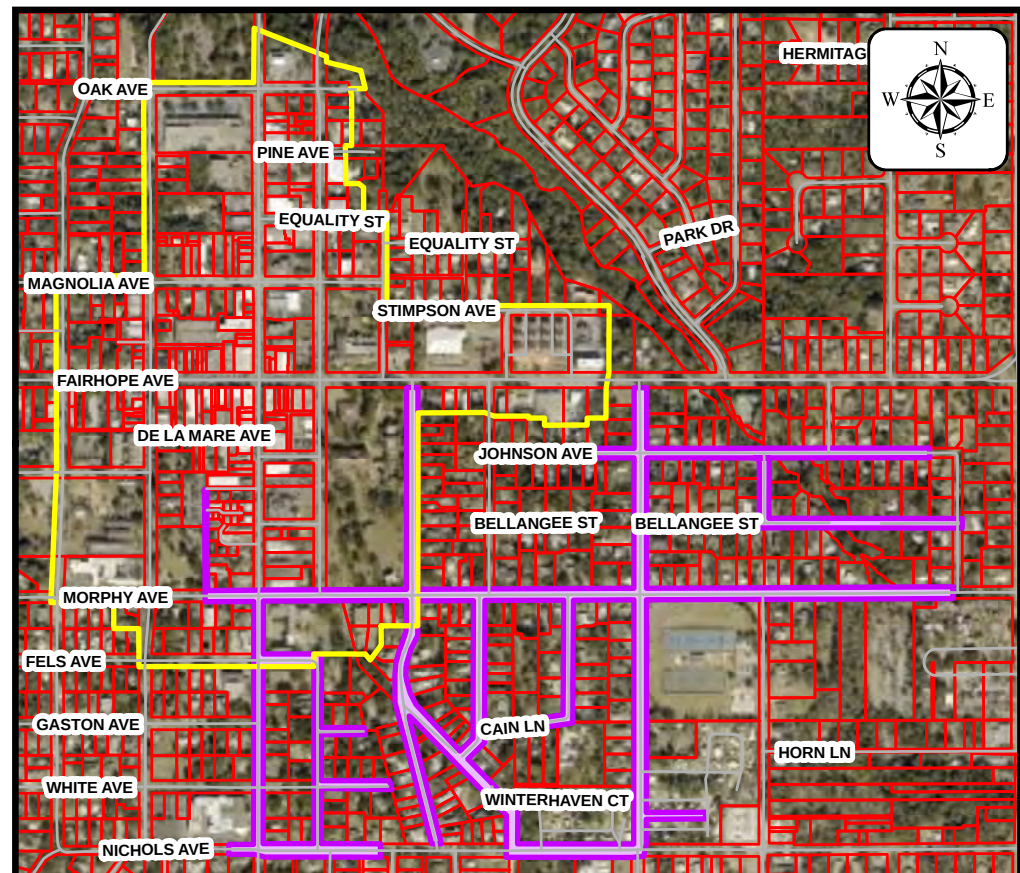
Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Approved w/ Conditions

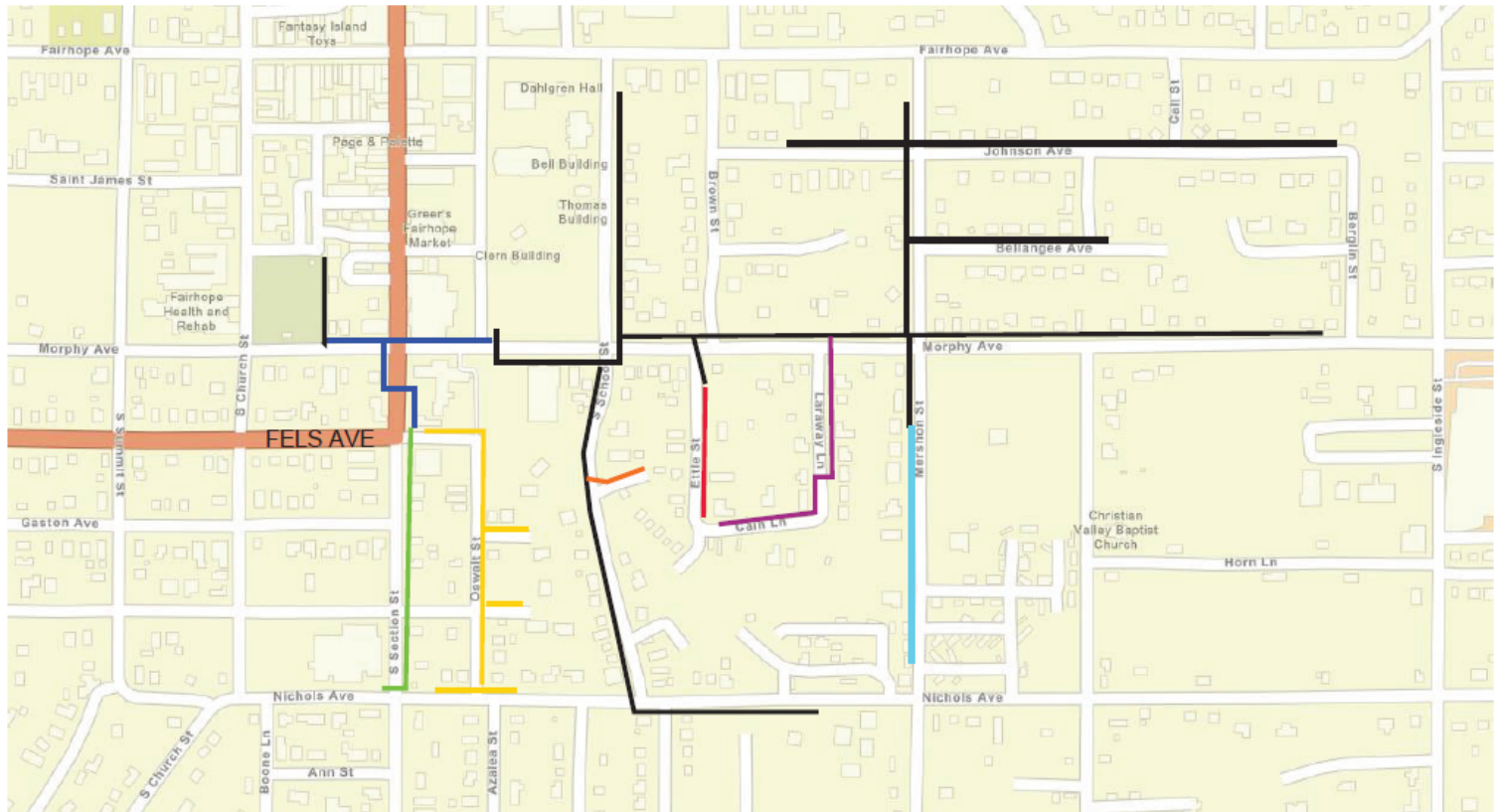
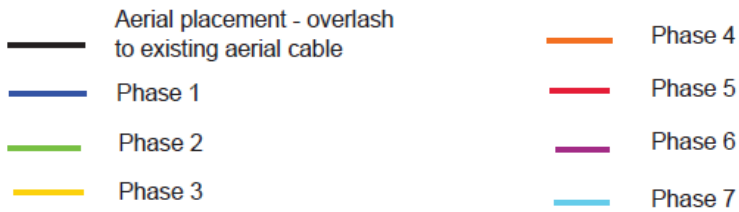
Prepared by:

Chris Ambron



Summary of Request: Request of AT&T for an 11.52.11 Utility Review and approval of the proposed installation of approximately **10,998 linear footage of aerial fiber and 10,423 linear footage of buried cable.**

AT&T Project A02ANMB - Phasing plan



1. Citizen Communication & Notification

- Provide Door Hangers at preconstruction meetings which shall be approved prior to distribution and work.
- Use of portable A-frame style signage at the entrance and exit of work sites.
- Applicant shall dedicate a Point of Contact to answer citizens questions.

2. Permitting, Locating & Phasing

- Subsurface Utility Engineering may be required for sensitive locations within the city as required by the ROW supervisor.
- An additional right-of-way permit may be required for the potholing procedures needed for SUE.
- A traffic control plan shall be submitted with all permits that affect the flow of traffic.
- No work shall begin until a ROW permit is issued by the City of Fairhope Building Department. Permit not valid until approved and paid for on Citizen Serve online portal.
- The City's ROW inspector is to be notified 24 hours prior to any activity within the ROW. The prior notice applied to all activity within the ROW including but not limited to trenching, boring, concrete placement.
- Hand holes/boxes shall not be allowed to be installed in sidewalks. The applicant shall review the sidewalk plan to determine if there are any conflicts. The applicant shall coordinate with the ROW inspector to resolve any conflicts.
- The applicant shall contact Alabama One Call 811 to locate all existing utilities in the ROW (750 LF maximum daily allocation for COF utility locates per day).
- A phasing plan must be submitted with the permit to alleviate confusion for locating.
- A pre-construction meeting shall be held with the City prior to issuance of any permits.

3. Construction

- A minimum horizontal clearance (separation) of 36" must be maintained from water, sewer, gas, stormwater, and other city utility infrastructure.
- A minimum depth for all telecommunication lines shall be 30".
- Conduit shall match the 811-color code for communication, electric, gas etc. No blue/blue striped conduit is to be used for telecommunications.
- The contractor responsible for *excavating inside right of way will be required to provide video documentation of the integrity of any sanitary sewer line (including laterals) within 3 feet of work being performed. This can be videoed prior to work being performed if locations, including depths, are clearly established by contractor, and said work is not within 3 ft of sewer mains or laterals within right of way. This does not apply to laterals on private property not "publicly maintained" (Private infrastructure).
- Water, sewer, and gas mains/services must be potholed prior to bore/missile crossings. If street cuts are necessary for potholes, please contact Right of Way inspector for restoration.
- If sidewalk panels need to be removed, the subgrade must be compacted to the satisfaction of the ROW inspector. Cold patch asphalt shall be used as a temporary walking surface until the permanent repair can be done.
- Sidewalk panels shall be a minimum of 4000 psi and be inspected within 24 hours of pouring concrete. Anything over one sidewalk panel shall be poured via concrete truck (no bag mix allowed).

4. Horticultural

- Handholes shall not be located within driplines of trees within City property, to include the right of ways, without explicit written permission from the City Horticulturalist.
- Any proposed trenching shall not be within the dripline of trees.
- If within tree dripline, consult the City of Fairhope Horticulturist before proceeding with earth work.
- Trees shall not be negatively impacted.
- 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.
- Any work done within the critical root zone shall be done to meet or exceed Internal Society Arboriculture (ISA) standards.
- All roots to be removed shall be severed cleanly at the perimeter of the protected radius.
- Protective barriers shall be used for all trees, barricades shall be erected a minimum of 20' from the trunk.

5. Erosion Control

- Any ROW cuts shall be stabilized (covered) at the end of each day & disturbed areas shall be re-vegetated with sod within ten (10) days of completion of the project. Sod shall be watered to ensure survival.
- Any excess soil shall be removed and disposed of properly. Dumping on private property without approval will not be tolerated.
- Mulch / seed shall only be acceptable as temporary cover.
- Inlets shall be protected. BMPs shall be placed at all affected storm inlets.
- If the site is within 100' of a critical area (wetland, etc.), red soil/clay shall not be allowed as fill material, per the City's Red Clay/Soil Ordinance.
- BMPs shall be installed at boring sites and trench locations.
- Ground conditions in the ROW's shall be returned to original preconstruction condition(s) or better.
- No open trenches shall be allowed. Directional boring shall be used in sensitive areas, such as under roads, in proximity to trees, on finished lots, etc.
-

6. Project Completion, Punch List Walk, & As Built

- The applicant shall provide as-built drawings of all installed lines depicting depths.
- Damage to any City's infrastructure (storm, sewer, water, ditches etc. shall be the responsibility of the permittee to repair to city standards at no cost to the city.
- Any damage that occurs needs to be reported to the city as soon as possible.
- Pedestals shall be placed in a manner as to avoid obstructing visibility of motorists and to allow vehicles to exit the roadway during an emergency.

7. Staff Recommendation

- The proposed utility construction falls within the corporate limits of the City of Fairhope. Any portions of the project affecting public right-of-way (ROW) maintained by Baldwin County or the Alabama Department of Transportation (ALDOT) shall require permits through the respective agency.
- This site shall comply with all State, Federal and local requirements, including, but not limited to the following City of Fairhope Ordinances:
 - i. City of Fairhope Wetland Ordinance (#1370), which regulates activity within 20' of wetlands.
 - ii. City of Fairhope Red Soil & Clay Ordinance (#1423), which prohibits the use of red soil / clay within 100' of critical areas.
 - iii. City of Fairhope Erosion and Sediment Control Ordinance (#1398).
 - iv. Chapter 19 Article VI: ROW Construction and Administration, Ordinance (1754)
 - v. City of Fairhope Tree and Landscape Ordinance (#1444)
- Staff Recommendation: **Approval with Conditions of UR 24.05**

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.
 - a. An additional right-of-way permit may be required for the potholing procedures.
4. Follow-up activities below required by staff and the applicant:
 - a. Upon satisfactory review and approval by ROW Construction Inspector, as-builts will be submitted to the GIS technician for inclusion in GIS utility maps.
5. Provide draft door hanger for approval at time of pre-construction.
6. **Approved door hangers shall be in place no later than 7 days prior to construction.**
7. Provide a Traffic Control Plan to ROW Inspector prior to commencement of any work.
8. 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.
9. Applicant shall contact Alabama One Call to locate all existing utilities (1000ft max per day).
10. Utilities boxes shall be concentrated near existing boxes.

For permitting purposes, applicants shall provide subsurface utility engineering quality-level C, unless otherwise required by the Fairhope Building Department.

STATE OF ALABAMA)
COUNTY OF BALDWIN)

DECLARATION AND OPINION

My name is Christopher S. Williams. I am over the age of nineteen (19), and I make this Declaration and Opinion based upon my own personal knowledge, information and belief. I am an attorney licensed to practice law in the State of Alabama and have been duly appointed Attorney for the Fairhope Planning Commission for the City of Fairhope, Alabama ("Commission"). I am offering this Declaration and Opinion in compliance with Section 36-25A-7 of the *Code of Alabama* (1975).

On the 5th day of February, 2024, at a meeting of the Commission, there will be made a motion calling for an executive session to discuss with the Commission's attorney the legal ramifications of and legal options for pending or future potential litigation pursuant to Alabama Code § 36-25A-7(a)(3).

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

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

Dated this 5th day of February, 2024.



Christopher S. Williams, Esq.
Attorney for Fairhope Planning Commission
City of Fairhope, Alabama