

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF FEBRUARY 18, 2010 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

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

Members Absent

John Vallas

Urban Development Staff Present

Frank Palombo,
Planner II
Bert Hoffman,
Planner II
Tony Felts,
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

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 #SUB2009-00174 (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

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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The following people spoke in favor of the application:

- Dr. Ian and Christy Thorneycroft, 21 Hillwood Road, Mobile, AL;
- B.J. Lyon, 9 Hillwood Road, Mobile, AL, attorney for the Thorneycrofts; and,
- Frank Dagley, Frank A. Dagley & Associates, 717 Executive Park Drive, Mobile, AL.

They made the following points in favor of the application:

- A. this was the third meeting in which the matter had come before the Planning Commission, with there being two unresolved issues from the last meeting;
- B. regarding endangered species, the property had been inspected and none had been found;
- C. regarding an engineer certified drainage survey, due to some legal issues between the property owner and the original engineer, a second engineering firm was hired and the second set of plans had been drawn and submitted to the Engineering Department earlier in that week;
- D. the City seemed to have completed, with the exception of the road, the new drainage system on Hillwood Road, though there seems to still be drainage from the road to the applicant's property as well as the property above his;
- E. the owner expressed his desire to see the matter approved at that meeting, as further delay would increase the problems that exist on the property, as well as increase construction costs;
- F. in a response to opposition, it was noted that the Planning Commission was responsible for approving subdivisions based upon the Subdivision Regulations, and that it was common practice to include the condition that the subdivision met those regulations with regard to City of Mobile drainage requirements for approval;
- G. stated that it would cost the applicant a significant amount to build three or four inlets and underground facilities to detain the water in question;
- H. regarding the red clay, Geotechnical Services had indicated the existence of unsuitable soil which had to be excavated and the red clay and topsoil in question was brought back in to fill that area;
- I. extensive measures to detain stormwater run off had been put in place since the last meeting on the matter;
- J. noted that the reason for the delay in presenting the requested plans was due to the fact that the applicant had encountered trouble finding an engineer to do the work with the imminent threat of litigation from Mrs. Hoffmann

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- K. per the engineer, it was noted that part of the subdivision process was being subject to getting a land disturbance permit and doing the engineering afterwards; and,
- L. it was noted that simply granting the subdivision of property did not guarantee the applicant the ability to build on the lot in question.

The Chair noted the applicant had had one month to submit the requested plans and had only done so within the last few days, so it was felt that the Commission was well within their boundaries to ask that matters be done within a specific time frame.

Mrs. Frances Hoffmann, 5 Hillwood Road, Mobile, AL, spoke in opposition to the matter and made the following points:

- A. noted that in the December 17, 2009, Planning Commission meeting, the Commission asked the applicant to resolve the drainage issue and in the January 21, 2010, meeting, the Engineering Department directed that the site be stabilized, and that it was her opinion that to date neither of these had been accomplished;
- B. noted that at the end of January 2010, additional red clay was added by the applicant in the central drainage area, raising the grade of that area;
- C. with every rain, several of the properties located “down” from the applicant’s property flood;
- D. photos from January, 2010, showed workers on the site raising the grade within the natural drainage area of the property, with the addition of red clay soil, topping off the surface with topsoil and this was felt to be adding to the de-stabilization of the property;
- E. it was felt that all of this work indicated on-going land disturbance by the applicant as well as the interference with the natural percolation of the property;
- F. the addition of the red clay dirt and additional topsoil in the natural drainage area has altered the established path and flow of water;
- G. the change in the natural and established flow of water had created a situation that jeopardizes the adjacent, neighboring swimming pools and other existing structures;
- H. noted that the Engineering Department comments found in the January 21, 2010, agenda, stated there should be no change in the flow and/or direction of stormwater run-off;
- I. it was expected that the Planning Commission would implement safe guards against the negative impact on adjacent properties and presented a letter to the Planning Commission outlining those expectations; and,

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- J. expressed the belief that there should be acknowledgement of the damage that had been done and reparation for the same before any application for continued work would be approved.

Mr. Turner asked if the staff had any recommendations for approval should the Commission feel lead to do so.

Mr. Palombo advised the Commission they did not.

Mr. Davitt asked Mr. Lawler that as the matter had come up in two previous meetings, what time restriction was the Commission bound by with regards to moving on the matter.

Mr. Lawler stated his belief that the matter needed to be decided that day or have the agreement of the applicant to a continuance to a later day. He also stated that as the requested plan had only been submitted within the past few days and thereby had had no time to review it, it was unreasonable to ask that the matter be approved at that meeting. He added, with regards to Mrs. Hoffmann's request, that the Planning Commission was within their purview to put reasonable conditions on a subdivision approval.

Mr. Watkins stated his belief that much of the reparations noted in Mrs. Hoffmann's letter fell outside of the Planning Commission's jurisdiction.

Mr. Lawler responded by saying that placing conditions such as the removal of debris caused by the applicant's development from the neighbor's yard as being necessary for approval of the subdivision was within the Commission's jurisdiction.

Mr. Hoffman stated that at previous meetings there had been conditions for approval for the subdivision in question and that those included Engineering comments. He added that even if the subdivision were approved at that day's meeting, construction on the property could not occur without the issuance of a permit and it was his understanding that any permits for said site were in a "frozen" status. He stated that meant the site could not be developed until the Engineering Department was satisfied with any drainage issues and all other building codes were met as well.

Mr. Miller stated his concern that by putting the matter off or by denying it, there was no resolution to the matters brought forward by Mrs. Hoffmann. He wondered if a two-week hold over might be the best idea and stated as the applicant had only turned in the requested plans the day prior it would be reasonable for them to agree to the hold over.

Mr. Forrester agreed that Engineering needed additional time to review the matter.

In deliberation, Mr. Lawler reminded the Commission that the matter first came before the Planning Commission at the December 17, 2009, meeting. At that meeting, Mrs. Hoffmann advised the Commission that it appeared that construction had started before the subdivision had been approved and that work had been done in the drainage way and

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created flooding which had damaged her property. In any event, a stop work order had been issued and the Engineering Department had requested that the property be brought back to its prior state. Mr. Lawler noted from his reading of Mrs. Hoffmann's statement that in January 2010 work was being done. Mr. Lawler stated that based upon these facts, that the Commission needed to be made aware of what had been done, what was being done, and what was to be done to correct the issues at hand and that those answers needed to be received by the Commission prior to approving any requested for subdivision of the property in question.

Mr. Miller moved to deny the matter based upon those facts, with Dr. Rivizzigno seconding the motion. Mr. Watkins interjected that the matter might be better served by holding it over, as the applicant's attorney had agreed to, and allowing Engineering to review the matter for recommendations as well as the opportunity to provide a history of work done on the site.

Upon hearing this, Mr. Miller withdrew his motion to deny.

Mr. Davitt agreed that holding the matter over did appear to be a better solution as it provided the Commission the opportunity to "police" the progress of the site in an effort to protect the adjoining properties. He added that if the matter were held over, he would like to see a detail history of work done on the property provided, especially as it appeared that much of it had been done without benefit of permits and March 4, 2010, set as the deadline for providing any and all requested information to the Planning staff.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Watkins to hold the matter over until the March 18, 2010, meeting, at the applicant's request, with revised engineering information due to the Planning Section of Urban Development and the Engineering Department by March 4, 2010, so that the following can be undertaken:

- 1) submission of revised information depicting an engineered solution to the drainage issue, acceptable to the Engineering Department; and,**
- 2) provision of a work history for the site, since improvements to the site have been undertaken, listing what work was done and by whom.**

The motion carried with only Mr. DeMouy and Dr. Rivizzigno voting in opposition.

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Case #SUB2009-00181 (Subdivision)

Somerby Subdivision, Corrected Plat, Re-subdivision of Lots 1 & 2 of a Re-subdivision of Lot 2, Re-subdivision of and Addition to Lot 1

Northeast corner of Somerby Drive and Somerby Lane (private street), and North side of Somerby Lane (private street) at its West terminus

Number of Lots / Acres: 3 Lots / 16.4± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

(Also see **Case #ZON2009-03024 (Planned Unit Development) Somerby Subdivision, Corrected Plat, Re-subdivision of Lots 1 & 2 of a Re-subdivision of Lot 2, Re-subdivision of and Addition to Lot 1**, below)

The Chair announced the application had been recommended for approval.

Don Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and requested the matter be held over.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the March 18, 2010, meeting, at the applicant's request.

The motion carried unanimously.

Case #ZON2009-03024 (Planned Unit Development)

Somerby Subdivision, Corrected Plat, Re-subdivision of Lots 1 & 2 of a Re-subdivision of Lot 2, Re-subdivision of and Addition to Lot 1

Southwest corner of Somerby Lane (East) (private street) and Somerby Lane (North) (private street)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow the expansion and addition to an existing domiciliary care facility

Council District 6

(Also see **Case #SUB2009-00181 (Subdivision) Somerby Subdivision, Corrected Plat, Re-subdivision of Lots 1 & 2 of a Re-subdivision of Lot 2, Re-subdivision of and Addition to Lot 1**, above)

The Chair announced the application had been recommended for approval.

Don Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and requested the matter be held over.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the March 18, 2010, meeting, at the applicant's request.

The motion carried unanimously.

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PLANNING COMMISSION MEETING

Case #ZON2009-02964 (Planned Unit Development)

Waterfront Rescue Mission

204, 206, 208 & 210 State Street

(Northeast corner of State Street and North Joachim Street)

Planned Unit Development Approval to allow multiple buildings on a single building site
Council District 2

(Also see **Case #ZON2009-02997 (Planning Approval) Waterfront Rescue Mission**,
below)

Mr. Holmes 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.

The following people spoke in opposition to the development:

- David Calametti, 350 North Conception Street, Mobile, AL;
- Melissa Rankin, 312 North Joachim Street, Mobile, AL;
- Rennie Brabner, 303 North Conception Street, Mobile, AL, DeTonti Square Historical District; and,
- Clanford Pierce, 351 Congress Street, Mobile, AL.

They made the following points against the matter:

- A. noted the re-development of the DeTonti Square area as one of the finest residential neighborhoods in the city;
- B. it was believed that an approval of the plan was equal to approving an increase in services at the Mission, while being a positive project, not in character with the increased residential character of the neighborhood;
- C. concern that the project will create excess traffic, albeit the traffic will be predominately pedestrian in nature;
- D. concern over an increase in emergency response traffic due to an increase in services;
- E. it was believed that the proposed increase in size of the kitchen indicated an increase in services and noted the Mission was offering their kitchen, etc., to the churches that serve lunches to the homeless in Bienville Square as evidence of that;
- F. concern that the addition of over 6000 net square feet of building space when they proposed to only serve 60 men indicated a plan to increase services;
- G. concern over the potential negative impact of more clients at the Mission on the family life now enjoyed by the DeTonti Square residents;
- H. concern over an increase in security issues based upon the Mission expanding;

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- I. felt that using permanent bed numbers might not be the best measurement regarding services at the Mission and suggested that the number of meals served might be a better measurement;
- J. concern over those individuals that, due to a number of factors, can not be served by the Mission and their impact on the residents of the area; and,
- K. asked that the Commission to not turn their backs on the improvements made by the residents to the historic DeTonti Square Historic District over the past few years.

Mr. Turner noted that one of the conditions for approval was that there could be no expansion of services at the Mission without Planning Commission approval and expressed his hope that would serve to allay some of the concerns of the neighboring residents.

The following people offered responses to the points made in opposition to the development:

- Jason Estes, Engineering Development Services, 9380 Greenleaf Drive, Spanish Fort, AL;
- Paul Davis, 61 St. Joseph Street, Mobile, AL, architect for the project;
- Bill Bru, Executive Director, Waterfront Rescue Mission.

They offered the following:

- A. when before the Commission on January 7, 2010, the request from the neighboring residents was time to review the changes made to the originally submitted plan that had been requested by the staff, however, it now appeared there were new and additional concerns;
- B. with regards to the increase in size, it was due to modern code requirements involved in creating a facility able to provide the current level of services to their clients;
- C. presented figures for 2008, 2009, and 2010 regarding services rendered to clients, noting that there had been a decrease in services since 2008, which saw a daily average of 54 people staying over night and 106 meals served per day, adding that those averages included Thanksgiving and Christmas, where the Mission also took meals to shut-ins around the city;
- D. stated the plan was to use the current buildings on site for class rooms to anger management classes, "Growing in Christ," Biblical financial management classes, and an art course; and,
- E. the Mission had been located on at its current location since 1951 and historically had always been a good neighbor with very few problems regarding police and emergency workers.

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Mr. Watkins then asked if, regarding condition number 2 of the PUD approval, the Commission could benchmark 53,000 meals and 19,000 bed nights as the cap for services by the Mission.

Mr. Miller asked if there were any large areas of extra space that the Mission might bring back before the Commission in the near future for expansion on the site and was advised no.

Mr. Turner asked if it was know what the maximum number of meals servable each day would be.

Mr. Bru said they count on serving up to 70 people a day per meal, but noted they had run out of food at meals before.

Mr. Watkins asked for confirmation from Mr. Bru that once the new construction had been finished that the older buildings would only be used for classrooms and not as dormitories. He also asked if the Mission would agree to the limitation of once the Certificate of Occupancy was issued for the new building, that the old buildings would not be used for bed space or meals.

Mr. Bru stated that was correct and he was agreeable with that as a condition. He responded to the statement that on bad weather nights, more individuals slept at the Mission. He noted that to his knowledge there had only been two nights where the Mission had slept 100 men and that the over flow were housed in the chapel. He added that should the need to do so arise again, they would do the same.

Mr. Watkins recognized the need for occasional exceptions but added that it was his understanding from the concerns expressed by the neighbors that the additional building would create a situation where the occasional overflow in beds needed became the norm, not the exception.

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

- 1) paving of all accessways with asphalt, asphaltic concrete, or concrete;**
- 2) paving of all designated handicapped spaces and handicapped accessible routes with asphalt, asphaltic concrete, or concrete;**
- 3) placement of appropriate “One Way” and “Do Not Enter” signage at both curb-cuts, with the locations to be shown on the site plan, and approved by Traffic Engineering;**
- 4) no expansion in client capacity without approval from the Planning Commission, and that once a Certificate of Occupancy has been issued for the new building, no further**

- use of the existing buildings for bedding (other than for extreme weather events) will be allowed;
- 5) site limited to 60 permanent beds, to be located in the new building;
 - 6) food service limited to current capacity;
 - 7) compliance with all Engineering comments: *“Site is located in the AE Flood Zone, therefore need to show minimum FFE (MFFE) on plans and construction of the proposed building shall satisfy the MFFE requirements determined by City Engineering. Construction of the proposed building will require a Flood Study unless documentation for historical credit is provided showing that there was a building in the same general location (i.e., surveys, aerial photographs, Sanborn Maps, etc.). No fill will be allowed on the site without providing compensation (net fill of zero) or completing a flood study. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit”*;
 - 8) placement of a note on the site plan stating that approval from the Architectural Review Board of the Mobile Historic Development Commission for all improvements is required;
 - 9) full compliance with landscaping and tree planting requirements, with tree plantings to be coordinated with Urban Forestry;
 - 10) submittal of two copies of the revised site plan to the Planning Section of the Urban Development Department; and,
 - 11) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2009-02997 (Planning Approval)

Waterfront Rescue Mission

204, 206, 208 & 210 State Street

(Northeast corner of State Street and North Joachim Street)

Planning Approval to allow the expansion of an existing domiciliary facility in an R-B, Residence-Business District, and to allow the expansion of a gravel parking surface within the Hank Aaron Loop Area

Council District 2

(Also see **Case #ZON2009-02964 (Planned Unit Development) Waterfront Rescue Mission**, above)

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

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

- 1) completion of the Planned Unit Development process;
- 2) no expansion in client capacity without approval from the Planning Commission, and that once a Certificate of Occupancy has been issued for the new building, no further use of the existing buildings for bedding (other than for extreme weather events) will be allowed;
- 3) site limited to 60 permanent beds, to be located in the new building;
- 4) food service limited to current capacity;
- 5) paving of all accessways with asphalt, asphaltic concrete, or concrete;
- 6) paving of all designated handicapped spaces with asphalt, asphaltic concrete, or concrete;
- 7) gravel, or aggregate, only allowed for non-handicapped parking spaces;
- 8) placement of appropriate “One Way” and “Do Not Enter” signage at both curb-cuts, with the locations to be shown on the site plan, and approved by Traffic Engineering; and,
- 9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2004-00041 (Subdivision)

Cambridge Place Subdivision

West side of Eliza Jordan Road North, 3/10 mile± South of Kelly Road

Number of Lots / Acres: 137 Lots / 61.4± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

County

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

Vince LaCoste, Polysurveying of Mobile, spoke on behalf of the applicant and stated he had spoken with Mr. Palombo regarding the three reasons it had been recommended for denial, and made the following points for approval:

- A. the need for lot reconfiguration was based upon a larger cul-de-sac size, and as those has already been installed at the larger size, and has shown the larger size on the completed construction plans; and,
- B. revisions needed to meet current stormwater detention measures have been done, including a detention pond for the entire subdivision that meets the City’s requirements for the same and that is reflected in the current prepared plans.

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Mr. Palombo stated that staff was agreeable to the applicant's conditions. He added that the staff would like to see the applicant advised that another extension would be highly unlikely.

Mr. Davitt asked when the applicant anticipated starting the next phase of construction.

Mr. LaCoste stated they were taking bids in the coming week and planned to begin once the bid was awarded.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Watkins, to approve the above requested extension for six (6) months, subject to the following conditions:

- 1) **revision of the subdivision to meet the current Subdivision Regulations;**
- 2) **revision of the subdivision to meet the current stormwater management standards; and,**
- 3) **future extensions unlikely if no new phases are recorded within 6 months.**

The motion carried unanimously.

Case #SUB2007-00341 (Subdivision)

Gates at the Palms Subdivision

South side of Southland Drive, 800'+ West of Knollwood Drive, extending to the West terminus of Southland Drive

Number of Lots / Acres: 1 Lot / 10.8±Acres

Engineer / Surveyor: Engineering Development Services, LLC

Council District 6

(Also see **Case #ZON2007-02941 (Planned Unit Development) Gates at the Palms Subdivision**, 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.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the above requested extension.

The motion carried unanimously.

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Case #ZON2007-02941 (Planned Unit Development)

Gates at the Palms Subdivision

South side of Southland Drive, 800'+ West of Knollwood Drive, extending to the West terminus of Southland Drive

Planned Unit Development Approval to allow seven apartment buildings (183 total units) and a clubhouse on a single building site

Council District 6

(Also see **Case #ZON2007-02941 (Planned Unit Development) Gates at the Palms Subdivision**, above)

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

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the above requested extension.

The motion carried unanimously.

Case #SUB2007-00340 (Subdivision)

Montecito Subdivision

Northwest corner of Demetropolis Road and Halls Mill Road, extending to the East side of Government Boulevard at the East termini of Lansdowne Drive and Drexel Drive

Number of Lots / Acres: 3 Lots / 28.1± Acres

Engineer / Surveyor: Engineering Development Services, LLC

Council District 4

(Also see **Case #ZON2007-02939 (Planned Unit Development) Montecito Subdivision**, 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.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the above requested extension.

The motion carried unanimously.

Case #ZON2007-02939 (Planned Unit Development)

Montecito Subdivision

Northwest corner of Demetropolis Road and Halls Mill Road, extending to the East side of Government Boulevard at the West terminus of Lansdowne Drive

Planned Unit Development Approval to allow 14 apartment buildings (366 total units) and a clubhouse on a single building site

Council District 4

(Also see **Case #SUB2007-00340 (Subdivision) Montecito Subdivision**, above)

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

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the above requested extension.

The motion carried unanimously.

Case #SUB2009-00008 (Subdivision)

Providence/Coley Subdivision, Re-subdivision of a Portion of Lot 2

901 Somerby Drive

(Southeast corner of Somerby Drive and Cody Road South)

Number of Lots / Acres: 3 Lots / 43.1± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

(Also see **Case #ZON2009-00216 (Planned Unit Development) Providence/Coley Subdivision, Re-subdivision of a Portion of Lot 2**, 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. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

Case #ZON2009-00216 (Planned Unit Development)

Providence/Coley Subdivision, Re-subdivision of a Portion of Lot 2

901 Somerby Drive

(Southeast corner of Somerby Drive and Cody Road South)

Planned Unit Development Approval to allow sixteen apartment buildings and a clubhouse, twelve parking garages, and a maintenance building on a single building site

Council District 6

(Also see **Case #SUB2009-00008 (Subdivision) Providence/Coley Subdivision, Re-subdivision of a Portion of Lot 2**, 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. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

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Case #SUB2005-00095 (Subdivision)

Forest Cove Subdivision, Unit Three and Unit Four

South side of Tulane Drive, 125' ± East of Belle Wood Drive East, extending to the West side of Forest Dell Road, 725' ± North of its South terminus

Number of Lots / Acres: 137 Lots / 44.4± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

(Also see **Case #ZON2005-00998 (Planned Unit Development) Forest Cove Subdivision, Unit Three and Unit Four**, 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. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

Case #ZON2005-00998 (Planned Unit Development)

Forest Cove Subdivision, Unit Three and Unit Four

South side of Tulane Drive, 125' ± East of Belle Wood Drive East, extending to the West side of Forest Dell Road, 725' ± North of its South terminus

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced lot widths and sizes, reduced building setbacks, and increased site coverage in a single-family residential subdivision

Council District 7

(Also see **Case #SUB2005-00095 (Subdivision) Forest Cove Subdivision, Unit Three and Unit Four**, 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. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2010-00011

Alpine Hills Subdivision, Rivas Re-subdivision of Lot 1, Block C, Plat 2

5773 Summit Avenue

(Southeast corner of Summit Avenue and Chalet Drive East)

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

Engineer / Surveyor: Julian F. Smith

Council District 7

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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.

The applicant, Henry Rivas, 5773 Summit Avenue, Mobile, AL, voiced his support of the matter.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Miller, to waive Section V.D.9. to allow a 20' side yard setback along Chalet Drive East, and approve the above referenced subdivision, subject to the following conditions:

- 1) **full compliance with all municipal codes and ordinances; and,**
- 2) **limited to the existing curb-cut.**

The motion carried unanimously.

Case #SUB2010-00009

Jackson Heights Subdivision, Unit 5, Re-subdivision of Lots 1 & 2, Re-subdivision of Lot 8

430 & 432 Ridge Crest Court

(South terminus of Ridge Crest Court)

Number of Lots / Acres: 2 Lots / 1.5± Acres

Engineer / Surveyor: Marshall A. McLeod

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.

Lynda Burkett, Marshall A. McLeod Professional Land Surveyors, spoke on behalf of the applicant and advised she had spoken with Nick Amberger, Rosemary Sawyer, and John Forrester regarding the Engineering comments. She stated those comments had been revised and want to make sure that the commission was aware of those changes.

Charles Collin, 301 Byron Avenue West, Jackson Heights, stated he and two other residents of the subdivision were in attendance that day. He noted that they did not believe that appropriate signage had been put up on the property notifying the area residents of the proposed hearing regarding the subdivision. He added that Jackson Heights residents objected to the splitting of any lots within the Jackson Heights subdivision. He suggested that the matter be held over to another day so that appropriate signage could be posted to inform the subdivision residents of the proposed proceedings.

Mr. Hoffman responded that as this was a subdivision case there would be no signage posted on the site and letters would only be sent to adjacent property owners or property owners located across the street. He added the matter involved only two pre-existing lots of legal record and the adjustment of an existing lot line within the property in question.

Hearing no opposition or discussion, a motion was made by Mr. Turner, with second by

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Mr. Miller, to waive Sections V.D.3. and V.B.14. of the Subdivision Regulations, and approve the above referenced subdivision, subject to the following conditions:

- 1) **placement of a note on the final plat stating that each lot is limited to its existing curb-cuts (1 each), with the size, design, and location of any changes to the curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **revision of the minimum building setback line to be located a minimum of 25-feet from the right-of-way, and where the lots are at least 60 feet in width, to comply with the requirements of Sections V.D.2. and V.D.9. of the Subdivision Regulations;**
- 3) **labeling of each lot with its size in square feet, as shown on the preliminary plat; *“Any increase in impervious area, will require full compliance with the storm water ordinance on the lots being re-subdivided. Need to label plat to show Minimum FFE for Lot 2. Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet since 1984 will require detention. Any work performed in the right-of-way will require a right-of-way permit”;***
- 4) **placement of a note on the plat stating that approval of all applicable federal, state, and local agencies regarding floodplain and wetland issues is required prior to the issuance of any permits or land disturbance activities;**
- 5) **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 prior to the issuance of any permits or land disturbance activities; and,**
- 6) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2010-00010

Bit and Spur Woods Subdivision, Re-subdivision of Lot 4

4601 Bit and Spur Road

(South side of Bit and Spur Road, 350'± West of Wilkinson Way)

Number of Lots / Acres: 2 Lots / 1.6± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 5

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

Jerry Byrd, Byrd Surveying Inc., spoke on behalf of the applicant. He stated the property currently had two curb-cuts to accommodate the large horse shoe shaped driveway and that the applicant would like that drive to remain as it is, as well as have a

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curb-cut in place for the new lot.

Mr. Hoffman responded that the staff found it reasonable to accommodate the two existing curb-cuts on Lot 1 and to allow one curb-cut to Lot 2.

Dr. Rivizzigno queried as to why the Commission had been presented recommendations for approval for a flag shaped lot when the Commission had previously decided not to approve such without extreme cause.

Mr. Hoffman advised that this was due in part to the fact that approximately two meetings prior an application for a flag shaped lot had been approved by the Commission in the immediate or next door vicinity of the application before them that day. That application had been approved because approximately 10 years prior to that another property in the immediate vicinity had been approved as a flag shaped lot as well, so precedent had been established.

The following people spoke in opposition to the matter:

- Ben Cummings, Cummings Architecture, 1 Houston Street, architect for Craig Kleinmann, 118 Jordan Lane, Mobile, AL, an adjacent property owner;
- Wayne Sirmon, 4617 Bit and Spur Road, Mobile, AL; and,
- Brenda Huddle, 150 Rochester Lane, Mobile, AL.

They made the following points against the subdivision:

- A. expressed shock over the staff report as it recommended approving a flag shaped lot, as Section V.D.1. of the Subdivision Regulations clearly stated that flag shaped lots should not generally be allowed;
- B. it was noted that the lots in the area were generally standard in shape and form so there was no topographical reason for the need of a flag shaped lot there, except for the property owner's personal desire for the same;
- C. noted that the Subdivision Regulations stated that requests for flag shaped lots be accompanied by evidence that each flag shaped lot was necessary to allow the site owner reasonable use of the site or to alleviate a situation that would otherwise cause a hardship, and no so evidence had been provided;
- D. it was noted that the two flag shaped lots were adjacent to one another and that based upon the Subdivision Regulations which state that flag shaped lots should not be used in place of constructing county standard roads, that the properties would be better served if such a road were constructed;
- E. the flag shaped lots present the opportunity to create "mother in law" cottages, thus making the area look as if it is composed of multi-family lots;

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- F. it was noted that previously there had been a bridle path that ran north-south on the triangular wedge of the property in question which currently appeared on the survey as being labeled a utility easement, however, there is no evidence of where the original easement has gone;
- G. noted that it seemed the only need for the flag shaped lots was so that the property owners could sell off land and make a profit;
- H. noted that the subdivision covenants stated that unless all of the neighbors agree, there can be no further subdivision of lots;
- I. the bridle path existed along that property in question until the current owner purchased that property, at which time he turned the bridle path into a dog pen; and,
- J. area residents have chosen to live there based upon the size of the lots and the privacy they afford and to create lots outside of that character forces a change of that character on the area residents and diminishes the value of their property.

Mr. Hoffman stated, regarding the easement, that he had a copy of the original plat from 1963, which showed on the lot in question on the eastern boundary, a 17.5 foot easement for water lines.

Mr. Byrd responded to the opposition with the following points:

- A. it was known that several of the initial units in Country Club Estates had bridle paths across the rear of those lots, however, this property was shown as having a 17.5 foot utility easement on the east line as shown on the original subdivision plat of Bit and Spur Woods;
- B. regarding the property spoken of by Mr. Cummings, the house on that property “backs up” to the applicant’s property and the rear of its house faces the rear of the house on the applicant’s property; and,
- C. regarding the two flag lots, the houses on those would compliment each other, facing towards themselves.

Mr. Waktins asked if there were any hardships with regards to the property that the Commission should be aware of, to which Mr. Byrd responded there was not.

Mr. Bellinger, 4601 Bit and Spur Road, Mobile, AL, spoke on his own behalf and stated he had kept up his property, including the utility easement and that it was his opinion that the subdivision in question, as it could not be seen by the adjacent neighbors or from the road, would have no negative impact on the neighborhood.

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

- 1) **the applicant did not show that the flag lot was necessary for reasonable use of the site;**
- 2) **the applicant did not show that the flag lot was necessary to alleviate a situation that would cause extreme hardship; and,**
- 3) **the proposed subdivision would increase traffic congestion within the neighborhood.**

The motion carried unanimously.

Case #SUB2010-00014

Belwood Subdivision, Re-subdivision of Lots 12, 13 & 14 Block 1 Unit 9

6613 & 6629 Bellwood Drive East

(East side of Bellwood Drive East, 235'± South of Huntington Drive)

Number of Lots / Acres: 2 Lots / 0.8± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

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

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

- 1) **dedication of sufficient right-of-way to provide 30' from the centerline of Bellwood Drive East;**
- 2) **revision of the lot size information to reflect dedication;**
- 3) **placement of a note on the Final Plat denying the site access to Ridge Road;**
- 4) **placement of a note on the Final Plat stating that each lot is limited to one curb-cut with the size, design, and location of all curb-cuts to be approved by Mobile County Engineering and in conformance with AASHTO standards;**
- 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 approval of**

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- all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities; 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 #SUB2010-00013

McMichael Family Division Subdivision

9885 & 9887 Scott Dairy Loop Road South

Southeast corner of Scott Dairy Loop Road South and Johnson Highway

Number of Lots / Acres: 3 Lots / 9.8± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

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

Vince LaCoste, Polysurveying of Mobile, spoke on behalf of the applicant and requested the matter be held over so that they could work with staff regarding the issues behind their recommendation for denial.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the March 18, 2010, meeting, at the applicant's request.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2010-00008 (Subdivision)

White Oaks Subdivision

328 Dogwood Drive

(Northwest corner of Dogwood Drive and Oak Ridge Road)

Number of Lots / Acres: 6 Lots / 1.0± Acre

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

Council District 5

(Also see **Case #ZON2010-00057 (Planned Unit Development) White Oaks Subdivision**, and, **Case #ZON2010-00058 (Rezoning) White Oaks Subdivision**, 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.

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Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of Todd Martin and Southland Capital, the owners/applicants, and stated the following:

- A. presented a packet of information regarding the development;
- B. the revised plan was to build 6 homes on the property with the lot in the middle being a common area that would include stormwater detention, a gazebo, and sitting area for the property owners;
- C. a large live oak tree was located on the middle property beside the proposed gazebo and the current plan preserved said tree;
- D. the houses will be 1800 to 2000 square feet in size with a price range from \$230,000 to \$250,000;
- E. stated there had been other lots subdivided in the neighborhood;
- F. the request for rezoning is not based upon a different use but based upon density; and,
- G. lot size and house size had been increased since the previous application in an effort to compromise with the neighbors and the developer.

The following people spoke in opposition to the proposed development:

- Kathryn Brouillette, 4604 Oakridge Road, Mobile, AL;
- David Doolittle, 304 Dogwood Drive, Mobile, AL; and,
- Edward Meyer, 4600 Oakridge Road, Mobile, AL.

They made the following points against the matter:

- A. even though the developer had reduced the number of homes he wished to put on the lot, the number proposed was still too many for the lot in question;
- B. per the Zoning Ordinance, any land zoned R-2 should contain at least 4 acres of land and the proposed development did not contain 4 acres; and,
- C. concern that the plan was not compatible in any aspect with the overall character of the neighborhood.

In deliberation, Mr. Davitt noted that the matter had been before them approximately two months prior and that six lots was too many, but he would be comfortable with five.

Mr. Curtin expressed that the Commission had mentioned to the developer that they would prefer to see five lots when the matter had been before the previously.

Mr. Miller stated he was not sure he would be comfortable with five lots, but Mr. Davitt reiterated that he felt five was the correct number.

Mr. Watkins asked Urban Forestry what was the size of the tree mentioned by the applicant, as well as querying about the existence of other trees on the site.

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Mr. Daughenbaugh stated the existing live oak tree had a 35 inch diameter and enjoyed protected status, however, the other trees on the site did not enjoy any protection under the City's Tree Ordinance.

Mr. DeMouy stated the general neighborhood surrounding the proposed development had undergone changes and cited the restaurant and the development of Wicker Way and Fireside Way. He expressed his thoughts that in today's market it was difficult for some people purchase a house and if there were ways to provide that via the purchase of a smaller house on a smaller lot, then it would be nice if that were available within the City.

Mr. Hoffman advised the Commission that if the lot were divided into 5 smaller lots, it would not require rezoning because each lot could be a minimum of 8,000 square feet.

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

- 1) lot sizes do not meet the minimum requirements;**
- 2) the proposed lot sizes would be out of character with the surrounding neighborhood;**
- 3) the proposed subdivision clashes with the open space concept of the surrounding neighborhood, and more particularly with the abutting property to the North; and,**
- 4) the proposed subdivision would increase traffic congestion within the neighborhood.**

The motion carried with only Mr. DeMouy voting in opposition.

Case #ZON2010-00057 (Planned Unit Development)

White Oaks Subdivision

328 Dogwood Drive

(Northwest corner of Dogwood Drive and Oak Ridge Road)

Planned Unit Development Approval to allow reduced lot sizes, increased site coverage and reduced setbacks

Council District 5

(Also see **Case #SUB2010-00008 (Subdivision) White Oaks Subdivision**, above, and, **Case #ZON2010-00058 (Rezoning) White Oaks Subdivision**, below)

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

- 1) the proposed lot sizes are out of character with the surrounding neighborhood;**

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- 2) the proposed site coverage is out of character with the surrounding neighborhood;
- 3) proposed setbacks are out of character with the surrounding neighborhood; and,
- 4) the proposed subdivision would increase traffic congestion within the neighborhood.

The motion carried with only Mr. DeMouy voting in opposition.

Case #ZON2010-00058 (Rezoning)

White Oaks Subdivision

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 the construction of six single family residential homes

Council District 5

(Also see Case #SUB2010-00008 (Subdivision) **White Oaks Subdivision**, and, Case #ZON2010-00057 (Planned Unit Development) **White Oaks Subdivision**, above)

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

- 1) a need for subdivision of the property into additional building sites is not substantiated by changing conditions within the neighborhood;
- 2) the property size does not meet the 4-acre minimum guideline;
- 3) the rezoning would create a spot-zoning situation within the neighborhood; and
- 4) the proposed subdivision would increase traffic congestion within the neighborhood.

The motion carried with only Mr. DeMouy voting in opposition.

Case #SUB2010-00012 (Subdivision)

Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B

1151 Hillcrest Road

(East side of Hillcrest Road, 300'± North of Omni Park Drive)

Number of Lots / Acres: 1 Lot / 0.5± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

(Also see Case #ZON2010-00145 (Planned Unit Development) **Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, and, Case #ZON2010-00148 (Rezoning) **Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if

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anyone wished to speak on the matter to do so at that time.

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

- 1) retention of the lot area size, in square feet, on the Final Plat or provision of a table on the Final Plat with the same information;
- 2) revision of the 25-foot minimum building line to be depicted where the lot opens up to 131 feet, behind the flagpole;
- 3) depiction of the drainage easement along the entire length and width of the vacated Rosedale Avenue right-of-way;
- 4) compliance with Engineering comments (*The widths and locations of the proposed drainage easements will need to be coordinated with City Engineering. The applicant's engineer shall coordinate with City Engineering the type of drainage pipe located within the easement. If the existing drainage pipe is deemed inadequate to handle the loading from the proposed vehicular traffic and parking then the applicant will be required to replace the drainage pipe with the appropriately sized reinforced concrete pipe. The plat must clearly state that City will not be responsible for the replacement of the asphalt or any structures located within any drainage easement if maintenance of the system is required. 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.*); and,
- 5) completion of the rezoning process.

The motion carried unanimously.

Case #ZON2010-00145 (Planned Unit Development)

Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B

1151 Hillcrest Road

(East side of Hillcrest Road, 300'± North of Omni Park Drive)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow shared access and parking between two building sites.

Council District 6

(Also see **Case #SUB2010-00012 (Subdivision) Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, above, and, **Case #ZON2010-00148 (Rezoning) Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, below)

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

- 1) completion of the Subdivision process;
- 2) compliance with Engineering comments (*The widths and locations of the proposed drainage easements will need to be coordinated with City Engineering. The applicant's engineer shall coordinate with City Engineering the type of drainage pipe located within the easement. If the existing drainage pipe is deemed inadequate to handle the loading from the proposed vehicular traffic and parking then the applicant will be required to replace the drainage pipe with the appropriately sized reinforced concrete pipe. The plat must clearly state that City will not be responsible for the replacement of the asphalt or any structures located within any drainage easement if maintenance of the system is required. 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.*); and,
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2010-00148 (Rezoning)
Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B

1151 Hillcrest Road

(East side of Hillcrest Road, 300'± North of Omni Park Drive).

Rezoning from R-3, Multiple Family District to B-2, Neighborhood Business District to accommodate a proposed subdivision

Council District 6

(Also see **Case #SUB2010-00012 (Subdivision) Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, and, **Case #ZON2010-00145 (Planned Unit Development) Eleven Fifty One Hillcrest Subdivision, Re-subdivision of and Addition to Lot B**, above)

Hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to approve the above 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.

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OTHER BUSINESS:

Hearing no further business, the meeting was adjourned.

APPROVED: April 15, 2010

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

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