

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF AUGUST 8, 2002 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Robert Frost, Chairman
Victor McSwain, Secretary
Victoria L. Rivizzigno
Ann Deakle
John Vallas
Terry Plauche

Members Absent

Wendell Quimby, Vice-Chair
Clinton Johnson
Norman Hill (S)
James Laier (S)

Staff Present

Laura J. Clarke, Director
Urban Development Department
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Shayla Jones, Long Range Planning
Tim Ashley, Planner I
Jennifer Henley, Secretary II

Others Present

John Lawler, Assistant City Attorney
David Daughenbaugh, Urban Forestry
Pat Stewart, County Engineering
Beverly Terry, City Engineering
William Metzger, Traffic Engineering

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve the minutes of the June 20, 2002, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #SUB2002-00121

Youngstowne Hill Subdivision

West terminus of Youngstowne Drive.
62 Lots / 40.0+ Acres

Mr. Mike Speaks of Speaks & Associates Consulting Engineers, Inc., was representing the applicant and stated that they were in agreement with all the staff recommendations with the exception of the condition that only 32 lots could be recorded until a second access was provided to a major street. He said that they were planning to put affordable housing in this development. He commented that the owner did not own any additional property to provide the second access. The applicant was already having to cross a large drainage area, which had cost a tremendous amount of money. He requested that this condition be removed if the application were approved. It was his understanding that this was not a written policy so much as a recommended policy for developments with 100 lots.

Mr. Doug Anderson was present on behalf of the applicant and submitted a map to the Commission members. He pointed out the subject property and existing access on the map. He said that to the south of the property was a wetland area that merged into Hamilton Creek and eventually ran into Big Creek Lake. Therefore, they could not provide access to the south. To the west, Big Creek Lake extended around almost to Howell's Ferry Road. To the north was Roseland Heights Subdivision which had a street stub. However, to connect to this stub the applicant would have to purchase additional property and the adjacent property owners would have to develop their land. If they were to ever connect to the stub there would be 235 residential lots having access to two major thoroughfares. They would be agreeable to providing additional access if there was a major thoroughfare a little closer, but this was not the case. The only other land to the

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north between the subject property and Howell's Ferry Road was Tanner Estates which was 74 acres. He felt it was unreasonable for them to have put this project on hold and wait for the owner of Tanner Estates to develop the property, if ever. Mr. Anderson said that it was not economically feasible for the developer to complete only half of the project. He pointed out that they would incur more than half of the development costs to get the utilities and roads set out in the subdivision. The owner would only be able to recoup half of his investment. There was a chance that this property would not be developed if this were a condition of approval. He commented that they had two curb cuts. He did not feel that allowing them to develop the additional 31 lots would have a negative impact. If approved as recommended there would be 128 residential lots with access through Whip-poor-will Estates Subdivision. If the condition was removed there would be 159. He felt that because they were planning affordable housing this would be a benefit to the community.

Mr. John Howard was present and stated that he was one of the developers of the site. He had been a developer/builder in the West Mobile area for the last 35 years. He had specialized in developing and building affordable homes for both first time home buyers and first time new home buyers. The price of the homes was between \$80,000 to \$150,000. He asked the Commission to consider this application not with the developers in mind but the people who were looking to buy affordable housing in a good location. He did not feel that it was feasible to develop this 40 acre parcel into 32 lots; they would not be able to provide affordable housing if this were done. He researched subdivisions that had been approved in the Planning Jurisdiction in the last 10 years from Moffett Road to Airport Boulevard, back. There were only 3 subdivisions approved for affordable housing, which had been extremely popular (Ponderosa, Homestead, Youngstowne). He commented that the newest section of Homestead that was approved by the Commission just last month had more traffic on it than this would. He said that most of the people buying these homes were either single people or young married couples with no children. He felt that these types of homes did not generate as much traffic. He said that the proposed subdivision would have a large detention area, two common areas and playgrounds. He did not think this could be developed with affordable housing if the they were only allowed to develop 32 lots. He said that he would have to develop the site with 32 larger lots, with bigger homes, and there was not a need for this in the area. He pointed out that there was no regulation that would preclude the Commission from approving this as proposed.

There was no one present in opposition.

In discussion, a motion was made by Mr. Vallas to approve this subdivision subject to the following conditions:

- (1) the dedication and construction of all streets to County Engineering standards;
- (2) the placement of a note on the final plat stating that if Lot 5 and the common area ever have two street frontages, direct access to the street to the North is denied;
- (3) dedication of 25' along the north property line of Lot 5 and the common area to provide proper access to the street stubbed on the property to the northeast;
- (4) reconfiguration of Lot 5 to front Youngstowne Drive; and
- (5) placement of a 25-foot setback line, from the 25-foot dedication along the North property line of Lot 5.

Mr. Plauche inquired why the staff had recommended that they only develop 32 lots before they provided additional access.

Ms. Pappas said that the Commission had a general policy of limiting a single point of access for a single subdivision to 100 lots. This tract came before the Commission in February 2001 and the Commission approved 29 lots with the balance of the land being shown as future development, with a condition that the future development area could not be subdivided until an additional point of access to a major street was provided. If approved as recommended by the staff there would be 32 additional lots, which was basically in line with what the Commission had approved for this site over a year ago.

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The motion was seconded by Mr. McSwain.

The motion carried unanimously.

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).

2 Lots / 3.9± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

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

The motion carried unanimously.

Case #SUB2002-00141

Figures & Browning Place Subdivision

Southeast corner of Moffett Road and Bear Fork Road.

2 Lots / 5.4± Acres

Mr. Norman Figures, applicant, was present and stated that they had not been able to get the signatures needed for the submission of the subdivision application as requested at the previous meeting.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to deny this subdivision for the following reason:

- (1) no documentation was submitted to verify the ownership of Lot 2.

The motion carried unanimously.

Case #ZON2002-01544

UMS-Wright Corporation

65 North Mobile Street (Southwest corner of North Mobile Street and Old Shell Road, extending South and West to the Illinois Central Gulf Railroad right-of-way and the South terminus of Martin Street).

The request for Planning Approval to amend a previously approved Master Plan for a school in an R-1, Single-Family Residential District was considered.

The plan illustrates the existing facilities and parking areas. Also shown is the proposed soccer field, new and relocated bleachers, future middle school, and softball field relocation.

(Also see Case #ZON2002-01609 – **UMS-Wright Corporation** – Below; and Case #SUB200200162 – **UMS-Wright Subdivision** – Below)

Mr. Nick Holmes was representing the applicant as an architect and stated that these applications were previously heldover so they could meet with the staff and possibly work out a compromise. He had met with the staff and it was his understanding from that meeting that the staff was now recommending that they be allowed to maintain three existing curb cuts to Mobile Street and create one curb cut to Mobile Street that was for handicapped parking only. He said that they had also discussed being allowed to construct the sidewalk in portions as the development occurred along Mobile Street.

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Mr. Frost inquired if Traffic Engineering was agreeable to the proposed curb cuts.

Mr. Metzger felt this was acceptable.

Mr. Olsen read the staff's revised conditions for the record: *reconfiguration of the proposed parking/semi-circular drive to one curb cut for handicapped parking (for a total of four curb cuts to Mobile Street for the site), exact size and location to be approved by the Traffic Engineering Department; provision of a sidewalk along the entire Mobile Street frontage, sidewalk construction to be phased – starting with first construction project and to be completed within five years (unless shown to be impracticable to construct due to trees, utilities, etc.).*

Mr. Holmes concurred with the revised conditions.

Mr. McSwain felt that they should get the entire sidewalk now.

Mr. Steven Crenshaw of Springhill Medical Complex was present and stated that they were opposed to the widening of Mobile Street because all of the right-of-way would come from the east side. However, they were not opposed to the proposed expansion of UMS-Wright School.

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

- (1) submission of individual administrative applications for each project (shown on the master plan);
- (2) compliance with landscaping and tree planting requirements for each project;
- (3) provision of enrollment numbers (broken down by grade school, middle school and high school) currently and at the time of each individual application, and review by the Planning Commission prior to any substantial increase in enrollment;
- (4) reconfiguration of the proposed parking/semi-circular drive to one curb cut for handicapped parking (for a total of four curb cuts to Mobile Street for the site), exact size and location to be approved by the Traffic Engineering Department;
- (5) provision of a sidewalk along the entire Mobile Street frontage in conjunction with the first phase of construction;
- (6) provision of landscaping and tree plantings in compliance with numbers and ratios in Section IV.E.3 of the Zoning Ordinance for each project; and
- (7) compliance with all municipal codes and ordinances.

Mr. Frost inquired why the staff had not objected to the sidewalk being done in phases.

Mr. Olsen said that there was a considerable amount of street frontage and the overall expense was taken into consideration. They felt that allowing them to phase it in would not be a major issue, as long as it was completed within 5 years. However their original recommendation had been that it be done all at once, so if this was something the Commission wanted to require, the staff was agreeable.

Mr. McSwain said that the Commission had really worked with the applicant and he felt that they should require the entire sidewalk now.

The question was called. The motion carried unanimously.

Case #ZON2002-01609

UMS-Wright Corporation

65 North Mobile Street (Southwest corner of North Mobile Street and Old Shell Road, extending South and West to the Illinois Central Gulf Railroad right-of-way and the South terminus of Martin Street).

The request for Planning Unit Development Approval to amend a previously approved Master Plan for Planned Unit Development was considered.

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The plan illustrates the existing facilities and parking areas. Also shown is the proposed soccer field, new and relocated bleachers, future middle school, and softball field relocation.

(For discussion see Case #ZON2002-01544 – **UMS-Wright Corporation** – Above; also see Case #SUB200200162 – **UMS-Wright Subdivision** – Below)

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

- (1) submission of individual administrative applications for each project (shown on the master plan);
- (2) compliance with landscaping and tree planting requirements for each project;
- (3) provision of enrollment numbers (broken down by grade school, middle school and high school) currently and at the time of each individual application, and review by the Planning Commission prior to any substantial increase in enrollment;
- (4) reconfiguration of the proposed parking/semi-circular drive to one curb cut for handicapped parking (for a total of four curb cuts to Mobile Street for the site), exact size and location to be approved by the Traffic Engineering Department;
- (5) provision of a sidewalk along the entire Mobile Street frontage in conjunction with the first phase of construction;
- (6) provision of landscaping and tree plantings in compliance with numbers and ratios in Section IV.E.3 of the Zoning Ordinance for each project; and
- (7) compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2002-00162
UMS-Wright Subdivision

65 North Mobile Street (Southwest corner of North Mobile Street and Old Shell Road, extending South and West to the Illinois Central Gulf Railroad right-of-way and the South terminus of Martin Street).

1 Lots / 45.8+ Acres

(For discussion see Case #ZON2002-01544 – **UMS-Wright Corporation** – Above; also see Case #ZON2002-01609 – **UMS-Wright Corporation** – Above)

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

- (1) placement of a note on the final plat stating proposed parking/semi-circular drive to is limited to one curb cut for handicapped parking (for a total of four curb cuts to Mobile Street for the site), exact size and location to be approved by the Traffic Engineering Department;
- (2) placement of a note on the final plat stating that access to Old Shell Road is limited to the existing drive; and
- (3) placement of a note on the final plat stating that access to Martin Street is denied.

The motion carried unanimously.

Case #SUB2002-00149
Champion Hill Subdivision

Northwest corner of McFarland Road and Dawes Lane North.

166 Lots / 74.8+ Acres

Mr. Mike Speaks of Speaks & Associates Consulting Engineers, Inc., was representing the applicant and stated that they had met with the staff and were now in agreement with the staff's recommendation. However, they did have a concern about the condition regarding traffic calming devices. He commented that the staff had previously

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recommended that they reduce the lengths of some of the longer streets in the subdivision. The applicant had revised the plan to include a cross street on the three long streets, creating three intersections. They were proposing to use four-way stops instead of traffic circles. He commented that because this would be a new subdivision it would be difficult to get in heavy construction equipment with the traffic circles. They were planning to develop this site in units. If there were traffic problems beyond what the four-way stops could handle, they would be willing to install intermittent speed bumps.

Mr. Frost inquired what would be considered a traffic calming device.

Ms. Pappas said that based on the revised site plan, the staff would like to see traffic circles. She commented that this would be similar to what the Commission required when Magnolia Grove was developed.

Mr. McSwain inquired if they could reconfigure the plan to eliminate the four-way stops.

Ms. Pappas said that what was before them today was already a reconfiguration. The applicant was proposing the four-way intersections to break up the long straightway and to reduce the long block lengths.

Mr. McSwain felt that four-way intersections were not something they typically advocated.

Ms. Pappas said that the applicant was proposing two, four-way stops and three, three-way stops.

Mr. Vallas inquired if they could allow the stop signs and then have the applicant post a bond that could be used three to five years in the future to install the traffic circles when they would be needed more.

Mr. Stewart did not feel this was something the County could enforce.

Ms. Clarke said that the City typically did not make infrastructure improvements in the County.

Mr. Speaks said that the longest block would not be over 900'. He said that the street stub to the north had been eliminated to the improved subdivision to the north. Therefore, the only traffic in the subject subdivision would be what was created by the subject subdivision. He commented that they had two entrances to the east. He felt that a four-way stop situation would adequately slow down traffic. It was his understanding that traffic circles would have to be turned over to the homeowner's association.

Mr. Vallas inquired if the entire subdivision would be recorded at the same time.

Mr. Speaks replied no. They were proposing to develop the area to the east first. He had witnessed a concrete truck trying to negotiate a traffic circle in Pinehurst and the truck had not been able to get around it without driving up on the curb.

Mr. Vallas inquired if it would be possible to require the traffic circles upon completion of future phases.

Mr. Metzger explained that the curbing along traffic circles was not really a curb at all. It was a 3' wide collar that was designed for large trucks to drive over. He said that this was in the County, but he thought that they might be able to design the traffic circles a little larger than those in Pinehurst if necessary.

Mr. Olsen said that if they were considering making the requirement for traffic circles contingent on future phases, the staff would need to see a phasing plan.

Mr. Doug Anderson said that he had submitted vacation documents to Mr. Stewart of the County Engineering Department earlier in the week. Mr. Anderson explained that the subject subdivision was actually a resubdivision of an existing subdivision and there were already some right-of-ways in place. They had filed the petition to vacate those right-of-

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ways. He submitted a copy to Mr. Lawler. He pointed out on the map were the right-of-ways he was referring to were located.

There was no one present in opposition.

In discussion, Dr. Rivizzigno felt that if the traffic circles were designed for large trucks to go over, then they could be required in this situation.

Mr. McSwain felt that they were imposing City standards in the County.

Mr. Stewart said that if traffic circles were required they would be subject to County Engineering standards and designs.

Mr. McSwain said that the Commission did not typically allow four-way intersections.

Mr. Frost pointed out that the staff condition required traffic calming devices. He inquired if this meant traffic circles or if something else could be provided.

Mr. Stewart said that if calming devices were required in the County they would be traffic circles.

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

- (1) dedication of adequate right-of-way to provide 25-feet from the centerline of Dawes Cemetery Road;
- (2) that the common areas be denoted as such, as well as the use of the common areas, with a note on the Final Plat stating that the maintenance thereof shall be the responsibility of the property owners;
- (3) placement of a note on the final plat stating that Lots 2-14, Unit A, are denied direct access to Dawes Cemetery Road, and that Lot 64, Unit A, and Lots 1, 80-83, Unit B are denied direct access to McFarland Road;
- (4) the provision of a temporary turn around at Lots 29 and 30, Unit A;
- (5) the provision of traffic calming devices at the intersections bounded by Lots 10, 11, 54 and 55, Unit A; 13, 14, 21, and 24, Unit B; 41, 44, 68 and 69, Unit B; and 26, 32, 33 and 34, Unit A; and
- (6) the approval of all necessary federal, state and local agencies.

The motion carried unanimously.

EXTENSIONS:

Case #ZON2001-01808

Audubon Arbors

North side of Grelot Road, 875'± East of Cody Road.

Planned Unit Development to allow multiple buildings on a single building site for an apartment complex.

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00204

Coley's Addition to Grelot Subdivision

North side of Grelot Road, 875'± East of Cody Road.

2 Lots / 21.2± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00207 (File #S2000-80)

Richmond Subdivision

North side of Johnson Road at the North terminus of Scott Dairy Loop Road West.
136 Lots / 62.7± Acre

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

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2002-01645

Patrick Robbins Flynn

2618 Old Shell Road (Northeast corner of Old Shell Road and Hyland Avenue).
Rezoning from B-2, Neighborhood Business, to B-3, Community Business, for mini storage units, with a business office and overnight parking for a moving and delivery van.

(Also see Case #SUB2002-00166 – **Vidmer Plaza Subdivision** – Below)

This application was withdrawn prior to the meeting at the applicant's request.

Case #SUB2002-00166

Vidmer Plaza Subdivision

2618 Old Shell Road (Northeast corner of Old Shell Road and Hyland Avenue).
1 Lot / 0.9± Acre

(Also see Case #ZON2002-01645 – **Patrick Robbins Flynn** – Above)

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) placement of a note on the final plat stating that the site is denied access to the alley and to Hyland Avenue; and
- (2) placement of a note on the final plat stating that the site is limited to one curb cut to Old Shell Road, location and design to be approved by the Traffic Engineering Department.

Mr. McSwain was concerned how they would limit this site to one curb cut. He said that there was no curbing at this location so people could just drive off the site at any point.

Mr. Frost inquired if the City would require curbing.

Mr. Olsen replied no, unless the Commission made that a specific condition. Applications for Planning Approval and Planned Unit Development approval were forthcoming and at that time the site plan would show how the site would be limited to one curb cut. However, when a site was limited to one curb cut, there would only be one driveway and there would have to be some type of barrier along the parking or other perimeter of the site which precluded vehicular access.

Mr. McSwain felt that adding curbing might open up some drainage issues.

The question was called. The motion carried unanimously.

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Case #ZON2002-01650

Richard March

4651 & 4655 Rosewood Drive (Southwest corner of Rosewood Drive [at its terminus] and South University Boulevard).

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

The plan illustrates the proposed office, parking and subdivision.

(Also see Case #SUB2002-00175 – **Sunset Hills, First Addition, Resubdivision of Lots 10 & 11, Block A** – Below)

Mr. Richard March, applicant, was present and stated that he was concerned about the staff's recommendation for denial of the rezoning application based on the proposed access to University Boulevard; they felt that left-hand turns would be difficult. Mr. March pointed out that they were also proposing access to Rosewood Drive. He commented that SouthTrust Bank which was adjacent to this property also had a driveway for ingress and egress for both left-hand and right-hand turns onto University Boulevard. He said that there was also a concern by the staff regarding trees. He thought that there was an 80' clearance without any live oaks interfering with access to that property. Mr. March stated that the staff had recommended that the subdivision application be heldover until the next meeting to reconfigure the lots so that they all fronted Rosewood Drive. He said that he had looked at that option initially, but with the right-of-way that would be required along University Boulevard they could not put in four lots fronting Rosewood Drive. He stated that they were proposing three new homes facing Rosewood Drive and they were proposing that the rear lot be used commercially and have access to University Boulevard.

Mr. Vallas inquired if the existing live oaks were the ones shown in the landscaping area on the site plan.

Mr. Daughenbaugh replied no. He said that the existing live oaks were actually on City right-of-way and they were not shown on the sketch Mr. Vallas was referring to. Mr. Daughenbaugh stated that the live oaks were along University Boulevard and Urban Forestry was simply asking that the applicant coordinate the curb cuts with them; they were not denying curb cuts, they just wanted to make sure that the placement did not interfere with the root system of the existing tree.

Mr. March said that the live oaks were located adjacent to the current access driveway and there was plenty of room to put in another driveway.

Mr. John Zelnicker of 4254 Horloesther Court was present and stated that he and his wife owned two, single-family residences on Rosewood Drive (4671 and 4675) and they also had a contract to purchase two other lots in the Sunset Hills Subdivision. Mr. Zelnicker wished to strongly object to the proposed zoning change (he was not opposed to the subdivision itself or the proposed residential homes). He reported that according to a study done by State Farm Insurance Company, the nearby intersection of Airport and University Boulevards was "the most dangerous" intersection in Alabama based on statistics from 1999 to 2000. The study was referenced in an article in today's newspaper regarding the City's plans to make improvements to this and other dangerous intersections. He described troublesome traffic patterns in this area particularly southbound on University Boulevard in front of the subject property and SouthTrust Bank. He felt that adding another entrance would only aggravate an already intolerable intersection. He commented that the City was planning to lengthen the southbound, left turn lanes from University Boulevard onto Airport Boulevard. He felt that this would make it impossible for people to turn left onto University Boulevard from the subject property and it would be difficult for people to turn left into the property.

Ms. Ella R. Jones of 4650 Rosewood Drive was present and stated that she along with four other people were representing three addresses near the subject property. She inquired if B-1 zoning districts allowed any other uses besides professional offices. They were concerned about future use of the site.

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Mr. Frost said that there were some other uses, but the general use was professional offices.

Ms. Pappas said that there were some limited uses that were allowed in B-1, with Commission approval such as a photography studio, but in general retail was prohibited.

Ms. Jones said that they were not opposed to a professional office and they were not opposed to the subdivision.

Mr. March said that he appreciated the concerns regarding ingress and egress for the commercial area. However, he did not think that the proposed use would add a significant amount of traffic. He had visited the area today at 12:30 and had no problem making a left-hand turn into the property. He felt that when the traffic lights changed people would be able to get in and out of the site via University Boulevard.

In discussion, Dr. Rivizzigno voiced concerns about the amount of traffic.

A motion was made by Dr. Rivizzigno and seconded by Mr. McSwain to recommend the denial of this change in zoning to the City Council.

Mr. Vallas was opposed. The motion carried.

Case #SUB2002-00175

Sunset Hills, First Addition, Resubdivision of Lots 10 & 11, Block A

4651 & 4655 Rosewood Drive (Southwest corner of Rosewood Drive [at its terminus] and South University Boulevard).

4 Lots / 1± Acre

(For discussion see Case #ZON2002-01650 – **Richard March** – Above)

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, to allow the applicant to reconfigure the lots providing frontage for all lots to Rosewood Drive. The revised plat must be submitted to the staff by August 12th.

The motion carried unanimously.

Case #ZON2002-01643

Brian P. Metcalfe, et al

West side of South University Boulevard, 175'± South of Cottage Hill Road.

The request for a change in zoning from R-1, Single-Family Residential, to B-2, Neighborhood Business for a commercial development including a restaurant, gourmet food store and retail shops was considered.

The site plan illustrates the proposed 6-lot subdivision, proposed buildings, proposed parking, and proposed natural buffer.

(Also see Case #ZON2002-01644 – **Calway-Jones Subdivision** – Below; and Case #SUB2002-00170 - **Calway-Jones Subdivision** – Below)

Mr. Brian Metcalfe, applicant, was representing the owners of the property. Mr. Metcalfe stated that they had met with the staff. He said that he and the owners were requesting some changes and/or clarification to some of the staff recommendations based on that meeting. Staff condition #3 provided for a 15' natural buffer adjoining the residentially zoned portion of the adjacent property. However, they adjoined R-1, R-3 and B-2. He asked that this condition be changed to require the buffer along the R-1 property. Mr. Metcalfe said that in the southwest corner of the property they would need to disturb the buffer to the extent of allowing for the natural drainage of the property. He stated that there was an existing 18" sewer manhole there.

Mr. Frost inquired if the vegetation would be replaced after it was disturbed.

Mr. Metcalfe replied yes. However, during construction they would need to disturb it.

Dr. Rivizzigno inquired about buffering for the R-3 property that had apartments.

Mr. Olsen said that they would be required to provide the standard, either 10' buffer or 6' wooden privacy fence, along the R-3 property. He thought the site plan reflected a privacy fence. They were proposing to do something above and beyond what was required in the Ordinance for the R-1 property.

Mr. Metcalfe said that staff condition #4 required that the development of the site be coordinated with Urban Forestry to protect as many 24" and larger trees as possible. He asked that this be changed to protection of 24" and larger live oak trees in accordance with the Tree Ordinance.

Mr. Daughenbaugh said that this was Urban Forestry's intention. They wanted to try and save as many 24" or larger live oaks as they could.

There was no one present in opposition.

In discussion, Mr. Olsen read the staff's revised conditions for items #3 and #4: *provision of a 15' natural vegetative buffer where the site abuts R-1 zoned properties – detention/drainage may require disturbing buffer for installation/maintenance with the planting/vegetation to be replaced; preservation of the 60" live oak located at the front of the site, and coordination of development with Urban Forestry to protect as many 24" and larger live oaks trees as practical.*

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

- (1) submission of the necessary PUD application(s) prior to development with shared access and/or parking, and/or with internal circulation;
- (2) overall site limited to a maximum of five (5) curb cuts, exact location and design to be approved by the Traffic Engineering Department;
- (3) provision of a 15' natural vegetative buffer where the site abuts R-1 zoned properties – detention/drainage may require disturbing buffer for installation/maintenance with the planting/vegetation to be replaced;
- (4) preservation of the 60" live oak located at the front of the site, and coordination of development with Urban Forestry to protect as many 24" and larger live oaks trees as practical; and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2002-01644

Calway-Jones Subdivision

West side of South University Boulevard, 175'± South of Cottage Hill Road.

Planned Unit Development approval to allow shared parking and access between multiple building sites.

(For discussion see Case #ZON2002-01643 – **Brian P. Metcalfe, et al** – Above; also see Case #SUB2002-00170 - **Calway-Jones Subdivision** – Below)

This application was withdrawn prior to the meeting at the applicant's request.

Case #SUB2002-00170

Calway-Jones Subdivision

West side of South University Boulevard, 175'± South of Cottage Hill Road.

6 Lots / 8.1+ Acre

(For discussion see Case #ZON2002-01643 – **Brian P. Metcalfe, et al** – Above; also see Case #ZON2002-01644 - **Calway-Jones Subdivision** – Above)

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

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- (1) submission of the necessary PUD application(s) prior to development with shared access and/or parking, and/or with internal circulation;
- (2) overall site limited to a maximum of five (5) curb cuts, exact location and design to be approved by the Traffic Engineering Department;
- (3) provision of a 15' natural vegetative buffer where the site abuts R-1 zoned properties – detention/drainage may require disturbing buffer for installation/maintenance with the planting/vegetation to be replaced;
- (4) preservation of the 60" live oak located at the front of the site, and coordination of development with Urban Forestry to protect as many 24" and larger live oaks trees as practical.

The motion carried unanimously.

Case #ZON2002-01538

B. Michael Schulz

South side of Dauphin Island Parkway, 70' ± East of Willowdale Street.

The request for a change in zoning from R-1, Single-Family Residential to B-2, Neighborhood Business to allow commercial development was considered.

The plan illustrates the proposed structures and parking.

(Also see Case #SUB2002-00160 – **Schulz Commercial Subdivision** – Below)

Mr. Doug Anderson was representing the applicant and stated that they wished to holdover these applications in order to submit a reconfigured site plan.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, at the applicant's request.

The motion carried unanimously.

Case #SUB2002-00160

Schulz Commercial Subdivision

South side of Dauphin Island Parkway, 70' ± East of Willowdale Street.

4 Lots / 3.6± Acres

(For discussion see Case #ZON2002-01538 – **B. Michael Schulz** – Above)

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, at the applicant's request.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATION:

Case #ZON2002-01646

The Arbors of Pinehurst (NIP, LLC., Owner)

West side of Schaub Avenue, 700' ± South of Airport Boulevard, extending West to the East side of Piccadilly Square Office Complex.

The request for Planned Unit Development approval to amend a previously approved Planned Unit Development to allow zero-lot line lots, with reduced yards, in an R-1, Single-Family Residential subdivision, to include increased site coverage limits was considered.

Shown on the plan is the 31-lot planned unit development.

The applicant was not present.

Mr. Glenn Dalton of 853 Virginia Avenue was present and stated that there were some old issues remaining from the letter of decision for the previous approval on May 5, 2000, that needed to be resolved. He had attended the last meeting and stated in the minutes his concerns about policing of the maintenance of the detention pond that was on

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the lot adjacent to his. Over the last year he had been in contact with several City departments concerning the pond because of problems with improper drainage and mosquitoes. These issues had somewhat been addressed, but they were still having problems with the trash that came out of the pond. The trash cleaned out of the pond was being piled in front of the pond. The developer had put a fence across the end of Virginia Avenue and because of this they could not get City services; the trash could not be picked up. He was unsure how the applicant could block this street since it was City right-of-way. He suggested that the applicant move the fence behind the gate for the pond or add a gate as was done on the north end of Arbor Court. This would give the community easy access to the pond and would alleviate the trash problems because the City garbage trucks could then come in and pick up the trash left on the curb.

Mr. Frost inquired how a fence was allowed across the right-of-way.

Mr. Dalton submitted photographs of the fence. He pointed out on the map where his property was located and where the fence was located.

Ms. Pappas said that she could not explain how the fence was across the right-of-way to the south. When the property was purchased there was an agreement and a condition by the Commission that there be a gate to the north. The fence to the south should be around the detention pond, but it appeared it was in the right-of-way.

Mr. McSwain inquired if the fence was denying Mr. Dalton access to his property.

Mr. Dalton said that he could get to his property, but he could not get any type of City services. The only other access was from Caroline Street which was only an alley and the City vehicles could not maneuver there. He said that at the last meeting he had not opposed the development, but he had not realized that he would be cut off. He had been concerned about the pond and possible flooding. He said that the City Engineering Department had made sure that it was developed better than it originally was. Mr. Dalton said that there were still some slight problems with the pond holding water.

In discussion, Mr. Frost inquired about the issue of the fence.

Ms. Pappas stated that if the fence was in the right-of-way it could be removed and that could be a condition of approval.

Ms. Terry remembered a discussion regarding this fence when this site came up previously. It was her recollection that Virginia Street south of Arbor Court never had access to the north, it had always had access to the south via Caroline Street. She thought that there was something in the minutes for that meeting that addressed the fence.

Mr. Frost felt that they might want to hold this over so they could look into it further.

Ms. Pappas said that the staff would get this information to the Commission. She stated that the gate was addressed with the prior approval, but only for the north side.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, to allow the staff time to research the history of the site.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2002-00164

G & J Allen Estates Subdivision

Southern terminus of Watermain Street East, 890'± South of Pierce Road.

2 Lots / 7.1± Acres

Mr. Lee Lovitte of Lovitte Surveying, Inc., was representing the applicant and requested that because the application was recommended for denial that it be heldover so they could

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address the frontage issue. He asked that it be heldover until the meeting of August 22, 2002.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, at the applicant's request.

The motion carried unanimously.

Case #SUB2002-00161

Burgess Pointe Subdivision

East side of Doyle Street, 600' ± South of Dauphin Island Parkway.
20 Lots / 18.8± Acres

Mr. Doug Anderson was representing the applicant and stated that they wished to holdover this application in order to submit a reconfigured site plan.

Mr. George Owens was present on behalf of his father who lived at 2458 Doyle Street, which ran parallel to the subject property to the south. He said that they were not opposed to the development of the site, but they had a concern regarding an existing right-of-way on the southern boundary of the property which was a drainage right-of-way owned by the State of Alabama. He stated that there was a large culvert on Dauphin Island Parkway where stormwater drained off of Dauphin Island Parkway and down the right-of-way to Dog River. He reported that on the south side of the right-of-way there was some property that would be subdivided and sold to prospective buyers. He inquired who would be responsible for maintaining the ditch and cutting the grass around it. He further inquired how the property owners to the north of the ditch were going to be expected to get across the ditch and to the south. He said that there used to be a bridge there.

Mr. Anderson said that the information he had did not show the drainage ditch. However, they would have to handle their drainage onsite as required by the City.

Mr. Owens said that they were in objection to any street being constructed off of Doyle Street, which was proposed by the applicant. He reported that the drainage right-of-way often flooded when there were heavy rains. The area flooded was wide and the water rose very quickly. He was concerned that if they were to put in another access they would have the same flooding situation as the intersection Old Shell Road and University Boulevard.

Mr. Frost said that they would look into this further and have more information at the next meeting. He noted that based on the site plan submitted there would not be lots on the south or north side, the entire lot would be owned by one entity.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, at the applicant's request.

The motion carried unanimously.

Case #SUB2002-00171

Burnham Place Subdivision

West side of Snow Road, 1/2 mile± North of Howell's Ferry Road.
3 Lots / 11.5± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

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- (1) the provision of a 75 foot setback from the centerline to provide for the right-of-way of the planned major street, which includes the required 25 foot minimum building setback;
- (2) the placement of a note on the final plat stating that each lot is limited to one curb cut, with location and design to be approved by County Engineering; and
- (3) the placement of 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. of the Subdivision Regulations will be provided.

The motion carried unanimously.

Case #SUB2002-00173

Conference Center Subdivision

100 Beltline Highway South (West side of Beltline Highway South, 1,600'± North of Airport Boulevard).

1 Lot / 3.2± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating the driveway numbers, size, location and design to be approved by Traffic Engineering and ALDOT.

The motion carried unanimously.

Case #SUB2002-00172

Godwin Place Subdivision

Southeast corner of Lake Street and Godwin Lane.

3 Lots / 2.9± Acres

Mr. Lee Lovitte of Lovitte Surveying, Inc., was representing the applicant and concurred with the staff recommendation.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision.

The motion carried unanimously.

Case #SUB2002-00174

Jacob Heights Subdivision, Revised

South side of Howells Ferry Road, 1 mile± West of Schillinger Road.

5 Lots / 6.0± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that Lots 1-5 are limited to one curb cut each to Howells Ferry Road, 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 lot that is developed commercially and adjoins residentially developed property

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- shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- (3) the applicant must submit seven copies of the original plat, Jacob Heights (including map book and page number) prior to the signing of the final plat.

The motion carried unanimously.

Case #SUB2002-00167

R. L. Ranch Subdivision

West side of Lee's Lane, 1250'± North of Lloyd Station Road.

1 Lot / 1.6± Acres

Mr. Mike Speaks of Speaks & Associates Consulting Engineers, Inc., was representing the applicant and agreed to a holdover as recommended by the staff.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 22, 2002, to allow the applicant to include the remainder of the property and additional property owner information for notification; or to provide the staff with documentation, in this case a deed prior to 1952, illustrating the subdivision as a legal nonconforming lot of record. This information would be required by August 12th.

The motion carried unanimously.

Case #SUB2002-00176

Regions At The Loop Subdivision

Area bounded by Government Street to the South, Airport Boulevard to the North and Williams Street and the Illinois Central Gulf Railroad right-of-way to the East.

1 Lot / 2.1± Acres

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

Dr. Rivizzigno inquired if the site complied with the landscaping regulations.

Mr. Olsen said that landscaping was not something that was typically addressed with a subdivision application. He did not think that it fully complied, however, this was something that was required by the Zoning Ordinance and not the Subdivision Regulations.

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 conditions:

- (1) dedication of sufficient right-of-way to provide 40' from the centerline of Airport Boulevard; and
- (2) the placement of a note on the final plat stating that the development is limited to one curb cut to Airport Boulevard and two curb cuts to Government Boulevard, with the size, location and design to be approved by Traffic Engineering.

Mr. Vallas recused. The motion carried.

Case #SUB2002-00153

Summit Subdivision

Eastern terminus of O'Hara Drive, 650± East of Twelve Oaks Drive.

99 Lots / 41± Acres

Ms. Deakle recused herself from the discussion and vote regarding this application.

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Mr. M. Don Williams of Mr. Don Williams Engineering, Inc. was representing the applicant and stated that this site had been before the Commission several months ago in a different form under the name Cyrus Cove Subdivision. At that time the site included the property to the north of the subject property that connected to Airport Boulevard and 190 lots were proposed. That application was denied with some of the concerns being that minimum buildable area on some of the lots was less than 7,200 sq. ft., there was a question about the usability of the common areas, the access to Airport Boulevard, environmental concerns and the large number of proposed lots. Mr. Williams said that they had addressed all of those problems. They were now proposing only 99 lots and with the exception of 6 of the lots, all of them had 60' frontage at the building setback line; those 6 lots had 55' of frontage. They had done this with Lots 1-6 so they could preserve some "dry" common area. He commented that every lot had over 7,200 sq. ft. of buildable area. He said that they were planning to give private ownership of the wetlands to the property owners with a "no build zone" that would prohibit anything being built in the wetlands, which would be recorded as a deed restriction. They would also include a deed restriction that no trees could be cleared in the wetlands unless they were dead. He said that the wetlands in this area were very steep and there was a stark drop in elevation from Baker High School, which did not have stormwater detention on their property. Therefore, stormwater drained from the school's parking lot into these wetlands. He said that the lots were 7,200 sq. ft. excluding the wetlands. He stated that they were planning two tot lots and two other common areas. They had cut-off access from Airport Boulevard and were planning to come out of Terrell Estates via a street stub to the south. In regard to environmental concerns, a representative from Fish and Wildlife had visited the site and they had written a letter to the applicant indicating that there were not any gopher tortoises there. He said that the wetlands had been delineated. The delineation had been done by Mr. Barry Vittor, one of the property owners, before he was an owner. Mr. Williams said that they did not have any problems with someone else verifying behind him. He felt that the fact that they had reduced the number of proposed lots would allow this subdivision to fit in better with the existing neighborhood character. He concurred with the staff recommendations.

Mr. Ray Nall of 8880 O'Hara Drive was present and stated that he was concerned about the access for these lots being via O'Hara Drive. He indicated that there was a drainage area in the center of his lot that drained through the area. He thought that a bridge would have to be built on the proposed lots. He felt that almost half of the subject property was wetlands. He commented that Mr. Vittor had already just about clear-cut the site. Mr. Nall was concerned that the wetlands would be filled in, which would cause drainage problems.

Mr. Frost explained that if this were approved the applicant would have to receive approval from all federal, state and local agencies. He suggested that if Mr. Nall felt that a violation had occurred in regard to the wetlands, he could contact ADEM.

Mr. Nall thought that there were gopher tortoises on this site. He reported that he had seen 6 this summer.

Mr. Frost said that this was not something that was within the Commission's purview. He did not want to diminish Mr. Nall's point, but this was not something they could address. Mr. Frost pointed out that Mr. Williams had a letter from Fish and Wildlife stating that there were not gopher tortoises on the subject property.

Mr. Dalton Orr of 1251 Walter Smith Road was present and felt that the Subdivision Regulations did give the Commission some authority over environmental matters. The Regulations also stated that land that was subject to periodic flooding could not be subdivided. He pointed out that the wetlands were subject to flooding. He said that part of the wetlands were deep, but some of the area was a traditional swampy area that everyone was familiar with. He stated that there was also a swampy area to the east of Mr. Nall's property that was not indicated on the site plan.

Mr. Frost asked Mr. Lawler's opinion regarding environmental issues as far as the Regulations were concerned.

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Mr. Lawler said that the Regulations provided that land that was subject to period flooding was not to be subdivided.

Mr. Frost inquired if what Mr. Williams was proposing would be a problem.

Mr. Lawler felt that the main issue here was whether or not the Commission was sure where exactly the wetlands were. If they felt that what was shown was correct, then they could make a decision based on that.

Mr. McSwain inquired how periodic flooding was defined. He commented that almost all of Mobile was subject to periodic flooding.

Mr. Lawler said that it was not defined in the Regulations. He felt this was up to the Commission's judgement. Mr. Lawler thought that everyone would agree that land that was subject to flooding should not be subdivided for residential development. However, it was up to the Commission to decide whether they felt this was the case or not.

Mr. McSwain felt that when they were dealing with wetlands they should defer to ADEM.

Mr. Frost did not think the entire tract of land was subject to periodic flooding, only the wetlands portion.

Dr. Rivizzigno pointed out that they had received a map delineating the wetlands.

Mr. Lawler commented that they had one side saying one thing and the other side saying another.

Mr. McSwain inquired if the Commission was supposed to determine where the wetlands were.

Mr. Lawler stated that the Commission was supposed to review applications for subdivisions and the Regulations said that they were to take into account certain things, such as topography, access and whether or not it was subject to flooding.

Mr. Frost commented that the applicant had shown them a delineation of wetlands.

Mr. Orr felt that there were additional wetlands that were not shown on the plan. He thought that there was a swampy area on Lot 86 that was isolated from the other wetlands. He said that there was a serious wetlands area in the neighborhood on Walter Smith Road. When there was a heavy rain that area filled-up with water and then released the water slowly. The water flowed from behind Baker High School, down through someone's yard which had a ditch on it. There was a bridge over the ditch and water was constantly flowing through it. The water continued through a culvert, onto another resident's property, which was subject to flooding, and onto the subject property near Lot 76. He was concerned about the wetlands being filled-in, which would only add to this problem. He felt that the Commission should be fully aware of what was going in this area in terms of wetlands and flooding before making a decision. He was concerned about the effect of more water coming into this area in regard to flooding and the nearby Miller Creek. He commented that research had shown that removal of vegetation around wetlands had an impact on those wetlands, in terms of the chemicals that were released onto the property. He was also concerned about wildlife in this area. He felt that there were gopher tortoises on this site and there was also deer and bobcats. He said that the City had used the term Smart Growth to justify relaxing the Regulations. He thought that Smart Growth should mean and did mean in progressive cities, concern for wildlife and wetlands. He pointed out that the word wetlands was never mentioned in the Regulations.

Mr. Frost said that with the proposed Cyrus Cove development the Commission was in agreement with the neighbors that the Regulations were being relaxed and that application was denied. However, he did not think that was true in this case.

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Mr. Orr pointed out that they were asking for a waiver of Section V.D.2. in regard to minimum lot width.

Mr. Olsen said that this was only for 6 lots and those lots still exceeded the 7,200 sq. ft. requirement.

Mr. McSwain felt that Smart Growth concerned higher density. He inquired if this was what Mr. Orr felt should be done on this site.

Mr. Orr said that Smart Growth included the notion of higher density developments in some areas so that other areas could be left open and be preserved. He said that regulations in other cities required buffers around streams and wetlands.

Mr. Frost thought that waiving the minimum width for 6 of the lots was very minimal. He felt that with the previous application the point had been well taken that they were trying to include the wetlands as part of the required 7,200 sq. ft. and that request was denied. However, they were not proposing that with the subject application.

Mr. Orr appreciated the fact that they were now proposing fewer lots. He felt that the Regulations should be amended to allow for the fact that some areas were more important than others. He thought that the Commission still had the prerogative to deny this case. Mr. Orr had further concerns about traffic on O'Hara Drive and Walter Smith Road. He felt that this subdivision would create cut through traffic. He pointed out that the streets in this area were long and straight which encouraged speeding. He said that there were no sidewalks in this neighborhood and there were several people in the area that rode bikes, ran and walked in the street. He was concerned about gopher tortoises and other animals trying to cross the street. He thought the proposed subdivision would affect the character of the neighborhood. He asked that O'Hara Drive not be allowed to open to this subdivision. He did not feel that they should have to give up quality of life in order for the applicant to make a profit. He commented that the ADEM and the County did not always have the resources to adequately oversee situations such as this.

Mr. Frost said that the Commission did have some degree of control over situations involving wetlands if they were given adequate information. However, they could not deny every development in Mobile, because there might be a drainage problem. The Commission often deferred to ADEM in such matters because this was their expertise and not the Commission's. However, the Commission had denied applications when there had been evidence presented to them that proved that there was an immediate concern. Mr. Frost was not sure that there was enough evidence in front of the today to deny this application.

Mr. Orr appreciated the Commission's position regarding drainage. Regarding another concern, he asked that O'Hara Drive not be opened.

Mr. Frost pointed out that this was not necessarily something the applicant wanted to do, but something the staff had recommended.

Mr. Olsen said that when Cyrus Cove was first proposed there was not a connection shown on the plan to O'Hara Drive. The staff had recommended that because there was a street stub there and because O'Hara Drive was originally intended to be continued on and have a connection to it. Anytime there was a subdivision adjacent to a street stub, the staff recommended connection.

Mr. Orr felt that this would have a negative impact on the neighborhood. He was concerned about additional traffic.

Mr. Frost felt that this was an issue of Smart Growth – having neighborhoods that connected together rather than funneling everyone out of one exit.

Mr. Orr understood this, but thought that their neighborhood was unique.

Mr. McSwain commented that Walter Smith Road was going to be extended and would then become a collector street, so this would make an obvious connection between this

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subdivision and Walter Smith Road to connect to Airport Boulevard and Grelot Road Extension.

Mr. Orr did not want to see Walter Smith Road opened. He inquired if this was something that was definitely going to happen.

Mr. Stewart said that Walter Smith Road and Twelve Oaks Drive were both planned to be opened.

Mr. Orr felt this would destroy the neighborhood.

In rebuttal, Mr. Williams said that they planned to file a notice of intent to develop with ADEM.

Mr. Frost inquired about the delineation of wetlands.

Mr. Williams said that the wetlands were delineated approximately 3-4 years ago when the Barry Vittor Subdivision was approved.

Mr. Frost inquired if there had been any material changes to the site in Mr. William's opinion.

Mr. Williams said that in his opinion there had been no change and they had taken into account the entire 40-acre tract. They were planning some underground drainage in the tot lot area. He commented that there were severe elevation changes on this site. He said that when the wetlands were delineated they were confirmed by the Corps of Engineers and he was more than willing to have them come back out to the site.

Mr. Frost inquired about the regulation that was referred to earlier regarding subdivision of land prone to flooding.

Mr. Olsen said that the regulation referred to specified that the land was not to be subdivided for residential occupancy. The areas designated as wetlands on this site were not proposed for residential occupancy. The applicant was proposing a "no build zone" that would not allow any building, clearing or tree cutting.

Mr. Plauche inquired who would police this.

Mr. Williams said that it would be a deed restriction placed on each individual lot and it could be enforced by the courts. He stated that Walter Smith Road came off of Airport Boulevard as well as O'Hara and Twelve Oaks Drives. All of the residents on O'Hara and Twelve Oaks Drives had only one exit which was Walter Smith Road. He felt that because of the location of the proposed subdivision people living there would mostly go through Terrell Estates onto Airport Boulevard. If anything, this subdivision would have cut through traffic from those living on Twelve Oaks Drive trying to get easy access to Airport Boulevard. He felt that this additional access was important for emergency vehicle access.

Mr. Frost thought that when this came up previously there was some concern about cut through traffic from people trying to avoid traffic congestion on Airport Boulevard because of the schools.

Mr. Williams felt there would still be more of a case of people cutting through from the existing subdivision to the proposed subdivision than vice versa. He commented that they would be working closely with ADEM on this project. He said that their design plans would have to comply with County Engineering Department regulations before they could get a permit and then the site would be inspected by the County after it was completed before they could sell any of the lots. He had a letter dated January 30, 2002, from the Fish and Wildlife Service saying that there were no gopher tortoises on the this site, which he had forwarded to Mr. Orr. Mr. Williams pointed out that a good deal of the property downtown was considered a flood zone by FEMA. He commented that they wanted this to be a successful project and they had every reason to develop this according to all of the rules and regulations.

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A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to waive Section V.D.2 – minimum width – of the Subdivision Regulations for Lots 1-6 and approve this subdivision subject to the following conditions:

- (1) delineation of the “no build zone” on the lots that include wetlands to ensure protection of the wetlands;
- (2) placement of a note on the final plat stating that maintenance of all common areas (including tot lots) shall be the responsibility of the property owners;
- (3) that any necessary approvals be obtained from federal, state and local agencies prior to the issuance of any permits; and
- (4) any detention areas located within common areas be identified as such on the final plat.

Mr. Plauche was opposed. Ms. Deakle recused. The motion carried.

OTHER BUSINESS:

Mr. Olsen reminded the Commission of the Special Business Meeting to be held on Thursday, August 15, 200, at 9:00 a.m. in the Pre-Council Meeting Room.

Dr. Rivizzigno said that there was an article in this morning’s paper regarding problem traffic intersections and things the City was trying to do to mitigate the problems. She felt that there should be an ordinance adopted to prohibit sales and solicitation in those intersections (newspaper sales, soliciting funds, selling doughnuts, etc.).

Mr. Olsen indicated that this was something that would have to be addressed by the City Council.

There being no further business, the meeting was adjourned.

APPROVED: October 17, 2002

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

jh