

The Planning Commission met Monday, April 4, 2011 at 5:00 PM at the City Administrative Building, 161 N. Section Street in the Council Chambers.

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

Chairperson Jean Wilson called the meeting to order at 5:00 PM. and welcomed Councilperson Rick Kingrea to the meeting. She also noted that Gary Moore would excuse himself from Item D on the agenda (SD 11.02) since he has a conflict with this agenda item. Chairperson Jean Wilson asked for approval of the February 2011 minutes. Dick Charles moved to accept the minutes. Bob Clark 2nd. Mayor Kant abstained, since he was not at the meeting in February. The February 2011 minutes were approved. Chairperson Jean welcomed Councilperson Rick Kingrea.

ZC 11.03 Proposed amendment to Article V, Special Districts of the City of Fairhope Zoning Ordinance for a Medical Overlay District, Jonathan Smith.

The Planning Commission established a committee to draft a Medical Overlay District ordinance, with the goal of accommodating expansion growth from Thomas Hospital and surrounding medical facilities. Committee recommends approval of the Medical Overlay District. The committee spent several months reviewing this district, and used a similar community, Punta Gorda, Florida as an example model for the Medical Overlay District. Dick Charles, chairman of the committee that put together the Medical Overlay District ordinance, said that basically the Punta Gorda Medical Overlay District Ordinance was plagiarized and is identical to what the City is proposing. The properties within the Medical Overlay District area will not need to be rezoned and can be used for designated purposes without rezoning.

Jonathan went over authorized uses within the district, which include medical offices, nursing homes, medical and dental clinics, emergency services, bed and breakfast facilities to accommodate families and patients, vocational trade and business schools related to the medical field, etc. Proposed projects would still be subject to site plan review. The City Council will make final determination on the acceptance on the ordinance.

Chairperson Jean Wilson has a list of people who signed up to speak at this meeting, on this agenda item, and she called the first person up.

First speaker: Willie Williams, 17420 Confederate Rest Road. He owns property on Northrop Street, which is in the proposed Medical Overlay District. He has asked to be included in any meetings regarding developments or changes near his property. He saw the notification for this meeting in the paper, but he thinks there should be more effort on notification of adjacent property owners.

Second speaker: Harry Davis with *Baldwin County Press*. He wants to know why people are not being informed of these meetings. He looked at the City website and could not find information about this meeting. He said the current agenda and current minutes should be on the website. He said that the minutes are only up to date through December 2010. Chairperson Jean Wilson reminded Mr. Davis that he is speaking in regards to the Medical Overlay District. Chairperson Jean Wilson explained to Mr. Davis how the committee and notifications work. Jonathan said that the meeting was advertised (newspaper, subdivision group notifications). Mr. Davis asked about historic preservation; does the City have an archeologist oversee sites before permits are issued?

Third speaker: Debra Green, 415 Maple Street. She asked for clarification of the area encompassed by the Medical Overlay District. Jonathan explained the location, referred to the map visual on Power Points, and also gave her a hard copy of the map.

Chairperson Jean Wilson closed the public participation part of this agenda item.

Bob Clark asked what prompted this district to be created. Jonathan said it was created to accommodate current and anticipated growth of the Thomas Hospital area. Bob Clark asked what the impact would be to near by property owners. Jonathan said if he was a property owner nearby, he would be concerned in that he would want to know all the facts of the proposed districts. Dick Charles said there is a concern that this area already has encroachment into residential area. This would enable residents to change their property use without going through rezoning and without changing the footprint of the Fairhope area. Jonathan noted that over 50% of this area is already zoned for light industrial, about 30% is zoned B-2, and only about 20% of this area is currently zoned for residential or multi-family. Jennifer Fidler asked about the area that appeared to be unzoned, on the southside of the overlay. Jonathan verified that these properties were in the county and were not zoned. Jennifer asked if property owners had been individually notified. Jonathan said that notifications have been done as per legal requirements, but each property owner has not been individually notified. Jonathan said individual notification can be done. Jennifer said that she would want to be notified if she was a property owner, but most likely this overlay would increase property values. Gary Moore thanked the committee for all the hard work on this ordinance. He asked if Punta Gorda expressed any concerns or challenges with their Medical Overlay District Ordinance. Jonathan said there were no noted concerns. Chairperson Jean Wilson noted that the district would encourage good, clean businesses that would support the hospital and the medical industry. The hospital is growing and expanding, with or without this ordinance. Dick Charles said that Phil Cusa would come back from retirement to assist in this effort. Chairperson Jean Wilson said that Fran Slade had served on this committee. Bob Clark said that he understands why this is being done, but he is concerned that individual property owners were not contacted. Gary said that he is concerned also. Jonathan suggested that the item be tabled so that all the property owners could be notified, for further review and community meetings.

Mayor Kant said he has concerns with property owner notifications, and also noted concern for businesses encroaching residential properties on South Ingleside. Dick Charles made a motion to table this ordinance, and to have another public meeting for input once property owners inside and within 300' of proposed MOD are notified. Bob Clark 2nd. The motion passed unanimously.

Chairperson Jean Wilson announced the public hearing is closed on this item.

ZC 11.04 Proposed amendment to Article IV, Site Design Standards of the City of Fairhope Zoning Ordinance for Tree Preservation, Jonathan Smith.

On many occasions, there have been incidences where simple site adjustments can be made in order to save a heritage tree. The set backs in our Zoning Ordinance do not allow for any kind of administrative variance in any capacity to work around these heritage trees. Our citizens expect us to save these trees. Staff proposes we establish an administrative variance procedure in order to protect our heritage trees and establish a 9' trenching setback (for utility installation, etc.) around the perimeter of properties, in order to protect the root systems of trees on adjacent properties. Staff recommends amending the ordinance to include a definition for heritage trees. Staff also recommends an administrative variance to setbacks, up to 7', in order to protect heritage trees.

Chairperson Jean Wilson noted that this ordinance would allow for the Planning Department to allow for setbacks to be adjusted in order to save a heritage tree. Buildings can be moved on the site plan, without going before Board of Adjustment for variance on setbacks. Jonathan noted that this would be specifically for heritage tree (which is a tree defined as, greater than 20" in diameter at breast height). This is an effort for staff to be able to preserve more trees. This is a proposed change to the current Zoning Ordinance.

First Speaker: Debra Green, 415 Maple. She thinks this is a very good plan. She would like to know if this is for new construction only. Jonathan verified that it would be for permitted construction, but this would not restrict residents from cutting down unwanted trees. It would only give more flexibility to a permittee who wishes to save a heritage tree and work around setback requirements, if there is a heritage tree on their property. Debra asked is this ordinance would have any affect on the proposed expansion of Boothe Road (would it help to save the established trees in that area). Jonathan said that the Boothe Road project is a county project, and the City has no jurisdiction, but he can look into the issue of saving the oak trees along Boothe Road.

Second Speaker: Harry Davis with Baldwin Press Register asked who deems a heritage tree and asked if all 20" DBH trees are heritage trees. Jonathan referred to the definition in the ordinance, and clarified the determination on setbacks as determined by the planning director. Heritage trees would include certain species as determined by the City horticulturist (such as certain oaks, cedar, cypress, etc.). Mr. Davis expressed concern that this would hinder residents from cutting trees on their property. Jonathan clarified that this ordinance would not hinder a resident from cutting a tree on their property, but it could allow the resident an opportunity to alter the setback requirements, if there is a

heritage tree on the property. Chairperson Jean said that this ordinance will help residents save heritage trees, if they so wish to do so. It will allow for more flexibility to save trees and alter setback requirements.

Councilman Rick Kingrea said that if this would reduce the setback from 10 to 7', would it be required as per this ordinance to always go 7'? Jonathan said the 7' is not set in stone, staff would only use what would be required to preserve the tree and the critical root area (would consult with City horticulturist). Maximum variance would be 7' and anything above that would require Board of Appeals review. Adjacent buildings would also be taken into consideration.

Jennifer Fidler said that there have been several incidents in the past where this would have been beneficial, and would have allowed residents to save critical trees on their property and still be in compliance with setback requirements. The trenching requirement would serve to protect trees on adjacent properties as well, reducing friction between neighbors.

Chairperson Jean Wilson said that this will go before Council for final approval. Mayor Kant made a motion for approval. Dick Charles 2nd to approval. Unanimously approved for this to go before City Council for final approval.

IR 11.01 Request of Bobby Faust for an Informal Review for a proposed zoning change from R-6 Mobile Home Park District to B-4 Business and Professional District for property located at the northeast corner of Morphy Avenue and Bishop Road, at 8501 Morphy Avenue, Parcel # 05-46-05-16-0-000-028.518; Jonathan Smith

The property is currently located at 8501 Morphy, and is zoned R-6, for Mobile Homes. The only uses allowed in R-6 are manufactured homes and home occupations. The applicant would like to rezone to B-4 Business and Professional district. B-4 is designed to establish business establishments of a professional nature, and is restricted to office and businesses which provide specific corporate functions or professional services. This is just an informational session for the applicant and for staff.

Chairperson Jean Wilson called the applicant to speak. Xavier Hartman, CPA, representing Mr. Faust, came up and gave a handout on the property. Also present to speak on behalf of the applicant was Sandra Faust of 20451 Beecher Street (Fairhope).

Sandra Faust (daughter) said that the handout shows the main intent and layout of the property and surrounding area. Mr. Faust purchased the property in 2008, and has been denied zoning for multi-unit projects. The surrounding properties include commercial properties (medical offices, etc.). Mr. Hartman said that the current zoning of R-6 would allow for up to 20 mobile homes. It would be better for this area to have commercial property located here, as opposed to a trailer park. This property must be developed, and commercial seems to be a better fit than a mobile home park.

Jennifer Fidler asked if the Comprehensive Plan addressed this specific area. Jonathan said that it did not reference this area. Gary Moore thanked Mr. Hartman for the handout, and asked about the OB-GYN office across the street. Jonathan said that this property is unzoned (in the county). Professional Health (which is near the Faust property) is zoned B-4, which is the zoning Mr. Faust would like to have for his property. The city has no land use control on this property. Other surrounding areas are mostly zoned residential. Chairperson Jean Wilson said that she lives near this area and it has a residential feel to it. She would not be supportive of this being rezoned as commercial.

Jonathan asked if the Planning Commission could recommend another residential use. Chairperson Jean Wilson said that R-3 surrounds this area and that would be appropriate in her opinion. Gary Moore said that he favors a residential use for this area. Jennifer said she would too. Mayor Kant asked for clarification on the different residential zoning designations (between R-5 and R-3). Jonathan said that R-5 is for multi-family, and allows for approximately 10 units per acre. R-3 is for single family. The Faust property is approximately 1.75 acres and would be allowed to build about 17 units (approximately, depending upon parking and building type) if zoned R-5. R-3 can only be developed according to lot size. Bob Clark said that he is not opposed to a zoning designation of B-4. Dick Charles said that he would support residential, possibly R-3. Otherwise it would appear to be spot zoning. Gary Moore said that Washington Square off Bishop is R-5, and he thinks R-5 would fit the Faust property well. Chairperson Jean Wilson suggested R-3 as much more suitable for this area. Chairperson Jean Wilson noted that this was not a public comment hearing because it is not a formal proposal. She thanked the applicant for coming in and receiving input. Gary Moore said that he would like to thank the property owners for keeping the property maintained and Mr. Faust is setting a good example.

SD 11.02 Request of Christopher Baker of HMR, LLC for approval of The Oaks of Fairhope, Phase II, an 18-unit multiple occupancy project. The property is located on the west side of Blueberry Lane, North of Fairhope Avenue. Parcel # 05-46-06-14-0-000-001.511, Nancy Milford.

Councilperson Gary Moore excused himself and left the room.

Property is unzoned and is located on Blueberry Lane, and is a 48 unit multiple occupancy project. This project has been redesigned. It is 4.88 acres. Original application was approved by Planning Commission on October 6, 2008 and consisted of 5 buildings. The buildings were approved as being two story buildings, and to date, 3 of the 5 have been constructed. The applicant is proposing an alternative to the remaining 2 buildings.

The applicant instead is proposing 3 one-story buildings for a total of 28,134 sq. ft. instead of 2 two story buildings of 13,087 square feet. Currently 30 units are built and 18 units are proposed in the site redesign. The associated investors are Matt Burn and Michael Todd Boothe.

Chris Baker, HMR, LLC, representing Matt and Todd (Double B Investments). The original approval had entitled the property with 48 units and that is exactly what we are proposing. No change to the number of units. Instead of 2 two story buildings we are proposing three one story buildings.

Chairperson Jean Wilson said that Planning Commission has limited authority to review this type of project. Planning Commission is able to provide technical review, and Staff has done that.

Nancy said that Planning has reviewed, as per legal requirements, traffic, height and set backs. County has had some issues with the site, and Staff will make it conditional upon Baldwin County's approval prior to issuance of any City of Fairhope building permits.

Jonathan Smith said that Baldwin County contacted him last week. They have an approval process similar to our multiple occupancy process. He and Jennifer have been working with the applicant for the past few months to help save the trees on the site and also have been assisting in design of the site. Our multiple occupancy project review is essentially a drainage review (not building placement review). Our landscape ordinance has been applied. The County had issues relative to building spacing and Jonathan thinks these issues can be resolved. Upon approval, condition will be placed on the project that all issues with Baldwin County be resolved prior to issuance of any City permits.

Chairperson Jean Wilson said that no one has signed up to speak on the project, but asked if anyone in the audience wished to speak. No one did.

Chairperson Jean Wilson noted that the proposal has conditions of:

1. A financial guarantee for the sidewalks,
2. An aerator
3. Existing trees to be looked at for their tree credits (to make sure the trees are high quality and alive of course. Jennifer is ensuring this)
4. Must meet Water and Sewer Supt. Approval (Nancy noted that Dan McCrory has since approved this aspect. Jonathan said this was taken care of last week.)
5. An operations and maintenance plan agreement
6. Must meet Baldwin County approval

Chairperson Jean Wilson asked if there were any questions. Harry with Baldwin Press asked if this would involve a Heritage Tree.

Chairperson Jean Wilson asked Jennifer to address this. Jennifer said that according to our Tree Ordinance, all commercial properties would have to try to preserve trees, if there are no improvements on the property. Jennifer said there are three large trees on back of this property where the City has asked for driveways to be placed around. These trees are the ones referred to. Jonathan said they were working toward maximum tree protection.

If a tree was required to be removed in regards to building placement, the applicant could work with the City's tree ordinance (tree credits, etc.) in order to accomplish this.

Christopher Baker clarified that the significant trees onsite would be preserved, as per the presented proposal. However, the County is requiring that the buildings be an additional 10' apart, which would require removal of one of the significant trees (a 56" oak) on the back of the property. The applicant is committed to preserving the tree, and will continue to work with the County to craft a solution in order to preserve the tree.

Dick Charles asked if the driving function behind going to single story due to inability to rent or sell the upper floors. Chris Baker said this project targets empty nesters or folks downsizing and that market niche does not appreciate climbing stairs.

Chairperson Jean Wilson asked for a motion. Bob Clark made a motion to approve Staff Recommendations, subject to the conditions stated:

1. Financial guarantee
2. Tree issue
3. O&M Plan
4. Approval from Baldwin County

Dick Charles 2nd. Passed unanimously.

Gary Moore returned to the meeting.

Informal Review of Wendall Barnhill's Property on Parker Road, directly North of Publix; Jonathan Smith.

This was placed on the agenda for a quick discussion. This property used to be a mobile home park and was rezoned a few years ago into PUD (residential, small lots). Mr. Barnhill thinks this would be a good spot for an upscale RV park and he would like Planning Commission input. Infrastructure is already in place (streets, utilities, etc.). One of the goals in the Comp Plan is to promote tourism. Zoning is PUD so it would not permit RVs. There were mobile homes here previously; it is vacant now. Property has been kept up. There are a few out buildings to house maintenance equipment and similar equipment. Chairperson Jean Wilson asked for thoughts on this possible project. The Mayor asked if there were any similar parks in this area. Jonathan noted that the closest one was at CR 32 just east of State Hwy. 181. Bob Clark said that he recently had relatives in town with an RV, and the one at CR 32 was the closest one.

The Mayor asked which zoning this would fit into. Jonathan suggested a PUD. Jonathan also said the R-6 district is the only similar district. City of Fairhope does not have a zoning for RV parks, but PUD would be the most appropriate, so that the property could be restricted in regards to how the property abuts other property. City Council would make final decision. Chairperson Jean Wilson said that her first thoughts were dismissive for this type of use, but on second thought the City does need to promote tourism. She has seen some nice RV parks in Florida. Jennifer asked if the property would be more or

less dense than what was previously proposed. Mr. Barnhill commented that it was originally purchased as a mobile home park. It was rezoned into a PUD during the economic boom with the intent to develop into a residential home area. The market collapsed, so he has had to think of an alternative plan. He wants to build something very upscale, similar to the RV park on CR 32, with nice paved parking spots. Proposal is also to build a nice meeting hall with showers and cooking area. Mr. Barnhill has other RV parks in Baldwin County. When he comes forward with a formal plan it will be first class and will be something to be proud of. His proposed RV park will target upscale customers. Dick Charles suggested we come up with a special zoning designation for RV parks (since we have done so for a Medical Overlay District). Chairperson Jean Wilson asked Jonathan to think about the best mechanism we should use for this type scenario. She said that this would most likely not be a widely used zoning district. Planning Commission could do a special zoning; however, PUD would most likely be the most relevant zoning designation. Mr. Barnhill said that he put the sewer system in himself on this property and of course after a period of time it becomes the City's obligation. He has been maintaining the system up to now. He said that he hasn't poled all of his neighbors, but feels he would have their support. He wants to make friends not enemies and is not doing this just for cash flow. His intent is mainly to make this property more beautiful. Gary Moore said that the City could use a park up in that area. Mr. Barnhill said that it is for sale, if the City is interested.

Chairperson Jean Wilson asked if there was any old business to address. There was not. Gary Moore moved to adjourn. The motion passed unanimously. The meeting was duly adjourned at 6:10 PM.

Jean Wilson, Chairperson

Kim Burmeister, Secretary