

Minutes  
Orange Beach Planning Commission  
Monday, June 11, 2018 – 4:00 P.M.  
Council Chambers – Orange Beach Municipal Complex  
4099 Orange Beach Blvd.

**CALL TO ORDER**

Chairman Robert Stuart called the meeting to order at 4:00 p.m.

**B. INVOCATION**

Vice Chairman Chris Callaghan gave the invocation.

**C. PLEDGE OF ALLEGIANCE**

**D. ROLL CALL**

Board Members Present:

Commissioner Bill Jeffries  
Commissioner Annette Mitchell  
Commissioner Ralph Moore  
Commissioner Pat Simpson  
Commissioner Glenn Smith  
Vice Chairman Chris Callaghan  
Chairman Robert Stuart

Staff Present:

John Lawler, City Attorney  
Kit Alexander, Director  
Griffin Powell, Planner II  
Paulette Taylor, Planner I  
Mindy Smith, Office Manager

Absent:

Commissioner Lannie Smith

**E. APPROVAL OF AGENDA** – There were no changes to the agenda and the agenda stands approved as submitted

**F. CONFLICTS OF INTEREST** - None

**G. APPROVAL OF MINUTES AND CERTIFIED RECORDS** - There were no changes and the minutes stand approved as submitted.

1. Approval of minutes from the Regular Meeting on May 14, 2018.

**H. PUBLIC HEARINGS**

**1. Case No. 0302-SD-18, Chicago Gulf Beach, Phase II Subdivision**

Hutchinson, Moore & Rauch LLC, on behalf of Cotton Bayou Development LLC, requests approval of **Preliminary Major Subdivision** to resubdivide five lots into two lots and to construct the required roadway and utilities. The property is Lots 29, 30, 31, 32 and 33 Block 4 of the Chicago Gulf Beach Co. Subdivision and is in the RS-3 (Single-Family Residential) zoning district. (*Deferred from the May 2018 Regular Meeting*). Griffin Powell presented

staff comments to the Planning Commission. The proposed property is located east of Adams Avenue and fronts on an unimproved 12-foot wide alley right-of-way. The plat complies with the RS-3 zoning regulations. Adams Avenue will be paved and extended to the resubdivided lots. Cotton Bayou Lane will have a width of 12 feet. The developers are requesting three waivers to the Subdivision Regulations: 1) Section 4.1.1 requires new roadways to have a 24-foot minimum asphalt paving width. The developers request to reduce the width to 12 feet since the right-of-way width is only 12 feet and the developers do not own the lots to the west that would allow them to provide the necessary land to increase the width of the right-of-way and roadway; 2) Section 4.5 requires subdivisions to have sidewalks with a width of five feet. They request to forgo the sidewalk requirement since the sidewalks would have to be on the resubdivided lots and would not connect to any nearby sidewalks; and, 3) Section 4.1.13 requires street lighting. If no street lighting is proposed, a note is required stating that no street lighting is proposed. The developers consulted with the adjoining property owners regarding the desire for street lights. The homeowner to the south of the subject lots informed the developers that they did not want a streetlight in the area. Ten foot temporary construction easements are required from the owners of the properties abutting the Cotton Bayou Lane right-of-way where roadway construction is proposed due to insufficient width to work within the right-of-way.

Chairman Robert Stuart opened the public hearing for comments and two people spoke in opposition. Linda Gates, who owns property on Adams Avenue, presented four pictures of the area and spoke in opposition. She stated the first contact that they had with this project was when they observed a surveyor on an ATV driving on her property, the subject property and her neighbor's property. The surveyor said he was surveying the land between Jefferson and Adams Avenue and measuring the piers. She informed him she had not requested a survey and suggested he was not in the right place. He stated he was in the right place but did not know who his client was. She informed him he could not survey on her land and he left. She stated the surveyor came back a few days later and informed her he was only going to survey the subject lots and she gave him permission to utilize her driveway.

Linda Gates stated her house was built in 1980 and her father negotiated an agreement with the owners of the house to the east, allowing the owners to utilize the Gates property to access the home.

Linda Gates stated the developers informed her of a proposed street light that would be located close to her and her neighbor's porches. She stated there are three ways to access the development and the developers have chosen the access that most impacts her family. She said the improvement of the alley will result in a roadway being located 10 feet from the front steps of the house. She voiced concerns about her six grandchildren running down the steps to get to the bayou and pier. She stated she has concerns about their safety.

Linda gates stated the 12-foot rights-of-way on the original subdivision plat were to be used by the property owners to access interior lots and were not to be public streets.

Linda Gates voiced concerns that the paving of the road rights-of-way will cause flooding of her property. She said when Adams Avenue was paved, the drainage got worse in her area. She stated she has concerns about the additional runoff that will be caused by the paving of the rights-of-way.

Linda Gates stated she knows that the developers plan to build and sell the houses. She stated she has concerns about the residences being rental houses. She said Griffin Powell informed

her that they were not protected under the newly adopted vacation rental ordinance. She voiced concerns about strangers driving in excessive speeds on a 12-foot roadway, 10 feet in front of her house. She stated she has concerns about safety.

Day Gates stated he has two concerns, safety for his grandchildren and the decrease in the value of his property. He voiced concerns about the roadway being 10 feet from the front steps of his house. Day Gates stated the developer's engineer conveniently left the steps off the representation of the Gates' house.

John Lawler stated he does not see a hardship for the waivers.

Robert Cummings, HMR, was present to address the Planning Commission. He stated the neighbors requested no street light and there was only 12 feet of right-of-way for the roadway.

Commissioner Annette Mitchell stated she has a problem with large rental houses being located on the subject property. Commissioner Bill Jeffries stated he does not like 12-foot streets. Chairman Robert Stuart stated he has concerns about the road. Police Chief Joe Fierro stated police prefer street lighting since it deters crime. Vice Chairman Chris Callaghan stated he has a problem with the 12-foot road and does not see the need for a waiver. Angelo DePaole, local realtor, stated he had not planned on speaking but he did know the developer. He stated the property may or may not be built for rental houses. He said people who pay the required amount of money to purchase deep water lots do not normally want it for rental houses but for their private residences.

Chris Callaghan recommended the applicant should attempt to purchase right-of-way.

**Motion made (Callaghan/Jeffries) to approve preliminary major plat approval subject to staff comments.** Roll call revealed: Jeffries, no; Mitchell, no; Moore, no; Simpson, no; Glenn Smith, no; Callaghan, no; Stuart, no. **Denied (0-7).**

**2. Case No. 0501-PUDA-18, The Blind Tiger Restaurant (Wharf West Side Subdivision – Phase 4)**

Sawgrass Consulting LLC, on behalf of Wharf Entertainment Properties LLC, requests recommendation to City Council for approval of **PUD Modification (Major)** to The Wharf PUD Master Plan to subdivide Lot 2 of The Wharf West Side Subdivision, Phase 2 for the purpose of constructing a restaurant on 0.38 acres of the Marina Lawn area east of Springhill Suites. The property is located on the north side of WHARF PARKWAY WEST. (*Deferred from the May 2018 Regular Meeting*). Griffin Powell presented staff comments to the Planning Commission. The restaurant will be built on a newly created lot that will have a lot area of 0.38 acres. The open-air restaurant will have an enclosed area of 1,920 square feet and gross floor area of 5,223 square feet. The building will have a 6-foot setback from the rear property line, a 14-foot setback from the east property line, and a 38.2 foot setback from the west property line. There are 23 existing parallel spaces on Wharf Parkway West that will be reconfigured to be 46 angular parking spaces. The required parking for the Springhill Suites Hotel, Bayes Restaurant and the Blind Tiger Restaurant are 279 spaces and 334 will be provided. Ercil Godwin and Jim Bibby were present to address the Planning Commission. Chairman Robert Stuart opened the public hearing for comments and no one was signed up to speak.

Ercil Godwin stated currently the roadway is 30 feet wide and will be 25 feet at the narrowest area, otherwise it will be 28 feet wide. There will be sidewalks and a crosswalk. Vice

Chairman Chris Callaghan voiced concerns about pedestrian traffic. Jim Bibby said they will put up stop signs as well as a crosswalk. Chairman Robert Stuart and Vice Chairman Chris Callaghan requested at a minimum 8-foot sidewalk with a designated crosswalk.

**Motion made (Callaghan/Moore) to recommend approval of PUD modification to City Council subject to staff comments and to include extending the sidewalk to the existing east covered parking deck and a minimum width of at least eight feet.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Forwarded to City Council with a positive recommendation (7-0).**

**3. Case No. 0502-SD-18, The Wharf West Side Subdivision – Phase 4**

Sawgrass Consulting LLC, on behalf of Wharf Entertainment Properties LLC, requests approval of **Preliminary/Final Minor Subdivision** to subdivide Lot 2 of The Wharf West Side Subdivision, Phase 2 into two lots with a restaurant being on the smaller lot (0.38 acres). The remaining lot will be 8.34 acres. The property is located on the north side of WHARF PARKWAY WEST east of Springhill Suites. (*Deferred from the May 2018 Regular Meeting*). Griffin Powell presented staff comments to the Planning Commission. He stated the plat complies with the Subdivision Regulations. Ercil Godwin was present to address the Planning Commission. Chairman Robert Stuart opened the public hearing for comments and no one was signed up to speak.

**Motion made (Moore/Simpson) to approve preliminary/final plat request subject to staff comments.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Approved (7-0).**

**4. Case No. 0601-SD-18, Quarters at Wolf Bay Resubdivision**

Lucido Engineering & Surveying LLC, on behalf of Quarters at Wolf Bay LLC, requests approval of **Preliminary/Final Minor Subdivision** to combine Lots 10 and 11 of Block 4 in the Gulf Bays Tract Subdivision into a single lot. The property is located at 25907, 25909, 25913 and 25915 PERDIDO AVENUE WEST in the RS-2 (Single-Family Residential) zoning district. Griffin Powell presented staff comments to the Planning Commission. In February 2018 the applicant requested recommendation to City Council to rezone the property from RS-2 to RM-1. The Planning Commission gave the request a positive recommendation. Since the two lots do not individually meet the minimum lot area and width requirements for RM-1, staff recommended the rezoning request not be placed on the City Council agenda until the lots have been combined to meet RM-1 requirements. The lots combined will have a lot area of 21,000 SF. The combined lot area meets the 20,000 SF minimum for RM-1. The lots combined will have a lot width of 100 feet, which meets the minimum lot width requirement for RM-1.

Chairman Robert Stuart opened the public hearing for comments. Brad Gibson, who lives in Bay Towers spoke in opposition. He stated he can see between the buildings to Wolf Bay. He said if the zoning changed, it could potentially destroy his view and decrease his property values.

Commissioner Annette Mitchell stated the duplexes could not be rebuilt because they are legally non-conforming structures. She said she sees no reason to up-zone and does not believe the City would not allow the property owners to rebuild and is against it. Commissioner Bill Jeffries asked how it could be guaranteed. Commissioner Annette Mitchell stated the City cannot guarantee the ability to rebuild but the owners can trust the City.

**Motion made (Mitchell/Callaghan) to approve preliminary/final plat approval subject to staff comments.** Roll call revealed: Jeffries, no; Mitchell, no; Moore, no; Simpson, no; Glenn Smith, no; Callaghan, no; Stuart, no. **Denied (0-7).**

**5. Case No. 0602-SD-18, Hammock Dunes Subdivision**

Greg Kennedy requests approval of **Preliminary Major Subdivision** to subdivide 1.47 acres into a single-family residential subdivision with 11 lots, a common area, and private right-of-way in accordance with the Hammock Dunes Planned Unit Development (PUD) Master Plan. The property is located at 23916 PERDIDO BEACH BOULEVARD. Griffin Powell presented staff comments to the Planning Commission. The City approved the preliminary and final PUD request to rezone the property from BR-2 to PUD for a single-family residential subdivision with nine new single-family residential houses, two existing single-family residential houses, a common pool area, and a private right-of-way. The proposed houses have a lot area of 1,400 SF and the existing houses have a lot area of 2,918 SF. All lots will have a lot width of 40 feet. The right-of-way will be privately owned and maintained. Don Rowe was present to address the Planning Commission.

Chairman Robert Stuart opened the public hearing and no one was signed up to speak. Don Rowe stated the topographic information was not provided; however, swales will be provide to collect and adequately convey offsite runoff draining onto the site. He stated he has no problem with staff conditions.

**Motion made (Jeffries/Moore) to approve preliminary major plat request subject to staff comments.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Approved (7-0).**

**6. Case No. 0603-SD-18, E's Subdivision – Plat #1**

Lucido Engineering & Surveying LLC, on behalf of Rollins & Cynthia Tindell, requests approval of **Preliminary/Final Minor Subdivision** to resubdivide four lots into two lots. The property is located at 4858 CASWELL PLACE and 28800 CANAL ROAD in the RS-1 (Single-Family Residential) zoning district. Griffin Powell presented staff comments to the Planning Commission. He stated lot 1 will be 2.9 acres and lot 2 will be 3.3 acres. The proposed plat complies with the Subdivision Regulations. There is a residential structure currently on the property. The proposed lot line will make the structure nonconforming due to setback encroachments. The structure must be removed prior to Chairman signature being provided on the final plat. Vince Lucido was present to address the Planning Commission.

Chairman Robert Stuart opened the public hearing for comments and one person spoke. Craig Ratkey stated he owns three lots that abut the subject property. He said his driveway encroaches on the subject property. He expressed concern that he would lose his established right for access to his landlocked lots. He said he has used the access since 1976. Chairman Robert Stuart stated the Planning Commission can consider the plat but not the easement. Kit Alexander stated any easement must be referenced on the plat with an agreement.

**Motion made (Mitchell/Jeffries) to approve preliminary/final plat request subject to staff comments.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Approved (7-0).**

**7. Case No. 0604-SD-18, Harms' Plat #1**

Lucido Engineering & Surveying LLC, on behalf of Dennis Harms, requests approval of **Preliminary/Final Minor Subdivision** to replat a part of Lots 1 and 2 of Block 3, Garrett Subdivision. The property is located on the north side of COTTON BAYOU DRIVE roughly 300 feet east of the intersection of COTTON BAYOU DRIVE and ORANGE BEACH BOULEVARD in the RS-1 (Single-Family Residential) zoning district. Griffin Powell presented staff comments to the Planning Commission. Lots 1 and 2 were platted in 1946, and the State of Alabama acquired Lot 1 to accommodate the width of the Highway 161 right-of-way. The proposed plat will add eight feet of Lot 1 to Lot 2 to make a single lot. The new lot complies with the lot area requirement for RS-1 and will have a lot area of 9,953 SF. Chairman Robert Stuart opened the public hearing for comments and no one was signed up to speak.

**Motion made (Simpson/Moore) to approve preliminary/final plat request subject to staff comments.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Approved (7-0).**

**8. Case No. 0605-SD-18, Gulf Stream Subdivision**

Dewberry, on behalf of 68V Gulf Stream 2016 LLC, requests approval of **Final Major Subdivision** to subdivide Lots 6 and 7 of Cool Breeze Commercial Park Subdivision into a residential development with 64 townhouse lots, two common area lots, and private right-of-way in accordance with the Gulf Stream Planned Unit Development (PUD) Master Plan. The property is located at 4394 CANAL SQUARE LANE. Griffin Powell presented staff comments to the Planning Commission. The master plan indicates each lot will have an area of 1,120 SF. On-street parking will not be permitted in the subdivision. The proposed right-of-way width will be 50 feet instead of 60 feet as required. The property owners association will own and maintain the right-of-way, street, and common areas. David Diehl was present to address the Planning Commission. Chairman Robert Stuart opened the public hearing for comments and no one was signed up to speak.

**Motion made (Callaghan/Mitchell) to approve final major plat request subject to staff comments.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Approved (7-0).**

**9. Case No. 0606-PUDA-18, Orange Beach Marina PUD Modification**

Lucido Engineering & Surveying LLC, on behalf of Earle Long III and OBM Inc., requests recommendation to City Council for approval of **Major PUD Modification** to the Orange Beach Marina Planned Unit Development (PUD) Master Plan for the following: (1) to rezone 2.22 acres from RS-1 (Single-Family Residential) to PUD (Planned Unit Development) for inclusion into the Orange Beach Marina PUD; (2) to expand the parking area; and (3) to construct a new marina office building.

**Motion made (Callaghan/Jeffries) to defer until the July 9, 2018 meeting.** Roll call revealed: Jeffries, yes; Mitchell, yes; Moore, yes; Simpson, yes; Glenn Smith, yes; Callaghan, yes; Stuart, yes. **Deferred (7-0).**

**I. SITE PLAN REVIEWS**

**J. ITEMS SUBMITTED BUT NOT MEETING SECOND DEADLINE**

**K. OTHER BUSINESS**

1. Discuss amending the Zoning Ordinance for reducing side yard setbacks for arterial corner lots on Canal Road east of Wilson Boulevard.
2. Discuss amending the Zoning Ordinance for portable buildings.

Kit Alexander stated a portable building was placed on the Phoenix West II condominium site for the sale of snow cones and ice cream. Lannie Smith was notified and the portable building was removed. She asked if there is a need to address this type of building and criteria properly. Chairman Robert Stuart replied yes and to move in that direction.

Kit Alexander stated City Council will be voting to accept maintenance of Highway 180 east of Highway 161 to Perdido Gate. The City would be responsible for future maintenance, design and beautification. The State of Alabama will pay the City \$635,000 to resurface the roadway to the Perdido Gate subdivision. Variances have been presented for corner lots fronting Canal Road. Kit Alexander asked if the side yard setbacks should be reduced from 30 to 20 feet. Pete Peterson, Board of Adjustment member, stated there have been variances for accessory structures. Cecil Young, Board of Adjustment member, stated he has considered three of these variances and there were no problems with the lots. He expressed the road will have to be widened to four lanes in the future and the setbacks should remain the same.

**L. PUBLIC COMMENTS**

**M. ADJOURN**

Adjourned at 5:45 p.m.

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Kit Alexander, Director

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Robert Stuart, Chairman