

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF JULY 22, 2010 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

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

**Members Absent**

**Urban Development Staff Present**

Richard L. Olsen,  
Deputy Director of Planning  
Bert Hoffman,  
Planner II  
Caldwell Whistler,  
Planner I  
  
Joanie Stiff-Love,  
Secretary II

**Others Present**

John Lawler,  
Assistant City Attorney  
Rosemary Sawyer,  
City Engineering  
John Forrester,  
City Engineering  
Jennifer White,  
Traffic Engineering  
Capt. Samuel Allen,  
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. He informed those in attendance that the matter involving Alabama Power Company would be heard at the end of the meeting.

**HOLDOVERS:**

**Case #SUB2010-00069**

**Williams Estates Subdivision**

East side of Lancaster Road 1± mile South of Laurendine Road  
Number of Lots / Acres: 1 Lot / 6.0± Acres  
Engineer / Surveyor: Polysurveying Engineering – Land Surveying  
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The Chair announced the matter had been recommended for denial, however, if there were those who wished to speak on the matter to please do so at that time.

Brett Orrell, Polysurveying of Mobile, asked that the matter be withdrawn, which the Commission allowed.

**Case #SUB2010-00068**  
**The Old Finch Place Subdivision, Re-subdivision of Lots 3 & 4**

4631 & 5046 Clearview Drive  
East side of Clearview Drive at the East terminus of Middle Ring Road  
Number of Lots / Acres: 3 Lots / 2.7± Acres  
Engineer / Surveyor: Byrd Surveying, Inc.  
County

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

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the applicant and made the following points:

- A. offered renderings to illustrate the property and easement lines;
- B. noted there was a legal lot of record that fronted Clearview Drive;
- C. one of the out-lined parcels on the illustrations had been deeded by the owner to one of his daughter's with an erroneous legal description;
- D. one of the out-lined parcel had been deeded by the owner to his son and the application was an effort to convey the balance of the property to that son, which would create an irregularly shaped, flag lot; and,
- E. the 50 foot easement noted on the plat would remain as there was no way to remove it as the parcels on either side of it were legal lots of record, recorded prior to 1984.

Ethel Richardson, 4605 Clearview Drive, Mobile, AL, spoke in opposition to the matter and made the following points:

- A. noted that she and her husband, Herman, were in attendance; and,
- B. expressed great concern over the state of the easement and offered pictures of that negative condition.

Mr. Davitt asked Mrs. Richardson which property was hers.

Mrs. Richardson stated they lived on what showed on the overhead as the lower back corner of the property, across from the property currently owned by the applicant's son. She expressed her opinion that the applicant was trying to give the son the easement to the property that would effectively cut her property off from access to the public road.

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Mr. Vallas asked Mr. Byrd for information regarding a maintenance agreement for the easement between the parties.

Mrs. Richardson stated she and her husband had been trying to repair the accessway on the easement, however the applicant had utilized many means, including the police, to prevent their working on the easement.

Mr. Olsen gave the following response:

- A. unfortunately, the situation with the easement involved the fact it was pre-existing and therefore was “grandfathered in,” so the Commission had no real jurisdiction over it;
- B. the situation surrounding the easement was a clear example of why the staff was strongly opposed to flag shaped lots such as this, with an easement running through it. It was not an appropriate subdivision as it did not meet the requirements of the Subdivision Regulations, and any subdivision of the property should entail either a private road constructed to private road standards as stated in the Subdivision Regulations or dedication of construction of a county standard road; and,
- C. based upon the prior statements, the staff’s recommendation for denial stood.

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

- 1) proposed Lot 4 is atypical of the normal flag lot configuration; and,**
- 2) the recorded legal description of proposed Lot 5 does not describe any particular piece of property and, therefore, cannot be considered valid for any previous conveyance of the property.**

The motion carried unanimously.

**Case #SUB2010-00067**  
**Labrador Run Subdivision**

Southern termini of Rex Drive and Hanna Court extending West to Ben Hamilton Road  
Number of Lots / Acres: 413 Lots / 178.3± Acres  
Engineer / Surveyor: Rester and Coleman Engineers, Inc.  
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.

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John Howard, the developer of Labrador Run, stated that he wanted the record to show that the staff was very helpful and knowledgeable and were more than willing to help him resolve the issues they had with the project.

Hearing no opposition or discussion, a motion was made by Mr. DeMouy, with second by Dr. Rivizzigno, to waive Section V.D.2. for lot width, and approve the above referenced matter, subject to the following conditions:

- 1) provision of a Traffic Impact Study to the Planning Section of Urban Development for the entire development, and acceptance of that study, prior to the recording of any phase beyond proposed Phase Three;**
- 2) correction of the acreage information to ensure that the entirety of the development is accurately described on the overall plat;**
- 3) ensure that cul-de-sac rights-of-way and pavement diameters for Phases Three and higher comply with Sections V.B.14. (120-foot right-of-way diameter) and V.B.15. (96-foot pavement diameter) of the Subdivision Regulations, as shown;**
- 4) revision of the overall plat to accurately depict the recorded layout of Phases One and Two;**
- 5) ensure that street-stubs are provided to the land-locked parcel North of proposed lots 20-21 and 26-27 in Phase Five, and the land-locked parcel South of Phase Seven, in compliance with Section V.B.1. of the Subdivision Regulations, as shown;**
- 6) revision of any future phase plat to depict any existing drainage/utility easements associated with previous subdivisions (Lot 1, Duncan Subdivision) as well as proposed drainage/utility easements;**
- 7) revision of any future phase plat to identify the size of all lots in square feet, either via a table on the plat, or by the labeling of each lot, to ensure that each lot meets the minimum lot size identified in Section V.D.2. of the Subdivision Regulations;**
- 8) revision of any future phase plat to depict the 25-foot minimum building setback line, in conformance with Section V.D.9. of the Subdivision Regulations;**
- 9) identification and labeling of all common areas, including greenspaces, road medians, and detention areas, and placement of a note on the plat (overall and phase) stating that maintenance of all common areas shall be the responsibility of the subdivision's property owners, as shown;**
- 10) placement of a note on the plat stating that access to the 60-foot roadway easement on the West side of site is denied, as shown;**
- 11) placement of a note on the plat (overall and phase) stating that approval of all applicable federal, state, and local agencies is**

- required for endangered, threatened, or otherwise protected species, prior to the issuance of any permits or land disturbance activities, as shown;
- 12) placement of a note on the plat (overall and phase) stating that approval of all applicable federal, state, and local agencies is required for wetland issues, prior to the issuance of any permits or land disturbance activities, as shown;
  - 13) placement of a note on the plat (overall and phase) 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, as shown;
  - 14) placement of a note on the plat (overall and phase) stating that submission of certification to Urban Development by a licensed engineer that detention facilities are adequate to comply with City of Mobile volume and discharge rate standards prior to signing of the final plat, as shown;
  - 15) placement of a note on the plat (overall and phase) stating that each lot is limited to one curb-cut, with the size, design, and location to be approved by Mobile County Engineering, and to comply with AASHTO standards, as shown; and,
  - 16) provision of a revised overall plat for the development prior to the recording of the next phase (Phase Three).

The motion carried unanimously.

**Case #SUB2010-00066 (Subdivision)**

**New Shiloh Missionary Baptist Church Subdivision, Plat #1**

2756 Old Shell Road

Northwest corner of Old Shell Road and Bay Shore Avenue

Number of Lots / Acres: 1 Lot / 3.4± Acres

Engineer / Surveyor: Jeffcoat Engineers & Surveyors, LLC

Council District 1

(Also see **Case #ZON2010-01313 (Planned Unit Development) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, and, **Case #ZON2010-01312 (Planning Approval) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, below)

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

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.

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John Manard spoke as the representative of New Shiloh Baptist Church and stated they had made the corrections requested by the staff and were now in agreement with the current recommendations.

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

- 1) **completion of the vacation process for the 10-foot lane right-of-way prior to signing of the final plat or any permits being issued;**
- 2) **labeling of the dedication sufficient for the lot to comply with Section V.D.6. of the Subdivision Regulations regarding curb radii;**
- 3) **retention of the 25-foot minimum building line along all rights-of-way including any dedications;**
- 4) **retention of the labeling of the lot area size in square feet on the Final Plat;**
- 5) **full compliance with Engineering comments: *“Development of this site shall provide adequate drainage for the runoff that currently discharges across this property from adjacent properties and must not restrict the flow of runoff or cause ponding. 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;”***
- 6) **retention of a note on the Final Plat stating that the lot is limited to one curb-cut to Old Shell Road and three curb-cuts to Bay Shore Avenue, with the size, location, and design of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 7) **retention 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 #ZON2010-01313 (Planned Unit Development)  
New Shiloh Missionary Baptist Church Subdivision, Plat #1  
2756 Old Shell Road**

Northwest corner of Old Shell Road and Bay Shore Avenue  
Planned Unit Development Approval to allow multiple buildings on a single building site  
Council District 1

(Also see **Case #SUB2010-00066 (Subdivision) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, above, and, **Case #ZON2010-01312 (Planning Approval) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, below)

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

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. DeMouy, with second by Dr. Rivizzigno, to approve the above referenced matter, subject to the following conditions:

- 1) **revision of the note regarding site lighting to reference Section 64-4.A.2. of the Zoning ordinance instead of “Section 64-74.A.2.”;**
- 2) **full compliance with landscaping and tree planting requirements;**
- 3) **completion of the vacation process for the 10-foot lane right-of-way prior to any permits being issued;**
- 4) **completion of the Subdivision process;**
- 5) **obtaining a sign permit for the relocation of the existing sign on the right-of-way;**
- 6) **full compliance with Engineering comments: “Development of this site shall provide adequate drainage for the runoff that currently discharges across this property from adjacent properties and must not restrict the flow of runoff or cause ponding. 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;”**
- 7) **provision of two copies of the revised site plan to the Planning Section of the Urban Development Department prior to the issuance of any permits; and,**
- 8) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

**Case #ZON2010-01312 (Planning Approval)**  
**New Shiloh Missionary Baptist Church Subdivision, Plat #1**  
2756 Old Shell Road  
Northwest corner of Old Shell Road and Bay Shore Avenue  
Planning Approval to allow a church expansion in an R-1, Single-Family Residential District  
Council District 1  
(Also see **Case #SUB2010-00066 (Subdivision) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, and, **Case #ZON2010-01313 (Planned Unit Development) New Shiloh Missionary Baptist Church Subdivision, Plat #1**, above)

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

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. DeMouy, with second by Dr. Rivizzigno, to approve the above referenced matter, subject to the following conditions:

- 1) **revision of the note regarding site lighting to reference Section 64-4.A.2. of the Zoning ordinance instead of “Section 64-74.A.2.”;**
- 2) **full compliance with landscaping and tree planting requirements;**
- 3) **completion of the vacation process for the 10-foot lane right-of-way prior to any permits being issued;**
- 4) **completion of the Subdivision process;**
- 5) **obtaining a sign permit for the relocation of the existing sign on the right-of-way;**
- 6) **full compliance with Engineering comments: “*Development of this site shall provide adequate drainage for the runoff that currently discharges across this property from adjacent properties and must not restrict the flow of runoff or cause ponding. 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;*”**
- 7) **provision of two copies of the revised site plan to the Planning Section of the Urban Development Department prior to the issuance of any permits; and,**
- 8) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.



**Case #ZON2010-01505 (Planning Approval)**

**Alabama Power Company**

South side of Airport Boulevard beginning at Providence Hospital extending along Milkhouse Creek to the North side of Grelot Road and extending to the East side of Cody Road.

Planning Approval to allow a high voltage transmission line across a residential area Council District 6

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

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

Sam Covert, 2815 Grant Street, Mobile, AL, spoke on behalf of Alabama Power Company as their area manager and he made the following points in favor of the matter:

- A. presented a number of visual aids for the project;
- B. addressed the issue of increased demand for electricity in the westernmost part of the City of Mobile and the adjoining areas of the county made it necessary to add an additional distribution substation at Jeff Hamilton Road, also known as the “West Grelot District Sub” shown on the left side of the page;
- C. noted the new substation would relieve the load on the existing four substations that were highlighted in the green area, thereby insuring a high level of reliability in this area of the city and county;
- D. when siting a new transmission line, they are required to study several routes and choose the most feasible based upon several technical factors, those being constructability, maintainability, reliability, and cost to the rate payers;
- E. once the preferred route was found, Alabama Power began the process of purchasing the required right-of-way on June 3, 2008, however, they were unable to reach settlement in their negotiations with the 108 property owners, Alabama Power had a two day hearing in the Probate Court of Mobile County on April 22-23, 2009, where they were granted the right to acquire the right-of-way by that Court;
- F. noted the decision was appealed by some of the property owners and on February 9, 2010, a hearing was heard in Mobile County Circuit Court where that Court upheld the order of the Probate Court granting their rights to acquire the right-of-way;
- G. with regards to environmental concerns, they had the necessary permits from the United States Corps of Engineers and the Alabama Department of Environmental Management as well as they had supplied Nick Armberger, Deputy Director, City of

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- Mobile Engineering Department, with all of the requested environmental and engineering data, including meeting with City of Mobile Engineering staff the previous Tuesday to go over some of the questions concerning these matters;
- H. they have provided data and studies to prove that Alabama Power is in compliance with FEMA rules as they understand them;
  - I. Alabama Power offered assurances that they have employed the very best practices insuring that the nature of the area in question and its wetlands are protected, with a large part of this being contracted with a “one of a kind” helicopter that would remove the trees from the most sensitive areas and set the poles in those areas;
  - J. stated there would be no roads in the wetland area and the road used for construction in the upland area would be grassed over after construction;
  - K. stated the project was expected to take between six and seven months to complete; and,
  - L. noted they were under a very tight window of restriction regarding the reservation of the “one of a kind” helicopter to do the work in the sensitive wetlands area.

The Chair noted that at the last meeting it was understood that Alabama Power planned on clearing the entire 100 foot of the right-of-way and wondered if that were still the case.

Mr. Covert stated there was a small issue near where the site “doglegged” around the Somberby Subdivision regarding a sewer line but they had agreed with the staff during negotiations that they would not disturb the growth between the Somberby property line and the sewer line along there due to its sensitive nature.

The Chair noted that at the last meeting it was understood that Alabama Power planned to plant small trees and asked for clarification regarding that.

Mr. Covert stated that was correct and the plan was to plant low growth trees that would be approximately 10-12 feet in height along the edge of the right-of-way.

The Chair asked if it would be feasible to ask Alabama Power to plant those type trees in other parts of the right-of-way that would not be in the way of the Alabama Power trucks.

Mr. Covert stated that it would not be possible as the transmission line had to follow the ground to “kill” itself, so trees would not be possible due to safety issues.

The Chair asked what was to happen to the trees in the wetlands areas and was advised they would be hand cut and removed.

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The Chair then noted that he had understood them to say that the wetlands area would be left alone then advise that the wetlands area would have trees removed and expressed his frustration with the contradictory nature of these statements.

Mr. Covert apologized and stated they had misspoken when saying the wetlands would be left undisturbed.

Mr. Miller stated his appreciation for Alabama Power's presentation however he still had concerns regarding not being given enough information as to why the route chosen was chosen.

Mr. Covert said it was based upon the study of constructability, maintainability, and reliability. He stood by his statements that the route presented to the Commission was the most feasible route based on those factors. He added that it was his understanding there was a proposal to widen Cody Road, a factor which heavily impacted the final decision on the proposed route. He noted there were a great number of engineering reasons behind the proposed route. He added that the Cody Road location would require more clearing and cutting of the right-of-way due to the fact it is proposed for widening. He noted that Milkhouse Creek also crossed that property so there were additional environmental factors for that site. He stated that the Airport Boulevard area of the Cody Road route had constructability and maintainability issues as well. Mr. Colvert went on to say that these were the details that were taken to Probate Court because the Alabama state statute of Eminent Domain required such.

Mr. Miller expressed his continued concern over the proposed route as being the most logical route.

Mr. Watkins asked for Mr. Lawler's input on the matter as the call on it was for Planning Commission approval. He noted that he had done condemnation work and understood the process as it related to Probate Court and because of such, he felt the authority to put the transmission line in the proposed area had already been granted by the Court and inasmuch was outside of the Planning Commission's purview. He also stated that as the Probate and Circuit Courts had both sided with Alabama Power, he really did not understand why the matter was before the Planning Commission at all, except for how it might possibly effect the adjacent R-1 and/or LB-2 zones.

Mr. Lawler advised that his work in the Eminent Domain area had lead him to the conclusion that the condemning authority had the power to select the route for a roadway or whatever, however, in the zoning context, there was a different measure. He added that the Code of Alabama stated that a project such as this was subject to Planning Commission approval to see that if fit in with the overall plan.

Mr. Watkins then asked for confirmation that all the Commission was being asked to review was the area around the R-1 zoned properties.

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Mr. Lawler stated they were to look at the planned construction of that utility and how it would impact, in a planning way, the city.

Mr. Vallas said it was his understanding from the last meeting that the Planning Commission was only to review the area in the R-1 district as the transmission line was allowed in the LB district.

Mr. Lawler responded that the Commission had approval rights under the Alabama Code section for Planning. He added that though it had normally been overlooked, in the past year a case very similar to this one was taken all the way to the Alabama Supreme Court for a ruling. He noted that the Supreme Court ruled that coming before the Planning Commission did not void the Eminent Domain proceedings and left it open to be done. Mr. Lawler then expressed his opinion that the proper procedure would have been for Alabama Power to first come to the Planning Commission for approval on the location of the proposed transmission line and then to begin the process of acquiring the property through the procedures of Eminent Domain. He advised that should the matter be taken further, he was not sure as to which direction it would take.

Mr. Covert asked, for future reference, if Alabama Power could have come to the Planning Commission regarding approval of the proposed project without having right to the property on which the project was proposed.

Mr. Watkins stated he did not want to become involved in a situation where the Planning Commission seemed to be in a position of re-trying facts that had already been tried at the Probate and Circuit Court level with regards to site selection if all the Commission was being asked for was planning approval for a location as it applied to the noted R-1 area.

Mr. Lawler responded that site selection and where things were located was the purpose of zoning and therefore under the purview of the Planning Commission.

Mr. Vallas asked Mr. Covert if the current right-of-way along Cody Road would be sufficient for the proposed project and was advised no.

Mr. Vallas then noted that he was sure opposition would make good arguments for their side, however, if the project were placed along the Cody Road route, then it was a foregone conclusion that there would be opposition there as well.

Mr. Covert noted, regarding Cody Road, that the City had bought right-of-way rights to a certain point which meant that Alabama Power would have to move their poles out past the City's right-of-way line, which would require clearing the utility right-of-way further out and the City was not ready to do that as of yet. He also explained that when a transmission line went down a road there were many, many lines and poles due to the fact that the power lines in those locations needed to have very tight lines.

The following people spoke in opposition to the matter:

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- Al Storey, 6609 Sombery Drive, Mobile, AL; and,
- Charlie Baucom, 20701 State Line Road, Moss Point, MS.

They made the following points against the proposed location:

- A. due to the Chair allowing the Power Company representatives to have a total of 20 minutes to present their full case, it was asked and granted that the two speakers for the opposition have a total of 20 minutes to present their case;
- B. noted that hydrologists would not support the proposed site and elaborated on the methods, quoting Manning's Formula, that those scientists would utilize to determine and validate their position;
- C. noted that a copy of Manning's Formula was sent to the Commission;
- D. noted that, based upon Manning's Formula, the sewer line from Providence Hospital would be in jeopardy;
- E. noted the extreme amounts of drainage that ran through the culvert in the nearby area on Cody Road after a long, heavy rain and estimated its velocity to be approximately 3-5 feet per second then noted that after the proposed project that figure could be expected to increase by a factor of 5;
- F. as a former engineer, it was not seen how the existing drainage culvert could handle the increases that would be put upon it based upon the information available and the results would be either the culvert would wash out or the drainage would go over the road at a velocity of approximately 25 feet per second;
- G. expressed concern over the increase in downstream flooding and siltation all the way to Mobile Bay that the project was likely to cause;
- H. concern over the removal of trees in the area and the fact that action would also remove the wetlands from the area;
- I. noted that all of the engineering information that the opposition had created and gathered was ruled as inadmissible in the court hearings;
- J. expressed concern over the applicant's statement that the proposed plan was cheaper and wondered at the cheapness of flying things in and out with a helicopter;
- K. offered a 4-page presentation of information gathered regarding the project;
- L. noted that a 115,000 volt line was already in existence and originated near Langan Park and ran three miles down Gaillard Drive, University Boulevard, Old Shell Road, Foreman Road, and, Providence Hospital Drive to the existing power substation, which was the line Alabama Power wished to tie into;

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- M. stated that the existing line was a great example of the multiple use of public road right-of-ways with little or no additional environmental impact by the transmission line;
- N. noted the new, proposed transmission line would run from the existing substation at Providence Hospital to Grelot Road with the point of contention being the location of the one mile stretch, which would either be through a pristine stretch of environmentally sensitive area or down an existing right-of-way down Cody Road;
- O. noted that only the one mile that would run through the environmentally pristine area was part of the proposed transmission line that would not be on public right-of-way;
- P. expressed feelings that it was a bad plan and one where the engineer had simply reviewed aerial photographs and seen an open area where no one lived that would allow them to cut costs by putting in fewer poles with larger sags;
- Q. noted that Milkhouse Branch was a tributary of Milkhouse Creek began as springs at Providence Hospital which had been dammed up to create the many little ponds on the site and that tributary ran from the hospital to Milkhouse Creek, then under Grelot Road into Hall's Mill Creek, and, eventually, into Dog River;
- R. noted that there was an existing 15 foot sewer easement in the area which originated at the hospital that closely followed the routes of Milkhouse and Hall's Mill Creeks;
- S. noted that almost all of the acreage adjacent to Milkhouse Branch was undeveloped, green belt that consisted of old growth trees;
- T. noted that in 2006, City Planners required the developers of the Somerby Residential Facility to place 13 acres of their property along Milkhouse into a permanent, greenbelt buffer strip which could never be developed in an effort to protect the water quality of the City of Mobile;
- U. noted that very few greenbelts existed in the west Mobile area as most had been replaced with concrete drains and emphasized that greenbelts were important and necessary to the ecology as they served as the last chance to filter pollutants from runoff, as well as slow stormwater, and helped to decrease erosion, sedimentation and down stream flooding;
- V. Noted that one of the biggest problems facing Mobile Area Water and Sewer System is the accidental introduction of stormwaters into the sewer system through the pipes and manholes during flooding events because when this happened the carrying capacity of the sewer pipes was exceeded, forcing raw sewage to escape from downstream manholes into the surrounding water ways, which, in addition severe erosion caused by stormwater runoff, could undermine sewer lines which could cause them to rupture;

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- W. noted that a 2006 report on the problems of the Dog River watershed formed by ADEM listed individual sewage spills occurring in the MAWSS sewage system during the period from 1998 to 2004 confirming that the MAWSS lines along Milkhouse Creek and Milkhouse Branch spilled sewage on 25 separate occasions, as well as 6 million gallons of raw sewage escaped from the system into Milkhouse and Hall's Mill Creeks;
- X. MAWSS had indicated that the sewer line along the section in question was very sensitive to erosion and had ruptured and spilled sewage on numerous occasions;
- Y. MAWSS joined with the Somerby property owners in their case against Alabama Power, however, they were not allowed to participate because the Court determined MAWSS was not a landowner at risk of condemnation, so the Court heard no statements by MAWSS regarding the sewer line problems in that area; and,
- Z. wondered how City Planners could jeopardize public safety by approving this plan.

Mr. Turner noted that Mr. Storey had done a great deal of research regarding the repercussion of the project in its currently proposed location and asked if he had any suggestions regarding how to remedy those problems to which Mr. Storey stated they should move the project to Cody Road.

Mr. Vallas noted Mr. Storey's comments concerning the removal of trees and the resulting destruction of that wetland and asked if that would not also be the case if the project were done in the Milkhouse Creek area.

Mr. Storey responded by saying there were no trees to be cut down if the project were moved to Cody Road.

Mr. Watkins expressed his confusion as it was his understanding that with the widening of Cody Road, a 100 foot strip would have to be cut to put in power poles due to the fact the right-of-way was not wide enough at present.

Mr. Storey stated that the area was already planned to be widened by the City of Mobile so it could just be incorporated into that.

Mr. Watkins responded that was possible, but to put the proposed transmission line in that area would require even more widening than currently planned.

Mr. Olsen stated that from his understanding, based upon the last meeting, there was discussion of a similar line that ran in the City right-of-way on University Boulevard, which meant a transmission line could run within the City's major street right-of-way.

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Mr. Holmes asked if this basic information was presented to both the Probate and Circuit Court judges who heard the case.

Mr. Storey stated that any information they had was ruled as inadmissible.

Mr. Miller asked if it was known why the information was ruled as inadmissible and was informed there was no clear explanation.

Mr. Turner asked Mr. Baucom if the Courts had heard his proposal to which Mr. Baucom answered they had heard some of it but that they would not allow any comments regarding the sewer line

Mr. Vallas thanked Mr. Baucom for all of his research and the information he and Mr. Storey had brought before the Commission. Mr. Vallas stated his opinion that there simply had to be information that was not commonly known which made the proposed site the more appropriate one, as Alabama Power would not spend the money they were spending simply as a show of political power.

Mr. Miller asked if any of the Alabama Power presentation modified any of the information or arguments presented by Mr. Baucom to which Mr. Baucom answered no.

Mr. Holmes asked if there was a representative from MAWSS at the meeting that day.

Mr. Baucom advised there was not. He then went on to explain that MAWSS was never contacted by Alabama Power regarding putting the transmission line along the sewer easement. He noted that he had spoken with the director of MAWSS who stated that putting the transmission line there was not acceptable. Mr. Baucom stated that MAWSS at that time entered into litigation with Alabama Power over the matter, the result of which was an out of court settlement that prohibited MAWSS from participating in any further discussion on the matter.

Mr. Holmes asked to be shown the major areas of concern on the map and Mr. Baucom did so stating that any time an area was cleared, it increased the flow of runoff to the area wetlands, sewer lines, and creeks.

Mr. Covert explained the reason MAWSS did not appear in the court action was due to the two parties reaching a settlement. He added that the settlement was reached after the engineers from both utilities met with each other regarding construction of the line and MAWSS left convinced that the work done by Alabama Power would in no way effect the MAWSS sewer line.

Mr. Covert explained the situation regarding the right-of-way on Cody Road and stated it was not a circumstance where they would just go in and clear 100 feet of the property, but instead involved the coordination of many departments, engineers, and environmentalist to determine the best course to follow prior to the actual pursuing of the same.



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Mr. Turner asked if he was right in understanding that Alabama Power was trying to avoid putting the transmission line in densely populated areas.

Mr. Covert stated that was factored into the most feasible route and was also part of the engineering studies done.

In deliberation, Mr. Miller expressed his frustration with the matter as both the Probate and the Circuit Courts had ruled on the matter and determined Alabama Power had the right of condemnation in this case. He reminded everyone that the last time the matter was heard, he expressed concern as to why an alternate route was not chosen and after hearing the responses that day, he still did not feel that question had been adequately answered. He also noted that the opposition did provide quite detailed information as to why the currently proposed location was not the best option and provided information as to why other sites would be better. He noted that unless it was held over for more detailed information from Alabama Power as to why the site was chosen, he could not vote in favor of it.

Mr. Vallas stated he did not feel the matter needed to be held over as it was obvious Alabama Power had reviewed all of the sites and had two courts rule that they had the right to condemn the site that was chosen.

Mr. Watkins stated he did not like the procedural posture the Commission found themselves in on the matter. He also did not know of a way that Alabama Power could have come to the Planning Commission prior to condemning the property to get approval for the matter. He, too, added that two judges had reviewed the matter and found for Alabama Power.

Mr. Turner stated his opinion that it would have been good public relations on the part of Alabama Power if they had brought MAWSS in on their behalf.

Mr. Miller reiterated his opposition to the matter. He again stated his feelings that the matter had not been presented to the Commission correctly.

Mr. Turner commented that it seemed to him that since it had gone through both the Probate and the Circuit Courts and had been determined by both of those courts to be valid, he did not see where the Planning Commission would have authority in the matter.

Mr. Lawler responded to Mr. Turner's comment by stating that the Planning Commission's authority in the matter came from both the Alabama State Code and the City of Mobile Zoning Ordinance as it involved the approval of what would be placed in the area in question and not the selection of the site itself.

Mr. Vallas noted that neither decision would be a popular decision, however, as it involved utilities to thousands of people, it was a very important decision.

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

- 1) that the natural drainage will be maintained on and across the entire right-of-way ;**
- 2) that the construction roads used for construction be removed and grass seeded;**
- 3) that the section of the right-of-way not be cleared between the sewer easement and the west side of the right-of-way and a section of low growing trees be planted on the east side of the right-of-way in this area, to be approved by the Urban Development staff;**
- 4) coordination with Urban Forestry concerning the type, design, and location of construction roads within the Critical Root Zone of existing trees impacted by this project;**
- 5) subject to the Engineering Comments: *(A No-Rise certification is required for placement of the poles and for any filling within the X-Shaded, AE flood zones and Floodway. Scour analysis is required for the poles located within the flood zones and floodway. The calculations need to take into account the fill associated with the construction road crossing of the creek. The site plan needs to show the location of the proposed pole locations, construction road, flood zones, wetlands, existing and proposed topography, erosion control plan, staging locations for helicopter aided clearing and installation activities, etc. Need to provide a detailed narrative for the tree removal by helicopter. Narrative, at a minimum, should indicate any restrictions for length of trees to be air lifted, wind and load limitations, height of trees off of the ground, unloading areas, etc. Need to provide a detailed narrative for the foundation and pole installations. Narrative, at a minimum, should indicate the procedure for the installation of the vibratory caissons, maximum length of pole sections to be lifted, staging areas of the pole sections that are to be air lifted, height off of the ground that the pole sections/caissons are to be lifted, wind and load limitations, etc. For the creek crossing, need to provide calculations for the sizing of the drainage pipe to show that the pipe is capable of handling the flow and that the adjacent properties will not be adversely affected by the placement of the crossing. Need to provide a timeframe for the installation and removal of the crossing. The placement of the crossing needs be considered in the No-Rise calculations. The crossing needs to be designed in accordance with the Alabama Handbook for Erosion Control, Sediment Control and Stormwater Management on Construction Sites and Urban Areas. For the construction road, show on plans show***

*where and how the excavated material for the construction road will be placed and stabilized. Show the proposed stabilization of the excavated slopes. Provide a typical section for the final stabilization following the removal of the proposed gravel road. Show the location of the proposed BMPs along the construction road. Based on the existing topography, there appear to be some areas of concentrated flow from the adjacent properties to the east; these areas may require additional BMP measures and additional drainage considerations. Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit in addition to the land disturbance permit); and,*

- 6) full compliance with all municipal codes and ordinances.

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

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2010-00077**

**Carolyn Armstrong Subdivision**

5190 Diamond Road

North side of Diamond Road, 280'± East of its West terminus

Number of Lots / Acres: 1 Lot / .03± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

Council District 4

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.

Brett Orrell, Polysurveying of Mobile, stated they were in agreement with the holdover.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the August 5, 2010, meeting, to allow the applicant to address the following:

- 1) to be considered in conjunction with the Planning Approval application;
- 2) placement of a note on the Final Plat stating that Lot 1 is limited to one curb-cut, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 3) illustration of the 25' minimum building setback line along Diamond Road;
- 4) labeling of the lot with its size in square feet and acres, or the

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- furnishing of a table on the Final Plat providing the same information;
- 5) placement of a note on the final plat stating that development of this site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,
  - 6) subject to the 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. Any work performed in the right-of-way will require a right-of-way permit.)*

The motion carried unanimously.

**Case #SUB2010-00074**

**Wesley Station Subdivision**

6105 Airport Boulevard

Southeast corner of Airport Boulevard and Wesley Avenue

Number of Lots / Acres: 3 Lots / 4.3± Acres

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

Council District 6

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

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.

Nathan Handmacher, 3378 Moffet Road, Mobile, AL, spoke on behalf of the applicant, stated they were in agreement with all of the recommendations with the exception of number 7, where they would like to have two curb-cuts to Airport Boulevard and two curb-cuts to Wesley Avenue. He recognized that the original design was only for two lots but as they had changed their scope of work, and they now had a bank that would like to locate on the corner, and in as much, they would like Lot 3 to have its own curb-cut to Wesley Avenue.

Mr. Olsen advised the Commission that the staff stood by their recommendations with regards to the number and placement of the curb-cuts, especially with regards to Wesley Avenue and Airport Boulevard given the Major Street status of Airport Boulevard and the amount of traffic there. He added that having shared curb-cuts in an overall development then having the applicant come back in for a Planned Unit Development would not necessarily be out of the realm of reality in this case. He added that regarding Wesley Avenue, the property immediately adjacent to the south was zoned R-1, single family residential and having a curb-cut on a second tier lot seemed to be an encroachment into what was a residential street.

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Mr. Handmacher pointed out that the secondary lot Mr. Olsen referred to had 200 feet of frontage on Wesley Avenue and, if it would be of benefit, they could limit that curb-cut to the north 100 feet but they would prefer the ability to put it where they chose.

Josh Taylor, 764 Henckley Avenue, Mobile, AL, asked for clarification regarding the buffer zones referenced in the recommendations, specifically if it would be a 50 foot vegetative buffer zone so that none of the current trees at the location were bothered. He also noted that he was in agreement with the staff's recommendation regarding the curb-cuts.

Mr. Olsen clarified by saying the way the condition was written, it did not specifically state that the trees would not be removed there, however, Condition 3 called for the depiction and labeling of the 35 foot vegetative buffer along the southern boundary of the site. He added that if the Commission would like to amend that to include that it remain vegetative, the staff would have no issue with that.

In deliberation Mr. Davitt asked, with regard to Condition 7, if the issue was the one shared curb-cut between lots 1 and 3 and was advised it was. He then went on to query if the lots were sold to two different parties if that might not create problems of ingress and egress.

Mr. Olsen stated that the one curb-cut would require a Planned Unit Development application be brought to the Planning Commission. He added that the staff's reasoning was because south of the location was a residential street. He noted that the original approval, when it was two lots, allowed for only one curb-cut onto Wesley and the staff maintained that due to the residential nature of the area, the one curb-cut was appropriate.

Dr. Rivizzigno asked if the Commission should address the buffer issue in its recommendations as the neighbor was worried that the existing vegetative buffer would be removed.

Mr. Olsen responded that there was actually very little vegetative buffer currently in place and that the dark areas seen in the photographs were actually shadows.

Mr. Miller stated his confusion over the amount of vegetative buffer to be required to which Mr. Olsen stated there were actually two differences in the buffer. The one located on the east side along Henckley Avenue required a 35 foot vegetative buffer and the one located east side of Wesley Avenue was a 50 foot "no build" buffer so there would need to be clarification as to the exact location the Commission wanted in-fill being either the 35 foot vegetative buffer and/or the 50 foot "no build" buffer.

Mr. Davitt stated he was in favor of in-fill to complete the 35 feet along Henckley Avenue and simply maintain the 50 foot "no build" buffer along the Wesley Avenue side.

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

- 1) **the provision of an eight-foot high wooden privacy fence and vegetative buffer where the site adjoins residential zoning;**
- 2) **placement of a note on the final plat stating that no structures, parking, or driveway(s) may be constructed within the southern 50 feet (between Wesley Avenue and the West right-of-way line of Henckley Avenue);**
- 3) **depiction and labeling of the 35-foot vegetative buffer along the southern boundary of the site, from the West right-of-way line of Henckley Avenue, as shown on the preliminary plat;**
- 4) **provision of a 35' vegetative buffer along the entire southern property line at the time of development – to include infill planting if necessary to block visibility and light from adjacent residential properties;**
- 5) **depiction and labeling of the 10-foot vegetative buffer along the eastern boundary of the site, as shown on the preliminary plat;**
- 6) **compliance with Engineering comments: *“Realignment of drainage system subject to review of City Engineer. The final approved location of the drainage easement, if approved to be altered from existing, may differ from that shown on the preliminary plat submitted for Planning Commission. Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit, in addition to any required land disturbance permits. Drainage from any new dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer;”***
- 7) **completion of the utility and drainage easement vacation process prior to the recording of the final plat;**
- 8) **placement of a note on the final plat stating that Lot 1 should be limited to one curb-cut onto Airport Boulevard and one curb-cut onto Wesley Avenue, Lot 2 should be limited to one curb-cut onto Airport Boulevard, and Lot 3 should be limited to one curb-cut onto Wesley Avenue, to be within the northern 50-feet of the lot, with the size, design, and location of all curb-cuts are to be approved by the Planning Section of Urban Development and Traffic Engineering, and comply with AASHTO standards;**
- 9) **placement of a note on the final plat stating that access to Henckley Avenue and the unopened right-of-way of Government Street is denied;**
- 10) **labeling of each lot with its size in square feet, or placement of**

- a table on the plat with the same information; and,  
11) placement of a 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.

**GROUP APPLICATIONS:**

Case #SUB2010-00075 (Subdivision)

**Saint Ignatius Parish Subdivision, Re-subdivision of**

3650 Springhill Avenue

Northwest corner of Springhill Avenue and Tuthill Lane

Number of Lots / Acres: 1 Lot / 13.3± Acres

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

Council District 7

(Also see Case #ZON2010-01599 (Planned Unit Development) **Saint Ignatius Parish Subdivision, Re-subdivision of**, and, Case #ZON2010-01598 (Planning Approval) **Saint Ignatius Parish Subdivision, Re-subdivision of**, below)

The Chair announced the application had been recommended for approval and stated that anyone who wished to speak on the matter should do so at that time.

Trace Hutchinson spoke on behalf of the applicant and asked that the matter be held over until the September 2, 2010, meeting. He added that the area was designated as green space to be utilized by the school and/or church.

The following people spoke in opposition to the matter:

- Barbara Smith, 912 Knowles Street, Mobile, AL; and,
- Christine Knowles Abrams, 854 Knowles Street, Mobile, AL.

They expressed the following concerns regarding the matter:

- A. noted there was a water retention problem on Knowles Street and expressed concern that any further development on the St. Ignatius' site would further negatively effect that area;
- B. concern over a possible increase in traffic to the site;
- C. wanted to have City Planners come to Knowles Street to see the area and discuss the issues of the neighbors;
- D. concern that the Master Plan, as approved at the November 2000 meeting, included substantial additions to the site, of which only a few have been completed;
- E. noted that the application currently up for review and approval by the Commission did not include many of the previously proposed

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- buildings or parking areas and it was hoped that by the September 2, 2010, meeting, that those plans would be available;
- F. expressed concern over the severe drainage coming from the St. Ignatius site onto the 854 Knowles Street residential site; and,
  - G. noted the drainage was now negatively effecting a nearby cemetery.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the September 2, 2010, meeting, per the applicant's request.

The motion carried unanimously.

**Case #ZON2010-01599 (Planned Unit Development)**

**Saint Ignatius Parish Subdivision, Re-subdivision of**

3650 Springhill Avenue

Northwest corner of Springhill Avenue and Tuthill Lane

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

Council District 7

(Also see **Case #SUB2010-00075 (Subdivision) Saint Ignatius Parish Subdivision, Re-subdivision of**, above, and, **Case #ZON2010-01598 (Planning Approval) Saint Ignatius Parish Subdivision, Re-subdivision of**, below)

The Chair announced the application had been recommended for approval and stated that anyone who wished to speak on the matter should do so at that time.

Trace Hutchinson spoke on behalf of the applicant and asked that the matter be held over until the September 2, 2010, meeting.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the September 2, 2010, meeting per the applicant's request.

The motion carried unanimously.

**Case #ZON2010-01598 (Planning Approval)**

**Saint Ignatius Parish Subdivision, Re-subdivision of**

3650 Springhill Avenue

Northwest corner of Springhill Avenue and Tuthill Lane

Planning Approval for the Master Plan of an existing Church and School in an R-1, Single-Family Residential District

Council District 7

(Also see **Case #SUB2010-00075 (Subdivision) Saint Ignatius Parish Subdivision, Re-subdivision of**, and, **Case #ZON2010-01599 (Planned Unit Development) Saint Ignatius Parish Subdivision, Re-subdivision of**, above)



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The Chair announced the application had been recommended for approval and stated that anyone who wished to speak on the matter should do so at that time.

Trace Hutchinson spoke on behalf of the applicant and asked that the matter be held over until the September 2, 2010, meeting.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the September 2, 2010, meeting per the applicant's request.

The motion carried unanimously.

**Case #SUB2010-00076 (Subdivision)**  
**Gulf Coast Asphalt Company Subdivision Unit 2**

835 Cochrane Causeway

West side of Cochrane Causeway, 1± mile North of Bankhead Tunnel

Number of Lots / Acres: 1 Lot / 29.3± Acres

Engineer / Surveyor: Cowles, Murphy, Glover & Associates

Council District 2

(Also see **Case #ZON2010-01608 (Planned Unit Development) Gulf Coast Asphalt Company Subdivision Unit 2**, **Case #ZON2010-01610 (Planning Approval) Gulf Coast Asphalt Company Subdivision Unit 2**, and, **Case #ZON2010-01609 (Sidewalk Waiver) Gulf Coast Asphalt Company Subdivision Unit 2**, 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.

Gary Cowles, Cowles, Murphy, Glover, and Associates, spoke on behalf of the applicant. He stated they were not opposed to the holdover but did have a couple of questions as he was not quite clear as to what the "CAV" was, as referenced in the Engineering comments.

Rosemary Sawyer, City Engineering Department, advised that "CAV" stood for "Community Assistance Visit," also known as a FEMA audit. She noted there were outstanding issues with this property and offered to get with Mr. Cowles after the meeting regarding those.

Mr. Cowles asked if the audit was not done approximately three months prior and was advised it had and that some of the issues involved arose then.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the August 19, 2010, meeting, with required information to be submitted by August 4, 2010, to allow the applicant the opportunity to address the following items:

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- 1) compliance with Fire comments: *“All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate”;*
- 2) depiction and labeling of the 25-foot minimum building setback line along Cochrane Causeway; and,
- 3) full compliance with Engineering comments: *“Show Minimum Finished Floor Elevation on Plat. 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 or an approved “No Rise” certification. Placement of any temporary construction trailer will require foundation design in accordance with FEMA 85 and must meet minimum FFE. Resolution of CAV discrepancies required prior to signing of plat.”*

The motion carried unanimously.

**Case #ZON2010-01608 (Planned Unit Development)  
Gulf Coast Asphalt Company Subdivision Unit 2**

835 Cochrane Causeway

West side of Cochrane Causeway, 1.0 ± mile North of Bankhead Tunnel

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

Council District 2

(Also see **Case #SUB2010-00076 (Subdivision) Gulf Coast Asphalt Company Subdivision Unit 2**, above, and, **Case #ZON2010-01610 (Planning Approval) Gulf Coast Asphalt Company Subdivision Unit 2**, and, **Case #ZON2010-01609 (Sidewalk Waiver) Gulf Coast Asphalt Company Subdivision Unit 2**, 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.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the August 19, 2010, meeting, with required information to be submitted by August 4, 2010, to allow the applicant the opportunity to address the following items:

- 1) illustration of site circulation and access for the Southern portion of the site;
- 2) illustration of what type surface material exists on the roadway where the asphalt pavement ends;
- 3) regarding fire hydrants - how many, location, and will any new hydrants be added due to the size of the new tanks;
- 4) compliance with Urban Forestry comments: *“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 tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry;”*
- 5) **compliance with Engineering comments: “Show Minimum Finished Floor Elevation on Plat. 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 or an approved “No Rise” certification. Placement of any temporary construction trailer will require foundation design in accordance with FEMA 85 and must meet minimum FFE. Resolution of CAV discrepancies required prior to signing of plat;”**
  - 6) **depiction of dumpster locations on the site plans to comply with Section 64-4.D.9 of the Zoning Ordinance or placement of a note on the site plans stating that dumpsters will be completely screened from view or placement of a note stating how garbage will be removed;**
  - 7) **placement of a note on the site plan 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;**
  - 8) **placement of a note on the site plan stating that approval of all applicable federal, state, and local environmental agencies for wetlands or floodplain issues is required prior to the issuance of any permits or land disturbance activities; and,**
  - 9) **placement of a note on the site plan stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development Approval prior to the issuance of any permits.**

The motion carried unanimously.

**Case #ZON2010-01610 (Planning Approval)  
Gulf Coast Asphalt Company Subdivision Unit 2**

835 Cochrane Causeway

West side of Cochrane Causeway, 1.0 ± mile North of Bankhead Tunnel

Planning Approval to allow a bulk petroleum storage facility in an I-2, Heavy-Industry District.

Council District 2

(Also see **Case #SUB2010-00076 (Subdivision) Gulf Coast Asphalt Company Subdivision Unit 2**, and, **Case #ZON2010-01608 (Planned Unit Development) Gulf Coast Asphalt Company Subdivision Unit 2**, above, and, **Case #ZON2010-01609 (Sidewalk Waiver) Gulf Coast Asphalt Company Subdivision Unit 2**, below)

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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.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the August 19, 2010, meeting, with required information to be submitted by August 4, 2010, to allow the applicant the opportunity to address the following items:

- 1) **illustration of site circulation and access for the Southern portion of the site;**
- 2) **illustration of what type surface material exists on the roadway where the asphalt pavement ends;**
- 3) **regarding fire hydrants - how many, location, and will any new hydrants be added due to the size of the new tanks.**
- 4) **compliance with Urban Forestry comments: *“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 tree requirements of the Zoning Ordinance to be coordinated with Urban Forestry;”***
- 5) **compliance with Engineering comments: *“Show Minimum Finished Floor Elevation on Plat. 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 or an approved “No Rise” certification. Placement of any temporary construction trailer will require foundation design in accordance with FEMA 85 and must meet minimum FFE. Resolution of CAV discrepancies required prior to signing of plat;”***
- 6) **depiction of dumpster locations on the site plans to comply with Section 64-4.D.9 of the Zoning Ordinance or placement of a note on the site plans stating that dumpsters will be completely screened from view or placement of a note stating how garbage will be removed;**
- 7) **placement of a note on the site plan 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;**
- 8) **placement of a note on the site plan stating that approval of all applicable federal, state, and local environmental agencies for wetlands or floodplain issues is required prior to the issuance of any permits or land disturbance activities; and,**
- 9) **placement of a note on the site plan stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development Approval prior to the issuance of any permits.**

The motion carried unanimously.

**Case #ZON2010-01609 (Sidewalk Waiver)**  
**Gulf Coast Asphalt Company Subdivision Unit 2**

835 Cochrane Causeway

West side of Cochrane Causeway, 1.0 ± mile North of Bankhead Tunnel

Request to waive construction of a sidewalk along Cochrane Causeway.

Council District 2

(Also see **Case #SUB2010-00076 (Subdivision) Gulf Coast Asphalt Company Subdivision Unit 2**, **Case #ZON2010-01608 (Planned Unit Development) Gulf Coast Asphalt Company Subdivision Unit 2**, and, **Case #ZON2010-01610 (Planning Approval) Gulf Coast Asphalt Company Subdivision Unit 2**, 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 Dr. Rivizzigno, to hold the matter over until the August 19, 2010, meeting.

The motion carried unanimously.

**Case #SUB2010-00073 (Subdivision)**  
**Tillman's Square Subdivision, Re-subdivision of Lot 1, Re-subdivision of Lots 1 & 2**

5441 U.S. Highway 90 West

East side of U.S. Highway 90 West, 200'± North of Coca Cola Road

Number of Lots / Acres: 2 Lots / 11.1± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 4

(Also see **Case #ZON2010-01576 (Planned Unit Development) Tillman's Square Subdivision, Re-subdivision of Lot 1, Re-subdivision of Lots 1 & 2**, below)

The Chair announced the application had been recommended for approval.

Joel Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and stated they were in agreement with all of the recommendations with the exception of Condition 2, which they believed had been left over from a previous application but was no longer valid toward this application, as the lot currently ran the entire width to the road.

Mr. Olsen noted that changing the condition to note a 60 foot setback from the existing right-of-way line to allow for the future widening would be no problem. He also advised that as the site was now in the City, the conditions that referenced County Engineering and standards should be changed to reflect City Engineering and standards.

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Hearing no further 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 60' setback along U.S. Highway 90 West, in compliance with major street standards;**
- 2) **placement of a note on the Final Plat stating that Lot 1A is limited to the existing curb-cuts to U.S. Highway 90 West, with the size, location, and design of all curb-cuts to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;**
- 3) **placement of a note on the final plat stating that Lot 2A is limited to one curb-cut to U.S. Highway 90 West, with the size, location, and design to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;**
- 4) **labeling of each lot with its size in square feet and acres, or the furnishing of a table on the plat providing the same information;**
- 5) **compliance with Engineering comments: *“Before Plat will be approved for signature, Engineering Department will require certification from the engineer that there is an adequate and functioning detention system(s) for any impervious area added to the site annexation. Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit, in addition to any required land disturbance permits. Drainage from any new dumpster pads cannot discharge to storm sewer; must have connection to sanitary 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) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations.**

The motion carried unanimously.

**Case #ZON2010-01576 (Planned Unit Development)**  
**Tillman's Square Subdivision, Re-subdivision of Lot 1, Re-subdivision of Lots 1 & 2**

5441 U.S. Highway 90 West

(East side of U.S. Highway 90 West, 200'± North of Coca Cola Road).

Planned Unit Development Approval to allow shared access and shared parking between two building sites.

Council District 4

(Also see **Case #SUB2010-00073 (Subdivision) Tillman's Square Subdivision, Re-subdivision of Lot 1, Re-subdivision of Lots 1 & 2**, 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 further 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) **the submission of full Planned Unit Development applications prior to the development of Lot 2A;**
- 2) **placement of a note on the Final Plat stating that Lot 1A is limited to the existing curb-cuts to U.S. Highway 90 West, with the size, location, and design of all curb-cuts to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards;**
- 3) **placement of a note on the final plat stating that Lot 2A is limited to one curb-cut to U.S. Highway 90 West, with the size, location, and design to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards; and,**
- 4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

**OTHER BUSINESS:**

The Chair called for Mr. Olsen to comment on the issue regarding Clarification of Condition placed on a rezoning/PUD requiring fiber optics for synchronization of traffic signals, to also allow radio communication that would accomplish the same level of service.

Mr. Olsen reminded the Commission that a few years prior there had been an application on Airport Boulevard for a Wal-Mart near Providence Hospital. He stated that one of the conditions for approval was that Wal-Mart would pay for the installation of fiber-optic cable for the synchronization of the traffic lights and this was specifically noted in condition. Mr. Olsen stated that Wal-Mart now wanted to do so utilizing radio signal as

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**PLANNING COMMISSION MEETING**

opposed to the previously required fiber-optic cable and the attorneys for Wal-Mart, as well as the City's legal staff, were concerned that doing so would not meet the technical wording of the condition and that might cause problems. Mr. Oslen went on to say that both Mr. Lawler and Ms. Kessler of the City's Legal staff concurred that as long as the intent of the condition was met the methodology would not be that important.

Mr. Turner asked if the methodology requested was more or less advanced than the methodology stated as required in the condition.

Mr. Lawler stated that the attorneys for Wal-Mart were concerned that it might be an issue that needed to come back before the Planning Commission for approval, however, Mr. Lawler stated he advised them that it was his belief that it was simply an administrative issue, however they insisted on it having some type of Planning Commission approval.

Mr. Vallas remembered that he had recused himself on the matter at its earlier hearing so he recused himself from discussion and voting on the matter that day as well.

Hearing no further discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to clarify the condition placed on a rezoning/PUD requiring fiber optics for synchronization of traffic signals, to also allow radio communication that accomplished the same level of service. The motion carried unanimously.

Hearing no further business, the meeting was adjourned.

**APPROVED:**            September 16, 2010

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Dr. Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

jsl