

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JULY 24, 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
James Laier

Members Absent

Wendell Quimby
Clinton Johnson
Norman Hill (S)

Staff Present

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

Others Present

Wanda Cochran, Assistant City Attorney
David Daughenbaugh, 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.

HOLDOVERS:

Case #SUB2003-00119

Bud Mathis Subdivision

4100 and 4126 Oak Ridge Avenue (West side of Oak Ridge Avenue, 170'+_ South of Holden Drive).

10 Lots / 2.1± Acres

Mr. Doug Anderson, attorney, was representing Mr. Bud Mathis, applicant and owner. Mr. Anderson presented this proposal for a 10-lot, zero-lot-line subdivision with lots ranging from 5,246 sq. ft. to 8,658 sq. ft. Sidewalks would be provided and front setbacks would be 15 feet with rear setbacks of 8 feet. Mr. Anderson noted that the subdivision was recommended for denial because it was not innovative. He pointed out that a precedent had been set numerous times on this type development involving subdivisions that added many more lots that were smaller. He gave four examples of similar subdivisions that had been approved by this Commission: Hillcrest Trace, with 12 lots from 5,500-6,500 sq. ft.; Yorktown, with 34 lots, the smallest being 4,100 sq. ft.; Sussex Place, 32 lots with the smallest lot being 4,000 sq. ft.; and Burnham Woods, with

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32 lots with the smallest being 4,200 sq. ft. Pointing out the two front lots on the plat, Mr. Anderson noted that there were existing houses on these lots with existing driveways to Oakridge Avenue. He felt to deny access from Oakridge Avenue to those lots would be a burden on the existing owners. Mr. Anderson felt this would be a good use for this property, noting that it was in the County which had no zoning.

Mr. Frost asked what would determine whether a subdivision was innovative or not.

Ms. Pappas stated that many of the developments cited by Mr. Anderson were condos or town home style developments with attached units and were in the City. Most that were detached, one home per lot, were actually approved prior to the Innovative Design Section of the Subdivision Regulations being enacted. The proposed subdivision had two lots with existing structures on them that were 8,600 sq. ft. The balance of the lots range in area from 5,800 sq. ft. to a maximum of 6,000 sq. ft. They appeared to be simply higher density for higher density's sake.

Mr. Anderson stated that Lots 2-4 had setbacks on one side and not the other because this was zero-lot-line with no windows on that side. Mr. Anderson contended that whether they were called patio homes or zero-lot-line, they were the same type developments.

Ms. Deakle asked Mr. Anderson to comment on the land locked parcels to the West.

Mr. Anderson stated that the matter of the land locked parcels had been resolved. He said since they submitted their first plan, the applicant had provided a deed showing that they did not own that property. He pointed out that this site was in the County which had less stringent regulations than the City. If these types of developments had been allowed in the City, why not in the County?

In discussion, Mr. Frost again questioned the meaning of "innovative subdivision".

Ms. Pappas asked if County Engineering, as part of their plan review process, would check to see that the applicant was complying with the setback requirements according to the plat.

Mr. Stewart stated that County Building Inspection did not review building setbacks.

Ms. Pappas felt that if this were the case, then dedication would be the best option. Since this was in the County, the Planning Commission staff would not be doing any review on it.

Mr. Frost said that he was having difficulty regarding whether or not this was really innovative.

Ms. Pappas stated that there was no narrative or any description submitted by the applicant justifying this subdivision as innovative. She said they did submit the plat showing the setback and also illustrating their notation regarding the setback, and that if

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built on the property line, no windows would be provided. Ms. Pappas said the Commission could consider this subdivision to be innovative, but this was a gray area.

Mr. Frost felt that the developer was simply trying to put as many lots as possible in the limited amount of space they had.

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

- (1) the plat contains lots that would not meet the minimum lot area requirements of the Subdivision Regulations.

In further discussion Dr. Laier asked the size of Lots 4, 5, 6 and 7.

Ms. Pappas replied that Lots 4 and 7 were 5,246 sq. ft., and Lots 5 and 6 were 5,846 sq. ft.

Mr. McSwain noted that the 25' setback would be required.

Mr. Vallas asked if it would be appropriate to approve this as an 8-lot subdivision.

Mr. Frost said they would have to see the configuration of it, noting that they could do 6 lots and still have two tiny lots that wouldn't be appropriate.

Mr. Vallas said that there would still be a minimum of 7,200 sq. ft.

Ms. Pappas said there had been cases where the developer reduced the number of lots to provide a minimum of 7200 sq. ft. She said there was still the setback issue.

There being no further discussion, the question was called. The motion carried unanimously.

Case #SUB2003-00137

Highland Park Subdivision, Block 5, Resubdivision of Lot 21 and a Portion of Lot 22

East side of Lakeview Drive East, 290'± South of the Southern terminus of Lakeview Drive, extending to the West side of Park Avenue South.

2 Lots / 1.0± Acre

Mr. Bobby McBryde of Rowe Surveying & Engineering Company, Inc. was representing the applicant and stated that they had sent out letters since the last hearing to try and get in touch with the surrounding property owners to see if they were willing to participate in this subdivision. He said that they had not yet heard back from everyone and he asked that the application be heldover once again.

There was no one present in opposition.

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A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to holdover this application until the meeting of August 7, 2003, at the applicant's request to allow additional time to include the balance of the property in the subdivision with the additional notification, or to submit documentation to establish the balance of the property as a legal lot of record prior to 1952.

The motion carried unanimously.

Case #SUB2003-00130

Lydia Place Subdivision

Southeast corner of Wilkins Road and Lydia Drive.

6 Lots / 1.7± Acres

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

EXTENSIONS:

Case #SUB2002-00037

Dix Subdivision, Unit Two, Resubdivision of & Addition to Lot 2

South side of Cottage Hill Road, 250'± West of Dawes Road, extending to the West side of Dawes Road, 200'± South of Cottage Hill Road.

3 Lots / 5.7± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2002-00158

Ram's Head Addition to Tillman's Corner Subdivision (formerly Head's Addition to Tillman's Corner Subdivision)

South side of Cross Street, 100'± East of Middle Road.

5 Lots / 20.3± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2001-00328

Scott Plantation Subdivision: Unit 5 and Future Units

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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

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

Case #SUB2002-00153 (Subdivision)

Summit Subdivision

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

99 Lots / 41.0± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2003-01559

Holy Church of God

2115 Demetropolis Road (East side of Demetropolis Road, 250'± South of Troy Lane).

Planning Approval to allow the expansion of an existing church with a new child day care facility and playground in an R-1, Single-Family Residential district.

AND

Case #ZON2003-01558

Holy Church of God

2115 Demetropolis Road (East side of Demetropolis Road, 250'± south of Troy Lane).

Planned Unit Development Approval to allow multiple buildings on a single building site.

AND

Case #SUB2003-00150

Holy Church of God Subdivision, Resubdivision of

2115 Demetropolis Road (East side of Demetropolis Road, 250'± South of Troy Lane).

1 Lot / 1.0± Acre

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

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NEW ZONING APPLICATIONS:

Case #ZON2003-01555

Ashland Village, L.L.C.

2401 and 2403 Old Shell Road (Southwest corner of Old Shell Road and Homer Street).

The request for a change in zoning from R-1, Single-Family Residential, to LB-2, Limited Neighborhood Business, for professional offices and light retail sales was considered.

The plan illustrates the proposed buildings and parking.

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

Mr. Pete Vallas, an architect in Mobile, stated that he and his partners had purchased the subject property at the corner of Old Shell Road and Homer Street. Mr. Vallas said he was personally interested in this property because he intended to build his personal home a block and a half East on Old Shell Road directly across from Ashland Place. He said Ashland Place was one of the most desirable neighborhoods in midtown and his residence would be similar to those in Ashland Place. He said he and his partner, Mr. Richard Taylor, a resident of Ashland Place, were concerned about the downward trend in the visual quality of the commercial properties along Old Shell Road in this vicinity and wanted to do something to reverse this trend. Their concerns were heightened by the construction of the liquor store one block West of the subject property. Mr. Vallas said it was the building itself that offended them and not the commercial use. He distributed handouts showing properties they considered unattractive and unsightly along this stretch of Old Shell Road. It was their hope to reverse this trend by designing and putting in place a more upscale, architecturally friendly and neighborhood friendly building reminiscent of some of the older shopping centers along the intersections in midtown. He produced a photo of a building at Old Shell Road and Upham Street that they felt was an attractive building, the kind that they would like to see on their property. Mr. Vallas noted that there were two large Live Oaks on the property that they wanted to keep and had been working with Mr. Daughenbaugh to ensure that the trees were protected. He said he had mailed out over 200 letters to the immediate neighborhood informing them of their proposal, and had nothing but favorable responses. The property in question was actually two 50-foot lots facing Old Shell Road which hadn't been used for residential purposes in years. Mr. Vallas pointed out a small house on the corner of Homer Street and Old Shell Road that had been used for an accounting office and numerous other businesses. The building to the West was a dentist's office, which he had been told had been there about 30 years. Both of these had been used for business under variances. He felt it highly unlikely that anyone could use those properties for any desirable residential nature.

Mr. Frost asked how the proposed building would be divided.

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Mr. Vallas said they proposed maybe four 1,200 sq. ft. shops. He said he had been contacted by several people expressing an interest in opening an antique shop and a gourmet take-out shop at this location. These were the kinds of businesses they wanted to locate there, and they were willing to self-impose restrictions. Mr. Vallas said they were doing this for the betterment of the neighborhood because they planned to live there for a while. He said he had the most response from the residents of Grand Boulevard across the street, who were also concerned that the commercial areas were unsightly and not kept up. Mr. Vallas also pointed out several houses at the corner of Old Shell Road and Grand Boulevard that had been cut into and made into apartments. They did not want this to happen to their property, and hoped that upgrading it would encourage someone to come along and upgrade the other side of the street.

Mr. Richard Taylor, an attorney, stated that he and his family had lived in Ashland Place for 10 years. He said Ashland Village, L.L.C., consisted of three people: Mr. Pete Vallas, architect, himself, and Mr. Warren Foster. Their purpose and motive for this development was to improve the appearance of the neighborhood and make it a better place to live. Mr. Taylor noted that the subject property had been used as commercial for as long as he had been in Ashland Place, and it was now ugly and abandoned. He said there was a fire station next door and they had discussed making their development look like the fire station, which they thought was attractive. The Ashland Gallery was to the East, and they felt the proposed building would be compatible with that. Mr. Taylor said he had personally spoken to people in the neighborhood about their proposal and had gotten nothing but positive responses. He noted that the staff had recommended denial of the rezoning because the site was less than two acres. He reminded the Commission, however, that two weeks earlier they had approved a development at Spring Hill Avenue and Louiselle Street that was less than two acres. With reference to an indication that Old Shell Road was not a major street, Mr. Taylor said that it was very busy and appeared to them to be a major street. They also felt the development was consistent with the Smart Growth Policy the City was attempting to adopt, where it stated that the purpose of the Policy was "to encourage mixed use development integrating neighborhood oriented business of compatible scale into residential areas, and residential uses into commercial areas". Also, "to reinforce and maintain community character by designing community gateways, etc." Mr. Taylor said he had small children who would be growing up in this area and he did not want any offensive businesses or businesses that would be open late to locate there. He asked that the Planning Commission approve this request.

In discussion, a motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to recommend the approval of this change in zoning to the City Council subject to the preservation of the trees as indicated by Urban Forestry.

Ms. Pappas said that the staff would like to see a few additional conditions placed on the approval: (1) provision of buffering in compliance with Section V.D.1. of the Zoning Ordinance, where the site adjoins residential development; (2) screening of the parking along Old Shell Road in compliance with Section VI.A.3.i. of the Zoning Ordinance; (3) full compliance with Urban Forestry comments as follows: preservation status for the

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57” and 95” Live Oak Trees; and all work under canopy of trees is to be coordinated with Urban Forestry; (4) full compliance with the landscaping and tree planting requirements of the Ordinance; (5) location, design and size of curb cuts to be approved by Traffic Engineering; (6) provision of sidewalks; (7) submission and approval of a subdivision application; and (8) full compliance with all municipal codes and ordinances.

Ms. Deakle asked for clarification regarding the required screening.

Ms. Pappas said either shrubs or a low fence or wall three feet in height would be required.

Mr. McSwain noted that the applicant had offered voluntary restrictions and asked what they were.

Ms. Pappas said he did not offer anything specific over and above what restrictions were on LB-2.

Ms. Deakle and Dr. Rivizzigno amended their motion and second respectively to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) provision of buffering in compliance with Section V.D.1. of the Zoning Ordinance, where the site adjoins residential development;
- (2) screening of the parking along Old Shell Road in compliance with Section VI.A.3.i. of the Zoning Ordinance;
- (3) full compliance with Urban Forestry comments as follows: preservation status for the 57” and 95” Live Oak Trees; and all work under canopy of trees is to be coordinated with Urban Forestry;
- (4) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (5) location, design and size of curb cuts to be approved by Traffic Engineering;
- (6) provision of sidewalks;
- (7) submission and approval of a subdivision application; and
- (8) full compliance with all municipal codes and ordinances.

The question was called. Mr. Vallas recused. The motion carried.

Mr. McSwain mentioned that he had grown up on Kirby Street and the dentist office that had been referred to had been there for well over 30 years.

Case #ZON2003-01557

Billy Hill & Johnny Nguyen

161 North Mobile Street (West side of North Mobile Street, 180’± South of Spring Hill Avenue).

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The request for a change in zoning from R-1, Single-Family Residential, to B-3, Community Business, to allow the expansion of a parking lot from an adjacent commercial site was considered.

The plan illustrates the proposed parking and landscaping on the lot to be rezoned. Also shown are the existing setbacks, parking, landscaping and structure on the adjacent commercial site.

Mr. Frank Dagley of Frank A. Dagley & Associates, Inc. was representing the applicant. Mr. Dagley stated that the existing building on this property was recently permitted and built and was a very successful seafood business. He pointed out that parking along Mobile Street was right on the property line. There was some equipment that was put behind the building, as they did not meet the standard requirement for a 12' driveway behind the building. There was a fenced-in area south of the building which forced them to put the landscaping further south, even though it was still on their property. Mr. Dagley said there was an application for a site variance pending to cover these things, which was to be heard August 4. He explained that in order to allow the landscaping to remain where it was, they applied for the rezoning of this property to allow for additional parking, which had proved to be inadequate even though it met the City's requirements. Mr. Dagley said his client was opposed to creating a one-lot subdivision, which would mean taking 15 feet of his property. The applicant was concerned that he would lose some of his existing parking. Mr. Dagley noted that in 1973 Mobile Street was improved and 50 feet of right-of-way was taken. He asked why they needed to have a one-lot subdivision.

Mr. Olsen explained that the reason the staff recommended the one-lot subdivision to incorporate this with the existing development was because if it remained two lots and the property was rezoned at some point in the future, it could be developed independently. At that point there would need to be a curb cut to Mobile Street, which as the staff report referenced was a major street on the Major Street Plan, and access to it in this area or another access point would not be something that was desirable.

Mr. Frost asked if he understood that 15 feet would be required due to setbacks.

Mr. Dagley explained that there was a 15-foot right-of-way there now. That was 25 feet on either side of the centerline. The staff had recommended that the applicant acquire 40 feet, which would be an additional 15 feet.

Mr. Frost asked if that was the dedication called for in condition #1.

Mr. Dagley replied that it was, but the subdivision was what triggered that. He asked why the rezoning of this one lot was going to require the lot to the north to give up 15 feet of right-of-way.

Mr. Olsen stated that it would not require the lot to the north to give up 15 feet of right-of-way, but was only in reference to this lot at this point in time. He explained that when

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the resubdivision comes in there may be some dedication necessary on that property to meet major street standards, but this lot in and of itself, as a condition of rezoning, could be required to dedicate sufficient right-of-way to provide 40 feet from the centerline. The dedication would be needed for Mobile Street improvements according to the MATS Plan, and this development could have an impact on that. He noted that Dumas Wesley to the south between Old Shell Road and Spring Hill Avenue had to dedicate right-of-way on both sides when they came in for their rezoning, Planning Approval and PUD several years ago.

Mr. Vallas inquired if they could deny access to Mobile Street for the south lot. Then if the owner decided to sell it for another use they would have to get a PUD and access it through the north property.

Mr. Olsen said that this was not something the staff would recommend.

Mr. Johnny Nguyen, one of the owners of the subject property, stated that he had no problem with combining the two lots, but was concerned that the City would take the additional 15 feet of right-of-way along Mobile Street which would cause severe problems with parking for this site. Mr. Nguyen said their business was expanding and they needed more parking, and that was the reason for purchasing the additional property. He noted that when they first submitted the plans for this property, no mention was made of the need for additional right-of-way, so they could not have foreseen this to prevent the problem they were now facing.

Mr. Frost inquired if they were to lose some parking due to the 15-foot setback, would they still meet the parking requirements?

Mr. Olsen said that they would still exceed the minimum required by the Ordinance.

Mr. Vallas said it looked as though they would gain 13 parking spaces and lose 7, for a net gain of 6 parking spaces.

Mr. Olsen said that they would still have excess parking under the Ordinance. He felt that perhaps the site could be configured differently to accommodate more parking. He said that they would also still be able to comply with the 25-foot setback line.

Mr. Nguyen invited the Commission to visit this site. He commented that anyone that had a large volume of pedestrian and vehicular traffic would want to have as much room as possible for maneuvering. Even if they decided not to take the dedication today, there would be a problem in the future when Mobile Street was widened. He stated that they had enhanced this corner and they had been fortunate enough to be blessed with a good business. Now they simply wanted to provide parking for their clientele with a good traffic flow. He felt that this would be impossible if they lost 15 feet.

In discussion, Mr. Plauche inquired if the staff recommendation for full compliance with all municipal codes and ordinances included landscaping and trees.

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Mr. Olsen said that normally it would. However, Mr. Dagley had mentioned that they had applied for a variance from the landscaping and tree requirements.

Dr. Rivizzigno inquired about the setback.

Mr. Olsen explained that the setback for Mobile Street was shown as 25 feet. In actuality, however, the Zoning Ordinance states that setbacks shall be from the future major street right-of-way. So that setback should actually be moved over the 15 feet. Further, he noted that the pieces of equipment and the fencing Mr. Dagley referred to that caused the driveways to be less than 12 feet required for a one-way drive were not shown on the approved site plan for permitting and were installed during the construction process, and at that point the building was there.

Mr. McSwain asked about the one-way drive.

Mr. Olsen stated that the drive goes behind the building on the south side, then along the west side of the building. There was a drive thru window there.

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

In further discussion, Mr. McSwain felt it would be imposing a real hardship on this business owner if he were required to take another 15 feet off that corner lot. If required to dedicate, Mr. McSwain asked if the owner would have to come back in for an agreement to use it for his parking.

Mr. Olsen said the owner would have that option, or he could remove the parking. But he did have the option, since it was excess parking above the minimum requirements of the Ordinance, to ask for a right-of-way use agreement until such time as Mobile Street was improved. He noted that these improvements were on the MATS Plan as a Priority 1, to be done within the next five years.

Mr. Vallas asked how much property there would be for landscaping if Mobile Street was widened. He suggested if the applicant could get a landscaping allowance to use that property, he could then remove the landscaping between the two lots and pick up some more parking right there.

Mr. Olsen replied that a small percentage of the required landscaping was allowed to be in the right-of-way. If they were allowed to do as Mr. Vallas suggested and eliminate the landscaped strip between the two lots and install parking there, if the width of the lot would even allow that, he could then move the landscaping that was along Mobile Street a little further to the west to compensate.

Ms. Deakle and Dr. Rivizzigno withdrew their motion and second respectively.

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Ms. Deakle said if the Commission approved this application subject to staff recommendations, it seemed to her that the applicant could leave everything exactly as it was, apply for a variance to use the parking that he had already built, and what the Commission did today would come into play only if, and when, Mobile Street was widened.

Mr. Olsen said if the application was approved as it was, the applicant would have to come in for a subdivision of the lot to the north and the City would require the 15 feet there.

Ms. Deakle asked if the applicant could apply for a variance on the whole eastern length of the entire lot.

Ms. Cochran pointed out to the Commission that the right-of-way use agreement was a contractual agreement between the City and the property owner where the City declares that a particular portion of right-of-way was not now needed for its purpose. Such an agreement was usually for a 10-year term, and usually there was a requirement that the owner purchase insurance. Ms. Cochran said it was not just a waiver, and there were administrative duties associated with it and so forth.

Mr. Frost felt that if they tried to take 15 feet from the north property it would be like trying to go back in time and take something that should have been gotten beforehand. He realized the staff had made some reasoning as to why this site should be one lot. He wondered if this was really required.

Mr. Olsen pointed out that if the Commission approved this application with the condition of a one-lot subdivision, the Commission could choose at that point not to require that dedication. He further noted that it was the applicant's intent to use this site to meet part of their required landscaping for the property to the north, which was another reason for requesting that the two lots be combined.

Mr. Frost asked why a PUD was not required for this application for shared parking.

Mr. Olsen said that they could do that, but if the owner ever decided to sell off the lot for a different use it would have a curb cut to Mobile Street and access to Mobile Street was something they were trying to limit.

Mr. Vallas felt that to do this they would have to come in for a subdivision and the Commission could deny it at that time.

Mr. Olsen said that it was already a current legal lot of record.

Dr. Laier felt that if this were the case it could be developed separately regardless.

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Ms. Deakle thought that they had only taken right-of-way from the east side of Mobile Street, such as with UMS-Wright.

Mr. Olsen said that with the section of Mobile Street between Old Shell Road and Spring Hill Avenue, right-of-way had come from both sides of the street.

Mr. Olsen pointed out that one of the reasons they were asking for a subdivision was that the applicant was trying to use this lot to get in the rest of their required landscaping. He commented that with McAllister's Restaurant on Airport Boulevard, the Commission had required dedication and the restaurant had gotten a right-of-way use agreement for parking there.

Mr. Frost inquired why a PUD wasn't being required.

Mr. Olsen replied that in this case, it would be an Administrative PUD.

Ms. Deakle felt that this would relieve the need for the subdivision.

Mr. Olsen said that the staff was still advocating a subdivision for the reasons he had mentioned during the meeting and that were in the staff report.

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

- (1) dedication of sufficient right-of-way to provide 40' from centerline;
- (2) screening of parking along Mobile Street; and
- (3) full compliance with all municipal codes and ordinances.

Dr. Rivizzigno inquired what would happen when Mobile Street was actually widened.

Mr. Frost said that the City would have to obtain the 15 feet.

Dr. Rivizzigno said that either way the applicant would eventually lose the parking and by doing it this way they would be burdening the City with the purchase of the property.

The question was called. Dr. Rivizzigno was opposed. The motion carried.

Case #ZON2003-01560

Merrill P. Thomas

5815 and 5819 Old Shell Road (South side of Old Shell Road at the Southern terminus of Jaguar Drive [private street], 210'± West of Long Street).

The request for a change in zoning from R-1, Single-Family Residential, to B-2, Neighborhood Business, for retail shops, a restaurant, and/or professional offices was considered.

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Mr. Merrill Thomas, applicant, was present and said he was in agreement with the recommendations of the staff. He stated, however, that he would like to incorporate a fourth lot into this development. He asked that the Commission go ahead and act on this request today, and he would come back with an application to have the additional lot rezoned.

Mr. Frost asked if the application could be held over so that he could add that lot to it.

Mr. Olsen stated that the applicant could bring in the rezoning of the property adjacent to the west for rezoning at the same time as the subdivision and PUD for this application to incorporate it all into one development.

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

- (1) submission and approval of a subdivision application;
- (2) submission and approval of a PUD application;
- (3) size, location and design of curb cuts to be approved by the Traffic Engineering Department; and
- (4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW PLANNING APPROVAL APPLICATIONS:

Case #ZON2003-01543

Greater Union Baptist Church

961 Lyons Street (Southeast corner of Lyons Street and Cherry Street, extending to the West side of Pearl Street, 100'± South of Lyons Street, and 140'± North of Basil Street).

The request for Planning Approval to allow the expansion of an existing church to enlarge a sanctuary and increase parking in an R-2, Two-Family Residential district, was considered.

The site is surrounded by single-family residential units. Churches are located to the west and north of the site. A school is located to the north of the site.

Mr. Jackie McCracken of South Bay Architects was present representing the applicants. Mr. McCracken stated that they were aware of the recommendations of the staff and their only concern was regarding access to Cherry Street. He said there was an existing curb cut there and he wanted to make sure they would still be able to use it for access.

Mr. Olsen pointed out the location of an existing drive that would access the parking lot. He indicated two other curb cuts that would be closed as they would not access the parking lot. The remaining driveway, however, would need to be increased to 24'.

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Mr. McCracken also said that they were applying for variances to allow a reduced front setback and off-site parking.

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 following conditions:

- (1) submission and approval of variances to allow the reduced front setback and off-site parking;
- (2) the access to Lyons Street be increased to 24', or a variance granted to allow a reduced width;
- (3) provision of screening along Cherry Street, in compliance with Section VI.A.3.i;
- (4) the 50" pecan tree be given Preservation Status;
- (5) all work under canopy of the 50" pecan tree is to be coordinated with Urban Forestry;
- (6) If the 50" pecan tree warrants removal in the future, it must be permitted by Urban Forestry;
- (7) full compliance with the landscaping and tree planting requirements for the entire site;
- (8) curb cuts that will not be used as a result of this development be closed, curbing and fill installed, and the area grassed; and
- (9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2003-01512

Douglas B. Kearley

852 Dauphin Street (North side of Dauphin Street, 165' ± East of Broad Street).

The request for Planning Approval to allow a gravel driveway and parking area on a commercial site within the Hank Aaron Loop was considered.

The plan illustrates the existing structure and gravel drive.

Mr. Douglas Kearley and Mr. Milton Brown were present in this matter. Mr. Kearley indicated they were in agreement with the recommendation of the staff.

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 following condition:

- (1) provision of wheel stops to delineate parking paces.

The motion carried unanimously.

July 24, 2003

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2003-01521

Eastridge Place Subdivision, Lot 15

Southeast corner of East Drive and Eastridge Place.

The request for Planned Unit Development Approval to amend a previously approved Planned Unit Development to increase the maximum allowable site coverage to 45% in an R-1, single-family residential subdivision was considered.

The plan illustrates the subdivision plat and setbacks.

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 plan subject to the following condition:

- (1) full compliance with the Engineering Comments (initial developer provide verification that designed stormwater system and constructed stormwater system are adequate to accommodate increased impervious areas from all submitted requests for increased coverage. Verification should be from professional engineer registered in the state of Alabama. If this is not feasible, each applicant for increased coverage should provide verification that stormwater [designed and constructed] can accommodate increased impervious areas. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit).

The motion carried unanimously.

Case #ZON2003-01522

Eastridge Place Subdivision, Lots 3-5 and 8-13

North and South sides of Eastridge Place.

The request for Planned Unit Development Approval to amend a previously approved Planned Unit Development to increase the maximum allowable site coverage to 45% in an R-1, single-family residential subdivision was considered.

The plan illustrates the subdivision plat and setbacks.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

July 24, 2003

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

- (1) full compliance with the Engineering Comments (initial developer provide verification that designed stormwater system and constructed stormwater system are adequate to accommodate increased impervious areas from all submitted requests for increased coverage. Verification should be from professional engineer registered in the state of Alabama. If this is not feasible, each applicant for increased coverage should provide verification that stormwater [designed and constructed] can accommodate increased impervious areas. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit).

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2003-00144

Airport Acres – No. 2 Subdivision, Resubdivision of Lots 19 & 20

North side of Old Government Street Road, 875' ± West of Schillinger Road.

2 Lots / 2.2± 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 Dr. Laier 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 dedication of sufficient right-of-way to provide 25 feet from the centerline of Old Government Street Road;
- (2) placement of the 25-foot minimum building setback lines on the final plat; 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 #SUB2003-00145

Dog River Landing Subdivision

West side of Dog River Road at the South terminus of its improved right of way.

July 24, 2003

3 Lots / 5.2± Acres

Mr. Mike Reid, the principal for Reid, Still and Associates, was present and asked about the condition allowing only one curb cut. He pointed out that this was in the County and there was no curbing.

Mr. McSwain said that it did not need a curb, but was referring to driveways.

Mr. Reid wanted to know if the County would be responsible for building the cul-de-sac. He was in agreement with the other staff recommendations.

Mr. Frost said that it would be the responsibility of the developer.

Mr. Vallas noted that if the Commission required less of a setback, it would be pushing the development away from the wetlands. He asked if that should be a consideration.

Ms. Pappas stated that the setback was only 25 feet, and considering the radius that would be there with the cul-de-sac, and narrowing the lot, it would not be an issue.

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

- (1) the placement of a note on the final plat stating that construction of Dog River Road to provide access to all Lots and provision of a cul-de-sac (modified), with the design to be approved by the County Engineering Department;
- (2) the developer to obtain the necessary approvals from federal, state and local agencies prior to the issuance of any permits;
- (3) the placement of the 25-foot minimum setback line on the final plat therefore, Lots must be 60-feet wide at setback line;
- (4) the placement of a note on the final plat stating that Lot 5 is limited to one curb cut to Dog River Road; and
- (5) the placement of a note on the final plat stating that Lots 5A and 5B are required to share one common curb cut to Dog River Road.

The motion carried unanimously.

Case #SUB2003-00151

Gulf Coast Fabricators, Inc. Subdivision, Revision of

Southeast corner of Theodore Dawes Road and Leytham Road.

3 Lots / 5.1± Acres

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

July 24, 2003

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

- (1) the dedication of the necessary right-of-way to provide 50-feet from the centerline of Theodore Dawes Road;
- (2) the dedication of the necessary right-of-way to provide a sufficient radius at the Southeast corner of Theodore Dawes Road and Leytham Road;
- (3) the placement of a note on the final plat stating that the each lot is limited to the existing curb cuts to Theodore Dawes Road and Leytham Road;
- (4) the removal all buildings crossing any property lines prior to the recording of the final plat; and
- (5) 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 #SUB2003-00149

Cheryl Mann Subdivision, Phase 1 & 2

10351 Tanner Williams Road (South side of Tanner Williams Road, 3/10 mile± East of Eliza Jordan Road).

5 Lots / 24.3± Acres

Cheryl Mann, applicant, asked about the condition requiring that a note be made on the plat stating that Lots 1 and 2 were denied any future resubdivision.

Ms. Pappas explained that Lots 1 and 2 were flag-shaped lots that had only 25 feet of frontage each to Tanner Williams Road, so a resubdivision based on their frontage would be inadequate.

Mrs. Mann stated that the way it was configured now you could not do it, but what if things changed in the future?

Ms. Pappas said that property would have to come from one another lot; Lot 1 could not be resubdivided by itself, nor could Lot 2.

Mr. McSwain inquired if the applicant could combine the two lots and then have 50 feet of frontage.

Ms. Pappas said that this would work. She felt it would be best to put something in the condition stating that the lots could not be resubdivided individually.

Mr. Stewart said it should be noted that if they were going to use the 50 feet to build a street, the County would require radii on those corners, therefore 50 feet would not be adequate.

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Mr. Frost said that was something that could be dealt with down the road.

Mr. Olsen asked Mr. Stewart if the applicant came back for resubdivision in the future and proposed to build a new road, and it was a 50-foot right-of-way, would it have to be built with curb and gutters.

Mr. Stewart replied that they could do curb, and they could do a wing section in 50 feet. The only difference was that with the 50 feet they would have to have two underground utilities at a minimum.

There was no one present in opposition.

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

- (1) the dedication of sufficient right-of-way to provide 50-feet from the centerline of Tanner Williams Road, a planned major street;
- (2) placement of a note on the final plat stating that Lots 3 and 4 are limited to one curb cut each to Tanner Williams Road;
- (3) placement of a note on the final plat stating that Lots 1 and 2 are required to share one common curb cut to Tanner Williams Road;
- (4) placement of a note on the final plat stating that individually Lots 1 and 2 are denied any future resubdivision;
- (5) placement of the 25-foot minimum building setback lines on the final plat; and
- (6) 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 #SUB2003-00148

Orthopedic Center Subdivision

100 West I-65 Service Road South (West side of West I-65 Service Road South, 185'± North of Springhill Memorial Drive North, extending to the North side of Springhill Memorial Drive North, 160'± West of West I-65 Service Road South).

1 Lot / 4.0± Acres

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

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that the lot is limited to the existing curb cuts to I-65 Service Road South and limiting access to two new curb cuts to Springhill Memorial Drive North with the size, location and design to be approved by Traffic Engineering.

The motion carried unanimously.

Case #SUB2003-00146

Redding Estates Subdivision

North side of Andrews Road, 100'± East of Calhoun Road, extending to the East side of Calhoun Road, 150'± North of Andrews Road.

2 Lots / 0.7± Acre

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

Case #SUB2003-00147

Surfrider Subdivision

Northeast corner of East I-65 Service Road South and Cottage Hill Road.

2 Lots / 1.5± Acres

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. McSwain to approve this subdivision subject to the following conditions:

- (1) the dedication of sufficient right-of-way to provide 150' from the centerline of Interstate 65;
- (2) the placement of a note on the final plat stating the Lot 1 is limited to one curb cut to Cottage Hill Road Access Road and one curb cut to East I-65 Service Road South with the location, size, and design to be approved by Traffic Engineering;
- (3) the placement of a note on the final plat stating that Lot 2 is limited to two curb cuts to East I-65 Service Road South with the location, size, and design to be approved by Traffic Engineering;
- (4) the dedication of a 25' radius at the intersection of Cottage Hill Road Access Road and East I-65 Service Road South; and
- (5) the placement of the 25-foot minimum building setback line on the final plat along both street frontages.

The motion carried unanimously.

July 24, 2003

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2003-01528

Franklin Primary Health Center, Inc.

1303 Dr. Martin Luther King, Jr. Avenue (Southwest corner of Dr. Martin Luther King, Jr. Avenue and Cuba Street, extending to the North side of Lyons Street, 180'± West of Cuba Street)

The request to waive construction of sidewalks along Dr. Martin Luther King, Jr. Avenue, Cuba Street, and Lyons Street was considered.

Mr. Plauche recused from the discussion and vote regarding this matter.

Mr. Mike Christiansen, architect, was present representing the owner and explained that this was a request for a sidewalk waiver. He said that the existing sidewalk would be replaced where it was damaged. He noted that the adjacent properties did not have sidewalks along Lyons Street, and there was a privacy fence along their property so they would not have access to a sidewalk. There were also no sidewalks on Cuba Street. They felt this requirement would be an undue burden. Mr. Christiansen said this had been a long, ongoing process for the owner. He noted that the original drawings were permitted in 1999, and then again in May 2002. The requirement for the additional sidewalks did not become apparent to them until June 2003.

Ms. Pappas stated that as per the Subdivision Regulations, sidewalks were required at the time a building was constructed. The Planning Commission could not waive the replacement requirement. They could only waive new construction requirements. So the only thing the Planning Commission had jurisdiction over in this matter was whether or not new sidewalks would be provided.

Ms. Terry noted that there was only about 40 feet at the northwest section that needed replacing, along with the driveway. The rest of it did not need to be replaced.

Mr. Tommy Anderson, with the Franklin Primary Health Center, asked for clarification on the sidewalk. He said these new requirements that were put on them in June 2003 put an unanticipated financial burden on them.

Ms. Deakle asked Mr. Anderson how much of their traffic was walk-up traffic.

Mr. Anderson said there would be quite a few people in the general area that would walk to the clinic. He also said there was a bus stop on MLK where a lot of people use the bus to get to the clinic, and they also had vans to transport people who didn't have transportation to the clinic.

Mr. Christiansen pointed out that Lyons Street did not access the site.

Dr. Rivizzigno noted that there seemed to be some confusion as to when the applicant was made aware that sidewalks were required.

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Ms. Pappas stated that there was a letter in the file from the architect of record in 1999 when it was submitted for plan review stating that sidewalks would be provided.

Ms. Cochran presented some information on the adjoining property which she felt may be of interest to the owner. She stated that the four apartments on Cuba Street were foreclosed by HUD and sold in foreclosure sale in June. She thought the purchaser at the foreclosure sale hoped to rehab the apartments and put them back into service. The owner had difficulties and the apartments were now abandoned. They are vacated and would be demolished very shortly. Ms. Cochran said she had been in negotiations with HUD to release some HUD money to help fund demolition. Initial estimates were that it would cost at least \$40,000.

Mr. Frost said he wanted to make it clear that if the adjoining property owner renovated his property, he would also have to provide sidewalks.

There was no one present in opposition.

In discussion, a motion was made by Dr. Rivizzigno and seconded by Mr. McSwain to deny this request.

Ms. Deakle stated that the applicant had no access to Lyons Street.

Dr. Rivizzigno said that the point was that the sidewalk was needed for the flow of pedestrians in the neighborhood.

Mr. Vallas inquired about sidewalk bonds.

Ms. Pappas said that the only time they had allowed this was on major streets where construction was scheduled and they knew that if a sidewalk were put in, it would have to be torn up in the next few months. The bond was to ensure that the sidewalk would be built after the road construction was completed.

The question was called. Mr. Plauche recused. Mr. Vallas was opposed. The motion carried.

Case #ZON2003-01511

Radcliff/Economy Marine Services, Inc.

115 Cochrane Bridge Causeway (West side of Cochrane Bridge Causeway, 160'± North of Dunlap Drive).

The request to waive construction of a sidewalk along Cochrane Bridge Causeway was considered.

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to approve this request.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED: September 18, 2003

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

jh and ms