

The Planning & Zoning Commission of the City of Fairhope met Monday, August 6, 2007, at 5:00 PM at the Council Chambers, 161 N. Section Street,

Present: Jean Wilson, Chairman; Gary Moore, Dan McCrory, Dick Charles, Lee Turner, Mike Ford. Gregg Mims, Planner and staff, Emily Irby, Nancy Milford. Chris Gill, Brad Smith of Hand Arendall. Betty Rivenbark, Secretary.  
Absent: Tim Kant, Bob Clark, Ed Brinson

The minutes of the July 2, 2007 meeting were duly considered and approved as written on motion by Dick Charles, 2<sup>nd</sup> by Dan McCrory and carried with one abstention by Jean Wilson.

Ms. Wilson said that Gary Moore, Commission member, had perceived conflicts with SD07-23, SD07-28, and IR07-05.

In the interest of the large crowd present Ms. Wilson said we would hear IR07-09 and IR07-10 first.

**IR07-10 Informal Review Request of Butch Brown of Cumberland Construction for proposed multi-family development.** The property is generally located on the east side of Highway 98, just south of Southland Place Boulevard. Gregg Mims addressed the members saying the total site area is approximately 11 acres and is unzoned in Baldwin County. He said 165 multi-family dwelling units are proposed with 299 parking spaces with the gross floor area for all buildings in phases one and two being 84,646 square feet. He said this project falls under the subdivision regulations requiring any development of three or more units to meet criteria in the Subdivision Regulations regarding building height, stormwater standards and setbacks. Southland Place is directly north of the site and to the south east and west is unzoned property in Baldwin County. Staff recommendation was to give insight and comment. Butch Brown of Cumberland Construction spoke saying he had submitted preliminary drainage and talked with ALDOT regarding roads. Jean Wilson told the audience that this is an informal review and no voting or public hearing would be held that when an application is submitted that surrounding property owners would be notified and could speak. A James Wilson, president of the Southland Property Owners Assoc. asked to speak and said they were concerned about the proposed layout and road shown coming out on Southland Blvd., height and density. Gregg spoke saying we could only address what before us today, 35 ft height is in compliance, under the general guidelines height and setbacks have been addressed. He is showing 15 units per acre, which is allowed in the County vs 10 units per acre in City. Gregg said if they meet our guidelines, traffic, drainage study and setbacks, we have no recourse but to approve the project. There was a question regarding the strip of land at the rear of the property that the Southland Property Owners' say is theirs. Further study needs to

be done to clarify this and Mr. Brown said they will do it. Gary Moore offered that the setback is far too narrow, there should be at least a 50-100 ft. greenbelt buffer all around the project. Mr. Brown offered this design presented to make the economics work.

**IR07-09 Informal Review of The Colony At The Grand**, Jason Tickle. Generally located on the north side of Battles Road just before the road sharply curves to the north. Gregg spoke to the Commissioners regarding the application saying the total site area is approximately 175 acres and the subject property is unzoned in Baldwin County. He said the applicant received PRD approval from the Baldwin County Planning Commission in 2001 with 25 building footprints approved with maximum height of 100 feet and 628 units. He said the conceptual plan under Informal Review contains approximately the same number of units approved by the County, but the developer is proposing a site plan that has a mixture of multi-family and single-family dwelling units. Building heights range up to 100 feet. This also contains a gated community with private streets. Staff recommendation was to provide insight. Mr. Tickle went over what had been approved before and said they are presenting new plans, a new concept containing the 175 acres previously approved. He said they listened to the market, concerns by community and believes this plan would be a proposal for compromise by adding single family. He said there would be 168 lots on the western half, on the east 4 buildings for a total of 224 units, 3.8 units per acre. He said overall they will save a lot more green. He asked if this is something they should proceed with. Jean Wilson said again this is an informal review, not a public hearing and unless someone was representing a homeowners association and had something specific to add, nothing to do with the litigation, they should not speak, if/when a formal application is made that would be the proper time. Sarah Davis spoke on behalf of the Point Clear Association for Responsible Development and asked Mr. Tickle the height of the buildings and he said 100 ft. They had also given written comments to the staff. Gary Cooper spoke representing the Twin Beech Association saying that it does not look like they have given up anything in this proposal. He said further they are opposed to density or height and said this does not portray the essence of Fairhope, they were not contacted. Dick Charles commented on the fragile ecology in this area and the flooding, the effect that 1300 cars would have on this area as well as traffic increase potable water and sewer, that we would have to compare the original plan with the current proposal. Jason said that they are not trying to get out of studies required and that Volkert & Associates has submitted everything. Lee Turner asked how many acres involved, the answer being 450 for PUD and 175 now. Jean Wilson said the overall density is 3.3 units per acre and they are proposing private streets. Ms. Wilson offered that they need to continue to work with staff and bring in a proposal.

**SD07-19 Preliminary Plat Approval Fairhope Stables/Laura Ledyard.**

The property is generally located on the West side of County Road 13 just south of County Road 24. Gregg addressed the commissioners saying that this property is located in Baldwin County and is unzoned. The total site area is approximately 76.42 acres and 92 lots are proposed with the smallest lot being 10,500 square feet and the largest lot 20,136 square feet and the first phase of the development being 40.30 acres. The proposed subdivision is in compliance with the minimum stormwater, street and lot standards established by the City Subdivision Regulations. Issues being the Comprehensive Plan encourages larger lots in rural areas, but the property is unzoned. In the northwest corner there is an existing .66 acre Grady pond and the applicant has made application for an Individual Fill Permit from the Corps of Engineers. It is noted a building permit should not be issued until the applicant receives permission to fill the pond from the Corps. The required 50 ft undisturbed creek buffer is measured from the centerline of the creek and the subdivision regulations require the buffer be measured from the "top of bank". Staff recommendation was to approve contingent upon 1. The applicant submit all required outside agency approvals ( i.e.,USCOE, DCNR, ADEM, etc.) to the city proper to obtaining land disturbance permit and 2. the applicant shall revise the plat and plans to reflect a 50' undisturbed creek buffer measured from the top of the creek bank. Derrell Russ of McCrory and Williams represented the owner and said he would answer any questions. Les King, a property owner next to the project said that this property already dumps water on his land, that there is a swampy area in this acreage. Frank Leatherbury spoke saying that this area drains into Weeks Bay. Mr. Russell said that the stormwater will be taken to a detention pond and it has been designed above a 100 year storm, that the letter from the Corps is pending. Gregg said that they meet all the subdivision requirements, if the Commission wants to change requirements they can do so but the planning staff has to go by rules as they exist. Art Hosey spoke regarding the wetlands issue and explained how they will flow out. Dan McCrory addressed sewer issue and said it is ok. Dick Charles moved approval be given with two conditions: the applicant submit all required outside agency approvals, and 2. applicant shall revise the plat and plans to reflect a 50' undisturbed creek buffer measured from the top of the creek bank as per staff recommendation. Lee Turner 2<sup>nd</sup> the motion and it carried with two no votes by Gary Moore and Jean Wilson.

**SD07-23 Final Plat Approval of Magnolia Commons, Phase I, Scott A. Hutchinson/HMR LLC.** The property is generally located on the east side of County Road 13, just north of Fairhope Avenue. Gregg reported that the property is in the City and is zoned R-1 and 52 lots are proposed. Staff recommendation was to approve conditional upon 1. submittal of a financial guarantee for street trees/sidewalks or installation of street trees/sidewalks. 2. Completion of all punch items; 3. submittal of a complete set of plans, with missing sections, and 4. submittal of GIS data to the Water & Sewer

Supt. Scott Hutchinson was present to answer questions. No one wished to speak on this. Scott did say that the four things listed with conditional approval have been handled. Lee Turner moved to accept staff recommendation. Dick Charles 2<sup>nd</sup> the motion and it carried with one abstention by Gary Moore.

**SD07-26 Minor Plat approval of Paul Ripp Subdivision**, Mike Warrington of BES, Inc., Property generally located on the south side of Derby Lane, just east of Thompson Hall Road a resubdivision of Lot 6, Block 3, Bay Meadows. Gregg reported that this property is located on 1.95 acres in the Bay Meadows subdivision and two lots are being proposed. One being 47,888 square feet and the smallest lot being 37,137 square feet. Gregg said the proposed subdivision is not contrary to the comprehensive plan and no new streets are being constructed. The structures on the plat are existing. All lots front on a paved publicly maintained street and exceed the minimum size requirements for R-2 zoning. Staff recommendation was to approve. Chris Gill spoke to this application saying that the Commission's role is not to debate restrictive covenants and they should not discuss or debate this issue. Thomas Garrick of 9510 Derby Lane spoke saying he opposed moving a house in and cutting trees. A Matthew Boles, 19480 Steeple Chase Court said the Fairhope Single Tax wrote a letter and said it could not be subdivided, that the Planning Commission could not override restrictive covenants. Mark Roshetko spoke saying the neighborhood against this, Bill Scott of 9598 Derby Lane cited water runoff and said he was not happy about house being placed 10 feet from him, Clyde Ingersoll 9600 Derby Lane, against subdividing, there is water runoff. Paul Ripp spoke saying he bought and improved the property and moved his daughter in. He doesn't see the complaint. A question was raised as to Mr. Ripp filling out the application, his proof of ownership since this is FSTC land. Chris Gill said action could be taken subject to proof of ownership or representation of owner. Further discussion led to Jean Wilson citing in the Comprehensive Plan that this does not maintain nor support the style and character of the neighborhood. A motion was made by Dick Charles & 2<sup>nd</sup> by Dan McCrory to approve the staff recommendation which was to approve the minor plat subdivision, it died for lack of support. A motion was made by Gary Moore to deny the application, 2<sup>nd</sup> by Lee Turner. Motion carried with 2 no votes by Dan McCrory and Dick Charles. The reason for denial being the proposed subdivision of lots in Bay Meadows will not maintain existing neighborhood and does not support the scale and character of the existing neighborhood as required by the City of Fairhope Comprehensive Plan.

**SD07-27 Minor Plat Approval of Sedera Darby Subdivision** application being presented by Mike Warrington of BES, Inc. . Property generally located on the south side of Derby Lane just east of Thompson Hall Road a resubdivision of Lot 6, Block 3 Bay Meadows. Gregg said three lots are

proposed on this 1.94 acre parcel. The largest being 40,860 sq ft and the smallest is 20,915 sq ft. The property is zoned R-2. He said this is not contrary to the Comprehensive Plan, no new streets are being proposed. All lots front on a paved publicly maintained street and exceed the minimum size requirements for R-2 zoning. Staff recommendation was to approve. Mike Warrington spoke on behalf of the application saying the precedent was set 11/2 year ago. Discussion followed with the same complaints by the neighbors as the previous application, and a motion was made by Gary Moore to deny, Lee Turner 2<sup>nd</sup> the motion, citing the proposed subdivision of lots in Bay Meadows will not maintain existing neighborhood and does not support the scale and character of existing neighborhood as required by the City of Fairhope Comprehensive Plan. Motion to deny carried with two votes against the motion, Dan McCrory and Dick Charles.

**SD07-28 Final Plat approval of The Willows /Scott Hutchinson of HMR**  
Property generally located on the north side of Fairhope Avenue just east of County Road 13. Gregg presented the staff interpretation saying that the property is located in the City and is zoned R-1. It contains approximately 43.66 acres and there are 54 lots. It was approved for annexation in July 2006. Staff recommendation was to approve as requested conditional upon the following: 1. Submittal of a financial guaranty for street trees and sidewalks and 2. Final completion of punch list items . Mr. Hutchinson said he would answer any questions. Discussion led to a motion by Lee Turner to approve as per staff recommendation upon completion of conditions, Dick Charles 2<sup>nd</sup> the motion and it carried unanimously.

**SD07-29 Site Plan approval of Summer Oaks/ Double "C" Investment Properties LLC for a Village Subdivision.** Generally located off of the south side of Twin Beech Road just south of where Summer Oaks Place dead ends. Gregg reported that the total site area is approximately 13.88 acres and 4 lots are proposed. It is unzoned property in Baldwin County and appeared for informal review in April 2007. Lots range from 1.42 acres to 2.75 acres and one acre pasture areas and stable space are reserved Danny Calhoun was present to answer any questions. A question arose regarding the wetlands boundary, all questions answered satisfactorily, a motion was made by Lee Turner to accept site plan, 2<sup>nd</sup> by Dick Charles, subject to flexibility of staff to work with the county, with it being noted that higher standard normally applies, and working on the common wetlands area. Motion carried unanimously.

**IR07-05 Informal Review of Oak Lawn/Scott Hutchinson of HMR**  
Property generally located on the northeast corner of U.S. Highway 98 and Nelson Road. Gregg said this is a proposed 3 lot subdivision in unzoned property located in Baldwin County. The total site area is .99 acres. The applicant is proposing to divide the existing parcel B and C lot into 3 lots. There is an existing structure, driveway and accessory building on the

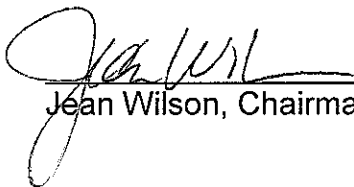
current parcel C. Staff recommendation was to provide insight and comment but it is noted there are concerns regarding storm water drainage in the area because of the history of flooding that has previously occurred in this particular area and the addition of a third lot would contribute to an area which already has drainage problems. David Ryan was present and described what he is proposing to do with this property that he owns. Stating that he wishes to move the existing house, his house, to the back of the property and build two more houses to the front facing the center, ending up with a horseshoe layout. There was a question as to lot access including fire access, and Mr. Ryan said he is proposing a road to the side and rear of one of the houses He also said he has rear access through another piece of property he owns on the corner of Hwy 98 and Nelson Road. Favorable comments were given and he was encouraged to proceed with County noting mention of stormwater problems that should be addressed.

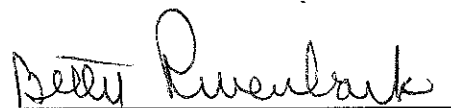
Gregg mentioned that he is still compiling lists of neighborhood associations in an effort to help with notification regarding applications.

Gregg also mentioned the handout of the proposals to amend the Fairhope Tree Ordinance (in file) that is being proposed by the Tree Committee He is requesting input after study.

Jean Wilson mentioned that she would like staff to put something together regarding requiring larger lots in rural subdivisions.

Meeting was duly adjourned at 7:30 P.M.

  
Jean Wilson, Chairman

  
Betty Rivenbark, Secretary