

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF APRIL 17, 2008 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William DeMouy, Secretary
Debra Butler
Steven Davitt
Nicholas Holmes, III
Victoria L. Rivizzigno
Roosevelt Turner
John Vallas

Members Absent

Clinton Johnson
James Watkins, III
Mead Miller

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Bert Hoffman,
Planner II
Joanie Stiff-Love,
Secretary II

Others Present

John Lawler,
Assistant City Attorney
John Forrester,
City Engineering
Jennifer White,
Traffic Engineering

The notation *motion carried unanimously* indicates a consensus, with the exception of The Chairman who does not participate in voting unless otherwise noted.

Mr. Plauche stated the number of members present constituted a quorum and called the meeting to order, advising all attending of the policies and procedures pertaining to the Planning Commission.

HOLDOVERS:

Case #SUB2008-00023 (Subdivision)

Townsite of Semmes Subdivision, Block 1, Re-subdivision of and Addition to Lots 20, 21, 22, and a Portion of Lots 23 and 24

Northwest corner of Illinois Street and Michigan Avenue (unopened public right-of-way), extending to the South side of Church Street, 200'± West of Illinois Street

Number of Lots / Acres: 3 Lots / 1.3± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

County

Claudette Crabtree, 3901 Illinois Street, Semmes, AL, owner of the above referenced property addressed the Commission saying she only wanted to sell a 50 feet by 200 feet piece of property to a church. She had previously sold them a 107 feet tract of land and now wished to sell the remainder of that lot. She stated she was in agreement with the recommendations, but wished clarification regarding the issue of vacation of the

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alleyway. She said that had been done in 1994 by Tom Galloway, attorney at law, and had copies of those documents for the Commission. She also wanted assurance that she could legally sell the property in question.

Mr. Olsen stated that the staff had not received copies of those documents and that if she would bring them to the staff, copies of them would be made for the file. He also advised Mrs. Crabtree that if the Commission approved the subdivision that afternoon, once she fulfilled the conditions listed for approval, she could then sell the property as a legal lot of record.

Mr. Lawler advised the Commission that he had spoken with Tom Galloway, the attorney of record, regarding the alley vacation process. Mr. Lawler also stated he had reviewed the deeds in question and that the vacation had indeed been done, however, this did not assure it had been cleared through the tax assessor's office.

Hearing no opposition or further discussion, a motion was made by Mr. Turner, with second by Mr. DeMouy, to waive Section V.D.3. of the Subdivision Regulations and approve the above referenced subdivision, subject to the following conditions:

- 1) **illustration of the 25' minimum building setback line along the Illinois Street and Church Street frontages;**
- 2) **placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Church Street, and Lots 2 and 3 are limited to one curb cut each to Illinois Street, with the size, design, and location of all curb cuts to be approved by County Engineering and conform to AASHTO standards;**
- 3) **placement of a note on the final plat stating that Lots 1 and 2 are denied access to Michigan Avenue until such time it is constructed to County standards, and if constructed, Lot 1 is limited to one curb cut, and Lot 2 is limited to two curb cuts to Michigan Avenue, with the size, design, and location of all curb cuts to be approved by County Engineering and conform to AASHTO standards;**
- 4) **labeling of each lot with its size in square feet and acres, or the provision of a table on the final plat furnishing the same information;**
- 5) **completion of the alley Vacation process prior to the signing and recording of the final plat, or submission of documentation verifying such was done and not properly documented on County Tax and Engineering plats;**
- 6) **if only a portion of the alley is vacated, placement of a note on the final plat stating access to the remaining substandard portions of the alley is denied;**
- 7) **placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of**

- Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
- 8) placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,
 - 9) placement of a note on the final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2008-00016 (Subdivision)
Mramor's Addition to Weinacker Avenue Subdivision

900 Weinacker Avenue

Southwest corner of Weinacker Avenue and the Illinois Central Gulf Railroad right-of-way, extending to the Southeast corner of Old Canal Street and Sunset Avenue

Number of Lots / Acres: Lot / 0.7± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 3

(Also see **Case #ZON2008-00220 (Planned Unit Development) Mramor's Addition to Weinacker Avenue Subdivision**, and, **Case #ZON2008-00221 (Rezoning) Joseph Mramor**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. DeMouy, to approve the above referenced subdivision, subject to the following conditions:

- 1) the dedication a minimum right-of-way width of 25 feet, as measured from the centerline for Sunset Avenue, in compliance with Section V.B.14. of the Subdivision Regulations;
- 2) the dedication to provide the appropriate radii at the street intersection corners, in compliance with Section V.D.6. of the Subdivision Regulations; and,

- 3) the placement of a note on the Final Plat stating the development is limited to two curb cuts, along Weinacker Avenue, and denial of access to Sunset Avenue, with the design, size, and location to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards.

The motion carried unanimously.

Case #ZON2008-00220 (Planned Unit Development)
Mramor's Addition to Weinacker Avenue Subdivision

900 Weinacker Avenue

Southwest corner of Weinacker Avenue and the Illinois Central Gulf Railroad right-of-way, extending to the Southeast corner of Old Canal Street and Sunset Avenue

Planned Unit Development Approval to allow two buildings on a single building site

Council District 3

(Also see **Case #SUB2008-00016 (Subdivision) Mramor's Addition to Weinacker Avenue Subdivision**, above, and, **Case #ZON2008-00221 (Rezoning) Joseph Mramor**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. DeMouy, to approve the above referenced Planned Unit Development, subject to the following conditions:

- 1) the placement of the 25-foot minimum building setback lines along all road frontages;
- 2) the placement of a note on the Final Plat stating the development is limited to two curb cuts, along Weinacker Avenue, and denial of access to Sunset Avenue, with the design, size and location to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;
- 3) the illustration of the calculations regarding the number of parking spaces required per Section 64-6.6, of the Zoning Ordinance; and,
- 4) the submission of a revised PUD site plan depicting the conditions of approval, prior to the signing of the Final Plat.

The motion carried unanimously.

Case #ZON2008-00221 (Rezoning)

Joseph Mramor

900 Weinacker Avenue

Southwest corner of Weinacker Avenue and the Illinois Central Gulf Railroad right-of-way, extending to the Southeast corner of Old Canal Street and Sunset Avenue

Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow light warehousing

Council District 3

(Also see **Case #SUB2008-00016 (Subdivision) Mramor's Addition to Weinacker Avenue Subdivision**, and, **Case #ZON2008-00220 (Planned Unit Development) Mramor's Addition to Weinacker Avenue Subdivision**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. DeMouy, to approve the above referenced rezoning, subject to the following conditions:

- 1) **the site is limited to two curb cuts to Weinacker Avenue, with the size, location, and design of all curb cuts to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;**
- 2) **the site is denied access to Sunset Avenue;**
- 3) **compliance with the landscaping and tree planting requirements of the Zoning Ordinance to the greatest extent practicable, to be coordinated with the Planning Section of Urban Development;**
- 4) **completion of the Subdivision process;**
- 5) **provision of appropriate residential buffers as required by Section 64-4.D.1. of the Zoning Ordinance, such as a 6' wooden privacy fence or 10'-wide landscaped buffer; and,**
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2008-00044 (Subdivision)

Sollie Oaks Subdivision, Nguyen Addition to

Southwest corner of Sollie Road and Halls Mill Creek

Number of Lots / Acres: 3 Lots / 6.7± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

County

Joel Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant requested the matter be held over again to give the applicant and their representative time to address some of the comments given by the staff.

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Jeff Raybon, 3586 Sollie Road, Mobile, AL, spoke in opposition to the matter, saying the following:

- A. he lives across Halls Mill Creek from the property in question, so any proposed use of the property has a direct effect upon his property;
- B. he sold Mr. Nguyen the property in question and in doing so certain restrictions and/or conditions regarding use were included with the deed; and,
- C. he has clearly expressed to Mr. Nguyen that he did not want a “village to spring up across the street”, and in as much, one of the conditions set forth in the deed was limiting the site to 2 houses.

The Chair asked if the Commission had any role in the enforcement of conditions and/or restrictions imposed by either party in this matter.

Mr. Olsen advised the Commission that:

- A. the deed restrictions were a private agreement;
- B. the Commission did not enforce restrictive covenants;
- C. the entire parent parcel had not been included;
- D. Mr. Raybon, as he had just stated, had sold the southern piece of the property to the applicant without going through the proper subdivision process;
- E. the site is in the county; therefore no controls are in place to restrict the number of homes that may be placed on any given site.

Mr. Lawler advised that the Commission had had a very similar situation come up approximately 2 months before and that case was now being heard in Circuit Court. He reminded both the Commission members and the parties involved that the Commission had no jurisdiction regarding enforcement of anything not found in the published Subdivision Regulations or Zoning Ordinances of City of Mobile, and that enforcement of those private agreements is through the judicial system.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the May 15, 2008, meeting.

The motion carried unanimously.

Case #SUB2008-00047 (Subdivision)

Wild Wood Beach Subdivision

2840 and 2860 Lawrence Steiner Road

North side of Lawrence Steiner Road at the North terminus of Lawrence Steiner Road East

Number of Lots / Acres: 5 Lots / 9.2± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.
County

Robert McBryde, Rowe Surveying and Engineering Co., Inc., spoke on behalf of the applicant, saying they were in agreement with the recommendations with the exception of the 2 curb cuts onto Lawrence Steiner Road. He requested the Commission consider giving the applicant 3 curb cuts as they had 250 feet of road frontage and typically that could provide for 3-4 lots with one curb cut each.

In deliberation, Mr. Davitt noted the applicant's request for an additional curb cut and that the property in question was a flag shaped lot.

Mr. Olsen said there were numerous flag shaped lots in the area. He also commented on the 3 curb cuts saying the applicant could have lots 1 and 2 share a curb cut, lots 3 and 4 share a curb cut, and lot 5 and the common area share the final curb cut, and that staff would have no problem with that.

Hearing no opposition or further discussion, a motion was made by Mr. Turner, with second by Mr. Davitt, to waive Sections V.D.1. and V.D.3 of the Subdivision Regulations and approve the above referenced subdivision, subject to the following conditions:

- 1) dedication of a minimum 30' from the centerline of Lawrence Steiner Road;**
- 2) placement of a note on the final plat stating that no future subdivisions of the site will be allowed until additional adequate frontage on a public street is provided;**
- 3) placement of a note stating that the entire site is limited to three (3) curb cuts to Lawrence Steiner Road, which will be shared by the five lots, and the existing curb cut to Dauphin Island Parkway, with the sizes, locations, and designs to be approved by County Engineering and conform to AASHTO standards;**
- 4) placement of a note on the final plat stating that the maintenance of all common area(s) is the responsibility of the property owners;**
- 5) placement of a note on the final plat stating that no construction will be allowed within the ingress, egress, and utility easements;**

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- 6) the applicant receive the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities;
- 7) placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
- 8) placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,
- 9) submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.

The motion carried unanimously.

Case #SUB2008-00042 (Subdivision)

Alabaster Subdivision

North side of Howells Ferry Road, ¼ mile+ East of the North terminus of Havens Road

Number of Lots / Acres: 9 Lots / 11.5± Acres

Engineer / Surveyor: Speaks & Associates Consulting Engineers, Inc.

County

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to recommend that this application be considered under Section VIII of the Subdivision Regulations, and granted tentative approval as a gated, private street subdivision, subject to the following conditions:

- 1) dedication of sufficient right-of-way, as depicted on the preliminary plat, to provide 50 feet from the centerline of Howells Ferry Road;
- 2) dedication of 50-feet of right-of-way on the West side of the site, as depicted on the preliminary plat, for the Eliza Jordan Road/New Connection to Moffett Road;
- 3) depiction of the 25-foot minimum building setback line to reflect required dedications, as shown on the preliminary plat;
- 4) compliance with Section VIII.E.2, Standards for private road construction;
- 5) placement of a note on the Final Plat stating that the gate is to remain in operation at all times;

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- 6) placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the signing of the final plat. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
- 7) placement of a note on the Final Plat stating that maintenance of the detention basin and common area is the responsibility of the subdivision's homeowners association;
- 8) placement of a note on the Final Plat stating that lots 1 – 5 and 9 are denied direct access to Howells Ferry Road and the Eliza Jordan Road/New Connection;
- 9) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and,
- 10) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected flora and fauna.

The motion carried unanimously.

Case #ZON2008-00555 (Planned Unit Development)

Pericles, LLC

2032 Airport Boulevard

Northwest corner of Airport Boulevard and Williams Street, and extending Northwest along the Illinois Central Gulf Railroad right-of-way to Glenwood Street

Planned Unit Development Approval to amend a previously approved Planned Unit Development to remove a 6' wooden privacy fence condition

Council District 2

Mr. Davitt recused himself from discussion and voting on the matter.

Frank Dagley, Frank A. Dagley and Associates, spoke on behalf of the applicant, and made the following points against the recommended denial of the Planned Unit Development:

- A. only approximately 160 feet of the property adjoins residentially zoned property and is required by the Zoning Ordinance to have a buffer;

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- B. the applicant does not see health or safety issues in place if the fence were not installed in those areas the property adjoins commercial property; and,
- C. there is nothing within the ordinance that should require buffering between two commercial properties.

Mr. Olsen addressed these points with the following statements:

- A. the staff stands by its recommendation;
- B. the safety concern is due to the proximity of the rear doors the railroad tracks; and,
- C. as there is fencing already in place, the continuation of that fence would provide continuity on the site.

In deliberation, Mr. Holmes queried where in the Zoning Ordinance it required buffer fencing between two commercial properties.

Mr. Olsen advised that there was no such requirement in the Zoning Ordinance; however, it was not uncommon for the Planning Commission to require conditions that were beyond the minimum requirements listed in the Zoning Ordinance.

Hearing no further opposition or discussion, a motion was made by Mr. Turner, with second by Dr. Rivizzigno, to follow the staff's recommendation of denying the application for the following reasons:

- 1) the adjacent railroad right-of-way presents a real danger to health, safety, and welfare; and,**
- 2) a portion of the Pericles PUD site is already fenced along the railroad right-of-way, along the Western portion of the site, thus the PUD conditions remain as originally approved on March 15, 2007.**

The motion carried with only Mr. Holmes voting in opposition.

Case #ZON2008-00524 (Rezoning)

Tara Cox

9 Upham Street

West side of Upham Street, 125'+ North of Dauphin Street

Rezoning from R-1, Single-Family Residential, to B-1, Buffer Business, to allow a real estate office

Council District 1

The following people spoke in favor of the rezoning:

Tara Cox, 9 Upham Street, Mobile, AL; and,

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Lynda Burkett, Marshall A. McLeod Professional Land Surveyors,
3169 Midtown Park South, Mobile, AL

They gave the following points:

- A. Mrs. Cox is a real estate agent who is assisted in her business part-time by her husband, who is a fire fighter for the city of Mobile;
- B. the business is strictly foreclosure properties, as such clients are banks or other lending institutions that do not “come and go” from the property;
- C. Sonitrol, located just north of the site, is not properly zoned, and will be applying for rezoning; and,
- D. as the business has no staff and its hours of operation are of such a nature that it lends itself to being re-zoned Transitional Business, Mrs. Cox is in agreement to do so.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to approve rezoning of the property as T-B, Transitional Business District, subject to the following conditions:

- 1) **provision on the site plan of delineated spaces, wheel stops, and maneuvering area as required by Section 64-6 of the Zoning Ordinance;**
- 2) **provision on the site plan of buffering in compliance with Section 64-4.D.1 of the Zoning Ordinance;**
- 3) **the applicant receive a certificate of occupancy prior to obtaining a business license; and,**
- 4) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2008-00046 (Subdivision)

Forest Hill Subdivision, Re-subdivision of Lot 4

South side of Overlook Road, 215' + West of Moffett Road

Number of Lots / Acres: 1 Lot / 3.2+ Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

(Also see **Case #ZON2008-00554 (Rezoning) Cellular South Real Estate, Inc.**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition to the matter, a motion was made by Mr. Davitt, with second by Mr. Turner, to approve the above referenced re-subdivision, subject to the following conditions:

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- 1) placement of a note on the final plat stating that the site is limited to one curb cut to Overlook Road, as close to the East property line as possible, with the size, location, and design of the curb cut to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;
- 2) labeling of the lot with its size in square feet and acres, or the furnishing of a table on the final plat providing the same information;
- 3) placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,
- 4) placement of a note on the final plat stating the provision of appropriate residential buffers required by Section 64-4.D.1. of the Zoning ordinance, such as a 6' wooden privacy fence or 10'-wide landscaped buffer are required.

The motion carried unanimously.

Case #ZON2008-00554 (Rezoning)
Cellular South Real Estate, Inc.

South side of Overlook Road, 215'+ West of Moffett Road
Rezoning from R-1, Single-Family Residential, to B-2, Neighborhood Business, to allow a telephone switching facility
Council District 7

(Also see **Case #SUB2008-00046 (Subdivision) Forest Hill Subdivision, Re-subdivision of Lot 4**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

The following people spoke in opposition to the matter:

John Gelineau, 4917 Meredith Court, Mobile, AL; and,
John Peavy, 1401 E Alicia Drive, Mobile, AL.

They made the following points against the proposed development:

- A. supported the report and recommendation;
- B. fears that commercial development will detract from the residential character of the area;
- C. concern over an increase in negative impact of commercial development that has been seen (i.e. theft, police chases);
- D. stated opinion that the highest and best use for the property is residential; and,

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- E. the request for rezoning is speculative in nature, as there is proposed building on the front of the property with no indications for use of the rear property.

The following people spoke in favor of the matter:

Brooks Milling, Hand Arendall Law Firm, 11 N Water Street, representing Cellular South; and,
Jerry Skipper, Cellular South, Jackson, MS

They gave the following points in favor of the application:

- A. stated opinion that the highest and best interest of the land owner and the public would be increase in more reliable and dependable cellular service;
- B. applicant has met several times with the staff to understand and address their concerns;
- C. Applicant has communicated their intentions on several occasions to the designated neighborhood representative;
- D. the applicant has agreed to site the building as far as possible from any adjoining residential properties, added vegetative buffers on the western and southern sides, and agreed to full Planned Unit Development approval should any further development of the lot occur (including the addition of new buildings), as well as requested a more restrictive zoning classification;
- E. the application of the “hardship” standard is not applicable;
- F. the applicant has no plans for further development of the remaining acreage, and purchased a parcel of this size as it was the only property available in the area that met their requirements;
- G. the area has seen commercial growth over the years, citing the B-2 zoned property on the east, and a retail market directly across from the property;
- H. B-1 zoning would serve as a buffer between the zoned residential properties to the west and south of the property and the increasingly commercial properties to the east and north; and,
- I. it was commented that there were other properties more suitable, with one to the west pointed out, however, that property was completely surrounded by residential.

Mr. Olsen advised the Commission members that though the request for the property to be rezoned as B-2 had been recommend for denial, rezoning to B-1 would be more appropriate, would allow the use, and the request had been amended to B-1, but that the revised recommendation for B-1 had not made it onto the agenda before the Commission that day. Mr. Olsen then read the following 6 conditions for approval of B-1for the record:

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- 1) the site is limited to one curb cut to Overlook Road, as close to the east property line as possible, with the size, location, and design of the curb cut to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;
- 2) provision of a 20 foot natural buffer along the entire west side of the property and a 35 foot natural buffer along the south, rear property line to be approved by the Planning Section of Urban Development;
- 3) compliance with the landscaping and tree planting requirements of the Zoning Ordinance to be coordinated with the Planning Section of Urban Development;
- 4) completion of the subdivision process;
- 5) submission of a full PUD application, if additional buildings are proposed in the future; and,
- 6) full compliance with all other municipal codes and ordinances.

The Chair then asked if the applicant was agreeable with these recommendations, to which they responded yes.

Mr. Turner asked, after hearing all concerns, if the applicant had considered subdividing the property into 2 parcels, one for their development and the other to be made available to the community for a park or some other common use.

Mr. Millings said Cellular South had not done so.

Mr. Davitt asked what type of traffic could be expected in the area associated with the development.

Mr. Millings advised that:

- A. the site is set to be a cell switching station
- B. there would 3 technicians
- C. work would be done inside on computers
- D. the building was planned as a 3100 square foot, 1 story building with a 5 space parking lot
- E. there would be no retail sales from the site, no tower located on the site, and no trucks serving the site

Mr. Davitt then asked if there would lighting on the site that would shine back into Meredith Court, to which Mr. Millings advised there was not.

Dr. Rivizzigno stated t her concerns that if the Commission approved rezoning and Cellular South chose to leave, it would leave an area with the potential for obnoxious B-1 use in a primarily residential area.

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Mr. Skipper, advised the Commission that due to their need for a switching station in the area that would serve South Alabama and the Florida panhandle, this application represented a multi-million dollar investment. He also stated that due to their business they were not “just going to pack up and leave over night.”

Mr. Turner asked if Cellular South would consider making the parcel two lots, putting their building on the northern most lot, and making the southern most lot available to the community.

Mr. Skipper said they had considered that at one time, however, under the conditions as recommended, Cellular South would have to have the Commission’s approval for anything new suggested, so it was decided to leave it as it was. Mr. Skipper did say that if the area residents approached Cellular South with an offer to purchase that part of the property, Cellular South would be willing to consider it.

Mr. Turner stated his feelings that the Commission would find it more attractive and be more willing to approve the B-1 zoning if the northern most lot were B-1 and the southern most lot were still R-1.

Mr. Skipper stated that in the year Cellular South had been looking for property, few were found that met their very specific requirements.

Mr. DeMouy recognized there was commercial development in the area, however, being across the street is not the same as abutting, so he did not feel that was justification for the rezoning. He also expressed concern regarding rezoning to B-1 in such a residential area.

Mr. Skipper agreed that property located across the street may not be justification for rezoning the property, but added that it was just one factor in making the site a candidate for rezoning to B-1. This fact combined with the amount of commercial traffic on Overlook Road, made the lot less desirable for residential use.

In deliberation, Mr. Davitt commented he had heard what those in opposition to the rezoning had said, however, it appears that no one has shown any interest in the property for residential development. He noted that the proposed development would have no lights shining on the residents around it and virtually no traffic increase, so he did not see how it would negatively impact the residential character of the neighborhood.

Dr. Rivizzigno commented there was no information on whether or not there was interest in the property as residential, as the comments made showed the owner would make more profit by selling off the land commercially, and secondly, if it is rezoned B-1, it created the potential of more commercial growth in the area.

Mr. Davitt asked how long the property had been owned by its current owner and how long the property had been for sale.

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Robert Cook, White-Spunner and Associates, stated that the property had been owned by the McCalla family since the late 1930's or early 1940's; that there had been a business located there through the early 1980's, but property had reverted back to residential. He added that the only residential interest in the property has been from Mr. Peavy.

Mr. Davitt expressed his opinion that residential interest would have occurred by this time and that there was now real interest, though commercial, in the site. He added any additional construction on the site would have to come before the Planning Commission as a PUD, so with the very limited traffic, he was in favor of rezoning to B-1.

Mr. Turner expressed his position as being agreeable to a portion of the property being rezoned as B-1, but he had issues with the portion that is deeper in the residential community being rezoned.

Mr. Millings stated that the only discussion regarding the proposed use of the property had taken place over the last few weeks, with the last being two days prior with Mr. Peavy. The neighbors would like to acquire the property and incorporate it into Bienville Woods. He added Cellular South is open to talking with the owners of Bienville Woods. He also commented that there was a two acre minimum requirement for rezoning to B-1.

Ms. Butler asked what was the current use of the landlocked parcel next to the property in question.

Mr. Olsen advised that it was vacant and currently zoned R-1. He also made the following points:

- A. B-1 zoning is for offices not retail uses (e.g. service stations, restaurants), with an antique shop as the only approved retail use;
- B. a significant buffer is proposed between the site and the adjacent residential property;
- C. subdividing the property with the rear portion being a park without street frontage would create a landlocked parcel with no way for it to have legal access to the Bienville Woods; and,
- D. the northern section of Alicia Drive is a private street with a common area on the east side so adjacent properties would have frontage on Alicia Drive.

Hearing no other opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Holmes, to approve the above referenced request for rezoning to B-1, subject to the 6 recommendations for approval by the staff. With a call of hands vote showing Mr. Davitt and Mr. Holmes in favor and Mr. Plauche, Dr. Rivizzigno, Mr. Turner, and Mr. DeMouy against, the motion failed and the rezoning of the site to B-1 was denied for the following reasons:

- 1) the depth of the site encroached too deeply into the residential community; and,**

2) viability of the site for residential development.

Case #SUB2008-00048 (Subdivision)

Wolf Ridge Properties Subdivision

West terminus of Stanford Road

Number of Lots / Acres: 1 Lot / 77.9± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 1

(Also see **Case #ZON2008-00557 (Rezoning) Wolf Ridge Properties, LLP**, below)

The Chair stated the application had been withdrawn by the engineer representing the applicant.

Case #ZON2008-00557 (Rezoning)

Wolf Ridge Properties, LLP

West terminus of Stanford Road

Rezoning from R-1, Single-Family Residential, to B-5, Office-Distribution, to allow an earth borrow pit

Council District 1

(Also see **Case #SUB2008-00048 (Subdivision) Wolf Ridge Properties Subdivision**, above)

The Chair stated the application had been withdrawn by the engineer representing the applicant.

EXTENSIONS:

Case #SUB2007-00036 (Subdivision)

The Woodlands at the Preserve Subdivision, Re-subdivision of Lot 27

North side of Rue Royal, 1250'± North of Rue Preserve

Number of Lots / Acres: 1 Lot / 0.1± Acre

Engineer / Surveyor: Engineering Development Services, Inc.

Council District 6

(Also see **Case #ZON2007-00632 (Planned Unit Development) The Woodlands at the Preserve Subdivision, Re-subdivision of Lot 27**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to recommend that this application for extension be approved.

The motion carried unanimously.

Case #ZON2007-00632 (Planned Unit Development)
The Woodlands at the Preserve Subdivision, Re-subdivision of Lot 27

North side of Rue Royal, 1250' ± North of Rue Preserve
Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow increased site coverage
Council District 6

(Also see **Case #SUB2007-00036 (Subdivision) The Woodlands at the Preserve Subdivision, Re-subdivision of Lot 27**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to recommend that this application for extension be approved.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2008-00067
Elizabeth Platt Estates Subdivision

North side of Colonial Circle North, 400' ± East of Colonial Oaks Drive East
Number of Lots / Acres: 1 Lot / 0.5 ± Acre
Engineer / Surveyor: Polysurveying Engineering – Land Surveying
Council District 7

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Dr. Rivizzigno, to approve the above referenced subdivision, subject to the following conditions:

- 1) **placement of a note on the Final Plat stating that Lot 1 is limited to one curb cut to Colonial Circle North, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **illustration of the 25' minimum building setback line along Colonial Circle North;**
- 3) **labeling of the lot with its size in acres and square feet, or the provision of a table on the plat furnishing the same information;**
- 4) **placement of a note on the Final Plat stating that development of this site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,**

- 5) **subject to the Engineering Comments:** *(It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS shows wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit).*

The motion carried unanimously.

Case #SUB2008-00068

D.E.C. Subdivision, Re-subdivision of and Addition to Lot 1

3000 Television Avenue

Northwest corner of Television Avenue and Broadcast Drive

Number of Lots / Acres: 1 Lot / 0.5± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 5

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Dr. Rivizzigno, to approve the above referenced re-subdivision, subject to the following conditions:

- 1) **placement of a note on the final plat stating that Lot 1 is limited to one curb cut to each street, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **provision of an adequate radius at the corner of Television Avenue and Broadcast Drive;**
- 3) **labeling of the lot with its size in square feet, or the provision of a table on the final plat with the same information;**
- 4) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,**
- 5) **subject to Engineering comments:** *(Show any applicable special flood hazard areas on plat and minimum finished floor elevation, if applicable. All stormwater must tie to a City of Mobile storm drainage system. It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS shows*

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wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit).

The motion carried unanimously.

Case #SUB2008-00072

Maintenance and Storage Building Subdivision

Southeast corner of Waringwood Drive South and Planton Lane, extending along the East side of Waringwood Drive East to the Southeast corner of Waringwood Drive East and Dutch Road (to be vacated), and extending to the East terminus of Moore Road (to be vacated)

Number of Lots / Acres: 1 Lot / 11.5± Acres

Engineer / Surveyor: Driven Engineering, Inc.

Council District 7

Dr. Rivizzigno recused from discussion and voting on the matter.

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Avalisha Fisher, Driven Engineering, Inc., 8505 Crary Avenue, Semmes, AL, spoke on behalf of the applicant, stated they were agreeable with all conditions except number 4, and asked for clarification on condition number 6.

The Chair asked for reasons regarding the request that condition number 4 be deleted.

Ms. Fisher stated:

- A. the project is under time constraints;
- B. there are current leases which must be fulfilled before those buildings can be demolished;
- C. they would like to complete plans and record the final plat before issuing work orders for demolitions.

With regards to item number 6, the applicant wanted assurances that the condition did not include the existing curb cut that Dutch Road would occupy once its been vacated, as it is not their intent to demolish Dutch Road.

Mr. Olsen asked if Dutch Road was going to become a private road, a fact the staff had not been given.

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Ms. Fisher stated that was correct.

Mr. Olsen then advised the Commission that the condition regarding curb cuts should be changed to 5 as Dutch Road, would still require a curb cut. He added that, technically, as it is University of South Alabama property, it is exempt from Zoning Ordinance requirements, which was one of the reasons for the condition.

Katie Lofton, 5711 Pillichody Drive, Mobile, AL, expressed her concerns over what precautions would be in place to protect the neighboring homes from such things as rodents when the buildings in question were demolished.

Mr. Olsen explained that as the property is owned and operated by the University of South Alabama, it is exempt from the Zoning Ordinance. He suggested that if there are health and/or safety related concerns, the neighbors should call 311.

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Holmes, to approve the above referenced subdivision, subject to the following conditions:

- 1) **completion of the vacation process for Dutch Road and Moore Road;**
- 2) **completion of the vacation process for all current drainage easements not shown on the preliminary plat or depiction of easements on final plat;**
- 3) **depiction of a drainage easement for any structures that carry public water located in the vacated right-of-way;**
- 4) **compliance with all stormwater and flood control ordinances;**
- 5) **placement of a note on the plat stating that Lot 1 is limited to 5 curb cuts (including Dutch Road), with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 6) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2008-00075

Church of the Redeemer Subdivision

1100 Cody Road South

Southwest corner of Cody Road South and Hitt Road

Number of Lots / Acres: 1 Lot / 7.0± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

County

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The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Davitt, to approve the above referenced subdivision, subject to the following conditions:

- 1) **revision of the plat to correct the discrepancies between the stated and scaled right-of-way widths along Cody Road South;**
- 2) **dedication of sufficient right-of-way to provide 50' from centerline along Cody Road South;**
- 3) **revision of the plat to state the right-of-way width of Hitt Road at both the narrow and wider portions;**
- 4) **illustration of the 25' minimum building setback line along both street frontages as measured from any required right-of-way dedication;**
- 5) **placement of a note on the final plat stating that the lot is limited to two curb cuts to Cody Road South and two curb cuts to Hitt Road, with the size, location, and design of all curb cuts to be approved by County Engineering and conform to AASHTO standards;**
- 6) **labeling of the lot with its size in square feet and acres, or the provision of a table on the plat furnishing the same information;**
- 7) **placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;**
- 8) **placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,**
- 9) **placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2008-00064

Holley Branch Subdivision, Re-subdivision of Lots 14 & 15

East side of Holley Branch Court at its South terminus

Number of Lots / Acres: 2 Lots / 0.8± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Davitt, to approve the above referenced re-subdivision, subject to the following conditions:

- 1) **placement of a note stating that each lot is limited to one curb cut to Holley Branch Court, with the size, location, and design to be approved by County Engineering and conform to AASHTO standards;**
- 2) **placement of a note on the final plat stating that the subdivision is denied direct access to Snow Road;**
- 3) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;**
- 4) **placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,**
- 5) **submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.**

The motion carried unanimously.

Case #SUB2008-00065

Ellsworth Heights Subdivision, Re-subdivision of Lots B & C

951 Wildwood Avenue

East side of Wildwood Avenue at the East terminus of Hofner Street (unopened public right-of-way)

Number of Lots / Acres: 2 Lots / 0.3± Acre

Engineer / Surveyor: Byrd Surveying, Inc.
Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if

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anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Davitt, to waive Sections V.D.2. of the Subdivision Regulations, and approve the above reference subdivision, subject to the following conditions:

- 1) **placement of a note on the plat stating that Lots B and C are limited to one curb cut each, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **labeling of each lot with its size in square feet on the final plat; and,**
- 3) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2008-00073

Joshua Subdivision

2618 Lloyds Lane

Southwest corner of Lloyds Lane and Rose Court, extending to the South terminus of Rose Court

Number of Lots / Acres: 2 Lots / 1.7± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Davitt, to approve the above referenced subdivision, subject to the following conditions:

- 1) **placement of a note on the Final Plat stating that each lot is limited to one curb cut to Lloyds Lane, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **placement of a note on the Final Plat stating that Lot 2 is denied access to Rose Court;**
- 3) **illustration of the 25' minimum building setback line along both street frontages and at the Southern rear portion of Lot 2;**
- 4) **labeling of each lot with its size in acres and square feet, or the provision of a table on the plat furnishing the same information;**

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- 5) placement of a note on the Final Plat stating that development of this site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened or otherwise protected species; and,
- 6) subject to the Engineering Comments: *(Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit).*

The motion carried unanimously.

Case #SUB2008-00076

Wondrous Works Subdivision

1480 Steve Street West

North terminus of Steve Street West

Number of Lots / Acres: 2 Lots / 1.0± Acre

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 6

Bobby McBride, Rowe Surveying & Engineering Co., Inc., spoke on behalf of the applicant and requested that the application be withdrawn.

Case #SUB2008-00070

USA Health Systems Subdivision

East and West sides of USA Children's and Women's Parkway, extending from Spring Hill Avenue through Center Street (to be vacated), to the South side of Three Mile Creek and the West side of Cox Street, 110'± South of St. Stephens Road

Number of Lots / Acres: 3 Lots / 40.4± Acres

Engineer / Surveyor: Marshall A. McLeod, P.L.S., L.L.C.

Council District 2

Dr. Rivizzigno recused herself from discussion and voting on the matter.

The Chair announced the matter was recommended for holdover, but if there were those present who wished to speak to please do so at that time.

Linda Burkett, Marshall A. McLeod, P.L.S./L.L.C., spoke on behalf of the applicant and requested that the matter definitely be held over, as the applicants were considering reducing the number of lots or reducing the size of the subdivision. She stated they planned on meeting with the Planning staff early in the next week to resolve some of these issues.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until the May 15, 2008, meeting, with revisions due by May 2, 2008, to allow the applicant to address the following:

- 1) revised plat to include the parcel located to the South and West

- of Center Street; and,
2) **submittal of new labels and postage required to re-advertise.**

The motion carried unanimously.

Case #SUB2008-00074

Christopher Nigzhel Place Subdivision

North side of Gill Road, 380'± East of Center Road

Number of Lots / Acres: 3 Lots / 2.3± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 4

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Anthony Brown, 2500 Gill Road, Mobile, AL, queried about the following:

- A. was the proposed lot size available to the public; and,
- B. were there any limitation regarding the size of the homes to be built.

Mr. Olsen responded the lots were shown as approximately 67 feet x 500 feet. He also advised that there were no governmental agencies that require a minimum building size for houses. Though certain building code issues must be met, any covenants imposed by specific subdivision were private in nature and did not fall under the city's purview with regards to enforcement.

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to waive Sections V.D.1. and V.D.3. of the Subdivision Regulations, and approve the above referenced subdivision, subject to the following:

- 1) **placement of a note on the plat stating that each lot is limited to one (1) curb-cut each, with the size, design, and location of all curb-cuts are to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **depiction and labeling of the 25-foot minimum building setback line, as required by Section V.D.9.;**
- 3) **placement of a note on the plat stating that no additional subdivision of the lots shall occur until additional frontage on a public street is provided;**
- 4) **placement of a note on the plat stating that approval of all applicable Federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities; and,**
- 5) **the labeling of the lots with their size in square feet.**

The motion carried unanimously.

Case #SUB2008-00077

Knowles Addition to Temonia Subdivision

East side of Dauphin Island Parkway, extending from Tallahassee Drive to Cedar Crescent

Number of Lots / Acres: 4 Lots / 0.9± Acre

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 3

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Holmes, to approve the above referenced subdivision, subject to the following conditions:

- 1) **the dedication of sufficient right-of-way to provide 50-feet of right-of-way from the centerline of Dauphin Island Parkway;**
- 2) **placement of a note on the Final Plat stating that all lots are limited to one curb, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 3) **the placement of a note on the Final Plat stating that Lots 1 and 3 are denied access to Dauphin Island Parkway.**

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2008-00885

Jody Johnston

3405 Beltline Park Drive North

South side of Beltline Park Drive North, 305' ± East of East I-65 Service Road North

Request to waive construction of a sidewalk along Beltline Park Drive North.

Council District 1

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Holmes, to approve the above requested sidewalk waiver.

The motion carried unanimously.

Case #ZON2008-00895

Rick Twilley

East side of Schaub Avenue, 420'± South of Airport Boulevard, extending to the Northeast corner of Schaub Avenue and Howard Street (vacated public right-of-way)
Request to waive construction of a sidewalk along Schaub Avenue
Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Holmes, to approve the above requested sidewalk waiver.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2008-00888

UNO Subdivision

East side of Sollie Road, 800'± South of Shadow Creek Drive
Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow garage parking structures and parking reconfigurations for a twenty building residential apartment complex
Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Ms. Butler, to approve the above referenced Planned Unit Development application, subject to the following condition:

- 1) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2008-00898

Downtown Investment Properties (Watson Realty, Agent)

3741, 3751, and 3761 Joy Springs Drive
South side of Joy Springs Drive, 225'± West of Lakeside Drive
Planned Unit Development Approval to allow shared access between three building sites
Council District 4

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Ms. Butler, to approve the above referenced Planned Unit Development application, subject to the following condition:

- 1) **completion of the Subdivision process; and,**
- 2) **provision of applications for Administrative PUDs for any future changes to this site, and potentially for any of the sites fronting Lakeside Court that connect to this site, prior to the application for any future building-related permits.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2008-00069 (Subdivision)

Downtown West Subdivision, Unit Six, Re-subdivision of Lots 34, 35, 36 & 37, Re-subdivision of Lots 1 & 2

4344 Downtowner Loop South

North side of Downtowner Loop South, 300'± East of Downtowner Loop West

Number of Lots / Acres: 1 Lot / 1.3± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 5

(Also see **Case #ZON2008-00890 (Planned Unit Development) Downtown West Subdivision, Unit Six, Re-subdivision of Lots 34, 35, 36 & 37, Re-subdivision of Lots 1 & 2**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Ms. Butler, to approve the above referenced re-subdivision, subject to the following condition:

- 1) **the placement of a note on the Final Plat limited the development to one curb cut, with the size, design, and location to be approved by Traffic engineering and conform to ASSHTO standards.**

The motion carried unanimously.

Case #ZON2008-00890 (Planned Unit Development)
Downtown West Subdivision, Unit Six, Re-subdivision of Lots 34, 35, 36 & 37, Re-subdivision of Lots 1 & 2

4344 Downtowner Loop South

North side of Downtowner Loop South, 300'± East of Downtowner Loop West

Planned Unit Development Approval to allow two buildings on a single building site
Council District 5

(Also see **Case #SUB2008-00069 (Subdivision) Downtown West Subdivision, Unit Six, Re-subdivision of Lots 34, 35, 36 & 37, Re-subdivision of Lots 1 & 2**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Ms. Butler, to approve the above referenced Planned Unit Development, subject to the following conditions:

- 1) **inclusion of a narrative giving a detailed description of the use of the proposed building and a timetable for expansion;**
- 2) **inclusion of calculations for site coverage, parking ratios based on internal uses of buildings, and for landscaping and trees;**
- 3) **depiction of parking, internal circulation, dumpster location (if any), truck loading/unloading (if any), and stormwater detention (if any); and,**
- 4) **submittal of two copies of the revised site plan to indicate all improvements based on the preceding conditions.**

The motion carried unanimously.

Case #SUB2008-00034 (Subdivision) (Holdover)
Providence Park, P.O.B. West Subdivision, Re-subdivision of Lot 1, Re-subdivision of and Addition to Lot 1

Northeast corner of Cody Road and Providence Park Drive South, extending to the West side of Providence Park Drive East (private street), 890'± South of Airport Boulevard

Number of Lots / Acres: 11 Lots / 11.6± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

(Also see **Case #ZON2008-00767 (Planned Unit Development) Providence Hospital**, below)

Lee Metzger, Providence Hospital, spoke on behalf of the Daughters of Charity, and asked the Commission to consider the following:

- A. there is currently an increase of demand for medical offices in Providence Park, with an immediate demand for lots 1 and 2;
- B. phase development of the subdivision, with lots 1 and 2 being

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- Phase 1, the interior lots around the proposed cul-de-sac as Phase 2, with Phase 3 being lots 3 and 4 developed once Providence Park Drive North is installed;
- C. the cul-de-sac would not be built until such time as there was demand for the interior lots;
 - D. there were no issues with 1 curb cut for the interior lots, however, with lot 1, it was hoped there would be 1 curb cut onto Providence Park Drive and a second to the proposed cul-de-sac to create flow through that site; and,
 - E. that on lot 2, there be 2 curb cuts onto Providence Park Drive due to the width of the lot, remembering that it will be a medical office and that type of traffic flow would be very efficient.

Mr. Olsen reminded the Commission that if the subdivision were to be approved as a phased development, it was the property owner's responsibility to keep the extension active or they will expire in a year.

Mr. Metzger asked if there were limitations on the terms for PUD extensions.

Mr. Olsen advised they were for one year, however, in the past, the Commission had been very amenable to extending the approval if there had been construction, but if it has reached 4 or 5 extensions, the potential for approval is reduced.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to approve the above referenced subdivision, subject to the following conditions:

- 1) **provision of two (2) copies of a Traffic Impact Study to the Planning Section of Urban Development, and acceptance of the Traffic Impact Study by Traffic Engineering prior to the signing of the final plat;**
- 2) **compliance with Engineering comments (*It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS shows wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. If using an existing detention facility, the existing detention facility shall be inspected and surveyed to verify capacity and functionality. Any work performed in the right-of-way will require a right-of-way permit.*);**
- 3) **placement of a note on the final plat stating that Lot 1 is limited to one (1) curb-cut onto Providence Park Drive East**

- and one (1) curb-cut onto the private cul-de-sac, Lot 2 is limited to two (2) curb-cuts onto Providence Park Drive East, and all other lots are limited to one (1) curb-cut each, with the size, design, and location to be approved by Traffic Engineering and in compliance with AASHTO standards;
- 4) placement of a note on the final plat stating that lots 3 and 4 shall not be developed until frontage on a public or private street (meeting City requirements) is provided;
 - 5) placement of a note on the final plat stating that approval of all applicable Federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
 - 6) the labeling of the lots with their size in square feet;
 - 7) the labeling of all private streets as private;
 - 8) depiction of phasing on the plat and site plan, with Lots 1 and 2 as Phase One, Lots 5-11 as Phase Two, and Lots 3 and 4 as Phase Three, with plat recording to, at minimum, follow the requested phasing;
 - 9) placement of a note on the site plan and plat stating that applicant is responsible for applying for necessary Subdivision and PUD extensions if development of the site requires more than one year; and,
 - 10) provision of a revised PUD site plan prior to the signing of the final Subdivision plat.

The motion carried unanimously.

Case #ZON2008-00767 (Planned Unit Development)

Providence Hospital

West side of Providence Park Drive East (private street), 890'± South of Airport Boulevard

Planned Unit Development Approval to amend a previously approved Planned Unit Development master plan for Providence Park to allow an 11-lot office complex private street subdivision

Council District 6

(Also see **Case #SUB2008-00034 (Subdivision) (Holdover) Providence Park, P.O.B. West Subdivision, Re-subdivision of Lot 1, Re-subdivision of and Addition to Lot 1,** above)

(See **Case #SUB2008-00034 (Subdivision) (Holdover) Providence Park, P.O.B. West Subdivision, Re-subdivision of Lot 1, Re-subdivision of and Addition to Lot 1** for discussion)

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to approve the above Planned Unit Development, subject to the following conditions:

- 1) provision of two (2) copies of a Traffic Impact Study to the Planning Section of Urban Development, and acceptance of the Traffic Impact Study by Traffic Engineering prior to the signing of the final plat;
- 2) completion of the Subdivision process;
- 3) provision and approval of Administrative PUD applications for each lot, prior to applications for land disturbance or building permits for individual lots;
- 4) compliance with Engineering comments (*It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS shows wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. If using an existing detention facility, the existing detention facility shall be inspected and surveyed to verify capacity and functionality. Any work performed in the right-of-way will require a right-of-way permit.*);
- 5) placement of a note on the final plat stating that Lot 1 is limited to one (1) curb-cut onto Providence Park Drive East and one (1) curb-cut onto the private cul-de-sac, Lot 2 is limited to two (2) curb-cuts onto Providence Park Drive East, and all other lots are limited to one (1) curb-cut each, with the size, design and location to be approved by Traffic Engineering and in compliance with AASHTO standards;
- 6) placement of a note on the site plan stating that lots 3 and 4 shall not be developed until frontage on a public or private street (meeting City requirements) is provided;
- 7) placement of a note on the site plan stating that approval of all applicable Federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 8) the labeling of the lots with their size in square feet;
- 9) the labeling of all private streets as private;
- 10) depiction of phasing on the plat and site plan, with Lots 1 and 2 as Phase One, Lots 5-11 as Phase Two, and Lots 3 and 4 as Phase Three, with plat recording to, at minimum, follow the requested phasing;
- 11) placement of a note on the site plan and plat stating that applicant is responsible for applying for necessary Subdivision and PUD extensions if development of the site requires more

- than one year; and,
12) provision of a revised PUD site plan prior to the signing of the final Subdivision plat.

The motion carried unanimously.

**Case #SUB2008-00066 (Subdivision)
Perch Creek Preserve Subdivision**

North side of Winston Road, 1100'± West of Dauphin Island Parkway, extending West and South to Perch Creek

Number of Lots / Acres: 116 Lots / 85.1± Acres

Engineer / Surveyor: Engineering Development Services, LLC

Council District 4

(Also see **Case #ZON2008-00889 (Planned Unit Development) Perch Creek Preserve Subdivision**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Bill Pittman, 4141 Morhaven Drive, Mobile, AL, addressed the Commission with the following concerns:

- A. his property is located directly across the point from the proposed subdivision, so any development would have a negative effect on his quality of life;
- B. the site is an eco-sensitive site whose development will only enrich a few developers;
- C. with it being such an eco-sensitive site, the potential for multi-million dollar litigation is great; and,
- D. due to the serious decline in the housing market, to build the proposed subdivision in such a pristine ecological area would seriously affect his property value in a negative way.

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, that this application be considered under Section VIII of the Subdivision Regulations as an Innovative Subdivision, that Sections VIII.E.2.c and V.B.6 be waived and the plat be granted Tentative Approval subject to the following conditions:

- 1) **shall comply with Section 508.5.1, Appendix D 103.4 and Table D103.4 of the 2003 IFC;**
- 2) **placement of a note on the Final Plat stating that the gate(s) are to be in operation at all times (any cessation of use will void approval as a gated subdivision and require the subdivision be brought up to city public street standards and all streets dedicated to the City of Mobile);**

- 3) placement of a note on the Final Plat stating all common areas noted as natural area on the site plan submitted to remain in a natural undisturbed state, (with the exception of nature trails as noted in the narrative - nature trails to be indicated on the final plat) and maintenance of all common areas is to be the responsibility of the property owners;
- 4) placement of a note on the Final Plat stating that the approval of all applicable federal, state, and local agencies shall be provided prior to the issuance of any permits or land disturbance activities;
- 5) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities, revised site plan to be submitted to the Planning Section of Urban Development Department;
- 6) compliance with Engineering Department Comments (*No fill in AE flood plain without flood study. If no fill proposed, add note to plat stating that the existing contour elevations are not to be changed. Minimum finished floor elevation to be obtained from City Engineering Dept. – to be 1' above high water elevation for Hurricane Katrina in this area. Show minimum finished floor elevation on each lot. It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS illustrates wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on the revised site plans and/or final plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit*); and,
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2008-00889 (Planned Unit Development)

Perch Creek Preserve Subdivision

North side of Winston Road, 1100'± West of Dauphin Island Parkway, extending West and South to Perch Creek

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow a gated, 20'-wide, aggregate-surfaced private street single-family residential subdivision with increased cul-de-sac lengths, reduced lot widths and sizes, reduced front and side setbacks, and increased site coverage of 50%
Council District 4

(Also see Case #SUB2008-00066 (Subdivision) Perch Creek Preserve Subdivision, above)
(See Case #SUB2008-00066 (Subdivision) Perch Creek Preserve Subdivision for discussion)

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to recommended that this application be approved as a gated private road subdivision, and to allow 20' wide aggregate surfacing as illustrated on the plat submitted, subject to the following conditions:

- 1) shall comply with Section 508.5.1, Appendix D 103.4 and Table D103.4 of the 2003 IFC;
- 2) revision of the PUD plan to include placement of a note on the final plan stating that the gate(s) are to be in operation at all times (any cessation of use will void approval as a gated subdivision and require the subdivision be brought up to city public street standards and all streets dedicated to the City of Mobile) revised plan to be submitted to Planning Section of UDD;
- 3) revision of the PUD plan to include placement of a note on the final plan stating all common areas noted as natural area on the plat submitted to remain in a natural undisturbed state, (with the exception of nature trails as noted in the narrative - nature trails to be indicated on the final plat) and maintenance of all common areas is to be the responsibility of the property owners, revised plan to be submitted to Planning Section of UDD;
- 4) revision of the PUD plan to include placement of a note on the final plan stating that the approval of all applicable federal, state, and local agencies shall be provided prior to the issuance of any permits or land disturbance activities, revised plan to be submitted to Planning Section of UDD;
- 5) revision of the PUD plan to include placement of a note on the plat / site plan stating that approval of all applicable Federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities, revised plan to be submitted to Planning Section of UDD;
- 6) compliance with Engineering Department Comments (*No fill in AE flood plain without flood study. If no fill proposed, add note to plat stating that the existing contour elevations are not to be changed. Minimum finished floor elevation to be obtained from City Engineering Dept. - to be 1' above high water elevation for Hurricane Katrina in this area. Show minimum finished floor elevation on each lot. It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS*)

- system and verify if NWI wetlands are depicted on the site. If the COM GIS shows wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit); and,*
- 7) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

OTHER BUSINESS:

The Chair opened the Public Hearing to consider amending the Subdivision Regulations, creating an overlay district for the Village of Spring Hill, inviting anyone who wished to speak on the matter to do so at that time.

Mr. Olsen advised the Commission, immediately prior to opening the floor to speakers, that before the members was a revised draft of the proposal. Copies were also made available to the public at the registration desk as they came into the meeting. He noted that most of the revisions to the amendment were made at the staff's request.

Mr. Plauche also noted that since there would be a similar Public Hearing held on May 1, 2008, regarding zoning for the Village of Springhill, voting would be held over to that date.

The following people spoke in opposition to or with great concern regarding the matter:

- Dr. Fred Bodie, dermatologist, 4300 Old Shell Road;
- Bill Goodloe, representing Dr. Day Gates, DDM, 4464 Old Shell Road;
- Doug Anderson, Burr & Foreman Law Firm, representing the owners of Bruno's Shopping Center at McGregor and Old Shell Road, Bob Issacson, Tommy Morrow, the Bodies, and the residents of Austill Lane;
- Albert Hunter, 4456 Old Shell Road;
- Bubba Baker, 501 Ridgelawn Drive West and 70 North Hathaway Road;
- Terry Ellis, pastor, Springhill Baptist Church, 2 South McGregor Avenue;
- Dr. Day Gates, DDM, 4464 Old Shell Road;
- Margie Smith, co-owner of Private Collection, 4400 Old Shell Road;
- Judy Bodie, co-owner of the property at 4300 Old Shell Road; and,
- Tommy Cain, co-owner, Dynasty Collection, 4500 Old Shell Road.

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They made the following points regarding the matter:

- A. many of the businesses located in the overlay area are family owned and operated;
- B. the business people along that area are very much in support of the work and vision of making the area more beautiful and more walkable, however, they felt they were not advised how those plans would effect their individual businesses and livelihoods;
- C. those individuals with businesses along Old Shell Road felt that if the plan were adopted as proposed, they would be forced to give up private property, build to specifications and requirements that would create financial hardships;
- D. many of the medical practices had patients that the proposed parking would hinder;
- E. a loss of privacy due to the requirement to install glass, “shop front” windows;
- F. loss of business due to lack of parking, limited access, and possible loss of privacy would cause business owners would cause tenants to move and owners to loose revenue;
- G. proposed street layouts would have a negative impact on traffic, neighborhoods, disrupt residential character, and ;
- H. parking garage would be out of character and the perceived “taking” of private property and using it to create public parking and public sidewalks;
- I. walkability was not relative to shopping;
- J. compatibility of the Springhill Baptist Church master plan with the proposed overlay;
- K. options for the development of the properties in the area had now become a mandate;
- L. communication and contact done via e-mail and websites, without direct contact with property owners/business.

The following people spoke in favor of the proposed overlay:

Reggie Copeland, Mobile City Council Representative District 5,
3707 Swansea Drive;
Terry Harbin, BankTrust, 4425 Old Shell Road; and,
Linda St. John, president of Village of Springhill, 2 Spring Bank
Road N.

They made the following statements:

- A. requested the matter be held over to allow more discussion in an effort to bring all parties together;
- B. there is a potential development on Old Shell that would develop under the proposed overlay;

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- C. the “Main Street” type format has been successfully implemented in hundreds of communities nationwide, specifically Montgomery, AL;
- D. the overlay is concerned with land use, not architecture, materials, or colors;
- E. it will apply to the 3 intersections of Old Shell Road and McGregor, Old Shell Road and Bit & Spur, and McGregor and Museum Drive;
- F. overlay does not take land through “eminent domain”, does not require property owners to put public or private roads through their property, and roads shown on the proposal are conceptual only; and,
- G. City Council representative Gina Gregory noted her commitment to the project, and city planners attended seminars on Form Based Code.

Mr. Turner noted that there seemed to be a number of people who have stated they initially supported the plan but now have issues with it as it is currently written. He asked if there were any plans to meet with those individuals who have previously donated but are now at odds with the current version of the plan.

Mrs. St. John replied that all of the information that had been requested that day was available on the website as well the opportunity to ask questions by using the “blog” section.

Mr. Turner commented that not everyone was “computer savvy” and suggested there should be another venue to address concerns.

Mrs. St. John gave several other contact options.

Hearing no further discussion, the Public Hearing to consider amending the Subdivision Regulations, creating an overlay district for the Village of Spring Hill, was closed, and a motion to hold the matter over until May 1, 2008, meeting was made by Mr. Plauche, with second by Mr. Davitt.

The motion carried unanimously.

Hearing no further business, the meeting was adjourned.

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APPROVED: July 2, 2009

William G. DeMouy, Jr., Secretary

Terry Plauche, Chairman

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