

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF SEPTEMBER 7, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Bill DeMouy
Nicholas Holmes
Mead Miller
Roosevelt Turner
James Watkins III
John Vallas

Members Absent

Clinton Johnson
Victoria L. Rivizzigno, Secretary
Ann Deakle

Urban Development Staff Present

Richard L. Olsen
Deputy Director of Planning
Bert Hoffman, Planner II
David Daughenbaugh, Urban Forestry

Val Manuel, Secretary II

Others Present

John Lawyer, Assistant City Attorney

Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

Mr. Plauche stated the number of members present constituted a quorum and called the meeting to order.

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

APPROVAL OF MINUTES:

A motion was made by Mr. Miller and seconded by Mr. Vallas to approve the minutes of the July 6, 2006, meeting as submitted.

The motion carried unanimously.

HOLDOVERS:

Case #SUB2006-00150 (Subdivision)

Cowart Road Property Subdivision, Resubdivision of Lot 2

West side of Cowart Road, 120'± South of its North terminus.

2 Lots / 30.0± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Mr. Miller to waive Section V.D.1. of the Subdivision Regulations and approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that approval from all applicable federal, State, and local agencies will be required prior to the issuance of permits in the floodplain;
- 2) the placement of a note on the final plat stating that there will be no future Resubdivision of the site until additional access is provided via a dedicated and maintained public street; and
- 3) the placement of a note on the final plat stating that any lots that 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 #ZON2006-01330

T-Mobile

South side of Government Street, 95'± East of Park Terrace.

A request for Planning Approval to allow a 70' monopole cellular communications tower in a B-1, Buffer Business district was considered.

The site plan illustrates the proposed tower location, easement, and lease parcel.

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Miller and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- 1) approval of all necessary variances by the Board of Zoning Adjustment;
- 2) compliance with the Certificate of Appropriateness granted by the Architectural Review Board; and
- 3) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00177

Alexander Place Subdivision

4263 Airport Boulevard

(Southeast corner of Airport Boulevard and Mayflower Street).

2 Lots / 0.5± Acre

There was no one present to speak in this matter.

A motion was made by Mr. Miller and seconded by Mr. Holmes to deny this plan for the following reasons:

- 1) the applicant did not include the remainder of Lot 7 and Lot 8 to the South;
- 2) the application was not revised to create a three-lot subdivision;

The motion carried unanimously.

EXTENSIONS:

Case #SUB2005-00142 (Subdivision)

Cottage Hill Baptist Church Subdivision

4255 Cottage Hill Road

(Southeast corner of Cottage Hill Road and North Demetropolis Road, extending to the North side of Thigpen Drive South, and, Southeast corner of North Demetropolis Road and Thigpen Drive South, extending to the North side of Troy Lane).

2 Lot / 14.5± Acres

A request for a one-year extension of previous approval was considered.

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval of the above referenced subdivision.

The motion carried unanimously.

Case #SUB2005-00190 (Subdivision)

Dawson Point Subdivision

3970 Dawson Drive

(Terminus of Dawson Drive).

5 Lots / 1.36± Acres

A request for a one-year extension of previous approval was considered.

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval of the above referenced subdivision.

The motion carried unanimously.

Case #SUB2005-00183 (Subdivision)

Riverwood Estates Subdivision, Phase Three

East side of Rabbit Creek Drive at the East terminus of Gulf Creek Circle (South),
extending to the South terminus of Riverwood Landing South.

46 Lots / 30.7± Acres

A request for a one-year extension of previous approval was considered.

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval of the above referenced subdivision.

The motion carried unanimously.

Case #SUB2005-00180 (Subdivision)

Walshwood Medical Subdivision, Resubdivision of

Northeast corner of Spring Hill Avenue and Mobile Infirmary Drive, extending through
to Center Street.

2 Lots / 24.9± Acres

A request for a one-year extension of previous approval was considered.

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval of the above referenced subdivision. It should be noted, however, that an additional extension would be unlikely.

The motion carried unanimously.

Case #ZON2005-01594 (Planned Unit Development)

Russell, LLC Subdivision

4450 Halls Mill Road

(North side of Halls Mill Road, 2/10 mile± West of Riviere du Chien Road).

A request for a one-year extension of previous approval was considered.

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval of this plan.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00186

Bennett Pointe Subdivision

North side of Old Pascagoula Road, 570'± West of Theodore Dawes Road.

2 Lots / 10.6± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- 1) the dedication of sufficient right-of-way to provide 50 feet from the centerline of Old Pascagoula Road;
- 2) placement of a note on the Final Plat stating that proposed Lot 1 is limited to two curb cuts, and proposed Lot 2 to a single curb cut, with size, location and design to be approved by County Engineering;
- 3) the placement of the 25-foot building setback lines on the final plat; and
- 4) 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.

In further discussion Mr. Holmes addressed the question of drainage requirements in the County, and the issue of whether the higher standards were going to be required to be followed. He asked if they were going to require it in one place, should they not require it in all cases in the County.

Mr. Lawler said yes, the higher standard should be applied in all cases in the County. He said this issue had been discussed many times, and usually came up in meetings such as today's meeting where neighboring property owners came in and clearly demonstrated that they would be impacted by a development that does not really take care of its water. Mr. Lawler said it was really a matter of policy. In the past he said he had written a letter to the City Attorney and asked him to take this up with the Mayor to get the necessary people to do something with it. He suggested the Commission could discuss this again at their business meeting on October 12th.

Mr. Watkins felt that from where the Commission stood right now with respect to the applications before them today, that Mr. Holmes made a good point. He asked if they were worse off by picking and choosing some, or just a blanket application of the City standards - the higher standards - in all subdivisions.

Mr. Miller felt the Commission needed to take a stand on this, and said if somebody would withdraw the motion, he would make a motion requiring that in the County, all subdivisions would be required to comply with the higher standards regarding drainage, which would be the City standards.

Mr. Watkins questioned whether they could enforce the City standards in the County.

Mr. Lawler said what they would be asking was that an engineer certify that the subdivision had been constructed to City standards. It would also require certification

that surface water was not going to leave any faster than pre-development. Mr. Lawler said he was familiar with several developments where developers had self-imposed the higher standards, but many times that does not happen. It was one thing when there were just two or three lots involved, but when you are talking about large numbers of lots, you are talking about something that can impact other properties. Mr. Lawler said there had been a lot of litigation in recent years about this very thing. The City was involved in one case and was sued, and the Planning Commission and the City were sued in another case. In the case before the late Judge McDermott, he specifically held the higher standards apply. It just so happened in that case that the Mitchell Company had self-imposed the higher standards so it did not become an issue, and the City was not held to task or anything. The judge pointed out in his order, however, that those conditions do apply. Mr. Lawler also noted that if the City does not enforce the higher standards, then there is potential liability for the City.

Mr. Holmes said the Planning Commission would be in direct violation of the enabling legislation if they did not enforce the higher standards.

Mr. Lawler said that was correct.

Mr. Plauche asked Pat Stewart, representing County Engineering, if he would like to comment.

Mr. Stewart stated that the County Engineer had expressed many times that they would not review anything beyond their scope of review, which was roads and drainage to the roads. If the City were going to impose the higher standards, they would have to come up with somebody to review it.

Mr. Miller further commented that he was interested in serving the people, and felt the people in the County deserved some protection, especially when they own investments. He felt the Commission needed to state their position and go with it.

Mr. Lawler said that if an engineer will sign a certification that the drainage was built to the higher standards, that would suffice to meet the requirement. The County can do whatever they want to.

Mr. Vallas asked Mr. Olsen if this was something that was scheduled for discussion at the upcoming business meeting.

Mr. Olsen stated that this had actually been a point of discussion at several business meetings, but they could definitely include it in discussion at the next business meeting, and he would try to contact Mr. Wettermark. He was aware that Mr. Lawler had previously asked Mr. Wettermark and the administration for their opinion.

Mr. Holmes suggested that possibly the Commission could bring this to a head by putting on hold all the applications that were in the County until somebody tells them which way to go.

Mr. Miller stated that there was information on the record today which he felt meant that they needed to vote the way he suggested they vote, and did not see that having a business meeting about this was going to change anything since the law was in place.

With reference to the first three applications on the agenda for which the motion was made, Mr. Vallas said they did not make the argument regarding the higher standards at the public hearing session when the respective engineers were present. He felt, therefore, that it would not be fair to those applicants to require that they enforce the higher standards. Those engineers left the hearing with the understanding that their applications were recommended for approval.

Mr. Olsen pointed out that part of the opening announcements that the Chairman makes states that if there is discussion or additional conditions that come up during administrative session, the application may be held over, or the applicant allowed to speak. Since neither the applicants nor their engineers were present, Mr. Olsen suggested the Commission hold over those applications that were in the County.

Mr. Turner expressed concern that a representative of the County Engineering Department stated that they would not inspect or approve the City's drainage requirements in the County. He felt the Commission should not impose the higher standards in the County without giving full consideration of what all the ramifications were going to be. Mr. Turner suggested they address the application they know has a drainage problem, and that an individual has made complaints against, and they discuss this further at the business meeting to make sure they have all of their "T"s crossed and "I"s dotted so that they do not create other problems.

Mr. Holmes said that whether or not the drainage engineering was checked or not, was not as important as the engineer designing it accordingly.

Mr. Watkins asked if the City Engineering Department was required to go out and check the drainage or calculations before a final plat could be recorded, or would they just take a certificate.

Beverly Terry of City Engineering stated that they require the engineer's certification; however, in the past three years they had implemented a very rigid inspection where an engineer has to call City Engineering and Engineering goes out and inspects everything during construction from roads, if they are involved, to the detention system and the outfall system.

Mr. Holmes asked how long Engineering did this before they did the visual inspection.

Ms. Terry said the flood plain management plan and the stormwater ordinance was implemented in 1983. There was some inspection for awhile, but everything was based on the engineer's certification, and they found out that they needed to do inspections on that. Ms. Terry said they check a drainage plan when it comes in for compliance with the

City's ordinance. Then they do a visual inspection post-construction, and the engineer is required to submit a certification checklist that the detention has been surveyed, and they have a specific design amount and that the outfall is working properly. Ms. Terry said the process was more stringent than it was five years ago, so in the past 18 or 20 years they went on the engineer's certification.

Mr. Lawler said he agreed with Mr. Olsen that these three applications, where the neighbors did not have the opportunity to actually address the issue, probably should be held over to the next meeting to allow them, if they wanted, to speak. It did not, however, change his opinion as to what they should do, which was to impose the higher standards.

There was further discussion as to whether the applications that were in the County should be held over.

Mr. Lawler noted that the Commission had held over the application that got the discussion started to a specific date at the applicant's request, which meets all the requirements for a continuance. They could continue the others as long as they did not continue them beyond 30 days. A decision has to be made within 30 days. The Commission could pass everything else that is in the County until that day, and in the meantime decide what they were going to do.

Mr. Miller suggested that either Mr. Lawler or the staff compose a letter to the engineers, attorneys, etc, suggesting that because of the ramifications of court ruling, etc, the City was planning to enforce the higher standards from this period on.

Mr. Lawler said that there was a similar situation six months or so ago, and a similar objection because of the effect the development would have upon the surface water. He and Mr. Olsen wrote a letter to Mr. Wettermark and informed him that this was an issue that had been around for a long time and the Commission really needed to address it, and asked him for assistance. Mr. Lawler said he had not gotten a response from Mr. Wettermark. He said if the Commission held these applications over to the next meeting, he would within that time period again write Mr. Wettermark and copy the Mayor and let him know that this is something the Planning Commission would like some direction on. He commented that some things the Planning Commission does are matters of policy and they have some discretion. But there is no discretion in this area. Mr. Lawler said the higher standards apply, and if you do not apply them, then you are not following the law.

Mr. Vallas pointed out that the first two applications were in the County, and both were two-lot subdivisions on 10 and 2 1/2 acre tracts. He did not feel they needed to be held over from a drainage standpoint.

After discussion a motion was made by Mr. Watkins and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) the dedication of sufficient right-of-way to provide 50 feet from the centerline of Old Pascagoula Road;
- 2) placement of a note on the Final Plat stating that proposed Lot 1 is limited to two curb cuts, and proposed Lot 2 to a single curb cut, with size, location and design to be approved by County Engineering;
- 3) the placement of the 25-foot building setback lines on the final plat; and
- 4) 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 #SUB2006-00185

Dykes Road Farmettes Subdivision, First Addition, Resubdivision of Lot 25

10300 Turmac Drive

(North side of Turmac Drive, 350'± West of Dykes Road South).

2 Lots / 2.5± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

(Also see Case #SUB2006-00186 - Bennett Pointe Subdivision - above - for discussion regarding applying the higher standards in the County).

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that there will be no future Resubdivision of Lot 2 until additional access on a publicly maintained street is available; and
- 2) the 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 #SUB2006-00188

Matzenger Estates Subdivision

3515 Spring Hill Avenue

(Southeast corner of Spring Hill Avenue and Stillwood Lane).

2 Lots / 0.4± Acre

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

(Also see Case #SUB2006-00186 - Bennett Pointe Subdivision - above - for discussion regarding applying the higher standards in the County).

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 50 feet, as measured from the centerline of Spring Hill Avenue, and 25 feet, as measured from the centerline of Stillwood Lane;
- 2) revision of the property line at street intersection to reflect the radius requirements stated in Section V.D.6. of the Subdivision Regulations;
- 3) revision of the minimum building setback line, reflecting dedications and the corner radius requirement;
- 4) placement of a note on the plat stating that Lot 1 is limited to one curb-cut onto Stillwood Lane, Lot 2 is limited to one curb-cut onto Spring Hill Avenue, and that the size, design and location of all curb-cuts are to be approved by Traffic Engineering and comply with AASHTO standards;
- 5) labeling of all lots with size in square feet;
- 6) demolition of the existing structure on the site prior to recording of the final plat; and
- 7) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00190

Raleigh Subdivision, Unit One, Resubdivision of Lots 17, 18, 19, and 20

North terminus of Sumerlyn Court North, extending to the West side of Sumerlyn Court South at the West terminus of Winthrop Lane.

3 Lots / 2.3± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

It was noted that this application was located in the County. Mr. Olsen said it was simply a resubdivision of three existing lots, moving interior lot lines.

A motion was made by Mr. Vallas and seconded by Mr. Turner to approve the above referenced subdivision subject to the following condition:

- 1) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall

provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00191

Somerby Subdivision, Resubdivision of Lots 1 & 2 of a Resubdivision of Lot 2, Corrected Plat, Resubdivision of Lots 49 – 57

North side of Somerby Lane (private street), 460'± East of Somerby Drive.

3 Lots / 1.6± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the October 5, 2006 meeting so that it can be considered with the accompanying PUD.

The motion carried unanimously.

Case #SUB2006-00192 (Subdivision)

Springhill Estates Subdivision, Unit Number One, Resubdivision of a Portion of Lots 14 & 15

510 and 522 Evergreen Road

(West side of Evergreen Road, 715'± North of Airport Boulevard).

3 Lots / 0.8± Acre

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

Mr. Plauche asked if there was anyone present in opposition to this application.

Ron Yokely, a resident of 526 Evergreen Road, requested that this application be denied. He noted that a previous request for the subdivision of this property was denied on July 20, 2006, based on the fact that it did not comply with the 60-foot required minimum lot size. He suggested this still applied. Mr. Yokely noted that of the 41 existing homes in the subdivision, there were only two that were on lots of less than 75 feet. Those lots were created by resubdivision in 1963. All of the other homes in the neighborhood had lots measuring anywhere from 75 feet to over 200 feet. Mr. Yokely further stated that over the past five years there had been six new homes built in the subdivision, four of which were custom built on lots of at least 100 feet. The other two were built on the smaller 60-foot lots from the previous resubdivision. He said there was over 750 feet of street frontage available for development in this neighborhood, and the residents felt that if this application was approved it would set a precedent for other such development in

the neighborhood, which they felt would be detrimental to the homeowners in the neighborhood. Mr. Yokely asked that the Commission maintain the standards that had been set and not allow this subdivision. He said they welcomed progress in the neighborhood, as evidenced by the recent building of homes over the last five years, but they did not want to see their property values go down and their neighborhood changed based purely on the need for profit.

Chris Rehm, a resident of 443 Evergreen Road, stated that his concern here was not property values, but rather the quality of life. He did not want to see the neighborhood broken up into smaller lots and increased density, which he said was what the applicant had proposed before and he keeps toning that down. He said the proposed lots were much smaller than the average lots on Evergreen Road, and he asked that the Commission deny this request.

In deliberations session Mr. Watkins asked how this proposed subdivision was different from the plan denied in July.

Mr. Olsen explained that the previous subdivision was for four lots, and a PUD for reduced setbacks - zero-lot-line. This proposal was simply a three-lot subdivision.

Mr. Vallas noted that they had gone from 43-foot lots to about 58 or 59 feet.

After discussion a motion was made by Mr. Miller and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 30 feet, as measured from the centerline of Evergreen Road;
- 2) adjustment of the 25-foot minimum building setback line to reflect the right-of-way dedication;
- 3) placement of a note on the plat stating that each lot is limited to one curb-cut, with the size, design and location to be approved by Traffic Engineering and comply with AASHTO standards;
- 4) labeling of each lot with the total size in square feet;
- 5) depiction of the side yard setbacks on the plat, in addition to the existing side yard setback note; and
- 6) full compliance with all other municipal codes and ordinances.

In further discussion Mr. DeMouy said he had trouble with this subdivision six months ago, and did not feel much better about it now. He did not see why there was a compelling reason to subdivide two lots into three. He pointed out that there were a number of vacant lots already on the street. Mr. DeMouy said for that reason he would vote against the motion.

Mr. Miller noted that there were several lots across the street that were as small as the proposed lots.

Mr. Vallas said the staff's point was that it would only minimally fall below the required lot size of 60 feet.

There being no further discussion, Mr. Plauche called for the vote.

There was one vote in opposition, with all other members voting for the motion.

The motion carried.

Case #SUB2006-00183

Motel Court Subdivision

Southeast corner of Coca Cola Road and Motel Court, extending to the North side of Interstate 10, and extending to the West side of Motel Court, 460'± South of Coca Cola Road, and to the North side of the Interstate 10 West off ramp.

5 Lots / 14.7± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

Mr. Plauche asked if there was anyone who wished to speak in opposition.

Brenda Mathis, manager of the Red Roof Inn adjacent to the subject property, stated that she was just concerned as to what exactly was proposed.

Mr. Olsen noted that the property was located outside the City limits, therefore, there was no zoning. The Planning Commission has no real idea as to the proposed use, but based on the subdivision and its location, the lots would probably be developed for commercial use.

Mr. Vallas said this was a 14-acre site that they were proposing to create six legal lots of record. The Commission was simply considering the subdivision of the property and had no jurisdiction as to how the lots would be developed.

Ms. Mathis asked if the adjoining property owners would be notified if the applicant was to construct on this property.

Mr. Olsen said no; there would be no notification for construction.

After discussion a motion was made by Mr. Turner to approve the above referenced subdivision subject to the following conditions:

- 1) that the applicant obtain all necessary approvals from federal, state and local agencies prior to the issuance of any permits; and
- 2) the placement of a note on the final plat stating that each lot is limited to a single curb cut, with size, location and design subject to County Engineering approval.

In further discussion Mr. Miller expressed concern about the lots in the floodway, and whether or not they could be built on.

Mr. Vallas said those lots could not be built on.

Mr. Olsen noted that this property was in the County.

Mr. Plauche asked if there was a second to the motion.

Mr. Vallas seconded the motion.

There was further concern expressed regarding the lots in the floodway.

Mr. Stewart stated that they could not build in the floodway, period, if it was an established floodway by FEMA.

Mr. Miller asked how Lot 6 was going to be accessed.

Mr. Olsen said Lot 6 had access from Coca Cola Road.

Mr. Vallas said Motel Court was currently built in that floodway. The road was in.

Mr. Stewart said yes, the road was in, and there was a culvert underneath that road over to Business Park Place. He said the study was very limited of what they did when they put the pipes in, because it was actually under I-10. The State did the study when they built the road.

There being no further discussion, Mr. Plauche called for a vote on the motion.

The motion carried unanimously.

Case #SUB2006-00187

Raphael Court Subdivision

South side of Nursery Road, ¼ mile± East of Snow Road.

34 Lots / 15.8± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendation for holdover.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Mr. Holmes to holdover this application until the October 5, 2006, meeting, with revisions due by September 11, 2006, for the following reasons:

- 1) provision of connections to all abutting properties, in compliance with Section V.B.1. of the Subdivision Regulations;
- 2) identification of the size of all lots in square feet, either via a table on the plat, or by the labeling of each lot, to ensure that each lot meets the minimum lot size identified in Section V.D.2. of the Subdivision Regulations;
- 3) identification and labeling of all common areas, including greenspaces, road medians, and detention areas, and placement of a note on the plat stating that maintenance of all common areas shall be the responsibility of the subdivision's property owners; and
- 4) 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 #SUB2006-00184

Maddox Place Subdivision

West side of McFarland Road, 290'± South of Hamilton Creek Drive.

71 Lots / 20.0± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

Rick Martin, owner of property at 2861 Cottage Park Court East, said his property was on the downhill, western side of the proposed development. On the back and North side of his property there was a drainage culvert. He felt that culvert was completely inadequate for what it was serving at this point. He submitted photos of the culvert taken last week by his wife, which showed breaks in the cement and complete collapses. He said there was erosion behind and under the culvert. Mr. Martin said that in recent years the County made several attempts to abate the erosion by packing some dirt under and around the ditch, and putting some meshing in there. When it rains the runoff comes from the subject property, which was now woodlands, and has lifted the ditch out of the ground as much as four feet. Mr. Martin said he did not object to the development itself, but was concerned that it was going to intensify the drainage problems. Mr. Marten said he had neighbors to his North whose homes had flooded multiple times, and his neighbor to the South had cars that flooded several times. He had been fortunate so far that none of his property had flooded, except for the yard, but he was concerned that it would happen some day without adequate drainage provisions for the proposed subdivision.

Mr. Plauche asked Pat Stewart, with County Engineering, what the provisions were for the developers of this property regarding drainage.

Mr. Stewart stated that if the development does not affect a County right-of-way, Mobile County does not bet involved in water runoff issues.

Mr. Lawler stated that the Commission could impose the higher standards that are required for development within the City's jurisdiction, and suggested that under circumstances such as this, that they certainly do that. They should be required to meet the standards of the Subdivision Regulations. Mr. Lawler said that, clearly, they were subject to the higher standards. He said that, traditionally, a lot of times that had not happened. In this case, however, the Commission had been put on notice that there was an existing drainage problem. The County was not going to take an interest in it, so the City needed to.

Norman Horton, a resident of 2889 Cottage Park Court East, said his property was just south of Mr. Martin's property, at the bottom of Cottage Park. He also expressed concern about the inadequate drainage and was highly opposed to the approval of the proposed subdivision because he felt it would damage his property. Mr. Horton said every point from his property was uphill. Like Mr. Martin, he had already suffered from the inadequate drainage ditch. He was opposed because the subdivision would jeopardize the people living in the bottom of Cottage Park, which in essence was the old Hamilton Creek creek bed. Mr. Horton said that creek bed was so silted over from all the development in the past five years that it was not handling the runoff. Mr. Horton said he had lived at this address for 20 years, and up until the last five years they had never had much of a water problem. He wanted the Commission to understand that they were in the bottom, and everybody's runoff goes through Hamilton Creek. They were overwhelmed in this area with development, and to his knowledge there was very little being done to take care of the excessive storm runoff.

Mr. Vallas asked that if the Commission were going to add language to this approval subject to full compliance, what would they request from an engineering standpoint.

Mr. Lawler said they should require that the subdivision be built according to the same standards it would be built to within the City limits. That would be compliance with the flood plain ordinance, which would mean water would not go off any faster that it does now.

Matt Orrell, Polysurveying, was present on behalf of the applicant. Mr. Orrell stated that this requirement seemed to be a little more stringent than what had been required in the past. He said he did know of any subdivisions in the County that had to meet the City of Mobile requirements. Mr. Orrell said they typically design to a 100-year storm. They were in the preliminary stages now and had done no drainage plans other than showing a minimal amount of detention area, but he did not agree that they should be required to design to City standards when the City standards were higher than the County's.

Mr. Watkins asked Mr. Lawler what the basis of his comment was regarding the City's requirements applying in the County.

Mr. Lawler stated that the enabling legislation for the Planning Commission, in the approval of a subdivision, states that when there is a difference between the standards in the City and the County, that the higher standards will prevail. That has been ignored in

some cases, but it was nevertheless the law. It says "shall be the higher standard". Mr. Lawler said the City had one case that had been litigated before the late Judge McDermott wherein he specifically held that the higher standards apply.

Mr. Watkins asked Mr. Lawler if he was saying that by being put on notice of this now, that the Planning Commission, or the City, bears some liability by not requiring the higher standards.

Mr. Lawler said he could not point to a case where a Planning Commission had been sued around here, but there were cases in other jurisdictions where such had occurred. He again stated that the code mandates that they follow the higher standards. Mr. Lawler said he had been doing work for the Planning Commission for a long time, and one of the first questions he was ever asked was whether or not this applied in the extra-territorial jurisdiction. He said it does, and court cases hold that. Mr. Lawler said it had not been strictly enforced, but in a situation like this where you have someone coming in showing pictures of a real serious situation that can only be made worse if the drainage is not taken care of in a proper way, he would suggest that the higher standards be followed.

Eddie Brown, 7150 Ashton Court, stated that he was the developer of the subject property. Mr. Brown stated that he did not know where that drainage problem was. It was not on his property. It was an existing problem in an established neighborhood, and the Commission was lumping that into his responsibility.

Mr. Plauche said it was an existing problem that was going to be affected by the development if it goes through.

Mr. Brown said that was correct. He also asked if the Commission was not opening itself up to a new liability if they required him to do something no one had ever been required to do before.

Mr. Lawler stated that this was not a situation where no one had ever been required to comply with the higher standards. He said a number of developers had voluntarily imposed these restrictions on themselves within the planning jurisdiction. He said they were not asking that Mr. Brown solve the existing drainage problem that the neighbors were complaining about, but that he comply with the standards that will make sure that this development does not affect his neighbors.

Mr. Orrell said he felt they could do that without saying it was going to be the City standard. He said they had not yet designed the drainage plans. They would submit their plans to the County, and the developer was not going to build anything that was going to put himself in a lawsuit.

Mr. Lawler said that was just the point. The County takes absolutely no responsibility for surface water coming off of anything other than their streets. They take no responsibility at all, and the flood plain ordinance does. When you impose the higher standards, you have a development where neighboring properties are not affected by drainage like they

are when you allow it to be constructed according to County standards. Mr. Lawler said that County standards were really no standards.

It was suggested that the applicant may want to hold over this application so they can better address the drainage situation.

Mr. Orrell said they would like to hold it over and look at this situation, because he felt they were being held to a higher standard than everybody else.

Mr. Olsen asked if the first meeting in October would give them adequate time.

Mr. Orrell said it would.

After discussion a motion was made by Mr. Plauche and seconded by DeMouy to holdover this application until the October 5, 2006, meeting, to allow the applicant to address drainage issues identified during the meeting. Revisions to the plat, if proposed, should be submitted by September 15, 2006.

The motion carried unanimously.

Case #SUB2006-00164

Hawk's Landing Subdivision

West side of Ching Dairy Road at the West termini of Rose Ching Drive, Ching Lynch Road, and Longview Road, extending to the North terminus of Sky Terra Drive.

158 Lots / 40.0± Acres

Ron Henderson, engineer for the developer, stated that in talking with the staff he was made aware of some concern that this proposed development was going to be Section 8 housing. Mr. Henderson said he would like to assure any adjacent land owners that this would not in fact be Section 8 housing. This would be a larger, garden home type development. They would be single-family residential, brick façade, ranging from \$150,000-\$200,000. Mr. Henderson noted that they complied with the rest of the requirements.

Mr. Plauche asked if there was anyone present in opposition.

Mr. Vallas requested that the discussion not be on the values and the type of housing.

Mr. Olsen stated that the type of housing was not something that the Planning Commission considered when reviewing a proposed subdivision. They considered the configuration and lot size.

Ed Guthrie, a resident of 7101 Ching Drive directly across from the subject property, expressed opposition to the creation of 158 lots in an area where custom homes have been tradition with large, acre and above lots. Mr. Guthrie said this was a dead end street

on a one-mile road coming out onto one of the most dangerous streets in Mobile - Highway 98. Mr. Guthrie requested a traffic impact study on traffic coming out onto that street. He also expressed concern about drainage, as they were looking at probably 40 percent of the drainage area being taken away from 40 wooded acres that had been absorbing all the water. He noted an existing problem now on Ching Dairy Road in the lowest area where water comes across the road at times. Mr. Guthrie was aware of the proposed half-acre retention pond, but felt it needed to be bigger. He also said he understood that the City was going to acquire another 10 feet of easement area on Ching Dairy Road, and asked if that could be a greenbelt, or buffer zone, because the back of the properties would back up to Ching Dairy Road.

A resident of 3400 Sky Terra Drive, which was at the dead end of Sky Terra, said this street would be opened up to go into the new subdivision. He said they were concerned about the density of the proposed subdivision. Most of the homes in the area were built twenty or more years ago on 3/4 acres or more, and the developer was proposing dwellings on 7200 square feet. They understood there would be 118 single-family dwellings and then another 112 townhouses, and did not understand how they could get 230 dwellings on 158 lots. This resident also expressed concern about increased traffic, and the sewage plans.

Elmer May, a resident of 3470 Woodard, which was a dead end street that backed up to the West side of the proposed subdivision, also expressed concern about the drainage. With the removal of all the woods, the residents were concerned that the water was going to come down on them. Mr. May also expressed concern about the density and the sewage. He noted that many people on this street were still using wells, and if they put in that many septic tanks, the wells were not going to be any good. He said the residents of the area were not opposed to development of the land itself, but to the density. All of their homes were built on 100' x 300' lots or larger, and the proposed lots were not even half that size. Mr. May also asked that the Commission consider the additional traffic this subdivision would create.

Susan Heyer, a resident of 3470 Ching Dairy Road, stated that they had lived at that location for almost 50 years, and they were also opposed to the density of the proposed subdivision. As stated, the existing houses had been there for years and were on larger lots than those proposed. The density would go against that whole area. Ms. Heyer also expressed concern about additional traffic and the increased runoff this subdivision would cause.

Mr. Plauche asked Mr. Henderson if he would like to respond.

Mr. Henderson explained that the drainage would go off of the middle road on the site and East into a drainage ditch that runs into a ravine out to the East, and they planned to use that for their outfall. They were looking at a general slope to the East, or Ching Dairy Road, which would allow them to have 100-yard detention in the center. The plan currently showed the detention being on the Southeast corner, but based on his visit to the site, Mr. Henderson said that lots 80 and 90 would be used for the detention, and the

outfall would go under Ching Dairy into that pond. They would comply with the tier 2 requirements to detain to pre-development flows. Regarding sewage, Mr. Henderson said they were looking at smaller lots, so they had to provide for a forced main down to Moffett Road. Regarding density, Mr. Henderson noted that the density was under the regulations of the City code.

Mr. Miller noted that one of the speakers mentioned that there would be more than 158 dwellings.

Mr. Henderson said that was correct.

Mr. Miller asked what the approximate number was.

Mr. Henderson said they had originally talked about having townhomes in this area. He said that was simply a typo. They were proposing only 158 **lots**.

Mr. Holmes noted that the density of the proposed development was much greater than that of the surrounding area. He asked Mr. Lawler what the exact verbiage was about being compatible with what was there, and whether it applied in the County as well as in the City.

Mr. Lawler said that the higher standards were applicable both in the City and the County, within the planning jurisdiction.

Regarding compatibility, Mr. Lawler said the Commission had discussed this before, and he referred to two or three cases that went before the Supreme Court. One was the Nugen case, in which the property owners said the proposed lots were much smaller than the surrounding lots and thus were out of character. The Supreme Court ruled that "out of character" was not enough. But the court went on to say that if you could demonstrate that your property would be depreciated in value or that sort of thing, that perhaps that was enough to deny. The Nugen case seemed to say that you need some kind of expert testimony. Mr. Lawler said that most of the time when people say a development would devalue their property, they do not have an appraiser with them to testify to that. Traffic is another cause for concern, and the Circuit Court has upheld the objections of neighboring property owners that a development would affect the traffic and was out of character. Mr. Lawler said you were kind of in a quandary as to what really was enough. His opinion was that if the Planning Commission can demonstrate that enough evidence has been presented that really shows that the neighboring property is going to be depreciated, then that should be enough. He could not say, however, what the Supreme Court would do. If it can be demonstrated that traffic is enough of a problem and there is not an adequate way to deal with it, that is something. If you can demonstrate that other services like sewage, water, and those sorts of things are really not available like they should be, that is enough. Regarding the development under consideration, Mr. Lawler said he could not say whether or not this many lots of a different size thrown into this area under consideration, based on what the Commission had heard thus far, would be enough to support a denial. With the traffic concerns added to that, however, that may be

enough. Mr. Lawler noted that in other jurisdictions in other states developers of 200 or 300 lots are required to provide to the Planning staff a traffic study so that they really know what the impact was going to be. This Planning Commission does not get as much information about our proposed developments as they do in other places, and it makes it difficult to administer the regulations.

Mr. Watkins noted that this application was in the County, and asked if the developer was faced with the same type drainage issue and drainage questions that they faced with Mr. Orrell's project discussed earlier, and what standards were they looking at.

Mr. Lawler said yes. They were the same. He said that for a long time it did not seem to make as much difference, but as more and more development has occurred and it is closer and closer together, what happens on one property affects the other. While the Commission wants people to be able to develop their property, they also want them to be mindful of its affect on their neighbors. Mr. Lawler said that drainage, unfortunately, in Mobile was a big issue now, and the more development we have out in this area the more and more we are going to have these problems, and the County has traditionally had absolutely no interest at all in dealing with a major problem, which is surface water coming on after development.

Mr. Olsen said he just wanted to point out to the Commission that Mr. Henderson indicated that the detention area was going to be relocated. So, at a minimum, the staff would like to see this application held over so a revised plat could be submitted.

In deliberations session Mr. Holmes asked if, due to the density on a single road access, the Commission wanted to try to get a traffic study and see what the impact would be. He asked Mr. Stewart if the County did that sort of thing.

Mr. Stewart said yes. He said 800 trips a day would be the average additional traffic out of this subdivision.

Mr. Holmes asked if he knew what it was now.

Mr. Stewart said no, but he noted that Ching Dairy Road had a traffic signal at the intersection of Moffett Road.

After discussion a motion was made by Mr. Plauche and seconded by DeMouy to holdover this application until the October 5, 2006, meeting, to allow the applicant to relocate the proposed detention facility, address drainage issues, and revise the plat according to the following conditions:

- 1) dedication of right-of-way sufficient to provide 50 feet, as measured from the centerline of Ching Dairy Road;
- 2) verification that each lot will meet the 7,200 square feet minimum lot size requirement of Section V.D.2. of the Subdivision Regulations, after the Ching

- Dairy Road right-of-way dedication, and labeling of all lots or provision of a table indicating the size in square feet of all lots;
- 3) placement of a note on the plat stating that all lots are denied direct access to Ching Dairy Road;
 - 4) revision of the plat to provide the street offset between the Upton Lane and Sky Terra Drive intersections recommended in Section V.B.11. of the Subdivision Regulations;
 - 5) identification of all common areas, and placement of a note on the final plat stating that maintenance of detention and common areas is the responsibility of the subdivision's property owners;
 - 6) depiction of the 25-foot minimum building setback line;
 - 7) clarification of the multiple lot lines in the vicinity of lots 52-53 and 62-63;
 - 8) revision of notes 6 and 7 on the plat so that the total number of housing units matches the number of lots depicted on the plat (if there is an error), or if 230 total units are proposed, provision of an additional point of access to the site, perhaps as a street stub to the West;
 - 9) placement of the legal description on the final plat, as required by the Subdivision Regulations; and
 - 10) 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.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2006-01640

The Preserve Subdivision

North side of Girby Road, 550'± West of the North terminus of Pepper Ridge Drive.

The request for Planned Unit Development Approval to allow the construction of a French pigeonier and parking in the common area traffic circle on Rue Preserve was considered.

Mr. Vallas recused from discussion and voting in this matter.

A motion was made by Mr. Miller and seconded by Mr. DeMouy to approve this plan subject to the following conditions:

- 1) that placement, size and location of the structures and parking spaces to be approved by Traffic Engineering;
- 2) property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64); and
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW ZONING APPLICATIONS:

Case #ZON2006-01646

Renaissance Development Company, LLC

308 St. Louis Street

(Northeast corner of St. Louis Street and North Claiborne Street, extending to the South side of St. Anthony Street from North Claiborne Street to North Jackson Street).

The request for a change in zoning from R-B, Residential Business District, and B-4, General Business District, to B-4, General Business District, to eliminate split zoning in a proposed residential condominium development was considered.

The site plan illustrates the proposed renovations and proposed parking.

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Miller and seconded by Mr. DeMouy to recommend this change in zoning to the City Council subject to the following condition:

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

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2006-00194 (Subdivision)

Burton Subdivision

3309 Old Shell Road

(South side of Old Shell Road, 30'± East of East I-65 Service Road North).

1 Lot / 2.0± Acres

The site plan illustrates the existing buildings, proposed building, parking, and drive.

(Also see Case #ZON2006-01751 – J Roe Burton & Old Shell Commercial (Planned Unit Development – Below).

Mr. Watkins recused from discussion and voting in this matter.

Mr. Plauche stated that this application was recommended for holdover, but if anyone was present to speak in this matter they could do so.

Frank Dagley, 717 Executive Park Drive, was present on behalf of the applicant and requested that this application not be held over. Mr. Dagley said there were just some minor problems with the site plan. Referring to proposed condition #3 on the PUD requiring consultation with the Engineering Department to determine the need for on-site stormwater detention facilities, and depiction of those facilities on the site plan if they are required, he said he did not know why that was made a condition because they have to do that on every project they do. He did not know if they were requiring something special on this project or not, other than the submission of a drainage plan, and it was either approved or not approved. So, he did not think that was an issue as far as holdover. Regarding condition #4 of the PUD, revision of the parking data to reflect the actual number of spaces provided, Mr. Dagley said there was a typographical error on their plan. The number of parking spaces actually depicted on the site plan was more than they showed in a chart on the plan. Condition #5 was just asking them to place something on the site plan. Regarding condition #6, revision of the tree data, Mr. Dagley said, again, they allowed maybe 21 trees on the site plan whereas it was shown on a chart that 22 trees were required. He said they could just add another tree on the site plan and satisfy that condition. With regard to condition #7, revision of the curb radius, that was just kind of tweaking the parking lot drawing, which he did not see was a big problem. The rest of the conditions were just minor things that they felt could be worked out in the construction plans. Regarding conditions #1 and #2, Mr. Dagley noted that there was an easement on the East side of the property - actually on the Carwie property - which was created for access to that existing building that was going to remain on their South property line. Mr. Dagley said they had shown a driveway going over that easement, but the adjacent property owners objected to that, and they had conceded that they would not put that driveway there. They will put a second driveway out to Old Shell Road. The staff's recommendations says they can have two curb cuts to Old Shell Road, so there would be no conflict with respect to that other than they would probably eliminate two parking places and put that additional driveway there at their Northeast corner. Since they were not going to use the easement, which was a main concern for holdover, they requested that this application not be held over, but that it be approved as they planned to amend it.

Greg Carwie stated that he represented the landowner next door. They have the adjoining easement, and Mr. Dagley answered their question regarding that. They understood there would be access through that easement.

Mr. Olsen said that was what Mr. Dagley indicated. Mr. Olsen said if they were looking at eliminating that access point, the staff did say the subdivision would be limited to two curb cuts to Old Shell Road. The staff would like to see a revised drawing for the PUD showing where the second curb cut or driveway was going to be located and how it was going to impact circulation. That would necessitate a holdover.

Mr. Carwie was concerned that his people would still have access through that easement.

Mr. Olsen said this would not impact Mr. Carwie's property at all.

Mr. Carwie asked, since the easement was not going to be used, if it could be vacated.

Mr. Lawler said he did not know. He would have to look at the easement.

Mr. Carwie further asked if the applicant was permitted to put a building in front of his building and block his view.

Mr. Lawler said he did not know of any requirement that you have a view. Unless Mr. Carwie had an agreement with a neighbor that the view would not be impeded, then he would not be entitled to protection of his view.

In deliberations session Mr. Miller noted that there were quite a few requirements for a holdover, and asked the staff's opinion on this.

Mr. Olsen stated that the PUD was site-plan-specific. He said there were some conditions on a previous one that were very specific that had a revised plan coming back to staff for approval. In this particular case, they were changing a traffic circulation pattern from going onto the adjacent property and using one of their driveways out to Old Shell to create a new driveway somewhere on this site - we do not know where - and changing the parking as well to accommodate that. The staff, therefore, would like a holdover to see that revised plan. That would also allow Mr. Dagley to address several other issues listed in the staff's original recommendation for holdover.

Mr. Miller asked Mr. Dagley if it would help if they held this matter over to the September 21st meeting.

Mr. Olsen said the staff would need the revised plan the first of next week in order to have time to review it.

Mr. Dagley agreed.

After discussion a motion was made by Mr. Miller and seconded by Mr. DeMouy to holdover this application until the September 21, 2006, meeting, to allow the applicant to revise the Planned Unit Development site plan as proposed, address the PUD concerns, and to address the following items:

- 1) provision of evidence granting permission from the adjacent property owner to use the access easement (if use of the easement is proposed);
- 2) revision of the PUD site plan and Subdivision plat to more clearly depict the access easement (if use of the easement is proposed);
- 3) placement of a note on the plat stating that no permanent structures may be built within utility or drainage easements;
- 4) placement of a note on the plat and the site plan stating that the Subdivision site is limited to a maximum of two curb-cuts, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards, and that

- revision of the PUD by the Planning Commission will be required if a second curb-cut is provided; and
- 5) placement of a note on the plat indicating the total size of the lot in square feet.

The motion carried unanimously.

Case #ZON2006-01751 (Planned Unit Development)

J. Roe Burton & Old Shell Commercial

South side of Old Shell Road, 30'± East of East I-65 Service Road North, extending to the West side of Sidney Phillips Drive.

The request for Planned Unit Development Approval to allow two office buildings on a single building site with shared access between two building sites was considered.

The site plan illustrates the existing buildings, proposed building, parking, and drive.

(For discussion see Case #SUB2006-00194 –Burton Subdivision – above).

Mr. Watkins recused from discussion and voting in this matter.

After discussion a motion was made by Mr. Miller and seconded by Mr. DeMouy to holdover this application until the September 21, 2006, meeting, to allow the applicant to revise the Planned Unit Development site plan as proposed, and to address the following items:

- 1) provision of evidence granting permission from the adjacent property owner to use the access easement (if use of the easement is proposed);
- 2) revision of the PUD site plan and Subdivision plat to more clearly depict the access easement (if use of the easement is proposed);
- 3) consultation with the Engineering Department to determine the need for on-site stormwater detention facilities, and depiction of those facilities on the site plan if they are required;
- 4) revision of the "Parking Data" to reflect the actual number of spaces provided;
- 5) placement of a note on the site plan stating that food and beverage uses, such as restaurants, are not allowed on the site unless additional parking is provided;
- 6) revision of the "Tree Data" to ensure that the required number of trees are provided;
- 7) revision of the curb radii within the parking area for those corners lacking smooth corners;
- 8) provision of curbing along the East side of the property, where the proposed landscaped area abuts the paved area on the adjacent lot, and provision of a smooth transition from the curb into the parking area to be constructed on the site;
- 9) placement of a note on the site plan stating that parking area and site lighting shall comply with Section 64-4.A.2. of the Zoning Ordinance;

- 10) depiction of dumpster facilities, that complies with Section 64-4.D.9. of the Zoning Ordinance;
- 11) placement of a note on the plat and the site plan stating that the Subdivision site is limited to a maximum of two curb-cuts, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards, and that revision of the PUD by the Planning Commission will be required if a second curb-cut is provided;
- 12) provision of a revised PUD site plan to Planning Section, Urban Development, prior to the signing of the final subdivision plat; and
- 13) placement of a note on the site plan stating that PUD approval is site plan specific, thus any changes to the site plan will require Planning Commission approval.

The motion carried unanimously.

Case #SUB2006-00168 (Subdivision)

Cottage Hill Executive Park Subdivision, Resubdivision of Lots 5, 6 & 7

704 and 708 Oak Circle Drive West

(Northwest corner of Oak Circle Drive West and Oak Circle Drive North)

1 Lot / 1.2± Acres

The site plan illustrates existing buildings, parking, easements, and proposed parking and buildings.

(Also see Case# ZON2006-01660 Cottage Hill Executive Park Subdivision, Resubdivision of Lots 5, 6 & 7 (Planned Unit Development) – below).

Jerry Byrd, Byrd Surveying Company, was present on behalf of the applicant. Regarding the PUD, Mr. Byrd asked if he understood correctly that the staff was recommending approval, but that they could revise the site plan and bring it back to the staff and let them approve it, and the application would not have to come back before the Planning Commission.

Mr. Olsen said that was correct. The staff could give administrative approval.

There was no one present in opposition.

After discussion a motion was made by Mr. Turner and seconded by Mr. DeMouy to approve the above referenced subdivision subject to the following conditions:

- 1) placement of a note on the final plat and site plan stating that the site is limited to a maximum of two curb-cuts onto Oak Circle Drive West, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards (for new construction), and that access to Malibar Drive is denied;
- 2) placement of a note on the plat and site plan stating that all structures, including portable storage sheds, must meet setback requirements;

- 3) depiction of the size of the lot in square feet on the final plat;
- 4) provision of a revised PUD site plan prior to the recording of the final plat; and
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01660 (Planned Unit Development)

Cottage Hill Executive Park Subdivision, Resubdivision of Lots 5, 6 & 7

704 and 708 Oak Circle Drive West

(Northwest corner of Oak Circle Drive West and Oak Circle Drive North).

The request for the Planned Unit Development Approval to allow an existing office building, two new portable buildings, and three existing storage sheds on a single building site was considered.

The site plan illustrates existing buildings, parking, easements, and proposed parking and buildings.

(For discussion see Case# SUB2006-00168 Cottage Hill Executive Park Subdivision, Resubdivision of Lots 5, 6 & 7 – above).

After discussion a motion was made by Mr. Turner and seconded by Mr. DeMouy to approve this plan subject to the following conditions:

- 1) revision of the site plan to depict any existing parking areas and curb-cuts that the applicant intends to retain (including the removal of an existing curb-cut and the provision of a new curb-cut for the main parking area), as well as the proposed new parking area and storage sheds;
- 2) placement of a note on the final plat and site plan stating that the site is limited to a maximum of two curb-cuts onto Oak Circle Drive West, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards (for new construction), and that access to Malibar Drive is denied;
- 3) placement of a note on the plat and site plan stating that all structures, including portable storage sheds, must meet setback requirements;
- 4) depiction and provision of a protection buffer in conformance with Section 64-4.D. of the Zoning Ordinance;
- 5) placement of a note on the site plan stating that lighting shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic, in conformance with Section 64-4.A.2. of the Zoning Ordinance;
- 6) compliance with the location and screening requirements of Section 64-4.D.9. of the Zoning Ordinance for the dumpster pad;
- 7) placement of a note on the site plan stating that PUD approval is site plan specific, and that any changes to the site plan will require Planning Commission review and approval;

- 8) provision of a revised PUD site plan to the Planning Section of Urban Development prior to recording the final plat;
- 9) completion of the subdivision process; and
- 10) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00195 (Subdivision)

Lakeside Square Subdivision

732 Lakeside Drive

(West side of Lakeside Drive, 275'± North of Lakeside Drive South).

1 Lot / 0.4± Acre

The site plan illustrates proposed curb cuts, driveway, existing buildings and existing parking.

(Also see Case #ZON2006-01750 – David & Pamela Kountz and Karon F. Walvis (Planned Unit Development) – below).

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. Turner and seconded by Mr. DeMouy to approve the above referenced subdivision subject to the following conditions:

- 1) depiction of the 25-foot building setback lines on the final plat;
- 2) depiction of the joint ingress/egress easement on the final plat;
- 3) the placement of a note on the final plat stating that, upon redevelopment of the site, the number, size, location, and design of any curb cuts will be subject to Traffic Engineering approval; and
- 4) the submission of a revised site plan for the accompanying PUD showing correct dimensions prior to signing the final plat.

The motion carried unanimously.

Case #ZON2006-01750 (Planned Unit Development)

David & Pamela Kountz and Karon F. Walvis

732 and 740 Lakeside Drive

(West side of Lakeside Drive, 160'± North of Lakeside Drive South).

The request for Planned Unit Development approval to allow shared access between two building sites was considered.

The site plan illustrates proposed curb cuts, driveway, existing buildings and existing parking.

(For discussion see Case #SUB2006-00195 – Lakeside Square Subdivision – above).

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. Turner and seconded by Mr. DeMouy to approve this plan subject to the following conditions:

- 1) completion of the Subdivision process;
- 2) coordination of landscaping and tree planting with Urban Forestry;
- 3) removal and installation of curb cuts as shown on the site plan;
- 4) submission of a revised site plan showing corrected property dimensions; and
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00197 (Subdivision)

South Alabama Subdivision

6109 Old Shell Road

(South side of Old Shell Road, 214'± West of Center Drive).

1 Lot / 1.1± Acres

The site plan illustrates the proposed development.

(Also see Case #ZON2006-01765 – South Alabama Subdivision (Planned Unit Development – below).

Mr. Watkins recused from discussion and voting in this matter.

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. DeMouy and seconded by Mr. Turner to waive Section V.D.3 and approve the above referenced subdivision subject to the following condition:

- 1) the placement of the minimum building setback lines illustrated on the final plat.

The motion carried unanimously.

Case #ZON2006-01765 (Planned Unit Development)

South Alabama Subdivision

6109 Old Shell Road

(South side of Old Shell Road, 214'± West of Center Drive).

The request for Planned Unit Development approval to allow a four building, twenty-unit multi-family residential development on a single building site was considered.

The site plan illustrates the proposed development.

(For discussion see Case #SUB2006-0197 – South Alabama Subdivision – above).

Mr. Watkins recused from discussion and voting in this matter.

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. DeMouy and seconded by Mr. Turner to approve this plan subject to the following conditions:

- 1) compliance with Urban Forestry comments (property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [State Act 61-929 and City Code Chapters 57 and 64] and that the installation of curb cut and driveway under the canopy of the existing 40" Live Oak tree located within the right-of-way be coordinated with Urban Forestry);
- 2) compliance with Engineering comments (There are probable outfall problems for the stormwater drainage/detention system. The discharge must be into a City of Mobile maintained system. If the system is not improved it must be confirmed the COM Engineering Department that the concentrated and/or increased discharge can be accommodated without damage to the receiving stream. If discharge is onto an adjacent property owner, a Hold Harmless Agreement must be obtained prior to development. 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 applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands);
- 3) the provision of a protection buffer along the East side property line in compliance with Section 64-4.D if the adjacent property is developed as Single-Family residential; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00198 (Subdivision)

Universal Subdivision

2850 and 2852 Government Boulevard

(Northwest corner of Government Boulevard and Magnolia Road, extending to the North side of Brossett Street and the East side of Yeager Court).

3 Lots / 1.9± Acres

The site plan illustrates the existing buildings, parking, and drives along with the proposed building addition, drive, and parking.

(Also see Case #ZON2006-01766 Universal Subdivision (Planned Unit Development) – below; also see Case #ZON2006-01767 Blankenship Enterprises (Zoning) – below).

Frank Dagley, 717 Executive Park Drive, was present on behalf of the applicant. Mr. Dagley said this was a three-lot subdivision. They planned to build an addition onto the existing Universal Supply building, which would be on one lot. Mr. Dagley objected to the condition that Lot 1 has to be brought up to code with respect to landscaping and trees. He contended that they fall under the 50 percent rule, and they were not adding more than 50 percent to their building. He said it would be very difficult to bring that up to code without some major changes in their parking lot and front entrances. Presently they have an entrance off of Magnolia Road and one off of the service road. Mr. Dagley said the purpose of this was to allow them to expand and also get their truck traffic back to the cul-de-sac, which was in the process of being rezoned.

David Daughenbaugh, representing Urban Forestry, stated that the recommendation was that the installation of landscaping and tree planting be coordinated with Urban Forestry. He understood Mr. Dagley's concern, especially about the frontage trees. He also understood that along the Government Boulevard Service Road there was no existing green space where their existing parking was, which was the reason the recommendation was worded the way it was so they could coordinate compliance as best they could with the existing sites. Mr. Daughenbaugh said that would give Urban Forestry leeway to shift some things around. He said this was a PUD application, and they looked at all three lots as one development site. If they could not get all the frontage trees in along the Government Boulevard Service Road, they would shift some of the required trees to other lots on this development.

Mr. Plauche said he understood that only applied when you go over the 50 percent.

Mr. Daughenbaugh said that normally it would if they looked at just the landscaping requirements in the Zoning Ordinance. What they were looking at today, however, were the PUD and Rezoning applications, that traditionally the staff has requested that the entire site, even though it is existing, be brought into full compliance with the landscaping and tree requirements. Mr. Daughenbaugh pointed out that there were some existing sites that had been developed prior to the Ordinance, which Lot 1 would be an

example of, but he said they had worked with all of the existing lots and brought those particular sites into compliance the best they could with the existing green space there. He said he did not believe they had ever required an existing development to remove asphalt to provide landscaping for frontage trees. Mr. Daughenbaugh said Urban Forestry would work with the applicant to get compliance.

Mr. Olsen also noted that the applicant was also proposing development of an existing undeveloped lot, and Mr. Dagley requested that that lot be exempted from landscape requirements. He was referring to all of proposed Lot 1.

Asked what the staff's position was, Mr. Olsen said that working with the applicant on a compromise was not going to entail pulling up asphalt or anything like that. It was just going to improve the site. The recommendation for installation of landscaping and tree planting to be coordinated with Urban Forestry would not change.

After discussion a motion was made by Mr. DeMouy and seconded by Mr. Turner to approve the above referenced subdivision subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 25 feet from the centerline of Magnolia Road;
- 2) the placement of a note on the final plat stating that the site is limited to a single curb cut to each street from each lot, with size, location, and design subject to Traffic Engineering approval; and
- 3) completion of the Rezoning process prior to signing the final plat.

The motion carried unanimously.

Case #ZON2006-01766 (Planned Unit Development)

Universal Subdivision

2850 and 2852 Government Boulevard

(Northwest corner of Government Boulevard and Magnolia Road, extending to the North side of Brossett Street and the North terminus of Yeager Court).

The request for Planned Unit Development approval to allow shared parking between two building sites was considered.

The site plan illustrates the existing buildings, parking, and drives along with the proposed building addition, drive, and parking.

(Also see Case #SUB2006-00198 Universal Subdivision – above, for discussion. Also see Case #ZON2006-01767 Blankenship Enterprises (Zoning) – below).

After discussion a motion was made by Mr. Watkins and seconded by Mr. Turner to approve this plan subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 25 feet from the centerline of Magnolia Road;
- 2) installation of landscaping and tree planting to be coordinated with Urban Forestry;
- 3) full compliance with all other municipal codes and ordinances; and
- 4) completion of the Subdivision process prior to the issuance of any permits.

The motion carried unanimously.

Case #ZON2006-01767 (Rezoning)

Blankenship Enterprises

2850 and 2852 Government Boulevard

(Northwest corner of Government Boulevard and Magnolia Road, extending to the North side of Brossett Street and the North terminus of Yeager Court).

The request for a change in zoning from B-2, Neighborhood Business, and B-3, Community Business, to B-3, Community Business, to eliminate split zoning in a proposed commercial subdivision was considered.

The site plan illustrates the existing buildings, parking, and drives along with the proposed building addition, drive, and parking.

(For discussion, see Case #SUB2006-00198 Universal Subdivision – above. Also see Case #ZON2006-01765 South Alabama Subdivision (Planned Unit Development) – above).

After discussion a motion was made by Mr. Watkins and seconded by Mr. Turner to recommend this change in zoning to the City Council subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 25 feet from the centerline of Magnolia Road;
- 2) installation of landscaping and tree planting to be coordinated with Urban Forestry;
- 3) full compliance with all other municipal codes and ordinances; and
- 4) completion of the Subdivision process prior to the issuance of any permits.

The motion carried unanimously.

Case #SUB2006-00196 (Subdivision)

Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots "A" & "B" of the Resubdivision of Lots 1 & 2

2760 MacMae Drive

(East and South sides of MacMae Drive at its South terminus).

3 Lots / 9.3± Acres

The site plan illustrates proposed buildings, asphalt, fencing, and green space.

(Also see Case #ZON2006-01758 - Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots "A" & "B" of the Resubdivision of Lots 1 & 2, Lot 2 (Planned Unit Development) – below).

Mr. Plauche announced that this application was scheduled for holdover to the October 5, 2006 meeting, but if anyone was present to speak in this matter, they could do so now.

There was no one present to speak.

A motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the October 5, 2006, meeting to allow the applicant time to submit an application for Planning Approval, to include a description of uses and on-site truck circulation, by September 11, 2006.

The motion carried unanimously.

Case #ZON2006-01758 (Planned Unit Development)
Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots "A" & "B" of the Resubdivision of Lots 1 & 2, Lot 2
East and South sides of MacMae Drive at its South terminus.

The request for Planned Unit Development Approval to allow three warehouse buildings and one office building on a single building site was considered.

The site plan illustrates proposed buildings, asphalt, fencing, and green space.

(For discussion see Case #SUB2006-00196 - Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots "A" & "B" of the Resubdivision of Lots 1 & 2, – above).

Mr. Plauche announced that this application was scheduled for holdover to the October 5, 2006 meeting, but if anyone was present to speak in this matter, they could do so now.

There was no one present to speak.

A motion was made by Mr. Plauche and seconded by Mr. Miller to hold over this application until the October 5, 2006, meeting to allow the applicant time to submit an application for Planning Approval, to include a description of uses and on-site truck circulation, by September 11, 2006.

The motion carried unanimously.

September 7, 2006

OTHER BUSINESS:

Business Meeting

Mr. Olsen stated that the business meeting had been scheduled for Thursday, October 12, 2006, at 2:00 p.m., in the pre-council meeting room.

There being no further business, the meeting was adjourned.

APPROVED: November 16, 2006

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

vm/ms