

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JUNE 2, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victor McSwain, Secretary
Ann Deakle
James Laier (S)
Adline Clarke
Mead Miller
Victoria L. Rivizzigno
James Watkins III
John Vallas

Members Absent

Nicholas Holmes
Clinton Johnson

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Madeleine Masters, Planner I
David Daughenbach, Urban Forestry
Val Manuel, Secretary II

Others Present

Wanda Cochran, Assistant City Attorney
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

Mr. Plauche 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.

HOLDOVERS:

Case #SUB2005-00092 (Subdivision)

Dyson Estates Subdivision, First Addition, Resubdivision of

Northwest corner of Rabbit Creek Drive and Gulf Creek Circle.
5 Lots / 1.7± Acres

Don Rowe, Rowe Surveying and Engineering, was present representing the applicant. Regarding access concerns noted by the staff, Mr. Rowe said the applicant had agreed to limit access to one driveway to common area #2. With regard to the substandard size of the lots, Mr. Rowe said that four tenants, who were brothers, owned Lots A-D. They each wanted to have a strip of land for a boat slip. They were asking for approval as an innovative subdivision.

June 2, 2005

Ms. Deakle pointed out that even though the applicants were tenants in common and were brothers, that land could still be sold.

Mr. Rowe said that was true, but this proposal was their current intent.

A motion was made by Dr. Laier and seconded by Mr. Vallas to approve the above referenced subdivision with waiver of Section V.D.3 of the Subdivision Regulations.

In further discussion Dr. Rivizzigno said she could not see where the lots were reconfigured.

Mr. Olsen said there was a reconfiguration from the original submission, not when this was held over, but the one that was previously denied.

Dr. Rivizzigno asked why the staff was still recommending denial when the lots had been reconfigured.

Mr. Olsen explained that because technically it did not meet the requirements, but with the waiver of Section V.D.3. of the Subdivision Regulations, however, it would be okay.

Mr. Olsen noted that Dr. Laier's motion did not include the condition requiring the placement of a note on the final plat limiting access to one curb cut to common area #2 as offered by the applicant. He said that is what was intended based on the application. Mr. Olsen also noted that there was no zoning in the County, so there would be no land use regulations as to how this property was used.

Dr. Laier amended his motion to include that condition of limiting access to one curb cut to common area #2. The motion was seconded by Mr. Vallas.

There was concern expressed that there were no regulations as to how this property could be used.

Ms. Deakle asked if one of the proposed lots would be large enough to build a house on.

Mr. Olsen said yes.

Mr. Stewart of County Engineering said that if they have sewer out there they could go straight up twenty stories if they wanted to.

Mr. Watson asked if there were any notes on the plat to restrict it to any kind of use.

Mr. Olsen said that he thought the plat designated the Lots as Boat Stall Lot. He did not know, however, if the County would limit use of the property based on that labeling of the lots or not.

Mr. Stewart said the County would review the construction as a commercial site, and if it was labeled as a boat slip, it would be limited to a boat slip.

June 2, 2005

Mr. Vallas said he had seen a few of these boat slips at Dauphin Island but they had little clean up areas. He asked if that would be allowed in a boat stall.

Mr. Stewart said it would as long as they have green space.

The final motion was to approve the above referenced subdivision with waiver of Section V.D.3 of the Subdivision Regulations subject to the following condition:

- (1) the placement of a note on the final plat limiting access to one curb cut to common area 2.

Ms. Clarke, Ms. Deakle, and Mr. Watkins were opposed.

The motion carried.

Case #SUB2005-00089 (Subdivision)

Graceland Court Subdivision

South side of Jeff Hamilton Road, 1000'+ East of Snow Road.

23 Lots/11.0± Acres

Jerry Byrd, Byrd Surveying Company, was present on behalf of the applicant and requested that this application be held over until the next meeting, as there were still questions regarding the location of a street stub.

A motion was made by Dr.Laier and seconded by Mr. Vallas to holdover this application until June 16, 2005, meeting at the applicant's request.

The motion carried unanimously.

Case #ZON2005-00934 (Sidewalk Waiver)

Faith City Church

521 Mobile Street

(Northwest corner of Mill Street and Mobile Street, extending to the South side of McKinney Street).

A request to waive construction of sidewalks along Mill Street and McKinney Street was considered.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Dr. Rivizzigno to deny this request for the following reasons:

- 1) there is no engineering reason that prevents the construction of a sidewalk on the site; and
- 2) there is significant foot traffic in the area.

June 2, 2005

The motion carried unanimously.

EXTENSIONS:

Case #SUB2004-00103 (Subdivision)

Indian Commercial Park Subdivision, Phase II

South side of Zeigler Boulevard, 200'± East of Schillinger Road, extending to the East side of Schillinger Road, 300'± South of Zeigler Boulevard.

14 Lots / 7.0± Acres

The request for a one-year extension of a previous approval was considered.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant.

There was no one present in opposition.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request

The motion carried unanimously.

Case #SUB2003-00050 (Subdivision)

OSR Subdivision

5559 and 5565 Old Shell Road

(South side of Old Shell Road, 500'± East of University Boulevard).

3 Lots / 1.9± Acres

The request for a one-year extension of a previous approval was considered.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant.

There was no one present in opposition.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to approve this request

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2005-00103

Ahepa X Subdivision, Revised

East side of McCrary Road, 915'+ North of Moffett Road.

2 Lots / 6.0+ Acres

June 2, 2005

Ed Chapman, representing Speaks and Associates Consulting Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) the dedication of adequate right-of-way to provide 50 feet from the centerline of McCrary Road as shown on the plat submitted;
- 2) the placement of a note on the final plat stating that each lot is limited to one curb cut to McCrary Road, with the size, location and design to be approved County Engineering; and
- 3) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried.

Mr. Vallas recused from discussion and voting.

Case #SUB2005-00097

Austal USA LLC Subdivision

Southeast corner of Dunlap Drive and Highway 90, adjacent to the North side of Bankhead Tunnel.

1 Lot / 1.1± Acre

Don Rowe, Rowe Surveying and Engineering, was present on behalf of the applicant and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) the dedication of adequate right-of-way to provide 50 feet from the centerline of Highway 90;
- 2) the placement of a note on the final plat stating that access is limited to Dunlap Drive and Dunlap Service Road, with the number, location, size, and design to be approved by Traffic Engineering;
- 3) the placement of a note on the final plat stating that direct access to Highway 90 is denied; and
- 4) full compliance with the City Engineering Comments (the flood zone information provided on the plat is incorrect; correct information and minimum finished floor information will be required on the final plat; must comply with all stormwater and flood control ordinances; any work performed in the right of way will require a right of way permit).

June 2, 2005

The motion carried unanimously.

Case #SUB2005-00098

Coastal Waters East Subdivision

1065 Spring Hill Avenue

(Southeast corner of Spring Hill Avenue and Hallett Street).

1 Lot / 0.3± Acre

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve the above referenced subdivision subject to the following conditions:

- 1) adjustment of the property boundaries at the intersection corner to conform with Section V.D.6. of the Subdivision Regulations;
- 2) placement of a note on the Final Plat stating the site is limited to the existing curb cut along Spring Hill Avenue, and either the existing curb cuts onto Hallett Street, or one new reconfigured curb cut on the west side of the site along Hallett Street, contingent upon the removal of the existing curb-cuts onto Hallett Street, with the size, location and design to be approved by Urban Forestry and Traffic Engineering, and conform to AASHTO standards; and
- 3) provision of fill, appropriate plantings, and a new curb and gutter in the right-of-way area of the removed curb-cuts.

The motion carried unanimously.

Case #SUB2005-00105

Harry Cottrell Subdivision

5130 Roswell Road South

(West side of Roswell Road South, 255'± South of South Gate Drive South).

1 Lot / 1.0± Acre

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicants, Mr. and Mrs. Cottrell. Mr. Orrell stated that the applicants purchased this lot, which was in the County, eleven years ago. He said they simply wanted to build a house on it. When they tried to get a building permit they were told that they had to go through the subdivision process. Mr. Orrell said they have submitted a one-lot subdivision on this parcel, but the staff had some concerns because these were two larger lots that this parcel was carved out of. He said that they were asking for approval of this subdivision. Mr. Orrell said that when the other owners want to add onto their house or build a new house, they would have to submit a subdivision application. Mr. Orrell said that they would go through the subdivision application until the Probate Courts and lawyers quit writing

June 2, 2005

these deeds and letting people assess them and not come before the commission. He said that these people were in the dark. They were not aware of any subdivision regulations. The only way they found out about it was when they went to pull a building permit. Mr. Orrell said they had contacted the neighbors and they did not want to be a part of the subdivision. Mr. Orrell said that they were asking for approval so they could build their house.

Janis Cottrell, one of the applicants, said that they had already had the dirt hauled in and thought everything was all right. Ms. Cottrell said that they stopped everything until they went to get the building permit. She said that they spent a great deal of money and now they cannot get a permit.

Mr. Plauche asked Mr. Olsen to explain the staff's recommendation.

Mr. Olsen explained that the owner of the original lot (Lot 8, Little Park Subdivision) sold a portion before 1984. The property in question was sold to the applicants in 1994. As the original property owner still owns the remainder of the original Lot, both parcels would have to be included in the subdivision.

Mr. Plauche asked, if this were approved, if there would be any conditions that needed to be discussed.

Mr. Orrell said that he read in the staff report that a setback of 30' from Roswell Road to allow for future 5' of widening would be required. He said they had no problem with that or any of the recommendations that were in the report. It would be a burden, however, for the Cottrells to add all this other property because it was more than the Cottrells owned. The original lots ran perpendicular to the road. It would involve four different owners on this piece of property. Mr. Cottrell would be the one to bear the burden on everything and all they were simply trying to do was build a house. Mr. Orrell asked that the Cottrells not be made to bear the burden for something that they were not aware of.

A motion was made by Mr. Vallas and seconded by Mr. Miller to approve this plan subject to staff recommendations, along with sufficient dedication of right-of-way.

In further discussion Ms. Cochran stated that the rules concerning requirements of the subdivision were contained in the State law. They were in the Subdivision Regulations. They were not discretionary. Ms. Cochran said she understood the feelings of sympathy for the applicants, however, the lawyer that wrote the deed ought to be contacted. A real estate lawyer ought to know this. They have a private right of action against their seller. She said these were not new rules, but had been in effect since the 1950's. It was routine, and she did not know that there had ever been an occasion when it was not enforced here. If they couldn't contact the lawyer who wrote the deed, they could contact their lawyer. They have an action against their neighbor, the person that sold the property to them.

Mr. Vallas commented that it could drag out for years in the courts.

June 2, 2005

Ms. Cochran said she agreed that it was not a good situation for them. It was a terrible thing that had been done.

It was asked if Ms. Cochran was suggesting it might be unwise for the Commission to not pay attention to the existing regulations?

Ms. Cochran said if the sense of the Commission was that they wanted to grant relief on this application, she would at least ask for a holdover so that they would have time to do the research. She said once you go down this road, every case that will come to you will be a hardship. The original seller has violated the law. If this subdivision were approved, it would mean the Board would probably have to grant all such applications. That would destroy the very rule that was created in the first place.

Mr. Watkins asked Mr. Olsen what is the difference between receiving a letter from the surrounding land owners saying they do not want to participate, versus having the original owner come in and do what they were supposed to do in the first place, which was get a subdivision plat recorded.

Mr. Olsen explained that in the past the Commission had accepted letters from owners where property had changed hands on more than one occasion and the original owner of the parent parcel and or the illegally created parcel were not parties that created it. The difference in this instance was that the owners were the same as they were in 1994. The parcel to the north was, from everything he could determine from his research, created possibly before 1984, and also had changed hands at least three times.

Mr. Watkins asked for clarification as to whether the Commission was dealing with the lot immediately north, or just the L-shaped parcel and the parcel under consideration today.

Mr. Olsen said they were concerned with the L-shaped parcel and the parcel under consideration today.

Mr. Plauche called for a vote on the motion on the floor to approve the subdivision. The motion failed to carry.

Mr. Plauche asked if there was another motion.

Mr. Miller made a motion to holdover the application until the next meeting.

In further discussion Mr. Vallas asked if the purpose of the holdover was for the applicant to provide documentation from the owner.

Dr. Rivizzigno commented that the owners were going to have to be included in the subdivision application.

June 2, 2005

Ms. Cochran further stated that if they were her clients, she would write a letter to that property owner and attach a copy of the complaint. She said that she would say if he did not join in this application this lawsuit was going to be filed next week. Ms. Cochran said that she would send a copy to the lawyer who wrote the deed and say that it was illegal. It had been illegal for ten years, and he knew about it. She would then send a copy to the title company. Ms. Cochran said maybe if they had some sort of incentive, then perhaps they would budge.

Mr. Watkins wanted to make sure the applicants understood that they had some relief elsewhere, and that this was what it was going to take to get this brought into compliance. He asked Mr. Olsen if the other landowner refused, even taking Ms. Cochran's advice attaching a complaint and threatening a lawsuit, at what level were they just stuck here.

Mr. Olsen said that was more of a question for Ms. Cochran, but there had been cases where it went to circuit court and the judge basically offered two alternatives to the property owners. One was that they both or all be a party to the subdivision, or the sale be set aside.

Ms. Cochran said she could not really give a concrete answer right now. That was the reason she requested a holdover. She said if there was any way to work around this, they would certainly do that because it was a terrible situation for the applicants.

Mr. Plauche said a motion had been made to holdover the application until the June 16, 2005 meeting, to allow inclusion of the remainder of the property. He asked if there was a second.

Dr. Rivizzigno seconded the motion.

Mr. Plauche called for a vote.

The motion carried unanimously.

Case #SUB2005-00106

Graceland Subdivision

North side of Howells Ferry Road, ¼ mile± East of the North terminus of Havens Road.
10 Lots / 11.5± Acres

Ed Chapman, Speaks and Associates Consulting Engineers, was present representing the applicant and requested this application be held over until the next meeting.

A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until June 16, 2005, meeting at the applicant's request.

The motion carried unanimously.

June 2, 2005

Case #SUB2005-00100

Lakeside Commercial Park Subdivision, Tenth Addition, Resubdivision of Lots 2 & 3

755 Lakeside Drive West

(South terminus of Lakeside Drive West, extending to the West side of Lakeside Drive, 200'+ South of Lakeside Drive South).

2 Lots / 3.1± Acres

Don Rowe, Rowe Surveying & Engineering, was present on behalf of 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. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) the depiction of the 25-foot minimum building setback line on the Final Plat; and
- 2) conformance with all applicable regulations.

The motion carried unanimously.

Case #SUB2005-00109

McDuffie Estates Subdivision, Resubdivision of Lots 1- 5

10675 Wulff Road South

(South side of Wulff Road South, 385'± West of the South terminus of Hardeman Road).

4 Lots / 1.9± Acres

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) depiction of the minimum building setback line at 35 feet from the existing Wulff Road South right-of-way, in conformance with Section V.D.9. of the Subdivision Regulations;
- 2) placement of a note on the Final Plat stating that lots A-D are limited to one curb cut each, with curb cut sizes, location and design to be approved by County Engineering; and
- 3) 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.

June 2, 2005

Case #SUB2005-00101

Pecan Pointe Subdivision, 2nd Addition

South side of Howells Ferry Road, 870'± West of Raymond Tanner Road.
8 Lots / 5.0± Acres

Millard Austin, Austin Engineering, was present on behalf of the applicant. Regarding the staff's recommendation of a 25' setback, Mr. Austin said they had indicated a 45' setback on the plat, and asked if that would be okay.

Mr. Olsen said 45' was in excess of the minimum standards, but a 45' setback would be okay.

Regarding the recommendation that curb cuts be limited to four, Mr. Austin requested that five curb cuts be allowed. Lots 1 and 2 would each have a curb cut. Lots 3 and 4 would share a curb cut. Lots 5 and 6 would share a curb cut. Lots 7 and 8 would share a curb cut.

Mr. Plauche stated that Lot 1 already had a cut.

Mr. Austin stated that the staff report was incorrect. The house shown on Lot 1 was actually on Lot 2 and the driveway was on the right side of the lot facing the lot.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) the dedication of 10' as illustrated on the plat;
- 2) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each and Lots 3 and 4, Lots 5 and 6, and Lots 7 and 8 share one curb cut each with a total of five curb cuts to Howells Ferry Road, with the size, location, and design to be approved by County Engineering; and
- 3) the placement of a note on the final plat stating that any lots that 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 #SUB2005-00107

Rangeline Park Subdivision, Eight Addition, Resubdivision of Lots 1 & 2

South side of Rabbit Creek Drive, 500'± East of Rangeline Road.
3 Lots / 2.2± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and stated that they had no problems with the recommendations other than the limitation of to one curb cut for the entire subdivision. Mr. Orrell said they had 300' of

June 2, 2005

frontage and currently had two curb cuts. They were simply dividing one of the lots in half and adding to it and would require one more curb cut.

There was no one present in opposition.

A motion was made by Mr. Watkins and seconded by Mr. Vallas to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the Final Plat stating that lots 1-3 are limited to one curb cut each, location and design to be approved by County Engineering;
- 2) the provision of a 10-foot landscape buffer along the portion of the site fronting Rabbit Creek Drive;
- 3) approval of all applicable federal, state and local agencies, regarding the wetlands and floodplain issues, prior to the issuance of any permits;
- 4) the placement of a note on the Final Plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations;
- 5) correction of the labeled right-of-way width for Rabbit Creek Drive; and
- 6) the depiction of the 25' minimum building setback line. It is also recommended that the application be advised that submission of a revised composite Rangeline Park subdivision application reflecting changes that have occurred would be appropriate prior to the submission of any future applications.

The motion carried unanimously.

Case #SUB2005-00104

Springhill Place Subdivision

159 Bishop Lane North

(Northwest corner of Bishop Lane North and Broadway Drive).

8 Lots / 2.8± Acres

Ed Chapman, Speaks and Associates Consulting Engineers, was present on behalf of the applicant and noted that the staff had recommended this application be held over to the meeting of July 7, 2005. He said they could submit the required PUD application and other documentation next week, and asked that it be held over until the next meeting on June 16.

Mr. Plauche asked if there was anyone present who wished to speak on this application.

Maxine Spence, a resident of 354 Wacker Lane for over fifteen years, stated that she also had some of her neighbors with her. Ms. Spence said that this proposed subdivision backed up to her back yard. It was a wooded area behind her property that provided a buffer between her and the noise from I-65. She said her major concern was drainage or runoff from heavy rains. Ms. Spence said her yard sloped toward Wacker Lane and her driveway was about a 45-degree angle from the house down to the street. The area right now, because it was so heavily wooded with underbrush, helped diffuse some of that

June 2, 2005

runoff. If this area were cleared and homes built there, Ms. Spence felt the runoff would increase in the area. She said there were already drainage issues currently in Gulfwood that had been there for years and were still being addressed. Ms. Spence said she was also concerned about changing the setback line to allow them to build closer to the property line. She felt that she would probably have a two-story house almost against her back yard property line and that was not acceptable. Further, she had concerns with regards to additional traffic and usage or stress of water pressure in the sewer lines.

Mr. Plauche stated that the owner's representative had just requested a holdover of this application to the meeting of June 16, so the Commission would not vote on it today. He asked if anyone else wished to speak.

Weems Dorn, a resident at 604 Bishop Lane, which is directly across the street from the subject property, was also present in opposition. Mr. Dorn stated that the subject property was higher than their property and that was a concern. He was also interested in where the entrance would be in relation to his house. The plat showed that the entrance would be south of his house, across the street. Mr. Dorn said he was not raising objections, but was here to learn and get some insight into it.

A motion was made by Mr. Plauche and seconded by Dr. Laier to holdover this application until the June 16, 2005, meeting to allow the applicant time to submit a full Planned Unit Development application; documentation of unusual difficulty or circumstances, or of innovative design; and a revised plat illustrating compliance with private street standards, turnaround standards, and setbacks. These documents should be submitted by June 8th.

The motion carried unanimously.

Case #SUB2005-00099

Tylor Creek Subdivision

5745 and 5751 Lundy Road

(East side of Lundy Road at the East terminus of Huber Road).

5 Lots / 2.8± Acres

Mr. Plauche stated that the applicant was present and concurred with the staff recommendation.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve the above referenced subdivision subject to the following condition:

- 1) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

June 2, 2005

The motion carried unanimously.

Case #SUB2005-00108

Wildwood Addition to Pinehurst Subdivision

6052 Adkins Street

(Northwest corner of Wildwood Avenue and Adkins Street).

5 Lots / 1.1± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, as well as Mark Perez, the developer, were present in this matter. Regarding the staff recommendation requiring the submission of documentation establishing the parcel in its present configuration prior to 1952, or inclusion of the entirety of all lots in the application, Mr. Orrell said that this was part of the Pinehurst Subdivision; that the house that was on the parcel they were subdividing was purchased in 1967; and there were also houses on all the parcels to the west that were part of the original tracts. Mr. Perez had a letter signed by all the neighbors stating that they did not wish to be a part of this subdivision.

With regard to recommended condition #4 requiring a 20' setback from Adkins Lane for proposed Lot 1, Mr. Orrell asked that they be allowed to have a 12' setback instead. He said that would make the lot more buildable. The house would face Wildwood Avenue, and they would have the standard 8' setback on the north side of Lot 1. Mr. Orrell said that they would comply with the requirement to dedicate sufficient right-of-way to provide 25' from the centerlines of Wildwood Avenue and Adkins Street.

Mr. Olsen stated that the 20' setback recommended by the staff corresponded with the requirement of the Zoning Ordinance for a 20' setback where a corner lot has a lot to its rear that fronts on the side street. The Zoning Ordinance requires a minimum setback for the corner lot to be 20'.

Mr. Watkins asked if there was a reason why Lot 2 was 64' and Lot 1 was 60'. He said he could understand if they wanted to knock it down to maybe 16 feet if Lot 1 was 64' wide, as opposed to Lot 2 being 64'.

Mr. Perez, the applicant, said he had certain floor plans that were going on all these Lots already aligned. He said the floor plan that was going on that lot would require that setback. Mr. Perez asked the Commission to take into consideration that they were donating right-of-way in consideration for the setback on Lot 1.

Mr. Orrell said he recalled that in the past they have had setbacks that were below City minimum if the Planning Commission so approved.

Mr. Perez further noted that the current owners, who he was in partnership with, purchased the property in the early '60's and the existing building that was pretty close to the setback was there at the time, as was the house. The lots had already been subdivided. So all this situation arose prior to 1967.

June 2, 2005

In later discussion Mr. Olsen was asked to comment on the setback situation.

Mr. Olsen stated that the Zoning Ordinance requires for a corner lot, where there is a lot to its rear that fronts on a side street, a side yard setback of 20'. So, even if the Commission allowed a 12' setback line on the final plat, the Zoning Ordinance setback of 20' would still be applicable. The applicant would have to go to the Board of Adjustment for a variance.

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 25 feet from the centerlines of Wildwood Avenue and Adkins Street, as illustrated on the preliminary plat;
- 2) documentation of the outbuilding in its present location prior to 1967, or its removal; and
- 3) the depiction of the 20' setback from Adkins Lane for proposed Lot 1.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED: August 4, 2005

Victor McSwain, Secretary

Terry Plauche, Chairman

vm