

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF AUGUST 18, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James F. Watkins
Victoria L. Rivizzigno
Ann Deakle
John Vallas
Nicholas H. Holmes, III
Adline Clarke
Mead Miller (S)

Members Absent

Clinton Johnson
James Laier
Victor McSwain

Urban Development Staff Present

Richard L. Olsen, Deputy Director of
Planning
David Davenbaugh, Coordinator of
Urban Forestry
Bert Hoffman, Planner I
Val Manuel, Secretary II
Trista S. Cole, Secretary I

Others Present

Wanda Cochran, Assistant City Attorney
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City 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 Mr. Miller and seconded by Mrs. Deakle to approve the minutes of the July 7, and July 21, 2005, meetings as submitted. The motion carried unanimously.

EXTENSIONS:

File #SUB2004-00165 (Subdivision)

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

South terminus of Spanish Trail Court.

2 Lots / 1.8± Acres

After discussion a motion was made by Mr. Plauche and seconded by Mrs. Deakle to approve this request.

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2005-01583 (Planned Unit Development)

Legacy Shopping Center Subdivision

West side of Du Rhu Drive, 235'± North of Dauphin Street.

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

The site plan illustrates the proposed buildings and parking.

Don Coleman, Rester and Coleman Engineers was present and concurred with staff recommendations.

(Also see Case #SUB2005-00168 (Subdivision) below).

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to approve this plan subject to the following conditions:

- 1) proposed improvements as referenced in the Dauphin Street at DuRhu Drive Traffic Study be completed prior to the issuance of any CO's for the project;
- 2) minimum required widths for driveways with two-way traffic and separate right and left turn lanes are 36 feet. The minimum width for a one-way drive with separate right and left turn lanes is 24 feet. Changes should be made in the existing driveways to accommodate these minimums. All one-way traffic circulation and turn lanes should be signed and marked according to MUTCD standards;
- 3) provision of a 6' (minimum) privacy fence where the site is adjacent to residentially zoned or developed properties; and
- 4) full compliance with all municipal codes and ordinances, including but not limited to landscaping and tree plantings, and provision of sidewalks.

The motion carried unanimously.

Case #SUB2005-00168 (Subdivision)

Legacy Shopping Center Subdivision

West side of Du Rhu Drive, 235'± North of Dauphin Street.

1 Lot / 9.4± Acres

(For discussion see Case #ZON2005-01583 (Planned Unit Development) Legacy Shopping Center Subdivision (see above).

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

- 1) proposed improvements as referenced in the Dauphin Street at DuRhu Drive Traffic Study be completed prior to the issuance of any CO's for the project;
- 2) size, location and design of curb cuts to be approved by Traffic Engineering and conform to AASHTO standards;
- 3) provision of a buffer in compliance with Section V.A.7 of the Subdivision Regulations; and
- 4) provision of sidewalks along public street frontage.

The motion carried unanimously.

**Case #ZON2005-01589 (Rezoning)
Clear Image Construction, Inc.**

East side of Dauphin Island Parkway, 770' ± North of Dog River.

Rezoning from R-1, Single-Family Residential, to B-1, Buffer Business, for residential condominiums.

(Also see Case #SUB2005-00161(Subdivision) below).

The site plan illustrates the proposed structures and parking.

Mr. Plauche noted that each of the members had been give a copy of a letter from Norton W. Brooker, Jr., on behalf of the Mobile Yacht Club, owners of the property immediately adjacent to the proposed development. A copy of their deed of January 10, 1940, with a plat attached showing that the Mobile Yacht Club was the owner of 429 feet on Dauphin Island Parkway, was also provided. (Letter on file).

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and concurred with the staff recommendations. Mr. Orrell also stated that there was a dispute regarding the north 30 feet of this property, but it had no bearing on what the applicant wanted to do.

Jim Green was present on behalf of the Mobile Yacht Club. He said the Yacht Club had owned the lot immediately to the north of the subject property since 1940. Their deed showed that they had 429 feet along Dauphin Island Parkway. A concrete monument was placed at this point and a fence was erected from that point to the east, all the way to the bay. Mr. Green contended that 32 feet of the southern portion of the Mobile Yacht Club property was included in this rezoning application. Referring to the drawing submitted by the applicant, he said 32 feet takes off the northern corner of the proposed building, and takes an additional parking space. Without those parking spaces the applicant could not meet the City

of Mobile Ordinance requirements with regard to parking. Mr. Green said they objected to the granting of the zoning petition, as well as the subdivision petition, and asked that the Commission not expose itself to potential problems down the road and deny these petitions.

Robert McDonald, speaking in opposition, said the applicant's surveyor, Mr. Orrell, acknowledged that there was a boundary line dispute. In so acknowledging, he felt Mr. Orrell was acknowledging that their application would possibly be on Mobile Yacht Club property. Mr. Olsen also mentioned that this property line dispute was a civil matter and would have to be resolved in court. Mr. McDonald felt that if intended to challenge the boundary, they should go ahead and bring the action to court to have it resolved, and then the Commission could consider whether or not their plans would comply with City codes regarding the size of the lot. In personally observing the area, Mr. McDonald did not see how they could fit the proposed condominiums on the lot that they actually owned. He noted that just south of them was a Wintzell's restaurant that had been there for many years, and prior to Wintzell's there was another restaurant. When this matter is taken to court, Mr. McDonald felt the applicant was going to discover that he may not have enough property to meet the requirements of the Planning Commission. He also felt that the boundary dispute needed to be resolved before the Planning Commission could recommend approval or disapproval. Mr. Green reiterated that there was previously a marker located at the southern boundary of the Yacht Club and the northern boundary of the applicant's property, which was placed there by a surveyor many years ago.

Mr. Plauche stated that the Planning Commission could not resolve the boundary line dispute, and asked Mr. McDonald if he had any comments on the proposed rezoning itself.

Mr. McDonald said the only thing they objected to was the idea of a portion of their property being rezoned. If the applicant would acknowledge and amend his application to limit it outside the boundaries of their property, then they would have no objection.

Regarding the northern property line, Fred Straub, applicant, said there was not a discrepancy there, although they were led to believe there was. He said the building they planned on constructing could go as a zero-lot-line up to that questionable boundary line, and then there would not be any permanent structure over on that 33 feet in question. What the Yacht Club had there now was just grass and a few poles that indicated that was their territory. He said the Yacht Club put up a picket fence on that questionable area, which they allowed them to do for the time being. Mr. Straub said the point was that anything he did on that 33 feet would only improve their area, whether it be landscaping, constructing a gazebo, a common area for parking or any of that. He said he had spoken to Mr. Brooker, attorney for the Yacht Club, who was not present today. Mr. Straub said that Mr. Booker told him if he would sign that the subject 30 feet was clearly the Yacht Club's property, then they would not have any opposition.

Mr. Plauche said that as stated previously the Planning Commission could not resolve their land dispute.

Mr. Straub pointed out that the subject property was surrounded by B-2 and B-3 businesses, and it could be changed to B-1.

Ms Cochran asked the applicant if she understood correctly that there was indeed a dispute over that 30' of property.

Mr. Straub acknowledged that that was the case.

Mr. Vallas asked Ms. Cochran if the Commission could go ahead and consider this application today.

Ms. Cochran said the Commission could consider today whether the rezoning was appropriate, and whether the subdivision was appropriate, but they did not have authority to decide where the boundary line was located. Later, if there was a court case that draws the line differently, then the applicant would have to revise his building plans accordingly.

Mr. Vallas noted that the comments about where the building would be placed and where the parking would be were irrelevant because this was not site plan specific.

Mr. Olsen said that was correct; development would simply have to comply with the requirements of the Zoning Ordinance for a B-1 district.

In deliberations, Mr. Holmes asked how the Commission could act on something when the property line was not clear.

Ms. Cochran stated that the applicant only had authority for real estate that the applicant owned. If the Commission acted on the application today and then it turned out later that the applicant did not own it, then it would not be part of the subdivision.

Mr. Olsen pointed out that the applicant would have to have a valid or correct legal description lot of record before the property could be rezoned.

In further discussion concern was expressed that anybody who objected to a rezoning of a property could come in and claim a boundary line dispute and hold up the request. If that was allowed they would get relief without having to go to court.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to recommend this change in zoning to the City Council subject to the following conditions:

- 1) completion of the Subdivision process;
- 2) the site is limited to a maximum of two curb-cuts, with the size, design and location to be approved by Traffic Engineering, and ALDOT as appropriate, and conform to AASHTO standards;
- 3) compliance with the tree and landscaping requirements of the Zoning Ordinance;
- 4) compliance with the parking requirements of the Ordinance;

- 5) approval of all applicable federal, state and local agencies prior to the issuance of any permits, and;
- 6) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2005-00161 (Subdivision)

Nautical Point Subdivision

East side of Dauphin Island Parkway, 770'± North of Dog River.

1 Lot / 0.7± Acre

(For discussion see Case #ZON2005-01589 (Rezoning) above.)

After discussion a motion was made by Mrs. Deakle and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- 1) placement of a note on the Final Plat stating that the lot is limited to a maximum of two curb-cuts, with the size, location and design to be approved by Traffic Engineering, and ALDOT as appropriate, and conform to AASHTO standards;
- 2) correction of a bearing to be in agreement with the legal description, and;
- 3) approval of all applicable federal, state and local agencies prior to the issuance of any permits.

The motion carried unanimously.

Case #ZON2005-01537 (Rezoning)

Angel C. Robinson (Ben Cummings, Agent)

1750 Navco Road

(North side of Navco Road at the North terminus of Columbus Avenue).

Rezoning from R-1, Single-Family Residential, to I-1, Light Industry, for a millwork and shutter shop.

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

(Also see Case #ZON2005-01538 (Sidewalk Waiver Request) – Angel C. Robinson – below).

Ben Cummings, agent for the applicant, was present and concurred with staff recommendations. Mr. Cummings said the variance had been granted for a cabinet and millworks shop.

Mr. Holmes asked why the applicant had applied for rezoning when he already had a variance for this property.

Mr. Olsen explained that the applicant did have a variance, but variances were site plan specific, so any future alterations to the footprint as approved by the Board of Zoning Adjustment would have to go back to the Board of Zoning Adjustment for approval.

After discussion a motion was made by Mr. Vallas and seconded by Dr. Rivizzigno to recommend this change in zoning to the City Council subject to the following conditions:

- 1) maintenance of the residential appearance of the site, as offered by the applicant, or provision of a buffer along the Navco Road frontage, per Section IV.D.1 of the Zoning Ordinance;
- 2) compliance with 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). Preservation status is to be given to the 60" Live Oak Tree and 48" Live Oak Tree located on the North East side of existing wood framed building. 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);
- 3) compliance with landscaping and tree planting requirements of the Ordinance, to be coordinated with Urban Forestry; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Mr. Watkins recused from voting in this matter.

Case #ZON2005-01538 (Sidewalk Waiver Request)

Angel C. Robinson (Ben Cummings, Agent)

1750 Navco Road

(North side of Navco Road at the North terminus of Columbus Avenue).

Request to waive construction of a sidewalk along Navco Road.

(For discussion, See Case #ZON2005-01537 (Rezoning) – Angel C. Robinson – above).

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

The motion carried unanimously.

Mr. Watkins recused from voting in this matter.

Case #ZON2005-01584 (Rezoning)

Richard A. Russell

4450 Halls Mill Road

(North side of Halls Mill Road, 2/10 mile± West of Riviere du Chien Road).

Rezoning from R-1, Single-Family Residential, to B-3, Community Business, for an electrical contractor's office and light warehouse.

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

(Also see Case #SUB2005-01594 (Planned Unit Development) – Russell, LLC Subdivision – and Case #SUB2005-00169 (Subdivision) Russell, LLC Subdivision, below).

After discussion a motion was made by Mr. Vallas and seconded by Mrs. Deakle to recommend this change in zoning to the City Council subject to the following conditions:

- 1) completion of the Subdivision process;
- 2) that the site be developed in compliance with the accompanying Planned Unit Development;
- 3) the provision of a buffer between the site and R-1 zoned property, in compliance with Section IV.D.1 of the Zoning Ordinance;
- 4) full compliance with the landscaping and tree planting requirements of the Ordinance; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2005-01594 (Planned Unit Development)
Russell, LLC Subdivision**

4450 Halls Mill Road

(North side of Halls Mill Road, 2/10 mile± West of Riviere du Chien Road).

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

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

(Also see Case #ZON2005-01584 (Rezoning) - above – and Case #SUB2005-00169 – Russell, LLC Subdivision (Subdivision) below).

After discussion a motion was made by Mr. Vallas and seconded by Mrs. Deakle to approve this plan subject to the following conditions:

- 1) the provision of a buffer between the site and R-1 zoned property, in compliance with Section IV.D.1 of the Zoning Ordinance;
- 2) removal of the 10-foot rock drive;
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2005-00169 (Subdivision)

Russell, LLC Subdivision

4450 Halls Mill Road

(North side of Halls Mill Road, 2/10 mile± West of Riviere du Chien Road).

1 Lot / 3.0± Acres

(For discussion see Case #ZON2005-01594 – Russell, LLC Subdivision – (Planned Unit Development), and Case #ZON2005-01584 – Richard A. Russell – (Rezoning) above).

After discussion a motion was made by Mr. Vallas and seconded by Mrs. Deakle to approve this plan subject to the following conditions:

- 1) dedication of sufficient right-of-way to provide 35 feet from the centerline of Halls Mill Road; and
- 2) the provision of a buffer between the site and R-1 zoned property, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #ZON2005-01595 (Rezoning)

SPI/Mobile Pulley

Area bounded by Ann Street, Tennessee Street, Michigan Avenue, and California Street.

Rezoning from R-1, Single-Family Residential, and B-3, Community Business, to I-2, Heavy Industry, for steel fabrication and assembly.

The site plan illustrates the existing features and proposed structure.

(Also see Case #2005-00172 – (Subdivision) – SPI/MPW North Lot No. 1, see below).

Gary Coles, engineer for the applicant, concurred with the recommendations of the staff that a buffer zone consisting of shrubs and a fence be provided along California Street. As for the recommendations for the location and number of curb cuts, however, they would like some clarification. Mr. Coles noted that the staff wanted them to limit the distance of the two curb cuts on Ann Street from California Street to a minimum 50 feet from the intersection. Their curb cut as it was shown was approximately 43 feet from the center of the intersection, at both ends – California Street and Tennessee Street. It was important to the owner that those curb cuts stay as close to the ends of the lot, both north and south, as possible, for trucks that would be bringing materials in and out. With regard to the recommendation for just one curb cut on Tennessee Street, Mr. Cole said they just showed one curb cut, but they would not want to limit themselves in the future to just one curb cut there. He noted that the owner also

owned all of the property across Tennessee Street from this proposed rezoning. In the future they would like to have as many as two curb cuts on Tennessee Street. The final curb cut question comes in on the abandoned Michigan Avenue section of the street on the west side of the property. The staff indicated that Michigan Avenue was a major artery. Mr. Coles said that the part of Michigan Avenue adjacent to the majority of the property was not even in use today, although it did give you access back down to Tennessee Street or to Michigan Avenue proper. It was a little triangular part that was next to their property. In the future, therefore, they would like to have an additional curb cut there and use that abandoned piece of right-of-way.

Mr. Miller asked if he understood that they were referring to the portion of Michigan Avenue that was not active, and that it would only front on that inactive portion.

Mr. Coles said that was correct.

Mr. Watkins asked if the Commission could put a limitation on a curb cut on Michigan Avenue that it would not go within more than 50 feet of the current north boundary line.

Mr. Olsen said the Commission could make the condition location specific. The staff, however, questioned whether that triangular section of property, if it was still city right-of-way, was still city-maintained. If that was so, Mr. Olsen suggested that it may be more appropriate for it to be vacated.

In deliberations Mr. Watkins asked if the 40-foot placement of the curb cuts would create a problem.

Jennifer White of the Traffic Engineering Department said she did not know where Mr. Coles was measuring that 42 feet from. She was talking about 50 feet back from the edge of the intersection. As shown on their plan, the curb cuts would be located merely feet from the intersection of California Street and Tennessee Street, and any truck sitting in that driveway would be a sight obstruction for someone pulling up on Tennessee Street or California Street.

It was pointed out that there was a pretty large elementary school in this vicinity, and it was asked if traffic would be a problem. Mr. Olsen said the school was located a little bit further down on Michigan Avenue. The majority of the access to this property was going to be across to Tennessee Street to their existing development. It would not really be going out to the major thoroughfare of Michigan Avenue.

Mr. Miller asked if the required 50 feet would be from the center line of the street, or from the edge of the property.

Ms. White said it would be from the edge of the property.

Mr. Miller said he assumed the applicant was saying it was 42 feet instead of 50 feet.

Ms. White said the applicant stated it was 42 feet from the center line of the intersection. That would be the actual street width. Half a lane would be a big difference.

Mr. Olsen said the applicant specifically said it was from the center line.

Mr. Miller said that in other words, rather than 8 feet, they were talking 30 feet or so.

Ms. White said it could be a great distance.

Mr. Miller asked how the staff felt about the curb cut to Michigan Avenue, assuming that the Commission restricted them to the lower 250 feet of the 400 feet or something.

Mr. Olsen stated that the applicant did not show a curb cut on Michigan Avenue, and the staff did recommend the denial of access to Michigan Avenue. Part of that reason was the question of maintenance of Michigan Avenue; whether the City would be expected to maintain that section strictly for the driveway for this development. Since the applicant would be the only ones using it. A better option would be for them to have it vacated.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to recommend this change in zoning to the City Council subject to the staff recommendations.

- 1) compliance with the tree and landscaping requirements of the Zoning Ordinance;
- 2) compliance with the parking requirements of the Ordinance, or application for a Planned Unit Development;
- 3) provision of a protection buffer, in accordance with Section IV.D.1. of the Ordinance, and;
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB22005-00172 (Subdivision)
SPI/MPW North Lot No. 1 Subdivision

Area bounded by Ann Street, Tennessee Street, Michigan Avenue, and California Street.
1 Lot / 2.8± Acres

(For discussion see Case #ZON2005-01595 (Rezoning) – SPI/Mobile Pulley, above).

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to recommend this change in zoning to the City Council subject to the staff recommendations.

- 1) depiction of the 25-foot minimum building setback line;
- 2) placement of a note on the Final Plat stating that the lot is limited to one curb-cut onto Tennessee Street, two curb-cuts onto Ann Street, and no curb-cuts onto California Street or Michigan Avenue, with the size, location and design of the

- curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards, and;
- 3) full compliance with all other municipal codes and ordinances.

In further discussion was held on the applicant's request that they be allowed two curb cuts to Tennessee Street. Mr. Olsen noted that rezonings in and of themselves were not site plan specific, so the sketch that was provided was just a representation of what they may do.

After discussion Dr. Rivizzigno and Mr. Miller amended their motion and second respectively.

The final motion was to approve the above referenced subdivision subject to the following conditions:

- 1) depiction of the 25-foot minimum building setback line;
- 2) placement of a note on the Final Plat stating that the lot is limited to two curb-cuts onto Tennessee Street, two curb-cuts onto Ann Street, and no curb-cuts onto California Street or Michigan Avenue, with the size, location and design of the curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards, and;
- 3) full compliance with all other municipal codes and ordinances; and

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2005-00162

Ashbee Place Subdivision

9276 Wulff Road South

(North side of Wulff Road South at the North terminus of Roberts Lane).

5 Lots / 8.4± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

A motion was made by Mr. Watkins and seconded by Ms. Clarke to approve the above referenced subdivision subject to the following conditions:

1. the dedication of sufficient right-of-way to provide 50 feet from the centerline of Wulff Road South;
2. reconfiguration of the lots to provide a minimum access strip of 50 feet for Lot 5 (with appropriate radii);
3. the placement of a note on the final plat stating that Lots 1 and 2 are limited to one shared curb cut to Wulff Road South and Lots 3 and 4 are limited to one shared curb

- cut to Wulff Road South, with the size, location and design to be approved by County Engineering;
4. the placement of a note on the final plat stating that Lot 5 is limited to one curb cut to Wulff Road South, with the size, location and design to be approved by County Engineering;
 5. 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
 6. the placement of the 25-foot minimum building setback lines on the final plat.

The motion carried unanimously.

Case #SUB2005-00163

Brennerdom Subdivision

51 Eliza Jordan Road North

(West side of Eliza Jordan Road North, 450'± South of Rays Lane [private road]).

2 Lots / 15.0± Acres

Mr. Plauche advised the members that an aerial photo of this site had been provided each of them by the applicant.

Robert Brenner, applicant, stated that he lived at 51 Eliza Jordan Road. Mr. Brenner said he had purchased the subject 15 acres about 15 years ago and built a home there. He and his wife would now like to give some of the property to their daughter and her family. As shown in the photograph provided, there was a lake in the middle of the property. Because of the lake, the only way they could deed some property to them was to do a flag-pole type subdivision. Mr. Brenner said his son-in-law had done some research and had some information for the Commission as well.

Nathan Bailey, son-in-law of Mr. Brenner, referred to the staff report, which recommended denial of this request because (1) the proposed lot exceeded the width-to-depth ratio as identified in Section V.D.3. of the Subdivision Regulations; and (2) the flag-shaped lot was uncharacteristic of other lots in the area. Mr. Bailey referred to some tax forms that they had provided showing that there were at least three other lots on the same road that had width-to-depth problems. He contended the proposed lot, therefore, would not be out of place. The flag-shape was necessary in order for them to access the piece of property behind the lake, which they felt was the perfect place for a house on the whole property. They would be surrounded by trees, so there would be no privacy issue with the existing houses. Mr. Bailey said they had already had a perk test completed and approved for the location of the house. He also pointed out that the tax form showed that there were two or three flag-shaped lots in the area. The flag-shape was necessary to get behind the lake. The staff report also stated that given the size of the proposed lot, future resubdivision should be taken into consideration; however, the configuration proposed makes resubdivision difficult if not impossible. Mr. Bailey said Mr. Brenner had no plans to further resubdivide the property.

He further commented that his daughter was pregnant and due in February, and if the Commission could help get them in a house before then it would be good.

In deliberations, Mr. Miller commented that proposed subdivisions to accommodate families and flag-shaped lots were coming before the Commission at every meeting.

Mr. Watkins said the Commission needed to address this issue and needed some guidance. He suggested the Ordinance needed to be amended in this regard.

Mr. Vallas agreed, and recalled a similar application at the last meeting.

Mr. Miller further commented that the application before the Commission seemed reasonable to him and he certainly wanted to accommodate the citizens, but they did have to worry about precedents.

Mr. Olsen said the Commission also had to consider the impact that this would have on applications such as the one coming up, Springhill Place.

Mr. Holmes said there was a big difference in the two, in that this one under consideration was in the County, and the other one referred to was in the City.

Dr. Rivizzigno asked if they should treat County people different than City people.

Ms. Cochran pointed out that the land development patterns were a lot different. In one case the subdivision was in a rural setting, and in the other case referred to the area of the City being considered was developed on a grid and there were some fairly established patterns there. There may be an occasional exception, but that was an established land development pattern that had been that way for a long time. That was different than the application under consideration, as it was not even developed.

After discussion a motion was made by Mr. Holmes and seconded by Mr. Vallas to approve the plan subject to no resubdivision of Lot 2.

In further discussion Mr. Olsen noted that the property would have to come back before the Planning Commission if resubdivision were requested in the future. Mr. Olsen also said that to allow approval of the subdivision the Commission would have to waive Section V.D.3. and V.D.1. of the Subdivision Regulations. Also, the setback from the future right-of-way of Eliza Jordan Road, a future major street, must be noted on the plat.

Mr. Holmes amended the motion, and Mr. Vallas seconded the motion, to approve the subdivision subject to the following conditions:

- 1) placement of a note on the final plat stating there shall be no further resubdivision of Lot 2 unless additional adequate frontage is provided;
- 2) waiver of Sections V..D.3 and V.D.1. of the Subdivision Regulations; and

- 3) the setback from the future right-of-way of Eliza Jordan Road, a future major street, must be noted on the final plat.

The motion carried unanimously.

Case #SUB2005-00159

Crabtree Place Subdivision

7251 Moffett Road

(East side of Spanish Oak Drive, extending from Moffett Road to Pretty Branch Drive East).

2 Lots / 5.7± Acres

A representative of Byrd Surveying was present on behalf of the applicant and concurred with the staff recommendations.

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

- 1) the dedication of sufficient right-of-way to provide 50-feet from the centerline of Moffett Road;
- 2) the placement of a note on the final plat stating that Lot 1 is limited to two curb cuts to Moffett Road, with the size, location and design to be approved by County Engineering and Lot 2 is limited to one curb cut to Spanish Oak Drive, with the size, location and design to be approved by County Engineering;
- 3) the placement of a note on the final plat stating that Lot 1 is denied direct access to Spanish Oak Drive and Lot 2 is denied direct access to Pretty Branch Drive East; and
- 4) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A. 7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2005-00156

Friendship Subdivision

561 Cody Road North

(West side of Cody Road North, 50'± North of Fourteenth Street, extending to the North side of Fourteenth Street 90'± West of Cody Road North and 350'± West of Lincoln Boulevard, and extending to the South side of Sellers Lane, 655'± West of Cody Road North).

1 Lot / 15.5± Acres

Lee Lovitte, Lovitte Surveying, was present and on behalf of his client requested a two-week holdover so that they could discuss with Traffic Engineering the recommendation for denial of access to three of the four possible access points for this property.

Mr. Olsen said Mr. Lovitte needed to get with the staff by Wednesday of next week.

After discussion, a motion was made by Mr. Plauche and seconded by Mrs. Deakle to holdover this application until September 1, 2005, meeting at the applicant's request.

The motion carried unanimously.

Case #SUB2005-00167

Gatewood Estates Subdivision

West side of Dawes Lake Road East, 270'± South of Vintage Woods Drive.
37 Lots / 19.5± Acres

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

Jeannie Coleman, 8561 Dawes Lake Road, said she was not necessarily opposed, but expressed several concerns of the neighbors regarding drainage and how it would affect the lakes on the neighboring property, and the increased traffic, especially coming from Russell Lane and around the 90 degree curve. She pointed out that a new subdivision, Dawes Lake Trace that was going in at the end of Dawes Lake Road, would add 30 new houses to the neighborhood and this proposed subdivision would add 37 new houses. She contended that the added traffic, along with the kids who ride 4-wheelers around there, was potential for an accident. Ms. Coleman also requested that the developer consider larger lots so as to be more compatible with the other lots in this area. The residents were also concerned that Dawes Lake Road and McDonald Road were listed as major roads and would go right over several existing homes, as well as three acres of lakes that probably did not exist when those roads were put on the books. Ms. Coleman asked if there was a possibility that those roads could be taken off the books because they would destroy their homes, and what the procedure was to have that done.

Mr. Olsen stated that the Major Street Plan, an element of the Comprehensive Plan, would at some time have to be reviewed by the Planning Commission. He noted, however, that the lines shown on the map were just representative of a corridor in which the roads would go. It was just a general idea. Actual design drawings and studies had not been done for the exact locations at this point. As far as amending the Comprehensive Plan, Mr. Olsen said the Urban Development staff was aware that the Plan needed updating and planned on addressing that in the near future. As far as changing the Major Street Plan at this point since this was just a corridor depiction, unless there was an absolute reason for it to change, Mr. Olsen said he did not know if the staff would recommend proposing something like that to the Planning Commission at this point.

Mr. Plauche asked if an amendment to the Major Street Plan would require a public hearing.

Mr. Olsen replied that it would require a public hearing, which would be advertised in the newspaper. Notices to individual property owners would not be sent out. This was something that could be done on a specific case-by-case basis. Mr. Olsen said if the

Commission would like the staff to prepare a proposed amendment to address this matter, they needed to instruct the staff on how they would like them to handle this. This could be discussed at the next business meeting of the Commission in the next few weeks.

Mr. Plauche instructed the staff to get Ms. Coleman's address so that they could notify her if the Commission decided to hold a public hearing to propose an amendment to the Major Street Plan.

In further reference to the detention ponds, Ms. Coleman asked if they knew where the runoff would be on those.

Pat Stewart said the County Engineering Department had not yet reviewed the construction plans. The applicant, however, would have to meet certain standards and could not discharge water onto neighboring properties.

Mr. Plauche said if the subdivision were approved, it would be subject to approval by the Engineering section of the County for all their roads and drainage.

Ms. Coleman asked if there was any way the neighbors could find out what the County decides.

Mr. Plauche recommended that Ms. Coleman meet with the applicant and their engineers, who were present today, who could answer some of their questions.

James Campbell, a 24-year resident of 8600 Dawes Lake Road, said he owned the 17 acres to the south of the proposed subdivision. His major concern was regarding the size of the proposed lots. The neighbors would be much more comfortable if the lots were comparable to the existing lots in the area, which were larger than the proposed lots. Drainage and detention ponds were also a concern. Mr. Campbell said he was also personally interested in the south boundary line property line. The recommendations called for a street stub to the south, but the plat did not show where that would be proposed. He would also like a fence to be provided along that south boundary line because it would introduce so many new residents to his property directly. Mr. Campbell also wanted to know where the subdivision entrances and fences would be located, as well as landscaping and subdivision restrictions and covenants. He asked that the engineers and developer meet with the neighbors to discuss these things before a decision was made.

Mr. Plauche again suggested that the engineer and developer meet with the residents to address their concerns.

Mr. Vallas also noted that the Planning Commission had no control over a few of their concerns such as landscaping and the entrances, as well as subdivision restrictions and covenants and size of lots.

Steve Bowen said he was a resident of Vintage Woods Drive, which was the subdivision to the north of the proposed subdivision. Mr. Bowen said he was new to the area and this was the first time he had been involved in this process. Mr. Bowen asked for clarification as to just what it was that this Commission actually voted on. He had the same concerns as his neighbors regarding the size of lots.

Wanda Cochran, counsel for the Planning Commission, stated that the Planning Commission was a body established by State law to make recommendations on the rezoning of property, and to administer Subdivision Regulations. The application under consideration was for the subdivision of land. The standards that were in the Subdivision Regulations were minimum standards, that is, the absolute minimum a person has to comply with in order to get approval. The purpose of this hearing was to determine whether the application meets the minimum standards established by the Commission. If the application meets those standards, then it is to be approved. In this particular area, which is in the County, there are no regulations except for the barest minimum standards.

Mr. Dagley said he saw some inconsistency as to what this Planning Commission was doing regarding flag-shaped lots. On the one hand, the Commission was saying they could not have flag-shaped lots because they were not compatible with the neighborhood. When the residents of Dawes Lake tried to get the lots bigger because they were not compatible with the neighborhood, the attorney said you could not do that. Mr. Dagley said he did not know if he could go back on an old application or not, but he felt the Dawes Lake application should be held over until that could be decided.

In deliberations, Mr. Watkins said Mr. Speaks raised a good point, which was what discretion the Planning Commission has in looking at character of the neighborhood and surrounding area.

In reference to the "character" part of it, Ms. Cochran said that the Subdivision Regulations referred to compatibility of lot size (Sec. D.1.). This site, however, was in the County where the Planning Commission had planning jurisdiction, but there was no zoning.

Mr. Vallas commented that he did not know if he would want them to dictate parcel size, though, because there was nothing wrong with small lots, medium lots, or big lots there.

Ms. Cochran said, if anything, the street pattern might be looked at.

Regarding residential to residential, Mr. Watkins said the Planning Commission did not have any authority in the County to require buffering.

After discussion a motion was made by Mr. Vallas and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) construction and dedication of the proposed street;
- 2) provision of a street stub to the south, per the requirements of Section V.B.1. of the Subdivision Regulations;

- 3) placement of a note on the Final Plat stating that lots 21, 22 and 37 are denied direct access to Dawes Lake Road East;
- 4) provision of traffic calming devices, with the size, design and location to be approved by County Engineering;
- 5) placement of a note on the Final Plat stating that no permanent structures may be constructed within the Alabama Power Company easement;
- 6) placement of a note on the Final Plat stating that the storm water detention basins / common areas must be maintained by property owners;
- 7) depiction of the 25-foot minimum building setback line, and;
- 8) 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 #SUB2005-00166

Key Street Commercial Park Subdivision, Resubdivision of

1268, 1300, 1304 and 1306 West I-65 Service Road South

(West side of West I-65 Service Road South, 90'± South of Key Street, extending to the South side of Key Street, 390'± West of West I-65 Service Road South).

4 Lots / 3.4± Acres

Don Rowe, Rowe Surveying & Engineering, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that Lots 1 and 4 are limited to one curb cut each to the Service Road, and Lots 2 and 3 are limited to one curb cut each to Key Street, with the location, size, and design to be approved by Traffic Engineering; and
- 2) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

Case #SUB2005-00164

Perch Bend Subdivision

4020 and 4024 Perch Point Drive

(West side of Perch Point Drive, 530'± South of Staples Road, extending to the Southwest corner of Perch Point Drive and Staples Road).

3 Lots / 5.3± Acres

A representative for Erdman Surveying was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to approve the above referenced subdivision subject to the following conditions:

- 1) Compliance with City Engineering Comments: (Flood delineated on plat as required. In addition, a minimum finished floor elevation must be specified on the plat (on the specific lot) for any lot that is affected by the x-shaded and AE flood zone. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit; and
- 2) the approval of all applicable federal, state and local agencies prior to the issuance of any permits; and 3) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

Case #SUB2005-00165

Plantation Carol Subdivision, Unit One, Resubdivision of Lot 7

5988 Plantation Road

(North side of Plantation Road, 170'± East of Carol Plantation Road).

2 Lots / 7.0± Acres

Joe Regan, Regan Land Surveying, was present on behalf of the applicant. Mr. Regan said there was a problem adhering to the staff's requirement that Lot B be widened. He said when they first purchased this 7-acre piece of property, they built a house right out in the middle of it. On the east side of the house was a septic system which goes due east from that house. They may be able to make that lot a few feet bigger, but it would not be substantially bigger due to the size of the septic system. The church, Lot B, was fine. Mr. Regan said if they can get more, they were going to make the lot as wide as they could, but could not promise anything right now until they could get out there and dig up the system and find out exactly where it was located.

In deliberations, the uncertainty of the location of the field lines was discussed. The staff's recommendation requiring that Lot B be made wider was based on Section V.D.3. of the Subdivision Regulations, the width-to-depth ratio.

After discussion a motion was made by Ms. Deakle and seconded by Mr. Vallas to waive Section V.D.3 and approve the above referenced subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 2) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

Case #SUB2005-00157

William Pope Subdivision

West side of Baird Coxwell Road, ¼ mile± South of McLeod Road.

1 Lot / 0.5± Acre

William I. Pope was present and concurred with the staff recommendations.

After discussion a motion was made by Mr. Miller and seconded by Mrs. Clarke to approve the above referenced subdivision subject to the following condition:

- 1) placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2005-00158

Randall Commercial Park Subdivision, Revised Plat

North side of Larue Steiner Road, 400'± West of U.S. Highway 90 West, extending to the West side of U.S. Highway 90 West, 695'± North of Larue Steiner Road.

20 Lots / 7.5± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present on behalf of the applicant and concurred with the staff recommendations.

Robert Thompson, a resident of 2136 Marchfield Drive, stated that he owned property on the west and east sides of the subject property. Mr. Thompson said after reviewing the preliminary plans submitted by Polysurveying, he had specific concerns regarding the drainage, and was concerned that their plans were likely to result in backing up of water onto his property.

Mr. Plauche asked Mr. Orrell to respond to Mr. Thompson's concerns.

Mr. Orrell stated that this was just a preliminary plan. He said they may have to end up taking a lot out to be able to incorporate the drainage. He said they had not done any engineering plans to speak of, but everything would have to be approved by County Engineering.

Mr. Plauche asked Mr. Orrell to meet with Mr. Thompson and explain what he could.

After discussion a motion was made by Mr. Miller and seconded by Mrs. Clarke to approve the above referenced subdivision subject to the following conditions:

- 1) the construction and dedication of the new street to County Engineering standards;
- 2) the dedication of 25-foot radii at the intersections with U.S. Highway 90 and Larue Steiner Road;
- 3) the construction of a temporary turnaround at the North end of the new street, until the street connects to U.S. Highway 90;
- 4) the placement of a note on the final plat stating that Lots 1 and 20 are denied direct access to U.S. Highway 90;
- 5) the placement of a note on the final plat stating that maintenance of detention/common areas will be the responsibility of the property owners; and
- 6) the placement of a note on the final plat stating that any lots that 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 #SUB2005-00170

Shipp's Addition to Moffett Road Subdivision, Resubdivision of Lots 1 and 2

North side of Moffett Road, 150'± West of Oaktree Drive.

2 Lots / 3.2± Acres

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

After discussion a motion was made by Mr. Miller and seconded by Mrs. Clarke to approve the above referenced 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 to Moffett Road, with the size, location and design to be approved by ALDOT and County Engineering; and
- 2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2005-00171

Springhill Place Subdivision

159 Bishop Lane North

(Northwest corner of Bishop Lane North and Broadway Drive).

8 Lots / 2.8± Acres

Mr. Plauche announced that this application would be held over, but if anyone was present to speak in this matter they could go ahead and speak.

William Parks, Speaks and Associates, was present representing the applicant. With regard to concerns about detention, Mr. Parks said they had planned to have detention on each lot and each individual lot owner would be required to put in their own detention. Mr. Parks said he had discussed this with Mr. Vogtner and he was not opposed to that. Regarding the flag-shaped lots, Mr. Parks asked if there was a prohibition of flag-shaped lots, or was the Planning Commission just adverse to them.

Mr. Olsen said there was not an absolute prohibition against flag-shaped lots. For the last couple of years, however, the Commission had taken a position that if flag-shaped lots were not characteristic of the neighborhood, or if they would be behind a dwelling, they would not look favorably upon flag-shaped lots. The few exceptions to that generally being where lots were currently narrow and deep and the only way that they could be subdivided was through a flag-shaped lot. Mr. Olsen said that as an outright prohibition, however, that does not exist in the Subdivision Regulations.

Mr. Parks asked if there was a litmus test that determines how many lots in the surrounding area, and for how far, decides what was characteristic and what was not characteristic.

Mr. Olsen said, again, there was nothing specific in the Regulations. It had been the practice of the Planning Commission that if it was not apparent in the immediate vicinity, then it was not typical of the area.

Mr. Parks pointed out several lots on the map that appeared to be flag-shaped.

Mr. Olsen said he was not sure about those. This map was based on the tax assessor's parcel map, and he thought there were things that had been parceled off without going through the Planning Commission in years past. There were properties that have been shown as parcels that had been done for tax purposes where there was a large parcel and the owner got homestead on the area where the house was located, and a separate tax on the other property. For this reason, Mr. Olsen said he could not necessarily address whether or not those were indeed separate parcels, but he could assure that they had not been through the Planning Commission.

Before hearing any other speakers, Mr. Plauche reminded those present that this application would be held over. There would be no vote taken on it at this time.

Barbara Molyneaux stated that this was the seconded time she had appeared before the Commission regarding property on this particular street. Ms. Molyneaux said she lived in Montrose, but had a second home on this street. She objected to flag-shaped lots and felt this 2.8 acres could be developed more creatively and not just developed to see how much money could be made and how many lots they could get in.

Weems Dorn, a resident of 604 N. Bishop Lane, directly across from the subject property, said this had been their family home for over 55 years. Mr. Dorn said this was his second

time before the Planning Commission. He would not be opposed to the development, except that the proposed access road would face his driveway. That would mean 16 rotations a day of vehicles coming opposite his driveway, and he has to back out of his driveway.

Dr. Rivizzigno asked if there was going to be any attempt to pave Broadway Drive.

Mr. Olsen said that was not part of the developer's plans. It was unopened public right-of-way.

Maxine Spence, a resident of 354 Wacker Lane North, said her property would back up to proposed Lot 4. Ms. Spence said she was not against the development, but her main concern was drainage, which she expressed concern about in June. The ground sloped very dramatically down to Wacker Street, so she would have a retention pond right there. Ms. Spence said the retaining walls on their front lots were about four feet above the street. She also noted that the plan does not show the 25' setbacks. She also had a couple of neighbors with her today who were just around the corner on Gulfwood where there were huge drainage issues that had gone on for years and years because of development in Springhill. Their main concern was drainage.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until September 15, 2005, meeting to allow the applicant time to submit a revised plat.

The motion carried unanimously.

Case #SUB2005-00160

Wimbledon Subdivision, First Unit, Resubdivision of Lots 13, 14 & 15, Block 1

11 and 13 Wimbledon Drive East, and 161 South McGregor Avenue

(Northwest corner of Wimbledon Drive East and South McGregor Avenue).

4 Lots / 1.4± Acres

Larry Jones, Thompson Engineering, was present representing the applicant and concurred with the staff recommendations.

After discussion a motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to approve the above referenced subdivision subject to the following conditions:

- 1) dedication of sufficient right-of-way along both Wimbledon Drive East and South McGregor Avenue to provide a distance of 40-feet from the centerline of each roadway;
- 2) placement of a note on the Final Plat stating that lots 1 and 4 are limited to their existing curb-cuts, and that lots 2 and 3 are limited to one curb-cut each, with curb-cut sizes, location and design to be approved by Traffic Engineering and conform to AASHTO standards;

- 3) provision of evidence that all existing structures to remain meet front, side and rear yard setbacks from the new property lines, and;
- 4) depiction of the 25-foot minimum building setback line on the Final Plat.

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2005-01591

Persons Service Company

4355 Halls Mill Road

(South side of Halls Mill Road, 375' ± West of Riviere du Chien Road).

Request to waive construction of a sidewalk along Halls Mill Road.

Frank Dagley was present representing the applicant and concurred with the staff recommendation.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Watkins to approve this request.

The motion carried unanimously.

OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED:

Terry Plauche, Chairman

Victor McSwain, Secretary

tc/ms