STATE OF ALABAMA

SHELBY COUNTY

SHELBY COUNTY PLANNING COMMISSION MINUTES

Regular Meeting –June 1, 2020 – 6:00 PM
Pelham Civic Center Banquet Hall
500 Amphitheater Road, Pelham, AL 35124

Members Present:	Bill Kinnebrew, Chairman; Jim Davis; Jay Gunther; Joe Little; Samuetta Nesbitt; Kenneth Wilder
Members Absent:	Michael O'Kelley
Staff Present:	Chad Scoggins, County Manager; David Willingham, Chief Development Officer; Phil Burns, Chief Operating Officer; Christie Hester, Planning Services Supervisor; Sharman Brooks, Senior Planner; Kristine Goddard, Principal Planner; Josh Cameron, Principal Planner; Brenda Hungerford, Administrative Assistant

PUBLIC HEARING

[**Note:** The quality of sound during this meeting was muffled at times because of the room set up to enable social distancing for public participation.]

Bill Kinnebrew, Chairman, called the meeting to order at 6:00 pm and noted this meeting was being live-streamed (https://Live.Shelbyal.com). **Commissioner Kinnebrew** introduced the Commissioners and County staff. He called the roll and then reviewed the meeting procedures related to COVID-19 restrictions in which public attendees would remain outside until the cases of interest to them were on the floor. He also described possible scenarios related to actions taken and the appeal process. In addition to the Planning Commissioners and County staff, approximately twenty-three (23) audience members were present over the course of the meeting and presentation/discussion of the agenda items.

1. **Approval of the Minutes of the March 2, 2020, Planning Commission Meeting**

   Commissioner Davis made a motion to approve the minutes of the March 2, 2020, meeting and **Commissioner Nesbitt** seconded the motion. Commissioner Kinnebrew called a roll call vote, and by a unanimous vote of six (6-0) in favor, the Planning Commission approved the minutes of the March 2, 2020, meeting.

   Note: The signed minutes retained by the Shelby County Development Services Department will have a complete meeting information packet including staff reports attached.

2. **SD20-003 - Dunnavant Square North Phase II Master Plan Amendment**

   This is a request from William L. Thornton, Thornton, Inc., for approval to amend the Master Plan of Dunnavant Square Commercial Phase 2 from the original design of two stories to a single story as constructed and to include a shed for screened equipment storage and a propane distribution tank. The subject property is zoned SD, Special District and located at the intersection of Dunnavant Valley Road and Carlow Lane; Parcel Identification No. 58-09-2-03-3-301-121.000.

Ms. Goddard gave a presentation for the request to amend the Master Plan, based on the written staff report, and reported that she received one written comment in opposition to the removal of the second story. Responding to questions by **Commissioners Davis** and **Little**, she noted the State of Alabama approved the propane tank and its location and that the second story removal had been administratively approved as a minor change.

Following her presentation, there were no questions of Mr. Thornton, the developer, and no public comments.

With no further discussion, **Commissioner Kinnebrew** called for a motion. **Commissioner Davis** made a motion in **Case SD20-003 – Dunnavant Square North Phase II Master Plan Amendment** that the evidence presented in the written staff report and presentation warrants Approval with conditions of the written staff report, and **Commissioner Little** seconded the motion. Upon a roll call vote called by Commissioner Kinnebrew, by a unanimous vote of six (6-0) in favor, the Planning Commission approved the following resolution:

WHEREAS, William L. Thornton, Thornton, Inc., has petitioned the Planning Commission for approval to amend the Master Plan of Dunnavant Square Commercial Phase II from the original design of two stories to a single story as constructed and to include a shed for screened equipment storage and a propane distribution tank; and,

WHEREAS, the subject property is located on the north side of County Road 41 (Old Dunnavant Valley Road) approximately 3.3 miles northeast of U.S. Highway 280, east of The Village at Highland Lakes and Fowler Lake Estates and west of Mt Laurel, in the Chelsea North – Dunnavant Valley South – Westover North Zoning Beat; and,

WHEREAS, the amended Master Plan for the Dunnavant Square North, Phase II was approved by the Planning Commission on May 15, 2017; and

WHEREAS, changes to an approved Special District require approval from the Planning Commission; and,

WHEREAS, the proposed amendment allows an architectural redesign of Phase II of Dunnavant Square Commercial from a two story building to single story construction; and,

WHEREAS, the development has secured a hardware tenant that has requested the construction of a stand-alone shed to serve as an existing staging area and equipment storage in addition to the retail area; and

WHEREAS, said tenant has also requested installation of a propane storage tank and dispenser for the regular course of business; and,

WHEREAS, both the staging shed and the propane tank locations are proposed behind the main structure in an area of surplus parking; and,

WHEREAS, the inclusion of the storage shed and propane tank are specific to a hardware tenant and are designed to be constructed in way to facilitate their removal should the hardware tenant vacate the rental space; and,

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the application from William L. Thornton, Thornton, Inc., for approval to amend the Master Plan of Dunnavant Square Commercial Phase II from the original design of two stories to a single story as constructed and to include a shed for screened equipment storage and a propane distribution tank, located on the north side of County Road 41 (Old Dunnavant Valley Road) approximately 3.3 miles northeast of U.S. Highway 280, east of The Village at Highland Lakes and Fowler Lake Estates and west of Mt Laurel, in the Chelsea North – Dunnavant Valley South – Westover North Zoning Beat and situated in the north half of Section 3, Township 19 South, Range 1 West; Parcel Identification No. 58-09-2-03-3-301-121.000 be, and the same is hereby ***Approved,*** subject to:

- Applicant submitting a revised site plan; and
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

3. V20-002 – Mason Front Yard Variance - Shoal Creek Lot 137-A

This is a request from Robert and Gail Mason, property owners, for approval of a front yard variance of 47 feet to reduce the required front yard setback from 100 feet to 53 feet for the construction of a single family home. The subject property is zoned, E1-SD, Single Family Estate-Special District and located at 4 Bellerive Knoll in the Shoal Creek Subdivision; Parcel Identification No. 58-03-7-26-0-000-023.000.

Mr. Cameron gave a presentation regarding the variance request, based on the written staff report. He reported receiving seven written comments in opposition to this case and summarized the concerns as follows.

- Approval of the variance request would degrade the value and uniqueness of Shoal Creek created in part by the established 100-foot setback.
- Other homes in the area have incurred additional costs to meet the current 100-foot setback without requesting a variance.
- General concerns for privacy and sight lines.
- The requested variance is not in keeping with the covenant guidelines established by the Shoal Creek Architectural Committee [Mr. Cameron confirmed the Architectural Review Committee (ARC) approved this on May 20].

Following the presentation, Mr. and Mrs. Mason stated they were excited to build a home in Shoal Creek.

Commissioner Kinnebrew opened the floor for public comment.

- Tracey McKenzie, 1 Bellerive Knoll, stated she was excited to have the Masons as new neighbors and her opposition did not reflect on them personally. She believes the reduced setback would create an unnecessary and intrusive encroachment on the front property; all other homeowners needed to work within the requirements.
- Jamelle Shaw, 4 Baltusrol Court, stated she fully agreed with Ms. McKenzie and that 100 percent of the neighbors surrounding this lot are in opposition to the request and ask for it to be denied because it would result in significant sight line issues.
- George Thompson, Shoal Creek Properties, stated, his agency manages Shoal Creek; He described the average lot size and low density within Shoal Creek, mentioning a provision from the Master Plan for 19 homes to be built on cottage lots—these lots have no setbacks and each home can be built on a case-by-case basis. While not a cottage lot, he explained the Mason's lot is triangular with a deep slope in the back, making construction on the lot with required setbacks not feasible for a 2500 square foot home and this variance would only change the setback from the front property lines without affecting the other three setbacks. With all due respect, he asserted this is a hardship case that should be approved.
- Ms. Shaw suggested there is room closer to the golf course that might enable a compromise to move the house further from the street. If the Planning Commission is not going to deny this request, she asked the Commission to consider tabling a decision for one month to allow time for the neighbors and the Masons to work with the ARC and perhaps the golf course for an alternative plan. She added the neighbors would be okay with the Mason's request if they were not already dealing with a difficult situation on another lot. She explained the neighbors had agreed to a landscape plan based on a compromise agreement that would keep 80 percent of the trees and undergrowth; however, contrary to the agreement, that neighbor cut down a majority of the trees and there were no consequences. She stressed they had moved to Shoal Creek for the natural beauty, which is now greatly impacted.
- Mrs. Mason stated that in addition to being a smaller triangular lot, it has varied topography. She explained that due to the rear slope toward the golf course, there is no other location on the lot for building a house and they were informed the backyard setback from the golf course needed to be maintained.

Commissioner Kinnebrew asked if the Planning Commission had additional questions, and the following bullets document the discussion.

- In response to **Commissioner Gunther**'s question, Mrs. Mason stated the lot size is 1.3 acres. Mr. Thompson added this lot is smaller than the average Shoal Creek lot, and the ARC has approved this variance.
- Ms. McKenzie emphasized the Masons are not being attacked, they are just asking for a way to push the house back from the street a bit, noting that being in Shoal Creek they must keep up what they have.
- Mrs. Mason stated they placed the house with the understanding it needed to be away from the golf course. She asked about the seven neighbors since there are just three adjacent property owners.
- **Commissioner Little** inquired about the written comments; Mr. Cameron explained they were distributed via email to Commissioners prior to the meeting; noting the written comments can be considered in the Commission's decision. Ms. McKenzie stated all seven neighbors close to the Mason's lot submitted the written comments.
- **Commissioner Davis** noted the ARC has always done the groundwork for Shoal Creek variances submitted for Planning Commission review and stressed the Commission relies on the input from the Committee.
- Ms. McKenzie asked if they could take ten feet off the golf course side on the backyard. Mr. Thompson stated if they are asked to go back to the drawing board, they could talk with the Golf Club and the Committee.
- **Commissioner Nesbitt** asked if there are costs associated with additional review by the Committee. Mrs. Mason stated they would prefer not delaying the Planning Commission's decision, noting a desire to begin construction sooner due to weather and the favorability of low mortgage rates.
- In response to the questions about reducing the backyard setback, **Commissioner Kinnebrew** explained the Commission could not make decisions related to what happens in Shoal Creek without the ARC first considering and approving. He added the Commission has previously never been challenged on an ARC-approved request. Ms. Shaw responded neighbors were not aware of the ARC action; their only notice of the variance consideration was for this meeting.
- **Commissioner Little** stated he would like to have more time for the property owners, neighbors, and Shoal Creek to communicate related to this situation.
- **Commissioner Gunther** stated the setbacks render the property unusable without a variance and he suggested tabling the action.
- As requested by **Commission Kinnebrew,** Ms. Sharman Brooks explained the various options regarding this case, noting the detailed information was included in the meeting handout. Ms. Brooks stated if the Planning Commission voted to continue this case, it must be to a certain date/location and the next regular meeting is scheduled on Monday, July 20 at 6:00 pm at the Pelham Civic Complex.

With no further discussion, **Commissioner Gunther** made a motion to continue **Case V20-002 – Mason Front Yard Variance - Shoal Creek Lot 137-A** to the next regularly scheduled meeting of the Planning Commission on Monday, July 20, 2020, at 6:00 pm at the Pelham Civic Complex, and **Commissioner Little** seconded the motion. Upon a roll call vote called by **Commissioner Kinnebrew**, by a vote of four to two (4-2) with **Commissioners Gunther, Kinnebrew, Little, and Nesbitt** voting yes and **Commissioners Davis and Wilder** voting no, the Planning Commission approved the following resolution:

WHEREAS, Robert and Gail Mason, property owners, have petitioned the Shelby County Planning Commission for approval of a front yard setback variance of 47 feet to reduce the required setback from 100 feet to 53 feet along

Bellerive Knoll for the construction of a single family home; a variance of Section 3, Article X.A, pursuant to Section 3, Article XXIII; and,

WHEREAS, the subject property is zoned E-1 SD and is located at 4 Bellerive Knoll in the Shoal Creek Subdivision. Parcel Identification No. 58-03-7-26-0-000-023.000; and,

WHEREAS, the subject property is identified as Lot 137-A of the Shoal Creek Subdivision in the Chelsea North – Dunnavant Valley South – Westover North Zoning Beat, situated in Section 35, Township 18 South, Range 1 West; and,

WHEREAS, Shoal Creek is a master planned community and thus setbacks were established in the 2015 Master Plan approved by the Planning Commission on July 20, 2015; and,

WHEREAS, the Shoal Creek Master Plan requires a 100 foot setback from all lot lines adjacent to a public road; and,

WHEREAS, the Shoal Creek Association Board of Directors and the Shoal Creek Architectural Committee have presented written approval of the request for setback variance; and,

WHEREAS, the public comment received indicated that nearby residents were aggrieved by the decision of the Shoal Creek Architectural Committee's approval of the request; and,

WHEREAS, the Planning Commission has determined that more time is needed for the applicants, nearby property owners, and Shoal Creek Architectural Committee to reach an agreement on the variance relief needed for the construction of a single family home comparable in size and character to other homes located in the Shoal Creek Subdivision; and,

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the application of Robert and Gail Mason, property owners, for the approval of a front yard setback variance of 47 feet to reduce the required setback from 100 feet to 53 feet for the construction of a single family home in the E-1 SD, Single-Family Estate Special District; a variance of Section 3, Article X.A, pursuant to Section 3, Article XXIII for property located at 4 Bellerive Knoll, Lot 137-A of the Shoal Creek Subdivision, in the Chelsea North – Dunnavant Valley South – Westover North Zoning Beat and situated in Section 35, Township 18 South, Range 1 West; Parcel Identification No. 58-03-7-26-0-000-023.000 be, and the same is hereby ***CONTINUED***, to **July 20, 2020.**

4. SN20-004 – South Oak Subdivision Master Plan

This is a request from James C. Parsons, property owner, for approval of a Master Plan to develop a 70-lot residential subdivision to be known as the South Oak Subdivision. The subject property is zoned A-R, Agricultural Residential and located at One (1) South Oak Drive off of Dunnavant Valley Road; Parcel Identification Nos. 58-03-6-23-0-000-001.002 (Part), 58-03-7-26-0-000-006.000, 58-03-7-26-0-000-006.003, 58-03-7-26-0-000-006.004, 58-03-7-26-0-000-006.005, and 58-03-7-26-0-000-006.006.

Mr. Cameron gave a presentation regarding the Master Plan request, based on the written staff report, and reported the County did not receive any written public comments for this case.

Following the presentation, Bob Easley, applicant's engineer, added there is an inclusion of a 50-foot buffer on Shire's side in addition to Brock Point. Responding to **Commissioner Kinnebrew**, he stated the existing driveway will not work and it was revised early in development process to eliminate traffic conflict.

Commissioner Kinnebrew opened the floor for public comment.

- Jeff Waites, 107 Elyton Drive, stated he was surprised the Shelby County Board of Education is allowing new developments because Mt Laurel Elementary School is overcrowded; while it is an excellent school, it is already at capacity, and a new school must be built.
- Kevin Harper, 1076 Royal Mile, asked if the top of the mountain will be disturbed, noting he is concerned about water runoff and ravines.

- In response to Mr. Harper's question, Peter Wolnski, applicant, stated there are no plans to develop the ridge. The plan is to leave that property natural. Mr. Cameron clarified there are no lots proposed on the mountaintop area which is labeled "acreage" on the Master Plan.

With no further discussion, **Commissioner Kinnebrew** called for a motion. **Commissioner Davis** made a motion in **Case SN20-004 – South Oak Subdivision Master Plan** that the evidence presented in the written staff report and presentation warrants Approval with conditions of the written staff report, and **Commissioner Wilder** seconded the motion. Upon a roll call vote called by **Commissioner Kinnebrew**, by a unanimous vote of six (6-0) in favor, the Planning Commission approved the following resolution:

WHEREAS, James C. Parsons, property owner, has petitioned the Planning Commission for approval of a Master Plan to develop a 70-lot residential subdivision to be known as the South Oak Subdivision; and,

WHEREAS, the subject properties are located on 1 South Oak Drive off Dunnavant Valley Road; Parcel Identification Nos. 58-03-6-23-0-000-001.002 (Part), 58-03-7-26-0-000-006.000, 58-03-7-26-0-000-006.003, 58-03-7-26-0-000-006.004, 58-03-7-26-0-000-006.005, and 58-03-7-26-0-000-006.006.; and,

WHEREAS, the Shelby County Planning Commission approved a request to rezone the subject property from HZ, Holding Zone, to AR, Agricultural Residential on March 2, 2020; and

WHEREAS, the Master Plan identifies a 70-lot residential subdivision with all lots being three acres or larger; and,

WHEREAS, the Master Plan identifies an overall gross density of approximately 0.22 dwelling units per acre; and,

WHEREAS, the Master Plan layout is consistent with the residential nature of the community along the Dunnavant Valley Road corridor; and,

WHEREAS, the proposed layout and density of the Master Plan is consistent with the AR, Agricultural Residential zoning; and,

WHEREAS, the proposed Master Plan includes a fifty (50) foot wide buffer on all lots adjacent to the Brock Point neighborhood and The Shires neighborhood; and,

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the request of James C. Parsons, property owner, for the approval of a Master Plan to develop a 70-lot residential subdivision to be known as the South Oak Subdivision is hereby **APPROVED**, subject to:

- Applicant submitting a fully engineered preliminary plat for each phase of development that meets all requirements of the Subdivision Regulations; and
- Applicant submitting an application for final plat approval within two (2) years of approval of the preliminary plat. Failure to apply may necessitate reapplication for preliminary plat approval; and
- Any amendments, additions, deletions, alterations or changes to the approved Master Plan shall require the review and approval of an amendment to the approved Master Plan by the Shelby County Planning Commission; and
- Compliance with the regulations, policies and guidelines of Shelby County, Alabama.

5. SD20-002 - Mt Laurel Master Plan Amendment

This is a request from Nick Dawson, EBSCO Development Company, for approval to amend the Master Plan of Mt Laurel to identify the road and lot configurations for approximately 174 single-family lots northeast of Mt Laurel Elementary School to be known as Hillsong at Mt Laurel. The subject property is zoned SD, Special District and located south of the intersection of Olmsted Street and Hawthorne Street in the Mt Laurel development. Parcel Identification Nos. 58-09-2-03-4-001-010.000; 58-09-2-03-4-001-011.000; 58-09-2-03-1-005-064.000; 58-09-1-02-0-000-001.001; 58-09-1-02-0-000-001.002 and 58-09-1-02-2-001-001.001.

Ms. Brooks gave a presentation regarding the Amended Master Plan, based on the written staff report. She reported that Shelby County Development Services received 11 written public comments and she summarized the comments as follows:

- General opposition to the Hillsong development within Mt Laurel
- Improvements needed in Mt Laurel due to lack of EBSCO Dev. Co. (EBSDC) maintenance
- EBSDC should be held to the terms of the previous master plan before new sectors added
- Support the original plan by EBSDC but opposed to any changes
- New sectors, noise and confusion will adversely affect nature around and in Mt Laurel
- Anticipate more issues and bad feeling/dissension with the non-residents utilizing exclusive amenities such as the Mt Laurel pool, Spoonwood Lake and others
- Traffic increase
- Mt Laurel Elementary School attendance increase/safety
- Pedestrian disruption during construction
- Anticipate Mt Laurel design and building standards will not be upheld in Hillsong development
- Anticipate property values negatively impacted (price ranges, new development)
- Distrust of developer/Quality of construction

Following the staff presentation, Bob Easley, Project Engineer, stated he has worked on Mt Laurel since 1998. He discussed the 350-feet of buffer between existing homes on Mt Laurel Avenue and proposed lots to the south in Hillsong, explaining that 250 feet of that buffer is undisturbed. Mr. Easley described this buffer as a heavily wooded natural screen that will limit visibility of the future homes. He explained the plan provides an emergency access easement connecting future Mt Laurel lots adjacent to Spoonwood Lake to Hillsong. This connection was designed in response to the feedback from Mt Laurel residents to limit access to Spoonwood Lake by Hillsong residents, while also providing the future Mt Laurel lots to the northeast an emergency access. The road that wraps along Spoonwood Lake is a Mt Laurel EBSCO future phase that is approximately 1,000 feet long with only one way in and out. This access will provide an alternate connection that could be gated with the Fire Department having a Knox key for any emergencies. All residents will benefit in the long run by having this emergency access easement.

Nick Dawson, EBSCO, stated this amendment would provide 174 single-family homes, noting how they have been careful and conscientious with the subdivision design respecting what makes Mt Laurel unique by protecting the natural areas. He stated that Brooks Harris (Harris Doyle Homes) has done a great job with the character of the proposed subdivision. He explained (1) they have been sensitive to the design and certainly understand the architecture and expectations in Mt Laurel; (2) Mr. Harris is willing and open to hearing the expectations; (3) he met with homeowners on two occasions (homeowner meeting in December 2019); (4) EBSCO provided Mr. Harris with an approved color palette. Mr. Dawson stated, in his opinion, any of the plans being proposed for Hillsong would have been a good fit in Phases 1 or 2 of Mt Laurel. He explained they are going in this direction for price segmentation within the neighborhood. He explained pricing has been a challenge since there has been a tremendous rise in construction costs. Mr. Dawson stated he is confident Harris Doyle Homes provides a solid, quality product that will open the Town Center for an expanded business and commercial area, attracting more customers for the local businesses. Mt Laurel has many beautiful amenities, including the Town Center.

Brooks Harris, Harris Doyle Homes, presented information on the homes they plan to build, noting he is thrilled with the prospect of this development in a community as unique and well respected as Mt Laurel. He expressed appreciation for Mr. Easley and the entire EBSCO team, and he shared about his company's experience. His

presentation included flyover animation to depict the proposed neighborhood as he described the homes they planned to build, the tree-lined streets, pocket parks, trails throughout the property, a community center with pool and clubhouse, walkable community with sidewalks, materials, approved color palette, and smaller square footage.

Commissioner Nesbitt referenced the letters of opposition and asked if the tennis courts would be replaced. Mr. Dawson responded there is no plan to replace the tennis courts after a community vote in September 2019. He explained that a special assessment needed to rebuild the tennis courts failed with 126 against to 55 in favor of the assessment and that a park is planned to replace the tennis courts.

Commissioner Kinnebrew opened the floor for public comment.

- Kevin Millen, 90 Mt Laurel Avenue, stated his sister also lives in Mt Laurel. He spoke in favor with a condition. He approves of the layout of Hillsong but disagrees with the cul de sac. He stated that crossing the creek is an important environmental issue but feels the wrong alternative has been proposed on the Plan. He stated the connectivity and street grid system should be maintained as an important feature of Traditional Neighborhood Development and this future phase should connect back to the Mt Laurel street grid. He asked that the Commission approve the application without the EBSCO Mt Laurel cul de sac phase and require the connection back to the street grid.
- Mark DeGuenther, 75 Mt Laurel Avenue, stated he does not oppose the development but he does have an issue. The developer, EBSCO, said they are trying to maintain continuity with Mt Laurel but they did not already keep continuity with amenities promised to everyone who purchased homes since 2017. All lots and homes sold prior to August 2017 were purchased with the expectation of various amenities including tennis courts, a swimming pool, a playground, a lake and several greenspaces as included on the Master Plan for Mt. Laurel since 1999. EBSCO removed the tennis courts in April 2017 without homeowner input, initially stating they would rebuild the courts. With a cost of $238,000 to rebuild the courts, EBSCO decided not to rebuild. I obtained estimates from reputable companies in the Birmingham area of $100,000 for two tennis courts and another resident obtained an estimate for $75,000. The vote in September 2019 was based on an EBSCO proposal for a $238,000 assessment to the homeowners for repair of the courts; with many abstentions, this vote failed, with most feeling the price was far too high and that no forum for open discussion regarding the merits of the proposal existed. I am in favor of tennis/multi-purpose courts but did not vote in September because I could not support the proposed assessment and I did not want to vote against the courts. He further stated it is interesting that the initial Master Plan of 1999 includes the tennis courts and through all the amendments requested EBSCO has never initiated a discussion or request to remove the tennis courts—not until the COVID restrictions. We look to the County government to protect us from unscrupulous developers—I am sorry, but EBSCO will benefit from the sale of this land. We ask the County to protect the property values of Shelby County residents who have purchased property in Mt. Laurel by holding EBSCO to the terms of the previously approved Master Plan. After all, if EBSCO is asking forgiveness not permission from the Commission, what is next, the swimming pool, the playground? [Ms. Brooks noted Mr. DeGuenther submitted detailed comments that were included in the information provided to the Planning Commission.]
- Coulter Boyle, 60 Burnham Street, stated he was not here to oppose the development but rather to oppose certain aspects. Mt Laurel has an ongoing challenge with private streets and amenities because it is not gated. The amenities are like their backyard because they do not have one. The proposed homes in Hillsong at Mt Laurel will be closer to Spoonwood Lake than his home in Mt Laurel. How are the Mt Laurel residents going to keep 170 homeowners from using the Lake, with an open invitation to go to the Lake? It will be impossible to enforce the privacy restrictions without a barrier to entry for 174 new households that will be closer to our private lake than most of the Mt Laurel residents. He asked the Planning Commission deny the cul de sac as it is another violation of the privacy of the lake and to require a fence be constructed to provide some chance to keep Spoonwood Lake a private amenity for Mt Laurel residents. He echoed Mr. Deguenther's comments regarding the tennis court. I believe that a promise made is a promise kept, more should have been communicated in the EBSCO proposal. It was poorly

communicated to the residents. He requested the Planning Commission to deny the removal of the tennis courts from the Master Plan. He suggested a do-over from EBSCO with more financial substance into their proposal. [Ms. Brooks noted Mr. Boyle submitted detailed comments that were included in the information provided to the Planning Commission.]

- John Lankford, 73 Mt Laurel Avenue, stated he and his wife, Laura, also submitted comments. His primary concern is that the momentum of EBSCO's development is progressing in the last year and a half and it is degrading the home values by not maintaining amenities, particularly the lake and streams. He has no problem with the quality of homes that Brooks builds. The choice of the street versus the lake is another symptom of EBSCO's unwillingness to invest in the community. He stressed that one of the hardest to police amenities, the Lake, will be left wide open and this alarms him significantly related to his investment and what EBSCO has committed to over time. Again, the lack of separation between Hillsong and Spoonwood Lake is his main concern.

- Michael Odom stated he is an attorney with the Birmingham Law Firm of McGlinchey Stafford and he is representing several residents of Mt Laurel including Harold Kushner, John Floyd, Steve Gregory, and Ward Tishler, who all have concerns regarding the proposed amendment to the Master Plan and the proposed development that would follow. He explained that Kushner, Floyd and Tishler live on Mt Laurel Avenue, immediately to the north of the proposed amended lot layout. The map on page 10 of the staff report, and other maps of the 2015 Master Plan, show the area immediately south of Mt Laurel Avenue to be designated for large house lots. My clients purchased in Mt Laurel based on maps given to them by EBSCO at the time of their purchase that showed large house lots behind their properties. The proposed amendment to the Master Plan will actually change these lots that are on the Master Plan and the maps that EBSCO handed out at the time of purchase. EBSCO also promised they would never be able to see anything behind them. At a meeting last fall, the developer represented to current Mt Laurel homeowners that any development of the subject area would not be visible from the current homes in Mt Laurel that homes would be constructed beyond the rise. Harris recently provided a topo map that shows 825 feet in elevation of the homes along Mt Laurel Avenue and the closest lots of Hillsong would also be at 850 feet in elevation. These homes at the same elevation level – not higher or beyond the rise as represented – actually will be visible. Mr. Easley interrupted to explain that the buffer will be approximately 355 feet with 250 feet of undisturbed vegetation. Mr. Odom explained with the proposed elevation and the proposed 250-foot undisturbed buffer, that 250 feet is not a sufficient buffer. His clients were told when they purchased the property that large home lots would be constructed and these are not large home lots. He stated the density is not consistent with the County's Comprehensive Plan. The Plan promotes density decreasing from a town center. He stated his clients are not asking the property not be developed, rather it be consistent with the approved Master Plan for large lots and the County's Comprehensive Plan and that promises made are kept. [Ms. Brooks noted Mr. Odom submitted detailed comments that were included in the information provided to the Planning Commission.]

- Jeff Waites, 107 Elyton Drive, stated he brought up concerns about the school in previous cases on the agenda tonight. He is concerned about the proposed development's impact to school traffic (buses and car pool) at Mt Laurel Elementary, property values, and amenities not being maintained. Even with a 250-foot buffer, there is only one way in/out. The current amenities are over-run by people that are not residents. He stated this development was not in the Master Plan when he bought in Mt Laurel and was told by EBSCO employees, including Mr. Jim Stephens, the topography is not conducive to building where they are proposing Hillsong. Mt Laurel real estate is moving very fast but amending a Master Plan is like opening Pandora's Box. He spent his $1 million based on a Master Plan. They built here because Mt Laurel is a different kind of community; this is not an enhancement to the area. The development plan does not live up to the standard of current homes which have 4-5 bedrooms and 3-4 bathrooms, nor does it look consistent with the natural environment and beauty. He stated that Commissioner Nesbitt asked about the tennis courts, the residents only had one option to consider. He owns two lots and voted yes but the assessment is too high for many. A promise made should be a promise kept. That is what he bought into when he bought into Mt Laurel; not what it has become, not what EBSCO is doing to it, not Hillsong, not overcrowded schools. You have to consider the school.

- Judy Boyle, 60 Burnham Street, spoke from her chair rather than the microphone. She said they did not mention what the Hillsong home prices would be but she knows they are far less in value than Mt Laurel. She stated she believes it is very unfair to residents who invested in their properties years and years ago to now have these lesser homes in their community. She urged EBSCO to remove Mt Laurel from the Hillsong development name, opining it is only advantageous to EBSCO to maintain Mt Laurel in the development name to sell homes. It is not an advantage to permanent residents of Mt Laurel—a private community, not a town, so Hillsong should not be included.
- **Commissioner Kinnebrew** asked Mr. Easely to address the comments related to cul de sac, stream and the lake. Mr. Easley explained the two cul de sac idea was brought about to prevent free access from the Hillsong development to Mt Laurel amenities, specifically Spoonwood Lake. As an engineer, you design a plan that works with the topography, natural resources and also satisfies the goals of the developer and residents. The cul de sacs were designed to divide the two developments. The possibility of connecting the roads or continue the street network would require a parallel road to the stream. In his opinion, no one really would be interested in disturbing the steam. Another option is to connect the two roads, Hillsong to the Mt Laurel road, and that connection is not a politically feasible option.
- In response to **Commissioner Kinnebrew**'s questions regarding the tennis court and the buffer behind Mt Laurel Avenue, Nick Dawson stated his recollection is the previous Plan did not have specific distances. Mr. Easley identified 250 feet of undisturbed and 300-350 feet of an actual buffer. Regarding the tennis courts, in his time with EBSCO since January 2015, there was a perception the tennis courts were the least used amenity. EBSCO planned to resurface the courts which were in poor shape and, in March 2017, they informed the community the tennis courts would be resurfaced to be an all-weather court. Resurfacing work began in April 2017 but small equipment began to sink on the court. An assessment with Mr. Easley concluded standing water over a long period of time damaged the courts and prevented resurfacing.
- **Commissioner Kinnebrew** asked Mr. Easley to respond to questions about clear cutting, elevation views, and a traffic study. Mr. Easley stated the elevations along Mt Laurel Avenue range from 825 feet to 840 feet. The lots that back up to this area in Hillsong are about 825 feet to 850 feet and about even in elevation but the 250-foot buffer would be a barrier. In single-family residential developments, this is a significant buffer. There has been no traffic study on Robinson Avenue. The four way stop on Robinson was planned for the school. The topography is more difficult and some areas will be undisturbed but some lots will require more grading, similar to Mt Laurel Phase 3B.
- **Commissioner Kinnebrew** asked Mr. Harris to discuss home values. Mr. Harris projected the homes to be in the price range of $290,000 and $450,000. Price segmentation is a tried and true method of development; this happens all over the country and is an important aspect of neighborhoods and the overall plan, in his opinion.
- Judy Boyle insisted to speak again to explain something that was left out of the discussion. She stated the tennis courts were removed because the courts failed, but the reason the tennis courts failed was because the soil was never prepared properly; it was not the fault of homeowners who were promised to have tennis courts. You cannot take something away if you created the problem. They should not leave out those important facts.
- Ms. Brooks explained that the amenity of tennis courts was approved in the Master Plan and they were provided; a developer cannot decide to remove the tennis courts without prior review and approval of an amended master plan. It needs to come to the Planning Commission for approval to be removed in a public hearing.
- **Commissioner Kinnebrew** asked EBSCO to address the tennis court, Mr. Dawson stated when the courts were built in 2007 a geo tech report was done and met the specifications. The report Mrs. Boyle referred to was completed after the ground sunk during resurfacing attempts in 2017—and that study determined the courts should be demolished.

- **Commissioner Gunther** asked if the Planning Commission had the authority to remove the tennis courts. Ms. Brooks explained that in order to remove an amenity in an approved Master Plan, the Planning Commission must approve the removal in a public hearing.
- In response to **Commissioner Kinnebrew**'s questions, Ms. Brooks stated that amendments with multiple requests, the Planning Commission can approve certain aspects of the request and deny others.
- **Commissioner Davis** asked in the event of approval of some parts but not the entire request, where does that leave the homeowners versus the developer in replacing the tennis courts; to which Ms. Brooks replied it opens up the conversation again for the homeowners, developer, HOA, ARC, whoever is involved in reviewing the amenities, the maintenance of amenities, construction of amenities.

With no further discussion, **Commissioner Davis** made a motion to continue **Case SD0-002 – Mt Laurel Master Plan Amendment** to the next regularly scheduled meeting of the Planning Commission on Monday, July 20, 2020, at 6:00 pm at the Pelham Civic Complex, and **Commissioner Wilder** seconded the motion. Upon a roll call vote called by **Commissioner Kinnebrew**, by a unanimous vote of six to zero (6-0), the Planning Commission approved the following resolution:

WHEREAS, Nick Dawson, EBSCO Development Company, has petitioned the Planning Commission for approval to amend the Master Plan of Mt Laurel to identify the road and lot configurations for approximately 174 single-family lots, northeast of Mt Laurel Elementary School to be known as Hillsong at Mt Laurel; and,

WHEREAS, the subject property is zoned SD, Special District and located south of the intersection of Olmsted Street and Hawthorne Street in the Mt Laurel development; and,

WHEREAS, Special Districts are authorized for the purpose of providing optional methods of land development that encourages imaginative solutions to environmental design problems, including infill development; and,

WHEREAS, the Special District overlay binds this rezoning request to a specific development proposal and site development plan, including the building architecture and types of allowable uses; and,

WHEREAS, the proposed amended master plan included three requested changes:

- Designated lot layout for a new sector with approximately 174 single-family residential lots and a community area to be developed by Harris Doyle Homes; and,
- Reconfigured road and lot layout eliminating a connecting road from near Spoonwood Lake to Hawthorn Street at the edge of the Town Center, and adding an emergency access easement connection between Hillsong at Mt Laurel and Spoonwood Lake; and,
- The removal of the tennis courts; and

WHEREAS, the Planning Commission has requested a continuance of the proposal to allow the applicant an opportunity to address community concerns regarding the untimely physical removal of the previously installed tennis courts without approval of an Amended Master Plan by the Planning Commission in a public hearing; and,

NOW, THEREFORE, BE IT RESOLVED by the Shelby County Planning Commission that the request from, Nick Dawson, EBSCO Development Company, has petitioned the Planning Commission for approval to amend the Master Plan of Mt Laurel to identify the road and lot configurations for approximately 174 single-family lots to be known as Hillsong at Mt Laurel, located northeast of Mt Laurel Elementary School; Parcel Identification Nos. 58-09-2-03-4-001-010.000; 58-09-2-03-4-001-011.000; 58-09-2-03-1-005-064.000; 58-09-1-02-0-000-001.001; 58-09-1-02-0-000-001.002 and 58-09-1-02-2-001-001.001, and the same is hereby ***CONTINUED*** **to July 20, 2020.**

The next scheduled meeting of the Planning Commission is a Special Meeting on Thursday, June 4, 2020, at the Pelham Civic Complex at 6:00 pm.

There being no further business, **Commissioner Wilder** made a motion to adjourn, and **Commissioner Nesbitt** seconded the motion. By a unanimous vote of six (6-0) in favor, the Planning Commission meeting of June 1, 2020, adjourned at 8:58 pm.

Christie Hester
Planning Services Supervisor

Bill Kinnebrew, Chairman
Shelby County Planning Commission