

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF APRIL 7, 2011 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

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

Members Absent

Urban Development Staff Present

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

Others Present

John Lawler,
Assistant City Attorney
Jennifer White,
Traffic Engineering

District Chief Billy Roach,
Fire-Rescue Department

The notation *motion carried unanimously* indicates a consensus, with the exception of the Chairman who 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.

APPROVAL OF MINUTES:

Mr. Plauche moved, with second by Mr. Miller, to approve the minutes from the following, regularly held, Planning Commission meetings:

- February 17, 2011
- March 3, 2011

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2011-00024

Town of Salt Aire Lake District Subdivision, Common area Addition to

10178 Kearns Road

(North side of Salt Aire Road, extending to the West side of Kearns Road [Private Road] extending to the South side of Jackson Road [Private Road] and to the Northern termini of Town Center Drive and Magnolia End East)

Number of Lots / Acres: 1 Lot / 82.0± Acres

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

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

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

Stephen Harvey, McDowell, Knight, Roedder, and Sledge Law Firm, 11 North Water Street, Suite 1300, Mobile, AL, spoke on behalf of the applicant and made the following points:

- A. requested that Recommendations 1 and 2 of the staff report be removed as requested of the staff by the applicant at an earlier meeting with the staff;
- B. noted that the property in question was approximately 80 acres located within the Town of Salt Aire, a development which was intended to be approximately 490 acres;
- C. noted that the parent property of 490 acres was located within the Belle Fontaine Improvement District, a public corporation organized by Mobile County a few years prior whose purpose was to issue bonds, the proceeds of which were to be used to pay for the construction of necessary infrastructure within the development;
- D. noted that only the Lake District of Salt Aire had been created;
- E. the property in question had recently been deeded to the Property Owners Association;
- F. noted that the entire development was to have been developed in accordance with a Master Plan;
- G. only asking that the additional common areas north of Salt Aire Road, that were outside of the Lake District, be platted that day;
- H. noted that the property in question consisted almost entirely of lakes, wetlands, and marsh areas with a few right-of ways that had not yet been built;
- I. noted that the recent conveyance of the property to the Property Owners Association had been done so that it could become common area, however, they had been advised by the Belle

April 7, 2011
PLANNING COMMISSION MEETING

Fountaine District's lawyer, that for it to officially become common area, it would need to be platted, which is why the applicant was before the Planning Commission that day;

- J. noted that Don Rowe was the engineer for both the applicant and the Belle Fountaine District and that he had prepared the plat and certified that the area in question was "common area" in accordance with the Master Plan;
- K. noted none of the property in question would be platted for residential use thereby eliminating the need for Conditions 1 and 2 of the staff report;
- L. noted that the bond holders were currently attempting to foreclose on most or all of the property, including the common areas; and,
- M. noted that the bond assessments did not attach to the common areas, so the Property Owners Association was fighting any attempts to foreclose on that property and inasmuch had filed a lawsuit to stop any foreclosure on such property, the hearing for which would be in approximately 10 days.

Mr. Plauche asked if the staff was in agreement with the omission of Conditions 1 and 2.

Mr. Olsen responded he was not sure that the staff had stated they had no problem with the removal of said conditions. He stated that several months prior he had met with someone and discussed the matter. He stated there was some discussion of common areas and private road issues, however, he noted that the Subdivision Regulations had some very specific requirements with regards to private roads, one of which was they had a private road right-of-way and that the roads be constructed prior to the recording of the Final Plat. Mr. Olsen added that the application had indicated a specific area that showed obvious extensions of the existing private roads as common areas. He added that did not meet the requirements of the Subdivision Regulations for private roads. He also noted there were indications of other areas being noted as "future developments," including future lot lines and an alley. He noted that the staff felt very strongly regarding supporting the requirement that those private roads be constructed. He noted that the standard cul-de-sac was required due to the Fire Department requiring that minimum size. He also pointed out that the staff report noted the Mobile Area Water and Sewer System comments stated that the applicant had not made an application for a Certificate of Capacity Assurance as required by the Subdivision Regulations. He noted to insure that, a condition for approval stating the completion of the connection to water and sewer prior to the signing of the Final Plat should be included.

Mr. Vallas asked that since the plat in question was only for common areas and would not be increasing the use and need for capacity with regards to the Mobile Area Water and Sewer System, then would not the previous capacity letter from them serve the same purpose.

Mr. Olsen noted the City could not address the previous recording of any lots as that was done prior to the City annexing the adjacent Theodore/Tillman's Corner area which

April 7, 2011
PLANNING COMMISSION MEETING

was what brought the property in question within the City's Planning Jurisdiction.

Mr. Davitt stated that based upon his memory, the roads within the Lake District had not been totally completed and asked if that was correct.

Mr. Harvey noted he was unsure and would have to have the engineer or Property Owners Association representative answer that question

Philip Burton, 4614 Channing Court, Mobile, AL, spoke on behalf of the Town of Salt Aire Property Owners Association and stated there was a wearing surface present on the roads in question. He noted they had been advised that until there were a substantial number of houses within the subdivision not to put the final coat on the roads in question due to the volume of heavy truck traffic that could be anticipated due to the construction of houses.

Mr. Davitt asked for an update on the status of the sewage system connection into the Lake District.

Mr. Burton noted it was his understanding that there had been an agreement regarding the completion of that infrastructure reached between the District and MAWSS, as the District was actually the owner of the sewer system. He also noted that it was the Property Owners Association's desire to have the property in question subdivided and made a legal lot of record so that those individuals who did own property within the subdivision would not lose their walking trails and other common areas.

Mr. Vallas, after discussing the cul-de-sacs, asked Mr. Lawler, the Planning Commission attorney, if there was something the Planning Commission could do to help the development.

Mr. Olsen restated his former statements and added that if the property were to come back before the Commission to be used as anything other than common area, each and every property owner within the subdivision for which the area was common space would have to be party to said application, not simply the Property Owners Association representative.

Mr. Harvey asked if there was something that could be put on the plat stating that a specific area must be a private road.

Mr. Olsen responded that the Subdivision Regulations required that private roads have designated, private road right-of-way, so if they were ever intended to be private roads in the future then they should be designated as such now.

Mr. Davitt asked Mr. Olsen to help clarify the condition regarding the 120 foot diameter cul-de-sac.

Mr. Olsen stated they would need to be at the ends of the roads indicated on the

April 7, 2011
PLANNING COMMISSION MEETING

overhead, if the Commission required what the staff recommended based on what appeared to be future private roads.

Mr. Vallas noted that if the Commission waited on either of the conditions, they must wait on both conditions.

Mr. Vallas asked if Mr. Lawler believed that as the title was held differently there might be a possibility to offer the applicant some relief.

Mr. Lawler noted that he was in agreement with the staff with regards to the private road issues.

Doug Anderson, Burr and Foreman Law Firm, spoke on behalf of the Belle Fontaine Improvement District, the bond holder, and made the following points for holding the matter over:

- A. noted that the Belle Fontaine Improvement District was the entity created under Alabama Law by the Mobile County Commission when the Town of Salt Aire was created;
- B. noted that Mr. Harvey's other client, Bay Mortgage Investors, also owned everything to the right of Salt Aire Road with the exception of the lots which were sold within the Lake District;
- C. noted that Bay Mortgage Investors foreclosed on the property in January 2010 and as such took over as the new developer of the property and had paid none of the assessments since that time;
- D. noted that the developer had also not completed any of the infrastructure as was their responsibility;
- E. noted that a court date of April 18, 2011, had been set and that the outcome of that trial would resolve much of the matter before the Commission that day regarding the property;
- F. noted that though the applicant's attorney had stated there was no residentially developable property within the proposed subdivision, the common area showed a community center and a couple of other developments whose property could have been developed as R-1;
- G. felt that so much on the conceptual Master Plan could be developed differently and not as common area thus making any request currently before the Commission premature;
- H. noted that if allowed to remain as is and if the Court ruled in favor of the Belle Fontaine District, the District would become the new property owner and they would complete the necessary infrastructure and then deed the common areas to the Property Owners Association; and,
- I. asked that the matter be held over to allow the upcoming court case to be decided which would in turn decide much of the information before the Commission that day.

April 7, 2011
PLANNING COMMISSION MEETING

Mr. Harvey offered the following response to Mr. Anderson's comments:

- A. stated that Mr. Anderson wanted the matter held over so that he could make the same argument to the Court on April 18, 2011;
- B. noted the property was not "just one big piece of property" as the Master Plan was referred to in all of the bond documents which also clearly designated all of the common areas, including the one in question;
- C. noted that on September 30, 2010, the District Board instructed its engineer to prepare a legal description of all the common areas north of Salt Aire Road outside of the Lake District so that they could be put into the Property Owners Association;
- D. noted that in December 2010 the legal description was provided and work was begun to get that property deeded to the Property Owners Association;
- E. the District began foreclosure proceedings and Mr. Anderson was asked to exclude the common areas at that time; and,
- F. it was agreed that the District had the right to foreclose however that right did not extend to properties to which the assessments were not attached.

In deliberation, Mr. Miller asked Mr. Lawler for his opinion on the matter.

Mr. Lawler stated he felt the Planning Commission should deal with the application, in terms of what it did to the area and whether or not it accomplished the Commission's goals of planning a better community, a better project by making sure that access to the subdivision was adequate, especially as the roads were being designated as private. He stated it was important to determine if it was a good plan and if it met the regulations and if the answers were yes, then he saw no reason not to vote on the matter that day.

Mr. Turner stated it was his understanding that the applicant would be the only owner if the common areas were platted, but that as of that day they were not the owners.

Dr. Rivizzigno expressed her belief that there would be no harm in holding the matter over so that the legal issues could be cleared up.

Mr. Turner had some issues with the fact that the current property owners in the subdivision would not have access to certain parts of the properties as they did not have common areas. He queried if it would be possible to add, as a condition of approval, that what had been described as common areas remained common areas.

Mr. Vallas asked if a two week hold over would work with the stated trial date.

Mr. Olsen stated two weeks would be after the trial date but there were no guarantees that the judge would have issued a ruling on the matter by then.

April 7, 2011
PLANNING COMMISSION MEETING

Mr. Holmes stated he was not comfortable ruling on the matter that day as he felt the Commission was getting involved in matters beyond their purview.

Mr. Miller asked if the judge would have the right to ignore any decision made by the Commission.

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Jordan, to hold the matter over until the May 5, 2011, meeting.

The motion carried with Mr. Turner and Mr. Vallas voting in opposition.

Case #SUB2011-00022

Sewell's Place Subdivision, Re-subdivision of

2300 & 2304 Burgett Road

(North side of Burgett Road, 600'± East of River Road)

Number of Lots / Acres: 2 Lots / 2.6± Acres

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 4

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

The following people spoke in opposition to the matter:

- Kathleen Smith, 2306 Burgett Road, Mobile, AL; and,
- Hugh Prine, 1986 River Road, Mobile, AL.

They made the following points:

- A. noted her opposition to any subdivision of the property that would include any additional structure of any size east of the existing shell driveway leading to 2300 Burgett Road, which is the primary residence of Dr. Frazier nearest to Dog River;
- B. noted that the subdividing property line ran adjacent to 2306 Burgett Road from the street north all the way along the entire line for approximately 280 feet and concluded at Dog River;
- C. noted that prior to the construction of 2304 Burgett Road, there were never any drainage issues, including rain or water run off problems;
- D. noted that pre-construction developments indicated that there might be future flooding problems on to her property when the first loads of red clay dirt were deposited on the 2304 Burgett Road site as she saw water run off draining into her property;
- E. noted the drainage issues had created flooding issues on her

April 7, 2011
PLANNING COMMISSION MEETING

property that affected her home; and,
F. noted that the front driveway for 2304 Burgett Road had been completely concreted and had eliminated any source of natural absorption of water, which cause that drainage to come on to her property.

Mr. Plauche noted that the actual subdivision had been approved in 2005 and that only the shifting of an internal property line was before the Commission that day.

Mrs. Smith noted she was aware of that and as long as she received assurance that would be all that would take place and that no further construction would take place on the property, she had no objections.

Mr. Olsen stated that any construction would require a permit and if they were to go over 4000 square feet, they would have to obtain a land disturbance permit from City Engineering which would take into account any type of drainage issues. Mr. Olsen noted that, based upon the speaker's description, the staff would check to see if any permits had been issued for the concrete she stated had recently been poured as it could easily have exceeded the 4000 square feet and would have thus required a land disturbance permit.

The Chair asked the staff to check on the matter for Mrs. Smith and Mr. Palombo gave her his card. Mr. Olsen advised her that if she saw any activity such as she described without seeing a posted permit to please call 311 and file a complaint, which would send someone from the City out to check on the matter.

In deliberation, Mr. Watkins asked if the applicant had not pulled the proper permits would there be any recourse by the City.

Mr. Olsen stated the inspectors responsible for permit enforcement would be responsible for any of that, however, as this was simply a subdivision to adjust interior lines, there was nothing the staff could do to address the speaker's concerns.

Mr. Holmes noted that it appears from the photographs presented that the drainage from the lot onto the adjacent lot had been changed and asked what recourse the property owner had with regards to that.

Mr. Lawler reminded the Commission of the Hoffman-Thorneycroft case and that Mrs. Hoffman had what was considered by many to be a very serious lawsuit against her neighbor based upon run off from the neighbors' property.

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

- 1) revision of the plat to label each lot with its size in acres and**

- square feet, or the furnishing of a table on the Final Plat providing the same information;
- 2) revision of the plat to illustrate the 25' minimum building setback line on each lot;
 - 3) placement of a note on the Final Plat stating that if NWI wetlands are present on the site, the approval of all applicable federal, state, and local agencies would be required prior to the issuance of any permits or land disturbance activities;
 - 4) placement of a note on the Final Plat stating that development of this site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,
 - 5) subject to the Engineering Comments: *(Show Minimum Finished Floor Elevation on each lot on Plat. There is to be no fill placed within the limits of the flood plain without providing compensation. 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 motion carried unanimously.

Case #SUB2011-00025
First Church Subdivision

1801 Government Street

(Southwest corner of Government Street and Houston Street, and East side of Houston Street, 215' ± South of Government Street)

Number of Lots / Acres: 2 Lots / 0.6± Acre

Engineer / Surveyor: Frank A. Dagley & Associates, Inc.

Council District 3

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

Frank Dagley, Frank A. Dagley and Associates, spoke on behalf of the applicant and made the following points:

- A. noted the matter had been before the Board of Zoning Adjustment the previous Monday, April 4, 2011, and that the variances requested had been approved;
- B. noted these same conditions had been attached to the variances requested and most had been removed by the Board;
- C. the Board had approved a 16 foot setback and hoped the Commission would do the same, otherwise there would be a conflict when the Plat was compared to what was actually in place;
- D. noted it was a two lot application with Parcel B being the piece located on the east side of Houston Street, which would serve as a

April 7, 2011
PLANNING COMMISSION MEETING

- parking lot for the church;
- E. noted there was an alley to the north of the Houston Street property which they were currently using in some manner for ingress and egress from that lot and hoped that they could continue to use it, especially if it was a public alley way;
 - F. noted allowing continued access to the alley way would allow them better options with regards to having the 23 spaces now allowed by variance as opposed to the 60 parking spaces required by the Zoning Ordinance;
 - G. noted that the condition requiring the placement of a note on the Final Plat denying access to Government Street from Lot A had been removed by the Board and had been changed to allow for the one, substandard driveway currently in place as that driveway was the only access to the property for those with handicaps, emergency vehicles, and/or delivery trucks and hoped the Commission would do the same; and,
 - H. allowing one curb-cut to Parcel A from Government Street, which was existing, and one curb-cut to Parcel B from Houston Street.

Mr. Olsen noted Mr. Dagley was correct and those variances granted by the Board of Zoning Adjustment would need to be reflected on the Plat should the Commission choose to agree with the Board.

Mr. Waktins asked Traffic Engineering how the alley way and its use would affect the project.

Jennifer White, Traffic Engineering, stated it sounded as if the applicant was requesting additional curb-cuts to the alley way.

Mr. Vallas noted that it was his understanding that commercial lots were denied access to alley ways.

Mr. Olsen noted it was a combination of that point as well as the width of the alley and whether or not it was adequate for the residential intention of it as well as the commercial use of it.

Mr. Vallas asked if the former Pillars Restaurant had been allowed access to the alley way in question.

Mr. Olsen stated he was not sure, however, he believed that the parking lot associated with the restaurant mentioned did not have access to said alley way.

Mr. Watkins asked if the applicant could work with the Traffic Engineering Department to have a one way in/one way out of the alley for that Parcel.

Mr. Olsen stated that allowing that type access regarding the alley way had the potential

April 7, 2011
PLANNING COMMISSION MEETING

to be difficult, however, if Traffic Engineering would okay it then staff would have no problem with including that as a condition for approval.

Ms. White stated that with her limited knowledge of the alley, she would not be comfortable offering that as a condition.

Mr. Daugenbaugh stated the parking lot for the former restaurant did have access to the alleyway.

Mr. Olsen noted that the adjacent vacant lot appeared to be part of the yard for the residence immediately to the south of the church's proposed parking lot.

Mr. Olsen noted regarding the driveway on Lot A created a situation of having to back out onto Government Street to which Mr. Dagley stated that could be fixed within their addition to the building by creating a turnaround and would accept requiring the turnaround as a condition of approval.

Mr. Watkins asked for a summary of what had been presented to the Board of Zoning Adjustment regarding the matter and its end results.

Mr. Palombo stated the applicant had requested variances for parking ratio, off-site parking, landscaping, and buffering. He stated they wanted off-site parking allowed on the Houston Street site as there was no room for parking on the Government Street site.

Mr. Watkins asked how they treated the access to Government Street and if they dealt with the alley issue as all.

Mr. Palombo advised they did not address the alley issue but did deal with the Government Street curb-cut issue and the Board allowed it even though it was substandard, however, access to the alley way was not before the Board.

Mr. Olsen noted that one part of the staff's report to the Board was the provision of a crosswalk from their parking lot to the site. Mr. Olsen stated that though he had not attended the Board of Zoning Adjustment meeting, it was his understanding that the Board felt the crosswalk would be more under the purview of the Planning Commission with regards to the subdivision than under their purview with regards to the variance.

Mr. Dagley noted that Butch Ladner, Traffic Engineering, had responded at the Board of Zoning Adjustment meeting that his department had not recommended such a crosswalk.

Jennifer White, Traffic Engineering, stated that her department would only recommend and approve mid-block crosswalks when a crossing guard was provided.

Hearing no opposition or further discussion, a motion was made by Mr. Vallas, with second by Mr. Miller, to waive Section V.D.2. regarding public right-of-way frontage

April 7, 2011
PLANNING COMMISSION MEETING

for Parcel B and waive Section V.D.9. regarding the minimum building line for Parcel A along Houston Street only and approve the above referenced matter, subject to the following conditions:

- 1) re-labeling of the lots to “Lot” A and B instead of “Parcel” A and B;
- 2) dedication sufficient to comply with Section V.B.16. of the Subdivision Regulations regarding curb radii at the corner of Government Street and Houston Street;
- 3) depiction of the 25-foot minimum building setback line along Government Street for Parcel A and Houston Street for Parcel B;
- 4) depiction of a 16-foot minimum building setback along Houston Street for Parcel A, as approved by the Board of Zoning Adjustment;
- 5) depiction of the lot area, in square feet, for each lot on the Final Plat or provision of a table on the Final Plat with the same information;
- 6) placement of a note on the Final Plat stating that Parcel B is granted access to the 15-foot wide alley to the North of the parcel, subject to Traffic Engineering approval;
- 7) placement of a note on the Final Plat stating that Parcel A is limited to the existing curb cut to Government Street, with the provision of a turnaround approved by Traffic Engineering;
- 8) placement of a note on the Final Plat limiting Parcel B to one curb-cut to Houston Street, with the size, design, and exact location of all curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;
- 9) placement of a note on the Final Plat stating that development of the site must be undertaken in compliance with all local, state, and federal regulations regarding endangered, threatened, or otherwise protected species; and,
- 10) full compliance with all municipal codes and ordinances.

The motion carried with only Dr. Rivizzigno voting in opposition.

Case #SUB2011-00023

Antioch Church of God in Christ Subdivision

South side of McLeod Road, 4250'± West of Dawes Road.

Number of Lots / Acres: 3 Lots / 10.0± Acres

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

Council District

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

**April 7, 2011
PLANNING COMMISSION MEETING**

Don Rowe, Rowe Surveying, addressed the conditions that called for only one curb-cut to McLeod Road for each of the lots. He stated the applicant was trying to build a church on the five acre Lot 1, so they would like a total of two curb-cuts for Lot 1.

Mr. Olsen asked if the driveway for Lot 1 could be located away from the “flag poles” for Lots 2 and 3 so all of the curb-cuts would not be together.

Mr. Rowe stated his client would be in agreement with that.

Dr. Rivizzigno asked for confirmation that the subdivision would result in flag shaped lots.

Mr. Olsen stated that only Lots 2 and 3 would be flag shaped and that the area had other unusually shaped lots, including a number of flag shaped lots.

Mr. Davitt asked for clarification regarding the proposed locations of the curb-cuts in question.

Mr. Olsen advised that the curb-cut for Lot 1 was to be located from somewhere in the middle of Lot 1 to the west side and that Lots 2 and 3 shared one common curb-cut.

Dr. Rivizzigno asked if the Commission would be limiting future subdivision of Lots 2 and 3.

Mr. Olsen stated it would not be an issue to limit future subdivision of Lots 2 and 3 until adequate access was provided.

In deliberation, Mr. Miller expressed his unhappiness over approving flag shaped lots again as the Commission had noted they were against said lot types.

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

- 1) depiction of the 25-foot minimum building setback line from all public right-of-ways, as required by Section V.D.9. of the Subdivision Regulations with the setback on Lots 2 and 3 shown across the entire width of the lots;**
- 2) the labeling of each lot with its size in square feet and acres, or placement of a table on the plat with the same information;**
- 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.8. of the Subdivision Regulations;**
- 4) placement of a note on the Final Plat to comply with the City of Mobile stormwater and flood control ordinances (*Must comply*)**

with the Mobile County Flood Damage Prevention Ordinance. Development shall be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits.)

- 5) approval of all applicable federal, state, and local agencies prior to the issuance of any permits or land disturbance activities;
- 6) placement of a note on the Final Plat limiting the Lot 1 to one curb-cut to McLeod Road located in the area from the center to the West of the lot, with the size, design, and location to be approved by Mobile County Engineering and conform to AASHTO standards;
- 7) placement of a note on the Final Plat limiting the lots 2 and 3 to one shared curb-cut to McLeod Road, with the size, design, and location to be approved by Mobile County Engineering and conform to AASHTO standards;
- 8) placement of a note on the Final Plat stating that there shall be no future resubdivision of lots 2 and 3 until adequate frontage is provided on a county maintained road.
- 9) correction of the vicinity map to reflect the accurate location of the subdivision; and,
- 10) placement of a note on the Final Plat stating that approval of all applicable federal, state, and local agencies is required for endangered, threatened or otherwise protected species, if any, prior to the issuance of any permits or land disturbance activities.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2011-00668

Ashland Place, LLC & Queen G's Café

2518, 2524, 2534, 2536, and 2540 Old Shell Road and 153 North Florida Street
(Northeast corner of Old Shell Road and North Florida Street and West side of Florida Street 240'± North of Old Shell Road)

Planned Unit Development Approval to amend a previously approved Planned Unit Development to reconfigure the parking lot to allow a yogurt shop.

Council District 1

Mr. Vallas and Mr. Watkins recused themselves from discussion and voting on the

April 7, 2011
PLANNING COMMISSION MEETING

matter.

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

Robert Gary, a member of a family owning property behind the parking lot, spoke. He noted their concern regarding the removal of trees and the location of the building itself.

Mr. Olsen stated that application before the Commission that day did not really propose new construction. He noted they were simply re-configuring the parking on the site to allow a yogurt shop to go into one of the retail spaces. He added that because of the nature of the business going in, the Regulations called for additional parking thereby requiring the current lot to be reconfigured.

Mr. Gary asked if they would be putting in a privacy fence. He noted that he had put up a privacy fence where his residential property abutted the commercial property but that the previous commercial owners had not put in any of the required buffering.

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

- 1) **any re-striping and directional modification of the parking and circulation areas must be completed prior to any temporary or final certificate of occupancy for the proposed yogurt shop, and a site plan must be submitted as part of the permitting process;**
- 2) **no existing landscape or tree plantings shall be removed for the proposed parking area modifications;**
- 3) **placement of signage on the main site stating that additional parking is available off-site, and placement of signage at the off-site location stating that it is additional parking for the Ashland Place development, prior to any temporary or final certificate of occupancy for the proposed yogurt shop;**
- 4) **provision of parking bumpers for those parking spaces abutting right-of-way, and depiction of the bumpers on any site plan submitted for the permitting process;**
- 5) **provision of a 6' privacy fence along the West property line of the parking lot located on the West side of Florida Street; and,**
- 6) **compliance with Engineering comments: *(Must comply with all stormwater and flood control ordinances. Any increase in impervious area in excess of 4,000 square feet will require detention. Any work performed in the right-of-way will require a right-of-way permit. Drainage from any dumpster pads cannot discharge to storm sewer; must have connection to sanitary sewer.)***

April 7, 2011
PLANNING COMMISSION MEETING

The motion carried unanimously.

OTHER BUSINESS:

The Chair asked if there was any other business for the Commission.

Mr. Olsen announced that on Wednesday, April 13th, the Mobile Metropolitan Planning Organization (MPO) staff would be having an Open House in the G. M. & O. Boardroom (110 Beauregard Street, at Water Street) from 3:00-6:00 PM (presentations will be from 3:00-4:30). He noted that it would be a great opportunity for new MPO members and Technical Coordinating and Citizen Advisory Committee members to be familiar with what the MPO does. It was also an opportunity for a refresher course for long time members. He added that in the first hour and half, there would be presentations from MPO staff, the WAVE Transit, ALDOT Metropolitan Planning Section, Federal Highway Administration, and ICF (Climate Change Study).

Hearing no further business, the meeting was adjourned.

APPROVED: June 16, 2011

/s/ Victoria Rivizzigno, Secretary

/s/ Terry Plauche, Chairman

jsl