

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF AUGUST 18, 2011 - 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.
Herb Jordan
Mead Miller
Roosevelt Turner
John Vallas
James F. Watkins, III

Members Absent

Nicholas H. Holmes, III

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Frank Palombo,
Planner II
Bert Hoffman,
Planner II
Gerard McCants,
Urban Forestry
Joanie Stiff-Love,
Secretary II

Others Present

John Lawler,
Assistant City Attorney
Jennifer White,
Traffic Engineering
District Chief Bill Roach,
Fire and Rescue Department

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. Plauche, with second by Mr. DeMouy, to approve the following minutes:

- April 21, 2011;
- May 5, 2011;
- May 19, 2011;
- June 2, 2011; and,
- June 16, 2011.

The motion carried unanimously.

HOLDOVERS:

Case #SUB2011-00070 (Subdivision)

Gulf Coast Federal Credit Union Commercial Subdivision, Re-subdivision of

1001 Springhill Avenue and 970 Oak Street

(South side of Springhill Avenue, 150'± East of North Pine Street extending to the Eastern terminus of Oak Street)

Number of Lots / Acres: 2 Lots / 1.1± Acres

Engineer / Surveyor: John Farris Crenshaw

Council District 2

(Also see **Case #ZON2011-01563 (Rezoning) Gulf Coast Federal Credit Union Commercial Subdivision, Re-subdivision of,** below)

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

William Partridge, Coast Architects, spoke on behalf of the applicant and made the following statements:

- A. regarding the existing buildings and the subdivision of the newly acquired property to the east of the existing Credit Union building, much had transpired within the past few weeks to the direction that needed to be taken to appease the City's Regulations as well as the owner's needs;
- B. the applicant requested the two lots remain two lots and that Lot 2 be rezoned as R-1 and keep its structures as opposed to the previously proposed demolition of the same; and,
- C. expressed the belief that it would be at both the client's and the City's advantage to continue to keep these two lots as separate entities.

Mr. Olsen noted this was staff's first hearing of this as Mr. Olsen's last communication with Gulf Coast Federal Credit Union had indicated they wished to combine both lots into one single lot, to be zoned B-4, and to demolish all structures located on what would formerly have been referenced as Lot 2.

Mr. Plauche asked if the Commission would be better served to approve the matter, hold it over, or possibly withdraw it from consideration that day.

Mr. Olsen expressed his opinion that it would be better to approve what was currently before the Commission and if the Credit Union wished to come back at a later date and re-subdivide the rear property and have it rezoned R-1, they could certainly apply to do so.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Partridge noted his understanding of Mr. Olsen’s confusion, adding that it had only been in the last couple of days the proposal he just voiced “had come to the table.” He said there were complications regarding a building located on Lot 2 having access to Springhill Avenue, it being located too close to the property line, having insufficient fire hydrant access and a “T” turn around for the fire truck.

The Chair noted that Mr. Partridge’s statements sounded perfectly logical, however, the matter was currently up for approval and it would simply be easier on the applicant to come back with a separate application for subdivision rather than start the process over again with the changes now being requested.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to hold the matter over until September 15, 2011, due to the applicant changing the request at the meeting. Details of the changes, signed by the applicant, must be submitted by August 25, 2011.

The motion carried unanimously.

Case #ZON2011-01563 (Rezoning)

Gulf Coast Federal Credit Union Commercial Subdivision, Re-subdivision of
1001 Springhill Avenue and 970 Oak Street

(South side of Springhill Avenue, 150’± East of North Pine Street extending to the Eastern terminus of Oak Street)

Rezoning from R-1, Single-Family Residential District, and B-4, General Business District, to B-4, General Business District, to eliminate split zoning.

Council District 2

(Also see **Case #SUB2011-00070 (Subdivision) Gulf Coast Federal Credit Union Commercial Subdivision, Re-subdivision of**, above)

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

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Dr. Rivizzigno, to hold the matter over until September 15, 2011, due to the applicant changing the request at the meeting. Details of the changes, signed by the applicant, must be submitted by August 25, 2011.

The motion carried unanimously.

Case #ZON2011-01561 (Planned Unit Development)

Rich's Car Wash

1066 Hillcrest Road

(Northwest corner of Hillcrest Road and Johnston Lane)

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

Council District 6

(Also see **Case #ZON2011-01562 (Rezoning) Don Williams**, below)

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

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

- 1) **placement of a note on the site plan stating that the runoff from the vehicle washing facility must drain to the sanitary sewer system, and the connection must include an oil separator;**
- 2) **placement of a note on the site plan stating that the dumpster pad must connect to the sanitary sewer system via a grease trap/oil separator;**
- 3) **placement of a note on the site plan stating that any new lighting on the site will comply with Section 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance;**
- 4) **obtaining of all necessary after-the-fact building permits for the portable storage shed; and,**
- 5) **submittal of two copies of a revised PUD site plan including the above conditions to the Planning Section of Urban Development.**

The motion carried unanimously.

Case #ZON2011-01562 (Rezoning)

Don Williams

1066 Hillcrest Road

(Northwest corner of Hillcrest Road and Johnston Lane)

Rezoning from R-1, Single-Family Residential District, and B-2, Neighborhood Business District, to B-2, Neighborhood Business District, to eliminate split zoning.

Council District 6

(Also see **Case #ZON2011-01561 (Planned Unit Development) Rich's Car Wash**, above)

August 18, 2011
PLANNING COMMISSION MEETING

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

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

- 1) development limited to an approved Planned Unit Development; and,**
- 2) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2011-00079

Dawes-Hamilton Subdivision

8620 Clarke Road

(Northeast corner of Clarke Road and Dawes Road)

Number of Lots / Acres: 1 Lot / 3.8± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

County

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 further discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the September 15, 2011, meeting so that the applicant can provide the following information by August 25, 2011:

- 1) inclusion of the entire existing Lot 6 in the subdivision;**
- 2) provision of new mailing labels and mailing fees to staff;**
- 3) dedication to provide 50' from the centerline of Dawes Road to Mobile County;**
- 4) dedication to provide 30' from the centerline along Clarke Road or documentation that curb and gutters are present;**
- 5) dedication of the corner radii at Dawes Road and Clarke Road as well as Dawes Road and Jeff Hamilton Road per Section V.D.6. of the Subdivision Regulations should be required;**
- 6) correction of the size of the property or documentation that Mobile County Revenue Commission information is incorrect;**
- 7) depiction of the 25-foot minimum building setback line from all public right-of-ways, as required by Section V.D.9. of the Subdivision Regulations;**
- 8) placement of a label of the size of the proposed lot in square**

- feet and acres on the Final Plat;
- 9) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations;
 - 10) placement of a note on the Final Plat to comply with the City of Mobile stormwater and flood control ordinances: *(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.);*
 - 11) approval of all applicable federal, state, and local agencies prior to the issuance of any permits or land disturbance activities;
 - 12) placement of a note on the Final Plat that the lot is denied direct access to either Dawes Road or Jeff Hamilton Road;
 - 13) placement of a note on the Final Plat limiting the lot to one curb-cut to Clarke Road, with the size, design, and location of all curb-cuts to be approved by Mobile County Engineering and conform to AASHTO standards; and,
 - 14) placement of a note on the Final 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.

The motion carried unanimously.

Case #SUB2011-00078

Lancaster Subdivision, Phase One

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

Number of Lots / Acres: 3 Lots / 21.4± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

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

Brett Orrell, Polysurveying of Mobile, spoke on behalf of the applicant and asked that Section V.D.1. of the Subdivision Regulations regarding flag shaped lots and Section V.D.3. of the Subdivision Regulations regarding depth to width ratio be waived for this

August 18, 2011
PLANNING COMMISSION MEETING

project.

Mr. Olsen asked if there was justification for these requests.

Mr. Orrell noted they had met with staff and it had originally been pre-approved with 60 foot wide “flags” for both properties to allow access for big driveways for land owners to build large homesteads.

Mr. Olsen noted staff stood by their recommendation to deny. He noted while the “flag poles” might be 60 feet wide and would be adequate for future road construction, there had been no evidence given of flag shaped lots being typical in that area.

Mr. Orrell disagreed and noted within half a mile to the north of the proposed subdivision, a flag shaped lot with a 25 foot access was approved in March of 2011. He noted there were also two flag shaped lots to the northwest of the proposed subdivision.

Dr. Rivizzigno asked if Mr. Orrell’s client would agree to no further subdivision of Lots 2 and 3.

Patricia Rolls, no address given, noted the property would be owned by a father and son, so there should be no problem with agreeing to the condition as stated by Dr. Rivizzigno.

Mr. Olsen stated the staff had no real conditions for approval prepared but gave the following:

- A. each lot is limited to one curb-cut to Lancaster Road;
- B. no future re-subdivision unless and until adequate frontage on a public street is provided;
- C. because there appeared to be wetlands, the standard environmental condition would apply;
- D. the standard wildlife condition; and,
- E. the buffer requirement should any of the lots be developed commercially.

The Chair asked if the applicant would be okay with these conditions and Mr. Orrell responded they would.

Dr. Rivizzigno asked what was meant by the staff when they spoke of adequate road frontage.

Mr. Olsen stated for Lots 2 and 3 to be re-subdivided, a new public road would have to be built to allow both lots would have public road access.

In deliberation, Mr. Miller wanted it made clear to the new owners that should the matter be approved, that no further subdivision of said property would be allowed.

August 18, 2011
PLANNING COMMISSION MEETING

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

- 1) **placement of a note on the Final Plat stating that each lot is limited to one curb-cut to Lancaster Road;**
- 2) **placement of a note on the Final Plat stating that there shall be no future subdivision of Lots 2 or 3 until construction of a dedicated public road is completed;**
- 3) **placement of a note on the Final Plat to comply with the City of Mobile stormwater and flood control ordinances: (*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.*)**
- 4) **approval of all applicable federal, state, and local agencies for wetland and floodplain issues prior to the issuance of any permits or land disturbance activities;**
- 5) **placement of a note on the Final 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; and,**
- 6) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2011-00080

River Road Park Subdivision

South side of Dog River Road, 730'± South of Rabbit Creek Road)

Number of Lots / Acres: 3 Lots / 30.1± Acres

Engineer / Surveyor: Hunter C. Smith

County

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

August 18, 2011
PLANNING COMMISSION MEETING

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

- 1) **revision of the plat to label each lot with its size in acres, or the furnishing of a table on the Final Plat providing the same information;**
- 2) **illustration of the 35' minimum building setback line along Dog River Road for all lots;**
- 3) **revision of the plat to also illustrate a 25' minimum building setback line on Lot C as measured from the rear lot line for Lot A;**
- 4) **placement of a note on the Final Plat stating that any future subdivision of Lot C will require additional road frontage via construction of a road or roads into Lot C;**
- 5) **placement of a note on the Final Plat stating that each lot is limited to two curb-cuts to Dog River Road, with a curb-cut on the "flagpole" of Lot C counting as one of its allowed curb-cuts, with the location, size, and design of all curb-cuts to be approved by County Engineering and conform to AASHTO standards;**
- 6) **placement of a note on the Final Plat stating that the approval of all applicable federal, state, and local environmental agencies for flood plain and wetlands issues would be required prior to the issuance of any permits or land disturbance activities;**
- 7) **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;**
- 8) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations; and,**
- 9) **placement of a note on the Final Plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering.**

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2011-01878

University Grande Apartment Complex

6201 Old Shell Road

(Southwest corners of Old Shell Road and West Drive)

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

Council District 6

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

Doug Anderson, Burr and Foreman Law Firm, spoke as the representative of the applicant and stated they were in agreement with all of the conditions for approval as listed in the staff report. He then went on to state that due to the history surrounding the matter, he wished to make the following statements:

- A. noted this was the same location and site plan that had received Planning Commission approval in both 2008 and 2010;
- B. noted earlier in the year, an application had been submitted to the Planning Commission to amend the PUD to add a parking lot located across the street from the proposed apartment complex and that request was approved on June 16, 2011;
- C. noted the approval had been appealed at the City Council level and prior to that matter being heard by the City Council, he and Mr. Lawler, the Planning Commission's attorney, had come back before the Planning Commission for information purposes only and made specific remarks regarding the legal ramifications of the matter;
- D. noted the next week, the matter came before the City Council, and through the efforts of Councilwoman Bess Rich and City Council Attorney, Jim Rossler, Mr. Anderson was able to meet with the neighbors before the City Council meeting to discuss a settlement and resolution of their appeal in an effort to get the neighbors not to block

August 18, 2011

PLANNING COMMISSION MEETING

the applicant moving forward with the proposed development if the applicant would voluntarily submit to certain self-imposed restrictions;

- E. noted the results of the negotiations were made known to Mr. Copeland, Mr. Rossler and Ms. Rich and they were informed that though they were working toward a settlement with the neighbors no such settlement had been reached and under the advise of the City Council Attorney the applicant should come back before the Commission with another amended PUD that incorporated whatever conditions the applicant had agreed to with the neighbors;
- F. noted the conditions included in the staff's report were the conditions that had been agreed upon with the neighbors, however, he added that those conditions in no way were to indicate the neighbors were now in agreement with the project;
- G. noted that based upon his meeting with the neighbors, their main concern was with parking, specifically the ability of the tenants to park on the street on West Drive which was the only access to Old Shell Road by the residents of West Drive;
- H. in response to the concern of the neighbors regarding their access to Old Shell Road, Mr. Anderson noted the applicant planned on activating a parking permit and fee program and explained that out of the 326 parking spaces available, the applicant would "back out" the number needed for handicap and visitor parking, leaving the rest available for resident parking and the leases would require each tenant to purchase a parking permit as well as define the punitive measures that would be taken for parking illegally;
- I. an explanation was given regarding "roam towing" which involved the applicant entering into an agreement with a local towing company to come on site and tow illegally parked vehicles and that "sweeps" would be made of the area to assure compliance;
- J. it was noted that both of these measures had worked well at other properties owned by the applicant in other states;
- K. also indicated that the applicant would take other measures to limit access to the property from West Drive to that of emergency vehicles only;
- L. noted that in several conversations with the West Drive property owners' representative, it was indicated they wanted "No Parking" signage installed on both sides of West Drive and Mr. Anderson had spoken with Ms. White, City of Mobile Traffic Engineering Department Director, regarding this to find those were already planned by the

August 18, 2011
PLANNING COMMISSION MEETING

City;

- M. noted that pursuant to the original approval, the applicant still planned to install a left-turn lane on Old Shell Road in association with the current traffic light located at the entrance of Stadium Boulevard and West Drive; and,
- N. noted they had 92 more parking spaces than was required by the Ordinance.

Mr. Turner asked for confirmation that there would be parking on the site for visitors in addition to the on-site permitted parking and Mr. Anderson advised there would be and reminded the Commission of his earlier remarks on the same.

Mr. Lawler addressed the Commission and made the following statements:

- A. this was an amendment to the approved PUD from June 16, 2011, which allowed for an additional 200 extra off-site spaces;
- B. this amendment would take away that parking and substitute these conditions in their place;
- C. advised that should the Commission choose to approve the amendment before them today, that it would take the place of the June 16, 2011, approved PUD and that to deny it would leave the June 16, 2011, approved PUD as the one in place;
- D. that if the amended PUD before the Commission that day were denied, any aggrieved party could appeal that denial;
- E. wanted the Commission to understand that no one could be talking about the original 2010 PUD as it had been amended and that the amended June 2011 PUD was the only legal PUD and that PUD approval was being appealed by the neighbors to City Council on August 24, 2011;
- F. explained if the matter were denied, he had spoken with the City Council's attorney and both had decided that it would be unfair to the applicant to not allow them to appeal the denial even though the hearing on the previously amended PUD was within the 15 day appeal timeframe;
- G. acknowledged that the applicant had stated they had met the parking requirements, however, noted there was no absolute number of parking spaces when generating a PUD but only the guideline that the number of parking spaces required be adequate;
- H. reminded the Commission of his work with the City of Orange Beach, AL, and how they had dealt with the issue of parking in situations such as these;
- I. advised the Commission of a memo he had received from an Orange Beach, AL, representative regarding the issue of

August 18, 2011
PLANNING COMMISSION MEETING

parking; and,

- J. noted Mr. Anderson had stated that the parking for the proposed development would be adequate as they were going to establish a parking permit with fee program, towing of illegally parked cars, and “No Parking” signs installed in the neighborhood.

Mr. Anderson responded to Mr. Lawler’s statements with the following:

- A. this was the City of Mobile and not the City of Orange Beach, therefore, what that city did had no bearing on what Mobile chose to implement with regards to such matters as parking; and,
- B. noted the Planning Section had historically used the Code to determine their standard and minimum number for adequate parking.

Mr. Lawler responded by reading the following from the Zoning Ordinance, “the application for Planning Approval with the department, the Planning Commission shall consider such application and approve or disapprove the application, and approval may establish conditions and limitations with respect to the site plan,” so you could impose conditions and limitations beyond what the Ordinance usually requires in the planning phase. He then added that with this specific application, the Commission was being asked to compromise one of the specific requirements for a PUD which calls for 700 square feet of open space for each unit and this PUD application did not meet that standard so this request is in line with what the Ordinance states the Planning Commission can do.

Mr. Miller asked Mr. Anderson if it was still the plan to have individual bedrooms for rent.

Mr. Anderson advised it was not and that one of the conditions offered by the applicant stated that would not be the case.

Mr. Miller asked what would happen when “they” ran out of parking places.

Mr. Anderson stated his client’s experience where the procedures noted were implemented was once that number was reached and prospective tenants were advised of the parking situation, those prospective tenants either found lodging elsewhere or decided not to bring a car to their apartment complex. He went on to add that though the applicant could not guarantee there would be no tenants parking on the side of West Drive, the options offered were the best available.

Mr. Miller asked if the applicant had any future plans for off-site parking or if they felt that issue was no longer viable and reminded everyone that his problem had been with how the parking seemed to intrude on the surrounding residential neighborhood.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Anderson stated that with the submission of this amendment off-site parking was no longer an option. He also responded to Mr. Lawler's comments stating his client was not asking that anything be compromised and regarding the square foot of open space per square foot of living space calculation in question, it was felt that based upon what the applicant's design professional had stated that had been met. He added his client did not want anything compromised.

The following people spoke in opposition to the matter:

- Graham Forsythe, 6145 Ventian Way South, Mobile, AL;
- Bess Rich, 625 Cumberland Road East, Mobile, AL, District 6 City Council person;
- Jim Sockwell, 6125 Ventian Way South, Mobile, AL; and,
- Leigh Holland, 6113 Ventian Way South, Mobile, AL.

They gave the following points against the matter:

- A. this was not "NIMBY-ism" (i.e. "not in my back yard") as the neighbors had known about this project since approximately 2008, had known it was to be student housing and had not opposed it previously;
- B. opposition by the neighbors only came about once it became apparent that on-site parking would not be adequate and the applicant sought to have the off-site parking lot approved;
- C. felt parking passes would not be effective and students would simply park on West Drive;
- D. expressed the feelings that all it would take is one episode of on street parking on West Drive that hindered such things as garbage pick-up, mail delivery or emergency vehicle access to the residents of West Drive to prove their fears as founded;
- E. expressed concern that the measures suggested would not truly be enforceable;
- F. expressed the belief that though JagTran would be helpful in getting those student residents back and forth to class, it would not provide for those students wishing to get back and forth from home, the beach, and other non-USA locations, thus not eliminating their desire for their vehicles;
- G. expressed the feelings that the residents were teenagers and the theory of "reasonable man" did not apply;
- H. expressed the feeling that regardless of the number of units, there was not adequate parking for the number of students who would be living there;

August 18, 2011

PLANNING COMMISSION MEETING

- I. asked who had the power to enforce the conditions as listed by the applicant;
- J. noted that the amended PUD before the Commission was, with few exceptions, identical to the original, approved PUD of 2010;
- K. noted none of the neighbors had opposed that PUD as it looked like a standard apartment complex was being proposed and that none of those neighbors, based upon the information given to them, believed the proposed development was specifically for student housing;
- L. noted opposition from the neighbors did not begin until information became available that the proposed apartment complex would be student housing, thus raising the concern over adequate parking;
- M. noted that at the June 16, 2011, meeting, one of the principals, Mr. Davis, stated they recognized from the beginning that the 1.5 parking space ratio would not be enough for their planned development and began looking for additional parking;
- N. noted Mr. Davis also stated his organization usually used 1.1 parking spaces per bedroom when calculating for parking on their properties, but as that calculation was not possible on this site, the applicant had opted for requesting off-site parking;
- O. noted Mr. Davis had stated at the June 16, 2011, meeting that his organization would begin building this project two weeks from that date, whether or not the Planning Commission approved the amended PUD before them at that time, leaving the City to worry with any parking concerns created by the inadequate parking;
- P. expressed the belief the applicant now wanted to return to the original PUD due to opposition in City Council to the amended PUD;
- Q. noted the neighbors had not agreed to any of the self-imposed conditions presented by the applicant's representative earlier;
- R. expressed the belief that if the current PUD before the Commission were approved, the developers would build the project, pocket their money and leave the City, leaving the problems and concerns they had created to the City to address;
- S. expressed the belief that the applicant's counsel would appeal to the Commission to consider the economic impact of \$20 million to the City of Mobile but reminded the Commission the four neighborhoods located off of West Drive had a tax assessed value of over \$42 million and that

August 18, 2011
PLANNING COMMISSION MEETING

value would be in jeopardy if the project were to be approved as presented;

- T. expressed the belief the applicant's counsel would try appealing to the emotions of the Commission by reminding them of the over \$600,000 spent by the applicant to which opposition responded that money could have been saved had the applicant been upfront in their endeavors;
- U. expressed the belief that the petitioner, either intentionally or innocently, mischaracterized the development as apartments when, in fact, they are student housing dormitories and should be viewed and treated as such;
- V. expressed the belief that the applicant's counsel will state that the Code says nothing regarding dormitories, however, that did not give the applicant the right to arbitrarily pick a category that fit their needs and that decision belonged to Planning Commission, who had not been allowed to exercise that right due to the applicant's failure to fully disclose their intentions in the original plans;
- W. expressed the belief that municipal governments and their agencies had the implied responsibility to protect the safety and welfare of its citizens, and as their neighborhood was small, they looked to the members of this Commission to see to their safety and welfare and not approve the measure before them that day and that the original PUD's approval be rescinded and re-evaluated with the information now available;
- X. expressed the belief that Old Shell Road has become a major road; and,
- Y. expressed the belief that the University had already given its position on students living off site yet using the campus as parking for their off site residences.

Mr. Turner expressed his belief that the applicant had made good faith efforts to address the concerns of the neighbors and asked if the conditions offered by the applicant would be enough.

Mr. Olsen stated that as the conditions were part of the PUD and if it were approved, the City would enforce the conditions of said PUD.

Mr. Lawler stated, if approved, the City had a series of promises of what the applicant would do and until there was a binding agreement in place, it was a matter of both sides trusting the other to do as stated. He did note that the current information did not contain real details that could be enforced. He offered that the City might be able to file some sort of court action against the applicant should they not comply with the conditions of approval.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Anderson gave the following response after the last opposition speaker:

- A. Expressed his opinion that the developer was not going to “pocket the money” and return to Florida, instead they planned to own and manage the project and be a good corporate citizen of the City;
- B. Regarding the comment that “this looks good on paper”, noted the procedures had been used effectively at other similar projects owned by the developer;
- C. Reminded the Commission the site plan had never changed from the original 2008 site plan as it showed the same number of apartments and the same number of parking spaces;
- D. Noted the plan met the Code when it received approval in both 2008 and 2010 and that it met the Code today; and,
- E. Asked that the application be treated just like every other application for an apartment complex which had come before the Commission over the past decade.

In deliberation, Mr. Davitt asked if it was possible to include, as a requirement as part of the Conditions for Approval, the seven items referred to as “Voluntary Conditions.”

Mr. Olsen responded, based upon the verbiage of the Staff Recommendations that was already a part of the Conditions for Approval.

Mr. Davitt then asked how could it be known if those steps were truly in place.

Mr. Olsen responded as Mr. Lawler had advised, submission of copies of all such documents to the staff could be required.

Mr. Lawler assented and added that at this time the details of the apartment lease were not known. He reminded them the issue was parking and that the lease would not determine how many people were located on the site nor would it state how many vehicles were on the site. He noted there had been no reduction in the number of apartments but the number of anticipated number of tenants not the number of anticipated vehicles on the property had not been addressed. He stated if the proposed plan for managing the excess parking were in place then those who had vehicles but no parking permit would be faced with having their vehicles towed. He noted the voluntary restriction as offered by the applicant were things that could be required as conditions for approval. He reminded the Commission of the portion of the Code that read “The Planning Commission shall consider the application and shall approve or disapprove the location and site plan approval may establish conditions and limitations with respect to the location and the site plan.” He noted the conditions suggested by the applicant were voluntary conditions to solve the parking problem that had been discussed and that the Commission was being asked to make a judgment call as to whether the conditions as suggested would be adequate to solve the parking problem.

August 18, 2011
PLANNING COMMISSION MEETING

He reminded the Commission that they were responsible for judging the impact of the PUD on the area around it. He stated the application before them was not for a typical apartment development as a typical apartment development would not have the intensity of parking as proposed. He reminded the Commission that as it was a PUD, the Commission could modify as necessary the required minimums for many things. He then noted the Ordinance called for 700 feet of open space per unit and that the proposed development was short by approximately 1200 square feet of open space, which was the equivalent of two apartments, but based upon the Commission, the shortage could be waived.

Mr. Davitt noted his understanding that the minimum per the Ordinance was 1.5 parking spaces per apartment unit. He expressed his concern for the people living on West Drive and Ventian Way and noted he wanted some way to provide them some form of protection regarding the parking issues addressed.

Mr. Miller suggested that was a bigger problem with the street and noted that as not being the applicant's fault. He expressed his concern was that if the developers walked into the Commission today with an apartment complex of 156 units with 326 parking spaces, the Commission would not hesitate to approve it as it obviously met the requirements of the Ordinance. He stated to him the location was an obvious one for an apartment complex that would house students as the property was located so close to the University.

Mr. Lawler noted that his role was to remind the Commission members of the consequences of their votes and that the Commission members understood the rules regarding how to consider things that came before them and the power they had over such things. He noted the question in this case was whether or not there were too many cars and how that would impact the residential neighborhood located there. He reminded the Commission members that the applicant had come before them previously asking for an additional 225 additional off site parking to deal with the additionally needed parking. He reminded the Commission that request had been approved. He noted now they have come back with new options for dealing with the additional parking. He stated the Commission had to determine whether or not the voluntary conditions currently offered by the applicant would adequately address the parking issues as discussed or would the project simply have an adverse impact on the surrounding residential neighborhood.

Mr. Turner asked if Traffic Engineering would comment on the matter as he felt many of the conditions now offered by the applicant, Traffic Engineering had a better grasp on how those would impact the development.

Ms. White, Traffic Engineering, offered the following comments:

- A. noted if a student had no on site parking permit said student would be looking for an alternative regarding parking for their vehicle, whether that be on the University Campus or

August 18, 2011
PLANNING COMMISSION MEETING

- elsewhere and the best the City could do was to restrict the places those students could look for legal parking; and,
- B. noted the City had already determined and decided to limit parking on West Drive near the complex.

Mr. Turner asked if Ms. White believed the planned deterrents would be effective.

Ms. White stated her belief that if someone got a ticket for parking illegally in an area and then had their vehicle towed for parking in that area a second time it was likely they would probably not park there again. She reminded the Commission that the University of South Alabama was in transition from being a commuter university to being a destination university and in as much, these types of developments would probably come before the Commission again in the future and at that time students might not bring their vehicles with them as they pursued their post secondary education which would alleviate some of these issues, however, until then Traffic Engineering would do what they could to restrict parking in places they knew was undesirable.

Mr. Turner noted his initial concern was the additional, detached parking would create security concerns so he voted against it, however, with all of the parking now adjacent to the apartment complex, those concerns have been answered. He also noted his agreement with Ms. White and her assessment of the response to having a personal vehicle ticketed and then towed.

Mr. Davitt asked Ms. White if when the Traffic Impact Study was done, did it only consider traffic from Old Shell Road or did it take into consideration traffic from some of the smaller, adjacent, residential streets.

Ms. White noted there were two Traffic Impact Studies for this, with the initial one addressing Old Shell Road and the study examined how much traffic the apartment complex would generate and then it looked at how it would affect Old Shell Road and then how it would affect the corridor of Old Shell Road. She stated that when the developers added the proposed off site parking the Traffic Engineering Department requested that they resubmit a study that took into account people accessing West Drive, therefore her department had received information which took into account both Old Shell Road and West Drive.

Mr. Miller asked how access to West Drive from the proposed apartment complex was to be restricted and Ms. White answered that she believed the plan was to gate that entrance.

Mr. Davitt asked if the second Traffic Impact Study addressed West Drive specifically and Ms. White responded the results from that study recommended improvements to West Drive with a turn lane that would widen West Drive thus accommodating an extra lane of traffic.

Mr. Jordan noted that that idea of students parking at the University while living in the

August 18, 2011
PLANNING COMMISSION MEETING

apartments would probably be negated by the University itself and wondered if this would not be creating problems for the students involved by leaving them no place to park.

Mr. Davitt returned to the Traffic Impact Study and the recommended widening of West Drive, asking was the City to be responsible for such improvement.

Ms. White answered the City would not be responsible for the improvement but the apartment complex developer would be held responsible for those improvements should there have been off site parking, in much the same way they were going to be responsible for the improvements at Old Shell Road and Stadium Drive.

Dr. Rivizzigno stated that as long as the students were clearly informed of where they could legally park that the students shouldered the responsibility for their choices. She stated it was the Commission's responsibility to make sure the restrictions were enforceable and were, indeed, enforced.

Mr. Jordan recognized that but still stood by his concern that the students were being put in a very negative situation mostly out of their control.

Dr. Rivizzigno noted in such a case those students should choose not to rent an apartment at that complex.

Mr. Davitt asked if it was possible to include the widening of West Drive as one of the conditions for approval.

Mr. Olsen and Ms. White both noted that improvement to West Drive by the developer was based solely upon the developer having access from West Drive and as such was no longer part of the PUD it could not be included. Mr. Olsen then asked Mr. Lawler if it could be included since the developer was no longer creating a need.

Mr. Lawler noted he was not sure they were no longer creating a need as the parking and those needing parking would impact the area. He expressed his feeling that the Commission had the job of determining if what was being offered was adequate. He went on to add that it was his belief that what the developer had offered at the June 16, 2011, hearing had adequately addressed the problem and the problem was solved when the Planning Commission approved the last PUD on the matter. He noted though not a perfect PUD it did solve the parking problem. He noted he did not believe that including the improvements to West Drive would not be feasible as it had involved property that would only have been under the developer's purview had the previous PUD with off site parking remained.

Mr. Olsen noted Mr. Lawler was correct as the previous PUD included the property across the street, where the off site parking would have been located, dedicating property for the right turn lane. He also noted that the only access from the property to West Drive was for emergency vehicle traffic and would be gated.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Lawler expressed that based upon Mr. Olsen's comments, he did not believe it to be practical to include as a requirement for approval the applicant's improving West Drive.

Mr. Miller asked if the Council had overturned the Commission's approval of the PUD from the June 16, 2011, meeting.

Mr. Olsen advised that the Council had held the matter over pending the outcome of the PUD before the Commission currently and if this application was approved, then the PUD would be amended and the June 16, 2011, version, which was under appeal before the Council would no longer exist. He added that the neighbors would then have the option of appealing the PUD as it was newly approved.

Mr. Lawler noted that if it were denied, then the developer had the ability to exercise the same right to appeal the denial, which according to his discussions with Mr. Rossler, attorney for the City Council, would be heard prior to the June 16, 2011, PUD approval. He added should the City Council, on an appeal by the developer, approve the PUD, then the June 16, 2011, amended PUD would no longer exist. He apologized for what appeared to be a complicated matter but added that really was not as each time the PUD was amended the former PUD ceased to legally exist.

Mr. Miller asked for confirmation that if the Commission denied the application as it was written before them that day then the application as written and approved on June 16, 2011, remained.

Mr. Lawler stated that was the case.

Mr. Miller wondered if it might be a good idea to either deny the current application or hold it over in an effort to allow the June 16, 2011, PUD appeal with City Council to run its course. He acknowledged that it might be doomed however if it survived it would fix the parking issue as well as add improvements to West Drive.

Mr. Olsen reminded the Commission that the date for the final hearing on the June 16, 2011, PUD appeal was set specifically to come after that day's Planning Commission meeting to await the results of the Commission's actions on the PUD currently before them for vote.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to approve the above referenced matter, making the voluntary restrictions written requirements within the approval and that the applicant would also put forth their best efforts to make arrangements with the University of South Alabama for shuttle bus transportation to and from the complex or in its place, contract for similar transportation to and from the complex as well as being subject to the following conditions:

- 1) **compliance with Engineering comments:** *(Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer);*
- 2) **compliance with Traffic Engineering comments:** *(Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. A traffic impact study was submitted for this application. The improvements to the intersection (turn lane and signal) are the responsibility of the developer and must be approved by the City of Mobile Engineering and Traffic Engineering departments);*
- 3) **placement of a note on the revised 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;**
- 4) **provision of and approval of two copies of the revised PUD site plan to the Planning Section of Urban Development prior to the approval of any permits;**
- 5) **required compliance with the additional conditions as submitted by the applicant:**
 - A. **the applicant will implement a system whereby they charge a fee to tenants for parking permits to park on the premises, and only issue such amount of permits as there are parking spaces, less an appropriate amount of parking spaces reserved for visitors;**
 - B. **the applicant will institute a procedure known as “roam towing”, whereby the applicant will enter into a contract with a local towing company who will roam the site during peak hours and tow violators (whether violators are parking improperly or without a permit);**
 - C. **the applicant will cooperate with the City of Mobile and put forth its best efforts to not allow illegal parking, whether it is on site or surrounding public streets. The efforts will include painting curbs and placing “no parking” signs on the subject property;**
 - D. **the applicant will put forth best efforts to arrange with the University of South Alabama for shuttle bus transportation between the University campus and the subject property;**

August 18, 2011
PLANNING COMMISSION MEETING

- E. the applicant will include in its lease information concerning parking rules on the subject property and the surrounding city streets;
 - F. the applicant will rent by apartment unit, not by the bedroom; and
 - G. the applicant will restrict access to West Drive for emergency use only, and will install a system (gate, barricades, etc.) approved by the City.
- 6) submission of documents illustrating compliance with additional conditions as stated;
 - 7) developer to provide shuttle service to USA campus IF item D is not arranged as stated; and,
 - 8) full compliance with all other municipal codes and ordinances.

The motion carried with Mr. Plauche and Mr. Jordan voting in opposition.

NEW PLANNING APPROVAL APPLICATIONS:

Case #ZON2011-01827

William T Partridge

680 Azalea Road

(West side of Azalea Road, 515'± North of Cottage Hill Road)

Planning Approval to allow a Church Daycare in a B-1, Buffer Business District.

Council District 5

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.

Bill Partridge, 302 Park Avenue, spoke on behalf of his clients. He handed out some photographs of the site and made the following points for approving the matter that day:

- A. asked for tentative approval, subject to appeasing all eight of the staff's recommendations; and,
- B. noted they were only asking for a possible consideration regarding the alteration of the landscape requirements, if it was determined the trees needed to be planted between the building front and Azalea Road, due to traffic concerns expressed by the staff, as doing so would further reduce visibility in that area.

Mr. Olsen responded the reason staff had recommended the matter be held over was due to the fact other applications should have been submitted in addition to the one before the Commission that day, and inasmuch, the matter should be held over and heard at the same time as the necessary Subdivision and Planned Unit Development applications. He noted a decision on this matter would not speed up the process any

August 18, 2011
PLANNING COMMISSION MEETING

because without approval of an associated Subdivision application and Planned Unit Development application, they would be unable to proceed. As a side note, Mr. Olsen stated the application did not include a complete address for correct notification of the property owner, who was noted as Mr. Partridge's client.

Mr. Partridge asked what other applications were necessary.

Mr. Olsen stated a Subdivision application and a Planned Unit Development application were needed, as stated in the staff recommendation.

Mr. Partridge acknowledged the need to have all materials submitted by September 6, 2011, to meet the October 6, 2011, deadline, but expressed his belief that the applicants could provide anything staff had requested to receive a more immediate approval.

Mr. Turner asked if Mr. Partridge got the requested materials in earlier than September 6, 2011, was it possible to get an approval prior to the October 6, 2011, meeting.

Mr. Olsen answered that was not possible due to the notification requirements for area residents as well as notification of a Public Hearing on the matter. He reminded everyone the deadlines involved regarding notifications and Public Hearings were mandated by law and had to be adhered to.

The following people spoke on behalf of the daycare:

- Angela Coker, one of the lessees for 680 Azalea Road, Mobile, AL, and co-owner and director of the proposed child center; and,
- Carl Coker, 1907 Bradshaw Drive, Mobile, AL, co-owner.

They made the following points:

- A. have been paying lease notes for two locations since June 2011;
- B. believed that by the beginning of the current school year, they would at least be in a position to do renovation on the site in question so it would be in compliance with the regulations regarding daycare centers;
- C. noted the lease for their current location had expired, however, those owners were being gracious in allowing them to continue on the property without a lease due to the fact they were doing a wonderful job with the children they served;
- D. noted they had been working on the project for approximately the past three months; and,
- E. noted there were no other daycares currently operating in that particular area.

Mr. Miller noted it might be helpful to meet with the staff, however, the problem was there were legal requirements regarding notification that had to be met.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Partridge noted that in hindsight the one mistake he made was when first asked to work on the daycare, the building in question was owned by someone other than the individuals wishing to use it as a daycare, so there was an issue regarding there being a change in occupancy. He noted the repercussions from that were if the occupancy had not changed then the landscaping plan would not have been required according to his understanding. He stated that immediately upon finding that out, he worked on correcting the application and did so just in time to meet staff's deadline, but did not realize the need for a tree and landscape plan. He then commented that many of the items, such as the handicapped ramp, had already been met and the only issue outstanding was the tree and landscape plan. He added the subdivision of the property was only as a result of the change of occupancy. He stated regarding the use of the property as a daycare, they had prepared a very reasonable approach to all of the requirements with regards to functionality. He noted the only concerns he had were regarding visibility and traffic.

Mr. Miller re-stated the Commission's position that due to legal requirements which could not be waived, the matter had to be held over.

Mr. Turner re-stated two applications were needed and those had not yet been provided.

Mr. Partridge remained confused regarding what needed to be submitted.

Mr. Turner reminded Mr. Partridge that a Subdivision application and a Planned Unit Development application needed to be submitted.

Mr. Hoffman advised Mr. Partridge that a Subdivision application and a Planned Unit Development application needed to be submitted as there were two buildings on the property, the garage and the main structure.

Mr. Davitt asked if daycares were required or permitted in B-1 zoning.

Mr. Olsen stated daycares required Planning Approval which was why this application was presently before the Commission. He noted there seemed to be confusion between what was considered change of use and what was considered change of occupancy. He advised both issues were addressed in the Zoning Ordinance to some degree, with change of occupancy being more of a Building Code term, especially as Mr. Partridge was using it when he commented regarding business occupancy versus education business occupancy, all of that being Building Code related and involving such things as electrical, plumbing, and mechanical requirements. He then commented the Zoning Ordinance dealt with a change of use with B-1 generally allowing for office type use. He added that a daycare was one of several uses in B-1 which required Planning Approval, which was where the Planning Commission looked at the use to verify that it was appropriate because in some B-1 areas it would be appropriate and in others it might not. He went on to add that the site as it was represented on the plan

August 18, 2011
PLANNING COMMISSION MEETING

encompassed multiple lots, there was also a need for Subdivision, and as the site showed multiple buildings on a single lot which were planned for commercial use, which created the need for a Planned Unit Development approval. He noted the change of use occupancy required the landscaping and tree plan.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until the October 6, 2011, meeting so that applications for Subdivision and Planned Unit Development approvals can be submitted by September 6, 2011, and so that the following revisions can be made:

- 1) **revision of the site plan to depict any outside play areas and associated fencing;**
- 2) **revision of the site plan to depict a 10-foot wide buffer and privacy fence where the site abuts residentially-zoned property;**
- 3) **revision of the legal description to include the two adjacent legal lots depicted on the site plan and included as part of the site area on the application, and verification that the required 300-foot notification was provided for entirety of the site;**
- 4) **revision of the site plan to depict tree and landscaping compliance information;**
- 5) **revision of the site plan to show arrows for one way circulation and signs at the entry/exits stating one way / do not enter;**
- 6) **revision of the site plan to show ADA-compliant parking spaces and access aisles, including the depiction of new paving, if required;**
- 7) **revision of the site plan to depict a dumpster (if one will be utilized) and/or can wash area; and,**
- 8) **provision of information regarding the hours of operation and the maximum number of children that will be on-site at any one time.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2011-00081 (Subdivision)

2056 Corporation Subdivision

2056 Dr. Martin Luther King Jr. Avenue

(East side of Dr. Martin Luther King Jr. Avenue, 100'± South of Crawford Lane)

Number of Lots / Acres: 1 Lot / 0.9± Acre

Engineer / Surveyor: Frank Dagley & Associates

Council District 1

(Also see **Case #ZON2011-01826 (Rezoning) Bernard Malkove**, below)

The Chair announced the application had been recommended for approval. He added if

August 18, 2011
PLANNING COMMISSION MEETING

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

Frank Dagley, Frank A. Dagley and Associates, spoke on behalf of the applicant and made the following points:

- A. gave a brief history of the property from its original use as a beauty salon to its use as a dialysis clinic;
- B. in 1993 or 1994, an addition was made to the existing building for its use as a dialysis clinic and his firm was involved with that project doing the plans for landscaping, drainage, everything that was required to get the building permit at that time and at that time it was in full compliance with the privacy fences, which were still in place;
- C. noted the reason they were before the Commission that day was due to the fact the current tenant was moving out and by the end of August of 2011, it will become a vacant building;
- D. the owner chose to be proactive in the matter and have it rezoned as it had been operating under a variance since 1993 or 1994, in an effort to attract a new tenant;
- E. expressed the feeling that there was no current need to bring the property “up to code” with respect to buffer, landscaping, etc., as nothing was being done on the site;
- F. noted that once a new tenant was found, this would create a change in occupancy which would require the property be brought up to code and the more appropriate time to require the upgrades to such things as buffering and landscaping;
- G. noted that though the applicant had requested the property be rezoned B-2, the staff had recommended B-1, however, in the staff report, they had mentioned that LB-2 might also be appropriate and the applicant was taking this opportunity to concur and ask that the property be rezoned as LB-2; and,
- H. noted requiring such conditions as driveway markers, dumpster enclosures and the like at this time should wait until a tenant is found for the property.

Mr. Olsen responded by saying staff had no major problem adding the verbiage “prior to issuance of,” or “in conjunction with any work on the site” with regards to bringing into compliance as far as the buffer, the landscaping and trees, the directional arrows, and the like requirements were concerned. With regards to rezoning the property LB-2, he deferred to the Commission’s decision.

Mr. Davitt asked what were the staff’s thoughts regarding the LB-2 zoning option.

Mr. Olsen responded that it was arguably an option as there was B-2 zoned property located across from the property on Dr. Martin Luther King Jr. Avenue, but those properties were currently being used residentially.

August 18, 2011
PLANNING COMMISSION MEETING

Mr. Davitt asked for a comparison of LB-2 and B-1 zoning.

Mr. Olsen stated B-1 was almost exclusively professional office type usage with small retail ventures such as florists and antique shops allowed. He stated LB-2 allowed for various types of retail and restaurants, but it did not allow for a bar, liquor store, a convenience store with outside pumps, a service station, or things of that nature, so it was more of a light retail district.

Bernie Malkove, 4325 Marquette Drive, owner of the property in question, noted the different uses of the properties adjacent to his, citing such things as a fire station, with B-2 across the street and farther north the Prichard business district. He also noted that previously he had worked with the clinic regarding building a new facility on the vacant lot located to the south. He noted the property owner, Mr. Earl Parker, had been willing at that time to have his property rezoned LB-2, if and when, Mr. Malkove could find a business that could use Mr. Parker's lot. He reminded the Commission that vacant buildings invited vandalism and cited examples of this very behavior with other properties he owned.

Hearing no opposition or further 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 site is limited to two curb-cuts, with any change to the size, design, or location to be approved by Traffic Engineering and to comply with AASHTO standards;**
- 2) 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 (at the time of permitting);**
- 3) 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).*) (at the time of permitting);**
- 4) revision of the final plat to label the size of the lot in square feet; and,**
- 5) placement of a note on the final plat stating that the site must be developed in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #ZON2011-01826 (Rezoning)

Bernard Malkove

2056 Dr. Martin Luther King Jr. Avenue
(East side of Dr. Martin Luther King Jr. Avenue, 100'± South of Crawford Lane)
Rezoning from R-1, Single-Family Residential District, to B-2, Neighborhood Business District, to allow a medical facility.
Council District 1
(Also see **Case #SUB2011-00081 (Subdivision) 2056 Corporation Subdivision**, above)

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Turner, to approve the rezoning request to **LB-2, Limited Neighborhood Business District** *instead of* B-2 Neighborhood Business, is recommended for approval, subject to the following conditions:

- 1) **marking of the drive-through area as one-way, to include pavement and signage markings, (at the time of permitting);**
- 2) **compliance with Urban Forestry comments: (*Full compliance of the landscaping and tree requirements to be coordinated with Urban Forestry. 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).*) (at the time of permitting);**
- 3) **compliance with Engineering comments: (*Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.*)(at the time of permitting);**
- 4) **provision of a buffer and buffer area where the site abuts adjacent residentially-zoned property, in compliance with Section 64-4.D.1. of the Zoning Ordinance (at the time of permitting);**
- 5) **provision of a 6-foot high enclosure around the dumpster pad area;**
- 6) **modification of any existing or proposed site or parking lot lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance (at the time of permitting);**
- 7) **verification by the design professional that the site and parking complies with the requirements of the Americans with Disabilities Act (at the time of permitting);**
- 8) **obtaining of building permits as needed to make any required site or interior improvements;**
- 9) **no CO or Letters of Completion to be issued until all conditions have been met; and,**
- 10) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2011-00082 (Subdivision)
2350 Demetropolis Road Subdivision

2350 Demetropolis Road

(West side of Demetropolis Road, 1900'± South of Cottage Hill Road)

Number of Lots / Acres: 1 Lot / 12.5± Acres

Engineer / Surveyor: Driven Engineering, Inc.

Council District 4

(Also see **Case #ZON2011-01184 (Rezoning) (Holdover) Gerald T. Still**, and, **Case #ZON2011-01261 (Planning Approval) (Holdover) Gerald T. Still**, below)

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

Mr. Davitt remembered there had been a gentleman who had come before the Commission regarding a small piece of property he owned adjacent to the applicant's property and asked if the matter had been resolved.

Gerald Still, the applicant/owner, stated the gentleman had wanted \$10,000 for the 1700 square foot piece of property. Mr. Still stated he did not feel the property was worth that and counter offered the gentleman a portion of his property of an adequate size to make the 1700 square foot property buildable for residential development. He stated he offered that parcel at the same \$10,000 price but the gentleman was not agreeable.

Hearing no opposition or further 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) **labeling of the lot area size, in square feet, or provision of a table on the Final Plat with the same information;**
- 2) **labeling of the lengths of the sides of the property in feet;**
- 3) **depiction of the 25-foot minimum building setback line along all right-of-way frontages;**
- 4) **revision of the site plan to depict a sidewalk along Demetropolis Road, or submittal of an application for a sidewalk waiver;**
- 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,**
- 6) **placement of a note on the Final Plat limiting the lot to one curb-cut to Demetropolis Road, with the size, design, and**

location of all curb-cuts to be approved by City of Mobile Engineering and conform to AASHTO standards.

The motion carried unanimously.

Case #ZON2011-01184 (Rezoning) (Holdover)

Gerald T. Still

2350 Demetropolis Road

(West side of Demetropolis Road, 1900'± South of Cottage Hill Road). Rezoning from R-1, Single-Family Residential District, to R-3, Multiple-Family Residential District, to allow an assisted living facility.

Council District 4

(Also see **Case #SUB2011-00082 (Subdivision) 2350 Demetropolis Road**

Subdivision, above, and, **Case #ZON2011-01261 (Planning Approval) (Holdover)**

Gerald T. Still, below)

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

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to approve the above request for rezoning.

The motion carried unanimously.

Case #ZON2011-01261 (Planning Approval) (Holdover)

Gerald T. Still

2350 Demetropolis Road

(West side of Demetropolis Road, 1900'± South of Cottage Hill Road)

Planning Approval to allow an assisted living facility in an R-3, Multiple-Family Residential District.

Council District 4

(Also see **Case #SUB2011-00082 (Subdivision) 2350 Demetropolis Road**

Subdivision, and, **Case #ZON2011-01184 (Rezoning) (Holdover) Gerald T. Still**,

above)

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

Hearing no opposition or further 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) coordination with Urban Forestry to revise site plan to save all 35" and larger Live Oak Trees where possible; and,**

August 18, 2011
PLANNING COMMISSION MEETING

- 2) **revision of the site plan to depict a sidewalk along Demetropolis Road, or submittal of an application for a sidewalk waiver.**

The motion carried unanimously.

OTHER BUSINESS:

The Chair asked Jennifer White to introduce the new member of the Traffic Engineering staff.

Ms. White introduced to the Commission Marybeth Bergen as the new Assistant Director of Traffic Engineering for the City of Mobile.

The Chair welcomed Ms. Bergen on behalf of all of the Commissioners.

Hearing no further business, the meeting was adjourned.

APPROVED: December 1, 2011

/s/ Terry Plauche, Chairman

jsl