

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF AUGUST 5, 2004 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Laier, Vice-Chair
Clinton Johnson
Ann Deakle
John Vallas

Members Absent

Victor McSwain, Secretary
Nicholas H. Holmes, III
James F. Watkins
Victoria L. Rivizzigno
Mead Miller (S)

Urban Development Staff Present

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

Others Present

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

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

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

APPROVAL OF MINUTES:

A motion was made by Ms. Deakle and seconded by Mr. Plauche to approve the minutes of the June 3, and June 17, 2004, meetings as submitted. The motion carried unanimously.

HOLDOVERS:

Case #SUB2004-00146

D'Iberville Woods Subdivision

West side of D'Iberville Drive North, 2/10 mile \pm South of D'Iberville Drive West.
4 Lots / 4.3 \pm Acres

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

There was no one present in opposition.

August 5, 2004

A motion was made by Ms. Deakle 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 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;
- (2) the placement of the 25-foot minimum setback lines on the final plat; and
- (3) the placement of a note on the final plat stating that there shall be no resubdivision of Lots 2 and 3 until additional frontage is provided on an open and maintained public right-of-way.

The motion carried unanimously.

Case #SUB200400151

Joe Miller Subdivision

9280 Tanner Williams Road (North side of Tanner Williams Road, 470'± West of Hubert Pierce Road).

3 Lots / 3.7± Acres

A representative of the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and the placement of the 25-foot minimum setback lines on the final plat; and
- (2) placement of a 75' setback from centerline of Tanner Williams Road to allow for the planned major street.

The motion carried unanimously.

EXTENSIONS:

Case #SUB2002-00151

Blackwell Oaks Subdivision

South side of Blackwell Nursery Road South, 1/2 mile± West of Snow Road.

65 Lots / 23.0± Acres

Request for a one-year extension of previous approval.

August 5, 2004

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

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 Mr. Plauche and seconded by Ms. Deakle to grant a one-year extension of previous approval for this application. The applicant is advised that a third extension is unlikely.

The motion carried unanimously.

Case #ZON2002-01022

Hawthorn Suites

North side of Magnolia Grove Parkway, 400'± West of Legends Row.

Planned Unit Development approval to allow multiple buildings on multiple building sites and shared parking between sites.

AND

Case #SUB2002-00088

Hawthorn Subdivision

North side of Magnolia Grove Parkway, 400'± West of Legends Row.

2 Lots / 10.0± Acres

Request for a one-year extension of previous approval.

A motion was made Mr. Plauche and seconded by Ms. Deakle to grant a one-year extension of previous approval for these applications.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2004-01269

Darryl Anderson

5358 Moffett Road (North side of Moffett Road, 225'± East of Colonial Circle South).

The request for a change in zoning from R-1, Single-Family Residential, to B-3, Community Business, to allow nursery stock sales was considered.

Council District 7

August 5, 2004

The plan illustrates the existing buildings and drive, along with the proposed structures and drive.

(Also see Case #ZON2004-01560 – **Everglaze Subdivision** – Below; and Case #SUB2004-00127 – **Everglaze Subdivision** – Below)

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying, was representing the applicant, and asked for a waiver of the sidewalk along Moffett Road. He said there were no sidewalks in this commercial area. They were planning to put down gravel instead of paving. He noted that they would be saving a lot of trees and felt it would enhance the trees by not having the paving.

Ms. Deakle asked if all of the paving by Moffett Road would be gravel also.

Mr. Orrell said they were just talking about the parking area. They would put concrete bumpers down to mark the parking spaces. The gravel would also cut down on drainage.

Ms. Pappas pointed out that if the provision of paved parking was a specific requirement of the Planning Commission, and ultimately the City Council, the applicant could not pursue a parking surface variance. If that specific condition were removed from the recommendation, it would still automatically be required because it was for a commercial use, but that would afford the applicant the ability to petition the Board of Adjustment for a waiver.

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

- (1) Voluntary Conditions and Use Restrictions as submitted by the applicant;
- (2) that all buildings and walkways be setback at least 10-feet from residential property;
- (3) the provision of a buffer, in compliance with Section IV.D.1. of the Zoning Ordinance, where the site adjoins residential property;
- (4) the provision of a sidewalk along Moffett Road;
- (5) the approval of the curb cut by both Traffic Engineering and the Alabama Department of Transportation;
- (6) full compliance with the Urban Forestry Comments (property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [State Act 61-929 and City Code Chapters 57 and 64]; that the 42” Live Oak in the South corner of the property, the 40” Live Oak in the South green space, the 72” Live Oak in the Southwest corner, the cluster of two Live Oak Trees, 35” and 48” to the West side of the property in the green space, the 36” Live Oak on the East side of the property be given preservation status [any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or

August 5, 2004

- impending danger. As a reminder to the developer, all 24” and larger Live Oaks require a permit from Urban Forestry to be removed or trimmed--roots or canopy]); and
- (7) full compliance with all municipal codes and ordinances.

The question was called. The motion carried unanimously.

Case #ZON2004-01560

Everglaze Subdivision

5358 Moffett Road (North side of Moffett Road, 225’± East of Colonial Circle South).
The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.
Council District 7

The plan illustrates the existing buildings and drive, along with the proposed structures and drive.

(For discussion see Case #ZON2004-01269 – **Darryl Anderson** – Above; also see Case #SUB2004-00127 – **Everglaze Subdivision** – Below)

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

- (1) Voluntary Conditions and Use Restrictions as submitted by the applicant;
- (2) that all buildings and walkways be setback at least 10-feet from residential property;
- (3) the provision of a buffer, in compliance with Section IV.D.1. of the Zoning Ordinance, where the site adjoins residential property;
- (4) the provision of a sidewalk along Moffett Road;
- (5) the approval of the curb cut by both Traffic Engineering and the Alabama Department of Transportation;
- (6) full compliance with the Urban Forestry Comments (property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties [State Act 61-929 and City Code Chapters 57 and 64]; that the 42” Live Oak in the South corner of the property, the 40” Live Oak in the South green space, the 72” Live Oak in the Southwest corner, the cluster of two Live Oak Trees, 35” and 48” to the West side of the property in the green space, the 36” Live Oak on the East side of the property be given preservation status [any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger. As a reminder to the developer, all 24” and larger Live Oaks require a permit from Urban Forestry to be removed or trimmed--roots or canopy]); and
- (7) full compliance with all municipal codes and ordinances.

August 5, 2004

The motion carried unanimously.

Case #SUB2004-00127

Everglaze Subdivision

5358 Moffett Road (North side of Moffett Road, 225'± East of Colonial Circle South).

1 Lot / 6.1± Acres

Council District 7

(For discussion see Case #ZON2004-01269 – **Darryl Anderson** – Above; also see Case #ZON2004-01560 – **Everglaze Subdivision** – Above)

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

- (1) the provision of a sidewalk along Moffett Road; and
- (2) the approval of the curb cut by both Traffic Engineering and the Alabama Department of Transportation.

The motion carried unanimously.

Case #ZON2004-01594

Fulton Road Baptist Church

1800 Dauphin Island Parkway (West side of Dauphin Island Parkway, extending from Magnolia Lane to Nicholas Lane).

The request for Planning Approval to allow construction of a multipurpose building at an existing church in an R-1, Single-Family Residential district was considered.

Council District 4

The plan illustrates the existing and proposed structures and parking.

(Also see Case #ZON2004-01595 – **Fulton Road Baptist Church** – Below)

Mr. Plauche announced that these applications had been recommended for holdover by the staff.

No one wished to speak regarding this matter.

A motion was made by Mr. Plauche and seconded by Mr. Vallas to holdover this application until the meeting of September 2, 2004, to allow the applicant to submit a Subdivision Application and a revised site plan that addresses the building location with regard to proximity to adjacent residences, general compatibility of scale, and dedication of right-of-way.

The motion carried unanimously.

Case #ZON2004-01595

August 5, 2004

Fulton Road Baptist Church

1800 Dauphin Island Parkway (West side of Dauphin Island Parkway, extending from Magnolia Lane to Nicholas Lane).

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

Council District 4

The plan illustrates the existing and proposed structures and parking.

(For discussion see Case #ZON2004-01594 – **Fulton Road Baptist Church** – Above)

A motion was made by Mr. Plauche and seconded by Mr. Vallas to holdover this application until the meeting of September 2, 2004, to allow the applicant to submit a Subdivision Application and a revised site plan that addresses the building location with regard to proximity to adjacent residences, general compatibility of scale, and dedication of right-of-way.

The motion carried unanimously.

Case #ZON2004-01583

Richard M. Cagle

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

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

Council District 5

The site plan illustrates the proposed building, parking, entrances, buffer area, and traffic lane modifications.

(Also see Case #SUB2004-01582 – **Government Street Highlands Subdivision, Resubdivision of Lots 52, 53, & 54** – Below)

Mr. Rick Cagle, applicant and owner of the property at 256 Dogwood Drive, stated that he was requesting rezoning of this parcel to LB-2 for light retail uses such as offices and perhaps a deli.

Mr. Gene Howard, 600 Velas Drive, felt that the property was not being utilized to its potential. Both of the houses on the property were vacant. He noted that this was the only corner of a major intersection from I-65 westward to the City limits that was not zoned for business. Mr. Howard contended that the highest and best use would be offices as proposed.

Mr. Don Parden was representing the family who owned the property at 254 Dogwood Drive. He said his family had owned and lived on that property since 1948. He was raised in the house and inherited the property from his parents several years ago. He and

August 5, 2004

his family felt the best use for the property would be commercial. They were concerned about safety, noting that the Insurance Commissioner for the State of Alabama had named this intersection one of the ten most dangerous intersections in Alabama. Mr. Parden stated that he had a wreck coming out of his driveway on Dogwood Drive in 1982, and over the years cars had run up in their yard many times. The property was also noisy, and it was impossible for children to play in the yard because of the safety factor.

Rev. Johnson asked Mr. Parden if he did not see the possibility of an exacerbation of the traffic problem and a potential increase in traffic flow if the property went commercial, and would not that potentially increase traffic flow.

Mr. Parden replied that it would do just the opposite. He felt that rezoning to commercial, would slow traffic down because people would be aware that there was commercial traffic entering and exiting Airport Boulevard from that corner. This is what had happened on the other three corners. Currently, traffic going north on University Boulevard and turning east onto Airport Boulevard at the intersection of Dogwood Drive sped past it. Mr. Parden said they had to put several bushes out as a buffer because a lot of those cars had lost control and ended up in his parent's yard.

Rev. Johnson asked Mr. Parden if, to his knowledge, there had been any vehement opposition from persons living in proximity to this location.

Mr. Parden replied that there were people up the street who opposed the rezoning, and he had read several newspaper articles which indicated the major complaint was that they were doing this for financial gain. He said this was disheartening because they were trying to do it simply because they wanted to use the property for the best suitable use. He said that people who lived further up the street did not have to contend with lights shining in their windows or be afraid for their children to play in their yards (traffic accidents had come up in their yards 23 times since their parents had lived there).

Rev. Johnson asked Mr. Parden if it was his position, having lived in the particular house in question, that there was less of a chance now or at anytime in the future for that to revert to appropriate residential usage.

Mr. Parden stated that he did not see that in the future it would be any better suited for residential.

Mr. Slade Watson was representing a lien holder to the property that was located on the corner of Dogwood Drive and Airport Boulevard. They felt their lien at this point would be impaired if the property was not rezoned commercial. They contended that the rezoning of the property along Airport Boulevard would not impair the value of the property behind it, but would probably increase the value. There was continued access to properties on Dogwood Drive. He felt there was no reason to impair the highest and best use of the property on Airport Boulevard.

August 5, 2004

Mr. Bill Metzger, Director of Traffic Engineering, stated that he did not want to speak for or against, but wanted to address some of the traffic issues with regard to this location. Mr. Metzger related that in 2001 State Farm did a study and named this one of the ten most dangerous intersections in the State. He said the City hired a consultant who came in and made recommendations as to how this could be made a safer intersection. When the developer came in to meet with Traffic Engineering they basically asked what they could do to make this a safer intersection. One of the things they were proposing was to close off Dogwood Drive from Airport Boulevard, and redesigning the turn lane from west bound Airport Boulevard to University Boulevard to eliminate the cut at Dogwood Drive, which was a major conflict coming in and out. Mr. Metzger said there were two other entrances in and out of the neighborhood. Mr. Metzger said they did not need the entrance from Dogwood Drive to Airport Boulevard. Another major problem was the sweeping right turn lane, which was basically a design concept that was used in the '60s where traffic could merge out at a higher speed. With the plantings and everything in that radius, plus the aging population, it was more difficult to turn around and see oncoming traffic and there were a lot of rear end accidents there. The proposed redesign would allow for a stacking lane for a right turn lane. Mr. Metzger said this intersection had 100,000 cars a day coming through it. He said they could not just deny access to all the service stations on the corner. A lot of those improvements were impossible to make. It was his opinion that the proposed design the applicant had for this corner would make the intersection safer.

Mr. Vallas asked Mr. Metzger if this zoning change would help implement any of these improvements such as taking of additional right-of-way or closing off Dogwood Drive.

Mr. Metzger stated that it would actually get them some right-of-way to make this turn lane, and the applicant would be paying for the improvements to make the radius on the corner.

Rev. Johnson asked if the improvements that would potentially result from any commercialization of the site could also be made by the City if they were so inclined to make them in the interest of safety.

Mr. Metzger replied yes. He said this had been on their list along with seven other locations, which he had presented to the City. So far, due to lack of funding, the City had not chosen to make the improvements.

Mr. Albert Van Hoogmoed, a resident of 4655 Oak Ridge Road in the Government Street Highlands Subdivision, expressed concern regarding traffic safety. He felt that although the proposed change to the intersection of Airport Boulevard and University Boulevard may make it safer, it would make the intersection of Dogwood Drive and Airport Boulevard much more dangerous. Mr. Van Hoogmoed said that in March of 2003 he did his own traffic count of cars on the sweeping curve at University Boulevard and Airport Boulevard eastbound. He counted 720 cars in one hour making the turn around the corner. At the time he was making his count he saw only one car turn onto Dogwood Drive. He said if the volume of cars turning onto Dogwood Drive was increased, there

August 5, 2004

would be more potential for accidents. Mr. Van Hoogmoed showed on a diagram where he thought traffic was going to go. He said that others had talked about the best use for the property, and he felt the safest use should also be considered. Since this proposal was not safe for the community as a whole, it should not happen.

Mr. David Doolittle, a resident of 268 Dogwood Drive, which is two lots away from the subject property, said he was also present as president of the Government Street Highlands property owners association. Mr. Doolittle said he had lived in the neighborhood since he was 8 years old and his parents still lived there in the house he grew up in. He spoke at the hearing 15 months ago when a proposal for the property came up, and said he had heard the same arguments today as he heard then. Regarding the number of accidents on the Parden property, he said he did not realize it was the problem area it had been made out to be. Mr. Doolittle spoke against making Dogwood Drive a cul-de-sac. This would terminate the exit from Dogwood Drive to Airport Boulevard for 167 households and put more traffic on University Boulevard, putting them through the same intersection that was so dangerous now. Mr. Doolittle said that in the short time they had known about this proposal, the neighbors – Government Street Highlands, Regency, Jackson Heights and the surrounding neighborhoods – had rallied in opposition because they had not seen anything that would support making this a safer intersection. He contended this would destroy an established neighborhood with intact covenants that they all knew about when they purchased. He asked those in opposition to this application to stand. Mr. Doolittle also mentioned food waste in dumpsters, which would not be conducive to a good neighborhood. Regarding the two vacant houses, he contended they were vacant per the owner's actions and felt the houses could be rented.

Rev. Johnson asked Mr. Doolittle what were one or two deleterious impacts this change would have.

Mr. Doolittle stated that according to their site plan they would be pushing at least half of the traffic on the end of Dogwood Drive. A cul-de-sac was shown dashed in on the site plan, so he assumed it may or may not happen. If it did not happen, then they would be putting commercial traffic onto a residential street. There was also the issue of the devaluation of property values if a commercial development was put next to residential. With regard to this being the only corner along Airport Boulevard that was not commercial, he said there were more intersections up and down Airport Boulevard that had both residential and commercial coexisting.

Mr. Vallas asked if the neighborhood was in favor of a cul-de-sac on Dogwood Drive, or did they want continued access to Airport Boulevard.

Mr. Doolittle replied that the neighborhood was in favor of remaining a neighborhood. They wanted to be intact and wanted their covenants to remain intact. They did not want a cul-de-sac.

August 5, 2004

Ms. Deakle asked Mr. Doolittle why he was opposed to a cul-de-sac, as it would control the traffic situation much better and would virtually eliminate cut-through traffic, which she understood had been a problem.

Mr. Doolittle stated that there was cut-through traffic, most notably at 8 a.m. and 5 p.m. He said he would be willing to live with cut-through traffic in exchange for the ability of emergency vehicles to come in off of Airport Boulevard, and to keep all the households from being forced to go through the intersection of Airport Boulevard and University Boulevard if they wanted to head east.

Mr. Rene Stiegler, a resident of 4671 Oak Ridge Road, stated that he was present to speak against the proposed rezoning. Mr. Stiegler said he bought his property eight years ago and at that time he understood that there were zoning restrictions on what could be done with the property. He had heard comments that somehow the owner of the corner property was being deprived of some economic benefits because he could not rezone his property. He noted that the property was acquired with the full knowledge that the zoning restrictions existed. Mr. Stiegler further stated that he lived on the other side of University Boulevard and said it was almost impossible to get out onto University Boulevard in the mornings to go north. He contended a commercial entity would create more traffic and exacerbate the problem, as they proposed a curb cut to University Boulevard. Regarding the proposed widening of the corner of Airport Boulevard and University Boulevard to create a turn lane, Mr. Stiegler contended that the City could probably do that anyway without the property being rezoned. He felt that rezoning the property commercial as a means to improve the traffic situation at Airport Boulevard and University Boulevard was a real stretch of logic. Mr. Stiegler further noted that several months ago there was a hearing about taking some property that belonged to the City as right-of-way and deeding it back to the land owner at the intersection of Oak Ridge Road and University Boulevard. He noted that the Planning Commission approved the request, but they put a stipulation on it that there would be no new access to Airport Boulevard. The logic behind that decision back then was that granting any other access to University Boulevard would only exacerbate the existing traffic problems. He contended that logic should hold in this case as well. Mr. Stiegler also expressed concern for the decrease of property values with commercial being placed next to residential. He said they needed to consider the good of the entire community.

Ms. Louise Jackson, 4678 Oak Ridge Road, presented petitions representing 340 individuals opposed to this rezoning. Twenty-nine of the 52 homeowners in Government Street Highlands were representative in that total. Ms. Jackson said this amount of support was collected in three weeks.

Mr. Plauche asked Mr. Cagle if he would like to respond.

Mr. Cagle stated that he and his brother and sister had inherited the property. His family had owned the property since the '50s, and the Parden's had owned their property in that time frame. Mr. Cagle said they were trying to get the highest and best use of the property. He contended the rezoning would not hurt the neighborhood or hurt property

August 5, 2004

values. Regarding traffic, he said they asked Traffic Engineering what they wanted this intersection to look like. They made a study and made six basic recommendations regarding the structure of the intersection. Mr. Cagle said they addressed three of them with the approval of Traffic Engineering. He further noted that they would leave as many trees as possible, and they moved the drive back to provide extra buffering and would have a fence. They were not asking for B-2 or B-3, which is on the other three corners, but were asking for LB-2, which would be the most restrictive of any of the four corners. It was his opinion that this was the best option and that the property would develop commercially eventually.

Mr. Vallas asked if the drive to University Boulevard was a right-in only.

Mr. Cagle replied that it would be right-in only; it would not be an exit.

A motion was made by Ms. Deakle and seconded by Mr. Vallas to take this application out of order and go into executive session for discussion and vote. The motion carried unanimously.

In executive session, Ms. Deakle made a motion to recommend the approval of this change in zoning to the City Council subject to the staff recommendations. Mr. Vallas seconded the motion.

In further discussion, Mr. Vallas asked Mr. Metzger if he was satisfied with the conditions regarding traffic in the staff recommendations, or did they need to make the zoning subject to access management by Traffic Engineering.

Mr. Metzger stated that he was satisfied.

Mr. Olsen noted that the curb cut design and location being approved by Traffic Engineering was a condition of the Subdivision. They could, however, add that as an additional condition on the rezoning.

There was further discussion about the proposed cul-de-sac and its affect on the neighborhood.

Mr. Vallas noted that the site plan depicted a buffer that appeared to be about 150 feet, but the recommendation was for 25 feet.

Mr. Olsen explained that the Zoning Ordinance standard was a 10-foot minimum buffer. The Planning Commission in the past had required in the range of 25 feet when additional buffer was required. The Commission could increase the size of the buffer to be specifically what the plan reflected if they wished. Mr. Olsen said he would pull the plan to verify that exact distance.

Mr. Vallas said it looked like they had about a 125-foot buffer, which would stop encroachment into the neighborhood.

August 5, 2004

Ms. Deakle said she wanted to explain some of the reasoning behind her motion. She said this was a highly emotionally charged, contentious issue. She felt the staff's recommendations had been well thought-out, well researched and expertly prepared. She said this Commission had rarely seen an opportunity where a developer would come in and offer to make infrastructure improvements in addition to his plan. She guessed that the cost of the improvements would be in the hundreds of thousands of dollars rather than the tens of thousands of dollars. Ms. Deakle said she could think of no better use for this corner, and she was sorry it was contentious for the neighborhood. This was a lovely neighborhood, which the residents could be proud of, but none of them had lived on this corner or in that house. Ms. Deakle said she truly in her heart believed that this was the highest and best use for this corner, for this neighborhood and for the City.

In response to Mr. Vallas' question regarding the buffer, Mr. Olsen said he did not have a scale, but it appeared that it was between 100 and 125 feet. So, safely, they could increase it to 100 feet with the exception of the driveway as currently noted in the staff recommendation.

Mr. Plauche asked Ms. Deakle if she wanted to amend the motion, or was she okay with that.

Ms. Deakle amended her motion, seconded by Mr. Vallas, to recommend the approval of this change in zoning to the City Council subject to the following conditions:

- (1) dedication and construction of the redesigned turn lane as reflected on the site plan submitted, exact design to be approved by Traffic Engineering;
- (2) construction of median modifications as reflected on the site plan submitted, exact design to be approved by Traffic Engineering;
- (3) completion of the accompanying subdivision application;
- (4) provision of a 100' (minimum) landscaped buffer along the South property line, with the exception of the drive from University Boulevard as shown on the site plan submitted;
- (5) provision of screening of parking in compliance with Section VI.A.3.i for the entire Dogwood Drive frontage, with the exception of the 45' setback from Airport Boulevard for the visibility triangle (Section IV.D.4);
- (6) the site is limited to one curb cut to University Boulevard, location and design to be approved by the Traffic Engineering Department;
- (7) the site is limited to one curb cut to Dogwood Drive, location and design to be approved by the Traffic Engineering Department and
- (8) full compliance with all municipal codes and ordinances.

Mr. Plauche was opposed. The motion carried.

A motion was made by Ms. Deakle and seconded by Mr. Vallas to return to the public hearing portion of the meeting. The motion carried unanimously.

August 5, 2004

Case #SUB2004-00170

Government Street Highlands Subdivision, Resubdivision of Lots 52, 53, & 54

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

1 Lot / 2.5± Acres

Council District 5

(For discussion see Case #ZON2004-01583 – **Richard M. Cagle** – Above)

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

- (1) dedication and construction of the redesigned turn lane as reflected on the site plan submitted, exact design to be approved by Traffic Engineering;
- (2) construction of median modifications as reflected on the site plan submitted, exact design to be approved by Traffic Engineering;
- (3) dedication of a 25' radius at the intersection of Dogwood Drive and Airport Boulevard;
- (4) placement of a note on the final plat stating that the site is limited to one curb cut to University Boulevard, location and design to be approved by the Traffic Engineering Department;
- (5) placement of a note on the final plat stating that the site is limited to one curb cut to Dogwood Drive, location and design to be approved by the Traffic Engineering Department; and
- (6) provision of sidewalk easements and hold harmless agreements for those portions of sidewalks that may be provided on the private property.

Mr. Plauche was opposed. The motion carried.

Case #ZON2004-01582

Greenwood Subdivision

251 South McGregor Avenue (West side of South McGregor Avenue, 200'± North of Pinebrook South).

The request for Planned Unit Development Approval to allow a single-family residential subdivision with reduced front setbacks and a gated private street was considered.

Council District 5

The plan illustrates the proposed subdivision.

(Also see Case #SUB2004-00168 – **Greenwood Subdivision** – Below)

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

Mr. Bob Galloway, a resident of 255 South McGregor Avenue, was present in opposition to this proposal. He submitted photos of the subject property and a photo of what the

August 5, 2004

proposed development would look like in compatibility with the neighborhood. Mr. Galloway contended that the subdivision did not meet the City requirements to subdivide the property, so the developer had asked to have a Planned Unit Development (PUD) established. He felt the proposed six lots would not be compatible with the neighborhood. Mr. Galloway asked those neighbors present in opposition to stand. He noted that the plan proposed a large brick wall surrounding the property with a locked gate. He pointed out that the lots in the neighborhood did not have fences; the lots were large and generally divided simply by landscaping. Mr. Galloway further pointed out that the lot two to the north was submitted for a four-lot subdivision last year but was turned down. The neighbors agreed to have it split in half. Two or three years before that, the lot on the south was proposed to be split into three lots. The Commission turned that down and the neighbors agreed to let it go into two lots. He felt that other than to allow the owner to get more money for his property, there was no reason to allow this subdivision.

Dr. James Sewell, who lived directly west of the subject property in Pinebrook, was also present in opposition. Dr. Sewell expressed concern about drainage. He noted a marsh approximately 35 yards from his back yard. It was a heavily wooded area with lots of wildlife, which drained into a ditch below that was maintained by the City, and then drained into Eslava Creek. In order to build homes on the west side of the property Dr. Sewell said the land would have to be built up. This would cause water and erosion to wash into his back yard and into his next-door neighbor's back yard. He said there were three springs that ran into it. Additional traffic on the two-laned McGregor Avenue was also a concern. He pointed out that there was a new drug store going up at the corner of McGregor Avenue and Airport Boulevard and a restaurant behind that, which would create more traffic. He felt somewhere along the line that McGregor Avenue was going to have to be widened. Dr. Sewell said there was no one that lived in the neighborhood that was in favor of this subdivision.

Rev. Johnson commented that even with the possible retention area, there was an undeveloped street that could still create potential drainage problems at some point. He also felt there was a complete absence of compatibility to the community as it stands.

Mr. Larry McGee, a resident of 231 South McGregor Avenue, was concerned about the large number of lots proposed and to an increase in traffic. He noted that several years ago someone wanted to develop the lot right next to his with four lots, but the application was only approved for two lots, and it had still not been developed. He was concerned that if this property was approved for six lots, it would set a precedent.

Mr. Peyton Hardwell, 1922 Hunter Avenue, applicant, noted that several lots in the immediate area had been approved for about 6,500 sq. ft. per lot. The proposed lots would be on average 10,000 – 10,500 sq. ft per lot. He pointed out several other PUDs they had developed from Airport Boulevard to Old Shell Road. Although he was the developer, Mr. Hardwell said he and his wife hoped to build in this subdivision. He said there would be a very strict architectural review committee that would review the plans before any ground was broken to make sure that a size requirement was met and there

August 5, 2004

would be an overall aesthetics look that would have to be met. Mr. Hardwell said he did not want to devalue anyone's property, let alone his or his father's who lived up the street. He asked that this subdivision be looked at and compared to many of the PUDs between Airport Boulevard and Old Shell Road as comparable.

Mr. G. R. Hardwell, a resident of South McGregor Avenue, referred to a subdivision the City approved two years ago for six lots. It had a private street and private gate, just like the proposed subdivision. He said it was very nice and turning out to be an asset to McGregor Avenue.

Mr. Peyton Hardwell stated that they would be putting in a private street and private gate, with a fence on three sides. As pointed out, there were several PUDs on this street. Although lots in this area were developed as two-acre lots back in 1945, such lots were very rare today. He said he wanted to make these lots affordable to young people who wanted to live in the area.

In discussion, Mr. Vallas asked if the applicant to the north had been turned down because he had flag-shaped lots.

Mr. Olsen said that was correct. There were four lots. Two flag-shaped lots to the rear with two lots fronting on McGregor Avenue. The Commission was concerned that the houses there would literally be behind the other houses.

Mr. Vallas felt that they turned it down for a totally different reason than how this site was planned.

Mr. Olsen noted for the Commission's information that in this case the only reason the PUD was required was because the street was proposed to be a private street and the front setback was requested to be reduced to 20 feet, as opposed to 25 feet required by the Zoning Ordinance. If those two items met normal City standards - if the road was being dedicated and constructed and they were providing a 25-foot setback - it would simply be a subdivision application and would not require a PUD. Mr. Olsen further noted that the proposed lots exceeded the minimum square footage required by the Subdivision Regulations.

A motion was made by Mr. Vallas and seconded by Ms. Deakle to approve this plan.

Mr. Olsen noted that since the environmental question was brought up, the Commission could include the standard environmental condition of obtaining all approvals and permits from federal, state and local agencies.

Mr. Vallas amended his motion to include the environmental condition. Ms. Deakle seconded the motion.

Dr. Laier further commented that six lots seemed pretty excessive for the general character of the neighborhood.

August 5, 2004

Ms. Deakle asked how many lots there were in Wimbledon.

Ms. Clarke replied that there were about 40.

Mr. Vallas said his biggest question was how do you define a neighborhood?

Ms. Deakle commented that these developments seemed to be springing up all over this area of town. She felt the reason was because people could simply not afford to build a home on large lots anymore. There was obviously a need for these type lots.

Mr. Lawler commented that the plan met the Subdivision Regulations, generally speaking. The lots were larger than required by the Subdivision Regulations, and except for the fact that the street was going to be private, if this came in as a regular application for subdivision, the Commission would have to have some good reasons to turn it down. He referred to a prior court case, which indicated that the Commission could take into consideration things such as traffic and the depreciation and value of the surrounding properties if that was in fact the case. He also referred to a case of a division of lots in Spring Hill. Mr. Lawler further discussed the prior court case and options on how he felt the Commission could rule in this case today. Regarding depreciation of property values, he said the burden was on the objectors to show that their property would actually be devalued. He said there was intense pressure now for development on small lots, as there was just not enough land to go around. If the Commission were to deny this application today, he suggested they use the reason as traffic, and if they were to find that the surrounding lots would be devalued by their consideration in this case, he said their determination would have great weight in the courts. If the Commission decided to approve it, he felt he could support it in court. Mr. Lawler further cited a case involving a subdivision in Pinehurst. The Planning Commission approved the subdivision but the property owners objected and took it to court. They felt the subdivision would increase traffic and would be out of character with the neighborhood, and that their property would be devalued. The judge ruled in their favor. It was appealed and the court upheld it. He said that was the reason he felt that the finding that the Planning Commission makes from the evidence that was presented was important in terms of how the case is later considered. Mr. Lawler said there was not a lot of guidance except those prior court cases he had mentioned, both of which said if one met the minimum requirements of the Subdivision Regulations, generally speaking, they were entitled to use their property.

Mr. Vallas noted that the staff did not make any recommendation on tree preservation, and asked if there were any special Oak trees on the property.

Mr. Jackson stated that they looked at the property and did not find anything that fit the definition of preservation; there was nothing of any major size that could be protected.

There being no further discussion the question was called. Dr. Laier, Rev. Johnson and Mr. Plauche were opposed. The motion did not carry. The application was denied based

August 5, 2004

on concerns relating to density, drainage/environmental issues, trees and compatibility with the surrounding properties.

Case #SUB2004-00169

Greenwood Subdivision

251 South McGregor Avenue (West side of South McGregor Avenue, 200'± North of Pinebrook South).

6 Lots / 2.0± Acres

Council District 5

(For discussion see Case #ZON2004-01582 – **Greenwood Subdivision** – Above)

A motion was made by Mr. Vallas and seconded by Ms. Deakle to approve this plan.

Dr. Laier, Rev. Johnson and Mr. Plauche were opposed. The motion did not carry. The application was denied based on concerns relating to density, drainage/environmental issues, trees and compatibility with the surrounding properties. Additionally, due to denial of the accompanying Planned Unit Development application, the subdivision as proposed would not be in compliance with the Subdivision Regulations with regard to setbacks (Section V.D.9.), and would have created a violation of the Zoning Ordinance (setback [64.3.e]).

Case #ZON2004-01581

Merrimac Subdivision

262 and 264 West Drive (West side of West Drive, 125'± South of Northwoods Court).

The request for Planned Unit Development Approval to allow a single-family residential subdivision with reduced front and side setbacks, reduced lot sizes, and 47% maximum allowable site coverage was considered.

Council District 6

The plan illustrates the proposed lots and existing large trees.

(Also see Case #SUB2004-00168 – **Merrimac Subdivision** – Below)

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

Mr. Grady Edmondson, a resident of 6220 Brandy Run Road North, stated that his lot backed up to proposed Lots 13 and 14. He objected to them trying to fit 19 houses into this proposed subdivision and PUD. Mr. Edmondson said his back yard was 10 feet below the top of Lot 7. There was an 18-foot decline in the contour from the top of Lot 7 to the bottom of Lot 13. There was an 18' decline from the top of Lot 5 to the bottom of Lot 15. In the back part of the property, from the back corner to the bottom corner, there is an 11-foot decrease. Mr. Edmondson said he did not know if these were natural contours of the land or if it eroded over time. He met with Councilperson Connie Hudson and the developer and expressed his concerns. He also noted that he came in and

August 5, 2004

voiced his opposition to Mr. Twilley's proposed subdivision eight months ago when he tried to put 23 lots into that piece of property. Mr. Edmondson said he had seen the staff recommendation regarding the hold harmless agreement, and said he had no intention of ever signing a hold harmless agreement. Right now there was not a problem with drainage because it was just trees and woods, but when the street and all of those houses went in, it would change the water flow. He also pointed out that the detention area was in part of the flood plain that went through this area of Three Mile Creek. Mr. Edmondson further objected to a 10-foot setback, which he felt was not enough because drainage had to be put there. He was also concerned about a devaluation of his property and the density on West Drive. If approved, he asked that the developer be required to put fencing on the back side of the subdivision.

In discussion, Mr. Vallas felt that the opponent made some good arguments. He asked if the topo was that severe on the parcel to the north.

Ms. Pappas replied that the topo was severe. She said she attended the neighborhood meeting with the developer and a representative of City Engineering. She suggested the Commission may want to delay this for additional input from Engineering.

A motion was made by Mr. Vallas and seconded by Ms. Deakle to deny this plan based on concerns relating to density, drainage/environmental issues, trees and compatibility with the surrounding properties.

The motion carried unanimously.

Case #SUB2004-00168

Merrimac Subdivision

262 and 264 West Drive (West side of West Drive, 125'± South of Northwoods Court).

19 Lots / 3.9± Acres

Council District 6

(For discussion Case #ZON2004-01581 – **Merrimac Subdivision** – Above)

A motion was made by Mr. Vallas and seconded by Ms. Deakle to deny this subdivision based on concerns relating to density, drainage/environmental issues, trees and compatibility with the surrounding properties. Additionally, due to denial of the accompanying Planned Unit Development application, the subdivision as proposed would not be in compliance with the Subdivision Regulations with regard to minimum lot size per lot (V.D.2.), and minimum setback (V.D.9.), and would have created a violation of the Zoning Ordinance (lot size [64.3.b], setback [64.3.e], and site coverage [64.3.c]).

The motion carried unanimously.

Case #ZON2004-01539

St. Pius X Parish

217 South Sage Avenue (East side of Sage Avenue, 130'± South of Thornhill Drive).

August 5, 2004

The request for Planning Approval to allow an expansion of classrooms at an existing church / school in an R-1, Single-Family Residential district was considered.
Council District 5

The plan illustrates the existing buildings and parking, along with the proposed building.

(Also see Case #ZON2004-01538 – **St. Pius X Parish** – Below)

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) that the proposed building be setback 10-feet from the South property line;
- (2) the provision of a six-foot wooden privacy fence along the South property line along the proposed building;
- (3) the removal of the 15 parking spaces in front of the proposed building;
- (4) dedication of any necessary right-of-way to provide 25-feet from the centerline of Sage Avenue;
- (5) the provision of frontage trees; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2004-01538
St. Pius X Parish

217 South Sage Avenue (East side of Sage Avenue, 130'± South of Thornhill Drive).
The request for Planned Unit Development Approval to allow multiple buildings on a single building site was considered.
Council District 5

The plan illustrates the existing buildings and parking, along with the proposed building.

(For discussion see Case #ZON2004-01539 – **St. Pius X Parish** – Above)

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

- (1) that the proposed building be setback 10-feet from the South property line;
- (2) the provision of a six-foot wooden privacy fence along the South property line along the proposed building;
- (3) the removal of the 15 parking spaces in front of the proposed building;
- (4) dedication of any necessary right-of-way to provide 25-feet from the centerline of Sage Avenue;

August 5, 2004

- (5) the provision of frontage trees; and
- (6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW ZONING APPLICATIONS:

Case #ZON2004-01585

Delora Pate

West side of Wolf Ridge Road, 215'± South of Dickson Lane.

The request for a change in zoning from R-1, Single-Family Residential, to R-2, Two-Family Residential, to allow construction of a duplex residence was considered.

Council District 1

The site plan illustrates the proposed area to be zoned R-2, proposed buildings, and proposed parking and drive.

The applicant was present and concurred with the staff recommendation.

There was no one present in opposition.

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

- (1) the submission, approval and recording of a subdivision prior to the issuance of any permits for the site.

The motion carried unanimously.

Case #ZON2004-01584

Marshall Tew

4501 Rangeline Service Road (East side of Rangeline Service Road, 80'± South of Colgate Drive).

The request for a change in zoning from R-1, Single-Family Residential, to I-1, Light Industry, to allow a plumbing contractor's office and warehouse was considered.

Council District 4

The site plan illustrates the proposed building, parking, building to be removed, and setbacks along with the existing fencing and landscaping.

Mr. Plauche stated that the Commission members had received a letter regarding this proposal.

Mr. Frank Dagley of Frank A. Dagley & Associates, Inc, was representing the applicant and reviewed the letter which he understood to be about drainage. He assured the

August 5, 2004

Commission that the drainage would be according to City standards and there should be no problems. He concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Ms. Deakle and seconded by Mr. Vallas to recommend approval for B-3 zoning to the City Council subject to the following conditions:

- (1) the provision of an eight-foot wooden privacy fence along the North property line where the site adjoins residential zoning;
- (2) that the site be limited to one curb cut, with the location and design to be approved by Traffic Engineering and the Alabama Department of Transportation;
- (3) full compliance with the landscaping and tree planting requirements of the Ordinance;
- (4) provision of a sidewalk; and
- (5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATION:

Case #ZON2004-01580

Springhill Medical Center

3719 Dauphin Street (South side of Dauphin Street, adjacent to the East side of Montlimar Creek Drainage Canal, extending to the North terminus of Memorial Hospital Drive).

The request for Planned Unit Development Approval to amend a previously approved Planned Unit Development master plan for an existing hospital to allow a building expansion was considered.

Council District 5

The plan illustrates the existing structures and parking, along with the proposed additions.

Mr. Plauche stated that the staff had recommended this application be held over.

Ms. Pappas said this would require that a revised site plan be submitted by August 9, 2004.

Mr. Charles Carlisle, 3595 Grandview Parkway in Birmingham, Alabama, was representing the applicant. Mr. Carlisle questioned the three items listed by the staff – a revised site plan, the revised legal description, and additional information requested as far as notification of people within 300 feet. He did not understand, as he had already submitted this information.

August 5, 2004

Ms. Pappas stated that the site plan that was submitted was basically identical to the site plan that was approved by the Commission in 2000, with the addition of the GI center. In 2002 and 2003 this PUD in this configuration was amended to include additional properties on Springhill Memorial Drive North, as well as the additional property where the Orthopedic Center was located. She said it was important that all these be indicated in the current application because of insuring for adequate parking, access and maneuvering. Ms. Pappas said it would also need to be included in the legal description as well as the site plan, and with the inclusion of it, it may require additional notification, because they would be pushing the site out.

Mr. Carlisle asked about the deadline for submitting the additional information.

Ms. Clarke said he could meet with the staff.

A motion was made by Mr. Plauche and seconded by Dr. Laier to holdover this application until the meeting of August 19, 2004, to allow the submission of the following information: 1) a revised site plan illustrating all of the property involved in the PUD; 2) a revised legal description encompassing all properties in the PUD; and 3) additional notification information. This information must be submitted by August 9th.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2004-00173

Bevel Estates Subdivision

8654 Dauphin Island Parkway (West side of Dauphin Island Parkway at the West terminus of Beach Avenue).

3 Lots / 5.0± Acres

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

There was no one present in opposition.

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

- (1) placement of a note on the final plat stating that Lot 2 is denied access to the unimproved right-of-way to the West;
- (2) the placement of a note on the final plat stating that if the site is developed commercially and adjoins residentially developed property a buffer, in compliance with Section V.A.7., will be provided; and
- (3) placement of the required 25-foot minimum building setback line on the final plat.

August 5, 2004

The motion carried unanimously.

Case #SUB2004-00160

Bishop Enterprises, LLC Subdivision

4430 Frank Maples Road (East side of Frank Maples Road, 550'± South of Pine Meadow Drive [private road]).

3 Lots / 4.0± Acres

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

There was no one present in opposition.

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

- (1) 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 #SUB2004-00164

Breydon Square Subdivision

South side of Old Shell Road, 270'± East of Wilroh Drive East.

11 Lots / 3.3± Acres

Council District 7

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Vallas and seconded by Ms. Deakle 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 Old Shell Road;
- (2) the placement of a note on the final plat stating the Lots 1 and 11 are denied direct access to Old Shell Road;
- (3) a note placed on the final plat stating that the maintenance of the common areas and detention is the responsibility of the property owners; and
- (4) the placement of the 25-foot minimum building setback lines on the final plat.

The motion carried unanimously.

August 5, 2004

Case #SUB2004-00172

Creighton Estates Subdivision

West side of Elmo Avenue, 120'± North of its South terminus.

4 Lots / 1.2± Acres

Mr. Harvey Creighton, applicant, presented the proposal for a four-lot subdivision. Regarding the gravel road, Mr. Creighton said the road was packed and never had to be graded, and it was well drained. He said this was the remaining 27 acres of an 85-acre parcel, and he had no way to get to it except by this little gravel road.

Mr. Olsen explained that the Subdivision Regulations required that each lot in a subdivision have frontage on a County maintained road. It had been the practice and policy of the Commission in the past if the road was substandard, that the Commission not approve the subdivision. He said there had been cases, however, where there were relatively a few number of lots that the Commission had waived that requirement and approved the subdivision.

Mr. Stewart, County Engineering, stated that this was a standard County road. Although a gravel road, it was dedicated right-of-way. Funding had not been approved for paving in this area.

Mr. Jerry Byrd of Byrd Surveying, Inc., emphasized the point that it was just a policy of the Commission on denying approval on gravel roads. The Commission had approved subdivisions with a fewer number of lots.

There was no one present in opposition.

In discussion, a motion was made by Mr. Vallas to approve this subdivision.

Ms. Deakle asked if she understood correctly that the County did maintain the road.

Mr. Stewart stated that it was County maintained. However, typically when they had a road with a gravel base to it, there was an extremely hard roadbed, and the grader did not go down there, as it would just break up the roadbed.

The motion was seconded by Ms. Deakle.

The motion carried unanimously.

Case #SUB2004-00162

Olensky's Second Addition to Government Boulevard Subdivision

4070 Government Boulevard (North side of Government Boulevard, 380'± East of Anchor Drive).

2 Lots / 2.7± Acres

Council District 4

August 5, 2004

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Laier and seconded by Mr. Vallas 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 placement of a note on the final plat stating final plat stating that the subdivision is limited to a maximum of two curb cuts, with the location and design to be approved by ALDOT and Traffic Engineering;
- (2) the placement of the 25-foot minimum setback lines on the final plat; and
- (3) the placement of a note on the final plat stating that there shall be no future resubdivision of Lot 2 to create additional lots unless additional frontage is provided.

The motion carried unanimously.

Case #SUB2004-00171

Lowe Brothers K & P Subdivision

Southeast corner of Theodore Dawes Road and Leytham Road.

2 Lots / 1.0± Acre

The applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that both lots are limited to the existing curb cuts to Leytham Road, with the size, location and design to be approved by County Engineering;
- (2) the placement of a note on the final plat stating that Lot 1 is denied direct access to Theodore Dawes Road; and
- (3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2004-00174

Lewis Addition to Toulminville Subdivision, Resubdivision of Lot 33

2291 St. Stephens Road (West side of St. Stephens Road, extending from Clinton Avenue to Toulmin Avenue).

August 5, 2004

1 Lot / 1.1± Acres
Council District 1

Mr. Plauche announced that because Mr. Vallas must recuse himself regarding this case, there would not be a quorum present to vote on this matter today. Therefore, the case would have to be heldover until the next meeting.

A motion was made by Mr. Plauche and seconded by Ms. Deakle to holdover this application until the meeting of August 19, 2004, due to lack of a quorum to vote on this matter.

The motion carried unanimously.

Case #SUB2004-00166

McGowin Business Park Subdivision, Phase Four

Southwest corner of Government Boulevard and McVay Drive

1 Lot / 1.7± Acres
Council District 4

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

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that access to Government Boulevard is limited to the 30' non-exclusive, perpetual easement for ingress and egress, with curb cut size, location and design to be approved by ALDOT and Traffic Engineering;
- (2) the placement of a note on the final plat stating that access to McVay Drive is limited to one curb cut, with size, location and design to be approved by the Traffic Engineering Department;
- (3) the dedication of a 25' radius at the corner of Government Boulevard and McVay Drive; and
- (4) dedication of appropriate drainage easements, as required by the City Engineering Department.

The motion carried unanimously.

Case #SUB2004-00175

Lillie Mae Marks Subdivision

Northeast corner of State Street and Scott Street.

1 Lot / 0.3± Acre
Council District 2

August 5, 2004

Ms. Althea Phillips, a resident of 606 Westwood Street, stated that she was a family member of Ms. Lillie Mae Marks. She said Ms. Marks' home caught fire in March of 2003 and she was trying to join two more lots to rebuild her home on.

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that the site is limited to one curb cut, with the size, location and design to be approved by Traffic Engineering;
- (2) the dedication of a 25-foot radius at the corner of Scott Street and State Street; and
- (3) full compliance with the City Engineering Comments (site located in flood zone AE; minimum finished floor elevation required on final plat; 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 #SUB2004-00161

Randall Commercial Park Subdivision

West side of U.S. Highway 90 West, 690'± North of Larue Steiner Road, extending to the North side of Larue Steiner Road, 380'± West of U.S. Highway 90 West.

20 Lots / 7.5± Acres

Mr. Matt Orrell of Polysurveying Engineering - Land Surveying, was present on behalf of the applicant. Regarding the staff recommendation for the dedication of right-of-way along Highway 90, Mr. Orrell said dedication was not required on property to the north, and to the south they were only required to reserve 35 feet for future widening. He asked that they be required to reserve the 35 feet on this one and then have a 25 foot setback from there for future widening in lieu of dedication. They had not had to dedicate all the way down this road, and they knew of no plans to widen Highway 90 at this time.

Mr. Olsen stated that the request for dedication was due to the number of lots in the proposed subdivision. He said the other subdivision Mr. Orrell referred to did not contain this number of lots. The subdivision to the south was a four-lot subdivision. He did not know about the one to the north.

Mr. Orrell said the subdivision to the north had close to 25 lots. Mr. Orrell further noted that Collins Commercial Subdivision was just approved for over 20 lots. He felt there was no point in giving away this land to the State if they did not need it when it had not been required before. The State could purchase this property when they got ready to, and they would set back from it.

August 5, 2004

Mr. Olsen said it has typically been the practice to obtain dedication on a commercial subdivision, especially one containing this number of lots. The staff has consistently recommended that as a condition, and the Commission has been fairly consistent in requiring it.

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

- (1) dedication sufficient to provide a minimum of 125' from the centerline of U.S. Highway 90;
- (2) the placement of a note on the final plat stating that Lots 1 and 20 are denied direct access to U.S. Highway 90; and
- (3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2004-00165

Spanish Trail Commercial Park Subdivision, Resubdivision of Lots 6 & 7

South terminus of Spanish Trail Court.

2 Lots / 1.8± Acres

Mr. Bobby McBryde, Rowe Surveying & Engineering Company, Inc., 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 Dr. Laier and seconded by Ms. Deakle to approve this subdivision subject to the following conditions:

- (1) dedication and construction of the street stub to County standards;
- (2) provision of a temporary turn around, design to be approved by County Engineering; and
- (3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2004-00163

Turtle Ridge Subdivision

South side of Old Government Street Road, 130'± West of Willow Pointe Drive.

August 5, 2004

1 Lot / 2.8± Acres

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

There was no one present in opposition.

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

- (1) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- (2) the placement of the 25-foot minimum setback line on the final plat.

The motion carried unanimously.

Case #SUB2004-00167

Wicker Subdivision

North side of Hayfield Road, 400'± East of the North terminus of Johnson Road.

5 Lots / 4.3± Acres

Mr. Bobby McBryde, Rowe Surveying & Engineering Company, Inc., was present on behalf of the applicant and requested that this application be heldover.

There was no one present in opposition.

A motion was made by Mr. Plauche and seconded by Ms. Deakle to holdover this application until the meeting of August 19, 2004, at the applicant's request.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

APPROVED: November 4, 2004

/s/ Terry Plauche, Chairman

/ms and jh