

MOBILE CITY PLANNING COMMISSION MINUTES
MEETING OF DECEMBER 15, 2005 - 2:00 P.M.
AUDITORIUM, MOBILE GOVERNMENT PLAZA

Members Present

Terry Plauche, Chairman
James Laier, Vice-Chair
Bill DeMouy
Victoria L. Rivizzigno
Ann Deakle
John Vallas
Mead Miller

Members Absent

James Watkins
Clinton Johnson
James Laier
Nicholas Holmes, III

Urban Development Staff Present

Laura J. Clarke, Director of
Urban Development
Richard L. Olsen, Deputy Director of
Planning
David Daughenbaugh, Coordinator of
Urban Forestry
Madeleine Masters, Planner I
Bert Hoffman, Planner I
Trista S. Cole, Secretary I

Others Present

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

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

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

HOLDOVERS:

Case #ZON2005-01998 (Rezoning)

E. L. Giles, Jr.

West side of Stanton Road, extending from the South side of King Street to the North side of Hart Street.

A request for change in zoning from R-1, Single-Family Residential, and B-2, Neighborhood Business, to B-2, Neighborhood Business, to allow development of a retail strip center.

The site plan illustrates the proposed building, parking, and landscaping.

Ty Irby, with Ty Irby Realty, Mr. E.L. Giles, owner of the subject property, and Mr. Arthur Davis, realtor for the prospective buyer, were present in this matter. Mr. Irby

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passed out packets of information to the members, which contained documentation on the history of the property. In addition, he passed around a report from Southern Earth Sciences, with photographs, showing the property before the buildings were demolished. Mr. Irby said the property was developed as the Stanton Road Shopping Center in the 1950's. There was an active shopping center there for over 40 years. The different businesses there over the years included a hair salon, drug store, grocery store, physician's office, State Employment office, religious facility and laundromat. Mr. Irby said that in 1962 Mr. Phillip Layden purchased the grocery, the Economy IGA Grocery Store, and the shopping center. He presented an affidavit verifying the sale of the property in 1991. Mr. Irby said there was also a 1985 appraisal that stated the property was a shopping center. There was also some neighborhood information about other commercial properties. Also submitted were tax assessments where the property was taxed in the mid-1990's as commercial property, with a building on it. Mr. Irby made reference to a letter from Ms. Laura Clarke, of the Urban Development Department, to Mr. Layden stating that the condition of the property was not up to the expectations of the City and they wanted it either repaired or it would be condemned. The property was sold, but it was not demolished at that time because it was in bankruptcy. Mr. Irby said it was sold in 1997 to Mr. Giles, at which time Southern Earth Sciences Environmental prepared their report. Mr. Giles made repairs on the building for several years, maintained it, and then in 2000 demolished the building. It was put on the market in November of 2000. Mr. Irby said they just wanted the Commission to be aware that there was a shopping center building there for over 40 years. Mr. Layden operated it himself for over 30 years. Mr. Irby said they now had a buyer for the property who wanted to develop it with a new shopping center, and wanted to combine all six lots. Mr. Irby noted that in 2003 the Commission granted subdivision approval to combine the six lots into one so they could have them all zoned the same. The Commission recommended rezoning to the City Council. Mr. Fred Richardson, the councilperson for that area, however, did not agree with it at that time because he did not want alcohol to be allowed on the premises. Mr. Richardson wrote a letter to this effect to the staff.

Mr. Olsen said the staff did receive a letter from Mr. Richardson that included a copy of a letter from Mr. Irby's client referring to deed restrictions to prohibit alcohol sales. Mr. Olsen said a deed restriction was not something the City could enforce. Mr. Richardson was informed of this, and a copy of voluntary use restrictions was sent to Mr. Irby's client. Mr. Olsen said the staff had suggested the voluntary restrictions on several occasions during this application process, and without that, there was no way for the City to enforce it. The staff had yet to receive anything.

Mr. Irby said that the buyer was actually a client of Ms. Dowartha Davis. She had the signed deed restrictions with her. Mr. Irby asked that the Commission approve this application again and let it go back to the City Council.

Ms. Dowartha Davis, from Property Realty, representing the buyers, said the buyers had voluntarily signed letters setting out the deed restrictions, which would satisfy Mr. Richardson's requirements, and he had been given a copy of the restrictions.

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Mr. Miller asked how this property got to be R-1.

Mr. Olsen said he was not sure, but everything they had showed that only four lots had been commercial. Regarding the voluntary use restrictions, Mr. Olsen said he did speak with Mr. Richardson and he was aware that the letter is not enforceable by the city. It would have to be an actual voluntary use restriction accompanying the recommendation from this Commission as part of the packet to be considered by the City Council for that to be valid.

Mr. Vallas asked if he understood that if this application was approved today, then it could go to the City Council and they could revise approval with the use restrictions. He also asked if the applicant would have to have the dedicated restrictions here today.

Mr. Olsen said if the application were recommended by the Planning Commission today, and the City Council wanted to add something such as this voluntary use restriction, it would have to be re-advertised, which would add another month onto the process.

Ms. Deakle asked if the application would have to come back before the Planning Commission.

Mr. Olsen said the application would not have to come back to the Planning Commission unless there was a change in the district.

Mr. Plauche asked if there were any further questions.

Mr. Irby said he had provided Mr. Olsen with a faxed copy of the buyer's signature for the voluntary restrictions.

Mr. Olsen said from what he could determine, the restrictions would prohibit the sale of alcohol, wholesale or retail, from a liquor store or convenience store. It would not, however, prohibit a restaurant or bar from serving alcohol.

Ms. Deakle asked if the applicant would lose their deal on this if the application were held over.

Mr. Irby said that Ms. Davis had a buyer.

Ms. Deakle further stated that it was going to be difficult to get the application approved as it stood, because there were no recommendations that were built in here for approval, and she would prefer to read the voluntary use restrictions as part of the application.

Mr. Irby said that he would prefer it be held over than not have it approved.

Mr. Olsen also pointed out to Mr. Irby that there were several issues with the site plan as submitted. While the rezoning would not be site plan specific, when this was ultimately

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approved, that approval would in no way approve the site plan as submitted. That site plan would have to be redone to comply with Zoning Ordinance requirements.

In deliberations, Mr. Vallas said he personally had no problem approving the rezoning to B-2. He felt it was the staff and the City Council who had issues with the various uses of B-2.

Mr. Olsen stated that the staff did have the faxed copy of the voluntary use restrictions that were signed by the developer, and, as best as he could determine, it prohibited the sale of alcohol, wholesale or retail, from a liquor store or convenience store. If that was something the Commission wanted, the staff did have some conditions they would suggest accompany the approval. For the rezoning, they would recommend the following conditions: (1) limited to the voluntary use restrictions as submitted by the applicant; (2) recording in probate court of the voluntary use restrictions agreement; (3) dedication of right-of-way sufficient to provide 25 feet from the center line of Hart Street; (4) the site be limited to two curb cuts to Stanton Road; (5) compliance with Traffic Engineering comments, as enumerated in the staff report; and (6) full compliance with all municipal codes and ordinances. The subdivision would be subject to the following conditions: (1) dedication of right-of-way sufficient to provide 25 feet from center line of Hart Street; (2) placement of a note on the final plat stating that the site is denied access to Hart and King streets, and limited to two curb cuts to Stanton Road; (3) provision of 25' setback on Stanton Road and 20' setbacks from King and Hart streets; and (4) completion of the rezoning process.

Dr. Rivizzigno noted that the restrictions did not mention anything about bars and restaurants selling alcoholic beverages, and asked if that meant they could still have alcoholic beverages on site.

Mr. Olsen said that was correct.

Mr. Vallas said they had to get City Council approval to serve alcohol. If Mr. Richardson had a problem with that and would not approve the liquor license, this site could not serve alcohol.

It was pointed out that there were six lots involved in this application, four of which were historically commercial for a number of years.

Mr. Olsen said that was correct. The other two lots were zoned residentially.

One member said he would be a little uncomfortable approving the use restrictions. He felt that was not necessarily the Planning Commission's job, but it did seem logical to him that the property be zoned commercial.

Mr. Olsen noted that the voluntary use restrictions mentioned would not have to be a part of the approval. That was the Commission's option.

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It was asked that if the Commission approved the rezoning without the voluntary use restrictions and it went to the City Council, and they wanted the conditions, would it have to come back to the Commission to be re-advertised.

Mr. Olsen said no. It would have to be re-advertised for public hearing with the City Council.

A motion was made by Dr. Rivizzigno and seconded by Mrs. Deakle to recommend this change in zoning to the City Council subject to the following conditions:

- 1) **that the use of the site be limited by the “Voluntary Use Restrictions” agreement submitted by the applicant;**
- 2) **recording of the Voluntary Use Restrictions agreement in probate court;**
- 3) **dedication of right-of-way sufficient to provide 25 feet from the centerline of Hart Street;**
- 4) **that the site be limited to two curb cuts to Stanton Road;**
- 5) **compliance with Traffic Engineering comments (Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards. Deny access to Hart Street and King Street. Sign and mark all one-way drives MUTCD standards. Minimum aisle widths for ninety-degree parking spaces are twenty-four feet. Adjustments in the parking layout should be made to accommodate this width. Eliminate the two parking stalls perpendicular to the other parking stalls and separate parking stall areas with curbing.); and**
- 6) **full compliance with all Municipal Codes and Ordinances; it should be noted that approval of the rezoning request does not constitute approval of the site plan as submitted.**

The motion carried unanimously.

Case #SUB2005-00221 (Subdivision)
Giles Commercial Complex Subdivision

West side of Stanton Road, extending from the South side of King Street to the North side of Hart Street.

1 Lot / 1.0± Acre

(See Case #ZON2005-01998 – Rezoning – E. L. Giles, Jr. – above for discussion).

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

- 1) **dedication of right-of-way sufficient to provide 25 feet from the centerline of Hart Street;**
- 2) **the placement of a note on the final plat stating that the site is denied access to Hart and King Streets and limited to two curb cuts to Stanton Road; size, location and design to be approved by Traffic Engineering Department.**

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- 3) the depiction of the 25-foot setback from Stanton Road and the 20-foot setbacks from King and Hart Streets; and
- 4) the completion of the rezoning process.

The motion carried unanimously.

Case #SUB2005-00228 (Subdivision)

Combs Place Subdivision

2055, 2063 and 2101 Grider Road

(West side of Grider Road at the West terminus of Rose Hill Lane).

21 Lots / 7.4+ Acres

Terry Moore, with the law firm of Austill, Lewis, Simms, Pipkin and Moore, was present representing the applicant, Mr. Frank Sullivan. Mr. Moore stated that the subdivision was tentatively approved subject to seven conditions, one of which had to do with the condition of Grider Road. Mr. Moore said that Grider Road was not constructed to City of Mobile standards. There was no curb and gutter and no underground drainage. The asphalt was in poor condition with a width of only 17-17 ½ feet. The Engineering Department would require the roads contained within the subdivision to comply with stormwater and applicable ordinances. The application was held over and subsequently it appeared that the Engineering Department recommended denial because the proposed 21 lots, plus the potential for future subdivision of property to the west, may be excessive for the existing roadway conditions. Mr. Moore referred to a map showing Grider Road and part of a subdivision containing 96 residences. Presently there were 190+ cars using the Grider Road access at Summer Place, and he contended that Grider Road was more than sufficient to carry the weight of an additional 21 cars. Mr. Moore also pointed out that there was an existing house on Lot 21 of the Combs Subdivision. If they cannot get this subdivision approved, Mr. Moore said that Mr. Sullivan would then like to propose a two-lot subdivision so they could sell the house.

Mr. Miller asked if Summer Place Drive had access to Howells Ferry Road.

Mr. Olsen said that it did have access to Howells Ferry Road, and then it also accessed Grider Road.

Ms. Deakle commented that the applicant was requesting that they approve the subdivision as submitted, or if that was not acceptable, they turn it into a two-lot subdivision. She did not feel the Commission could redraw the subdivision, nor should they, if they failed to approve it as submitted.

Mr. Olsen said the Commission could approve the subdivision as proposed, or they could modify the application to be two lots, with Lot 21 being Lot 1 and the remainder of the property being future development. This would allow the applicant to sell the one lot and then come back at some future date when Grider Road may be improved to a standard that would accommodate the subdivision this far north on Grider Road and have it resubdivided.

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Mr. Plauche asked if there was anyone opposed to the application.

Diane Havens Owens, a resident of 2052 Grider Road next door to this proposed subdivision, said she would be most affected by the subdivision. She objected to having eight back yards butt up against her property. She said it would be very close to her main living area, driveway and garage, and there was no proposal for a tall, privacy fence. Ms. Owens also cited existing runoff problems causing washouts and was concerned that the proposed development would cause an increase in runoff down her asphalt driveway. She pointed out that the street had two steep hills and this property was at the very top of the hill above her house and property. Ms. Owens also mentioned that last Spring when many of the beautiful heritage oaks were cut down, a large, white sign was erected in front across the street. The sign was mounted on two large posts and said "Combs Place Subdivision, 21 lots for sale". She said that was very strange because there were only three sections that could be legally divided out of this lot. Ms. Owens said the current street was on septic tanks and was fine right now, however, the new subdivision would require expensive drainage to be installed by the City. The street would also have to be widened to accommodate construction trucks and additional traffic. Ms. Owens also pointed out that at the last hearing Mr. Sullivan mentioned that he would like to acquire property to the west for development. There was a natural spring on that property that runs into her other neighbor's property, and there was a retention pond on the property behind Summer Place Subdivision. She was told by a professional engineer that this area was considered wetlands. Ms. Owens also expressed concern about the increased traffic this subdivision would bring to the neighborhood. In closing, Ms. Owens said the residents would like to preserve the natural aesthetics, beauty and character of the neighborhood. She also said that there were a number of elderly residents living on these two streets who were unable to attend the meeting, but they did sign a petition in opposition.

C. L. Furr, a resident of 2115 Grider Road, was two lots north of the proposed subdivision and the last house actually on Grider Road, a dead end street. Mr. Furr expressed concern about additional traffic on Grider Road and the condition of Grider Road. He said it was never made for that much traffic. It was mentioned that there were 190 cars that would be using Grider Road for the Summer Place Subdivision, but he said that was not true. Most of those cars entered and exited on Howells Ferry Road. Mr. Furr also addressed the drainage and the effects he had already noticed on his lot with the removal of the forest trees. Also, Mr. Furr was concerned about the integrity of the neighborhood. He noted that most of the lots were 2-2 ½ acres, and a few were 1-acre lots. The residents would like to see these size lots remain. He said they had no problems with dividing this property into three lots, similar to the other lots that were there.

Beverly Prescott, a resident of 2007 Grider Road, also speaking for her parents who lived at 2001 Grider Road right next door, said they had two big issues related to the proposed subdivision. The first was drainage and the second was the road. She said their houses backed up to Summer Place, which had big drainage issues. Drainage from the proposed

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subdivision would drain toward Grider Road, and they did not have sufficient ditches. They had very small ditches with grass in them and a very small covered pipe in the driveways. Ms. Prescott said that was fine when everything was put in 30 years ago, but it would not work with 21 extra homes. Ms. Prescott said the road was actually 16 feet wide. Two cars cannot pass without one having to pull off the road. The road was thin asphalt because it was put down 30 years. It had cracks and was eroded underneath the asphalt. Ms. Prescott said the road and the additional drainage would not work the way it was.

Bill Chism, a resident of 1801 Grider Road at the corner of Grider and Howells Ferry, said that Howells Ferry had become a very busy highway. Within the last year or so, there was a subdivision developed directly across the street within 200 yards of the exit that Grider Road has. The traffic on those two streets above had increased tremendously and he would be concerned about the traffic coming in and out of Howells Ferry from this proposed subdivision. From a safety viewpoint, he felt it was a bad area for additional heavy traffic.

Frank Sullivan, the applicant, stated that 15 years ago there was a ball field on Grider Road. There were 100 people out there all the time, and there was no problem with the road then. Regarding the removal of trees, Mr. Sullivan said he had to remove a lot of downed trees after Hurricanes Ivan and Katrina. He contended the proposed plan would not increase runoff.

In deliberations session Ms. Deakle asked why Grider Road had not been built to City standards.

Mr. Olsen replied that it was built prior to this area being in the City.

Mr. Miller said he was not comfortable approving this plan obviously because of the condition of the road. It seemed like quite a number of houses to him. He asked, however, if the Commission approved this as a 2-lot subdivision, making Lot 21 one lot and the remainder of the property the other lot, how that would affect the applicant's future plans.

Mr. Olsen said the applicant could come back at any point in the future with a resubdivision of the larger lot. Another option would be to approve it as presented today with only Lot 21 being recorded until Grider Road was improved to City standards. The applicant could then come back annually and seek an extension for a few years, or not.

Mr. Vallas noted that one of the neighbors expressed concern about privacy and the fact that there would not be a fence required. This was, however, R-1 to R-1. Mr. Vallas also pointed out an easement shown along the back of these eight lots that appeared to go to a retention area. He felt the major issue was the road, and he felt it looked suitable for 20 lots.

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Mr. Olsen pointed out that in the staff report, and as discussed, the main concern was that based on the substandard condition of Grider Road, it would not provide adequate access to this number of lots, especially with the potential of the subdivision of the property adjacent to the west that the applicant mentioned at the previous meeting that he was interested in pursuing.

A motion was by Dr. Rivizzigno and seconded by Mr. Miller to amend the plat as requested, and approve a two-lot subdivision at the above referenced location subject to the following conditions:

- 1) **That proposed lot 21 be one lot, and the remainder of the site be the second lot;**
- 2) **The depiction of the 25-foot setback lines on the final plat; and**
- 3) **The placement of a note on the final plat stating that any property that is developed commercially and adjoins residential property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.**

The motion carried unanimously.

Case #ZON2005-02097 (Planned Unit Development)
Pecan Cove Apartments, Ltd.

1801 Holt Road

(North side of Dr. Martin Luther King Jr. Avenue, extending Northeast to Holt Road, and extending Northwest to Yukers Street).

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

The site plan illustrates the proposed development.

Terry Mount, representative of the applicant was present and concurred with the staff recommendations.

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

- 1) **the dedication of sufficient right-of-way to provide 25 feet from the centerlines of Holt Road and Yukers Street;**
- 2) **the completion of the subdivision process prior to the issuance of any permits;**
- 3) **compliance with Section V.C.2.b. of the Zoning Ordinance (“A building shall be located no closer to another building than a distance equal to the height of the taller building of the two...[and] for a two-story building such distance shall be not less than 30 feet in the case of two walls having windows....”);**
- 4) **the retention, to the extent possible, of the mature trees facing and adjoining R-1 properties, to be coordinated with Urban Forestry;**

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- 5) **the provision and maintenance of a vegetative buffer where the site faces and adjoins R-1 properties, in compliance with Section IV.D.1.b of the Zoning Ordinance; and**
- 6) **full compliance with all municipal codes and ordinances.**

The motion carried unanimously.

Case #SUB2005-00232 (Subdivision)

Truevine Missionary Baptist Church Subdivision

1850 Dr. Martin Luther King Jr. Avenue and 1801 Holt Road
(Northeast corner of Dr. Martin Luther King Jr. Avenue and Yukers Street, extending Northeast to Holt Road).
2 Lots / 11.1+ Acres

Rev. Howard Johnson, representative of the applicant was present and concurred with the staff recommendations.

A motion was made by Mr. Miller 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 25 feet from the centerlines of Holt Road and Yukers Street;**
- 2) **the depiction of the 25-foot setbacks on the final plat, measured from the property line after dedication; and**
- 3) **the correction of the error in the legal description.**

The motion carried unanimously.

Case #ZON2005-02155 (Planned Unit Development)

St. Emanuel Street Subdivision

350 St. Emanuel Street
(Southwest corner of St. Emanuel Street and Canal Street).

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

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

M. Don Williams, M. Don Williams Engineering, was present on behalf of the applicant and concurred with the staff recommendations.

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

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- 1) provision of a legal covenant to run with the land, providing for shared access, use and maintenance of the common parking area, to be properly executed and recorded simultaneously with the subdivision plat in the Probate Records of Mobile County, Alabama;
- 2) depiction of an easement for the shared parking area on the subdivision final plat;
- 3) Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 4) Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit;
- 5) All commercial projects shall comply with the 2003 International Fire Code and Appendices B through G, as adopted by the City of Mobile on July 6, 2004;
- 6) 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 to be coordinated with Urban Forestry; and
- 7) full compliance with all other applicable municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2005-00234 (Subdivision)

St. Emanuel Street Subdivision

350 St. Emanuel Street

(Southwest corner of St. Emanuel Street and Canal Street).

2 Lots / 7,260± Sq. Ft.

M. Don Williams, M. Don Williams Engineering, was present on behalf of the applicant and concurred with the staff recommendations.

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

- 1) provision of a legal covenant to run with the land, providing for shared access, use and maintenance of the common parking area, to be properly executed and recorded simultaneously with the subdivision plat in the Probate Records of Mobile County, Alabama;
- 2) depiction of an easement for the shared parking area on the subdivision final plat;
- 3) Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards;
- 4) Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit;

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- 5) All commercial projects shall comply with the 2003 International Fire Code and Appendices B through G, as adopted by the City of Mobile on July 6, 2004;
- 6) 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 to be coordinated with Urban Forestry; and
- 7) full compliance with all other applicable municipal codes and ordinances.

The motion carried unanimously.

Case #SUB2005-00231 (Subdivision)

Timberlane Woods Subdivision, Unit One

West terminus of Timberline Ridge.

4 Lots / 9.0+ Acres

Mr. Plauche stated that the above referenced application was withdrawn at the applicant's request.

EXTENSIONS:

Case #SUB2002-00046 (Subdivision)

D/M Subdivision

2548 and 2550 Government Boulevard

(West side of Government Boulevard, 240'± North of Kreitner Street, extending to the North side of Kreitner Street, 235'± West of Government Boulevard).

4 Lots / 13.2± Acres

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

Mr. Plauche noted that the application had been recommended for denial, and asked if there was anyone present to speak on behalf of the applicant. No one came forward.

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to deny the request for a one-year extension.

The motion carried unanimously.

Case #ZON2004-02440 (Planned Unit Development)

UMS-Wright School

65 North Mobile Street

(Southwest corner of North Mobile Street and Old Shell Road, extending South and West to the Illinois Central Gulf Railroad right-of-way and the South terminus of Martin Street).

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

A request for Planned Unit Development Approval to amend a previously approved Master Plan for an existing school in an R-1, Single-Family Residential district.

The site plan illustrates the existing structures, parking areas along with the proposed buildings, drives, parking areas, and concourse.

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

After discussion a motion was made by Mr. Plauche and seconded by Mr. Miller to approve this request.

The motion carried unanimously.

GROUP APPLICATIONS

Case #ZON2005-02304 (Planned Unit Development)

Beard Equipment Company

2480 and 2490 East I-65 Service Road North

(Southeast corner of East I-65 Service Road North and Industrial Street West).

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

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

(See also Case #SUB2005-00254 – North Beltline Commercial Park Subdivision – Subdivision & Case #ZON2005-02303 – see below)

Mr. Plauche announced that this application was recommended for holdover, however, if anyone was present and wished to speak in this matter they could do so. There was no one who wished to speak.

Mr. Olsen stated that the applicant's representative had called to say that they were unable to attend the meeting today, but that they were in agreement with the recommendation for holdover.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold this plan over to the January 5th meeting, to allow the applicant to include the lot to the Southeast in the PUD application. Revised drawings, additional fees, and mailing labels must be received by Urban Development by December 19th to be considered.

The motion carried unanimously.

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Case #SUB2005-00254 (Subdivision)

North Beltline Commercial Park Subdivision, Resubdivision of Lots 1 & 3

2480 and 2490 East I-65 Service Road North

(Southeast corner of East I-65 Service Road North and Industrial Street West).

2 Lots / 12.2± Acres

(For discussion see Case# ZON2005-02304 – Beard Equipment Company – Planned Unit Development – see above)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold this application over until the January 5th meeting, to coincide with the PUD hearing.

The motion carried unanimously.

Case #ZON2005-02303 (Sidewalk Waiver)

Beard Equipment Company

2480 and 2490 East I-65 Service Road North

(Southeast corner of East I-65 Service Road North and Industrial Street West).

Request to waive construction of sidewalks along East I-65 Service Road North and Industrial Street West.

(For discussion see Case #SUB2005-02304 – Beard Equipment Company – Planned Unit Development - above)

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold this application over until the January 5th meeting, to allow the applicant to submit additional sidewalk waiver requests, if desired, and to coincide with the PUD hearing.

The motion carried unanimously.

Case #ZON2005-02308 (Planned Unit Development)

Bradford Place Townhomes

(East side of West Drive at the East terminus of Northwoods Court, extending to the West side of Center Drive).

A request for Planned Unit Development Approval to amend a previously approved Planned Unit Development to allow reduced lot widths and sizes, reduced building setbacks, and increased site coverage in a private street, single-family residential townhome subdivision.

(See Case #SUB2005-00247 – Bradford Place Townhomes – Subdivision – below)

The site plan illustrates the proposed lot configuration.

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Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

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

- 1) **that the proposed dumpsters be located in an area outside of the required front yard, with the provision of adequate maneuvering area for garbage trucks (location to be coordinated with and approved by Urban Development staff and Traffic Engineering);**
- 2) **full compliance with the landscaping and tree planting requirements of the Ordinance;**
- 3) **that there be no windows facing buildings less than 20-feet apart;**
- 4) **provision of a six-foot wooden privacy fence along the North and South property lines;**
- 5) **denial of access to Center Drive until such time that Center Drive is constructed to city standards;**
- 6) **that the one-way drives be signed and marked according to MUTCD standards; and**
- 7) **full compliance with all municipal codes and ordinances, including but not limited to the private street construction requirements of the Subdivision Regulations.**

The motion carried unanimously.

Case #SUB2005-00247 (Subdivision)

Bradford Place Townhomes

East side of West Drive at the East terminus of Northwoods Court, extending to the West side of Center Drive).

40 Lots / 3.9± Acres

(For discussion see Case #ZON2005-02308 – Bradford Place Townhomes – Planned Unit Development – above)

After discussion a motion was made by Dr. Rivizzigno and seconded by Mr. Miller to waive Section V.D.3. and approve the above referenced subdivision subject to the following conditions:

- 1) **construction of the street in compliance with the private road standards of Section VIII.E.2. of the Subdivision Regulations, including but not limited to a minimum paved width of 18-feet.**

The motion carried unanimously.

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NEW SUBDIVISION APPLICATIONS:

Case #SUB2005-00241

Ashcraft Farms Subdivision

8306 Cottage Hill Road

(North side of Cottage Hill Road, 590'+ West of Leroy Stevens Road).

2 Lots / 13.6+ Acres

Christi A. Silbernagel, applicant was present and concurred with the staff recommendations.

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 depiction of the building setback line to provide 75 feet from the centerline of Cottage Hill Road;
- 2) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations; and
- 3) the placement of a note on the final plat stating that each lot is limited to a single curb cut, with size, location, and design subject to County Engineering approval.

The motion carried unanimously.

Case #SUB2005-00253

Bayview Heights Subdivision, Pierce Addition to

3859 Cottage Hill Road

(South side of Cottage Hill Road, 260'± West of Cottage Hill Avenue).

2 Lots / 0.8+ Acre

Mr. Plauche announced that this application was recommended for holdover. He asked if the applicant wished to speak.

Mr. Regan, stated that the property had been in this configuration since the 1960's. She further stated that his client was the 4th generation landowner and the owners of lots 16 and 17 were 5th generation landowners. He said these people did not cause the problem. The problem had been perpetuated for 50 years. Mr. Regan said his client had a house sitting on half of her property. She wanted to cut it in half where she could sell these two lots. The people next door did not want to enter into this subdivision. As stated, Mr. Regan said his client was 4th generation land owner and did not have anything to do with causing this problem, and would like to see this application decided on today instead of having to hold it over.

Ms. Deakle asked who owned the triangular piece of land.

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Mr. Regan said the triangular piece goes to lots 16 and 17.

Ms. Deakle asked if it was divided at that lot line between Lots 16 and 17.

Mr. Regan pointed out on the drawing that part of Lot 11 that goes with their site and the other part of Lot 11 that goes into Lots 16 and 17. He was not sure that the remainder of original lot was really buildable.

Mr. Olsen asked Mr. Regan if any documentation had been submitted as to when that property, Lot 11, was divided like that.

Mr. Regan said no. The last deed he was able to find was in recorded in 1960.

Mr. Olsen said that if Mr. Regan could provide that documentation to the staff, the Commission could hold this application over so that staff could verify it, and then they should be able to have a different recommendation at the next meeting.

Mr. Regan noted that the staff recommendation stated that the property was divided in 1960.

Mr. Olsen said he had missed that. Mr. Regan was correct. He stated that there was another issue, however, about notification of some adjoining property owners.

Ms. Masters said she was not sure about the property owner on the southern portion, but the adjacent neighbor to the west was not notified. He called and said he did not receive a notice. In this case, the property had changed hands and the previous owner had gotten the notice.

Mr. Lawler advised that the safest course was to notify the people who say they did not get notice.

Ms. Deakle suggested these two owners be notified and then bring this application up at the next scheduled meeting.

After discussion a motion was made by Mr. Plauche and seconded by Dr. Rivizzigno to hold the application over to the January 5th meeting to allow for notification of all adjoining property owners.

The motion carried unanimously.

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Case #SUB2005-00251

Carol Plantation Subdivision, Unit 6, Resubdivision of Lot 728, Resubdivision of Lot 2

5456 Gunn Road

(West side of Gunn Road, 150'± North of Prince James Drive, extending to the East side of Schillinger Road and the North terminus of Queen Odella Drive West).

5 Lots / 4.7± Acres

Matt Orrell, Polysurveying Engineering and Land Surveying, was present on behalf of the applicant. Mr. Orrell noted that the subdivision was recommended for denial because it exceeded the maximum depth ratio of the Subdivision Regulations. He said that requirement was routinely waived by the staff. Another reason given for denial was due to the size of the proposed lots. He pointed out that the subdivision directly to the south had basically half-acre lots. The applicant's smallest lot was ¾ acre, and the largest was over an acre. Mr. Orrell did not see that that was an issue. To satisfy the concern regarding the commercial aspect of the property, even though this was in the county, they would agree to put a note on the plat stating that a single-family dwelling be placed on each lot. They would even agree to having Lots 2 and 3 share a curb cut on Gunn Road. The other lots would access existing easements and driveways.

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

Larry Fouts said he lived at 7690 Prince James Drive. His property bordered the subject property on the north. Mr. Fouts passed out pictures of the property. He was concerned about water from the subject property draining across his property, as there was already a severe drainage problem with water coming from the north. He related that at one time he had had as much as three feet of water in his garage. His house was built on piers, with one end of it being four feet off the ground. He noted that the house on the end of Prince James Drive and Gunn Road had already been bought by FEMA because of flooding of that house. Mr. Fouts asked that this water issue be addressed before any houses were built that may aggravate the existing problem.

Mr. Plauche noted that the County would have to set the flood control regulations for that property.

Commenting on Mr. Fouts' remarks, Mr. Orrell said there was a natural drain going across this property. The lots would have to meet the Board of Health requirements for 15,000 square feet of usable land. He did not feel they would exceed the County's limit for runoff. Mr. Orrell said if there was not usable property there, they would of course not put a house there. He did not see that putting five houses on this property would impact Mr. Fouts' property at all.

Mr. Olsen pointed out that in Mr. Orrell's comments he referred to #2 of the staff recommendation, that it was not characteristic of the shape of the surrounding area and he referred to the lot size. Mr. Olsen said they were not necessarily referring to the lot size,

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but to the fact that there were several flag-shaped lots and there were really no other flags in the area.

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

- 1) three lots exceed the maximum depth ratio (Section V.D.4);**
- 2) four lots would not conform to the characteristic shape of the surrounding area (Section V.D.1); and**
- 3) there would be no way to satisfy the original condition of subdivision approval that would deny access to Queen Odella Drive to commercially developed property.**

The motion carried unanimously.

Case #SUB2005-00250

Chambliss Properties Subdivision, Unit 2

Northeast corner of Bruns Drive and Cody Road, extending to the South side of Grelot Road, 270' ± East of Cody Road.

2 Lots / 13.9± Acres

A representative of the applicant was present and concurred with the staff recommendations.

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) coordination with and approval by both Urban Development and Traffic Engineering for the location, number, and design of all curb cuts.**

The motion carried unanimously.

Case #SUB2005-00255

Dawes Lake Trace Subdivision

West side of Dawes Lake Road East at its North terminus.

18 Lots / 10.0± Acres

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

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

- 1) the provision of a street stub to the North; and**

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- 2) **the placement of a note on the final plat stating that any lots which are developed commercially and adjoin residentially developed property must provide a buffer, in compliance with Section V.A.7. of the Subdivision.**

The motion carried unanimously.

Case #SUB2005-00240

Dawes Road Acres Subdivision, First Addition, Resubdivision of Lot 2, Block "A"

1555 Dawes Road and 1580 McKinnell Road

(East side of Dawes Road, 670'± South of McKinnell Road, extending to the East side of McKinnell Road, 785'± South of Dawes Road)

3 Lots / 2.8± Acres

Charlotte Vinson, of 1555 Dawes Road and owner of the subject property, was present and said Mr. Robert Mott would speak on her behalf.

Robert Mott referred to the staff recommendations regarding the setback line, and said they had no problem with that. They did not agree, however, with the requirement for dedicating right-of-way for Dawes and McKinnell Roads at this point in time. He said their neighbors were not required to give right-of-way, and if the road were ever widened they would be compensated. He did not think it was fair that they have to deed this valuable frontage on Dawes and McKinnell Roads. Mr. Mott said if this plan fails to be approved, Ms. Vinson stood to suffer a great financial loss. He asked if anyone on the Commission was aware of any plans specifically showing the right-of-way requirements for future widening of these projects. He asked the Commission to reconsider the requirement to deed the right-of-way at this time.

Mr. Olsen stated that this was a residential, three-lot subdivision, and in the past the Commission had occasionally required simply a setback from the future right-of-way for a Major Street as opposed to the dedication. Actual dedication, however, to provide 25 feet from the center line of McKinnell Road would be required because it was currently a substandard right-of-way. Currently it was not 25 feet from the center line for a 50-foot right-of-way, which was the minimum allowed.

Mr. Mott said he understood that this was a requirement normally placed on real estate developers because they could recover their cost from their losses. It was not a requirement placed on private property owners all the time.

Mr. Olsen reiterated that on small residential subdivision, the commission has allowed for additional setbacks on major streets; and that on a substandard right-of-way, the dedication requirement was placed on everybody, regardless of developer or individual.

Mr. Mott said they would agree to give the 10 feet on McKinnell, but respectfully requested that at this time that they not be required to give up that 20 feet on Dawes Road. Instead, they would agree to the additional setback line on Dawes Road.

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Ms. Vinson questioned the requirement that only one curb cut be allowed for each lot.. She noted that the property on Dawes Road was a larger piece and it was fairly wide across the front, and currently there were two culverts which she used for access. She respectfully requested that she be allowed to keep both culverts and access for a future half circle driveway from the house.

Mr. Plauche asked if the staff was aware that there were two access drives on that lot.

Mr. Olsen said that was not reflected on the plat submitted.

In the deliberations session Mr. Plauche said he thought that in the past the Commission had allowed a setback rather than right-of-way.

Mr. Olsen said that was correct on a Major Street. On the rear street, in this case McKinnell, it would need to be a dedication.

Mr. Stewart, with the County Engineering Department, said they were getting ready to widen Dawes Road for the new connector to Airport Boulevard and need that right-of-way.

Mr. Vallas asked if the County was acquiring right-of-way at this time.

Mr. Stewart said it was in the final phases of design.

Mr. Olsen said that the nexus on this for the dedication on Dawes Road really wasn't there since it was just one residential lot. After conferring with Mr. Lawler, they would suggest that the setback was more appropriate since this was a single residential lot. Mr. Olsen said they recommended changing condition #1 to "provision of sufficient setback for the future right-of-way of Dawes Road so it would be 75 feet from center line for the setback". The dedication on McKinnell as originally stated should be required.

It was suggested that Lot 1 be allowed to have two curb cuts as requested.

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 25 feet from the centerline of McKinnell Road;**
- 2) the illustration of the 25-foot setback line from McKinnell Road after dedication and the 75-foot setback line from the centerline of Dawes Road;**
- 3) the placement of a note on the final plat stating that lot 1 is allowed 2 curb cuts, and that the remaining lots are limited to a single curb cut each, with size, location, and design to be approved by County Engineering; and**
- 4) the placement of a note on the final plat stating that any lots that are developed commercially and adjoin residentially developed property must**

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provide a buffer, in compliance with Section V.A.7 of the Subdivision Regulations.

The motion carried unanimously.

Case #SUB2005-00244

D & B Subdivision

1541 East I-65 Service Road South

(East side of East I-65 Service Road South, 1,220'± South of Cottage Hill Road).

2 Lots / 3.8± Acres

Bobby McBryde, representative of the applicant was present and concurred with the staff recommendations.

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

- 1) depiction of the 25-foot setback lines on the final plat; and**
- 2) the placement of a note on the final plat stating that each lot is limited to a single curb cut to East I-65 Service Road South, with size, location, and design to be coordinated with Traffic Engineering and Urban Development.**

The motion carried unanimously.

Case #SUB2005-00249

Keyser Subdivision

9372 Calhoun Road

(North side of Calhoun Road at its West terminus).

1 Lot / 0.5± Acre

Mr. Plauche announced that this application was recommended to be held over until the meeting of January 5, 2006. If anyone had come to speak on this subdivision, however, they would be allowed to do so.

Larry Keyser of 9372 Calhoun Road, applicant, was present and said his parents had deeded this property to him for a home site. He said he was told that he needed to have a one-lot subdivision presented. The staff, however, had advised him last Wednesday that this property needed to be re-surveyed and re-submitted for a two-lot subdivision for the January 5 meeting. Mr. Keyser said he did not want to go through the cost of another survey, and there was no way he could get the property surveyed and submitted by the deadline at noon on Monday. He said this property was a gift given to him by his family and he just wanted to build a home on it.

Mr. Olsen explained that Mr. Keyser wanted to carve a lot out of a large tract of land. They were showing the rest of the property as future development, however, the rest of

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the property had an existing home on it, so it could not be future development as it was currently developed. That was the reason for the two-lot subdivision.

Mr. Vallas said he did not know what the surveying requirement was, but the applicant could submit a conceptual plan and if it was approved he could then have a survey done. He said the survey would probably be required by the mortgage company anyway for loan purposes when he was ready to build his house.

Mr. Keyser said the survey was only required for his one lot. He said his father owned the remainder of the property and there was no future development.

Benjamin Keyser, father of the applicant and owner of the subject property, said there was no room for future development. All he wanted was to give this piece of property to his son to build a home on for his family. He pointed out that there were trailers all over this area, but he did not want a trailer on his property. He said at some future date his son would own this property. He did not see any need in having another survey, which he already had, and there had been no changes in it. He asked that the Commission approve a one-lot subdivision.

In deliberations session Mr. Lawler said it seemed the applicant objected to another survey because of the cost. He asked how much a survey would cost.

Mr. Vallas said it would cost several thousand dollars.

Mr. Olsen said that in the past when the staff has known that the area labeled as “future development area” was developed, they had recommended that it be included as a lot.

After further discussion it was suggested that the Commission accept the survey on the larger parcel, and require the applicant to have a re-survey of the smaller parcel.

Mr. Olsen asked Mr. Stewart that if the parent parcel, the future development parcel as shown, were to come in for a permit, would he be denied.

Mr. Stewart said he would be denied.

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

The motion carried unanimously.

Case #SUB2005-00246

Wilton Lowery Park Subdivision

9800 Moffett Road

(North side of Moffett Road, 460'± East of Snow Road Extension [private_road]).

2 Lots / 19.5± Acres

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Wilton Lawery, applicant, was present and concurred with the staff recommendations.

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 dedication of sufficient right-of-way to provide 50-feet from the centerline of Moffett Road;**
- 2) **the placement of a note on the final plat stating that Lots A and B are limited to a total of four curb cuts to Moffett Road, with the size, location and design to be approved by County Engineering and ALDOT; and**
- 3) **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 #SUB2005-00248

Stein Resubdivision Subdivision

North side of Airport Boulevard, 380'+ East of Pierce Road.

Lots / 17.6± Acres

Don Coleman, Rester and Coleman Engineers, was present on behalf of the applicant and concurred with the staff recommendations.

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 dedication of sufficient right-of-way to provide 50-feet from the centerline of Airport Boulevard;**
- 2) **the placement of a note on the final plat stating that Lots 1 and 2 are limited to a total of four curb cuts to Airport Boulevard, with the size, location and design to be approved by County Engineering; and**
- 3) **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 #SUB2005-00242

Stone Mill Subdivision

Southwest corner of Hillcrest Road and Halls Mill Creek.

33 Lots / 32.7± Acres

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Bobby McBryde, with Speaks and Associates, was present on behalf of the applicant and concurred with the staff recommendations.

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) **dedication of sufficient right-of-way to provide a minimum of 50' from centerline of Hillcrest Road;**
- 2) **all roads within the subdivision be constructed to county standards and dedicated;**
- 3) **all areas not delineated as lots or right-of-way be labeled as Common Area;**
- 4) **placement of a note on the final plat stating that maintenance of all Common Areas shall be the responsibility of the property owners;**
- 5) **placement of a note on the final plat stating that any development of the area denoted as Future Development will require subdivision approval;**
- 6) **placement of the required 25' building setback on the final plat; and**
- 7) **developer to obtain approvals from all applicable federal, state and local agencies prior to the issuance of any permits.**

The motion carried unanimously.

Case #SUB2005-00252

Suburban Heights Subdivision, Unit Three, Addition to Lot 6

4465 Champlain Avenue

(East side of Champlain Avenue, 285'± South of Holden Drive).

1 Lot / 0.9± Acre

Matt Orrell, representative of the applicant was present and concurred with the staff recommendations.

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

- 1) **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; and**
- 2) **the placement of the 25-foot minimum building setback line on the final plat**

The motion carried unanimously.

Case #SUB2005-00243

Tuttle Addition Subdivision, Block 1, Resubdivision of Lots 4, 5, and 6

207 and 211 Dexter Avenue

(Northeast corner of Dexter Avenue and Monroe Street).

2 Lots / 0.5± Acre

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Jerry Byrd, representative of the applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Mrs. Deakle and Mr. Miller to approve the above referenced subdivision subject to the following condition:

- 1) the Historic District Overlay setbacks shown on plat.**

The motion carried unanimously.

Case #SUB2005-00245

Willard Subdivision, First Addition, Resubdivision of Lots 1 & 2

2760 Macmae Drive

(East side of Macmae Drive at its South terminus).

2 Lots / 4.8± Acres

Jerry Byrd, representative of the applicant was present and concurred with the staff recommendations.

After discussion a motion was made by Mrs. Deakle and Mr. Miller to approve the above referenced subdivision subject to the following condition:

- 1) the approval of all applicable federal, state and local agencies prior to the issuance of any permits.**

The motion carried unanimously.

NEW SIDEWALK WAIVER APPLICATIONS:

Case #ZON2005-02262

Starbucks Coffee Company

3251 Airport Boulevard

(South side of Airport Boulevard, 215' ± East of East I-65 Service Road South, extending to Airport Boulevard Service Road and an unnamed access road).

Request to waive construction of sidewalks along all street frontages.

Mr. Plauche asked if there was anyone present to speak in this matter. No one came forward.

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

The motion carried unanimously.

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OTHER BUSINESS:

There being no further business, the meeting was adjourned.

APPROVED: **February 2, 2006**

Dr. Victoria Rivizzigno, Secretary

Terry Plauche, Chairman

tc/ms