

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF APRIL 6, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victoria L. Rivizzigno
Ann Deakle
Roosevelt Turner
Bill DeMouy
Nicholas Holmes, III
Mead Miller

Members Absent

James Laier
James Watkins
John Vallas

Urban Development Staff Present

Richard L. Olsen, Deputy Director of
Planning
Bert Hoffman, Planner II
Frank Palombo, Planner II
Trista S. Cole, Secretary I

Others Present

John Lawler, Assistant City Attorney
Pat Stewart, County Engineering
RoseMary Sawyer, City Engineering
Jennifer White, Traffic Engineering

Mr. Plauche stated the number of members present constituted a quorum and called the meeting to order.

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

APPROVAL OF MINUTES:

A motion was made by Mr. Plauche and seconded by Mr. Miller to approve the minutes of the meetings of August 4, 2005, February 16, 2006, March 2, 2006 and March 16, 2006.

The motion carried unanimously.

HOLDOVERS:

Case #SUB2006-00019 (Subdivision)

Myrtle Acres Subdivision

10700 Summit Road
(North side of Summit Road, 660'± West of Baird Coxwell Road).
2 Lots / 7.3± Acres

The applicant was present and concurred with the staff recommendations.

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After discussion a motion was made by Dr. Rivizzigno and seconded by Mrs. Deakle to approve the above referenced subdivision subject to the following conditions:

- 1) **the placement of a note on the final plat stating that there will be no further subdivision of the site until Summit Road is improved to County Engineering standards;**
- 2) **the placement of a note on the final plat stating that any property that is developed commercially and abuts residentially developed property shall provide a buffer in compliance with Section V.A.7 of the Subdivision Regulations; and**
- 3) **the depiction of the 25-foot building setback lines on the final plat.**

The motion carried unanimously.

EXTENSIONS:

Case #ZON2005-00230 (Planned Unit Development)

McMurray Place Subdivision

South side of Johnston Lane, extending from the West side of Rosedale Avenue (to be vacated) to the centerline of Dickerson Avenue (to be vacated), and to McCay Avenue (to be vacated), 95'± South of Johnston Lane.

Planned Unit Development Approval to allow reduced lot widths, sizes, and setbacks, and 45% site coverage in a zero-lot line single-family residential subdivision.

A request for a one-year extension of previous approval was considered.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request for a one-year extension.

The motion carried unanimously.

Case #SUB2005-00018 (Subdivision)

McMurray Place Subdivision

South side of Johnston Lane, extending from the West side of Rosedale Avenue (to be vacated) to the centerline of Dickerson Avenue (to be vacated), and to McCay Avenue (to be vacated), 95'± South of Johnston Lane.

64 Lots / 12.8± Acres

A request for a one-year extension of previous approval was considered.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request for a one-year extension.

The motion carried unanimously.

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Case #SUB2005-00036 (Subdivision)

Wynnfield Subdivision, Unit Five

West termini of Wynngate Way and Wynnbridge Drive, extending North and West to the South terminus of Widgeon Drive.

114 Lots / 69.2± Acres

A request for a one-year extension of previous approval was considered.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request for a one-year extension.

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2006-00590 (Planning Approval)

Alter Scrap Processing

101 Hardwood Lane

(East side of Hardwood Lane (private street), 540' ± East of North Craft Highway).

A request for Planning Approval to allow a scrap metal processing plant with automobile shredding in an I-2, Heavy Industry district.

The site plan illustrates the proposed processing area and existing wetlands and an enlarged view of the proposed development.

(Also see CaseZON2006-00591 – Alter Scrap Processing – Planned Unit Development – below)

Doug Anderson, with the law firm of Bowron, Latta and Wasden, was present representing the applicant's request to locate a metals recycling facility on this site, which is located in the north tip of Mobile, adjacent to the City of Chickasaw. The property is currently zoned I-2, which would allow a shredder operation. The applicant, however, wants to include the shredding of automobiles which requires Planning Approval. Mr. Anderson provided each of the Commission members with of booklet containing photographs of the site and surrounding area. He noted the aerial photo of the site showing the boundary between Chickasaw and Mobile, pointing out that the wastewater treatment facility was in Chickasaw, and that all the property up and down the waterfront adjacent to this site was industrial. Adjacent to the south was O'Neal Steel, and to the north was Hook's Landing, a tug boat business. Mr. Anderson further pointed out that there were two railroad tracks on the boundary lines between the two cities, so between this site and the first residence were railroad tracks and a buffer of trees. Another photo looking from N. Craft Highway showed that traffic going up and down the highway could not see the subject facility. Also the residents along N. Craft Highway immediately in front of this site would not be able to see the facility due to the trees.

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Mr. Anderson said when the applicants became aware that they would have to go through the Planning Approval process, Rob Goldstein, the president of the company, as well as a couple of his vice-presidents, came to Mobile and met with Mayor Jones, Al Stokes, Richard Olsen and members of the Planning staff. They wanted to introduce their company to them, educate them on what they do, and give them as much information as needed so they could analyze the application and best advise this Commission. Also, since the right tip of the property was all wetlands and was actually in the City of Chickasaw, they were in two jurisdictions. Mr. Anderson said he met with Mayor Trout of Chickasaw and a couple of City Council members on two occasions, and last night, at Mayor Trout's suggestion, a town meeting was held in Chickasaw to address this matter. As a result of that meeting, as well as in a meeting they had last week with Bay Watch, Mr. Anderson said the issues of noise and traffic were raised. He referenced tab #4 in the booklet provided the Commission members in which there was a letter from an environmental company that Alter Trading uses nationwide to monitor all of their facilities. The letter stated that the decibel level one of their shredder facilities that was tested measured 65 decibels a quarter of a mile from the site. Another site in Waterloo, Iowa, tested at 73.5 decibels **adjacent** to the shredder, not a quarter of a mile away. He referred to tab #5, a chart showing the decibels of other noises compared to those for the proposed facility. Mr. Anderson noted that the Mobile City Noise Ordinance states that in a residential area you cannot have a continuous noise higher than 85 decibels, which they were well within. The closest residence would be between 1400 and 1500 feet. Mr. Anderson said he would be happy to answer any questions.

Ron Goldstein, president of Alter Trading, stated that this company was 108 years old. He was the 4th generation and they had been recycling since 1898. He said over the years there was one key point that allowed their company to grow, and that was integrity in everything they do. That has allowed them to grow to 21 operations in eight states and two countries, and they were one of the top ten recyclers in the country. Mr. Goldstein said this accomplishment has required them to take their environmental responsibility extremely seriously, and all of their policies, procedures, controls, and employee training was geared toward insuring that they comply with any and all regulations that affect their operations. Additionally, Alter has been a leader in many cases to develop policies and procedures with their safety to exceed and develop new ways of handling things. For example, in Iowa they worked with the State of Iowa to pass a law to enforce the de-manufacturing compliances. Mr. Goldstein said they took this responsibility very seriously and were very excited to be part of this community.

Chris Morehouse, 7106 Ponce deLeon, Spanish Fort, Alabama, was the facility manager for this operation. He said the proposed facility would be equipped with state-of-the-art equipment. The shredder would process automotive, building, and loose scrap into a product that could be sold to steel mills and foundries. He explained that the shredding process would take place inside 4-inch thick steel walls with 8 to 14-foot thick manganese liners enclosed inside the shredder. Additional metal such as aluminum and copper would also be recovered from the scrap. Mr. Morehouse said much of the processing equipment, as well as tools and supplies, would be purchased from local suppliers and

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dealers. Alter Trading, an equal opportunity employer who offers competitive wages with good health and benefit packages, intends to employ 75 persons at this facility.

Michael Place, President of CPI Environmental Services of Wheaton Illinois, stated that he was an environmental consultant. He had worked with the scrap metal industry for about 12 years on about 200 plants across the nation. He had worked with Alter for about 10 years, and could attest to their ability to properly manage any environmental concerns. He said the easiest way to assist with potential pollutants was to prevent those pollutants from coming into the facility, and to that end Alter had an excellent source control program. They advise scrap suppliers of materials that are not authorized to enter the facility. Customers are monitored by reviewing their scrap on a percentage basis as it comes in. Inspectors check loads at the scale and while they are being unloaded to insure that they are not getting in such things as PCB ballast, asbestos, oils, free-flowing liquids, closed containers, etc. Mr. Place said EPI also provides an audit function for Alter Trading, where they go to each of their facilities once a year and inspect for compliance with environmental regulations on a state and federal level, as well as compliance with Alter's internal environmental management policies. Alter has an Environmental Management Program, and training is an important element of that program. Mr. Place said that since this facility was first proposed, they had gone through the permitting process with the Alabama Department of Environmental Management and had received stormwater permits, and were in the process of finalizing an air permit for discharge. He noted that there was very little particulate matter that comes off the overall shredding, post-shredding material handling system. Mr. Place said he would be happy to answer any questions.

Mr. Miller expressed concern that trace metals such as mercury may not be detected by their inspectors, and asked if Mr. Place felt that would be a problem.

Mr. Place stated that mercury was actually a recyclable metal, although Alter Trading did not handle or recycle it. They have a policy that they will not accept mercury containing materials. It was difficult, however, to inspect a car that has been flattened to about 18 inches, so Alter has worked with its suppliers and has trained them to make sure the oils, gasoline and mercury switches, etc. were removed.

Mr. Miller asked if the vehicles were crushed before they got to this facility.

Mr. Place said that generally the vehicles were crushed when they received them, although every once in awhile a tow truck will bring a vehicle to the facility. Alter has the means to set that vehicle aside and remove the CFC's properly and contain those gases, remove the gas and oil, mercury switches, the batteries, etc. In the event a supplier was caught not removing these contaminants, their loads would be rejected and they would have to pay freight back to their own facility. Economic sanctions might be taken if it happened more than once, or the supplier would be removed from the approved supplier list.

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Mr. Turner asked if in the past CPI Environmental Services had been doing inspections of other Alter Trading companies.

Mr. Place replied that they inspect all of Alter's facilities on an annual basis, as well as other scrap companies.

Mr. Turner asked if over the years Alter had been found in violation of any environmental standards.

Mr. Place said that the great majority of non-compliant issues were paperwork issues. Despite all the protections and the management means to keep them out, occasionally unauthorized materials had entered the site. But when that happened, the material was segregated and stored until it could be properly handled.

Mr. Miller asked Mr. Place if Alter Trading was required to hire an environmental service such as CPI Environmental Services.

Mr. Place said they were not required to hire a consulting service, but they do that because they want to see an independent third pair of eyes, so to speak, rather than do it internally.

Mr. Plauche asked if anyone wanted to speak in opposition.

Jim Trout, Mayor of Chickasaw, stated that he was opposed to the plan. The Chickasaw City Council had also adopted a resolution in opposition to locating the facility at this location. Mayor Trout also presented a petition in opposition to this plan containing signatures of 112 people within the City of Chickasaw. He further stated that while the plant would not be in the City of Chickasaw, legally, physically it was in the middle of Chickasaw. It was in close proximity to many residential areas. Chickasaw was a quiet, quaint community filled with historic districts and sidewalks where people liked to get out and walk in the afternoon, or sit out on the porch and listen to the birds. Among their concerns were an increase in traffic, noise, a devaluation of their property, harm from asbestos, and harm to the environment. The citizens of Chickasaw felt that a more appropriate location could be found for this facility. This very old, beautiful community took pride in its outdoor activities, parks, recreational activities and felt this would be a detriment to the community. They were also concerned that they really did not have any say in this, even though it was right in the middle of their city. Mayor Trout said they had no prior knowledge of plans to locate this facility on the subject property, and only learned of it when they started getting complaints about debris being piled out behind the businesses there and flies and rodents being a problem. They felt the storage of vehicles on the site could also be a problem to Chickasaw, and they felt it would be a detriment to their city and its citizens. He asked that the Commission oppose this plan.

Mr. DeMouy noted Mayor's Trout's concern that this facility would lower property values. Since the site was already zoned I-2, he asked what he based that statement on.

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Mayor Trout said it was based primarily on the noise and traffic concerns of surrounding residential areas, and the problem they were now experiencing with the debris piled up and causing flies and rodents.

Rick Courtney, attorney, was present representing Mobile Bay Watch and Mobile Bay Keeper. Mr. Courtney said he was speaking on behalf of the hundreds of thousands of Bay Watch members whose function was to make sure they do not have companies come in that are going to ruin their quality of life, their neighborhoods and their health. They submit that Alter falls in that category. Mr. Courtney noted that Alter said they would comply with all state and local regulations that govern their activities. He submitted that they were coming here because there were no state and local regulations that govern their activities. When regulations were proposed for this type of activity, Alter said they would comply with the regulations. When the citizens met with representatives of Alter last week, however, they said they did not want proposed regulations to apply to them because it might hold them up. Mr. Courtney said every other city or state that had faced this issue in the past implemented special regulations to protect their people. He said Alter came here because Mobile did not have special regulations. Mr. Courtney said he had received a FAX about an hour ago of an order issued by ADEM that Alter was in violation of the Alabama National Pollutant Discharge System Permitting requirement. He said Alter did not come to this Commission because they applied for permission, as required by law, but because Mobile Bay Watch called their hand on it when they started operating in violation of the Zoning Ordinance. Mr. Courtney said they questioned why they would come in and start operating in the wrong zone without getting Planning Commission approval, and why they would start operating without a stormwater permit from ADEM or an Air permit from ADEM, that still had not been issued. Mr. Courtney said they were concerned about waste, such as PCB's, mercury, fluff and other hazardous waste they would bring in from Louisiana and Mississippi. He said the de-manufacturers who disassembled the vehicles were in other states, and the citizens in Mobile and Chickasaw could not be sure that the mercury switches, the fluff, PCB's and other hazardous waste would be removed before being transported here. Mr. Courtney noted that the National Resources Defense Council had identified mercury pollution from shredder operations as one of the major sources of mercury pollution in the United States. He further noted that in the 2005-2006 legislative sessions, 39 states introduced legislation concerning mercury reduction, with 28 of those bills specifically addressing mercury switches in electronics. Mr. Courtney said that Alter referred to their program manual that stated they would not bring these things in, but he noted that when you get to that section of the manual, it states that this section of the manual had been removed for proprietary reasons. Mr. Courtney felt that Alter could not be trusted to do as they said. Further, he said this facility should not be allowed next to residences. Regarding the noise level, he said 77 decibels was characterized by the EPA as very annoying. An alarm clock was 80 decibels. This plant's 77 decibels was nothing to brag about. He contended it would ruin these people's enjoyment and ruin their property values. Mr. Courtney suggested the applicant not move to Mobile until the City had some regulations they could support. He suggested the Commission not approve anything until they were convinced that it was safe, and further that an independent environmental assessment be done, and then whatever needed to be done to protect the people, the rivers, and the fish

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needed to be attached to this application as an enforceable condition so that if, and when, it was detected that Alter was not complying with the regulations, somebody could make them stop. Mr. Courtney asked that the Commission not approve this application until they had enough information to know what was required to keep the citizens protected.

Teresa Goolsby, a resident of 209 Third Street, Chickasaw, said she was a member of the Chickasaw Historic Preservation Commission, president of the Historical Society of Chickasaw, and a 55-year resident of Chickasaw. Ms. Goolsby said she represented many people who were present in this matter and expressed their concern about the impact the proposed facility would have on the Chickasaw Shipyard Village, which was placed on the National Register of Historic Places in 2004. It included two historic districts containing 527 historic assets, and one of the districts – the East Villas with 150 homes – was a stone's throw from the proposed Alter site. She also pointed out that these historic districts were the only ones on the National Register within north Mobile County. Ms. Goolsby contended that if this facility were allowed, it would negatively affect the property values in all of Chickasaw, especially the historic ones. On behalf of the residents of Chickasaw, Ms. Goolsby respectfully requested that the Commission deny approval of this proposed facility, as they felt was too close to a residential area and would ultimately affect the very quality of life in Chickasaw by increasing costs, and decreasing effectiveness of their police and fire services.

Collette King, a resident of Coden, Alabama, referred to conditions #2 and #5 of the staff's recommendations. Ms. King said she had asked the applicants previously where the unrecoverable waste associated with the automobile shredding process would go. They said it would be trucked through Chickasaw, but they did not yet know where it would be deposited. Asked if the material would be deposited at the Chastang Landfill, they said that had not been decided. Ms. King also questioned an environmental study, supposedly submitted to ADEM by Mr. Barry Vittor, an environmental engineer with an independent company. She said the whole thing was shady. She said they had also learned that there was another such facility proposed to go in toward Prichard. Ms. King was also concerned due to the historical significance of the site on Chickasaw Creek, where the Clotilde, the last slave ship that came to this country, went down. It was also the home of the native Indians of that area. Out of fairness to the citizens of Chickasaw, Plateau, Magazine and even up into Saraland, she felt that an archeological study needed to be done under water as well as on the land, and that the Commission should delay action on this matter for several months until they could get together and look at such studies and see the permits. Ms. King said the proposed facility would affect their quality of life. She thanked the Commission for its time and consideration.

Mr. Plauche asked the applicant if he would like to respond.

Mr. Anderson said there were numerous misrepresentations made to the Commission which he would like to address. In regard to questions by Mr. Miller and Mr. Turner as to what would happen if some hazardous material was not detected and got through their inspection process, he said that in every state in which they have a facility, Mr. Place's company conducted quarterly testing of the fluff, which was everything that was non-

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metallic, such as the upholstery and the plastic. That was the material that would be placed in a landfill. An analysis of the fluff would be made to ensure that any contamination in that fluff was acceptable pursuant to that state's guidelines. If there was a problem with it, they address it with their suppliers. As far as the landfill issue, Mr. Anderson said they had months before they would be in operation and were currently interviewing the various landfill operators in this area to make sure that they would have the most responsible landfill operator accepting their waste because they wanted to protect the environment. Regarding accusations made by Mr. Courtney that Alter tried to slip into town without a permit to operate, Mr. Anderson said that was 100 percent false. He referred to the last tab in the booklet he had provided the Commission, which was a letter of compliance that Alter received from the City. Behind that was a use description that they gave to the City staff before they bought the property. Mr. Anderson said he was hired by Alter before they bought the property to make sure the property could be used for a scrap metal process. After they received their letter of compliance, it was brought to the City's attention and Alter's attention that because they would be using automobiles, they would be required to get Planning Approval. Mr. Anderson said he was not aware that the City did not have this understanding when they issued them a letter of compliance. They therefore decided to go forward with a Planning Approval application. Mr. Goldstein then came down and they met with the mayor and gave him every bit of information he asked for. Regarding Mr. Courtney's statement that confidential information was removed from the Environmental Management Plan book that Mr. Place's company submitted, Mr. Anderson said that was false. He said that Richard Olsen and John Lawler were given a full copy of that book the day they first met with the applicant. He said they could not give it to the general public because it contained confidential, proprietary information that their competitors could get and use against them. It contained polices they had adopted pursuant to Mr. Place's recommendations.

As far as Mr. Courtney's accusation that Alter supported regulations and new laws in Alabama as long as they did not apply to them, Mr. Anderson said that was 100 percent false. He said he met with Mr. Courtney and Ms. Calloway from Bay Watch in his conference room a week ago, and they asked if, as a condition of approval, Alter would agree to support legislation. Mr. Anderson said they told them that they would be glad to look at that in the future, but without knowing which legislation they were referring to, they could not make it a condition of approval. They would do what they had done in every other state.

Finally, Mr. Anderson said the opposition wanted the Commission to hold Alter to a higher standard than anybody else. They wanted to take the place of ADEM. Regarding the notice of violation Mr. Courtney referenced dated April 4, it stated that at the time of the inspection the facility had obtained an MDDES permit for construction activities. Mr. Anderson said they did have a permit from ADEM to start the construction activities, but had not yet applied for the MPDES stormwater type permit for stormwater associated with industrial activities. Because they had accepted a couple of shipments of scrap, they were in technical violation of that permit. The very next day, April 5, ADEM issued their stormwater permit. Mr. Anderson contended that if ADEM thought they were violating all these laws and trying to fly under the radar, they would not, the day after issuing the violation, have issued the permit.

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In closing, Mr. Anderson said the property was zoned I-2 and the applicant could go in on this site today with this facility or any other I-2 use listed in the Chart of Permitted Uses. He thanked the Commission for its time.

It was asked if Alter had been guilty of any environmental violations in any other state in which they operated.

Mr. Place said he was only aware of one violation in the past 10 or so years, and that was at their Davenport facility. They had several pieces of equipment that were no longer in use stored on a shelf in an old bailer building, and that was in violation of their regulations. He said they actually worked with Alter and corrected the violation before the violation notice was even issued.

Since there were so many people present regarding this application, Mr. Plauche made a motion that the Commission go into deliberations session at this time. The motion was seconded by Mr. Miller. The motion unanimously carried.

In discussion, Mr. Miller stated that he read something in the newspaper today to the effect that this would not affect the Planning Commission. Speaking for himself as well as others, Mr. Miller said the Commission takes everything in their community very seriously. Just because he lived in midtown did not mean that something at the subject location would not affect him. Mr. Miller said he spent over two hours out on the site the previous day. He said Chickasaw was a charming, very nice community. He disagreed with Mayor Trout, however, about being in the middle. It was in the middle north/south, but it was not in the middle east/west. It was on the extreme east side. The nearest houses were across two railroad tracks and he could not see any houses from the site. Mr. Miller said he was concerned about quality of life, which was two parts – environmental and economic. He felt the delta was one of our great resources, and that the environmental side had been on the back burner too long. He said Mobile needed an economic base to allow us to live here so that we can enjoy this area. He pointed out that the site was zoned I-2, and it looked I-2. Mr. Miller said he did not want to be against any environmentalists, but he did not think the proposed use was an unreasonable use for the property.

Mr. Miller further stated that it was frustrating as a Planning Commissioner when people got up and complained about things like drainage and traffic, which the Commission could not control. The Commission could grant approval subject to certain conditions, but had to take the word of others that the requirements would be carried out. Mr. Miller said the Commission was not ADEM. It was his opinion that our environmental laws were lax, and that our environmental enforcement was inadequate. It was not in the purview of the Planning Commission, to go out and perform testing. Mr. Miller said he would be glad to hear the views of others on this, but to him this looked like an industrial property and industrial use.

Mr. Turner expressed concern that the community was so strongly against this proposal. He was somewhat concerned about the environmental issues; the noise issue was a big concern. He asked what the hours of operation would be.

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Mr. Place said the facility would be open from 6:00 a.m. to 6:00 p.m. Only maintenance would take place when the facility was shut down.

Mr. Miller asked Mr. Lawler for his comments on the review.

Mr. Lawler stated that the purpose of Planning Approval was to review how this particular facility would fit into the community, including the impact it would have on the environment. He agreed with Mr. Miller that ADEM did not do a very good job. This was an opportunity, if the Commission desired, to set specific requirements that would help make sure that this facility was operated in such a way that it would have the minimum impact on surrounding property and the community as a whole. Mr. Lawler said normally the Commission did not do that, but normally nobody in this state did it either.

Mr. Miller commented that he was not sure that the Commission's knowledge base was enough that they could set controls on this.

Mr. Lawler said he could not say what particular regulations would accomplish that end without more knowledge about the actual operation, but there probably were ways it could be controlled. He felt there were probably conditions that could be placed that would make sure that the facility was not as much of a burden to the community as a whole, and to neighboring properties, as people were fearful of.

Mr. Miller further commented that he did not know if a holdover would make any sense or not for people to feel a little more secure. Once again, he felt the Commission was stepping on things that were really not in their field. He did not want to close any doors, however, if they found some way that they might address some of these issues.

A motion was made by Ms. Deakle, predicated on the staff's recommendations, to approve this plan.

Dr. Rivizzigno seconded the motion.

In further discussion Mr. Olsen noted that the Commission may want to add a condition limiting the hours of operation from 6 a.m. to 6 p.m., with only maintenance after 6 p.m. He also noted that one of the recommended conditions required n-fill plantings where it was necessary to screen the site from the residential properties. In-fill plantings should not only act as a screen, but also some minor baffling of any of the noise from the property.

Mr. Deakle amended her motion to include the condition as stated by Mr. Olsen. Dr. Rivizzigno seconded the revised motion.

In further discussion Mr. Holmes said he would like to get a better idea what the circulation pattern was to the site.

Mr. Olsen indicated on the plan the access to the site.

After discussion Mr. Plauche called for a vote on the final motion, which was to approve this plan subject to the following conditions:

- (1) depiction of a stormwater detention basin, if required;**

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- (2) illustration of the location of any dumpster or waste storage area on the site plan;
- (3) compliance with the buffering requirements of the Zoning Ordinance from residential uses, with in-fill plantings if the existing vegetation is not sufficient;
- (4) approval of all applicable federal, state and local agencies prior to the issuance of any permits,
- (5) submission of a disposal plan for the unrecoverable waste associated with the automobile shredding process; and
- (6) limitation of hours of shredding operations to between the hours of 6:00 a.m. and 6:00 p.m., with maintenance activities allowed after 6:00 p.m.

The motion carried with one in opposition.

Case #ZON2006-00591 (Planned Unit Development)

Alter Scrap Processing

101 Hardwood Lane

(East side of Hardwood Lane (private street), 540' ± East of North Craft Highway).

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

The site plan illustrates the proposed processing area and existing wetlands and an enlarged view of the proposed development.

(For discussion see CaseZON2006-00590 – Alter Scrap Processing – Planning Approval – see above)

After discussion a motion was made by Mrs. Deakle and seconded by Dr. Rivizzigno to approve the above referenced plan subject to the following conditions:

- 1) depiction of a stormwater detention basin, if required;
- 2) illustration of the location of any dumpster or waste storage area on the site plan;
- 3) compliance with the buffering requirements of the Zoning Ordinance from residential uses, with in-fill plantings if the existing vegetation is not sufficient;
- 4) approval of all applicable federal, state and local agencies prior to the issuance of any permits,
- 5) submission of a disposal plan for the unrecoverable waste associated with the automobile shredding process; and
- 6) limitations of hours of shredding operations to between the hours of 6:00 a.m. and 6:00 p.m. with maintenance activities allowed after 6:00 p.m.

The motion carried with one in opposition.

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Case #ZON2006-00602 (Planned Unit Development)

Fielding Place Subdivision, Lot 5, Revised

East terminus of Fielding Place (private street).

A request for Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced front, left side, and rear setbacks, and allow 56% maximum site coverage in a single-family residential, private street subdivision.

A site plan illustrates the proposed development.

(Also see Case SUB2006-00049 – Fielding Place Subdivision – Subdivision –below)

Don Williams, Williams Engineering, was present representing the applicant. Referring to the staff recommendations, Mr. Williams said they could comply with three of the conditions, and could come within nine inches of complying with the fourth one if they moved their building two feet to the rear of this particular piece of property. They would then increase their front setback, and increase their left side setback. They would decrease their rear setback, which was adjoining a residential stormwater retention pond, and go within three feet of that, which would also put them in compliance with the building code regulations. Mr. Williams noted, however, that this was a PUD and was site plan specific, and he had been informed by the staff that the appropriate way to do this would be to ask for a two-week holdover to allow him to redraw the site plan, submit that to the staff for their review, and come back in two weeks and address those issues at that time.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold this application over at the applicant's request until the April 20th meeting.

The motion carried unanimously.

Case #SUB2006-00049 (Subdivision)

Fielding Place Subdivision, Lot 5, Revised

East terminus of Fielding Place (private street).

1 Lot / 0.1± Acre

(For discussion see CaseZON2006-000602 – Fielding Place Subdivision – Planned Unit Development – see above)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold this application over at the applicant's request until the April 20th meeting.

The motion carried unanimously.

Case #ZON2006-00582 (Rezoning)

Ruffin J. Graham, III

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North side of Halls Mill Road, 725'± East of the South terminus of Rochelle Street.

A request for a change in zoning from R-1, Single-Family Residential, to I-1, Light Industry, for light warehousing.

(Also see CaseSUB2006-00038 – Graham Subdivision – Subdivision – see below)

Ruffin Graham, applicant, was present in this matter. Mr. Graham said he owned the property to the east, which was currently zoned I-1. It had a 6100-square foot building on it that was occupied by a tenant, a distribution user. Mr. Graham said he had just recently acquired the subject property and hoped to get it zoned I-1, which would be consistent with the adjoining property. He noted that the staff had recommended denial of this rezoning request, one reason being for the lack of demand for commercial uses in the area. Mr. Graham said there was a significant amount of commercial uses in this area. He said rental space for commercial use was almost non-existent right now in Mobile, and he was trying to react to the demand. Mr. Graham said he was agreeable to the recommended conditions of approval for the subdivision application. He pointed out that there was not a structure on the property even though the GIS and aerial showed there was. He had the property surveyed, and it was clear of any encumbrances. There was an error in the overlay of that map. Mr. Graham said if the concern was trying to block the use or the encumbrance on the western side, he would offer to construct a privacy fence on the rear half of that lot where it bordered the R-1 zoning. For the subdivision, he suggested leaving the large trees that were on the northwest side of the property. Mr. Graham felt the trend on Halls Mill Road in this area was going commercial and he felt the proposed use would be a good use for the property. He noted that further west along Halls Mill Road toward Highway 90, outside the City limits, they were building tens of thousands of feet of warehouse space. He felt the market was there, and that this was a viable use for this piece of property.

Mr. Miller said he was confused, as it looked like the line was going through a building, and it appeared that there was a landlocked lot.

Mr. Olsen explained that many of the structures on the City's GIS system, because they were taken from aerial photos and then overlaid with maps from the tax assessor, don't always line up when they are updated. So having a structure across a property line was not uncommon, but it in fact did not cross the line as shown. It may not meet setbacks on the other lots, but it did not cross the line. Mr. Olsen explained that there was an adjacent landlocked parcel, separate from the site and its parent parcel. It was assumed that access to it was via an easement from the parent parcel.

Mr. Holmes asked if they were residences in the immediate area.

Mr. Olsen said the properties to the west were residential.

Mr. Homes further asked if there was any hard and fast data as far as what was developing up and down Halls Mill Road.

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Mr. Olsen said there were pockets that were being developed for commercial and light industrial uses. He noted that the staff had recommended denial because the applicant failed to demonstrate any of the reasons for rezoning as specified in the Zoning Ordinance were applicable. ((1) there was a manifest error in the Ordinance; (2) there were changed or changing conditions in the area making a change in the chapter necessary and desirable; (3) there was an increased need for business or industrial sites making it necessary and desirable to rezone the area or to extend the boundaries of the existing district; and (4) there was subdivision of land into urban building sites making reclassification necessary and desirable.) He also noted that the proposed use would be allowed in a B-3 district without any special approvals other than rezoning. Any light distribution less than 40,000 feet is allowed in B-3. He suggested B-3 could be a more palatable zoning classification for this site if the Commission chose to rezone. Mr. Olsen said there were some conditions that the staff would suggest accompany any rezoning of this property, even if it were a B-1 rezoning.

Mr. Plauche asked if that would entail a holdover.

Mr. Olsen said that since this would not be a site-plan-specific issue, that would be the Commission's prerogative.

Mr. Plauche said the Commission would discuss this in deliberations session to see if a solution could be reached.

Mr. Graham stated that what they were seeing from the demands standpoint was small businesses looking for locations to operate. This included cabinet and counter top manufacturing. Mr. Graham said he did not want to be limited by a B-3 zone.

Mr. Olsen said that a cabinet shop was allowed in B-3.

Mr. Graham said he would be okay with that.

Mr. Olsen said if recommended for B-3 rezoning, the staff would recommend certain conditions. The first would be dedication of sufficient right-of-way to provide 35 feet from the center line of Halls Mill Road. He noted that Halls Mill was a collector street requiring 70 feet of right-of-way. The vicinity map shows where the dedication was obtained from the two properties to the east. There was actually a service road dedication from the property farther to the east. The second condition would be that the site be limited to one curb cut to Halls Mill Road, size, location and design to be approved by Traffic Engineering. The third condition would be the provision of a 6-foot privacy fence and 10-foot buffer planting strip where the site abuts residentially developed property, which would be the two properties to the west. While the property to the north was zoned R-1, it was not developed residentially. It was a school and they used it for bus storage as well.

Mr. Graham said his one concern was the 10-foot buffer.

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Mr. Olsen said he was suggesting both the buffer and the fence, given the intensity of the proposed zoning classification immediately adjacent to residential properties. Ideally, the Commission and the Ordinance would recommend both between the heavier commercial and the residential. The Commission, however, could require either/or if that was their desire.

Mr. Graham noted the large trees on the site, and said he would be agreeable to leave those trees along the line and construct a 6-foot privacy fence. He said he could comply with the other conditions.

In deliberations session it was noted that Mr. Graham said that B-3 would be okay with him as long as that would accommodate the cabinet and carpentry shops. Also, he preferred the fence because of the trees. Mr. Olsen noted that the majority of the trees, if they were live oak and not water oak, were over 24 inches, so they would be protected and would require permitting from Urban Forestry.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mrs. Deakle to recommend approval of the change in zoning of the site to **B-3** to the City Council subject to the following conditions:

- 1) dedication of right-of-way along Halls Mill Road to provide 35 feet as measured from the centerline.**
- 2) provision of a 6-foot high privacy fence where the site abuts existing residential development;**
- 3) limited to 1 curb cut to Halls Mill Road with size, location, and design to be approved by Traffic Engineering**

The motion carried unanimously.

Case #SUB2006-00038 (Subdivision)

Graham Subdivision

North side of Halls Mill Road, 725'± East of the South terminus of Rochelle Street.

1 Lot / 0.8± Acre

(For discussion see Case ZON2006-00582 – Ruffin J. Graham, III – Rezoning – above)

After discussion a motion was made by Mrs. Deakle and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

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- 1) **dedication of sufficient right-of-way to provide 35 feet from the centerline of Halls Mill Road;**
- 2) **the adjustment of the 25-foot setback line to reflect the dedication;**
- 3) **the placement of a note on the final plat stating that the site is limited to a single curb cut to Halls Mill Road, with size, location, and design to be approved by Traffic Engineering; and**
- 4) **the removal of the structure crossing the property line, if it does cross the property line, prior to signing the final plat.**

The motion carried unanimously.

Case #ZON2006-00594 (Rezoning)

McMurray Place, L.L.C.

South side of Johnston Lane, extending from the West side of Rosedale Avenue (to be vacated) to the centerline of Dickerson Avenue (to be vacated), and to McCay Avenue (to be vacated), 95' ± South of Johnston Lane.

A request for a change in zoning from R-1, Single-Family Residential, to R-3, Multi-Family Residential, for residential condominiums.

(Also see Case ZON2006-00616 – McMurray Place Subdivision – Planned Unit Development – see below)

Brian Maisel, applicant, was present in this matter and provided some additional information to the members of the Planning Commission. He asked if he could inquire as to how many people were present regarding this application.

The Chairman asked for a show of hands of those present on this application.

Mr. Maisel said he had left contact information with the Planning staff for any and all of the residents to contact him for questions. He was not able to speak with the neighbors present, but had met with a vast number of the adjoining neighbors in this matter. He said they felt comfortable with the plan and did not come to the meeting today. Mr. Maisel said the proposed development would be an exclusive townhome condominium project, the quality of which would be of the highest nature. He said he and his partners had searched for a concept to bring in, and it was somewhat pioneering and very expensive. The price of the units would be in the luxury price range. They were seeking to get the highest and best use for the land. As stated in the application, Mr. Maisel said he felt that market forces and environmental forces had created such a demand that it was requiring a better utilization of available land here in Mobile. He said one of the reasons there was not more residential development going in inside the City was (1) the lack of usable land, and (2) availability of it. This site was available and it was usable. Mr. Maisel said they have tried to work within the Ordinance and the guidelines of Smart Growth. The Planning staff had shared with him and included in their recommendations, that the current development trends across the United States, including the Southeast, were promoting reduced street widths, which were shown on their site plan, alleyways

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serving garages, which are on the rear of the project, and increased densities. These development trends were associated with Smart Growth, new urbanism and traditional neighborhoods. In addition to buffering, they were proposing an 8-foot privacy fence, not landscaping, to make sure that any of the neighbors' concerns would be protected. It was Mr. Maisel's opinion, and that of some of the neighbors present, that this project would bring about an increase in their property values, not a decrease. He said they also had submitted a PUD application, which was site-plan-specific. Although the zoning would allow 386-odd units to be built, the proposed site plan, and the PUD application, only showed 92 units. Whereas the code requirement allows for a minimum 1 ½ acres of landscaping and common area, Mr. Maisel said they were dedicating almost 5 ½ acres to landscaping and common areas. In closing, Mr. Maisel said the Planning staff commented in their review that, "conceptually, the development depicted minimizes impact on any surrounding development and will create an innovative residential development reflective of regional and national development trends". Mr. Maisel asked for the Commission's support.

Don Coleman, Rester and Coleman Engineers, was also present on behalf of the applicant and addressed one of the recommended conditions of the staff that says, "minimum requirements shall be detention for a 100-year storm with a 10-year release", which they have no objection to. He said the whole subdivision had been designed to meet that condition. They would request, however, that reference to "possible downstream system upgrades" be deleted. He said water around Hillcrest Road and Grelot Road was not their responsibility. He noted that it was removed when they developed the first unit of this subdivision.

Mr. Plauche asked if there was anyone to speak in opposition to this application.

Anita Ryan, a resident of 6336 Johnston Lane, said her property backed up to this site and there would be about 15 feet between her property and whatever was going to be built there. She said the neighbors had heard that this development was going to be fairly upscale, but asked how much of it was going to be investment property. She also wanted to know where the entrance would be located.

Mr. Olsen pointed out the access points on the plat.

Mr. Plauche said if the neighbors had other questions that could be answered by the owner and developer, he asked that they do ask them other than in this session. He asked if there were anymore questions for the Commission.

After discussion a motion was made Dr. Rivizzigno and seconded by Mr. Turner to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- 1) **completion of the vacation process for existing rights-of-ways within the proposed subdivision;**
- 2) **completion of the Subdivision process;**

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- 3) **compliance with Engineering Department comments for any future development (*Significant existing stormwater problems downstream from proposed development. MINIMUM requirements will be detention for a 100-year storm with a 10 year release. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.*);**
- 4) **development is limited to the accompanying PUD; and**
- 5) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2006-00616 (Planned Unit Development)

McMurray Place Subdivision

South side of Johnston Lane, extending from the West side of Rosedale Avenue (to be vacated) to the centerline of Dickerson Avenue (to be vacated), and to McCay Avenue (to be vacated), 95'± South of Johnston Lane.

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

The site plan illustrates the proposed development.

(Also see Case SUB2006-00052 – McMurray Place Subdivision – see below)

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Turner to approve the above referenced plan subject to the following conditions:

- 1) **completion of the vacation process for existing rights-of-ways within the proposed subdivision;**
- 2) **completion of the Subdivision process;**
- 3) **compliance with Engineering Department comments for any future development (*Significant existing stormwater problems downstream from proposed development. MINIMUM requirements will be detention for a 100-year storm with a 10 year release rate. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.*);**
- 4) **provision of a 10-foot wide vegetative buffer and 6 to 8-foot high privacy fence or wall where the site abuts adjacent R-1 districts;**
- 5) **provision of a lighting plan for the pool/ playground area specifically, and the site in general, that ensures that adjacent residential properties will not be impacted by on-site lighting;**
- 6) **placement of a note on the site plan stating that maintenance of all common areas, private streets, alleys and detention areas is the responsibility of the property owners;**
- 7) **labeling of all common areas;**

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- 8) **placement of site calculations required by Section 64-5.C.2. of the Zoning Ordinance on the site plan; and**
- 9) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2006-00052 (Subdivision)

McMurray Place Subdivision

South side of Johnston Lane, extending from the West side of Rosedale Avenue (to be vacated) to the centerline of Dickerson Avenue (to be vacated), and to McCay Avenue (to be vacated), 95'± South of Johnston Lane.

1 Lot / 12.8± Acres

(For discussion see Case ZON2006-00616 – McMurray Place Subdivision [PUD] – Case ZON2006-00594 - McMurray Place, LLC [Rezoning] – above)

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Turner to approve the above referenced subdivision subject to the following conditions:

- 1) **depiction of the 25-foot minimum building setback line; and**
- 2) **completion of the vacation process for existing rights-of-ways within the proposed subdivision.**

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00044

Bullitt Park Subdivision, Resubdivision of Lot 15

North side of Bullitt Drive, 375'± West of Schillinger Road South.

2 Lots / 0.8± Acre

A representative of the applicant was present and concurred with the staff recommendations.

Randall Finch, a resident of 5050 Clearview Drive, stated that the survey of this property on the southwest side was incorrect. He asked if that needed to be corrected before anymore lots could be sold or divided here.

Mr. Plauche asked if he was referring to Lot 15-A.

Mr. Finch said no, he was referring to the southwest side. The survey was one foot off. There was a 1287-foot distance there of one foot. Mr. Finch said he had spoken to everyone he could to try to get this corrected, but it had not been done.

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Mr. Olsen stated that the property referred to was not this application. The lot Mr. Finch was speaking of was the south property line of the original Bullitt Park Subdivision.

Mr. Finch asked who would be responsible for giving him back his property.

Matt Orrell, with Polysurveying, surveyor for the applicant, stated that he met with Mr. Finch and they had adjusted the line.

Mr. Finch said nothing had been changed. The survey stakes were still in the same place. He said he had spoken with Mr. Orrell twice. It had been over 60 days ago.

Mr. Orrell said it was straightened out, but Mr. Finch never got a copy of the plat. He said he would get a copy of the plat for him.

Mr. Olsen said this was a civil issue at this point. The plat had already been recorded for Bullitt Park Subdivision. The application before the commission today was simply the resubdivision of one of the lots into two lots.

Mr. Lawler said that Mr. Finch could file some kind of action in court to clear this.

Mr. Plauche suggested Mr. Finch get with Mr. Orrell and get a copy of the actual plat.

Mr. Finch agreed. He also had a question about the buffer it speaks about as a condition of approval, and asked what that would consist of. Two other neighbors present had the same question.

Mr. Olsen said the buffer would only be required if any of the lots within the subdivision were developed commercially, and it would be either a 10-foot planting strip or a 6-foot privacy fence. If the property were developed with single family homes on them, a buffer would not be required.

Mr. Finch asked if he understood correctly that the property would be developed commercially.

Mr. Olsen said he did not know. The subject property was in the County and there was no zoning in the County. This condition was simply to attempt to afford some protection to residents of the County where a property is developed commercially adjacent to a residential property.

Mr. Finch said the applicant's wife was going to build a gymnastics and dance building next door to his property, and this was the reason he was wondering about the buffer.

Mr. Olsen said in that case, the developer would have to construct a 6-foot privacy fence along the property line that separates her property from his.

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Mr. Finch also asked about the stormwater runoff ditch, which he said right now was damaging his fence and he was about to lose his fence. He asked if that was zero clearance there.

Mr. Plauche asked Pat Stewart to address this concern.

Mr. Stewart, representing the County, said that was water runoff onto private property. That was an issue that the County did not get involved in.

Mr. Lawler stated that the County does not take any interest in protecting people from surface water coming off private property, but that did not mean that a private property owner did not have a right to protect himself by filing suit against a person who was casting water onto his property. Mr. Lawler said it was unfortunate, but he would suggest that Mr. Finch see a lawyer and perhaps file a suit if it was that bad.

Mr. Finch said he just wanted his property back. He did not want to have to sue anybody.

Arnold Finch, a resident of 4600 S. Schillingers Road, said his property adjoined Bullitt's Subdivision, which runs from Schillingers Road all the way through. Mr. Finch said the owner of the subject property had cut a ditch down his property line. The ditch was about 4-5 feet deep and the trees were going to wash away. He was concerned about the safety of his grandchildren if they rode their bicycles along the ditch. The owner also put a little concrete ditch down behind Mrs. Neil's house, next door to him. That ditch has overflowed and has been at her back door and ruined her carpet. Mr. Finch said they also have a problem because of a pond that the owner put in front of the property. He said the ditch under his driveway would not carry it so they put bigger culverts in and now all that had washed away and the owner had done nothing about it. He felt the owner should not be allowed to do anything else until the problem with this ditch was resolved. Mr. Finch also mentioned, as his son brought up, that the survey was incorrect needed to be corrected.

Mr. Plauche asked if Mr. Finch was talking about the property east of Lot 15-B.

Mr. Olsen clarified that Mr. Finch's property was south of the subject property. It ran all the way from Schillingers Road back to Clearview Drive. It was adjacent to the original Bullitt Subdivision.

After discussion a motion was made by Dr. Rivizzigno to approve the above referenced subdivision subject to the staff's recommendations.

In further discussion, Mr. Plauche asked if the Commission had any authority regarding the property line dispute and the ditch that was discussed.

Mr. Olsen said the plat had already been recorded and any dispute over a property line location was a civil matter.

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Mr. Lawler said that was correct. He further commented that this was a prime example of not enforcing the higher standards in the County. The neighbors' property was being affected by the complete absence apparently of any kind of drainage plan for the surface water coming off this subdivision. Mr. Lawler said this question came to him when he first started doing work for the Planning Commission. The State law mandates that the Commission impose the higher standards in the Planning Jurisdiction; however, that had not been done in all the years he had worked for the Commission. Unfortunately, there was nothing the Commission could do in this case because the subdivision had already been recorded. Mr. Lawler said that people have a right to develop their property, but they do not have a right to destroy the community and their neighbor's property in the process. The only recourse in this case would be through the courts.

Dr. Rivizzigno asked if this subject could be put on the agenda to be addressed at the next business meeting of the Commission.

Mr. Olsen said he would put it on the agenda.

Mr. Plauche called for a second to Dr. Rivizzigno's motion to approve the above referenced subdivision subject to the following conditions:

- 1) **the placement of a note on the final plat stating that the site is limited to a single curb cut for each lot; and**
- 2) **the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.**

The motion was seconded by Mr. Miller and carried unanimously.

Case #SUB2006-00039

Country Breeze Subdivision, Resubdivision of Lots 1, 2 and 5

9231 Stone Road

(Southwest corner of Stone Road and McCrary Road, extending to the West side of McCrary Road, 320'± South of Stone Road).

3 Lots / 3.2± Acres

Don Coleman, Rester and Coleman Engineers, was present in this matter and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Holmes to approve the above referenced subdivision subject to the following conditions:

- 1) **the depiction of the 75-foot setback from the centerline of McCrary Road and the 25-foot setback from Stone Road, as shown on the plat;**

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- 2) the placement of a note on the final plat stating that size, location, and design of all curb cuts are subject to County Engineering approval and that Lots 2 and 5 are limited to a single curb cut each;
- 3) the placement of a note on the final plat stating that number, size, location, and design of curb cuts for Lot 1 are subject to County Engineering approval; and
- 4) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00051

6238 Creel Road Subdivision

6224 and 6238 Creel Road, and 6255 Mitchell Street

(West side of Creel Road, 510'± North of Old Pascagoula Road, extending to the East terminus of Mitchell Street).

2 Lots / 30.8± Acres

The applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Holmes to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of the 25-foot setback lines on the final plat (for Lot 2, placed where the lot is at least 60 feet wide); and
- 2) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00042

East European Harvest Subdivision

1957 Halls Mill Road and 1010 Cherokee Street

(South side of Halls Mill Road, 150'± West of Cherokee Street, extending to the West side of Cherokee Street, 200'± South of Halls Mill Road).

2 Lots / 0.7± Acre

Jerry Byrd, Byrd Surveying, was present representing the applicant. He referred to condition #3 of the staff recommendations limiting each lot to a single curb cut. They would have no problem with the Halls Mill Road site, but the site on Cherokee had two existing driveways, which they would like to keep. Mr. Byrd noted that the average lot

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width on Cherokee Street was 60 feet. The subject lot was 129 feet, so he contended it would not be out of character with two driveways.

Ed Larvene, Chairman of the Board of East European Harvest, stated that they wanted to sell the frame house on the property, and that was the reason for the subdivision. Mr. Larvene said their ministry was a very quiet Christian ministry that publishes bibles in different languages, and they fit in well with the neighborhood. The house had been hard to rent and keep people in, and had become a liability to them.

After discussion a motion was made by Mr. Miller and seconded by Mrs. Deakle to approve the above referenced subdivision subject to the following conditions:

- 1) dedication of sufficient right-of-way to provide 35 feet from the centerline of Halls Mill Road;**
- 2) the depiction of the 25-foot setback lines on the final plat; and**
- 3) the placement of a note on the final plat stating that lot 1 is limited to two curb cuts, and lot 2 is limited to one curb cut.**

The motion carried unanimously.

Case #SUB2006-00047

The Gardens of Cottage Hill Subdivision, Phase Four

Southeast and Southwest corners of Cottage Hill Road and Rosebud Drive.
6 Lots / 1.3± Acres

The applicant was present and concurred with the staff recommendations.

Ted Danford, a resident of 2521 Rosebud Drive, stated that his property backed up to the proposed subdivision. Mr. Danford said the neighbors knew nothing about this until they received notice of this hearing. They would like to know what kind of houses they were going to build, and whether they would have access directly out into Cottage Hill Road, or whether they would have to go around his property, which was at the corner of Rosebud and Bluebeard. He was concerned that the property had a tremendous slope they had taken out almost all of the trees.

Mr. Olsen noted that Mr. Danford was actually discussing Phase Five. What was up for discussion at this point was Phase Four, which were the properties at the corners of Rosebud and Cottage Hill. Those were originally left as large parcels that were going to be developed commercially because this property was in the County. The developer, however, had determined that there was a market for the properties to be developed residentially, and that was the reason he had submitted these two applications.

Mr. Plauche noted that the staff had recommended the denial of direct access to Cottage Hill Road.

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Mr. Olsen said that was correct. Each lot would have a driveway onto Rosebud. Phase Five would enter off of Bluebeard and come up to a cul-de-sac, and then come back out to access Cottage Hill Road. The reason for that was because at the end of the cul-de-sac the developer had created a small park/common area/open space, and a buffer from Cottage Hill Road.

Mr. Danford asked how many total houses would be built there.

Mr. Olsen said that on the phase that accesses Bluebeard and was behind Mr. Danford's property, there would be 24 lots.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **dedication of sufficient right-of-way to provide 50 feet from the centerline of Cottage Hill Road, as shown on the preliminary plat;**
- 2) **dedication of 25-foot curb radii at the corners of Rosebud Drive and Cottage Hill Road;**
- 3) **the placement of a note on the final plat stating that Lots 122 and 123 are denied direct access to Cottage Hill Road, and that each lot is limited to a single curb cut to Rosebud Drive; and**
- 4) **the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2006-00048

The Gardens of Cottage Hill Subdivision, Phase Five

South side of Cottage Hill Road, 110'± East of Rosebud Drive, extending to the East terminus of Bluebeard Lane.
24 Lots / 5.4± Acres

(For discussion see #SUB2006-00048 – The Gardens of Cottage Hill Subdivision, Phase Four – above).

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **dedication of sufficient right-of-way to provide 50 feet from the centerline of Cottage Hill Road, as shown on the plat;**
- 2) **dedication of 25-foot curb radii at the corners of Rosebud Drive and Cottage Hill Road;**
- 3) **construction and dedication of the new street to County Engineering standards;**

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- 4) the provision of additional detention, if deemed necessary by County Engineering;
- 5) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations;
- 6) the placement of a note on the final plat stating that the site is denied access to Cottage Hill Road; and
- 7) the placement of a note on the final plat stating that maintenance of common areas will be property owners' responsibility.

The motion carried unanimously.

Case #SUB2006-00043

Michael Hand Subdivision

6425 Rester Road

(South side of Rester Road, 25'± West of the South terminus of Magnolia Road)

2 Lots / 2.8± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that each lot is limited to a single curb cut; and
- 2) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00041

Iron Works Road Subdivision

5695 Iron Works Road

(East side of Iron Works Road (private street), 225'± South of its North terminus).

2 Lots / 2.6± Acres

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant and requested that the staff's recommendation to limit each lot to one curb cut be waived on Lot B. He said there was an existing trucking company located on Lot B with two existing driveways. The two driveways were needed for circulation. Mr. Byrd explained that Iron Works Road was a private road that was created some years ago and was a dead end cul-de-sac. Traffic there should not be a real problem, but there were two lots. They were moving

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the lot line over because of the circulation problem and the storage yard that they needed on the site.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat Lot A is limited to one curb cut and Lot B is limited to two curb cuts; and**
- 2) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2006-00046

The Legends at Magnolia Grove Subdivision, Unit Two

West terminus of Champions Run, and the North terminus of Legends Row.

52 Lots / 20.0± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. He noted that the staff had recommended this application be held over. Mr. Coleman said he had talked to the staff and agreed to meet their conditions for approval.

Mr. Olsen stated that with the conditions as noted in the report, the staff would recommend approval of this subdivision. Mr. Olsen read the conditions.

Ty Irby, 1551 Schillingers Road North, stated that he was present on behalf of Francis Graham and Charles Berg. They own over 200 acres just to the west of this property. They asked that if approved, that the stubout to the 200 acres remain. That 200-acre parcel had only one outlet, which was to Schillingers Road.

After discussion a motion was made by Mrs. Deakle and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) depiction of the 25-foot minimum building setback line;**
- 2) revision of the plat to reflect paving to City standards of a portion of Graham Road sufficient to reach the paved portion of Mayflower Drive;**
- 3) revision of the plat to provide a street stub to land-locked parcel R022309322000102.; and**
- 4) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

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Case #SUB2006-00036

Oakstone Subdivision

Southeast corner of Laurendine Road and Lancaster Road.

57 Lots / 32.6± Acres

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) the dedication of 10 feet along the site's Laurendine Road frontage, as depicted on the preliminary plat;
- 2) placement of a note on the Final Plat stating that Lot 1 is restricted to access only onto Lancaster Road, lots 53 through 56 are limited to one curb cut each onto Laurendine Road, and lot 57 is limited to a maximum of two curb cuts, with the size, location and design of all proposed curb cuts to be approved by the Mobile County Engineering Department;
- 3) placement of a note on the Final Plat stating that traffic calming devices are to be provided, as approved by the Mobile County Engineering Department;
- 4) labeling of traffic calming device landscape areas as common areas;
- 5) placement of a note on the Final Plat stating that the maintenance of common areas and the detention pond is the responsibility of the subdivision's property owners;
- 6) depiction and labeling of the minimum building setback line from the dedicated rights-of-way, with a waiver of Section V.D.9. to allow "side yard" setbacks of 20 feet for proposed Lots 1, 6, 7 and 26, and 25 feet for all other lots and the "front yards" of Lots 1,6,7 and 26;
- 7) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations;
- 8) dedication and construction of roads to Mobile County standards;
- 9) approval of all applicable federal, state and local agencies required prior to the issuance of any permits or land disturbance; and
- 10) verification with Mobile County Engineering Department that proposed detention pond is located outside of the 100-year floodplain.

The motion carried unanimously.

Case #SUB2006-00040

Omni Office Park Subdivision, Seventh Addition

North side of Omni Park Drive at its East terminus.

1 Lot / 0.4± Acre

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

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After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **placement of a note on the Final Plat stating that the lot is limited to one curb-cut, with the size, location and design to be approved by Traffic Engineering and conform to AASHTO standards; and**
- 2) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2006-00035

Thompson Estates Subdivision, Resubdivision of Lots 2 & 3

4149 and 4168 Goldmine Road East

(East side of Goldmine Road East, 400'± South of the West terminus of Leroy Stevens Road).

3 Lots / 10.2± Acres

The applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **revision of the plat to reflect the land already dedicated to Mobile County for the right-of-way and service road;**
- 2) **the 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.7. of the Subdivision Regulations;**
- 3) **placement of a note on the Final Plat stating that each lot is limited to one curb-cut each (for a total of three curb-cuts – including existing curb-cuts that will be retained), to be reviewed and approved by the Mobile County Engineering Department; and**
- 4) **placement of a note on the Final Plat stating that no additional subdivision of Lots 2 and 3 allowed until additional roadway frontage provided by either a public or private road onto the property that is constructed to the standards contained within Section VIII.E.2. of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2006-00050

Webster Subdivision

8375 Zeigler Boulevard

(Southwest corner of Zeigler Boulevard and Foster Road).

2 Lots / 6.4± Acres

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After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **the dedication of 10 feet of frontage along Foster Road, in compliance with Section V.B.14.;**
- 2) **depiction of the 25-foot minimum building setback line, as required by Section V.D.9.;**
- 3) **provision of a 10-foot radius curve or chord equivalent for the property lines at the corner of Zeigler Boulevard Extension and Foster Road, in conformance with Section V.D.5.;**
- 4) **placement of a note on the Final Plat stating that Lot 1 is limited to the existing curb cuts onto Zeigler Boulevard Extension, and one curb cut onto Foster Road contingent upon the paving of Foster Road to County standards to the curb cut location, and that Lot 2 is limited to one curb cut onto Zeigler Boulevard Extension, and two curb cuts onto Foster Road (including the existing curb-cut), with no additional curb-cuts onto Foster Road for Lot 2 until the road is paved to County standards to the curb cut locations, with the size, design and location of all curb cuts to be approved by the Mobile County Engineering Department; and**
- 5) **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.7. of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2006-00037

Woodland Glen Subdivision

North termini of Meadow Green Court and Meadow Run Drive.

91 Lots / 38.8± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. He noted that the application was recommended to be held over so the applicant could present a revised plat showing the full extent of all parcels. Mr. Coleman said they had talked to the staff, however, and had agreed to meet the conditions required, but pointed out that each parcel that could be subdivided was completely surrounded by wetlands. That means every piece of property was independent and should be developed independently from the others. For that reason they ask that it not be held over (Mr. Coleman presented a plat showing the property and indicating the wetlands.)

Mr. Plauche asked if there would be any conditions of approval if action was taken on this application today.

Mr. Olsen said there would be conditions, which he read.

Mr. Coleman said they would comply with those conditions.

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Mr. Plauche asked if there was anyone present who wished to speak in this matter.

Bill Gibson, 7450 Meadows Drive South, stated that he was the president of The Meadows Homeowners Association and was present with a group of the residents. Mr. Gibson described their subdivision as a quiet community of 151 homes less than 20 years old. There were restrictive covenants on the subdivision and they had an architectural committee. It was all cul-de-sacs, so there was only one way in and one way out. He said they were not without problems, such as vandalism, four-wheelers, and speeding. Mr. Gibson said they were not against having new neighbors, but were concerned that the applicant's plans called for using The Meadows as the primary and only access to 91 additional homes. With narrow streets, guests parking on the streets reducing traffic flow to one lane, lots of walkers in the subdivision and no sidewalks and the extra traffic, safety would be a factor. Also, they were right at the crests of hills on both sides, making it a dangerous approach to their main entrance on Schillingers Road. Mr. Gibson further noted the heavy traffic trying to exit the subdivision to Schillingers Road in the mornings. Also, their main street was long, straight and narrow and tended to promote speeding. He expressed concern that in the event of a mass evacuation, such as for a forest fire, it would be total chaos trying to get out of the neighborhood with only two exits. The effect this development would have on their property values was also a concern. Mr. Gibson asked about the price ranges of the proposed homes and whether there would be restrictive covenants. They were concerned about street maintenance, with higher levels of traffic and contractors' heavy equipment coming in and out of the subdivision. The impact of an additional 91 homes on the cost of their homeowner's insurance, which was based on 151 lots, was also a concern. Mr. Gibson further pointed out the list of concerns by the engineer's who reviewed this plan as noted in the agenda. He asked if the owners of the proposed subdivision would own the land between the subdivision and Schillingers Road, and if so, why would they not put a separate entrance in. In conclusion, Mr. Gibson said many families had moved to The Meadows because of the limited development, low traffic flow, and relative isolation. They liked it that way and would prefer to leave it as it was. Mr. Gibson submitted a petition representing residents of over 100 homes that were opposed to this plan, and said they would not stand by idly while groups that they did not even know attempted to make changes to their neighborhood that they felt would have a negative impact. They would continue to protest this development until the plans were changed to include a separate, primary entrance for Woodland Glen Subdivision on Schillingers Road.

Mr. Plauche said he could take three more speakers in opposition if anyone wanted to speak.

Jennifer Ryan stated that she worked at 7400 Meadow Wood Drive. She asked for a show of hands from the people who were present from the Meadows subdivision. Ms. Ryan said the neighbors discussed this proposed development and were in agreement with Mr. Gibson's comments.

It was asked if the developer met with the residents.

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Ms. Ryan said the developer did not meet with them.

Becky Nall, a resident of 7590 Meadows Drive South, stated that she was in the first unit of The Meadows Subdivision that was developed, and when their homes were built they were told that they would never link up to the houses in Ashley Estates because of the effect it would have on their property values. Ashley Estates did not have restrictive covenants. Ms. Nall said they were told that they had to go into that subdivision with a link on Rhetts Drive because there was some fire code or ordinance that required that you have so many exits for so many houses in any given subdivision. When they tried to find that code, they could find nothing that said that was indeed the case. She asked if there was such a regulation, as she was concerned that with an additional 90 houses, the residents would never be able to get out if there was a mass evacuation.

Mr. Olsen said it was not uncommon for the Planning Commission to require a connection to another subdivision, especially when there was an existing street stub to that adjacent subdivision. In this particular case, the proposed subdivision was a continuation of existing street stubs on The Meadows. He noted that one of the staff's recommendations was the provision of a street stub to connect this proposed development with Saybrook, which was adjacent to the east, and would provide another point of access out to Sollie Road. When it all tied together, it would actually provide a possibly even more convenient access for the residents of The Meadows to get out to Sollie Road.

Mr. Plauche asked if that was the area of Lot 60-61.

Mr. Olsen said it was.

Ms. Nall asked that if the new development tied into The Meadows, would the homeowners of that subdivision not be required to pay association fees for maintenance of the entrance and street lights in the subdivision.

Mr. Miller said if that was a totally new subdivision, they would be separate as far as homeowner arrangements. They would be maintaining their own subdivision.

Mr. Olsen said that was correct. Also, these were all public streets and county-maintained.

Mr. Stewart said that was correct.

Ms. Nall felt that if the entrance to The Meadows was going to be the main access to the proposed subdivision, the future residents should help pay for the lights.

Mr. Plauche suggested Ms. Nall talk to the developer in that regard, as the Planning Commission would have no say on that. They could only approve or disapprove the actual layout.

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Tara Gazzier, 7500 Meadows Drive South, stated that the main entrance into the new subdivision was right next to her. She was concerned about the safety of her two-year old with 200 vehicles going in and out all day past her yard.

Mr. Plauche asked if the applicant would like to respond.

Mr. Coleman pointed out where the developer would be required to make a connection to Saybrook, which would continue all the way to Cody Road.

Mr. Miller asked if there was a way to access Schillingers Road to the future development without impacting The Meadows.

Mr. Coleman said no. It was completely surrounded by wetlands.

After discussion a motion was made by Mrs. Deakle and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **coordination with Saybrook Subdivision to provide a street-stub connection in the vicinity of proposed Lots 60 and 61 ;**
- 2) **depiction of the 25-foot minimum building setback line ;**
- 3) **revision of the plat to align the proposed Meadow Run Drive right-of-way with the existing water and sewer easement ;**
- 4) **revision of the plat to show the connection to Meadows Drive South as right-of-way rather than a lot ;**
- 5) **labeling of all common areas and detention areas, and placement of a note on the final plat stating that the maintenance of all common areas and detention areas is the responsibility of the property owners ;**
- 6) **approval of all applicable federal, state and local agencies required for wetlands/environmentally sensitive areas prior to the issuance of any permits or land disturbance activities ;**
- 7) **labeling of parcels outside of development area with “future development by others”; and**
- 8) **revision of the plat to ensure that proposed lot 25 has adequate buildable area that is not located in wetlands or water and sewer easements, and placement of a note on the plat stating that no pools or other permanent structures my be built on any easements.**

In further discussion Mr. Miller said he was sympathetic to the people that spoke today, but some of their concerns had to do with living in the County. He did not know if there was any way the Commission could address the concerns of the homeowners, as it was very difficult to stop development as such. You cannot restrict a person from developing his property. He wondered if it would help in any way to require some sort of speed bumps.

Mr. Turner asked if he understood the developer would be required to have a stubout to Sollie Road.

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Mr. Olsen said that was correct. There was a preliminary approval for Saybrook Subdivision, which was adjacent to the east. When they complete Saybrook and it connects to the proposed development, there will be access all the way out to Sollie, or Cody, Road.

Mr. Turner asked if there was any reasonable time frame for this connection.

Mr. Olsen said Saybrook had already been to the Planning Commission and received preliminary approval. As the various units were developed, the connection would ultimately be made.

Dr. Rivizzigno asked if Saybrook was going to have sidewalks.

Mr. Olsen said he did not know, because it was in the County.

Mr. Miller commented that part of the problem was that there was no zoning in the County. Again, he sympathized with the residents, but did not see how the Commission could stop the development.

Mrs. Deakle said she understood the concerns of the neighbors, and felt they were valid. As far as traffic calming devices, she felt that at this point in time that would be up to the County Commission, not the developer. This developer had as much right to develop this parcel of property as the first developer (of The Meadows) had to develop his parcels of property.

There being no further discussion, Mr. Plauche called for the vote.

The motion carried unanimously.

Case #SUB2006-00045

Lucille Young Subdivision, Resubdivision of Lot 1

North side of Tanner Williams Road, 300'± West of Glen Acres Drive South.

2 Lots / 2.0± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision to the following conditions:

- 1) dedication of sufficient right-of-way to provide 50 feet from the centerline of Tanner Williams Road, if necessary, to comply with the requirements of Section V.B.14. of the Subdivision Regulations;**
- 2) adjustment of the 25-foot setback line, if necessary, to reflect the right-of-way dedication;**

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- 3) the 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.7. of the Subdivision Regulations;
- 4) placement of a note on the Final Plat stating that no additional curb-cuts are permitted, and that the redesign or relocation of curb-cuts must be reviewed and approved by the Mobile County Engineering Department; and
- 5) placement of a note on the Final Plat stating that no additional subdivision of Lot 1-B is allowed until additional roadway frontage is provided by either a public or private road onto the property that is constructed to the standards contained within Section VIII.E.2. of the Subdivision Regulations.

The motion carried unanimously.

OTHER BUSINESS:

Business Meeting

Mr. Olsen reminded the members that the business meeting would take place April 27, 2006, in the pre-council meeting room.

Mr. Plauche also said goodbye and thank you to Ms. Trista Cole, Secretary, and wished her luck in her future endeavors.

There being no further business, the meeting was adjourned.

APPROVED: May 18, 2006

Victor McSwain, Secretary

Terry Plauche, Chairman

Tc/ms