

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF MAY 1, 2003 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Robert Frost, Chairman
Terry Plauche, Vice-Chair
Victor McSwain, Secretary
Victoria L. Rivizzigno
Ann Deakle
John Vallas
Stephen Nodine
James Laier
Wendell Quimby

Members Absent

Norman Hill (S)

Staff Present

Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Shayla Jones, Planner I
Frank Palombo, Planner I
Jennifer Henley, Secretary II

Others Present

Wanda Cochran, Assistant City Attorney
Ron Jackson, Urban Forestry
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

APPROVAL OF MINUTES:

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to approve the minutes of the March 20, 2003, meeting as submitted. The motion carried unanimously.

HOLDOVER:

Case #SUB2003-00050

OSR Subdivision

5559 and 5565 Old Shell Road (South side of Old Shell Road, 500'± East of University Boulevard).

3 Lots / 1.9± Acres

Mr. Frost announced that the applicant had requested another holdover, which he felt the staff was agreeable to.

There was no one present in opposition.

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A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this subdivision until the meeting of May 15, 2003, at the applicant's request.

The motion carried unanimously.

EXTENSION:

Case #SUB2001-00211

Woodside Subdivision, Unit Seven

West terminus of Woodside Drive North, adjacent to the West side of Woodside Subdivision, Unit Five.

67 Lots / 20.4± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2003-00975

Cornell Family Properties, LLC

1757 Old Shell Road (South side of Old Shell Road, 150'± West of Semmes Avenue).

The request for a change in zoning from R-1 to B-2 to eliminate split zoning was considered.

The site plan illustrates the existing buildings to remain and to be removed, existing parking, easement, along with proposed parking, drives, and resubdivision.

(Also see Case #ZON2003-00879 – **Cornell Subdivision** – Below; and Case #SUB2003-00057 – **Cornell Subdivision** – Below)

Mr. Frank Dagley, of Frank A. Dagley & Associates, Inc., was present on behalf of the applicant. Mr. Dagley expressed concern with the staff requirement for the dedication of a 25' radius at the corner of Semmes Avenue and Old Shell Road, as they had recently built sidewalks at that corner and did not want to have to go back and tear them up.

Mr. Olsen stated that they were requesting a 25 foot radius, or whatever radius could be accommodated with the building there. He said it would simply be a dedication of right-of-way to accommodate future utilities and would not affect the new sidewalk.

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

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- (1) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (2) provision of a buffer along the South and West property lines;
- (3) provision of a sidewalk;
- (4) approval of the Architectural Review Board for all exterior modifications; and
- (5) full compliance with all municipal codes and ordinances.

Mr. Quimby said that he was familiar with this corner and he thought some major renovations had been done in the last year.

Mr. Olsen pointed out the location of the building and the property line. The staff was requesting a 25' radius or whatever radius could be accommodated with the building there. This would allow for such things as future utilities and would not affect the new sidewalk.

The question was called. The motion carried unanimously.

Case #ZON2003-00879

Cornell Subdivision

1751 and 1757 Old Shell Road (Southwest corner of Old Shell Road and Semmes Avenue).

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

The site plan illustrates the existing buildings to remain and to be removed, existing parking, easement, along with proposed parking, drives, and resubdivision.

(For discussion see Case #ZON2003-00975 – **Cornell Family Properties, LLC** – Above; also see Case #SUB2003-00057 – **Cornell Subdivision** – Below)

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

- (1) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (2) provision of a buffer along the South and West property lines;
- (3) provision of a sidewalk;
- (4) that the existing residential structure maintain its exterior residential character; and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2003-00057

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Cornell Subdivision

1751 and 1757 Old Shell Road (Southwest corner of Old Shell Road and Semmes Avenue).

1 Lot / 0.7± Acre

(For discussion see Case #ZON2003-00975 – **Cornell Family Properties, LLC** – Above; also see Case #ZON2003-00879 – **Cornell Subdivision** – Above)

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

- (1) dedication of a 25-foot radius or the maximum radius possible without interfering with the building structure.

The motion carried unanimously.

Case #ZON2003-00609

Treasure Properties, Inc. (Richard L. Biseli, Agent)

254, 256, and 260 Dogwood Drive (Southeast corner of Airport Boulevard and South University Boulevard).

Request for rezoning from R-1, Single-Family Residential, to LB-2, Limited Neighborhood Business, for retail sales with drive-through window service.

The site plan illustrates the existing trees and intersection layout along with the proposed building, landscaping, parking, and trees to be removed.

(Also see Case #SUB2003-00037 - **Government Street Highland Subdivision, Resubdivision of Lots 52, 53, and 54** – Below)

Mr. Frost and Dr. Laier recused from the discussion and vote regarding this matter. Mr. McSwain chaired this portion of the meeting.

Mr. Jay Watkins, with the law firm of Armbrrecht-Jackson, was representing the applicant and provided the Commission with a proposed site plan, as well as landscape and drainage plans. Mr. Watkins said the applicant was proposing rezoning and the resubdivision of three residential lots into one lot for the construction of an Eckerd's drug store. He noted that the requested LB-2 classification was for a commercial site with retail goods and services, generally to serve the surrounding residential neighborhoods. Under the Ordinance, LB-2 districts could be located on major streets or at intersections of major streets. The subject property sits squarely at the corner of Airport Boulevard and University Boulevard, two major streets. Mr. Watkins pointed out the commercial uses up and down Airport Boulevard, noting that every intersection had commercial uses on all four corners and many abutted residential uses. He felt these were examples of how a limited business use could co-exist with residential development. He noted the extensive changes at this location over the years. When Government Street Highlands was put in place, Airport Boulevard was a two-lane road and University Boulevard did

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not exist. He contended that these changes had altered the residential character of this property, and it was no longer conducive to residential use. Mr. Watkins noted the traffic that went by this site made those living in these houses a buffer for everyone else in the neighborhood. He said their site plan provided for more than the required buffering, and they had taken the drainage and run it underground as opposed to having a detention pond. The curb cuts into Dogwood Lane had been reduced from two to one. They proposed a turnaround for the truck deliveries so there would be no exit onto Dogwood Drive. Mr. Watkins said the developer had gone above and beyond to try to make this a commercial site which would co-exist with the existing residential development. He felt the proposed use was not only appropriate for this site, but was in keeping with other similarly situated sites along Airport Boulevard and other major streets in the Mobile area. The developers felt their plan was very suitable, provided adequate buffering, and would have a limited impact on the residential community around it.

Ms. Midge Harold, a resident of 4666 Oak Ridge Road for 52 years, was present in support of this application. Mrs. Harold noted the many changes in the subdivision and Airport Boulevard that had occurred over the years. With the creation of University Boulevard their neighborhood was cut in two. The four corners of University Boulevard and Airport Boulevard were developed commercially. Mrs. Harold said there were no more neighborhood grocery stores and drug stores. Their nearest drug store was at Airport Boulevard and Hillcrest Road. She felt that LB-2 zoning was a smart way to bring healthy business near the people and it would protect their neighborhoods from undesirable businesses. She commented that there were several elderly people in the area that could walk to the drug store if it was opened at this location. She contended that an Eckerd's on the subject property would look better than three empty houses and it would bring in revenue the City needed.

Mr. Stephen Stokes, 259 Dogwood Drive, was also present in support of the application and felt the rezoning would be beneficial to everyone involved. He noted a number of rental houses along Dogwood Drive, and the heavy traffic on Dogwood Drive with people using it as a cut-through from University Boulevard to avoid the traffic light at Airport Boulevard. He said this caused a problem for people living on Dogwood Drive trying to get out of their driveways in the morning. Having bought a house three doors up on Airport Boulevard, Mr. Stokes said he was disturbed at night with music coming from the nearby Krystal. He contended that if something like Krystal's were allowed to locate on this site, these types of problems would worsen. He felt that if they did not do something with this corner soon a fast food establishment, gas station or something undesirable would be put there. Mr. Stokes said the proposed building would be very nice and the landscaping design looked great. He felt the developer had gone above and beyond to try to protect the neighborhood from the outside element.

Mr. Gene Howard, attorney, was representing several of the homeowners. Mr. Howard commented on the changes that had taken place at this location as Airport Boulevard was widened and University Boulevard was put in, which increased traffic and noise. He felt those changes had resulted in the fact that these three lots no longer had a viable residential purpose. Mr. Howard felt LB-2 would be the best classification for the three

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properties because it would have the least effect upon all the remaining residential property, while at the same time having the highest and best use for the property and the least impact on the neighborhood. He contended that the high number of senior citizens in the community would best be served by a pharmacy at the end of the street. Mr. Howard felt the subject proposal would cause smart growth, and prohibit unreasonable growth.

Mr. Plauche asked Mr. Howard how the development would cause smart growth.

Mr. Howard replied that the LB-2 classification would allow businesses that would be helpful to the residents. They would not have to drive to other places in the community to get their drug needs, but instead they would be able to walk to a drug store. He noted this would not be a regional thing where people would be coming from all over, but it would predominately serve those who lived closest to it, especially this neighborhood. Further, Mr. Howard said that by having businesses that are for the use of the immediate community in close proximity to that community, it would cut down on the number of people who would have to drive to it, which would affect the level of automobile traffic and pollution.

Mr. Plauche commented that he thought smart growth would also have these businesses being scaled to the surrounding neighborhood, and felt the proposed building was more of a regional scale than of a neighborhood scale.

Mr. Howard contended that the development would not be of a regional scale.

Mr. Vallas stated that from his experience dealing with retailers, this was truly not a regional use.

Mr. Quimby asked if there were not restrictive covenants against the commercial use of this property.

Mr. Howard replied that the subdivision restrictions stated that the property was for residential use. However, he contended there were many ways in which the subdivision had already changed, and there was actually a site in the subdivision that was now commercial, pointing out Foosackley's Chicken Restaurant which is located on property originally found within this subdivision.

With regard to restrictive covenants for this subdivision, Mr. McSwain asked Wanda Cochran, Assistant City Attorney, to address this issue.

Ms. Cochran noted there had been numerous Attorney General opinions and Alabama Supreme Court cases directly on this point. She related several rules that the Attorney General had laid out for other cities. First, that a municipal governing body or its Planning Commission can zone property within its corporate limits without being bound by the existing restrictive covenants. She said the caveat to that, however, was that this body should consider the existence of these covenants when making their decision. The

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first rule, therefore, is that while not bound by the restrictive covenants, they should be considered when the Planning Commission deliberates. The second rule is that a municipality in Alabama does not have any legal authority to enforce subdivision covenants. Those are a matter of private contract among the property owners and they would have to work that out in their own separate legal procedure.

Mrs. Maxine D. Primm of 367 West Byron Avenue in Jackson Heights, stated that she was an 81-year old widow, a native Mobilian and had been a resident of Jackson Heights for 25 years. She said their garden club as well as their neighbors wanted to go on record as being bitterly opposed to the proposed rezoning. It was Mrs. Primm's opinion that it was not necessary to erect a new building, as there were many vacant buildings in the area, and there was a Bruno's drug store pharmacy with easy access in and out. Access to the subject property was also a concern, and Mrs. Primm pointed out that the corner of Airport Boulevard and University Boulevard had more traffic wrecks than any other intersection in Mobile. Mrs. Primm said she had talked with over 200 people and secured signatures of many and not one person she had talked to approved of this plan.

Mrs. Wanelle Beegle, 4604 Oak Ridge Road, a part of Government Street Highlands, was also present in opposition and said she had three brief quotations for the Commission's consideration. The first was written by Circuit Court Judge Lionel Layton in rendering a judgement in their subdivision's favor in an attempt to break the covenants. He quotes a precedence in Shower vs. Brit which involved the deviation from covenants: "In such cases equitable right to enforce such mutual covenants is rested upon the fact that the building scheme forms an inducement to buy and becomes a part of the consideration." Mrs. Beegle said that to invalidate their covenants by rezoning was to automatically reduce the value of their property. The second quote was a document written by Fred Collins, then City Attorney, to John Blacksher of the Mobile Planning Commission. He first cites the case of Allen vs. Atford in which an ordinance was held invalid that had rezoned a residential area for commercial purposes: "A zoning ordinance will neither nullify nor supercede a valid restriction in the use of real property. When the restrictive covenants and the zoning ordinance are in conflict, the more restrictive of the two prevails." The last paper Mrs. Beegle presented was given to her by a friend whose personal attorney had contacted the Attorney General's Office. It basically reiterated what she had just presented to the Commission, and then added: "If the developer ignores the covenants and commences the construction of a commercial or business structure in violation of the covenants, then it is up to the owner of the property in the subdivision to take appropriate actions through the courts to enforce the covenants and to enjoin the construction." Mrs. Beegle asked that the Commission consider this proposal from the perspective of the residents and deny the application. She said this was a moderate income, diverse neighborhood. If the application to rezone was approved today and subsequently approved by the Council, then the residents would have no recourse but to go to the courts. That would be a financial burden on them and would be very stressful. But worst of all Mrs. Beegle felt it would be humiliating to think that City officials would knowingly put citizens in that position.

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Mr. Albert Van Hoogmoed, a resident of 4655 Oak Ridge Road, also opposed to this rezoning, agreed that the intersection of Airport Boulevard and University Boulevard had changed a lot. Mr. Hoogmoed said the residents were concerned that if a commercial property went in on this corner, that Dogwood Drive would become like a funnel for all the traffic going into that. He referred to a diagram on page 5 of a handout he presented to the Commission demonstrating this. Mr. Von Hoogmoed expressed concern about traffic volume noting that every day 10,000 cars passed through this intersection. He counted 730 cars in one hour in the morning from three different major streets funneling into Dogwood Drive, plus traffic that would cut through Eckerds parking lot to avoid all the congestion at the corner. He noted that this intersection was the most dangerous in the State according to State Farm Insurance. Although some changes had been made at that intersection, it was his opinion that there was nothing else that could help the congestion. Mr. Von Hoogmoed said he believed in smart growth, but not at the cost of the citizens. He said there were 35 homeowners in this subdivision, plus another 48 down below in Hearthstone, who use Dogwood Drive to get to their houses. He presented a petition with 720 signatures opposing this application.

Mr. David Doolittle, president of the Government Street Highlands Property Owner's Association, also opposed this application and stated that he had lived in this neighborhood since he was eight years old, and his parents still lived in the house in which he grew up. Mr. Doolittle addressed several issues in the staff report, the first being the location of this site. He said the report stated the site was the only residential property located at the intersection of two major streets along Airport Boulevard from I-65. He pointed out, however, that there were residential properties at Florida Street and also at Sage Avenue where they cross Airport Boulevard. Further, the report described this neighborhood as unique in that it was not commercialized, when it sits on a corner with three other pieces of commercial property. Mr. Doolittle took issue with that in that the three lots in question were part of an integral, thriving, viable neighborhood, so they were not unique in that they were like every other thriving viable neighborhood in the city of Mobile. Mr. Doolittle said the second issue referred to the appropriateness of the new LB-2 zoning. In response to this he cited a memo issued by Laura Clarke, Director of the Urban Planning Department, to Connie Hudson, Council Representative for District 6, dated November 22, 2002. Ms. Clarke described in her memorandum the LB-2 zoning district as a retail district that would allow for both residential uses and small commercial uses in the same area, but would exclude uses that had frequently been cited as offensive by citizens under B-2 zoning. Ms. Clarke stated that it was intended that the LB-2 district would be on major streets, not located within residential neighborhoods. Mr. Doolittle noted that these were the same location standards as for B-2 districts. Further, in the same paragraph, Ms. Clarke reiterated again that it was not intended to be located within a neighborhood or subdivision. The memorandum concluded with uses listed as not necessarily neighborhood friendly, including drug stores. He said the other three corners of Airport Boulevard and University Boulevard had been commercial since he was a child. He noted that the site plan indicated that there was ingress and egress onto a minor residential street, which was in direct conflict with the Zoning Ordinance. He cited as an example Waite's Cleaners on Old Shell Road, at Old Shell and a minor residential street, that was denied a curb cut because of that very fact. Mr. Doolittle said

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that precedence had been set by the Planning Commission and asked that this application be denied on that issue alone. In further comments he expressed concern about the steep grade of the proposed drive off of University Boulevard. He felt that with the dissemination of an existing neighborhood and the introduction of some access points within 200 feet of the most dangerous intersection in Alabama, it was negligent of the Commission's stated purpose to approve this rezoning. He said the valuation of the residents homes would be put in jeopardy.

In rebuttal, Mr. Watkins said the perspective of the residents who were sitting on that corner should be considered. One of the houses was already vacant, and he felt the others wouldn't be far behind. He contended this was a situation where there was inefficient use of land. In response to the question raised as to how this project encouraged smart growth, Mr. Watkins noted that one of the cornerstones of smart growth and the Smart Growth Initiative was the efficient use of property. He believed the proposed drug store was the most efficient use of the property. It might not be what everyone was looking to have happen on this corner, but it would be done in such a way as to take into consideration the neighbor's concerns. The applicant was proposing to take a bad site for residential use and make into a limited business use. With respect to landscaping, Mr. Watkins said the developer had done what he could, and had done more than what was asked with respect to buffering. With regard to restrictive covenants, Mr. Watkins said whether the covenants were still effective and whether they had been breached could only be answered in a court of law. This was not within the Planning Commission's jurisdiction, although this was something they could consider. With regard to the position raised about precedence, Mr. Watkins said this was only the second opportunity the Planning Commission has had to consider LB-2 zoning. The prior one was Dauphin and Florida Streets, and he asked which of these two sites was more fitting for an LB-2 zoning.

Ms. Deakle asked Mr. Watkins for his comments on cut-through traffic and access.

Mr. Watkins stated that many people try to avoid the intersection of University Boulevard and Airport Boulevard because the turn lane is not long enough to allow right-turning traffic to get to the turn lane. In talking with Councilman Reggie Copeland, Mr. Watkins said he understood that Mr. Copeland was working with Traffic Engineering right now on behalf of the neighbors of Government Street Highlands to have better traffic devices installed along Dogwood Drive to deter some of the cut-through traffic. Also, there was an initiative in place right now pending budget approval to reconfigure the intersection of University Boulevard and Airport Boulevard to provide for a dedicated right-turn lane with a signal similar to that at the Airport Boulevard/Azalea Road intersection. He contended this would cut down on blockage and backup. As far as traffic cutting through the site itself, Mr. Watkins said he was not aware of any plans for putting in speed bumps through the parking lot, but felt that was a viable option. He contended that with a good right-turn lane functioning on University Boulevard, the choice would be to wait for that light and have a clear turn vs. cutting through the site to Dogwood Drive to wait to make a right turn without a signal. He felt that would be a deterrent factor.

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Mr. Vallas asked if the additional right-of-way was in place if the right-turn lane was to be constructed.

Mr. Watkins stated that the developer had made a 25-foot arc along the corner of Airport Boulevard and Dogwood Drive. In talking to the Traffic Engineer he understood that they already had the necessary width at Airport Boulevard to provide for this dedicated traffic and had not asked the developer for any additional dedication or right-of-way along University Boulevard.

Mr. Vallas asked if additional right-of-way was needed, would it be taken from the three lots in question?

Ms. White, Traffic Engineering, said there was a likelihood that the right-of-way would have to be taken from the lots in question.

Mr. Nodine said he wanted to point out that nowhere in the Smart Growth Policy did it state that you have to take residential houses away to create commercial property. Also, he expressed concern about cut-through traffic and asked if the developer was willing to provide some type of traffic calming devices to address this.

Mr. Watkins replied that this would be an option, and they would be willing to do that if it gave the neighborhood some additional comfort as to the flow of traffic onto Dogwood Drive, and/or cut-through traffic off of University Boulevard.

Mr. Vallas asked the staff how this site was different from the Dauphin and Florida Streets site recently rezoned.

Mr. Nodine felt that a tremendous factor in his decision to vote in favor of the Dauphin and Florida Streets site was the fact that the houses had already been removed from the site. He commented that in today's case, they were dealing with existing residential property.

Mr. Watkins inquired if the applicant had torn down the homes before coming to the Commission, would it have made a difference? When comparing the two sites he was merely trying to point out that a precedent had been set for the intersection of two major streets.

Mr. Olsen stated that this site was located at the intersection of two major streets, which was a very fundamental element in recommending approval or not of commercial zoning. Also, the site did meet the two-acre minimum guideline for a new LB-2 district. Another element was the fact that the other three corners were zoned either B-2 or B-3.

A motion was made by Ms. Deakle and seconded by Mr. Quimby to go into executive session and vote on this matter out of order to accommodate the large number of people present. Mr. Frost and Dr. Laier recused. The motion carried.

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In discussion, Ms. Deakle stated that she agreed that the viability of residential at this corner was diminished, and felt this was a corner suited for commercial development. Her concern was how traffic was going to route through this development and access Airport Boulevard.

Mr. Olsen felt that they needed some input from Traffic Engineering. He said that similar concerns would apply to the other three corners.

Ms. White said she could see where this may create some problems with access, but there was already a problem trying to access Airport Boulevard from Dogwood Drive. She said the most reasonable thing to do would be to exit onto University Boulevard, go to the signal, and make a left at the signal.

Mr. Nodine further discussed the access problem and what measures might be taken to address it. He felt that adding a turn lane would cause confusion about whether people were turning onto Airport Boulevard or into the Eckerd's site. He also felt that there would still be major traffic congestion. He noted, however, that the City's budget was kind of tight and he could not see in the foreseeable future the funding it would take to get this intersection up to code, with or without the Eckerd's drug store there.

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

Mr. Quimby, Mr. Nodine, Dr. Rivizzigno, Mr. Plauche were in favor of the motion to deny. Mr. Frost and Dr. Laier recused. Ms. Deakle and Mr. Vallas were opposed. As Chairman, Mr. McSwain did not vote.

The motion carried.

Case #SUB2003-00037

Government Street Highland Subdivision, Resubdivision of Lots 52, 53, and 54

254, 256, and 260 Dogwood Drive (Southeast corner of Airport Boulevard and South University Boulevard).

1 Lot / 2.5± Acres

(For discussion, see Case #ZON2003-00609 - **Treasure Properties, Inc. (Richard L. Biseli, Agent)** – Above)

Mr. Frost and Dr. Laier recused from the discussion and vote regarding this matter. Mr. McSwain chaired this portion of the meeting.

A motion was made by Mr. Nodine and seconded by Dr. Rivizzigno to deny this subdivision based on the fact that the accompanying rezoning application was denied, making the subdivision unnecessary.

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Mr. Quimby, Mr. Nodine, Dr. Rivizzigno, Mr. Plauche were in favor of the motion to deny. Mr. Frost and Dr. Laier recused. Ms. Deakle and Mr. Vallas were opposed. As Chairman, Mr. McSwain did not vote.

The motion carried.

A motion was made by Mr. Quimby and seconded by Ms. Deakle to resume the public hearing. The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2003-00061

Advanced Commercial Subdivision

4408 Government Boulevard (North side of Government Boulevard, 350'± East of Demetropolis Road, extending to the East side of Demetropolis Road, 350'± North of Government Boulevard).

2 Lots / 0.9± Acre

The applicant was not present.

There was no one present in opposition.

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

- (1) the dedication of sufficient right-of-way to provide 50' from the centerline of Demetropolis Road;
- (2) the submission and approval of a PUD application prior to the recording of the final plat; and
- (3) the placement of the twenty-five foot minimum building setback line on the final plat.

The motion carried unanimously.

Case #SUB2003-00075

Robert Barnes Subdivision

4316 David Street (Southwest corner of David Street and Charmey Street).

2 Lots / 0.9± Acre

The applicant was not present.

There was no one present in opposition.

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

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- (1) dedication of a minimum 25-foot radius at the Southwest corner of David Street and Charmey Street to be approved by City Engineering; and
- (2) the placement of a note on the final plat stating that access to Lot 1 is limited to the existing curb cut to David Street.

The motion carried unanimously.

Case #SUB2003-00072

Lynda Corrie Estates Subdivision

4475 McCrary Road (West side of McCrary Road, 500'± North of Calhoun Road).

2 Lots / 6.1± 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 Dr. Rivizzigno and seconded by Mr. Plauche to approve this subdivision subject to the following conditions:

- (1) the provision of a 75-foot setback (which includes the required minimum building setback of 25-feet), from the centerline of McCrary Road;
- (2) the placement of a note on the final plat stating Lots 1 and 2 are limited to one curb cut each to McCrary 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 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.

The motion carried unanimously.

Case #SUB2003-00074

Dawes Creek Subdivision

West side of Dawes Lane Extension, 4/10 mile± South of Three Notch Road, extending to the East side of Airport Road, 3/10 mile± South of Ben Hamilton Road.

54 Lots / 29.0± Acres

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

There was no one present in opposition.

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

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- (1) the dedication of sufficient right-of-way to provide 50-feet from the centerline of Airport Road;
- (2) the placement of a note on the final plat stating that the subdivision is denied access to Airport Road until it is constructed to County standards;
- (3) the placement of a note on the final plat stating that Lots 1 and 54 are denied direct access to Dawes Lane Extension;
- (4) the placement of a note on the final plat stating that Lots 27 and 28 are denied direct access to Airport Road;
- (5) the area labeled as detention also be labeled as common area;
- (6) placement of note stating that the maintenance of all common areas is the responsibility of the property owners; and
- (7) the placement of a note on the final plat stating that if any property is developed commercially and adjoins residential property, a buffer will be provided in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2003-00069

Evergreen Gardens Subdivision, 2nd Unit, Resubdivision of Lot 217

Southwest corner of Higgins Road and Clemson Drive.

5 Lots / 1.1 \pm Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and requested a one-month holdover of this application. He said that Councilman Ben Brooks had requested the holdover to allow additional time to provide information to the surrounding residents.

Mr. Ben Brooks was present and stated that he had knew of a number of citizens who were opposed to this. He wanted time to meet with the residents and possibly work out some kind of solution.

Mr. Olsen said that the staff was agreeable to a holdover.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this subdivision until the meeting of June 5, 2003, at the applicant's request.

The motion carried unanimously.

Case #SUB2003-00071

Fernlea Subdivision

15 Gladys Avenue (West side of Gladys Avenue, 50' \pm South of New Hamilton Street).

1 Lot / 0.5 \pm Acre

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

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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) the placement of a note on the final plat stating that the site is denied direct access to the alley; and
- (2) the placement of the twenty-five foot minimum building setback line on the final plat.

The motion carried unanimously.

Case #SUB2003-00070

Heather Court Subdivision

9451 Johnson Road South (South side of Johnson Road South, 380' East of the South terminus of Cottage Grove Drive).

30 Lots / 10.0+ Acres

Mr. Jerry Byrd of Byrd Surveying, Inc., was representing the applicant and indicated that the applicant was requesting that condition #3 be amended to require a 25-foot minimum building setback line on the front, and 20 feet on the side street.

Mr. Olsen stated the staff did not have a problem with that change.

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to waive Section V.B.6. of the Subdivision Regulations, and approve this subdivision subject to the following conditions:

- (1) placement of a note on the final plat stating that Lots 1 and 30 are denied access to Johnson Road South;
- (2) that the detention area be labeled as common area and as detention, with a note on the final plat stating maintenance of all common areas shall be the responsibility of the property owners;
- (3) placement of the 25-foot minimum building setback line for the front of the property and a 20-foot minimum building setback line for the side property lines for the corner lots, on the final plat; and
- (4) the construction and dedication of the proposed street to county standards.

The motion carried unanimously.

Case #SUB2003-00065

Hidden Pines Subdivision, Unit Four

North terminus of an unnamed street stub, adjacent to the North side of Hidden Pines Subdivision, Unit One, and the East side of Hidden Pines Subdivision, Unit Two.

30 Lots / 8.4+ Acres

May 1, 2003

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

There was no one present in opposition.

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

- (1) the construction and dedication of the roads to County Engineering standards.

The motion carried unanimously.

Case #SUB2003-00076

Howells Ferry Heights Subdivision, Second Unit, Resubdivision of Lots 50 - 61

2401 and 2450 Waterford Drive (North terminus of Waterford Drive).

3 Lots / 7.7± Acres

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

There was no one present in opposition.

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

- (1) the dedication of the necessary right-of-way to provide 50-feet from the centerline of Howells Ferry Road;
- (2) the placement of a note on the final plat stating that Lot 1 is limited to one curb cut to Waterford Drive, 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 a buffer, in compliance with Section V.A.7., will be provided where the site adjoins residentially developed property.

The motion carried unanimously.

Case #SUB2003-00064

Husby Subdivision, Resubdivision of Lots 1 and 2

5763 and 5769 McDonald Road (East side of McDonald Road, 950'± South of Holloway Drive North).

2 Lots / 9.6± Acres

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

May 1, 2003

There was no one present in opposition.

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

- (1) the provision of a 75-foot setback (which includes the required minimum building setback of 25-feet), from the centerline of McDonald Road;
- (2) placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each to McDonald Road with the size, location and design to be approved County Engineering; and
- (3) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2003-00073

Mulekar Subdivision

3221 Spring Hill Avenue (South side of Spring Hill Avenue, 200'± East of Durant Street).

1 Lot / 1.6± Acres

Ms. Pappas stated that the staff had received the information requested of the applicant and were now recommending approval subject to the site being limited to one curb cut to Spring Hill Avenue, and that the required 25' minimum building setback line be shown on the final plat.

Mr. Frank Dagley, of Frank A. Dagley & Associates, Inc., was representing the applicant, stated that his client was requesting two curb cuts on Spring Hill Avenue along the 170' frontage of this lot.

In discussion, Mr. Vallas asked if there were any plans right now to put a second building on the site.

The staff was unsure.

Mr. Vallas noted there was an awful lot of property to the east.

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

- (1) that the site be limited to two curb cuts to Spring Hill Avenue, with the location and design to be approved by Traffic Engineering; and

May 1, 2003

- (2) the placement of the required 25-foot minimum building setback line on the final plat.

The motion carried unanimously.

Case #SUB2003-00066

Raine Estates Subdivision

2825 McFarland Road (East side of McFarland Road, 515'± South of Valley View Drive).

1 Lot / 0.5± Acre

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

There was no one present in opposition.

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

- (1) placement of a note on the final plat stating 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
- (2) the conditions stated on the final plat as recorded March 19, 1999.

The motion carried unanimously.

Case #SUB2003-00062

Saddlebrook Subdivision, Units 3 & 4

North termini of Saddlebrook Drive East and Saddlebrook Drive West, extending to the South terminus of Scenic Park Drive.

68 Lots / 26.0± Acres

Mr. Ruffin Graham of 3201 LaCoste Road, applicant, was present.

Mr. Richard Rowan, one of the developers of the property, was also present and stated that they were in agreement with the staff recommendations regarding curb cuts. However, Mr. Rowan asked that the requirement for a stub to Cottage Knoll Drive be removed. He explained that since their original plan, they had made another stub to the West to Richmond Subdivision, and felt that three stub outs would be sufficient for this subdivision.

Mr. Graham noted that the neighbors at that stub had asked that the developer not connect there.

May 1, 2003

Ms. Pappas stated that the staff's recommendation was strictly in line with what the Commission previously required, which was the connection to Cottage Knoll Drive.

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

- (1) the placement of a note on the final plat stating that corner lots (59, 74, 79, 80, 90, 110, 118, 120, 121 and 126) are limited to one curb cut each, with the location and design to be approved by County Engineering;
- (2) placement of the required 25-foot minimum building setback line on the final plat; and
- (3) the construction and dedication of the proposed streets to county standards.

The motion carried unanimously.

Case #SUB2003-00063

Sky Ranch Subdivision, Third Unit, Resubdivision of Lots 23, 24, and 25, Block I

1016 and 1052 Highway 90 Drive (North side of Highway 90 Drive, 460'± West of Camellia Drive East).

2 Lots / 0.9± Acre

The applicant was not present.

There was no one present in opposition.

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

The motion carried unanimously.

Case #SUB2003-00068

Anita Witherspoon Subdivision

West side of Harris Road, 280'± North of Eastview Drive.

1 Lot / 0.6± Acre

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying was representing the applicant and stated that the applicant had done a title search on this property but was not able to complete it in time for this meeting. He submitted a letter, however, from Mr. Ronald Coleman, owner of the property directly to the north, stating that he did not wish to be a part of this one-lot subdivision. Mr. Orrell said the applicant was in agreement with the 25-foot minimum building setback line.

Mr. Olsen noted that since the letter submitted did not really reference the legal description or anything regarding this person's property, the staff would like to verify it.

May 1, 2003

There was no one present in opposition.

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

- (1) the placement of the 25-foot minimum building setback line on the final plat; and
- (2) the letter submitted by the applicant at the meeting, and verification of adjacent ownership.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

OTHER BUSINESS:

Case #ZON2003-00857

Ebenezer Baptist Church

5051 Ebenezer Drive (Southwest corner of Demetropolis Road and Ebenezer Drive).

Dr. Rivizzigno inquired if the staff had resolved the issue regarding a possible easement on this site.

Mr. Olsen stated that the Real Estate Department was still looking into this matter and they had not yet made a determination either way. However, he said that they had been diligently working to get this resolved.

APPROVED: July 10, 2003

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

/ms and jh