

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF SEPTEMBER 15, 2005 - 2:00 P.M.**  
**HEARING ON SEPTEMBER 1, 2005 AGENDA**

**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Terry Plauche, Chairman  
James Laier, Vice-Chair  
Victor McSwain, Secretary  
James F. Watkins  
Adline Clarke  
Victoria Rivizzigno  
John Vallas  
Nicholas H. Holmes, III  
Mead Miller (S)

**Members Absent**

Clinton Johnson  
Ann Deakle

**Urban Development Staff Present**

Laura J. Clarke, Director,  
Urban Development Department  
Richard L. Olsen, Deputy Director of  
Planning  
Ron Jackson, Deputy Director of  
Urban Forestry  
David Daughenbaugh, Coordinator of  
Urban Forestry  
Madeleine Masters, Planner I  
Trista S. Cole, Secretary I

**Others Present**

John Lawler, Assistant City Attorney  
Jennifer White, Traffic Engineering  
Pat Stewart, County Engineering  
Beverly Terry, City 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.

**HOLDOVERS:**

**Case #ZON2005-01291 (Planned Unit Development)**

**D'Iberville Town Homes Subdivision**

South side of Southland Drive, 800' ± West of Knollwood Drive, extending to the West terminus of Southland Drive.

Request for Planned Unit Development Approval to amend a previously approved planned unit development to allow reduced lot widths, reduced building setbacks, increased site coverage, shared parking, and reduced street widths in a single-family residential town home subdivision.

**(Also see Case #SUB2005-00132 – D’Iberville Town Homes Subdivision-Subdivision– see below)**

Mr. Vallas recused from discussion and voting in this matter.

A representative from the SJB Group was present and concurred with the staff recommendations.

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

- 1) **completion of the subdivision process;**
- 2) **development limited to the plans as revised for private streets, received August 15, 2005;**
- 3) **full compliance with Engineering Department Comments (Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. Engineering will require a drainage easement be dedicated for maintenance of any existing stormwater drainage system located on the property that handles water discharged from a public rights-of-way. The width of the easement is dependant upon the width of the existing drainage-way from top of bank to top of bank plus approximately 10 feet on one side for access purposes. Engineering recommends requiring a minimum of a 25 feet stream bank buffer (from the top of the bank) to protect the highly sensitive Campground Branch stream. The buffer should be left vegetated. A Hold Harmless agreement will be required for any stormwater discharge onto an adjacent property owner if the discharge has been increased or concentrated);**
- 4) **compliance with Urban Forestry comments for the overall development**
- 5) **design of apparatus turn-arounds to be approved by the Fire Department;**  
**and**
- 6) **full compliance with all municipal codes and ordinances.**

The motion carried.

**Case #2005-00132 (Subdivision)**

**D’Iberville Town Homes Subdivision**

South side of Southland Drive, 800’± West of Knollwood Drive, extending to the West terminus of Southland Drive.

58 Lots / 10.8± Acres

**(For discussion see Case #ZON2005-01291 – D’Iberville Town Homes Subdivision – Planned Unit Development – see above)**

Mr. Vallas recused from discussion and voting in this matter.

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

- 1) **compliance with Section VIII.E.2 for private streets (minimum standards, maintenance, etc);**
- 2) **full compliance with Engineering Department Standards (Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. Engineering will require a drainage easement be dedicated for maintenance of any existing stormwater drainage system located on the property that handles water discharged from a public rights-of-way. The width of the easement is dependant upon the width of the existing drainage-way from top of bank to top of bank plus approximately 10 feet on one side for access purposes. Engineering recommends requiring a minimum of a 25 feet stream bank buffer (from the top of the bank) to protect the highly sensitive Campground Branch stream. The buffer should be left vegetated. A Hold Harmless agreement will be required for any stormwater discharge onto an adjacent property owner if the discharge has been increased or concentrated);**
- 3) **all areas not designated as lots be designated as Common Area, and the placement of a note on the final plat stating that maintenance of all common areas and detention facilities shall be the responsibility of the property owners; and**
- 4) **design of apparatus turnarounds to be approved by the Fire Department.**

The motion carried.

**Case #SUB2005-00153**

**Dawes Lake Trace Subdivision, First Addition**

West side of Dawes Lake Road East, 500'± South of its North Terminus.

12 Lots / 7.5± Acres

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this request until the October 20, 2005, meeting.

The motion carried unanimously.

**Case #SUB2005-00156**

**Friendship Subdivision**

561 Cody Road North

(West side of Cody Road North, 50'± North of Fourteenth Street, extending to the North side of Fourteenth Street 90'± West of Cody Road North and 350'± West of Lincoln Boulevard, and extending to the South side of Sellers Lane, 655'± West of Cody Road North).

1 Lot / 15.5± Acres

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

- 1) **the dedication of sufficient right-of-way to provide 50-feet from the centerline of Cody Road;**
- 2) **the placement of a note on the final plat stating that the site is limited to the two existing curb cuts to Cody Road; and**
- 3) **the placement of a note on the final plat stating that access to Fourteenth Street, Lincoln Boulevard and Sellers Lane are denied.**

The motion carried unanimously.

### **NEW ZONING APPLICATIONS:**

**Case #ZON2005-01674**

**David Tunstall & MPT Investments, LLC**

West side of Cosgrove Drive, 110'± North of Old Shell Road.

A request for change in rezoning from B-2, Neighborhood Business, to R-1, Single-Family Residential, to allow single-family dwellings.

The plat illustrates the proposed rezoning.

A representative from Frank Dagley & Associates was present and concurred with the staff recommendations.

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to recommend this change in zoning to the City Council.

The motion carried unanimously.

### **NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2005-00176**

**Azalea Business Park Subdivision**

South side of Moffett Road, 120'± East of Blackwell Nursery Road South

24 Lots / 11.5± Acres

William Parks, Speaks & Associates Consulting Engineers was present and concurred with the staff recommendations.

A motion was made by Dr. Laier and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) **the placement of a note on the final plat stating that Lots 1 and 24 are denied direct access to Moffett Road;**

- 2) the construction and dedication of the new street to County Engineering standards, including a temporary turnaround;
- 3) labeling of the common area, and the placement of a note on the final plat stating that maintenance of the common area will be property owners' responsibility; and
- 4) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2005-00181**

**Bayou Island Subdivision**

North side of Hamilton Boulevard, 2/10 mile± West of the South terminus of Viking Way.

15 Lots / 19.3± Acres

Gerald T. Still, Lawler and Company was present and concurred with the staff recommendations.

A motion was made by Mr. Watkins and seconded by Mr. Holmes to approve the above referenced subdivision subject to the following conditions:

- 1) dedication of right-of-way sufficient to provide 50 feet from the centerline of Hamilton Boulevard, with adjustment of the 25-foot minimum building setback line as necessary;
- 2) placement of a note on the Final Plat stating that Lots 1 and 2 are limited to one curb cut each onto Hamilton Boulevard, and that the private driveway is limited to one access point onto Hamilton Boulevard, with curb-cut sizes, location and design to be approved by County Engineering;
- 3) approval of all applicable federal, state and local agencies regarding the wetlands and floodplain issues prior to the issuance of any permits;
- 4) placement of a note on the Final Plat stating that maintenance of all common areas is the responsibility of the property owners;
- 5) redesign of the proposed private driveway to provide intermediate and terminating turnarounds, with adjustments in the right-of-way width as necessary, in conformance with Section V.B.6. of the Subdivision Regulations;
- 6) provision of a private right-of-way in conformance with Section VIII.E.2.c., and in order to delineate the common area from the private road;
- 7) placement of a note on the plat stating that the street is privately maintained and not dedicated to the public;
- 8) placement of a note on the plat stating that if the private street is not constructed and maintained to the appropriate Mobile County standard, and is ultimately dedicated for public use and maintenance, 100 percent of the

- cost of the improvements required to bring the street up to the prevailing standard shall be assessed to the property owners at the time the private street is dedicated, with the assessment running with the land to any subsequent property owners;
- 9) designation on the plat of utility easements acceptable to the appropriate provider of utility services within the subdivision, in conformance with Section VIII.E.2.d.;
  - 10) 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;
  - 11) provision of a legal covenant, in conformance with Section VIII.E.2.f. of the Subdivision Regulations;
  - 12) provision of a street sign in conformance with Section VIII.E.2.i. of the Regulations; and
  - 13) correction of the Legal Description's point of beginning reference.

The motion carried unanimously.

**Case #SUB2005-00179**

**Bel Air Executive Park Subdivision, Unit 1, Resubdivision of Lots 3 & 4, Lot 1**

West side of Executive Park Drive, 350'± South of Cottage Hill Road.

1 Lot / 1.0± Acre

Frank A. Dagley, Frank A. Dagley & Associates was present and concurred with the staff recommendations.

A motion was made by Mr. McSwain and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following condition:

- 1) **the placement of the 25-foot minimum setback line on the final plat.**

The motion carried unanimously.

**Case #SUB2005-00173**

**Camilla Court Subdivision**

608 Magnolia Road

(West side of Magnolia Road, 125'± North of Marcelus Drive).

2 Lots / 0.9± Acre

Linda Burkett, owner of Marshall McLeod Professional Land Surveyors, was present on behalf of the applicant. Ms. Burkett noted that the subdivision met the minimum requirements of the Subdivision Regulations, however, the staff recommended denial due to the proposed flag-shaped lot. She said they were willing to change the interior lot line to make the lots more equal if that would assist in approval of this plan, however, she felt it was rather odd that they continue to face this situation with the staff recommendations

rolling from approving flag lots and then not approving flag lots. Mrs. Burkett noted that this community was in transition and some houses on this street were in very good condition and some were in very poor condition. Their intention was to put in two new homes to improve the neighborhood.

Cathy Fitzpatrick, applicant, stated that the proposed house on the rear lot was to be 1400-1500 square feet, while the house on the front lot would be 1200-1400 square feet. She felt this would enhance the neighborhood. With regard to the flag lot being uncharacteristic of the neighborhood, Ms. Fitzpatrick pointed out that duplexes built down the street from this site on Magnolia Road evidently were not considered uncharacteristic of the single-family homes that exist on the rest of the street. She felt that approval of this application for a flag lot would be in concert with this concept of multi-family dwellings – duplexes – in a single location. Although there were no flag lots on Magnolia Road, there was one nearby on Grant Street. Ms. Fitzpatrick pointed out that the flag lot on Grand Mariner's Cove was in fact a three-tiered lot with houses significantly closer together than what they were proposing. She also pointed out that the other houses on Grant Street were single-family residences on large lots such as on Magnolia Road. Also, directly across the street from Grand Mariner's Cove there was a development on Grant Place, a street that dead ends into Grant Street, that was significantly different from the existing properties on Grant Street. The new development, Grant Park, was 48 small lots for patio homes. The homes that have already been built have a footprint almost as large as the lot itself, while the houses on Grant Street are large lots. Ms. Fitzpatrick said this appeared to them to be uncharacteristic of the other properties in the area, yet the Grant Park development obviously was approved and that development was on a much larger scale than what they proposed. In addition, the flag lot on Grant Street did not appear to have led to proliferation of flag lots in that general area.

In deliberative session Mr. Olsen stated that for the most part the staff does recommend denial of flag-shaped lots unless there is some sort of topographic reason, or because lots are along the waterfront and it is typical in the area for multiple house to be in a staggered configuration. Generally, however, when there is a set land use pattern such as this, the staff has been very consistent in not recommending approval.

Dr. Rivizzigno commented that in the past where the Planning Commission has deviated has typically been in cases of large, family tracts of land in the County.

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to deny the above referenced subdivision for the following reason:

- 1) the flag-shaped nature of proposed Lot 2 is not appropriate to the location of the subdivision, and thus does not satisfy Section V.D.1 of the Subdivision Regulations.**

The motion carried unanimously.

**Case #SUB2005-00187**

**Deer Port Commerce Park Subdivision**

Northeast corner of Dauphin Island Parkway and Deer River Road, extending South and East to the North side of the Theodore Ship Channel, 830'± East of Dauphin Island Parkway.

5 Lots / 78.5± Acres

Doug Anderson, with the Law Firm of Bowen, Latta & Wasden, was present representing the applicant. With reference to condition #3 of the staff's recommendation, Mr. Anderson said that Lot 5 actually had frontage on a paved road, as Deer River Road had been paved to Lot 5. He said that approximately 60 feet of frontage was not shown on the plat that was before the Commission. The bottom end of Lot 5 actually wrapped around to where Deer River Road had been paved, and was shown on the actual subdivision plat that had been submitted. Mr. Anderson said they therefore asked that condition #3 be deleted. With reference to condition #2 requiring a temporary turnaround at the end of Deer River Road, Mr. Anderson said he had spoken with Mr. Olsen and Mr. Stewart and they did not have a problem with deleting that requirement, although Mr. Stewart said he would have to get approval from Mr. Ruffer. Mr. Anderson asked that the Commission approve this plan without a temporary turnaround. He pointed out that his client, Millard Refrigerated Services, was on Lot 1 at this time and it would be several years before any other sites down there would be developed. They considered it to be a waste of money, therefore, to construct a temporary turnaround. Mr. Anderson said the applicant was ready to start operation as soon as they got the plat recorded.

Mr. Olsen asked if there had been a revision to the plat, as the plat submitted did not show that Deer River Road was paved to Lot 5.

Mr. Anderson said their surveyor told him that it was shown on the plat submitted.

In deliberative session a question was raised as to whether the County Engineer's approval was needed, since Mr. Stewart was present on behalf of the County Engineer's office.

Mr. Stewart stated that the County required turnarounds on any street that exceeded 300 feet, unless there was an intersection for them to back around or turn around. That was their general policy on any subdivision street.

After discussion a motion was made by Mr. Vallas and seconded by Mr. Watkins 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 3 are denied access to the existing Deer River Road, and Lot 4 is limited to one curb cut to Dauphin Island Parkway, with the size, location and design to be approved County Engineering;**



- 2) the provision of a temporary turnaround at the end of the new Deer River Road where it meets the right-of-way of the existing Deer River Road; subject to County Engineer approval; and
- 3) the approval of all applicable federal, state and local agencies prior to the issuance of any permits; and
- 4) 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.

The motion carried unanimously.

**Case #SUB2005-00174**

**Downtown West Subdivision, Unit Six, Resubdivision of Lots 1 & 2**

(West side of Downtowner Loop West, 200'± North of Downtowner Loop South).

1 Lot / 1.1± Acres

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

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to grant tentative approval of the above referenced subdivision.

The motion carried unanimously.

**Case #SUB2005-00177**

**Graceland Subdivision**

North side of Howells Ferry Road, ¼ mile± East of the North terminus of Havens Road.

10 Lots / 11.5± Acres.

William Parks, with Speaks and Associates, was present on behalf of the applicant and requested this application be held over until the first meeting in October.

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 6, 2005 meeting at the applicant's request.

The motion carried unanimously.

**Case #SUB2005-00175**

**McRae Place Subdivision**

South side of Johnson Road at the South terminus of Cottage Grove Drive

48 Lots / 19.0± Acres

Joel Coleman, with Rester and Coleman Engineers, was present on behalf of the applicant. Mr. Coleman stated that this subdivision had previously been approved with the condition that a street stub be provided to the property to the west. Mr. Coleman said

they staked out the street stub as required and submitted it to the County Engineer's office. The County Engineer's office contacted the engineer for the developer of the property to the west who said they were not able to connect to the street stub that they were providing. The County, therefore, indicated that they would require a paved cul-de-sac at that west property line. After consulting with Mr. Olsen and the County Engineer's office, since they were trying to put a cul-de-sac at the end of the west property line anyway, Mr. Coleman said they wanted to shorten that cul-de-sac because of the cost. That, however, would not be in line with the previous approval. Also, the previous approval required a street stub to the south which is now condition #1 of this approval. Mr. Coleman asked that condition be waived because the property to the south ties directly into Scott Dairy Loop Road. The concern at that time was that there would be a cut through all the way from Johnson Road straight down to Scott Dairy Loop Road. That is still their concern now. There was also talk about a stub street to the east. There is a house on that lot that is at the rear of the lot shown. So that stub street was waived as well. Mr. Coleman said they were resubmitting the plan with no street stubs and were agreeable with all other conditions.

Bill Grogan, a resident of 9500 Scott Dairy Loop, stated that he was opposed to a street stub into his property.

A motion was made by Dr. Rivizzigno and seconded by Mr. Watkins to approve the above referenced subdivision subject to the following conditions:

- 1) **the placement of a note on the final plat stating that Lots 1 and 48 are denied direct access to Johnson Road South;**
- 2) **the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations; and**
- 3) **the placement of a note on the final plat stating that maintenance of the detention area will be the responsibility of the property owners.**

The motion carried unanimously.

**Case #SUB2005-00183**

**Riverwood Estates Subdivision, Phase Three**

East side of Rabbit Creek Drive at the East terminus of Gulf Creek Circle (South), extending to the South terminus of Riverwood Landing South.

46 Lots / 30.7± Acres

A representative from Austin Engineering was present and concurred with staff recommendations.

A motion was made by Mr. Watkins and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **placement of a note on the Final Plat stating that easements and common areas are to be maintained by the property owners association;**
- 2) **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;**
- 3) **placement of a note on the Final Plat stating that Lots 1 through 4 are denied direct access to Rabbit Creek Drive, and;**
- 4) **approval of all applicable federal, state and local agencies regarding the wetlands and floodplain issues prior to the issuance of any permits.**

The motion carried unanimously.

**Case #SUB2005-00178**

**Water Street Urban Renewal Project Alabama R-34 Subdivision, First Unit, Block 10-D, Resubdivision of Lot 2**

South side of St. Madar Street, extending from Marmotte Street to Fishers Alley (formerly Lang Street).

2 Lots / 3.4± Acres

Joe Regan, Regan Land Surveying, was present on behalf of the Mobile Housing Board who proposes to sell this piece of property to the MLK Redevelopment Corporation. Mr. Regan explained that they would like to add on to the restaurant and parking that adjoins this piece of property. They are therefore asking for deletion of condition #2, which required would be documentation showing compliance with the building site coverage and on-site parking requirements prior to the recording of the final plat.

In deliberations there were questions as to the proposed use of the property. Mr. Olsen explained that the building on Lot B would be demolished. MLK Redevelopment plans to purchase the lot and incorporate it into their existing property on the corner. They will have to come back before the Commission for resubdivision and rezoning, and then they will expand the restaurant that is there. Mr. Olsen explained that if the commission were to change that condition to require demolition of building and not specify prior to the recording the plat, that would accomplish what they are trying to do.

A motion was made by Mr. Vallas and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) **the placement of the 25-foot minimum setback lines on the final plat; and**
- 2) **demolition of the building on lot B prior to redevelopment.**

The motion carried unanimously.

**Case #SUB2005-00180**

**Walshwood Medical Subdivision, Resubdivision of**

Northeast corner of Spring Hill Avenue and Mobile Infirmary Drive extending through to Center Street  
2 Lots / 24.9± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. He requested that condition #2 which would require the dedication of a drainage easement along the regulatory flood way and flood plain, to be approved by Engineering as recommended by the staff be deleted, as Mobile Infirmary Drive is a private street that belongs to the hospital and there is no room to dedicate any additional right-of-way.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) **the dedication of a drainage easement along the regulatory flood way and flood plain, to be approved by Engineering;**
- 2) **minimum finished floor elevations for Lots 1 and 2, to be approved by Engineering prior to signing the final plat;**
- 3) **the receipt of permits from the Mobile Tree Commission prior to pruning or removing trees located on the vacated Walshwood Road right-of-way; and**
- 4) **the approval of all applicable federal, state, or local agencies, prior to the issuance of any permits.**

The motion carried unanimously.

**NEW SIDEWALK WAIVER APPLICATIONS:**

**Case #ZON2005-01635**

**Comfort Suites (M. Don Williams, Agent)**

80 Springdale Boulevard

(East side of Springdale Boulevard, 325'± South of East I-65 Service Road South).

A request to waive construction of a sidewalk along Springdale Boulevard.

A motion was made by Mr. Watkins and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

**Case #ZON2005-01636**

**Dewitt McCrary (M. Don Williams, Agent)**

4007, 4051 and 4057 Moffett Road

(South side of Moffett Road at Pine Grove Avenue).

A request to waive construction of a sidewalk along Moffett Road.

A motion was made by Mr. Watkins and seconded by Dr. Rivizzigno to approve this request.

The motion carried unanimously.

**OTHER BUSINESS:**

There being no further business, the meeting was adjourned.

**APPROVED: October 20, 2005**

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Victor McSwain, Secretary

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Terry Plauche, Chairman

tc/ms