



## **Property Buyers Due Diligence and Frequently Asked Questions**

The Building Department received numerous calls and emails from potential buyers regarding concerns or questions about properties they are interested in purchasing. In an effort to help provide potential buyers with relevant information about a property or building, below is a list of the most frequently asked questions:

### **ZONING**

All properties located within the Fairhope Corporate limits and many areas of Point Clear and Montrose are zoned for land use. Some of these requirements and possible limitations associated with those requirements are:

- **use of the property (residential, commercial, industrial, etc);**
  - *depending on zoning requirements, there may be limitations to allowing multiple buildings on a property or what those buildings may be used for*
  - *there may be limitations on allowing detached buildings with full living areas (kitchens and bathrooms) if zoned single family residential;*
- **building setbacks from a property line**
  - *setbacks can affect whether or not addition or expansion to the existing structure will be allowed for additions, sunrooms, etc;*
- **overall site and lot coverage**
  - *may affect if any detached accessory buildings such as carports, garages and storage buildings will be allowed on the site or may affect the size of any accessory buildings that are allowed;*
- **allowable building height**
  - *may have an impact on the roof slope roof slope allowed to meet a maximum building height and the overall appearance of the building*
- **drainage requirements for commercial sites**
  - *may affect the available building area for the site to accommodate possible detention ponds or other drainage features*
- **Restrictive Covenants**
  - *If a subdivision or community has adopted Restrictive Covenants or requirements they are the responsibility of that subdivision or community to enforce those regulations privately. Neither the City of Fairhope or Baldwin County are empowered to enforce Restrictive Covenants since they are a private, contractual agreement between a non-governmental organization and an individual property owner*
  - *It is the responsibility of any prospective buyer to obtain information on any Restrictive Covenants that may apply to a property;*

## **DRAINAGE**

- There are no site or lot specific drainage or landscaping requirements for residential properties in either the Fairhope Corporate limits or in Baldwin County unless part of a subdivision Restrictive Covenant.
- Inside the Fairhope Corporate Limits, the City is responsible for maintaining drainage structures located in Right of Ways accepted by the City for maintenance. This is usually limited to curb and gutter and stormwater drain inlets located at the street.
- All detention ponds and drainage system components not located in the Right of Way (underground piping, outfall structures, etc) are the responsibility of either the Homeowners Association or Property Owners Associations (HOA, POA, etc). In the absence of an established HOA or POA the drainage system components are the responsibility of the landowner where the component is located.
- If there are site drainage questions we recommend that buyers consult with a professional engineer to discuss any concerns they may have.

## **FLOODZONES AND STORM WATER DRAINAGE AREAS**

- The Fairhope Building Department administers flood damage prevention measures through the Fairhope Flood Damage Prevention Ordinance and enforcement of the FEMA National Flood Insurance Rate Maps (FIRM). The Building Department can provide flood map data for any property within the Fairhope Building Permit Jurisdiction or you may check the address of the property on the FEMA National Flood Hazard Layer maps online located at:

<http://fema.maps.arcgis.com/home/webmap/viewer.html?webmap=cbe088e7c8704464aa0fc34eb99e7f30&extent=-87.9435721591796,30.486686800845334,-87.82409584082037,30.560623024908924>

- There are multiple gullies and creekbeds located throughout the City of Fairhope corporate limits and within the Police/Permitting Jurisdiction. Many of the inland gullies and creekbeds are formally listed as Special Flood Hazard Areas on the National Flood Insurance Rate Maps.
- Many of the gullies and creekbeds are listed as an Alabama State Water, and the Alabama State Lands Division may have State regulations that govern. Please contact the Alabama State Lands Division at:

Alabama State Lands- Coastal Division  
31115 Five Rivers Boulevard  
Spanish Fort, AL. 36527  
(251) 621-1216

## **ENVIRONMENTALLY SENSITIVE AREAS**

- There are multiple wetland areas located throughout the Fairhope Police/Permitting Jurisdiction. To help preserve these areas and the critical function they perform in providing natural storm water detention and filtration, the City of Fairhope has adopted a Wetland Protection Ordinance. This ordinance is in addition to requiring compliance with both US Army Corps of Engineers (USACOE) and Alabama Department of Environmental Management (ADEM) requirements. In the event of overlapping regulations, the most restrictive requirement will apply.

- The City of Fairhope enforces a Red Clay Ordinance. This ordinance restricts or prohibits the use of red clay or staining soil within 100' of a critical area as a fill material to prevent discharge of discolored storm water into Mobile Bay in the event of a rainfall.
  - Critical Areas include wetlands, floodzones, creek beds or gullies, designated storm water detention ponds, etc.
- If the site contains any characteristics that may indicate wetlands are present (hydric soils as identified by USDA web soils mapping, site hydrology, wetland type flora, etc), a formal wetlands delineation for the property may be required.
  - Please note that per USACOE guidelines, a Wetland Delineation is valid for 5 years. If a submitted delineation is older than 5 years the City will require an updated delineation be performed.
  - Wetland delineations are the responsibility of the property owner or potential buyer.

### **RIGHT OF WAYS AND EASEMENTS**

- The City of Fairhope and Baldwin County enforces ordinances or restrictions on building or altering a public Right of Way (ROW). Please contact the Fairhope Building Department or the Baldwin County Highway Department with any questions regarding projects located in a Public ROW. The definition of a Public ROW is:
  - *Right of Way means the surface and space above and below any real property in which the city has an interest in law or equity, whether held in fee or other estate or interest including easements, or as a trustee for the public, including, but not limited to any public street, boulevard, road, highway, freeway, lane, alley, court, sidewalk, parkway, river, tunnel, viaduct, bridge, park, or any other place, area, or real property owned by or under the control of the city.*
- Please note that easements are placed on a property to allow a location for the installation of utilities, drainage systems, or other site improvements necessary for a building. While the City of Fairhope and any utility provider has the right to construct necessary utilities or other infrastructure in a designated easement, the City does not maintain or have legal ownership or responsibility for easements on private property unless specifically noted on an approved subdivision or plat. The definition of an Easement is:
  - *Easement: a restricted area on privately owned land, the use of which is reserved for a specific purpose or public utility and runs with the land in perpetuity unless the City, by resolution, approves the vacation of the easement upon a finding that there is no public need.*