

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 5, 2009 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William G. DeMouy, Jr.
Victoria L. Rivizzigno, Secretary
William D. Curtin
Stephen J. Davitt, Jr.
Nicholas H. Holmes, III
Herbert C. Jordan
Mead Miller
Roosevelt Turner
John Vallas
James F. Watkins, III

Members Absent

Urban Development Staff Present

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

Others Present

John Lawler,
Assistant City Attorney
Jennifer White,
Traffic Engineering

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

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

APPROVAL OF MINUTES:

Mr. Plauche moved, with second by Mr. DeMouy, to approve the minutes from the following, regularly held, Planning Commission meetings:

- May 7, 2009
- August 6, 2009
- August 20, 2009
- September 3, 2009

The motion carried unanimously.

HOLDOVERS:

Case #SUB2009-00138

Wimbledon Subdivision, First Unit, Re-subdivision of Lot 10, Block 1

109 Hillwood Road

Northeast corner of Hillwood Road and Wimbledon Drive East

Number of Lots / Acres: 2 Lots / 0.5± Acres

Engineer / Surveyor: Baskerville Donovan, Inc.

Council District 5

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.

There was no one present in favor of the matter.

The following people spoke in opposition to the matter:

- Chuck Simpson, 7 Wimbledon Drive E, Mobile, AL;
- John Case, 25 Hillwood Rd., Mobile, AL;
- Chris Schatzman, 110 Hillwood Rd., Mobile, AL; and,
- Lee Robinson, 104 Hillwood Rd, Mobile, AL.

They made the following points against the same:

- A. noted that, based upon documents in the chain of title, there is a 50 foot setback per the restrictive covenants that applied to the subdivision and none of the neighbors waived the restrictive covenants which would make the requested 25 foot setback on the property not possible;
- B. noted a number of letters had been sent to the Commission from area neighbors in opposition to the matter;
- C. noted that a letter from a certified general real property appraiser had been submitted to the Commission that stated it was their opinion that the subdivision as proposed would negatively impact the market value of the surrounding properties;
- D. noted that the applicant had failed to provide the signatures of all of the property owners as required from the previous hold over;
- E. concern over maintaining the integrity of the neighborhood;
- F. noted that there were approximately a dozen of the neighbors attending the meeting that day in opposition to the subdivision;
- G. concerns over drainage in the area;
- H. in recent history a number of subdivisions had been approved for Hillwood Road and now there were traffic and safety concerns for the street as it seemed to be at maximum saturation point regarding traffic; and,

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- I. concern over the size of the lots, especially considering the setback required by the restrictive covenant.

Mr. Davitt asked about the applicant's failure to submit all of the property owners' signatures.

Mr. Olsen explained that when the matter had come before the Commission the month prior, it was discovered that not all of the property owners for the site had signed the application for subdivision, nor had they provided letters from the individual signing the application authorizing the application, thus the application was invalid as it did not contain the authorization or approval of all of the property owners.

Mr. Lawler stated that without the signatures of all of the property owners the application was incomplete

The Chair asked for clarification that if the application was incomplete then would voting on the matter be legal.

Mr. Lawler said it could either be held over or voted down depending on how the Commission felt about the matter.

Mr. Holmes expressed his agreement with the Chair's earlier statement and again asked Mr. Lawler that as the application was invalid could the Commission legally act on it at all.

Mr. Lawler stated that yes; it was an incomplete application but it was being presented that day for a vote by the applicant, however, as it was incomplete, the Commission was within its parameters to reject it on the basis of its being incomplete.

Mr. Vallas asked if the matter was turned down at the meeting that day, would the applicant have to wait six (6) months before re-applying.

Mr. Olsen stated that with a subdivision there was no waiting period to re-apply and as the staff was aware of issues with this parcel, they would be sure that all property owners had either signed the application or provided letters of authorization regarding the same.

Mr. Davitt asked about the validity of the issue of the 50 foot setback verses the 25 foot setback.

Mr. Olsen stated that as the 50 foot setback is part of the restrictive covenants, the Commission can consider it as part of their deliberation but they cannot deny the application solely on that point, as enforcement of a restrictive covenant is through the Circuit Court by the property owners within that subdivision.

Mr. Watkins noted a copy of a letter to Mr. Case from Madeline Downing, Certified General Real Property Appraiser, discussing the negative impact of a subdivision like this

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and the change the front and side yard setbacks would have, in her opinion, on the surrounding property values, as well as the effect it would have on the aesthetic character of the neighborhood. He added that in most cases, those in opposition bring up the point that a proposed subdivision will have a negative impact on their property values; however, few are able to present valid documentation of such. He noted that in this case the neighbors had provided documentation of a negative impact with the letter from the licensed appraiser.

Mr. Lawler agreed that the letter did validate the negative impact to the value of the surrounding properties as had been stated by the neighbors.

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. DeMouy, to deny the above referenced re-subdivision due to the following reasons:

- 1) **failure to submit an application with authorization from all property owners;**
- 2) **failure to submit information to substantiate compliance with sections I.B.1., I.C.3. and V.D.1.; and,**
- 3) **documentation from a licensed appraiser that the proposed subdivision would have a negative impact on surrounding property values.**

The motion carried unanimously.

Case #SUB2009-00133

Scott Plantation Subdivision, Unit Nine

North side of Johnson Road South at the North terminus of Scott Dairy Loop Road West, extending North then West adjacent to the North side of Scott Plantation Subdivision Unit 8

Number of Lots / Acres: 86 Lots / 35.8± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying County

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 the Commission members that a letter regarding the matter was at each of their places.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant saying he had just recently been retained by the property owner and asked that the matter be held over to allow him the opportunity to review the matter.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Vallas, to hold the matter over until the December 17, 2009, meeting per the applicant's request.

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The motion carried unanimously.

EXTENSIONS:

Case #SUB2003-00256 (Subdivision)

The Bluffs at Cypress Creek Subdivision

350'± North of the North terminus of Cypress Business Park Drive, extending East along the North side of the proposed extension of Cypress Business Park Drive to the L & N Railroad right-of-way

Number of Lots / Acres: 53 Lots / 53.0± Acres

Engineer / Surveyor: Rester and Coleman Engineers, 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.

Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. DeMouy, to deny the above referenced request for extension, as it has been superseded by the subdivision approved by the Planning Commission at its May 21, 2009, meeting.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2009-00148

Springhill Memorial Gardens Subdivision, Re-subdivision of Lots 1 & 2

600 Pierce Road

East side of Pierce Road, 4/10± mile North of Airport Boulevard

Number of Lots / Acres: 1 Lot / 40.0± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

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

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

- 1) **placement of a note on the final plat stating that the lot is limited to two curb cuts with the size, location, and design of all curb cuts to be approved by the Mobile County Engineering Department;**
- 2) **retention of the 25' minimum building setback line along Pierce Road;**

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- 3) **placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species;**
- 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.8. of the Subdivision Regulations;**
- 5) **placement of a note on the final plat stating that development will be designed to comply with the stormwater detention and drainage facilities 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 facilities of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification to be submitted to the Planning Section of Urban Development and County Engineering; and,**
- 6) **revision of the plat to label the lot with its size in square feet and acres.**

The motion carried unanimously.

Case #SUB2009-00149

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 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.

Matt Orrell, Polysurveying of Mobile, spoke on behalf of the applicant and asked that the matter be held over to allow him time to present a letter from Mobile Area Water and Sewer Services regarding providing services to the subdivision to the staff.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Vallas, to hold the matter over until the November 19, 2009, meeting, and the applicant shall provide a letter from Mobile Area Water and Sewer Services certifying the availability of service to the Planning Section of Urban Development by end of day, November 12, 2009.

The motion carried unanimously.

Case #SUB2009-00151

Kilsun Uhn Subdivision

3005 Springhill Avenue

Southwest corner of Springhill Avenue and Hemley Avenue, extending to the East side of Ogden Avenue, 160'± South of Springhill Avenue

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

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

Council District 1

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

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

- 1) **placement of a note on the final plat stating that Lot 1 is limited to two curb cuts onto Spring Hill Avenue, one curb cut to Ogden Avenue, and with access denied to Hemley Avenue, with the size, design, and exact location of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **revision of the plat to depict a 25' minimum building setback line on all street frontages;**
- 3) **depiction of the lot size, in square feet, or provision of a table with the same information on the final plat;**
- 4) **deletion of zoning district designations from the plat;**
- 5) **construction of a buffer in compliance with Sections V.A.8 of the Subdivision Regulations;**
- 6) **submission of a new Administrative Planned Unit Development Application;**
- 7) **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.8 of the Subdivision Regulations; and,**
- 8) **placement of a note on the plat stating that the site must be developed in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.**

The motion carried unanimously.

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Case #SUB2009-00156

J. A. Zirlott Subdivision

North side of Half Mile Road, 1000'± East of Ranch Road

Number of Lots / Acres: 1 Lot / 6.2± Acres

Engineer / Surveyor: John Farris 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.

John Crenshaw, spoke on behalf of the applicant and made the following points for approval of the matter that day:

- A. when the application was made, it was known that there were a number of “illegal” parcels in the area and letters were sent to those property owners asking them to join the applicant in his subdivision application or to provide letters stating they did not wish to join; and,
- B. of the five (5) property owners contacted regarding this, only three (3) sent letters indicating they did not wish to join, with no response received from the remaining two (2) property owners.

Mr. Watkins asked if the staff had prepared any conditions for approval regarding the subdivision.

Mr. Olsen stated the site was not within the City’s jurisdiction until the annexation of the Theodore area. He then advised the Commission that the staff had prepared conditions for approval and read them for the record:

- A. placement of a note on the final plat stating that the subdivision is limited to one curb cut to Half Mile Road, with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;
- B. 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;
- C. 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;
- D. placement of a note on the final plat stating that nay lots developed commercially and adjoining residentially developed property shall provide a buffer in compliance with Section V.A.8. of the Subdivision Regulations; and,
- E. submission of a letter from a licensed engineer certifying compliance with the City of Mobile’s stormwater and flood control

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ordinances to the Mobile County Engineering Department and the Planning Section of Mobile Urban Development prior to the issuance of any permits.

Mr. Crenshaw stated they were agreeable to those conditions.

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

- 1) **placement of a note on the final plat stating that the subdivision is limited to one curb cut to Half Mile Road, with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;**
- 2) **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;**
- 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 final plat stating that any lots developed commercially and adjoining residentially developed property shall provide a buffer in compliance with Section V.A.8 of the Subdivision Regulations; and,**
- 5) **submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.**

The motion carried unanimously.

Case #SUB2009-00157

Shady Acres RV and Mobile Home Park Subdivision

2500 and 2510 Old Military Road

Northeast corner of Old Military Road and Crescent Drive East

Number of Lots / Acres: 1 Lot / 8.3± Acres

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

Council District 4

The Chair announced the application had been recommended for approval.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the site owners. He expressed their concern regarding condition 4 and made the following points:

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- A. noted the staff had cited the owner earlier in the year for operating the park in violation of the Zoning Ordinance, however, the owner and his family had been operating said site as a RV and mobile home park since 1950's;
- B. in September, the matter went before the Board of Zoning Adjustment and was granted use, parking surface, access and maneuvering, tree and landscaping, and front yard setback variances with one of the conditions for approval being removal of all curb cuts from the property to Crescent Drive, those being in place as several of the RV/mobile home sites had driveways on Crescent Drive. After discussion at that meeting, the Board of Zoning Adjustment revised that condition to be the removal of only the northern most curb cut to Crescent Drive; and,
- C. asked that the condition be revised to coincide with the approval granted by the Board of Zoning Adjustment.

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

- 1) **provision of labeling of the size of the lot, in square feet, or provision of a table on the plat with the same information;**
- 2) **depiction of a 31-foot front setback line along Old Military Road and a 37-foot front setback line along Crescent Drive East;**
- 3) **placement of a note on the final plat limiting the site to the existing four curb cuts to Old Military Road with the size, design, and exact location of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) **removal of the northern most curb cut to Crescent Drive (per the September 18, 2009, Letter of Decision issued by the Board of Zoning Adjustment);**
- 5) **removal of the depiction of improvements and lots on the site;**
- 6) **as per Engineering Comments, placement of a note on the final plat stating 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;**
- 7) **placement of a note on the final plat stating that approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits;**
- 8) **placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,**
- 9) **full compliance with all municipal codes and ordinances.**

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The motion carried unanimously.

Case #SUB2009-00146

Baugh Subdivision

860 Airport Street

East side of Airport Street, 5/10± mile North of Zeigler Boulevard

Number of Lots / Acres: 2 Lots / 2.7± Acres

Engineer / Surveyor: John H. Peacock, Jr., PLS

County

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.

Hearing no opposition or discussion, a motion was made by Mr. Holmes, with second by Dr. Rivizzigno, to deny the above referenced subdivision for the following reasons:

- 1) **there is no signature on the application or a letter of authorization from one of the property owners of property involved in this application; and,**
- 2) **there is an unresolved discrepancy between the plat's legal description for the Point of Beginning of the subject property and that indicated on the GIS database.**

The motion carried unanimously.

Case #SUB2009-00153

Ashila Estates Subdivision

5945 Magnolia Road

East side of Magnolia Road, 580'± South of Allegro Drive

Number of Lots / Acres: 2 Lots / 11.7± Acres

Engineer / Surveyor: Erdman Surveying, LLC

County

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

Deidra Williams, 5867 Magnolia Road, Theodore, AL, addressed the Commission to ask what was planned for the property as she lives adjacent to the land in question.

The Chair advised Ms. Williams that the application was for the re-orientation of the interior lot lines and making the properties legal lots of record. He also stated the Commission had no information regarding what future plans the applicants might have for the property nor did the Commission had any purview over what the applicants could do with their property, as it was located in the county.

The following people spoke in favor of the subdivision:

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- Julia Crigler, 5945 Magnolia Road, Theodore, AL, the applicant; and,
- Larry Landry, 5501 Lindwood Steiner Road, Theodore, AL, the applicant.

They said the application was simply an effort to re-align the property lines to accommodate the two private homes.

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

- 1) **provision of labeling of the lot size, in square feet, on the final plat, or provision of a table on the final plat with the same information;**
- 2) **dedication sufficient to provide 30 feet from the centerline of Magnolia Road;**
- 3) **depiction of the 25-foot minimum building line wherever the site fronts a public right-of-way, including Interstate 10;**
- 4) **placement of a note on the final plat denying both Lot 1 and Lot 2 access to Interstate 10;**
- 5) **placement of a note on the final plat limiting Lot 1 to one curb cut and Lot 2 to two curb cuts to Magnolia Road, with the size, design, and location of all curb cuts to be approved by Mobile County Engineering;**
- 6) **placement of a note on the final plat stating that there will be no future subdivision to increase the number of lots until Magnolia Road is constructed to county road standards;**
- 7) **placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;**
- 8) **placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species;**
- 9) **placement of a note on the plat stating that approval of all applicable federal, state, and local agencies is required for**

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- wetland issues, if any, prior to the issuance of any permits or land disturbance activities; 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.8 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2009-00159

Tisdale Subdivision of the Fisher Tract, Square 25, Re-subdivision of Lots 12 & 13

604 and 606 Good Pay Street

East side of Good Pay Street, 120'± North of Pecan Street

Number of Lots / Acres: 2 Lots / 0.2± Acre

Engineer / Surveyor: Wattier Surveying, Inc.

Council District 2

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

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

Hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Vallas, to waive Section V.D.2. and approve the above referenced subdivision, subject to the following conditions:

- 1) illustration of a 30' minimum building setback line as measured for the existing right-of-way line along Good Pay Street;
- 2) placement of a note on the final plat stating that each lot is limited to one curb cut to Good Pay Street, 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 Lot 1 is denied direct access to the alley until such time that it is developed to a 20' right-of-way;
- 4) labeling of each lot with its size in square feet, or the provision of a table on the plat furnishing the same information;
- 5) approval of the proposed 2' Side Yard Setback Variance for each lot by the Board of Zoning Adjustment;
- 6) 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;
- 7) subject to the Engineering comments: *(Must comply with all stormwater and flood control ordinances. Any work performed*

in the right-of-way will require a right-of-way permit).

The motion carried unanimously.

Case #SUB2009-00145

Cynthia Campbell Subdivision

8250 Howells Ferry Road

North side of Howells Ferry Road, 160'± East of Eunice Drive

Number of Lots / Acres: 4 Lots / 20± Acres

Engineer / Surveyor: Polysurveying Engineering Land-Surveying
County

The Chair announced the application had been recommended for approval.

Matt Orrell, Polysurveying of Mobile, spoke on behalf of the applicant and expressed their objections to condition 1 as follows:

- A. the project is intended to be a senior center; and,
- B. the site needs to have one curb cut each on lots 1 and 2.

Mr. Olsen stated the staff has no objections to the additional curb cut as long as all curb cuts were approved by County Engineering and conformed to AASHTO standards.

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

- 1) **placement of a note on the final plat stating that Lot 1 is limited to one curb-cut, Lot 2 is limited to two curb-cuts, and Lots 3 and 4 will share a curb cut to Howells Ferry Road (total of four curb cuts), with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;**
- 2) **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;**
- 3) **placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.8 of the Subdivision Regulations;**
- 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) **provision of a minimum detention capacity volume of a 50 year post development storm, with a maximum release rate**

equivalent to the 10 year storm pre-development rate, and the placement of a note on the final plat stating that the development has been designed to comply with all other 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, as well as the detention and release rate requirements of Mobile County for projects located within the Converse watershed, prior to the obtaining of permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering.

The motion carried unanimously.

Case #SUB2009-00154

Silver Pines Subdivision

8401, 8451, 8453 Silver Pine Road and 8444 Maple Valley Road South
South side of Silver Pine Road, 600' ± West of Maple Valley Road and extending to the
North side of Maple Valley Road South

Number of Lots / Acres: 4 Lots / 19.1± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

County

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

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Dr. Rivizzigno, to waive Section V.D.1. and approve the above referenced subdivision, subject to the following conditions:

- 1) revision of the plat to illustrate a 50' minimum building setback line along Silver Pine Road, as measured from the current right-of-way line;**
- 2) revision of the plat to illustrate a 25' minimum building setback line along Maple Valley Road South;**
- 3) placement of a note on the final plat stating that Lots 1 and 3 are limited to two curb cuts each to Silver Pine Road, with the size, location, and design of all curb cuts to be approved by County Engineering and conform to AASHTO standards;**
- 4) placement of a note on the final plat stating that Lot 2 is limited to one curb cut to Silver Pine Road, with the size, location, and design to be approved by County Engineering and conform to AASHTO standards;**

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- 5) placement of a note on the final plat stating that Lot 4 is limited to two curb cuts to Maple Valley Road South, with the size, location and design of all curb cuts to be approved by County Engineering and conform to AASHTO standards;
- 6) labeling of each lot with its size in acres and square feet on the final plat, or the provision of a table on the plat furnishing the same information;
- 7) placement of a note on the final plat stating that the Environmental and Watershed Protection requirements of the Subdivision Regulations apply to this subdivision;
- 8) placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
- 9) 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. "Best Management Practices" for water quality protection as defined in The Use of Best Management Practices (BMPs) in Urban Watershed – EPA should apply; 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.

Case #SUB2009-00147

Rolling Meadows Estates Subdivision, Phase 2

8253 Howells Ferry Road

South side of Howells Ferry Road, 635'± East of the South terminus of Harvey Hill Road

Number of Lots / Acres: 7 Lots / 7.9± Acres

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

County

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.

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Jeff Himes, Clark, Geer, Latham & Associates, Inc., spoke on behalf of the applicant and asked that the matter be held over until the December 3, 2009, meeting, to allow them time to address issues raised by the staff.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 3, 2009, meeting, per the applicant's request.

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2009-02557

David S. Marks, III

5955 Airport Boulevard

Southwest corner of Airport Boulevard and Linlen Avenue and Southeast corner of Airport Boulevard and Pinemont Drive

Request to waive construction of a sidewalk along Pinemont Drive and Linlen Avenue

Council District 6

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

Hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Vallas, to approve the above referenced request for a sidewalk waiver.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2009-002549

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.

Ben Cummings, Cummings Architecture, spoke on behalf of the applicant and requested the matter be held over to the next meeting to allow his client time to review the conditions.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the November 19, 2009,

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meeting, per the applicant's request.

The motion carried unanimously.

NEW ZONING APPLICATIONS:

Case #ZON2009-02564

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 the proposed rezoning:

- Don Rowe, Rowe Surveying, for the applicant;
- Angela McArthur, 900 Hillcrest Road, Suite A5, realtor, Prudential Real Estate, for the applicant; and,
- Joe Richardson, co-owner R&R Commercial, the applicant.

They made the following points in favor of rezoning the property:

- A. the property was brought into the city from the county as part of the recent annexation and had been classified by the Planning staff as R-A;
- B. at the time of annexation, it was being used as I-1 usage, a usage it has had for a number of years, a fact noted in the staff report;
- C. noted businesses in the area that should also enjoy I-1 classification;
- D. one of the staff's reasons for denial was lot size, but noted that the recent annexation had created a number of locations whose property was now too small for its current use;
- E. there is a dirt pit located directly across the road from the property in question which has dump trucks traveling Kooiman Road a great deal, making that property I-1 as well;
- F. the property in question is part of a pending sale and one of the contingencies of the sale is proper zoning classification;
- G. the City's recommended zoning classification was discussed with the Council representative for that district prior to its re-zoning;
- H. presented documents regarding support of the rezoning from several neighbors and from the City Council representative for that district;

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- I. would like to see the property re-zoned to I-1 with the current conditions on the property “grandfathered” in because to change those conditions (i.e. requiring additional fencing) could jeopardize the pending sale of the property;
- J. the potential purchaser of the property stipulated as a condition of the sale that the property must be zoned properly or he would not purchase it; and,
- K. concern that the new, proposed zoning classification by staff might make the property less valuable as it might limit its usage from past usages.

Mr. Olsen stated that all of the land that came into the city as a part of the recent Theodore area annexation was automatically zoned R-1, and as a result of a zoning study done by the staff, the property in question was recommended and ultimately re-zoned as R-A. Mr. Olsen advised the Commission that the property, by virtue of the annexation, currently enjoyed non-conforming status with regards to its usage and that usage could continue infinitely as long as there was not a two year lapse of usage. He also noted that there were no other properties in the vicinity that were zoned I-1 so zoning this piece as I-1 could be considered “spot zoning.” He then read for the record conditions for approval of the rezoning that the staff had prepared in case the Commission chose to recommend to the City Council the rezoning of the property. Those conditions were as follows:

- A. provision of an eight (8) foot high privacy fence or wall around that portion of the site with outside work;
- B. provision of a six (6) foot high privacy fence around the remainder of the site, except within the 25 foot front setback from Kooiman Road; and,
- C. full compliance with all other municipal codes and ordinances.

Mr. Vallas noted that though the property would enjoy its current, non-conforming use for as long as the owners pleased and it did not go unused for a period of over two (2) years, for the purposes of mortgages and the like, the property probably did need to have an appropriate zoning classification for its use.

Mr. Davitt asked if B-5 zoning, which is located adjacent to the property, would be a better fit with regards to zoning.

Mr. Watkins noted that he felt that I-1 zoning might be appropriate as, to him, it logically was the next step in zoning classifications from B-5, which was located adjacent to the property in question.

In response to Ms. McArthur’s comments regarding “grandfathering” the current conditions on the property, Mr. Olsen stated that if the conditions regarding improvements were made part of the approval by the Commission, then they would stand, however, the Commission was within its purview to remove any conditions they

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saw fit. He also reminded the Commission and those in attendance that the Commission simply made a recommendation to the City Council regarding re-zoning, with the City Council having final say in the matter, including what, if any, conditions would be imposed on the property. He added that those conditions, as they do not relate to the use of the property, would not require a re-advertising for Public Hearing before the City Council.

Mr. Watkins advised Ms. McArthur that though she had commented the sale could close tomorrow if the matter before the Commission were approved that day, that was not the case as the Commission was only a recommending body in this regard and that the matter must still come before the City Council for final approval. He asked Mr. Lawler's opinion on whether or not the conditions required for any new zoning classification could be imposed on the property owner. He added that though the answer may appear clear to the Commission, the Planning staff, and to Mr. Lawler, it might not seem clear to a lending agency or their attorney without a zoning certification clearly stating it being in compliance.

Mr. Lawler responded saying unused land that was rezoned as part of an annexation would have to comply with the necessary improvements and conditions when that land came into use, however, as the property in question was currently in use it enjoyed non-conforming status and he did not believe they could be required to make those necessary improvements. He added that as the property is currently in use, the owners really don't need to do anything at this time, as he had said before. Mr. Lawler also stated he was of the opinion that the City Council would approve the matter without conditions.

Mr. Vallas asked if the staff would rather see a zoning change than a use variance.

Mr. Olsen responded that currently and until such time as it goes unused for a period of two (2) or more years, the property enjoys a non-conforming status and that the staff frequently does zoning certification letters for properties being sold stating they have a specific zoning classification but currently have a legal, non-conforming use and will continue with that usage until the property has been vacant for a period two (2) or more years.

Mr. Davitt asked if the ownership of the property changed would that change the status of the property with regards to its non-conforming use.

Mr. Olsen and Mr. Lawler advised it would not.

The following people spoke in opposition to rezoning the property:

- David Huber, 5168 Kooiman Road, Mobile, AL;
- Noah Jacob, 5437 Powell Lane, Mobile, AL; and,
- Bruce Huber, 5501 Powell Lane, Mobile, AL.

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They made the following points for denial of the matter:

- A. the City has an opportunity to protect area residential property from the unrestrained usages previously allowed on the property;
- B. concern that an industrial classification could have a negative impact on the agricultural endeavors in the area;
- C. questioned the validity of the “property owners’ consent” discussed by the proponents;
- D. oppose re-zoning the property to any “industrial” classification because it gives future owners the opportunity to use the property in a fashion that could have a very real negative impact on the other property owners around it; and,
- E. real belief that the property does not warrant I-1 classification as it does not have heavy equipment on it or other things that would warrant such a classification.

Mr. Vallas asked for an example of what could change for area residents should the property be zoned I-1 and was advised by Mr. Huber that under that classification the property owner could operate a portable toilet company, or a chemical company, all of which could have a negative impact on his property, or open a “24/7” operation that would negatively impact his quality of life at his residence.

Mr. Watkins asked for more clarification regarding the current usage and it being “grandfathered” in as an I-1 use and was the property limited to its current I-1 use or could it be used as any I-1 usage, as long as it was not vacant for a period of two (2) years or more.

Mr. Olsen advised that it could have any I-1 use or lower (i.e. B-5) as long as no buildings were added nor were there any changes made to the site, as long as the property was not vacated for a period of two (2) years or more. He also stated that by virtue of the property enjoying non-conforming status with regards to its use, it could not add an additional usage to the property. Mr. Olsen advised the Commission that a condition regarding access to Powell Lane had been omitted and stated the staff would like to see the site denied access to that private drive. He also stated it might be good to hear from the applicant again to hear further reasons the property should be zoned I-1 after hearing the discrepancy in those facts from the neighbors.

Ms. McArthur addressed the Commission regarding the property’s current use and the fact that welding is done exteriorly on site on a regular basis, as well as the fact that the property has had a chemical company as a previous tenant as well as other I-1 use tenants since its purchase by its current owner.

Mr. Olsen advised the Commission that based upon the information just stated by applicant, an I-1 zoning classification would be required for their use.

In deliberation, Dr. Rivizzigno moved to deny the matter based on her opinion that it indicated spot zoning, which the Commission had previously decided not to support,

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but the motion died for lack of second.

Mr. Miller queried if some type of B zoning classification might not work better.

Mr. Vallas noted that this would go before the City Council for the final vote. He then wondered if the staff went on site and determined that a different zoning classification was needed, would the staff attend the City Council meeting and recommend the change from the floor.

Mr. Olsen stated that staff would attend both the pre-Council meeting and the Council meeting when the matter would be heard to answer any questions the Council might have but no new suggestions would be offered.

Mr. Vallas noted that John Williams, the Council representative for that area, had sent a letter in support of the matter. He added that regarding the matter of "spot zoning," he felt the City had already done so when they annexed the area.

Dr. Rivizzigno reiterated her feelings that approval of the matter would be "spot zoning."

Mr. Watkins asked Mr. Lawler for confirmation that if the property currently enjoyed I-1 usage based upon its present use that it could enjoy that usage as long as desired as long as there was no cessation of that use for two (2) years or more.

Mr. Lawler stated that "spot zoning" was a term used a lot to mean a number of things, but most usually it meant the zoning in question was out of place.

Mr. Watkins then wondered how giving the property official I-1 status would constitute "spot zoning" as it currently enjoyed I-1 status by virtue of "grandfathering."

Mr. Davitt expressed he was more concerned that if the City officially granted the property I-1 zoning classification, that would open up the opportunity to zone further property in the area as I-1, which would infringe on the residential character of the remainder of the neighborhood.

Mr. Lawler reminded the Commission that under normal conditions, a non-conforming status was one that was expected to go away with time, however, in this case, the non-conforming status is one that has been superimposed upon the property due to annexation.

Mr. Turner asked if it had been confirmed that the property truly required the I-1 classification, as he had heard a number of conflicting opinions on whether or not it truly had I-1 usage taking place on the property.

Mr. Holmes stated his opinion that the matter would be best served if it were held over to allow the staff time to visit the site and get confirmation on would be the best zoning

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classification for that specific site.

Mr. Vallas stated his opinion that the City Council will probably approve the matter regardless of how the Commission were to vote because they were trying to “clean up a mess” that they had made.

Mr. Olsen agreed with Mr. Vallas and advised the Commission that it was his firm opinion that regardless of what the Commission chose to do that day, based upon the letter from Councilman Williams and on comments heard on the matter, Mr. Williams was going to strongly support and promote to his fellow council persons I-1 zoning of the site.

Mr. Miller stated that the information regarding Mr. Williams did not make him want to support the matter more strongly.

Hearing no further opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Jordan, to hold the matter over until the November 19, 2009, meeting, to allow staff time to do the following:

- 1) **visit the site;**
- 2) **evaluate the activities occurring on the site; and,**
- 3) **evaluate the required zoning district.**

With a show of hands vote, the measure carried 5 to 4, with Mr. DeMouy, Dr. Rivizzigno, Mr. Vallas, and Mr. Watkins voting in opposition.

GROUP APPLICATIONS:

Case #SUB2009-00155 (Subdivision)

Anton Street Subdivision

2421 Anton Street

West side of Anton Street, 3/10± mile North of West I-65 Service Road North

Number of Lots / Acres: 1 Lot / 7.8± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 1

(Also see **Case #ZON2009-02560 (Rezoning) Property Solutions Now, LLC**, 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.

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the applicant and gave the following points for approving the matter at that meeting:

- A. per the Tax Assessor’s website and the Mobile GIS website, a former owner of this particular parcel also owns three (3) adjoining lots to the north of this property, but efforts to find deeds to those

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- parcels have proven unsuccessful to date;
- B. in 2003, a Mr. Ogburn mortgaged the property in question to AmSouth/RBC Bank and that individual later defaulted on said mortgage and the property was foreclosed upon and sold to AJB Limited, then sold again to Property Solutions, the current owner;
 - C. neither the current owner nor the immediately prior owner were party to any earlier division of said property; and,
 - D. feelings that the property was not properly zoned in the first place, as it is currently R-1 and they are asking that it be rezoned as I-1.

The Chair asked if the staff had any recommendations for approval prepared.

Mr. Olsen advised they did not and then addressed the comments made regarding zoning and stated that all of those properties had, at time of annexation, come into the city as the required R-1, but over time had been individually zoned, however, as there is a residence on the property, the R-1 zoning was appropriate.

Vivian Snider, 1600 Butler Street, Mobile, AL, addressed the Commission stating she was the rightful property owner, having a deed and documents showing where she had paid taxes on the same.

Frank Snider, Mrs. Snider's son, stated that Mrs. Snider's brothers and sisters had sold part of the property to Mr. Ogborn without her consent, but that Mrs. Snider held the original deeds to the property in question.

Mr. Watkins asked if the foreclosure document should be viewed in the same legal manner as a will where property is parceled off to the heirs.

Mr. Lawler stated his belief that Mr. Watkins was correct in his understanding of how the foreclosure documents should be treated and understood.

Upon hearing of a possible property dispute, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the above referenced matter over until the December 3, 2009, meeting, to allow for the resolution of the property issue.

The motion carried unanimously.

Case #ZON2009-02560 (Rezoning)

Property Solutions Now, LLC

2421 Anton Street

West side of Anton Street, 3/10± mile North of West I-65 Service Road North

Rezoning from R-1, Single-Family Residential District, to I-1, Light Industry District, to allow a trucking company

Council District 1

(Also see **Case #SUB2009-00155 (Subdivision) Anton Street Subdivision**, above)

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Upon hearing of a possible property dispute, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the above referenced matter over until the December 3, 2009, meeting, to allow for the resolution of the property issue.

The motion carried unanimously.

Case #SUB2009-00150 (Subdivision)

Kingswood Subdivision, Blankenship's Addition to, Re-subdivision of Lots B & C

4584 Hawthorne Place

Northeast corner of Hawthorne Place and Hawthorne Place North

Number of Lots / Acres: 2 Lots / 0.6± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 5

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

Hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to waive Section V.D.3. and approve the above referenced re-subdivision, subject to the following conditions:

- 1) **provision of two (2) revised PUD site plans to the Planning Section of Urban Development prior to the signing of the Subdivision plat;**
- 2) **placement of a note on the site plan specifying the front, side, and rear yard setbacks, to comply the Planned Unit Development (PUD) and Subdivision, amended to require Lots B & C to maintain a 8-foot side yard setback along the exterior perimeter of the Planned Unit Development (PUD);**
- 3) **placement of a note on the plat stating that HVAC equipment and emergency generators 3' high or higher must meet setback requirements; and,**
- 4) **subject to the Engineering comments: *(Must comply with all stormwater and flood control ordinances. Due to narrow lot widths and a history of localized drainage problems in the immediate area, drainage from these lots cannot cross adjacent property lines and must be conveyed to Hawthorne Pl unless a release agreement or private drainage easement is provided by all affected downgrade properties. A land disturbance permit will be required to include a drainage review by City Engineering and may require detention if the increase in impervious area exceeds each lot's allotment of historical credit. Any work performed in the right-of-way will require a right-of-way permit).***

The motion carried unanimously.

Case #ZON2009-002540 (Planned Unit Development)
Kingswood Subdivision, Blankenship's Addition to, Re-subdivision of Lots B & C
4584 Hawthorne Place
Northeast corner of Hawthorne Place and Hawthorne Place North
Planned Unit Development Approval to allow reduced side yard setbacks
Council District 5
(Also see **Case #SUB2009-00150 (Subdivision) Kingswood Subdivision,**
Blankenship's Addition to, Re-subdivision of Lots B & C, above)

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

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

- 1) **completion of the Subdivision process;**
- 2) **placement of a note on the site plan specifying the front, side, and rear yard setbacks, to comply with the Planned Unit Development (PUD) and Subdivision, amended to require Lots B & C to maintain a 8-foot side yard setback along the exterior perimeter of the Planned Unit Development (PUD);**
- 3) **placement of a note on the site plan stating that HVAC equipment and emergency generators 3' high or higher must meet setback requirements;**
- 4) **provision of two (2) revised Planned Unit Development (PUD) site plans to the Planning Section of Urban Development prior to the signing of the Final Plat;**
- 5) **full compliance with all other municipal codes and ordinances; and,**
- 6) **subject to the Engineering comments: *(Must comply with all stormwater and flood control ordinances. Due to narrow lot widths and a history of localized drainage problems in the immediate area, drainage from these lots cannot cross adjacent property lines and must be conveyed to Hawthorne Pl unless a release agreement or private drainage easement is provided by all affected downgrade properties. A land disturbance permit will be required to include a drainage review by City Engineering and may require detention if the increase in impervious area exceeds each lot's allotment of historical credit. Any work performed in the right-of-way will require a right-of-way permit).***

The motion carried unanimously.

Case #SUB2009-00152 (Subdivision)

Fowler Industrial Subdivision

4505 Halls Mill Road

Southeast corner of Halls Mill Road and Laughlin Drive; extending to the Northeast corner of Laughlin Drive and Laughlin Court

Number of Lots / Acres: 2 Lots / 2.7± Acres

Engineer / Surveyor: J. Michael Garratt, PLS

Council District 4

(Also see **Case #ZON2009-02547 (Rezoning) Fowler Industrial Subdivision**, below)

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

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

- 1) **dedication of sufficient right-of-way to provide 35-feet from the centerline of Halls Mill Road;**
- 2) **dedication of appropriate radius at the intersection of Halls Mill Road and Laughlin Drive as required by Traffic Engineering;**
- 3) **placement of a note on the Final Plat stating that Lot 1 is allowed the existing curb cut along Halls Mill Road and one curb cut along Laughlin Drive, with the size, location, and design to be approved by Traffic Engineering and to conform to AASHTO standards;**
- 4) **the labeling of each lot with its size in square feet, or placement of a table on the plat with the same information;**
- 5) **compliance with Engineering comments (*Must comply with all stormwater and flood control ordinances. The existing drainage pipe located in the 15' drainage easement will be required to be replaced with a hydraulically equivalent reinforced concrete pipe if any traffic (driveway, parking lot, etc.) is proposed across or located within the drainage easement. Any work performed in the right-of-way will require a right-of-way permit.*); and,**
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2009-02547 (Rezoning)

Fowler Industrial Subdivision

4505 Halls Mill Road

Southeast corner of Halls Mill Road and Laughlin Drive

Rezoning from B-3, Community Business District, to I-1, Light-Industry District, to allow the expansion of a storage yard for a scaffolding company

Council District 4

(Also see **Case #SUB2009-00152 (Subdivision) Fowler Industrial Subdivision**, above)

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

Hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to approve the above referenced request for rezoning **as B-3, Community Business District**, subject to the following conditions:

- 1) **completion of the subdivision process; and,**
- 2) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2009-00158 (Subdivision)

Grady Automotive Subdivision

3025 Government Boulevard

Southeast corner of U.S. Highway 90 and McVay Drive North

Number of Lots / Acres: 2 Lots / 24.2± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 4

(Also see **Case #ZON2009-02569 (Planned Unit Development) Grady Automotive Subdivision**, below)

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

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

- 1) **submission of a revised PUD site plan prior to signing the final plat;**
- 2) **placement of a note on the final plat stating that curb cutting for Lot 1 is limited to an approved PUD site plan; Lot 2 should be limited to two curb cuts to MacVay Drive and one curb cut to Macmae Drive, with the size, design and location to be approved by Traffic Engineering and in conformance with**

- AASHTO standards;
- 3) **provision of adequate radii where Government Boulevard Service Road intersects both MacVay and Macmae Drives, as required by Section V.B.16 of the Subdivision Regulations;**
 - 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: *(For any future development, the existing detention systems will be required be surveyed to verify capacity and functionality of the detention systems. The existing drainage structures located on Macmae Dr will be required to be analyzed to verify that there is sufficient capacity and that the system is functioning properly to receive the additional flow. Any new dumpster pads or vehicle wash facilities cannot drain to storm sewer and must have connection to sanitary sewer. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any damaged sidewalk sections and/or driveway aprons located in the City ROW will be required to be replaced as part of any land disturbance permit).***

The motion carried unanimously.

Case #ZON2009-02569 (Planned Unit Development)

Grady Automotive Subdivision

3025 Government Boulevard

Southeast corner of U.S. Highway 90 and McVay Drive North

Planned Unit Development approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site

Council District 4

(Also see **Case #SUB2009-00158 (Subdivision) Grady Automotive Subdivision**, above)

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

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

- 1) **provision of adequate radii where Government Boulevard Service Road intersects both MacVay and Macmae Drives, as required by Section V.B.16 of the Subdivision Regulations;**
- 2) **submission of a revised PUD site plan illustrating all pertinent information regarding parking, landscaping, dumpster**

- location, etc;
- 3) placement of a note on the site plan stating that the site must be developed in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species;
 - 4) compliance with Engineering comments: *(For any future development, the existing detention systems will be required be surveyed to verify capacity and functionality of the detention systems. The existing drainage structures located on Macmae Dr will be required to be analyzed to verify that there is sufficient capacity and that the system is functioning properly to receive the additional flow. Any new dumpster pads or vehicle wash facilities cannot drain to storm sewer and must have connection to sanitary sewer. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any damaged sidewalk sections and/or driveway aprons located in the City ROW will be required to be replaced as part of any land disturbance permit); and,*
 - 5) full compliance with all municipal codes and ordinances.

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