

MOBILE CITY PLANNING COMMISSION
MEETING OF FEBRUARY 1, 2007 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William DeMouy
Nicholas Holmes
Mead Miller
John Vallas
James Watkins III

Members Absent

Ann Deakle
Clinton Johnson
Victoria L. Rivizzigno
Roosevelt Turner

Staff Present

Richard L. Olsen, Deputy Director of
 Planning
Bert Hoffman, Planner II
David Daughenbaugh, Urban Forestry
 Coordinator
Mae Sciple, Secretary II

Others Present

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

HOLDOVERS:

Case #SUB2006-00269

Woodberry Forest Subdivision, Unit One, Phase Two

North side of Woodberry Drive, 165'± West of Dawes Road.

3 Lots / 1.5± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 50 feet as measured from the centerline of Dawes Road;
- 2) placement of a note on the Final Plat stating that Lot 3 is limited to the existing curb cut onto Dawes Road, Lots 1 and 2 are limited to the one curb cut each onto Woodberry Drive, with the size, design and location of all curb cuts to be approved by the Mobile County Engineering Department;
- 3) dedication of an appropriate radius at the intersection of Dawes Road and Woodberry Drive, to be coordinated with the County Engineering Department;
- 4) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention and drainage facilities comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat; 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 #SUB2006-00272

Creekwood Subdivision, Unit III

South terminus of Ridgeline Drive.

27 Lots / 36.0± Acres

Don Coleman, with Rester and Coleman Engineers, was present on behalf of the applicant and requested that this application be held over.

After discussion a motion was made by Mr. Miller and seconded by Mr. Vallas to holdover this application until the March 1st meeting at the applicant's request.

The motion carried unanimously.

Case #SUB2006-00307

J. C. Lawrence Subdivision

2503 Old Shell Road and 37 Hurlbert Street

(South side of Old Shell Road, 60'± West of Hurlbert Street, extending to the West side of Hurlbert Street, 100'± South of Old Shell Road).

1 Lot / 0.3± Acre

Larry Jones was present representing the owner of the subject property. Rather than requiring the denial of access to Hurlbert Street as recommended by the staff, Mr. Jones requested that the condition be revised to require that the size, number and location of curb cuts be approved by the Traffic Engineer.

Mr. Olsen said the staff had no problem with that, if that was okay with Traffic Engineering.

Jennifer White, representing Traffic Engineering, said that would be acceptable.

There was no one present in opposition.

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

- 1) placement of a note on the Final Plat stating that the number, size, design and location of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) full compliance with the buffer requirements of the Ordinance;**
- 3) full compliance with landscaping and tree requirements on the expanded portion of the development; and**
- 4) the placement of the 25-foot minimum building setback line on the Final Plat.**

The motion carried unanimously.

Case #SUB2006-00298

Cole's Addition to Kingswood Subdivision

4586 Hawthorne Place and 57 Hawthorne Place North

(Northeast corner of Hawthorne Place and Hawthorne Place North).

4 Lots / 1.2± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

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

Lee Donald, a resident of 4598 Hawthorne Place, stated that she was present representing some of the neighbors, including Bill and Stephanie Jackson and Mr. and Mrs. Delashmet. Mrs. Donald said she that she, nor most of her neighbors, knew about the proposed subdivision until the previous day. For this reason, they requested that the application be held over to give them time to look into the matter and gain a better understanding of what was proposed. Mrs. Donald said they did not realize there would be garages in front of the proposed homes that would open so close to the street. The existing homes in the neighborhood consisted of mainly single-story, ranch style homes with large front yards and well-established trees. She had heard that if this subdivision were approved, other neighbors would sell their property and have their homes removed and subdivide their property into smaller lots. This would further change the overall appearance of the neighborhood and would make the area even more congested. Mrs. Donald noted that recently a resident in a neighboring subdivision wanted to subdivide their property into three lots that would be facing Bit 'N' Spur Road. The subdivision was

denied partly due to added traffic to Bit 'N' Spur Road, as well as to the neighborhood streets. The proposed subdivision would add four more houses, and although the lots would not directly face Bit 'N' Spur Road, the neighbors contended that additional traffic would have an adverse effect on the neighborhood. Mrs. Donald stated that they were not opposed to change but to the number and type of homes to be built on such small lots in a neighborhood that was not designed for the style homes proposed. She said if the proposed plan was changed to a maximum of three homes with the garages on the rear rather than in front of the homes, and a minimum square footage was required, they neighbors felt it would be a better fit to the original neighborhood's appearance. Some of the neighbors had lived in this neighborhood for over 35 years and had spent a lot of money on their home improvements. Mrs. Donald again requested that this application be held over so the neighbors could try to gain a better understanding of the proposal.

Mr. Plauche asked if there was anyone else present who wished to speak.

Matt Orrell, with Polysurveying, was present on behalf of the applicant. Mr. Orrell stated that they showed the proposed houses on the plat because the City asked them to demonstrate that they had enough room to build the houses. He said there were two houses on the property now, so they were only increasing it by two houses. These could be single-story or two-story houses, and he felt they would be well in line with the houses in the neighborhood.

Mr. Vallas suggested the applicant may want to consider some innovative type design with possibly a rear alleyway that may ease the concerns of the neighbors regarding garages opening onto the street.

Mr. Orrell said they were not requesting a holdover. He noted that the garages would be courtyard entry garages. They would be in front of the houses, but would not open to the street. There was also the possibility that the garages could be at the rear of the residences.

Bill Hinton, a resident of 3968 Wimbledon Park, stated that he was the realtor in charge of the subject property. Mr. Hinton said there were two old houses currently on the property. One was abandoned and one was a 1400 square foot house. He noted that this was a large piece of property and could easily hold four lots. They felt this subdivision would be a big improvement to the area. The proposed houses would be 2500 square feet on good size lots. Mr. Hinton felt a precedent had already been set in the neighborhood, as there were several houses that had been torn down and the property subdivided. He pointed out another example in the Hillwood Subdivision where two lots were divided into four properties, and he felt that turned out really nice. He also contended that two additional houses were not going to increase the traffic in the neighborhood. Mr. Hinton said he knew that a lot of the neighbors were for this subdivision. He noted that the people who were objecting to the subdivision were not direct neighbors to the property. The direct neighbors were not opposed. With the proposed houses selling for \$500,000 in a subdivision where the existing houses sell for \$200,000, he felt this would improve property values. Mr. Hinton requested that the Commission act on this application today.

In deliberation session Mr. Miller stated that the proposed subdivision did not really seem in character with the neighborhood, however, there were two lots just down the street that had been subdivided. He asked if the proposed lots met the minimum requirements.

Mr. Olsen said the lots did meet the minimum requirements of the Subdivision Regulations.

John Lawler stated that there had been two cases out of Mobile - in the Spring Hill area - that involved taking a house down and creating more lots. One was Smith vs the Mobile City Planning Commission, and the other was the Nugen case. Those cases went to the Court of Civil Appeals. The court ruled that just being "out of character" was not enough for denying a subdivision. If, however, property owners come in and they can actually demonstrate that their property would be negatively impacted, that is, losing value because of the subdivision, then that might form the basis of a denial. In the case in Pinehurst, the developer just wanted to turn some lots around so they would be on a paved street so they could be developed. The Planning Commission approved it. The neighbors objected, saying the subdivision would not be in character with the neighborhood and traffic would increase, which, in his opinion, did not really present a very good case for denial. That case went to the Circuit Court. The Circuit Court reversed the action of the Planning Commission. It went to the Court of Civil Appeals, and the Court of Civil Appeals affirmed it. Mr. Lawler said that in reading these cases, he gets the impression that the Planning Commission needs to make a finding to form the basis of a denial. If, for instance, the Commission found from the facts presented that there really would be a negative impact, that property would depreciate in value because of the subdivision, then that could form the basis of denial. Mr. Lawler said that in the Nugen case, the Court went on to say that the developer, when he presented his case, he and an M.A.I. appraiser said that the subdivided lots would not depreciate the surrounding properties, and that the neighbors only had fears of the change. There was another case in the Spring Hill area where it was felt the subdivision should have been denied because of traffic. Mr. Lawler said traffic could form the basis of a denial, but you would have to have some facts, such as a traffic study, to back that up. That being said, Mr. Lawler felt it would be difficult in this case for the neighbors to attack an approval. On the other hand, he felt that once the Planning Commission makes it final, that gives some weight.

Mr. Miller said if they could take the developer at his word that these would be \$400,000-\$500,000 houses, it would be hard to say it would hurt the neighborhood. He said it was kind of a slippery slope when you have a nice neighborhood like this, but he would feel better if there were three lots proposed instead of four.

Mr. Lawler further commented that the Commission could perhaps decide that three lots would be better than four. He said subdivision approval also includes the arrangement of the lots, although he had not seen a lot of cases address that, but the literature does address it. He said the whole idea was that you cannot tell people they cannot subdivide

and develop their property as long as they meet certain requirements, but you cannot be arbitrary and turn it down either.

Referring to the plat, Mr. Vallas pointed out the amount of road frontage for the proposed subdivision, and said if you drew lines in to separate it, their frontage would almost match up with some of the other frontage lots in this subdivision. Some have a lot of frontage, and others do not have as much. He said he did not have a problem with four lots.

Mr. Watkins asked staff to explain why the footprints were shown on the plat.

Mr. Olsen explained that the staff had concerns because the property lines were not at right angles to the front property line as required by the Subdivision Regulations, and they were concerned about actual buildable area on the lots once the standard setbacks were imposed on those properties. That was the reason they asked the developer to show the footprints on the plat. He said the staff recommendation on approval was that the required **setbacks** be shown on the plat, not the building outlines as presented, so the purchasers of the lots would know the parameters under which those lots could be developed.

Mr. Watkins asked if the staff had any idea what the buildable area was within the setbacks.

Mr. Olsen said the developer did not provide that information, but given the variety of configurations they could use in the design, they could easily obtain the square footage they were talking about, and potentially even provide garages in the rear as was discussed. He said that, obviously, with the amount of vacant land otherwise on the plat, they could still reconfigure the lots, maintain the setbacks, as well as maintain the 35 percent site coverage that is allowed in R-1. He noted that the buildings shown were actually 40 feet wide.

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

- 1) revision of the plat to label each lot in square feet, or provision of a table on the plat depicting the same information; and**
- 2) illustration of setbacks on the final plat as shown on the revised plat submitted.**

The motion carried unanimously.

Case #SUB2006-00302
Hadley Subdivision
8125 Fordham Road

(Southeast corner of Leroy Stevens Road and Fordham Road).
4 Lots / 4.2± Acres

Don Williams, Williams Engineering, was present on behalf of the applicant. Mr. Williams said this plan was submitted last month for the subdivision of this 4.2 acre parcel into four lots. The neighbors came to the meeting and objected to the size of the proposed lots. Mr. Hadley had since decided to revise the plan, and therefore they were requesting a two-week holdover. They plan to submit a new proposal for a subdivision of three lots, two of which would be 1.14 acres each. Mr. Williams said there were eight other lots in the neighborhood that were of that same size. He said he had extra copies of the revised plan to distribute to the neighbors if they would like to see it.

Mr. Olsen said that in order to hear the revised application on February 15th, the revised plat and other necessary information would have to be presented to the Planning staff tomorrow, February 2, in order to give the staff time to review the plan.

Mr. Williams said he could submit the revised plat to the staff today, but would have to submit the necessary paperwork the next day.

Mr. Plauche stated that the applicant had asked for a holdover, but if anyone was present and wished to speak at this time, they could do so.

Neil Herrington, a resident of 8312 Fordham Road, stated that the neighbors were strongly opposed to the proposed subdivision simply because of the lay of the land. Mr. Herrington stated that the neighborhood covenants prohibited the subdivision of Mr. Hadley's property as proposed. He said the covenants on this subdivision were a contract signed by all of the residents of this neighborhood when they bought their property, and it was their way of playing it safe that the property would be maintained as it was. They did not think it would be right to allow Mr. Hadley to violate the covenants when all the other residents had to abide by them. Mr. Herrington asked that the Board take another look at this proposal and deny approval unless Mr. Hadley conforms to the neighborhood requirements. He said there were other neighbors present who would also like to speak.

Thomas Sutton, a resident of 3764 Leroy Stevens Road, stated that he lived directly across from the proposed subdivision. Mr. Sutton said he had lived at this location for 35 years and all of the residents of this subdivision had worked together to try to keep the integrity of the neighborhood. This was a rural neighborhood, and the residents would like it to stay that way. They felt the proposed subdivision would devalue their property. Mr. Sutton said he had lived across from Mrs. Wilson, who originally owned the subject property and now owned the property just to the right of that. He said Mrs. Wilson's husband died when he was still young and left Mrs. Wilson with three children to raise. She went back to school and obtained a nurse's certificate so she could bring up her family. Eventually, she had to sell the property now owned by Mr. Hadley. Mr. Sutton said it never crossed her mind that she would subdivide this property to get more money, because she knew that was not the thing to do and she wanted to keep the integrity of the

property and satisfy everyone in the community. Mr. Sutton asked that the Commission take these things into consideration and deny this subdivision.

Lee Patrick stated that he was a resident of 7920 Fordham Road, which was just past the little curve that can't really be seen on the plat. Mrs. Patrick said when they bought their property in August of 1999 it was a dream come true. They felt that to own such a beautiful piece of Mobile was unbelievable. She said it was evident as you drove through the subdivision that it was loved by the owners. Mrs. Patrick said when they were researching different properties they knew to look for restrictions, as that was how to maintain the integrity of any area. When they found their property they studied the covenants and felt good about buying the 2 1/2 acres, which was the minimum you could purchase. They agreed with the covenants and knew what they were signing and the protections and restrictions it would place on their lives. They never dreamed that someone would purchase property in the subdivision and immediately subdivide the property and change the whole neighborhood. They felt the approval of this subdivision would undo all the hard work the neighbors had done over the years. Mrs. Patrick pointed out that many of the residents who lived along Fordham Road, Leroy Stevens Road and Hilltop Street were elderly and had lived there most of their lives. They had devoted their lives to maintaining the beauty of the land and respecting the habitat of the animals that had been there before the area was developed. They enjoyed the wildlife in the area and the natural ponds, and felt it was not an area to overpopulate with structures. Mrs. Patrick said she was also a lover of nature and respects the natural beauty that they had been blessed with. This proposed subdivision had caused a lot of anxiety among the neighbors, many of whom were elderly, and she felt they should not be burdened with the matter any longer than necessary. Mrs. Patrick asked the residents who had come to oppose this subdivision to stand. (A large contingent of residents stood.) She said there were many who could not come to the meeting because they had to work or because they were homebound. They just wanted Mr. Hadley to abide by the same covenants that they did, and asked that the Commission stand behind them.

Virginia Roundtree, a resident of 8035 Hilltop Street, stated that the opposition in their neighborhood to Hadley Subdivision was both strong and widespread. She said the subdivision was totally out of character with their neighborhood. All the lots in the area were estate size lots. The proposed subdivision has lots 100 feet by 150 feet, which were barely large enough for a trailer. Mrs. Roundtree said they purchased their homes and lots in this area because it was the kind of setting they wanted to live in. They wanted space around them, peace, quiet and privacy, which the large lots provided. They had all been willing to pay the higher price for such a setting. They had developed and maintained the large lots and paid higher property taxes. They had invested their life savings and years of hard work to develop the neighborhood, and now Hadley Subdivision threatened all of that. As a previous speaker mentioned, the proposed subdivision violates one of the restrictive covenants of the subdivision. Most of the property in the area had the same restrictions, which were: (1) No dwelling shall be built on fewer than 2 1/2 acres; (2) no trailers or temporary buildings are permitted; and (3) a dwelling must have a minimum of 1500 square feet of living area. Mrs. Roundtree said Hadley Subdivision was 4.2 acres and could not be divided at all to be in compliance

with the first restrictive covenant. A 100- by 150-foot lot was far less than the minimum 2 1/2 acres required for each dwelling. Mr. Hadley knew the rules when he purchased his property, so in fairness to the other residents of the subdivision, he needed either to abide by the rules or else locate other property that is suitable for his purposes. The other residents valued the restrictive covenants and had honored them, and in fact bought in the area because of them. Mrs. Roundtree said another reason they asked that this subdivision be denied was that approval would set a precedent in breaking the restrictive covenants and make it much easier for the next person who wanted to break the covenants and thereby degrade their neighborhood. Another reason for denial was that it would significantly decrease the value of their property. The estate size lots and the spaciousness were perhaps the most appealing characteristics of the neighborhood. Finally, Mrs. Roundtree said the approval of this subdivision could well be the beginning of the ruin of their neighborhood as they know it and have worked to maintain for a large part of their lives. They felt it would infringe on their rights to enjoy their property as they have, and hope to do in the future. She pleaded with the Commission to deny this plan.

Mr. Plauche asked if there were any questions or comments from the Commission members.

Mr. Miller commented that if he wasn't so happy on Crenshaw Street he might move to their neighborhood, as they seem like a good group of people. He said he also realized that driving from Leroy Stevens Road was probably not a great pleasure on a day like today (raining and windy), and apologized for that. Mr. Miller further stated that the Commission sees the development community every day, but they were here to serve the people and they listen very much to what they have to say and he remembered what they said at the last meeting. If they could not make the next meeting in two weeks, he assured them that he would remember their comments today in considering this subdivision. Mr. Miller further stated that Don Williams, who spoke earlier on behalf of the applicant, was a super nice guy and very professional, and it was his job to represent Mr. Hadley. He felt Mr. Williams would be glad to meet with the residents and talk to them about the proposal. Mr. Miller said he certainly would not vote in favor of the proposed four-lot subdivision, but he would be willing to consider another proposal. Mr. Miller thanked the residents for coming out and participating in this process.

In further comments, Mrs. Roundtree wanted to give the Commission some idea of how hard some of the residents had worked in this neighborhood. Many of them bought their property and cleared it by hand so that they could preserve the natural beauty. Many, including she and her husband, built their own houses. They had put their life's work into this area and it really wrenches their hearts to see somebody come and try to commercialize on it and ruin what they have developed.

Mr. DeMouy asked Mr. Lawler if he was familiar with the covenants referred to by the residents.

Mr. Lawler stated that the Alabama courts had ruled that Planning Commissions have no jurisdiction over restrictive covenants. That does not mean the covenants may not be good. They may in fact prohibit exactly what the applicant would like to do, but the Circuit Court was the place to enforce the covenants. The Planning Commission does not have the power to interpret the covenants. He said the reason for that was that covenants, like everything, were not forever. Sometimes covenants, because they have been ignored or for other reasons, were no longer valid. The Planning Commission, however, was not a judicial body in that sense where that decision can be made. That had to be made in court. Mr. Lawler said he had seen, in situations such as this, the Planning Commission, following its regulations, has allowed a subdivision, and then people who wanted to enforce the covenants have petitioned in the Circuit Court for an injunction prohibiting the subdivision and requiring the property owner to abide by the covenants. The Planning Commission is not a court and does not have the power to interpret covenants.

Mr. Watkins asked Mr. Lawler if the Planning Commission had the authority to look at this application without respect to whether the covenants were valid or invalid, and based on the Subdivision Regulations which the Commission has to abide by, make a determination as to the characteristics of the subdivision in conjunction with the characteristics of the surrounding property.

Mr. Lawler said Mr. Watkins was correct.

After discussion a motion was made by Mr. Miller and seconded by Mr. Vallas to holdover this application until the February 15th meeting at the applicant's request.

The motion carried unanimously.

Case #SUB2006-00306

Rangeline Road Subdivision

5064 Rangeline Road

(West side of Rangeline Road at Downey Drive, extending to the North side of Downey Drive Extension right-of-way [to be vacated]).

7 Lots / 4.1± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. Vallas and seconded by Mr. Holmes, to waive Section V.D.3. and approve the above referenced subdivision subject to the vacation of Downey Drive Extension and the following conditions:

- 1) placement of a note on the final plat stating that each lot is limited to one curb cut each onto the service road for Rangeline Road, with the size, design and location to be approved by the Mobile County Engineering**

- Department and ALDOT;**
- 2) depiction and labeling of the 25-foot minimum building setback line along the service road for Rangeline Road;**
 - 3) placement of a note on the plat stating such, and provision of a letter from a licensed engineer to the Mobile County Engineering Department certifying compliance with the City of Mobile's stormwater and flood control ordinances prior to the issuance of permits for site work, new building construction or building expansion;**
 - 4) approval of all applicable federal, state and local agencies regarding the wetlands and floodplain issues prior to the issuance of any permits or land disturbance activities;**
 - 5) revision of the plat to depict the minimum finished floor elevations for each lot and the flood zone(s);**
 - 6) labeling of the lot size in square feet on the plat, or provision of a table on the plat with the same information; and**
 - 7) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations.**

The motion carried unanimously.

Case #ZON2006-01380

Tommy Brooks

North side of Howells Ferry Road, extending North to Garrow Avenue, and West to Erdman Avenue.

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

Neither the applicant nor his representative were present.

Mr. Watkins asked if this had been dealt with by the Board of Zoning Adjustment.

Mr. Olsen said the staff had been told that there may be an application for a variance forthcoming, but he did not think anything had been submitted yet.

Mr. Watkins asked what their best course of action would be.

Mr. Olsen said that if the Commission were to deny the application as recommended, there was no time limit or waiting period for them to file for a variance. It would only be waiting period for them to re-file for rezoning on this property.

After discussion a motion was made by Mr. Holmes and seconded by Mr. Miller to deny this change in zoning to the City Council.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2005-00013

Pecan Pointe Subdivision (formerly Southland Park Subdivision)

10245 Howells Ferry Road

(South side of Howells Ferry Road, 1,850'± West of Raymond Tanner Road, extending to the North side of Raymond Tanner Road, 800'± West of Howells Ferry Road).

37 Lots / 18.0± Acres

Neither the applicant nor his representative were present in this matter. Mr. Plauche stated that the request was recommended for denial.

After discussion a motion was made by Mr. Watkins and seconded by Mr. DeMouy to deny this request for extension of previous approval.

The motion carried unanimously.

Case #SUB2005-00224

The Rock Church Subdivision

6245 Old Rangeline Road

(East side of Old Rangeline Road, 1,030'± North of Hurricane Bay Drive).

8 Lots / 44.0± Acres

Mr. Plauche stated that the application was recommended for approval. It was not clear whether or not anyone was present on behalf of the applicant.

After discussion a motion was made by Mr. Plauche and seconded by Mr. DeMouy to grant a one-year extension of approval for the above referenced subdivision. However, a second extension is unlikely.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2007-00001

Hillwood Subdivision, Resubdivision of Lot 1, Revised

159 Hillwood Road

(Southwest corner of Old Shell Road and Hillwood Road).

2 Lots / 1.7± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) **the placement of a note on the Final Plat stating that Lot A is limited to the existing curb-cut onto Hillwood Avenue and Lot B is limited to the existing curb-cut onto Old Shell Road, with the size, design to be approved by Traffic Engineering, and comply with AASHTO standards;**
- 2) **labeling of the lot with its size in square feet, or provision of a table on the plat with the same information; and**
- 3) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2007-00007

Wildwood Glen Subdivision

1931 Wildwood Place

(East side of Wildwood Place, 167'± South of Fairfield Place).

2 Lots / 9.0± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

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

Dr. Leonald Aldes, a resident of 5589 Fairfield Place, stated that Fairfield Place was a new subdivision with a single cul-de-sac street that appears to be contiguous with the proposed plan. Dr. Aldes said he and his wife had been out of town and discovered the notice of this hearing when they returned last week. Dr. Aldes said one of the reasons they purchased their lot in the past year was because of the natural back yard area. A bayou cuts through the back of the property. Before they bought the property they inquired about the forested area behind them and were told that there were no plans to develop it. They had heard, in fact, that the owner was going to be planting more in that area to keep it in the wooded stated it was in, so they were very surprised to learn that something was going to be built there. They had no idea whether it would be houses or what.

Mr. Plauche stated that the staff report indicated that the property was going to be resubdivided into two lots to allow the residents to build a pool house.

Mr. Olsen further explained that the applicants were proposing to make a separate lot on the south side of their property for a pool house. Since the pool house will contain kitchen and bath facilities, under the definitions of the Zoning Ordinance it constitutes a separate dwelling unit. The Zoning Ordinance does not allow two dwelling units on one parcel in an R-1 district. The applicants were required, therefore, to file for a subdivision to create this separate lot for the pool house / guest house.

Mr. Aldes asked if that information was in the packet sent out.

Mr. Olsen said no. The adjoining property owners receive a notice telling them of the application and the hearing date. The notice should have contained a contact name phone number, and the website address so anyone who wished could review the report.

Dr. Aldes said from looking out in their back property there appeared to be some orange flags and markers that were directly contiguous with part of their property that extends across the bayou beyond the easement, and there was a steep hill there. He said it was their intention to further develop the wild plants and things in that area. In fact, they had already purchased some plants. They would like to know what impact the proposed building would have on their piece of property toward the lower end of the hill. Dr. Aldes said they were neither for nor against the subdivision, and asked that the Commission consider a holdover so that they, as well as some of the other neighbors, could investigate this a little more fully.

Regarding Dr. Aldes comment that they planned to further develop the wild plants in the area, Mr. Plauche asked if was referring to property that was within his boundary line, or property that he did not own that just happened to back up to his property.

Dr. Aldes said he was referring to planting within their boundary line. It would be the area contiguous to their property.

Mr. Plauche said the Commission would take that into consideration when they voted.

Janice Tanner, owner of the subject property, stated that she would like to put some of the neighbors at ease by pointing out that the proposed building would not border Fairfield Place at all. Mrs. Tanner said the former owner owned all of Fairfield Place, plus the property she purchased. She agreed that Fairfield Place did enjoy a beautiful view, because the former owner was a gardener. That was the reason they bought their property, and they loved it and were taking care of it the best they knew how, and did not intend to cut anything down. They simply wanted to put a small building next to their house. This site was 300-400 feet away from any anyone else's property. The orange flags referred to were survey marks and had nothing to do with any building they proposed. Mrs. Tanner said this was a nine-acre plot in the middle of town that they paid dearly for because they loved it. She said they would like to get started because they had waited a long, long time just to get approval. She said she would be glad to talk to any of the neighbors. They could walk over and speak and they could share camellias.

Dr. Aldes thanked Mrs. Tanner for the explanation. Now that he understood what was intended, he withdrew his request for a holdover.

There being no one else to speak in this matter, the Commission went into deliberation session.

There being no further discussion, a motion was made by Mr. Holmes and seconded by Mr. Vallas to waive Sections V.D.1. and V.D.3. of the Subdivision Regulations and approve the above referenced subdivision subject to the following conditions:

- 1) full compliance with Engineering comments (*Show exact location of drainage easement on final plat. Show limits of flood zone and flood way on plat. Show minimum finished floor elevation of affected lots on plat. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit.*);**
- 2) placement of a note on the final plat stating that Lot 1 is limited to two curb cuts to Wildwood Place and denied access to Panorama Drive until such time it is improved to city standards, and that Lot 2 is limited to one curb cut to Wildwood Place, with the size, design and location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 3) placement of the legal description on the plat and labeling of the right-of-way widths on the plat;**
- 4) labeling of each lot with its size in square feet;**
- 5) recording of the plat prior to the obtaining building permits; and**
- 6) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2007-00002

Nelson Estates Subdivision

2338 Leroy Stevens Road

(West side of Leroy Stevens Road at the West terminus of Danielle Drive).

12 Lots / 5.0± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. DeMouy and seconded by Mr. Plauche to approve referenced subdivision subject to the following conditions:

- 1) dedication and construction of new roads to meet County Engineering Standards;**
- 2) the placement of a note on the final plat stating that Lots 1 and 12 are denied direct access to Leroy Stevens Road;**
- 3) the dedication of a sufficient radius at Leroy Stevens Road and the new street as determined by County Engineering;**
- 4) placement of a note on the Final Plat stating that the maintenance of all common areas are the responsibility of the property owners;**
- 5) the placement of a note on the final plat stating that any property that is**

- developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and**
- 6) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development and the Mobile County Engineering Department, certifying that the stormwater detention and drainage facilities comply with the City of Mobile stormwater and flood control ordinances prior to the signing and recording of the final plat.**

The motion carried unanimously.

Case #SUB2007-00003

Grande Oaks at Hillcrest Subdivision

2709 Hillcrest Road

(East side of Hillcrest Road, at the East terminus of Angela Court).

12 Lots / 5.4± Acres

Mr. Plauche announced that this application was scheduled for holdover until the March 1st meeting, but if anyone was present who wished to speak at this time they could do so.

Lawrence Wilson, with Austin Engineering, was present in this matter, as well as Bonnie Colley, representing the applicant. Mr. Wilson requested that the application be heard today. Ms. Colley said she had talked to Mr. Olsen briefly about this. She explained that this was approved when Steve Brewer was doing The Summit last May. It reflects the same access to the landlocked piece of property that Mr. Lloyd owns. Ms. Colley said she did not think Mr. Lloyd ever attended any of the meetings and obviously was not concerned. With the help of Mr. Coleman, who argued the case last year, according to the deed they found the property was first subdivided in 1938. It was family property and was landlocked before Mr. Lloyd inherited it. Ms. Colley said they had no problems with any of the other regulations or requirements required by the staff, but they had people working to clear the property and they would just request it not be held over. With respect to all the work Mr. Coleman had to research previously, they would ask the same waiver.

Mr. Vallas asked Mr. Olsen if the applicant was offering the 15-foot easement, or was that something the staff was requesting.

Mr. Olsen said the 15-foot easement was on the plat submitted, but that easement was not really to that property to the south, but it was to their common area / detention area to provide access to that for maintenance. The previous application that Ms. Colley was referring to included additional properties to the north, and proposed more lots. They had reduced the overall property, but the basic layout was very similar with the cul-de-sac coming down in this area (indicating on the plat). The staff recommended a street stub, which was a requirement of the regulations, but if the Commission chose to look at it this time as they did roughly a year or a year-and-a-half ago, the staff would recommend the same conditions that were placed on that previous approval. Basically, the

conditions were full compliance with Urban Forestry comment; and full compliance with City Engineering comments; construction and dedication of the new street to City Engineering standards; placement of a note on the final plat stating that direct access to Hillcrest Road is denied to all lots; and a note stating that the maintenance of the common areas is the responsibility of the property owners.

Mr. Plauche asked if the applicant would be agreeable to those conditions.

Ms. Colley said absolutely.

Mr. Plauche asked if there were any questions by Commission members.

With reference to the common area / detention area shown on the plat, Mr. Watkins asked Mr. Lawler if it would do any good to put a note on the plat stating that that was a non-exclusive easement, so that if a landowner ever needed it, he would at least have 15 feet.

Mr. Vallas noted that it may not run all the way to the property line, but may end at the detention / common area.

Mr. Lawler said it did not go to the property line, but he assumed that if someone owned that property and wanted to condemn a path, it would seem that would be the path they would follow.

Mr. Watkins said if they would go to a private condemnation they would get a 10-foot easement there anyway. That would make him feel a little better about approving it, if the applicant understood and would agree to that.

Ms. Colley said she could understand the non-exclusive easement, but she would not want whomever would be back there to be going through their subdivision. She also said that the common area could possibly change later on.

Mr. Watkins asked what was decided on the landlocked parcel when it came up last time.

From his recollection and his brief review of the file after to speaking to Ms. Colley, Mr. Olsen said that Mr. Coleman pointed out that the property to the south had a driveway and easement, which he pointed out on the plat.

Ms. Colley said she though Mr. Sewell owned the property he was referring to and that he had given an easement to a Mr. Barfield.

In deliberation session there was brief discussion in which it was clarified that there was an easement to the landlocked property to the south.

After discussion a motion was made by Mr. Miller and Seconded by Mr. Vallas to

approve the above referenced subdivision subject to the following conditions:

- 1) **full 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 48” Live Oak Tree located on the South West corner of Lot 1, the 60” Live Oak Tree located on the South side of Lot 3, the 56” Live Oak Tree located on the South West corner of lot 4, the 76” Live Oak Tree located on the North East corner of Lot 7, the 48” Live Oak Tree located on the South East corner of Lot 8 and the 54” Live Oak Tree located on the West side of Lot 10. Any work on or under these trees are to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*];
- 2) **full compliance with Engineering comments** [*No water can be concentrated onto an adjacent property without a hold harmless agreement. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit.*]
- 3) **construction and dedication of new street to City Engineering standards;**
- 4) **placement of a note on the final plat stating that direct access to Hillcrest Road is denied for all lots;**
- 5) **placement of a note on the final plat stating that the maintenance of all common areas is the responsibility of the property owners.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2006-00317 (Subdivision)

Carriage Towne Subdivision

6360 Cottage Hill Road

(North side of Cottage Hill Road, 170'± East of Hillcrest Road and East side of Hillcrest Road, 174'± South of Christopher Drive, and extending to the South terminus of Hillcrest Service Road).

2 Lots / 4.8± Acres

(Also see **Case #ZON2006-02753 (Planned Unit Development) - Carriage Towne Subdivision** - below.)

Doug Anderson, with the law firm of Bowron, Latta & Wasden, was present representing the applicant/owner of the subject property. Regarding condition #1 of the staff recommendations limiting lots 1 and 2 to the existing curb cuts, Mr. Anderson pointed out on the site plan that they currently had two curb cuts on Cottage Hill Road. He spoke with Mr. Olsen about this yesterday, and told him that they planned to relocate one of those curb cuts toward the east away from the intersection.

Mr. Olsen said the staff had no problem with that change to the existing number, with the proviso that relocated curb cuts size, location and design be approved by Traffic Engineering.

Mr. Anderson agreed with the revised condition.

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

- 1) **placement of a note on the final plat stating that Lots 1 and 2 are limited to the existing number of curb-cuts, with the size, design and location of any curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2006-02753 (Planned Unit Development)

Carriage Towne Subdivision

6360 Cottage Hill Road

(North side of Cottage Hill Road, 170'± East of Hillcrest Road and East side of Hillcrest Road, 174'± South of Christopher Drive, and extending to the South terminus of Hillcrest Service Road).

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

Doug Anderson, with the law firm of Bowron, Latta & Wasden, was present representing the applicant/owner of the subject property.

(For discussion see **Case #SUB2006-00317 (Subdivision) - Carriage Towne Subdivision** - above.)

After discussion a motion was made by Mr. Watkins and seconded by Mr. Miller to approve this plan subject to the following conditions: to approve this plan subject to the following conditions:

- 1) **completion of the subdivision process;**
- 2) **provision of the required buffer fence where the site abuts residentially zoned properties;**
- 3) **any significant changes to the site development will necessitate approval of an amended PUD by the Planning Commission, to include all properties involved/effected;**
- 4) **full compliance with landscaping and tree requirements for Lot 1; and**
- 5) **full compliance with all municipal codes and ordinances, including but not limited to sign number, location and size.**

The motion carried unanimously.

Case #SUB2007-00004 (Subdivision)

Snowden Place Subdivision

6106 Cottage Hill Road

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

16 Lots / 13.3± Acres

Mr. Plauche announced that this application was recommended for holdover to the March 15th meeting, but if anybody was present and wished to speak today they could do so.

(Also see **Case #ZON2007-00054 (Planned Unit Development) - Snowden Place Subdivision** - below; and **Case #ZON2007-00055 (Rezoning) - Reid Cummings** - below.)

There was no one present to speak.

A motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the March 15th meeting, with revisions due to Urban Development by February 21st, to accommodate the PUD revisions, and the following requirements:

- 1) **revision of the plat to address Engineering Comments;**
- 2) **revision of the plat to address Forestry Comments;**
- 3) **placement of a note on the plat stating that the approval of all applicable federal, state and local agencies is required prior to the issuance of any permits or land disturbance activities**
- 4) **placement of a note on the site plan and subdivision plat stating that all lots are denied direct access to Cottage Hill Road, that lots 1-15 are limited to one curb-cut each and that lot 16 is limited to three curb-cuts, and that the size, design and location of all curb-cuts must be approved by Traffic Engineering and conform to AASHTO standards; and**
- 5) **depiction of the minimum building setback line for all lots, from all street frontages, with an additional 40-foot setback from Cottage Hill Road.**

The motion carried unanimously.

Case #ZON2007-00054 (Planned Unit Development)

Snowden Place Subdivision

6106 Cottage Hill Road

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

Planned Unit Development Approval to allow a 36-unit condominium complex consisting of 9 buildings, a pool, and a two wooden piers on a single building site.

Mr. Plauche announced that this application was recommended for holdover to the

March 15th meeting, but if anybody was present and wished to speak today they could do so.

(Also see **Case #SUB2007-00004 (Subdivision) - Snowden Place Subdivision** - above; and **Case #ZON2007-00055 (Rezoning) - Reid Cummings** - below.)

There was no one present to speak.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the March 15th meeting, with revisions due to Urban Development by February 21st, to give the applicant time to address the following:

- 1) **revision of the site plan and subdivision plat to depict compliance with Engineering comments (*If the ditch takes public water, provide a drainage easement. If the lake is to be used for detention, the pond design should be submitted for the additional impervious area. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility confirm or deny the existence of regulatory wetlands. Must comply with all storm water and flood control ordinances. Any work performed in the right-of- way will require a right-of- way permit.*);**
- 2) **revision of the site plan and subdivision plat to depict compliance with 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 and internal circulation drive should also be coordinated with Urban Forestry to ensure that no trees 50" and larger are effected.*);**
- 3) **revision of the site plan and plat to depict the minimum building setback lines from all street frontages, to include an additional 40-foot setback along Cottage Hill Road;**
- 4) **revision of the site plan to depict all buildings meeting the required minimum building setbacks, or provision of a written statement justifying reduced setbacks;**
- 5) **revision of the site plan to indicate the number of stories of all buildings and dimensioning of the minimum spacing between buildings;**
- 6) **consultation with Fire / Rescue to determine if modifications to the site plan are necessary to comply with their regulations, and revision of the site plan as appropriate;**
- 7) **revision of the site plan to depict compliance with the open space and tree and landscaping requirements of the Zoning Ordinance, including**

- the necessary PUD site calculations required by Section 64-5.C.2. of the Zoning Ordinance;
- 8) depiction and labeling of any required stormwater detention basins;
 - 9) depiction and labeling of dumpster or other waste storage locations, with screening that complies with Section 64-4.D.9. of the Zoning Ordinance;
 - 10) provision and depiction of a 6 to 8 foot high privacy fence or wall where the lot containing the condominium portion of the site abuts existing R-1 districts that are developed with single-family residences;
 - 11) placement of a note on the site plan stating that maintenance of all common areas and detention areas is the responsibility of the property owners;
 - 13) placement of a note on the site plan stating that lighting shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic, per the requirements of Section 64- 4.A.2. the Zoning Ordinance;
 - 14) depiction of the pedestrian circulation system on the site plan, including the depiction of sidewalks along all public streets;
 - 15) placement of a note on the site plan and plat stating that the approval of all applicable federal, state and local agencies is required prior to the issuance of any permits or land disturbance activities; and
 - 16) placement of a note on the site plan and subdivision plat stating all lots are denied direct access to Cottage Hill Road, that lots 1-15 are limited to one curb-cut each and that lot 16 is limited to three curb cuts, and that the size, design and location of all curb-cuts must be approved by Traffic Engineering and conform to AASHTO standards.

The motion carried unanimously.

Case #ZON2007-00055 (Rezoning)

Reid Cummings

6106 Cottage Hill Road

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

Rezoning from R-1, Single-Family Residential District, to R-3, Multiple-Family Residential District to allow a 36-unit condominium complex.

Mr. Plauche announced that this application was recommended for holdover to the March 15th meeting, but if anybody was present and wished to speak today they could do so.

(Also see **Case #SUB2007-00004 (Subdivision) - Snowden Place Subdivision** - above; and **Case #ZON2007-00054 (Planned Unit Development) - Snowden Place Subdivision** - above)

Case #ZON2007-00057 (Rezoning)

Hillcrest Commons, Inc.

Southeast corner of Chandler Street and Rosedale Avenue (Prescriptive right-of-way to be vacated).

Rezoning from R-1, Single-Family Residential District and B-2, Neighborhood Business District, to B-2, Neighborhood Business District, to allow a parking lot.

Mr. Plauche announced that this application had been recommended for holdover to the meeting of March 1st, but if anyone wished to speak in this matter today they could do so.

There was no one to speak.

A motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this rezoning request until the March 1st meeting to allow the applicant to submit an application by February 5, 2007 to amend and expand the existing planned unit development for Hillcrest Commons.

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: May 3, 2007

Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

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