

The Planning and Zoning Commission met Tuesday, September 8, 2009 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

Present: Jean Wilson, Chairperson; Dick Charles, Vice-Chair; Tim Kant, Jennifer Fidler, Bob Clark, Gary Moore, Lee Turner, Fran Slade, Lonnie Mixon. Jonathan Smith, Planning and Building Director; Nancy Milford, Planner; Chris Gill, Attorney, Emily Boyett, Secretary.

Chairperson Jean Wilson called the meeting to order and welcomed Councilman Lonnie Mixon to the Commission. The minutes of the August 3, 2009 meeting were considered and Dick Charles made a few changes. Dick Charles made a motion to approve the minutes with the changes and was 2<sup>ND</sup> by Gary Moore. The motion carried with two abstentions by Jean Wilson and Lonnie Mixon.

**SD 06.45 Preliminary Plat approval for a two-year extension of East Park Subdivision, Wendell Barnhill.** The property is located on the north side of Parker Road just east of U.S. Highway 98. Nancy Milford gave the staff report saying East Park Subdivision was granted preliminary plat approval by the Planning Commission on September 5, 2006. The applicant requested a two-year extension on September 2, 2008. The Commission granted a one-year extension. The original application was submitted prior to the March 8, 2007 revision of the City of Fairhope Subdivision Regulations. The staff recommendation was to approve a one-year extension of the preliminary plat, ending September 2, 2010 with the stipulation that at the time of final plat approval East Park Subdivision shall be brought into compliance with all aspects of the revised March 8, 2007 subdivision regulations. The following minimum changes must be met:

- 1) Finished floor elevation requirements must be revised (no longer measured from centerline of the street).
- 2) Drainage Requirements (a letter and/or a revised drainage plan stating that the new drainage requirements have been met. This documentation shall include a watershed map).
- 3) BMP Treatment (a letter stating the requirements will be met).
- 4) Submission of an Operations and Maintenance Plan, signed and stamped by a professional engineer.
- 5) All required maintenance and financial guaranty agreements and bonds shall be submitted.
- 6) A street lighting plan shall be submitted.
- 7) A topographic map with an aerial overlay shall be submitted.
- 8) Tree Survey and Landscape Plan must be submitted. The applicant shall meet all of the tree requirements per the Subdivision Regulation and Zoning Ordinance.
- 9) The Engineer's certificate on the plat would have to be revised with the new wording provided in the subdivision regulations Article IV Section D 18.
- 10) All final plans shall be submitted on disc in an ADOBE PDF format.
- 11) Storm Sewers shall be videoed (reflecting a time and date stamp) and reviewed for approval by the Staff.

Lee Turner moved to approve the staff recommendation with the eleven conditions. Dick Charles 2<sup>ND</sup> the motion and it carried unanimously.

**SD 09.11 Final Plat approval of Ansley Landing Subdivision, a minor two lot division, Chris Bowman.** The property is located on the north side of Gayfer Road Extension just west of Bishop Road. Nancy Milford gave the staff report and said the property is approximately 5.32 acres and is unzoned property in the County. The applicant is requesting two lots, the largest lot is 4.67 acres and the smaller lot is .65 acres. Jonathan Smith stated there are two proposals on this property; one for this subdivision and the other is for a multiple occupancy project to be located on the largest lot. Staff recommendation is to approve the request conditional upon the following:

- 1) The applicant shall show 15 foot utility easements along side and rear lot lines on Lot 2.
- 2) The applicant shall revise the note on the plat to reflect Lot 2, not Lot B.
- 3) A note shall be added to the plat stating the owner is responsible for the private sewer lines.

Dick Charles moved to approve the staff recommendation with the three conditions. Jennifer Fidler 2<sup>ND</sup> the motion and it carried unanimously.

**SD 09.05 Multiple Occupancy Project approval for Ansley Landing, a 56-unit project, Chris Bowman.** The property is located on the north side of Gayfer Road Extension just west of Bishop Road. Nancy Milford gave the staff report saying the property is approximately 4.67 acres and the applicant is proposing five buildings with 56 total units plus a community building and playground area. She added that the City does not have any zoning authority on the project but only a technical review of requirements in the Subdivision Regulations. Ms. Milford stated that the County provided a third party review of the drainage and that Richard Johnson, P.E., the County Engineer is here to answer any questions. Chairperson Wilson added that even though the Commission has limited powers on the uses of the property, the project is subject to a double review by the City and Baldwin County. Staff recommendation is to approve the request with the following conditions:

- 1) The City of Fairhope certificate of occupancy shall not be issued until the County engineer approves the drainage as-built plans.
- 2) A note shall be added to the site plan stating that the sewers are the responsibility of the owner.
- 3) A note shall be added to the utility plan stating that all water and sewer lines shall meet the specification requirements of the City of Fairhope.
- 4) All required outside agency approvals and permits (federal, state, county, or other) shall be submitted to the City of Fairhope Planning and Building Department prior to the issuance of a land disturbance permit.
- 5) A copy of the applicant's executed sewer easement agreement shall be submitted to the Planning and Building Department.

6) The submittal of a letter from the Engineer of Record stating that the NFPA standard has been met with regard to emergency vehicle access.

Chris Bowman, the applicant, addressed the Commission saying he first submitted the project in November 2008 and has been diligently working with the Planning Staff for a year to have a successful project and to be good neighbors. Chairperson Wilson opened the public hearing. Carolyn Koch, property owner of 8400 Dyer Road, showed a video of a 7.8-inch rain from last spring where the water completely flooded the roads. She said that the proposed project is only a quarter mile away from where the video was taken. Dick Charles asked if any properties were flooded and Mrs. Koch said no, only the roads. Dean Koch, 8400 Dyer Road, concerned with drainage and wants to protect the trees along the fence row from damage to the roots and trimming during construction. He also pointed out that Ellington Place tried to use Sand Chimneys and was turned down by ADEM due to possibly interfering with the underground aquifers used for the City's drinking water. Jerry Hall, 21272 Rolling Oaks Drive, said he has lived there for seven years and the drainage problems have gotten worse within the last two years. He said spring rains cause flooding now and the runoff from Bishop Road and Dyer Road goes to a catch at Bishop Road and Rolling Oaks. He wants the Commission to deny the request until the current drainage problems are fixed. John Kitch, 16 S. Rolling Oaks Drive, said the drainage is a huge concern and floodwaters cover the only access for the Rolling Oaks Subdivision, the Commission should not approve. Pete and Kay Taylor, 8450 Gayfer Road Extension, passed out pictures to show their concerns with flooding. Mr. Taylor said the ditches keep standing water now and wants to know who will be responsible for the new drainage problems. Chairperson Wilson responded that the applicant and developer must certify that the project meets the drainage requirements. Dale Fore, 20 S. Rolling Oaks Drive, said sand chimneys will raise the water levels and the ponds currently do not drain. He also said the schools on Bishop Road and Gayfer Road are causing traffic problems and this project will only compound the problem. Janine Rillo, 8610 Dyer Road, said there are sink holes in the area and she has tried to work with the City, County and FEMA about the water. She added she would like a second opinion on the engineering and the traffic. Victor Koch, 21145 Bishop Road, said he has lived here for 32 years and has seen the natural ponds be silted in and/or filled which adds to the flooding and the roads being washed out. Robert Orr, 11 N. Rolling Oaks Drive, said his property is not in danger now because Auburn changed their rows to run north and south, which sends all of that water to Dyer Road. Carolyn Byers, 20971 Bishop Road, said hers is the only house at the intersection of Bishop Road and Gayfer Road and she sees the traffic issues and has had water in her backyard that sits for days. Mike Ford, owns property to the west, said this project will cause his property to flood, the sand chimneys will cause the wells to be unsafe, will hurt the stability of his land and hurt property values. Mr. Ford said he wanted to use his land as R-1 Single-Family Residential and give it to his children but now he will look to doing a high-density project as well. Chairperson Wilson closed the public hearing and asked what the tree requirements were. Jennifer Fidler responded the Tree Ordinance requires that trees with a 20" dbh must be saved unless improvements are planned and there are only two trees on this site to be saved. She added that smaller trees do not have to be saved but the developer is required to plant additional trees and she has asked the developer to save the

trees on the borders and they are saving the northwest corner of trees. Chairperson Wilson asked if the traffic study meets our standards and Ms. Milford responded yes, it has been submitted and signed off. Richard Johnson came forward to answer any questions from the Commission. He stated that the County is tied to just making sure the drainage meets the requirements. Mr. Johnson said the County received the project in 2008 and met with the City and engineer on site. He said the initial review found major issues. Several revisions have been made and the current system, sand chimneys are a proven system, which will retain the water and put it back into the ground. He added that the developer is providing 1.237 acres of storage, which is more than required and will help the current drainage problems if installed and maintained properly. Mr. Johnson said the traffic study did not show a need for improvements and if improvements were made it would add to drainage issues. Mr. Johnson noted that water levels will only rise a micro amount, the County will monitor the construction and will not sign off until the project is correct. Discussion on the feasibility of the sand chimneys led to Mr. Smith saying that all permits and approvals must be attained from ADEM before the construction can begin. Chris Gill stated that the City has an Operations and Maintenance Plan that is recorded and runs with the land that requires an inspection every three years and falls back on the developer. Tim Kant said he would like to see the building in the northeast corner moved back twenty feet due to the neighboring residential housing. Dick Charles made a motion to deny the request due to the possible endangerment of the City's drinking water and underground aquifers and the known drainage issues. Fran Slade 2<sup>ND</sup> the motion and the motion fails with AYE – Dick Charles, Tim Kant, Fran Slade. NAY – Jennifer Fidler, Lee Turner, Bob Clark, Gary Moore, Lonnie Mixon, and Jean Wilson. Bob Clark made a motion to approve the staff recommendation with the six conditions and to add a condition to increase the setbacks to thirty-five feet (35') around the entire perimeter of the property. Lonnie Mixon 2<sup>ND</sup> the motion and it carries with votes as AYE – Bob Clark, Lonnie Mixon, Jean Wilson, Lee Turner, Jennifer Fidler, Tim Kant and Gary Moore. NAY – Dick Charles and Fran Slade.

Chairperson Wilson call for a five-minute recess at 6:38 PM at which time Jennifer Fidler left and did not return. Chairperson Wilson called the meeting back to order at 6:48 PM.

**SD 09.12 Multiple Occupancy Project for Ladnier Properties, a 15-unit project, Christopher Baker. Gary Moore had a conflict with this case and left the room.**

The property is located on the north side of Gayfer Road Extension just east of Ezell Lane. Nancy Milford gave the staff report saying the property is approximately 2.67 acres and is unzoned in the County. There are currently three buildings on the property with seven units. The applicant is proposing four additional buildings for eight additional units. The staff recommendation is to approve as requested with the following conditions:

- 1) The City of Fairhope requires verification from the traffic engineer that the additional two units do not change the result of the traffic study in any way and a report reflecting the accurate number of units.

- 2) Proof of the sidewalk check or if proof of check is found, then a pedestrian plan, meeting the approval of the City of Fairhope Director of Public Works shall be submitted.
- 3) The applicant shall show 15-foot utility easements along side and rear lot lines. Utility easements should be shown on the utility site plan. The correct utility shall be shown on the site data table.
- 4) Fire hydrants shall be located at every intersection and every 450 feet and at every dead end. One fire hydrant must be located as per the marked plans.
- 5) An O&M Plan has been submitted. Prior to any land disturbance on the subject property, the applicant shall submit a storm water maintenance agreement in compliance with the City of Fairhope regulations.

Christopher Baker was there for the applicant, to answer any questions from the Commission. Chairperson Wilson opened the public hearing. Victor Koch, 21145 Bishop Road, said he was raised in the area and the drainage has only gotten worse and no one has done anything to help. Chairperson Wilson closed the public hearing. Mr. Baker explained the developer is building two ponds, which will exceed the drainage requirements and will only be using gravel driveways. He added the building configuration is to save trees and the applicant may decide to annex into the City, but is currently working with both the City and the County on requirements and approval. Tim Kant stated concerns about flooding and a settlement with the County. Mr. Smith responded that finished floor elevations must meet the City's requirements and be labeled on the plat and Mr. Baker added that they had received input from the previous County engineer on the drainage. Lee Turner made a motion to accept the staff recommendation with the five conditions. Dick Charles 2<sup>ND</sup> the motion and the motion carried unanimously.

**SD 09.13 Final Plat approval of Phase II of Fairhope Village, a two lot minor division, Steve Pumphrey.** The property is located on the south side of Parker Road just east of U.S. Highway 98. Nancy Milford gave the staff report saying the property is part of the Fly Creek PUD, which received approval from City Council on October 23, 2006. The Commission granted final plat approval for Phase II of Fairhope Village on May 5, 2008; however, the plat was never recorded and the approval has become null and void. The staff recommendation is to approve as requested conditional upon the following:

- 1) The submittal of a satisfactory flow model.
- 2) The plat shall be signed by the surveyor.

Steve Pumphrey of Volkert and Associates addressed the Commission saying this is the second time the Commission has seen this plat. The first time it was approved but it was never recorded. He said Volkert had made a mistake showing a fifty-foot buffer from the wetlands when only a thirty-foot setback is required. Chairperson Wilson opened the public hearing. Chris Warner, 115 Bonner Street, said the Publix project is not in compliance with the City's Comprehensive Plan. Jackie Wavruek, 22440 Seacliff Drive, said she has witnessed eleven breeches of the Publix site and sewage and sediments have been released into Fly Creek. John McDonald, 22761 Highridge Road,

concerned with a fire station that will be right across from his house on a dead-end road. He added the traffic is a huge problem and it is not the place for a fire station. Paul Ripp, 22985 Highridge Road, said this is malfeasance and the Commission has not looked at any other sites. Jim Horner, 117 Volanta Avenue, said the project was approved fourteen months after the revised subdivision regulations and should comply with any requirements. He said this is a new plat and should meet the new stipulations. Debra Green, 415 Maple Street, said the completed or built parts are not what was approved and are not the same result in the end. Chairperson Wilson closed the public hearing and said the PUD has thirty-foot setbacks. Chris Gill explained the regulations have changed since the approval and the City can enforce rules that are more stringent after the fact unless the developer has began construction. Chairperson Wilson asked if the developer would be willing to give a thirty-foot buffer. Mr. Pumphrey said he spoke the developer's attorney and he will not. Lonnie Mixon made a motion to approve the staff recommendation with the two conditions and to add a condition that the applicant comply with the current wetlands stream buffer requirements in the City of Fairhope Subdivision Regulations. Lee Turner 2<sup>ND</sup> the motion and the motion carried with AYE – Lonnie Mixon, Lee Turner, Bob Clark, Jean Wilson, Dick Charles and Fran Slade. NAY – Tim Kant and Gary Moore.

Lee Turner left at 7:44 PM and did not return.

**Old/New Business – Complete Streets Policy** Jonathan Smith gave an overview of the policy saying the Planning Staff and the Pedestrian and Bike Trails Committee met on August 11, 2009 and drafted a policy to be accepted by the Planning Commission and City Council. The Complete Streets Policy the Committee drafted is as follows:

“Whereas the City of Fairhope supports construction of streets to enable safe access for all users, including motorists, pedestrians, bicyclists, and public transportation, the City of Fairhope will consider these practices when undertaking construction, reconstruction and repair of our roadways.”

Dick Charles motioned to approve as written and was 2<sup>ND</sup> by Gary Moore. Motion carried unanimously.

A presentation by CH2M HILL was scheduled, but due to the late hour, the Commission, Staff and CH2M HILL representatives agreed to reschedule for a different time. The meeting was duly adjourned at 7:54 PM.

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Jean Wilson, Chairperson

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Emily Boyett, Secretary