

City of Mobile
Zoning Code – Subdivision Regulations
COMMENT RESPONSE—COMPOSITE DOCUMENT

January, 2018

**A compilation of comments by the general public, and responses by staff, regarding
the proposed Zoning Ordinance and Subdivision Regulations revisions**



City of Mobile
BUILD MOBILE Department

List of Commentators

No.	Commentator Name	Community Role (citizen, business owner, neighborhood organization, developer, other)
1	Bill Guess	Zoning Technical Advisory Committee
2	Donald Stewart, Esq.	Resident
3	Casey Pipes, Esq.	Business Owner
4	Mobile BAYKEEPER	Other
5	BJ Smith	Resident
6	Bruce Coldsmith	Neighborhood Organization
7	Debi Foster	Neighborhood Organization
8	Bill Finch	Right Tree / Right Place Committee

Thank you for your feedback and involvement in this process. Following each upcoming Zoning Technical Advisory Committee (ZTAC) meeting, public comments will be received for approximately 30 days. Responses will be prepared, in a composite format, approximately ten days following the end date of the public comment period. A response document will be uploaded to the City's *Map for Mobile* website (www.mapformobile.org).

We look forward to reviewing and responding to your comments. For additional information please contact us by phone at (251) 208-5895, or by email at Planning@cityofmobile.org.

PUBLIC COMMENTS RECEIVED NOVEMBER 15, 2017 THROUGH JANUARY 2, 2018

1. Received from Bill Guess:

Many “Institutional Land Use ‘INS’” are exempt from City ordinances.

Response: *which? Is this by state law or by ordinance (if by ordinance, we can change that). In any event, many of these uses are not exempt, and this district and land use category recognizes the unique nature of these types of uses, and allows us to craft zoning standards that respond to their unique needs and character.*

Incidental signs – need to clarify

Response: *These are defined in Article VI (to be moved to the definitions): “A sign that is subordinate in scale to the principal signs on the site or to the buildings, structures, or building elements (such as windows) on which they are placed. Typical uses include, but are not limited to, official notices required by law or by a public utility, trade affiliations, signs attached to ATM machines or gasoline pumps, signs providing direction or instruction to persons using a facility (such as placards indicating hours of operation or courtesy information such as “credit cards accepted,” “vacancy,” “no vacancy,” “open,” “closed,” and “self-service”), and signs that provide time and temperature or public service announcements. These signs may be freestanding or wall signs.” This allocation allows us to accommodate those types of signs on the site without distinguishing content.*

What about flags?

Response: *As drafted, they are exempt from regulation. I suspect that, based on comments from the public and council, we will have an overall numeric and/or area allocation for flags. We should not exempt or classify them based on content.*

Digital pricing signs should be allowed if static

Response: *“Pricing” suggests content – should we just allow digital signs that are “static”? Does that mean the message never changes (in which case, why have a digital sign)? If not, what’s the hold time?*

Amortization schedule for non-conforming signs in recently Annexed areas? Should be listed for review. This issue comes up with the BOA often.

Response: *Under staff review for further consideration*

Restrictive covenants in the past were not enforced by the City of Mobile, has this changed?

Response: *No. This is in the ordinance now. It just recognizes that relief from covenants is not grounds for a variance.*

2. Received from Donald Stewart, Esq.:

In response to my comments on the problem with the proposal to reduce parking requirements, the statement appears: "At least one city (Buffalo) has now abandoned minimum parking ratios completely in a recent zoning update." Buffalo in fact addresses parking requirements on a case by case basis by requiring a Transportation Demand Management Plan. "Form based" zoning that uses a liberalized "one size fits all" approach is a recipe for disaster. Whether a particular site design will result in a more walkable built environment or a train wreck has to be evaluated based on the actual reality of the design and the location and the plausibility of the site being generally accessed by walkers, bikers, and effective public transit. Using a reduced fixed requirement for "ease of administration" will prove a mistake.

Response: *Buffalo only requires a Transportation Demand Management (TDM) plan for new construction > 5,000 sf or substantial renovation of a building > 50,000 sf, and does not apply to their D-C, D-IL, or D-IH zones [flex space and industrial zones] (Buffalo Green Code, 8.4). While a TDM plan considers onsite parking, it also provides for 13 different strategies that do not involve parking. As I believe Mr. Stewart's concern is with bars, perhaps a TDM requirement for those types of uses would resolve the concern?*

3. Received from Casey Pipes, Esq.:

The definition of nonconforming lot in Section 64-144 defines them as lawfully existing and of record. If you have a parcel of land which has only been created and conveyed by metes and bounds legal description (instead of by subdivision lot number) but otherwise is lawfully in existence and is its own tax parcel, is it eligible to be a grandfathered nonconforming lot?

Response: *It should be. That is the intent. Let's double check the language and make sure that this is covered.*

If no additions, repairs, or alterations can be made to any building on a lot with a non-conforming site improvement (or on a lot that lacks a required site improvement) under Section 64-146, does this mean no building permits can be issued if a parking lot is located on the wrong side of a building? What if the nonconforming site improvement is not something that can be added or cured without creating other nonconforming site situations?

Response: *The building permit could issue if the applicant meets the criteria for approval under 64-146. As to the second question (addition of site improvements creating other nonconformities), I suggest that we add an order of priority - e.g., riparian buffers, stormwater management, tree preservation, landscaping, building design, parking location, and parking ratios (e.g., curing a high priority improvement is allowed if it creates a nonconformity as to the lower priority improvements).*

Can a nonconforming site permit be issued if there is also a legal nonconforming use on the property? If the building is a non-conforming structure?

Response: *As written, no - it has to be the only nonconformity. Whether we allow additional nonconformities is a policy issue.*

What percentage of the lots in each of the proposed zoning districts under the FLUM fully comply with the draft zoning code as to use, lot, structure, and site improvements?

Response: *This is impossible to determine at this point. The draft UDC is a work in progress, and it would take years to apply all of the code standards to each lot subject to the FLUM. I am not aware of any community who has undertaken a jurisdiction-wide analysis of this type for an entire development code for a City of this size. In addition, the final zoning map is not prepared yet, which will determine how the standards apply on a parcel by parcel basis.*

The Planning Commission and the City Council historically have added additional "conditions" to rezonings, and some property owners have voluntarily imposed additional "conditions" to assist with the rezoning decisions. Will this process be continued under the new zoning code?

Response: *Yes*

Under the new process for rezoning, how much longer will it take for an application to get filed and to get approved by the City Council?

Response: *This process has not changed as it is dictated by state law.*

If any additional "conditions" are added to the rezoning ordinance at the City Council level, how much longer will it take for that revised zoning ordinance to be approved by the City Council?

Response: *This depends on the application, but that process has not changed (see comment above).*

For private property owners whose land is shown on the FLUM as a "Parks and Open Space" is it the City's intention to purchase the property? Is the City's intention to zone this property consistent with its current use instead of the Parks and Open Space designation shown on the FLUM?

Response: *The boundaries are currently under review by staff. The intent is to apply this only to publicly-owned property.*

A large area of property that is currently industrial is shown as Downtown Waterfront. This area does not appear to allow for any Residential, Lodging, or Short Term Rental uses, but does allow for restaurants, bars, and similar uses that require customers. What is the purpose of prohibiting all of the residential and hotel types of uses? Hotels in close proximity to the cruise ship terminal, the Gulfquest Museum, and similar facilities would seem to be desirable, especially if you are trying to encourage restaurants and bars to this district.

Response: *The revised Use Table allows these uses. This district and additional Maritime Districts are currently under consideration.*

4. Received from Mobile BAYKEEPER:

Thank you again for providing the Section IV information and for including the Riparian Buffer Zone sections. One additional point we would like to see changed is in Section 64-50. 3 RBZ Zones table (a). Please remove the exception for the "Waters that contained within a shoreline hardened...". As discussed, there is no reason to NOT implement protections for a stream of any kind. Often those stream and waterways that have been hardened with bulkheads, culverts, etc. are those most in need of additional protections. Mitigation language can be added for facilities dependent upon using the land all the way up to the waterfront rather than simply excluding them from protections.

Response: *We are reviewing and revising this section.*

We also appreciate that you are looking for ways to include and/or incorporate Low Impact Design (LID) into the planning and zoning guidance. We understand the constraints you expressed about some LID efforts needing to be outlined or being limited by Chapter 17 Stormwater regulations, but there are ways to still incorporate LID as a Zoning requirement. As noted in our comment letter dated May 10, 2017 (Comments on the Draft Future Land Use Map (FLUM), Major Street Map (MSM), and the City's Zoning Code and Subdivision Regulations.) the incorporation of requirements to use LID requirements in zoning ordinances is a well-established practice. For instance, the City of Fairhope has requirements in their zoning ordinance 1 and subdivision regulations 1 that require developers to implement parking lots with 12 or more spaces to include at the least a permeable pavement system and one other LID techniques and select a minimum of ten LID techniques from a long list of available options. That would be an easy addition to the Zoning Plan. Another eastern shore city, Daphne, Al codified low impact development requirements into the zoning ordinance 1 for a specific district (the Jubilee Retail Overlay District). The reduction of stormwater runoff pollution and erosion were major goals of this ordinance. This was achieved through the use of permeable pavement, porous asphalt, bioretention ponds and elevated landscape beds. We are researching which other cities have LID included in their planning now and hope to get back to you by first thing tomorrow.

Response: *We are considering additional ways to incorporate LID into the parking requirements and subdivision regulations.*

The most important point we would like to reiterate is that the City's Stormwater regulations – chapter 17 – should be updated concurrently with the MAP for Mobile Zoning Code. These two documents rely heavily upon each other and, if done correctly, these new zoning codes should be able to stand the test of time. To date, the planning team has done an excellent job of being thorough and comprehensive. If you wait to make changes to relative documents, you could either lock yourself into an incomplete set of rules or risk contradictions among the different documents. We ask that you take the time needed to get this process right for all that it can do for Mobile.

Response: *An overhaul of Chapter 17 is beyond the scope of this project, and but be authorized as a separate project. This is up to the City.*

You have done an incredible job so far of incorporating the public in a meaningful manner in the development of Mobile's new zoning rules and ordinances. Please continue to take the time to be inclusive, comprehensive and effective. If you have any questions or need additional information, please don't hesitate to call.

Response: *Thank you!*

5. Received from BJ Smith:

We have squandered enough of our waterfront property by lining our creeks with concrete, please don't encourage more. Riparian setbacks maintain the health of the river and its flood capacity. Who will want to come to our city if our beautiful waterways are just drainage ditches? It's about more than just water quality, it's about safety and quality of life as well.

Response: *This comment appears to support the Riparian buffer requirements.*

We also need to review the infrastructure as it needs replacing. Slowing the water by rebuilding floodplains and bankfull benches into these massive concrete flood control structures will protect the uplands that have for centuries depended on the water remaining in place. And it will protect the people downstream from flooding. Slow water is quality water.

Response: *This is a capital improvement request, and is not relevant to development regulation.*

We are not a waterfront city without public access. There are beautiful ways to increase public access while also increasing flood capacity for example the property near highway 90 and Landsdowne Drive where the Halls Mill Creek crosses has flooded so many times that the structures on the north side of Hwy 90 have been removed. This is a perfect place to put in a public park, kayak launch and a fishing pier. Digging out the area to create the floodplain/bankfull bench could be connected to the Environmental Studies Center upstream and the Dog River downstream. It could also enhance the value of the old Knollwood Hospital property. Infrastructure doesn't have to be ugly - it can be beautiful and people friendly too.

Response: *This is a capital improvement request, and is not relevant to development regulation.*

6. Received from Bruce Coldsmith:

Brian, Thanks for your follow-up. Our work with the Access Committee of Dog River Clearwater Revival has focused on the creating the Dog River Blueway for the last 8-10 years. However, we started preliminary work on the Dog River Fitness Trail (our working title). Our goal is to have at least one trail from Schillinger to the River at the bridge. We worked with the GIS department a few years ago and came up with the attached plan. We would like to tie in with the work Terry Plauche did in developing with his plan. The great aspect of this trail is that as it grows Westward it would be accessible to a large portion of the City population and could tie into existing or planned trails to create the bike-able trail for commuters.

Response: *This is a capital improvement request, and is not relevant to development regulation.*

7. Received from Debi Foster:

The bike route shown on this map [MSP / FLUM] is still not the one proposed by the Mobile Greenway Initiative, Dog River Clearwater Revival and the Peninsula of Mobile and as shown in the Peninsula's Corridor Master Plan.

Response: *The map documents provided to the City on July 14, 2017, by The Peninsula of Mobile, along with the associated GIS shapefiles, will be utilized by the City's Parks and Recreation Department as the Parks and Recreation Master Plan is developed, over the coming months.*

Yes, I remember and understand that the Parks Dept. will utilize the shape files we sent in the months to come, but I guess my question right now is that if people are looking at the proposed map that's on line NOW, and are to draw their conclusions and make comments about zoning and land use now, what they're seeing is erroneous. I've already received negative comments about us "sending people up DIP on their bikes", when in reality, that's not at all what we're proposing. Does this make sense? How can they make informed decisions/recommendations when the map is not accurate?

Response: *This appears to relate to the Parks and Recreation Master Plan (see above), not this project.*

8. Received from Bill Finch:

The definition of Heritage Tree needs further revision.

Response: *We are reviewing the draft definition for 'Heritage Tree' and will revise the definition.*