

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 3, 2011 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Stephen J. Davitt, Jr.
Nicholas H. Holmes, III
Herb Jordan
Mead Miller
Roosevelt Turner
John Vallas

Members Absent

William G. DeMouy, Jr.
Victoria L. Rivizzigno, Secretary
James F. Watkins, III

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Frank Palombo,
Planner II
Bert Hoffman,
Planner II
Gerard McCants,
Urban Forestry
Joanie Stiff-Love,
Secretary II

Others Present

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

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

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.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2011-00118

Deer Port Commerce Park II Subdivision

7570 Lake Road

(Southwest corner of Lake Road South and Middle Road)

Number of Lots / Acres: 1 Lot / 94.5 Acres±

Engineer / Surveyor: Goodwyn, Mills and Cawood, Inc.

County

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

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the applicant. He stated their agreement with all of the conditions with the exception of the one calling for

November 3, 2011
Planning Commission Meeting

limiting the development to two curb-cuts to Middle Road and one curb-cut to Lake Road South. He advised the Commission he had also given them copies of the prior subdivision application approved by the Commission in May of 2011. He noted in May 2011, the Commission had allowed Lot 5 of the subdivision to have up to four curb-cuts to Middle Road and up to two curb-cuts to Lake Road South. He advised the subdivision now before them was a larger parcel with approximately 2000 linear feet of frontage on Middle Road and almost 1000 feet of frontage on Lake Road South. He stated his client would like to have the same curb-cuts granted in May 2011 for this subdivision included in the approval of the matter currently before the Commission.

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

- 1) dedication of right-of-way sufficient to provide 30-feet as measured from the centerline along Lake Road South;**
- 2) depiction of dedications required for compliance with Section V.B.16. of the Subdivision Regulations regarding Curb Radii at public right-of-way intersection;**
- 3) placement of a note on the Final Plat stating that the development is limited to four curb-cuts to Middle Road and one curb-cut to Lake Road South with the size, design, and exact location of all curb-cuts to be approved by County Engineering and conform to AASHTO standards;**
- 4) revision of the lot size to reflect any required right-of-way dedications;**
- 5) retention of the 25-foot minimum building line setback on the Final Plat along all public rights-of-way; and**
- 6) 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;**
- 7) placement of a note on the Final Plat stating that the approval of all applicable federal, state, and local agencies for floodplain and wetland issues is required prior to the issuance of any permits or land disturbance activities;**
- 8) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered,**

- threatened, or otherwise protected species; and,
- 9) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2011-00117

Provision Pointe Subdivision

East terminus of Janita Drive

Number of Lots / Acres: 1 Lot / 1.4 Acres±

Engineer / Surveyor: Haidt Land Surveying
County

The Chair announced the application had been recommended for approval. He advised the Commission there were hand outs on the matter on their desks. He added if anyone wished to speak on the matter they should do so at that time.

The following people spoke in favor of the matter:

- Fred Haidt, Haidt Land Surveying, for the applicant;
- Clay Buckley, the applicant and Janita Drive property owner; and,
- Amanda Herndon, attorney for the applicant.

They stated the following:

- A. Mr. Haidt stated his client was in agreement with the conditions with the exceptions of Conditions 1, 2, and 3, which involved the construction of the cul-de-sac;
- B. advised the property was located at the end of a dead end street whose present “metes and bounds” configuration had been in place since 1988;
- C. felt the cost of building the cul-de-sac was an unnecessary personal expense for a one lot subdivision to be used residentially by his client;
- D. advised there were three “metes and bounds” lots (2946 Lindel Drive, 7160 Westchester Lane, and 7151 Westchester Lane) in the area with similar conditions which had not been required to construct cul-de-sacs nor give up any additional right-of-way;
- E. the lot had been a “junk yard” when purchased and the applicant had spent significant time, energy, and expense to clean it;
- F. felt they should be allowed to build as the three other “metes and bounds” properties previously had done since the property was located in the county;
- G. regarding the concerns of the adjacent property owners and their

November 3, 2011
Planning Commission Meeting

- desire for a cul-de-sac, when those individuals purchased their homes, they did so without there being a cul-de-sac present and no plans for the property in question to be developed;
- H. noted the property in question had a number of easements running through the middle of the property and one at the north end of the property which limited the land available for building a home;
 - I. based upon its current configuration, a potential house would be built approximately 80 feet from the dead end of the street making it quite easy for a fire truck to fight a fire, if needed;
 - J. noted if the applicant could not build due to the financial hardship created by requiring the cul-de-sac the street remained a dead end street;
 - K. noted when the property was purchased over a year ago, it was completely wooded with a steel barricade across the end of the street and a great deal of time and money had been spent by the property owner improving the property and making it inhabitable for a family home;
 - L. advised the property owner had been sued by the Smithfield Homeowners Association for placing a mobile home on said property in which to live while the home was building built out on the property;
 - M. expressed feelings the “push” for safety by the neighbors for the cul-de-sac was legally driven, not a true matter of safety;
 - N. discussed plans for the property with the vice-president of the homeowners association after buying the property and was advised the homeowners association had looked at buying the property several times over the years but had not moved to do so;
 - O. noted many people from the homeowners association would speak to the Commission on why they believed the cul-de-sac requirement should not be waived, however, pointed out that case law stated such information should not be the basis for the Commission’s decision on whether or not to waive such a requirement;
 - P. noted if safety were truly the central issue then the neighbors should recognize the area is safer now that the applicant had removed the steel barrier placed at the end of the road by the developer many years before;
 - Q. noted if the cul-de-sac requirement were not waived, it would cost the applicant approximately \$60,000.00 to construct said cul-de-sac and the applicant would not have the financial means to continue developing the property to match the houses in the neighborhood; and,
 - R. noted the applicant and family would be willing to consider leaving the county and/or the homeowners association an easement so either entity could construct a cul-de-sac.

November 3, 2011
Planning Commission Meeting

Mr. Olsen queried regarding the three sites referenced by Mr. Haidt as to whether those properties were still “metes and bounds” properties and Mr. Haidt responded they were.

Mr. Olsen noted he could not answer why said properties were still “metes and bounds” properties as they should have gone through the subdivision process. He added he could not address how or why the County issued building permits for them as well because the County had a long time practice of not issuing permits for properties that maintained a “metes and bounds” legal description, the reason the applicant was going through this process now. Mr. Olsen clarified any approval of those properties without benefit of a cul-de-sac or some type of turn around was not something approved by the Planning Commission.

Mr. Vallas asked if the cul-de-sac were to be constructed would there be enough room to position the house on either the north or south end of the cul-de-sac though there seemed to be very little useable land to the north.

Mr. Haidt responded the only useable land was the south side of the proposed cul-de-sac because, based upon the contours of the storm ditches, less than one quarter of the property would be developable.

Mr. Vallas advised anyone wishing to speak in opposition that he was not interested in hearing a lot of remarks against the temporary construction trailer, unless the Planning Staff or Safety could adequately argue the trailer was causing a safety hazard.

Mr. Olsen reminded everyone the site was located in the county and the county had no zoning so the Commission had no jurisdiction over whether or not there could be any type of trailer on the property. He noted permitting of anything on the property, if it had occurred, was a County function and not under the purview of the Commission.

The following people spoke against the matter:

- Doug Anderson, Burr and Foreman Law Firm, for the Smithfield Property Owners’ Association;
- Mark Pratt, president of the Smithfield/Brentwood Homeowners’ Association for the past 18 years;
- Terri Bolin, 7300 Laurie Court, Mobile; and,
- Michael Halunen, 7310 Smithfield Road, Mobile.

They made the following points against the matter:

- A. noted the Smithfield Property Owners’ Association was not against approving the subdivision, in fact they wished it approved subject to the staff’s recommendations;
- B. noted the lot in question was in the middle of the Smithfield Subdivision but the parcel in question had never been incorporated

November 3, 2011
Planning Commission Meeting

- into the Smithfield Subdivision;
- C. noted the property in question had been approved by the Planning Commission in either 1987 or 1988 for a four lot subdivision with a cul-de-sac to be constructed by the original developers, Stanley Breland and John Blacksher;
 - D. noted the aforementioned plat was never recorded so its Planning Commission approval expired after one year which meant the property sat unused from that time until December of 2010 when the applicant submitted another application for a two lot subdivision but that application was subsequently withdrawn prior to the Commission voting upon it;
 - E. noted the lawsuit referenced had been filed because at the point in time the mobile home was put on the site, the property owners' association were under the impression the property was part of Unit 6 and subject to the subdivision's restrictive covenants which would not allow for the trailer;
 - F. noted eventually it was discovered the property in question was not part of the platted subdivision and therefore not party to the restrictive covenants so the law suit might be amended;
 - G. noted all of the streets in the subdivision were built with cul-de-sacs as are all subdivisions within the Planning Commission's jurisdiction out in the county within the last decade had been developed and so no hardship was seen in the matter;
 - H. noted most of the neighbors had paid for the roads, infrastructure, improvements, and utilities available in the subdivision for approximately 20 years with said costs paid through monthly utility fees and mortgages, as well as paying for the standard of living enjoyed by the subdivision through their association fees;
 - I. expressed the opinion the applicant wanted to "circumvent the rules" and be given a waiver regarding construction of the cul-de-sac;
 - J. expressed the opinion the cul-de-sac was vital to the safety of the people who lived on Janita Drive as well as the EMT and firefighters who might respond to emergencies on the street;
 - K. expressed the opinion that any vehicular traffic on Janita Drive would have to back up to exit the street if the cul-de-sac requirement was waived;
 - L. expressed the feelings that because the applicant lacked the necessary funds to install the cul-de-sac it did not give him the right to have the requirement waived and if he did not have the resources to do the job correctly, he did not need to develop the property at all;
 - M. noted the cul-de-sac should have been built 20 years prior and it needed to be built currently;
 - N. expressed belief the applicant would be able to enjoy the benefits of living in their subdivision without the responsibility of shared

November 3, 2011
Planning Commission Meeting

- expenses and agreed upon covenants;
- O. noted the applicant's statements regarding the property owners' association considering the purchase of the property in question as being truthful but the property owners' association had determined the property in question was a landfill or dumping area for the farming community that lived there so it was determined it would be unsafe for development as a community center due to the presence of such things as broken glass, metal, and such buried under the property;
 - P. noted the reason the developers had not built on the property was the decision it was nothing more than a dumping site so it had been abandoned;
 - Q. noted the metal barrier discussed previously had been installed by the County after the property was abandoned to keep people from accessing the land;
 - R. noted the applicant had stated he wanted to be a "good neighbor" and planned to build a home in keeping with the standards of the subdivision, however, when offered the opportunity to come into the subdivision, the applicant refused, saying he did not want any restrictions on his future use of said property;
 - S. expressed if the applicant were allowed to come into the subdivision and "do his own thing" it would greatly deteriorate the property values of the surrounding houses and the entire subdivision; and,
 - T. expressed the feeling they would like to have the applicant as a neighbor but under the same restrictions and covenants abided by the other members of the subdivision.

Mr. Vallas commented it appeared all of the neighbors who bought houses on the street did so and felt safe enough to do so without a cul-de-sac being present and wondered what had changed.

Mr. Anderson stated those property owners assumed the end of the street was part of their subdivision so it would be developed with a cul-de-sac.

Mr. Turner asked if any of the other homeowners had any discussions with the applicant regarding assisting in the financial support of building the cul-de-sac.

Mr. Anderson stated they had several meetings to discuss such but he did not feel comfortable discussing the details of those.

Mr. Vallas asked if a hammerhead turn-around would be possible and would the applicant be willing to offer an easement for said hammerhead as a compromise.

Mr. Olsen deferred to District Chief Billy Roach, City of Mobile Fire-Rescue, to discuss details of what options were available in place of the cul-de-sac and advised any option

November 3, 2011
Planning Commission Meeting

would require dedication not easement of property.

District Chief Billy Roach stated there were applications within the International Fire Code which allowed for a hammerhead turn-around but did not know if his department had the authority to supersede the Ordinance regarding the cul-de-sac requirement.

Mr. Olsen reminded the Commission in the past they had approved the use of a hammerhead turn-around in place of the usually required cul-de-sac when there were concerns regarding the amount of space taken by the cul-de-sac.

After opposition speakers had finished, the Chair gave the applicant the opportunity to respond. Ms. Herndon spoke on his behalf and advised the Commission regarding Mr. Turner's earlier question of whether there had been offers by the homeowners' association to help contribute financially to the construction of the cul-de-sac, that there had been no offers at all to do so.

In deliberation, Mr. Vallas noted the many different comments made by the various neighbors, including those directed at correcting what was seen as an error by the original developers, however, he also noticed the neighbors had lived fine without the cul-de-sac. He reminded the Commission they had been told how harmonious the neighborhood was then were told the property in question was a dump with broken glass and buried metal. He expressed his disappointment in how the neighbors were treating the new property owner. He noted he was not in favor of requiring the cul-de-sac, however, if staff felt there were real safety issues, he might consider a modified hammerhead right-of-way that would be constructed by the neighbors but not be the applicant's responsibility. He stated his opinion that opposition's core issue was not the cul-de-sac.

Mr. Turner noted he would like to see at least a hammerhead as a turn-about, but was in complete agreement with Mr. Vallas's position that earliest property owners should have taken some kind of action prior to this to secure a turn-around, if the matter were truly about safety. He felt it was unfair to put the entire financial burden for the cul-de-sac's construction on the new owner, especially since so much had been stated by the opposition providing proof major improvements had been made by the applicant.

Mr. Olsen advised the Planning Commission could not require the homeowners' association to pay for the desired hammerhead as the condition would simply have to read "dedication and construction of an approved hammerhead turn-around," with it being up to the involved parties to work out its construction and such would have to be done prior to the recording of the plat.

The Chair stated his opinion that not many members of the property owners' association knew what a hammerhead turn-around was as opposed to a cul-de-sac and did not feel it was fair to approve such without their having any input.

Mr. Vallas noted the Commission was not asking that entity for their "say so" or

November 3, 2011
Planning Commission Meeting

approval as that was the Commission's responsibility.

Mr. Lawler stated the ultimate decision was the responsibility of the Planning Commission. He noted they were called on to weigh what was best for the neighborhood, the property owner, and the particular situation. Mr. Lawler suggested the matter might need to be held over so the option of a hammerhead turn-around could be reviewed and a subsequent revised illustrated plat submitted.

Mr. Davitt advised he would like to have the matter held over to see what the plat might look like with the addition of the hammerhead and would not feel comfortable voting on any other part of the matter.

Mr. Turner stated if the Commission did hold the matter over, he recommended the applicant and the homeowners' association get together to work out terms for how the matter could be shared.

District Chief Billy Roach expressed his belief that he had been asked for dimensions, however, the requirement came directly out of Appendix D of the 2009 International Fire Code which noted, typically there was a 20 foot width of road with a 28 degree radius which "T'd" out some 120 feet. He noted there were four different alternatives in that section of the Fire Code.

Mr. Miller wanted more information and summarized his understanding as the property owner, who was not part of the subdivision, purchased a lot which put him at the end of a street, a street he had no participation in building, and wondered, regardless of what anyone wanted built there, did it automatically become the new land owner's expense.

Mr. Olsen noted there were several examples in the past where cul-de-sacs were required at the end of a street but hammerheads had been done in several places.

Mr. Vallas asked if the Commission could recommend a hammerhead right-of-way if it was determined the construction cost for the cul-de-sac or turn-around would be too prohibitive for the applicant so the homeowners' association could go to the County Commission and asked for discretionary funds to have it constructed.

Mr. Olsen advised the County would not accept the right-of-way with dedication but no construction.

Mr. Haidt advised Mr. Murphy with Mobile County let him know they would allow dedication without construction with this application.

Mr. Olsen noted they had not heard such from the County and asked for written documentation of the same when the revised plat was submitted. He also noted Mr. Murphy had retired.

Mr. Haidt corrected himself and stated he had spoken with Pat Stewart with County

November 3, 2011
Planning Commission Meeting

Engineering, who had advised him they would allow dedication without construction in this case.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Davitt, to hold the matter over until the December 1, 2011, meeting, to allow the applicant to meet with neighbors and to submit a revised plat illustrating a hammerhead turn-around. Revisions to be submitted by November 10, 2011.

The motion carried unanimously.

Case #SUB2011-00119
Betta Stor-It Subdivision
3350 Halls Mill Road
(Northeast corner of Halls Mill Road and I-65)
Number of Lots / Acres: 2 Lots / 4.3 Acres±
Engineer / Surveyor: Byrd Surveying
Council District 4

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

Jerry Byrd, Byrd Surveying, spoke on behalf of the applicant and asked if the condition regarding the privacy fence could have the verbiage regarding a vegetative buffer removed as it was an existing site which had been developed with primarily mini-warehouses, including one large building that had been divided into four store fronts. He noted the purpose of the subdivision was to divide out the single, four-unit building. He noted the property to the east where the fence would be located was zoned R-1, however its use appeared to have been grandfathered in as it was a sign shop which had been in existence "forever." He stated the applicant currently had a six foot, chain link fence on the property line and asked the Commission to consider the current fence as adequate in this instance.

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

- 1) depiction of the 25-foot minimum building setback line along all public right-of-way frontages;**
- 2) the labeling of the lots size in square feet and acres, or placement of a table on the plat with the same information;**
- 3) dedication to provide 35 feet from the centerline of Halls Mill Road;**
- 4) dedication to provide 150 feet from the centerline of Interstate 65;**
- 5) provision of a 6-foot high chain link fence along the Eastern property boundary of Lot 1;**

- 6) **compliance with Engineering comments:** *“Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.”*);
- 7) **placement of a note on the Final Plat limiting Lot 1 to the two existing curb-cuts to Halls Mill Road and Lot 2 to the existing curb-cut to Halls Mill Road, with the size, design, and location of the curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and,**
- 8) **placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened, or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities.**

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2011-02545

KMS Development Moffett, LLC

5723 Moffett Road

(South side of Moffett Road, 1400± West of Howells Ferry Road)

Request to waive construction of a sidewalk along Moffett Road.

Council District 7

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

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

The following people spoke on the matter:

- Tom Clark, Clark, Geer, Latham and Associates, Inc., spoke on behalf of the applicant; and,
- Matt Sankey, owner of the property in question.

They made the following points in favor of the matter:

- A. noted the staff report stated the site plan submitted by the applicant had two trees labeled as proposed for removal by ALDOT permit, which was correct, as previously it had been thought there would be no issue with the removal of said trees, however, ALDOT has

November 3, 2011
Planning Commission Meeting

- now taken exception and has denied the request to remove said trees, leaving no room to construct a sidewalk in the right-of-way adjacent to the property;
- B. noted Urban Forestry comments stated the sidewalk could safely be placed across the roots of the trees on the applicant's property, however, it was well known that oak tree roots destroyed and displaced sidewalks, creating additional liability and expense for the property owner;
 - C. noted the sidewalk if placed on the applicant's property would be immediately adjacent to a detention pond which had been in place prior to the development and was in continued use;
 - D. while aware there were instances of sidewalks being placed on private property, usually at the request of the property owner, he was not aware the City was able to force a private property owner to construct a sidewalk upon their private property;
 - E. noted the commercial use of the property as an automotive service station/lube shop/car wash all uses which would not have a large number of pedestrian customers;
 - F. noted the nickname of "Bloody 98" for the section of highway adjacent to the business and the busy, high traffic volume of said roadway;
 - G. expressed feelings it was unfair for the Planning Commission to force a property owner to construct something as specific as a sidewalk on their privately owned property as well as forcing them into a position of liability regarding the same;
 - H. wanted to make clear the applicant originally wanted to build the sidewalk in question;
 - I. noted the shopping center to the east had no trees in the right-of-way so the proposed sidewalk would not "match up" with the sidewalk currently in place; and,
 - J. noted moving the stormwater detention area to their property would have a slope and the live oaks roots would definitely crack any sidewalk placed upon them.

Mr. Olsen made the following comments:

- A. Planning Commission did have the authority to require sidewalks on developments which was the basis for the applicant requesting this waiver;
- B. the shopping center to the east did have a sidewalk in front of it and the sidewalk in question would be a continuation of said sidewalk; and,
- C. noted Urban Forestry could offer options for building the sidewalk around the trees, which was something the Commission had either allowed or required in the past.

November 3, 2011
Planning Commission Meeting

Gerard McCants, Urban Forestry, advised the sidewalk could be placed at the rear of the trees in question.

Mr. Lawler advised opposition that Planning Commission's Subdivision approval would many times include the construction of a service road or a street which were exactions that were allowed as part of minimizing the impact the development will have.

In deliberation, Mr. Miller noted, though similar to the Shelton Beach Road property recently before the Commission, there were things about the matter that did not make it perfect, however, if Engineering would allow flexibility in the design, he felt a sidewalk should be constructed.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the sidewalk along Moffett Road, with the installation of the sidewalk to be coordinated with Urban Forestry.

The motion carried unanimously with Mr. Vallas recusing.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2011-02546

Gulf Coast Federal Credit Union

1001 Springhill Avenue and 970 Oak Street

(South side of Springhill Avenue, 150'± East of North Pine Street extending to the Eastern terminus of Oak Street)

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

Council District 2

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

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

- 1) revision of the site plan the show a compliant dumpster, with proper enclosure or placement of a note on the site plan stating that trash pickup will be via curbside service;**
- 2) revision of the site plan to indicate compliance with the tree planting requirements of the Zoning Ordinance;**
- 3) provision of two copies of the revised site plan to the Planning Section of Urban Development prior to the issuance of any permits; and,**
- 4) full compliance will all municipal codes and ordinances.**

The motion carried unanimously.

Case #ZON2011-02553
ZP Grelot Investors, LLC

5901 Grelot Road

(South side of Grelot Road, 520'± East of Knollwood Drive)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow the construction of physician's office in a private street commercial subdivision.

Council District 6

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

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

- 1) **any required detention facilities be illustrated on a revised PUD plan as common area/detention facilities, and a note placed on the site plan stating that maintenance of the common area/detention facilities shall be the responsibility of the property owners association;**
- 2) **placement of a note on the site plan stating that each business shall be limited to one wall sign and one tenant panel on a freestanding sign, with each lot limited to one freestanding or monument sign;**
- 3) **placement of a note on the site plan stating that Lots 3 and 4 are denied direct access to Grelot Road;**
- 4) **placement of a note on the site plan stating that development of Lots 3 – 5 shall require new PUD Approvals;**
- 5) **placement of a note on the revised PUD plan 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) **subject to the Engineering comments: *“Must comply with all stormwater and flood control ordinances. Any work performed in the public right-of-way will require a right-of-way permit from the Engineering Department. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to the sanitary sewer system;”***
- 7) **verification that the site plan complies with any requirements of the Americans with Disabilities Act; and,**
- 8) **submission of a revised PUD site plan to Planning illustrating the conditions of approval for this PUD prior to any applications for land disturbance or building permits.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2011-00120 (Subdivision)

MAWSS Stickney Facility Subdivision

4800 Moffett Road

(Northwest corner of Moffett Road and Shelton Beach Road Extension extending to the East terminus of Mercedes Road and extending to the South side of Le Ruth Road, 740'± East of Woodley Road)

Number of Lots / Acres: 1 Lot 42.0 Acres±

Engineer / Surveyor: Volkert, Inc.

Council District 1

(Also see **Case #ZON2011-02547 (Sidewalk Waiver) Board of Water and Sewer Commissioners**, below)

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

Mike Breland, 4824 Mercedes Road, Mobile, expressed his confusion over what was planned for the property as all he and his other neighbors had as far as information regarding the project were Public Hearing notices and the current agenda.

Mr. Olsen advised MAWSS owned the overall large parcel which consisted of multiple properties from previous subdivisions. He stated the application being heard, which was a requirement from a previously approved application, was to create one, large, single legal lot of record. He noted the previously approved application was for the project and currently MAWSS would not be doing anything near Mr. Breland's residential property. He also advised Mr. Breland the subdivision application before the Commission that day denied MAWSS access to Mercedes Road and Le Ruth Road.

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

- 1) **revision of the plat to depict a 25-foot minimum building setback line from all public right-of-ways;**
- 2) **placement of a note on the plat stating that the site is limited to its three (3) existing curb-cuts onto Moffett Road, and its one (1) existing curb-cut onto Shelton Beach Road and denied access to Mercedes and Le Ruth Roads, with any changes to the curb-cuts to be approved by Traffic Engineering and ALDOT, and subject to new applications for Planning Approval and Planned Unit Development review;**

- 3) revision of the plat to also label the site size in square feet, in addition to acres; and,
- 4) placement of a note on the 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.

The motion carried unanimously.

Case #ZON2011-02547 (Sidewalk Waiver)

Board of Water and Sewer Commissioners

(Northwest corner of Moffett Road and Shelton Beach Road Extension extending to the East side of Woodley Road, 420'± North of Moffett Road, extending to the East terminus of Mercedes Road extending to the South side of Le Ruth Road, 440'± North of Mercedes Road)

Request to waive construction of a sidewalk along Shelton Beach Road, Mercedes Road, Le Ruth Road and a portion of Moffett Road.

Council District 1

(Also see **Case #SUB2011-00120 (Subdivision) MAWSS Stickney Facility Subdivision**, above)

Tony Schachle, Volvert Inc., spoke on behalf of the applicant and made the following points against the partial denial:

- A. noted he had given the staff photographs of the Moffett Road and Shelton Beach Road area;
- B. noted the existing utilities in the east right-of-way of Shelton Beach Road;
- C. noted the existence of a MAWSS maintained raw water reservoir in the area;
- D. noted Engineering comments had stated it did not appear to be feasible to construct a city standard sidewalk within the existing right-of-way, however, staff comments were the fence could be relocated and provide an easement for the sidewalk but the applicant had concerns over moving said fence;
- E. based upon the photographs before the Commission, noted there were obvious restrictions due to the existing right-of-way to constructing the sidewalk at the intersection of Shelton Beach Road and Moffett Road;
- F. noted numerous light and power poles in the north right-of-way on Moffett Road looking east toward Shelton Beach Road;
- G. noted the applicant would be constructing a sidewalk on the east side of Shelton Beach Road and their project located there; and,
- H. noted if the Commission were leaning towards denying the requested waiver along Moffett Road and Shelton Beach Road, that the matter be held over to the next meeting to allow time for

November 3, 2011
Planning Commission Meeting

the applicant to determine what was necessary to relocate the fence in question and construct the sidewalk.

In deliberation, Mr. Miller supported holding the matter over and asked the applicant to get with City Engineering to look for flexibility in design so a sidewalk could be constructed.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Miller, to hold the matter over until the December 1, 2011, meeting, at the applicant's request.

The motion carried unanimously.

Case #ZON2011-02550 (Planned Unit Development)

Board of Water and Sewer Commissioners

1751 Shelton Beach Road Extension

(East side of Shelton Beach Road Extension, 790'± North of Moffett Road)

Planned Unit Development Approval to allow multiple buildings on a single building site to include a fleet maintenance shop, office building, two (2) equipment storage areas, car wash and vehicle fueling station.

Council District 1

(Also see **Case #ZON2011-02549 (Planning Approval) Board of Water and Sewer Commissioners**, below)

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

Tony Schachle, Volvert Inc., spoke on behalf of the applicant and asked if the language regarding delivery times in the applications be changed to read "placement of a note on the site plan stating that no operation of heavy machinery shall occur outside the hours of 6 a.m. and 6 p.m. Monday through Friday, unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out," so all verbiage regarding these issues would be the same in all applications associated with the property in question.

Mr. Olsen stated staff had no problem making that addition.

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

- 1) labeling of the lot with its size in square feet and acres, or placement of a note on the drawing with the same information;**
- 2) depiction of the 25-foot minimum building setback line from Shelton Beach Road Extension;**
- 3) depiction and provision of a 25-foot wide natural vegetative buffer where the site abuts residential and multi-family uses to**

- the East and North;
- 4) placement of a note on the site plan stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities;
 - 5) revision of the site plan to provide landscape area calculations, including the required front landscape area;
 - 6) revision of the site plan to depict any proposed dumpsters with enclosures, or placement of a note on the site plan stating that no dumpsters will be used;
 - 7) compliance with Engineering comments: *“Detention is needed for any cumulative increase of impervious area in excess of 4,000 square feet added to the property since 1984. If applicable, need to provide documentation, i.e. survey or aerial photography, to show the presence of impervious areas in 1984. Detention required to provide a minimum of a 100 year storm event with a 2 year release rate and discharge from site shall not be concentrated onto adjacent property without release agreement from all downstream property owners. It is imperative not to increase the volume of runoff on the downstream properties, thus construction of drainage system may be required along with appropriate drainage easements to protect downstream properties. Must comply with all other stormwater and flood control ordinances. Drainage from any dumpster pads and the proposed wash station cannot discharge to storm sewer; must have connection to sanitary sewer. Sidewalk width is to be 4’ and in addition to the northern section the sidewalk also needs to be shown along the southern section of the property. Any work performed in the right-of-way will require a right-of-way permit in addition to any required land disturbance or building permits. ROW permits must be purchased prior to any work in the ROW and are applied for and purchased at the ROW counter, located on the 3rd floor of the south tower at Government Plaza, 208-6070;”*
 - 8) compliance with any conditions of approval (if approved) associated with the variance application to the Board of Zoning Adjustment, being considered at the November 7, 2011 meeting;
 - 9) placement of a note on the site plan stating that no operation of heavy machinery shall occur outside of the hours of 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;
 - 10) placement of a note on the site plan stating that no deliveries of bulk materials to the site shall occur except between 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;

- 11) enclosure of all “contractor storage yard” areas with an 8-foot high solid wall or fence, except where access is required internal to the site;
- 12) bulk storage area to be designed in such a manner as to prevent runoff and spillage of bulk materials;
- 13) full compliance with the site and parking lighting requirements of Section 64-4.A.2., Illumination of uses, and Section 64-6.A.3.c., Lighting, of the Zoning Ordinance;
- 14) completion of the Subdivision process prior to any application for land disturbance or building permits;
- 15) provision of a revised copy of the Planned Unit Development site plan to the Planning Section prior to the signing of the final plat; and,
- 16) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2011-02549 (Planning Approval)

Board of Water and Sewer Commissioners

1751 Shelton Beach Road Extension

(East side of Shelton Beach Road Extension, 790'± North of Moffett Road)

Planning Approval to allow the operation of a fleet maintenance facility.

Council District 1

(Also see **Case #ZON2011-02550 (Planned Unit Development) Board of Water and Sewer Commissioners**, above)

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

- 1) labeling of the lot with its size in square feet and acres, or placement of a note on the drawing with the same information;
- 2) depiction of the 25-foot minimum building setback line from Shelton Beach Road Extension;
- 3) depiction and provision of a 25-foot wide natural vegetative buffer where the site abuts residential and multi-family uses to the East and North;
- 4) placement of a note on the site plan stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities;
- 5) revision of the site plan to provide landscape area calculations, including the required front landscape area;
- 6) revision of the site plan to depict any proposed dumpsters with enclosures, or placement of a note on the site plan stating that no dumpsters will be used;
- 7) compliance with Engineering comments: “*Detention is needed*”

for any cumulative increase of impervious area in excess of 4,000 square feet added to the property since 1984. If applicable, need to provide documentation, i.e. survey or aerial photography, to show the presence of impervious areas in 1984. Detention required to provide a minimum of a 100 year storm event with a 2 year release rate and discharge from site shall not be concentrated onto adjacent property without release agreement from all downstream property owners. It is imperative not to increase the volume of runoff on the downstream properties, thus construction of drainage system may be required along with appropriate drainage easements to protect downstream properties. Must comply with all other stormwater and flood control ordinances. Drainage from any dumpster pads and the proposed wash station cannot discharge to storm sewer; must have connection to sanitary sewer. Sidewalk width is to be 4' and in addition to the northern section the sidewalk also needs to be shown along the southern section of the property. Any work performed in the right-of-way will require a right-of-way permit in addition to any required land disturbance or building permits. ROW permits must be purchased prior to any work in the ROW and are applied for and purchased at the ROW counter, located on the 3rd floor of the south tower at Government Plaza, 208-6070;"

- 8) **compliance with any conditions of approval (if approved) associated with the variance application to the Board of Zoning Adjustment, being considered at the November 7, 2011 meeting;**
- 9) **placement of a note on the site plan stating that no operation of heavy machinery shall occur outside of the hours of 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;**
- 10) **placement of a note on the site plan stating that no deliveries of bulk materials to the site shall occur except between 6am to 6pm, Monday thru Friday unless it is due to a severe storm event, declared emergency, or emergency after-hours call-out;**
- 11) **enclosure of all "contractor storage yard" areas with an 8-foot high solid wall or fence, except where access is required internal to the site;**
- 12) **bulk storage area to be designed in such a manner as to prevent runoff and spillage of bulk materials;**
- 13) **full compliance with the site and parking lighting requirements of Section 64-4.A.2., Illumination of uses, and Section 64-6.A.3.c., Lighting, of the Zoning Ordinance;**
- 14) **completion of the Subdivision process prior to any application for land disturbance or building permits;**
- 15) **provision of a revised copy of the Planning Approval site plan**

November 3, 2011
Planning Commission Meeting

to the Planning Section prior to the signing of the final plat;
and,
16) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Plauche moved, with second by Mr. Davitt, to amend the date for the Calls for Public Hearing for The New Plan for Mobile and amendment to the PUD section of the Zoning Ordinance to be December 1, 2011, instead of November 17, 2011.

The motion carried unanimously.

Hearing no further business, the meeting was adjourned.

APPROVED: June 7, 2012

/s/ Dr. Victoria Rivizzigno, Secretary

/s/ Terry Plauche, Chairman

jsl