

**The City of Fairhope Board of Adjustments and Appeals met on Monday, September 17, 2012 at 5:00 PM in the City Council Chambers at the City Administration Building, located at 161 N. Section Street.**

**Members Present: Chairperson Cathy Slagle; Anil Vira, Vice-Chair; Troy Strunk; Debra Green; Sam Andrews; Clyde Panneton; Ray Clark; Jonathan Smith, Planning and Building Director; Emily Boyett, Secretary; City Attorney Tut Wynne and Monty Montgomery.**

**Absent: n/a**

The meeting was called to order at 5:00 PM by Chairperson Slagle.

The minutes of the July 16<sup>th</sup>, 2012 meeting were considered. Debra Green moved to accept the minutes as written and was 2<sup>nd</sup> by Anil Vira. Motion carried with one abstention by Sam Andrews.

Mrs. Slagle went over the rules of order for the meeting.

**BOA 12.04 Request of Dr. William Hixson for Administrative Appeal regarding staff's interpretation of parking on residentially zoned parcels.**

Jonathan Smith, Planning and Building Director, came forward and gave the Staff Interpretation.

**STAFF INTERPRETATION:** Dr. William Hixson is requesting the Board of Adjustment review staff's interpretation of the Zoning Ordinance regarding parking requirements in residential areas and specifically for residentially owned parcels by the Fairhope First Baptist Church that are used for overflow parking during church events.

Staff has taken the position that due to the parcels in question being unimproved, vacant parcels; they can be used as overflow parking areas as long as there are no more than 40 cars parked on any one parcel. Staff reached this decision due to the following provision in Article 4, Section E, 3. (b) 3 in the Fairhope Zoning Ordinance: "No off street parking area in any area zoned for residential uses shall exceed 40 spaces."

The provision written above indicated that parking is allowed in residential districts, as long as a parking area does not exceed 40 spaces. Church leaders have indicated that they do not believe more than 40 cars are parked on any of the vacant lots that they own at any time. Church leaders also have provided staff with parking counts that indicated the Church meets the Zoning Ordinance parking requirements on the main campus site, meaning that the vacant lots in question are only used for overflow or special event parking.

The applicant for the Administrative Appeal feels that if the vacant lots are used for parking they should be zoned P-1 Parking District which is defined as: "This district is intended for those situations where parking may be provided more efficiently and with

less impact on goals for the overall surrounding areas by consolidation and sharing parking in one location.” The applicant also feels that if the church uses the parcels for overflow parking, they should be required to install drainage facilities and landscape buffers.

Many of the parcels the Baptist Church has acquired had single family homes on the property that have been removed. Thus the potential for negative drainage impacts from these properties appear to have been lessened. The parcels that have been and remain vacant do not contain structures; therefore, drainage improvements do not appear to be necessary.

The City’s Tree Ordinance requires that all “parking lots” have a ten foot “landscape strip.” The Church has expressed an interest in erecting fences and planting landscape strips on the vacant parcels, but according to conversations staff has had with church leaders, they do not wish to pave and provide lighting on the vacant lots, nor do they feel it is necessary to install drainage facilities.

Dr. Hixson, along with a number of other property owners neighboring First Baptist Church of Fairhope, filed a lawsuit against the City seeking an order from the Circuit Court of Baldwin County compelling the City to enforce the Zoning Ordinance in a manner that was consistent with Dr. Hixson’s interpretation of the Zoning Ordinance. The lawsuit was dismissed by the Circuit Court of Baldwin County after a specific finding that (a) the Petitioners, that is Dr. Hixson and his neighbors, failed to exhaust their administrative remedies available under the Zoning Ordinance; and (b) “Section 8 of the zoning is inapplicable because this action involves a use and not a building or structure.

**STAFF RECOMMENDATION:** Staff recommends the Board of Adjustments render a decision to uphold staff’s interpretation of the Zoning Ordinance or provide a different interpretation based on the content provided in this application and the Fairhope Zoning Ordinance.

Dr. Hixson came forward and addressed with the Board with the following comments:

My name is Bill Hixson. My wife Allison, our three sons, and I moved from the Magnolia Springs area to Downtown Fairhope in 2008. I have lived in Baldwin County for almost 35years. We live on the corner of Gaston and Church Street and we also own the lots across the street where the old Fram Store still stands. We attend Church at St. Lawrence. I work as a Radiation Oncologist in Daphne and my wife Allison is a Pharmacist at Thomas Hospital.

I would like to thank you for allowing me this opportunity to bring to your attention the concerns that I, along with many neighbors, have regarding maintaining the residential nature of Fairhope and the importance of consistent enforcement of the zoning regulations that are in place. Such regulations are in place for the benefit and protection of all the Citizens of Fairhope.

I would like to start out with some disclaimers before I start. I love the City of Fairhope and am proud to be a citizen of Fairhope. I also have respect and admiration for the First Baptist Church, its parishioners, and it's very effective and growing ministry and intend no disrespect in this process. I also appreciate the way Mr. Jonathan Smith has always treated me in a friendly, professional, and courteous manner. I am, along with everyone else here I'm sure, grateful to God to live in a place like Fairhope and to live in a country like ours where we are able to express ourselves in a free and civil manner. I would also like to make sure that everyone understands that I am not at this point opposing any expansion of the First Baptist Church. But I must admit that I was sad (as was the Fram Family) to see the Fram Home, it's landscaping, and Barn be demolished and replace with a parking lot. And I am not excited to see more parking lots in our residential neighborhood. I do strongly believe that any expansion must be done in accordance with the existing zoning ordinances and that the citizens of Fairhope deserve the opportunity to voice their opinion on whether any rezoning should take place.

Finally, I would like to say that I don't want to be up here tonight. I don't believe I should have to be up here tonight. But I do believe that I need to be here tonight in front of you discussing this very important issue.

As you all know, I and 10 other families in the neighborhood filed a lawsuit against the City regarding this matter. The lawsuit was a writ of mandamus asking a judge to require the City to enforce its own zoning ordinances. We did NOT file a lawsuit seeking damages. The City's attorney's argument was procedural: we had failed to exhaust all administrative remedies. There was never any discussion as to whether there was or was not any zoning violation. Mr. Smith's staff opinion is the first time I have heard any explanation (other than the use was temporary and acceptable) for why the parking lots were being allowed on residential lots. In the span of one sentence, the Judge agreed that we had not exhausted our administrative remedies with no further comments. Instead of trying to sort out these issues in court, the City's attorney chose a procedural defense. I wish that the time and money spent on both sides had gone towards settling this issue instead of us having to be up here tonight. What am I hoping to accomplish tonight? I have 2 goals:

First, I would like to see our existing zoning ordinances enforced. That means that these parking lots need to be considered for rezoning and, if rezoning is approved, the zoning ordinance surrounding parking lots should be enforced. I am not the first person to consider the need to rezone residential lot to be used as parking. The existing Church parking lot on the corner of Section and White was ultimately rezoned P-1 after approximately 10 years in the court of Alabama. I would imagine that was a lot of trouble and very expensive; certainly something to be avoided if possible or allowed.

Secondly, I believe we need some significant clarity regarding Article IV Section E 3b.(3) that states:

**b. Parking Lot Limits**

(3) No off-street parking area in any area zoned for residential uses shall exceed 40 spaces.

**If** we are to apply this rule, then we need some significant clarification of how this will work and understand the implications of any interpretations. I will discuss this further later.

I believe that not only the intent and spirit of our zoning ordinances but letter of the law of our zoning ordinance supports my argument that these residential lots being used for parking ARE parking lots and should be rezoned.

What is the intent of zoning as it related to parking? Article IV Section E1 states the following regarding the intent of the zoning regulations related to parking" Parking standards are intended to provide adequate access and vehicle storage for land uses, but also minimize negative impacts of large expanses of parking such as poor pedestrian environments, **degraded community aesthetics, additional storm water runoff from excess impervious surfaces, and under-utilized space.**" I believe that allowing parking lots in a residential neighborhood diminishes our quality of life, diminishes the residential character of our neighborhood, and diminishes property values no just in the immediate vicinity but throughout Downtown Fairhope. Having parking lots that do not comply with the zoning requirements for parking lots further accentuates that negative impact. As you all well know, houses bought and sold in Fairhope serve as comps for home appraisals that determine home values throughout Downtown and therefore taxes revenues for the City.

Some people have put forth the argument that these are not parking lots but are just empty residential lots. If you don't pave it, then it is not a parking lot. I would first like to apply the DUCK TEST to this question as to whether or not these lots are parking lots. These **LOTS** are used primarily for parking and are intended primarily for **PARKING**. If it looks like a duck, swims like a duck, and quacks like a duck, then it probably is a duck. I am not the first person to call these residential lots PARKING LOTS. In this particular case, these ducks even have signs calling them ducks. (Note parking bumpers) Whether we do or do not call them parking lots or do or don't put signs on them calling them parking lots, I believe we have multiple parking lots in our residential neighborhood. And multiple parking lots that do not comply with the zoning requirements. Unchecked, I am concerned we will have even more in the future.

Now one might say that your common sense argument is good and fine, but common sense does not always apply. I would offer the following zoning definitions to support my common sense argument directly from Section IX Section C:

*Parking Space or Parking Lot:* An area reserved for temporary storage of motor vehicles. (please note that it does not say a **PAVED AREA** but simply an area and in fact the zoning ordinance has requirements for minimum % of pervious materials.

*Use or Principal Use:* The specific purposes for which land or a building is designated, arranged, intended or for which it is occupied.

The use of these lots is not affected whether used a few days a week or 7 days a week. These lots are being used as and are intended to be used as parking lots. Paved or not paved. They are parking lots. We can call them overflow parking lots. But they are parking lots. Zoning clearly does not allow you to call something one thing and use it for

another. That's why we have the strict definition of the term Use or Principal Use. Otherwise zoning means nothing.

Finally, Article IV Section E 3b.(3) only applies to these lots if they are parking lots. If they are not parking lots, then the rule does not apply. If it does apply and these are parking lots, the applicable zoning needs to be enforced. I am glad that Mr. Smith and I agree that these are parking lots.

Without going further into zoning details, I would simply like to state that TEMPORARY USE and ACCESSORY USE do not apply. And expansion of preexisting nonconforming uses is NOT ALLOWED.

I believe that the intent of the parking zoning ordinances and zoning in general is clear and that the intent of Article IV Section E 3b.(3) is to:

- Limit any parking in a residential area to a total of 40 spaces; I believe that the existing 29 parking spaces on the existing P-1 lot should count towards those 40 spaces.
- Ensure that any such parking lots comply with the zoning requirement for parking lots

I do not believe it is the intent of Article IV Section E 3b.(3) is to:

- Provide unlimited parking in residential neighborhoods with up to 40 cars per parcel
  - o There are 6 vacant parcels plus several more lots with vacant houses presumably ready to be converted to parking lots; that is up to 320 parking spots total.
  - o Even if there is voluntary compliance with parking space regulation, these 6 lots would hold at least 190 cars assuming the least efficient parking arrangement.

The zoning ordinance (Article IV Section E2, table 4-3) does clearly state the parking requirements for a place of worship: "1 space for each 4 seats or each 200 square feet of assembly floor area, whichever is greater". The zoning ordinance also states (Article IV Section E 3b.1)

"Parking Lot Limits: (1) No use shall provide more than 20% more than the parking required by Table 4-3.

This portion of the zoning ordinance reiterates the intent of the zoning ordinance to have some reasonable limits on parking in general.

How many spots is the First Baptist Church required to have and what is the maximum number of parking spaces it is allowed to have based on the square footage of assembly floor area and or seats? What is the relationship of these 40 (or more?) spots to the maximum of an additional 20% excess parking? I would ask Mr. Smith what is that maximum number of additional parking spots allowed for the First Baptist Church.

What is the harm in allowing unlimited off street parking in residential neighborhoods? Is this a way for businesses to find a lesser expensive way to provide parking? Buy a nearby residential lot, clear the land, park cars on it and forego the zoning requirements and the associated expenses that would be required to comply with zoning requirements parking?

What if a downtown restaurant wants to provide valet parking for its customers (or the customers of multiple restaurants) and decides to use off street parking to fulfill its parking needs. There is the potential to have cars zipping in and out of residential neighborhoods at all hours of the night with headlights shining into bedrooms, safety

issues, and congestion issues to list just a few. If any entity is allowed to have up to 40 off street parking spots per residential lot, there is no limit to the amount of parking that can go on in our residential neighborhoods.

I would like to finally address one last portion of the staff recommendation regarding the potential for negative drainage impact. The typical residential lot does not have cars park over the majority of the square footage of a lot. Does the repetitive parking cars over a large percentage of a lot not have negative effects on the pervious nature of the ground? I would assume that there would be compacting of the soil. What about the lot on the corner of Section and White that has gravel in it. I would also assume that repetitive parking on gravel will have a similar compacting effect on both the ground and gravel and therefore negative effect on the pervious nature of the ground. I am not sure that we can say with any certainty what the effect of parking on these lots will be whether beneficial, neutral, or negative.

Mr. Smith states "according to conversations staff has had with Church Leaders, they do not wish to pave and provide lighting on the vacant lots, nor do they feel it is necessary to install drainage facilities" The zoning ordinances are designed to determine these issues. We have a storm water ordinance for a reason. What if there is a need for lighting in these lots for safety purposes? What zoning applies and lighting regulations apply if it is determined lighting is desired? If parking lots did not need some regulation, we would not have any zoning regarding parking.

How could rezoning help the First Baptist Church? Ultimately all or at least a large part of these lots will eventually have to be rezoned. The Church buildings and the existing parking lot contiguous with the Church buildings are located on residential lots and are preexisting nonconforming uses. Assuming these properties are being acquired in anticipation of a Life Center and will serve as replacement parking for the existing paved parking, that property will have to be rezoned. When all of the current parking to the west of the Church is lost to a Life Center, the Church needs to know how much additional property to buy. If these parking lost must be properly buffered and drained, it will allow the Church to properly plan for the number of lots they need to acquire and also budget accordingly. If the project becomes economically unfeasible because of these expenses, then the Church can return these lots to the residential market and utilize that money towards a more cost efficient location for their Life Center. The financial risks the Church is taking could also be minimized. As any real estate developer can tell you, it can be risky business buying lots before their zoning is changed to the desired zoning. Most businesses generally purchase such properties contingent upon the needed rezoning taking place and not before.

How could having these lots being considered for rezoning and rezoned if approved by the citizens of Fairhope help the City of Fairhope and its citizens? First, they would be given the opportunity to weigh in on what is happening in Downtown Fairhope. If rezoning was approved, those that live in the immediate vicinity could benefit from the implementation of landscape buffers and drainage to lessen but not remove the negative impact of parking lots in a residential neighborhood. **If** a majority of the Citizens do not want to see these residential lots rezoned, then there will be fewer additional houses demolished and removed and maybe some of these lots in question could be returned to the residential market and eventually have houses on them again. City of Fairhope Tax revenues go back up and property values can improve and be maintained. I would invite

the First Baptist Church to provide the citizens of Fairhope with the proposed plans for the Lifer Center (maybe the Fairhope Courier could print them for free?) and give the citizens and idea of the scope and foot print of the project to give them a better idea of where things are headed and to understand the full extent for the potential changes to the neighborhood. This could also give the City of Fairhope an idea of the extent of the change in tax revenues as it plans for the future.

I cannot blame the First Baptist Church for what is happening with these residential lots. It is much easier and less expensive to build needed parking lots if you are not required to go through the process of rezoning or to go to the expense of complying with the zoning requirements for parking lots. I also can understand why the City does not want to enforce its ordinances. The First Baptist Church is after all a Church. A Church with a long history in Fairhope. A Church filled with good people doing good things in our community. But it is still the City's job to enforce its own zoning and let the zoning ordinances do what it they are intended to do.

Scott Hutchinson addressed the Board on behalf of the Fairhope First Baptist Church saying he is a member and deacon at the Church. He gave the follow responses to Dr. Hixson's comments:

- A) "The zoning ordinance (Article IX, Section C page 97 and Article I section C2) defines Use or Principal Use as 'the specific purpose for which land or a building is designated, arranged, intended, or for which it is occupied'" – The properties are zoned R-2 and had structures on them in the past. The church purchased the properties and obtained the necessary permits to remove the structures and stabilize the parcels. The Church does allow people to park on the parcels if they desire. We also use the properties for many other activities related to Vacation Bible School, Children's Ministries, and Youth Ministries. The Church is in the Strategic Planning process at this time and is working with CTSM Architects in Birmingham. Simply put, the Church does not know what its plans are for the future "use" of the parcels in question. After the planning process, if the Church has determined that the parcels need to be parking lots, then the necessary rezoning will be pursued, as required, to the extent warranted.
- B) "These lots are used as parking lots and are therefore parking lots located in a residential neighborhood on residential." – As stated above, the parcels are zoned R-2 and the Church does allow people to park on them. However, as the applicant did not point out, the Zoning Ordinance clearly allow off-street parking on residential (R-2) lots. Article IV, Section E.3.b.(3) of the Zoning Ordinance states "No off- street parking area in any area zoned for residential uses shall exceed 40 spaces." This rule does not apply to Churches only, but to any residential lot. The amount of cars parking on those parcels during a maximum attendance event is still only a fraction of the amount allowed under the 40 spaces-per-lot rule. The Church has used these lots for several uses, including activities and games during Vacation Bible School for the community. It also uses them for activities related to their Children's Ministries and Youth Ministries. These activity yards are used for parking on a temporary basis, mostly on Sunday morning and for overflow parking at large funerals and weddings.

There is no intent to park on them daily, nor is it anticipated to leave cars on them continually.

- C) “I believe the City is not enforcing its zoning ordinance and that it should enforce such zoning.” – The City is enforcing its Zoning Ordinance. See B above.
- D) “In an effort to address the apparent insufficient number of parking spaces available on the Church parcel, the Church has acquired various parcels of real property in the immediate vicinity of the Church, some of which were previously occupied by single-family residences.” – This statement is inaccurate. When combined with the parking lot zoned P-1 east of Section Street, the Church does have an adequate number of required parking spaces within the block formed by Section, Nichols, Church, and White. The Church purchased the adjacent properties because it anticipated growth and it is simply good business to do so. As stated previously, we have been using these parcels for activities beyond just temporary parking.
- E) “Parking Lots 1, 2, and 3 are presently posted with signs indicating that said properties are available for parking associated with Church activities.” – This statement is also false. The signs posted on the parcels in question state “Property of First Baptist Fairhope”. Obviously, this says nothing about parking.
- F) The Fairhope Zoning Ordinance identifies the P-1 designation as “Parking District”, and states the following regarding permissible uses with that zoning classification: Lands in the P-1 District shall not be used for the construction of any building or structure other than as specifically permitted herein. Parking lots are the only use allowed in the P-1 parking District. Lands occupied by buildings or structures shall not be designated P-1 while such buildings or structures exist. The Fairhope Zoning Ordinance does not permit parking lots to exist in the R-2 Medium Density Single-Family zone. The following examples illustrate the stringent regulations which the Fairhope Zoning Ordinance imposes on parking.” – The applicant’s statements about P-1 are correct and help to further support the Church’s decision to not undertake any rezonings until the planning process is complete.
- G) “In the Central business District” – The applicant is attempting to inappropriately and erroneously apply rules specifically addressing the Central Business District. None of the parcels are within the Central Business District.
- H) “In the Community Village Center zoning district” - The applicant is attempting to inappropriately and erroneously apply rules related to the Community Village Center zoning district. None of the parcels are within the Community Village Center zoning district.
- I) The Fairhope Zoning Ordinance also requires that proposed uses of land within the City of Fairhope comply with the City’s Comprehensive Plan. The Comprehensive Plan requires the following for off-street parking: Any exterior off-street parking should be located and designed to provide the least intrusive visual impact on the public rights-of-way, primarily behind the front building line. (Fairhope Comprehensive Plan; pages 50 and 53). The present use of Parking Lots 1, 2, and 3 is in violation of the City’s Comprehensive Plan.” – Once again, the applicant is using written guidelines out of context. Here, he is attempting to apply statements found in the Comprehensive Plan regarding the design of new



neighborhoods and lots within those neighborhoods. Those sections simply do not apply to a long-existing block such as Church Street and White Avenue.

- J) “Church is continuing to use Parking Lots 1, 2, and 3 in violation of the provision of the Zoning Ordinance and Comprehensive Plan.” – As shown in the previous statements, in my opinion, the Church is not in violation of the Zoning Ordinance nor the Comprehensive Plan. The Church is simply using their property in a manner that is within their rights and in accordance with the Zoning Ordinance. Specifically, Article IV, Section E.3.b.(3) of the Fairhope Zoning Ordinance.

Mr. Hutchinson stated he has designed and permitted many subdivisions and site plans in Fairhope and its planning jurisdiction. In addition to engineering practices and principles, I use the City’s Zoning Ordinance and Comprehensive Plan as strict guidelines for these designs. In doing so, I have become very familiar with all of the City’s regulations regarding development. In this particular case, I would suggest that the Zoning Board of Adjustment consider two things:

- 1) All of the arguments made by the applicant to prove a violation can be placed in the category of inapplicable, false, or used out of context.
- 2) The Church is allowed to park up to 40 cars per lot in accordance with Article IV, Section E.3.b.(3) of the Fairhope Zoning Ordinance.

He said considering the facts, he requested the BOA deny Mr. Hixson’s appeal.

Mrs. Slagle opened the public hearing.

David Shepard – 21210 County Road 13 – Stated he is a member of the Church and a lawyer. He said he felt there would a lawsuit with this case regardless of the outcome of this meeting. He asked the Board to consider the following four points: 1) First Baptist Church of Fairhope moved to its present location in 1952; prior to the City adopting any zoning ordinances and 50 years before Mr. Hixson bought his lot. 2) The Zoning Ordinance allows 40 spaces of parking in a lot zoned residential. 3) Constitutional issues with this matter – Alabama Religious Freedom Act, Amendment 622 to the Constitution “The purpose of the Alabama Religious Freedom Amendment is to guarantee that the freedom of religion is not burdened by state or local law.” 4) Discretionary act – the Board does not have to act. Calhoun v. Mayo – Alabama Supreme Court Case – no motion was made and no vote was taken.

Jerry Henry – 124 D’Estrehan – Stated he is the Pastor of the Church for 11 years and the Church has a history of being good neighbors and have been since 1908. The Church wants to be presence in the community and from where they are. He said the areas that Dr. Hixson is referring to are a grass knoll where the children play with minimum parking. He said he met with several of the neighbors including Dr. Hixson’s wife and left his business card and cell phone number. He said the Church is not above the code and they are not asking for special treatment but only to do what is allowed in the ordinance.

Lawson Swearingen – 152 Orange Avenue – Said he is a member of the Church and he gave a handout with facts about the Church. He stated he is a member of the Strategic Planning Committee and at this time they do not have any plans for the Life Center. He

stated that the Church owned all but one of the lots in question prior to Dr. Hixson purchasing his property. He added that the citizens of Fairhope utilize the Church “parking lots” for City and community functions.

Lawrence Corley – CTSM Architects – He said their firm designed the sanctuary in 2007 and they have been looking toward the future for Church expansion but it is an on-going process and it takes time. He stated that the Strategic Planning process is natural and the Church is taking its time to make sure it is done right. He said there is not a timetable and no set date to begin anything. He added the ministry needs to mature before designing a building and that is where the Church is now.

Mrs. Slagle asked to see a show of hands from the audience for those that are supporting the Church and approximately 90 % of the audience raised their hand.

Terry Lowell – 304 Gaston Avenue – She stated she has lived in their home for 30 years and it is directly behind one of the houses that were torn down. She said she has seen approximately 8 to 10 additional houses be torn down in the neighborhood. She said she has been in contact with the Church since the late 90’s regarding concerns with the houses being torn down. She said the lights from the existing parking lot shine in her house and there are horrible drainage issues in the neighborhood.

Russ Harper – 208 Gaston Avenue – He said he recently purchased his lot and did not notice the parking lots but now he is concerned with the investment he has made and the property values and how they will be further affected if more parking lots are put in. He asked how others would feel it if it was happening in their neighborhood.

Paul Fontenot – 252 S. Section Street – Lived here for 20 years and is a landscape architect. He said he can’t believe that the City intended for there to be parking lots in residential neighborhoods. He said he bought his home to raise his family and even though the surrounding area is zoned residential, he lives adjacent to the Church’s parking lot at the corner of Section and White. He said it is completely gravel and there is a sign that says “Senior Parking” and children do not play on it and it is used regularly and not for overflow parking. He stated the Methodist and Presbyterian churches went to the Planning Commission and followed the proper procedures and processes.

Having no one else wishing to speak, Mrs. Slagle closed the public hearing and opened the floor to the Board for comments. Mr. Strunk did not have any comments. Mr. Vira asked Mr. Smith if his interpretation would apply to any lot or property owner that had residential property and Mr. Smith responded yes. Mr. Smith added that once structures or lighting is proposed then it would need to come before the Planning Commission, but he does not feel that placing curb stops would require it. Mr. Andrews asked if the Church had a policy in regards to purchasing future property and Mr. Swearingen responded no. Mr. Andrews said that he feels that some of the concerns are in regards to what the Church has planned for the future. Mrs. Green asked if any ordinance defines “overflow” or “temporary” parking and Mr. Smith responded no. Mrs. Green stated she has met with members of the Church and staff regarding this case. She said that the

Church gives to the community but the community gives to the Church as well. She said she doesn't think is "overflow" because it used regularly. Mr. Smith stated staff is bound by the Zoning Ordinance and it allows for 40 cars to be parked on residential property. There was discussion regarding the Church's required parking and future expansion and Mr. Smith stated the Church meets their required parking for their current use and staff cannot speculate on possible future expansion. Mrs. Green asked if the Tree Ordinance can be applied to the lots in question to make it look better for the community when it's not in use. Mr. Smith stated there is a section that references Incompatible Land Use Buffers and the Board can impose it as a condition but it will apply to all properties and not just for the Church. There was discussion regarding signage for the lots and Mr. Smith stated it is limited to 3 square feet in residential areas and it can be a condition. Mr. Smith stated staff plans to review the Zoning Ordinance to evaluate it as it relates to places of worship and assembly uses in general. Debra Green moved to table the request for further discussion and was 2<sup>nd</sup> by Sam Andrews. The motion failed with the following vote: AYE – Debra Green and Sam Andrews; NAY – Troy Strunk, Anil Vira, and Cathy Slagle. Cathy Slagle stepped down as Chair and Anil Vira took over as Chair. Cathy Slagle moved to support the staff's position and interpretation of the Zoning Ordinance regarding the parking requirements in residential areas and specifically for the residentially zoned parcels owned by the Fairhope First Baptist Church that are used for overflow parking during church events. The motion was 2<sup>nd</sup> by Troy Strunk and passed with the following vote: AYE – Troy Strunk, Anil Vira, and Cathy Slagle; NAY – Debra Green; ABSTENTION – Sam Andrews.

Mrs. Slagle resumed her position as Chair.

Having no further business, Troy Strunk made a motion to adjourn. Anil Vira 2<sup>nd</sup> the motion and the motion carried unanimously. The meeting was adjourned at 6:57.M.