

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF MAY 20, 2010 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

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

Members Absent

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

Urban Development Staff Present

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

Others Present

John Lawler,
Assistant City Attorney
John Forrester,
City Engineering
Jennifer White,
Traffic Engineering

Capt. James May,
Fire Department

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

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

HOLDOVERS:

Case #SUB2010-00039

F. D. Richardson Heights Subdivision, Re-subdivision of Lots 1, 16 through 20 & Common Area

3109 First Avenue

South side of First Avenue, 157'± West of Ruby Street, and extending to the West terminus of Richardson Way

Number of Lots / Acres: 6 Lots / 1.1± Acre

Engineer / Surveyor: Wattier Surveying, Inc.

Council District 1

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The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations then 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. Miller, with second by Mr. DeMouy, to approve the above referenced matter, subject to the following conditions:

- 1) **placement of a note on the final plat stating that no construction is allowed within any easements;**
- 2) **retaining of a note stating that each lot is limited to one curb-cut each with the size, location, and design to be approved by Traffic Engineering and in conformance with AASHTO standards;**
- 3) **revision of the plat to illustrate ALL improvements within the subdivision, with the obtainment of ALL necessary permits from the Permitting Section of Urban Development prior to signing the final plat; and,**
- 4) **compliance with Engineering comments: *(A copy of the Property Owner's Association Covenants and a detention maintenance plan must be submitted with the final plat. Copies of the recorded covenants and the detention maintenance plan are to be submitted to City Engineering along with a copy of the recorded plat. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit).***

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2010-00058

Lancaster Subdivision

East side of Lancaster Road, 1 mile± South of Laurendine Road

Number of Lots / Acres: 1 Lot / 5.0± Acre

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 then 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. Miller, with second by Mr. DeMouy, to waive Section V.D.3. and approve the above referenced matter, subject to the following conditions:

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- 1) placement of a note on the final plat stating that the lot is limited to one curb-cut to Lancaster Road, with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;
- 2) placement of a note on the final plat stating that no future subdivision will be allowed until additional frontage on a paved public street is provided;
- 3) placement of a note on the plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 4) placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.8 of the Subdivision Regulations;
- 5) the applicant receive the approval of all applicable federal, state, and local environmental agencies for wetlands and floodplains prior to the issuance of any permits or land disturbance activities; and,
- 6) 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 Regulation standards, whichever are greater.

The motion carried unanimously.

Case #SUB2010-00056

Cole's Place Subdivision, Unit Three

1105 Dykes Road North

West side of Dykes Road North, 6/10± mile South of Tanner Williams Road

Number of Lots / Acres: 6 Lots / 22.0± Acres

Engineer / Surveyor: Austin Engineering Co. Inc.

County

The Chair announced the application had been recommended for approval and stated the

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applicant was agreeable with the recommendations then added if anyone wished to speak on the matter they should do so at that time.

Mr. Olsen advised the Commission that Condition 9 of the recommendations should be deleted as the property was in the County and not within the city limits.

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

- 1) no construction allowed in the 100' Alabama Power easement;**
- 2) depiction of the 25-foot minimum building setback line on all lots and on the flag lots where the pole meets the flag;**
- 3) placement of a note on the Final Plat stating that lots 1, 2, 3 and 6 are limited to one curb-cut each, while proposed lots 4 and 5 are limited to one shared curb-cut, with the size, design, and location of all curb-cuts to be approved by Mobile County Engineering and comply with AASHTO standards;**
- 4) retention of the labeling of the size of the lot, in square feet, or provision of a table on the plat with the same information;**
- 5) must comply with Engineering comments: *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. 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 no future re-subdivision until adequate frontage on a County maintained public right-of-way is provided;**
- 7) revision of the 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,**
- 8) revision of the note on the Final Plat stating that approval of 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.**

The motion carried unanimously.

NEW ZONING APPLICATIONS:

Case #ZON2010-01110

Thompson Properties

3950 Hamilton Boulevard

North side of Hamilton Boulevard, 4/10± mile West of Rangeline Road

Rezoning from R-A, Residential-Agricultural District, and I-1, Light Industry District, to I-1, Light Industry District to eliminate split zoning.

Council District

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations then 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. DeMouy, to approve the above referenced matter, subject to the following conditions:

- 1) **full compliance with all municipal codes and ordinances at the time of development or re-development; and,**
- 2) **submission of non-conforming documentation regarding existing site surfacing/development.**

The motion carried unanimously.

Case #ZON2010-01111

Wall Timber, LLC

North side of Wall Street, 375'± West of Hillcrest Road.

Rezoning from B-1, Buffer Business District, to B-3, Community Business District, to allow a medical complex for light distribution of medical, dental and hospital equipment.

Council District 6

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

The following people spoke in favor of approving the matter:

- Frank Dagley, Frank A. Dagley and Associates, for the applicant; and,
- Michael Daniels, 5617 Cottage Hill Road, Mobile, AL, the applicant for Wall Timber.

They made the following points for the matter:

- A. noted that justification for the request may not have been submitted with the application and presented the following discussion;

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- B. noted the request was justified due to the amount of B-3 zoned property in the area already being occupied and there was none available;
- C. the property had been vacant a number of years but the applicant wanted to build a new building now and had three tenants ready to occupy the space with businesses;
- D. the property in question is contiguous to property already zoned B-3;
- E. presented pictures of a similar development located in Florida they wished to emulate; and,
- F. had spoken with Richard Weevel, the developer of the Wall Street area, and they were working in tandem to fit the development into the neighborhood.

Mr. Olsen stated the staff stood by their recommendation that the matter be denied as the project did not meet many of the requirements as stated in the Ordinance, and in as much, the staff had no possible recommendations prepared for the project. He added that should the Commission be leaning toward approval of the matter, the staff suggested holding the matter over to allow time for the preparation of recommendations for approval.

Mr. Miller asked if it was thought that a hold over might allow the parties to reach some type of agreement.

Mr. Olsen did not know whether the staff's recommendation would change as it was based upon the Ordinance.

Mr. Miller commented on the issue in general noting that Mr. Dagley had come before the Commission and stated that he was not sure if the required justification had been given to the staff and that he wished to provide that at the meeting to gain approval of the matter. He noted his concern that too many applicants have developed the habit of expecting the Commission to deliberate matters during Planning Commission meeting without giving the staff the necessary time to review the information involved.

Mr. Davitt asked if the rezoning request was because the intended use was for light distribution.

Mr. Daniels stated that the intent was for light medical distribution and B-3 zoning was required for that. He also stated he had given that information to the engineer and could not account for why that information had not been given to the staff.

Mr. Davitt then advised he was interested in knowing what recommendations the staff might have for approving the project, but he emphasized he did not mean for those to be presented at the meeting at hand. Mr. Davitt then asked what date the staff would recommend for a holdover.

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Mr. Olsen stated the recommended holdover date would be June 17, 2010.

Mr. Daniels stated that he did have clients very interested in the project, but if a holdover was necessary, he would agree to it.

Mr. Miller stated that he would not go against the staff's recommendations and he advised the applicant that he felt it would be in their best interest, in an effort to have the matter passed, if the applicant would get with staff to resolve the issues noted in their recommendation for denial of the project.

Mr. DeMouy noted his agreement with Mr. Miller.

Mr. Vallas commented that he supported the proposal due to its close proximity to the zoning classification requested.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Miller, to hold the matter over until the June 17, 2010, meeting.

The motion carried unanimously.

Mr. Davitt noted that he would appreciate it if the staff would have conditions for approval prepared in case the Commission did decide to approve the matter.

GROUP APPLICATIONS:

Case #SUB2010-00053 (Subdivision)

Checkers Broad Street Subdivision

8 North Broad Street

Southeast corner of North Broad Street and St. Francis Street, extending to the Northeast corner of North Broad Street and Dauphin Street

Number of Lots / Acres: 1 Lot / 0.7± Acre

Engineer / Surveyor: R. James Halsema

Council District 2

(Also see **Case #ZON2010-00981 (Planned Unit Development) Checkers Broad Street Subdivision**, below)

The Chair announced the matter was recommended for approval

Jim Halsema, Architectural Advocates Inc., 205 Mt. Vernon Place, Roswell, GA, represented the applicant and stated they were in agreement with the recommendations, but wondered if the dedication of an additional 10 feet of right-of-way along Broad Street would mean the relocation of the Checkers pole sign.

Mr. Olsen stated that if there were dedication of the 10 feet, then there would be the potential requirement of gaining a non-utility right-of-way use agreement to allow it to be maintained. He added that an application for the same would need to be submitted

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and he believed Mr. DeMouy could address that matter as he was on the committee to review those.

Mr. DeMouy stated that the committee in the past had allowed applicants to leave said signs in the right-of-way.

Hearing no opposition or further discussion, a motion was made by Mr. Turner, with second by Mr. Jordan, to waive Section V.D.9. and approve the above referenced matter, subject to the following conditions:

- 1) **compliance with Engineering comments:** *(Property is located in the AE and X-Shaded Flood Zones. Show Minimum Finished Floor Elevation on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. Must comply with all stormwater and flood control ordinances. The construction of any new dumpster pads will require connection to sanitary sewer, cannot discharge to storm sewer. Any work performed in the right-of-way will require a right-of-way permit.);*
- 2) **dedication of 10-feet of right-of-way along Broad Street;**
- 3) **revision of the minimum building setback on the plat to reflect those allowed by Section 64-3.E.4. of the Zoning Ordinance;**
- 4) **placement of a note on the final plat stating that the site is limited to its existing curb-cuts (two to Broad Street, one to St. Francis Street, and one to Dauphin Street), and that any change to a curb-cut must be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;**
- 5) **compliance with and placement of Urban Forestry comments as a note on the plat:** *(Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Site will require a final tree inspection due to dead or missing heritage trees.);* and,
- 6) **provision of two (2) copies of the revised PUD site plan prior to the signing of the final plat.**

The motion carried unanimously.

Case #ZON2010-00981 (Planned Unit Development)

Checkers Broad Street Subdivision

8 North Broad Street

Southeast corner of North Broad Street and St. Francis Street, extending to the Northeast corner of North Broad Street and Dauphin Street

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

Council District 2

(Also see **Case #SUB2010-00053 (Subdivision) Checkers Broad Street Subdivision**, above)

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

- 1) **compliance with Engineering comments (*Property is located in the AE and X-Shaded Flood Zones. Show Minimum Finished Floor Elevation on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. Must comply with all stormwater and flood control ordinances. The construction of any new dumpster pads will require connection to sanitary sewer, cannot discharge to storm sewer. Any work performed in the right-of-way will require a right-of-way permit.*);**
- 2) **dedication of 10-feet of right-of-way along Broad Street;**
- 3) **revision of the minimum building setback on the site plan to reflect those allowed by Section 64-3.E.4. of the Zoning Ordinance;**
- 4) **placement of a note on the site plan stating that the site is limited to its existing curb-cuts (two to Broad Street, one to St. Francis Street, and one to Dauphin Street), and that any change to a curb-cut must be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;**
- 5) **compliance with and placement of Urban Forestry comments as a note on the site plan (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Site will require a final tree inspection due to dead or missing heritage trees.*);**
- 6) **provision of two (2) copies of the revised PUD site plan prior to the signing of the final plat; and,**
- 7) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

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Case #SUB2010-00054 (Subdivision)

Checkers Hwy 90 W. Subdivision

5415 U. S. Highway 90 West

Northeast corner of U.S. Highway 90 West and Wiley Orr Road

Number of Lots / Acres: 1 Lot / .25± Acre

Engineer / Surveyor: R. James Halsema

Council District 4

(Also see **Case #ZON2010-00980 (Planned Unit Development) Checkers Hwy 90 W. 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.

Jim Halsema, Architectural Advocates Inc., 205 Mt. Vernon Place, Roswell, GA, representing the applicant, noted that they had already submitted a written request from the parcel owner. He noted that his client, Checkers Drive-in restaurants, had no association with the adjacent Popeye's Fried Chicken restaurant. He noted that it was two parcels with a single owner. He stated it was his understanding that the staff wanted to get the owners of each parcel to enjoin the two pieces as one application. He noted that the only challenge he saw with the staff's request was the ability to get the information back to staff by the June, 2010, date.

Mr. Vallas asked if the applicant's property was on a ground lease or on a fee title.

Mr. Halsema stated it was on a ground lease.

Mr. Vallas stated that the Popeye's would be the same.

Mr. Olsen asked if the applicant was agreeable to another two weeks of holdover until the first meeting in July.

The Chair asked if the applicant needed the additional two weeks and was advised by him that historically it had taken months to get information from all parties, so the two weeks would be helpful.

Mr. Olsen stated that the information would need to be into staff by June 7, 2010, for the July 8, 2010, meeting, to which the applicant agreed.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the July 8, 2010, meeting, to allow the applicant to provide the following information by June 15, 2010:

- 1) submittal of a two lot subdivision application to include the remaining portions of Outlaw Land LLP RBP 4620 PG 91 (including the provision of new postage fees to allow for corrected notifications). Revisions and fees must be submitted**

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- by June 1, 2010; and,
2) **revision of the plat to depict the 25' minimum building setback line along all street frontages.**

The motion carried unanimously.

Case #ZON2010-00980 (Planned Unit Development)

Checkers Hwy 90 W. Subdivision

5415 U. S. Highway 90 West

Northeast corner of U.S. Highway 90 West and Wiley Orr Road

Planned Unit Development Approval to allow two buildings on a single building site and shared access and parking.

Council District 4

(Also see **Case #SUB2010-00054 (Subdivision) Checkers Hwy 90 W. Subdivision**, above)

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the July 8, 2010, meeting, to allow the applicant to provide the following information by June 15, 2010:

- 1) **inclusion of the property located to the North (Popeye's) as part of the PUD (showing parking, total building area and use, footprint area, landscape area, etc), with owner approval and new labels and postage for the entire notification area to be provided to Planning by June 1, 2010, or revision of the site plan to eliminate shared access between the two sites; and,**
- 2) **revision of the site plan to reflect compliance with Urban Forestry comments: (*Full compliance with frontage and parking tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry.*)**

The motion carried unanimously.

Case #SUB2010-00055 (Subdivision)

Checkers St. Stephens Road Subdivision

2300 St Stephens Road

Northeast corner of St. Stephens Road and South Craft Highway

Number of Lots / Acres: 1 Lot / .51± Acre

Engineer / Surveyor: R. James Halsema

Council District 1

(Also see **Case #ZON2010-00982 (Planned Unit Development) Checkers St. Stephens Road Subdivision**, below)

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The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations then 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) **compliance with Engineering comments:** *(Must comply with all stormwater and flood control ordinances. The construction of any new dumpster pads will require connection to sanitary sewer, cannot discharge to storm sewer. Any work performed in the right-of-way will require a right-of-way permit.);*
- 2) **correction of the legal description** (change from *North 42d 47m 47s East* to *North 42d 47m 47s West*);
- 3) **placement of a note on the final plat** stating that the site is limited to its existing curb-cuts (two curb-cuts onto South Craft Highway, and four curb-cuts onto St. Stephens Road), and that any change to a curb-cut must be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;
- 4) **compliance with and placement of Urban Forestry comments as a note on the plat:** *(Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Full compliance with frontage and parking tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry.);* and,
- 5) **provision of two (2) copies of the revised PUD site plan, if approved, prior to the signing of the final plat.**

The motion carried unanimously.

Case #ZON2010-00982 (Planned Unit Development)

Checkers St. Stephens Road Subdivision

2300 St Stephens Road

Northeast corner of St. Stephens Road and South Craft Highway

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

Council District 1

(Also see **Case #SUB2010-00055 (Subdivision) Checkers St. Stephens Road Subdivision**, above)

The Chair announced the application had been recommended for approval and stated the applicant was agreeable with the recommendations then 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

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Mr. Turner, to approve the above referenced matter, subject to the following conditions:

- 1) **compliance with Engineering comments (*Must comply with all stormwater and flood control ordinances. The construction of any new dumpster pads will require connection to sanitary sewer, cannot discharge to storm sewer. Any work performed in the right-of-way will require a right-of-way permit.*)**;
- 2) **correction of the written legal description (change from *North 42d 47m 47s East* to *North 42d 47m 47s West*)**;
- 3) **placement of a note on the final plat stating that the site is limited to its existing curb-cuts (two curb-cuts onto South Craft Highway, and four curb-cuts onto St. Stephens Road), and that any change to a curb-cut must be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards**;
- 4) **compliance with and placement of Urban Forestry comments as a note on the plat: (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Full compliance with frontage and parking tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry.*)**;
- 5) **application for a land disturbance permit for the frontage and parking tree compliance requirements prior to the signing of the final plat**;
- 6) **successful application to the Board of Adjustment for a parking ratio variance (and other variances as needed), or removal of a sufficient quantity of outdoor seating to bring the site into compliance with the minimum required parking ratio**;
- 7) **provision of two (2) copies of the revised PUD site plan, if approved, prior to the signing of the final plat; and**,
- 8) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2010-00057 (Subdivision)

Next Chapter Hillcrest Subdivision

208 Hillcrest Road

West side of Hillcrest Road, 260'± South of Cedar Bend Court

Number of Lots / Acres: 1 Lot / 17.1± Acres

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

Council District 7

(Also see **Case #ZON2010-01108 (Planned Unit Development) Next Chapter Hillcrest 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.

Casey Pipes, Helmsing, Leach Law Firm, 150 Government Street, spoke on behalf of the applicant and made the following points:

- A. they were in agreement with the subdivision recommendations, however, there were issues with realigning the curb-cut as noted in the Planned Unit Development application;
- B. noted that realigning the curb-cut would change a lot of other things on the site plan;
- C. noted that the idea of realigning the curb-cut had been discussed with Traffic Engineering, however, it had been determined as unfeasible due to a number of things such as the location of a large live oak;
- D. regarding the fence that was in the 25 foot setback line, it was pointed out that the fence was low and because of the topography it would not create a line of sight issue; and,
- E. regarding the revision of the site plan to address dumpster location, they would confirm on that on the plat if necessary, but those were not dumpster locations as they would be using side loading garbage cans, so it was not felt that the comment belonged to this development.

Mr. Olsen asked that Jennifer White, City Traffic Engineering, speak on the curb-cut matter.

Ms. White noted the curb-cut discussion had been a bit over stated. She added that the department had spoken with Mr. Carrier and Mr. Latham with Clark, Greer, and Latham, and stated the department's take on it was that it was necessary to move the curb-cut. She stated that the engineers had advised the department that there were problems with the drainage ditch and their response had been to try and relocate the curb-cut as far north on the property as possible to increase the distance between the two driveways, which was currently only about 120 feet. She noted the problem was the "cross weave" of left turns through the lane, so pushing the entrance to the property as far north as possible.

Mr. Pipes stated he had not spoken with Traffic Engineering directly and only had the understanding of what had been said and apologized for any error that he had made. He then called on Scott Carrier, Clark, Geer, and Latham, the engineers for the project, to discuss such issues in more detail.

Mr. Carrier made the following statements:

- A. there were a number of large, live oak trees which would prevent

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- them from placing the entrance in line with the apartment complex located across the street;
- B. the topography to the south of the property was one of a steep grade going down from the road surface;
 - C. the steep grade could also lead to individuals finding themselves in the city maintained drainage ditch;
 - D. just south of the north property line, there was a 40 inch live oak tree with a very large drip edge;
 - E. also noted that the farther north one went on the property, the greater the incline in reaching their property; and,
 - F. line of site issues would be created going farther south due to the topography and having to reach the road from being at a lower elevation than the street.

Mr. Turner asked if the answers given by the applicant's representatives would be satisfactory for Traffic Engineering and Ms. White stated that as long as the applicant could provide justification for the placement of the curb-cut, there would be no issues from Traffic Engineering.

Mr. Davitt asked if a traffic impact study had been done, submitted, and reviewed by the Traffic Engineering department, and if so, were there any comments the Commission should be aware of.

Ms. White said a study had been done and the results submitted to her department and that there were no comments with which the Commission should be concerned.

The following people spoke in opposition to the project:

- Robert Edington, attorney at law, for the Willowbrook Townhomes Association and the Cedar Bend Townhome Association;
- Connie McClelland, 6449 C, Cedar Bend Court, Mobile, AL;
- Dr. Joél Lewis, 270 Hillcrest Road, No. 405, Mobile, AL, 36608; and,
- Stephanie Williams, 6445 A, Cedar Bend Court, Mobile, AL.

They made the following points against the matter:

- A. on May 6, 2010, a zoning matter was heard regarding the property;
- B. the residents of the area received notice for the May 6, 2010, meeting and a few days later, received notice regarding this matter, which led many to believe the letter regarding the May 20, 2010, meeting superceded the letter regarding the May 6, 2010, meeting;
- C. expressed the belief that the stated location of the property was erroneous, as it was actually located adjacent to the Cedar Bend property, rather than the stated 260'± south of Cedar Bend Court;
- D. the staff recommended that a number of items be addressed by the

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- applicant and it was hoped that the applicant would be required to answer all of those items in writing prior to the matter being approved;
- E. noted that the area residents had presented the Commission letters from each subdivision setting out a number of issues they hope to have addressed by the applicants and expressed the hope that the residents of the two subdivision in question would be allowed to see those answers;
 - F. agreement with the staff's recommendation that the matter be held over until a later date;
 - G. expressed concern that the proposed apartment complex would create an increase in noise;
 - H. noted that the Cedar Bend condos and patio homes were, with the exception of 7 rental units, all owner occupied and expressed concern that the proposed apartment complex would lessen the value of their property;
 - I. concern over traffic;
 - J. concern over the trees located on the property and the desire for assurances that the City's Tree Commission would oversee the downing of any protected trees on the site;
 - K. concern over the wild life in the area;
 - L. concern that there needed to be management and/or security on property;
 - M. concern that there were already too many apartment complexes in the area that have a large number of vacancies and would this project just be adding to that number;
 - N. serious concern over drainage and flooding issues;
 - O. concern over the sand volleyball court and the health issues that would be associated with it;
 - P. concern over the need for buffering, especially from noise;
 - Q. concern for the safety and security of the residents of Willowbrook and Cedar Bend;
 - R. concern over what demographics the project is aimed toward;
 - S. what time frame was presented on the project for completion;
 - T. some of the area in the Willowbrook area is in a flood zone;
 - U. noted there was a drainage problem already at Cedar Bend that flowed to the south; and,
 - V. concern over the runoff problems associated with 12 Mile Creek.

Mr. Olsen responded to the statements regarding the letters sent to the area residents. He noted that the two letters were separate, with one stating it was notification of public hearing for rezoning and the other stated it was for the Planned Unit Development, with each one having separate case numbers. He also addressed the issue of location of the property noting that the description stated it was located 260'± from Cedar Bend Court, not specifically Cedar Bend subdivision. He also reminded those involved that many of the concerns noted by the opposition were not matters over which the Planning

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Commission had purview.

After the opposition finished their remarks, the Chair gave the applicant an opportunity to respond. Mr. Pipes made the following remarks:

- A. regarding revisiting the rezoning application it was noted as not being appropriate as there was plenty of notification regarding that matter and noted that opposition could be voiced at the upcoming City Council meeting;
- B. the questions by opposition have not yet been presented to the developers so there had been no opportunity to address those but plans will be made to meet with those individuals and organizations to address those concerns;
- C. expressed the belief that it was not appropriate to hold the matter over based on the issues raised; and,
- D. regarding drainage, the site in question is downstream from both Willowbrook and Cedar Bend so run off comes to the property in question from those properties before going to 12 Mile Creek, therefore it will not cause or exacerbate the drainage issues discussed.

The Chair strongly suggested that the applicants get with the opposition to address the matters noted in the meeting.

In deliberation, Mr. Davitt asked for input on the matter from Traffic Engineering as the proposed development was located on a five lane street with high traffic volume.

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to hold the matter over until the June 17, 2010, meeting, with revisions due to the Planning Section by noon on June 1, 2010, to address the following:

- 1) revision of the Final Plat to indicate the 25-foot minimum building setback line along all right-of-way;**
- 2) retention on the Final Plat of the notation of the lot size area, in square feet;**
- 3) provision of a note on the Final Plat stating that the lot is limited to one curb-cut to Hillcrest Road, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) full compliance with Engineering comments: *(Show Minimum Finished Floor Elevation on Plat. A flood study [A “No Rise” Certification] will be required for the construction of buildings within the flood zone. Must comply with all stormwater and flood control ordinances. There is to be no fill placed within the limits of the flood plain without providing compensation. Since the property is located within a special flood hazard area, elevation***

certificates will be required for the construction of each individual building. The construction of any new dumpster pads, car washes or trash compactors will require connection to sanitary sewer, cannot discharge to storm sewer. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit);

- 5) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species and that any required permits should be obtained prior to undertaking any land disturbing or construction activity; and,
- 6) placement of a note on the Final Plat stating that the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities.

The motion carried unanimously.

Case #ZON2010-01108 (Planned Unit Development)

Next Chapter Hillcrest Subdivision

208 Hillcrest Road

West side of Hillcrest Road, 260'± South of Cedar Bend Court

Planned Unit Development Approval to allow four (4) apartment buildings, pool, amenities building, sand volleyball court, and office on a single building site.

Council District 7

(Also see **Case #SUB2010-00057 (Subdivision) Next Chapter Hillcrest Subdivision**, above)

Hearing no further opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to hold the matter over until the June 17, 2010, meeting, with revisions due to the Planning Section by noon on June 1, 2010, to address the following:

- 1) **realignment of the curb-cut to line-up with the curb-cut for the existing apartment complex directly across Hillcrest Road from the site;**
- 2) **if it is determined by the Planning Section that the fence obstructs height, realignment of the fence in the front of the property to behind the 25-foot minimum building setback line or notation on the site plan stating that the fence will be no higher than 3 feet in height;**
- 3) **if realignment of the fence is necessary, maintaining of at least 51 feet of vehicle queuing space at the entrance gates;**
- 4) **revision of the site plan to depict the dumpster locations with adequate area for the garbage trucks to maneuver;**

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- 5) placement of a note on the site plan stating that the existing vegetation on the Western property line, South of Twelve Mile Creek will be maintained in compliance with Section 64-4.D.1. of the Zoning Ordinance;
- 6) placement of a note on the site plan stating that a Mobile Tree Commission permit is required prior to removing any existing tree from city right-of-way;
- 7) full compliance with Engineering comments: *(Show Minimum Finished Floor Elevation on Plat. A flood study (A "No Rise" Certification) will be required for the construction of buildings within the flood zone. Must comply with all stormwater and flood control ordinances. There is to be no fill placed within the limits of the flood plain without providing compensation. Since the property is located within a special flood hazard area, elevation certificates will be required for the construction of each individual building. The construction of any new dumpster pads, car washes or trash compactors will require connection to sanitary sewer, cannot discharge to storm sewer. Must comply with all other stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit);*
- 8) placement of a note on the site plan 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 that any required permits should be obtained prior to undertaking any land disturbing or construction activity; and,
- 9) placement of a note on the site plan stating that the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities.

The motion carried unanimously.

Case #SUB2010-00059 (Subdivision)

Live Oak Grove Subdivision

701 Hickory Street

Northern terminus of Live Oak Street, extending to the Northern terminus of Hickory Street

Number of Lots / Acres: 2 Lots / 171.6± Acres

Engineer / Surveyor: Cowles, Murphy, Glover & Associates

Council District 2

(Also see **Case #ZON2010-01112 (Rezoning) Cowles, Murphy, Glover & Associates,** below)

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

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

Gary Cowles, Cowles, Murphy, Glover & Associates, spoke on behalf of the applicant and asked for clarification of the following recommendations:

- A. regarding the first recommendation on the subdivision application, they were prepared to extend Live Oak Street but not completely across the property;
- B. the placement of a note on the final plat stating that the site was limited to one curb-cut onto the development was noted as appropriate right now, however, that was due to the fact that Live Oak Street was only to be extended to the property, but should the City extend Live Oak Street through the property, dividing it into two separate pieces, then the property would need additional curb-cuts;
- C. the provision of a 10 foot planted buffer or privacy fence, it was noted they had planned to leave the southern portion natural, which would provide more than the required 10 foot buffer;
- D. regarding the rezoning and the condition of providing a paved parking area and access road or an application to the Board of Zoning Adjustment for variances regarding those matters, it was wondered if they could pursue building the radio towers and possibly get the Certificate of Occupancy while the variances were being pursued, as the road is only used approximately once a month to check the building.

Mr. Olsen stated the staff was only discussing extending Live Oak Street from where it currently ended to the property. He also noted with regards to the curb-cuts that it would be addressed then as the applicant would have to come back with a subdivision application regarding the two new lots. Mr. Olsen added that the staff had indicated they were willing to work with the applicant in assisting them in getting permits, provided the matter were approved by the Planning Commission that day and subject to a letter that basically held the City harmless should something occur.

Mr. Cowles stated their agreement with Mr. Olsen's comments.

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

- 1) construction of the extension of Live Oak Street to the development to city standards;**
- 2) placement of a note on the Final Plat stating that the site is limited to one (1) curb-cut onto the development, with the size, design, and location of all curb-cuts to be approved by Traffic Engineering and in conformance with AASHTO standards;**

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- 3) provision of a 10-foot planted buffer and privacy fence along the South property line, where the site abuts the Bottoms community;
- 4) placement of a note on the plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 5) placement of a note on the plat stating that approval of all applicable federal, state, and local agencies is required for wetland issues, if any, prior to the issuance of any permits or land disturbance activities;
- 6) depiction and labeling of the 25-foot minimum building setback line, reflecting any required dedication;
- 7) compliance with Engineering comments (*Show Minimum Finished Floor Elevation on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit*); and,
- 8) labeling of the lots with its size in square feet and acres.

The motion carried unanimously.

Case #ZON2010-01112 (Rezoning)

Cowles, Murphy, Glover & Associates

701 Hickory Street

(Northern terminus of Live Oak Street, extending to the Northern terminus of Hickory Street).

Rezoning from R-1, Single-Family Residential District, and I-1, Light Industry District, to I-1, Light Industry District to allow a two (2) radio towers and a 300 square foot operation building and to eliminate split zoning.

Council District 2

(Also see **Case #SUB2010-00059 (Subdivision) Live Oak Grove Subdivision**, above)

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

- 1) provision of a 10-foot planted buffer and privacy fence along the South property line, where the site abuts the Bottoms community;
- 2) approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;

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- 3) approval of all applicable federal, state, and local agencies is required for wetland issues, if any, prior to the issuance of any permits or land disturbance activities;
- 4) provision of a paved parking area and access road, or application to the Board of Adjustment for variances regarding parking surface; and,
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

OTHER BUSINESS:

Hearing no further business, the meeting was adjourned.

APPROVED:

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

jsl