

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JULY 11, 2002 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Robert Frost, Chairman
Wendell Quimby, Vice-Chair
Victor McSwain, Secretary
Victoria L. Rivizzigno
Ann Deakle
Norman Hill (S)

Members Absent

John Vallas
Terry Plauche
Clinton Johnson
James Laier (S)

Staff Present

Christopher Boone, Deputy Director
Land Use Administration
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Shayla Jones, Planner I
Frank Palombo, Planner I
Jennifer Henley, Secretary II

Others Present

John Lawler, Assistant City Attorney
Ron Jackson, Urban Forestry
Bill Metzger, Traffic Engineering
Beverly Terry, City Engineering
Pat Stewart, County 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 Dr. Rivizzigno and seconded by Ms. Deakle to approve the minutes of the May 16, 2002, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #ZON2002-01302

Premier Capital Funding, Inc.

3241 South Avenue (Northwest corner of South Avenue and West I-65 Service Road North).

The request for a change in zoning from R-1, Single-Family Residential, to B-1, Buffer Business for professional offices was considered.

The site plan illustrates the proposed building, proposed parking and proposed lots.

(Also see Case #SUB2002-00129 – **Werkland Subdivision, Resubdivision of Lot 8 and Parts of Lots 9 & 10** – Below)

Mr. Boone said that the staff had revised their recommendation based on the latest information they had received. The revised report had been submitted to the Commission.

Mr. Marshall A. McLeod, P.L.S., L.L.C., was representing the applicant and concurred with the staff's revised conditions.

Ms. Pappas said that the recommendation was in line with what the Commission had recommended when this was before them previously. The staff was requesting that the applicant maintain the existing line of B-1 zoning. The lot to the west had been sold off via metes and bounds and the applicant now owned the entire property. The staff had recommended that the deed be re-recorded to eliminate the metes and bounds issue.

July 11, 2002

Ms. Leigh Buffkin was present and stated that she lived in the immediate area. She inquired if they were recommending that the entire Lot 7 be redeeded back into the parcel located at 63 South Bishop Lane.

Mr. Boone replied yes; the staff wanted to see it as a single lot. He pointed out on the map what was being requested for clarification. He said that the staff was recommending that the B-1 not go any further west.

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

- (1) that the existing pattern of demarcation between commercial and residential be maintained (this will require the submission of a revised legal description);
- (2) denial of direct access to South Avenue;
- (3) the recording of a deed for all of Lot 7, Werkland Subdivision; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2002-00129

Werkland Subdivision, Resubdivision of Lot 8 and Parts of Lots 9 & 10

3241 South Avenue and 65 South Bishops Lane (North side of South Avenue, extending from West I-65 Service Road North to South Bishops Lane).

2 Lots / 0.5± Acre

(For discussion see Case #ZON2002-01302 – **Premier Capital Funding, Inc.** – Above)

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

- (1) that the interior lot line correspond with the zoning districts; and
- (2) placement of a note on the final plat stating that Lot 1 is denied direct access to South Avenue.

The motion carried unanimously.

Case #SUB2002-00125

Omni Office Park Subdivision, Sixth Addition

North side of Omni Park Drive, 415'± East of Hillcrest Road.

1 Lot / 0.4± Acre

Mr. Don Coleman with 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 Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following condition:

- (1) the provision of a buffer in compliance with Section V.A.7. where the site adjoins residential property.

The motion carried unanimously.

Case #SUSB2002-00090

Rosedale Subdivision, Striverson's Addition to

2206 John's Lane (West side of John's Lane, 870'± South of Military Road).

2 Lots / 0.6± Acre

The applicant was present and concurred with the staff recommendations.

July 11, 2002

There was no one present in opposition.

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

- (1) the placement of a twenty-five foot minimum building setback line of the final plat.

The motion carried unanimously.

Case #SUB2002-00121

Youngstowne Hill Subdivision

West terminus of Youngstowne Drive.

62 Lots / 40.0± Acres

Mr. Boone said that the applicant had requested that this application be heldover until the meeting of August 8, 2002.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Mr. McSwain to holdover this application until the meeting of August 8, 2002, at the applicant's request.

The motion carried unanimously.

EXTENSIONS:

Case #ZON2001-01581

Idlewood Subdivision, Addition to

Southeast corner of Old Military Road and River Bend Drive.

Planned Unit Development Approval to allow a residential subdivision with reduced lot areas and reduced widths.

Request for one-year extension of previous approval.

AND

Case #SUB2001-00175

Idlewood Subdivision, Addition to

Southeast corner of Old Military Road and River Bend Drive.

30 Lots / 7.7± Acres

Request for one-year extension of previous approval.

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

The motion carried unanimously.

Case #ZON2001-01582

Mobile Infirmary Associations (Mark Nix, Agent)

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

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

Request for one-year extension of previous approval.

A motion was made by Mr. Quimby and seconded by Dr. Rivizzigno 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 Master Plan.

July 11, 2002

Mr. Frost recused. The motion carried.

Case #SUB2001-00177

File #S96-193

Bellingrath Road Country Club Estates Subdivision, Addition to

East terminus of Country Club Boulevard and extending through to the Southwest corner of Old Military Road and Section Line Road.

569 Lots / 243.0± Acres

Request for one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00229

Delwood Court Subdivision

2557 Delwood Drive South (South side of Delwood Drive South, 150'± East of Delwood Drive West).

2 Lots / 6.0± Acres

Request for one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00182

File #S96-171

Rangeline-Hamilton Industrial Park

West side of Rangeline Road, 1250'± North of Hamilton Boulevard (Island Road).

46 Lots / 152.0± Acres

Request for one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Mr. Quimby to deny this request for a one-year extension of approval for this application as there have been four extensions since the original approval and no units have been recorded.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2002-01355

Mobile Housing Board

300, 302 and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the west side of Mobile Street).

The request for Planning Approval to allow a domiciliary care facility at an existing retirement home in an R-3, Multi-Family Residential District was considered.

The site plan illustrates the existing buildings, parking, proposed buildings, and the proposed 35' widening strip along Mobile Street.

(Also see Case #ZON2002-01357 – **Central Plaza Towers** – Below; and Case #SUB2002-00131 – **Central Plaza Towers Subdivision** – Below)

Mr. Hill recused himself from the discussion and vote regarding this matter.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

July 11, 2002

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

- (1) dedication of sufficient right-of-way to provide 50' from centerline along Mobile Street;
- (2) dedication of sufficient right-of-way to provide 25' from centerline along Frederick Street;
- (3) provision of a sidewalk along Frederick Street;
- (4) the exact location of the building be coordinated with Urban Forestry to provide as much protection to the 72" tree as possible;
- (5) permits to trim the tree be obtained prior to issuance of any building or land disturbing permits; and
- (6) provision of frontage trees along Mobile Street and Bay Shore Avenue.

Mr. Hill recused. The motion carried.

Case #ZON2002-01357

Central Plaza Towers

300, 302 and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the West side of Mobile Street).

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

The site plan illustrates the existing buildings, parking, proposed buildings, and the proposed 35' widening strip along Mobile Street.

(For discussion see Case #ZON2002-01355 – **Mobile Housing Board** – Above; also see Case #SUB2002-00131 – **Central Plaza Towers Subdivision** – Below)

Mr. Hill recused himself from the discussion and vote regarding this matter.

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

- (1) dedication of sufficient right-of-way to provide 25' from centerline along Frederick Street;
- (2) dedication of sufficient right-of-way to provide 25' from centerline along Frederick Street;
- (3) provision of a sidewalk along Frederick Street;
- (4) the exact location of the building be coordinated with Urban Forestry to provide as much protection to the 72" tree as possible;
- (5) permits to trim the tree be obtained prior to issuance of any building or land disturbing permits; and
- (6) provision of frontage trees along Mobile Street and Bay Shore Avenue.

Mr. Hill recused. The motion carried.

Case #SUB2002-00131

Central Plaza Towers Subdivision

300, 302 and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the West side of Mobile Street).

1 Lot / 15.2± Acres

(For discussion see Case #ZON2002-01355 – **Mobile Housing Board** – Above; also see Case #ZON2002-01357 – **Central Plaza Towers** – Above)

Mr. Hill recused himself from the discussion and vote regarding this matter.

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

- (1) dedication of sufficient right-of-way to provide 25' from centerline along Frederick Street;
- (2) dedication of sufficient right-of-way to provide 25' from centerline along Frederick Street; and
- (3) provision of a sidewalk along Frederick Street.

Mr. Hill recused. The motion carried.

Case #SUB2002-00130

DiStefano Subdivision

3347 Halls Mill Road (East side of Halls Mill Service Road [Private Road], 230'± South of Halls Mill Road).

1 Lot / 0.7± Acre

(Also see Case #ZON2002-01296 – **Eugene Antoine** – Below)

This application was withdrawn by the applicant prior to the meeting.

Case #ZON2002-01296

Eugene Antoine

3347 Halls Mill Road (East side of Halls Mill Service Road [Private Road], 230'± South of Halls Mill Road).

Request to waive construction of a sidewalk along the Interstate 65 frontage.

(Also see Case #SUB2002-00130 – **DiStefano Subdivision** – Above)

This application was withdrawn by the applicant prior to the meeting.

Case #ZON2002-01448

David Wilkins

West side of East Drive, 3/10 mile± South of Old Shell Road, extending to the East side of Center Drive.

The request for a change in zoning from R-1, Single-Family Residential, to R-2 Two-Family Residential, for a 20-lot, zero-lot line patio home subdivision was considered.

(Also see Case #ZON2002-01447 – **Magnolia Place Subdivision** – Below; and Case #SUB2002-00133 – **Magnolia Place Subdivision** – Below)

Mr. David Wilkins, applicant, was present on behalf of the developer. He stated that they had already dedicated the right-of-way required by the proposed recommendations. However, it had not been accepted at this time. He had a concern regarding the staff's recommendation that the alleys be a minimum of 15'. He had spoken with Mr. Metzger in Traffic Engineering and it was Mr. Wilkins's understanding that it would be acceptable to have the easement be 15' wide, with the actual paving only 12' wide.

Mr. Metzger said this was acceptable.

Mr. Boone said this would be acceptable to the staff.

Ms. Mary Desverreaux was present and stated that she was on the board of directors of Sussex Place. They had no problem with this development provided that the conditions from the previous approval carried over. She explained that this application had been previously approved by the Commission, but had expired.

Mr. Frost felt that the proposed conditions were the same as last time.

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

- (1) the site be developed in compliance with the accompanying PUD, as revised by these approvals;

July 11, 2002

- (2) dedication of any necessary right-of-way along Center Drive to provide 25-feet from the centerline;
- (3) denial of access to Center Drive until such time as Center Drive is constructed to city standards;
- (4) dedication and construction of the proposed street to city standards, including a cul de sac;
- (5) that the alleys be a minimum of 15-feet wide, 12' paved, one-way, approved by Traffic Engineering, with a note on the final plat stating that the maintenance thereof is the responsibility of the property owners; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2002-01447

Magnolia Place Subdivision

West side of East Drive, 3/10 mile± South of Old Shell Road, extending to the East side of Center Drive.

The request for Planned Unit Development Approval to allow a residential subdivision with amended lot sizes, setback lines, and site coverage limits was considered.

(For discussion see Case #ZON2002-01448 – **David Wilkins** – Above; also see Case #SUB2002-00133 – **Magnolia Place Subdivision** – Below)

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

- (1) dedication of right-of-way along Center Drive to provide 25-feet from the centerline;
- (2) denial of access to Center Drive, until such time as Center Drive is constructed to city standards;
- (3) dedication and construction of the proposed street to city standards, including a cul de sac;
- (4) that the alleys be a minimum of 15-feet wide, 12' paved, one-way, approved by Traffic Engineering, with a note on the final plat stating that the maintenance thereof is the responsibility of the property owners;
- (5) that the building limit lines for each lot be modified—in situations where a setback is provided, it must be a minimum of five-feet, zero-setbacks cannot occur adjacent to each other, nor on the exterior lot lines of the overall development; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2002-00133

Magnolia Place Subdivision

West side of East Drive, 3/10 mile± South of Old Shell Road, extending to the East side of Center Drive.

20 Lots / 4.4± Acres

(For discussion see Case #ZON2002-01448 – **David Wilkins** – Above; also see Case #ZON2002-01447 – **Magnolia Place Subdivision** – Above)

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

- (1) dedication of any necessary right-of-way along Center Drive to provide 25-feet from the centerline;
- (2) denial of access to Center Drive, until such time as Center Drive is constructed to city standards;
- (3) dedication and construction of the proposed street to city standards, including a cul de sac;
- (4) denial of direct access to Center Drive, except via the new street;

July 11, 2002

- (5) that the alleys be a minimum of 15-feet wide, 12' paved, one-way, approved by Traffic Engineering, with a note on the final plat stating that the maintenance thereof is the responsibility of the property owners;
- (6) that all common areas be denoted as such, with a note on the final plat stating that the maintenance thereof shall be the responsibility of the property owners; and
- (7) that the building limit lines for each lot be reflected on the final plat (in situations where a setback is provided, it must be a minimum of five-feet, zero-setbacks cannot occur adjacent to each other, nor on the exterior lot lines of the overall development).

The motion carried unanimously.

Case #ZON2002-01458

Springhill Memorial Subdivision

3719 Dauphin Street (South side of Dauphin Street, adjacent to the East side of Montlimar Creek Drainage Canal, extending to the West side of the West I-65 Service Road South, 180'± North of Springhill Memorial Drive North).

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

The site plan illustrates the existing buildings, existing parking, proposed buildings and additions to the master plan, and proposed lot resubdivision.

(Also see Case #SUB2002-00134 – **Springhill Memorial Subdivision, Resubdivision of Lot “A”** – Below)

Mr. Don Rowe of Rowe Surveying & Engineering Company, Inc., was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) submission of documentation to establish the metes and bounds parcel as a lot of record prior to 1954, or submission and approval of a subdivision application prior to issuance of a CO;
- (2) provision of sidewalks along all street frontages, or submission and approval of a sidewalk waiver request;
- (3) provision of landscaping and tree plantings in compliance with numbers and ratios in Section IV.E.3 of the Zoning Ordinance;
- (4) approval of all curb cuts by the Traffic Engineering Department; and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2002-00134

Springhill Memorial Subdivision, Resubdivision of Lot “A”

3719 Dauphin Street (South side of Dauphin Street, adjacent to the East side of Montlimar Creek Drainage Canal).

2 Lots / 10.9± Acres

(For discussion see Case #ZON2002-01458 – **Springhill Memorial Subdivision** – Above)

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

- (1) limited to the accompanying PUD; and
- (2) approval of all curb cuts by the Traffic Engineering Department.

July 11, 2002

The motion carried unanimously.

NEW PLANNING APPROVAL APPLICATION:

Case #ZON2002-01295

Kidd Jamm

2801 Knollwood Drive (East side of Knollwood Drive at the East terminus of Antoine Road).

The request for Planning Approval to allow a child daycare center at an existing church in an R-1, Single-Family Residential District was considered.

The site plan illustrates the existing structure and parking.

Mr. M. Don Williams of M. Don Williams Engineering was representing the applicant. He thought that the reason the staff had recommended a holdover was so they could more accurately depict on the site plan the location of a playground that was surrounded by a chain link fence. He pointed out on the map where everything was located on the site, including the church, tractor shed and the playground. He submitted photographs illustrating the playground. They had not shown the entire site on the plan because a large portion of the site was wooded. They did not want to hold this over because the daycare was almost ready to open.

Mr. Olsen said that the site plan submitted did not show any information on the back half of the property. The site was wooded, but they had not received any information regarding the trees so they could not determine if there were any that needed to be preserved or protected. The playground was depicted in the photographs submitted, but the staff had not had a chance to fully review them and it appeared that there was some other playground equipment not located within the fenced-in play area. They felt that it should be heldover so they could get a more accurate site plan. He pointed out that the Commission had heldover a similar application at the last meeting for almost the same reason. Mr. Olsen felt that it would be acceptable to hold this over until July 25, 2002, instead of August 8, 2002.

Mr. Williams felt that holding this over to the July 25, 2002, meeting would be more agreeable to his clients.

Mr. Thomas Farrell of 2805 Kings Mill Drive East was present and stated that he was concerned about traffic on Knollwood Drive during drop-off and pick-up times. He said that traffic on Knollwood Drive was very heavy and moved at a rapid pace. He asked that the City consider some type of measures to slow this traffic down.

A motion was made by Dr. Rivizzigno and seconded by Mr. Hill to holdover this application until the meeting of July 25, 2002, to allow the applicant to submit a revised site plan depicting the entire property and illustrating the location of the playground.

The motion carried unanimously.

Mr. Frost urged the applicant to get the revised information to the staff by Monday, July 15, 2002.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2002-00142

Dykes Road Estates Subdivision, W. D. Seigler Addition to, Resubdivision of Lot A

10360 Turmac Drive (North side of Turmac Drive, 820'± West of Dykes Road).

3 Lots / 3.9± Acres

Mr. Joe Regan of Regan Land Surveying, Inc., was representing the applicant and stated that one of the reasons the staff had recommended that this application be denied was because Lots 2 and 3 did not have 25' of frontage to a public street. He said that providing this frontage was acceptable to the applicant, but they had not had a chance to draft a revised site plan. He noted that another reason for the recommendation for denial

July 11, 2002

was that the lots were out of character with the surrounding area. He inquired if this was because of the size of the lots.

Mr. Boone said that the staff was concerned with the shape and number of the lots. He pointed out that all of the lots in the immediate area fronted Turmac Drive in a similar manner. The staff was concerned that there would be two flag-shaped lots behind the front lot. The staff had started looking at how flag-shaped lots fit in with surrounding neighborhoods. Such lots were allowed, but typically they were more agreeable on the waterfront or if there were only one or two. Mr. Boone said that it appeared that without more street frontage, access to the rear lots would be difficult.

Mr. Regan said that the parcel to the west of this site was flag-shaped and there was no access to Dykes Road from the parcel to the west. He asked that this be heldover so they could submit a revised plan to possibly address these concerns.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Hill to holdover this application until the meeting of August 8, 2002, to allow the applicant time to submit a revised plat.

The motion carried unanimously.

Case #SUB2002-00139

East Drive Place Subdivision

19 East Drive (East side of East Drive, 160'± South of Old Shell Road).

3 Lots / 0.8± Acre

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

There was no one present in opposition.

A motion was made by Ms. Deakle and seconded by Mr. Quimby to approve this subdivision.

The motion carried unanimously.

Case #SUB2002-00136

Emogene Place Subdivision, Resubdivision of Lot 14

127 Emogene Place (Northeast corner of Emogene Street and Emogene Place).

2 Lots / 0.4± Acre

Mr. Marshall A. McLeod, P.L.S., L.L.C., was representing the applicant and concurred with the staff recommendations.

Mr. David Rayfield of 122 Emogene Place was present and stated that the division of this lot would be in direct violation of the restrictive covenants for Emogene Place Subdivision. These covenants stated that no residential structure could be placed on any lot which had an area or width of less than that shown for the original lots as platted and recorded. If subdivided, the property in question would no longer comply with the covenants. Mr. Rayfield said that in 1993, the residents had opposed a rezoning from R-1 to R-2 that was denied, six lots north of the subject property. He felt that the rezoning application might come back up if this subdivision was approved. He also did not think that sanitary sewer was available for this site. He was concerned that this property would one day be sold to the owners of the daycare to the east.

Mr. Frost said that the application submitted by the applicant indicated that they did have access to sanitary sewer.

Mr. Rayfield did not think there was a sewer line running through this area.

July 11, 2002

Mr. Frost said that the restrictive covenants were not within the Commission's purview. He understood the neighbor's concerns, but this was something that would have to be addressed in court based on something filed by the concerned neighbors if they felt it was warranted. Mr. Frost commented that the Commission did not consider matters of use when one was simply subdividing property.

Mr. Rayfield said that a member of the staff had told him that there had been some property developed in this manner to the east. However, Mr. Rayfield commented that this property was not located within Emogene Place Subdivision.

Mr. Boone commented that the application indicated that Mobile Area Water and Sewer Service would provide service to this lot. He said that the combined area of both lots would be about 15,000 sq. ft. For Lot 2 to be developed it would have to be twice the size it is to be developed on a septic system, so all of this would come out prior to any permitting.

Ms. Anna Swider of 112 Emogene Place was present and stated that she had lived at this location for 45 years. During the time she had lived here several similar situations had come up to try to change the character of the neighborhood and they had always banded together as neighbors to oppose such applications. She said that there were several others present today in opposition. She asked that this be denied. She was concerned that this would set a precedent.

Mr. Boone said that there was a petition in the file with approximately 30 signatures in opposition to the proposed subdivision.

Ms. Debbie Davis of 127 Emogene Place, applicant, was present and stated that all she was trying to accomplish at this phase was to subdivide the property and put in a small cottage that would look similar to the other homes facing Emogene Street. Her family had owned the subject property for 45 years and they felt that what was being proposed would be positive for the neighborhood. She did not feel that what she was planning would be out of character.

In discussion, Mr. Quimby inquired if both the lots would meet the 7,200 sq. ft. minimum.

Mr. Boone replied yes.

Dr. Rivizzigno felt that this was in the spirit of smart growth.

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

- (1) placement of the required 25' minimum building setback line along Emogene Street.

The motion carried unanimously.

Case #SUB2002-00132

Farnell Place Subdivision

Northwest corner and Southwest corner of Farnell Drive and Navco Road.

4 Lots / 0.9± Acre

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

Mr. Arthur Green, Jr., of 2504 Farnell Drive was present and inquired where the proposed driveways would be located.

Mr. Boone said that the staff was recommending that Lots 2 and 3 only have access to Farnell Drive and not Navco Road, and Lots 1 and 4 be limited to one access to Navco

July 11, 2002

Road. He was unsure exactly where they would be located, but the staff was trying to limit how many they had and where they would be located when they actually went in.

Mr. Green was concerned about traffic as there had been a lot of wrecks in this area. He inquired how the lots would be divided.

Mr. Boone pointed this out on the map. He said that the property was currently two lots and they wanted to have a total of four. He commented that the lots would meet the minimum standards in regard to size.

Mr. Green was concerned that because the new lots would be smaller than the surrounding lots, his property values would be adversely affected. He reported that there was a drainage ditch near Lot 1 that was supposed to be maintained by the City. However, this ditch was never cleaned out, though he had logged several complaints and calls. He was concerned about drainage, which was currently a problem, when these new homes were constructed.

Dr. Rivizzigno inquired why a barrier had not been recommended for Lot 4.

Mr. Boone said that this could be required. However, the staff was typically more sensitive when there was commercial going up against residential.

Mr. Orrell felt that any buffer should be the responsibility of the commercial property owners.

Mr. Boone thought that the buffer requirement would come up at the time of permitting.

Mr. McSwain was unsure why the applicant would be required to buffer the residential property from the existing commercial.

Mr. Boone commented that this was a requirement of the Ordinance.

Mr. Orrell asked that this not be made a condition if the application was approved.

In discussion, a motion was made by Ms. Deakle and seconded by Mr. McSwain to approve this subdivision subject to the recommendations made by the staff.

Mr. McSwain said that he had a problem requiring the buffer.

Mr. McSwain withdrew his second.

Mr. Boone said that this issue mostly came up when commercial was going beside residential and not vice versa. However, these residents might not care now, but future residents might not want to be next to commercial property with no screening, though the future residents could put in the buffer themselves.

Ms. Deakle amended her motion and was seconded by Mr. Hill to approve this subdivision subject to the following conditions:

- (1) placement of a note on the final plat stating that Lots 2 & 3 limited to one curb cut each to Farnell Drive, with the size, location and design to be approved by the Traffic Engineering Department;
- (2) placement of a note on the final plat stating that Lots 1 & 4 are limited to one curb cut each to Navco Road;
- (3) placement of the required 25' minimum building setback lines along Navco Road and Farnell Drive; and
- (4) no buffer is to be required of the residential property between the residential and industrial property.

Dr. Rivizzigno felt that when the property started to change hands the new owners might have a problem with this.

July 11, 2002

Mr. Frost felt that the issue of drainage could be handled with the laws that were in place.

The question was called. Dr. Rivizzigno and Mr. Quimby were opposed. The motion carried.

Case #SUB2002-00141

Figures & Browning Place Subdivision

Southeast corner of Moffett Road and Bear Fork Road.

2 Lots / 5.4± Acres

Mr. Ty Irby was present on behalf of Mr. Charles Browning, the owner of the proposed Lot 1. He commented that several members of the Figures family were also present regarding the proposed Lot 2. Mr. Irby said that previously they had submitted a rezoning application for Lot 1, which was approved. However, when the survey was done for the rezoning application, they discovered that the property line ran through an existing home. He said that the subdivision plat submitted did not show the existing driveway, so he submitted a revised plan showing this. He had a concern regarding the staff's recommendation that Lot 2 be limited to two curb cuts to Bear Fork Road. Mr. Irby said that the Figures family had used an existing driveway for many years and they were trying to cut the driveway out of Mr. Browning's property and add it to their own property. If they could not have the existing driveway to Moffett Road, they did not need the subdivision.

Mr. Frost felt that it might be best to hold this over so they could review the situation further.

There was a brief discussion regarding what was shown on the plan and the purpose behind the subdivision.

Mr. Joe Regan of Regan Land Surveying, Inc., engineer for the site, was present and stated that the old site plan and the plan for the rezoning application showed the driveway. However, the driveway was inadvertently left off of the subdivision plat submitted with this application. He said that they wanted the one driveway to Moffett Road and one curb cut to Bear Fork Road.

Mr. Frost inquired if they were planning to pave the driveway.

Mr. Regan replied no. He said that they could not move forward with the rezoning application until this was resolved.

Mr. Alfred Figures was present and stated that he was one of the owners of Lot 2. He objected to the condition regarding the limitation of driveways to Bear Fork Road. He said that the existing home faced Moffett Road.

Mr. Raymond Figures was present and stated that his family had used the driveway for over 80 years. He felt that it would be best to holdover this application so the Commission could visit the site and see where the driveway was located. He commented that there were some large oak trees near where a driveway to Bear Fork Road would be located. He did not want to see those trees disturbed. He pointed out the driveway on the map.

A motion was made by Mr. Frost and seconded by Mr. Quimby to holdover this application until the meeting of July 25, 2002, to allow the applicant time to submit a revised site plan showing the existing access to Moffett Road.

Mr. McSwain did not see a problem allowing them to have the curb cut to Moffett Road.

Mr. Olsen said that the staff wanted to see how changing the legal description would affect the rezoning application.

The question was called. The motion carried unanimously.

July 11, 2002

Case #SUB2002-00135

Johnson Road Estates Subdivision, Resubdivision of Lots 1 & 2

Southeast corner of Johnson Road West and Jeff Hamilton Road.

2 Lots / 5.4± Acres

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

There was no one present in opposition.

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

- (1) the provision of a 75' setback from the centerline to provide for the right-of-way of the planned major street, which includes the required 25' minimum building setback;
- (2) the placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Johnson Road, with the location and design to be approved by the County Engineering Department;
- (3) the placement of a note on the final plat stating Lot 2 is limited to one curb cut to Johnson Road, with the location and design to be approved by the County Engineering Department; and
- (4) the placement of a note on the final plat stating that if any lot is developed commercially and adjoins residential property, a buffer in compliance with Section V.A.7. will be provided.

The motion carried unanimously.

Case #SUB2002-00140

Lloyds Station Subdivision

North side of Lloyds Station Road, 590'± East of Interstate 10.

4 Lots / 1.5± Acres

Mr. Don Rowe of Rowe Surveying & Engineering Company, Inc., was representing the applicant and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to waive Section VIII.E.2.c. of the Subdivision Regulations regarding the minimum right-of-way width to allow a 25-foot right-of-way and approve this subdivision under the family division section of the Subdivision Regulations subject to the following conditions:

- (1) compliance with Section VIII.E. (except the right-of-way width requirement); and
- (2) provision of a 25-foot minimum building setback along the private street.

The motion carried unanimously.

Case #SUB2002-00143

Riverview Pointe Subdivision, Resubdivision of a Portion of Lot 5, Resubdivision of Lots 8 and 9

West side of Dog River Road, 180'± North of the West terminus of Bridgeview Trail.

2 Lots / 3± Acres

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

There was no one present in opposition.

July 11, 2002

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

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

The motion carried unanimously.

Case #SUB2002-00144

Stonegate Subdivision

6701 Dickens Ferry Road (South side of Dickens Ferry Road, 155'± West of Burtonwood Drive).

1 Lot / 15± Acres

Mr. M. Don Williams of M. Don Williams Engineering was representing the applicant and stated that he had a concern regarding the staff recommendation for the provision of a buffer where the site adjoins R-1. He pointed out the subject property on the map. He said that the Subdivision Regulations would require a 6' high fence or a landscaped buffer between the subject property and the residential homes. He said that this property was developed in 1980. If required they would have to put in a 2,000' buffer. He commented that there was a fairly dense buffer along part of this area and there was a 6' high chain link fence. He submitted photographs of the site. He stated that they were not planning any new construction. He said that there were townhomes/apartments existing on the site and the owner was planning to turn them into condominiums.

Mr. Frost inquired why they had applied for a subdivision.

Mr. Williams said that the staff had said they needed to clean up a metes and bounds legal description from 1980 and to include the ditch, which was on a separate parcel.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that the site is denied access to Hounds Run and Burtonwood Drive.

The motion carried unanimously.

Case #SUB2002-00138

Town West Plaza Subdivision, First Addition, Resubdivision of Lot 1

South side of Moffett Road, 180'± West of the South terminus of Foxfire Lane.

2 Lots / 0.9± Acre

This application was heldover by the applicant prior to the meeting.

Case #SUB2002-00137

Wycoff Subdivision

185 Oklahoma Drive (West side of Oklahoma Drive, 600'± South of its North terminus).

2 Lots / 0.7± Acre

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

The motion carried unanimously.

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

July 11, 2002

- (1) the placement of the 25-foot minimum setback line for Lot 1 where the minimum building width is 60-feet.

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2002-01298

Doug Graham, Owner (M. Don Williams, Agent)

6428 Airport Boulevard (North side of Airport Boulevard, 590'± West of Hillcrest Road).

Request to waive construction of a sidewalk along Airport Boulevard Service Road.

Mr. M. Don Williams of M. Don Williams Engineering was representing the applicant.

There was no one present in opposition.

In discussion, a motion was made by Mr. Frost and seconded by Mr. McSwain to approve this request.

Dr. Rivizzigno inquired why this sidewalk waiver was necessary.

Mr. Boone said that they had recommended approval because there was not a proper service road. It was somewhat of a service road/parking lot that spilled into the property. There was enough room to build one, but the logistics were a problem.

The question was called. The motion carried unanimously.

Case #ZON2002-01299

Government Street Baptist Church

3401 Government Boulevard (Southwest corner of Government Boulevard and Interstate Highway 65).

Request to waive construction of a sidewalk along the West I-65 Service Road South.

The applicant was present.

There was no one present in opposition.

In discussion, a motion was made by Mr. Frost and seconded by Mr. McSwain to approve this request.

Dr. Rivizzigno inquired why this sidewalk waiver was necessary.

Mr. Boone said that there was a drainage swail that was typical along service roads.

The question was called. The motion carried unanimously.

OTHER BUSINESS:

Public Hearing: To consider a proposed amendment to the Chart of Permitted Uses of the Zoning Ordinance for various uses located within the Hank Aaron Loop.

Mr. Boone said that the amendment before the Commission was a part of the implementation of the Downtown Residential Plan. A few months ago the Commission and the City Council adopted some Ordinance changes to allow higher density, higher buildings, reduced setbacks, and lessening of parking requirements. The amendment proposed today was another part of that implementation. The Planning Commission's subcommittee went through the Ordinance specifically looking at B-4 and tried to remove many of the more offensive uses with regard to residential development downtown. What was before them today was the subcommittee's recommendation. Another portion of the amendment before them today was in regard to teen clubs. The City Council and the Mayor had raised some concerns about teen clubs being downtown, so as part of this

July 11, 2002

amendment they had added the teen club issue. The staff was proposing that there be no more teen clubs allowed within B-4 districts. They would certainly be allowed in other districts such as B-3, but not in B-4. Any existing teen clubs in B-4 would be able to continue operating as a non-conforming use in perpetuity unless they shut down for a period of more than two years.

Mr. Frost inquired if there was a definition for teen club.

Mr. Boone replied no; not in the Zoning Ordinance.

Mr. Frost inquired what the staff's understanding of a teen club was.

Mr. Boone felt that it was an establishment that only allowed patrons under the age of 18; a bar that did not sell alcohol and was geared toward teenagers. The staff was not interested in banning them, but there had been some problems in the downtown area and they had received some requests to limit the further development of those uses in the downtown area.

Mr. Quimby inquired about the curfew that was recently passed from 10:00 p.m. to 5:00 a.m. He felt that this would help with a lot of the problem.

Mr. Boone said that they had not had any feedback from the Police Department regarding whether or not the curfew was helping.

There was a brief discussion regarding the nonconforming process.

Dr. Rivizzigno inquired if the staff felt that they needed to revise their policy regarding nonconforming uses so that these uses could not go on "forever".

Mr. Boone said that the ultimate goal was to allow the owners of the businesses time to find another location. However, they knew of uses that had remained nonconforming for 50 years.

Ms. Deakle inquired if the staff had an idea of how many nonconforming situations would arise based on the uses addressed in the amendment.

Mr. Boone thought that it would be very limited. He said that B-4 currently allowed things from residential to light industrial. They were trying to make the downtown area more attractive for residential development.

Mr. Frost did not think that teen clubs were discussed with the subcommittee.

Mr. Hill felt that the Commission was not clear on exactly what a teen club was. He thought that they needed to get a clear definition before they voted on this. He did not want to see the idea of the amendment negated in the future because they did not have a clear definition.

Mr. Boone said that there were several uses in the Ordinance that did not have set definitions and this was where some staff interpretation came into play. If there was a problem, they went before the Board of Adjustment. He pointed out that there was currently a teen club entry in the Chart of the Permitted Uses.

Mr. Quimby felt that they needed to be careful in excluding a specific age group or any group. He was not sure this was constitutional.

Mr. Lawler said that the proposed banning of teen clubs in the downtown area was similar to the curfew. In other cities some had been held constitutional and some had been held invalid. They would have to be careful how this was approached because even minors had the right to assemble. He said that most of the curfews that had been upheld had some sort of clause in them for exceptions for things such as church activities or business. He felt that they needed to have a clear definition of what a teen club was.

July 11, 2002

Mr. McSwain inquired if this would be similar to the Adult Entertainment Ordinance.

Mr. Lawler said that the Adult Entertainment Ordinance defined the areas where those types of operations could locate.

Mr. McSwain felt that this was what they were proposing with teen clubs.

Mr. Lawler felt that they could do this, but they needed to make sure that they had a set definition.

There was no one present to speak regarding the proposed amendment.

In discussion, a motion was made by Ms. Deakle to recommend the approval of the proposed amendment to the City Council as submitted by the staff.

Ms. Deakle felt that even though they did not have a clear definition of teen club that they were close to a crisis situation in the downtown area. She thought they could address the definition in the near future.

Mr. McSwain felt that there was a problem with approving something they were not sure of.

Mr. Boone thought that they all had some idea of what a teen club was even though they did not have a definition in place. He pointed out that teen clubs were not new to the Ordinance. It was something that was in place now and that they had regulated. He felt that they could work up a definition fairly quickly.

Mr. Frost inquired if this would have to go before the City Council if they approved it and would they have a definition in place by then.

Mr. Boone said that it would have to go before the City Council for final approval. He felt that they could have a definition ready before it went to the City Council.

Mr. McSwain said that they could approve this subject to the approval of a definition. He was concerned what would happen if a Commission member disagreed with the definition after they had voted on the amendment.

Ms. Deakle expressed concern about teen safety and she felt they needed to do something about this as soon as possible.

Mr. Quimby did not feel that they were at a crisis stage. He had a problem with approving something that would exclude a particular group whoever they were. He felt that they should vote on the teen club issue separately.

Mr. Boone said that they could vote on them separately but this would require readvertisement and would set it back a month. He felt they should go ahead and recommend approval and then go to work on a definition.

Mr. McSwain was unclear about what a teen club was.

Mr. Frost seconded the motion.

The question was called. Ms. Deakle was in favor of the motion. The motion did not carry.

A motion was made by Dr. Rivizzigno to recommend the approval of the proposed amendment to the City Council with a condition that "teen club" be defined at a later date.

Mr. Lawler understood the need to take care of this quickly, but he felt they needed to be careful that they were not doing something that would flaw this in the beginning.

July 11, 2002

Mr. Boone commented that they enforced issues regarding teen clubs now.

Mr. Lawler was concerned about what would happen if someone were to challenge even what was in affect now.

Mr. Quimby felt that they should separate these issues.

Dr. Rivizzigno withdrew her motion.

Mr. Boone asked that they take out the issue of teen clubs and then the staff could present a definition to the Commission, but that they go ahead and vote on the rest.

Mr. McSwain was concerned that if the issue of the teen club was challenged as a part of this amendment it might damage the integrity of the entire amendment.

A motion was made by Mr. Quimby and seconded by Mr. Hill to recommend the approval of the proposed amendment to the City Council with the removal of the issue of teen clubs, to be brought up in a separate amendment.

The motion carried unanimously.

Dr. Rivizzigno wanted to make it clear that they did not exclude the issue of teen clubs today because they did not agree with what was proposed, but that they were excluding it only until they had a clear definition.

Schedule Planning Commission Business Meeting in August

It was decided that a Planning Commission Business Meeting would be held on August 15, 2002, in the Pre-Council Room on the ground floor of Government Plaza, at 9:00 a.m.

Ms. Pappas reported that *grassroots, inc.* was planning a presentation for the meeting.

Mr. Frost commented that anyone was invited to attend, but there would be no public input allowed.

There being no further business, the meeting was adjourned.

APPROVED: September 5, 2002

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

jh