

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JUNE 20, 2002 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Robert Frost, Chairman
Victor McSwain, Secretary
Ann Deakle
Terry Plauche
Victoria Rivizzigno
John Vallas
Norman Hill (S)

Members Absent

Wendell Quimby, Vice Chairman
Reverend Clinton Johnson
James Laier (S)

Staff Present

Laura J. Clarke, Director
Christopher Boone, Deputy Director
Land Use Administration
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Angie Etheridge, Secretary III

Others Present

John Lawler, Asst. City Attorney
David Daughenbaugh, Urban Forestry
Deborah Leo, Traffic Engineering
Beverly Terry, City Engineering
Shayla Jones, Long Range Planning
Pat Stewart, County Engineering

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

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

HOLDOVERS:

Case #SUB2002-00098

Balles Subdivision

2600 Granada Avenue (Northeast corner of Knollwood Drive and Granada Avenue).
2 Lots / 2.2± Acres

There was no one present on behalf of this request.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to deny this subdivision for the following reason:

- 1) the applicant failed to provide information or documentation as requested by the staff and there was no one present on behalf of the application.

The motion carried unanimously.

Case #SUB2002-00090

Rosedale Subdivision, Striverson's Addition to

2206 John's Lane (West side of John's Lane, 870'± South of Military Road).
2 Lots / 0.6± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendations to hold over this request to allow the staff an opportunity to review the additional information submitted by the applicant.

A motion was made by Mr. Frost and seconded by Mr. McSwain to hold over this subdivision to the July 11, 2002 meeting to allow the staff to review the additional information submitted.

The motion carried unanimously.

EXTENSION:

**Case #SUB2001-00154 (Subdivision)
Tew's Addition to Creekline Subdivision**

Northeast corner of Crown Drive and Cypress Business Park Drive.
12 Lots / 9.1± Acres
Request for a one-year extension of previous approval.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to approve a one-year extension of previous approval for this subdivision.

The motion carried unanimously.

GROUP APPLICATIONS:

**Case #ZON2002-01292 (Planning Approval)
New Home Baptist Church, (Rev. Marvin Langham, Agent)**

1308 Wellington Street (East side of Wellington Street, 135'± North of Chestang Avenue, extending to the West side of Next Street).
A request for Planning Approval to allow a church in an R-1, Single-Family Residential district was considered.

The plan illustrates the existing structure and parking.

AND

**Case #SUB2002-00120 (Subdivision)
New Home Baptist Church Subdivision**

1308 Wellington Street (East side of Wellington Street, 135'± North of Chestang Avenue, extending to the West side of Next Street).
1 Lot / 0.8± Acre

Reverend Marvin Langham, applicant, 1301 Wellington Street, was present. Reverend Langham addressed the staff's recommendation that the existing drive to Next Street be eliminated. He pointed out that if the Next Street exit were closed there would be only one way in and one way out, and their plan was to come in on Wellington Street and exit onto Next Street. He also pointed out there was a playground area on the subject site that was already fenced off.

Mr. Frost pointed out that the staff report included comments suggesting a one-way pattern entering on the South side of the building, with queuing for the drop-off around the rear of the building, and asked if the proposal as stated by Rev. Langham was agreeable with Traffic Engineering.

Mr. Olsen reported that Traffic Engineering had approved a one-way traffic pattern, starting on the southeast and going around to the southwest to exit onto Next Street. He noted that both Next Street and Wellington Street were all residential.

Mr. Frost understood the site would include a one-way circular drive, and recommended that the application be held over because the plan presented and discussed by the applicant at the meeting was not the same as the plan reviewed by the staff.

Mr. Hill expressed concern about the traffic flow, and asked how frequent the driveway would be used. Rev. Langham noted that the church included a day care and the children would be dropped off under the canopy each day, coming in on Wellington Street and going out onto Next Street.

There was no one present in opposition.

In discussion Mr. Olsen pointed out that there were many differences in the applicant's presentation at the meeting and the site plan submitted to the staff and felt the staff should request a revised plan for review.

A motion was made by Mr. Hill and seconded by Mr. Plauche to hold over these requests to the July 25, 2002 meeting to allow the staff to review a revised site plan including the playground as described to the Planning Commission.

The motion carried unanimously.

Case #ZON2002-01302 (Rezoning)

Premier Capital Funding, Inc.

3241 South Avenue (Northwest corner of South Avenue and West I-65 Service Road North).

A request for a change in zoning from R-1, Single-Family Residential, to B-1, Buffer Business for professional offices was considered.

The site plan illustrates the proposed building, proposed parking and proposed lots.

AND

Case #SUB2002-00129 (Subdivision)

Werkland Subdivision, Resubdivision of Lot 8 and Parts of Lots 9 & 10

3241 South Avenue and 65 South Bishops Lane (North side of South Avenue, extending from West I-65 Service Road North to South Bishops Lane).

2 Lots / 0.5± Acre

Philip Burton, Premier Capital Funding, Inc., was present. Mr. Burton said he understood this application was recommended to be held over to allow the submittal of additional information regarding the ownership and the submission of a revised plan to show the existing line of commercial zoning.

Mr. Boone noted that the plan indicated a landlocked piece of property – proposed lot 7 - which appeared to be owned by Premier Capital Funding, Inc.

Mr. Frost asked if the staff had received satisfactory information that the other property was inclusive, or if further notices would be required.

Mr. Boone reported that the staff had not had sufficient time to review any additional information.

Marshall McLeod, Marshall A. McLeod, P.L.S., L.L.C., applicant, stated that the ownership issue concerned the lot that fronted on Bishop's Lane. He explained that this property had been subdivided by metes and bounds at some period in the past. He reported that the portion divided by metes and bounds had been foreclosed on recently and was in the ownership of Premier Capital Funding, Inc.; and the portion that was excluded by metes and bounds, the balance of lot 7, was also in the name of Premier Capital Funding, Inc.

Mr. Frost felt the discrepancies may have been resolved, however, the staff needed an opportunity to examine the additional documentation submitted, sort out the various ownership information, and determine whether lot 7 should be included in the site plan.

Leigh Buffkin, 61 S. Bishop Lane, was present and had no opposition to proposed lots 8, 9 and 10, but was concerned about lot 7, which appeared to be landlocked. Ms. Buffkin said she was also speaking on behalf of her neighbors.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to hold over these requests to the July 11, 2002 meeting to allow the submission of a revised plat and a revised site plan (to maintain the existing line of commercial zoning), as well as additional property owner notification information.

The motion carried unanimously.

Case #ZON2002-01300 (Rezoning)

Rester and Coleman Engineers, Inc.

959 Government Street (North side of Church Street, 100'± East of Charles Street, extending to the North side of Church Street).

A request for a change in zoning from B-2, Neighborhood Business, to R-1, Single-Family Residential, for single-family residential development was considered.

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

Don Coleman, Rester and Coleman Engineers, Inc., was present representing the applicant, and questioned whether an 8' concrete wall would serve as an adequate buffer in conformance with Condition #2 on the subdivision request.

The Commission and staff confirmed the 8' concrete wall would suffice as an adequate buffer.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Mr. Vallas to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- 1) completion of the subdivision process prior to the issuance of any permits;
and
- 2) development limited to the accompanying PUD.

The motion carried unanimously.

AND

Case #ZON2002-01301 (Planned Unit Development)

Rester and Coleman Engineers, Inc.

North side of Church Street, 100'± East of Charles Street.

A request for Planned Unit Development Approval to allow reduced lot widths and reduced lot sizes in a single-family residential subdivision was considered.

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

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

- 1) completion of the subdivision process prior to the issuance of any permits;
- 2) completion of the rezoning process prior to the issuance of any permits;
and
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

AND

Case #SUB2002-00127 (Subdivision)

Langdon Place Subdivision

959 Government Street (South side of Government Street, 100'± East of Charles Street, extending to the North side of Church Street).

3 Lots / 0.8± Acre

A motion was made by Mr. McSwain and seconded by Mr. Vallas to waive Section V.D.2 of the Subdivision Regulations and approve this subdivision subject to the following conditions:

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- 1) completion of the rezoning process prior to the issuance of permits for Lots 2 & 3;
- 2) provision of buffering along the rear line of Lot 1;
- 3) submission of a revised parking plan for the commercial site (Lot 1) and permits issued for implementation prior to completion of the subdivision process; and
- 4) placement of a note on the final plat stating driveway number, sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards.

The motion carried unanimously.

NEW PLANNING APPROVAL APPLICATION:

Case #ZON2002-01290

Cumulus Broadcasting, Inc.

2800 Dauphin Street (North side of Dauphin Street, 675'± West of Mobile Street).

A request for Planning Approval to allow a 150' monopole radio broadcasting tower in a B-3, Community Business district was considered.

The plan illustrates the existing structures and parking, along with the proposed tower location.

The staff had recommended that this request for Planning Approval be held over to the July 11, 2002 meeting to allow the submission of additional information regarding site location requirements.

Doug Anderson, of Pierce-Ledyard Law Firm, 4140 Beltline Highway, was present representing Cumulus Broadcasting, the firm that had leased part of the former Xante building on Dauphin Street, the subject site. Mr. Anderson reported that Cumulus Broadcasting owned five or six radio stations in Mobile and had already moved their operating facilities and broadcast facilities into this building at the subject location. Mr. Anderson contended that the tower on the site was in conformance with the Chart of Permitted Uses in the Zoning Ordinance since the property was zoned B-3, and he felt planning approval was not necessary. He disagreed with the staff's position that the Telecommunications Ordinance governed television and radio broadcast towers. He pointed out that the Telecommunications Ordinance mentioned nothing other than wireless telecommunications towers, and did not reference radio or television broadcasting towers. Mr. Anderson respectfully requested that the Commission approve this application because he felt the use was allowed by right. He noted that the additional information regarding site location requirements had been submitted to the staff.

Mr. Frost commented that obviously there was some conflict as to whether the Telecommunications Ordinance was intended to govern radio broadcasting towers, or not. He realized the proposed tower would serve as a permitted use in a B-3 district and said Mr. Anderson's point was well taken.

Mr. Boone commented that the adoption of regulations to govern the location of a cell tower, but not a broadcast tower, would seem peculiar.

Mr. Lawler agreed with Mr. Boone and felt the Ordinances should be more closely examined. He apologized to the Commission and the applicant for being unprepared to offer counsel with regard to this matter.

Mr. Frost felt no apology was necessary because likely this was the first occasion for a request such as this to be presented to the Commission. Mr. Frost accepted comments from the attendees.

David Wilkins, P.O. Box 1406, Mobile, 36633, an engineer with Cumulus Broadcasting, was present. Mr. Wilkins reported that Cumulus Broadcasting owned five stations in Mobile and was in the process of acquiring a sixth station. He reported that Cumulus Broadcasting was currently located at 1204 Dauphin Street and at the Festival Center.

Mr. Wilkins reported that Cumulus Broadcasting was attempting to upgrade their office space, studios, and technology. He noted that Cumulus currently employed 65 employees, and would employ 75 once the sixth station was acquired. He pointed out that these stations served a population of 387,000.

Mr. Wilkins presented photographs of the proposed site. He said the tower would be located at the very rear of the building and would be screened pretty well from sight. He reported that he had talked with other tenants of the building, as well as Mobile Gas, and they had no objections to this proposal. Mr. Wilkins stated that Cumulus Broadcasting would leave the tower located at the Festival Center for use by the police department, who currently had an antenna on that tower.

Mr. Wilkins noted that the application must receive Planning Approval before going before the Board of Adjustment to request a height variance July 8, 2002. Mr. Wilkins emphasized that holding over the application would delay both processes because the next Planning Commission meeting was scheduled for July 11, 2002; therefore, the application could not be heard by the Board of Adjustment until August. He noted this would result in a two-month delay in their permitting process for information that he felt was totally useless.

Mr. Anderson further stated that the information the staff asked them to provide was complete. He contended that the staff wanted a holdover because they wanted Cumulus to provide information that was 100 percent inapplicable to their business. He felt it was an exercise in futility for Cumulus to submit information that was not required by the Ordinance.

There was no one present in opposition.

In discussion Mr. Frost iterated there was conflict between the Zoning Ordinance and Telecommunications Ordinance, and Mr. Lawler would like an opportunity to review these ordinances; therefore, it was suggested the application be held over.

Mr. Boone noted that any tower, whether it was TV, radio or cell phones, required Planning Approval. He said the staff did not necessarily have a problem with this, but it was simply that the applicant did not supply the information required.

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

- 1) tower is to be located as far North on the site as possible, exact location to be approved by the Land Use Administration Office;
- 2) approval of all necessary variances by the Board of Adjustment;
- 3) provision of frontage trees;
- 4) provision of co-location for additional telecommunication provider(s); and
- 5) full compliance with all applicable codes and ordinances.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATION:

Case #ZON2002-01273

The Christian Bible Teaching Church

1809 and 1811 Duncan Street (Southeast corner of Duncan Street and Lesesne Street).

A request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing structures along with the proposed additions and parking.

Floyd Lynch, 133 Booker Avenue, Prichard, Alabama, was present and reported to the Commission that he would like to use the existing drive within the Duncan Street right-of-way to park the church van because parking in the rear was limited. Mr. Floyd stated

the drive would not be used as an exit and he requested that condition #2 be amended if possible.

Mr. Olsen expressed the staff's concern with parking directly in front of the church. He noted with no curb located there, and the building actually encroaching into the right-of-way, there was a risk of a vehicle hitting the structure.

Mr. Frost explained to Mr. Lynch that the regulations did not favor parking areas in, or around, driveways, as this could produce dangerous situations with cars backing out into the right-of-way.

There was no one present in opposition.

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

- 1) the screening of parking along Lesesne Street;
- 2) elimination of the drive/parking area in front of the sanctuary, to be approved by the Traffic Engineering Department and the Right-of-Way Division;
- 3) notification to the applicant that in the future, the porch may be removed at their expense, if work in the city's right-of-way necessitates its removal;
- 4) provision of landscaping and tree plantings in compliance with numbers and ratios in Section IV.E.3 of the Zoning Ordinance;
- 5) provision of a sidewalk along Duncan Street;
- 6) approval of all curb cuts by the Traffic Engineering Department; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2002-00122

Alicia Acres Subdivision, Phase I & II, Resubdivision of Lot 1

North side of Howells Ferry Road, 8/10 mile± West of Snow Road.

3 Lots / 31.5± Acres

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

John Webster, Pollard Road, Semmes, AL, was present. Mr. Webster said he was a property owner directly to the north of this site and was concerned that this subdivision would landlock 7 acres of his property. He noted that there was a lake that cut his property at the southern boundary.

Mr. Frost asked how Mr. Webster currently accessed his property.

Mr. Webster replied that he entered from Snow Road.

Mr. Frost asked Mr. Webster if he traveled across any of the 3 lots shown on the plat for the proposed subdivision.

Mr. Webster replied that he did not. He said a portion of his property abutted the applicant's and he would like to have access to the stubout to access his 7 acres.

Matt Orrell, Polysurveying Engineering – Land Surveying, was present representing the applicant. Mr. Orrell said this is simply a resubdivision of something that had already been approved, and they were dividing a large lot into 3 smaller lots. Mr. Orrell noted there was a private road on the west side of the site, and he did not know if this was Mr. Webster's means of access.

Mr. Webster said there was an 80' strip of right-of-way owned by the School Board that went all the way back to his property.

Ty Irby, 1551 Schillinger Road, was present representing Dr. and Mrs. Alden Dudley of Roanoke, Virginia, who actually owned property to the west that he sold for them to the School Board several years ago. Mr. Irby reported there was ten acres in between the subject property and the school board property. He did not think there had ever been any 80' easement or right-of-way.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve this subdivision subject to the following conditions:

- 1) the provision of a 75' setback from the centerline to provide for the right-of-way of the planned major street, which includes the required 25' minimum building setback;
- 2) the placement of a note on the final plat stating that each lot is limited to one curb cut each to Howell's Ferry Road, with the location and design to be approved by the County Engineering Department; and
- 3) the placement of note on the final plat stating that if any lot is developed commercially and adjoins residential property, a buffer in compliance with Section V.A.7 of the Subdivision Regulations will be provided.

The motion carried unanimously.

Case #SUB2002-00123

Anthony Estates Subdivision

4320 and 4330 Moffett Road (North side of Moffett Road, 200'+ West of Kuffskie Lane).
2 Lots / 1.2± Acres

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

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut to Moffett Road, with the location and design to be approved by the Traffic Engineering Department; and
- 2) the site be rezoned to R-1, Single-Family Residential, prior to the recording of the final plat.

The motion carried unanimously.

Case #SUB2002-00124

Baird-Coxwell Farmettes

East side of Baird Coxwell Road, 650'+ South of McLeod Road.
3 Lots / 9.5± Acres

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

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that each lot is limited to one curb to Baird-Coxwell Road, with the location and design to be approved by the County Engineering Department;

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- 2) the placement of a note on the final plat stating that if any property is developed commercially and adjoins residential property, a buffer in compliance with Section V.A.7 of the Subdivision Regulations will be provided; and
- 3) the provision of the twenty-five minimum building setback line on the final plat.

The motion carried unanimously.

Case #SUB2002-00118

Carpenter's Corner Subdivision

Southeast corner of Marine Street and Savannah Street.

1 Lot / 0.2± Acre

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

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following condition:

- 1) approval of the Architectural Review Board.

The motion carried unanimously.

Case #SUB2002-00117

Cottage Hill Woodlands Addition Subdivision

West side of Knollwood Drive at the West terminus of Granada Avenue.

1 Lot / 1.5± Acres

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

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- 1) placement of a note on the final plat stating that the development is limited to one curb cut to Knollwood Drive, with the size, location and design to be approved by the Traffic Engineering Department; and
- 2) placement of the required 25' minimum building setback line along Knollwood Drive.

The motion carried unanimously.

Case #SUB2002-00116

Howell Estates Subdivision

5633 Howells Ferry Road (Southeast corner of Howells Ferry Road and Dover Street).

3 Lots / 0.9± Acre

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

Mr. Boone noted that the condition should be amended to reflect that access was denied to Howells Ferry Road.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following condition:

- 1) placement of a note on the final plat stating that Lot 1 is denied access to Howells Ferry Road and limited to one curb cut to Dover Street, with the size, location and design to be approved by the Traffic Engineering Department.

The motion carried unanimously.

Case #SUB2002-00125

Omni Office Park Subdivision, Sixth Addition

North side of Omni Park Drive, 415'± East of Hillcrest Road.

1 Lot / 0.4± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendation to hold this application over to the July 11, 2002 meeting.

There was no one present in opposition.

A motion was made by Mr. Hill and seconded by Dr. Rivizzigno to hold over this subdivision to the July 11, 2002 meeting to allow the staff to review a revised plat.

The motion carried unanimously.

Case #SUB2002-00119

Roberson Subdivision

356 North Catherine Street and 1511 Delusser Street (East side of Catherine Street, 90'± South of Delusser Street, extending to the South side of Delusser Street, 85'± East of Catherine Street).

2 Lots / 0.2± Acre

The staff had recommended that this subdivision be denied for the following reasons:

- 1) *Lot 2 would not meet the minimum square footage requirements of the Subdivision Regulations;*
- 2) *the subdivision would be out of character with the surrounding neighborhood; and*
- 3) *the proposed subdivision does not include the overall "parent" lots.*

Charles Roberson, applicant, 356 N. Catherine Street, was present. Mr. Roberson explained his plan was to move the property line up in order to build a garage. He said he owned both pieces of the property, which was L-shaped.

Mr. Frost explained that the staff's concern was that this would be further expanding a substandard lot because technically, this property was not in conformance with the Subdivision Regulations. Mr. Frost asked if the Commission had discretion to approve lots such as these.

Mr. Lawler advised that the Commission had the authority to waive some of the requirements of the Ordinance if there was a hardship with the property.

There was no one present in opposition.

A motion was made by Mr. Hill and seconded by Mr. Plauche to approve this subdivision subject to the following condition:

- 1) placement of the required 25' minimum building setback line.

The motion carried unanimously.

Case #SUB2002-00128

Southern Waste Subdivision

Southwest corner of Baker Sorrell Road and Dauphin Island Parkway.

3 Lots / 11.5± Acres

Don Rowe, Rowe Surveying and Engineering Company, Inc., was present representing the applicant. Mr. Rowe requested that one curb cut be allowed on both Dauphin Island Parkway and Sorrell Road. He said this would aid traffic flow in this industrial area.

Mr. Frost noted that customarily a curb cut would be restricted to one street or the other on a corner lot like this.

Dr. Rivizzigno noted this policy had been in practice for many years.

There was no one present in opposition.

A motion was made by Mr. Vallas and seconded by Ms. Deakle to approve this subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that the size, location, design and number of curb cuts on Lot 1 is to be approved by County Engineering, Lot 2 is limited to two curb cuts to Baker Sorrell Road and Lot 3 is limited to one curb cut to Dauphin Island Parkway, with the size, location and design to be approved County Engineering;
- 2) the placement of a note on the final plat stating that any lot that is developed commercially and adjoins residentially developed property shall provide a buffer in compliance with Section V.A.7 of the Subdivision Regulations; and
- 3) the approval of all applicable federal, state and local agencies.

The motion carried unanimously.

Case #SUB2002-00126

Wakefield Place Subdivision, Unit Two

West terminus of East Southhill Drive, extending to the East terminus of Southhill Drive.
30 Lots / 13.7± Acres

The staff had recommended that this request be held over to allow the submission of a revised plat.

Don Coleman, Rester and Coleman Engineers, Inc., was present representing the applicant. Mr. Coleman reported that a revised plat had been furnished to the staff and he would like to request that the Commission approve this request because the subdivision was under construction.

Mr. Boone said this was the same situation as the Rosedale Subdivision in that the staff received the revised plat after mail out.

Mr. Frost reported that the Commission preferred to see the entire plan and he would recommend that the request be held over unless Mr. Coleman could give a compelling reason as to why this application should not be held over.

Mr. Coleman reported the plat was not recorded when this subdivision was approved December 30, 1998, and he was willing to abide by the same conditions originally approved.

Mr. Boone said the staff would recommend (1) dedication and construction of the street to County standards; and (2) the approval of all applicable state, federal and local regulations, if the Commission granted approval.

Judy Dempster of Easthill Court was present and expressed concerns due to the possibility that an extension of I-10 may run through this property. She felt the prospective property owners should be aware that this extension was planned. She also questioned whether a buffer would be required at the site.

Mr. Boone recommended that Ms. Dempster contact authorities at ALDOT concerning the alignment of the bypass and directed the Commission's attention to the fact that the subject property was located within the Planning Jurisdiction.

Mr. Frost stated that the bypass was really not the issue under consideration today and would actually be a matter to be conveyed between the developer and the purchasers of the property. Mr. Frost stated that typically a buffer was not required between two residential developments.

Erik Bertelsen, 1251 Easthill Court, was present. Mr. Bertelsen also questioned why one would develop a subdivision at this location when a bypass was possibly scheduled to be developed through the center of the property. He felt notification of the potential for a by-pass through the subdivision should be given to the people who planned to purchase the lots.

Mr. Frost stated that the location and date of construction was undetermined at this time and it could be many years in the future.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve this subdivision subject to the following conditions:

- 1) dedication and construction of proposed streets to County standards; and
- 2) approval from all applicable federal, state and local agencies.

The motion carried unanimously.

Case #SUB2002-00121

Youngstowne Hill Subdivision

West terminus of Youngstowne Drive.

62 Lots / 40.0± Acres

Donna Lee, Speaks & Associates Consulting Engineers, Inc., was present representing the applicant and requested that the request be held over to the next meeting.

Ronnie Tanner, 2500 Raymond Tanner Road, Semmes, AL, was present and owned the property north of this subdivision. Mr. Tanner agreed with conditions 3, 4 and 5 as recommended by the staff.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to hold over this subdivision to the July 11, 2002 meeting as requested by the applicant.

The motion carried unanimously.

OTHER BUSINESS:

Public Hearing: Dedication/Setback requirements along Mobile Street Between Dauphin Street and Old Shell Road for Future Widening

A public hearing was held to allow comments from the general public and to establish the Commission's policy regarding acquisition of right-of-way for the future widening of Mobile Street, between Dauphin Street and Old Shell Road.

Doug Anderson, of Pierce-Ledyard Law Firm, 4140 Beltline Highway, was present as the attorney for UMS Wright School, and also a parent of a UMS student. Mr. Anderson handled land use matters for UMS-Wright several years ago and wanted to give a brief history. Mr. Anderson explained that the policy for the City of Mobile since UMS-Wright moved to this site in 1956 was to require the dedication of all right-of-way for future expansion from the east side of the street. He said that policy continued until 1999 when he was serving on the Planning Commission. At that time Mr. Charles Weems, a contractor, came before the Commission to subdivide his property on Mobile Street. On that application, even though the staff recommended that the policy be continued and the dedication of the land should be taken from Mr. Weems' property, the Commission voted

to allow Mr. Weems to subdivide his property without requiring him to give up the full right-of-way for his side. Mr. Anderson said the school was now in the process of long-range planning and when appearing before the Commission in January or February of 2001, became aware that policy may change, and from that point forward the City might be requiring dedication of property from both sides of the road for future widening. Mr. Anderson said that no matter what the policy was, it would have a tremendous impact on some property owners. Mr. Anderson, of course, felt the best thing for all property owners, and as far as the school was concerned, would be to remove Mobile Street from the Major Street Plan since Florida Street was part of the Major Street Plan. Mr. Anderson felt the second alternative if Mobile Street remained as a major street, would be to refrain from requiring any more dedication on any future projects until it was determined that Mobile Street, currently a two-lane, one-way road going north, would actually be widened. Mr. Anderson noted that if Mobile Street were widened it would be a five-lane road. Thirdly, Mr. Anderson requested that the Commission continue the policy that had been in place.

Mr. Frost pointed out that the Commission's typical policy regarding street widening was to allow the burden to be shared equally and asked Mr. Anderson and Mr. McSwain, since they served on the Planning Commission previously, what the exception was to the normal policy of equal sharing of burden.

Mr. Anderson stated that when he was on the Commission in 1994, it was understood - the staff told the Commission - that dedication was to always be required from each side of Mobile Street, and there was never any reason given. He noted that Don Coleman had at the meeting a right-of-way map that showed that all right-of-way was taken from each side, and suggested that may be where the policy came from.

Mr. Frost noticed Mr. Coleman's map showed a different configuration, with a curve in Mobile Street that would not be applicable today, as it would basically wipe out an existing Ruby Tuesday's restaurant.

Mr. Nick Holmes, Tony Havard and Don Coleman were also present to speak on behalf of UMS-Wright.

Ms. Pappas stated that the staff would like to make a small presentation before the conclusion of comments. She said that in formulating the report the staff pulled every rezoning, planning approval, PUD and subdivision application on this portion of Mobile Street. The only reference the staff could find to this policy was at the time UMS made an application in 1993 for Planning Approval, whereby the staff recommended dedication to provide half of the necessary centerline, and the Commission did not require dedication. From that point on, all applications for this portion of Mobile Street were handled in this same manner until the Weems application was considered in 1999, when dedication of 20 feet as opposed to the necessary 40 feet was required.

Don Coleman, Rester and Coleman Engineering, reviewed his files at the time this situation arose and located a subdivision dated January 24, 1977. The Commission had not signed the plat, and the subdivision was never recorded; however, he noted that the plat showed all the right-of-way from Florida Street taken off of each side. Although this plat was not recorded, Mr. Coleman noted that the southernmost buildings were built 90 feet from Mobile Street and the second building was built 110 feet back from Mobile Street. He felt the anticipation was the right-of-way would never come off both sides of Mobile Street.

Nick Holmes, III stated that he and his father had been architects for UMS-Wright for the last 20 years and had been responsible for aiding in the development of the campus. Mr. Holmes reported that the school had plans for a performing arts building and an addition to the existing auditorium, and planned to eventually build more classroom buildings on the south. Mr. Holmes said he would like to adamantly state that from their standpoint, Holmes & Holmes, the expansion of Mobile Street into a four-lane street would present a very dangerous situation concerning access to the school. To require half of the right-of-way from both sides would move the right-of-way up very close to the existing auditorium, and very close to the turnoff that was basic to the loop where students were

dropped off. This would aggravate a circumstance that was already bad. It was Mr. Holmes opinion that the reason the right-of-way was developed over to the east side was because the widening would impact the property in this area and property would have to be condemned. If half of the property in the center section were condemned, there would be significant parking loss on the existing properties on both sides. Mr. Holmes said their preference would be to eliminate the widening altogether. Secondly, leave the configuration the way the State Highway Department showed it, or fight that battle when the widening really happened.

Mr. Frost asked if the Planning Commission had the authority to remove Mobile Street from the Major Street Plan.

Mr. Boone replied that the Commission did have that authority.

Mr. Frost understood UMS wanted to complete their construction and needed to know which way the Commission would rule with regard to right-of-way requirements to better plan the development of their property. Mr. Frost realized the Commission could determine the right-of-way dedication on a case-by-case basis, but preferred to resolve this policy issue now if possible.

Mr. Holmes iterated that there was heavy traffic on Mobile Street at 8 a.m. and at 3:00 p.m., and he questioned whether or not, from a planning perspective, this was the proper place to have a major north/south artery.

Mr. Boone noted that the City of Mobile had few north/south corridors and had problems with north/south traffic flow because most of the major thoroughfares were east/west. Mr. Boone did not favor the idea of completely removing Mobile Street from the major street plan.

Mr. Holmes questioned when Florida Street was added to the Major Street Plan.

Mrs. Pappas stated that in 1975 the major street plan was shifted from Florida Street to follow the railroad tracks and then turn north into Mobile Street.

Mr. Holmes noted that the UMS-Wright school was there at that time.

Mr. McSwain, to offer a little history, related back to the 1960's when the widening of Mobile Street was an active project the City was going forward with until UMS killed it, politically; therefore, the Planning Commission backed off. However, Mobile Street was never taken off the Major Street Plan, and was now rejuvenated, so to speak. Mr. Frost agreed with Mr. Boone, that removing Mobile Street from the Major Street Plan was not an option. The question, however, was whether the Commission wanted to address each application individually as it surfaced, as opposed to making a policy decision at this point as to where the right-of-way would be dedicated.

Mr. Boone said the issue was dedication vs. setback and felt the issue of requiring setback or dedication should really come up at the time of each individual application. Therefore, the Commission would consider applications for UMS Wright, or applications submitted from property owners located on the east side, as they were submitted for review and consideration.

Mr. Holmes stated that UMS was in the process of working toward the addition to the auditorium right now and the application was basically pending, waiting on the decision of where the right-of-way was going to be taken.

Mr. Anderson pointed out that the existing Ruby Tuesday's restaurant location in the area to possibly be required for right-of-way was no definitive indication that the street would not come through there. He noted that Ruby Tuesday's did not have any more information than the people who built offices along there.

Mr. Frost asked if anyone else wanted to speak.

Tony Havard, 263 N. Monterey Street, was present and preferred that the situation remain unchanged, with no expansion of Mobile street period. Mr. Havard was not aware when the plan was put in place to take Mobile Street, he heard Mobile Street became a part of the crosstown plan some time in 1975. He pointed out that there were 600 students at UMS in 1975, and now there were 1,250; and the younger students now attending did not attend in 1975; therefore, the situation was different now in terms of safety. Mr. Havard was very comfortable with the way the traffic flowed on the campus now, and reported that the school had good neighbors. Mr. Havard noted that 535 students lived in areas where they had to commute to the campus each day, and they primarily used the Dauphin Street direction, they did not travel on Old Shell Road. Furthermore, there were faculty and students amounting to approximately 150 cars that parked in designated parts of the campus each day that entered off of Mobile Street. In addition, the carpool flow was heavy from 7:15 to 7:40 in the morning. With reference to a proposed 5-lane street where there were now two lanes, Mr. Havard felt it would not be a quick north/south artery because of the heavy traffic.

D. J. Garrison, 58 Mobile Street, was present on behalf of Keith Harvey's orthodontic practice on Mobile Street. Ms. Garrison reported that Mr. Harvey was unable to attend and wrote a letter for her to read.

Dear Members of the Planning Commission,

Regrettably, a prior out-of-town commitment prevents me from attending this meeting. Please do not misinterpret my absence as a lack of concern for the matter at hand. I attended UMS, graduating in 1976 and currently serve on the Board of Trustees. I'm proud to say that my four sons are currently enrolled there and I am an avid supporter of the school and the future plans for development.

On the other hand, my business location is directly across from the school. I, like the others that have developed property along our street have removed dilapidated buildings and replaced these eye sores with attractive buildings with viable businesses. During this renewal I have also noticed that the residents along our street have made a similar effort to upgrade their homes and property.

Having reviewed the survey you requested it would be easy for me to simply say you should follow the recommendation that all 40 feet be obtained from the West side of Mobile Street. After all, any further encroachment on the East side would result in a loss of property values, required parking spaces and most importantly people's homes. However, it appears that UMS-Wright's auditorium as well as the Mobile Street entrance to the campus would also be in jeopardy.

Finally, as I drove down Mobile Street, I counted in excess of 50 trees, some of magnificent proportion. I would imagine some have stood vigil for close to 100 years. It seems odd that when anyone plans to build or renew a facility the trees are an integral part of the process yet today with one simple vote you can condemn all 50.

As anyone can readily see there is no truly equitable resolution with regard to acquiring additional right of way. However, I feel it is the duty of the Planning Commission to take a leadership role and to do the right thing. First, there is no reason the long-term plan can't be changed. I'm sure all parties involved can demonstrate a number of sound reasons to support maintaining the existing street as it is. Second, those involved with the original planning process could not have foreseen the revitalization to this area or the changes with regard to interstate systems and transportation that have occurred. Finally, there is no rule stating you have to take people's property just because someone drew some lines on a map over 50 years ago.

*Making difficult decisions and doing the right thing requires courage.
I trust that for the sake of all parties involved that you will do just that.
Again I apologize for my absence and appreciate your willingness to
let Ms. Garrison, my office manager, read this letter on my behalf.
Sincerely,
Keith Harvey*

Mr. Roy Largue, 1012 Regal Drive, a property owner at 2654 Cameron Street, expressed his preference to keep the street like it was. He said if right-of-way was taken on his side of the street, he would lose 30 percent of his parking at his business, which he said basically would render his building useless for the use for which it was intended. Mr. Largue said that UMS was a great neighbor, the traffic flow worked good, and UMS used his parking lot on certain days. He voiced concern for the buildings that had been built on Mobile Street since the mid-1980's. Mr. Largue asked the Planning Commission to consider, although they did not have any authority over ALDOT, taking Mobile Street off the Major Street Plan.

Arthur Smith, Cogburn Health Service, owner of the property on the southeast corner of Mobile and Cameron Streets, was present and asked that the Commission leave the street as it was.

Thomas Rainwater, owner of 66, 68 & 78 Mobile Street was present. Mr. Rainwater owned a radiator shop on the corner of Old Shell Road and Mobile Street. He said 20 feet would put the street right up against the edge of his building, which would condemn it. He said the building may-as-well be taken away from him if 40 feet were taken. Mr. Rainwater said this was livelihood, and he had no problem with the traffic on Mobile Street. It was his opinion that making Mobile Street a 4- or 5-lane street would create total chaos. This would mean taking people's homes. He expressed concern for his parents who bought their home on Mobile Street in the late 1950's; they were in poor health and did not want to have to move. Mr. Rainwater said he would like the street to remain just as it was.

Gloria McMillian, 70 Mobile Street, expressed concern that the City would come in and condemn her property and her home would not be worth anything.

Mrs. Pappas explained that this was strictly a policy meeting. The Commission was trying to establish a policy of how to look at future applications along Mobile Street, whether additional setback or dedication was needed, and whether it would be taken from the east side, the west side or down the middle. Ms. Pappas noted that the staff had recommended that all of the additional right-of-way come from the west side. The reasoning for that was that it would only involve one property owner, and because it appeared, based on the mapping, that it would not require the acquisition of additional structures. If additional right-of-way were taken from the east side, regardless of whether all or half of it, the City would be looking at acquiring the structures. Mrs. Pappas further noted that there was much activity going on in this area, citing a recent rezoning on Cameron Street going over to Alexander Street, and the application for CVS at Florida Street. There was also a commercial site on the north side of Dauphin near Mobile Street. The residences were in very good repair and were the only residential property on this portion of Mobile Street.

Mr. Frost wondered how much impact, whatever the Commission decided, it would have on ALDOT if the street were ever built.

Ms. Pappas said she could not address the impact it would have on ALDOT, but a policy needed to be formulated, if for no other reason, in considering applications and site plan reviews on this portion of Mobile Street

Mr. McSwain clarified that ALDOT had no control over this property; and this was a City of Mobile project. The only way ALDOT would become involved was through funding, and if the City chose not to apply for federal funds, the City would be solely responsible for the widening project. ALDOT had no input whatsoever as to where the road would go; the Planning Commission made that decision. Mr. Frost asked who

would take the initiative, when it was decided that a street was to be widened, to condemn the property and bring in the bulldozers.

Mr. McSwain stated that the project would first have to be included on the City's Capital Improvement Program before it could ever qualify for funds. Mr. McSwain further felt the project was not something the Commission would want to take off of the Major Street Plan. He felt the north/south corridor was very important to the area because there was no north/south corridors east of I-65.

Mr. Boone said the important thing was to balance the desires and impact of the immediate property owners, UMS on the west and the property owners on the east, with the overall needs of the citizens of Mobile.

Mr. Frost felt Florida Street would not make a good corridor because it ended at Spring Hill Avenue. The advantage of Mobile Street, and the reason he presumed it was put on the Major Street Plan, was that it already had right-of-way all the way. It served a full north/south corridor when it was constructed from Dauphin Street on.

Mr. Olsen commented that several years ago improvements were made to Mobile Street from Fillingim Street down to Spring Hill Avenue, and the continuity of the Major Street Plan for Mobile Street was very important. He felt taking it off the Major Street Plan would not really be an option.

Ms. Pappas noted, as brought out by Mr. McSwain, that east of I-65 there was very poor north/south circulation in the city. The Major Street Plan had four cross-town loops at approximately one-mile intervals, and Mobile Street was part of Cross-town Loop 4. With reference to discussion concerning Florida Street, Ms. Pappas reported that the Florida Street route was shifted over back in the 1970's to follow Mobile Street, and as Mr. Olsen commented, established some continuity basically by linking the corridor from Spring Hill Avenue to Fillingim Street.

There being no further discussion, Mr. Frost closed the public hearing on this matter at this point.

In the executive session of the meeting, the Commission members realized they were facing a difficult call. They were faced with destroying both sides of Mobile Street; or one side, east or west. They realized it was their goal to meet the needs of the Community. They also realized UMS-Wright school was an educational facility serving 1,000 or more families in the area.

After discussion at length concerning the impact of the dedication, Mr. Frost called for a motion.

A motion was made by Ms. Deakle and seconded by Mr. Hill to accept the ongoing policy of the Planning Commission to require dedication/setback of 40' for ROW from the east side of Mobile Street on properties located on Mobile Street from Old Shell Road to Dauphin Street.

Dr. Rivizzigno, Mr. Plauche and Mr. Vallas were opposed; the motion was favored by Mr. Frost and Mr. McSwain; therefore, the motion carried.

Adoption of 2002-2003 Meeting/Deadline Schedule

A motion was made by Mr. McSwain and seconded by Mr. Frost to adopt the 2002-2003 Planning Commission Meeting/Deadline Schedule as submitted.

The motion carried unanimously.

JUNE 20, 2002

Deborah Leo's Farewell

The commission expressed their farewell to Deborah Leo who represented the staff on behalf of the Traffic Engineering Department. Mr. McSwain announced that Ms. Leo was resigning from the City of Mobile to accept another offer.

There being no further business, the meeting was adjourned.

APPROVED: August 8, 2002

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

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