

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF OCTOBER 5, 2006 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Terry Plauche, Chairman  
William DeMouy  
Nicholas Holmes, III  
Mead Miller  
John Vallas

**Members Absent**

Clinton Johnson  
Victoria L. Rivizzigno, Secretary  
Ann Deakle  
James Watkins III

**Urban Development Staff Present**

Richard L. Olsen  
Deputy Director of Planning  
Bert Hoffman, Planner II  
Madeleine Masters, Planner I  
Mae Sciple, Secretary II

**Others Present**

John Lawyer, Assistant City Attorney  
  
Jennifer White, Traffic Engineering  
Pat Stewart, County Engineering  
Rosemary Sawyer, 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.

**HOLDOVERS:**

**Case #SUB2006-00187**

**Raphael Court Subdivision**

South side of Nursery Road, ¼ mile± East of Snow Road.  
34 Lots / 15.8± Acres

There was no one present representing the applicant in this matter.

After discussion a motion was made by Mr. Miller and seconded by Mr. Holmes to deny approval of the above referenced subdivision for the following reason:

- 1) the subdivision will result in a subdivision without connectivity to adjacent undeveloped land, as required in Section V.B.1. of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2006-00184**

**Maddox Place Subdivision**

West side of McFarland Road, 290'± South of Hamilton Creek Drive.

71 Lots / 20.0± Acres

Vince LaCoste, with Polysurveying Engineering, was present on behalf of the applicant. Mr. Lacoste said they were in agreement with the staff recommendations, but asked for clarification on the required letter of certification regarding stormwater detention and drainage. He said they would provide detention according to the City's criteria, but there were certain ordinances that they could not comply with, such as insuring that all the outfall go to a City drainage easement or right-of-way, because there were none in the County.

Mr. Plauche asked if there was anyone else present who wished to speak in this matter.

Rick Martin, a resident of 2861 Cottage Park Court East, stated that he wanted to be sure he understood the requirements being made of the developer. Mr. Martin said he spoke at the last meeting, and his issue was an inadequate drainage culvert that had caused some flooding in the neighborhood. He asked if the applicant was going to be responsible for 100 percent retention of his runoff.

Mr. Olsen asked Rosemary Sawyer, representing City Engineering, to address what the City standards would require.

Ms. Sawyer said they were strictly talking about volume. She said the detention requirement would be a release rate from the subdivision at no greater rate than there was now.

Mr. Martin said that was the only issue he had, and that he would like to submit some information for their engineer.

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

- 1) placement of a note the plat stating that all lots and common areas fronting McFarland Road are denied access to McFarland Road;
- 2) revision of the plat to comply with Section V.D.6. of the Subdivision Regulations (property lines at street intersection corners shall be arcs having radii of at least 10 feet or shall be chords of such arcs) at the McFarland Road intersection;
- 3) depiction and labeling of all common areas;
- 4) placement of a note on the final plat stating that maintenance of the common areas is the responsibility of the subdivision's property owners;
- 5) depiction of the 25-foot minimum building setback line from all streets;

- 6) revision of the plat to correct any discrepancies regarding lot line measurements or bearings;
- 7) labeling of all lots with size in square feet, or placement of a table on the plat containing the lot size information;
- 8) placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 9) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat.

The motion carried unanimously.

**Case #SUB2006-00164**

**Hawk's Landing Subdivision**

West side of Ching Dairy Road at the West termini of Rose Ching Drive, Ching Lynch Road, and Longview Road, extending to the North terminus of Sky Terra Drive.  
158 Lots / 40.0± Acres

Ron Henderson, engineer, was present on behalf of the applicant. Mr. Henderson said that one issue brought up at the last meeting was traffic. He said he understood that in the near future Ching Dairy Road would be extended northerly, so there would be an additional outlet for the subdivision. Regarding the staff recommendation that a certification letter from a licensed engineer be submitted to the Planning Section of Urban Development, prior to the signing and recording of the final plat, certifying that the stormwater detention and drainage facilities comply with the City of Mobile stormwater and flood control ordinances. Mr. Henderson said that, obviously, they could not outlet to a City easement because there were no City easements in the County.

Mr. Plauche asked if anyone else would like to speak in this matter.

Lindsey Lyda, a resident of Remington Drive in this area, stated that the residents were not objecting to the construction of the houses, but were concerned about different aspects. Mr. Lyda noted that the map showing that Ching Dairy Road ran to Lott Road was incorrect. Ching Dairy Road ends at Remington Drive. It was a two-lane road. Mr. Lyda said he understood that the applicant said there was not much traffic on that road, but he said there was quite a bit of traffic on Ching Dairy, which led up to Moffett Road. Another concern of the residents was the gopher tortoises, which were an endangered species. Mr. Lyda said he had spoken to Mr. Bruce Porter with the Society for Endangered Species, and said there were gopher turtles in that area of the proposed construction. The residents were also concerned about the waste disposal system, which they understood would be a system whereby electricity is used in order to push this system to a disposal station. They wanted to know if there would be a backup system in the event of a power outage. Mr. Lyda noted that everybody in this area had septic tanks.

Mr. Plauche said he would ask the engineer to address these concerns after all the speakers had expressed their views.

Susan Heyer, a resident of Ching Dairy Road, stated that her property was across the street from the proposed development. Regarding traffic, Ms. Heyer noted that four or five years ago there was traffic from 400 houses coming down Ching Dairy Road. Since then, several more subdivisions and roads had been cut and the traffic had increased. Ms. Heyer also expressed concern that according to the report, the sewage pumping station and the retention pond were going to be the responsibility of the subdivision's property owners to maintain. She asked what recourse the residents would have in the event there was a problem with the sewage or the retention pond, and no one in the subdivision took responsibility for it.

Ed Guthrie, a resident who lived directly across the street from the subject property, stated that at the last meeting the engineer proposed to move the detention pond directly across from his lot. He also expressed concern about who would maintain the sewage and detention pond. He asked what the covenants were on the subdivision as far as the maintenance fees, upkeep of the sewage system, etc. Mr. Guthrie also expressed concern about the density of the proposed subdivision and the additional traffic it would create on Ching Dairy Road, a dead end street. He said that right now in an emergency you could hardly get out of Ching Dairy Road onto Moffett Road, or Highway 98, which was one of the most dangerous highways in the South. Mr. Guthrie asked the Commission to consider his concerns.

Mr. Vallas asked Pat Stewart, representing County Engineering, how they evaluated road expansion. Noting that Ching Dairy Road does not go North to Lott Road, he asked if a subdivision of the magnitude proposed increased their awareness that maybe that artery should be extended.

Mr. Stewart stated that the development of this unit would add to the traffic, but said it was not enough to warrant pushing a road through to another connection. If one or two more subdivisions of this size were developed, he said then they would possibly want to consider that.

Quinn Hammons, a resident of Sky Terra, stated that she was well aware of the traffic on Ching Dairy Road and that it only had one outlet onto Moffett Road. She was also concerned that if this subdivision connected to Sky Terra, there would be an intense amount of traffic buildup also on Sky Terra because it would be used as an outlet to get to Ching Dairy Road, as well as to Highway 98. Ms. Hammons noted that there were a lot of children in the neighborhood, as well as people who walk in the area, and there were no sidewalks. With the increased traffic that would come with this subdivision, she felt it would be a hazard.

Linda Hobbs Miller stated that her family home was on Ching Dairy Road. She submitted a petition containing 103 signatures of people who were also concerned about

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the density of this proposed subdivision. She said they did not object to progress, but they did not want it to be a detriment to the homes that were already there. Ms. Miller said they had lived for 50 years and had seen the neighborhood grow. They were not opposed to it continuing to grow, but wanted to see it grow upward, not downward. They were also concerned about the drainage and sewer system, as well as an increased need for fire and police protection. Ms. Miller felt that this out-of-town developer was just here to make money and did not care what kind of subdivision he built.

Mr. Plauche asked if the applicant would like to respond.

Mr. Henderson said they did hear the concerns of the residents, and were certainly responsive to those. He said they were willing to comply with the City of Mobile standards regarding stormwater detention, such that it releases at a pre-development flow. Mr. Henderson also said they would have a backup whereby there would be no discontinuance of the operation of the sewage disposal system in the event of a power outage.

Mr. Plauche asked if the backup would be an electric generator.

Mr. Henderson said if that was what the City required, they would comply.

Mr. Plauche asked the staff if the City requirements were just in regards to drainage, or did they apply to waste water also.

Mr. Lawyer said it applied to stormwater only.

Mr. Vallas asked Mr. Henderson if the pumping station would potentially discharge to a MAWSS system.

Mr. Henderson said they would discharge to a City of Mobile system. It would be turned over to MAWSS. He did not know at this point if a backup was required, but they were willing to comply if it was required. Regarding the concern about traffic, Mr. Henderson felt this subdivision would not create any more traffic than subdivisions off of Airport Boulevard. As for the detention pond, it would be maintained by the homeowners association, which would collect fees for the maintenance. The president of the association would need to be contacted if the neighbors had any complaints.

Mr. Plauche asked Mr. Henderson if he was aware of the existence of any gopher tortoises on this site.

Mr. Henderson said he was not aware of any, but they would do an evaluation prior to construction, and if they found any endangered species on the property, they would have to stay away from that area.

Mr. Holmes noted that the property would have to be investigated by the EPA, and if there were gopher tortoises on the property, they would have to be relocated.

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Mr. Henderson said they would provide proof of any issues by a third party so that there was no concern about the turtles.

In deliberation session Mr. Miller expressed his concern about putting so much additional traffic onto Ching Dairy Road with no plans to extend the road. Sky Terra would also be impacted by this development.

Mr. Vallas commented that if further development of the area was not allowed, the road (Ching Dairy) would never be extended.

Mr. Olsen stated that Ching Dairy Road was on the Major Street Plan, however, he could not say when it was going to be constructed. He pointed out that there was a second point of access by way of Woodard Drive to Moffett Road. Mr. Olsen also noted that since this site was located in the County and there was no zoning, it could be developed with apartments with an even higher density and not come before the Commission.

Mr. Miller further commented that he felt the concerns of the residents of the area were justifiable, but he felt the developer seemed to be responsible and knew what he was doing as far as the drainage and sewer were concerned. Regarding the traffic, however, he did not feel the Planning Commission had a right to restrict development in a situation like this. He wondered if the Planning Commission could attach a recommendation to this approval that the City or County take a hard look at continuing Ching Dairy Road.

Mr. Olsen suggested that the situation regarding Ching Dairy Road be passed along to the MPO.

Mr. DeMouy said he shared Mr. Miller's concerns, but it was the density that really concerned him. He felt it would be better for the residents if there were fewer lots emptying onto Ching Dairy Road.

Mr. Vallas agreed with Mr. DeMouy, but asked how they could determine how many lots should be allowed. He noted that the lots meet the minimum lot size requirements of the Subdivision Regulations, and felt the Commission should not hold back projects because the County is lagging behind in road infrastructure. Fire and police protection was also an issue, and he felt the more people that were out there, the better protection they would get.

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

- 1) placement of a label on the drawing specifically identifying the portion of the site that will be dedicated as right-of-way sufficient to provide 50 feet, as measured from the centerline of Ching Dairy Road;
- 2) verification that each lot will meet the 7,200 square feet minimum lot size requirement of Section V.D.2. of the Subdivision Regulations, after the Ching

- Dairy Road right-of-way dedication, and labeling of all lots or provision of a table indicating the size in square feet of all lots;
- 3) placement of a note on the plat stating that all lots are denied direct access to Ching Dairy Road;
  - 4) correction of the lot numbering for lots 92 and 95;
  - 5) identification of all common areas, including the detention pond and the sewage pump station, and placement of a note on the final plat stating that maintenance of detention and common areas is the responsibility of the subdivision's property owners;
  - 6) depiction of the 25-foot minimum building setback line from all lot lines that abut public streets;
  - 7) placement of the legal description on the final plat, as required by the Subdivision Regulations;
  - 8) 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;
  - 9) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat; and
  - 10) provision of an automatic power back-up system for the sewage pump station to ensure continuous operation.

The motion carried unanimously.

**EXTENSIONS:**

**Case #SUB2005-00181 (Subdivision)**

**Bayou Island Subdivision**

North side of Hamilton Boulevard, 2/10 mile± West of the South terminus of Viking Way.

15 Lots / 19.3± Acres

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

A motion was made by Mr. Plauche and seconded by Mr. Turner to grant a one-year extension of approval for the above referenced subdivision.

The motion carried unanimously.

**Case #SUB2002-00246 (Subdivision)**

**Creekline Subdivision**

Northwest corner of Higgins Higgins Road and Shipyard Road, and running through to Interstate 10.

28 Lots / 227.0± Acres

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

A motion was made by Mr. Plauche and seconded by Mr. Turner to grant a one-year extension of approval for the above referenced subdivision.

**Case #SUB2005-00202 (Subdivision)**

**Leighton Commons Subdivision**

East side of Riviere du Chien Road, 240' ± South of the South terminus of Lloyd Station Road.

64 Lots / 19.2± Acres

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

A motion was made by Mr. Miller and seconded by Mr. Turner to deny this request.

The motion carried unanimously.

**Case #SUB2005-00195 (Subdivision)**

**Mobile Medical Group Subdivision**

6001 Airport Boulevard

1 Lot / 1.4± Acres

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

A motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval for the above referenced subdivision.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2006-00213**

**Golden Flame Subdivision**

7060 Three Notch Road

(Northeast corner of Three Notch Road and Sollie Road).

1 Lot / 1.4± Acres

There was no one present representing the applicant in this matter.

Mr. Olsen stated that the staff would like to correct an omission from the staff report. He said that on applications 1 through 5 on the agenda, which were subdivisions located in the County, the condition relating to drainage and detention in the County was erroneously omitted from the recommendations. Mr. Olsen said he wanted to point this out while the engineers for these subdivisions were still present. The condition would read as follows: "Provision of a certification letter from a licensed engineer to the



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Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat".

Pat Stewart, representing County Engineering, asked Mr. Olsen if the applicant wanted to vacate the easements in the subdivision.

Mr. Olsen said that they may have intended to vacate the easements, but there was nothing on the plat to reflect vacation of those easements, nor was there anything attached to the application.

In deliberation session a motion was made by Mr. Turner to approve the above referenced subdivision subject to the staff recommendations.

Mr. Miller stated that the condition regarding drainage in the County should also be required.

Mr. Turner said he thought that condition was automatically included, as stated by Mr. Olsen.

In further discussion Mr. Vallas asked if Mr. Stewart's question regarding the vacation of the easements needed to be a part of the motion.

Mr. Stewart said it was his understanding that the purpose of this submittal was to vacate some interior easements that were required from a previous subdivision that was done back in the '60s.

Mr. Olsen stated that the application was also made to combine multiple lots into one lot. As previously stated, Mr. Olsen said that a request for vacation of the easements was not noted on the plat submitted.

Since there was no one present representing the applicant, Mr. Miller suggested that the application be held over to the next meeting.

Mr. Plauche noted that there was a motion on the floor.

Mr. Miller seconded Mr. Turner's motion.

In further discussion Mr. Holmes asked what the issue was here.

Mr. Stewart stated that there were some drainage and utility easements running along the existing property lines that were encroaching on what they were trying to do, and the County would not allow them to put any kind of permanent structure there until the easements were vacated. The applicant wanted to put a vestibule drive-through on their building, which would totally cover the easements. The County encouraged them to vacate the easements so they could proceed with their addition as proposed.

Mr. Olsen stated that the Commission could approve the subdivision as submitted with the easements still shown on the plat, and after having recorded the plat they could request that the easements be vacated. That request would be submitted to the Planning Commission just like any street vacation in the County, and then that would be presented to County Engineering. Or, the Commission could holdover this application until the November 2<sup>nd</sup> meeting, and the staff would inform the applicant that they needed to submit something requesting vacation of the easements, along with this request, and then it could be approved as a one-lot subdivision with no easements.

Mr. Turner asked if the applicant was aware that there were easements on the property.

Mr. Stewart said they were very aware of the easements.

After discussion of the options regarding this application, Mr. Turner withdrew his motion to approve and Mr. Miller his second. A motion was then made by Mr. Miller and seconded by Mr. Turner to holdover this plan to the meeting of November 2, 2006, to give the applicant the opportunity to revise the plat to remove the easement through the property, if desired.

The motion carried unanimously.

**Case #SUB2006-00214**

**Woodside Subdivision, Unit Eight, Phase 2**

North side of Woodside Drive North at its West terminus.

1 Lot / 0.3± Acres

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

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

- 1) Woodside Drive North must be constructed and accepted by Mobile County prior to the signing and recording of the final plat;
- 2) placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations; and
- 3) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat.

The motion carried unanimously.

**Case #SUB2006-00221**

**Pebble Beach Subdivision**

7435 and 7441 Bay Road

(East side of Bay Road, 575'± North of the East terminus of Middle Road).

2 Lots / 1.1± Acres

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

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

- 1) placement of a note on the plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations; and
- 2) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat.

The motion carried unanimously.

**Case #SUB2006-00215**

**Scheurer Estates Subdivision**

7420 Helton Road

(Northwest corner of Helton Road and an unopened, unnamed public right-of-way, 225'± West of Hillview Road).

2 Lots / 6.5± Acres

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

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

- 1) placement of a note on the final plat stating that access is denied to Lot 1 from the unimproved substandard right-of-way; and
- 2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 3) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat.

The motion carried unanimously.

**Case #SUB2006-00220**

**Southern Waste Subdivision, Resubdivision of Lot 2**

South side of Baker Sorrell Road, 180'± West of Dauphin Island Parkway.

2 Lots / 7.0± Acres

Don Rowe, Rowe Surveying, was present on behalf of the applicant. Regarding the condition on the drainage and stormwater in the County that was added to the recommendation by Mr. Olsen earlier in the meeting - "Provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention, drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat"- Mr. Rowe noted that this was an existing commercial subdivision. They were just moving two lot lines, and were not building any roads nor doing any kind of construction, and did not want to have to build any detention ponds. Mr. Rowe said he would have no problem with putting a note on the plat stating that construction when those lots develop has to take place individually in compliance with the City's stormwater regulations. He asked Mr. Olsen to state that condition again.

Mr. Olsen repeated the condition.

Mr. Rowe said he was not sure what that meant, but he did not want to build any ponds. He repeated that he would not mind encumbering the buyers of these lots with the burden of doing their individual detention, which was common in commercial subdivisions, but building a pond now would require them to anticipate the intensity of the development. They could not do that at this time, and did not want to have to do that when they were simply moving two lot lines, and in this particular case to erect a radio antenna.

Mr. Olsen asked Mr. Lawler if, in this case, he thought it would be okay if there was a note made on the plat stating that when each lot was developed, drainage facilities in compliance with City of Mobile standards shall be provided.

Mr. Lawler agreed.

Mr. Rowe said he also understood that they were talking about stormwater volume, stormwater rate of release, and nothing else in the ordinance.

Mr. Plauche asked Mr. Rowe if he was okay with the placement of the note on the plat as stated by Mr. Olsen.

Mr. Rowe said he had no problem with that.

In deliberation session Mr. Olsen noted that the Commission had agreed to change the letter of certification to: "The placement of a note on the final plat stating that when

developed, each lot shall comply with drainage and release rate requirements of the City of Mobile".

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

- 1) placement of a note on the final plat stating that Lots A and B are limited to one curb cut each to Baker Sorrel Road, with the size, location and design to be approved by County Engineering;
- 2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations;
- 3) the approval of all applicable federal, state and local agencies; and
- 4) placement of a note on the final plat stating that when each lot is developed, the stormwater detention, drainage facilities, and release rate shall comply with the City of Mobile stormwater and flood control ordinances.

The motion carried unanimously.

**Case #SUB2006-00211**

**Wolf Ridge Commercial Subdivision**

Northwest corner of Moffett Road and Wolf Ridge Road.

2 Lots / 3.1± Acres

Mr. Vallas recused from discussion and voting in this matter.

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

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

- 1) that no building permits be issued until the rezoning process to eliminate split zoning of the site is completed;
- 2) placement of a note on the final plat stating that the subdivision is limited to two curb cuts to Moffett Road, with size, location and design to conform to AASHTO standards, and to be approved by Traffic Engineering and ALDOT; and
- 3) placement of a note on the final plat stating that the subdivision is limited to two curb cuts to Wolf Ridge Road, with size, location and design to conform to AASHTO standards, and to be approved by Traffic Engineering.

The motion carried unanimously.

**Case #SUB2006-00219**

**Viking Place Subdivision, Phase II**

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South terminus of Eric Drive.  
22 Lots / 7.2± Acres

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

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

- 1) provision of a traffic calming device near the midpoint of Eric Drive, with the size, design and location to be approved by Mobile County Engineering;
- 2) labeling of Lot A as “future development” only, or inclusion as a lot for this application;
- 3) dedication of right-of-way sufficient to provide 50-feet, as measured from the centerline, for both Snow Road and Wulff Road;
- 4) revision of the property line corner at the intersection of the two roads to comply with Section V.D.6. of the Subdivision Regulations;
- 5) 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;
- 6) provision of a letter of certification from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention and drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat; and
- 7) labeling of all lots with size in square feet, or provision of a table with the lot size information on the plat.

The motion carried unanimously.

**Case #SUB2006-00218  
Colonial Hills Subdivision, Unit 6**

South side of Airport Boulevard, 280'± East of Snow Road South, extending to the North terminus of Colonial Crossing.  
34 Lots / 20.9± Acres

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

Jack Irwin, a resident of 9665 Trailwood, stated that his property was directly across the street from the proposed development. Mr. Irwin noted that there was a drainage ditch from his section of Trailwood that ran down the side of his property and went underneath Airport Boulevard onto the subject property. He was concerned about what they planned to do with the water now that this subdivision was being developed. Mr. Irwin said that twice in the last 25 years his house had come very close to being flooded due to heavy

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rains, and he was afraid that if they did anything to stop that water that was now draining from Trailwood, that his house would flood in the next heavy rain. He said there were three other houses in Trailwood that had the same problem. Mr. Irwin said he was not opposed to the development, but did not want to see his house get flooded as a result of it.

Mr. Plauche asked if the applicant would address the drainage question.

Lawrence Wilson, with Austin Engineering, stated that they had taken the drainage situation from Trailwood into consideration. They planned to re-route that ditch around the property on the downstream side so it would not cause any flooding. As far as the flooding on the upstream side of Airport Boulevard, however, Mr. Wilson said they could do nothing about that.

Mr. Plauche suggested that Mr. Wilson get with Mr. Irwin after the meeting to answer any further questions he may have.

In deliberation session there was brief discussion about the drainage. The engineer indicated they were going to re-route the drainage now flowing onto the subject property from the Trailwood Subdivision on the other side of Airport Boulevard. There was concern, though, that they would re-route it back across the street. It was not really made clear where they would re-route it.

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

- 1) dedication of sufficient right-of-way to provide a minimum of 50 feet from the centerline of Airport Boulevard;
- 2) renaming of "Parcel A" to "Lot 34";
- 3) placement of a note on the final plat stating that Lots 1 and 30-33 are denied direct access to Airport Boulevard, and that Lot 34 is limited to a maximum of two curb-cuts onto Airport Boulevard, with the size, design and location to be approved by Mobile County Engineering and conform to AASHTO standards;
- 4) 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;
- 5) revision of the plat to ensure that the 25-foot minimum building setback line is accurately depicted as 25-feet, as adjusted for right-of-way dedication for Airport Boulevard, for all lots with frontage on a public street, including those lots which may have double-frontage or that abut cul-de-sacs;
- 6) provision of a certification letter from a licensed engineer to the Planning Section of Urban Development, certifying that the stormwater detention and drainage facilities, and release rate comply with the City of Mobile stormwater and flood control ordinances, prior to the signing and recording of the final plat;
- 7) labeling of all lots with size in square feet, or provision of a table with the lot size information on the plat; and

- 8) correction of the written legal description and the labeled bearings along the Southern boundary of the site.

The motion carried unanimously.

**NEW PLANNING APPROVAL APPLICATIONS:**

**Case #ZON2006-01972**

**Corpus Christi School**

6300 McKenna Drive

(North side of McKenna Drive at the North termini of Evergreen Road and Hillview Road).

Planning Approval to allow the addition of lighting for soccer and football fields at a school in an R-1, Single-Family Residential district.

Mr. Plauche announced that this application had been recommended for holdover, however, they had received some additional information.

Pat Kelly, a member of Corpus Christi parish, was present on behalf of the applicant. Mr. Kelly said he understood the staff was requesting submission of photo metrics detailing the lighted area. Mr. Kelly said that information was submitted with the application. Also, there was a question regarding the practice times. Mr. Kelly said this was an elementary school and their practices were during the week. The lights would not be on any later than approximately 8:30 p.m.

Mr. Olsen stated that they did locate the photo metrics in the file. It showed the foot candle levels on the field, but did not show anything behind the fixtures. Mr. Kelly had indicated that the fixtures would be shielded so that there should not be backwash from those light fixtures. He had also agreed that if they received any complaints from the neighboring residential properties that these lights were shining onto them, they would work with the shield and adjust the fixture so that does not occur.

Mr. Plauche asked if those conditions the applicant had agreed to could be put in the recommendation.

Mr. Olsen said they could. Also, if they did not have an issue with it, the staff would like to add a condition that that the lights not be on any later than 9:00 p.m.

Mr. Kelly said that was reasonable. He also stated that in the past six or seven years they had been using temporary lights. This was approximately a three-week project to get this installed, and they were trying to get it done before daylight savings time if possible.

Mr. Miler asked Mr. Kelly if they had received any complaints about the temporary lights.

Mr. Kelly said they had not.



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

- 1) that lighting will not be operated beyond 9 PM; and
- 2) that lighting facilities will be modified by the applicant, as necessary, to address verified complaints from adjacent residents.

The motion carried unanimously.

**Case #ZON2006-01927**

**T-Mobile**

East side of Shipyard Road, 890'± North of Crown Drive.

Planning Approval to allow a 150' monopole cellular communications tower in a B-1, Buffer Business district.

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

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

- 1) approval of all necessary variances by the Board of Zoning Adjustment; and
- 2) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**GROUP APPLICATIONS:**

**Case #SUB2006-00216 (Subdivision)**

**Dawson Point Estates Subdivision**

East terminus of Dawson Drive.

8 Lots / 1.8± Acres

**(Also see Case #ZON2006-01981 (Planned Unit Development) Dawson Point Estates Subdivision - below.)**

Lawrence Wilson, with Austin Engineering, was present on behalf of the applicant. Mr. Wilson said they were in agreement with the staff recommendations, with the exception of the requirement for a maximum site coverage of 35 percent. He said they had requested 45 percent coverage, and would like to get that condition amended.

Mr. Olsen acknowledged that the request for 45 percent site covered was actually part of the request, and typically, as long as they complied with Engineering requirements on the

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detention issue, it has not been a problem for an overall subdivision to increase site coverage.

Mr. Wilson noted that the site naturally drained into Rabbit Creek, so there would be no detention.

Mr. Plauche asked if that needed to be stated in the recommendations.

Mr. Olsen said it was already there, because it was part of the flood control ordinance.

Mr. Plauche asked if there was anyone who would like to speak in this matter.

Cecelia Cain, of 4128 Todd Boulevard, stated that she had lived at this location for 22 1/2 years. She was aware that this same property had previously received approval for a five-lot subdivision. Prior to that, after the hurricane, she had seen a sign indicting that Mr. Elmore had purchased the property and was going to develop it into three lots. Ms. Cain said she was not opposed to development, but was opposed to the land being broken up into smaller lots, which was not the natural contour of Todd Acres. She pointed out that Dawson Lane was a small road, and the trash trucks had to back up 300-400 feet all the way to the very end to pick up trash. There were no gutters or storm drains, just natural ditches on both the left and ride sides of that area. Todd Boulevard had no drainage ditches whatsoever, so the road naturally drained into Rabbit Creek and Rattlesnake Bayou, and that particular area floods probably 50 percent of the time when it is high tide. Ms. Cain said that land would have to be built up. She said she lived on the canal and natural silting that goes in there will come down to her canal and fill it up. She also pointed out that Dawson Road had a 50' right-of-way, which did not meet the 60-foot right-of-way as required by the Subdivision Regulations. Regarding proposed Lot 8, Ms. Cain said it was naturally under water over 50 percent of the time at high tide, and the proposed driveway at the end of Lot 8 was under water all the time. She noted that the map included with the report was incorrect. She had an aerial map, which showed part of Lot 8 had a natural inlet going into it, and which would have to be filled in to make it suitable to build on. There were wetlands in the whle area of the proposed subdivision. Ms. Cain further noted that the lots in Todd Acres, a single-family residential subdivision, were much larger than the proposed lots, which they understood would be for condos or patio type homes and they did not consider that to be single-family. During Hurricane George, Ms. Cain said that Dawson Road flooded all the way from the end almost to Todd Boulevard. The water was over mailboxes and people were actually taking boats to get out. Ms. Cain said she resented putting eight homes in a flood-prone area.

James M. Lyons, a resident of 5375 Worth Drive in Todd Acres, said his property was around the corner from the proposed development. Mr. Lyons expressed concern about the density of the proposed development in this area, which has flooded several times, particularly during Hurricane Katrina. He also pointed out that both Rattlesnake Bayou and Rabbit Creek were two very environmentally sensitive areas. There were wetlands on this property. He noted that the blank spot across from the site was wetlands, and was

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home to some wood ducks and ospreys. The residents would like to make sure, if this subdivision is approved, that someone polices the developers. Mr. Lyons said these same developers had two other developments going on in the area, and the Corps of Engineers has had problems with them violating some covenants regarding environmental issues of the area. He said many of the residents of the area had no problem with the development of the area and anyone's use of the waterways, as long as it was done in a proper manner. Mr. Lyons also echoed Ms. Cain's concern about Dawson Road being very narrow and not suitable to handle eight new residences.

Andrea Lyons, wife of James Lyons of 5375 Worth Drive, also objected to the development of eight lots on the subject property. She said there was no way eight houses could be constructed on that property without building up the site so much that it would block the canal. Ms. Lyons said they had had a nightmare with these developers, who were doing the same thing on Rabbit Creek in front of their house. They have had congressmen and attorneys involved trying to get them to do the right thing. She asked that the Commission consider the trustworthiness of these developers.

Carolyn Twilley, a resident of 5325 Worth Drive, one street over from the proposed development which goes into Henning Drive, said she and her husband had lived there for 36 1/2 years. Ms. Twilley said they had seen the subject property flood, especially proposed lots 7 and 8. At mean high tide it was always 50 percent under water, and they had seen it flood three times. The house next door to them, which was at about the same elevation as proposed lots 6, 7, and 8, was under water in the last storm. Ms. Twilley said that in 1981 her family bought two of the lots on the right side of Dawson Drive, which at that time was in the County but had since been incorporated into the City and were under the City's rules and regulations. But they were concerned about the size of the proposed lots. Also speaking on behalf of five or six other property owners, Ms. Twilley expressed their objections to increasing this from five to eight lots because of the environmental impact it would have on the wood ducks, manatees, blue herons, and red-headed turtles in the area, which were endangered species. They were also concerned about the effect the drainage from the proposed subdivision would have on Rabbit Creek, Rattlesnake Bayou, and all the canals. Ms. Twilley said they did not object to any construction as long as it was in accordance with the original covenants of the Todd Acres Subdivision. She asked that the Commission come down and look at this property at mean high tide so they could understand the concerns of the residents.

Mr. Vallas noted that the staff report indicated there were five existing lots, but that they were adding more land. He asked how many of the proposed three new lots would be on the additional land that was being added to the existing five lots. Also, Mr. Vallas said that whether the Planning Commission approved five or eight lots, that did not necessarily mean that the Corps would permit lots 6, 7 and 8 that the residents were saying stayed under water.

In response to Mr. Vallas' question, Mr. Wilson stated that the Commission had originally approved five lots, and they were adding three new lots to the back part of the property. It was all new land.

That being the case, Mr. Vallas said the developer could, essentially, just keep their existing application as five lots, and could submit a new application on this new land for three lots.

Mr. Olsen said that was correct, but he could not say that the new application would be totally recommended for approval. He noted that if this proposed eight-lot subdivision were denied, the developer would still have the approved five-lot subdivision.

Mr. Vallas asked Mr. Wilson if he had contacted the Corps of Engineers about the ability to permit proposed Lot 8.

Mr. Wilson said they had not yet contacted the Corps, but the delineation of the wetlands was part of the process.

Mr. Vallas asked if the developer planned to fill in any of the land.

Mr. Wilson said that Lot 8 would probably have to be filled in to some extent, but he did not yet know. If they did need to fill, they would have to obtain a land disturbance permit. At this point they did not know what size structures would be built. The proposed lots, however, met the minimum lot size requirements.

Mr. Olsen pointed out that since this site was in a flood plain, the developer would have to have a pre-development meeting, and at that time they could possibly provide more information. Based on the topo submitted with the application, however, Mr. Olsen pointed out an inlet on the property for Lot 8 that would have to be filled.

Mr. Vallas asked if the construction of the cul-de-sac would alleviate the problem of the trash truck having to back up to pick up trash at the end of the road.

Mr. Olsen said the road would have to be built to City standards, unless the developer received some type of waiver from the City Council.

Mr. Plauche asked if the developer would have to improve the existing road that leads up to the subdivision.

Mr. Wilson said the original five-lot subdivision was putting the cul-de-sac at the end of the road, and they understood that was all they would be required to do.

Mr. Turner asked if any attention had been given to the endangered species mentioned by the residents.

Mr. Wilson said he could not answer that at this point. He was not sure if there were any endangered species on this property.

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Mr. Holmes asked if he understood that the existing road was substandard and would have to be brought up to City standards, along with the cul-de-sac to be built at the end of the road.

Ms. Sawyer said that was correct, and the cul-de-sac standard was such that a truck could turn around.

With reference to the concerns expressed by the residents about the property flooding, Mr. Lawler referred to Section V.A.3. of the Subdivision Regulations, which states as follows: "Land Subject to Flooding. Land subject to periodic flooding, and land deemed by the Planning Commission to be uninhabitable, shall not be platted for residential occupancy or any use that may increase danger to health, life or property, or aggravate the flood hazard".

Mr. Vallas asked who among them was qualified to say the land was uninhabitable.

Mr. Lawler said it was up to the developer to present convincing evidence that the land would not flood. The Commission had heard statements from the neighbors that the subject property was subject to flooding. The problem the Commission had, was that they did not know for sure, because the developer did not know what size houses were proposed for the property. The Commission really did not have enough information to make a decision.

In deliberation session Mr. Holmes made a motion to deny approval of this plan for the following reason:

- 1) the subdivision of the land as proposed would not comply with Section V.A.3. of the Subdivision Regulations.

In further discussion Mr. Miller suggested that possibly the application should be held over. He felt it was obvious looking at the map that there were going to be some water problems, and the developer needed to meet with the Corps. Also, the developer did not know whether there were any endangered species that would be affected.

Mr. Vallas agreed, and noted that if they denied the plan, the developer still had a five-lot subdivision.

Mr. Lawler further commented that the developer did not seem willing to demonstrate that this property could be developed without damaging economically other properties in the area, and that the property to be developed would not be subject to flooding. It was Mr. Lawler's opinion that this could not be done on a scale that was being offered for this development as proposed. It needed to be developed in a sensible way, not at the expense of everybody in the neighborhood. He recommended that the Commission deny approval of the plan, and let the developer come back with a plan that makes some sense, and with some details.

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Mr. Vallas asked, if the application was denied and the developer went out and did his homework and obtained all the necessary information as discussed, would they have to wait to re-submit for the same application.

Mr. Olsen said that for the PUD, they would have to wait six months, just like on the zoning.

There was further discussion of the site coverage issue and density, as well as the flooding and endangered species concerns, and whether they should deny or holdover the application. Regarding the 45 percent site coverage issue, Mr. Lawler felt that this was an effort to overdevelop property that people have come in and said floods. Also, the neighbors related that this particular development group had problems with other developments in the neighborhood, and, given the opportunity, the developer did not deny it.

Mr. Holmes also noted the issue brought up by one of the residents about the restrictions on the existing Todd Acres subdivision.

Mr. Olsen noted that, if denied, the developer could come back and submit something different than what was before the Commission today without having to wait six months.

Mr. Miller seconded the motion for denial.

The motion carried unanimously.

**Case #ZON2006-01981 (Planned Unit Development)**

**Dawson Point Estates Subdivision**

East terminus of Dawson Drive.

Planned Unit Development Approval to allow reduced building setbacks in a single-family residential subdivision.

Lawrence Wilson, engineer for the developer, was present in this matter.

**(See Case #SUB2006-00216 (Subdivision) Dawson Point Estates Subdivision - above - for discussion.)**

After discussion a motion was made by Mr. Holmes and seconded by Mr. Miller to deny approval of this plan for the following reason:

- 1) the subdivision of the land as proposed would not comply with Section V.A.3. of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2006-00217 (Subdivision)**

**Moffat Road Plaza Subdivision, Resubdivision of**

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961 West I-65 Service Road North  
(West side of West I-65 Service Road North, 135'± North of Moffett Road).  
1 Lot / 0.9± Acre

**(Also see Case #ZON2006-01985 (Rezoning) Michael Ward - below; and Case #ZON2006-01987 (Planned Unit Development) Moffat Road Plaza Subdivision - below.)**

Mr. Plauche announced that this application was recommended for holdover, but if anyone was present to speak in this matter, they could do so now.

Frank Dagley, 717 Executive Park Drive, was present on behalf of the applicant. Mr. Dagley stated that the application met the requirements of the Subdivision Regulations and Zoning Ordinance, and now he understood that they would be required to comply with the landscaping and tree planting provisions of the Ordinance. He objected to this, as they added less than 50 percent to the existing building. The Ordinance states that if you do less than 50 percent addition to a building, you do not have to bring it into compliance with respect to landscaping and trees. He questioned whether that meant full compliance, or frontage trees only.

Mr. Olsen explained that the site was a PUD, and PUDs were site-plan-specific. When you amend the PUD or add on to a building that is part of a PUD that has shared parking and access, that PUD has to be amended to allow that expansion. Mr. Olsen said that it has been the practice of the staff and of the Commission to require at least some level of compliance with landscaping and tree planting when amending a PUD to allow expansion of the commercial property.

Mr. Dagley pointed out that part of this property was zoned I-1, which requires only frontage trees. They were requesting rezoning to B-3 to make it all compatible, so it was kind of a "catch 22", because then they are required to do more landscaping. Mr. Dagley said they would agree to plant frontage trees along the I-65 Service Road. He pointed out that the property fronts on Three Mile Creek and a huge amount of perimeter for a very small area. He felt that putting a tree every 30 feet on such a long, skinny parcel of property would be excessive. The proposed addition already had trees in front of it, which were illustrated on the plan. Mr. Dagley asked that this application not be held over, and some kind of compromise be made on the landscaping.

Mr. Olsen noted that the recommendation stated that the compliance of landscaping and trees was for the project area only, which he pointed out, and not the entire development. It only pertained to the lot on which the addition was occurring.

It was asked if that would include parking.

Mr. Olsen said it would only be for the project area. The expansion of the new parking lot, because that was not developed property at this time, would require compliance with

the landscaping and tree planting Ordinance. He indicated on the plat the areas this applied to. It was not for the entire site.

In deliberation session Mr. Turner asked if there were any other conditions recommended other than planting the trees.

Regarding the subdivision, Mr. Olsen said the staff would recommend compliance with the Engineering comments specified in the staff report, which he read; and that they complete the rezoning process prior to signing of the final plat.

For the rezoning, Mr. Olsen said there would be four conditions, which he read.

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

- 1) completion of the rezoning process prior to signing the final plat; and
- 2) compliance with Engineering comments (*Extend drainage easement through the lot. Delineate flood zones on the plat. Specify minimum finished floor elevation on the plat. Correct spelling of Moffett Road in legal description of metes and bounds parcel for addition to lot 1 and vicinity plan. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.*)

Mr. Plauche asked Mr. Dagley if he was agreeable to the recommendations.

Mr. Dagley said he agreed.

There being no further discussion, Mr. Plauche called the question.

The motion carried unanimously.

**Case #ZON2006-01987 (Planned Unit Development)**

**Moffat Road Plaza Subdivision**

961 and 975 West I-65 Service Road North

(West side of West I-65 Service Road North, 135'± North of Moffett Road).

Planned Unit Development Approval to allow shared access and parking between two building sites.

**(Also see Case #SUB2006-00217 (Subdivision) - Moffat Road Plaza Subdivision, Resubdivision of - above, for discussion; and Case #ZON2006-01985 (Rezoning) Michael Ward - below.)**

After discussion a motion was made by Mr. Turner and seconded by Mr. Vallas to approve the above referenced plan subject to the following conditions:

- 1) provision of frontage trees along the West I-65 Service Road North frontage;



- 2) provision of a revised site plan to Planning prior to signing the final plat;
- 3) compliance with Engineering comments (*Extend drainage easement through the lot. Delineate flood zones on the plat. Specify minimum finished floor elevation on the plat. Correct spelling of Moffett Road in legal description of metes and bounds parcel for addition to lot 1 and vicinity plan. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.*); and
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2006-01985 (Rezoning)**

**Michael Ward**

961 West I-65 Service Road North

(West side of West I-65 Service Road North, 135'± North of Moffett Road).

Rezoning from B-3, Community Business, and I-1, Light Industry, to B-3, Community Business, to eliminate split zoning on a proposed one-lot commercial subdivision.

Council District 1

**(Also see Case #SUB2006-00217 (Subdivision) Moffat Road Plaza Subdivision, Resubdivision of - above, for discussion; and Case #ZON2006-01987 (Planned Unit Development) - above.)**

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

- 1) provision of frontage trees along the West I-65 Service Road North frontage;
- 2) provision of a revised site plan to Planning prior to signing the final plat;
- 3) compliance with Engineering comments (*Extend drainage easement through the lot. Delineate flood zones on the plat. Specify minimum finished floor elevation on the plat. Correct spelling of Moffett Road in legal description of metes and bounds parcel for addition to lot 1 and vicinity plan. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.*); and
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2006-00131 (Subdivision) (Holdover)**

**Paul Persons Subdivision, Resubdivision of Lot 1**

4474 Halls Mill Road

(North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road).

3 Lots / 5.3± Acres

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Frank Dagley, 717 Executive Park Drive, was present on behalf of the applicant. Mr. Dagley stated that in 1997 this was a one-lot subdivision. A building was constructed on the front portion of the site fronting Halls Mill Road for Persons Plumbing Services. Subsequent to that they constructed a utility shed behind their building, and put in a road toward the back of the property, which has been used for quite some time. Mr. Dagley said all of this was done without a permit. The owner thought the contractor was getting the permit, and the contractor thought the owner was getting the permit. They were in the process now of trying to get the permit. They had submitted plans to the various departments, and he thought the building inspector had approved it for permitting. They still had issues with the road. Mr. Dagley said they recently subdivided the property into three lots. They were advised by the staff that the best chance of getting this approved was to make it three lots, and do a private road ingress/egress easement that would serve the three lots, which they did. He said he was not aware that a private road was controlled by the Subdivision Regulations. They were now being told that this private road has to meet the standards of a private road. Mr. Dagley said they felt they could now provide the documentation that the road does meet the standards. If it does not, they would make corrections to it to make it meet the standards, and consequently let that be a condition of approval. They were also requesting a change in the setback along the West property line, which fronts residential property. Mr. Dagley said there was presently an 8-foot high privacy fence for the full length of the property. In the original 1997 subdivision, they provided a 20-foot buffer, where the regulations only require a 10-foot buffer. They were now going to do some development there. They were being asked to do something in excess of what the regulations require. They required either a privacy fence or a 10-foot buffer. Mr. Dagley said they had the privacy fence, and now they were being required to put also a 20-foot buffer in addition to the fence. He felt they were well within their rights to have that reduced back to 10 feet, and that was where the zoning change comes in. If they were required to have a 20-foot buffer, there would be a huge amount of real estate that would be useless. Mr. Dagley asked that this application not be held over, but that it be approved with the condition of getting the road taken care of.

Mr. Olsen said he would like to address several issues, the first being the fence. He asked Mr. Dagley when that 8-foot privacy fence was constructed, because there was no permit obtained for the fence.

Mr. Dagley said he did not know when it was constructed, and he was not aware that a permit was required to construct a fence.

Regarding the Subdivision Regulations and private drives, Mr. Olsen said that had been a part of the Subdivision Regulations since 2000, if not before. He said he did speak with Mr. Dagley about either a two-lot subdivision with a private road, or a three-lot subdivision, which would allow for future development of the third lot, since it was a large, vacant area. With reference to the private road, Mr. Olsen said he recalled mentioning to Mr. Dagley that the road would have to comply with the Subdivision Regulations. The existing road right-of-way does not meet the Regulations.

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Mr. Dagley said they would provide information to verify that the road complied with the Regulations, and would make sure that the fence meets the Regulations.

Regarding the issue of a 20-foot buffer versus a 10-foot buffer, Mr. Holmes asked if anyone knew why a 20-foot buffer was required originally. The minimum requirements are a 10-foot buffer or an 8-foot fence and a buffer.

Mr. Olsen noted that on a rezoning or a PUD, the Planning Commission or City Council can increase the minimum.

Mr. Hoffman stated that the minimum required by the Zoning Ordinance requires either a 10-foot buffer, or an 8-foot fence. At the time of the rezoning request the staff recommended a 20-foot buffer along the North and West property lines, which the Planning Commission recommended to the City Council, and the City Council granted the rezoning with that condition. The 20-foot buffer was a condition placed on the original rezoning of the property by the City Council to provide adequate buffering from a B-3 to the R-1 residential neighborhood behind it. Mr. Hoffman noted that there was no real discussion in the of the meeting of the Planing Commission at that time, and the staff report did reference the fact that the site was adjacent to existing apartments to the West and single-family residential to the North.

Buddy Persons of 4474 Halls Road, applicant, said they were asking for approval today contingent on brining the road up to City standards and getting the building permit. They were requesting the reduction of the setback line back to 10 feet. Mr. Persons explained that they wanted to put warehouses to lease on that side of the property, and a 20-foot setback would put them at a severe disadvantage with their buildable space.

In deliberation session Mr. Vallas said he was okay with approving this plan subject to the applicant verifying that the road meets the City standards, but he had some concern about reducing the setback because that was the final decision made by the City Council. If the Commission reversed that and required only a 10-foot setback, that would not go back to the City Council, and the Commission would, in essence, be making a final ruling on zoning.

Mr. Olsen stated that because there was a rezoning request accompanying this application, it would have to go to the City Council for approval.

Mr. Miller and Mr. Holmes shared Mr. Vallas' concern, and asked if there were any specific reasons stated at the time of rezoning for requiring the 20-foot buffer, or was it just because there was enough land that they were not developing.

Mr. Olsen said he was not certain about the reason, but obviously there was enough land, and the site plan showed that the building could be shifted another 10 feet and still function.

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Mr. Turner asked Mr. Olsen if he was saying that the 20-foot buffer would not affect the expansion.

Mr. Olsen said he felt they could comply with the 20-foot buffer condition.

Mr. Turner said he would hate to remove a 20-foot buffer and not know all the situations that lead to that decision.

Mr. Miller asked Mr. Olsen if he felt it was all right to go ahead and approve with the road situation.

Mr. Olsen stated that if it were a raw piece of land, it would be potentially recommended for approval subject to the private road complying with the private road standards in the Subdivision Regulations. The fact that the road was existing raises some concerns about its construction standards. He referred to another subdivision with a similar private road, where the Planning Commission required certification of that standard before approving that subdivision. Mr. Olsen also pointed out that other than the original building and its parking facility, every other improvement on that property was built without a permit, including a gravel parking area that is not allowed in B-3.

Mr. Holmes asked if they could approve the subdivision with a condition of certification of the road to City standards, and completion of the permitting process on the secondary building prior to signing the final plat.

Mr. Olsen said that could be done, but since they were dealing with a PUD, they needed to have the PUD approved prior to them obtaining that permit. Another issue was that the private road does not meet the City standards set out in the Subdivision Regulations. As indicated on the plat submitted, the lot lines go down the center of the road. In order to be a private road, there has to be a 50-foot private road right-of-way.

After discussion a motion was made by Mr. Holmes and seconded by Mr. Miller to holdover this application to the meeting of November 2, 2006, to allow the applicant an opportunity to work with the developer to revise the plan showing that the private road had been brought up to City standards, that the setback issue be thoroughly investigated, and that the staff come up with a recommendation on the permitting process.

Mr. Dagley stated that to verify the construction of the road would require them to hire a testing lab and do core borings and compaction tests, and he had no idea when they would be able to do that. He asked if they had to set a specific date, or could they just hold it over until such time as they were ready to re-apply.

Mr. Holmes suggested that the applicant may want to withdraw the application and re-apply when they have the required information.

Mr. Dagley said they would like to withdraw the application.

Mr. Holmes withdrew his motion to holdover, and Mr. Miller his second.

In further discussion Mr. Persons said they simply overlooked the 20-foot setback in the original PUD in 1997. He pointed out that there was a low income apartment complex along the left side of the property. The rear of the property was buffered with trees along the residential areas at least 1,000 feet on the other side of the drainage ditch, and they had an existing 8-foot privacy fence. Mr. Persons said if they had the 50-foot right-of-way of the road going through there with the cul-de-sac, it would severely impact what they could build there.

After discussion, the application was withdrawn at the applicant's request.

**Case #ZON2006-01364 (Planned Unit Development) (Holdover)  
Paul Persons Subdivision, Resubdivision of Lot 1**

4474 Halls Mill Road

(North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road).

Planned Unit Development Approval to allow multiple buildings on a single building site with shared access between three building sites.

**(Also see Case #SUB2006-00131 (Subdivision) (Holdover) Paul Persons Subdivision, Resubdivision of Lot 1 - above, for discussion; and Case #ZON2006-01986 (Rezoning) Paul Persons - below.)**

After discussion, the application was withdrawn at the applicant's request.

**Case #ZON2006-01986 (Rezoning)  
Paul Persons**

4474 Halls Mill Road

(North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road).

Rezoning from B-3, Community Business, to B-3, Community Business, to amend a buffer strip condition of the previous rezoning.

**(Also see Case #SUB2006-00131 (Subdivision) (Holdover) Paul Persons Subdivision, Resubdivision of Lot 1 - above, for discussion; and Case #ZON2006-01364 (Planned Unit Development) (Holdover) Paul Persons Subdivision, Resubdivision of Lot 1 - above.)**

After discussion, the application was withdrawn at the applicant's request.

**Case #SUB2006-00196 (Subdivision) (Holdover)  
Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots "A" & "B" of the Resubdivision of Lots 1 & 2**

2760 Macmae Drive

(East and South sides of Macmae Drive at its South terminus).

3 Lots / 9.3+ Acres

**(Also see Case #ZON2006-01758 (Planned Unit Development) (Holdover)  
Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision  
of Lots "A" & "B" of the Resubdivision of Lots 1 & 2, Lot 2 - below; and Case  
#ZON2006-01989 (Planning Approval) Larry M. Tew - below.)**

Richard Patrick, with L.A. Research and Engineering, was present on behalf of the applicant. Mr. Patrick said they were in agreement with the staff recommendations, however, he asked for clarification on two conditions. One was the requirement of a buffer strip along the South property line. He said they proposed to put a fence 15 feet off the South property line. They would have 10 feet between the fence and the building. Mr. Patrick asked if that 10 feet could be used as a grass drainage swale. He explained that the water flowed from the spout onto their property and they needed to do something with the stormwater and would like to use the grass swale going around the buildings. Also, regarding reduction of the easements, Mr. Patrick said they were not reducing any easements, but were eliminating one small easement at the Southeast corner.

Mr. Olsen asked the City Engineering representative if no "reduction", included no "elimination".

Ms. Sawyer said that was correct.

Mr. Patrick indicated the location of the easement in question. He said because they were making this all one lot, the easement was not needed.

Ms. Sawyer asked if there was a pipe in that easement.

Due to some questions regarding the easement, Mr. Olsen suggested the application be held over so these issues could be addressed. He also noted that the buffer strip that was referred to in the staff report recommendations, was one that was basically offered to place on the final plat by the developer of the property at that time. It was 75 feet at the time the original subdivision plat was recorded.

Mr. Plauche asked if the applicant was agreeable to holding over this application.

Mr. Patrick said they were.

After discussion a motion was made by Mr. Miller and seconded by Mr. Turner to holdover this application until the meeting of November 2, 2006, to allow staff and the applicant to resolve drainage easement and vegetative buffer issues.

**Case #ZON2006-01758 (Planned Unit Development) (Holdover)  
Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision  
of Lots "A" & "B" of the Resubdivision of Lots 1 & 2, Lot 2  
East and South sides of Macmae Drive at its South terminus.**

Planned Unit Development Approval to allow three warehouse buildings and one office building on a single building site.

( See Case #SUB2006-00196 (Subdivision) (Holdover) Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots “A” & “B” of the Resubdivision of Lots 1 & 2 - above, for discussion; and Case #ZON2006-01989 (Planning Approval) Larry M. Tew - below.)

After discussion a motion was made by Mr. Miller and seconded by Mr. Turner to holdover this application until meeting of November 2, 2006, to allow staff and the applicant to resolve drainage easement and vegetative buffer issues.

**Case #ZON2006-01989 (Planning Approval)**  
**Larry M. Tew**

East and South sides of MacMae Drive at its South terminus.  
Planning Approval to allow warehousing in excess of 40,000 square feet in a B-3, Community Business District.  
Council District 4

(See Case #SUB2006-00196 (Subdivision) (Holdover) Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots “A” & “B” of the Resubdivision of Lots 1 & 2 - above, for discussion; and Case #ZON2006-01758 (Planned Unit Development) (Holdover) Willard Subdivision, First Addition, Resubdivision of Lots 3 & 4, and Resubdivision of Lots “A” & “B” of the Resubdivision of Lots 1 & 2, Lot 2 - above.)

After discussion a motion was made by Mr. Miller and seconded by Mr. Turner to holdover this application until the meeting of November 2, 2006, to allow staff and the applicant to resolve drainage easement and vegetative buffer issues.

**OTHER BUSINESS:**

Mr. Plauche asked if there was any further business.

Mr. Lawler stated that he was involved in some litigation representing a developer in Baldwin County and had come in contact with one of their Planning Commission members. He talked about their application process and the engineering drawings and other plans required at the time an application was submitted, as well as the application fee, which was considerably more than in Mobile. He also mentioned impact fees, which are required by many communities, which helps to pay for infrastructure needed for new development. He suggested this might be helpful in Mobile with the problem of construction of new streets.

Mr. Holmes suggested the Commission discuss this as part of their business meeting next week.

**Planning Commission Meeting  
October 5, 2006**

Mr. Olsen noted that impact fees would require an act of the State Legislature.

Mr. Lawler said Baldwin County had a delegation that got the legislature to adopt specific legislation to allow impact fees in Baldwin County.

Mr. Olsen further stated that he understood the State Legislature was actually looking at adopting something to make that state-wide.

After discussion Mr. Plauche stated that they would take this up at the next business meeting.

There being no further business, the meeting was adjourned.

**APPROVED:** November 16, 2006

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Victoria Rivizzigno, Secretary

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Terry Plauche, Chairman

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