

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JUNE 17, 2004 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victor McSwain, Secretary
Ann Deakle
James Laier (S)
Clinton Johnson
Mead Miller
Victoria L. Rivizzigno
James F. Watkins III
John Vallas

Members Absent

Nicholas Holmes

Urban Development Staff Present

Richard L. Olsen, Planner II
Margaret Pappas, Planner II
Shayla Jones, Long Range Planning
Ron Jackson, Urban Forestry
Val Manuel, Secretary II

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.

HOLDOVERS:

Case #SUB2004-00081 (Subdivision)

Burton Industrial Park Subdivision

5770 I-10 Industrial Parkway North (North side of I-10 Industrial Parkway North, 2/10 mile± West of U.S. Highway 90 West).

2 Lots / 1.3± Acres

Ms. Linda Burkett, representing Marshall McLeod Professional Land Surveyors, was present on behalf of the applicant. Ms. Burkett said that they were finally able to contact the adjacent property owners and had submitted a modified drawing to the staff. She asked that the application be held over to the July 1, 2004 meeting.

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A motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the July 1, 2004, meeting at the applicant's request.

The motion carried unanimously.

Case #ZON2004-01155 (Rezoning)

Raymond McCaffrey

2948 and 2950 Mathers Street (Northwest corner of Mathers Street and LeFevre Street).

A request for a change in zoning from B-1, Buffer Business, to B-3, Community Business, for light warehousing was considered.

The site plan illustrates the existing buildings, buildings to be removed, drives and landscaping, along with the proposed buildings, walks, and landscaping.

(Also see Case #ZON2004-01212 – Quality Valve Subdivision [PUD] Below, – and Case #SUB2004-00115 - Quality Valve Subdivision - Below).

The applicant was present and stated that they had submitted the Voluntary Use Form that the Commission and staff had requested.

There was no one present in opposition.

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

- 1) limited to the accompanying Voluntary Conditions and Use Restrictions as submitted by the applicant.

The motion carried unanimously.

Case #ZON2004-01212 (Planned Unit Development)

Quality Valve Subdivision

2948 and 2950 Mathers Street (Northwest corner of Mathers Street and LeFevre Street).

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

The site plan illustrates the existing buildings, buildings to be removed, drives and landscaping, along with the proposed buildings, walks, and landscaping.

(For discussion see Case #ZON2004-01155– Raymond McCaffrey [Rezoning] – Above; see also Case #SUB2004-00115 - Quality Valve Subdivision - Below).

There was no one present in opposition.

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

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- 1) completion of the rezoning and subdivision processes; and
- 2) limited to the accompanying Voluntary Conditions and Use Restrictions as submitted by the applicant.

The motion carried unanimously.

Case #SUB2004-00115 (Subdivision)

Quality Valve Subdivision

2948 and 2950 Mathers Street (Northwest corner of Mathers Street and LeFevre Street).

1 Lot / 0.4± Acre

(For discussion see Case #ZON2004-01155 – Raymond McCaffrey [Rezoning] – Above; see also Case #ZON2004-01212 - Quality Valve Subdivision [PUD]- Above).

There was no one present in opposition.

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

EXTENSIONS:

Case #SUB2003-00114 (Subdivision)

Forrest Cove Park Subdivision

South side of Moffett Road, ¼ mile± East of Forest Hill Drive.

1 Lot / 4.5± Acres

The request for a one-year extension of a previous approval was considered.

(Also see Case #ZON2003-01340 – Forrest Cove Subdivision [PUD] - Below).

There was no one present in opposition.

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

The motion carried unanimously.

Case #ZON2003-01340 (Planned Unit Development)

Forrest Cove Subdivision

South side of Moffett Road at the South terminus of Northview Drive.

A request for a one-year extension of a previously approved Planned Unit Development Approval to allow reduced lot widths and reduced lot sizes in a single-family residential subdivision.

The request for a one-year extension of a previous approval was considered.

(For discussion see Case #SUB2003-00114 – Forrest Cove Park Subdivision – Above).

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There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve a one-year extension of the previous approval.

Case #SUB2003-00116 (Subdivision)

Forrest Cove Subdivision

South side of Moffett Road at the South terminus of Northview Drive.

214 Lots / 66.7± Acres

The request for a one-year extension of a previous approval was considered.

There was no one present in opposition.

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

The motion carried unanimously.

Case #SUB2003-00115 (Subdivision)

Saybrook Subdivision (formerly Audubon Woods Subdivision)

West side of Sollie Road, 825'± South of One Southern Way.

273 Lots / 134.0± Acres

The request for a one-year extension of a previous approval was considered.

There was no one present in opposition.

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

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2004-01269 (Rezoning)

Darryl Anderson

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

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

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

(Also see Case #SUB2004-00127 – Everglaze Subdivision – Below).

Mr. Matt Orrell, Polysurveying Engineering – Land Surveying, was present representing the applicant. Mr. Orrell said that he had spoken with Ms. Pappas about voluntary restrictions which would limit the use to a garden center only. He said that his client had

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met with the neighbors and for the most part, they were in favor of this proposal, in light of the fact that side could be developed with thirty-five to forty homes. Mr. Orrell pointed out that the property on each side of the Colonial Oaks Subdivision was slowly being commercialized. He felt a garden center would be the best use for the property. Mr. Orrell emphasized that they would save as many of the large Live Oaks as possible. He stated they were asking for gravel parking, because they felt it would be more in line with a garden center and the gravel parking would be better for the trees than using asphalt.

Mr. Pete McLeod of Lucedale, Mississippi, owner and developer of the subject property, said that he had a nursery in Lucedale. Mr. McLeod stated that many of the smaller nurseries grow better quality of plants than the larger nurseries that go to the chain stores. He said his idea was to create an outlet for some of the smaller nurseries in George County for better quality plants. Mr. McLeod also stated that they would try to save as many trees as possible. He stated that the center part of the parking would be grass and they would try to save all of the large Oaks that are there.

Ms. Deakle asked if the pathways shown on the plat were for vehicular traffic, golf carts, or walking paths.

Mr. McLeod replied that the paths would be for foot traffic and possibly a golf cart or something to pull the plants.

Mr. McSwain asked about the voluntary use conditions.

Mr. McLeod said that he would like to get the site zoned for business, but if it came down to it, he would restrict the use to a garden center only.

Mr. Verlyn Ellertson was present speaking on behalf of Francis Cooley, who owns the property to the east side of the site. Mr. Ellertson stated that Ms. Cooley had a verbal agreement with the previous owners of the property to share the driveway, which they have done for 42 years. He stated that if the developer fenced off his property, Ms. Cooley would no longer be able to use the driveway. Mr. Ellertson stated that they were highly opposed to fencing this driveway. He also stated that it would be a legal challenge if there were not a reasonable solution.

Mr. Plauche asked Mr. Ellertson if they had discussed this matter with the applicant.

Mr. Ellertson stated that they had, but the developer did not seem too receptive. He submitted a drawing showing the drive in question.

Ms. Deakle asked if the agreement was in writing.

Mr. Ellertson replied that it was a verbal agreement.

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Ms. Marian Blotters, a resident of Colonial Oaks, said that she had received two notices, one of which was for subdivision of the property. She was not clear what the letters meant.

Mr. Plauche explained that this was just one piece of land, and the subdivision would combine it into one lot. It would be one lot for the nursery only.

Mr. Orrell said he spoke with his client and he felt that they could work out a joint driveway. He said that they would be happy to work with the Planning Commission and the engineer to establish where to place the fence. He also said that they need a fence for security reasons. Mr. Orrell also noted that they had sent out 52 notices. He felt that the neighbors would really like to see a garden center on this site in lieu of something else that could go there, or else they would have been at the meeting in opposition.

Mr. McLeod said he did not have a problem with Mrs. Coleman using the driveway and they could work that out.

After discussion, Ms. Deakle made a motion to approve this application for use as a garden center only. She said as far as the driveway that would be something that needed to be handled between the two parties.

In further discussion, Mr. Olsen stated that, because the restriction form was incomplete and there were some other issues with it, the staff would recommend the application be held over until the second meeting in July. That would allow them to submit a required PUD application, at which point they could show how the access was going to be dealt with.

Ms. Deakle retracted her motion and made a motion, seconded by Dr. Rivizzigno, to holdover this application until the July 15, 2004, meeting to allow the applicant time to submit revised Voluntary Conditions and Use Restrictions, and a Planned Unit Development application.

The motion carried unanimously.

Case #SUB2004-00127 (Subdivision)

Everglaze Subdivision

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

1 Lot / 6.1± Acres

(For discussion see Case #ZON2004-01269 – Darryl Anderson – Above).

A motion was made by Ms. Deakle and seconded by Dr. Rivizzigno to holdover this application until the July 15, 2004, meeting to allow the applicant time to submit revised Voluntary Conditions and Use Restrictions, and a Planned Unit Development application.

The motion carried unanimously.

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Case #ZON2004-01255 (Rezoning)

BankTrust (Mike Fitzhugh, Agent)

East side of South McGregor Avenue, 100'± South of Old Shell Road.

A request for change in zoning from R-1, Single-Family Residential, to B-2, Neighborhood Business, to eliminate split zoning was considered.

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

(Also see Case #ZON2001-01254 – BankTrust Subdivision [PUD] – Below, and Case #SUB2004-00122 BankTrust Subdivision – Below).

A motion was made by Mr. Plauche and seconded by Ms. Deakle to holdover this application until the July 1, 2004, meeting at the applicant's request.

The motion carried unanimously.

Case #ZON2004-01254 (Planned Unit Development)

BankTrust Subdivision

4401, 4403, 4411, 4417, 4419, and 4423 Old Shell Road (Southeast corner of Old Shell Road and South McGregor Avenue).

A request for Planned Unit Development Approval to allow multiple buildings on multiple building sites with shared access and parking between building sites was considered.

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

(For discussion see Case #ZON2004-01255 – BankTrust Subdivision [Rezoning] – Above, see also Case #SUB2004-00122 BankTrust Subdivision – Below).

A motion was made by Mr. Plauche and seconded by Ms. Deakle to holdover this application until the July 1, 2004, meeting at the applicant's request.

The motion carried unanimously.

Case #SUB2004-00122 (Subdivision)

BankTrust Subdivision

4401, 4403, 4411, 4417, 4419, and 4423 Old Shell Road (Southeast corner of Old Shell Road and South McGregor Avenue).

2 Lots / 1.4± Acres

(For discussion see Case # ZON2004-01255 – BankTrust Subdivision [Rezoning] – Above, see also Case #ZON2004-01254 – BankTrust Subdivision [PUD] – Above).

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A motion was made by Mr. Plauche and seconded by Ms. Deakle to holdover this application until the July 1, 2004, meeting at the applicant's request.

The motion carried unanimously.

Case #ZON2004-01266 (Rezoning)

Reginald Howard

East side of Union Avenue, 370'± North of Haas Avenue.

A request for change in zoning from B-2, Neighborhood Business, to R-1, Single-Family Residential, to allow a single-family residence was considered.

The site plan illustrates the existing lot lines and fencing along with the proposed lot configuration and setbacks.

(Also see Case #SUB2004-00123 – Howard Estates Subdivision – Below).

Ms. Linda Burkett, Marshall McLeod Professional Land Surveyors, stated that this application had been recommended for holdover because of an old lot line. However, Ms. Burkett said they had discovered a deed from 1934 describing the parcel.

Ms. Pappas stated that the staff did receive a copy of the deed, which would establish this as a non-conforming lot of record. She said based on the submission of the deed, the staff recommended approval of both the rezoning to R-1 and the one-lot subdivision. However, Ms. Pappas stated that Urban Forestry would require that preservation status be given to a large Live Oak tree on the property. She stated that she had spoken with the applicant's agent and they were agreeable to that condition.

There was no one present in opposition.

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

- 1) placement of a note on the final plat stating that preservation status is to be given to the 60" Live Oak on the west side of Lot 1. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

The motion carried unanimously.

Case #SUB2004-00123 (Subdivision)

Howard Estates Subdivision

East side of Union Avenue, 370'± North of Haas Avenue.

1 Lot / 0.2± Acre

(For discussion see Case #ZON2004-01266 – Reginald Howard [Rezoning] – Above).

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

- 1) placement of a note on the final plat stating the preservation status is to be given to the 60" Live Oak on the west side of Lot 1. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.

The motion carried unanimously.

NEW ZONING APPLICATION:

Case #ZON2004-01272

Lawler and Company, Inc.

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

A request for a change in zoning from R-1, Single-Family Residential, and B-3, Community Business, to LB-2, Limited Neighborhood Business, to eliminate split zoning for a proposed restaurant site was considered.

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

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

Mr. Phillip Leslie, 2259 Costarides, was present in his capacity as chairman of the trustee board of the Toulminville Warren Street United Methodist Church. Mr. Leslie said that they believe in business development in this area, but they had some concerns about the application. He said they understood that McDonald's would use the rear portion of the property for parking. He also said that the property was now zoned residentially. Mr. Leslie said that they wanted to be sure the property was used in a way that would minimize the impact of traffic at this location. Mr. Leslie noted that the site is on a very busy corner. He said that the church had concerns that traffic might interfere with worship services. The church also runs a day care center at the same location and they were concerned about additional traffic created by the parking lot, with traffic coming onto Clinton Street. If possible, Mr. Leslie said that they would like to see traffic routed to St. Stephens Road when entering into McDonald's, and to exit from McDonald's onto Toulmin Avenue and leave Clinton Street out. If this were done, he said that most of their concerns would be alleviated.

Mr. Plauche asked if traffic had been studied as far as driveways onto St. Stephens Road.

Ms. Jennifer White with Traffic Engineering stated that they had worked extensively with the applicant trying to work out problems with traffic flow at this intersection. Ms. White said that the lot is located right at the signal and it is an intersection with more than one

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entrance. She said they felt like they had worked out the best possible solution regarding the amount of traffic in and out of the lot. Ms. White also said that they had worked it out with the Department of Transportation to install a signal facing Toulmin Avenue. She stated that it would actually generate more traffic toward Toulmin Avenue, but traffic would be able to get out at the light and make a left turn. Otherwise, it would be almost impossible for traffic to exit onto St. Stephen's Road and make a left turn.

Rev. Donald Smith, pastor of the Toulminville Warren Street United Methodist Church located at 2271 St. Stephens Road, asked that Traffic Engineering also look at the possibility of placing speed bumps along Clinton Street and Toulmin Avenue. Mr. Smith said that the speed bumps would lessen the impact of traffic in the area. Mr. Smith also said there were many senior citizens who live in that area. He stated that the increased traffic would cause a negative impact on the residential side of the community. Mr. Smith said that they were not here to oppose the increase of business, but he wanted to remind them that if the erosion of residential occurs, then eventually the business side would erode too.

Mr. Plauche said that traffic calming was not an issue for the Planning Commission, but would be better addressed by the council member for this district, Mr. Richardson.

Rev. Smith stated that the neighbors had spoken with Mr. Richardson and they would follow up on their request.

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

- 1) dedication of sufficient right-of-way along St. Stephens Road to provide a minimum of 50' from the centerline of St. Stephens Road;
- 2) dedications along Toulmin Avenue and Clinton Street to provide a minimum of 25' from centerline, if necessary;
- 3) access to St. Stephens Road limited to a one-way-in drive near the Northeast corner and a one-way-out drive near the Southeast corner, exact location and design to be approved by Traffic Engineering;
- 4) access to Toulmin Avenue and Clinton Street limited to one 27' curb cut each, exact location to be coordinated with Urban Forestry, and location and design to be approved by Traffic Engineering;
- 5) relocation of the dumpster and pad to be clear of the dripline of the 38" live oak at the Southwest corner of the site;
- 6) provision of buffering of parking as required by Section VI.A.3.i.;
- 7) provision of a 6' wooden privacy fence along the West property line;
- 8) provision of sidewalks along all street frontages; and
- 9) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Mr. John Vallas recused from discussion and voting.

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NEW PLANNING APPROVAL APPLICATION:

Case #ZON2004-01256

Eliska Wireless Ventures I, Inc. (T-Mobile) (David D. Wilkins, Agent)

2262 Hillcrest Road (West side of Hillcrest Road, 525'± South of Charingwood Boulevard).

The request for Planning Approval to allow a 150' monopole telecommunications tower in a B-2, Neighborhood Business district was considered.

The plan illustrates the existing structures, along with the proposed tower.

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

Ms. Susan Stafford, a resident of 6508 Charingwood Drive South, which is in the adjacent neighborhood to the proposed tower site, expressed her concerns, namely, that (1) the surrounding area is primarily residential even though the specific area for the tower is zoned B-2; (2) the location of the tower at the proposed site would be aesthetically offensive to the neighborhood; (3) there is already enough existing development and congestion in this area because of commercial businesses along Hillcrest Road, and it would be an inappropriate place to put a tower ; (4) the safety of adjacent neighborhoods should be considered; and (5) if there was a hurricane there would be significant concern for residential safety and damage surrounding the site of the tower. Ms. Stafford stated that the residents respectfully requested that the Commission deny this application. She said that they felt there were many other areas more suitable to the applicant's needs.

Mr. David Wilkins, representing Eliska Wireless/T-Mobile, stated that the site that they selected was about 296 feet from the nearest residential zoning district line. Mr. Wilkins said that the tower would be 10 feet from the commercial property line on the south. He stated they chose this site to get the maximum buffer separation from residential properties. The ordinance requires a 225-foot buffer, and they have a little over 296 feet separating the tower base from residential property. Mr. Wilkins said that they contacted the owners of the property to the south and sent a fax showing them a sketch of the site layout and how close the tower would be to their property line. He said that they didn't have any problem with it. As far as locating the tower somewhere else at Hillcrest and Cottage Hill, the only other site that could provided more than 296 feet in all directions from residential property would be at the northeast corner of Cottage Hill and Hillcrest, at the Carriage Town shopping center. Mr. Wilkins said that they contacted the Mitchell Company (owner), but they were not interested in leasing something in the middle of their parking lot. Mr. Wilkins also said that was the same case with the property to the south. He said that there was just a little bit of good topography on that property, but it was not available for lease. This was the best available site they could find in the area where they could provide the coverage they needed.

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

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance (for the lease parcel);
- 2) approval of any necessary variances from the Board of Zoning Adjustment;
- 3) provision of a 24-foot wide drive as required by Traffic Engineering; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2004-00132

The Arbors Subdivision

West side of McFarland Road, 470'± South of McFarland Way.

48 Lots / 18.8± Acres

Mr. Plauche 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 Ms. Deakle to approve the above referenced subdivision subject to the following conditions:

- 1) placement of a note on the final plat stating that Lots 1-3, and 48 are denied access to McFarland Road;
- 2) the placement of a note on the final plat stating that all corner lots are limited to one curb cut each, with the size, design and location to be approved by County Engineering;
- 3) the placement of a note on the final plat, stating that a buffer, in compliance with Section V.A.7., will be provided where the site adjoins residentially developed property;
- 4) all common areas be indicated on the final plat, and a note on the final plat stating that maintenance of all common areas are the responsibility of the property owners association; and
- 5) placement of the required 25-foot minimum building setback line on the final plat.

The motion carried unanimously.

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Case #SUB2004-00126

Demopolis Place Subdivision

West side of North Jackson Street, extending from St. Anthony Street to State Street.

3 Lots / 0.8± Acre

Mr. Plauche 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 Ms. Deakle to waive Section V.D.9. and approve the above referenced subdivision subject to the following conditions:

- 1) the placement of five-foot setback lines along the street frontages; and
- 2) ingress and egress to be coordinated with Urban Forestry due to existing City trees on right of way.

The motion carried unanimously.

Case #SUB2004-00120

Garrett Estates Subdivision

West side of Lancaster Road, 3/10 mile± South of Laurendine Road.

2 Lots / 12.9± Acres

Mr. Plauche 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 Ms. Deakle 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 lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 2) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried unanimously.

Case #SUB2004-00111

Hunter's Cove Subdivision

North side of Theodore Dawes Road at the North terminus of Leytham Drive, extending North to the West termini of Cheyenne Street and Hooper Street, and East to the South termini of Huron Road and Mackenzie Drive.

367 Lots / 135.0± Acres

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

Ms. Doris Girley, 8060 Theodore-Dawes Road, which adjoins the subject property, asked how big the buffer zone would be at the rear of her property.

Mr. Olsen stated that the Subdivision Regulations do not require buffering for residential properties abutting residential properties; the buffer zone would only be required if any of the properties in this subdivision were developed commercially.

Ms. Girley further stated that she owned five acres and had horses, steers, chickens and ducks. She asked if there was any way to keep people that move there off her property.

Mr. Olsen stated that would be a civil matter between Ms. Girley and the neighboring property owners. He said this property was not within the City and there is no zoning beyond the city limits. The Planning Commission only has jurisdiction in this area with regard to the actual division of the land, not how it is used.

Ms. Girley also expressed concerns that the holding ponds would cause mosquitoes. She asked if they were going to put fish in them to eat up the mosquito larvae.

Mr. Plauche replied that the Planning Commission has no way to regulate what an owner could put in their ponds.

Mr. Chester Fesler, 5037 Huron Road, expressed his concern about the sewage situation and efforts the residents had made trying to get sewer connections to their homes. Mr. Fesler said that he was promised 30 years ago that he would have city sewer, but he still does not have it. He said when the Meadowlake Subdivision and the school were connected to City sewage, he collected a petition in hopes that they could be connected. Mr. Fesler said he had tried to get something done through the Mobile Area Water and Sewer System but had been unsuccessful. He did not understand how the system, that was not big enough 20 years ago, is all of a sudden big enough to handle 350 additional homes.

Mr. Pat Stewart, County Engineering, stated that most of the sewer systems were being installed by the developers and then turned over either to the Mobile Area Water and Sewer System, or South Alabama Utilities.

Mr. Olsen noted that Mobile Area Water Sewer System had to sign off on these subdivisions to say that there is adequate capacity for the subdivision before it can be built. With regard to the Meadowlake Subdivision being connected to the city sewer, Mr. Olsen said that was something the Commission could not address; the matter should be directed to Mobile Area Water Sewer System.

A motion was made by Mr. Vallas and seconded by Mr. McSwain to waive Section V.D.2. and approve the above referenced subdivision subject to the following conditions:

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- 1) dedication of the necessary right-of-way to provide 50-feet from the centerline of Theodore Dawes Road, a planned major street;
- 2) the placement of a note on the final plat stating that direct access to Dawes Road is denied for Lots 1-4 of Unit Three and Lot 1 of Unit One, Phase One;
- 3) the placement of a note on the final plat stating that the maintenance of all common areas shall be the responsibility of the property owners;
- 4) the construction of a deceleration lane and left turn lane for east bound traffic on Theodore Dawes Road as previously offered by the applicant;
- 5) the provision of traffic calming devices as offered by the applicant, to be coordinated with and approved by County Engineering and Urban Development Department; and
- 6) the placement of a note on the final plat stating that a buffer, in compliance with Section V.A.7., will be provided where the site adjoins residentially developed property.

The motion carried unanimously.

Case #SUB2004-00130

Leighton Place Subdivision

East side of Riviere du Chien Road, 850'± South of Lloyd Station Road.

41 Lots / 19.2± Acres

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

Mr. Steve Green, 3817 St. Andrews Court, owned property adjacent to the proposed subdivision, and expressed his appreciation to the Planning Commission for the opportunity to express his concerns. Mr. Green said that he and all the neighbors of the Riviere du Chien community were for the proposed development. With approval of the proposed subdivision today, Mr. Green said that forty acres that would have been developed with 110 homes would now be developed with forty-seven homes. He said between the two adjoining properties, there would be less environmental impact, less traffic impact, and less wetlands intrusion. Mr. Green felt that the bigger issue today was that the Planning Commission had now set a precedent for future development to look at the big picture, not just the minimum standards. He said that he hoped that the Commission would approve this application.

There was no one present in opposition.

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 placement of a note on the final stating that Lots 1 and 37 thru 39 are denied direct access to Riviere du Chien;
- 2) the placement of a note on the final plat stating that all corner lots are limited to one curb cut each;

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- 3) all common areas be indicated on the final plat (including wetlands) and a note on the final plat stating that maintenance of all common areas are the responsibility of the property owners association;
- 4) approval of all applicable federal, state and local agencies; and
- 5) placement of the required 25-foot minimum building setback line on the final plat.

The motion carried unanimously.

Case #SUB2004-00124

Lydia's Place Subdivision

Northwest corner of Begeman Road and Norton Road.

1 Lot / 2.7± Acres

Ms. Linda Burkett, Marshall McLeod Professional Land Surveyors, was present representing the applicant. Ms. Burkett stated that the reason for this subdivision was to change from a metes and bounds subdivision to a lot description so they can make changes on the property. Ms. Burkett also stated that the adjoining property owners had signed a letter stating they did not want to participate in the subdivision

Ms. Anita Armstrong, 414 Begeman Road, stated that her property was the parcel that was cut out. Ms. Armstrong asked what would happen if five years or so down the road the applicant decided that they wanted to sell the property. She also asked if trailers, apartments, or just anything could be put in there.

Mr. Plauche explained that outside the city limits there was no zoning to restrict use of the property.

Ms. Armstrong further stated that she shared a drive with the neighbors and wanted to go on record that they would not be trespassing, but would still have access.

Mr. Plauche stated that the shared drive would be a matter between Ms. Armstrong and the applicant. He said that she would need to have a written agreement for use of the drive.

Ms. Pappas stated that the staff had received a copy of the letter Ms. Burkett referred to and the letter stated the other owners did not wish to participate in the subdivision. She said that in the past, the Commission had honored these types of requests and approved the subdivision. Ms. Pappas said that the staff recommended approval subject to the waiver of the width-to-depth ratio, which is Section V.B.3.; the provision of a buffer if the property is developed commercially, in compliance with Section V.A.7.; and denial of access to Norton Road, which was shown as a private dirt road.

Ms. Burkett stated that the applicant agreed to those conditions.

Ms. Armstrong wanted to make sure it was understood that she did not want to be included in this subdivision.

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Mr. Pat Stewart, County Engineering, stated that Ms. Armstrong should be aware that once the plat is recorded, her lot would be flagged that no permits would be issued to her site until it becomes a legal lot of record.

A motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to waive V.D.3. and approve the above referenced subdivision subject to the following conditions:

- 1) provide a buffer in compliance with Section V.A.7. of the Subdivision Regulations; and
- 2) denial of access to Norton Road, which is a dirt road.

The motion carried unanimously.

Case #SUB2004-00125

MacArthur Place Subdivision, Lot 7, Resubdivision of and Addition to

6108 MacArthur Place Court South (North side of MacArthur Place Court South at its East terminus, extending to the West side of McNeil Street [vacated] at its South terminus).

1 Lot / 1.0± Acre

Mr. Plauche 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 Ms. Deakle to approve the above referenced subdivision subject to the following conditions:

- 1) the placement of the 25-foot minimum setback line on the final plat; and
- 2) the provision of a 20-foot wide drainage easement along what is currently Lots 4 and 5, Block 138, Delaney's Addition to Springhill, exact location to be coordinated with the Engineering Department.

The motion carried unanimously.

Case #SUB2004-00133

Riverview Pines Subdivision

South side of Riverview Pointe Drive, 1,650'± East of Old Rangeline Road.

1 Lot / 5.0± Acres

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

There was no one present in opposition.

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A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to waive Section V.D.3. and approve the above referenced subdivision subject to the following conditions:

- 1) the approval of all applicable federal, state and local agencies;
- 2) 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
- 3) that Riverview Pointe Drive be shown as a public right-of-way on the final plat.

The motion carried unanimously.

Case #SUB2004-00128

Root-Moore Garden Estates Subdivision

2100 River Forest Road (North side of River Forest Road, ¼ mile± West of its East terminus, extending East and North to Perch Creek).

2 Lots / 34.3± Acres

Mr. Plauche 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. Vallas to waive Section V.D.3. and approve the above referenced subdivision subject to the following conditions:

- 1) dedication of any necessary right-of-way to provide 25-feet from the centerline of River Forest Road;
- 2) the placement of the 25-foot minimum setback lines on the final plat (measured from any necessary dedication);
- 3) the approval of all applicable federal, state and local agencies;
- 4) the submission of documentation to establish the existing dwellings as legal nonconforming uses prior to 1967; and
- 5) that an adequate setback be provided between the new lot line and any structures prior to the recording of the final plat.

The motion carried unanimously.

Case #SUB2004-00129

SKB Estates Subdivision

3119 Moffett Road (South side of Moffett Road, 285'± East of Western Drive, extending to the North side of Spring Hill Avenue, 150'± East of Western Drive).

1 Lot / 0.8± Acre

Mr. Will Lawler, Lawler and Company, was present representing the owner of the property. Mr. Lawler stated that he took issue with the Traffic Engineer's requirement of limiting them to a single curb cut to both Moffett Road and Spring Hill Avenue. He said currently there is a McDonald's restaurant on the site and it has two curb cuts to each

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road. Mr. Lawler said the cuts were needed because traffic for delivery trucks and tractor-trailers back up onto the road. He said they respectfully requested to maintain the existing curb cuts.

Mr. Vallas said it was almost like two parking lots with a median in there. You enter from one side and really can't get to the other side.

Ms. Jennifer White with Traffic Engineering stated that the parking was Traffic Engineering's concern, not the two driveways. Ms. White said their concern was the circulation--not being able to cut between Moffett Road and Spring Hill Avenue. She noted that the drawing didn't show any kind of median dividing the two lots between Spring Hill Avenue and Moffett Road. Ms. White recommended that they consider some sort of modification to the parking.

Mr. Ryan Rogers, representing McDonald's Corporation, stated that they were turning the existing building on the site, creating a drive access straight across from Spring Hill Avenue to Moffett Road. However, due to stacking with the drive-thru, trucks having access to get in, ensuring safe conditions for their customers, as well as people that are driving on Spring Hill Avenue and Moffett Road, it would be beneficial for everyone to have a full access getting in and out easily. Mr. Rogers said they would be open to working with Traffic Engineering on the location of the driveways.

Mr. McSwain asked if there was anything besides a median that would accomplish what they want as far as the parking and access.

Ms. White said they would have to layout the parking to prevent having a straight shot from Spring Hill Avenue to Moffett Road.

Mr. Rogers said that they would have no problem working with Traffic Engineering to improve the cut-through situation.

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

- 1) the dedication of any necessary right-of-way to provide 50-feet from the centerline of Spring Hill Avenue and Moffett Road; and
- 2) placement of a note on the final plat stating the location and design of curb cuts and internal circulation pattern are to be approved by Traffic Engineering.

The motion carried unanimously.

Case #SUB2004-00131

West Field Subdivision

Northwest corner of Scott Dairy Loop Road West and Westlake Road.

128 Lots / 32.8± Acres

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Mr. Larry Jones, Thompson Engineering, was present on behalf of the applicant and stated that they agreed with the staff recommendations except for the street stub to the West. Mr. Jones said they felt it would create a cut-through and increase traffic if the property to the west was developed. He stated that there is adequate area along West Lake Road for circulation.

Mr. Gary Small, 10031 County Road, stated that he was a resident of the property adjacent to this proposed subdivision. Mr. Small said that their community consisted of homes built on one-acre and two-acre lots, and they objected to putting 128 homes on 32.8 acres. He said their main concern was septic tanks, and what it would do to the existing well systems of their community. Mr. Small also expressed concern about an increase in traffic, and that the homes would be of lesser value than the homes in the adjacent community. He asked that the developer reconsiders and possibly develops larger, half acre lots, and builds homes consistent with the value of existing homes in the community.

Mr. Jerry Mason, a resident of 3310 Scott Dairy Road for 27 years, said his home was adjacent to the subject property. Mr. Mason was concerned about water and sewer, and questioned how this subdivision and the school could get city water and sewer, when he had been there twenty-seven years and still had not been able to get connected to sewer. He said that they did get water about three years ago. Mr. Mason felt that they were being treated like second-class citizens. He also said that he was concerned about the size of the proposed lots, noting that his lot was 106-feet wide with a six-foot easement, and about 298-feet deep; and he had built a nice size home on it.

Mr. Plauche explained that the Planning Commission could not talk with the utilities. He said that they have a certain capacity requirement and will not allow a subdivision to go in unless there is adequate capacity.

Mr. Miller commented that with the subdivision being in the county, the Planning Commission was limited as to what they could do. He suggested that the adjacent residents contact their county commissioners in regard to water and sewer.

With regard to the street stub, Mr. Olsen said the developer had several options. He pointed out on the plat two different locations where the stub out could be located and not cause a cut-through situation. Mr. Olsen said that it would provide better circulation for future development of the property to the west. Mr. Olsen also noted that the stub out was required by the Subdivision Regulations.

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 Scott Dairy Loop Road West and Westlake Road;

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- 2) the placement of a note on the final plat stating the Lots 1, 94, 104-106, 114-116, 123-125 are denied direct access to Scott Dairy Loop Road West, and Lots 65-73, 126-128 are denied direct access Westlake Road;
- 3) the provision of a street stub to the west;
- 4) the area in the southwest corner of the subdivision, to the rear of Lots 63-65 to be labeled as common area and/or detention and a note placed on the final plat stating that the maintenance thereof is the responsibility of the property owners;
- 5) the placement of the 25-foot minimum building setback line on the final plat; and
- 6) the placement of a note on the final plat stating 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.

In further discussion, Mr. Stewart stated that the County had talked to Mobile Area Water Sewer System and to South Alabama Utilities and both of them can supply the sewer system they needed. The water and sewer were available. Mr. Stewart said as a matter of fact, it was already out there; you simply must have a pump system.

Mr. Stewart also stated that the developer was bearing the cost for water lines, sewer lines, and the equipment. He said that the developer passes the cost on to the citizen buying a lot. Mr. Stewart also said they were not getting it free. It is being provided to them as a new subdivision; the developer has to put the sewer in, in order to subdivide it.

Case #SUB2004-00121

Winston Square Subdivision

South side of Old Government Street Road, 130'± West of Willow Pointe Drive, extending to the East side of an unopened, unnamed public right-of-way.

11 Lots / 2.8± Acres

Mr. Jerry Byrd, Byrd Surveying Company, was present representing the owners. Mr. Byrd noted that the staff was recommending a 20' side yard setback along Old Government Street Road. Mr. Byrd asked that they be allowed to provide only a 15' side yard setback instead so that the same width house could be built on each of the lots. He pointed out that the subdivision adjoining this site has a 10' side yard setback. Mr. Byrd said that he did not feel a 15' setback would be harmful to the neighborhood.

There was no one present in opposition.

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 the Lots 1 and 11 are denied direct access to Old Government Street Road;
- 2) the vacation process be completed prior to the recording of the final plat;
- 3) the provision of a 15' side yard setback along Old Government Street Road;

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- 4) the detention pond be labeled as common area and a note placed on the final plat stating that the maintenance thereof is the responsibility of the property owners; and
- 5) the placement of a note on the final plat stating 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.

OTHER BUSINESS:

Public Hearing

A public hearing to consider approval of the Smart Growth Implementation Initiatives Document was held.

There was no one present in opposition.

A motion was made by Dr. Rivizzigno and seconded by Ms. Deakle to approve the Smart Growth Implementation Initiatives Documents.

The motion carried unanimously.

Business Meeting

Mr. Olsen stated that there would be a business meeting of the Planning Commission and Board of Adjustment on July 29. It would be a seminar on the duties, functions, and legal issues, etc., of the Boards.

Election of Officers

Mr. Olsen asked that the Board be prepared to elect new officers at their next meeting on July 1, 2004.

There being no further business, the meeting was adjourned.

APPROVED: August 5, 2004

Victor McSwain, Secretary

Terry Plauche, Chairman

vm