

ORDINANCE NO. 1650

**AN ORDINANCE AMENDING ORDINANCE NO. 1253
KNOWN AS THE ZONING ORDINANCE**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAIRHOPE, ALABAMA as follows:

The ordinance known as the Zoning Ordinance (No. 1253), adopted 27 June 2005, together with the Zoning Map of the City of Fairhope, be and the same hereby is changed and altered in respect to that certain property described below:

After the appropriate public notice and hearing of the Planning Commission of the City of Fairhope, Alabama has forwarded a **favorable** recommendation,

The property of **The Teachers' Retirement Systems of Alabama**, to be known as **Colony at the Grand**, generally located west of S. Section Street and the south side of Twin Beech Road, Fairhope, Alabama.

**Colony at the Grand
PPIN Numbers: 5499, 20948, 286294, and 63314**

Legal Description: (Case number ZC 19.04)

COMMENCING AT AN 8" CONCRETE MONUMENT AT THE CENTER OF SECTION 30, TOWNSHIP 6 SOUTH, RANGE 2 EAST, BALDWIN COUNTY, ALABAMA; THENCE RUN SOUTH 89°55'12" EAST A DISTANCE OF 681.18 FEET TO A ½" IRON REBAR WITH CAP (LS#20364) FOR THE POINT OF BEGINNING; THENCE RUN NORTH 00°15'05" EAST A DISTANCE OF 655.28 FEET TO A 5/8" IRON REBAR WITH CAP (LS#20364); THENCE RUN NORTH 89°58'26" WEST A DISTANCE OF 556.69 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 00°10'25" EAST A DISTANCE 552.45 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 89°09'15" WEST A DISTANCE OF 215.47 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 14°11'26" WEST A DISTANCE OF 499.92 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 89°29'48" WEST A DISTANCE OF 508.04 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 00°33'31" EAST A DISTANCE OF 127.18 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 89°31'20" WEST A DISTANCE OF 387.06 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 00°45'06" WEST A DISTANCE OF 127.47 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 89°48'13" WEST A DISTANCE OF 162.81 FEET TO A ½" IRON REBAR WITH CAP (CA#604) ON THE EAST RIGHT-OF-WAY OF TWIN BEECH ROAD; THENCE RUN NORTH 01°26'57" WEST ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 146.45 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 02°14'51" EAST ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 336.23 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE LEAVING SAID EAST RIGHT-OF-WAY NORTH 89°06'14" EAST A DISTANCE OF 96.73 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 00°42'08" WEST A DISTANCE OF 225.94 FEET TO A 1" AXEL; THENCE RUN SOUTH 89°18'34" EAST A DISTANCE OF 450.09 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 00°43'04" EAST A DISTANCE OF 606.11 FEET TO A ½" IRON REBAR WITH CAP (CA#604) ON THE SOUTH RIGHT-OF-WAY OF TWIN BEECH ROAD; THENCE RUN NORTH 89°18'08" EAST ALONG SAID SOUTH RIGHT-OF-WAY A DISTANCE OF 725.01 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE LEAVING SAID SOUTH RIGHT-OF-WAY SOUTH 00°23'34" WEST A DISTANCE OF 579.22 FEET TO A ¾" CRIMPED TOP IRON PIPE; THENCE RUN SOUTH 89°32'33" EAST A DISTANCE OF 284.51 FEET TO A ¾" CRIMPED TOP IRON PIPE; THENCE RUN NORTH 00°39'28" EAST A

DISTANCE OF 289.56 FEET TO A 6" CONCRETE MONUMENT; THENCE RUN SOUTH 89°50'54" EAST A DISTANCE OF 266.89 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 00°52'39" WEST A DISTANCE OF 264.57 FEET TO A 1" OPEN TOP IRON PIPE; THENCE RUN SOUTH 89°23'38" EAST A DISTANCE OF 451.85 FEET TO A ½" CRIMPED TOP IRON PIPE; THENCE RUN SOUTH 00°44'26" WEST A DISTANCE OF 28.71 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 89°41'53" EAST A DISTANCE OF 556.95 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN SOUTH 00°17'53" WEST A DISTANCE OF 469.67 FEET TO A ½" IRON REBAR WITH CAP (CA#604); THENCE RUN NORTH 89°41'30" WEST A DISTANCE OF 199.29 FEET TO A 1" CRIMPED TOP IRON PIPE; THENCE RUN SOUTH 00°27'08" WEST A DISTANCE OF 634.36 FEET TO A 1" CRIMPED TOP IRON PIPE; THENCE RUN SOUTH 89°42'07" EAST A DISTANCE OF 1284.74 FEET TO A 5/8" IRON REBAR WITH CAP (LS#20364) ON THE WEST RIGHT-OF-WAY OF SECTION STREET (80' R.O.W.); THENCE RUN SOUTH 00°01'51" EAST ALONG SAID WEST RIGHT-OF-WAY A DISTANCE OF 875.73 FEET TO A ½" OPEN TOP IRON PIPE; THENCE LEAVING SAID WEST RIGHT-OF-WAY NORTH 89°20'29" WEST A DISTANCE OF 634.65 FEET TO A ½" OPEN TOP IRON PIPE; THENCE RUN NORTH 89°54'51" WEST A DISTANCE OF 655.00 FEET TO A 5/8" IRON REBAR WITH CAP (LS#20364); THENCE RUN NORTH 89°57'07" WEST A DISTANCE OF 681.53 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 99.15 ACRES, MORE OR LESS.

A map of the property to be zoned is attached as **Exhibit A**

1. **That**, the following development regulations shall govern:


Use: Lots shall be Low Rise Single Family Residential.

The property is hereby initially zoned Tourist Resort (TR) District concurrent with annexation into the City of Fairhope. This property shall hereafter be lawful to construct on such property any structures permitted by Ordinance No. 1253 and to use said premises for any use permitted or building sought to be erected on said property shall be in compliance with the building laws of the City of Fairhope and that any structure shall be approved by the Building Official of the City of Fairhope and that any structure be erected only in compliance with such laws, including the requirements of Ordinance No. 1253.

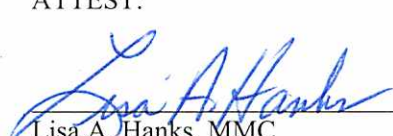
Severability Clause - if any part, section or subdivision of this ordinance shall be held unconstitutional or invalid for any reason, such holding shall not be construed to invalidate or impair the remainder of this ordinance, which shall continue in full force and effect notwithstanding such holding.

Effective Date – This ordinance shall take effect immediately upon its due adoption and publication as required by law.

ADOPTED THIS 10TH DAY OF JUNE, 2019


Karin Wilson, Mayor

ATTEST:


Lisa A. Hanks, MMC
City Clerk



CITY OF FAIRHOPE
P.O. DRAWER 429
FAIRHOPE, AL 36533
251/928-2136

PETITION FOR ANNEXATION

STATE OF ALABAMA)
COUNTY OF BALDWIN)

We, the undersigned PETITIONER(S), owner(s) of the lands in fee simple described in the attached EXHIBIT A, such property being without the Corporate Limits of the City of Fairhope, Alabama, but being contiguous to the said Corporate Limits; and such property not lying within the corporate limits or police jurisdiction of any other municipality, do, by these presents, hereby petition the City of Fairhope, a municipal corporation, that said property be annexed into the City of Fairhope, Alabama.


The subject land is delineated on the map attached hereto as EXHIBIT B.

This petition is filed under authority of Section 11-42-21, Code of Alabama, 1975, as amended.

☐ This petition is for R-1 Zoning

☒ The condition of the Petition is that zoning be established as TR
Concurrent with Annexation. (Zoning Request)

Is this property colony property _____ Yes X No. If this property is colony property the Fairhope Single Tax Office must sign as a petitioner.


Signature of Petitioner

Steve Timms
Print petitioner's name

Signature of Petitioner

Print petitioner's name

Signature of Petitioner

Print petitioner's name

Physical Address of property being annexed: _____

Petitioner's Current Physical Address:
135 South Union Street, Suite 228
Montgomery, AL 36104

Petitioner's Current Mailing Address:
Post Office Box 302150
Montgomery, AL 36130

Telephone Number(s): (334) 264-2345
Home Work

County Tax Parcel Number: 05-46-09-30-0-000-037.003, 041.000, 042.000, 043.000

U.S JUSTICE DEPARTMENT INFORMATION

- ☐ Size of property (acres or square feet) 99.13 Acres
- ☐ If property is occupied, give number of housing units _____
- ☐ Number of Persons residing in each unit, and their race _____
- ☐ If property is unoccupied, give proposed use Residential
- ☐ If property is being developed as a subdivision, give subdivision name
Battles Trace @ the Colony
- ☐ Number of lots within proposed subdivision 250+/-

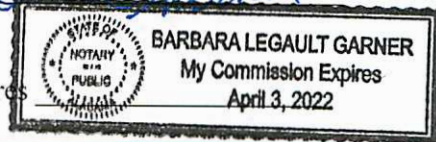
I, Barbara Legault Garner a Notary Public in and for said State and County, hereby certify that Steve Jimenez whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.



Given under my Hand and Seal this 28th day of January, 20 19.

Barbara Legault Garner
Notary Public

My commission expires _____



I, _____ a Notary Public in and for said State and County, hereby certify that _____ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this _____ day of _____, 20 _____,

(Seal)

Notary Public

My commission expires _____

I, _____ a Notary Public in and for said State and County, hereby certify that _____ whose name(s) is/are signed to the forgoing Petition and who is/are known to me, this day appeared before me and, being first duly sworn, acknowledge that he/she/they have voluntarily executed this Petition on this day same bears date.

Given under my Hand and Seal this _____ day of _____, 20 _____,

(Seal)

Notary Public

My commission expires _____



City Council

May 2019

Case: ZC 19.04 Colony at the Grand

Project Name:

Colony at the Grand

Property Owner /Applicant:

Retirement Systems of Alabama

General Location:

The property is approximately 99.15 acres located south of Twin Beech Road and west of S. Section Street.

Project Type:

Conditional Annexation to Tourist Resort (TR) District

Jurisdictions:

City of Fairhope Planning, Permit and Police Jurisdictions

Project Acreage:

99.15 acres

Zoning District:

Currently Unzoned

PPIN Number:

5499,20948, 63314, and 286294

Engineer of record:

HMR, LLC

School District:

J. Larry Newton Elementary, Fairhope middle and high school

Report prepared by:

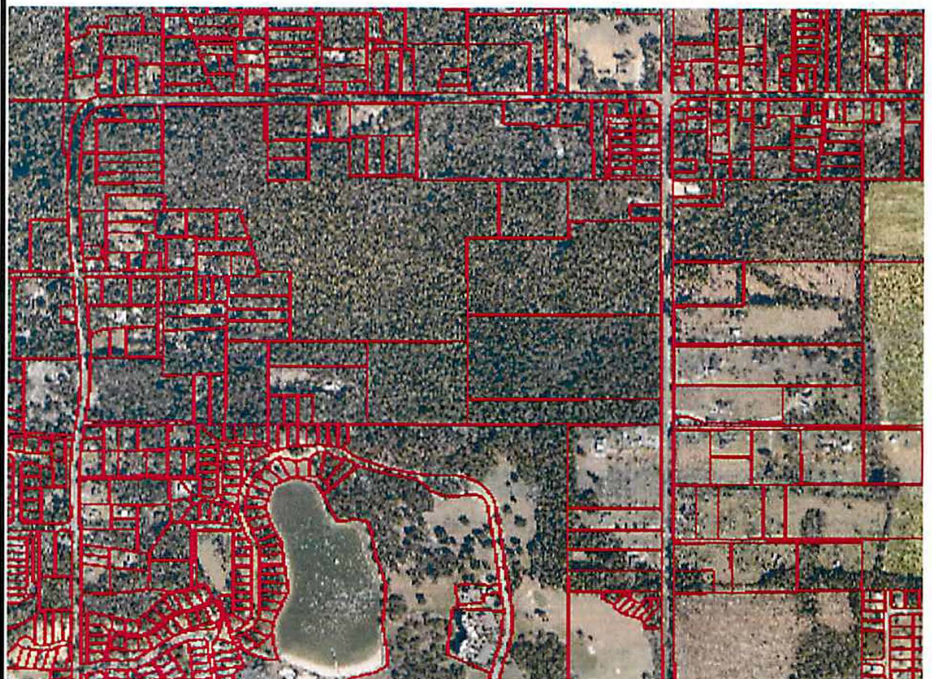
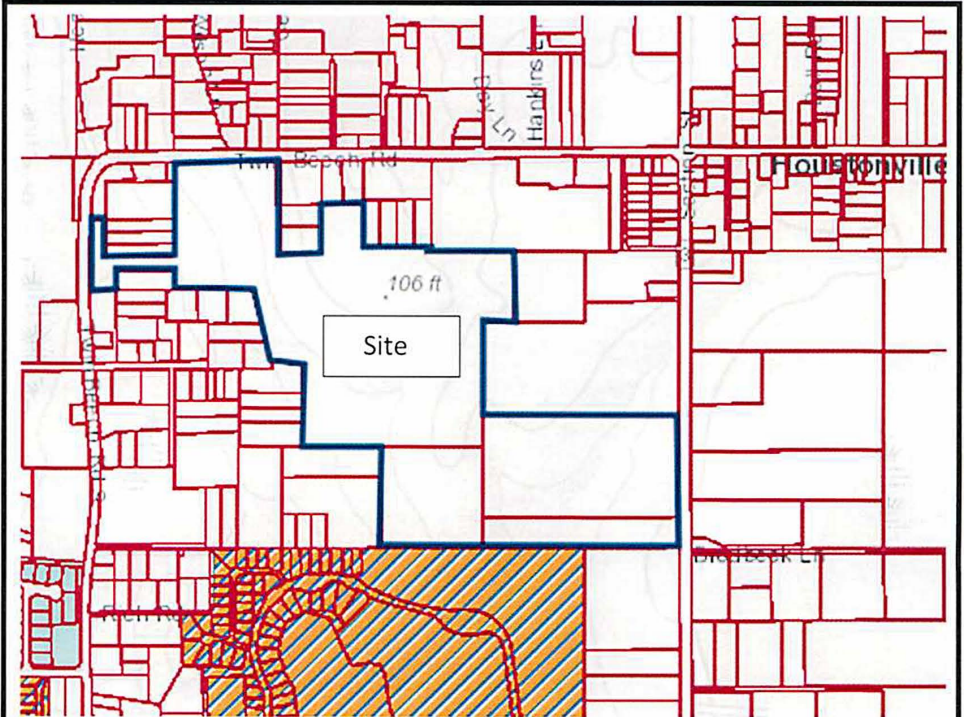
Nancy Milford, Staff Planner, EI, CAPZO Certified

Staff Recommendation:

Approve

PC Recommendation:

Approve with conditions



Summary of Request:

Public hearing to consider the request of The Retirement Systems of Alabama to establish initial zoning of Tourist Resort (TR) District conditional upon annexation into the City of Fairhope. The property is approximately 99.15 acres located south of Twin Beech Road and west of S. Section Street.

The application was heard by the Planning Commission on March 12, 2019 and was continued to allow the developer and the residents to have dialog on the project to help facilitate communication with the local residents on the project. The applicant held a meeting at the Boys and Girls Club on March 28, 2019 at 6:00 pm. It was well attended and gave the neighbors and opportunity to ask questions of the developer. Two Planning Commission members attended the meeting as well. On April 1, 2019 Planning Commission, the case was heard by Planning Commission and they voted to approve the development.

Early in the Planning Commission discussion, Mr. Lee Turner expressed that he would prefer it was specified as approval with the development being only low- rise single family. Mr. Turner expressed he wanted Mr. Brown (City Council Member) be aware of his concern that the development be limited to the low rise single residential. Mr. Art Dyas made the motion that zoning approval be made for low rise single only. Charles Johnson seconded the motion. The vote was unanimous.

The property is owned by the Retirement Systems of Alabama and the authorized agent is Mr. Tim Lawley, PE, of HMR Engineers. The property being conditionally annexed is approximately 99.15 acres in size. The applicant is proposing this revision of the TR District Zoning Map to add the 99.15 acres to the north of the existing property in the TR District Zoning Map.

The total acreages of each TR District Zoning designations are as follows:

<u>Current Map</u>	<u>Proposed Map</u>
LR 93.5 Acres	LR 192.6 Acres
MR 19.5 Acres	MR 19.5 Acres
HR 3.8 Acres	HR 3.8 Acres
RZ 63.8 Acres	RZ 63.8 Acres
LC 7.1 Acres	LC 7.1 Acres

[LR= Low-Rise Residential Zone (not to exceed 35'); MR=Mid-Rise Residential Zone(not to exceed 55'); HR=High-Rise Residential Zone (not to exceed 55'); RZ=Recreational Zone; LC= Limited Commercial (not to exceed 40')]

The current density of the TR District is 3.5 units per acre (UPA). The current allowed number of units on the existing 184.6 acres of TR District property is 637. The applicant is proposing and additional 224 units on the 99.15 acres being conditionally annexed. The additional property being annexed has a density of 2.26 UPA. Once the property is annexed, the units per acre of the for the overall TR District Property will change from 3.5 UPA to 3 UPA (861 units on 286.8 acres).

Site History:

Case Number	PC Date	PC Result	CC Date	Development Name	Applicant	Owner	Request	Ordinance Number
ZC 10-04	6/7/2010	Approved	8/23/10	Colony at the Grand	Point Clear Partners	Point Clear Partners	Conditional annex to Tourism Resort (TR)	Approved - Ord. 1434
ZC 16.04	4/4/2016	Approved	6/27/16	TR District Amendment	HMR	RSA	TR District Amendment	Approved - Ord. 1579

Comments:

The Zoning Ordinance in **Article II Section C** specifies the following *Criteria* regarding zoning amendments.

1. Zoning Amendments

e. Criteria- The application shall be reviewed based on the following criteria:

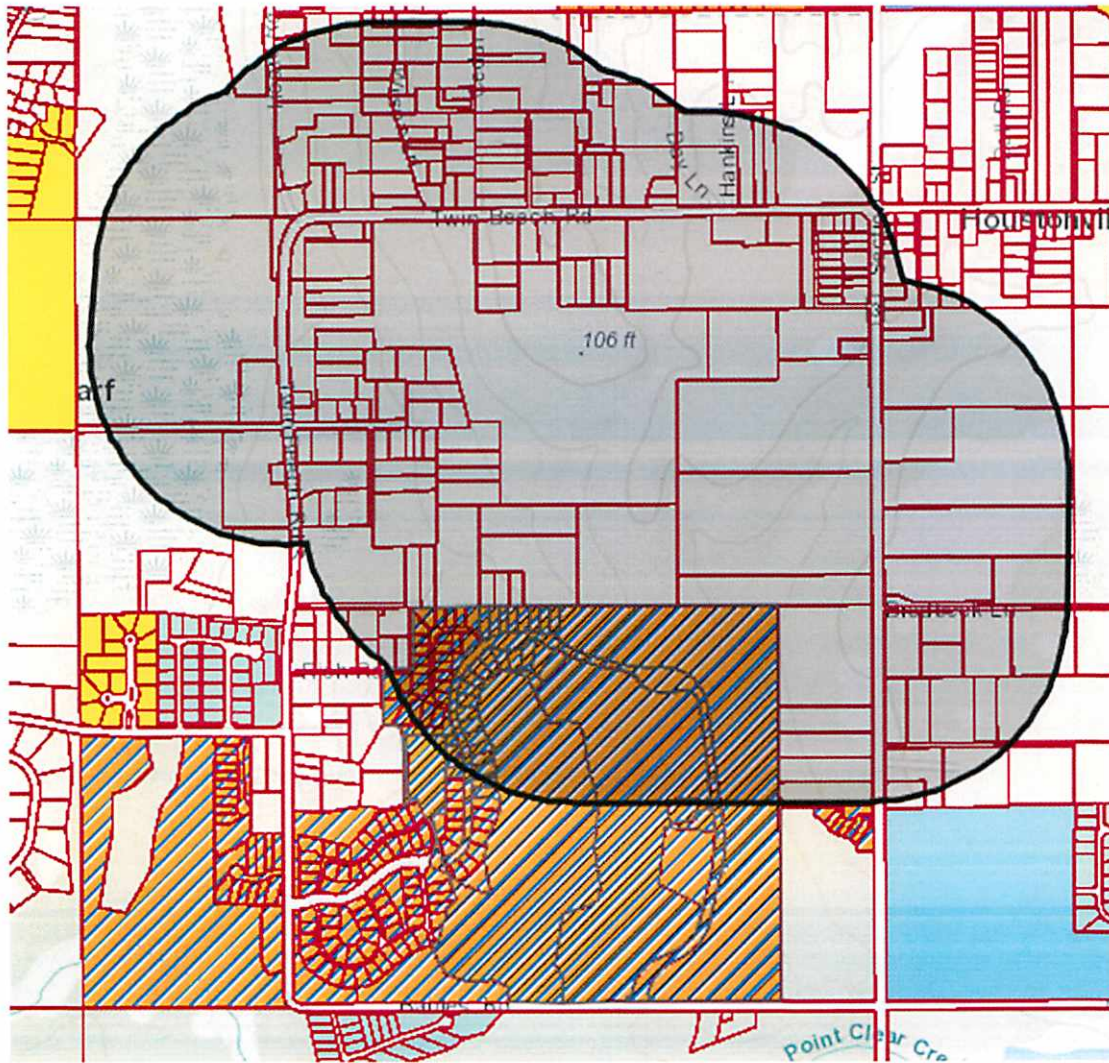
- (1) Compliance with the Comprehensive Plan;
- (2) Compliance with the standards, goals, and intent of this ordinance;
- (3) The character of the surrounding property, including any pending development activity;
- (4) Adequacy of public infrastructure to support the proposed development;
- (5) Impacts on natural resources, including existing conditions and ongoing post-development conditions;
- (6) Compliance with other laws and regulations of the City;
- (7) Compliance with other applicable laws and regulations of other jurisdictions;
- (8) Impacts on adjacent property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,
- (9) Impacts on the surrounding neighborhood including noise, traffic, visible intrusions, potential physical impacts, and property values.

Article II Section C 1 e (1): Comprehensive Plan: The property is located just north of the existing TR District. The development does not appear contrary to the Comprehensive Plan.

Article II Section C 1 e (2) Compliance with the standards, goals, and intent of this ordinance:

This development is being proposed as part of the TR District Zoning. The overall development at the Colony is a master planned community designed in its entirety with a special overlay district which is afforded exceptions to certain development standards which allows private streets, a gated community, private storm sewers, etc. The individual phases of this development will be reviewed for compliance with the TR District standards at the time of subdivision.

Article II Section C 1 e (3) The character of the surrounding property, including any pending development activity: The property is bordered to the north by unzoned property; to the east by unzoned property; to the west by unzoned property and to the south by TR District zoned property.



1,320 foot buffer zone around the property

Properties outside of the immediately adjacent areas, but within the 1320-foot buffer include only unzoned and TR District properties. Properties just outside the buffer are zoned R-5 (to the southeast); TR District to the south; PUD to the southwest, and R-1 to the west. The predominate character of the neighborhood is residential and the proposed conditional annexation and re-zoning will be in character with the surrounding neighborhood.

Article II Section C 1 e (4) Adequacy of public infrastructure to support the proposed development:

According to Mr. Richard Peterson, Director of Operations, the City does have adequate utility availability for this rezoning. As far as a request for a zoning change goes, the City of Fairhope Director of Operations has confirmed that from a public infrastructure perspective, there are no issues.

According to Mr. Peterson, The parcel for annexation/initial zoning consideration is located on both South Section Street and Twin Beech Road. The City's infrastructure, with the improvements we have planned, will support the 224 +/- units that are proposed.

Article II Section C 1 e (5) Impacts on natural resources, including existing conditions and ongoing post-development conditions: Potential wetlands are located on the property. The applicant is working with the Corps of Engineers with regards to the on-site wetlands. The applicant has indicated that during each phase of the development located within the zoned areas, the natural resources will be identified and evaluated during the individual phase of development.

Article II Section C 1 e (6) Compliance with other laws and regulations of the City: At the time of subdivision submittal, staff will review the project layout for compliance with the City of Fairhope Zoning Ordinance and any other applicable City ordinances that may apply. The site is located within the City of Fairhope Corporate Limits, the permit jurisdiction, the police jurisdiction and the planning jurisdiction. The Tourist Resort District has requirements unique to its own district.

Article II Section C 1 e (7& 8) Impacts on adjacent and surrounding property including noise, traffic, visible intrusions, potential physical impacts, and property values; and,

The proposed development is consistent with the surrounding residential developments in terms of noise and intrusion. The applicant is proposing low-rise residential for the entire 99.15 acres being conditionally annexed. The applicant will evaluate traffic improvements at the time of the subdivision submittals.

Staff Recommendation:

Staff recommended approval of the application to Planning Commission.

Planning Commission Recommendation:

The Planning Commission recommended zoning approval of ZC 19.04 Colony at the Grand conditional that the development was only single-family low rise residential.

Mr. Art Dyas made the motion that zoning approval be made for low rise single only. Charles Johnson seconded the motion. The vote was unanimous.

The Planning Commission of the City of Fairhope, at its April 1, 2019 regular meeting, recommended **APPROVAL** of the rezoning to the Tourist Resort (TR) District and the conditional annexation with the following vote: AYE – Art Dyas, Rebecca Bryant, Charles Johnson, Lee Turner, Clarice Hall-Black, and Jack Burrell. NAY – Richard Peterson and Hollie MacKellar.