



June 16, 2025

City of Foley, Alabama  
Attn: Community Development Department  
102 S. McKenzie Street  
Foley, AL 36535

**RE: The Grove at Foley Beach Apartments – Moratorium Waiver Request**

Ladies and Gentlemen:

The purpose of this letter is to request a waiver to the Residential Moratorium Ordinance passed by the Foley City Council on May 5<sup>th</sup>, 2025 for The Grove at Foley Beach (the “Development”) located on Springsteen Lane. We acknowledge that if a waiver is granted, it will merely allow us submit through the approval process and would not constitute approval of the development itself. The Hall Group, LLC (the “Developer”) is making this waiver request under Section 5 of the subject Residential Moratorium Ordinance and believes the City of Foley should grant this waiver based upon the following:

- 1) For the reasons immediately below, the Developer is facing exceptional hardships that are unique, substantial, immediate and material that was not self-created and cannot be mitigated without the requested waiver.
  - a. In March 2025, the State of Alabama acting through the Alabama Housing Finance Authority (the “State”) issued funding commitments to the Development totaling \$27,000,000 in Multifamily Revenue Bonds, \$1,806,000 in annual Alabama Workforce Housing Tax Credits (“WHTC”) over a ten (10) year period for a total of \$18,060,000, an equal amount of federal low-income housing tax credits and \$4,000,000 in soft debt financing at a nominal interest rate. With funding already committed to the Development, the State is expecting the Developer to close the transaction and start construction in calendar year 2025 and therefore cannot wait until January 2026 to see if the City of Foley will terminate the subject moratorium and allow the project to proceed; the State will very likely terminate all funding for the Development if it is delayed until 2026 or later. The total development costs for the Development are estimated to be approximately \$60,000,000. The State’s allocation plan expressly prohibits a change in the site of the Development. Thus, the Developer cannot locate it elsewhere and if closing and construction cannot timely proceed, the funding will be forfeited.
  - b. The funding package is made possible through the advent of WHTC which was a key element in Governor Ivey’s “Working for Alabama” package of legislation adopted in the 2024 legislative session. The Project is one of three inaugural WHTC projects across the State of Alabama. The WHTC package passed on a 137-1 vote in the Legislature, reflecting broad support. It was co-sponsored by Sen. Chris Elliott of Baldwin County. The purpose of WHTC is to provide affordable housing for working Alabamians in high growth areas. The WHTC program is a pilot program which sunsets, if not renewed, after three award cycles. Thus, it is crucial to the WHTC program to demonstrate quickly its viability.
  - c. The Developer has funded almost \$1,000,000 in non-refundable pre-development expenses to-date which cannot be recovered unless the Development moves forward in 2025.

- d. Because of the manner in which the Moratorium was adopted, and the necessity of having site control before the application for funding was filed in January 2025, the Developer had no inkling of the possibility of the Moratorium. In that respect, the site has long been considered for multifamily housing and the prior owner submitted design plans to the City in that respect. The Developer has done so as well as part of its development preparations. Upon information and belief, Developer's site plans and access arrangements are superior to those prior plans which otherwise may eventually go forward if the Development cannot.
- 2) Granting this waiver will not create a precedent or result in circumvention of the purpose or intent of the Residential Moratorium Ordinance.
  - a. No other proposed development can be in the same circumstances as the Development. Only two other developments were funded under the WHTC in Alabama, one in Athens, Limestone County and the other in Huntsville, Madison County. Because of legislative caps on the amount of WHTC, no other project could use them in Foley in this award year and clearly any future proponent of a development would be aware ahead of time of the existence of the Moratorium.
  - b. As per Section 4.A of the Residential Moratorium Ordinance, we have documented in 2022 applying to City for a multi-occupancy residential development and again starting in 2024 documented applying to City and we have documented the unique and first-of-its-kind State of Alabama WHTC Development will not circumvent or set precedent and we will not need an exception in Moratorium Section 2.E because we will not need a rezoning as described in Section E.
- 3) The proposal is consistent with public policy. As noted, this Project is moving forward as a result of a specific policy of the State of Alabama to encourage workforce housing which targeted counties with high job growth. Thus, the Development is exactly what is intended to meet public policy objectives.
  - a. We are also consistent with the City's own 2025-2030 Strategic Plan. Specifically, "Livable Community" objective 8 is "provide a range of housing typology and options in strategic locations to meet the demands of a growing population . . .". This is exactly what the Development does. It provides a type of housing that is high quality but also affordable for working families. Without the WHTC support, no other project could do so at this meaningful, appropriate scale.
  - b. Similarly, the Development is also consistent with the Foley Comprehensive Plan. The Project is located in the northeast Quadrant, noted to be "the least developed quadrant of the City." It is consistent with use of underutilized property with existing infrastructure. Item NE.LU.4. As discussed below, it is already consistent with present zoning. Its density is consistent with facilitating the preservation of green space. Finally, its proposed access improves transportation options for the broader area. Nothing in the Development is inconsistent with the Plan.
- 4) The Development has no Adverse Impact. We align with all City plans and will not cause any negative impacts to any adjoining properties. We have modified and changed the Development's site plan to meet all suggestions made to date by City staff. The Developer has a long track record of responsible development, including in Foley.
- 5) The Developer will work with City staff to ensure the project will meet the intent of the proposed land use plan amendments the city is currently considering.
- 6) The Development will create improvements to the connectivity of the area. Adjacent roadways to the project will be improved and additional connections will be made to the Foley Beach Express.
- 7) A multifamily residential site plan for the subject parcel has been under review and comment by the City since 2022 and additionally in late 2024 and early 2025. Please see attached exhibit with copies of supporting documentation and timeline below:
  - a. **May 9, 2024** – WHTC legislation signed by Gov. Ivey
  - b. **September 18, 2024** – State issues allocation plan for WHTC.
  - c. **October 4, 2024** – Development site put under contract.

- d. **October 10, 2024** – Notice of intent to apply for WHTC filed with the State
- e. **December 4-10, 2024** – Email communication with City staff regarding site design
- f. **December 11, 2024** – Zoning letter received from the City of Foley confirming R-3 (Residential Multi-Family) zoning classification for the site
- g. **January 7, 2025** – Application for WHTC filed with State
- h. **January 24, 2025** – Pre Application Meeting requested within Foley’s Citizen Serve portal
- i. **January 30, 2025** – Developer met with approximately 17 individual City staff members and utility providers to discuss initial site plan and received comments
- j. **January 31, 2025** – Communication with City staff regarding Juniper Street approved site plan and City staff contact list
- k. **February 21, 2025** – JADE Consulting met with Wayne Dyess and received feedback on revised site plan, specifically regarding FBE connection, setbacks, building orientation and internal road access
- l. **March 24, 2025** – Communications with Planning staff regarding planning commission meeting schedule and presentation of revised site plan and traffic study results
- m. **March 27, 2025** – State awards WHTC and other funding to the Development.
- n. **April 16, 2025** – Traffic study completed and provided to the City of Foley and ALDOT for review and approval
- o. **April 21, 2025** – JADE Consulting followed up with Wayne Dyess regarding site plan revisions made per his recommendations
- p. **May 5, 2025** – Residential moratorium ordinance passed
- q. **May 7, 2025** – Formal request made to City for meeting with all City departments and utility providers regarding revised site plan made without awareness of moratorium, City declined and voided the request
- r. **June 3, 2025** – City staff confirmed with JADE Consulting they were working through implications for the moratorium
- s. **June 5, 2025** – City staff confirmed with JADE Consulting current site plan version is an improvement of all prior approvals and meets current City standards
- t. **June 6, 2025** – City staff confirmed with JADE Consulting that Development would be impacted by the moratorium and would need to submit a waiver request

For added context regarding the State’s involvement, in 2019 Lieutenant Governor Will Ainsworth created the Commission on 21<sup>st</sup> Century Workforce to assess Alabama’s current workforce development system and funding sources, develop a state workforce plan and recommend legislation needed to improve Alabama’s labor force participation rate and overall workforce and economic development initiatives. This resulted in the “Working for Alabama” bipartisan, seven-bill legislative package that passed both chambers of the Alabama Legislature and signed into law by Governor Ivey in May 2024; this legislative package included the creation of the Alabama Workforce Housing Tax Credit (WHTC) to be used as a financing tool to aid in the development of workforce housing in Alabama counties with the highest job creation. The WHTC legislation is a 3-year pilot program and in the first year, the State only approved 3 new developments in Madison County, Limestone County and Baldwin County which is The Grove at Foley Beach. Needless to say, there are many state-level stakeholders intently watching to make sure the WHTC legislation is effective in order to renew and expand the WHTC program during the 2027 legislative cycle. This means the subject Development must start construction in the fall of 2025 in order to show proof of concept to State leaders and legislators by early 2027.

Please do not hesitate to let us know should you need additional information related to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gary H'.

Gary Hall

*Developer*

[ghall@hallhousing.net](mailto:ghall@hallhousing.net)

*Cc: Ralph Hellmich, Mayor  
Wayne Dyess, Executive Director of Infrastructure & Development  
Miriam Boone, Planning Director*