

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF JUNE 15, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Ann Deakle
Bill DeMouy
Nicholas Holmes
Mead Miller
Roosevelt Turner
James Watkins III, Vice-Chairman
John Vallas

Members Absent

Clinton Johnson
Victoria L. Rivizzigno, Secretary

Urban Development Staff Present

Richard L. Olsen,
Deputy Director of Planning
Bert Hoffman, Planner II
Val Manuel, Secretary II

Others Present

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

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

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

APPROVAL OF MINUTES:

After discussion a motion was made by Mr. Miller and seconded by Mr. Vallas to approve the minutes of the May 4, 2006 and May 18, 2006, meetings as submitted.

The motion carried unanimously.

HOLDOVERS:

Case #ZON2006-00904 (Planning Approval)

St. Luke Baptist Church

751 Texas Street

(Southeast corner of Texas Street and South Bayou Street).

June 15, 2006

A request for Planning Approval to allow the expansion of an existing church in an R-3, Multi-Family Residential District to include new restroom facilities and a fellowship hall was considered.

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

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) depiction of stormwater detention, if required by City Engineering;
- 2) revision of note # 4 to read: "Preservation status is given to the 45-inch Live Oak Tree located on the Northwest side of the existing church building; 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," and retaining of notes # 1-3, and 5-6, as depicted on the revised site plan;
- 3) completion of the Subdivision process;
- 4) full compliance with all other municipal codes and ordinances; and
- 5) provision of the revised site plan (depicting stormwater detention – if required – and revised note #4) to Urban Development.

The motion carried unanimously.

Case #ZON2006-00903 (Planned Unit Development)

St. Luke Subdivision

751 Texas Street

(Southeast corner of Texas Street and South Bayou Street).

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

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

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) depiction of stormwater detention, if required by City Engineering;

June 15, 2006

- 2) revision of note # 4 to read: "Preservation status is given to the 45-inch Live Oak Tree located on the Northwest side of the existing church building; 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," and retaining of notes # 1-3, and 5-6, as depicted on the revised site plan;
- 3) completion of the Subdivision process;
- 4) full compliance with all other municipal codes and ordinances; and
- 5) provision of the revised site plan (depicting stormwater detention – if required – and revised note #4) to Urban Development.

The motion carried unanimously.

Case #SUB2006-00080 (Subdivision)

St. Luke Subdivision

751 Texas Street

(Southeast corner of Texas Street and South Bayou Street).

1 Lot / 1.2± Acres

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

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) placement of a note on the plat stating that the site is limited to the existing curb cuts;
- 2) delineation of flood zones on the plat, per Engineering requirements;
- 3) notation of required finished floor elevations on the plat, per Engineering requirements;
- 4) placement of a note on the plat stating that no permanent structures may be built within the drainage and utility easements; and
- 5) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00104 (Subdivision)

Mobile South Business Park, Unit Two, Phase One, Resubdivision of Lots 5 & 6 and Addition to

South and East sides of Mobile South Street at its East terminus.

2 Lots / 42.7± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

June 15, 2006

There was no one present in opposition.

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

- 1) the revision of the plat to include the 23'± wide parcel to the East in Lot 2, rather than showing it as Future Development;
- 2) the revision of the legal description to include all of Lot 2 (including the 23'± wide parcel to the East);
- 3) the revision of the dimensions on the plat to reflect that the 60'± wide parcel to the West is not included in Lot 2 and that the 23'± wide parcel to the East is included;
- 4) that the Future Development area be outlined as a whole, rather than depicted as individual parcels;
- 5) verification of the alignment (or non-alignment) of the Eastern edge of Lot 2 (including the 23'± wide parcel) with the Eastern edge of the Future Development area to the North;
- 6) that the site receive approval from all applicable federal, state, and local agencies prior to the issuance of any permits;
- 7) the placement of a note on the final plat stating that Lot 1 is limited to three curb cuts, and Lot 2 to a single curb cut, with size, location, and design subject to County Engineering approval;
- 8) the placement of a note on the final plat stating that there will be no resubdivision of Lot 2 until additional frontage on a constructed and dedicated street is available;
- 9) the placement of a note on the final plat stating that the Future Development area must receive final subdivision approval prior to the issuance of any permits for the Future Development area; and
- 10) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #ZON2006-01028 (Rezoning)

River 4 Properties L.L.C.

4061 Hillcrest Lane West

(South side of Hillcrest Lane West at Pansy Court [private street]).

The request for a change in zoning from R-1, Single-Family Residential district, to R-3, Multi-Family Residential district, to allow residential condominiums was considered.

The plan illustrates the proposed private streets and building sites.

June 15, 2006

Mr. Plauche stated that this application would be held over until the meeting of July 20, 2006, but if anyone was present to speak in this matter they could do so today.

Russ Wimberly, a resident of 4037 Hillcrest Lane West, stated that his property was about 120 yards from the subject property. Mr. Wimberly said he felt the property was ripe for development, but did not think that going from R-1 to R-3 was necessary to do what the developer needed to do with this property. He was concerned about the long-term impacts on the neighborhood. Mr. Wimberly further stated that he was the director of the South Alabama Regional Planning Commission, and part of their duties were to provide technical assistance to planning commissions, primarily to the smaller municipalities in the region. In his opinion, it was incumbent upon the Planning staff to recommend against changing the zoning from R-1 to R-3 simply because it was not in keeping with the City's Comprehensive Plan. Mr. Wimberly noted that the Plan requires maintaining the single-family district, and he was definitely against changing the zoning from R-1 to R-3.

Jim Percy, a resident of 812 Brighton Place, which was immediately south of the subject property, stated that he was the president of the Brighton Place Homeowners Association. He said the residents were opposed to the proposed rezoning due to the increased density. Although there were currently 10 decaying and apparently abandoned homes on this property, all of the adjacent property was R-1 and occupied by single-family residential dwellings. Mr. Percy contended that rezoning to R-3 would appear to be an example of the kind of zoning that is counter to the General Land Use Plan. They were also concerned that the development of 23 patio homes on 3.6 acres would significantly increase the traffic, noise, stormwater and other hazards to the detriment of the surrounding properties. He pointed out that the proposed average residential common area per home of 5,000 square feet was about half that of the smallest surrounding properties and much smaller than several properties which were more than an acre. The high density also means that more than half of the mature trees, including some Oaks as large as 44 inches in diameter, would be removed and many of the remaining trees would be weakened by having their roots paved over. They feel this would change the character of the area. Mr. Percy said they were not against development of the property, and would like to see the currently deteriorating homes replaced with 10-15 homes that were more in keeping with the neighborhood. However, they felt the current rezoning and development proposal unacceptable and respectfully requested that the property remain R-1, and that the proposal be rejected and modified to reduce the density to a level more in keeping with the neighborhood. Mr. Percy presented a petition in opposition signed by more than 40 distinct property owners in the area.

After discussion a motion was made by Mr. Vallas and seconded by Mr. Miller to holdover this application until the July 20, 2006, meeting for the following reason:

- 1) to allow revision of the PUD site plan.

The motion carried unanimously.

June 15, 2006

Mr. Vallas recused from discussion and voting.

Case #ZON2006-01031 (Planned Unit Development)

Wisteria Trace Subdivision

4061 Hillcrest Lane West

(South side of Hillcrest Lane West at Pansy Court [private street]).

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

The plan illustrates the proposed private streets and building sites.

Mr. Plauche stated that this application would be held over until the meeting of July 20, 2006, but if anyone was present to speak in this matter they could do so today.

After discussion a motion was made by Mr. Plauche and seconded by Mr. DeMouy to holdover this application until July 20, 2006, meeting, for the following reasons:

- 1) revision of the site plan to depict the minimum required pavement width and curb radii;
- 2) revision of the site plan to remove the "lot" lines; and
- 3) revision of the site plan to depict fence and landscape buffering along the East, South and West property lines that complies with Section 64-4.D. of the Zoning Ordinance. The revised site plan should be provided to Urban Development by June 27, 2006.

The motion carried unanimously.

Case #SUB2006-00101 (Subdivision)

Wisteria Trace Subdivision

4061 Hillcrest Lane West

(South side of Hillcrest Lane West at Pansy Court [private street]).

1 Lot / 3.6± Acres

The plan illustrates the proposed private streets and building sites.

Mr. Plauche stated that this application would be held over until the meeting of July 20, 2006, but if anyone was present to speak in this matter they could do so today.

After discussion a motion was made by Mr. Plauche and seconded by Mr. DeMouy to holdover this application until the July 20, 2006, meeting, for the following reason:

- 1) to allow revision of the PUD site plan.

The motion carried unanimously.

June 15, 2006

EXTENSIONS:

Case #SUB2005-00133 (Subdivision)

Bainbridge Subdivision

3650 McFarland Road

(West side of McFarland Road, 140'± South of McFarland Way).

32 Lots / 10.0± Acres

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

A motion was made by Mr. Miller and seconded by Mr. Vallas to grant a one-year extension of approval for the above referenced subdivision.

The motion carried unanimously.

Case #SUB2005-00089 (Subdivision)

Graceland Court Subdivision

South side of Jeff Hamilton Road, 1,000'± East of Snow Road.

23 Lots / 11.0± Acres

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

A motion was made by Mr. Miller and seconded by Mr. Vallas to grant a one-year extension of approval for the above referenced subdivision.

The motion carried unanimously.

Case #SUB2003-00114 (Subdivision)

Forest Cove Park Subdivision (formerly Forrest Cove Park Subdivision)

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

1 Lot / 4.5± Acres

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

Mr. Plauche noted that a misprint on the agenda stated that the application was recommended for approval. The application was actually recommended for denial.

After discussion a motion was made by Mr. Miller and seconded by Mr. Holmes to deny this request.

The motion carried unanimously.

Case #SUB2005-00128 (Subdivision)

Pine Valley Subdivision, Second Addition

East side of Schillinger Road, 530'± South of Adobe Ridge Road South, extending to the South terminus of Ridgeline Drive.

June 15, 2006

2 Lots / 53.2± Acres

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

After discussion a motion was made by Mr. Turner and seconded by Mr. Watkins to grant a one-year extension of approval for the above referenced subdivision. However, it should be noted that a second extension is unlikely.

The motion carried unanimously.

Case #SUB2005-00121 (Subdivision)
Rangeline 90 Subdivision, Unit One (Revised), Resubdivision of Parcel 6,
Resubdivision of Parcel 6A

Northwest corner of Halls Mill Road and Lowe's Drive, extending through to the East side of U.S. Highway 90 West, 250'± North of Lowe's Drive.

2 Lots / 11.4± Acres

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

After discussion a motion was made by Mr. Turner and seconded by Mr. Watkins to grant a one-year extension of approval for the above referenced subdivision. However, it should be noted that a second extension would be unlikely.

The motion carried unanimously.

Case #ZON2004-01339 (Planned Unit Development)
Country Club of Mobile (W. Kennon Drew, Agent)

4101 Wimbledon Drive West (South side of Wimbledon Drive West, 200'± West of Turnin Lane).

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

After discussion a motion was made by Mr. Turner and seconded by Mr. Watkins to grant a one-year extension of approval of the Planned Unit Development Approval referenced above to allow multiple buildings on a single building site.

The motion carried unanimously.

Case #ZON2001-01582 (Planned Unit Development)
Mobile Infirmary Association (Mark Nix, Agent)

East side of Infirmary Drive, 1030'± North of Spring Hill Avenue.

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

Mr. Vallas noted that there was no one present to speak on behalf of the applicant. He asked if the applicants were aware that the staff had recommended denial.

June 15, 2006

Mr. Olsen said it really would not cause them any major impact, because basically everything that they had requested on the PUD had been constructed. The staff had even called and informed the applicant that they should withdraw, but they failed to do so.

After discussion a motion was made by Mr. Turner and seconded by Mr. Miller to deny a one-year extension of approval of the Planned Unit Development Approval referenced above to allow construction of a ground-level parking lot instead of a parking building.

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00107

Kirkpatrick-Airport Subdivision

8681 Airport Boulevard

(Southeast corner of Airport Boulevard and Hamilton Bridges Drive West).

1 Lot / 4.1± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

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

The motion carried unanimously.

Case #SUB2006-00112

Carwie Subdivision, Resubdivision of Lot 2

8965 Moffett Road

(South side of Moffett Road, 325'± East of Illinois Street and running through to the East side of Illinois Street, 240'± South of Moffett Road).

2 Lots / 4.7± Acres

Jerry Byrd, Byrd Surveying, was present on behalf of the applicant. Regarding the requirement of a 40-foot access easement to Lot 1, Mr. Byrd said they would like to widen that easement to 50 feet to allow for a future roadway if desired to come in from Moffett Road, and retain that ownership into Lot 2. Mr. Byrd said there was currently a driveway that Lot 1 accesses, as well as one curb cut into Moffett Road. Those were the two curbs cuts referenced in the staff report.

June 15, 2006

Mr. Plauche asked if he understood that they were asking that the strip on the West side of Lot 1 be incorporated into Lot 1.

Mr. Olsen said that was correct, because the plat showed an easement across that area for a non-exclusive easement for ingress and egress. If that were the case, then the easement could remain and it would be part of Lot 1 and not have the unusual inappropriate configuration. Now, however, Mr. Byrd was requesting that this strip be widened from 40 feet to 50 feet.

Mr. Watkins asked if widening to 50 feet would change the staff's position. He felt that 50 feet made sense if they came back to resubdivide Lot 2.

Mr. Olsen said they could build a road, and that would make a difference in the staff's recommendation.

Mr. Byrd referred to condition #6 in the staff recommendation which states that access will be denied to Shelley Drive, but then two lines down it says they would be allowed two curb cuts to Shelley Drive. Mr. Byrd said Shelley Drive was not open at this point, and thought the staff meant to say that access would be denied until such time as Shelley Drive was built to County standards.

Mr. Olsen said that was the staff's intent.

Mr. Watkins further asked if he understood that the applicant wanted condition #5 to be changed to state that as long as the plat shows a 50-foot strip and it stays a part of Lot 2, they could keep it.

Mr. Byrd said that was correct.

Mr. Olsen said the condition which says the site would be limited to two curb cuts to Shelley Drive would be amended to include the verbiage "when constructed to County standards".

There was no one present in opposition.

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

- 1) submission of proof of public water and/or sanitary sewer service to Lot 2 prior to signing the final plat;
- 2) that the 25-foot building setbacks along Moffett Road be measured from the future right-of-way of the planned major street;
- 3) that Shelley Drive not be described on the final plat as a private street;
- 4) the placement of a note on the final plat stating that the 10-foot strip along the Eastern property line is denied access to Moffett Road;
- 5) the modification of the plat to include the 50-foot access easement in Lot 2;

June 15, 2006

- 6) the placement of a note on the final plat stating that the site is denied access to Shelley Drive until it is improved to County standards; and that the site is limited to the existing two curb cuts to Moffett Road; a single curb cut to Illinois Street; and two curb cuts to Shelley Drive; with size, location, and design of all new curb cuts subject to County Engineering approval; and
- 7) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00106

Alta Subdivision

East side of Schillinger Road North, extending from Old Shell Road to Avenue G.

3 Lots / 3.3± Acres

Maury Freidlander, attorney, 740 Museum Drive, was present representing the owners of the subject property. Referring to the staff's recommendations, Mr. Freidlander said they objected to condition #2 requiring dedication of various right-of-way on Old Shell Road and Schillinger Road. He said the property had been under the threat of condemnation for that right-of-way for about five years. Appraisals had been made and were under review, but they had not yet received an offer for that right-of-way. Mr. Freidlander said they objected to dedicating that right-of-way without compensation. Also, he said condition #6 required dedication of right-of-way for Avenue G, which he pointed out was an unopened road. It was not County maintained. He said that if somebody was going to build the road and the County was going to maintain it, they would be glad to give the right-of-way. He felt that was not very likely, however, and they were not likely to build it and did not need it for ingress and egress, so they objected to it.

Mr. Plauche pointed out that he thought Mr. Freidlander was referring to condition #3, rather than #6.

Mr. Freidlander said yes, he was referring to the right-of-way for Avenue G. Mr. Freidlander further stated that the way this got started was that they filed a petition with the County to vacate Tanner Road. The County required that they obtain a letter from the Planning Commission seeking approval. The Planning Commission, as he understood, approved this subject to resubdivision, which was the reason for this application. He said he did not think it was the case, but it appeared that maybe the County was trying to get the right-of-way on Tanner Williams Road for free. Mr. Freidlander said they did not object to any of the other conditions.

Mr. Olsen pointed out that condition #6 was also requiring dedication of a radius at the intersection of Old Shell and Schillinger Roads.

Mr. Freidlander said they also objected to the dedication of that radius as well.

June 15, 2006

Mr. Watkins stated that it had been his experience in serving on this Board and before that as representing clients before the Board, that the City made pretty good arguments when requiring right-of-way related to a subdivision approval. Mr. Watkins felt this case was a little questionable, however, as the condemnation was pending and the owners could not get a payment for the taking of this land and cannot get their road vacated.

Mr. Freidlander stated that there was no condemnation that had been filed. The property had been appraised, and the appraisal was under review and an offer would be made in the next 30 days.

Mr. Watkins said he did not understand why the applicant did not hold off vacating this for six weeks or even six months, since there was going to be a condemnation proceeding more than likely to widen Tanner Williams Road.

Mr. Freidlander said it was either that or a deed, but they did not have an offer yet.

Mr. Lawler commented that the dedication of right-of-way as a condition of subdivision approval was something that comes up often before planning commissions, and some are very strict in that they require everything. He cited the case Walton verses the City of Mobile which involved a subdivision, and the court in that case said that the requirement of dedication needs to be related to the impact that the development was going to have. In the case of a couple of residential lots, in most circumstances that would not trigger a requirement for somebody to dedicate. But, if you have some kind of commercial development with several lots, it is easier to justify the fact that there is going to be impact on public facilities and that there is a need for the dedication. Mr. Lawler said it was really a judgement call. The case in question, however, has a little bit different mix in it, in that Mr. Freidlander stated that it was expected that the property owner was going to be paid for this property in a condemnation action by the State of Alabama. Mr. Lawler said the other property owners up and down the roadway would receive the same. In that sense, it would appear a bit unfair to take and make this a gift to the State when they buy it from up and down the way.

Mr. Watkins said it was his understanding that Tanner Road was not currently open, and that was the reason the applicant was vacating it.

Mr. Freidlander said that Tanner Road was open and maintained by the County. The County Engineering staff had recommended the vacation of the portion that is to be vacated. Mr. Freidlander further stated that he appreciated Mr. Lawler's comments, but noted that they did not know what was going to be developed on this land.

Mr. Watkins asked if he understood that the existing buildings on these three lots were not going to be torn down, and there was not going to be any changes in use at this site.

Mr. Freidlander said there would be no immediate changes, but they do plan the probability of all those buildings being torn down and it being developed. They just did not have an existing plan.

June 15, 2006

Mr. Olsen commented that if the Commission chooses to modify the conditions regarding the dedication, the staff would request that the setback be shown from the future right-of-way line.

In deliberation session Mr. Miller asked for clarification as to what was being requested.

With reference to the Old Shell Road lot, and in order to widen the road, Mr. Watkins said that whoever has jurisdiction of that roadway has to buy the strip of land from the property owner. The property owner would receive fair market value for the property. This applicant was trying to get that roadway behind his lot vacated. Mr. Watkins said he assumed that property was not a legal lot of record, so the applicant was required to submit a subdivision.

Mr. Olsen pointed out that the property consisted of many lots of record. The applicant's proposal to vacate this portion of Tanner Road, therefore, would have created many land-locked parcels that are legal lots of record had not the subdivision been required.

Mr. Watkins questioned the staff recommendation requiring the applicant to give frontage on Old Shell Road that was currently being considered to be condemned. It concerned him that the Planning Commission would require him to give up that strip of property free, when all he was trying to do was to clean up Tanner Williams vacation that the County appears to be willing to do anyway.

Pat Stewart of the County Engineering Department stated that the citizens of this county were giving up the public right-of-way on Tanner Road to make one large parcel. The citizens of the county were going to go to a great deal of expense in condemnation. He said they were getting hit twice for trying to do a favor for somebody. They wanted dedication if they could get it.

Mr. Watkins asked that if he did not vacate it now, would the County change its opinion as to whether or not they would approve the vacation six months from now.

Mr. Stewart said he could not say one way or the other what they were going to do. Their position was that they want that right-of-way and they were giving up some right-of-way for the applicant to have this large lot.

Mr. Watkins asked Mr. Lawler if he had any feelings about this.

Mr. Lawler said that Mr. Stewart makes a good argument. He said that he understood and that it made sense from a public standpoint too. The applicant is getting something. They are not buying the area that is being vacated. It's sort of like they have changed it, what is needed, and the impact of this development. That was an argument for it.

Mr. Miller asked Mr. Lawler if he thought the gift was about equal to the take-away.

Mr. Lawler said absolutely.

June 15, 2006

Mr. Vallas said there was no way they were comparable, but what would be of increased value was the corner, which would now be a four-lane intersection as opposed to a two-lane intersection. It would have far more market value. Mr. Vallas commented that usually if you are condemning property and you are losing some property then you should be compensated for it. But the applicant was not losing property because the County was giving him something in return. So the net at the end of the day, if this property was 3.3 acres, after the condemnation the owner may end up with 3.4 acres.

Mr. Miller asked Mr. Olsen if he was still comfortable with the staff recommendations.

Mr. Olsen replied that he was comfortable with the recommendations.

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

- 1) submission of proof that Lot A is served by public water and/or sanitary sewer, and that Lot C is served by both public water *and* sanitary sewer, prior to signing the final plat;
- 2) dedication sufficient to provide 50 feet from the centerline of Old Shell Road;
- 3) dedication of sufficient right-of-way to provide 30 feet from the centerline of Avenue G;
- 4) the placement of a note on the final plat stating that the site is denied direct access to Avenue G until it is constructed to County Engineering standards;
- 5) the placement of a note on the final plat stating that the site is limited to three curb cuts to Schillinger Road and two curb cuts to Old Shell Road, with size, location, and design subject to County Engineering approval;
- 6) the dedication of a 25-foot turning radius at Schillinger and Old Shell Roads, to align with the other dedicated right-of-way along Old Shell Road;
- 7) completion of the vacation process for Tanner Road;
- 8) that the site be developed in compliance with applicable State or County codes, with regard to existing and new construction allowable on a single lot of record; and
- 9) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00111

D. J.'s Subdivision

1736 and 1870 Schillinger Road South

(West side of Schillinger Road South, 100'± South of Terry Drive).

Mr. Plauche announced that this application was recommended for holdover, but if anyone was present to speak they could do so at this time.

June 15, 2006

Matt Orrell, Polysurveying, was present on behalf of the applicant. Mr. Orrell stated that the proposed lots were in the County where there was no zoning, and residential along Schillinger Road was virtually non-existent. This was a planned commercial development of three lots, with Lot 3 in a flag-shape in order to be able to develop it in the future, and crossover easements on the front two lots. They felt this would be more convenient to the commercial development of the property. Lot 3 would have 25 feet of access on Schillinger Road. Mr. Orrell said they did not have a problem with holding it over, but they did not want to reconfigure their plat. They wanted it approved the way they submitted it.

Ms. Deakle asked how large this parcel was.

Mr. Olsen said that based on the application, it was 2.7 acres.

In deliberation session Mr. Olsen stated that this property was in the County, so there was no zoning. Although there were residences in the vicinity, it could be put to whatever use the owner desired.

Mr. Vallas pointed out that to the north between Terry Drive and Grelot Road there were primarily residences, but everything south and everything north of Girby was all commercial other than some trailer parks that may be just north of Grelot. The majority of these properties were commercial in nature.

It was asked what would be required if this flag-shape lot was allowed.

Mr. Olsen said the staff would definitely like to see a limitation on the number of curb cuts, but he had not looked at this plat to be able to come up with a number or any other conditions at this point. Mr. Orrell said he would not be opposed to a holdover as long as he was not asked to reconfigure the subdivision. The staff, therefore, would ask that it be held over so they could determine what conditions would be necessary.

After discussion a motion was made by Mr. Turner and seconded by Mr. Watkins to holdover this application until the July 20, 2006 meeting.

The motion carried unanimously.

Case #SUB2006-00114

Peake Place Subdivision, Resubdivision of

South side of Wimbledon Drive East, extending from South McGregor Avenue to Croydon Road.

4 Lots / 1.1± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

Beverly Walton, owner of property at 56 and 60 Croydon Road, asked if the one lot closest to Croydon Road was the only lot that would have access to Croydon Road.

June 15, 2006

Mr. Olsen explained that the staff recommended that there be an easement across the rear of all four lots to allow them to have a single drive to Croydon Road, but all four lots would be able to utilize that single drive.

Ms. Walton said she was vehemently opposed to that. She said she understood that at one point in time when there were five lots, there were supposed to be cutouts on these lots that would go to Wimbledon and not to Croydon, and that only one of the lots was to have access to Croydon.

Mr. Olsen said only one lot had access to Croydon because that was the only lot that actually adjoined it. That original approval, however, did have the easement with all of the lots having access to that one driveway out to Croydon.

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

- 1) submission of proof that each lot will be served by public water and sanitary sewer, prior to signing the final plat;
- 2) the placement of a note on the final plat stating that the site is limited to a total of two curb cuts to Wimbledon Drive, and a single alley-way access to Croydon Road, with size, location, and design of all curb cuts to be coordinated with Traffic Engineering.

The motion carried unanimously.

Case #SUB2006-00117

Wade Business Park Subdivision

Northwest corner of Government Boulevard and Montlimar Creek, extending to the East side of Lakeside Drive, at the East terminus of Joy Springs Drive.

4 Lots / 9.5±

Mr. Plauche announced that this application was recommended for holdover, but if anyone was present to speak in this matter they could do so at this time.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the July 20, 2006, meeting to allow the applicant to submit revised drawings showing no flag lots. Revised materials, including additional lot fees, if necessary, should be received by June 26th

The motion carried unanimously.

Case #SUB2006-00118

Oak Hill Subdivision

8490 Oak Hill Drive

(North side of Oak Hill Drive, ½ mile± North of Moffett Road).

48 Lots / 19.3± Acres

June 15, 2006

Mr. Plauche announced that this application was recommended for holdover, but if anyone was present to speak in this matter they could do so at this time.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the July 20, 2006, meeting, to allow the applicant to revise drawings to show the planned major street dedication; adequate area for all lots; and traffic calming devices. Revised materials should be received in Urban Development by June 26, 2006.

The motion carried unanimously.

Case #SUB2006-00108

Hunter's Cove Subdivision, Unit Two, Phase Three

135'± East of Gamepoint Drive West, at the East terminus of Vane Court street stub.
12 Lots / 4.3± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) placement of a note on the final plat stating that the maintenance of any common areas shall be the responsibility of the property owners;
- 2) graphic depiction of all drainage and utility easements referenced in the "General Notes" section; and
- 3) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00109

Hunter's Cove Subdivision, Unit One, Phase Two

East terminus of Beretta Drive.
35 Lots / 9.5± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

After discussion a motion was made by Mr. Turner and seconded by Mr. Watkins waive Section V.D.2 and approve the above referenced subdivision subject to the following conditions:

June 15, 2006

- 1) retaining of common area labeling and notes;
- 2) graphic depiction of all drainage and utility easements referenced in the “General Notes” section; and
- 3) placement of a note on the Final Plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00110

Hunter’s Cove Subdivision, Unit Two, Phase Two

South terminus of Mackenzie Drive, extending to the West terminus of Hooper Street, the East terminus of Cheyenne Street South, and the North terminus of Gamepoint Drive West.

66 Lots / 35.2± Acres

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) retaining of common area labeling and notes;
- 2) graphic depiction of all drainage and utility easements referenced in the “General Notes” section; and
- 3) 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.

NEW PLANNING APPROVAL APPLICATIONS:

Case #ZON2006-01136

Over Flow Ministries, Inc. (Wilbert Hardy, Pastor)

1201 North Drive

(Southwest corner of North Drive and an unopened, unnamed public right-of-way).

A request for Planning Approval to allow a church with child day care activities in an R-1, Single-Family Residential District.

Mr. Plauche announced that this application was recommended for holdover, but if anyone was present to speak they could do so at this time.

June 15, 2006

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the July 20, 2006, meeting to allow for the provision of the following information by June 27th:

The motion carried unanimously.

NEW ZONING APPLICATION:

Case #ZON2006-01125

Jay Eubanks

South side of Zeigler Boulevard, 645' ± East of Cody Road North.

The request for a change in zoning from R-3, Multi-Family Residential, to B-3, Community Business, for a landscaping and lawn maintenance business with office/warehouse facilities was considered.

The plan illustrates the proposed building, storage area and parking.

Jerry Byrd, Byrd Surveying Company, was present in this matter, as well as Jay Eubanks, the applicant and proposed purchaser of this property. Mr. Byrd referenced the staff report, which recommended denial of this application. Mr. Byrd stated that this property was approximately 2600 feet long and had sat stagnant for the last 25-30 years. The R-1, residential lots on the north side all backed up to Zeigler Boulevard. He said the site could not be seen by cars going down Zeigler Boulevard because the grade difference between the pavement and the site was about 25 or 30 feet. Mr. Byrd said there was a flood plain down on the south end of the property, which they were not going to be using at this time. The site is 9-10 acres, but they were probably using 2 ½ to 3 acres with this proposal. Regarding the wetlands, Mr. Byrd said they would have an environmentalist check out any ponds or wetlands areas. If there were wetlands, they would be identified and dealt with in the required manner. Regarding traffic, the site was on a major street, but Mr. Byrd said it would not be a problem. Mr. Eubanks plans to park all of his equipment inside the building.

Mr. Vallas asked if this proposed business was similar in nature to Laura Kay's on Cottage Hill Road or the new Chadwick's along the Interstate between Spring Hill and Old Shell Road. Would that be considered a landscape and low maintenance facility, or more of a nursery?

Mr. Byrd said that would be more of a nursery. The proposed business was not that big.

Ms. Deakle asked if they would be retailing any plants out of the building.

Mr. Eubanks said he would not be retailing plants. He may have some bark and such that they would sell out of the building.

Mr. Vallas commented that he felt the biggest concern here would be the B-3 zoning, but felt that this could actually be an improvement for this area.

June 15, 2006

Ms. Deakle noted the B-3 adjacent to this site, but asked the staff if there was another zoning classification other than B-3 that would fit this type of business, or would B-3 be the most appropriate category.

Mr. Olsen said a lawn and landscape service does require B-3 zoning.

Mr. Watkins asked what conditions the staff would recommend for approval of this site.

Mr. Hoffman stated that the applicant would be required to comply with the Engineering Department, Traffic Engineering Department, and Forestry comments. This would include provision of the 6-foot high fence around the storage area, paved access to the storage area, detention facilities required by the Engineering Department, limitation of the site to two curb cuts, maintenance of the natural buffer where the site is abutting a residential property, and a one-lot subdivision if necessary.

Mr. Byrd commented that the site was already a lot of record.

In deliberation session Mr. Miller said he was not sure that the need to change the zoning had been made clear on this. He moved to recommend denial of this request.

In further discussion Ms. Deakle stated that B-3 zoning was required for the proposed use, and the site was adjacent to B-3 and B-2 zoning. It was obviously not a multi-family site or it would have been developed as a multi-family site. Ms. Deakle recalled that the site also had some terrain problems and sloped off real bad from the road.

Mr. Olsen said that a portion of the site and the site to the East were at one time a borrow pit.

Mr. Miller noted that the site was surrounded by R-1 property. Although there was not much development there now, he felt the Commission should be very careful in changing the zoning with the way the city was growing.

Mr. Vallas asked if the B-3 property on Cody Road was developed with some type of use.

Mr. Olsen said it was vacant.

In further discussion Mr. Olsen said that recently there was an R-1 parcel in this area along Zeigler that was before the Commission for R-3 zoning. There were also some apartments and a group home to the east of the site.

Mr. Miller asked if the B-2 and B-3 parcels were originally residential.

Mr. Olsen said he did not have that information right now. Those properties were rezoned, but he did not know the date.

Mr. Miller withdrew his motion for denial.

June 15, 2006

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

- 1) compliance with Engineering Department comments;
- 2) compliance with Traffic Engineering Department comments;
- 3) compliance with Urban Forestry comments;
- 4) provision of a 6-foot privacy fence around the storage yard;
- 5) provision of stormwater detention facilities, if required by the Engineering Department;
- 6) the site is limited to two curb-cuts onto Zeigler Boulevard;
- 7) retaining of the natural buffer where the site abuts residentially zoned property;
- 8) provision of a 6-foot privacy fence around the perimeter of the property where it abuts residentially zoned property;
- 9) approval of all applicable federal, state and local agencies prior to the issuance of any permits or land disturbance activities; and
- 10) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

GROUP APPLICATIONS:

Case #ZON2006-01135 (Planned Unit Development)

BankTrust Subdivision, Resubdivision of Lot 2

Southeast corner of Old Shell Road and South McGregor Avenue.

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

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

(Also see Case #SUB2006-00116 – BankTrust Subdivision, Resubdivision of Lot 2 – Below).

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) completion of the subdivision process;
- 2) provision of the required buffer fence where the site abuts residentially zoned properties at the time those properties are developed residentially;
- 3) placement of a note on the site plan stating: *“Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status is to be given to the 50” Live Oak Tree*

June 15, 2006

- located on the South side of Lot A. 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”;*
- 4) any significant changes to the site development will necessitate a new PUD approval by the Planning Commission, to include all properties involved/effected; and
 - 5) full compliance with all municipal codes and ordinances, including but not limited to landscaping, tree plantings and sign number, location and size.

The motion carried unanimously.

Case #SUB2006-00116 (Subdivision)

BankTrust Subdivision, Resubdivision of Lot 2

South side of Old Shell Road, 180'± East of South McGregor Avenue.

2 Lots / 0.8± Acre

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

(For discussion see Case #ZON2006-01135 – BankTrust Subdivision, Resubdivision of Lot 2 [Planning Unit Development] – Above).

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) placement of a note on the final plat stating that Lots A and B are limited to the existing curb-cuts, or if future redevelopment is undertaken, to one shared curb-cut onto Old Shell Road, with the size, design and location of the curb-cut to be approved by Traffic Engineering and conform to AASHTO standards;
- 2) placement of a note on the final plat stating: *“Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status is to be given to the 50” Live Oak Tree located on the South side of Lot A. 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”;* and
- 3) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01164 (Planned Unit Development)

June 15, 2006

Grant Park Subdivision, Resubdivision of Lots 47 & 48

West side of Grant Park Drive, 75'± South of Grant Street.

The request for Planned Unit Development Approval to allow reduced lot sizes, reduced building setbacks, and increased site coverage in a residential subdivision was considered.

The site plan illustrates the existing walk, setbacks, and proposed lot configuration.

(Also see Case #SUB2006-00115 – Grant Park Subdivision, Resubdivision of Lots 47 & 48 – Below).

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) completion of the Subdivision process;
- 2) placement of a note on the plat / site plan specifying the front, side and rear yard setbacks, to comply with the original PUD and Subdivision;
- 3) placement of a note on the site plan and plat stating that the site is limited to a maximum 45% site coverage;
- 4) placement of a note on the site plan and plat stating that common areas are to be maintained by the property owners;
- 5) placement of a note on the site plan and plat stating that two over-story trees are to be planted within the 25-foot frontage of the lot along the city street; and
- 6) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00115 (Subdivision)

Grant Park Subdivision, Resubdivision of Lots 47 & 48

West side of Grant Park Drive, 75'± South of Grant Street.

1 Lot / 0.2± Acre

The site plan illustrates the existing walk, setbacks, and proposed lot configuration.

(Also see Case #ZON2006-01164 – Grant Park Subdivision, Resubdivision of Lots 47 & 48 [Planned Unit Development] – Above).

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

June 15, 2006

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

- 1) placement of a note on the plat / site plan specifying the front, side and rear yard setbacks, to comply with the original PUD and Subdivision;
- 2) placement of a note on the site plan and plat stating that the site is limited to a maximum 45% site coverage;
- 3) placement of a note on the site plan and plat stating that common areas are to be maintained by the property owners;
- 4) placement of a note on the site plan and plat stating that two over-story trees are to be planted within the 25-foot frontage of the lot along the city street; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01165 (Planned Unit Development)
Providence Park, P.O.B. West Subdivision, Resubdivision of

610 Providence Park Drive East (private street)

(West side of Providence Park Drive East, ¼ mile± South of Airport Boulevard)

The request for Planned Unit Development Approval to allow shared access and parking between multiple building sites was considered.

The site plan illustrates the existing buildings, parking, and the proposed lot configuration.

(Also see Case #SUB2006-00113 – Providence Park, P.O.B. West Subdivision, Resubdivision of – Below).

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. Mr. Coleman said they were in agreement with the staff's recommendations, with the exception of the curb cut limitation on Lot 1. Since they had no existing plans for this lot at the present time, they requested that this requirement be deleted at this time, and when the use of Lot 1 is determined, they will come to the Planning Commission for reconsideration at that time.

Mr. Watkins was concerned about how many curb cuts there might be until they came back in for resubdivision. He felt there should be some upper limit as opposed to just allowing unlimited curb cuts.

Mr. Coleman suggested that the Commission could say that they would like to see the number of curb cuts later on. He said they just did not want to restrict it at this time because of the size of the lot and the size of the building that might be put on it. If they put other buildings on it, they would have to come back and resubdivide the lot, and the Commission could consider the curb cuts at that time.

June 15, 2006

Mr. Olsen clarified that what Mr. Watkins was trying to say was that if this plan was approved as Mr. Coleman was requesting with no limitation on curb cuts on Lot 1, and if the applicant were to submit building plans for a single building on Lot 1, it would not necessarily require any application before the Commission and therefore there would not be any control over the number of curb cuts for Lot 1.

Mr. Olsen said another option, which was a part of the staff recommendation, was that the PUD could be revised to include Lot 1 because, according to the plan submitted, the parking goes over the lot lines. If Lot 1 was included in the PUD, any development on Lot 1 would have to come back to the Commission for approval since it would be amending the PUD.

Mr. Coleman agreed.

Mr. Olsen said the condition limiting the curb cuts on Lot 1 could be deleted and made a part of this PUD, and because PUDs were site-plan-specific, any modifications to that site plan for new parking, new building or new curb cuts would require approval by the Commission.

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

- 1) revision of the PUD proposal to include the proposed Lot 1, as well as revision of the lot line dividing Lots 2 and 3 to be the same on the site plan and plat;
- 2) completion of the Subdivision process;
- 3) placement of a note on the site plan and final plat stating that Lots 2 and 3 are limited to their existing curb-cuts, with the size, design and location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and
- 4) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2006-00113 (Subdivision)

Providence Park, P.O.B. West Subdivision, Resubdivision of

West side of Providence Park Drive East, 925'± South of Airport Boulevard.
3 Lots / 13.6± Acres

The site plan illustrates the existing buildings, parking, and the proposed lot configuration.

(For discussion see Case #ZON2006-01165 – Providence Park, P.O.B. West Subdivision, Resubdivision of [Planned unit Development] – Above).

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

June 15, 2006

- 1) revision of the PUD proposal to include the proposed Lot 1, as well as revision of the lot line dividing Lots 2 and 3 to be the same on the site plan and plat;
- 2) placement of a note on the site plan and final plat stating that Lots 2 and 3 are limited to their existing curb-cuts, with the size, design and location of all curb-cuts to be approved by Traffic Engineering and conform to AASHTO standards; and
- 3) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01167 (Planned Unit Development)

St. Paul's Episcopal School

161 Dogwood Lane

(Campus area bounded by Old Shell Road, Dogwood Lane, Loyola Lane, Myrtlewood Lane [vacated], South Avenue, Spring Hill College, Provident Lane, and College Lane South).

The request for the Planned Unit Development Approval to amend the previously approved Master Plan for an existing private school in an R-1, Single-Family Residential district was considered

The plan illustrates the proposed softball field and parking lot.

(Also see Case #ZON2006-01166 – St. Paul's Episcopal School [Planned Approval] – Below).

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) submission of individual applications for each project (other than those involved in this amended application), providing detailed information with regard to the numbers of classrooms involved, number of parking spaces provided, and detailed information on the location of proposed improvements;
- 2) property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64);
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance for the entire campus, to be coordinated with and approved by Urban Forestry; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

June 15, 2006

Mr. Watkins and Mr. Holmes recused from discussion and voting.

Case #ZON2006-01166 (Planning Approval)

St. Paul's Episcopal School

161 Dogwood Lane

(Campus area bounded by Old Shell Road, Dogwood Lane, Loyola Lane, Myrtlewood Lane [vacated], South Avenue, Spring Hill College, Provident Lane, and College Lane South).

A request for Planning Approval to allow a new softball field and parking lot expansion at a private school in an R-1, Single-Family Residential district was considered.

(For discussion see Case #ZON2006-01167 – St. Paul's Episcopal School [Planned Unit Development] – Above).

The plan illustrates the proposed softball field and parking lot.

Mr. Plauche stated that the applicant was agreeable to the staff recommendations.

There was no one present in opposition.

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

- 1) submission of individual applications for each project (other than those involved in this amended application), providing detailed information with regard to the numbers of classrooms involved, number of parking spaces provided, and detailed information on the location of proposed improvements;
- 2) property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64);
- 3) full compliance with the landscaping and tree planting requirements of the Ordinance for the entire campus, to be coordinated with and approved by Urban Forestry; and
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Mr. Watkins and Mr. Holmes recused from discussion and voting.

Case #ZON2006-01023 (Sidewalk Waiver)

Joel Ridley (Burt Williams Construction, Agent)

3700 Demetropolis Road

(West side of Demetropolis Road, 2/10 mile± South of Government Boulevard).

A request to waive construction of a sidewalk along Demetropolis Road was considered.

June 15, 2006

(Also see Case #ZON2006-01171 – Joel Ridley (Burt Williams Construction, Agent) [Planned unit Development] – Below).

Mr. Plauche stated that the applicant was agreeable with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Turner and seconded by Mr. Miller to approve this request.

The motion carried unanimously.

**Case #ZON2006-01171 (Planned Unit Development)
Joel Ridley (Burt Williams Construction, Agent)**

3700 Demetropolis Road

(West side of Demetropolis Road, 2/10 mile± South of Government Boulevard).

(For discussion see Case #ZON2006-01023 – Joel Ridley (Burt Williams Construction, Agent) [Sidewalk Waiver] – Above).

Mr. Plauche stated that the applicant was agreeable with the staff recommendations.

There was no one present in opposition.

A motion was made by Mr. Turner and seconded by Mr. Miller to approve this request.

The motion carried unanimously.

OTHER BUSINESS:

Alter Scrap Processing

101 Hardwood Lane

(East side of Hardwood Lane (private street), 540' ± East of North Craft Highway).

Mr. Plauche asked the Commission's counsel, John Lawler, if he had a statement about this matter.

Mr. Lawler stated that a Planning Approval application for this site was approved by the Planning Commission in April, 2006. Subsequent to that there was an appeal filed to the City Council and the matter came before the Council a few weeks ago. At that time the applicant and a group that had appealed to the Planning Approval presented an agreement that they had reached which would place additional conditions on the operation. The City Council has asked that the Planning Commission consider the matter again with regard just to those added conditions

Mr. Plauche stated that these new conditions would be in addition to the original conditions placed on the Planning Approval by the Planning Commission.

June 15, 2006

Mr. Lawler said that was correct. He stressed that the application was sent back to the Planning Commission by the City Council for the limited purpose of considering the addition of those additional conditions, and not for re-hearing as to whether or not Planning Approval should be granted.

Mr. Plauche reiterated that this was not a re-hearing of the application itself, but just a hearing on the additional recommendations that Alter Scrap and Mobile Bay Keeper had agreed upon. Since this was not a formal hearing, Mr. Plauche said he would allow two people to speak on either side, beginning with the applicant.

Doug Anderson, with the law firm of Bowron, Latta & Wasden, was present on behalf of Alter Trading. Mr. Anderson stated that since the April meeting when this was approved, Bay Keepers, Inc., had filed an appeal. Rick Courtney, attorney for Bay Keepers, negotiated these additional conditions with Alter Trading. Mr. Anderson said that when they went before the City Council three weeks ago at the pre-council meeting, the counsel for the City Council advised that they did not have the legal authority to add these conditions to the Planning Commission's approval, and instructed it to come back to the Planning Commission for the Planning Commission to consider only these additional conditions. Mr. Anderson said Alter Trading was glad to agree to these conditions. The conditions further ensure that Alter will be a good corporate citizen, and it will further ensure that the concerns of the residents in this area concerning environmental issues, traffic and noise be dealt with accordingly. Mr. Anderson said they respectfully requested that the Planning Commission approve these seven conditions to be added to the prior Planning Approval so that the agreement between Bay Keepers and Alter Trading can be put in place.

Mr. Plauche asked Mr. Anderson if he knew if the seven conditions had been made public.

Mr. Anderson replied that he did not know if the additional conditions had been published in the newspaper, but they were submitted to the City Council. They were also submitted to Mr. Olsen and his staff the week before they were on the City Council agenda.

Mr. Plauche asked Mr. Lawler if it would be appropriate for the Commission to read those conditions if they had not been imposed.

Mr. Lawler said it would be very appropriate to read the conditions.

Mr. Plauche stated that Mobile Bay Keeper and Alter Scrap had agreed on the inclusion of the following seven additional conditions that will be made part of the Planning Approval:

- (1) Alter hours of shredding operation will be limited to 6 a.m. to 6 p.m., Monday through Saturday; maintenance activities are allowed after 6 p.m.;

June 15, 2006

- (2) Alter shall perform testing as frequently as necessary to reasonably assure that all supplies including supplies received from sources outside Alabama are de-manufactured; in other words, removal of mercury switches and other hazardous materials are de-manufactured before shredding occurs;
- (3) Alter shall assure that all de-manufacturing performed on site shall effectively remove mercury switches, PDBs, lead, freon, oil and gas, and other hazardous materials before shredding occurs;
- (4) Alter shall develop and enforce a plan to assure that all of this hazardous waste is disposed of in accordance with law so as to assure protection of public health in the environment;
- (5) Alter shall cooperate with Mobile Bay Keeper and others who jointly develop and attempt to obtain passage of state-wide legislation requiring the removal of mercury switches from automobiles prior to shredding;
- (6) Alter shall assure that provisions of its operations manual are complied with and enforced upon the operations of Alter and Alter's suppliers; and
- (7) Alter shall use its best efforts to design, construct, and operate its facilities so as to protect the residential areas from noise disturbance.

Again, Mr. Plauche emphasized that these seven conditions were in addition to the original six conditions approved by the Planning Commission on April, 2006.

Mr. Olsen also stated that the staff had been contacted by Senator Figures who requested that the Commission consider adding one additional condition, that being that the City request ADEM to perform their monitoring on a quarterly basis as opposed to either annually or semi-annually. Mr. Olsen said he had made Mr. Anderson and Mr. Courtney aware of this request by Senator Figures, and both were in agreement to this condition being included as an additional condition of the Planning Approval.

Mr. Anderson corrected Mr. Olsen, stating that he told him at that point in time that he was not in a position to agree to that additional condition, as he had not had a chance to speak to his client about it. Mr. Anderson said he forgot to ask his client about it this morning, but his client was present and he would ask him if he would agree to the additional condition. Mr. Anderson further stated that he was not sure, unless they both agreed on it, that the Planning Commission had the authority to add any additional conditions that were not in place at the last meeting, or that had been submitted to them today. Also, he was not sure what legal authority or enforcement authority the Planning Commission had to ask ADEM to do anything. Mr. Anderson said ADEM was going to do what they darn well please, one way or the other.

It was asked if there were any agreements made between Alter Scrap and Mobile Bay Keeper as to how these conditions were going to be monitored.

Mr. Anderson said they would be part of the approval that the City gives, and their permit was conditioned upon their compliance with these conditions. Mr. Anderson said Alter does its own in-house monitoring and ADEM does monitor them twice a year. Senator Figures was requesting that ADEM monitor them four times a year. Mr. Anderson

June 15, 2006

respectfully submitted that the Planning Commission did not have the authority to require ADEM to do this.

Mr. Olsen said the request by Senator Figures, and what he had said, was that the City would **request** that ADEM monitor them quarterly. He said they realize that the Planning Commission cannot **require** ADEM to do it. It would simply be a request by the City on behalf of Senator Figures.

Mr. Plauche asked the attorney for Mobile Bay Keepers to address the Commission.

Rick Courtney, attorney for Mobile Bay Keeper, Inc., stated that his client was in agreement with the additional conditions as read by Mr. Plauche, as well as the additional condition requested by Senator Figures.

To make sure everyone understood, Mr. Plauche reiterated that Mobile Bay Keeper, Inc., who made the original appeal to the City Council, was in agreement with the seven additional conditions, which he had previously read, plus the condition recommended by Senator Figures.

Mr. Plauche said that would be eight recommendations added to the original six.

Mr. Courtney said that was correct.

Mr. Anderson stated that Alter Trading would agreed to Senator Figures' request as well.

Mr. Plauche asked if there was anyone in opposition who wished to speak.

Jim Trapp, Mayor of Chickasaw, stated that the citizens of Chickasaw were glad to see the additional conditions that were proposed to be added, especially regarding the monitoring. Even with these concessions, however, the City of Chickasaw would still like to express their desire that this facility not be allowed at the location proposed. Mayor Trapp said there were over 100 residents within very close proximity to the proposed facility that they feel would be adversely affected. They have concerns about the dust or possible carcinogens in the air, the noise, and traffic congestion on Highway 43. Although some of these concerns were addressed by the additional conditions proposed, they were concerned that their best efforts may prove futile. Mayor Trapp said this facility was being located in their community. No one in the City of Mobile was going to be affected by it. He said they have a lovely community and people enjoy spending time in their yards listening to the birds, walking on the sidewalks and in the parks. They were concerned about the noise from a piece of equipment that can shred over 100 cars in an hour, as well as noise from 120 or more vehicles on Highway 43 that would be turning off in front of residences to get to the site. Also, they were already having problems with dust caused by the trucks bringing in crushed vehicles and appliances to the site. Mayor Trapp also noted stated that just yesterday the City of Chickasaw had received a request form the Corps of Engineers for a permit for Alter to build a staging docking facility in Chickasaw Creek, and also do some dredging. This

June 15, 2006

docking facility would be located right over the outfall from their sewer plant and would cause quite a bit of trouble. He said they were addressing that right now with the Corps.

In summary, Mayor Trapp said they were happy with the concessions made by Alter, but they feel there is a better location for this facility somewhere else. He asked that the Commission reject this permit.

Mr. Plauche reiterated that the Commission was considering eight recommended conditions to be added onto the original six conditions that were part of the Planning Approval granted for this site at the April 6 meeting. They were not voting today whether to accept or reject the project.

Mayor Trapp said he felt this project should be reconsidered, and they would go before the City Council to argue that again. He said they were not consulted before this project was proposed and only became aware of it when complaints started coming in from their citizens about problems they were having.

Their being no one else to speak, Mr. Plauche called for a motion to go into deliberations session.

Mr. Laier so moved. Mr. Watkins seconded the motion.

The motion carried unanimously.

Mr. Plauche called for a motion on the recommendation to include the seven additional conditions recommended by Mobile Bay Keeper and Alter Scrap, and the additional condition recommended by Senator Figures, as previously stated, to the Planning Approval granted on April 6, 2006.

A motion was made by Mr. Miller and seconded by Mr. Vallas to add the seven additional conditions recommended by Mobile Bay Keeper, Inc. and Alter Trading, and the additional condition recommended by Senator Figures, as previously stated, to the Planning Approval granted at the meeting of April 6, 2006.

The motion carried unanimously.

There being no further business, the meeting was adjourned.

June 15, 2006

APPROVED:

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

vm