

**Vestavia Hills
City Council Agenda
December 17, 2018
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Jim Cartledge, Vestavia Hills Chaplin
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
 - a. City Hall Offices Closed December 24, 25, 31 and January 1 In Observance Of Christmas and New Year’s Holidays
6. City Manager’s Report
7. Councilors’ Reports
8. Financial Reports – George Sawaya, Asst. Finance Director
9. Approval of Minutes – None

Old Business

10. Ordinance Number 2810 – Rezoning – 4517 Pine Tree Circle; Rezone From Vestavia Hills R-1 (Low Density Residential District) To VH O-1 (Office District); Mark Hancock, Hancock Construction, Owner (*public hearing*)
11. Ordinance Number 2811 – Conditional Use Approval – 2301 Old Columbiana Road; Conditional Use Approval For Outdoor Recreation; The Property Is Currently Zoned Vestavia Hills B-2 (General Business District) With Restrictions; Richard Pennino, (*public hearing*)
12. Ordinance Number 2812 – An Ordinance To Partner With The CoachSafely Foundation Pursuant To *The Coach Safety Act*, Also Known As Act Number 2018-496 As Adopted By The Alabama Legislature, 2018 Regular Session And Authorizing A Partnership Between The CoachSafely Foundation And The City Of Vestavia Hills Parks And Recreation Department (*public hearing*)
13. Ordinance Number 2813 – An Ordinance To Rescind Ordinance Number 2627 And Article XI, Section 8-281 Thru 8-293 Of The Vestavia Hills Code Of Ordinances Relating To Licenses And Regulation Of Transportation Network Companies (“TNC”) (*public hearing*)
14. Ordinance Number 2814 – An Ordinance To Adopt Regulations For Small Cell Technology Facilities In The City Of Vestavia Hills, Alabama (*public hearing*)

15. Ordinance Number 2815 – An Ordinance To Establish A Fee Structure For Small Cell Technology Facilities In The City Of Vestavia Hills, Alabama As Established By Ordinance Number 2814 (*public hearing*)
16. Resolution Number 5117 – A Resolution Authorizing The City Manager To Execute And Deliver An Agreement For Services With The Regional Planning Commission Of Greater Birmingham For An Apple Grant For “Vestavia Hills Traffic Operations Study Phase 1” (*public hearing*)

New Business

17. Ordinance Number 2816 – An Ordinance Confirming And Ratifying The Levy Of The 3.15 Mill Ad Valorem Tax In The City For Public School Purposes Pursuant To Amendment No. 352 To The Constitution Of Alabama Of 1901 And A Special Election Held In The City On January 13, 1976

New Business (Unanimous Consent Requested)

First Reading (No Action Taken At This Meeting)

18. Citizen Comments
19. Motion For Adjournment

ORDINANCE NUMBER 2810

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 VESTAVIA HILLS R-1 TO VESTAVIA HILLS O-1

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

4517 Pine Tree Circle;
Mark Hancock, Owner(s)

More Particularly Described As Follows:

That part of the SW ¼ of the SE ¼ of Section 27, Township 18 South, Range 2 West, situated in Jefferson County, Alabama, more particular described as follows:

Begin at the SW corner of said 1/4-1/4 section and run thence Eastwardly along the south line of said 1/4-1/4 section for a distance of 833.5 feet to the point of beginning of tract here described; from point of beginning true obtained continue eastwardly along south line for a distance of 100 feet; thence turn an angle to the left of 90 degrees and run northwardly for a distance of 250 feet; thence turn an angle to the left of 90 degrees and run westwardly for a distance of 100 feet; thence turn an angle to the left of 90 degrees and run southwardly for a distance of 250 feet to the point of beginning.

APPROVED and ADOPTED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

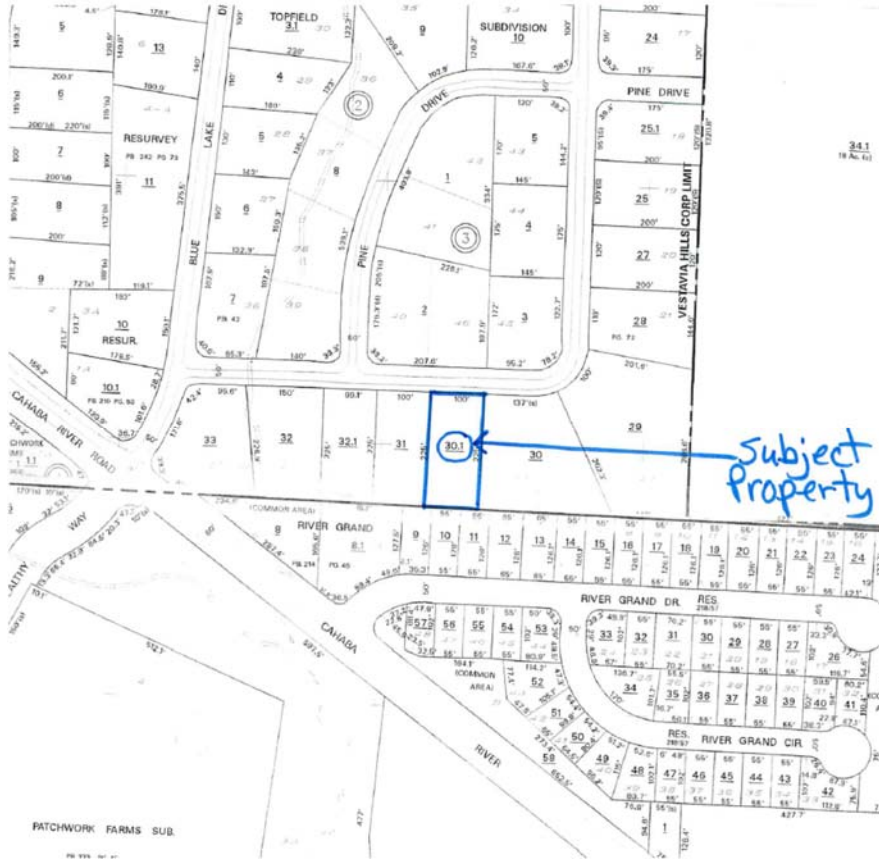
Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2810 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 17th day of December, 2018, 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 _____, 2018.

Rebecca Leavings
City Clerk



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

Date: **NOVEMBER 8, 2018**

- **CASE:** P-1118-42
- **REQUESTED ACTION:** Rezoning Vestavia Hills R-1 Vestavia Hills O-1
- **ADDRESS/LOCATION:** 4517 Pine Tree Cir.
- **APPLICANT/OWNER:** Mark A. Hancock
- **REPRESENTING AGENT:**
- **GENERAL DISCUSSION:** Property is on the southern end of Pine Tree Cir. Applicant is seeking rezoning to build a two story office building (6,000 sq. ft. +/-). The proposed building meets all requirements of an O-1 zoning, including parking and buffering. The proposed architecture is similar to what was approved in the Blue Lake area. A sidewalk will be constructed as required by the Blue Lake Area Study. A proposed site plan, landscaping plan, and rendering is attached.
- **CAHABA HEIGHTS COMMUNITY PLAN:** The request is consistent with the Cahaba Heights Community Plan for limited mixed use and Blue Lake Area Study
- **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:
 2. **City Engineer Review:** No problems noted.
 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. Larson made a motion to recommend rezoning approval for 4517 Pine Tree Cir. from Vestavia Hills R-1 Vestavia Hills O-1. Second was by Mr. Sykes. Motion was carried on a roll call; vote as follows:

Mr. Goodwin – yes

Mr. Romeo – yes

Mr. House – yes

Mrs. Barnes – yes

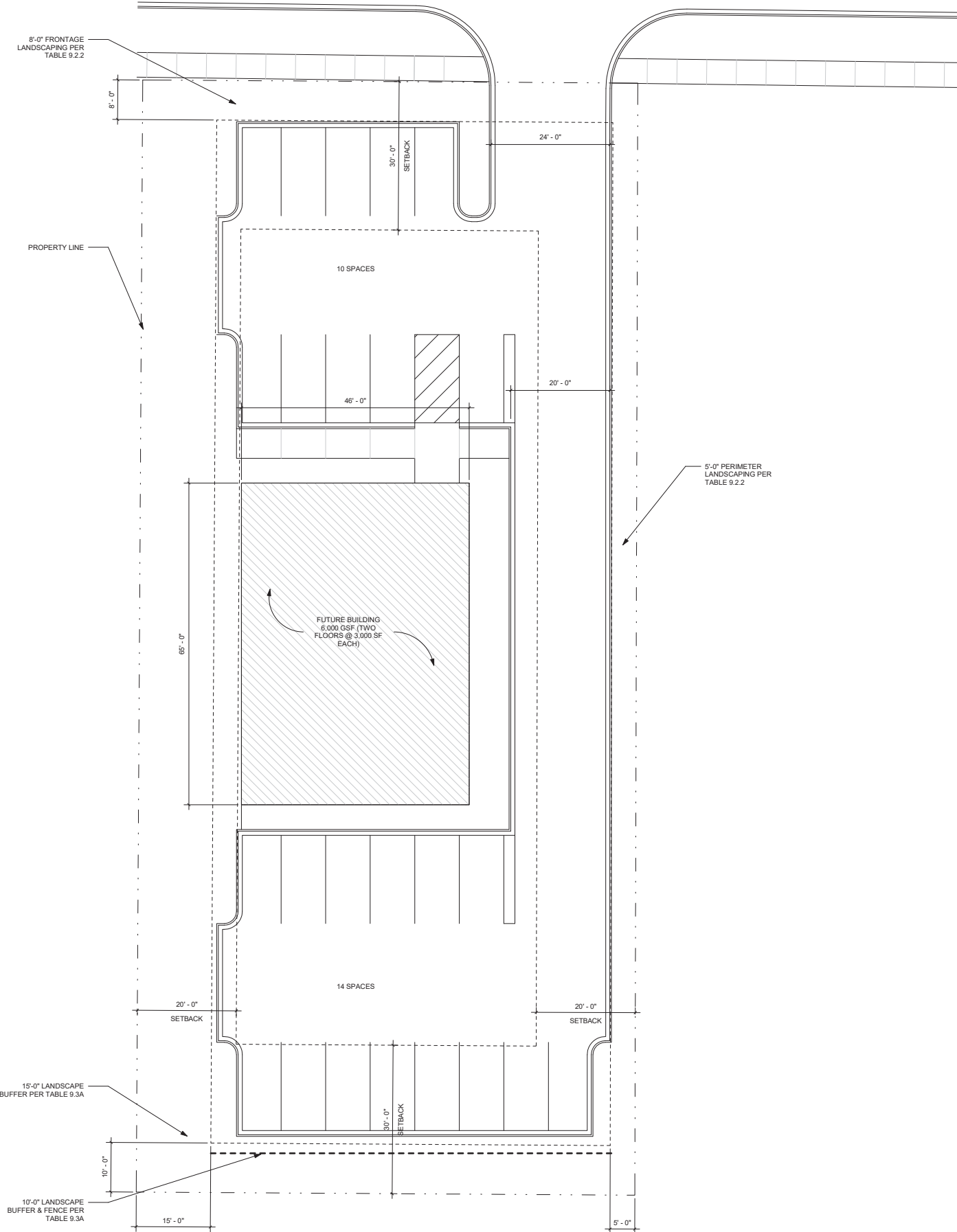
Motion carried.

Mr. Sykes – yes

Ms. Cobb – yes

Mr. Larson – yes

PINE TREE CIRCLE





- R-2
- PUD-PR-1
- R-1
- R-4
- R-6
- R-9
- R-3
- R-8
- R-5
- R-9*
- B-3
- RC-1
- A
- E-2
- B-2
- Inst-1
- R-1*
- O-1
- PUD-FB
- R-8*
- R-6*
- B-1
- B-3*
- Inst-1*
- B-2*
- O-1*



Future Land Use

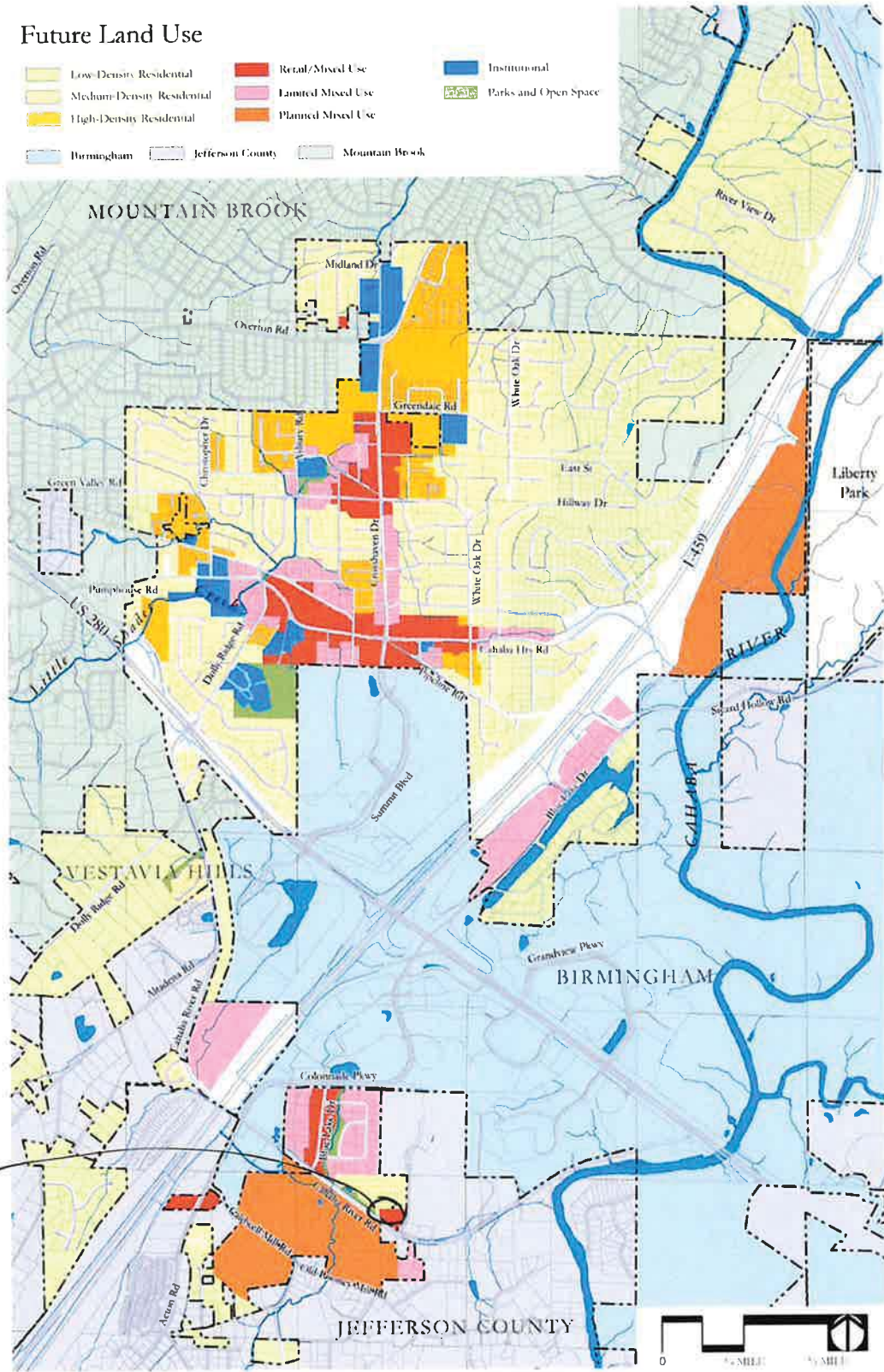


Figure 4: Future Land Use Map

ORDINANCE NUMBER 2811

**AN ORDINANCE GRANTING A CONDITIONAL USE
APPROVAL TO ALLOW OUTDOOR RECREATION AND
PHYSICAL TRAINING**

WHEREAS, on December 13, 2010 the City Council of the City of Vestavia Hills, Alabama approved and adopted Ordinance Number 2331 entitled the Vestavia Hills Zoning Code and establishing a conditional use approval for certain uses not permissible by right in zoning classifications; and

WHEREAS, on January 22, 2018, the City Council adopted and approved Ordinance Number 2741 to rezone the property located at 2301 Old Columbiana Road from Institutional to Vestavia Hills B-2, general business district for recreation and physical fitness; and

WHEREAS, on August 20, 2018, Richard Pennino, owner of Forge Fitness, submitted an application to allow outdoor recreation training such as jogging, running, fitness, obstacle training, etc; on the property located at 2301 Old Columbiana Road and

WHEREAS, the property located at 2301 Old Columbiana Road, is presently zoned Vestavia Hills B-2 (business district) with restrictions; and

WHEREAS, Table 6 of the Vestavia Hills Zoning Code sets forth the permissible uses within a B-2 classification; and

WHEREAS, a copy of said application dated August 20, 2018 is attached and hereby incorporated into this Ordinance Number 2811; and

WHEREAS, the Vestavia Hills Planning and Zoning Commission considered said application at their regular meeting of October 11, 2018 and recommended approval with the following conditions: (1) No unreasonable outdoor noise in violation of the standards set in the City's noise ordinance, as amended, before 8 AM or after 9 PM, Monday through Friday and before 9AM or after 5PM on Saturdays or anytime on Sunday; (2) outdoor batting cages are prohibited on premise; (3) no amplified music outside of the building; and (4) any changes to outdoor lighting to be approved by the Design Review Board.

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

1. Conditional Use Approval is hereby approved for Richard Pennino, Forge Fitness, for use of the property located at 2301 Old Columbiana Road to allow outdoor recreational and fitness activities including, but not limited to jogging, running, fitness, obstacle training with the following conditions:
 - a) No unreasonable outdoor noise in violation of the standards set in the City's noise ordinance, as amended, before 8 AM or after 9 PM, Monday through Friday and before 9AM or after 5PM on Saturdays or anytime on Sunday;
 - b) Outdoor batting cages are prohibited on premise; and
 - c) No amplified music outside of the building; and
 - d) Any changes to outdoor lighting to be approved by the Design Review Board
 - e) This conditional use approval is location specific and if the outdoor fitness use ceases on the premises for a period of 12 months, said conditional use shall be considered null and void;

ADOPTED and APPROVED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as Acting City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance # 2811 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 17th day of December, 2018 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, New Merkle House and Vestavia Hills Recreational Center this the _____ day of _____, 2018.

Rebecca Leavings
City Clerk

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

Date: OCTOBER 11, 2018

- **CASE: P-1018-33**
- **REQUESTED ACTION:** Conditional Use Approval For Outdoor Recreation/Training Such as Jogging, Running, Fitness, & Obstacle Training
- **ADDRESS/LOCATION:** 2301 Old Columbiana Rd.
- **APPLICANT/OWNER:** Richard Pennino
- **REPRESNTING AGENT:**
- **GENERAL DISCUSSION:** Property is currently the home of Forge Fitness, a crossfit gym. The applicants have also included a list of possible activities and proposed locations on site. Outdoor recreation is specifically listed as requiring conditional use approval for B-2 zoning and the Commission may recommend specific activities at their discretion.
- **VESTAVIA HILLS COMPREHENSIVE PLAN:** The request is consistent with the Comprehensive Plan for Neighborhood (recreational areas).
- **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: Rezoning conditioned on uses presented.
 2. **City Engineer Review:** No problems noted.
 3. **City Fire Marshal Review:** No problems notes.
 4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

MOTION Mr. House made a motion to recommend Conditional Use approval for Outdoor Recreation for 2301 Old Columbiana Rd. with the following conditions:

1. No outdoor noise before 8AM and 9PM, M-F;
before 9AM and after 5PM, Sat
2. Batting cages are prohibited
3. No amplified music outside of building
4. Any changes to outdoor lighting to be approved by
DRB.

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

Mr. Goodwin – yes
Mr. Romeo – yes
Mr. House – yes
Mrs. Barnes – yes
Motion carried.

Mr. Sykes – yes
Ms. Cobb – yes
Mr. Larson – yes

Oct 11th
P&Z

CITY OF VESTAVIA HILLS

APPLICATION

PLANNING AND ZONING COMMISSION

I. INSTRUCTIONS AND INFORMATION:

- (1) The Vestavia Hills Planning and Zoning Commission meets regularly on the second Thursday of each month at 6:00 PM in Council Chambers at the Municipal Center.
- (2) All materials and information relating to a zoning/rezoning request or conditional use approval before the Planning and Zoning Commission must be submitted to the Office of the City Clerk no later than **25 working days prior to the scheduled meeting at which it shall be considered**. All information relating to Preliminary Map approvals must be submitted to the Office of the City Clerk no later than 20 days prior to the scheduled meeting at which is shall be considered. All information relating to Final Map approvals must be submitted to the Office of the City Clerk no later than 15 days prior to the scheduled meeting at which it is to be considered.
- (3) This application must be filled out in its entirety complete with zip codes.
- (4) All applicable fees shall accompany this application prior to its being considered complete. Fees include an application fee of \$100.00 along with applicable postage per property owner to be notified for Commission meeting. Fees may also include notification fees for City Council meeting and publication fees which will be billed to applicant at a later date. ***No permits will be issued until all fees have been paid.*
- (5) Appropriate plats and maps with proper legal description shall accompany this application. **Please refer to attached checklist.**

II. APPLICANT INFORMATION: (owner of property)

NAME: Richard Pennino

ADDRESS: 2301 Old Columbia Road
Birmingham, AL 35216

MAILING ADDRESS (if different from above) 1756 Mountain Woods Cir
Birmingham, AL 35216

PHONE NUMBER: Home (770) 262-5741 Office _____

NAME OF REPRESENTING ATTORNEY OR OTHER AGENT: _____
French McMillan

III. ACTION REQUESTED

Request that the above described property be approved conditional use approval pursuant to Section _____ of the Vestavia Hills Zoning Code.

Current Zoning of Property: B2

Requested Conditional use For the intended purpose of: out door recreation training such as jogging, running, fitness, obstacle training
(Example: From "VH R-1" to "VH O-1" for office building)
if additional information is needed, please attached full description of request see attached

IV. PROPERTY DESCRIPTION: (address, legal, etc.)

Forge Fitness
2301 Old Colombian Road

Property size: 4 feet X _____ feet. Acres: _____

V. INFORMATION ATTACHED:

Attached Checklist complete with all required information.

Application fees submitted.

VI. I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing.

[Signature]
Owner Signature/Date

Representing Agent (if any)/date

Given under my hand and seal
this 20 day of August, 2018.

Kay Russony
Notary Public

My commission expires _____
day of _____, 20____.
My Commission Expires
November 8 2020



1. **Running track:** We will be running around our building and around other parts of the building for exercise and other types of sports specific training, i.e. tossing football or baseball. We will also continue to use the running track that is on the property.
2. **Weight training:** We will be lifting weights outside with barbells, dumbbells, or kettle bells.
3. **Batting Cage:** We may decide on a batting cage for hitting baseball or other type of outside sports.
4. **Adult Play Ground:** We will have an outdoor obstacle course with rope climbs, monkey bar, sand pit, wall for climbing over, wall traverse, etc...

ARTICLE 20.00

SECTION 20.01

20.01.01. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.02. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.03. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.04. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.05. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.06. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.07. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.08. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.09. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

20.01.10. The City of Vestavia Hills, Alabama, hereby enacts the following Ordinance to amend the Vestavia Hills, Alabama Code, Chapter 20, Article 20.00, to read as follows:

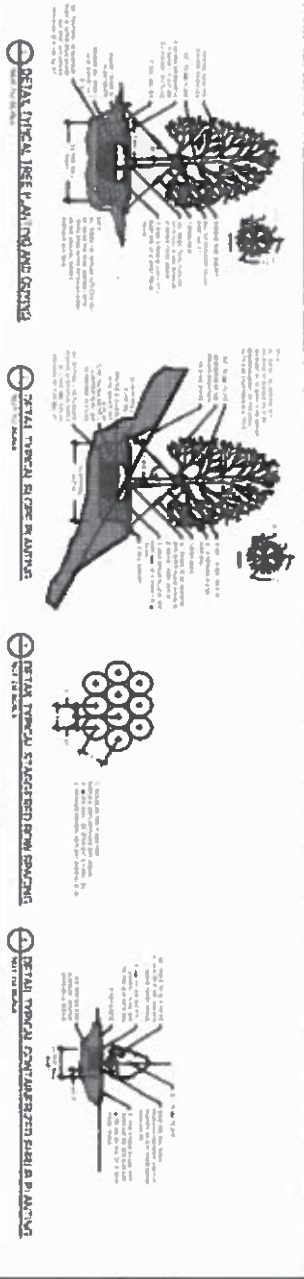
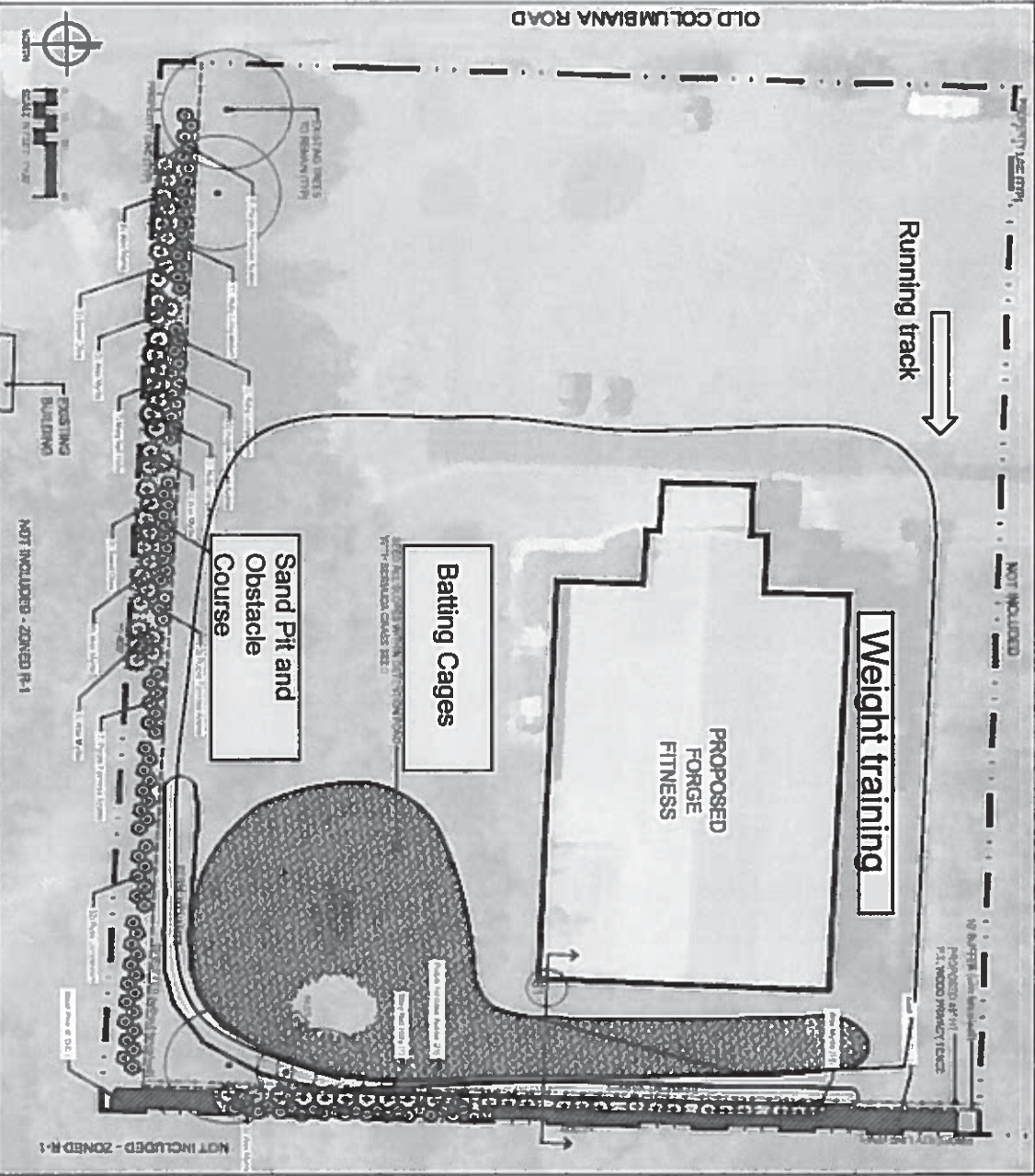
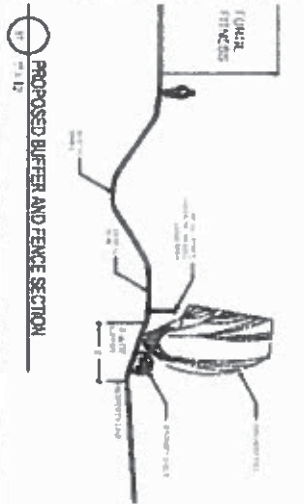
Vestavia Hills, AL - Municipal Code Landscape Calculation

Plant Schedule

Plant Name	Quantity	Value	Total Value
Plant 1	1	100.00	100.00
Plant 2	2	200.00	400.00
Plant 3	3	300.00	900.00
Plant 4	4	400.00	1,600.00
Plant 5	5	500.00	2,500.00
Plant 6	6	600.00	3,600.00
Plant 7	7	700.00	4,900.00
Plant 8	8	800.00	6,400.00
Plant 9	9	900.00	8,100.00
Plant 10	10	1,000.00	10,000.00

Plant Schedule

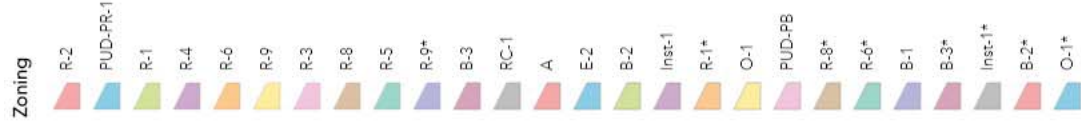
Plant Name	Quantity	Value	Total Value
Plant 1	1	100.00	100.00
Plant 2	2	200.00	400.00
Plant 3	3	300.00	900.00
Plant 4	4	400.00	1,600.00
Plant 5	5	500.00	2,500.00
Plant 6	6	600.00	3,600.00
Plant 7	7	700.00	4,900.00
Plant 8	8	800.00	6,400.00
Plant 9	9	900.00	8,100.00
Plant 10	10	1,000.00	10,000.00



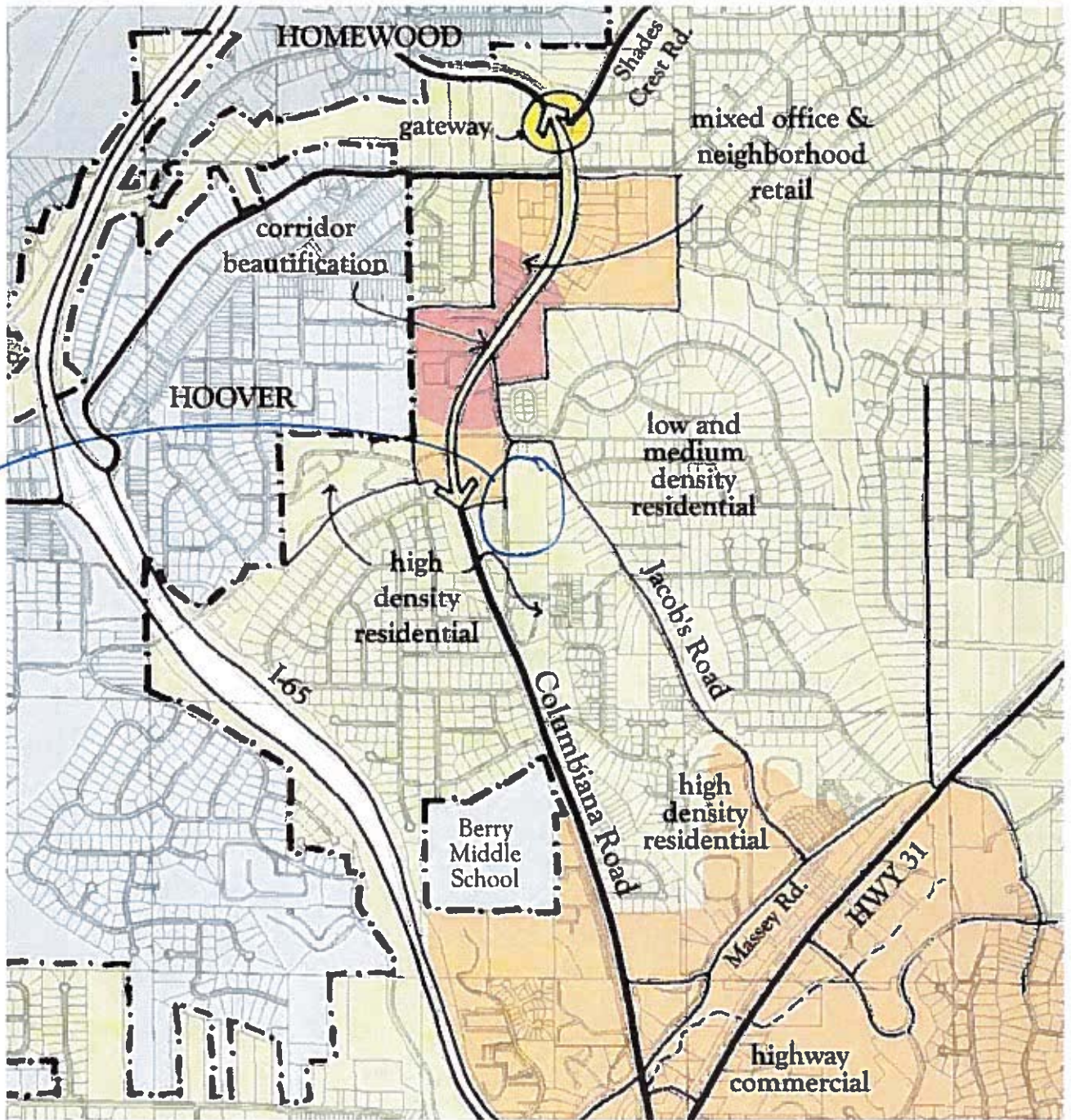
FORGE FITNESS
OLD COLUMBIANA ROAD
VESTAVIA HILLS, AL

LANDSCAPE BUFFER PLAN

DATE: 07/11/2011
SHEET: 10/11
PROJECT: S-1











Zoning	
PARCELID	2900362002004000
DISTRICT	020
ESN_NUM	62
PROPADD	2301 COLUMBIANA RD
VH_ZONING	B-2*
ZNG_ORD	2741
ZNG_ORD_DT	01/22/2018
ZNG_ORD2	28F
ZNG_ORD_1	10/22/1956
ZNG_ORD3	
ZNG_ORD_2	
ZNG_ORD4	
ZNG_ORD_3	
Zoom to	



Subject Parcel

Figure 20: Columbiana Road
Land Use Analysis

-  Neighborhood - primarily low / medium density single-family residential areas with higher densities near village center(s). 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 hike racks, seating, parking, and public amenities are provided for trail users.
-  Schools - School facilities administered by the Vesteria Hills School System.



ORDINANCE NUMBER 2812

AN ORDINANCE TO PARTNER WITH THE COACHSAFELY FOUNDATION PURSUANT TO THE *COACH SAFETY ACT*, ALSO KNOWN AS ACT NUMBER 2018-496 AS ADOPTED BY THE ALABAMA LEGISLATURE, 2018 REGULAR SESSION AND AUTHORIZING A PARTNERSHIP BETWEEN THE COACHSAFELY FOUNDATION AND THE CITY OF VESTAVIA HILLS PARKS AND RECREATION DEPARTMENT

WHEREAS, the Alabama Legislature in its 2018 Regular Session passed Act # 2018-496, “The Coach Safety Act”, which is applicable to persons participating in youth athletic activities sponsored by the City Parks and Recreation Department; and

WHEREAS, the Coach Safety Act requires all persons serving as coaches for youth athletic activities to complete an online or residence course which provides such persons with information and awareness of actions and measures which may be used to decrease the likelihood that a youth athlete will sustain a serious injury and/or that the same will be treated improperly; and

WHEREAS, the City Council of the City of Vestavia Hills has been made aware of and presented with an opportunity to partner with the CoachSafely Foundation to raise awareness of youth athletic safety, provide for no-cost training of local coaches for Vestavia Hills Parks and Recreation teams and activities, and enhance the overall youth athletic experience;

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

- 1) The City of Vestavia Hills and its Parks and Recreation Department will enter into a partnership with the CoachSafely Foundation to provide that mandatory training required by the Coach Safety Act, and to promote awareness of youth athletic safety and enhance the youth athletic experience in the City of Vestavia Hills; and
- 2) The Mayor and City Manager are authorized to execute and deliver a Memorandum of Understanding with the CoachSafely Foundation to memorialize this Ordinance, and the

clearly define the duties of the City and the Foundation, which a copy of said Memorandum is marked as Exhibit A, attached to and incorporated into this Ordinance Number 2812; and

- 3) This Ordinance Number 2812 shall become effective immediately upon adoption and publishing/posting as required by Alabama law.

DONE, ORDERED, ADOPTED AND APPROVED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

STATE OF ALABAMA COUNTY OF)
) MEMORANDUM OF UNDERSTANDING
 JEFFERSON COUNTY)

COME NOW, the City of Vestavia Hills, Alabama, a municipal corporation organized under the laws of the State of Alabama, and the CoachSafely Foundation, an Alabama nonprofit corporation, and set forth and show their mutual agreement, as follows:

RECITALS:

WHEREAS, the Alabama Legislature has passed in its 2018 Regular Session Act #2018-496, known as “The Coach Safety Act”, which is applicable to persons participating in youth athletic activities sponsored by the City of Vestavia Hills Parks and Recreation Department; and

WHEREAS, the Coach Safety Act requires all persons serving as coaches for youth athletic activities to complete an online or residence course which provides such persons with information and awareness of actions and measures which may be used to decrease the likelihood that a youth athlete will sustain a serious injury and/or that the same will be treated improperly; and

WHEREAS, the City of Vestavia Hills and the CoachSafely Foundation desire to combine and jointly endeavor to raise awareness of youth athletic safety, provide for no-cost training of local coaches for Vestavia Hills Parks and Recreation teams and activities, and enhance the overall youth athletic experience;

SHARED MUTUAL UNDERSTANDING AND AGREEMENTS:

I. CO-MARKETING RELATIONSHIP

A The **CoachSafely Foundation**, hereinafter referred to as “the Foundation”, will provide a course in coaching education which will be offered at no cost and which meets or exceeds the requirements of Act 2018-496, the “Coach Safety Act”, to the **City of Vestavia Hills**, hereinafter referred to as “the City”. In consideration and exchange for this no-cost service, the City will provide 1) promotional access to raise the awareness of the preventable nature of youth sports injuries and 2) access to specialized care. The parties desire to work cooperatively, but independently, to promote the cause of youth sports injury prevention to the citizens of the City and area. This MOU describes the terms of a nonexclusive, cooperative marketing relationship under which each party will independently or cooperatively engage in mutually agreed activities to promote each other’s community service missions.

b) Relationship of the Parties. This MOU shall not create any agency, legal partnership, joint venture, or any other form of legal association, and neither party may represent itself as an agent, legal partner, or joint venture of the

other or otherwise incur any obligation or liability on behalf of the other party. Neither party may resell, quote prices or fees, or otherwise negotiate business terms for the other party's products or services unless otherwise agreed to between the parties as terms of this memo understanding.

II. TERMS

The terms of this Memorandum of Understanding, as mutually agreed to by both parties are;

1. Course Delivery Agreement

- a) The CoachSafely online course shall be the preferred delivery method. When the online course is not feasible, CoachSafely can arrange a live on-site Blended Learning seminar.
- b) The Blended Learning seminar will be moderated by a mutually approved certified athletic trainer that has been approved by the CoachSafely Foundation.
- c) Per the Coach Safety Act, the city will designate and assign personnel to submit a complete Registry of Coaches prior to each and every sports season for the purpose of educating, testing and validation of course completion.
- d) For purpose of a live seminar, a designated and assigned city administrator will establish submit and coordinate an Itinerary to be distributed to coaches of sports for aged 14 and under. The itinerary will contain the following information; date, time and classroom location for the class to be taught, allowing for 2 hours of actual class time with breaks.

2. Publicity/Awareness Agreement

- a) It is agreed that the City will produce a **Press Release** and other means of print and electronic media publicity that raises the awareness of the Coach Safety Act and it is agreed that CoachSafely will use its means of generating publicity to promote the initiative of the City.
- b) Both parties agree to share access (with content) for **Social Media** engagement for their shared mission.
- c) CoachSafely agrees to assist in providing personal endorsements for the purpose of promotion.
- d) CoachSafely encourages the municipality to use all of the material resources available at www.stopsportsinjuries.org (a CoachSafely collaborator).

3. Promotion/Advertising Agreement

- a) Both parties agree to the Use of each other's Logos in their promotions.
- b) The City agrees to allow advertising of the CoachSafely initiative by posting one (1) Sports Safety and Care Awareness Banner at each and every venue where there is youth sports activity. Advertising on said sign will be limited to these four (4) types of logos or trademarks: i) Children's of Alabama; ii)

CoachSafely; and iii) Sponsoring local sports medicine care providers; iv) A CoachSafely approved state or national sponsor. Upon request, CoachSafely can email 'proofs' of said banners prior to sports venue installation.

- c) The **Territory** for this Agreement is the area within the City limits and subject to the City's control.
- d) The City agrees to CoachSafely representing to other municipalities or others that this agreement constitutes a **Referral**.

4. Other Agreements

Notwithstanding the foregoing, neither party shall be obligated to enter into any agreement with any other party, but the parties will negotiate in good faith for their common mission and will not act in a manner intended to interfere with the cooperative purposes of the aforementioned (3) agreements.

III. GRANTS, GIFTS AND SPONSORSHIP ACTIVITIES

- a) CoachSafely will support all grant proposals by the City that support their common mission.
- b) The City understands that Coach Safely, which is a 501(c)(3) nonprofit, relies on and uses public funding to offset the expense of providing a no-cost course and therefore will use its best efforts to enter into an independent sponsorship agreement with a local sports medicine care provider that Coach Safely deems to be accessible for specialty care to the community.
- c) CoachSafely will provide full disclosure of any and all sponsorship agreements.
- d) The City accepts that CoachSafely is a charitable organization and that it will cultivate and solicit gifts and grants through its contacts in the City and elsewhere.

IV. AMENDMENT, PERPETUAL RENEWAL AND TRANSFERABILITY

- a) With written notice by either party to amend the terms or conditions of their mutual understanding, both parties agree to a good faith effort for a resolution.
- b) This agreement fulfilled in good faith is and will be perpetually renewed; provided, that either party shall have the right to terminate this Memorandum of Understanding upon the giving of ninety (90) days' notice to the other.
- c) The obligations of this understanding of both parties are not transferrable without the consent of both parties.
- d) This Memorandum of Understanding contains the entire understanding of the parties, and neither party shall have any obligation to the other or to any third party which is not listed and set out hereinabove.

WHEREUNTO, the parties have set their hands and seals on this the _____ day of _____, 2018.

COACHSAFELY FOUNDATION

CITY OF VESTAVIA HILLS, ALABAMA

By: _____
Kanti Sunkavalli, CEO CoachSafely
Foundation

By: _____
Its: Mayor

By: _____
Its: City Manager

STATE OF ALABAMA)
COUNTY OF JEFFERSON COUNTY)

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Ashley C. Curry, Mayor of the City of Vestavia Hills, Alabama, whose name is signed to the foregoing Memorandum of Understanding, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he executed the same with all due authority and as the free and voluntary act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal, on this the _____ day of _____, 2018.

Notary Public (SEAL)

MCE: _____

**STATE OF ALABAMA)
COUNTY OF JEFFERSON COUNTY)**

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Jeffrey Downes, City Manager of the City of Vestavia Hills, Alabama, whose name is signed to the foregoing Memorandum of Understanding, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he executed the same with all due authority and as the free and voluntary act of said municipal corporation on the day the same bears date.

GIVEN under my hand and official seal, on this the ____ day of _____, 2018.

Notary Public (SEAL)

MCE: _____

**STATE OF ALABAMA)
COUNTY OF _____)**

ACKNOWLEDGMENT

I, the undersigned Notary Public, in and for said County, in said State, hereby certify that Kanti Sunkavalli, the CEO of the CoachSafely Foundation, whose name is signed to the foregoing Memorandum of Understanding, and who is known to me, acknowledged before me on this day, that, being informed of the contents thereof, he executed the same with all due authority and as the free and voluntary act of said nonprofit corporation on the day the same bears date.

GIVEN under my hand and official seal, on this the ____ day of _____, 2018.

Notary Public (SEAL)

MCE: _____

2018 PARK BOARD COACH SAFETY ACT POLICY

In compliance with the Alabama Coach Safety Act recently passed by the Alabama legislature, all athletic personnel of youth athletics in the City of Vestavia Hills, Alabama shall successfully complete The CoachSafely course on a yearly basis prior to being eligible to participate in any practice or athletic event for that particular youth sport. In order to effectuate compliance with the Alabama Coach Safety Act, the following is required on a yearly basis:

- (1) The President of each Youth Sports Board that falls within the umbrella of the Vestavia Hills Parks and Recreation Department, or the head coach of any team that intends to use any field, facility or property owned by the City of Vestavia Hills or managed by the Vestavia Hills Parks and Recreation Board, shall provide a list of all “athletic personnel” to the Vestavia Hills Parks and Recreation Superintendent along with appropriate documentation demonstrating that each person on that list has successfully completed the CoachSafely course;
- (2) The term “athletic personnel” includes all compensated or non-compensated coaches or other youth sports personnel who intend to provide any on-the-field training, instruction, coaching or supervision of youth athletics;
- (3) The Superintendent shall keep a record of each person who has completed the CoachSafely course for that year. Any team whose entire “athletic personnel” have not completed the CoachSafely course will, after consultation with the Park Board, have its permission to use the City of Vestavia Hills’ fields or facilities revoked and terminated.

Adopted by Park Board on 11-20-18

ORDINANCE NUMBER 2813

AN ORDINANCE TO RESCIND ORDINANCE NUMBER 2627 AND ARTICLE XI, SECTION 8-281 THRU 8-293 OF THE VESTAVIA HILLS CODE OF ORDINANCES RELATING TO LICENSES AND REGULATION OF TRANSPORTATION NETWORK COMPANIES (“TNC”)

WHEREAS, on December 28, 2015, the City Council of the City of Vestavia Hills adopted and approved Ordinance Number 2627 to establish a NAICS Code, operating standards and definitions for a Transportation Network Company or TNC operating within the City of Vestavia Hills, Alabama; and

WHEREAS, following the regular 2018 Regular Alabama Legislative Session, Act Number 2018-127 was enacted to regulate Transportation Network Companies (“TNC”) throughout the state; to collect certain revenues and allocate said revenues for disbursement throughout the State of Alabama; and

WHEREAS, Act Number 2018-128 preempted any City regulated Ordinances pertaining to TNC’s; and

WHEREAS, the City Manager has recommended that Ordinance Number 2627 and Article IX, Section 8-281 thru 8-293 of the Vestavia Hills Code of Ordinances be rescinded in its entirety; and

WHEREAS, the Mayor and City Council have determined it is in the best public interest to rescind Ordinance Number 2627 and Article IX, Section 8-281 thru 8-293 of the Vestavia Hills Code of Ordinances.

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

1. Ordinance Number 2627 and Article IX, Section 8-281 thru 8-293 of the Vestavia Hills Code of Ordinances are hereby rescinded in its entirety; and
2. This Ordinance Number shall become effective immediately upon adoption, approval and posting/publishing as required by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance #2813 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 17th day of December 2018 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the ____ day of _____, 2018.

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2814

AN ORDINANCE TO ADOPT REGULATIONS FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF VESTAVIA HILLS, ALABAMA

WHEREAS, The City Council of the City of Vestavia Hills, Alabama seeks to facilitate the availability of reliable, personal wireless communication services for its citizens and the public by permitting the placement of Small Cell Technology Facilities and associated Support Structures along the Rights-Of-Way and on private properties in the City; and

WHEREAS, the installation, expansion, and maintenance of Small Cell Technology Facilities and associated Structures on or along the Rights-Of-Way and on private properties might have significant impact upon: (1) the aesthetic values and historical character of the City; (2) safe use and passage on or along the Rights-of-Way by the public; and (3) properties and property values in the City in areas where such Structures are placed; and

WHEREAS, the Federal Telecommunications Act of 1996 (the “Act”) and regulations promulgated with respect to the Act by the Federal Communications Commission (“FCC”) authorize local governments to enact responsible regulations for the placement, expansion, height, and maintenance of Small Cell Technologies Facilities and associated Support Structures; and

WHEREAS, as provided in this Ordinance Number 2814, the City seeks to mandate, where feasible, the colocation of Small Cell Technology Facilities on existing poles and other Support Structures as opposed to installation of new Structures; and

WHEREAS, the above-noted colocation and other provisions of this Ordinance are intended to be consistent with the Act and its associated regulation; and

WHEREAS, the adoption of the regulations, procedures, and requirements in this Ordinance will permit Applicants and Providers to enhance the provision of personal wireless service and protect the public welfare, health, safety and interests of the City’s citizens.

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

Chapter 16.5 of the Vestavia Hills Code of Ordinances entitled “Telecommunications” is hereby amended as Ordinance Number 2814 is hereby adopted and shall be inserted in the Vestavia Hills Municipal Code as follows:

ARTICLE III. SMALL CELL TECHNOLOGY FACILITIES

Section 1. Definitions.

The following definitions shall apply in the interpretation of this Ordinance:

- A. *Abandonment* or *Abandons* means that, following the placement of Small Cell Technologies Facilities (and associated Accessory Equipment) or Support Structures in the City pursuant to a permit issued to a Provider or an Applicant, any of the following has occurred: (a) for any reason the Facilities cease to be used to transmit signals, data, or messages or otherwise be used for their intended purposes for a period of ninety (90) days; (b) the City revokes the permit for placement and use of those Facilities due to nonpayment of applicable fees, the failure of the Provider or Applicant

- to comply with conditions in the permit or in this Ordinance concerning them, or other valid reason; or (c) the Provider or Applicant fails to perform any of its responsibilities, obligations and requirements in this ordinance or in a permit that relate to the installation, construction, maintenance, use or operation of the Facilities, Accessory Equipment or Support Structures, and that breach remains uncured for a period of sixty (60) days after the City provides written notice of the breach to the Provider or Applicant.
- B. *Accessory Equipment* means any equipment other than an antenna that is used in conjunction with Small Cell Technology Facility arrangements. This equipment may be attached to or detached from a Small Cell Technology Wireless Support Structure, and includes, but is not limited to, cabinets, optical converters, power amplifiers, radios, DWDM and CWDM multiplexers, microcells, radio units, fiber optic and coaxial cables, wires, meters, pedestals, power switches, and related equipment on or in the immediate vicinity of a Support Structure.
 - C. *Antenna* means communications equipment that transmits and receives electromagnetic radio signals, is attached to a Small Cell Technology Wireless Support Structure and is used to communicate wireless service.
 - D. *Applicant*, whether singular or plural, means a personal wireless service provider, an entity that is authorized by a personal wireless service provider to apply for or receive a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure in the City, or an entity certificated by the Alabama Public Service Commission to provide telecommunication service.
 - E. *Application* means a formal request submitted to the City for a permit to install, construct, modify or maintain a Small Cell Technology Facility and related Accessory Equipment or Support Structure.
 - F. *City* means the City of Vestavia Hills, Alabama.
 - G. *City Council* means the City Council of the City of Vestavia Hills, Alabama.
 - H. *City Manager* means the person appointed by the City Council as the City Manager of the City. The City Manager includes any employee of the City or other person designated by that Manager to perform the responsibilities of this Ordinance.
 - I. *Colocation* means the placement or installation of a new Small Cell Wireless Technology Facility or related Accessory Equipment on an existing pole or other Support Structure that is owned, controlled or leased by a utility, the City or other person or entity.
 - J. *Personal Wireless Service Provider* or *Provider* means an entity that provides personal wireless communication services to the public or citizens of the City on a commercial basis and is authorized by the FCC to provide those services.
 - K. *Private Property* means real property located within the corporate limits of the City that does not lie within the Right-of-Way.
 - L. *Provider* – see Personal Wireless Service Provider.
 - M. *Right-Of-Way* or *Rights-Of-Way*, whether singular or plural, means the surface and space in, upon, above, along, across, over and below any public streets, avenues, highways, roads, courts, lanes, alleys, boulevards, ways, sidewalks and bicycle lanes, including all public utility easements and public service easements within those places, as the same now or may hereafter exist, that are within the City's corporate boundaries and under the jurisdiction of the City. This term shall not include county, state, or

- federal Rights-of-Way or any property owned by any person or entity other than the City.
- N. *Small Cell Technology Facility(ies) or Facilities*, whether singular or plural, means and includes the following types of Structures: (a) antenna; and (b) associated Accessory Equipment. Photographs and illustrations of the types, relative dimensions and scale of these Facilities that are currently contemplated by this ordinance are attached as Exhibit A to the permanent record of this ordinance that is maintained by the City Clerk.
 - O. *Small Cell Technology Wireless Support Structure, Support Structure or Structure*, whether singular or plural, means a freestanding structure designed or used to support, or capable of supporting, Small Cell Technology Facilities, including, but not limited to, utility poles, street light poles, traffic signal structures, rooftops, attics, or other enclosed or open areas of a building or accessory structure, a sign, or a flag pole. These terms do not include any decorative and architecturally significant street light poles that are inappropriate for use as a Support Structure as determined by the City Manager.
 - P. *Stealth Technology* means one or more methods of concealing or minimizing the visual impact of a Small Cell Technology Facility (and associated Accessory Equipment) and Support Structure by incorporating features or design elements which either totally or partially conceal such Facilities or Equipment. The use of these design elements is intended to produce the result of having said Facilities and associated Structures blend into the surrounding environment and/or disguise, shield, hide or create the appearance that the Facilities architectural component of the Support Structure. Photographs and illustrations of examples of the types of Stealth Technology that may be used when buildings are utilized as Support Structures and other applications of Stealth Technology that are currently contemplated are attached as Exhibit B to the permanent record of the ordinance that is maintained by the City Clerk.

Section 2. Permit Required to Place Small Cell Technology Facilities in Rights-Of-Way.

- A. Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on the Right-Of-Way, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The City Manager will review and administratively process any request for a permit to determine whether, in the exercise of the City Manger's reasonable discretion, it should be issued for the location and in the manner requested by the Applicant. In this process, the burden is on the Provider or Applicant to demonstrate that the placement of the proposed Small Cell Technology Facility and associated Accessory equipment or Support Structure on the Right-of-Way is the minimal physical installation which will achieve the goal of enhancing the provision of personal wireless service when considering all pertinent factors discussed in the provision immediately below. Except as set forth in this section this permitting process will be administrative and not require the approval of any City Board or City Official other than the City Manager. The factors, requirements and guidelines that the City Manager may consider and will apply when determining whether to issue a permit for placement of Small Cell Technology

Facilities and associated Structure on the Right-Of-Way include, but are not limited to, the following:

1. the demonstrated need for placing the Structures at the requested location and geographic area in order to deliver or enhance personal wireless service;
2. the visual impact of placing the Support Structure or Facilities in the subject area;
3. the character of the area in which the Structures are requested, including surrounding buildings, properties, and uses;
4. whether the appearance and placement of the requested Structures is aesthetically consistent with the immediate area;
5. whether the Structures are consistent with the historic nature and characteristics of the requested location;
6. the Applicant's or Provider's network coverage objective and whether the Applicant or Provider should use available or previously unconsidered alternative locations to place the Support Structures or Facilities;
7. Colocation. To the extent practical, all Facilities and associated Accessory Equipment that are placed in the City shall be attached to a pre-existing Support Structure that is owned, controlled or leased by a utility, franchisee, the City or other entity. If the Applicant demonstrates that no colocation opportunities exist in the area where a technologically documented need for a Facility exists, the Applicant may request that a new pole or other Support Structure be installed in that area for purposes of constructing the Facilities. Before any new Support Structure is permitted, each of the following must occur:
 - a. The Applicant must have provided the City written evidence that no practical colocation opportunity exists. This evidence shall include, but not be limited to, affidavits, correspondence, or other written information that demonstrates that the Applicant has taken all commercially reasonable actions to achieve colocation in the requested location or area, that the Applicant has perused but been denied access to all potential colocation sites in the subject area (and the reasons for any such denial(s)), and otherwise show that the Applicant is unable to co-locate on an existing Support Structure;
 - b. The City Manager must recommend the placement of a new Support Structure in the Right-of-Way; and
 - c. The City Council must approve the recommendation of the City Manager to issue a permit that includes the placement of a new Support Structure in the Right-of-Way. The City Council will consider whether to approve any such new Structures at a regular Council meeting that will be conducted as soon as practical after the City Manager's recommendation is made.
8. If a Facility is attached to a utility pole or other Support Structure in the Right-Of-Way, no antenna or other part of the Facility shall extend no more than five (5) feet above the height of that structure; provided that, in the event that the Applicant demonstrates that National Electric Safety Code regulations or other factors create an undue hardship in complying with this height requirement, the

City Manager may permit a Facility to extend up to ten (10) feet above the height of such Support Structure;

9. The Accessory Equipment shall, if reasonably possible, be placed at least ten (10) feet above the ground;
10. The color of Antenna and Accessory Equipment shall be compatible with that of the Support Structure;
11. The Facility (including the Accessory Equipment) shall not be illuminated;
12. Whether the proposed installation could cause harm to the public or pose any undue risk to public safety;
13. Whether the proposed installation may interfere with vehicular traffic, passage of pedestrians, or other use of the Right-Of-Way by the public; and
14. If the proposed installation will disturb conditions on the Right-Of-Way, whether the Applicant can demonstrate its ability and financial resources to restore the subject area to its pre-existing condition following installation.

C. Application Process.

1. At a minimum, each application for a permit shall contain all of the following:
 - a. Engineering drawings depicting the type of Facilities, Support Structure, and means and points at which such Facilities and associated Accessory Equipment will be attached to a Support Structure;
 - b. Map(s) designating with specificity the location(s) of the requested Facilities;
 - c. If the Facilities will be located on a Support Structure on the Right-Of-Way that is owned by any entity other than the City or the Applicant, a copy of any license, lease, agreement or other documentation evidencing that the owner of that Support Structure authorizes the Facilities to be attached thereto or agrees in principle to authorize that attachment, provided that, if a representation is made to the City that the attachment has been authorized in principle by the owner of the Support Structure but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until that documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit may be revoked and any license to use that part of the Right-Of-Way be rescinded.
 - d. If the Applicant requests permission to place Facilities on a new Support Structure, the substantiation therefor required by Section 2, Paragraph B-7 of this ordinance.
 - e. An application shall not be deemed complete until the Applicant has submitted all documents, information, forms and fees specifically enumerated in this Ordinance that pertain to the location, construction, or configuration of the Facilities or Support Structures at the requested location(s). Within thirty (30) calendar days after an application for permit is submitted, the City shall notify the Applicant in writing if any additional information is needed to complete that application or supplemental information is required to process the request. If the City does not notify the Applicant in writing that the application is

incomplete within thirty (30) days following its receipt, the application is deemed complete.

2. Time for Processing Application. Unless another date is specified in a written agreement between the City and the Applicant, the City will have the following time periods to make its final decision to approve or disapprove an application for a permit contemplated in this ordinance and advise the Applicant in writing of that determination:
 - a. Sixty (60) calendar days from the date an application for a permit is filed with respect to a request to co-locate Facilities on an existing Support Structure; and
 - b. Ninety (90) calendar days from the date an application for a permit is filed with respect to a request to attach Facilities to a new Support Structure.

To the extent additional information is required to complete the application after it is filed, the applicable calendar day review period set forth in this subsection shall be tolled and not continue to run until the Applicant has provided any missing or requested supplemental information; provided that tolling shall not occur if the City does not advise the Applicant in writing of the incompleteness of a submitted application within thirty (30) days after that submission.

3. Reconsideration/Appeal. Any Applicant that desires reconsideration of an administrative decision by the City Manager to deny a request for a permit to place a Facility or Support Structure on the Right-Of-Way may seek review, modification or reversal of that decision by the City Council by submitting a request for reconsideration with the City Clerk within twenty-one (21) calendar days following the City Manager's decision. That request for reconsideration will be considered by the City Council at a regular Council meeting that will be conducted as soon as practical after the request for reconsideration is made. If no request of reconsideration is submitted, the decision of the City Manager will be final.

Additionally, the Applicant, within thirty (30) days following a decision by the City Council to deny either a) a request for reconsideration or b) a decision by City Council to not approve the placement of a new Support Structure on the Right-of-Way, may appeal either of those decisions by the City Council to the Circuit Court of Jefferson County, Alabama or Shelby County, Alabama, as applicable. If no appeal of those decisions of the City Council is made, those will be deemed final.

- D. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on the Right-Of-Way also shall comply with the following requirements as long as those Facilities and Support Structures are on or under the Right-of-Way:
 1. Prior to installing the Facilities or Support Structures, the Applicant shall provide the City a certificate(s) of insurance evidencing that it has obtained and will maintain the following types of insurance in connection with its operations on or use of the Right-Of-Way:

- a. General Liability Coverage insuring the risk of claims for damages to persons or property arising from or related to the installation, construction, maintenance, operation or any use of the Facility or Support Structure placed on or along the Right-of-Way by the Applicant (or any of their contractors) with minimum limits of \$1,000,000 per occurrence; and
- b. Workers Compensation Insurance as required by statute.

The General Liability coverage shall list the City of Vestavia Hills, Alabama as an additional insured, and may be provided through a combination of a primary and umbrella policies. All insurance policies shall be furnished by insurers who are reasonably acceptable to the City and authorized to transact business in the State of Alabama. On an annual basis following initial installation, the Applicant also shall furnish the City a Certificate indicating that the above-noted coverage remains and will remain in effect. The City shall allow the applicant to provide a certificate of self-insurance in lieu of these provisions and must affirm adequate financial security on the part of the self-insured entity.

2. All Facilities and associated Support Structures shall be installed, erected, maintained and operated in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
3. Following the installation of any Facilities and associated Support Structures, the Provider or Applicant, upon reasonable request and for good cause, shall furnish the City Manager a written certification from a licensed professional engineer in the State of Alabama stating that those Structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Support Structures should fail at any time to comply with applicable laws and regulation, the Provider or Applicant, at either of their expense, shall cause those Structures to be brought into compliance with said laws and regulations within fifteen (15) days of the date of any written notice to them from the City Manager of non-compliance, or cease all personal wireless service operations related to those Structures until the Applicant or Provider comes into full compliance with said laws and regulations.
4. The Facilities and associated Support Structures must at all times be maintained in good and safe condition. On no more frequent than a triennial basis, the City Manager may request that the Provider or Applicant, at either of their expense, furnish certification from a professional engineer who is licensed in the State of Alabama that the Facilities and Support Structures are in sound condition. Should that engineer deem those Structures unsound, the Provider or Applicant shall furnish to the City Manager a plan to remedy any unsafe conditions or

structural defect(s) and take that remedial action at the Provider or Applicant's expense.

5. Each Applicant or Provider that applies for a permit to place Facilities (including the Accessory Equipment) and Support Structures on the Right-Of-Way and installs and utilizes those Structures shall defend, indemnify and hold the City and its employees or officials, harmless from all demands, losses, expenses (including attorney's fees and court costs), claims for personal injury or property damage, judgments or liabilities of any type that may be asserted or claimed against the City (or its employees or officials) by any third person, firm or entity that arise out of or relate in any manner to the following: 1) the installation, construction, maintenance, use or operation of the permitted Facilities, Accessory Equipment or any Support Structure on or about the Right-Of-Way; and 2) the failure of the Provider or Applicant to perform any of their respective responsibilities, obligations, and permit requirements in this ordinance. Notwithstanding the foregoing, the Provider or Applicant shall not be obligated to indemnify the City for claims resulting from the sole negligence or willful acts of the City (or its representatives).
- E. Permit and License Fees. The Applicant for a permit to place Facilities and associated Support Structures on the Right-of-Way shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance, as amended:
1. A permit application and review fee to be paid when an application is submitted;
 2. A permit issuance fee for each Support Structure on the Right-of-Way contemplated for attachment; and
 3. An annual license fee per each Support Structure on the Right-of-Way pertaining to the ongoing use of public property.
- F. Removal, Relocation or Modification of Small Wireless Facility in the Right-of-Way.
1. Ninety (90) Day Notice to Remove, Relocate or Modify. Whenever the City reasonably determines that the relocation is needed as described below, then within ninety (90) days following written notice from the City, the Applicant shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small wireless Facilities within the Rights-Of-Way whenever the City has determined that such removal, relocation, change or alteration, is reasonably necessary for (excluding beautification-only projects), as follows:
 - a. the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - b. if required for the construction, completion, repair, relocation, or maintenance of a City improvement or project in or upon, or the operations of the City in or upon, the Rights-Of-Way; and/or
 - c. because the small cell Facility or its related equipment is interfering with or adversely affecting proper operation of any City-owned light poles, traffic signals, or other equipment in the Public Way; and/or
 - d. to protect or preserve the public health or safety.
 - e. In any such case, the City shall use its best efforts to afford Applicant a reasonably equivalent alternate location. If Applicant shall fail to

relocate any Equipment as requested by the City within a reasonable time under the circumstances in accordance with the foregoing provision, the City shall be entitled to relocate the Equipment at Applicant's sole cost and expense, without further notice to Applicant. If, at any time during the Term for which the permit is granted, the City determines that utility Facilities will be placed underground in an area including any City-owned Facilities upon which Applicant has installed Equipment, Applicant and the City will cooperate in good faith on the design and installation, at Applicant's costs, of suitable replacement of Applicant's Facilities, including decorative streetlight poles; and Applicant agrees that if reasonably required by the City Manager or his designee or upon final appeal by the Vestavia Hills Design Review Board in order to ensure appropriately even and level lighting within a previously unlighted area, additional Facilities, which may include decorative streetlight poles beyond or more numerous than those required for Applicant's Facilities, shall be installed. Applicant agrees that decorative streetlight poles may be required by the City in the future in the place of initially-installed standard-design streetlight poles, in which replacement of the Applicant's Facilities and Equipment on decorative streetlights that were initially installed standard-design streetlight poles shall be solely at Applicant's cost. Further, Applicant agrees that in such instances and at such time as replacement poles are installed, the City may reasonably require that the configuration and/or location of ground furniture (which references any equipment on the ground that is needed to supply power or backhaul services to the small cell Facility) and/or pole-mounted equipment or equipment cages be changed (such as changing from pole-mounted equipment cages to ground furniture), in the discretion of the City.

2. Emergency Removal or Relocation of Facilities. The City retains the Right and privilege to cut or move any small wireless Facility or related structure located within the Rights-of-Way of the City, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the Applicant and provide the Applicant an opportunity to move its own Facilities, if possible, prior to cutting electrical service or removing a Facility and shall notify the wireless Provider after cutting or removing a small wireless Facility.

Section 3. Placement of Small Cell Technology Facilities on Private Property.

- A. A Provider or Applicant must obtain a permit from the City before placing, installing, or constructing any Small Cell Technology Facility (and associated Accessory Equipment) on any Support Structure that is located on private property, or substantially modifying the position or characteristics of any such existing Facility thereon.
- B. The City Manager will review and administratively process any request for a permit to determine whether, in the exercise of the City Manager's reasonable discretion, it

should be issued for the location and in the manner requested. In this process, the burden is on the Applicant to demonstrate that the placement of the proposed Small Cell Technology Facility and associated Accessory Equipment or Support Structure on private property is the minimal physical installation which will achieve the technological goal of enhancing the provision of personal wireless services. Except as set forth in this section, this permitting process will not require the approval of any City Board or City official other than the City Manager. The factors, guidelines and requirements that the City Manager may consider and will apply when determining whether to issue a permit for placement of Facilities and any associated Accessory Equipment or Support Structure on private property include, but are not limited to, the following:

1. The factors and requirements set forth in Section 2 of this Ordinance Number 2814;
2. Colocation. The guidelines in Section 2 of this Ordinance Number 2814 to utilize existing poles and Support Structures for the placement of Facilities and Accessory Equipment are also applicable when considering whether to permit the installation of those Facilities and Support Structures on private property, provided that City Council approval is not required before a permit is issued to place a new pole or other Support Structure on private property if that action is appropriate.
3. The Provider or Applicant shall use Stealth Technology when installing the Facilities and associated Accessory Equipment on any building or accessory to that building that is located on private property. Further, Stealth Technology should be used when placing Facilities on other types of Support Structures on private property unless the Applicant can reasonably demonstrate that, given the nature of the requested application, the use of such Technology is (a) unnecessary; or (b) impractical.
4. If Facilities are placed on an existing or new building or accessory to that building, the following dimensional regulations shall apply:
 - a. Façade-mounted antennas shall not extend above the face of any wall or exterior surface of the building.
 - b. Roof-mounted antennas and Accessory Equipment may be permitted on buildings in accordance with the following table:

Height of Building	Maximum Height of Facility above Highest Point of Roof	Required Setback from Edge of Roof of Building
Up to 15 feet	8 feet, including antenna	1 foot for every foot of height of equipment
15-35 feet	10 feet, including antenna	1 foot for every foot of height of equipment
More than 35 feet	12 feet, including antenna	1 foot for every foot of height of equipment

- c. The antenna component of the Facilities shall be limited to a maximum height of three (3) feet and a maximum width of two (2) feet; provided that authorization to install antenna up to six (6) feet in height may be permitted if a showing of the technological need for such equipment is made and other requirements of this Section are met.
 - d. Accessory Equipment must be located in an equipment cabinet, equipment room in an existing building or in an unmanned equipment building. If the equipment building is freestanding, it shall conform to the Vestavia Hills Municipal Code with respect to building setbacks, that building shall not exceed 400 square feet, and its overall height shall be limited to 15 feet (if located on the ground) measured from the finished grade. Further, if an equipment building or cabinet is located in a residential zone, or the nearest adjoining property is in a residential zone, that building or cabinet shall be surrounded by landscaping to provide a screen of the same height as the building or cabinet.
5. Application Process. Except as provided in paragraphs a and b immediately below, the same application process that is set forth in Section >>>>>> will be utilized when processing any request for a permit to place Facilities or Support Structures on private property, except that:
- a. City Council approval to install a new Support Structure on private property is not a condition for a permit to place Facilities thereon; and
 - b. If the Facilities are located on private property that is not owned or exclusively used by the Applicant, instead of providing the documentation contemplated in Section 2(c)(1)(c), the Applicant shall present a license, lease, agreement or other documentation indicating that owner of said property authorizes the Applicant the Rights to place the Facilities thereon and access thereto, or that such owner agrees in principle to grant the Applicant those Rights; provided that, if a representation is made to the City that the owner of private property has agreed in principle to grant those Rights but the Applicant subsequently fails to furnish the City documentation that finalizes any such agreement, the City may refuse to issue the requested permit until the documentation is provided, or, if the City issues the requested permit before receiving such final documentation, the subject permit and license may be revoked.
6. Additional Requirements. Any Provider or Applicant to whom a permit is issued and that places Facilities and associated Support Structures on private property also shall comply with the following requirements as long as those Facilities and Support Structures are located thereon:
- a. All Facilities and Support Structures shall be installed, erected, and maintained in compliance with applicable federal and state laws and regulations, including, but not limited to, regulations of the FCC.
 - b. At least triennially following the installation of the Facilities or associated Support Structures, upon reasonable request and for good cause, the Applicant shall furnish the City Manager a written certification from a professional engineer licensed in the State of

Alabama indicating that those Structures have been inspected and are being maintained, operated and used in compliance with all applicable laws and regulations, including those of the FCC that pertain to the transmission of wireless communication signals. For purposes of this provision, "good cause" shall mean circumstances have arisen that indicate the Facilities and associated Support Structures have been damaged, are not functioning in compliance with applicable laws and regulations, or otherwise pose a hazard to the public. If those Structures fail at any time to comply with said laws and regulations, the Provider or Applicant shall cause those Structures to be brought into compliance with said laws and regulations within fifteen (15) days of the date of any written notice to either of them of such non-compliance, or cease all personal wireless communications operations related to those Structures until the Provider or Applicant comes into full compliance with applicable laws and regulations.

- c. The Facilities and associated Support Structures on private property must at all times be maintained in good and safe condition.
- C. Permit and License Fees. The Provider or Applicant for a permit to place Facilities and associated Support Structures on private property shall pay the following types of fees that are enumerated in the City's officially adopted Fee Structure Ordinance as amended:
1. a permit application and review fee to be paid when an application is submitted; and,
 2. a permit issuance fee per each Support Structure on private property contemplated for attachment.

Section 4. Abandonment of Facilities on Right-of-Way.

If a Provider or Applicant abandons any Facility (including the Accessory Equipment) or an associated Support Structure (collectively "Facilities" for purposes of this Section) that is located on the Right-Of-Way, the following rights and obligations shall exist. The City may require the Provider or Applicant, at their expense, to remove and reclaim the abandoned Facilities within sixty (60) days from the date of written notice of Abandonment given by the City to them and to reasonably restore the condition of the property at which the Facilities are located to that existing before they were installed. If the Provider or Applicant fails to remove and reclaim its abandoned Facilities within such 60-day period and the Facilities are located on the Right-Of-Way, the City shall have the rights to:

1. remove them and charge its expense of any such removal operation to the account of the Provider or Applicant,
2. purchase all abandoned Facilities at the subject location from the Provider or Applicant in consideration for \$1.00,
3. at the City's discretion, either resell the abandoned Facilities to a third party or dispose and salvage them; provided that the proceeds of any resale of abandoned Facilities by the City to a third party shall be credited to the account of the Applicant or Provider that used those Facilities before the abandonment, and

4. charge any expense incurred by the City to restore the Right-of-Way to the account of the Provider or Applicant.

Section 5. Colocation.

To promote the public interest that is served by co-locating Facilities and associated Accessory Equipment on existing Support Structures and thereby mitigating the installation of additional Support Structures throughout the City, no person or entity (including any Provider, Applicant, utility, or franchisee) that utilizes an existing Support Structure that is located on Right-of-Way or on private property in the City and has space available thereon may deny a Provider or Applicant the Right to use or access an existing Support Structure for purposes of attaching Facilities permitted by this ordinance without sound operational, technological or other good reason.

Section 6. Non-Applicability.

The placement of an antenna(s), Facilities or equipment related to the following types of wireless communication services are exempt from regulation under this ordinance:

- A. Amateur radio service that is licensed by the FCC if the Facilities related thereto are not used or licensed for any commercial purpose; and
- B. Facilities used by any federal, state or local government or agency to provide safety or emergency services. Further, the provisions in this Article are supplemental to, and not intended to alter, affect or modify the provisions in Article II of Chapter 16.5 pertaining to the placement or use of macro Telecommunications Towers.

Section 7. Repealer.

All Ordinances or parts of ordinances heretofore adopted by the City Council of the City of Vestavia Hills, Alabama that are inconsistent with the provisions of this Ordinance are hereby expressly repealed.

Section 8. Severability.

If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 9. Effective Date.

This ordinance shall become effective immediately upon adoption and posting/publication as provided by Alabama law.

DONE, ORDERED, APPROVED and ADOPTED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2814 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 17th day of December, 2018, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Library in the Forest, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the ____day of _____, 2018.

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

E-Mail: patrickboone@bellsouth.net

December 5, 2018

By Hand Delivery

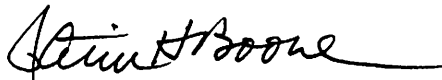
City Manager Jeff Downes
Vestavia Hills Municipal Center
1032 Montgomery Highway
Vestavia Hills, Alabama 35216

In Re: Small Cell Technology Facilities

Dear Mr. Downes:

As requested, I have reviewed the proposed Ordinance to Adopt Regulations for Small Cell Technology Facilities in the City of Vestavia Hills, Alabama prepared by Greg Fender, together with the Memorandum submitted Minnesota attorneys, Brian Grogan and Pat Zomer. I have no recommendations for additions, deletions, changes and/or corrections and recommend the ordinance from a legal standpoint.

Sincerely,



Patrick H. Boone
Vestavia Hills City Attorney

PHB:gp

cc: City Clerk Rebecca Leavings

ORDINANCE NUMBER 2815

AN ORDINANCE TO ESTABLISH A FEE STRUCTURE FOR SMALL CELL TECHNOLOGY FACILITIES IN THE CITY OF VESTAVIA HILLS, ALABAMA AS ESTABLISHED BY ORDINANCE NUMBER 2814

WHEREAS, on December 17, 2018, the Vestavia Hills City Council in a regularly scheduled City Council meeting following a public hearing voted to adopt and approve Ordinance Number 2814 to enact new regulations that apply to placement of Small Cell Technology Facilities ("Facilities" as defined in Ordinance Number 2814 and used herein) along public rights-of-way and on private properties within the City of Vestavia Hills; and

WHEREAS, the regulations established in Ordinance Number 2814 will be codified in a Chapter 16.5 of the Vestavia Hills Code of Ordinances ("Code") entitled "Telecommunications"; and

WHEREAS, Sections 2E and 3C of Ordinance Number 2814 provide that certain fees be paid by personal wireless service providers or applicants in connection with the review of applications, initial issuance and annual reissuance of permits required to construct, place, maintain and operate Facilities in the City;

WHEREAS, the City Council herein amends Chapter 16.5 of the Code to set forth the level of fees contemplated in Sections 2E and 3C of Ordinance Number 2814.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA, That Section 16.6 of The Vestavia Hills Code Of Ordinances Be Amended To Include The Fees Set Forth In This Ordinance Number 2815, As Follows:

SMALL CELL TECHNOLOGY FACILITIES FEE STRUCTURE

DESCRIPTION	FEE
Permits to Place and Operate Facilities on Public Right-of-Way	
Permit Application and Review Fee (Ord. No. 2814)	\$200.00
Initial Permit Issuance Fee per Support Structure (Ord. No. 2814)	\$100.00
Annual License Fee per Support Structure (Ord. No. 2814)	\$500.00
Permits to Place and Operate Facilities on Private Property	
Permit Application and Review Fee (Ord. No. 2814)	\$200.00
Initial Permit Issuance Fee per Support Structure (Ord. No. 2814)	\$100.00

Section 2. Repealer. All ordinances or parts of ordinances heretofore adopted by the City Council of the City of Vestavia Hills, Alabama that are inconsistent with the provisions of this ordinance are hereby expressly repealed.

Section 3. Severability. If any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Section 4. Effective Date. This ordinance shall become effective immediately upon adoption and publication as provided by law.

DONE, ORDERED, APPROVED and ADOPTED this 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

CERTIFICATION:

I, Rebecca H. Leavings, as City Clerk of the City of Vestavia Hills, Alabama, hereby certify that the above and foregoing copy of 1 (one) Ordinance Number 2815 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 17th day of December, 2018, as same appears in the official records of said City.

Posted at Vestavia Hills City Hall, Vestavia Hills Public Library, Vestavia Hills New Merkle House and Vestavia Hills Recreational Center this the ___ day of _____, 2018.

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5117

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND DELIVER AN AGREEMENT FOR SERVICES WITH THE REGIONAL PLANNING COMMISSION OF GREATER BIRMINGHAM FOR AN APPLE GRANT FOR “VESTAVIA HILLS TRAFFIC OPERATIONS STUDY PHASE 1”

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

1. The City Manager is hereby authorized to execute and deliver an Agreement for Services (“Agreement”) with the Regional Planning Commission of Greater Birmingham (“RPCGB”) to receive funding under the Advanced Planning Program and Logical Engineering (APPLE) program for a “Vestavia Hills Traffic Operations Study Phase 1” (the “Project”); and
2. The project’s total cost is estimated at \$60,000 which includes a local City match of \$12,000; and
3. A copy of said Agreement is marked as Exhibit A, attached to and incorporated into this Resolution Number 5117 as though written fully therein; and
4. This Resolution Number 5117 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 17th day of December, 2018.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

AGREEMENT FOR SERVICES

This Agreement for Services (the "Agreement") is entered into as of the _____ day of _____, 2019, by and between the **Regional Planning Commission of Greater Birmingham**, a regional planning and development commission organized and existing under the laws of the State of Alabama ("RPCGB"), and the **City of Vestavia Hills, Alabama**, a municipal corporation (the "Governmental Entity" or "City").

WITNESSETH:

WHEREAS, the Governmental Entity has applied to receive funding under the Advanced Planning Program and Logical Engineering (APPLE) program for a "Vestavia Hills Traffic Operations Study Phase 1" (the "Project");

WHEREAS, the Project has been selected for funding under the APPLE program;

WHEREAS, the APPLE grant for the Project will fund 80% (or \$48,000) of the total Project cost of \$60,000, and the Governmental Entity will provide a local match in the amount of \$12,000 (or 20%) of the total Project cost;

WHEREAS, pursuant to the terms of this Agreement, RPCGB is being engaged by the City to perform the services contemplated for the Project; and

WHEREAS, the parties agree to work in good faith to complete the Project in a timely and professional manner.

NOW THEREFORE, in consideration of the premises and the mutual covenants, agreements, representations and warranties hereinafter set forth, the RPCGB and the Governmental Entity agree as follows:

1. **Engagement of RPCGB.** The Governmental Entity hereby agrees to engage RPCGB to perform the Project and services which are identified and described in the "Scope of Work" set forth on **Exhibit A**, which is attached hereto and incorporated herein by reference. RPCGB, from time to time, may request changes in the Scope of services to be performed. Such changes shall be memorialized by written amendments to this Agreement that is signed by both parties; these changes may include an increase or decrease in the amount of Governmental Entity's local match.

The Governmental Entity authorizes RPCGB to engage a third party consultant(s) that has been approved by the City to assist in performing the Scope of Work. The RPCGB is responsible for supervising, managing and paying any third party consultant for any services it performs so that the Project may be completed in the orderly flow of the work.

2. **Compensation.** The parties agree that the total Project cost is \$60,000 (including the local match), and that the RPCGB will receive that total amount in consideration for its performance of the services contemplated herein. The payment of this amount shall constitute full and complete compensation for the services to be provided by RPCGB directly, by its consultants or otherwise secured by RPCGB for the Project, and includes all expenses arising from the performance of this Agreement.

3. **Payment by City.** The City shall make payment to RPCGB for services in one (1) lump sum installment of \$12,000 (the local match) within thirty (30) days after the receipt of invoice from the RPCGB. If this compensation is not paid when due, RPCGB shall not engage in the provision of the contemplated services nor shall RPCGB employ third party consultant(s) for the Project until such time as payment is made. If after a period of sixty (60) days from the date of invoice the compensation is not paid, the Governmental Entity acknowledges that it may forfeit all claims to the awarded amount for the Apple grant for the Project.

Upon the successful completion of the Project and the generation of the contemplated grant funds, the City agrees to execute appropriate documents and otherwise cooperate with the RPCGB so it can receive those funds in consideration for the balance of the total Project costs payable to it for its services.

4. **Time of Performance.** The RPCGB shall commence its performance of services immediately after the receipt of payment by the Governmental Entity, and the RPCGB shall complete Project in accordance with the schedule set forth in Exhibit A.

5. **Financial Records.** RPCGB shall keep and maintain complete and accurate books, records, and procedures to account for all funds paid by the Governmental Entity in accordance with this Agreement. RPCGB shall allow the Governmental Entity to examine, copy, and audit all such books, records and procedures upon advance notice and during RPCGB's normal business hours. Any such examination or audit shall be conducted at the sole cost and expense of the requesting party.

RPCGB shall retain all records with respect to the matters made the subject of this Agreement for three (3) years following the termination or completion of this Agreement. The obligations in this provision shall survive the termination of this Agreement.

6. **Political Activity.** No portion of any funds to be paid by the Governmental Entity to RPCGB for the services contemplated herein shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office.

7. **Qualified Personnel.** RPCGB represents that it employs or will engage all personnel required to perform the services made the subject to this Agreement. Any such personnel shall not be employees of or have any contractual relationships with the Governmental Entity relative to the Project, and all such personnel shall be reasonably qualified to perform the services assigned to them.

8. **Cooperation.** All information, data, reports, records and maps as are available, existing and necessary for performing the contemplated work shall be assembled for the Governmental Entity by RPCGB or the third party consultant(s) employed by it. The Governmental Entity agrees to cooperate with RPCGB and the third party consultants(s) employed by RPCGB in all reasonable ways to allow them to conduct their planning and development work without undue delay.

The RPCGB and Governmental Entity will ensure that all accident and traffic data provided by ALDOT or any agency or political subdivision of the State of Alabama and used for safety enhancement are kept confidential under 23 U.S.C. § 409 and not disclosed to third parties without the express written permission of ALDOT. The data shall not be referenced, disclosed, discussed, or otherwise made public. The provision of this data shall not be considered as a waiver of the provision of 23 U.S.C. § 409. Upon execution of this Agreement,

the RPCGB and Governmental Entity agree that their agents, servants, officers, officials, and employees, in both their official and individual capacities, shall not discuss, disclose, use, publish, or release the data provided pursuant to the above referenced request without prior written consent of ALDOT. Furthermore, if the data should be released or published without the consent of ALDOT, or should an attempt be made to use the data in an action for damages against the State of Alabama, ALDOT, its officials or employees' access to data shall terminate immediately. The State of Alabama and ALDOT expressly reserve the right under 23 U.S.C. § 409 to object to the use of the data, any opinions drawn from the data, and to recover damages caused by the improper and unauthorized release of the data.

9. **Ownership of Data.** The Governmental Entity shall retain title to and all ownership rights of all data and content provided by it to RPCGB for the Project, including but not limited to geographic information systems, databases, maps, multimedia or images (graphics, audio and video), text and the like provided by the Governmental Entity. The City grants RPCGB the right to access and use this content for the purpose of complying with its obligations under this Agreement.

10. **Ownership of Work Product.** Upon completion of the work or elements thereof that are described in the attached Scope of Work, all reports, data, artwork, maps, stencils, negatives, plates and other supporting materials prepared by RPCGB as a part of such work shall become the exclusive property of Governmental Entity, and any reproduction or other uses of such materials shall be approved by appropriate officials of the Governmental Entity.

11. **Substantial Changes by City in Final Work Product.** If the City makes any substantial changes to the final work product after the Governmental Entity has taken delivery and accepted that product, those changes shall not be attributed by the City to the RPCGB. Substantial changes are defined as changes to plan content, policy and physical development recommendations, regulations, codes, and ordinances that diminish the intent and ability of the plan document to achieve its stated goals as agreed to and accepted by the Governmental Entity.

12. **Assignment/No Third Party Beneficiaries.** Neither party may assign this Agreement, or any of its rights, benefits or obligations herein, without the prior written consent of the other party. Further, this Agreement does not confer, and is not intended to create, any rights or benefits for any third party that is not a signatory to this Agreement.

13. **Equal Employment Opportunity.** In performing the work, RPCGB and its third party consultant(s) shall not discriminate against any employee or applicant for employment because of race, religion, national origin, sex, age or disability.

14. **Termination.** If RPCGB fails to perform any of its material obligations under this Agreement in a timely and proper manner, or if RPCGB shall violate any of the covenants, agreements, or stipulations of this Agreement, the Governmental Entity may give written notice of that breach to RPCGB. In the event RPCGB fails to cure such breach to the reasonable satisfaction of Governmental Entity within thirty (30) days following RPCGB's receipt of such written notice, Governmental Entity may terminate this Agreement upon written notice to RPCGB. In the event of such termination, the Governmental Entity shall be entitled to a refund from RCPGB of any compensation paid by the City that is not earned by RCPGB for services that it did not perform by the effective date of termination.

15. **Relationship of the Parties.** The RPCGB is an independent contractor of the City, and nothing contained in this Agreement shall be deemed to create any agency, joint venture, partnership or employer/employee relationship between them. Neither party shall

have the right or power to commit, contract for or otherwise obligate the other party to any third person or entity. RPCGB shall be responsible for the collection, filing, and payment of social security and other federal, state or local taxes or withholdings for RPCGB's employees. Governmental Entity shall have no right to control or direct the details, manner or means by which RPCGB accomplishes the results of the services to be performed pursuant to this Agreement.

16. **Notices.** Any notice to a party hereunder that is contemplated in this Agreement shall be in writing and deemed given when it is either (a) personally delivered, or (b) sent by certified or registered mail, return receipt requested, to

If to RPCGB:

Regional Planning Commission of Greater Birmingham
Center for Regional Planning and Design
Two 20th Street North, Suite 1200
Birmingham, Alabama 35203
Attention: Michael Kaczorowski

If to Governmental Entity:

1032 Montgomery Hwy
Vestavia Hills, AL 35216
Attention: Christopher Brady, City Engineer

or at such other address as either party may advise the other in writing. Any such notice shall be deemed delivered when placed in the mail, properly addressed, with postage prepaid.

17. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the matters herein, and there are no agreements, understandings, restrictions, warranties or representations between the parties other than those set forth herein. The foregoing supersedes all prior agreements, negotiations and understandings relating to the subject matter hereof.

IN WITNESS WHEREOF the undersigned, duly authorized representatives of the parties have executed this Agreement effective as of the date and year first above written.

City of Vestavia Hills, Alabama

Jeffery Downes, City Manager

Regional Planning Commission of Greater Birmingham

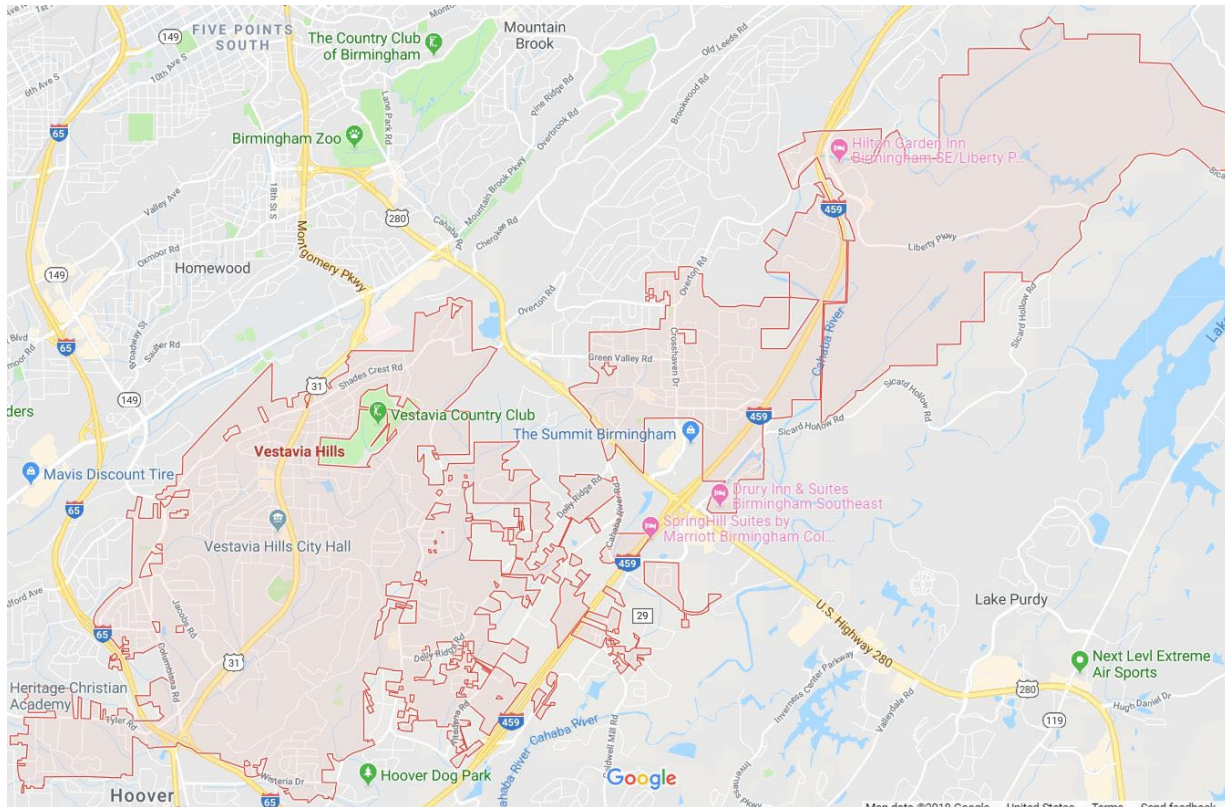
Charles E. Ball, Executive Director

Exhibit A – Scope of Work

Vestavia Hills Traffic Operations Study Phase 1 Feasibility Study: APPLE

Project Summary

The City of Vestavia Hills Traffic Operations Study Phase 1 will conduct traffic and safety operational evaluations of selected intersections throughout the City of Vestavia Hills. The City will provide a list of 8-10 project locations for the study. For each project location, the study process will collect all relevant data and undertake the analysis necessary to determine two improvement alternatives to correct current deficiencies in intersection capacity and safety.



PROJECT TASKS

The project tasks and subtasks required to address the scope of work shall include the following:

Task 1: Existing Conditions

- A. Solicit input/comments from City officials to determine the locations to be studied
- B. Finalize a list of potential locations to be studied within the City
- C. Develop base maps using GIS data and aerial photography.
- D. Collect appropriate traffic data as necessary to analyze traffic operations.
- E. Conduct field reviews and observe existing traffic conditions.
- F. Review and analyze crash data.
- G. Summarize and document existing conditions and prepare a technical memorandum to be presented to the City.

Exhibit A – Scope of Work

Task 2: Concept Plan Development and Evaluation

- A. Analyze potential improvements.
- B. Prepare conceptual drawings illustrating potential improvements.
- C. Prepare a preliminary estimate of probable cost for each improvement.
- D. Prepare for and attend a meeting with the City to present findings.
- E. Revise plans to incorporate comments that may be received.
- F. Prepare a draft Advanced Planning Report document.
- G. Submit the draft document for review.
- H. Revise the Advanced Planning Report document based on comments that may be received.
- I. Submit the final Advanced Planning Report document.

Project Schedule

It is intended that the study will progress according to the schedule as shown in the figure below.

Project Schedule

Task	Months					
	1	2	3	4	5	6
1. Existing Conditions						
2. Concept Plan Development and Evaluation						

Exclusions from Scope of Work

The following services are not included in the scope of services: construction drawings, road or utility engineering designs, and any other services not specifically listed in the project scope. Any Government Entity directed changes to the final plan after the Government Entity’s approval of the draft revisions shall be reimbursed in accordance with allocated billing rates in effect at the time the services are performed.

Crash Data Restrictions

The Alabama Department of Transportation has directed that accident, incident, crash, injury, or fatality locations not be shown or presented in association with descriptions of transportation projects, facilities, or locations within the State of Alabama. This prohibition extends to all formal planning documents (UPWP, Long Range Plan, TIP, Bicycle and Pedestrian Plans, Congestion Management Process or Plan), and other documents that include narrative or tabular project listings or descriptions. [See Article 8 of the Agreement.]

ORDINANCE NUMBER 2816

AN ORDINANCE CONFIRMING AND RATIFYING THE LEVY OF THE 3.15 MILL AD VALOREM TAX IN THE CITY FOR PUBLIC SCHOOL PURPOSES PURSUANT TO AMENDMENT NO. 352 TO THE CONSTITUTION OF ALABAMA OF 1901 AND A SPECIAL ELECTION HELD IN THE CITY ON JANUARY 13, 1976

BE IT ORDAINED BY THE CITY COUNCIL (THE "COUNCIL") OF THE CITY OF VESTAVIA HILLS (THE "CITY") AS FOLLOWS:

Section 1. Findings. The Council hereby finds and declares that the City presently levies, pursuant to Amendment No. 352 to the Constitution of Alabama of 1901, a special election held in the City on January 13, 1976, and proceedings taken under the said constitution, a tax (the "Special Ad Valorem Tax") annually on all taxable property situated in the City at a rate of 3.15 mills per annum (said tax being a portion of the overall levy of 12.7 mills per annum under the said amendment, election and proceedings), the net proceeds of which tax are for public school purposes for use by and for the Vestavia Hills City Board of Education (the "Board"); and that the Board proposes (a) to issue its Special Tax School Warrant, Series 2019, in the approximate principal amount of \$9,100,000 (the "Warrant"), for the purpose of providing various public school capital improvements to the facilities of the Board, and (b) to pledge, among other tax proceeds allocated to the Board, for the payment of the principal of and interest on the Warrant, the net proceeds derived by the Board from collections of the Special Ad Valorem Tax.

Section 2. Pledge. The City, having heretofore agreed in Resolution Number 1045 adopted on January 20, 1986, to transfer the proceeds of the Special Ad Valorem Tax to the Board, hereby further pledges, to the Board and to the holders and beneficial owners of the Warrant, the proceeds, after payment of the costs of assessment and collection, of the Special Ad Valorem Tax, and further agrees that it shall continue to levy and provide for the collection of the Special Ad Valorem Tax and to pay the proceeds thereof over to the Board until the final retirement of the Warrant, now expected to occur on or before February 1, 2029.

ADOPTED and APPROVED this 17th day of December, 2018.

Mayor and Presiding Officer of the
City of Vestavia Hills, Alabama

Attest:

City Clerk of the
City of Vestavia Hills, Alabama

APPROVED this ____ day of _____, 2018.

Mayor of the
City of Vestavia Hills, Alabama

ORDINANCE NUMBER 2681


AN ORDINANCE CONFIRMING AND RATIFYING THE LEVY OF THE 3.15 MILL AD VALOREM TAX IN THE CITY FOR PUBLIC SCHOOL PURPOSES PURSUANT TO AMENDMENT NO. 352 TO THE CONSTITUTION OF ALABAMA OF 1901 AND A SPECIAL ELECTION HELD IN THE CITY ON JANUARY 13, 1976

BE IT ORDAINED BY THE CITY COUNCIL (THE "COUNCIL") OF THE CITY OF VESTAVIA HILLS (THE "CITY") AS FOLLOWS:

Section 1. Findings. The Council hereby finds and declares that the City presently levies, pursuant to Amendment No. 352 to the Constitution of Alabama of 1901, a special election held in the City on January 13, 1976, and proceedings taken under the said constitution, a tax (the "Special Ad Valorem Tax") annually on all taxable property situated in the City at a rate of 3.15 mills per annum (said tax being a portion of the overall levy of 12.7 mills per annum under the said amendment, election and proceedings), the net proceeds of which tax are for public school purposes for use by and for the Vestavia Hills City Board of Education (the "Board"); and that the Board proposes (a) to issue its Special Tax School Warrants, Series 2016, in the approximate aggregate principal amount of \$70,080,000 (the "Warrants"), for the purpose of providing various public school capital improvements to the facilities of the Board and for refunding, prepaying and retiring certain obligations of the Board heretofore issued for public school capital improvements, and (b) to pledge, among other tax proceeds allocated to the Board, for the payment of the principal of and interest on the Warrants, the net proceeds derived by the Board from collections of the Special Ad Valorem Tax.

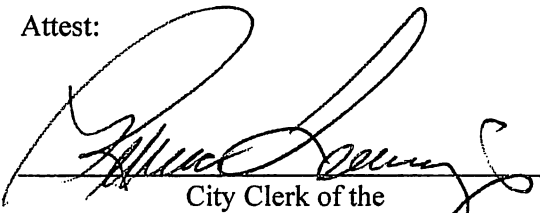
Section 2. Pledge. The City, having heretofore agreed in Resolution Number 1045 adopted on January 20, 1986, to transfer the proceeds of the Special Ad Valorem Tax to the Board, hereby further pledges, to the Board and to the holders and beneficial owners of the Warrants, the proceeds, after payment of the costs of assessment and collection, of the Special Ad Valorem Tax, and further agrees that it shall continue to levy and provide for the collection of the Special Ad Valorem Tax and to pay the proceeds thereof over to the Board until the final retirement of the Warrants, now expected to occur on or before February 1, 2046.

ADOPTED this 12th day of September, 2016.



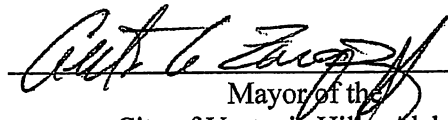
Mayor and Presiding Officer of the
City of Vestavia Hills, Alabama

Attest:



City Clerk of the
City of Vestavia Hills, Alabama

APPROVED this 12th day of September, 2016.



Mayor of the
City of Vestavia Hills, Alabama

RESOLUTION NUMBER 1045

A RESOLUTION TO TRANSFER THE RESTRICTED FUND BALANCE OF THE PROCEEDS OF 3.15 (2.52) MILLS TO THE BOARD OF EDUCATION

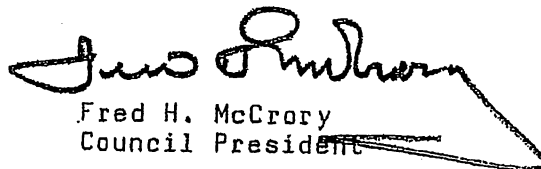
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VESTAVIA HILLS, ALABAMA AS FOLLOWS:

1. To transfer from the special escrow account presently used for deposit of excess generated by the 3.15 mills ad valorem tax to the Board of Education. Previously known as the Restricted Fund for the Vestavia West Elementary School. The balance as of 9/30/85 is \$95,812.00.

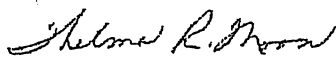
2. This transfer is being made with the recommendation from the Council to give the PTA at Vestavia Elementary West School money to eliminate the drainage problems on the school playground. The amount is approximately \$9,000.00.

3. Retroactive to October 1, 1985 after the debt service is paid on the 1982 School Warrants and the pledge for the 1984 Warrants the balance is to be transferred to the Board of Education for other purposes.

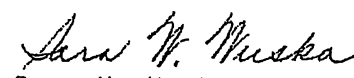
DONE and APPROVED this 20th day of January, 1986.


Fred H. McCrory
Council President

ATTESTED BY:


Thelma R. Moon
City Clerk

APPROVED BY:


Sara W. Wuska
Mayor