

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF DECEMBER 15, 2011 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
William G. DeMouy, Jr.
Victoria L. Rivizzigno, Secretary
Stephen J. Davitt, Jr.
Nicholas H. Holmes, III
Herb Jordan
Mead Miller
Roosevelt Turner
James F. Watkins, III

Members Absent

John Vallas

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Bert Hoffman,
Planner II
David Daughenbaugh,
Urban Forestry Coordinator
Joanie Stiff-Love,
Secretary II

Others Present

John Lawler,
Assistant City Attorney
George Davis,
City Engineering
Marybeth Bergin,
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.

HOLDOVERS:

Case #SUB2011-00117 (Subdivision)

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 added if anyone wished to speak on the matter they should do so at that time.

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The following people spoke in favor of the matter:

- Maude Gray, 7318 Janita Drive, Mobile;
- Katherine Herndon, Holston Vaughn Law Firm, counsel for the owner;
- Derrel Lowery, 7317 Janita Drive, Mobile; and,
- Clay Buckley, 7301 Janita Drive, owner, Mobile.

They made the following points:

- A. as an adjacent property owner, did not see a reason for the proposed cul-de-sac as the applicant would be the only one residing on the property in question and believed the cul-de-sac would be necessary if there were other residences on the property in question;
- B. the applicant's attorney stated the applicant was in agreement with all of staff's conditions with the exception of the creation of the cul-de-sac and requested a waiver of the turn around requirement;
- C. the applicant's attorney expressed the understanding that at the end of the last meeting, the Commission desired the two parties to leave and come up with an agreeable compromise between themselves prior to coming back before the Commission;
- D. the applicant's attorney addressed her understand of Mr. Miller's suggestion for the applicant to accept the Smithfield Home Owners Association's covenants and in turn the Home Owner's Association pay for all or a portion of the construction of the turn around, however, without the agreement of Doug Anderson, counsel for the home owner's association, as counsel for the applicant she could not disclose those results, as based upon earlier correspondence with Mr. Anderson she believed he felt the information to be confidential;
- E. the applicant's attorney stated as she did not have Mr. Anderson's agreement, she could only advise the Commission the talks were unsuccessful and as a result, should they not approve the waiver all costs for the construction of a turn around would be on her client;
- F. the applicant's attorney gave scenarios of what would happen should the waiver not be granted, listing the property returning to its former wooded state and a receptacle for trash and debris, becoming a safety hazard without a turn around, and the mobile home could remain in place as her client did not have the money to remove it as he was paying for her legal services;
- G. the applicant's attorney expressed her belief the property became worthless should the Commission not grant the waiver of the turn around because even if her client were to sell the property, the purchaser would return to this Commission regarding the turn around and it was her assumption the Commission would remain

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- constant in requiring a turn around if they required such of her client;
- H. the applicant's attorney stated the only party who could truly resolve the matter was the developer, who's fault it was in the first place for not constructing a turn around at the end of Janita Drive when it was constructed, a situation that could not be resolved as the developer no longer existed;
 - I. the applicant's attorney noted it was neither the current home owners' association's fault nor her client's fault there was no turn around on Janita Drive but they were the ones who would have to live with the matter;
 - J. the applicant's attorney said case law stated while the Commission could consider the feelings of the home owners' association, they could not base their decision regarding waiving the turn around nor impose restrictions regarding the mobile home upon those feelings;
 - K. as an adjacent property owner, was thrilled when the applicant cleared the property in question as it eliminated the encroaching overgrowth from said property;
 - L. advised as it has only been cleared and no construction has taken place on said property, it has become a popular place for teenagers and 4-wheelers to trespass on clearly marked private property;
 - M. as an adjacent property owner was comfortable opposing the turn around;
 - N. as the applicant, apologized for being back before the Commission again;
 - O. stated even if there were money, either his own or from another source, to put in the turn around, the position of his home on the property made the construction of such very difficult as the 25-foot easement goes right through the proposed location for the home;
 - P. stated if the location of the turn around were "walked off" based upon the plat, it would leave a very small back yard and the turn around itself would take up the majority of the homeowner's front yard;
 - Q. a turn around would decimate the residential character of the property and the owner would have to donate that portion leaving him with a very small portion of the acre and a half property he purchased; and,
 - R. simply wanted to pick up his permits which were issued September 20, 2011, and rescinded September 22, 2011.

The following people spoke in opposition to the matter:

- Doug Anderson, Burr and Foreman Law Firm, on behalf of the Smithfield Property Owners' Association;
- Kim Pratt, 7260 Vickers Lane, Mobile;
- Ron Tellier, 7362 Janita Drive, Mobile; and,

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- Keith Graham, 7311 Cheryl Court, Mobile.

They made the following points against the waiver:

- A. counsel for the home owners' association stated he did not want to repeat what he had argued regarding the matter the two previous occasions but wanted to respond to some of the comments;
- B. counsel for the home owners' association stated his belief the two sides did negotiate in good faith, also expressing his feeling that counsel for the applicant had found a "back door" way of divulging some of those negotiations;
- C. counsel for the home owners' association apologized no middle ground could be reached by the two parties;
- D. counsel for the home owners' association stated the applicant knew when he purchased the property it was subject to the Planning Commission's jurisdiction and to request a waiver of the turn around went against the health, safety, and welfare of the neighborhood;
- E. counsel for the home owners' association stated no evidence of legal hardship to justify the requested waiver had been given and asked the Commission to follow staff's continued recommendation for a turn around to be constructed at the end of Janita Drive;
- F. regarding members of the neighborhood having no concern regarding the property in question, remarked as it was not owned by them, they had no say in whether or not it was developed or how it could or would be developed;
- G. ignorance and financial hardship were not excuses for circumventing laws and regulations;
- H. reminded the Commission of their duty to protect the lives and safety of the residents and citizens they represented and if they failed to follow the laws and recommendations requiring a hammer head or cul-de-sac on the stated property at the end of Janita Drive, they would be permanently placing lives in harms way;
- I. currently large trucks, moving vans, trash, and garbage trucks, must back out the length of the street or utilized property owners' driveways to exit Janita Drive;
- J. trash and garbage pick up was served by numerous companies due to the fact the subdivision is right over the City limit line making each home owner responsible for contracting the pick up of trash and garbage from their homes with the same being done a minimum of four days a week in the Smithfield/Brentwood subdivision;
- K. Janita Drive was not wide enough to accommodate emergency rescue fire trucks, ambulances, etc., along with personal vehicles parked on the street and at present there was absolutely no way for

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- those large vehicles to turn around without using private property or backing down the street;
- L. asked the Commission to imagine living on the street and having UPS, the U.S. Mail, FedEx, trash pickup, moving vans, construction equipment, etc., coming down the street only to be able to turn around in your personal driveway day after day, and those heavy vehicles could tear up your driveway, your yard, your mail box;
 - M. all this large traffic had to share space with children playing and area residents walking and there was no sidewalk either;
 - N. just because nothing had been done in the past did not negate the fact the problem still existed and the decision made by the Commission would affect those residents forever;
 - O. as a resident of Janita Drive since 1987, has seen first hand the negative impact of vehicles not being able to turn around at the end of Janita Drive, including the loss of his own mailbox;
 - P. to his knowledge there had never been an issue of gang activity on the vacant lot in question, nor had he seen garbage dumped there;
 - Q. personally enjoyed having the green space at the end of Janita Drive;
 - R. as owners of the house to the immediate northwest of the property in question expressed the opinion a cul-de-sac would be preferred;
 - S. noted Janita Drive was the only street not cul-de-sac'd in their neighborhood as it was originally designed as an additional unit of lots within the neighborhood but the developer abandoned them and they were sold for taxes in 2010;
 - T. according to the Urban Development's Planning Commission website, the Commission had been approached in December of 2010 with a Subdivision plan for a two lot subdivision which was requested to be held over because there was no cul-de-sac but nothing was done regarding such until the application now being heard by the Commission;
 - U. the applicant kept changing how this property was proposed for development;
 - V. the applicant had cleared the property, staked the lot, placed a mobile home on it, attempted to establish utilities, tried to have permits pulled for it, all without coming back before the Commission for approval of some type of plan;
 - W. on October 24, 2011, after the applicant's permits had been revoked, in a meeting with Mobile County Commissioner Mike Dean, the applicant stated "I'd be half through framing my home were we not in this position," however, if the matter had not been back before the Planning Commission, it was not understood how the applicant could be that far into the construction of a home;
 - X. reminded the Commission the applicant's surveyor had stated as validation for the waiver "there were several homes on a driveway

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at a dead end within the area” specifically mentioning the Westchester neighborhood and out of curiosity, a review of aerial maps was made and yes there was a home at the end of a dead end without a turn around but from the appearance of the map the home in question existed long before the neighborhood with the neighborhood being constructed around said house;

- Y. in contrast to the previous statement, the Smithfield subdivision existed long before the applicant purchased the property and his proposed construction on the same, which was the basis for why the home owners’ association requested the applicant conform to what they did; and,
- Z. the developers who developed Smithfield subdivision put in curbs, drainage, gutters, utilities, lampposts, and asphalt paving, and every one of the home owners paid for those when they purchased their homes or lots and it was hard to have much sympathy that an \$8,000.00 purchase of a one and a half acre piece of property which would have been four lots at some \$20,000.00 to \$25,000.00 a piece had they been developed was now a financial hardship to this new developer and asked the Commission not to approve the requested waiver.

In response to the opposition, Mr. Buckley stated the following:

- A. regarding the first application to subdivide the property into two parcels the previous year, the applicant was told at that time, due to the developer being required to put the turn around in some 23 years before, that if he pursued dividing the property, he, too, would have to construct the turn around, however, if the property were left as one large lot, he would not have to construct said turn around;
- B. the applicant was not aware that after 1984 the County required “any property that was subdivided had to be a legal lot of record,” and properly subdivided;
- C. stated one of the negotiating points which had already been mentioned was if the Smithfield Home Owners’ Association was willing to pay for the turn around because there were 365 lots in the subdivision and that all property owners would split the cost of construction evenly then the applicant would be willing to allow his property to be decimated by a turn around; and,
- D. stated he had done all he could to come under their restrictions, however, as his lot was an acre and a half and the other property owners’ lots were approximately quarter acre lots, there were many things he could not agree to in an effort to protect his larger property.

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Mr. Turner asked if the information regarding moneys paid out when the home owners moved in as mentioned by Mr. Graham could be repeated.

Mr. Graham stated when they purchased their homes, either as lots, had them built, or when he purchased his home as a second owner of the home, the cost of all of those improvements, the turn around, the cul-de-sac, and he lived on a cul-de-sac, all of that was priced into the lot that the builder turned around and sold to them, and that is why he made the reference that in this instance, this one and a half acres was a new development and the applicant was now a developer and those costs were associated with that.

Ms. Herndon emphasized that nothing changed regarding the turn around or the safety issues if the waiver were denied.

In deliberation, Mr. Turner explained why he had Mr. Graham return to the microphone. He then addressed the property owner stating Mr. Buckley was both property owner and developer and queried aloud as to whether the home owners' association might be willing to go in with the applicant to pay for the cul-de-sac at 60%-40% of the cost split, that way both parties paid a portion for the development of the cul-de-sac that would benefit both parties. Mr. Turner also asked what happened presently when trucks went down Janita Drive with regards to them "getting out" of the street.

Dr. Rivizzigno stated her understanding those vehicles simply backed out of the street.

Mr. Turner stated in that case it was his opinion that should Mr. Buckley become a resident it would be better for the subdivision to share the cost of building some form of turn around rather than leave things as they were.

The Chair gave his opinion of that the last meeting between the two groups was supposed to have been to work out such a plan.

Mr. Miller expressed his agreement in being disappointed the two sides could not come to a mutually beneficial compromise. He wondered out loud if the hammerhead turnaround was the minimum construction that could be done rectify the matter.

Mr. Olsen stated the hammerhead turnaround was the minimum design that was acceptable to the Fire Department with the only other option being the cul-de-sac for the site to be in compliance with the International Fire Code.

Mr. Davitt also expressed his disappointment that the two sides were not able to reach an agreement especially since he had taken the position it needed to be built. He noted it had recently struck him that in building the 120-foot hammerhead turnaround, the neighbors were asking Mr. Buckley, the applicant, to give up approximately one quarter of an acre of his property without compensation, however, with the other cul-de-sacs in the subdivision, those were built on common area, not individual property. He stated he was not sure it was fair to ask the applicant to give up property without compensation, as the other neighbors had never been asked to do the same.

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Mr. Miller asked Mr. Lawler for his opinion on the matter.

Mr. Lawler stated the regulations said if there were something unusual about the topography that gave it some type of hardship regarding compliance with the ordinance then a waiver could readily be granted, however, this was not the case. He noted it was a “slippery slope” if the Commission allowed one person to claim financial hardship and grant approval of a matter for the same.

Mr. Davitt countered by saying in a situation such as that didn’t the developer typically grant or move the cul-de-sac out of the property and into the subdivision’s common ground for the benefit of all of the neighbors.

Mr. Lawler stated that was true but this was a piece of property that appeared to be dividable into two parcels.

Mr. Turner asked if the Commission could require dedication and not construction at this time.

Mr. Olsen reminded the Commission that the County would not accept dedication without construction.

Mr. Miller stated what continued to be bothersome was asking the individual property owner to simply give away a sixth or so of his property to the neighborhood especially since it would not be the property owner’s car that backed up in the turn around.

Mr. Lawler stated the property owner would gain some benefit from the construction of a turn around as much as the neighbors did.

Mr. Miller recognized the benefit of the turn around to all parties but he also felt sidewalks were beneficial but he did not want to build seven houses worth of sidewalks in his neighborhood either.

Mr. Holmes asked District Chief Billy Roach if, from a Fire Department access standpoint, was the hammerhead the minimum accessibility option for his department.

District Chief Roach responded, as he had in all previous meetings regarding the matter, the International Fire Code specifically stated there should have been a turn around constructed originally and nothing in the International Fire Code gave any guidelines regarding granting waivers of such. He added the Fire Department would prefer a cul-de-sac so the hammerhead turnaround option was lenient in his opinion.

Mr. Turner expressed his confusion on whether or not the Fire Department would “sign off” on the project.

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Mr. Olsen stated the staff's recommendation for approval included a condition calling for dedication and construction of the hammerhead as shown.

Mr. Turner asked for clarification as to whether its construction was a requirement by any authority.

District Chief Billy Roach stated firmly the construction of a cul-de-sac was a requirement of the City of Mobile Fire Department, but in this instance they were using the International Fire Code to offer the hammerhead turn around as an alternative to the cul-de-sac because the property was in the County.

Mr. Olsen stated the Subdivision Regulations required a turn around of some kind, whether that be the cul-de-sac or the allowance of the hammerhead. He also addressed the matter of permits being issued then rescinded stating all that action was done by the county and only they could answer how or why those were done. He added the County actually came up with the July 1984 date for the agreement on the enforcement of the Subdivision Regulations in their jurisdiction, so they were aware of said date.

Mr. Watkins stated he felt this was a situation where both sides should have compromised but as a result of not doing so, they would wind up with a community that did not have a turn around which would not correct their problem.

Hearing no further opposition or discussion, a motion was made by Mr. Watkins, with second by Mr. Davitt, to waive Section V.B.14. and V.B. 15. of the Subdivision Regulations regarding right-of-way and roadway widths for closed-end street turnarounds, and approve the above referenced matter, subject to the following conditions:

- 1) construction and dedication of the 120-foot hammerhead turnaround and associated right-of-way at the terminus of Janita Drive as depicted;**
- 2) retention of the 25-foot minimum building setback line around the hammerhead turnaround as depicted;**
- 3) retention of the lot area size, in square feet, exclusive of any area dedicated for the required turnaround;**
- 4) removal of the proposed structure from within the minimum building setback;**
- 5) placement of a note on the Final Plat limiting the site to one curb-cut to Janita Drive with the size, design, and location to be approved by Mobile County Engineering and conform to AASHTO standards;**
- 6) placement of a note on the Final Plat stating that: *“Development must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall 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;”*
- 7) **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,**
 - 8) **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, with Mr. Jordan, Mr. Miller, and Mr. Turner voting in opposition.

Case #SUB2011-00093 (Subdivision)
La Belle Subdivision, Re-subdivision and Addition to Lot 1

5951 & 5955 Old Shell Road and 14 East Drive
(Southwest corner of Old Shell Road and East Drive)

Number of Lots / Acres: 1 Lot / 1.3 Acres±

Engineer / Surveyor: Don Williams Engineering

Council District 6

(Also see **Case #ZON2011-02055 (Planned Unit Development) La Belle Subdivision, Re-subdivision and Addition to Lot 1**, and, **Case #ZON2011-02057 (Rezoning) La Belle LLC.**, below)

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

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.

Don Williams, Williams Engineering, spoke on behalf of the applicant. He stated the applicant's expressed intent all along has been to re-obtain all of their traffic movements at Old Shell Road due to the median located there now at the entrance to the University of South Alabama and they were in agreement with the staff's recommendation with the exception of Condition 7 of the Planned Unit Development regarding the dumpster pad. He advised the dumpster had been on the site for a good number of years without an enclosure the entire time and was located approximately five feet from the west property line and too near the rear yard of a fraternity house. He said the applicant had no problem offering to enclose the dumpster with a six foot high wooden privacy fence. Mr. Williams commented though moving the dumpster as recommended by staff could physically be done, if it were done, the Engineering Department would then require the dumpster be connected to the sanitary sewer system, a new requirement by that department.

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Mr. Olsen advised based on other conversations had with Rosemary Sawyer, City Engineering, regarding other projects, the connection to sanitary sewer was a federal requirement the City enforced. He added the Engineering Department was going to existing commercial sites and advising them their dumpsters must connect to sanitary sewer, whether those sites were actively pursuing a project or not.

George Davis, City Engineering, advised Mr. Olsen was correct in his information.

Mr. Olsen continued that even if the Commission were not to include that as a condition for approval, at some point in the not too distant future, City Engineering would contact the applicant and advise them they were required to put in the connection between the dumpster and sanitary sewer.

Mr. Williams stated they would prefer City Engineering find them at a later date and require the connection then in an effort to spread the applicant's cash flow on the matter.

Mr. Watkins asked if the dumpster pad remaining where it was caused any problems.

Mr. Olsen stated it did not comply with setback requirements.

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

- 1) **the lot is limited to one curb-cut to Old Shell Road and one curb-cut to East Drive, with the size, design, and location to be approved by Planning, Urban Forestry and Traffic Engineering, and to comply with AASHTO standards;**
- 2) **depiction and labeling of a 15-foot wide greenspace protection buffer along that portion of the lot that abuts properties that front East Drive; and,**
- 3) **provision of a revised PUD site plan prior to the signing of the final plat.**

The motion carried unanimously with only Mr. Miller recusing from the vote.

Case #ZON2011-02055 (Planned Unit Development)
La Belle Subdivision, Re-subdivision and Addition to Lot 1

5951 & 5955 Old Shell Road and 14 East Drive

(Southwest corner of Old Shell Road and East Drive)

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

Council District 6

(Also see **Case #SUB2011-00093 (Subdivision) La Belle Subdivision, Re-subdivision and Addition to Lot 1**, above, and, **Case #ZON2011-02057 (Rezoning) La Belle LLC.**, below)

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

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

- 1) all site lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance, and the applicant must submit documentation regarding lighting compliance, including the physical location of new lighting on the property and a photometric plan of the lighting;**
- 2) provision of a 15-foot wide greenspace area, with 6-foot high (at time of planting) evergreen vegetative buffer and 6-foot high wooden privacy fence, where the site abuts single-family residences fronting East Drive, revising the site plan to eliminate 6 proposed parking spaces;**
- 3) provision of a protection buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance along the Southern and Western boundaries of the site, where it abuts residentially zoned properties;**
- 4) removal of the western-most driveway access to Old Shell Road, with curbing and landscaping to prohibit use of the driveway area, and removal of all paving abutting the Picklefish restaurant on the western side;**
- 5) elimination of two parking spaces adjacent to the proposed 24-foot driveway linking the existing parking area to the new parking area, and replacing the parking spaces with curbed landscaped islands;**
- 6) compliance with revised Traffic Engineering comments: *“Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Driveway has been modified to minimize skew at roadway. Centerline striping between East Drive and parking spaced to the west is highly recommended to delineate travel lanes for entry and exit;”***
- 7) revision of the site plan to depict the relocation of the existing dumpsters and the proposed enclosure to meet a minimum 10-foot setback from any property line where the site abuts residentially zoned property;**
- 8) application for a sidewalk waiver along East Drive prior to any request for permits for land disturbance;**
- 9) provision of a revised PUD site plan prior to the signing of the final plat; and,**
- 10) full compliance with all other municipal codes and ordinances.**

The motion carried unanimously with only Mr. Miller recusing.

Case #ZON2011-02057 (Rezoning)

La Belle LLC.

14 East Drive

(West side of East Drive, 100' ± South of Old Shell Road)

Rezoning from R-1, Single-Family Residential District, and B-2, Neighborhood Business District, to B-2, Neighborhood Business District to eliminate split zoning in a proposed Subdivision and allow construction of a parking lot.

Council District 6

(Also see **Case #SUB2011-00093 (Subdivision) La Belle Subdivision, Re-subdivision and Addition to Lot 1**, and, **Case #ZON2011-02055 (Planned Unit Development) La Belle Subdivision, Re-subdivision and Addition to Lot 1**, above)

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

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

- 1) **all site lighting to comply with Sections 64-4.A.2. and 64-6.A.3.c. of the Zoning Ordinance;**
- 2) **provision of a 15-foot wide greenspace area, with 6-foot high (at time of planting) evergreen vegetative buffer and 6-foot high wooden privacy fence, where the site abuts single-family residences fronting East Drive;**
- 3) **provision of a protection buffer in compliance with Section 64-4.D.1. of the Zoning Ordinance along the Southern and Western boundaries of the site, where it abuts residentially zoned properties;**
- 4) **limited to an approved Planned Unit Development; and,**
- 5) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously with only Mr. Miller recusing.

Case #SUB2011-00092 (Subdivision)

Mr Rooter Subdivision

2409 Wolfridge Road

(Southwest corner of Wolf Ridge Road and Feed Mill Road [private street])

Number of Lots / Acres: 1 Lot / 3.4 Acres±

Engineer / Surveyor: Don Williams Engineering

Council District 1

(Also see **Case #ZON2011-02054 (Planned Unit Development) Mr Rooter Subdivision**, and, **Case #ZON2011-02056 (Rezoning) Mr. Rooter Plumbing**, below)

The Chair announced the application for subdivision had been recommended for approval but the applications for Planned Unit Development and Rezoning were recommended for denial. He added if anyone wished to speak on the matter they should do so at that time.

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Don Williams, Williams Engineering, spoke on behalf of the applicant and made the following points:

- A. passed out panoramas of the site showing as viewed from the center line of Wolf Ridge Road which showed the house, the chain link fence in front, storage buildings, and a mobile home currently located on the property;
- B. to the right the property was the intersection of Wolf Ridge Road and Feed Mill Road, with a feed mill located at the end of the street and a private road which serviced the same, but to the other side of Feed Mill Road, commercial activities such as communications towers, transmission service location, and access to the feed mill were visible;
- C. the client accepted responsibility for putting themselves in this position he established the business under false pretenses, whether intentionally or not, purported to be a home occupation business which he is not;
- D. now trying to correct the situation by making the structural changes to the site, proposing the dedication of 15-feet of right-of-way to Wolf Ridge Road, moving storage buildings farther back, compliance with set-backs, noting the current residential house would remain as it was but with a six-foot high wooden privacy fence to shelter off everything else;
- E. planned asphalt parking in the back yard with a 24-foot wide asphalt driveway with automatic gate off of Wolf Ridge Road, closing access to Feed Mill Road, becoming compliant with stormwater retention measures, building permits, and handicapped accessibility;
- F. activities on the site were very quiet as they were not doing any plumbing work on the location because Mr. Rooter was a service call driven business;
- G. as the site had so much plumbing equipment in the yard, it was drifting toward a B-3 zoning classification though currently they were zoned R-1;
- H. feel they had corrected all of the site issues and felt the staff report collaborated that information;
- I. noted staff had recommended denial for the zoning change request for two reasons, one being the changing conditions within the area did not justify a change, and secondly, it would be spot zoning to change the current zoning classification;
- J. regarding changing conditions, advised staff was correct in saying the conditions weren't changing however they did not note conditions had changed and reminded the Commission of the various commercial activities in that R-1 zoned area such as the feed mill, the transmission shop, a construction company, all who

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- had been in business at those locations for many, many years, resulting in it not being a residential type neighborhood any more;
- K. regarding spot zoning, the applicant would not be spot zoned if the other businesses were in compliance; and,
 - L. noted the property was 3.4 acres with B-3 zoning requiring 4.0 acres.

Mr. Olsen advised the Commission that Conditions for Approval had been prepared should the Commission be leaning toward approval of the matter and though there were two to three non-conforming uses in the immediate area, the rest of the property in the area was being used as it was zoned, single family, residential, R-1. Mr. Olsen read the recommended Planned Unit Development Conditions for Approval in to the record:

- A. construction of a City-standard sidewalk along the Wolf Ridge Road frontage or the granting of a Sidewalk Waiver prior to the final zoning inspection for the site;
- B. subject to the Engineering comments: *“If the proposed improvements increase the total impervious area of the site to over 4,000 square feet the owner will be required to provide on-site detention. Must comply with all stormwater and flood control ordinances. 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 connect to sanitary sewer;”*
- C. full compliance with all municipal codes and ordinances, including after-the-fact permitting for all improvements to the site including conversion of the residence into commercial use; and,
- D. no outside storage.

Mr. Olsen then read the Conditions for Approval for the rezoning request:

- A. completion of the Subdivision process;
- B. subject to an approved PUD; and,
- C. full compliance with all municipal codes and ordinances.

Mr. Williams stated his client had no problem with those recommendations.

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

- 1) dedication to provide 50’ from the centerline of Wolf Ridge Road;**
- 2) illustration of the 25’ minimum building setback line as measured from any required dedication;**
- 3) placement of a note on the Final Plat stating that the lot is limited to two curb-cuts to Wolf Ridge Road, with the size,**

- location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 4) placement of a note on the Final Plat stating that direct access to Feed Mill Road is denied until such time that it becomes a public right-of-way developed to City standards;
 - 5) labeling of the lot with its size in square feet and acres, or the furnishing of a table on the Final 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) provision of a revised PUD site plan, if necessary, prior to permitting; and,
 - 8) subject to the Engineering comments: *“If the proposed improvements increase the total impervious area of the site to over 4,000 square feet the owner will be required to provide on-site detention. Must comply with all stormwater and flood control ordinances. 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.”*

The motion carried unanimously.

Case #ZON2011-02054 (Planned Unit Development)

Mr Rooter Subdivision

2409 Wolfridge Road

(Southwest corner of Wolf Ridge Road and Feed Mill Road [private street])
Planned Unit Development Approval to allow multiple buildings on a single building site and shared access.

Council District 1

(Also see Case #SUB2011-00092 (Subdivision) **Mr Rooter Subdivision**, above, and, Case #ZON2011-02056 (Rezoning) **Mr. Rooter Plumbing**, below)

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

- 1) construction of a City-standard sidewalk along the Wolf Ridge Road frontage or the granting of a Sidewalk Waiver prior to the final zoning inspection for the site;
- 2) subject to the Engineering comments: *(If the proposed improvements increase the total impervious area of the site to over 4,000 square feet the owner will be required to provide on-site detention. Must comply with all storm water and flood*

- control ordinances. Any work performed in the right of way will require a right of way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer);*
- 3) **full compliance with all municipal codes and ordinances, including after-the-fact permitting for all improvements to the site including conversion of the residence into commercial use; and,**
 - 4) **no outside storage.**

The motion carried unanimously.

Case #ZON2011-02056 (Rezoning)

Mr. Rooter Plumbing

2409 Wolf Ridge Road

(Southwest corner of Wolf Ridge Road and Feed Mill Road [private street])

Rezoning from R-1, Single-Family Residential District, to B-3, Community Business District, to allow a commercial plumbing business.

Council District 1

(Also see **Case #SUB2011-00092 (Subdivision) Mr Rooter Subdivision**, and, **Case #ZON2011-02054 (Planned Unit Development) Mr Rooter Subdivision**, above)

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

- 1) **completion of the Subdivision process;**
- 2) **subject to an approved PUD; and**
- 3) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2011-00121 (Subdivision)

Gulfpark Subdivision, 2nd Addition, Re-subdivision of Lots 2 & 3

South terminus of Gulf Park Drive

Number of Lots / Acres: 2 Lots / 3.0 Acres±

Engineer / Surveyor: Paul Stewart Surveying

County

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.

Jerry Hutcherson, 10993 Gulf Park Drive, spoke as the owner adding there was information the staff had not received for this request but were now in receipt of such. He stated it was his understanding because they had received the information, staff would adjust their recommendation and provide Conditions of Approval.

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Mr. Olsen advised the staff had not received the information required prior to finalization of the staff report and its associated mail out, so there was no choice but to maintain the recommendation for denial. Since that time, Mr. Olsen added, the information was indeed received by the staff and Conditions for Approval have been written.

The Chair asked Mr. Olsen to give Mr. Hutcherson a copy of the Conditions of Approval which he did.

Mr. Hutcherson read the conditions and then stated he was in agreement with the Conditions of Approval as presented.

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

- 1) **depiction of the 25-foot minimum building setback line from Gulf Park Drive Road, as required by Section V.D.9. of the Subdivision Regulations;**
- 2) **labeling of the lot sizes, in square feet, or provision of a table on the Final Plat with the same information;**
- 3) **re-label the lots as “Lot 1” and “Lot 2”;**
- 4) **placement of a note on the Final Plat that no future subdivisions will occur until Gulf Park Drive is paved to Mobile County standards;**
- 5) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations;**
- 6) **placement of a note on the Final Plat stating the site must comply with the City of Mobile stormwater and flood control ordinances: *“Must comply with the Mobile County Flood Damage Prevention Ordinance. Development shall 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;”***
- 7) **placement of a note on the Final Plat both lots to one curb-cut each to Gulf Park Drive, with the size, design, and location of all curb-cuts to be approved by Mobile County Engineering and conform to AASHTO standards;**

- 8) approval of all applicable federal, state, and local agencies prior to the issuance of any permits or land disturbance activities; and
- 9) 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.

Case #SUB2011-00122 (Subdivision)

Zion Baptist Church Subdivision

2514 Halls Mill Road

(Northwest corner of Halls Mill Road and Pollard Lane)

Number of Lots / Acres: 2 Lots / 5.6 Acres±

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

Council District 4

(Also see **Case #ZON2011-02614 (Planned Unit Development) Zion Baptist Church Subdivision**, **Case #ZON2011-02676 (Planning Approval) Zion Baptist Church Subdivision**, and, **Case #ZON2011-02615 (Rezoning) Zion Baptist Church Subdivision**, 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.

Brett Orrell, Polysurveying Engineering, spoke on behalf of the applicant and stated they were in agreement with the recommended holdover.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the January 19, 2012, meeting with revisions due to the Planning Section by noon on Wednesday, December 28, 2011, to address the following:

- 1) dedication sufficient to provide 25 feet from the centerline of Pollard Lane;
- 2) illustration of 25-foot minimum building setback line after dedication;
- 3) compliance with Section V.B.16., in regards to curb radii should be required at the intersection of Halls Mill and Pollard Lane; and,
- 4) placement of a note on the Final Plat stating compliance with Urban Forestry Comments: *“Preservation status is to be given to the 60” Live Oak Tree located on the center of Lot 1. Preservation status is to be given to the 48” Live Oak Tree, 50” Live Oak Tree and 52” Live Oak Tree on Lot 2. Any work on or*

under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.”

The motion carried unanimously.

**Case #ZON2011-02614 (Planned Unit Development)
Zion Baptist Church Subdivision**

2514 Halls Mill Road

(Northwest corner of Halls Mill Road and Pollard Lane)

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

Council District 4

(Also see **Case #SUB2011-00122 (Subdivision) Zion Baptist Church Subdivision**, above, and, **Case #ZON2011-02676 (Planning Approval) Zion Baptist Church Subdivision**, and, **Case #ZON2011-02615 (Rezoning) Zion Baptist Church Subdivision**, 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.

Brett Orrell, Polysurveying Engineering, spoke on behalf of the applicant and stated they were in agreement with the recommended holdover.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the January 19, 2012, meeting with revisions due to the Planning Section by noon on Wednesday, December 28, 2011, to address the following:

- 1) **submittal of an acceptable, detailed narrative describing the project in detail as required in Section 64-5.D. of the Zoning Ordinance;**
- 2) **revision of the site plan to show ALL required parking spaces on Lot 2, including, but not limited to, dimensions of parking stalls or drive aisles, indicate paving materials, and indicate the seating capacity of the church and other information needed to ensure parking compliance;**
- 3) **approval of a sidewalk waiver or illustration of a sidewalk on the site plan is required;**
- 4) **compliance with Urban Forestry comments: “*Preservation status is to be given to the 60” Live Oak Tree located on the center of Lot 1. Preservation status is to be given to the 48” Live Oak Tree, 50” Live Oak Tree and 52” Live Oak Tree on Lot 2. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger;*”**

- 5) compliance with Traffic Engineering comments: *“Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. As shown, the 10' asphalt drive is not wide enough to accommodate two-way traffic. A 14'-16' aisle is the minimum desirable width to designate an entrance as one-way. Also the gate at Halls Mill Road may prohibit circulation through the site if it is common practice to keep the gate closed or locked. Two-way traffic cannot occur between the maintenance building and the church; one-way traffic is very constrained. Parking stalls along Pollard Street are not accurately depicted in the site plan. Several of the "stalls" are less than 20' from the edge of the roadway. Any parking that requires backing into the right-of-way or parking within the right-of-way is not recommended. Excess asphalt and/or gravel surfaces within the right-of-way that are not permitted to be utilized as parking through a right-of-way use agreement should be removed. There is no existing designated handicap parking and the site plan does not show adequate facilities to account for handicap accessibility (for example, proper parking stall size, aisles, and solid surface access to the structures)”*; and,
- 6) compliance with Engineering comments: *“Any work performed in the existing ROW (right-of-way) will require a Right-of-Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Any increase in impervious area in excess of 4,000 square feet will require detention. Need to dedicate 10' of additional ROW along Pollard St., or as otherwise approved by the City Engineer. Any site improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb cuts.”*

The motion carried unanimously.

Case #ZON2011-02676 (Planning Approval)

Zion Baptist Church Subdivision

2514 Halls Mill Road

(Northwest corner of Halls Mill Road and Pollard Lane)

Planning Approval to allow an existing church in an R-1, Single-Family Residential District.

Council District 4

(Also see Case #SUB2011-00122 (Subdivision) **Zion Baptist Church Subdivision**,

Case #ZON2011-02614 (Planned Unit Development) **Zion Baptist Church Subdivision**, above, and, Case #ZON2011-02615 (Rezoning) **Zion Baptist Church Subdivision**, below)

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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.

Brett Orrell, Polysurveying Engineering, spoke on behalf of the applicant and stated they were in agreement with the recommended holdover.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the January 19, 2012, meeting with revisions due to the Planning Section by noon on Wednesday, December 28, 2011, to address the following:

- 1) **revision of the site plan to show ALL required parking spaces on Lot 2, including, but not limited to, dimensions of parking stalls or drive aisles, indicate paving materials, and indicate the seating capacity of the church and other information needed to ensure parking compliance;**
- 2) **approval of a sidewalk waiver or illustration of a sidewalk on the site plan is required;**
- 3) **compliance with Urban Forestry comments: *“Preservation status is to be given to the 60” Live Oak Tree located on the center of Lot 1. Preservation status is to be given to the 48” Live Oak Tree, 50” Live Oak Tree and 52” Live Oak Tree on Lot 2. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger;”***
- 4) **compliance with Traffic Engineering comments: *“Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. As shown, the 10' asphalt drive is not wide enough to accommodate two-way traffic. A 14'-16' aisle is the minimum desirable width to designate an entrance as one-way. Also the gate at Halls Mill Road may prohibit circulation through the site if it is common practice to keep the gate closed or locked. Two-way traffic cannot occur between the maintenance building and the church; one-way traffic is very constrained. Parking stalls along Pollard Street are not accurately depicted in the site plan. Several of the "stalls" are less than 20' from the edge of the roadway. Any parking that requires backing into the right-of-way or parking within the right-of-way is not recommended. Excess asphalt and/or gravel surfaces within the right-of-way that are not permitted to be utilized as parking through a right-of-way use agreement should be removed. There is no existing designated handicap parking and the site plan does not show adequate facilities to account for handicap accessibility (for example, proper parking stall size, aisles and solid surface access to the structures)”; and,***

- 5) **compliance with Engineering comments: “Any work performed in the existing ROW (right-of-way) will require a Right of Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Any increase in impervious area in excess of 4,000 square feet will require detention. Need to dedicate 10’ of additional ROW along Pollard St., or as otherwise approved by the City Engineer. Any site improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb cuts.”**

The motion carried unanimously.

Case #ZON2011-02615 (Rezoning)

Zion Baptist Church Subdivision

2514 Halls Mill Road

(Northwest corner of Halls Mill Road and Pollard Lane)

Rezoning from R-1, Single-Family Residential District and B-3, Community Business District, to R-1, Single-Family Residential District and to eliminate split zoning in a proposed subdivision.

Council District 4

(Also see Case #SUB2011-00122 (Subdivision) **Zion Baptist Church Subdivision**, Case #ZON2011-02614 (Planned Unit Development) **Zion Baptist Church Subdivision**, and, Case #ZON2011-02676 (Planning Approval) **Zion Baptist Church Subdivision**, 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.

Brett Orrell, Polysurveying Engineering, spoke on behalf of the applicant and stated they were in agreement with the recommended holdover.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the January 19, 2012, meeting with revisions due to the Planning Section by noon on Wednesday, December 28, 2011, to address the following:

- 1) **rezoning of the entire development from B-3, Community Business to R-1, Single-Family Residential to allow with Planning Approval the allowed use of Lot 1 as a cemetery;**
- 2) **revision of the site plan to show ALL required parking spaces on Lot 2, including, but not limited to, dimensions of parking stalls or drive aisles, indicate paving materials, and indicate the seating capacity of the church and other information needed to ensure parking compliance;**

- 3) approval of a sidewalk waiver or illustration of a sidewalk on the site plan is required;
- 4) compliance with Urban Forestry Comments: *“Preservation status is to be given to the 60” Live Oak Tree located on the center of Lot 1. Preservation status is to be given to the 48” Live Oak Tree, 50” Live Oak Tree and 52” Live Oak Tree on Lot 2. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger;”*
- 5) compliance with Traffic Engineering Comments: *“Driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards. As shown, the 10' asphalt drive is not wide enough to accommodate two-way traffic. A 14'-16' aisle is the minimum desirable width to designate an entrance as one-way. Also the gate at Halls Mill Road may prohibit circulation through the site if it is common practice to keep the gate closed or locked. Two-way traffic cannot occur between the maintenance building and the church; one-way traffic is very constrained. Parking stalls along Pollard Street are not accurately depicted in the site plan. Several of the "stalls" are less than 20' from the edge of the roadway. Any parking that requires backing into the right-of-way or parking within the right-of-way is not recommended. Excess asphalt and/or gravel surfaces within the right-of-way that are not permitted to be utilized as parking through a right-of-way use agreement should be removed. There is no existing designated handicap parking and the site plan does not show adequate facilities to account for handicap accessibility (for example, proper parking stall size, aisles, and solid surface access to the structures;”*
- 6) compliance with Engineering Comments: *“Any work performed in the existing ROW (right-of-way) will require a Right-of-Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Any increase in impervious area in excess of 4,000 square feet will require detention. Need to dedicate 10' of additional ROW along Pollard St., or as otherwise approved by the City Engineer. Any site improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb cuts;”* and,
- 7) compliance with all codes and ordinances.

The motion carried unanimously.

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Case #SUB2011-00125 (Subdivision)
New Hope Baptist Church Subdivision

1270 & 1272 Pecan Street, 605 & 608 Live Oak Street, 1261 & 1263 Persimmon Street (Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street; and West side of Live Oak Street, 120'± South of Persimmon Street)

Number of Lots / Acres: 2 Lots / 1.1 Acre±
Engineer / Surveyor: Wattier Surveying, Inc.
Council District 2

(Also see **Case #ZON2011-02682 (Planned Unit Development) New Hope Baptist Church Subdivision**, and, **Case #ZON2011-02683 (Planning Approval) New Hope Baptist Church Subdivision**, below)

The Chair announced the application had been recommended for approval, but the Planned Unit Development application and the Planning Approval application had been recommended for denial. He added if anyone wished to speak on the matter they should do so at that time.

Carlos Gant, architect for the church, spoke on their behalf and made the following points:

- A. since the holdover from the previous meeting, they had worked with the City Engineering and Planning Departments to address all of their concerns with the exception of the setback issue;
- B. in doing their research, it was discovered that Live Oak Street was “tagged” as a major thoroughfare for the future but the project wasn’t funded within the next 20 years, and in fact it was not a City priority;
- C. enforcement of the setback rendered the site unusable by the space left over as his clients couldn’t expand the sanctuary to the size they needed to accommodate their growing congregation; and,
- D. the location of the proposed building was in conformance with the rest of the traditional neighborhood, an area known as “The Bottoms” and funds from the City have been earmarked in an effort to spur development in that area as well.

Mr. Olsen gave his understanding to be if the major street issue was not there, the proposed development would basically be in compliance with the regulations and could be recommended for approval. Mr. Olsen advised the Commission staff had drafted Conditions for Approval should they be leaning that direction.

The Chair asked Mr. Olsen to give the applicant’s agent a copy of the Conditions for Approval for their review.

Mr. Watkins asked Mr. Lawler to address the impact of the Comprehensive Plan and the Major Street Plan on a project such as this.

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Mr. Lawler stated an exaction is usually called for when the impact of the development is going to cause a need for more public services and based upon his understanding of the project, a waiver would not be out of order at all.

Mr. Gant stated if the waiver were granted, the church would agree to all of the Conditions of Approval as he read them.

In deliberation, the Chair allowed Mark Wattier, the surveyor for the project to speak. Mr. Wattier advised the Conditions for Approval for the Subdivision application as stated were not in agreement with the revised Conditions for Approval for the Planned Unit Development or the Planning Approval applications as they had been given at the meeting, noting specifically the building set back requirement.

Mr. Olsen apologized for the inconsistencies within the Conditions of Approval stating those would be modified to correspond with the set back conditions as listed with the Planned Unit Development application.

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

- 1) street setbacks to be revised to match those of the Planned Unit Development [Live Oak – (2.5 feet existing and 8 feet new construction), Pecan – 5 feet, and Persimmon Street – 25 feet];**
- 2) compliance with Section V.B.16. of the Subdivision Regulations at the corner of Live Oak Street and Persimmon Street and as much as practicable at Live Oak Street and Pecan Street;**
- 3) placement of a note on the final plat limiting Lot 1 to one curb-cut each to Persimmon Street, Live Oak Street, and Pecan Street and Lot 2 to one curb-cut to Live Oak Street with the size, design, and exact location off all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) compliance with Engineering comments: *“1. Any work performed in the existing ROW (right-of-way) will require a Right-of-Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. 2. Any increase in impervious area in excess of 4,000 square feet will require detention. 3. Need engineer’s analysis of the capacity of the receiving storm system to ensure that the receiving system is capable of handling the additional flow; or provide minimum detention for the 100 year storm event with a release rate for the 2 year storm. 4. Drainage of onsite runoff from Lot 2 needs to tie into the existing drainage system on Live Oak St instead of tying into the proposed system on Lot 1. 5. At the intersection of Persimmon St and Live Oak St need to provide dedication of a minimum radius of 25’, or as***

- otherwise approved by the City Engineer. 6. Any site improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb-cuts;”*
- 5) **placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.8. of the Subdivision Regulations; and,**
 - 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.**

The motion carried unanimously.

Case #ZON2011-02682 (Planned Unit Development)

New Hope Baptist Church Subdivision

1270 & 1272 Pecan Street, 605 & 608 Live Oak Street, 1261 & 1263 Persimmon Street (Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street; and West side of Live Oak Street, 120'± South of Persimmon Street)

Planned Unit Development Approval to allow reduced side-street side yard setbacks and off-site parking.

Council District 2

(Also see **Case #SUB2011-00125 (Subdivision) New Hope Baptist Church Subdivision**, above, and, **Case #ZON2011-02683 (Planning Approval) New Hope Baptist Church Subdivision**, below)

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

- 1) **removal of the existing porch located in the Pecan Street right-of-way;**
- 2) **compliance with tree plantings to the greatest extent possible;**
- 3) **compliance with Engineering requirements: “1. Any work performed in the existing ROW (right-of-way) will require a Right of Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. 2. Any increase in impervious area in excess of 4,000 square feet will require detention. 3. Need engineer’s analysis of the capacity of the receiving storm system to ensure that the receiving system is capable of handling the additional flow; or provide minimum detention for the 100 year storm event with a release rate for the 2 year storm. 4. Drainage of onsite runoff from Lot 2 needs to tie into the existing drainage**

- system on Live Oak St instead of tying into the proposed system on Lot 1. 5. At the intersection of Persimmon St and Live Oak St need to provide dedication of a minimum radius of 25', or as otherwise approved by the City Engineer. 6. Any site improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb cuts;" and,*
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2011-02683 (Planning Approval)

New Hope Baptist Church Subdivision

1270 & 1272 Pecan Street, 605 & 608 Live Oak Street, 1261 & 1263 Persimmon Street (Northeast corner of Pecan Street and Live Oak Street extending to the Southeast corner of Pecan Street and Persimmon Street; and West side of Live Oak Street, 120'± South of Persimmon Street)

Planning Approval to allow the expansion of a church and construction of an off-site parking for church use in an R-2, Two-Family Residential District.

Council District 2

(Also see **Case #SUB2011-00125 (Subdivision) New Hope Baptist Church Subdivision**, and, **Case #ZON2011-02682 (Planned Unit Development) New Hope Baptist Church Subdivision**, above)

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

- 1) removal of the existing porch located in the Pecan Street right-of-way;
- 2) compliance with tree plantings to the greatest extent possible;
- 3) compliance with Engineering requirements: *"1. Any work performed in the existing ROW (right-of-way) will require a Right of Way (ROW) permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. 2. Any increase in impervious area in excess of 4,000 square feet will require detention. 3. Need engineer's analysis of the capacity of the receiving storm system to ensure that the receiving system is capable of handling the additional flow; or provide minimum detention for the 100 year storm event with a release rate for the 2 year storm. 4. Drainage of onsite runoff from Lot 2 needs to tie into the existing drainage system on Live Oak St instead of tying into the proposed system on Lot 1. 5. At the intersection of Persimmon St and Live Oak St need to provide dedication of a minimum radius of 25', or as otherwise approved by the City Engineer. 6. Any site*

- improvements requiring a building permit will require full compliance with City Code Chapter 57 including repairing any existing sidewalk panels and driveway curb cuts;" and,*
- 4) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2011-00135

Liberty Subdivision

East side of Schillinger Road, 730'± North of Meadows Boulevard extending to the Northern termini of Meadow Drive North, Meadow Dale Drive, Meadow Run Drive, Meadow Height Drive and to the Western terminus of Augustine Drive.

Number of Lots / Acres: 262 Lots / 120.2 Acres±

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

County

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.

Barbara Smith, 7475 Meadows Drive, Mobile, spoke against the matter and made the following points:

- A. as a member of the subdivision for 17 years, as well as a member of the home owners' association, have put up with rumors of a subdivision going in next to theirs for many years;
- B. did not have a real objection to a new neighborhood going in behind theirs;
- C. biggest concern was the narrowness of their streets and stated those had not been resurfaced in the 22 years the subdivision has been in existence;
- D. afraid the proposed subdivision would be built using streets within the Meadows subdivision as the entrance for the dump trucks and construction vehicles for the project;
- E. believed a better access point for the proposed subdivision would be to create one on Schillinger's Road; and,
- F. expressed concern over the size and type houses planned for the proposed subdivision.

The Chair expressed his belief there was an entrance to the proposed subdivision on Schillinger's Road.

Mr. Olsen confirmed that on the plat an entrance was shown to the proposed subdivision

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from Schillinger's Road and it was staff's understanding the entrance in question would be part of Phase I. He reminded the Commission all of the other streets in the subdivision were tied into public streets and access to those could not be limited. He added regarding the types of houses to be built, there would be many types, from patio homes to larger lots with larger houses.

The Chair asked if the development was proposed in the County or the City.

Mr. Olsen advised it was in the County and the basic plan had already been approved once with the major difference in the two plans being this plan took more into account the wetlands, showing them and making adjustments to lots accordingly.

Joel Coleman, Rester and Coleman Engineers, Inc., responded to the opposition stating the entrance from Schillinger's Road was in Phase I and it would be the primary access for the subdivision.

Hearing no further opposition or discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to waive Sections V.B.8. Alleys, V.D.1. Size and Shape of Lots, V.D.2. Minimum Dimensions, V.D.3. Maximum Depth, V.D.9. Minimum Front Yard Setback, and VI.C.4. Sidewalks, and approve the matter, subject to the following conditions:

- 1) dedication of sufficient right-of-way to provide 50', as measured from the centerline of Schillinger Road South;**
- 2) the placement of ALL building setbacks and a table illustrating ALL setbacks on the Final Plat;**
- 3) the placement of a typical lot setback for ALL size of lots to be illustrated on the Final Plat;**
- 4) placement of a note on the Final Plat stating that direct access to Schillinger Road South is denied for any lots fronting onto Schillinger Road South;**
- 5) the labeling of each lot with its size in square feet and acres, or the placement of a table on the Final Plat with the same information;**
- 6) placement of a note on the Final Plat stating that all lots (including corner lots) are limited to one curb-cut each, with the size, design, and location to be approved by the Mobile County Engineering Department and in conformance with AASHTO Standards;**
- 7) compliance with the Traffic Impact Study and acceptance by the Mobile County Engineering Department prior to signing the Final Plat;**
- 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;
- 9) the placement of a note on the Final Plat, stating that maintenance of the Common Area/Detention Area, and any other common areas, are the responsibility of the development's property owners;
 - 10) the applicant receive the approval of all applicable federal, state, and local environmental agencies would be required prior to the issuance of any permits or land disturbance activities;
 - 11) the applicant receive approvals to allow the reduced utility easements and these easements be located on the Final Plat;
 - 12) the location and size of the sidewalks be approved by County Engineering and conform to state and Federal guidelines;
 - 13) 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.8 of the Subdivision Regulations; and,
 - 14) 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.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2011-02993

Gulf Equipment Corporation

5152 Willis Road

(South side of Willis Road, 100'± East of Middle Road)

Request to waive construction of a sidewalk along Willis Road.

Council District 4

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.

Seeing no one present for the application and hearing no opposition or discussion, a motion was made by Mr. Miller, with second by Mr. Turner, to deny the above referenced matter.

The motion carried unanimously.

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Case #ZON2011-02991

Zion Baptist Church, Pastor Bruce Moseley

2514 Halls Mill Road

(Northwest corner of Halls Mill Road and Pollard Lane)

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

Council District 4

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.

Mr. Davitt asked if this application should have been part of the earlier application numbers Nine through Twelve.

Mr. Olsen stated it was the same site noting an error when the agenda was published, with the earlier applications holdovers from a previous meeting and this application being heard for the first time. He stated this applicant should have been included with those and discussed at that time as part of that group application.

Brett Orrell, Polysurveying Engineering, spoke on behalf of the applicant and asked the matter be held over and included with the earlier matters.

Mr. Olsen advised Mr. Davitt and the other Commissioners that all of the matters regarding Zion Baptist Church would be combined and heard together at the January 19, 2012, meeting.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the January 19, 2012, meeting, at the applicant's request.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2011-02995

DAA Acquisition of Alabama

3030 McVay Drive North

(East side of McVay Drive North, 810'± South of Government Boulevard, and extending to the South side of Macmae Drive)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow multiple buildings on a single building site, and a reduction in front landscaping requirements.

Council District 4

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.

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Tony Spencer, Frank A. Dagley and Associates, spoke on behalf of the applicant. He made the following comments in favor of approving the matter that day:

- A. the application before the Commissioners that day was to amend a previously approved Planned Unit Development;
- B. since the first application had been approved, the client now wished to expand the parking, which would be Phase I, as well as have a Phase II development on the north portion of the property; and,
- C. though recommended for holdover, the client agreed to eliminate Phase II construction until a later date in an effort to get started on the project at this time as the holdover issues arose from that portion of the proposed project, mainly the front landscaping.

Mr. Olsen asked the Commission for a few minutes to confer with staff in an effort to come up with Conditions for Approval for that day. After a few moments, Mr. Olsen stated there were some conditions ready and handed out the following, stating these were for Phase I only, with Phase II requiring a new application:

- A. revision of the site plan to depict landscaping islands in the areas currently shown as striped paving (hatched) on the site plan in Phase One;
- B. revision of the site plan to depict either curbing or bumper stops for all parking spaces along the edge of the paved area;
- C. placement of a note stating that the placement of additional dumpsters on the site will require a new PUD submittal;
- D. compliance with Engineering comments: *“An ADEM NOI is required for any land disturbance activity over 1 acre. Provide a copy of the ADEM registration number for the site prior to beginning any work. Any work performed in the existing ROW (right-of-way) will require a ROW permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Land Disturbance plans are to be submitted and approved prior to beginning construction. Due to the existence of an existing detention pond the applicant will need to either provide certification that the existing detention pond, outfall structure(s) and existing downstream receiving system are sized and constructed to accommodate the proposed increase in impervious area; or, will need to propose additional detention with the Land Disturbance permit. The surface grading for any existing or proposed dumpster pads and/or car wash drains must be minimized and directed to a drain connected to the Sanitary Sewer system. The drainage from any dumpster pads cannot discharge to storm sewer;”*
- E. compliance with Traffic Engineering comments: *“Driveway on Macmae Drive should be limited to 24’ wide. Radii for Macmae*

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- Drive driveway are not illustrated on the site plan. A 20' radius is typical for passenger cars and a 30' radius is desirable for large trucks;"*
- F. provision of two copies of the revised site plan incorporating the above changes to the Planning Section of the Urban Development Department prior to the issuance of any permits; and,
 - G. full compliance with all municipal codes and ordinances.

In deliberation, the Chair allowed Mr. Spencer to speak again and he noted the conditions which applied to Phase II seemed to still be a part of the Conditions for Approval, including the issue of shortage of front landscaping, and since they were no longer doing Phase II at this time those were unnecessary.

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

- 1) **revision of the site plan to depict landscaping islands in the areas currently shown as striped paving (hatched) on the site plan in Phase One;**
- 2) **revision of the site plan to depict either curbing or bumper stops for all parking spaces along the edge of the paved area;**
- 3) **placement of a note stating that the placement of additional dumpsters on the site will require a new PUD submittal;**
- 4) **compliance with Engineering comments: (“An ADEM NOI is required for any land disturbance activity over 1 acre. Provide a copy of the ADEM registration number for the site prior to beginning any work. Any work performed in the existing ROW (right-of-way) will require a ROW permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Land Disturbance plans are to be submitted and approved prior to beginning construction. Due to the existence of an existing detention pond the applicant will need to either provide certification that the existing detention pond, outfall structure(s) and existing downstream receiving system are sized and constructed to accommodate the proposed increase in impervious area; or, will need to propose additional detention with the Land Disturbance permit. The surface grading for any existing or proposed dumpster pads and/or car wash drains must be minimized and directed to a drain connected to the Sanitary Sewer system. The drainage from any dumpster pads cannot discharge to storm sewer);”**
- 5) **compliance with Traffic Engineering comments: “Driveway on Macmae Drive should be limited to 24’ wide. Radii for Macmae Drive driveway are not illustrated on the site plan. A 20’ radius is typical for passenger cars and a 30’ radius is desirable for**

- large trucks;”*
- 6) **provision of two copies of the revised site plan incorporating the above changes to the Planning Section of the Urban Development Department prior to the issuance of any permits; and,**
 - 7) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

GROUP APPLICATIONS:

Case #SUB2011-00134 (Subdivision)

A New Day Subdivision

808 Cody Road North

(East side of Cody Road North, 75'± North of Felhorn Road North)

Number of Lots / Acres: 1 Lot / 7.9 Acres±

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

(Also see **Case #ZON2011-02988 (Rezoning) New Day Christian Ministries, Inc.**, 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.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by Mr. DeMouy, to waive Section V.D.3. of the Subdivision Regulations and approve the above referenced matter, subject to the following conditions:

- 1) **dedication to provide 90' from the centerline of Cody Road to allow for the Major Street Plan requirements and a future 40' parallel service road;**
- 2) **revision of the 25' minimum building setback line to be measured from any required dedication;**
- 3) **labeling of the lot with its size in square feet and acres after any required dedication, or the furnishing of a table on the Final Plat providing the same information;**
- 4) **placement of a note on the Final Plat stating that the lot is limited to one curb-cut to Cody Road, 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 no structures are to be placed within any easements;**
- 6) **placement of a note on the Final Plat stating that the approval of all applicable federal, state, and local agencies will be**

- required for floodplain issues prior to the issuance of any permits;
- 7) 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,
 - 8) subject to the Engineering comments: *“50’ is required to be dedicated to public right-of-way for Cody Road (10’) and Cody Road Service Road (40’). The proposed work within the Cody Road ROW (right-of-way) will require a ROW permit from the Engineering Department and must comply with all City of Mobile ROW code and ordinance requirements. Must comply with all stormwater and flood control ordinances. Final width of drainage easement for Three Mile Creek will be determined by City Engineer.”*

The motion carried unanimously.

Case #ZON2011-02988 (Rezoning)

New Day Christian Ministries, Inc.

808 Cody Road North

(East side of Cody Road North, 75’ ± North of Felhorn Road North)

Rezoning from R-1, Single-Family Residential District, and R-3, Multi-Family Residential District, to B-1, Buffer Business District, to eliminate split zoning in a proposed subdivision and allow the construction of a church.

Council District 7

(Also see **Case #SUB2011-00134 (Subdivision) A New Day Subdivision**, above)

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

- 1) completion of the Subdivision process prior to requests for permits;
- 2) compliance with Section 64-4.A.2. of the Zoning Ordinance pertaining to illumination of uses to ensure that light does not shine directly into adjacent residential properties;
- 3) subject to the 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). Coordinate with Urban Forestry the design and construction of the Northern curb cut to minimize impact to the root system of the existing 30” Live Oak Tree. Urban Forestry is not requesting Preservation Status for the three additional large Live Oak Trees along the South property line due to structural defects with the*

- trees;*” and,
4) **full compliance with all other municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2011-00136 (Subdivision)

The Oaks of Westlake Subdivision, Phase One, Revised Lot 19

10692 Middle Oak Road

(North side of Middle Oak Drive, 75'± West of Knobbly Drive)

Number of Lots / Acres: 1 Lot / 0.3 Acre±

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

County

(Also see **Case #ZON2011-02992 (Vacation Request) Phillip Knudsen**, 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.

Phillip Knudsen, 10692 Middle Oak Road, Mobile, spoke on his own behalf. He stated Adams Homes incorrectly placed the home on the drainage easement and he had been trying to have the matter rectified since 2007. He then thanked the Commission for considering approval of the matter.

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

- 1) **retention of the 25-foot minimum building line and the lot area size, in square feet, on the Final Plat;**
- 2) **placement of a note on the Final Plat stating that the lot should be limited to the existing one curb-cut to Middle Oak Drive, with the size, design, and location of all curb-cuts to be approved by County Engineering and conform to AASHTO standards;**
- 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;**
- 4) **placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local,**

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

The motion carried unanimously.

Case #ZON2011-02992 (Vacation Request)

Phillip Knudsen

10692 Middle Oak Drive

(North side of Middle Oak Drive, 75'± West of Knobbly Drive)

Vacation Request for the East 5' of a 15' drainage easement.

County

(Also see Case #SUB2011-00136 (Subdivision) **The Oaks of Westlake Subdivision, Phase One, Revised Lot 19**, above)

Hearing no opposition or further discussion, a motion was made by Mr. Watkins, with second by Dr. Rivizzigno, to approve the above referenced matter.

The motion carried unanimously.

Case #SUB2011-00137 (Subdivision)

Sunset Point Subdivision

4640, 4628, 4616, 4612, 4608, 4600 Airport Boulevard, 200, 204, 208 April Street, 4609, 4613, 4617, 4621, 4625, 4629 Sunset Drive South, 201 & 205 University Boulevard South

(Northeast corner of Airport Boulevard and South University Boulevard extending North to Sunset Drive South, and East to April Street)

Number of Lots / Acres: 1 Lot / 6.8 Acres±

Engineer / Surveyor: Haines, Gipson & Associates, Inc.

Council District 5

(Also see Case #ZON2011-02997 (Planned Unit Development) **Sunset Point Subdivision**, Case #ZON2011-02996 (Rezoning) **Ladas Development Company, Inc.**, and, Case #ZON2011-02994 (Sidewalk Waiver) **Ladas Development Company, Inc.**, 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.

Doug Anderson, Burr and Foreman Law Firm, stated there had been an issue regarding notification in the matter. He advised new address labels and the necessary fees associated with those would be brought to the staff and asked that the matter be held over to resolve these issues.

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The Chair stated as there had not been complete notification on the matter, Mr. Lawler, the Planning Commission's attorney, had advised there should be no speakers allowed regarding the applications that day.

Hearing no discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the Jan 5, 2012, due to notification issues.

The motion carried unanimously.

Case #ZON2011-02997 (Planned Unit Development)

Sunset Point Subdivision

4640, 4628, 4616, 4612, 4608, 4600 Airport Boulevard, 200, 204, 208 April Street, 4609, 4613, 4617, 4621, 4625, 4629 Sunset Drive South, 201 & 205 University Boulevard South

(Northeast corner of Airport Boulevard and South University Boulevard extending North to Sunset Drive South, and East to April Street)

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

Council District 5

(Also see **Case #SUB2011-00137 (Subdivision) Sunset Point Subdivision**, above, and, **Case #ZON2011-02996 (Rezoning) Ladas Development Company, Inc.**, and, **Case #ZON2011-02994 (Sidewalk Waiver) Ladas Development Company, Inc.**, 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.

Doug Anderson, Burr and Foreman Law, stated there had been an issue regarding notification in the matter. He advised new address labels and the necessary fees associated with those would be brought to the staff and asked that the matter be heldover to resolve these issues.

The Chair stated as there had not been complete notification service on the matter, Mr. Lawler, the Planning Commission's attorney, had advised there should be no speakers allowed regarding the applications that day.

Hearing no discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the Jan 5, 2012, due to notification issues.

The motion carried unanimously.

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Case #ZON2011-02996 (Rezoning)

Ladas Development Company, Inc.

4640, 4628, 4616, 4612, 4608, 4600 Airport Boulevard, 200, 204, 208 April Street, 4609, 4613, 4617, 4621, 4625, 4629 Sunset Drive South, 201 & 205 University Boulevard South

(Northeast corner of Airport Boulevard and South University Boulevard extending North to Sunset Drive South, and East to April Street)

Rezoning from R-1, Single-Family Residential District, B-1, Buffer-Business District, B-2, Neighborhood Business District, to B-2, Neighborhood Business District, to eliminate split zoning in a proposed subdivision and allow construction of a grocery store.

Council District 5

(Also see **Case #SUB2011-00137 (Subdivision) Sunset Point Subdivision**, **Case #ZON2011-02997 (Planned Unit Development) Sunset Point Subdivision**, above, and, **Case #ZON2011-02994 (Sidewalk Waiver) Ladas Development Company, Inc.**, 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.

Doug Anderson, Burr and Foreman Law Firm, stated there had been an issue regarding notification in the matter. He advised new address labels and the necessary fees associated with those would be brought to the staff and asked that the matter be heldover to resolve these issues.

The Chair stated as there had not been complete notification on the matter, Mr. Lawler, the Planning Commission's attorney, had advised there should be no speakers allowed regarding the applications that day.

Hearing no discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the Jan 5, 2012, due to notification issues.

The motion carried unanimously.

Case #ZON2011-02994 (Sidewalk Waiver)

Ladas Development Company, Inc.

4640, 4628, 4616, 4612, 4608, 4600 Airport Boulevard, 200, 204, 208 April Street, 4609, 4613, 4617, 4621, 4625, 4629 Sunset Drive South, 201 & 205 University Boulevard South

(Northeast corner of Airport Boulevard and South University Boulevard extending North to Sunset Drive South, and East to April Street)

Request to waive construction of a sidewalk along a portion of Airport Boulevard).

Council District 5

(Also see **Case #SUB2011-00137 (Subdivision) Sunset Point Subdivision**, **Case #ZON2011-02997 (Planned Unit Development) Sunset Point Subdivision**, and, **Case #ZON2011-02996 (Rezoning) Ladas Development Company, Inc.**, above)

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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.

Doug Anderson, Burr and Foreman Law Firm, stated there had been an issue regarding notification in the matter. He advised new address labels and the necessary fees associated with those would be brought to the staff and asked that the matter be heldover to resolve these issues.

The Chair stated as there had not been complete notification on the matter, Mr. Lawler, the Planning Commission's attorney, had advised there should be no speakers allowed regarding the applications that day.

Hearing no discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the Jan 5, 2012, due to notification issues.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Olsen wished all of the Commission members "Happy Holidays" from himself and the staff.

The Chair wished his fellow Commissioners and the staff a "Merry Christmas."

Hearing no further business, the meeting was adjourned.

APPROVED:

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

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