

**City of Hernando, Mississippi**

**Office of Planning**

**PLANNING COMMISSION**

**MARCH 23, 2021 MINUTES**

The Planning Commission met in a regular session on March 23, 2021, at 6:00 p.m. at City Hall Board Room, 475 W Commerce Street. The following Commissioners were present: Commissioner Ashworth, Commissioner Jernigan, Commissioner Cotten, Commissioner Carter, Commissioner Jordan, Commissioner Hawkins, Commissioner Skeen, and Commissioner Wicker. Commissioner Jordan arrived after the second item. The following staff members were also present Kristen Duggan and BJ Page

Commissioner Carter called the meeting to order at 6:01 p.m. and Commissioner Hawkins gave the invocation followed by roll being called.

Commissioner Carter asked if everyone had reviewed the February 9, 2021 minutes. Commissioner Ashworth stated that the last paragraph of Item 1 should be removed. It was not part of the stated case. Commissioner Wicker made a motion to approve the minutes with the stated change. Commissioner Hawkins seconded the motion. The motion passed unanimously.

Commissioner Carter then asked if everyone had a chance to review the minutes from March 9, 2021. Commissioner Wicker made a motion to approve the minutes as written. Commissioner Skeen seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Old Business: PL-1493 – Request Final Plat Approval for 1st Revision Gateway Subdivision a 2-Lot Subdivision located on the southeast corner of McIngvale Road and Thousand Oaks – Ben Smith IPD, LLC**

Mr. BJ Page presented the application to the commissioner. The commission had no questions for Mr. Page.

He then introduced Mr. ben Smith as being present to represent the application. The commission had no questions for Mr. Smith.

Commissioner Carter asked if here was anyone present to speak for or against the application. There was no one.

Commissioner Jernigan made a Motion to grant Final Plat approval for the 1st Revision to Gateway Subdivision, a 2-Lot Subdivision located on the southeast corner of McIngvale Road and Thousand Oaks Drive, increasing Lot 1 from 1.80 acres to 2.49 acres, while decreasing Lot 2 from 6.55 acres to 5.86 acres, based upon a finding that the submitted final plat generally conforms to the requirements of the City’s codes and ordinances, subject to the following conditions:

1. Revise the Owner’s and Mortgagee’s Certificates to state “…and dedicate the right-of-way for the roads and utility easements as shown on the plat of the Subdivision to the City of Hernando for the public use forever.” Eliminate the following wording, “…and reserve for the public utilities the utility easements as shown on the plat.”
2. Revise the plat to reflect the section corner tie-in.
3. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
4. Finished floor elevations shall be listed for each lot.
5. Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
6. Streetlights shall be installed at the developer’s expense. Streetlight plans shall be submitted to the Office of Planning for City Engineer and Planning Director approval.
7. All utilities and services (electric, telephone, cable, etc.) are to be installed underground. The water service lines shall be installed with tracing wire at the top.
8. Prior to recording the final plat, the Developer shall submit for approval a schedule of Lot Numbers and associated street addresses to the Office of Planning. Corner lots shall include potential addresses for both streets.

Commissioner Cotton seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 1: PL-1501 – Request for Zoning Variance to allow an accessory building larger in size than the maximum allowable under the Ordinance. To be located on a 2.80-acre property located on the east side of Gwynn Road, north of Nesbit Road, and south of Humane Way, more specifically known as 1920 Gwynn Road in Section 25, Township 2 South, Range 8 West, William Steven Gowen, property-owner.**

Mr. BJ Page presented the application to the commission.

Commissioner Cotten asked what would happen if there were multiple accessory buildings. Mr. Page stated that the total sum of all buildings could not exceed the 75% square footage allowance.

Commissioner Wicker asked if they had 3 acres would the building be allowed. Mr. Page stated that it would.

Mr. William Gowan, property owner, came forward. Commissioner Jernigan asked if this structure would be intended to store equipment out of the elements. Mr. Gowan stated that is correct. He then stated that he tried to purchase a portion of land behind him and was not successful. Commissioner Wicker then asked if he had spoken with the neighbors and asked what their thoughts were. Mr. Gowan stated that the neighbors did not have any problems with the building.

Commissioner Carter asked if there was anyone present to speak for or against the application. There was no one.

Commissioner Wicker made A motion to **approve** a Zoning Variance by William Steven Gowen, the owner of the property, to construct a 2,160 sq. ft. accessory building on the subject property identified as 1920 Gwynn Road, a 2.77-acre tract located on the east side of Gwynn Road, north of Nesbit Road, as submitted in the application based upon the following findings:

1. *That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.* A substantial majority of residential properties in the immediate district are over 10 acres and have out buildings that are as large or larger than the homes on those parcels. Virtually all of the buildings add to the curb appeal and neatness of the properties. It is the applicant’s intent to contribute to that trend in this district.
2. *That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Ordinance.* The proposed building will provide cover and protection for a 5th wheel camper, boat, tractor, lawn equipment, and wood working tools and equipment. Without a building of the size proposed these items are exposed to the elements, and make the property look cluttered and unkempt.
3. *That the special conditions and circumstances do not result from the actions of the applicant, and are not based upon economic considerations.* There would be no negative impacts as a result of this project, neither on my own property nor that of my neighbors.
4. *That granting the variance requested would not confer on the applicant any special privilege that is otherwise denied by this Ordinance to other lands, structures, or buildings in the same district.* The majority of residential properties in my immediate district already have out buildings that are similar in size and proportion to the home square footage as what I propose to build.

Commissioner Skeen seconded the motion. The motion passed with the following vote: Commissioner Jernigan “Yay,” Commissioner Cotton “Nay,” Commissioner Wicker “Yay,” Commissioner Hawkins Yay,” Commissioner Ashworth “Yay,” and Commissioner Skeen “Yay.”

Commissioner Jordan arrived and joined the commission

Chairman Carter announced the following item:

**Item 2: PL-1502 – Request for Final Plat Approval, Arbor Pointe Subdivision, Phase 3, 43 residential lots and to common open space lots on 18.88 acres located West of Memphis street at the western terminus of Arbor Pointe in Section 12, Township 3 South, Range 8 West, zoned “R-10,” Single-Family Residential District – Nick Kreunen, Civil-Link, engineer**

Mr. Page presented the application to the commission. he then stated that concerns with the retention basin have been brought to his attention. He explained to the commission that they have the ability to make any concerns a spart of a condition of approval.

Commissioner Carter then asked if this was originally approved as Copper Leaf Phase 2. Mr. Page stated that he would need to some research. Ms. Duggan stated that she believed there were originally two phases of Arbor Point and two phases of Copper Leaf. The preliminary approval of this phase was approved as Copper Leaf Phase 2 which is age restricted as 55 and over.

Nick Kruenen came forward to represent this application. Mr. Carter asked if this was originally Copper Leaf Phase 2. Mr. Kruenen stated that he wasn’t familiar with the original approval, but this is a straight R-10 zoning. Ms. Duggan stated that there was a concern that this doesn’t’ match the preliminary approval and this phase was approved as Copper Leaf Phase 2.

Mr. Johnny McBride came forward as the developer. He stated that the original approval was under a different name as an R-10 subdivision. It was all one subdivision with four phases.

Mr. Page stated that he feels this application needs to be tabled for more research.

Commissioner Jernigan stated that she is not comfortable approving any additional phases in this subdivision when there are so many erosion issues with Phase 2. She feels they need to fix the existing issues before moving forward. Mr. McBride stated that they are in the process of stabilizing and fixing the problem now. They are just waiting on the weather.

Commissioner Cotton made a motion to table the application to April 13 for more research and a legal opinion. Commissioner Wicker seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 3: PL-1503 – Request for a Design Review Variance to allow the use of exterior metal paneling on a new 27,400 sq. ft. office/maintenance building to be constructed by Entergy** **on a 15.0-acre tract located on the East side of U.S. Highway 51, south of Christopher Drive and north of License Drive in Section 24, Township 2 South, Range 8 West, zoned “C-2,” Highway Commercial District – Clark H. Wells, CDFL, engineer, Entergy, property-owner**

Mr. Page presented the application to the commission. He explained that the ordinance prohibits metal as a predominate exterior surface. The only exception is warehouse and industrial use. This building does not meet these exceptions. He went on to explain that this is a design review variance. It is not intended to waive an entire requirement. The variance should be equal to or better than.

Commissioner Cotton stated that his concern is setting a precedent of metal buildings. This building may look good but the next may not. Mr. Page explained that is why there is an equal to or better requirement. You must decide on whether this is equal to or better.

Mr. Clark Wells and Gene Crager came forward to represent the application. Mr. Crager stated that Entergy has worked hard to develop building with a mix of materials that is built regional. It has a mix of brick at the front entrance and a hardy plank material. He then asked that the commission approve this variance so that Entergy can continue this design.

Commissioner Carter stated that it is a nice design that does not look like a typical metal building, but he is concerned with the next business coming in with a metal building that is not designed as nicely.

Commissioner Jordan asked why not use hardy board. Mr. Crager stated that this comes in longer panels with less joints which makes for a cleaner look.

Commissioner Cotton stated that he feels this is black and white. The ordinance specifically states that this is not an allowed material. He feels the ordinance should be changed to allow this material if this is approved.

Commissioner Cotton made a motion A motion to **deny** a Design Review Variance to allow the use of metal paneling for Entergy Mississippi, Inc., as submitted in their application for construction of an office/maintenance building to be located on Parcel Number 2086240000001500, located on a 15.0-acre tract on the east side of U.S. Highway 51, between License Drive and Christopher Drive, based upon the design standards causing no hardship – purely a design issues along with the following findings:

A. *That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.* The applicant contends that the special conditions and circumstances are Entergy’s desire to develop a uniform design for their office/maintenance buildings that will be applicable on a regional basis. The applicant’s presentation does not reflect how a regionally applicable design dictates the use of metal paneling rather than a conforming material such as brick. Finally, the criteria requires that the special conditions and circumstances not be generally applicable to other lands, buildings, or structures in the same district. Theoretically, the argument being put forward by the applicant could be made by any other regional or national corporation choosing to locate in the same district.

B. *That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district and would not confer on the applicant any special privilege that is otherwise denied to other properties in the same district.* The existing commercial buildings in the immediate vicinity of the Entergy site were all constructed prior to the adoption of the City’s Minimum Design Standards Ordinance. As a result, all of these buildings incorporate metal paneling as part of their construction. However, the question of whether a special privilege is being conferred should be looked at from the standpoint of future development. Those future developments will be required to meet the standards of the City Ordinances at such time as they come about.

C. *That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations*. The applicant’s variance request directly results from the actions of the applicant. Their desire to use metal paneling in their design as part of a regionally applicable design for their buildings using the same materials and color palette. This is a choice of the applicant, not due to any special condition or circumstance beyond the applicant’s control.

D. *That the proposed modification upholds the intent and spirit of the Ordinance by providing an equal or better standard of protection and aesthetic value than the strict requirement of the Ordinance from which the variance is sought.* The proposed Entergy design does incorporate higher quality architectural materials in comparison to the old existing buildings nearby. However, this is not the best comparison, since such basic corrugated metal paneling used on these older buildings are no longer allowable outside of industrial zones. The metal paneling proposed in the Entergy design is not “equal to or better than” legal materials such as brick, stucco, or split-faced block.

The motion failed due to no second.

Commissioner Hawkins A motion to **approve** a Design Review Variance to allow the use of metal paneling for Entergy Mississippi, Inc., as submitted in their application for construction of an office/maintenance building to be located on Parcel Number 2086240000001500, located on a 15.0-acre tract on the east side of U.S. Highway 51, between License Drive and Christopher Drive, based upon the following findings:

1. *That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.* Entergy has worked diligently over past few years developing a regionally responsive prototype to address design standards for distribution service center buildings and their ancillary components throughout their service area. The mission with respect to service center design is to create buildings that are safe, energy efficient, have enduring life cycle value, and maximize operational efficiency.
2. *That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district, and would not confer on the applicant any special privilege that is otherwise denied to other properties in the same district.* Existing adjacent properties utilize exterior materials that are metal. All of these buildings incorporate metal paneling as part of their construction. Therefore, approval of the variance would not confer any special privilege on the applicant not already enjoyed by these existing properties.
3. *That the special conditions and circumstances do not result from the actions of the applicant, and are not based upon economic considerations.* This design incorporates and utilizes Entergy’s design standard for distribution service center buildings to maintain a consistent exterior design and color scheme and unifying signage that represent Entergy regionally without a multitude of variations dependent on-site specific locations.
4. *That the proposed modification upholds the intent and spirit of the Ordinance by providing an equal or better standard of protection and aesthetic value than the strict requirement of the Ordinance from which the variance is sought.* When one evaluates the existing developments on adjacent properties, the proposed Entergy design exhibits an exceptional design aesthetic, incorporates high quality architectural materials, and adds value to the area.

Commissioner Ashworth seconded the motion. The motion passed with the following vote: Commissioner Jernigan “Yay,” Commissioner Cotton “Nay,” Commissioner Jordan “Yay,” Commissioner Wicker “Yay,” Commissioner Hawkins Yay,” Commissioner Ashworth “Yay,” and Commissioner Skeen “Yay.”

Commissioner Skeen requested that Items 7 and 8 be moved up on the agenda. Commissioner Carter agreed. Commissioner Skeen made a motion to amend the agenda to move Items 7 and Item 8 up. Commissioner Wicker seconded the motion. The motion passed unanimously.

Commissioner Carter announced the following item:

**Item 7: PL-1508 – Request for Final Plat Approval, Wilkins Industrial Subdivision, 1.0 lot, 1.0 acres located east of U.S. Highway 51, south of License Drive, and north of Old U.S. Highway 51 in Section 24, Township 2 South, Range 8 West, zoned “M-1,” Light Industrial District – Robbie Jones, Jones-Davis Engineers, Dwight Wilkins, property-owner.**

Mr. page presented the application to the commission. He stated that he is concerned with the private drive. He feels that any private drive should be built to city specifications. He then stated that the access to only the tower lot is fine now, but if any further development or division occurs then there should be access to Highway 51 and that access should meet city specs.

The commission had no questions for the Mr. Page and the applicant was not present.

Commissioner Skeen made a Motion to grant Final Plat approval for the Nesbit Water Tower Lot at Wilkins Industrial Subdivision, Lot 1, a one-lot subdivision located east of U.S. Highway 51, north of Pleasant Hill Road, and south of License Drive based upon a finding that the submitted plat generally conforms to the requirements of the City’s codes and ordinances, subject to the following conditions:

1. Revise the Owner’s and Mortgagee’s Certificates to state “…and dedicate the right-of-way for the roads and utility easements as shown on the plat of the Subdivision to the City of Hernando for the public use forever.” Eliminate the following wording, “…and reserve for the public utilities the utility easements as shown on the plat.”
2. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
3. The developer shall install drainage pipe, erosion control material, sewer mains and service, water mains, fire hydrants, and service, gas mains and service, curb and gutter for all streets, and gravel or soil cement base for the streets and one (1) layer of blacktop, 1½" thick, before the plat of the subdivision is recorded. A performance guarantee must be filed for the remainder of the improvements in an amount set by the City Engineer. This includes another 1½" of blacktop making a total of three (3") of blacktop surface and sidewalks. Prior to recording the final plat, all public improvements shall be installed, completed, and accepted by the City of Hernando.
4. Access to Lot 1 shall be via a 30’ wide private road, which will be maintained by the property-owner, not the City of Hernando. Subject to any further subdivision of the property proposing to use the private road for access, the private road shall then be improved to meet City standards and specifications for public street construction as all private improvements must meet public standards and specifications.
5. Finished floor elevations shall be listed for each lot.
6. Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
7. Streetlights shall be installed at the developer’s expense. Streetlight plans shall be submitted to the Office of Planning for City Engineer and Planning Director approval.
8. All utilities and services (electric, telephone, cable, etc.) are to be installed underground. The water service lines shall be installed with tracing wire at the top.
9. Following Plat Approval, the Developer shall submit two (2) complete sets of construction plans for review and approval to the Office of Planning.
10. Prior to recording the final plat, the Developer shall submit for approval a schedule of Lot Numbers and associated street addresses to the Office of Planning. Corner lots shall include potential addresses for both streets.
11. Prior to submitting the plat for recording, the applicant shall coordinate with the Post Office the centralized delivery location of the mailboxes.

Commissioner Cotton seconded the motion. The motion passed unanimously.

Commissioner Carter announced the following item:

**Item 8: PL-1509 – Request for Final Plat Approval, Carlisle Development Subdivision, 3 Lots, 11.30 acres, located on the South side of East Commerce Street, West of McCracken Road, and east of Bradford Trace Mobile Home Park Road, in Section 18, Township 3 South, Range 7 West, zoned both “C-2,” Highway Commercial District and the “M-1,” Light Industrial District– Shannon Wells, Clear point Consulting Engineers, Carlisle Investments property-owner.**

Mr. Page presented the application to the commission. They had no questions for him

Mr. Shannon Wells was present to represent the application. The commission had no questions for the applicant.

Commissioner Carter asked if there was anyone present to speak for or against the application. There was no one.

Commissioner Skeen made a Motion to grant Final Plat approval for Magnolia Commons Subdivision Phase 4, a 36-Lot Single Family Residential Subdivision located east of Magnolia Drive, north of Magnolia Gardens Drive, and at the northern terminus of Magnolia Bloom Drive based upon a finding that the submitted plat generally conforms to the preliminary plat for the development and the requirements of the City’s codes and ordinances, subject to the following conditions:

1. Revise the Owner’s and Mortgagee’s Certificates to state “…and dedicate the right-of-way for the roads and utility easements as shown on the plat of the Subdivision to the City of Hernando for the public use forever.” Eliminate the following wording, “…and reserve for the public utilities the utility easements as shown on the plat.”
2. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
3. The developer shall install drainage pipe, erosion control material, sewer mains and service, water mains, fire hydrants, and service, gas mains and service, curb and gutter for all streets, and gravel or soil cement base for the streets and one (1) layer of blacktop, 1½" thick, before the plat of the subdivision is recorded. A performance guarantee must be filed for the remainder of the improvements in an amount set by the City Engineer. This includes another 1½" of blacktop making a total of three (3") of blacktop surface and sidewalks. Prior to recording the final plat, all public improvements shall be installed, completed, and accepted by the City of Hernando.
4. Sidewalks shall be installed on both sides of all streets.
5. Finished floor elevations shall be listed for each lot.
6. Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
7. Streetlights shall be installed at the developer’s expense. Streetlight plans shall be submitted to the Office of Planning for City Engineer and Planning Director approval.
8. All utilities and services (electric, telephone, cable, etc.) are to be installed underground. The water service lines shall be installed with tracing wire at the top.
9. Following Plat Approval, the Developer shall submit two (2) complete sets of construction plans for review and approval to the Office of Planning.
10. Prior to recording the final plat, the Developer shall submit for approval a schedule of Lot Numbers and associated street addresses to the Office of Planning. Corner lots shall include potential addresses for both streets.
11. Prior to submitting the plat for recording, the applicant shall coordinate with the Post Office the centralized delivery location of the mailboxes.

Commissioner Wicker seconded the motion. The motion passed unanimously.

Commissioner Carter announced the following item:

**Item 4: PL-1504 – Request for Conditional Use Permit Approval for “Open, Outside Storage” located on a 15.0-acre tract located on the East side of U.S. Highway 51, south of Christopher Drive and north of License Drive in Section 24, Township 2 South, Range 8 West, zoned “C-2,” Highway Commercial District – Clark H. Wells, CDFL, engineer, Entergy, property-owner**

Mr. Page presented the application to the commission.

Mr. Clark Wells came forward to represent the application. He stated that the material on the east side would be a crushed limestone material and they would only use this for storage during an emergency.

Commissioner Carter asked if anyone was present to speak for or against the application. There was no one.

Commissioner Cotton made a motion to approve the Conditional Use Permit for an open storage yard for Entergy Mississippi, Inc., to be located on Parcel Number 2086240000001500, located on a 15.0-acre tract on the east side of U.S. Highway 51, between License Drive and Christopher Drive, as an accessory use to a new office building, for a period of five (5) years expiring on March 9, 2026, at which time the applicant shall return to the Planning Commission for an evaluation and a time extension request, based upon the following findings:

1. *The proposed use will not substantially increase traffic hazards or congestion.* It is not anticipated that the proposed open storage yard will generate any significant increase in traffic. Access to the storage yard is maintained separately from the proposed access to visitor and employee parking. Traffic from and to the open storage yard will be limited to the comings and goings of the approximately 12 utility trucks that will be parked in that area, an additional 2 – 8 contractors on the average day. For deliveries, the facility should have 1 – 2 deliveries of the UPS/FedEx type on the average day. Therefore, according to the applicant the total for deliveries, contractors, and Entergy trucks should be less than 25 trips per day. The site is located on U.S. Highway 51, which is designated as a major road on the City’s Major Road Plan. The site does not propose to have direct access onto U.S. Highway 51, but will derive its access from License Drive, an existing commercial street, thereby not creating an additional conflict on U.S. 51 that might slow traffic or create additional traffic hazards due to turning movements. Additionally, License Drive has separate left and right turn lanes onto U.S. 51, allowing a greater ease of traffic movement and reducing congestion.
2. *The proposed use will not substantially increase fire hazards.* The vast number of materials that will be stored in the open storage yard will be non-flammable in nature, such as transformers and metal poles. To the extent that wooden poles will be stored in this area, none of the storage will be in close proximity to any potential fire source and are located at a substantial distance from the proposed building or any other nearby structures, preventing the spread of any possible fire event. The design of the open storage area provides complete accessibility to all sides of the storage area for fire-fighting equipment.
3. *The proposed use will not adversely affect the character of the neighborhood.* The proposed use will not adversely affect the character of the neighborhood in that the surrounding area to the south and east of the site is an existing commercial area of the city. Additionally, since this application involves new construction, the submitted plans provide for a higher level of architectural design and landscaping than the adjacent existing commercial uses.
4. *The proposed use will not adversely affect the general welfare of the City*. The proposed use will not adversely affect the general welfare of the City. As noted in Item #3, since this application involves new construction, the submitted plans provide for a higher level of architectural design and landscaping than the adjacent existing commercial uses. Additionally, the project will convert a previously vacant property into a beneficial commercial use providing jobs and increasing the City’s property tax base.
5. *The proposed use will not overtax public utilities or community facilities.* The very nature of the outdoor material storage areas does not require the provision of any additional public utilities or community facilities.
6. *The proposed use of the property will conform to the recommendations of the City's General Development Plan*. The Future Land Map of the General Development Plan designates the property for commercial land use and as such contemplates its future commercial development. Additionally, the proposed use is supportive of Commercial Land Use Goal 1, Objective 2: “Encourage the development of locally owned retail establishments, especially in the town square area.”

Commissioner Wicker seconded the motion. The motion passed unanimously.

Commissioner Carter announced the following item:

**Item 5: PL-1506 – Request for a Zoning Variance to allow the encroachment of an 8’ tall fence into the front yard setback of Christopher Drive for 220.6 lineal feet, and to allow the use of black vinyl coated chain-link fencing as a permissible fence material, on a 15.0-acre tract located on the East side of U.S. Highway 51, south of Christopher Drive and north of License Drive in Section 24, Township 2 South, Range 8 West, zoned “C-2,” Highway Commercial District – Clark H. Wells, CDFL, engineer, Entergy, property-owner**

Mr. Page presented the application to the commission. He explained that the black chain link is mostly in the rear of the building.

Mr. Clark Wells came forward to represent the application. There were no questions for the applicant.

Commissioner Carter asked if there was anyone present to speak for or against the application. There was no one.

Commissioner Jernigan made a motion to **approve** a Zoning Variance by Entergy Mississippi, Inc., to allow the use of black vinyl coated chain-link fencing and the encroachment of an 8’ tall fence into the front yard setback for 220.6 lineal feet in the northwest corner of the subject property identified as Parcel Number 2086240000001500, a 15.0-acre tract on the east side of U.S. Highway 51, between License Drive and Christopher Drive, as submitted in the application based upon the following findings:

1. *That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.* Other properties also zoned “C-2,” in the area utilize less aesthetic galvanized chain-link fencing with barbed-wire. Properties adjacent to the south also encroach on the front yard setback height requirement for over 500 lineal feet along License Drive and 240 lineal feet along U.S. Highway 51.
2. *That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Ordinance.* All existing fences on adjacent properties to the north and south utilize galvanized chain-link fencing with 3-strand barbed wire affixed to the top. Our project’s 220.6 lineal feet of encroachment of the front yard setback height requirement takes place entirely along the north and west portion of the subject property along Christopher Drive and none of the encroachment occurs along U.S. Highway 51, which is our property’s primary frontage.
3. *That the special conditions and circumstances do not result from the actions of the applicant, and are not based upon economic considerations.* Use of black vinyl coated chain-link fencing is an Entergy Security standard and is implemented on all new Entergy projects.
4. *That granting the variance requested would not confer on the applicant any special privilege that is otherwise denied by this Ordinance to other lands, structures, or buildings in the same district.* The use of chain-link fencing is in common use among adjacent properties in the area. The Entergy project’s specific implementation will utilize black vinyl-coated chain link in lieu of galvanized, and the fencing will not employ barbed or razor wire security attachments along the top of the fence. Per the City’s Design Standards Ordinance, Chapter 9, B.1, the exterior design features of the development will not be detrimental to the harmonious and orderly growth of the City.

Commissioner Wicker seconded the motion. The motion passed unanimously.

Commissioner Carter announced the following item:

**Item 6: PL-1507 – Request for a Design Review Variance to waive the requirement to provide a 5’ wide sidewalk along the East side of U.S. Highway 51, the south side of Christopher Drive, and the north side of License Drive on a 15.0-acre tract in Section 24, Township 2 South, Range 8 West, zoned “C-2,” Highway Commercial District – Clark H. Wells, CDFL, engineer, Entergy, property-owner**

Mr. Page presented the application to the commission. He explained that the black chain link is mostly in the rear of the building.

Mr. Clark Wells came forward to represent the application. There were no questions for the applicant.

Commissioner Carter asked if there was anyone present to speak for or against the application. There was no one.

Commissioner Skeen made a motion to **deny** a Design Review Variance by Entergy Mississippi, Inc., waiving the sidewalk requirements along U.S. Highway 51, Christopher Drive and License Drive on the subject property identified as Parcel Number 2086240000001500, a 15.0-acre tract on the east side of U.S. Highway 51, between License Drive and Christopher Drive, based upon the following findings:

A. *That the special conditions and circumstances that exist are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.* The applicant suggests that the special conditions and circumstances impacting the subject property have to do with the fact that there are no other sidewalks within the immediate area. This argument is non-responsive to the criteria. The criteria states that the special conditions and circumstances impacting the property must be peculiar to the property and not generally applicable to other lands, structures, and buildings in the same district. However, clearly the applicant’s argument is applicable to any other property in the immediate vicinity. Additionally, the Ordinance clearly considers instances where there are no sidewalks currently on adjacent properties when Article 7, Section “e,” Item “I” states: “Where sidewalks are not yet present on adjacent properties, the sidewalk shall be constructed at least five (5) feet back from the curb to allow for green space.” Finally, it is the intent of the sidewalk requirements of the Ordinance to provide for the incremental construction of a pedestrian circulation system over time, the presence or absence of sidewalks on adjacent properties being immaterial.

B. *That the literal enforcement of the provisions of these standards would deprive the applicant of rights commonly enjoyed by other properties within the same district, and would not confer on the applicant any special privilege that is otherwise denied to other properties in the same district.* We find the applicant’s comments non-responsive to addressing the criteria concerning whether approval of the variance would confer on the applicant a special privilege denied to other properties in the same district. Approval of this variance request would confer a special privilege on the applicant in that the Ordinance requirements would still apply to all other properties and any future developments in this district.

C. *That the special conditions and circumstances do not result from the actions of the applicant, and are not based upon economic considerations*. The applicant contends that the special conditions and circumstances necessitating the need for granting of the variance has to do with modifications that would be required to concrete flumes and stormwater structures along U.S. Highway 51. This may be true if the sidewalk was placed immediately adjacent to the eastern side of U.S. Highway 51. However, most public sidewalks are constructed at the outside edge of the right-of-way, not immediately adjacent to the street. If the sidewalk were placed along the eastern edge of the right-of-way, it is doubtful that this issue would be a problem. Additionally, it should be noted that the argument put forward by the applicant only addresses the situation on U.S. Highway 51, not License or Christopher Drive, where the applicant is also seeking waiver of the sidewalk requirements. Finally, the request is not to be based upon economic considerations. Although the applicant does not specifically reference the potential for financial gain or loss, there is a reference to the need for modifications to concrete flumes and stormwater structures if the sidewalks were required to be built. This would at least imply a concern over the additional time and cost that would result.

D. *That the proposed modification upholds the intent and spirit of the Ordinance by providing an equal or better standard of protection and aesthetic value than the strict requirement of the Ordinance from which the variance is sought.* We find the applicant’s comments to be non-responsive. A Design Review Variance is not intended to allow the total waiver of the City’s Design Standard requirements, but rather to provide an alternative approach utilizing alternative materials and colors that through their design approach provides an equal or better than level of aesthetic quality. The applicant simply argues for a complete waiver of the requirement. Finally, we would note that although the Minimum Design Standards Ordinance does have a Chapter 9, it does not have any items identified as B.1 through B.5.

Commissioner Wicker seconded the motion. The motion passed unanimously.

There being no further business to come before the Commission, A motion was made and seconded to adjourn the meeting. the motion passed unanimously. The meeting adjourned at 8:10 p.m.