

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JULY 10, 2003 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Robert Frost, Chairman
Terry Plauche, Vice-Chair
Victor McSwain, Secretary
Victoria L. Rivizzigno
Ann Deakle
Clinton Johnson
James Laier
Norman Hill (S)

Members Absent

Wendell Quimby
John Vallas

Staff Present

Laura J. Clarke, Director,
Urban Development Department
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Frank Palombo, Planner I
Val Manuel, Secretary II
Jennifer Henley, Secretary II

Others Present

Wanda Cochran, Assistant City Attorney
Ron Jackson, Urban Forestry
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

Mr. Frost stated the number of members present constituted a quorum and called the meeting to order.

The notation *motion carried unanimously* indicates a consensus, with the exception of the Chairman who does not participate in voting unless otherwise noted.

APPROVAL OF MINUTES:

A motion was made by Mr. McSwain and seconded by Dr. Laier to approve the minutes of the April 17, May 1, and May 15, 2003, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #SUB2003-00119

Bud Mathis Subdivision

4100 and 4126 Oak Ridge Avenue (West side of Oak Ridge Avenue, 170'+ South of Holden Drive).

10 Lots / 2.1+ Acres

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Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was present on behalf of the applicant and asked that this application be held over until the next meeting as the attorney representing the case was called out of town.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of July 24, 2003, at the applicant's request.

The motion carried unanimously.

Case #ZON2003-01237

Old Shell Road Commercial Park

3309 Old Shell Road (South side of Old Shell Road, 30'± East of I-65 Service Road North).

The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The site plan illustrates the existing drainage, utilities, and proposed access easements, existing buildings, parking, and fencing.

The applicant was present and asked that this application be held over until the next meeting.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Mr. Hill to holdover this application until the meeting of August 7, 2003, to allow the applicant to submit a revised site plan.

The motion carried unanimously.

Case #SUB2003-00118

Westbury Square Subdivision, Resubdivision of and Addition to Lots 2, 3 and 4

3920 and 3932 Cottage Hill Road, and 715 Azalea Road (Northeast corner of Cottage Hill Road and Azalea Road).

2 Lots / 2.4± Acres

(Also see Case #ZON2003-01438 - **Westbury Square Subdivision, Resubdivision of and Addition to Lots 2, 3 and 4** – Below [New Planned Unit Development Applications])

Mr. Don Coleman of Rester and Coleman Engineers, Inc. was representing the applicant and noted that the staff had recommended the dedication of right-of-way to provide 50 feet from the centerline of both Cottage Hill Road and Azalea Road. Mr. Coleman pointed out that the subdivision was recorded years ago and all the lots were being used at this time, and Azalea Road and Cottage Hill Road had been built to major street

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standards and were both 5-laned. He said that at the time they were built, no additional right-of-way was required for widening. He requested that the condition for additional right-of-way, especially on Azalea Road, be waived. If they were required to do this, they would have to give up 10' on each side. He pointed out that they were simply moving an interior lot line.

Ms. Pappas stated that it was standard on any commercial development if a major street was lacking in adequate right-of-way, to request the dedication of sufficient right-of-way from the centerline in compliance with the major street standards.

Mr. Plauche asked if the streets were substandard the way they were now.

Ms. Pappas said they were not, but explained that streets also carry other improvements such as utilities, drainage and sidewalks.

Mr. Coleman noted that the drainage had already been taken care of and they would install sidewalks along the frontage of both streets. He concurred with all of the other staff recommendations.

In discussion, Mr. McSwain noted that the street was built out and inquired if they would be getting a right-turn lane on Cottage Hill Road.

Ms. White was unsure at this time.

Mr. McSwain felt the applicant had made some very valid points.

A motion was made by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- (1) the dedication of the necessary right-of-way to provide 50-feet from the centerline of Cottage Hill Road;
- (2) that sidewalks be provided along Cottage Hill and Azalea Road frontages as offered by the applicant at the meeting; and
- (3) that the "flag" on Lot 2 be eliminated or increased to 25-feet in width.

Mr. Frost clarified that the applicant had wanted 10 of right-of-way on Cottage Hill Road and nothing on Azalea Road. He asked Dr. Rivizzigno if this was her motion.

Dr. Rivizzigno said that was correct.

Mr. McSwain asked if that would provide enough right-of-way to put a sidewalk in on Azalea Road.

Ms. Pappas stated that Mr. Coleman had stipulated that sidewalks would be provided along both Azalea Road and Cottage Hill Road without the dedication.

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Dr. Laier seconded the motion.

The question was called. The motion carried unanimously.

EXTENSIONS:

Case #SUB2002-00146

Eagle Place Subdivision

South side of Overlook Road, 250' ± West of Morlee Drive West.

18 Lots / 9.9± Acres

Request for a one-year extension of previous approval.

A motion was made by Mr. McSwain and seconded by Mr. Hauche to grant a one-year extension of previous approval for this application.

The motion carried unanimously.

Case #ZON2002-01022

Hawthorne Suites

North side of magnolia Grove Parkway, 400' ± West of Legends Row.

Planned Unit Development Approval to allow multiple buildings on multiple building sites and shared parking between sites.

Request for a one-year extension of previous approval.

AND

Case #SUB2002-00088

Hawthorne Subdivision

North side of Magnolia Grove Parkway, 400' ± West of Legends Row.

2 Lots / 10.0± Acres

Request for a one-year extension of previous approval.

A motion was made by Mr. McSwain and seconded by Mr. Plauche to grant a one-year extension of previous approval for these applications.

The motion carried unanimously.

Case #ZON2001-01582

Mobile Infirmarary Association (Mark Nix, Agent)

East side of Infirmarary Drive, 1030' ± North of Spring Hill Avenue.

Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow construction of a ground-level parking lot instead of a parking building and Master Plan.

Request for a one-year extension of previous approval.

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A motion was made by Mr. McSwain and seconded by Mr. Plauche to grant a one-year extension of previous approval for this application subject to the following condition:

- (1) any substantive changes and/or additions will require an application to amend the PUD Master Plan.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2003-01451

South Alabama Regional Planning Commission

654 Monroe Street (Northeast corner of Monroe Street and Washington Avenue).

The request for a change in zoning from R-1, Single-Family Residential, to R-B, Residential-Business, for parking and offices of a governmental establishment was considered.

The plan illustrates the existing structures and parking, along with the proposed covered walk and parking.

(Also see Case #ZON2003-01452 - **South Alabama Regional Planning Commission Subdivision** – Below; and Case #SUB2003-00135 - **South Alabama Regional Planning Commission Subdivision** – Below)

Mr. Frost stated that he had received a letter from the Historical Commission in this matter, which basically stated their concerns regarding encroachment into the residential area and some parking issues.

Mr. Russ Wimberly, Executive Director of the South Alabama Regional Planning Commission (SARPC), explained this proposal and said it was their intent to maintain the outward appearance of the structure in question and to restore the outside of the structure to what it was when it was occupied. The site would be landscaped and security lighting would be installed to enhance the overall aesthetics and security of the neighborhood. Mr. Wimberly said the structure was planned to be used for a professional office interconnected with the existing building on the site that is now zoned R-B. The house itself was zoned R-1, and the adjacent parking lot, which was non-conforming right now, was R-1. They intended to rezone it all into R-B so they could accommodate office space interconnected with a covered walkway.

Ms. Pappas clarified that if this were approved the overall site as presented on their plan would become R-B – both the existing parking lot and the residential structure.

Dr. Rivizzigno asked if the applicant had sought a variance.

Mr. Wimberly replied that they had not sought a variance, as they thought a PUD was the best route for the neighborhood and for the SARPC.

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Mr. Tom McGehee, treasurer of the Mobile Historic Development Commission, was present representing the MHDC in opposition to this proposed change. Mr. McGehee said they had an established neighborhood with over 30 new residences built in the last 10 years, and they viewed this as a dent in the residential character of the neighborhood. He said the reason for designating the neighborhood R-1 was to help promote the residential character. He noted that at night the house would be vacant and dark and would lose the neighborhood feel.

Mr. McSwain pointed out that the house was vacant now, so it was currently dark at night.

Rev. Johnson was unsure how much difference there would be in having a professional office there as opposed to a home.

Mr. McGehee was concerned that if this were allowed it would set a precedent.

Mr. McSwain noted that this site was located in the Church Street East Historic District which he understood was a combination of residential and business.

Mr. McGehee pointed out that the peripheral areas were business and this was kind of an island of residential, and this was why they were trying to save it. He said the MHDC was opposed to any change in the designation of this property.

Ms. Deakle asked how long the house had been vacant.

Mr. McGehee replied that it had been vacant about six months.

Mr. Bob Hanks, a resident of 200 South Warren Street and president of the Church Street East Historic Development, stated his opposition to the requested change, especially to the rezoning. Mr. Hanks said he had talked to a number of residents of this district and he knew of no one who was not opposed. (Mr. Hanks asked for a show of hands of those present opposed to this application.) He said they had 23 signatures on a petition opposed. Mr. Hanks said every residence was precious to them. This was the reason that several years ago they asked that the neighborhood be designated R1. They felt that a house that was occupied in the daytime as an office had a different character from one that was occupied by a resident. He said it was not just a matter of light; they were also concerned that a business would increase crime in the neighborhood, and they would not expect office workers to take an interest in the neighborhood. Mr. Hanks said they were very concerned that this would be the beginning of additional requests for rezoning, and if they lost the West side of Dearborn Street it would drastically change the nature of the neighborhood. They were opposed to losing a single house as a residence in the Church Street East District.

Mrs. Jean Cieutat, of 154 South Warren Street, said she and her husband built a home in the East Church Street District about nine years ago. She said they noticed that

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businesses were rapidly gaining on the residences and brought it to the attention of the neighborhood organization. The decision was made to embark on a campaign to have the area rezoned R-1, with the present businesses grandfathered in. After three years and numerous meetings, petitions and blood, sweat and tears, it was rezoned. Mrs. Cieutat noted the lack of parking for the SARPC and said this would be a stopgap measure, and yet the destruction of another beautiful, historic home in Mobile. She said the residents felt the rezoning would set a precedent and asked that the Board consider their position.

Mrs. Tissa Loehr, vice-president of the Church Street East Historic District, stated that she and her husband resided at 201 South Dearborn Street. They felt the single-most important reason they could give for the zoning change not to happen was that it would not solve the problems of parking for the SARPC. Mrs. Loehr said it was plain to see they had a shortage of parking, which was going to be made worse with the future expansion of the library. SARPC currently used the library parking for their overflow parking. She said this house with a driveway that would hold five or six cars would not be an answer to their problems. She felt that this rezoning would set a precedent for the neighborhood and more requests to rezone would follow. She had been told that SARPC was looking to buy additional property in the area. She said the residents would like to offer a better solution to the SARPC's problems. She noted that the building at 210 South Washington Avenue was for sale and had ample room for parking, and they suggested the SARPC purchase it to solve their current parking and space problems. On behalf of the residents of the Church Street East Historic District, Mrs. Loehr asked that the Commission delay this issue and thoroughly evaluate and assess the needs of the SARPC.

Mr. McSwain inquired if the property Mrs. Loehr was referring to at 210 South Washington Avenue was formerly a welding supply company.

Mrs. Loehr replied yes.

Ms. Pappas indicated that this property was zoned R-1 as well.

In response, Mr. Wimberly stated that the SARPC had considered 210 South Washington Avenue at the welding supply company, but could not negotiate a price. Also, Mr. Wimberly stated that this project was never undertaken to be a resolution to their problem. When the building was built 11 years ago, the shortage of parking was existent, and there was a variance granted for a lesser amount of parking. He said with the expansion they were proposing, they would get six additional parking spaces, so this would not solve their problem. Further, Mr. Wimberly said they consider themselves friends, if not members, of the neighborhood and had held meetings of the Church Street East Historic District in their conference room. He said they were there to support the neighborhood. He noted that their staff took advantage of the bucolic nature of the neighborhood and the park during breaks and at lunch on walks.

Mr. Frost asked if it was the SARPC's long-term goal to purchase other lots in the District for expansion.

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Mr. Wimberly said that hopefully, this would be it. During the workup of the project they had looked at other properties, but they were just doing the initial investigation of what their properties were.

In discussion, Mr. McSwain stated that he was sensitive to both sides, but more so to the residential. He said he went to the SARPC facility twice a month and could vouch that they did have a parking problem. He was for establishing or maintaining the residential character of the neighborhood.

Dr. Rivizzigno expressed her agreement with Mr. McSwain.

Ms. Deakle commented that they were already using part of this for parking and she did not think it would change the character of the neighborhood to rezone it.

With regard to concern that properties on Dearborn Street would be in jeopardy, Mr. Olsen said he did not feel the staff would ever recommend rezoning any of those properties. The Washington Avenue corridor was a collector street, as was Church Street. The majority of Washington Avenue was commercial in nature.

A motion was made by Ms. Deakle and seconded by Mr. Plauche to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) subject to the accompanying PUD;
- (2) full compliance with the landscaping and tree planting requirements of the Ordinance for the overall site; and
- (3) full compliance with all municipal codes and ordinances.

Mr. McSwain asked about the future of Washington Avenue South, and if that was part of the overall expansion plan for the library.

Ms. Clarke said the staff did not know the expansion plans for the library.

With reference to the house on Monroe Street, Ms. Cochran inquired when the SARPC acquired the house, and whether it was zoned at the time.

Mr. Frost pointed out that one could have an option to purchase on a house and still go forward with a rezoning.

Ms. Pappas stated that the staff had a letter on file from the owner authorizing the SARPC to make this application.

Ms. Cochran noted that one reason for rezoning, as set out in the Ordinance was that there was increased need for the business or industry, which she presumed was the reason applicable in this case. She stated that there were two competing policies in this matter. One was the laws and ordinances that protect the historic district, and the other was the

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Zoning Ordinance. Ms. Cochran noted that this was a residential neighborhood and asked what had changed about this house that would warrant converting its use from a residence to a business use. She asked if the need for business would trump the need for more residential in the urban core.

Mr. Frost thought the applicant was arguing that there had been a deviation from residential use in the area. He used the welding shop as an example.

Ms. Pappas pointed out the commercial use in the area including the library and a fast food restaurant.

Mr. Frost thought Ms. Cochran was questioning whether or not there was a sufficient change in the area to justify this rezoning change.

Ms. Cochran felt that there were clear areas of residential use in this area that constituted a neighborhood. She thought that they could not consider the welding shop because it was unsuitable for a residence. However, she inquired what had changed about the house in question to justify it being rezoned and no longer used as a residence.

Mr. Frost thought that it was somewhat of a gray area. How far into a neighborhood is considered unreasonable for encroachment?

The question was called.

Rev. Johnson felt that R-B would not be as intrusive as another type of commercial zoning. He also felt that the use was compatible with the neighborhood and would not be a detriment.

Dr. Rivizzigno, Mr. McSwain and Mr. Hill were opposed. The motion carried.

Case #ZON2003-01452

South Alabama Regional Planning Commission Subdivision

651 Church Street and 654 Monroe Street (Southeast corner of Church Street and Washington Avenue, extending to the Northeast corner of Monroe Street and Washington Avenue).

The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing structures and parking, along with the proposed covered walk and parking.

(For discussion see Case #ZON2003-01451 - **South Alabama Regional Planning Commission** – Above; also see Case #SUB2003-00135 - **South Alabama Regional Planning Commission Subdivision** – Below)

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A motion was made by Ms. Deakle and seconded by Mr. Plauche to approve this plan subject to the following conditions:

- (1) that the residential character of the residence be maintained;
- (2) prohibition of fencing between the front of the residence (654 Monroe Street) and Monroe Street;
- (3) full compliance with the landscaping and tree planting requirements of the Ordinance for the overall site;
- (4) that the existing curb cut to Monroe Street be closed, back-filled and sodded;
- (5) that the overall site be limited to the existing curb cuts—one to Church Street and one to Washington Avenue; and
- (6) full compliance with all municipal codes and ordinances.

Dr. Rivizzigno, Mr. McSwain and Mr. Hill were opposed. The motion carried.

Case #SUB2003-00135

South Alabama Regional Planning Commission Subdivision

651 Church Street and 654 Monroe Street (Southeast corner of Church Street and Washington Avenue, extending to the Northeast corner of Monroe Street and Washington Avenue).

1 Lot / 1.2± Acres

(For discussion see Case #ZON2003-01451 - **South Alabama Regional Planning Commission** – Above; also see Case #ZON2003-01452 - **South Alabama Regional Planning Commission Subdivision** – Above)

A motion was made by Ms. Deakle and seconded by Mr. Plauche to approve this subdivision subject to the following condition:

- (1) placement of a note of the final plat stating that the site is limited to the existing curb cuts—one to Church Street and one to Washington Avenue.

Dr. Rivizzigno, Mr. McSwain and Mr. Hill were opposed. The motion carried.

Case #ZON2003-01465

Vernon Humphrey

4401 Government Boulevard (South side of Government Boulevard, 620'± West of Knob Hill Drive).

The request for a change in zoning from R-1, Single-Family Residential, to B-3, Community Business, for an electric trolling motor sales and repair shop was considered.

The plan illustrates the proposed structure, setbacks and parking.

(Also see Case #SUB2003-00138 – **Fox Trolling Motor Subdivision** - Below)

The applicant was present and concurred with the staff recommendations.

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There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) provision of an 8' privacy fence along property lines where the site abuts residentially developed properties;
- (2) the 10' buffer strip be landscaped and maintained in a vegetative state where the site abuts residentially developed properties;
- (3) the site be limited to one curb cut, location and design to be approved by Traffic Engineering and ALDOT;
- (4) compliance with Urban Forestry Comments (crushed limestone to be removed from critical root zone of 38" Live Oak; and all work under canopy to be coordinated with Urban Forestry); and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2003-00138

Fox Trolling Motor Subdivision

4401 Government Boulevard (South side of Government Boulevard, 620'± West of Knob Hill Drive).

1 Lot / 0.9± Acre

(For discussion see Case #ZON2003-01465 – **Vernon Humphrey** – Above)

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- (1) provision of an 8' privacy fence along property lines where the site abuts residentially developed properties;
- (2) the 10' buffer strip be landscaped and maintained in a vegetative state where the site abuts residentially developed properties; and
- (3) placement of a note on the final plat stating that the is limited to one curb cut, location and design to be approved by Traffic Engineering and ALDOT.

The motion carried unanimously.

Case #ZON2003-01481

St Paul's Episcopal School

161 Dogwood Lane (Campus area bounded by Old Shell Road, Dogwood Lane, Loyola Lane, Myrtlewood Lane [vacated], South Avenue, Spring Hill College, and Provident Lane).

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The request for Planning Approval for proposed covered seating for after-school student pick-up, additional athletic practice field, and pedestrian bridge at an existing school in an R-1, Single-Family Residential district was considered.

The site plan illustrates the existing buildings and parking along with proposed buildings.

(Also see Case #ZON2003-01391 – **St. Paul’s Episcopal School** – Below)

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this plan subject to the following condition:

- (1) submission of individual applications for each project (other than those involved in this amended application), providing detailed information with regard to the numbers of classrooms involved, number of parking spaces provided, and detailed information on the location of proposed improvements.

The motion carried unanimously.

Case #ZON2003-01391 (Planned Unit Development)

St. Paul’s Episcopal School

161 Dogwood Lane (Campus area bounded by Old Shell Road, Dogwood Lane, Loyola Lane, Myrtlewood Lane [vacated], South Avenue, Spring Hill College, and Provident Lane).

The request for Planned Unit Development Approval to amend a previously approved Master Plan for an existing school in an R-1, Single-Family Residential district was considered.

The site plan illustrates the existing buildings and parking along with proposed buildings.

(For discussion see Case #ZON2003-01481 – **St. Paul’s Episcopal School** – Above)

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this plan subject to the following condition:

- (1) submission of individual applications for each project (other than those involved in this amended application), providing detailed information with regard to the numbers of classrooms involved, number of parking spaces provided, and detailed information on the location of proposed improvements.

The motion carried unanimously.

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Case #ZON2003-01472

Treasure Properties, Inc. (Richard Biseli, Agent)

Southwest corner of Spring Hill Avenue and Louiselle Street.

The request for a change in zoning from B-1, Buffer Business, to LB-2, Limited Business, for a drug store was considered.

The plan illustrates the existing buildings and parking, along with the proposed buildings and parking.

(Also see Case #ZON2003-01473 - **Springhill – Louiselle Subdivision** – Below; and Case #SUB2003-00143 - **Springhill – Louiselle Subdivision** – Below)

Ms. Deakle recused from the discussion and vote regarding this matter.

Mr. Jay Watkins, with Armbrecht-Jackson, was representing the applicant and explained that this proposal was for a 3-lot subdivision, Planned Unit Development Approval and the rezoning of proposed Lot 1. A South Trust Bank was currently located on the corner of Spring Hill Avenue and Louiselle Street. The lot adjacent to the West was the Fountainbleau Apartments and the lot adjacent to the apartments between them and the Spring Hill Avenue Temple was currently a doctor's office. He said they would like to resubdivide those properties into 3 lots, Lot 1 being on the corner, for a pharmacy. Lot 2, between the pharmacy and the Spring Hill Avenue Temple, would house the new South Trust Bank. Lot 3 would house the remainder of the Fountainbleau Apartments and the rear portion of the medical offices which were currently located on the property.

Mr. Frost asked Mr. Watkins if he was agreeable to the recommendations of the staff.

Mr. Watkins said he was agreeable with the recommendations of the staff with respect to the subdivision and PUD, and he had statements with respect to the rezoning and the changes in the neighborhood that would support approval of this application.

Mr. Frost asked Mr. Watkins to proceed with those statements.

Mr. Watkins stated that the entire site was currently zoned B-1, and if approved Lots 2 and Lot 3 would remain B-1. They were proposing LB-2 zoning for the corner lot, which was a middle ground between the B-1 and B-2 zones. In essence the zone provides for similar type uses as in a B-2 zone, but removing some of the more offensive uses. He noted that the Ordinance contemplates the LB-2 district would be located at the intersection of two major streets, or at the intersection of a major street, Spring Hill Avenue, and a smaller street, a collector street, Louiselle Street, which was the situation here. Mr. Watkins pointed out that Louiselle Street was the subject of a City study with respect to the medical corridor, and if that plan was adopted Louiselle Street would most likely be widened to provide better access to the Mobile Infirmary and to USA Women's and Children's Hospital. In the near future, therefore, this may be the intersection of two major streets. Mr. Watkins further addressed the matter of changing conditions around

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the site, which he felt should be given consideration when reviewing this application. He pointed out B-1 zoning to the immediate East of the property. Further down Spring Hill Avenue there were two new office towers which the Infirmary constructed, which when completed would house roughly 100 doctors. Similarly, the Infirmary itself had undergone changes where they had gotten office complexes for physicians and recently the Ronald McDonald House was located near the Infirmary campus. Mr. Watkins contended that these changes created certain changes to the site itself which supported the Commission's approval of a rezoning. Further, he pointed out that the property was being conveyed by the Mobile Infirmary to the developers, and in the contract for sale it was deed restricted so there would be no alcohol, beer or wine sales on this property. Similarly, the developer indicated that there would be no pay telephones at this location. This would alleviate the problems of loitering and litter sometimes seen at drive-up pharmacies with beer and wine sales. Finally, with regard to the impact this development would have on the surrounding properties, Mr. Watkins noted that the bank with a drive-up and the physician's offices would be operating from 9-5. The pharmacy, on the corner, would be operating 9-9. He asked that the Commission consider this application favorably.

Mr. Olsen stated that he spoke with Mr. Watkins earlier and asked if he understood correctly that there was a minor modification to the site plan to provide a connection from the apartments up to the drive of the pharmacy.

Mr. Watkins said that was correct. He asked that they be allowed to make that amendment at this time. If the Commission could not see clear to go ahead and allow that access point there to provide better circulation to and from the apartments, it would remain. Mr. Watkins further stated that he understood that Lot 3 would have to come in as a separate PUD down the road. At this point, however, he felt it would be cleaner and would provide better circulation if they were able to put in that access point at the edge of Lot 1 and Lot 3.

Mr. Frost asked the staff if this application were approved, could that be done administratively?

Mr. Olsen replied that it could be done just by adding a condition to the approval that a second access point to the apartments connecting to Lot 1 be approved by the staff.

Mr. McSwain ask for clarification on whether the west most drive was inbound only.

Mr. Watkins replied that it was inbound, a right turn only off of the eastbound lane of Spring Hill Avenue.

Mr. McSwain asked about the next drive.

Mr. Watkins said it was right in and right out.

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Mr. McSwain asked, where the map showed the doctor's office, if that was the existing footprint of that building.

Mr. Watkins stated that on Lot 3, this was the existing footprint of what would remain of that building. He noted that some of the building on the front and some of the apartment building on the front would be removed, with the remaining apartment buildings and the office being on Lot 3.

Mr. Frost asked if anyone wished to speak in this matter.

Mrs. Martha Hennessey, of 1811 Spring Hill Avenue, stated that she lived three houses West of the intersection of Spring Hill Avenue and Louiselle Street and was very concerned about the traffic situation. She said the two new medical complexes that were East of Louiselle Street had already created a drastic problem, and felt the situation would worsen with additional parking spaces proposed by this development. Mrs. Hennessey stated that Spring Hill Avenue was a highway used by ambulances and 18-wheelers and the 35 mph speed limit was not enforced. She was concerned about the preservation of the trees that covered Spring Hill Avenue from Crichton to Louiselle Street. She felt they needed to maintain that stretch of residential neighborhood and they do not need a drug store and more traffic problems. They also did not need more encroachment of business. She stated that the definition for LB-2 mentioned over and over again that this zoning classification was meant to benefit a residential neighborhood. She pointed out that there were four other pharmacies within less than a mile of this site. She felt that the new drug store would not benefit the neighborhood, but would be more for the Mobile Infirmary complex. She said that there were other businesses in the area, such as medical offices, churches and the Bragg-Mitchell Home, but these businesses added to the area.

In response, Mr. Watkins said they were going from three curb cuts on Spring Hill Avenue down to two, one being right in only off of Spring Hill Avenue and one that would be right-in and right-out onto Spring Hill Avenue. They felt this would help some of the traffic congestion which was now two-way in and two-way out onto Spring Hill Avenue. With respect to the number of drug stores in the in this area, he said this would be a newer, cleaner facility, and it would benefit the residents who surround this site. Mr. Watkins noted that the Ordinance was put in place to provide goods and services to the surrounding neighborhoods, and he contended that there was sufficient residential character to provide that. Beyond that, he felt this would provide a good resource within walking distance for the folks residing at Ronald McDonald House, and it would be a benefit to those going to and from work. Mr. Watkins said the trees were an issue, and the developer had worked closely with Urban Forestry. The Oak trees along Spring Hill Avenue, several of which have been designated as Heritage Oaks, would be subject to Urban Forestry inspection during the construction period. He said they were requiring semi-pervious paving around those trees to protect them. With respect to signage, all signage at these locations would have to be in such a fashion as to protect those trees while still allowing some visibility for the sign to be seen from the neighborhood and would more than likely be monument signs or pylons.

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In discussion, a motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve these applications subject to the staff recommendations and allowing the modification regarding the driveway connections between Lots 1 and 3.

Mr. McSwain said he would like to see the motion amended to reduce the amount of parking for the drug store to the minimum required for their use. He understood they were proposing 62 parking spaces, and contended a drug store did not need that many parking spaces.

Mr. Olsen asked if that could be modified to allow them to do the excess in an alternative approved surface.

Mr. Frost asked Ms. Rivizzigno to restate her motion.

Dr. Rivizzigno and Dr. Laier amended their motion and second respectively, to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) development limited to the accompanying PUD;
- (2) provision of buffering where the site abuts residentially developed property;
- (3) full compliance with Urban Forestry Comments (All work within the critical root zone of the trees on existing right-of-way is to be permitted by the Mobile Tree Commission; ingress and egress to be coordinated with Urban Forestry; 60" Live Oak that is on developed property is to be given preservation status; alternative paving surfaces to be used on the South side of the 60" Live Oak; all work on existing city owned trees or 24" and larger Live Oak trees on developed site is to be coordinated with Urban Forestry);
- (4) any parking in excess of the minimum requirements be of an approved alternative parking surface as specified in the Ordinance; and
- (5) full compliance with all municipal codes and ordinances.

Ms. Deakle recused. The motion carried.

Case #ZON2003-01473

Springhill – Louiselle Subdivision

1753, 1759, and 1761 Spring Hill Avenue, and 125 and 133 Louiselle Street (Southwest corner of Spring Hill Avenue and Louiselle Street, extending 360'± Westwardly along Spring Hill Avenue, and extending 620'± Southwardly along Louiselle Street).

The request for Planned Unit Development Approval to allow shared access between multiple building sites, and multiple buildings on a single building site was considered.

The plan illustrates the existing buildings and parking, along with the proposed buildings and parking.

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(For discussion see Case #ZON2003-01472 - **Treasure Properties, Inc. (Richard Biseli, Agent)** – Above; also see Case #SUB2003-00143 - **Springhill – Louiselle Subdivision** – Below)

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this plan to allow shared access between multiple building sites, and multiple buildings on a single building site with driveway connections between Lots 1 and 3, subject to the following conditions:

- (1) driveway number, sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards;
- (2) completion of the accompanying rezoning and subdivision applications;
- (3) full compliance with Urban Forestry Comments (All work within the critical root zone of the trees on existing right-of-way is to be permitted by the Mobile Tree Commission; ingress and egress to be coordinated with Urban Forestry; 60” Live Oak that is on developed property is to be given preservation status; alternative paving surfaces to be used on the South side of the 60” Live Oak; all work on existing city owned trees or 24” and larger Live Oak trees on developed site is to be coordinated with Urban Forestry);
- (4) future redevelopment of Lot 3 will require amendment to the PUD;
- (5) closure (including removal and installation of curbing and landscaping) of “abandoned” existing curb cuts;
- (6) any parking in excess of the minimum requirements be of an approved alternative parking surface as specified in the Ordinance on Lot 1; and
- (7) full compliance with all municipal codes and ordinances.

As a side note, the applicant(s) is advised that PUD approval does not sanction or permit the off-premise, second sign for Lot 2 – variances from the Board of Zoning Adjustment will be required.

Ms. Deakle recused. The motion carried.

Case #SUB2003-00143

Springhill – Louiselle Subdivision

1753, 1759, and 1761 Spring Hill Avenue, and 125 and 133 Louiselle Street (Southwest corner of Spring Hill Avenue and Louiselle Street, extending 360’± Westwardly along Spring Hill Avenue, and extending 620’± Southwardly along Louiselle Street).

3 Lots / 5.7± Acres

(For discussion see Case #ZON2003-01472 - **Treasure Properties, Inc. (Richard Biseli, Agent)** – Above; also see Case #ZON2003-01473 - **Springhill – Louiselle Subdivision** – Above)

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A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this subdivision subject to the following conditions:

- (1) placement of a note on the final plat stating that driveway number, sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards;
- (2) placement of a note on the final plat stating that the 60' oak located on Lot 2 has preservation status; and
- (3) provision of buffering along property lines between commercial and residentially developed properties, including property lines within the subdivision.

The motion carried unanimously.

Ms. Deakle recused. The motion carried.

NEW ZONING APPLICATION:

Case #ZON2003-01430

Water Street, L.L.C.

200 North Royal Street (Block bounded on the North by State Street, East by Water Street, South by St. Anthony Street, and West by Royal Street).

The request for a change in zoning from I-1, Light Industry, to B-4, General Business, to make the zoning of an existing governmental office complex consistent with surrounding properties was considered.

The plan illustrates the existing structures and parking.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Dr. Laier to recommend the approval of this change in zoning to the City Council.

The motion carried unanimously.

NEW PLANNING APPROVAL APPLICATIONS:

Case #ZON2003-01388

Aimwell Missionary Baptist Church

500 Earle Street (Northwest corner of Earle Street and North Lawrence Street).

The request for Planning Approval to allow the expansion of the sanctuary and additional parking at an existing church in an R-3, Multi-Family Residential district was considered.

The plan illustrates the existing structures, along with the proposed structure and asphalt paving.

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The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this plan subject to the following conditions:

- (1) the obtaining of all necessary variances from the Board of Adjustment and compliance with any conditions thereof;
- (2) the provision of sidewalks along all street frontages;
- (3) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (4) provision of buffering for the parking area and the site as outline in Sections Section VI.A.3.i. and IV.D.1.a., respectively;
- (5) approval by Traffic Engineering for the number, location and design of all curb cuts; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2003-01469

Crown Products

3107 Halls Mill Road (East side of Halls Mill Road, 30'± North of Fleetwood Drive North).

The request for Planning Approval to amend a previously approved Planning Approval to allow the expansion of a distribution warehouse exceeding 40,000 square feet in a B-3, Community Business district was considered.

The site plan illustrates the existing building, parking, landscaping, proposed building addition and landscaping.

Mr. Frank Dagley of Frank A. Dagley & Associates, Inc., was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this plan subject to the following conditions:

- (1) the preservation of the 67" and 75" live oaks;
- (2) the number, location and design of all curb cuts to be approved by Traffic Engineering;
- (3) the provision of a buffer along the Northeast property line at such time the adjacent property is developed residentially;

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- (4) compliance with parking requirements of the Ordinance, to be verified by the staff during the plan review process;
- (5) full compliance with Urban Forestry Comments (continuation of the protection for both the 68" and 72" Live Oak Trees; grades to stay at existing elevation under the 34" Live Oak Tree; all 24" and larger Live Oaks to be permitted by Urban Forestry for removal or trimming); and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2003-01474

Midtown Congregation of Jehovah's Witnesses

804 Farnell Lane (West side of Farnell Lane, 148'± North of Pleasant Valley Road, extending West to the East terminus of Angus Drive and Kendale Drive).

The request for Planning Approval to allow a church in an R-1, Single-Family Residential district was considered.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

The plan illustrates the existing structure to be removed, along with the proposed structure and parking.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this plan subject to the following conditions:

- (1) full compliance with the landscaping and tree planting requirements of the Zoning Ordinance;
- (2) provision of buffering where the site abuts residential properties;
- (3) screening of parking facilities as required by Section VI. of the Zoning Ordinance;
- (4) submission of documentation to establish the site as a lot of record prior to 1952, or submission and approval of a subdivision prior to permitting; and
- (5) full compliance with all municipal codes and ordinances. As a side note of the approval, the applicant is advised that the site is in the path of the future Cottage Hill/Fairway Drive major street. Further development of the site will require a new Planning Approval application (possibly a PUD application), and may require setbacks or dedications for the future major street.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2003-01468

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Mulekar Subdivision

3221 Spring Hill Avenue (South side of Spring Hill Avenue, 200'± East of Durant Street).

The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing and proposed structures and parking.

Mr. Frank Dagley of Frank A. Dagley & Associates, Inc., was present on behalf of the applicant. Mr. Dagley stated that he agreed with the staff recommendations except for item #1 – elimination of parallel parking spaces along the West property line. He pointed out that those parking spaces met all the requirements of the Zoning Ordinance as far as size and driveway widths. The staff report pointed out that there was excess parking and wanted them to eliminate those spaces. Mr. Dagley said the guidelines in the Zoning Ordinance were minimums – 1 per 300 square feet – and they were presently talking to someone who would like to develop part of this property for a restaurant, which would require one space per 100 square feet. He said if that went through they would need 13 more spaces than the minimum required, which would be 46, which he said was shown on their plan.

Mr. Olsen stated that the application did not in any way indicate that a restaurant was going to be a part of the development. It simply indicated the 1-300 ratio for the entire development. As far as the number of spaces, Mr. Olsen said he would have to look at the report to make sure that the ratio changed, because that was not part of the application and he did not review it from that standpoint. The staff's concern was the maneuvering area between the building and the parallel parking spaces being at the minimum now for two-way traffic. Since they were in excess of the minimum requirements based on the application submitted, the staff felt it would be a better circulation plan to eliminate those spaces there.

Mr. Dagley stated that he met the requirements of the Zoning Ordinance, and in view of the fact that they were looking at a possible restaurant, they requested that the condition be stricken from the recommendation.

Ms. Deakle asked that since they were considering a restaurant on this site, did that mean the warehouse buildings would not be there.

Mr. Dagley replied no, and explained that the person building this building presently occupied the smaller building in front. This property was zoned B-3 and he planned to build the metal building as a second building. He was supposed to have four tenants, one of who they were in present negotiations with for a restaurant. The mini-warehouses in the back would be phase two of the project.

In discussion, a motion was made by Mr. Hill and seconded by Ms. Deakle to approve this plan subject to the following conditions:

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- (1) elimination of the parallel parking spaces along the West property line;
- (2) full compliance with the landscaping and tree planting requirements of the Zoning Ordinance, including but not limited to accurate depiction and description of trees claimed for credit, and existing trees to be trimmed or removed, to be approved by Urban Forestry;
- (3) accurate dimensions of all buildings be reflected on the plan; and
- (4) full compliance with all municipal codes and ordinances.

Mr. McSwain asked that if it went to a restaurant use, would they have to have that parking to satisfy the requirements.

Mr. Olsen said the staff did not know how much additional parking they would have to have for a restaurant because they didn't know what square footage they would be proposing for a restaurant. As indicated to Mr. Dagley, there was nothing in the proposal to indicate a restaurant. Further, Mr. Olsen stated that the building footprint was a building footprint, but they did not know the breakout of the proposed building – the L-shaped building. There was no way to determine what portions would be used for retail and what portions would be used for a restaurant, so there was no way to determine anything above the 1-300 ratio.

Ms. Deakle withdrew her second of the motion.

Mr. McSwain reaffirmed the second.

Mr. Olsen noted that if the developer did have a restaurant plan, they could come back and amend the PUD to add or reconfigure the parking.

Mr. Frost inquired what the removal of the parallel parking would entail.

Mr. Olsen said that there was not paving there currently. He thought that the developers were simply in the design stage at this point and that the parallel spaces did not exist.

The question was called. The motion carried unanimously.

Case #ZON2003-01438

Westbury Square Subdivision, Resubdivision of and Addition to Lots 2, 3 and 4

3920 and 3932 Cottage Hill Road, and 715 Azalea Road (Northeast corner of Cottage Hill Road and Azalea Road).

The request for Planned Unit Development Approval to allow shared access between multiple building sites was considered.

The plan illustrates the existing and proposed structures, parking and signs.

(For discussion see Case #SUB2003-00118 - **Westbury Square Subdivision, Resubdivision of and Addition to Lots 2, 3 and 4** – Above [Holdovers])

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A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this plan subject to the following conditions:

- (1) that the existing curb cuts that are not part of the redevelopment of the corresponding lots be closed, back-filled and sodded;
- (2) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (3) provision of sidewalks along both street frontages; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2003-00136

Almaz Bouta (Diamond Place) Subdivision

North side of Old Shell Road, 120'± East of Item Avenue.

1 Lot / 0.5± Acre

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this subdivision subject to the following condition:

- (1) the placement of a note on the final plat stating that the site is limited to one curb cut to Old Shell Road, with the size, location and design to be approved by the Traffic Engineering Department.

The motion carried unanimously.

Case #SUB2003-00133

Belle Chase Subdivision, 2nd Addition

4149 Burma Road (South side of Burma Road, 115'± East of Marseille Drive).

3 Lots / 1.5± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and concurred with the staff recommendations.

Mrs. Sarah Crawford of 1217 Marseille Drive, which is in the Belle Chase subdivision, said she had been a resident since 1962, and was also speaking on behalf of her husband who was 91 and not able to come forward. Mrs. Crawford stated that when they moved to Belle Chase they purchased the piece of land that was behind them to ensure their privacy. She said it was a wonderful, wooded, natural environment which they enjoyed. There was a drainage ditch running through the property which they gave permission to

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the City several years ago to concrete to prevent washing. She said it still washes and she had lost about 8 or 10 feet on either side of the ditch. Mrs. Crawford expressed concern that they would lose their privacy with the development of this property. Her lot was adjacent on the South side of the proposed subdivision.

Mr. Nick Jongebloed stated that he had a brother and a sister on 1209 Marseille Drive. This was their parent's home and they had been neighbors of the Crawford's for many years. He was concerned about the huge ditch running through this property which the city had cemented in but which was now all awash. He could not understand how anyone could consider putting lots in what was basically a canal that goes through this property. From his observation of that he said they definitely opposed this subdivision.

Mr. Joe Barnes, a resident of 4145 Burma Road adjacent to the subject property, said his property was also adjacent to the drainage ditch and at no time since he had lived there since 1976 had the property ever flooded. He acknowledged that the ditch was in terrible need of repair, but there had never been a flood issue. Mr. Barnes said he grew up there and had been there since 1947 and he was not opposed to this subdivision. He said it was a beautiful area and the new owner of the property was very proud of it and intended to take every care to insure the integrity of the neighborhood. He noted that the property in question was on Marseille, which was probably about a 15-foot section that adjoined one of the neighbors, which he felt was not going to be a problem; it would not affect their wooded area.

Mr. Orrell stated that they only wanted to build two houses on the property.

A motion was made by Dr. Rivizzigno and seconded by Mr. Hill to approve this subdivision subject to the following condition:

- (1) the provision of an eight foot minimum side yard setback along the East property line of Lot 1.

Mr. Plauche was opposed. The motion carried.

Case #SUB2003-00131

Belmont Park Estates Subdivision, Revision of

Northeast corner of Belmont Park Drive and Dawes Lane Extension.

11 Lots / 9.7± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

- (1) the approval of all applicable federal, state, and local agencies;

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- (2) the placement of a note on the final plat stating that the maintenance of all common areas, shall be the responsibility of the property owners; and
- (3) the placement of a note on the final plat stating that any lots which are developed commercially shall provide a buffer, in compliance with Section V.A.7. will be provided where the site adjoins residential property.

The motion carried unanimously.

Case #SUB2003-00128

Collins Properties Subdivision

West side of U.S. Highway 90 Service Road, 300'± North of its Southern terminus, extending to the East side of Willis Road.

1 Lot / 1.5± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to waive Section V.D.3. (width to depth ratio) of the Subdivision Regulations and approve this subdivision subject to the following conditions:

- (1) placement of a note on the final plat stating that direct access to Willis Road is denied;
- (2) the placement of a note on the final plat stating that if the lot is developed commercially and adjoins residentially developed property a buffer, in compliance with Section V.A.7. of the Subdivision Regulations shall be provided; and
- (3) placement of the 25-foot minimum building setback lines on the final plat.

The motion carried unanimously.

Case #SUB2003-00132

Dyson Estates Subdivision, Resubdivision of Lot 4

5639 Gulf Creek Circle (North side of Gulf Creek Circle [South], 200'± West of Rabbit Creek Drive).

2 Lots / 1.0± Acre

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to approve this subdivision subject to the following conditions:

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- (1) the approval of all applicable federal, state and local agencies prior to the issuance of any permits; and
- (2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2003-00129

Helton Acres Subdivision

6300, 7910, and 7930 Old Pascagoula Road (Northwest corner of Old Pascagoula Road and Creel Road).

2 Lots / 13.9± Acres

Ms. Pappas stated that the staff had received a fax shortly before today's meeting asking that this application be withdrawn.

Case #SUB2003-00137

Highland Park Subdivision, Block 5, Resubdivision of Lot 21 and a Portion of Lot 22

East side of Lakeview Drive East, 290'± South of the Southern terminus of Lakeview Drive, extending to the West side of Park Avenue South.

2 Lots / 1.0± Acre

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of July 24, 2003, to allow the applicant to include the balance of the property in the subdivision with the additional notification, or to submit documentation to establish the balance of the property as a legal lot of record prior to 1952. This information should be submitted by July 14.

The motion carried unanimously.

Case #SUB2003-00130

Lydia Place Subdivision

Southeast corner of Wilkins Road and Lydia Drive.

6 Lots / 1.7± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and concurred with the staff recommendations.

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Mr. John Hill expressed concern about the wetlands at this location and pointed out the location of springs and a lake. Mr. Hill also expressed concern about traffic, noting that their only access was at the end of Wilkins Road. He noted the businesses in the immediate vicinity which had access to Moffett Road where the traffic was terrible. The proposed subdivision would not have access to Moffett Road, but would have access to Lydia Drive, which was a dead end street. Mr. Hill further expressed concern that all the Oak trees on the property would be taken down.

Mr. Frost asked Mr. Hill to point out the lake he was referring to. Mr. Hill indicated the lake on the plat.

With regard to trees, Mr. Frost asked if there were any that would need permitting.

Mr. Jackson stated that the Ordinance required all 24" and larger trees to be permitted. He said they saw no trees that were substantially larger for which they would like to ask for preservation status

Mr. Orrell stated that the property was zoned R-1 and would be developed with single-family residences, and they would meet all City and Federal standards with regard to the wetlands and drainage.

Regarding the wetlands, Mr. Frost stated that in most cases the City would normally require that the developer seek permitting that was appropriate and necessary.

Ms. Pappas stated that the Commission could hold over this application until the applicant got his permit from ADEM.

In discussion, a motion was made by Mr. McSwain and seconded by Dr. Laier to approve this subdivision subject to the staff recommendations, adding a condition regarding the obtaining of any applicable environmental approvals.

Mr. Frost inquired if the engineer was required to show existing wetlands when submitting an application.

Ms. Pappas said that it should have been shown on the plat.

Mr. McSwain said that he would like to see exactly where the lake was located.

Mr. Frost felt that in most cases they would simply add the condition regarding the obtaining of any applicable environmental approvals and this would force the applicant to get ADEM approval. If ADEM did not wish to grant approval then the subdivision would not go through.

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Ms. Pappas suggested that if it would make the Commission more comfortable, they could hold this over and asked that the wetlands be shown on the plan to ensure that there was adequate buildable area.

Mr. McSwain and Dr. Laier withdrew their motion and second respectively.

A new motion was made by Mr. McSwain and seconded by Dr. Laier to holdover this application until the meeting of July 24, 2003, to allow the applicant time to submit a revised site plan delineating the wetlands.

Mr. McSwain inquired if there was a case whereby they did not realize there were wetlands and a condition was not placed on it requiring environmental approval, would the applicant still have to get such approval?

Ms. Pappas replied yes. She said that putting the condition down was more of a heads up to everyone involved.

The question was called. The motion carried unanimously.

Case #SUB2003-00140

Lyon's Estates Subdivision, Resubdivision of

2301 Venetia Road (South side of Venetia Road, along the East and West sides of Lyons Drive [private street]).

2 Lots / 8.0± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Plauche to waive Section V.D.3. of the Subdivision Regulations, and approve this subdivision subject to the following condition:

- (1) that the developer obtain any necessary approvals from federal, state, and local agencies.

The motion carried unanimously.

Case #SUB2003-00141

McKibbon Subdivision

West side of West I-65 Service Road South, 165'± South of the private road entrance to Windsor Place Apartments.

1 Lot / 3.0± Acres

Mr. Don Coleman of Rester and Coleman Engineers, Inc. was representing the applicant and concurred with the staff recommendations.

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There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Plauche to approve this subdivision subject to the following conditions:

- (1) the placement of a note on the final plat stating that the site is limited to one curb cut with the size, location and design to be approved by Traffic Engineering; and
- (2) the provision of a buffer in compliance with Section V.A.7. of the Subdivision Regulations where the site adjoins residential property.

The motion carried unanimously.

Case #SUB2003-00134
Morgan Oaks Subdivision

4925 Dawes Road (South side of Dawes Road, 900' ± East of Wear Road).

1 Lot / 7.6± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and stated that since this was such a large piece of property that his client had expressed an interest in having a circular driveway in front of the house. Therefore they would like to have the option of having two curb cuts to Dawes Road.

Mr. Stewart inquired if the property would be used residentially or commercially.

Mr. Orrell pointed out that there was no zoning in the County, but the applicant had expressed that ht would be using this site for a residence.

There was no one present in opposition.

In discussion, a motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this subdivision subject to the recommendations made by the staff, making a change to condition #3 to allow two curb cuts to Dawes Road.

Mr. McSwain said that he would like to get the County's input on this matter.

Mr. Stewart said that when the application came in, he assumed it was going to be for a house. He thought there was 200' of frontage.

Mr. McSwain did not feel that 200' of frontage was significant.

Mr. Frost pointed out that the applicant wanted a circular driveway.

Ms. Pappas said that in the past the Commission had allowed two curb cuts for a residential use and one for a commercial use.

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Mr. Frost felt that two curb cuts would be appropriate provided that the use was residential.

Dr. Rivizzigno and Dr. Laier amended their motion and second respectively. The final motion was to approve this subdivision subject to the following conditions:

- (1) the dedication of sufficient right-of-way to provide 50-feet from the centerline of Dawes Road;
- (2) the provision of a 75-foot setback from the half section line to provide for the future right-of-way of March Road Extension, a planned major street (which includes the required 25-foot minimum building setback);
- (3) the placement of a note on the final plat stating that the site is limited to one curb cut to Dawes Road if the site is developed commercially, or two curb cuts to Dawes Road if the site is developed residentially, with the size, location, and design to be approved by County Engineering; and
- (4) the placement of a note on the final plat stating that if any property is developed commercially and adjoins residential property will provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2003-00139

Rabbit Creek Cove Subdivision

Southwest corner of Higgins Road and Audubon Drive, extending South and West to the Southern terminus of Clemson Drive, and to the Northeast corner of Cole Drive and Audubon Drive.

143 Lots / 53.0_± Acres

This application was heldover prior to the meeting.

Case #SUB2003-00142

South Schillinger Commercial Park Subdivision, Resubdivision of Lot 3, Resubdivision of Lots 3B and 3C

West side of Schillinger Road, 550' _± North of the West terminus of Hitt Road.

2 Lots / 2.9_± Acres

Mr. Don Coleman of Rester and Coleman Engineers, Inc. was representing the applicant and said he wanted to make sure he had worked it out with the staff about the driveway cut.

Mr. Olsen explained that the original subdivision had a shared curb cut on the lot line, and Mr. Coleman wanted to make sure they could move that to correspond with the new lot line. Mr. Olsen said that would not be a problem.

There was no one present in opposition.

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A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to waive Section V.D.3. (width to depth ratio), of the Subdivision Regulations, and approve this subdivision subject to the following conditions:

- (1) the placement of a note on the final plat stating that the site is limited to the existing curb cuts to Schillinger Road; and
- (2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

OTHER BUSINESS:

Mr. Frost welcomed Rev. Clinton Johnson back to the Planning Commission as City Council representative.

There being no further business, the meeting was adjourned.

APPROVED: September 18, 2003

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

/ms and jh