

The Planning & Zoning Commission of the City of Fairhope met Monday, June 4, 2007 at the City Administration Building, 161 N. Section Street.

Present: Jean Wilson, Chairman; Members, Tim Kant, Dan McCrory, Bob Clark, Gary Moore, Dick Charles, Lee Turner, Ed Brinson, Mike Ford. Gregg Mims and staff Jonathan Smith, Nancy Milford, Chris Gill, attorney Betty Rivenbark, Secretary. Absent: None

The minutes of the May meeting were duly considered and approved with one amendment to SD07-14 Minor Subdivision approval Shellbrook Point/Thomas N. Ward of Gateway Companies. A sentence was added... The Commission based its denial on all the reasons set forth by staff.

**SR07-06 Site Plan Approval – Bancorp South Rock Creek/HMR, LLC**

Property is generally located at the northeast corner where Rock Creek Parkway meets Greeno Road. Jonathan Smith gave the staff report saying the property is zoned PUD and the total site area is 5.27 acres. The parcel is labeled as Lot 177C in the Rock Creek PUD and banking is the proposed use. The proposed building is 4,862 sq. ft. and the building height is approximately 28 feet. At the time of subdivision approval the developer was required to install a left turn lane off of Rock Creek Parkway. Staff recommendation was to approve the site plan contingent upon the following conditions: 1. a 10' wide non-vehicular access easement shall be provided to the property zoned R3PGH to the north of lot 177C. And, 2. Impervious landscaping shall be provided along the entire frontage of US Hwy 98 and Rock Creek Parkway. The City Horticulturalist shall approve the landscape plan. Sam Irby spoke and introduced Phillip Webb, Wilson Long, and Carol Drake with the bank. He said the main difference is they are taking three lots and making one with one building. Jean Wilson asked if anyone else wished to speak, no one did. Dick Charles asked if a de-cel lane could be added and Scott Hutchinson replied one could be fitted in, they have submitted papers to ALDOT. Ed Brinson moved to approve site plan with staff recommendation, Dick Charles 2<sup>nd</sup> the motion and it carried with one abstention by Gary Moore.

**SD07-16 Preliminary Plat approval of Royale Properties, LLC/Troy**

**Wilson.** The property is generally located on the southwest corner of the intersection of Lawrence Road and Gunnison Road. Nancy Milford gave the staff report saying the property is currently unzoned and located in the County. An 80 lot subdivision is proposed with lots ranging from 22,358 s.f. to 11, 015 s.f and is not contrary to the Comprehensive Plan. The required greenspace has been provided. Street standards have been met and an alley is planned behind the houses facing on Gunnison Road. A pedestrian plan has been provided. Utilities will be placed in the utility easement on the back side of the sidewalks, lighting was review by the electric department, fire hydrants will be located every 450 ft and at dead ends. Staff

recommendation was to approve conditional upon - 1. The applicant placing a note on the plat "No fences, structures, or obstructions shall be placed in the easements in or around lots 21, 22, and lots 64, 65. 2. Alleys will accommodate fire trucks for clearance. 3 Utilities shall be placed in the utility easement on the back side of the sidewalk. 4. The applicant shall obtain all required turn out permits from Baldwin County. Troy Wilson was present and said he could answer any questions. A Beth Kornmayer, 1135 Lawrence Rd Ext. spoke saying she was not happy about the proposed subdivision and where was the entrance planned. Mr. Wilson showed her on the map and she said it is right across the street from her, she bought two years ago thinking they would be in the country with wide open spaces. She also mentioned that there is a standing water problem on this land ( it was later decided the area she is talking about is where drainage pond is planned). Discussion followed and the question was raised about how they would park visitors on homes fronting on Gunnison Road. It was pointed out they could have parking in front. In an effort to keep front parking from joining with rear Gregg Mims suggested they stipulate that the front access point not connect to the rear access point. A motion was made by Dick Charles to approve with staff recommendations and contain stipulation that no access be off of Gunnison Road. Motion carried with two no votes by Jean Wilson and Gary Moore.

**SD07-17 Minor Subdivision approval of the Re-subdivision of Lot 1 Bayou Volanta. Joe Bullock of Engineering Development Services, LLC.** Two lots are proposed. The property is generally located off the west side of U.S. Highway 98 at the end of Cipriano. Nancy Milford gave the staff report saying that on June 4, 2001 the Planning Commission approved the property to be replatted to one lot. The applicant is proposing re-subdiving lot 1 into 2 lots and there are two existing buildings built on the property. Staff recommendation was to approve. Gregg Mims spoke to the Commission Members and said they learned at 2:30 PM there is litigation regarding this property. Chris Gill spoke and said that in April 06 a case was heard regarding Bon Aventure & Craig Dyas wherein there were restrictive covenants in place that limited resubdivision unless and upon approval of covenant and review committee. David Diehl of EDS spoke saying originally this was subdivided five years ago and now all they plan to do is put a lot line down the middle of the existing two buildings. He also said they are requesting a waiver of the flow model requirement as it is not pertinent to the application. Mrs. Wilson asked for public comment. Dr. Bryan Cheshire, co-owner with Dr. Staggers spoke and reiterated what Mr. Diehl said. John Law, Attorney for Dr. Staggers spoke and said the litigation, judgement has nothing to do with what doing today, completely irreverent. Craig Dyas

spoke and said that 1. there should be no resubdivision of lot on Bayou Volanta and 2 the restrictive Committee had not seen this application. He said Judge Wilters supports the judgment and it has gone to the AL. Supreme Court. He said his family still owns two lots and he is asking the Commission to table this. Starke Irvine spoke representing Dr. Staggers and said Mr. Dyas has nothing to do with this. That issues he pointed out are all outdated and null and void. Chris Gill spoke again saying that the question before us is does this meet the subdivision requirements. We are not a judge or jury. Dick Charles moved to recommend approval subject to a hold harmless agreement for the city. Motion died for the lack of a second. Tim Kant moved to go with staff recommendation to approve. Ed Brinson 2<sup>nd</sup> the motion and it passed unanimously.

IR07-05 Was withdrawn

**IR 07-06 Informal Review of a 16 lot subdivision(Twin Lakes Estates)**

Scott Hutchinson, HMR, LLC. Property generally located on the northwest corner of where Bishop Road dead ends into County Road 13. Nancy Milford gave the staff report saying the property is located in the county and is unzoned. The total site area is 80 acres and the applicant is proposing 16 lots (reduced from 24) with the smallest lot being 2 acres and the largest lot being 4.10 acres. The proposed subdivision does not meet the city's minimum street standards yet the comprehensive plan encourages this type of development in the rural areas of the Planning Jurisdiction. Due to the subdivision not meeting certain standards of the subdivision regulations the only way to process it is through the Village Subdivision process. Staff recommendation was to give input. Ray Moore said he had met with staff and what planned is an equestrian type subdivision with large lots, that it is near the airport, but in respect for the neighborhood keep it large. He passed out pictures to the Commission of a rendering. All expressed it was a good plan. Gregg said he told him they needed to visit with the Airport Authority. Ray Moore said that they also plan to have deed restriction that once bought lots could not be resubdivided. Bob Clark said we need note on plat that it is near the airport. Tim Kant said there is a two mile zoning district governed by the Airport Authority, that they need to coordinate with Gregg Mims, it should not be a problem.

IR07-07 Informal Review of a request by Sister Julie Guillot of Eastern Shore Affordable Houses to subdivide an existing two acre site with four existing affordable houses on the property. Jonathan Smith gave the staff report saying the total site area is approximately 2.0 acres and it is unzoned property in the county. He said there are four existing affordable houses on

the lot; the applicant would like to add two more houses and one mobile home to the lot. Staff recommended input be given. No one was present to address this application from Eastern Shore Affordable Housing. Bob Clark said he is against variations, Lee Turner said there is nothing to review, Dick Charles said table and let Sister Julie come back. Further discussion led to Gregg suggesting a committee be formed to work with Sister Julie. Mrs. Wilson appointed Gary Moore and Ed Brinson as committee to work with staff and Sister Julie.

SRA – Public Hearing on Subdivision Regulations

Chris Gill spoke telling of favorable ruling for the County on Bay John Case, that it was a positive ruling and logical extension regulating Condo as Subdivision and relevance of this to Subdivision Regulations and decision to put back in section relating to multi-family. Gregg spoke to the intent of this proposed amendment to Article IV of the Subdivision Regulations by adding to said Article IV a new Section G., the text of which shall provide as follows:

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION TO AMEND THE CITY OF FAIRHOPE,  
ALABAMA SUBDIVISION REGULATIONS**

**WHEREAS**, the City of Fairhope Planning Commission (the “Planning Commission”) adopted the current Subdivision Regulations for the City of Fairhope, Alabama on March 8, 2007 (the “Subdivision Regulations”); and

**WHEREAS**, the Planning Commission desires to amend the Subdivision Regulations as hereinafter provided.

NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF FAIRHOPE, ALABAMA, AS FOLLOWS:

1. Article IV of the Subdivision Regulations is hereby amended by adding to said Article IV a new Section G., the text of which shall provide as follows:

**G. *Multiple Occupancy Projects:***

1. Any project that will involve or otherwise result in three (3) or more units (whether contiguous or otherwise) being constructed on real property for occupancy, regardless of the form or type of use of said units,

unless otherwise regulated by these Regulations in another Article and/or Section hereof, shall comply with the following terms and conditions of this Section G.

2. The Subdivider shall submit to the Planning Commission via the City of Fairhope Planning Department a site plan for such project, which site plan must, at a minimum, comply with the following requirements:
  - (a) Each site plan shall comply with the storm water requirements of Article V, Section F hereof.
  - (b) Each site plan shall comply with the traffic requirements of Article IV, Section C 1 (h) hereof.
  - (c) Any and all improvements constructed in connection with the project shall be constructed strictly in accordance with Article VI hereof.
  - (d) The minimum set back for any building(s) constructed in connection with a project from the property lines shall be twenty feet (20') on all sides for unzoned property. Property within City of Fairhope's corporate limits shall comply with the minimum set back requirements of the City of Fairhope zoning ordinance.
  - (e) No building or other improvement to be constructed in connection with a project shall exceed thirty-five feet (35') in height for unzoned property. The 20 foot minimum setback requirement may be increased by the Planning Commission based on the size of the building, the location of the driveways, and other factors. Property within the City of Fairhope corporate limits shall comply with the minimum height requirements of the City of Fairhope zoning ordinance.
  - (f) Each site plan shall otherwise conform to the terms of Article I, Section A hereof.
3. Each site plan shall be submitted in accordance with the requirements of Section C and Section D of Article IV hereof relating to preliminary and final plat submittals,

respectively; provided, however, that a Subdivider may make application for simultaneous preliminary and final plat approval.

4. The filing fee for any project regulated in accordance with this Section G of this Article IV shall be the same as any filing fee assessed against an application for a Minor Subdivision.
2. Should any section, paragraph, sentence, clause or phrase of this Resolution, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-exemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.
3. This Resolution shall be effective from and after its adoption by the Planning Commission.

Adopted at a properly called meeting of the Planning Commission of the City of Fairhope, Alabama this 4<sup>th</sup> day of June, 2007.

s/Jean Wilson, Chairwoman

Discussion followed and Gregg said again the intent of the amendment is two or more units now be required to go to the Planning Commission for approval. It was stated that the County regulations require five or more. Mrs. Wilson asked if anyone wished to speak to this and no one did. The question was asked why not go with what the County requires and Tim Kant answered that this would be more restrictive. Gregg said this will apply to everything in our jurisdiction. Further discussion led to Gary Moore moving to approve the amendment revising to say three (3) or more units. Lee Turner 2<sup>nd</sup> the motion and motion passed with the following vote: Lee Turner, Gary Moore, Tim Kant, Jean Wilson, Mike Ford. Opposed: Bob Clark, Dan McCrory, Dick Charles, Ed Brinson.

Chris Gill mentioned facades and said we can create different districts in the city and offer different rules and regulations. Further discussion led to Gregg saying the staff can put something together and have something for the July meeting.

Meeting was duly adjourned at 6:20 P.M.

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Jean Wilson, Chairman

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Betty Rivenbark, Secretary

