

The Planning and Zoning Commission met Tuesday, November 2, 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; Bob Clark, Gary Moore, Tim Kant, Lee Turner, Jennifer Fidler, 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 at 5:00 p.m. The minutes of the October 5, 2009 meeting were considered. Dick Charles made a motion to approve the minutes as written and was 2nd by Fran Slade. The motion carried with two abstentions by Lee Turner and Jennifer Fidler.

Chairperson Wilson announced that the first agenda item, SD 09.14 would be moved to the bottom of the agenda at the request of the applicant.

SR 09.01 Site Plan Approval of Iberia Bank, Thomas Crane of Broadmoor Design, LLC. The site is located at the southeast corner of the intersection of US Highway 98 and Parker Road. Nancy Milford came forward and gave the Staff Report saying the site is approximately .92 acres and is zoned PUD (Planned Unit Development). She stated that the proposed building has a footprint of 4681.85 square feet and is approximately seventeen feet (17') in height. Staff Recommendation is to approve the Iberia Site Plan contingent upon the following conditions:

- 1) Note 1 on the Landscape Plan shall be removed and replaced with a note stating "The existing naturalized landscape buffers on the proposed site shall not be disturbed by any construction. No construction activities are allowed in the buffer. Only plant installation is allowed. Tree protection barriers shall be erected prior to any construction and maintained until construction is complete."
- 2) Tree protection fencing/barrier shall be erected prior to any construction and maintained until construction is complete. The existing vegetation in the required buffer area on site shall not be disturbed.
- 3) Existing azaleas are to remain in the west buffer along US Highway 98.
- 4) A tree inventory for the naturalized buffer is required prior to the issuance of a land disturbance and/or building permit.

Joe Bullock, the engineer, addressed the Commission regarding the buffer and stated that a chain link fence would be installed to protect the buffer from disturbance. Discussion regarding the proposed sign along US Highway 98 led to the developer stating that he understood that the sign might not be visible due to the buffer remaining natural. He also stated that any utilities for the sign would be run underground as to not disturb the area. Lee Turner moved to accept the staff recommendation with the four conditions. Dick Charles 2nd the motion and the motion passed unanimously.

UR 09.09 Request of the Baldwin County Highway Department for an 11.52.11 Utility Review of a BRATS facility. The property is located on the south side of

Fairhope Avenue, just east of the intersection of Greeno Road and Fairhope Avenue, behind Big Lots. Jonathan Smith gave the Staff Report saying the site shows 35 typical parking spaces and eight bus parking spaces. The applicant is proposing two above ground fuel pumps and the tow way ingress/egress at twenty-four feet wide. He noted the stormwater would be facilitated through a detention pond on the southwest corner of the subject property. Staff recommendation is to approve the proposed location, character and extent of the new BRATS facility. Taylor Rider, Director of Transportation, addressed the Commission saying this facility will be a "park and ride" stop and will be a major stop on their fixed routes. He added that the proposed building on the site would provide an office for personnel, bathrooms and seating area for riders. Lawrence Wilson, P.E. of the Baldwin County Highway Department, said the facility would be one way in and one way out. The entrance would be off Fairhope Avenue and drivers would exit on Morphy Avenue and come out at the light at the intersection of Morphy Avenue and Greeno Road. Carlyn McFall, 119 Kensington Court, noted concerns with traffic and noise. Mr. Rider responded that the facility will only generate local traffic noise and the one-way design will help with the traffic. Jennifer Fidler noted the property's grade change would make saving trees difficult. She also had concerns with the size of the greenspace, sidewalk widths, lane widths, and buffers for screening the backs of the buildings. Mr. Wilson said the sidewalk location can be changed to allow for widening and smaller lanes would not be a problem. Mr. Wilson also agreed to working with the City on the buffer. Dick Charles questioned the number of trips the facility would generate and Mr. Rider said in the beginning it would have six to eight in the mornings and evenings, with two to four during mid-day. He added that as the stop grows, trips could be as often as every thirty minutes. Gary Gober, resident, stated the use of pervious pavement, low-power and low-speed parking spaces, and using BRATS for special event traffic should be considered. Lee Turner moved to approve the staff recommendation with the condition that the applicant work with the City on the sidewalk location and width, lane widths, and the buffer landscaping. Dick Charles 2nd the motion and the motion passed unanimously.

SD 09.14 Preliminary and Final Plat Approval for Park Place, a five lot subdivision, Larry Smith of S.E. Civil, LLC. The property is located on the west side of Section Street, just north of Morphy Avenue. Jonathan Smith gave the Staff Report saying the property is approximately .56 acres and is zoned B-2 (General Business District) and is in the Central Business District Overlay (CBD). He stated that Lots 1, 2, 3 and 4 will be used as single-family cottages and Lot 5 is currently occupied by a historic structure used as an office building. The applicant appeared before the Planning Commission for Informal Review on March 2, 2009 and a majority spoke in favor of the development, but noted concerns regarding tree protection, fire protection and driveway width. Staff recommendation is to approve the subdivision contingent upon the following conditions and waivers:

Conditions

- 1) A 20' front setback for all proposed lots, as required by Article III, Section C – Dimension Standards in the Fairhope Zoning Ordinance. Two parking spaces are

required for each residence zoned B-2 in the CBD. The front setback requirement ensures adequate space for parking.

- 2) The applicant shall add a note to the plat stating that the proposed water and sewer lines will be privately maintained.
- 3) The approved fire hydrant location shall be labeled on the plat.
- 4) Upon development, all applicable Zoning Ordinance and City Code requirements shall apply to each proposed lot.

Waivers

- 1) Subdivision Regulations, Article V, Section E, 3 and any other city requirements requiring any new lots to front a public maintained paved roadway.
- 2) Subdivision Regulations, Article V, Section D, 5 and any other city requirements requiring there to be a minimum of 18' paved access road to each lot.
- 3) Subdivision Regulations, Article V, Sections C and D, and any other requirements requiring the subdivision to be submitted in two phases, the preliminary plat and the final plat.
- 4) Zoning Ordinance, Article V, Section B and any other city requirements requiring 8' sidewalks to be constructed in the right-of-way for all new construction.

Larry Smith, the applicant, addressed the Commission saying this is a unique piece of property and the development will be residential even though it is zoned B-2. He added the Commission has approved Founder's Square and Colony Oaks, which are similar to this one. The Commission discussed concerns with parking, access, fire protection, utility locations, sidewalks, setbacks and the multiple waivers. Mr. Larry Smith responded saying the fire protection has been approved; the access to the lots will remain the same and will be private; and the utilities will be placed in the private drive and will be private lines. The waivers are being requested due the unique characteristics of the development. He said the setback waiver was requested to save trees and a result of comments by the Commission at the Informal Review and the request of the waiver for 8' sidewalks is due to the lack of right-of-way along the property. Dick Charles moved to approve the staff recommendation with the four conditions and four waivers. Motion died for lack of a 2nd. Lee Turner moved to approve the subdivision with four conditions and grant five waivers. Conditions: 1) The applicant shall add a note to the plat stating that the proposed water and sewer lines will be privately maintained; 2) The approved fire hydrant location shall be labeled on the plat; 3) Upon development, all applicable Zoning Ordinance and City Code requirements shall apply to each proposed lot; 4) Parking requirements shall be met if property is developed as residential. Waivers: 1) Article V, Section E, 3 of the City of Fairhope Subdivision Regulations and any other City requirements requiring any new lots to front on a publicly maintained right-of-way; 2) Article V, Section D, 5 of the City of Fairhope Subdivision Regulations and any other City requirements requiring there to be a minimum of 18' paved access road to each lot; 3) Article V, Section C and D of the City of Fairhope Subdivision Regulations and any other City requirements requiring the subdivision to be submitted in two phases, the preliminary plat and the final plat; 4) Article V, Section B of the City of Fairhope Zoning Ordinance and any other City requirements requiring 8' sidewalks to be constructed in the right-of-way for all new construction; 5) Article III, Section C of the City of Fairhope

Zoning Ordinance and any other City requirements pertaining to setbacks. Lonnie Mixon 2nd the motion and the motion passed with the following votes: AYE – Tim Kant, Jennifer Fidler, Gary Moore, Jean Wilson, Lee Turner, Fran Slade and Lonnie Mixon. NAY – Bob Clark and Dick Charles.

Old/New Business

2010 Planning Commission Agenda – Lee Turner moved to approve the 2010 Planning Commission Agenda. Lonnie Mixon 2nd the motion and the motion passed unanimously.

Executive Session – Chris Gill addressed the Commission and requested they enter and Executive Session by reading the following letter:

Christopher M. Gill

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First Office Box 123 - Mobile, Alabama 36681 - Lastmark (251) 694-0775

DECLARATION AND OPINION

My name is Christopher M. Gill. I am over the age of nineteen (19), and I make this Declaration and Opinion based upon my own personal knowledge, information and belief. I am an attorney licensed to practice law in the State of Alabama. I am offering this Declaration and Opinion in compliance with Section 36-25A-7 of the *Code of Alabama* (1975).

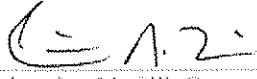
On the 2nd day of November, 2009, at a meeting of the Planning and Zoning Commission of the City of Fairhope, Alabama (the "Commission"), there has been or will be made a motion calling for an executive session for one or more of the following purposes:

- To discuss with the Commission's attorney the legal ramifications of and legal options for pending litigation;
- To discuss with the Commission's attorney controversies not yet being litigated but imminently likely to be litigated or imminently likely to be litigated if the Commission pursues a proposed course of action;
- To meet or confer with a mediator or arbitrator with respect to any litigation or decision concerning matters within the jurisdiction of the Commission involving another party, group, or body.

Prior to voting to convene the executive session, I am offering this Declaration and Opinion for the purpose of stating that Section 36-25A-7 of the *Code of Alabama* (1975) is applicable to the planned discussion, and I hereby request that this written Declaration and Opinion be reflected in the minutes for said meeting. I have further advised the Commission that if any deliberation begins among them regarding what action to take relating to pending or threatened litigation based upon the advice of counsel, the executive session shall be concluded and the deliberation shall be conducted in the open portion of the meeting or the deliberation shall cease.

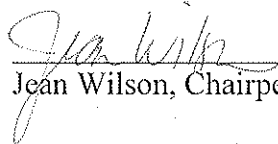
This Declaration and Opinion shall not constitute a waiver of the attorney-client privilege.

Dated this 2nd day of November, 2009.

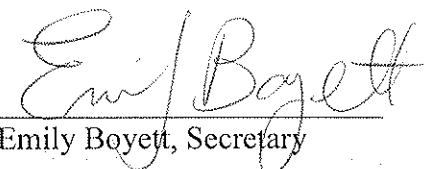

Christopher M. Gill, Esq.
Attorney for the Planning and Zoning Commission
of the City of Fairhope, Alabama

Dick Charles moved for the Commission to enter an Executive Session to reconvene no later than 6:15 p.m. Jennifer Fidler 2nd and motion passed unanimously by the following voice vote AYE – Mayor Kant, Jennifer Fidler, Bob Clark, Gary Moore, Jean Wilson, Dick Charles, Lee Turner, Fran Slade, and Lonnie Mixon. NAY – None. The Commission entered Executive Session at 5:55 p.m. The Commission returned at 6:13 p.m. and Lee Turner moved to end the Executive Session. Dick Charles 2nd and the motion carried unanimously.

Having no further business, Lonnie Mixon moved to adjourn the meeting. Fran Slade 2nd the motion and the motion passed unanimously. The meeting was duly adjourned at 6:14 p.m.



Jean Wilson, Chairperson



Emily Boyett, Secretary