

MINUTES OF THE TUPELO PLANNING COMMITTEE

May 4, 2009

There was a regular meeting of the Tupelo Planning Committee held on Monday, May 4, 2009 at 6:00 p.m. in the Council Chambers of City Hall. Planning Committee members present were: Chairman Michael Gratz, Jr., Vice-Chair Cindy Sanders, Secretary Mitch Ellett, Mr. Dick Johnson, Mr. Bill Smith, Jr., and Mrs. Judy Brown. Department of Development Services staff present was Director BJ Teal, City Planner Pat Falkner, Zoning Administrator Marilyn Vail, and Administrative Assistant Nikki Burton. Planning Committee members Mr. Russ Wilson, Mr. Rud Robison, and Mrs. Mabel Murphree were not present for the meeting.

CALL TO ORDER

Mr. Gratz called the meeting to order. Mr. Smith led the invocation and Mr. Gratz led the Pledge of Allegiance. Mr. Gratz explained the meeting's procedures and confirmed the agenda.

REVIEW/APPROVE PREVIOUS MINUTES

Mr. Johnson made a motion to approve the minutes of the April 2009 meeting. Mrs. Sanders seconded the motion, which passed unanimously.

REPORT ON COUNCIL ACTIONS

Mr. Falkner stated that the minutes of the April 2009 Planning Committee meeting will be on the City Council's agenda for May 19, 2009.

NEW BUSINESS

1. **AP09-01: Appeal of the Decision of the Department of Development Services to order a non-permitted, non-residential to be removed located on Gun Club Road in an R-1L, Large Lot Residential Zoning District.**

Mr. Greg Smith, owner of the property on Gun Club Road, stated he built a metal building on his property intending to use it for storage. He stated that since the building has been constructed he and his wife would like to use the metal building for housing. He stated that he understands the Development Code does not allow an accessory building to be more than 35% of the footprint of the main dwelling in a residential zone, and stated that he would have to build a 9,800 square foot house for his existing metal building to meet the code. Mr. Smith explained that the property lies on a dead end road and is not part of any subdivision, including Wildwood, and has no restrictive covenants. He admitted that he was wrong to have not instructed his contractor to obtain a permit to

build the building, but further stated that he has invested too much money in the building for it to be taken down. He then stated that he plans to build a 4,000 square foot home on the property with a swimming pool. Mr. Smith then stated that he had planned to live in the front portion of the existing metal building, but now plans to allow his mother to use the space as an art studio. He stated that he does not plan to put windows in the existing building because he does not want anyone to see what is stored there.

At this time, Mr. Falkner gave a staff analysis of the appeal. He explained that Mr. Smith had contacted the Department of Development Services office and had asked the standards for building a residential dwelling and had also asked if it were legal to build a residence from metal. Mr. Falkner stated that the staff had informed him he could build a metal structure as a residence, but received no further contact from Mr. Smith. Mr. Falkner explained that the Department of Development Services soon received a report that a building had actually been constructed on the site, and when the city inspectors visited the site, concluded that the building was non-residential, based on the fact that it has roll-up doors, is large in size, and the general layout of the structure does not appear to be residential at all. He further stated that it seemed by outward appearances of the structure that it would be difficult to bring it up to current residential building codes. Mr. Falkner explained that in order to consider the structure an “accessory structure”, there would need to be a primary residence on the property. He stated that the sequence should be to construct a residence first, then construction of an accessory structure. Mr. Falkner further explained that there was no compliance with the building code, a permit was not obtained, and the structure was put up without any of the necessary required inspections, therefore there is not a lot about the structure that is in compliance with the Development or Building Codes.

Mrs. Teal stated that she only spoke with Mr. Smith after the building was constructed. She stated that in order for Mr. Smith to meet the residential building codes there are certain criteria that must be met, including installing windows for ventilation and safety, points of ingress and egress, internal stairs if there are to be two stories, a kitchen and a bathroom, which cannot be outside the living area. She stated that currently the building does not meet these criteria. She further stated that accessory structures are to be incidental and subordinate to a primary structure, which should be built first.

Mr. Gratz opened the meeting to discussion from the committee.

Mr. Johnson asked Mr. Falkner if the subject of a building permit ever came up in conversations with Mr. Smith. Mr. Falkner stated that Mr. Smith never asked him, specifically, about a building permit, but was probably given permit information by one of the building inspectors.

Mrs. Sanders stated that Mr. Smith had assumed his contractor had obtained all necessary construction permits.

Mr. Ellett stated that in order for the building to be a legal accessory structure, a primary structure of approximately 10,000 or 11,000 square feet would need to be built.

Mr. Johnson asked Mr. Smith if he was told by his contractor that he would need a permit or if the subject of permits ever came up. Mr. Smith stated that he had mentioned obtaining a permit to his contractor when the building was in the beginning stages of construction and had wrongly assumed that a permit had been obtained. Mr. Smith stated that he only learned of the absence of a permit when he contacted Ken Shaw, a licensed electrician, to wire the building for electricity. He stated that he stopped the construction of the building altogether when he realized no permit had been issued. Mr. Johnson asked if the subject of a licensed contractor ever came up. Mr. Smith stated that Eric Maloney, a licensed contractor, and owner of Custom Buildings, had originally agreed to construct the building, but did not have time to do the work. Mr. Smith explained that Mr. Maloney's co-worker, Mr. David Fisher, had agreed to construct the building, but Mr. Smith did not know if he was licensed and did not ask. Mr. Smith then asked the committee to consider the fact that his metal building is on 20 acres of family owned land and is approximately 70 feet to the east property line, 600 feet to the west property line, and almost a quarter of a mile to the south property line. Mr. Smith then stated that his only neighbor is Robert Wilson, whose property was formerly owned by Mr. Smith's father.

Mrs. Brown clarified that Mr. Smith does not have any electricity in the building, but noted that, according to pictures taken by department staff, bath facilities and water are present. Mr. Smith stated that Steel Plumbing had stubbed the building for one water line coming into the building. Mrs. Brown stated that the submitted plans for the building show a bathroom with a shower, toilet, and a sink, and those things would normally go in the concrete. She then asked what sort of sewage is in place on the property. Mr. Smith stated that there is currently no sewage or water on the site, but the plumbers did stub the building in to run water to shower, toilet and sink, and the plumbing was installed for a drain. Mr. Smith then stated that there is currently no power, water, or sewer to the building.

Mr. Ellett asked if Tupelo Water and Light would provide water for the site or if there is a well on the property. Mr. Smith stated that there is a well on the property, but does not know if it is appropriate for use. He then stated that there is a sewer line and gas line located near the property.

Mrs. Teal asked Mr. Smith if the building has been roughed-in for a kitchen. Mr. Smith stated no.

Mr. Gratz read the following from a letter submitted by Mr. Smith dated March 29, 2009:

“I was told that I could have this style structure as long as I was to live in it and as long as the property would never be subdivided.”

Mr. Gratz stated that Mr. Smith did not plan for a kitchen, did not rough in sewer, has no electricity and no plumbing, but plans to build a 4,000 square foot house on the property. He then questioned if Mr. Smith ever meant to live in the building or not. Mr. Smith explained that he plans to live in the building and is currently residing with his mother

due to the death of his brother. He then stated that his mother desires to live on the property with him, whether in the existing building or in the primary residence he plans to build.

Mr. Gratz stated that he would like to speak to the contractor, Mr. David Fisher, and the owner of Custom Buildings, Mr. Eric Maloney. He then stated that he did not want the committee to take any action on the appeal without first being fully advised.

Mr. Johnson asked Mr. Gratz what he hoped to gain by hearing from Mr. Fisher and Mr. Maloney.

Mrs. Teal stated that she is concerned about the zoning issue of Mr. Smith's mother living in the existing building. Mr. Smith stated that his mother is 81 years old and had commented to him that she would like to live with him and have an art studio in the existing building. Mrs. Teal explained that the area is zoned for single family, so there should not be more than one residence on a site. Mr. Smith asked if the size of the land has any bearing on the size of his existing building, and mentioned that large commercial buildings are visible from the rear properties of the zero lot lined houses located on Gun Club Road. He further stated that his existing building is not visible from the road. Mr. Smith then stated that there are two existing dilapidated buildings on his property that he plans to demolish.

Mrs. Brown stated that she would like to refer the Planning Committee to their duties as laid out in the Development Code, Section 6.2.5(4), which states:

“The Planning Committee shall not reverse or modify the contested action unless it finds that the Administrative Officer erred in the application or interpretation of the terms of the Ordinance or related policies adopted by the City.”

Mrs. Brown then stated that after the review and discussion of the appeal, she could not find that Mrs. Teal or Mr. Falkner has erred in their application of the above stated ordinance. She further stated that it is difficult for the committee to do anything other than uphold the decision made by the Department of Development Services.

Mr. Gratz answered Mr. Johnson's previous question by stating that there was communication between Mr. Smith and the Department of Development Services prior to the construction of the building. He stated that he would like to hear more evidence around the circumstances of that communication due to the cost and size of the construction. He then stated that he would like to know a little bit more about what happened between the Department of Development Services and Mr. Smith because the Planning Committee has a point of veracity and has to decide what Mr. Smith's intent was. He addressed Mrs. Brown and stated that she is right in her point to uphold the Department of Development Services decision according to the Development Code.

Mrs. Sanders asked what size accessory structure Mr. Smith would be allowed to have if he builds a 4,000 square foot residence on the property. Mr. Smith replied he would be

allowed to have a 1,300 square foot accessory structure, according to the Development Code, which allows accessory structures to be 35% of the footprint of the primary structure on a piece of property. Mrs. Sanders asked the size of the existing building. Mr. Smith replied the existing building is 3,200 square feet.

Mr. Gratz asked what Mr. Smith stores in the existing building. Mr. Smith stated that he owns two 4x4 trucks, a suburban and a jeep. He stated that his hobbies are paint ball and models and his mother does art. He stated that the front part of the building would be climate controlled so his mother could store her art supplies there. He then stated that in the remaining portion of the building he would have a lift, a plasma cutter, a wire welder, and anything a commercial shop would need. He stated that he is also currently building a rock climbing jeep. Mr. Gratz asked Mr. Smith which portion of the building he had planned to reside. Mr. Smith stated he would live in the front portion.

Mr. Ellett stated that according to the plans submitted to the committee by Mr. Smith, there bathroom facilities are not located in the living quarters of the building. Mr. Smith agreed. Mr. Ellett then asked the staff if the code allows bathroom facilities to be located outside of a living area. Mrs. Teal explained that bathroom facilities and cooking facilities have to be a part of the residential structure, plus a few other things. Mr. Ellett clarified that bathroom and kitchen facilities would have to be inside of the front portion of the structure in order for it to meet code standards and Mrs. Teal agreed. Mr. Smith stated that he had planned to install a double doorway leading to bathroom facilities, which would be about six feet from the living quarters. He stated that the bathroom facilities would not be in the initial living quarter's area, but would have heating and air conditioning in order to give the living quarters as much livable space as possible.

Mrs. Brown clarified the zoning of the property is R-1L, Large Lot Residential and not A-O, Open Agricultural. Mr. Falkner agreed. Mrs. Sanders asked if all 20 acres of the property is one parcel. Mr. Smith stated yes. He stated that Tupelo Public Works contacted him about crossing his property to clean up a city owned ditch. Mr. Smith stated that he told Public Works he had no problem with them cleaning the ditch, but would just have to see how things go.

Mrs. Sanders stated that the staff analysis states that the property cannot be subdivided. Mr. Smith stated that the Department of Development Services had told him that if he built the existing building, he could not subdivide the property due to the size and nature of the building. He stated that he does not have any intention of subdividing the property. Mrs. Sanders asked the department staff if the construction of a residence on the property would cause the property to be subdivided. Mr. Falkner explained that the Planning Committee has granted variances in the past to large accessory buildings on large tracts of land. He stated that a variance might be possible in the future and the size of the tract would be an argument in favor of allowing a larger accessory building. Mr. Falkner then stated that he did not think that type of variance had ever been phrased as a prohibition on subdividing property and was probably never discussed in detail.

Mr. Smith stated that Patrick Reagan, building inspector for the Department of Development Services, had told him that as long as the property was not subdivided, the existing building could be constructed.

Mrs. Sanders stated that she felt there was a break-down in communication somewhere and did not feel that Mr. Smith had purposely gone against the city's code. She stated that Mr. Smith does own 20 acres which is a very unusual thing inside the city limits.

Mrs. Johnson stated his two objections to the appeal were that Mr. Smith did not get a building permit to build the building and did not use a licensed contractor. He stated that he agreed 100% with Mrs. Brown in that the Planning Committee's purpose is to determine if the Department of Development Services made a mistake, and according to the review and discussion of the project, no mistake was made by the department.

Mr. Ellett asked the purpose of the 13 to 14 foot overhead doors installed in the existing building. Mr. Smith stated that his truck is about ten and a half feet tall and the doors are 12 feet tall.

Mrs. Brown stated that she would like to ask legal counsel a question.

Mr. Brannon Kahlstorf, of Mitchell, McNutt, and Sams, stated that he was present for the meeting as legal representation for the City of Tupelo.

Mrs. Brown questioned the precedent that the appeal sets for the city if Mr. Smith is not held accountable for his actions and the code is not upheld by the Planning Committee.

The following is a verbatim transcript of the dialogue between Mr. Kahlstorf and the Planning Committee:

“Well, it definitely opens the doors, as the saying goes, opens the flood gates. The last thing you want to do as the Planning Committee is to set a precedent where someone takes this isolated incident and uses it down the road as a point to say it's easier to quote-unquote ask forgiveness than to ask for permission. I'm not giving an opinion as to whether or not that was his intent from the beginning. I think Mr. Gratz made a point that there's more to be discovered possibly as to the intent and the facts in the discussions between the city and Mr. Smith from the beginning. But, I think, the committee does have to consider the precedent set by the decision made, it's kind of one of those things whether the committee wants to make a point by saying you have to follow the ordinances to a tee and if you make a mistake, you should be more careful in the future and it would set a precedent that in the future people would look back on this incident and say “I'm gonna make sure I go to the Planning Department and cross my T's and dot my I's and make sure that we have all the permits in place before we even start with the planning phase.” The flip side of that is if you, the committee, decides to grant a variance or make another decision, then, yeah, there's the precedent. If the next person who does something like this or this incident comes up they can reflect

back on this or point back on this as kind of persuasive authority to say “Well, you’ve granted it before, my situation should not be any different.” Any other questions?”

Mr. Gratz asked Mr. Falkner if something like this appeal has come up in the past. Mr. Falkner stated that in approximately 1998, an accessory structure was built without a permit and had a setback encroachment. He stated that there may have been others earlier than that, but he was not familiar with any. Mr. Gratz asked the action of the Planning Committee in that particular incidence. Mr. Falkner stated that a fine was issued, and that the building was otherwise, generally allowable in the context of the zoning ordinance.

Mr. Gratz asked if there was any further discussion.

Mr. Johnson stated that the Department of Development Services has not made an error of judgment. He stated that Mr. Smith has failed to prove that the department has made a mistake. He then made a motion to affirm the actions of the Department of Development Services. Mrs. Brown seconded the motion. The motion carried 4 -1, with Mr. Johnson, Mr. Smith, Mr. Ellett and Mrs. Brown voting in favor of the motion and Mrs. Sanders voting against.

2. VAR09-03: Pulmonary Consultants requests a variance to allow 84 parking spaces rather than the maximum allowed 75 parking spaces at 860 South Madison Street in an M-1, Medical Zoning District.

Mrs. Brown asked to be recused from the meeting.

Mr. Falkner gave a staff analysis of the application, stating that the Department of Development Services had received construction plans for the new Pulmonary Clinic in the Medical Zoning District. He explained that according to the new development standards that were adopted a couple of years ago, there is a cap on parking that basically states no more than 10% over the minimum parking standard is allowable. Mr. Falkner stated that the Pulmonary Associates building is proposed with 84 parking spaces, yet if the standards are followed, only 75 parking spaces are allowed, maximum. He stated that the project is generally very well laid out, and there are a number of things the applicant has done to mitigate the concerns that caused the staff to place a limit on parking standards. He further stated that a variance of this nature cannot be granted at the staff level; therefore it is now the decision of the Planning Committee.

Mr. Bruce Ridgeway, of North Mississippi Medical Center (NMMC), stated that they are in the process of constructing a 13,500 square foot Pulmonary Consultant Clinic. He stated that NMMC is indebted to constructing a building that is up to city codes, as well as to build it in accordance with LEEDS Certification. Mr. Ridgeway stated that in their design and studying of the need for parking for the facility, it was determined that 84 would be adequate, hence the variance application. He stated that he feels that the design of the facility along with the layout of the parking area and the landscaping plan is such

that significant improvements have been made to that particular area of the NMMC campus. Mr. Ridgeway also requested that the committee appreciate the number of parking spaces that are required to meet the patient load, which is expected to be fairly substantial. He further requested the committee be aware of the adjacent property NMMC owns and the fact that there is a community walking track located there. Mr. Ridgeway stated that he hopes the combination of the walking track to the site gives enough of the appearance of a sustainable site, that the committee will approve the variance for 84 parking spaces.

Mr. Christian Reed, of McCarty Company, stated that he is involved with the design of the project. He stated that there are two issues he would like to address; first the maximum amount of build out on a site to be able to increase green-space and secondly to be able to minimize the heat island effect that is due to building out a site. He explained that because the walking track area is included in the property, there is only about a 7% build out on the site, which is certainly well below the 50% allowed by code. He then stated that due to the LEEDS Certification, materials chosen for the paving will cut down on the solar reflective index and also cut down on the heat island effect of the space. He further stated that although the proposed parking area is larger than what is allowed by the city, extreme measures have been taken to address the items that were originally intended to keep the parking space at a minimal amount.

Mr. Gratz asked if there was anyone present to speak either for or against the applicant. No one was present, thus the meeting was closed to public input and opened to the committee and staff for discussion.

Mrs. Teal noted the service facility on the landscape plan submitted by McCarty Company. She then asked Mr. Reed if the service center parking area that is closest to the landscaped buffered area would remain in place. Mr. Reed stated yes.

Mrs. Sanders made a motion to approve the variance request. Mr. Johnson seconded the motion, which passed unanimously.

At this point, Mrs. Brown returned to the meeting.

3. MJSUB09-01: Mr. Bill Beasley requests the revision of a major subdivision, Oak Meadows, Phase VI, in an R-1S, Small Lot Residential Zoning District.

Mr. Falkner gave the staff analysis of the application and stated that the Planning Committee had originally approved the subdivision in 2007 as an R-1S Subdivision on Purnell Road and adjacent to the existing Oak Meadows Subdivision and also the Cedar Wood Subdivision. He stated that the infrastructure has been built and the subdivision was about ready to be recorded when Mr. Beasley started working with the builder and looking at the market and decided that there were some lots that were going to be a little more difficult to work with given the size of the lots and the setbacks. Mr. Falkner stated that Mr. Beasley approached the Department of Development Services to ask how he

could adjust the setbacks in the subdivision so that he could find house plans that would fit on the lots. Mr. Falkner stated that he had advised Mr. Beasley that a subdivision change such as this would have to be reconsidered in the same manner that it was approved. He further stated that Mr. Beasley does not plan to change any of the lot lines, only a change in the setbacks.

Mr. Bill Beasley, 4649 Meadow Circle, requested that the front setback in the subdivision be moved ten feet closer to the street in order to protect a large mature hedge that grows on either side of the entrance into the adjacent subdivision. He stated that if the front setbacks were changed, it would create a more uniform subdivision, allow more flexibility with the house plans, and allow the houses to be closer to the interior of the subdivision and farther away from Purnell Road. He further stated he did not feel there is a safety issue because the streets are so small, no speed could be gained while traveling them. He stated that the homes will be upscale and in the 1,900 to 2,200 square foot range.

Mr. Gratz opened the floor to the committee and staff for discussion.

Mrs. Brown stated that she has some concerns about modifying a major subdivision. She stated that it seems that Mr. Beasley was granted rezoning the subdivision from an R-1L, Large Lot Residential Zone to an R-1S, Small Lot Residential Zone, and was given the setbacks of an R-1S Zone at that time. Mrs. Brown stated that she felt the subdivision should be considered as a PUD, Planned Unit Development and should have been requested at the beginning of the project in order to trigger a public hearing. She stated that a major subdivision application requires no public hearing or notice.

Mr. Johnson stated that he lives in a neighborhood that has the same setbacks Mr. Beasley is requesting and also has very little traffic. He stated that he personally does not see how changing the front setbacks could negatively impact the property or surrounding properties. He stated that he knows the residents of the area feel strongly about the existing hedge and would not want anything to happen to disrupt what is already in place.

Mr. Ellett stated that he agreed with Mr. Johnson and did not see that the modifications would negatively impact the surrounding area or the proposed subdivision.

Mr. Falkner stated that the Development Code is somewhat of a relic or a reflection of the old Comprehensive Plan. He stated that the city is currently in a transition, and even though the current codes are still in use, the staff likes to review projects in terms of the new Comprehensive Plan. Mr. Falkner stated that Ms. Vail, Zoning Administrator for the City of Tupelo, had presented in her staff analysis some discussion of how this development will relate to the principles the new Comprehensive Plan will achieve.

Mrs. Sanders stated that she feels that the neighbors would rather have the quality construction rather than the 25 foot setback. She stated that Mr. Beasley is proposing a nice addition to the existing neighborhood and not taking anything away from the surrounding area. Mrs. Brown stated that changing the setbacks would not decrease the

quality of the construction. Mrs. Sanders stated that if the setbacks remain, the houses will have to be smaller in order to meet the front setback and save the existing hedge. Mr. Johnson stated that the property owners will not be concerned with a ten foot front yard setback, however much concern would be raised if the existing hedge were damaged or demolished.

Mr. Gratz stated that the subdivision will be a closed circle without any thru-traffic. He then stated that he agreed with Mrs. Brown in that the development does have many of the same characteristics as a PUD. Mrs. Brown clarified that she was simply addressing the procedure and not the outcome.

Mr. Johnson made a motion to approve the modifications to the subdivision. Mrs. Sanders seconded the motion which carried 4 -1, with Mr. Johnson, Mr. Smith, Mr. Ellett, and Mrs. Sanders voting in favor of the motion and Mrs. Brown voting against.

4. MNSUB09-03 and VAR09-04: Ms. Florestine Gladney requests a minor subdivision (parcel 089K3107700) on North Spring Street with a request for a variance to allow three residential lots of approximately 4,000 square feet rather than the required 8,500 square feet in an R-1M, Medium Lot Residential Zoning District.

Mr. Falkner gave the staff analysis of the application, stating that Ms. Gladney had made application to the Department of Development Services for a minor subdivision that did not meet the standards of the lot size requirements in an R-1M, Medium Lot Residential Zoning District. He stated that Ms. Gladney had done some research and had looked at the historic size of the lots and structures in the Spring Street area and had brought it to the Department of Development Services for review. Mr. Falkner explained that the property backs up to a hill where a city water tank is located and the hill creates a limit on how much of the property can be used. He stated that she could cut into the hill, but only to a limited extent before running into a retaining wall that might not be stable having a water tank on top of it. Mr. Falkner stated that there is some limitation on the depth that is available to build in and the staff had also looked at the width of the lots and the setbacks that would be necessary to build there. He stated that what Ms. Gladney has proposed reflects what is typical for that side of North Spring Street. He stated that there are some historic structures still intact in the area and the staff had advised Ms. Gladney on some house plans that will reflect the characteristics of the existing neighborhood.

Ms. Florestine Gladney stated that she would like a variance at 453 North Spring Street. She stated that due to the formation of the property, it would be very difficult to cut into the existing hill located on the rear of the property. Ms. Gladney stated with the current setbacks, the proposed houses would be about 27 feet from the curb of the street to the eave of the house. She stated each house would have a five foot side yard setback. She stated that she plans to have a space of about 16 feet on the north side of the property for parking to keep residences from parking in the street. She further stated the proposed houses would be similar to the homes presently located on North Spring. She stated that

each house would consist of about 1,200 square feet and will also be handicapped accessible.

Mr. Gratz asked if there was anyone present to speak either for or against the application. No one was present, thus the floor was opened to the committee and staff for discussion.

Mr. Johnson stated that houses will be comparable to the surrounding residences. He then asked Ms. Gladney if the houses would simply be “spec” houses, or would Ms. Gladney build all three houses, or would she sell the lots. Ms. Gladney stated that she has a general contractor and plans to build “spec” houses in order to control what will be constructed on the property.

Mr. Ellett asked Ms. Gladney how far into the rear of the property the houses will sit. Mr. Gary Johnson, of Gary Johnson Construction, and general contractor for the project, explained that he would have to cut about 15 feet into the existing hill on the northern most lot, but it would not damage the water tank. He stated that the water tank is approximately 60 to 75 feet from where he would cut into the hill, and he would construct an eight to ten foot retaining wall. Mr. Ellett asked if there were plans to cut down the existing oak trees on the property. Mr. Johnson stated that there is one oak on the property that needs to be cut before it falls, but more trees will be planted in its place. He stated that the retaining wall would be large and run the entire length of the property.

Mr. Johnson asked Mr. Johnson if he is a licensed contractor in the City of Tupelo. Mr. Johnson replied yes.

Mr. Gratz asked Mr. Johnson if he planned to finish out the proposed retaining wall by painting it or using stucco on it. Mr. Johnson stated that he plans to use concrete for the retaining wall.

Mr. Smith asked if the City Engineer had made any comments about the project. Mr. Falkner stated John Crawley, City Engineer, had stated that with two of the lots, no retaining wall would be required.

Mr. Johnson asked if the City Engineer would monitor the construction of the retaining wall. Mr. Falkner replied yes.

Mrs. Brown asked if the Tupelo Public Works Department had reviewed and approved the application given the location of the water tank. Mr. Falkner stated that Tupelo Water and Light is responsible for the water tank and had approved the project.

Mr. Johnson asked Mrs. Gladney if she planned to build all three houses at one time. Ms. Gladney stated that she is currently thinking of building all three houses at once. Mr. Johnson asked Ms. Gladney if she has a major financial plan to build all three houses at one time. Ms. Gladney stated there is no financial problem and all three houses can be built simultaneously.

Mr. Smith clarified that the proposed houses will be similar to the house located directly to the south of the property. Ms. Gladney stated yes.

Mrs. Sanders made a motion to approve the application as presented. Mr. Smith seconded the motion, which passed unanimously.

OTHER BUSINESS

At this time Mr. Johnson excused himself from the meeting.

1. Report on Development Code Subcommittee

Mr. Falkner stated that he has a rough draft Request for Proposals for the new development code. At Mr. Gratz request, Mr. Falkner stated that he would send a revised rough draft to the committee members no later than beginning of the following week and have it posted by Wednesday, May 13, 2009. Mrs. Brown asked Mr. Gratz if the Development Code Subcommittee has a date of when they hope to have a new development code. Mr. Falkner answered by stating the process of writing and adopting a new development code will take close to a year. Mr. Gratz agreed.

2. Report on the Candidate Education Forum

Mrs. Teal stated that the Candidate Education Forum held April 28th by the Department of Development Services and the Planning Committee had been a success. She stated that the staff was extremely enthusiastic about the forum and all division leaders who spoke at the forum did an excellent job. She stated that the visuals for the forum were very professional and the department and committee had received a positive response from all the candidates.

Mr. Gratz agreed, stating that the forum was very educational, and suggested that the Department of Development Services air 30 minute segments on Comcast Cable in order to educate the general public about the services they provide. Mrs. Brown suggested the department hold education forums for each neighborhood association within the city.

ADJOURN

There was no further business and the meeting was adjourned.