

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF FEBRUARY 5, 2004 - 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  
Ernest Scott (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  
Shayla Jones, Planner I  
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. Plauche and seconded by Dr. Rivizzigno to approve the minutes of the December 18, 2003, meeting as submitted. The motion carried unanimously.

**HOLDOVER:**

**Case #SUB2003-00296**

**Belle Acres Subdivision**

East side of Dauphin Island Parkway, 100'± North of New Belle Fontaine Boulevard, extending to the North termini of Second Avenue, Third Avenue, Fourth Avenue, Fifth Avenue, and Sixth Avenue.

10 Lots / 20.7± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was present on behalf of the applicant and said he wanted to address the fact that a few months ago this same

**February 5, 2004**

client had a subdivision approved - a resubdivision of Gray's Subdivision - which was some 800' on this same street.

Ms. Pappas noted that the lots referred to fronted on New Belle Fontaine Boulevard, and although it was dirt, it was County maintained. In this particular situation Lots 6-10 would actually have frontage on what were essentially unopened stubs that were not County maintained.

Mr. Orrell stated that it was true that the roads were not County maintained. He said that where County had approved the culverts to go were public rights-of-way. This subdivision dated back to the early 1950's and those streets were put in for the use of the property owners and his client had opened up those streets. The County had approved the culverts that lead to Lots 6-10. Mr. Orrell said these were very large lots and there was only going to be one driveway going to each of them. While they were public roads, they would be privately maintained by his client. He said he was only getting one lot off of one driveway which was the whole intent of the developer when the subdivision was developed in 1955.

Mr. Frost asked about the property frontage on the future development of the lots behind the subject property.

Ms. Pappas stated that the real property frontage would be on Second, Third, Fourth, Fifth and Sixth Avenues. She showed photos of the roadway of New Belle Fontaine Boulevard and pointed out a culvert in the right-of-way – the open ditch going under the roadway that was within the Second Avenue right-of-way.

Mr. Orrell said it was under construction and the lots had not yet been sold. This was basically a public right-of-way that his client would maintain a driveway standard.

Mr. Frost said the Commission was concerned with making sure those were rights-of-way and that they were not some sort of private drive.

Mr. Orrell said that his client's attorney would address that, and he felt he would even go as far as to say these Lots 6-10 could not be resubdivided. He pointed out that there was a note on the record plat to ensure that there would be only one dwelling and one driveway use to that lot. They could be very simply just 100' driveways.

Mr. Chuck Holtz, attorney, was representing Mr. Bud Mathis, owner of the property. Mr. Holtz said he had previously written a letter – addressed to Mr. Olsen and which hopefully had been passed around – directly addressing the issue that the subdivision plat, when it was subdivided by Mr. Gray back in 1955, included a note that the roads would be retained as private property. Then he commenced to sell all the lots. Except for that particular language, Mr. Holtz said this was done entirely pursuant to Section 35-2-50 and subsequent sections of the Alabama Code, which provides that once the plat has been recorded, it was the same as conveyance, and these become roads. He said what it did had no legal effect at least from the point of time when he began to sell lots. Mr. Holtz

**February 5, 2004**

said that as a matter of law, that is public property. All the little roads Mr. Orrell was referring to as driveways would be public roads, as indicated by Section 35-2-50 and 35-2-51.

Mr. Bud Mathis, owner of the property in question, said he did not think it was made quite clear that the New Belle Fontaine Boulevard was a 70' wide boulevard which the County had been maintaining for a number of years. Mr. Mathis said access from Belle Fontaine Boulevard to Lots 6-10 was 100' back from the right-of-way of Belle Fontaine Boulevard, which meant that there was a 50' right-of-way there which was a public road. In leaving the property of Lots 6-10, that driveway was 100' long getting into Belle Fontaine Boulevard. These lots were 250' in width and 300'± deep, which was nearly two acres and they were proposing a restriction of 1,500 sq. ft. per residence. Mr. Mathis said he would have no objections to restricting this subdivision to no future lots being resubdivided.

Mr. Frost asked if the roads leading into the future development of the property were in the same condition as the 100' on the south side.

Ms. Pappas replied that in general, they were in the same condition. Most of the roads on the north side essentially, on the ground, looked like driveways because there was more residential on the north side of this subdivision. It was very difficult to ascertain where the platted street would be located. Ms. Pappas said it would be fair to say that there was not any real designated roadway other than possibly a driveway. Further, the future development did have frontage on the unopened right-of-way for Sixth Avenue. She said the staff report recommended denial citing the section of the Subdivision Regulations which required that all lots abut a public and maintained street. The other concern was that this was out in the County and while the Commission could require a note on the final plat for no further subdivision, there was no zoning.

Mr. McSwain asked if the large lot noted a future development and if approved, could the applicant in fact develop that?

Ms. Pappas replied that he could not develop it without coming back before the Planning Commission because he would not have a legal lot of record.

Dr. Rivizzigno asked what conditions would be applied to the subdivision if it were approved.

Ms. Pappas stated that there would have to be some degree of construction of those streets that would serve as access for those lots as well as provision of a turnaround. Typically, it would be some type of pavement, but in this situation that would not be real practical because you would turn off of this dirt road onto a paved road. Ms. Pappas asked Mr. Stewart if there were any standards for dirt roads in the County.

**February 5, 2004**

Mr. Stewart replied that you could go as small as an 18' traveled way. It would depend on what would be considered as its use. This would be a single use; a very minor street going into a lot. It would be 100' long.

Ms. Pappas asked if the County would accept that for maintenance once the applicant constructed it.

Mr. Stewart stated that they would not, because in 1984 when the County Commission allowed private road subdivision outside the jurisdiction, they also passed a resolution that said that the County could no longer take over private dirt roads or dirt roads in public rights-of-way, until such time as they had been brought up to County standard.

Mr. Scott asked if the County specified widths for roads.

Mr. Stewart replied that their minimum right-of-way width on open ditch roads was 60'.

Mr. Scott inquired about the current right-of-way width.

Ms. Pappas replied that it was 50'.

Mr. Frost asked if the Commission in the past had ever approved a subdivision on an unmaintained County road.

Ms. Pappas answered that she could not definitely state that the Commission had never done that. When the Commission approved the ones down near Belle Fontaine Boulevard it was because they were maintained.

Mr. Mathis further stated that this was a 300-lot subdivision approved in 1955. He said if he wanted to he could pull a building permit on any of those streets that were unopened. They would issue a building permit based on the lot number. He said there was no road standard from back in 1955.

Mr. Frost inquired if this were correct.

Mr. Orrell said that the applicant could get a permit for any of the lots even though the streets were not open; this was something that was frequently done. The streets would have to be cut out for them to be able to have a driveway. The only time one had to come before the Commission was when there was a resubdivision. His client was going to build a 1,500 sq. ft. house with a driveway accessible to the house. Mr. Orrell was unsure whether or not the driveway would be paved because it would be leading to a dirt road.

Ms. Pappas asked Mr. Mathis if Belle Acres Subdivision was a legal lot of record.

Mr. Orrell replied that it was a parcel shown on the recorded plat of Gray's Belle Fontaine Subdivision. He did not know if it were a legal lot of record. This was

**February 5, 2004**

subdivided in 1955 and there was not any kind of review, nor were the streets required to be built.

Mr. John Wacker, 9145-A Lawrence Steiner Road was present in opposition and stated that the property Mr. Mathis wanted to subdivide was not included in Gray's Belle Fontaine Shores Subdivision. He said there was a note on the plat to that effect. Also, the subdivision drawn there included a 35' easement and a cemetery that the applicant does not even own. He said he had a copy of Mr. Mathis' deed that said that the 35' strip was excepted from the description of the lot that he purchased.

Mr. Frost stated that it may be that the boldface line of this site (as shown on the sketch) was outside the easement, but he did not think the effect of the 35' easement for purposes of this discussion was going to make a difference, given that the future development access was coming in from the north side roads.

Mr. Wacker said he owned property there that was private property and was shown on the plat as private property, for which he had a deed. The original deed to his lots stated that it was private property which ingress and egress was afforded the grantee. Mr. Wacker said the title company guaranteed the private access. There was also a 750' strip that fronted Dauphin Island Parkway that contained Lots 1-5 which afforded access to the entire lot.

Mr. Frost asked Ms. Cochran if she had reviewed the Title 35 statute Mr. Holtz had referred to.

Ms. Cochran replied that she had not reviewed it, but thought Mr. John Lawler of the Legal Department reviewed it and that he concurred with the Title 35 interpretation.

Mr. Wacker stated that the subdivision was granted in November 2003 under the condition that a note be placed on the final plat that there shall be no further resubdivision until New Belle Fontaine Boulevard was paved to County standards. Now, two months later, the applicant was coming back wanting to do something in opposition to what he was allowed to do. Mr. Wacker noted that there was a 5' strip on the south side of the lot that ran behind the lots that face Belle Fontaine Boulevard.

Mr. Frost inquired about the applicant suggesting that they had become public streets, even though they were not being maintained.

Mr. Wacker stated that he was in litigation at the present time as to whether those were public streets. He maintained that they were private property. He said that Gray's Belle Fountain Subdivision was completely surrounded by private property with the exception of Sixth Street and Dauphin Island Parkway.

Mr. Orrell stated that his client had a deed to the 5' strips referred to, and his property was contiguous with those public rights-of-way. Regarding the cemetery, Mr. Orrell said that State law required that they give access to the cemetery. He said they had stayed

**February 5, 2004**

away from the cemetery and would go around it. In reference to Ms. Pappas' remarks, Mr. Orrell stated that the property was reserved as future development in 1955 when they divided the property, which was the reason it was not a legal lot of record.

Mr. Frost asked Mr. Orrell his response to the restriction Ms. Pappas indicated that the Planning Commission did not have any authority to approve a subdivision on a road that was not maintained.

Mr. Orrell contended that they did have a right to approve property on a public right-of-way because the public had the right to use that road just as his client had a right to build a driveway there in that public right-of-way that was accepted.

In discussion, a motion was made by Ms. Deakle to approve this subdivision subject to:

- (1) placement of a note on the final plat stating that there will be no future resubdivision of Lots 6-10.

Ms. Deakle inquired if the Commission could require that the individual owners maintain the driveways if there were considered public right-of-way.

Ms. Pappas noted that the Commission could require the applicant to construct the street stub to the maximum County dirt gravel road standards providing a minimum 18' wide traveled way.

Mr. Stewart stated that normally, on subdivision plats that were outside the jurisdiction that were on public rights-of-way, or where private roads were created, a note is put on the plat that says that it is public right-of-way and that is not to be maintained by the State of Alabama or Mobile County.

The motion was seconded by Dr. Rivizzigno.

Ms. Pappas said that Section V.D.4. of the Subdivision Regulations would have to be waived, which was the section that required all lots to be on a public and maintained street.

Mr. Plauche asked if this subdivision could be approved if there was some litigation going on.

Ms. Pappas said that was a civil matter that would have to be worked out between the two private property owners.

Ms. Deakle and Dr. Rivizzigno amended their motion and second respectively. The final motion was to waive Section V.D.4. of the Subdivision Regulations, and approve this subdivision subject to:

February 5, 2004

- (1) placement of a note on the final plat stating that there will be no future resubdivision of Lots 6-10.

The motion carried unanimously.

**EXTENSIONS:**

**Case #SUB2003-00001**

**Creel Landing Subdivision**

6066 Creel Road (West side of Creel Road, 300'± South of Lundy Road).

25 Lots / 10.7± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

**Case #ZON2003-00119**

**Providence Hospital (Lee Metzger, Agent)**

West side of The Timbers Subdivision and Wall Street Commercial Park West Subdivision, extending to the Southeast corner of Providence Estates Subdivision, Unit Two, Phase C.

Planned Unit Development Approval to amend the master plan for Providence Park for the construction of a life care community consisting of a nursing home and multiple assisted living units with shared parking and shared access.

Request for a one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Mr. Scott 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.

**Case # SUB2001-00018 (File #S2000-42)**

**Westchester Place Subdivision, Third Addition**

East side of Pebble Creek Drive, 200'± North of Westchester Lane

8 Lots / 3.0± Acres

Request for a one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to grant a one-year extension of previous approval for this application.

The motion carried unanimously.

February 5, 2004

**GROUP APPLICATIONS:**

**Case #ZON2003-02969**

**Michael Daniels**

300'± West of the Northwest corner of Demetropolis Road and Halls Mill Road, extending to 300'± East of Government Boulevard.

The request for a change in zoning from B-3, Community Business, to R-1, Single-Family Residential, for a single-family residential subdivision was considered.

The site plan illustrates the proposed lot configuration, area to be rezoned, proposed setbacks, and existing easements.

(Also see Case #ZON2004-00123 – **Michael Daniels** – Below; Case #ZON2003-02967 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Below; and Case #SUB2003-00314 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Below)

Mr. Larry Jones of Thompson Engineering was representing the applicant. Mr. Jones said they were in agreement with the staff recommendations except for the number of curb cuts allowed to Halls Mill and Demetropolis Roads. He asked that the location and size of curb cuts be approved by Traffic Engineering at the time they need them and not limit them to five curb cuts per road.

Mr. Olsen stated that the staff would have no objection to revising this condition as stated, if this were agreeable with Traffic Engineering.

Ms. White said that they did not see a problem with Mr. Jones' request. Their intention in requiring the restriction to begin with was to allow some shared access for the smaller lots and possibly allow more than one cut for the larger lots.

Mr. Aaron Lott, owner of a business at 3941 Demetropolis Road, which would be catty corner to this property, stated that he was not opposed and did not want to impede progress of this project. He related his concern, however, over the traffic congestion and the need for a traffic light at this location, and felt the proposed development would increase the traffic flow in the area. He wanted the contractor to agree to put a traffic light at this location.

Councilman Ben Brooks was present and stated that he was neutral on this issue but wanted to advise the Commission of what he had been trying to do in meeting with Mr. Lott as well as the developer. He said that he and Councilman Johnson had worked hard trying to generate development along this stretch of Halls Mill and Demetropolis Roads going all the way up to the Morningside Community. He said the challenge now was, as the budget was so tight, to try to find funding for a traffic light. He said Mr. Lott was not the only one that had called about a traffic light, and he wanted to make a commitment publicly here to Mr. Lott as well as the developer to have a light installed at this location.

**February 5, 2004**

Mr. Brooks said he would get with Councilman Johnson to see if they could come up with some funding for the light.

Mr. Olsen stated that if the applicant were to voluntarily offer to share in the cost of a light, that could be a part of a recommendation, but it was not just something the Commission could automatically require the developer to do because that would be an off-site improvement.

Mr. Johnson inquired if a traffic signal were to be installed at this location, did all of the right-of-way belong to the City?

Mr. Olsen replied yes.

Mr. McSwain pointed out that the Traffic Engineering comments talked about signalization of the southernmost access to the subdivision which was on U.S. Highway 90. He felt that the number of lots appeared to be sufficient to justify signalization.

Ms. White said that if it were going to line up with Lansdowne Subdivision, at that point, the two combined would meet the warrants for signal.

Mr. McSwain felt that they needed to carefully look into that now.

Dr. Rivizzigno asked about the requirement for a 6' privacy fence.

Mr. Olsen explained that the 6' privacy fence was a requirement of the rezoning to R-1. On the PUD there was also a requirement for a 15' strip to be left in a vegetative state on the commercial properties that abut residential.

Mr. McSwain said that it seemed like the Commission normally required commercial property to provide a buffer for residential protection and not vice versa.

Mr. Olsen said that typically that was the case and they would have done that in this particular instance except there was no way to have the commercial provide the fence and the buffer to remain undisturbed. He pointed out another recent application by the Housing Board where the conditions for buffering were on the residential property since it was being rezoned from commercial to residential.

Dr. Rivizzigno inquired about the cost of a traffic light.

Mr. Lott said he had been told it would cost \$75,000.

Mr. Michael Daniels, the developer, stated that regarding the fence, he would be building the houses and selling the houses and it would be left up to him to decide whether they wanted a 6' or an 8' fence. He felt there was a need for patio-home style houses in the City, especially in this area where there was not as much residential property. As far as

**February 5, 2004**

the traffic light, that had been needed for a long time and had nothing to do with the fact that they were going to be developing this site.

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

- (1) limited to the accompanying PUD, which is to allow the reduced front setback and increased site coverage;
- (2) provision of a 6' wooden privacy fence where the site abuts commercial properties; and
- (3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2004-00123**

**Michael Daniels**

East side of Government Boulevard, extending from the East terminus of Knollwood Drive to the East terminus of Lansdowne Drive.

The request for a change in zoning from B-3, Community Business, to B-3, Community Business, to remove a service road dedication condition of a previously approved rezoning was considered.

The site plan illustrates the proposed lot configuration, area to be rezoned, proposed setbacks, and existing easements.

(For discussion see Case #ZON2003-02969 – **Michael Daniels** – Above; also see Case #ZON2003-02967 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Below; and Case #SUB2003-00314 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Below)

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

- (1) limited to the accompanying PUD, which is to allow the shared access and internal circulation drive;
- (2) the internal circulation be improved to Private Street standards as specified in the Subdivision Regulations;
- (3) provision of a 15' buffer to remain in its natural vegetative state where the site abuts residential properties; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2003-02967**

**Ferndell Park Subdivision, Resubdivision of Lots 1 & 2**

Northwest corner of Demetropolis Road and Halls Mill Road, extending to the East side of Government Boulevard.

**February 5, 2004**

The request for Planned Unit Development Approval to allow increased site coverage and reduced front setbacks in a single-family residential subdivision, and shared access between multiple building sites in a commercial subdivision was considered.

The site plan illustrates the proposed lot configuration, area to be rezoned, proposed setbacks, and existing easements.

(For discussion see Case #ZON2003-02969 – **Michael Daniels** – Above; also see Case #ZON2004-00123 - **Michael Daniels** – Above; and Case #SUB2003-00314 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Below)

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

- (1) the internal circulation drive be improved to Private Street standards as specified in the Subdivision Regulations, and maintained by the property owners;
- (2) limited to three access points to Government Boulevard with location to be approved by Traffic Engineering and ALDOT;
- (3) dedication along Halls Mill Road sufficient to provide 35' from centerline (as required by the original rezoning);
- (4) number, exact location and design, of curb cuts to Halls Mill Road and Demetropolis Road, to be approved by Traffic Engineering;
- (5) commercially zoned properties to provide a 15' buffer to remain in its natural vegetative state adjacent to residential properties;
- (6) residential properties to provide a 6' wooden privacy fence adjacent to commercial properties;
- (7) Preservation status granted for all 50" and larger trees including three Live Oaks located on Lot 24 C, Lot 15 C, and approximately Lot 18 C. All work under the canopies is to be permitted and coordinated with Urban Forestry, removal to be permitted by Urban Forestry only in the case of disease or impending danger;
- (8) Exact curb cut locations and location of the proposed street and internal circulation drive should also be coordinated with Urban Forestry to ensure that no trees 50" and larger are effected; and
- (9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2003-00314**

**Ferndell Park Subdivision, Resubdivision of Lots 1 & 2**

Northwest corner of Demetropolis Road and Halls Mill Road, extending to the East side of Government Boulevard.

64 Lots / 35.2± Acres

**February 5, 2004**

(For discussion see Case #ZON2003-02969 – **Michael Daniels** – Above; also see Case #ZON2004-00123 - **Michael Daniels** – Above; and Case #ZON2003-02967 - **Ferndell Park Subdivision, Resubdivision of Lots 1 & 2** – Above)

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

- (1) the internal circulation drive comply with the Private Street standards as specified in the Subdivision Regulations, including signage and maintenance requirements;
- (2) limited to three access points to Government Boulevard with location to be approved by Traffic Engineering and ALDOT;
- (3) dedication along Halls Mill Road sufficient to provide 35' from centerline (as required by the original rezoning);
- (4) placement of a note on the final plat stating that the number, exact location and design, of curb cut to Halls Mill Road and Demetropolis Road, to be approved by Traffic Engineering;
- (5) commercially zoned properties to provide a 15' buffer to remain in its natural vegetative state adjacent to residential properties;
- (6) residential properties to provide a 6' wooden privacy fence adjacent to commercial properties;
- (7) Preservation status granted for all 50" and larger trees including three Live Oaks located on Lot 24 C, Lot 15 C, and approximately Lot 18 C. All work under the canopies is to be permitted and coordinated with Urban Forestry, removal to be permitted by Urban Forestry only in the case of disease or impending danger; and
- (8) Exact curb cut locations and location of the proposed street and internal circulation drive should also be coordinated with Urban Forestry to ensure that no trees 50" and larger are effected.

The motion carried unanimously.

**Case #ZON2004-00077**

**Freewill Pentecostal Church of God (Elder Robert Lofton, Agent)**

6000 Biloxi Avenue (East terminus of Biloxi Avenue, extending to the South side of Buford Drive North).

The request for Planning Approval to allow property expansion and a new access drive at an existing church in an R-1, Single-Family Residential district was considered.

The plan illustrates the existing structure and parking, along with the proposed 20' drive.

(Also see Case #SUB2004-00004 - **Freewill Pentecostal Church of God Subdivision** – Below)

*Dr. Rivizzigno recused herself from the discussion and vote regarding this matter.*

**February 5, 2004**

The applicant was present and indicated agreement with the recommendations of the staff.

There was no one present in opposition.

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

- (1) the drive be a minimum of 24', as shown on the revised plan submitted; 2) exact location and design of the curb cut to be approved by Traffic Engineering;
- (2) closure of the existing drive to Biloxi Avenue; and
- (3) the "new" expanded area be brought into full compliance with all municipal codes and ordinances.

Dr. Rivizzigno recused. The motion carried.

**Case #SUB2004-00004**

**Freewill Pentecostal Church of God Subdivision**

6000 Biloxi Avenue (East terminus of Biloxi Avenue, extending to the South side of Buford Drive North).

1 Lot / 0.2± Acre

(For discussion see Case #ZON2004-00077 - **Freewill Pentecostal Church of God Subdivision** – Above)

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

- (1) the drive be a minimum of 24', as shown on the revised plan submitted;
- (2) exact location and design of the curb cut to be approved by Traffic Engineering;
- (3) closure of the existing drive to Biloxi Avenue; and
- (4) the "new" expanded area be brought into full compliance with all municipal codes and ordinances.

Dr. Rivizzigno recused. The motion carried.

**Case #ZON2004-00091**

**Garrett Investments, LLC**

7 and 11 North Broad Street (Southwest corner of Broad Street and Old Shell Road, extending to the North side of St. Francis Street).

The request for a change in zoning from B-4, General Business, and B-1, Buffer Business, to B-4, General Business, to allow retail sales was considered.

The plan illustrates the proposed structure, future addition, and proposed parking.

**February 5, 2004**

(Also see Case #SUB2004-00012 – **The Combo Subdivision** – Below)

*Mr. Frost recused himself from the discussion and vote regarding this matter. Mr. Plauche chaired this portion of the meeting.*

Mr. Frank Dagley, with Frank A. Dagley & Associates, was representing the applicant and requested that this application be heldover.

Mr. Plauche announced that this application was being heldover, and would not be voted on today. However, since there were so many present in this matter he would allow them to speak at this time if they so desired.

Mr. Gerald Vrazel, 5 Bienville Avenue, stated that he owned a business in the same block as the subject property – Vrazel Chemicals. Mr. Vrazel said he understood that a liquor store would possibly be located at this site and he expressed concern if that was true. Although this had once been the site of a liquor store, he felt this was not now a suitable location with a rescue mission and the Wings of Life located in this neighborhood. Mr. Vrazel said he was not opposed to development of the site, but did not want to see a liquor store go in there.

Mr. Paul Brown, 920 Dauphin Street, referred to a brochure put out by Main Street Mobile concerning the revitalization of Broad Street. He said right in front of the subject property they were proposing a small median, a green space, which was described in their brochure as one of the gateways to Mobile. Mr. Brown also presented a copy of an article on the Broad Street revitalization project that appeared in the Mobile Press in June. He further stated that a letter had been sent to the Commission by Mr. Palmer Hamilton in this regard. Mr. Brown said his business was located at the corner of LeBaron and Dauphin Streets and he was concerned about the degradation of his property and the effect a liquor store would have on the character of the neighborhood. He felt it would be inconsistent with redevelopment plans to put a liquor store at this location and asked for the Commission's consideration. Also, Mr. Brown noted that Mr. Jackie Jackson had been present for a few minutes, but had to go to another meeting, and Councilman Fred Richardson had also been present but had to excuse himself. Mr. Brown stressed that he was not present on behalf of Main Street Mobile or Bring Back Broad Street.

Mr. John Klotz, a resident of 959 Dauphin Street which was a block away from the subject property, stated that there were a lot of businesses on Dauphin Street consistent with the B-1 and B-4 zoning of this site. He said the type of business to be located there had been there at one time and he saw no need to have to rezone it. Mr. Klotz said he had contacted the developer to ascertain what type of business was to be located there, and was told that they did not have a tenant in mind. He had since learned, however, that ABC had expressed an interest in the site, and he had heard rumors that the ABC store on Spring Hill Avenue may be moving down the street. He was concerned that a zoning change would be made when there was not a specific tenant for the site, and he was

**February 5, 2004**

particularly concerned that a liquor store could be located there. There was already a problem in this area on Dauphin Street because it was a pathway between the homeless center of Catholic Social Services and the Salvation Army. Mr. Klotz felt this would be a bad place to have a liquor store.

Ms. Laura Clarke, City of Mobile, was present on behalf of Mayor Dow who was out of town and could not be present. Ms. Clarke stated that this application was just recently brought to the Mayor's attention. She said she was not present to make comments about the potential use or uses, but to concentrate on the potential site plan. As was mentioned by Mr. Brown, the Commission received a letter from Mr. Palmer Hamilton on behalf of a major initiative known as Bring Back Broad Street. Ms. Clarke explained that it was in conjunction with the Public Spaces Plan, but was also a kind of plan and an initiative in and of itself that deals strictly with the Broad Street corridor. The Mayor expressed concern and would possibly like to see some discussion and review with the owner, with the applicant of this application, as well as with City administration to make sure that the site plan that does end up here was most appropriate for that piece of property. If the Commission sees fit, he would like to see this application heldover, and if so, the staff would take the initiative to get with the applicant, his engineer, and the necessary administrative staff for further discussion in this matter.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to holdover this application until the meeting of February 19, 2004.

Mr. Frost recused. The motion carried.

**Case #SUB2004-00012**

**The Combo Subdivision**

7 and 11 North Broad Street (Southwest corner of Broad Street and Old Shell Road, extending to the North side of St. Francis Street).

1 Lot / 0.5± Acre

(Also see Case #ZON2004-00091 – **Garrett Investments, LLC** – Above)

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to holdover this application until the meeting of February 19, 2004.

Mr. Frost recused. The motion carried.

**Case #ZON2004-00082**

**City of Mobile**

West side of Washington Avenue, extending from the North side of Church Street (to be vacated) to the North side of Monroe Street.

The request for a change in zoning from R-B, Residential Business, and R-1, Single-Family Residential, to B-4, General Business, to eliminate split zoning within a proposed subdivision was considered.

**February 5, 2004**

The plan illustrates the existing structures and parking.

(Also see Case #SUB2004-00006 - **Mobile Public Library – Main Branch Subdivision** – Below)

Mr. Nick Holmes, architect for the project, was present in this matter. Mr. Holmes asked for a clarification of the recommendation stating that approval be granted subject to Traffic Engineering.

Mr. Olsen stated that the condition was actually that any new curb cuts be approved by Traffic Engineering, and it would not affect the existing curb cuts. The condition would not preclude them from having any new cuts.

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.

The motion carried unanimously.

**Case #SUB2004-00006**

**Mobile Public Library – Main Branch Subdivision**

West side of Washington Avenue, extending from Monroe Street to Government Street, extending along the South side of Government Street 110'± West of Scott Street, and extending along the East side of Bayou Street adjacent to the Church Street Cemetery.  
3 Lots / 3.6± Acres

(For discussion see Case #ZON2004-00082 – **City of Mobile** – Above)

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

- (1) placement of a note on the final plat stating that locations of any new curb cuts to be approved by Traffic Engineering.

The motion carried unanimously.

**NEW ZONING APPLICATION:**

**Case #ZON2004-00081**

**Mobile Housing Board (Stevens Gregory, Agent)**

Northwest corner of Zeigler Boulevard and Middle Ring Road.

The request for a change in zoning from B-2, Neighborhood Business, and R-1, Single-Family Residential, to R-1, Single-Family Residential, for a single-family residential subdivision was considered.

**February 5, 2004**

The site plan illustrates the existing landscaping, sewer, drainage, and utility structures.

Mr. Stevens Gregory, Executive Director of the Mobile Housing Board, was present and presented the proposal for rezoning of the property located at the northwest corner of Zeigler Boulevard and Middle Ring Road from its present zoning of B-2, neighborhood business, and R-1, single family residential, to R-1, single family residential, to allow the development of a single family residential subdivision. He noted that the current B-2 zoning would allow the establishment of liquor stores, nightclubs and other liquor businesses that could prove to have a deleterious impact on the neighborhood. The rezoning of the property to R-1 would make the use compatible with the residential character of the existing neighborhood and would allow for what the Housing Board believes would be the highest and best use of this site. This corner site has been zoned for neighborhood business since 1967 and remains vacant and undeveloped. The three other street corners have been developed residentially. The down zoning of this site to R-1 and its development as a single family residential subdivision would preclude this development for all the uses that may negatively impact on the neighborhood's character, such as threatening public health and safety, traffic congestion and an increase in crime. Mr. Gregory said they proposed to develop this 7-acre site as a single-family residential subdivision consisting of no greater than 20 single-family homes on single lots. The Housing Board proposes to develop a well-planned subdivision, one that was well designed, quality constructed and one that's compatible with the existing character of the neighborhood. They would follow Federal regulations in securing a State-licensed homebuilder to construct the homes that would be marketed to first time homebuyers in compliance with applicable regulations of the Department of Housing and Urban Development as well as Federal Fair Housing statutes. The targeted value of the homes would be between \$100,000 and \$110,000 so as to equal to or higher in value and amenities as the existing homes in the community. He said that their zoning application was complete and in order. Mr. Gregory pointed out that the homes would be developed in accordance with the City of Mobile's Consolidated Strategy Plan adopted for 2003, to fulfill its Federal obligation to affirmatively further fair housing, to promote housing affordability, home ownership, and freedom of housing choice. The Housing Board readily accepted the recommendations and conditions of the City staff and would comply with all State and local laws, ordinances, regulations, codes, permit and approval requirements, and design standards. Mr. Gregory respectfully requested that the Planning Commission accept the City staff's recommendation and approve this application as submitted.

Ms. Teresa Bettis, Executive Director for the Mobile Fair Housing Center, stated that she was present to make sure that all parties involved in this situation were aware of the concerns of the Center. She said it seemed that since the Housing Board had purchased this property, there continued to be a growing contention between all parties involved. In accordance with the City's current Analysis of Impediments, the Mobile Fair Housing Center had been named as the lead agency to see that these concerns were being dealt with. Two of the impediments cited were the lack of affordable housing and the lack of housing opportunity. This issue would address both of those by providing a home ownership opportunity as well as affordable housing for the population of Mobile. Ms.

**February 5, 2004**

Bettis said the events that have taken place since the purchase of this property have been under the observation of the Birmingham HUD office and she had been contacted by that office. The City of Mobile was in receipt of CDBG funds, and in receiving those funds they are required to affirmatively further fair housing. Their concern, if in fact this zoning request was denied, is that the City very well may be liable for violating the Fair Housing Act under Section 3604 of the Federal Fair Housing Act. The law states that it shall be unlawful to discriminate in the sale or the rental or to otherwise make unavailable or deny a dwelling. Also, there was the possibility of the violation of Section 3617, which states that it shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of any right granted under or protected by Section 3603, 3604, 3605 and 3606 of the this title. Unlawful zoning and land use practices pertain to sections previously mentioned. Public officials may be immune from personal liability under the Fair Housing Act when making broad land use decisions; however, public officials making zoning decisions applied to a specific parcel of land are not legislative actions to which immunity applies. Ms. Bettis said it was her recommendation today for the officials to approve the request asked for. She felt it would be in the best interest of all parties involved. The Fair Housing Center was here to insure that all have the right to decent and affordable housing. The low income and first time homebuyer residents of the City of Mobile should have access to all areas of the City and not just certain locales. Ms. Bettis thanked the Commission for its time.

Mr. Gregory stated that they would like to ask Rev. Outlaw to speak representing the Ministerial Alliance.

Mr. Frost stated that he had noticed another gentleman had his hand up to speak. He stressed that only four persons would be allowed to speak, so if there were others after Rev. Outlaw, they needed to make an arrangement as to who would take the last slot.

Rev. Frederick Outlaw, a resident of 1851 Clinton Avenue, Toulminville, was present to express his support of this application, as the Pastor of the Toulminville Warren Street United Methodist Church, and a member of the Mobile Interdenominational Ministerial Alliance. In 1984 the Commission of the City of Mobile adopted an ordinance providing for non-discrimination in the area of housing, No. 28-104 received and approved September 23, 1980. This underscores the need to be fair, non-discriminatory and non-restrictive as it relates to affordable housing for all citizens of Mobile, regardless of race, sex, color, religion, national origin or ancestry of the prospective or actual buyer or tenant thereof. Rev. Outlaw also noted that the South Alabama Regional Planning Commission performed a study entitled Analysis of Impediments to Fair Housing Choice, Mobile, Alabama, circa 1998. This research indicated the need for the City of Mobile to begin examining and developing plans to design and make available to families of low to moderate-income affordable housing. The study commended the Mobile Housing Board's efforts to adequately respond to the needs of some 500-600 families on waiting lists for affordable fair housing. Further, the study cited the City was continually striving to eliminate poverty and was responsible for some programs geared to development and training of low-income individuals to become self-supportive and productive citizens. An integral part of the American dream is to become a homeowner. Rev. Outlaw said the

**February 5, 2004**

mission of the City in cooperation with the Mobile Housing Board was to provide for the public's health and safety through the provision of affordable housing for first-time homeowners. The City of Mobile in 2003 developed and adopted a Comprehensive Consolidated Strategy Plan whereby the City acknowledged the 1980 ordinance. This ordinance provided the legal opportunity to all citizens to live in any area of their choice. The plan estimated Mobile's housing needs for a 5-year period, projecting the construction of 325 units of new housing to combat overcrowding. The City's approach was to provide home ownership assistance and to encourage new construction in neighborhoods having a stable population. As it relates to zoning, the City of Mobile in the plan states, "There are no exclusionary practices within the Zoning Ordinance, that is lot size, cost of housing, or type. The minimum lot size is 7,200 sq. ft. for single family units." Rev. Outlaw said the Board must, in order to fulfill the needs of the people of the City of Mobile in the placement and construction of affordable housing in our community, comply with City, State, and Federal guidelines. In order to comply with federal procedures Planning Commission approval was necessary. Once this was accomplished, design and architectural plans could be developed and the people of our City will come closer to achieving home ownership. Rev. Outlaw thanked the Commission for consideration in this matter.

Mr. Joseph Mitchell stated that from 1948 until 1984 he was homeless, although not in the contemporary sense of the word. From infancy he said he lived with his parents and his brothers, but he was homeless. He attended colleges and universities and lived on campuses, but was homeless. When he went to work for himself and his family they were homeless in spite of lease laws and renter's agreements. He said they were still homeless because Compass Bank had the mortgage on their house and in point in time, depending on things beyond their control, they could very well be homeless. From the sound of the audience, Mr. Mitchell took it that other people were homeless as well, or just a step or two from it depending on their status and circumstances of their lives. He said that many people who have children might be concerned about whether their children might arrive at a homeless state. He noted that President Bush and his administration had allocated \$31.3 billion dollars for the 2005 budget so that people may own their own homes. Not give-a-ways, not cast-a-ways, not leasing to buy, not just passing through, but so they could own their own homes. He said that property was an investment, and too few people according to the President's administration had access to buying homes. Buying homes, not leasing and renting, but the same status as many of us our in, paying a bank until such time as we have paid it off and it becomes ours. Going back to the beginning of this country, some people did not have the freedom to buy land. They were considered property themselves, and as a result they had no collateral to leverage future investments. What this project would suggest is that people would have an opportunity now to develop something to pass on to their children and to their children's children. Mr. Mitchell said that during the California gold rush, certain communities of people, poor people did not have opportunities to rush to California to get land. As a result of that many people do not have the leverage now. In a part of South Africa, they were not allowed to own land, and as a result of that they couldn't have anything of quality. He encouraged the Commission to be what it always was – consistent and zone this property in such a fashion that it would allow people

**February 5, 2004**

opportunities. The Commission serves as protection for the whole community and its quality of life. The zoning decisions they make enhance not only the community, but also the sense of community associated with what this nation has had to become, which is to come closer together and to respect each other. Mr. Mitchell said the fact that people had common needs and owned the same things, gave them a sense of community. He thanked the Commission for its time.

Mr. Frost thanked Mr. Mitchell. There was one other person who wished to speak, but Mr. Frost explained that under the procedures, only four speakers were allowed.

Senator Vivian Davis Figures was present and asked if she could speak.

Mr. Frost said that they had already had the four speakers allowed under procedure.

Senator Figures stated that she had been asked to speak, but had been skipped by representative Mitchell. She stated that she was in support of the application.

Mr. Frost asked for those opposed.

Councilman Stephen Nodine, Council Representative for District 6, who was present in opposition, asked those in the audience present in opposition to stand. Mr. Nodine said there were only a few recourses that they could take concerning this application. One was the best and highest use. He and the people in this community contended that B-2 was the highest and best use for this property. The land had been B-2 since 1967 and they would like it to remain that way. Mr. Nodine stated they currently had massive traffic problems on Zeigler Boulevard that were a burden to all the neighborhoods in that area. Mr. Nodine said he appreciated the comments from the Fair Housing Board but that was not an issue. He said they had a list of Section 8 housing in Mobile and affordable housing that the Housing Board currently had in that area. They were not opposed to affordable housing, as they certainly believed that people should have the opportunity to have a home and to improve their lives. Mr. Nodine said he had made statement after statement and this was the last statement he would make. He was here to represent his people. They had voiced their concerns to him that they would like this piece of property to remain B-2. Mr. Nodine thanked the Commission for its time.

Mr. Johnson stated that he had a few questions. He questioned the rationale of the position taken that B-2 was the highest and best use of the property when the land has remained undeveloped for 37 years. In addition to that, how could B-2 zoning, which could permit anything from a nightclub to a liquor store that would have a deleterious impact upon a community, be compared to a commonality of residences where people live that would have no such impact?

Mr. Nodine replied that the answer to the first question was, if the best and highest use is residential, it had remained vacant and no developer had come there yet to put homes there or apply for homes. The second thing is Alpine Hills (the subdivision he lived in) does not have a drug store. The B-2 zoning did not necessarily mean it was going to be a

**February 5, 2004**

liquor store, which as a Council representative he would be highly against that, as well as any other offensive use in that neighborhood. He felt the best use for this property was B-2. Maybe some retail or a grocery store might be appropriate. He again pointed out that they had no place to go to get prescription drugs in the area. Mr. Nodine said a lot of his constituents were seniors and this would be a perfect opportunity to put in a drug store. If they thought the best and highest use was residential, why had it remained vacant since 1967?

Mr. Johnson asked Mr. Nodine if he knew of any other properties in that area which may be Section 8 or affordable housing?

Mr. Nodine asked if he wanted a list.

Mr. Johnson replied yes. He asked if there was any opposition to those properties.

Mr. Nodine said he had not heard any complaints yet. He said approximately 35 percent of his district was Afro-American. The community he lived in, Alpine Hills, was 50/50.

Mr. Johnson stated that since the State, City, County, and the school board were oftentimes looking for new tax revenue, if having additional homes with tax payers that would actually be added to the tax revenue rolls, would not help to alleviate some of the problem of having to always to go to the same individuals and pull from them about having to sell additional homes, fair market value of \$100,000-\$110,000 or more?

Mr. Nodine stated that the fair market value of his home in Alpine Hills was \$124,000. He said some of the other properties were around that; they were not \$100,000-\$110,000. Again, the hopes of every property owner is that their property values increase. Further, he said that a wonderful opportunity for the Mobile Housing Board would be Hillsdale, Hillsdale, Hillsdale. It would be a wonderful opportunity to provide 400 affordable homes in that area.

Mr. Johnson stated that the proposal before them alleged that the construction costs per dwelling place would be in the range of possibly \$110,000. Even in the Alpine Hills community the housing value was somewhere around \$124,000, which was quite compatible. He said that appreciation was a progressive phenomenon and any property at that cost would appreciate as well. He thought it was very likely that many of the properties based upon size, especially in parts along Middle Ring Road and proximity, that houses could be less than \$110,000, which would be less than these being constructed. That being the case, how could one rationally oppose construction of property in excess value of what currently existed. He asked if that excess value would not serve to upgrade the existing low market value of the current homes.

Mr. Nodine replied that this was an excellent point, but unfortunately the Housing Board had not provided any schematic drawing, rendering or engineering information. He understood that they had to have the zoning approved before they could render that, but at this time they had no clue if the homes were going to be \$100,000 or \$110,000.

**February 5, 2004**

Mr. Frost noted that Mr. Gregory did announce that the value of the homes would be between \$100,000 and \$110,000.

Mr. Johnson inquired if Mr. Gregory had submitted to each of the members of the Mobile City Council minutes of the meeting that took place in April, where it was in fact mentioned an the initiative to undertake this project with the possibility of purchasing the property in question.

Mr. Gregory replied yes, it had been sent them through the Mayor's office. Mr. Gregory's intention at that had been to advise and inform.

Mr. Paul Hannie was present and stated that he was a well known native Mobilian and had lived at his current address – 1208 Matterhorn Street in Alpine Hills, since 1958. He had been asked many times to run for mayor, but he would not because he had fulfilled his duty to his country by serving during World War II. He felt it best that he stay out of politics. He stated that they were against this proposal. He inquired if the developers would want this in their neighborhood. He did not think they would. He commented that Mr. Ball had a \$700,000 beautiful home and Mr. Gregory's home was about \$200,000, and Mr. Hannie was proud of them. He said that what he was about to say was the absolute gospel. Mr. Hannie said they are aware that Orange Grove was going to be torn down and he asked Mr. Gregory if they were going to build some townhouses or condos there for the other 60 or 70 percent of the people that lived there. He also asked him if they were going to create another ghetto. Mr. Gregory had stated that they could put this development anywhere they wanted. Mr. Hannie stated that in December there was a two-column write up in the newspaper whereby the Housing Board had accused Mr. Nodine of being a racist and had said that everyone that had anything to do with this property was against blacks. Mr. Hannie said in Alpine Hills they have over 50 black people, who were beautiful people, and were welcome and were part of the family. They also had a Community Watch program that he formed in Mobile in 1966 for the City. There were black people on this Community Watch. He said he checked with Roberts Brothers and nothing had been said about 3 ½ acres that was adjacent to the subject property. He asked Roberts Brothers, if they were so aggressive, why did they not try to sell the Housing Board those three acres. A representative from Roberts Brothers had indicated that all the Housing Board wanted was 7 acres and they wanted to keep it low profile. Mr. Hannie felt that there was something smelly about this situation. He also said the area was already congested and there was a lot of crime. He said that a lot of the crime came from the apartments. He mentioned that the police of the 4<sup>th</sup> precinct were great, but they were already overloaded now. He asked how they could take on another two or three thousand people. He noted that there was a church that fronted on Middle Ring Road and said that in one year that church would be gone. He said that on the 3-½ acres in front of that, to the west, there was a shopping center that was closed down. There would be nowhere for these people to go except for the subject property.

**February 5, 2004**

Mr. Frost stated that he was under the impression from the statement Mr. Gregory made that there were going to be approximately 20 houses, so there would not be 2,000 people. He wondered where Mr. Hannie was getting his facts.

Mr. Hannie stated that he got the number off the top of my head because usually they have got a lot of friends that come in and stay with them. Mr. Hannie further stated that that area of Middle Ring Road was a terrible death street. It was right on the top of the hill where eastbound traffic would not be able to see people coming out. Zeigler Boulevard was also dangerous, and in May of next year they were going to start moving the utilities for widening, so it would be more congested and there would be more people getting killed. He said they did not object to black people, and he felt the Housing Board owed them an apology for openly saying that they were racist and were against blacks. He said he would take anyone through Alpine Hills to see the wonderful people. He said that those people would say that they moved out there to get away from the environment, to raise their children properly, to teach them right and wrong, to be able to walk the streets during the day and walk out in their yard anytime of the day and not have to worry about getting robbed, shot, raped or murdered. Mr. Hannie said they were not objecting whatsoever to the housing, but this was just not the place for it. He wanted to know why they did not buy the other 3-1/2 acres. He did not feel that this made sense; it was what he called a very smelly situation. He said that he could go on and one, but he would stop at this point.

Mr. Johnson said when he arrived that he looked at the information before him and was under the distinct impression that they had before them documentation regarding the zoning of property. He did not see any action to be taken about people. Somehow they had sunk into a discussion about people that questioned fellow human beings by virtue of where they might live. He said that everyone could not necessarily live on a hill in a castle. He wanted this conversation to stay to the facts before them regarding the zoning, and let the character of the zoning in relation to the area be their focus. This should not be a discussion about people; it should be based on facts and rationale regarding the property. He asked that those in opposition give the Commission something to go on so they could adjudicate the matter equitably and fairly. Mr. Johnson said he was not interested in all these racial connotations and expected to have before him nothing but the facts. He did not care what the Mayor said and did not want to hear what anybody called anybody. If Mr. Hannie had a problem with the Mayor then he should talk to him about it. Mr. Johnson asked Mr. Hannie if this were an undertaking by a corporation or someone other than the Housing Board, would he be here today?

Mr. Hannie replied that he would be here.

Mr. Johnson asked why. He said that based on Mr. Hannie's comments, it seemed that his concerns were related to who had purchased the property. He asked Mr. Hannie if this were not a Housing Board project, would he actually have come if these were single-dwelling properties and not public housing. If some developer were developing them, they could come in with another use and the neighbors would have no idea where that person was from and would not be having this hearing. Mr. Johnson said there were

**February 5, 2004**

zoning laws and specific parameters within which they had to operate. They have three major areas to focus on regarding decisions the Commission made for the voracity of the court's scrutiny if it came to that. Therefore, he asked that everyone that came before the Commission after this, kindly stick to the issue and what was relative to zoning. He said he did not want this to disintegrate into a racial discussion.

Mr. Hannie stated that the reason he was talking about people was because the Housing Board had accused the residents of Alpine Hills of being racist and not wanting any blacks.

Mr. Johnson said Mr. Hannie had answered his question. He wanted to state however that no member of this Commission had called anybody racist or would call anybody racist or even consider if anybody was a racist. They did not wish to be party to such a conversation.

Mr. Hannie said that the First Amendment gave him freedom of expression. He was not being radical. He inquired why the Housing Board had not bought the other 3-½ acres?

Mr. Clinton was unsure why they had not purchased this property.

Dr. Rivizzigno called for a point of order.

Mr. Frost felt that they were disintegrating into diminishing return on this conversation. He wished to move on.

Mr. Hannie felt that the Housing Board should give an outright apology to everyone in Alpine Hills for making the remark that they were racist.

Dr. Rivizzigno again called for a point of order.

Mr. Hannie did not feel it was fair for Dr. Rivizzigno to keep doing that.

Mr. Frost said that this was his discretion, and that Dr. Rivizzigno was bringing up a valid point. The point being that Mr. Hannie had made his comments about the Housing Board suggesting that he was a racist or the members of that community might be racist. Mr. Frost agreed with Mr. Johnson that this was something Mr. Hannie needed to take up with the Housing Board. Mr. Frost pointed out that Mr. Hannie had made his point for the record and it was time to move on.

Mr. Hannie challenged the Housing Board to come out and see him. He felt that this was a done deal anyway.

Mr. Butch Ladner was present and stated that he had property on Middle Ring Road. He wanted to tell everyone present that he felt it was unfortunate and unnecessary that this had been categorized as a racist issue. When he first got involved with this he did not think of it that way. In fact, he had friends and neighbors that live on his street that were

**February 5, 2004**

opposed to this. He said that they would be living right across the street from the development. He mentioned that some of those in opposition were good people who took better care of their homes than he did and were quite frankly, black. He said that they were people of color, good people, teachers, and professionals. He main concern was the likelihood that this development would lower the value of homes in the area. Farmer's Home Administration is a federal government program and they make what they call the leverage loan program with homes available for people to purchase based on their income. It is a sliding scale and they could put down as little as \$150 or \$200 a month toward the mortgage. As their income went up, their percentage of the mortgage payment went up. He said that he only had his experiences with Section 8 to go by. He understood that this was probably not like Section 8 because they were talking about home ownership, but he had seen both of these Farmers Home Administration types of development as well as Section 8, and the upkeep of the home went down. It was simply human nature, if people were not paying full price for a home they were not as inclined to put out the effort it took to keep it up. If you give someone something they did not work for, they were probably not going to spend as much time keeping it up as someone otherwise would. The Hillsdale development, for whatever, has been allowed to become run down, and was a blight. Mr. Nodine proposed buying some of those homes. These homes were falling in on themselves, were vermin infested, and a real nuisance. Mr. Lander felt that area could be lifted up without anybody opposing. The people of Alpine Hills Middle Ring Road were apprehensive about the subject development, and rightly so. He said that a home was the largest investment of most people's lives and their families were going to live in this area. They did not know about the quality of the people that would be moving into the proposed homes. They did know that they would not be paying for the home themselves, so they would not have a fully vested interest. He was curious about whether or not the Housing Board would make an offer to pay any loss if a home does devalue itself because of the result of this project going in. Would they be prepared to guarantee that they would cover the difference in what the fair market value is now versus what it might be in a year, two years, five years from now?

Mr. Frost said of course not. He also pointed out that one could not guarantee that an existing neighbor might move in with an undesirable person.

Mr. Ladner felt that the likelihood of this was less if someone were coming in and putting up their hard earned money and everything they had worked hard for and strived for. He said that the homes at \$100,000 and \$110,000 were not extremely luxurious homes. Homes at that price range would have sold for around \$70,000 ten years ago. He said that they were concerned about this development and they had a right to voice those concerns. In his case, his apprehension was color blind and more about what could happen if undesirable people moved in. There could be good people moving in. He had no objection to living with anybody of any color, but he wanted some assurances that they were not going to let people in that may not keep up their property.

Mr. Johnson felt that the it was reasonable to assume that those houses that were \$70,000 were now more because of appreciation of property. He had a problem with the comments made regarding down payments. He said that the people moving into the

**February 5, 2004**

proposed homes would have to meet the same financial requirements as everyone else. He thought that when people thought about public housing, they were really thinking about welfare.

Mr. Ladner said that this was not correct. However, he inquired if they would be paying the full price of a mortgage on the home.

Mr. Johnson said that approximately \$200 million had been appropriated by HUD for down payment purposes and right now they charged about three percent minimum that was currently required. He said that the main problem with people trying to buy a home was the issue of a down payment. The first affordable homes program was done in 1986, a year after he became a member of the City Council. It was done in District 3, with Aetna Life Insurance, one other mortgage company and some other entities, in order that people might have an opportunity to buy their first home. It had an extremely viable impact on the community. There were 25 homes built in his district, and those that had purchased the homes were great neighbors. The value of his neighborhood was in its people and not in its houses. He tended to feel that what they were concerned about was a fear factor that was sometimes attached to public housing. He mentioned that when he was in Seattle a couple of years ago, he had seen an area with public housing. Right across the river was the estate of one of the Microsoft leaders that was valued at \$20 million. On the other side of the river homes started at about \$350,000, with a maximum of \$500,000, right in the middle of public housing. Somebody had a concept that if we are going to encourage people to upgrade themselves, advance themselves, we need to put them in an environment that gives an incentive to advance. A community like the one in Seattle shows how people can come together and get rid of the taboos. He felt that if they did not get rid of some of their taboos, it was uncertain whether or not Mobile could grow. He thought that everyone ought to have the same privilege, the same right, the same opportunity that others had.

Mr. Ladner said that he was simply expressing his concerns about his life investment being potentially at risk. It was his understanding that there were programs available whereby anyone could get into a house with no down payment. He inquired if the Housing Board program was actually going to assist them in their monthly mortgage payment. He felt that was the key to how much investment a person had in a home.

Mr. Phillip Nassar, of Alpine Hills, was present and stated that he had lived there for 43 years. He inherited the home that he and his wife currently lived in when his parents passed away. He did not have any problems with people being able to have a home. He mentioned that his grandparents were immigrants and they had come to this country looking for a better way of life. He had attended a meeting at the Arts Museum and at that meeting there was a mixture of people trying to express their concerns. They wanted someone just to listen to them and find out exactly what was going on. They were concerned about their life investments. He had been quite pleased to listen to people speak. One person that got up and spoke said they had moved into the area looking for a better way of life. They wanted to raise their children very safely and calmly. Mr. Nassar listened to people talking about developing the neighborhood. He saw one

**February 5, 2004**

individual get up and asked that people that had the ability, to help him redevelop his neighborhood. Then he started talking about Hillsdale and how that area would be a better place for this development to take place. Mr. Nassar said that he greatly appreciated the opportunity to speak before the Commission. He had made several calls trying to get someone to talk to him about his concerns, but his calls had either not been returned, or were returned by the secretary and when they found out what the topic was he never heard from them again. He did have the opportunity to talk with Mr. Nodine. When Mr. Nassar first moved into the area with his family it was a thriving, developing area. He has seen changes over time that had come about for various reasons. In 1970, the President of the United States had an idea about putting people with special needs in a housing situation with other people who did not have special needs. At that time they had been told that when this took place, property values would not drop and people would learn to get along better. He said that some people did get along, but others picked up and moved out, and certain areas did not develop anymore. He said that his home had a monetary value on it, but it had more value to him personally because it was the home his parents gave him. He wanted the area to stay like it was and continue to develop. Because of the people that had moved into the area, he thought it would. He felt there was a good possibility that this would move forward and could make things better. But he was still concerned about his rights as a property owner. When this process started, he knew nothing of it and had only found out about it by reading an article in the paper. His request to the Commission and to the people who make these decisions was that in the future when they got ready to do something, that they considered talking to the people. He said that this country was founded on compromise and discussion. He felt that when they got rid of the fears, people would be able to go forward together. He thought that if they had sat down and really looked at this before today, maybe, just maybe they could have found a better site for this project. If this was indeed the best place for this project, maybe the people who make the decisions could have solicited their help into talking to the other neighbors.

Mr. Johnson asked Mr. Nassar what he would like to see done on this site.

Mr. Nassar thought the ideal would be something that would enhance the area. Someone made a comment about the possibility of a liquor store. He had been in the area for 43 years and he had seen a liquor store go up in the area and then go out of business. I would like to see people talking to each other and working together to see what would be the best plan.

Mr. Johnson inquired if having a homeowner there who would own the home, and was paying taxes, was something they did not want.

Mr. Nassar said that he was not against that taking place. He was against the fact that no one had contacted them to talk about this.

In rebuttal, Mr. Gregory thanked the community as well as the Commission's indulgence for this discussion. He believed it was very helpful to have such an airing. He said that

**February 5, 2004**

the Housing Board had made an effort to do this in the past but had not had the opportunity to be heard by those who would actually hear what they had to say.

Mr. Frost said that there had been some suggestions made that these houses were given to people. Members of the audience indicated that this was not a fact, that the homes were subsidized. He asked Mr. Gregory to tell the Commission exactly what was going on and what was intended to go on with these houses from a financial standpoint of the persons who would live there.

Mr. Gregory said that these homes would be for sale to low- to moderate-income families throughout the City of Mobile. It was not a public housing program. It was a program for any low- to moderate-income family. In the City of Mobile a moderate-income family had an earned income of about \$38,000.

Mr. Frost inquired if one would have to make an application for this type of housing.

Mr. Gregory that they would make application and it would be processed like any other homebuyer going to a mortgage company applying for a mortgage. He said that they did provide assistance with the down payment, to help the home become affordable to them. Affordable means by definition a home that costs at the average 30% of one's adjusted gross income. Anything over 30% would make that home unaffordable.

Mr. Frost inquired if the payments would be based on paying the full \$100,000-\$110,000 or would they be based on a lesser amount?

Mr. Gregory said that the average person would be paying at 30% of their adjusted gross income to the mortgage company.

Mr. Johnson inquired if the Mobile Housing Board had made any attempt to hold a community meeting with the citizens in and around Alpine Hills and informed them of decisions to build housing there.

Mr. Gregory said that they had offered to meet with Mr. Nodine and the community and Mr. Nodine did promise to make the Housing Board aware of any such meetings. However, they were not invited and had to find out on their own where the meeting was and they made an effort to address some of the concerns but were rejected by the community. They were not going to hear what we had to say and there was very little interest in any further meetings.

Mr. Frost suggested that the Commission take this out of order and go ahead and vote on this case now or they could carry on with the rest of the agenda.

A motion was made by Ms. Deakle and seconded by Mr. Scott to take this case out of order and proceed with executive session discussion regarding this matter.

The motion carried unanimously.

February 5, 2004

Mr. Frost announced that they were now in executive session for this application.

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

- (1) submission and tentative approval of a subdivision application within one year;
- (2) the provision of a buffer, in compliance with the specifications cited in Section IV.D.1. where the site adjoins commercial zoning;
- (3) compliance with the Urban Forestry Comments (30" Live Oak in the southeast corner requires approval and permitting from Urban Forestry for trimming or removal, the 24" Live Oak on Zeigler Boulevard, in the city's right-of-way, requires a Mobile Tree Commission permit for trimming or removal, coordination with and approval by Urban Forestry [in addition to all other required approvals and permits] for any curb cut(s) to Zeigler Boulevard); and
- (4) full compliance with all municipal codes and ordinances.

Mr. McSwain was concerned as to why the Housing Board purchased a piece of property without proper zoning for the development they wanted to put there. He did not think that it made very good business sense.

Mr. Johnson thanked both sides for sharing their concerns. However, he regretted that some misunderstandings manifested themselves to the degree that concerns were brought up that were beyond measure, and there was an absence of information and facts due to emotions. He wanted to see the Mobile Housing Board, as it progressed in the stages of this development, make an effort to share the information with the surrounding residents. He hoped that they would be able to move forward with this very vital issue. He commented that 50% of black people living in Mobile did not own their own home. He said that they certainly wanted to see an environment where there was opportunity for everyone to move their way up.

The question was called. The motion carried unanimously.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to go back to the regular session and proceed with the rest of the agenda.

The motion carried unanimously.

**NEW PLANNING APPROVAL APPLICATIONS:**

**Case #ZON2004-00076**

**Community Baptist Church (Pastor Carl Coker, Agent)**

1251 Navco Road (East side of Navco Road, 275'± South of Buena Drive North).

**February 5, 2004**

The request for Planning Approval to allow the operation of a child day care at an existing church in an R-1, Single-Family Residential district was considered.

The plan illustrates the existing building and drive.

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

- (1) provision of paved parking, access and maneuvering area (minimum of one parking space per four sanctuary seats);
- (2) full compliance with the Urban Forestry Comments (no paving in the critical root zone of the 36" Live Oak in the gravel parking lot, and that the trees on the site are protected);
- (3) provision of a three-foot high fence or hedge along Navco Road to screen the parking and maneuvering area from residential development;
- (4) provision of a buffer, in compliance with Section IV.D.1. along the North and East property lines;
- (5) full compliance with the landscaping and tree planting requirements for the developed portion of the site; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2004-00079**

**Crown Castle USA, Inc.**

501 South University Boulevard (East side of University Boulevard, 650'± South of Fireside Way).

The request for Planning Approval to allow the expansion of a previously approved monopole cellular communications tower site was considered.

The site plan illustrates the existing drainage and sewer easements, building, and tower along with the existing access easements and lease parcel.

Mr. Rhea Silvernail was representing the applicant and asked that they be allowed to make a donation to the tree fund instead of landscaping.

Ms. Pappas stated that would not be a problem.

There was no one present in opposition.

**February 5, 2004**

In discussion, a motion was made by Dr. Laier and seconded by Dr. Rivizzigno to approve this plan subject to the following conditions:

- (1) full compliance with the landscaping and tree planting requirements for the tower site; and
- (2) full compliance with all municipal codes and ordinances.

Dr. Laier inquired if an additional condition needed to be added to allow the applicant to utilize the tree bank.

Ms. Pappas stated that it would already be allowed under the Ordinance.

The question was called. The motion carried unanimously.

**NEW PLANNED UNIT DEVELOPMENT APPLICATION:**

**Case #ZON2004-00084**

**Downtowner Apartments**

4360 Downtowner Loop North (North side of Downtowner Loop North, 180'± East of Downtowner Loop West).

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

The plan illustrates the proposed buildings, pool area, and parking.

The applicant was present and indicated agreement with the recommendations of the staff.

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 condition:

- (1) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2004-00007**

**Audubon 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.

80 Lots / 58.2± Acres

**February 5, 2004**

Mr. Frost stated that Audubon Cove application would be heldover at the request of the applicant. He inquired when the application would be heldover to.

Mr. Olsen said that it was his understanding that it would come up at the next meeting.

Mr. Ben Brooks, District 4 Council Representative, was present and stated that he was working to resolve some issues with the neighborhood. He asked that this application be heldover for six weeks. He did not think a holdover of two weeks would give them enough time to work this out and in four weeks, he would be out of town.

Mr. Frost said that it would be difficult to holdover a subdivision for this time without the applicant's permission.

Mr. Brooks said that he had spoken with the developer the previous evening and he had indicated that a six-week holdover would be acceptable.

Mr. Don Coleman of Rester and Coleman Engineers, Inc., was representing the applicant and stated that they would like to see this only heldover for four weeks.

Mr. Brooks stressed that he would be out of town and wanted to attend the meeting, when this was brought back before the Commission.

In discussion, Mr. Frost said that he was unsure how long this should be heldover based on the discussion. His recollection was that Mr. Coleman agreed to the six weeks in an effort to please Mr. Brooks. Mr. Coleman wanted four weeks, but reluctantly agreed to six.

A motion was made by Mr. Frost and seconded by Mr. McSwain to holdover this application until the meeting of March 18, 2004, as agreed to by the applicant's engineer at the meeting.

The motion carried unanimously.

**Case #SUB2004-00008**

**Azalea Center Subdivision**

West side of Azalea Road, 530'± South of Airport Boulevard.

3 Lots / 10.1± Acres

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

There was no one present in opposition.

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

**February 5, 2004**

- (1) the dedication of sufficient right-of-way to provide 50' from the centerline of Azalea Road;
- (2) the submission and approval of an Administrative PUD application prior to the issuance of any permits; and
- (3) 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 #SUB2004-00013**

**Belmont Lake Subdivision**

8750 Belmont Park Drive (North side of Belmont Park Drive, 835'± East of Dawes Lane Extension).

2 Lots / 4.0± Acres

The applicant was present and indicated he was agreeable with the recommendations of the staff.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Scott to waive Section V.D.3., 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 both lots are limited to one curb cut each to Belmont Park Drive, with the size, location and design to be approved by County Engineering;
- (2) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- (3) the developer obtain any necessary approvals from all applicable federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

**Case #SUB2004-00010**

**Cottage Hill-Capital Subdivision**

Northeast corner of Cottage Hill Road and Capital Drive.

2 Lots / 1.0± Acre

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

There was no one present in opposition.

**February 5, 2004**

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

- (1) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each, with the size, location and design to be approved by County Engineering;
- (2) the placement of a note on the final plat stating that Lot 1 is denied direct access to Capital Drive;
- (3) the dedication of a 25-foot radius at the corner of Capital Drive and Cottage Hill Road; and
- (4) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2004-00003**

**Ellsworth Place Subdivision**

961 Wildwood Avenue (East side of Wildwood Avenue, 150'± North of Chandler Street, extending to the West side of Pinemont Drive).

2 Lots / 0.3± Acre

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Scott to waive Section V.D.2. (Lot width and Lot size), of the Subdivision Regulations, and approve this subdivision subject to the following condition:

- (1) dedication of sufficient right-of-way to provide 25 feet from the centerline of Pinemont Avenue.

The motion carried unanimously.

**Case #SUB2004-00011**

**Hotel Company of Mobile Subdivision**

840 West I-65 Service Road South (West side of West I-65 Service Road South, extending to the South side of Western America Drive, and extending to the East side of Western America Circle).

1 Lot / 2.6± Acres

Mr. M. Don Williams of M. Don Williams Engineering, was representing the applicant and concurred with the staff recommendations.

**February 5, 2004**

There was no one present in opposition.

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

- (1) placement of a note on the final plat stating that site is limited to one curb cut to Western America Circle, location and design to be approved by Traffic Engineering;
- (2) placement of a note on the final plat stating that the site is limited to one curb cut to Western America Drive, approximately midway between Western America Circle and the 90° angle in the road, exact location and design to be approved by Traffic Engineering;
- (3) placement of a note on the final plat stating that the site is limited to one curb cut to West I-65 Service Road S, exact location and design to be approved by Traffic Engineering and ALDOT;
- (4) the easement for the existing drive and parking be shown on the final plat, and the placement of a note on the final plat stating that there shall be no access connection between the properties; and
- (5) submission of an administrative PUD to consent to the parking and drive encroachment.

The motion carried unanimously.

**Case #SUB2004-00002**

**Lov-A-Lots Subdivision**

2508 Fairway Drive (North side of Fairway Drive, 225'± West of Courtney Street).

2 Lots / 0.6± Acre

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the setback of sufficient right-of-way from the centerline of Fairway Drive;
- (2) the placement of a note on the final plat stating that both lots are limited to one curb cut each, with the design and location to be approved by Traffic Engineering;
- (3) the provision of an 8-foot setback for the structure on Lot A or the removal of the structure prior to the recording of the final plat; and
- (4) the placement of the 25-foot minimum building setback lines on the final plat.

February 5, 2004

The motion carried unanimously.

**Case #SUB2004-00009**

**Magnolia Downs Subdivision**

9401 and 9435 Scott Dairy Loop Road South (South side of Scott Dairy Loop Road South, 3/10 mile± West of McFarland Road).

18 Lots / 60.5± Acres

Mr. M. Don Williams of M. Don Williams Engineering, was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) dedication of the necessary right-of-way to provide 50 feet from the centerline of Scott Dairy Loop Road;
- (2) the placement of a note on the final plat stating that direct access to Scott Dairy Loop Road is denied for Lots 1 and 18;
- (3) dedication and construction of all streets to County standards;
- (4) the approval of all applicable federal, state and local agencies; and
- (5) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2004-00014**

**SQ's Subdivision**

South side of Bear Fork Road at the Southern terminus of Myers Road, extending South to Eight-Mile Creek.

4 Lots / 84.0± Acres

The applicant was present and indicated he was agreeable with the recommendations of the staff.

There was no one present in opposition.

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

**February 5, 2004**

- (1) the setback of Eight Mile Creek Parkway (including 25-foot minimum building setback line; and
- (2) the developer to obtain the necessary approvals from federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

**NEW SIDEWALK WAIVER APPLICATION:**

**Case #ZON2004-00030**

**Ebenezer Baptist Church**

5051 Ebenezer Drive (Southwest corner of Demetropolis Road and Ebenezer Drive).

The request to waive construction of a sidewalk along Demetropolis Road was considered.

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Mr. Scott to approve this request.

The motion carried unanimously.

**OTHER BUSINESS:**

**Call for Public Hearing: March 18, 2004 - Proposed Historic District Overlay**

Mr. Frost called for a Public Hearing for March 18, 2004, to consider a proposed Historic District Overlay.

Mr. Frost said that any members of the public who wished to see the proposed document could contact the Urban Development Department.

Ms. Deakle inquired if there would be an effort made to make sure the people that were affected by this were aware of it.

Mr. Olsen replied yes. He said that the staff was sending copies to the Architectural Review Board as well as contacting various other historical boards and commissions, and any presidents of the associations they could get in touch with.

Ms. Deakle said that if she lived in one of these areas she would want to have foreknowledge as this could affect the future purchase of a home, sale of a home, or renovation of a home.

Mr. Olsen said the staff would make their best effort to do so and one thing they hoped that people would understand was that it should make things easier in that it would allow

**February 5, 2004**

things to be built in line and in character with existing development within the historic districts.

Ms. Deakle said that this might help eliminate the need for variances.

Mr. Olsen said that this was correct.

There being no further business, the meeting was adjourned.

**APPROVED:**        April 15, 2004

---

Victor McSwain, Secretary

---

Robert Frost, Chairman

/ms and jh