

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 16, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victoria Rivizzigno, Secretary
Ann Deakle
William DeMouy
Mead Miller
Roosevelt Turner

Members Absent

Nicholas Holmes, III
James Watkins
John Vallas

Staff Present

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

Others Present

Jennifer White, Traffic Engineering
Rosemary Sawyer, City Engineering
Pat Stewart, County Engineering
John Lawler, Asst. City Attorney

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. Miller and seconded by Mr. Turner to approve the minutes of the September 7, September 21, and October 5, 2006, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #SUB2006-00241

Summer Woods Subdivision, Phase I, Resubdivision of Lot 20

South side of Thresher Court, 70'± East of its West terminus.

1 Lot / 0.2± Acre

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Mr. Ray Hudson, a resident of 550 Eslava Street, stated that he was with Adams Homes who was developing the Summer Woods Subdivision. Mr. Hudson said that clearly they had a house that was encroaching approximately 32 square feet into the front setback. He said this was an honest mistake. He explained that they had the house pinned for a right-hand garage. The house got flipped and due to the way the cul-de-sac curves around, the front left corner of the house encroaches into the front setback. Mr. Hudson said the house was pretty much dried-in and built. (He showed photos of the subject house). He said the houses on the right side and the left side were constructed at the same time as this house. As far as the streetscape, Mr. Hudson said that driving down the street you would not really notice that there was any encroachment. The first 20 feet of the house was in the setback. It was just the last 8 feet that has an issue of encroachment. Mr. Hudson said he was the one that discovered the encroachment and came to the City to ask what they could do. The plan before the Commission today was a resubdivision to allow a 15-foot front setback. Mr. Hudson said he would be interested in any compromise or suggestions the Board may have that would maybe solidify this, other than, obviously, tearing down his house. He noted that the house itself was 1775 square feet, and the encroachment was 32 square feet.

Mr. Turner asked if the house was complete.

Mr. Hudson said it was at the sheet rock stage. Plumbing and electrical were in, and there were walls and a roof on it. He noted that the encroachment did not obstruct any drainage or sidewalks or any utilities or easements.

Asked if he was building other houses in this subdivision, Mr. Hudson said he was.

Mr. Miller asked if this was the only house that had such a situation.

Mr. Hudson said it was.

Mr. Plauche asked Mr. Olsen to comment.

Mr. Olsen stated that if the Commission was considering some type of approval or relief, the staff would suggest, as opposed to granting or modifying the setback to 15 feet for the entire frontage, because that would allow other structures to be built closer elsewhere on the lot, that the 25-foot setback be maintained up to the house and notch out for the portion that was in compliance. Basically, follow the wall of the house for the portion that was not in compliance, and then pick back up at the 25-foot for the remainder of the frontage. He said that would insure that no additional structures would encroach into that 25-foot front setback.

Mr. Plauche asked Mr. Hudson if he could handle that.

Mr. Hudson said he could.

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After discussion a motion was made by Mr. Miller and seconded by Mr. DeMouy to approve this application subject to the following condition:

- 1) revision of the plat to depict the 25-foot setback for the site, except where the building is constructed, then the setback shall be along the existing building footprint.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2004-00231 (Subdivision)

Audubon Cove Subdivision

Southwest corner of Higgins Road and Audubon Drive, extending South and West to the Southern terminus of Clemson Drive, and to the Northeast corner of Cole Drive and Audubon Drive.

57 Lots / 58.0± Acres

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

After discussion a motion was made by Mr. Plauche and seconded by Mr. Turner to grant this request. However, it should be noted that a third extension would be unlikely.

The motion carried unanimously.

Case #SUB2003-00256 (Subdivision)

The Bluffs at Cypress Creek Subdivision

350'± North of the North terminus of Cypress Business Park Drive, extending East along the North side of the proposed extension of Cypress Business Park Drive to the L & N Railroad right-of-way.

53 Lots / 53.0± Acres

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

After discussion a motion was made by Mr. Plauche and seconded by Mr. Turner to grant this request. However, it should be noted that a fourth extension would be unlikely.

The motion carried unanimously.

Hartsfield Station Subdivision

West side of McFarland Road, 900'± North of Scott Dairy Lop Road South.

40 Lots / 11.9± Acres

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

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After discussion a motion was made by Mr. Plauche and seconded by Mr. Turner to grant this request.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00251

Jemison Subdivision

7895 and 8011 Zeigler Boulevard

(South side of Zeigler Boulevard, ¼ mile± West of Schillinger Road).

1 Lot / 2.0± Acres

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

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

- 1) placement of a note on the plat stating that the lot is limited to two curb-cuts onto Zeigler Boulevard, with the size, design and location to be approved by the Mobile County Engineering Department;
- 2) provision of a letter from a licensed engineer certifying compliance with the City's stormwater and flood control ordinances to the Mobile County Engineering Department prior to the issuance of permits;
- 3) labeling of the lot with its size in square feet, or provision of a table on the plat with the same information; and
- 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.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00257

Mt Zion Baptist Church Subdivision

West side of I-10 Service Road, extending from Nellie Street to Duval Street.

1 Lot / 1.3± Acres

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

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

- 1) dedication of sufficient right-of-way to provide 25 feet as measured from the

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- centerline of Nellie Street;
- 2) placement of a note on the plat stating that the site is denied access to Nellie Street, and limited to one curb-cut onto Duval Street and one curb-cut onto the Interstate 10 service road, with the size, design and location to be approved by Traffic Engineering and ALDOT, and comply with AASHTO standards;
 - 3) revision of the property line at all street intersections to reflect the radius requirements stated in Section V.D.6. of the Subdivision Regulations;
 - 4) depiction of the 25-foot minimum building setback line from all street frontages, including dedications and adjustments for intersection corners;
 - 5) labeling of the lot with its size in square feet, or provision of a table on the plat with the same information;
 - 6) correction of the spelling of Duval Street; and
 - 7) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00265

Standard Concrete Mobile Plant Subdivision

East side of Mitsubishi Drive (under construction), surrounding the West terminus of the Theodore Industrial Canal.

Lot / 130.0± Acres

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

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

- 1) 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
- 2) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00259

Wood's Addition to Ryan Avenue Subdivision

110 Ryan Avenue

(East side of Ryan Avenue, 320'± North of Old Shell Road).

1 Lot / 0.3± Acre

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

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

- 1) placement of a note on the Final Plat verifying the required setbacks will be maintained.

The motion carried unanimously.

Case #SUB2006-00252

Daniel Dinkins Subdivision

West side of Demetropolis Road, 245'± South of an unopened, unnamed public right-of-way.

2 Lots / 1.0± Acres

Mr. Plauche stated that this application was recommended for holdover until the December 21st meeting.

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant and requested that this application be heard today. Mr. Byrd said that yesterday he had provided the staff with a resolution by the City of Mobile that cited there was an easement along the south property line in the little "L" shaped piece in the back. He said that unfortunately he did not read the second page where there was a resolution that said the City of Mobile was accepting an easement, but the rest of that document actually was a deed for property which was the same piece of property. Mr. Byrd said it would amount to them losing 10 feet of road frontage on Demetropolis Road. Instead of 188 feet they would have 178 feet. The applicant wanted to divide that frontage into two lots. He said there was probably a mistake made when that property was conveyed in 1978.

Mr. Plauche asked Mr. Olsen to comment.

Mr. Olsen said the staff had some conditions prepared should the Commission decide to make a decision today as opposed to holdover. Those conditions were: (1) revision of the plat to exclude property owned by the City of Mobile; (2) revision of the legal description to exclude property owned by the City of Mobile; (3) placement of a note on the final plat stating that each lot is limited to one curb cut onto North Demetropolis Road, the size, location and design to conform to AASHTO standards and to be approved by Traffic Engineering; (4) depictions of the 25-foot minimum building setback line required in Section V.D.9. of the Subdivision Regulations; and (5) full compliance with all other municipal codes and ordinances.

Mr. Byrd said they would have no problem with those conditions.

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Ms. Deakle asked if she understood that the interior lot line would shift to the north 5 feet, or would it change at all?

Mr. Byrd said it would just move that dividing line 5 feet to the north.

Mr. Plauche asked Mr. Byrd if he needed to explain these recommendations to his client.

Mr. Byrd said no. They were fine with the recommendations.

Mr. Olsen stated that he failed to mention one condition, which would be condition #6, to read: preservation status be given to the 54-inch live oak located on the west side of Lot 2. Basically, that means that any work on or under the tree is to be permitted and coordinated with Urban Forestry, removal to be permitted only in case of disease or impending danger.

Mr. Byrd said that was no problem.

Mr. Plauche asked if the owner was coming down to speak.

Mr. Byrd said she was the original owner who actually conveyed that little strip of property to the City.

Aline Dinkins, 2162 Demetropolis Road, stated that the property had been surveyed years ago and this young guy was coming in to try to claim a part. Ms. Dinkins said that Mr. Byrd said, and she recalled, that there was a half acre sold to this girl's great grandmother. She said he had a little over a half acre, and this girl's aunt asked one of her sons to let her have the property cut from the back of her house out to Demetropolis Road so she could see to Demetropolis Road. Ms. Dinkins said the surveyor came and surveyed that part that her son let her have cut. The surveyor then took that part to claim it a little over his half - the half acre this girl had. She said she wanted to show where the line was. She said the line came over and took a part of the property they purchased.

Mr. Byrd said the portion referred to was included.

Ms. Dinkins said that took up part of their acre. She said she had called the surveyor and told him she was not satisfied with the way the survey was done, but he did not want to talk to her and told her not to call him anymore.

Mr. Plauche asked Mr. Byrd if this part of what he surveyed and what the recommendations were all jives together.

Mr. Byrd said no. He said there had been confusion since he met with Ms. Dinkins on the grounds. He said he reviewed the whole file full of deeds that they had and could find no difference in the deed that he was given to work with, which set the boundary as to what he submitted to the City. He said this 10-foot easement conveyance document would come out of that, but that was not what Ms. Dinkins was talking about. She was

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concerned that a half acre up at Dinkins Drive, which was north of this site 300-400 feet, was a section corner. Mr. Byrd said Ms. Dinkins did not feel that he started the survey at the right place. She thought he started on the south, which moved the property down, when in fact the section corner does not move. The legal description does not change. It starts at the section corner and comes down. Mr. Byrd said they recovered property corners at all four corners of her property, plus additional corners based on record plat and deeds that are on record that establish the boundary of the property the way it is.

Mr. Plauche asked he if understood that there was a dispute over the actual property line between Ms. Dinkins property and the subject property.

Mr. Olsen said it did sound like a property line dispute, and this was the first he was aware of it. He said when Mr. Byrd surveyed this property he surveyed from the corner of the section, which would be center line of Dinkins.

Verda Dinkins Oliver, Mrs. Dinkins' daughter, stated that she hired Mr. Byrd to survey the property. When they came to do the survey, they informed her that they could not find one of the corners. Ms. Oliver said she addressed two different letters to Mr. Byrd addressing her mother's concerns, but after talking to him and his attitude toward her mother, she did not want to be bothered with him. She said she could not be there the day they did the survey, but from the paperwork, they were to start from Dinkins Lane, but they started from the Ebenezer church land.

Mr. Plauche asked if the staff thought this should be held over until this dispute was settled.

Mr. Lawler said he did not think there was any way this Commission could make a judgement on what was going on from this conversation. Mr. Byrd explained it one way and Ms. Dinkins and her daughter explained it another way.

Mr. Byrd said it was a boundary dispute and not for the Planning Commission. Mr. Byrd said Ms. Dinkins and her daughter were not the owners of the property. The owner lived in California.

Ms. Dinkins said she sold the property to them.

Mr. Byrd said the owner of the property was happy with it.

Ms. Oliver explained that her mother had sold the property to her son, who had passed away. Her mother had the property surveyed for her sister-in-law because she was out of town. She had not seen it (the plat), and he did not know how Mr. Byrd could say she was happy with it.

Mr. Olsen stated that the application indicated that the owner was Daniel and Gloria Dinkins.

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Ms. Dinkins said Daniel Dinkins was her son, who was now deceased.

Mr. Olsen said the application was signed by Legerald Mixon. They had a letter signed by Gloria Dinkins authorizing her nephew, Mr. Legerald Mixon, to act on her behalf in the process of subdividing land she owns on Demetropolis Road.

Mr. Lawler said he did not quite understand these ladies making objections if they had no ownership in the subject property.

Ms. Dinkins said she was representing her daughter-in-law.

Mr. Lawler said Mr. Olsen had indicated to him that it was a metes and bounds description and was not subdivided when Ms. Dinkins sold it to her son.

Mr. Byrd said that was correct. There was a metes and bounds description on both of the lots, and he used those descriptions. He further noted that there was a plat on record by Bedsole Surveying that showed Ebenezer Baptist Church property to the south of them going up north of them that is like a boundary survey that shows all that, and those deeds were in conformance with it. He also had other plats furnished him by Irby and Rester of a couple parcels that matched those deeds.

Mr. Plauche asked Mr. Lawler if the Planning Commission could vote on this if there was a boundary dispute.

Mr. Lawler said that if the Commission was satisfied that Mr. Byrd had taken his points from the legal descriptions on the deeds he referenced and drawn this plat, then he felt the Commission could go ahead and vote on it.

Ms. Deakle suggested that it may be to the Commission's advantage to hold it over and see if the owner can come forward and straighten out the boundary dispute.

Mr. Plauche asked if the boundary dispute should not be settled before the Commission ruled on the subdivision of the land.

Mr. Lawler pointed out that in this situation, if the owner did not agree with the property as drawn on this plat, he would not have to sign the plat.

Mr. Turner asked Mr. Olsen if the ownership issue he mentioned earlier regarding the strip of land owned by the City had been resolved to his satisfaction.

Mr. Olsen said yes. Based on the conditions he read earlier, the staff was satisfied.

Mr. Miller asked if the Commission would limit their right to investigate any boundary dispute in the future if they proceeded with ruling on this application today.

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Mr. Lawler said they could go ahead and vote, and it would not limit any legal right "they" have. He was not sure that the persons objecting - Ms Dinkins and Ms. Oliver - had any standing, as they were not the owners. It would be the owner who would have the challenge if he wanted to make it, and he understood it was the owner who was making the application.

Mr. Miller asked Mr. Byrd if a holdover would be a problem for the owner.

Mr. Lawler said if it were held over Ms. Dinkins and Ms. Oliver would have an opportunity to talk with a lawyer about the situation and determine the facts, and he may be able to make a case for them, or he might be able to tell them that perhaps there is no case. They would then have the opportunity to come back with their representative and say whatever they wanted.

There was further discussion as to whether or not it would be best to holdover the application. Mr. Olsen said if Mr. Byrd could get a letter from the owner, Ms. Gloria Dinkins, stating that she was satisfied with the survey Mr. Byrd had done, then the Commission could act based upon that letter.

After discussion a motion was made by Mr. Miller and seconded by Mr. Turner to holdover this application until the December 21st meeting to allow for the resolution of property boundary issues identified at the meeting.

Mr. Plauche asked if that would give them enough time to resolve this matter.

Mr. Olsen said two meetings would be the longest time they could holdover the application without further consent from the applicant.

Mr. Lawler felt that holdover to the December 21st meeting should be enough time to get the owner to say one way or the other what they want done.

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

The motion carried unanimously.

Case #SUB2006-00253

Purnell Subdivision

East side of Wilkins Road, 485'± North of Moffett Road.

2 Lots / 4.0± Acres

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

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

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- 1) provision of additional setback sufficient to provide 30-feet, as measured from the centerline of Wilkins Road, and adjustment of the 25-foot minimum building setback line to account for the future right-of-way edge;
- 2) placement of a note on the plat stating that lot 1 is limited to one curb-cut, that lot 2 is limited to two curb-cuts, and that the size, design and location of all curb-cuts must be approved by Traffic Engineering and comply with AASHTO standards;
- 3) placement of a note on the plat stating that there shall be no future subdivision of lot 1 until additional frontage on a public street is provided;
- 4) labeling of each lot with its size in square feet, or provision of a table on the plat with the same information; and
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00263

Sullivan Place Subdivision, Resubdivision of Lot 16

852 Sullivan Avenue

(West side of Sullivan Avenue, 340' ± North of Pleasant Valley Road).

2 Lots / 0.5± Acre

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

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

- 1) placement of a note on the Final Plat verifying the required setbacks will be maintained.

The motion carried unanimously.

Case #SUB2006-00261

Tillman's Corner Medical Park Subdivision

5320 US Highway 90 West

(North side of Nevius Road, extending from US Highway 90 West to Dozier Lane).

2 Lots / 2.3± Acres

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

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

- 1) placement of a note on the Final Plat stating that the size, location and design of all curb cuts to be approved by the Mobile County Engineering

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- Department and ALDOT;
- 2) placement of a note on the final plat stating that access to Dozier Lane is denied;
 - 3) 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
 - 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.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00256

West Mobile Terrace Subdivision, Block 21, Resubdivision of Lots 31 - 50

302 Schillinger Road North

(East side of Schillinger Road North, extending from McKinley Avenue to Avenue F).

2 Lots / 1.1± Acres

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant. Regarding the staff's recommended condition #1 regarding limitation of curb cuts, Mr. Byrd stated that there were two existing curb cuts onto McKinley Avenue, and the applicant requests that those two remain in place. He said the one at the northeast corner of the building was more of a service drive into the overhead door, and the other one served the parking lot in the front where customers and employees would be parking. Regarding condition #2 requiring 25-foot minimum building setback on all street frontages, the applicant requests that they be allowed a 20-foot setback along the McKinley Avenue frontage. He noted that the existing building was actually built within 15 feet of the property line. Regarding condition #4 requiring provision of a letter from a licensed engineer certifying compliance with the City's stormwater and flood control ordinances to the Mobile County Engineering Department prior to the issuance of permits, Mr. Byrd noted that both of the lots were developed. He requested that they be allowed to make a note on the plat that any future development of the property provide the engineers a letter. Also, he said they had a buyer for the large building on Lot A, and they wanted to do interior renovations. He would not think they would need a letter if they just wanted to do interior renovations.

In deliberations session Mr. Miller asked for clarification of the condition for interior renovations.

Mr. Olsen explained that if the condition for the stormwater certification was simply changed to state that, "prior to the issuance of permits for new building or additions", that would allow him to do interior work but would not allow any type of addition or demolition of that building or new construction.

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Mr. Stewart said the County requested that that statement be placed on the plat, as well as any other conditions that are put on this site.

After discussion a motion was made by Mr. Miller 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 lot A is limited to one curb-cut onto Schillinger Road North and two curb-cuts onto McKinley Avenue, that lot B is limited to one curb-cut onto Avenue F, and that the size, design and location of all curb-cuts are to be approved by the Mobile County Engineering Department;
- 2) depiction and labeling of the 25-foot minimum building setback line along all street frontages, except for a 20-foot setback along McKinley Avenue, and placement of a note stating setbacks;
- 3) compliance with Section V.D.6. of the Subdivision Regulations;
- 4) placement of a note on the plat stating that prior to future new exterior construction or building additions, a letter will be provided from a licensed engineer certifying compliance with the City's stormwater and flood control ordinances to the Mobile County Engineering Department;
- 5) labeling of each lot with its size in square feet, or provision of a table on the plat with the same information;
- 6) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 7) correction of the road name for McKinley to McKinley Avenue.

The motion carried unanimously.

Case #SUB2006-00258

Foster Estates Subdivision

10555, 10575 and 10585 Tanner Williams Road, and 950 Eliza Jordan Road North.
(Southeast corner of Tanner Williams Road and Eliza Jordan Road North).

3 Lots / 2.3± Acres

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

After discussion a motion was made by Mr. Turner 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 Tanner Williams Road, and Eliza Jordan Road;
- 2) placement of a note on the Final Plat stating that Lot 1 is limited to one curb-cut onto Tanner Williams Road and one curb-cut onto Eliza Jordan Road, Lots 2 and 3 are limited to the existing curb-cuts onto Tanner

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- Williams Road, 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 Tanner Williams Road and Eliza Jordan Road, 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 #SUB2006-00255
Raphael Court Subdivision**

South side of Nursery Road, ¼ mile± East of Snow Road.
35 Lots / 15.8± Acres

Chad Fincher, P.O. Box 611, Semmes, Alabama, was present on behalf of the applicant. Mr. Fincher said they agreed with the staff recommendations with the exception of condition #1 and #2, which read, "the remainder of the parent parcel be shown as future development on the final plat; and placement of a note on the final plat stating that subdivision of the future development area will require dedication along Wulff Road, if adjacent to Wulff Road". Mr. Fincher said they did not have any control of the remaining parcel around the piece they were developing. The owner of that parcel was just selling him this one piece. That owner would not be signing the plat.

Mr. Olsen stated that the property should not have been sold without being subdivided first. It should still be required to be shown as future development on the final plat.

Mr. Fincher said they had not yet closed on the property. They had a contract with the current owner, and they had a letter from them that they submitted with this application to that effect. He said the sale was contingent upon getting the subdivision approved.

Mr. Olsen said it was still part of the same parcel, and the remainder of it should be shown as future development on the final plat.

Mr. Plauche asked Mr. Fincher if they had a problem with it being labeled as future development.

Mr. Fincher said no. He just had a problem with something that they could not agree to because they won't have any control over personally developing the rest of the property, and they would not even adjoin Wulff Road.

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

- 1) the remainder of the parent parcel be shown as future development on the final plat;
- 2) placement of a note on the final plat stating that subdivision of the future development area will require dedication along Wulff Road, if adjacent to Wulff Road;
- 3) clarification of the drainage easement to the detention area to include ingress and egress for maintenance;
- 4) the detention area, traffic circle and median entrance be labeled as common areas, and a note placed on the final plat stating that maintenance of all common areas shall be the responsibility of the subdivision's property owners;
- 5) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat;
- 6) depiction of the size of each lot in square feet on the plat, either as a table or as a label for each individual lot;
- 7) placement of a note on the final plat stating that Lots 1, 33 and 35 are denied direct access to Nursery Road;
- 8) placement of the required 25' setback along Nursery Road for Lots 1, 33 and 35; and
- 9) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00250

Holley Branch Subdivision

West side of Snow Road South, 245'± North of Autumn Leaf Drive North.

48 Lots / 75.0± Acres

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

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

- 1) revision of the plat to exclude the portion of The Grove U.M.C. subdivision lot from the future development area;

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- 2) the placement of a note on the final plat stating the lots 1, 14-17, 43-45 and 48 are denied direct access to Snow Road South;
- 3) the developer obtain any necessary federal, state, and local environmental approvals;
- 4) placement of a note on the final plat stating that maintenance of the common areas, including stormwater detention facilities if proposed, are the responsibility of the subdivision's property owners;
- 5) labeling of each lot with its size in square feet, or provision of a table on the plat with the same information;
- 6) provision of a letter from a licensed engineer certifying compliance with the City's stormwater and flood control ordinances to the Planning Section of Urban Development prior to the signing of the final plat; and
- 7) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

NEW PLANNING APPROVAL APPLICATIONS:

Case #ZON2006-02339

Coast Architects, Inc (William T. Partridge, Jr., Agent)

358 Dauphin Street

(North side of Dauphin Street, 83'± West of North Claiborne Street).

Planning Approval to allow dwellings on the ground floor within the Dauphin Street Overlay District.

(Also see Case #ZON2006-02340 - Coast Architects, Inc (William T. Partridge, Jr., Agent) - below.)

Bill Partridge, representing the applicant, stated that the applicant proposes to convert the commercial structures at 358 and 360 Dauphin Street for residential use on the ground floor. Mr. Partridge said they felt this development would support the need for more residential in the downtown area. He referred to several articles that appeared recently in the newspaper supporting as many as 250 units a year in this area. He said the subject property was formerly a restaurant, which closed in 1993. It had been vacant for 13 years and the present owner had been pursuing a retail business in one of the buildings in the last three years.

Mr. Plauche asked the staff if both applications were recommended for approval.

Mr. Olsen said both were recommended for approval.

Mr. Partridge further noted that the subject property was on the dividing line of the BID district, and pointed out that many of the buildings immediate to that line were under

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renovations for residential, such as the mattress factory, which was also brought up in the newspaper recently. Mr. Partridge said he felt it was a very viable thing for his client to try, and he hoped the Commission would consider approval.

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

- 1) approval by the Architectural Review Board for any exterior work;
- 2) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-02340

Coast Architects, Inc (William T. Partridge, Jr., Agent)

360 Dauphin Street

(North side of Dauphin Street, 45' + East of North Franklin Street).

Planning Approval to allow dwellings on the ground floor within the Dauphin Street Overlay District.

(See Case #ZON2006-02339 - Coast Architects, Inc (William T. Partridge, Jr., Agent) - above, for discussion.)

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

- 1) approval by the Architectural Review Board for any exterior work;
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2006-00262 (Subdivision)

Bay Yacht Sales Subdivision

4700 Dauphin Island Parkway

(West side of Dauphin Island Parkway, 1,000' ± South of Alba Avenue).

2 Lots / 11.0± Acres

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

Mr. Plauche asked if anyone wished to speak in this matter.

A resident of Park Road stated that proper notice had not been given regarding the proposed development. He said there had only been notice on the property for two

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weeks, and the neighbors had not seen any kind of notice inside the newspaper. The neighbors had not received any information regarding the proposed development.

Mr. Olsen stated that signs were posted on the property approximately two weeks ago, which was the normal time frame in which they are posted. He noted that the signs were not required by City Code or State Code, but were done as a courtesy by the City. Based on their deadline schedule, he said two weeks was about all the time the staff had to prepare the reports and get them out. As far as written notification to property owners for rezoning or PUD, those are sent to property owners within 300 feet of the site, not to neighborhoods a quarter of a mile away. As far as the subdivision, those notices are sent based on State Code, which is to the immediately adjacent property owners and those directly across the street. Mr. Olsen said the list of names of property owners who were sent notices was in their files. As for the legal ads, Mr. Olsen said those are required only when an application (for rezoning) goes to City Council, not prior to hearing with the Planning Commission.

Mr. Plauche noted that for rezoning, there would be an ad in the newspaper prior to the City Council hearing, but after the Planning Commission hearing.

Mr. Olsen said he understood from the staff that some of the neighbors had expressed concern that this would be an 8-story condominium. He said that if it was approved, all the way through the process, it would be limited to the site plan for the PUD that was submitted, which shows basically four single-family residential structures to be located on the south side of the property. The reason it has to be multi-family is because it will be multiple dwellings on one lot. It was not what one would normally assume is a condo.

After discussion a motion was made by Mr. Turner and seconded by Dr. Rivizzigno 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 Dauphin Island Parkway;
- 2) placement of a note on the Final Plat stating that each Lot is limited to one curb-cut onto Dauphin Island Parkway, with the size, design and location of all curb-cuts to be approved by the Traffic Engineering Department and ALDOT;
- 3) a note be placed on the final plat limiting curb cuts to the approved Planned Unit Development;
- 4) the approval of all necessary federal, state and local agencies prior to the issuance of any permits or commencement of any Land Disturbing activities; and
- 5) the placement of the 25-foot minimum building setbacks on the final plat.

The motion carried unanimously.

Case # ZON2006-02344 (Planned Unit Development)

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Bay Yacht Condominiums

4700 Dauphin Island Parkway

(West side of Dauphin Island Parkway, 1,220'± South of Alba Avenue).

Planned Unit Development to allow four single-family residential condominium buildings on a single building site.

(See Case #SUB2006-00262 (Subdivision) - Bay Yacht Sales Subdivision - above, for discussion; also see Case #ZON2006-02345 (Rezoning) - Gerald T. Still , below; and Case #ZON2006-02346 (Rezoning) - Gerald T. Still, below.)

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

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance for Lot 2;
- 2) the completion of the Subdivision process; and
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-02345 (Rezoning)

Gerald T. Still

4700 Dauphin Island Parkway

(West side of Dauphin Island Parkway, 1,220'± South of Alba Avenue).

Rezoning from R-1, Single-Family Residential, to R-3, Multi-Family Residential, to allow four single-family residential condominium units.

(See Case #SUB2006-00262 (Subdivision) - Bay Yacht Sales Subdivision - above, for discussion; also see Case # ZON2006-02344 (Planned Unit Development) - Bay Yacht Condominiums - above; and Case #ZON2006-02346 (Rezoning)_Gerald T. Still - below.)

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

- 1) completion of the Subdivision process;
- 2) that the site be developed in compliance with the approved accompanying Planned Unit Development;
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance for Lot 2; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-02346 (Rezoning)

Gerald T. Still

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4700 Dauphin Island Parkway
(West side of Dauphin Island Parkway, 1,000'± South of Alba Avenue).
Rezoning from R-1, Single-Family Residential, to B-3, Community Business, to bring the zoning at an existing marina into compliance.

(See Case #SUB2006-00262 (Subdivision) - Bay Yacht Sales Subdivision - above, for discussion; also see Case # ZON2006-02344 (Planned Unit Development) - Bay Yacht Condominiums - above; and Case #ZON2006-02345 (Rezoning) - Gerald T. Still - above.)

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

- 1) completion of the Subdivision process;
- 2) that the site be developed in compliance with the approved accompanying Planned Unit Development;
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance for Lot 2; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-02335 (Planned Unit Development)

Hillcrest Self Storage, LLC

2262 Hillcrest Road

(West side of Hillcrest Road, 2/10 mile± North of Cottage Hill Road).

Planned Unit Development Approval to allow a total of 17 buildings on a single building site.

(Also see Case #ZON2006-02343 (Planning Approval) - Hillcrest Self Storage, LLC - below.)

Mr. Plauche announced that this application was recommended to be held over until the December 21st meeting, but if anyone had come down to speak today, they could do so now.

There was no one present to speak.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the December 21st meeting to allow the applicant to undertake the following:

- 1) verification in writing that the maximum rentable area per unit will not exceed the 400 square foot limit stated in the Zoning Ordinance;
- 2) revision of the site plan to align proposed new buildings along the same main accessway as the existing buildings; and

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- 3) revision of the site plan to depict lighting and required buffers for the new development area.

The motion carried unanimously.

Case #ZON2006-02343 (Planning Approval)

Hillcrest Self Storage, LLC

2262 Hillcrest Road

(West side of Hillcrest Road, 2/10 mile \pm North of Cottage Hill Road).

Planning Approval to allow a two-building expansion at an existing mini self- storage facility in a B-2, Neighborhood Business District.

(See Case #ZON2006-02335 (Planned Unit Development) - Hillcrest Self Storage, LLC - above, for discussion.)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this plan until the December 21st meeting to allow the applicant to undertake the following:

- 1) verification in writing that the maximum rentable area per unit will not exceed the 400 square foot limit stated in the Zoning Ordinance;
- 2) revision of the site plan to align proposed new buildings along the same main accessway as the existing buildings; and
- 3) revision of the site plan to depict lighting and required buffers for the new development area.

The motion carried unanimously.

Case #SUB2006-00254 (Subdivision)

P & E Subdivision

4210 and 4218 Halls Mill Road

(West side of Halls Mill Road, 465' \pm North of the West terminus of Alden Drive).

1 Lot / 4.8 \pm Acres

Anthony Terhaar, applicant, stated that he concurred with the staff recommendations, with the exception of condition #1 which would require that they vacate or reclaim the remaining portion of the site conveyed to the City of Mobile for a service road for Halls Mill Road. Mr. Terhaar said the existing residence on the site was occupied by a 30-year long resident who had been there since his days back from Vietnam, and who was having a difficult time trying to find another location to move to. He said they would like to make the demolition of the structure based on a vacation of that property within a year or 18 months. Regarding the sidewalk waiver request, Mr. Terhaar requested that they be held in the same compliance with all of their neighbors on Halls Mill Road. Driving up and down the road, he said he could see no sidewalks for that entire industrial area. He said they were doing some modifications to the site, and hopefully, if the rezoning was

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approved, they would go to an industrial site, which was essentially the same zoning on either side of this site for at least 1,000 feet or more.

In deliberations session Mr. Miller asked Mr. Lawler's opinion on the request for a delay in the demolition of the existing residence.

Mr. Lawler said a time limit could be put on the demolition of the residence. The applicant could post a bond in sufficient amount to cover the cost of demolition and removal of debris as of a certain date. That would be a condition of the City signing the final plat. If it was not demolished within the time period specified, the City could then demolish it and pay for it with his money.

Ms. Deakle commented that although the owner would like to be very generous with the person occupying that residence, she cautioned that once this plan is approved with waiving that removal of that occupancy, that person could hold over forever and the applicant would have a horrible time evicting him. She felt the Commission would be doing him a favor by approving this according to the condition that that building be vacated.

Mr. Lawler further commented that the applicant could let the demolition of the building be the last thing they do in the subdivision development, and that would give the occupant some time. His recommendation, however, would be to approve the subdivision according to staff recommendations.

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

- 1) the dedication of 10 feet of right-of-way along Halls Mill Road, and undertaking of the process to vacate or reclaim that remaining portion of the site conveyed to the City of Mobile for a service road for Halls Mill Road;
- 2) the depiction of the 25-foot minimum building setback line from dedicated right-of-way along Halls Mill Road;
- 3) demolition of the existing barn, storage shed and residence (with appropriate permits) prior to the recording of the final plat;
- 4) labeling of the lot with the size of the lot in square feet, or placement of a note on the plat stating the size;
- 5) placement of a note on the final plat stating that the lot is limited to two curb-cuts, with the size, design and location to be approved by Traffic Engineering and conform to AASHTO standards; and
- 6) full compliance with all other municipal codes and ordinances.

In further discussion Mr. Miller asked the applicant, with regard to the demolition of the house, if he saw any advantage in holding over this application rather than the Commission possibly approving it.

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Mr. Terhaar asked if the demolition was a requirement of the rezoning or the subdivision. He said he was subdividing the property, but he was still making use of it as the use it was right now. He said he was not sure why he was required to demolish the existing house anyway and move someone off the property if he was just subdividing the property, or actually taking two pieces of property and putting it together.

Mr. Olsen explained that although this was a request for a subdivision, there would be multiple buildings on a single lot, which would require PUD approval. He also pointed out that the existing residence could be impacted by the proposed detention area.

Mr. Lawler suggested that the Commission holdover the application and let the applicant come back with a plan.

Mr. Terhaar said with all due respect, he would rather they deny it, because he had been trying to get a permit for this for about seven months. If the Commission denied it, then all he would need was some time to try to get the occupant out of the house and help him find a place to live.

Mr. Miller asked Mr. Terhaar if he meant that he would rather the Commission "deny" it, or pass it as recommended with no comment on the existing building other than what was there.

Mr. Terhaar said that was correct, as well as giving him some idea as to how long it would be before the final plat was recorded so he would know how much time he had to the occupant of the house.

Mr. Olsen said he would have a year to record the final plat.

Mr. Terhaar said that was fine.

Mr. Olsen also noted that if the Commission recommended denial of the rezoning request and if that recommendation was upheld by the City Council, Mr. Terhaar could not reapply for at least six months, and probably would not be able to proceed with the proposed expansion.

There being no further discussion, Mr. Plauche called the question.

The motion carried unanimously.

**Case #ZON2006-02306 (Sidewalk Waiver)
Terhaar & Cronley Investment Partnership**

4210 and 4218 Halls Mill Road

(West side of Halls Mill Road, 465' ± North of the West terminus of Alden Drive).

Request to waive construction of a sidewalk along Halls Mill Road.

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(Also see Case #SUB2006-00254 (Subdivision) - P & E Subdivision, above, for discussion; and Case #ZON2006-02307 (Rezoning) - Terhaar & Cronley Investment Partnership - below.)

Rosemary Sawyer, representing City Engineering, pointed out that there was an existing sidewalk north of the site.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Turner to deny this request, as Engineering has determined that the sidewalk is buildable.

The motion carried unanimously.

**Case #ZON2006-02307 (Rezoning)
Terhaar & Cronley Investment Partnership**

4210 and 4218 Halls Mill Road

(West side of Halls Mill Road, 465'± North of the West terminus of Alden Drive).

Rezoning from R-1, Single-Family Residential, and B-3, Community Business, to B-3, Community Business, to eliminate split zoning in a proposed one-lot subdivision for a piping supplies distributor.

(See Case #SUB2006-00254 (Subdivision) - P & E Subdivision, above, for discussion; also see Case #ZON2006-02306 (Sidewalk Waiver) - Terhaar & Cronley Investment Partnership, above.)

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Turner to recommend a change in zoning to I-1, Light Industrial District, to the City Council, rather than B-3 zoning as requested, subject to the following conditions:

- 1) full compliance with the tree and landscaping requirements of the Zoning Ordinance, to be coordinated with Urban Forestry;
- 2) modification of the proposed buffer strip along Halls Mill Road to accommodate traffic safety visibility issues and the right-of-way dedication;
- 3) waiver of the landscape buffer requirement along the South property line where the site abuts an existing non-conforming heavy commercial / light industrial use in an R-1 district, and full compliance with the buffering requirements where the developed portion of the site abuts undeveloped property that is residentially zoned (the remainder of the site to remain wooded and undeveloped);
- 4) completion of the Subdivision process; and
- 5) full compliance with all other municipal codes and ordinances.

Mr. Olsen stated that the staff recommendation was for rezoning to I-1 rather than B-3 as requested based on the actual use of the property and the zoning of the property to the north.

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The motion carried unanimously.

For the applicant's benefit, Mr. Olsen stated that if he had any problem with the conditions, he could simply not act on these applications as far as not recording the plat, not paying the advertising fee for the rezoning, and it would not be forwarded to the City Clerk's Office. So, if he decided to come up with a different plan and resubmit the subdivision and rezoning applications, it would not have been completely denied and the denial upheld by the City Council.

Case #SUB2006-00260 (Subdivision)

White Smith Subdivision

Block bounded by Dauphin Street, South Washington Avenue, Conti Street, and South Scott Street.

3 Lots / 0.8± Acres

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

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

- 1) The site should be limited to the existing number of curb-cuts along each street [Lot A - one curb-cut (Dauphin Street), Lot B - one curb-cut (Conti Street), and Lot C - two curb-cuts (Scott Street)], with any changes to the size, design and location of the curb-cuts to be approved by Traffic Engineering and, where possible, conform to AASHTO standards;
- 2) labeling of each lot with its size in square feet, or provision of a table on the plat with the same information;
- 3) provision of a revised PUD site plan to the Planning Section of Urban Development, prior to the signing and recording of the final plat; and
- 4) full compliance, to the greatest extent possible, with all other municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-02336 (Planned Unit Development)

White Smith Subdivision

Southwest corner of Dauphin Street and South Washington Avenue.

Planned Unit Development Approval to allow two single-family residential condominium buildings on a single building site.

(Also see Case #SUB2006-00260 (Subdivision) - White Smith Subdivision, above, for discussion.)

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

- 1) revision of the site plan to depict compliance, to the greatest extent feasible, with the tree and landscaping requirements of the Zoning Ordinance, to be coordinated with Urban Forestry;
- 2) revision of the site plan to depict any existing or proposed street trees, with proposed street trees to be coordinated with Urban Forestry;
- 3) depiction of any dumpster or waste container storage location on the site plan;
- 4) approval of Traffic Engineering regarding the size, design and location of the curb-cut onto Dauphin Street;
- 5) placement of a note on the site plan stating that PUD approval is site plan specific, and requires Planning Commission approval for changes to the approved site plan;
- 6) provision of a revised site plan to the Planning Section of Urban Development prior to the signing and recording of the final plat;
- 7) completion of the Subdivision process; and
- 8) full compliance, to the greatest extent possible, with all other municipal codes and ordinances.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Olsen said he wanted to let the Commission know that one of their Planners, Madeleine Masters, had taken a position with the City of Sommerville, Massachusetts, and next Wednesday would be her last day. He said he wanted to make the Commission aware that this makes them even more short on staff, and if reports were late, staffing was the main issue.

Mr. Turner asked Mr. Olsen if they had authorization to hire additional staff.

Mr. Olsen said they actually had the announcement at the Mobile County Personnel Board. It had been open for months, and the last he checked they only had one new application to process, and that would take six to eight weeks to process, so there would only be one name on the list. Mr. Olsen said they had been discussing this issue with the mayor and his chief of staff, and he would be drafting a letter for the mayor's signature. They have the names and addresses of 34 colleges and universities in the southeast that have geography, planning, and architectural programs, and the mayor would be sending them a letter notifying them of the vacancies and asking them to pass the information along to any potentially qualified applicants they may know of.

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There being no further business, the meeting was adjourned.

APPROVED: January 18, 2007

Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

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