

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF DECEMBER 3, 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.
Herbert C. Jordan
Mead Miller
Roosevelt Turner
John Vallas

Members Absent

Nicholas H. Holmes, III
James F. Watkins, III

Urban Development Staff Present

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

Others Present

John Forrester,
City Engineering

Jennifer White,
Traffic Engineering

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

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

HOLDOVERS:

Case #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 Hines, 8277 Howells Ferry Road, Mobile, AL, spoke on his own behalf and asked that the matter be held over so that the staff's concerns could be addressed.

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 January 7, 2010, meeting.

The motion carried unanimously.

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 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 Dr. Rivizzigno, to approve the above referenced subdivision, subject to the following conditions:

- 1) **revision of the plat to correct the property dimension along Anton Street;**
- 2) **retention of all plat notes on the preliminary plat;**
- 3) **provision of a note on the final plat limiting the site to two curb cuts to Anton Street, with the size, design, and exact location of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) **depict compliance with Engineering Comments: *“Must comply with all stormwater and flood control ordinances. Add a note to the plat that detention must be provided and a land disturbance permit will be required for any cumulative increase in impervious area added to the site in excess of 4000 square feet. Wetlands are shown on the City of Mobile GIS database. Need to show the limits of the wetlands on the plat or supply documentation that the wetlands do not exist. Add a note to the plat that any development within the limits of the wetlands is prohibited without the approvals of the City Engineer and the Corps of Engineers. Any work performed in the right-of-way will require a right-of-way permit”;***
- 5) **provision of a note on the final plat stating that the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities; and,**

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- 6) provision 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.

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)

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 Dr. Rivizzigno, to approve the above referenced request for rezoning, 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 #SUB2009-00160 (Subdivision)

McGill-Toolen High School Subdivision, Phase 2

100 North Catherine Street

Northeast corner of North Catherine Street and Old Shell Road

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

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

Council District 2

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

The Chair announced the matter was recommended for holdover by the staff based on a legal opinion by the Planning Commission Attorney, but if there were those present who wished to speak to please do so at that time.

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Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 17, 2009, meeting.

The motion carried unanimously.

Case #ZON2009-02659 (Planned Unit Development)

McGill-Toolen High School Subdivision, Phase 2

1501 Old Shell Road

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

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

Council District 2

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

Subdivision, Phase 2, above, and, **Case #ZON2009-02660 (Planning Approval)**

McGill-Toolen High School Subdivision, Phase 2, **Case #ZON2009-02661 (Rezoning)**

Archbishop of Mobile, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

The Chair announced the matter was recommended for holdover by the staff based on a legal opinion by the Planning Commission Attorney, but if there were those present who wished to speak to please do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 17, 2009, meeting.

The motion carried unanimously.

Case #ZON2009-02660 (Planning Approval)

McGill-Toolen High School Subdivision, Phase 2

1501 Old Shell Road

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

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

Council District 2

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

The Chair announced the matter was recommended for holdover the staff based on a legal opinion by the Planning Commission Attorney, but if there were those present who wished to speak to please do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 17, 2009, meeting.

The motion carried unanimously.

Case #ZON2009-02661 (Rezoning)

Archbishop of Mobile

106 North Catherine Street

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

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

Council District 2

(Also see **Case #SUB2009-00160 (Subdivision) McGill-Toolen High School Subdivision, Phase 2**, **Case #ZON2009-02659 (Planned Unit Development) McGill-Toolen High School Subdivision, Phase 2**, and, **Case #ZON2009-02660 (Planning Approval) McGill-Toolen High School Subdivision, Phase 2**, above, and, **Case #ZON2009-02662 (Rezoning) Archbishop of Mobile**, below)

The Chair announced the matter was recommended for holdover the staff based on a legal opinion by the Planning Commission Attorney, but if there were those present who wished to speak to please do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 17, 2009, meeting per the advice of the City's legal department.

The motion carried unanimously.

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Case #ZON2009-02662 (Rezoning)

Archbishop of Mobile

100 North Catherine Street

Northeast corner of North Catherine Street and Old Shell Road

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

Council District 2

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

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

McGill-Toolen High School Subdivision, Phase 2, Case #ZON2009-02660 (Planning Approval) McGill-Toolen High School Subdivision, Phase 2, and, Case #ZON2009-02661 (Rezoning) Archbishop of Mobile, above)

The Chair announced the matter was recommended for holdover by the staff based on a legal opinion by the Planning Commission Attorney, but if there were those present who wished to speak to please do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the December 17, 2009, meeting per the advice of the City's legal department.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2007-00284 (Subdivision)

Bellingrath Road Country Club Estates Subdivision, Second Addition to

8031 Bellingrath Road

East side of Bellingrath Road, 545'+ South of the East terminus of Mardanne Drive

Number of Lots / Acres: 33 Lots / 25.3± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

County

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to approve the above request for extension and the applicant was advised that future extensions will be unlikely.

The motion carried unanimously.

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Case #SUB2008-00244 (Subdivision)
Tillmans Square Subdivision, Re-subdivision of Lot 1

5441 U.S. Highway 90 West
East side of Highway U. S. 90 West, 200'± North of Coca Cola Road
Number of Lots / Acres: 2 Lots / 11.1± Acres
Engineer / Surveyor: Rester & 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. Plauche, with second by Dr. Rivizzigno, to approve the above request for extension and the applicant was advised that future extensions will be unlikely.

The motion carried unanimously.

Case #SUB2008-00243 (Subdivision)
Pinehurst Subdivision, Delaney's Addition to Springhill, Block 10, Re-subdivision of and Addition to Lots 9, 10 and 11

Northeast corner of Louise Avenue and Howard Street (unopened public right-of-way, to be vacated)
Number of Lots / Acres: 4 Lots / 0.6± Acre
Engineer / Surveyor: Rester and Coleman Engineers, Inc.
Council District 6

(Also see **Case #ZON2008-02706 (Planned Unit Development) Pinehurst Subdivision, Delaney's Addition to Springhill, Block 10, Re-subdivision of and Addition to Lots 9, 10 and 11**, below)

Mr. Davitt 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.

Mr. Olsen advised Don Coleman, Rester and Coleman Engineers, Inc., the applicant's representative, that the necessary advertisement fees for the rezoning associated with this application needed to be paid no later than December 4, 2010, as it would expire at that time. He stated time was limited as the packet had to be sent to the City Clerk's office as well. He then explained that rezoning applications were only good in the preliminary recommended stage for one year, which was about to expire and if it were allowed to expire, it would have to come back before the Commission.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to approve the above request for extension; however, the applicant was advised that a second extension would be unlikely.

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The motion carried unanimously.

Case #ZON2008-02706 (Planned Unit Development)
Pinehurst Subdivision, Delaney's Addition to Springhill, Block 10, Re-subdivision of and Addition to Lots 9, 10 and 11

Northeast corner of Louise Avenue and Howard Street (unopened public right-of-way, to be vacated)

Planned Unit Development Approval to allow reduced lot sizes and widths, reduced front and side yard setbacks, and increased site coverage in a single-family residential subdivision.

Council District 6

(Also see **Case #SUB2008-00243 (Subdivision) Pinehurst Subdivision, Delaney's Addition to Springhill, Block 10, Re-subdivision of and Addition to Lots 9, 10 and 11**, above)

Mr. Davitt 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. Plauche, with second by Mr. DeMouy, to approve the above request for extension; however, the applicant was advised that a second extension would be unlikely.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2009-00169

Joy Place Subdivision

171 Crenshaw Street and 2156 Clearmont Street

Northeast corner of Crenshaw Street and Clearmont Street

Number of Lots / Acres: 1 Lot / 0.2± 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 Dr. Rivizzigno, with second by Mr. Vallas, to approve the above referenced subdivision, subject to the following conditions:

- 1) depiction of the right-of-way widths for Crenshaw Street and Clearmont Street, and dedication to provide 25-feet from the centerline if necessary;**

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- 2) placement of a note on the final plat stating that the lot is limited to two curb-cuts along Clearmont Street with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 3) depiction of the 25-foot minimum building setback line along Crenshaw Street, and the waiver of 25-foot setback in lieu of the 9.7-foot building setback line along Clearmont Street;
- 4) labeling of the lot with its size in square feet, or the provision of a table on the plat furnishing 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) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2009-00167

Corinne Whiting Place

2173 Venetia Road

South side of Venetia Road, ¼ mile± West of Point Legere Road

Number of Lots / Acres: 3 Lots / 5.0± Acres

Engineer / Surveyor: Byrd Surveying, 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 waive Sections V.D.1. and 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 Lot 3 is limited to one curb cut, while Lots 1 and 2 are limited to one shared curb cut to Venetia Road, with the size, location, and design to be approved by Traffic Engineering and in conformance with AASHTO standards;
- 2) labeling of each lot with its size in square feet, or the provision of a table on the final plat with the same information;
- 3) revision of the minimum building setback line on Lot 1 to provide at least 25' from where the "pole" intersects the "flag" portion of the lot;
- 4) placement of a note on the final plat stating that no future subdivision of Lot 1 is allowed until additional adequate frontage on a public street is provided;
- 5) demolition of the existing structure prior to signing the final

- plat;
- 6) 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;
 - 7) 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,
 - 8) compliance with Engineering comments: *“Label each lot showing the required minimum finished floor elevation (MFFE). The site is located in the AE Flood Zone; add a note to the plat stating that there is to be no fill brought onto the property without the approval of the City Engineer. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit.”*

The motion carried unanimously.

Case #SUB2009-00168

Herrington’s Subdivision

8969, 8979 and 8999 Padgett Switch Road

East side of Padgett Switch Road, 420'± South of Lee Circle West, extending to the West side of Jamestown Drive

Number of Lots / Acres: 5 Lots / 4.5± Acres

Engineer / Surveyor: D. Brad Busby

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.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the January 7, 2010, meeting, with revisions due by Wednesday, December 16, 2009, to address the following:

- 1) **submittal of authorization from the property owner for inclusion of the proposed Lot 5 (West 290 feet of Lot 1, Re-subdivision of Lot 22 Jamestown Estates First Addition MB 67 MP 54); and,**
- 2) **submittal of a new preliminary plat showing the revised Legal Description which incorporates the proposed Lot 5 area.**

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2009-02783

United Rentals

1413 Montlimar Court

Northeast corner of Montlimar Court and Montlimar Drive, extending to the Southeast corner of Montlimar Drive and Pleasant Valley Road

Request to waive construction of sidewalks along Montlimar Drive and Pleasant Valley Road

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.

Frank Dagley, Frank A. Dagley and Associates, spoke on behalf of the applicant and made the following points in favor of approval:

- A. the Commission recently approved a Planned Unit Development for the site;
- B. a sidewalk along Pleasant Valley Road would run towards Montlimar Creek effectively “funneling” people into the creek as the guardrail for the creek was located at almost the corner of the driveway for the property in question;
- C. noted a similar situation at Bolton’s Branch where the sidewalk was waived because it led to the creek; and,
- D. along Montlimar Drive, there was no issue with putting the sidewalk in from the intersection of Montlimar Drive and Pleasant Valley Road to the driveway at Montlimar Court, however, the property fronts the old Montlimar Drive and terminated at a barricade, so the thought was the sidewalk would lead “no where.”

The Chair asked Mr. Olsen for more explanation regarding the location of the proposed sidewalk.

Mr. Olsen delineated the sidewalk visually on screen and then explained that based on Engineering comments there were no engineering reasons that the sidewalk could not be constructed. He expressed thoughts that if it were determined that the current plan were not feasible, then it might be possible for the Engineering Department to work with the applicant towards a design that would be constructible. He added that if the Commission felt that carrying the sidewalk all the way to bridge would be a problem, then staff might possibly recommend bringing the sidewalk around the corner and up to the applicant’s driveway, a logical spot to end the sidewalk if were not completely constructed.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to approve a partial waiver for the Pleasant Valley Road

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frontage, from the driveway to the east property line and require construction of the sidewalk along Pleasant Valley Road, from the driveway west, to the intersection with Montlimar Drive; and along Montlimar Drive from the intersection with Pleasant Valley Road southerly to a point where a projection of the southern property line intersects the sidewalk, as discussed during the public hearing.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2009-02782

Dominion Senior Living of West Mobile, LLC

901 Somerby Drive

Northeast corner of Somerby Drive and Somerby Way [private street]

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow the expansion of an existing assisted living facility

Council District 6

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

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

- 1) **compliance with Engineering comments:** *“A land disturbance permit is required for any proposed land disturbance to the site. The Engineer of Record will be required to submit a certification stating that the existing detention system is functioning and adequately sized to accommodate any increase in impervious area or additional detention will be required. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit”*; and,
- 2) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2009-00170 (Subdivision)

White Oak Subdivision

328 Dogwood Drive

Northwest corner of Dogwood Drive and Oak Ridge Road

Number of Lots / Acres: 7 Lots / 1.0± Acre

Engineer / Surveyor: Goodwyn, Mills & Cawood, Inc.

Council District 5

(Also see Case #ZON2009-02785 (Planned Unit Development) **White Oak Subdivision**, and, Case #ZON2009-02786 (Rezoning) **Goodwyn, Mills & Cawood, Inc.**, below)

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 development:

- Shane Sawyer, Goodwyn, Mills, and Cawood, Inc., for the applicant; and,
- Todd Martin, 14 Midtown Park, Mobile, AL, the property developer in question.

They made the following points in favor:

- A. the developer desired to create a “gateway” into the neighborhood, which might be perceived as “out of character” for the neighborhood, as the homes would be more “upscale” than those currently in the area;
- B. the developer owns a number of properties in the neighborhood, so the proposed development would effect those properties just as much as it would effect the neighboring property owners;
- C. the developer has been invested in the neighborhood for over the past 10 years and has been trying to improve it through out that period;
- D. presented current pictures of the neighborhood in an effort to established that the proposed development though different from the current conditions would be an improvement to the area;
- E. the proposed market for the proposed homes is “empty nesters” who want the convenience of living near shopping, as well as the comfort of living within a community but without the usually large area of property upkeep associated with that;
- F. stated the proposed development would consist of brick patio homes with 1600 square foot to 1800 square foot of living space priced some \$50,000.00 to \$100,00.00 higher than the existing home values currently in the neighborhood;

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- G. though it may seem like “spot” zoning, it is really more of a “gateway” type situation as the proposed development will be situated at the “front” of the overall subdivision; and,
- H. the proposed development would also create a 600% increase in the City’s ad valorem tax revenue.

The following people spoke against the development:

- Albert Van Hoogmoed, 4655 Oak Ridge Road, Mobile, AL;
- Kathryn Brouillette, 4604 Oak Ridge Road, Mobile, AL;
- Edward Meyer, 4600 Oak Ridge Road, Mobile, AL; and,
- Rev. Bobby Cunningham, 422 Ridge Crest Court, Mobile, AL.

They made the following points in opposition:

- A. 256 signatures from area home owners and residents who are opposed to the project;
- B. the neighborhood covenants state lots can be subdivided but only to lots with a minimum of 32,000 square feet and the lots proposed are much smaller than that in size;
- C. it was felt that there were better places in the neighborhood to put a proposed subdivision and illustrated the same;
- D. feelings that the houses would be overpriced and would sit vacant, inviting crime;
- E. the development appeared to look like a “mobile home park;”
- F. the street was too small to accommodate the increase in traffic the subdivision would create;
- G. enjoyed the older character of the neighborhood with its trees and shrubs;
- H. the proposed development does not appear to be conducive to children as it has no yard space for them to play in;
- I. the son of one of the original land owners stated when the property was originally subdivided, it was done so with covenants in place to assure neighborhood growth for children;
- J. noted the large number of people attending the meeting that day who were in opposition to the matter;
- K. feelings that as homeowners they should have some type of input on what will take place around them as those homes represent the possible largest investment of their lives; and,
- L. belief that the covenants put in place by the homeowners were in place to protect their rights as homeowners.

In response to the opposition’s comments, Mr. Sawyer stated the homes would not be built until there were buyers for them, so concerns of homes built and standing vacant were unwarranted. He then added that as there was so much concern expressed at the meeting, the applicant wished to have the matter held over to address those concerns.

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Mr. Vallas commented that the lots to the south appeared to have been subdivided previously and hoped those would help provide some type of guidelines for subdividing that would be perceived as non offensive to the current residents.

Mr. Olsen responded that, though uncertain, he believed the properties pointed out did go through the subdivision process. He added that, based upon comments made by neighbors, the properties were in compliance with the subdivision covenants. He then stated that as the Commission was well aware, the enforcement of covenants was a civil matter and not within the Commission's purview.

Mr. Davitt stated that there was a similar development on Wicker Way (approximately a block away from the proposed development) and that patio type homes had been built by the Mark Thomas Corporation on Morrison Drive several years prior. He noted that he felt similar projects did exist in the area so he was not sure of why the proposed development was "out of character."

Mr. Miller asked for a show of hands from those in attendance who were in opposition to the matter and he noted a large number of people against the matter.

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Vallas, to hold the matter over until the January 7, 2010, meeting, at the applicant's request.

The motion carried unanimously.

Case #ZON2009-02785 (Planned Unit Development)

White Oak Subdivision

328 Dogwood Drive

Northwest corner of Dogwood Drive and Oak Ridge Road

Planned Unit Development Approval to allow reduced lot sizes and widths, reduced side yard setbacks, and increased site coverage in a single-family residential subdivision

Council District 5

(Also see **Case #SUB2009-00170 (Subdivision) White Oak Subdivision**, above, and, **Case #ZON2009-02786 (Rezoning) Goodwyn, Mills & Cawood, Inc.**, below)

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Vallas, to hold the matter over until the January 7, 2010, meeting, at the applicant's request.

The motion carried unanimously.

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Case #ZON2009-02786 (Rezoning)

Goodwyn, Mills & Cawood, Inc.

328 Dogwood Drive

Northwest corner of Dogwood Drive and Oak Ridge Road

Rezoning from R-1, Single-Family Residential District, to R-2, Two-Family Residential District, to allow a single-family residential subdivision with reduced lot sizes and increased site coverage.

(Also see **Case #SUB2009-00170 (Subdivision) White Oak Subdivision**, and, **Case #ZON2009-02785 (Planned Unit Development) White Oak Subdivision**, above)

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Vallas, to hold the matter over until the January 7, 2010, meeting, at the applicant's request.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Olsen advised the Commission that the City Council's Attorney's office, based upon a recent court case, had asked the staff to remind the Commission members that there were time constraints for the approval of applications that involved telecommunications towers. He noted that a time frame of 90 to 150 days for those applications to go through the approval process was considered "timely." Mr. Olsen stated that the Commission normally did not have any issues with such a time frame as the Planning Approval and Planned Unit Development proposals were usually included in one application. He also noted the only time such a matter would go before the City Council were if there were an appeal or a rezoning involved.

Hearing no further business, the meeting was adjourned.

APPROVED: March 18, 2010

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

jsl