

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 19, 2009 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William G. DeMouy, Jr.
Stephen J. Davitt, Jr.
Herbert C. Jordan
Mead Miller
Roosevelt Turner
John Vallas
James F. Watkins, III

Members Absent

Victoria L. Rivizzigno, Secretary
William D. Curtin
Nicholas H. Holmes, III

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Bert Hoffman,
Planner II
Caldwell Whistler,
Planner I
David Daughenbaugh,
Urban Forestry Coordinator
Joanie Stiff-Love,
Secretary II

Others Present

John Forrester,
City Engineering

Capt. Samuel Allen and Capt. James May,
Fire Department
Butch Ladner,
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 #SUB2009-00140

Canal Subdivision

1452 Navco Road
Northwest corner of Navco Road and McLaughlin Drive
Number of Lots / Acres: 4 Lots / 4.0± Acres
Engineer / Surveyor: Byrd Surveying, Inc.
Council District 4

The Chair announced the matter had been recommended for denial, however, if there were those who wished to speak on the matter to please do so at that time. He also noted to Commission members that a map of the area had been provided by the proponent and copies of that map were at each of their seats.

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Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the owner/applicant saying the matter had previously been held over and was now being recommended for denial based upon the issue of flag shaped lots. He referenced the map provided to each Commission members showing the existence in the area of flag shaped lots. He offered that the flag lot could be altered slightly to allow a little greater than the 25 foot width in the rear, thus widening the flap pole portion of the lot. He added that the two (2) lots would share one curb cut/driveway.

Mr. Olsen responded that should the Commission choose to approve the matter that day the staff had prepared conditions for approval and read those for the record as follows:

- A. dedication of sufficient right-of-way along Navco Road to provide 50 feet from centerline;
- B. dedication to provide a 25 feet radius corner at the northwest corner of Navco Road and McLaughlin Drive;
- C. illustration of the 25 feet minimum building setback line on the final plat as measured from any required street dedication;
- D. placement of a note on the final plat stating that all lots are limited to one curb cut each with the size, location, and design of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;
- E. labeling of each lot with its size in square feet and acres, or the furnishing of a table on the final plat providing the same information;
- F. placement of a note on the final plat stating that if wetlands are present on the site the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities;
- G. 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,
- H. subject to Engineering comments: *“Label each lot showing the required minimum finished floor elevation (MFFE). It appears that Lots 2, 3, & 4 are located in the AE Flood Zone; add a note to the plat stating that since the property is located within the 100 Year Flood Zone, then any new development will require review from the City of Mobile Engineering Department and that there is to be no fill brought onto the property without the approval of the City Engineer. Wetlands are shown on the City of Mobile GIS database for Lot 4. Need to show the limits of the wetlands on the plat or supply documentation that the wetlands do not exist. Add a note to the plat that any development within the limits of the wetlands is prohibited without the approvals of the City Engineer and the Corps of Engineers. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way*

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will require a right-of-way permit. Need to provide a drainage easement of a minimum of 25 feet from the top of the concrete ditch along the length of Lot 4. A flood plain easement will be required. The size and location of the easement shall be coordinated with the City Engineer.”

Mr. Turner reminded the staff that Mr. Byrd had offered to widen the pole portion of the flag and asked that be included.

Mr. Miller expressed his discomfort with the matter and his feelings that it was out of character with the neighborhood.

Hearing no further opposition or discussion, a motion was made by Mr. Vallas, with second by Mr. Turner, to approve the matter, subject to the following conditions:

- 1) **dedication of sufficient right-of-way along Navco Road to provide 50’ from centerline;**
- 2) **dedication to provide a 25’ radius corner at the Northwest corner of Navco Road and McLaughlin Drive;**
- 3) **illustration of the 25’ minimum building setback line on the final plat as measured from any required street dedication;**
- 4) **placement of a note on the final plat stating that all lots are limited to one curb cut each with the size, location, and design of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 5) **revision of Lot 1 to widen the “flag pole” width as discussed at the Planning Commission meeting;**
- 6) **labeling of each lot with its size in square feet and acres, or the furnishing of a table on the final plat providing the same information;**
- 7) **placement of a note on the final plat stating that if wetlands are present on the site the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities;**
- 8) **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,**
- 9) **subject to the Engineering comments: “Label each Lot showing the required minimum finished floor elevation (MFFE). It appears that Lots 2, 3 & 4 are located in the AE Flood Zone; add a note to the plat stating that since the property is located within the 100 Year Flood Zone then any new development will require review from the City of Mobile Engineering Department and that there is to be no fill brought onto the property without the approval of the City Engineer. Wetlands are shown on the City of**

Mobile GIS database for Lot 4. Need to show the limits of the wetlands on the plat or supply documentation that the wetlands do not exist. Add a note to the plat that any development within the limits of the wetlands is prohibited without the approvals of the City Engineer and the Corps of Engineers. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Need to provide a drainage easement a minimum of 25 ft from the top of the concrete ditch along the length of Lot 4. A flood plain easement will be required. The size and location of the easement shall be coordinated with the City Engineer.”

The motion carried with Mr. DeMouy, Mr. Miller, and Mr. Watkins voting in opposition.

Case #SUB2009-00143
Tuthill Subdivision, Long Addition to
250 Tuthill Lane
East side of Tuthill Lane, 460'± South of Springhill Avenue
Number of Lots / Acres: 5 Lots / 10.8± Acres
Engineer / Surveyor: Rester and Coleman Engineers, Inc.
Council District 7

The Chair announced the matter had been withdrawn by the applicant.

Case #SUB2009-00149 (Subdivision)
Ivar Karisson Subdivision
5365 Hamilton Boulevard
North side of Hamilton Boulevard, 100'± East of the CSX Railroad Right-of-Way
Number of Lots / Acres: 1 Lot / 0.5± Acre
Engineer / Surveyor: Polysurveying Engineering – Land Surveying
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.

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

- 1) **connection of the site to public water and sanitary sewer;**
- 2) **dedication of right-of-way sufficient to provide 50-feet of right-of-way, as measured from the centerline of Hamilton Boulevard;**
- 3) **revision of the lot size on the site plan to reflect required dedication or provision of a table on the plat with the same information;**
- 4) **retention of the 25-foot setback line along Hamilton Boulevard;**

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- 5) **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;**
- 6) **placement of a note on the Final Plat stating that the development is limited to the two existing curb-cuts along Hamilton Boulevard with size, design, and location to be approved by Traffic Engineering, and should comply with AASHTO standards; and,**
- 7) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2009-002549 (Planned Unit Development)

The Family Pharmacy of Springhill

4401, 4413, 4415, 4417, and 4419 Old Shell Road

Southeast corner of Old Shell Road and McGregor Avenue

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow shared access and parking

Council District 7

The Chair announced the application had been recommended for approval.

The following people spoke in favor of the matter:

- Pat and Taffy Busby, owners, The Family Pharmacy of Springhill;
- Linda St. John, 2 North Springbank Road, Mobile, AL, president, The Village of Springhill;
- Ben Cummings, Cummings Architecture, 1 Houston Street, Mobile, AL; and,
- Doug Anderson, 3820 Mordeci Lane, Mobile, AL.

They made the following points to change the following and then approve the matter:

- A. when the owners announced their plans for the pharmacy, many people came to them with hopes that a soda fountain would be included in the plan, so they decided to add that feature;
- B. amending the previous Planned Unit Development to include the proposed soda fountain increased the number of required parking spaces;
- C. the “Village of Springhill” asked, on behalf of the owners and the community, that the Planning Commission remove conditions regarding that required a variance for the parking ratio and the elimination of the parking spaces that back into the right-of-way on Old Shell Road;

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- D. reminded the Commission that the Village of Springhill Plan advocates reduced parking ratios and plan that had already been approved and adopted;
- E. under the zoning information of the Village of Springhill Plan's, the site had 24 more spaces than it needed, but under City zoning, they will need an additional ten (10) spaces;
- F. in an effort to remove the ten (10) space deficit, the Commission is requested to consider an agreement with Springhill Baptist Church and BankTrust to share eleven (11) parking with those organizations;
- G. regarding the elimination of the parking spaces that back into the right-of-way on Old Shell Road, it was noted that the Village of Springhill advocates "on street" parking and that this particular "on street" parking had been there for over 50 years;
- H. noted that the previous owners of the site had stated the "on street" parking had been the preferred parking for their stores and there was no recollection of any accidents along those parking spaces related to that parking and that those spaces are currently shared with Signature Realty;
- I. expressed feeling that the elimination of conditions one and six from the staff's recommendations would be in the best interest of the owners and the community;
- J. the soda fountain itself only takes up 4% of the entire floor plan, is considered an accessory use to the overall business, and based upon calculations would only increase the number of parking spaces needed by two (2); and,
- K. the development has a great deal of support from in the Springhill area.

Mr. Olsen gave the following points of clarification on the matter:

- A. the points approved by the Commission and adopted by the City Council applied only to redevelopment of a site or new development and the site in question was not really being redeveloped, only reused, so those standards could not, technically, be applied under the ordinance;
- B. a letter regarding the parking agreement had been received by staff, but not an actual copy of the agreement, and the staff has no problem considering that information, however, as the church has never been an official part of any Planned Unit Development, formal sanctioning of it is somewhat of an issue; and,
- C. discussion of Traffic Engineering comments and thoughts that Bill Metzger, head of that department, had reconsidered and decided to allow the "head-in, on street" parking.

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Butch Ladner, Traffic Engineer representative, stated it was not his knowledge that Mr. Metzger had decided to allow the parking as suggested. He added that it was his understanding that there might even be a question as to which side of the development to place the parking, however, the Old Shell Road “back out” parking was definitely opposed by Traffic Engineering.

Mr. Watkins asked if there was “back out” parking at the new CVS at the corner of Old Shell Road and McGregor Avenue to which Mr. Olsen responded there was “back out” parking onto McGregor Avenue but not on Old Shell Road.

Mr. Watkins asked if there was information regarding the term of the parking agreement between the church and the business.

Mr. Olsen stated the document did not appear to have been recorded as it had no recording data on it nor did he recall in specifics regarding termination within the document, but felt that issue needed to be addressed.

Mrs. St. John stated that based upon conversations with Mike Johnson, the BankTrust official instrumental in negotiating the parking agreement with the church, that the businesses in that area, including the public library, all share parking.

Mr. Watkins understood and supported the shared parking agreement however, he wanted some type of assurance that the agreement could not be terminated without notice.

Mr. Olsen stated that item 6 of the agreement stated that the license would remain in force and in effect for a minimum period of ten (10) years, subject to annual termination thereafter by either party with sixty (60) days notice. He noted the agreement was dated April 10, 2006.

Mr. Miller asked if the Commission could rule on the matter or if it would have to go before the Board of Zoning Adjustment.

Mr. Olsen stated that the Commission chose to recognize the agreement regarding shared parking; it would stand in place of a variance. He also stated the Commission could also require further time limits on the shared parking agreement.

Mr. Plauche asked if recognizing the agreement would negate the need for condition number 6.

Mr. Olsen stated that even including the shared spaces with the church, if the front spaces were not counted, the site was still deficient in its number of parking spaces.

Mr. Davitt noted that the issues really fell under the fact that this development would not fall under the traditional district that had been discussed by the Commission before and expressed his disappointment that the developers did not want to do the project under the Traditional Center District Ordinance (TCDO).

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Mr. Olsen stated that it might not be where the developers did not want to “go under” the TCDO but rather it was where the development did not qualify to be under the TCDO.

Mr. Davitt then expressed his opinion that the parking lease agreement needed to be longer than the ten (10) years with annual renewal as stipulated.

Mr. Watkins wondered if this would prevent the “on street, back out” parking that existed currently and Mr. Olsen answered that if the Commission maintained the condition from Traffic Engineering regarding the “on street” parking then that parking would have to be eliminated.

Mr. Watkins stated that businesses had leased space in that area on the concept that those “on street, back out” parking spaces were available and would now lose that parking through no fault of their own.

Mr. Olsen stated that was correct and then reminded the Commission members that parking requirements had been removed by them before regarding this Planned Unit Development.

Mr. Watkins asked the probability of the church extending the agreement and making it a recorded document to give the Commission a level of comfort regarding the parking issue.

Mrs. St. John stated doing so was a very real possibility as representatives of both the bank and the church had advised her to simply “let them know what was needed.” She added that it was believed that the letter regarding the parking had already been recorded.

Mr. Watkins stated that he would be comfortable with the arrangement if there were a recorded document stating that the parking agreement was in place and guaranteed for a minimum of five (5) years.

Mr. Olsen also pointed out that condition 3 limited the square footage for the soda fountain area to 285 square feet and if there were any plans to expand that in the future it would be a good idea to address those at this time.

Mrs. St. John said it was difficult to determine whether the market would warrant expansion of the soda fountain area, however, if the shared parking agreement were allowed, it would give the development one more space which would also give another 100 square feet consideration for the soda fountain. She also reminded the Commission that the “on street, back out” parking in question had been in place for approximately 50 years and was a key element of the “Springhill Plan”, so taking it away at this time would be “going backwards.”

Mr. Miller stated his agreement with Mr. Watkins but also stated that a holdover might be the better option to allow an agreement to be reached regarding the parking in question.

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Mr. Turner suggested that parallel parking where the current “back out” parking was located might provide a good solution to the problem, but Mr. Olsen stated that there would still be a deficit.

In deliberation, on behalf of the staff, Mr. Olsen requested that any changes to the site or increases to the food service area would require a new application and parking agreement or parking compliance.

Mr. Ladner, Traffic Engineering, asked that if the Commission were going to allow the “on street, back out” parking, that the Commission require that parking to be angled.

Mr. Miller noted that the area where the “back out” parking was located seemed to naturally slow the flow of traffic, however, he also did not think that “back out” parking was ever safe. He added that he supported the growth and change shown in the Village of Springhill Plan but wondered if this should be subject to more discussion with Traffic Engineering.

Mr. Olsen stated the site plan showed the parking in question as being angled parking.

Mr. Ladner noted he had seen the site plan but the parking still needed a steeper angle. He also responded to the statement that the “on street” parking had been there over an extended period of time stating that traffic patterns and driving habits have also changed over that same period of time. He added that if the parking were allowed, Traffic Engineering would like input on how to make it safer.

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

- 1) **provision of a recordable parking agreement between the site and the adjacent church for a minimum period of five years, non-cancelable during that period, said agreement to be approved by the City of Mobile, and recorded by the applicant in the offices of the Judge of Probate for Mobile County;**
- 2) **development limited to include no more than 400 square foot soda fountain and seating, with any increase in the size of the soda fountain seating area subject to new PUD and parking agreement;**
- 3) **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). Preservation status is to be given to the 48” Live Oak Tree located on the South side of Lot. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal***

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- to be permitted only in the case of disease or impending danger.”;*
- 4) **compliance with 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.”;* and,
 - 5) **driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.**

The motion carried unanimously.

Case #ZON2009-02564 (Rezoning)

Joe Richardson

5146 Kooiman Road

North side of Kooiman Road, 1000' East of Business Parkway

Rezoning from R-A, Residential-Agricultural District, to I-1, Light Industry District, to accommodate existing businesses

Council District 4

The Chair announced the matter had been recommended for denial, however, if there were those who wished to speak on the matter to please do so at that time.

The following people spoke in favor of approving the above request for rezoning:

- Don Rowe, Rowe Surveying, for the applicant; and,
- Angela McArther, realtor, Prudential Cooper, also for the applicant.

They made the following points for the matter:

- A. advised that the property located to the north side of the proposed development was actually I-2 use and not I-1 as previously stated;
- B. presented material showing area support for the I-1 zoning; and,
- C. stated for the record that the current tenant is actively welding on the property.

The Chair asked if the staff had decided on different zoning for the property since the last meeting.

Mr. Hoffman advised the Commission that he and Mr. Palombo had made a site visit to determine the best zoning classification for the specific site and had determined that the B-5 zoning was the most appropriate, as the welding operations, though they usually warranted I-1 classification, were more of an accessory use to the primary erosion control business. He also advised that conditions had been prepared for B-5 zoning should the Commission choose to pursue that classification for the property and they were as follows:

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- A. provision of a 6 foot high wooden privacy fence along the north property line with the appropriate building permits, due to a mobile home that exists north of the home which could be used as a residence;
- B. one curb cut to Kooiman Road, which is essentially what was in place currently;
- C. denial of access to Powell Lane, which is a private drive; and,
- D. subject to all municipal codes and ordinances for future expansion or re-development of the site.

The following people spoke in opposition:

- Carla and Bruce Huber, 5501 Powell Lane, Mobile, AL; and,
- David Huber, Jr., speaking on behalf of his father, David Huber, Sr., owner of 5168 Kooiman Road, Mobile, AL.

They made the following points against the matter:

- A. the owners of the private drive do not wish it to be used by the commercial property adjacent to it;
- B. were never approached to sign a petition in favor of the development;
- C. concern that the I-1 zoning or higher would have a negative impact on the area ground water, as many residences in the area have well water;
- D. concern regarding what guidelines were used by the staff and Commission in determining what constituted a specific zoning classification;
- E. concern that I-1 zoning would be detrimental to residential properties that abut it and stated the B-5 zoning was considered more compatible with the residential properties; and,
- F. the majority of the property in the vicinity of the proposed rezoning was residential and/or heavily wooded.

Mr. McArthur responded to opposition remarks saying if the Commission chose to rezone the property to B-5, her client would be agreeable to such as long as it would not negatively impact the current tenant and possible buyer's ability to continue welding on the property.

In deliberation, Mr. Vallas wanted it noted for the record that it had been stated many times that welding did take place at the site.

Mr. Davitt noted that as well, but upon considering a lot of the permitted uses under an I-1 classification he felt that the negative impact of allowing those on a site that abutted residential property was inappropriate.

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Mr. Miller agreed with Mr. Davitt's sentiments.

After discussion, the Commission decided that I-1 as requested was not appropriate for the site. Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Vallas, to recommend for approval as a B-5, Office-Distribution District, with a corrected legal description to be submitted prior to the calculation of the advertising fee required for forwarding of the application to City Council, and with a waiver of Section 64-3.A.5.a. of the Zoning Ordinance, subject to the following conditions:

- 1) **provision of a 6-foot high wooden privacy fence along the North property line, with appropriate building permits; and**
- 2) **subject to all municipal codes and ordinances for future expansion or redevelopment of the site;**
- 3) **limited to one curb cut to Kooiman Road; and,**
- 4) **denial of access to Powell Lane (private street).**

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2009-00162

Lafayette Heights Subdivision, Re-subdivision of Lot 4 and a portion of Lot 3, Block 2

1508 Chatague Avenue

North side of Chatague Avenue, 125'± West of Robbins Street

Number of Lots / Acres: 1 Lot / 0.2± Acre

Engineer / Surveyor: Wattier Surveying, Inc.

Council District 2

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 waive Section VII.A.1., and approve the above referenced re-subdivision, subject to the following conditions:

- 1) **illustration of a 25' minimum building setback line as measured from the existing right-of-way line along Chatague Avenue;**
- 2) **placement of a note on the final plat stating that the lot is limited to one curb cut to Chatague Avenue, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 3) **placement of a note on the final plat stating that the lot is denied direct access to the unnamed, unopened alley to the**

- rear until such time it is developed to standards;
- 4) labeling of the lot on the final plat with its size in square feet, or the furnishing of a table on the plat providing the same information;
 - 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. Add a note to the plat that detention must be provided and a land disturbance permit will be required for any cumulative increase in impervious area added to the site since 1984 in excess of 4000 square feet. Any work performed in the right-of-way will require a right-of-way permit.”*

The motion carried unanimously.

Case #SUB2009-00161

Water Street Area Urban Renewal Project R-34 Subdivision, Re-subdivision of Blocks 54D & 55D, Re-subdivision of and Addition to Lot 1

2 South Water Street

Southwest corner of South Water Street and Dauphin Street

Number of Lots / Acres: 2 Lots / 0.4± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 2

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 re-subdivision, subject to the following conditions:

- 1) revision of the plat to label the right-of-way width of South Water Street, with dedication, if needed, to provide a minimum 82' as measured from the centerline of South Water Street;
- 2) placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Dauphin Street, while Lot 2 is limited to one curb cut to each street, with the size, location, and design to be approved by Traffic Engineering and in conformance with AASHTO standards;
- 3) the applicant receive the approval of all applicable federal, state, and local environmental agencies prior to the issuance of any permits or land disturbance activities;
- 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) **compliance with Engineering comments:** *“Label plat (on each Lot) showing the required minimum finished floor elevation (MFFE). Since the site is located in the AE Flood Zone; add a note to the plat stating that there is to be no fill brought onto the property without the approval of the City Engineer. Flood-proofing may be required if the existing FFE is lower than the minimum required FFE. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any damaged sidewalk panels will be required to be replaced. Any new dumpster pads must have sanitary sewer connection.”*

The motion carried unanimously.

Case #SUB2009-00166

G & J Subdivision

1130, 1150, 1160 and 1200 Walter Smith Road
West side of Walter Smith Road at the West terminus of Ohara Drive
Number of Lots / Acres: 4 Lots / 14.6± Acres
Engineer / Surveyor: John Farrior Crenshaw
County

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. He also advised the Commission members that a list of proposed conditions was at each of their seats if the Commission were in favor of approving the matter that day.

Yvonne Dees, 1150 Walter Smith Road, Mobile, AL, stated they were in agreement with the matter, but had some concerns regarding the curb cut issue.

Mr. Hoffman stated that the applicant was probably not aware of the conditions for approval as they were only drafted that morning. He added that the surveyor had brought a revised plat to the staff for review which had prompted the following seven (7) conditions for approval:

- A. minimum lot size shall be 40,000 square feet until such time that public water and/or sanitary sewer are available;
- B. revision of the plat to also show lot sizes in square feet;
- C. placement of a note on the final plat stating that Lot 1 is limited to one (1) curb cut, that Lot 2 is limited to the two (2) existing curb cuts, that Lot 3 is limited to one curb cut, and that Lot 4 is limited to two curb cuts, and that the size, design, and location of any new or modified curb cut must be approved by Mobile County

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- Engineering, and must comply with AASHTO standards;
- D. placement of a note on the plat stating that *“Development must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall 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.”*;
 - E. placement of a note on the plat stating that *“Any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations.”*;
 - F. placement of a note on the 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,
 - G. retaining of the minimum building setback information on the final plat.

The applicant stated she was in agreement with these recommendations with the exception of the curb cuts. She noted that the driveway between Lot 1 and Lot 2 was being changed so there needed to be 4 curb cuts, with one going to the residence at the very back, then one between Lots 2 and 3.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Vallas, to waive Section V.D.1. for Lot 4 and Section V.D.1. for Lot 1, and subject to the following conditions:

- 1) **minimum lot size shall be 40,000 square feet until such time that public water and/or sanitary sewer are available;**
- 2) **revision of the plat to also show lot sizes in square feet;**
- 3) **placement of a note on the final plat stating that Lot 1 is limited to one curb-cut, that Lot 2 is limited to the two existing curb-cuts, that Lot 3 is limited to one curb-cut, and that Lot 4 is limited to three curb-cuts, and that the size design and location of any new or modified curb-cut must be approved by Mobile County Engineering, and must comply with AASHTO standards;**
- 4) **placement of a note on the plat stating that *“Development must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall 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.”;*
- 5) **placement of a note on the plat stating that “Any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations.”;**
 - 6) **placement of a note on the 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,**
 - 7) **retaining of the minimum building setback information on the final plat.**

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2009-02673

Pintail Properties LLC

4254 Halls Mill Road

West side of Halls Mill Road, 80'± South of the West terminus of Alden Drive

Planned Unit Development Approval to allow shared access between two 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.

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

- 1) **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 a new application to the Planning Commission;**
- 2) **revision of the site plan to place the requirements of Section 64-6.A.3.c., *Lighting*, as a note on the site plan: “If parking areas contain ten (10) or more cars, lighting shall be provided and maintained during their operation, and shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic.”;**
- 3) **revision of the site plan to illustrate the placement of dumpster facilities as required by the Zoning Ordinance;**
- 4) **revision of the site plan to depict compliance with the tree and**

- landscaping requirements of the Zoning Ordinance as a single development; and,
5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

NEW ZONING APPLICATIONS:

Case #ZON2009-02657

Thompson Properties

3375, 3405, 3425, 3455, 3465, 3485 and 3495 Hurricane Bay Drive
South side of Hurricane Bay Drive at the South terminus of Hurricane Bay Lane and extending to the terminus of Hurricane Bay Drive
Rezoning from B-5, Office-Distribution District, to I-1, Light Industry District to accommodate existing businesses.
Council District 4

The Chair announced the application had been recommended for approval.

The following people spoke in favor of the matter:

- Frank Dagley, Frank A. Dagley and Associates, for the applicant; and,
- Robert Thompson, the applicant.

They made the following points regarding the conditions for approval:

- A. felt that requiring the businesses located on the site get City of Mobile business licenses was not germane to the issue of zoning; and,
- B. clarification that conditions 3 and 4 applied to future developments on the property and that was not clearly stated.

Mr. Olsen offered the following responses:

- A. the Commission was within its authority to necessitate that the tenants get City of Mobile business licenses as a requirement for approval, however, if the Commission chose to remove that condition, the staff will tag the parcel and advise the appropriate City departments to visit the site immediately; and,
- B. regarding the verbiage in conditions 3 and 4, the staff had no problem stating they were for future developments.

Mr. Miller asked for staff's clarification regarding the condition requiring City of Mobile business licenses.

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Mr. Olsen stated that the area, prior to being annexed into the City proper, had been part of the Planning Jurisdiction. He also noted they should have received notices regarding obtaining City of Mobile business licenses after the annexation because the City's Revenue Department sent them out at that time.

Mr. Watkins stated he had no problem advising that City of Mobile business licenses were needed; however, if the property were not owner occupied, he did have issues with making approval of the matter contingent on tenant actions and creating a potential hardship for the landowner as a result.

Mr. Olsen responded that it was common practice to hold landowner's responsible for their property regardless of the actions of their tenants, however, if the Commission wanted to delete that condition the staff had not issue with such.

Hearing no opposition or further discussion, a motion was made by Mr. Vallas, with second by Mr. Turner, to recommend for approval to City Council the above referenced request, subject to the following conditions:

- 1) **businesses operating without City of Mobile licenses shall obtain appropriate business licenses within one (1) month of City Council approval of the rezoning;**
- 2) **future development to fully comply with local, state, and federal regulations relating to threatened and endangered species, wetlands, and floodplains;**
- 3) **compliance with 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. Drainage from any new dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.”*; and,**
- 4) **full compliance with all municipal codes and ordinances, including trees, landscaping, parking, and buffering.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2009-00160 (Subdivision)

McGill-Toolen High School Subdivision, Phase 2

100 North Catherine Street

Northeast corner of North Catherine Street and Old Shell Road

Number of Lots / Acres: 1 Lot / 0.8± Acre

Engineer / Surveyor: Clark, Geer Latham & Associates, Inc.

Council District

(Also see **Case #ZON2009-02659 (Planned Unit Development) McGill-Toolen High School Subdivision, Phase 2**, **Case #ZON2009-02660 (Planning Approval) McGill-Toolen High School Subdivision, Phase 2**, **Case #ZON2009-02661 (Rezoning) Archbishop of Mobile**, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

The Chair announced the application had been recommended for approval.

Father Bry Shields, president, McGill-Toolen Catholic High School, 1501 Old Shell Road, Mobile, AL, stated they were in agreement with the recommendations, however, the school wished to be granted a waiver regarding the elimination of “on street” parking. He stated the parking in question had been in place for at least 50 years and the school had agreed to remove some of the existing parking where it was located directly in front of the proposed building per their agreement with the Architectural Review Board. He added that to eliminate all 72 spaces would create a hardship on their operations. He reminded the Commission that the school was the only Catholic high school in Mobile and Baldwin counties and expressed his feelings that eliminating all of the “on street” parking would create a burden on the school’s parents, especially those living outside of the immediate Mobile city limits.

Mr. Watkins asked Father Shields if he had offered to amend the requirement to be only those spaces also requested to be removed by the Architectural Review Board.

Father Shields stated he thought that had already been made a part of the plan.

The following people spoke in opposition to the matter:

- Shahid Hossain, owner, Food Max Express, 100 North Catherine Street, Mobile, AL; and,
- Richard Colvin, who would not officially give his name or address for the record.

They brought up questions regarding an ownership dispute and provided documentation of the same. It was also noted that the matter had been set for trial in January of 2010.

Mr. Olsen recommended to the Commission that since there was a dispute over the rightful property owner regarding the corner lot at North Catherine Street and Old Shell

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Road that the matter should be held over to the second meeting in December of 2009.

Doug Anderson, Burr and Foreman Law Firm, spoke as representative of the previously mentioned property's owner, Pinepoint LLC. He advised that Mr. Hossain was the "month to month" tenant at the property and had been so since 2006. During that time, Mr. Anderson's client had been in negotiations with McGill-Toolen High School to purchase said property and in 2008 had signed a contract to do so, and at that point in time the tenant was notified that his "month to month" lease was being terminated. Mr. Hossain then filed suit against Pinepoint, LLC, stating he had a written 20 year lease, and in the suit he does not claim ownership of the property. That suit is set for trial in January of 2010 where a judge will decide whether the lease is for 20 years or "month to month," regardless, the matter should not keep the applications from being approved that day.

The Chair asked if the property in question was essential to the overall approval of the matter.

Mr. Olsen responded that Planned Unit Developments were site plan specific and added that as Mr. Lawler was not in attendance that day to advise the Commission on the matter, he strongly recommended that the matter be held over to a later date.

Mr. Anderson stated again that the matter was one of ownership and as Mr. Hossain's law suit did not question the ownership of the property; his lawsuit had no bearing on the matter before the Commission and to hold it over based on that would constitute an unnecessary hardship on both the school and his client.

Mr. Vallas noted that the Commission could proceed with the matter because the individual still had the opportunity to come before City Council as the Commission was only a recommending body with regards to the rezoning. He added that that any approval regarding the other related applications could be made contingent upon the City Council's approval of the rezoning.

Mr. Ronnie Williams, 1454 Dauphin Street, Mobile, AL, expressed his concern over the expansion of the school's parking stating the area was already very congested and that the new development would only aggravate the issue.

Thomas Latham, Clark, Geer, Latham, and Associates, Inc., spoke on behalf of the school and stated the only expansion of parking was planned for the corner of North Catherine Street and Old Shell Road, the property in dispute. He went on to say with regards to the Planning Approval and Planned Unit Development, that should the school lose access to the property in dispute, they would still be in compliance with the ordinance regarding the number of parking spaces required.

Mr. Olsen quickly advised the Commission that the staff had received written notification from Mr. Hossain claiming ownership of the property and that document was also shown to Mr. Anderson.

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In deliberation, Mr. Miller was concerned the lawsuit mentioned would needlessly hold up the matter at hand and asked for the opinions of other Commission members.

Mr. DeMouy asked if it would be helpful if by the next meeting the applicant presented a title report showing the ownership of the property in question.

Mr. Watkins expressed his opinion that would not rectify the situation as there would still a lawsuit pending on the matter. He added his opinion on the issue was there was an owner who had signed the application and a tenant who objected to the application.

Mr. Olsen stated that the alleged tenant had actually submitted something to staff that indicated he has bought the property in question through foreclosure.

Mr. Watkins asked whether Mr. Lawler would be at the December 3, 2009, meeting, and if not, could someone from the City's legal department address the issue by the December 3, 2009, meeting.

Mr. Olsen said he would request someone but was not sure if it could be done.

Mr. Davitt asked if the property in question was so pertinent to the case that the Commission could not exclude it from the case and vote on the matter.

Mr. Olsen stated the applicant's engineer indicated the school would have adequate parking even if the parcel in question was removed from consideration; however, the staff had not had time to research whether or not that was the case.

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to hold the above referenced subdivision over until the December 3, 2009, meeting, to allow staff to verify that adequate parking is provided with the exclusion of the property at the northeast corner of Old Shell Road and North Catherine Street, and to possibly address ownership claims by another party and any impact on the application process.

The motion carried unanimously.

Case #ZON2009-02659 (Planned Unit Development)

McGill-Toolen High School Subdivision, Phase 2

1501 Old Shell Road

South side of Old Shell Road extending from the West side of Lafayette Street to the East side of Catherine Street; Northwest corner of Old Shell Road and Kilmarnock Street, and North side of Old Shell Road between Kilmarnock Street and Catherine Street; Northeast corner of Dauphin Street and Lafayette Street; Northwest corner of Dauphin Street and Lafayette Street; Southeast corner of Old Shell Road and Lafayette Street and extending South along the East side of Lafayette Street 695'+

Planned Unit Development Approval to amend Master Plan to allow new student center and new parking lot

Council District 2

(Also see **Case #SUB2009-00160 (Subdivision) McGill-Toolen High School Subdivision, Phase 2**, above, and, **Case #ZON2009-02660 (Planning Approval) McGill-Toolen High School Subdivision, Phase 2**, Case #ZON2009-02661 (Rezoning) **Archbishop of Mobile**, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to hold the above referenced Planned Unit Development over until the December 3, 2009, meeting, to allow staff to verify that adequate parking is provided with the exclusion of the property at the northeast corner of Old Shell Road and North Catherine Street, and to possibly address ownership claims by another party and any impact on the application process.

The motion carried unanimously.

Case #ZON2009-02660 (Planning Approval)

McGill-Toolen High School Subdivision, Phase 2

1501 Old Shell Road

South side of Old Shell Road extending from the West side of Lafayette Street to the East side of Catherine Street; Northwest corner of Old Shell Road and Kilmarnock Street, and North side of Old Shell Road between Kilmarnock Street and Catherine Street; Northeast corner of Dauphin Street and Lafayette Street; Northwest corner of Dauphin Street and Lafayette Street; Southeast corner of Old Shell Road and Lafayette Street and extending South along the East side of Lafayette Street 695'+

Planning Approval to modify an existing Planning Approval to allow a new student Center and parking lot expansion at an existing private school in an R-1, Single-Family Residential District

Council District 2

(Also see **Case #SUB2009-00160 (Subdivision) McGill-Toolen High School Subdivision, Phase 2**, and, **Case #ZON2009-02659 (Planned Unit Development) McGill-Toolen High School Subdivision, Phase 2**, above, and, **Case #ZON2009-02661 (Rezoning) Archbishop of Mobile**, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

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Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to hold the above referenced Planning Approval over until the December 3, 2009, meeting, to allow staff to verify that adequate parking is provided with the exclusion of the property at the northeast corner of Old Shell Road and North Catherine Street, and to possibly address ownership claims by another party and any impact on the application process.

The motion carried unanimously.

Case #ZON2009-02661 (Rezoning)

Archbishop of Mobile

106 North Catherine Street

East side of North Catherine Street, 100'± North of Old Shell Road

Rezoning from B-2, Buffer Business District, to R-1, Single-Family Residential District, to allow a parking lot expansion at a private school in an R-1, Single-Family Residential District

Council District 2

(Also see **Case #SUB2009-00160 (Subdivision) McGill-Toolen High School**

Subdivision, Phase 2, **Case #ZON2009-02659 (Planned Unit Development)**

McGill-Toolen High School Subdivision, Phase 2, and, **Case #ZON2009-02660**

(Planning Approval) McGill-Toolen High School Subdivision, Phase 2, above, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to hold the above referenced request for rezoning over until the December 3, 2009, meeting, to allow staff to verify that adequate parking is provided with the exclusion of the property at the northeast corner of Old Shell Road and North Catherine Street, and to possibly address ownership claims by another party and any impact on the application process.

The motion carried unanimously.

Case #ZON2009-02662 (Rezoning)

Archbishop of Mobile

100 North Catherine Street

Northeast corner of North Catherine Street and Old Shell Road

Rezoning from B-2, Buffer Business District, to R-1, Single-Family Residential District, to allow a parking lot expansion at a private school in an R-1, Single-Family Residential District

Council District 2

(Also see **Case #SUB2009-00160 (Subdivision) McGill-Toolen High School**

Subdivision, Phase 2, **Case #ZON2009-02659 (Planned Unit Development) McGill-**

Toolen High School Subdivision, Phase 2, **Case #ZON2009-02660 (Planning**

Approval) McGill-Toolen High School Subdivision, Phase 2, and **Case #ZON2009-02661 (Rezoning) Archbishop of Mobile**, above)

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Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to hold the above referenced request for rezoning over until the December 3, 2009, meeting, to allow staff to verify that adequate parking is provided with the exclusion of the property at the northeast corner of Old Shell Road and North Catherine Street, and to possibly address ownership claims by another party and any impact on the application process.

The motion carried unanimously.

Case #SUB2009-00164 (Subdivision)

St. Peter Subdivision

650 South Bayou Street

Southwest corner of South Bayou Street and New Jersey Street, and extending to the North side of Montgomery Street and to the East side of Jefferson Street

Number of Lots / Acres: 1 Lot / 1.5± Acres

Engineer / Surveyor: Frank A. Dagley & Associates, Inc.

Council District 2

(Also see **Case #ZON2009-02672 (Planned Unit Development) St. Peter Subdivision**, and **Case #ZON2009-02671 (Planning Approval) St. Peter Subdivision**)

The Chair announced the application had been recommended for approval.

The following people spoke in favor of the matter but expressed concerns regarding certain conditions:

- Frank Dagley, Frank A. Dagley and Associates, Inc., for the applicant; and,
- Cleveland McFarland, pastor, St. Peter Baptist Church, 650 South Bayou Street, Mobile, AL.

They made the following points:

- A. the church had been there for many years and simply wanted to build a multi-purpose building in their existing parking lot;
- B. asked for clarification regarding the privacy fence and it abutting residential property as it was assumed the staff only meant the two (2) “legs” of the property in the northwest corner but they objected to the requirement if applied to the property across the street;
- C. concern over the requirement for trees and landscaping on the eastern lot as it was pre-existing as a parking lot and no development was planned for it;
- D. concern over the provision of a buffer around the existing parking lot, again this parking lot has been in existence for many, many years without a buffer and no development on the property was planned;

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- E. the parking lot in question has been in existence for over 20 years and had never had any complaints from area residents regarding its condition; and,
- F. the fence around the primary church site has been donate by members who had created it as a memorial to those who had passed away and to change that fence would constitute a hardship on the parishioners.

Mr. Olsen responded that the staff felt, that though no work would actually be done on the secondary parking lot, it did provide parking for the site. He noted the proposed building was more than 50% of the square footage of the existing building and any commercial development that exceeds 50% of the existing building required the entire site be brought into compliance with landscaping and trees. He did add that as the site is technically R-1, single-family residential, the Commission could choose to waive that requirement, but he noted that landscaping, trees, and buffering have consistently been conditions of approval for churches when the projects were significant and the staff considers this to be a significant project.

Mr. Watkins expressed how he saw that landscaping and trees were applicable for the main site, but he was not clear on how it applied to the secondary site. He also asked if part of the memorial fence was in place at the northwest corner of the property.

Mr. Dagley said no and the church was in agreement with putting a privacy fence in that location.

Mr. Olsen advised the applicant that a fence permit would be required for the privacy fence currently in place as well as well as any other future fencing done. He also noted the church had applied for a variance relating to some of the site development and issues could be addressed before that Board as well.

Mr. Hoffman stated that due to the addition, the church would have a parking deficit and would need to get a variance from the Board of Zoning Adjustment for their parking issues. He added as part of the variance process they could also request relief from any of the other items in the Zoning Ordinance that they could not comply with.

Mr. Dagley stated the variance request had already been submitted and was scheduled to be heard on December 7, 2009.

Mr. Davitt asked if the variance could be included in that day's proceedings.

Mr. Olsen stated it would not be a problem to include it.

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

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- 1) placement of a note on the Final Plat stating that the development is limited to the existing curb-cuts onto South Bayou Street, and limited to one, new curb-cut onto Montgomery Street with the size, design, and location of all new or revised curb-cuts must be approved by Traffic Engineering, and should comply with AASHTO standards.
- 2) retention of the 25-foot setback on all street sides with the exception of Jefferson Street providing for a 20-foot setback;
- 3) revision of the plat with the correct legal description for parcel two;
- 4) submission of one copy of each of the revised Planning Approval and PUD site plans to the Planning Section prior to signing of the Final Plat; and,
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2009-02672 (Planned Unit Development)

St. Peter Subdivision

650 South Bayou Street

Southwest corner of South Bayou Street and New Jersey Street and extending to the North side of Montgomery Street and to the East side of Jefferson Street

Planned Unit Development Approval to allow multiple buildings on a single building site and offsite parking

Council District 2

(Also see Case #SUB2009-00164 (Subdivision) **St. Peter Subdivision**, and Case #ZON2009-02671 (Planning Approval) **St. Peter Subdivision**)

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

- 1) completion of the Subdivision process prior to application for building/Land Disturbance permits;
- 2) compliance with Urban Forestry comments: *“Preservation status is to be given to the 48” Live Oak Tree located on the South side of proposed new building. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.”*;
- 3) depiction and provision of a 6-foot high wooden privacy fence around the perimeter of the main site where it abuts existing residential development, with the exception of within 25-feet of a street right-of-way, where the fence shall not exceed 3-feet in height;
- 4) depiction of dumpster locations on the site plans to comply

- with Section 64-4.D.9 of the Zoning Ordinance and placement of a note on the site plans stating that dumpsters will be completely screened from view or placement of a note stating how garbage will be removed;
- 5) placement of a note on the site plan for the main site stating that lighting of parking facilities will comply with Section 64-6.A.3.c of the Zoning Ordinance;
 - 6) placement of a note on the site plan for the main site that the site will be in full compliance with screening and landscaping requirements for parking lots to comply with Section 64-6.A.3.i of the Zoning Ordinance;
 - 7) revision of the site plans with the correct legal description for parcel two and provision of the legal description of the off site parking lot;
 - 8) compliance with Engineering comments: *“It appears from the City of Mobile GIS data that the property is entirely located within the X-Shaded Flood Zone. Label the lot on the plat showing the required minimum finished floor elevation (MFFE). Since the lot is located in the X-Shaded Flood Zone; add a note to the plat stating that there is to be no fill brought onto the property without the approval of the City Engineer. Need to provide documentation if claiming historical credit for detention. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any damaged sidewalk sections or damaged driveway aprons in the ROW are required to be replaced.”*;
 - 9) placement of a note on the site plans stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development Approval prior to the issuance of any permits; and,
 - 10) full compliance with all other municipal codes and ordinances, and the obtaining of the appropriate permits.

The motion carried unanimously.

Case #ZON2009-02671 (Planning Approval)

St. Peter Subdivision

650 South Bayou Street

Southwest corner of South Bayou Street and New Jersey Street and extending to the North side of Montgomery Street and to the East side of Jefferson Street

Planning Approval to allow the expansion of a church in an R-2, Two-Family Residential District and offsite parking in an R-1, Single-Family Residential District Council District 2

(Also see Case #SUB2009-00164 (Subdivision) **St. Peter Subdivision**, and, Case #ZON2009-02672 (Planned Unit Development) **St. Peter Subdivision**, above)

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

- 1) **completion of the Subdivision process prior to application for building/Land Disturbance permits;**
- 2) **compliance with Urban Forestry comments: “*Preservation status is to be given to the 48” Live Oak Tree located on the South side of proposed new building. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*”;**
- 3) **depiction and provision of a 6-foot high wooden privacy fence around the perimeter of the main site where it abuts existing residential development, with the exception of within 25-feet of a street right-of-way, where the fence shall not exceed 3-feet in height;**
- 4) **depiction of dumpster locations on the site plans to comply with Section 64-4.D.9 of the Zoning Ordinance and placement of a note on the site plans stating that dumpsters will be completely screened from view or placement of a note stating how garbage will be removed;**
- 5) **placement of a note on the site plan for the main site stating that lighting of parking facilities will comply with Section 64-6.A.3.c of the Zoning Ordinance;**
- 6) **placement of a note on the site plan for the main site that the site will be in full compliance with screening and landscaping requirements for parking lots to comply with Section 64-6.A.3.i of the Zoning Ordinance;**
- 7) **revision of the site plans with the correct legal description for parcel two and provision of the legal description of the off site parking lot;**
- 8) **compliance with Engineering comments: “*It appears from the City of Mobile GIS data that the property is entirely located within the X-Shaded Flood Zone. Label the lot on the plat*”**

showing the required minimum finished floor elevation (MFFE). Since the lot is located in the X-Shaded Flood Zone; add a note to the plat stating that there is to be no fill brought onto the property without the approval of the City Engineer. Need to provide documentation if claiming historical credit for detention. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any damaged sidewalk sections or damaged driveway aprons in the ROW are required to be replaced.”;

- 9) placement of a note on the site plans stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development Approval prior to the issuance of any permits; and,
- 10) full compliance with all other municipal codes and ordinances, and the obtaining of the appropriate permits.

The motion carried unanimously.

Case #SUB2009-00163 (Subdivision)

D'Olive Place Subdivision

262 West Drive

West side of West Drive, 100'± South of Northwoods Court

Number of Lots / Acres: 24 Lots / 4.0 ± Acres

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

Council District 6

(Also see **Case #ZON2009-02669 (Planned Unit Development) D'Olive Place Subdivision**, and, **Case #ZON2009-02678 (Rezoning) Diana Morgan**, below)

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.

Grady Edmonson, 6220 Brandy Run Road North, Mobile, AL, asked if the Commission would hear opposition's remarks at that meeting and was advised yes.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Watkins, to hold the matter over until the December 17, 2009, meeting so that the applicant can address the issues with the Planning Unit Development and the Rezoning requests.

The motion carried unanimously.

**Case #ZON2009-02669 (Planned Unit Development)
D'Olive Place Subdivision**

262 West Drive

West side of West Drive, 100' ± South of Northwoods Court

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced lot sizes, reduced lot widths and reduced side yard setbacks.

Council District 6

(Also see **Case #SUB2009-00163 (Subdivision) D'Olive Place Subdivision**, above, and, **Case #ZON2009-02678 (Rezoning) Diana Morgan**, below)

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Watkins, to hold the matter over until the December 17, 2009, meeting, with revisions due by Wednesday, December 2, 2009, to address the following:

- 1) **the type of development proposed (i.e. innovative, traditional, multi-family);**
- 2) **the types of structures to be built;**
- 3) **a detailed outline of all the lots on the property including their size and right-of-way frontage;**
- 4) **the justification for the development;**
- 5) **the time frame for the development; and,**
- 6) **the justification for the “hammerhead” turnaround in lieu of a cul-de-sac.**

The motion carried unanimously.

Case #ZON2009-02678 (Rezoning)

Diana Morgan

262 West Drive

West side of West Drive, 100' ± South of Northwoods Court

Rezoning from R-1, Single-Family Residential District, to R-2, Two-Family Residential District to allow construction of a single family neighborhood with up to 40% site coverage

Council District 6

(Also see **Case #SUB2009-00163 (Subdivision) D'Olive Place Subdivision**, and, **Case #ZON2009-02669 (Planned Unit Development) D'Olive Place Subdivision**, above)

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Watkins, to hold the matter over until the December 17, 2009, meeting, with revisions due by Wednesday, December 2, 2009, to address the following:

- 1) **justification for the rezoning request stating which of the conditions as outlined in Section 64-9 of the Zoning Ordinance are occurring; and,**
- 2) **the time frame for development should be submitted.**

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The motion carried unanimously.

OTHER BUSINESS:

Hearing no further business, the meeting was adjourned.

APPROVED: January 7, 2010

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

jsl