

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF MAY 7, 2009 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Terry Plauche, Chairman  
Victoria L. Rivizzigno, Secretary  
Stephen J. Davitt, Jr.  
Mead Miller  
John Vallas

**Members Absent**

Clinton Johnson  
William G. DeMouy, Jr.  
Nicholas H. Holmes, III  
Roosevelt Turner  
James F. Watkins, III

**Urban Development Staff Present**

Bert Hoffman,  
    Planner II  
Caldwell Whistler,  
    Planner I  
David Daughenbaugh,  
    Urban Forestry Coordinator  
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 #ZON2009-00227 (Planning Approval)**

**ICM Foundation**

1007 Government Street  
Southeast corner of Government Street and Chatham Street  
Planning Approval to allow a church in an R-1, Single-Family Residential District  
Council District 2

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.

Ricky Patrick, Patrick Land Surveying, spoke on behalf of the applicant and requested the matter be held over rather than denied to allow time to present the Planned Unit Development application as requested by the staff.

Hearing no opposition or further discussion, a motion was made by Mr. Plauche, with second by Mr. Vallas, to hold the matter over until the June 4, 2009, meeting, at the applicant's request, so that a Planned Unit Development application and revised Planning

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Approval site plan could be submitted by May 11, 2009, for consideration at the June 4, 2009, meeting.

The motion carried unanimously.

**Case #SUB2009-00040 (Subdivision)**

**Winston's Dees Road Subdivision**

West side of Dees Road (private road), 175'± South of D.K. Road

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

Engineer / Surveyor: Polysurveying Engineering – Land Surveying

County

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

Matt Orrell, Polysurveying of Mobile, spoke on behalf of the applicant and made the following points for approval of the matter as opposed to the recommended denial of the same by staff:

- A. the road in question is an unpaved but county maintained road, and presented the Commission with documentation from the county of the same;
- B. this property only came under the Planning Commission jurisdiction due to the recent annexation of the Theodore area; and,
- C. the property owner has considerable land holdings and sells a parcel off every year as a way of providing herself with income.

Mr. Hoffman stated that Mr. Orrell had provided a letter from Mr. John Murphy, Mobile County Public Works stating that "this is to certify that Mobile County maintains Dee's Road with a prescriptive right-of-way with a distance of 2,771 feet of graded road beginning at Roush Road to Boe Road." He also advised the Commission the staff had prepared conditions for approval of the subdivision, in case the Commission chose to rule in favor of the applicant, and read the following for the record:

- A. dedication to provide 60 feet width on Dee's Road;
- B. illustration of the 25 foot minimum building set back line as measured from the north boundary line of the subdivision and not from Dee's Road right-of-way;
- C. placement of a note on the final plat stating that the lot is limited to one curb cut to Dee's Road, with the size, location, and design to be approved by Mobile County Engineering and conform to AASHTO standards;
- D. labeling of the lot with its size in square feet and acres, or the provision of a table on the plat furnishing the same information;

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- E. placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;
- F. 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,
- G. placement of a note on the final plat stating that if the lot is developed commercially and adjoins residentially developed property, a buffer must be provided, in compliance with Section V.A.7. of the Subdivision Regulations.

Mr. Orrell stated his client would be agreeable to those recommendations except his client did not own past the center line of the road, which would mean that only a 30 foot dedication there would be possible, as is standard practice with prescriptive easements.

Mr. Hoffman stated the staff would be okay with the 30 foot dedication.

Mr. Miller expressed his concern over the irregularly shaped, flag lot and questioned why it had been created in such a shape.

Mr. Orrell stated this was the way his client had instructed him to “cut” the lot and he supposed there was probably a residential structure currently located there, which also accounted for the need for the 25 foot access to Dee’s Road.

In deliberation, Mr. Miller stated he did not want to create a situation that would later cause the City issue, however, as the area had just been annexed, he felt there might be room to be more lenient with the regulations.

Mr. Vallas wondered if the staff had conditions for approval and that the recommendation for denial was because of adherence to the regulations.

Mr. Whistler responded by saying when the report was initially written the staff had no knowledge that there was a prescriptive right-of-way and county maintained, however, that did not address the highly unusual shape of the lot, which is not in character with the rest of the neighborhood, so the staff stood by its recommendation for denial.

Mr. Davitt queried if there were a house already on the property which had created the reason for the highly unusual shape of the lot.

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Mr. Hoffman answered that the reason might be they wished to place a house there and they may need to have a legal lot in order to get a permit from the county in order to establish a residence.

Mr. Vallas asked if the site had been viewed from an aerial photograph.

Mr. Hoffman advised it had been and it showed that almost the entire property has been cleared, leaving very few trees on the property.

Mr. Lawler added that the property had apparently been cleared for a purpose, which was probably for future development. He noted that the area was new to the City of Mobile and that people had a tendency to want to keep things as there were prior to being subject to the new regulations, however, from a planning perspective there was not a lot of information regarding what the future plans for the area were.

Dr. Rivizzigno stated it seemed like there was no plan for development regarding this property and, in fact, it seemed that the property was being sold "helter skelter," with no systematic plan for the division of this property.

Mr. Miller, though not wanting to impede the sale by the property owner, felt it would be better to hold the matter over to examine the reasons behind the flag shaped lot, and other issues of concern noted by the Commission members.

Mr. Davitt agreed that it needed to be held over.

Hearing no opposition or further discussion, a motion was made by Mr. Davitt, with second by Mr. Miller, to hold the matter over until the June 4, 2009, meeting, so that the plat could be revised regarding the plan for the overall site, to address possible future subdivision, lot shape, and right-of-way for a public road.

The motion carried unanimously.

**Case #SUB2009-00034 (Subdivision)**

**Murray Brigham Place Subdivision**

4670 Hermitage Avenue

West side of Hermitage Avenue, 150' North of Andrews Road

Number of Lots / Acres: 2 Lots / 0.3± Acre

Engineer / Surveyor: Julian F. Smith

County

The Chair stated the matter was recommended for denial then 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 Mr. Miller, with second by Mr. Vallas, to deny the above referenced subdivision due to the failure of the applicant to

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provide adequate information regarding the property, as requested by the Planning Commission at its April 2, 2009, meeting, and as required by Section IV.A. of the Subdivision Regulations.

The motion carried unanimously.

**EXTENSIONS:**

**Case #SUB2008-00092 (Subdivision)**

**Laughlin Industrial Park Subdivision**

South side of Halls Mill Road,  $\frac{1}{4}$  mile $\pm$  West of Halls Mill Service Road

Number of Lots / Acres: 19 Lots / 45.7 $\pm$  Acres

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

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 Mr. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

**Case #ZON2008-01202 (Planned Unit Development)**

**Weinacker's Montessori School, Inc.**

227 Hillcrest Road

East side of Hillcrest Road, 625' $\pm$  South of Cedar Bend Court

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

Council District 5

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 Mr. Plauche, with second by Dr. Rivizzigno, to approve the above requested extension.

The motion carried unanimously.

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**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2009-00051**

**Lena Estates Subdivision, 1<sup>st</sup> Addition**

North side of Lena Road North (private street) at its West terminus

Number of Lots / Acres: 1 Lot / 2.0± Acres

Engineer / Surveyor: Baskerville Donovan, Inc.

County

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

The Chair advised that the matter had been recommended for denial, however, the applicant had requested that the matter be held over, and gave June 4, 2009, as the date of the matter's next hearing.

Marie Miller, spoke on her own behalf and agreed to the June 4, 2009, meeting date.

The Chair stated that due to the recusal of a Planning Commission, no action could be taken on the applicant's request for hold over until the June 4, 2009, meeting, therefore the application would be reheard by the Planning Commission at the May 21, 2009, meeting. The Chair advised the applicant to have a representative present at the May 21, 2009, meeting to request the matter be held over at that time, should they still wish to do so.

**Case #SUB2009-00053**

**Billy Courtney Subdivision**

West side of Zeigler Circle East, 525'± South of Zeigler Boulevard

Number of Lots / Acres: 1 Lot / 0.8± Acre

Engineer / Surveyor: Polysurveying Engineering – Land Surveying  
Council District 7

Matt Orrell, Polysurveying of Mobile, spoke on behalf of the applicant, saying his client simply wanted to take the two commercial lots and merge them into one so that he might be able to build across the property lines, and inasmuch, he requested that item one state the site was limited to two (2) curb cuts as opposed to a single curb cut.

Mr. Hoffman advised that no site plan had been provided to show what was proposed for the development, which would have justified the request. He added that if staff had had that information, the recommendation might have been different. He then asked for Traffic Engineering's comments on the matter.

Jennifer White, Traffic Engineering, stated the lot was large enough for two (2) curb cuts, however, the approval for that would depend on where the curb cuts were located.

Mr. Orrell stated his client would be happy to leave that at the discretion of Traffic Engineering, as long as two curb cuts were approved.

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

- 1) placement of a note on the final plat stating that the subdivision is limited to two (2) curb-cuts, with the size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 2) revision of the plat to depict a minimum 25' front setback line along Zeigler Circle East;
- 3) placement of a note on the final plat stating that no construction is allowed within easements;
- 4) revision of the plat to label the lot with its size in square feet, or the provision of a table on the final plat with the same information;
- 5) placement of a note on the plat / site plan stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species; and,
- 6) compliance with City Engineering comments: (*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 #SUB2009-00052**

**Robinson Subdivision, Re-subdivision of Unit 3**

10080 and 10090 Tanner Williams Road

North side of Tanner Williams Road,  $\frac{1}{4}$  mile $\pm$  West of Snow Road North

Number of Lots / Acres: 2 Lots / 5.5 $\pm$  Acres

Engineer / Surveyor: Joseph T. Regan, Jr., P.L.S.

County

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.

Emmanuel Gregory, 10090 Tanner Williams Road, the applicant, spoke on his own behalf saying he was in agreement with all of the conditions with the exception of number 2 because he had an existing, 10 year old, circular, driveway, which had previous county approval.

Mr. Hoffman stated the staff had no issues with modifying the curb cut condition, as long as it met with Mobile County Engineering approval.

Hearing no opposition or discussion, a motion was made by Mr. Davitt, with second by

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Mr. Vallas, to approve the above referenced re-subdivision, subject to the following conditions:

- 1) the applicant maintain a minimum building setback line of at least 35', as measured from the centerline of Tanner Williams Road;
- 2) placement of a note on the final plat stating that Lot A is limited to one curb-cut to Tanner Williams Road and that Lot B is limited to two (2) curb-cuts to Tanner Williams Road, with the size, location, and design to be approved by County Engineering and in conformance with AASHTO standards;
- 3) placement of a note on the final plat stating that no future subdivisions will be allowed unless additional adequate frontage on a public street is provided;
- 4) revision of the plat to label the lots with their sizes in square feet (in addition to acreage), or the provision of a table on the final plat with the same information;
- 5) placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;
- 6) placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,
- 7) submission of a letter from a licensed engineer certifying compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.

The motion carried unanimously.

**Case #SUB2009-00054**

**Ferguson's Addition to Firetower Road Subdivision**

North and West sides of Firetower Road, extending to the East terminus of Willedee Circle South

Number of Lots / Acres: 2 Lots / 83.0± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.  
County

The Chair stated the matter had been recommended for hold over by the staff, however, if there were those who wished to speak on the matter to do so at that time.

Doug Ferguson, 2701 Firetower Road, Mobile, AL, the applicant, asked if he might get the matter at least partially approved at that meeting, making the following points in that

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favor:

- A. simply trying to sell of two (2) 5-acre tracks out of 80 acres on Firetower Road and had been trying to do so since January of 2009;
- B. the extreme time it has taken to do this has resulted in the loss of one of his two buyers, and if something is not resolved soon, he might loose the other buyer; and,
- C. he has spoken with his engineer, Don Coleman, Rester and Coleman, to see what can be done to rectify the situation with the city.

Mr. Hoffman stated the issue as being, based upon the site plan submitted, there were two proposed lots shown with the rest of the acreage noted as “future development,” when it appears that it is already developed and therefore it also needs to considered a lot, making the application for a minimum of 3 lots, which it is not. He said this would require additional notification labels and lot fee.

Mr. Ferguson stated his mother-in-law owned part of the property to the north and the other tract was that of Hopkinton Estates.

Mr. Hoffman advised the Commission that based upon the information heard that day, the staff would recommend the matter be held over until the June 4, 2009, meeting so that a corrected subdivision plat could be submitted.

The Chair asked what options were available to the Planning Commission.

Mr. Hoffman advised that the Commission had the legal authority to approve the subdivision as submitted or in any configuration they deem fit, but he deferred to Mr. Lawler for final opinion.

Mr. Lawler stated that the Commission would be “skipping a step” with regards to the notice if new notifications were not sent out, which could create a built-in objection for a later date, but based upon statements by the applicant, that probably wouldn’t be the case here. He went on to state that based upon the overall circumstances, he believed the Commission could grant the applicant some relief that day.

Mr Hoffman added that the staff had no conditions for approval prepared for this application.

Hearing no opposition or further discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Miller, to hold the matter over until the June 4, 2009, meeting, to allow the applicant to address the issues regarding the excluded child parcel and the “future development” parcels.

The motion carried unanimously.

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**Case #SUB2009-00056**

**Orbital Subdivision**

West side of Inn Road, 605'± South of Tillmans Corner Parkway

Number of Lots / Acres: 2 Lots / 2.8± Acres

Engineer / Surveyor: Anil Badve & Associates

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.

Kathleen Waltman, CLK Multifamily Management, management company for Plantation Apartments, who asked was the property already developed or was this plan for a new property and if so, would it be residential or commercial in nature?

Mr. Hoffman stated that at this time the developers are proposing a two lot subdivision but as this is in the newly annexed area, the site is technically zoned as R-1, single family, residential, however, it is proposed to be commercial at the time the City Council adopts the recommended zoning plan for the area.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to waive Sections V.D.1. and V.D.3. of the Subdivision Regulations and approve the above referenced subdivision subject to the following conditions:

- 1) placement of a note on the Final Plat stating Lot 1 and Lot 2 are limited to one curb cut each onto Inn Road, with the size, location, and design of each curb cut to be approved by Traffic Engineering and conform to AASHTO standards;
- 2) placement of the 25 foot building setback line on the Final Plat;
- 3) retention of the lot sizes (in square feet) labeling on the Final Plat;
- 4) 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,
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2009-00058**

**Alexis Place Commercial Park Subdivision**

3700 Schillinger Road North

East side of Schillinger Road North at the East terminus of Hi Wood Circle South

Number of Lots / Acres: 2 Lots / 1.1± Acres

Engineer / Surveyor: Austin Engineering Co. Inc.

County

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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 Mr. Miller, with second by Dr. Rivizzigno, to approve the above referenced subdivision, subject to the following conditions:

- 1) **final plat to be signed and recorded simultaneously with Alexis Place Subdivision;**
- 2) **dedication of sufficient right-of-way to provide a minimum 50' as measured from the centerline of Schillinger Road North;**
- 3) **placement of a note on the final plat stating that the subdivision is limited to one shared curb cut to Schillinger Road North and Lot A is limited to one curb cut to Alexis Park Drive, with the sizes, locations, and designs to be approved by County Engineering and in conformance with AASHTO standards;**
- 4) **provision of an adequate radius, in compliance with Section V.A.16 of the Subdivision Regulations, at the intersection of Alexis Park Drive and Schillinger Road North;**
- 5) **provision of a minimum detention capacity volume of a 50 year post development storm, with a maximum release rate equivalent to the 10 year storm pre-development rate, and the placement of a note on the final plat stating that the development has been designed to comply with all other 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, as well as the detention and release rate requirements of Mobile County for projects located within the Converse watershed, prior to the obtaining of permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;**
- 6) **placement of a note on the plat stating that the site must be developed in compliance with all local, state, and Federal regulations regarding endangered, threatened, or otherwise protected species;**
- 7) **placement of a note on the final plat stating that any lots developed commercially and adjoin residentially developed property shall provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and,**
- 8) **submission of a letter from a licensed engineer certifying**

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**compliance with the City of Mobile's stormwater and flood control ordinances to the Mobile County Engineering department and the Planning Section of Mobile Urban Development prior to issuance of any permits.**

The motion carried unanimously.

**Case #SUB2009-00060**

**Alexis Place Subdivision**

3700 Schillinger Road North

East side of Schillinger Road North at the East terminus of Hi Wood Circle South

Number of Lots / Acres: 66 Lots / 16.5± Acres

Engineer / Surveyor: Austin Engineering Co. Inc.

County

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.

Keith Cochran, 7585 Park Place Drive South, Mobile, AL, spoke on his own behalf as applicant, noting the staff had recommended the matter be held over so that the entirety of a certain tax parcel could be included in the application. He wondered if that was due to the questions regarding the radius of where it comes out at Schillinger Road as well as where it comes out at the northern end. He said that parcel had not been included as part of the application as he had no ownership in the property. He added that he had discussed the possibility of selling that property with the property owner but that they were not interested.

Mr. Hoffman stated that it was his understanding that the large parcel in question was in fact inclusive of the "stem" that would be the proposed detention area.

Mr. Cochran stated they had purchased that small piece from the other land owner earlier. It has only a metes and bounds description and water will simply run through it on its way to a creek bed located there. He said the property had been purchased earlier in an effort to prevent possible litigation due to stormwater runoff in the future.

Mr. Hoffman asked when the parcel had been acquired.

Mr. Cochran said it had been in the last year or so.

Mr. Hoffman advised Mr. Cochran that in order to make the acquisition of property by one party from another party legal, it must be done through the subdivision process, which is why the staff has made these recommendations.

After hearing all of this, Mr. Cochran, requested that the matter be held over until the June 18, 2009, meeting.

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Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Davitt, to hold the matter over until the June 18, 2009, meeting, per the applicant's request, to allow the applicant to include the entirety of Tax Parcel R022304193000002. in the subdivision process.

The motion carried unanimously.

**Case #SUB2009-00059**

**Napoleon Subdivision**

208 North Lafayette Street

Southeast and Northeast corners of North Lafayette Street and St. Stephens Road

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

Engineer / Surveyor: Byrd Surveying, Inc.

Council District 2

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

Jerry Byrd, Byrd Surveying, Inc., spoke on behalf of the applicant and requested the matter be held over until the May 21, 2009, meeting, as there was an application to be heard at the upcoming Board of Zoning Adjustment meeting. The applicant was to submit a revised plat to that Board and it was believed that the Board of Zoning Adjustment was looking for whatever action the Planning Commission might take before the Board would make a final decision regarding this subdivision.

Mr. Hoffman stated the Board of Zoning Adjustment held over the application regarding this site to hear a decision from the Planning Commission prior to making their decision. Mr. Hoffman added that if there were no revisions to be made by the applicant, that a one meeting holdover would be sufficient.

The following people spoke in opposition to the matter:

- Stephanie Jackson, 204 North Lafayette Street, Mobile, AL; and,
- Virginia McClinton, daughter of a Lafayette Street resident who has lived at that location since 1953.

They made the following points:

- A. there is a lot of noise from the club which is not in character with the residential nature of the area;
- B. patrons sit in their parked cars in the present fenced in parking lot with their head lights on, music blasting, as well as they loiter in the parking lots, doing all of this into the early hours of the morning;
- C. trash, such as broken beer bottles, is present in the driveways and fence lines of neighboring, residential properties;

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- D. patrons are currently parking in an adjacent parking lot, on the area sidewalks and easements, issues they are trying to have legalized today; and,
- E. the privacy fence currently erected is in disrepair and offers no buffering to the residential property next door.

Hearing no further opposition or discussion, a motion was made by Dr. Rivizzigno, with second by Mr. Davitt, to hold the matter over until the May 21, 2009, meeting, at the applicant's request.

The motion carried unanimously.

**Case #SUB2009-00057**

**McArdle Subdivision, Phase II**

5755 Carol Plantation Road

Northeast corner of Carol Plantation Road and Williams Road

Number of Lots / Acres: 3 Lots / 2.3± Acres

Engineer / Surveyor: Gerald A. Smith

County

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.

Orie McArdle, 5755-A Carol Plantation Road, Mobile, AL, stating the property is involved in a dispute and he did not want anyone moving next to him as his mother let him build out on that property some 18 years ago.

The Chair asked for clarification regarding the application's state purpose of making 3 legal lots of record from one existing lot.

Mr. Hoffman stated it appears the applicants are creating 3 individual lots for the 3 existing residences, with the middle one being a mobile home.

Mr. Vallas asked if all the existing curb cuts are in place and that there would be no change to traffic.

Mr. Hoffman stated that would appear to be correct.

The Chair and Mr. Vallas asked for more clarification from Mr. McArdle regarding his opposition, to which Mr. McArdle stated his brother had no legal right to subdivide the property as the property was their mother's estate.

Mr. Hoffman noted that if this were the case, it would be a civil matter between the parties involved but that the Planning Commission had no jurisdiction over it.

The applicant, Jessica McArdle, 5755 Carol Plantation, Mobile, AL, addressed the

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Commission and advised them that she had power of attorney with regards to this property. She told the Commission that her grandmother had owned the property prior to passing away. At the time of her grandmother's passing, the property was left to Ms. McArdle's father as a life estate and part of the deed stipulates that her father, though he may not sell off the property, may split it.

Mr. Vallas asked what the purpose for the subdivision was.

Ms. McArdle stated the division was due to the fact that the power company would only allow 2 power boxes per lot, so the lots need to be legally divided so they could receive power and also a legal "911" address.

Mr. Lawler felt Ms. McArdle had standing to make her request and had no problem with the Commission going forward with the matter.

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

- 1) **depiction of the existing right-of-way for Carol Plantation Road in the area of this application;**
- 2) **dedication sufficient to provide 30 feet from the centerline of Carol Plantation Road, if necessary;**
- 3) **dedication sufficient to provide 30 feet from the centerline of Williams Street;**
- 4) **revision of the 25-foot minimum building setback line to reflect the right-of-way dedication;**
- 5) **placement of a note on the final plat limiting Lot 1 to the existing curb cut to Carol Plantation Road and denying Lot 1 access to Williams Road with the size, design, and location of all curb cuts to be approved by Mobile County Engineering;**
- 6) **placement of a note on the final plat limiting Lot 2 to one curb cut to Williams Road with the size, design, and location of all curb cuts to be approved by Mobile County Engineering;**
- 7) **placement of a note on the final plat limiting Lot 3 to the existing curb cut to Williams Road with the size, design, and location of all curb cuts to be approved by Mobile County Engineering;**
- 8) **placement of a note on the final plat stating that the development will be designed to comply with the stormwater detention and drainage facility requirements of the City of Mobile stormwater and flood control ordinances, and requiring submission of certification from a licensed engineer certifying that the design complies with the stormwater detention and drainage facility requirements of the City of**

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- Mobile stormwater and flood control ordinances prior to the issuance of any permits. Certification is to be submitted to the Planning Section of Urban Development and County Engineering;**
- 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) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.**

The motion carried unanimously.

**Case #SUB2009-00061**

**Woodside Subdivision, Re-subdivision of a Portion of Unit Nine Phase I**

South side of Foxwood Drive, extending from its East terminus to Barneswood Drive; Southwest corner of Foxwood Drive and Barneswood Drive; and West side of Barneswood Drive, 180° $\pm$  South of Foxwood Drive

Number of Lots / Acres: 11 Lots / 3.0 $\pm$  Acres

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

County

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.

William M. Raley, the adjacent property owner, spoke in opposition stating there was a 6x6 foot open drainage ditch in the area which was causing drainage issues to his property.

Mr. Hoffman said it was his understanding with regards to the dirt pit in the area that the access for that dirt pit was located between the potential development and the property owners who front along Barneswood Drive and that problems with the drainage ditch may not be related to the development at all.

Don Rowe, Rowe Surveying and Engineering Co. Inc., stated the ditch was located on the entrance road to the dirt pit and that the owner of said dirt pit had contacted him to tell him there were issues with the drain and they were working on those. Mr. Rowe did say that the drainage for the proposed subdivision would flow to that ditch so its repair would be necessary.

Mr. Lawler stated he felt this matter should be held over so the applicant could come back and demonstrate how run off water would be taken care of, due to the damaged drainage system.

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Hearing no further opposition or discussion, a motion was made by Mr. Plauche, with second by Mr. Miller, to hold the matter over until the June 4, 2009, meeting, so the applicant can investigate any drainage problems on an adjacent property that will impact the proposed development and the applicant is to provide the Planning Commission and staff with the status of the receiving drainage facility.

The motion carried unanimously.

**NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:**

**Case #ZON2009-01097**

**SME Airport, LLC**

4013 Airport Boulevard

South side of Airport Boulevard, 230'± West of Azalea Road, extending to the West side of Azalea Road, 230'± South of Airport Boulevard

Planned Unit Development Approval to allow a truck unloading and trash pickup service yard in an existing parking lot in a B-2, Neighborhood Business District.

Council District 5

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

The Chair announced that due to the recusal of a Planning Commissioner, no action could be taken on the applicant's request for hold over until the June 4, 2009, meeting, therefore the application would be re-heard by the Planning Commission at the May 21, 2009, meeting.

**NEW PLANNING APPROVAL APPLICATIONS:**

**Case #ZON2009-01066**

**Ben Cummings**

107 N Lafayette Street

Northwest corner of North Lafayette Street and Old Shell Road extending to the Northeast corner of Old Shell Road and Providence Street

Planning Approval to amend a previously approved Planning Approval to allow a playground expansion, student loading and unloading drive, parking lot expansion, and additional street access for an existing church school in an R-1, Single-Family Residential District.

Council District 2

Ben Cummings, Cummings Architecture, representing St. Mary's School, stated they were agreeable with the staff's recommendations, however, in his previous discussions with staff he had failed to mention that the work would be done in phases, with some of the work to be done the summer of 2009 and the remainder to be done the summer of 2010. He added that as the work would be done in phases, he was not sure what impact that would have upon getting the necessary permits to do the work.

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Mr. Hoffman advised that Planning Approvals do not expire and as long as the work undertaken complies with the plans approved there will be no issues.

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

- 1) placement of appropriate signage (such as “one-way” or “do not enter”) and directional arrows) indicating direction of travel (utilizing thermoplastic or cold lay material as per Traffic Engineering) at appropriate ends of the one-way driveway;**
- 2) placement of appropriate signage and directional arrows where the indicating “no left turn” from the one-way driveway into the parking area;**
- 3) placement of a yield sign facing traffic exiting the parking area at the intersection with the one-way driveway;**
- 4) placement of appropriate signage and directional arrows of appropriate material indicating “no right turn” from the parking area into the driveway;**
- 5) all gates impacting vehicle traffic and parking areas must be opened at least 45 minutes before school hours and remain open until 45 minutes after school hours, and during special events at the school;**
- 6) coordination with Urban Forestry concerning the type, design, and location of paving within the Critical Root Zone of existing trees impacted by this project;**
- 7) full compliance with the tree planting and landscaping ordinance, with frontage tree requirements along North Lafayette Street to be coordinated with Urban Forestry and the Right-of-Way Department;**
- 8) provision of a dumpster enclosure for the dumpster area in the new parking lot;**
- 9) all improvements must comply with any requirements of the Mobile Historic Development Commission; and,**
- 10) full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

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**GROUP APPLICATIONS:**

**Case #SUB2009-00050 (Subdivision)**

**Josephine Allen Subdivision**

Area bounded by Dr. Thomas Avenue North, Herman Drive, extending to the South side of Chin Street

Number of Lots / Acres: 3 Lots / 43.8± Acres

Engineer / Surveyor: Speaks and Associates Consulting Engineers, Inc.

Council District 2

(Also see **Case #ZON2009-01025 (Planned Unit Development) Josephine Allen Subdivision**, below)

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

Gloria Jones, whose mother owns property at 813 Dr. Thomas Avenue, wanted clarification if that property would be bought or would the proposed development be adjacent to her mother's property.

Mr. Hoffman explained that this property was the current public housing project and there are vacant areas on Dr. Thomas Avenue. He added that the proposal was that along the western portion, new homes would be built with a new community center to be built on the eastern side, utilizing on the property currently owned by the Housing Board.

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the June 4, 2009, meeting, so that the following could be undertaken, with revisions provided to the staff by May 18, 2009:

- 1) revision to depict compliance with Engineering comments:  
*(Show Minimum FFE on plans and plat. For Lot #1, all buildings will be subject to A Zone restrictions and requirements unless this subdivision application is revised to subdivide out the portion of Lot #1 that is located in the A Zone. No fill is allowed within a special flood hazard area 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. Dedication of 5 feet of additional ROW will be required on the portion of Dr. Thomas Avenue N. that has a 40 foot ROW. A minimum of a 25 foot radius to be dedicated to the City of Mobile is required at the SE corner of Lot #1 and the SW corner of Lot #2. A drainage easement will be required for any storm drainage system receiving drainage from a public street. The size and location of any required easements is subject to the approval of the City Engineer.); and,*
- 2) revision of the plat to reflect new area calculations and

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setbacks based upon right-of-way dedication.

The motion carried unanimously.

**Case #ZON2009-01025 (Planned Unit Development)**

**Josephine Allen Subdivision**

Northwest corner of Dr. Thomas Avenue North and Bishop Avenue

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

Council District 2

(Also see **Case #SUB2009-00050 (Subdivision) Josephine Allen Subdivision**, above)

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

Hearing no opposition or discussion, a motion was made by Mr. Plauche, with second by Dr. Rivizzigno, to hold the matter over until the June 4, 2009, meeting, so that the following could be undertaken, with revisions provided to the staff by May 18, 2009:

- 1) revision to depict compliance with Engineering comments:  
*(Show Minimum FFE on plans and plat. For Lot #1, all buildings will be subject to A Zone restrictions and requirements unless this subdivision application is revised to subdivide out the portion of Lot #1 that is located in the A Zone. No fill is allowed within a special flood hazard area 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. Dedication of 5 feet of additional ROW will be required on the portion of Dr. Thomas Avenue N. that has a 40 foot ROW. A minimum of a 25 foot radius to be dedicated to the City of Mobile is required at the SE corner of Lot #1 and the SW corner of Lot #2. A drainage easement will be required for any storm drainage system receiving drainage from a public street. The size and location of any required easements is subject to the approval of the City Engineer.);*
- 2) revision to show existing Live Oak trees on proposed Lot 1, with proposed development;
- 3) revision to depict compliance with Fire Department comments:  
*(All projects must comply with the requirements of the 2003 International Fire Code, including Appendices B through D, as adopted by the City of Mobile, and the 2003 International Existing Building Code, as appropriate. Specific compliance with Section 508.5.1 – Fire Hydrants, and Appendices C and D – Fire Hydrant Spacing and Access.);*
- 4) revision of the site plan to show full compliance with the tree and landscaping requirements of the Zoning Ordinance for

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- proposed Lots 1 and 2, including calculations for landscape areas and required PUD common open space for development on Lot 1;**
- 5) revision of the site plan to show sidewalks along all public and private street frontages for those lots accommodating new development;**
  - 6) revision of the site plan, if necessary, to provide adequate paved off-street parking area to ensure that driveway length leading to garage/carport can accommodate one full-size pick-up or SUV, with no overhang into the right-of-way or required sidewalk;**
  - 7) revision of the site plan to depict a screen dumpster, if one will be used, or placement of a note on the site plan explaining how garbage removal is undertaken; and,**
  - 8) placement of a note on the site plan stating that any tree planted within 15 feet of an overhead powerline shall be either live oak (overstory) or crepe myrtle (understory), and depiction of any overhead powerlines that will remain after redevelopment.**

The motion carried unanimously.

**Case #SUB2009-00055 (Subdivision)**

**Northside Ltd./Joint Venture Subdivision**

3050 Dauphin Street

North side of Dauphin Street, 355'± West of North Sage Avenue, extending to the West side of North Sage Avenue, 180'± North of Dauphin Street

Number of Lots / Acres: 3 Lots / 8.2± Acres

Engineer / Surveyor: Rester and Coleman Engineers, Inc.

Council District 1

(Also see Case #ZON2009-01098 (Planned Unit Development) **Northside Ltd./Joint Venture Subdivision**, below)

Marl Cummings, Cummings and Associates, represented the property owner and advised they only had one concern with the staff's recommendations, being limited to one curb cut to Sage Avenue. He asked that it be increased to two (2) curb cuts, which would be in agreement with the staff's recommendation on a previous application.

The Chair asked if Traffic would have any issues with the applicant's request and was advised they would not.

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

- 1) the placement of a note on the Final Plat stating the**

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- development be limited to two (2) curb-cuts onto the Dauphin Street and two (2) curb-cuts to North Sage Avenue, with the size, design, and location to be approved by Traffic Engineering, and conform to AASHTO standards;
- 2) the placement of a note on the Final Plat stating that the traffic calming devices to be installed prior to the issuance of a Certificate of Occupancy for any new development within the subdivision; and,
  - 3) the placement of the 25-foot building setbacks on the Final Plat.

The motion carried unanimously.

**Case #ZON2009-01098 (Planned Unit Development)**

**Northside Ltd./Joint Venture Subdivision**

3050 Dauphin Street

North side of Dauphin Street, 355'± West of North Sage Avenue, extending to the West side of North Sage Avenue, 180'± North of Dauphin Street

Planned Unit Development Approval to allow shared access between two building sites.  
Council District 1

(Also see Case #SUB2009-00055 (Subdivision) **Northside Ltd./Joint Venture 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 Mr. Vallas, with second by Dr. Rivizzigno, to approve the above referenced Planned Unit Development, subject to the following conditions:

- 1) the submission of full Planned Unit Development applications prior to the development of Lots 1A and 3A;
- 2) the submission of a revised PUD site plan with the placement of a note stating that the traffic calming devices to be installed prior to the issuance of a Certificate of Occupancy for any new development within the subdivision; and,
- 3) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

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**Case #ZON2009-01102 (Planned Unit Development)**

**United Rentals**

1413 Montlimar Court

Northeast corner of Montlimar Court and Montlimar Drive, extending to the Southeast corner of Montlimar Drive and Pleasant Valley Road

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

Council District 5

(Also see **Case #ZON2009-01101 (Planning Approval) United Rentals, below**)

The following people spoke in support of the application, but with modifications:

- Tony Spencer, Frank A. Dagley and Associates;
- Michael Kopf, M.R. Kopf Contracting, Inc.; and,
- David Murphy, United Rentals, 1413 Montlimar.

They made the following points:

- A. the provision of a 6 foot high privacy fence around all storage areas, saying this would impede the company's ability to successfully promote the rental of their larger equipment, those meaning no definitive long-term storage areas exist;
- B. concern over the new requirement that the dumpster pad be tied into the sanitary sewer system, and they are not sure if it applies to them as they have been given different opinions by representatives from MAWSS and also from the plumbing inspection department;
- C. the business is fluid, with most pieces rented on a daily basis; and,
- D. currently in place is chain link fencing topped with barbed wire, which allows potential customers to be able to see the equipment available as well as protect that equipment from theft, and rather than install the privacy fencing, the applicant would like to continue using what is in place and simply extend that fencing on one side.

Mr. Hoffman responded by saying the privacy fence is recommended around the perimeter of the storage area and it might be possible to distinguish between storage area and display area. He went on to state that any barbed wire fencing, even on a commercial property, does require a permit and approval by the Director of Urban Development department, so any new barbed wire fencing must be approved by the director. He then referred the dumpster and sanitary sewer issue to John Forrester, City of Mobile Engineering.

Mr. Forrester advised that the dumpster pad issue had recently come before his department as they are regulated by MS-4 permit for ADEM for the discharge of stormwater and this has become an issue with car washes as well. He acknowledged that this is a newly adopted policy by city Engineering to not allow any more discharge to

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stormwater from dumpster pads and car wash facilities because it is a violation of their MS-4 permit.

Mr. Miller asked to be shown where staff recommended the fence be placed.

Using the overhead display, Mr. Hoffman outlined the area identified as “outside storage,” saying that it appeared they were storing equipment in this area and depending on how “outdoor storage area” is defined, such as being able to distinguish between storage versus display, and if they were bringing equipment into the rear area for servicing, then that area could be considered “outdoor storage”.

Mr. Davitt asked if it would be possible to leave the chain link fence in the front and put the 6 foot privacy fence on the north side and along the back as it is along Montlimar Creek and nothing is back there.

Mr. Kopf said that option was “do-able” but that there was security across the back of the property as there was electric fence that ran along the chain link along the back of the property.

The Chair asked if there were an area on site where parts such as tires, batteries, etc., were kept.

Mr. Kopf said those type things were kept in the service department building.

In deliberation, Mr. Miller expressed his belief in privacy fences but stated he didn’t believe that this situation truly called for one.

Mr. Hoffman expressed that this case was troublesome as it not only had become evident the fence involved had barbed wire, but there was also a portion of the fence that was electrical, which he was not sure was allowed by the City Code, so he recommended that the matter be held over so that more information regarding the site and its operation could be given to the staff.

Mr. Miller agreed with Mr. Hoffman on the course of action.

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to hold the matter over until the June 4, 2009, meeting, by the Planning Commission to allow the applicant time to provide additional information as to why a privacy fence is not an appropriate buffer on this site, to further clarify circulation on the site for equipment, to depict display versus non-display area on the site plan, and to provide additional information regarding the existing chain-link with barbed-wire fence and the existing electrified chain-link with barbed-wire fence, with the revised information to be submitted by May 18, 2009.

The motion carried unanimously.

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**Case #ZON2009-01101 (Planning Approval)**

**United Rentals**

1413 Montlimar Court

Northeast corner of Montlimar Court and Montlimar Drive, extending to the Southeast corner of Montlimar Drive and Pleasant Valley Road

Planning Approval to amend a previously approved Planning Approval to allow an equipment rental yard in a B-3, Community Business District.

Council District 5

(Also see **Case #ZON2009-01102 (Planned Unit Development) United Rentals, above**)

Hearing no opposition or further discussion, a motion was made by Mr. Miller, with second by Dr. Rivizzigno, to hold the matter over until the June 4, 2009, meeting, by the Planning Commission to allow the applicant time to provide additional information as to why a privacy fence is not an appropriate buffer on this site, to further clarify circulation on the site for equipment, to depict display versus non-display area on the site plan, and to provide additional information regarding the existing chain-link with barbed-wire fence and the existing electrified chain-link with barbed-wire fence, with the revised information to be submitted by May 18, 2009.

The motion carried unanimously.

**OTHER BUSINESS:**

The Chair asked for an explanation from staff regarding the removal of the covenant requiring Planning Commission approval to amend and/or remove covenants from the Broad Street-Beauregard Street Connection Project UR Ala. 3-1, a public project.

Mr. Hoffman stated that the Planning Commission recently had approved a new development for the Mobile Housing Board property on the north side of Beauregard Street. The lots there were created during the Urban Renewal projects of the late 1950's and early 1960's. There were covenants associated with those lots and in order for the Housing Board to move forward they are requesting the Planning Commission approve the amendment and/or remove any of the covenants that apply to the property. He added that the staff's recommendation on the matter is for approval.

Hearing no opposition or further discussion, a motion was made by Mr. Vallas, with second by Mr. Davitt, to remove said covenants as per the staff's recommendation.

The motion carried unanimously.

Hearing no further business, the meeting was adjourned.

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**PLANNING COMMISSION MEETING**

**APPROVED:** November 5, 2009

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Dr. Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

jsl