

**MOBILE CITY PLANNING COMMISSION MINUTES**  
**MEETING OF FEBRUARY 19, 2004 - 2:00 P.M.**  
**AUDITORIUM, MOBILE GOVERNMENT PLAZA**

**Members Present**

Robert Frost, Chairman  
Victor McSwain, Secretary  
Terry Plauche, Vice-Chair  
James Laier (S)  
Victoria L. Rivizzigno  
Wendell Quimby  
John Vallas  
Ernest Scott

**Members Absent**

Ann Deakle  
Clinton Johnson

**Urban Development Staff Present**

Laura J. Clarke, Director,  
Urban Development Department  
Richard L. Olsen, Planner II  
Ron Jackson, Urban Forestry  
Shayla Jones, Long Range Planning  
Val Manuel, Secretary II

**Others Present**

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

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

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

**HOLDOVERS:**

**Case #ZON2004-00091 (Rezoning)**

**Garrett Investments, LLC**

7 North Broad Street (Northwest corner of Broad Street and St. Francis Street)

A request for a change in zoning from B-4, General Business, and B-1, Buffer Business, to B-4, General Business, to allow retail sales.

The plan illustrates the proposed structure, future addition, and proposed parking.

**(Also see Case #SUB2004-00012 - The Combo Subdivision – Below).**

Mr. Frost recused himself from discussion and voting in this matter, and Mr. Plauche chaired the meeting for hearing this application.

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Doug Anderson, of Bowron, Latta & Wasden, was present representing the applicant in this matter. The application had been held over, at the request of the City, to allow the staff time to meet with the applicant to possibly revise the site plan. Mr. Anderson stated they had met with the staff and submitted a revised plan; and there was now a revised staff report and recommendation. He said the applicant has no problem with the staff recommendations and conditions. Mr. Anderson said they want to combine three lots into one lot; and since the lot is currently split-zoned B-4 and B-1, rezone it to B-4.

The two lots, which are currently B-1, have been used in connection with remainder of the site for parking. Mr. Anderson explained that all three lots have had a common ownership. Over the last several decades the use of the lots had been as one parcel for B-4 use. His client plans to demolish the 9,000 square feet building and replace it with a 4,000 square feet building. Mr. Anderson said that on the revised site plan they had added a three-foot high knee wall along St. Francis Street at the request of the City. He also said they plan to abide by all landscaping requirements of the City and make an attractive gateway. Regarding the staff recommendations concerning the curb cuts, Mr. Anderson said they had discussed this with the staff. He said they would like to keep the two curb cuts for access to the parking lots and to provide circulation for large trucks.

Mr. Vallas asked if the site was located in a historic district. Mr. Anderson replied that it was not.

Mr. Plauche asked if anyone wanted to speak against this application.

Chris Lee, representing the Mayor's office, stated that argument for denial included incompatible site design that does not consider the unique, sensitive nature of the surrounding area. He said there were numerous improvements both planned and envisioned for the area. Gateways at this intersection and at Spring Hill Avenue were under construction. Mr. Lee noted that there was increased residential redevelopment in the immediate area, which includes the conversion of several commercial properties to residential use. Mr. Lee said he understood the proposed use was a State liquor store. He noted that licenses to sell alcohol require City Council approval, but a State liquor store, however, does not. Mr. Lee said the rezoning hearing for this property is the only opportunity the community has to speak in opposition. Mr. Lee also noted that the Salvation Army, which offers services to those suffering from addictions, is approximately 1,000 feet to the west of this site. Additionally, various other social service agencies within the downtown area serve the addicted and the displaced. This portion of Dauphin and Broad Streets is a known pedestrian corridor for their clients. Mr. Lee asked that these issues be considered and that this application be denied.

Councilman Thomas Sullivan, representative for District 2, stated that he was in opposition to this application for one reason – the location. He noted that there were service support systems in the area for people with addictions, the homeless, people who suffer with all kinds of emotional problems. He felt it would be unfair to place any kind of retail establishment that sells alcohol in a location so easily accessible to people with all kinds of physical and mental problems. Mr. Sullivan also felt putting alcohol sales

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right in the midst of these people would be adding to the problem. He said that any type of facility that sells alcoholic beverages would create more of a problem than we can afford in this location. Mr. Sullivan contended there were many other locations where this kind of facility could be placed.

Don Williams, Williams Engineering, stated that he does not usually speak against projects, since his career was designing projects such as this. Mr. Williams said he was opposed to this project not as an engineer, but as a prospective purchaser of property downtown. He objected to the design of the building, which he felt was inappropriate for downtown. He said since there were no requirements on this building an applicant could come back and build a metal building. Mr. Williams felt this was an opportunity to keep this stretch of Mobile looking like Mobile. In his opinion it was ludicrous to tear down a 9,000 square feet building to put up a 4,000 square feet building. Mr. Williams was concerned that any building that goes here would be placed with West Mobile sensibilities in mind. Further, Mr. Williams pointed out the B-1 and B-4 zoning down Dauphin Street. He felt the B-4 was intruding further back along Dauphin Street. It was his contention that the property should remain B-1 because it was much more appropriate for this corner. Mr. Williams felt that parking next to the street would be inappropriate. Mr. Williams is opposed to demolishing the building just because it was old.

Major David Waite, with the Salvation Army, stated that they operate one of the best treatment programs in the City. They work very hard in their neighborhood to be a contributor to the well being of the neighborhood, despite the fact that they also have a homeless shelter. Major Waite was concerned about the possibility of putting an ABC liquor store in this location. He said this poses a dilemma for them, because they work in concert with a number of other agencies in the community to help people who are in addiction. He was also concerned with what could go on the property in addition to or in place of that store. Major Waite felt this was a very fragile area in terms of the development of the community and the City. He saw this as not being in the best interest of the Salvation Army, or the community and the neighborhood. Major. Waite said he was opposed because he did not see this as a positive move for this lovely area of our City.

In rebuttal, Mr. Anderson stated that he was surprised that the Mayor's representative and Mr. Williams would say that this was not an appropriate building or an appropriate design, since the applicant hadn't presented a design. He noted that the staff report states that their building material would be subject to the staff's approval. Regarding the possibility of a new building being a brick wall with no windows, Mr. Anderson pointed out that the existing building has brick with no windows. The windows that were in the building were on the east side and they were all boarded up because the building had been vacant for so long. As for tenants, Mr. Anderson said they do not have a tenant signed. They were talking to the ABC, but they were also talking with a lot of other possible tenants. He contended it was not a relevant issue before this Commission who the tenant is, but rather whether this would be a proper location for B-4 zoning. He felt it was proper for B-4, noting that 40 percent of the property was already B-4, and the lot that had been zoned B-1 had been used for parking in connection with the B-4 use for

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decades. He went on to say that everything from that location east all the way to the riverfront, was B-4. As far as the issue of whether or not there is liquor here, Mr. Anderson pointed out that the Salvation Army was about a quarter of a mile from this site. The Bakery Café and the Bakery Market on the other side of the Salvation Army were a lot closer to the Salvation Army than this building was. He felt that they would stay open more hours than the ABC Store. He further contended that if anyone wanted liquor, they could get it much easier at the grocery store at the corner of Government and Broad Streets, and two blocks to the north of Broad at a Conoco or a Texaco station. Mr. Anderson said he was not sure this was a legal argument for the Commission to consider at this point in the process.

In discussion Mr. Quimby expressed concern about the creep of B-4 up Dauphin Street.

Mr. Vallas asked if B-2 and LB-2 were more appropriate for this intersection as it encroaches west on Dauphin Street.

Mr. Olsen replied that could be considered appropriate, as a lower zoning class such as LB-2 could be a transitional district between B-4 and B-1.

Mr. Vallas was concerned with the question of zoning as opposed to the use. He felt there was plenty B-4 vacant property across the street, and if they wanted a liquor store in this area they could find a site.

Mr. McSwain asked if a liquor store was permitted in B-2 and LB-2 districts.

Mr. Olsen replied that a liquor store was not permitted in an LB-2 district.

Mr. McSwain asked if someone could go in the existing building, do nothing to the site, and put a B-4 use in there without ever having to come before the Planning Commission.

Mr. Olsen replied that that could be done.

After discussion a motion was made by Mr. Quimby and seconded by Dr. Rivizzigno to deny this change in zoning.

The motion carried unanimously.

**Case #SUB2004-00012 (Subdivision)**

**The Combo Subdivision**

7 North Broad Street (Northwest corner of Broad Street and St. Francis Street).

1 Lot / 0.5± Acre

**(For discussion see Case #ZON2004-00091 – Garrett Investments, LLC (rezoning) – Above).**

After discussion a motion was made by Mr. Quimby and seconded by Dr. Rivizzigno to deny the above referenced subdivision for the following reason:

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1) the subdivision would create a split-zoned lot.

The motion carried unanimously.

Mr. Frost recused from discussion and voting.

**EXTENSIONS:**

**Case #SUB2002-00016 (Subdivision)**

**File #S98-120**

**Woodland Hills Subdivision, Remainder of**

West terminus of Woodland Hills Drive and extending through to Woodstone Drive, Woodland Way and the East side of Eunice Drive, 600'± North of Eunice Circle.

191 Lots / 74.0± Acres

Request for a one-year extension of previous approval.

Don Coleman, Rester and Coleman Engineers, Inc., was present representing the applicant.

A motion was made by Dr. Rivizzigno and seconded by Mr. Laier to approve a one-year extension of approval for the above referenced subdivision.

The motion carried unanimously.

**GROUP APPLICATIONS:**

**Case #ZON2004-00208 (Rezoning)**

**Thirty-Two Investments (B. White-Spunner, Agent)**

Southeast corner of Cody Road South and Bruns Drive

A request for a change in zoning from B-3, Community Business, to B-2, Neighborhood Business, to eliminate split zoning.

The plan illustrates the proposed residential dwelling, office, theatre, maintenance building, drive and trails.

**(Also see Case #ZON2004-00209 – Thirty-Two Investments (B. White-Spunner, Agent) Rezoning and Case #ZON2004-00210 – Compound W II Subdivision – Below).**

Larry Jones was present representing the applicant and indicated the applicant concurred with the staff recommendations.

A motion was made by Mr. Vallas and seconded by Mr. Scott to approve this change in zoning to the City Council subject to the following conditions:

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- 1) provision of a buffer, in compliance with Section IV.D.1. where the site adjoins residential zoning (R-3);
- 2) full compliance with the landscaping and tree planting requirements of the Ordinance to be coordinated with Urban Forestry (trees may be claimed for credit);
- 3) the location, number and design of all curb cuts to be approved by Traffic Engineering;
- 4) the dedication of any necessary right-of-way to provide 50-feet from the centerline of Cody Road, a planned major street;
- 5) approval of all applicable federal, state and local agencies; and
- 6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2004-00209 (Rezoning)**

**Thirty-Two Investments (B. White-Spunner, Agent)**

East side of Cody Road South, 840'± South of Bruns Drive, extending to the South side of Bruns Drive, 200'± East of Cody Road South

A request for a change in zoning from B-2, Neighborhood Business, and R-3, Multi-Family Residential, to R-3, Multi-Family Residential, to eliminate split zoning.

The plan illustrates the proposed residential dwelling, office, theatre, maintenance building, drive and trails.

**(For discussion see Case #ZON2004-00208 – Thirty-Two Investments (B. White-Spunner, Agent) Rezoning – Above, also see Case #ZON2004-00210 – Compound W II Subdivision – Below).**

A motion was made by Mr. Vallas and seconded by Mr. Scott to approve this change in zoning to the City Council subject to the following conditions:

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance to be coordinated with Urban Forestry (note trees may be claimed for credit);
- 2) the location, number and design of all curb cuts to be approved by Traffic Engineering;
- 3) the provision of an additional setback to provide 75-feet from the centerline of Cody Road, a planned major street;
- 4) approval of all applicable federal, state and local agencies;
- 5) an approved PUD; and
- 6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #ZON2004-00210 (Planned Unit Development)**

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**Compound W II Subdivision**

Southeast corner of Cody Road South and Bruns Drive

A request for Planned Unit Development approval to allow shared access between multiple building sites.

The plan illustrates the proposed residential dwelling, office, theatre, maintenance building, drive and trails.

**(For discussion see Case #ZON2004-00208 – Thirty-Two Investments (B. White-Spunner, Agent) Rezoning – Above, also see Case #ZON2004-00209 – Thirty-Two Investments (B. White-Spunner, Agent) Rezoning – Above).**

A motion was made by Mr. Vallas and seconded by Mr. Scott to approve this plan subject to the following conditions:

- 1) completion of the rezoning processes; and
- 2) the site plan as submitted.

The motion carried unanimously.

**Case #ZON2004-00217 (Planned Unit Development)**

**Sollie Road Development Subdivision**

East side of Sollie Road, 400'± North of the East terminus of Isle of Palms Drive, extending to the East terminus of Raleigh Boulevard

Requests for Planned Unit Development to allow a single-family residential subdivision with alleyway access.

The plan illustrates the subdivision layout.

**(Also see Case #SUB2004-00022 – Sollie Road Development Subdivision – Below).**

Mr. Plauche recused from discussion and voting in this matter.

Mr. Frost asked if there was anyone present in opposition to speak.

Maury Friedlander, of 740 Museum Drive, stated that he was one of the owners of Shalimar Corporation, which owned the property to the east and to the north of the subject site. Among his objections were the lengths of the proposed roads, which he felt extended far beyond City allowances and appear to have no outlets. He noted that the property to the east was zoned R-2 and R-3 and contended that should Shalimar Corporation ever improve their property with a subdivision, the density and the amount of traffic would be much greater. The street would have to go 1,300 feet just from their property line. Mr. Friedlander also pointed out that there didn't appear to be any turnarounds for emergency vehicles. There was a second entrance to the south that he

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said appeared to be in the middle of a flood zone, which would make it impossible to build streets. He said the whole subdivision was somewhat fraught with flood areas.

Traffic was also a concern and he noted that access to each residence in the proposed subdivision would be from an alleyway at the rear of the residences. Mr. Friedlander was concerned that the garages of the lots adjoining Sollie Road would face Sollie Road, which would be objectionable to the residents of the Isle of Palms. He said those houses are in the million dollar range. Mr. Friedlander said that when you go further south facing to the east where Shalimar would develop, there would be that same row of open garages facing their property. He contended that the proposed subdivision would not be comparable to the subdivisions in the area – the Isle of Palms, Charleston Oaks, and a subdivision that Shalimar Corporation built and planned to expand with very high-priced lots.

Mr. Friedlander expressed concern about traffic circulation within the subdivision with only one way in and one way out. He felt this subdivision would be adverse to what was in the neighborhood and particularly adverse to his property to the east because it would limit their ingress and egress. With regard to the staff's statement, when Shalimar Corporation develops the land to the east, they may provide some additional outlets. Mr. Friedlander said it might be decades before they develop their property. He referred to the staff's report which quotes an excerpt from the Subdivision Regulations which states that general in alleys will not be approved for residential subdivisions, except as part of an acceptable Traditional Neighborhood Development. The regulations define a Traditional Neighborhood Development as generally large-scale, comprehensive and incorporating mixed uses. Mr. Friedlander said there were no mixed uses in this proposed subdivision and no mixed densities, as most of the lots are 7200 square feet. The definition further stated that there be a rectangular street layout, which this subdivision does not have, nor was it pedestrian oriented. He further noted that there was a lot of flood area in the development, as well as Milkhouse Creek itself. The flood areas run right down the middle of the development also, immediately to the east of this property is Second Creek.

Kim Trest was present representing the Isle of Palms subdivision and said she also owned a lot in that subdivision. Ms. Trest felt there was a very big safety issue here with the entrance to the proposed subdivision being directly across from the entrance of the Isle of Palms. She said since this is a high traffic area, a traffic light would have to be install there. Further, it was her contention that the lots in the proposed subdivision would not be comparable to the lots in their subdivision, which has lots that start at a half of a million dollars and homes that start at a million dollars. Ms. Trest suggested that they redesign the subdivision and put the entrance at the top of a hill.

Michael Myles was present representing Sollie Road Development and noted that the subdivisions the opposition was speaking of are not in the City. They are on the County side of Sollie Road. Mr. Myles also said he was hearing that they were trying to make Sollie Road an exclusive area only for million dollar homes. He said his residence is on seven acres adjacent to the Isle of Palms. He also said he has no problem with this



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proposed development. Mr. Myles also noted that the entrance to the subdivision is across from the entrance to Wynnfield, not Isle of Palms subdivision. As for the issue of garages facing Sollie Road, Mr. Myles said you could drive up and down Sollie Road and see the garages on Wynnfield. He said if traffic is an issue, then maybe construction should stop in Isle of Palms and Wynnfield, and just limit all development.

Scott Thomas of McFadden Engineering, engineer for the developer, said that in meeting with the staff there were discussions about stub outs to the property to the east, which could provide future access to Sollie Road via the property to the north all owned by Shalimar Corporation as pointed out by Mr. Friedlander. Mr. Thomas said all the traffic from any future development on the east piece of property wouldn't necessarily be expected to have to go through this subdivision. The property owner to the north would have to grant access to Sollie Road. Mr. Myles said that was one of the considerations for not having that much traffic in this subdivision, regardless of the length of travel. Mr. Thomas said they were also working with City Engineering to obtain permits for the bridges. He said they had also had the wetlands delineated and were taking into account property setback lines and some mitigation issues there. Regarding concern about the alleyways, Mr. Thomas said all the alleyways are going to have a one-way access.

In discussion Dr. Rivizzigno asked about the size of the garages. Mr. Myles said they would be two and three-car garages.

Mr. Vallas asked if there was any proposed fencing.

Mr. Thomas said there would be a fence along the entire length of the property along Sollie Road up to the entranceway. On the eastern boundary that adjoins Shalimar Corporation property, each homeowner would have fencing behind their property but none was proposed at this time by the developer.

Mr. Vallas asked the staff if they liked the entrances to subdivisions to line up, or would they prefer to see them staggered.

Pat Stewart, County Engineering, stated that as this was a section the County maintained, if it would warrant a traffic light, the two subdivisions lining up together would be an ideal situation.

Mr. Myles commented that from a safety issue they were trying to keep the entrance to the south away from the hill, noting that there was a church coming off that hill and cars pulling out could be a danger.

In executive session Mr. Olsen addressed some of the comments made during the public hearing regarding the requirements for alleys under TND standards. He said it was not a hard and fast requirement, the regulations states, in general, meaning these are desirable, but in this particular instance there were several reasons that they cannot physically comply with some of the general specifics of the TND. One was rectilinear streets. Given the creek and the flood zone, it would really not be a good design standard to have

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multiple bridges going across the creek to create that rectilinear design and could be cost prohibitive. Mr. Olsen said that the length of the streets was also mentioned, and noted that the only street that exceeded the recommended maximum street length was the one that runs parallel and closest to Sollie. He said given the use and the provision of the alleys, it helps with the break. It's not a full break as with the side streets, which come off the other north/south streets.

Mr. McSwain asked if the property to the east had access to the north.

Mr. Olsen replied that the property referred to was also owned by Shalimar Corporation and they do have access to Sollie Road.

Dr. Rivizzigno asked what the point was of having all the alleys.

Mr. Olsen said that one reason for all the alleys was that they wanted rear access to the properties for the residents.

Ms. Clarke further stated that it was more of a security feature when you had your access through alleys. Ms. Clarke said that typically, cutting down on individual curb cuts on the traveled street is more conducive to pedestrian traffic. They also want to create more of a true neighborhood feel to encourage pedestrian flow. For the most part, cars that are parked on the street will belong to visitors.

Mr. Vallas commented that they would have to maintain the alleyways. With regard to the concerns that the development would not be comparable to the houses across the street, he felt it would be nicer than your typical 7200 square feet subdivision lot.

Ms. Clarke noted that the Planning Commission does not consider the quality, the square footage, or the price of homes.

Dr. Rivizzigno commented that she felt there were too many lots, and that a number of them are too close to the flood zone.

Ms. Deakle asked about the right-of-way width of the alley, and Mr. Olsen replied that it was 20 feet.

Mr. McSwain stated that it was not technically a right-of-way. He said he would rather see two-way movement. From a functionality standpoint that would be better.

Mr. Olsen said that this could be accomplished within the 20', with an 18' lane-9' on each side.

Mr. McSwain felt that if traffic were only one-way, people would be pulling into someone else's driveway to let a car pass.

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After discussion a motion was made by Mr. Vallas to approve the plan subject to requiring fencing along all boundaries where alleyways adjoin or face other properties.

In further discussion Mr. Olsen asked if Mr. Vallas wanted to include Mr. McSwain's recommendation for a two-way traffic in alleyways.

Mr. Vallas said he understood the right-of-way was 20 feet.

Ms. Clarke said that was correct. The intent by the applicant in keeping with the one way was going to a paved width of about 14 feet, but they have also stated that they could provide a paving width of 18 feet for two-way if the commission required it.

Mr. Frost asked that the motion be restated.

Mr. Vallas made a motion to approve subject to the staff recommendations and with the additional conditions that the alleyway being built to accommodate two-way traffic, and fencing along all the property lines, because the alleyways back up to all the other properties.

Mr. Frost asked for a second to the motion.

In further discussion it was asked if the dotted line represented the flood zone, and were there lots in the flood zone. Mr. Olsen replied that the dotted line represented flood zone AE, and asked Ms. Terry, of City Engineering to comment on that.

Ms. Terry stated that the applicant was working with City Engineering to meet flood zone ordinance requirements. She said there were several lots in the flood zone and they would be required to be built to a certain minimum finished floor elevation

There being no second to Mr. Vallas' motion, Mr. Frost stated that the motion failed for lack of a second.

Mr. McSwain stated that he would modify that motion to require fences along Sollie Road, as the applicant indicated he was going to do.

Mr. Olsen stated that was part of Mr. Vallas' motion.

Mr. McSwain replied that he did not intend to include the entire perimeter

Mr. Vallas asked if he was deleting the other three sides.

Mr. McSwain said that was correct. He was deleting the north, east and south property lines.

Mr. Frost stated that there was now a motion on the floor exactly like Mr. Vallas' except the fence will be only along Sollie Road. He called for a second to the motion.

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In further discussion Ms. Clarke asked if she understood that Mr. McSwain was adding two conditions: two-way paved width of the alleys, and then a 6-foot privacy fence along Sollie Road only.

Mr. McSwain said they might want to amend that to just include the areas that will be developed residentially as opposed to undeveloped areas and at the entrance make it...as to residential development.

Ms. Clarke referred to the plat, showing where the fence indicated running parallel along Sollie Road, and asked if that was what was desired.

Mr. Frost asked if that was Mr. McSwain's motion.

Mr. McSwain replied that it was.

Mr. Frost asked if there was a second to Mr. McSwain's motion.

There being no second to the motion, Mr. Frost stated that the motion failed.

Dr. Rivizzigno made a motion for denial on the grounds that the site was being over developed; there were too many lots for the location, especially given the creek and the extent of the flood plain and the one point of access.

Mr. Frost asked for a second to the motion. The motion was seconded by Mr. Laier.

Mr. Frost called for any further discussion.

Dr. Rivizzigno stated that she thought there were too many lots and they should scale down the design.

Mr. Quimby commented that he was not concerned about the number of lots, but that they were actually sitting in the flood zone.

Mr. Frost noted that it was not improper to build in the flood zone. It was done all the time. He said there was a motion and a second and asked if there was any further discussion.

Mr. McSwain asked what kind of direction the Commission would give the applicant if they say he proposed over development.

Mr. Quimby commented that he heard some strong opposition that seemed to make sense to him from Mr. Friedlander, regarding issues that weren't addressed by the applicant. He said he would like to see some of those things addressed in more detail by the applicant if he reapplies. He said he did not know what direction the Commission could give the applicant, but it just seemed like it was an over developed situation.

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There being no further discussion Mr. Frost called the question. The vote was taken and there were three voting for the motion and three voting against. Mr. Frost stated that it was a tie, and therefore he would defer to the staff's recommendation to approve and vote against the motion to deny. So that motion is declined.

Mr. Frost called for another motion, saying he would repeat the motion of Mr. McSwain and assume he would accept it as a second. He asked if there was any discussion on that motion which was to approve the application subject to staff recommendations and modification of the alleyway to two-way, and a 6-foot fence along the property line along Sollie Road.

Ms. Clark asked if he was referring to where lots were indicated as opposed to the full length, which was Mr. McSwain's motion.

Mr. Frost replied that was correct and asked if there was a second to the motion.

The motion was seconded by Mr. McSwain.

Mr. Frost called the question. There were two votes in favor of the motion. The motion failed to carry.

Mr. Quimby asked if the failure of a motion to approve constitutes a denial.

John Lawler, Assistant City Attorney, ruled that since the motion did not pass, that constitutes denial. A motion to deny was not necessary.

Ms. Clarke asked about providing reasons for denial.

Mr. Frost stated that the reason was because it failed to be approved.

Mr. LawLer felt reasons for denial, as mentioned by Mr. Friedlander, were based on design of the project in terms of density and of fitting in with the neighborhood, and in terms of traffic. He felt the Commission was not for turning down development of the property, but were for something that addressed the issued that were laid out.

Mr. Quimby stated that from his standpoint he would like to see fewer lots actually sitting in the flood zone.

Dr. Rivizzigno commented that there was only on exit out of the subdivision.

Ms. Clarke stated that it would be Urban Development to characterize what is unique and environmentally sensitive area. She felt that was a sound reason according to the Subdivision Regulations and purpose.

Mr. Plauche recused from discussion and voting.

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**Case #SUB2004-00022 (Subdivision)**  
**Sollie Road Development Subdivision**

East side of Sollie Road, 400'± North of the East terminus of Isle of Palms Drive, extending to the East terminus of Raleigh Boulevard.

152 Lots / 70.3± Acres

**(For discussion see Case #ZON2004-00217 Sollie Road Development Subdivision (PUD) – Above).**

The Planning Commission denied the above referenced subdivision for the following reasons:

- 1) the required PUD was denied and
- 2) due to the lack of a majority affirmatives votes for approval.

**Case #ZON2004-00207 (Planned Unit Development)**  
**Springhill Apartments Subdivision**

Northwest corner of College Lane South and Du Rhu Drive, extending to the South side of South Avenue at the South terminus of McAlpine Drive

A request for Planned Unit Development to allow multiple buildings on a single building site.

The site plan illustrates the existing easements, utility structure to be removed, concrete to be removed, proposed buildings, proposed parking and drives, and the proposed 2 lot subdivision.

**(Also see Case #SUB2004-00024 – Springhill Apartments Subdivision – Below).**

Chuck Stefan, 1953 River Road, was present representing the Mitchell Company. Mr. Stefan presented photos of a similar property the Mitchell Company had developed in Gulfport, MS, facing the Gulf of Mexico. He said this would be a class-A development with rents in the range from \$1500-\$2000. Mr. Stefan said one of the comments they had from the neighbors concerned density and the number of units. They were, however, building less than 50 percent of the number of units that would be allowed in a B-1 district. Each unit would have either a one or two-car garage with direct entry from the garage into the apartment. A typical unit would have 1800 sq. ft., not counting the garage, and there would be six units in a building. Mr. Stefan said they were in full agreement with the staff recommendations and would do what was required in terms of the dumpster and the circulation. They would not let any traffic out the back gate which empties onto South Boulevard, but in order to ensure the safety of the residents the gate would open on the beep of a fire truck and if residents needed to get out in case of an emergency.

Mr. Frost asked how the gate would open in the event of emergencies.

Mr. Stefan replied that they would have a key to open it, but the yelp of the fire truck would also open it.

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Mr. Frost asked if anyone wanted to speak in opposition.

Richard Morgan, 3 McAlpine Drive, stated that he had been living at this address since 1969. Mr. Morgan was concerned about traffic dumping onto South Avenue and about the changes in the neighborhood with St. Paul's expanding into what was once swamp land. He complained about a sewer drain on the south end of Rose Avenue that had been caved in for five years. Increased traffic on the two-lane West Service Road was also a concern, and although Mr. Stefan said they were only building 50 percent of what was allowed, that was not the standard. Mr. Morgan felt the standard should be what is appropriate, and what was not appropriate was to put a higher density in this little neighborhood. He understood that an 8' wooden fence was proposed and felt they should have something more permanent. Mr. Morgan referred to the applicant's statement that the gate would only be used to let fire trucks in, or, for the record, to let our people out. He objected to that. He said they had enough traffic now from St. Paul's and the normal traffic between Dauphin and Old Shell Road.

Mitch Barnett, a resident of 11 McAlpine Drive, stated that the main concern the neighbors had was that there was so much traffic pouring out onto the Service Road and onto Old Shell Road. He said the traffic was already a nightmare, and when you added 138 apartments in the morning and in the afternoon, when they already have to put up with St. Paul's traffic, the situation would be even worse. Mr. Barnett said he lived directly across from where one of the proposed buildings would be and there would be garages facing his house and the parking lot would be practically in his back yard. He was also concerned about where he suspected the dumpster would be located, and said an 8' fence would not hide that view from his patio. Mr. Barnett said the neighbors wanted a larger buffer zone with a substantial wall so they did not even know the apartments were there. They would also like to preserve the woods that are already there. He said the neighborhood was already being surrounded by businesses on the frontage road and up South Avenue and by some 25-30 year old apartments on Old Shell Road that were deteriorating. Mr. Barnett asked the Commission to consider the residents and be an advocate for them.

Mr. Vallas commented that he would take Mr. Barnett's comments under consideration. He noted that the property was currently zoned B-1, and the residents should realize that this could be a more offensive use. It was his opinion that the apartments would benefit the neighborhood more than office buildings.

Mr. Barnett further stated that this was very swampy land. The apartments Mr. Stefan showed a photo of were nice luxury apartments that were built on the coast. He felt no one would want to pay \$2000 per month to live next door to an interstate. He said when the buildings start to decay because of poor soil underneath them and the foundation starts to break and the buildings crack, and assuming a transient nature of apartments, it won't be like the apartments in the photo. He said the bottom line was, they want a larger buffer zone along South Avenue and a more substantial wall.

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It was asked if any of the neighbors had tried to establish a relationship with the developers about their concerns.

Mr. Barnett stated that they had a neighborhood meeting, but not with the developers.

Vern Partridge, a resident of 7 McAlpine Drive stated he represented two ends of this property and would speak to the south side, the Commons apartment side, first. He read a letter from one of the neighbors, Ashley Hollinger Jones, who could not be present. A resident of 130-G DuRhu, she expressed strong objection to a project of the density as proposed. She said it would reduce her property value and would only increase the traffic congestion on the frontage road and on Dauphin Street Extension. She felt the project was not in the best interest of the neighbors and would only be approved if special interests of developers were more important than the community.

With reference to the north end of the property where he lived, Mr. Partridge said he was not opposed to progress. The neighbors were primarily concerned, however, with 138 apartments with an option to increase that by developing the property just east of that. They felt it was entirely too much. Mr. Partridge said he would also like to see an 8' concrete fence all across the development, all the way to St. Paul's exit, with no exit. There were already two other exits. Concerned about density, Mr. Partridge said they would like to see a 30 or 40-foot buffer zone, which would eliminate one of the 23 buildings where six of the apartments would be. That would be 132 units, which Mr. Partridge said was still too many. He would like to see maybe 78 units on the whole property.

Kerry Givens, a resident of 5 McAlpine Drive, agreed with what Mr. Barnett said about not wanting apartments that would be transient in nature. Ms. Givens also stated that they did not want to know that the apartment complex was even in the neighborhood. With reference to the #3 condition in the staff's recommendation which requires buffering for single-family residential, she asked if that referred to circling the entire lot, including the little jig that comes down where St. Paul's road comes out on the south, or was that just the 250 feet or so along South Avenue.

Mr. Olsen replied that as the property was zoned B-1, buffering would automatically be required by the Zoning Ordinance wherever it abutted residentially zoned property. He pointed out properties that were not adjacent to it but across the street, and said the reason the condition was so specifically worded was to include a fence along the street.

Ms. Givens further stated that they wanted a complete buffer between the neighborhood and the apartment complex, and they wanted the woods to remain as a buffer against noise. Also, she contended that putting an 8' concrete or brick or stucco wall would cut out traffic, both pedestrian and vehicular. They did not want residents of the apartments coming back and forth through there or parking on their street. Regarding the fire access, she said she spoke with the fire inspector and he indicated that the fire access was not a requirement or necessity, as long as there was ample room for a ladder truck to go through the complex and turn around and come back out. The residents do not want a



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gate and she was concerned with what might happen five years down the road with the fire access. When phase two gets developed or planned on paper, the fire access may change. Ms. Givens emphasized that they were opposed and they felt there was absolutely no reason for any kind of access on South Avenue.

In rebuttal, Mr. Stefan clarified that the gate was only there for life safety purposes. There would be no general traffic through there, but in a development this size they felt they couldn't put 138 families at risk by not having a back door. He said the gate would not be open. Regarding traffic, Mr. Stefan acknowledged that there was a traffic problem and said the clientele attracted to this type of development would be 25-30 percent retired people and people who do not have 9-5 jobs. Traffic therefore would be more scattered throughout the day. Regarding the dumpster, it would really be a trash compactor and would be on the opposite end from the subdivision and it would not be possible for it to be seen from the neighborhood. Mr. Stefan also noted that at one time there were apartments at this location that were built in approximately 1969. Spring Hill College tore them down after a number of years. In reference to the meeting held by the residents of the neighborhood, Mr. Stefan said they were not invited to attend, but surely would have attended had they been invited. Further, he pointed out land in the upper left hand corner of the plat that Mitchell did not own, but would agree to extend the fence along that property if they were given permission. He said that land was a dirt pit that would never be developed. Mr. Stefan noted that Spring Hill's long term plan was to make that an athletic field, so they wouldn't be extending a fence there because there was a deep ditch that you could not get across and on the other side was a baseball field.

Mr. Vallas asked what type fencing was proposed. Mr. Stefan stated they were proposing an 8-foot high wood screen fence.

Mr. Vallas asked if the staff could deny access to South Street except for emergency vehicles.

Mr. Stefan explained that that was their general plan.

Mr. Quimby asked if a fire access was required for an apartment complex such as proposed.

Mr. Clarke stated that it was preferred from the staff's land use and traffic circulation standpoint, given the configuration of the property.

Mr. Stefan said it was really a life safety issue.

Mr. Quimby expressed concern that over the long term it would turn into a situation like Yester Oaks. The plan meets all the standards of the Fire Department as it sits without the access. He expressed concern about putting more traffic on the single-family houses in the neighborhood, and suggested they put the entrance somewhere else such as DuRhu which was 50-60 feet wide.

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After discussion Dr. Rivizzigno made a motion to approve the plan subject to staff recommendations. Mr. Vallas seconded the motion.

In further discussion Mr. Quimby said that if the Fire Department did not require the second gated access, he felt it should not be required. He suggested College Lane might be used as an access, and said he would like to see a buffer zone on the South Avenue side.

Ms. Clarke stated that for the record, it was not known for sure if the Fire Department would require the second access from the life safety code.

It was noted that the opposition's statement was that the inspector was contacted and said the access would not be required if a ladder truck could have access to it and turn around.

Mr. Olsen commented that it was still a concern. He stated the Commission could add a condition that read the access be removed if the Fire Department determined that access was adequate.

Mr. Quimby said he would be happy to make that amendment to the motion.

Mr. Laier asked what kind of liability the Planning Commission would assume if they said they didn't have to build it and then a catastrophe happened.

Dr. Rivizzigno rejected the amendment.

Mr. Quimby said he understood that the developer voluntarily agreed to fence the whole north end, including the L-jag that was referred to, and also said it would be nice if it was something more than wood.

Mr. Frost stated there was a motion on the floor to approve subject to the staff recommendations without these modifications. He asked if Dr. Rivizzigno wanted to amend her motion.

Dr. Rivizzigno amended her motion to include that little jag along South Avenue.

Asked if the motion included a masonry fence, Dr. Rivizzigno replied that it did not.

Mr. Vallas seconded the motion.

Mr. McSwain asked if that included the north access.

Mr. Frost stated that it did include the north access.

There was further discussion about the emergency access.

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Mr. Olsen clarified that the staff recommendation was that access to South Avenue remain as access for emergency vehicles only and not for use by the residents or visitors.

Mr. Lawler asked if there was a way to redesign it where you could put the gate somewhere else.

Mr. Olsen replied that there was no other street frontage. The property to the east of them was a separate lot.

There being no further discussion Mr. Frost called the question, the motion being made by Dr. Rivizzigno and seconded by Mr. Vallas to approve this plan subject to the following conditions:

- 1) vacation of the Northern portion of DuRhu Drive that is shown as part of the site, with appropriate drainage and utility easements granted
- 2) relocation of the compactor to provide all maneuvering within the site, location and design to be approved by Urban Development;
- 3) provision of buffering (8' wooden privacy fence) along the north property line;
- 4) the access to South Avenue remain as access for emergency vehicles only, and not for use by the residents or visitors; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried.

Mr. Quimby opposed.

**Case #SUB2004-00024 (Subdivision)  
Springhill Apartments Subdivision**

Northwest corner of College Lane South and Du Rhu Drive, extending to the South side of South Avenue at the South terminus of McAlpine Drive, and extending to the West side of West I-65 Service Road South, 300' ± South of Springhill Business Park.  
2 Lots / 23.8+ Acres

**(For discussion see Case #ZON2004-00207 – Springhill Apartments Subdivision (PUD) – Above).**

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

- 1) vacation of the Northern portion of DuRhu Drive that is shown as part of the site, with appropriate drainage and utility easements granted; and
- 2) relocation of the compactor to provide all maneuvering within the site, location and design to be approved by Urban Development.

The motion carried unanimously.

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**Case #ZON2004-00197 (Planned Unit Development)**

Union Planters Subdivision

851 East I-65 Service Road South (Southeast corner of East I-65 Service Road South and Airport Boulevard).

A request for Planned Unit Development to allow multiple buildings on a single building site.

The site plan illustrates the proposed lot subdivision along with the existing parking spaces and drives.

**(Also see Case #SUB2004-00017 – Union Planters Subdivision – Below).**

Don Coleman, Rester and Coleman Engineering, was present representing the applicant and indicated he concurred with the recommendations of the staff.

There was no one present in opposition.

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

- 1) any new additions will require a new PUD; and
- 2) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2004-00017 (Subdivision)**

**Union Planters Subdivision**

851 East I-65 Service Road South (Southeast corner of East I-65 Service Road South and Airport Boulevard).

2 Lots / 4.2± Acres

**(Also see Case #ZON2004-00197 – Union Planters Subdivision (PUD) – Above).**

Don Coleman, Rester and Coleman Engineering, was present representing the applicant and indicated he concurred with the recommendations of the staff.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to approve the above referenced subdivision.

The motion carried unanimously.

**NEW PLANNING APPROVAL APPLICATION:**

**Case #ZON2004-00191**

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**St. Paul's Evangelical Lutheran Church**

6100 Cottage Hill Road (North side of Cottage Hill Road, 450'± West of Woodhillcrest Drive)

A request for Planning Approval to amend a previously approved Planning Approval to allow the burial of cremated human remains at an existing church in an R-1, Single-Family Residential district.

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

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) limited to the area depicted on the plan submitted;
- 2) provision of frontage trees, to be coordinated with Urban Forestry;
- 3) compliance with state and local codes relating to interment and/or scattering of cremated remains; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**NEW PLANNED UNIT DEVELOPMENT APPLICATION:**

**Case #ZON2004-00236**

**The Christian Bible Teaching Church**

1809 and 1811 Duncan Street (Southeast corner of Duncan Street and Lesesne Street)

A request for Planned Unit Development to allow multiple buildings on a single building site.

The plan illustrates the existing structures and proposed parking.

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

Mr. Jessie Agee, 3514 Antoine Street, said he wanted to make sure he understood correctly that parking would be allowed only for the church van.

Mr. Frost stated that when this plan was previously approved, parking for the church's van or any other vehicle was prohibited from backing into the street. He noted that recommendation #2 stated that the church's van was excluded from that prohibition and would be allowed to park there.

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There was no one present in opposition.

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

- 1) the screening of parking along Lesesne Street;
- 2) elimination of the drive/parking area in front of the sanctuary, to be approved by the Traffic Engineering Department and the Right-of-Way Division (excluding the space for the church van);
- 3) notification to the applicant that in the future, the porch may be removed at their expense, if work in the city's right-of-way necessitates its removal;
- 4) provision of landscaping and tree plantings in compliance with numbers and ratios in Section IV.E.3 of the Zoning Ordinance;
- 5) provision of a sidewalk along Duncan Street;
- 6) approval of all curb cuts by the Traffic Engineering Department; and
- 7) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

**NEW SUBDIVISION APPLICATIONS:**

**Case #SUB2004-00018**

**Brown-Manning Subdivision, Revised**

880 and 908 Dawes Road (West side of Dawes Road, 160'± South of Magnolia Village Drive North)

After discussion a motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until March 4, 2004 meeting at the request of the applicant to allow time to change the lot lay out.

The motion carried unanimously.

**Case #SUB2004-00016**

**The Canal Subdivision**

1912 and 1916 Kentwood Lane (West side of Kentwood Lane, 375'± West of Pinecrest Lane).

3 Lots / 1.3± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

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

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- 1) dedication of sufficient right-of-way to provide 25 feet from the centerline of Kentwood Lane;
- 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 #SUB2004-00019**

**Fairoaks Subdivision, Resubdivision of Block 7**

2478 Pinetree Drive (North side of Pinetree Drive at its West terminus).

2 Lots / 0.8± Acre

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Laier to approve the above referenced subdivision subject to the following condition:

- 1) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

**Case #SUB2004-00020**

**McZeek Place Subdivision**

Southwest corner of McCoverly Road Extension, (East-West) and (North-South).

4 Lots / 4.0± Acres

The applicant was present in this matter.

Mr. Frost stated that this application was recommended for denial because (1) the lots exceeded the width to depth ratio of the Regulations; and (2) access to the site is via a substandard dirt road. He said there is not a problem with the houses that were back there. The problem is when someone comes in and expands the use of the road. It would be putting more traffic on an already substandard road. The staff was trying to adhere to the Commission's policy to say that you are increasing the number of cars going down that dirt road by adding additional lots.

Mr. McZeek commented that before they put up the houses they should have taken that under consideration.

Pat Stewart, County Engineering, stated that this is one of the County's pay-as-you-go projects. He said they could go ahead and approve it and sign the plat, but the County

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was in the process of acquiring right-of-way. Asphalt is seven or eight months down the road.

Ms. Clarke commented that if this were given approval, in her mind it would be a premature approval and would give premature false hope to the applicant.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Laier to deny the above referenced subdivision for the following reasons:

- 1) the lots exceed the maximum width to depth ratio (V.D.3.); and
- 2) the plat would increase the number of lots that access a substandard road (a dirt road with less than 60-feet of right-of-way).

The motion carried unanimously.

**Case #SUB2004-00015**

**New Country Club Estates Subdivision, Fourth Unit, Resubdivision of Lot 5**

4251 Jordan Lane (Northwest corner of Jordan Lane and Byrnes Boulevard).

2 Lots / 0.7± Acre

There was no one present in opposition.

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant. Mr. Byrd noted that condition #2 in the staff recommendations requires dedication of a 25' radius. He said they could remove that condition because a radius was already on the plat.

The staff concurred.

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

- 1) the placement of a note on the final plat stating that Lot 5-B is limited to one curb cut, with the size, location and design to be approved by Traffic Engineering;
- 2) the removal of the structure prior to the recording of the final plat; and
- 3) the placement of the 25-foot minimum setback line on the final plat.

The motion carried unanimously.

**Case #SUB2004-00021**

**Schillinger South Commercial Park Subdivision, Resubdivision of Lot 3**

930 Schillinger Road South (West side of Schillinger Road, 785'± North of the West terminus of Hitt Road.

1 Lot / 1.8± Acres

Mr. Frost stated that the applicant was present and concurred with the staff recommendations.



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There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Mr. Laier 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 Schillinger Road; 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 #SUB2004-00023**

**Viking Place Subdivision, Phase I & II**

Northeast corner of Snow Road and Wulff Road.

53 Lots / 25.0± Acres

There was no one present in opposition.

Sheila Stewart, Austin Engineering, stated that they were in agreement with the staff recommendations except for #4. She requested they waive the requirement for the temporary turnaround because the length of the stub streets meets County requirements.

Mr. Olsen stated that the reason for this requirement was because the proposed east/west street would dead end, and the Regulations would require a turn around. County Engineering, however, has indicated that the length of the stub would not require, under their guidelines, a turn around, and the same would be applicable for the street stub between Phase I and Phase II.

Mr. Frost asked if the staff would delete that requirement.

Mr. Olsen replied that they would.

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

- 1) the dedication of sufficient rights-of-ways to provide 50' from the centerline of Wulff Road and Snow Road;
- 2) the placement of a note on the final plat stating that Lots 1 and 48 through 53 are denied direct access to Snow Road;
- 3) the provision of a traffic circle in the area of Lots 15 and 30;
- 4) parcel A shown as a lot on the final plat;
- 5) all detention areas be indicated on the final plat with a note stating that the maintenance thereof is the responsibility of the property owners association; and

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- 6) 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.

There being no further business, the meeting was adjourned.

**APPROVED:**

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Victor McSwain, Secretary

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Terry Plauche, Vice-Chairman

vm