

**Order of Items**  
**DeSoto County Planning Commission**  
**February 27, 2003**

**Roll Call**

**Invocation**

**Approval of Minutes**            **1/30/03**

**APPLICATION WITHDRAWN**

1. Kimberlin Rezoning (609) – Application is to rezone 1.66 acres from Agricultural-Residential to R-12 (Single Family Residential). Subject property is located on the west side of Crenshaw Drive and south of Palmer Drive.

Section 6, Township 3, Range 7

**PROPERTY WAS DETERMINED TO BE INSIDE HERNANDO MUNICIPAL BOUNDARY**

**OLD BUSINESS**

2. Grandview Grove Section A (6119) – Application is for preliminary subdivision approval for 38 lots on 23.72 acres. Subject property is located on the north side of State Line Road and east of Highway 301, zoned R-3 (R-6).

Section 18, Township 1, Range 8

**MAJOR SUBDIVISIONS**

3. Park Place Subdivision (6125) Application is for final subdivision approval of 24 lots on 28.3 acres. Subject property is located on the east side of Getwell Road and north of Lester Road, zoned R-30 (Single Family Residential).  
Section 22, Township 2, Range 7
4. Kingstown Estates (6126) – Application is for preliminary subdivision approval of 5 lots on 13.65 acres. Subject property is located on the south side of Whispering Pines Road and west of Polk Lane, zone Agricultural-Residential.  
Section 1, Township 2, Range 8
5. Star Landing Commercial Subdivision Lot 1 (6127) – Application is for preliminary and final subdivision approval for 1 lot of .91 acres (from 19.75). Subject property is located on the west side of Highway 51 and south of Star Landing Road, zoned C-2 (Highway-Commercial).  
Section 24, Township 2, Range 8
6. Belmor Lakes Section D (6128) – Application is for final subdivision approval for 52 lots on 42.10 acres. Subject property is located on the north side of Dunn Lane and west of Highway 305, zoned R-40 Overlay.  
Section 16, Township 2, Range 6

**RE-ZONINGS**

7. Madison Lakes (606) – Application is to rezone 483.81 acres from Agricultural-Residential to Planned Unit Development. Subject property is on the north and west side of Byhalia Road and east of future McIngvale Road.  
Section 5, Township 2, Range 7
8. Loftin Rezoning (608) – Application is to rezone 115 acres from Agricultural-Residential to R-30 (Single Family Residential). Subject property is located on the east side of Center Hill Road and south of Goodman Road.  
Section 4, Township 2, Range 5

The DeSoto County Planning Commission met at 7:00 p.m. on Thursday, February 27, 2003, in the Third Floor Boardroom of the Administration Building of DeSoto County located at: 365 Loshier Street, Hernando, MS. Commissioners present included: Ed Williams, Charles McNemar, Claudia Niebanck, Len Lawhon, Mike Robison, Mitch Mitchell, Howard Blankenship, Robin James, Larry Sykes, Jimmy Maxwell, Julius Cowan and Leonard Lindsey. Planning Commission Staff present included, Michael Garriga, DeSoto County Planner, Jim McDougal, Transportation Coordinator, Katie Jewell County Attorney, and Denise Dingman, Planning Commission staff.

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

Mr. Robison asked for a Motion to approve the January 30, 2003 minutes. Mr. Leonard Lindsey made a Motion to approve the minutes. Mr. Maxwell seconded the Motion. The Motion was passed by a unanimous vote.

Mr. Garriga then explained to the Planning Commission board members and the audience that the Kimberlin property (Rezoning) is located in the City of Hernando, so the application to the county has been withdrawn.

Mr. Garriga then announced to the board members and audience that there would not be any discussion regarding the comprehensive plan tonight due the length of the agenda.

## **OLD BUSINESS**

**Grandview Grove Section A (6119) – Application is for preliminary subdivision approval for 38 lots on 23.72 acres. Subject property is located on the north side of State Line Road and east of Highway 301, zoned R-3 (R-6). Section 18, Township 1, Range 8**

Mr. Garriga began by explaining that Mr. Smith has submitted a new application and would like this case heard tonight, he is entitled to due process. He continued saying, the Grandview Lakes Homeowners Association has filed litigation regarding the validity of the zoning. The litigation has not been resolved and is in circuit court and we are not sure of the status. Mr. Garriga continued to state, he has talked with the DeSoto County Board Attorney and they feel like the zoning is valid, until told otherwise by circuit court. It is up to the Planning Commission Board to decide weather or not to hear this case tonight.

Mr. Perry, Grandview Lakes Homeowners Association Attorney, began by saying litigation was filed, the county responded to the application, the county voted to have the matter decided. Mr. Smith's counsel was due to have his answer in last Friday, it did not come in, but he did receive a letter from Mr. Myers, (Mr. Ben Smith's Attorney) asking for a two week extension to allow time to prepare a response to the petition. Mr. Perry said he gave the two weeks, which was last Friday, and the answer is due. In a case of this nature the court may advance it on the docket at will, which means when all of the answers are in, we can then proceed to a hearing and a judgement on the issue, which

should not take to long. In conclusion, the Board of Supervisors asked for a resolution to the issue, and we ask the Planning Commission Board to carry this item over until the next meeting, because he expects a resolution soon. He then assured the board members that if they put this application off until the next Planning Commission meeting he would not ask for another continuance.

Mr. Smith responded by saying, at the last meeting he had no objection to allowing additional time for the opposition to file a lawsuit. He added, Mr. Myer's advised him that this board is a recommending board to the Board of Supervisors only, and that whatever decision is made here tonight has no bearing on the pending lawsuit. Mr. Smith then requested to have this application heard tonight. He sees no harm on voting on it, either up or down, but hopes the application will be approved, since it was previously approved.

Ms. Jewell stated that the decision to hear the case is strictly up to the board. Mr. Garriga said the board members are aware of this case and he has the staff reports & packets ready if it is decided to hear the case. There was a short decision on weather or not hear the case. Mr. Maxwell made a Motion to hear the application. Mr. Lindsey seconded the Motion. It was decided by a roll call vote of 11 – 1 to hear the case. Ms. Niebanck voted "no" due to the lack of time to review the case.

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

Mr. Lawhon asked for clarification regarding the judge's interpretation of character of the neighborhood, the size of homes, and value of property. He believed the Federal Law states that we should not be concerned with property values and size of homes when it comes to determining an application. Mr. Garriga then said the vague comment in the ordinance opens the door for being arbitrary, capricious or discriminatory unless there is solid emperial evidence to justify the decision. Mr. Lawhon said we could continue on, by not questioning size of homes, or things we know that can be discriminatory, but still continue to measure the application based on the community, the character, and compatibility.

Mr. Smith began by saying he will take very little time, because this board has seen this application so many times. He said he has dropped two lots, he added, curb and gutter on State Line Road, he also added, sidewalks on the outer loop (these are two technical items the court addressed). Mr. Smith said he is willing to make the square footage of the houses part of the record. The homes will be a minimum of 1,600 square feet heated, with double garages, with 60% being of masonry type construction. He continued by saying he has talked with the Corps of Engineers regarding the study of Horn Lake Creek. He has also received technical data from Mr. Roger Lyons (Corps of Engineers). It is an A zone not AE zone, and if you look at the Memphis FEMA Map from the Tennessee line to Highway 301 that is in an A zone. The Corps of Engineers have also established the Base Flood Elevation (BFE) and Mr. Smith has submitted that information to Mr. Andy Swims, County Engineer. He then passed out a map of the property which detailed the areas in the flood plain, that have been filled. The property

has been filled since 1990 above the BFE established by the Corps of Engineers (everything that is in orange) refer to Exhibit on file in the Planning Commission Subdivision file #6119. Mr. Smith continued by saying, he has addressed a lot of the concerns and this is a good plan. Mr. Smith added, the presence of the surrounding C-2 and Highway Commercial property justifies the multi-family, R-3 zoning. In addition, the house on Lot 1 will be a minimum of 2,000 square feet heated, with a double garage, and driveway access to State Line Road. With the driveway access to State Line Road the streetscape will look the same. This home is comparable in size with the other homes along State Line Road. Mr. Robison asked Mr. Smith to address the buffer yard and stub street concerns that are in the staff report. Mr. Smith stated the stub street is nothing new, it has been there from the beginning. Mr. Garriga said it has been there since the start, but he has questioned the need for it, there are pro's and con's. Mr. Garriga said if there is a stub road to the west, will it open up more development on the adjacent property. In Mr. Garriga's opinion the adjacent property should not develop as residential, it should be planned commercial due to the property being located in the flood zone.

Mr. Smith stated he does not see the need for a buffer yard when there is a common area (he pointed to the location on the screen). There will be a 6' fence, but does not see the need for a buffer, because the houses will look alike and there is a lake in between the different zones.

Mr. James then asked what this development will do to the flooding on State Line Road? He stated, State Line Road floods a lot now and it does not need to be increased, it is already impassible most of the time when it rains. Mr. Smith responded by saying, we are down stream from State Line Road. The water will go into the common area on the west side of the ditch/box culvert (Mr. Smith pointed to the location). Mr. Smith then presented a copy of the letter written by Heineke & Associates, Inc. dated April 25, 2002 that states the property did not flood during the extreme rain event in late November 2001.

Mr. Sykes then asked if the curb and gutter and ditch along State Line Road is designed to receive the water from State Line Road? Mr. Smith answered saying "no", but he will not be impeding what currently floods, and in addition he will have to elevate this driveway by a foot or so.

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

#### Opposed

1. Mr. Wade Carter – 8950 Grandview Cove, he stated he is representing the Grandview Lakes Homeowner's Association. He thought this project was a done deal! He then referred to the Board of Supervisors order. He stated Supervisor John Caldwell made a Motion to deny the previous application due to the lack of curb and gutter, sidewalks, and he would like to have clarification of the zoning. Mr. Carter then read from the order. Mr. Carter then stated in his opinion this application should not be heard tonight because it violates the board order. Mr. Carter then read the last page of the order which stated the following: Supervisor Medlin then requested an amendment to the Motion and stated Article III, Section E, Paragraph 5 of the DeSoto

County Subdivision Regulations, state the Planning Commission may attach additional conditions not specified in the ordinance and reject a subdivision if it has been determined that the proposed subdivision is not in keeping in general character of the development in the area, and that the best interest of the public, the site is not suitable for the proposed development purpose. Mr. Carter added, in his opinion this subdivision is out of character of the neighborhood, all the surrounding homes are a minimum of 2,000 square feet which this proposal clearly does not meet the character of the neighborhood.

He then talked about the pre and post run off, in that it has to remain the same. He stated Mr. Smith is putting 35 houses on 10 acres, this will greatly increase run off. Mr. Smith stated he is going to use the existing lakes as retention, Mr. Carter said that cannot be done unless the lakes are modified. The lakes have a earthen spillway, permanent water level and when they are full anything that runs into the lakes will run out, which means there is not any retention. The only way to get retention in those lakes is to put in a water control structure that will store water. If a water control structure is installed then the water level will have to be raised, and this will impact the surrounding area. There are other people that own the lake, Mr. Smith is not the sole owner. Mr. Carter said he does not know how you can change the lake without permission from the other neighbors. Mr. Carter then said the lake along State Line Road is not really a lake, it is an area where dirt was used for fill. He has not measured the lake in depth but his neighbors tell him it is only about 2 feet deep. Mr. Carter continued saying water does flood across his access road, because he has seen it. He then said the ditch that runs across the culvert runs through his back yard and it does flood. His property has flooded six times in the two years he has lived there. Mr. Carter added, pre and post run off cannot be met, he knows this because he had worked 30 years for the Department of Agricultural, and has worked with these types of designs. There will be increased run off. Mr. Carter then talked about the common area. He said the corner of lot 7 is in the lake, and according to the topo maps, it shows a new shoreline, it also shows a 4' walkway that is in the lake. Mr. Garriga responded by saying this is the original plat and Mr. Smith is not going to fill the lake. Mr. Carter then asked where the common area is, where it is not in the water? Mr. Carter then said when these houses are built, there will be a minimum of 60 cars, oil from streets, pesticides, fertilizers, etc., all of this will drain into the lake and it will have an environmental impact on that lake. He reiterated that Mr. Smith does not own the whole lake and it is not fair to the other neighbors who do own the lake. Mr. Carter said that Mr. Smith's comment about the lake already being polluted by raw sewage is not true. He said that the homes along the lake have sewage treatment plants that have been approved by the health department. Mr. Carter then said that he has not seen a storm water/erosion plan yet. Mr. Garriga said the applicants usually apply for that after preliminary approval is given. Mr. Carter continued by asking if it has one foot contours? Mr. Garriga answered by saying "yes". Mr. Carter said if they are one foot contours, filling will be needed on lots, 9, 10, 12, 13, 15, 16, 17, 18, 7, 23, and 24. It looks like some of the lots will need 8-9 feet of fill, that is not a small amount of fill. Mr. Carter then talked about the flood plain. He said the area north of the lake is a Wetland and is not suitable for development. Mr. Carter concluded by saying, it is unfair to approve this project

until plat maps are properly drawn, proper plans for pre and post run off requirements are submitted, storm water and erosion control permits are issued, the environmental impact of the lake is determined, plans to develop the common areas and what type of amenities are going to be used, a letter from FEMA exempting the area from the flood plain. Mr. Carter reiterated that this development is not in character with the area.

2. Patrick Doyle – 5580 State Line Road, He began by presenting pictures of the homes in the area and talked about the character of the neighborhood. He said these homes have been there since 1989. Mr. Doyle said the surrounding neighbor's quality of life will be impacted by this development if it is approved. He said development is a positive thing, but only if it is controlled, structured, and keeps the area in tact. We know the county is growing, but are we going to have spot areas where things will look different. Mr. Doyle continued by saying that with the winds from west to east, there is a lot of garbage that flows into the L shape den in the lake, and one of the property owner keeps that area cleaned. Mr. Doyle said at this time it is a small volume, but if 35 additional homes are added, who is going to control that? Mr. Doyle concluded by saying this is our neighborhood, our children live here, the facts and figures are on record from before. He then asked the board to consider all of this when making their decision.

3. Debra Doyle – 5580 State Line Road – See Exhibit A.

Mr. Robison then brought the discussion back to the board members

Mr. Robison then asked for clarification regarding the retention. Mr. Smith responded by saying he will use the existing lakes along with other common areas. In the retention design standards it states, if there is no down stream property between you and the receiving stream, retention is not required. Mr. Andy Swims, County Engineer, will have to approve drainage plans. He continued by saying, normally, if you are sitting on the Mississippi River, you don't put retention in, you just let it go, this is the case here. This retention plan comes from the Memphis Drainage Manual.

Mr. Robison then asked about the common area/walking trail. Mr. Smith said that was a mistake on his part, but what is in front of you is the correct plan. The other plan shows the fill, which is not correct. Mr. Smith said the contour map came from the DeSoto County GIS Department, and it is a one foot contour. The shoreline shown is what it looked like the day the picture was taken. There will be sidewalks around the whole common area. Lot 7 will have to be turned to tie into the street sidewalks. Mr. Smith continued saying there is over 7 acres of common areas and the density is 1.5, which is below the density that is required. This meets the density requirement of the comprehensive plan. Mr. Smith added, the new comprehensive plan recommends clustering.

Mr. Robison then asked about the fill plans for the site. Mr. Robison asked about the corner of the lot that is in the lake. He then asked about the 10% of open space. Mr. Smith said he is way over the minimum requirement of open space and realizes a corner of lot 7 is in the lake.

Ms. Niebanck then asked if Mr. Smith had any comments about the environmental impact to the lake. Mr. Smith said, he had tried to listen to the people, that is why he eliminated the two lots because he did not want pollute the lake. Mr. Robison said he thought the people were more concerned about the oil from the streets, fertilizers, etc. Mr. Smith responded by stating, until the homeowners association takes over, he will do his best not to pollute the lake, however, he personally has seen the raw sewage in the lake, and found puffs of grass floating in the lake, the owner of lot 6 was dumping grass clippings into the lake. Mr. Smith said the lake is a selling point for this development, and he would like to keep the lake clean. He will put some kind of a concrete control structure at the spillway to insure the integrity of the dam.

Ms. Niebanck then asked if there is going to be a buffer along lots 1 & 2. Mr. Smith answered saying under certain cases this board has waived buffer-yards. The streetscape will be the same, there are 2 AR lots next to an AR lot, he does not see the need for a buffer yard.

Mr. Sykes asked Mr. Smith if the over all subdivision meets the character of the neighborhood? Mr. Smith responded saying, his opinion has nothing to do with this matter, it was zoned by the Board of Supervisors in 1989 for patio homes (R-3) and that is the way he purchased this land. The County has constantly approved progressive zoning where you have commercial, medium and low density all PUD's that you see, have all of these elements. This is called Planning 101. Highway commercial does not belong next to large lots, that is, not good planning. He then gave several examples: Stone Hedge, Plum Point. These are duplexes next to large lots, if it is done right, it is good planning. Mr. Smith concluded saying, he has met all of the requirements and this is a better subdivision plan than what was unanimously approved and asked for this subdivision application to be approved.

Mr. Robison then entertained a Motion. Ms. Niebanck said before a Motion is given, she has a concern regarding the clarification on the zoning that is talked about in the board order. Mr. Garriga responded by saying the Planning Commission office took that particular issue to the Board of Supervisors on February 3, 2003. The Board of Supervisors did some investigating, reviewed the board order, newspaper archives and talked with the county attorney and it was determined that the zoning is valid and the legal requirements from the county were fulfilled and met in 1989. He concluded by saying, as far as the Motion set by Supervisor Caldwell, the zoning issue has been clarified, but it did not specify whether or not we need to wait for a judgement to be rendered from the court.

Mr. Len Lawhon spoke stating the Planning Commission must stand by the zoning, whether the courts allow it or not. If was to come as a zoning application tonight then I believe it would be quite different than what it is zoned right now. Thereupon, we must stand by the current zoning. When Mr. Smith first brought this application to us, his concern was the flooding and he is still concerned with flooding, but he will trust Mr. Smith as an engineer. He continued by saying, there may truly be an R-6 (R-3) zoning that could be put on this property, but is this the right one? Mr. Lawhon said he does not

like his plans for amendments. He knows there are many subdivisions that go through many more detailed studies of buffering, amenities, etc., as a commission we do have the right to revisit the way it is laid out. He added, there will be land use here, but believes more creative things can be done with this. He would like to see more detailed studies done as far as buffering, he would like some thought to be done as far as the view between houses on the back side. Mr. Lawhon continued by saying, he does not believe the same questionable tie in should be thrown up against us again, when it was turned down by the Board of Supervisors and a circuit court judge and continues to bring this forward to us. He thinks some where there is a creative, meaningful solution to this, but the same plan we have seen over and over again is not it. He thinks it is time to stop this subdivision as it is at this point, and make the developer go back and get serious about designing something that would fit this community. Mr. Lawhon then made a Motion to deny this application based on the fact that the subdivision plan itself is not conducive to the surrounding neighborhood. Mr. Robin James seconded the Motion. There was then discussion on the Motion.

Mr. Mitchell began by stating that when the Planning Commission approved it before, he does not believe it was a mistake, especially when there was a unanimous vote. Mr. Mitchell added, that Mr. Lawhon was the one who made the Motion to approve this application. Mr. Lawhon responded by saying, he made a Motion on January 3, 2002 to deny this application due to flooding, and when this application was remanded back to this board on May 2, 2002 he did make a Motion to approve this application, but with stipulations. At that point, the Board of Supervisors denied the application and then a judge upheld their decision. He said due to all issues and conflict with the application, maybe there is a problem with the design, but agrees that the density is o.k. He added, he believes there is a solution, but does not think it is this footprint, and at some time there will be an R-6 (R-6) subdivision, but believes there is a more creative way to solve this problem.

Mr. Mitchell then asked the Planning Commission staff how this application was brought to us tonight? Mr. Garriga responded by saying the applicant submitted a new application, paid his money and asked to be heard. Mr. Lawhon said that is the point he is trying to make, this is a new application that looks like the previous one. He continued saying, there is a problem with this subdivision when the Board of Supervisors and a judge denies an application and the Planning Commission has had issues with it, the only thing he can say legally is, he does not like the subdivision plan and something better can happen.

Mr. Robison agreed that this has gone back to the original site plan, but that has been modified. At one point in time Mr. Smith did not plan on having lake rights, and he thought it was an amenity. He added, he does think there could be some better planning regarding this property.

Mr. Smith then asked Mr. Lawhon to mention in his Motion and include what is wrong with the subdivision and why does not meet the subdivision regulations? Mr. Lawhon responded by saying, this forum is an opportunity for homeowners, landowners and developers to get together to mediate to come up with a plan. One way or the other the

judge will make a decision in a few months, and he would like to see this plan be worked out together by all parties. This subdivision has problems, but thinks it could be solved through design and attention to details. He added, if there is an argument regarding weather or not to buffer, there should be a design to go along with that. We have a right as a board to specify more detailed plans in which to make an area more suitable to the surrounding community. This plan can be redesigned aesthetically and knows that he cannot argue aesthetics, but can argue weather or not a subdivision meets the need of the surrounding area. Mr. Sykes asked Mr. Lawhon if he his saying there should be less lots and they should be larger. Mr. Lawhon answered by saying “no”, something can be done in regards to the shared view of the lake, amenities, screening, landscaping design, etc. This plan is substandard based on other projects we have seen. He would like to see this plan approved and agreed upon by the other people involved. He concluded by saying, Mr. Smith is a good engineer, but sometimes engineering is not good for the community in regard to design.

At this time there was a roll call vote of 7 – 4 to deny the application. It was announced that this application will be heard by the Board of Supervisors on March 12, 2003 at 9:00 a.m.

## **MAJOR SUBDIVISIONS**

**Park Place Subdivision (6125) Application is for final subdivision approval of 24 lots on 28.3 acres. Subject property is located on the east side of Getwell Road and north of Lester Road, zoned R-30 (Single Family Residential). Section 22, Township 2, Range 7**

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 this application. Mr. Garriga stated that he would like a note on the plat eliminating driveway access from the adjacent Bridgemoore subdivision lots to Park Place Cove.

Mr. Smith began by saying he has no problems with the staff report. He added, he is not sure it is legal to put a note on this plat regarding another subdivision and their driveway access. Mr. Smith said he could make the right of way 48’ with a 2’ strip, or the right of way to be 49’ with a 1’ common area. This would prohibit access.

Mr. Robison asked what the Q25 is? Mr. Smith responded by saying Q25 is a 25 year storm event and this is used for the designing of culverts. The county requirement states the culverts must handle a 25 year storm event. The “Q” means flow/quantity. Mr. Smith said he is not going to tie into the Bridgtown sewer, he will be going across the street to the Ledgens Subdivision for the lagoon.

Mr. Williams asked if the existing house would be removed? Mr. Smith responded by saying “no” Ms. Motz is living there and is in the process of remodeling the home. Mr.

Williams then asked if lot 1 will have driveway access to Getwell Road? Mr. Smith said “yes”.

Mr. Garriga then asked if the centerline of the road lines up with Grove Meadows subdivision across Getwell Road. Mr. Smith answered saying “yes”.

Mr. Robison entertained a Motion. Mr. Leonard Lindsey made a Motion to approve this application with staff recommendations. Mr. Lawhon seconded the Motion. The Motion passed with a unanimous vote.

**Kingstown Estates (6126) – Application is for preliminary subdivision approval of 5 lots on 13.65 acres. Subject property is located on the south side of Whispering Pines Road and west of Polk Lane, zone Agricultural-Residential. Section 1, Township 2, Range 8**

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Gerald Davis as being present to represent this application. Mr. Garriga added, if this application is approved or denied, it will be taken to the Board of Supervisors due to length of the cove.

Ms. Niebanck then asked about the name of the subdivision, due to the similarities in the other subdivision names.

Mr. Sykes asked if a stub road is needed? Mr. Garriga answered saying, the county tries to encourage stub roads, which provides continuous circulation, but exceptions can be made. The site review committee met and did not think a stub road to the east was justified. There is certainly no reason to stub to the south because of the large lake and railroad south of this property.

Mr. Davis began by saying, he is aware of the length of the cul –de-sac, but does not see any other alternatives. Mr. Davis added, that is the reason for the preliminary plat instead of a final. He added he is not sure there is a water system, so he is not sure if fire plugs could be installed. He agrees with all other items on the staff report and concerns.

Mr. Garriga added, the applicant is persistent about developing this property. He added, he has received request from 2 – 3 different engineering firms that submitted this proposal as a sketch plat and they all were told no. The plan finally got to Mr. Davis and he brought us a proposal, not a sketch.

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

Mr. Lawhon made a Motion to approve the application with staff recommendations and recommends the subdivision name to be changed. Mr. James seconded the Motion. The motion was passed with a unanimous vote.

**Star Landing Commercial Subdivision Lot 1 (6127) – Application is for preliminary and final subdivision approval for 1 lot of .91 acres (from 19.75). Subject property is located on the west side of Highway 51 and south of Star Landing Road, zoned C-2 (Highway-Commercial). Section 24, Township 2, Range 8**

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He then recognized Mr. Sam Ware as being present to represent this application.

Mr. Lawhon questioned why this application is being looked at, when the property has two different zonings. Mr. Garriga said if the zoning line is on the plat showing the two different zonings, this application can be heard. Mr. Ware will be using the C-2 portion of the property only. Mr. Garriga then pointed to the lot showing the two different zonings, the zoning lines and further explained the zonings. Mr. Lawhon then gave examples of different uses in relation to owning property and zonings. At this point there was general discussion regarding the zonings on the lot. Mr. Garriga said he does not want to see this property, piece meal.

Mr. Ware began by saying he would like to put a Dollar General on this property. He said they need 270' from the property line to the back of the building. The building will be 70 x 130. He added, he has talked with the health department and they said he needs treatment plant for 70 – 100 gallons of water per month. Mr. Ware continued by saying, by health department standards a 10' x 50' wide easement for runoff. Mr. Ware said that the runoff could go into AR portion of the lot. He said he will not using the AR section of the lot; the commercial activity will be on the C-2 lot. The treatment plant will be located directly behind the building on the AR section. Mr. Robison said that the treatment plant would be part of the commercial building and could not be located on the AR section of the lot. Mr. Ware then asked what would happen if Southaven provides sewer? Mr. Lawhon responded by saying, if that property was sold, and they were to count that non commercial area as part of their lot, we would be putting them in jeopardy. The zoning/use needs to be corrected now, so that there is not problems down the road, especially since this is an important corridor and piece of property. Mr. Ware said he has a 25 year lease with Dollar General and does not plan on moving out.

Mr. Robison stated his biggest problem is the zoning, if the property lines matched the zoning he would not have a problem with this. Mr. Lawhon agreed, and continued to state this board made the surrounding developers jump through hoops, and wants to be sure this is a good investment and development for all parties concerned.

Mr. Lawhon then said he does not think this is the proper zoning, and it could have been an error and the person trying to sell the land is in error. If there was a way to purchase additional land and it be zoned C-2, then this could be moved forward, but does not think it is possible right now.

Mr. Garriga then asked, gave an example of defined zoning, and what could be done.

At this point there was further discussion regarding the zoning among board members, staff and applicant.

Mr. Ware said he has to make a decision on whether or not to purchase the property by next Tuesday, so delaying this application for 30 days could be an issue. Mr. Robison replied by saying, this application is for preliminary and final, and that usually throws up a "red flag". Mr. Robison said he would not have final tonight anyway, because the application would have first come in as a preliminary.

Mr. Lawhon said he believes this development could create a problem in the future if it is not corrected now. Mr. Ware responded by saying, he has looked at this for months, and does not think this would be a problem.

Mr. Sykes made a Motion to carryover this application for 30 days, until the April 3<sup>rd</sup>, 2003 Planning Commission meeting. Mr. Lawhon seconded the Motion. The Motion was passed by a unanimous vote.

**Belmor Lakes Section D (6128) – Application is for final subdivision approval for 52 lots on 42.10 acres. Subject property is located on the north side of Dunn Lane and west of Highway 305, zoned R-40 Overlay. Section 16, Township 2, Range 6**

Mr. Garriga presented the application and presented the staff report to the Planning Commission. Mr. Garriga added, this plat does not conform to the preliminary plat. In order for this to be accomplished – a site plan amended to the overlay must be filed. He then recognized Mr. Ben Smith as being present to represent this application.

Mr. Smith began by saying he was not aware of the need for a site plan amendment and requested to have this application be carried over for 30 days.

Mr. Lindsey made a Motion to carryover this application for 30 days. Mr. Maxwell seconded the Motion. The Motion was passed by a unanimous vote.

At this time the Planning Commission took a 10 minute break.

**Madison Lakes (R606) – Application is to rezone 483.81 acres from Agricultural-Residential to Planned Unit Development. Subject property is on the north and west side of Byhalia Road and east of future McIngvale Road. Section 5, Township 2, Range 7**

Mr. Len Lawhon recused himself at this time.

Mr. Garriga presented the application and presented the staff report to the Planning Commission. He added, the City of Hernando has requested to have this application be carried over. Mr. Garriga then recognized Mr. Bob Dalhoff as being present to represent this application.

At this time there was general discussion among the board members and staff regarding zoning/annexation.

Mr. Dalhoff began by stating December 10, 2002 he had provided the City of Hernando a copy of the packet. He also stated he has been working on this project for 2 years and met with the City prior to that time regarding this property. He added, one week ago he had made a presentation to the City of Hernando regarding this application. The City had then asked for a work session, Mr. Dalhoff agreed as long as that meeting took place before February 27, 2003. That meeting was cancelled to the bad winter weather. Mr. Dalhoff added, he does not want to force this board into a situation that is not comfortable, but, the annexation has been filed and he understands the reason for that annexation is because we have asked for sewer service. The option is, not have the City of Hernando sewer service and wait for the county wide sewer system that should be installed within 2 years. He added, there would not be any homes built on the property before 2 years anyway. They still have to go through the reclamation process. Mr. Dalhoff further stated, the annexation took in this property only, there are not other boundaries included. Mr. Dalhoff continued by saying, he wants the board to feel good about this project and does not want to force them into making a decision if they are not ready. He added the density is below the 2010 Comprehensive Plan requirements and making a bad piece of property and turning it into positive part of the area. Mr. Dalhoff said he would love to be heard tonight, but once again he does not want to pressure the board. Mr. Dalhoff added, he has read the staff reports there are 28 concerns and he does need to address ½ of them, he added, he does have a long presentation, but he can justify his plan. Mr. Dalhoff agreed that it is getting late and he knows the people in the audience have waited a long time, he would understand whatever decision would be made in regards to weather or not to hear the case. He continued stating he had talked with the next applicant on the agenda out in the hallway and they agreed to bring up their case first if it is o.k. with the commission.

Someone from the audience spoke requested this application be carried over due to the time and further notification.

Mr. Mitchell said he thinks this application should be heard tonight. He then questioned the request from the city to carry over this application. Mr. Mitchell added, it is bothersome to him that the City of Hernando does not think we are capable of handling this application, all of the requirements have been met, and he would like to hear this application.

Mr. Lindsey disagreed, and it is not because the City of Hernando requested the carryover. He said if there is going to be 28 exceptions and clarifications to the staff report, this is going to be a lengthy process. Mr. Lindsey added, he was on the site review committee and has looked at the project and he has questions and concerns. Mr. Dalhoff said he has been put off before, and is willing to come back to the Planning Commission maybe even at a special meeting. Mr. Robison said it would most likely take at least 2 hours to hear and discuss this case, and it is already getting pretty late.

Mr. Lindsey made a Motion to carryover this application. Mr. Sykes seconded the Motion. The Motion carried by a 7 – 3 vote. There was then some discussion on what date to hear this case. Mr. Blankenship made a Motion to hear the case at a special meeting on March 13, 2003 at 7:00 p.m. to hear Madison Lakes only. Mr. Mitchell seconded the Motion. It was agreed to unanimously.

**Loftin Rezoning (R608) – Application is to rezone 115 acres from Agricultural-Residential to R-30 (Single Family Residential). Subject property is located on the east side of Center Hill Road and south of Goodman Road. Section 4, Township 2, 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 this application.

Ms. Niebanck asked about the maximum density in that zoning. Mr. Garriga responded by saying, 1.5 unit per acre is per the zoning ordinance in the R-30 zone.

Mr. Smith began by saying he will be getting less than 1 unit per acre. He then talked about the changes in the area. The large ditch that runs across the rear corner of the property, if you look at the DeSoto County Regional Utility Authority plan, it goes through this property, which means sewer will be available in 3 years or so. The City of Olive Branch has constructed an 8” water line down Center Hill Road, so there is adequate water for fire protection. This board has also approved 2 large Planned Unit Developments with higher density than this project which are located in the surrounding area. This project does meet the comprehensive plan. Mr. Smith said there is a need for this type of development, this is a “hot area” of the county, the City of Olive Branch also has plans to annex the area.

Mr. Robison asked how far away the new school is? Mr. Smith answered saying it is 1.8 miles from this development, there is also a new fire station.

Mr. Williams asked if this property is in the flood zone. Mr. Smith responded by saying, this property is not in the flood zone. Mr. Smith said there is an un-named ditch, but it is large. There are going to be some wooded R – 30 lots. Mr. Smith further stated, Mr. Loftin is here and he has mentioned the homes will be a minimum of 2,000 square feet.

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

Mr. Mitchell made a Motion to approve this application based on the changes in the neighborhood such as, new development, new school, increased water lines, and the new fire station. Mr. Mitchell also mentioned the public need for this development due to the recent and obvious population influx to the area. Mr. Blankenship seconded the Motion. The Motion passed by a roll call vote of 10 – 0.

There being no further business in front of the Planning Commission, Mr. Leonard Lindsey made a Motion to adjourn the meeting, Mr. Ed Williams seconded the Motion. The Motion was carried by a unanimous vote. This meeting adjourned at 10:45 p.m. These minutes were recorded and transcribed by Denise Dingman.