

Order of Items
DeSoto County Planning Commission
August 28, 2003

1. Invocation
2. Roll Call
3. Approval of Minutes – July 31, 2003

REQUEST TO TABLE APPLICATION FOR SIX (6) MONTHS

4. Jefferson Planned Unit Development (613) – Application is to rezone 96.7 acres to Planned Unit Development. Subject property is located on the southeast corner of Jaybird and Holly Springs Roads, currently zoned Agricultural. Section 21, Township 3, Range 7

MINOR LOT SUBDIVISIONS

5. Williamson Minor Lot Subdivision (6191) – Application is for two lots of 8 acres and 1.5 acres. Subject property is located on the north side of Church Road and east of Poplar Corner Road, zoned Agricultural-Residential. Section 1, Township 2, Range 9
6. Wilson Minor Lot Subdivision (6193) – Application is for three lots of 1.8 acres, 1.5 acres, and 1.07 acres. Subject property is located on the west side of Robinson Gin Road and south of Oak Grove Road, zoned Agricultural. Section 23, Township 3, Range 8
7. Charles Rape Minor Lot Subdivision (6194) – Application is for one lot of 4.8 acres. Subject property is located on the west side of Highway 51 and south of Wheeler Road, zoned Agricultural. Section 13, Township 4, Range 8
8. Razziano Minor Lot Subdivision (6195) – Application is for one lot of 1.5 acres. Subject property is located on the west side of Fogg Road and north of Highway 304, zoned Agricultural. Section 7, Township 3, Range 8

OLD BUSINESS

9. Pigeon Ridge (6180) – Application is for preliminary subdivision approval for 42 lots on 162 acres. Subject property is located on the south side of Leavell Road and west of Watson-Desoto Road, zoned Agricultural. Section 33, Township 3, Range 5

NEW BUSINESS

MAJOR SUBDIVISIONS

10. Richmond Woods (6190) – Application is for preliminary subdivision approval for 32 lots on 80.73 acres. Subject property is located on the west side of Gitter Road and south of Holly Springs Road, zoned Agricultural. Section 28, Township 3, Range 6

11. Delta Bluffs Center (6192) – Application is for preliminary subdivision approval for 7 lots on 13.31 acres. Subject property is located on the north side of Goodman Road and east of Highway 61, zoned Planned Commercial (C-4).
Section 27, Township 1, Range 9

ZONINGS

12. Center Hills Rezoning (614)– Application is to rezone 166 acres from Agricultural-Residential to R-30 Single Family Residential. Subject property is located on the east end of Whispering Pines Drive and west of Center Hill Road.
Section 5, Township 2, Range 5
13. The Neighborhood at Cedar View (615) – Application is to rezone 75 acres from Agricultural-Residential to R-40 Single Family Residential. Subject property is located on the west side of Highway 305 and south of College Road.
Section 16, Township 2, Range 6
14. Westmoreland (616) – Application is to rezone 3.9 acres from Agricultural-Residential to Neighborhood Commercial (C-1). Subject property is located on the west side of Highway 301 and south of Highway 302.
Section 36, Township 1, Range 9

PLANNED UNIT DEVELOPMENT TEXT AMENDMENT

15. Fox Creek East PUD – Applicant is requesting a text amendment that would allow a church to be a permitted use rather than a conditional use.

The DeSoto County Planning Commission met at 7:00 p.m. on Thursday, August 28, 2003, in the Third Floor Boardroom of the Administration Building of DeSoto County located at: 365 Loshier Street, Hernando, MS. Commissioners present were: Claudia Niebanck, Len Lawhon, Mitch Mitchell, Ed Williams, Jimmy Maxwell, Robin James, Larry Sykes, Julius Cowan, Paul Whitfield, Charles McNemar, Leonard Lindsey and Mike Robison. Planning Commission Staff included: Michael Garriga, DeSoto County Planner, Merritt Powell, Director, Andy Swims, County Engineer, Jim McDougal, Transportation Coordinator, Denise Dingman, Planning Commission staff and Bobby Chamberlin, County Attorney.

Chairman Mike Robison called the meeting to order at 7:00 p.m., he then asked Mr. Larry Sykes to lead the Commission in prayer.

Ms. Niebanck stated the minutes dated 7/10/2003 & the minutes dated 7/31/2003 where Mr. Bruce Niebanck spoke and referred to the Mississippi State Code needs to be corrected to reflect the correct code number of §17-1-1 through 17-1-27. Mr. Larry Sykes made a Motion to approve the July 31, 2003 minutes with the corrected changes. Mr. Maxwell seconded Motion. The Motion was carried by a unanimous vote.

Mr. Garriga announced to the board members that Ms. Katie Jewell, County Attorney had her baby boy over the weekend and will be out on maternity leave for a while. Ms. Niebanck wanted to be sure to tell Ms. Jewell and her husband congratulations from all of the board members.

Jefferson Planned Unit Development (613) – Application is to rezone 96.7 acres to Planned Unit Development. Subject property is located on the southeast corner of Jaybird and Holly Springs Roads, currently zoned Agricultural. Section 21, Township 3, Range 7
REQUEST TO TABLE APPLICATION FOR SIX (6) MONTHS

Mr. Garriga announced that the applicant has requested this application be tabled for six months. He added, the land use map amendment request was denied by the Board of Supervisors. Mr. Mitchell made a Motion to table this item for a period of six months. Mr. Cowan seconded the Motion. The Motion was carried by a unanimous vote.

Center Hills Rezoning (614)– Application is to rezone 166 acres from Agricultural-Residential to R-30 Single Family Residential. Subject property is located on the east end of Whispering Pines Drive and west of Center Hill Road. Section 5, Township 2, Range 5

Mr. Garriga announced the applicant has requested to have this item carried over for 30 days. He then explained why the carryover request had been made. Mr. Lawhon made a Motion to carry this application over for 30 days. Ms. Niebanck seconded the Motion. The Motion was carried by a unanimous vote.

MINOR LOT SUBDIVISIONS

16. **Williamson Minor Lot Subdivision (6191)** – Application is for two lots of 8 acres and 1.5 acres. Subject property is located on the north side of Church Road and east of Poplar Corner Road, zoned Agricultural-Residential. Section 1, Township 2, Range 9
17. **Wilson Minor Lot Subdivision (6193)** – Application is for three lots of 1.8 acres, 1.5 acres, and 1.07 acres. Subject property is located on the west side of Robinson Gin Road and south of Oak Grove Road, zoned Agricultural. Section 23, Township 3, Range 8
18. **Charles Rape Minor Lot Subdivision (6194)** – Application is for one lot of 4.8 acres. Subject property is located on the west side of Highway 51 and south of Wheeler Road, zoned Agricultural. Section 13, Township 4, Range 8
19. **Razziano Minor Lot Subdivision (6195)** – Application is for one lot of 1.5 acres. Subject property is located on the west side of Fogg Road and north of Highway 304, zoned Agricultural. Section 7, Township 3, Range 8

Mr. Garriga announced the above items and stated that all the minor lots conform to the DeSoto County Zoning and Subdivision Regulations and are ready for approval, subject to dedication of road right of way, and health department approval. Mr. Sykes made a Motion to approve the minor lots. Mr. Maxwell seconded the Motion. The Motion was passed by a unanimous vote.

OLD BUSINESS

Pigeon Ridge (6180) – Application is for preliminary subdivision approval for 42 lots on 162 acres. Subject property is located on the south side of Leavell Road and west of Watson-Desoto Road, zoned Agricultural. Section 33, Township 3, Range 5

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Ben Smith as being present to represent the application.

Mr. Smith began saying he does not have any problems with the staff recommendations. He added, that there would be new double wide mobile homes, with restrictive covenants and 24' of asphalt. They are also encouraging stick built homes.

Mr. Robison asked about the underpinning and porches. Mr. Garriga responded saying, the building department makes sure these items are taken care of before giving a final approval. He added, that the code requires some sort of manufactured underpinning.

Mr. Lahwon stated the circulation looks good, he was hoping for new mobile homes, which Mr. Smith has already said there would be.

Mr. Robison asked if there is anyone here for or against this application, there was none.

Mr. Swims added there was a concern regarding the road along County Line Road in regards to crossing two culverts but it does not look like that road is going anywhere.

Mr. Lawhon made a Motion to approve this application with staff recommendations. Ms. Niebanck seconded the Motion. The Motion passed by a unanimous vote.

NEW BUSINESS

MAJOR SUBDIVISIONS

Delta Bluffs Center (6192) – Application is for preliminary subdivision approval for 7 lots on 13.31 acres. Subject property is located on the north side of Goodman Road and east of Highway 61, zoned Planned Commercial (C-4). Section 27, Township 1, Range 9

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Robbie Jones as being present to represent the application.

Mr. Jones began stating the plat had never been recorded, the right of way for the roads in phase one have been recorded. In addition, the water and sewer is in place.

There was a brief discussion between board members and staff regarding the site plan and the time it should be submitted. Maybe there should be intermediate hearings, so that the site plan review board could review the site plan before the final hearing. Mr. Garriga did say, some cities record the plat along with the site plan.

Ms. Niebanck asked if the design would be harmonious though whole complex. Mr. Lindsey said that is why C-4 are done, the facade should be similar. Mr. Jones responded saying the specific use site plan will be done at the final along with the landscaping plan. Mr. Lindsey said he is concerned that each lot will look different and it should be consistent, that is the reason the C-4 zoning was created. Mr. Jones responded saying, he does not believe it will look different, they want an upscale development, same color brick, etc.

Mr. Mitchell asked if there would be a review on each lot. Mr. Garriga said “yes”. Mr. Robison believes there needs to be an overall site plan up front, so that each lot would be reviewed. Mr. Jones said he does not believe there would be a problem with each lot being reviewed.

Mr. Robison then asked if there was anyone here for or against this application, there was none.

Mr. Jones said he agrees with the staff recommendations.

Mr. Lawhon stated he agrees with Mr. Lindsey in that how we do not create a precedent if we let this application go forward. Mr. Robison explained how a precedent would be set. Mr. Lawhon stated the fault lies with the Planning Commission Board at the time of approval, the applicant should not be penalized for the board not asking for a site plan at that time. The question is how do we let this application go forward?

Mr. Garriga said if this board is looking for harmony, if the site plan does not match, don't approve the final application. The library lot needs to be recorded. The applicant is just trying to clean up a problem.

Ms. Niebanck suggested that in the Motion, there would be a stipulation that he conforms to the staff recommendations and he would submit an overall plan with the understanding that there would be a harmonious design.

Mr. James asked if restrictive covenants could be recorded with the plat, explaining the design standards. Mr. Whitfield said covenants should be enough to determine the harmonious design (footprints).

Mr. Lawhon said he does not want to prohibit building/design, the board just wants a harmonious design.

Mr. James asked if there is some way to have a site plan approval prior to issuing construction permits. Mr. Jones said it is hard to layout a pictular use, the one thing we can do is to show what could possibly go on an individual lot, but if the lot is sold, they would still need to come back to this board and receive approval.

Mr. Whitfield asked if each lot will be done one at a time? Mr. Garriga said there is a phasing plan, and explained the phasing plan.

Mr. Mitchell asked if it would be better to have this application carried over for one month? Mr. Jones asked the board to consider giving preliminary approval tonight, and work with the Planning Commission staff before coming back with a final approval.

Mr. Lawhon made a Motion to approve the preliminary subdivision application, with the following stipulations: each individual lot prior to the final application hearing, go to an intermediate hearing (this is not a final approval) to approve each individual site plan and approve with staff recommendations. Mr. Mitchell seconded the Motion. The Motion passed by a unanimous vote. Mr. Jones asked for clarification of the Motion. Mr. Lawhon explained the Motion.

Richmond Woods (6190) – Application is for preliminary subdivision approval for 32 lots on 80.73 acres. Subject property is located on the west side of Gitter Road and south of Holly Springs Road, zoned Agricultural. Section 28, Township 3, Range 6

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Kelly Greenwood as being present to represent the application.

Mr. Greenwood announced that the property owner to the west is purchasing the land on the west side subdivision boundary.

Mr. Robison said crossing the levy seems to be a little vague and asked if the county engineer has been contacted? Mr. Swims responded saying, we looked at this property, and would like information from the developer on how the levy was constructed, how it works, and why type of cross-sections will be done. It drops off on the east side, there is a large wetland looking area. He needs to be sure he constructs the accurate slopes and to be sure the buffing is done right. He added, he is not sure how long the road has been there, but boring will need to be done.

Mr. Greenwood said they are going to re-align the road. The previous owner tried to build a pond below the levy, which may be the water Mr. Swims was referring to.

Mr. Robison asked about the fill that has occurred and the hole west of the lake. Mr. Greenwood gave the locations of the places/lots that have been filled. Mr. Robison said there needs to be a note on the plat regarding the fill of the holes. He then asked about the hatched area on the west side of the levy. Mr. Greenwood said it is the pond. Mr. Mitchell asked about the gravel mining close to the road bed. Mr. Greenwood said he did not do a lot of mining, but he agreed to put a note on the plat regarding the fill and that no mobile homes are allowed. Mr. Garriga said that would have to be bored and bring the results back and as long as it meets our regulations, it will be o.k.

Mr. Robison asked about improvements to Gitter Road. Mr. Greenwood said it would be shown on the construction plans.

Mr. Greenwood asked if Mr. Massey (Property Owner) decided to increase the lot sizes would he have to come back to this board. Mr. Garriga said it would depend on the changes.

Mr. Garriga said he could not find any history where road right of way was given, whatever property they show owning would be held up, this is for reference only.

Mr. Robison asked if there was anyone here for or against this application.

1. Margaret Bird – She asked how a person purchasing a lot going to know if that lot has been filled, and whether or not that is a buildable lot? Mr. Robison responded saying, a note will be on the plat, it would be the responsibility of the person purchasing that lot to look at the plat before purchasing.

Mr. Whitfield questioned the boring and how the process works to protect the property owner. He said they have tried different ways to inform the public, and found that placing a note on the plat is the best way to inform the public.

Mr. Robison then entertained a Motion. Mr. Mitchell made a Motion to approve this application with staff recommendations and with the following stipulations: a note on the plat where the holes were located and have since been filled, no major changes to the road, lot lines may change, and a note on the plat stating no mobile homes. Mr. Maxwell seconded the Motion. The Motion passed by a unanimous vote.

ZONINGS

The Neighborhood at Cedar View (615) – Application is to rezone 75 acres from Agricultural-Residential to R-40 Single Family Residential. Subject property is located on the west side of Highway 305 and south of College Road. Section 16, Township 2, Range 6

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Tommy Reel as being present to represent the application.

Mr. Mitchell asked how similar are these lots compared to Belmor Lakes? Mr. Garriga answered saying, the lots in Belmor Lakes are actually smaller, but the subdivision does have open space. Mr. Robison added, Belmor Lakes was a planned subdivision, this application is not. We do not have the leverage to talk about homes sizes, etc, this is a straight rezoning.

Mr. Reel began his presentation stating this is the first application he has represented, and asked the board to bear with him. He began by giving the location and current zoning. There are 3 developers involved on this project. He then passed out a handout and photo's of the surrounding subdivisions:

- Bellridge – R-20, in the City of Olive Branch
- Belmor Lakes - R-40 Overlay
- Cedar Creek – AR, in City of Olive Branch, with 1,800 square foot homes
- Payne Parkway – A, with 2,000 square foot homes
- Oakwood Park – R-30, with 2,000 square foot homes on $\frac{3}{4}$ - 1 $\frac{1}{4}$ acre lots
- Villages of Cedar View – R1, not sure of house size
- Oak Grove – R-1, with 1,600 square foot homes

Mr. Reel stated most of these subdivisions are built out and most of the lots that are left are not the most desirable lots. He added, the developers listened to the people who spoke at the last meeting and have done what they could to make this new plan work. There is a need for this rezoning, people are buying lots and homes. He then said the developer has requested this application to be approved due to the changes in the area, and the need for additional housing.

Ms. Niebanck questioned Mr. Reel's relationship to the developers. Mr. Reel responded saying, he lives in the area and is interested in this development. He plans on living in this area for the rest of his natural life. He would rather see a project like this go in, than what could go on this property especially when and if the City annexes this property. He also is like other neighbors he does not want to give up this 75 acres, but it will develop eventually. Mr. Robison asked if he was hired to be a representative for this application. Mr. Reel said "yes", he is getting paid, but he lives in the area.

Mr. Mitchell referred to the previous Neighborhood at Cedar View application (PUD) and Belmor Lakes (R-40 Overlay) and wanted to know why something like that is not being pursued, rather than a straight zoning, we would have more control. It was answered that the PUD application had been turned down by this board last month (July). Mr. Reel said the concern that some of the neighbors had, was smaller homes, and back loaded garages, the developers have agreed to larger lots and homes. After the meeting in July, and listening to the concerns we agreed with them, and that is why changes to the application were made. Mr. Mitchell said this application is almost there, but why not an R-40 Overlay? Mr. Reel stated he understands the question, but does not know the answer.

Mr. Williams asked about the track of land along Highway 305 where the old home is located. Mr. Reel responded saying, the developers purchased that track of land and the home.

Dave Ingram (Developer) stated he does not understand the difference between an R-40 and an R-40 Overlay. Mr. Robison explained the difference. There was then some discussion regarding this issue among board members and Mr. Ingram. Mr. Garriga said the applicant came in with a nice Planned Development and it was defeated. Mr. Sykes said it was defeated because of what was in the application. Mr. Lawhon said this discussion is inappropriate for this application, we are in areas where we should not be. Mr. Ingram asked if our application is wrong? Mr. Robison said "no", it is not wrong, it is not quite what we wanted to see. He added, he believes this application is a good jester in trying to get larger lots. Mr. Reel said the overlay was a concern, we were just trying to get larger lots, one lot per acre.

Mr. Robison asked if there was anyone here for or against this application, and added there would be a 20 minute time limit for the public to speak.

1. Margaret Bird – She began thanking the developers for moving toward making this a better development. She then said her property backs up to 50% of this property and she is also concerned with the big ditch and all the fill that is going to be needed. Ms. Bird added, she came tonight just to observe and stated the applicants are matching Belmor Lakes, but they are not matching her lot size (7 acres). She also does not like not having a subdivision plan to look at. After looking at the straight zoning and realizing the rules that are involved, it is almost like we are not going to have a chance to speak. She is glad to see someone has purchased the property and is going to develop it, as long as it is going to be developed as an asset to the neighborhood.

She is concerned that there are too many given's that we do not know the answer to. Another concern is that her property is going to have to be the extension to Dunn Lane North and there is no dedicated land into this property. She said she has always known that that would eventually connect, but no one has come to her about getting that property and believes that is something a good neighbor should do. Ms. Bird then said this plan should be submitted as an overlay so that an informed decision could be made. She does not like not having any leverage or say so on what will happen with that land, and that the developer can come in and do whatever he wants. Mr. Robison explained that the first step is the rezoning, then the applicant will need to come back for a preliminary subdivision layout approval. At that point they would look at the layout, site lines, etc. Ms. Bird asked if they could put any size home they wanted to on this property. Mr. Robison answered saying, we don't even have to hear the square footage, that information is voluntary. Ms. Bird said that for that reason she is opposed to this development, she wants to know what is going to happen with that property.

2. Gary Kieffner – Lives in Belmor Lakes, he has talked with many of his neighbors and there is a consensus in the neighborhood that as long as this property matches Belmor Lakes they are o.k. with the development. The neighbors want the same square footage for the homes and similar restrictive covenants as Belmor Lakes. Before attending this meeting he did not understand the difference between the R-40 Overlay and the straight R-40. He now agrees with Ms. Bird in that, he is opposed to the straight R-40 zoning. We want to maintain what we currently have, and does not believe this project will do that. Mr. Kieffner wants to see exactly what is going to be developed on this property. Our neighborhood is a proactive group, and we would approve of the R-40 Overlay. He added by saying, Mr. Tommy White would have been here tonight, but he had a death in the family. He concluded saying, there is a need for large lot/homes in the area, the surrounding homes are selling fast, but there is no need for R-30's or higher density.
3. Steve Milligan – 8722 Dunn Lane North – He agrees with the previous speakers in that he appreciates the developer coming back with larger lots. He said it makes no difference to him what the zoning is, as long as the land is developed as the subdivisions surrounding the property. He wants to be sure we get the same type of development. Mr. Milligan then asked since the last rezoning was denied, is it null and void? Mr. Robison answered saying, “yes”, it has been withdrawn. Mr. Milligan then made a request that there would be a privacy fence around the boundary of the development. Mr. Robison responded saying, that is not an issue tonight. Mr. Milligan then stated he did not receive notice of this rezoning and believes there should be a better system for getting the word to the public. Mr. Robison replied stating there is an official notice written in the newspaper, and the rezoning signs that are posted on the proposed property, the postcards to the surrounding neighbors is just a courtesy. Mr. Milligan then talked about the extension from Dunn Lane North and that it stops as Ms. Bird's property. Mr. Robison replied saying, that is a subdivision issue not a zoning issue.

20. Ann Stall – Dunn Lane – She asked how does the public know what the difference is between the different zonings? Mr. Garriga replied saying the zoning regulations are on the county website, or a copy is available in the office for a fee.

Mr. Robison closed the floor to the public.

Mr. Sykes asked if it would be appropriate in light of everything that has been said for the applicant to withdraw this application and come back with another application. Mr. Lawhon said “no”, the law states in a straight zoning the applicant has to prove to us, based on the regulations of an R-40 zoning that it would be compatible with the area. The other zonings such as R-40 Overlay is out there for us to be able to look at in more detail, never the less, zoning is zoning. The applicant has to prove that this will work. The applicant had submitted a previous application and it was denied due to density. The applicant has come back with something that in his opinion is extremely appropriate for the area. He continued saying, R-40 is a mystery, but in his opinion, with an R-40 the developer is going to have to get some money for those lots, and the houses will need to be good. That would not necessarily be true in other counties, but in DeSoto County it is true. If he lived on Dunn Lane, and someone came in with an R-40 he would jump all over it, because there are other developments in Olive Branch that have smaller lots/homes, and there will be more, it is coming. People should be grabbing this R-40 while they can. When the subdivision application comes up, that will be the opportunity to discuss all other issues. This development could be really nice and believes it will. The applicant has proven that the surrounding area is compatible with this R-40 zoning request.

Ms. Niebanck commented that she agrees with Mr. Lawhon’s statement. She stated that there seems to be intelligent people here that seem to be very confused. That is bothersome to her because as a community they are concerned enough to be here, but don’t understand the process and this is the second meeting that they have sat through. She believes the developers are trying to be cooperative.

There was some discussion regarding the zoning issue.

Mr. Merritt Powell stated the people are trying to work together, it can be suggested that at the preliminary subdivision application there be a copy of the restrictive covenants, which then you would basically be looking at the same thing as any other application.

Mr. Whitfield questioned whether or not R-40 is compatible verses R-40 Overlay, he believes the intent is there. Mr. Robison said it would be hard to say that R-40 is not compatible with the area. Mr. Lindsey added, that probably 90% of the applications that are brought to us, we would rather see something different. He said that to tell the applicant that he should have submitted an R-40 Overlay, is out of line. Mr. Mitchell said the comment he made was referenced to the people speaking at the last meeting, in that whatever is done would be compatible with their property, and that is what I was trying to accomplish. Working with the applicant and the neighbors.

Mr. Lawhon made a Motion to approve this application based on the fact that the change in neighborhood is compatible for an R-40 zoning and it is keeping with the neighborhood. Mr. Mitchell seconded the Motion. The Motion was carried by a roll call vote of 12-0.

Westmoreland (616) – Application is to rezone 3.9 acres from Agricultural-Residential to Neighborhood Commercial (C-1). Subject property is located on the west side of Highway 301 and south of Highway 302. Section 36, Township 1, Range 9

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Monty Westmoreland as being present to represent the application.

Mr. Westmoreland began by stating he received this property 3-4 years ago, his dad was the pastor of Bethel Baptist Church. His dad intended to build a home on this property so that he could walk to church, but he passed away before building a home. He does not believe anyone would want to build a house on this property, there currently is a home on the property in which Clarence Sparks lives in. He is in the process of moving to a new home and the old home that is located on this property will be demolished. Mr. Westmoreland wants to rezone the 4 acres and once the buffer-yard is in place he will end up with approximately 3.61 acres. He has lived and owned a business in this area for the past 28 years, and he has not seen an area change as much as this one has over the past five years. He said he would like for the county to go back as it was 20 years ago, but that will not happen, development will occur. He wants to come up with a good use for this property. The area has changed, the church's property backs up to this property so there will be no more commercial, there are about 20,000 cars a day at that corner. In addition, there are only 2 five lane intersections in the county, one is Highway 301 & 302, the second one is Highway 51 & 302. The Highway 51 intersection has commercial on all four sides for long distances. Highway 301 – Highway 61 the road is going to be widened. The new interchange is also taking place. Mr. Westmoreland believes over some time this particular Highway will move in that same direction. He continued saying sewer is already located on these lots. There are seven subdivisions within one minute of this property. He then gave the names of those subdivisions. There are 5 subdivisions within 2 minutes, 6 subdivisions within 3 minutes and 4 subdivisions within 4 minutes, he then gave the names of each of these subdivisions. There is also a new 1,200 lot subdivision that is going in on Church Road. He added, there are also 4 apartment complex's in this same area. With a total of 22 subdivisions, 12 of these have been built out within the last 5 years. There is also a newer commercial building that has 13 bays, and 7 bays are already rented with 2 additional leasing bays pending. He concluded saying, there has been a drastic change in the area and there is a public need. He plans on building a bank on lot 1 of this development. He then requested approval of this rezoning request.

Mr. Robison asked if there was anyone here for or against this application, there was none.

Mr. Williams asked if the church owns all the surrounding property. Mr. Westmoreland answered saying “yes”.

Mr. Lindsey asked why he submitted a C-1 application rather than a C-4 application? Mr. Westmoreland responded saying he only has 3.61 acres and if he were to meet the buffer-yard requirements it would cut the lot sizes down further. He wants to build a bank on lot one and is planning to put office buildings on the other lots. That may change, but that is his plan. Mr. Robison said it seems that a C-4 would be more compatible with the church. Mr. Westmoreland stated that is his church, he wants it to be compatible. He added, there is a college at the church and there is a ladies dorm beside the property, and his brother has requested a wood fence along where the dorm building lies. Mr. Garriga said a C-4 does require a 20’ landscaping in the front. At this point there was discussion regarding size of the buffer yards between the different zonings of C-1 and C-4. Mr. Garriga added, that for banks and office buildings off street parking requires one space for every 300 square feet. He continued saying, he would like to work out some type of ingress/egress easement, he would like to see a maximum of two curb cuts and maybe a shared ingress/egress easement to limit the curb cut along Highway 301. Mr. Westmoreland said some of the curb cuts are already in. The bank lot needs an inlet and an outlet for the drive-thru lanes. He has a hard time getting curb cuts through MDOT, it might be possible to have those widened and have shared access. Mr. Lawhon said that is why he likes to see Planned Commercial. Mr. Powell stated, when these lots are designed it needs to be mentioned to the developer, that the curb cuts needs to be limited. The board members and staff are concerned with the traffic going in and out of this development along a busy highway.

Mr. Williams asked if there would be any road right of way from the church property to the bank property. Mr. Westmoreland said “no”. Mr. Robison stated that in the past they have waived some buffer-yard requirements depending on the quality of the buffer-yard. Mr. Westmoreland said the 20’ front buffer-yard requirement would hurt him, he is real limited on the first lot.

Mr. Robison said they were hoping for that area to be planned commercial. Mr. Lawhon asked if there is anyway Mr. Westmoreland can come back to this board with a planned commercial. We (the board) will work with him on the buffer-yards. He continued saying, we understand Mr. Westmoreland is planning to build a bank on lot one, but he is real concerned with the other three lots and what will be placed on them. With the C-1 zoning, those lots are wide open, we want assurance this would not be a strip center. Mr. Westmoreland said if this board approves this application tonight, they have his assurance this will be a nice development and not a strip center. Mr. Lawhon informed Mr. Westmoreland that is something was to happen to him, before the buildings are built, it can be sold as a strip and the board is trying to protect the citizens and the area. Mr. Westmoreland said he does not want junk development and then asked what he needs to do to have this application approved. Mr. Mitchell reiterated what Mr. Lawhon said, regarding the standing of a strip center if something was to happen to Mr. Westmoreland. Mr. Westmoreland then asked if he could amend his application to a C-4? Mr. Garriga

said a C-4 is subject to a site plan. Mr. Mitchell suggested carrying this application over for a month to allow time for Mr. Westmoreland to submit a site plan. Mr. Lawhon said he has no doubt that Mr. Westmoreland will do the right thing, but we have to protect us, you, citizens, church and the area. Mr. Westmoreland then asked if he submits a C-4 can he have approval? Mr. Robison said it would be subject to the preliminary site plan approval. Mr. Lawhon said we can help you, in addition, you can work with the staff members.

Mr. Mitchell made a Motion to carryover the application until the October 2, 2003 Planning Commission Meeting. (There was some discussion regarding when this application would go before the Board of Supervisors) Mr. Sykes seconded the Motion. The Motion passed by a unanimous vote.

Fox Creek East PUD – Applicant is requesting a text amendment that would allow a church to be a permitted use rather than a conditional use.

Mr. Garriga presented the application and presented the staff report to the Planning Commission.

Mr. Lindsey made a Motion to recommend approval of this application and the application to taken to the Board of Supervisors. Mr. Lawhon seconded the Motion. The Motion was approved by a unanimous vote.

There being no further business in front of the Planning Commission, this meeting adjourned at 10:00 p.m. These minutes were recorded and transcribed by Denise Dingman.