

The City of Daphne
Planning Commission Minutes
Regular Meeting of November 21, 2013
Council Chamber, City Hall - 5:00 P.M.

Call to Order:

The regular meeting of the City of Daphne Planning Commission was called to order at 5:00 p.m. The number of members present constitutes a quorum.

Call of Roll:

Members Present:

Monty Montgomery
Don Terry, Secretary
Ed Kirby, Chairman
Larry Chason, Vice Chairman
Ron Scott, Councilman
Hudson Sandefur
Chief James "Bo" White

Members Absent:

Charles Smith

Staff Present:

Adrienne Jones, Director of Community Development
Jan Vallecillo, Planning Coordinator
Missty Gray, Attorney
Lonnie Jones, Code Enforcement Officer

The first order of business is the approval of the minutes.

Chairman asked for Commission questions or comments and for a motion for approval of the minutes.

A Motion was made by Mr. Scott and Seconded by Mr. Sandefur for approval of the October 24, 2013 regular meeting minutes. There was no discussion on the motion. The Motion carried. Mr. Terry and Mr. Kirby abstained due to their absence at the meeting.

The first order of business under old business is the election of officers.

Mr. Scott stated for the record, a City Council member he is not eligible to be an officer of the Planning Commission.

Ms. Jones clarified that a non-officio member cannot hold an office of the Planning Commission, those include: Mr. Scott, Mr. Sandefur, and Chief White.

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Chairman opened the floor for nominations for the Chairman.

Chief White nominated Mr. Kirby and Mr. Sandefur nominated Mr. Chason.

The nominations were closed. The vote carried four to three to elect Mr. Chason as Chairman.

The present Chairman, Mr. Kirby, passed the gavel to Mr. Chason.

Chairman opened the nominations for Vice Chairman.

Mr. Terry nominated Mr. Kirby.

The nominations were closed. With no other nominations, Mr. Kirby is Vice Chairman.

Chairman opened the nominations for Secretary.

Mr. Kirby nominated Mr. Terry.

The nominations were closed. With no other nominations, Mr. Terry is Secretary.

The next order of business is preliminary/final plat review for Malbis Plantation, Inc.

An introductory presentation was given by Mr. Shane Yarbrough, the representative of the Foresite Group, of a two-lot subdivision southwest of the intersection of Alabama Highway 181 and U.S. Highway 90.

Chairman asked for Commission questions or comments. During the discussion, Mr. Sandefur asked if there has been any additional documentation been presented to which Mr. Yarbrough stated there was one minor comment from ALDOT on the plans which have been addressed of which I expect approval momentarily.

Mr. Scott stated that he was in favor of the subdivision at the last meeting, but now cannot support the application until the ALDOT permit is presented.

Mr. Yarbrough asked about Mr. Scott's concerns. Mr. Scott stated the permits have not been issued. Mr. Yarbrough asked is it a requirement that all permits are approved prior to the approval of a subdivision. Chairman stated it is not addressed in our Ordinance, but it is common sense.

Ms. Jones stated typically with a property in the city limits, if a site requires ALDOT approval, we will not issue a site disturbance permit until we get any other documentation, or permits from any other state agency, but I am not sure how Baldwin County handles it.

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Mr. Yarbrough stated the plat is approved by Baldwin County, subject to the approval of the City of Daphne.

Mr. Kirby stated this is a subdivision of property: we have only dealt with the approval of the highway department and any other entity when dealing with the site plan. Those issues will be addressed prior to site plan approval by Baldwin County.

Chairman stated that is certainly one aspect of the application. He opened the floor to public participation.

Mr. William Scully, attorney for Mr. George Kalasountas, 9563 Malbis Lane, is in favor of the proposed subdivision which would provide significant support for Malbis Plantation and does not believe it will adversely affect the residents on Malbis Lane.

Chairman asked for Commission questions or comments.

Mr. Montgomery asked if Mr. Kalasountas had previously given correspondence to Baldwin County opposing this development and has he changed his mind based on the new leadership of Malbis Plantation. Mr. Scully responded that is correct.

Mrs. Teresa Simmons, 9628 Malbis Lane, spoke in opposition to the pharmacy: it will not provide a unique service because there are currently other drug stores in this area; we want to preserve the rural area, and avoid additional traffic and noise pollution.

Mr. Tommy Malbis, the majority of the stockholders are against this development and asked that the new board have more time to review matters.

Ms. Betty Godwin, 9780 Malbis Lane, spoke in opposition and on behalf of Ms. Monica Reynolds; both are concerned about: additional traffic, flooding, for future balance between commercial and residential areas, and preserving the culture, history, heritage and the uniqueness of Malbis.

Ms. Leeann Lanham, 29240 Vlahos Lane, I would like to request that you give time for ALDOT review first.

Ms. Gertrude Malbis, 9655 Malbis Lane, mentioned how Malbis has deteriorated and noted that the shareholders have elected a non-Greek president for the first time.

Ms. Antonio Cleondis, 29740 State Highway 181, noted this development is crucial to the shareholders to generate revenue because corporation is operating in the red.

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Mr. Normand McAllister, 9595 Malbis Lane, representative for the homeowners' association of Malbis and Vlahlos Lane, referenced the national historic registry (the property on the east and west side of the highway), referenced Section 4, ALDOT Operations Manual 2013 Minimum Standards, which states an access shall be placed one thousand three hundred and twenty feet from an intersection, referenced the D'Olive Watershed study; the trial; re: the conditional use granted by the Baldwin County Planning Commission in January; and thinks the subdivision does not adhere to any of these regulations and should be denied.

Mr. Jeff Glover, asked the Commission to note the number of families represented here in opposition of the development.

Mr. John Lawler, 804 Commerce Building, attorney for the homeowners' association of Malbis and Vlahlos Lane, proposed the representation of a subdivision which meets the minimum requirements does not entitle the applicant to an approval. He cited court cases where a developer adhered to the minimum requirements, but had an adverse effect on the adjacent property, and as the basis for denial; using planning and zoning to protect the public safety and asserted public safety issues exist and talked about the grandfather status of the access and that this subdivision does not conform to those regulations and should therefore be denied.

Mr. Montgomery asked Mr. Lawler specifics regarding the pending litigation. Mr. Lawler answered: the case is set for trial on January 6, 2014, the homeowners association of Malbis and Vlahos Lane, is asking for the reversal of the conditional use.

Chairman asked for Commission questions or comments.

Mr. George Kalasountas, 9563 Malbis Lane, asked for support of the development.

Ms. Leeann Lanham, 29240 Vlahos Lane, asked the Commission to allow the board time to review matters and to request that the developer present a master plan.

Mr. Kevin Spriggs, 29640 State Highway 181, expressed concern about traffic at this intersection and reiterated the need for a master plan rather piece meal and expect growth along County Road 13 and Alabama Highway 181 to direct more traffic to share access to this intersection and the interstate.

Mr. Yarbrough stated we are only subdividing property and asked if he had met all of the requirements. Chairman stated three things were to be submitted: a master plan, accident reports, an ALDOT permit, and additional issues: traffic concerns, the lawsuit, a new board of directors, the watershed study, and that this subdivision does not adhere to the regulations according to Mr. Lawler.

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Ms. Gray considered that Mr. Yarbrough asked for a legal opinion, not a question for the Commission to answer.

Chairman asked for additional comments. None were presented. He closed public participation and asked for Commission questions or comments.

Mr. Kirby asked should we consider public comments and board issues when considering the approval of a subdivision in the extraterritorial planning jurisdiction of Baldwin County.

Ms. Gray stated the Commission is here to consider approval and public participation is a part of that review process.

Chief White commented he cannot support the application until we have all of the permits.

Mr. Terry questioned the zoning of the property.

Mr. Scott stated the property is commercial and was granted a conditional use variance by Baldwin County. As presented, it may fit the technical definition, but as counsel has pointed out there is a reason you have public participation. Mr. Sandefur agreed we are here to just approve a subdivision, but I share the concerns of the public.

Mr. Scott asked if denied what is the time frame to reapply.

Ms. Jones stated the statute does not specify a time frame, but in the motion state the issues to rectify. Ms. Gray reiterated the motion needs to contain the reasons for denial.

A Motion was made by Mr. Scott and Seconded by Mr. Sandefur to deny the preliminary/final plat for Malbis Plantation Subdivision, due to the lack of an ALDOT permit.

During discussion, Ms. Gray mentioned to consider the concerns expressed in public input tonight.

Mr. Scott stated this is a commercial corner and adjacent to B-2, but it would have been beneficial to have a master plan for the development.

Commissioners discussed amending the motion to include resolution pending litigation. Mr. Scott did not support the amendment.

Commissioners discussed amending the motion to include a master plan for the property upon resubmitting and Mr. Scott accepted the amendment to the main motion.

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The Motion was amended by Mr. Scott and **Seconded** by Mr. Sandefur *to deny the preliminary/final plat for Malbis Plantation Subdivision, subject to the submission of an ALDOT permit and a master plan for the thirty-seven acre parcel upon resubmittal. There was no further discussion on the motion. The Motion carried. Six members voted in the affirmative and one dissented (Mr. Kirby).*

Ms. Jones asked for clarification on the motion. Chairman stated request the submission of master plan for review.

The first order of business under new business is preliminary/final plat review for the Resubdivision of Lot 2, Honda Property.

An introductory presentation was given by Mr. Stuart Smith, the representative for Hutchinson, Moore & Rauch, of a two-lot subdivision located southeast of the intersection of Randall Avenue and U.S. Highway.

Chairman stated staff recommends approval. He opened the floor to public participation. No one came forth. He closed public participation and asked for Commission questions and comments or a motion for approval.

A Motion was made by Mr. Kirby and **Seconded** by Mr. Terry *to grant preliminary/final plat approval to the Resubdivision of Lot 2, Honda Property Subdivision. There was no discussion on the motion. The Motion carried unanimously.*

The next order of business is a public hearing on the proposed revisions to the Sign Provisions.

Ms. Jones gave an introductory presentation and displayed a power point presentation of the purpose and procedures of the public hearing.

Chairman asked for Commission questions or comments and opened the floor to public participation.

Mr. Kevin Spriggs, 29640 State Highway 181, asked for the support of the Commission in adopting the revisions to the Sign Ordinance as a step forward for local businesses.

Mr. John Lake, 110 Paige Circle, requested that the Planning Commission advertise for additional public hearings prior to acting on the revisions so the community has an opportunity to speak prior to presentation to the City Council.

Chairman asked for clarification on the advertising period. Ms. Jones stated it is required by state law that the City Council advertises a public hearing. Ms. Gray concurred.

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Chairman commented no action will be taken tonight. He closed public participation and asked for Commission questions or comments.

Mr. Terry asked for clarification on Ms. Romanchuk's comments in her email to the Planning Commission. Ms. Jones stated the City Council set a time frame for the task and the Sign Committee could not go past the date prescribed by the Council.

Ms. Jones stated the next meeting is set for December 19, 2013, and we may discuss the items not included in the Sign Committee recommendations so I may incorporate your suggestions into the next draft and explained where to find the ordinance online.

The next order of business is Planning Commission discussion regarding the City Council Strategic Plan.

Ms. Jones asked for additional questions or comments for conveyance to the City Council. Chairman asked if the Strategic Plan will provide an update to the future land use map. I am hoping to amend the existing Comprehensive Plan.

The next order of business is public participation.

Chairman opened the floor to public participation.

Mr. Kevin Spriggs, 29640 State Highway 181, reiterated his previous comments regarding the Sign Ordinance.

Chairman closed public participation and asked for Commission questions or comments.

The next order of business is the attorney's report.

Ms. Gray had no report.

The next order of business is commissioner comments.

Chairman asked for questions or comments from the commissioners.

None were presented.

The next order of business is director's comments.

None were presented.

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There being no further business, the meeting was adjourned at 6:42 p.m.

Respectfully submitted by:



Jan Vallecillo, Planning Coordinator

Approved: December 19, 2013



Larry Chason, Chairman