March 11, 2019

RE: Comments on the City’s Unified Development Code (UDC)

Dear Planning Team:

We are Mobile Baykeeper, a twenty-two-year-old nonprofit organization with the mission of providing citizens a means to protect the beauty, health and heritage of the Mobile Bay Watershed and our coastal communities. We are submitting comments on behalf of our board, officers, and more than 4,500 members regarding the zoning code overhaul for the City of Mobile. Mobile Baykeeper appreciates the City of Mobile’s commitment to updating the zoning and land use code while keeping the community involved and engaged throughout the process. More than 3,000 Mobilians commented on this code and have clearly identified our natural resources and local waterways as high priorities to protect and promote.

The act of updating the UDC in this comprehensive way is a powerful commitment to ensuring long-term protection of what makes Mobile special. We encourage the City to also ensure this document reflects the importance of the environment to the community. The UDC should be forward thinking in how it will be used to govern land-use and future development. Mobile’s successful future relies on our ability to insist that development interests protect the natural resources that are the foundation upon which our economy and community are reliant.

**Zoning Modules Comments**

**Article I General**

*Section 64-2 “Purpose”*

We encourage the City to make improving stormwater management and protecting water quality a priority by specifically listing it in this section. This was a major focus of community comments in the MAP for Mobile community sessions (“community sessions”) and thus should be reflected in the zoning regulations purpose.

**Article II Zoning Districts**

*Section 64-11 “Zoning Map”*

In the community sessions, many participants indicated the need for green spaces and access to waterways. We suggest the City indicate that an undeveloped parcel be designated as green space or at the lowest density/use zoning level to protect both the interest of the community and to grow responsibly.

We support the use of the three different Maritime District designations to help guide future use of our waterfront areas. This was indicated as a priority during the community sessions.
Section 64-14 to 64-30 Districts

Residential Low Density (RL) currently looks to contain no landscape requirements, which will have a negative impact on stormwater runoff and thus water quality. We suggest having RL be similar to Residential Mixed (RM) requirements (10%).

Neighborhood Center-Traditional (NCT) uses contain low landscape requirements (2%), this is a concern given NCT districts are typically found east of I-65 where several industrial areas and impervious surfaces are present. Similar issues with low landscape requirements exist in the Neighborhood Center Suburban (NCS), Downtown Waterfront (DW), and Corridor Traditional (CT) districts. We suggest landscape requirements should be at least 12-15%.

Section 64-28 “Neighborhood Conservation Overlay Districts (O)”

Mobile Baykeeper applauds the City for generating overlays for communities with visions and plans that are specific to their neighborhood needs. We strongly support these overlays. Africatown Overlay (O-AF) - The policies reflect the area’s plan entitled “Africatown Neighborhood Plan” and will help promote walkability and preserve neighborhood character. Peninsula Overlay (O-PE) - We strongly support the Low Impact Development (LID) requirement for the O-PE district and the inclusion of the “Low Impact Development Handbook for the State of Alabama” for specific LID techniques. Having this requirement will greatly improve the areas water quality and flooding potential. We also strongly support pervious parking requirements to reduce stormwater runoff and create better infiltration of rainwater. These are elements that Mobile Baykeeper and its members would like to see required in more than just the Peninsula Overlay, at least in the Mixed-Use and Low Density Residential districts. Spring Hill Overlay (O-SH) - We are pleased to see the overlay reflects the area’s plan “The Blueprint for Spring Hill” establishing better walkability and reduction of parking spaces.

Section 64-31 “Use Table”

We would like to see more clarity in B.2 (Compliance with District Requirements) applicability, specifically “every use in any district other than RL, IL or IH, or as specifically noted in the Use Table, shall be conducted entirely within a completely enclosed structure (except for accessory uses)”. Does this mean any semi-closed or open structures be exempt? Overall, we appreciate and support the Conditional Use status for industrial activities to ensure proper notice of these activities and community participation in the changes or initiation of these projects. However, it must be noted that undeveloped parcels should not be automatically zoned as a high use zone such as heavy or light industry simply because it is next to an existing IL or IH.

Article III Composite Standards

Section 64-41 “Generally”

We request the City add improving stormwater management and protecting water quality as a priority by specifically listing it in this section. This was a major focus determined from feedback in the community sessions and should thus be reflected in the zoning regulation’s protection to water resources.
 SECTION 64-43 "Conservation Subdivision"

Mobile Baykeeper is pleased to see the introduction of a Conservation Subdivision in the UDC that is designed to preserve open space and protect natural resources. By allowing different design features, developers can more readily protect important areas within a subdivision including wetlands, woodlands, and riparian buffer zones. We fully support this effort and would like to see this be required in more than just the Peninsula Overlay district and permitted in more than just the Residential Low Density (RL). Required or at least permitted in the Residential Mixed Density (RM) district would ensure developers do more to protect natural resources within these neighborhoods. In particular, we recommend Conservation Subdivisions be required in any area adjacent to a waterway.

We suggest more clarification of the permitted use in the Conservation Area #11 in reference to open-air active recreation. These activities should not include paved activities like basketball courts, etc. or other large fields like soccer fields where negative environmental impacts can exist. Please clarify the language to ensure protection of natural resources.

ARTICLE IV Development Standards

 SECTION 64-59 “Natural Resource Protection” – C. Riparian Buffers

We strongly support the inclusion of the Riparian Buffer (RB) and thank the City for its recognition of riparian areas as important protection zones for their intrinsic benefits to our aquatic resources, water quality, structural integrity, economy, and overall community welfare. Jurisdiction of this section should be expanded to include parcels that are greater than one acre to gain more benefit from this added natural resource protection in the UDC.

In reference to Table 64-59-2 Uses and Activities Permitted in RB zones, greenways, roadway, and sidewalk stream crossings are shown as permitted by right in zone 1. This zone contains the most sensitive habitat, wetlands, and vegetation necessary for the structural integrity of the stream banks. We suggest greenways, roadway and sidewalks be changed to permitted by right in zone 2 or 3 only and stream crossings be conditionally permitted in zone 1. Definitions for both greenways and roadway and sidewalk stream crossings need to be included here.

In subpart 6c it appears that water dependent maritime uses are exempt from the RB standards and are only required to provide an acceptable stormwater management plan for review and approval from the City Engineer. These activities (maritime, shipping, port-related activities etc.) should be held to the same requirements as other commercial development activities. Furthermore, the definition of what designates an activity as water dependent should be included.

We are pleased to see mitigation for unavoidable impacts within the riparian buffer zone. While we applaud these mitigation efforts, Mobile Baykeeper requests mitigation occur within the same 8 digit HUC catalogue unit and preferably within the impacted 12 digit HUC sub-watershed so as to provide the least negative impact to hydrology and water quality within the watershed. If this proves impracticable we request that wetland mitigation credits are purchased within the impacted 12 digit HUC sub-watershed.

As discussed, there is no reason to not implement protections for a stream of any kind including “waters that contained within a shoreline hardened...” 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.

**Article V**

*Section 64-80 “Above-Ground Storage Tanks”*

Oil Storage Tanks – Mobile Baykeeper worked with local business and civic leaders to get the City to pass one of the most protective waterfront oil storage tank ordinance in the nation. We are pleased to see the intent of the 2016 ordinance was maintained through the City’s current ordinance overhaul. One important item to reiterate is that if a parcel is not currently developed, it must be zoned to a lower use classification than its surrounding parcels. For instance, parcels located near oil storage tanks should not be automatically zoned as heavy industrial even if regulated under Conditional Use. The community should have a right to both know the project is being proposed and the opportunity to comment on the project.

**Article VI Procedures**

*Section 64-104 “Neighborhood Meetings”*

We are enthusiastic to see the addition of Neighborhood Meetings as a part of the process for proposed activities. These meetings will give the community the opportunity to resolve issues with potential projects early in the process so that better developments can be made with all parties in mind. Additionally, developers will know they need to be working with community members early in the proposed project which can eliminate challenges before they arise. Thank you!

*Section 64-108 “Notice”*

The notice required is currently set at 15 days, which is not a long enough period for the community or persons of interest to review, prepare, and participate if necessary. We request the length of time to be extended to 30 days to allow for adequate notice of zoning regulation variances given they are changes to agreed upon regulations and likely an interest of the community.

**Summarized “In Support” Comments**

- The use of three different Maritime District designations in order to help guide future use of our waterfront areas.
- Overlay communities, in particular the Peninsula Overlay district where LID, alternative parking surfacing, and conservation subdivision specifics are required.
  - We want to see these elements be required in more districts (RL and RM in particular).
- The introduction of Riparian Buffers in the UDC: this is a great step toward protecting Mobile’s unique waterways. Please consider our comments to improve this section so that it can be effective in protecting Mobile’s waterways.
- The addition of Conservation Subdivisions to add flexibility for developers to protect wetlands, riparian buffers, and preserve open natural spaces.
These should be available for more locations than just in the O-PE and RL districts.

- The new requirement of Neighborhood Meetings to generate more communication early on in the process to resolve issues and collaborate for solutions.

**Summarized “Of Concern” Comments**

- Undeveloped parcels should not be automatically zoned to a high use zone such as heavy or light industry simply because they are located near an existing IL or IH. We need to protect our natural and open spaces from significant development.
- Clarity on what a “completely enclosed structure” means and how other semi-closed or open activities would be covered in B.2 (Compliance with District Requirements).
- Landscape requirements have been reduced in several areas. This is a great concern for increased stormwater runoff and flooding issues with few green spaces required where high levels of impervious surface already exist.
- Open-air active recreation activities like soccer fields, tennis courts, etc. should not be allowable activities within Conservation Areas if they include paved surfaces – pavement greatly decreases water quality.
- Greenways, roadway, and sidewalk stream crossings should not be permitted in zone 1 where the majority of wetlands or important vegetation exists in a Riparian Buffer.
- Riparian buffers should be applied to parcels greater than one acre, water dependent uses, and hard shorelines including bulkheads/riprap.
- Mitigation for unavoidable impacts should be required to occur in the same local watershed as the impacts are anticipated.
- Notice for rezoning and variances needs to be longer than 15 days and changed to 30 days. This time frame is too short for the community to fully participate and provide feedback.

Thank you for considering our comments and allowing a 75-day public comment period for the release of the zoning codes. Mobile Baykeeper fully supports the time extension you have provided and the commitment you have made to reach out to so many community members to ensure they are fully incorporated in the decision-making process. If you have any questions or need additional information, please don’t hesitate to call on us.

Sincerely,

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