

The City of Fairhope Board of Adjustments and Appeals met on Monday, August 20, 2018 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.

Members Present: Anil Vira, Chairman; Harry Kohler; Dick Schneider; John Avent; Cathy Slagle; Buford King, Planner; Mike Jeffries, Planning Tech.; and Emily Boyett, Secretary.

Absent: Troy Strunk, Vice-Chair; Christina Stankoski; and Wayne Dyess, Director of Planning

The meeting was called to order at 5:00 PM by Chairman Vira.

The minutes of the July 16, 2018 meeting were considered. Cathy Slagle moved to accept the minutes as written and was 2nd by Harry Kohler. Motion carried with one abstention by Dick Schneider.

BOA 18.10 Public hearing to consider the request of Doyle and Jo Ellen Porter for a Special Exception to allow a restaurant for property located on the north side of Porter Lane between Ingleside Street and US Hwy. 98.

Mr. King gave the staff report.

Summary of Request:

Doyle and Jo Ellen Porter are requesting via appeal and subject to conditions the allowance of retail, restaurant, and conference facilities as allowable uses for the property located along Porter Lane. The subject property is zoned in M-1 Light Industrial District and is also located in the Medical Overlay District. The M-1 Light Industrial District does not allow a restaurant use pursuant to Article III. Section B. Table 3-1: Use table. However, the subject property is also located in the Medical Overlay District pursuant to Article V. Section H. Retail, restaurant, and conference facilities uses are allowed on appeal in the Medical Overlay District.

The subject property is currently forested, undeveloped property located along Porter Lane, approximately 250 feet east of Ingleside Street. Subject property is located east of the adjoining Faith Temple Church of God in Christ property. A recorded plat is not on file with the Baldwin County Judge of Probate Office related to subject property, however slide number 2081-E, record June 5, 2002 for the nearby Bosby Subdivision (PPIN 247937 and 24699) describes Porter Lane as a narrow (20' wide) unpaved right-of-way immediately adjacent to Faith Temple Church of God in Christ which allows access to subject property. The City of Fairhope currently provides no maintenance of Porter Lane and Porter Lane appears to be privately maintained. The current application for appeal is the addition of retail, restaurant, and conference facility uses on the subject property. The applicant also indicated the desire for a catering use, which is a function of a restaurant as defined by the City of Fairhope Zoning Ordinance Article IX, Section B.o. Retail, restaurant, and conference facility uses are allowed in the Medical Overlay District on appeal pursuant to Article V.H.3.C.

The Comprehensive Plan makes several references supporting Thomas Hospital due to its economic generator status. The subject property is slightly more than ½ mile south of the southernmost property line of Thomas Hospital. It is possible the addition of a restaurant/catering facility/conference facility may support the hospital and its related uses. The Comprehensive Plan provides no specific details or guidance for determining the level of support to the hospital of a proposed restaurant/catering/conference facility as a function of its proximity to the hospital site.

A specific development application has not been submitted for subject property at this time that would require evaluation of development of subject property above and beyond the zoning ordinance. However, the applicant is advised the right-of-way improvements likely necessary to Porter Lane to accommodate a retail/restaurant/conference facility must comply with the standards of the Baldwin County Highway Department and the necessary ROW permits must be submitted to and approved by the Baldwin County Highway Department.

Adjoining properties west, north, and east of subject property are all zoned M-1 with uses consistent with M-1 and/or the Medical Overlay District. An existing fast food restaurant currently exists approximately 370' northeast of subject property, and an existing hotel is located approximately 170' east of subject property. The northern adjoining property appears to operate as a type of entertainment facility. An additional restaurant will not affect the character of the zoned areas north of Porter Lane.

As stated previously, a number of existing facilities surround the subject property to the west, north, and east, and a single-family residence in unzoned Fairhope ETJ is located immediately south of subject property along Porter Lane. Though adequate infrastructure exists to support the existing facilities near subject property, the applicant is advised to contact Fairhope Public Utilities to determine the applicable aid to construction costs that may be required to provide adequate utilities for any development proposed for subject property.

The subject property is undeveloped, forested land. Staff strongly recommends the applicant contact the City of Fairhope Building, Public Works, and Utilities departments to discuss the development activities for the site prior to the submission of building plans. Site access, rights of way, drainage, waste collection, and utilities for the site may require engineering and various pre-development activities prior to submission of building plans. Further, the applicant is advised the right-of-way improvements likely necessary to Porter Lane to accommodate a retail/restaurant/conference facility must comply with the standards of the Baldwin County Highway Department and the necessary ROW permits must be approved by the Baldwin County Highway Department.

Applicant is advised that development activities on the site may require a site plan review pursuant to Article II, Section C.2. of the City of Fairhope Zoning Ordinance which will require engineered plans describing site access, parking, drainage, screening and buffering, etc. If a site plan review is not required, a planning and zoning review will occur as a component of the building plans review of the site, including but not limited to a compatibility analysis of the proposed use.

Recommendation:

Staff recommends **APPROVAL** of the appeal to allow retail, restaurant, and conference facility uses at PPIN 18341 located along Porter Lane.

Doyle and Jo Ellen Porter addressed the Board saying the property is currently undeveloped, but they would like to construct a restaurant and kitchen for a food truck. They also said they would like a small area for entertainment.

Mr. Schneider asked if a site plan has been developed yet and Mr. Vira responded no, if the uses are approved then the site plan would be designed. Mr. King stated the site will be reviewed at the time of building permit. Mr. Slagle questioned the site access and Mr. King stated they applicant will have to work out the access with Baldwin County. Mr. Porter said he is aware any improvements to Porter Lane will need to be from the County. Mr. Vira opened the public hearing. Having no one present to speak, Mr. Vira closed the public hearing.

John Avent made a motion to accept the staff recommendation to approve the appeal to allow retail, restaurant, and conference facility uses at PPIN 18341 located along Porter Lane.

Cathy Slagle 2nd the motion and the motion carried unanimously with the following vote: AYE – Harry Kohler, Dick Schneider, John Avent, Anil Vira, and Cathy Slagle. NAY – none.

BOA 18.11 Public hearing to consider the request of Magnolia Church, LLC for a Special Exception to allow parking in the front for property located at 301 Magnolia Avenue.

Mr. King gave the staff report.

Summary of Request:

The applicant is requesting a variance from the parking requirements of City of Fairhope Zoning Ordinance *Article V, Section B.4.d.(2)* to allow “front screened parking on the Church St. frontage only”. The subject property is zoned B-2 General Business District and is located within the Central Business District. The applicant provided a supporting drawing depicting a future development on subject property containing three (3) residential units, two buildings with an unspecified unit count that are likely to be mixed-use commercial/residential, a 20-space onsite parking area, additional on-street parking along North Church Street, and reconfigurations of existing on-street parking along Magnolia Avenue. The residential units reflect 20’ front building setbacks as required by Table 3-2, Dimension table, and the mixed-use buildings are shown at the right-of-way line as required by Article V, Section B.4.a. It appears the intent of the development is to create individual lots for each residential unit, likely in a future subdivision application, as well as construct parking and an unknown number of mixed-use units likely in a future Multiple Occupancy Project (MOP) application.

The applicant states the indicated conditions of the subject property include a “grade differential across the site (that) is approximately 15’”. The use of retaining walls and terraced building areas makes it difficult to have vehicle access to the rear of the Church St. frontage lots”. The applicant states the indicated conditions preclude reasonable use of the land because the “rear parking as required for residential use presents an extraordinary use of land for circulation”. The 20-space off-street parking area located behind (north) of the two apparent commercial units is not required in the CBD as explained in the zoning ordinance, and parking for the residential units is required. However, Article IV, Section E.2. states “businesses in the CBD Overlay are encouraged to provide off-street parking facilities”

for commercial uses. It appears the rear parking area satisfies the parking loading of the two proposed mixed-use units based upon the square footage of the commercial units, as if onsite parking was required for those commercial units, and that parking is located behind the mixed-use buildings as required by *Article V, Section B.4.d.(1)*.

The subject property is rectangular in shape and approximately 22,400 sf, or slightly more than ½ acre in size. The shape of the lot is not uncommon, and no minimum lot size is required for B-2 zoning. The lot has no visible extraordinary or exceptional topographical conditions. The applicant indicated grade differential on the lot is 15'. The applicant clarified the hardship created by the topography of the subject property affects the grading necessary to develop the site. Specifically, the 20-space parking area will have a finished elevation of approximately 10' higher than the finished floor elevation of the residential unit fronting Church Street, complicating the drainage design of both areas. Staff understands the conceptual need to allow front, screened parking for the residential units along Church Street and does not necessarily object to the screened parking, but staff does not believe sufficient evidence has been submitted to fully demonstrate there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. The subject property's setbacks do not prevent the reasonable use of the property for residential purposes. The stakeout survey indicates the proposed home fits within the building setback lines.

Staff understands the conceptual need for and does not necessarily object to the requested screened front parking, but staff does not believe sufficient evidence has been submitted to fully demonstrate there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography. Staff requests the applicant provide follow-up information with additional engineering drawings better-describing the hardship caused by the topography of the subject property. Staff acknowledges the proposed development related to subject property is still in the design stage, and as a result sufficient data further-explaining the believed hardship created by the size, shape, and topography of subject property may not be available at this time. Staff requests the applicant provide follow-up information with additional engineering drawings better-describing the how the hardship caused by the topography of the subject property is best mitigated by allowing front screened parking in lieu of grading operations necessary to allow rear parking as required by *Article V, Section B.4.d.(2)*.

Staff Recommendation:

Staff recommends this request for variance be **TABLED** for additional study. Staff understands the proposed development for subject property is still undergoing engineering design and detailed engineering data may not have been available at the time the variance request was submitted. Staff requests the applicant provide sufficient engineering data and drawings supporting the assertion the size, shape and specifically topography of the lot creates a hardship if Article V, Section B.4.d.(2) is enforced. The applicant is advised additional information supporting its request for variance shall be submitted to staff by the close of business on Monday, September 10, 2018 for inclusion on the September 17, 2018 Board of Adjustments meeting agenda. Staff will request the assistance of the public works director for review of the follow-up engineering drawings and data.

Having no further business, Cathy Slagle made a motion to adjourn. Christina Stankoski 2nd the motion and the motion carried unanimously. The meeting was adjourned at 5:11 PM.