

The Planning Commission met Tuesday, September 6, 2011 at 5:00 PM at the City Administration Building, 161 N. Section Street in the Council Chambers.

Present: Dick Charles, Vice-Chair; Tim Kant; Lee Turner; George Roberds and Jennifer Fidler. Jonathan Smith, Planning and Building Director; Nancy Milford, Planner; Emily Boyett, Secretary and Chris Gill, Attorney

Absent: Jean Wilson, Chairperson; Bob Clark; Gary Moore and Rick Kingrea

Vice-Chairperson Dick Charles called the meeting to order at 5:05 PM and announced the meeting is being recorded. The minutes of the August 1, 2011 meeting were considered and Tim Kant moved to accept the minutes as written and was 2<sup>nd</sup> by George Roberds. Motion carried with one abstention by Lee Turner.

**UR 11.11 Request of Mike Sneary of Mediacom for an 11.52.11 Utility Review and Approval of the proposed installation of approximately 457 linear feet of underground CATV cable for Daddy D's Bar.** The project will run north across Nichols Avenue and along the west side of Professional Park Drive to serve Daddy D's Bar at 333 S. Greeno Road. Nancy Milford gave the staff report saying Mediacom is proposing to plow and bore the cable in and the pedestals will be placed in the vicinity of the existing power pedestals. Staff recommendation is to approve conditional upon the following: 1) The applicant shall comply with the minimum requirements as stated by the City of Fairhope Building Official, the Gas Superintendent and Code Enforcement Officer in the Staff Interpretation of the Staff Report. Mike Sneary was present for the applicant to answer any questions. Tim Kant moved to accept the staff recommendation to approve conditional upon the following: 1) The applicant shall comply with the minimum requirements as stated by the City of Fairhope Building Official, the Gas Superintendent and Code Enforcement Officer in the Staff Interpretation of the Staff Report. Lee Turner 2<sup>nd</sup> the motion and the motion carried unanimously.

**UR 11.12 Request of the City of Fairhope for an 11.52.11 Utility Review and Approval of the proposed construction of a storage building and parking area for Theatre 98.** The project is located on the southeast corner of the intersection of Church Street and Morphy Avenue, at 352 Morphy Avenue. Nancy Milford gave the staff report saying the property is zoned B-1 Local Shopping District. The proposed storage building is approximately 1500 square feet and will have a block facade fronting Morphy Avenue. The proposed parking consists of seven parking spaces and is permeable. Staff recommendation is to approve conditional upon the following: 1) The installation of porous concrete sidewalks around the pecan tree along Church Street; and 2) Approval of the Erosion Control Plan by the City of Fairhope Code Enforcement Officer. Mr. Kant questioned the required parking and stated that area was reserved for future expansion of the theatre. Mr. Charles opened the floor to the public for any comments; no one wished to speak. Mr. Smith stated the parking was not required. Mr. Turner asked if the steel building would be allowed if it were not a City project and Mr. Smith responded the building will be required to meet all building standards and a block facade is proposed on the side facing Morphy Avenue. Tim Kant moved to approve the request without the parking area and to accept the staff recommendation with the following conditions: 1)

The installation of porous concrete sidewalks around the pecan tree along Church Street; and 2) Approval of the Erosion Control Plan by the City of Fairhope Code Enforcement Officer. Lee Turner 2<sup>nd</sup> the motion and the motion carried unanimously.

**ZC 11.03 Public hearing to consider the request of the City of Fairhope Medical Overlay District Committee for approval of an amendment to Article V, Special Districts in the Fairhope Zoning Ordinance to form a Medical Overlay District, Jonathan Smith.** Jonathan Smith gave the staff report saying the Planning Commission established the Medical Overlay District Committee with the goal to create a Medical Overlay District that will accommodate the expansion and growth needs of Thomas Hospital and surrounding medical facilities. The Committee has held six business meetings between February of 2010 and July 2011; all of which were advertised and open to the public. A Public Input meeting was held in June of 2010 specifically relating to the Medical Overlay District. As a result of the Public Input meeting and the most recent Committee meeting, the following changes have been made to the ordinance:

1) In order to address existing uses, uses allowed by right in the underlying zoning district and grandfathering of existing properties and structures, the following was added to Section H. 1 in the ordinance: “Property located within the MO District is permitted the use allowed by right of the underlying zoning district. The provisions relating to nonconformities in Article VII of the Zoning Ordinance shall apply to all properties within this MO District.”

2) The following uses were added to the “Permitted Uses” section of the ordinance: 1) Places of Worship and 2) Mixed Use with residential – The residential use shall make up at least 33% of the total area of the building and be located on the upper floors only.

3) The following use was added to the “Uses Permitted Subject to Appeal and with Conditions” section of the ordinance for clarification: 1) Crematorium.

Staff recommendation is to approve the proposed Medical Overlay District amendment to the City of Fairhope Zoning Ordinance. Mr. Charles stated he thought the public meetings have helped the concerned residents better understand the ordinance. Mr. Smith stated the 2006 revision to the City’s Comprehensive Plan calls for this type of planning for future expansion. Mr. Charles said this is a basic plan to show reasonable areas for the expansion of medical uses. Mrs. Fidler asked why the north side of Morphy was not included in the overlay area; she said she had received several phone calls from the residents in that area who want to have these options available to them. Mr. Smith stated staff does not recommend for the district to extend on the north side of Morphy Avenue. He explained the proposed district lines were configured to include properties that are mostly already zoned industrial, are utilizing a medical use or abut a medical use. Mrs. Fidler asked about buffers around the district and Mr. Smith responded the right-of-ways will serve as a buffer. Mr. Charles opened the public hearing. Bob Griffin of 203 Fairhope Avenue – owns 11 buildings and has concerns with his existing buildings and he does not want to have to upgrade. He said does not want a grandfather clause but a description of appearance for existing buildings. Mr. Smith responded this district will be treated the same as all others in city limits and there is not an upgrading requirement. Mr. Roberds stated if the underlying zoning is being utilized then those are the standards that must be met. Mr. Kant said the facade requirement would only be required for existing buildings if the use were to change. Donna Riley of 751 Northrop Avenue – no

issues with the district, understands that it will only help her if she wants to sell her property. Walter Woodrow of 399 S. Ingleside Street – wanted to know why the district was to the south and not the north, but stated that had already been answered. Mr. Smith reiterated the area selected is primarily already zoned for compatible uses. Patty Van Iderstine of 757 Nichols Avenue – passed, she stated her questions had already been answered. Ruben Odom of 470 Fairland Avenue – waived his time. Bobby King of 753 Nichols Avenue – questioned why the medical complex on the west side of Ingleside was not included in the district; if property within the district is sold would it have to meet the new requirements; and can the property be sold for the current use. He also asked why this was moving forward since Thomas Hospital said in a previous meeting that they are not interested in buying any property right now and if it is required to sell to someone with a medical use. Mr. Smith responded this is not for Thomas Hospital specifically, but to interest medically oriented businesses to the area. Mr. Charles stated the underlying zoning for the properties in the district will still be applicable and usable. Mr. Kant said the ordinance will be adding uses to keep each property from having to go through rezoning for uses listed in the ordinance. Alice Jones of 753 Northrop Street – questioned if this was going to be done whether the residents want it or not and would the City be involved in the selling of the properties. Mr. Turner said that currently Northrop Street is residential; however, with this overlay district the properties along Northrop could be sold as residential or commercial but the sale of the properties will be between the owner and the buyer, the City will not have anything to do with it. Reggie Riley of 751 Northrop Street – this is an opportunity to get a better price for their property than they can right now. Having no one else wanting to speak, Mr. Charles closed the public hearing. Mr. Smith said he could not find a provision in the Zoning Ordinance regarding building materials for Mr. Griffin, but existing buildings do not have to be upgraded. Mr. Griffin said there is nothing in the ordinance that says metal is allowed and he would like for the word “new” to be added to the proposed ordinance. Chris Gill stated he did not recommend making any wording changes to the ordinance; existing structures in this district will be subject to the same regulations and standards as all others. Lee Turner moved to accept the staff recommendation to approve the proposed Medical Overlay District amendment to the City of Fairhope Zoning Ordinance and Jennifer Fidler 2<sup>nd</sup> the motion. Mr. Kant stated he does not have a problem with adding wording for existing structures. Motion carried unanimously. Mr. Smith stated the City Council has the final authority for zoning amendments and this request will be forwarded to them. Mr. Kant asked staff to notify the property owners again for the City Council meeting.

The proposed Medical Overlay District amendment is as follows:

## H. MO-Medical Overlay District

1. Intent: The intent of the Medical Overlay (MO) District is to establish and provide for the logical expansion of medical office needs to accommodate the growing community and region. Medical uses vary in need and impacts on the community. The MO District is also intended to establish and accommodate highly-specialized, unique uses and development types related to the medical field and to accommodate additional specialized needs and growth of the medical field and community. It is the express intent of this MO district surrounding the existing medical center to be as generous as possible in permitted uses while at the same time maintaining a clean, attractive community that provides an extension of the medical office needs for medical practices and appropriate facilities for the medical community it serves. Property located within the MO District is permitted the use allowed by right of the underlying zoning district. The provisions relating to nonconformities in Article VII of the Zoning Ordinance shall apply to all properties within this MO District.

2. Location: By virtue of its location to an existing medical center (Thomas Hospital), it is intended that this district be allowed for future expansion to the following boundaries: North to parcels abutting the south side of Morphy Avenue, South to those parcels that are in the City of Fairhope abutting the north side of Greeno Lane, East to parcels abutting the west side of Greeno Road, and West to parcels abutting the east side of South Ingleside Street.

3. District Classification: The following overlay district is hereby established: Medical Overlay District-MO. Uses and standards allowed in this district shall be as follows:

A. Permitted Uses: The following uses and structures are permitted in this district:

- (1) Medical offices
- (2) Hospitals and nursing homes
- (3) Medical and dental clinics
- (4) Laboratories for medical and dental uses
- (5) Funeral homes
- (6) Animal hospitals, provided the boarding of animals occurs in completely enclosed buildings
- (7) Child and adult day care facilities and group home facilities
- (8) Adult congregate living facilities
- (9) Helistop in conjunction with hospitals
- (10) Emergency services
- (11) Parking structures
- (12) Colleges and universities
- (13) Vocational, trade or business schools with all associated uses including dormitory facilities related to the medical field
- (14) Essential services
- (15) Hospital related out-patient services (Ambulatory Surgery and Diagnostic Clinics)
- (16) Independent Living Facilities
- (17) Bed and Breakfast Facilities to accommodate families of patients

- (18) Retail business which sell, lease and repair prosthetic or ambulatory devices used for patient rehabilitation, mobility or installation/modification of handicap unique support aids
- (19) Places of Worship
- (20) Mixed use with residential – The residential use shall make up at least 33% of the total area of the building and be located on the upper floors only.

**B. Permitted Accessory Uses and Structures.**

- (1) Uses and structures which are customarily incidental and subordinate to permitted uses
- (2) Such other uses as determined by the Zoning Official or his/her designee to be:
  - a. Appropriate by reasonable implication and intent of the district
  - b. Similar to another use either explicitly permitted in that district or allowed by special exception.

**C. Uses Permitted Subject to Appeal and with Conditions.**

- (1) Commercial communication towers
- (2) Detoxification centers and substance abuse centers associated primarily with the primary medical facility
- (3) Retail, restaurant, personal services, branch banks, offices, conference facilities, clinics and similar workplace support uses when within any individual structure, gross floor area shall be limited to 10 percent of the total gross floor area
- (4) Crematorium

**D. Prohibited Uses and Structures.**

- (1) Any use or structure not specially, provisionally or by reasonable implication permitted herein.
- (2) Automotive repair garages, pool halls and game rooms
- (3) Gasoline or diesel filling stations shall not be located within 100 feet from in-patient care or treatment facilities

**E. General Requirements.**

Buildings shall comply with the following provisions:

- (1) Buildings shall comply with all applicable Site Design Standards in Article IV of the Zoning Ordinance and all other applicable City regulations and review standards not specified in this section.
- (2) Mixed-use buildings shall be vertically mixed in use. Retail uses shall be placed at street level.

**F. Special Exceptions.**

- (1) Research and development
- (2) Hotel
- (3) Crematoria

- (4) And any such other uses as deemed appropriate in the district by the Planning Commission. The Planning Commission shall review a proposed use at the time the special exception application is presented to the Planning Commission according to the submittal deadlines and meeting dates established by the Planning Commission.

G. Development Standards.

- (1) The B-4 (Business and Professional District) development standards and area and dimensional requirements shall apply in this district:
- (2) Any residential, hotel, dormitory, nursing home or convalescent use shall not exceed the density established for the R-5 (High Density Multi-Family Residential District) at a minimum lot area of 10,500 square feet for two dwelling units plus 4,100 square feet for each additional unit / 10 units per acre maximum.
- (3) No building or portion of a building visible from a public street or right of way shall be exposed metal. A façade of some type or material shall be used to visually screen the metal from the public street or right of way.

END OF PROPOSED ORDINANCE

**ZC 11.06 Public hearing to consider the request of Billy Hyatt to rezone property from R-1 Low Density Single Family Residential District to R-2 Medium Density Single Family Residential District.** The property is located on the southwest corner of the intersection of Dyer Road and Jubilee Trail. Nancy Milford gave the staff report saying the property is approximately .89 acres and is currently vacant. The land adjacent to the subject property to the north and west is zoned R-1, south is zoned PUD and to the east is unzoned. Staff recommendation is to approve the request to rezone the subject property from R-1 Low Density Single Family Residential District to R-2 Medium Density Single Family Residential District. Bill Hyatt addressed the Commission saying the owners would like to subdivide the property into three 100' wide lots and are asking for R-2 because of the setbacks. Lee Turner moved to accept the staff recommendation to approve the request to rezone the subject property from R-1 Low Density Single Family Residential District to R-2 Medium Density Single Family Residential District. George Roberds 2<sup>nd</sup> the motion. Mrs. Fidler said she is not against the request but is thinking about the drainage. Mr. Charles asked what would be used for the driveways and Mr. Hyatt said he was not sure, but they are open. He added they have spoken with HMR, LLC regarding the drainage. Motion carried unanimously.

**ZC 11.07 Public hearing to consider the request of the City of Fairhope Planning Staff to amend Article II, Section C. Review Procedures Table 2-1: Procedures, Jonathan Smith.** Jonathan Smith gave the staff report saying the proposed amendment is part of the staff's efforts to "clean-up" the Zoning Ordinance. The table, as currently labeled, directly contradicts the Article II, Section 2, C. Site Plan Review which states: "The City Council shall consider the site plan only after review and recommendation from the Planning Commission. The City Council shall have the final authority on Site Plan approval." Table 2-1 has the Planning Commission labeled as being the final approval authority for Site Plans. Mr. Smith said he feels that this was an error that was overlooked when the Zoning Ordinance was rewritten in 2005. Staff recommendation is for the Planning Commission to approve the proposed amendment to the Zoning Ordinance in an effort to clear up contradictory provision in the Zoning Ordinance. Mrs. Fidler said she thought a site plan review was only for projects that met certain triggers. Mr. Smith stated the Planning Commission reviews any site plan that meets the triggers in the Zoning Ordinance or for mixed use projects, all others are approved administratively. Mr. Turner said the City Council should be asked if they want to keep reviewing site plans, he feels it is over kill and brings to much politics into it. Mrs. Fidler stated the triggers were put in place to encourage developers to use pervious elements. Mr. Kant stated even properties in the Central Business District have to go through site plan review. Mr. Charles opened the public hearing. No one was present to speak and Mr. Charles closed the public hearing. Tim Kant moved to accept the staff recommendation to approve the proposed amendment to the Zoning Ordinance in an effort to clear up contradictory provision in the Zoning Ordinance. Lee Turner 2<sup>nd</sup> the motion and the motion carried unanimously.

**Old/New Business**

**North Greeno Road Corridor** – Mr. Smith stated the Kick-off meeting would be Thursday, September 8<sup>th</sup> at 3:00 PM at the Nix Center.

Having no further business, George Roberds moved to adjourn and was 2<sup>nd</sup> by Tim Kant. Motion passed unanimously and the meeting was duly adjourned at 6:15 PM.

---

Dick Charles, Vice-Chair

---

Emily Boyett, Secretary