

**Vestavia Hills
City Council Agenda
February 10, 2020
amended
6:00 PM**

1. Call to Order
2. Roll Call
3. Invocation – Sam Williamson
4. Pledge Of Allegiance
5. Announcements and Guest Recognition
6. City Manager’s Report
7. Councilors’ Reports
8. Financial Reports – Melvin Turner, III, Finance Director
9. Approval Of Minutes – January 27, 2020 (Regular Meeting)

Old Business

10. Ordinance Number 2915 – An Ordinance To Approve An Assignment And Assumption Of Agreement And A Sales Contract For A Right-Of-Way Purchase Of Real Estate Situated At 3995-3103 Greendale Road In The City Of Vestavia Hills, Alabama Consisting Of Approximately 0.34 Acres, More Or Less (“Property”) And Authorizing And Directing The Mayor And City Manager To Execute And Deliver Said The Contract And Any And All Other Documents Necessary To Close The Sale And/Or Conveyance Pursuant To The Terms, Provisions And Conditions Of Said Agreement (*public hearing*)

New Business

11. Resolution Number 5221 – A Resolution Rescheduling The City Council Meeting Of March 23, 2020 To March 30, 2020 In Observance Of Spring Break
12. Resolution Number 5222 - A Resolution Authorizing The City Manager To Execute An Deliver An Agreement For An Electrical Easement At Cahaba Heights Park For The Proposed New Merkel House
13. Ordinance Number 2917 – An Ordinance Authorizing The Mayor And City Manager To Execute And Deliver An “Assignment Of Special Economic Development Agreement) Between SCP At Liberty Park, LLC And LPP II, LLC

New Business (Requesting Unanimous Consent)

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

14. Ordinance Number 2909 – Annexation – 90 Day Final - 2312 St. Joseph Road, Lot 22, St. Joseph Retreat; Vincent And Julie Pappalardo, Owners (*public hearing*)
15. Ordinance Number 2910 – Rezoning – 2312 St. Joseph Road, Lot 22, St. Joseph Retreat; Rezone From Jefferson County E-1 To Vestavia Hills E-2, Compatible Zoning For Annexation; Vincent And Julie Pappalardo, Owners (*public hearing*)
16. Ordinance Number 2911 – Annexation – 90 Day Final – 2637 Alta Glen Drive; Jimit Parekh And Pallavi Shah, Owners (*public hearing*)
17. Ordinance Number 2912 – Rezoning – 2637 Alta Glen Drive; Rezone From Jefferson County E-1 To Vestavia Hills E-2, Compatible Zoning For Annexation; Jimit Parekh And Pallavi Shah, Owners (*public hearing*)
18. Ordinance Number 2913 – Rezoning – 312 Montgomery Highway And 1990 Southwood Road; Lot 49, Beacon Hills (North And South Portions); Rezone From Vestavia Hills R-2 (Medium Density Residential District) And O-1 (Office Park District) To Vestavia Hills B-1.2 (Neighborhood Mixed Use District); Oksana Senyk, MD, Phd, Owner (*public hearing*)
19. Ordinance Number 2916 – An Ordinance To Repeal Ordinance Number 2429 And Amending Section 5.5-200 Through Section 5.5-311 Of The Vestavia Hills Code Of Ordinances And Adopting A Flood Damage Prevention Ordinance For The City Of Vestavia Hills, Alabama (*public hearing*)
20. Citizens Comments
21. Motion for Adjournment

CITY OF VESTAVIA HILLS

CITY COUNCIL

MINUTES

JANUARY 27, 2020

The City Council of Vestavia Hills met in regular session on this date at 6:00 PM, following publication and posting pursuant to Alabama law. Mayor Curry called the meeting to order and the City Clerk called the roll with the following:

MEMBERS PRESENT:

Mayor Ashley C. Curry
Rusty Weaver, Mayor Pro-Tem
Kimberly Cook, Councilor
Paul Head, Councilor
George Pierce, Councilor

OTHER OFFICIALS PRESENT:

Conrad Garrison, Acting City Clerk/Planner
Melvin Turner, Finance Director
George Sawaya, Asst. Finance Director
Danny Rary, Police Chief
Jason Hardin, Police Captain
Umang Patel, Court Director
Marvin Green, Fire Chief
Christopher Brady, City Engineer
Joanie Alfano, Admin. Asst. to the Mayor
Cinnamon McCulley, Communications Director

Tom Bell; Vestavia Hills Chaplain, led the invocation followed by the Pledge of Allegiance.

ANNOUNCEMENTS, GUEST RECOGNITION

- Mrs. Cook welcomed Katherine McRee representing the Cahaba Heights Merchants Association.
- Mr. Pierce welcomed Taylor Burton who was present representing the Chamber of Commerce.

CITY MANAGER'S REPORT

- Mr. Downes gave an update on the collection of the ad valorem taxes which now appear to be coming in as projected, or slightly above.

- Mr. Downes announced the annual Strategic Planning Work Session that will run Wednesday and Thursday. He indicated that the difficult project of widening Crosshaven Drive is moving along in a good manner and will hopefully be out for bid in the next couple of weeks. He pulled up a map of the area to be subject to the widening and explained that a portion of this work is the responsibility of the County utilizing federal dollars which requires a good many steps to complete. He stated that the County will reimburse the City for utility relocations which adds some costs to the City's expenses but will allow the City to relocate utilities along the entire route which is a great step in getting this work completed. He explained the difficulties of obtaining right-of-way from the 29 properties involved, most of which have loans and liens on them including some apartments owned by Daniel Corporation which has several Fannie Mae loans on it so there has to be a friendly condemnation process in order to acquire the property. He stated this is true of the Leaf and Petal property, owned by Jamie Pursell, because there is a Small Business Administration loan (federal loan). He also explained the situation with a small apartment complex, Greendale Apartments, which right-of-way will need to be obtained by a structured deal of purchasing the apartments, carving out the needed right-of-way and then selling the remaining property to another owner. He indicated this action is later on this agenda and a first reading for the next meeting.

COUNCILOR REPORTS

- Mrs. Cook congratulated the We the People high school team, which won state competition this week. She indicated they will travel to D.C. for the finals within the next few months.
- Mrs. Cook announced that the Board of Education approved, in today's meeting, the joint purchasing agreement with the City that will enable them to share in pricing advantages from the City's recent paving bid. She stated that this is on the agenda later this evening for consideration and approval by the Council.
- Mrs. Cook stated that the new freshman campus has begun their plans for student scheduling and she was impressed by the steps taken to open this new campus. This additional year of planning has not been wasted and will be beneficial to students when the doors open.
- Mrs. Cook stated that the Board will establish a new "hall of fame" for the 50th anniversary of the school system in order to recognize teachers and other school leaders.
- Mr. Pierce stated he attended the Chamber's strategic planning session and 2020 looks to be a great year for the Chamber.

APPROVAL OF MINUTES

The Mayor opened the floor for approval of the following minutes: January 13, 2020 (Regular Meeting).

MOTION Motion to approve the minutes of the January 13, 2020 (Regular Meeting) was by Mr. Weaver, seconded by Mr. Pierce.

Mrs. Cook asked if the changes she sent in were incorporated. Mr. Garrison answered they were.

Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	motion carried.

OLD BUSINESS

ORDINANCE NUMBER 2905

Ordinance Number 2905 – An Ordinance To Approve A Contract To Purchase The Real Estate And Improvements Situated At 3995-3103 Greendale Road In The City Of Vestavia Hills, Alabama Consisting Of Approximately 0.34 Acres, More Or Less (“Property”) And Authorizing And Directing The Mayor And City Manager To Execute And Deliver Said The Contract And Any And All Other Documents Necessary To Close The Sale Pursuant To The Terms, Provisions And Conditions Of Said Contract (*public hearing*)

MOTION Motion to approve Ordinance Number 2905 was by Mr. Weaver seconded by Mrs. Cook.

Mr. Downes explained that this Ordinance approves the purchase for the Greendale Apartments in order to obtain the right-of-way needed for the Crosshaven Drive construction improvements in widening the roadway. He explained the parameters of the contract which was drafted by the City Attorney.

The Mayor opened the floor for a public hearing.

David Harwell, 1803 Catala Road, stated he studied this in the agenda packet and is confused. He asked about the purchase price and the final outcome.

Mr. Downes explained the costs associated with the purchase and later sale of the property.

There being no one else to further address the Council, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

ORDINANCE NUMBER 2906

Ordinance Number 2906 – Rezoning – 3122, 3128, 3134, and 3136 Sunview Drive; Rezone from Vestavia Hills B-2, Inst, Agriculture to Vestavia Hills B-1.2. Thomas Holdings, Owners (*public hearing*)

MOTION Motion to approve Ordinance Number 2906 was by Mr. Weaver seconded by Mr. Pierce.

Mr. Weaver gave the report from the Planning and Zoning Commission that unanimously recommended the approval of this rezoning request in order to construct a beauty salon and spa on these miscellaneous properties.

The Mayor opened the floor for a public hearing. There being no one to further address the Council, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

ORDINANCE NUMBER 2908

Ordinance Number 2908 –An Ordinance Adopting And Enacting Procedures And Requirements For Unclaimed Property For The City Of Vestavia Hills Police Department And Municipal Court (*public hearing*)

MOTION Motion to approve Ordinance Number 2908 was by Mr. Pierce seconded by Mrs. Cook.

Umang Patel, Court Director, explained that this provides a process for accounting for unclaimed cash properties from old court cash bonds and old cash forfeitures in the police department. He stated that Mr. Boone has reviewed the request and found no issues.

The Mayor opened the floor for a public hearing. There being no one to further address the Council, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

NEW BUSINESS

RESOLUTION NUMBER 5218

Resolution Number 5218 – Alcohol License – Publix Alabama LLC D/B/A Publix Alabama 1692; For A 050 – Retail Beer (Off-Premises) And 070- Retail Table Wine (Off-Premises); Joseph Dibenedetto Jr., Et Al, Executive (public hearing)

MOTION Motion to approve Resolution Number 5218 was by Mr. Weaver, seconded by Mr. Pierce.

Mr. Downes stated that this request is for the new Publix that will open in Liberty Park in the next few months.

Tony Minor, General Manager for Publix, was present in regard to the request. He indicated the store will open in March and this license will allow off-premise sale of beer and wine.

Mr. Pierce asked about training to prevent sales to minors.

Mr. Minor explained their training policies to ensure compliance and the requirement to input the birth date of the purchaser from the identification.

The Mayor opened the floor for a public hearing. There being no one to further address the Council, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

RESOLUTION NUMBER 5219

Resolution Number 5219 – Alcohol License – Rajajit Hotel LLC d/b/a Hilton Garden Inn Birmingham Liberty Park; For A 020 – Restaurant Retail Liquor (On-Premises); Kishor Desai, Et Al, Executive (public hearing)

MOTION Motion to approve Resolution Number 5219 was by Mrs. Cook, seconded by Mr. Weaver.

The Mayor stated that this request is for the new owners of the Hilton Garden Inn located in Liberty Park.

Rhonda Cunningham, Director of Operations, was present in regard to the request.

Mr. Pierce asked about the training to ensure no sales to minors.

Ms. Cunningham stated all employees are taught to check IDs and are required to complete responsible vendor training.

The Mayor opened the floor for a public hearing. There being no one to further address the Council, the Mayor closed the public hearing and called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

RESOLUTION NUMBER 5220

Resolution Number 5220 – A Resolution Accepting A Bid For A Heavy Rescue Truck For The Vestavia Hills Fire Department

MOTION Motion to approve Resolution Number 5220 was by Mr. Weaver seconded by Mr. Pierce.

Fire Chief Marvin Green stated that this Resolution accepts an award of a bid for a used heavy rescue for the Fire Department to carry specialized equipment.

Mr. Pierce asked about the age and mileage.

Chief stated the unit has 9,000 miles on it. He stated it has been inspected and is in good shape.

There being no one to further address the Council, the Mayor called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

ORDINANCE NUMBER 2914

Ordinance Number 2914 – An Ordinance Authorizing The Mayor And The City Manager To Execute And Deliver A Joint Purchasing Agreement With The Vestavia Hills Board Of Education For Paving Services For The Board

MOTION Motion to approve Ordinance Number 2915 was by Mrs. Cook seconded by Mr. Weaver.

Mr. Downes explained that this Ordinance would allow the Board of Education to enter into a joint purchasing agreement for paving services utilizing the City's current bid and agreement with Dunn Construction. He stated that Mr. Boone drafted the agreement.

There being no one to further address the Council, the Mayor called for the question. Roll call vote as follows:

Mrs. Cook – yes	Mr. Head – yes
Mr. Pierce – yes	Mr. Weaver – yes
Mayor Curry – yes	Motion carried.

NEW BUSINESS (UNANIMOUS CONSENT REQUESTED)

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

The Mayor announced that the following resolutions and/or ordinances will be presented at a public hearing at the Council's regular meeting on February 10, 2020, at 6:00 PM.

- Ordinance Number 2915 – An Ordinance To Approve An Assignment And Assumption Of Agreement And A Sales Contract For A Right-Of-Way Purchase Of Real Estate Situated At 3995-3103 Greendale Road In The City Of Vestavia Hills, Alabama Consisting Of Approximately 0.34 Acres, More Or Less (“Property”) And Authorizing And Directing The Mayor And City Manager To Execute And Deliver Said The Contract And Any And All Other Documents Necessary To Close The Sale And/Or Conveyance Pursuant To The Terms, Provisions And Conditions Of Said Agreement (*public hearing*)

CITIZEN COMMENTS

Katherine McRee, 3944 Riverview Drive, thanked the Council for the due diligence and attention to Crosshaven Drive. She gave the backstory on the improvements which have been in the works for more than 30 years. She asked them to understand why people are upset about these delays is because it has taken so long.

The Mayor stated that it is comparable to the pedestrian bridge over Highway 31.

At 6:40 PM, Mrs. Cook made a motion to adjourn. The meeting adjourned at 6:41 PM.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ORDINANCE NUMBER 2915

AN ORDINANCE TO APPROVE AN ASSIGNMENT AND ASSUMPTION OF AGREEMENT AND A SALES CONTRACT FOR A RIGHT-OF-WAY PURCHASE OF REAL ESTATE SITUATED AT 3995-3103 GREENDALE ROAD IN THE CITY OF VESTAVIA HILLS, ALABAMA CONSISTING OF APPROXIMATELY 0.34 ACRES, MORE OR LESS (“PROPERTY”) AND AUTHORIZING AND DIRECTING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER SAID THE CONTRACT AND ANY AND ALL OTHER DOCUMENTS NECESSARY TO CLOSE THE SALE AND/OR CONVEYANCE PURSUANT TO THE TERMS, PROVISIONS AND CONDITIONS OF SAID AGREEMENT.

THIS ORDINANCE NUMBER 2915 is approved and adopted by the City Council of the City of Vestavia Hills, Alabama on this the 27th day of January, 2020.

WITNESSETH THESE RECITALS:

WHEREAS, on January 27, 2020, the City Council of the City of Vestavia Hills, Alabama, adopted and approved Ordinance Number 2905 to approve a purchase agreement for the real estate and improvements situated at 3995-3103 Greendale Road in the City of Vestavia Hills, Alabama consisting of approximately 0.34± acres (the “Property”) for the possible purchase of said Property by the City of Vestavia Hills, Alabama (“City”); and

WHEREAS, if the City purchases the Property, then in such event the City Manager recommended that:

(1) Approximately 0.02± acres be used for an in progress public works project to widen Crosshaven Road (“project to widen Crosshaven Road”); and

(2) The balance of the Property be sold to another party; and

WHEREAS, the City Attorney had prepared an Agreement for Purchase and Sale of Real Estate (“Agreement”) setting forth the terms, provisions and conditions of the negotiations and recommendation by the City Manager for consideration by the City Council; and

WHEREAS, the City Attorney further prepared an Assignment and Assumption of Agreement for Purchase and Sale of Real Estate and a Sales Contract to sell said property, less a portion to be dedicated as right-of-way, to Bridgewater Partners, LLC, an Alabama limited liability company, or its assignee; and

WHEREAS, a copy of the Agreement is attached hereto, marked as Exhibit A and is incorporated into this Ordinance Number 2915 by reference as though set out fully herein.

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

1. The Agreements attached hereto and marked as Exhibit A is incorporated in its entirety into this Ordinance Number 2915 by reference as though set out fully herein.

2. The Agreements are hereby approved by the City Council.

3. The Mayor and City Manager are hereby authorized and directed to execute and deliver the Agreement for and on behalf of the City of Vestavia Hills, Alabama.

4. The City Council hereby authorizes and directs the City Manager to execute any and all other documents necessary to close the purchase and sale of the Property pursuant to the terms, provisions and conditions of the Agreement attached hereto. In addition, the City Manager is hereby authorized to make editorial revisions and corrections that do not substantially change said Agreement.

5. 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.

6. This Ordinance Number 2915 shall become effective upon its approval, adoption, enactment and publication by posting as set forth in Title 11-45-8(b), *Code of Alabama, 1975*.

DONE, ORDERED, APPROVED and ADOPTED on this the 13th day of February, 2020.

CITY OF VESTAVIA HILLS, ALABAMA

By _____
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 #2915 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 13th day of February, 2020 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of February, 2020.

Rebecca Leavings
City Clerk

**ASSIGNMENT AND ASSUMPTION OF
AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE**

This Assignment and Assumption of Agreement for Purchase and Sale of Real Estate (this "Assignment") is dated as of _____, 2020 (the "Effective Date") by and between The City of Vestavia Hills, Alabama, a municipal corporation ("Assignor"), and **BRIDGEWATER PARTNERS, LLC**, an Alabama limited liability company, or its assignee ("Assignee").

Recitals:

WHEREAS, Assignor entered into that certain Agreement for Purchase and Sale of Real Estate with Nonidez Properties ("Seller"), dated as of _____, 2020 (the "Contract"), for the purchase and sale of certain real property located in Jefferson County, Alabama, as more particularly described in the Contract (the "Property"); and

WHEREAS, the Assignor desires to assign all of its right, title and interest in and to the Contract to the Assignee, and the Assignee desires to accept the assignment.

Agreement

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Assignment.**

(a) Assignor does hereby assign, transfer, set over and deliver to Assignee all of Assignor's right, title and interest in and to the Contract, including without limitation all of its rights, privileges and benefits as the purchaser thereunder. TO HAVE AND TO HOLD the Contract unto Assignee, its successors and assigns.

(b) By accepting this assignment, Assignee hereby assumes and agrees to perform all of the obligations of the purchaser under the Contract from and after the Effective Date.

(c) Assignee shall indemnify, defend and hold Assignor harmless from and against any and all obligations, claims, costs, demands, losses, damages, liabilities, lawsuits, actions and other proceedings in law or in equity or otherwise, judgments, awards and expenses of every kind and nature whatsoever, including without limitation, attorneys' fees, arising out of or relating to, directly or indirectly, the Contract, vesting, accruing and/or arising on and after the Effective Date.

(d) Assignor shall indemnify, defend and hold Assignee harmless from and against any and all obligations, claims, costs, demands, losses, damages, liabilities, lawsuits, actions and other proceedings in law or in equity or otherwise, judgments, awards and expenses of every kind and nature whatsoever, including without limitation, attorneys' fees, arising out of or relating to, directly or indirectly, the Contract, vesting, accruing and/or arising prior to the Effective Date.

2. **Additional Agreement.** In connection with the foregoing, Assignee and Assignor agree to enter into a Sales Contract in the form attached as Exhibit A hereto (the ".02 Acre Contract") for the sale by Assignee to Assignee of a portion of the Property consisting of approximately .02 acres and more particularly described in the .02 Acre Contract (the ".02 Acre Parcel"). Assignor expressly agrees that, with respect to the portion of the Property retained by Assignee after its sale of the .02 Acre Parcel to Assignor, any and all existing municipal parking, signage and related zoning and other requirements shall be "grandfathered" and thus will not be modified by Assignor subsequent to such sale of the .02 Acre Parcel.

3. **Contingencies.** This Assignment is subject to and contingent upon (i) the formal approval of the Contract by the City Council of the City of Vestavia Hills, Alabama as described in the recitals above by duly enacted ordinance pursuant to and in accordance with the laws of the State of Alabama, and (ii) the formal approval of this Assignment by the City Council by the City of Vestavia Hills, Alabama by duly enacted ordinance pursuant to and in accordance with the laws of the State of Alabama; and (iii) the execution and delivery of the Sales Contract wherein

Assignee agrees to sell and Assignor agrees to purchase the 0.02 acre parcel pursuant to the terms, provisions and conditions of said Contract; and (iv) the closing of the sale described in (iii). If the foregoing contingencies are not completed, then in such event this Assignment shall automatically be terminated .

4. **Binding Effect.** This Assignment shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.

5. **Definitions.** For all purposes of this Assignment, capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Contract.

6. **General Provisions.** Except as amended and modified by this Assignment, all of the terms, covenants, conditions and agreements of the Contract shall remain in full force and effect. In the event of any conflict between the Contract and the provisions of this Assignment, this Assignment shall control.

7. **Separability Clause.** If any provision of this Assignment shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

8. **Counterparts.** This Assignment may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same agreement.

9. **Governing Law.** This Assignment shall be construed in accordance with and governed by the laws of the state in which the property that is subject to the Contract is located (without regard to conflict of law principles).

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the Effective Date.

ASSIGNOR:

THE CITY OF VESTAVIA HILLS, ALABAMA
A Municipal Corporation

By: _____
Ashley C. Curry
Mayor

By: _____
Jeffrey D. Downes
City Manager

ASSIGNEE:

[BRIDGEWATER ENTITY]

By: _____
Name: _____
Its: _____

Exhibit A

(Sales Contract)

See Attached.

SALES CONTRACT

_____, 2020

[BRIDGEWATER ENTITY] (“Seller”) hereby agrees to sell and THE CITY OF VESTAVIA HILLS, ALABAMA, a municipal corporation (“Purchaser”) hereby agrees to purchase the following described real estate, together with the improvements thereon and attached appurtenances, if any (the “Property”) consisting of approximately .02 acres and situated in Vestavia Hills, Jefferson County, Alabama, on the terms stated below:

Legal description shown in attached Exhibit “A”.

1. The **PURCHASE PRICE** shall be \$135,154, payable in cash at closing.
2. **CONDITION OF PROPERTY:** Neither Seller nor any agent of any party hereto makes any representations or warranties regarding the condition of the Property except to the extent expressly and specifically set forth herein. Purchaser has the obligation to determine, either personally or through or with a representative of Purchaser's choosing, any and all conditions of the property material to Purchaser's decision to buy the Property. Purchaser, or Purchaser's representative, shall have the right to enter the Property for the purpose of inspecting same, and/or making boundary line and topographical surveys of the same, and/or making soil tests thereon, and/or in general observing and investigating the conditions of the Property. Purchaser agrees to indemnify Seller and its successors and assigns from and against any liability associated with Purchaser's rights under this paragraph.
3. **CONVEYANCE:** Seller agrees to convey the Property to Purchaser by a statutory warranty deed, free of all encumbrances except as herein set forth, and Seller agrees that any encumbrances not herein excepted or assumed will be cleared at the time of closing. The Property is sold and is to be conveyed subject to: (i) mineral and mining rights not owned by Seller; (ii) utility easements serving the Property, easements, subdivision and other covenants and restrictions affecting the Property, and building lines of record; and (iii) title exceptions which would be shown by an accurate survey and title search of the Property.
4. **TITLE INSURANCE:** Purchaser may obtain a standard form title insurance policy issued by a company qualified to insure titles in Alabama in the amount of the purchase price, insuring Purchaser against loss on account of any defect or encumbrance in the title unless herein excepted. The expense of the title policy and premium shall be paid by Purchaser.
5. **PRORATIONS:** Ad valorem taxes are to be pro-rated between Seller and Purchaser as of the date of closing.
6. **CLOSING COSTS:** Except as otherwise specifically set forth herein, all closing costs, including without limitation any transfer taxes and other costs associated with the recording of the deed, shall be paid by Purchaser.
7. **CLOSING AND POSSESSION DATES:** The sale shall be closed and the deed delivered simultaneously with the Seller's purchase of the Property as defined in that certain Assignment and Assumption of Agreement for Purchase and Sale of Real Estate dated _____, 2020 between Purchaser, as assignor, and Seller, as assignee (the “Closing Date). Possession is to be given on the Closing Date, however, the Seller may continue to use the Property until such time as construction begins by the City on said roadway improvements.

- 8. DISCLAIMER:** Purchaser acknowledges that it has not relied upon advice or representations of Seller relative to (i) the legal or tax consequences of this Sales Contract and the sale, purchase or ownership of the Property; (ii) the structural condition of the Property, (iii) the availability of utilities or sewer service; (iv) the investment or resale value of the Property; or (v) any other matters affecting their willingness to purchase the Property on terms and price herein set forth. Purchaser acknowledges that if such matters are of concern to them in the decision to sell or purchase the Property, he/she/it have sought and obtained independent advice relative thereto. PURCHASER ACKNOWLEDGES AND AGREES THAT EXCEPT AS OTHERWISE PROVIDED IN THIS CONTRACT, AT CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY “AS IS, WHERE IS, WITH ALL FAULTS”.
- 9. CONTINGENCY:** This Agreement is subject to and contingent upon the formal approval of the Agreement by the City Council of the City of Vestavia Hills, Alabama by duly enacted ordinance pursuant to and in accordance with the laws of the State of Alabama. If this condition of approval as aforesaid is not completed, then in such event this Agreement shall automatically be terminated.
- 10. ENTIRE AGREEMENT:** THIS CONTRACT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN PURCHASER AND SELLER REGARDING THE PROPERTY, AND SUPERSEDES ALL PRIOR DISCUSSIONS, NEGOTIATIONS, AND AGREEMENTS BETWEEN PURCHASER AND SELLER, WHETHER ORAL OR WRITTEN. NEITHER PURCHASER, SELLER, NOR AGENT, NOR ANY SALES AGENT SHALL BE BOUND BY ANY UNDERSTANDING, AGREEMENT, PROMISE OR REPRESENTATION CONCERNING THE PROPERTY, EXPRESSED OR IMPLIED, NOT SPECIFIED HEREIN.

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

[SIGNATURES ON FOLLOWING PAGE]

Each of the parties acknowledges that he/she/it has a right to be represented at all times in connection with the Contract and the closing by an attorney of his/her/its own choosing, at his/her/its own expense.

The date of this Contract shall be the date this Contract is fully executed by all parties.

SELLER:

[BRIDGEWATER ENTITY]

Witness to Seller's Signature

BY: _____

NAME: _____

ITS: _____

DATE: _____

PURCHASER:

THE CITY OF VESTAVIA HILLS, ALABAMA

Witness to Purchaser's Signature

By: _____

Ashley C. Curry
Mayor

By: _____

Jeffrey D. Downes
City Manager

DATE: _____

EXHIBIT "A"

PARCEL 2

A parcel of land situated in the Southeast quarter of Section 15, Township 18 South, Range 2 West, Jefferson County, Alabama, being more particularly described by metes and bounds as follows:

Commence at a found 5/8 inch rebar marking the Northwest corner of Lot 1-A, Daventry Village as recorded in Map Book 160, Page 2 in the Office of the Judge of Probate of said County and the Easterly right of way line of Crosshaven Drive; thence run North 02 Degrees 32 minutes 08 seconds West along the said right of way line for a distance of 331.49 feet to a found 5/8 inch rebar; thence continue North 02 Degrees 32 minutes 08 seconds West along said right of way line for a distance of 60.28 feet to a set capped rebar stamped (CA-560-LS) and the Point of Beginning; thence continue North 02 Degrees 32 minutes 08 seconds West along said right of way line for a distance of 85.44 feet to a set capped rebar stamped (CA-560-LS) on the South right of way line of Greendale Road; thence run South 88 Degrees 26 minutes 28 seconds East along said right of way line for a distance of 20.92 feet to a set capped rebar stamped (CA-560-LS); thence leaving said right of way line run South 01 Degrees 33 minutes 32 seconds West for a distance of 15.55 feet to a set capped rebar stamped (CA-560-LS); thence run South 89 Degrees 05 minutes 12 seconds West for a distance of 6.00 feet to a set capped rebar stamped (CA-560-LS); thence run South 00 Degrees 02 minutes 49 seconds West for a distance of 20.48 feet to a set capped rebar stamped (CA-560-LS); thence run South 12 Degrees 23 minutes 33 seconds West for a distance of 49.83 feet to the Point of Beginning. Said parcel contains 909 square feet or 0.02 acres more or less.

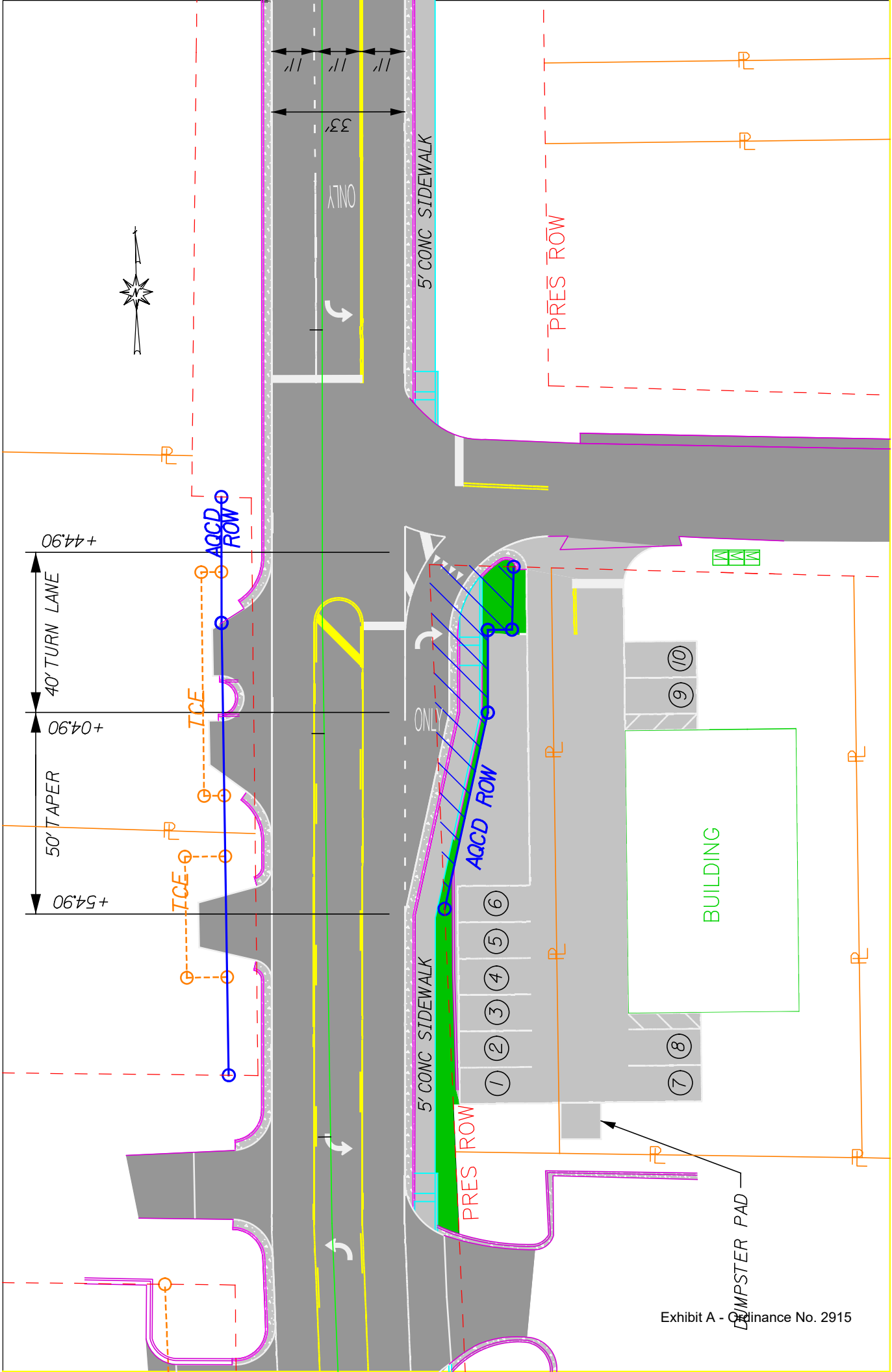


Exhibit A - Ordinance No. 2915

RESOLUTION NUMBER 5221

**A RESOLUTION RESCHEDULING REGULAR MEETINGS AND/OR
WORK SESSIONS OF THE VESTAVIA HILLS CITY COUNCIL**

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

1. The regularly scheduled meeting of the Vestavia Hills City Council scheduled for March 23, 2020 is hereby rescheduled for Monday, March 30, 2020 beginning at 6 PM on observance of Spring Break; and
2. This Resolution Number 5221 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 10th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

RESOLUTION NUMBER 5222

**A RESOLUTION GRANTING ALABAMA POWER COMPANY A
UTILITY EASEMENT FOR CONNECTION OF ELECTRICAL
SERVICE**

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

1. The City Manager is hereby authorized to sign an agreement with Alabama Power Company to grant an easement, right and privilege as described in said Exhibit A, attached to and incorporated into this Resolution Number 5222 as if written fully therein; and
2. Resolution Number 5222 shall become effective immediately upon adoption and approval.

ADOPTED and APPROVED this the 10th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

APC Document# 72251491-001

EASEMENT-UNDERGROUND

STATE OF ALABAMA

COUNTY OF JEFFERSON

This instrument prepared by: Dean Fritz

Alabama Power Company
Corporate Real Estate
2 Industrial Park Drive
Pelham, AL 35124

KNOW ALL MEN BY THESE PRESENTS, That the undersigned **City of Vestavia Hills, Alabama, a municipal corporation**, (hereinafter known as "Granters", whether one or more) for and in consideration of One and No/100 Dollar (\$1.00) and other good and valuable consideration paid to Granters in hand by Alabama Power Company, a corporation, the receipt and sufficiency of which are hereby acknowledged, do hereby grant to said Alabama Power Company, its successors and assigns (hereinafter the "Company"), the following easements, rights, and privileges:

The right from time to time to construct, install, operate, and maintain, upon, under, and across the Property described below, all wires, conduits, cables, trans closures, transformers, fiber optics, communication lines, and other facilities useful or necessary in connection therewith (collectively, "Facilities"), for the underground transmission and distribution of electric power and communications, along a route selected by the Company, as determined by the location(s) in which the Company's facilities are to be installed. The Company's right of way will extend five (5) feet on all sides of said Facilities as and where installed, and shall include the right to clear and keep clear said right of way.

The Company is further granted all the rights or privileges necessary or convenient for the full enjoyment and use of said right of way for the purposes above described, including, without limitation, the right of ingress and egress to and from said Facilities, as applicable, the right to excavate for installation, replacement, repair and removal of said Facilities, and also the right to cut, remove, and otherwise keep clear any and all structures, obstructions, or obstacles of whatever character, on, under, adjacent to, and above said Facilities.

The easements, rights and privileges granted hereby shall apply to, and the word "Property" as used in this instrument shall mean the real property more particularly described in that certain instrument recorded in Instrument #2019048967, in the Office of the Judge of Probate of the above named County.

In the event it becomes necessary or desirable for the Company from time to time to move any of the Facilities in connection with the construction or improvement of any public road or highway in proximity to the Facilities, Granters hereby grant to the Company the right to relocate the Facilities and, as to such relocated Facilities, to exercise the rights granted above; provided, however, the Company shall not relocate said Facilities on the Property at a distance greater than ten feet (10) outside the boundary of the right of way of any such public road or highway as established or re-established from time to time. This grant and agreement shall be binding upon and shall inure to the benefit of Granters, the Company and each of their respective heirs, personal representatives, successors and assigns and the words "Company" and "Granters" as used in this instrument shall be deemed to include the heirs, personal representatives, successors and assigns of such parties.

TO HAVE AND TO HOLD the same to the Company, its successors and assigns, forever.

IN WITNESS WHEREOF, the said Granter, has caused this instrument to be executed by _____, its authorized representative, as of the ____ day of _____, 20__.

ATTEST (if required) or WITNESS:

City of Vestavia Hills, Alabama, a municipal corporation
GRANTOR

By: _____

By: _____ (SEAL)

Its: _____

Its: _____
(Indicate President, Partner, Member, etc.)

----- F o r ----- **Alabama Power Company Corporate Real Estate Department Use O n l y** -----

W.E. # A6173-06A620

Transformer# T01 FRL

All facilities on Granter: Yes

1/4, 1/4 STA & LOC to LOC: Two parcels of land lying in the SW 1/4 of the NW 1/4 and in the NE 1/4 of the SW 1/4 of Section 22, Township 18 South, Range 2 West

APC Document# 72251491-001.

CORPORATION/LLC/LLP/PARTNERSHIP NOTARY

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public, in and for said County in said State, hereby certify that

_____, whose name as _____ of

City of Vestavia Hills, Alabama, a municipal corporation, is signed to the foregoing instrument, and who is known to me, has acknowledged before me on this

day that, being informed of the contents of this instrument, he/she as such _____, and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal, this the ___ day of _____ 20__.

[SEAL]

Notary Public

My commission expires: _____

ORDINANCE NUMBER 2917

AN ORDINANCE AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AND DELIVER AN ASSIGNMENT OF SPECIAL ECONOMIC DEVELOPMENT AGREEMENT BETWEEN SCP AT LIBERTY PARK, LLC AND LLP II, LLC

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

1. The Mayor and City Manager are hereby authorized to execute and deliver an Assignment of Special Economic Development Agreement between SCP at Liberty Park, LLC and LPP, LLC; a copy of which is marked as Exhibit A, attached to and incorporated into this Ordinance Number 2917 as if written fully therein; and
2. This Ordinance is effective immediately following adoption and approval and publishing/posting as required by Alabama law.

ADOPTED and APPROVED this the 10th day of February, 2020.

Ashley Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

ASSIGNMENT OF SPECIAL ECONOMIC DEVELOPMENT AGREEMENT

This ASSIGNMENT OF SPECIAL ECONOMIC DEVELOPMENT AGREEMENT (“Assignment”) is made and entered into as of the ____ day of February, 2020 between **SCP at Liberty Park, LLC**, an Alabama limited liability company (“Assignor”) and **LPP II, LLC**, an Alabama limited liability company (“Assignee”).

RECITALS

A. Concurrently with this Assignment, Assignor has conveyed to Assignee fee simple title to that certain real property more particularly described on Exhibit A attached hereto, together with the related improvements, fixtures and personal property located thereon (collectively, the “Property”).

B. In connection with such purchase and sale, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor’s right, title, interest, duties and obligations (to the extent such rights, duties and obligations first arise or accrue on or after the date hereof), in, to and under that certain Special Economic Development Agreement by and between Assignor and the City of Vestavia Hills, Alabama dated December 15, 2016, as amended May 30, 2018 (as amended, the “Agreement”).

NOW, THEREFORE, in consideration of the purchase price paid by Assignee to Assignor for the Property and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. Assignment of Agreement. Assignor hereby assigns to Assignee, and Assignee hereby assumes from Assignor, all of Assignor’s right, title, interest, duties and obligations under the Agreement, but only to the extent that such rights, duties and obligations first arise or accrue on or after the date hereof. Assignor hereby agrees to indemnify and hold Assignee harmless from and against any and all claims, demands, damages, losses and liabilities arising out of or related to the rights, duties and obligations of Assignor first arising or accruing prior to the date hereof. Assignee hereby agrees to indemnify and hold Assignor harmless from and against any and all claims, demands, damages, losses and liabilities arising out of or related to the rights, duties and obligations of Assignee first arising or accruing on or after the date hereof.

2. Representations and Warranties. Assignor hereby represents and warrants to Assignor that, as of the date hereof, (a) a true, correct and complete copy of the Agreement is set forth on Exhibit B attached hereto, and the Agreement has not been amended except as set forth thereon; (b) the Agreement is in full force and effect; and (c) no default has occurred under the Agreement.

3. No Representations. Except as expressly provided in this Assignment, this Assignment is made without warranty or representation, express or implied, by, or recourse against, any Assignor of any kind or nature whatsoever.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Governing Law. This Assignment shall in all respects be governed by, and construed in accordance with, the laws of the State of Alabama.

6. Counterparts. This Assignment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the undersigned have caused this instrument to be executed as of the date written above.

ASSIGNOR:

SCP at Liberty Park, LLC, an Alabama limited liability company

By: _____

Name: _____

Its: _____

ASSIGNEE:

LPP II, LLC, an Alabama limited liability company

By: _____

Name: _____

Its: _____

ACKNOWLEDGMENT AND CONSENT

The undersigned, City of Vestavia Hills, Alabama (“City”), hereby acknowledges and consents to the Assignment to which this Acknowledgment and Consent is attached and represents, warrants, acknowledges and agrees as follows:

1. A true, correct and complete copy of the Agreement is set forth on Exhibit B attached hereto, and the Agreement has not been amended except as set forth thereon;
2. The Agreement is in full force and effect;
3. No default has occurred under the Agreement;
4. Copies of all notices to “Owner” (as defined in the Agreement) pursuant to the terms of Section 7.05 of the Agreement shall be sent to the following address from and after the date hereof:

LPP II, LLC
P.O. Box 130715
Birmingham, AL 35213
Attention: Daniel Samford

City has executed this Acknowledgment and Consent on the _____ day of February, 2020.

CITY:

City of Vestavia Hills, Alabama

By: _____
Mayor

By: _____
City Manager

SEAL

ATTEST: _____
City Clerk

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Lot 1B, according to the Map of Corporate Woods Addition to Liberty Park Resurvey No. 2, as recorded in Map Book 204, Page 87, in the Probate Office of Jefferson County, Alabama.

EXHIBIT B

COPY OF AGREEMENT

SPECIAL ECONOMIC DEVELOPMENT AGREEMENT

Dated: December 15, 2016

Amended: May 30, 2018

by

CITY OF VESTAVIA HILLS, ALABAMA

and

SCP AT LIBERTY PARK, LLC

This Special Economic Development Agreement was prepared by Heyward C Hosch of Maynard, Cooper & Gale, P.C., 1901 Sixth Avenue North, 2400 Regions/Harbert Plaza, Birmingham, Alabama 35203-2618.

SPECIAL ECONOMIC DEVELOPMENT AGREEMENT

This **SPECIAL ECONOMIC DEVELOPMENT AGREEMENT** is made and entered as of the Date of Delivery by the **CITY OF VESTAVIA HILLS, ALABAMA**, an Alabama municipal corporation (the "Municipality"), and **SCP AT LIBERTY PARK, LLC** (the "Owner").

Recitals

The Owner expects and intends to expand and increase the tax and revenue base of the Municipality by development of commercial enterprises within the corporate limits of the Municipality.

The Municipality has agreed to provide the Owner, as provided herein, the within referenced Annual Economic Development Payments.

Pursuant to the applicable laws of the State of Alabama, and for the purposes, referenced herein, the Municipality and the Owner have delivered this Agreement.

Agreement

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants and agreements herein contained, the Municipality and the Owner hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS

For purposes of this Agreement the following terms shall have the following meanings:

Annual Economic Development Payments shall mean an amount equal to (i) seventy-five percent (75%) of the Municipality Net Sales Tax Proceeds actually received by the Municipality from the Owner during the annual period for which such Annual Economic Development Payment is determined for the period beginning on April 1, 2017 and ending March 31, 2022; and (ii) fifty percent (50%) of the Municipality Net Sales Tax Proceeds actually received by the Municipality from the Owner during the period for which such Annual Economic Development Payment is determined for the period beginning April 1, 2022 and ending March 31, 2027.

Annual Payment Date shall mean that date established by the Municipality for payment of the Annual Economic Development Payment in each year, which shall be the later of March 1 or 45 days after the receipt by the Municipality of the certificate therefor from the Owner pursuant to Section 4.02(a).

Date of Delivery shall mean April 15, 2017.

Date of Termination shall mean that date on which the Municipality shall have no obligation to make any payment of Annual Economic Development Payments under this Agreement or the Warrant in accordance with Section 4.01(4).

Date of Validation shall mean December 5, 2016, being that date on which a judgment entered by the Circuit Court of Jefferson County, Alabama validating and confirming the Warrant shall have become forever conclusive in accordance with, and as provided in, Section 6-6-755 of the Code of Alabama 1975.

Enabling Law shall mean Amendment No. 772 of the Constitution of Alabama of 1901, as amended, as at any time amended or supplemented, or any successor provision of law.

Municipality Sales Tax shall mean collectively the privilege license and excise taxes levied by the Municipality (commonly called sales and use taxes) which consist of (i) a privilege or license (commonly called sales) tax on persons engaged in the business of selling at retail any tangible personal property within the Municipality (subject to exemption of certain property as provided by law) or in the business of conducting places of amusement or entertainment within the Municipality, generally measured by the gross sales or receipts of such businesses and (ii) an excise (commonly called a use) tax on the storage, use or other consumption of tangible personal property (subject to exemptions of certain property as provided by law) within the Municipality, generally measured by the sales price of such property.

Municipality Net Sales Tax Proceeds for any year shall (a) mean and include all proceeds and receipts of the Municipality Sales Tax less and except proceeds of the Municipality Sales Tax dedicated for public school purposes and capital reserves, and (b) not include any proceeds or receipts received by the Municipality (i) from the levy by the Municipality of privilege license or excise taxes not described in the definition of Municipality Sales Tax or (ii) from the levy of privilege license or excise taxes of any kind, type or nature by taxing authorities other than the Municipality or (iii) from any increase in the Municipality Sales Tax enacted after the Date of Delivery.

Owner shall mean SCP at Liberty Park, LLC, and the successors and assigns thereof.

State shall mean the State of Alabama.

Total Municipality Tax Commitment shall mean the amount of Five Hundred Seventy-Five Thousand Dollars (\$575,000).

Warrant shall have the meaning set forth in Section 4.03.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

SECTION 2.01 The Municipality.

The Municipality hereby represents as follows:

(1) The Municipality has corporate power and authority to enter into this Agreement, pursuant to the Enabling Law and to carry out its obligations hereunder and by proper corporate action the Municipality has duly authorized the execution, delivery and performance of this Agreement.

(2) The Warrant shall be issued, sold and delivered upon condition, and purchased by the Owner thereof in the reliance, that this Agreement is enforceable against the Municipality in accordance with the terms hereof.

(3) The issuance of the Warrant and the application of the proceeds thereof for the purposes set forth in this Agreement (i) will result in direct financial benefits to the Municipality and (ii) will serve a valid and sufficient public purpose, notwithstanding any incidental benefit accruing to any private entity or entities.

(4) The Municipality represents and certifies that the indebtedness of the Municipality incurred pursuant to the Enabling Law is less than 50 percent of the assessed value of the taxable property in the Municipality as determined for state taxation for the fiscal year immediately preceding the Date of Delivery.

SECTION 2.02 The Owner.

The Owner hereby represents and warrants as follows:

(1) The Owner is duly organized and validly existing as a limited liability company under the laws of the State of Alabama and has duly authorized the execution, delivery and performance of this Agreement.

(2) The execution, delivery and performance of this Agreement by the Owner does not conflict with or result in a violation of any agreement, contract, instrument, order, writ, judgment or decree to which the Owner is a party or is subject.

(3) No consent or approval by, or filing with, any governmental authority in the State of Alabama is required for the execution or delivery of this Agreement by the Owner or for the full effectiveness or enforceability thereof under the laws of the State of Alabama.

(4) There is no action, suit, proceeding, inquiry or investigation pending before any court or governmental authority, or threatened in writing against or affecting the Owner, which involves the consummation of the transactions contemplated by, or the validity of, this Agreement.

ARTICLE 3

DURATION OF AGREEMENT

The obligations of the Municipality and the Owner hereunder shall arise on the Date of Validation and shall continue until the Date of Termination, except with respect to any specific agreement or covenant which by its terms expressly survives termination of this Agreement.

ARTICLE 4

AGREEMENTS AND OBLIGATIONS OF THE MUNICIPALITY

SECTION 4.01 Nature, Amount and Duration of Obligation of Municipality.

The Municipality and the Owner agree:

(1) Purpose. Pursuant to this Agreement, the Municipality has agreed to pay to the Owner of the Warrant in installments in arrears the Annual Economic Development Payments determined by the Municipality to be due and payable in accordance with the terms hereof.

(2) Limited Obligation. The obligation of the Municipality for the payment of the Warrant:

(a) is a limited obligation payable solely from the Annual Economic Development Payments;

(b) shall never constitute a general obligation, or a charge against the general credit or taxing powers, of the Municipality within the meaning of any constitutional provision or statutory limitation whatsoever;

(c) is subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality; and

(d) shall commence after the Date of Validation.

(3) Maximum Amount. The maximum amount the Municipality shall pay under this Agreement and the Warrant shall be limited to and shall not exceed the sum of (i) the Total Municipality Tax Commitment and (ii) the amounts due under Section 4.05.

(4) Duration and Termination. Anything in this Agreement or in the Warrant to the contrary notwithstanding, the Municipality shall have no obligation to pay any amount of Annual Economic Development Payments under this Agreement or the Warrant:

(a) prior to the Date of Validation; or

(b) after the first to occur of (i) March 31, 2027 or (ii) that date on which the Municipality shall have paid as Annual Economic Development Payments an aggregate amount not less than the Total Municipality Tax Commitment or (iii) termination of this Agreement by the Municipality under Section 6.02(2).

SECTION 4.02 Determination and Payment of Annual Economic Development Payments.

(1) In order to receive an Annual Economic Development Payment, the Owner shall execute and deliver to the Municipality, on or before January 31 in each year in which this Agreement is in effect, a certificate in form and of content as attached as Exhibit B hereto.

(2) The Municipality shall, on the Annual Payment Date, determine as provided herein, and pay to the Owner, the amount, if any, of the Annual Economic Development Payment due hereunder for the period referenced in such certificate.

(3) The Municipality will permit any attorneys, accountants or other agents or representatives designated by the Owner to visit and inspect any of the accounting systems, books of account, and financial records and properties of the Municipality which pertain to the Municipality Net Sales Tax Proceeds and the determination of Annual Economic Development Payments, all at reasonable business times and upon reasonable notice.

SECTION 4.03 The Warrant.

(1) The obligation of the Municipality to pay the Annual Economic Development Payments hereunder shall be evidenced by a limited obligation revenue warrant, payable solely from, and secured by a pledge of, the Annual Economic Development Payments, in form and of content as the form of warrant attached to this Agreement as Exhibit A (the "Warrant").

(2) The Warrant shall not bear interest, shall be issued in an aggregate principal amount not exceeding the Total Municipality Tax Commitment, shall be dated the date of delivery, and shall mature on the Date of Termination.

(3) The Warrant shall be duly executed, sealed, and attested by the Municipality, and shall be registered by the Municipality as a conditional claim against the Annual Economic Development Payments.

(4) The Warrant shall be registered and transferred as provided therein.

SECTION 4.04 Agreements of the Municipality.

(1) All proceedings of the governing body of the Municipality heretofore had and taken, and all ordinances and resolutions adopted pursuant thereto with respect to the levy and collection of the Municipality Sales Tax, are hereby ratified and confirmed in all respects from and after the effective date thereof.

(2) The Municipality covenants and agrees the Municipality shall, as long as this Agreement and the Warrant shall be outstanding, continue to levy and to provide for the assessment and collection of the privilege license and excise taxes which provide the Municipality Net Sales Tax Proceeds at rates not less than those in effect on the date of this Agreement.

SECTION 4.05 Payment of Certain Fees by the Municipality.

The City will pay (i) all fees and expenses of the City, including counsel therefor, in connection with the execution and delivery of this Agreement and the issuance of the Warrant and the validation thereof and (ii) the amount due to the State for a building permit for the facilities to be established in the City by the Owner.

ARTICLE 5

OBLIGATIONS OF THE OWNER

(1) The Owner hereby agrees to duly and punctually observe and perform all agreements thereof under this Agreement.

(2) The Owner shall use the proceeds of the Annual Economic Development Payments solely for the purpose of development and operation of the business interests of the Owner within the Municipality.

(3) (a) The Owner agrees to defend, protect, indemnify, and hold harmless the Municipality, its agents, employees, and members of its governing body, from and against all claims or demands, including actions or proceedings brought thereon, and all costs, expenses, and liabilities of any kind relating thereto, including reasonable attorneys fees and cost of suit, arising out of or resulting from any of the following, provided, however, that the foregoing indemnity will not extend to the negligent misconduct of the City, its agents, employees, and members of its governing body: (i) any construction activity performed by Owner, or anyone claiming by through, or under Owner; and (ii) any loss of life, personal injury, or damage to property arising from or in relation to the entry upon, construction, use, operation or occupancy of the Project, including, without limitation, tenants, customers and invitees of the Project and/or Owner.

(b) The agreements and covenants in this Article 5 shall survive the termination of this Agreement with respect to events or occurrences happening prior to or upon the termination of this Agreement and shall remain in full force and effect until commencement of an action with respect to any thereof shall be prohibited by law.

ARTICLE 6

EVENTS OF DEFAULT AND REMEDIES

SECTION 6.01 Events of Default.

Any one or more of the following shall constitute an event of default by the Municipality or the Owner hereunder (an "Event of Default") under this Agreement:

(1) default in the performance, or breach, of any covenant or warranty of the Municipality in this Agreement, including without limitation default in the payment of any Annual Economic Development Payments under Section 4.02 hereof, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Municipality by the Owner a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Municipality shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default; or

(2) default in the performance, or breach, of any covenant or warranty of the Owner in this Agreement, and the continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Owner by the Municipality a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "notice of default" hereunder, provided that if such default is of a kind which cannot reasonably be cured within such thirty-day period, the Owner shall have a reasonable period of time within which to cure such default, provided that it begins to cure the default promptly after its receipt of such written notice and proceeds in good faith, and with due diligence, to cure such default.

SECTION 6.02 Remedies.

(1) Each party hereto may proceed to protect its rights and interests by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of any other party herein contained or in aid of the exercise of any power or remedy available at law or in equity.

(2) Anything in this Agreement to the contrary notwithstanding, the Municipality may terminate this Agreement upon the occurrence of an Event of Default under Section 6.01(2), whereupon the Municipality shall have no further obligation hereunder.

SECTION 6.03 Remedies Subject to Applicable Law.

All rights, remedies and powers provided by this Agreement may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that the same will not render this Agreement invalid or unenforceable.

ARTICLE 7

PROVISIONS OF GENERAL APPLICATION

SECTION 7.01 Enforceability.

The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

SECTION 7.02 Prior Agreements Cancelled.

This Agreement shall completely and fully supersede all other prior agreements, both written and oral, by the parties hereto relating to the matters contained herein. None of the parties hereto shall hereafter have any rights under any of such prior agreements but shall look to this Agreement for definition and determination of all of their respective rights, liabilities and responsibilities relating to the matters contained herein.

SECTION 7.03 Counterparts.

This Agreement may be executed in counterparts, each of which shall constitute but one and the same agreement.

SECTION 7.04 Binding Effect; Governing Law.

- (1) This Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective successors and assigns except as otherwise provided herein.
- (2) This Agreement shall be governed exclusively by the laws of the State of Alabama.

SECTION 7.05 Notices.

(1) All notices, demands, consents, certificates or other communications hereunder shall be in writing, shall be sufficiently given and shall be deemed given when delivered personally to the party or to an officer of the party to whom the same is directed, or mailed by registered or certified mail, postage prepaid, or sent by overnight courier, addressed as follows:

- | | |
|-------------------------------|---------------------------|
| (a) if to the Municipality: | (b) if to the Owner: |
| City Hall | 1000 Urban Center Drive |
| 513 Montgomery Highway | Suite 675 |
| Vestavia Hills, Alabama 35216 | Birmingham, Alabama 35242 |

(2) Any such notice or other document shall be deemed to be received as of the date delivered, if delivered personally, or as of three (3) days after the date deposited in the mail, if mailed, or the next business day, if sent by overnight courier.

SECTION 7.06 Delegation and Assignment of this Agreement by Owner.

- (1) The Owner shall have no authority or power to, and shall not, delegate to any Person the duty or obligation to observe or perform any agreement or obligation of the Owner hereunder.
- (2) The Owner shall not have any authority or power to, and shall not, without the prior written consent of the Municipality (which shall not be unreasonably withheld, delayed or conditioned), assign or pledge to any Person any right of the Owner hereunder or any interest of the Owner herein.

SECTION 7.07 Amendments

This Agreement may be amended or supplemented only by an instrument in writing duly authorized, executed and delivered by each party hereto.

IN WITNESS WHEREOF, the Municipality has caused this Agreement to be executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and the Owner has executed this Agreement under seal, and the parties have caused this Agreement to be dated the date and year first above written.

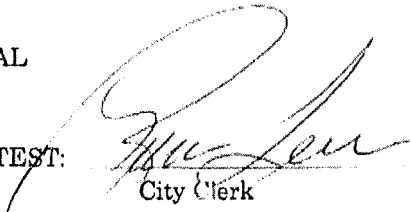
CITY OF VESTAVIA HILLS, ALABAMA

By _____ a; -o; _____

By _____

SEAL

ATTEST:



City Clerk

SCP 1 BERTY PARK, LLC

By / 2: _____ (Lfil

Its: M_____

EXHIBIT A
Form of Warrant

THIS WARRANT HAS NOT BEEN REGISTERED (i) UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON THE EXEMPTION PROVIDED BY SECTION 4(2) OF SAID ACT, OR (ii) UNDER ANY STATE SECURITIES LAW, IN RELIANCE UPON APPLICABLE EXEMPTIONS, AND MAY NOT BE TRANSFERRED WITHOUT REGISTRATION EXCEPT PURSUANT TO AN EXEMPTION THEREFROM.

THIS WARRANT DOES NOT BEAR INTEREST

UNITED STATES OF AMERICA
STATE OF ALABAMA

CITY OF VESTAVIA HILLS
LIMITED OBLIGATION ECONOMIC DEVELOPMENT REVENUE WARRANT
(SCP AT LIBERTY PARK, LLC)

No. R-1

DATED DATE:

-----, 2016

MATURITY DATE:

Date of Termination

The CITY OF VESTAVIA HILLS, a municipal corporation organized and existing under and by virtue of the laws of the State of Alabama (the "Issuer"), for value received, hereby acknowledges itself indebted to

SCP AT LIBERTY PARK, LLC

or registered assigns (collectively the "Owner") in a principal amount not exceeding

FIVE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS
(\$575,000)

as determined pursuant to the within-referenced Agreement, and hereby orders and directs the Finance Director of the Issuer to pay to the Owner, solely from the Annual Economic Development Payments deposited in the Warrant Fund hereinafter designated, said principal amount, without interest, on each Annual Payment Date, until and including the Maturity Date specified above.

Authority for Issuance

This Warrant is issued pursuant to the authority of the Constitution and laws of the State of Alabama, including particularly and without limitation Amendment No. 772 of the Constitution of Alabama of 1901, as amended (collectively the "Enabling Law"), and that certain Special Economic Development Agreement dated the above Dated Date (the "Agreement") by the Issuer and SCP at Liberty Park, LLC.

Capitalized terms used hereinbefore and hereinafter without definition shall have the respective meanings assigned thereto in the Agreement.

Reference is made to the provisions of the Agreement, to and by which all of which provisions the Owner, by acceptance of this Warrant, assents and agrees to be bound.

Payment

Payment of this Warrant shall be made to or as directed by the Owner; provided the final payment of principal of this Warrant shall be made only upon presentation and surrender of this Warrant to the Issuer for cancellation.

Each payment of principal made on this Warrant shall be reflected by the notations made by the Issuer on its internal records (which may be kept by computer or by other means determined by the Issuer) and the Issuer is hereby authorized so to record thereon all such payments. All payments of principal on this Warrant and the aggregate unpaid principal amount of this Warrant reflected on the internal records of the Issuer (whether by computer or otherwise) shall be rebuttably presumptive evidence of the principal amount of this Warrant outstanding and unpaid.

All payments of principal of this Warrant by the Issuer shall be made at par in such coin or currency of the United States of America as at the time of payment is legal tender for the payment of public and private debts, and shall be valid and effectual to satisfy and discharge the liability of the Issuer upon this Warrant to the extent of the amounts so paid.

The person in whose name this Warrant is registered shall be deemed and regarded as the absolute owner hereof for all purposes and payment of the principal of this Warrant shall be made only to or upon the order of the Owner hereof or his legal representative, and neither the Issuer nor any agent of the Issuer shall be affected by any notice to the contrary.

Security

This Warrant is a limited obligation of the Issuer payable solely from the Annual Economic Development Payments as provided in the Agreement.

The Annual Economic Development Payments are hereby pledged to the payment, and for the benefit, of this Warrant, subject to (i) all prior pledges of the Municipality Net Sales Tax Proceeds for the benefit of long term indebtedness of the Municipality and (ii) in accordance with Johnson v. Sheffield, 183 So. 265 (Ala. 1938), the law-imposed requirement that, if necessary, there must first be paid from all Municipality Net Sales Tax Proceeds (including without limitation the Annual Economic Development Payments) the legitimate and necessary governmental expenses of operating the Municipality.

This Warrant shall never constitute a charge against the general credit or taxing powers of the Issuer within the meaning of any constitutional provision or statutory limitation whatsoever.

The Issuer has established a special fund designated "Warrant Fund" (the "Warrant Fund") for the payment of this Warrant and has obligated itself to pay or cause to be paid into the Warrant Fund, solely from the Annual Economic Development Payments, sums sufficient to provide for the payment of this Warrant.

Prepayment and Redemption

The Issuer may, on any date, pay in advance the entire unpaid principal amount of this Warrant or any lesser portion or portions thereof by paying to the Owner the principal amount to be prepaid without premium or penalty.

Registration and Transfer

This Warrant is registered as to principal and interest in the name of the Owner on the book of registration maintained for that purpose by the Issuer.

This Warrant may be transferred only upon written direction of the registered owner or his legal representative, addressed to the Municipality, presentation of this Warrant to the Municipality accompanied by a written instrument of transfer, satisfactory to the Municipality, duly executed by the registered owner or his attorney duly authorized in writing, and compliance with Section 7.06 of the Agreement. Upon presentation of this Warrant to the Municipality for transfer, the Municipality shall record such transfer on the said book of registration and execute and deliver, in exchange for this Warrant, a new warrant or warrants of like tenor hereof, registered in the name of the transferee in an aggregate principal amount equal to the unpaid or unredeemed portion of the principal of this Warrant. No charge shall be made for the privilege of transfer, but the registered owner of this Warrant requesting any such transfer shall pay any tax or other governmental charge required to be paid with respect thereto.

General

No covenant or agreement contained in this Warrant or in the Agreement shall be deemed to be a covenant or agreement of any officer, agent, employee, or member of the governing body of the Issuer in the individual capacity thereof and none of such parties or persons nor any officer executing this Warrant shall be liable personally on this Warrant or be subject to any personal liability or accountability by reason of the issuance of this Warrant.

It is hereby recited, certified and declared that the indebtedness evidenced and ordered paid by this Warrant is lawfully due without condition, abatement or offset of any description, that this Warrant has been registered in the manner provided by law, that this Warrant represents a valid claim against the Warrant Fund, that all acts, conditions and things required by the Constitution and laws of the State of Alabama to happen, exist and be performed precedent to and in the execution, registration and issuance of this Warrant, the adoption of the resolution approving the Agreement, and the execution and delivery of the Agreement, have happened, do exist and have been performed in due time, form and manner as so required by law and that the principal amount of this Warrant, together with all other indebtedness of the Issuer, are within every debt and other limit prescribed by the Constitution and laws of the State of Alabama.

IN WITNESS WHEREOF, the Issuer, acting by and through the City Council of the Issuer, as the governing body thereof, has caused this Warrant to be executed in its name and on its behalf by the Mayor of the Issuer, has caused its corporate seal to be affixed hereto and the same attested by the City Clerk of the Issuer, and has caused this Warrant to be dated the date and year first above written.

CITY OF VESTAVIA HILLS, ALABAMA

By _____
Mayor

SEAL

Attest: _____
City Clerk

REGISTRATION CERTIFICATE

The undersigned hereby certifies that this Warrant has been duly registered as a conditional claim against the City of Vestavia Hills, in the State of Alabama, and the Warrant Fund referred to herein, and the Annual Economic Development Payments pledged to the payment hereof.

Finance Director of the City of Vestavia Hills,
Alabama

VALIDATION CERTIFICATE

Validated and confirmed by judgment of the Circuit Court of Jefferson County, State of Alabama entered on the _____ day of _____, 2016.

/s/ _____
Clerk of Circuit Court of Jefferson County,
State of Alabama

REGISTRATION OF OWNERSHIP

This Warrant is recorded and registered on the warrant register of the City of Vestavia Hills in the name of the last owner named below. The principal of this Warrant shall be payable only to or upon the order of such registered owner.

<u>Date of Registration</u>	<u>In Whose Name Registered</u>	<u>Signature of Authorized Officer of Issuer</u>
Dated Date	SCP at Liberty Park, LLC	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Assignment

For value received, _____ hereby sell(s), assign(s) and transfer(s) unto _____ this warrant and hereby irrevocably constitute(s) and appoint(s) _____ attorney to transfer this warrant on the books of the within named Issuer with full power of substitution in the premises.

Dated: _____

NOTE: The name signed to this assignment must correspond with the name of the payee written on the face of the within warrant in all respects, without alteration, enlargement or change whatsoever.

Signature Guaranteed:

(Bank or Trust Company)

By _____
(Authorized Officer)

EXHIBIT B

Request for Payment of Annual Economic Development Payments

Request for Payment of Annual Economic Development Payments

From: SCP at Liberty Park, LLC

To: City of Vestavia Hills, Alabama

Date: _____, 20__

Re: **Special Economic Development Agreement dated the Date of Delivery by City of Vestavia Hills, Alabama (the "Municipality") and SCP at Liberty Park, LLC (the "Owner").**

The undersigned, as Owner under the above Agreement, hereby requests payment to the Owner by the Municipality of the Annual Economic Development Payment, to be determined by the Municipality as provided in the Agreement, for the following period:

_____ 1, 20__ to _____ 1, 20__

and in connection therewith does hereby represent, warrant and certify to the Municipality as follows:

1. The total amount paid by the Owner to the Municipality pursuant to the levy of the Municipality Sales Tax for the above period is \$_____.
2. The Owner is in full compliance with the agreements and covenants thereof under the Agreement and no Event of Default, or any event which upon notice, or lapse of time, or both shall become an Event of Default, has occurred and is continuing.
3. The Agreement is in full force and effect.
4. The Owner is in full compliance with all applicable ordinances and regulations of the Municipality.

Capitalized terms used herein shall have the respective meanings assigned in the above Agreement.

In Witness Whereof, the undersigned Owner has caused this instrument to be executed in its name, under seal, by an officer thereof duly authorized thereunto.

SCP at Liberty Park, LLC
as Owner

By _____

Its _____

ORDINANCE NUMBER 2909

**ANNEXING CERTAIN TERRITORY TO THE
CORPORATE LIMITS OF THE CITY OF VESTAVIA
HILLS, ALABAMA.**

WHEREAS, on the 13th day of November, 2019, a petition was presented to the City Council of the City of Vestavia Hills, Alabama, proposing the annexation of certain property to the City of Vestavia Hills, Alabama, under the provisions of Act 32 of the Special Session on the Alabama Legislature of 1964; and

WHEREAS, the City Council of the City of Vestavia Hills, at the time and place of its regular meeting on said date, made a determination that the matters contained in the Petition were true and that it was in the public interest that said property be annexed to the City of Vestavia Hills, Alabama.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. That the following property which was described in said petition be annexed to the City of Vestavia Hills, Alabama:

2312 St. Joseph Road
Lot 22, St. Joseph Retreat
Vincent and Julie Poppalardo, Owner(s)

2. That this Annexation shall become effective upon the adoption and approval of this Ordinance in accordance with the provisions of law, after which the heretofore described property shall become a part of the City of Vestavia Hills, Alabama.

3. That the City Clerk be and is hereby directed to publish this Ordinance in accordance with the requirements of the law and to file a copy hereof with the Probate Judge of Jefferson County, Alabama.

ADOPTING and APPROVED this the 24th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

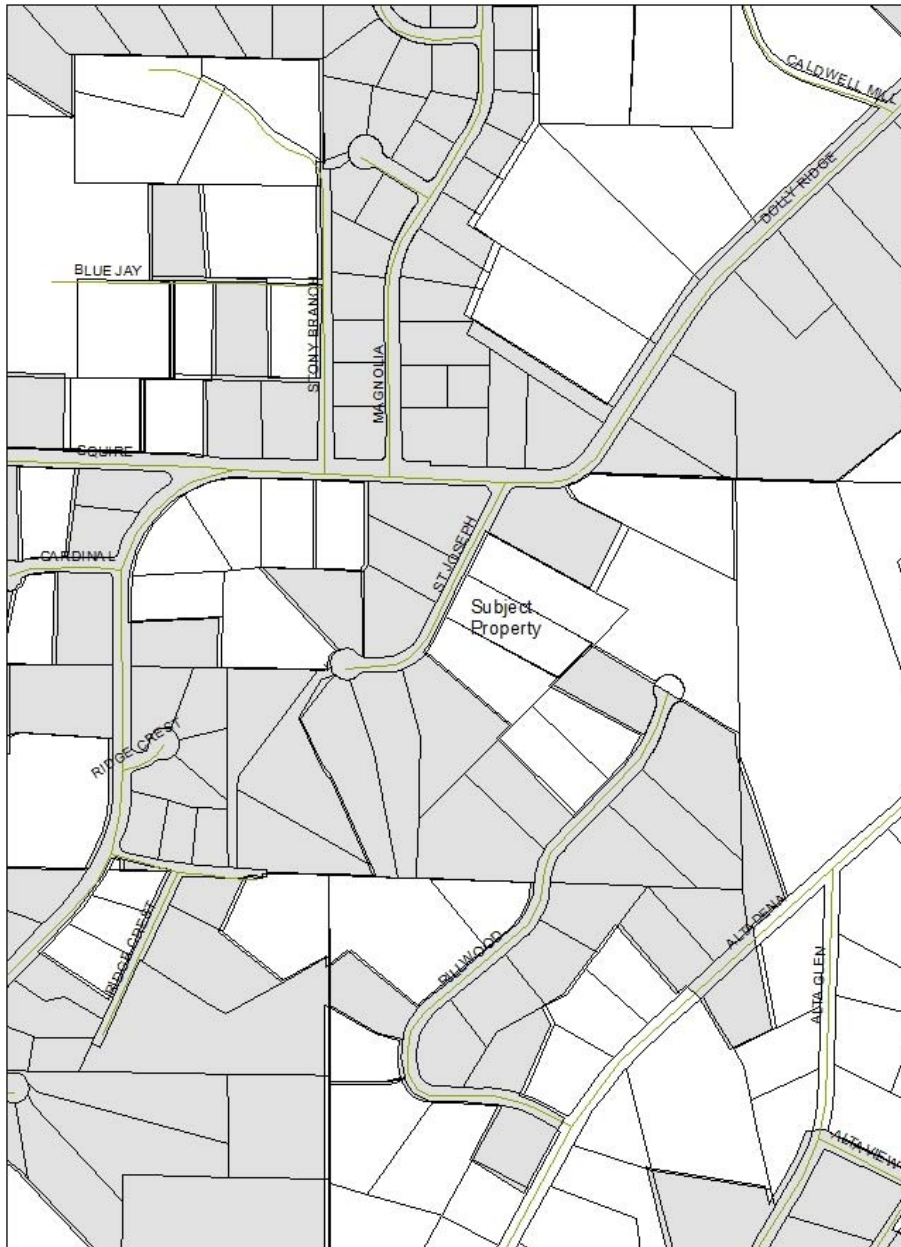
CERTIFICATION:

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 # 2909 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 24th day of February, 2020, 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 _____, 2020.

Rebecca Leavings
City Clerk

2312 St. Joseph Rd



PARCEL #: 28 00 28 4 001 004.000	[111-A-] Baths: 3.5 <small>2312 St. Joseph Road</small> H/C Sqrt: 4,263
OWNER: STEIN JEANNE M	18-012.0 Bed Rooms: 5 Land Sch: A114
ADDRESS: 2312 ST JOSEPH ROAD BIRMINGHAM AL 35243	Land: 240,000 Imp: 335,300 Total: 575,300
LOCATION: 2312 ST JOSEPH RD BHAM AL 35243	Acres: 0.000 Sales Info: 05/01/1977 \$175,000

<< Prev Next >> [1 / 0 Records]

Tax Year : 2019 ▼

SUMMARY

ASSESSMENT		VALUE	
PROPERTY CLASS: 2	OVER 65 CODE:	LAND VALUE 10%	\$0
EXEMPT CODE:	DISABILITY CODE:	LAND VALUE 20%	\$240,000
MUN CODE: 02 COUNTY	HS YEAR: 0	CURRENT USE VALUE	[DEACTIVATED] \$0
SCHOOL DIST:	EXM OVERRIDE AMT: \$0.00	<u>CLASS 2</u>	
OVR ASD VALUE: \$0.00	TOTAL MILLAGE: 50.1	BLDG 001	111 \$335,300
CLASS USE:		<u>CLASS 3</u>	
FOREST ACRES: 0	TAX SALE:	TOTAL MARKET VALUE [APPR. VALUE: \$575,300]:	\$575,300
PREV YEAR VALUE: \$586,900.00	BOE VALUE: 0	Assesment Override:	
		MARKET VALUE:	
		CU VALUE:	
		PENALTY:	
		ASSESSED VALUE:	

TAX INFO							
	CLASS	MUNCODE	ASSD. VALUE	TAX	EXEMPTION	TAX EXEMPTION	TOTAL TAX
STATE	2	2	\$115,060	\$747.89	\$0	\$0.00	\$747.89
COUNTY	2	2	\$115,060	\$1,553.31	\$0	\$0.00	\$1,553.31
SCHOOL	2	2	\$115,060	\$943.49	\$0	\$0.00	\$943.49
DIST SCHOOL	2	2	\$115,060	\$0.00	\$0	\$0.00	\$0.00
CITY	2	2	\$115,060	\$0.00	\$0	\$0.00	\$0.00
FOREST	2	2	\$0	\$0.00	\$0	\$0.00	\$0.00
SPC SCHOOL1	2	2	\$115,060	\$586.81	\$0	\$0.00	\$586.81
SPC SCHOOL2	2	2	\$115,060	\$1,933.01	\$0	\$0.00	\$1,933.01
ASSD. VALUE: \$115,060.00			\$5,764.51	GRAND TOTAL: \$5,764.51			
							Payoff Quote

DEEDS		PAYMENT INFO			
INSTRUMENT NUMBER	DATE	PAY DATE	TAX YEAR	PAID BY	AMOUNT
<u>2019066438</u>	6/25/2019		2019		\$0.00
<u>2019018108</u>	2/18/2019	1/4/2019	2018	STEIN JOHN	\$2,341.32
<u>3880-556</u>	08/21/1990	12/15/2017	2017	JOHN STEIN	\$2,341.32
		12/15/2016	2016	-	\$2,341.32
		12/11/2015	2015	JOHN STEIN	\$2,341.32
		12/10/2014	2014	JOHN STEIN	\$2,312.54
		12/21/2013	2013	-	\$2,299.46
		12/5/2012	2012	JOHN STEIN	\$2,299.03
		20111231	2011	***	\$2,517.94
		20101213	2010	***	\$2,517.94

Annexation Committee Petition Review

Property: 2312 St. Joseph Road

Owners: Vincent and Julie Pappalardo

Date: 10/17/2019

1. The property in question is contiguous to the city limits.
Yes No Comments: _____

2. The land use of the petitioned property is compatible with land use in the area.
Yes No Comments: _____

3. The property being petitioned is noted in the September 2006 Annexation Policy Task Force Report as an area of interest to the city for annexation.
Yes No Comments _____

4. Streets and drainage structures are in substantial compliance with city regulations and building codes, and in good condition at the time of the annexation.
Yes No Comments _____

5. Individual household has a Jefferson or Shelby County Tax Assessor minimum market value of 795,500. Meets city criteria: Yes No
Comment: _____
6. This street has fewer than 100% of the individual properties within the limits of the city
Yes No
Number of total homes 14 Number in city 10
7. Fire dues pursuant to Act #604 of the State of Alabama, and any other assessments on the property shall be the responsibility of the property owner, and their payment proven to the city.
Agreed to by petitioner: Yes No Comment _____

Property: 2312 St. Joseph Road

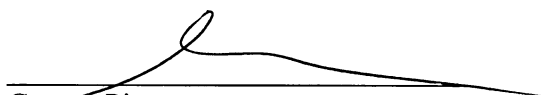
8. A non-refundable administrative fee of \$100 has been paid to the city.
Furthermore, voluntary contributions, including an application fee, of
\$ _____ will be paid to offset costs associated with the annexation.
Yes _____ No _____ Comment _____

9. Property is ~~free~~ and clear of hazardous waste, debris and materials.
Yes No _____ Comment _____

10. Are there any concerns from city departments?
Yes _____ No Comments: _____

11. Information on children: Number in family 2; Plan to enroll in VH
schools Yes _____ No _____ Comments: _____

Other Comments: _____


George Pierce
Chairman
10-17-19

CITY OF VESTAVIA HILLS
Department Review of Proposed Annexation
(To be completed by Official City Reviewers)

The following properties have requested to be annexed into the City. Please review this request and then forward your comments to the City Clerk as soon as is reasonably possible.

Location: 2312 St. Joseph Road

Engineering; Public Services

Date: 9/30/19 Initials: CBrady via email

2312 St. Joseph Road -- no significant concerns noted; roadway asphalt is in fair condition; some neighboring properties remain in Jefferson County, so it is anticipated roadway maintenance will continued to be shared with the County.

Police Department:

Date: 9-26-2019 Initials: cdw

Comments: No problems

Fire Department:

Date: 9-26-19 Initials: ZF

Comments: No Problems

Board of Education:

Date: 10/01/19 Initials: S Bendall

Comments: Acceptable under school numbers
(via email)

STATE OF ALABAMA

Jefferson COUNTY

PETITION FOR ANNEXATION TO THE
CITY OF VESTAVIA HILLS, ALABAMA

Date of Petition: 6-25-2019

To the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama:

We, the undersigned owners of the properties set out in red outline in Exhibit "A" attached hereto, which properties are contiguous to the City limits of the City of Vestavia Hills, Alabama, under the authority of Act No. 32 of the Special Session of the Alabama Legislature of 1964, do hereby petition the City of Vestavia Hills, Alabama, that the properties set out in red outline in Exhibit "A" attached, situated in Jefferson County, Alabama, be annexed to the City of Vestavia Hills, Alabama. The metes and bounds description of the boundary of the property of the undersigned proposed to be annexed is also set out on said Exhibit "A" and a map showing in red the property proposed for annexation by this petition is also attached and made a part hereof.

The undersigned petitioners do further petition that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, set a date for the hearing of this petition and any objections in writing to the petition or protest, on a date certain and that no less than ninety (90) days before said date certain for said hearing on this petition, that a notice of said hearing along with this petition be published in a newspaper of general circulation in Jefferson County, Alabama.

We, the undersigned petitioners do also ask that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, do all things necessary and requisite to comply with the terms of Act No. 32 of the Special Session of the Alabama Legislature of 1964.

(205) 253-3699

vinniepappalardo@gmail.com

EXHIBIT "A"

LOT: 22

BLOCK: _____

SURVEY: St. Joseph Retreat

RECORDED IN MAP BOOK 100, PAGE 84 IN THE
PROBATE OFFICE OF Jefferson COUNTY, ALABAMA.

COUNTY ZONING: JCE1

COMPATIBLE CITY ZONING: VHE2

LEGAL DESCRIPTION (METES AND BOUNDS):

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, or caused these presents to be executed by their duly authorized representatives, with full authority.

<u>SIGNATURE(S)</u>	<u>DESCRIPTION OF PROPERTY</u>
<u>Julie & Giuseppe Appalardo</u>	Lot <u>22</u> Block _____ Survey <u>St. Joseph Retreat</u>
<u>[Signature]</u>	Lot <u>22</u> Block _____ Survey <u>St. Joseph Retreat</u>
_____	Lot _____ Block _____ Survey _____

(Use reverse side hereof for additional signatures and property descriptions, if needed).

STATE OF ALABAMA

Jefferson COUNTY

Vincenzo Appalardo being duly sworn says: I am one of the persons who signed the above petition, and I certify that said petition contains the signatures of all the owners of the described property.

[Signature]
Signature of Certifier

Subscribed and sworn before me this the 21st day of June, 2019.

[Signature]
Notary Public

My commission expires: 1/17/2021

THOMAS A JOHNSON
Notary Public, Alabama State At Large
My Commission Expires Jan. 17, 2021

EXHIBIT "B"

VESTAVIA HILLS BOARD OF EDUCATION

**1204 Montgomery Highway
Vestavia Hills AL 35216**

(To be completed by the City)

Date of Annexation Petition _____ Action Taken: Grant _____
Deny _____
Resolution: Date: _____ Number: _____
Overnight Ordinance: Date: _____ Number: _____
90 Day Final Ordinance: Date: _____ Number: _____

(To be completed by Homeowner)

Name(s) of Homeowner(s): Vincent + Julie Harper Pappalardo
Address: 2312 St. Joseph Rd
City: Birmingham State: AL Zip: 35243

Information on Children:

**Plan to Enroll In
Vestavia Hills School?**

	Name(s)	Age	School Grade	Yes	No
1.	<u>Luke Pappalardo</u>	<u>14</u>	<u>9</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	<u>Claire Pappalardo</u>	<u>13</u>	<u>8</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3.					
4.					
5.					
6.					

Approximate date for enrolling students in Vestavia Hills City Schools if above response is "yes". Already Enrolled.

ORDINANCE NUMBER 2910

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM JEFFERSON COUNTY E-1 TO VESTAVIA HILLS E-2

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Jefferson County E-1 (estate residential district) to Vestavia Hills E-2 (estate residential district):

2312 St. Joseph Road
Lot 22, St. Joseph Retreat
Vincent and Julie Pappalardo, Owners

APPROVED and ADOPTED this the 24th day of February, 2020.

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 # 2910 is a true and correct copy of such 24th day of February, 2020, 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 _____, 2020.

Rebecca Leavings
City Clerk

2312 St. Joseph Rd



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

Date: **JANUARY 9, 2020**

- **CASE: P-0120-01**
- **REQUESTED ACTION:** Rezoning JC E-1 to Vestavia Hills E-2
- **ADDRESS/LOCATION:** 2312 St. Joseph Rd.
- **APPLICANT/OWNER:** Vincent & Julie Harper Pappalardo
- **GENERAL DISCUSSION:** This is a compatible rezoning of annexed property on St. Joseph Dr. from JC E-1 to VH-E-2. Property was annexed overnight by Ordinance 2881 on 11/13/19.
- **VESTAVIA HILLS COMPREHENSIVE PLAN:** The request is consistent with the plan for low density residential.
- **STAFF REVIEW AND RECOMMENDATION:**

1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

City Planner Recommendation: No recommendation

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

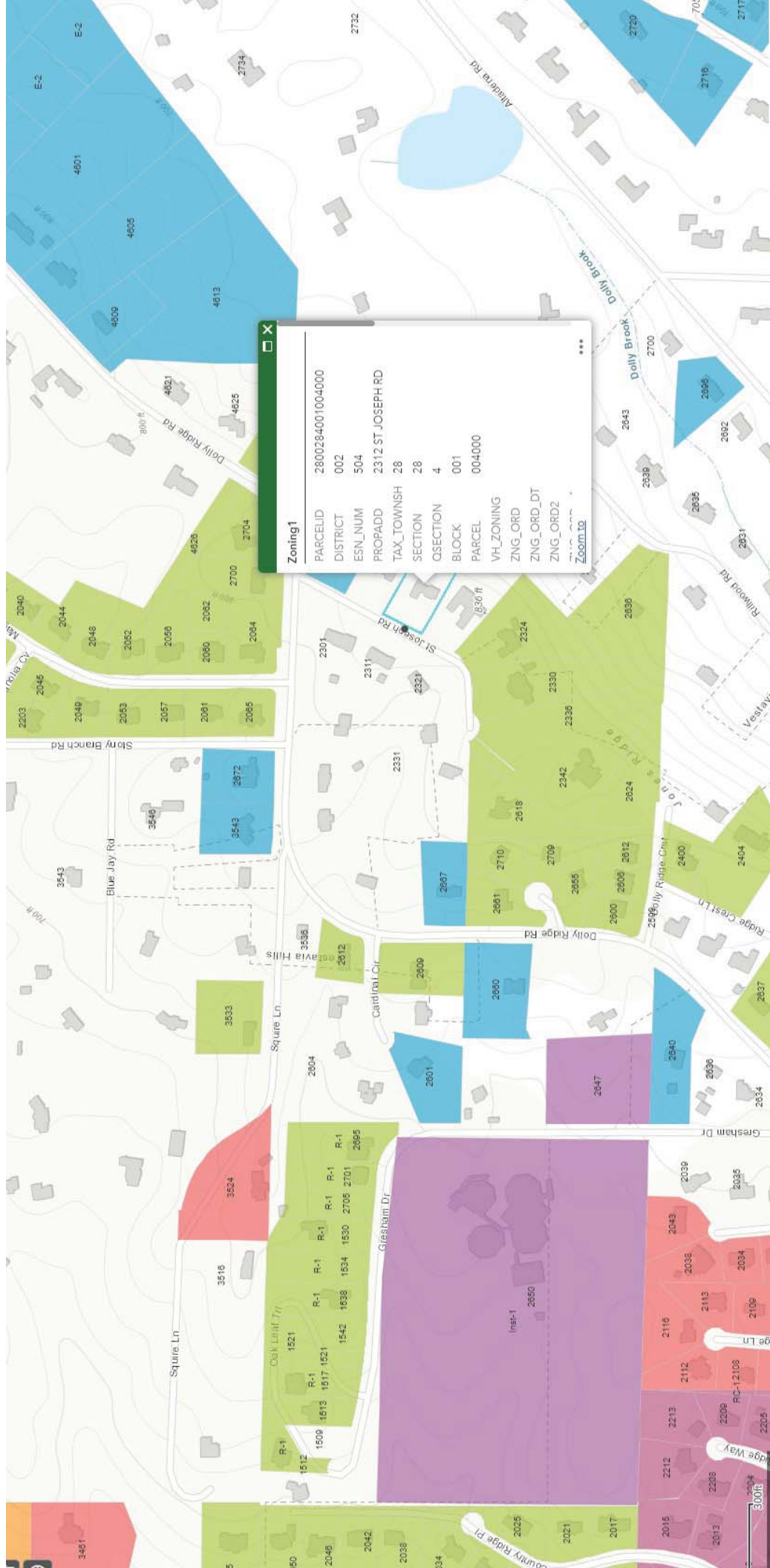
MOTION Mr. Weaver made a motion to recommend Rezoning from JC E-1 to Vestavia Hills E-2 for the property located At 2312 St. Joseph Rd. Second was by Mr. Romeo. Motion was carried on a roll call; vote as follows:

Mr. Vercher – yes

Ms. Cobb– yes

Mr. Sykes– yes
Mr. Goodwin – yes
Mr. Larson – yes
Motion carried.

Mr. Romeo – yes
Mr. Weaver – yes



Zoning1

PARCELID	2800284001004000
DISTRICT	002
ESN_NUM	504
PROPADD	2312 ST JOSEPH RD
TAX_TOWNSH	28
SECTION	28
CSECTON	4
BLOCK	001
PARCEL	004000
VH_ZONING	
ZNG_ORD	
ZNG_ORD_DT	
ZNG_ORD2	

Zoom to

ORDINANCE NUMBER 2911

**ANNEXING CERTAIN TERRITORY TO THE
CORPORATE LIMITS OF THE CITY OF VESTAVIA
HILLS, ALABAMA.**

WHEREAS, on the 13th day of November, 2019, a petition was presented to the City Council of the City of Vestavia Hills, Alabama, proposing the annexation of certain property to the City of Vestavia Hills, Alabama, under the provisions of Act 32 of the Special Session on the Alabama Legislature of 1964; and

WHEREAS, the City Council of the City of Vestavia Hills, at the time and place of its regular meeting on said date, made a determination that the matters contained in the Petition were true and that it was in the public interest that said property be annexed to the City of Vestavia Hills, Alabama.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows:

1. That the following property which was described in said petition be annexed to the City of Vestavia Hills, Alabama:

2637 Alta Glen Drive
Jimit Parekh and Pallavi Shah, Owner(s)

More Particularly Described As Follows:

Begin at the NE corner of the SW $\frac{1}{4}$ of NE $\frac{1}{4}$, Section 33, Township 18 South, Range 2 West, thence an angle to the left 85° 55' and run West along the North line of said quarter-quarter section for 374.95 feet to the Easterly line of County Road; thence an angle to the left of 64° 10' and Southwesterly along the Easterly line of said road for 956 feet to the point of beginning; thence turn an angle to the left of 89° 31' and run Southeast 435.60 feet, thence turn an angle to the right and run along a line parallel to the road in a Southwesterly direction for 200 feet; thence turn an angle to the right and run in a Northwesterly direction along a One parallel to the aforesaid 435.60 feet length to the East line of said road; thence an angle to the right and run in a Northeasterly direction along said road to the point of beginning. Situated in Jefferson County, Alabama, Birmingham Division.

2. That this Annexation shall become effective upon the adoption and approval of this Ordinance in accordance with the provisions of law, after which the heretofore described property shall become a part of the City of Vestavia Hills, Alabama.

3. That the City Clerk be and is hereby directed to publish this Ordinance in accordance with the requirements of the law and to file a copy hereof with the Probate Judge of Jefferson County, Alabama.

ADOPTING and APPROVED this the 24th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

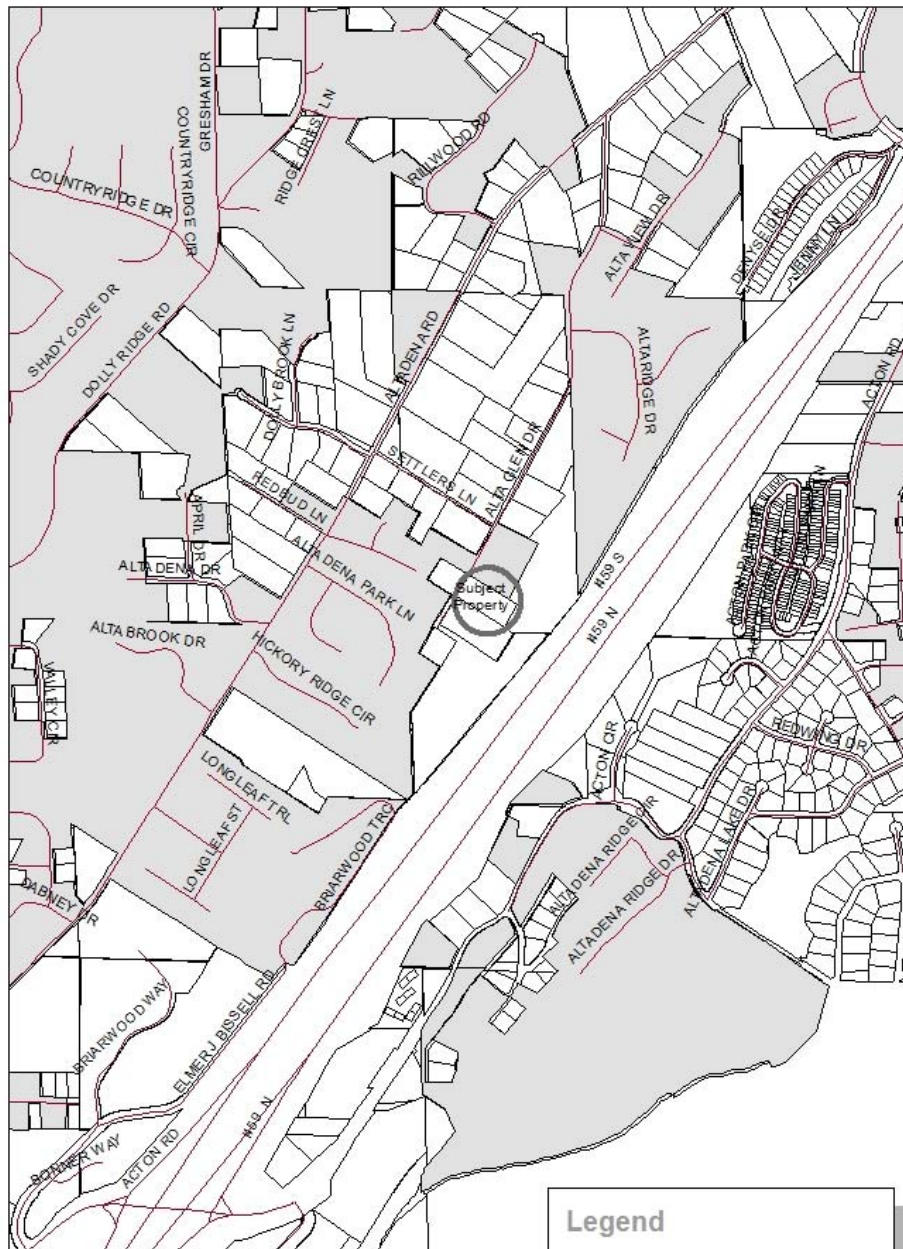
CERTIFICATION:

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 # 2911 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 24th day of February, 2020, 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 _____, 2020.

Rebecca Leavings
City Clerk

2637 Alta Glen Drive



Legend

■ Vestavia Hills City Limits

PARCEL #: 28 00 33 1 001 006.000	[111-B-] Baths: 5.0 H/C Sqft: 5,829
OWNER: GRAY BRADLEY & NANCY	18-013.0 Bed Rooms: 6 Land Sch: A114
ADDRESS: 2637 ALTA GLEN DR VESTAVIA AL 35243-4509	Land: 166,900 Imp: 398,500 Total: 565,400
LOCATION: 2637 ALTA GLEN DR BHAM AL 35243	Acres: 0.000 Sales Info: 06/01/2006 \$485,000

<< Prev Next >> [1 / 0 Records]

Tax Year : 2019 ▼

SUMMARY

ASSESSMENT		VALUE	
PROPERTY CLASS: 3	OVER 65 CODE:	LAND VALUE 10%	\$166,920
EXEMPT CODE: 2-2	DISABILITY CODE:	LAND VALUE 20%	\$0
MUN CODE: 01 COUNTY	HS YEAR: 0	CURRENT USE VALUE [DEACTIVATED]	\$0
SCHOOL DIST:	EXM OVERRIDE AMT: \$0.00	<u>CLASS 2</u>	
OVR ASD VALUE: \$0.00	TOTAL MILLAGE: 50.1	<u>CLASS 3</u>	
CLASS USE:		BLDG 001	111 \$398,500
FOREST ACRES: 0	TAX SALE:	TOTAL MARKET VALUE [APPR. VALUE: \$565,400]:	\$565,420
PREV YEAR VALUE: \$663,500.00	BOE VALUE: 0	Assesment Override:	
		MARKET VALUE:	
		CU VALUE:	
		PENALTY:	
		ASSESSED VALUE:	

TAX INFO							
	CLASS	MUNCODE	ASSD. VALUE	TAX	EXEMPTION	TAX EXEMPTION	TOTAL TAX
STATE	3	1	\$56,540	\$367.51	\$4,000	\$26.00	\$341.51
COUNTY	3	1	\$56,540	\$763.29	\$2,000	\$27.00	\$736.29
SCHOOL	3	1	\$56,540	\$463.63	\$0	\$0.00	\$463.63
DIST SCHOOL	3	1	\$56,540	\$0.00	\$0	\$0.00	\$0.00
CITY	3	1	\$56,540	\$0.00	\$0	\$0.00	\$0.00
FOREST	3	1	\$0	\$0.00	\$0	\$0.00	\$0.00
SPC SCHOOL1	3	1	\$56,540	\$288.35	\$0	\$0.00	\$288.35
SPC SCHOOL2	3	1	\$56,540	\$949.87	\$0	\$0.00	\$949.87
ASSD. VALUE: \$56,540.00						TOTAL FEE & INTEREST: (Detail)	\$5.00
				\$2,832.65	GRAND TOTAL: \$2,784.65		
							Payoff Quote

DEEDS		PAYMENT INFO			
INSTRUMENT NUMBER	DATE	PAY DATE	TAX YEAR	PAID BY	AMOUNT
<u>200611-6591</u>	06/29/2006		2019		\$0.00
<u>200107-8309</u>	06/15/2001	12/26/2018	2018	CADENCE BANK	\$3,276.64
		12/12/2017	2017	GRAY BRADLEY	\$3,125.33
		11/21/2016	2016	CORELOGIC	\$3,050.18
		12/1/2015	2015	CORELOGIC INC	\$3,050.18
		12/2/2014	2014	CORELOGIC INC	\$2,769.62
		11/19/2013	2013	CORELOGIC INC	\$2,769.62
		11/21/2012	2012	CENTRAL MORTGAGE CO	\$2,989.06
		20111231	2011	***	\$3,042.17
		20101231	2010	***	\$3,031.15

Annexation Committee Petition Review

Property: 2637 Alta Glen Drive

Owners: ~~Bradley and Nancy Gray~~ Sinit Parikh & Pallavi Shah

Date: 10/17/2019

1. The property in question is contiguous to the city limits.
Yes No Comments: _____

2. The land use of the petitioned property is compatible with land use in the area.
Yes No Comments: _____

3. The property being petitioned is noted in the September 2006 Annexation Policy Task Force Report as an area of interest to the city for annexation.
Yes No Comments _____

4. Streets and drainage structures are in substantial compliance with city regulations and building codes, and in good condition at the time of the annexation.
Yes No Comments _____

5. Individual household has a Jefferson or Shelby County Tax Assessor minimum market value of 565,420. Meets city criteria: Yes No
Comment: _____
6. This street has fewer than 100% of the individual properties within the limits of the city
Yes No
Number of total homes 20 Number in city 7
7. Fire dues pursuant to Act #604 of the State of Alabama, and any other assessments on the property shall be the responsibility of the property owner, and their payment proven to the city.
Agreed to by petitioner: Yes No Comment _____

Property: 2637 Alta Glen Drive

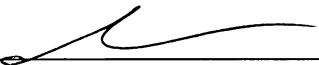
8. A non-refundable administrative fee of \$100 has been paid to the city. Furthermore, voluntary contributions, including an application fee, of \$ _____ will be paid to offset costs associated with the annexation.
Yes No Comment _____

9. Property is free and clear of hazardous waste, debris and materials.
Yes No Comment _____

10. Are there any concerns from city departments?
Yes No Comments: _____

11. Information on children: Number in family 2; Plan to enroll in VH schools Yes No Comments: _____

Other Comments: _____



George Pierce
Chairman 10-17-19

CITY OF VESTAVIA HILLS

*Department Review of Proposed Annexation
(To be completed by Official City Reviewers)*

The following properties have requested to be annexed into the City. Please review this request and then forward your comments to the City Clerk as soon as is reasonably possible.

Location: 2637 Alta Glen Drive

Engineering; Public Services

Date: 9/30/19 Initials: C Brady (via email)

2637 Alta Glen Drive -- no significant concerns noted; this roadway and other area roadways are narrow and in poor to fair condition; we would request any redevelopment of the property to consider some road widening or shoulder improvements to improve pre-existing conditions; currently, this section of roadway is maintained by Jefferson County.

Police Department:

Date: 9/26/2019 Initials: clw

Comments: No problem

Fire Department:

Date: 9/26/19 Initials: _____

Comments: No problem

Board of Education:

Date: 10/01/19 Initials: S Bendall

Comments: Acceptable under school numbers
(via email)

STATE OF ALABAMA

Jefferson

COUNTY

**PETITION FOR ANNEXATION TO THE
CITY OF VESTAVIA HILLS, ALABAMA**

Date of Petition: 09/01/2019

To the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama:

We, the undersigned owners of the properties set out in red outline in Exhibit "A" attached hereto, which properties are contiguous to the City limits of the City of Vestavia Hills, Alabama, under the authority of Act No. 32 of the Special Session of the Alabama Legislature of 1964, do hereby petition the City of Vestavia Hills, Alabama, that the properties set out in red outline in Exhibit "A" attached, situated in Jefferson County, Alabama, be annexed to the City of Vestavia Hills, Alabama. The metes and bounds description of the boundary of the property of the undersigned proposed to be annexed is also set out on said Exhibit "A" and a map showing in red the property proposed for annexation by this petition is also attached and made a part hereof.

The undersigned petitioners do further petition that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, set a date for the hearing of this petition and any objections in writing to the petition or protest, on a date certain and that no less than ninety (90) days before said date certain for said hearing on this petition, that a notice of said hearing along with this petition be published in a newspaper of general circulation in Jefferson County, Alabama.

We, the undersigned petitioners do also ask that the Honorable Mayor and City Council of the City of Vestavia Hills, Alabama, do all things necessary and requisite to comply with the terms of Act No. 32 of the Special Session of the Alabama Legislature of 1964.

205-356-4263

JIMIT PALLAVI@GMAIL.COM

EXHIBIT "A"

LOT: See attached property tax record _____

BLOCK: _____

SURVEY: _____

RECORDED IN MAP BOOK _____, PAGE _____ IN THE
PROBATE OFFICE OF Jefferson COUNTY, ALABAMA.

COUNTY ZONING: E1

COMPATIBLE CITY ZONING: _____

LEGAL DESCRIPTION (METES AND BOUNDS):

COM INTER S/L OF NE 1/4 & SE R/W ALTA GLEN DR TH NE ALONG R/W 305 FT TO
BEG TH CONT NE ALONG R/W 195 FT TH SE 435 FT TH SW 200 FT TH NW 435 FT TO
POB

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals, or caused these presents to be executed by their duly authorized representatives, with full authority.

SIGNATURE(S)

DESCRIPTION OF PROPERTY

_____ Lot _____ Block _____ Survey See attached property tax record

_____ Lot _____ Block _____ Survey See attached property tax record

_____ Lot _____ Block _____ Survey _____

(Use reverse side hereof for additional signatures and property descriptions, if needed).

STATE OF ALABAMA

Jefferson _____ **COUNTY**

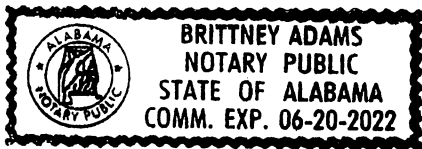
Jimit Parekh

_____ being duly sworn says: I am one of the persons who signed the above petition, and I certify that said petition contains the signatures of all the owners of the described property.



Signature of Certifier

Subscribed and sworn before me this the 13 day of September, 2019.





Notary Public

My commission expires: 06/20/2022

EXHIBIT "B"

VESTAVIA HILLS BOARD OF EDUCATION

**1204 Montgomery Highway
 Vestavia Hills AL 35216**

(To be completed by the City)

Date of Annexation Petition _____ Action Taken: Grant _____
 Deny _____
 Resolution: Date: _____ Number: _____
 Overnight Ordinance: Date: _____ Number: _____
 90 Day Final Ordinance: Date: _____ Number: _____

(To be completed by Homeowner)

Name(s) of Homeowner(s): Jimit Parekh & Pallavi Shah

Address: 2637 Alta Glen Drive

City: Vestavia State: AL Zip: 35243

Information on Children:

**Plan to Enroll In
 Vestavia Hills School?**

	Name(s)	Age	School Grade	Yes	No
1.	Rohan Parekh <i>Currently at Pizitz Middle School</i>	13	7 th Grade	✓	
2.	Akash Parekh <i>Currently at Dolly Ridge Elementary</i>	10	5 th Grade	✓	
3.					
4.					
5.					
6.					

Approximate date for enrolling students in Vestavia Hills City Schools if above response is "yes": already enrolled

ORDINANCE NUMBER 2912

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM JEFFERSON COUNTY E-1 TO VESTAVIA HILLS E-2

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Jefferson County E-1 (estate residential district) to Vestavia Hills E-2 (estate residential district):

2637 Alta Glen Drive
Jimit Parekh and Pallavi Shah, Owners

More Particularly Described As Follows:

Begin at the NE corner of the SW¹/₄ of NE¹/₄, Section 33, Township 18 South, Range 2 West, thence an angle to the left 85° 55' and run West along the North line of said quarter-quarter section for 374.95 feet to the Easterly line of County Road; thence an angle to the left of 64° 10' and Southwesterly along the Easterly line of said road for 956 feet to the point of beginning; thence turn an angle to the left of 89° 31' and run Southeast 435.60 feet, thence turn an angle to the right and run along a line parallel to the road in a Southwesterly direction for 200 feet; thence turn an angle to the right and run in a Northwesterly direction along a line parallel to the aforesaid 435.60 feet length to the East line of said road; thence an angle to the right and run in a Northeasterly direction along said road to the point of beginning. Situated in Jefferson County, Alabama, Birmingham Division.

APPROVED and ADOPTED this the 24th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

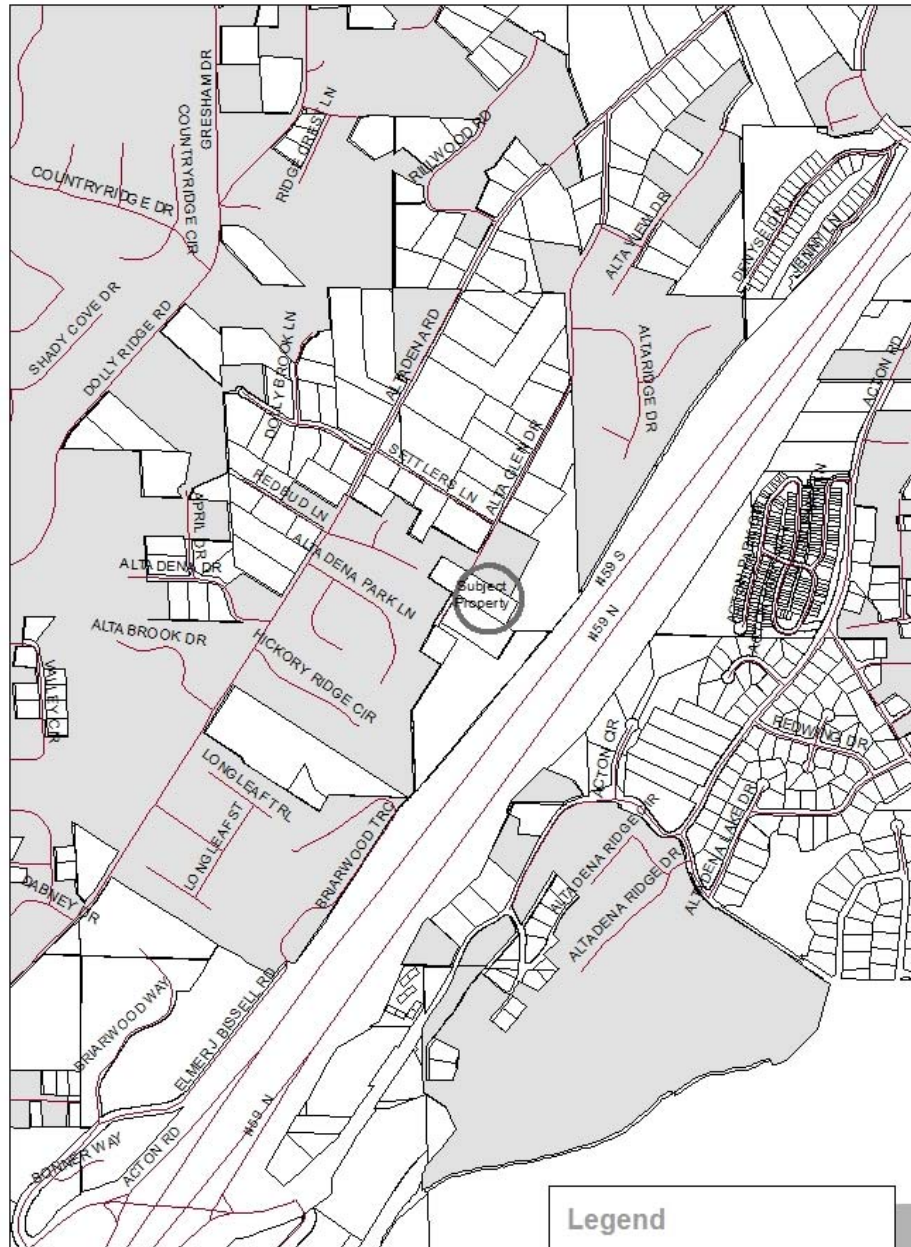
CERTIFICATION:

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 # 2912 is a true and correct copy of such 24th day of February, 2020, 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 _____, 2020.

Rebecca Leavings
City Clerk

2637 Alta Glen Drive



Legend

	Vestavia_Hills_City_Limits
--	----------------------------

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

Date: **JANUARY 9, 2020**

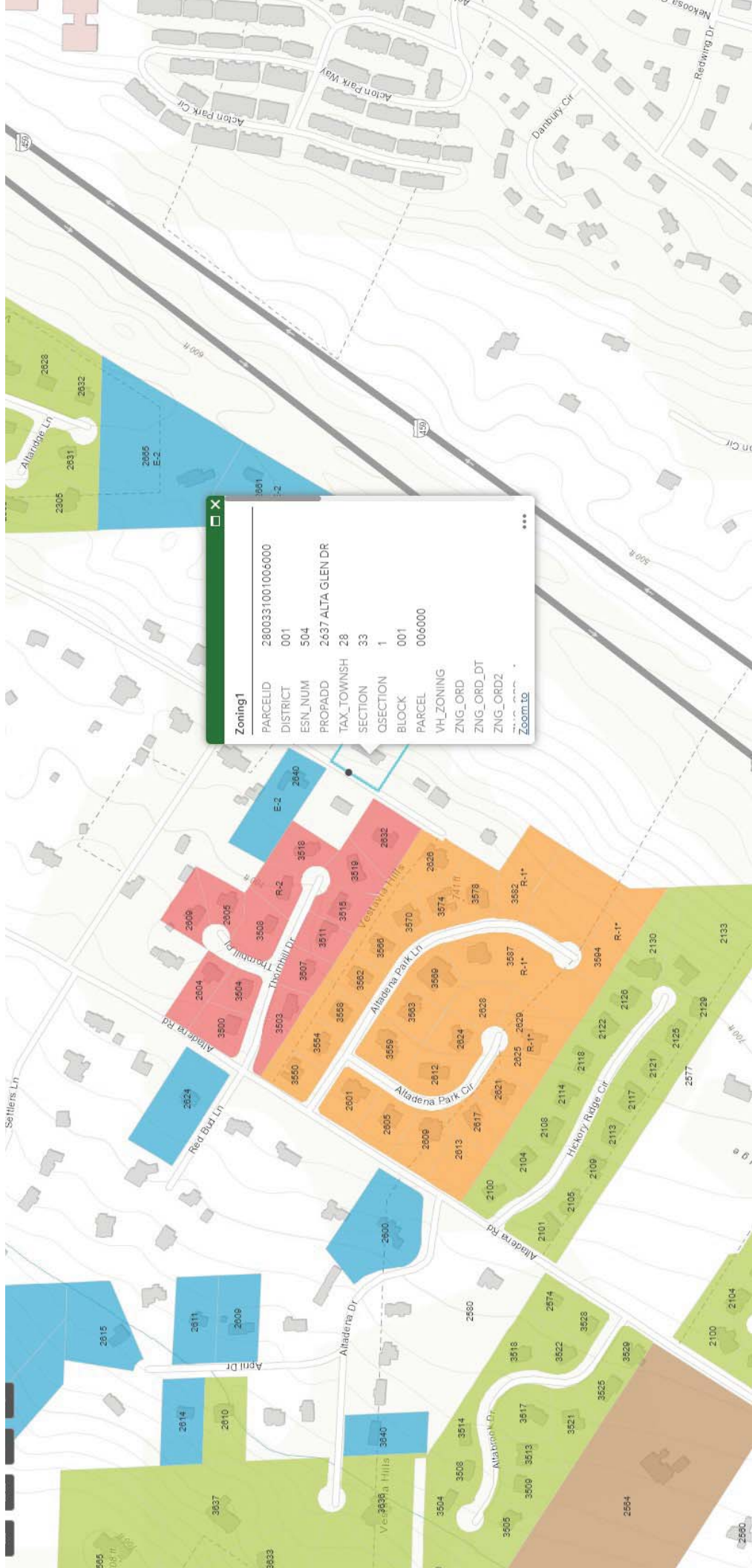
- **CASE: P-0120-02**
- **REQUESTED ACTION:** Rezoning JC E-1 to Vestavia Hills E-2
- **ADDRESS/LOCATION:** 2637 Alta Glen Dr.
- **APPLICANT/OWNER:** Jimit Parekh & Pallavi Shah
- **GENERAL DISCUSSION:** This is a compatible rezoning of annexed property on Alta Glen Dr. from JC E-1 to VH-E-2. Property was annexed overnight by Ordinance 2883 on 11/13/19.
- **VESTAVIA HILLS COMPREHENSIVE PLAN:** The request is consistent with the plan for low density residential.
- **STAFF REVIEW AND RECOMMENDATION:**
 1. **City Planner Review:** I have looked at all of the relevant zoning / subdivision requirements related to this proposal, including application, notification, setbacks, area of lot development, etc. Notification has been sent to property owners pursuant to Alabama law. I have reviewed this request and find it does meet the minimum requirements of the proposed zoning.

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

MOTION Ms. Cobb made a motion to recommend Rezoning from JC E-1 to Vestavia Hills E-2 for the property located At 2637 Alta Glen Dr. Second was by Mr. Weaver. Motion was carried on a roll call; vote as follows:

Mr. Vercher – yes
Mr. Sykes– yes
Mr. Goodwin – yes
Mr. Larson – yes
Motion carried.

Ms. Cobb– yes
Mr. Romeo – yes
Mr. Weaver – yes



Zoning1

PARCELID	2800331001006000
DISTRICT	001
ESN_NUM	504
PROPADD	2637 ALTA GLEN DR
TAX_TOWNSH	28
SECTION	33
OSECTION	1
BLOCK	001
PARCEL	006000
VH_ZONING	
ZNG_ORD	
ZNG_ORD_DT	
ZNG_ORD2	

Zoom In

ORDINANCE NUMBER 2913

AN ORDINANCE TO FURTHER AMEND THE ZONING ORDINANCE AND THE ZONING MAP OF THE CITY OF VESTAVIA HILLS, ALABAMA, ADOPTED SEPTEMBER 16, 1985, AND AS LAST AMENDED SO AS TO CHANGE THE CLASS OF DISTRICT ZONING OF PROPERTY FROM VESTAVIA HILLS R-2 AND O-1 TO VESTAVIA HILLS B-1.2

BE IT ORDAINED by the City Council of the City of Vestavia Hills, Alabama, as follows: That the Zoning Ordinance and Zoning Map of the City of Vestavia Hills, Alabama, adopted September 16, 1985, and as last amended so as to change the class of district zoning of the following described property from Vestavia Hills R-2 (medium density residential district) and O-1 (office park district) to Vestavia Hills B-1.2 (neighborhood mixed use district):

312 Montgomery Highway and 1990 Southwood Road
Lot 49, Beacon Hills (north and south portion)
Oksana Senyk, MD, PhD, Owner

BE IT FURTHER ORDAINED that said zoning is conditioned upon the following: (1) On street parking shall be prohibited on Southwood Road; and (2) there shall be no elevated lighting.

APPROVED and ADOPTED this the 24th day of February, 2020.

Ashley C. Curry
Mayor

ATTESTED BY:

Rebecca Leavings
City Clerk

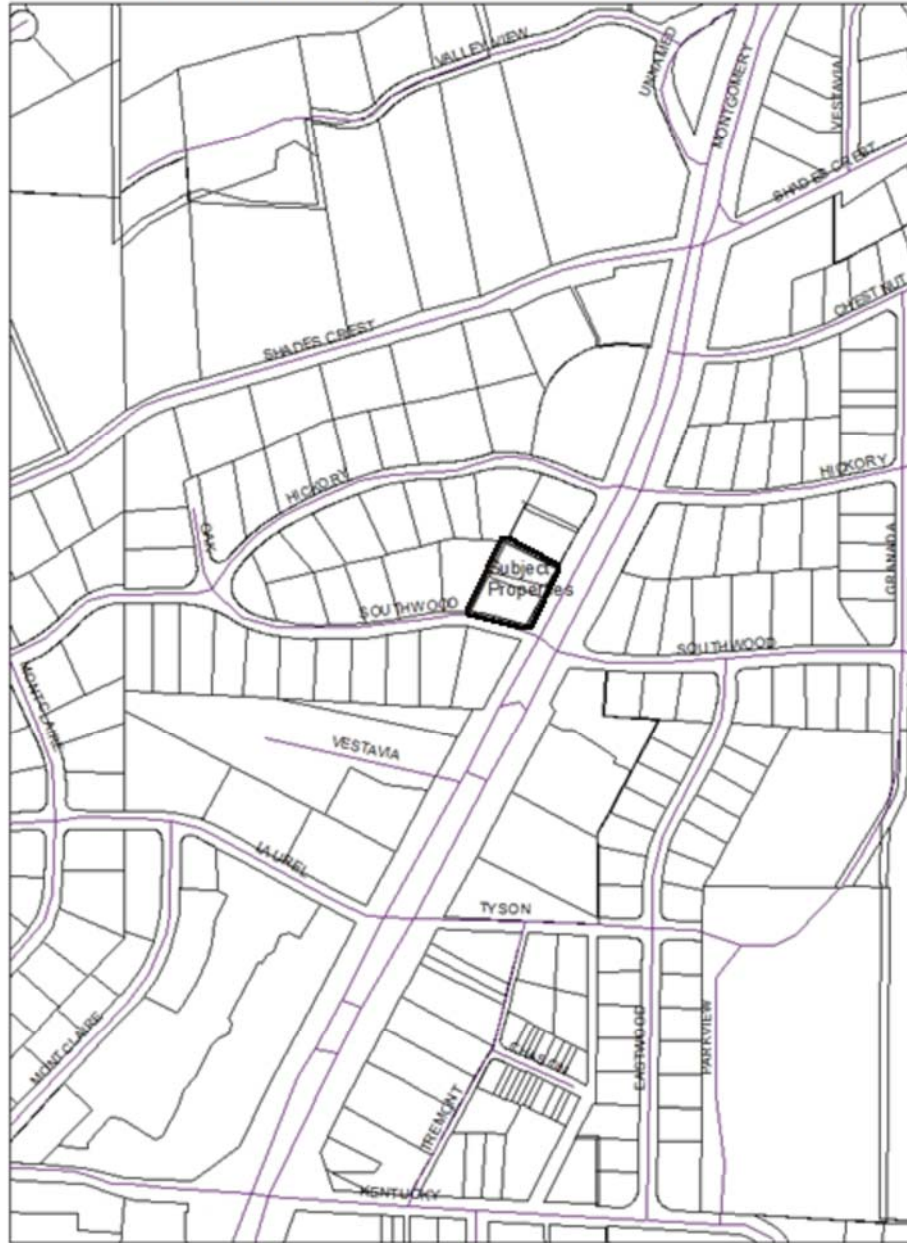
CERTIFICATION:

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 # 2913 is a true and correct copy of such 24th day of February, 2020, 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 _____, 2020.

Rebecca Leavings
City Clerk

312 Mont Hwy & 1990 Southwood Rd



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

Date: **JANUARY 9, 2020**

- **CASE: P-0120-03**
- **REQUESTED ACTION:** Rezoning from Vestavia Hills O-1 & Vestavia Hills R-2 to Vestavia Hills B-1.2
- **ADDRESS/LOCATION:** 312 Montgomery Hwy. & 1990 Southwood Rd.
- **APPLICANT/OWNER:** Oksana Senyk
- **GENERAL DISCUSSION:** This is a rezoning of two lots on the northwest corner of Hwy. 31 and Southwood Rd. Applicants are requesting B-1.2 zoning for a two-story dental office. The proposed setback along Hwy 31 are 8', while maintaining the 30' rear setback adjacent to the insurance building. Unlit parking will be to side and rear of the building. 312 Montgomery Hwy. is currently zoned O-1 and 1990 Southwood Rd. is zoned R-2. The proposed plan meets all zoning requirements. Site plans and renderings are attached.
- **VESTAVIA HILLS COMPREHENSIVE PLAN:** The request is consistent with the plan for Village Center/Professional Office.
- **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 not final until lots are combined
 2. **City Engineer Review:** I have reviewed the application and I have no issues with this request.
 3. **City Fire Marshal Review:** I have reviewed the application and I have no issues with this request.
 4. **Building Safety Review:** I have reviewed the application and I have no issues with this request.

MOTION Mr. Weaver made a motion to recommend Rezoning from Vestavia Hills O-1 & Vestavia Hills R-2 to Vestavia Hills B-1.2 for the property located At 312 Montgomery Hwy. & 1990 Southwood Rd. with the following conditions:

1. No street parking on Southwood Rd.;
2. No elevated lighting.

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

Mr. Vercher – yes

Ms. Cobb– yes

Mr. Sykes– yes

Mr. Romeo – yes

Mr. Goodwin – yes

Mr. Weaver – yes

Mr. Larson – yes

Motion carried.

10 9 8 7 6 5 4 3 2 1

GONZALEZ - STRENGTH & ASSOCIATES, INC.
 CIVIL ENGINEERING, TRANSPORTATION ENGINEERING
 LAND SURVEYING, LAND PLANNING, LANDSCAPE ARCHITECTURE
 1550 WOODS OF RIVERCHASE DRIVE, SUITE 200
 HOOPER, ALABAMA 35244

CHECKED BY:	MEM
DESIGNED BY:	MEM
DRAWN BY:	MEM
SCALE:	1" = 50'

CONCEPTUAL LAYOUT PLAN
VESTAVIA HILLS, AL
MAXUS CONSTRUCTION

DATE:	1/7/2020
PROJECT NO.:	19-0655
SHEET:	CON-6



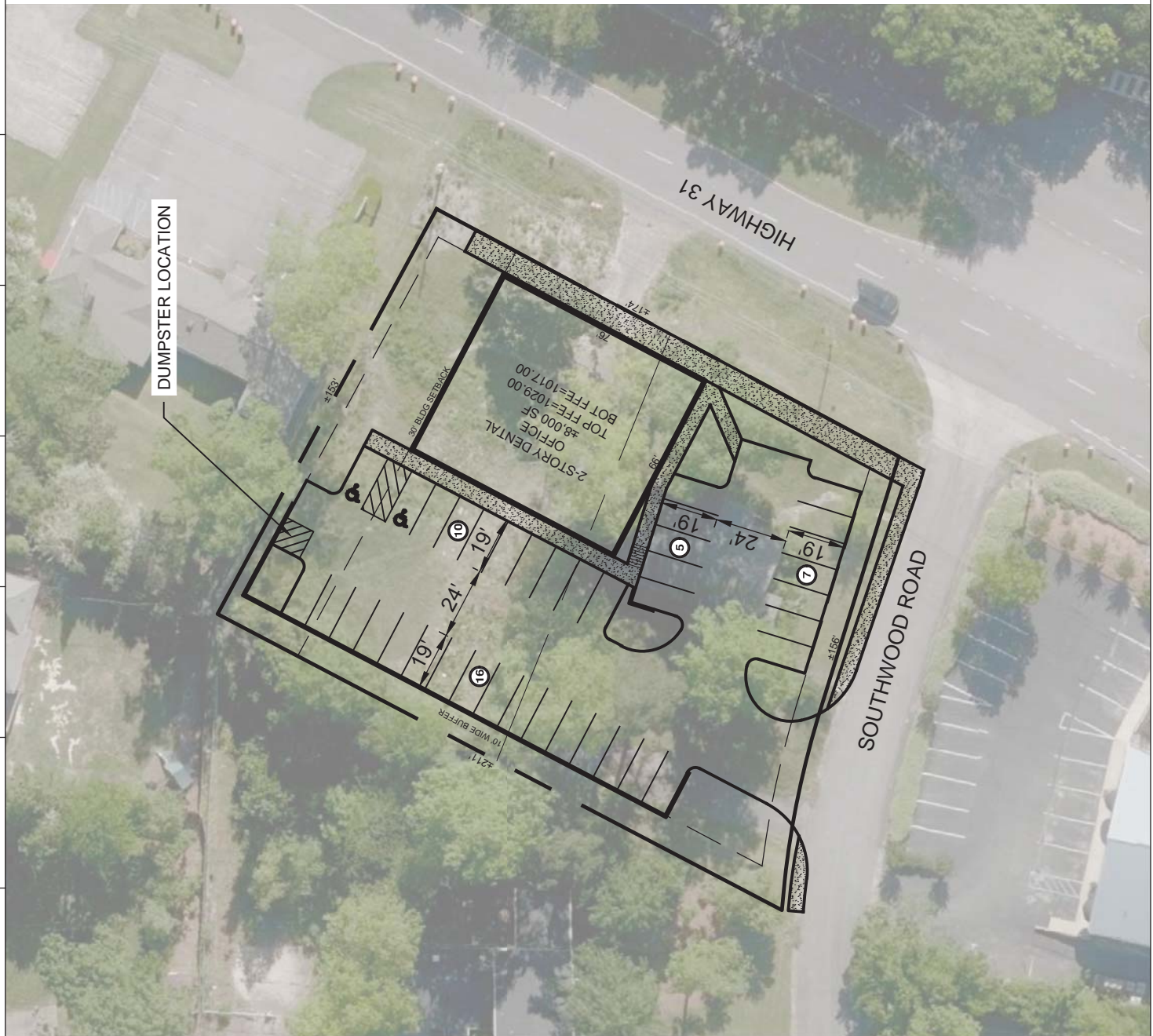
ACREAGE SUMMARY	
TOTAL	±0.66 AC.

SITE DATA	
LOCAL JURISDICTION	CITY OF VESTAVIA HILLS
CURRENT ZONING	O-1 - OFFICE PARK DISTRICT AND UNZONED

PROFESSIONAL OFFICE IS ALLOWED UNDER CURRENT ZONING.

PARKING			
USE	S.F.	SPACES	RATIO
OFFICE	±8,000	38	4.8/1,000 SF

DENTAL OFFICE:
 4 SPACES PER DOCTOR PLUS 1.0 SPACES PER EMPLOYEE
 PARKING SPACE SIZE: 9' X 19'













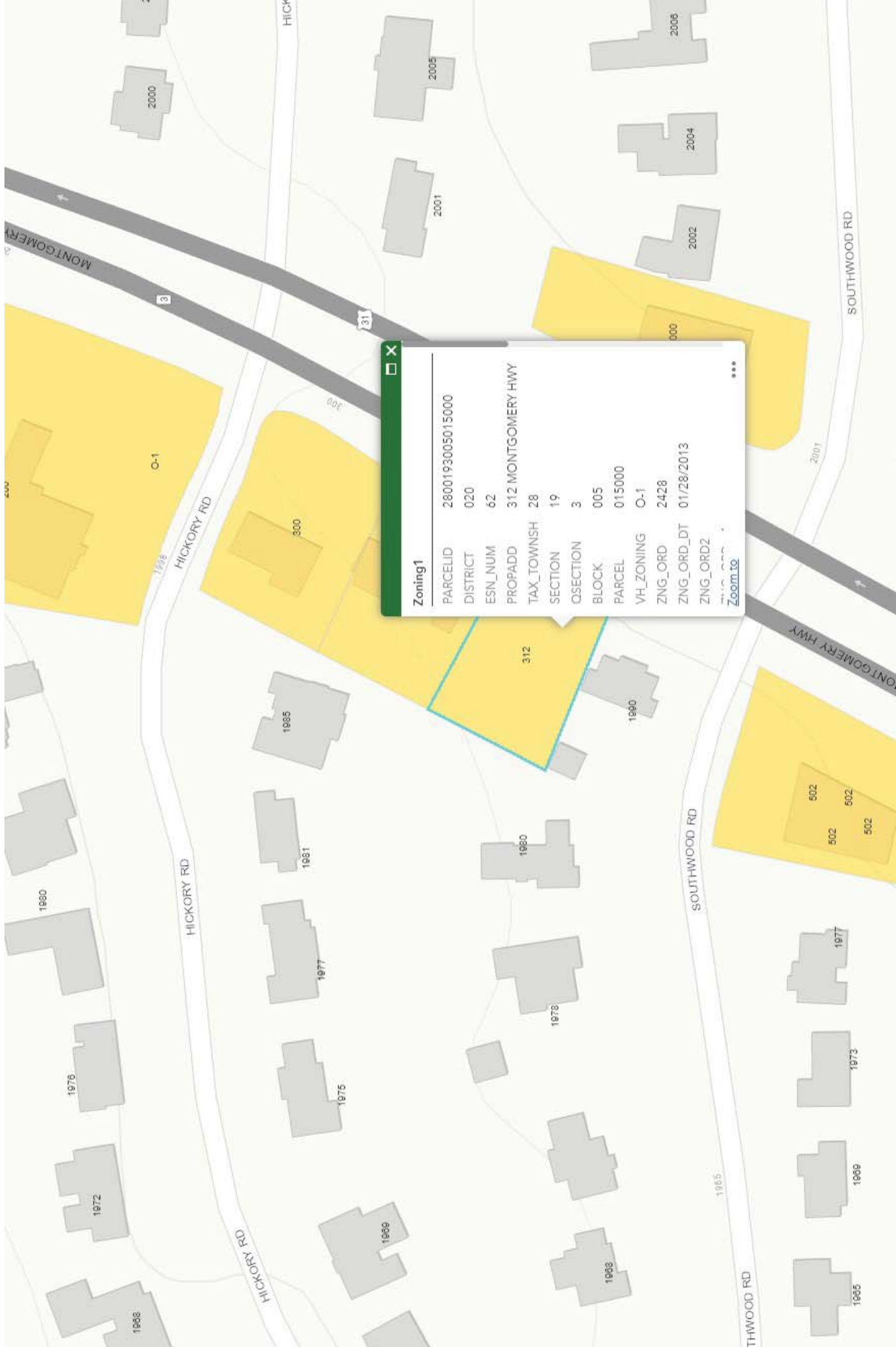




Zoning1

PARCELID	2800193005015000
DISTRICT	020
ESN_NUM	62
PROPADD	312 MONTGOMERY HWY
TAX_TOWNSH	28
SECTION	19
QSECTION	3
BLOCK	005
PARCEL	015000
VH_ZONING	O-1
ZNG_ORD	2428
ZNG_ORD_DT	01/28/2013
ZNG_ORD2	

[Zoom to](#)



Subject Parcel

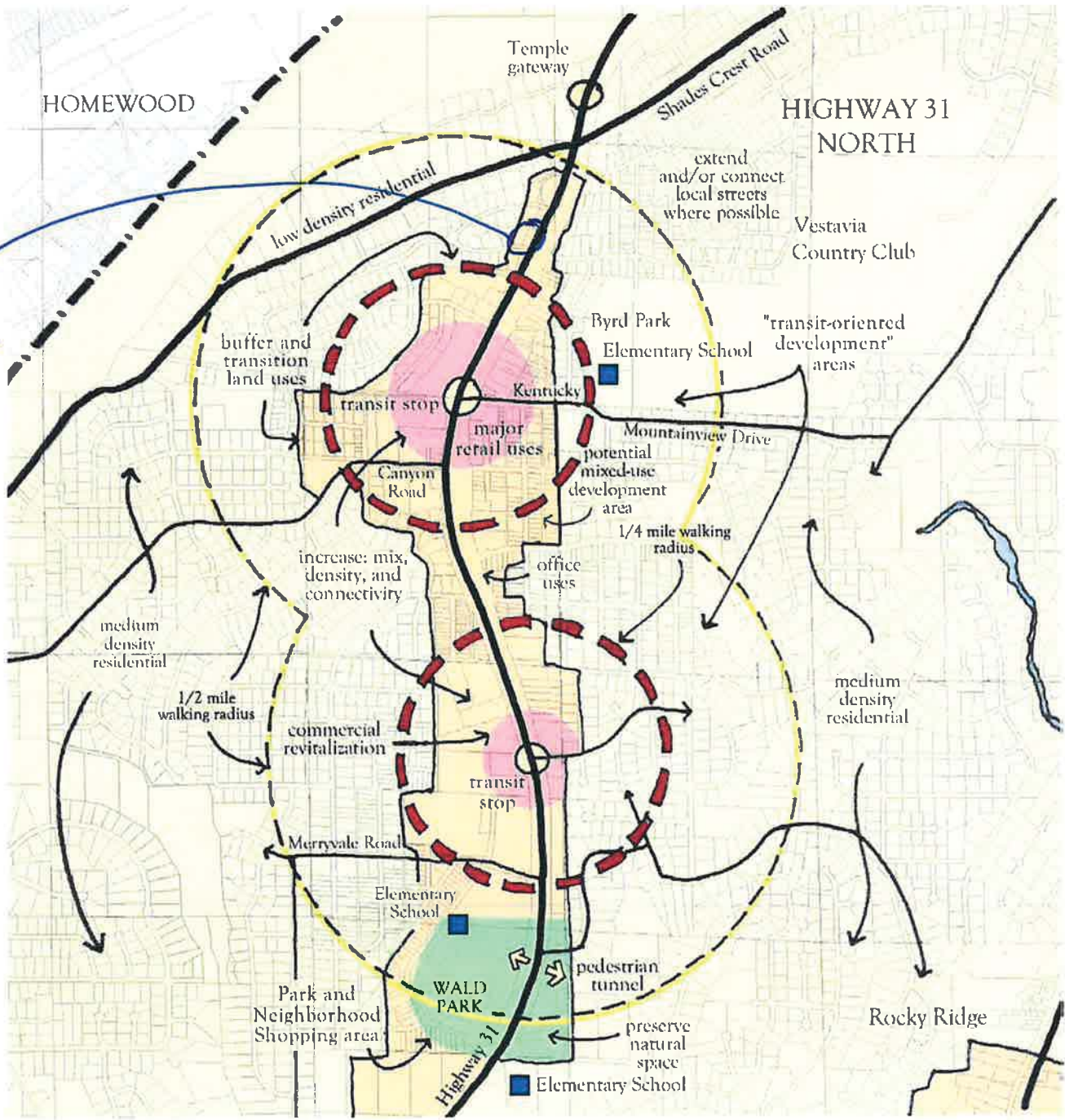


Figure 17: Highway 31 North Land Use Analysis

<ul style="list-style-type: none"> Neighborhood - primarily low / medium density single-family residential areas with higher densities near village centers). Other uses may include schools, places of worship, recreational areas, and open space. Village Center - mixed use centers with highest densities in core areas. Mix of uses should include retail and service businesses, professional offices, high density residential areas, institutions, recreation areas, and public spaces. Commercial Core - primarily high density, retail and service business areas with professional offices and multi-family residences on upper floors or on periphery. Other uses may include institutions and public space. Gateways and Nodes - Gateways are entryways into the community or village enhanced with consistent signage, landscaping, and other elements. Nodes are sites, such as transit stops, where public spaces, signage, and other public design elements should be considered. 	<ul style="list-style-type: none"> Professional Offices - primarily professional office uses. Density should vary according to surroundings. Other uses may include retail and services (supporting offices and employees), places of worship, public spaces, and open space. Recreation and Open Space - public and private recreation facilities and preserved natural spaces. Recreation facilities may be active, passive or combined. Open spaces are areas preserved in a natural state and may include passive recreational uses. Trailheads - Trailheads are public sites along a trail, where bike racks, seating, parking, and public amenities are provided for trail users. Schools - School facilities administered by the Vestavia Hills School System. 	

January 6, 2020

Mr. Conrad Garrison
City Planner
City of Vestavia Hills
1032 Montgomery Highway
Vestavia Hills, AL 35216

Dear Mr. Garrison:

I am writing in response to the upcoming Planning and Zoning Commission public hearing on January 9, 2020 at 6:00 p.m. Specifically, I write to question the plans of the applicant, Dr. Oksana Senyk, who is requesting a rezoning change of Lot 49 Beacon Hill/312 Montgomery Highway and 1990 Southwood Road.

My husband and I live at 1980 Southwood Road, which borders Lot 49 on the west side of the property. While the plans for the property which we have reviewed appear to be in good taste and respectful of the neighboring residential area, we have three items of concern:

- 1) We ask that a wooden fence be installed bordering our property since the developer now wants to use the back side of the office as her parking lot. We want to ensure privacy between what is our backyard and the public who will park in the lot.
- 2) We ask to see the waste management plan (i.e. dumpster location and hazardous waste removal plan) to ensure that we will not be exposing our property to excessive rodent infestation (as is the case with our across the street neighbor, also adjacent to a dental office) or pharmaceutical waste.
- 3) We ask to see the lighting plan for the property as our den and master bedroom overlook the parking lot side of the building and we do not want spotlights shining into our living space.

Please let me know that this letter has been received by you at least 3 days prior to the public hearing, which my husband and I plan to attend.

Thank you for your time and for ensuring the plans for our city include positive environments for both residents and businesses.

Respectfully submitted,



Patti Hendrix Lovoy
1980 Southwood Road
Vestavia Hills, AL 35216
205.937.1547

plovoy@childrensaid.org

ORDINANCE NUMBER 2916

AN ORDINANCE TO REPEAL ORDINANCE NUMBER 2429 AND AMENDING SECTION 5.5-200 THROUGH SECTION 5.5-311 OF THE VESTAVIA HILLS CODE OF ORDINANCES AND ADOPTING A FLOOD DAMAGE PREVENTION ORDINANCE FOR THE CITY OF VESTAVIA HILLS, ALABAMA

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

1. Ordinance Number 2429 adopted and approved by the Vestavia Hills City Council on January 28, 2013 is hereby repealed in its entirety; and
2. Sections 5.5-200 through 5.5-311 of the Vestavia Hills Code of Ordinances entitled “ARTICLE III. FLOOD DAMAGE PREVENTION IN NONCOASTAL/REVERINE COMMUNITIES” and Ordinance Number 2916 are hereby adopted in its entirety as follows:

DIVISION 1

Statutory Authorization, Findings of Fact, Purpose And Objectives

SECTION A **STATUTORY AUTHORIZATION**

The Legislature of the State of Alabama has in Title 11, Chapter 19, Sections 1-24, Chapter 45, Sections 1-11, Chapter 52, Sections 1-84, and Title 41, Chapter 9, Section 166 of the Code of Alabama, 1975, authorized local government units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the **City Council**, of **Vestavia Hills**, Alabama, does ordain as follows:

SECTION B **FINDINGS OF FACT**

- (1) The flood hazard areas of **Vestavia Hills**, Alabama are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

SECTION C **STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (2) restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- (3) control filling, grading, dredging and other development which may increase flood damage or erosion;
- (4) prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- (5) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters.

SECTION D **OBJECTIVES**

The objectives of this ordinance are:

- (1) to protect human life and health;
- (2) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (3) to help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas,
- (4) to minimize expenditure of public money for costly flood control projects;
- (5) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (6) to minimize prolonged business interruptions, and
- (7) to ensure that potential home buyers are notified that property is in a flood area.

DIVISION 2
GENERAL PROVISIONS

SECTION A **LANDS TO WHICH THIS ORDINANCE APPLIES**

This ordinance shall apply to all Areas of Special Flood Hazard within the jurisdiction of **Vestavia Hills**, Alabama.

SECTION B BASIS FOR AREA OF SPECIAL FLOOD HAZARD

The Areas of Special Flood Hazard identified by the Federal Emergency Management Agency in its **Flood Insurance Study (FIS)**, dated **September 3, 2010**, with accompanying maps and other supporting data **and any revision thereto**, are adopted by reference and declared a part of this ordinance. For those land areas acquired by a municipality through annexation, the current effective FIS and data for **Jefferson County, Alabama** are hereby adopted by reference. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in the FIS. **{Identify specific areas here, including study title and date along with maps }**

*When Preliminary Flood Insurance Studies and Flood Insurance Rate Maps have been provided by FEMA to the **City of Vestavia Hills**:*

- (1) Prior to the issuance of a Letter of Final Determination (LFD) by FEMA, the use of the preliminary flood hazard data shall only be required where no base flood elevations and/or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in the effective flood hazard data provided by FEMA. Such preliminary data may be subject to revision through valid appeals.*
- (2) Upon the issuance of a Letter of Final Determination (LFD) by FEMA, the revised flood hazard data shall be used and replace all previously effective flood hazard data provided by FEMA for the purposes of administrating these regulations.*

*Where adopted regulatory standards conflict, the more stringent base flood elevation shall prevail. Preliminary FIS data may be subject to change by a valid appeal. **[added 2/15/2018]***

SECTION C: ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT

A Development Permit shall be required in conformance with the provisions of this ordinance **PRIOR** to the commencement of any development activities in identified areas of special flood hazard and **community flood hazard areas** within the community.

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, extended, converted or altered without **full compliance** with the terms of this ordinance and other applicable regulations.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Vestavia Hills or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. PENALTIES FOR VIOLATION

- (1) Notice of Violation. If the community determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, or the provisions of this ordinance, it shall issue a written notice of violation, by certified return receipt mail, to such applicant or other responsible person. Where the person is engaged in activity covered by this ordinance without having first secured a permit, the notice shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:
 - (a) The name and address of the owner or the applicant or the responsible person;
 - (b) The address or other description of the site upon which the violation is occurring;
 - (c) A statement specifying the nature of the violation;
 - (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit or this ordinance and the date for the completion of such remedial action;
 - (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed, and;
 - (f) A statement that the determination of violation may be appealed to the community by filing a written notice of appeal within **ten (10)** days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient).

[added 2/15/2018]
- (2) Additional Enforcement Actions. If the remedial measures described in the Notice of Violation have not been completed by the date set forth for such completion in the Notice of Violation, any one or more of the following enforcement actions may be enacted against the person to whom the Notice of Violation was directed. Before taking any of the following actions or imposing any of the following penalties, the **City of Vestavia Hills** shall first notify the applicant or other responsible person in writing of its intended action. The **City of Vestavia Hills** shall provide reasonable opportunity, of not less than ten days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24-hour notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person

fails to cure such violation after such notice and cure period, the **City of Vestavia Hills** may take or impose any one or more of the following enforcement actions or penalties:

NOTE: The Community may choose which additional enforcement options it chooses to utilize in addition to the “Notice of Violation” described above and the “Civil penalties” described below.

- (a) *Stop Work Order: The community may issue a stop work order, which shall be served on the applicant or other responsible person. The stop work order shall remain in effect -until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.*
- (b) *Termination of water service and/or withhold or revoke Certificate of Occupancy: The community may terminate utilities and/or refuse to issue and/or revoke a certificate of occupancy for the building or other improvements and/or repairs conducted or being conducted on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein.*
- (c) *Suspension, revocation, or modifications of permit: The community may suspend, revoke, or modify the permit authorizing the development project. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the community may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.*
- (d) **Civil penalties:** Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than **\$500.00** or imprisoned for not more than **30** days, or both, and in addition, shall pay all costs and expenses involved in the case: Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the **City of Vestavia Hills** from taking such other lawful actions as is necessary to prevent or remedy any violation.
- (e) *Section 1316 Declaration: Section 1316 of the National Flood Insurance Act authorizes FEMA to deny flood insurance to a property declared by the State, County, or Municipal government to be in violation of the local floodplain management ordinance. A Section 1316 declaration shall be used when all other legal means to remedy a violation have been exhausted and the structure is noncompliant. Once invoked, the property’s flood insurance coverage will be terminated and no new or renewal policy can be issued; no flood insurance claim can be paid on any policy on the property, and disaster assistance will be denied.*

The declaration must be in writing (letter or citation), from the community to the property owner and the applicable FEMA Regional Office, and must contain the

following items:

- i. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;
- ii. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;
- iii. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- iv. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- v. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

If a structure that has received a Section 1316 declaration is made compliant with the community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance eligibility restored.

[added 2/15/2018]

- (3) Administrative appeal; judicial review. Any person receiving a Notice of Violation may appeal the determination of the community, including but not limited to the issuance of a stop work order, the assessment of an administratively-imposed monetary penalty, the suspension, revocation, modification, or grant with condition of a permit by the community upon finding that the holder is in violation of permit conditions, or that the holder is in violation of any applicable ordinance or any of the community's rules and regulations, or the issuance of a notice of bond forfeiture.

The Notice of Appeal must be in writing and must be received within ten (10) days from the date of the Notice of Violation. A hearing on the appeal shall take place within thirty days from the date of receipt of the Notice of Appeal by the Floodplain Administrator.

[added 2/15/2018]

- (4) All appeals shall be heard and decided by the community's designated Appeal Board, which shall be City of Vestavia Hills Board of Zoning Adjustments, or their designees. The Appeal Board shall have the power to affirm, modify, or reject the original penalty, including the right to increase or decrease the amount of any monetary penalty and the right to add or delete remedial actions required for correction of the violation and compliance with the community's flood damage prevention ordinance, and any other applicable local, state, or federal requirements. The decision of the Appeal Board shall be final.

[added 2/15/2018]

- (5) A judicial review can be requested by any person aggrieved by a decision or order of the community, after exhausting his/her administrative remedies. They shall have the right to appeal de novo to the {appropriate court}.

[added 2/15/2018]

SECTION I. SAVINGS CLAUSE

If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be noncompliant with 44 Code of Federal Regulation 59-78, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION J. REPEALER [added 7/1/2018]

Ordinance Number 2429 of the City of Vestavia Hills, Alabama is hereby repealed. This Repealer shall not, however, effect, terminate, or preclude any rights, duties, requirements or terms which arose or existed while said Ordinance was in effect, all of which are specifically preserved.

DIVISION 3
ADMINISTRATION

SECTION A DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The City Engineer is hereby appointed to administer and implement the provisions of this ordinance.

SECTION B PERMIT PROCEDURES

Application for a Development Permit shall be made to the Floodplain Administrator on forms furnished by the community **PRIOR** to any development activities, and may include, but not be limited to, the following: Plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, fill placement, storage of materials or equipment, and drainage facilities.

Specifically, the following procedures and information are required for all projects in the Special Flood Hazard Areas within the jurisdiction of City of Vestavia Hills:

(1) Application Stage [revised 7/1/2018]

Plot plans are to include:

- (a) The Base Flood Elevation (BFE) where provided as set forth in Article 2, Section B; Article 4, Section C; or Article 5, Section D;
- (b) Boundary of the Special Flood Hazard Area and floodway(s) as delineated on the FIRM or other flood map as determined in Article 2, Section B;
- (c) Flood zone designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 2, Section B;
- (d) Elevation in relation to mean sea level (or highest adjacent grade) of the regulatory lowest floor level, including basement, of all proposed structures;
- (e) Elevation in relation to mean sea level to which any non-residential structure will be flood proofed;
- (f) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria of Article 4, Sections B(2) and E(2);
- (g) A Foundation Plan, drawn to scale, that shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details

include, but are not limited to, the proposed method of elevation (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls) and description of any flood openings required in accordance with Article 4, Sections B(1), B(3), D(7), and E(1) when solid foundation perimeter walls are used.

- (h) Usage details of any enclosed areas below the lowest floor shall be described.
 - (i) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - (j) Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development including current and proposed locations of the watercourse. An engineering report shall be provided on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream. The affected properties shall be depicted on a map or on the plot plan.
 - (k) Certification of the plot plan by a licensed professional engineer or surveyor in the State of Alabama is required.
- (2) Construction Stage [\[revised 7/1/2018\]](#)

For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the regulatory floor elevation or flood-proofing level **using appropriate FEMA elevation or floodproofing certificate** immediately after the lowest floor or flood proofing is completed.

- (a) When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
- (b) **Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.**
- (c) The Floodplain Administrator shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.
- (d) The Floodplain Administrator shall make **periodic inspections** of projects during construction throughout the Special Flood Hazard Areas within the jurisdiction of the community to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. Members of his or her inspections/engineering department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (e) The Floodplain Administrator may **revoke and require the return of the floodplain development permit** by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit

mistakenly issued in violation of an applicable State or local law may also be revoked.

- (f) *In any lot or lots/areas that will be or have been removed from the special flood hazard area utilizing a Letter of Map Revision Based on Fill (LOMR-F), the top of fill level must meet the community's freeboard elevation at that location. If the top of fill level is below the freeboard elevation, all new structures, additions to existing buildings or substantial improvement must meet the required community freeboard elevation. [added 2/15/2018]*

(3) Finished Construction [added 7/1/2018]

Upon completion of construction, a FEMA elevation certificate (FEMA Form 81-31), which depicts all finished construction elevations, is required to be submitted to the Floodplain Administrator prior to issuance of a Certificate of Occupancy.

- (a) If the project includes a floodproofing measure, a FEMA floodproofing certificate is required to be submitted by the permit holder to the Floodplain Administrator.
- (b) The Floodplain Administrator shall review the certificate(s) data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance.
- (c) In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (d) Documentation regarding completion and compliance with the requirements stated in the permit application and with Article 3, Section B(1) of this ordinance shall be provided to the local Floodplain Administrator at the completion of construction or records shall be maintained throughout the Construction Stage by inspectors for the Floodplain Administrator. Failure to provide the required documentation shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.
- (e) All records that pertain to the administration of this ordinance shall be maintained and made available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

SECTION C DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but shall not be limited to:

- (1) Review all development permits to assure that the permit requirements of this ordinance have been satisfied; and assure that development sites are reasonably safe from flooding.
- (2) Review copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits permanently with floodplain development permit file.
- (3) When Base Flood Elevation data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review and

reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other sources in order to administer the provisions of Article 4.

- (4) Verify and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the regulatory floor level, including basement, of all new construction or substantially improved structures in accordance with Article 3, Section B.
- (5) Verify and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been flood-proofed, in accordance with Article 4, Sections B(2) and E(2).
- (6) When flood proofing is utilized for a structure, the Floodplain Administrator shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Article 3, Section B(1)(c) and Article 4, Section B(2) or E(2).
- (7) Notify adjacent communities and the Alabama Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA), and the Alabama Department of Economic and Community Affairs/Office of Water Resources/NFIP State Coordinator's Office.
- (8) For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA and State to ensure accuracy of community flood maps through the Letter of Map Revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (9) Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Ordinance.
- (10) All records pertaining to the provisions of this ordinance shall be maintained in the office of the Floodplain Administrator and shall be open for public inspection.
- (11) *In addition, the Floodplain Administrator and his or her designated staff is hereby authorized and directed to enforce the provisions of this ordinance. The Administrator is further authorized to render interpretations of this ordinance, which are consistent with its spirit and purpose.* [added 2/15/2018]

(a) *Right of Entry*

- i. *Whenever necessary to make an inspection to enforce any of the provisions of this ordinance, or whenever the Administrator has reasonable cause to believe that there exists in any building or upon any premises any condition or ordinance violation which makes such building, structure or premises unsafe, dangerous or hazardous, the Administrator may enter such building, structure or premises at all reasonable times to inspect the same or perform any duty imposed upon the Administrator by this ordinance.*

- ii. *If such building or premises are occupied, the Administrator shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of such building or premises.*
- iii. *If entry is refused, the Administrator shall have recourse to every remedy provided by law to secure entry.*
- iv. *When the Administrator shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrator for the purpose of inspection and examination pursuant to this ordinance.*

(b) *Stop Work Orders*

- i. *Upon notice from the Administrator, work on any building, structure or premises that is being performed contrary to the provisions of this ordinance shall immediately cease.*
- ii. *Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.*

(c) *Revocation of Permits*

- i. *The Administrator may revoke a permit or approval, issued under the provisions of this ordinance, in case there has been any false statement or misrepresentation as to the material fact in the application or plans on which the permit or approval was based.*
- ii. *The Administrator may revoke a permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the permit was issued is in violation of, or not in conformity with, the provisions of this ordinance.*

[added 2/15/2018]

DIVISION 4

PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A GENERAL STANDARDS

In ALL Areas of Special Flood Hazard the following provisions are required:

- (1) Require copies of all necessary permits from governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Maintain such permits be on file.
- (2) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse and lateral movement of the structure.

- (3) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
- (4) New construction and substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage:
 - (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;
 - (c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All heating and air conditioning equipment and components, all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (6) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces.
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (8) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- (10) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
- (11) Proposed new construction and substantial improvements that are partially located in an area of special flood hazard shall have the entire structure meet the standards for new construction. [\[added 2/15/2018\]](#)
- (12) Proposed new construction and substantial improvements that are located in multiple flood hazard risk zones or in a flood hazard risk zone with multiple base flood elevations shall have the entire structure meet the standards for the most hazardous flood hazard risk zone and the highest base flood elevation. [\[added 2/15/2018\]](#)

SECTION B SPECIFIC STANDARDS

In ALL Areas of Special Flood Hazard designated as A1-30, AE, AH, A (with engineered or estimated base flood elevation), the following provisions are required:

- (1) Residential and Non-residential Structures - Where base flood elevation data is available, new construction and substantial improvement of any structure or manufactured home **shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation.** Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3).

- (2) Non-Residential Structures - New construction and substantial improvement of any non-residential structure located in A1-30, AE, or AH zones, may be floodproofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Article 3, Section C(6).

Dry floodproofing is allowed only where flood velocities are less than or equal to five feet per second. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A Flood Emergency Operation Plan and an Inspection and Maintenance Plan must be provided by the design professional for the building. Such certification shall be provided to the Floodplain Administrator. [\[added 2/15/2018\]](#)

- (3) Enclosures for Elevated Buildings - All new construction and substantial improvements of existing structures that include **ANY fully enclosed area** below the base flood elevation, located below the lowest floor formed by the foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of flood waters. [\[revised 2/15/2018\]](#)
 - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding (if a structure has more than one enclosed area below the base flood elevation, each shall have openings on exterior walls);
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and
 - (iii) Openings may be equipped with screens, louvers, valves and other coverings and devices provided they permit the automatic flow of floodwater in both directions.
 - (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area.
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms. All interior walls, ceilings and floors below the base flood elevation shall be unfinished and/or constructed of flood resistant materials.
[\[revised 2/15/2018\]](#)

- (d) Mechanical, electrical or plumbing devices shall not be installed below the Base Flood Elevation. The interior portion of such enclosed area(s) shall be void of utilities except for essential lighting and power as required.
 - (e) *Property owners shall be required to execute a flood openings/venting affidavit acknowledging that all openings will be maintained as flood vents, and that the elimination or alteration of the openings in any way will violate the requirements for enclosures below the base flood elevation. Periodic inspections will be conducted by the Floodplain Administrator to ensure compliance. [added 2/15/2018]*
 - (f) *Property owners shall agree, certify, and declare to the following conditions and restrictions placed on the affected property as a condition for granting a permit. A binding agreement, referred to as a Non-conversion Agreement, is required to be executed and recorded with the Deed. It shall obligate the Owner to the following terms and conditions:*
 - (i) *That the enclosed area(s) shall remain fully compliant with all parts of the section Enclosures for Elevated Buildings of this Ordinance unless otherwise modified to be fully compliant with the applicable sections of the Flood Damage Prevention Ordinance in effect at the time of conversion.*
 - (ii) *A duly appointed representative of the **City of Vestavia Hills** is authorized to enter the property for the purpose of inspecting the exterior and interior of the enclosed area to verify compliance with the Agreement and Permit.*
 - (iii) *The community may take any appropriate legal action to correct any violation pertaining to the Agreement and the subject Permit.*

[added 2/15/2018]
- (4) Standards for Manufactured Homes and Recreational Vehicles - Where base flood elevation data are available:
- (a) All manufactured homes placed and substantially improved on:
 - (i) individual lots or parcels,
 - (ii) in new or substantially improved manufactured home parks or subdivisions,
 - (iii) in expansions to existing manufactured home parks or subdivisions, or
 - (iv) on a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement elevated no lower than one foot above the base flood elevation.
 - (b) Manufactured homes placed and substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) the lowest floor of the manufactured home is elevated no lower than one foot above the level of the base flood elevation, or
 - (ii) where no Base Flood Elevation exists, the manufactured home chassis and supporting equipment is supported by reinforced piers or other foundation elements of at least equivalent strength and a maximum of 60 inches (five feet) above grade and must meet the standards of Article 4, Section D(5).
[added 2/7/2019]
 - (c) All Manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - (d) All recreational vehicles placed on sites must either:
 - (i) be on the site for fewer than 180 consecutive days, fully licensed and ready for highway use if it is licensed, on its wheels or jacking system, attached to

the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions; or

- (ii) the recreational vehicle must meet all the requirements for "New Construction," including the anchoring and elevation requirements of Article 4, Section B, provisions (3)(a) and (3)(c).

- (5) Require, until a regulatory floodway is designated, that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the **City of Vestavia Hills** FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than **one foot** at any point within the community. [\[added 2/15/2018\]](#)
- (6) Accessory Structures (also referred to as appurtenant structures) – This provision generally applies to new and substantially improved accessory structures. When an accessory structure complies with all other provisions of this ordinance (including floodway encroachment), represents a minimal investment (less than **\$1000**), and meets the requirements outlined below, these structures may be wet-floodproofed and do not have to be elevated or dry floodproofed. [\[added 2/15/2018\]](#)

NOTE: Community to designate the value that defines “minimal investment” for its own community. Values typically range between \$300 - \$1,000.

Accessory structures include, but are not limited to, residential structures such as detached garages, storage sheds for garden tools or woodworking, gazebos, picnic pavilions, boathouses, small pole barns, and similar buildings. The following provisions apply to accessory structures built below the base flood elevation:

- (a) A permit shall be required prior to construction or installation.
- (b) Must be low value (less than **\$1000**) and not be used for human habitation.
- (c) Use must be restricted to parking of personal vehicles or limited storage (low-cost items that cannot be conveniently stored in the principal structure).
- (d) Must be designed with an unfinished interior and constructed with flood damage-resistant materials below the BFE.
- (e) Must be adequately anchored to prevent flotation, collapse, or lateral movement.
- (f) Must have adequate flood openings as described in Article 4, Section A (5) and be designed to otherwise have low flood damage potential.
- (g) Shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- (h) Any mechanical and other utility equipment in the structure must be elevated to or above the BFE or must be floodproofed.
- (i) Under limited circumstances communities may issue variances to permit construction of wet-floodproofed accessory structures. Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. Variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

[\[added 2/15/2018\]](#)

Located within Areas of Special Flood Hazard established in Article 2, Section B, are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point;
- (2) Encroachments are prohibited, including fill, new construction, substantial improvements or other development within the adopted regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment **shall not result in any increase** in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof;
- (3) A community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first applies for a conditional letter of map revision (CLOMR) and floodway revision, fulfills the requirements for such revisions as established under the provisions of § 65.12, and receives the approval of FEMA;
- (4) **ONLY** if Article 4, Section C, provisions (1) through (3) are satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of Article 4.

OR, if a community wishes to prohibit all development within the floodway, adopt the following language in place of paragraphs (2) through (4) from Section C shown above.

- (2) *Encroachments, including fill, new construction, placement of manufactured homes, substantial improvements, and other development, are prohibited. [added 2/15/2018]*
- (3) *As long as no fill, structures (including additions), or other impediments to flow are added, permissible uses within the floodway may include: lawns, gardens, athletic fields, play areas, picnic grounds, and hiking/biking/horseback riding trails, general farming, pasture, outdoor plant nurseries, horticulture, forestry, wildlife sanctuary, game farm, and other similar agricultural, wildlife, and related uses. The uses in this subsection are permissible only if and to the extent that they do not cause any increase in flood levels during the base flood discharge. [added 2/15/2018]*

SECTION D **BUILDING STANDARDS FOR STREAMS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS (APPROXIMATE A-ZONES)**

Located within the Areas of Special Flood Hazard established in Article 2, Section B, where streams exist but no base flood data have been provided (Approximate A-Zones), the following provisions apply:

- (1) Base flood elevation data shall be provided for subdivision proposals and all other proposed development, including manufactured home parks and subdivisions, greater than fifty (50) lots or five (5) acres, whichever is the lesser.
- (2) When base flood elevation data or floodway data have not been provided in accordance with Article 2, Section B then the Floodplain Administrator shall obtain, review, and reasonably utilize any scientific or historic Base Flood Elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 4. ONLY if data are not available from these sources, then Article 4, Section D, provisions (5) and (6) shall apply:
- (3) *No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty-five feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.*
- (4) All development in Zone A must meet the requirements of Article 4, Section A and Section B(1) through B(4).
- (5) In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor (for the lowest enclosed area; including basement) elevated no less than three (3) feet above the highest adjacent grade. If the requirement as set forth in Article 4, Section B(1) and (2) require the lowest floor to be elevated no less than one foot about the base flood elevation, then the structure for this condition shall be elevated no less than four (4) feet about the highest adjacent grade. [\[revised 11/20/2019\]](#)
- (6) In the absence of a base flood elevation, a manufactured home must also meet the elevation requirements of Article 4, Section B(4)(b)(ii) in that the structure must be elevated to a maximum of 60 inches (5 feet).
- (7) Openings sufficient to facilitate automatic equalization of flood water hydrostatic forces on exterior walls shall be provided in accordance with standards of Article 4, Section B(3)(a). The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- (8) *Fill within the area of special flood hazard shall result in no net loss of natural floodplain storage. The volume of loss of floodwater storage due to filling in the special flood hazard area shall be offset by providing an equal volume of flood storage by excavation or other compensatory measures at or adjacent to the development site. Any excavation or other measures taken for compensatory storage shall be properly designed to provide protection against erosion or overgrowth of vegetation in order to preserve the storage volume. Proper maintenance measures shall also be undertaken to ensure the intended storage volume remains in perpetuity.* [\[added 2/15/2018\]](#)

SECTION E STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Areas of Special Flood Hazard established in Article 2, Section B may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet (1'-3') above ground, with no clearly defined channel. The following provisions apply:

(1) All new construction and substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) plus one foot of freeboard. **If no depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade.** Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Article 4, Section B(3), "Enclosures for Elevated Buildings". [\[added 2/7/2019\]](#)

The Floodplain Administrator shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction and the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. **The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood level in Article 4, Section E(1) or three (3) feet (if no depth number is specified), above highest adjacent grade,** with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Article 3, Section B(1)(c) and (2).
- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

SECTION F STANDARDS FOR SUBDIVISIONS [\[added 2/15/2018\]](#)

- (1) *All subdivision proposals shall be consistent with the need to minimize flood damage.*
- (2) *All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.*
- (3) *All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards, and;*
- (4) *Base flood elevation data shall be provided for all new subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than fifty lots or five acres; whichever is the lesser.*
- (5) *All subdivision and other development proposals which involve disturbing more than **[area designated by community]** square feet of land shall include a stormwater management plan*

which is designed to limit peak runoff from the site to predevelopment levels for the one, ten, and 100-year rainfall event. These plans shall be designed to limit adverse impacts to downstream channels and floodplains. Single residential lots involving less than one acre of land disturbance are not subject to this regulation.

- (6) All preliminary plans for platted subdivisions shall identify the flood hazard area and the elevation of the base flood.*
- (7) All final subdivision plats will provide the boundary of the special flood hazard area, the floodway boundary, and the base flood elevations.*
- (8) In platted subdivisions, all proposed lots or parcels that will be future building sites shall have a minimum buildable area outside the natural (non-filled) 1% chance annual floodplain. The buildable area shall be, at a minimum, large enough to accommodate any primary structure and associated structures such as sheds, barns, swimming pools, detached garages, on-site sewage disposal systems, and water supply wells, where applicable.*

SECTION G. CRITICAL FACILITIES [added 2/15/2018]

Construction of new and substantially improved critical facilities shall be located outside the limits of the special flood hazard area (one percent annual chance floodplain). Construction of new critical facilities shall be permissible within the SFHA only if no feasible alternative site is available and access to the facilities remains available during a 0.2 percent chance flood.

- (1) Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above the base flood elevation at the site (or to the 0.2 percent chance flood elevation whichever is greater).*
- (2) Floodproofing and sealing measures must be implemented to ensure that any and all on-site toxic substances will not be displaced by or released into floodwaters.*
- (3) Multiple access routes, elevated to or above the 0.2 percent flood elevation, shall be provided to all critical facilities to the maximum extent possible.*
- (4) Critical facilities must be protected to or above the 0.2 percent chance flood and must remain operable during such an event.
 - a. The community's flood response plan must list facilities considered critical in a flood.*
 - b. Other facilities in low risk flood zones that may also be needed to support flood response efforts must be included on the critical facility list.**
- (5) The use of any structure shall not be changed to a critical facility, where such a change in use will render the new critical facility out of conformance with this section.*

DIVISION 5
VARIANCE PROCEDURES
[Article revised 2/15/2018]

SECTION A. DESIGNATION OF VARIANCE AND APPEALS BOARD

The Board of Zoning Adjustments as established by the City Council of Vestavia Hills, Alabama shall hear and decide requests for appeals or variance from the requirements of this ordinance.

SECTION B. DUTIES OF BOARD

The Board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of this ordinance. Any person aggrieved by the decision of the Board of Zoning Adjustments may appeal such decision to the {Appropriate Court}, as provided in {State statute}.

SECTION C. VARIANCE PROCEDURES

In reviewing requests for variance, the Board of Zoning Adjustments shall consider all technical evaluations, relevant factors, and standards specified in other sections of this ordinance, and:

- (1) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Article are met, no reasonable alternative exists, the development is protected by methods that minimize flood damage during the base flood, and it creates no additional threats to public safety.
- (2) Variances shall not be issued within any designated floodway if ANY increase in flood levels during the base flood discharge would result.
- (3) The evaluation must be based on the characteristics unique to that property and not be shared by adjacent parcels. The characteristics must pertain to the land itself, not to the structure, its inhabitants, or its owners.
- (4) Variances should never be granted for multiple lots, phases of subdivisions, or entire subdivisions.
- (5) The danger of life and property due to flooding or erosion damage including materials that may be swept onto other lands to the injury of others.
- (6) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and the community.
- (7) The safety of access to the property during flood conditions for daily traffic and emergency vehicles.
- (8) The importance of the services provided by the proposed facility to the community.
- (9) The necessity of the facility to be at a waterfront location, where applicable.

- (10) The compatibility of the proposed use with existing and anticipated development based on the community's comprehensive plan for that area.
- (11) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- (12) The costs associated with providing governmental services to the development during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and community infrastructure such as streets, bridges, and culverts.

Upon consideration of factors listed above, and the purpose of this ordinance, the Board of Zoning Adjustments may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

SECTION D. VARIANCES FOR HISTORIC STRUCTURES

Variances may be issued for the repair or rehabilitation of Historic Structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum to preserve the historic character and design of the structure.

SECTION E. CONDITIONS FOR VARIANCES

The provisions of this Ordinance are minimum standards for flood loss reduction, therefore any deviation from the standards must be weighed carefully. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (1) A variance may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of Sections E(3), E(4), F(1) and F(2) of this Article.
- (2) In the instance of a Historic Structure, a determination is required that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (3) A variance shall be issued ONLY when there is:
 - (a) A finding of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (4) A variance shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (5) Variances shall not be issued “after the fact.”

SECTION F. VARIANCE NOTIFICATION AND RECORDS

- (1) Any applicant to whom a variance is granted shall be given written notice over the signature of a community official that specifies the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the issuance of such a variance could:
- a. result in rate increases in the hundreds and possibly thousands of dollars annually depending on structure and site-specific conditions; and
 - b. increase the risk to life and property resulting from construction below the base flood level.
- (2) The Floodplain Administrator shall maintain a record of all variance actions and appeal actions, including justification for their issuance. Report any variances to the Federal Emergency Management Agency Region 4 and the Alabama Department of Economic and Community Affairs/Office of Water Resources upon request.
- (3) A copy of the notice shall be recorded by the Floodplain Administrator in the Office of the City Clerk and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

DIVISION 6
DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

A Zone means the Area of Special Flood Hazard without base flood elevations determined.
[added 2/15/18]

Accessory Structure (also referred to as appurtenant structures) means a structure which is located on the same parcel of property as a principal structure to be insured and the use of which is incidental to the use of the principal structure. They should constitute a minimal initial investment, may not be used for human habitation, and be designed to have minimal flood damage potential. These structures are used solely for parking (two-car detached garages or smaller) or limited storage (small, low cost storage sheds). They are included under the general definition of structure and are consequently subject to all floodplain management regulations pertaining to structures.
[added 7/27/16]

Addition (to an existing building) means any improvement that increases the square footage of a structure. These include lateral additions added to the front, side, or rear of a structure, vertical additions added on top of a structure, and enclosures added underneath a structure. NFIP regulations for new construction apply to any addition that is considered a perimeter expansion or enclosure beneath a structure. If it is considered to be a substantial improvement (more than 50%

of market value) to a structure, the existing structure will also need to be treated as new construction.

Depending on the flood zone and details of the project, the existing building may not have to be elevated. The determining factors are the common wall and what improvements are made to the existing structure. If the common wall is demolished as part of the project, then the entire structure must be elevated. If only a doorway is knocked through it and only minimal finishing is done, then only the addition has to be elevated.

AE Zone means the Area of Special Flood Hazard with base flood elevations determined. **[added 2/15/18]**

AH Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually shallow ponding), with base flood elevations shown. **[added 2/15/18]**

AO Zone means an area of one percent chance of shallow flooding where depths are between one to three feet (usually sheet flow on sloping terrain), with depth numbers shown. **[added 2/15/18]**

Appeal means a request for a review of the **City Engineer's** interpretation of any provision of this ordinance.

AR/AE, AR/AH, AR/AO, and AR/A Zones means a flood zone that results from the decertification of a previously accredited flood protection system or levee that is in the process of being restored to provide a one percent chance or greater level of flood protection. After restoration is complete, these areas will still experience residual flooding from other flooding sources. **[added 2/15/18]**

A99 Zone means that part of the special flood hazard area inundated by the one percent annual chance flood to be protected from the one percent chance flood by a Federal flood protection system or levee under construction, no base flood elevations are determined. **[added 2/15/18]**

Area of shallow flooding means a designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard (also see "Special flood hazard area") means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, Areas of Special Flood Hazard shall be those designated by the local community and referenced in Article 2, Section B.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "one percent chance flood").

Base flood elevation means the computed elevation to which floodwater is anticipated to rise during the base flood. It is also the elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. Base Flood Elevations are shown in

the FIS and on the Flood Insurance Rate Map (FIRM) for zones AE, AH, A1–A30, AR, AR/A, AR/AE, AR/A1– A30, AR/AH, AR/AO, V1–V30 and VE. [\[added 7/27/16\]](#)

Basement means any portion of a building having its floor sub grade (below ground level) on all sides.

Building (also see **Structure**) means (1) A structure with 2 or more outside rigid walls and a fully secured roof, that is affixed to a permanent site; or (2) a manufactured home (a “manufactured home,” also known as a mobile home, is a structure built on a permanent chassis, transported to its site in 1 or more sections, and affixed to a permanent foundation); or (3) a travel trailer without wheels, built on a chassis and affixed to a permanent foundation, that is regulated under the community’s floodplain management and building ordinances or laws.

Community means a political entity and/or its authorized agents or representatives that have the authority to adopt and enforce floodplain ordinances for the area under its jurisdiction. [\[added 2/15/18\]](#)

Community Rating System (CRS) means a program developed by the Federal Insurance Administration to provide incentives for those communities in the Regular Program that have gone beyond the minimum floodplain management requirements to develop extra measures to provide protection from flooding. [\[added 2/15/18\]](#)

Critical facility (aka, critical action) means facilities for which the effects of even a slight chance of flooding would be too great. The minimum floodplain of concern for critical facilities is the 0.2 percent chance flood level. Critical facilities include, but are not limited to facilities critical to the health and safety of the public such as: emergency operations centers, designated public shelters, schools, nursing homes, hospitals, police, fire and emergency response installations, vital data storage centers, power generation and water and other utilities (including related infrastructure such as principal points of utility systems) and installations which produce, use or store hazardous materials or hazardous waste (as defined under the Clean Water Act and other Federal statutes and regulations). [\[added 2/15/18\]](#)

D Zone means an area in which the flood hazard is undetermined. [\[added 2/15/18\]](#)

Dam means any artificial barrier, including appurtenant works, constructed to impound or divert water, waste water, liquid borne materials, or solids that may flow if saturated. All structures necessary to maintain the water level in an impoundment or to divert a stream from its course will be considered a dam. [\[added 2/15/18\]](#)

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Dry Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damages to real estate or improved real estate property, water, and sanitary facilities, structures, and their contents. Structures shall be floodproofed with a minimum of 12 inches above the base flood elevation (more is recommended). Dry floodproofing of a pre-FIRM residential structure that has not been substantially damaged or improved is allowed. Dry floodproofing of a post-FIRM residential building is not allowed. Non-

residential structures may be dry floodproofed in all flood zones with the exception of the Coastal High Hazard Area or the Coastal AE Zone. [added 2/15/18]

Elevated building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, pilings, posts, columns, piers, or shear walls.

Elevation Certificate means a FEMA form used as a certified statement that verifies a building's elevation information. [added 2/15/18]

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. [added 2/15/18]

Existing Construction means any structure for which the "start of construction" commenced before {date of community's initial floodplain management ordinance adoption date} [i.e., the effective date of the FIRST floodplain management code or ordinance adopted by the community as a basis for that community's participation in the National Flood Insurance Program (NFIP)] or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures. [revised 2/15/18]

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before {date of community's initial floodplain management ordinance adoption date}.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- a. The overflow of inland or tidal waters; or
- b. The unusual and rapid accumulation or runoff of surface waters from any source.
- c. Mudslides which are proximately caused by flooding as described in part "b." of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. [added 2/15/18]
- d. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually highwater level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in part "a." of this definition. [added 2/15/18]

Flood Hazard Boundary Map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been designated as Zone A.

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated the areas of special flood hazard and/or risk premium zones applicable to the community.

Flood Insurance Study/ Flood Elevation Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide and/or flood-related erosion hazards.

Floodplain means any land area susceptible to being inundated by water from any source.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans. [\[added 2/15/18\]](#)

Floodplain management regulations means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state, or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage. [\[added 2/15/18\]](#)

Floodproofing means any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities or structures with their contents. [\[added 7/27/16\]](#)

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe means that area of the special flood hazard area on either side of the regulatory floodway. [\[added 2/15/18\]](#)

Flood Protection Elevation means the base flood elevation plus the community freeboard. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations or base flood elevations determined and/or approved by the floodplain administrator plus freeboard. [\[added 2/15/18\]](#)

Freeboard means a factor of safety usually expressed in feet above the Base Flood Elevation (BFE) for purposes of floodplain management which tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed. Used to determine the level for a building's lowest floor elevation or level of floodproofing required to be in compliance with the community's floodplain management regulations.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facility that are necessary for the loading and unloading of cargo or passengers, and shipbuilding, and ship repair facilities. The term does not include long-term storage or related manufacturing facilities.

Hardship (as related to variances of this ordinance) means the exceptional difficulty that would result from a failure to grant the requested variance. The **City of Vestavia Hills** requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is NOT exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

[\[added 2/15/18\]](#)

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure means any structure that is;

- a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register:
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district:
- c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior, or
 - ii. Directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC) is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMC's are broken down into the following categories: [\[added 2/15/18\]](#)

Letter of Map Amendment (LOMA)

An amendment based on technical data showing that a property was incorrectly included in a designated SFHA, was not elevated by fill (only by a natural grade elevation), and will not be inundated by the one percent chance flood. A LOMA amends the current effective FIRM and establishes that a specific property is not located in a SFHA.

Letter of Map Revision (LOMR)

A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the BFE and is, therefore, excluded from the SFHA.

Conditional Letter of Map Revision (CLOMR)

A formal review and comment by FEMA as to whether a proposed project complies with the minimum NFIP floodplain management criteria. A CLOMR does not revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. **[only required in communities with levees]**

Levee System means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices. **[only required in communities with levees]**

***Lowest adjacent grade** means the point of the ground level immediately next to a building. This may be the sidewalk, patio, deck support, or basement entryway immediately next to the structure after the completion of construction. It does not include earth that is placed for aesthetic or landscape reasons around a foundation wall. It does include natural ground or properly compacted fill that comprises a component of a building's foundation system.*

[added 2/15/18]

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this ordinance.

Manufactured home means a building, transportable in one or more section, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value means the property value (as agreed between a willing buyer and seller), excluding the value of land as established by what the local real estate market will bear. Market value can be established by independent certified appraisal; replacement cost depreciated by age of building (Actual Cash Value); or adjusted assessed values. **[added 2/15/18]**

Mean Sea Level means the average height of the sea for all stages of the tide. It is used as a reference for the base flood elevations shown on a community's Flood Insurance Rate Map (FIRM). For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum.

[\[revised 2/15/18\]](#)

National Flood Insurance Program (NFIP) means the federal program that makes flood insurance available to owners of property in participating communities nationwide through the cooperative efforts of the Federal Government and the private insurance industry. [\[added 2/15/18\]](#)

National Geodetic Vertical Datum (NGVD) means as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means ANY structure (see definition) for which the "start of construction" commenced after [\[date of community's initial floodplain management ordinance adoption date\]](#) and includes any subsequent improvements (including additions) to such structures.

[\[revised 7/27/16\]](#)

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after [\[date of community's initial floodplain management ordinance adoption date\]](#).

Non-Residential means, but is not limited to; small business concerns, churches, schools, farm buildings (including grain bins and silos), pool houses, clubhouses, recreational buildings, mercantile structures, agricultural and industrial structures, warehouses, and hotels and motels with normal room rentals for less than 6 months duration. [\[added 2/15/18\]](#)

North American Vertical Datum (NAVD) of 1988 means a vertical control, corrected in 1988, used as a reference for establishing varying elevations within the floodplain. [\[added 2/15/18\]](#)

Obstruction means, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channel construction, bridge, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream. [\[added 2/15/18\]](#)

One Percent Flood (aka 100-Year Flood) is the flood that has a one percent chance of being equaled or exceeded in any given year. Any flood zone that begins with the letter A or V is subject to inundation by the one percent chance flood. Over the life of a 30-year loan, there is a 26-percent chance of experiencing such a flood within the SFHA. [\[added 2/15/18\]](#)

Participating Community is any community that voluntarily elects to participate in the NFIP by adopting and enforcing floodplain management regulations that are consistent with the standards of the NFIP. [\[added 2/15/18\]](#)

Post-FIRM Construction means new construction and substantial improvements for which start of construction occurred after December 31, 1974, or on or after the effective date of the initial FIRM of the community, whichever is later. [\[added 2/15/18\]](#)

Pre-FIRM Construction means new construction and substantial improvements for which start of construction occurred on or before December 31, 1974, or before the effective date of the initial FIRM of the community, whichever is later. [\[added 2/15/18\]](#)

Probation means an action taken by FEMA to formally notify participating communities of the first of the two NFIP sanctions due to their failure to correct violations and deficiencies in the administration and enforcement of the local floodplain management regulations. [\[added 2/15/18\]](#)

Public safety and nuisance means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin. [\[added 2/15/18\]](#)

Recreational vehicle means a vehicle which is:

- a. Licensed and titled as a recreational vehicle or park model; [\[added 2/15/18\]](#)
- b. Built on a single chassis;
- c. 400 square feet or less when measured at the largest horizontal projection;
- d. Has no attached deck, porch, or shed; [\[added 2/15/18\]](#)
- e. Has quick-disconnect sewage, water, and electrical connectors; [\[added 2/15/18\]](#)
- f. Designed to be self-propelled or permanently towable by a light duty truck; and [\[added 2/15/18\]](#)
- g. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regular Program means the second phase of the community's participation in the NFIP in which second layer coverage is available based upon risk premium rates only after FEMA has completed a flood risk study for the community. [\[added 2/15/18\]](#)

Regulatory floodway see **Floodway**.

Remedy a violation means to bring the structure or other development into compliance with State or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Repetitive Loss means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

Repetitive Loss Property means any insurable structure for which two or more claims of more than \$1,000 were paid by the National Flood Insurance Program (NFIP) within any rolling 10-year period, since 1978. At least two of the claims must be more than ten (10) days apart but, within ten years of each other. A repetitive loss property may or may not be currently insured by the NFIP. [\[added 2/15/18\]](#)

Section 1316 means no new flood insurance policy or federal disaster assistance shall be provided for any property which the Administrator finds has been declared by a duly constituted State or local zoning authority or other authorized public body, to be in violation of State or local laws, regulations or ordinances which are intended to discourage or otherwise restrict land development or occupancy in floodprone areas. If the structure is made compliant with the applicable community's floodplain management ordinance, then the Section 1316 declaration can be rescinded by the community and flood insurance and disaster assistance eligibility restored. [\[revised 2/15/18\]](#)

Severe Repetitive Loss Structure means any insured property that has met at least one of the following paid flood loss criteria since 1978, regardless of ownership:

- a. *Four or more separate claim payments of more than \$5,000 each (including building and contents payments); or*
- b. *Two or more separate claim payments (building payments only) where the total of the payments exceeds the current market value of the property.*

In either case, two of the claim payments must have occurred within ten years of each other. Multiple losses at the same location within ten days of each other are counted as one loss, with the payment amounts added together. [\[added 2/15/18\]](#)

Special flood hazard area (SFHA) means that portion of the floodplain subject to inundation by the base flood and/or flood-related erosion hazards as shown on a FHBM or FIRM as Zones A, AE, AH, AO, AR, AR/AE, AR/AO, AR/AH, AR/A, A99, or VE. [\[added 2/15/18\]](#)

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) means the date the development or building permit was issued (includes substantial improvement), provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure (including a manufactured home) on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation.

“Permanent construction” does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. (*NOTE: accessory structures are NOT exempt from any ordinance requirements*). For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a liquid or gas storage tank, that is principally above ground, as well as a manufactured home.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to it before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood

related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.

[OR replace the “50 percent” and “25 percent” with lower values for stricter standards]

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “repetitive loss” or “substantial damage”, regardless of the actual repair work performed. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring.

[If lower values are used in the above definition for “Substantial damage”, then include the same lower values for stricter standards for this definition]

[OR replace “means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement” with the following:]

means any combination of reconstruction, alteration, or improvement to a building, taking place during a 5-year [or 10-year] period, in which the cumulative percentage of improvement equals or exceeds 50 percent of the current market value of the structure before the “start of construction” of the initial improvement. Any subsequent improvement project costs shall be added to the initial costs for the initial improvement project. At the end of a 5-year [or 10-year] period from the initial improvement project, an updated valuation for the structure can be used for the next time period.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions (*provided that said code deficiencies were not caused by neglect or lack of maintenance on the part of the current or previous owners*) or;
[revised 2/15/18]
- b. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

Substantially improved existing manufactured home parks or subdivisions is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

[If lower values are used in the definition above for “Substantial improvement”, then include the same lower values for stricter standards for this definition]

Suspension means the removal, with or without probation, of a participating community from the NFIP because the community failed to adopt and enforce the compliant floodplain management regulations required for participation in the NFIP. [added 2/15/18]

Variance means a grant of relief from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in the Code of Federal Regulations (CFR) §44, Sec. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) and corresponding parts of this ordinance is presumed to be in violation until such time as that documentation is provided.

Watercourse means any flowing body of water including a river, creek, stream, or a branch. [\[added 2/15/18\]](#)

Water surface elevation means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. [\[added 2/15/18\]](#)

***Wet floodproofing** means a method of construction which allows water to enter a structure in such a way that will minimize damage to the structure and its contents. Wet floodproofing is appropriate for functionally dependent use and uses that facilitate open space use by variance only, structures utilized for parking or limited storage, or when all other techniques are not technically feasible. Wet floodproofing shall not be utilized as a method to satisfy the requirements of this ordinance for bringing substantially damaged or improved structures into compliance. Wet floodproofing is not allowed in lieu of complying with the lowest floor elevation requirements for new residential buildings. [\[added 2/15/18\]](#)*

***X Zones (shaded)** are areas of 0.2 percent chance flood that are outside of the SFHA subject to the one percent chance flood with average depths of less than one foot, or with contributing drainage area less than one square mile, and areas protected by certified levees from the base flood. [\[added 2/15/18\]](#)*

***X Zones (unshaded)** are areas determined to be outside the 0.2 percent chance floodplain. [\[added 2/15/18\]](#)*

***Zone** means a geographical area shown on a Flood Hazard Boundary Map or a Flood Insurance Rate Map that reflects the severity or type of flooding in the area. [\[added 2/15/18\]](#)*

DIVISION 7
SEVERABILITY

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

DIVISION 7

EFFECTIVE DATE

This Ordinance Number 2916 shall become effective immediately upon posting and publication as required by Alabama law.

DONE, ORDERED, ADOPTED and APPROVED this the 24th day of February, 2020.

Ashley 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 Number 2916 is a true and correct copy of such Ordinance that was duly adopted by the City Council of the City of Vestavia Hills on the 24th day of February, 2020 as same appears in the official records of said City.

Posted at Vestavia Hills Municipal Center, Vestavia Hills New Merkle House, Vestavia Hills Civic Center and Vestavia Hills Library in the Forest this the _____ day of _____, 2013.

Rebecca Leavings
City Clerk