

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF FEBRUARY 3, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Laier, Vice-Chair
James F. Watkins
Victoria L. Rivizzigno
Ann Deakle
John Vallas
Nicholas H. Holmes, III
Mead Miller (S)

Members Absent

Victor McSwain, Secretary
Clinton Johnson

Urban Development Staff Present

Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Jennifer Henley, Secretary II

Others Present

Wanda Cochran, 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.

APPROVAL OF MINUTES:

A motion was made by Mr. Plauche and seconded by Mr. Vallas to approve the minutes of the December 16, 2004, meeting as submitted. The motion carried unanimously.

HOLDOVERS:

Case #SUB2004-00260

YNG Place Subdivision, Resubdivision of Lot 6

2805 Grant Street (Southwest corner of Cottage Hill Road and Grant Street).
1 Lot / 0.7± Acre - Council District 5

This application was withdrawn prior to the meeting at the applicant's request.

Case #SUB2004-00280

Wrighter Farm Subdivision

South side of havens Road, 8/10 mile± Southwest of Howells Ferry Road.
2 Lots / 45.0± Acres

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The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Vallas and seconded by Mr. Miller to waive Sections V.D.3 (width to depth ratio) and V.D.4 (lots to abut dedicated and maintained public street), of the Subdivision Regulations, and approve this subdivision subject to:

- (1) the placement of a note on the final plat stating that no further resubdivision will take place until Havens Road is paved and dedicated to County standards;
- (2) the dedication of adequate right-of-way to provide 30 feet from the centerline of the traveled roadway;
- (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; and
- (4) the placement of the 25-foot minimum setback lines on the final plat, measured from the new right-of-way line.

The motion carried unanimously.

Case #ZON2004-02628

Dr. Christy Agren

205 South University Boulevard (East side of South University Boulevard, 100'± South of Sunset Drive South).

Request to waive construction of a sidewalk along South University Boulevard.

Council District 5

The applicant was present and concurred with the staff recommendation.

Dr. Rivizzigno asked if the reason the staff was recommending the waiver was because there would not be enough room. She was concerned that if a sidewalk were not required for this site, then any successive commercial development would not be required to have sidewalks.

Ms. Terry explained that there was no curb and gutter on this service road, and there was only about three feet between the applicant's property and the edge of the pavement at one corner of the property.

Dr. Rivizzigno asked if a modified sidewalk could be put in.

Ms. Terry said if it were required it would have to be on the applicant's property.

There was no one present in opposition.

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A motion was made by Dr. Laier and seconded by Mr. Vallas to approve this request.

Dr. Rivizzigno was opposed. The motion carried.

EXTENSIONS:

Case #SUB2001-00018 (File #S2000-42)

Westchester Place Subdivision, Third Addition

East side of Pebble Creek Drive, 200'± North of Westchester Lane.

8 Lots / 3.0± Acres

Request for a one-year extension of previous approval.

Mr. Olsen stated that at the time the application was submitted the staff was unaware that the road had actually been constructed and was awaiting County acceptance. This being the case, they would recommend approval, but that no further extensions be granted.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Mr. Vallas to approve a one-year extension of previous approval for this application. However, it should be noted that no further extensions will be granted.

The motion carried unanimously.

Case #ZON2004-00084

Downtowner Apartments

4350 Downtowner Loop North (North side of Downtowner Loop North, 180'± East of Downtowner Loop West).

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

Request for a one-year extension of previous approval.

A motion was made by Mr. Plauche and seconded by Mr. Vallas to approve a one-year extension of previous approval for this application.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2004-02596

Berney-Fly Subdivision

1118 Government Street (North side of Government Street, 425'+ West of Hallett Street).

The request for Planned Unit Development Approval to allow shared access between multiple building sites was considered.

Council District 2

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The site plan illustrates the existing buildings, parking, drives and landscaping, along with the proposed buildings, parking, drives, and landscaping.

(Also see Case #SUB2004-00278 – **Berney-Fly Subdivision** – Below)

Mr. M. Don Williams of M. Don Williams Engineering, was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve this plan subject to the following conditions:

- (1) that the townhome site fully comply with the conditions of the 1999 PUD (denial of access to Montauk Avenue, window walls limited to those shown on the plan, the exact location of the driveway to be coordinated with the Traffic Engineering Department and Urban Forestry, and repair/replacement of sidewalks along Government Street and Montauk Avenue, as determined to be necessary by the City Engineering Department);
- (2) that the new parking and drives be paved with stamped asphalt;
- (3) approval of the Architectural Review Board; and
- (4) approval of any necessary variances by the Board of Zoning Adjustment.

The motion carried unanimously.

Case #SUB2004-00278

Berney-Fly Subdivision

1118 Government Street (North side of Government Street, 425'+ West of Hallett Street).
1 Lot / 0.7+ Acre - Council District 2

(For discussion see Case #ZON2004-02596 - **Berney-Fly Subdivision** – Above)

A motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve this subdivision subject to the following condition:

- (1) placement of a note on the final plat stating that the site will share access with the adjoining lot to the East (Lot 1, Central Park).

The motion carried unanimously.

Case #ZON2005-00114

Christ Anglican Church

South side of Halls Mill Road, 135'± East of Dunlop Street.

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The request for Planning Approval to allow a church in an R-1, Single-Family Residential district was considered.
Council District 4

The plan illustrates the proposed building, drive, and parking.

(Also see Case #SUB2005-00006 - **Christ Anglican Church Subdivision** – Below)

Mr. Plauche recused himself from the discussion and vote regarding this matter. Dr. Laier chaired this portion of the meeting.

Mr. Don Coleman of Rester and Coleman Engineers, Inc., was representing the applicant and concurred with the staff recommendations.

Mr. Marion Baker, owner of property on Dunlop Street, said he had no objections to a church at this location, but he was concerned about drainage. He pointed out that Dunlop Street had open ditches and that the very back of the property in question had always held water. Whatever they did, they were going to push water on somebody.

Ms. Terry said that if water were flowing onto the adjoining property before the development, the applicant would have to accommodate that with their drainage design.

Ms. Kathleen Meadows, also representing her husband, said they were neighbors of Mr. Baker's on Dunlop Street. Their main concern was also drainage. She noted the staff recommendation, which called for a 10' vegetative buffer to remain in its natural state to the east, west, and south property lines. Ms. Meadows felt 10' was not very much. There were open ditches on their street and when the ditches overflowed the water went into their yards and into the woods behind their property. They were concerned about the wildlife and the trees that had been there for many years. Ms. Meadows also said they had no objection to locating a church on this site.

Mr. Vallas asked if this was the old Bama Theater property.

Mr. Olsen replied that it was, and it was zoned R-1.

Mr. Bob Berg, Berg & Company, stated that he owned 3-½ acres contiguous to the subject property on the northeast corner. He was concerned about them pushing the water onto his property, and did not understand why a vegetative buffer was not required around his property.

Mr. Olsen explained that the only time a buffer was required by the Zoning Ordinance on commercial property was when the commercial property abutted residentially zoned property. Typically, if the residentially zoned property was wooded and undeveloped, the buffer was only required at the time that property was developed residentially. In this particular instance, Mr. Berg's property was developed commercially. The property in

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question was zoned residentially, but it was going to be developed as a non-residential use, so a buffer would not necessarily be required on either property.

In discussion, a motion was made by Mr. Vallas and Mr. Miller to approve this plan subject to the following conditions:

- (1) dedication of sufficient right-of-way along Halls Mill Road to provide a minimum of 35' from centerline;
- (2) completion of the subdivision process;
- (3) the provision of a 10' (minimum) vegetative buffer to remain in its natural state along the East, West and South property lines where the site abuts residentially zoned properties; and
- (4) full compliance with all municipal codes and ordinances.

Mr. Watkins asked if there was any latitude on the west side for an extended buffer, or would it just be limited to the 10'.

Mr. Olsen said they did have some latitude there. He pointed out, however, that a Planning Approval was site plan specific. While that did not normally relate to the clearing of underbrush or trees or things of that nature, it did mean that there would not be any development other than what was seen on the plan before them.

Mr. Holmes noted that while the staff recommended the 10' buffer in this case, in another location they recommended a 20' buffer. He did not understand the difference.

Mr. Olsen said that on the rezoning Mr. Holmes referred to with a 20' buffer, they were requesting B-3 zoning, which was a much heavier commercial classification than the allowance of a church in a residential district.

Dr. Rivizzigno said that hopefully the church would not have a baseball field.

Mr. Olsen said that would not be possible without coming back to the Commission because this was site plan specific, and there were no athletic fields shown on this plan. Based on the plan he saw and the aerials he used for the review, they were developing predominantly within the area that was the drive-in theater.

The question was called. Mr. Plauche recused. The motion carried unanimously.

Case #SUB2005-00006

Christ Anglican Church Subdivision

South side of Halls Mill Road, 135'± East of Dunlop Street.

1 Lot / 18.5± Acres - Council District 4

(For discussion see Case #ZON2005-00114 – **Christ Anglican Church Subdivision** – Above)

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Mr. Plauche recused himself from the discussion and vote regarding this matter. Dr. Laier chaired this portion of the meeting.

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

- (1) dedication of sufficient right-of-way along Halls Mill Road to provide a minimum of 35' from centerline;
- (2) placement of a note on the final plat stating that the subdivision is limited to one curb cut to Halls Mill Road;
- (3) the provision of a 10' (minimum) vegetative buffer to remain in its natural state along the East, West and South property lines where the site abuts residentially zoned properties; and
- (4) the placement of the 25' minimum building setback line on the final plat.

Mr. Plauche recused. The motion carried.

Case #ZON2005-00011

Mobile Fence Company Subdivision

4308 Halls Mill Road (North side of Halls Mill Road, 120'± West of the North terminus of Riviere du Chien Road).

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

Council District 4

The plan illustrates the existing structures and drives.

(Also see Case #SUB2005-00001 – **Mobile Fence Company Subdivision** – Below)

Mr. Joe Regan, Regan Land Surveying, Inc., was present on behalf of the applicant and said they concurred with the staff recommendations with the exception of limiting the site to one curb cut. They would like to have two driveways, or at least have the driveway a little larger so they could have an entrance for their drive-in clients and one for the trucks coming in. Currently the entire front of the property was a driveway and they had sort of a horseshoe type drive-up.

There was no one present in opposition.

In discussion, Mr. Holmes asked the staff to comment on the request for more than one curb cut.

Mr. Olsen stated that normally on a lot with this amount of frontage, the Commission did limit the number of curb cuts, and two would not be beyond the limits of what had been approved by the Commission. If it were the wish of the Commission to allow two curb cuts, the staff would like to see a condition placed on the approval that any existing

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openings be closed, because it was at this time a continuous curb cut and that would pose a danger along Halls Mill Road.

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- (1) dedication of sufficient right-of-way to provide a minimum of 35' from centerline of Halls Mill Road;
- (2) Lot 2 be limited to two curb cuts with the size, location and design to be approved by the Traffic Engineering Department and elimination of any existing curb cuts;
- (3) reconfiguration of parking facilities to prohibit vehicles from backing into the right-of-way;
- (4) the provision and landscaping and tree plantings in compliance with the ratios set forth in Section IV.E.3.a of the Zoning Ordinance, to the greatest degree practicable, to be coordinated with Urban Forestry; and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2005-00001

Mobile Fence Company Subdivision

4308 Halls Mill Road (North side of Halls Mill Road, 120'± West of the North terminus of Riviere du Chien Road).

2 Lots / 1.3± Acres - Council District 4

(For discussion see Case #ZON2005-00011 – **Mobile Fence Company Subdivision** – Above)

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to approve this subdivision subject to the following conditions:

- (1) dedication of sufficient right-of-way to provide a minimum of 35' from centerline of Halls Mill Road;
- (2) placement of a note on the final plat stating that Lot 2 be limited to two curb cuts with the size, location and design to be approved by the Traffic Engineering Department and that the existing curb cut(s) shall be removed; and
- (3) placement of a note on the final plat stating that Lot 1 is limited to one curb cut, size, location and design to be approved by the Traffic Engineering Department.

The motion carried unanimously.

NEW ZONING APPLICATIONS:

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Case #ZON2005-00108

C. William Barnhill

4860 Halls Mill Road (North side of Halls Mill Road, 460'± West of Rochelle Street),
The request for a change in zoning from R-1, Single-Family Residential, to R-3, Multi-Family Residential, to allow the expansion of an existing mobile home park was considered.

Council District 4

This application was heldover prior to the meeting at the applicant's request.

Case #ZON2005-00109

C. William Barnhill

East side of Demetropolis Road, 2/10 mile± North of Halls Mill Road.

The request for a change in zoning from R-1, Single-Family Residential, to B-3, Community Business, to allow light warehousing and offices was considered.

Council District 4

The site plan illustrates the proposed area to be rezoned along with the proposed improvements.

Mr. Jerry Byrd of Byrd Surveying, Inc., was present in addition to the applicant in this matter. Mr. Byrd said they did not have any problem with the recommendations except for condition #1, which required the provision of a 20' buffer along the south property line to be coordinated with and approved by the staff. He asked if it could be reworded that at the time of development of the property there would be a 20' buffer if it was residential. He said if it went commercial there would be no reason to have a 20' buffer.

Mr. Olsen stated that the staff had no problem adding the words "if zoned residential". If the property were not zoned residential, the buffer would not automatically be required. He said it was just kind of a reiteration and a request to increase it from 10' to 20'.

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Dr. Laier to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) provision of a 20-foot buffer along the South property line to be coordinated with and approved by Urban Development staff if the property is developed residentially;
- (2) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (3) that the location, number and design of all curb cuts be approved by Traffic Engineering; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

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Case #ZON2005-00110

Patricia M. Moulds

5113 Overlook Road (South side of Overlook Road, 170'± East of Forest Dale Drive).
The request for a change in zoning from R-1, Single-Family Residential, to LB-2, Limited Neighborhood Business, to allow a beauty salon was considered.
Council District 7

The plan illustrates the existing structure and proposed parking.

Mr. Jerry Byrd of Byrd Surveying, Inc., was representing the applicant. Mr. Byrd said this was one of four sites on the south side of Overlook Road. The three properties to the east that fronted Overlook Road were already commercial through variances. The other properties shown at the corner of Druid Drive and Forest Dale Drive were actually fronting those side streets, so they were kind of a separate neighborhood. Mr. Byrd said the applicant would like to locate a beauty salon on this site.

Mr. Plauche asked Mr. Byrd to address the staff's comments regarding gravel parking.

Mr. Byrd said the applicant had agreed to bring it up to code with asphalt parking.

Mr. Watkins asked if they were currently using the site under a use variance.

Mr. Byrd said they were not. They applied for a use variance and were turned down.

Ms. Deakle asked how they would access the site.

Mr. Byrd said the street on the west side was unopened, so the driveway came in off of Overlook Road.

There was no one present in opposition.

In discussion, Dr. Rivizzigno asked why the variance was denied.

Ms. Pappas stated that the applicant did not present a lot of hardship arguments. The applicant simply stated that she wanted to operate a beauty salon there.

Mr. Watkins commented that he had not heard any arguments or reasoning today as to what changes in conditions had occurred that would cause this property to be rezoned.

Ms. Pappas said that in terms of zoning, the site fell below the minimum area required by the Ordinance for a commercial area. Additionally, there was no commercial zoning along the south side of Overlook Road. There were commercial uses adjoining to the east, which were granted by variances going back to 1965. The adjoining properties to the west and to the south were zoned and used residentially. Ms. Pappas said she made a

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site visit to the area and the structure itself was still residential in character and there was nothing to indicate there had been a recent commercial use within the building.

Ms. Deakle asked for further information as to why the use variance was denied by the Board of Adjustment.

Ms. Pappas explained that with a use variance the applicant was supposed to prove to the Board that there was something unique about the property or that there was a hardship associated with the property that kept it from being used as it was zoned. In the application as well as in the presentation, the applicant did not present hardship arguments, but simply the proposal for the property.

A motion was made by Mr. Vallas and seconded by Mr. Holmes to recommend the denial of this change in zoning to the City Council.

The motion carried unanimously.

Case #ZON2005-00106

Sunwood Properties, LLC

702 Bishops Lane North (East side of Bishops Lane North, 60'± North of Gulfwood Drive East).

The request for a change in zoning from R-1, Single-Family Residential, to B-1, Buffer Business, to allow professional offices was considered.

Council District 7

The site plan illustrates the proposed building, parking, and existing fencing.

Mr. Jerry Byrd of Byrd Surveying, Inc., was representing the applicant. Mr. Byrd said the property was located on the east side of Bishops Lane. Across the street there were doctors offices, a service station to the north, and a day care to the east. There was one residence to the south. The applicant wanted to put in a two-story building approximately 3,000 sq. ft. He said the staff had some problem with the parking but he felt that could be worked out. The requirement that the building be 10' from the south property line was not a problem. The basic design was for a porch across the front on both levels. He felt it would be compatible with the neighborhood and would complement it.

Ms. Barbara Molyneux stated that she had a home in Montrose but also had a home on Bishops Lane. She said she understood from the notice she was sent that if this were approved it could be zoned for pretty much anything after that.

Mr. Olsen stated that the way the letter read was that if it were rezoned to B-1, that any use that was allowed in a B-1 district would be allowed at this location. The B-1 zoning classification was for buffer businesses and basically allowed professional offices. It did not allow any type of food or beverage, retail, or anything of that nature.

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Ms. Molyneux also expressed concern as to what the building would look like.

Mr. Plauche stated that the Commission had no authority over that. He felt the owner would not mind meeting with her to discuss the design.

Ms. Molyneux was also concerned about parking. She felt ten parking spaces would not fit in the proposed area. She noted that already the people going to the physicians offices across the street parked up and down the streets and she felt the proposed building would cause more traffic in the area.

Mr. Plauche stated that their proposal was required to meet all City standards and regulations, including drainage and parking. The Engineering Department would decide if the number of parking spaces proposed could go in that area.

Mr. Pappas noted that the number of parking spaces was predicated by the size of the building. For a 3,000 sq. ft. building, the parking requirement would be 10 spaces.

Mr. Olsen also pointed out that rezonings were not site plan specific. This was simply a proposal that they were making at this time. If it were approved by the Planning Commission, and ultimately by the City Council, when they came in for permitting their proposal would have to comply with all municipal codes and ordinances. The size of the building, landscaping and tree planting requirements, and any detention that was required by City Engineering would come into play. If the applicant could not fully comply with each one of those requirements, the plan would be denied and they would have to rework it to come up with a plan that did comply with the codes and ordinances of the City of Mobile.

If the rezoning passed today, Ms. Molyneux asked if she could still be involved in the process.

Mr. Olsen said that the Planning Commission would make a recommendation to the City Council. The City Council would be the body that actually rezoned the property. Once the property was rezoned there was no requirement for any type of neighborhood involvement. There was no design review in the City of Mobile except in historic districts.

Ms. Molyneux stated that she would have to stand opposed to the rezoning because there were not enough controls and regulations on it to satisfy her.

In discussion, Mr. Watkins asked if the staff was more comfortable with this recommendation for approval because the site was adjacent to B-2 property to the north and the east, and the fact that there was similar zoning across the street.

Mr. Olsen said that was correct. While the streets normally provided good lines of demarcation between residential and commercial, the fact that this was commercial, this property and the one immediately south of it would then be surrounded on three sides.

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Also, within the last three to four years the Commission and City Council had rezoned the property at the southwest corner of Gulfwood Drive and Shady Oaks Drive to B-1. It was somewhat logical, therefore, that at least those properties on the north side of Gulfwood Drive would be a lighter level of commercial.

A motion was made by Mr. Watkins and seconded by Mr. Holmes to recommend the approval of this change in zoning to the City Council subject to the following condition:

- (1) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2005-00105

Jo Ann Yarborough

1165 New St. Francis Street (South side of New St. Francis Street, 400'± East of North Georgia Avenue).

The request for a change in zoning from R-1, Single-Family Residential, and B-1, Buffer Business, to R-1, Single-Family Residential, to eliminate split zoning on a single-family residential site was considered.

Council District 2

The plan illustrates the existing structure and fence.

Mr. Jerry Byrd of Byrd Surveying, Inc., was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Miller to recommend the approval of this change in zoning to the City Council.

The motion carried unanimously.

Case #ZON2005-00111

Michael A. Smith

1002 Dauphin Street (North side of Dauphin Street, 330'± East of North Pine Street).

The request for a change in zoning from R-1, Single-Family Residential, and B-1, Buffer Business, to B-1, Buffer Business, to eliminate split zoning on a single-family residential site was considered.

Council District 2

The site plan illustrates the proposed area to be rezoned.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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A motion was made by Dr. Rivizzigno and seconded by Mr. Miller to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) coordination with Urban Forestry for compliance with landscaping and tree planting requirements if and when the property is developed with a multi-family or commercial use;
- (2) provision of a buffer where the site adjoins residential zoning, should the property be converted to a commercial use, per Section IV.D.1 of the Zoning Ordinance; and
- (3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2005-00005

Maggie's Three Notch Subdivision

North side of Three Notch Road at the North terminus of Gunn Road.

2 Lots / 4.6± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this subdivision subject to the following conditions:

- (1) dedication of 2.91 feet of right-of-way along Three Notch Road in compliance with the Major Street Plan;
- (2) adjustment of the 25-foot setback line to reflect the right-of-way dedication;
- (3) the 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
- (4) placement of a note on the Final Plat stating that Lot 1 is limited to the existing curb cut, and Lot 2 is limited to one curb cut, to be reviewed and approved by the Mobile County Engineering Department.

The motion carried unanimously.

Case #SUB2005-00004

Moffett-Wolf Subdivision

North side of Moffett Road, 480'± West of Wolf Ridge Road.

2 Lots / 1.8± Acres - Council District 1

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Mr. Jerry Byrd of Byrd Surveying, Inc., was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this subdivision subject to the following conditions:

- (1) the depiction of the 25-foot building setback line on the Final Plat;
- (2) rezoning of the proposed Lot 1 to a single zoning classification prior to the recording of the Final Plat; and
- (3) placement of a note on the Final Plat stating that no additional curb cuts are allowed for the proposed Lot 1, and Lot 2 is permitted only one curb cut, with the location, size and design to be approved by Traffic Engineering.

The motion carried unanimously.

Case #SUB2005-00003

Willard Subdivision

West side of Creel Road, 65'± South of Theodore Dawes Road.

1 Lot / 0.3± Acre

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying, was representing the applicant. He said the application was recommended for denial because the staff recommended that they dedicate right-of-way for Creel Road. He said the County did not have any immediate plans to push Schillinger Road past Theodore Dawes Road. In lieu of the dedication, they asked to be allowed to have a 35' setback.

Mr. Art Stanley, adjoining property owner to the rear of this site, said when they put Creel Road in and took Theodore Dawes Road out on Schillinger Extension his property was destroyed. He said Mr. Willard obtained their property after the County paid him for his residence on Creel Road. Through some negotiations he retained for a \$10 recording fee the extra piece of property (the subject property) that they did not use for Creel Road. Mr. Stanley was opposed to them being allowed to have a setback. He felt they should leave it as it was because there was not enough room to build anything as far as a subdivision on this little piece of property.

Mr. Stewart said that Mr. Willard took possession of this property after he reimbursed the County for what they actually paid him for his right-of-way, plus he had to pay for all the condemnation costs and attorneys fees. Technically he did not get it for \$10. He actually paid a lot for it. Also, Mr. Stewart said if there were a 35' setback, the 10' that abutted up along that right-of-way would not be usable property. They could not park in it, use it for retention, or put a septic tank there because it would technically be for right-of-way.

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Mr. Stanley said he was totally opposed to this subdivision.

Mr. Orrell, said this application did have 15,000 sq. ft. of property as it stood today. They understood that they could not put anything inside that right-of-way, and they did not plan to. They could design something to fit when the time came. The applicant had no immediate plans, but was simply trying to clean up this property to make it a legal lot of record to make a conveyable piece of property. Mr. Orrell asked that instead of dedication, that they be allowed to have a 35' setback so they would have a piece of land they could use.

In discussion, Mr. Stewart reiterated that the 10' that would be part of the setback could not be used for anything; they would have to develop around it.

Mr. Olsen explained that if the 10' were dedicated then the lot would fall below the 15,000 sq. ft. minimum required by the Board of Health to allow a septic tank. This would allow them to retain ownership of that property, but not develop it. When the road was constructed the County or State would have to require that additional right-of-way.

Mr. Olsen also said that the staff would ask that the curb cuts be limited to one, to be approved by County Engineering.

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

- (1) provision of a 35' setback along Creel Road (note that the first 10' of the setback cannot be developed); and
- (2) placement of a note on the final plat stating that the site is limited to one curb cut to be approved by County Engineering.

The motion carried unanimously.

Case #SUB2005-00002

Wimberly Subdivision, 2nd Addition

2013 Wildwood Place (East side of Wildwood Place, 845'± South of Vista Bonita Drive).
2 Lots / 2.3± Acres - Council District 6

Mr. Joe McDonald, applicant, was present and stated that this was the remaining parcel of a 40-acre tract that had been in his family for almost 60 years. He said his father had passed away and his mother was at Gordon Oaks Retirement Community and they were in the process of selling the house, but they wanted to retain a portion of the property for security and sentimental reasons. Mr. McDonald said they realized that the proposed Lot 2 was somewhat deep, but noted that all the lots on the south side of that same street were similar in depth. He said they had no intentions of building on the property and they would maintain it.

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Mr. Vallas asked the purpose of the proposed subdivision.

Mr. McDonald said they felt they had to develop a subdivision for their house, which was directly east behind the proposed lot and would adjoin this property. He said they were concerned with the sentimental value and security, because if someone were to buy it they would not be sure of what they may do, and they were going to be there for the rest of their lives.

Mr. Vallas asked if the applicants were going to sell the property.

Mr. McDonald said they had no intentions of selling it or building there.

Dr. Laier asked about access to their home.

Mr. McDonald said he had access across the 40' drainage ditch. He noted that flag shaped lots were uncharacteristic of lots in the area, but it was the only way they could make this work.

Mr. Watkins asked the staff to comment on the flag shaped lot.

Ms. Pappas said the Planning Commission experienced trouble with flag shaped lots over the years. The staff frequently recommended denial of flag shaped lots, taking into consideration the development of the surrounding area and whether or not they would be uncharacteristic. Ms. Pappas said the question she had was that if they lived there and wanted to retain some of the property, was there any reason why they did not simply incorporate Lot 2 into their existing home?

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying, was representing the applicant. He said that part of the property was inaccessible because there was a ditch that went across it.

Mr. Watkins asked that if the Commission were inclined to grant this subdivision over the staff's recommendation, would there be any additional requirements the staff would be looking at such as restricting subdivision of this lot.

Ms. Pappas said the staff would recommend that there be no further resubdivision of Lot 2 due to the drainage easement, compliance with any federal, state, or local regulations, and provision of a 25' setback along Wildwood Place.

Mr. Orrell concurred with those conditions.

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Ms. Deakle to approve this subdivision subject to the following conditions:

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- (1) placement of a note on the final plat stating that there will be no future resubdivision of Lot 2;
- (2) provision of a 25' setback along Wildwood Place; and
- (3) obtaining of any necessary federal, state, local, or environmental approval.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

OTHER BUSINESS

Scheduling of Mobile City Planning Commission Business Meeting

Mr. Olsen stated that the staff would like to request that the Commission hold a business meeting on March 10, 2005. He said the time and location would be announced when the arrangements had been made.

APPROVED: April 7, 2005

/s/ Victor McSwain, Secretary

/s/ Terry Plauche, Chairman

/ms and jh