

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF MAY 19, 2011 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victoria L. Rivizzigno, Secretary
Stephen J. Davitt, Jr.
Herb Jordan
Mead Miller
Roosevelt Turner
John Vallas

Members Absent

William G. DeMouy, Jr.
Nicholas H. Holmes, III
James F. Watkins, III

Urban Development Staff Present

Frank Palombo,
Planner II
Bert Hoffman,
Planner II
Marie Cross,
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
District Chief Billy Roach,
Mobile Fire and Rescue Department

The notation *motion carried unanimously* indicates a consensus, with the exception of the Chairman who did 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 #ZON2011-00122 (Planned Unit Development)

Whisper Oak Subdivision

4512 Higgins Road

(North side of Higgins Road, 215'± West of Shipyard Road)

Planned Unit Development Approval to allow a mobile home park with 22 mobile home spaces and one apartment building with gravel accessways and parking.

Council District 4

(Also see **Case #ZON2011-00119 (Planning Approval) Whisper Oak Subdivision**, and, **Case #ZON2011-00121 (Rezoning) David L. Pitts**, below)

The Chair announced the applicant had requested that the matter be withdrawn from consideration and that the Commission had agreed to that withdrawal.

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Case #ZON2011-00119 (Planning Approval)

Whisper Oak Subdivision

4512 Higgins Road

(North side of Higgins Road, 215'± West of Shipyard Road)

Planning Approval to allow a mobile home park in an R-3 Multiple Family Residential District.

Council District 4

(Also see **Case #ZON2011-00122 (Planned Unit Development) Whisper Oak Subdivision**, above, and **Case #ZON2011-00121 (Rezoning) David L. Pitts**, below)

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations. He added if anyone wished to speak on the matter they should do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Jordan, to approve the requested modification of Section 37-57 to the Mobile City Code, subject to the following conditions:

- 1) **indication of the wooden decks on the site plan;**
- 2) **the wooden decks be of at least the minimum size as the required patios would be (180 square feet);**
- 3) **placement of a note on the site plan stating that the wooden decks must meet all applicable building codes and be maintained perpetually to ensure safety;**
- 4) **obtain building permits for the decks;**
- 5) **provision of one copy of the modified site plan showing the decks and complying with the preceding conditions (and any changes made by the Board of Zoning Adjustment and the Fire Department) to the Planning Section of Urban Development prior to permitting; and,**
- 6) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2011-00121 (Rezoning)

David L. Pitts

4512 Higgins Road

(North side of Higgins Road, 215'± West of Shipyard Road)

Rezoning from R-1, Single-Family Residential District, to R-3 Multiple Family Residential District to allow a mobile home park.

Council District 4

(Also see **Case #ZON2011-00122 (Planned Unit Development) Whisper Oak Subdivision**, and, **Case #ZON2011-00119 (Planning Approval) Whisper Oak Subdivision**, above)

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The Chair announced the applicant had requested that the matter be withdrawn from consideration and that the Commission had agreed to that withdrawal.

Case #SUB2011-00021 (Subdivision)

Summer Subdivision

6133 Old Shell Road and 75 & 79 West Drive

(Southeast corner of Old Shell Road and West Drive)

Number of Lots / Acres: 3 Lots / 4.0± Acres

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

Council District 6

(Also see **Case #ZON2011-00451 (Planned Unit Development) University Grande Apartment Complex**, and, **Case #ZON2011-00452 (Rezoning) Davis Companies, LLC**, below)

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

The Chair announced the application had been recommended for approval. He added if anyone wished to speak on the matter they should do so at that time.

Stefan Davis spoke on behalf of the developers, the Davis Companies, and made the following statements:

- A. noted the application was to rezone property for the addition of a parking lot which was being requested in an effort to increase the number of parking spaces they had in an effort to avoid future problems with their tenant parking;
- B. noted they currently had building permits in hand for the apartment complex;
- C. expressed the belief that they had met all the conditions placed upon them by the Planning Commission including the recommendation from Urban Forestry to save the 30 inch Live Oak tree which resulted in the removal of approximately 11 parking spaces from the main site;
- D. noted that when the developers originally met with the neighbors and City Councilperson Rich, they were informed of a traffic problem at West Drive and Old Shell Road and he expressed the belief that situation had been addressed with the construction of the slip lane;
- E. noted that the apartment complex would go forward regardless, however, it was the developer's belief that it would be a much better development with the addition of the off-site parking lot; and,
- F. stated their agreement with the staff's recommendations.

The following people spoke in opposition to the matter:

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- Ernest G. Scott, 6114 Pherin Woods Court, Mobile, AL, also representing the community;
- Steve Bartolli, 6106 Pherin Woods Court, Mobile;
- Bess Rich, 625 Cumberland Road East, Mobile, AL, City Councilperson District 6; and,
- Leigh Holland, 6113 Ventian Way South, Mobile, AL, representing the 40 or so homeowners in Ridgefield Commons.

They made the following points against the matter:

- A. presented a petition against the matter signed by members of the community;
- B. noted they were not against the apartment complex but rather against the off-site parking lot;
- C. noted that there were PUD approvals for the site in both 2008 and 2010 for an apartment complex with two four-story apartment buildings containing a total 150 units for multi-family use with a total of 329 surface parking spaces, which exceeded the 312 surface parking spaces required by the Zoning Ordinance;
- D. noted that in the 2008 PUD, access to Old Shell Road was requested only at Stadium Drive and the request for access to West Drive was only added in the 2010 PUD;
- E. noted that the off-site parking was a request for an additional 200 to 300 parking spaces and this came about as a result of the developer now asking to be able to lease the apartments as 500+ bedroom units;
- F. noted real concern for traffic issues that would result if the additional off-site parking was granted;
- G. requested that West Drive be considered a “one entrance/one exit” street and that be at Anders Bookstore;
- H. expressed concern for safety and noted the developer’s brochure which stated designing property to maximize natural surveillance with parking lots constructed to allow a high degree of observation from buildings and streets and that would not be possible if the off-street parking were allowed;
- I. noted the Planning Commission approved the apartment complex with 156 units, however, it appeared that the Commission was not aware that the units would be “lock out” units like a college dorm room and the additional parking needed as a result of that type unit was not taken into consideration when the Commission gave their approval;
- J. noted that it had now been stated by the developer that each bedroom would be rented individually rather than the entire apartment unit being rented as one unit which is why the additional parking was now being requested;

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- K. expressed the opinion that had Planning staff and Commission known from the beginning that the bedrooms would be rented individually then different recommendations for parking would have been given;
- L. noted concern over legal issues regarding off-site parking and the fact that the Zoning Ordinance stated that no off-site parking was allowed in R1-, R-2, and R-3 districts, and the conflicts approving this parking would create;
- M. concern regarding safety issues which would arise as a result of having to cross the street to get to one's vehicle;
- N. noted that approval of the matter that day would create the only site of its kind in the city with regards to residential property; and,
- O. expressed concern regarding traffic on Old Shell Road and West Drive.

Mr. Turner asked if the residents' only concern was for the additional parking and Mr. Scott stated the off-site parking was the main concern at this time.

Stefan Davis, the Davis Companies, responded to the opposition on behalf of the developer and made the following points:

- A. stated he heard and understood the comments and expressed that he was used to such comments;
- B. noted that this was the developer's "one shot" to get the parking done with the development, stating if it was not done with the original development, then the parking lot would never be built and they wouldn't be able to resolve a future issue that could be resolved presently.

Mr. Turner asked what "future issue" Mr. Davis referenced, most specifically, if it was the number of people living in the apartments.

Mr. Davis stated it was the number of people who would bring cars, which was outside of his control.

Mr. Turner asked if the developer had looked into the option of acquiring property adjacent to the apartments to provide the addition parking as opposed to across the street from said development.

Mr. Davis stated that as far as he was aware there was an easement to the west of their property and to the west of that was University of South Alabama property. He noted a tax credit property was immediately to the south of their property. He stated they had also tried to work with open parcels to the south of that property but because of the restrictions placed upon tax credit properties when they were constructed there would be no way for them to give an easement around the back of that tax credit property.

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Dr. Rivizzigno asked if they had considered revising their plans to fewer apartments thus needing fewer parking spaces.

Mr. Davis stated if they did that the project would not be economically feasible, stating there was an “economy of scale” with student housing which noted that providing better than 150 units made a project financially feasible. He noted this project as being a \$22 million development that would benefit both the City of Mobile and the University of South Alabama.

In deliberation, Mr. Lawler addressed the Commission regarding the section of the Zoning Ordinance cited by Ms. Rich regarding not allowing off-street parking in a residential neighborhood. He noted that as this was a Planned Unit Development, it was covered in the Planned Unit Development section which allowed for flexibility and that parking could be considered such an exception. He suggested that the Commission might want to consider this under the guidelines for a PUD which called for the development to “fit in” with surrounding properties. He added that as he understood it, the application was first approved for the location of the actual apartment building and that later the developer learned he would need additional parking in order to get certain loan approvals, which resulted in the parcel before them now being brought in for approval to allow off-site parking as part of the PUD. He stated that the real question was not whether or not it was allowable, as it was, but rather should be considered in terms of the PUD section of the Ordinance which would give them some discretion in the matter. He added that they should be determining whether or not the proposed use would have an adverse affect, whether or not that use could be balanced with the surrounding properties, however, the proposed use was not prohibited.

Mr. Miller expressed his concern that the Commission approved the apartment building with adequate parking only to later have the developer come back and say the parking would not be adequate since there would be three people per unit. He expressed it felt a little like “bait and switch,” which bothered him. He expressed his confusion over the matter especially the fact that the number of apartment units had not changed yet now parking needed to be increased due to the number of beds available.

Mr. Palombo stated currently the Zoning Ordinance did not differentiate between the parking needs of a one bedroom apartment and a four bedroom apartment but simply noted 1.5 parking spaces as required per apartment unit.

Mr. Davitt expressed that he, too, struggled with the matter in much the same way as Mr. Miller. He noted his reservations were with the close proximity of the parking lot to the residential neighborhoods. He agreed that the \$22 million dollar project would be a real benefit to the City and the University but had real reservations with regards to the off-site parking. He also expressed his agreement with Mr. Miller and their concern over the 156 proposed apartment units and there being three students per unit which he believed added up to about 468 people and that there were currently 329 parking spaces, which was in excess from the initial application of 139 and now the applicant wanted in excess of over 200 additional parking spaces. He added that he might feel more comfortable with the

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request if Lot 1, the lot farthest from the residential neighborhood, were the site of the projected parking lot, leaving Lot 2 as a buffer zone between the two. Mr. Davitt noted that he liked seeing growth in Mobile, especially a \$22 million dollar project as it benefited not only the City but also the University of South Alabama.

Mr. Miller stated he would be more comfortable holding the matter over as it would allow the developer time to re-draw the plan and possibly double the buffer zone between the parking and the residential property.

Mr. Jordan asked for clarification as his understanding was that the neighbors were in agreement with the original plan, including the number of parking spaces.

Mr. Palombo stated that in 2008 the matter had been approved but was unclear whether that approval was without issue or not and that in 2010, a 156-unit apartment complex was also approved. He noted that though only 234 parking spaces were required for the complex by the Zoning Ordinance, the site plan had provided 329, which was just for the B-2 zoned property to the east of West Drive.

Mr. Miller stated again his desire to see the matter held over especially with regards to the matter of rezoning the property as he felt that when the residents purchased their property they did so with the understanding that the property around them would continue to enjoy the same zoning classification it had at the time they made their purchase.

Mr. Palombo stated that initially the Zoning Ordinance did not discern between a one bed room, multi-family apartment and a four bedroom multi-family apartment and that the 1.5 parking spaces per unit parking regulations were the same for each apartment.

Mr. Turner stated his agreement with Mr. Miller, and added he had strong feelings regarding the request for off-site parking. He also noted that his understanding was that the neighbors were in agreement with the original plan and the parking associated with that plan and asked for clarification on the same.

Dr. Rivizzigno expressed her negative feelings regarding the off-site parking and asked what purpose was there in holding the matter over.

Mr. Palombo asked if the Commission were leaning toward holding the matter over, could the subdivision be approved, leaving only the Planned Unit Development and Rezoning application as held over.

Mr. Miller expressed his feeling that the Commission did not make it a practice of rezoning property for simple convenience especially when there were so many neighbors expressing opposition to such rezoning. He also expressed his feelings that he felt it was better to err on the side of caution and provide the time and opportunity for a compromise to be developed.

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Mr. Turner voiced his agreement with Mr. Miller's sentiments.

Mr. Davitt asked Traffic Engineering, regarding coming off of West Drive onto Old Shell Road, if those vehicles would be able to turn either left or right or if they would be prohibited from turning one direction or the other.

Jennifer White, Traffic Engineering Department, said that currently traffic could turn either direction, however, as there was only one lane for such to occur, when a vehicle did turn left there, it would cause on-coming traffic to wait, but there was nothing to prohibit such turning.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Davitt, to hold the matter over until the June 16, 2011, meeting, in order to allow changes to the Planned Unit Development site plan to be considered.

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

Case #ZON2011-00451 (Planned Unit Development)

University Grande Apartment Complex

6133 & 6201 Old Shell Road and 75 & 79 West Drive

(Southeast and Southwest corners of Old Shell Road and West Drive)

Planned Unit Development Approval to allow multiple buildings on a single building site, off-site parking and shared access.

Council District 6

(Also see **Case #SUB2011-00021 (Subdivision) Summer Subdivision**, above, and, **Case #ZON2011-00452 (Rezoning) Davis Companies, LLC**, below)

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

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Davitt, to hold the matter over until the June 16, 2011, meeting, in order to allow changes to the Planned Unit Development site plan to be considered, addressing neighborhood impact, safety, and traffic concerns.

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

Case #ZON2011-00452 (Rezoning)

Davis Companies, LLC

6133 Old Shell Road

(Southeast corner of Old Shell Road and West Drive)

Rezoning from R-1, Single-Family Residential District, to R-3, Multiple-Family Residential District, to allow an off-site parking lot for an apartment complex.

Council District 6

(Also see **Case #SUB2011-00021 (Subdivision) Summer Subdivision**, and, **Case #ZON2011-00451 (Planned Unit Development) University Grande Apartment Complex**, above)

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

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Davitt, to hold the matter over until the June 16, 2011, meeting, in order to allow changes to the Planned Unit Development site plan to be considered, addressing neighborhood impact, safety, and traffic concerns.

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

Case #SUB2011-00030 (Subdivision)

Springhill Boat Storage Subdivision

115, 201, 203 and 205 Furr Street

(West side of Furr Street, 370'± North of Old Shell Road)

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

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

Council District 1

(Also see **Case #ZON2011-00750 (Planned Unit Development) Springhill Boat Storage**, and, **Case #ZON2011-00752 (Rezoning) Fallback Fund, LLC, D. B. A. Springhill Boat Storage**, below)

The Chair announced the applicant had requested that the matter be withdrawn from consideration and that the Commission had agreed to that withdrawal.

Case #ZON2011-00750 (Planned Unit Development)

Springhill Boat Storage

115, 201, 203 and 205 Furr Street

(West side of Furr Street, 370'± North of Old Shell Road)

Planned Unit Development Approval to allow three buildings on a single building site.

Council District 1

(Also see **Case #SUB2011-00030 (Subdivision) Springhill Boat Storage Subdivision**, above, and, **Case #ZON2011-00752 (Rezoning) Fallback Fund, LLC, D. B. A. Springhill Boat Storage**, below)

The Chair announced the applicant had requested that the matter be withdrawn from consideration and that the Commission had agreed to that withdrawal.

Case #ZON2011-00752 (Rezoning)

Fallback Fund, LLC, D. B. A. Springhill Boat Storage

115, 201, 203 and 205 Furr Street

(West side of Furr Street, 370'± North of Old Shell Road)

Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District to allow a proposed recreational boat storage facility.

Council District 1

(Also see **Case #SUB2011-00030 (Subdivision) Springhill Boat Storage Subdivision**, and, **Case #ZON2011-00750 (Planned Unit Development) Springhill Boat Storage**, above)

The Chair announced the applicant had requested that the matter be withdrawn from consideration and that the Commission had agreed to that withdrawal.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2011-00045

Harper's Place Subdivision

3265 Clubhouse Road

(East side of Clubhouse Road, 100'± North of Gill Road)

Number of Lots / Acres: 1 Lot / 0.2± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

Council District 3

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations. He added if anyone wished to speak on the matter they should do so at that time.

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

- 1) **placement of the labeling of the lot with its size in square feet;**
- 2) **placement of the 25-foot minimum building setback line;**
- 3) **placement of a note on the Final Plat limiting the development to one curb-cut to Club House Road, with the size, design, and location of all curb-cuts to be approved by Mobile City Engineering and conform to AASHTO standards;**
- 4) **placement of the dedicated right-of-way;**
- 5) **compliance with Engineering comments: *(Revise the flood statement on the map to reflect "X-Unshaded" as determined by "scaling". Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit in addition to any required land disturbance permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary***

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- sewer*);
- 6) **placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,**
 - 7) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2011-00046

Macarthur Place Subdivision, Re-subdivision of Lot 9

1225 Macarthur Place Court

(East side of Macarthur Place Court, 500'± North of Grelot Road)

Number of Lots / Acres: 1 Lot / 0.3± Acre

Engineer / Surveyor: Wattier Surveying, Inc

Council District 6

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

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.

Mark Wattier, Wattier Surveying, Inc., spoke on behalf of the applicant and made the following points for approval:

- A. noted that in his experience with subdivision and their development, there was always one lot that was more difficult to develop;
- B. noted that the lot in question was the odd lot and in as much they were requesting that the building set back lines be changed so as to increase the building size of the lot;
- C. noted that he had provided the staff with additional information but apologized that it had only been done so that morning;
- D. noted that changing the front building set back line from 35 feet to 25 feet and the rear set back line from 20 feet to 10 feet would have the setback lines in agreement with the Planning Commission guidelines but not in agreement with the subdivision and the way it was originally platted;
- E. provided the Commission with a drawing that showed how the lot plotted up in relation to the other lots when looking at the building setbacks;
- F. noted that Lot 9 was the smallest of the lots in the subdivision, being some 1000 feet smaller than the next smallest lot;
- G. noted that Lot 9 was the most oddly shaped and with the most restrictive building site of all of the lots in the subdivision;
- H. noted that only Lot 9 and Lot 11 were undeveloped within the

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- subdivision;
- I. presented a copy of the re-subdivision of Lot 7 which set a precedent of modifying setback lines;
 - J. noted that the staff had cited Section V.D.1. regarding the size, width, depth, shape, and orientation of the lot and that minimum building set back line should be compatible and appropriate to the location of the subdivision and the type of development and use contemplated and expressed his belief that moving those lines would make the lot more so than it currently was; and,
 - K. offered a letter from the president of the homeowners' association noting their agreement with the request.

Mr. Vallas asked if the Commission were leaning toward approving the matter, did the staff have any conditions for approval they would like to see attached.

Mr. Palombo responded by saying the staff had drafted potential conditions for approval if the Commission was inclined to approve the matter and then read the following into the record:

- A. depiction of the 25-foot minimum building setback line on the Final Plat;
- B. labeling of the lot area size, in square feet, on the Final Plat;
- C. placement of a note on the Final Plat stating that the lot is limited to 1 curb-cut, with the size, design and exact location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and,
- D. placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.

Mr. Wattier agreed to the conditions as read.

Ken Vincens, 1062 Lelan Avenue, Elite Home Builders, spoke as builder for the property. He stated they had received approval from the homeowners' association for house plans for the lot and they are excited about it and so he hoped the Commission would approve the matter.

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

- 1) depiction of the 25-foot minimum building setback line on the Final Plat;**
- 2) labeling of the lot area size, in square feet, on the Final Plat;**

- 3) **placement of a note on the Final Plat stating that the lot is limited to 1 curb-cut, with the size, design, and exact location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 4) **placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2011-00048

R & D Subdivision

West side of Schillinger Road South, 265'± North of Three Notch Road and extending to the North Side of Three Notch Road

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

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

County

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations. He added if anyone wished to speak on the matter they should do so at that time.

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

- 1) **placement of a note on the Final Plat stating that the lot is limited to one curb-cut to Schillinger Road, with the size, design, and location to be approved by Mobile County Engineering;**
- 2) **placement of a note on the Final Plat stating that subdivision of the future development area will require dedication along Three Notch Road, if adjacent to Three Notch Road;**
- 3) **placement of the 25-foot minimum building setback line, and placement of the note on the Final Plat;**
- 4) **placement of a note on the Final Plat stating the subdivision *“Must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, 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.”;***
- 5) **placement of a note on the Final Plat stating that development**

- of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species;
- 6) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations; and,
 - 7) labeling of the lot area size, in square feet, or provision of a table on the Final Plat with the same information, with changes as necessary due to dedications.

The motion carried unanimously.

Case #SUB2011-00043

Jennifer Lawler Subdivision

Southeast corner of Novatan Road and Ora Lane [private street]

Number of Lots / Acres: 2 Lots / 74.7± 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.

Brett Orrell, Polysurveying of Mobile, spoke on behalf of the applicant and asked that the issues involving the irregularly shaped lot and excessive depth to width ratio be waived. He noted there was 100 feet along Novatan Road and they were looking to put in a four acre tract on which to build a home. He stated the 100 feet would be sufficient for building a home in that front portion and still allow room for horses in the back.

Mr. Palombo responded by saying the staff had drafted conditions for approval, should the Commission be so inclined to waive Sections V.D.1. and V.D.3. of the Subdivision Regulations, and then read the following for the record:

- A. labeling of each lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;
- B. illustration of the 25' minimum building setback line for each lot along Novatan Road;
- C. placement of a note on the Final Plat stating that Lot 1 is limited to one curb-cut to Novatan Road, and Lot 2 is limited to two curb-cuts to Novatan Road, with the size, location, and design of all curb-cuts to be approved by County Engineering and conform to AASHTO standards;
- D. placement of a note on the Final Plat stating that Lot 2 is denied access to Ora Lane;
- E. placement of a note on the Final Plat stating that the

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approval of all applicable federal, state, and local environmental agencies for wetlands and floodplain issues is required prior to the issuance of any permits or land disturbance activities;

- F. placement of a note on the Final Plat stating that no structures are to be built within the Alabama Power Company easement over Lot 2;
- G. 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;
- H. placement of a note on the Final Plat stating development must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, 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. New public roads shall be constructed and paved to standards for County Maintenance, and accepted by Mobile County, while new private roads shall be constructed and paved to minimum County or Subdivision Regulations standards, whichever are greater; and,
- I. placement of a note on the Final Plat stating that the development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species.

Mr. Orrell stated he was in agreement with those conditions.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Vallas, to waive Sections V.D.1. and V.D.3. and approve the above referenced matter subject to the following conditions:

- 1) labeling of each lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;**
- 2) illustration of the 25' minimum building setback line for each lot along Novatan Road;**
- 3) placement of a note on the Final Plat stating that Lot 1 is limited to one curb cut to Novatan Road, and Lot 2 is limited to two curb cuts to Novatan Road, with the size, location, and**

- design of all curb cuts to be approved by County Engineering and conform to AASHTO standards;
- 4) placement of a note on the Final Plat stating that Lot 2 is denied access to Ora Lane;
 - 5) placement of a note on the Final Plat stating that the approval of all applicable federal, state and local environmental agencies for wetlands and floodplain issues is required prior to the issuance of any permits or land disturbance activities;
 - 6) placement of a note on the Final Plat stating that no structures are to be built within the Alabama Power Company easement over Lot 2;
 - 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;
 - 8) placement of a note on the Final Plat stating development must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the storm water detention and drainage facility requirements of the City of Mobile storm water and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the storm water detention and drainage facility requirements of the City of Mobile storm water and flood control ordinances prior to the issuance of any permits. New public roads shall be constructed and paved to standards for County Maintenance, and accepted by Mobile County, while new private roads shall be constructed and paved to minimum County or Subdivision Regulation standards, whichever are greater; and,
 - 9) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species.

The motion carried unanimously.

Case #SUB2011-00044

Michael Evans Subdivision

9300 Old Pascagoula Road

(North side of Old Pascagoula Road, 610'± West of Deb Busby Road)

Number of Lots / Acres: 2 Lots / 6.0± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations. He added if anyone wished to

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Speak on the matter they should do so at that time.

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

- 1) placement of a note on the Final Plat stating that each lot is limited to one curb-cut to Old Pascagoula Road, with the size, design, and location to be approved by Mobile County Engineering;**
- 2) dedication of 10-feet along Old Pascagoula Road;**
- 3) correction of the legal descriptions for Lots 1 and 2 to reflect the dedication;**
- 4) correction of lot sizes after dedication;**
- 5) placement of the 25-foot minimum building setback line, and placement of the note on the Final Plat;**
- 6) placement of a note on the Final Plat stating the subdivision *“Must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile storm water 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.”*;**
- 7) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species;**
- 8) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies for wetland and floodplain issues will be required prior to the issuance of any permits or land disturbance activities;**
- 9) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations; and,**
- 10) labeling of the lot area size, in square feet, or provision of a table on the Final Plat with the same information, with changes as necessary due to dedications.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2011-00029 (Subdivision)

Alabama West Subdivision, Unit Four

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road)

Number of Lots / Acres: 1 Lot / 1.1± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 4

(Also see **Case #ZON2011-00747 (Planning Approval)** **Alabama West Subdivision, Unit Four**, and, **Case #ZON2011-01073 (Rezoning)** **Alabama Realty Company, Inc.**, below)

The Chair announced the application had been recommended for holdover and stated the applicant was agreeable with the recommendations. He added if anyone wished to speak on the matter they should do so at that time.

Hearing no opposition or further discussion on the matter, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over in order to allow staff to develop conditions of approval for the Zoning and Planning Approval requests.

The motion carried unanimously.

Case #ZON2011-00747 (Planning Approval)

Alabama West Subdivision, Unit Four

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road)

Planning Approval to allow the construction and use of a 130' monopole communications tower in a B-3, Community Business District.

Council District 4

(Also see **Case #SUB2011-00029 (Subdivision)** **Alabama West Subdivision, Unit Four**, above, and, **Case #ZON2011-01073 (Rezoning)** **Alabama Realty Company, Inc.**, below)

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

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the owner and developer, and he made the following points in favor of the Planning Approval and Rezoning applications:

- A. noted that the staff, based upon their research, had been unable to find another cell tower within a half mile of the location in question that the applicant could co-locate on;
- B. noted that all of the property owners on the south side of McVay Drive, which was zoned B-3, were contacted, however, that property had a recorded covenant prohibiting cell tower

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- construction;
- C. the applicant proposed to locate the tower on the site shown in blue on the corner;
 - D. it was noted that the corner of the property in question did have some wetlands located on it with a very small area located above the wetlands being above the floodplain with the elevation of the knoll being at a five foot difference from the property located directly across the road from it;
 - E. it was not felt that the presence or the use of a cell tower would be considered that offensive, in that the orange depicted on the map was the shopping center located at the corner of Navco Road and McVay Drive; and,
 - F. noted that the proposed tower would not be located near any truly residential properties even though the bulk of the property around the proposed site was zoned as R-1.

The Chair asked if the site itself was wooded thus creating an existing vegetative buffer.

Mr. Byrd stated that other than creating a driveway to the tower and the 100 foot square for the tower itself, the owners had no plans to clear the property so it would retain its natural vegetative buffer.

Mr. Palombo stated that though the staff had received a wealth of information from the applicant, they had not received all of the required information, and cited such things as the search ring for other towers and propagation maps. He noted that the property in question was close to the Government Boulevard/McVay Drive area, which did have some B-3 developments and he wondered if the applicant had researched those prior to attempting to rezone residential property.

Mr. Byrd expressed his belief that such had been done and turned in.

Hearing no opposition or further discussion on the matter, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over to the June 2, 2011, meeting, in order to allow staff to develop conditions of approval for the Zoning and Planning Approval requests.

The motion carried unanimously.

Case #ZON2011-01073 (Rezoning)

Alabama Realty Company, Inc.

2600 McVay Drive North

(North side of McVay Drive North, 290'± West of Navco Road)

Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow the construction and use of a cellular communications tower.

Council District 4

(Also see **Case #SUB2011-00029 (Subdivision) Alabama West Subdivision, Unit**

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Four, and, **Case #ZON2011-00747 (Planning Approval) Alabama West Subdivision, Unit Four**, 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 on the matter, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over to the June 2, 2011, meeting, in order to allow staff to develop conditions of approval for the Zoning and Planning Approval requests.

The motion carried unanimously.

Case #SUB2011-00049 (Subdivision)
Plantation Memorial Gardens Subdivision

5501 Bear Fork Road

(South side of Bear Fork Road at the South terminus of Jarrett Road)

Number of Lots / Acres: 1 Lot / 25.0± Acres

Engineer / Surveyor: W. R. Ward

Council District 7

(Also see **Case #ZON2011-01096 (Planning Approval) Plantation Memorial Gardens Subdivision**, below)

The Chair announced the matter was recommended for holdover, but if there were those present who wished to speak to please do so at that time.

W.R. Ward, 9909 North Cove Avenue, Pensacola, FL, spoke on behalf of the applicant and stated he believed it was recommended for approval.

Mr. Hoffman explained that when Mr. Ward had submitted the project, he had advised that he was going to get or attempt to get a letter from Mobile Area Water and Sewer Systems regarding a small portion of land that had should have been included in the subdivision application as it had been illegally subdivided several years prior. He noted that Mr. Ward had been in contact with MAWSS but the office had yet to receive a letter from MAWSS indicating whether or not they wish to be a part of the subdivision process. Mr. Hoffman also stated that as this was a use that required Planning Approval, verification was also needed that it would meet the tree and landscaping requirement of the Zoning Ordinance and reminded the Commission that Planning Approval was site plan specific. He noted that the site, based upon its use, would obviously meet the necessary total green space requirements of the Zoning Ordinance, but it still needed to be determined that there would be adequate frontage trees and if there would be any additional amenities such as fences or walls along the main road as those would need to be illustrated on the plat as well.

Mr. Ward stated he thought these had already been addressed. He then apologized and stated he would see that those matters were handled

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Mr. Hoffman advised Mr. Ward that Traffic Engineering also wanted the driveway narrowed from 60 feet to 24 feet in width and suggested that he speak with that department.

Mr. Palombo reminded Mr. Ward that any revisions would need to be submitted to the staff by June 3, 2011.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until the June 16, 2011, meeting, so that the following revisions can be made by June 3, 2011:

- 1) **inclusion of the MAWSS parcel, or provision of a letter from MAWSS requesting exclusion from the Subdivision request;**
- 2) **compliance with Traffic Engineering comments: (*Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Driveway shown is 60 feet in width. Narrow the driveway to a standard width of 24 feet*);**
- 3) **compliance with Engineering comments: (*Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. The proposed detention pond will need to be sized to provide at a minimum, detention from a 100 year storm with a 2 year release rate as outlined in the stormwater ordinance. Any work performed in the right-of-way will require a right-of-way permit in addition to any required land disturbance permit*);**
- 4) **revision of the site plan to depict the 25-foot minimum building setback from both the Bear Fork Road and proposed Middle Ring Road frontages; and,**
- 5) **revision of the label for Middle Ring Road to depict the future right-of-way as being dedicated to the City of Mobile, or as a setback, in addition to the 25-foot minimum building setback.**

The motion carried unanimously.

Case #ZON2011-01096 (Planning Approval)
Plantation Memorial Gardens Subdivision

5501 Bear Fork Road

(South side of Bear Fork Road at the South terminus of Jarrett Road)

Planning Approval to allow a cemetery with 21,250 plots in an R-1, Single-Family Residential District.

Council District 7

(Also see Case #SUB2011-00049 (Subdivision) **Plantation Memorial Gardens Subdivision**, above)

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Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until the June 16, 2011, meeting, so that the following revisions can be made by June 3, 2011:

- 1) revision of the site plan to depict compliance with the tree and landscaping requirements of the Zoning Ordinance, including calculations for open space and trees;
- 2) revision of the site plan to depict the 25-foot minimum building setback from both the Bear Fork Road and proposed Middle Ring Road frontages;
- 3) revision of the label for Middle Ring Road to depict the future right-of-way as being dedicated to the City of Mobile, or as a setback, in addition to the 25-foot minimum building setback;
- 4) revision of the site plan to depict any fencing or gates proposed, to include the height of the proposed fencing;
- 5) compliance with Traffic Engineering comments: (*Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Driveway shown is 60 feet in width. Narrow the driveway to a standard width of 24 feet*);
- 6) compliance with Engineering comments: (*Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. The proposed detention pond will need to be sized to provide at a minimum, detention from a 100 year storm with a 2 year release rate as outlined in the stormwater ordinance. Any work performed in the right-of-way will require a right-of-way permit in addition to any required land disturbance permit*); and,
- 7) depiction and labeling of a 10-foot wide natural vegetative buffer where the site abuts residentially-zoned property.

The motion carried unanimously.

Case #SUB2011-00047 (Subdivision)

Maryland & Franklin Subdivision

211 South Franklin Street

(East side of Franklin Street, 155'± North of Virginia Street and extending East to South Conception Street)

Number of Lots / Acres: 3 Lots / 1.8± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 2

(Also see **Case #ZON2011-01082 (Planned Unit Development) Maryland & Franklin Subdivision**, below)

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

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The Chair announced the matter was recommended for holdover, but if there were those present who wished to speak to please do so at that time.

The following people spoke on the matter:

- Don Coleman, Rester and Coleman Engineers, on behalf of the owners; and,
- Gwynn McVickers, 2350 Dyston Springs Road, Hoenwald, TN, speaking on behalf of C.T. Realty Inc., the property owners.

They made the following points:

- A. noted that the owners simply wanted to subdivide the property so that they could sell the lots;
- B. noted that at the present time, there were no proposed site plans involved with the two lots involved;
- C. advised that if the subdivision is approved, each lot owner would have to provide a PUD as they decided to develop it;
- D. asked that because of all of this the matter be approved so that the lots could be put up for sale thus making many of the issues brought up by the staff the responsibility of the new land owners.
- E. Reminded everyone of how difficult it had been over the past few years to sell property so now wanted to try and sell the property as individual parcels;
- F. Noted that the engineer when he drew up the plat had shown the access going down the vacated street, which when sold, each individual buyer would have access as they would own half of the street;
- G. Noted that each property also bordered another street with the vacant lot bordering South Conception Street and 206 Maryland Street and 211 Maryland Street both bordering Franklin Street, meaning the vacated street was not the only access to the property; and,
- H. Noted there was a prospective buyer so it was hoped that if the matter were to be held over, it would only be for one meeting.

Mr. Palombo expressed his displeasure in approving the subdivision without a site plan and Mr. Hoffman stated that due to the fact that the access was shared by the properties, a PUD would essentially “marry” the properties and they would have a joint future in their development, which meant that the staff needed some indication of how the properties would have the shared access so that all current and future lot owners would be guaranteed any required access for the property.

After taking a few moments to concur with Mr. Palombo, Mr. Hoffman announced some possible conditions for approval.

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Mr. Davitt stated he would be more comfortable allowing the staff adequate time to formulate conditions for approval and asked Ms. McVickers if she would be agreeable to holding the matter over until the June 2, 2011, meeting, to which she responded that she was agreeable.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to hold the matter over until the June 2, 2011, meeting, with revisions due to the Planning Section by May 24, 2011, so that the applicant can submit additional information for the PUD application.

The motion carried unanimously.

Case #ZON2011-01082 (Planned Unit Development)

Maryland & Franklin Subdivision

206 & 211 Maryland Street

(East side of Franklin Street, 155'± North of Virginia Street and extending East to South Conception Street).

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

Council District 2

(Also see **Case #SUB2011-00047 (Subdivision) Maryland & Franklin Subdivision**, above)

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

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to hold the matter over until the June 2, 2011, meeting, so that the applicant can address the following:

- 1) submit an accurate site plan illustrating all site improvements and features (dumpster locations (if any), trees, fencing, or any landscaping the site), as well as parking calculations and parking areas.**

The motion carried unanimously.

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OTHER BUSINESS:

Hearing no further business, the meeting was adjourned.

APPROVED: August 18, 2011

/s/ Dr. Victoria Rivizzigno, Secretary

/s/ Terry Plauche, Chairman

jsl