

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF AUGUST 7, 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  
Wendell Quimby

**Members Absent**

Clinton Johnson  
Norman Hill (S)

**Staff Present**

Richard L. Olsen, Planner II  
Margaret Pappas, Planner II  
Tim Ashley, Planner I  
Jennifer Henley, Secretary II  
Val Manuel, Secretary II

**Others Present**

Wanda Cochran, Assistant City Attorney  
David Daughenbaugh, Urban Forestry  
Jennifer White, Traffic Engineering  
Pat Stewart, County Engineering  
Margaret Swindle, 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 #SUB2003-00130 (Subdivision)**

**Lydia Place Subdivision**

Southeast corner of Wilkins Road and Lydia Drive.  
6 Lots / 1.7± Acres

This application was heldover to allow the applicant an opportunity to submit documentation regarding the wetlands or water related features on this site.

Ms. Pappas stated that the applicant submitted proper documentation earlier in the week that did delineate the wetlands. Based on the revised plat, the staff recommended approval subject to dedication along Lydia Drive, dedication of the appropriate radius, a note on the final plat stating that access is denied to Wilkins Road, and the environmental comment requiring approval of federal, state and local agencies for the wetlands. Ms. Pappas said all lots had more than adequate buildable area exclusive of the wetlands.

**August 7, 2003**

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

Mr. John Hill was present and noted that there were springs and standing water in the wetlands area. He was also concerned about trees that would have to be removed for this development, as well as the density.

Mr. Frost stated that if the Commission were to approve this subdivision the applicant would be required to meet all department permitting and ADEM permitting for environmental matters. He advised Mr. Hill to contact ADEM and make sure they were aware of these issues when they reviewed this particular application for a permit as this was not in the Commission's purview.

Mr. Quimby asked about the trees.

Mr. Hill stated that there were some large trees on the site. Some were oaks, which he felt should be preserved. He reiterated his concerns for the wetlands on the subject property.

Mr. Orrell noted that this was residential property and they would deal with the Urban Forestry Department and get the City's approval regarding trees.

Mr. Olsen stated that with this being R-1 property and vacant, if any trees had to be removed they would have to be permitted through Urban Forestry, who usually worked with the developer to situate the houses to save as many trees as possible.

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

- (1) the dedication of sufficient right-of-way to provide 25 feet from the centerline of Lydia Drive;
- (2) the dedication of a 25' radius for Lot 1;
- (3) placement of a note on the final plat stating that direct access to Wilkins Road is denied; and
- (4) the developer obtain any necessary federal, state, and local environmental approvals.

The motion carried unanimously.

**Case #ZON2003-01237**

**Old Shell Road Commercial Park**

3309 Old Shell Road (South side of Old Shell Road, 30'± East of I-65 Service Road North).

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

**August 7, 2003**

The site plan illustrates the existing drainage, utility, and proposed access easements, existing buildings, parking and fencing.

The applicant was not present.

There was no one present in opposition.

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

- (1) additional paving or reconfiguration of parking to provide a minimum of a 24' wide drive for the entire length of the easement, including reconfiguring access for better circulation, to be approved by Traffic Engineering and Urban Development Staff;
- (2) provision of no parking signs at the West end of the commercial strip center building to maintain an open, unobstructed, 24' wide drive to the site in question;
- (3) provision of barricades across the dirt/gravel drive sufficient to close it;
- (4) signage to comply with the requirements of the Zoning Ordinance;
- (5) compliance with the landscaping and tree planting requirements of the Zoning Ordinance, to the greatest degree practicable, to be coordinated with Urban Forestry and Urban Development Staff; and
- (6) full compliance with all municipal codes and ordinances, including but not limited to the developer obtaining all required permits. Any conditions which are beyond the area and/or scope of the easement must be coordinated with the property owner of the commercial strip center property.

Dr. Rivizzigno was opposed. The motion carried.

**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, Rowe Surveying & Engineering Company, Inc. was representing the applicant and indicated the applicant was in agreement with the recommendations of the staff. Mr. McBryde also stated that they had obtained letters from the property owners that were left out of this subdivision stating that they did not want to participate in this application.

Mr. Frost asked if this was something the staff would need time to study.

Ms. Pappas replied that the staff would need time to study this documentation.

**August 7, 2003**

Mr. Frost indicated to the applicant that this would more than likely be heldover.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 21, 2003, to give the staff time to review documentation submitted by the applicant at the meeting.

The motion carried unanimously.

**EXTENSIONS:**

**Case #ZON2002-01447**

**Magnolia Place Subdivision**

West side of East Drive, 3/10 mile± South of Old Shell Road, extending to the East side of Center Drive.

Request for Planned Unit Development Approval to allow a residential subdivision with amended lot sizes, setback lines, and site coverage limits.

Request for a one-year extension of previous approval.

**AND**

**Case #SUB2002-00133**

**Magnolia Place Subdivision**

West side of East Drive, 3/10 mile± South of Old Shell Road, extending to the East side of Center Drive.

20 Lots / 4.4± Acres

Request for a one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to grant a one-year extension of previous approval for these applications.

The motion carried unanimously.

**Case #ZON2002-01609**

**UMS-Wright Corporation**

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

Request for Planned Unit Development Approval to amend a previously approved Planned Unit Development application to allow an athletic field (soccer) with bleachers, accessory buildings and field lighting.

Request for a one-year extension of previous approval.

**AND**

**Case #SUB2002-00162**

August 7, 2003

**UMS-Wright Subdivision**

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

1 Lot / 45.8± Acres

Request for a one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to grant a one-year extension of previous approval for these applications.

The motion carried unanimously.

**Case #SUB2002-00170**

**Calway-Jones Subdivision**

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

6 Lots / 8.1± Acres

Request for a one-year extension of previous approval.

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

The motion carried unanimously.

**Case #ZON2002-01357**

**Central Plaza Towers**

300, 302, and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the West side of Mobile Street).

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

Request for a one-year extension of previous approval.

**AND**

**Case #SUB2002-00131**

**Central Plaza Towers Subdivision**

300, 302, and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the West side of Mobile Street).

1 Lot / 15.2± Acres

Request for a one-year extension of previous approval.

A motion was made by Dr. Rivizzigno and seconded by Dr. Laier to grant a one-year extension of previous approval for these applications.

Mr. Plauche recused. The motion carried.

August 7, 2003

**GROUP APPLICATIONS:**

**Case #ZON2003-01683**

**Heron Lakes Subdivision, Phase I, Resubdivision of Lots 40 and 41**

4059 and 4063 Grand Heron Way (South side of Grand Heron Way, 185'± West of Grand Heron Court East).

The request for Planned Unit Development Approval to amend a previously approved Planned Unit Development allowing reduced side yard setbacks on lots 65 feet wide or less was considered.

The site plan illustrates the proposed 2-lot subdivision, setbacks and existing easements.

(Also see Case #SUB2003-00154 - **Heron Lakes Subdivision, Phase I, Resubdivision of Lots 40 and 41** – Below)

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

There was no one present in opposition.

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

The motion carried unanimously.

**Case #SUB2003-00154**

**Heron Lakes Subdivision, Phase I, Resubdivision of Lots 40 and 41**

4059 and 4063 Grand Heron Way (South side of Grand Heron Way, 185'± West of Grand Heron Court East).

2 Lots / 1.1± Acres

(For discussion see Case #ZON2003-01683 - **Heron Lakes Subdivision, Phase I, Resubdivision of Lots 40 and 41** – Above)

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

The motion carried unanimously.

**Case #ZON2003-01684**

**Jane Conkin**

West side of Batre Lane, extending from the North side of Old Shell Road to the South side of Gaillard Street.

**August 7, 2003**

The request for a change in zoning from R-1, Single-Family Residential, to R-2, Two-Family Residential, to allow the construction of three duplex single-family residential town homes was considered.

The plan illustrates the proposed structures and paving. Existing trees larger than 24" in diameter are also shown.

(Also see Case #ZON2003-01685 - **The Townhomes at Batre Lane Subdivision** – Below; and Case #SUB2003-00159 - **The Townhomes at Batre Lane Subdivision** – Below)

Ms. Jane Conkin, applicant, was present and stated that she would yield to Mr. Richard Cobb, developer; Ms. Tutta Cone, the real estate agent; and Ms. Ruth Quackenbush, for the owners. Ms. Conkin said this was virtually the same proposal that was before the Commission a few weeks ago except that they were requesting a three-lot subdivision and rezoning to R-2, a lesser density than previously requested.

Mr. Richard Cobb stated that he was a builder and it was his intention to purchase the subject property if it was rezoned to R-2. With reference to comments at the last meeting that this rezoning would constitute spot zoning, Mr. Cobb contended that was false. Although there was a lot of R-1 in the contiguous area, he pointed out a 17-unit multi-family development 100 feet away on the South side of Old Shell Road. Mr. Cobb also said they have had a lot of interest in the property as far as people who might want to purchase a residence when it was completed. He said many of these people had lived in the Spring Hill area all their lives and wanted to pare down somewhat to a smaller type of residence that was more secure and there was less maintenance. He said they had contributed to the community and wanted to remain there with their children.

Ms. Tutta Greer Cone, of 3001 Greer Road, stated that she was a lifelong resident of Mobile and an agent with Praytor Realty and had been servicing the real estate needs in the Spring Hill area for 30 years. She said there were five topics she wanted to touch on briefly that were derived from her real estate expertise, conversations with residents in the area, and from market needs that were changing in this particular area of Mobile. Her comments, briefly, were as follows: (1) Market changes and needs: The Spring Hill area was very important to people who had grown up in Mobile and for people who wanted to relocate to Mobile. Spring Hill included specialty shops and restaurants that gave it a quaint, upscale appeal. The market had changed and residents who once desired large lots with large homes, were now wanting small lots and town homes like the ones proposed for this site. The most sought after accommodations were town homes with master bedrooms downstairs, and they were just not available in this area. (2) Visual appeal and aesthetics: Ms. Cone said there was nothing visually appealing or aesthetically significant on Batre Lane. The proposed unique, unattached town homes would improve the overall aesthetics and visual appeal on the street. (3) Land use: The property was on the edge of the R-1 area, not in the midst of it. The proposed three-unit town home development would bring with it less traffic than would four individual single-family homes on this site. The town homes would more than likely have an older

August 7, 2003

clientele with two persons per household as opposed to four persons per household with four single-family homes. (4) Property values: Selling for approximately \$450,000 each, the town homes would increase the value of the surrounding property and would provide more property taxes for the City. (5) People that were interested: Praytor Realty supports these town homes in R2 zoning because of the positive feedback and needs that people have mentioned in the area. These were people interested in buying one of these town homes who had helped to found and build Spring Hill into what it was today. They wanted to stay in the neighborhood with their children and grandchildren. They were people who could no longer maintain large yards and tremendous homes. Also, there were people moving from other metropolitan areas who were used to this type home.

Ms. Ruth Quackenbush, of 200 Ridgewood Place, had been a resident of the area for 54 years. Ms. Quackenbush said the approval of this request would allow local citizens to construct extremely attractive town homes with professional landscaping on property that was currently vacant and unimproved. She described the layout of the proposed structures, which would include a master bedroom downstairs. She felt these homes would contribute to the needs of the Spring Hill area for quality homes for retired couples and single persons.

Mr. Duane Graham, a resident of Moulton Place up the street from the proposed development, was present in opposition. Mr. Graham said he was speaking on behalf of the Moulton Place Owners Association as well as for many of his neighbors, and they were adamantly opposed to this proposal. He contended that the site did not comply with the requirements of the Zoning Ordinance, which required four acres for such a development. Also, there were no changes in circumstances that would make the zoning change necessary. Mr. Graham noted that the condominiums on Nack Lane mentioned by Mr. Cobb were the only development of this type in the immediate area of this project. They were built in 1971 and were zoned R-1. As to evidence of a change in circumstances mentioned by Mr. Cobb, Mr. Graham noted that Wilmer Hall had been there since the 1800's. St. Paul's School was in an R1 district, and Spring Hill College had been there since the 1830's. Mr. Graham contended there was nothing new or changed within a mile of the site since the applicant purchased this property in September 2000, and neither was there anything new or different since the Zoning Ordinance was put into effect. The one thing that had happened multi-family in Spring Hill since the applicant bought the subject property was Hyland Park, which was R-1, and was one building with two units. Mr. Graham also pointed out denials for rezoning within a few miles of the site. He said they also objected to the PUD, and to the proposed 15' setback line. He noted that they had gotten approximately 500 signatures on a petition in opposition to this proposal. Mr. Graham urged the Commission to preserve their neighborhood and give them the protection they were entitled to through the Zoning Ordinance and deny this application as recommended by the staff.

Mr. Ken Robinson, of 110 Batre Lane, was also present in opposition to this request. Mr. Robinson thanked the Commission for the services they rendered to the City and asked their help in preserving this area of the City. He stated that the property in question did not have an Old Shell Road frontage. The 60-year old home that was on the site was torn



**August 7, 2003**

down by the applicant. Mr. Robinson asked if the Commission was going to reward the applicant's actions by granting the zoning change, or were they going to let "peanut developers" who buy pre-existing homes on less than four acres know that the Commission would not bail them out for making a risky purchase.

Ms. Tricia Graham, a resident of 5 Moulton Place, referred to the comments of the proponents that all there was on Batre Lane was aesthetically insignificant driveways and unappealing homes. Ms. Graham said she wanted the applicant to know that she took offense with that statement.

Ms. Ansley Green, a resident of 54 Turnin Lane a few blocks from the subject property, said she owned property on Stein Street, Dilston Lane, and on Bellewood Drive. She was opposed to the proposed density, and questioned the statement that the town homes would be for older couples. Ms. Green was also opposed to the trees that would have to be removed from the site. She felt the beautiful old trees were one reason Spring Hill maintained its charm. Regarding a proposed 15-foot setback, Ms. Green noted that there was an old retaining wall on the site, and she was afraid it would collapse onto Batre Lane. She asked that the Commission deny this request.

In response to comments made by the opposition, Ms. Conkin noted that the house directly across the street from the subject property was setback only 25 feet, and that there were substandard streets throughout Spring Hill. She commented that she had been involved with the development of Moulton Place. With reference to the people who stood as being from Moulton Place and in opposition to this proposal, Ms. Conkin said they were not all from Moulton Place but from throughout the Spring Hill area. Also, she said she knew of many residents who were called to sign a petition that were told this would be a duplex development. She said the proposed town homes were very innovative and were not what people would envision as duplexes. Ms. Conkin asked if the Traffic Engineer could address the ramifications of a four-home subdivision versus the proposed three-lot town home development in regard to traffic.

Ms. White stated that according to their calculations, the actual six units proposed would create less traffic than four single-family homes.

Mr. Frost asked whether a site of this size could accommodate four houses with the square footage limitations.

Ms. Pappas stated that the site currently had approval and was recorded as a four-lot subdivision. A condition of that approval, however, was that only the lot at the southwest corner of Batre Lane and Gaillard Street could directly access Gaillard Street. The two middle lots were restricted to one shared curb cut to Batre Lane, and the fourth lot was restricted to one curb cut to Hamilton Street, so not all four lots would have been accessing Gaillard Street.

Mr. Vallas noted that the plan the Commission members had before them did not show the middle lot with a curb cut on Batre Lane, and asked if it was proposed.

**August 7, 2003**

Ms. Pappas explained that the staff had recommended denial of the zoning and the PUD. If the subdivision were denied, however, the Planning Commission would have to give a reason for denial. It technically met the minimum requirements for three lots on this site, so the staff recommended approval but required curb cuts basically in line with the existing subdivision approval.

Regarding traffic, Ms. Conkin said they had met with the Traffic Engineers and they felt their new, three-lot proposal would be more appropriate than the four-lot subdivision where access would have been to Batre Lane, Hamilton Street and Gaillard Street. Again, with reference to the setbacks, Ms. Conkin noted there were houses on Wacker Lane that were very close to the street, and there were other houses in Spring Hill close to the street. Ms. Conkin said they were looking for a compromise, and felt the lower density R-2 zoning would be more palatable than R-3 zoning. Because there were 17 condominiums on the south side of the street, they felt this would be an appropriate use, and the highest and best use for the land.

In executive session, Mr. Vallas said he would like to discuss this further before a motion was made.

Ms. Deakle felt the proposed development was the highest and best use for the land. She said there was multi-family in the area zoned R-1, but many years ago the City did not zone for R-3. They issued a use variance to build a multi-family development. Regardless of what they had to do, there was a multi-family use.

Ms. Pappas stated she was not aware of that, but the townhomes at Old Shell and Nack Lane were approved by a variance granted in 1969.

Mr. Vallas commented that part of the charm of Spring Hill was that they had a lot of little niches of different types of development. He did not feel the project would be that out of character for the area.

Ms. Rivizzigno commented that a \$450,000 unit would enhance the value of every surrounding home.

Mr. Vallas asked if the reason for the 15' setback was to allow an alleyway in the back.

Ms. Pappas replied that there would be no way to provide the access they were proposing without moving the building forward. Additionally, side setbacks would also be required because two of the buildings would be on the side property line.

Mr. Vallas asked how a sidewalk could be built if they kept the retaining wall.

Ms. Pappas stated that this would have to be addressed by the Engineering Department during the site plan review.

**August 7, 2003**

Mr. Quimby asked about site coverage.

Ms. Pappas said the overall site coverage did not exceed the site coverage requirement for structures.

A motion was made by Mr. Vallas to recommend the approval of this change in zoning to the City Council, though he was unsure what conditions would be needed.

The motion was seconded by Ms. Deakle.

The question was called. Mr. Vallas and Ms. Deakle were in favor of the motion. The motion did not carry.

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

Mr. Vallas and Ms. Deakle were opposed. The motion carried.

**Case #ZON2003-01685**

**The Townhomes at Batre Lane Subdivision**

West side of Batre Lane, extending from the North side of Old Shell Road to the South side of Gaillard Street.

The request for Planned Unit Development Approval to allow reduced building setbacks in an R-2, Two-Family Residential district and shared access between building sites was considered.

The plan illustrates the proposed structures and paving. Existing trees larger than 24" in diameter are also shown.

(For discussion see Case #ZON2003-01684 – **Jane Conkin** – Above; also see Case #SUB2003-00159 - **The Townhomes at Batre Lane Subdivision** – Below)

A motion was made by Mr. Vallas to approve this plan.

The motion was seconded by Ms. Deakle.

The question was called. Mr. Vallas and Ms. Deakle were in favor of the motion. The motion did not carry.

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

Mr. Vallas and Ms. Deakle were opposed. The motion carried.

**Case #SUB2003-00159**

**The Townhomes at Batre Lane Subdivision**

**August 7, 2003**

West side of Batre Lane, extending from the North side of Old Shell Road to the South side of Gaillard Street.

3 Lots / 0.9± Acre

(For discussion see Case #ZON2003-01684 – **Jane Conkin** – Above; also see Case #ZON2003-01685 - **The Townhomes at Batre Lane Subdivision** – Above)

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

- (1) placement of note on the final plat stating that Lot 1 is limited to one curb cut to Gaillard Street, Lot 2 is limited to one curb cut to Batre Lane, and Lot 3 is limited to one curb cut to Hamilton Lane (Old Shell Road).

The motion carried unanimously.

**Case #ZON2003-01698**

**Dr. Joan Friedlander**

612 Shady Oak Drive (Southeast corner of Shady Oak Drive and Gulfwood Drive East, extending to the West I-65 Service Road North).

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

The plan illustrates the existing structure and proposed parking.

(Also see Case #SUB2003-00160 – **612 Shady Oak Drive Subdivision** – Below)

Mr. M. Don Williams, M. Don Williams Engineering, was representing the applicant. Mr. Williams stated that the subject property had become increasingly more difficult to rent as residential property, and the commercial use would serve as a buffer to the residential neighborhood from the B-2 properties to the north and the Interstate to the east. He said they bounded the West I-65 Service Road on three sides. The rezoning would even up the B-1 zoning with the property across Shady Oak Drive. Mr. Williams noted that on the Master Land Use Plan the site was projected to be commercial although the staff had recommended denial of the B-1 zoning. He pointed out a very heavily wooded buffer between the subject property and the properties on the rest of the roadway, which they planned to keep in place. They planned to leave the house as is, and felt B-1 would be a better neighbor because it would be occupied in the daytime which would provide security for the neighborhood. Mr. Williams explained that this had been a rent-subsidized situation because they could not get market value rent. The previous tenants were put out for dealing drugs in the neighborhood. Mr. Williams said they felt that a B-1 site that was well maintained and occupied by a professional business would be a much better situation than an R-1, tenant occupied space that was no longer wanted for residential land use.

Mr. Vallas asked if this property could be accessed via the service road.

**August 7, 2003**

Mr. Williams stated that they did not plan access via the service road as there was a four-foot wide drainage ditch they would have to cross and a complete buffer of trees there. He said they did not envision cutting down any trees on the property. He said the lot was basically already cleared out for a parking lot.

Ms. Betty W. Brooks, a resident of 610 Shady Oak Drive next door to the subject property, stated that there were no drug dealers previously in the house; that was just a rumor. She said the property had not been kept up and therefore it was hard to get renters, but there had been people interested in it. Ms. Brooks said she did not know what kind of business was planned to go in, and she was very much opposed to the rezoning. She felt a holdover might be in order for further investigation.

Mr. Williams stated that his information regarding the drug deal had come from the applicant. Also, he said there was no particular business projected for the site.

In executive session, Mr. McSwain was of the opinion that B-1 zoning would be a logical buffer. He was concerned, however, that they had no potential buyer or particular use for the property.

Mr. Olsen said that they did mention an office use, but it was just a generic professional office.

Mr. Quimby felt that the applicant was simply speculating on how the property would be used.

Dr. Rivizzigno was concerned about the other uses allowed in B-1.

Mr. Quimby stated that the Council representative for this district had asked him to request that this application be held over so they could try to get more information.

A motion was made by Mr. Quimby and seconded by Mr. Vallas to holdover this application until the meeting of August 21, 2003, to allow the Council representative to meet with neighbors and the applicant.

Dr. Laier was opposed. The motion carried.

**Case #SUB2003-00160**

**612 Shady Oak Drive Subdivision**

612 Shady Oak Drive (Southeast corner of Shady Oak Drive and Gulfwood Drive East, extending to the West I-65 Service Road North).

1 Lot / 0.2± Acre

(For discussion see Case #ZON2003-01698 – **Dr. Joan Friedlander** – Above)

**August 7, 2003**

A motion was made by Mr. Quimby and seconded by Mr. Vallas to holdover this application until the meeting of August 21, 2003, to be considered with the rezoning application.

Dr. Laier was opposed. The motion carried.

**Case #ZON2003-01559**

**Holy Church of God**

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

The request for 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 was considered.

The plan illustrates the existing structure and parking, along with the proposed building and play area.

(Also see Case #ZON2003-01558 – **Holy Church of God** – Below; and Case #SUB2003-00150 – **Holy Church of God** – Below)

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Mr. Quimby to holdover this application until the meeting of August 21, 2003, to allow the applicant to address the concerns raised in the staff report.

The motion carried unanimously.

**Case #ZON2003-01558**

**Holy Church of God**

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

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

The plan illustrates the existing structure and parking, along with the proposed building and play area.

(For discussion see Case #ZON2003-01559 – **Holy Church of God** – Above; also see Case #SUB2003-00150 – **Holy Church of God** – Below)

A motion was made by Mr. Frost and seconded by Mr. Quimby to holdover this application until the meeting of August 21, 2003, to allow the applicant to address the concerns raised in the staff report.

The motion carried unanimously.

August 7, 2003

**Case #SUB2003-00150**

**Holy Church of God**

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

1 Lot / 1.0± Acre

(For discussion see Case #ZON2003-01559 – **Holy Church of God** – Above; also see Case #ZON2003-01558 – **Holy Church of God** – Above)

A motion was made by Mr. Frost and seconded by Mr. Quimby to holdover this application until the meeting of August 21, 2003, to allow the applicant to address the concerns raised in the staff report.

The motion carried unanimously.

**NEW PLANNING APPROVAL APPLICATION:**

**Case #ZON2003-01676**

**Treasure Properties, Inc. (Richard Bisei, Agent)**

1757 and 1761 Spring Hill Avenue (South side of Spring Hill Avenue, 215'± West of Louiselle Street).

The request for Planning Approval to allow a bank in a B-1, Buffer Business district was considered.

The plan illustrates the proposed buildings and parking.

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

Mr. Jay Watkins was present on behalf of the applicant and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) driveway number, sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards;
- (2) compliance with previously approved PUD and Subdivision;
- (3) full compliance with Urban Forestry Comments (Ingress and egress, and all work to be performed under the canopy of the trees to be coordinated with Urban Forestry for tree protection and preservation on city property. The 60" Live Oak is to be given preservation status, with alternative paving surfaces to be used on the south side, all work performed under the canopy of the tree to be coordinated with Urban Forestry);
- (4) closure (including removal and installation of curbing and landscaping) of "abandoned" existing curb cuts; and

August 7, 2003

- (5) full compliance with all municipal codes and ordinances.

Ms. Deakle recused. The motion carried.

**NEW PLANNED UNIT DEVELOPMENT APPLICATION:**

**Case #ZON2003-01675**

**FED I, LLC**

3496 Halls Mill Road (North side of Halls Mill Road, 60'± West of West I-65 Service Road South).

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

The plan illustrates the existing building, storage yard, and asphalt drive, along with the proposed building and parking.

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant. Mr. Byrd noted that the staff had recommended that only one curb cut be allowed to Halls Mill Road. The applicant, however, requested that they be allowed two curb cuts, as the site was owned by commercial contractors and 18-wheelers accessed the storage buildings on the back portion of the lot via a curb cut on the north. This driveway would be one-way in, and they proposed a second curb cut on the south side for trucks to exit. They would be agreeable to installing signage indicating that the drives were one way in and one way out.

Mr. Robert Berg, Berg and Company, was present and asked how the subject property was zoned.

Mr. Byrd stated that the property was zoned I-1.

Mr. Berg inquired about the zoning of the property to the west.

Ms. Pappas said that the property to the rear and somewhat to the west was zoned R-1.

Mr. Berg inquired if a provision was made for setbacks for the future widening of Halls Mill Road.

Regarding setbacks, Ms. Pappas stated that an additional setback could be required. The right-of-way here was actually the service road, so there would be an additional 10 feet of setback required for the widening of Halls Mill Road. Ms. Pappas said that according to the site plan submitted the setback could be provided with the building as proposed.

Mr. Frost inquired about the current setback.

Ms. Pappas said that it was currently 25 feet and they would need a 35-foot setback.



**August 7, 2003**

Mr. Berg inquired if Traffic Engineering felt this would be sufficient for large trucks.

Mr. Frost said that Traffic Engineering would have to review the curb cut.

Mr. Byrd said that a 35-foot setback would not be a problem.

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

- (1) the use of the existing building limited to storage;
- (2) the provision of a buffer along the West property line if and when the adjoining property is developed residentially;
- (3) full compliance with the landscaping and tree planting requirements of the Ordinance (frontage trees only on I-1 property);
- (4) that the site be limited to two curb cuts to Halls Mill Road, with the size, location and design to be approved by Traffic Engineering; and
- (5) full compliance with all municipal codes and ordinances.

Mr. Vallas inquired if the 35-foot setback needed to be included in the conditions.

Ms. Pappas said that setback lines were typically shown on subdivision plats. She pointed out that a PUD approval was site plan specific. As submitted, the proposed building would not in any way impact the future widening of Halls Mill Road.

Dr. Rivizzigno inquired about the signage for the driveway.

Mr. McSwain did not think this should be required, but he did feel that two curb cuts would be appropriate.

Ms. White said that the driveway was 24 feet wide, which was adequate.

Mr. Quimby seconded the motion.

The question was called. The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2003-00157**

**Donham Place Subdivision, Unit Two**

South terminus of Donham Drive, extending to the West terminus of Scottsdale Drive, to the South termini of Tew Drive and Thistlewaite Drive, and to the North side of the Illinois Central Gulf Railroad right-of-way.

47 Lots / 16.2± Acres

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant and indicated the applicant was in agreement with the recommendations of the staff, with the exception of

**August 7, 2003**

#2, which required vacation of the 15-foot right-of-way prior to the recording of the final plat. This right-of-way was located North of Lot 47 and at the end of Lot 1. The only wanted to vacate a portion of that right-of-way.

Ms. Pappas pointed out the area referred to and said the applicant had contacted the staff that they were hesitant to vacate the remainder of it because this was an extremely old platted right-of-way that wasn't even realized until the title search was done. She said if it were to be vacated, half of it would go to the property to the North. If they were allowed to only vacate part of the right-of-way, then access should be denied.

Mr. Plauche asked if the access to the common area would be through this right-of-way.

Mr. Byrd replied that it would be, and indicated on the plat where it came off of Hyland Drive along the North line of Lot 47. He said it was a 20-foot wide access going into the common area.

Mr. David Corner was present and expressed his concerns in this matter. He pointed out that there had never been an actual road there and the access would be along his neighbor's (Ms. Weaver's) property. Mr. Corner also noted a couple of old magnolia trees, which he said would have to come down for this access to happen. Drainage was also a concern, and he was opposed to using the common area for retention, as he had noticed with other developments, which were not kept up and were eyesores. Mr. Corner said he would have no objection to the common areas being used for recreation. Further, he asked if the conditions of approval placed on the prior approval of this subdivision on June 1, 2002, were still valid.

Ms. Pappas said some of the conditions would not apply as the property had already been developed North of the site. The other conditions, however, would still apply.

Mr. Corner asked that the big common area be denied use for a detention pond, and be denied access next to his neighbor's property. Further, he expressed concern about the density and asked if there would be any type of barrier or fence to cut down on the traffic flow through the houses that were already there.

Mr. Frost said that a buffer was not typically required between two residential developments.

Mr. Byrd stated that the common area referred to would not be used for detention. Access would be from Donham Drive. The area was planned to be a recreational area that would more than likely not have a lot of vehicular traffic. The other two common areas would be used for detention.

Mr. Vallas asked if fences would be put up between the adjoining developments.

Mr. Don Hamilton, one of the developers, said when they planned this subdivision they made some of the lots smaller so they could have a common area for recreational use for

**August 7, 2003**

the children in the area. He said the right-of-way had been on the books for years and they planned to come in between Lot 15 and Lot 1 and utilize the area they would not be able to build on anyway. Mr. Hamilton noted that they had fences on several of the lots in Unit 1, and there would probably be some in this subdivision.

Mr. Frost again pointed out that fences would not ordinarily be required when residential abuts residential.

In executive session, Ms. Pappas stated that the staff would like to recommend adding denial of access to Tew Drive and Thistlewaite Drive.

Mr. McSwain asked if he understood they were going to retain 15 feet for access.

Mr. Olsen said that was correct.

Ms. Pappas pointed out the portion they were proposing to vacate. She said they would like to leave the right-of-way platted and deny access to it except to get to the common area.

Ms. Rivizzigno asked if the right-of-way extended across Lots 32, 33, and 34.

Ms. Pappas replied that it did extend across those lots.

Mr. Frost asked if the right-of-way were not there, would it be appropriate to have their access to the common area across Lot 47?

Ms. Pappas said that would be acceptable.

Mr. Frost said he could see the reason to vacate the east portion, but he did not see it as an access issue.

Mr. McSwain asked why the City would want to maintain that right-of-way.

Ms. Pappas stated that was the initial reason the staff recommended the entire right-of-way be vacated, which would be a fairly standard procedure. If they were to go through the vacation process they would only retain 7-½ feet. The other 7-½ feet would go to the property owner to the north. Ms. Pappas stated that the staff would be agreeable and would recommend that only the portion that the applicant proposed to vacate be vacated, and also that access to this right-of-way be denied except for access to the common area.

A motion was made by Mr. McSwain 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 placement of a note on the final plat stating that Lots 30 and 31 are denied direct access to Middle Ring Road;

**August 7, 2003**

- (2) the vacation of the portion of the 15-foot right-of-way as indicated on the plat submitted prior to the recording of the final plat;
- (3) the placement of a note on the final plat stating that the maintenance of the common areas shall be the responsibility of the property owners;
- (4) the provision of access to the common areas;
- (5) placement of a note on the final plat stating that access to Tew Drive and Thistlewaite Drive is denied; and
- (6) placement of a note on the final plat stating that access to the 15' right-of-way is denied with the exception of access to the common area.

The motion carried unanimously.

**Case #SUB2003-00155**

**Jordan's Landing Subdivision**

2936 Raines Court (North side of Raines Court at its West terminus).

4 Lots / 2.5± Acres

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

**Case #SUB2003-00158**

**Lamon-McDonald Addition to Selma Street Subdivision**

1260 and 1262 Selma Street (Northeast corner of Selma Street and Ann Street).

2 Lots / 0.6± Acre

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

Mr. Robert Lamon of 1262 Selma Street was present and stated that he was the one selling the property in question to his neighbor. He inquired if the 25-foot minimum setback recommended by the staff referred to new buildings or existing?

Mr. Olsen said that the setback would be required along both street frontages and would be applicable to new structures. Any existing buildings would be grandfathered in.

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

- (1) the dedication of a 25-foot radius at the intersection of South Ann Street and Selma Street; and
- (2) the placement of the 25-foot minimum building setback lines on the final plat.

The motion carried unanimously.

**Case #SUB2003-00152**

**Christus Powell Estates**

**August 7, 2003**

North side of Van Liew Road at the West terminus of its improved right of way.  
2 Lots / 3.3± Acres

Mr. Jerry Byrd of Byrd Surveying, Inc. was representing the applicant. Mr. Byrd noted that this subdivision was created by court order. As the subdivision was recommended for denial, Mr. Byrd requested that the Commission approve the subdivision with the condition that construction be allowed on Lot 1 only at this time, and that any new construction on Lot 2 be denied until Van Liew Road was brought up to standard.

Ms. Pappas stated that the staff would not recommend approval, as the overall boundary of this property was court ordered to the property owner. Essentially they have approval via the court for a one-lot subdivision and could already get a permit to build on that one lot. The staff would not recommend allowing a two-lot subdivision, even with notations on the plat for this piece of property. Ms. Pappas noted that Van Liew Road, on which this property fronts, is gravel at this point and only one car width wide.

Mr. Byrd stated that the owner was out of town. He had a nephew who he wanted to give Lot 1 to, but he did not want to give him the entire piece of property.

Mr. Vallas inquired if this could be approved as a PUD.

Ms. Pappas noted that the only way to access this site was through Van Liew Road. Even if Lot 2 came through Lot 1, it would still be going to Van Liew Road, which even in its gravel state, did not exist beyond the southeast corner of this site.

Mr. Byrd said that Van Liew Road was a dirt road going on to the West. It was a City street and the residents were paying taxes to the City. There were more houses along that section of the gravel road starting at Lot 1 going east.

There was no one present in opposition.

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

- (1) the site does not have direct access to a paved, standard-width, street.

The motion carried unanimously.

**Case #SUB2003-00153**

**Sans Souci Subdivision, Block B, Resubdivision of Lots 11 and 12**

2385 and 2387 Sans Souci Road (South side of Sans Souci Road, 930'± East of Navco Road).

2 Lots / 1.2± Acres

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

**August 7, 2003**

There was no one present in opposition.

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

The motion carried unanimously.

**Case #SUB2003-00156**

**Woodside Subdivision Master Development Plan**

Southwest corner of Nan Gray Davis Road and Theodore Dawes Road, extending along the South side of Theodore Dawes Road and the East side of Interstate 10 to the West termini of Woodside Drive North and Barnes Road.

11 Lots / 310± Acres

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

Ms. Margie Churchville, a resident of 6312 Woodside Drive North, said the subject property was across the ditch from her back yard. She wanted to know how the property was going to be developed.

Ms. Pappas stated that based on its size the property across from Ms. Churchville would more than likely be developed commercially, although the applicant did not have any immediate plans for the site.

Mr. Frost noted that the property was in the County where there was no zoning, so the City would have no control over how the property would be developed.

Ms. Churchville expressed concern about increased traffic should this property be developed residentially, with the Nan Gray Davis School down the street, and Theodore High School around the corner. She was also concerned about cut-through traffic.

Ms. Pappas noted that the lots to be divided were on Woodside Drive North, which was quite a distance from Ms. Churchville's property. For Lots A-E, the applicant would have to come back before the Commission if they wanted to subdivide those lots for houses.

Mr. Frost said Ms. Churchville would be notified if there was any further subdivision of this property if that particular section adjoined her property.

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

**August 7, 2003**

- (1) the placement of a note on the final plat stating that the size, number, location and design of all curb cuts on commercial development shall be approved by County Engineering;
- (2) the placement of a note on the final plat stating that maintenance of all common/detention areas are the responsibility of the property owners;
- (3) dirt service road be paved to meet County standards prior to the recording of Lots B and E, and/or the connection with the proposed residential streets in Lots C and D; and
- (4) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

**Case #SUB2003-00139**

**Rabbit Creek Cove Subdivision**

Southwest corner of Higgins Road and Audubon Drive, extending South and West to the Southern terminus of Clemson Drive, and to the Northeast corner of Cole Drive and Audubon Drive.

128 Lots / 53.0± Acres

Mr. Frost announced that the applicant had requested a holdover until the next meeting.

There was no one present in opposition.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until the meeting of August 21, 2003, at the applicant's request.

The motion carried unanimously.

**NEW SIDEWALK WAIVER APPLICATIONS:**

**Case #ZON2003-01680**

**Mobile County Health Department**

248 Cox Street (Southeast corner of Cox Street and St. Stephens Road).

The request to waive construction of sidewalks along Cox Street and St. Stephens Road was considered.

The applicant was present.

There was no one present in opposition.

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

The motion carried unanimously.

August 7, 2003

**Case #ZON2003-01756**

**Mobile Housing Board**

300, 302, and 304 Bay Shore Avenue (East side of Bay Shore Avenue, 200'± North of Spring Hill Avenue, extending to the South side of Frederick Street and to the West side of Mobile Street).

The request to waive construction of a sidewalk along Frederick Street was considered.

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

The applicant was present.

There was no one present in opposition.

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

Mr. Plauche recused. The motion carried.

**OTHER BUSINESS:**

**Approval of the 2003-2004 Meeting/Deadline Schedule**

After a brief discussion, a motion was made by Mr. Frost and seconded by Mr. McSwain to approve the proposed 2003-2004 Meeting/Deadline Schedule as submitted.

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