

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF SEPTEMBER 17, 2009 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

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

**Members Absent**

Clinton Johnson

**Urban Development Staff Present**

Bert Hoffman,  
Planner II  
Frank Palombo,  
Planner II  
Caldwell Whistler,  
Planner I  
Ron Jackson,  
Deputy Director of Urban Forestry  
Gerard McCants,  
Public Service Supervisor II  
Joanie Stiff-Love,  
Secretary II

**Others Present**

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

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

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

**HOLDOVERS:**

**Case #SUB2009-00086 (Subdivision)**

**Crest View Subdivision, First Addition, Re-subdivision of Lot 16, Block A**

4300 Coalesway Drive

Northwest corner of Coalesway Drive and Belvedere Street

Number of Lots / Acres: 2 Lots / 0.7± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 4

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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.

The following people spoke for the matter:

- Hurley Crews, 4300 Coalesway Drive, Mobile, AL, the applicant; and,
- Robert Edington, 551 Church Street, Mobile, AL, attorney at law.

They made the following points in favor:

- A. the electrical permit was obtained to fix exposed, deteriorating electrical wiring that ran from the house to the garage and to do so required an electrical contractor and that contractor got the electrical permit “after the fact” and the applicant did not realize he had signed an affidavit that limited the use of the property;
- B. the applicant’s original intent for the garage was as a library/music room, as the applicant has a grand piano and an extensive collection of books;
- C. the repairs to the garage were done when the applicant realized his renters of the primary residence were not using the garage and that there was considerable deterioration of that building;
- D. it is a large lot with two driveways, one serving the primary residence and the second the garage;
- E. the garage had been built out with rooms prior to being purchased a number of years back by the applicant;
- F. the applicant plans to move back to the property in the next few years; and,
- G. the issue with the secondary building seems to be the kitchen but to remove the kitchen would have a negative impact on its use as the applicant would like to see it used by “help” for the applicant and his wife as they age.

Mr. Vallas questioned that if this were not approved what alternatives were there for the applicant.

Mr. Hoffman answered that the alternative was the garage could continue as an accessory building to the main structure with verification that the kitchen facilities in the secondary structure had been removed or the applicant could request a use variance from the Board of Zoning adjustment to allow two dwelling units on a single lot.

Mr. Vallas asked if the variance request would also require subdivision of the property.

Mr. Hoffman stated the variance would not require the subdivision.

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Hearing no opposition or further discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Davitt, to deny the subdivision request for the following reason:

- 1) **does not comply with Section V.D.1 of the Subdivision Regulations regarding compatibility and appropriateness.**

The motion carried unanimously.

**Case #SUB2009-00067 (Subdivision)**

**Regency Executive Park Subdivision, Unit Three, Re-subdivision of Lot 2**

South side of Grelot Road, 225'± West of University Boulevard

Number of Lots / Acres: 2 Lots / 14.7± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

The Chair stated the matter had been recommended for approval.

Don Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and withdrew the matter.

**Case #SUB2009-00108 (Subdivision)**

**White Estates Subdivision**

2001 Point Legere Road

South side of Point Legere Road, 330'± East of Canal Lane

Number of Lots / Acres: 2 Lots / 3.3± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co. Inc.

Council District 4

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

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

- 1) **dedication of sufficient right-of-way along Point Legere Road to provide 25' from the centerline;**
- 2) **illustration of the 25' minimum building setback line as measured from any required dedication;**
- 3) **placement of a note on the final plat stating that each lot is limited to two curb cuts, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) **labeling of each lot with its size in acres and square feet, or the 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;
- 6) placement of a note on the final plat stating that if NWI wetlands are present on the site, the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities; and,
- 7) subject to the Engineering comments: *(Show Minimum FFE on each lot shown on plat. Fill is not allowed without City of Mobile Engineering Department approval, which at a minimum requires providing compensation or completing a flood study. Wetland locations must be shown on plat. Any work in wetlands must be permitted through the Corps of Engineers and copies of permits must be provided the City prior to obtaining Land Disturbance Permits. Show the lot line adjacent to the water. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit).*

The motion carried unanimously.

**Case #SUB2009-00119 (Subdivision)**

**McMurray Place Subdivision**

6351 Johnston Lane

South side of Johnston Lane, 260'± East of Hillcrest Road, extends to the unvacated portion of McMurray Street, 100' West of Schaub Avenue

Number of Lots / Acres: 58 Lots / 12.3± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

(Also see **Case #ZON2009-01861 (Planned Unit Development) McMurray Place Subdivision**, below)

The Chair announced the application had been recommended for approval.

Bryan Maisel, Bryan Maisel and Associates, 1101 Hillcrest Rd., Mobile, AL, the developer, stated he was in agreement with all recommendations except recommendation 4 and made the following points regarding the same:

- A. it was a new condition on a plan that had been before the Commission several times;
- B. the developer has provided for an 8 foot rear setback for the lots but he did not consider the same to be effective as the side yard setback;

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- C. the house adjacent to the developer's lot in question is over 35 feet away, thus making the need for an 8 foot setback there unnecessary as there is no close encroachment to that adjoining home owner;
- D. regarding lot 31, the most northern lot, its side yard adjoins the rear yards of the two houses that face Johnston Lane with as much as 20 feet between the rear of those homes and the side yard in question;
- E. all of the previously approved subdivision applications for this subdivision had included a 5 foot side yard setback and the applicant would like to see that same condition listed with the current application; and,
- F. setbacks of more than 5 feet would significantly reduce the buildable space of the proposed homes thus making their floor plans dysfunctional, leaving the developer with two lots he would be unable to sell

The Chair asked for the staff's reasoning behind condition 4.

Mr. Hoffman stated that typically within a Planned Unit Development where that Planned Unit Development abutted property not included in that Planned Unit Development, an 8 foot setback was required. He stated that if previous reviews of the application had not noted that fact, that was an error on staff's part.

Mr. Turner asked if the fact that the applicant was putting a 6 foot high privacy fence around the perimeter would help the situation just discussed.

Mr. Hoffman stated that even with the privacy fence, previous applications where the Planned Unit Development abutted existing residential property the standard 8 foot setback was still required.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Vallas, to waive Section V.D.2. for the overall development, and Section V.D.9. for the street-side side yards for corner lots, and approve the above referenced subdivision, subject to the following conditions:

- 1) approval by the Planning Commission and City Council of the rezoning application for McMurray Place, that is scheduled for the October 1, 2009, meeting of the Planning Commission;**
- 2) dedication of right-of-way sufficient to provide 25-feet of right-of-way, as measured from the centerline of Johnston Lane, as depicted;**
- 3) placement of a note on the site plan and plat stating that a 6-foot high privacy fence or masonry wall shall be provided, with appropriate permits, as a buffer around the perimeter of the development, except within any required setback area adjacent to a street. Fence or wall to be completed prior to the issuance**

- of a Certificate of Occupancy for the first residence constructed within the development;
- 4) placement of a note on the site plan and plat indicating the requested maximum building site coverage (45%);
  - 5) placement of a note on the site plan and plat stating that all lots are denied direct access to Johnston Lane, and each lot and the common area are limited to one curb-cut each, with the size, design, and location to be approved by Traffic Engineering, and conform to AASHTO standards;
  - 6) compliance with Engineering comments: *(Need to show calculations verifying that the detention system is adequately sized to accommodate the increase in site coverage. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit);*
  - 7) placement of a note on the site plan and plat stating that the maintenance of all common areas, including the detention common area, is the responsibility of the property owners;
  - 8) revision of lot size labels if necessary due to other revisions to the site plan/plat;
  - 9) approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
  - 10) provision of sidewalks throughout the development, or submission of an application for a sidewalk waiver for the entire development prior to the requesting of residential building permits;
  - 11) submission of a revised PUD site plan to the Planning Section of Urban Development prior to the signing of the Subdivision plat or the requesting of residential building permits;
  - 12) completion of the Subdivision process; and,
  - 13) full compliance with all other municipal codes and ordinances.

The motion carried with only Mr. Holmes voting in opposition to the matter.

**Case #ZON2009-01861 (Planned Unit Development)**

**McMurray Place Subdivision**

6351 Johnston Lane

South side of Johnston Lane, 260'± East of Hillcrest Road, extending to the unvacated portion of McMurray Street, 100' West of Schaub Avenue

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced lot widths, lot sizes, setbacks and increased site coverage  
Council District 6

(Also see Case #SUB2009-00119 (Subdivision) **McMurray Place Subdivision**, above)

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

- 1) approval by the Planning Commission and City Council of the rezoning application for McMurray Place, that is scheduled for the October 1, 2009, meeting of the Planning Commission;
- 2) dedication of right-of-way sufficient to provide 25-feet of right-of-way, as measured from the centerline of Johnston Lane, as depicted;
- 3) placement of a note on the site plan and plat stating that a 6-foot high privacy fence or masonry wall shall be provided, with appropriate permits, as a buffer around the perimeter of the development, except within any required setback area adjacent to a street. Fence or wall to be completed prior to the issuance of a Certificate of Occupancy for the first residence constructed within the development;
- 4) placement of a note on the site plan and plat indicating the requested maximum building site coverage (45%);
- 5) placement of a note on the site plan and plat stating that all lots are denied direct access to Johnston Lane, and each lot and the common area are limited to one curb-cut each, with the size, design and location to be approved by Traffic Engineering, and conform to AASHTO standards;
- 6) compliance with Engineering comments: *(Need to show calculations verifying that the detention system is adequately sized to accommodate the increase in site coverage. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit)*;
- 7) placement of a note on the site plan and plat stating that the maintenance of all common areas, including the detention common area, is the responsibility of the property owners;
- 8) revision of lot size labels if necessary due to other revisions to the site plan/plat;
- 9) approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 10) provision of sidewalks throughout the development, or submission of an application for a sidewalk waiver for the entire development prior to the requesting of residential building permits;
- 11) submission of a revised PUD site plan to the Planning Section of Urban Development prior to the signing of the Subdivision plat or the requesting of residential building permits; and,
- 12) full compliance with all other municipal codes and ordinances.

The motion carried with only Mr. Holmes voting in opposition to the matter.

**EXTENSIONS:**

**Case #SUB2007-00218 (Subdivision)**

**Center-Cox Subdivision**

North side of Center Street, 85'± West of Lambert Street, extending to the West side of Lambert Street, 150'± North of Center Street

Number of Lots / Acres: 1 Lot / 0.6± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 2

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.

Don Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and withdrew the requested extension.

**Case #SUB2008-00204 (Subdivision)**

**Neese's Addition to Crichton Subdivision, Block G, Re-subdivision of Lot 10**

2850 Pages Lane

North side of Pages Lane at the North terminus of Union Avenue

Number of Lots / Acres: 2 Lots / 0.5± Acre

Engineer / Surveyor: Wattier Surveying, Inc.

Council District 1

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to approve the above requested extension.

The motion carried unanimously.

**Case #SUB2006-00192 (Subdivision)**

**Springhill Estates Subdivision, Unit Number One, Re-subdivision of a Portion of Lots 14 & 15**

510 and 522 Evergreen Road

West side of Evergreen Road, 715'+ North of Airport Boulevard

Number of Lots / Acres: 3 Lots / 0.8+ Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 5

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



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Don Coleman, Rester and Coleman Engineers, Inc., spoke on behalf of the applicant and withdrew the requested extension.

**Case #ZON2008-02192 (Planned Unit Development)**

**Rochester Place Subdivision**

Northwest corner of Airport Boulevard and General Pershing Avenue (not open);  
extending North and West to the South side of Sunset Drive South  
Planned Unit Development Approval to amend the site plan of a previously approved  
Planned Unit Development  
Council District 5

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to approve the above requested one-year extension.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2009-00130**

**Boulevard Executive Park Subdivision, Second Addition to Unit One, Re-subdivision of Lots 6 & 7**

4321 Boulevard Park South  
South side of Boulevard Park South, 625' ± East of University Boulevard South  
Number of Lots / Acres: 1 Lot / 1.3± Acres  
Engineer / Surveyor: Rester & Coleman Engineers, Inc.  
Council District 5

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

Mr. Palombo advised the Commission that the staff would like to change condition 3 limiting the development to two (2) curb cuts as opposed to the existing single curb cut.

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

- 1) **provision of labeling of the size of the lot, in square feet, or provision of a table on the plat with the same information;**
- 2) **retention of the 25-foot minimum building setback line along all public rights-of-way;**
- 3) **placement of a note on the final plat stating that the site is**

- limited to two curb cuts, with the size, location, and design of all curb cuts to be approved by City of Mobile Traffic Engineering and conform to AASHTO standards;
- 4) placement of a note on the final plat stating that approval of all applicable federal, state and local agencies would be required prior to the issuance of any permits;
  - 5) compliance with Engineering comments: *(Label the drainage easements as "Private" that are located along the southern and eastern property lines. Add a note to the plat stating that the City of Mobile is not responsible for the maintenance of the private drainage easements. Prior to receiving approval for land disturbance, an engineer shall certify that the existing detention facility has the design capacity for the entire development that it serves or provide on-site detention for any on-site development. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Drainage from any new dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer);*
  - 6) placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,
  - 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2009-00128**

**Avalon Subdivision**

147 Batre Lane and 320 Avalon Street

South side of Batre Lane, 145'± East of Avalon Street, and East side of Avalon Street, 180'± South of Batre Lane

Number of Lots / Acres: 2 Lots / 0.6± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 7

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

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

- 1) dedication of sufficient right-of-way to provided 25' from the centerline of Avalon Street;
- 2) illustration of the 25' minimum building setback line along

- Avalon Street as measured from any required dedication;
- 3) illustration of the minimum building setback line along Batre Lane as measured from the current right-of-way line;
  - 4) placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Avalon Street, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
  - 5) placement of a note on the final plat stating that Lot 2 is limited to the existing curb cuts to Batre Lane;
  - 6) labeling of each lot with its size in acres and square feet, or the provision of a table on the plat furnishing the same information;
  - 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; and,
  - 8) subject to the Engineering comments: *(Must comply with all stormwater and flood control ordinances. Add a note to the plat that detention must be provided and a land disturbance permit will be required for any cumulative increase in impervious area added to the site since 1984 in excess of 4000 square feet. Any work performed in the right-of-way will require a right-of-way permit).*

The motion carried unanimously.

**Case #SUB2009-00129**

**Oakland Heights Subdivision, Re-subdivision of Lot 28**

1004 Oakland Drive

(North side of Oakland Drive at its West terminus).

**Number of Lots / Acres:** 3 Lots / 0.6± Acre

**Engineer / Surveyor:** Byrd Surveying, Inc.

Council District 6

The Chair announced the application had been recommended for approval.

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the owner saying they were in agreement with all of the conditions with the exception of number 6 which addressed stormwater detention. He explained the site previously had a house and an accessory building located on it but those had been removed. The applicant would like for the Commission to consider having condition number 6 read as follows, “subject to the Engineering comments: *(Must comply with all stormwater and flood control ordinances. Add a note to the plat that detention must be provided and a land disturbance permit will be required for any cumulative increase in impervious area added to the site since 1984 in excess of 4000 square feet. Any work performed in the right-of-way will require a right-of-way permit).*” eliminating the need for a detention pond to be installed for the

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three (3) lots. He added that currently only one (1) of the three (3) lots had sold and there was no way of knowing when one of the remaining two (2) lots would sell and he did not want to see anyone incur unnecessary financial hardship due to being required to install the detention pond.

Mr. Forrester, City Engineering Department, stated the intent behind the Engineering comment was for the cumulative development as it would constitute adding two new homes to the site which would, in turn, increase the amount of impervious surface on the site to greater than 4000 square feet, though individually the proposed developments might not be 4000 square feet.

Mr. Byrd responded that the new construction would replace the old, leaving two lots to be developed and he did not believe that large houses were proposed for those sites.

Mr. Hoffman offered that if Mr. Byrd would like, the matter could be held over so he could provide the staff with how much of the site had previously been covered by impervious surfacing.

Mr. Byrd stated he was agreeable with doing so.

Mr. Forrester responded to Mr. Byrd saying the applicant could use aerial photographs available to establish historical credit for site coverage and provide justification for their proposed development.

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 October 1, 2009, meeting, so information could be submitted to establish the previous percentage of impervious surface area for the site.

The motion carried unanimously.

**Case #SUB2009-00131**

**Woodland Glen Subdivision**

Eastern terminus of Meadow Drive North, extending to the Northern terminus of Meadow Heights Drive, the Northern terminus of Meadow Run Drive, and the Northern terminus of Meadow Dale Drive and Meadow Green Court, extending to the Western terminus of Augustine Drive

Number of Lots / Acres: 275± Lots / 86.3± Acres

Engineer / Surveyor: Rester and Coleman Engineers, 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.

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

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Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the October 15, 2009, meeting, per the applicant's request.

The motion carried unanimously.

**NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:**

**Case #ZON2009-02072**

**KLK, LLC**

3704 Dauphin Street

Northwest corner of Dauphin Street Service Road and Du Rhu Drive

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

Council District 7

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.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant and made the following points in favor of approving the matter:

- A. the purpose of the Planned Unit Development was to create a 30 foot curb cut, as well as add two (2) drive-up bank teller stations;
- B. the curb cut is to provided people using the bank's drive-up tellers a way to leave through the adjoining property (i.e. the Claude Moore property);
- C. regarding the staff's comment that anyone wanting to access the rear of the Metzger's building would have to wait in one of the bank's drive-up teller lines to get there, it was noted that the only people who need access to the rear of that building were employees of the businesses located there and they would access that parking via the drive that was behind the Claude Moore building as would delivery trucks and those needing to service the dumpster;
- D. the applicant proposes a stop sign as part of their traffic control efforts for the one way traffic; and,
- E. regarding the number of parking spaces falling below the minimum threshold of 43, they have 42 spaces, however, with there being drive-up facilities, the need for bank customers to park and go inside has been minimized, thus reducing the bank's need for 43 parking spaces.

Mr. Miller asked for clarification from Mr. Anderson regarding the status of a small parking lot behind the building shown on the site plans as 26A.

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Mr. Anderson stated currently there was a dumpster located there, however, that dumpster would be relocated.

In deliberation, Mr. Davitt moved to approve the matter subject to staff recommendations with Mr. Vallas voicing his second.

The Chair noted there were no recommended conditions for approval from the staff.

Mr. Hoffman confirmed that the staff had recommended denial of the application and inasmuch had no conditions for approval prepared and recommended holding the matter over one meeting to the October 1, 2009, meeting, to allow the staff time to prepare conditions for approval.

Mr. Holmes stated he would be interested what comments Traffic Engineering had regarding using the one way access basically as a two way access as had been suggested by the applicant's representative.

Jennifer White, Traffic Engineering, stated it was her understanding from Mr. Anderson that although the dumpster company and the store employees would be entering through the one way drive behind the jewelry store, they would still be exiting out the one way exit that was shown on the plat and they would not be coming backward/the wrong way on that one way drive.

Mr. Davitt said that with all things considered the matter might best be served by holding it over until the October 15, 2009, meeting.

Mr. Hoffman stated that as the Commission seems inclined to approve the matter, the staff would have conditions for approval prepared for the October 1, 2009, meeting.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Miller, to hold the matter over until the October 1, 2009, meeting, to allow the staff time to develop conditions for approval.

The motion carried unanimously.

**GROUP APPLICATIONS:**

**Case #SUB2009-00127 (Subdivision)**

**Sheffield Court Subdivision, Re-subdivision of Lot 16**

2108 Sheffield Court

(West side of Sheffield Court, 145'± South of Japonica Lane).

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

**Engineer / Surveyor:** Baskerville Donovan, Inc.

Council District 4

(Also see **Case #ZON2009-02064 (Planned Unit Development) Sheffield Court Subdivision, Re-subdivision of Lot 16**, below)

The Chair announced the application had been recommended for approval.

Bill Bramer, 2108 Sheffield Court, Mobile, AL, owner of the property in question asked for clarification regarding the staff's condition of having maximum site coverage of 37%. He asked that the original request for 40% site coverage be re-instated with the stipulation that they be allowed to use it only for a very small swimming pool. He added that there are other very small swimming pools in the neighborhood and it would be located only within the small portion of land to the left of the concrete patio on the property.

Mr. Hoffman asked if the proposed swimming pool would be covered and was advised it would not be. Mr. Hoffman then clarified that an in-ground pool, if not covered by a roofed structure, did not count when calculating site coverage percentage.

Mr. Bramer also asked about the procedure for signing off on the final plat prior to being issued building permits.

Mr. Hoffman stated the signing process could start the next day with the property owner and surveyor signing the final plat then bringing the plat into the Planning Department for staff to sign. It would then be taken to City Engineering to sign off on, with County Engineering being the final signature before recording the final plat in Probate Court. He said the entire process could be done in a week.

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

- 1) **revision of the Subdivision plat with a label or note indicating a maximum of 37% site coverage;**
- 2) **placement of a note on the final plat stating front (30 ft), side (8 ft, 0 ft) and rear (15 ft) setbacks, as graphically depicted;**
- 3) **submission of a revised PUD site plan prior to the signing of the final plat, and prior to the request for building permits for the final addition;**

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- 4) submission of the final plat prior to final inspections for the building permits; and,
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2009-02064 (Planned Unit Development)**  
**Sheffield Court Subdivision, Re-subdivision of Lot 16**

2108 Sheffield Court

(West side of Sheffield Court, 145'± South of Japonica Lane).

Planned Unit Development approval to allow increased site coverage.

Council District 4

(Also see **Case #SUB2009-00127 (Subdivision) Sheffield Court Subdivision, Re-subdivision of Lot 16**, above)

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

- 1) revision of site plan with a label or note indicating a maximum of 37% site coverage;
- 2) placement of a note on the site plan stating front (30 ft), side (8 ft, 0 ft) and rear (15 ft) setbacks, as graphically depicted;
- 3) submission of a revised PUD site plan prior to the signing of the final plat, and prior to the request for building permits for the final addition; and,
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2009-00132 (Subdivision)**  
**Fowlers Cove Subdivision**

2465 Venetia Road B

(At the end of a private Road, 950'± South of the East terminus of Venice Court).

**Number of Lots / Acres:** 3 Lots / 6.2± Acres

**Engineer / Surveyor:** Byrd Surveying, Inc.

Council District 4

(Also see **Case #ZON2009-02077 (Planned Unit Development) Fowlers Cove Subdivision**, below)

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

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the owners saying that there had been discussion with the staff and asked Mr. Palombo to address the same.



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Mr. Palombo stated that conditions for approval had been drafted and they were as follows:

- A. compliance with Section VIII.E. of the Subdivision Regulations (with a waiver of Section VIII.E.2.c. for the existing portion of the private street) prior to signing of the Final Plat;
- B. placing of a note on the Final Plat stating that no future subdivision will be allowed unless adequate street frontage is provided for all lots;
- C. placement of a note on the Final Plat stating that Lots A and B are limited to one curb cut each, with the sizes, designs, and locations to be approved by Traffic Engineering and in conformance with AASHTO standards;
- D. placement of a note on the Final Plat stating that the common area is to be used as non-exclusive easement for the ingress/egress for Lots B and C;
- E. renaming of the Common Area of the hammerhead to private street on the Final Plat;
- F. revision of the minimum building setback line on Lot C to 25', as required by Section V.D.9. of the Subdivision Regulations;
- G. the applicant receive the approval of all applicable federal, state, and local environmental agencies prior to the issuance of any permits or land disturbance activities;
- H. labeling of the lots with their sizes in square feet, or the provision of a table on the plat with the same information; and,
- I. placement of a note on the site plan stating that the 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.

Mr. Anderson stated his clients were in agreement with the conditions given for approval.

Percy Fountain, 2449 Venetia Road, Mobile, AL, spoke in opposition to the matter and made the following points:

- A. the property in question had previously been part of a large parent parcel and was yet again being subdivided;
- B. concern over the traffic problems on what is being referred to as the "private drive";
- C. there were 5 homes on the private drive which is approximately 1/3 of a mile long and that private drive is shared by those 5 property owners; and,
- D. cars currently speed on that private drive so there are real concerns over the safety of those who live there because if there is additional growth along that private drive it will create additional traffic.

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Mr. Anderson responded to the opposition by stating it was a 6.2 acre parcel which is currently two (2) lots and his clients simply wished to make it three (3) lots. He added that the staff report noted that the addition of the third lot is of no real safety concern and in fact, they would be improving the safety of that private drive by creating a turn-around for all traffic but especially emergency vehicles.

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

- 1) compliance with Section VIII.E. of the Subdivision Regulations (with a waiver of Section VIII.E.2.c. for the existing portion of the private street) prior to signing the Final Plat;**
- 2) placing of a note on the Final Plat stating that no future subdivision will be allowed unless adequate street frontage is provided for all lots;**
- 3) placement of a note on the Final Plat stating that Lots A and B are limited to one curb cut each, with the sizes, designs, and locations to be approved by Traffic Engineering and in conformance with AASHTO standards;**
- 4) placement of a note on the Final Plat stating that the common area is to be used as a non-exclusive easement for ingress/egress for Lots B and C;**
- 5) renaming of the Common Area of the hammerhead to private street on the Final Plat;**
- 6) revision of the minimum building setback line on Lot C to 25', as required by Section V.D.9. of the Subdivision Regulations;**
- 7) the applicant receive the approval of all applicable Federal, state, and local environmental agencies prior to the issuance of any permits or land disturbance activities;**
- 8) labeling of the lots with their sizes in square feet, or the provision of a table on the plat with the same information; and,**
- 9) placement of a note on the site plan stating that the 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 #ZON2009-02077 (Planned Unit Development)**

**Fowlers Cove Subdivision**

2465 Venetia Road B

(At the end of a private Road, 950'± South of the East terminus of Venice Court).

Planned Unit Development to allow construction of a private street subdivision.

Council District 4

(Also see **Case #SUB2009-00132 (Subdivision) Fowlers Cove Subdivision**, above)

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

- 1) **labeling of the lots with their sizes in square feet, or the provision of a table on the plat with the same information; and,**
- 2) **submission of a revised site plan reflecting the conditions prior to the issuance of any permits.**

The motion carried unanimously.

**Case #ZON2009-02084 (Planned Unit Development)**

**St. Luke's Upper School Subdivision**

1400 South University Boulevard

(South side of University Boulevard, 490'± East of Grelot Road).

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site and to allow the addition of new baseball, softball, and football fields, all associated backstops and dugouts for new fields, moveable bleachers and a new ground maintenance storage building.

Council District

(Also see **Case #ZON2009-02085 (Planning Approval) St. Luke's Upper School Subdivision**, below)

Mr. Turner and Mr. Watkins recused themselves from discussion and voting on the matter.

The Chair announced the application had been recommended for approval.

The following people spoke in favor of the development:

- Doug Anderson, Burr and Foreman Law Firm, attorney for the school in this matter; and,
- Richard Gaal, chancellor, St. Luke's Episcopal School.

They made the following points in favor of approval:

- A. a traffic impact study was done by Volkert and Associates and

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- submitted to the City's Traffic Engineering Department, and pursuant to that study, the City had done certain improvements to the median in front of the school to address traffic issues there;
- B. a meeting was held with the neighbors to pin point concerns regarding re-aligning the athletic fields the school wishes to construct and those discussion created a new plan for those fields;
  - C. the school relocated home plate for the softball field so that it would be 270 feet away from the property line causing the school to lose their 6 tennis court and the move would also increase the traffic across the football field, creating additional wear on that turf;
  - D. the football field runs north and south on the property because running it east to west would cause the loss of a great deal of natural buffer, which the neighbors want to remain;
  - E. currently, all the school would like to do is improvement to two dugouts without adding any concession stands, bleachers, or lighting;
  - F. responded to the proposal letter referenced many times by the neighbors and stated it was not clear who was covered by the letter other than the school and the letter asked for permanent changes on a plan that was not static;
  - G. the school has reached out the neighbors on many occasions to try and resolve issues but had yet to reach a positive resolution for all parties;
  - H. belief that those present in opposition do not represent the vast majority of those living in the adjacent neighborhoods;
  - I. St. Luke's is a small school, so there will not be masses of children on the proposed fields all of the time as implied;
  - J. all of the fields will not be in use at the same time due to the differing nature of the sports played on those fields; and,
  - K. the real issue appears to be fear of change, which the Planning Commission controls and that all parties should trust the judgment of the Planning Commission.

The following people spoke in opposition to the matter:

- Kirk Shaw, 5309 Oakbend Court, Mobile, AL;
- Stephen Clements, 5312 Oakbend Court, Mobile, AL;
- Randy Spear, 5501 Oakpark Court, Mobile, AL; and,
- Bob Peter, 5308 Oakbend Court, Mobile, AL.

They made the following points in opposition to the development:

- A. neighbors have presented the school with a compromise plan, to which there has been no response;
- B. presentation of handouts with drawings and pictures which show

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- the 27 residential properties that abut the school site;
- C. presentation of topographic maps showing the elevation differences between the football field and the neighboring residential properties, especially the steep drop from the high point of the property down to the west side which it is felt will help amplify noise coming from the football field and negatively effect the residences of Regency Oaks, Zack Logan Estates, Amberly, Wildwood, and possibly even to the Regency subdivision north of Grelot Road;
  - D. noted the number of individuals wearing red ribbons in the audience and stating those people were there in opposition to the school's proposed plan;
  - E. noted on the maps the number of properties that were less than half the size of a football field away from the proposed on-campus athletic fields;
  - F. concern over the future of a number of very large Live Oak trees on the site;
  - G. concern that the school says they will not have lighted fields but it is known that they have consulted with a lighting company to see what type lights would best suit their needs;
  - H. feelings that the plan is flawed and the proposed location for the football field is in the wrong place;
  - I. concern that the traffic impact study only considered when students were taken to and from school, with no time spent studying the traffic from 5 p.m. on a Friday evening, the standard time for high school football;
  - J. thoughts that the school could hold their home football games at Medal of Honor Park, citing McGill-Toolen Catholic High School and Murphy High School as two schools who's playing fields were located off-campus;
  - K. concern over shifting county tax dollars from public schools to subsidize private schools;
  - L. loss of property tax revenue due to the decrease in property value based upon the proximity to the athletic fields to the homes affected by this;
  - M. presentation of a copy of the neighbors' proposal to the school to the Commission;
  - N. a petition with additional signatures in opposition to the matter was presented;
  - O. belief that the size of the property is not adequate for the proposed athletic usages;
  - P. belief that the school's plan is ill conceived and lacked due diligence;
  - Q. copies of 3 appraisals, as well as an analysis based upon Mobile County records, which indicated devaluation in property values which are believed to be caused by the proposed athletic complex;

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- R. the impact of the current plan, as well as any modified future plans, will be greater due to the property's topography, noting that it is one of the highest points in Mobile;
- S. presentation of proposed conditions as created by the affected residents; and,
- T. based upon all of the information received on the matter, it is requested that the plan be either denied outright, be modified and conditions added to the current plan to prevent its encroachment on the adjacent neighborhoods, or send it back to the school for modification and compromise with the area residents.

Mr. Vallas asked for confirmation that only the issues presented in the application were up for approval by the Commission that day and no other issues brought forth by the neighbors would be addressed.

Mr. Palombo said yes that was the case.

Mr. Miller noted that the campus was an upper school campus and asked if there was a "best guess" estimate as to the number of students they expect to have on the campus in 4 years.

Mr. Gaal stated that guess was approximately 500 students in grades 6 through 12.

Mr. Jordan asked if there was any reason why the school would not come to terms with the 7 issues expressed by the area residents.

Mr. Gaal stated they felt that doing so would allow the citizens to take over the roll of the Commission, something the school did not wish to be a part of. He added that the citizens wanted absolute answers on situations and plans that had not been finalized by the school. He added that at some point in the future, the school might come back before the Commission with plans for expansion. He added that at that time, regardless of whether the Commission approved or denied the school's possible requests, it was his belief that the Commission would make the right decision.

Dr. Rivizzigno stated that over the many years she has served on the Commission, she has seen a number of times where neighbors have come before the Commission for relief from schools that had expanded though that was never the school's original intent.

Mr. Davitt stated the property was currently zoned B-1 and typically in a B-1 zone a wooden fence would be required between the B-1 property and any residential properties it abutted, which meant the school would be required to put in fencing.

Mr. Vallas asked the staff what buffer requirements were noted in the conditions of approval as compared to what the neighbors were asking.

Mr. Palombo stated the conditions called for a 20 foot vegetative buffer which would

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contain three rows of staggered evergreens or Crepe Myrtles around the east, west, and south sides of the property and those had to be coordinated with Urban Forestry.

Mr. Vallas also asked for confirmation that the school was not asking for a variance or waiver regarding landscaping requirements.

Mr. Palombo said they were not asking for either.

Mr. Miller noted the neighbors' concern that the athletic facilities might be rented to others and asked for the school's response to that.

Mr. Gaal said he knew of no such plans and that the proposed athletic fields were for use by St. Luke's.

Mr. Anderson responded to the question as well by saying that after speaking with the school's headmaster, Palmer Kennedy, the only non-school use that might be considered would be something along the lines of a cancer walk on a Saturday morning or a Special Olympics type event, but there would be no rental to other schools and it would not be a revenue producing facility.

Dr. Rivizzigno asked that the school would agree to such at this time.

Mr. Anderson said they would agree to that intent.

In deliberation, Mr. Vallas stated in an effort to be perfectly clear, that based upon the conditions that the neighbors had requested and other than the lighting and the noise, and based upon what was being presented by the school to the Commission that day, the neighbors were being provided the necessary buffer and was advised that was correct. He asked for confirmation from staff that nothing St. Luke's was requesting that day conflicted with that, as they were not asking for lights, public address systems, or anything else and again, was advised by staff that was correct.

Mr. Miller wanted more information regarding trees on the site.

Mr. Jackson, Deputy Director of Urban Development, Urban Forestry Department, stated there were 3 Live Oaks that were not healthy and could not be saved. He added there were also other large Live Oaks that could only be saved if development of the property were prohibited and his department did not feel that stance should be taken. He added that the overall site would easily fall within the tree and landscape recommendations submitted by his staff.

Regarding the appraisal information submitted by the neighbors, Mr. Vallas advised his fellow Commissioners that 2009 house values were based upon 2008 house sales and that the decreased property values were probably more affected by the depressed housing market than by the proposed development.

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Mr. Davitt said he heard the concerns of all of the residents of the neighboring subdivision. He said he believed that the residents in the area have a right to the peaceful enjoyment of their property. He hears both sides say they have been in contact with the other, however, he noted he had seen nothing in writing from St. Luke's that addressed the issues brought forth by the neighbors. He added that he would feel more comfortable holding the matter over to allow both sides to reach some form of a compromise as he was inclined to vote for denial if required to do so that day.

Mr. Vallas felt holding the matter over was unrealistic as he did not think the school would be able to find a compromise with the residents.

Mr. Lawler reminded the Commission that they were being called upon to balance the interests of the neighbors with the needs of the school and that both sides can be effectively argued. He reminded the Commission that Mobile was an urban setting and that residents within an urban setting should realize and accept that there will be times when certain usages will encroach on their residential use. He added that the Commission had the responsibility to see that property owners, whether they be residential or commercial, were able to use their property to the best of their ability but not at the negative intrusion to those around them.

Hearing no further opposition or discussion, a motion was made by Mr. Holmes, with second by Mr. Miller, to hold the matter over until the October 15, 2009, meeting, to allow the applicant to address concerns raised by the residents of the adjacent neighborhoods.

The motion carried unanimously.

**Case #ZON2009-02085 (Planning Approval)**

**St. Luke's Upper School Subdivision**

1400 South University Boulevard

(South side of University Boulevard, 490'± East of Grelot Road).

Planning Approval (Master Plan) to amend a previously approved Planning Approval to allow the addition of a new baseball, softball, and football fields, all associated backstops and dugouts for new fields, moveable bleachers and a new ground maintenance storage building at an existing school in a B-1, Buffer Business District.

Council District 6

(Also see **Case #ZON2009-02084 (Planned Unit Development) St. Luke's Upper School Subdivision**, above)

Mr. Turner and Mr. Watkins recused themselves from discussion and voting on the matter.

Hearing no further opposition or discussion, a motion was made by Mr. Holmes, with second by Mr. Miller, to hold the matter over until the October 15, 2009, meeting, to allow the applicant to address concerns raised by the residents of the adjacent neighborhoods.



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The motion carried unanimously.

**OTHER BUSINESS:**

Hearing no further business, the meeting was adjourned.

**APPROVED:**            January 7, 2010

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Dr. Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

jsl