

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF MAY 4, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victoria L. Rivizzigno, Secretary
Ann Deakle
Bill DeMouy
Nicholas Holmes
Mead Miller
Roosevelt Turner
John Vallas
James Watkins III

Members Absent

Clinton Johnson

Urban Development Staff Present

Richard L. Olsen
Deputy Director of Planning
Bert Hoffman, Planner II
Madeleine Masters, Planner I
David Daughenbaugh, Urban Forestry
Val Manuel, Secretary II

Others Present

John Lawyer, Assistant City Attorney

Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

HOLDOVERS:

Case #SUB2006-00057 (Subdivision)

Burlington Place Subdivision Additions

South terminus of Burlington Drive East.
37 Lots / 26.7± Acres

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

There was no one in opposition.

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

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- 1) depiction of the 25-foot minimum building setback line;
- 2) the approval of all applicable federal, state and local agencies, if necessary for wetlands, prior to the issuance of any permits or land disturbance activities; and
- 3) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00063 (Subdivision)

Motel Court Subdivision

Southeast corner of Coca Cola Road and Motel Court, extending to the North side of Interstate 10, and extending to the West side of Motel Court, 200'± South of Coca Cola Road, and to the North side of the Interstate 10 West off ramp).

4 Lots / 16.8± Acres

Don Rowe, Rowe Surveying, was present on behalf of the applicant. Mr. Rowe said they had discussed this with the staff and they were agreeable to allow approval of Lot 1, and hold Lots 2, 3, and 4 for future development until the ownership problems were worked out.

Mr. Olsen explained that there was a very small landlocked parcel south of Lot 2 that had separate ownership. Taxes have been paid on that parcel for a number of years. The staff cannot recommend approval because the lot is so small – roughly 10 feet – but it is large enough for a billboard. The staff agreed to recommend approval of Lot 1, with the remainder of the land being shown as future development. When the ownership issue has been worked out, the applicant will then submit a new application for the future development area, including the little sliver of land.

There was no one to speak in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve Lot 1 the above referenced subdivision, with the reminder to be shown as future development pending resolution of the adjacent land locked parcel, subject to the following conditions:

- 1) placement of a note on the Final Plat stating that Lot 1 is limited to one curb-cut, with size, location, and design to be approved by County Engineering;
- 2) approval of all applicable federal, state and local agencies is required prior to the issuance of any permits or land disturbance activities; and
- 3) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

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EXTENSIONS:

Case#SUB2002-00216 (Subdivision)

The Gardens of Cottage Hill Subdivision

South side of Cottage Hill Road, 400'± East of the North terminus of D'Iberville Drive North.

123 Lots / 39.8± Acres

Request for a one-year extension of previous approval.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval for the above referenced subdivision. However it should be noted that future extensions are unlikely to be approved.

The motion carried unanimously.

Case #SUB2003-00305 (Subdivision)

Hutson-Key Subdivision

Northwest corner of West I-65 Service Road South and Pleasant Valley Road, extending to the Northeast corner of Michael Boulevard and Hutson Drive, and extending to the Southeast corner of Hutson Drive and Key Street.

24 Lots / 8.8± Acres

Request for a one-year extension of previous approval.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval for the above referenced subdivision. However it should be noted that future extensions are unlikely to be approved.

The motion carried unanimously.

Case #SUB2004-00069 (Subdivision)

Rangeline-Hamilton Commercial Park Subdivision

North side of Hamilton Boulevard, 700'± West of Rangeline Road.

12 Lots / 19.1± Acres

Request for a one-year extension of previous approval.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval for the above referenced subdivision. However it should be noted that future extensions are unlikely to be approved.

The motion carried unanimously.

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Case #ZON2004-00970 (Planned Unit Development)

Spring Hill College

4000 Dauphin Street

(North side of Dauphin Street, 1800' ± West of Interstate 65)

Request for a one-year extension of previous approval.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to approve this request

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2006-00832 (Planning Approval)

Alba Fishing & Hunting Club

2530 River Forest Road

(North side of River Forest Road at Dog River

A request for Planning Approval to allow the expansion of an existing recreation club in an R-1, Single-Family Residential district to include a new membership meeting hall was considered.

The plan illustrates the existing building along with the proposed building

(Also see Case #ZON2006-00834 – Alba Fishing & Hunting Club [Planned Unit Development] – Below; and Case #SUB2006-00076 – Alba Fishing & Hunting Club Subdivision – Below).

The applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to holdover this application until June 1, 2006, meeting to allow for the provision of the following items:

- 1) the size of existing structures and the removed clubhouse;
- 2) the estimated number of existing or anticipated boat slips;
- 3) the estimated number and location of existing parking spaces;
- 4) information regarding the existing use of the proposed Lot 2 for boat parking/storage and the existing unpaved access across adjacent lots to Alba Club Road; and
- 5) provision of a valid legal description of the site under review.

The motion carried unanimously.

Case #ZON2006-00834 (Planned Unit Development)

Alba Fishing & Hunting Club

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2530 River Forest Road
(North side of River Forest Road at Dog River).

The requests for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing building along with the proposed building

(For discussion see Case #ZON2006-00832 – Alba Fishing & Hunting Club [Planning Approval] – Above; and Case #SUB2006-00076 – Alba Fishing & Hunting Club Subdivision – Below).

The applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Ms. Deakle holdover this application until June 1, 2006, meeting to allow for the provision of the following items:

- 1) the size of existing structures and the removed clubhouse;
- 2) the estimated number of existing or anticipated boat slips;
- 3) the estimated number and location of existing parking spaces;
- 4) information regarding the existing use of the proposed Lot 2 for boat parking/storage and the existing unpaved access across adjacent lots to Alba Club Road; and
- 5) provision of a valid legal description of the site under review this plan subject to the following conditions:

The motion carried unanimously.

Case #SUB2006-00076 (Subdivision)
Alba Fishing & Hunting Club Subdivision

Northwest corner of Alba Club Road and River Forest Road, extending to Dog River.
2 Lots / 8.5± Acres

The plan illustrates the existing building along with the proposed building

(For discussion see Case #ZON2006-00832 – Alba Fishing & Hunting Club [Planning Approval] – Above; also see Case #ZON2006-00834 – Alba Fishing & Hunting Club [Planned Unit Development] – Above).

The applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to holdover this application until June 1, 2006, meeting for the following reason:

- 1) to allow review to coincide with the PA and PUD applications.

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The motion carried unanimously.

Case # ZON2006-00808 (Planning Approval)
Archbishop of Mobile (Ben Cummings, Agent)

107 North Lafayette Street and 114 Providence Street
(Northwest corner of North Lafayette Street and Old Shell Road, extending to the East side of Providence Street, 310'± South of Spring Hill Avenue).

The request for Planning Approval to allow the expansion of an existing school for school-related and after-school day care activities in an R-1, Single-Family Residential district was considered.

The plan illustrates the existing building and parking.

(Also see Case #ZON2006-00810 – Archbishop Of Mobile (Ben Cummings, Agent) [Planned Unit Development] – Below; and Case #SUB2006-00065 – St. Mary's Subdivision – Below).

Ben Cummings, of Cummings Architecture, was present on behalf of the applicant. Mr. Cummings said he was also parish council president at St. Mary's. After speaking with Mr. Olsen prior to the meeting, Mr. Cummings said they agreed to amend their subdivision application to leave the house in question – 114 Providence Street – as its own parcel. They would like the PUD application to go forward. They have access to that property. They were in agreement with all other recommendations of the staff.

Mr. Plauche asked if he understood that the subdivision part of this would be eliminated.

Mr. Olsen said that was correct. The subdivision would be unnecessary. The PUD would be amended. Instead of multiple buildings adding another building to a single lot, it would be to allow shared access and parking between those two facilities. The lot on Providence Street would remain its own separate lot.

Mr. Vallas asked if the 6-foot privacy fence would allow access to the residential property with a gate or something so the children would not have to walk around to Providence Street.

Mr. Olsen said that was his understanding.

Mr. Cummings stated that there was currently a privacy fence between 114 Providence Street and the playground. Their application requested that they be allowed to remove that fence so there could be access from the playground to this house. Mr. Cummings also noted that there was currently an existing privacy fence between this house and the other adjacent properties, and that would remain.

Mr. Plauche asked if there was anyone else to speak in favor of this application.

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Marilyn Culpepper, executive director of the Historic Mobile Preservation Society, stated that she was speaking in favor of the St. Mary's project and in favor of the request by the Archbishop of Mobile. She said the Historic Mobile Preservation Society has had several conversations with St. Mary's and, subsequently, the Chancellor of the Archdiocese, as well as Fr. Shields at McGill-Toolen Catholic High School. Although the members of the Historic Society were in favor of, most of the time and whenever possible, keeping residential properties residential in historic districts, they were also open to mixed use in neighborhoods when they benefit the historic character of those neighborhoods. Ms. Culpepper presented a letter in which she cited that there have been occasions when church-owned properties that were formerly residential had been converted to other uses and created very positive impacts on their neighborhoods. Several examples of these would be properties owned by the Cathedral, the Ketchum House on Government Street, the First Baptist Church ownership of the Admiral Semmes House, and currently her organization was working with the Archdiocese of Mobile to restore the Portier House on Conti Street. Basically, Ms. Culpepper said she was present as a historic preservationist in support of this project, and in support of such entities as churches and schools and church-schools, which contribute positively to the character of our community.

Mickie Russell, also present in support of this application, said she had been in the real estate business for about 25 years. Ms. Russell said she did not go to St. Mary's School, nor did her children, but became very active and involved in the school years ago when she saw the midtown area, which was deteriorating, slowly start to revitalize itself. She felt St. Mary's was an anchor to this area and an intricate part of the revitalization of the midtown area. Ms. Russell said she had the opportunity to serve on the Smart Growth Committee that was put together several years ago to study mixed use and the importance of that for revitalizing certain areas. She felt that St. Mary's was doing what she had learned was so important to areas, and that was to provide services that people want and need within the neighborhood. Also, she pointed out that this was not just for Catholic school children, as there are many non-Catholic children that attend this school. The day care would be in a house that was more like a home in a neighborhood environment. Ms. Russell felt that 114 Providence Street would fulfill these needs, and asked that the Commission seriously consider this request.

Marcelle Naman stated that she had been director of development for St. Mary's parish for the past 10 years, and wanted to give a brief overview about the proof of what Mickie Russell was talking about. She said St. Mary's had been a part of Mobile's history for over 140 years in the same spot they were since 1867. Their current enrollment is 327, and next year would have an enrollment of 360. Ms. Naman said their enrollment had increased each year for the last 10 years, and these students were from families that live in the area, in St. Mary's parish. She said that parishes were established in the country to provide communities of worship and education for families, and St. Mary's does exactly that. In the last 15 years St. Mary's parish and McGill-Toolen combined have raised over \$10 million for capital improvements to their facilities. Ms. Naman said St. Mary's also has many service groups that provide services that have many effects in the community. It is a school that is not only serving itself, but serving the community as well. Ms. Naman asked that the Commission approve this request.

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

- 1) dedication of 5.44 feet of right-of-way along Providence Street, as shown on the plat;
- 2) maintenance of Historic District Overlay setbacks;
- 3) that auto access be limited to the existing parking lot, with no drop-offs directly at the day-care;
- 4) maintenance of a 6-foot privacy fence between the site and residentially developed property;
- 5) that the existing structure be maintained, and Architectural Review Board approval received prior to making any changes to the exterior of the day care structure; and
- 6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-00810 (Planned Unit Development)

Archbishop of Mobile (Ben Cummings, Agent)

107 North Lafayette Street and 114 Providence Street

(Northwest corner of North Lafayette Street and Old Shell Road, extending to the East side of Providence Street, 310'± South of Spring Hill Avenue).

The request for Planned Unit Development Approval to amend a previously approved Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing building and parking.

(For discussion see Case #ZON2006-00808 – Archbishop Of Mobile (Ben Cummings, Agent) [Planned Unit Development] – Above; and Case #SUB2006-00065 – St. Mary's Subdivision – Below).

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

- 1) dedication of 5.44 feet of right-of-way along Providence Street, as shown on the plat;
- 2) maintenance of Historic District Overlay setbacks;
- 3) that auto access be limited to the existing parking lot, with no drop-offs directly at the day-care;
- 4) maintenance of a 6-foot privacy fence between the site and residentially developed property;
- 5) that the existing structure be maintained, and Architectural Review Board approval received prior to making any changes to the exterior of the day care structure; and

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- 6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00065 (Subdivision)

St. Mary's Subdivision

107 North Lafayette Street and 114 Providence Street

(Northwest corner of North Lafayette Street and Old Shell Road, extending to the East side of Providence Street, 310'± South of Spring Hill Avenue).

1 Lot / 2.7± Acres

The plan illustrates the existing building and parking.

(For discussion see Case #ZON2006-00810 – Archbishop Of Mobile (Ben Cummings, Agent) [Planned Unit Development] – Below; also see Case #ZON2006-00810 – Archbishop of Mobile (Ben Cummings, Agent) [Planned Unit Development] Above).

After discussion a motion was made by Mr. Watkins and seconded by Mr. Turner to allow the above referenced subdivision to be withdrawn based upon the agreed amendments to the Planned Unit Development application.

The motion carried unanimously.

Case #ZON2006-00815 (Rezoning)

David Hickman

1360 Conception Street Road

(North side of Conception Street Road at Three Mile Creek).

A request for a change in zoning from I-1, Light Industry District, to I-2, Heavy Industry District, for a scrap metal processing plant with automobile shredding was considered.

The plan illustrates the existing buildings, along with the proposed auto shredder and landscaping.

(Also see Case #ZON2006-00816 – David Hickman [Planning Approval] – Below; and Case #ZON2006-00256 – Auto Shredding Subdivision [Planned Unit Development] – Below).

Gary Coles was present on behalf of the applicant and concurred with the staff recommendations.

Mr. Plauche asked if there was anyone present who wished to speak in this matter.

Cassie Calloway, director of Mobile Bay Keeper (formerly Mobile Bay Watch), was present in opposition to this request. Ms. Calloway stated that she and members of this

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organization came and spoke in opposition to a similar application submitted by Alter Shredding Corporation several weeks ago. She said automobile shredding was a serious operation because it produced heavy metals and other toxins that were very dangerous to the local population, and putting them anywhere near a residential area was particularly dangerous. Ms. Calloway said she only learned about this application this afternoon and was not familiar with the kinds of permits needed for these facilities. She expressed concern about stormwater runoff, noting that this site was located along Three Mile Creek, which was highly polluted and flowed through some of our low-income neighborhoods. The State of Alabama Department of Environmental Management (ADEM) does not have a good plan as of yet as to how they handle stormwater. Ms. Calloway asked that the Commission not allow this facility until they know more about it, the permits that are needed from ADEM, and until the applicant has a very good plan in place as to how they would dispose of things like mercury, PDB's, and freon.

Mr. Vallas noted that Ms. Calloway mentioned concern about the effect the proposed facility would have on the residential areas, but said the plan shown did not indicate any R-1 or R-2 properties in the vicinity.

Ms. Calloway said there were houses on Conception Street Road. Again, she said that she only learned about this project several hours ago, and this was the first time she had seen this map. She noted that the site was currently zoned for light industrial use, which to her meant that the City did not yet want heavy industry in that area. Ms. Calloway said she also felt it was not yet the time to allow heavy industry at this location.

Mr. Vallas pointed out that everything to the north of this site was zoned I-2. He said the applications before the Commission today were strictly for zoning and land use. The permits Ms. Calloway mentioned earlier were very important, but did not fall within the City's regulations. Ms. Calloway said she was aware of that, but said if the rezoning request was granted today, the Commission would have to grant them a building permit.

Ms. Vallas said the Commission did not issue building permits. They were ruling strictly on the rezoning and subdivision of the property.

Ms. Calloway stated that the rezoning from light industrial to heavy industrial was one step in the process that they wanted to stop until they understood exactly what was involved with automobile shredding before they have 50 such facilities in our back and front yards and along our waterways. As noted in the staff recommendations, it was not known if a stormwater detention basin would be required. Ms. Calloway said they needed to know if that was required, as well as other requirements of ADEM, and slowing down this process until they had more information was crucial. It was their opinion that the City did not know enough about an automobile shredder to be granting permits and changing zoning.

There being no one else to speak in opposition, Mr. Plauche asked the applicant if he would like to respond.

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Gary Coles, with Coles, Murphy and Glover Engineering, stated that they were not asking for a permit today, but were asking for rezoning. He noted that the property had been used since the 1950's as a recycling facility. It was basically a shear that was installed in the 1970's, and they proposed to replace it with an auto shredder. An auto shredder was a little different than a shear, but basically they were used to crush cars and shear them into smaller pieces so they could be recycled. This new equipment would require an I-2 zoning. With respect to stormwater or water quality permits, Mr. Coles said there was a NPBS permit that was included with their original submittal to the Planning Commission.

Mr. Plauche asked if the Commission had any questions of Mr. Coles.

Mr. Vallas asked if he understood correctly that the process begins elsewhere, and that when the crushed parts of cars arrived at this site, the gas tanks, oil tanks, and batteries had already been removed.

Mr. Coles said that was correct.

Mr. Miller stated that when another auto shredding application came before the Commission they also stated that certain parts of the autos such cited by Mr. Vallas would already have been removed. In addition, they said they would have some sort of detectors they would use to spot check for certain things such a mercury, etc. He asked if this proposed facility would have any such detectors.

Mr. Coles stated that that was all part of the NPBS permit. ADEM had given them all the guidelines that they would have to go by.

Mr. Turner asked Mr. Coles if, under their current operation, they had ever been cited for any environmental violations.

Mr. Coles replied that they had not.

Mr. Watkins asked the staff what had changed at the existing site that required rezoning.

Mr. Olsen said the intensity of the facility was increasing with the new shredder. It was considerably larger and more expansive. The staff felt it would necessitate rezoning and Planning Approval because it was an expansion of what could possibly be considered non-conforming.

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

- 1) completion of the Subdivision process;
- 2) that the site be developed in compliance with the accompanying Planned Unit Development;
- 3) depiction of a stormwater detention basin, if required;

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- 4) approval of all applicable federal, state and local agencies prior to the issuance of any permits;
- 5) full compliance with the landscaping and tree planting requirements of the Ordinance;
- 6) submission of a disposal plan for the unrecoverable waste associated with the automobile shredding process; and
- 7) full compliance with all municipal codes and ordinances.

In further discussion Mr. Miller said he felt that both this application and another such facility recently approved by the Commission were as reasonable as could be for any industrial application. He wanted to go on record, however, as being concerned with the enforcement of environmental regulations regarding this type of facility. Mr. Miller said the Commission did not have the right to restrict this, but in this state and in this area he felt the City needed to concern themselves a little more. Just because ADEM may be slow in doing what they need to do, it does not mean that the City has to emulate that. He felt they needed to move forward with this, but felt that industries such as this needed greater oversight by agencies other than this Commission.

Mr. Holmes asked where the I-2 districts were located within the area.

Mr. Olsen pointed out that the I-2 district was immediately across the railroad tracks.

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

The motion carried unanimously.

Case #ZON2006-00816 (Planning Approval)

David Hickman

1360 Conception Street Road

(North side of Conception Street Road at Three Mile Creek).

The request for Planning Approval to allow a scrap metal processing plant with automobile shredding in an I-2, Heavy Industry District was considered.

The plan illustrates the existing buildings, along with the proposed auto shredder and landscaping.

(For discussion see Case #ZON2006-00815 – David Hickman [Rezoning] – Above; also see Case #ZON2006-00256 – Auto Shredding Subdivision [Planned Unit Development] – Below).

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

- 1) depiction of a stormwater detention basin, if required;
- 2) illustration of the location of any dumpster or waste storage area on the site plan;

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- 3) approval of all applicable federal, state and local agencies prior to the issuance of any permits,
- 4) submission of a disposal plan for the unrecoverable waste associated with the automobile shredding process; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-00256 (Planned Unit Development)

Auto Shredding Subdivision

1360 Conception Street Road

(North side of Conception Street Road at Three Mile Creek).

The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing buildings, along with the proposed auto shredder and landscaping.

(For discussion see Case #ZON2006-00815 – David Hickman [Rezoning] – Above; also see Case #ZON2006-00816 – David Hickman [Planned Approval] – Above).

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

- 1) depiction of a stormwater detention basin, if required;
- 2) illustration of the location of any dumpster or waste storage area on the site plan;
- 3) approval of all applicable federal, state and local agencies prior to the issuance of any permits;
- 4) submission of a disposal plan for the unrecoverable waste associated with the automobile shredding process; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW ZONING APPLICATION:

Case #ZON2006-00814

N. Brannan Eubanks

780 Lakeside Drive

(West side of Lakeside Drive, 190'± North of Joy Springs Drive, extending to the North side of Joy Springs Drive, 210'± West of Lakeside Drive, and extending to the West terminus of Joy Springs Drive and along the West shore of an unnamed private lake).

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A request for a change in zoning from B-1, Buffer Business District, and B-3 Community Business District, to B-3, Community Business District, for unspecified commercial use was considered.

The site plan illustrates the proposed area to be rezoned.

The applicant was present and concurred with the staff recommendations.

Mr. Plauche asked if there was anyone who wished to speak in opposition to this application.

Beverly Barton stated that she and her husband had lived at 801 Sue Lane since 1967. There were six houses on this street, and all but one faced Sue Lane. Their back yards were fenced at the top of the bluff. Ms. Barton pointed out one bluff, which she said had never been utilized except when Cottage Hill Baptist Church had their summer camps. She asked that this portion of the zoning proposal be kept in perpetuity as a natural barrier. She noted that on Buckley Drive the developers had built right up to the bluff and tried to hold the landslides back with retaining walls, and these were falling down and were not maintained. Ms. Barton said they wanted to know what sort of development was being proposed, and asked that the buffer area be enlarged to preclude any noise pollution.

Mr. Plauche noted that the staff had recommended that the 40-foot buffer on the western side be left in its natural state.

Ms. Barton said that was fine.

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

- 1) compliance with City Engineering comments (A portion of the property contains the lake and henceforth, the detention pond for the development. Therefore, that portion of the property should be shown as common area. In addition, any portion of the property that conveys "public" water from public ROW must be shown as drainage easement. Any portion of the property that conveys stormwater from a private property should be shown as private drainage easement. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.);
- 2) the 40-foot vegetative buffer along the Western boundary to remain undisturbed and in its natural state; and
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

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Case #ZON2006-00706

Marvin Hewatt Enterprises

5662 Cottage Hill Road

(Northeast corner of Cottage Hill Road and Knollwood Drive).

A request for a change in zoning from R-1, Single-Family Residential District, to B-2, Neighborhood Business District, for a convenience store and retail shops was considered.

The plan illustrates the proposed development.

Don Williams, Williams Engineering, was present on behalf of the applicant. He said their intention was to put a convenience store with four gasoline pumps in front with a canopy over the top of it. There would be some rental spaces, about 1200 square feet on either side of the convenience store for future tenants. Mr. Williams said those have not yet been acquired. They would have access off Cottage Hill Road and Knollwood Drive. He pointed out a proposed slip-type of entrance, which would help the traffic a little bit better that you could actually take right turns into the property. They would have a two-way in and out situation on Knollwood Drive, which they had discussed with the Traffic Engineering Department. Mr. Williams noted that there were seven large live oak trees on this property. In talking with the Urban Forestry Department, they feel like they could save six out of those seven trees. All of those trees would provide a natural buffer in front of their parking lot and the building, which would help shelter them from the visual impacts of Cottage Hill Road and Knollwood Drive and the properties on either side of them. Mr. Williams noted a drug store immediately across Cottage Hill Road from the site. Continuing further south next to the drug store was a small strip center, which was zoned B-2. Mr. Williams said their hours of operation would be from 6:00 a.m. to 11:00 p.m.

Mr. Williams said they felt that the property was no longer suitable for residential development since Cottage Hill Road and Knollwood Drive had become major streets with 100-foot rights-of-way, each of which had five lanes. He noted that the staff had recommended denial of this application for four reasons. First, they said the range of uses permitted with the B-2 zoning were not compatible with the existing residential uses adjacent to the site. Further in the text, however, they stated that LB-2 seemed to be a more appropriate fit for this particular piece of property. Mr. Williams said they would like to request LB-2 zoning. That would accommodate the convenience store, but gas pumps were not allowed in a LB-2 district. Mr. Williams said he had talked to the applicants who said if they were allowed to go with B-2, they would be pleased to limit any of their future tenants on the 1200 square-foot spaces on either side of them to the LB-2 type of use. Generally, LB-2 eliminates some of the more offensive uses mostly involving alcohol package store, lounges and such. Mr. Williams said that the applicant was in the gasoline business, and could not operate a convenience store just by itself, so they had to request the B-2 zoning.

Mr. Williams noted that the staff's second reason for recommending denial was because the zoning district would not conform to the size requirements. He said the site was one

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to one-and-a-half acres. According to the Ordinance they needed to have two acres minimum for the proposed use. Mr. Williams noted that diagonally across from this site was a 2 ½ acre site zoned B-2, and they felt there was already development along Cottage Hill Road that would help establish the furtherance of that commercial stretch. He said they did not intend to go further back on Knollwood Drive. Mr. Williams said the third reason for recommending denial was about the precedent of commercial expansion for the single-family residences adjacent to the site north and east. They would agree that it would probably hasten the expansion to the east. Cottage Hill Road has already developed pretty heavily as commercial. Mr. Williams further pointed out that diagonally across from this site along Cottage Hill Road heading eastward were two medical offices. There was a vacant building, which was actually a church that used to be mortuary. There were two or three more medical offices to the north. Continuing along Cottage Hill Road there was a florist, a veterinarian, a tanning salon, and an auto parts store. With all the existing commercial development along Cottage Hill Road, Mr. Williams said they felt commercial development would continue right up to the subject property. They did not feel there would be any expansion of commercial to the west of their site because of Mobile Christian School and a very nice residential neighborhood. They also felt there would be no further commercial development to the north because of existing residential homes.

Addressing the fourth reason given by the staff for recommending denial - that the proposed rezoning would not comply with the General Land Use Component of the Comprehensive Plan – Mr. Williams said the fact that there were changing conditions was not taken into consideration. They felt that because the site was located at the intersection of two major streets, which was a change in conditions, that residential development would no longer be viable there. In summary, Mr. Williams contended that a pattern of commercial development had already been established along Cottage Hill Road in the immediate area, and the proposed use would be an improvement that would provide neighborhood amenities, and that the two tenants to either side of this site would further adapt to the neighborhood and would want to service that neighborhood. He said they did not want to alienate the neighbors and would like to operate like an LB-2 type situation, but because of the gas pumps they would have to request rezoning to B-2.

Mr. Plauche asked if anyone on the Commission had any questions of Mr. Williams.

Mr. Miller asked if the existing structure on the site was a vacant residence.

Mr. Williams said the structure was a vacant house that had been vacant for several years. The husband was deceased, and his wife now lived in Louisiana.

There was no one else to speak in favor of this application.

Mr. Plauche asked if there was anyone who wished to speak in opposition to this application.

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Dirk Young stated that he lived at 2201 Knollwood Drive, which was two houses away from the subject property to the north. It was Mr. Young's opinion that everything along Cottage Hill Road would become business-oriented at some point. His opposition was to gas pumps going in at this location. As far as the convenience store, Mr. Young said there was a Wal-Mart grocery store at the next nearest corner, and a Bruno's at the next nearest corner, so he did not feel there was a need for a convenience store in this area. He said his biggest opposition was due to the congestion at this intersection, and noted that between February 28 of 2005 and March 1 of 2006 there were 69 accidents at this intersection. Just this morning there was a five-car pileup. Mr. Young felt the proposed type of business would only add to the congestion and the accident rate would increase. He asked that the Commission deny this request, and limit this site to a business that would be conducive to a good use of that corner.

Mr. Vallas asked Mr. Young if he was familiar with the permissible uses in an LB-2 district.

Mr. Young said he was, and would not be opposed to LB-2 zoning.

Mr. Holmes asked what the distance was from this site to the nearest gas station.

Mr. Young said there was a gas station at Hillcrest and Cottage Hill, and another at Grelot and Knollwood, both of which were approximately one-half mile away.

Mary Kay Kitzman stated that she lived directly across the street from the subject property. Ms. Kitzman said this was a great neighborhood filled with elderly people who had lived there between 30-50 years, and the residents of the house on the other side of the subject property had lived there for 69 years. There was an elderly lady who was an invalid whose property adjoined the subject property at the rear. She noted that there were many beautiful trees on this site. Ms. Kitzman said she understood that there would be many types of businesses in Cottage Hill, but the residents did not want to see a gas station go in across the street from their neighborhood. She also expressed concern about the congestion and the numerous wrecks at this intersection. Increased crime in the neighborhood and depreciation in property values were also concerns. Ms. Kitzman submitted a petition signed by 23 persons in opposition to this proposal.

Mr. Vallas asked Ms. Kitzman if she was familiar with the permitted uses in a LB-2 district.

Ms. Kitzman replied that she was, and would not be opposed to a LB-2 use. They felt a gas station would be devastating to the neighborhood.

There being no one else to speak in opposition, Mr. Plauche asked Mr. Williams if he would like to make any further comments.

Mr. Williams said he appreciated the neighbors comments, but the applicant wanted to put a gas station on this site, and for that use they would need B-2 Zoning.

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In deliberations session a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to recommend the denial of this change in zoning to the City Council for the following reasons:

- 1) the range of uses permitted within the B-2 zoning category are not compatible with the existing residential uses adjacent to the site;
- 2) the B-2 zoning district would not conform to the size guidelines of Section III.A.5.b of the Zoning Ordinance; and;
- 3) the rezoning would set a precedent for commercial expansion for the single-family residences adjacent to the site to the North and East; and
- 4) the proposed rezoning would not comply with the General Land Use Component of the Comprehensive Plan.

In further discussion Mr. Vallas noted that the neighbors seemed to have no opposition to a rezoning to LB-2. He asked that if the request for B-2 was denied, could the Commission make a recommendation for rezoning to LB-2.

Mr. Miller commented that he was a little surprised with the neighbors being so quick to give up R-1. He felt that Mr. Williams made some very good arguments, but he was opposed to a gas station at this location. It seemed to him that the applicant was not interested in the property unless they could have the gas pumps.

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

The motion carried unanimously.

Mr. Vallas said he would like to make a motion that the Commission considers rezoning this property to LB-2.

Mr. Lawler said that would be out of order, as the Commission did not have an application before them for rezoning to LB-2.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00066

Cody Road VOA Housing Subdivision

(East side of Cody Road North, 300'± South of Zeigler Boulevard).

2 Lots / 6.8± Acres

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

There was no one present in opposition.

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

- 1) dedication of sufficient right-of-way to provide 50 feet from the centerline of Cody Road;
- 2) the placement of a note on the final plat stating that the site is limited to a single curb cut for each lot; and
- 3) the placement of the 25-foot setbacks on the final plat.

The motion carried unanimously.

Case #SUB2006-00068

Criden Estates Subdivision, Second Resubdivision of, Resubdivision of Lot 6, Block

A

3135 and 3137 Baptiste Drive North

(North side of Baptiste Drive North, 240'± West of Dauphin Island Parkway).

2 Lots / 1.1± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and objected to the staff's recommendation that only one curb cut be allowed for each lot.

There was no one present in opposition.

After discussion a motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to waive Section V.D.2 (minimum dimensions) and approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that each lot is limited to a single curb cut;
- 2) that the applicant obtain all relevant permits from the Alabama Department of Public Health prior to the issuance of any permits; and
- 3) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00073

Dix Subdivision, Resubdivision of Lots 1 and 2

Southeast corner of Dawes Road and Cottage Hill Road.

1 Lot / 10.3± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. Mr. Coleman said he wanted to clarify that the required 100-foot right-of-way on Dawes

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Road had already been dedicated. It was just an oversight that it was not shown on the plan.

There was no one present in opposition.

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

- 1) dedication of sufficient right-of-way to provide 50 feet from the centerline of Dawes Road;
- 2) the placement of a note on the final plat stating that the site is limited to two curb cuts to each street frontage, with size, location, and design to be approved by County Engineering; and
- 3) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Mr. Vallas rescued from discussion and voting.

Case #SUB2006-00071

Hamilton Woods Subdivision

9650 Jeff Hamilton Road

(North side of Jeff Hamilton Road, ¼ mile± North of Repoll Road).

98 Lots / 39.7± Acres

Robert Mullen, applicant, was present and agreed with the staff recommendations with the exception of the condition requiring an additional street stub East, North and South. Mr. Mullen said if the cul-de-sac to the East were extended it would dead-end into an existing trailer park. The only access to that subdivision was via Jeff Hamilton Road. The additional street stub to the north would at best be about 600 feet to the West of the existing stub street because of the topography. He said the topo survey suggested they use the ends of the two far west cul-de-sacs for retention. Also, he did not think the proximity of the second stub street would accomplish the desired goals. The additional street stub to the South would only create more traffic flow from their subdivision or into any proposed development that would be coming on at the South. In addition, Mr. Mullens said there was one entrance off of Jeff Hamilton Road to this subdivision, and indicated where they would have a second access to Jeff Hamilton. Mr. Mullen said they wanted to develop a family-friendly neighborhood with as little through traffic as possible.

Mr. Turner asked where the additional stubs would be located.

Ms. Masters said the staff was not going to address the specific locations of the stubs, but was asking for additional stubs due to the number of lots and the large, undeveloped

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parcel on the three sides. There was potential for extensive redevelopment. Ms. Masters said the idea was to create a more connected neighborhood, or at least the possibility for more future connections. There would be some cul-de-sacs, but whenever you limit the number of outlets you increase the pressure on the ones that are existing.

Ms. Deakle asked if she understood there would be two entrances off of Jeff Hamilton Road.

Mr. Mullen stated that they had one entrance now, and were proposing a second one, which he pointed out on the plat, once the southern piece was developed.

There was further discussion about the proposed accesses to Jeff Hamilton Road. Mr. Mullen also said their topo had been completed and presented a plat showing where the detention area would be.

Mr. Olsen said the staff was not aware of that. It was not a part of what the applicant submitted for the staff to review. He suggested that it might be worthwhile to hold this application over until the next meeting so the applicant can submit the plan for the detention and let the staff have time to review it.

Mr. Mullen said it was the same layout as originally submitted, but they were just putting the detention at the end of the two West cul-de-sacs.

Mr. Vallas asked Mr. Mullen if the detention ponds would remain just South of Lot 9.

Mr. Mullen said no, and indicated where the detention area would be.

Mr. Vallas asked if he understood that the only change was that the lot between 8 and 9 would become a lot of record, and then the pond would be moved in that area.

Mr. Mullen said the pond would stay there. They were just going to do more detention.

There was no one present in opposition.

In deliberations session Mr. Vallas noted that the applicant indicated on the plat exactly where the new detention would be. It would take lots 69 and 60 and still keep the detention between lots 8 and 9.

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

- 1) the provision of two traffic circles on each of the main streets, with size, location, and design to be determined by County Engineering;
- 2) the placement of a note on the final plat stating that Lot 1 is denied direct access to Jeff Hamilton Road;

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- 3) the labeling of all common areas and the placement of a note on the final plat stating that maintenance of common areas will be property owners' responsibility;
- 4) the placement of the 25-foot setbacks on the final plat; and
- 5) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00070

Haverty's Subdivision

7033 Airport Boulevard

(South side of Airport Boulevard, 515'± East of Cody Road South).

1 Lot / 3.8± Acres

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

There was no one present in opposition.

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

- 1) placement of a note on the Final Plat stating that the lot is limited to the existing curb-cut;
- 2) placement of a note on the Final Plat stating that if the existing curb cut is improved the size, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 3) the submission and approval of an Administrative Planned Unit Development; and
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00064

Payne Addition to Bellingrath Subdivision

8701 Bellingrath Road

(East side of Bellingrath Road, 6/10 mile± North of Laurendine Road).

2 Lots / 3.0± Acres

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

There was no one present in opposition.

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

- 1) the depiction of the 45-foot setbacks as shown on the plat;
- 2) the placement of a note on the final plat stating that there will be no future resubdivision of the property;
- 3) the placement of a note on the final plat stating that the site is limited to a single shared curb cut; and
- 4) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00069

Suburban Gardens Subdivision, Resubdivision of Lot 8 and 9, Block 1

5344 and 5348 U.S. Highway 90 West, and 4625 Hermitage Avenue
(West side of U.S. Highway 90 West, 200'± South of Nevius Road, extending to the East side of Hermitage Avenue, 390'± South of Nevius Road).
3 Lots / 3.0± Acres

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

There was no one present in opposition.

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

- 1) dedication of sufficient right-of-way to provide 30 feet from the centerline of Hermitage Avenue and 125 feet from the centerline of U.S. Highway 90;
- 2) the placement of a note on the final plat stating that the site is limited to a single curb cut for each lot, subject to County Engineering and ALDOT approval; and
- 3) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00074

The Summit Subdivision

2665, 2701, and 2709 Hillcrest Road
(East side of Hillcrest Road at the East terminus of Charlotte Oaks Drive).
29 Lots / 7.3± Acres

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Don Coleman, Rester and Coleman Engineers, stated that he had consulted with Urban Forestry regarding the trees and was okay with the other conditions except for the stub street. Mr. Coleman explained the history of the property, and contended that the parcel that was shown as landlocked should have been given access when that property was deeded off in 1938. He said a stub street would not benefit this piece of property because the property was not big enough to handle it. Mr. Coleman said there was a house on that particular lot and it had to have an access back out into Hillcrest Road because it did not have a driveway across the applicant's property. For this reason he asked that the condition for a stub street be removed.

In deliberations session Mr. Lawler noted that there was not a property owner present who got notice of this hearing today.

Mr. Olsen said that notices were sent to all abutting property owners, and there was no one present in support of the staff recommendation

There was no one present in opposition.

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

- 1) that the final plat show all lots meeting the minimum lot size of 7200 square feet;
- 2) compliance with Urban Forestry comments (Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status is to be given to the 72" Live Oak Tree located on the North side of Lot 29, the 72" Live Oak Tree located on the South side of Lot 28, the 60" Live Oak Tree located on the West side of Lot 20, the 56" Live Oak Tree located on the West side of Lot 16, and the 76" Live Oak Tree located on the West side of Lot 9. 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.);
- 3) construction and dedication of the new streets to City Engineering standards;
- 4) the placement of a note on the final plat stating that lots 1 and 24-29 are limited to a single curb cut each (subject to Traffic Engineering approval) and is denied direct access to Hillcrest Road;
- 5) the reconfiguration of the common area to have access to the new street instead of Hillcrest Road; and
- 6) the placement of a note on the final plat stating that maintenance of the common are is property owners' responsibility.

The motion carried unanimously.

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Case #SUB2006-00067

Winchester Subdivision

East side of Snow Road, 1,950'± South of Moffett Road, extending to the South side of Moffett Road, 1,130'± West of the Illinois Central Gulf Railroad right-of-way.
272 Lots / 106.3± Acres

Jerry Luker, with Speaks and Associates, was present on behalf of the applicant. Mr. Luker said they were in agreement with the recommended conditions of approval except for the first one – the submission of documentation of approvals for the centralized effluent disposal system from the Mobile County Board of Health and ADEM prior to recording of the final plat. Mr. Luker said that there would be a decentralized wastewater treatment plant on site. Because of the capacity, this would be permitted through ADEM, so they would not require approval of the Mobile County Health Department.

Mr. Hoffman said the staff just wanted to make sure that ADEM and/or the Mobile County Board of Health approved the disposal system.

There was no one present in opposition.

After discussion a motion was made by Mr. Watkins and seconded by Mr. Holmes to approved the above referenced subdivision subject to the following conditions:

- 1) submission of documentation of approvals for the centralized effluent disposal system from the Mobile County Board of Health and ADEM prior to recording of the final plat;
- 2) placement of a note on the final plat stating that the drip field area must not be used for vehicular traffic or parking;
- 3) revision of the lots lines to separate detention, park and drip field areas from the street right-of-way;
- 4) inclusion of the entirety of the parcel utilized as an access road for the Blackwell Nursery site, if said parcel is part of the proposed subdivision;
- 5) designation and labeling of the treatment plant, the drip fields, park areas, roadway medians, and detention areas as Common Areas, and placement of a note on the final plat stating all common areas shall be maintained by the property owners;
- 6) dedication of sufficient right-of-way to provide a minimum of 50 feet from centerline for the entire Snow Road frontage;
- 7) placement of a note on the final plat stating that lots 1, 2, 9 & 10 are denied direct access to Snow Road;
- 8) placement of a note on the final plat stating that lots 3-8 are limited to a total of three curb cuts to Snow Road, with the size, location and design to be approved by Mobile County Engineering;
- 9) depiction of the 25-foot minimum building setback line;
- 10) placement of a note on the final plat stating that a buffer, in compliance with Section V.A.7. shall be provided where the commercial properties adjoin residential property.

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The motion carried unanimously.

Case #SUB2006-00072

Woodland Hills Subdivision, Remainder of

West termini of Woodland Way, Woodstone Drive, and Woodbend Drive, and the North terminus of Woodland Hills Drive West; and the West and South termini of Woodforest Drive.

94 Lots / 40.1± Acres

Lindsey Walker, a partner in John Howard Homes, was present on behalf of the applicant. Mr. Walker said they concurred with the staff's recommended conditions of approval except for #1, the street stub requirement. Mr. Walker said they would like to hold off on putting in this street stub at this time. They were developing the section in the upper corner right now, and would request that they be allowed to put the street stub in when they develop the bottom of that, which would be the next and last unit of Woodland Hills. Mr. Walker said they would agree that if the property below were submitted to the Planning Commission or the permit department for any type of development, they would put the stub in at that time had they not already gotten to Unit 7. They saw no reason to put the street stub in at this time and allow access to 4-wheelers, parkers, campers, or whatever.

Mr. Holmes asked if the developer was building the road system at this time.

Mr. Walker said not in the lower section. It was just vacant property. He explained that when the entire development was first submitted to the Planning Commission back in the 1990's, it was required that the street stub be put in prior to the final development of the subdivision. They were still not at the end, and there was still no one building next door, so the street would go no where.

Mr. Olsen stated that the last two units that came in had to come back specifically to have a waiver of the street stub being put in at that time. Mr. Olsen pointed out the previous units that required wavier of the street stub condition. Both times the Planning Commission approved it, but required that the street stub to the south be in the next unit. The developer was now requesting approval of the last unit prior to constructing the street stub.

Mr. Walker said that was correct, and doing this last unit ties everything together. It would actually give access back out to Schillinger Road and to Eunice Drive. Mr. Walker said it really does more for the circulation pattern than the final one. The reason they were saving the last one –15 lots – was because they needed more lots right now. Mr. Walker said they would be glad to sign an agreement to the effect that should the development to the south become feasible, or if it was stopping any development to the south, they would put the stub in at that time, if they had not already developed it.

Mr. Watkins asked if the Commission had the authority to accept Mr. Walker's offer. His concern was that they had developed a bigger parcel and this piece of property may

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not be as good a subdivision as a result. He asked if the Commission could accept his agreement but require that the developer be bonded.

Mr. Lawler stated that the regulations allow the posting of a bond, and that would be the proper way to do it.

True Nicolson, a resident of 2252 Ashland Place Avenue, stated that she was a joint owner, with Laura Kennedy, of the landlocked property to which the street stub would go. Ms. Kennedy was not able to attend the meeting today due to her husband's illness. Ms. Nicolson said the street stub in question would be the only access they have to the back 16 acres of their property. They originally owned the property jointly with Ty Irby, and to divide Mr. Irby out they had to go through a subdivision to include the 16 acres she owned with Ms. Kennedy with their house site because that piece had no access. Ms. Nicolson said as far as she was concerned, she did not care if the piece back there ever got developed because it gave them privacy. Because the property does not have any deeded access, however, they cannot get a permit for power or water or anything else. Ideally, she said it would be good if the street stub could be developed so it gave access to both of those parcels, 25 feet on each side. She said her main 10 acres had very limited access on Harvey Hill Road, which was a prescribed access. The lady who lived there had pulled out a gun to keep the County from grading the road. So even access to her main property was limited and it actually just touches Harvey Hill Road. The stub as shown would be better than nothing, but if it could be moved to the West so it could access both parcels, she would like that to be considered. Ms. Nicolson also expressed concern about detention, noting that silting had been a problem in the catfish pond east of Ms. Kennedy's property.

Velma Johnson, a resident of 1861 Woodstone Court East, said she and many of the neighbors were concerned that the small size of the lots would devalue their property. Increased traffic was also a concern, as there were a lot of small children that lived in the area. Ms. Johnson said only she and one of the neighbors received a notice of the meeting. Also, they were concerned about their safety, as they have a lot of trespassing now. Ms. Johnson said they moved back to this area so they could provide safety for their families and had worked hard to build their community and they did not want that taken away.

Mr. Watkins asked Ms. Johnson if she lived in this subdivision.

Ms. Johnson said yes, she lived in Woodstone Court East, and they were building almost in her back yard.

Hattie Smith, a resident of 8075 Woodland Hills Drive, stated that she moved into this subdivision in 1998, and where her home was on the corner was the ending of the subdivision at that time. Ms. Smith said she was concerned about the safety of the many small children as well as elderly residents in her subdivision. Increased traffic and a decrease in property values were also concerns.

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Mr. Turner asked Ms. Smith if she was aware when she built her house that the undeveloped land behind her was already approved for another part of a subdivision.

Ms. Smith said she was not.

Mr. Vallas asked if the subdivision had already been approved as a future phase.

Mr. Olsen said that property had already been approved as a future phase.

Mr. Watkins asked if the size and number of the lots in that phase were approved at that time, or if that had changed over time.

Mr. Olsen said the lot sizes in this unit were pretty much comparable with the lot sizes in the developed units of the subdivision. This was basically the same configuration as was originally submitted.

Ms. Smith also asked if they could have a park in that subdivision.

Mr. Plauche said the Commission did not have the authority to require someone to build a park. This site was in the county, and it was also private land. The County would have to buy a piece of land and develop a park. Mr. Plauche said she would have to bring that up to her county commissioner.

In deliberations session there was further discussion about the street stub. Mr. Olsen said they could do the stub in the southern section and leave the remainder for future development or another phase.

Mr. Miller asked if the lack of a northern street stub would be a problem.

Mr. Olsen said that to the north was Maple Valley Road, a dirt road. The property to the east had access to Schillinger Road. He did not see the lack of a northern street stub to be a problem.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Holmes to deny the street-stub request and approve the above referenced subdivision subject to the following conditions:

- 1) the "future development" area must be developed before or simultaneously with the proposed "Unit Six," with no recording of "Unit Six" allowed until the street-stub requirement is satisfied;
- 2) adjustment of lot lines to ensure that all lots meet the minimum size required by Section V.D.2. of the Subdivision Regulations;
- 3) provision of an easement or dedicated access to all proposed detention areas;
- 4) labeling of all common areas and detention areas;

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- 5) placement of a note on the Final Plat stating that maintenance of the detention areas and common areas is the responsibility of the subdivision's property owners;
- 6) depiction of the 25-foot minimum building setback line;
- 7) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 8) the approval of all applicable federal, state and local agencies regarding wetlands prior to the issuance of any permits or land disturbance.

The motion carried unanimously.

OTHER BUSINESS:

As the result of the discussion at the last business meeting, Mr. Olsen reminded the Commission that starting with the next agenda they would be altering the order of business, taking the holdovers and extensions first, then subdivision applications starting with the least number of lots, working in a ascending order going to the planning approval and zoning applications.

There being no further business, the meeting was adjourned.

APPROVED:

Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

vm