

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF APRIL 1, 2010 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Terry Plauche, Chairman  
William G. DeMouy, Jr.  
Victoria L. Rivizzigno, Secretary  
Nicholas H. Holmes, III  
Herb Jordan  
Mead Miller  
John Vallas  
James F. Watkins, III

**Members Absent**

Stephen J. Davitt, Jr.  
Roosevelt Turner

**Urban Development Staff Present**

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

**Others Present**

John Lawler,  
Assistant City Attorney  
John Forrester,  
City Engineering  
Jennifer White,  
Traffic Engineering

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

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

**HOLDOVERS:**

**Case #SUB2010-00019 (Subdivision)**

**D. Petway Subdivision**

429 Lincoln Boulevard  
(Southwest corner of Lincoln Boulevard and Twelfth Street)  
Number of Lots / Acres: 1 Lot /0.3± Acre  
Engineer / Surveyor: John Farris Crenshaw  
Council District 7

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

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

- 1) **dedication sufficient to provide 30 feet from the centerline of Lincoln Boulevard and Twelfth Street;**
- 2) **compliance with Section V.B.16 of the Subdivision Regulations regarding curb radii;**
- 3) **placement of a note on the Final Plat stating that the site is limited to two curb-cuts, with the size, design, and exact location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards;**
- 4) **depiction of the 25-foot minimum building setback line along all street frontages;**
- 5) **retention of the lot size labeling, in square feet; and,**
- 6) **placement of a note on the Final Plat stating that the site must be developed in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species.**

The motion carried unanimously.

**Case #ZON2010-00297 (Rezoning)**

**Thompson Properties**

5890 Rangeline Road

(Southwest corner of Rangeline Service Road and Rabbit Creek Drive)

Rezoning from B-5, Office Distribution Districts, to I-1, Light Industry District, to allow a refrigeration service and supply company.

Council District 4

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

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

- 1) **future development to fully comply with local, state, and federal regulations relating to threatened and endangered species, wetlands and floodplains prior to the issuance of any permits or land disturbance activities;**
- 2) **future development to comply with frontage tree requirement of Section 64-4.E.3 of the Zoning Ordinance;**
- 3) **future development to comply with Engineering comments: *(Lot is partially located in the X-Shaded and AE Flood Zone as determined by scaling from FIRM. There is to be no fill placed***

*within the limits of the flood plain without providing compensation. Need to label the minimum FFE on the plat and on any construction plans. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit); and,*

- 4) **future development to comply with all municipal codes and ordinances, including trees, landscaping, parking, and buffering.**

The motion carried unanimously.

**Case #SUB2010-00002 (Subdivision)**

**Greater Vision of Faith Subdivision**

461 & 463 Bay Shore Avenue

(Southwest corner of Bay Shore Avenue and Josephine Street)

Number of Lots / Acres: 1 Lot /1.0± Acre

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

Council District 1

(Also see **Case #ZON2010-00005 (Planned Unit Development) Greater Vision of Faith Subdivision**, above)

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

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

- 1) **depiction of the lot area size, in square feet, on the Final Plat, or provision of a table on the Final Plat with the same information;**
- 2) **retention of the 25-foot minimum building setback line along all street frontages;**
- 3) **deletion of the 10-foot minimum building setback line as depicted on the southern 200 feet of the western property line;**
- 4) **depiction of the 50-foot easement, as depicted on the approved Planned Unit Development, on the Final Plat;**
- 5) **full compliance with Engineering comments: “*The parking lot on the south side of the creek shall not extend beyond the existing top of bank without approval from the City Engineer. All proposed drainage structures private and public are to be reviewed and approved during the land disturbance phase. A note shall be added to the plat stating that any pavement or other structure located within the drainage easement is subject to removal without compensation for the purposes of maintenance of the creek and any cost associated with the replacement of such*”**

- shall be the sole responsibility of the property owner. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any existing damaged sidewalk panels and/or driveway aprons shall be replaced”;*
- 6) placement of a note on the Final Plat stating that the site is limited to two curb-cuts to Bay Shore Avenue and two curb-cuts to Josephine Street, with the size, design, and exact location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards;
  - 7) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies is required for wetland issues, if any, prior to the issuance of any permits or land disturbance activities; and,
  - 8) placement of a note on the Final Plat stating that the site must be developed in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species.

The motion carried unanimously.

**Case #ZON2010-00005 (Planned Unit Development)**

**Greater Vision of Faith Subdivision**

461 & 463 Bay Shore Avenue

(Southwest corner of Bay Shore Avenue and Josephine Street)

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

Council District 1

(Also see **Case #SUB2010-00002 (Subdivision) Greater Vision of Faith Subdivision**, above)

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

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

- 1) depiction of sidewalks along all street frontages, or obtain a Sidewalk Waiver;
- 2) removal of the existing freestanding sign from the right-of-way and relocations of the sign (with permits) to the suitable location on the site;
- 3) full compliance with Engineering comments: *“The parking lot on the south side of the creek shall not extend beyond the existing top of bank without approval from the City Engineer. All proposed drainage structures private and public are to be*

*reviewed and approved during the land disturbance phase. A note shall be added to the plat stating that any pavement or other structure located within the drainage easement is subject to removal without compensation for the purposes of maintenance of the creek and any cost associated with the replacement of such shall be the sole responsibility of the property owner. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. Any existing damaged sidewalk panels and/or driveway aprons shall be replaced”;*

- 4) completion of the Subdivision process;
- 5) provision of two copies of the final revised PUD to the Planning Section of the Urban Development Department prior to any permits being issued; and,
- 6) full compliance with municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2010-00022 (Subdivision)**

**Oakland Avenue Subdivision, Cornell Addition**

22 Oakland Avenue

(North side of Oakland Avenue, 430'± East of Marston Lane, extending to the South side of Bexley Lane, 100'± East of Charleston Court)

Number of Lots / Acres: 4 Lots/1.2± Acre

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 7

(Also see **Case #ZON2010-00440 (Planned Unit Development) Oakland Avenue Subdivision, Cornell Addition**, below)

The Chair announced the application had been recommended for approval.

Don Coleman, Rester and Coleman Engineers, spoke on behalf of the applicant and withdrew the above referenced matter.

**Case #ZON2010-00440 (Planned Unit Development)**

**Oakland Avenue Subdivision, Cornell Addition**

22 Oakland Avenue

(North side of Oakland Avenue, 430'± East of Marston Lane, extending to the South side of Bexley Lane, 100'± East of Charleston Court)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced lot sizes and reduced setbacks in an R-1, Single-Family Residential District.

Council District 7

(Also see **Case #SUB2010-00022 (Subdivision) Oakland Avenue Subdivision, Cornell Addition**, above)

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The Chair announced the application had been recommended for approval.

Don Coleman, Rester and Coleman Engineers, spoke on behalf of the applicant and withdrew the above referenced matter.

**Case #SUB2010-00026 (Subdivision)**  
**Congress Street Subdivision, Re-subdivision of**

254 Congress Street

(North side of Congress Street, 60'± West of North Joachim Street, extending to the West side of North Joachim Street, 78'± North of Congress Street)

Number of Lots / Acres: 4 Lots/0.2± Acre

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 2

(Also see **Case #ZON2010-00468 (Planned Unit Development) Congress Street Subdivision, Re-subdivision of**, below)

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

Ben Cummings, architect, Cummings Architecture, spoke on behalf of the applicant and asked for clarification regarding recommendation 8 of the Subdivision approval and recommendation 9 of the Planned Unit Development approval, which called for two copies of a revised site plan for the development.

Mr. Olsen stated one copy each was needed for the files.

Hearing no opposition or further discussion, a motion was made by Mr. Vallas, with second by Dr. Rivizzigno, to waive Section V.D.2. and V.D.9. and approve the above referenced matter, subject to the following conditions:

- 1) **compliance with Traffic Engineering comments:** *“Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Sign and mark drives as one-way”;*
- 2) **compliance with Engineering comments:** *“Add note to plat stating that maintenance of common areas including storm drainage facilities are to be the responsibilities of the property owners. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit.”;*
- 3) **placement of a note on the Final Plat stating that the lots are limited to the shared curb-cuts, as shown on the associated PUD, with size, design, and location to be approved by Traffic Engineering, and in conformance to the greatest extent possible with AASHTO standards;**

- 4) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local environmental agencies for wetlands or floodplain issues is required prior to the issuance of any permits or land disturbance activities;
- 5) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities;
- 6) waiver of the 25-foot minimum building setback line in favor of the 5-foot setback allowed in R-B districts by the Zoning Ordinance in Section 64-3.D.1.e;
- 7) labeling of each lot with its size in square feet;
- 8) provision of two (2) revised PUD site plans to the Planning Section of Urban Development prior to the signing of the final plat; and,
- 9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2010-00468 (Planned Unit Development)**

**Congress Street Subdivision, Re-subdivision of**

254 Congress Street

(North side of Congress Street, 60'± West of North Joachim Street, extending to the West side of North Joachim Street, 78'± North of Congress Street)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow shared access and parking between multiple building sites.

Council District 2

(Also see **Case #SUB2010-00026 (Subdivision) Congress Street Subdivision, Re-subdivision of**, above)

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

- 1) completion of the Subdivision process;
- 2) placement of a note on the site plan stating that approval of all applicable federal, state, and local environmental agencies for wetlands or floodplain issues is required prior to the issuance of any permits or land disturbance activities;
- 3) placement of a note on the site plan stating that approval of all applicable federal, state, and local agencies for endangered, threatened, or otherwise protected species is required prior to the issuance of any permits or land disturbance activities;
- 4) depiction of dumpster locations on the site plan (if they will be utilized) to comply with Section 64-4.D.9 of the Zoning Ordinance and placement of a note on the site plans stating

- that dumpsters will be completely screened from view, or placement of a note stating how garbage will be removed;
- 5) closure and landscaping of all unused curb-cuts, as shown on the site plan;
  - 6) depiction of the 5-foot minimum building setback line on the PUD site plan;
  - 7) site limited to an approved PUD due to some lots falling below the minimum lot size requirements of Section 64-3.D1.b of the Zoning ordinance;
  - 8) tree compliance to be coordinated with Urban Forestry, with revision of the PUD site plan to reflect tree compliance;
  - 9) provision of two (2) revised PUD site plans to the Planning Section of Urban Development prior to the signing of the final plat; and,
  - 10) full compliance with all other municipal codes and ordinances, including Building and Fire Code compliance and the obtaining of the appropriate permits

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2010-00031**

**Willie G. McElroy Jr. Subdivision**

Northwest corner of Hickory Street and Persimmon Street

Number of Lots / Acres: 1 Lot / 0.5± Acre

Engineer / Surveyor: Haidt Land Surveying

Council District 2

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

Fred Haidt, Haidt Land Surveying, spoke on behalf of the applicant. He asked for an appeal regarding the following issues raised by staff:

- A. regarding the inclusion of 50 feet of the western part of Lots 9 and 10, Block 34;
- B. the lots were originally subdivided by deed in 1953;
- C. all current maps show the lots to be in the same configuration that he had surveyed;
- D. noted that over 40 lots in the Fisher Tract subdivision were divided by deed;
- E. the subdivision itself was originally recorded in 1866;
- F. due to the age and manner in which ownership was established for the lots, the property the staff wished to have included in the subdivision application was not owned by the applicant, therefore,



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- they had no legal basis to be included in this subdivision application;
- G. the applicants purchased the lots in question from the State in 2004 in their current configuration;
  - H. one of the parcels in question does not even have a deed on record;
  - I. regarding the requirement of an extra 5 feet of right-of-way along Hickory Street, in 2005, two blocks south of their location, a subdivision was recorded and no additional right-of-way was given to the city in that case and it was hoped the same would be done here; and,
  - J. noted the streets were “curb and gutter” running east and west and simply asphalt running north and south and that it was probable that the streets would never be completely “curb and guttered.”

Mr. Olsen asked if any of the information just stated or documentation regarding that information had been given to the staff.

Mr. Haidt stated not to his knowledge, but that they did the survey based upon the deed given to them.

Mr. Olsen noted that generally, if an application consisted of a portion of a parcel, then it is required that the entire parcel be included in the subdivision process, however, in a case like this where the subdivision was done some 57 years prior, then if copies of deeds and other documents that illustrate numerous changes of ownership over the years, then the staff would be able to remove that requirement.

Mr. Haidt asked if the matter could be held over until the April 15, 2010, meeting, as there were no new notifications required and the information needed by the staff would be submitted no later than the first of the next week.

Mr. Olsen stated that the deadline for the April 15, 2010, meeting, had already passed and that the staff was currently reviewing the applications for that hearing and that it would be difficult to add the matter into the agenda.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the May 6, 2010, meeting, to allow the applicant to include the remaining portions of Lots 9 and 10, Block 34 of the Fisher Tract (including the provision of new postage fees to allow for corrected notifications). Revisions and fees must be submitted by April 9, 2010.

The motion carried unanimously.

**NEW SIDEWALK WAIVER APPLICATIONS:**

**Case #ZON2010-00568**

**Orin Parker**

5365 Hamilton Boulevard

(North side of Hamilton Boulevard, 100'± East of Vanderbilt Drive)

Request to waive construction of a sidewalk along Hamilton Boulevard)

Council District 4

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

Vince LaCoste, Polysurveying of Mobile, spoke on behalf of the applicant and made the following points for approving the matter:

- A. the applicant gave up 10 feet of their property which would have allowed for the constructible area for the sidewalk;
- B. the property is immediately adjacent to a railroad track and there are no sidewalks within miles of the location;
- C. the location was part of the area annexed into the city last year;
- D. with giving the right-of-way, the applicant would end up “stubbing out” into private property on the western side of the property if they were required to put the sidewalk in; and,
- E. there is an open ditch within the area where the proposed sidewalk would be installed.

Hearing no opposition or further discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Miller, to deny the requested sidewalk waiver.

In deliberation, Mr. Vallas asked if anyone from Engineering had visited the site to know whether the waiver should be considered based on the open drainage issue and proximity to the railroad.

John Forrester, City Engineering, stated he had been out to the site and advised that with the additional right-of-way they could build the sidewalk but to the west there was the railroad. He added that the sidewalk could be put in but based on the surrounding properties, it really would not serve any purpose because it would not connect to anything.

Mr. Olsen advised that the reason dedication of right-of-way was being requested was due to the fact that Hamilton Road was a major street, so right-of-way is required. He also noted that the property to the east had dedicated right-of-way.

Dr. Rivizzigno noted that sidewalks had to start somewhere and moved to deny the request. Mr. Miller offered second on the motion.

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Mr. Jordan asked if the property to the east had adequate area for a sidewalk and Mr. Olsen stated they did.

Mr. Watkins asked how quickly the City would be putting in sidewalks in the area in question.

Mr. Olsen stated that based upon current economic issues he was unsure when that might take place.

Mr. Watkins asked if it was typical to put sidewalks in industrial zones.

Mr. Olsen stated there was no specific language in the Subdivision Regulations addressing industrial areas, but rather a requirement for the installation of sidewalks where they were physically possible.

Mr. Watkins expressed his feelings that it was silly to expect a private citizen to shoulder the expense of putting in a sidewalk where the City itself could not afford to install the same and Mr. Vallas voiced his agreement of the same.

Mr. Miller noted that granting the waiver set a precedent for not installing sidewalks in the future thereby defeating the purpose of having sidewalks.

Mr. Watkins stated his agreement with that position when the sidewalks were in residential or business areas; however, he did not feel that requiring sidewalks in industrial areas was necessary.

Mr. Miller asked if there were some type of procedural action that could be taken to allow for the postponement of creating the sidewalk and having it put in place at a later date.

Mr. Olsen stated that there was not and that going back to the applicant in the future and requiring the sidewalk to be put in at that time was virtually impossible.

Hearing no further discussion, the motion to deny carried four to 3 with Dr. Rivizzigno, Mr. Miller, Mr. DeMouy, and Mr. Holmes voting in favor of the motion. Mr. Jordan, Mr. Vallas, and Mr. Watkins voted against the motion.

**GROUP APPLICATIONS:**

**Case #SUB2010-00032 (Subdivision)**

**Gates at the Palms Subdivision**

5799 Southland Drive

(South side of Southland Drive, 800'± West of Knollwood Drive, extending to the West terminus of Southland Drive)

Number of Lots / Acres: 1 Lot / 10.7± Acre

Engineer / Surveyor: Northstar Engineer Services

Council District 4

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

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

Tom Wasson, Roland Francis Properties, the property owner, stated they had complied with the staff's recommendations and had re-submitted the requested information, as well as agreed to the stipulations.

Mr. Olsen noted that the issue regarding holding the matter over involved notifications, which were sent out based on the information submitted by the applicant, which was exactly what was submitted on the previous application, not what was up for consideration currently. He noted that since the information involved in this application was different, new notifications had to be sent out.

The applicant apologized for any confusion as his statements were only meant to advise the Commission and that the information requested had been received and not a request that the matter be heard that day.

The following people spoke in opposition to the matter:

- Don Beebe, 3447 Rue Royal, Mobile, AL;
- Karen Nall Gross, Environmental Studies Center, Mobile County Public School System; and,
- John Williams, 3905 St. Andrews Loop West, Mobile, AL.

They made the following points against the development:

- A. questioned the credibility of the developer based upon information found on his website regarding the development;
- B. presentation of documents that outline the current marketing of the project, even though it had yet to be approved;
- C. concern over traffic safety issues;
- D. concern that the proposed development is not in character with the other neighboring developments; and,

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- E. concern regarding the impact of the development on the wetlands and how that impact would be felt at the Environmental Studies Center downstream from the development.

Mr. Plauche reminded those attending the meeting regarding the matter that the Planning Commission was not bound to enforce any of the covenants that may have been put in place by a subdivision and that enforcement of such would need to be taken to court through a civil action.

Mr. Wasson offered the following rebuttal:

- A. the current owner had purchased the property within the last two years and had received their original approval during that time and Loupe Development had not owned the property in over two years, so any advertisement made by them regarding such was in error; and,
- B. the applicant had been through the loan process which included numerous engineering studies, traffic studies, and the like, so all aspects of the development had been thought out and thoroughly planned.

Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the May 6, 2010, meeting, with revisions and additional information due by April 5, 2010, so that the following item can be addressed:

- 1) **depiction and labeling of the 25' minimum building setback line along Southland Drive;**
- 2) **due to public notification concerning the number of buildings within the Planned Unit Development (PUD); and,**
- 3) **any changes to the preliminary plat due to common areas be illustrated on the preliminary plat.**

The motion carried unanimously.

**Case #ZON2010-00630 (Planned Unit Development)**

**Gates at the Palms Subdivision**

5799 Southland Drive

(South side of Southland Drive, 800'± West of Knollwood Drive, extending to the West terminus of Southland Drive)

Planned Unit Development Approval to allow seven apartment buildings (183 total units) and a club house on a single building site.

Council District 4

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

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Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. DeMouy, to hold the matter over until the May 6, 2010, meeting, with revisions and additional information due by April 5, 2010, so that the following item can be addressed:

- 1) **due to public notification concerning the number of buildings within the Planned Unit Development (PUD);**
- 2) **illustration of the required screening must comply with Section 64-4.D.9. of the Zoning Ordinance;**
- 3) **provision of buffering for residentially zoned properties adjacent to the site, including shielding and directing lighting of parking facilities away from those residentially zoned properties;**
- 4) **illustration of dumpster buffering as per the Zoning Ordinance; and,**
- 5) **illustration of landscaping calculations and tree species and location as required per the Zoning Ordinance.**

The motion carried unanimously.

**OTHER BUSINESS:**

Hearing no further business, the meeting was adjourned.

**APPROVED:**            May 6, 2010

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Dr. Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

jsl