

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF APRIL 3, 2008 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Watkins, III
Stephen Davitt
Mead Miller
Victoria L. Rivizzigno
Roosevelt Turner
John Vallas

Members Absent

Clinton Johnson
William DeMouy, Secretary
Debra Butler
Nicholas Holmes, III

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Bert Hoffman,
Planner II
Joanie Stiff-Love,
Secretary II

Others Present

John Lawler,
Assistant City Attorney
Rosemary Sawyer,
City Engineering
Jennifer White,
Traffic Engineering

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

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

HOLDOVERS:

Case #SUB2008-00005 (Subdivision)

Liberty Subdivision

7271 Grelot Road
South side of Grelot Road, 420'± East of Westchester Lane
Number of Lots / Acres: 1 Lot / 0.5± Acre
Engineer / Surveyor: Byrd Surveying, Inc.
County

Clay A. Lanham, Vickers, Riis, Murray and Curren, spoke on behalf of the applicant, Steve Cooner, and made the following points:

- A. Mr. Cooner owns lot C and purchased lot B from Mr. Flynn, who also owns Westchester Place lot 19 and lot A;
- B. Mr. Flynn failed to go through the proper subdivision process when he subdivided lots A and B and sold lot B to Mr. Cooner,

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- creating the issue of an illegal lot of record, as well as a landlocked piece of property;
- C. Mr. Flynn continues to be very uncooperative in participating in the resolution of the matter he created, including not responding to correspondence regarding the same;
 - D. the applicant has had the square footage information placed on the plat and has 6 copies of the same for the staff; and,
 - E. the applicant has a copy of the source deed showing how all of this came to be.

Upon hearing this, Mr. Watkins stated that he felt it would be unfair to deny Mr. Cooner's application based upon the actions of the former landowner. He then asked if the staff had any conditions they would like considered, should the Commission choose to approve the matter.

Mr. Olsen answered the staff would like to see the following included in any approval of the matter:

- A. dedication of approximately 9 to 10 frontage feet of the acquired strip, to be aligned with the main lot, which would provide the necessary right-of-way frontage from the center line of the public street; and,
- B. placement of a note on the final plat limiting the site to 1 curb cut, with location and design to be approved by County Engineering, because it is a major street.

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

- 1) dedication sufficient to provide a minimum of 50' from centerline of Grelot Road; and,**
- 2) placement of a note on the final plat stating that the site is limited to one curb cut, with size, location, and design to be approved by County Engineering.**

The motion carried unanimously.

Case #SUB2008-00029 (Subdivision)
Magnolia Way Subdivision, Re-subdivision of Lot 2

3448 Dawes Road

West side of Dawes Road, 180'± North of Scott Dairy Loop Road South

Number of Lots / Acres: 2 Lots / 2.5± Acres

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
County

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Matt Orrell, Polysurveying of Mobile, spoke on behalf of his client, Mr. Bateman, as well as the property owner, Mrs. Schofner, who wishes to sell the property to Mr. Bateman. He added that Mr. Bateman wanted to purchase the property for use as access to his adjoining nursery, and that though it had not been written as the purpose for purchasing the property, it was their assumption that due to the illustration the same assumption would be reached by others. He recognized the staff's concern regarding the width-to-depth ratio, but noted that had never been an issue before, especially in a case such as this, as the applicant had no plans to build in that area.

Mr. Watkins and Mr. Vallas clarified with Mr. Orrell the intended use of the property was access to the nursery and that the current owner, Mrs. Schoener, was well informed of that intended use. After being assured of this, they asked if the staff had any recommendations they would like noted, should the Commission choose to approve the application.

Mr. Olsen advised there were and stated the following:

- A. placement of a note on the plat stating that each lot is limited to one curb cut to Dawes Road, with the size, location, and design to be approved by County Engineering and conform to AASHTO standards;
- B. revision of the minimum building setback on lot 2A to at least 25' from where the "pole" meets the "flag" portion of the lot;
- C. placement of a note on the final plat stating that no future subdivision of lot 2A will be allowed unless additional adequate frontage on a public street is provided;
- D. placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
- E. placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,
- F. submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.

Mr. Orrell stated the applicant was in agreement with those and wished to speak.

Robert Bateman, 9070 Scott Dairy Loop South, expressed the parcel being flag shaped was not intentional; it simply happened that way as his desire was to use it as a truck entrance to the nursery from Dawes Road.

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Mr. Watkins asked why Mr. Bateman had not chosen to incorporate the lot into his original property as opposed to keeping it as a separate lot.

Mr. Bateman and Mr. Orrell both said no reason was seen as both lots are legal lots of record in the county.

Dr. Rivizzigno commented that as the new lot would be used as part of the business located on the adjoining lot and the Commission felt the business should be contained to one lot, as opposed to part of it being on one lot and part of it being on another.

Mr. Orrell reminded the Commission that the property in question was located in the county and thereby had no zoning restrictions. He also added that it was perfectly within a property owner's rights to build across recognized lot lines, as long as the property owner owned all of the land in question.

Mr. Miller asked for assurances that the property owner of lot 2B would find it acceptable to have that type of driveway adjacent to her property.

Mr. Orrell, Mr. Bateman, and Mrs. Schofner all assured the Commission that she was agreeable to the situation.

Dr. Rivizzigno pointed out that creating this flag shaped lot set a precedent for the area and even though she was sympathetic to the desire put a family member through medical school, reasoning of that nature had never been used to justify an approval. She also commented that while placing a business on two separate, but adjoining properties might not be unusual, it created the potential for problems in the future as the property might change hands and fall under the ownership of two separate business owners.

Mr. Vallas disagreed with Dr. Rivizzigno saying that as this was located in the county, it was meaningless and irrelevant that the one business would occupy two properties.

Mr. Miller agreed with Dr. Rivizzigno's hesitations but also agreed with Mr. Vallas that this was a special situation which included the concurrence of the adjacent landowner.

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

- 1) placement of a note on the plat stating that each lot is limited to one curb cut to Dawes Road, with the size, location, and design to be approved by County Engineering and conform to AASHTO standards;**
- 2) revision of the minimum building setback on Lot 2A to at least 25' from where the "pole" meets the "flag" portion of the lot;**

- 3) placement of a note on the final plat stating that no future subdivision of Lot 2A will be allowed unless additional adequate frontage on a public street is provided;
- 4) placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
- 5) placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,
- 6) submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.

The motion carried with only Dr. Rivizzigno and Mr. Watkins voting against.

Case #SUB2008-00037 (Subdivision)

Lakeside Commercial Park West Subdivision, Re-subdivision of Lots 2 & 3

3741 and 3751 Joy Springs Drive

South side of Joy Springs Drive, 225'± West of Lakeside Drive

Number of Lots / Acres: 2 Lots / 3.8± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 4

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) subject to the approval of a Planned Unit Development for shared access between multiple building sites;
- 2) the placement of a note on the plat and site plan stating that the site is limited to the existing curb cuts; and,
- 3) placement of a note on the plat and site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.

The motion carried with only Dr. Rivizzigno and Mr. Watkins voting against.

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Case #ZON2008-00367 (Sidewalk Waiver)

West Mobile Properties, LLC

576 and 600 Zeigler Circle East

Southeast corner of Zeigler Circle East and Sellers Lane

Request to waive construction of sidewalks along Zeigler Circle East and Sellers Lane.

Council District 7

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Watkins, with second by Dr. Rivizzigno, to approve the above referenced sidewalk waiver, for the following reason:

- 1) due to utility conflicts, based on information provided by applicant.**

The motion carried unanimously.

Case #SUB2008-00030 (Subdivision)

Magnolia Business Park Subdivision

1550 South University Boulevard

Northwest corner of South University Boulevard and Aurelia Street

Number of Lots / Acres: 2 Lots / 1.2± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) dedication of a minimum 50' from the centerline of University Boulevard;**
- 2) placement of a note on the final plat stating that the subdivision is limited to one curb cut to University Boulevard, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 3) placement of a note on the final plat stating that the development of Lot 2 will require a Planned Unit Development application for shared access;**
- 4) labeling of the lots with their sizes in square feet, or the provision of a table on the plat with the same information;**

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- 5) depiction of a minimum 25' building setback line along University Boulevard and Aurelia Street; and,
- 6) placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.

The motion carried unanimously.

Case #ZON2008-00362 (Planned Unit Development)

Magnolia Business Park Subdivision

1550 South University Boulevard

Northwest corner of South University Boulevard and Aurelia Street

Planned Unit Development Approval to allow shared access between two building sites

Council District 6

Application was withdrawn prior to Planning Commission meeting.

Case #SUB2008-00039 (Subdivision)

The Moors at Springhill Subdivision

North side of Spring Hill Avenue, extending from the North terminus of Wacker Lane

North to the North terminus of Gulfwood Drive

Number of Lots / Acres: 2 Lots / 5.9± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

(Also see **Case #ZON2008-00371 (Rezoning) 911 Dauphin Street, Inc.**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

The following people spoke in opposition to the matter:

Tom Harrison, 574 Springwood Drive, Mobile, AL; and,
Curt Wilson, 320 Dalewood Drive, Mobile, AL.

They made the following points against the two applications:

- A. the city's Engineering Department has said and continues to say the property in question is not suitable for development due to environmental issues;
- B. the area neighbors do not want this property developed as it will have a negative impact on their property by increasing the potential for flooding, so they strongly object to it;
- C. though the Commission's previous decision to hold the matter over had given time for area residents to meet with the developers to

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find an amicable compromise, no such compromise was reached;
and,

- D. it was felt that the area already had enough commercial property and that this development would be an unnecessary encroachment on the current R-1, single family residential neighborhood adjacent to it.

Don Coleman, Rester and Coleman Engineers, Inc., responded with the following:

- A. the applicant recognizes that the property has some very definite challenges, however, at this time, they only want to build an office building on lot 1, which is adjacent to the shopping center;
- B. the issues regarding increasing the potential of flooding to the surrounding areas, as listed in the Engineering report, are for the entire site, but development of lot 1 will not cause this as it does not reach 3 Mile Creek; and,
- C. conditions, as set out by the Planning staff, will eliminate much of the concern voiced by the neighbors.

Mr. Vallas noted there appeared to be approximately 225 feet of buffer on the western edge near the residential area. He asked if Mr. Coleman felt that area would ever be developed commercially or would it remain as a buffer between the commercial property and the residentially zoned area.

Mr. Coleman stated he felt that strip would not be developed residentially.

Dr. Rivizzigno asked what percentage of the proposed development would be covered in impervious surfacing.

Mr. Coleman said he believed it to be 80 percent.

Mr. Watkins asked what the applicant's position was on why this property should be rezoned as commercial and what criteria had been used in justifying that choice.

Mr. Coleman stated they just wanted to put an office building on the site.

Mr. Watkins asked if Engineering had any further comments they wished to make regarding the site and its possible development.

Ms. Sawyer, City Engineering, responded that her department stood by all of its recommendations regarding the property as stated in previous reports with all previous applications and that it was their position that the site in its entirety was not truly viable as commercial development.

Mr. Olsen reminded the Commission that other than the application for rezoning, the proposed development would only involve lot 1 on the plat and not the entire site. He

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added the staff held to their position that based upon B-1 and B-2 zonings adjacent to the site that the site had very low potential to be developed as residential, so the staff felt comfortable with recommending approval of the application.

Mr. Watkins expressed his opinion that the Zoning Ordinance set forth a list of criteria to be reviewed before approving a request for re-zoning and that none of those had been met, and in his opinion, it seemed the applicant was requesting a re-zoning simply because they wanted to build there.

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Miller, to deny the application based upon the following reasons:

- 1) concerns relating to the flood way and flood zones; and,**
- 2) the rezoning was recommended for denial, and thus the subdivision would be unnecessary.**

The motion carried with only Mr. Davitt and Mr. Vallas voting in opposition to the denial.

Case #ZON2008-00371 (Rezoning)
911 Dauphin Street, Inc.

North side of Spring Hill Avenue at the North terminus of Wacker Lane North
Rezoning from R-1, Single-Family Residential, to B-1, Buffer Business, to allow professional offices

Council District 7

(Also see **Case #SUB2008-00039 (Subdivision) The Moors at Springhill Subdivision**, above)

(See **Case #SUB2008-00039 (Subdivision) The Moors at Springhill Subdivision** for discussion)

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Miller, to deny the application based upon the following reasons:

- 1) concerns relating to the flood way and flood zones; and,**
- 2) the applicant failed to meet the criteria set forth in 64.9.A - Reasons for Amendment.**

The motion carried with only Mr. Davitt and Mr. Vallas voting in opposition to the denial.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2008-00050

Kent Estates Subdivision

1216 Silver Drive

East side of Silver Drive, 35'± North of its South terminus

Number of Lots / Acres: 1 Lot / 0.2± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
Council District 1

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Watkins, to hold the matter over until the May 1, 2008, meeting, with revisions due by April 18, 2008, to allow the applicant to provide staff with the following:

- 1) documentation that the metes and bounds parcel was created prior to 1952.**

The motion carried unanimously.

Case #SUB2008-00052

Victoria Springs Subdivision, Re-subdivision of Lot 2

North side of Ellen Drive, 450'± West of Howells Ferry Road

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

Engineer / Surveyor: Byrd Surveying, Inc.
County

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Ellen Drive, with the size, location, and design to be approved by County Engineering and conform to AASHTO standards;**
- 2) depiction of the 25' minimum building setback line along Ellen Drive;**
- 3) labeling of Lot 1 with its size in square feet and acres, or the provision of a table on the plat furnishing the same information;**
- 4) labeling of the remainder of Lot 2, Victoria Springs**

- Subdivision, as “Future Development”;
- 5) provision of a minimum detention capacity volume of a 50 year post development storm, with a maximum release rate equivalent to the 10 year storm pre-development rate, and the placement of a note on the final plat stating that the development will be designed to comply with all other stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, as well as the detention and release rate requirements of Mobile County for projects located within the Converse watershed, prior to the obtaining of permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
 - 6) placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,
 - 7) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2008-00062

Providence Place on North Julia Street Subdivision

115 North Julia Street

West side of North Julia Street, 367'± South of Spring Hill Avenue

Number of Lots / Acres: 1 Lot / 0.4± Acre

Engineer / Surveyor: M. Don Williams Engineering

Council District 2

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the May 1, 2008, meeting, with revisions due by April 11, 2008, to allow the applicant to provide staff with the following:

- 1) evidence the parcel existed prior to 1952; or,
- 2) revision of application to include the entire parcel.

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The motion carried unanimously.

Case #SUB2008-00054

Rich Hill Subdivision

2969 Longleaf Drive

East side of Longleaf Drive, 130'± North of Wentworth Court

Number of Lots / Acres: 2 Lots / 0.8± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 6

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **depiction and labeling of the 25' minimum building setback line as shown on the preliminary plat;**
- 2) **labeling of each lot with its size in square feet, or provision of a table on the plat depicting the same information;**
- 3) **placement of a note on the final plat stating that each lot is limited to one curb cut, with the size, design, and location to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 4) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2008-00051

Sussex Place Subdivision, Re-subdivision of Lots 15, 16 & 17

North side of Sussex Drive, 60'± East of its West terminus

Number of Lots / Acres: 2 Lots / 0.2± Acre

Engineer / Surveyor: Wattier Surveying, Inc.

Council District 5

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

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- 1) **placement of a note on the plat stating that lots 1 and 2 are denied access to Sussex Drive;**
- 2) **labeling of each lot with its size in square feet; and,**
- 3) **placement of a note on the final plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2008-00053

J2 Commercial Park Subdivision

Northwest corner of Cottage Hill Road and Oakland Drive

Number of Lots / Acres: 2 Lots / 1.1± Acres

Engineer / Surveyor: Lovitte Surveying, Inc.

Council District 6

Doug Anderson, Burr and Foreman Law Firm, spoke representing the property owner in this application. He made the following points regarding the status of the non-conforming billboard located on the property:

- A. the site plan shows the sign encroaches into the right-of-way by 16 inches, however that 16 inches is located 30 feet in the air;
- B. the sign is a source of profit for the property owners, as it currently has 13 years left on a 15 year lease with Lamar Advertising;
- C. removing the sign would create an unnecessary hardship for the property owners for a right-of-way encroachment that would never be “felt” by those using the right-of-way, since the actual space infringed upon is located 30 feet in the air, too high to have any real impact on the right-of-way; and,
- D. it was felt that the non-conforming issue was only an issue if the applicant were trying to replace the sign.

Mr. Olsen explained the differences in non-conforming signage and signage in the right-of-way, emphasizing that signs simply were not allowed in the city right-of-way.

Mr. Lawler added that signs can not be in the city right-of-way without special permission. He also stated that this sign was a non-conforming sign and the Planning Commission did not have the power to grant a variance for from the zoning ordinance. He went on to say that if the applicant wanted to seek relief from the zoning ordinance, they must file an application for a variance with the Board of Zoning Adjustment.

Mr. Vallas asked if the sign panels could be reduced in size or if that would create a situation requiring the full removal of the sign.

Mr. Lawler explained the intent of non-conforming usage was to provide the

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opportunity for a thing to continue for a time but not forever. The matter before the Planning Commission today provides an opportunity to do just that. If there is an opportunity to put up a conforming sign, then the applicant should submit an application to do so.

Mr. Watkins asked if Mr. Anderson's client had the ability to put up a conforming sign at this location or was it prohibitive at this point.

Mr. Anderson responded that he represented the property owners only and not Lamar Advertising, the owner of the sign, so he had no idea as to what their capabilities were.

Mr. Olsen advised the Commission regarding points of the Sign Regulation requirements and "off premise" signage, noting the sign in questions did not meet those, especially as it was in such close proximity to residentially zoned property.

Mr. Watkins asked what the plans for the adjacent properties were.

Mr. Anderson explained that both properties were old commercial use pieces and that the developer wanted to subdivide the property into 2 lots, demolish the existing buildings, rebuild, and re-develop the property for continued commercial use without disturbing the billboard, which had been on that location for over 20 years, pre-dating the city's sign ordinances.

Mr. Lawler re-emphasized that it was not within the Planning Commission's power to grant variances to the zoning ordinance.

Mr. Watkins commented that the Planning Commission did have the authority to reduce the right-of-way setback to either 49 feet or 48.5 feet from center line.

Dr. Rivizzigno expressed concern over saying that Cottage Hill Road was a major street.

Mr. Anderson added that yes, Cottage Hill Road was a major street with 5 lanes, which seriously reduced the possibilities of it being widened further. He also noted the area's topography as another reason there would not be further widening of Cottage Hill Road in that area.

Mr. Lawler re-iterated his stand that when a property is brought before the Commission for subdivision, the sub-divider is expected to comply with all aspects of the zoning ordinance, which in this case would mean the elimination of a non-conforming sign on the site.

Mr. Anderson, based upon all of the statements heard, made one final request that the Commission reduce the right-of-way dedication by 2 feet so the sign did not encroach on the right-of-way.

In deliberation session, Mr. Lawler advised the Commission of their responsibility with

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regards to the opportunity to remove non-conforming structures as outline in Section 5 of the Subdivision Regulations. He added that there were rarely opportunities to remove a non-conforming sign and that they had been given just that.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to deny the application. The motion failed with Mr. Watkins, Mr. Davitt, and Mr. Vallas voting against.

Following that vote, Mr. Davitt asked that as the property owner had a lease with the advertising company would forcing the property owner to remove the billboard put them in a negative legal situation due to the property owner having a contract regarding the lease of said billboard.

Mr. Lawler said that was not the case, and in fact, based upon contact with Mr. Lawler's office, only Lamar Advertising had concerns with whether or not the billboard would have to be removed, not the property owner.

Mr. Watkins asked if it had been the historical position of the Commission that when required by the Zoning Ordinance to remove non-conforming structures the Commission upheld that requirement.

Mr. Lawler reminded the Commission that not only was the billboard a non-conforming structure but that it was also in the right-of-way, so it had to be removed.

Mr. Watkins stated that the Commission had the power to reduce the footage of the right-of-way dedication, thereby taking the billboard out of the right-of-way.

Mr. Olsen stated that he could not recall a time in relation to a major street when the Commission had changed the dedication where it did not comply with what was stated in the comprehensive plan.

Mr. Miller felt that the Commission would be setting a bad precedent if they approved reducing the right-of-way dedication. Though he did see both sides, he still felt it was unnecessary, especially in an effort to save a non-conforming billboard. He added that he really was not very interested in what the Commission "used to do", but as the Commission had both reason and regulation on their side, he was very much for not allowing the sign to continue.

Mr. Vallas commented on the state of the property, noting that currently the walls of the current structure were covered with painted pictures of appliances. He felt that it would be "planning for a better community" if the existing structures on that property were demolished to make way for new development, even if it meant the billboard had to stay.

Dr. Rivizzigno asked if the sale of the property was contingent on the billboard remaining, which she doubted and continued to question why the Commission was

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trying to save a non-conforming billboard.

Mr. Miller asked what would be the ramification to the applicant if the matter were not heldover?

Mr. Olsen advised that as this was a subdivision application, there would be no required 6 month waiting period before re-submission, so the applicant could, conceivably, re-submit the application the next day.

Mr. Davitt stated he wasn't sure the Commission had all the facts in the matter, so he felt Mr. Watkins motion to holdover was in order.

Mr. Olsen advised the Chair that, historically, there have been cases come before the Planning Commission that did not receive the necessary votes to pass. Questions came up during deliberation that could not be answered, so a subsidiary motion to holdover had been taken and passed. If the Commission chose to take that route, the staff would request that the holdover be until the May 1, 2008, meeting, to allow time for the necessary research for historical data on the matter.

Hearing no more pertinent discussion, a motion was made by Mr. Watkins, with second by Mr. Davitt, to hold the matter over until the May 1, 2008, meeting. The motion carried with only Dr. Rivizzigno voting against.

Case #SUB2008-00055

Hawthorne Place Subdivision, Re-subdivision of Lot 16

4590 Hawthorne Place

North side of Hawthorne Place, 120'± West of Hawthorne Place North

Number of Lots / Acres: 2 Lots / 0.5± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying
Council District 5

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. Watkins, to approve the above referenced re-subdivision, subject to the following conditions:

- 1) placement of a note on the final plat stating that the each lot is limited to one curb cut to Hawthorne Place, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 2) labeling of each lot with its size in square feet, or the provision of a table on the plat with the same information;**
- 3) demolition of the existing structure prior to signing the final plat; and,**

- 4) **placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state and Federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

Case #SUB2008-00049

Pecan Pointe Subdivision, Part A, Re-subdivision of Lots 23 & 24

West side of Southland Way, 110'± North of Raymond Tanner Road.

Number of Lots / Acres: 2 Lots / 0.8± Acre

Engineer / Surveyor: Greg Stirm Surveying, LLC

County

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **placement of a note on the final stating that each lot is limited to one curb cut to Southland Way, with the size, location, and design to be approved by county Engineering and conform to AASHTO standards;**
- 2) **illustration of the 25' minimum building setback line along Southland Way;**
- 3) **labeling of each lot with its size in square feet and acres, or the provision of a table on the final plat furnishing the same information;**
- 4) **placement of a note on the final plat stating that the maintenance of the common areas of Pecan Pointe Subdivision, Part A, shall be the responsibility of the property owners;**
- 5) **placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;**
- 6) **placement of a note on the final plat stating that any lots developed commercially and adjoining residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and,**
- 7) **placement of a note on the final plat stating that compliance with the City of Mobile stormwater and flood control ordinances will be required, and that a letter from a licensed engineer certifying compliance with the City's stormwater and flood control ordinances should be submitted to the Mobile**

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County Engineering Department and the Planning Section of Mobile Urban Development prior to the issuance of any permits.

The motion carried unanimously.

Case #SUB2008-00061

Semmes Highlands Subdivision, Fourth Unit, Re-subdivision of Lot 23

8616 Blackstone Road and 2954 Firetower Road

Southeast corner of Blackstone Road and Firetower Road

Number of Lots / Acres: 3 Lots / 5.0± Acres

Engineer / Surveyor: Lawler and Company

County

Will Lawler, Lawler and Company, spoke on behalf of the applicant and addressed items 2 and 7 regarding stormwater detention, making the following points:

- A. in 1976, lot 23 was illegally subdivided and two houses built there;
- B. no changes have taken place on lot 23 since that subdivision;
- C. to put in stormwater detention measures at this time would be out of character for the area; and,
- D. the only reason the issue had been brought to the attention of the Planning Commission was due to the fact one of the homeowners was trying to sell and they were attempting to correct the earlier illegal subdivision issue.

The Chair asked if the requirements in question were part of the staff's standard stormwater detention remarks for property located in the county.

Mr. Olsen advised they were.

In deliberation, Mr. Davitt reminded the Commission that the applicant wanted some relief with regards to the issue of stormwater detention.

Mr. Olsen advised the Commission that the Subdivision Regulations for the county require this exact same requirement, so regardless of where the subdivision was being built, stormwater detention of this manner was required.

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

- 1) placement of a note on the final plat stating that Lot 1 is limited to a maximum of three curb cuts, and Lots 2 and 3 are each limited to one curb cut to Fire Tower Road and Blackstone Drive respectively, with the size, location, and**

- design to be approved by County Engineering and conform to AASHTO standards;
- 2) provision of a minimum detention capacity volume of a 50 year post development storm, with a maximum release rate equivalent to the 10 year storm pre-development rate, and the placement of a note on the final plat stating that the development has been designed to comply with all other stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, as well as the detention and release rate requirements of Mobile County for projects located within the Converse watershed, prior to the obtaining of permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
 - 3) placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
 - 4) placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,
 - 5) submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.

The motion carried unanimously.

Case #SUB2008-00057

South Schillinger Commercial Park Subdivision, Phase Two

880 and 930 Schillinger Road South

West side of Schillinger Road South, 835'± North of the West terminus of Hitt Road

Number of Lots / Acres: 4 Lots / 30.5± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

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

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

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by Mr. Watkins, to hold the matter over until May 1, 2008, meeting, with all required information submitted no later than April 14, 2008, to allow the applicant to provide the following:

- 1) **the submittal of the completed Traffic Impact Study as required by Traffic Engineering and Urban Development prior to the development of Lot 3A;**
- 2) **the illustration of a 10-foot buffer planting strip and a minimum 6-foot high solid wooden fence along the West property line of the development;**
- 3) **the dedication of 50-feet of right-of-way to provide access by means of a public street to Lots 2A and 3A;**
- 4) **the placement of a note on the Final Plat stating that the development be denied access to Aztec Drive and Aztec Drive be barricaded;**
- 5) **certification via placement of a note on the plat stating that the property owner/developer will comply with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected flora and fauna; and,**
- 6) **revision of the plat to label the lot with its size in square feet, or placement of a table on the plat with the same information.**

The motion carried unanimously.

Case #SUB2008-00060

Bellingrath Road Country Club Estates Subdivision, Willard Drive Addition, Phase 3

North side of Willard Drive North at the East terminus of the open right-of-way; Southeast corner of Willard Drive North and Kelcey Court; and South side of Willard Drive North, 120'± West of Kelcey Court, extending to the West side of Kelcey Court, 115'± South of Willard Drive North

Number of Lots / Acres: 9 Lots / 2.9± Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

County

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **revision of the plat to label each lot with its size in square feet, or placement of a table on the plat with the same information;**
- 2) **placement of a note on the plat stating that maintenance of the detention and common areas is the responsibility of the**

- subdivision's property owners;
- 3) placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering; 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.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2008-00729

Gulf Distributing (Cummings Architecture, Agent)

3378 Moffett Road

Northeast corner of Moffett Road and the Illinois Central Gulf Railroad right-of-way

Request to waive construction of a sidewalk along Moffett Road

Council District 1

The chair announced the application had been withdrawn after Mr. Olsen announced the staff had received a letter requesting it be withdrawn by the applicant.

GROUP APPLICATIONS:

Case #SUB2008-00058 (Subdivision)

Austal USA Modular Manufacturing Facility (MMF) Subdivision

Southeast corner of Addsko Road and Dunlap Drive, extending to the North side of Pinto Pass

Number of Lots / Acres: 1 Lot / 102.6+ Acres

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 2

(Also see **Case #ZON2008-00727 (Sidewalk Waiver) Austal USA, LLC (Dees Engineering Services, Inc., Agent)**, and, **Case #ZON2008-00728 (Planned Unit Development) Austal USA Modular Manufacturing Facility (MMF) Subdivision**, below)

The following people spoke on behalf of the applications:

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David Tomlin, #1 Dunlap Drive; and,
Barry Dees, Dees Engineering Services, Inc., 3817 Gulf Shores
Parkway, Suite 9, Gulf Shores, AL 36542.

They stated they were in agreement with the recommendations.

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

- 1) **placement of a note on the final plat stating that the development is limited to three curb cuts along Addsko Road, and five curb-cuts, to Dunlap Drive, with the size, design, and location of all curb-cuts to be approved by Traffic Engineering and conform with AASHTO standards;**
- 2) **the labeling of the lot with its size in square feet, or placement of a table on the plat with the same information;**
- 3) **placement of a note on the Final Plat stating that the maintenance of the detention common area is the responsibility of the property owners; and,**
- 4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2008-00727 (Sidewalk Waiver)

Austal USA, LLC (Dees Engineering Services, Inc., Agent)

Southeast corner of Addsko Road and Dunlap Drive, extending to the North side of Pinto Pass

Request to waive construction of a sidewalk along Dunlap Drive

Council District 2

(Also see **Case #ZON2008-00728 (Planned Unit Development) Austal USA Modular Manufacturing Facility (MMF) Subdivision**, above, and, **Case #ZON2008-00728 (Planned Unit Development)**

Austal USA Modular Manufacturing Facility (MMF) Subdivision, below)

The following people spoke on behalf of the applications:

David Tomlin, #1 Dunlap Drive; and,
Barry Dees, Dees Engineering Services, Inc., 3817 Gulf Shores
Parkway, Suite 9, Gulf Shores, AL 36542.

They offered the following reasons in support of their requested sidewalk waiver:

- A. the applicant's property extends in several areas into Addsko Road, so it is physically impossible to build the sidewalk as it would be

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- in the right-of-way;
- B. the property abuts the paved road surface at the intersection of Dunlap Drive and Addesco Road;
 - C. the property does widen some as it goes eastward, however, that widening has allowed for the installation of power poles, which would create a safety hazard to pedestrian traffic, as would being in such close proximity to heavy vehicular traffic;
 - D. down Addesco Road to the corner, the applicant's property line is actually in the middle of the travel lane, again creating an impossible situation for a sidewalk; and,
 - E. the waiver for sidewalks along Dunlap, as well as Addesco Road, is due to the company trying to limit and control access to their facilities, as their work is of a sensitive nature, though the applicant agrees with Engineering comments that based upon the topography of the area, a sidewalk could be placed there.

Mr. Watkins asked if the property abutted the bridge at Dunlap Drive.

Mr. Dees said it was very close to the bridge and on the southeast side the property dropped off into wetlands.

Mr. Olsen advised the Commission that the staff had no problem with the Commission choosing to approve this sidewalk waiver, as the staff fully understood the issues listed by the applicant and their representative. He added that the staff made their recommendation for denial based upon the Commission's instructions to do so unless Engineering had given reasons to support a waiver.

Mr. Miller asked if the entire facility was fenced in, as well as if the existing sidewalk extended all the way to their facility.

Mr. Dees said the facility was enclosed by a fence and that the sidewalk mentioned by Mr. Miller had been put in by the property owner approximately a year prior and extended all the way up the northeast side of Dunlap.

Mr. Watkins commented that he was very familiar with the property and that he felt sidewalks would not be an asset in the area.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Vallas, to approve the above requested sidewalk waiver.

The motion carried unanimously.

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Case #ZON2008-00728 (Planned Unit Development)
Austal USA Modular Manufacturing Facility (MMF) Subdivision
Southeast corner of Addesco Road and Dunlap Drive, extending to the North side of Pinto Pass
Planned Unit Development Approval to allow multiple buildings on a single building site
Council District 2
(Also see **Case #SUB2008-00058 (Subdivision) Austal USA Modular Manufacturing Facility (MMF) Subdivision**, and, **Case #ZON2008-00727 (Sidewalk Waiver) Austal USA, LLC (Dees Engineering Services, Inc., Agent)**, above)

The following people spoke on behalf of the applications:

David Tomlin, #1 Dunlap Drive; and,
Barry Dees, Dees Engineering Services, Inc., 3817 Gulf Shores Parkway, Suite 9, Gulf Shores, AL 36542.

They stated they were in agreement with the recommendations.

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

- 1) **completion of the Subdivision process;**
- 2) **the submission of a revised PUD site plan reflecting compliance with the landscaping and tree requirements of the Zoning Ordinance; and,**
- 3) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2008-00063 (Subdivision)
Dobbs Industrial Park Subdivision, First Addition, Re-subdivision of Lots 1 & 2
3730 Halls Mill Road
North side of Halls Mill Road, 130'± West of Varner Drive
Number of Lots / Acres: 1 Lot / 1.2± Acres
Engineer / Surveyor: M. Don Williams Engineering
Council District 4
(Also see **Case #ZON2008-00733 (Planned Unit Development) Dobbs Industrial Park Subdivision, First Addition, Re-subdivision of Lots 1 & 2**, below)

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until May 1, 2008, meeting, in order to be

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considered in conjunction with a revised Planned Unit Development.

The motion carried unanimously.

Case #ZON2008-00733 (Planned Unit Development)
Dobbs Industrial Park Subdivision, First Addition, Re-subdivision of Lots 1 & 2

3730 Halls Mill Road

North side of Halls Mill Road, 130'± West of Varner Drive

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

Council District 4

(Also see **Case #SUB2008-00063 (Subdivision) Dobbs Industrial Park Subdivision, First Addition, Re-subdivision of Lots 1 & 2**, above)

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until May 1, 2008, meeting, to allow the applicant to revise the site plan to include the following:

- 1) **inclusion of a narrative giving a detailed description of the use of the proposed building and a timetable for expansion;**
- 2) **inclusion of calculations for site coverage, parking ratios based on internal uses of buildings, and for landscaping and trees;**
- 3) **depiction of parking, internal circulation, dumpster location (if any), truck loading/unloading (if any), and stormwater detention (if any); and**
- 4) **revision of the site plan to indicate all improvements based on required frontage dedication.**

The motion carried unanimously.

Case #SUB2007-00296 (Subdivision) (Holdover)

The Christian Bible Teaching Church Subdivision

Southwest corner of Houston Street and Duncan Street

Number of Lots / Acres: 2 Lots / 0.7± Acre

Engineer / Surveyor: Rowe Surveying & Engineering Co., Inc.

Council District 3

(Also see **Case #ZON2008-00731 (Planned Unit Development) The Christian Bible Teaching Church Subdivision**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

conditions:

- 1) placement of a note on the final plat stating that, at the time of improvements to either lot, the size, location, and design of all curb cuts are to be approved by Traffic Engineering and conform to AASHTO standards;
- 2) placement of a note on the final plat stating that, at the time of proposed improvements to either lot, a Planned Unit Development application including both lots will be required to be submitted to Urban Development;
- 3) illustration of the 25' minimum building setback line along Houston Street and Duncan Street;
- 4) dedication of a 25' corner radius curve at the corner of Houston Street and Duncan Street;
- 5) labeling of each lot with its size in square feet, or the furnishing of a table on the plat providing the same information;
- 6) placement of a note on the final plat stating that development of the site must be undertaken in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
- 7) compliance with the Engineering Comments: *(Must comply with all stormwater and flood control ordinances. Cannot concentrate stormwater runoff to an adjacent property without a release agreement or a private drainage easement. Must provide detention for any impervious area added since 1984 in excess of 4,000 square feet. Analysis of the receiving storm drainage system required to show that the system is capable of handling the projected flows. Detention may need to be maximized or upgrades to the drainage system may be required if analysis shows that the system is undersized. Any work performed in the right-of-way will require a right-of-way permit.)*; and,
- 8) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2008-00731 (Planned Unit Development)

The Christian Bible Teaching Church Subdivision

Southwest corner of Houston Street and Duncan Street

Planned Unit Development Approval to allow shared access between two building sites

Council District 3

(Also see **Case #SUB2007-00296 (Subdivision) (Holdover) The Christian Bible Teaching Church Subdivision**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **submission of an amended PUD, to be approved by the Planning Commission, at such time that development of Lot 1 or any changes to Lot 2 are proposed.**

The motion carried unanimously.

Case #SUB2008-00056 (Subdivision)

Ben Radcliff Subdivision

3456 Halls Mill Road

Northwest corner of Halls Mill Road and West I-65 Service Road South, extending to the West side of West I-65 Service Road South, 500'± North of Halls Mill Road, and extending to the East side of Montlimar Creek

Number of Lots / Acres: 3 Lots / 28.9± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 4

(Also see **Case #ZON2008-00732 (Planned Unit Development) Ben Radcliff Subdivision**, and, **Case #ZON2008-00730 (Rezoning) Ben M. Radcliff Contractor, Inc.**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **dedication of sufficient right-of-way to provide 35' as measured from the centerline of Halls Mill Road;**
- 2) **dedication of sufficient right-of-way to provide 150' as measured from the centerline of Interstate 65;**
- 3) **the depiction of the 25' minimum building setback line, as measured from the right-of-way line after dedication;**
- 4) **placement of a note on the final plat stating that Lots 2 and 3 are limited to two curb cuts to Halls Mill Road/West I-65 Service Road South, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 5) **placement of a note on the final plat stating that Lot 1 is limited to one curb cut to West I-65 Service Road South, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;**
- 6) **the placement of a note on the Final Plat stating the provision**

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- of a 6-foot high solid wooden fence and 10-foot vegetative buffer, where the site abuts Montlimar Creek;
- 7) the inclusion of the portion the property along the northern boundary of the proposed Lot 1; and,
 - 8) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2008-00732 (Planned Unit Development)

Ben Radcliff Subdivision

3456 Halls Mill Road

Northwest corner of Halls Mill Road and West I-65 Service Road South, extending to the East side of Montlimar Creek

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

Council District 4

(Also see Case #SUB2008-00056 (Subdivision) **Ben Radcliff Subdivision**, above, and, Case #ZON2008-00730 (Rezoning) **Ben M. Radcliff Contractor, Inc.**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) revision of the site plan to depict proposed dumpster storage locations, in compliance with Section 64-4.D.9. of the Zoning Ordinance;
- 2) revision of the site plan to depict existing on-site circulation and parking;
- 3) 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;
- 4) revision of the site plan and plat to provide a minimum right-of-way width of 35 feet, as measured from the centerline for Halls Mill Road, in compliance with Section V.B.14. of the Subdivision Regulations;
- 5) revision of the site plan and plat to provide a minimum right-of-way width of 150 feet, as measured from the centerline of Interstate 65, in compliance with Section V.B.14. of the Subdivision Regulations;
- 6) revision of the site plan to accurately depict all existing curb-cuts, and modifications thereof (with reduction of excessive width curb-cuts where possible), as well as proposed curb-cuts;

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- 7) depiction of a 6-foot high solid wooden fence and 10-foot vegetative buffer, where the site abuts Montlimar Creek; and,
- 8) revision of the site plan to provide full compliance of the landscaping and tree requirements of the Ordinance for the entire site.

The motion carried unanimously.

Case #ZON2008-00730 (Rezoning)

Ben M. Radcliff Contractor, Inc.

West side of West I-65 Service Road South, 200'± North of Halls Mill Road
Rezoning from R-1, Single-Family Residential, to I-1, Light Industry, for unspecified light industrial purposes
Council District 4

(Also see **Case #SUB2008-00056 (Subdivision) Ben Radcliff Subdivision**, and, **Case #ZON2008-00732 (Planned Unit Development) Ben Radcliff Subdivision**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) completion of the Subdivision process;
- 2) the provision of a 10-foot natural vegetative buffer along Montlimar Creek;
and,
- 3) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2008-00682 (Planned Unit Development)

Nazaree Full Gospel Church

1695 West I-65 Service Road North
Northwest and Southwest corners of West I-65 Service Road North and First Avenue
[unopened public right-of-way]
Planned Unit Development Approval to allow shared access and parking between two building sites
Council District 1

(Also see **Case #ZON2008-00681 (Planning Approval) Nazaree Full Gospel Church**, below)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

Hearing no opposition or discussion, a motion was made by Dr. Rivizzigno, with second

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by Mr. Miller, to approve the above referenced Planned Unit Development, subject to the following conditions:

- 1) revision of the site plan to depict any required stormwater detention facilities for the school site, if required;
- 2) revision of the site plan to indicate the posting of a sign at the school's curb-cut onto the Interstate 65 Service Road restricting the curb-cut to exit-only during thirty minutes before and after school start and end hours, and removal of the entry/exit arrows at the school curb-cut entrance;
- 3) revision of the site plan to indicate the posting of a sign on the eastern side of the school parking lot stating "do not enter" so that traffic entering from the church site will not turn left into the one-way portion of the school parking lot;
- 4) revision of the site plan to depict the 25-foot minimum building setback line for the school site where it is adjacent to the 1st Avenue right-of-way;
- 5) revision of the site plan delineating the site area for the school that will be required to comply with the landscape and tree requirements of the Zoning Ordinance, and the revision of landscape calculations as necessary to reflect the site area;
- 6) provision of a revised site plan to the Planning Section of Urban Development prior to the submittal of plans for permitting;
- 7) changes to the scope of operations that increase the number of students beyond 220 students, the number of teaching stations beyond 11 stations, the hours of operation beyond 6:00 AM to 6:00 PM, or that result in significant changes to the size and location of buildings and parking will require a new application for Planning Approval;
- 8) future changes to the site plan for either the school or the church site will require a new PUD application and potentially a new Planning Approval application;
- 9) full compliance with Engineering comments: *(Must comply with all stormwater and flood control ordinances. Cannot concentrate stormwater runoff to an adjacent property without a release agreement or a private drainage easement. It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS show wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Any work performed in the right-of-way will require a right-of-way permit.);*
- 10) full compliance with the revised Traffic Engineering comments

(Driveway number, size, location, and design to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards.);

- 11) **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).);*
- 12) **full compliance with Fire-Rescue comments** *(All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate. Development shall comply with 2003 IFC Section 503; 508.5.1 and appendix D. Buildings may require the installation of a sprinkler system.);*
- 13) **approval of all applicable federal, state, and local agencies for wetlands prior to the issuance of any permits or land disturbance activities; and,**
- 14) **full compliance with all other municipal codes and ordinances for new construction, including the tree and landscaping requirements of the Zoning Ordinance.**

The motion carried unanimously.

Case #ZON2008-00681 (Planning Approval)

Nazaree Full Gospel Church

Southwest corner of West I-65 Service Road North and First Avenue (unopened public right-of-way)

Planning Approval to allow a school in a B-3, Community Business District Council District 1

(Also see **Case #ZON2008-00682 (Planned Unit Development) Nazaree Full Gospel Church**, above)

The Chair stated the applicant was agreeable with the recommendations and asked if anyone wished to speak on the matter to do so at that time.

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

- 1) **revision of the site plan to depict any required stormwater detention facilities for the school site, if required;**
- 2) **revision of the site plan to indicate the posting of a sign at the school's curb-cut onto the Interstate 65 Service Road restricting the curb-cut to exit-only during thirty minutes before and after school start and end hours, and removal of the**

- entry/exit arrows at the school curb-cut entrance;
- 3) revision of the site plan to indicate the posting of a sign on the eastern side of the school parking lot stating “do not enter” so that traffic entering from the church site will not turn left into the one-way portion of the school parking lot;
 - 4) revision of the site plan to depict the 25-foot minimum building setback line for the school site where it is adjacent to the 1st Avenue right-of-way;
 - 5) revision of the site plan delineating the site area for the school that will be required to comply with the landscape and tree requirements of the Zoning Ordinance, and the revision of landscape calculations as necessary to reflect the site area;
 - 6) provision of a revised site plan to the Planning Section of Urban Development prior to the submittal of plans for permitting;
 - 7) changes to the scope of operations that increase the number of students beyond 220 students, the number of teaching stations beyond 11 stations, the hours of operation beyond 6:00 AM to 6:00 PM, or that result in significant changes to the size and location of buildings and parking will require a new application for Planning Approval;
 - 8) future changes to the site plan for either the school or the church site will require a new PUD application and potentially a new Planning Approval application;
 - 9) full compliance with Engineering comments: *(Must comply with all stormwater and flood control ordinances. Cannot concentrate stormwater runoff to an adjacent property without a release agreement or a private drainage easement. It is the responsibility of the applicant to look up the site in the City of Mobile (COM) GIS system and verify if NWI wetlands are depicted on the site. If the COM GIS show wetlands on the site, it is the responsibility of the applicant to confirm or deny the existence of wetlands on-site. If wetlands are present, they should be depicted on plans and/or plat, and no work/disturbance can be performed without a permit from the Corps of Engineers. Any work performed in the right-of-way will require a right-of-way permit.);*
 - 10) full compliance with the revised Traffic Engineering comments: *(Driveway number, size, location, and design to be approved by Traffic Engineering and ALDOT and conform to AASHTO standards.);* and,
 - 11) 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).).*

The motion carried unanimously.

OTHER BUSINESS:

Public Hearing to consider an amendment to the Zoning Ordinance regulating digital off-premise advertising.

The Chair opened the Public Hearing to consider an amendment to the Zoning Ordinance regulating digital off-premise advertising saying anyone who wished to speak on the matter should do so at that time.

The following people spoke in favor of the amendment as proposed by staff:

Rip Pfifer, Mobile Infirmary Boulevard, Mobile, AL; and,
Jim Rossler, City of Mobile City Council Attorney, 205
Government Plaza, Mobile, AL.

They gave the following points in support of the amendment as written:

- A. the City and the Commission were applauded for their work in preserving their vision of the city and keeping the interests of the general population and environment in mind;
- B. the issue had been in committee, which included a representative of Lamar Advertising, in an effort to craft an amendment that was friendly to the advertising community as well as protective of residential rights;
- C. the committee had reviewed digital off-premise ordinances from both state and national markets in an effort to craft the most appropriate amendment for the City of Mobile;
- D. the recommended spacing requirements of 3000 feet between signs was chosen as the best way to allow signs but not create “visual clutter” which might result in distractions for drivers, thus creating an increase in the potential for vehicular accidents;
- E. the residential setback for the sign face of 500 feet, as set out in the amendment, was chosen to protect residential property owners from the potential of having what would constitute a large television with changing screens all day and all night right outside their homes; and,
- F. the committee, in presenting the amendment before the Commission that day, had effectively created an overlay for the non-conforming billboards currently in the City, creating a way in which both sides would come away with their needs addressed. This overlay would specifically effect the non-conforming signage which had been created when the City adopted its current Sign Ordinance in 1994.

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Troy Tatum, General Manager, Lamar Advertising Company, 3353 Halls Mill Road, Mobile, spoke in opposition to the amendment as proposed by staff, stating the following:

- A. the spacing and setback requirements as set out in the amendment's current form have a far worse impact on this new form of advertising than what he felt had been originally intended;
- B. the current amendment was far more restrictive than regulations found in similar markets around the state;
- C. the amendment as it currently stood made it so that only a handful of locations could conceivably be converted to digital and those locations were hampered by economic feasibility as well, thus creating a virtual ban on digital signage;
- D. the majority of the billboard inventory impacted by the amendment belonged to Lamar, who had received a great deal of positive response from the public to the digital billboards, as most people felt them to be a great improvement on static, dead copy signage;
- E. while in committee, Lamar had agreed, as a compromise for digital signage, to eliminate one pre-existing billboard from their inventory for each digital billboard put up, with those digital billboards replacing pre-existing standard, static billboards around the city. This was due in part to the City's cap and replacement policy regarding billboards within the city limits;
- F. concern over the requirement of a 500 feet setback from residential property lines for signs that, due to their nature, would have virtually no impact whatsoever on those residential properties, as the changing sign face was in the opposite direction from the residential property;
- G. the combination of a 500 feet setback and the 3000 feet spacing between billboards "knocked out" 95% of all potential digital billboard locations; and,
- H. requested the Commission consider reducing the setback requirement to 200 feet and the spacing requirement to 2000 feet and formally recommending that to the City Council.

The Chair asked if the Commission recommended a change to the City Council, did they have the ability to approve that change.

Mr. Olsen advised the Commission that the City Council did have that ability. He also advised the Commission that if they chose to recommend that the matter be placed in committee again for further review, the City Council had the authority to do that as well.

Mr. Watkins asked for some clarification regarding the City Council's process in this matter.

Mr. Rossler advised the Commission that the City Council reviewed the Commission's recommendation, then advertised for 30 days the date of the Public Hearing on the

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matter. At that Public Hearing, the City Council would hear comments from the public regarding the issue and then make some type of decision regarding it.

Mr. Miller asked if there were circumstances in the opinion of the digital billboard owner that mitigated a change from the amended ordinance to allow a digital billboard in a specific location, could that be done and how.

Mr. Rossler said it was possible and that an application for a variance should be filed with the Board of Zoning Adjustment showing the hardship, just as with any other deviation from the Zoning Ordinance.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Watkins, to approve the recommendation, amending the Zoning Ordinance regulating digital off-premise advertising as presented by the staff.

The motion carried unanimously.

Public Hearing to consider multiple amendments to the Subdivision Regulations for the City of Mobile and its Extra Territorial Jurisdiction.

The Chair opened the Public Hearing to consider multiple amendments to the Subdivision Regulations for the City of Mobile and its Extra Territorial Jurisdiction, saying anyone who wished to speak on the matter should do so at that time.

The following people spoke on the matter:

Judy Hale, 9265 Roberts Lane E, Semmes, AL, 36575; and,
Rip Pfifer, Mobile Infirmary Boulevard, Mobile, AL.

They expressed the following points, questions, and concerns regarding the matter:

- A. regarding stormwater retention, hopes were expressed that the City would adopt the same regulations concerning requiring maintenance of the same every 5 years, as well as establishing who would be responsible for that maintenance;
- B. according to the Federal census, for every 100 new homes created, there are 283 new residents in that area with 25 of them being school aged children, which increases the area schools' student populations. There should be ways for the Mobile County Public School System to have that information so they can use that data in planning regarding new facilities;
- C. the current subdivision regulations call for adequate community facilities which include schools, and parks and recreation facilities, and there were concerns that these issues are being marginally addressed;

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- D. the need for a traffic study in an area and establishing a written policy for the same which would include who would be responsible for the study and what number of proposed houses initiated that need;
- E. subdivision regulations based upon best management practices and stream side management zones protect not only the watersheds associated with the properties in question, but also serve as protective devices for properties downstream as well;
- F. there were questions as to whether the best management practices for watersheds that are being proposed by the city's Urban Development Department were the same as those published by the Alabama Department of Forestry;
- G. desire for the Commission to consider requiring the same or similar street side tree planting and landscape regulations in residential subdivisions that are required in commercial developments, as the benefits of those requirements are now seen around the city, even though those requirements were initially considered to be too costly by such groups as the Mobile Board of Realtors, the Mobile Homebuilders Association, commercial builders, and the Mobile Chamber of Commerce; and,
- H. voiced concern about the recent actions of Representative Chad Fincher in trying to reduce the Planning Commission's range of influence from its current 5 mile jurisdiction to that of 3 miles, as it was known that the combined efforts of the Commission and Mobile Baywatch had resulted in the creation and maintenance of paved roads in Mobile County subdivisions.

Mr. Olsen responded with the following statements:

- A. with regards to comments concerning traffic studies, the Commission had discussed this with representatives of the City's Traffic Engineering department, who had advised the Commission they would give the Commission a threshold number for traffic studies. That number had been received by the staff, however, as there had not been another Planning Commission business meeting since that time, the Commission itself had not formally adopted said number into its official policy;
- B. with regards to stormwater detention ponds and their maintenance, it was a standard Planning Commission practice that when stormwater detention areas were provided that they were considered part of a subdivision's common area and thereby the responsibility for the upkeep of those areas was shared by all property owners, and usually administered by the subdivision's property owners' association. This is the same in the county. It has been found, however, that after a number of years, the property owners' associations usually cease to exist, thereby the

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maintenance of common properties becomes an issue, but the Planning Commission does set out for the maintenance of those; and,

- C. with regards to communicating with the Mobile County Public School System, the staff had, in the past, sent MCPSS copies of the Planning Commission agendas to keep them aware of plans for the area and they never responded. They were also included on the subcommittee for “Smart Growth in Mobile” and there was little to no participation by them in that forum, however, if the Commission would like, the staff will begin sending MCPSS agendas again in an effort to keep them informed.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to approve the recommendation for multiple amendments to the Subdivision Regulations for the City of Mobile and its Extra Territorial Jurisdiction.

The motion carried unanimously.

Amend Public Hearing Date for proposed Zoning Ordinance Amendments to create an Overlay District for the Village of Spring Hill – May 1st, 2008

Mr. Olsen advised the Commission that due to technical issues with the *Mobile Record's* inability to convert some of the graphics sent to them regarding the above referenced matter, the date for the Public Hearing for proposed Zoning Ordinance Amendments to create an Overlay District for the Village of Spring Hill should be postponed until May 1, 2008.

Mr. Olsen then made a formal announcement to amend the Public Hearing Date for proposed Zoning Ordinance Amendments to create an Overlay District for the Village of Spring Hill to May 1st, 2008.

Hearing no other official business, the meeting was adjourned.

APPROVED: July 2, 2009

William G. DeMouy, Jr., Secretary

Terry Plauche, Chairman.

jsl