



City of Jonesboro

900 West Monroe,
Jonesboro, AR 72401
<http://www.jonesboro.org/>

Meeting Minutes - Final Metropolitan Area Planning Commission

Tuesday, May 8, 2012

5:30 PM

900 West Monroe

1. Call to order

2. Roll Call

Present 9 - Lonnie Roberts Jr.; Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

3. Approval of minutes

[MIN-12:036](#)

Approval of Meeting Minutes for April 10, 2012

Attachments: [MeetingMinutesApril 10 2012](#)

A motion was made by Ron Kelton, seconded by Jim Scurlock, that the minutes be Approved . The motion PASSED by a unanimous vote

Aye: 8 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

4. Site Plan Approvals

SP-12-03

SP 12:101: Mr. Robert Rees requests MAPC approval of a Final Site Plan for Rees Commerce Drive, 1st Addition, Phases II thru. IV, 192 apartment units previously approved City Council in 2011. The Preliminary Plan for all units was approved June 14, 2011 by the MAPC (see attached minutes). Location 1200 Commerce Drive.

Attachments: [SP 12-101 CommerceRd Robert Rees StaffMemo](#)
[ReesCommerceDrive1stAdd Drawings](#)
[ReesCommerceMinutes_6_14_2011MAPC](#)

Mr. Robert Rees stated that his plans previously were approved for Phase 1 of 4 Phases, by the MAPC. Mr. Rees added that he is ready to start on the next phase. Mr. Rees: We have done a lot of work this year, due to the good weather and we are ready to do other phases. He has 6 of the 8 pads poured; two are ready.

Mr. Spriggs noted the minutes from June of 2011 are attached, MAPC where the approval was for 64 units. Phases 1-4 are presented and Staff concurs. This would be within the spirit and intent of what was previously approved.

Mr. Tomlinson clarified the request of the phase sequence. Mr. Rees stated that he would like to do 2 phases this year and 2 the next. The MAPC will see the future phases and future right-of-ways.

A motion was made by Mr. Joe Tomlinson, seconded by Mr. Jim Scurlock, that this Final Plan be approved. The motion PASSED by a unanimous vote

Aye: 9 - Lonnie Roberts Jr.; Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

5. Final Subdivisions

PP-12-09

FP 12-04: Southbend Subdivision Phase III-Final

Applicant/Agent/ Owner: H&W Construction LLC
Engineer / Surveyor: McAlister Engineering

Requests MAPC approval of a Final Subdivision Submittal:

Property Location: Viney Creek Lane, Clear Creek Lane, Hollow Creek Lane (Southbend)

Total Acres: 2.81 acres +/- / (102,253 sq. ft.)

Proposed Lots: 10 in Final Subdivision Plat (9 in Preliminary)

Attachments: [SouthbendPhaseIII_Final Drawings](#)
 [DrainageReport_Southbend](#)
 [FP 12-04 Southbend Phase III-Final Report](#)

Mr. Mac McAlister and Mr. Harrison appeared before the Commission for the Southbend Subdivision Final. Mr. Harrison stated that he is the owner and is asking for approval of 10 lots; his engineer is present for questions.

Mr. Spriggs stated that the plans meet the subdivision and zoning requirements. Mr. Spriggs asked if the developer has coordinated with the utility companies and are there any concerns? Mr. McAlister noted that the utility plans are at CWL for final approval. City Engineering had no additional comments.

Motion by Mr. Scurlock, 2nd by Ms. Nix that the Final Subdivision Plan be approved. Measure passed with the following vote:

Aye: 7 - Joe Tomlinson;Paul Hoelscher;Ron Kelton;Jim Scurlock;Beverly Nix;Kim Elmore and Jerry Reece

Abstain: 1 - Brian Dover

6. Conditional Use

CU-12-06

Terrence & Tracy Thompson on behalf of the Owner- Mr Robert M. Teter of property located on the Southeast corner of Gladys Dr. & Ingels Rd. is requesting MAPC approval of a Conditional Use request for a Double-wide Premanufactured Mobile home to be located within an R-1, Single Family Residential District.

Attachments: [CU 12-06 Application](#)
 [Staff Summary CU 12-06 4302 Gladys Dr](#)
 [Floor Plans](#)

Mr. & Mrs. Terrance Thompson stated that they we want to put a double wide on the lot, as single family.

Mr. Spriggs presented the Staff Report and findings. As part of the design standard requirements, compliance of the criteria must be and is met by the applicant. Standard three staff conditions were read. Mr. Spriggs asked the applicants which approach to sewer or septic were they pursuing? Mrs. Thompson responded- septic; and, they have been in contact with the Health District.

Public Input:

James Larkins- 3609 Ingels, Stated that he lives adjacent to the site. When he bought his property and he was told that there would be no trailers. If there were trailers present, they had to be covered so that it wasn't a trailer anymore. He noted concerns about the perk problems with septic. Mr. Larkins stated that he has a 3 bed room house and his sewer is barely usable, because the ground stays wet.

He stated that Ms. Craig owns 89 acres there and she was told that in order to sell hers, she had to do so in 3-acres lots due to the perk conditions. If they add a septic tank, it would be closer to my land. He noted health concerns to his family. He agreed and signed an agreement with Mr. Watkins.

Mr. Spriggs added that this will not move forward without Health District approval of the septic application. Unless the agreements were written into deed restrictions or subdivision bill of assurances it is not enforceable at this level.

Mr. Tomlinson asked for clarification on his house location which is due east of the property. Is it in the subdivision? Mr. Tomlinson: He counted 6 manufacture housing units out there. There is a single family house down there that should have been removed 10 years ago. These regulations are very strict and the Planning Staff will check every feature on the regulations and it will be a quality unit.

Motion was made by Mr. Joe Tomlinson to approve Conditional Use Case CU 12:06 as presented for a mobile home to be located on the subject property; and we, the MAPC find that the use falls within the provisions for conditional uses and appropriate design standards have been applied. This approval is contingent upon the satisfaction of conditions 1-3 as recommended by the Planning Staff. Motion seconded by Mr. Kelton.

Measure passed with the following vote:

Aye: 7 - Joe Tomlinson;Paul Hoelscher;Ron Kelton;Jim Scurlock;Beverly Nix;Kim
Elmore and Jerry Reece

Abstain: 1 - Brian Dover

CU-12-07

Mr. Mike McNabb on behalf of the Owner- Mr. Tony Pardew of 4 single family Lots 17-20 of Sweet Heart Subdivision, located on North Patrick on Sweet Heart Lane, requests MAPC approval of a Conditional Use for 4 single wide Mobile Homes within an R-1 Single Family District.

Attachments: [CU 12-07 Application](#)
 [Pardew Site Plan](#)
 [Staff Summary CU 12-07 Tulip Lane](#)

Mike McNabb stated that he is asking for a conditional use approval of 4 lots on Tulip Lane to place singlewide manufactured homes.

Mr. Spriggs gave Staff Report facts. The plat of the subdivision was presented showing the four lots. Staff noted that the application is requested a waiver of the requirements to allow single wide units. Wide required is 22 ft., double wide; 1,150 sq. feet minimum area. There is opposition in the audience.

Tony Tilly, 812 Sweet Heart Lane: Family has lived there since 1978 Mr. Toney Purdew has never done anything with the septic sewer system. He noted raw sewer on the grounds on the vacant lots. The City sewer they said was put out there just for those homes built.

Dianna Hufstedler, 809 Tulip Lane. Stated she's been there 22 years, and there are several trailers out there; hers is on a permanent foundation. She does not want mobile homes there. Everyone out there owns their home, if they are renters- they will be in and out. I don't want that.

Freeda Powel, 805 Tulip Lane. Stated that she has issue with this request. Here trailer is about fallen down. They told us we can't have a single wide. She would love to have a new one, but they told her she could not have one.

Mr. Tomlinson: Asked if these were all under the same ownership.

Mr. Rees: He worked on the project when the sewer system was put in under federal grant and it was designed CWL standards and it can handle the load.

Mr. Hoelscher: Asked if Staff can give an average number of how many waivers have been granted not meeting the width requirements.

Mr. Spriggs: Perhaps one instance on Curtis Drive which had a hardship situation. The Planning Commission has stayed with the requirements of the Residential Design Criteria.

The Conditions were read.

Mr. Tomlinson: Under the definition of manufactured housing park: this wouldn't qualify because it says two-2 or more units under the same ownership would constitute a housing park. As far as I know this has never been designated as a mobile home park.

This would be a very easy way to create a nonconforming trailer park without going through the process. If we approve 4 today, what's to stop you from

coming back for 4 more? You could in end up with 16 to 20 new units, not being subject to the mobile home park rules. That is my biggest problem with it. Not just this subdivision, but what about in other subdivisions. This sets a dangerous precedent. This has to be on an individual basis.

Mr. McNabb: Mr. Pardew does not want to go out and set 4 mobiles homes. He wants the ability to make the lots more saleable. Mr. Tomlinson: They could come in individually and go through what the previous couple went through.

Mr. Dover: If we approve 4 now, is there any provision that could prevent 4 rentals? But if they come though one at a time, we can judge each on its merit. Mr. Spriggs- Yes, because you will know who the owner is.

Mr. McNabb: He is trying to sell them.

Mr. Spriggs stated that he is hearing that the MAPC wants to be consistent with the Residential Design Standards. He asked Mr. McNabb if he wanted to consider various options: Modify the request for one unit, table the case, withdraw or continue with a vote. Mr. McNabb: That means I would have to come back 3 times.

Mr. McNabb requested a brief tabling so he could contact his client:

Motion was made by Ms. Nix to table the matter until later on the agenda; 2nd by Mr. Scurlock. Mr. Dover; Abstained. Mr. Hoelscher- Aye; Kelton- Abstain, Dover- Aye; Tomlinson- Aye; Ms. Nix-Aye; Mr. Scurlock- Aye, Ms. Elmore- Aye. Case Table.

Motion was made by by Ms. Nix to untable; 2nd by Mr. Scurlock. Mr. Kelton abstained from voting and removed himself from all discussion. Untabled unanimously.

Mr. McNabb amended the request for Lot 20 only for a singlewide manufactured home. Mr. Spriggs clarified that the owner does not wish to comply with the residential standards for the double wide. Mr. McNabb concurred.

A motion was made by Joe Tomlinson, seconded by Brian Dover, that this matter be Denied . The motion PASSED by a unanimous vote

Aye: 6 - Joe Tomlinson;Paul Hoelscher;Jim Scurlock;Beverly Nix;Kim Elmore and Jerry Reece

Abstain: 2 - Brian Dover and Ron Kelton

7. Rezoning

RZ-12-02

NO NEW INFORMATION RECEIVED- AS OF 5/8/2012

Kevin Sartn requests MAPC consideration of a rezoning request for property located at 404 N. Second St/300 W. Gordon, between Gordon Street and Allen St., for 0.26 acres: A request to rezone property from R-3 Multi-family to C-3 General Commercial District.

Attachments: [RZ12_02 Application](#)
 [Kevin Sartn Rezoning Plat](#)
 [Staff Summary RZ12_02 Sartn](#)

Motion to untable was made by Mr. Tomlinson, 2nd by Ms. Nix. Motion passed unanimously.

Mr. Thomas White: Stated he spoke with Mr. Sartn and he agreed to come in and withdraw, and come in with a statement. Mr. Spriggs added that there is no new information for the MAPC.

Public Input:

Mr. Reginald Prunty: 401 N. Second; 403 N. Second- His mother who is here. He spoke on the illegal truck parking. He went on the internet and researched safety, that about 2000 children were injured, 99 children died. The vehicles and SUV's are now installed with cameras. He expressed concerns over child safety, kids playing with the unsafe maneuvering of 18 wheelers. He asked that the MAPC vote this down. We want it to remain a residential area. Will he be allowed to continue to park there if this is turned down.

A motion was made by Beverly Nix, seconded by Joe Tomlinson, that this matter be Recommended to Deny . The motion PASSED by a unanimous vote

Aye: 8 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

RZ-12-04

RZ 12-04 - **CASE OFFICIALLY WITHDRAWN BY APPLICANT- AS OF 5/7/2012 ** Item will not be discussed at May 8, 2012 Meeting.

Robert J. Gibson, Attorney - First National Bank & Trust Co. (Integrity First Bank) is requesting a rezoning/modification of an existing C-4 L.U.O. District for 300 E. Highland Drive (300 Block) (2.42 acres).

Attachments: [Application Integrity](#)
 [Integrity Bank Plat](#)
 [Staff Summary RZ12_04 IntegrityFirstNationalBank](#)
 [ORD-07_20 C-4LUO](#)

Withdrawn

RZ-12-05

RZ 12-05 Kidd, LLC - Mark Morris on behalf of owner - Stone Street Church of Christ is requesting a rezoning for property located on the Southeast corner of Airport Road and Prospect Road - from existing R-1 to a Mixture of Single Family and RM16 (11 Single Family Homes/65 Apartment Units).

Attachments: [Rezoning Plat - Airport and Prospect Application](#)
[Staff Report](#)
[Airport Prospect PD- Conceptual Layout](#)
[Airport Prospect- PD- Layout 2](#)

Mr. Carlos Wood representing Kidd LL. - Mark Morris, developer. We are asking to rezone the southeast corner of Airport and Prospect Rd. as a mixed use of single family homes on Airport Road and RM- 16 for condominiums with ownership through a horizontal property regime. A P.O.A. will control the grounds and the single family homes will have minimum sq. of 1,500 sq. ft. with all masonry and metal trim for maintenance purposes. The developer will be the contractor. He will install a privacy fence along the south and the east where there are neighbors. The developer is considering a gated community entrance with fire dept. approval. Noted comments on the R.O.W.- the R.O.W. is 40 ft. on Airport and prospect will comply.

Staff: Mr. Spriggs: Gave Staff Report summary. Land Use: Partially consistent, partially inconsistent (Multi-Family). On the 7.05 acres, the PD Planned District will comply with the open space requirements. Current R-1 allows 39 single family homes (5.6 units per acre). The applicant is asking for 65 attached units in the rear, and 11 single family homes.

Public Input:

46 persons stood in opposition.

Rick Wyatt: Stated that he was developer for the March Banks Estates and White Wood Addition. It is zoned R-2, and we prefer it remain R-1 single family residential. He understands developers invest in the community. We invest in those communities and oppose to any rezoning for apartments types, because of the noise, traffic, congestion, density, negative impact of traffic on Prospect Rd. and Airport Rd. and the intersection of Aggie Rd. with school congestion. We fear the strain on police enforcement, crime control and the affect on property values. Fear apartments in this area because of the negative lifestyle of some of the residents. There has been no approvals for rezoning for apartments in this area. We fear that approval will set precedent for more multifamily requests. We have more than 60 resident are in opposition to this request.

Bill Smith representing Sunset Dr., 3813 Sunset Dr. Been there 21 years. His neighbors oppose this and he has 16 signatures of opposition. Some were out that day. Opposed to apartments.

Larry Catt, 3804 Victoria Lane, Spoke about the intersection of Aggie and Airport. Nettleton School is developing in that area and the added School development can't stand more development it will get worse. We have lot concerns with it being a condo apartments development. A P.O.A. is complicated. He is also a developer that developed 10 acres there also on 1-acre lots.

Hilda Wilcox, directly in her back yard. 504 Airport Rd. Does not want the 65 apartments.

Stacey Schratz, 3108 Maplewood Terrace. She and 6 or 7 families stood up in opposition. Spoke on Traffic issues.

Mr. Joe Tomlinson: What kind of time schedule do you have to build the 2 separate types of units. Which is first?

Mark Morris stated that he would start the houses, and immediately do the condos.

Mr. Wood: Can we ask that this be tabled this for 60 days, and have a list of the people with concerns, to contact them set up a community meeting to address their concerns.

Mr. Dover: Do your bylaws have restrictions on rentals. Mr. Wood: They are in the process of developing those. The bylaws will be submitted during the time of development, they can include no rentals.

MAPC second Tuesday would be July 10, 2012.

Mr. Wyatt: Requested an up or down. The neighbors here are in opposition. This is just a ploy by tabling.

The MAPC has a process for withdrawals. It is totally up to the Commission.

Mr. Reece: This should have been done. Mr. Wood should have known the opposition is coming.

Mr. Wood: Can this be submitted as a single family under the R-1? Mr. Spriggs: Yes , under the subdivision process.

Case Withdrawn by the applicant.

A motion was made by Jim Scurlock, seconded by Joe Tomlinson, that this matter be Withdrawn . The motion PASSED by a unanimous vote

Aye: 8 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

RZ-12-06

RZ 12-06 Lyons and Cone - Jim Lyons - Attorney for Grayson Investments is requesting a rezoning for property at 3701 E. Johnson Avenue - a modification of an existing Zoning C-3 L.U.O. to C-3 L.U.O. with additional C-3 uses.

Attachments: [Rezoning Application](#)
 [Plat of Survey](#)
 [Staff Summary RZ12_06 Grayson Investments](#)
 [3701 E Johnson Consent Order](#)

Applicant:

Mr. Jim Lyons: Attorney- Representing Grayson Investments. Mr. Lyons presented the case noting that the property is located next to Bill's Fresh Market on E. Johnson Ave. Since the last traffic count and the most recent 2010 traffic count, approximately 25,000 cars are reflected at the point which is exactly where our property. The City of Jonesboro has done two (2) things in the recent past that will increase the likelihood of this property being commercial by: 1. approving the NEA Baptist Memorial Hospital; and, 2. approving the development of the fairgrounds towards Brookland. That has increased the traffic in this area. There is a change in the character of the neighborhood. Mr. Lyons showed slides of the current uses of the properties in the vicinity, including the rear of the property along Maplewood Terrace and properties along Highway 49N, as well as the C-3/ C-3 L.U.O. Zoning abutting.

Mr. Lyons noted the eye care facility to the east and the property underdevelopment as C-3 showing the dirt work underway in the photo to the north across E. Johnson. It is our position that this land is clearly commercial. He noted that he drove from the Ace Hardware Store and it measured 1.1 miles to Bill's Market. All of the properties are either commercial, 11 were unused and others used as residential, but those properties were for sale. He added that there were 3 or 4 properties which are currently residential, but he could not tell if it looked like one home may have been used as commercial. The rest of the properties along E. Johnson are commercial. Mr. Lyons stated that he understands that residents are opposed to this request. He understands the reason for that. When a City makes a decision to allow the building of the hospital, and makes a decision to rezone property for the fairgrounds, the result is that as Brookland grows, as Paragould grows, and Jonesboro has a substantial increase in traffic. He added that he would dare say that if we took a traffic count today, it would be at least 10% higher as a result of the development of the hospital and the other area out there. Obviously, if you continue to go past the hospital, virtually all of those properties are also for sale, because people are going to develop those as commercial properties. He added that eventually all of the property along Johnson is going to be commercial, and he thinks that it is proper for this to be rezoned or changed as a limited use overlay- applied for to be changed for those uses of which we have asked for today.

Staff:

Mr. Spriggs gave a summary and history of the case. The former Gillespie case was applied for in December of 2005. It was acted on by the MAPC and forwarded to City Council for approval; and, it was acted on by the Council in a

series of 2 meetings, denied and was litigated in the Circuit Court of Craighead County. As a part of that, Mr. Spriggs noted that he was actually hired at the same time and attended those proceedings. The judge handed down the Court Order of which you were copied- with a Rezoning to C-3 L.U.O. having specific uses and conditions. This is what is in question tonight: The applicant is petitioning a revision to that Limited Use Overlay. City Council did not follow up and rezone the property to C-3 L.U.O. by ordinance; however the rezoning remains valid with those conditions and specific uses that were listed. The applicant has requested (36 plus 10 original uses) as noted in the report. Those are your typical C-3 allowable uses, and the applicant is proposing to allow those for marketing or other reasons. Also there are specific conditions added by the court which covers screening, buffering and setbacks in proximity to existing and proposed structures. All of those are to remain in force. With the expansion of the use list, MAPC is asked to modify that order. We are dealing with process tonight; the MAPC is making a recommendation to City Council and Council will make any official decision from that point. The City Attorney's office is here to answer any questions as well as Planning Staff.

Mr. Tomlinson asked for clarity of whether we are considering a rezoning? Mr. Spriggs stated that this is technically a rezoning/change to an existing C-3 L.U.O. District. Any current district would be petition in this same manner to be modified. It has to go through this same process for modifications. This constitutes the same process for rezoning. Mr. Tomlinson: I wonder why they don't just go to the court and ask them to make the decision. Mr. Spriggs noted that is an option.

Mr. Jim Lyons: Before you can file an action against the City, the City has to refuse this or say we will a, b and c, but we will not allow d, e and f. We can't just file suit against the City and just say- We don't know what the City will do. It is necessary to have a true action against something claiming that it was improper what the City did. So we have to come to you first, before we can go back and ask the Court to re-do this. The City has to refuse. And, the proper method to do that, is this process. We were not trying to avoid going to Court.

Mr. Tomlinson: This was done in 2005; so, has the intensity of the area development has gone up considerably? Mr. Lyons: Yes, substantially. Mr. Tomlinson: I wish that the applicant would had derived a list of things that they desired to be there, as opposed to taking the whole C-3 ordinance, and turning it over and saying we want it all. Some of the listed uses couldn't be done anyway due to the size of lots and setbacks. Mr. Tomlinson added that he does think those uses need to be increased. There is a C-3 L.U.O. next door. You probably do not have as many uses as we granted them. Mr. Spriggs stated he would have the list of the property next door- I would like to see that. The minimum should be to permit what was allowed next door to you. I don't like to take all the time to write uses in the meeting. If they had submitted a list of what they would have thought to be required, then that would have been a great help to me.

Public Input:

Mr. Allen Jones, 3207 Maplewood Terrace: Agreed Highway 49N will be and is becoming commercial. At this lot, is where the commercial and residential uses intersect. And, I think the City Council recognized this in 2006 and denied the C-3 request that went to Circuit Court, who also recognized this and

agreed, and allowed only the 10 restrictions. I think they got it right; I do not like the animal care use being next to residential.

Mr. Jones: I don't think that City Council can change what circuit court said; but I am not an attorney. I think that City Council should reject this, and they go back to Circuit Court to let them say you can change these accepted uses. I don't know the property owner's intent- Are they wanting to add these 27 acceptable uses to make it more attractive to a land purchaser, or is their actual intent hidden somewhere in those 27 additional or acceptable uses. I hope it is not for a communication tower or an arena. I request City Council to deny this and let Circuit Court make that decision again.

Mr. Jim Carter: 3013 Maplewood Terrace (40 Years). Stated that has a great neighborhood. Your Staff Report will show that in 2006, our neighborhood settled in Circuit Court that the property in question will be a C-3 L.U.O., with specific stipulations. At this point, there has not been anything to warrant a change in that settlement. We may talk about traffic counts, but the property in question has not been changed. The neighbors are there and it abuts a residential neighborhood that will be heard. We believe the court settlement was fair to our neighborhood, and we still feel the same way in 2012. We ask that you recommend to the City Council that the property stays as settled in Court in 2006; and, you not start peeling away one restriction at a time, so they end up with a regular C-3 out there. Mr. Carter added that he doesn't know the Grayson Corporation, and they should have known that there were restrictions on the property when they purchased it. It is also a fact that will probably be given to you this evening that they really do not care how our neighborhood looks, by the way they have taken care of the property, since they have owned it.

Mr. Jerry Reece: Asked for clarification of the property- was it a part of the Maplewood Subdivision? Mr. Carter: Stated that he believe it was and they sold it off, lot by lot.

Mr. Lyons: Stated that if it were a part of the subdivision, then a bill of assurance would have existed. And there was no bill of assurance applied to the subject property.

Stacey Schratz, 3104 Maplewood Terrace: Referring to application Item 13: Ms. Schratz noted that the owner of Hilltop Eye Care (east of property), Doctor Megan Moll, stated that no one has discussed this with them and she objects; she could not be here.

Stacey Schratz: On the application, it says that the property purchased by the owner in 2008 was vacant and has since remained vacant. That is incorrect. She presented pictures to the MAPC. Mr. Lyons: Concurred that it is currently occupied. She added they are not good about keeping the property up. Other neighbors mow portions of the property, because they get tired of looking at it. Ms. Schratz added that Mr. Osment or whoever owns this doesn't care about it. She has filed a complaint with code enforcement about having the property cleaned. She read the Rezoning Criteria for approval. She also spoke on nuisances on the property.

Wendy Jones, 3207 Maplewood Terrace read a letter from neighbors who are

gone out of town- Dr. George and Phoebe Harp, 3206 Maplewood Terrace. Spoke on increased pedestrian traffic on Maplewood Terrace. She is opposed to having access to this property from Maplewood Terrace. Ms. Jones made comments on the character of the neighborhood, and noted that a change of more uses is not desirable as a through-street.

Mr. Lyons: We are not asking for vehicular access to Maplewood Terrace, and there is no vehicular access from that point. On the property, we are required to build a fence where it touches residential property. There is a provision for no access to Maplewood Terrace in the request.

Mr. Reece: Isn't there a sewer easement that goes through that property and will it affect any new buildings? Mr. Lyons stated that it should not be an issue of interference of the sewer.

John Hatcher, 3105 Maplewood Terrace: The very issue raised about accessing through Maplewood Terrace lets us know that this affects Maplewood. Mr. Hatcher noted that he can look out his window and see the property due west of him. It is not a house that backs a residential neighborhood; it is in a residential neighborhood.

Ms. Schratz: Noted that the limitations next door is the same and is very limited.

Mr. Hoelscher: Asked what limitations were placed on the adjacent property. Mr. Spriggs continued to research the records to locate the files.

Ms. Nix: What would give us the right to rezone it legally?

City Attorney's Office, Ms. Carol Duncan reported that she did some research on that question, as well as consulted with Attorney Jim Lyons about case law he had found. Nothing was found to reflect either way. Either way we will end up, with this Commission's recommendation to City Council. Ms. Duncan stated that she does not feel the court wants to be in the business of rezoning our property forever. The gut instinct is that- if the City had rezoned the property by ordinance after the Court order and consistent with the Court order, there would be no question. We could have then made the decision and they could file against our decision in Circuit Court; but, we didn't do that- so the gray area exists. We will continue to research that issue upon review by Council, then the issue will be addressed; I am sure, at the Council level. There was just not any research available on that certain topic.

Mr. Kelton: It's my understanding from Mr. Lyon's presentation that he could not go back to Circuit Court, and ask for a change until a decision has been rendered by the Planning Commission and the City Council- Is that correct?

Ms. Duncan: Concurred that is what Mr. Lyons stated.

Mr. Kelton: So he is just following procedure? Ms. Duncan reiterated that there is no guidance in the law; this is the procedure that he and Mr. Spriggs worked out; they are to go through the same steps as you would for any rezoning. We are still researching the matter; I do not feel that the Court wants to be rezoning property for ever, just because litigation was filed.

Ms. Nix: Stated that she still would like a legal opinion about the process.

Ms. Duncan: You won't get a definitive answer, because there is no case law that does so; they are following the only procedure that we have available.

Mr. Lyons: If Mr. Spriggs would have said- ya'll don't need to come here before the MAPC, then we would not be here. You have to have a case of controversy, before you go to court. You can't just file suit for nothing. Then, there would be a Rule 11 petition before me, because I am filing for nothing. Carol Duncan could issue sanctions against me; I've never had one filed against me. I am trying to do my job and get these additional uses on this property; and we believe that this is the proper way to do it. If a judge says that it is not, then it is not. We believe and Mr. Spriggs thought so- I still believe that we have to go through this process. The City Council must rule on that, before we will have a basis to file suit against the City. They might turn us down, but we don't know until we go and ask them by going through this process- which is coming to you, and a recommendation is made that then goes to City Council for action. We are not trying to do this for any purpose to cause any problems for the City. We are trying to make sure we follow the necessary steps, so those modifications could be acted on. I don't file suits that are not necessary.

Mr. Hoelscher: Is the issue at hand that the City was ordered to rezone the property? Ms. Duncan: The judge made the decision to rezone the property. Mr. Hoelscher: So there wasn't an ordinance filed? Ms. Duncan: True, and had it been filed, it would have made it clearer.

Mr. Lyons: Read the order language which said.... no other action was necessary; if the City so desires it may (It was not required).

Mr. Kelton: Is it possible for you to pair this list down? Mr. Lyons stated, yes.

Mr. Spriggs: Stated that located the conditions from the 2002 case and read them:

ORD 02:0577, Rezoning by Phillip and Lonette Byrd, Adopted 08/05/2002, C-3 L.U.O., Specific Land Uses permitted under Ordinance 02:0577 include:

- (1) Animal Care, Limited
- (2) Automated Teller Machine
- (3) Bank of Financial Institution
- (4) Church (with conditional use permit)
- (5) Day Care, Limited
- (6) Day Care, general
- (7) Government Service
- (8) Library
- (9) Medical Service/Office
- (10) Office, General
- (11) Safety services
- (12) Utility, Minor

At the time this property changes uses from its present R-1 use to a C-3 L.U.O. use, the following improvements shall be made prior to obtaining a Certificate of Occupancy: A wooden screening fence, eight feet in height, shall be installed along the property lines abutting property zoned R-1. Trees, a

minimum of eight feet in height , shall be planted along the fence to provide an extra layer of screening and buffering between properties zoned R-1.

Prior to further development of the subject property, a Site Development Plan meeting the requirements of Section 14.36 of the Zoning Ordinance shall be prepared and submitted for review and approval by the City's Planning Department. This plan shall specifically show the relationship of the subject property to existing and proposed streets, driveways, utilities, and buildings within a 300 foot radius of the subject property.

Mr. Scurlock: Asked for clarification on the setbacks and fencing installation.

Mr. Spriggs: Stated that the adjacent property was never redeveloped and the current owners only went before the MAPC to have living quarters remain above the Optometrist's business.

Mr. Reece: Asked: Will the action taken here tonight be passed on to City Council for an ultimate decision?

Mr. Spriggs: My recommendation is that you take some action tonight and recommend to Council based on the information provided to you. I honestly feel you have enough information to make a decision.

Mr. Kelton: Stated that following along with the 2002 conditions, he noticed that they are almost identical, such as the 8- ft. fence and the trees which mirror the Judge's conditions. He noted difficulty in the Judge's stipulation of the 40 ft. setback from any structure, parking and any R-1 property. Mr. Spriggs clarified that it is the proposed structure in relationship to the adjacent R-1 zoned property- which is the property line.

Mr. Lyons presented the cut-down list: (These uses are to be allowed if approved).

- d. Automated teller machine
- e. Bank or financial institution
- f. Church
- g. College or university
- i. Construction Sales Service
- k. Day care, limited
- l. Day care, general
- s. Medical service/office
- u. Office, general
- w. Parks and recreation
- x. Post office
- bb. Restaurant, fast food
- cc. Restaurant, general
- dd. Retail/service
- ee. Safety services
- kk. All other previously approved uses by the Court (Case CV-2006-88(JF)) is as follows:
 - Animal Care, Limited,
 - Automated Teller Machine
 - Bank or Financial Institutions

- Church (with conditional use permit)
- Day Care, Limited
- Government Service
- Library
- Medical Service/Office
- Office, General
- Utility, Minor

Mr. Carter: Reiterated that this is “free/ peeling away a little at time” and revamping what we went through before with all this. We went to Council; they denied it, and they went to court; we settled; now we come back and they are peeling away. This is like our freedom. Send this to City Council with no approval, and let us get alone about our business. What we thought was fair was fair. It’s good enough for the Hilltop Optometrist and it should be good enough for the person that bought this property.

ACTION:

Mr. Dover made a motion to approve the rezoning for property of 3701 E. Johnson as C-3 L.U.O., as stated with the narrow down list of permitted uses as proposed and make recommendation to City Council. Motion was seconded by Mr. Kelton.

The motion failed with the following vote:

Aye: 3 - Paul Hoelscher; Ron Kelton and Jim Scurlock

Nay: 4 - Joe Tomlinson; Brian Dover; Beverly Nix and Kim Elmore

Abstain: 1 - Jerry Reece

RZ-12-07

RZ 12-07 Southern Bank is requesting a rezoning for property located at 1925 South Main at Highland Drive - from existing Zoning R-2 to C-3.

Attachments: [Application](#)
 [Staff Summary RZ12_07_1925SMain](#)
 [Rezoning Plat](#)
 [Concept Plan Layout](#)

Applicant: Attorney Chris Gardner, on behalf of Southern Bank; represented at the meeting was Mr. Lindy Smith, Regional President of Jonesboro Southern Bank and the Project Engineer from Smith & Co. Engineering from Popular Bluff.

Mr. Gardner gave background information about the site- Noting that this is an oddity and different from what the MAPC is accustomed to. Southern Bank acquired the property on the northwest corner of Highland and Main St., which was the old Exxon Gas Station. The land has been vacant for 3 years. The parcel is zoned C-3 General Commercial and in the course of discussion with Jonesboro High School about their plans for a bank, they established a mutual agreement (between the school and the bank).

Mr. Gardner: Jonesboro School District wanted a piece of the main tract to the south and west that frontage on Highland Drive, across from Bennett's in exchange of the swapped property. They agreed to swap property with the school district, who gave up land zoned R-2, which has underground tanks within the school district property. The land swap benefited the school district. The tract conveyed from the school district to Southern Bank allows them to reconfigure the lot to put a teller drive-thru with the bank branch to comply with setbacks. Mr. Garner added that Jonesboro School District gave a support letter today for this zoning application. Southern Bank will remove the tanks and the school district didn't want to incur the costs of Rezoning, which is consistent with the main tract.

Staff: Mr. Spriggs gave staff summary comments. The Land Use Map recommends this location as Public, Semi-Public, Institutional (High School), and the proposed rezoning is inconsistent with the adopted Land Use Map. The area within the rezoning is part of a land previously purchased to allow additional acreage for building setbacks on an existing C-3 property. A Land Use Map revision is necessary and is advised.

Mr. Spriggs: Staff has no issues with the request. The tract being rezoned has no frontage on public right of way. The site plan will be reviewed and approved administratively. Utility reviews will be coordinated. Staff recommends approval of this petition which will provide for clarity on the Zoning Map.

Public Input: No opposition was present.

MAPC ACTION:

Motion was made by Mr. Scurlock to place Case: RZ-12-07 on the floor for consideration and for recommendation of approval to City Council for a rezoning from R-2 to "C-3" General Commercial as presented. Motion was

seconded by Ms. Nix.

The motion **PASSED** by a unanimous vote:

Aye: 8 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

RZ-12-08

RZ 12-08 City of Jonesboro is requesting a rezoning for vacant property of 23.25 acres located at 2217 W. Parker Road - Southeast of Strawfloor Road - from existing Zoning R-1 SF to C-3 L.U.O. General Commercial (Limited Use Overlay).

Attachments: [Application](#)
 [Rezoning Plat](#)
 [Staff Summary RZ12_08COJ WParkerRD](#)

Applicant/Staff: Mr. Spriggs presented the case on behalf of Mayor Perrin and City Administration. Mr. Spriggs gave a summation of the staff report to the Commission. The Land Use Map recommends this location as Residence Transitional. The proposed rezoning is inconsistent with the land use map. The area is primarily at the edge of other City owned Landfill property, while having a residential community to the immediate south. Due to proximity to highway and access roads and frontage along a major highway, this property would be more suitable for commercial uses if proper and substantial buffering is provided to protect the residential to the south. A Land Use Map revision is advised.

Mr. Spriggs: Stated that due to the close proximity to single family homes in the area, Staff suggests that a 75 ft.-buffer be maintained to the immediate south, where single family homes currently exist.

The conditions were read:

1. Access driveways shall satisfy city standards and be coordinated with the appropriate reviewing agencies City/State for approval.
2. A final site plan shall be required to be reviewed and approved by the MAPC and shall include final details on setbacks, off-premise parking lot details, drainage, grading, access management, signage, lighting photometrics, landscaping including privacy fence screening, and all site improvements approved by this petition.
3. A minimum 75ft. permanent greenspace buffer shall be maintained along the most southerly property line where single family homes exist.
4. Adult Entertainment uses and outdoor advertisement shall be prohibited on the subject property.

Public Input: No opposition was present.

Mr. Kelton: Referred to the boundary to the south, asked about the 75 ft. boundary from the residential southern line (parallel to the main southern boundary excluding the gap area)- Mr. Spriggs clarified.

Mr. Tomlinson stated that it doesn't comply with the land use, but this is justifiable. Along the access road, this land is more suitable for commercial. This is a good move, and when it comes up for change in land use, mixed land uses of commercial and higher density developments would work.

MAPC ACTION:

Motion was made by Mr. Scurlock to place Case: RZ-12-08 on the floor for consideration and for recommendation of approval to City Council for a rezoning from R-2 to "C-3" L.U.O. General Commercial as presented. Motion was seconded by Mr. Tomlinson.

The motion **PASSED** by a unanimous vote

Aye: 7 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix and Kim Elmore

Absent: 1 - Jerry Reece

8. Staff Comments

[COM-12:032](#)

Replat RP-12-27 Golden Grotto, Southwest corner of Stadium Blvd. & Driftwood Lane:

Owners of Golden Grotto request MAPC approval of a replat of Lots 1 & 2 of Driftwood East Addition to allow for a waiver of the 60 ft. wide, Street Right of Way Requirements for culdesac/deadend streets allowing a 50 ft. minimum right of way on Driftwood Lane; existing conditions are adequate.

Attachments: [Replat](#)
[MAPC 6-12-12](#)

Mr. Spriggs noted that Staff is bring this plan to the Commission. Mr. Spriggs noted that the updates are hoped to be entered into the system for Public Works Committee consideration next month- to correct the requirement for cul-de-sac streets at 50 ft. right-of-way. The replat is necessary because of a small building addition proposed.

Mr. Hardy Little was present. Ms. Nix asked if staff was in support of this. Mr. Spriggs noted that Engineering and Planning recommend approval.

A motion was made by Beverly Nix, seconded by Jim Scurlock, that this matter be Approved . The motion **PASSED** by a unanimous vote

Aye: 8 - Joe Tomlinson; Brian Dover; Paul Hoelscher; Ron Kelton; Jim Scurlock; Beverly Nix; Kim Elmore and Jerry Reece

9. Adjournment