

**Vestavia Hills
City Council Agenda
October 24, 2016
5:00 PM**

1. Call to Order
2. Roll Call
3. Invocation –Brian Davis, Director, Public Services
4. Pledge Of Allegiance
5. Candidates, Announcements and Guest Recognition
 - a. Park Board Applications
 - b. Library Board Applications
6. City Manager’s Report
7. Councilors’ Reports
8. Financial Reports – Melvin Turner, III, Finance Director
9. Approval of Minutes –October 10, 2016 (Regular Meeting)

Old Business

10. Resolution Number 4886 – A Resolution Authorizing The Mayor And City Manager To Execute Any And All Documents And Approve A Cash Commitment In An Amount Of \$190,000 For A Pedestrian Bridge Across Montgomery Highway
11. Ordinance Number 2686 – Rezoning – 3200 Ridgely Drive, and 4104, 4105, 4109, 4117 and 4101 Crosshaven Drive; Lots 1-6, Holiday’s 1st Addition to Cahaba Heights; James T. Purcell, III; Philip Michael, Faye Bragg, Sharon Snyder, Joseph and Jacques Abou-Jaoude and Doug Allen, Owners
12. Ordinance Number 2331B – An Ordinance Amending Ordinance Numbers 2331 and 2331A, Section 4.5 entitled “Fences”

New Business

13. Resolution Number 4887 – A Resolution Expressing Support For Amendment 14 As Proposed By Act 2016-430 And Urging Voters To Vote In Favor Of Said Amendment
14. Resolution Number 4888 – A Resolution Authorizing The Mayor And City Manager On Behalf Of The City Of Vestavia Hills Emergency Communication District (“ECD”) To

- Execute And Deliver An Agreement And Assignment Of Excess Cost Recovery Funds And The Alabama Statewide 9-1-1 Board (“Board) Concerning The ANGEN Project
15. Resolution Number 4889 – A Resolution Authorizing The City Manager To Enter Into An Agreement With ALAGASCO Location Of A Utility Easement
 16. Discussion Of BWWB Drought Status And Possible Enactment Water Emergency Ordinance Number 2318

New Business (Unanimous Consent Requested)

First Reading (No Action Taken At This Meeting)

17. Citizens Comments
18. Motion For Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

OCTOBER 10, 2016

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

MEMBERS PRESENT:

Mayor Alberto C. Zaragoza, Jr.
Steve Ammons, Mayor Pro-Tem
George Pierce
John Henley
Jim Sharp
Kimberly Cook, Council-Elect

OTHER OFFICIALS PRESENT:

Patrick H. Boone, City Attorney
Rebecca Leavings, City Clerk
Dan Rary, Police Chief
Kevin York, Police Captain
Jim St. John, Fire Chief
Terry Ray, Deputy Fire Chief
Brian Davis, Public Services Director
Melvin Turner, Finance Director
George Sawaya, Asst. City Treasurer

Invocation was given by David Harwell, followed by the Pledge of Allegiance.

ANNOUNCEMENTS, GUEST RECOGNITION, CANDIDATES

- Lee Cleveland, candidate for District Judge, introduced himself and asked for support in the upcoming November election.
- Mr. Pierce welcomed Rachel Patterson representing the Vestavia Hills Chamber of Commerce.
- Mr. Ammons announced Community Night Out which is scheduled for Tuesday night here at City Hall with the Alabama Symphony Orchestra.
 - Captain York stated that on Monday night, City Hall will be turned “blue” in honor of officers who have been killed in the line of duty, four of those

just last week. The statistics change daily and this Community Night Out is in honor of all of these fallen officers.

- The Mayor welcomed Katherine Hogewood from the Library Foundation.
- The Mayor reminded everyone that BWWB has raised this area to State 2 Drought. Voluntary water reduction is requested. If raised higher, the City does have a drought ordinance in effect that might kick in for mandatory enforcement. He asked everyone to conserve water where possible.
- The Mayor stated that outside burning is prohibited during this drought. There have been several fires in the area that could have come close to homes.

CITY MANAGER'S REPORT

- Mr. Downes stated that the City will hold a couple of public meetings for improving or extending Cahaba Beach Road which runs adjacent to the City in the Liberty Park area. The State of Alabama has requested that the City announce these meetings. One is tomorrow night at 5 PM and the other will be Thursday at 5 PM as well at First Christian Church, 4954 Valleydale Road. A member of the City's Engineering staff will attend and report back to the Council accordingly.
- With the 2017 fiscal-year budget, funding was approved for landscaping services relative to the Cahaba Heights fields that would include a study of storm water easements and future uses for the complex. That analysis has begun and this will lead to further planning of the park.
- Last week, the Board closed on purchase of the former Berry School property. The partnership between the City and Board involves both entities. Meetings have begun in order to prepare for the use of this property and what needs to be done in order to make the recreational properties ready to be used.
- Town Hall meetings are being planned to outline the recreational facilities of the City and the planning process for utilization of these areas and are tentatively scheduled on November 15, 22 and December 6.
- Mr. Downes introduced a new concept called the "virtual town hall." This is innovative software that allows the public to input ideas, concerns, etc. He showed an example from Decatur, Georgia and explained how the software works.
- Mr. Downes updated the Council on the crew that was working on Meadowlawn Park. He stated that it was the sewer construction crew and they anticipate full construction soon.

COUNCILORS' REPORTS

- Mr. Ammons announced that applications will be available online tomorrow for an upcoming vacancy on the Vestavia Hills Park and Recreation Board. This is a 5-year appointment. Deadline for applications is November 14, 2016 at 5:00 PM.

- The Mayor announced that applications will be available online tomorrow for an upcoming vacancy on the Vestavia Hills Library Board. This is a 4-year appointment. Deadline for applications is November 14, 2016 at 5:00 PM.

APPROVAL OF MINUTES

The minutes of the following meetings were presented for approval: September 26, 2016 (Regular Meeting), September 28, 29 and 30, 2016 (Special Meetings).

MOTION Motion to dispense with the reading of the minutes of September 26, 2016 (Regular Meeting), September 28, 2016 (Special Meeting) and approve them as presented was by Mr. Pierce and second by Mr. Henley. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – yes	Motion carried.

MOTION Motion to dispense with the reading of the minutes of September 29 and 30 (Special Meetings) and approve them as presented was by Mr. Henley and second by Mr. Sharp. Roll call vote as follows:

Mr. Pierce – yes	Mr. Henley – yes
Mr. Sharp – yes	Mr. Ammons – yes
Mayor Zaragoza – abstain	Motion carried.

OLD BUSINESS

RESOLUTION NUMBER 4884

Resolution Number 4884 – A Resolution Authorizing The City Manager To Settle Case No. 2:15-Cv-01372-LSC, Eric Irons

MOTION Motion to approve Resolution Number 4884 was by Mr. Henley and second was by Mr. Ammons.

Bent Owens explained that the settlement demand in order to allow the Council to vote upon it. He gave the background concerning the employment of Mr. Irons and the subsequent reduction in force that took dispatching services to Shelby County. Mr. Irons filed suit because he wanted to stay at the City and looked for openings within the City and there were none available. He indicated within the negotiations, a possible settlement was reached and is before the Council for consideration tonight.

Discussion ensued as to EEOC denying the case and then proceed to move forward with litigation requests, depositions. Other jobs were made available to the

plaintiff, but he didn't accept any job offers because ultimately he didn't want to leave the City.

The Mayor stated that the City worked with several entities to find all of the dispatchers jobs and most had an opportunity to go to other areas. Mr. Irons wanted to stay with the City in order to keep his pension and some of these other municipalities were under the same pension plan. He stated that he has a hard time voting for this settlement, but the City could spend a lot more money if they don't settle.

Mr. Owens stated this is a finite amount with no way to appeal so there is some value in that.

Mr. Boone indicated that 3 things are at stake in this litigation: liability, damages and payment of attorney fees for the prevailing party. He stated that he has fought cases like this for years and he agrees with Mr. Owens that settling for a smaller amount instead of unknown. It is always better to go for the proposed settlement.

The Mayor called for the question:

- | | |
|----------------------|------------------|
| Mr. Pierce – yes | Mr. Henley – yes |
| Mr. Sharp – yes | Mr. Ammons – yes |
| Mayor Zaragoza – yes | Motion carried. |

RESOLUTION NUMBER 4885

Resolution Number 4885 – A Resolution Authorizing The City Manager To Execute An Agreement Granting An Easement At Sicard Hollow

MOTION Motion to approve Resolution Number 4885 was by Mr. Sharp and second was by Mr. Ammons.

Mr. Downes explained this is the power supply to the podium for the SHAC Phase II that is now in construction. It has been reviewed by the City Engineer who found no problems.

The Mayor called for the question:

- | | |
|----------------------|------------------|
| Mr. Pierce – yes | Mr. Henley – yes |
| Mr. Sharp – yes | Mr. Ammons – yes |
| Mayor Zaragoza – yes | Motion carried. |

NEW BUSINESS

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

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

The Mayor stated that the following Resolutions and/or Ordinances will be presented at a public hearing at the Council's next regular meeting on October 24, 2016 at 5 PM.

- Resolution Number 4886 – A Resolution Authorizing The Mayor And City Manager To Execute Any And All Documents And Approve A Cash Commitment In An Amount Of \$190,000 For A Pedestrian Bridge Across Montgomery Highway
- Ordinance Number 2686 – Rezoning – 3200 Ridgely Drive, and 4104, 4105, 4109, 4117 and 4101 Crosshaven Drive; Lots 1-6, Holiday's 1st Addition to Cahaba Heights; James T. Purcell, III; Philip Michael, Faye Bragg, Sharon Snyder, Joseph and Jacques Abou-Jaoude and Doug Allen, Owners
- Ordinance Number 2331B – An Ordinance Amending Ordinance Numbers 2331 and 2331A, Section 4.5 entitled "Fences"

CITIZEN COMMENTS

Fire Chief St. John stated that he will be away at the next Council meeting. He stated that he wanted to take a moment to thank the Mayor and the Council and put his Department in a better way to service the community as well as the Mayor paving the way for him to follow and lead the Department. He stated that the members of Public Safety especially thank Mr. Ammons for all of his hard work. He also thanked Mr. Henley and Mr. Sharp for all their service throughout this administration. He indicated he looks forward to continuing working with Mr. Pierce in the upcoming administration.

Nancy Delony, 3221 Ridgely Drive, thanked the Council for their ongoing attention to safety. She indicated the rezoning that will be coming up at the next meeting with ingress/egress on residential streets and she asked the council to please be wary of the consideration of this rezoning. She indicated that this is not conducive to "neighborhood business," not something that serves alcohol or is open on weekends.

At 5:46 PM, Mr. Ammons made a motion to adjourn; seconded by Mr. Henley. Meeting adjourned at 6:47 PM.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 4886

A RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS AND APPROVE A CASH COMMITMENT IN AN AMOUNT OF \$190,000 FOR A PEDESTRIAN BRIDGE ACROSS MONTGOMERY HIGHWAY

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

1. That the City has been requested by the Alabama Department of Transportation to determine its intent as to the potential construction of a pedestrian bridge that would span the entire distance of US Highway 31 from the general area of Wald Park to the Library in the Forest.
2. That the estimated cost of the pedestrian bridge is \$1,200,000, the estimated cost of the construction engineering and inspection (CEI) service is \$150,000, and a design/construction contingency of \$50,000 is requested.
3. That the City of Vestavia Hills has a commitment of earmarked federal funds of \$700,000 that can be utilized for construction of said pedestrian bridge.
4. That the City of Vestavia Hills has received a communication from the Regional Planning Commission of Greater Birmingham that, pending approval of regulatory authorities, an additional Transportation Alternatives Program (TAP) allocation of \$700,000 is available on an 80%-20% cost share to fund a portion of the excess costs above the earmarked funds.
5. That pending approval of the additional funds, the City of Vestavia Hills' cash commitment on the project would be a net total of \$190,000. (20% of \$700,000 plus \$50,000 contingency)
6. That previous City Council Resolutions authorized the preliminary work associated with the construction of the proposed pedestrian bridge as outlined in exhibit one to this resolution.
7. That conditioned upon receipt of TAP funding, the City Council of the City of Vestavia Hills authorizes the Mayor and City Manager to execute any and all documents associated with said project and expend up to \$190,000 of Capital Project Funds to complete the design, construction and CEI services associated with said project.

8. That this Resolution Number 4886 shall become effective immediately upon adoption and approval.

APPROVED and ADOPTED this the 24th day of October, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESED BY:

Rebecca Leavings
City Clerk

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

TELEPHONE (205) 324-2018

FACSIMILE (205) 324-2295

December 10, 2012

By Hand Delivery
and Electronic Mail

City Manager Randy Robertson
Vestavia Hills Municipal Center
P. O. Box 660854
Vestavia Hills, Alabama 35266-0854

In Re: Pedestrian Crossover Bridge

Dear Mr. Robertson:

In recent years, three separate grants have been approved for the City of Vestavia Hills, Alabama for the design, construction and inspection of a pedestrian crossover bridge over U.S. Highway 31 South at Round Hill Road connecting Wald Park to the Vestavia Hills Library in the Forest. The grants provide, among other things, that the City will receive federal funding in the amount of \$960,000.00. The City's share to be paid from local funds amounts to \$140,000.00.

On August 6, 2007, the City Council approved and adopted Resolution Number 3755 authorizing the execution and delivery of a contract regarding Grant DE-AL104. That Agreement was signed by Governor Bob Riley on April 18, 2008.

On November 19, 2007, the City Council approved and adopted Resolution Number 3797 authorizing the execution and delivery of a contract regarding Grant HPP-A124, which was signed by Governor Bob Riley on February 8, 2008.

On July 25, 2011, the City Council approved and adopted Resolution Number 4214 authorizing and directing the execution and delivery of an Agreement with Gresham, Smith & Partners ("GSP"), which provides, among other things that GSP will design the pedestrian crossover bridge for and in consideration of \$208,341.00.

On July 25, 2011, the City Council approved and adopted Resolution Number 4213, which authorized and directed the execution and delivery of an Agreement with University of Alabama at Birmingham ("UAB"). UAB will provide innovative design services for and in consideration of \$200,000.00.

December 10, 2012

Page 2

On January 25, 2012, Alabama Department of Transportation ("ALDOT") wrote to the City requesting the execution and delivery of a Supplementary Agreement to Grant Agreement HPP-A124. On February 15, 2012, Alabama Department of Transportation wrote to the City requesting the execution and delivery of a Supplementary Agreement to Grant Agreement DE-AL104.

On March 15, 2012, I prepared and submitted to Mayor Alberto C. Zaragoza, Jr. my legal opinion regarding the two proposed Supplemental Agreements. In the meantime, I have been in contact with ALDOT General Counsel Jim R. Ippolito, Jr. regarding the two Supplemental Agreements. We both mutually agreed to the language of the two documents.

On Friday, December 7, 2012, Krystal H. McDade in the Legal Department of ALDOT sent me via electronic mail the two Supplemental Agreements. I immediately forwarded both documents to City Clerk Becky Leavings.

I have reviewed both Supplemental Agreements and recommend that the City Council enact a resolution tonight authorizing and directing the Mayor and City Council to execute both Supplemental Agreements for and on behalf of the City of Vestavia Hills, Alabama. I also recommend that City Clerk Rebecca Leavings send the duly signed Supplemental Agreements to Krystal H. McDade on December 11, 2012. If ALDOT doesn't receive those documents prior to December 31, 2012, the grants will expire.

I will be happy to discuss this matter upon your request.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

Enclosures

cc: City Clerk Rebecca Leavings

ORDINANCE NUMBER 2686

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-4 TO VESTAVIA HILLS B-1.2

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 Vestavia Hills R-4 (residential district) to Vestavia Hills B-1.2 (business district):

3200 Ridgely Drive, 4104, 4105, 4109, 4117 and 4101 Crosshaven Drive
Lots 1-6 Holiday's 1st Addition to Cahaba Heights
James T. Purcell, III, Philip Michael, Faye Bragg, Sharon Snyder, Joseph and Jacques
Abou-Jaoude and Doug Allen, Owner(s)

BE IT FURTHER ORDAINED, that said rezoning is contingent upon the following conditions: (1) site must be developed substantially as in plans presented and attached to this Ordinance 2686; (2) architectural stylings must be similar to those presented in application; lots must be re-platted and recorded.

APPROVED and ADOPTED this the 24th day of October, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

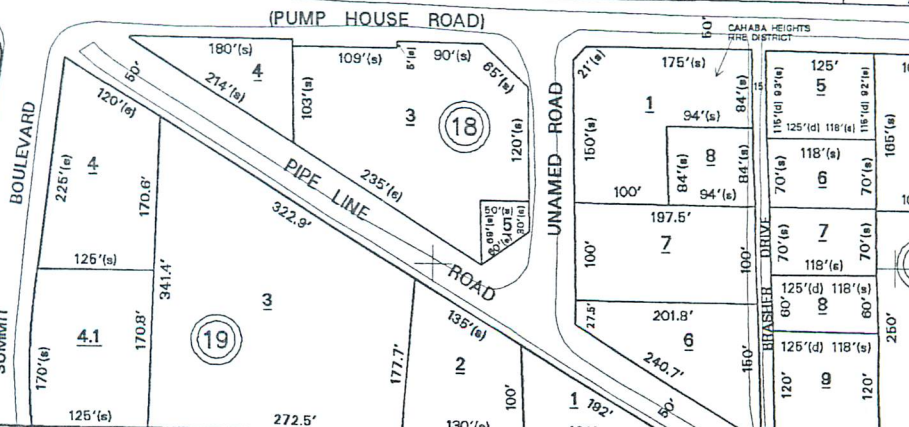
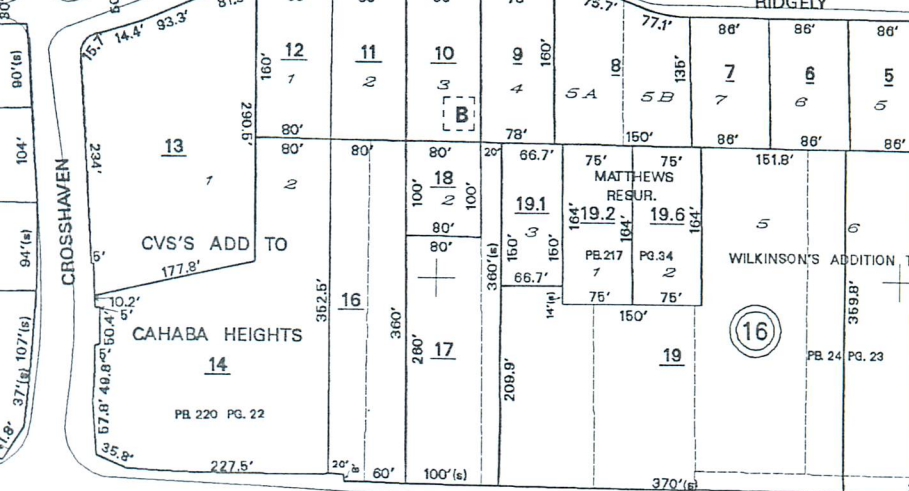
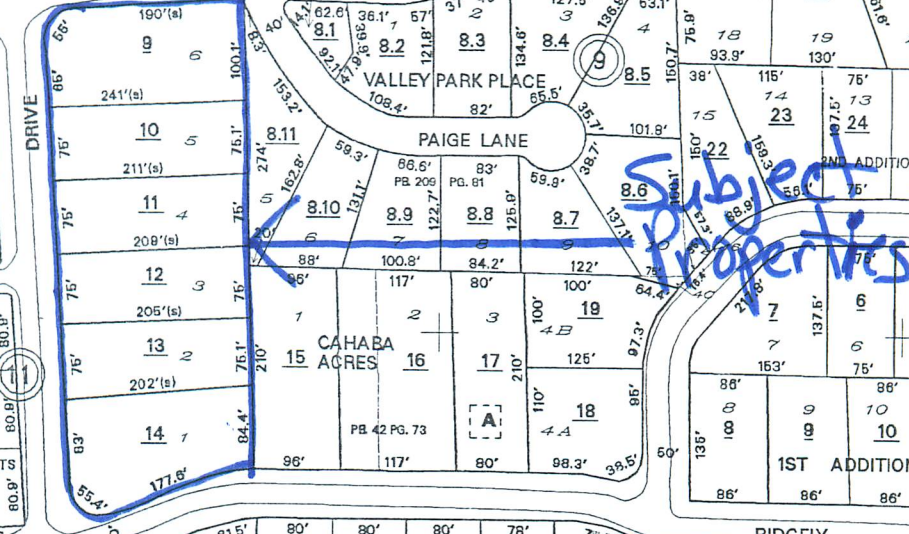
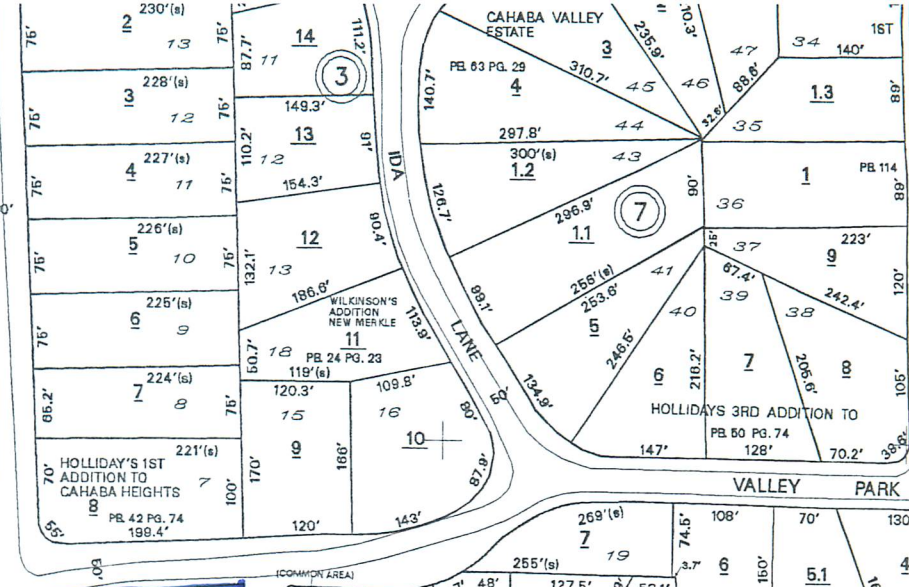
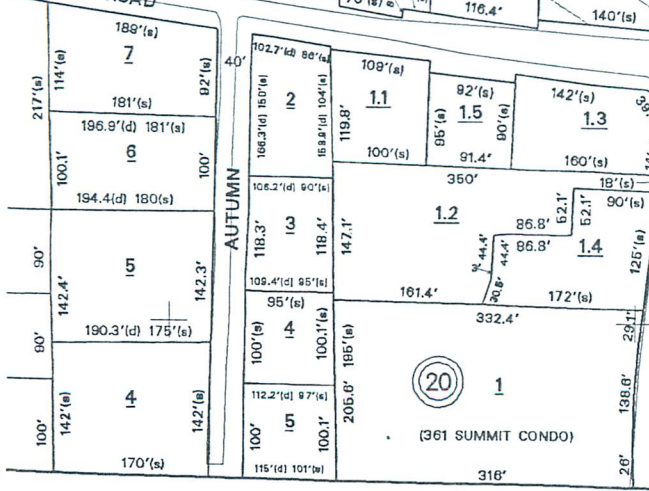
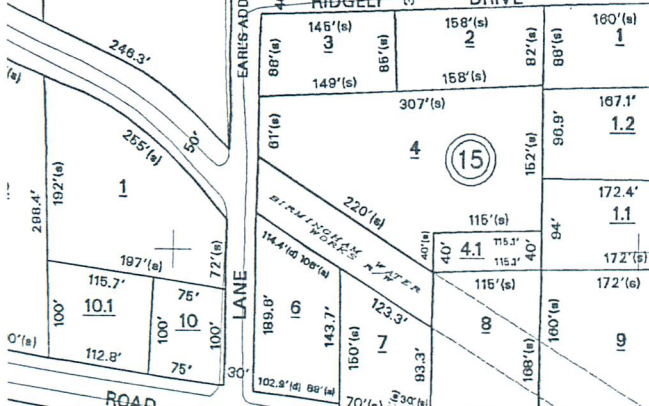
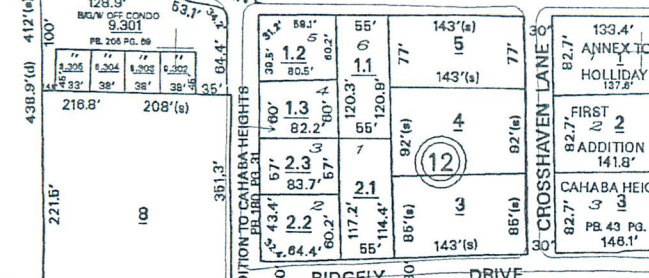
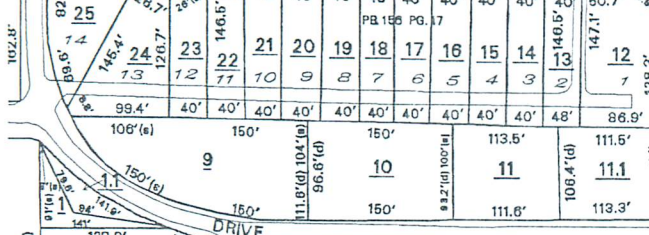
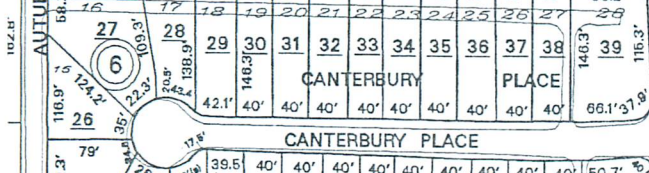
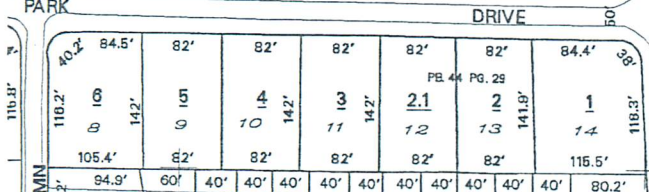
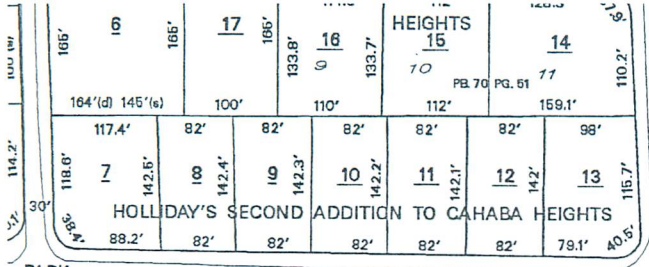
Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2686 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 24th day of October, 2016 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2016.

Rebecca Leavings
City Clerk



Subject Properties

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

Date: SEPTEMBER 8, 2016

- **CASE: P-0916-39**
- **REQUESTED ACTION:** Rezoning from Vestavia Hills R-4 to Vestavia Hills B-1.2
- **ADDRESS/LOCATION:** 4109, 4101, 4105, 4113, 4117 Crosshaven Dr. & 3200 Ridgely Dr.
- **APPLICANT/OWNER:** Joseph & Jacques Abou-Jaudé, Doug Allen, Faye Bragg, Phillip Michael, James T. Purcell, and Sharon Snyder
- **REPRESENTING AGENT:** Jamie Purcell
- **GENERAL DISCUSSION:** Properties in question are on Crosshaven Dr., between Valley Park Dr. and Ridgely Dr. Applicant is seeking rezoning to build a nursery, a restaurant, and a bagel shop. The building would be approx. 6,000 sq. ft. The site plan takes into account ROW acquisition by Jeffco for the Crosshaven Dr. project. As required by the B-1.2 zoning 8' sidewalks will be constructed along Crosshaven Dr.

The bagel shop would be approx. 1,500 SF and have a front setback of 35' at Crosshaven Dr., a front setback of 95' at Ridgely Dr. and a rear setback of 105'. The nursery would be approx. 3,800 SF and have a front setback of 35' at Crosshaven Dr. and a rear setback of 80'. The restaurant would be approx. 4,000 SF. and have a front setback of 40' at Crosshaven Dr., 70' front setback at Valley Park Dr. and a rear setback of 90'.

There are 101 parking spaces required for the project and the project meets that amount. A landscape plan and project examples are attached. The office has received a few letters of opposition due to traffic concerns.

- **CAHABA HEIGHTS COMMUNITY PLAN:** The request is consistent with the Cahaba Heights Community Plan for limited mixed use.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Planner 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 Planner Recommendation: No recommendation

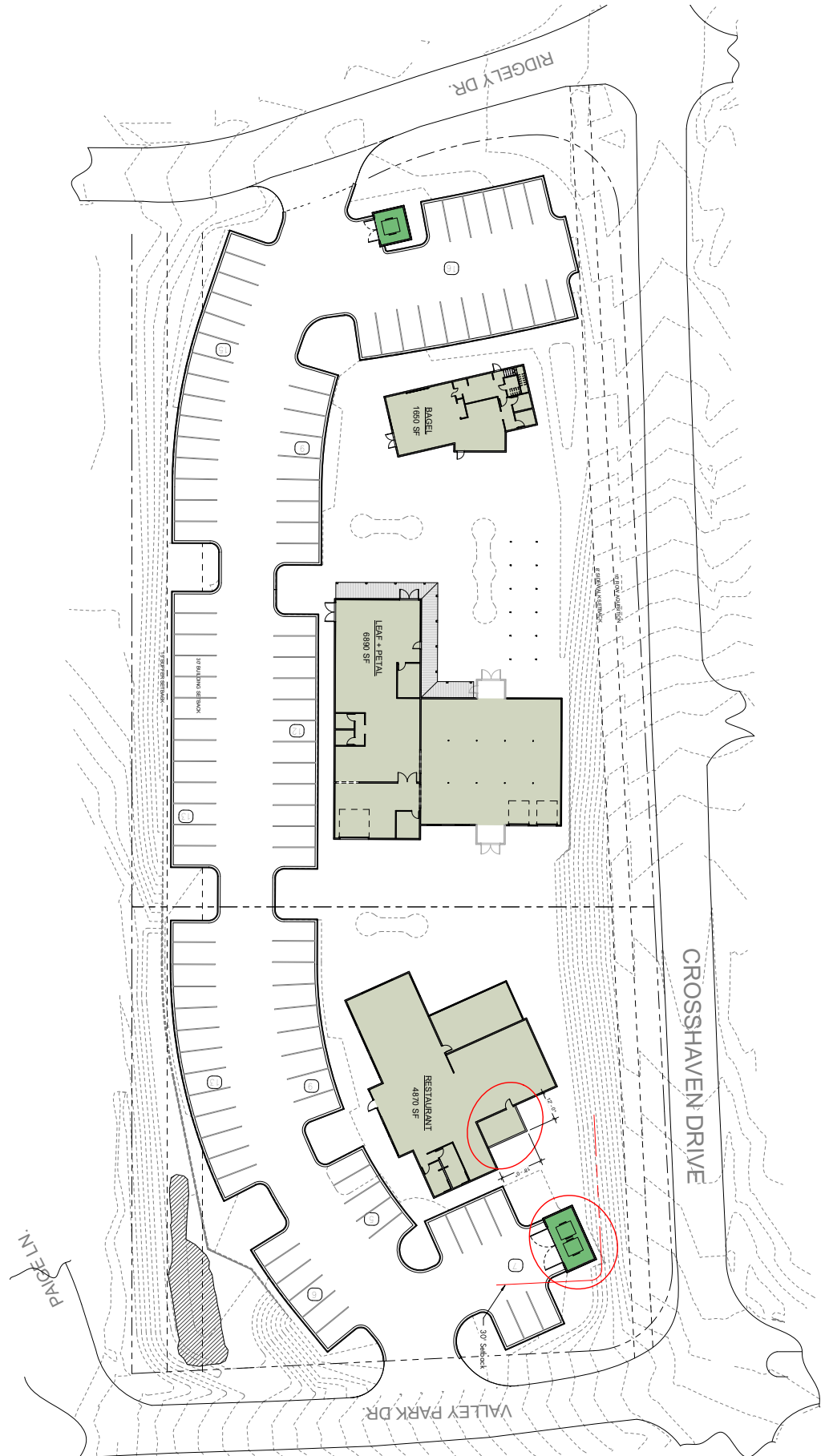
2. **City Engineer Review:** Currently reviewing plans.
3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.
4. **Building Safety Review:** I have reviewed the application and I have no issues

MOTION Mr. Burrell made a motion to recommend rezoning approval of 4109, 4101, 4105, 4113, 4117 Crosshaven Dr. & 3200 Ridgely Dr. from Vestavia Hills R-4 to Vestavia Hills B-1.2 with the following conditions:

- A. Approval be conditioned on the site plan presented;
- B. Architectural stylings must be similar to ones presented in application packet;
- C. Lots must be replatted and recorded.

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

Mr. Goodwin – yes	Mr. Burrell – yes
Mr. Gilchrist – yes	Mr. Sharp – yes
Mr. House – yes	Mr. Brooks – yes
Mr. Visintainer – yes	
Motion carried	



Leaf + Petal

Vestavia Hills, AL

2523.000

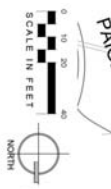
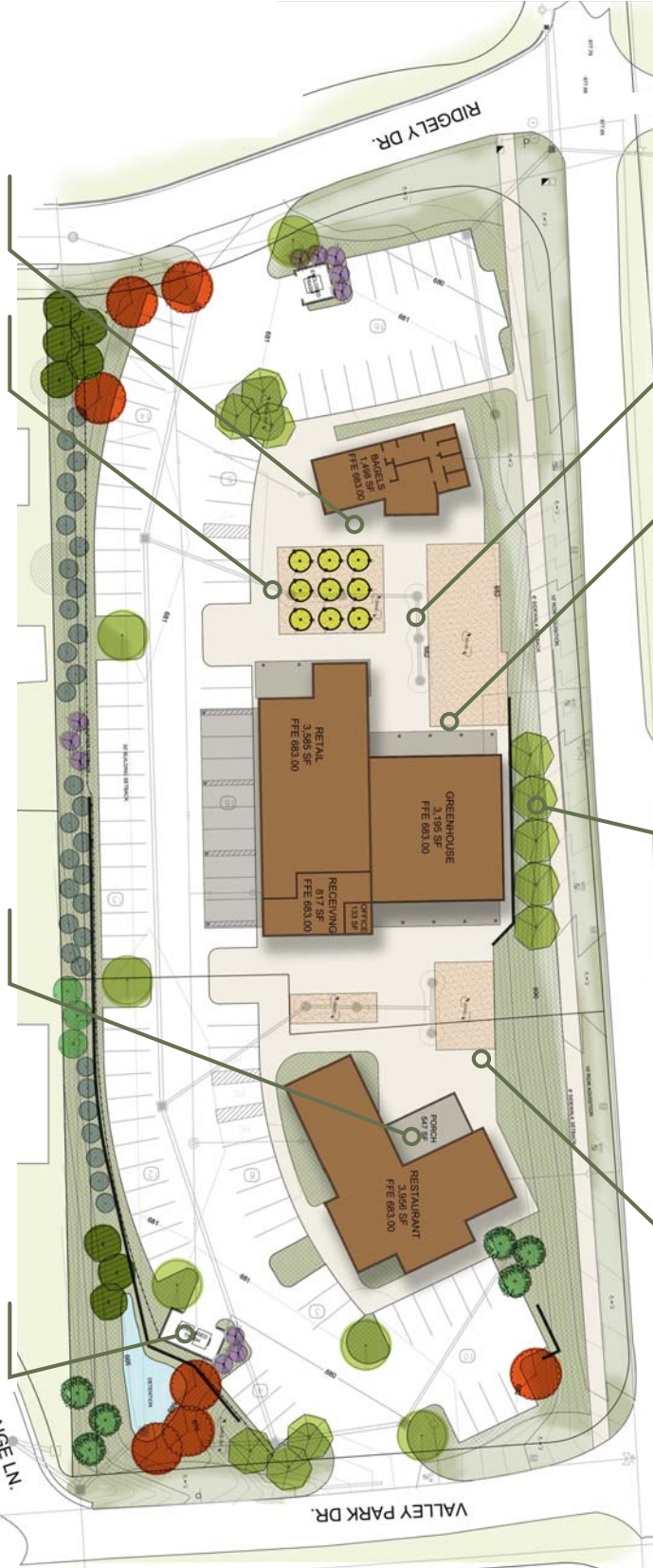
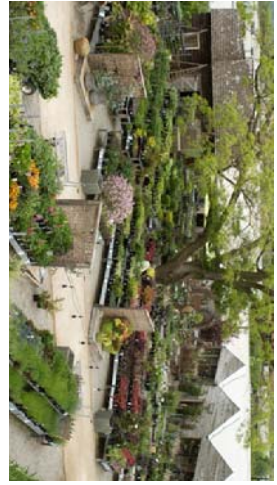
SCHEMATIC DESIGN

SEPT. 27, 2016

SITE PLAN

SITE PLAN 1 **SD100**

1/16" = 1'-0"



NO.	DATE	REVISION
1		
2		
3		
4		
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10		

PROJECT STATUS: 2020.000
 REGIONAL APPLICATION: August 30, 2016
 SHEET NAME: REPRESENTATIVE IMAGES





LEAF + PETAL

VESETAVIA HILLS, ALABAMA

ARCHITECTURE WORKS

1000 W. HUNTER BLVD., SUITE 100
 HOUSTON, TEXAS 77006
 TEL: 713.516.1000
 WWW.ARCHITECTUREWORKS.COM

Future Land Use

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

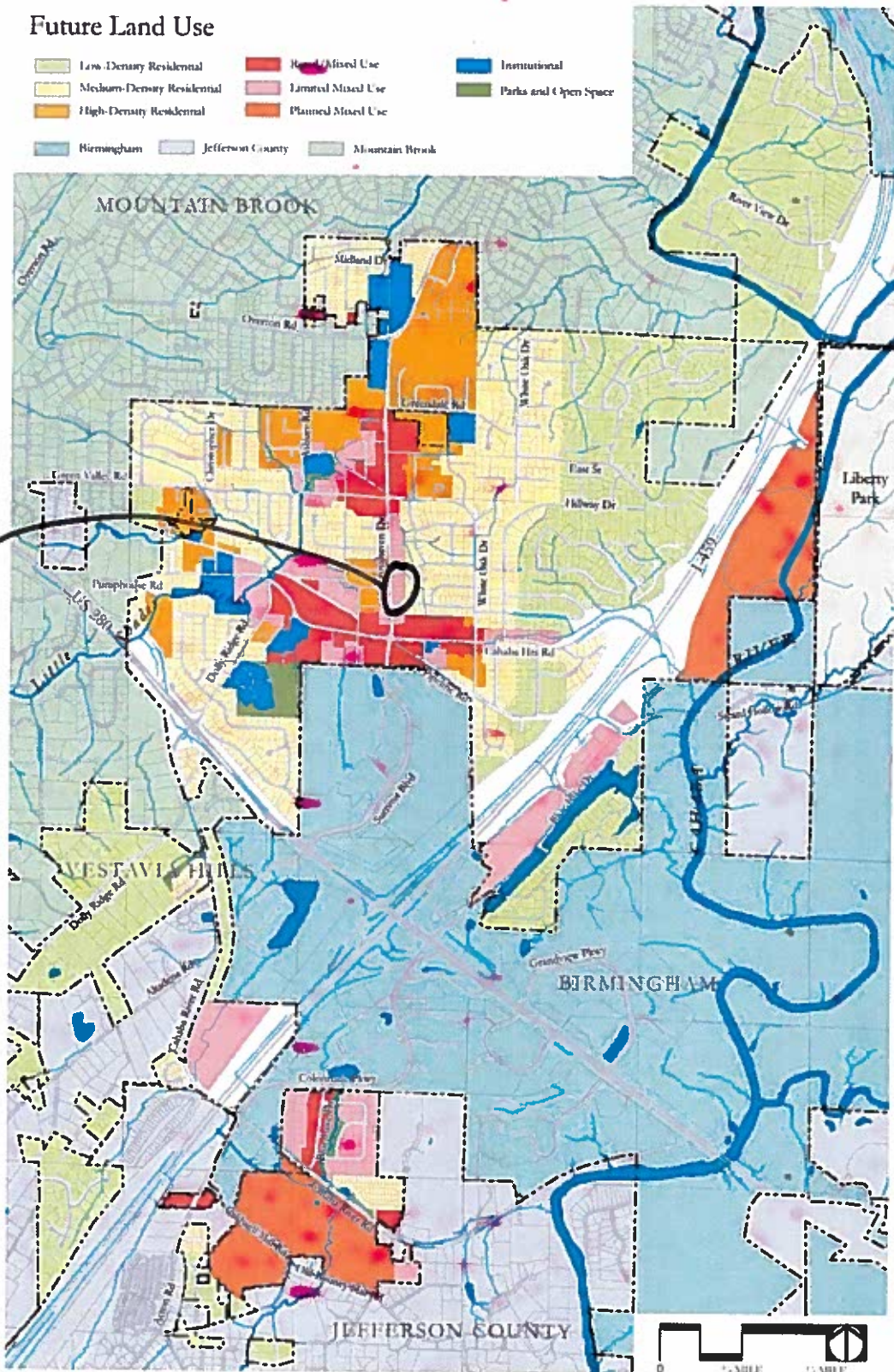


Figure 4: Future Land Use Map

ORDINANCE NUMBER 2331-B

AN ORDINANCE TO AMEND §4.5 OF THE VESTAVIA HILLS CODE OF ORDINANCES AND AMENDING ORDINANCE NUMBERS 2331 AND 2331-A, ENTITLED “FENCES”

WHEREAS, the City Council of the City of Vestavia Hills, Alabama adopted and approved Ordinance Number 2331, also known as the “*Vestavia Hills Zoning Code*” (“Code”); and

WHEREAS, the Vestavia Hills Planning and Zoning Commission, following a public hearing recommended approval of an amendment of §4.5 “Fences” of said Code which was later adopted by the City Council by the adoption of Ordinance Number 2331-A; and

WHEREAS, the Vestavia Hills Planning and Zoning Commission, following a public hearing on September 8, 2016 recommended another amendment to said section regarding privacy fences; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to amend §4.5 “Fences” of said Code.

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

1. §4.5 “Fences” of the *Vestavia Hills Zoning Code* is hereby amended in its entirety to read as follows:

“§4.5 Fences.

4.5.1 Visibility. No fence or wall shall be permitted between the building line and the front lot line except as provided in §4.5.3 below. Fences shall not be placed within the clear sight triangle as determined by the City Engineer.

4.5.2 No fence shall be erected, installed, constructed or otherwise structurally altered in the City except in strict compliance with the terms and provisions of this ordinance.

4.5.3 Any person, firm, corporation, partnerships or other entity desiring to build a fence on any property located within the City shall follow the procedure and comply with the following requirements:

1. Unless it has been approved as part of a valid Building Permit, no fence shall be

erected, installed, constructed or otherwise structurally altered on any property until a fence permit is issued by the City.

2. No approval for the issuance of a permit shall be made until such time as the Building Official and Fire Marshal have approved the plans and specifications for the erection, installation, construction or structural alteration of said wall or fence and certifies that the same meet the requirement of paragraphs 3 and 4 below.
3. The person, firm, corporation, partnership or other entity applying for a permit shall submit plans and specifications for the erection, installation, construction or structural alteration of the fence. The plans and specifications shall include the following:
 - a. A map or survey of the lot upon which the fence will be located.
 - b. The location of the fence on the property.
 - c. The dimensions of the fence, including the height, width and length.
 - d. Estimated cost.
 - e. List and description of materials to be used.
4. No fence shall be erected, installed, constructed, or otherwise structurally altered unless the material utilized therefore is such that the grade and quality of said material is the same on all sides, including the front and back. [Materials are limited to chain link, masonry, vinyl, composite, or wood.](#)
5. [In all residential zoning districts, fences, regardless of material, shall be no higher than six feet measured from the ground. Any fence exceeding 6' in height shall require a Conditional Use Approval pursuant to Section 13.3. If Conditional Use Approval is requested, drawings indicating the requested fencing, location, height and materials will be required.](#)
6. [In all residential zoning districts, fences, regardless of height, shall be set back behind](#)

the front building line or behind the minimum front yard setback of an abutting residential property, whichever is greater except as provided in Sections 7 and 8 below.

7. In all residential zoning districts, fences may be located between the front building line and the front setback line provided said fences are open, ornamental in style, finished on both sides and excluding any chain link or privacy wood fencing.
8. For security purposes, in all residential zoning districts, fences may be located between the front building setback and the front lot line providing that all of the following criteria are met:
 - a. The residential property must be a lot of record recorded in the Office of the Judge of Probate; and
 - b. The recorded lot must consist of a minimum one (1) acre of property; and
 - c. The primary residential unit constructed upon the property must be located a minimum 100' from the front lot line; and
 - d. The fence and gate shall be constructed so as to be open, ornamental and decorative in style and constructed of finished stone, masonry and/or metal. Said fencing located within the front yard setback shall exclude wood and/or chain link fencing; and
 - e. Said fencing shall be located a minimum of 2' inside the front lot line or a minimum of 5' from any public improvements, within the right-of-way, whichever is greater. Said location shall be approved by the City Planner and/or City Engineer in order to mitigate adverse effects to the subject or adjacent properties. NOTE: All public improvements, including utilities, shall be designated on required

drawings in the form of a survey and certified by an Engineer and/or Surveyor licensed by the State of Alabama; and

- f. Said security gate shall be set back minimum 40' from the edge of pavement or at least 2' inside of the private property line, whichever is greater; and
- g. A Knox switch/switches shall be installed and gate shall be at proper width in order to allow access for emergency vehicles and shall be approved by Fire Marshall prior to permitting.”

- 2. Severability: If any section, clause, provision, or portion of this Ordinance shall be held to be invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, provision or portion of this Ordinance, which is not in and of itself invalid or unconstitutional.
- 3. Effective Date: This Ordinance shall become effective immediately upon its approval, adoption and publication as required by law.

APPROVED and ADOPTED this the 24th day of October, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2331B 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 24th day of October, 2016, as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, and Vestavia Hills Recreational Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2016.

Rebecca Leavings
City Clerk

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

Date: SEPTEMBER 8, 2016

- **CASE:** Amendments to Ordinance 2331-B §4.5 “Fences”
- **GENERAL DISCUSSION:** The amendments include material selection and fence height. All changes are highlighted in blue.
- **STAFF REVIEW AND RECOMMENDATION:**

1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal. Notification has been sent pursuant to Alabama law.

City Planner Recommendation: Recommend approval.

2. **City Engineer Review:** I have reviewed the application and have no issues with this request.
3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.
4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

MOTION Mr. Gilchrist made a motion to recommend approval of Amendments to Ordinance 2331-B §4.5 “Fences”. Second was by Mr. Burrell. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes	Mr. Burrell – yes
Mr. Gilchrist – yes	Mr. Sharp – yes
Mr. House – yes	Mr. Brooks – yes
Mr. Visintainer – yes	
Motion carried	

RESOLUTION NUMBER 4887

A RESOLUTION EXPRESSING SUPPORT FOR AMENDMENT 14 PROPOSED BY ACT 2016-430 AND URGING VOTERS TO VOTE IN FAVOR OF SAID AMENDMENT

WHEREAS, the Mayor and City Council of the City of Vestavia Hills (collectively known as “City Council”) routinely partners with its State Legislators in Montgomery to pass local legislation for the benefit of citizens residing in Jefferson and Shelby Counties; and

WHEREAS, the City Council has supported the passage and enactment of countless local bills that have contributed to a higher quality of life for the residents of Vestavia Hills by providing much needed support for critical public services including, but not limited to, local school systems, volunteer firefighter departments, County Sheriffs’ offices, workforce development programs, community health organizations and many more; and

WHEREAS, a technical issue related to a routine procedural vote in the House of Representatives stands to threaten the execution of thousands of local laws, which would have detrimental and long-term consequences for the citizens of Vestavia Hills and millions of other Alabamians residing all across this great state; and

WHEREAS, Act 2016-430 passed during the 2016 Regular Session of the Alabama Legislature proposes a constitutional amendment to ratify and confirm the validity of the procedural vote in question, thereby approving any and all local laws passed by the Alabama Legislature in accordance with the rules of the House or Senate in place at the time of the vote; and

WHEREAS, ratification of this proposed constitutional amendment would safeguard the community of the City of Vestavia Hills by preserving the local laws that support the vitally important public services and institutions that the children, senior citizens, small business owners and hard-working residents of the City of Vestavia Hills have come to utilize on a daily basis.

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

1. To urge all registered voters of the City of Vestavia Hills to vote in favor of the constitutional amendment proposed by Act 2016-43, which will appear on the November 2016 General Election Ballot as Amendment 14; and

2. That a copy of this Resolution be forwarded to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives and the chairs of the Senate and House Rules Committee; and
3. This Resolution Number 4887 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 24th day of October, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk



Tagline: Amendment 14 Protects Alabama OR 14 Protects Alabama

Hashtags: #14ProtectsAL OR #VoteYesAL14

What Do I Need to Know About Amendment 14?

Voting Gap	We Can Fix It	If We Fail
A small gap in the way our state House of Representatives voted on local acts must be corrected to protect laws supporting public safety, healthcare, jobs and education in Alabama.	By voting YES on Amendment 14, Alabamians can easily correct this gap, helping to protect our families, defend our way of life and secure the future of our children.	If we vote NO on Amendment 14, we lose the things we care about most in our local communities, such as hospitals, fire stations, police departments and school resource officers.

Talking Points About Amendment 14

Voting Gap: A small gap in how local acts became laws is threatening our way of life.

We Can Fix It: Alabamians can correct the gap by voting YES on Amendment 14.

If We Fail: If we vote no, Alabamians in all 67 counties will experience significant consequences.

What Is At Stake In My Community?

Protecting Our Families	Defending Our Way of Life	Securing Our Future
Voting YES on Amendment 14 will help us protect our families by maintaining our volunteer fire departments, EMTs, sheriffs and hospitals.	Voting YES on Amendment 14 will defend our way of life and maintain local laws and acts that create good-paying jobs and provide valuable public services.	Voting YES on Amendment 14 will secure resources for our schools and children, and ensure that we are properly preparing our future workforce.

Talking Points About Protection, Our Way of Life and Education

Protecting Our Families: Voting YES protects our local fire departments, sheriffs and hospitals.

Defending Our Way of Life: Voting YES saves jobs and maintains services in our communities.

Securing Our Future: Voting YES educates our children and creates tomorrow’s workforce.

Corresponding Proof Points *Facts for use locally to substantiate each key message*

Protecting Our Families	Defending Our Way of Life	Securing Our Future
○ <i>List local act that supports health system</i>	○ <i>List local act that supports economic development</i>	○ <i>List local act that supports schools</i>
○ <i>List local act that supports fire department</i>	○ <i>List local act that supports local services</i>	○ <i>List local act that supports school resource officers</i>
○ <i>List local act that supports sheriffs</i>	○ <i>List local act that supports economic development</i>	○ <i>List local act that supports workforce development</i>



The Story of Amendment 14 – An Editorial Featuring Strategic Messaging

Local Acts in Alabama

Alabamians are hardworking people. We provide for our families, protect our property, educate our kids and look out for each other. When we elect our neighbors to the Alabama State Legislature, we trust they will make decisions that help us defend our way of life. They represent the men, women and children of our state, and cast votes based on shared values.

We are thankful when our elected representatives go to Montgomery and fight for the folks back home. They vote on local acts that provide funds and resources for local hospitals, volunteer fire departments, jobs programs, schools and so much more. We see the benefits of these local acts every single day. They make us safer, they create jobs and they make Alabama's communities stronger.

The Need for Amendment 14

When our neighbors are elected to the Alabama legislature, they *must* represent the voices of the people back home. They must protect our freedom and liberty, and defend our way of life.

Alabamians will not stand for people who do not represent our voices and values. We support those who understand their local communities and the will of the people they represent. We oppose those who ignore our voices. As our state motto says, "We dare defend our rights."

Thankfully, local delegations come together in the Alabama House of Representatives to support local acts – many of which have been voted on by Alabamians. They care about their counties and hometowns. They identify the projects that will make our families safer and economies stronger, and work hard to get those projects in front of the Alabama House of Representatives for a vote. They have fought for local acts that benefit local communities, and, for that, we are grateful.

If we want to preserve these local acts and maintain hospitals, fire departments, schools and jobs programs in our communities, then Alabamians need to come together to correct a small gap in the voting process. Thankfully, Amendment 14 gives Alabama's voters a chance to do just that.

A Call to Action

On November 8, 2016, Alabamians will be able to correct a past voting gap by voting YES for Amendment 14. Simply stated, Amendment 14 Protects Alabama. By voting YES for Amendment 14, you will be voting YES to protecting our families, defending our way of life and securing our future. On November 8, vote YES for Alabama. Vote YES for Amendment 14.

For more information, visit www.14ProtectsAL.com

#14ProtectsAL #VoteYesAL14

RESOLUTION NUMBER 4888

A RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER ON BEHALF OF THE CITY OF VESTAVIA HILLS EMERGENCY COMMUNICATION DISTRICT (“ECD”) TO EXECUTE AND DELIVER AN AGREEMENT AND ASSIGNMENT OF EXCESS COST RECOVERY FUNDS AND THE ALABAMA STATEWIDE 9-1-1 BOARD (“BOARD”) CONCERNING THE ANGEN PROJECT

WHEREAS, the Vestavia Hills City Council is the Emergency Communications District Board for the City of Vestavia Hills; and

WHEREAS, on April 27, 2015, the Vestavia Hills City Council approved and adopted Resolution Number 4707 authorizing the assignment of excess cost recovery funds and the Alabama Statewide 9-1-1 Board concerning the ANGEN project; and

WHEREAS, the Mayor and City Council feel it is in the best public interest to authorize a new agreement in continuance of said ANGEN Project, a copy of said agreement is marked as “Exhibit A” attached to and incorporated into this Resolution Number 4888 as though written therein.

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

1. The Mayor and City Manager are hereby authorized to execute and deliver an agreement between the ECD and the Board as described in attached Exhibits A; and
2. This Resolution Number 4888 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 24th day of April, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

AGREEMENT AND ASSIGNMENT OF FUNDS

WHEREAS, the State of Alabama is continuing its transition of the emergency telephone service in the state to an IP based next generation and integrated emergency communication network, hereinafter referred to as Alabama Next Generation Emergency Network (“ANGEN”) for wireless as well as all other connections that is intended to allow emergency response systems to take full advantage of voice, data, video, and other information available over broadband networks and IP platforms.

WHEREAS, the parties agree that the full implementation of ANGEN is absolutely essential to providing adequate 9-1-1 services to the citizens and visitors of the State of Alabama.

WHEREAS, the Alabama Statewide 911 Board (hereinafter referred to as the “Board”) has chosen a vendor to provide system services and the IP network for the implementation of ANGEN. Significant progress has been made toward implementation of the system and thousands of wireless 9-1-1 calls are currently being routed through the ANGEN system. The Board may contract with other vendors and sub-contractors to assist in the transition and implementation of the ANGEN system.

WHEREAS, **City of Vestavia Hills Emergency Communication District**, is a validly formed and operating Emergency Communication District (ECD) and has agreed to participate in the ANGEN project.

WHEREAS, to fully implement the ANGEN system it will require reallocation of funds collected in cooperation with ECDs.

WHEREAS, Sections 11-98-5(f) and 11-98-5.2(b)(3) Code of Alabama, 1975, as amended, currently provide funding in excess of **City of Vestavia Hills Emergency Communication District’s** promised amount of **\$731,860.36** as contemplated under the original legislation implementing the funding mechanism for ECDs and as adjusted in accordance with the law.

WHEREAS, the parties acknowledge that funding the ANGEN project from monies over and above the “promised” amount available to ECDs is the most expeditious and reasonable method of providing the necessary funding to further implement and maintain the ANGEN project at this time and that said funds are sufficient to fund the implementation and maintenance of the ANGEN project.

IT IS THEREFORE AGREED AS FOLLOWS:

1. That the Board shall determine the annual cost of implementing and maintaining the ANGEN system and notify each ECD of those costs annually during the term of this Agreement.
2. That the ECD hereby agrees to assign and convey a pro rata share (based on population) of monies over and above its “promised” amount to the Board for the sole purpose of

paying expenses and costs incurred by the Board related to the implementation of the ANGEN project.

3. The term of this Agreement shall be from January 1, 2017 through December 31, 2021 and may be renewed or extended for an additional five (5) years, with or without modification upon express written agreement of the parties.
4. In the event that there is legislation passed to fully fund the ANGEN project at any time during the term of this Agreement, then and in that event, this Agreement shall become void upon the effective date of any such legislation.
5. The Board shall make available to all ECDs participating in the ANGEN project all information regarding expenses and funding of the ANGEN project upon reasonable request by the ECD.
6. This Agreement reflects the entire agreement between the parties as it relates to distributions of excess cost recovery funds.
7. This Agreement shall be interpreted and governed by the laws of the State of Alabama.
8. Having agreed to the terms herein, the undersigned signatories hereby represent and warrant that each has authority to enter into this Agreement

IN WITNESS THEROF, THE PARTIES HAVE SIGNED AN EXECUTED THIS AGREEMENT.

Alabama Statewide 911 Board

(Emergency Communication District)

Fred Johnson, Chairman

Signature

Date: _____

Printed Name and Title

Date: _____

09/23/16

VIA U.S. MAIL AND ELECTRONIC MAIL

Tommy Hale, Batallion Chief
City of Vestavia Hills
1032 Montgomery Highway
Vestavia Hills, AL 35216

RE: Agreement and Assignment of Funds for ANGEN

Dear Mr. Hale,

Please find enclosed the "AGREEMENT AND ASSIGNMENT OF FUNDS" necessary to continue to fund Alabama's Next Generation Emergency Network (ANGEN) as approved by the Alabama 9-1-1 Board during its regularly scheduled meeting on September 21, 2016. As you review the document, please direct any questions or concerns that you may have to our office, so that they may be adequately addressed. This agreement and your participation is essential for us to move forward with the ANGEN project at the state level, so we ask that you return the signed agreement to our office no later than October 31, 2016. We will return a copy of the executed agreement to you for your records.

Also, if you are planning to attend the Alabama NENA Gulf Coast Conference in Orange Beach next month, I would like to invite you to my session to learn all the latest news regarding ANGEN. It is currently scheduled for Thursday, October 13th and INdigital, the Board's chosen vendor, will be onsite as well.

We look forward to hearing from you and thank you for your continued support.

Sincerely,



Leah Missildine
Executive Director

Enclosures (1)

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

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

October 7, 2016

Via Electronic Mail

Fire Chief Jim St. John
Vestavia Hills Fire Department
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Agreement and Assignment of Funds for ANGEN

Dear Chief St. John:

On October 4, 2016, you sent to me via electronic mail a proposed Agreement and Assignment of Funds necessary to continue to fund Alabama's Next Generation Emergency Network (ANGEN) as approved by the Alabama 9-1-1 Board during its regularly scheduled meeting on September 21, 2016 with a request that I review the document and provide you with my written legal opinion. The purpose of this letter is to comply with your request.

It is my legal opinion that the Agreement and Assignment of Funds for ANGEN meet the requirements of Alabama law. I base my legal opinion upon the following:

1. My review of Emergency Telephone Service statute at Title 11-98-1, et seq., *Code of Alabama, 1975*; and
2. My discussion of this matter with you; and
3. My review of the Agreement and Assignment of Funds for ANGEN.

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

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp
cc: City Manager Jeffrey D. Downes (by e-mail)

RESOLUTION NUMBER 4889

**A RESOLUTION GRANTING ALAGASCO A UTILITY
EASEMENT FOR CONNECTION OF UTILITY SERVICE**

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

1. The City Manager is hereby authorized to sign an agreement with ALAGASCO to grant an easement, right and privilege as described in said agreement (copy attached); and
2. Resolution Number 4889 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 24th day of October, 2016.

Alberto C. Zaragoza, Jr.
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

EASEMENT

_____ County,

Alabama

_____, _____

Owner's Name, Corporation Status (if applicable) ("**GRANTORS**"), whose address is: *Mailing Address, Municipality and Zip Code*, owners of a tract of land described as follows: *General Property Description location from Recorded Document*, and as described in *Recorded Location* of the _____ County, Alabama Records for and in consideration of the sum of ONE AND NO/100 Dollars (\$1.00) and other valuable consideration in hand paid, the receipt of which is hereby acknowledged, does hereby grant unto ALABAMA GAS CORPORATION an Alabama corporation ("**GRANTEE**"), whose address is: Birmingham, AL 35246, its successors, assigns, lessees and tenants forever, the right and easement to construct, operate and maintain a gas distribution system consisting of mains, piping, valves, service connections, appurtenances and above ground structures along with the right to construct, maintain, alter, inspect, repair, replace, protect, relocate, change the size of, operate and remove a cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein, in, under and across the following part of the aforesaid land, namely:

A *width* foot wide strip of land in the above parcel as shown on *Title of Surveyor's Exhibit*, together with the rights to use additional space adjacent to the above described easement as may be required during construction and the right of ingress to and egress from the above described land and contiguous land owned by **Grantor**. In exercising its rights of access **Grantee** shall whenever practical, use existing roads or lanes.

Grantee, its successors and assigns, will have the right to use and control a line or lines of natural gas pipe for the circulation and distribution of natural gas for public or private use through the above described property for all proper purposes connected with the installation, use, maintenance, and replacement of the line(s) of natural gas pipe, and with the attachment thereto of the service lines of its customers. Furthermore, **Grantee**, its successors and assigns, will have the right to use and control a cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein through the above described property for all proper purposes connected with the installation, use, maintenance, and replacement of the cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein. **Grantee** has the right and privilege of removing at any time, any or all of the cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein without surrendering its easement rights stated herein. **Grantee** has the right and privilege of removing at any time, any or all of the line of natural gas improvements without surrendering its easement rights stated herein. If the natural gas pipe to which the service line connection(s) of the undersigned is abandoned, the service line (s) and the connection(s) may be relocated to another natural gas pipe as directed by **Grantee**.

Grantors shall have the right to use and enjoy the above described lands, except as to the rights herein conveyed. **Grantor** agrees not to obstruct or interfere with the normal use or maintenance of such pipe line or lines and any connections to the same along with cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein. The undersigned also agrees not to erect or cause to be erected any building or structure on said easement and not place fill in excess of five (5) feet on pipeline(s) or cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein, or remove overburden (cover) such that pipeline or cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein, does not have at least three (3) feet of remaining cover. **Grantee** shall also have the right to clear and keep clear brush, trees, shrubbery, roots and other obstructions which, in **Grantee's** judgment, may interfere with the safe, proper and expeditious laying, construction, maintenance, alteration, inspection, repair, replacement, protection, relocation, operation and removal of said pipe line(s), lines and facilities, cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein or any part thereof, within or upon the above described land.

Grantor further reserves the right to make other improvements it desires on, over, in or near the Easement Area and should **Grantor's** improvements plan so require, **Grantee** will remove its gas distribution system components, cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein, from the referenced Easement Area; provided however, that **Grantor** agrees to provide to **Grantee** written notice no less than 120 days before commencing work in connection with any such improvements. In connection with any such improvement, **Grantor** agrees to provide detailed information regarding such improvements to **Grantee** and to cooperate with **Grantee** to identify an alternate Easement Area owned or controlled by **Grantor** and agreeable to both parties with respect to which **Grantee** would be accorded rights substantially similar to those contemplated herein. In any such instance, the cost of removing and relocating the gas distribution system components, cathodic protection rectifier or rectifiers, anodes and cables thereto, and appurtenances for the production of cathodic protection currents therein, shall be paid by the **Grantor** if the removal and relocation is made necessary by the actions of **Grantor**.

Grantor warrants and will defend the title to said easement during its existence with the **Grantee** for its use and benefit against all parties whatsoever.

Grantee accepts this easement with the understanding and on the condition that whenever it shall make any excavations in the above-described property the **Grantee** will properly backfill all excavations and shall restore the ground as nearly as practicable to its former condition.

IN WITNESS WHEREOF, said **Owner's Name**, has caused these presents to be signed by its **Title of signee (if applicable)** the day and year first above written.

Owner's Name

Name: _____

Printed Name: _____

Title: _____

(CORPORATE ACKNOWLEDGMENT)

STATE OF _____)
) ss.
COUNTY OF _____)

On the _____ day of _____, _____, before me, _____, a notary public in and for said state, appeared _____, who being by me duly sworn, did say that he/she is _____ of *Owner's Name* and that said instrument was signed in behalf of said corporation by authority of its _____ and the said _____ acknowledged said instrument to be the free act and deed of said *Owner's Name*.

My Commission expires _____.

S E A L

Notary Public

Source of Title: _____

This instrument was prepared by: Mr. David P. Abernathy
700 Market Street, 6th Floor
St. Louis, MO 63101

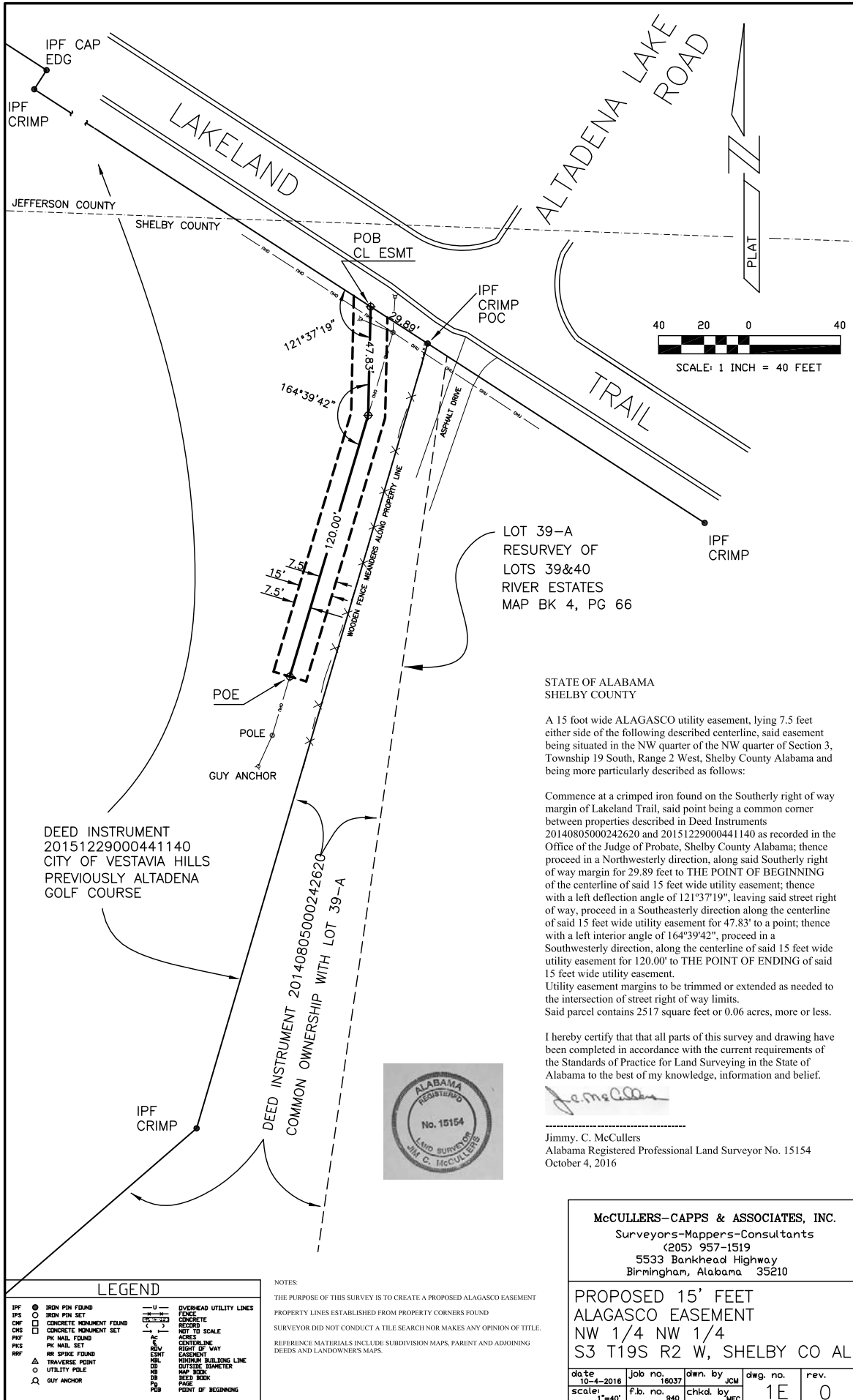
STATE OF ALABAMA
SHELBY COUNTY

A 15 foot wide ALAGASCO utility easement, lying 7.5 feet either side of the following described centerline, said easement being situated in the NW quarter of the NW quarter of Section 3, Township 19 South, Range 2 West, Shelby County Alabama and being more particularly described as follows:

Commence at a crimped iron found on the Southerly right of way margin of Lakeland Trail, said point being a common corner between properties described in Deed Instruments 20140805000242620 and 20151229000441140 as recorded in the Office of the Judge of Probate, Shelby County Alabama; thence proceed in a Northwesterly direction, along said Southerly right of way margin for 29.89 feet to THE POINT OF BEGINNING of the centerline of said 15 feet wide utility easement; thence with a left deflection angle of $121^{\circ}37'19''$, leaving said street right of way, proceed in a Southeasterly direction along the centerline of said 15 feet wide utility easement for 47.83' to a point; thence with a left interior angle of $164^{\circ}39'42''$, proceed in a Southwesterly direction, along the centerline of said 15 feet wide utility easement for 120.00' to THE POINT OF ENDING of said 15 feet wide utility easement.

Utility easement margins to be trimmed or extended as needed to the intersection of street right of way limits.

Said parcel contains 2517 square feet or 0.06 acres, more or less.



LOT 39-A
RESURVEY OF
LOTS 39&40
RIVER ESTATES
MAP BK 4, PG 66

STATE OF ALABAMA
SHELBY COUNTY

A 15 foot wide ALAGASCO utility easement, lying 7.5 feet either side of the following described centerline, said easement being situated in the NW quarter of the NW quarter of Section 3, Township 19 South, Range 2 West, Shelby County Alabama and being more particularly described as follows:

Commence at a crimped iron found on the Southerly right of way margin of Lakeland Trail, said point being a common corner between properties described in Deed Instruments 20140805000242620 and 20151229000441140 as recorded in the Office of the Judge of Probate, Shelby County Alabama; thence proceed in a Northwesterly direction, along said Southerly right of way margin for 29.89 feet to THE POINT OF BEGINNING of the centerline of said 15 feet wide utility easement; thence with a left deflection angle of 121°37'19", leaving said street right of way, proceed in a Southeasterly direction along the centerline of said 15 feet wide utility easement for 47.83' to a point; thence with a left interior angle of 164°39'42", proceed in a Southwesterly direction, along the centerline of said 15 feet wide utility easement for 120.00' to THE POINT OF ENDING of said 15 feet wide utility easement.

Utility easement margins to be trimmed or extended as needed to the intersection of street right of way limits.
Said parcel contains 2517 square feet or 0.06 acres, more or less.

I hereby certify that that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief.

Jimmy C. McCullers

Jimmy C. McCullers
Alabama Registered Professional Land Surveyor No. 15154
October 4, 2016



DEED INSTRUMENT
20151229000441140
CITY OF VESTAVIA HILLS
PREVIOUSLY ALTADENA
GOLF COURSE

DEED INSTRUMENT 20140805000242620
COMMON OWNERSHIP WITH LOT 39-A

LEGEND

IPF	●	IRON PIN FOUND	—U—	OVERHEAD UTILITY LINES
IPF	○	IRON PIN SET	—C—	CONCRETE RECORD
CMF	□	CONCRETE MONUMENT FOUND	—R—	RIGHT OF WAY
CMS	□	CONCRETE MONUMENT SET	—S—	SEWER
PKF	○	PK NAIL FOUND	—N—	NEW
PKS	○	PK NAIL SET	—E—	EASEMENT
RRF	○	RR SPIKE FOUND	—B—	BUILDING LINE
TRF	○	TRaverse POINT	—D—	DIAMETER
U	○	UTILITY POLE	—R—	RAILROAD
G	○	GUY ANCHOR	—B—	BENCH MARK
	○		—P—	POINT OF BEGINNING

NOTES:
THE PURPOSE OF THIS SURVEY IS TO CREATE A PROPOSED ALAGASCO EASEMENT
PROPERTY LINES ESTABLISHED FROM PROPERTY CORNERS FOUND
SURVEYOR DID NOT CONDUCT A TITLE SEARCH NOR MAKES ANY OPINION OF TITLE.
REFERENCE MATERIALS INCLUDE SUBDIVISION MAPS, PARENT AND ADJOINING DEEDS AND LANDOWNER'S MAPS.

McCULLERS-CAPPS & ASSOCIATES, INC.
Surveyors-Mappers-Consultants
(205) 957-1519
5533 Bankhead Highway
Birmingham, Alabama 35210

PROPOSED 15' FEET ALAGASCO EASEMENT
NW 1/4 NW 1/4
S3 T19S R2 W, SHELBY CO AL

date	10-4-2016	job no.	16037	dwn. by	JCM	dwg. no.	1E	rev.	0
scale:	1"=40'	F.b. no.	940	chkd. by	MFC				

ORDINANCE NUMBER 2318

AN ORDINANCE AMENDING ORDINANCE NUMBER 2194-B, PROHIBITING, UPON DECLARATION OF A WATER SERVICE EMERGENCY AND/OR WATER SYSTEM FAILURE ISSUED BY THE MAYOR, CERTAIN USES OF WATER IN THE CITY OF VESTAVIA HILLS, ALABAMA THEREOF SUPPLIED BY THE WATER WORKS AND SEWER BOARD OF THE CITY OF BIRMINGHAM, NOT ESSENTIAL TO MAINTAINING ADEQUATE HEALTH AND SANITATION STANDARDS; AUTHORIZING THE MAYOR TO DECLARE A WATER SERVICE EMERGENCY AND/OR WATER SYSTEM FAILURE; AND PRESCRIBING PENALTIES FOR ITS VIOLATION

THIS ORDINANCE NUMBER 2318, AMENDING ORDINANCE NUMBER 2194-B, IS APPROVED AND ADOPTED ON THIS THE 14th DAY OF DECEMBER, 2009.

WITNESSETH THESE RECITALS

WHEREAS, on the 6th day of August, 2007, the City Council of the City of Vestavia Hills adopted and approved Ordinance Number 2194-B to further amend Ordinance Number 2194-A in order to allow the hand washing of certain business automobiles with parameters; and

WHEREAS, the City Council of the City of Vestavia Hills now desires to further amend Ordinance Number 2194-B for the purpose of prudent drought management strategies; and

WHEREAS, severe drought conditions can cause a shortage of water; and

WHEREAS, a shortage of water can cause an emergency situation to exist in the City of Vestavia Hills, Alabama; and

WHEREAS, it is imperative to the public interest and general welfare of the City of Vestavia Hills, Alabama that certain uses of water, not essential to the health, welfare and safety of the citizens residing in the City of Vestavia Hills, be prohibited during a period of water service emergency as declared by the Mayor; and

WHEREAS, on the 24th day of October, 2000, the Vestavia Hills City Council adopted and approved Ordinance Number 1847 to authorize the Mayor to call an emergency in certain drought conditions at the request of the Birmingham Water Works Board; and

WHEREAS, the Birmingham Water Works Board has amended its restrictions in the 2007 Drought Management Plan to include various stages including “Stage 3, Drought Warning”

and a final stage “Stage 4, Drought Emergency” and the Mayor and Council feel it is in the best interest to amend previous ordinances to reflect said plan; and

WHEREAS, on the 8th day of June, 2007, the Vestavia Hills City Council adopted and approved Ordinance Number 2194 to authorize the Mayor to call an emergency in certain drought conditions at the request of the Birmingham Water Works Board with said stipulations to mirror those suggested by the BWWB; and

WHEREAS, on the 9th day of July, 2007, the Vestavia Hills City Council adopted and approved Ordinance Number 2194-A, amending Ordinance 2194; and

WHEREAS, on the 6th day of August, 2009, the Vestavia Hills City Council adopted and approved Ordinance Number 2194-B, further amending all previous ordinances; and

WHEREAS, the Mayor and Council agree it is in the best public interest to expand the previous water emergency ordinances to implement and enforce a procedure in the unlikely event of a water system failure; and

WHEREAS, the Mayor and Council feel it is in the best public interest to further amend said ordinances to further protect the public health, safety and general welfare of the citizens of the City of Vestavia Hills, Alabama.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA THAT ORDINANCE NUMBER 2194-B IS AMENDED TO READ IN ITS ENTIRETY AS FOLLOWS:

SECTION 1. DEFINITIONS: For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- (a) “*Board*” or “*BWWB*” means The Water Works and Sewer Board of the City of Birmingham.
- (b) “*Board of Education*” means the Vestavia Hills Board of Education.
- (c) “*City*” is the City of Vestavia Hills.
- (d) “*City Council*” is the City Council of the City of Vestavia Hills.
- (e) “*Mayor*” is the Mayor of the City of Vestavia Hills.

- (f) “*Person*” is any person, firm, partnership, association, corporation, company or organization of any kind.
- (g) “*Water*” is water supplied by the Water Works and Sewer Board of the City of Birmingham either directly or indirectly by the Board through another entity including any private water system serviced by the Birmingham Water Works Board.

SECTION 2. DECLARATION OF EMERGENCY BY THE MAYOR: Whenever the Mayor of the City determines (in consultation with such officials as he deems appropriate, including the Board), that a water service emergency and/or water system failure exists in the City and that such emergency requires that certain uses of water not essential to the health, welfare and safety of the citizens of the City be restricted, the Mayor, with the consensus of the City Council, may issue and publish a declaration of the existence of such water service emergency which shall become effective immediately upon the publication of such declaration in a daily newspaper of general circulation in the City for three (3) consecutive days. In addition, the Declaration of Water Service Emergency shall be:

- (1) Announced at all public meetings of the City Council that are held during the water service emergency; and
- (2) Posted during the water service emergency period at the Municipal Center of Vestavia Hills, the Vestavia Hills Civic Center, the Vestavia Hills Library, the Vestavia Hills branch of the United States Post Office and the Vestavia Hills Parks and Recreation.

SECTION 3. FORM OF DECLARATION OF WATER SERVICE EMERGENCY: The form of the Declaration of Water Service Emergency shall be substantially in the form attached hereto, marked Exhibit “A” and incorporated into this Ordinance Number 2318 by reference as though set out fully herein.

SECTION 4. APPLICATION OF ORDINANCE: Upon the publication and posting of a Declaration of Water Service Emergency under Section 2 hereof, the provisions of this Ordinance shall apply to all persons using and/or withdrawing water in the City.

SECTION 5. DETERMINATION OF DROUGHT MANAGEMENT STAGES. On April 9, 2008, the Board adopted and approved a Drought Management Plan that established a water conservation plan for their service area. The Plan detailed a “staged approach” to utilize several system and climatologically factors as triggers using performance measures, water demands or usage, reservoir levels, river flows and drought indices such as the Palmer Index and the Standardized Precipitation Index. The adopted policy sets forth five (5) stages of drought levels including:

- Stage 1 Drought Advisory
- Stage 2 Drought Watch
- Stage 3 Drought Warning
- Stage 4 Extreme Drought Emergency
- Stage 5 Exceptional Drought Emergency

The Board’s planned Stage 1 and Stage 2 call for voluntary water conservation from its customers. All subsequent Stages, if declared by the Board, implement enforcement by the Board with surcharges for excessive water usage.

The Mayor and Council agree it is in the best public interest to “mirror” the stage numbers as described within the Drought Management Plan adopted by the Board on April 9, 2008. However, a Declaration of Emergency shall only become effective upon recommendation of the Mayor and a consensus of the City Council following an implementation by the Board to “Stage 3 Drought Warning” and/or “Stage 4 Extreme Drought Emergency” and upon the determination (through consultation with the Council, the Board and other such officials as they deem appropriate) that extreme drought conditions have caused significant adverse impacts to the reliability of water resources and the ability of the Board to adequately supply and meet future demands or usage requirements of its customers and that the public’s health and safety are at risk.

SECTION 6. DECLARATION OF EMERGENCY IN “STAGE 3 DROUGHT WARNING” AND/OR “STAGE 4 EXTREME DROUGHT EMERGENCY”. Upon such publication of a Declaration of Water Service Emergency during a “Stage 3 Drought Warning” or “Stage 4 Extreme Drought Emergency” as declared by the Mayor with the consensus of the

City Council, as provided hereinabove, the use and withdrawal of water by any person for the following purposes shall be as follows:

(a) Watering Yards: The hand watering of established lawns and landscaping is not allowed during the hours of **7 AM and 8 PM** on the allowable watering day. Addresses ending in an even number should hand-water established lawns and landscaping on Mondays and Thursdays and addresses ending in an odd number should hand water on Tuesdays and Fridays.

(b) Watering New Lawns: New lawns and landscaping are exempt from the day of the week restrictions for the first twenty (20) days after installation and shall not be conducted between the hours of **7 AM and 8 PM** and is limited to only new lawns and plants. After the first twenty (20) days and up to the thirtieth (30th) day, hand watering is allowed two days per week. Addresses ending in an even number should hand water new lawns and landscaping on Mondays and Thursdays and addresses ending in an odd number should hand water on Tuesdays and Fridays during the hours listed above. After the 30th day, hand watering should be in accordance with the preceding requirement (Stage 3, (a)). Documentation to verify the date of planting shall be made available upon request.

(c) Insecticides: Hand watering for the purpose of watering in insecticides, fungicides and herbicides where such watering is required by the manufacturer or by federal, state or local law shall be coordinated with the schedule above for established lawns and hand watering shall not be conducted between the hours of 10 AM and 10 PM. Documentation to verify the date of application shall be made available upon request.

(d) Washing Vehicles: The washing of automobiles, truck, trailers, mobile homes, campers, boats, or other type motor vehicles or equipment shall be suspended unless done by businesses engaged in car washing using recycled water. Businesses which utilize luxury vehicles as an integral part of their business, vehicles that are too large to fit into automatic car washes utilizing recycled water, including, but not limited to limousines, may hand wash said vehicle one time per week provided a nozzle is utilized on the hose automatically turning off any water flow when not in use. Also, automotive dealerships shall be allowed to wash any new automobile purchased by an individual from said dealership one time.

(e) Fire Hydrants: The use of fire hydrants for any purpose except for firefighting or flushing sewers for health protection purposes shall be suspended.

(f) Golf Courses: The watering of any portion of golf courses except for tees and greens shall be suspended. The watering of tees and greens is allowed on Mondays, Wednesdays and Fridays between the hours of 1 AM and 5 AM. Hand syringing is permitted for no more than 5 minutes per green on other days of the week when ambient temperature is equal to or greater than 94 degrees Fahrenheit.

(g) Commercial Nurseries: Commercial nurseries are exempt from day of the week watering but shall restrict water use to the minimum amount necessary to maintain plants. Refrain from watering between 10 AM and 10 PM.

(h) Swimming Pools: Newly constructed or existing public and private swimming pools, which include outdoor hot tubs, spas and jacuzzis may be filled once upon completion. A one-time draining and subsequent re-filling of swimming pools is allowed only for repairs if conditions threaten the integrity of the pool and/or its support infrastructure.

(i) Cleaning Outdoor Surfaces: The washing of sidewalks, driveways, gas station aprons, porches and other outdoor surfaces is prohibited except in emergency situations, such as toxic spills of hazardous materials.

(j) Cleaning Buildings: The washing of the outside of dwellings; the washing of the inside or outside of office buildings is prohibited.

(k) Cleaning Equipment and Machinery: The washing and cleaning of any business or industrial equipment machinery is prohibited.

(l) Ornamental Fountains: The operation of any ornamental fountain or other structure making similar use of water is prohibited.

(m) Persons watering from private lakes, wells, ponds or water tanks, if deviated from the schedule and/or provisions set forth above, must first provide verification to the City that an alternate source of water has been accessed and then obtain a one (1) year permit at a cost of \$10. The City shall issue, with the permit, a sign that shall be posted so as to be visible from the public right-of-way detailing that an alternate source of water is being utilized.

SECTION 7. DECLARATION OF EMERGENCY IN “STAGE 5 EXCEPTIONAL DROUGHT EMERGENCY AND/OR WATER SYSTEM FAILURE”.

The City strongly endorses and recommends that the Board, which exclusively serves the City, establish reciprocal emergency water use agreements and install adequate connections to allow

the transfer of water from one system to another in the event of drought or other disasters causing water shortages. Furthermore, it is recommended that similar agreements be established with other water systems that are geographically located to make such agreements workable and beneficial. This Stage could result from drought intensity or other unrelated causes for the potable water supply system failure. In this Stage, a significant or total failure of a water distribution system will have a disastrous effect on the City. At this juncture, notification of federal and state agencies for assistance may be required. An emergency operation center may be opened for the duration of the event. Priority will be placed on public safety and public health. This Stage 5 emergency shall ban outdoor water usage within areas in the City of Vestavia Hills that are serviced by local water authorities placing restrictions on water usage. Upon such publication of a Declaration of Water Service Emergency during a “Stage 5 Exceptional Drought Emergency and/or Water System Failure” by the Mayor, with the consensus of the City Council, based on information derived from the Board, the Council and other officials as they deem appropriate, as provided hereinabove, the use and withdrawal of water by any person for the following purposes **shall be prohibited unless otherwise specified:**

(a) Outdoor Watering: The watering or irrigating of shrubbery, trees, lawns, grasses, ground covers, plants, vines, gardens, vegetables, flower or any other vegetation. Commercial nurseries may **hand** water inventory daily during the hours of 10 PM to 10 AM and shall use the minimum amount of water possible to maintain inventory.

(b) Washing Mobile Equipment: The washing of automobiles, trucks, trailers, trailer houses, railroad cars or any other type mobile equipment unless the washing of said motor vehicles and equipment is accomplished by a commercial automatic car wash installation engaged in the business of washing motor vehicles and recycling water.

(c) Cleaning Outdoor Surfaces: The washing of sidewalks, driveways, gas station aprons, porches and other outdoor surfaces, except in emergency situations, such as toxic spills of hazardous materials.

(d) Cleaning Buildings: The washing of the outside of dwellings; the washing of the inside or outside of office buildings.

(e) Cleaning equipment and machinery: The washing and cleaning of any business or industrial equipment machinery.

(f) Ornamental Fountains: The operation of any ornamental fountain or other structure making similar use of water.

(g) Golf Courses: The watering of any portion of golf courses shall be prohibited.

(m) Persons watering from private lakes, wells, ponds or water tanks, if deviated from the schedule and/or provisions set forth above, must first provide verification to the City that an alternate source of water has been accessed and then obtain a one (1) year permit at a cost of \$10.00. The City shall issue, with the permit, a sign that shall be posted so as to be visible from the public right-of-way detailing that an alternate source of water is being utilized.

SECTION 8. ENFORCEMENT: Upon publication of a “Stage 3. Drought Warning”, “Stage 4. Extreme Drought Emergency” or “Stage 5. Exceptional Drought Emergency” under Section 2 hereof:

(a) Police Officers Enforce: Every police officer of the City shall, in connection with his or her duties imposed by law, diligently enforce the provisions of this Ordinance.

(b) Violations: Parents shall be responsible for violations of their minor children.

SECTION 9. EXCEPTION TO MAINTAIN SANITATION, HEALTH AND SAFETY: The Mayor shall have the authority to permit reasonable use of water in any case necessary to maintain adequate public health, safety and sanitary standards. However, this reasonable use shall not include any of the restrictions enumerated in the applicable stage set forth in Section 8 above. Additionally, notwithstanding any other provisions of this Ordinance, the Mayor may permit the watering of City and/or Board of Education owned or controlled athletic fields where the Mayor, in his sole discretion, determines that said athletic fields are hazardous to the health and safety of children, by being too hard by virtue of a lack of water. The Mayor may permit the watering of such athletic fields preferably limited to three hours per station, two times per week between the hours of 10 PM and 10 AM or to the extent necessary to abate the hazard to the health safety of such children.

SECTION 10. PENALTIES. Any person, firm or corporation violating any of the said terms and provisions of this Ordinance shall, upon conviction, be punished in accordance with

Title 11-45-9, Code of Alabama, 1975, for a misdemeanor violation for each such offense. Each day any violation of this Ordinance shall continue shall constitute a separate offense.

SECTION 11. SEVERABILITY: The provisions of this Ordinance are severable. If any portion of this Ordinance shall be declared invalid by any court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

SECTION 12. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its adoption and publication as required by law.

DONE, ORDERED, APPROVED AND ADOPTED on this the 14th day of December, 2009.

David Carrington
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 Number 2318 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 14th day of December, 2009 as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Public Library, and Vestavia Hills Recreational Center this the _____ day of _____, 2009.

Rebecca Leavings
City Clerk

PUBLIC NOTICE
DROUGHT WARNING/WATER SYSTEM EMERGENCY

DATE: _____

The Mayor of the City of Vestavia Hills, with consensus from the Vestavia Hills City Council has determined and declared that a water service emergency exists in the City of Vestavia Hills, Alabama and, therefore, has issued and published this declaration of the existence of such water emergency and/or water system failure pursuant to Ordinance Number 2318 of the City of Vestavia Hills with certain exemptions to maintain the health, safety and sanitation as determined by the Mayor.

Effective, _____, _____, the Mayor of the City of Vestavia Hills, Alabama has declared Stage _____, “ _____ ” to restrict and/or prohibit certain uses of water as detailed below:

DECLARATION OF EMERGENCY IN “STAGE 3 DROUGHT WARNING” AND/OR “STAGE 4 EXTREME DROUGHT EMERGENCY”. Upon such publication of a Declaration of Water Service Emergency during a “Stage 3 Drought Warning” or “Stage 4 Extreme Drought Emergency” as issued by the Mayor, with the consensus of the City Council, as provided hereinabove, the use and withdrawal of water by any person for the following purposes shall be as follows:

(a) Watering Yards: The hand watering of established lawns and landscaping is not allowed during the hours of **7 AM and 8 PM** on the allowable watering day. Addresses ending in an even number should hand water established lawns and landscaping on Mondays and Thursdays and addresses ending in an odd number should hand water on Tuesdays and Fridays.

(b) Watering New Lawns: New lawns and landscaping are exempt from the day of the week restrictions for the first twenty (20) days after installation and shall not be conducted between the hours of **7 AM and 8 PM** and is limited to only new lawns and plants. After the first twenty (20) days and up to the thirtieth (30th) day, hand watering is allowed two days per week. Addresses ending in an even number should hand water new lawns and landscaping on Mondays and Thursdays and addresses ending in an odd number should hand water on Tuesdays

and Fridays during the hours listed above. After the 30th day, hand watering should be in accordance with the preceding requirement (Stage 3, (a)). Documentation to verify the date of planting shall be made available upon request.

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(d) Washing Vehicles: The washing of automobiles, truck, trailers, mobile homes, campers, boats, or other type motor vehicle or equipment shall be suspended unless done by businesses engaged in car washing using recycled water. Businesses which utilize luxury vehicles as an integral part of their business, vehicles that are too large to fit into automatic car washes utilizing recycled water, including, but not limited to limousines, may hand wash said vehicle one time per week provided a nozzle is utilized on the hose automatically turning off any water flow when not in use. Also, automotive dealerships shall be allowed to wash any new automobile purchased by an individual from said dealership one time.

(e) Fire Hydrants: The use of fire hydrants for any purpose except for firefighting or flushing sewers for health protection purposes shall be suspended.

(f) Golf Courses: The watering of any portion of golf courses except for tees and greens shall be suspended. The watering of tees and greens is allowed on Mondays, Wednesdays and Fridays between the hours of 1 AM and 5 AM. Hand syringing is permitted for no more than 5 minutes per green on other days of the week when ambient temperature is equal to or greater than 94 degrees.

(g) Commercial Nurseries: Commercial nurseries are exempt from day of the week watering but shall restrict water use to the minimum amount necessary to maintain plants. Refrain from watering between 10 AM and 10 PM.

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(i) Cleaning Outdoor Surfaces. The washing of sidewalks, driveways, gas station aprons, porches and other outdoor surfaces is prohibited except in emergency situations, such as toxic spills of hazardous materials.

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(k) Cleaning Equipment and Machinery. The washing and cleaning of any business or industrial equipment machinery is prohibited.

(l) Ornamental Fountains. The operation of any ornamental fountain or other structure making similar use of water is prohibited.

(m) Persons watering from private lakes, wells, ponds or water tanks, if deviated from the schedule and/or provisions set forth above, must first provide verification to the City that an alternate source of water has been accessed and then obtain a one (1) year permit at a cost of \$10. The City shall issue, with the permit, a sign that shall be posted so as to be visible from the public right-of-way detailing that an alternate source of water is being utilized.

DECLARATION OF EMERGENCY IN “STAGE 5 EXCEPTIONAL DROUGHT EMERGENCY AND/OR WATER SYSTEM FAILURE”. The City strongly endorses and recommends that the Board, which exclusively serves the City, establishes reciprocal emergency water use agreements and installs adequate connections to allow the transfer of water from one system to another in the event of drought or other disasters causing water shortages. Furthermore, it is recommended that similar agreements be established with other water systems that are geographically located to make such agreements workable and beneficial. This Stage could result from drought intensity or other unrelated causes for the potable water supply system failure. In this Stage, a significant or total failure of a water distribution system will have a disastrous effect on the City. At this juncture, notification of federal and state agencies for assistance may be required. An emergency operation center may be opened for the duration of the event. Priority will be placed on public safety and public health. This State 5 emergency shall ban outdoor water usage within areas in the City of Vestavia Hills that are serviced by local water authorities placing restrictions on water usage. Upon such publication of a Declaration of Water Service Emergency during a “Stage 5 Exceptional Drought Emergency and/or Water System Failure” by the Mayor, with the consensus of the City Council, based on information

derived from the Board, the Council and other officials as they deem appropriate, as provided hereinabove, the use and withdrawal of water by any person for the following purposes:

(a) Outdoor watering. The watering or irrigating of shrubbery, trees, lawns, grasses, ground covers, plants, vines, gardens, vegetables, flower or any other vegetation. Commercial nurseries may **hand** water inventory daily during the hours of 10 PM to 10 AM and shall use the minimum amount of water possible to maintain inventory.

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(f) Ornamental Fountains. The operation of any ornamental fountain or other structure making similar use of water.

(g) Golf Courses. The watering of any portion of golf courses shall be prohibited.

(h) Persons watering from private lakes, wells, ponds or water tanks, if deviated from the schedule and/or provisions set forth above, must first provide verification to the City that an alternate source of water has been accessed and then obtain a one (1) year permit at a cost of \$10. The City shall issue, with the permit, a sign that shall be posted so as to be visible from the public right-of-way detailing that an alternate source of water is being utilized.

Any person who shall violate any provision of Ordinance Number 2318 or shall do any act prohibited hereby shall upon conviction thereof be subject to the fines and penalties prescribed by the State of Alabama for a misdemeanor offense. Each day on which a violation occurs or continues shall be deemed a separate offense. Effective three (3) days following the date of this notice being the _____ day of _____, 2009.

Signed: _____
Mayor