

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF NOVEMBER 6, 2003 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

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

Members Absent

Ann Deakle
Clinton L. Johnson
Ernest Scott
Terry Plauche

Staff Present

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

Others Present

John Lawler, Assistant City Attorney
Ron Jackson, Urban Forestry
Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

HOLDOVERS:

Case #ZON2003-02282 (Planned Unit Development)

Scheuermann Commercial Subdivision

855 Holcombe Avenue (Northeast corner of Holcombe Avenue and Halls Mill Road).

The applicant was present.

There was no one present in opposition.

(Also see Case #sub2003-00219 – **Scheuermann Commercial Subdivision** – Below)

Mr. Frost asked if the revised plans met with the staff's approval.

The applicant submitted revised plans prior to the meeting and Ms. Pappas stated that the plans submitted addressed all of the staff's concerns. At this point the PUD could be approved subject to full compliance with all municipal codes and ordinances, including but not limited to landscaping and tree planting, and the provision of sidewalks. The subdivision is recommended for approval.

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A motion was made by Mr. McSwain and seconded by Mr. Quimby to approve this change in zoning subject to the following condition:

- 1) that the site fully comply with all municipal codes and ordinances, including but not limited to full compliance with landscaping and tree planting requirements, and sidewalks.

The motion carried.

Case #SUB2003-00219 (Subdivision)
Scheuermann Commercial Subdivision

855 Holcombe Avenue (Northeast corner of Holcombe Avenue and Halls Mill Road).
1 Lot / 0.6± Acre

The applicant was present.

There was no one present in opposition.

(For discussion see Case #Zon2003-02282 – **Scheuermann Commercial Subdivision** (PUD) – Above)

A motion was made by Mr. McSwain and seconded by Mr. Quimby to approve this subdivision subject to the following condition:

- 1) placement of a note on the final plat stating that the site is limited to one curb cut to Holcombe Avenue and one curb cut to Halls Mill Road, with the size, location and design to be approved by Traffic Engineering.

The motion carried.

EXTENSIONS:

Case #SUB2001-00290 (Subdivision)
File #S99-19

Raleigh Subdivision

West side of Cody Road, 870'± South of Wynnfield Boulevard, and extending to the East terminus of Longview Drive.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve a one-year extension of previous approval for this subdivision.

The motion carried.

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GROUP APPLICATIONS:

Case #ZON2003-02556 (Planned Unit Development)

Spanish Plaza Subdivision, Resubdivision of

3673 and 3679 Airport Boulevard (South side of Airport Boulevard, 600'± West of Western America Drive).

The plan illustrates the existing buildings, easements and parking.

(Also see Case #SUB2003-00246 – **Spanish Plaza Subdivision Resubdivision** – Below)

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

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

- 1) compliance with all municipal codes and ordinances.

The motion carried.

Mr. Vallas recused from discussion and voting.

Case #SUB2003-00246 (Subdivision)

Spanish Plaza Subdivision, Resubdivision of

3673 and 3679 Airport Boulevard (South side of Airport Boulevard, 600'± West of Western America Drive).

2 Lots / 3.6± Acres

(For discussion see Case #ZON2003-02556 - **Spanish Plaza Subdivision Resubdivision** – Above)

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

There was no one present in opposition.

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

The motion carried.

Mr. Vallas recused from discussion and voting.

NEW ZONING APPLICATION:

Case #ZON2003-02467

Colonial Properties Trust

East side of Bel Air Boulevard, 210'± North of Television Avenue, extending North to the South side of Eslava Creek.

The request for a change in zoning from B-3, Community Business, and B-1, Buffer Business, to B-3 Community Business, to eliminate split zoning and allow retail sales was considered.

The plan illustrates the proposed structure and parking.

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

There was no one present in opposition.

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

- 1) full compliance with the landscaping and tree planting requirements of the Ordinance;
- 2) that the number, location and design of all curb cuts be approved by Traffic Engineering; and
- 3) full compliance with all municipal codes and ordinances.

The motion carried.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2003-00242

Arata Subdivision

4900 Moffett Road (North side of Moffett Road at the East terminus of Overlook Road).

1 Lot / 0.5± Acre

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

There was no one present in opposition.

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

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- 1) the dedication of sufficient right-of-way to provide 50' from the centerline of Moffett Road; and
- 2) the placement of a note on the final plat stating that the site is limited to one curb cut to Moffett Road, with the size, location and design to be approved by Traffic Engineering.

The motion carried.

Case #SUB2003-00224

Ashland Village L.L.C. Subdivision

2401 and 2403 Old Shell Road (Southwest corner of Old Shell Road and Homer Street).

1 Lot / 0.5± Acre

Pete Vallas, 1660 Government Street, was present on behalf of the applicant and questioned condition #3 of the staff's recommendation. He understood that 25 feet setback was required on the front, but requested a 20 feet setback on the side street.

Ms. Pappas stated that the staff concurred with the request.

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that the size, number, location and design of all curb cuts must be approved by Traffic Engineering;
- 2) the placement of a note on the final plat stating that with the site being a corner lot, the dedication of a 25' radius should be required; and
- 3) the placement of a 25' minimum setback lines along Old Shell Road and 20' along Homer Street.

The motion carried.

Mr. Vallas rescued from discussion and voting.

Case #SUB2003-00232

Augusta Subdivision, Unit Two, Phase Two, Resubdivision of Lots 24 and 64

South side of Augusta Court at its West terminus, extending to the North side of Aiken Way, 430'± West of Augusta Drive West.

2 Lots / 0.8± Acre

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

There was no one present in opposition.

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A motion was made by Mr. McSwain and seconded by Dr. Rivizzigno to approve this subdivision subject to the following condition:

- 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.

The motion carried.

Case #SUB2003-00231

Azalea Business Park Subdivision

South side of Moffett Road, 120'± East of the East terminus of Blackwell Nursery Road South

24 Lots / 11.5± Acres

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

There was no one present in opposition.

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

- 1) the dedication of the necessary right-of-way to provide 50-feet from the centerline of Moffett Road;
- 2) placement of a note on the final plat stating that Lots 1 and 24 are denied direct access to Moffett Road;
- 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) placement of the required 25-foot minimum building setback line on the final plat; and
- 5) the construction and dedication of the proposed street to county standards.

The motion carried.

Case #SUB2003-00240

Branchwood Subdivision, Resubdivision of Lot 3

4360 Red Creek Road (East side of Red Creek Road at its North terminus).

3 Lots / 6.4± Acres

Will Lawler, Lawler and Company, was present on behalf of the applicant. He asked if the staff's recommendation for denial was because the property is on a dirt road.

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Mr. Frost explained that it had been the policy of the Commission not to approve subdivision on a dirt road because it would put more traffic on an already sub-standard road.

Mr. Lawler asked if it would be possible to approve the subdivision subject to a note being made on the plat that there would be no further subdivision allowed until the road was brought up to standards.

Ms. Pappas stated that if the Commission wanted to grant approval of this subdivision it would be very difficult to deny the property owners across the street and to the north if they filed subdivision applications to create additional lots.

Mr. Frost said the road could be brought up to standard if the applicant wanted to go that route.

There was no one present in opposition.

A motion was made by Mr. McSwain and seconded by Mr. Laier to deny this subdivision subject to the following condition:

- 1) the application would increase the number of lots on a substandard (dirt) road.

In further discussion Dr. Rivizzigno asked how this road was different from another application on a dirt road the Commission had approved.

Mr. McSwain stated that this was additional.

Whether or not the road was maintained by the county was discussed.

After discussion Mr. Frost called the question. The motion carried.

Case #SUB2003-00239

Cottage Hill Estates Subdivision, Resubdivision of and Addition to Lots 1, 2 and 3

North side of Cottage Hill Road, 320'± East of Maple Drive.

1 Lot / 5.5± Acres

Mr. Don Coleman, Rester and Coleman Engineers, Inc., was present on behalf of the applicant. Mr. Coleman referred to condition # 1 of the staff's recommendation limiting the site to one curb cut. He said in negotiating with the County to vacate the right-of-way for Cottage Hill Road, the County agreed to give them two curb cuts. Mr. Coleman, therefore, asked that condition #1 be revised to allow them two curb cuts.

Mr. Olsen stated that he had spoken to the County representative prior to the meeting and the County representative indicated that two curb cuts would be acceptable.

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Mr. McSwain stated that the minutes should reflect the assenting to the vacating of that public right-of-way.

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that the site is limited to two curb cuts to Cottage Hill Road with the size, location and design approved by County Engineering;
- 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) the obtaining of any necessary approvals of all federal, state and local agencies.

The motion carried.

Case #SUB2003-00227

Dickinson Subdivision

West side of Bellingrath Road, 420' ± South of Will Casher Lane.

2 Lots / 3.3± Acres

Mr. Matt Orrell, Polysurveying and Engineering – Land Surveying, was present and indicated the applicant concurred with the staff recommendations.

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each to Bellingrath Road, with the size, location and design to be approved by County Engineering;
- 2) the placement of a note on the final plat stating that Lot 1 is denied direct access to Bush Street;
- 3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 4) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried.

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Case #SUB2003-00226

Gray's Belle Fontaine Shores Subdivision, Resubdivision of Lot 1 of the Resubdivision of Lots 301 and 302

Northeast corner of Lawrence Steiner Road and New Belle Fontaine Boulevard.

3 Lots / 1.7± Acres

Mr. Matt Orrell, Polysurveying Engineering – Land Surveying, was present and noted that this was a county maintained road. He stated that about 45 percent of roads in District 3 are county maintained dirt roads. Mr. Orrell said his client was trying to get one more lot on a dead end street. Mr. Orrell also said the County did not consider these roads substandard. They are graded every week.

There was no one present in opposition.

In discussion Mr. Olsen stated that the staff would suggest a condition of approval, that there be no future resubdivision allowed until New Belle Fontaine Boulevard is paved to County standards.

A motion was made by Mr. McSwain and seconded by Mr. Laier to approve this subdivision subject to the following condition:

- 1) placement of a note on the final plat stating that there shall be no future resubdivision until New Belle Fontaine Boulevard is paved to County standards.

The motion carried.

Case #SUB2003-00241

Gulf Creek Subdivision, Resubdivision of Lot A, Revised Plat of the Resubdivision of Lots 11 & 12

5620 Gulf Creek Circle (North side of Gulf Creek Circle [North], 485'± West of Rabbit Creek Drive).

2 Lots / 0.9± Acre

The applicant was present.

Ms. Pappas stated that on the previous day, the staff had received a letter from the adjoining property owner to the west stating that they did not receive a notice of the hearing. The staff therefore recommended that the application be held over until the November 20, 2003 meeting.

A motion was made by Mr. Frost and seconded by Dr. Rivizzigno to holdover this application until November 20, 2003 meeting at the staff's request due to omission of proper notification.

The motion carried.

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Case #SUB2003-00230

Highland Park Extension Subdivision, Resubdivision of Lot 17

100 Oak Street (Northeast corner of Oak Street and Dickens Ferry Road).

2 Lots / 0.6± Acre

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

Ms. Lucie Hallett, property owner adjoining Lot 18 of the proposed subdivision, asked whether the restrictions on the existing subdivision applied to the proposed resubdivision. She also wanted to know whether or not the property would be developed commercially.

Mr. Frost stated that if these parcels were subject to those restrictions, the restrictions would run with the land; a change in the subdivision would not alleviate a property owner from those restrictions. Regarding the question about commercial development, Mr. Frost noted that property is in the County and does not fall under the City's Zoning Regulations.

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

- 1) the placement of a note on the final plat stating that Lots 1 and 2 are limited to one curb cut each, with the size, location and design to be approved by County Engineering;
- 2) the placement of a note on the final plat stating that Lot 1 is denied direct access to Oak Street;
- 3) the placement of a note on the final plat stating that with Lot 1 being a corner lot, the dedication of a 25' radius should be required;
- 4) 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
- 5) the placement of the 25-foot minimum setback lines on the final plat.

The motion carried.

Case #SUB2003-00236

Jefferson Federal Addition to Montlimar Subdivision, Resubdivision of Lots 1 & 2, of the Resubdivision of Lot 1

3687 Airport Boulevard (Southeast corner of Airport Boulevard and Montlimar Drive).

1 Lot / 1.6± A

Mr. Steven Zito, 6633 Sugar Creek Drive, was present representing the applicant. Mr. Zito explained their plan for a proposed driveway that would exit out onto Montlimar Drive, as well as a limited access right-in, right-out, onto Montlimar Drive. He noted the staff had recommended denial of any access to Montlimar Drive. Mr. Zito said he had spoken to Mr. Metzger with Traffic Engineering about access. Mr. Metzger had

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approved the site plan as submitted. He asked that the Planning Commission approve the resubdivision and allow Traffic Engineering to make any decisions regarding driveways into and out of the site.

Jennifer White of Traffic Engineering stated that she was not aware of Mr. Zito's conversation with Mr. Metzger.

Mr. Zito said there would be only one curb cut to the service road on the far east edge of the site, which was already existing.

There was no one present in opposition.

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

- 1) placement of a note on the final plat stating that the site is limited to one curb cut to the Airport Boulevard Service Road (the Western-most existing curb cut is to be closed and curbing installed as discussed at the meeting) with size, location, and design to be approved by Traffic Engineering; and
- 2) placement of a note on the final plat stating that the site is limited to one two-way curb cut and one one-way in/one-way out curb cut to Montlimar Drive (as presented at the meeting), with size, location, and design to be approved by Traffic Engineering.

The motion carried.

Case #SUB2003-00222

Dorothy Lee Subdivision, Resubdivision of

2108 Cooke's Lane (West side of Cooke's Lane, 200'± South of Dinkins Drive).

2 Lots / 0.5± Acre

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

There was no one present in opposition.

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

The motion carried.

Case #SUB2003-00223

O'Neal Place Subdivision

South side of Johnson Road, 850'± East of Scott Dairy Loop Road West.

32 Lots / 13.0± Acres

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Matt Orrell, Polysurveying Engineering – Land Surveying, was present and indicated the applicant 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 approve this subdivision subject to the following conditions:

- 1) placement of a note on the final plat stating that Lots 1 and 32 are denied access to Johnson Road;
- 2) the placement of a note on the final plat stating that the maintenance of the common area is the responsibility of the property owners association; and
- 3) the construction and dedication of the proposed street to county standards.

The motion carried.

Case #SUB2003-00228

Pinehurst Subdivision, Resubdivision of Lots 7-12 of the Resubdivision of Blocks 14 and 15

Northeast corner of Wildwood Avenue and Howard Street (vacated right-of-way), extending to the South side of Government Street (vacated right-of-way).

4 Lots / 1.3± Acres

Matt Orrell, Polysurveying Engineering – Land Surveying, was present and indicated the applicant 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 approve this subdivision subject to the following conditions:

- 1) the placement of a note on the final plat stating that the dedication of sufficient right-of-way to provide 25 feet from the centerline of Wildwood Avenue; and
- 2) the placement of a note on the final plat stating that the size, number, location and design of curb cuts to Wildwood Avenue for Lot 4 must be approved by Traffic.

The motion carried.

Case #SUB2003-00225

Sonrise Baptist Subdivision

West side of Snow Road, 680'± North of Breckenridge Boulevard, adjacent to the North side of Breckenridge Subdivision, Units One and Three.

2 Lots / 40.0± Acres

Mr. Jerry Byrd, Byrd Surveying, Inc., was present on behalf of the applicant. He said he wanted to clarify a few things for a Mrs. Powell, a resident of Breckenridge, who was

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present. Mr. Byrd explained the proposal for a subdivision of two lots, with the southernmost lot being 500 feet wide. The frontage would be on Snow Road. Plans are to construct a church for Sunrise Baptist Church. This would be the first building of their master plan, yet to be developed.

Mr. Frost asked Mrs. Powell if she was satisfied with the explanation. Mrs. Powell replied that she was satisfied.

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 50' from the centerline of Snow Road;
- 2) the placement of a note on the final plat stating that the size, number, location and design of all curb cuts to Snow Road must be approved by County Engineering;
- 3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and
- 4) placement of the required 25-foot minimum building setback lines on the final plat.

The motion carried.

Case #SUB2003-00235

Thompson Addition to Repoll Road Subdivision

East side of Repoll Road, 870' ± North of Richmond Pearson Road.

2 Lots / 5.4± Acres

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

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that both lots are limited to one shared common curb cut to Repoll Road, with the size, location and design to be approved by County Engineering;
- 2) the placement of a note on the final plat stating that will be no further resubdivision of either lot without the provision of additional access;
- 3) the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision Regulations; and

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- 4) placement of the required 25-foot minimum building setback lines on the final plat.

The motion carried.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2003-02426

Marshall Auto Painting (M. Don Williams, Agent)

2869 Government Boulevard (Southeast corner of Thompson Drive and Government Boulevard Service Road, extending to the Southwest corner of Thompson Drive and Thompson Drive North).

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

There was no one present in opposition.

In discussion a motion was made by Mr. Vallas and seconded by Mr. Laier to approve this request.

The motion carried.

Case #ZON2003-02468

Wal-Tech

826 South Conception Street (Southwest corner of South Conception Street and New Jersey Street).

Request to waive construction of a sidewalk along New Jersey Street.

Frank Dagley, Frank Dagley and Associates, Consulting Engineers, was present on behalf of the applicant. Mr. Dagley stated that this was a heavily industrial area and the sidewalk in question was along the north property line (New Jersey Street). He said when the interstate was built; they cut New Jersey in half. The road basically serves as Wal-Tech's driveway and goes into their back gate. Mr. Dagley noted there was a sidewalk on the other side of the street that was not used nor maintained. He contended there would never be any pedestrian traffic going along this property line. It goes into a 10-foot high chain link fence at the interstate and a 30-high flank of dirt. There would be no reason for anybody to ever want to walk down that street.

There was no one present in opposition.

In discussion a motion was made by Mr. Vallas and seconded by Mr. Laier to approve this request.

The motion carried.

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Dr. Rivizzigno was opposed.

OTHER BUSINESS:

Discussion / Call For Public Hearing: December 4, 2003

**Major Street Plan
Grelot-March Road Connector**

Shayla Jones stated that the section of Grelot-March Road Connector at issue began at Snow Road and extended South to March Road at the Cottage Hill Road-Jeff Hamilton Road intersection. Ms. Jones said the staff was sent a request asking that it be removed. After studying the issue the staff determined that it was not needed.

Mr. Frost announced that a public hearing on this matter would be held at the meeting of December 4, 2003, at 2:00 p.m. in the Auditorium, Government Plaza.

Discussion of possible changes to the Meeting Format and discussion of Tree Inventory Requirements for Zoning, PUD and Planning Approvals.

Mr. Frost stated that he had put this matter on the agenda. There had been some discussion among the real estate developers regarding ways the Planning Commission could improve its meetings. Mr. Frost said the Commission would be happy to listen to their suggestions. So the Planning Commission could deliberate today or take it up at the Commission's next quarterly business meeting.

Chris Lee, Executive Director of Administrative Services, speaking on behalf of the Mayor, stated that in the Mayor's ongoing efforts to improve the development and permitting process in the City, and to better facilitate development efforts, he was hoping that some of the concerns raised recently about the meeting format of the Planning Commission would be considered today or at the Commission's next business meeting. Mr. Lee said the Mayor was very proud of the work the Commission had done in striving to conduct meetings that are impartial, fair, and equitable to all parties, whether it be the applicants, council representatives, or neighbors concerned about changes to the community.

At a recent meeting with the Governmental Affairs Commission of the Board of Realtors, it was discussed that perhaps the meeting format would allow for a more thorough discussion of applications and the resulting conditions placed on development approvals. Mr. Lee said it was mentioned that on a few occasions the Commission placed an additional condition on an application, which had not been discussed in the public hearing portion of the meetings, and the applicant was unable to provide input. The administration was concerned that such a situation could create a poor perception of the meeting as being equitable to all interested parties. Therefore, the Mayor simply wished the Commission to consider allowing input from the applicant if new issues were raised during executive session that were not previously addressed in the public hearing. Mr.

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Lee said that Lee Metzger and Mickey Russell, two representatives from the Governmental Affairs Committee, were here to address the Commission in this matter.

Lee Metzger, Chairman of Governmental Affairs for the Mobile Area Association of Realtors, stated that this discussion really emanated from a discussion that had been held for some months now with regard to Smart Growth. The Board of Realtors had been discussing the benefits and concerns they had regarding Smart Growth. Mr. Metzger said they had a meeting with the Mayor, members of the Planning staff, Mr. Lee, and others to discuss how the City might implement some of those provisions of the Smart Growth initiative. Out of that discussion came some of the issues regarding how Mobile was competing throughout the region with other communities for retail, restaurant, hotel, and business opportunities. Mr. Metzger expressed appreciation to the Planning Commission for their efforts and the position they were placed in. Mr. Metzger said that developers were concerned about high costs of development and Mobile is losing to other markets. He went on to say that developers are having a difficult time competing with the unincorporated and incorporated areas around our community, the smaller cities that surround Mobile, and the larger markets in the region. Mr. Metzger said they are dealing with an awful lot of issues with regard to our economy. Mobile is experiencing negative growth and our tax base is at risk. He said realtors were dependent upon the overall quality of life in a community, which creates the value of the land we all exist and own. Mr. Metzger said he was not proposing that the City or the Planning Commission compromise standards for development in our community; simply want the Planning Commission to be a little more users friendly. He said Mobile was the only Planning Commission that actually had an executive session. With the idea of trying to make this forum as fair and as user-friendly as possible, Mr. Metzger asked that the Commission consider that structural move.

Mr. Metzger stated that the other issue was with regard to the requirement to spot trees. He said their intent was to protect the trees as they already have. The main problem on plans for developers is one that evolved several years ago. In itself, Mr. Metzger said this was not a problem, except for the timing, structure, and sequence. By the time a developer comes in with an application, they may have spent a year and a half working with a company trying to convince them to come to our community. To require that the trees be spotted is very expensive. They were asking if the Commission would consider changing the sequence. So when a developer comes in, you would minimize the amount of money at risk and get a reading from the Planning Commission on the requirements. Mr. Metzger said he thought that the tree ordinance had adequate provisions to protect the trees because one can not get a land disturbance permit until the survey shows the location of the trees is submitted to the Urban Forester. They would like to see a way to take care of whatever issues the Commission may have so that they could make the right decision, but by the same token, make it a little less expensive for someone to come down and see what is required before pursuing a transaction.

Mr. Metzger stated that these were two issues that could enhance their ability to recruit people to town. He asked for the Commission's consideration.

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Mrs. Mickey Russell, past president of the Mobile Board of Realtors, expressed concern about the City's lack of growth. Mrs. Russell stated that being on the Smart Growth Committee made her realize that we are not having any growth. In a meeting with a group of realtors, Mayor Dow, and some of the staff, several things came up. One was the perception within the community and with people coming into our community regarding how hard it is to get something developed or built in our city. Mrs. Russell talked about her concerns with the state of the market. Although having an active market because of interest rates, she said they still have tons of inventories. Mrs. Russell said we have to bring business, industry, and development into Mobile. If we do this, we will have people here to get rid of some of the inventory. While not asking the Planning Commission or the staff to compromise the rules or regulations, Mrs. Russell felt it would help if they could at least change the perception that Mobile is a hard town to do business in. Mrs. Russell asked that the Commission consider looking at some ideas or solutions to help encourage more businesses to come into the city.

Mr. McSwain commented that the Commission administers regulations; they do not establish them.

Regarding the executive session, Mr. Frost stated that it was done as an effort to try to save time for people who come to the meetings. He said his goal was to give everyone a fair opportunity to speak on the application, both for and against. Mr. Frost stated that they try to move through the applications as rapidly as possible, so that people can get back to their jobs or businesses. Mr. Frost said there were exceptions. There are pluses and minuses to both sides. He felt it was a disadvantage if you get into executive session and allow the applicant to come back up and get into more debates over an application. Their goal was to try to give the applicant their say, the public their say, make a decision, and move the agenda along as quickly as possible within reason, but ultimately the Commission make an informed, correct decision based on the information that they have.

Mr. Vallas asked if the Commission currently had a policy that no new conditions be recommended at the close of the public forum.

Mr. Olsen replied that generally the staff does not recommend that the Commission add conditions that were not discussed during the public hearing. He noted that there had been a couple of rare instances where this had occurred or where discussion was brought up after the public hearing was closed. Typically, when that has happened, the staff recommended that the application be held over so that additional conditions could be added and the public allowed to address the new conditions. Mr. Olsen further noted that there had been occasions where the Commission had allowed the applicant to come down and address questions or comments that were raised during executive session.

Mr. Frost stated that on a limited basis he would do that. He said he tries to follow procedure, but there are some instances where he felt the Commission really needed to have certain information, and they more or less suspend the rule for a specific case on a limited basis. As far as voting after each application, he agreed that would probably make it easier, because the Commission would have just heard the application. He said

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on big, complicated, controversial applications, the Commission would on occasion go ahead and vote on those applications right after the public hearing discussion. They would move into executive session and then back out of it. He said it was a judgement call. Mr. Frost said he wondered how some of the engineers and surveyors who regularly attend the Planning Commission meetings would feel about this. He said that Ms. Clarke and the staff had tried to streamline the application process to make it as user-friendly as possible to allow people to get before the Commission, and get an answer and result as quickly as possible. Mr. Frost said the Commission could take this matter up at the next business meeting in December.

Mr. Vallas asked Mr. Jackson if he had comments or thoughts on the locating of the trees for a PUD.

Mr. Jackson stated that when the 1992 Ordinance was adopted it was very progressive, however, it did have some shortcomings. The Ordinance only pertains to 24" and larger Live Oaks. It also says that if a tree falls within the footprint of the building it is automatically permitted for removal. If it falls within the driveway it is permitted on residential property; if it falls within the well of the swimming pools, those trees are removed. The applicant would still have to apply for the permit, but it is automatically approved. In asking that the trees be shown, the Commission extends the protection beyond what the 1992 Ordinance gives the City the authority to do. It goes after the tree of extreme size – 50 or 60 inches in diameter. These are trees that we may never replace because they will not have room to grow in the future of our city. Most of the trees that are planted under the 1992 Ordinance will probably be a maximum size of 12-18 inches if they live that long. Mr. Jackson noted that since the requirement of trees being shown, not one piece of property has been undeveloped because of a large tree.

Mr. Frost said he thought what Mr. Metzger was addressing was not so much the cost, basically, but the point that the tree issue would be covered in the land disturbance permitting process.

Mr. Jackson stated that it would not be covered in the land disturbance permit because that protection was only extended because the Commission required it. It's not that the 20" and larger trees aren't protected, but it depends on where it falls within the property, and it also doesn't protect any other species of trees except Live Oaks. Mr. Jackson noted that in the time you grant approval, if the Commission does not give it protection at that time it can not be granted in the future. He said they have made a major impact on the large tree population by the things they have done and the decisions the Commission has made that are outside the 1992 ordinance. In conclusion, he felt the problem lies with protecting additional trees, without the developer having to come back before the commission for a second approval.

There being no further discussion a motion was made, seconded and so ordered that this Commission take up these matters at the next business meeting.

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There being no further business, the meeting was adjourned.

APPROVED: January 22, 2004

/s/ Victor McSwain, Secretary

/s/ Robert Frost, Chairman

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