

**Vestavia Hills
City Council Agenda
July 23, 2012
5:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Danny Wood, Shades Mountain Baptist Church
4. Pledge of Allegiance
5. Candidates, Announcements and Guest Recognition
6. Mayor's Report
7. Councilors' Reports
8. Financial Reports – Melvin Turner, III
9. Approval Of Minutes – July 9, 2012 (Regular Meeting)

Old Business

10. Resolution Number 4322 - A Resolution Ordering The Demolition Of A Building Or Structure Located At 1459 Montgomery Highway, Vestavia Hills, Alabama, Parcel ID# 39-01-1-001-002.000-RR2 And 29-36-4-007-005.000-RR6, In Compliance With Sections 11-40-30 Through 11-40-36, Sections 11-53b-1 Through 11-53b-16, Inclusive, Of The *Code Of Alabama*, And In Compliance With Ordinance Number 2382 Of The City Of Vestavia Hills, Alabama; And Calling For Said Demolition To Be Performed By The City Of Vestavia Hills And Directing The City Attorney And The City Clerk To Cause The Cost Of Such Demolition To Be Charged Against The Land On Which The Building Or Structure Exists As A Municipal Lien Or Cause Such Cost To Be Recovered In A Suit At Law Against The Owner Or Owners
11. Resolution Number 4323 – A Resolution Authorizing The City To Bid Out The Cost Of Demolition Of The Property Described In Resolution Number 4322
12. Ordinance Number 2416 – Rezoning – 2665 Alta Glen Drive; Rezone From Jefferson County E-1 To Vestavia Hills E-2; Compatible Zoning For Annexation (Property Was Annexed In The 90's But Never Compatibly Rezoned); Susan Henry, Owner
13. Ordinance Number 2415 – Rezoning – 4240 Oakview Lane; Rezone From Vestavia Hills R-4 To Vestavia Hills B-1, With Conditions For An Artist Studio; Maude Powell, Owner

New Business

14. Resolution Number 4326 – A Resolution To Issue A Certificate Of Election To Alberto C. Zaragoza, Jr. As Mayor
15. Certificate Of Election – Alberto C. Zaragoza, Jr., Mayor
16. Resolution Number 4327 - A Resolution To Issue A Certificate Of Election To Jim Sharp As Councilor, Place Number 2
17. Certificate of Election – Jim Sharp
18. Resolution Number 4328 - A Resolution To Issue A Certificate Of Election To Steve Ammons As Councilor, Place Number 3
19. Certificate of Election – Steve Ammons
20. Resolution Number 4329 – A Resolution Authorizing The Mayor To Execute An Agreement With ES&S For Voting Machines

New Business (Requesting Unanimous Consent)

21. Resolution Number 4325 – A Resolution Approving Matching Funds For 2012 Recreational Trails Program 2nd Level Application – McCallum Park Connector Trail
22. Ordinance Number 2417 – An Ordinance Authorizing And Directing The Purchasing And Closing Of The Sale Of Real Estate

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

23. Citizens Comments
24. Executive Session
25. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

JULY 9, 2012

The City Council of Vestavia Hills met in regular session on this date at 5:00 PM. The Council President called the meeting to order and the City Clerk called the roll with the following:

MEMBERS PRESENT:

Mary Lee Rice, Council President
Steve Ammons, President Pro-Tem
George Pierce
Linda Allison

MEMBERS ABSENT:

Jim Sharp

OTHER OFFICIALS PRESENT:

Mayor Alberto C. Zaragoza, Jr.
Randy Robertson, City Manager
Patrick H. Boone, City Attorney
Rebecca Leavings, City Clerk
Melvin Turner, III, Finance Director
George Sawaya, Deputy Treasurer
Christopher Brady, City Engineer
Jim St. John, Fire Chief
Captain Marvin Dwayne Greene
Dan Rary, Police Chief
Tim Holcomb, Deputy Police Chief
Lt. Jason Hardin
Officer Kevin Humphries
Officer Tim Smith
Officer John Penrose
Sgt. John Evans

Invocation was given by Ron Higeey, Birmingham International Church, followed by the Pledge of Allegiance.

ANNOUNCEMENTS, CANDIDATES, GUESTS

- Deloye Burrell, candidate for City Council, Place Number 1, introduced himself and asked for support in the upcoming municipal election.

- Alberto Zaragoza, candidate for Mayor, introduced himself and asked for support in the upcoming municipal election.
- John Henley, candidate for City Council, Place Number 1, introduced himself and asked for support in the upcoming municipal election.
- David Harwell, candidate for Mayor, introduced himself and asked for support in the upcoming municipal election.
- Jim Neil, candidate for Circuit Court Judge, Place Number 27, introduced himself and asked for support in the November election.
- George Pierce, candidate for City Council, Place Number 4, introduced himself and asked for support in the upcoming municipal election.
- Steve Ammons, candidate for City Council, Place Number 3, introduced himself and asked for support in the upcoming municipal election.
- Ms. Rice announced that tonight's meeting would be her last. She reiterated many of the accomplishments that have been made during her two terms on the City Council and wished everyone well in the coming administration.

EMPLOYEE OF THE MONTH

Mr. Robertson awarded the July Employee of the Month's recognition to Frank "Bo" Seagrist and presented him with a gift card and a Certificate of Recognition. He read the nomination as submitted by his Department Head which included some of the many contributions Mr. Seagrist has made to the City through his employment.

CITIZEN RECOGNITION

The Mayor and Mr. Robertson explained the years of hard work that Mr. Steve Monk has donated to the City in the way of writing, revising and helping to negotiate many of the contracts, CC&R's and other documents needed to complete the sale of the Patchwork Farms properties. Mr. Monk has always refused payment for his services so the administration presented him with a painting of the Sybil Temple painted by William Denson.

Mr. Monk thanked the Mayor and Mr. Robertson and encouraged all citizens to donate their expertise to their City.

MAYOR'S REPORTS

- The Mayor presented a Certificate of Appreciation to Ms. Rice for her years of service on the Council and on countless committees. Mr. Robertson, on behalf of all the Department Heads, also presented Ms. Rice with a plaque.
- The Mayor indicated that Chief St. John had a presentation.

- Chief St. John presented a Certification of Recognition to Firefighter Marvin Duane Green for completion of the EFO Program, a Program that only about 30 others have completed in the State of Alabama.
- The Mayor indicated that Chief Rary also had some presentations:
 - Chief Rary presented Certificate of Recognitions to the following: Officer Kevin Humphries, Officer Tim Smith, Officer John Penrose and Sgt. Johnny Evans for outstanding services within their jobs.
- The Mayor indicated that he has been working with Karen Odle of the Chamber of Commerce to hold various classes within the City to aid in educating businesses to be prepared for disasters and disaster recovery. Ms. Odle stated that the first class would be Tuesday, July 10 at the Chamber and others on Wednesday and Thursday at various locations.

COUNCILOR REPORTS

- Mr. Pierce thanked the Chamber of Commerce for a very well attended I Love America Day celebration.
- Mr. Ammons gave an update on the expansion of parking facilities at Sicard Hollow Fields.

APPROVAL OF MINUTES

The minutes of June 18, 2012 (Special Meeting), June 21, 2012 (Special Meeting) and June 25, 2012 (Regular Meeting) were presented for approval.

MOTION Motion to dispense with the reading of the minutes and approve them as presented was by Mr. Pierce and second by Ms. Allison. Voice vote as follows:

Mr. Pierce – yes

Ms. Allison – yes

Mr. Ammons – yes

Ms. Rice – yes

Motion carried.

OLD BUSINESS

RESOLUTION NUMBER 4313

Resolution Number 4313 - A Resolution Accepting A Bid For A Pipe Inspection Camera And Crawler System

MOTION Motion to adopt Resolution Number 4313 was by Mr. Pierce and second was by Mr. Ammons.

Mayor Zaragoza stated that a camera system was needed in order to continue the storm pipe maintenance. Bids were received and the recommended bid came in at \$8,000 over budget so the request is to make up the difference using 07 funds.

Mr. Brady explained this was the only system to meet specifications.

Ms. Rice opened the floor for a public hearing.

Mr. Deloye Burrell, Farrington Woods Drive, asked about the reach of the camera.

Mr. Brady indicated that the camera could reach about 1,000 feet.

There being no further comments, Ms. Rice closed the floor and asked for the question.

MOTION Question called on a roll call vote:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

ORDINANCE NUMBER 2411

Ordinance Number 2411 – An Ordinance To Repeal Ordinance 2209, Adopted June 6, 2005, And Adopt In Full Ordinance 2411 “City Of Vestavia Hills Smoke-Free Ordinance Of 2012”

Ms. Rice explained that this item was postponed from the last meeting and the City Attorney has recommended that an amendment be done to the Ordinance in order to add some citations and a bibliography to the document. She indicated that the amendment would require unanimous consent and opened the floor for a motion.

MOTION Motion for unanimous consent for the immediate consideration and action on the amendment to Ordinance Number 2411 was by Ms. Allison and second was by Mr. Pierce. Roll call vote, as follows:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

Ms. Rice opened the floor for a motion to adopt the amendment of Ordinance Number 2411.

MOTION Motion for adoption of the amendment of Ordinance Number 2411 was made by Mr. Pierce and second was by Mr. Ammons. Roll call vote, as follows:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes

Motion carried.

MOTION Motion to adopt Ordinance Number 2411 as amended was by Mr. Ammons and second was by Ms. Allison.

Mr. Boone stated that he has reviewed the Ordinance and his legal opinion was that he found no problems based upon his research and the case law surrounding the issue. He explained the conditions of the older Ordinance and this proposed Ordinance.

Mr. Ammons asked about the graduating fine structure.

Ms. Rice opened the floor for a public hearing. The following individuals addressed the Council concerning the proposed Ordinance:

- o Chris Ayers, owner, Blackwell's Pub;
- o Deloye Burrell, Farrington Woods Drive;
- o Dave Horn, owner of Mudtown and The Ridge;
- o Terri Chapin-Lloyd, Liberty Park resident;
- o Ashley Lyerly, MPA, American Lung Association

Concerns included the distance from business entries that smokers needed to go in order to begin smoking.

Ms. Rice stated that the Council has received a lot of correspondence on this Ordinance but that most of it has been in full support of the adoption.

Mr. Ammons pointed out to the restaurant owners that they might lose the customers who want to smoke right outside the door, but they might find they'll attract many more families.

There being no further discussion, Ms. Rice closed the public hearing and asked for the question.

MOTION Question called on a roll call vote:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes

Motion carried.

ORDINANCE NUMBER 2413

Ordinance Number 2413 – Annexation – 90-Day Final – 0.56 Acres, Cahaba River Road Known As The Anglin Property; City Of Vestavia Hills, Owner

MOTION Motion to adopt Ordinance Number 2413 was by Mr. Pierce and second was by Ms. Allison.

Ms. Rice stated that this is the 90-day final of the one-half acre the City purchased in order align the entrance roadway to the Patchwork Farms development. She explained that the property had been annexed by the overnight method but the 90-day follow-up is the City's natural procedure.

Ms. Rice opened the floor for a public hearing. There being no one present to address the Council, Ms. Rice closed the public hearing and called for the question.

MOTION Question called on a roll call vote:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes
Motion carried.	

NEW BUSINESS (REQUESTING UNANIMOUS CONSENT)

RESOLUTION NUMBER 4324

Resolution Number 4324 - A Resolution Authorizing The Mayor To Relocate Utility Poles And Utility Services For The Construction Of Healthy Way

MOTION Motion for unanimous consent for the immediate consideration and action on the amendment to Resolution Number 4324 was by Mr. Ammons and second was by Mr. Pierce. Roll call vote as follows:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes
Motion carried.	

MOTION Motion to adopt Resolution Number 4324 was by Mr. Ammons and second was by Ms. Allison.

The Mayor explained that approximately six utility poles and the services attached to those poles needed to be relocated in order to place the new entranceway to the Patchwork Farms development. He stated that they believe they may be able to negotiate with the companies to reduce the costs somewhat, but the initial anticipated expense is at \$145,000. He indicated that time is of the essence and the work needed to be done as soon as possible.

Discussion ensued about the cost and ways to reduce those associated with the relocation.

Ms. Rice opened the floor for a public hearing.

David Harwell, 1803 Catala Road and David Carrington, President, Jefferson County Commission addressed the Council concerning this request. There being further discussion, Ms. Rice closed the public hearing and called for the question.

MOTION Question called on a roll call vote:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

RESOLUTION NUMBER 4320

Resolution Number 4320 – A Resolution Approving An Alcohol License To R And A Services, Inc., D/B/A Leon La Taverna For An 020 – Restaurant Retail Liquor License At 8000 Liberty Parkway, Suites 102 And 104; Gabriela Gallegos, Executive

MOTION Motion to adopt Resolution Number 4320 was by Mr. Pierce and second was by Mr. Ammons.

Gabriela Gallegos was present in regard to this request.

The Mayor explained that this location is the former LaDama’s restaurant in Liberty Park. Ms. Gallegos wishes to open a Mexican restaurant in this location and is requesting a restaurant liquor license.

Chief Rary indicated the Police Department found no problems with the request.

Ms. Rice opened the floor for a public hearing. There being no one present to address the Council, Ms. Rice closed the public hearing and called for the question.

MOTION Question called on a roll call vote:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

RESOLUTION NUMBER 4321

Resolution Number 4321 – A Resolution Approving An Alcohol License To Sullivan Pizza Inc., D/B/A Donatos Pizza Store 132 For An 040 – Retail Beer

(On Or Off Premises) And An 060 – Retail Table Wine (On And Off Premises) License At 629 Montgomery Highway; Robert Sullivan, Executive

MOTION Motion to adopt Resolution Number 4321 was by Mr. Ammons and second was by Mr. Pierce.

Robert Sullivan was present in regard to this request.

The Mayor explained that this location was Donato's Pizza near City Hall. He explained that the owner wishes to add beer and wine to his menu and has requested a license for on-premise service.

Chief Rary indicated the Police Department found no problems with the request.

Ms. Rice opened the floor for a public hearing. There being no one present to address the Council, she closed the public hearing and called for the question.

MOTION Question called on a roll call vote:

Mr. Pierce – yes

Ms. Allison – yes

Mr. Ammons – yes

Ms. Rice – yes

Motion carried.

EXECUTIVE SESSION

Ms. Rice stated that the Council needed to move into Executive Session in order to discuss the purchase/sale of property. She explained that the Session is estimated to last approximately 60 minutes and asked Mr. Boone to verify that is a legal reason for an Executive Session.

Mr. Boone concurred and Ms. Rice opened the floor for a motion.

MOTION Motion for the Council to move into Executive Session for the discussion of purchase/sale for an estimated 60 minutes was by Ms. Allison and second was by Mr. Pierce. On a roll call vote:

Mr. Pierce – yes

Ms. Allison – yes

Mr. Ammons – yes

Ms. Rice – yes

Motion carried.

The Council exited the Chamber at 6:25 PM and entered into Executive Session. At 8:13 PM, they re-entered the Chamber and Ms. Rice called the meeting back to order.

ORDINANCE NUMBER 2414

Ordinance Number 2414 – An Ordinance Authorizing And Directing The Purchasing And Closing Of The Sale Of Real Estate

Ms. Rice explained that the City Attorney has recommended that this Ordinance be amended in order to add the contract to the Ordinance. She indicated that the amendment would require unanimous consent and opened the floor for a motion.

MOTION Motion for unanimous consent for the immediate consideration and action on the amendment to Ordinance Number 2414 was by Mr. Pierce and second was by Mr. Ammons. Roll call vote as follows:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

Ms. Rice opened the floor for a motion to adopt the amendment of Ordinance Number 2414.

MOTION Motion for adoption of the amendment of Ordinance Number 2414 was made by Mr. Ammons and second was by Mr. Pierce. Roll call vote, as follows:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Ms. Rice – yes
Motion carried.

MOTION Motion to adopt Ordinance Number 2414 as amended was by Mr. Ammons and second was by Mr. Pierce.

The Mayor stated that negotiations have been ongoing to purchase the big box store located behind Red Lobster. He stated that this store was the former location of Food World.

Ms. Rice opened the floor for a public hearing.

Martha Cook, Branchwater Lane, asked if this was because of the lawsuit concerning the proposed thrift store that is against the City.

Mr. Boone explained the status of the lawsuit that is still ongoing.

There being no further discussion, Ms. Rice closed the public hearing and called for the question.

MOTION Question called on a roll call vote:
Mr. Pierce – no Ms. Allison – no

Mr. Ammons – yes

Ms. Rice – no

Motion failed.

RESOLUTION NUMBER 4318

Resolution Number 4318 - A Resolution To Require Publication In *The Birmingham News* Providing Notice Of A Public Hearing To Be Held By The City Council Of The City Of Vestavia Hills, Alabama On August 13, 2012 At 5:00 P.M. For The Purposes Of Determining Whether Or Not A Parcel Of Land Situated At 1112 Montgomery Highway In The City Of Vestavia Hills, Alabama Sometimes Referred To As “The Old Library Property” (“The Property”) Owned By The City Of Vestavia Hills Is Needed For Municipal Or Public Purposes; To Determine Whether Or Not To Sell The Property Which Has An Appraised Value Of \$1,500,000.00 To HES Investments, LLC For A Total Sales Price In The Amount Of \$750,000.00; To Determine Whether Or Not The Closing Of The Sale Of The Property Pursuant To The Terms, Provisions And Conditions Of A Written Real Estate Purchase And Sale Agreement And The First Addendum And Second Addendum Thereto Will Serve As A Valid And Sufficient Public Purpose Notwithstanding Any Incidental Benefit Accruing To Any Private Entity Or Entities; To Thoroughly Discuss The Public Benefits Sought To Be Achieved By The Closing Of The Sale Of Said Property; To Identify The Name Of The Party That Has Offered To Purchase Said Property; To Receive Public Comments And Input Regarding The Sale Of Said Property; To Decide Whether Or Not To Sell Said Property; And To Decide Any Other Issue Relative To This Matter

Ms. Rice explained that the City Attorney has recommended that the Resolution be amended in order to add the contract. She indicated that the amendment would require unanimous consent and opened the floor for a motion.

MOTION Motion for unanimous consent for the immediate consideration and action on the amendment to Resolution Number 4318 was by Mr. Pierce and second was by Ms. Allison. Roll call vote, as follows:

Mr. Pierce – yes

Ms. Allison – yes

Mr. Ammons – yes

Ms. Rice – yes

Motion carried.

Ms. Rice opened the floor for a motion to adopt the amendment of Resolution Number 4318.

MOTION Motion for adoption of the amendment of Resolution Number 4318 was made by Mr. Pierce and second was by Mr. Ammons. Roll call vote as follows:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes

Motion carried.

MOTION Motion to adopt Resolution Number 4318 as amended was by Mr. Pierce and second was by Mr. Ammons.

The Mayor stated that this Resolution would include a contract to sell the old Library property. He highlighted the terms of the agreement.

Ms. Rice opened the floor for a public hearing. There being no discussion, she closed the public hearing and called for the question.

MOTION Question called on a roll call vote:

Mr. Pierce – no	Ms. Allison – no
Mr. Ammons – no	Ms. Rice – no

Motion failed.

RESOLUTION NUMBER 4319

Resolution Number 4319 - A Resolution Appointing An Election Manager For The City Of Vestavia Hills Municipal Election

MOTION Motion to adopt Resolution Number 4319 was by Mr. Pierce and second was by Mr. Ammons.

The Mayor stated that the State of Alabama requires an Election Manager to be selected once he qualifies as a candidate in the upcoming election. He indicated that he has qualified to run for the Office of Mayor and the Resolution appoints the City Clerk as the Election Manager.

MOTION Question called on a roll call vote:

Mr. Pierce – yes	Ms. Allison – yes
Mr. Ammons – yes	Ms. Rice – yes

Motion carried.

FIRST READING (NO ACTION TO BE TAKEN AT THIS MEETING)

Ms. Rice stated that the following Resolutions and/or Ordinances will be presented at a public hearing at the Council's next regularly scheduled meeting of July 23, 2012 at 5 PM.

- Resolution Number 4322 - A Resolution Ordering The Demolition Of A Building Or Structure Located At 1459 Montgomery Highway, Vestavia Hills, Alabama, Parcel ID# 39-01-1-001-002.000-RR2 And 29-36-4-007-005.000-RR6, In Compliance With Sections 11-40-30 Through 11-40-36, Sections 11-53b-1 Through 11-53b-16, Inclusive, Of The *Code Of Alabama*, And In Compliance With Ordinance Number 2382 Of The City Of Vestavia Hills, Alabama; And Calling For Said Demolition To Be Performed By The City Of Vestavia Hills And Directing The City Attorney And The City Clerk To Cause The Cost Of Such Demolition To Be Charged Against The Land On Which The Building Or Structure Exists As A Municipal Lien Or Cause Such Cost To Be Recovered In A Suit At Law Against The Owner Or Owners
- Resolution Number 4323 – A Resolution Authorizing The City To Bid Out The Cost Of Demolition Of The Property Described In Resolution Number 4322
- Ordinance Number 2416 – Rezoning – 2665 Alta Glen Drive; Rezone From Jefferson County E-1 To Vestavia Hills E-2; Compatible Zoning For Annexation (Property Was Annexed In The 90's But Never Compatibly Rezoned); Susan Henry, Owner
- Ordinance Number 2415 – Rezoning – 4240 Oakview Lane; Rezone From Vestavia Hills R-4 To Vestavia Hills B-1, With Conditions For An Artist Studio; Maude Powell, Owner

CITIZENS COMMENTS

Several members of the audience and City Officials thanked Ms. Rice for her services through the years and her contributions to the City and wished her well in her new home.

MOTION Motion to adjourn the meeting at 8:30 PM was by Mr. Pierce. Mr. Ammons seconded the motion. Voice vote as follows:
Mr. Pierce – yes Ms. Allison – yes
Mr. Ammons – yes Mr. Sharp – yes
Ms. Rice – yes Motion carried.

Mary Lee Rice
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

RESOLUTION NUMBER 4322

A RESOLUTION ORDERING THE DEMOLITION OF A BUILDING OR STRUCTURE LOCATED AT 1459 MONTGOMERY HIGHWAY, VESTAVIA HILLS, ALABAMA, PARCEL ID# 39-01-1-001-002.000-RR2 and 29-36-4-007-005.000-RR6, IN COMPLIANCE WITH SECTIONS 11-40-30 THROUGH 11-40-36, SECTIONS 11-53B-1 THROUGH 11-53B-16, INCLUSIVE, OF THE *CODE OF ALABAMA*, AND IN COMPLIANCE WITH ORDINANCE NUMBER 2382 OF THE CITY OF VESTAVIA HILLS, ALABAMA; AND CALLING FOR SAID DEMOLITION TO BE PERFORMED BY THE CITY OF VESTAVIA HILLS AND DIRECTING THE CITY ATTORNEY AND THE CITY CLERK TO CAUSE THE COST OF SUCH DEMOLITION TO BE CHARGED AGAINST THE LAND ON WHICH THE BUILDING OR STRUCTURE EXISTS AS A MUNICIPAL LIEN OR CAUSE SUCH COST TO BE RECOVERED IN A SUIT AT LAW AGAINST THE OWNER OR OWNERS

WHEREAS, the appropriate Municipal Officials determined that the condition of the building or structure located at 1459 Montgomery Highway, Vestavia Hills, Alabama, Parcel I.D. Number 39-01-1-001-002.000-RR2 and 29-36-4-007-005.000-RR6 is in such a condition as to make it dangerous to the life, health, property, morals, safety, or general welfare of the public or the occupants.

WHEREAS, contemporaneously with the filing of “Finding of Public Nuisance, Notice and Order to Remedy and Notice of Lis Pendens” on Maddox Enterprises LP, Jefferson County Sewer Service Office, Jefferson County, Total Fire Protection, Karen Maddox, Larry C. Maddox, Richard M. Maddox and Birmingham Water Works, a copy of same was sent via certified mail, properly addressed and postage prepaid to:

A. All person or persons, firm, association, or corporation last assessing the subject property for state taxes to the address on file in the Jefferson County Tax Collector’s Office,

B. The record property owner or owners (including any owner or owners of an interest in the subject property) as shown from a search of records of the Office of the Judge of Probate of Jefferson County, Alabama, at the owner or owners’ last known address and at the address of the subject property,

C. All mortgagees of record as shown from a search of the records of the office of the Judge of Probate of Jefferson County, Alabama, to the address set forth in the mortgage or, if no address for the mortgagee is set forth in the mortgage, to the address determined to be the correct address by the appropriate Municipal Officials;

D. All lien holders of record as shown from a search of the records of the Office of the Judge of Probate of Jefferson County, Alabama to the address set forth in the statement of lien or, if no address for the lien holder is set forth in the statement of lien, to the address determined to be the correct address by the appropriate Municipal Officials;

E. Such other persons who are otherwise known to the City Clerk or to the Appropriate Municipal Officials who could have an interest in the subject property;

WHEREAS, contemporaneously with the filing of the “Finding of Public Nuisance, Notice and Order to Remedy, and Notice of Lis Pendens”, a copy of the same was posted at or within three feet of an entrance to the building on the subject property and posted in three public places located within the City of Vestavia Hills: 1) Vestavia Hills Municipal Center, 2) Vestavia Hills Library in the Forest, and 3) Vestavia Hills Civic Center.

WHEREAS, notice that the appropriate Municipal Officials have made a finding that the subject property is a dangerous building because it is unsafe to the extent that it is a public nuisance and is subject to demolition and that a public hearing would be held on a certain date was also given to all interested parties and to the public at large by publication in the *Alabama Messenger*.

BE IT RESOLVED by the City Council of the City of Vestavia Hills, Alabama while in regular session on Monday, July 23, 2012 at 5:00 p.m. as follows:

Section 1. A Public Hearing was held on July 23, 2012 at 5:00 p.m. and after due deliberation the City Council of the City of Vestavia Hills, Alabama finds that the structure standing at 1459 Montgomery Highway, Vestavia Hills, Alabama, Parcel ID# 39-01-1-001-002.000-RR2 and 29-36-4-007-005.000-RR6 is unsafe to the extent of becoming a public nuisance to the citizens of the City of Vestavia Hills, Alabama and is due to be condemned and demolished in compliance with Sections 11-40-30 through 11-40-36 and Sections 11-53B-1 through 11-53B-16, inclusive, of the *Code of Alabama* (1975), and Ordinance Number 2382 of the City of Vestavia Hills, Alabama; and

Section 2. That said demolition is to be performed by the City of Vestavia Hills; and

Section 3. That the City Attorney and the City Clerk are hereby directed to cause the cost of such demolition to be charged against the land on which the building or structure is located and shall constitute a lien on the property for the amount of the assessment or cause such cost to be recovered in a suit at law against the owner or owners.

ADOPTED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

CERTIFICATION OF CITY CLERK

STATE OF ALABAMA)

JEFFERSON COUNTY)

I, Rebecca Leavings, City Clerk of the City of Vestavia Hills, Alabama, do hereby certify that the above and foregoing is a true and correct copy of a Resolution duly and legally adopted by the City Council of the City of Vestavia Hills, Alabama, on the 23rd day of July, 2012 while in regular session on Monday, July 23, 2012, and the same appears of record in the minute book of said date of said City.

Witness my hand and seal of office this _____, 20__.

Rebecca Leavings, City Clerk

RESOLUTION NUMBER 4323

**A RESOLUTION AUTHORIZING THE MAYOR TO INVITE BIDS
FOR THE DEMOLITION OF THE PROPERTY DESCRIBED IN
RESOLUTION NUMBER 4322**

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

1. The Mayor is hereby authorized to invite competitive bids for the demolition of the property located at 1459 Montgomery Highway pursuant to the adoption of Resolution Number 4322; and
2. The results of said bid shall be presented to the City Council for consideration and selection of an award of bid; and
3. This Resolution shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

ORDINANCE NUMBER 2416

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 A PARCEL OF PROPERTY FROM JEFFERSON COUNTY E-1 TO VESTAVIA HILLS E-2

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 Jefferson County E-1 to Vestavia Hills E-2;

2665 Alta Glen Drive
Susan Henry, Owner(s)

APPROVED and ADOPTED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

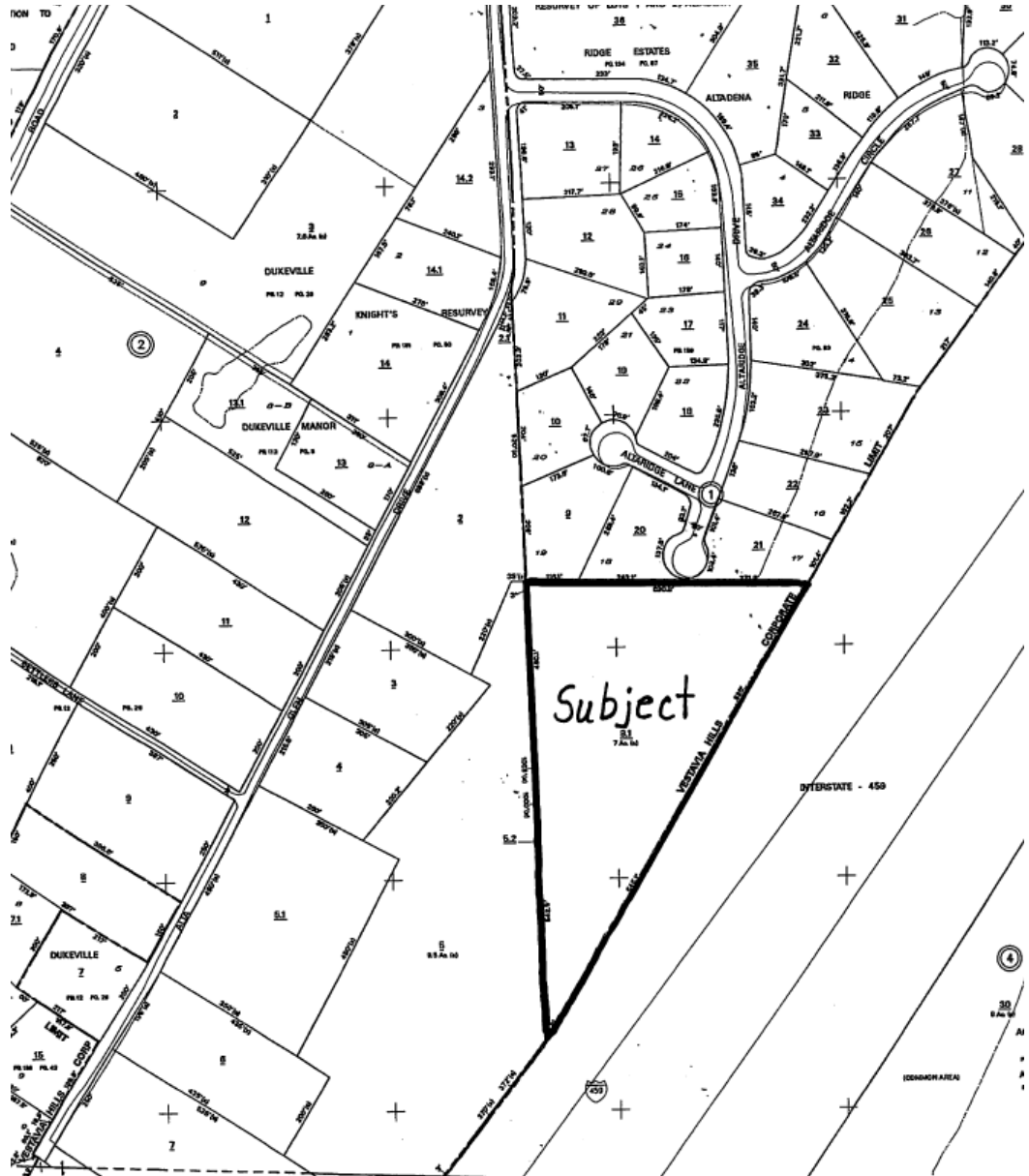
Alberto C. Zaragoza, Jr.
Mayor

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 # 2416 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 23rd day of July, 2012 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2012.

Rebecca Leavings
City Clerk



CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE PLANNING AND ZONING COMMISSION

Date: May 3, 2012

- **CASE:** P-0512-19
- **REQUESTED ACTION:** Application for Rezoning of 2665 Alta Glen Drive from Jefferson County E-1 to Vestavia Hills E-2
- **PROPOSED USE(S):** E-2 residential
- **ADDRESS/LOCATION.** 2665 Alta Glen Drive; Vestavia Hills AL 35243
- **APPLICANT/OWNER:** Susan Henry, 2665 Alta Glen Drive, Vestavia Hills AL 35243
- **REPRESENTING AGENT:** Susan Henry, 2665 Alta Glen Drive, Vestavia Hills AL 35243
- **GENERAL DISCUSSION:** This property is located on Alta Glen Drive and consists of 7.25 acres with two residential units constructed on it. The property was annexed in the early 90's but never compatibly zoned. The owner has approached the City with the possibility of maybe carving out a third lot on the property but was advised that compatible zoning needed to be completed on the property regardless of any future plans. This request is to compatibly zone the property. It is interesting to note that if the compatible zoning had occurred when the property was annexed, the compatible zoning at that time would have been R-1. However, compatible zoning at this time is E-2 zoning with a minimum 1 acre lot.
- **CITY OF VESTAVIA HILLS COMPREHENSIVE PLAN:** This property is located not in any Figure of the Vestavia Hills Comprehensive Master Plan but is located an area developed as low density residential. This request is consistent with the plan.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Clerk Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

City Clerk Recommendation: No recommendation

2. **City Engineer Review:** No problems noted.
3. **City Fire Marshal Review:** No problems noted.
4. **Building Safety Review:** No problems noted.

P&Z Recommendation

MOTION Mr. Farrell made a motion to recommend the rezoning of 2665 Alta Glen Drive From Jefferson County E-1 to Vestavia Hills E-2. Second was by Mr. Burrell. Motion was carried on a roll call; vote as follows:

<u>Ms. Fancher – yes</u>	<u>Mr. House – yes</u>
<u>Mr. Burrell – yes</u>	<u>Mr. Farrell – yes</u>
<u>Mr. Gilchrist – yes</u>	<u>Mr. Sharp – yes</u>
<u>Mr. Visintainer – yes</u>	<u>Mr. Larson – yes</u>
<u>Motion carried.</u>	

ORDINANCE NUMBER 2415

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 A PARCEL OF PROPERTY FROM VESTAVIA HILLS R-4 TO VESTAVIA HILLS B-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 to Vestavia Hills B-1;

4240 Oakview Lane
Maude Powell, Owner(s)

BE IT FURTHER ORDAINED, that said zoning is conditioned upon the following: (1) uses on property are limited so as to prohibit convenience stores, laundry or dry cleaning businesses, produce markets, fast food restaurants, bars, lounges and veterinary hospitals or practices; (2) that property lines to the rear shall be screened with a combination of privacy fencing and evergreen plantings; and (3) that said conditions will be executed in the form of private restrictive covenants to be filed and recorded in the Jefferson County Office of the Judge of Probate and a copy filed with the Office of the City Clerk to be affixed and incorporated into this Ordinance Number 2415 as if written fully therein.

APPROVED and ADOPTED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

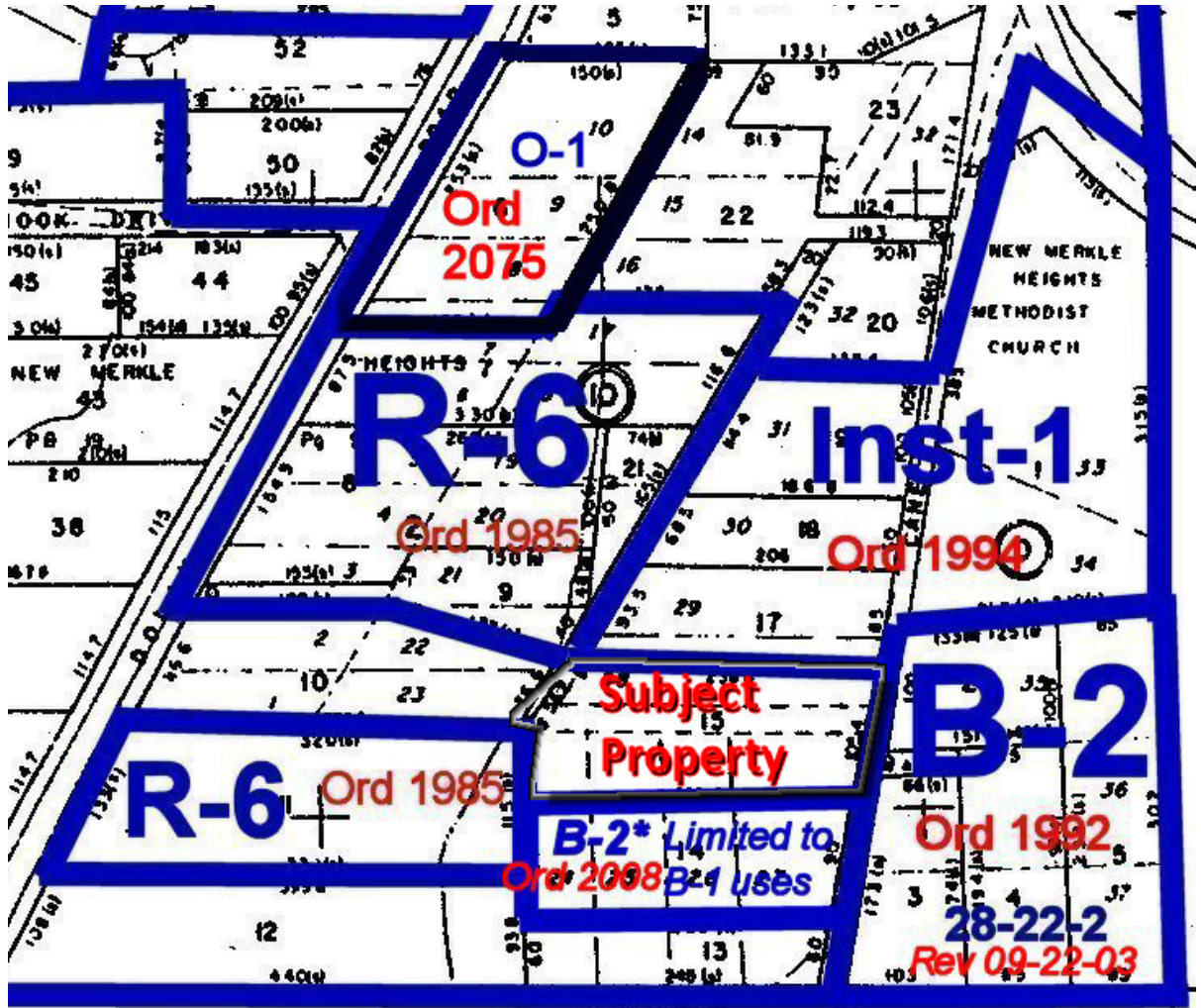
Alberto C. Zaragoza, Jr.
Mayor

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 # 2415 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 23rd day of July, 2012 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2012.

Rebecca Leavings
City Clerk



CITY OF VESTAVIA HILLS
SYNOPSIS AND STAFF RECOMMENDATION CONCERNING
APPLICATION BEFORE THE PLANNING AND ZONING COMMISSION

Date: May 3, 2012

- **CASE:** P-0512-20
- **REQUESTED ACTION:** Application for Rezoning of 4240 Oakview Lane; Rezone from VH R-4 (residential) to B-2 (business)
- **PROPOSED USE(S):** B-2 business
- **ADDRESS/LOCATION:** 4240 Oakview Lane; Vestavia Hills AL 35243
- **APPLICANT/OWNER:** Maude Powell, 3341 Dell Road, Birmingham AL 35223
- **REPRESENTING AGENT:** Maude Powell, 3341 Dell Road, Birmingham AL 35223
- **GENERAL DISCUSSION:** This property is located on Oak View Lane. There is an existing residential structure that was repaired following last years April tornado. The property was formerly owned by the adjacent church and has been purchased by the applicant in the hopes of creating an artists studio. The required zoning for such a studio is B-2 but applicant has offered to record covenants to prohibit any convenience store or filling station. The property is located across from a commercial building and parking is located on the street. Applicant has submitted plans showing proposed parking on the property and ADA compliance as well as proposed buffering.
- **CITY OF VESTAVIA HILLS COMPREHENSIVE PLAN:** This property is located in Figure 19 of the Vestavia Hills Comprehensive Master Plan in an area designated as village center. This request is consistent with the plan. This property is designated as “institutional” in the Cahaba Heights Community Plan, this request is not consistent with this plan but is located in an area primarily zoned business district from redevelopment of properties formerly owned by the Church.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Clerk Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property

owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

City Clerk Recommendation: No recommendation

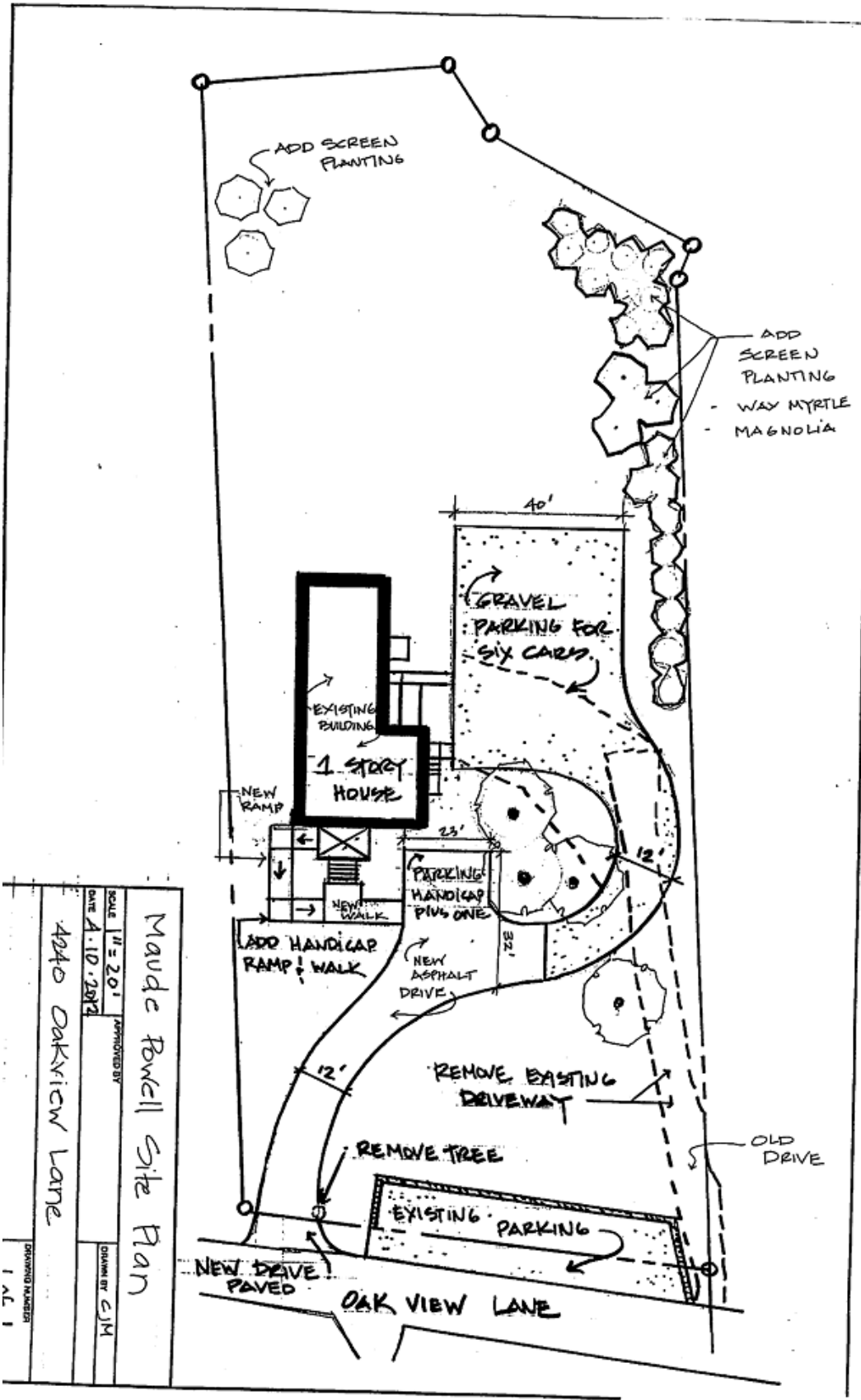
2. **City Engineer Review:** Prefers street parking to be removed.
3. **City Fire Marshal Review:** Site visit discussed all needed improvements with applicant
4. **Building Safety Review:** Building to be brought to code; site visit and all requirements conveyed to applicant.

P&Z Recommendation:

MOTION *Mr. Visintainer made a motion to recommend the rezoning of 4240 Oakview Lane from Vestavia Hills R-4 to Vestavia Hills B-2 with the stipulation that the property can only be used for an artist studio and should the use ever be discontinued for a year, then in such event, the zoning shall revert back to residential. Second was by Mr. Farrell. Motion was carried on a roll call; vote as follows:*

<u>Ms. Fancher – yes</u>	<u>Mr. House – yes</u>
<u>Mr. Burrell – yes</u>	<u>Mr. Farrell – yes</u>
<u>Mr. Gilchrist – yes</u>	<u>Mr. Sharp – yes</u>
<u>Mr. Visintainer – yes</u>	<u>Mr. Larson – yes</u>
<u>Motion carried.</u>	

UPDATE: *Applicant reconsidered P&Z's recommendation and has made amendments to requested zoning to request to B-1, neighborhood commercial with limitations in the form of restrictive covenants. Those restrictions are reflected in the ordinance before the City Council.*



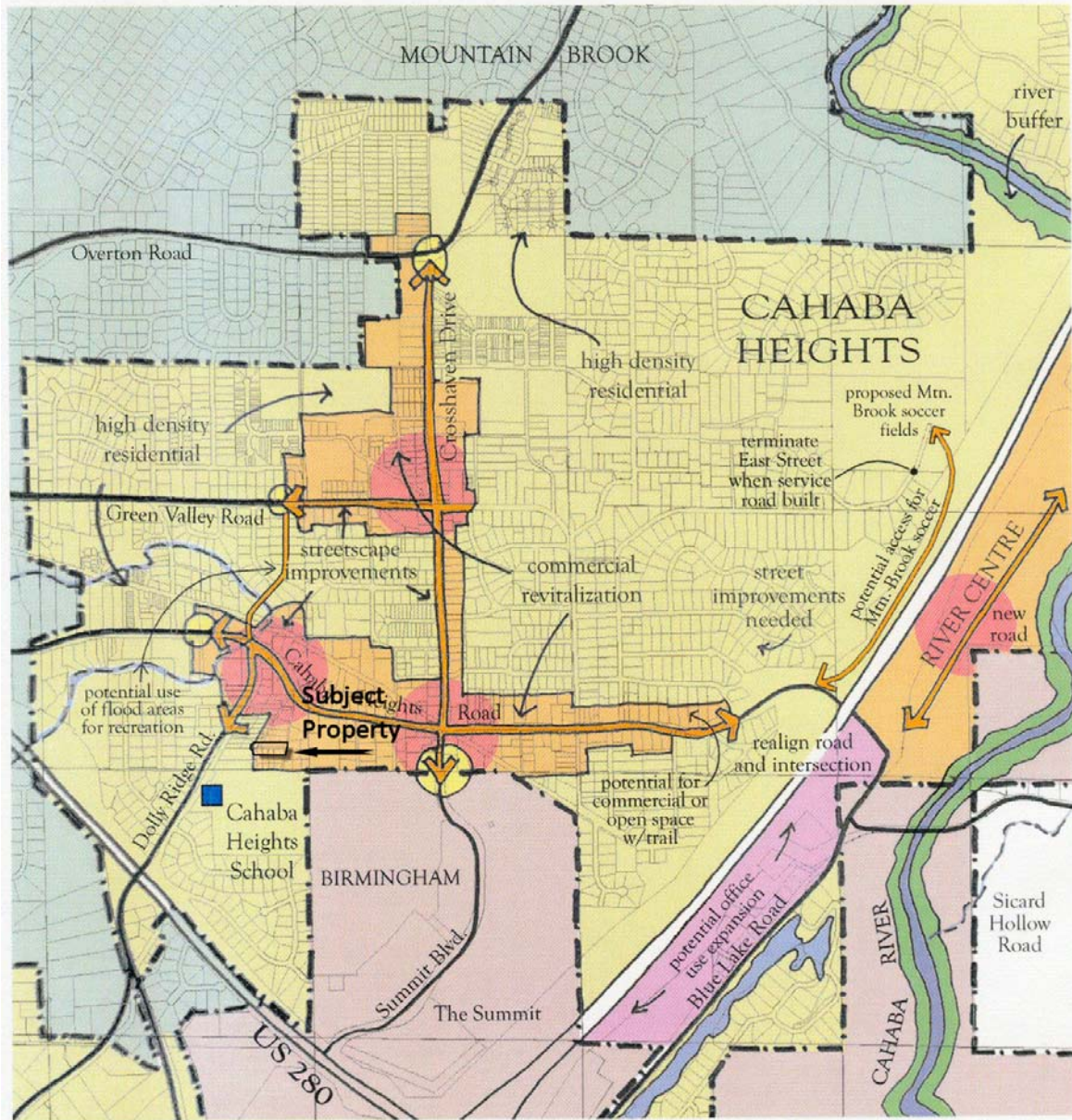
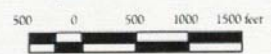










Figure 19: Cahaba Heights
Land Use Analysis

- Neighborhood - primarily low / medium density single-family residential areas with higher densities near village centers. Other uses may include schools, places of worship, recreational areas, and open space.
- Village Center - mixed use centers with highest densities in core areas. Mix of uses should include retail and service businesses, professional offices, high density residential areas, institutions, recreation areas, and public spaces.
- Commercial Core - primarily high density, retail and service business areas with professional offices and multi-family residences on upper floors or on periphery. Other uses may include institutions and public space.
- Gateways and Nodes - Gateways are entryways into the community or village enhanced with consistent signage, landscaping, and other elements. Nodes are sites, such as transit stops, where public spaces, signage, and other public design elements should be considered.

- Professional Offices - primarily professional office uses. Density should vary according to surroundings. Other uses may include retail and services (supporting offices and employees), places of worship, public spaces, and open space.
- Recreation and Open Space - public and private recreation facilities and preserved natural spaces. Recreation facilities may be active, passive or combined. Open spaces are areas preserved in a natural state and may include passive recreational uses.
- Trailheads - Trailheads are public sites along a trail, where bike racks, seating, parking, and public amenities are provided for trail users.
- Schools - School facilities administered by the Vestavia Hills School System.



Future Land Use

- | | | |
|--|---|--|
|  Low-Density Residential |  Retail/Mixed Use |  Institutional |
|  Medium-Density Residential |  Limited Mixed Use |  Parks and Open Space |
|  High-Density Residential |  Planned Mixed Use | |
|  Birmingham |  Jefferson County |  Mountain Brook |

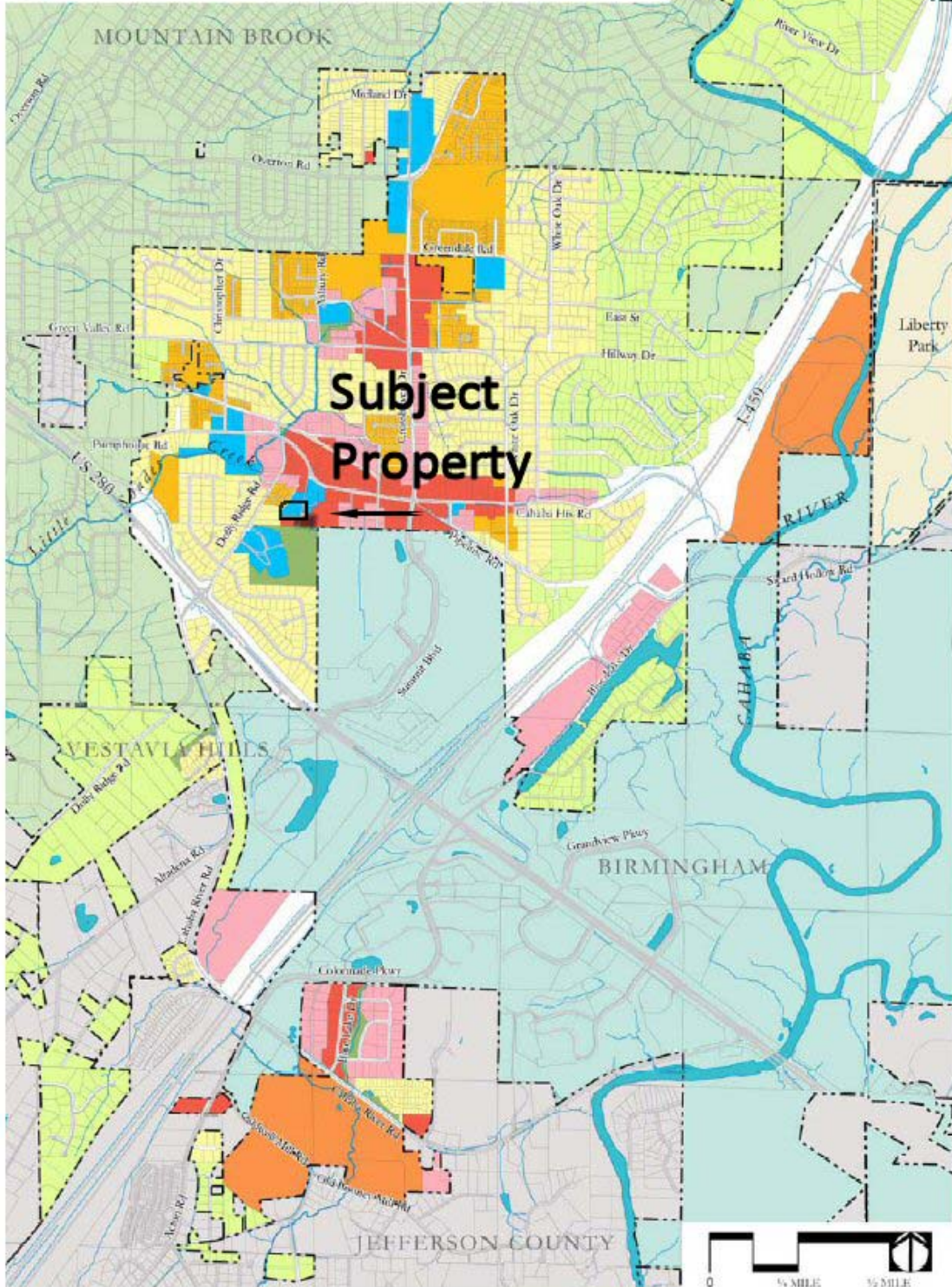


Figure 4: Future Land Use Map

RESOLUTION NUMBER 4326

STATE OF ALABAMA

COUNTY OF JEFFERSON/SHELBY

CITY OF VESTAVIA HILLS

WHEREAS, Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, provide for and regulate general and special elections in cities and towns of this state, except those cities and towns which have a commission form of government; and

WHEREAS, Section 11-46-43 of the Alabama Code of 1975 prohibits write-in candidates in elections held under Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended; and

WHEREAS, Section 11-46-26 of the Alabama Code of 1975, as amended, provides that if only one person has filed a statement of candidacy or has been nominated for an office for an election to be held pursuant to Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, at the time the deadline for qualification has passed, then such person shall, for all purposes, be deemed elected to such office, and the mayor or other chief executive officer shall not cause the name of such person or the office for which his candidacy was declared to be printed on the ballot, but he shall immediately file a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy or was nominated for the office preceding the deadline set for an election of municipal officers of the municipality and setting forth the name of such person; and

WHEREAS, said Section 11-46-26, as amended, provides that the governing body of the municipality, after receiving such statement, shall adopt a resolution declaring the person named in the statement duly elected to the office described in the statement, and shall issue a Certificate of Election to such person; and

WHEREAS, the Mayor of the City of Vestavia Hills, Alabama has filed a written statement with the governing body of the municipality, attested by the Clerk, certifying the fact that only one person filed a statement of candidacy for the office of Mayor prior to the deadline and that the name of that person who filed such statement was Alberto C. Zaragoza,

Jr.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA that Alberto C. Zaragoza, Jr. be and is hereby declared duly elected to the office of Mayor for the term of office commencing on the first Monday in November, 2012.

BE IT FURTHER RESOLVED, that the Mayor of the City of Vestavia Hills, Alabama be and hereby is directed to issue a certificate of election to Alberto C. Zaragoza, Jr. for the office of Mayor for such term pursuant to the provisions of Section 11-46-25, as amended.

ADOPTED and APPROVED the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

RESOLUTION NUMBER 4327

STATE OF ALABAMA

COUNTY OF JEFFERSON/SHELBY

CITY OF VESTAVIA HILLS

WHEREAS, Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, provide for and regulate general and special elections in cities and towns of this state, except those cities and towns which have a commission form of government; and

WHEREAS, Section 11-46-43 of the Alabama Code of 1975 prohibits write-in candidates in elections held under Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended; and

WHEREAS, Section 11-46-26 of the Alabama Code of 1975, as amended, provides that if only one person has filed a statement of candidacy or has been nominated for an office for an election to be held pursuant to Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, at the time the deadline for qualification has passed, then such person shall, for all purposes, be deemed elected to such office, and the mayor or other chief executive officer shall not cause the name of such person or the office for which his candidacy was declared to be printed on the ballot, but he shall immediately file a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy or was nominated for the office preceding the deadline set for an election of municipal officers of the municipality and setting forth the name of such person; and

WHEREAS, said Section 11-46-26, as amended, provides that the governing body of the municipality, after receiving such statement, shall adopt a resolution declaring the person named in the statement duly elected to the office described in the statement, and shall issue a Certificate of Election to such person; and

WHEREAS, the Mayor of the City of Vestavia Hills, Alabama has filed a written statement with the governing body of the municipality, attested by the Clerk, certifying the fact that only one person filed a statement of candidacy for the office of City Councilor, Place Number 2, prior to the deadline and that the name of that person who filed such

statement was Jim Sharp.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA that Jim Sharp be and is hereby declared duly elected to the office of City Councilor, Place Number 2, for the term of office commencing on the first Monday in November, 2012; and

BE IT FURTHER RESOLVED, that the Mayor of the City of Vestavia Hills, Alabama be and hereby is directed to issue a certificate of election to Jim Sharp for the office of City Councilor, Place Number 2 for such term pursuant to the provisions of Section 11-46-25, as amended.

ADOPTED and APPROVED the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

RESOLUTION NUMBER 4328

STATE OF ALABAMA

COUNTY OF JEFFERSON/SHELBY

CITY OF VESTAVIA HILLS

WHEREAS, Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, provide for and regulate general and special elections in cities and towns of this state, except those cities and towns which have a commission form of government; and

WHEREAS, Section 11-46-43 of the Alabama Code of 1975 prohibits write-in candidates in elections held under Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended; and

WHEREAS, Section 11-46-26 of the Alabama Code of 1975, as amended, provides that if only one person has filed a statement of candidacy or has been nominated for an office for an election to be held pursuant to Sections 11-46-20 through 11-46-73 of the Alabama Code of 1975, as amended, at the time the deadline for qualification has passed, then such person shall, for all purposes, be deemed elected to such office, and the mayor or other chief executive officer shall not cause the name of such person or the office for which his candidacy was declared to be printed on the ballot, but he shall immediately file a written statement with the governing body of the municipality, attested by the clerk, certifying the fact that only one person filed a statement of candidacy or was nominated for the office preceding the deadline set for an election of municipal officers of the municipality and setting forth the name of such person; and

WHEREAS, said Section 11-46-26, as amended, provides that the governing body of the municipality, after receiving such statement, shall adopt a resolution declaring the person named in the statement duly elected to the office described in the statement, and shall issue a Certificate of Election to such person; and

WHEREAS, the Mayor of the City of Vestavia Hills, Alabama has filed a written statement with the governing body of the municipality, attested by the Clerk, certifying the fact that only one person filed a statement of candidacy for the office of City Councilor, Place Number 3, prior to the deadline and that the name of that person who filed such

statement was Steve Ammons.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA that Steve Ammons be and is hereby declared duly elected to the office of City Councilor, Place Number 3 for the term of office commencing on the first Monday in November, 2012, and

BE IT FURTHER RESOLVED, that the Mayor of the City of Vestavia Hills, Alabama be and hereby is directed to issue a certificate of election to Steve Ammons for the office of City Councilor, Place Number 3 for such term pursuant to the provisions of Section 11-46-25, as amended.

ADOPTED and APPROVED the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

RESOLUTION NUMBER 4329

**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO
AN AGREEMENT WITH ELECTION SYSTEMS AND
SOFTWARE (ES&S) FOR DELIVERY AND OTHER SERVICES
OF VOTING MACHINES**

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

1. The Mayor is hereby authorized to execute an agreement with Election Systems and Software (ES&S) for delivery, setup, programming and other services of ballot counters and AutoMark machines for the upcoming Municipal Elections to be held on August 28, 2012 and a run-off election, if needed, to be held October 9, 2012; and
2. This Resolution Number 4329 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

July 19, 2012

City of Vestavia Hills
Rebecca Leavings
513 Montgomery Highway
Vestavia Hills AL 35216]

RE: City and Municipal Elections – Jefferson County, Alabama

Dear Gregg Woodyard:

This letter shall confirm the intention of City of Vestavia Hills (“Jurisdiction”) to enter into a Sales of Services Agreement (“Agreement”) with Election Systems & Software, LLC (“ES&S”) in the event the Jurisdiction is required to conduct a 2012 city or municipal election (“Election”) pursuant to the laws of the State of Alabama. In the event the Jurisdiction is required to conduct such an Election, ES&S shall provide the Jurisdiction with the following support services at the rates set forth herein. ES&S and the Jurisdiction agree that the specific support services to be provided by ES&S and paid for by the Jurisdiction shall be set forth in a definitive agreement which shall include all relevant terms and conditions as shall be mutually agreed upon by the parties.

ES&S shall offer the following types of support services to the Jurisdiction at the prices set forth below.

- **Support Services:**
 - Delivery and pickup of rental equipment;
 - L&A Testing;
 - Public Testing; and
 - Election Day Site Support

ES&S shall provide the foregoing equipment and services at the rate of \$595.00 per ES&S Model 100 or ES&S AutoMARK to be provided by Jefferson County, Alabama (“County”) for the Election. By way of example if the Jurisdiction is provided 2 ES&S Model 100s and 2 ES&S AutoMARKs by the County, the cost to the Jurisdiction for the Support Services to be provided by ES&S for the Election would be \$2,380 (2 Model 100s @ \$595/unit and 2 AutoMARKs @ \$595/unit). Please note that only those services set forth above are included in the \$595 per unit price. Any additional products and/or services requested by the Jurisdiction, other than those specifically set forth herein, will be separately charged by ES&S.

[CITY NAME]
July 5, 2012
Page 2

If the foregoing is acceptable to the Jurisdiction, please so indicate by duly executing a copy of this letter and returning one (1) fully executed copy to me at your earliest opportunity. If you have any questions, please do not hesitate to contact me.

Very truly yours,

Gregg Woodyard
Election Systems & Software

ACCEPTED AND AGREED TO THIS
23rd DAY OF JULY 2012

JURISDICTION

By: _____
Its: _____

RESOLUTION NUMBER 4325

A RESOLUTION APPROPRIATING MATCHING FUNDS FOR ADECA GRANT ENTITLED *2012 RECREATIONAL TRAILS PROGRAM 2ND LEVEL APPLICATION – MCCALLUM PARK CONNECTOR TRAIL*

WHEREAS, the City of Vestavia Hills proposes to have constructed recreational resources at McCallum Park to provide for the health and well being of the general public; and

WHEREAS, the City of Vestavia Hills intends to make application for the Alabama Department of Economic and Community Affairs for grant assistance to develop a connector trail along Little Shades Creek in McCallum Park (formerly known as Little Shades Creek Park) from the Federal Highway Administration Recreational Trails Program; and

WHEREAS, funds requested for a diverse-use trail through this Program are in the amount of \$50,000 which is 41.7% of the proposed project costs estimated at \$120,000 which will be used to develop a trail along Little Shades Creek; and

WHEREAS, the Vestavia Hills Parks and Recreation Foundation has included the development of McCallum Park in the “Partners in Healthy Living” campaign and has committed available funds up to \$100,000 for the cash match to fulfill RTP program requirements and to provide for completion of the trail project;

NOW, THEREFORE, BE IT RESOLVED, that the City of Vestavia Hills hold in reserve \$60,000 which is fifty percent (50%) of the proposed project cost for the purpose of matching the Recreational Trails Program assistance; and

BE IT FURTHER RESOLVED, that in the event a grant is awarded, the City of Vestavia Hills understands that it will sign assurances to comply with all applicable Federal and State laws, rules and regulations.

ADOPTED and APPROVED this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

MEMORANDUM

DATE: 18 July 2012

FROM: Melissa Hipp

TO: Mayor Alberto C. Zaragoza, Jr.
Randy E. Robertson, City Manager
Vestavia Hills City Council
Rebecca H. Leavings, City Clerk

RE: Unanimous Consent for Matching Funds Resolution
2012 Recreational Trails Program 2nd Level Application – McCallum Park Connector Trail

Our pre-application submitted to ADECA for Recreational Trails Program funding to construct a connector trail along Little Shades Creek at McCallum Park has been successfully promoted to second-level consideration.

This grant requires a match from the project sponsor, the City of Vestavia Hills. The Vestavia Hills Parks and Recreation Foundation has agreed to supply the match from its campaign funds.

Enclosed is a draft resolution committing the matching funds in the amount of \$50,000. Because there is not a second Council meeting prior to the grant deadline, unanimous consent is needed. Enclosed with this memo is the following information pertaining to the grant, which is in preparation (postmark due August 9, 2012).

Thank you for your consideration of this request. I am happy to assist with any questions you may have.

Enclosures:

- Draft Resolution
- Executive Summary
- RTP Application Cover Sheet
- RTP Application Budget Worksheet

DRAFT RESOLUTION

WHEREAS, the City of Vestavia Hills proposes to have constructed recreational resources at McCallum Park to provide for the health and wellbeing of the general public; and

WHEREAS, the City of Vestavia Hills intends to make application to the Alabama Department of Economic and Community Affairs for grant assistance to **develop a connector trail along Little Shades Creek in McCallum Park (formerly known as Little Shades Creek Park)** from the Federal Highway Administration Recreational Trails Program; and

WHEREAS, funds requested for a diverse-use trail through this program are in the amount of \$50,000 which is 41.7% of the proposed project costs estimated at **\$120,000** which will be used to develop a trail along Little Shades Creek; and

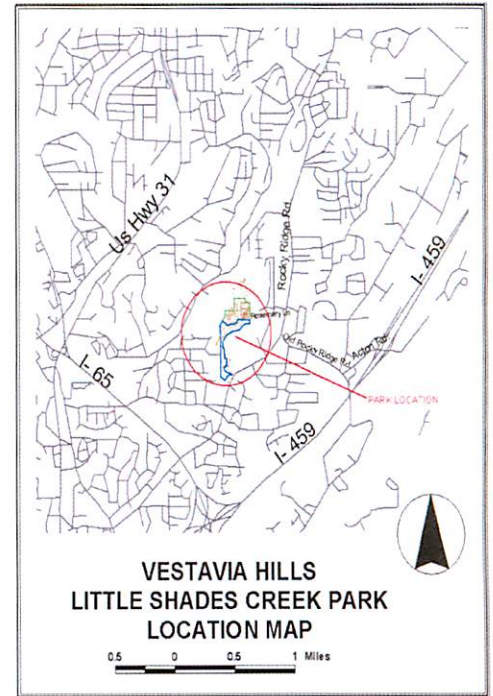
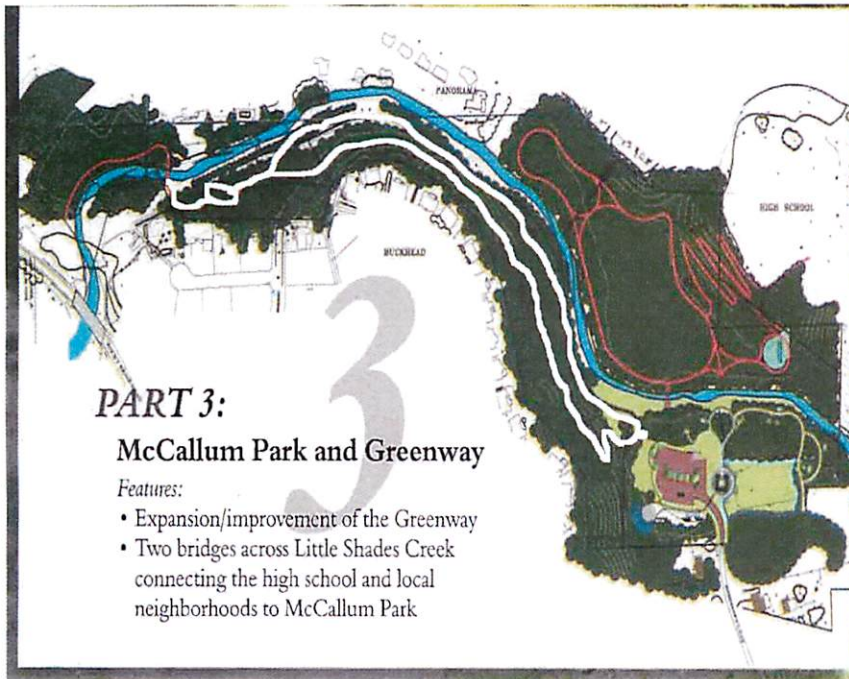
WHEREAS, the Vestavia Hills Parks and Recreation Foundation has included the development of McCallum Park in the “Partners in Healthy Living” campaign and has committed available funds of up to \$50,000 for the cash match to fulfill RTP program requirements and to provide for completion of the trail project; and

WHEREAS, the breakdown of the City match is as follows: \$5,000 in-kind professional services, \$10,000 City labor, \$5,000 volunteer labor, and \$50,000 City funds provided by the Vestavia Hills Parks and Recreation Foundation;

NOW, THEREFORE BE IT RESOLVED, that the City of Vestavia Hills hold in reserve \$50,000, which is fifty percent (50%) of the proposed project cost for the purpose of matching the Recreational Trails Program assistance; and

BE IT FURTHER RESOLVED, that in the event a grant is awarded, the City of Vestavia Hills understands that it will sign assurances to comply with all applicable Federal and State laws, rules, and regulations.

McCallum Park Connector Trail



The project is to construct a single 6' wide, 1.25 mile looping diverse-use connector trail that will run along Little Shades Creek in McCallum Park. McCallum Park is 17.33 acres of 34 acres of dedicated public-use natural area located between Rocky Ridge Road and Morgan Drive in Vestavia Hills (Jefferson County, AL). The trail will be constructed of crushed stone and will be suitable for pedestrians and cyclists using mountain/hybrid bicycles.

The proposed trail will connect with the Vestavia Hills sidewalks system, a trail planned by the City of Hoover which will also run alongside Little Shades Creek, and planned trails across the adjacent 17 acres owned by the Fresh Water Land Trust.

This project is part of the continued implementation of the multi-phase Little Shades Creek Park plan which is included in the overall Jefferson County Greenways Plan in place when the land was purchased in 2003. The project purpose is also complementary to the current Red Rock Ridge and Valley regional trails plan developed by the Fresh Water Land Trust.

<u>Item</u>		<u>Additional (In-Kind) Sources</u>	
Design	\$10,000	L/A - inspection	5,000
Educational/Interpretive Components	\$15,000		
		City Engineer-engineering oversight	5,000
Materials	30,000		
Trail clearing	<u>45,000</u>	VH Public Works – site preparation	5,000
	\$100,000		
		Boy Scouts, VH P&R – trail development	<u>5,000</u>
			\$20,000
	PROJECT TOTAL:		
	\$120,000		

RTP APPLICATION COVER SHEET

**** COMPLETE ALL SPACES – DO NOT LEAVE ANY BLANK ****

1) SPONSOR		2) PROJECT LOCATION CODES	
a. Name	Mayor Alberto C. Zaragoza, Jr.	a. Congressional Dist	6
b. Organization	City of Vestavia Hills	b. State House Dist	47, 48, 45, 58
c. Street/P.O. Box	513 Montgomery Highway	c. State Senate Dist	16
d. City	Vestavia Hills	d. Federal ID Number	63-6002218
e. County	Jefferson	e. Latitude (Deg/Min/Sec)	33.418547
		Longitude (Deg/Min/Sec)	-86.778345
f. Zip Code	35216		
g. Contact Person	Melissa Hipp, Grants Administrator		
h. E-mail address	Mayor.sec2@ci.vestaviiahills.al.us		
i. Phone/Fax Number	205.978.0130 / 205.978.0189		

3) PROPOSED OR EXISTING PROJECT SITE CONTROL

a. Acres to be Purchased	n/a	f. Acres owned by Sponsor	17.33
b. Acres to be Donated	n/a	g. Date Acquired (MM/YY)	2002
c. Total Acres to be Assisted	8 of 34 total	h. Acres Leased by Sponsor	n/a
d. ROW/Easement Purchased	n/a	i. Years Remaining on Lease	n/a
e. Total Acquisition (Sum a:d)	n/a	j. Leased From?	n/a

4) PROJECT TITLE: **McCallum Park Connector Trail** (35 Characters Maximum)

5) PROJECT DESCRIPTION: Construction of a single 6' wide, 1.25 mile looping diverse-use connector trail that will run along Little Shades Creek in Vestavia Hills. The trail will be constructed of crushed stone and will be suitable for pedestrians and cyclists using mountain/hybrid bikes. Will connect to VH sidewalks system, Little Shades Creek trail planned by Hoover, and other trails in McCallum Park. Near to high school, retirement facility, and commercial district.

6) SOURCE OF PROJECT FUNDING

SOURCE	TOTAL	CASH	DONATED LABOR OR EQUIPMENT
a. RTP	50,000	50,000	
b. Sponsor	70,000	50,000	\$5K in-kind L/A, \$10K City labor, \$5K volunteer labor, \$50K donations from Vestavia Hills P&R Foundation Partners in Healthy Living Campaign.
c. Other			
TOTAL	120,000		

7) SOURCE OF PROJECT SPONSOR MATCHING SHARE:

a. Park Revenue	%	d. Donated Labor & Equip	14.2%
b. Bonds	%	e. General Fund	14.3%
c. Cash Donations	71.5%	f. Other Federal Programs	%

8) CERTIFICATION: The applicant certifies that the data contained in the attached application is true and correct; the application has been duly authorized; and, the applicant understands that incorrect or incomplete information may cause the application to be rejected.

a. Typed Name and Title	b. Signature	c. Date
Mayor Alberto C. Zaragoza, Jr.		

PROJECT COST ESTIMATE

The Recreational Trails Program provides **80/20 matching** fund grants. That is, the RTP will fund 80 percent of the project cost and the grant recipient must provide the other 20 percent in the form of cash, in-kind or donated contributions.

ELIGIBLE COSTS

1. Design, engineering, construction oversight services (may not exceed 10% of the total grant amount).
2. Direct labor
3. Special tradesmen secured under a service purchase contract
4. Rental of equipment
5. Construction contracts
6. Project materials
7. Signage¹
8. Land acquisition
9. Professional project administration (grant consultant) (may not exceed 5% of total grant amount).

PROJECT DEVELOPMENT BUDGET

BUDGET ITEM	TOTAL	RTP SHARE	MATCHING SHARE
Acquisition	0		
Construction Contracts	45,000	45,000	0
Equipment Rental	1,500		1,500
Labor	10,000	0	10,000
Signage	500	0	500
Supplies/Materials	43,000	5,000	38,000
Administration	0		
Engineering	20,000		20,000
TOTAL PROJECT COST	120,000	50,000	70,000

Public Employee Costs

To verify allowable costs for state and local government employees, see OMB Circular A-87, Attachment B, item 11. Public labor is **not** volunteer or a donation. If a public employee is paid for time on a project, then the labor would be counted as part of the project cost (provided the labor is an appropriate allowable cost under OMB Circular A-87). It is not an "in-kind donation" since money is paid to the employee.² However, the dollar value of the employee's time may be counted toward

¹ Signs which function as traffic control devices must conform with the Manual on Uniform Traffic Control Devices (MUTCD). Part IX of the MUTCD, Traffic Controls for Bicycle Facilities, covers the bicycle related signs, pavement markings, and signals which may be used on highways or bikeways. Part IX is applicable to shared use paths (nonmotorized multiple-use trails which may provide a transportation purpose). The publication Standard Highway Signs has the detailed drawings for the highway signs prescribed in the MUTCD. These documents are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Signs which do not function as traffic control devices are not subject to the MUTCD. However, informational signs and kiosks must take into consideration the needs of various users, such as: people who are blind or who have low vision, people who use wheelchairs, and children.

² Example: Given a \$62,500 RTP project, where \$31,250 is the allowable cost for right-of-way and materials and \$31,250 is allowable for public agency labor, then of the total \$62,500 cost, the federal share payable from the RTP is \$50,000. The public agency pays \$62,500 in cash (for right-of-way, materials, and labor) and submits a voucher for a \$50,000 reimbursement.

Given a \$62,500 project where \$31,250 is for materials, \$21,875 is allowable public labor, and \$9,375 is the allowable value of private volunteer labor, the federal share payable from the RTP is still \$50,000. The public

the project sponsor's matching funds. For federal agency sponsors the value of a federal employee's time may be counted toward the federal agency's share.

agency pays \$62,500 cash, claims the \$9,375 value of the private volunteer labor, and submits a voucher for \$50,000.

* Given a \$62,500 project where \$12,500 is for materials, \$18,750 is privately donated materials, \$12,500 is allowable public labor, and \$18,750 is private volunteer labor, in this case, the federal RTP payment is limited to \$25,000, because the cash outlay was only \$25,000. This would be a case of the private in-kind match exceeding the federal share.

ORDINANCE NUMBER 2417

**AN ORDINANCE AUTHORIZING AND DIRECTING THE
PURCHASING AND CLOSING OF THE SALE OF REAL ESTATE.**

THIS ORDINANCE NUMBER 2417 is considered, approved, enacted and adopted on this the 23rd day of July, 2012.

WITNESSETH THESE RECITALS

WHEREAS, municipalities in Alabama have the legal authority to acquire real estate by purchase pursuant to Title 11-40-1, *Code of Alabama, 1975*; and

WHEREAS, the City Council (the “City Council”) of the City of Vestavia Hills, Alabama, a municipal corporation (the “City”) finds and determines that the purchase by the City of the hereinafter described real property (the “Property”) will promote the health, safety and general welfare of the City; and

WHEREAS, Title 11-47-5, *Code of Alabama, 1975*, reads as follows:

“Contracts entered into by a municipality shall be in writing, signed and executed in the name of the city or town by the officers authorized to make the same and by the party contracting. In cases not otherwise directed by law or ordinance, such contracts shall be entered into and executed by the mayor in the name of the city or town and all obligations for the payment of money by the municipality, except for bonds and interest coupons, shall be attested by the clerk. This section shall not be construed to cover purchases for the ordinary needs of the municipality;” and

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

1. PROMOTION OF PUBLIC WELFARE: The City Council (the “City Council”) of the City of Vestavia Hills, Alabama, a municipal corporation (the “City”) finds and determines that the purchase by the City of the hereinafter described real property and improvements (the “Property”) will promote the health, safety and general welfare of the City.

2. **CONTRACT FOR PURCHASE OF REAL ESTATE:** The purchasing and closing of the sale of the Property shall be completed all in accordance with the terms, provisions, conditions and limitations of a written Real Estate Sales Contract (the “Contract”) negotiated by the Mayor, City Manager and City Attorney and ultimately considered for acceptance and approval by the City Council at a regular or special public meeting of the City Council.

3. **TERMS OF CONTRACT:** The written Real Estate Sales Contract shall specifically include, but not be limited to, the following terms, provisions, conditions and limitations:

- A. **SELLER:** Southpace Properties, Inc.
- B. **PURCHASER:** The City of Vestavia Hills, Alabama, a municipal corporation.
- C. **PURCHASE PRICE:** One Million One Hundred Fifty Thousand and No/100 Dollars (\$1,150,000.00).
- D. **EARNEST MONEY:** None.
- E. **PAYMENT OF PURCHASE PRICE:** In cash at closing.
- F. **THE PROPERTY:**
 - 1. **Street Address:** In Vestavia Plaza on Montgomery Highway.
 - 2. **Located In:** Vestavia Hills Shopping Center.
 - 3. **Formerly Occupied By:** Food World Grocery Store.
 - 4. **Map of Property:** Attached hereto as Exhibit A.
 - 5. **Legal Description:** To be furnished by Seller upon completion of survey.
 - 6. **Curtilage:** The Property includes the present “Big Box” building and the real estate surrounding it as shown on the survey.
- G. **TITLE INSURANCE:** To be furnished by Seller at Seller’s expense.
- H. **SURVEY:** To be furnished by Seller at Seller’s expense.
- I. **USE OF PROPERTY:** Municipal Center, City Hall or other municipal purposes determined by the City. Seller shall warrant to City in writing that the Property can be used for said purposes.

J. **CONDITION OF PROPERTY:** “As is” condition with all faults.

K. **PARKING SPACES:** Seller shall provide perpetual cross parking easements to the extent that there shall be one parking space per 200 square feet in the building on the property.

L. **CONVEYANCE:** By Warranty Deed.

M. **BROKER COMMISSION:** None.

N. **ATTORNEY FEES:** Each party shall pay its own attorney fees for legal services rendered in connection with the sale, purchase and closing.

O. **RESURVEY:** To be completed by both Seller and Purchaser.

4. **FIRST READING OF ORDINANCE NUMBER 2417:** There will be a first reading of Ordinance Number 2417 at the regularly scheduled meeting of the City Council on Monday, June 25, 2012, at 5:00 p.m.

5. **PREPARATION OF CONTRACT:**

A. **DATE:** After June 25, 2012, but prior to July 9, 2012.

B. **SCRIVENER:** Attorney for Seller at Seller’s expense.

6. **CONSIDERATION FOR APPROVAL OF CONTRACT:** The City Council will consider approval of the Contract at its regularly scheduled meeting on July 9, 2012 at 5:00 p.m.

7. **AMENDMENT TO ORDINANCE NUMBER 2417:** If the City Council approves the Contract and it is executed and delivered by both Seller and Purchaser, then in such event Ordinance Number 2417 shall be amended by adding a copy of the duly executed Contract thereto.

8. **SECOND READING AND CONSIDERATION OF APPROVAL, ADOPTION AND ENACTMENT OF ORDINANCE NUMBER 2417:** The City Council shall have a second reading of Ordinance Number 2417, as amended, and consider its approval, adoption and enactment thereof at its regularly scheduled meeting on July 23, 2012 at 5:00 p.m. If approved, the City Council may adopt and enact Ordinance Number 2417 if unanimous consent of those present is given for immediate consideration as authorized by Title 11-45-2(b), *Code of Alabama 1975*.

9. POSTING OF ORDINANCE NUMBER 2417: If the City Council approves, enacts and adopts Ordinance Number 2417, as amended, then in such event, said Ordinance shall be posted in three (3) public places within the City as required by Title 11-45-8(b)(1), *Code of Alabama, 1975*.

10. EFFECTIVE DATE OF ORDINANCE NUMBER 2417: Ordinance Number 2417 shall become effective five (5) days after posting in accordance with Title 11-45-8(3), *Code of Alabama, 1975*.

11. CLOSING DATE: The Real Estate Sales Contract shall be closed after the effective date of Ordinance Number 2417 but prior to August 1, 2012 and on a date mutually agreed upon by Seller and Purchaser.

DONE, ORDERED, APPROVED and ADOPTED, this the 23rd day of July, 2012.

Steve Ammons
Council President

ATTESTED BY:

Rebecca Leavings
City Clerk

APPROVED BY:

Alberto C. Zaragoza, Jr.
Mayor

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 # 2417 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 23rd day of July, 2012 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2012.

Rebecca Leavings
City Clerk

SOUTHPACE PROPERTIES, INC
300 Richard Arrington, Jr. Boulevard, North
Suite 900, Title Building
Birmingham, Alabama 35203
(205-326-2222)

Date: _____, 20__

GENERAL SALES CONTRACT The Undersigned Purchaser(s) The City of Vestavia Hills, Alabama, hereby agrees to purchase and the Undersigned Seller Southpace Properties, Inc. hereby agrees to sell the following described real estate, together with all improvements, shrubbery, plantings, fixtures and appurtenances, situated in the City of Vestavia County of Jefferson, Alabama, on the terms stated below:

Address 1034 Montgomery Highway, Vestavia Hills, AL 35216 and described as:

See Attached Site Plan/Exhibit A

1. THE PURCHASE PRICE: shall be \$ 1,150,000.00 which shall be payable as follows:

Earnest Money.....	\$	<u>00.00</u>
Cash on closing this sale.....	\$	<u>\$1,150,000.00</u>
Total.....	\$	<u>\$1,150,000.00</u>

2. TITLE INSURANCE: The Seller agrees to furnish the Purchaser within 15 days after the Effective Date a standard owner's title insurance commitment for the issuance of an owner's title insurance policy, issued by a company qualified to insure titles in Alabama in the amount of the purchase price, showing Seller has fee simple title to the Property, together with the documents relating to exceptions to title referred to therein ("Title Commitment"). Purchaser shall notify Seller of any unacceptable liens, encumbrances, restrictions, or other defects or matters ("Title Objections") on or before the expiration of the Inspection Period. In the event that Purchaser fails to notify Seller of any Title Objections within said time period, Purchaser shall be deemed to have accepted such title and all matters contained therein shall be deemed to be "Permitted Encumbrances". In the event that Purchaser does provide Title Objections within said time period, within five (5) days following Purchaser's delivery of the Title Objections, Seller shall elect (by written notice to Purchaser) to cure or decline to correct such Title Objections. If Seller advises Purchaser that Seller is unwilling or unable to correct any or all Title Objections or if Seller fails to respond, within five (5) days thereafter, Purchaser may elect to terminate this Agreement by giving written notice to Seller, at which time the Earnest Money shall be returned to Purchaser. In the event that Purchaser fails to provide such notice during such time, Purchaser shall be deemed to have accepted such title and such matters shall be deemed to be "Permitted Encumbrances". At Closing, Seller shall pay for the owner's title insurance policy ("Owner's Policy") to be issued by the Title Company pursuant to the Title Commitment which shall contain references to the Permitted Encumbrances. In the event both Owner's and Mortgagee's title policies are obtained at the time of closing, the total expense of procuring the two policies will be divided equally between the Seller and the Purchaser provided the mortgagee is not the Seller. Purchaser shall pay for any special endorsements required by Purchaser or Purchaser's lender.

3. PRORATIONS: All items customarily prorated and adjusted in connection with the closing of real estate similar to the Property, including all ad valorem taxes, escrow deposits, rents, operating expenses, insurance, and accrued interest on mortgages assumed, if any, are to be prorated between Seller and Purchaser as of the Closing Date, and any advance escrow deposits held by Mortgagees shall be credited to Seller. The cost of recording the deed shall be paid by the Purchaser. UNLESS OTHERWISE AGREED HEREIN, ALL AD VALOREM TAXES EXCEPT MUNICIPAL TAXES ARE PRESUMED TO BE PAID IN ARREARS FOR PURPOSES OF PRORATION; MUNICIPAL TAXES, IF ANY, ARE PRESUMED TO BE PAID IN ADVANCE.

4. CLOSING & POSSESSION DATES: The sale shall be closed and the deed delivered on or before August 7, 2012, except the Seller shall have a reasonable length of time within which to perfect title or cure defects in the title to the said property. Possession, subject to any existing leases on the property, is to be given on delivery of the deed unless otherwise agreed to herein.

5. CONVEYANCE: The Seller agrees to convey said property to the Purchaser by Statutory warranty deed free of all encumbrances, except for mineral and mining rights not owned by Seller and the "Permitted Encumbrances" and except as otherwise herein set out. Seller and Purchaser agree that any encumbrances not herein excepted or assumed may be cleared at the time of closing from sales proceeds. At closing all existing leases shall be assigned to Purchaser and all lease escrow deposits shall be transferred to Purchaser.

6. CONDITION OF PROPERTY: Property is being sold in its present "as is" condition, including ordinary wear and tear to the closing date. Neither Seller nor any Agent makes any representations or warranties regarding condition of the Property except to the extent expressly and specifically set forth herein. However, if the Property suffers material damage prior to the closing date, and Seller refuses to pay for any repairs reasonably required to restore the Property to a condition at least as good as previously existing, ordinary wear and tear excepted, Purchaser may proceed with the closing or cancel the Agreement and have Earnest Money refunded. Purchaser has the obligation to determine, either personally or through or

with a representative of Purchaser's choosing, any and all conditions of the Property material to Purchaser's decision to buy the Property, including without limitation, the condition of the heating, cooling, plumbing and electrical systems and any built-in appliances, and the roof and the basement, including floors; structural condition; subsurface condition; utility and sewer or septic tank availability and condition.

7. **HAZARDOUS SUBSTANCES:** Seller and Purchaser expressly acknowledge that the Agent(s) have not made an independent investigation or determination with respect to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances or gases in, on, or about the Property, or for the presence of underground storage tanks. Any such investigation or determination shall be the responsibility of Seller and/or Purchaser and their respective Agent(s) shall not be held responsible therefor.

8. **SELLER WARRANTIES** Seller warrants that unless excepted herein, Seller has not received notification from any lawful authority regarding any assessments, pending public improvements, repairs, replacements, or alterations to the Property that have not been satisfactorily made. Seller warrants that Seller is the fee owner of the Property or is authorized to execute this document for the fee owner. Seller also represents that, to the best of its knowledge, except as may otherwise be expressly disclosed herein, Seller has not released or disposed of any hazardous or toxic waste, substance or material, including without limitation any asbestos or any oil or pesticides (collectively, "Hazardous Substances"), on or about the Property; has not disposed of or arranged for the disposition of any Hazardous Substances from the Property except in compliance with all applicable federal, state or local laws; and no Hazardous Substances exist on the Property or about the Property that threaten the Property. Seller makes no warranty that the Property is suitable for any particular purpose, nor that the Property is in compliance with the requirements of the Americans with Disabilities Act. **THESE WARRANTIES SHALL SURVIVE THE DELIVERY OF THE DEED.**

9. **SURVEY:** Within seven (7) days following the Effective Date, the Seller will furnish Purchaser a copy of any survey of the Property in its possession (or, if more than one, the most current survey), or will advise Purchaser that it has no such survey. The Seller does not warrant the accuracy of any survey so provided. Purchaser at its expense may elect to obtain a current survey. In the event a current survey is obtained, all easements and other matters shown on the survey shall be Permitted Encumbrances unless objected to in writing prior to the end of the Review Period. If no survey is obtained, any easements and other matters that would be disclosed by a current and accurate survey shall be Permitted Encumbrances. Broker recommends the Purchaser obtain an ALTA Survey.

10. **ARBITRATION:** Any controversy or claim arising out of or relating to this Agreement, or the breach hereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Such arbitration shall be held in Birmingham, Alabama. Any party may, without any inconsistency with this Agreement, seek from a court any interim or provisional relief that is necessary to protect the rights of property of such party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy). Such arbitration and determination shall be final and binding on the parties, and the parties agree to abide by the arbitration findings. Judgment may be entered upon such determination and award in any court having jurisdiction thereof, and the parties agree that no appeals shall be taken therefrom. The arbitrator shall award to the prevailing party, if any, as determined by the arbitrator, all of its costs and fees in connection with such arbitration, including the arbitrator's fees, administrative fees, travel expenses, out-of-pocket expenses, court costs, witness fees and attorney's fees.

11. **INSURANCE AND RISK OF LOSS:** The Seller will keep in force sufficient hazard insurance on the property to protect all interests until sale is closed and the deed delivered. If the Property is destroyed or materially damaged between the date hereof and the closing, and Seller is unable or unwilling to restore it to its previous condition prior to closing, Purchaser shall have the option of canceling this Agreement and receiving a full refund of the Earnest Money or accepting the Property in its then condition. If Purchaser elects to accept the Property in its damaged condition, any insurance proceeds (for damage to structures, only) otherwise payable to Seller by reason of such damage shall be applied to the balance of the purchase price or otherwise be payable to Purchaser.

12. **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT (FIRPTA):** In the closing of this transaction, Seller and Purchaser shall comply with the FIRPTA and the regulations promulgated thereunder by the IRS.

13. **FACSIMILE AND COUNTERPART SIGNATURES:** This agreement may be executed in counterparts and by either party or by both parties by telecopy, electronic scanned email documents or facsimile and shall be binding upon the party so executing it upon receipt by the other party of the signature.

14. **NOTICE:** All notices, demands and/or consents provided for in this Agreement shall be in writing and shall be deemed to have been served on the date mailed by United States registered or certified mail, return receipt requested, with postage prepaid. All such notices and communications shall be addressed to the parties hereto at the respective addresses set forth at page 1 hereof, or at such other addresses as either may specify to the other in writing. If the parties fax number or email addresses are available notice shall be deemed to have been served when sent by one of these methods

15. **ENTIRE AGREEMENT** This Agreement constitutes the entire agreement between Purchaser and Seller regarding the Property, and supersedes all prior discussions, negotiations and agreements between Purchaser and Seller, whether oral or written. Neither Purchaser, Seller, Agent nor any other sales agent shall be bound by any understanding, agreement, promise, or representation concerning the Property, expressed or implied, not specified herein. Any further changes or modifications to this Agreement must be in writing and signed by the parties hereto.

16. **ADDITIONAL PROVISIONS** set forth on any attached Addendum, signed and dated by all parties, are hereby made a part of this Contract.

17. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, without regard to principles governing conflicts of law, except that it is agreed that the provisions of this Agreement relating to arbitration or disputes hereunder shall be governed by the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, and, to the extent not in conflict with the Federal Arbitration Act, by the Commercial Arbitration Rules of the American Arbitration Association.

18. **TIME IS OF THE ESSENCE:** The Parties agree that time is of the essence of this Agreement.

19. **"EFFECTIVE DATE" OF CONTRACT:** THE "EFFECTIVE DATE" SHALL BE THE DATE ON WHICH THE SECOND PARTY EXECUTES THIS CONTRACT AS SHOWN ON THE SIGNATURE PAGE OR, IF THE CONTRACT INCLUDES SUBSEQUENT CHANGES SIGNED OR INITIALED AND DATED BY THE PARTIES, THE LATEST SUCH CHANGE AS SO SIGNED OR INITIALED AND DATED.

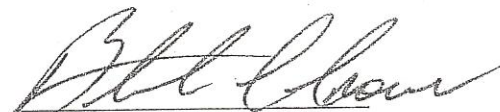
THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF YOU DO NOT UNDERSTAND THE LEGAL EFFECT OF ANY PART OF THIS CONTRACT, SEEK LEGAL ADVICE BEFORE SIGNING.

Witness to Purchaser's Signature(s)


PURCHASER (SEAL) _____
DATE

Witness to Purchaser's Signature(s)

PURCHASER (SEAL) _____
DATE



Witness to Seller's Signature(s)



SELLER (SEAL) _____
DATE 7-9-2012

Witness to Seller's Signature(s)

SELLER (SEAL) _____
DATE

Receipt is hereby acknowledged of the earnest money as hereinabove set forth ____ CASH ____ CHECK

Firm: _____

By: _____

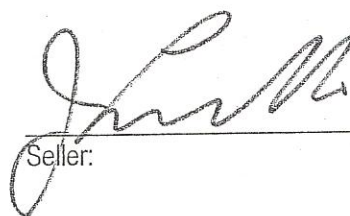
ADDENDUM

This Addendum shall supersede and override any and all language in the original General Sales Contract regarding the subject matter contained herein. This Addendum in its entirety is hereby made a part of this General Sales Contract.

1. This sale is subject to the Purchaser's development plan having cross easement parking access rights and required ingress and egress to the subject property from Seller's remaining property and Purchaser granting the same to Seller pursuant to a reciprocal operating and easement agreement providing for maintenance and sharing of costs with respect to access, parking, landscaping and lighting at the ratio of 60% to the Seller and 40% to the Purchaser and the property conveyed to the Purchaser.
2. Purchaser's development plan will require new sewer, water, and utility connections. Seller shall fully co-operate with these installations. Purchaser shall be responsible for the cost of these installations, connections and disconnections and will use reasonable efforts to minimize interference with the shopping center.
3. Seller agrees to grant to Purchaser any and all easements and rights-of-way for the maintenance of existing utilities, the installation of additional utilities, and the use and maintenance thereof, as may be reasonably necessary for the development and use of the Subject Property in accordance with Purchaser's development plan providing interference with the shopping center will be minimized to the extent reasonable to both parties.
4. Purchaser acknowledges that Seller and Seller's principals are licensed brokers and will or have, directly or indirectly acquired an interest in the property that is the subject of this contract, and the nature, scope and extent of that interest has been fully disclosed.
5. This sale is subject to and contingent upon the lender furnishing to seller written approval of the sale to purchaser which shall include no timeline for purchaser to begin construction.
6. This sale is subject to and contingent upon the Vestavia Hills Planning and Zoning Commission approving a resurvey and final plat map of the property prior to the closing date of August 7, 2012. The cost of said resurvey shall be paid by purchaser.
7. Purchaser owes no real estate commission or brokerage fee relative to this sale.

7-9-2012
Date

Date



Seller:

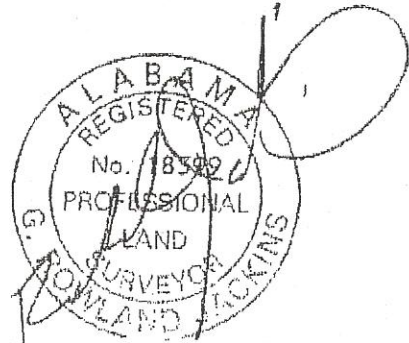
Purchaser:

Proposed Parcel

A parcel of land situated in the Northeast Quarter of the Southwest Quarter of Section 30, Township 18 South, Range 2 West, Huntsville Meridian, Jefferson County, Alabama; said parcel also being a part of Lot 2 according to Cobb's Addition to Vestavia Hills as recorded in Map Book 86, Page 83 in the office of the Judge Probate, Jefferson County, Alabama and being more particularly described as follows:

BEGIN at the southwest corner of Lot 2 according to Cobb's Addition to Vestavia Hills as recorded in Map Book 86, Page 83 in the office of the Judge Probate, Jefferson County, Alabama; thence run in a northerly direction along the west line of Lot 2 for a distance of 137.11 feet (plat-137.45 feet); thence turn an interior angle to the left of 105 degrees 01 minutes 18 seconds (plat 105 degrees 02 minutes 46 seconds) and leaving said west line run in a northeasterly direction along the northwest line of said Lot 2 for a distance of 390.75 feet; thence turn an interior angle to the left of 90 degrees 02 minutes 59 seconds and leaving said northwest line run in a southeasterly direction for a distance of 130.00 feet; thence turn an interior angle to the left of 137 degrees 26 minutes 45 seconds and run in a southwesterly direction for a distance of 156.42 feet to the south line of said Lot 2; thence turn an interior angle to the left of 113 degrees 06 minutes 43 seconds; and run in a westerly direction along said south line for a distance of 340.00 feet to the POINT OF BEGINNING.

Containing 1.792 acres (78,045 square feet) more or less.

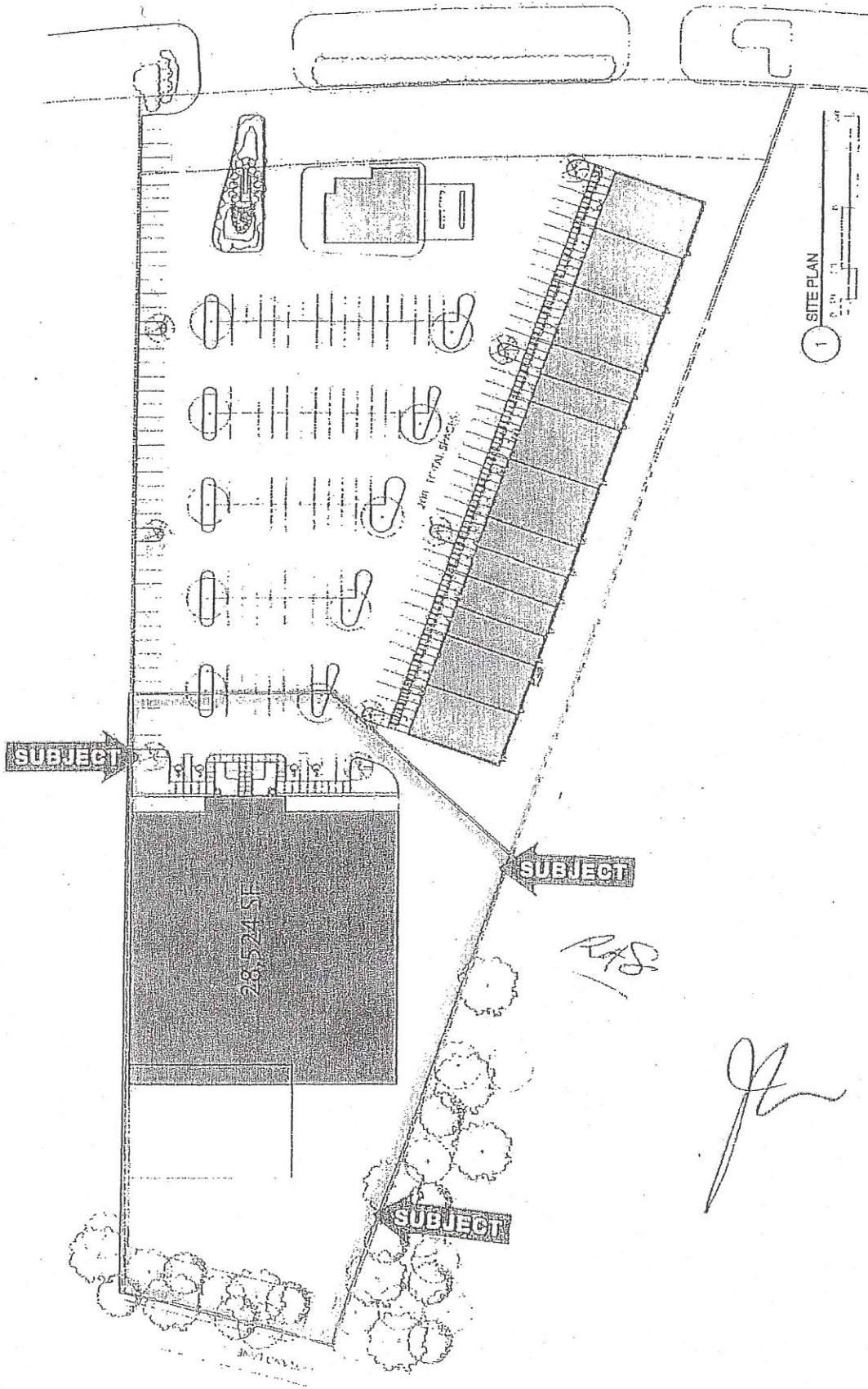


7-6-12

EXHIBIT A

17' AVENUE S.E.

VESTAVIA HILLS SHOPPING CENTER



1 SITE PLAN

R/S

07/03/2012 08:20 200270000

The undersigned, John Lauriello, does hereby assign, transfer, and set over unto Southpace Properties, Inc., all of his rights, title, interest, duties, and responsibilities, under that certain General Sales Contract, by and between John Lauriello, as Purchaser, and Vestavia Plaza, LLC, as Seller, dated April 4, 2012, for the purchase and sale of property described therein and located at 1034 Montgomery Highway, Vestavia Hills, Alabama.

This the 5th day of July, 2012

Glenn Wintreb
Witness

John Lauriello
John Lauriello