

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF JANUARY 21, 2010 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Terry Plauche, Chairman  
William G. DeMouy, Jr.  
William Curtin  
Stephen J. Davitt, Jr.  
Nicholas H. Holmes, III  
Herb Jordan  
Mead Miller  
John Vallas

**Members Absent**

Victoria L. Rivizzigno, Secretary  
Roosevelt Turner  
James F. Watkins, III

**Urban Development Staff Present**

Bert Hoffman,  
Planner II  
Frank Palombo,  
Planner II  
Caldwell Whistler,  
Planner I  
David Daughenbaugh,  
Urban Forestry Coordinator  
Joanie Stiff-Love,  
Secretary II

**Others Present**

John Lawler,  
Assistant City Attorney  
John Forrester,  
City Engineering  
  
Jennifer White,  
Traffic Engineering  
Capt. Samuel Allen  
Fire Department

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 #SUB2009-00163 (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 application had been recommended for approval.

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Don Rowe, Rowe Surveying and Engineering Co., Inc., spoke on behalf of the applicant and withdrew the application.

**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)

The Chair announced the application had been recommended for approval.

Don Rowe, Rowe Surveying and Engineering Co., Inc., spoke on behalf of the applicant and withdrew the application.

**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 #ZON2009-02678 (Rezoning) Diana Morgan**, above)

The Chair announced the application had been recommended for approval.

Don Rowe, Rowe Surveying and Engineering Co., Inc., spoke on behalf of the applicant and withdrew the application.

**Case #SUB2009-00174 (Subdivision)**

**Thornecroft Subdivision**

21 Hillwood Road

East side of Hillwood Road at the East terminus of Country Club Road

Number of Lots / Acres: 1 Lot / 1.2± Acres

Engineer / Surveyor: C. Michael Arnold

Council District 5

Dr. Ian Thornecroft, 21 Hillwood Road, owner of the lots involved in the subdivision application spoke on his own behalf and said he was in agreement with all of the

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recommendations listed, however, at the time he was requesting the matter be held over until the February 18, 2010, meeting to allow him time to resolve certain matters.

The Chair acknowledged the applicant's response and announced the matter had been requested to be held over until the February 18, 2010, meeting, however, if there were those who wished to speak on the matter to please do so at that time.

Mrs. Francis Hoffman, 5 Hillwood Road, an adjacent property owner, objected to the hold over and gave the following points regarding such:

- A. the drainage issues on the property had not been solved;
- B. there was land disturbance prior to permitting for the same;
- C. there had been what was believed to qualify as construction on the site due to the planting of stakes, building materials, and possibly a port-a-potty at the site;
- D. presented a letter detailing issues and activities on the site;
- E. red clay soil had been brought to the site and placed in the natural drainage area which caused it to flow onto the adjacent property and into the house located on that property;
- F. presented a letter from another neighbor advising of the negative impact the development has had on their property;
- G. concern that there was no engineer involved with the project until December 3, 2009, when the City place a "hold" on activities on the entire property;
- H. the property basically had been completely de-vegetated, which contributed to the erosion and drainage issues;
- I. remediation actions taken at the site had either failed or been non-existent;
- J. due to the close proximity of the development to the adjacent property line, the construction process would have a damaging effect on the adjacent property, with the same being advised by Mr. Colglazier of Colglazier Builders, the company responsible for the construction;
- K. presented photographs of the damage caused by the development to the adjacent property owners' property;
- L. concern that there needed to be an effective temporary plan for the drainage issues that had caused damage to adjacent property, as well as a proper permanent plan;
- M. the property owners must accept responsibility for the damages caused to the adjacent property owners;
- N. requested that the application be denied and that the property be brought back to such a state as to stop the current erosion issues until such time as an accurate, reasonable plan by an engineer was filed with the appropriate municipal department; and,
- O. requested that the correction and prevention of damage to adjacent properties be addressed immediately.

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Mr. Vallas queried whether any land disturbance permits had ever been issued as it seemed that an awful lot of work had been done without such.

John Forrester, City Engineering Department, advised there had been no land disturbance permits issued for the site.

Mr. Lawler expressed his understanding that a permit had been issued but it had been done so in error. He stated he understood the seriousness of the allegations and that the applicant should, before anything was considered, address all of the things brought forth by the opposition.

Mr. Vallas asked whether doing so was under the Planning Commission's purview or another entity's jurisdiction.

Mr. Lawler stated he felt the Commission could tell the applicant they would not seriously consider the application until such time as the matters of concern expressed before the Commission were addressed.

At Mr. Vallas' request, the Chair allowed Dr. Thorneycraft a short period of rebuttal, where he made the following points:

- A. problems at the adjacent property were ongoing and were not as a result of new construction on his property;
- B. much of the damage was the product of work the City was doing on the street and the resulting silt created;
- C. one of the problems with the applicant's lot was that water flowed from Hillwood Road to an adjacent neighbor's property and then onto the applicant's lot, but he felt that issue would be addressed with the new drainage system the City was to put into place;
- D. expressed that combining the lots into one and putting only one house in that space would also reduce the problem considerably;
- E. expressed that the opposition was not living in the house in question and therefore they might not have accurate information as it pertained to the issues that existed prior to buying the house;
- F. the applicant had re-planted the area after purchasing it;
- G. the proposed location of the house on the property has been moved back considerably to allow for the natural drainage of the property to go into a retention area;
- H. feelings that as a house had been constructed two places up from the applicant's property and had been done so without any flood and erosion remediation in place, the issues sprang in part from that as well; and,
- I. the one month hold over was requested in the event that the current engineering company employed by the applicant were to be replaced, it would allow time for the new engineering company to

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formulate a plan to resolve the issues brought before the Commission.

In deliberation, Mr. Vallas stated he was in favor of the hold over as it would give the applicant additional time to correct the matter. He added he felt that stopping the project might lead to its being abandoned without making the necessary corrections to the situation. He added that it would also allow Engineering and possibly ADEM to get involved, but he did not feel that the hold over would magnify the problems.

Mr. Forrester commented that the City had recently poured the curb and gutter for their project, thereby eliminating any negative impact that project had on the area. He added that there was still a significant amount of drainage still going through the site. He added that Mrs. Hoffmann's garage, due to where it was constructed, would continue to have flooding issues. He stated that there had been calls to the Engineering Department regarding flooding at that home in prior years and that apparently the information Mrs. Hoffmann had received regarding the house having no prior flooding issues was incorrect. He also stated that the remediation measures taken on the Thorneycroft property were not equipped to control the drainage that came through that property as well.

Mr. Curtin asked if there was also permit issues regarding the Thorneycroft property.

Mr. Hoffman stated that the current permit for the house was "frozen" and that no additional construction on the house could occur until the issues being discussed were resolved. Mr. Hoffman also noted that per topographic information available there was a drainage swale that ran straight through the lots in question.

Mr. Davitt asked what the difference was in the topography of the Thorneycroft property and the Hoffmann property.

Mr. Forrester stated that on the north side of the Thorneycroft property there was probably a fall of between 6 to 8 feet.

Mr. Davitt then asked for more clarification to the difference in elevation between the south side of the Thorneycroft lot and the Hoffman's house.

Mr. Forrester stated he believed it to be between 3 and 4 feet.

Mr. Davitt asked if the staff had seen any kind of engineering regarding the project.

Mr. Forrester said no, his department was still awaiting a site plan from Dr. Thorneycroft's engineer. He also reminded the Commission that Dr. Thorneycroft had alluded to issues with that entity.

Mr. Palombo addressed the matter of a retention/detention pond saying its placement could effect the site location of the proposed structures on the site.

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Mr. Forrester replied that was corrected. He also noted for the Commission that the houses down from the Thorneycroft property all sat along the same line and that was due to the natural drain located behind the houses.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Vallas, to hold the matter over until the February 18, 2010, meeting, at the applicant's request. The Commission also noted for the record that the applicant should provide evidence of an engineered solution to the drainage issues presented at the meeting that day.

The motion carried unanimously.

**Case #SUB2009-00173 (Subdivision)**  
**Legacy Subdivision, Phase Two & Phase Three**

East terminus of Darling Road, extending Northeastward to the West terminus of Legacy Lane and the South terminus of Heritage Circle  
Number of Lots / Acres: 23 Lots / 85.3± Acres  
Engineer / Surveyor: Byrd Surveying, 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. He also noted that the staff had provided the Commission with possible conditions for approval should they be so inclined.

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the owners/developers and made the following points for approval:

- A. the project had been submitted in phases, with Phase Two being Lots 1-6 and Phase Three being the large area to the bottom consisting of Lots 7-18;
- B. all of the reasons regarding the denial of the matter occurred in Phase Three;
- C. it was requested that only Lots 1-6 be reviewed that day for approval as two of the owners presently wanted to build in that area; and,
- D. all of this had been discussed with the staff prior to the meeting, hence conditions for approval had been drafted as well as reviewed for the applicant by their representative and inasmuch the applicant was in agreement with those conditions.

Mr. Vallas confirmed with staff that this was the case and that the larger portion should simply be referred to as future development.

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Hearing no opposition or further discussion, a motion was made by Mr. Vallas, with second by Mr. Davitt, to approve a modified request, limiting development to Phase Two (Lots 1-6) and subject to the following conditions:

- 1) remainder of the site to be labeled as future development and to require a new subdivision application;**
- 2) placement of a note on the plat stating that Lots 1-6 are limited to one curb-cut each with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;**
- 3) placement of a note on the plat stating that the site must be developed in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species is required;**
- 4) placement of a note on the plat stating that approval of all applicable federal, state, and local agencies for wetlands and floodplains prior to the issuance of any permits or land disturbance activities;**
- 5) placement of a note on the plat stating that maintenance of the detention and common areas is the responsibility of the subdivision's property owners;**
- 6) depiction of the 25-foot minimum building setback lines on the plat;**
- 7) placement of a note on the 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;**
- 8) placement of a note on the plat stating *“that the subdivision 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. New public roads shall be constructed and paved to standards for County Maintenance, and accepted by Mobile County, while new private roads shall be constructed and paved to minimum County or Subdivision Regulation standards, whichever are greater”*; and,**
- 9) submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.**

The motion carried unanimously.

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**Case #ZON2009-02841 (Planned Unit Development)**

**DBM Company, LP**

1234 & 1248 Hillcrest Road

Northwest corner of Hillcrest Road and Grelot Road

Planned Unit Development Approval to allow shared access between two building sites

Council District 6

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.

Mr. Palombo advised the Commission that a letter had been received from the applicant requesting the application be withdrawn.

The Commission approved the request that the above application to be withdrawn by the applicant.

**Case #SUB2009-00172 (Subdivision)**

**UMS Wright Corporation**

65 North Mobile Street

Southwest corner of North Mobile Street and Old Shell Road, extending North and West to the CN Railroad right-of-way and the South terminus of Martin Street

Number of Lots / Acres: 1 Lot / 51.8± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 1

(Also see **Case #ZON2009-02884 (Planned Unit Development) UMS Wright Corporation**, and, **Case #ZON2009-02882 (Planning Approval) UMS Wright Corporation**, below)

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

The Chair announced the application had been recommended for approval.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant to address the fencing issue and made the following points on the same:

- A. the barbed wire fence in question fronts Old Shell Road and was constructed by the school when the parcel that is the subject of this application was purchased from the church across the street from the school;
- B. the barbed wire portion of the fence will be removed immediately and eventually be replaced by an ornamental fence in keeping with the ornamental fence currently in place on the school grounds; and,
- C. permits for any fencing on the property will be purchased.

Mr. Hoffman clarified that it was condition 3 on both the Planned Unit Development and Planning Approval applications and it would be re-written to say that the barbed wire

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fence portion of the chain link fence would be removed and that an “after the fact” permit would be obtained for the existing chain link fence, as it appeared to have been installed without a permit, with any new fencing to be put in place via permits.

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

- 1) placement of a note on the plat stating that the development is limited to the existing approved curb-cut along Old Shell Road 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) completion of the Subdivision process prior to application for building/Land Disturbance permits;**
- 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) submission of revised Planning Approval and PUD site plans prior to signing of plat; and,**
- 5) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**Case #ZON2009-02884 (Planned Unit Development)**

**UMS Wright Corporation**

65 North Mobile Street

Southwest corner of North Mobile Street and Old Shell Road, extending North and West to the CN Railroad right-of-way and the South terminus of Martin Street

Planned Unit Development to amend a previously approved Planned Unit Development Master Plan to allow a new practice field for softball and soccer and new parking area.

Council District 1

(Also see **Case #SUB2009-00172 (Subdivision) UMS Wright Corporation**, above, and, **Case #ZON2009-02882 (Planning Approval) UMS Wright Corporation**, below)

Hearing no opposition or further discussion on the matter, a motion was made by Mr. Miller, with second by Mr. Vallas, to approve the above reference Planned Unit Development, subject to the following conditions:

- 1) completion of the Subdivision process prior to application for building/land disturbance permits;**
- 2) depiction and provision of a 6-foot high wooden privacy fence around the perimeter of the site where it abuts existing residential development (Northwest portion), with the**

- exception of within 25-feet of a street right-of-way, where the fence shall not exceed 3-feet in height;
- 3) removal of all barbed wire strands from the existing chain-link fence, the obtaining of an after-the-fact permit for the existing chain-link fence, and the obtaining of permits for any new fence construction;
  - 4) placement of a note on both site plans stating that lighting of the site will comply with the requirements of the Zoning Ordinance;
  - 5) provision of trees and landscaping to bring the site into compliance with the requirements of the Zoning Ordinance; and,
  - 6) full compliance with all other municipal codes and ordinances, and the obtaining of the appropriate permits.

The motion carried unanimously.

**Case #ZON2009-02882 (Planning Approval)**

**UMS Wright Corporation**

65 North Mobile Street

Southwest corner of North Mobile Street and Old Shell Road, extending North and West to the CN Railroad right-of-way and the South terminus of Martin Street

Planning Approval to amend a previously approved Planning Approval Master Plan to allow a new practice field for softball and soccer and new parking area at an existing private school in an R-1, Single-Family Residential District

Council District 1

(Also see Case #SUB2009-00172 (Subdivision) **UMS Wright Corporation**, and, Case #ZON2009-02884 (Planned Unit Development) **UMS Wright Corporation**, above)

Hearing no opposition or further discussion on the matter, a motion was made by Mr. Miller, with second by Mr. Vallas, to approve the above referenced Planning Approval application, subject to the following conditions:

- 1) completion of the Subdivision process prior to application for building/land disturbance permits;
- 2) depiction and provision of a 6-foot high wooden privacy fence around the perimeter of the site where it abuts existing residential development (Northwest portion), with the exception of within 25-feet of a street right-of-way, where the fence shall not exceed 3-feet in height;
- 3) removal of all barbed wire strands from the existing chain-link fence, the obtaining of an after-the-fact permit for the existing chain-link fence, and the obtaining of permits for any new fence construction;

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- 4) **placement of a note on both site plans stating that lighting of the site will comply with the requirements of the Zoning Ordinance;**
- 5) **provision of trees and landscaping to bring the site into compliance with the requirements of the Zoning Ordinance; and,**
- 6) **full compliance with all other municipal codes and ordinances, and the obtaining of the appropriate permits.**

The motion carried unanimously.

**EXTENSIONS:**

**Case #ZON2007-00402 (Planned Unit Development)  
West Airport Boulevard Center Subdivision**

6575 Airport Boulevard

South side of Airport Boulevard, 675' + East of Providence Hospital Drive

Planned Unit Development Approval to allow shared access between three building sites

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. Plauche, with second by Mr. DeMouy, to approve the above referenced request for extension, but advised the applicant that future extensions are unlikely.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2009-00183**

**Darren Lanier Subdivision**

Southwest corner of Novatan Road North and Hidden Place (private road)

Number of Lots / Acres: 1 Lot / 1.0± Acre

Engineer / Surveyor: Gerald A. Smith

County

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

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to waive Section V.D.3. and 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) depiction of the 25-foot minimum building line along the Novatan Road North right-of-way, and the along the North property line where the site abuts the private Hidden Place;
  - 3) placement of a note on the final plat denying the site access to Hidden Place;
  - 4) placement of a note on the final plat limiting the site to the existing curb cut to Novatan Road, with the size, design, and location of all curb cuts to be approved by Mobile County Engineering;
  - 5) 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”*;
  - 6) 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,
  - 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.

The motion carried unanimously.

**Case #SUB2009-00186**

**O'Reilly-Theodore Subdivision**

5900 U. S. Highway 90 West

West side of U. S. Highway 90 West, 150'± South of Carol Plantation Road

Number of Lots / Acres: 1 Lot / 1.2± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 4

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

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

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- 1) revision of the plat to indicate the current right-of-way width along U.S. Highway 90 West, and dedication of sufficient right-of-way to provide 125' from the centerline of U.S. Highway 90 West;
- 2) illustration of the 25' minimum building setback line along U.S. Highway 90 West, as measured from any required dedicated right-of-way;
- 3) placement of a note on the Final Plat stating that the subdivision is limited to one curb cut to U.S. Highway 90 West, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 4) revision of the plat to label the lot with its size in square feet and acreage, after any required dedication, or the furnishing of a table on the Final Plat providing the same information;
- 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; and,
- 6) subject to the Engineering Comments: *“Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. 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.”*

The motion carried unanimously.

**Case #SUB2009-00185**

**Crichton Commerce Place Subdivision, Re-subdivision & Addition to**  
3232, 3240, 3300, 3374 and 3378 Moffett Road, and 3218 Crichton Street  
East and West sides of Crichton Street, 790'± North of its South terminus [to be  
vacated]

Number of Lots / Acres: 3 Lots / 30.7± Acres

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

Council District 1

The Chair announced the application had been recommended for approval. He also advised that the staff had provided the Commission members with a hand out regarding information pertinent to the matter.

The following people spoke on the matter:

- Tony Spencer, Frank A. Dagley and Associates, for the applicant;  
and,

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- Nathan Handmacher, Manager, Project Development, Gulf Distributing Holdings, LLC, the applicant.

They made the following points regarding the matter:

- A. wanted the current verbiage in condition 6 replaced with “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 wetlands and floodplain issues,” removing the words “prior to the issuance of any permits or land disturbance activities”;
- B. wanted the current verbiage in condition 7 replaced with “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,” removing the words “prior to the issuance of any permits or land disturbance activities”;
- C. it was felt that adding the words “prior to the issuance of any permits or land disturbance activities” was redundant as it was understood that if the Commission required that the matter be in compliance, that compliance must be in place before any permit could be issued;
- D. it was felt the language was inconsistent and wanted to have the matters consistent with one another;
- E. regarding the hammerhead turnaround and the cul-de-sac, a meeting had been held between the applicant, Fire Department and Planning Staff where it was decided that the hammerhead turnaround would be acceptable, however, as Engineering was not there, their standard comments requiring a cul-de-sac were included in the conditions; and,
- F. it was requested that the Fire Department’s comments which approved the hammerhead turnaround be used instead of the Engineering comments requiring a cul-de-sac.

Mr. Hoffman stated that on each application there were issues regarding wetlands and floodplains as well as threatened and endangered species. Mr. Hoffman had been in contact with the U. S. Fish and Wildlife Service Department regarding the latter matter. He passed out a copy of an email from them that stated they preferred the use of the stronger verbiage and that the stronger verbiage was the standard verbiage for most permitting agencies. He also stated that as the property was located within the 3 Mile Creek floodplain, there might be wetland issues as well as the floodplain issues and deferred to the Engineering Department for additional comments regarding those matters.

John Forrester, City Engineering Department, stated that compliance with the floodplain issue would be part of the review for any land disturbance permits and that permits

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would not be issued until the floodplain issues and/or any wetland issues were resolved.

Mr. Lawler stated that without clearly noting in the conditions that action to assure compliance with locals, state, and federal regulations regarding those issues must take place prior to permitting, one defeated the purpose of having the check on the environmental issue or the species in the first place..

The Chair asked if one language favored earlier construction more so than the other.

Mr. Handmacher said the key issue was permitting and that site development rested on the ability to get those permits.

Mr. Spencer stated that as construction did require permits and compliance did require permitting, he did not feel that one wording leaned toward earlier construction more so than the other.

Regarding the cul-de-sac requirement by Engineering, Mr. Forrester stated his department had no issue with deferring to the Fire Department and their comments in this instance. He added there should also be no Engineering comments or requirements regarding easements.

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

- 1) completion of the Vacation process for Crichton Street prior to signing the Final Plat;**
- 2) construction of Crichton Street from the vacated portion to its open portion to City standards prior to signing the Final Plat;**
- 3) construction of the fire apparatus access road on proposed Lot 2 to 2003 IFC Section D103 standards prior to signing the Final Plat;**
- 4) placement of a note on the Final Plat stating that the driveway number, size, location, and design are to be approved by Traffic Engineering and conform to AASHTO standards;**
- 5) revision of the plat to label the lot sizes in acres and square feet, or the provision of a table on the final Plat furnishing the same information;**
- 6) the applicant receive the approval of all applicable federal, state, and local environmental agencies for wetlands or floodplain issues prior to the issuance of any permits or land disturbance activities;**
- 7) placement of a note on the plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance**

- activities;
- 8) completion of the Subdivision process prior to the application for further building permits on any lot; and,
  - 9) compliance with Engineering comments: *“A drainage easement will be required if there is any public water draining onto private property. The receiving storm drainage system will need to be analyzed to show that it has the capacity and functionality to receive drainage from the proposed development. Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. 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.”*

The motion carried unanimously.

**GROUP APPLICATIONS:**

**Case #SUB2009-00184 (Subdivision)**

**EBM Midtown Subdivision**

27, 51, 53, and 57 Alexander Street and 2607 and 2609 Cameron Street  
South side of Cameron Street, extending from Alexander Street to Boyles Lane, and  
extending to the West side of Alexander Street, 100'± South of Cameron Street  
Number of Lots / Acres: 1 Lot / 2.2± Acres  
Engineer / Surveyor: Frank A. Dagley & Associates, Inc.  
Council District 1

The Chair announced the application had been recommended for approval.

Tony Spencer, Frank A. Dagley and Associates, spoke on behalf of the applicant and made the following points regarding the matter:

- A. regarding limiting the site to three (3) existing curb-cuts, it was noted that the site actually had 4 existing curb-cuts the applicant would like to see remain and that they would be removing some two and a half that exist on the site but would be unused so they will be closed; and,
- B. the applicant advised that an application for a sidewalk waiver for a portion of Cameron Street would be submitted for the Board of Zoning Adjustment.

Jennifer White, Traffic Engineering, asked if the curb-cut onto Alexander Street in front of the garage would be one of those the applicant planned to eliminate and was advised by the applicant's representative that all of the curb-cuts to Alexander Street would be removed. Upon hearing that, Ms. White stated her department would have no problem

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with the curb-cut on Cameron Street that lead to the garage remaining.

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 the subdivision is limited to four (4) existing curb-cuts to Cameron Street (with one of the curb-cuts widened for two-way use), with the size, design, and location to be approved by Traffic Engineering and in conformance with AASHTO standards;
- 2) placement of a note on the final plat stating that the subdivision is denied direct access to Alexander Street;
- 3) provision of an adequate radius, in compliance with Section V.B.16. of the Subdivision Regulations, at the corner of Cameron and Alexander Streets;
- 4) labeling of the lot with its size in square feet, or provision of a table on the plat with the same information;
- 5) 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;
- 6) submission of two revised Planned Unit Development site plans to the Planning Section of Urban Development prior to signing the final plat; and,
- 7) subject to Engineering comments: *“Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. 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. At the corner of Cameron St and Alexander St, need to dedicate to the City a radius of 25’ or as otherwise approved by the City Engineer.”*

The motion carried unanimously.

**Case #ZON2009-03109 (Planned Unit Development)**

**EBM Midtown Subdivision**

27, 51, 53, and 57 Alexander Street and 2607 and 2609 Cameron Street  
South side of Cameron Street, extending from Alexander Street to Boyles Lane, and extending to the West side of Alexander Street, 100'± South of Cameron Street; and East side of Tacon Street, 307'± South of Cameron Street  
Planned Unit Development Approval to amend a previously approve Planned Unit Development to allow multiple buildings on a single building site and allow off-site parking on a separate building site

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Council District 1

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

- 1) **completion of the subdivision process;**
- 2) **placement of a note on the site plan stating “*Planned Unit Development review is site plan specific; therefore any future changes (parking, structure expansion, etc.,) must be resubmitted for Planned Unit Development review, and be approved through the planning process*”;**
- 3) **placement of a note on the site plan stating that the site is denied direct access to Alexander Street;**
- 4) **removal of all existing curb cuts along Alexander Street, to be replaced with curbing and landscaping;**
- 5) **provision of buffers, compliant with Section 64-4 of the Zoning Ordinance, along both Cameron and Alexander Streets where across from residentially zoned properties;**
- 6) **placement of a note on the site plan stating that, per Section 64-6.A.3.c of the Zoning Ordinance, any lighting for the parking lot shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic;**
- 7) **subject to 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 50” Live Oak Tree located on the center of Lot 1 and the 80” Live Oak Tree located on the South East side of Lot 1. Any work on or under these trees shall be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger. Compliance with frontage tree requirements of the Zoning Ordinance; number and location of trees shall be coordinated with Urban Forestry*”;**
- 8) **depiction of a dumpster, screened from view and in compliance with Section 64-4.D.9. of the Zoning Ordinance, as well as with all other applicable regulations, or the provision of a note on the site plan stating that no dumpster will be provided;**
- 9) **provision of sidewalks along both Cameron and Alexander Streets, or the submission and approval of a sidewalk waiver;**
- 10) **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;**

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- 11) submission of two revised Planned Unit Development site plans to the Planning Section of Urban Development prior to signing the final subdivision plat; and,
- 12) subject to Engineering comments: *“Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. 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. At the corner of Cameron St and Alexander St, need to dedicate to the City a radius of 25’ or as otherwise approved by the City Engineer.”*

The motion carried unanimously.

**OTHER BUSINESS:**

Hearing no further business, the meeting was adjourned.

**APPROVED:**            March 18, 2010

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Dr. Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

jsl