

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF AUGUST 17, 2006 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
Victoria L. Rivizzigno, Secretary
Ann Deakle
Bill DeMouy
Mead Miller
James Watkins III
John Vallas

Members Absent

Clinton Johnson
Nicholas Holmes
Roosevelt Turner

Urban Development Staff Present

Richard L. Olsen
Deputy Director of Planning
Bert Hoffman, Planner II
Madeleine Masters, Planner I
David Daughenbaugh, Urban Forestry
Val Manuel, Secretary II

Others Present

John Lawyer, Assistant City Attorney

Jennifer White, Traffic Engineering
Pat Stewart, County Engineering
Beverly Terry, City Engineering

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

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

APPROVAL OF MINUTES:

After discussion a motion was made by Mr. Watkins and seconded by Dr. Rivizzigno to approve the minutes of the June 15, 2006, meeting as submitted.

The motion carried unanimously.

HOLDOVERS:

Case #ZON2006-01136 (Planning Approval)
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 was considered.

August 17, 2006

The plan illustrates the existing building and parking.

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

No one came forward to speak.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this request until the September 21, 2006, meeting to allow for the following provisions:

- 1) revised site plan, drawn to scale, showing parking area designed to comply with the Zoning Ordinance;
- 2) revision of the site plan, if necessary, to depict stormwater detention facilities that may be required due to the parking area; and
- 3) revision of the site plan to depict compliance with the tree and landscaping requirements of the Zoning Ordinance.

The motion carried unanimously.

Case #SUB2006-00127 (Subdivision)

Louise Place Subdivision

South terminus of Louise Avenue (unopened right-of-way, to be partially vacated), including Gulver Street (unopened right-of-way, to be vacated), and McMurray Street (unopened right-of-way, to be vacated), extending from McNeil Avenue to Schaub Avenue.

19 Lots / 4.7± Acres

The site plan illustrates the proposed development.

Mr. Olsen pointed out that the staff report erroneously indicated in condition #2 that dedication of 50 feet of right-of-way from the centerline would be required. The actual requirement is dedication of 25 feet from centerline. Also, Mr. Olsen clarified that currently Louise Avenue North of the site for approximately 150 feet was not open. It was unimproved, and the applicant would have to construct that part of Louise Avenue all the way down and including the cul-de-sac as proposed. From that point North it was substandard, but was City-maintained. The construction, therefore, would only be from the end of City maintenance to the proposed cul-de-sac. Mr. Olsen said the applicant was aware of this.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. Mr. Coleman said they would like to leave 20 feet each side of the centerline right there where it is (indicating on plat) because Louise Avenue was 40 feet of right-of-way from its beginning all the way to Airport Boulevard. He said a right-of-way of 25 feet on each side of the centerline in this subdivision would not do because they were widening with a little turnaround down there, so it would not be but about 100 or so feet of them giving 50 feet instead of 40 feet, and that would be the only thing on Louise Street for that.

Mr. Olsen noted that there had been previous applications for this particular property individually approved on the East and West sides, and at that time the applicant made the

August 17, 2006

same request and the Commission did honor that request because of the 40-foot right-of-way North of the site.

Asked if there was anyone else to speak in this matter, no one came forward.

In deliberations session Mr. Miller asked if the staff did not feel the 20 feet would be acceptable.

Mr. Olsen said the staff had gone along with that previously.

Mr. Miller said he did not see where condition #2 requiring dedication of 50 feet from the centerline of Louise Avenue should be required.

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

- 1) compliance with Engineering comments (*The applicant's engineer will be required to resubmit all drainage calculations to account for the proposed increased impervious area. The vacation process must be complete prior to issuance of the Land Disturbance permit. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*);
- 2) construction and dedication of the new streets to City Engineering standards;
- 3) completion of the right-of-way vacation process;
- 4) revision of the legal description to reflect previous plat revisions, and any disparities in the transfer of vacated right-of-way from what is shown on the preliminary plat;
- 5) the placement of a note on the final plat stating that the site is limited to a single curb cut per lot;
- 6) the depiction of the 15-foot building setbacks along Louise Avenue; and
- 7) the placement of a note on the final plat stating that common area maintenance will be property owners' responsibility.

The motion carried unanimously.

Case #ZON2006-01279 (Planned Unit Development)

Louise Place Subdivision

South terminus of Louise Avenue (unopened right-of-way, to be partially vacated), including Gulver Street (unopened right-of-way, to be vacated), and McMurray Street (unopened right-of-way, to be vacated), extending from McNeil Avenue to Schaub Avenue.

The request for Planned Unit Development Approval to allow reduced lot sizes and widths, reduced front yard and side yard setbacks, and increased site coverage in a single-family residential subdivision was considered

The site plan illustrates the proposed development.

August 17, 2006

(Also see Case #SUB2006-00127 (Subdivision) Louise Place Subdivision - South terminus of Louise Avenue (unopened right-of-way, to be partially vacated), including Gulver Street (unopened right-of-way, to be vacated), and McMurray Street (unopened right-of-way, to be vacated), extending from McNeil Avenue to Schaub Avenue – above, for discussion.)

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

- 1) compliance with Engineering comments (*The applicant's engineer will be required to resubmit all drainage calculations to account for the proposed increased impervious area. The vacation process must be complete prior to issuance of the Land Disturbance permit. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*) ;
- 2) construction and dedication of the new streets to City Engineering standards;
- 3) completion of the right-of-way vacation process;
- 4) limitation of the site to a single curb cut per lot; and
- 5) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01373 (Sidewalk Waiver)

Dr. Louis J. Naman (Ben Cummings, Agent)

4125, 4137, 4151, and 4203 Moffett Road

(Southwest corner of Moffett Road and Wolf Ridge Road).

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

Mr. Plauche announced that this application had been recommended for denial.

There was no one present to speak in this matter.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to deny this request for the following reason:

- 1) no physical barrier or engineering reason was shown that would make sidewalk construction impracticable.

The motion carried unanimously.

Case #SUB2006-00131 (Subdivision)

Paul Persons Subdivision, Resubdivision of Lot 1

4474 Halls Mill Road

(North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road).

2 Lots / 5.3± Acres

August 17, 2006

Mr. Plauche announced that this application was recommended for holdover to the meeting of September 21, but if anyone was present to speak in this matter, they could do so now.

Frank Dagley, 717 Executive Park Drive, was present on behalf of the applicant and asked that this application be held over until the first meeting in October, rather than the September 21st meeting.

There was no one else to speak in this matter.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 5, 2006, meeting to allow the following item to be addressed:

- 1) revision of the subdivision layout to address depth-to-width ratio concerns and future subdivision concerns.

The motion carried unanimously.

Case #ZON2006-01364 (Planned Unit Development)

Paul Persons Subdivision, Resubdivision of Lot 1

4474 Halls Mill Road

(North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road).

The request for Planned Unit Development Approval to allow multiple buildings on a single building site with shared access between building sites was considered.

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

(See Case #SUB2006-00131 (Subdivision) - Paul Persons Subdivision, Resubdivision of Lot 1 - 4474 Halls Mill Road - (North side of Halls Mill Road, 4/10 mile± West of the North terminus of Riviere du Chien Road) – above, for discussion.)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 5, 2006, meeting to allow the following items to be addressed:

- 1) revision of the site plan to fully comply with the conditions associated with the 1997 rezoning of the site;
- 2) provision of evidence that all of the existing development on the site was undertaken with the proper permits;
- 3) if a portion of the existing development on the site was not properly permitted, provision of a written plan outlining how existing unpermitted development will be brought into compliance with all applicable municipal codes and ordinances; and

August 17, 2006

- 4) revision of the site plan and subdivision layout to address depth-to-width ratio concerns and future subdivision concerns.

The motion carried unanimously.

Case #SUB2006-00159 (Subdivision)

Jeff Hamilton Storage Subdivision

9600 Jeff Hamilton Road

(Northwest corner of Jeff Hamilton Road and Walston Road [private street]).

2 Lots / 9.9± Acres

Mr. Plauche announced that this application had been recommended for denial.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant. He noted that denial was recommended by the staff because this site fronted on a private street. Mr. Coleman explained that the private street comes off of Jeff Hamilton Road (indicating on plat), and there was a recorded subdivision right there in the corner which showed that as a private street. Mr. Coleman presented an instrument dated November 29, 1977, in which Mrs. Walston granted this property (indicating on plat) to one of her children, and stated that it was to be used for a roadway only. It described the property running 777' South, North and South, and 480' East and West to the West boundary line of Jeff Hamilton Road. The instrument further stated that the grantor and grantee and their respective heirs and assigns shall have free right across this access and use of said right-of-way in any road now existing or hereinafter constructed. Also, on October 7, 1994, Ms. Walston deeded that 30-foot strip to all her heirs, which were all up and down that strip, and said that it could be used for a road. Mr. Coleman said that one of the lots in the subject subdivision belongs to one of the heirs, and they have free right to use that as a public street. He noted that there had already been one subdivision in there that had been recorded showing that as an easement. They were requesting approval of this lot because it does have access to Jeff Hamilton Road via that easement.

Mr. Olsen explained that currently there were two parcels, and the purpose of this application was to basically include a portion of one area (which he indicated on plat) into the other parcel, creating two lots of record. Mr. Olsen said it would not ultimately change anything else related to access to the private street. Technically, there were some issues, but if the Commission were to consider or choose to approve, the staff did have some suggested conditions. Mr. Olsen read the recommended conditions.

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

- 1) placement of note on final plat stating that Lot 1 is limited to its existing curb cut;
- 2) placement of note on final plat stating that Lot 2 is limited to one curb cut onto Walston Road, with the size, design and location to be approved by Mobile County Engineering;
- 3) placement of a note on the final plat stating that no future subdivision of Lot 1 be allowed until additional frontage is provided on a public street constructed to the minimum standards contained within the Subdivision Regulations;

August 17, 2006

- 4) placement of a note on the final plat stating that no future subdivision of Lot 2 allowed until Walston Road is improved to County standards, or frontage is provided on a public street constructed to the minimum standards contained within the Subdivision Regulations;
- 5) depiction of the 25-foot minimum building setback line, required in Section V.D.9. of the Subdivision Regulations; and
- 6) 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 #ZON2006-01454 (Sidewalk Waiver)

Fulton Road Baptist Church

1800 Dauphin Island Parkway

(West side of Dauphin Island Parkway, extending from Magnolia Lane to Nicholas Lane).

A request to waive construction of sidewalks along all street frontages was considered.

Mr. Plauche pointed out to the members that a revised recommendation sheet had been provided them by the staff. He asked if the applicant was in agreement with the recommendations.

Pastor Art Burrough, Fulton Road Baptist Church, said they were in agreement with the recommendations.

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

The motion carried.

Case #ZON2006-01330

T-Mobile

South side of Government Street, 95' ± East of Park Terrace.

A request for Planning Approval to allow a 70' monopole cellular communications tower in a B-1, Buffer Business district was considered.

The site plan illustrates the proposed tower location, easement, and lease parcel.

Mr. Plauche announced that this application would be held over until the September 7th meeting, but if anyone was present to speak in this matter, they could do so now.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to holdover this application until the September 7, 2006, meeting, to allow inclusion of the results of the Ballon Test and the decision of the Architectural Review Board.

The motion carried unanimously.

August 17, 2006

EXTENSIONS:

Case #SUB2005-00161 (Subdivision)

Nautical Point Subdivision

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

1 Lot / 0.7± Acre

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

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to grant a one-year extension of approval for the above referenced subdivision. It should be noted, however, that an additional extension would be unlikely.

The motion carried unanimously.

Case #SUB2004-00165 (Subdivision)

Spanish Trail Commercial Park, Resubdivision of Lots 6 & 7

South terminus of Spanish Trail Court.

2 Lots / 1.8± Acres

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

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

The motion carried unanimously.

NEW SUBDIVISION APPLICATIONS:

Case #SUB2006-00170

Azalea Hills Christian Church Subdivision

9191 Cottage Hill Road

(Southeast corner of Cottage Hill Road and McFarland Road).

1 Lot / 6.1± Acres

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

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 50-feet as measured from the centerline of Cottage Hill Road;
- 2) placement of a note on the Final Plat stating that the development is limited to one curb cut onto Cottage Hill Road, and two curb cuts onto McFarland Road, with

August 17, 2006

- the size, design and location of all curb cuts to be approved by the Mobile County Engineering Department;
- 3) dedication of an appropriate radius at the intersection of Cottage Hill Road and McFarland Road, to be coordinated with the Mobile County Engineering Department; and
 - 4) 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 #SUB2006-00167

Beltline Park Subdivision, Resubdivision of Lots 1 & 2

Southeast corner of East I-65 Service Road North and Beltline Park Drive South.

1 Lot / 0.7± Acre

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

There was no one present in opposition.

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

- 1) depiction of the FEMA minimum finished floor elevation for each lot in the subdivision;
- 2) placement of a note on the final plat stating that the site is limited to one curb-cut onto East I-65 Service Road North, with the size, design and location to be approved by Traffic Engineering and ALDOT, and conform to AASHTO standards;
- 3) placement of a note on the final plat stating that the site is limited to two curb cuts onto Beltline Park Drive South, with the size, design and location 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 #SUB2006-00171

Canebrake Subdivision, Revised Lot 20

Southeast corner of Canebrake Road and Canebrake Court South.

1 Lot / 0.8± Acre

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

There was no one present in opposition.

August 17, 2006

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

The motion carried unanimously.

Case #SUB2006-00166

Commonwealth National Bank Subdivision

2214 St. Stephens Road

(East side of St. Stephens Road, 460'± North of the East terminus of Allison Street, extending to the West side of Dr. Martin Luther King, Jr. Avenue, 60'± South of the East terminus of Osage Street).

1 Lot / 1.4± Acres

Linda Burkett, of Marshall McLeod Professional Land Surveyors, was present and stated that this application was submitted two meetings back. The purpose was to bring this property into compliance as a one-lot subdivision. Ms. Burkett said that prior to submitting the application she talked to Mr. Metzger and Ms. White with Traffic Engineering regarding the curb cuts. The site was currently developed with two curb cuts. Mr. Metzger said they would require the standard language, which requires driveway number, size, location and design to be approved by Traffic Engineering and conform to ASHTO standards. At the meeting, however, the staff recommended, and the plan was approved, with the condition that a noted be placed on the final plat stating that future redevelopment of the site is limited to a single curb cut to each street. Ms. Burkett noted that at one time many years ago when they were working on this project, they had an ingress and egress pattern that had two driveways on both streets. The St. Stephens Road driveway enters to the South and exits to the North, making two right turns. Ingress/egress onto Dr. Martin Luther King Avenue has an entrance making a right turn and also an exit right turn. Ms. Burkett said the traffic flow was good in this location, and they felt limiting the curb cuts was premature. At such time as any improvements are made, they would agree to work with Traffic Engineering and make any kind of considerations, including closing the driveways if necessary. Today, however, they were requesting the Commission reverse its decision made at the previous meeting regarding the curb cuts.

Ms. Deakle asked if she understood correctly that currently the site had two curb cuts on St. Stephens Road and two curb cuts on Dr. Martin Luther King, Jr. Drive.

Ms. Burkett said that was correct.

Ms. Deakle asked what the front footage was on both of those streets.

Ms. Burkett said the frontage was 209' on the East side, and 187' on Dr. Martin Luther King, Jr. Drive. She also noted that there was a historic oak tree on the St. Stephens Road side.

Mr. Watkins asked what the staff recommended in this matter.

August 17, 2006

Mr. Olsen said that the staff recommended that a note be placed on the final plat stating that future redevelopment of the site be limited to one curb cut to each street. He said that while Traffic Engineering's review was based on existing conditions, St. Stephen's Road was a major street on the Major Street Plan. When future improvements are made to Stephen's Road, as with any major street, they try to limit access to the major streets. Having two curb cuts in such a short distance was something that was not normally desirable. Mr. Olsen said the Commission frequently places conditions on developments on a major street limiting the curb cuts when there is limited frontage on that street. The staff's position would be that if there was a note on the final plat stating future development be limited to one curb cut, the design professional working on any site plan for that future redevelopment would be aware of that and could design the site appropriately instead of possibly designing it with two curb cuts, and then having Urban Development or Traffic Engineering tell them it should be only one curb cut and require them to have to re-work their site design.

Mr. Watkins wanted to make sure he understood that the applicant would not lose the two existing curb cuts with this project, but that any future re-development of the site would be limited to one curb cut to each street.

Mr. Olsen said that was correct.

Ms. Burkett said she would like to remind the Commission that taking future development to one curb cut for each street was not in the Code. It was not a Code issue. It was a subjective recommendation.

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) dedication of sufficient right-of-way to provide 50 feet from the centerline of St. Stephens Road;
- 2) adjustment of the 25-foot building setback line to reflect the dedication;
- 3) the placement of a note on the final plat stating that future redevelopment of the site is limited to a single curb cut to each street with the size, location and design to be approved by Traffic Engineering and to conform to AASHTO standards; and
- 4) compliance with Urban Forestry comments (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Mobile Tree Commission Permit is required before removing trees from existing city right of way.*).

The motion carried unanimously.

August 17, 2006

Case #SUB2006-00165

The Farm Subdivision

North terminus of an unnamed, unopened street stub, 540'± East of the North terminus of Knobbley Drive, extending to the West terminus of Westlake Road.

1 Lot / 1.3± Acres

Linda Burkett, with Marshall McLeod Professional Land Surveyors, was present on behalf of the applicant. Ms. Burkett said the purpose of this application was to cut out a one-lot parcel to the North of the Westlake area and some very old family property. She and her client had discussed this proposal with Land Use, and asked if they would rather them bring the property line to the 50-foot easement, or go ahead and bring the property line already in place, because the 50-foot easement was required. Ms. Burkett said the staff advised them to put it back away from the 50-foot easement, but now they were told that the staff said they were not abutting that easement. She said they would be glad to abut the easement, but it would be nice if there was some consensus on staff reporting and conversations with this client and with the applicant's representative.

Mr. Olsen stated that he was not involved in this early on, but the configuration as submitted did not provide frontage on a County-maintained road. Also, he understood that the section of right-of-way in question was not improved or constructed to County standards.

Mr. Stewart said that was correct.

Mr. Olsen further stated that even if the lot was to come over and have frontage on that right-of-way, it would not have frontage on a County-maintained right-of-way, and therefore would not meet the minimum standards of the Subdivision Regulations. It would have to have frontage on a County-maintained right-of-way. That would all have to be constructed.

Ms. Burkett said she had just planned to take care of one thing at a time, but would be more than willing to move that property line forward to that easement location. Also, as Mr. Olsen pointed out, this was the previous subdivision of Buddy Breland, and she understood that the subdivision was required to provide a stubout for future development. She was pretty sure the stubout was required, but they were not required to build it. Therefore, the applicant would have to provide a rather expensive, long driveway, or County-maintained sub-standard road, into that property. Ms. Burkett said the applicant was present and would like comment.

Mr. Crosby, of 9805 East Avenue, stated that he owned this parcel of land which he inherited from his parents who had inherited it from their parents. He said Mr. Breland bought a portion of the land from his brother and developed a subdivision. He felt Mr. Breland had made some obvious wrong decisions where his land was concerned with drainage encroachments on his land. Mr. Crosby said just wanted to give his son and his wife an acre of land to build a house on. He was not aware that Eliza Jordan Road was going across the land until he started this process. He noted that Westlake Road was not paved until about two years ago for Mr. Breland's purposes. He pointed out a strip of land on the other side of the road that he owned with a house on it, which was now rental

August 17, 2006

property, and would become a part of Eliza Jordan Road if and when it was built. Mr. Crosby said he understood that it was government for the people and by the people, but he did not know how the government could make it so expensive that he could not give his child an acre of land.

Mr. Plauche explained that the Commission did not make the laws, but was there just to enforce them, and agreed that government can be expensive.

In deliberations session several of the members said they were not clear on this proposal, especially as to the 50-foot easement, and whether the lot line needed to come out all the way to the road.

Mr. Hoffman pointed out the current 100-foot wide future right-of-way for the proposed major street. As the subdivision was proposed, the developer would be required to dedicate 50 feet, or half of the 100-foot right-of-way width, and then have their proposed lot front onto the dedication. It would still not, however, front onto a built public road. Since they owned all of the land (indicating on the plat), they had the ability to dedicate the entire 100-foot right-of-way width. After consulting with Mobile County Engineering, it was stated as a potential requirement that the road would have to be constructed to County standards up to the top of their proposed lot, and then provide a temporary turnaround at the top of that.

Mr. Miller stated that in family situations the Commission has sometimes been more flexible while still protecting future development, but was not sure they could do that in this case.

Dr. Rivizzigno asked about the property Mr. Breland developed, on which he was supposed to have provided a stubout. She understood he developed that strip of land but did not pave it, and asked if he really complied with the requirement to have a stubout.

Mr. Olsen said he was not really sure how the condition was worded as far as the provision including construction. He asked Mr. Stewart to comment on that.

Mr. Stewart explained that when this subdivision was approved, the applicant requested that the stub not be required to be built because the adjoining property owner did not want that stub constructed because they did not want people dumping garbage and going back in the back side of that property. Mr. Stewart said the County agreed, but also said that if there was anymore development, that stub would be built. The way to enforce that would be to make it a condition of this new lot that that road would be built to County standards before it is approved.

There was further discussion as to how the family could be required to build the stubout.

Mr. Plauche asked Mr. Olsen what Ms. Burkett's offer was as opposed to what the recommendations were.

Mr. Olsen said he understood that in lieu of dedicating the 50 feet of right-of-way, Ms. Burkett said her client's lot would come back to the center of the unopened portion and

August 17, 2006

possibly provide the setback from the future right-of-way. As far as improvements in the right-of-way, he did not recall her discussing any type of improvements. She said they would move the lot over to the center of that unopened, unimproved, right-of-way, but he did not recall that there was any offer of construction of that unopened right-of-way.

Mr. Stewart noted that since the County had adopted subdivision regulations, they did not allow any more private dirt roads. They have got to be paved and constructed to a certain standard.

At this point Mr. Olsen suggested the Commission might want to consider holding this application over until the next meeting.

Several members agreed.

Mr. Vallas said it appeared to him that only half the lots on Oak Road were developed, and if Mr. Breland still owned those lots, possibly no more building permits should be allowed to be issued until the street stub is constructed.

Mr. Stewart noted that both of the units referred to have been sold to Adams homes.

Mr. Miller suggested holding this application over to the next meeting. He was not sure whether the developer of the original, larger property should be required to build that road.

Mr. Lawler stated that the Code states that a subdivision is a division of a lot for sale. This is a lot that is going to be a gift to a family member, which puts it kind of in question. It was just one lot, and he suggested the Commission approve it and put a condition on it that any future development of this area that is owned by this property owner would have to come into compliance with the Subdivision Regulations providing street, etc.

Mr. Stewart reiterated that since the County had adopted the new subdivision regulations, they were not allowing any more private dirt roads.

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) revision of Lot 1's Eastern boundary to be the centerline of the proposed major street, with the minimum building setback line located 25 feet from the proposed future right-of-way edge;
- 2) placement of a note on the final plat stating that no future subdivision of the remainder of the property or Lot 1 allowed until a road constructed to minimum standards contained within the Subdivision Regulations is constructed from West Lake Road to the Northern property line of Lot 1;
- 3) placement of a note on the final plat stating that the Lot 1 is limited to one curb-cut, with the size, design and location to be approved by the Mobile County Engineering Department;

August 17, 2006

- 4) placement of a note on the 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;
- 5) depiction of the future right-of-way edge for the proposed Girby Road – Girby Road Extension major street on the plat (measured 50 feet from the centerline of West Lake Road), and placement of a note stating that dedication of the right-of-way will be required when the parcel is subdivided; and
- 6) correction of the legal description, inclusion of the overall “future development” area in the legal description, and placement of a vicinity map on the plat

The motion carried unanimously.

Case #SUB2006-00179

Heron Lakes Subdivision, Phase One, Resubdivision of Lot 85

1165 Heron Lakes Circle

(North side of Heron Lakes Circle (South), 130'± West of Grand Heron Way).

1 Lot / 0.3± Acre

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

There was no one present in opposition.

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

The motion carried unanimously.

Case #SUB2006-00177

Alexander Place Subdivision

4263 Airport Boulevard

(Southeast corner of Airport Boulevard and Mayflower Street).

2 Lots / 0.5± Acre

Mr. Plauche announced that this application would be held over until the meeting of September 7th, but if anyone was present who wished to speak they could do so now.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the September 7, 2006, meeting to allow the following items to be submitted:

- 1) revision of the application to include the remainder of Lot 7 and Lot 8 to the South;
- 2) revision of the application to create a three-lot subdivision;
- 3) the placement of a note on the Final Plat denying access onto Airport Boulevard; and
- 4) the placement of the 25-foot minimum building setback lines on the final plat.

August 17, 2006

The motion carried unanimously.

Case #SUB2006-00178

Glen Acres Subdivision, First Addition, Block A, Resubdivision of Lots 8 & 9

9074 Glen Acres Drive North

(North side of Glen Acres Drive North, at the North terminus of Riley Street).

2 Lots / 2.1± Acres

There was no one present to speak on behalf of the applicant.

There was no one present in opposition.

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

- 1) the dedication of sufficient right-of-way to provide 30 feet from the centerline of Glen Acres Drive; and
- 2) the placement of a note on the final plat stating that any property that is developed commercially and adjoins residentially developed property shall provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00173

Johnson Addition to Pauline Court Subdivision

1101 Navco Road

(East side of Navco Road, 55'± North of Pauline Drive).

2 Lots / 1.0± Acre

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

There was no one present in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to waive Sections V.D.2 and V.D.3. of the Subdivision Regulations and approve the above referenced subdivision subject to the following condition:

- 1) the placement of a note on the final plat stating that the site is limited to a single curb cut to Navco Road for each lot.

The motion carried unanimously.

Case #SUB2006-00169

UMC Inner City Mission Subdivision

911 and 913 South Broad Street

August 17, 2006

(North side of Kentucky Street, extending from South Broad Street to South Washington Avenue).

3 Lots / 0.7± Acre

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

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that Lot 1 be limited to one curb cut each onto Kentucky Avenue and South Washington Avenue, Lot 2 be limited to one curb cut onto South Broad Street, and Lot 3 be limited to one curb cut onto South Washington Avenue with the size, location and design to be approved by Traffic Engineering;
- 2) dedication of appropriate radii at South Broad Street and Kentucky Street; and South Washington Avenue and Kentucky Street, with the size to be determined by Traffic Engineering; and
- 3) the provision of 25-foot minimum building setback lines on the Final Plat

The motion carried unanimously.

Case #SUB2006-00175

Wood Duck Pond Subdivision, 1st Addition

1041 Hubert Pierce Road

(West side of Hubert Pierce Road, 445'± North of Tanner Williams Road).

3 Lots / 2.4± Acres

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

There was no one present in opposition.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to waive Section V.D.1 of the Subdivision Regulations and approve the above referenced subdivision subject to the following conditions:

- 1) the depiction of the minimum building setback line 75 feet from the centerline of Hubert Pierce Road, as required in Section V.D.9. of the Subdivision Regulations (50 feet measured from the centerline for the proposed major street right-of-way, plus the 25-foot minimum building setback);
- 2) placement of a note on the plat stating that the proposed lots are limited to one curb cut each onto Hubert Pierce Road, with the size, design and location to be approved by the Mobile County Engineering Department;
- 3) placement of a note on the plat stating that no permanent structures may be built on the “handle” or “pole” portion of Lot 2;

August 17, 2006

- 4) placement of a note on the plat stating that no future subdivision of Lot 2 shall be permitted unless adequate frontage on an improved public or private street meeting minimum standards is provided for each proposed lot; and
- 5) 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 #SUB2006-00176

Combs Place Subdivision, First Addition

West side of Grider Road at the West terminus of Rosehill Lane.

4 Lots / 6.4± Acres

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

Diane Havens Owens stated that she lived adjacent to the proposed subdivision and would be most affected by it. Ms. Owens noted that the previous application for this subdivision was denied by the Commission, and a petition objecting to this subdivision was signed by practically everyone on Grider Road and Rosehill Lane. She felt this application was a second attempt to try and piecemeal this subdivision in. Ms. Owens said she doubted that a perk test had ever been done on this property for either application, and she said the developers had never followed any of the rules and regulations in the past and she did not believe that they had done so for this proposed subdivision either, nor did they intend to. She said they had been called down on numerous occasions for not following the proper procedures. Last Fall the developer erected a large sign in the front of the property advertising 21 lots for sale. That was illegal, since it was months before the first hearing last Fall. The developer then started clearing and grubbing without a permit and was forced to stop. They demolished a barn that was on the property making a big pile of wood, sheet metal, tanks, etc and left it there. Some of it got blown around when Hurricane Dennis hit, and it was finally cleared about a week before Katrina hit. The City was made aware of this and one of the most pitiful excuses for a silt fence was quickly put up. Ms. Owens said she had pictures of this. On Monday, March 12, equipment was picking up debris from Hurricane Katrina. This ended on Tuesday when the grubbing, which they had a permit for, ended and an unpermitted grading began. The entire property was graded and Ms. Owens said she witnessed at least two large dump trucks being loaded with soil which was then driven out of the neighborhood. This was done very quickly on the last day of grading after someone tipped them off that ADEM had been called. She said the elevation of this property had been greatly compromised. Don Varesco, with ADEM, came out and shut them down. They were severely reprimanded and ordered to install proper higher silt fencing that was buried below the soil level and to plant grass to prevent erosion. Even with the drought this summer, the current silt fence was in poor condition and needed upgrading. She submitted a picture showing the erosion very near the front part of her property and very close to the street that almost topped this retaining apparatus. Ms. Owens said the developer did not comply with the stormwater regulations, and showed a picture of where the end of a drain pipe on their street should be, but it was actually a pile

August 17, 2006

of dirt covered in tall grass, and every time it rained the street was a river of water. This covered up drainpipe was a few yards from her driveway. She further stated that Mr. Varesco of ADEM advised her that she should heavily emphasize this stormwater erosion mismanagement at this hearing, and the pictures she submitted were good proof of the uncaring nature of this property owner for the street and the neighborhood. Ms. Owens differed with the statement on page two of the staff report that said the applicant had met minimum standards required for this subdivision. Finally, Ms. Owens noted that the lots on her side of the street were deep lots, and this subdivision would take away from the character of the neighborhood. She respectfully requested that the Board deny this application, and also reminded the Commission of the petition in opposition signed by the residents and submitted to the Commission last year.

Mr. Vallas noted that Ms. Owens referred to three lots, but the staff report specifically said this was one lot of record.

Mr. Olsen explained that when the application previously came in, this (indicating on the plat) was the overall property. The Commission approved a lot to be sold off (indicating on the plat), and the remainder of the site as the second lot. The applicant was now requesting that lot 2 of the subdivision be resubdivided into four lots.

Mr. Miller asked for clarification on the action taken by the Commission when this property was previously submitted.

Mr. Olsen explained that previously the request before the Commission was for 21 or 22 lots. At that meeting, the applicant asked that the Commission approve a revised plan for a two-lot subdivision because their main objective at that point was to have the ability to sell this (pointing out on plat) corner lot. The remainder of the site was lot 2. They were now requesting that lot 2 be resubdivided into four lots.

Ms. Terry noted that the applicant did obtain a clearing permit from Engineering some time ago, and they would send someone out there tomorrow to make sure that it was being complied with and that no additional work had been done. She said Engineering was not aware of the grading activity referred to by Ms. Owens.

In deliberations session Mr. Watkins asked if there was anything the Commission could do to force the applicant back into compliance before they approved this plan.

Ms. Terry stated that the applicant did have a history of being forced into compliance, so Engineering would send someone out there to make sure they were in compliance with their existing permit and make sure they had not gone past their existing permit.

Mr. Miller was curious about the future development of lot 5, which he felt was not in character with the neighborhood.

Mr. Olsen pointed out that with the radii as proposed it was obviously going to be a street at some point in the future. Further, he felt that at some point lot 5 would be resubdivided. He noted that there was a condition requiring the placement of a note on the final plat stating that lot 5 not be resubdivided until Grider Road was improved to

August 17, 2006

City standards, because it was very substandard at present. Based on the previous application, it was stated that it was a 15-18' right-of-way, paved, and City maintained.

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

- 1) waiver of Section V.D.1. of the Subdivision Regulations;
- 2) provision of seven (7) copies of the final plat for Combs Place Subdivision to Urban Development prior to requesting a signature from Urban Development for Combs Place Subdivision First Addition;
- 3) the dedication of sufficient right-of-way to provide a minimum of 30 feet as measured from the centerline of Grider Road, and adjustment of the minimum building setback line to reflect the dedication, in conformance with Section V.D.9.;
- 4) placement of a note on the plat stating that no permanent structures may be built on the "handle" or "pole" portion of lot 5;
- 5) placement of a note on the plat stating that no future subdivision of lot 5 shall be permitted unless adequate frontage on an improved public street meeting minimum standards is provided for each proposed lot, and until Grider Road is brought up to City standards;
- 6) placement of a note on the plat stating that lots shall be limited to one curb cut each onto Grider Road, with the size, location and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 7) full compliance with Urban Forestry comments (*Preservation status is to be given to the 35" Live Oak Tree located on the North side of proposed Lot 2. 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*);
- 8) full compliance with City Engineering comments (*Stormwater detention is required for this subdivision and must be constructed prior to the recordation of the final plat and any land disturbance permitting. In addition, a common area should be shown on the plat for the aforementioned detention pond. The property fronts a city ROW with substandard pavement width and drainage facilities. Must comply with all stormwater and flood control ordinances. Any work performed in the right-of-way will require a right-of-way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands*);
- 9) adjustment of the lot lines for Lots 2-4 to ensure that each lot is at least 15,1000 square feet, after the required right-of-way dedication, and labeling of all lots with their respective area in square feet; and
- 10) full compliance with all other municipal codes and ordinances.

Voting resulted in a tie. Mr. Plauche therefore cast his vote against the motion. The motion failed to carry, and the plan was denied for the following reasons:

August 17, 2006

- 1) lot configuration would be inappropriate for the area, as the layout implies future development;
- 2) Grider Road is substandard in terms of pavement width and drainage, thus not able to accommodate additional development until improved to City standards; and
- 3) opposition expressed at the meeting and provision of documentation that City regulations are not being complied with.

Case #SUB2006-00182

Saddlebrook Subdivision, Unit Four

North termini of Saddlebrook Drive East, Downing Way, and Saddlebrook Drive West, extending to the South terminus of Scenic Park Drive.

28 Lots / 11.4± Acres

Jerry Luker, with Speaks and Associates, was present on behalf of the applicant. Mr. Luker said they were in agreement with the recommendations of the staff, with one exception, and that was the requirement for 25-foot minimum building setback lines for all lots. He noted that one builder was building all the houses in this subdivision, and he was requesting 15-foot setbacks on the side lines.

Mr. Olsen stated that in the past the Commission had occasionally allowed reduced setbacks on corner lots. Generally, in the City, it has been to the 20-foot side street setback as allowed by the Zoning Ordinance. As noted in the staff report, the other corner lots throughout Saddlebrook provide 25-foot setbacks on both streets. It would be somewhat inconsistent, therefore, with the remainder of the subdivision, and for this reason the staff did not include that request in their recommendation. The Commission, however, does have the authority to modify that setback.

Mr. Plauche asked if that request was in the original application.

Mr. Olsen said it was.

Mr. Miller asked Mr. Luker if the applicant felt there was any specific reason that the lots in the proposed subdivision would be more appropriate with 15-foot setbacks as opposed to 25-foot setbacks as required in the rest of the subdivision, other than his convenience.

Mr. Luker said there was no other reason, except that he had looked at the subdivision layout and knew the houses he wanted to build on these lots.

In administrative session there was further discussion about the setback requirement. Mr. Olsen pointed out the corner lots on which the applicant was requesting 15-foot setbacks.

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

- 1) the placement of a note on the Final Plat stating that corner lots (98, 103, 104, 106, and 114) are limited to one curb cut each, with the size, design and location to be approved by County Engineering;

August 17, 2006

- 2) the placement of the required 25-foot minimum building setback lines for all lots on the Final Plat; and
- 3) the construction and dedication of the proposed streets to County standards.

The motion carried unanimously.

Case #SUB2006-00180

Arcata Woods Subdivision

West terminus of Belmont Park Drive, extending to the South side of Ben Hamilton Road at the South terminus of Mose Circle (private street).

427 Lots / 229.3± Acres

Mr. Plauche announced that this application was recommended for holdover until the September 21, 2006, meeting, for the reasons stated in the staff report. If, however, there was anyone present who wished to speak in this matter they could do so now.

Lindsey Walker stated that he was with John Howard Company as a partner in this development and agreed to this holdover. He asked for clarification, however, on three issues indicated by the staff as reasons for holdover. The first was the provision of letters of authorization from all property owners that will have land directly impacted by the proposed development, specifically the 60-foot road up the East side of the development. Mr. Walker stated that the property referred to had been deeded for a roadway right-of-way since 1980 for the purpose of full and unrestricted rights of ingress and egress across the same, with full and complete rights to Sidney Meadows, his heirs and assigns, at any time to dedicate the same for public right-of-way. Mr. Walker asked whom he was to get letters of authorization from, and what was the letter supposed to say.

Mr. Olsen asked who actually owned the property.

Mr. Walker said Sidney Meadows owned the property.

Mr. Olsen asked if Mr. Walker had provided a letter of authorization from Mr. Meadows.

Mr. Walker said Mr. Meadows was deceased, but he could get a letter of authorization from Mrs. Meadows. He noted, however, that this was a deed, and a public record.

Mr. Olsen said if it was not a County or public right-of-way, a letter of authorization would be required.

Pat Stewart, representing County Engineering, noted that if they had clear title to the property, they could dedicate it fee simple, and they could build that road on it.

Mr. Walker also asked for clarification of the requirement for the provision of connection to all abutting land-locked properties in compliance with Sec. V.B.1. of the Subdivision Regulations. He acknowledged that there were adjacent parcels to the subject property, but to his knowledge none of them were land-locked, nor would his development land-lock any of them.

August 17, 2006

Mr. Olsen pointed out on the plat the particular property that was land-locked because it had no frontage on a public right-of-way.

Mr. Walker said he understood how that property might be land-locked, but asked about the other 8 or 9 indicted in the staff report.

Mr. Olsen said the staff would meet with him and clarify that.

Mr. Walker agreed, but also asked about the requirement for dedication of 100 feet of right-of-way for a future major street. He said this may or may not happen in his lifetime, and asked if it would be acceptable if he resubdivided his property and revised the development plan to show an internal street with a 100-foot right-of-way.

Mr. Olsen said that would be acceptable.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Vallas to holdover this application until the September 21, 2006, meeting for the following reasons:

- 1) revision of the plat to accommodate the proposed Airport Road – Airport Road Extension major street, including the necessary dedication of land to Mobile County;
- 2) provision of letters of authorization from all property owners that will have land directly impacted by the proposed development, specifically for the 60-foot road on the East side of the development;
- 3) provision of additional traffic calming devices, in consultation with the Mobile County Engineering Department;
- 4) provision of additional road connections, to provide internal connectivity in compliance with Section V.C.1. of the Subdivision Regulations;
- 5) provision of connections to all abutting land-locked properties, in compliance with Section V.B.1. of the Subdivision Regulations;
- 6) provision of access, via identified easement, green space or directly, to all detention areas depicted on the plat;
- 7) identification of all portions of the site to fully account for all acreage and the manner of site development;
- 8) depiction of any existing drainage easements associated with previous subdivisions (Lot 1, Duncan Subdivision);
- 9) resolution of the total number of lots so that the number depicted on the plat reflect the number claimed on the application;
- 10) identification of the size of all lots in square feet, either via a table on the plat, or by the labeling of each lot, to ensure that each lot meets the minimum lot size identified in Section V.D.2. of the Subdivision Regulations;
- 11) depiction of the 25-foot minimum building setback line, in conformance with Section V.D.9. of the Subdivision Regulations;
- 12) identification and labeling of all common areas, including greenspaces, road medians, and detention areas, and placement of a note on the plat stating that maintenance of all common areas shall be the responsibility of the subdivision's property owners;

August 17, 2006

- 13) rephrasing of the development to start from Ben Hamilton Road, or provision of a written explanation regarding the phasing scheme for the subdivision;
- 14) 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;
- 15) revision of the legal description, if necessary, to correct any errors associated with locating the point of beginning, and provision of the correct parcel numbers for the entire site; and
- 16) placement of a note on the plat stating that access to the 60-foot roadway easement on the West side of site is denied, or inclusion of the parcel to provide a legitimate means of access as a public or private street.

The motion carried unanimously.

NEW PLANNED UNIT DEVELOPMENT APPLICATIONS:

Case #ZON2006-01575

Bug Master Exterminators, Inc.

619 Azalea Road

(North side of Azalea Road, 1,060' ± West of Village Green Drive).

The request for Planned Unit Development Approval to allow an office building, two carports and three accessory buildings on a single building site was considered.

The site plan illustrates the existing buildings, buildings to be removed, proposed building, proposed parking, and proposed retention area.

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

There was no one present in opposition.

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

- 1) submission and approval of a Use Variance;
- 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); and
- 3) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

Case #ZON2006-01572

Robinson Brothers Subdivision

1721 and 1739 East I-65 Service Road South

(East side of East I-65 Service Road South, 115' ± North of I-65 Commerce Drive).

August 17, 2006

The request for Planned Unit Development Approval to allow four buildings for auto sales, servicing, and repairs on a single building site was considered.

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

Jerry Byrd, Byrd Surveying Company, was present on behalf of the applicant. Mr. Byrd said that the applicant wanted to build a small building for a detail shop and a car wash. In the overall site, which was about 10 acres, He felt that building would be pretty small to apply the full landscaping requirements as noted in the staff recommendations. He suggested a lesser amount of landscaping such as would more commonly be found with this size building on a half acre lot might be more appropriate, and asked the Commission's consideration in this regard.

Mr. Plauche asked the staff if the full requirements of the landscape regulations were applicable if the square footage was less than 50 percent of existing.

Mr. Olsen said less than 50 percent would not be an automatic requirement under the Zoning Ordinance, but the Planning Commission could require it as a condition of approval. Mr. Olsen apologized because looking at the staff report there seemed to be a little contradiction, in that the next condition says satisfaction of the tree planting requirements along the street frontage. That was actually a lesser standard than the full compliance of the previous conditions.

Mr. Plauche said they could discuss that in deliberations.

Mr. Vallas asked Mr. Byrd if he would agree to the street frontage requirements as opposed to full compliance.

Mr. Byrd said they would appreciate anything less than full compliance.

After discussion a motion was made by Mr. Miller and seconded by Mr. Watkins to approve this plan removing the requirement for landscaping in the recommended condition #1, but retaining the landscaping requirements in condition #2.

In further discussion Ms. Deakle and Dr. Rivizzigno asked for clarification.

Mr. Daughenbaugh explained that the existing car dealership, through a previous application to the Board of Zoning Adjustment, was required to provide landscaping and trees across the frontage. They were in compliance now. The existing car maintenance shop was not part of that application, so trees were not required for the frontage of their maintenance facility area. Urban Forestry was requesting that on any existing green space on the interior of the site, they have the option of looking at those green spaces and planting trees, in addition to frontage trees for the maintenance facility.

After discussion Mr. Miller amended his motion, seconded by Mr. Vallas, to approve this plan subject to the following conditions:

August 17, 2006

- 1) compliance with Urban Forestry comments (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Full compliance with landscaping and tree requirements of the Zoning Ordinance for the entire frontage area to be coordinated with Urban Forestry.*);
- 2) satisfaction of the tree planting requirements along the street frontage;
- 3) that the abandoned curb cuts be filled in with curbing, guttering, and landscaping; and,
- 4) full compliance with all municipal codes and ordinances.

The motion carried unanimously.

NEW ZONING APPLICATION:

Case #ZON2006-01580

J. E. B. Shell

2356 Old Shell Road and 100 Grand Boulevard
(Northeast corner of Old Shell Road and Grand Boulevard).

A request for a change in zoning from R-1, Single-Family Residential, to LB-2, Limited Neighborhood Business, to allow light retail sales.

The site plan illustrates the proposed building, parking, and curb cuts.

Mr. Plauche announced that Mr. DeMouy, Mr. Watkins, and Mr. Vallas were recusing in this matter. Since there would therefore not be a quorum needed to vote, this matter would automatically be held over until the September 7, 2006 meeting.

Mr. Miller stated that he did not live in the exact neighborhood of this site, but lived about a half mile away. He asked if there were any standards the Commission should go by when determining whether or not they should recuse from voting in a particular matter.

Mr. Lawler stated that if a member, or a family member, had a financial interest, obviously that would be a conflict that a member would have to acknowledge and recuse himself or herself from discussion and voting. Then there was a gray area where a member may feel a development might affect the value of his or her home a half-mile or a mile away or whatever. In that case, some courts have suggested that if it would appear to a disinterested observer that a member might have some interest or bias because of where they lived in relation to the project, then they should go ahead and recuse. Mr. Lawler said it really gets to be a hard call, and the members should ask themselves in each instance whether or not they would be biased.

GROUP APPLICATIONS:

Case #SUB2006-00174 (Subdivision)

Greenfield Acres Subdivision, Resubdivision of Lots 6 & 7

August 17, 2006

4521 and 4819 Colgate Drive
(Northeast corner of Rangeline Service Road and Colgate Drive).
1 Lot / 1.1± Acres

The site plan illustrates existing buildings, fences, drives, and proposed drive and parking.

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

There was no one present in opposition.

(Also see Case #ZON2006-01577 – Scott Cassidy (Rezoning) – Below).

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

- 1) the placement of the 25-foot minimum building setback line on the Final Plat; and
- 2) the placement of a note on the final plat stating that the site be denied access to Rangeline Service Road, and limited to a single curb cut onto Colgate Drive, with size, location, and design to be approved by Traffic Engineering

The motion carried unanimously.

Case #ZON2006-01577 (Rezoning)

Scott Cassidy

4521 and 4819 Colgate Drive
(Northeast corner of Rangeline Service Road and Colgate Drive).

The site plan illustrates existing buildings, fences, drives, and proposed drive and parking.

(For discussion see Case #SUB2006-00174 – Greenfield Acres Subdivision, Resubdivision of Lots 6 & 7 – Above).

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

There was no one present in opposition.

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

- 1) the placement of a note on the final plat stating that the site is denied access to Rangeline Service Road, and limited to a single curb cut onto Colgate Drive, with size, location, and design to be approved by Traffic Engineering; and
- 2) full compliance with all other municipal codes and ordinances.

August 17, 2006

The motion carried unanimously.

Case #SUB2006-00172 (Subdivision)
Greater Macedonia Baptist Church Subdivision

1350 Chinquapin Street

(West side of Peach Street, extending from Spruce Street to Chinquapin Street, and the South side of Chinquapin Street and the North side of Chisam Street, 80'± West of Peach Street.)

2 Lots / 0.9± Acre

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

(Also see Case #ZON2006-01576 – Greater Macedonia Baptist Church (Sidewalk Waiver) – Below; and Case #ZON2006-01578 – Greater Macedonia Baptist Church (Planning Approval) – Below.)

Mr. Plauche stated that the application was recommended for holdover to the September 21, 2006 meeting. If anyone was present who wished to speak in this matter, however, they could do so now.

Matt Orrell, with Polysurveying, was present on behalf of the applicant. Mr. Orrell said they had no problem with the holdover in order to make revisions to the plans as required. Regarding the subdivision, however, he pointed out that there was a church that was next door to the church on the subject property that encroached a slight bit into the applicant's property. He said his client had a verbal agreement with the church next door that they did not have a problem with that encroachment, but that if that church ever burned down or a hurricane hit they would not rebuild that church and rebuild that encroachment on that property. Mr. Orrell noted that one of the recommendations in the staff report was that they resubdivide and go around that building and bring that lot into the subdivision. The applicants requested that they not be required to do that. They would simply like to continue with the same easement that they have been using for over 50 years with this adjoining church. They do not feel they should have to give up their land just to clear an encroachment for which they already have an easement. Mr. Orrell said a resubdivision would require a new application, which means more delays, and they were trying to build a fellowship hall and have had some delays already. He said they were waiting on a variance for parking from the Board of Zoning Adjustment, and did not have a problem with waiting for that because that would occur before the next meeting. Mr. Orrell requested that they not have to join any other property or go around this building for a simple encroachment that the neighbors did not have a problem with anyway.

Mr. Plauche asked if something like that could be put in the recommendations.

Mr. Lawler said it would be better if it were put in the form of an easement and recorded.

Mr. Orrell said they would have no problem showing the encroachment on the final plat as an easement.

August 17, 2006

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the September 21, 2006, meeting, to allow the applicant time to submit revised materials illustrating the Chisam Street right-of-way, as well as revised site plans for the accompanying PUD and Sidewalk Waiver applications.

The motion carried unanimously.

Case #ZON2006-01576 (Sidewalk Waiver)

Greater Macedonia Baptist Church

1350 Chinquapin Street

(West side of Peach Street, extending from Spruce Street to Chinquapin Street, and the South side of Chinquapin Street and the North side of Chisam Street, 80'± West of Peach Street.)

A request to waive construction of a sidewalk along all street frontages.

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

(For discussion see Case #SUB2006-00172 – Greater Macedonia Baptist Church Subdivision – Above.) Also see Case #ZON2006-01578 – Greater Macedonia Baptist Church (Planning Approval) – Below.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the September 21, 2006, meeting to allow the applicant time to submit revised materials illustrating the Chisam Street frontage, including cross-sections for each street that a waiver is being requested for. Cross-sections should also be provided for any additional obstacles that would impede sidewalk construction.

The motion carried unanimously.

Case #ZON2006-01578 (Planning Approval)

Greater Macedonia Baptist Church

1350 Chinquapin Street

(West side of Peach Street, extending from Spruce Street to Chinquapin Street, and the South side of Chinquapin Street and the North side of Chisam Street, 80'± West of Peach Street).

A request for Planning Approval to allow a new fellowship hall and parking lot expansion at an existing church in an R-1, Single-Family Residential District.

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

(For discussion see Case #SUB2006-00172 – Greater Macedonia Baptist Church Subdivision – Above; and Case #ZON2006-01576 – Greater Macedonia Baptist Church (Sidewalk Waiver) – Above.

August 17, 2006

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this request to allow the applicant time to submit revised materials illustrating revised parking, maneuvering, ingress, egress, and landscaping; and showing fewer curb cuts; and illustrating the Chisam Street frontage and right-of-way.

The motion carried unanimously.

Case #SUB2006-00156 (Subdivision)

J and D Subdivision

3305 Spring Hill Avenue

(East side of Ingate Street, extending from Spring Hill Avenue to Old Carline Street).

1 Lot / 1.6± Acres

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

(Also see Case #ZON2006-01574 – J and D Subdivision (Planned Unit Development) – Below; and Case #ZON2006-01469 James McAleer (Rezoning) – Below.)

Mr. Plauche announced that this application was recommended for holdover until the September 21, 2006 meeting, but if there was anyone present who wished to speak, they could do so now.

Frank Dagley, representing the applicant, requested the application be held over until the October 5, 2006 meeting to allow them enough time to comply with the staff's recommendations.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 5, 2006, meeting to allow the applicant time to submit revised materials addressing the following items:

- 1) revision of the site plan and plat to provide a minimum right-of-way width of 30 feet, as measured from the centerline for Old Carline Street, in compliance with Section V.B.14. of the Subdivision Regulations;
- 2) revision of the site plan and plat to provide the appropriate radii at the street intersection corners, in compliance with Section V.D.6. of the Subdivision Regulations; and
- 3) revision of the site plan and plat to depict the 25-foot minimum building setback line for the entire site, adjusted as necessary to accommodate the right-of-way dedication for Old Carline Street, in compliance with Section V.D.9. of the Subdivision Regulations.

The motion carried unanimously.

Case #ZON2006-01574 (Planned Unit Development)

J and D Subdivision

3305 Spring Hill Avenue

(East side of Ingate Street, extending from Spring Hill Avenue to Old Carline Street).

August 17, 2006

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

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

(Also see Case #ZON2006-01574 – J and D Subdivision – Above, for discussion; and Case #ZON2006-01469 James McAleer (Rezoning) – Below).

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 5, 2006, meeting to allow the applicant time to submit revised materials addressing the following items:

- 1) revision of the site plan to provide maneuvering and access in compliance with Section 64-6.B.2. of the Zoning Ordinance;
- 2) revision of the site plan to depict new construction fully within the required 25-foot minimum building setback line;
- 3) amendment of the PUD request to allow increased site coverage to accommodate the existing and proposed development;
- 4) consultation with Engineering Department, and revision of the site plan to depict required stormwater detention facilities;
- 5) revision of the site plan to depict existing and proposed dumpster storage locations, in compliance with Section 64-4.D.9. of the Zoning Ordinance;
- 6) revision of the site plan to depict existing and proposed parking and on-site circulation;
- 7) placement of a note on the site plan stating that lighting shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic;
- 8) revision of the site plan and plat to provide a minimum right-of-way width of 30 feet, as measured from the centerline for Old Carline Street, in compliance with Section V.B.14. of the Subdivision Regulations;
- 9) revision of the site plan and plat to provide the appropriate radii at the street intersection corners, in compliance with Section V.D.6. of the Subdivision Regulations; and
- 10) revision of the site plan and plat to depict the 25-foot minimum building setback line for the entire site, adjusted as necessary to accommodate the right-of-way dedication for Old Carline Street, in compliance with Section V.D.9. of the Subdivision Regulations.

The motion carried unanimously.

Case #ZON2006-01469 (Rezoning)

James McAleer

3305 Spring Hill Avenue

(East side of Ingate Street, extending from Spring Hill Avenue to Old Carline Street).

August 17, 2006

A request for a change in zoning from B-1, Buffer Business, and B-3, Community Business, to B-3, Community Business, to eliminate split zoning in a proposed commercial subdivision.

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

(For discussion see Case #SUB2006-00156 J and D Subdivision – Above; and Case #ZON2006-01574 – J and D Subdivision (Planned Unit Development) – Above)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to holdover this application until the October 5, 2006, meeting to allow the applicant time to submit revised materials addressing the following items:

- 1) revision of the site plan to provide maneuvering and access in compliance with Section 64-6.B.2. of the Zoning Ordinance;
- 2) revision of the site plan to depict new construction fully within the required 25-foot minimum building setback line;
- 3) amendment of the PUD request to allow increased site coverage to accommodate the existing and proposed development;
- 4) consultation with Engineering Department, and revision of the site plan to depict required stormwater detention facilities;
- 5) revision of the site plan to depict existing and proposed dumpster storage locations, in compliance with Section 64-4.D.9. of the Zoning Ordinance;
- 6) revision of the site plan to depict existing and proposed parking and on-site circulation;
- 7) placement of a note on the site plan stating that lighting shall be so arranged that the source of light does not shine directly into adjacent residential properties or into traffic;
- 8) revision of the site plan and plat to provide a minimum right-of-way width of 30 feet, as measured from the centerline for Old Carline Street, in compliance with Section V.B.14. of the Subdivision Regulations;
- 9) revision of the site plan and plat to provide the appropriate radii at the street intersection corners, in compliance with Section V.D.6. of the Subdivision Regulations; and
- 10) revision of the site plan and plat to depict the 25-foot minimum building setback line for the entire site, adjusted as necessary to accommodate the right-of-way dedication for Old Carline Street, in compliance with Section V.D.9. of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2006-00163 (Subdivision)

West Hill Subdivision

West terminus of Hilltop Drive South

11 Lots / 3.1± Acres

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

August 17, 2006

(Also see Case #ZON2006-01509 – West Hill Subdivision (Planned Unit Development) - Below

Mr. Plauche stated that the applicant was present and concurred with 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) compliance with Engineering comments (*Must confirm adequate storm water detention is available for increase in site coverage. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory (NWI) on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*);
- 2) compliance with Urban Forestry comments (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status is to be given to the 55" Live Oak Tree located on the South side of Lot 1. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*);
- 3) construction and dedication of the new street to City Engineering standards;
- 4) revision of the final plat to show direct access to the common detention area from the street;
- 5) placement of a note on the final plat stating the approved maximum site coverage for each lot in percentage and square feet;
- 6) that the setbacks be scaled on the final plat, and that the enlarged depictions be described as "typical setbacks"; and
- 7) provision of a revised PUD site plan to Urban Development prior to signing the final plat

The motion carried unanimously.

Case #ZON2006-01509 (Planned Unit Development)

West Hill Subdivision

West terminus of Hilltop Drive South

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

(For discussion see Case #SUB2006-00163 – West Hill Subdivision – Above).

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

There was no one present in opposition.

August 17, 2006

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

- 1) compliance with Engineering comments (*Must confirm adequate storm water detention is available for increase in site coverage. Must comply with all storm water and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory (NWI) on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*);
- 2) compliance with Urban Forestry comments (*Property to be developed in compliance with state and local laws that pertain to tree preservation and protection on both city and private properties (State Act 61-929 and City Code Chapters 57 and 64). Preservation status is to be given to the 55" Live Oak Tree located on the South side of Lot 1. Any work on or under this tree is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger.*);
- 3) construction and dedication of the new street to City Engineering standards;
- 4) revision of the site plan to show direct access to the common detention area from the street;
- 5) placement of a note on the revised site plan stating the approved maximum site coverage for each lot in percentage and square feet;
- 6) that the setbacks be scaled on the revised site plan, and that the enlarged depictions be described as "typical setbacks";
- 7) completion of the Subdivision process; and
- 8) full compliance with all other municipal codes and ordinances.

The motion carried unanimously.

**Case #SUB2006-00181 (Subdivision)
The Pines at the Preserve Subdivision**

North side of Girby Road, 3/10 mile± East of Lloyd's Lane, extending to the East side of Lloyd's Lane, 600'± North of Girby Road, and extending to the West side of Campground Branch Creek and the South side of Scenic West Place Subdivision.
136 Lots / 84.2± Acres

The site plan illustrates the proposed development.

(Also see Case #ZON2006-01603 - The Pines at the Preserve Subdivision (Planned Unit Development – Below).

Mr. Watkins and Mr. Vallas recused from discussion and voting in this matter.

John Loupe, developer of the subject property, stated that a similar subdivision and PUD for this site was approved in 2005, with one of the conditions of approval being the provision of street stubs to the land-locked parcel to the North, which would be lots 45-55. Mr. Loupe said the property was not land-locked. There was another access road,

August 17, 2006

Lot 60 on Lindholm Drive in Scenic West Estates Addition, which was approximately 75 feet in width. Dr. Loupe said he had consulted with the engineers who developed the Scenic West Subdivision, and this lot, which he pointed out on the plat, could be used as access for that 20 acres. They did not want to have a street stub coming through the middle of their subdivision, as it would increase traffic flow, increase water problems and engineering problems. Dr. Loupe asked the Commission's consideration of this request.

To explain the staff's position, Mr. Olsen pointed out on the plat that there were in fact four parcels. They were not all under the same ownership, so they were in fact land-locked. The previous approval of the subdivision and PUD for this site actually required two street stubs, the locations of which he pointed out on the plat. Mr. Olsen noted that the site for the second stub was shown on the site plan before the Commission today as in an area labeled for future development. The staff, therefore, could not recommend the provision of that street stub at this time until this portion of the site (indicating on plat) came in for approval. Since these lots were before the Commission today and this parcel (indicating on the plat) was land-locked, the staff recommended a street stub to provide access to that property.

Dr. Loupe explained that the property in question was owned by one family. They were three sisters, so they were not going to land-lock each other. They were actually trying to sell the land as 20 acres. Dr. Loupe asked if it made any difference that the land owners were related or not.

Mr. Olsen said it did not make any difference. The parcels could be sold individually.

Dr. Loupe said if they had to provide the street stubs, then they requested that one be required on the parcel at the top where that 5-acre tract was so it did not run through the middle of their subdivision, and they would like to do the same for the second parcel that the staff was saying would be land-locked. That would leave the third parcel at the top, which could come out of Scenic West.

Mr. Plauche said the Commission would discuss this further in deliberations session. He asked if there was anyone else to speak in this matter

Cathy Terry Palmer, 3 Spring Hill Court, stated that she was one of the landowners, and actually there were three sisters who owned 10 acres together that were next to the Scenic West Subdivision. Ms. Palmer said she owned the five acres individually in the middle, and Susan Cunningham Merritt owned the five acres next to the proposed development. Ms. Palmer said that her father and the late Robert Cunningham owned 10 acres. They split it several years ago. Judge Cunningham gave his wife this five acres, and her father gave her five acres next to the ones that her sisters and she had owned for 20 years. She said they were not particularly opposed to the PUD, but were concerned about being land-locked. She said her father and Mr. Cunningham attempted to get access but were unable to. Ms. Palmer said they had thought about doing something with this property for many years, and when they looked into it they discovered a required drainage easement for Scenic West. She said their attorney looked into it and told them it was not possible to purchase it. Ms. Palmer said they were land-locked, and respectfully requested that the Commission require the recommended street stub.

August 17, 2006

There being no one else to speak, Mr. Plauche asked if the applicant would like to respond.

Dr. Loupe stated that they could provide them access to that five-acre tract they were referring to, which would satisfy the requirements in the parcel at the top, and they would not be coming through the middle of the subdivision.

In deliberations session Mr. Miller asked for clarification as to what the applicant agreed to.

Mr. Olsen said he understood Dr. Loupe to say he could provide the street stub from this future development area. There was not anything proposed for that area at this time, based on the plan submitted, and he could not see how there would be development of that property because there was no provision for a stub from here (pointing out on the plat). The staff's recommendation was that a street stub be provided in the vicinity of lots 44-45 to provide access to a large, land-locked parcel.

After discussion a motion was made by Mr. Miller and seconded by Dr. Rivizzigno to waive Section V.D.2. of the Subdivision Regulations and approve the above referenced subdivision subject to the following conditions:

- 1) full compliance with the Traffic Engineering comments (driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards, traffic calming measures should be included in the development.);
- 2) full compliance with Engineering comments (Provide detention for 100-year storm with a 10-year release rate. The existing receiving stream is compromised and the culvert at Girby Road is reportedly undersized. Therefore, a complete analysis of the existing and proposed conditions will be required. In addition, the development will not be permitted for Land Disturbance unless the culvert at Girby Road has a capacity to handle a 50-year storm. The flood zones shown on the preliminary plat should be revised to more accurately delineate the FEMA designated flood zones. Dedication of a drainage easement of the flood way and portion of the flood zone containing the actual drainage way will be required. A study of the distance from the top of bank to top of bank of the drainage way plus 15 feet for maintenance vehicle access will be required for drainage easement. Detention should be accomplished above the 100 year flood elevation. And, the predevelopment runoff coefficient to be used for the existing wetlands areas should be accurate *for wetland areas. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*);
- 3) the provision of a street stub to the land locked parcel to the North in the vicinity of Lots 44-55; and
- 4) that the applicant obtains all necessary federal, state and local permits.

August 17, 2006

The motion carried unanimously.

Case #ZON2006-01603 (Planned Unit Development)

The Pines at the Preserve Subdivision

North side of Girby Road, 3/10 mile± East of Lloyd's Lane, extending to the East side of Lloyd's Lane, 600'± North of Girby Road, and extending to the West side of Campground Branch Creek and the South side of Scenic West Place Subdivision.

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

The site plan illustrates the proposed development.

(For discussion see Case #SUB2006-00181 - The Pines at the Preserve Subdivision – Above).

Mr. Watkins and Mr. Vallas recused from discussion and voting in this matter.

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

1. full compliance with the Traffic Engineering comments (driveway number, size, location and design to be approved by Traffic Engineering and conform to AASHTO standards, traffic calming measures should be included in the development;
2. full compliance with Engineering comments (*Provide detention for 100-year storm with a 10-year release rate. The existing receiving stream is compromised and the culvert at Girby Road is reportedly undersized. Therefore, a complete analysis of the existing and proposed conditions will be required. In addition, the development will not be permitted for Land Disturbance unless the culvert at Girby Road has a capacity to handle a 50-year storm. The flood zones shown on the preliminary plat should be revised to more accurately delineate the FEMA designated flood zones. Dedication of a drainage easement of the flood way and portion of the flood zone containing the actual drainage way will be required. A study of the distance from the top of bank to top of bank of the drainage way plus 15 feet for maintenance vehicle access will be required for drainage easement. Detention should be accomplished above the 100 year flood elevation. And, the predevelopment runoff coefficient to be used for the existing wetlands areas should be accurate for wetland areas. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.*);
3. the provision of a street stub to the land locked parcel to the North in the vicinity of Lots 44-55; and
4. that the applicant obtains all necessary federal, state and local permits.

August 17, 2006

The motion carried unanimously.

Case #ZON2006-01612 (Planned Unit Development)

Port City Church of Christ

2901 Hillcrest Road

(East side of Hillcrest Road, 125'± South of Medearis Court).

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

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

(Also see Case #ZON2006-01611 – Port City Church of Christ (Planning Approval) – Below).

John Kirby, 7060 Airport Boulevard, was present on behalf of the Port City Church of Christ. Mr. Kirby said the Church would be happy to comply with the requirements recommended by the staff. He said they had not understood that they needed approval for expansion of the existing structures, and apologized to the Commission. He said the 50' x 50' storage shed was not a big deal and they would just like to get it done.

There being no one else to speak in favor of this matter, Mr. Plauche asked if there was anyone who wished to speak in opposition.

Richard Blake, 6318 Hillcrest Oaks Drive, was present representing the Hillcrest Oaks homeowners association. Mr. Blake said that for the past 10-18 years, which was the length of time most of them had lived there, the Port City Church of Christ had bordered their South property line, separated by a 50-foot heavily wooded buffer that not only shielded the entire building structure from their landscape, but it also did not have any lights. With the Planning Commission's approval of a parking lot expansion for this church, this buffer had been decimated and now was only about 20-25 feet behind his house, and behind Dr. Hazard's house and one other house it was non-existent. They now had a landscape of 20-25-foot tall lamp posts holding spot lights over this church parking lot. In addition, they had what he would call midnight sun spotlights mounted on the metal facility that stayed on all night. Mr. Blake said these lights illuminated his entire back yard. He also complained that the lights of cars that parked facing their homes, especially the SUV's, shined directly into their homes illuminating their entire living rooms. He understood that a 6-foot privacy fence would be required, but felt that would not help to keep the lights out because the site was at a higher elevation. He requested the church be required to construct at least an 8-foot high fence.

Mr. Vallas asked Mr. Blake if he had ever thought about being pro-active as well, and considered planting a hedge on his side of the fence.

Mr. Blake said he would have to have an 8-foot high hedge, and felt he should not have to construct a hedge to avoid a situation which had developed as a result of the expansion of this church. He also understood from Mr. Hoffman, of the Planning staff, that the

August 17, 2006

church had been required to construct a privacy fence for the reasons he was talking about.

Mr. Plauche asked Mr. Hoffman if he had any comments.

For the record, Mr. Hoffman noted that members of the Electrical Division of the City did go to the site and met with the engineers who developed the plans for the parking lot to discuss the lighting issue. All the fixtures that were installed in the parking lot area were full cut-off fixtures and they shined down, and they were inspected to make sure each one had a light shield to try and minimize light over-wash onto any adjacent properties. Mr. Hoffman said the lighting did meet the City's lighting requirements. Also, the City's Electrical Inspector talked to representatives of the church about the mercury vapor lights that were attached to the metal buildings, and about trying to black out the diffuser portion of the lights so that the light coming out came straight down rather than across the entire property. He said he did not know if that had been done.

There being no one else to speak in opposition, Mr. Plauche asked if the Commission members had any further questions.

Mr. Watkins asked if this whole project was under construction at this time.

Mr. Hoffman stated that the parking lot had been constructed, and the addition was partially under construction. The City issued a Stop Work Order in order to get the Planning Approval that is required for this expansion. Once Planning Approval is obtained, the church could continue construction.

Mr. Watkins asked at what stage a privacy fence would be put in.

Mr. Olsen stated that at this point, as a condition of approval a privacy fence would be required to be installed before they were issued a Certificate of Occupancy for the structure under construction.

Mr. Plauche asked Mr. Olsen if there was anything said in the previous approval regarding taking care of the lighting overflow into the residential area.

Mr. Olsen recalled that there was a requirement that the light fixtures in the parking lot be shielded, which had been done. The foot candle level near the property line was minimal.

Mr. Plauche asked if the shielding of the lights on the building was a requirement of approval.

Mr. Hoffman said that was not a requirement in the original case because at that time there was no indication that the parking lot would be illuminated. What happened, however, was that the construction started on the parking lot and then light poles were put up and, he thought, actually energized before an electrical permit had been pulled. Addressing the lighting issue occurred after the original Planning Approval.

Mr. Plauche asked if the applicant would like to respond.

August 17, 2006

Mr. Kirby said he had been to the site at night, and he would invite every one of the members to visit the site at night to look at the lighting. He said the woods and plantings buffered this site from the adjoining property. The lights shined straight down, and he begged to disagree with Mr. Blake about the light pollution. Mr. Kirby felt there were just a few residents who complained about the lights, and in fact Ms. Trudy, one of the adjoining residents who lived on the corner, told him that the lights lit up her yard and were beautiful.

Mr. Plauche asked about the lights on the buildings.

Mr. Kirby said he was not aware of the lights on the buildings causing any problem. He said they had cameras out there to watch the property at night and they did need a certain amount of lighting for them. He said he would look into this, and if there were a light that was directed towards Mr. Blake's property, he would deal with it. He would also be happy to visit Mr. Blake's house at night and have an SUV sitting in the church parking lot with the lights facing Mr. Blake's house, and if the lights shined through the wooded area, Mr. Kirby said he would personally pay to have an 8-foot fence constructed there.

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

- 1) placement of a note on the site plan stating that Planning Approval and PUD approval are site plan specific, and that modifications to the site or building additions will require new Planning Approval and PUD applications;
- 2) provision of landscaping and tree planting in accordance with the quantities and ratios set forth in Section IV.E.3. (Minimum Landscape Requirements) of the Zoning Ordinance, as amended, and comply with Sections 64-4.E. of the Ordinance;
- 3) full compliance with Section 64-6. (Off-Street Parking Requirements) of the Zoning Ordinance, as amended;
- 4) placement of a note on the site plan stating that the lot is limited to the existing curb-cuts, with no breach of the existing median on Hillcrest Road;
- 5) full compliance with Engineering comments: (If existing detention is to be used to accommodate the proposed building, a survey must be provided to confirm the volume and functionality of the existing drainage system. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.)
- 6) placement of a note on the final site plan stating that "preservation status is to be given to the 48" Live Oak Tree located on the South side of Lot and the 50" Live Oak Tree located in the South East corner of Lot. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger."
- 7) provision of a 6-foot high privacy fence on the property in question, around the South, East and North property boundaries, except within 25-feet of Hillcrest Road, where the fence shall be no more than 3-feet in height;

August 17, 2006

- 8) provision of a revised site plan to Urban Development, Planning Section, accurately depicting the “as-built” condition of any stormwater detention facilities, dumpster facilities, existing buildings, the parking area, any other existing or required site improvements, and the proposed 2,000 square foot addition that is the subject of this application, prior to the issuance of a Certificate of Occupancy;
- 9) submittal of a Subdivision application for Planning Commission consideration in conjunction with any future applications to the Planning Commission; and
- 10) full compliance with all other applicable municipal codes and ordinances.

In further discussion Dr. Rivizzigno asked for clarification of condition #7, the requirement of a 6-foot high privacy fence. She noted that the residents to the south alluded to the idea that there was a height difference between the church property and the property to the south.

Mr. Olsen said there was an elevation difference, and Mr. Blake had requested an 8-foot high fence. The applicant indicated that he would provide an 8-foot high fence.

Mr. Watkins amended his motion to require an 8-foot high privacy fence instead of a 6-foot high fence. In addition, he asked that an additional condition be required for shielding of existing and future lights mounted to the buildings to comply with Section 64-4.A.2. of the Zoning Ordinance (*Lighting facilities used to illuminate signs, parking areas, or for other purposes shall be so arranged that the source of light does not shine directly into adjacent residence properties or into traffic*).

Mr. Miller seconded the motion.

The motion carried unanimously.

Case #ZON2006-01611 (Planning Approval)

Port City Church of Christ

2901 Hillcrest Road

(East side of Hillcrest Road, 125' ± South of Medearis Court).

A request for Planning Approval to allow a building expansion at an existing church in an R-1, Single-Family Residential District was considered.

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

(Also see Case #ZON2006-01611 – Port City Church of Christ (Planned Unit Development) – above, for discussion.)

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

- 1) placement of a note on the site plan stating that Planning Approval and PUD approval are site plan specific, and that modifications to the site or building additions will require new Planning Approval and PUD applications;
- 2) provision of landscaping and tree planting in accordance with the quantities and ratios set forth in Section IV.E.3. (Minimum Landscape Requirements) of the

August 17, 2006

- Zoning Ordinance, as amended, and comply with Sections 64-4.E. of the Ordinance;
- 3) full compliance with Section 64-6. (Off-Street Parking Requirements) of the Zoning Ordinance, as amended;
 - 4) placement of a note on the site plan stating that the lot is limited to the existing curb-cuts, with no breach of the existing median on Hillcrest Road;
 - 5) full compliance with Engineering comments: *(If existing detention is to be used to accommodate the proposed building, a survey must be provided to confirm the volume and functionality of the existing drainage system. Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit. The applicant is responsible for verifying if the site contains wetlands. The site can be checked against the National Wetlands*
 - 6) *Inventory on the COM web site Environmental Viewer. If the site is included on the NWI, it is the applicant's responsibility to confirm or deny the existence of regulatory wetlands.);*
 - 7) placement of a note on the final site plan stating that *"preservation status is to be given to the 48" Live Oak Tree located on the South side of Lot and the 50" Live Oak Tree located in the South East corner of Lot. Any work on or under these trees is to be permitted and coordinated with Urban Forestry; removal to be permitted only in the case of disease or impending danger."*;
 - 8) provision of an 8-foot high privacy fence on the property in question, around the South, East and North property boundaries, except within 25-feet of Hillcrest Road, where the fence shall be no more than 3-feet in height;
 - 9) provision of a revised site plan to Urban Development, Planning Section, accurately depicting the "as-built" condition of any stormwater detention facilities, dumpster facilities, existing buildings, the parking area, any other existing or required site improvements, and the proposed 2,000 square foot addition that is the subject of this application, prior to the issuance of a Certificate of Occupancy;
 - 10) submittal of a Subdivision application for Planning Commission consideration in conjunction with any future applications to the Planning Commission;
 - 11) full compliance with all other applicable municipal codes and ordinances; and
 - 12) shielding of existing and future lights mounted to the buildings to comply with Section 64-4.A.2. of the Zoning Ordinance *(Lighting facilities used to illuminate signs, parking areas, or for other purposes shall be so arranged that the source of light does not shine directly into adjacent residence properties or into traffic).*

The motion carried unanimously.

OTHER BUSINESS:

Business Meeting

Mr. Olsen stated that the Commission needed to schedule a business meeting sometime in the near future.

The Commission suggested the meeting be held in October on one of the "off" Thursdays from the regular Commission meetings.

August 17, 2006

Mr. Olsen said he would schedule the meeting and notify the members of the date.

There being no further business, the meeting was adjourned.

APPROVED: November 2, 2006

Dr. Victoria Rizzigno, Secretary

Terry Plauche, Chairman

vm