

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 4, 2004 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Laier, Vice-Chair
Victor McSwain, Secretary
James F. Watkins
Ann Deakle
John Vallas
Nicholas H. Holmes, III
Mead Miller (S)

Members Absent

Clinton Johnson
Victoria L. Rivizzigno

Urban Development Staff Present

Laura J. Clarke, Director,
Urban Development Department
Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Ron Jackson, Deputy Director of
Urban Forestry
Jennifer Henley, Secretary II

Others Present

John Lawler, Assistant City Attorney
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. Plauche and seconded by Mr. Miller to approve the minutes of the August 5, and August 19, 2004, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #ZON2004-01809

Van Antwerp Realty Corp., Inc. (Steve Quinnelly, Agent)

South side of Bear Fork Road, 400'± West of the South terminus of Goodman Avenue, extending to the North side of Eightmile Creek.

The request for a change in zoning from R-1, Single-Family Residential, to I-1, Light Industry, to allow an outdoor shooting range was considered.

Council District 1

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The site plan illustrates the proposed buildings, parking, drives, and existing wetlands boundaries.

(Also see Case #ZON2004-01912 - **Van Antwerp Realty Corp., Inc. (Steve Quinnelly, Agent)** – Below)

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (2) provision of buffering in compliance with Section IV.D.1. where the site adjoins residential zoning;
- (3) limited to the accompanying Planning Approval;
- (4) full compliance with the City Engineering Comments (dedication of Flood Plain easement along Eight-Mile Creek, must comply with all stormwater and flood control ordinances, any work performed in the right of way will require a right of way permit); and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2004-01912

Van Antwerp Realty Corp., Inc. (Steve Quinnelly, Agent)

South side of Bear Fork Road, 400'± West of the South terminus of Goodman Avenue, extending to the North side of Eightmile Creek.

The request for Planning Approval to allow an outdoor shooting range in an I-1, Light Industry district was considered.

Council District 1

The site plan illustrates the proposed buildings, parking, drives, and existing wetlands boundaries.

(For discussion see Case #ZON2004-01809 - **Van Antwerp Realty Corp., Inc. (Steve Quinnelly, Agent)** – Above)

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

- (1) full compliance with the landscaping and tree planting requirements of the Ordinance;

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- (2) provision of buffering, in compliance with Section IV.D.1. where the site adjoins residential zoning;
- (3) the provision of a No Blue Sky Baffle System;
- (4) provision of 10-foot wide berms along the East and West sides of the firing lanes;
- (5) provision of a minimum 18-foot tall berm along the southern end of the firing lanes to be periodically cleaned of debris;
- (6) that all shooting take place within sound proof shooting houses;
- (7) full compliance with the City Engineering Comments (dedication of Flood Plain easement along Eight-Mile Creek, must comply with all stormwater and flood control ordinances, any work performed in the right of way will require a right of way permit. Must comply with all stormwater and flood control ordinances); and
- (8) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2004-02065

South Florida Ceiling Systems (Joe Chambliss, Agent)

Property on the North side of Bruns Drive, 50'± West of its East terminus, and property 520'± South of Grelot Road, adjacent to the North side of Health Center Subdivision.

The request for a change in zoning from B-2, Neighborhood Business, to B-3, Community Business, for unspecified commercial use was considered.

Council District 6

The plan illustrates the proposed rezoning and subdivision.

(Also see Case #SUB2004-00217 - **Chambliss Properties-Alabama Subdivision** – Below)

Mr. Dan Elcan was representing the applicant, Mr. Joe Chambliss who lived in Florida. Mr. Elcan concurred with the staff recommendations.

Mr. Bill Baltz, a resident of 1524 Ridgeland Road West, which was about four properties down from the subject property, said he was also president of the Sugar Creek Subdivision Neighborhood Association. Mr. Baltz said the biggest problem the residents of Sugar Creek had was the way the signage was placed for the rezoning request as far as it not really being visible from Cody and Grelot Roads. Drainage, which was already a big problem, was also a concern. He noted that Milkhouse Creek ran through the subdivision and created major flooding problems. The floodway had changed along Milkhouse Creek, which he showed photos of, and said he had not been able to secure the revised 100-year flood plain map from the Corps of Engineers. He said it was so bad that Mobile Water and Sewer raised their manhole covers up over four feet, and they were still totally under water during floods. They had problems when it rained and there had been sewer dumps already in Sugar Creek. Mr. Baltz said their main concern was the watershed, with the City enforcing the runoff and retaining ponds. He mentioned the

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problem Winn-Dixie has had, the study that was done on the United Methodist Church for construction watershed, the problems that occurred with the mini-storage on Grelot Road, and the poorly managed construction of the watershed and the silt runoff. He said the residents of Sugar Creek would rather see the subject property remain B-2. More of them were not present at the meeting today because there was not adequate notice given by way of the signs posted. Mr. Baltz said he had a signed affidavit from one of the residents who could not be present today.

Mr. Plauche asked if the City normally took into consideration the existing development around something such as Milkhouse Creek, and had any kind of retention area been approved.

Ms. Beverly Terry replied yes. She said they took into consideration the flood zones and something like Milkhouse Creek. Also, if they had additional information concerning flooding of the homes in Sugar Creek, they took that into consideration, and also for building on the adjacent properties in that watershed.

Mr. Plauche asked if that would necessarily mean that City Engineering might up the retention time or retention volume.

Ms. Terry replied that they could change it to require stormwater retention for a 100-year storm instead of a 10-year storm.

Mr. Mike Roberts, vice-president for the company that ran the adjacent nursing home, said they were concerned about the impact the development would have on their residents, and the fact that there was no buffer between them. He asked if there was a development going on the existing B-3 property and/or the proposed B-2 property, and were there any restrictions as to what could be built on the property.

Ms. Pappas stated that the Zoning Ordinance had a Chart of Permitted Uses which listed uses and the zoning classifications those types of businesses were allowed in. B-3 allowed more commercial uses than B-2. The nursing home presently joined B-3 to the west, and B-2 to the north. Buffers were not required when commercial districts abut commercial districts.

Mr. Roberts said he had been talking to the representative of the owner this morning. They hoped they could work out an arrangement where there could be land acquired for a satisfactory buffer. He said at this point they had not come to a conclusion on price. Until that happened, he said he was concerned with them moving forward.

Ms. Deakle asked if the applicant could address the Commission.

Mr. Elcan noted that the way the property was currently zoned, part B-2 and part B-3, was the way they inherited the property. He said when they went to subdivide the property they were informed by their engineer that they would have to have it rezoned to one classification. Mr. Elcan said he understood the concern of the residents of Sugar

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Creek. He met with Councilwoman Connie Hudson and two of the property owners this past Monday. They discussed their proposal to take all of the wetlands, all of Milkhouse Creek, the floodway and the flood plain, and basically create a buffer zone that would abut Lots 16 and 17 of Sugar Creek. They would not touch the drainageway at all, and in fact would dedicate that as a natural zone never to be disturbed. As far as the nursing home was concerned, he said he had talked to Mr. Roberts about selling them a portion of land so they could create a buffer. Mr. Elcan said they presently did not have a development or users for the property.

Regarding the nursing home acquiring some property for a buffer, Mr. Olsen noted that that would require a resubdivision application for both parties.

Concerning making the wetlands and flood zone as a buffer, Mr. Plauche asked if they were talking about the present flood zone or after the Corps reconstituted it.

Mr. Elcan stated that they recently had the property subdivided and plotted again, and the new subdivision platting that was on the survey they had was what they were proposing. He did not know if that was the new floodway.

Ms. Pappas stated that if the applicant was offering voluntary conditions and use restrictions, they had to be spelled out.

Mr. Miller asked if it would impact the applicant that negatively to hold it over, because it looked like everybody could come to an agreement if they had a few more weeks.

Mr. Elcan said they had been held over once already on this matter. He said they were trying to move forward with setting property up for development. They were willfully making the concession to the neighbors, and would prefer not to hold it over.

In discussion, Ms. Pappas said that the staff would need more time on the applicant's offer to restrict development. The main thing they needed to know if that was in the flood way or the flood plain, and if so, what zones. They would need the legal description drawn up, or the attached plat specifically showing the area.

A motion was made by Mr. Watkins and seconded by Mr. Miller to holdover this application until the meeting of November 18, 2004, to allow the applicant time to submit additional information regarding Voluntary Conditions and Use Restrictions discussed at the meeting.

The motion carried unanimously.

Case #SUB2004-00217

Chambliss Properties-Alabama Subdivision

Southeast corner of Grelot Road, extending to the North side of Bruns Drive and the South side of Grelot Road, 750'± West of the South terminus of Chimney Top Drive West.

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5 Lots / 41.9± Acres
Council District 6

(For discussion see Case #ZON2004-02065 - **South Florida Ceiling Systems (Joe Chambliss, Agent)** – Above)

A motion was made by Mr. Watkins and seconded by Mr. Miller to holdover this application until the meeting of November 18, 2004, to allow the applicant time to submit additional information regarding Voluntary Conditions and Use Restrictions discussed at the meeting.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2003-00201

Brooklyn's Way Subdivision

East side of Snow Road, 520'± South of Wulff Road.

71 Lots / 35.0± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2003-00223

O'Neal Place Subdivision

South side of Johnson Road, 850'± East of Scott Dairy Loop Road West.

32 Lots / 13.0± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00290 (File #S99-19)

Raleigh Subdivision

West side of Cody Road, 870'± South of Wynnfield Boulevard, and extending to the East terminus of Longview Drive.

165 Lots / 110.0± Acres

Request for a one-year extension of previous approval.

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

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The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2004-02157

Modern Homes & Equipment Co., Inc.

380'± South of Dog River Drive North, adjacent to the West side of Park Avenue (City park entrance road).

The request for a change in zoning from R-1, Single-Family Residential, to I-1, Light Industry, to allow a storage yard expansion at an existing home building and equipment contractor was considered.

Council District 4

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

(Also see Case #SUB2004-00225 – **Modern Homes Subdivision** – Below)

Mr. Jim Fernandez, attorney, was representing the applicant. Mr. Fernandez said the applicant had purchased a parcel of R-1 zoned park property from the City to add to their I-1 property. The staff said they would have to file a subdivision application so that all the separate parcels would become one lot. The one parcel cannot be split-zoned so the rezoning was required. Mr. Fernandez said he would like to speak to the staff's recommendations and provided each of the Commission members with a copy of his comments. First, to give a little history of the site, he stated that Modern Homes and Equipment Company, Inc., and Luscher Park were at the end of Navco Road on Dog River Drive. At one time the park property and the Modern Homes facility were one commercial site. Navco Road was originally constructed as a way to access this property. The site had a long history of continuous heavy industrial use. Prior to the conveyance of the property, which was now Luscher Park, to the City in 1952 there was a sawmill with associated employee barracks that was located down in the park almost where the boat ramps were now. This sawmill still existed in the early 1960s. The sawmill and barracks and the buildings that were now occupied by Modern Homes were part of the operation of Southern Gulf Lumber Company, Inc. The sawmill and barracks were torn down prior to the adoption of the first Zoning Ordinance by the City in 1967. He said Modern Homes was not coming in and imposing its business on the park. The park had developed out of an existing industrial site. He noted that under the current Zoning Ordinance, a park was a permitted use in any district, and therefore it was never really necessary for the park to be zoned R-1 to be a park. It could as easily have been zoned the business use that it in fact was when it was acquired. In conjunction with the application, Mr. Fernandez said they were required by the Zoning Ordinance, because of the juxtaposition of R-1 and a business use, to provide a buffer between the property that they acquired and the property that was zoned R-1. He noted, however, that the City Council could waive that buffer requirement, which consisted of a 6' wooden privacy fence, or a 6' tall, 10' wide hedge. He said they would build the wooden privacy fence if

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these were their only options. Mr. Fernandez asked that the Commission recommend to the City Council that they be allowed to build a chain link fence, similar to the chain link fence that was around the facility, and let them plant that chain link fence with some plant like Ivy that would provide the same sort of effect, and yet at the same time offer the company the security of the chain link fence.

Mr. Fernandez next addressed the Urban Forester's comments. He stated that they were required by the Zoning Ordinance to plant trees along an area which was adjacent to a road that comes into the park. He said that was their internal road to the park. Further, he understood him to say that he also wanted trees along the fence line in back of the property. Mr. Fernandez said he had spent time with Mr. Lawler the previous day going through the Zoning Ordinance, and he contended that there was simply no basis in the Zoning Ordinance or the Landscape Ordinance for that requirement. The Landscape Ordinance specifically stated that the landscaping requirements become applicable to each building site at the time that an application for a building permit for a new structure on the building site was made. Thus, the Landscape Ordinance only applied where there was a structure to be built, and the Definition section of the Zoning Ordinance specifically defined a structure to exclude a fence. The only thing they were going to build there was the perimeter fence. All they were going to use that property for was for moving products around. He said there would be no new buildings, so that part of the Zoning Ordinance did not apply to them. Also, the Ordinance only required trees along the frontage street. He said they did not front the street. The front of the Modern Homes facility was on Dog River Drive. Mr. Fernandez said that on their own accord they did some tree planting and landscaping in that area. He further noted that there had been gates in the back that could be opened before, but if requested, they would be happy to put a comment on the plat that says they have no access to the park road from their lot. He also pointed out that there was a huge Oak tree that absolutely nothing would grow under no matter what was planted. Also, the area where planting would be required, was in the middle of the major sewer intake for that road. That whole area was mostly running water where the water came through, so nothing would grow there. Mr. Fernandez asked that the Commission not require the condition of the tree plantings as requested by Urban Forestry.

Ms. Deakle asked if Mr. Lawler would address this issue.

Mr. Lawler said he did meet with Mr. Fernandez. Mr. Lawler said the Planning Commission had from time to time, when there had been an intense use, like an industrial use, abutting a residential zone, required as a condition something a little bit more than what was specifically stated in the Ordinance. Also, in this case, the Subdivision Regulations, which were amended, required that when an industrial type use abuts a residentially zoned area, that a buffer could be provided, and that it could be required that the planting be at least 6' high at the time it was planted. Also, a combination of vegetation and a fence could be required. This was set out in Section II.5.A.7. That was amended in March of 2002, and it grew out of a case with Providence Park. He said the regulation in that situation was not as quite as broad as this. They had an appeal and went to court on it and were not successful in that one. But the Ordinance was amended

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to give them some leeway so they could require some protection for properties residentially zoned from, like in this case, an industrial type use.

Mr. Plauche said Mr. Fernandez was talking about landscaping and trees and Mr. Lawler was talking about buffering. He asked if these should be separate.

Ms. Pappas stated that there were two separate issues. Mr. Fernandez was requesting a waiver of the buffer requirement of the Zoning Ordinance, which required either a 6' wooden privacy fence, or planting at least 6' tall at the time of planting and of sufficient density to screen the property. She referred to the map and said where the fence was located in the foreground was actually where the property line would be. The staff was recommending the setback be buffered. In addition, Urban Forestry was recommending that trees be planted.

Mr. Fernandez asked if he could respond. He said he thought he had just heard Mr. Lawler say that they agreed that there was nothing in the Zoning Ordinance that required them to plant trees.

Mr. Lawler stated that he did not say that. He said if the applicant was not satisfied with it, perhaps they could test it out in court. He said he was only saying that it was not as specific as they wanted it to be. It was his opinion that the Ordinance was broad enough and the powers of the Planning Commission were broad enough in these situations to allow a reasonable condition to be placed on a rezoning. Mr. Lawler felt that in this case because they were discussing the division between an industrial site and a public park, it was not too much to expect the kind of buffer that was being recommended. Further, he pointed out that if it was made a condition of zoning, it could be waived by the City Council. If the buffer was made a condition of the Subdivision, however, not subject to being waived by the Council, it would have to be tested in court.

Mr. Vallas asked if the frontage trees that would come off the park road could be spread out, not only on Park Road or Dog River Drive.

Mr. Jackson stated that they were asking that only the rezoned portion of the property be planted with trees. That was 255' on that portion which they felt was adjacent to the City street that ran through the park. Mr. Jackson noted that on most rezonings, industrial especially, only frontage trees were required. He said it was his determination, as the Forester, that this was a City street and that it did have frontage on that piece of property, so those trees would be required under the rezoning. The other portion was 301'. That would require a total of 18 trees between the two linear frontages that were referred to. He said they had asked for 18 trees to be coordinated with Urban Forestry, which would be trees such as Leyland Cypresses. Mr. Jackson noted that the applicant had commented that he was worried about people climbing the trees and getting into the yard. For this reason the staff agreed that instead of having the trees on the outside of the fence and the fence not on the property line but farther back, they would allow him to put the trees on the inside of the fence, which would stop people from climbing. He said they would like to see a row of hedges to buffer that industrial piece of property next to the park. He felt

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this was something that this park needed, as the people who enjoyed that area had the right to look at a pleasing environment. The City put money into that park and was constantly maintaining it. That was the reason they asked that these extra conditions be put on the approval. Mr. Jackson further commented that Mr. Lawler had already stated that the Commission could go above what was required by the Ordinance, and he had told the applicant that he did understand that they had asked for more than the Ordinance required. Mr. Jackson said they had done this on other pieces of property such as the Hosea Weaver Asphalt Plant on the north side of town. Now the residents that lived behind those trees could not see that industrial site. He said that was the same type of environment they would like to give to this park. Mr. Jackson said they were asking for more, but it was something that was within the guidelines, as he had been advised by the legal staff.

Ms. Deakle asked Mr. Jackson if, in his opinion, trees would grow in the area where they were being required.

Mr. Jackson said there was not a tree that would interfere with the vegetation they were talking about. He said they would grow and they would be maintained. He said this was required on every piece of property now, and since 1992 approximately 45,000 trees had been planted under this Ordinance.

Mr. Fernandez said they had a problem with planting trees inside the area because in their negotiations with the City purchase they were trying to buy a larger area and they cut it back to the minimum area that they could utilize. By putting the trees inside the line they would not be able to utilize the property they were trying to buy. He asked if he could read to the Commission the section of the Subdivision Regulations that Mr. Lawler referred to. He said that the subdivision part of this request was asked for by the staff. He said the applicant did not have to have a subdivision, but were doing that because they were asked to. All they needed was to have that parcel rezoned. He quoted from the Subdivision Regulations, Section VII, as follows: "Where a residential subdivision adjoins land zoned for or used for..." He said first of all he said they were not a residential subdivision. Continuing, "...for a railroad right-of-way, an industrial area, a commercial area, or other land use which would have a depreciating effect on the residential use of the land, a buffer planting strip, or wooden privacy fence of 6' in height may be required by the Planning Commission." He said the Zoning Ordinance, separately from the Subdivision Regulations, also provided for that 6' wooden privacy fence, and if that was what the Commission wanted, that was what they would put up. They were asking for a waiver of that requirement and instead be allowed to erect a chain link fence with Ivy. He said they met the buffer requirement by putting up the 6' wooden fence. Mr. Fernandez said the other issue was the Tree Ordinance, which he contended did not apply to them by its terms, which he felt Mr. Lawler would fairly admit did not apply by its terms. He said the concept that the Commission could increase requirements whenever they wanted went in the face of basic principles of law.

Mr. Lawler said things were a little confusing here. He said he was sorry that perhaps this had not gotten published as well as it should have. But the section of the Subdivision

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Regulations that he quoted had been amended, as he mentioned earlier, in March of 2002. The amendment defined a buffer as, “an area along the external boundaries of a lot, a minimum of 10’ in width, planted with vegetation of sufficient density and of sufficient height, but in no case less than 6’ of height at the time of planting, to afford protection to adjacent properties from the glare or light, blowing papers, dust, debris, visual encroachment, and to effectively reduce the transmission of noise. A buffer may also include a minimum of a 6’ wooden privacy fence maintained in good repair, or a combination of the aforementioned fence and vegetation both.” The Regulations were further amended to add “Buffer, planting strips, or privacy fence. Every effort shall be made to protect adjacent, residential area from potential nuisance from proposed multi-family, commercial or industrial subdivision, including the provision of extra depth of parcels adjoining existing potential or existing residential development. In such cases, the provision of a buffer consisting of landscaping, a 6’ wood privacy fence or when necessary to negative impacts, a combination thereof is required.” Mr. Lawler felt the Commission had broader powers under this amendment. He said it was the intention when these amendments were passed, that when a situation like this presented itself where there was an industrial use abutting a park, the Commission would have the opportunity if they wanted it, to protect the park by a buffer.

Mr. Fernandez apologized to Mr. Lawler. He said when they met the previous day and went over the application that was not mentioned. He asked if they were to withdraw the subdivision application, could the zoning be approved on its own.

Ms. Pappas replied that the subdivision was required because they were taking a parcel, not a lot of record, but a parcel of property from the City park, and it could not be transferred via a metes and bounds legal description. It had to be incorporated and accounted for in the overall Modern Homes site. A subdivision application and recording of the final plat was required.

There was no one present in opposition.

In discussion, a motion was made by Mr. McSwain and seconded by Mr. Vallas to recommend the approval of this change in zoning to the City Council subject to the staff recommendations.

Mr. Lawler asked if they were making the conditions about the buffer subject to the subdivision approval as well as the zoning approval.

Mr. Vallas stated that based on the staff recommendations, the conditions were on the zoning, and not on the subdivision.

Mr. Lawler said he understood, but pointed out that if it went up just for the zoning, it was subject to being waived by the City Council. He said if they wanted to make it stick they could make it a condition of the subdivision approval.

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Ms. Pappas stated that the Subdivision Regulations had a more stringent offering on buffers, where the Commission could require both a 6' privacy fence as well as vegetation. If made a condition of the subdivision, it would have to be appealed to Circuit Court, whereas the final step in zoning was the City Council, and the City Council did have the ability to waive the buffer requirement.

Mr. Lawler further stated that the Commission's recommendation with regard to conditions on a rezoning went to the City Council, but it was not final. Their recommendations for conditions that went with a subdivision approval were final, subject only to review by the courts. Also, the Subdivision Regulations allowed both a buffer and a fence if the Commission so desired. He said Mr. Fernandez was correct and it was not crystal clear, that they could just anytime they wanted make somebody put in a lot of trees. Mr. Lawler said, however, that every circumstance could not be covered in the Ordinance; every situation that came up could not be anticipated. When there were good reasons for requiring a little more to protect neighboring properties, in this case the park, he said the courts had approved such conditions. On the subdivision, he reiterated that if the Commission wanted to make them have a fence and vegetation to protect this park, they should make it a condition of the subdivision approval.

Mr. McSwain said he did not think a park was as sensitive as a residence, and that was the reason he was saying that either the fence or the vegetative buffer be required.

Mr. Lawler said he did not have an opinion about it as he had never seen the property.

Mr. Miller said that he was personally for a motion that included the subdivision to allow greater protection. That did not necessarily mean that the Commission has to require all that, but it gave the Commission protection as a group. He said he would vote against a motion that was not stated that way. He asked that the motion be clarified.

Ms. Pappas stated that the motion on the rezoning was full compliance with the staff recommendations as they were. That would allow on condition #2 either a 6' wooden privacy fence, or the vegetative screening. Then on the subdivision, they could recommend full compliance with the buffer requirement, either the 6' wooden fence, or 6' tall vegetation at time of planting in a sufficient density to screen. Additionally, Ms. Pappas noted that the applicant stated that they would deny access to the park. The staff would like to see that in the conditions as well. She also noted that the fence or the buffer would be at the applicant's discretion. If they elected to go with a vegetative buffer, at the time of inspection if the buffer were not sufficient, it would not be approved.

Mr. McSwain and Mr. Vallas amended their motion and second respectively. The final motion was to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) full compliance with the Urban Forestry Comments (full compliance with landscaping and tree plantings for the property to be rezoned, frontage trees to be provided along Park Road street frontage, tree plantings and

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- required buffer to be coordinated with and approved by Urban Development staff, property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [State Act 61-929 and City Code Chapters 57 and 64];
- (2) the provision of a six-foot wooden privacy fence, or a six-foot tall vegetative hedge (at the time of planting) of sufficient density to block visibility;
 - (3) denial of access to the park; and
 - (4) full compliance with all municipal codes and ordinances.

The question was called. The motion carried unanimously.

Case #SUB2004-00225

Modern Homes Subdivision

2467 Dog River Drive North (Southeast corner of Dog River Drive North and Navco Road).

1 Lot / 8.6± Acres

Council District 4

(For discussion see Case #ZON2004-02157 – **Modern Homes & Equipment Co., Inc.** – Above)

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

- (1) the provision of a six-foot wooden privacy fence, or a six-foot tall vegetative buffer in compliance with Section V.A.7. of the Subdivision Regulations; and
- (2) placement of a note on the final plat stating that access to the park is denied.

The motion carried unanimously.

Case #ZON2004-02156

Rochester Place Subdivision, Revised Plat of

Northwest corner of Airport Boulevard and General Pershing Avenue (not open), extending North and West to the South side of South Sunset Drive.

Planned Unit Development Approval to allow a private street single-family residential subdivision with reduced lot widths, reduced lot sizes, zero side yard setbacks on interior lots, reduced side street setbacks on corner lots, and increased site coverage (40%).

Council District 5

AND

Case #SUB2004-00224

Rochester Place Subdivision, Revised Plat of

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Northwest corner of Airport Boulevard and General Pershing Avenue (not open), extending North and West to the South side of South Sunset Drive.

17 Lots / 3.4± Acres

Council District 5

These applications were heldover prior to the meeting at the applicant's request.

A motion was made by Mr. Plauche and seconded by Mr. McSwain to holdover these applications until the meeting of November 18, 2004, at the applicant's request.

The motion carried unanimously.

NEW ZONING APPLICATION:

Case #ZON2004-02160

Mobile Fence Company, Inc.

4308 Halls Mill Road (North side of Halls Mill Road, 120'± West of the North terminus of Riviere du Chien Road).

The request for a change in zoning from R-1, Single-Family Residential, to B-3, Community Business, to bring the zoning into compliance at an existing fence company was considered.

Council District 4

The plan illustrates the existing buildings, drive, and fencing.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) dedication of sufficient right-of-way to provide a minimum of 35' from centerline of Halls Mill Road;
- (2) submission of the necessary subdivision and PUD applications;
- (3) completion of the subdivision process prior to the issuance of any permits; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2004-00228

Airway Commercial Park, Resubdivision of Lots 38 & 39

North side of Airway Park Drive, 590'± West of Schillinger Road.

November 4, 2004

1 Lot / 0.6± Acre

The applicant was present and concurred with the staff recommendations.

Mr. Keith Cochran of 3081 Lacoste Road, was present and stated that his company Park Place of West Mobile, owned the property north of the site being considered for resubdivision. Since 1995 they had a mobile home park at that site, which in 1995 was considered residential. His 12-1/2 acre subdivision backed up to Airway Commercial Park. He said they wanted to see a woody buffer 20 feet on the north side of this lot to shield his property and the backs of the homes from this site.

Ms. Pappas stated that this was in the County and there was no zoning.

Mr. Plauche inquired if a buffer could be required?

Ms. Pappas replied yes. If a site was developed commercially and adjoined residential property, then a buffer had to be provided.

Mr. Cochran inquired if this lot would have a buffer.

Mr. Plauche replied that it would.

Mr. Cochran inquired if that would be a condition of subdivision approval and if so, what kind of buffer would it be?

Ms. Pappas said that it would simply be a 6-foot wooden privacy fence or a vegetative buffer at 10 feet in depth and of a sufficient density to not be seen through. She pointed out that the buffer would only be required for the lot in question today. The other existing lots in Airway Commercial Park, which were developed prior to that amendment in the Subdivision Regulations, would not have that requirement unless they came back before the Commission for some reason.

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

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

The motion carried unanimously.

Case #SUB2004-00227

Blackwell Commercial Park Subdivision

South side of Moffett Road, 3/10 mile± East of the North terminus of Wulff Road East.

2 Lots / 10.9± Acres

November 4, 2004

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the dedication of sufficient right-of-way to provide 50' from the centerline of Moffett Road;
- (2) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each to Moffett Road, with the size, location and design to be approved by County Engineering; and
- (3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Subdivisions.

The motion carried unanimously.

Case #SUB2004-00223

Dawes Lake Trace Subdivision

West side of Dawes Lake Road East at its North terminus.

18 Lots / 10.0± Acres

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

There was no one present in opposition.

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

- (1) the provision of a traffic calming device in the area of Lots 5 and 15;
- (2) the provision of a temporary turnaround between Lots 12 and 13;
- (3) the provision of a street stub to the North; and
- (4) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision.

The motion carried unanimously.

Case #SUB2004-00221

Downtown West Subdivision, Unit Six, Resubdivision of Lots 21, 22, 23 & 24

South side of Downtowner Loop South, 390'± West of Downtowner Boulevard.

November 4, 2004

1 Lot / 1.6± Acres
Council District 5

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

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

There was no one present in opposition.

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

- (1) that the entire site be rezoned to one zoning classification prior to the recording of the final plat.

Ms. Deakle recused. The motion carried.

Case #SUB2004-00222

Hinton Terrace Subdivision, Resubdivision of Lots 6 & 7

West side of Armond Drive, 380'± South of Gill Road.

2 Lots / 1.0± Acres

Council District 4

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

There was no one present in opposition.

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

- (1) the placement of the 25-foot minimum setback line on the final plat.

The motion carried unanimously.

Case #SUB2004-00226

Mechem & Blairs Subdivision, Resubdivision of Lots 19, 20 & 21

Northeast corner of North Sage Avenue and Mathers Street.

1 Lot / 0.4± Acre

Council District 1

Ms. Pappas said she had noticed that the staff had omitted one recommendation. This was going from three lots to one lot and it would be split zoned. The staff would recommend the elimination of the split zoning prior to the recording of the final plat.

November 4, 2004

Mr. Regan of Regan Land Surveying, Inc., was representing the applicant and concurred with the staff recommendations.

Ms. Brenda Barnes, applicant, was also present.

There was no one present in opposition.

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

- (1) the dedication of a 25-foot radius at the corner of North Sage Avenue and Mathers Street;
- (2) the placement of the 25-foot minimum setback lines on the final plat; and
- (3) that the entire site be rezoned to one zoning classification prior to the recording of the final plat.

The motion carried unanimously.

Case #SUB2004-00219

Oakston Subdivision, Resubdivision of Lots 1, 2 and 3

Northwest corner of Oakland Avenue and Marston Lane.

2 Lots / 0.9± Acre

Council District 7

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

There was no one present in opposition.

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

The motion carried unanimously.

Case #SUB2004-00229

Rangeline Industrial Park Subdivision, Unit 1

South side of Hamilton Boulevard, 500'± East of Rangeline Road.

12 Lots / 10.0± Acres

Mr. Doug Bryant was representing the applicant and inquired if they needed a special application for waiver of Section V.D.3. of the Subdivision Regulations as referenced in the staff recommendation.

Mr. Plauche replied no.

Mr. Bryant concurred with the staff recommendations.

November 4, 2004

There was no one present in opposition.

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

- (1) the dedication of sufficient right-of-way to provide 50-feet from the centerline of Hamilton Boulevard;
- (2) the placement of a note on the final plat stating that the number, location, size, and design of all curb cuts to Hamilton Boulevard must be approved by County Engineering;
- (3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- (4) the placement of the 25-foot minimum setback line on the final plat.

The motion carried unanimously.

Case #SUB2004-00220

Winston Square Subdivision

South side of Old Government Street Road, 130'± West of Willow Pointe Drive, extending to the East side of an unopened, unnamed public right-of-way.

10 Lots / 2.8± Acres

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

There was no one present in opposition.

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

- (1) the detention pond be labeled as a common area for detention and a note placed on the final plat stating the maintenance thereof is the responsibility of the property owners; and
- (2) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

OTHER BUSINESS:

November 4, 2004

Public Hearing

To consider the proposed Amendment to the Major Street Plan - Virginia Street Extension.

Mr. Olsen stated that the Commission had received a staff report outlining the proposed amendment. In essence, the Major Street Plan currently had Virginia Street from Weinacker Avenue to LaSalle Street and then on to Dauphin Island Parkway, going through a residential neighborhood. There would have to be numerous commercial and residential properties acquired at the intersections of Houston and Virginia Streets and Houston and LaSalle Streets to make the curve that would be necessary to continue on. Some major modifications would also have to be made to the entire intersection at Government Street, Dauphin Island Parkway, and Williams Street to make traffic flow properly. Due to the proximity of the intersections of Virginia and Houston Streets and Government and Houston Street, the Urban Development staff felt that this continuation of Virginia Street was really not necessary. So it was their recommendation that the section from Houston Street to Government Street be removed from the Major Street Plan.

There was no one present to speak on this matter.

In discussion, a motion was made by Mr. Vallas to approve the proposed amendment to the Major Street Plan pertaining to the Virginia Street Extension as submitted by the staff.

It was asked what prompted this request for an amendment to the Plan.

Mr. Olsen stated that the City had received a request for an individual or a company to purchase a portion of the right-of-way in this area. Currently there was a commercial building there that had been under lease for some period of time. The tenant was interested in acquiring the property.

Mr. Holmes asked if Traffic Engineering had any input in this.

Mr. McSwain said his predecessor was the one who generated this idea. He said it was his opinion that if left as it was, it would create a major problem and he was totally in support of removing it. He also felt there were a number of streets on the Major Street Plan that needed to be analyzed and removed.

Mr. Olsen commented that there were several other amendments to the Major Street Plan under consideration by the staff. Also, at some point in time they were hopefully looking at a complete rewrite of the Comprehensive Plan.

Mr. Plauche called for a second to the motion.

The motion was seconded by Mr. McSwain.

The motion carried unanimously.

November 4, 2004

There being no further business, the meeting was adjourned.

APPROVED: December 16, 2004

/s/ Victor McSwain, Secretary

/s/ Terry Plauche, Chairman

/ms and jh