

**ZONING AMENDMENT,  
PLANNED UNIT DEVELOPMENT &  
SUBDIVISION STAFF REPORT**

**Date: October 2, 2003**

**NAME**

O. A. Pesnell, Jr.

**DEVELOPMENT NAME**

Brookview at Brookside Subdivision

**LOCATION**

**Rezoning:** 580'± North of the North terminus of Pesnell Court, adjacent to the West side of Inverness Subdivision, Unit

**Planned Unit Development/Subdivision:** North terminus of Pesnell Court extending North to the West side of Inverness Subdivision, Unit Two

**PRESENT ZONING**

R-1, Single-Family Residential

**PROPOSED ZONING**

R-3, Multi-Family Residential

**AREA OF PROPERTY**

**Rezoning:** 5 Acres±

**PUD/Subdivision:** 6.5 Acres±

**CONTEMPLATED USE**

Multiple buildings on a single-building site for a elderly housing

**It should be noted, however, that any use permitted in the proposed district would be allowed at this location if the zoning is changed. Furthermore, the Planning Commission may consider zoning classifications other than that sought by the applicant for this property.**

**TIME SCHEDULE  
FOR DEVELOPMENT**

Within Six Months

**ENGINEERING  
COMMENTS**

Recommend holdover. The applicant has initiated the clearing phase of construction without a permit and the site plan does not show existing contours as required by the Subdivision Regulations. The proposed development appears to encroach over a major drainage easement that conveys storm flows from a significant watershed to the East. In addition, it is the Engineering Department's understanding that the proposed site also

includes wetlands that are not shown on the plans. If this site is approved for development at all, significant changes may be required to comply with the Storm Water Ordinance.

The initial development had a significant detrimental effect on Milkhouse Creek with filling of the floodplain and floodway. Two engineering firms were involved with the initial development; an engineer from one of the firms certified to the City of Mobile that the majority of the siltation was in the floodplain, not the floodway and that impedance was not more than 3%. The engineer that provided the certification has since been suspended from engineering practice by the State Board of Registration for Professional Engineers and Land Surveyors. Although the suspension was not related to the project, it is the opinion of the City of Mobile Engineering Department that the floodway and floodplain were impacted. Although there is no empirical data to support this opinion, field visits during and post construction indicate an impact.

If these applications are reviewed and approved without requiring the contours and wetlands delineation, the Engineering Department recommends requiring the applicant to hire a licensed engineering and surveying firm to perform a certified survey of the floodway and flood plain prior to any more clearing or other construction. Prior to initiation, this survey should be coordinated with the City Engineer so that Engineering Department personnel can observe all phases of the survey. City Engineering requests that the Planning Commission include the aforementioned survey as a condition of any approvals for these applications.

Must comply with all stormwater and flood control ordinances. Any work performed in the right of way will require a right of way permit.

### **TRAFFIC ENGINEERING** **COMMENTS**

Driveway number, size, location, and design to be approved by Traffic Engineering and conform to AASHTO standards.

### **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 (City Code Chapters 57 and 64 and State Act 61-929).

### **REMARKS**

The applicant is requesting rezoning to R-3 to construct multiple elderly housing units; Planned Unit Development (PUD) approval to allow multiple buildings on a single building site, and Subdivision approval to create one lot.

As outlined above, City Engineering has numerous concerns regarding the proposed project. It should be noted that Planned Unit Development approval is site plan specific, and as outlined in the Engineering Comments, significant changes may be required to comply with City Ordinance(s). Additionally both PUD and R-3 zoning are proposed, and as a condition of rezoning, the Planning Commission and City Council typically require that the property be developed in accordance with the associated PUD. Moreover, as referenced in the Engineering Comments, the Subdivision Regulations require contour information, as well as the location of easements, water courses, marshes and other significant features to be shown on the preliminary plat. It should also be noted that as illustrated on the Vicinity Map, it appears that the overall

parcel from which the rezoning site is being taken is not included in the Subdivision application, and if the balance is not included, it would be land-locked.

**RECOMMENDATION**

Based upon the preceding, all three applications are recommended for holdover until the October 2<sup>nd</sup> meeting to allow the applicant to provide the following information: 1) the balance of the property from which the rezoning site is being taken; 2) contours and/or spot elevations as required by Section IV.A.2.b. of the Subdivision; 3) the location, width and purpose of existing and proposed easements as required by Section IV.A.2.g. of the Subdivision Regulations; 4) the location of water courses, marshes and other significant features as required by Section IV.A.2.i. of the Subdivision Regulations (this would include wetlands). This information must be submitted by September 15<sup>th</sup> to allow adequate time for review prior to the October 2<sup>nd</sup> meeting.

***Additional Engineering Comments for October 2<sup>nd</sup> Meeting:***

*Information submitted by applicant indicates actual floodway and floodplain are shifted to the east where the new structures and parking are proposed. This further complicates development of this property. The proposed building and parking encroaches into the wetlands adjacent to Milkhouse Creek. As with all applications of this type complete compliance City of Mobile stormwater regulations (inc. FEMA) will be required.*

*There appears to be one or two existing bridges proposed in this application to service the Assisted Living facility. The bridges will be located on private property. These bridges should be designed, constructed and maintained in compliance with all appropriate state and federal guidelines.*

*In addition, although not included on this lot of the PUD, the applicant has initiated construction of a bridge in the Floodway on another lot within the overall development. An **after-the-fact** application was made to the Corps of Engineers for proposed fill in the wetlands to accommodate the bridge. No application has been made to the City of Mobile for construction of this bridge even though construction has already been initiated. The bridge will connect this development with lot 9 of the Moss Creek Court Subdivision (residential) to the west. Complete compliance with the City's Stormwater Ordinance, which includes FEMA regulations, will be required for this development also. At a minimum a Land Disturbance Permit will be required.*

**REMARKS October 2<sup>nd</sup> Meeting:**

*The applicant has submitted a revised plan that illustrates contours, watercourses, wetlands, base flood elevation lines, and easements. Also shown on the plan is a note that the western 80-foot (which appears to be the balance of the property from which the lot is being taken) is “contiguous with other property owned by the developer to be used in future development.” The “other property owned by the developer” appears to be Lot 9 of Moss Creek, as referenced in the Engineering Comments above.*

*There are numerous problems associated with the proposed site plan. The plan illustrates that both the edge of the wetlands and the actual base flood elevation line are located well within the footprint of the proposed assisted living facility. Additionally, the entire dining hall, as well as some parking, are also within the wetlands. Planned Unit Development approval is site plan specific, and while minor modifications to the building footprint may be made, the Commission has consistently prohibited building construction in delineated wetlands, thus necessitating a complete redesign of the site plan.*

*Another issue is the bridge between the overall Pesnell Court site and the R-1 lot to the West. Any connection between lots, such as a bridge or driveway, would require PUD approval; PUD approval was not obtained for this bridge. Pesnell Court is zoned R-3 and is a high density development for the elderly; as part of the overall PUD approval for Pesnell Court, accessory uses such as a chapel, recreational center and assisted living were approved. Moss Creek Court is a single-family residential subdivision and direct access between Moss Creek and Pesnell Court would, in this case, be inappropriate.*

*In rezoning property to multi-family residential, the Planning Commission typically recommends that the site be developed in compliance with the accompanying PUD application; however, the PUD is recommended for denial. Moreover, the wetland issue has not been addressed, and in view of the fact that cross access is proposed, or may already exist (bridge to Moss Creek Court), the request for R-3 zoning should be denied.*

*In regard to the proposed subdivision, there is a note on the plat stating that there is “80’ contiguous with other property owned by the developer to be used in future development.” Approval of the subdivision as proposed would leave the 80’ parcel unaccounted for and essentially validate a land-locked metes and bounds parcel.*

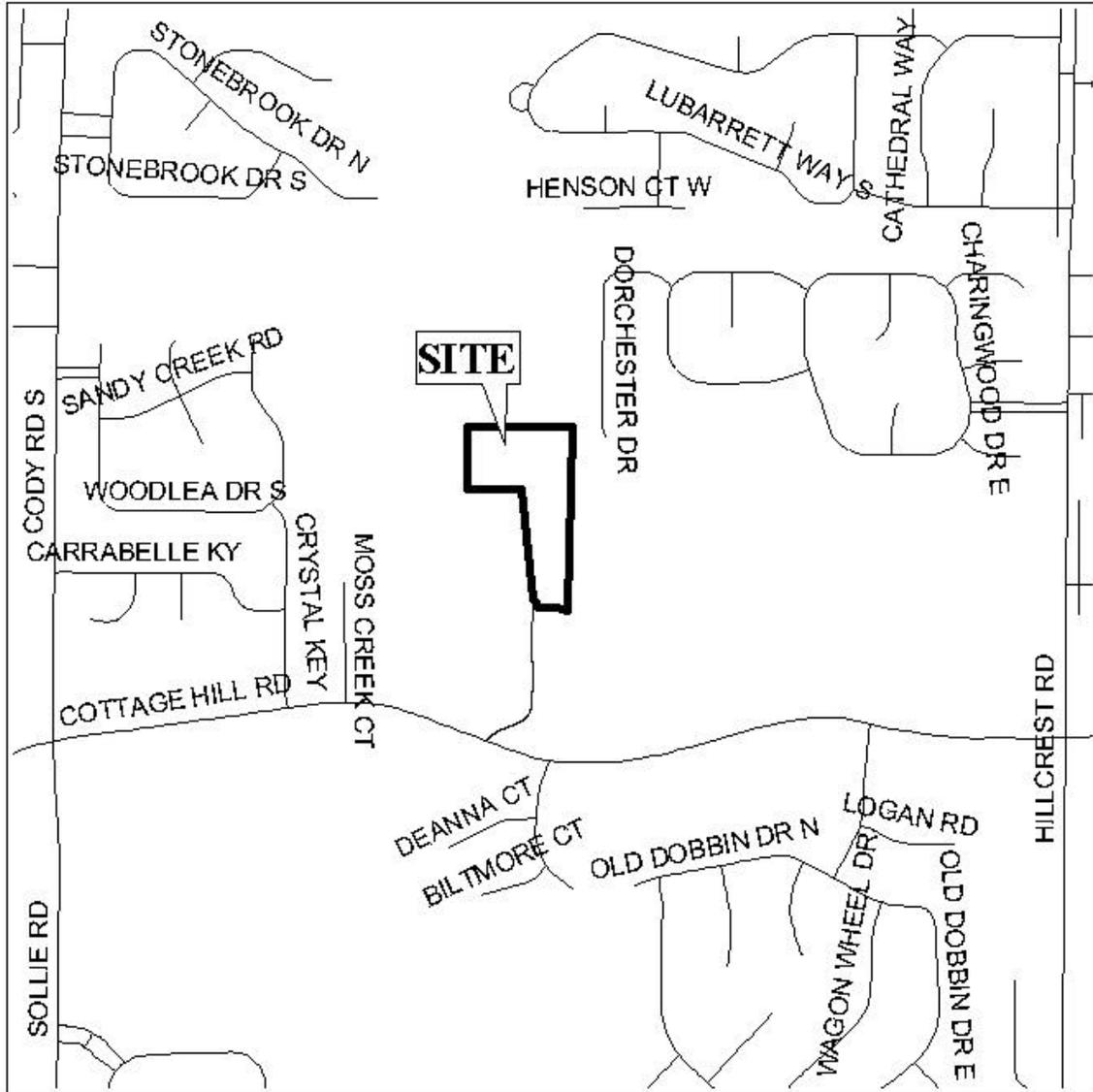
**RECOMMENDATION**

**Rezoning:** *Based upon the preceding, this application is recommended for denial.*

**Planned Unit Development:** *Based upon the preceding, this application is recommended for denial.*

**Subdivision:** *Based upon the preceding, this application is recommended for denial for the following reason: 1) approval of the subdivision would not account for the 80’ parcel to the West; and 2) approval of the subdivision would validate a land-locked metes and bounds parcel.*

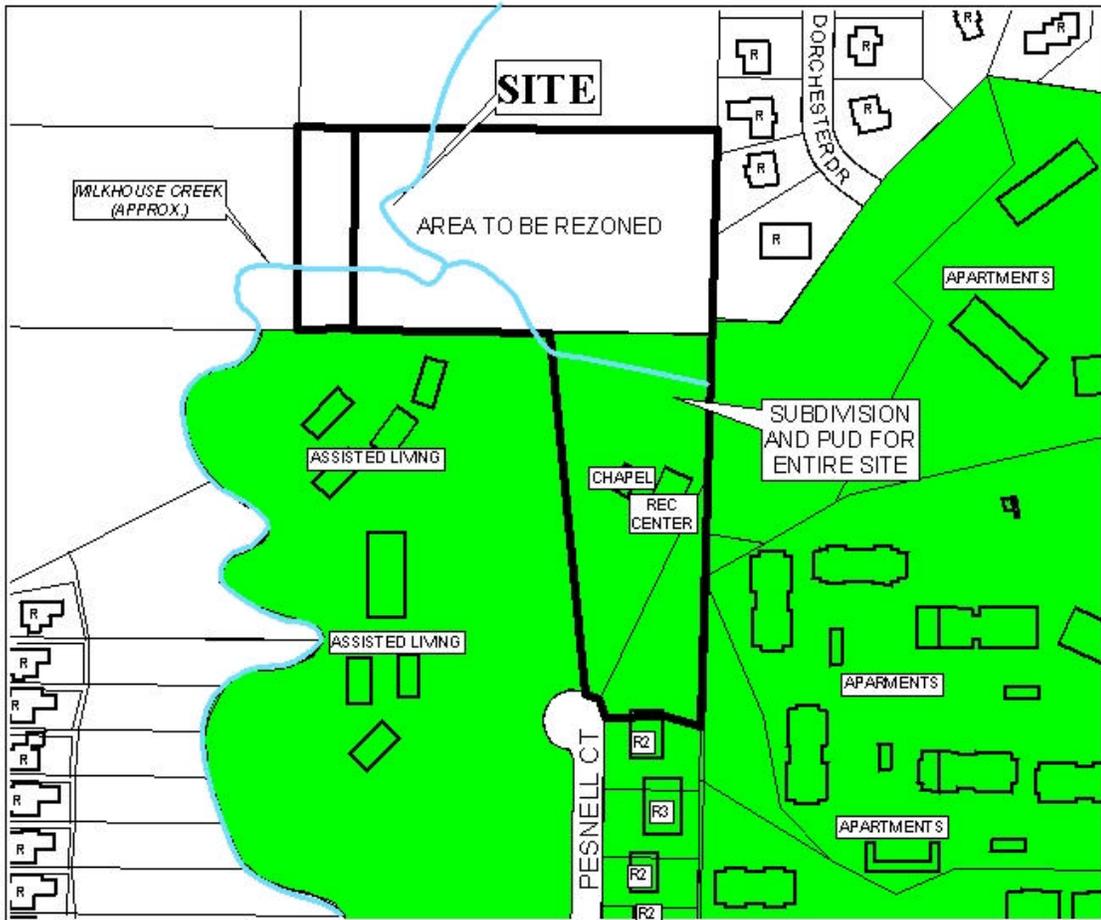
# LOCATOR MAP



APPLICATION NUMBER Holdover DATE October 2, 2003  
APPLICANT O. A. Pesnell, Jr.  
REQUEST Rezoning, PUD and Subdivision



# PLANNING COMMISSION VICINITY MAP - EXISTING ZONING



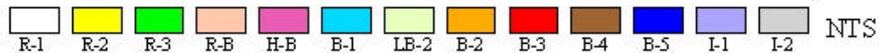
The site is located in an area of mixed land use. Single-family residential dwellings are located to the Northeast and apartments are to the East. Assisted living facilities are to the South.

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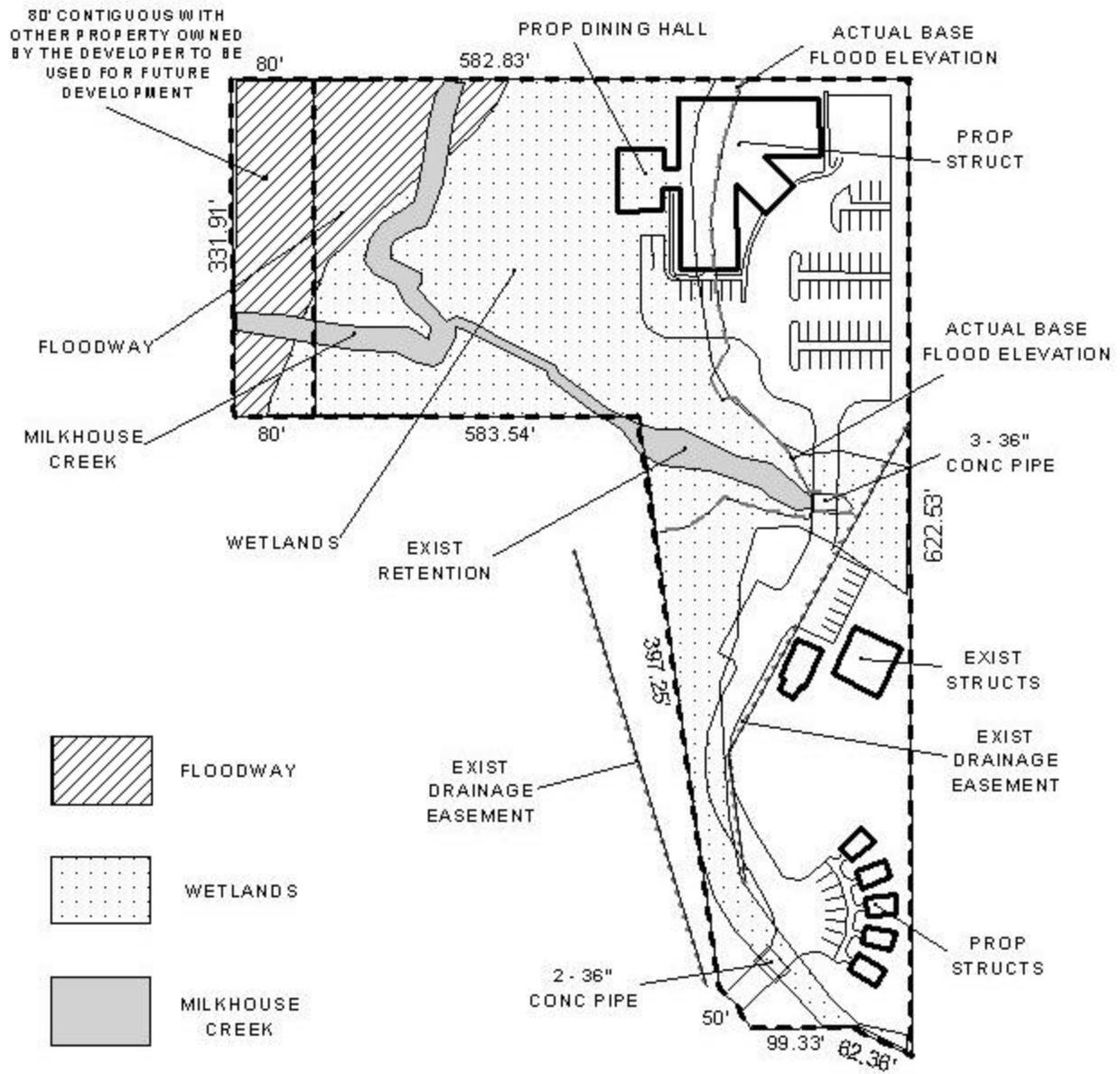
APPLICANT O. A. Pesnell, Jr.

REQUEST Rezoning, PUD and Subdivision

LEGEND



# DRAINAGE SITE PLAN



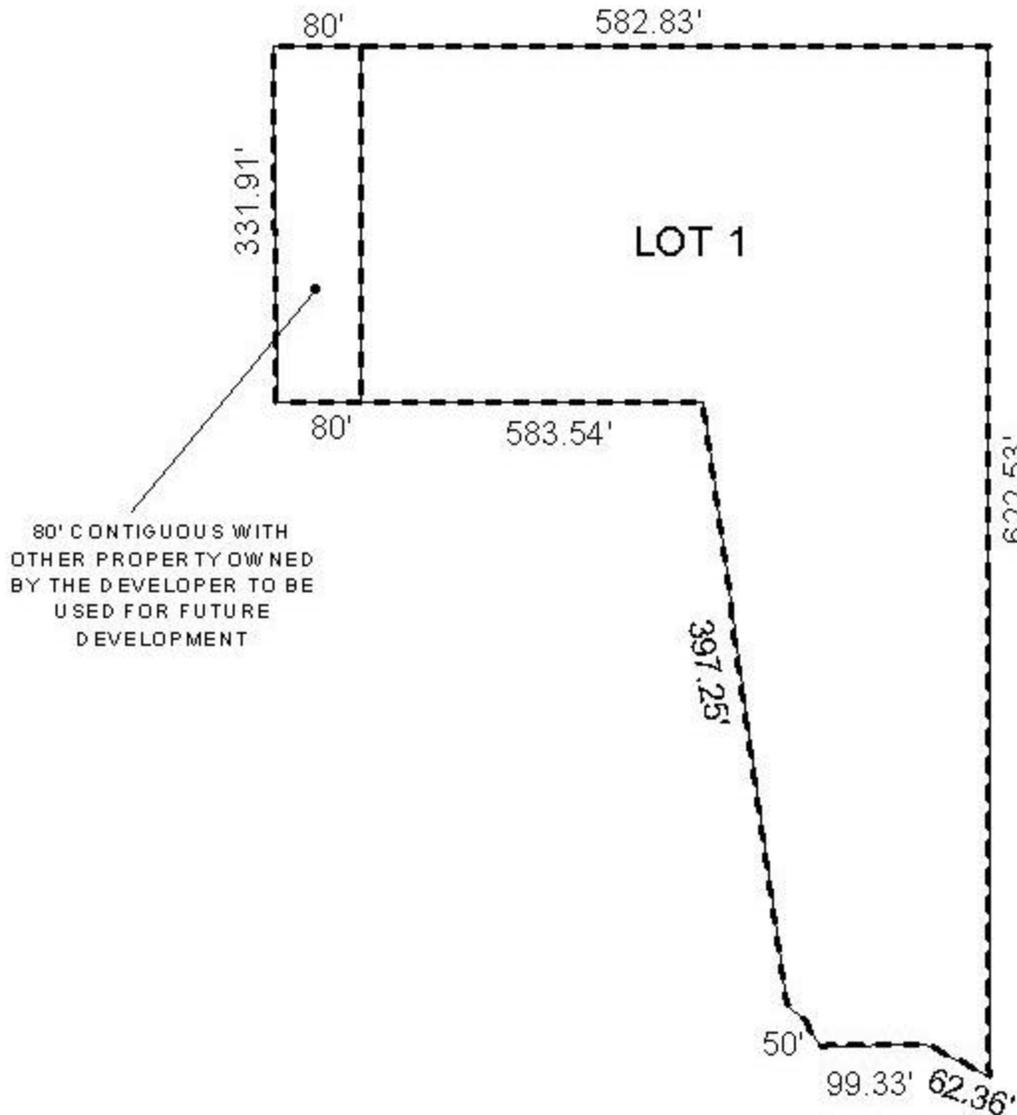
APPLICATION NUMBER Holdover DATE October 2, 2003

APPLICANT O.A. Pesnell, Jr.

USE/REQUEST Rezoning, Planned Unit Development, and Subdivision



# DETAIL SITE PLAN



APPLICATION NUMBER Holdover DATE October 2, 2003  
APPLICANT O.A. Pesnell, Jr.  
USE/REQUEST Rezoning, Planned Unit Development, and  
Subdivision

