

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JANUARY 20, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victor McSwain, Secretary
Nicholas Holmes III (S)
James Laier, Vice Chairman
Mead Miller
Victoria L. Rivizzigno
James Watkins III

Members Absent

Ann Deakle
Clinton Johnson
John Vallas

Urban Development Staff Present

Laura J. Clarke, Director,
Urban Development Department
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Bert Hoffman, Planner I
David Daughenbaugh, Urban Forestry
Val Manuel, Secretary II

Others Present

John Lawler, Assistant City Attorney
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

APPROVAL OF MINUTES:

After discussion a motion was made by Mr. Plauche and seconded by Mr. Watkins to approve the minutes of November 18, 2004 and December 2, 2004, meeting as submitted.

The motion carried unanimously.

HOLDOVERS:

Case #SUB2004-00271 (Subdivision)

Essex Place Subdivision

South side of Johnson Road, 485'± East of Scott Dairy Loop Road West.
27 Lots / 8.7± Ac

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

Judy Sizemore, 3355 W. Scott Dairy Loop, was present in opposition to the application. Ms. Sizemore pointed out that her property adjoins this site. She said when the owner decided to sell this property a letter was sent to all the neighbors. The letter stated that they wanted to sell the property as it was, to be divided into large, single-family units, a minimum of about 2 ½ acres. The owner asked if the neighbors would agree to the proposal. Ms. Sizemore said the neighbors agreed and assumed that there would be houses similar to the existing homes. Ms. Sizemore said she had a five-acre plot. She assumed the other houses being built would be large houses, because there was a minimum square footage that was allowed. She said they did not want postage-stamp little houses where there were 2,000-3,500 square foot homes. Ms. Sizemore felt it would devalue their property. She asked that the Commission deny this request.

Mr. Olsen stated that this application was held over because there was a question of restrictive covenants that prohibited future resubdivision of the property. He said those covenants were amended to allow this resubdivision. Mr. Olsen also said the main thing they had discussed at the last meeting was that the Planning Commission was not the administrator or enforcer of restrictive covenants.

In discussion Mr. Watkins asked Ms. Sizemore if the agreement she referred to was a result of some court order, or was there some other document the neighbors signed when the owner wanted to sell the property.

Ms. Sizemore said there was a letter sent out to all the people whose property looked, faced that forty acre, informing them that the property was going to be sold. The owner of the property had agreed to sell it on the condition that it be divided into large, single-family units that would not be subdivided or broken down into subdivisions and there would be a minimum of 2,000 square foot houses built on the property.

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

- 1) the dedication and construction of the new street to County Engineering standards.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2003-00305 (Subdivision)

Hutson-Key Subdivision

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

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24 Lots / 8.8_± Acres

The request for a one-year extension of a previous approval was considered.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant.

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

The motion carried unanimously.

Case #SUB2003-00032 (Subdivision)

River Oak Estates Subdivision

3700 Rochelle Lane (East terminus of Rochelle Lane at the South terminus of Lipscomb Landing Road, extending East to Moore Creek).

11 Lots / 33.8_± Acres

The request for a one-year extension of a previous approval was considered.

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

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2004-02623 (Rezoning)

Tam Nguyen

2400 Airport Boulevard (North side of Airport Boulevard, extending from Pinehill Drive to Mount Island Drive East).

A request for a change in zoning from R-1, Single-Family Residential, and B-2, Neighborhood Business, to B-2, Neighborhood Business, to eliminate split zoning was considered.

The site plan illustrates the existing building, parking, and landscaping.

(Also see Case SUB2004-00267 – La Louisiana Plantation 2 Subdivision, Resubdivision of – Below).

Pat Roundtree, 256 Mt. Island Drive stated that she had concerns with the parking, parking lot lights, and the lights from cars shining in her front door. She also wanted to know if there would be a buffer zone. Ms. Roundtree said she would also like to see a fence erected.

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Mr. Plauche stated that this application is just a change in zoning. He said no plans had been submitted. Any plans submitted will have to be done per the City regulations as far as screening and everything else.

Mr. Olsen said to rezone the R-1 single-family property that currently has a non-conforming B-2 status, since a parking lot is there, which was a part of La Louisiana Restaurant, they would have to bring the zoning into compliance with the actual use of the property. He said the only way it would come back to the Commission is if they were to propose an additional building or something that would require either a PUD or a Planning Approval.

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

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance for the entire site;
- 2) provision of a 6' privacy fence in compliance with Section IV.D.1., along the West and North property lines;
- 3) that the site be limited to one curb cut to Airport Boulevard, with the location and design to be approved by Traffic Engineering;
- 4) that the site be denied direct access to Pinehill Drive and Mount Island Drive;
- 5) completion of the subdivision process;
- 6) full compliance with the City Engineering Comments (the provision of storm water detention for all impervious surfaces when site is redeveloped, compliance with all stormwater and flood control ordinances, any work performed in the right of way will require a right of way permit);
- 7) dedication of the necessary right-of-way to provide 50-feet from the centerline of Airport Boulevard, a planned major street;
- 8) dedication of the necessary right-of-way to provide 25-feet from the centerline of Pinehill Drive; and
- 9) full compliance with all municipal codes and ordinances.

In further discussion Mr. Holmes suggested that a fence and a buffer be required.

Mr. McSwain amended his motion, and Mr. Miller his second, to recommend this change in zoning to the City Council as recommended above by the staff, with an additional landscaped buffer, as well as a 6' privacy fence.

The question was called. The motion failed to carry.

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

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance for the entire site;

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- 2) provision of a 6' privacy fence in compliance with Section IV.D.1., along the West and North property lines;
- 3) that the site be limited to one curb cut to Airport Boulevard, with the location and design to be approved by Traffic Engineering;
- 4) that the site be denied direct access to Pinehill Drive and Mount Island Drive;
- 5) completion of the subdivision process;
- 6) full compliance with the City Engineering Comments (the provision of storm water detention for all impervious surfaces when site is redeveloped, compliance with all stormwater and flood control ordinances, any work performed in the right of way will require a right of way permit);
- 7) dedication of the necessary right-of-way to provide 50-feet from the centerline of Airport Boulevard, a planned major street;
- 8) dedication of the necessary right-of-way to provide 25-feet from the centerline of Pinehill Drive; and
- 9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2004-00267 (Subdivision)

La Louisiana Plantation 2 Subdivision, Resubdivision of

2400 Airport Boulevard (North side of Airport Boulevard, extending from Pinehill Drive to Mount Island Drive East).

1 Lot / 1.0+ Acre

(For discussion see Case ZON2004-02623 – Tam Nguyen [Rezoning] – Above).

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

- 1) dedication of the necessary right-of-way to provide 50-feet from the centerline of Airport Boulevard, a planned major street;
- 2) dedication of the necessary right-of-way to provide 25-feet from the centerline of Pinehill Drive;
- 3) placement of a note on the final plat stating that access to Pinehill Drive and Mount Island Drive East is denied, and that the site is limited to one curb cut to Airport Boulevard, with the location and design to be approved by Traffic Engineering;
- 4) provision of a 6' privacy fence in compliance with Section V.A.7, along the West and North property lines; and
- 5) full compliance with the City Engineering Comments (the provision of storm water detention for all impervious surfaces when site is redeveloped, compliance 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.

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NEW SUBDIVISION APPLICATIONS:

Case #SUB2004-00281

Michael Square Commercial Park Subdivision, Resubdivision of Lots "A" through "G"

3925 Michael Boulevard (South side of Michael Boulevard, 300'± East of Azalea Road, extending to the East side of Azalea Road, 300'± South of Michael Boulevard.

1 Lot / 18.1± Acres

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

There was no one present in opposition.

A motion was made by Dr. Laier and seconded 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 Mobile County agrees to dedicate 10' along Michael Boulevard when widening of Michael Boulevard is programmed;
- 2) placement of a note on the final plat stating that the site be limited to the existing curb cuts; and
- 3) depiction of 25' minimum building setback lines on the final plat.

The motion carried unanimously.

Mr. Holmes rescued from discussion and voting.

Case #SUB2004-00282

James A. Wilson Estate Subdivision

8111 and 8135 Tanner Williams Road (South side of Tanner Williams Road, 4/10 mile± West of Schillinger Road).

4 Lots / 5.0± Acres

In discussion Dr. Rivizzigno asked if proposed Lot 4 in the subdivision could be resubdivided.

Ms. Clarke replied that it could not be resubdivided without additional frontage.

Dr. Rivizzigno felt that it should be made a condition of approval.

Mr. Olsen noted that the street frontage was only 25' on Lots 3 and 4.

After discussion a motion was made by Dr. Laier and seconded by Mr. Watkins to waive Section V.D.3 and approve the above referenced subdivision subject to the following condition:

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- 1) the additional setback (45') as shown on the plat submitted.

In further discussion it was noted that the Commission had discussed making it a condition of approval that Lots 3 & 4 could not be resubdivided until adequate frontage was provided.

Dr. Laier amended his motion and Mr. Watkins his second to waive Section V.D.3. and approve the above referenced subdivision subject to the following conditions:

- 1) the additional setback (45') as shown on the plat submitted; and
- 2) placement of a note on the final plat stating that there shall be no further resubdivision of Lots 3 and 4 until adequate frontage is provided.

The motion carried unanimously.

Case #SUB2004-00280

Wrighter Farm Subdivision

South side of Havens Road, 8/10 mile± Southwest of Howells Ferry Road.

2 Lots / 45.0± Acres

John H. Shoemaker, 2360 Havens Road, stated that his wife's father owned the subject 45 acres and he was selling them the back 15 acres, which was lot 2. They had to buy the 25' easement off Havens Road, which was a county-maintained road. Mr. Shoemaker noted that the drawing stated that the site does not appear to include the entire property. He asked what does that mean.

Ms. Pappas stated that since 1984, the Subdivision Regulations in the county require that any time that you sell off property, it needs to go through the subdivision process. Due to the irregular configuration, it appears that two areas may have been sold off since 1984. In regard to Havens Road, Ms. Pappas said they had contacted the county and determined that the county does not own any public right-of-way along Havens Road from where it intersects with Howell's Ferry Road to the side. For a quarter mile or more the county simply grades the dirt roadway. The Subdivision Regulations require that lots abut a dedicated and constructed public right-of-way, the side does not.

Mr. Watkins asked if this was something the Commission could waive.

Mr. Lawler said that they had waived the requirements before. You could call that a situation that was unique by the features of the land or layout.

Mr. Watkins asked the staff if there was an issue here or just the technical regulations.

Mr. Olsen said it was the Subdivision Regulations.

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Mr. Watkins asked if the Commission could approve the subdivision with the condition stating that there be no further subdivision until the road is dedicated and constructed to county standards.

Mr. Olsen said that could be done.

Dr. Rivizzigno asked about the reasons for denial listed in the staff report: that side does not appear to include entire property, does not front a dedicated and maintained public street, nor does it meet the criteria for an innovative subdivision as outlined in Section VIII.

Mr. Olsen said that adding a condition that they submit documentation to establish the site as a lot of record prior to 1984 would satisfy the other concern.

Mr. Watkins explained to Mr. Shoemaker that to the extent that the two smaller lots on the top were cut out of this same parcel prior to 1984, then he could go forward with this subdivision. If, however, they were sold off of the parcel after 1984, then those two property owners would either have to join in with this application, or say they do not want to participate.

Mr. Olsen said it would be Mr. Shoemaker's responsibility to provide that documentation.

Mr. Shoemaker said his father-in-law owned all of that land and he did sell off those two lots sometime after 1984.

Mr. Olsen said if that was the case, then they needed to be a party to the subdivision and include it in the application so those parcels would become legal lots of record. He suggested the Commission may want to hold over the application so they can submit that documentation, a revised plat to include those lots.

Mr. Plauche asked Mr. Shoemaker if he would be agreeable to holding this over until all of those documents could be brought into the office.

Mr. Shoemaker agreed.

Ms. Clarke said that it appeared that several of the Commissioners would like to give the staff the administrative authority with these conditions to try and work this through. If by chance once those condition are fulfilled and the applicant has an objection, then the staff would bring the application back to the Commission so he can plead his case.

After discussion, a motion was made by Mr. McSwain and seconded by Mr. Watkins to holdover this application until February 3, 2005, meeting to allow the applicant time to submit documentation to establish the parcel as a lot of record prior to 1984, or include the remainder of the parcel.

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2004-02628

Dr. Christy Agren

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

Dr. Christy Agren, applicant, stated that she had this property rezoned from residential to B-1 commercial for her practice. Dr. Agren said she did not realize that they had any sidewalk issues until they completed the building. She said there were no sidewalks anywhere around this building to connect to. It was zoned residential directly to the north and commercial everywhere else. It was commercial on the south side of Airport Boulevard as well as on the west side of University Boulevard, and none of those commercial properties had sidewalks. At the corner of Airport Boulevard and University Boulevard at Barnhill's, there was a grass median. There was also a grass median in front of the bank across the street. Dr. Agren said they remodeled an existing house that was rundown and had made it into a really nice building. If they had to go back and put in a sidewalk they would have to tear up all the landscaping that was installed and moved the sign. She said they put up the fences, the buffering, and complied with all the City Ordinances. They had done everything they were supposed to do. Dr. Agren said she did not understand from the beginning that they were supposed to have a sidewalk. She totally misunderstood and thought they were supposed to provide the proper sidewalk to connect the paving and the building. A sidewalk would be non-functioning because there would be nothing to connect to.

Mr. Olsen commented that the sign Dr. Agren referred to was actually on private property. The sidewalk would be located in the right-of-way; so neither the sign nor the landscaping and trees that were installed as required by the rezoning would have to be removed. The sidewalk would be located between the front property line and the edge of the pavement.

Dr. Agren said there was only three feet from her trees to the road.

Ms. Terry stated that Dr. Agren may not have enough room, but none of the required information was submitted for review. She said you have to have 4' for the sidewalk plus a couple of feet behind the curb. If Dr. Agren would have her surveyor submit the required information, Ms. Terry said they could look at it thoroughly.

Ms. Clarke suggested that the Commission may want to hold over this to give Dr. Agren an opportunity to contact her surveyor or draftsman to have him contact Ms. Terry. Then Ms. Terry could go into detail as to what was needed.

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A motion was made by Mr. Watkins and seconded by Dr. Laier to holdover this application until the February 3, 2005, meeting to allow the applicant time to submit required documents showing improvements in the right-of-way and the necessary cross-sections.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Olsen introduced new planner Bert Hoffman.

Mr. Plauche welcomed Dr. Rivizzigno back.

There being no further business, the meeting was adjourned.

APPROVED: April 7, 2005

/s/ Victor McSwain, Secretary

/s/ Terry Plauche, Chairman

vm