

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF JANUARY 10, 2002 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Robert Frost, Chairman  
Victor McSwain, Secretary  
Ann Deakle  
Reverend Clinton Johnson  
Terry Plauche  
Wendell Quimby  
Victoria Rivizzigno  
John Vallas  
Norman Hill (S)

**Members Absent**

James Laier (S)

**Staff Present**

Laura J. Clarke, Director  
Christopher Boone, Deputy Director of  
Land Use Administration  
Richard L. Olsen, Planner II  
Angie Etheridge, Secretary III

**Others Present**

John Lawler, Asst. City Attorney  
Ron Jackson, Urban Forestry  
Fred Brown, Traffic Engineering  
Beverly Terry, City Engineering  
Shayla Jones, Long Range Planning  
Pat Stewart, County Engineering

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

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

**APPROVAL OF MINUTES:**

A motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to approve the minutes of the November 1, November 15, and December 6, 2001 meetings as submitted. The motion carried unanimously.

**EXTENSION:**

**Case #SUB2000-00034**

**File #S99-283**

**Semmes Commercial Park Subdivision**

Northeast corner of Snow Road and Betty's Way, extending East from the East terminus of Betty's Way.

9 Lots / 9.6± Acres

Request for a one-year extension of previous approval.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Quimby to approve a one-year extension of previous approval for this subdivision.

The motion carried unanimously.

**HOLDOVERS:**

**Case #ZON2001-02511**

**Mason Memorial Temple Church of God in Christ, c/o John Young**

1406 Dr. Martin Luther King, Jr. Avenue (Northwest corner of Dr. Martin Luther King, Jr. Avenue and Patton Avenue).  
Planned Unit Development Approval to allow multiple buildings on a single building site.

**AND**

**Case #SUB2001-00296**

**Solid Rock Subdivision**

1406 Dr. Martin Luther King, Jr. Avenue (Northwest corner of Dr. Martin Luther King, Jr. Avenue and Patton Avenue).  
1 Lot / 0.2± Acre

These applications were recommended for hold over prior to the meeting. Therefore, there was no discussion regarding these cases.

**Case #SUB2001-00295**

**Cyrus Cove Subdivision**

South side of Airport Boulevard, 1900'± East of Walter Smith Road.  
190 Lots / 58.3± Acres

*Ms. Deakle and Mr. Vallas recused themselves from the discussion and vote regarding this case.*

Mr. Frost reported that this case was presented at the December 6 and December 20 meetings; however, due to abstentions/recusals there were insufficient voting members to constitute a quorum for this application. He noted that many neighbors were present at the previous meetings and raised concerns regarding traffic, property values and drainage issues. Mr. Frost requested that the neighbors present their concerns again for the commission members present that were not in attendance at the previous meetings.

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

Shelby Sanders, 1251 Twelve Oaks Drive, was present. Ms. Sanders reported concerns that Twelve Oaks Drive and O'Hara Drive would be opened up for traffic. She reported that O'Hara Subdivision was very nice and included approximately 65 houses with three-acre lots with the streets currently dead-ending. She pointed out that the area was already highly trafficked due to Baker School, and the traffic accommodating 190 additional houses would create a dilemma. She was also concerned that vehicles would travel through the subdivision to avoid the Baker School traffic. She stated that another resident, Dalton Orr, was present to discuss mutual concerns regarding the wetlands.

Dalton Orr, 1251 Walter Smith Road, was present in opposition and presented to the Commission a petition signed by 90% of the neighbors as part of the record. Mr. Orr opposed the development due to increased traffic, the adverse effects development of wetlands may have on the quality of water, and the adverse effects the proposed development may have on the environmentally sensitive area with gofer tortoises, many of which were very large snapping turtles. Mr. Orr reported that the existing neighborhood was very peaceful and quiet and the neighbors were adamantly opposed to an additional exit, and did not want the character of their neighborhood changed. Mr. Orr also raised concerns that traffic would cut through the subdivision to bypass the traffic congestion at Baker School. Furthermore, the additional traffic would result in some tortoises being killed. Mr. Orr noted that according to the owner of part of the property, an environmental consultant who mapped out the wetlands on the subject site, much of the wetlands on the subject site could not be developed due to steep ravines. Mr. Orr felt that some parts of the site toward Airport Boulevard would be acceptable for development, but the property along the back of Baker School and Twelve Oaks Drive dropped off.

Mr. Frost allowed Mr. Orr to speak in excess of the standard five-minute allowance because there was only one other attendee speaking in opposition with regard to this case.

Mr. Orr realized permits would be required by ADEM to develop the property, yet felt there would be more emphasis for ADEM to approve rather than oppose the request if the Commission granted approval. He felt the residents of the proposed subdivision may not be aware of the sensitivity of the gofers and may kill the animals or throw the animal down the gully into the ravine. He stated that the lots in the existing subdivision were large enough to allow the gofers' burrows, however, a resident on a lot less than one-fourth acre would not be able to allow the animals to dig their burrows. Mr. Orr reported that he had attempted to contact a state representative and would like to see the State of Alabama look into buying the property and setting it aside. He felt some parts of the city should simply be left alone. He requested that the Commission deny the request and allow other avenues to be pursued other than the subject property. Mr. Orr suggested that the developers explore the possibility of developing a large piece of land just east of the subject property and allow the sensitive area to remain undisturbed if at all possible.

Mr. Johnson gathered from review of the petition presented to the Commission the implication that if concessions were made to satisfy the concerns with the issues addressed that the consensus would support the request. Mr. Johnson asked Mr. Orr if this was correct.

Mr. Orr felt that no houses should border the wetlands where the gofer tortoises lived if the subdivision was approved. Mr. Orr understood that Barry Vittor, the owner who wanted to sell the property, mapped out the wetlands on the site, and he felt this posed a conflict of interest. Mr. Orr had contacted a representative with the Corp of Engineers who stated the Corp had not reviewed the property, however, he felt there could possibly be some confusion. Mr. Orr reported that Mr. Vittor told him there were no gofer tortoises on the subject property, nor any signs of tortoises recently being on the site. Mr. Orr reported he had photos on the web of the gofer tortoise burrows.

Johnson iterated that the stipulation in the recommendation noted that prior to the granting of any permit for any development that approval by the appropriate state and federal agencies was required. He questioned whether this recommendation would satisfy Mr. Orr's concerns to be assured that proper attention would be given to the wetlands and other issues he raised since approval was necessary prior to commencement of any development.

Mr. Orr reported that everyone in his neighborhood would have attended the meeting if the residents had faith in the system that their voicing opposition to the request would influence the Commission's decision.

Mr. Frost iterated that the condition requiring necessary approval from federal, state and local agencies prior to the issuance of any permits was added since the meeting the numerous residents attended in an effort to satisfy concerns related to the wetlands.

Mr. Orr reported that the attitude was that Mitchell Homes, the developer, had power and money and would receive approval for anything requested because the proposed development offered the opportunity for big money. Mr. Orr reported that the other residents did not want the development at this site, however, the residents had no faith in the system. Mr. Orr requested that the Commission please consider their concerns.

Mr. Frost reported for clarification that the Commission was bound by ordinances. He noted that there were balances between the government's authority and the rights of the property owner with regard to use of land. He noted that the Commission had flexibility in planning, yet the flexibility had to balance with the person who purchased and should be allowed to use property as desired within the guidelines of the laws and ordinances. Mr. Frost pointed out that whether the request was approved or denied, the Commission was bound by ordinances, and if the applicant met City and County ordinances the Commission had little flexibility. He pointed out that the Commission paid close attention to concerns voiced that made an impact within flexibility of whether the Commission could approve or deny a request. Mr. Frost pointed out that the Commission could rely on appropriate arguments raised within discretion as justification to determine a project is not appropriate for a particular site. However, Mr. Frost did not want people

to be misled to believe the Commission could do whatever they pleased because the Commission was required to follow precedent in the ordinances. Mr. Frost felt that the point Mr. Johnson was attempting to make was that the Commission could not pick and choose requirements pertaining to environmental issues. In other words, it was not up to the Commission, but other governing agencies, to determine whether something was environmentally appropriate. Mr. Frost explained that the Commission was trying to hear arguments, such as traffic as reported by Ms. Sanders and water quality, as Mr. Orr reported, that gave the Commission discretion as to whether to deny or approve the request. Mr. Frost noted that the request would not have been recommended for approval by the staff if the applicant had not met all of the conditions required by the ordinances, and he did not want any misunderstandings by those attending who were against this request.

Mr. Orr understood and appreciated Mr. Frost's clarification; however, he noted that discretion was questionable because he felt the Commission would favor the development because the request had been recommended up to this point. Mr. Orr pointed out for example the staff reports recommending that two regulations be waived concerning the size and density of the lots. Mr. Orr raised concern that the developer would be granted authorization to have smaller lots than would automatically be required, therefore packing more people into the subject area. Mr. Orr admitted that he and the other neighbors would concur with the subdivision if the Commission granted conditions considered agreeable by both parties. Mr. Orr felt there would be no opposition if the lot sizes in the proposed subdivision were comparable to the existing lot sizes, two-acres or larger, and the existing subdivision received no additional exits. He felt there would be no opposition to the additional residents using the existing exits if there were a few homes on large lots because the larger lots could also better accommodate the wildlife in the area. He reported that he and his neighbors were very concerned that the Commission would choose to use discretion in favor of the developer and approve this request.

Mr. Frost stated that the Commission's discretion was based on various factors; not necessarily in favor of the neighbors or the developers, but based on facts and circumstances surrounding each case.

Mr. Orr felt the recommendations favored the developer and allowed what the developer wanted in order to make money.

Mr. Frost reminded Mr. Orr that he was not debating, but the final decision rested with what government could and could not require of a property owner.

Mr. Orr questioned whether the Commission could decline the request if the Commission refused to accept the waiver on these two conditions.

Mr. Frost felt the Commission had discretion with regard to waiving lot size requirements.

Mr. Orr requested that the Commission exercise discretion with regard to this case and require the applicant to submit another plan with larger lots.

Truel Jones, 1200 Twelve Oaks Drive, was present in opposition. Mr. Jones wanted to be sure the Commission was aware the entrance to Airport Boulevard on the proposed plan was just a few feet from the entrance to Baker School. Mr. Jones questioned whether the school sheriff who controlled the traffic in this area must be aware of the proposal because approximately 250 additional automobiles would empty onto Airport Boulevard. Mr. Jones said severe problems existed with the traffic in front of the school and 250 additional automobiles in that area could be catastrophic from a traffic standpoint. Mr. Jones questioned the waivers being considered also. He did not feel it was very fair to consider waivers in the proposed subdivision when there were stringent requirements in the adjacent subdivision where the entrance was proposed to service the proposed request. He felt there was no question that the very small lot sizes would certainly depreciate the value of the adjacent property. Mr. Jones was also concerned since the subject site was a flood area, and many gofer tortoises existed on the wetlands. He stated his major concerns were regarding the traffic and the wetlands.

Ms. Sanders questioned whether the subdivision could be constructed without an entrance on O'Hara Drive.

Mr. Boone said that omitting the connection to O'Hara Drive would be physically possible, however, 190 lots should not be restricted to one access for emergency purposes.

Mr. Don Coleman, Rester and Coleman Engineers, was present representing the applicant. Mr. Coleman realized the traffic dilemma faced by the residents, however, he felt that the proposed subdivision would offer an alternative route for the existing residents to come through the proposed subdivision to avoid the traffic at Baker School. Mr. Coleman also reported that Dr. Vittor had approved the wetlands, and Dr. Vittor was one of the foremost environmentalists in this part of the country. Mr. Coleman felt development was inevitable on the subject property. He pointed out that the site could be developed commercially rather than residential, with no zoning approval required since the site is located in the county jurisdiction. He felt the proposed plan offered good planning and engineering, with adequate traffic circulation so people would not get bogged down in one place and police and fire had access by more than one way. Mr. Coleman noted many more lots could be approved for an area of land this large, however, due to the wetlands and common areas being set aside, he felt the request was reasonable.

Mr. Quimby responded that one could not build on wetlands anyway.

Mr. Coleman explained that the reason for the waivers was because much of the property was not being used.

Mr. Johnson questioned whether the staff required the entrance to O'Hara Drive.

Mr. Boone explained that the staff generally encouraged connection with other streets, especially street stubs to other neighborhoods, in order to encourage adequate and efficient flow of traffic throughout neighborhoods; not only for efficiency purposes, but also for emergency purposes. Therefore the staff recommended connection whenever there was an adjacent stub available.

Mr. McSwain questioned whether Walter Smith Road and Twelve Oaks Drive were stubs.

Mr. Coleman reported Walter Smith Road and Twelve Oaks Drive were cul-de-sacs.

Mr. Quimby voiced opposition relating to the density standard and waivers to allow lots smaller than the standard 7200 square foot. He also voiced concerns that vehicular traffic accommodating 190 additional lots would be forced through Twelve Oaks Subdivision where approximately 63 houses existed.

Dr. Rivizzigno was also opposed because she did not feel the Innovative Design Section of the Subdivision Regulations was applicable to the subject site. She felt there was plenty of vacant land around the subject area and she felt the *Innovative* section applied to a locale where there was not very much area to develop a subdivision. She was also concerned with regard to the wetland(s) portion of the property. Dr. Rivizzigno did not oppose development of the area, but simply felt 190 lots were too many lots for the amount of space at the subject site.

Mr. McSwain also objected to some degree. He felt it appeared the Commission was "compensating the developer" because of wetlands on the property, allowing the developer to go to higher density and smaller lots to protect the wetlands.

A motion was made by Dr. Rivizzigno and seconded by Mr. Quimby to deny this subdivision.

Mr. Frost pointed out that condition #6 would address all concerns regarding the wetlands.

After discussion the Commission denied the necessary waivers of Paragraphs V.D.1 and V.D.3 of the Subdivision Regulations. Consequently this subdivision did not meet the minimum requirements of the Subdivision Regulations.

A motion was made by Dr. Rivizzigno and seconded by Mr. Quimby to deny this subdivision.

Ms. Deakle and Mr. Vallas recused themselves; Mr. Johnson was opposed; the motion carried.

**Case #SUB2001-00312**

**Bowers Lane Estates Subdivision**

West side of Bowers Lane, 440'± North of Old Military Road.

3 Lots / 0.9± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

The motion carried unanimously.

**Case #SUB2001-00309**

**The Oaks at Westlake Subdivision**

West terminus of West Lake Road.

105 Lots / 49.9± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

Mr. Boone noted that at the December 20<sup>th</sup> meeting there were concerns voiced regarding the modified sewer system as well as the location of a proposed major street – Eliza Jordan Road/March Road Connector. Eliza Jordan Road bisected the subject site, therefore, the staff recommended that the right-of-way for Scott Dairy Loop and Eliza Jordan Road be dedicated for future major streets.

Mr. Frost noted that a condition should apply concerning common areas and wetlands.

Mr. Boone apologized for an oversight on behalf of the staff and suggested that conditions #7 and #8 be added to the case to read: 7) *placement of a note on the final plat stating that the maintenance of common areas and wetlands will be the responsibility of the property owners; and 8) that any necessary approvals be obtained from federal, state and local agencies prior to the issuance of any permits.*

Don Oyler, 4027 Oyler Road, was present and recommended that Condition #5 requiring the approval of ADEM, if necessary, for the sewer/septic system be modified to read that the approval by ADEM must be met, not "if necessary". He said Pat Pittman, ADEM, said permits *must be* authorized before anything took place. Mr. Oyler reported that he appeared before the Planning Commission on July 15, 1999 in regard to File S99-174; and March 16, 2000 in regard to File 2000-61 concerning the property located at the southwest corner of McLeod Road and Baird Coxwell. The Commission approved the Coxwell Crossing Subdivision, formerly called Sleepy Hollow Subdivision, and the residents did not object to the subdivision. However, the site became used as an unauthorized dirt pit that operated until ADEM shut down the dirt pit operation. Mr. Oyler was concerned that applications were approved with no watchdog to follow up. Mr. Oyler reported that he would like to hold builders, contractors, and such, to be as honest and reputable as he would like the Commission to consider himself, however, they were not all honest or reputable. Therefore, he requested that the Commission modify

Condition #5 to reflect that the sewer/septic system on the site must be permitted by ADEM. Secondly, Mr. Oyler questioned the width of right-of-way being requested to be held back as dedication of adequate right-of-way for the Eliza Jordan Road/March Road Connector.

Mr. Boone replied 50' from centerline.

Mr. Oyler questioned whether the centerline would be considered section line.

Mr. Boone replied yes, it should be.

Mr. Oyler thought the entire 100' may be required for dedication since it was a school section.

Mr. Boone reported the dedication was generally required from the centerline.

Mr. Oyler iterated his recommendation that permits from ADEM be "*required*" before any action was taken; not "*if necessary*".

Mr. Frost questioned whether the staff knew this project would require ADEM approval.

Mr. Boone did not doubt that Mr. Oyler had talked to ADEM; however, he hesitated to impose the requirement without contacting ADEM personally. He felt the Commission might overstep their authority. He suggested the possibility of wording the condition with stronger language if that would satisfy Mr. Oyler's request.

Mr. Frost explained to Mr. Oyler that the Commission could not require something that may be unnecessary.

Mr. Oyler reported he had contacted Pat Pittman with ADEM and Mr. Pittman stated that installing a separate sewage system that would handle over 10,000 gallons a day, which the subject system would, required permits from ADEM. Mr. Oyler had also contacted Mobile Sewer and was told that Mobile Sewer had no authority. However, the representative with Mobile Sewer informed Mr. Oyler that the system must be permitted whether surface water or ground water would be discharged, and home construction could not commence prior to the complete system being installed and the system must be permitted by ADEM. Mr. Oyler stated that Mr. Pittman had attempted to contact Rob Diehl, who was representing the developer at the subject site, however, Mr. Pittman had been unable to reach Mr. Diehl as of Mr. Oyler's last conversation with Mr. Pittman.

David Diehl, Engineering and Development Services, was present representing the applicant. Mr. Diehl reported he had not received any phone calls from Mr. Pittman, however, it may have been due to the name mix-up, since Mr. Oyler thought his name was *Rob* Diehl. Mr. Diehl reported the water and sewer for the subject site was contracted with South Alabama Utilities. He felt certain South Alabama Utilities would obtain all necessary permits for the project, and reported that South Alabama Utilities would actually get another engineer to design that part of the system. Mr. Diehl had not personally discussed the matter with ADEM. Mr. Diehl noted that 50' on the east side would be dedicated as half of the required right-of-way; and the lot on the north part would be dedicated for future right-of-way.

Jerry Luker, Speaks and Associates and a consultant with South Alabama Utilities, was present at the meeting. Mr. Luker reported that a permit was required and he was coordinating the efforts with ADEM, and the application was in the process of being completed with regard to the subject site.

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

- 1) that no units or phases are recorded until West Lake Road is paved and constructed to County standards;

- 2) placement of a note on the final plat stating that direct access to West Lake Road is denied for the park lot, Lots 15, 49 and 50;
- 3) the preservation of all large, healthy, live oaks exceeding 50-inches in diameter, wherever possible to be approved by the Urban Development Staff;
- 4) the approval of the Urban Development Staff prior to the issuance of any clearing or construction permits;
- 5) the approval of ADEM for the sewer/septic system;
- 6) the dedication of adequate right-of-way for the Eliza Jordan Road/March Road Connector;
- 7) placement of a note on the final plat stating that the maintenance of common areas and wetlands will be the responsibility of the property owners; and
- 8) that any necessary approvals be obtained from federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

**NEW GROUP APPLICATIONS:**

**Case #ZON2001-02790**

**Jane Q. Baxter**

2695 Government Boulevard (Northeast corner of Government Boulevard and Howell Avenue, extending East to the West side of Merwina Avenue).

A request for a change in zoning from B-2, Neighborhood Business, to B-3, Community Business, for automotive repair, automotive sales, and an automotive paint and body shop was considered.

The plan illustrates the existing structures.

Jane Baxter Conkin, the applicant, was present and presented photos to the Commission and reported that the carport had been removed from the front of the property line as recommended by the staff. Ms. Conkin reported she was somewhat confused and questioned whether there was perhaps a contradiction with two conditions recommended by the staff. She explained that the conditions recommended by the staff required the removal of the concrete drive along the southeast portion of the warehouse on the subject site; however, the PUD included a requirement that the drive within the warehouse be one-way with the appropriate signage. She was confused as to whether the drive must be removed, and reported she needed the driveway.

Mr. Olsen explained that the staff did not recommend the removal of the entire drive, simply the portion behind the office. There was no pedestrian entrance into the building at that point, therefore, this portion of the drive was not functional.

Ms. Conkin reported that she was planning to locate a dumpster in this location because a fence would be constructed along Merwina Avenue.

Mr. Olsen explained that the dumpster would then be located in the setback and would present a problem.

Ms. Conkin stated that other dumpsters were located within the setbacks, such as the other owner on the east side of the subject property identified as "Section A" placed his dumpster within the setback. She questioned where she should locate the dumpster if the concrete was removed.

Mr. Olsen stated that the plan would have to be examined to determine where the dumpster should be located because the dumpster was not indicated on the plan presented to the staff.

Mr. Frost asked Ms. Conkin if the drive was simply needed to accommodate the dumpster.



Ms. Conkin replied that she was planning to locate a gazebo and dumpster in this location where the concrete was located, and the adjacent property owner was planning to locate his dumpster there as well.

Ms. Conkin also reported that she would like to use four existing large, 20' or greater in height, Palm trees as credit in accordance with the landscaping and tree planting requirements if possible. She reported that 20 Crepe Myrtle trees existed within the site, and the previous owner was required to adhere to the Ordinances which included the landscaping and the storm water requirements at the time the warehouse was built in Section B of the plan. Therefore, there was a concrete covert retention pond along with 20 Crepe Myrtle trees within the perimeter of the subject site.

Mr. Boone replied that upon the site review required for permitting, the staff considered existing trees and generally allowed credit. Mr. Boone felt that certain species of Palm trees, possibly under-story or over-story, would be allowed. He assured Ms. Conkin that the staff would review all aspects of the site concerning the trees and consider her request to allow credit if at all possible for the Palm trees and Crepe Myrtle trees.

There was no one present in opposition.

Mr. Hill noted that based on the photos presented to the Commission there was a road behind the building where the concrete drive was located, therefore, it appeared to Mr. Hill that Ms. Conkin would need that curb cut. Mr. Hill questioned whether the concrete drive had to be removed to allow the curb cut.

Ms. Clarke recommended that the Commission approve the request in accordance with the staff's recommendation that a portion of the concrete drive be removed because the site was very built out and virtually concrete from corner to corner, and the proposed plan would add another use. Ms. Clarke explained that the staff recommended the concrete drive be removed to add some green space from the office out to the street to the portion of the site where the gazebo would be located. She explained the concrete would be removed on the side of the warehouse where the gazebo was located, however, the staff would allow the remainder of the existing concrete on the other side to permit access through an existing rear entrance of the warehouse. Therefore the warehouse operation would not be disrupted. Ms. Clarke explained that the staff tried to maintain a reasonable balance by working with the existing conditions on the sites, yet attempting to bring the sites into the greatest degree of compliance as required of a new development. Ms. Clarke explained that the staff felt the recommendation requesting that a portion of the concrete drive be removed along with adding some green space was reasonable. Ms. Clarke also reported that the carport on the front property line had been removed as reported by Ms. Conkin, and the area where the carport was removed was one of the areas the staff was proposing as green space.

Mr. Boone reported that any aesthetic improvements to the subject site would be beneficial to two or three new houses on the market that were recently constructed on Merwina Avenue.

Mr. Johnson recommended that the trees described by Ms. Conkin be evaluated and credit be allowed as a reduction of the requirements of the Tree Ordinance in regard to this case.

Ms. Clarke concurred with Mr. Johnson's request to allow the trees.

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

- 1) the provision of adequate paved parking;
- 2) that the drive within the warehouse be one-way with the appropriate signage;
- 3) that the Traffic Engineering Department approve the traffic pattern for the site;

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- 4) the removal of the concrete drive along the southeast portion of the warehouse;
- 5) compliance with the landscaping and tree planting requirements of the Ordinance, to be coordinated with Urban Forestry;
- 6) that the number, location and design of all curb cuts be approved by Traffic Engineering; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**AND**

**Case #ZON2001-02789**

**Beutilite Subdivision**

2695 Government Boulevard (Northeast corner of Government Boulevard and Howell Avenue, extending East to the West side of Merwina Avenue).

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

The plan illustrates the existing structures.

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

- 1) the provision of adequate paved parking;
- 2) that the drive within the warehouse be one-way with the appropriate signage;
- 3) that the Traffic Engineering Department approve the traffic pattern for the site;
- 4) the removal of the concrete drive along the southeast portion of the warehouse;
- 5) compliance with the landscaping and tree planting requirements of the Ordinance, to be coordinated with Urban Forestry;
- 6) that the number, location and design of all curb cuts be approved by Traffic Engineering; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**AND**

**Case #SUB2001-00324 (Subdivision)**

**Beutilite Subdivision, Resubdivision of Lot 1**

2695 Government Boulevard (Northeast corner of Government Boulevard and Howell Avenue, extending East to the West side of Merwina Avenue).

2 Lots / 1.1± Acres

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

- 1) the placement of a note on the final plat stating that the number, location and design of all curb cuts shall be approved by Traffic Engineering.

The motion carried unanimously.

**Case #ZON2001-02795**

**Revelation Missionary Baptist Church**

1711 Taylor Lane (South side of Taylor Lane at the South termini of Rotterdam Court and Amsterdam Court).

A request for Planning Approval to amend a previously approved Planning Approval to allow a parking lot expansion at an existing church in an R-1, Single-Family Residential district was considered.

The plan illustrates the existing structure, building under construction and parking.

Roosevelt Lee, 962 Duval Street, was present representing the application on behalf of Revelation Missionary Baptist Church and was concerned with the requirement of the 6' fence and the sidewalk on the Polk Street side of the site. Mr. Lee felt the sidewalk along the Polk Street side of the site would not be justified because the area would not be utilized for entrance. He reported that he had not received any opposition from the neighbors with regard to the proposed facility, and did not see the need to construct the fence and close off the neighbors.

Mr. Frost explained that the Commission was not allowed much discretion concerning the fence or sidewalk because these were requirements within the Ordinance. Mr. Frost suggested that Mr. Lee discuss the sidewalk issue with the staff before submitting a sidewalk waiver application; however, he felt the fence would definitely be required at the site.

Mr. Boone suggested that the applicant submit a sidewalk waiver application before the Commission due to the scale of new construction on the subject site.

Mr. Lee agreed with the other staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve this plan subject to the staff recommendations.

Mr. McSwain realized that a sidewalk waiver was proper protocol, however, a sidewalk waiver would require the applicant to submit another application and fee. It appeared to Mr. McSwain that Polk Street was likely paved up to the right-of-way line or property line and the applicant would be required to fence at the paved portion of Polk Street, the only portion the sidewalk was required across the 50' right-of-way. Mr. McSwain recommended that the Commission modify the condition as requested by Mr. Lee to eliminate the paperwork and cost to the applicant for the sidewalk waiver procedure since in effect the sidewalk was in place and there was no conflict.

Mr. Boone and Mr. Johnson concurred with Mr. McSwain's recommendation.

Ms. Clarke concurred, however, pointed out that the sidewalk would be required along Taylor Lane. However, if the applicant perhaps later wished to pursue a waiver along Taylor Lane, the application and fee would be required.

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

- 1) the provision of a six-foot wooden privacy fence along the West, South and East property lines;
- 2) the approval of all curb cuts by Traffic Engineering;
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance;
- 4) the provision of a sidewalk along Taylor Lane;
- 5) the provision of a 3-foot high evergreen hedge or wall along Taylor Lane;
- 6) denial of access to Polk Street; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**AND**

**Case #ZON2001-02794**  
**Revelation Missionary Baptist Church**

1711 Taylor Lane (South side of Taylor Lane at the South termini of Rotterdam Court and Amsterdam Court).

A request for Planned Unit Development Approval to amend the parking plan of a previously approved Planned Unit Development Approval to allow multiple buildings on a single building site was considered.

The plan illustrates the existing structure, building under construction and parking.

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

- 1) the provision of a six-foot wooden privacy fence along the West, South and East property lines;
- 2) the approval of all curb cuts by Traffic Engineering;
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance;
- 4) the provision of a sidewalk along Taylor Lane;
- 5) the provision of a 3-foot high evergreen hedge or wall along Taylor Lane;
- 6) denial of access to Polk Street; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**AND**

**Case #SUB2001-00298**

**Revelation Missionary Baptist Church Subdivision, Revised**

South side of Taylor Lane at the South termini of Rotterdam Court and Amsterdam Court.

1 Lot / 4.0± Acres

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

- 1) the placement of a note on the final plat stating that access to Polk Street is denied; and
- 2) placement of a note on the final plat stating that the number, location, and design of all curb cuts shall be approved by Traffic Engineering.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2001-00327**

**Ahepa IX Subdivision**

North side of Old Pascagoula Road, ¼ mile± West of Theodore-Dawes Road.

1 Lot / 6.9± Acres

*Mr. Vallas recused himself from the discussion and vote regarding this case.*

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 50' from the centerline of Old Pascagoula Road;

- 2) the placement of a note on the final plat stating that Lot 1 be limited to one curb cut to Old Pascagoula Road, with the location and design to be approved by County Engineering Department;
- 3) the placement of a note on the final plat stating that access to Garden Grove Drive be denied;
- 4) the placement of a note on the final plat stating that if the lot is developed commercially and adjoins residentially developed property a buffer in accordance with Section V.A.7 of the Subdivision Regulations shall be provided; and
- 5) the placement of twenty-five foot minimum building setback lines along Old Pascagoula Road on the final plat.

Mr. Vallas recused himself, the motion carried.

**Case #SUB2001-00329**

**Bradshire Subdivision**

South terminus of Charlanda Drive West, extending to the North terminus of Bradshire Drive.

32 Lots / 10.6± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) placement of the minimum 25' building setback line on the final plat; and
- 2) that any necessary approvals be obtained from federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

**Case #SUB2001-00321**

**Carol Plantation Subdivision, Unit 6, Resubdivision of Lot 728**

5456 Gunn Road (West side of Gunn Road, 150'± North of Prince James Drive, extending to the East side of Schillinger Road and the North terminus of Queen Odella Drive West).

2 Lots / 6.3± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that each lot is limited to one curb cut to Schillinger Road, with the location and design to be approved by County Engineering;
- 2) placement of a note on the final plat stating that if Lot 2 is ever developed commercially, access to Gunn Road and Queen Odella Road West is denied;
- 3) the reconfiguration of Lot 1 whereby it does not have frontage on Queen Odella Drive West; and
- 4) placement of a note on the final plat stating that if either lot is developed commercially a buffer in compliance with Section V.A.7 will be provided where the site adjoins residential development.

The motion carried unanimously.

**Case #SUB2001-00331**

**Carpenters Place Subdivision**

Northwest corner of Cuba Street and Lola Street.

1 Lot / 0.3± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the dedication of adequate right-of-way to provide 25' from the centerline of Lola Street;
- 2) placement of 25' minimum building setback lines along Lola Street and Cuba Street on the final plat;
- 3) the dedication of a radius at the intersection of Lola Street and Cuba Street to be approved by Traffic Engineering Department; and
- 4) submission of documentation illustrating the inclusion of the additional lot or statement from the owner stating they do not wish to participate in this subdivision.

The motion carried unanimously.

**Case #SUB2001-00326**

**Craig's Place Subdivision, Phase II**

West terminus of James Street, 765'± West of Travis Road.

11 Lots / 6.4± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) placement of a note on the final plat stating that maintenance of all common areas shall be the responsibility of the property owners within the subdivision.

The motion carried unanimously.

**Case #SUB2001-00318**

**The Dominion Subdivision, Unit One, Resubdivision of Lots 46 and 47**

1235 Dominion Drive East (East side of Dominion Drive East, 140'± North of the East terminus of Dominion Drive South).

2 Lots / 1.1± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to approve this subdivision.

The motion carried unanimously.

**Case #SUB2001-00322**

**Kindred Place Subdivision**

490'± West of Jeff Hamilton Road at the Northeast corner of a private road easement  
150'± North of Polo Place Court.  
1 Lot / 0.9± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Mr. Quimby to holdover this request to the February 7<sup>th</sup> meeting, with the additional information to be submitted to the staff by the January 14<sup>th</sup> deadline.

The motion carried unanimously.

**Case #SUB2001-00319**

**Miller Estates Subdivision**

6111 Bayou Road (North side of Canal Road, 50'± East of Bayou Road).  
2 Lots / 1.12 ± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the approval of all applicable federal, state and local agencies;
- 2) the placement of a note on the final plat stating that any lot that is developed commercially and adjoins residentially developed property shall provide a buffer in compliance with Section V.A.7 of the Subdivision Regulations; and
- 3) the placement of twenty-five foot minimum building setback lines along Canal Road on the final plat.

The motion carried unanimously.

**Case #SUB2001-00323**

**Pine Branch Subdivision**

Southeast corner of Schillinger Road and Marty Drive.  
2 Lots / 5.6± Acres

Doug Anderson, 41 N. Beltline Highway, was present representing the owner and applicant for this case. Mr. Anderson had concerns regarding several conditions recommended by the staff. Mr. Anderson reported that the site was currently a one-lot subdivision in the county. Mr. Anderson reported that the mortgage company that foreclosed on the subject property was his client. He reported that the prior owner was in the midst of developing a town home subdivision at the site and the frame for the footings remained in the ground and foreclosure took place. Mr. Anderson reported he had discussed this case with Pat Stewart and Chris Boone. He explained that the County Engineer had previously approved a town home project with access to Schillinger Road. Mr. Anderson explained that the applicant wanted to subdivide the lot into two lots, which would not require zoning since the site is located in the county. Mr. Anderson reported that he had a buyer for Lot #2 who was planning to construct a residence and the western part of lot 2 was wetlands, a very low area and would provide a natural buffer to Lot 1. Mr. Anderson was uncertain at this time whether Lot 1 would be commercial or residential, therefore, he had concerns with conditions 2, 3 & 4 as recommended by the staff. Mr. Anderson said one curb cut to Marty Drive for Lot 2 would be sufficient,

however, if Lot 1 were to be developed as commercial property, the curb cut would need to be to Schillinger Road. Mr. Anderson realized the Commission's standard practice was to locate the curb cut to the major street when commercial property fronted a major street and not place a curb cut from a commercial development onto a residential street such as Marty Drive. Therefore, Mr. Anderson requested the flexibility to locate the one curb cut on Schillinger Road if Lot 1 were developed commercial. Mr. Anderson also reported that condition #4 as recommended by the staff requiring the placement of a note on the final plat stating that Lot 2 shall not be recorded until Marty Drive is paved to County standards to the limits of this development presented a problem. Mr. Anderson explained that Marty Drive was a County maintained dirt road from 100 yards to the east of the back of Lot 2 where the pavement began back to Schillinger Road. He reported that the residential lots located behind the subject site were part of Windcrest Subdivision and were serviced by Windcrest Drive and Marty Drive.

Mr. Frost suggested amending the condition to reflect that pavement of Marty Drive would not be required as long as Lot 2 was not commercially developed.

Mr. Boone explained that the Subdivision Regulations stipulated adequate access on an adequately constructed street was required in order to record a new commercial or residential lot and Lot 2 did not actually comply. Mr. Boone noted, however, that the Commission had been flexible in the past allowing substandard streets to service one or two residential lots. Mr. Boone felt the Commission had to consider the proposed use of the lots and it appeared that Lot 2 was proposed for one single-family home and Lot 1 was potentially commercial. Mr. Boone recommended that the Commission restrict Lot 2 to residential use only, and require that Lot 1 be limited to one curb cut to Schillinger Road if developed commercial. Mr. Boone also felt the Commission would want to restrict any future subdivision for the entire subdivision until Marty Drive was constructed to County standards.

Mr. Anderson concurred with Mr. Boone's recommendation and reported that the existing dirt portion of Marty Drive was in good condition. Mr. Anderson reported that the Commission had allowed subdivision of the lots on the north side of Marty Drive on a dirt road, and a new home was under construction. Therefore, Mr. Anderson appreciated the Commission's consideration with regard to this matter.

Jake Brandenburg, 7680 Marty Drive, was present. Mr. Brandenburg reported that Marty Drive being a well maintained, dirt road was questionable. Mr. Brandenburg reported that Marty Road was a gravel road with good sub face, but there was a culvert under the road and there was a hole in the ditch because the culvert was so low. Mr. Brandenburg reported that a child in a Jeep Cherokee ran head-on into the hole and only half of the Jeep could be seen sticking up out of the road. Mr. Brandenburg reported that Marty Drive had become both an entrance and exit to many people who lived in Windcrest Subdivision, and he felt that Marty Drive should be paved if development continued.

After discussion among the Commission and staff concerning the curb cuts and the paving of Marty Drive, a motion was made by Mr. Vallas and seconded by Mr. Quimby to approve this subdivision subject to the following conditions:

- 1) the dedication of sufficient right-of-way to provide 50' from the centerline of Schillinger Road;
- 2) the placement of a note on the final plat stating that Lot 1 be limited to one curb cut, to be denied direct access to Schillinger Road if developed residentially, to be denied direct access to Marty Drive if developed commercially, with the size, location and design to be approved by County Engineering Department;
- 3) the placement of a note on the final plat stating that Lot 2 be limited to one curb cut to Marty Drive, with the size, location and design to be approved by County Engineering Department;
- 4) the placement of a note on the final plat stating that Lot 2 shall be restricted to residential use and there shall be no future re-subdivision until Marty Drive is paved to County standards to the limits of this development; and



- 5) the placement of a note on the final plat stating that if the lot is developed commercially and adjoins residentially developed property, a buffer shall be provided in accordance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2001-00326**

**Scott Plantation Subdivision: Unit 5 and Future Units**

North side of Johnson Road, 500'± West of Scott Plantation Drive South, extending to the West terminus of Dairy Drive South and the West terminus of the proposed extension of Scott Plantation Drive South.

170 Lots / 82.8± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

Mr. Luker, L & L Engineering Consultants, Inc., represented the applicant and questioned if this application applied to Unit 5 only.

Mr. Olsen affirmed that this case applied to Unit 5 only and any other subdivision would require an additional application.

There was no one present in opposition.

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

- 1) submission and approval of each unit to ensure appropriate phasing/access;
- 2) provision of a street stub to the West; and
- 3) that any necessary approvals be obtained from federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

**Case #SUB2001-00325**

**Westchester Place Subdivision, Second Addition, Phase II**

North terminus of Pebble Creek Drive.

7 Lots / 2.6± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the paving, dedication and construction of the proposed cul-de-sac to County Engineering standards.

The motion carried unanimously.

**OTHER BUSINESS:**

**Election of Officers**

Mr. Frost called for nominations to elect a Chairman, Vice Chairman and Secretary for the Planning Commission.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to re-elect Robert Frost as Chairman.

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A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to elect Wendell Quimby as Vice Chairman.

A motion was made by Dr. Rivizzigno and seconded by Mr. Frost to re-elect Victor McSwain as Secretary.

The motions carried unanimously.

There being no further business, the meeting was adjourned.

**APPROVED:** February 7, 2002

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

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