

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF May 2, 2013 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William G. DeMouy, Jr.
Victoria L. Rivizzigno, Secretary
James F. Watkins, III
John Vallas
Tracie Lee-Roberson
Scott Webster
John Williams
Roosevelt Turner
Don Hembree
Jarret Wingfield
Carlos Gant

Members Absent

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Frank Palombo,
Planner II
Bert Hoffman,
Planner II
David Daughenbaugh,
Urban Forestry Coordinator
Jessica Watson,
Secretary II

Others Present

John Lawler,
Assistant City Attorney
George Davis,
City Engineering
Jennifer White,
Traffic Engineering
Billy Roach
Fire-Rescue Department

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

ROLL CALL:

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

HOLDOVERS:

Case #SUB2013-00022 (Subdivision)

Cottage Hill – Azalea Subdivision

751 Azalea Road

(Southeast corner of Azalea Road and Cottage Hill Road).

Number of Lots / Acres: 1 Lot / 0.3± Acre

Engineer / Surveyor: Byrd Surveying

Council District 4

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(Also see, **Case #ZON2013-00493 (Planning Approval) Cottage Hill – Azalea Subdivision** below)

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

Bill Partridge, 302 Park Ave, spoke on behalf of the applicant. He stated that at the last meeting they were asked to try different parking configurations that would allow the 100 foot right-a-way; they attempted two drawings and neither would work to be able to meet the city parking regulations. The only condition that they wanted reconsidered was Condition 8. The condition states that the driveways must be limited to right-in/right-out only access and they would prefer to access the driveways both ways. He stated that if it were a deal breaker they would be willing to accept the condition the way it is.

Ms. White stated that both of the driveways are located too far into the intersection to allow lefts out.

Mr. Vallas asked if the site would still have access to Shelley Dr.

Mr. Partridge and Ms. White both responded no.

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

- 1) **Dedication of right-of-way along Cottage Hill Road to provide 50-feet from centerline (approximately 10 feet);**
- 2) **Dedication of right-of-way along Azalea Road sufficient to ensure a minimum of 8-feet from the back of the existing curb, to allow the construction of a city standard sidewalk;**
- 3) **Provision of corner radii in compliance with Section V.D.6. of the Subdivision Regulations, and to be approved by Engineering and Traffic Engineering;**
- 4) **Provision of sidewalks and accessible ramps along all street frontages, including Shelley Drive;**
- 5) **Depiction of the 25-foot minimum building setback line from the new right-of-way of Cottage Hill Road, from the future right-of-way of Azalea Road (assuming a 100-foot wide right-of-way), and from the right-of-way of Shelley Drive;**
- 6) **Compliance with revised Traffic Engineering comments (*Driveways should be limited right-in/right-out only access. No indication is given to prevent left turns. Changes should be made to accommodate right-in/right-out only access.*);**
- 7) **Compliance with Engineering comments (*The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1. Provide all of the required information on the Final Plat (i.e. signature blocks,***

- signatures, certification statements, legal description, required notes).* 2. *Provide a signature block and signature from the Traffic Engineering Department.* 3. *Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045).* 4. *Dedicate a radius at the corner of Azalea Blvd and Cottage Hill Rd of sufficient size as approved by the City Engineer and Traffic Engineer.);*
- 8) **Compliance with Fire comments (All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.);**
 - 9) **Placement of a note on the plat stating that the lot is limited to one right-in, right-out curb-cut to Azalea Road, and one right-in, right-out curb-cut to Cottage Hill Road, with the size, design and location to be approved by Traffic Engineering and comply with AASHTO standards;**
 - 10) **Provision of a revised Planning Approval site plan prior to the signing of the final plat; and**
 - 11) **Completion of the Subdivision process prior to any request for permits.**

The motion carried unanimously.

Case #ZON2013-00493 (Planning Approval)

Cottage Hill – Azalea Subdivision

751 Azalea Road

(Southeast corner of Azalea Road and Cottage Hill Road).

Planning Approval to allow a seafood store in a B-2, Neighborhood Business District.

Council District 4

(Also see, Case #SUB2013-00022 (Subdivision) Cottage Hill – Azalea Subdivision above)

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

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

- 1) **Dedication of right-of-way along Cottage Hill Road to provide 50-feet from centerline (approximately 10 feet);**
- 2) **Dedication of right-of-way along Azalea Road sufficient to ensure a minimum of 8-feet from the back of the existing curb, to allow the construction of a city standard sidewalk;**
- 3) **Provision of corner radii in compliance with Section V.D.6. of the Subdivision Regulations, and to be approved by Engineering and Traffic Engineering;**

- 4) Provision of sidewalks and accessible ramps along all street frontages, including Shelley Drive;
- 5) Depiction of the 25-foot minimum building setback line from the new right-of-way of Cottage Hill Road, from the future right-of-way of Azalea Road (assuming a 100-foot wide right-of-way), and from the right-of-way of Shelley Drive;
- 6) Provision of a minimum of 3 frontage trees along both Azalea Road and Cottage Hill Road (6 total), with any frontage tree planted within 15 feet of an overhead power line to be a live oak;
- 7) Provision of a minimum of 3 perimeter trees only in the landscape area between the building and Cottage Hill Road on the eastern side of the site;
- 8) Revision of the site plan to depict compliance with revised Traffic Engineering comments (*Driveways should be limited right-in/right-out only access. No indication is given to prevent left turns. Changes should be made to accommodate right-in/right-out only access.*);
- 9) Compliance with Engineering comments (*The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1. Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes). 2. Provide a signature block and signature from the Traffic Engineering Department. 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045). 4. Dedicate a radius at the corner of Azalea Blvd and Cottage Hill Rd of sufficient size as approved by the City Engineer and Traffic Engineer.*);
- 10) Compliance with Fire comments (*All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.*);
- 11) Provision of a 3-foot high wooden privacy fence along the Shelley Drive frontage, except along that portion where the building exists;
- 12) Provision of 10 parking spaces, as depicted, including a van accessible space and aisle;
- 13) Any new lighting placed on the site or modification of the existing lighting shall comply with the requirements of Section 64-4.A.2. and Section 64-6.A.3.c. of the Zoning Ordinance;
- 14) Use of or access from Shelley Drive for loading or unloading for the site is prohibited;
- 15) Application for land disturbance and right-of-way permits to undertake required site improvements;
- 16) Submission of a revised site plan depicting compliance with the above conditions; and
- 17) Completion of the Subdivision process prior to any request for permits.

The motion carried unanimously.

Case #SUB2013-00021 (Subdivision)

Cypress Lake Industrial Park Subdivision

East side of Todd Acres Drive, at the East terminus of Kooiman Road and South side of Todd Acres Drive, 500'± West of Commerce Boulevard West.

Number of Lots / Acres: 10 Lots / 72.6± Acres

Engineer / Surveyor: Daniel Clark, PLS

Council District 4

(Also see, Case #ZON2013-00459 (Rezoning) **Daniel Clark PLS** below)

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

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

- 1) **Revision of the legal description to correctly identify the area within the Subdivision;**
- 2) **Placement of a note on the final plat stating that Lots 1 and 2 are limited to two (2) curb-cuts each, and that Lots 3-8 are limited to one (1) curb-cut each, with the size, design and location to be approved by Traffic Engineering and to conform to AASHTO standards;**
- 3) **Compliance with Traffic Engineering comments (Driveway number, size, location and design to be approved by Traffic Engineering, and conform to AASHTO standards. Lots 3-8 limited to one curb cut each.);**
- 4) **Compliance with Engineering comments (The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1) Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes). 2) A signature block and signature for the Traffic Engineering Department shall be placed on the Final Plat. 3) Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045). 4) Add a note to the plat any development or land disturbing activity on a LOT will require a Land Disturbance Permit; and any work within the Kooiman Road or Todd Acres Drive ROW will require a ROW Permit.);**
- 5) **Compliance with Fire comments (All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.).**
- 6) **Retention of the minimum 25-foot front setback line on the final plat;**
- 7) **Retention of the note on the final plat stating that approval of all applicable federal, state and local environmental agencies for wetlands or floodplain**

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issues is required prior to the issuance of any permits or land disturbance activities;

- 8) **Retention of the note on the final plat stating that approval of all applicable Federal, state and local agencies for endangered, threatened or otherwise protected species is required prior to the issuance of any permits or land disturbance activities; and**
- 9) **Completion of the Subdivision process prior to any request for permits for Lots 3-8.**

The motion carried unanimously.

Case #ZON2013-00459 (Rezoning)

Daniel Clark PLS

East side of Todd Acres Drive, at the East terminus of Kooiman Road and South side of Todd Acres Drive, 500'± West of Commerce Boulevard West.

Rezoning from R-A, Residential Agricultural District, to I-1, Light-Industry District, to allow zoning compliance for an existing business, and to allow for a future industrial park.

Council District 4

(Also see, **Case #SUB2013-00021 (Subdivision) Cypress Lake Industrial Park Subdivision** above)

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

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

- 1) **Completion of the Subdivision process;**
- 2) **Lots 1 and 2 to be brought into compliance with the tree, landscaping and paved parking requirements of the Zoning Ordinance within six (6) months of City Council approval; and**
- 3) **Full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2013-00461 (Planned Unit Development)

The North American Islamic Trust, Inc.

54, 59 and 63 East Drive

(East side of East Drive, 400' South of Old Shell Road, and extending to the West side of Allen Drive).Planned Unit Development Approval to allow multiple buildings on a single building site.

Council District 6

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(Also see, **Case #ZON2013-00462 (Planning Approval) The North American Islamic Trust, Inc.** below)

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

Frank Dagley, 717 Executive Park Dr, spoke on behalf of the applicant and made the following points in favor of the matter:

- A. The main problem with this application is the way it has to be phased. The site ultimately will meet all city requirements, but during the phases there will be times that it will not.
- B. As of right now they have 36 parking spaces; some of which are illegal.
- C. Phase 1 will consist of building a new mosque; at that point they will have 65 parking spaces with the requirement being 78 parking spaces.
- D. 21 new trees will be planted during Phase 1
- E. During Phase 2 they will move the school into the old mosque and tear down the old school
- F. At that point they will have 60 parking spaces and plant 7 additional trees
- G. Phase 3 they will tear down the old mosque and provide additional parking; which will bring them up to 79 parking spaces
- H. They will then plant 3 new trees to meet the city requirement for trees
- I. If denied, the site will remain with inferior parking
- J. If only Phase 1 is completed and they run out of funding to complete the project they still have drastically improved the property.

Mr. Vallas asked what the anticipated time frame is for the different phasing.

Mr. Dagley stated that he would have to let the applicant address that; but he would estimate that the first phase would take about six months.

Mr. Vallas asked if Phase 1 could be considered subject to a Board of Adjustment approval for the parking.

Mr. Plauche asked Mr. Olsen if he had anything to add for Mr. Dagley.

Mr. Olsen stated that the reason for denial was because there was no type of time frame for the phases and that the shortage of parking is a problem. The staff felt like cars parking on a substandard minor street would be an issue.

Mr. Watkins asked if the phasing is based on moving from one building to another or is it based on financing the operation.

Mr. Dagley responded that as far as the construction the phasing is necessary but he could not speak about the financing.

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Shafik Hammami, president of the Islamic society, spoke on behalf of the applicant and made the following points in favor of the matter:

- A. The number of attendants at the mosque is not increasing during any of the phases
- B. They are just shifting from one building to another
- C. Even though the amount of parking spaces is required by the size of the building, it is not really demanded by the size of the congregation
- D. They never use the parking lot as it is to its capacity
- E. No demand from the school for parking; they only have about a half dozen teachers at the school
- F. School children do not drive, they are all dropped off by parents
- G. The mosque is empty 6 days of the week
- H. The only demand they are designed for is for one hour on Fridays between 1:00 and 2:00.
- I. They have never had a problem with parking on the street or in neighbor's yards.
- J. Always keep parking inside their property
- K. They have three dilapidated buildings that could fall at anytime
- L. They are trying to improve the situation for them, the neighbors, and the community

Mr. Vallas asked if there was a time line for the three phases.

Mr. Hammami responded that due to the school situation they are trying to limit their construction during the summertime. They will build one building during one summer, and then the next summer they will build the next building. The final building can be torn down at anytime.

Mr. Turner asked the ages of the children that attend the school.

Mr. Hammami answered that they are from kindergarten to high school; the entire population of the school is roughly 80 students. He stated that they do have prayer five times a day, but only about dozen people come at any given time. The only critical time is the one hour on Fridays.

Mr. Turner asked if some of the parking that is needed on Fridays is along the side of the street.

Mr. Hammami stated they have never had to park on the street. He added that they stress to the congregation not to, and that they ask them not to come to the prayer if they cannot find a parking spot.

Mr. Vallas stated that he was less concerned about the overflow parking on East Drive for a short time period.

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Mr. Watkins asked Mr. Hammami to speak briefly about the status of financing for the project; do they have financing in place to get all three phases covered in a timely manner or will they have to raise money for each phase.

Mr. Hammami responded that they will have to raise money for each phase, but they are confident they can get the first phase going and then they will try to continue the second and third phase as soon as possible.

Mr. Hembree asked how large the congregation is.

Mr. Hammami answered that if you include the maximum number of people that come on Fridays, maybe a hundred people.

Mr. Hembree asked if they are expanding the building to accommodate a larger congregation.

Mr. Hammami stated they expect to have the same number of people and they are not anticipating an increase of members. They simply just want to make it more spacious for the current members and have more conference rooms and other facilities that they need in addition to the worship area.

Mr. Watkins asked Mr. Olsen if the project was completed start to finish would it be an issue or is just an issue because the way it is being phased in, along with the parking issue.

Mr. Olsen responded that the issue is both the way it is being phased and the parking. If this were a clean piece of land, they submitted a PUD application that showed ultimate compliance, we would recommend it for approval with conditions. Parking for any type of house of worship is based on the capacity of the building; it is one space per four seats. While there may be a hundred people max that attends the prayer service now, but the capacity of this building is obviously much larger than that. They have to consider that they may move to another location and another denomination would take over this facility; all of these factors have to be taken into consideration.

Mr. Vallas asked Mr. Lawler if they could consider the application subject to a Board of Adjustment approval, provided that the certificate of occupancy on the school is only allowed for a period of two years. After two years if they did not have the funding in place to build the new school they can no longer occupy that facility.

Mr. Lawler responded that he envisioned that to be very difficult to enforce.

Mr. Turner asked if the parking was based upon the sanctuary seating or the total building square footage.

Mr. Olsen responded that it is based on the seating capacity of the sanctuary. He stated that they do not consider the school because it is an ancillary use to the church and it is

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not in operation at the time of the worship service, so they do not factor in the number of teaching stations to require additional parking. It is simply based on the mosque.

Mr. Turner asked if the capacity of the mosque is around 300.

Mr. Olsen stated that the capacity is around 312.

The following people spoke in opposition to the matter:

- Bryan Lee, 300 Trent Mill Court, Mobile;
- Dianne Howard, 99 East Drive, Mobile;
- Bess Rich, 625 Cumberland Road East, Mobile;

They made the following points against the application:

- A. Summed up feelings on the matter as “too much for too little”;
- B. Parking is a huge issue;
- C. Parking issues on the street started after the development of the Mitchell Center;
- D. something is going on everyday of the week; assumed that they are renting out the facility;
- E. Cars starting to park around 5 o’clock in the morning;
- F. Felt as if the Commission is forced into using traditional North American church planning standards to apply to the mosque, such as using the number of seats to calculate parking requirements and a website found online stated that mosques do not have seating;
- G. Found a document towards the development of mosque that was aimed at the Muslim community, the document discussed how Muslims are encouraged to find a place of worship they can expand on. There is no room to expand at the facility other than vertically;
- H. Religious facilities have changed; they no longer have activities just one day a week. They must find a way to pay the bills so they house things such as daycares, schools, 12 step programs, and youth programs which leads to activities 7 days a week;
- I. Friday’s are the worst, but everyday is an issue;
- J. Front yard used as parking spaces;
- K. Cars park on both sides of the street; not just directly in front of the mosque;
- L. Emergency vehicles are not able to get through the street;
- M. The City should investigate the parking matter; something needs to help alleviate the congestion;
- N. Maybe no parking signs should be put up;
- O. The site is located on too small of a site for the current use, more acreage is needed;
- P. The Jehovah Witness church, located directly across the street from the mosque, parking lot is self contained and is never problematic.

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Mr. Vallas asked if Mr. Lee had any photos of the burdensome overflow parking he could provide.

Mr. Lee responded that he did not personally have any photos. He called the Traffic Engineer and asked for a traffic count but they do not do traffic counts on residential streets.

Mr. Watkins asked where Mr. Lee's residence was in relation to the mosque.

Mr. Lee stated that he lives in Ridgefield Subdivision.

Mr. Turner asked Ms. Howard if the parking lot is full when she notices them parking in her yard.

Ms. Howard responded that lots of times there may be a few parking spaces left but for speed they choose to park in the street. She also noted that she has noticed 18-wheelers parking in the parking lot. She has been told that they have been allowed to do so since they attend the mosque. The issue is they leave their motors running because the trucks are refrigerated.

Mr. Vallas asked how many existing parking spaces are there today.

Mr. Dagley stated that there are 36 parking spaces.

Mr. Dagley then agreed parking is a problem now, and if the application is denied there will still be a problem. If it is approved they will be adding 29 parking spaces. So, instead of having 36 they will have 65.

Mr. Watkins stated that Ms. Rich mentioned the church across the street. He was curious about the size of their building and if they were in compliance or over compliance with parking requirements.

Mr. Palombo responded that the staff did not have that information.

Mr. Hammami wanted to point out that the problem with parking is not a capacity issue but an enforcement issue. He stated that they tell their members not to park on the street but some of them violate that because they just want to get out of the service and leave quickly. He stated that they could not control that, and if there is a problem the City can issue citations to those people.

In deliberation, Mr. Olsen stated that during the public hearing portion of the meeting Mr. Palombo developed some conditions and if the applicant was still present they would go over them.

Mr. Williams stated that has heard from more residents then he cared to count about the problems that exist today on East Dr. He pointed out that in the beginning the applicant

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stated that there were no problems with parking and then later in the applicant's second set of comments he admitted that there was an issue and he could not do anything about it and essentially called the City out as an enforcement issue. He stated that he felt like property owners should discipline the use of their property and at this point if the parking issue was not solved he would not feel comfortable with any conditions.

Mr. Hammami said that he agreed and that they start every Friday sermon with comments reminding the congregation not to park on the street. He stated that they even though they have ample parking one or two members still decide to park on the street. He again said that the mosque has no authority and the City can come out to write citations.

Mr. Palombo then read the updated conditions.

Mr. Dagley stated that the applicant was agreeable with the conditions.

Dr. Rivizzigno expressed that she too was concerned with the parking. She has had residents in the area complain to her about the inability to get in and out of their driveway. She stated that the applicant has an obligation to the community to control their parishioners parking and if it takes someone from their staff to be outside guiding them to park then they need to do that.

Mr. Vallas stated that if they do something they take 33 cars off the street; they go from 36 parking spaces to 69 spaces immediately. That would be step 1 in fixing the problem, if they do nothing the problem is still there.

Dr. Rivizzigno suggested that Traffic Engineering put No Parking signs on the street.

Mr. Watkins said he agreed with Mr. Vallas on the context that if they do nothing the problem is still there. His concern is the phasing and they have no control once it is approved. They could do Phase 1 and stop. He asked if there was anything that they could put in the conditions to make sure they finish the project once they start.

Mr. Olsen stated that Mr. Lawler suggested the approval be contingent upon permits being obtained and Phase 2 started before certificate of occupancy was issued. It shows on going construction and each one the certificate of occupancies would be contingent upon them obtaining the permits and beginning the next phase.

Mr. Lawler then stated he did not know if they could even do that.

Hearing no further opposition or discussion, a motion was made by Mr. Turner, with second by Mr. Gant, to approve the Master Plan and to approve Phase 1, subject to the following conditions:

- 1) compliance with Engineering comments (*Any work, including grading, drainage, driveways, sidewalks, utility connections, irrigation, or landscaping performed in the existing East Dr. or Allen Dr. ROW will require a City of***

Mobile ROW Permit. The City ROW permit may be obtained from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. An ADEM NOI is required for any land disturbance activity over 1 acre. Provide a copy of the ADEM registration information for the site prior to the issuance of a Land Disturbance permit. Due to the proposed phasing of the construction the applicant will need to provide a detailed phasing plan for the construction and erosion control plans.);

- 2) revision of the site plan to illustrate full compliance with landscaping requirements at final build out;
- 3) revision of the site plan to illustrate a residential buffer to the East of the site as per Section 64-4.D.1. of the Zoning Ordinance;
- 4) revision of the site plan to provide lighting of the parking area in compliance with Sections 64-4.A.2 and 64-6.A.3.C of the Zoning Ordinance;
- 5) placement of a note on the site plan stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development approval prior to the issuance of any permits;
- 6) placement of a note on the site plan stating that approval of all applicable Federal, state and local agencies is required for endangered, threatened or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;
- 7) submission of two (2) copies of the revised PUD site plan for each phases of development to the Planning Section of Urban Development prior to the issuance of permits;
- 8) submission and approval of a Parking Ratio Variance by the Board of Zoning Adjustment prior to each phase of development;
- 9) submission and approval of a Planned Unit Development for each phase of development; and
- 10) full compliance with all municipal codes and ordinances.

The motion carried with only Mr. Watkins voting in opposition.

Case #ZON2013-00462 (Planning Approval)

The North American Islamic Trust, Inc.

54, 59 and 63 East Drive

(East side of East Drive, 400' South of Old Shell Road, and extending to the West side of Allen Drive).

Planning Approval to allow a church in an R-1, Single-Family Residential District.

Council District 6

(Also see, Case #ZON2013-00461 (Planned Unit Development) **The North American Islamic Trust, Inc.** above)

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

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

- 1) **compliance with Engineering comments (*Any work, including grading, drainage, driveways, sidewalks, utility connections, irrigation, or landscaping performed in the existing East Dr. or Allen Dr. ROW will require a City of Mobile ROW Permit. The City ROW permit may be obtained from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. An ADEM NOI is required for any land disturbance activity over 1 acre. Provide a copy of the ADEM registration information for the site prior to the issuance of a Land Disturbance permit. Due to the proposed phasing of the construction the applicant will need to provide a detailed phasing plan for the construction and erosion control plans.*);**
- 2) **revision of the site plan to illustrate full compliance with landscaping requirements at final build out;**
- 3) **revision of the site plan to illustrate a residential buffer to the East of the site as per Section 64-4.D.1. of the Zoning Ordinance;**
- 4) **revision of the site plan to provide lighting of the parking area in compliance with Sections 64-4.A.2 and 64-6.A.3.C of the Zoning Ordinance;**
- 5) **placement of a note on the site plan stating that any changes to the site plan will require new applications for Planning Approval and Planned Unit Development approval prior to the issuance of any permits;**
- 6) **placement of a note on the site plan stating that approval of all applicable Federal, state and local agencies is required for endangered, threatened or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities;**
- 7) **submission and approval of a Parking Ratio Variance by the Board of Zoning Adjustment prior to each phase of development;**
- 8) **submission and approval of a Planned Unit Development for each phase of development; and**
- 9) **full compliance with all municipal codes and ordinances.**

The motion carried with only Mr. Watkins voting in opposition.

EXTENSIONS:

Case #SUB2010-00144

NewCastle Landing Subdivision

Northeast corner of Scott Dairy Loop Drive South and McFarland Road, extending to the South termini of New Castle Drive.

Number of Lots / Acres: 51 Lots / 23.0± Acres

Engineer / Surveyor: Preble – Rish, LLC
County

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

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

- 1) **submission of seven copies of the probated Final Plat of Stillwater Phase One;**
- 2) **dedication of 50-feet of right-of-way from the centerline of McFarland Road;**
and
- 3) **setback sufficient to provide 60-feet from the centerline of McFarland Road.**

However, as the plat had been recorded prior to the hearing, the extension is unnecessary, and therefore enforcement of the conditions is unenforceable.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2013-00023

PX Mobile Subdivision

3811 Airport Boulevard

(South side of Airport Boulevard, 215'± West of Downtowner Boulevard).

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

Engineer / Surveyor: Marshall A. McLeod
Council District 5

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

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

Hearing no opposition or discussion, a motion was made by Mr. Watkins, with second

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

- 1) retention of the 25' minimum building setback line along all street frontages;
- 2) labeling of the lot size in square feet and acres;
- 3) illustration of 200' minimum right-of-way for Airport Boulevard;
- 4) compliance with Engineering comments (*The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1. Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes). 2. Provide a signature block and signature from the Traffic Engineering Department. 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045).*)
- 5) compliance with Fire Department comments (*All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.*);
- 6) placement of a note on the Final Plat limiting the lot to one curb cut, with the size, location and design of curb cuts to be approved by Traffic Engineering and conform to AASHTO standards; and
- 7) placement of a note on the Final Plat stating that approval of all applicable Federal, state and local agencies is required for endangered, threatened or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities.

The motion carried unanimously, with Mr. Vallas recusing.

Case #SUB2013-00024

Howard & Jean's Place Subdivision

3201 & 3321 Bay Road

(Southwest corner of Bay Road and Dauphin Island Parkway).

Number of Lots / Acres: 3 Lots / 24.8± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

County

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

Jerry Byrd, 2609 Halls Mill Rd, spoke on behalf of the applicant. He stated he normally would not have a problem with the 25 foot radius but he did not feel like it was necessary. In 1965 the County condemned right-a-way for Bay Road and it appears the corner is cut off at a 45 degree angle. The condemnation is actually greater than the 25 foot radius; he requested that Condition 1 be re-worded to state either/or. He also

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requested that Condition 8 allow two curb-cuts to Bay Road and one to Dauphin Island Parkway.

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

- 1) **dedication to provide a curb radius compliant with Section V.D.6. of the Subdivision Regulations, or the existing right-of-way as obtained by condemnation, whichever is greater;**
- 2) **retention of the 25' minimum building setback line;**
- 3) **labeling of the lot size, in square feet and acres, or provision of a table on the Final Plat with the same information;**
- 4) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations;**
- 5) **placement of a note on the Final Plat stating the site must comply with the City of Mobile storm water and flood control ordinances: *(Must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the storm water detention and drainage facility requirements of the City of Mobile storm water and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the storm water detention and drainage facility requirements of the City of Mobile storm water and flood control ordinances prior to the issuance of any permits.)*;**
- 6) **compliance with Fire Department comments *(All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.)*;**
- 7) **placement of a note on the Final Plat stating approval of all applicable Federal, state and local agencies will be required prior to the issuance of any permits or land disturbance activities;**
- 8) **placement of a note on the Final Plat limiting Lots 1 and 2 to two curb cuts each to Bay Road and Lot 3 to two curb cuts to Bay Road and one curb cut Dauphin Island parkway, with the size, design, and location of the curb cuts to be approved by Mobile County Engineering and conform to AASHTO standards; and**
- 9) **placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities.**

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2013-00744

Bonnie Wells

1416 Azalea Road

(West side of Azalea Road, 315'± North of Halls Mill Road).

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

Council District 4

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

Bonnie Wells, 1416 Azalea Rd, spoke on her own behalf. She stated that the City of Mobile came to her and wanted her to do a PUD and she at the meeting the finalize it.

Mr. Plauche asked Ms. Wells if she was in agreement with the recommendations.

Ms. Wells responded that she had not seen them.

Mr. Vallas asked if all the buildings currently existed on the site and if she was making any changes.

Ms. Wells responded that all the buildings exist, she has owned them for 20 years and she is not making any changes.

Mr. Plauche asked Ms. Wells to please read the recommendations.

Mr. Williams asked Mr. Olsen if the last comment that states the site will be in full compliance is regardless of any improvements to the property.

Mr. Olsen answered that in essence anything that they do will have to comply. The reason this application came before the Commission is because there was a case in Environmental Court about some of the apartments on the site and it was determined that the multiple buildings were not approved through the proper process.

Ms. Wells stated that she was in agreement with the recommendations.

Mr. Gant asked about Condition 3, he stated the way the condition reads it states that if the Commission grants approval the applicant has to bring the existing buildings into Code compliance within in 6 months. He stated that the applicant implied they are not doing any work.

Mr. Olsen responded that this is relating to work that was done previously without proper permits which caused the applicant to go to Environmental Court.

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Mr. Watkins asked regardless if the staff approves the application or not is the applicant subject to that compliance requirement.

Mr. Olsen stated that was correct.

Mr. Hoffman stated that the application is one of the items of compliance that is required for the site. In 2009 representatives from the Electrical, Plumbing, Zoning, Mechanical, Building and Fire Code went to the site along with Judge Rose McPhillips to look at the property, they found numerous compliance issues and there have been reports of raw sewage on the property. So, even if it gets approved today by the Planning Commission there will still be numerous building code issues that they will have to address.

Mr. Plauche asked Ms. Wells if she understood.

Ms. Wells asked if there were a list she would be given.

Mr. Olsen responded that he would get with the Code Section of Urban Development and have a report printed out from the permitting software where there was a code case investigation generated.

Mr. Plauche informed Ms. Wells that she would receive a list.

Velesia Thomas, 1412 Azalea Rd, spoke in opposition to the matter and made the following points:

- A. Someone throws trash over into her yard
- B. Needs a privacy fence; people walk across her yard
- C. A cable line was down for over 6 months; had to call cable company repeatedly to have that taken care of
- D. Cars go through her yard
- E. Security is an issue
- F. Two women that live in her complex have been raped has a result of Ms. Wells allowing sex offenders to live in her property.
- G. The swat team has been out to Ms. Wells' property
- H. Loud music at 2:00 am
- I. Gun shots being fired
- J. Does not want any more buildings added to the property

Mr. Vallas informed Ms. Thomas that the applicant will not be allowed to add any more buildings based on what has been submitted, if anything it requires them to address some of the issues that were mentioned. He also informed Ms. Thomas that a lot of the other issues that she addressed were controlled by other departments other than the Planning Commission.

Mr. Plauche added that the Planning Commission does not have jurisdiction over a lot of

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the things Ms. Thomas addressed.

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

- 1) **Submission of an application for a one lot subdivision within 3 months of approval of the Planned Unit Development;**
- 2) **Compliance with Engineering comments** *(1. Any work, including grading, drainage, driveways, sidewalks, utility connections, irrigation, or landscaping performed in the existing Azalea Road ROW will require a City of Mobile ROW Permit. The City ROW permit may be obtained from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). 2. Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 3. Part of this parcel appears to be located within an AE and an X-shaded flood zone. The location of the flood zone and Minimum Finished Floor Elevation (MFFE) must be shown and labeled on the plat and PUD plan.);*
- 3) **Full compliance with all Building, Mechanical, Plumbing, Electrical and Fire Code requirements regarding the multi-family dwelling units, including the obtaining of all necessary permits to make required improvements, within 6 months of approval of the Planned Unit Development; and**
- 4) **Full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2013-00748

DAA Acquisition of Alabama

3030 McVay Drive North

(East side of McVay Drive North, 2/10± mile South of U.S. Highway 90)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site and reduced front landscaping requirements.

Council District 4

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

Hearing no opposition or discussion, a motion was made by Mr. DeMouy, with second

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

- 1) **revision of the site plan to indicate a compliant enclosure around and sanitary sewer connection for the proposed new dumpster location in the Phase Two area;**
- 2) **revision of the required parking calculations for the proposed building in the Phase Two area to be based upon Zoning Ordinance requirements and not Occupancy Class requirements;**
- 3) **placement of a note on the site plan stating that the placement of additional dumpsters on the site will require a new PUD submittal;**
- 4) **compliance with Traffic Engineering comments: (*Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards*);**
- 5) **compliance with Engineering comments: (*1. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). 2. Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 3. A complete set of construction plans for the site work – including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will be required to be submitted with the Land Disturbance permit. These plans are to be submitted and approved prior to beginning any of the construction work.*);**
- 6) **compliance with Fire Department comments: (*All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile*);**
- 7) **submission of two copies of a revised site plan to Planning indicating compliance with the above conditions;**
- 8) **full compliance with all municipal codes and ordinances; and**
- 9) **submission of a new PUD application prior to the construction of any proposed new buildings in the future.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2013-00025 (Subdivision)

Midtown Mobile Subdivision, Phase 2

West side of Mobile Infirmary Boulevard, 85'± North of Old Shell Road

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

Engineer / Surveyor: Jerry M. South

Council District 1

(Also see, Case #ZON2013-00752 (Rezoning) **Aronov Realty Management, Inc.** below)

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

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

Doug Anderson, Burr & Foreman Law firm, spoke on behalf of the applicant. He stated the last sentence on Condition 4 does not apply to this application, he believes Traffic Engineering was looking at the PUD that was approved for the North half of the block.

Ms. White stated that was correct.

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

- 1) **placement of the lot area size, in square feet, on the Final Plat or provision of a table on the Final Plat with the same information;**
- 2) **placement of the 25-foot minimum building line to be depicted along Mobile Infirmary Boulevard on the Final Plat;**
- 3) **compliance with Engineering comments: (1. Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes); 2. Provide a signature block and signature from the Traffic Engineering Department; 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045); and 4. According to FEMA this property is located within a Special Flood Hazard Area. You will need to show and label the flood hazard area(s) on your plat. Also, you will need to list the Minimum Finished Floor Elevation (MFFE) for each lot located within an X-shaded or AE flood zone.);**
- 4) **compliance with Traffic Engineering comments: (Driveway number, size, location and design to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards. An impact study will be required for this**

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location.);

- 5) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species; and
- 6) completion of the rezoning process.

The motion carried unanimously, with Mr. Vallas recusing.

Case #ZON2013-00752 (Rezoning)

Aronov Realty Management, Inc.

West side of Mobile Infirmary Boulevard, 85'± North of Old Shell Road

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

Council District 1

(Also see, Case #SUB2013-00025 (Subdivision) **Midtown Mobile Subdivision, Phase 2** above)

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

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

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

- 1) completion of subdivision process prior to the issuance of permits; and
- 2) full compliance with all municipal codes and ordinances.

The motion carried unanimously, with Mr. Vallas recusing.

Case #SUB2013-00027 (Subdivision)

Independent Living Center Subdivision

6750 Howells Ferry Road

(Northwest corner of Howells Ferry Road and Erdman Avenue).

Number of Lots / Acres: 1 Lot / 8.2± Acres

Engineer / Surveyor: Don Williams Engineering

Council District 7

(Also see, Case #ZON013-00754 (Rezoning) **Independent Living Center Subdivision** and Case #ZON2013-00755 (Planning Approval) **Independent Living Center Subdivision** below)

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

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

Robert Hill, 6600 Howells Ferry Rd, spoke in opposition to the matter and made the following points:

- A. Against having a business in a neighborhood
- B. The lot across the street was not allowed to be rezoned to B-1
- C. Does not want a driveway off of Erdman Rd.
- D. A retirement home was built on Howells Ferry Rd. and was only open about a year and now the building sits vacant

Mr. Plauche stated that the driveways off of Erdman currently exist; no new driveways will be added.

Don Williams, Williams Engineering, spoke on behalf of the applicant and made the following points:

- A. The Independent Living Center has been in Mobile for about 25 years
- B. According to the zoning ordinance they are essentially an adult daycare center
- C. The center helps intellectually and physically challenged citizens become more productive.
- D. The traffic will not increase
- E. Most people that come to the center do not drive; they ride the bus
- F. MTA bus service is extending a bus line for this facility
- G. Not associated with Orchard Assembly of God
- H. The center will not provide any overnight accommodations
- I. All activity will be inside the building
- J. Zoning has to change to B-1, because this type of activity is not allowed in a residential zoning
- K. Trees will be preserved and additional buffers will be provided
- L. A community meeting was held at the church
- M. Only one neighbor showed up to the meeting; who was supportive of the project

Mr. Watkins asked if the rezoning would be limited to just the adult daycare operation.

Mr. Olsen responded that it would be zoned B-1 forever and a conforming B-1 use that does not require planning approval would be able to be there by right.

Dr. Rivizzigno asked if the applicant could use the location as an adult daycare facility if they got a variance.

Mr. Olsen responded that they could apply to the Board of Zoning Adjustment for a variance, but the board should be presented with a hardship that keeps the property from being used as it currently allowed.

Dr. Rivizzigno then asked if the client was willing to put a restriction on the deed that

this is the only use. The problem is that once it is opened up to B-1 it could be anything.

Mr. Vallas stated that the types of business that are allowed in B-1 by right are typically less offensive uses.

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

- 1) **dedication to provide a 25' radius curve at the intersection of Howells Ferry Road and Erdman Avenue;**
- 2) **placement of a note on the Final Plat stating that access is denied to Magnolia Way (private street) and Howells Ferry Road;**
- 3) **placement of a note on the Final Plat stating that the site is limited to two curb cuts to Erdman Avenue, with the size, location, and design to be approved by Traffic Engineering, and conform to AASHTO standards;**
- 4) **revision of the plat to indicate a 25' minimum building setback line along Howells Ferry Road and Erdman Avenue;**
- 5) **revision of the plat to label the lot with its size in square feet and acres, or the furnishing of a table on the Final Plat providing the same information;**
- 6) **placement of a note on the on the Final Plat stating that a buffer, in compliance with Section V.A.8. of the Subdivision Regulations, must be provided where the lot adjoins residentially developed property;**
- 7) **placement of a note on the Final Plat stating that development of this site must be undertaken in compliance with all local, state and Federal regulations regarding endangered, threatened or otherwise protected species;**
- 8) **compliance with Traffic Engineering comments: (*Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards*);**
- 9) **compliance with Engineering comments: (*The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1. Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes). 2. Provide a signature block and signature from the Traffic Engineering Department. 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045)*);**
- 10) **compliance with Fire comments: (*All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.*);**
- 11) **compliance with Urban Forestry comments: (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64. Preservation status is to be given to the 60" Live Oak***

Tree located to the East side of existing Two-Story Metal Building. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger); and
12) submission of two (2) copies of a revised Planning Approval site plan prior to the signing of the Final Plat.

The motion carried with Mr. Turner, and Mr. Watkins voting in opposition.

Case #ZON013-00754 (Rezoning)
Independent Living Center Subdivision

6750 Howells Ferry Road

(Northwest corner of Howells Ferry Road and Erdman Avenue).

Rezoning from R-1, Single-Family Residential District, to B-1, Buffer-Business District to allow an adult daycare facility.

Council District 7

(Also see, **Case #SUB2013-00027 (Subdivision) Independent Living Center Subdivision** above and **Case #ZON2013-00755 (Planning Approval) Independent Living Center Subdivision** below)

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

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

- 1) **compliance with Urban Forestry comments:** *(Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64. Preservation status is to be given to the 60" Live Oak Tree located to the East side of existing Two-Story Metal Building. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger);*
- 2) **completion of the Subdivision process prior to any request for permits; and**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried with Mr. Turner, and Mr. Watkins voting in opposition.

Case #ZON2013-00755 (Planning Approval)
Independent Living Center Subdivision

6750 Howells Ferry Road

(Northwest corner of Howells Ferry Road and Erdman Avenue).

Planning Approval to allow an adult daycare facility.

Council District 7

(Also see, Case #SUB2013-00027 (Subdivision) Independent Living Center Subdivision above and Case #ZON013-00754 (Rezoning) Independent Living Center Subdivision above)

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

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

- 1) **compliance with Urban Forestry comments:** *(Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64. Preservation status is to be given to the 60" Live Oak Tree located to the East side of existing Two-Story Metal Building. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger);*
- 2) **compliance with Engineering comments:** *(The following comments should be addressed prior to review, acceptance and signature by the City Engineer:*
 1. *Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes).*
 2. *Provide a signature block and signature from the Traffic Engineering Department.*
 3. *Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045);*
- 3) **compliance with Traffic Engineering comments:** *(Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards);*
- 4) **compliance with Fire comments:** *(All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile.);*
- 5) **placement of a note on the site plan stating that the site is limited to two curb-cuts to Erdman Avenue, with the size, design and location to be approved by Traffic Engineering, and to comply with AASHTO standards;**
- 6) **placement of a note on the site plan stating that the site is denied access to Magnolia Way (private street), and Howells Ferry Road;**
- 7) **revision of the site plan to depict a 25'-minimum building setback line along Howells Ferry Road and Erdman Avenue;**
- 8) **dedication to provide a 25' radius curve at the intersection of Howells Ferry Road and Erdman Avenue;**
- 9) **revision of the site plan to indicate a compliant dumpster, or placement of a note on the site plan stating that no dumpster will be utilized and specifying what type of garbage collection will be utilized other than City-provided**

- services;
- 10) revision of the site plan to indicate full compliance with the parking, tree planting, landscaping and buffer requirements of the Zoning Ordinance;
 - 11) revision of the site plan to indicate a City standard sidewalk along Howells Ferry Road and Erdman Avenue, or the submittal and approval of a Sidewalk Waiver application;
 - 12) completion of the Subdivision process prior to any request for permits;
 - 13) full compliance with all municipal codes and ordinances; and
 - 14) submittal of two (2) copies of a revised Planning Approval site plan indicating compliance with the above conditions prior to signing the Final Plat.

The motion carried with only Mr. Watkins voting in opposition.

Case #SUB2013-00026 (Subdivision)

Airport-University Boulevard

254, 256 and 260 Dogwood Drive

(Southwest corner of Dogwood Drive and Airport Boulevard, extending to the Southeast corner of Airport Boulevard and South University Boulevard).

Number of Lots / Acres: 1 Lot / 2.42± Acres

Engineer / Surveyor: Adams Engineering

Council District 5

(Also see, Case #ZON2013-00753 (**Rezoning**) **Doug Anderson** below)

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

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

Doug Anderson, Burr & Foreman Law firm, spoke on behalf of the applicant and made the following points:

- A. The application was recommended for holdover but after meetings with the Traffic Engineer and the Urban Forester he felt as if they could work through those issues that were addressed in the conditions in the staff report.
- B. Many of the conditions dealt with site plan issues not zoning issues
- C. There are a lot of traffic questions with the application; Neither, Ms. White or Ms. Bergin with Traffic Engineering will be present at the next meeting. It will be helpful for one of them to present to discuss traffic issues
- D. Cannot rezone to a TB or a LB district because a drive-thru would not be allowed
- E. Trees will be protected
- F. Ms. White did not recommend for any changes be done to the right turn/merge lane on University Blvd.
- G. Condition 5 reads that an illustration is needed of a right in / left out only curb-cut on Dogwood; Ms. White stated that is physically impossible.

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- H. A compliant city sidewalk will be installed
- I. The applicant commits to building a 6ft high privacy fence and a minimum 50 ft buffer between the drive in parking on the south side and the south property line
- J. The drive-thru order station on the site plan is currently 114 ft from the south property line
- K. The Checkers at the loop was approved with the order station 22 ½ ft from R-1 property with very little buffering
- L. The site is the only corner on Airport Blvd at a major intersection that is not zoned either B-2 or B-3
- M. A Publix grocery store was approved to be built directly across the street from this location
- N. The Publix site has two accesses to residential streets; one on the north and one on the east for truck deliveries
- O. Publix will have a drive-thru pharmacy with an outdoor speaker
- P. The building on this site is proposed to be 5100 sq ft; Publix is 57,000 sq ft
- Q. Just like Publix it abuts residential property and is surrounding residential property
- R. All down Airport Blvd. you have R-1 properties abutting B-2; right across the street to the west you have the Regency shopping center abuts up to Regency subdivision.
- S. When Government Street Highlands subdivision was developed University Blvd did not even exist; Airport Blvd was only 4 lanes
- T. A traffic count was done on Dogwood; the exiting cars were 184 from Dogwood onto Airport, entering Dogwood from Airport were 196.
- U. They're 85 houses on Dogwood and less than 200 cars; that is a very low count
- V. No one would use this site as a R-1 site; because it is on the corner of Airport Blvd. and University Blvd.

Mr. Turner asked Mr. Anderson if the applicant had a meeting with the community to discuss this application.

Mr. Anderson stated that he did not; he had spoke with Reggie Copeland and Mr. Copeland had only received one phone call in opposition and saw no reason to hold a community meeting.

The following people spoke in opposition to the matter:

- Bill Rapier, 348 Dogwood Dr, Mobile;
- Albert Van Hoogmoed, 4655 Oakridge Rd, Mobile;
- David Brumbaugh, 358 Dogwood Dr, Mobile;
- Matthew Seeds, 437 Mantle Ct, Mobile;

They made the following points against the application:

- A. Before there was an Airport Blvd and a University Blvd there was a Government Street Highlands subdivision; the name was taken from Government street road which was later converted to Airport Blvd.

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- B. The neighborhood was incorporated into the City Limits in 1946
- C. They have several homeowners from the 1960's still living in the subdivision
- D. Second and Third generation homeowners have come back to where they were raised to raise their own families.
- E. Quality of life today is excellent; children in the neighborhood can ride their bikes in the streets
- F. Strolls with granddaughter to Airport Blvd and back and rarely encounters any traffic
- G. Urban Developments rules state that approval for rezoning should only be granted when there is a hardship related to the property that prevents the site from being used as it is currently zoned and will not impact the surrounding area
- H. This rezoning will have a tremendous negative impact on the area
- I. The three lots in question will be see a financial gain, the homeowners property values will decrease
- J. Will greatly increase traffic on Dogwood
- K. This particular corner is different than other comer lots on Airport Blvd.
- L. Traffic flows around this particular comer like a river
- M. It is the most dangerous intersection in the state
- N. When a there is an accident at Airport and University they tum into Dogwood to get out of traffic
- O. It will create an additional cut-thru
- P. According to the Press-Register 75,000 cars go through this intersection per day
- Q. There are over 100 fast-food restaurants within 5 miles of this site, 50 are burger joints
- R. Publix is being built across the street, but the impact it is going to make on the traffic is still unknown.
- S. The site that Publix is being built on was already a commercially zoned lot
- T. There are only 3 entrances and exits into the Government Street Highlands subdivision
- U. Lived in the neighborhood for 10 years and have invested a lot of time and money into, but if a fast –food restaurant goes in will put the house up for sale
- V. Worried about the safety of family and neighbors if this site is developed

Mr. Anderson stated that he felt like this intersection is not any different than the site at Airport Blvd. and Schillingers Rd. that just approved a PUD for a grocery store to go in. People have wrecks and people get hurt, but that is going to happen regardless if this site is developed or not. The same issues were looked into when Publix was approved. He then stated that a traffic impact study would be done to determine how many curb-cuts would go in on Dogwood.

Mr. DeMouy asked Mr. Anderson if he expects the traffic on Dogwood to continue to be around 180-190 cars per day.

Mr. Anderson responded that he would not say there will not be any additional cut-thru traffic; there will be an increase. But, with the three speed bumps on Dogwood he felt like it would be minimal.

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Mr. DeMouy stated that the big difference between this site and the Publix site is that there were about 18-20 houses that were bought from the people that would have been the immediate neighbors. This fast-food restaurant will still have residential across the street and next door to it. He agreed with one of the speakers in opposition that this quadrant is different from other sites; the site still has its residential integrity.

Mr. Anderson stated that there are still 8-10 R-1 single families directly across from Publix facing the brick wall.

Mr. Webster asked if there had been a traffic impact study done and what the daily customer load was expected to be.

Mr. Anderson stated that a study had not been done.

Mr. Webster asked if there had been a business plan done to know how many customers they would expect to come through.

Mr. Anderson responded that he was sure that his client's customer had done that but he did not have that information.

Mr. Webster then asked if Mr. Anderson had a guess.

Mr. Anderson stated that he did not.

In deliberation, Ms. Roberson asked if adding a traffic light on Dogwood Dr. would help the traffic situation.

Mr. Olsen responded that a traffic study would provide a lot of information that the staff does not currently have.

Mr. Turner stated that commercial was the best use for the lot, but it would push too much traffic into the neighborhood so he could not vote in favor of the application.

Mr. Williams asked if the only traffic that would be on Dogwood would be traffic turning right onto Airport.

Ms. White responded that the citizens of the neighborhood are concerned that when traffic is leaving the restaurant they will make a right out and go down Dogwood Dr. to access Oak Ridge Dr. so they can make a left out onto University Blvd. The impact is Dogwood Dr., not Airport Blvd. or University Blvd.

Mr. Gant stated that the next intersection where a gas station is located is very difficult to get in and out of; Publix works well because of the location of the curb-cuts and the way traffic flows, this site is proposing more of an issue because of the way it is situated.

Mr. Williams stated that everyone has to remember that traffic is not continuous. Residents leave at a certain time and businesses are used during a certain time, often times those are not the same time frames. So, 100 cars at 7:00 am going to work and additional 100 cars flowing at the rate at a different hour will not increase the demand on that intersection.

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

The motion carried seven to three, with Mr. Vallas recusing.

Case #ZON2013-00753 (Rezoning)

Doug Anderson

254, 256 and 260 Dogwood Drive

(Southwest corner of Dogwood Drive and Airport Boulevard, extending to the Southeast corner of Airport Boulevard and South University Boulevard).

Rezoning from R-1, Single-Family Residential District, to LB-2, Limited-Neighborhood Business District, to allow a restaurant.

Council District 5

(Also see, **Case #SUB2013-00026 (Subdivision) Airport-University Boulevard** above)

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

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

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

The motion carried seven to three, with Mr. Vallas recusing.

Case #SUB2013-00028 (Subdivision)

LLB&B Subdivision

North side of Old Shell Road, 335'± East of Cosgrove Drive.

Number of Lots / Acres: 1 Lot / 0.8± Acre

Engineer / Surveyor: Clark, Geer, Latham & Associates

Council District 7

(Also see, **Case #ZON2013-00749 (Rezoning) LLB&B** below)

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

Melissa Morrissette, LLB&B Real Estate, addressed the Commission and asked that all

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of the applications for LLB&B before the Commission that day be withdrawn.

Hearing no opposition or discussion, the Commission accepted the applicant's request to withdraw the matter.

Case #ZON2013-00749 (Rezoning)

LLB&B

North side of Old Shell Road, 335'± East of Cosgrove Drive.

Rezoning from R-1, Single-Family Residential District, to T-B, Transitional-Business District, to allow a real estate office.

Council District 7

(Also see, Case #SUB2013-00028 (Subdivision) **LLB&B Subdivision** above)

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

Melissa Morrissette, LLB&B Real Estate, addressed the Commission and asked that all of the applications for LLB&B before the Commission that day be withdrawn.

Hearing no opposition or discussion, the Commission accepted the applicant's request to withdraw the matter.

Case #SUB2013-00030 (Subdivision)

Snowden Place Subdivision

6103 Cottage Hill Road

(North side of Cottage Hill Road, 110'± East of Christopher Drive).

Number of Lots / Acres: 52 Lots / 13.3± Acres

Engineer / Surveyor: The Coleman Engineering Group of McCrory & Williams, Inc.

Council District 6

(Also see, Case #ZON2013-00866 (Planned Unit Development) **Snowden Place Subdivision** below)

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

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

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

- 1) compliance with Engineering Comments:** *(The following comments should be addressed prior to review, acceptance and signature by the City Engineer:*
 - 1. Provide all of the required information on the Final Plat (i.e. signature**

- blocks, signatures, certification statements, legal description, required notes).*
- 2. Provide a signature block and signature from the Traffic Engineering Department. 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17 , Ordinance #65-007 & #65-045). 4. Any work performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). 5. Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 6. A complete set of construction plans for the site work – including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will be required to be submitted with the Land Disturbance permit. These plans are to be submitted and approved prior to beginning any of the construction work.);*
- 2) compliance with Urban Forestry comments (Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status granted for all 50” and larger trees. All work under the canopies is to be permitted and coordinated with Urban Forestry, removal to be permitted by Urban Forestry only in the case of disease or impending danger. Exact curb cut locations and location of the proposed street should also be coordinated with Urban Forestry to ensure that no trees 50” and larger are effected.);**
 - 3) compliance with Fire comments (All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile);**
 - 4) compliance with Section VIII.E.2.c. through Section VIII.E.2.k. of the Subdivision Regulations, including the provision of notes on the plat, covenants, and certification letter from a licensed engineer;**
 - 5) placement of a note on the plat and site plan stating that the gate must remain operational and in use as a condition of the continuation of private street status;**
 - 6) retention of the note on the Final Plat regarding maintenance of all common areas by property owners;**
 - 7) placement of a note on the plat stating that each lot is limited to one (1) curb-cut onto the private street and denied direct access to Cottage Hill Road, and that the overall site is limited to two (2) access points as shown, with the location, size, and design to be approved by Traffic Engineering and comply with AASHTO standards;**

- 8) depiction of the 40-foot setback line from Cottage Hill Road, and the 15-foot setback line along the private street;
- 9) placement of a note on the Final Plat stating that each lot is limited to the site coverage depicted on the table on the plat, and will apply to the sum of all structures on each lot;
- 10) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities; and,
- 11) provision of and approval of a revised PUD site plan to the Planning Section of Urban Development prior to the signing of the Final Plat.

The motion carried seven to three, with Mr. Watkins recusing.

Case #ZON2013-00866 (Planned Unit Development)

Snowden Place Subdivision

6103 Cottage Hill Road

(North side of Cottage Hill Road, 110'± East of Christopher Drive).

Planned Unit Development Approval to amend a previously approved Planned Unit Development to change sideyard setbacks to 5-feet.

Council District 6

(Also see, Case #ZON2013-00866 (Planned Unit Development) **Snowden Place Subdivision** above)

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

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

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

- 1) completion of the Subdivision process;
- 2) revision of the site plan to no longer depict structures that have been or will be demolished as part of the redevelopment of the site.
- 3) compliance with Engineering Comments: *(The following comments should be addressed prior to review, acceptance and signature by the City Engineer: 1. Provide all of the required information on the Final Plat (i.e. signature blocks, signatures, certification statements, legal description, required notes). 2. Provide a signature block and signature from the Traffic Engineering Department. 3. Add a note to the Plat stating that storm water detention will be required for any future addition(s) and/or land disturbing activity in accordance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045). 4. Any work*

performed in the existing ROW (right-of-way) such as driveways, sidewalks, utility connections, grading, drainage, irrigation, or landscaping will require a ROW permit from the City of Mobile Engineering Department (208-6070) and must comply with the City of Mobile Right-of-Way Construction and Administration Ordinance (Mobile City Code, Chapter 57, Article VIII). 5. Any and all proposed development will need to be in conformance with the Storm Water Management and Flood Control Ordinance (Mobile City Code, Chapter 17, Ordinance #65-007 & #65-045); the City of Mobile, Alabama Flood Plain Management Plan (1984); and, the Rules For Erosion and Sedimentation Control and Storm Water Runoff Control. 6. A complete set of construction plans for the site work – including, but not limited to, drainage, utilities, grading, storm water detention systems, paving, and all above ground structures, will be required to be submitted with the Land Disturbance permit. These plans are to be submitted and approved prior to beginning any of the construction work.);

- 4) *compliance with Urban Forestry comments (Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status granted for all 50" and larger trees. All work under the canopies is to be permitted and coordinated with Urban Forestry, removal to be permitted by Urban Forestry only in the case of disease or impending danger. Exact curb cut locations and location of the proposed street should also be coordinated with Urban Forestry to ensure that no trees 50" and larger are effected.);*
- 5) *compliance with Fire comments (All projects within the City of Mobile Fire Jurisdiction must comply with the requirements of the 2009 International Fire Code, as adopted by the City of Mobile);*
- 6) *provision of the eleven proposed frontage trees along Cottage Hill Road, to be coordinated with Urban Forestry;*
- 7) *provision of a 6' high wooden privacy fence where the site adjoins existing R-1 zoned properties (East, North and West);*
- 8) *placement of a note on the site plan stating that each lot is limited to one (1) curb-cut onto the private street and denied direct access to Cottage Hill Road, and that the overall site is limited to two (2) access points as shown, with the location, size, and design to be approved by Traffic Engineering and comply with AASHTO standards;*
- 9) *compliance with Section VIII.E.2.c. through Section VIII.E.2.k. of the Subdivision Regulations, including the provision of notes on the site plan (as shown), covenants, and certification letters from a licensed engineer;*
- 10) *placement of a note on the site plan stating that the gate must remain operational and in use as a condition of the continuation of private street status (as shown);*
- 11) *depiction of the 40-foot setback line from Cottage Hill Road, and the 15-foot setback line along the private street;*
- 12) *inclusion of a note on the site plan stating that each lot is limited to the site coverage depicted on the table on the site plan, and will apply to the sum of*

- all structures on each lot;
- 13) placement of a note on the revised site plan stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities;
 - 14) provision of and approval of a revised PUD site plan to the Planning Section of Urban Development prior to the signing of the Subdivision plat; and
 - 15) full compliance with all other municipal codes and ordinances.

The motion carried seven to three, with Mr. Watkins recusing.

OTHER BUSINESS:

Mr. Olsen introduced the three new Planners and the new GIS Analyst to the Commission.

Hearing no further business, the meeting was adjourned.

APPROVED: October 3, 2013



Dr. Victoria Rivizzigno, Secretary



Terry Plauche, Chairman

jpw