

The Planning Commission met Monday, October 3, 2011 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

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

Chairperson Jean Wilson called the meeting to order at 5:05 PM and announced the meeting is being recorded. The minutes of the September 6, 2011 meeting were considered and George Roberds moved to accept the minutes as written and was 2nd by Lee Turner. Motion carried with two abstentions by Bob Clark and Jean Wilson.

SD 11.06 Public Hearing to consider the request of HMR, LLC for Final Plat approval of Watershed Subdivision, Tim Lawley. The project is located on the southwest corner of the intersection of Twin Beech Road and Old Battles Road. Nancy Milford gave the staff report saying the property located in the City of Fairhope and is zoned TR (Tourism Resort) District. The property is approximately 3.6 acres with ten lots proposed. The original preliminary plat approval on March 2, 2009, allowed four lots on the property. On June 7, 2010, the Commission approved the TR District concurrent upon annexation into the City of Fairhope. The approval was based on a specific density of 637 for all residential within the TR District property. Essentially, the applicant chooses how this is addressed within the confines of their property and TR District boundaries. Staff recommendation is to approve the Final Plat for Watershed Subdivision contingent upon the following six conditions:

- 1) A completed and recorded O & M Plan and Agreement shall be submitted;
- 2) The submittal of an executed Maintenance Bond and Agreement is required;
- 3) The submittal of a financial guaranty for the required aerator or the installation of the aerator;
- 4) The submittal of GIS As-Builts for Dan McCrory, Water and Sewer Superintendent;
- 5) Submittal of all required Water and Sewer tests for approval by Dan McCrory, Water and Sewer Superintendent; and
- 6) ISO requirements shall be met. A minimum of 12-16 foot separation shall be required between each structure per the Engineer of Record. A note shall be placed upon the plat stating this requirement.

Mrs. Wilson opened the public hearing. Corkie Ellard of 6210 Battles Road said she had no objections but asked how this property was in City Limits and hers is not. She thanked Jason Tickle and Emery Childress for giving her a buffer between her property and this subdivision. She also questioned the subdivision process and asked why they are being granted final approval after the road has been built. Mr. Smith responded the property was annexed and the road was approved at the time of preliminary plat in March of 2009. Having no other comments, the public hearing was closed. Mr. Kant stated the Commission grants preliminary approval so property owners can develop their property and then final approval is to accept was has been constructed. Lee Turner moved to accept the staff recommendation to approve

contingent upon the follow six conditions: 1) A completed and recorded O & M Plan and Agreement shall be submitted;

2) The submittal of an executed Maintenance Bond and Agreement is required;

3) The submittal of a financial guaranty for the required aerator or the installation of the aerator;

4) The submittal of GIS As-Builts for Dan McCrory, Water and Sewer Superintendent;

5) Submittal of all required Water and Sewer tests for approval by Dan McCrory, Water and Sewer Superintendent; and

6) ISO requirements shall be met. A minimum of 12-16 foot separation shall be required between each structure per the Engineer of Record. A note shall be placed upon the plat stating this requirement.

Jennifer Fidler 2nd the motion and the motion carried unanimously.

SD 11.07 Public hearing to consider the request of McCrory & Williams, Inc. for Final Plat approval of River Landing Subdivision, Jimmy Mason. The property is located on the east side of Ferry Road just north of Keeney Road. Nancy Milford gave the staff report saying the property is located in Baldwin County and is unzoned. The property is approximately 1.26 acres and three lots are proposed. The applicant is requesting a waiver to Article V, Section F., 4, Stream Buffers, which specifies a buffer width of 100 feet from the top of bank of Fish River. Staff cannot support the waiver requested by the applicant due to the lack of a true hardship and the application not meeting the minimum criteria for the issuance of a waiver. Staff recommendation is to approve the subdivision contingent upon the following two conditions:

1) The required 100' stream buffer of the Fish River Tributary shall apply to the subject plat; and

2) Buffer signage shall be installed in accordance with Article V, Section F., 4, i of the City of Fairhope Subdivision Regulations. All buffers shall be in compliance with Article V, Section F. of the City of Fairhope Subdivision Regulations.

Mrs. Wilson opened the public hearing. Arlene Dipietro of 16799 Ferry Road said she lives across the street and bought her property because of the acreage. She is opposed to three houses being built on the subject property. She stated the covenants and restrictions for the area only allow single family residences and they have been told the property can not be subdivided because it is in a flood zone. She also said she was told when they purchased their property that the subject property was her river access. Mr. Turner stated the Planning Commission does not have anything to do with restrictive covenants but must decide based upon whether the application meets the City's Subdivision Regulations. Bryan Britt with Kopesky, Britt & Norton, LLC at 451 Magnolia Avenue is the attorney for the Blaums. He stated a land search as been done going back approximately 85 years and no access to the river is given across the property and there are no restrictive covenants of record for the subject property. Having no further comments, the public hearing was closed. Mrs. Wilson stated this is an unzoned piece of property and if it meets the County's size requirement then the Commission must approve it if it meets the City's Subdivision Regulations. Mr. Kant said he visited the site and the 100' buffer would eliminate any yard for the lots even if the house had a small footprint. He added the road is existing and the surrounding houses are closer to the river

than 100' and he feels some relief should be given to the applicant. Mr. Kingrea asked why staff can not support the waiver request. Mr. Smith responded the waiver request does not meet the criteria set forth in the Subdivision Regulations to constitute a hardship. Mr. Smith said he sees the argument on both sides and the applicant argues the property is not actually on Fish River but a branch of Fish River. Mrs. Wilson stated there was lengthy discussion, reviews and reasons for establishing these setbacks for streams and rivers. She said the restrictions are not to preclude development but they may limit the number of lots or the size of the homes. Jimmy Mason, applicant's representative, passed out drawings showing the building setback lines at 100' from the bank of the river and said they can make the subdivision work with the setback but are asking for a little relief. He stated the road is paved within 3' of the property line and there is very little room to even park a car in front of the house. Mr. Turner stated vehicles can be parked under the houses. Mr. Roberds asked how much relief they were looking for and Mr. Mason responded 25' would do it, but only for the south lot because the northern lot has plenty of area. Mrs. Fidler asked about flooding and Mr. Mason said that area is only about six or seven feet above the river and the houses are set at 12'. Mrs. Fidler asked staff if all criteria has to be met to grant a waiver and Mr. Smith responded yes. Mr. Turner stated this is almost a self-imposed hardship because the applicant is requesting three lots instead of two. Bob Clark moved to accept the staff recommendation to deny the waiver due to the lack of a true hardship and the application not meeting the minimum criteria for the issuance of a waiver and approve the subdivision contingent upon the following two conditions:

- 1) The required 100' stream buffer of the Fish River Tributary shall apply to the subject plat; and
- 2) Buffer signage, shall be installed in accordance with Article V, Section F., 4, i of the City of Fairhope Subdivision Regulations. All buffers shall be in compliance with Article V, Section F. of the City of Fairhope Subdivision Regulations.

Lee Turner 2nd the motion and the motion passed unanimously.

SD 11.09 Public hearing to consider the request of the CDG Engineers & Associates for Multiple Occupancy Project approval of Country Place Senior Living Center, Nolan Baker.

The property is located on the northeast corner of the intersection of Gayfer Road Extension and Jubilee Trail. Nancy Milford gave the staff report saying the property is located in Baldwin County and is unzoned. The area is approximately 1.6 acres and a 22 unit multi-occupancy project is proposed. Staff recommendation is to approve the proposed multiple occupancy project contingent upon the following six conditions:

- 1) The submittal of a fully completed and executed Operations and Maintenance Plan and Agreement. The Plan shall be recorded prior to the issuance of a building permit;
- 2) The submittal of a Maintenance Bond and executed Maintenance Bond Agreement;
- 3) Verification letter from the engineer of record for the number of traffic trips in a peak hour;
- 4) Approval of the fire hydrant location by Dan McCrory, Water and Sewer Superintendent;

- 5) The distance between the fire hydrant and FDC (Fire Department Connection) shall be within 100'. Drawings shall be revised to show the correct distance; and
- 6) All Baldwin County requirements shall be met.

Jack West, developer, addressed the Commission saying they have two additional sites in Baldwin County, one in Foley which is beginning construction and one in Bay Minette. He stated this site will have a 16,000 square foot footprint with 22 suites. Mr. West said their facilities have 24 hour staff, serve all meals, full-time activities director, nurse, and a facility for diabetes treatment. He stated all of Baldwin County's concerns have been addressed. Mrs. Wilson opened the public hearing. Richard Loftin of 21085 Jubilee Trail said he moved next door to this property in April. He said the lot has been vacant for a long time and it has several large trees and he asked if the applicants are in compliance with the Tree Ordinance. He asked if an animal and environmental impact study has been done because there may be wetlands or gopher tortoises on the property. He also stated concerns with the site design, drainage, and the location of the dumpsters. He said Jubilee Trail is a tranquil area and there is no need for another assisted living facility. Mrs. Wilson responded this property is not inside City Limits so the Commission is limited with their review. Mr. Smith stated the applicants have agreed in writing to meet or exceed the City's Tree Ordinance and staff will continue to work with the applicant as the project progresses and there will be further reviews. He added there may be additional screening added around the dumpsters; however, the City does not have a requirement for an environmental study to be done and it is a burden of the applicant. Mr. Kant said this property floods and he is not comfortable with the drainage unless the County signs-off on it. He added dumpsters should not be allowed to be in someone's front door and the City can stop curb cuts on Jubilee Trail. Mrs. Fidler said she has not seen a landscape plan but would like to and try to preserve the trees. Nolan Baker with CDG Engineers & Associates addressed the Commission saying they have met with the County and they are not allowing any cuts on Jubilee Trail so the dumpsters will be moved to the east side of the building. He added they will be working with the County to widen Jubilee Trail to make it a safer intersection and the wetlands have been delineated. There was discussion regarding pervious parking to help with drainage, the applicant has considered it but they have concerns with ADA requirements and this being a facility for elderly. Mr. Smith said the County does not do a complete drainage review but only looks at the discharge onto their right-of-way. Mr. Baker responded that the County was provided a full set of drainage calculations and are looking at the entire site. Lee Turner moved to accept the staff recommendation to approve the proposed multiple occupancy project contingent upon the following six conditions:

- 1) The submittal of a fully completed and executed Operations and Maintenance Plan and Agreement. The Plan shall be recorded prior to the issuance of a building permit;
- 2) The submittal of a Maintenance Bond and executed Maintenance Bond Agreement;
- 3) Verification letter from the engineer of record for the number of traffic trips in a peak hour;
- 4) Approval of the fire hydrant location by Dan McCrory, Water and Sewer Superintendent;
- 5) The distance between the fire hydrant and FDC (Fire Department Connection) shall be within 100'. Drawings shall be revised to show the correct distance; and

6) All Baldwin County requirements shall be met.

Rick Kingrea 2nd the motion. Mr. Kant asked about adding the relocation of the dumpster and the County approving the drainage. Lee Turner amended his motion to include the following two conditions:

7) The screening and relocation of the dumpsters to the east side of the building.

8) No building permits shall be issued until Baldwin County signs-off on the drainage within their scope of review.

Rick Kingrea amended his 2nd and the motion carried unanimously.

SR 11.02 Request of Preble-Rish, LLC for Site Plan approval of Community Bank,

Joe Bullock. The property is located on the northeast corner of the intersection of Greeno Road and Edwards Avenue, at 206 N. Greeno Road. Nancy Milford gave the staff report saying the property is zoned PUD (Planned Unit Development) and is approximately 1.16 acres. The proposed building has a footprint of 4,339 square feet, building height of 35', and 34 parking spaces. She stated the project appears to be in compliance with the PUD requirements for the Greeno Professional Village PUD. Staff recommendation is to approve the Community Bank Site Plan contingent upon the following four conditions:

1) Submittal of a landscape plan that meets the approval of the City of Fairhope Horticulturist, specifically in the area of tree preservation;

2) The utilities be moved to the satisfaction of the Water and Sewer Superintendent and the Electrical Superintendent;

3) Site plan and construction drawings signed and sealed by the engineer of record shall be submitted; and

4) The applicant shall verify lighting setbacks from the roadway will not interfere with traffic flow.

Joe Bullock of Preble-Rish was present to answer any questions and stated they are working with Mrs. Fidler on the adjustment and relocation of some pipes for tree preservation. Mrs. Wilson opened to floor to public comments and there was no one wishing to speak. Tim Kant moved to accept the staff recommendation to approve the Community Bank Site Plan contingent upon the following four conditions:

1) Submittal of a landscape plan that meets the approval of the City of Fairhope Horticulturist, specifically in the area of tree preservation;

2) The utilities be moved to the satisfaction of the Water and Sewer Superintendent and the Electrical Superintendent;

3) Site plan and construction drawings signed and sealed by the engineer of record shall be submitted; and

4) The applicant shall verify lighting setbacks from the roadway will not interfere with traffic flow.

Lee Turner 2nd the motion and the motion carried unanimously.

UR 11.13 Request of the Fairhope Single Tax Corporation for an 11.52.11 review and approval of the proposed construction of approximately 2,500 linear feet of sidewalk along Volanta Avenue, Joe Bullock.

The project will run along Volanta Avenue from N. Section Street to the Fairhope Municipal Park. Jonathan Smith gave the staff report saying the proposed sidewalk is 5' wide and 2,500 linear feet in length. The

City of Fairhope City Council has already approved a resolution to allow for the construction of the sidewalk within the Volanta Avenue right-of-way (Resolution 1744-11). The sidewalk is proposed on the south side of Volanta Avenue from N. Section Street heading east to Bon Secour Street. The sidewalk will then cross Volanta Avenue to the north side right-of-way and proceed until it ties into an existing sidewalk located at the Fairhope Municipal Park. Mr. Smith added that a portion of the sidewalk will be constructed of pervious concrete to help with the known drainage issues in this area. Staff recommendation is to approve the proposed sidewalk with the following two recommendations:

- 1) The project shall not interfere with existing utilities and minimally impact any trees within the right-of-way or sidewalk easement; and
- 2) All applicable City and outside agency regulations shall apply.

Bob Clark made a motion to accept the staff recommendation to approve the proposed sidewalk with the following two recommendations:

- 1) The project shall not interfere with existing utilities and minimally impact any trees within the right-of-way or sidewalk easement; and
- 2) All applicable City and outside agency regulations shall apply.

Jennifer Fidler 2nd the motion and the motion carried unanimously.

Old/New Business

Election of Officers – Chairperson Wilson stated it is time for the annual elections of the Commissions Chairperson, Vice-Chair, and Secretary.

Bob Clark moved to elect Lee Turner as the Chairperson. George Roberds 2nd the motion and the motion carried unanimously.

Bob Clark moved to elect George Roberds as the Vice-Chair. Jennifer Fidler 2nd the motion and the motion carried unanimously.

Bob Clark moved to re-elect Emily Boyett as Secretary. Jennifer Fidler 2nd the motion and the motion carried unanimously.

Having no further business, Tim Kant moved to adjourn and was 2nd by George Roberds. Motion passed unanimously and the meeting was duly adjourned at 6:03 PM.

Jean Wilson, Chairperson

Emily Boyett, Secretary