

**City of Hernando, Mississippi**

**Office of Planning**

**PLANNING COMMISSION**

**MAY 11, 2021 MINUTES**

The Planning Commission met in a regular session on May 11, 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. The following staff members were also present Kristen Duggan and BJ Page

Commissioner Carter called the meeting to order at 6:06 p.m. and Commissioner Cotten gave the invocation and led the pledge of allegiance followed by roll being called.

Commissioner Carter asked if everyone had reviewed the April 13, 2021 minutes. Commissioner Wicker made a motion to approve the minutes as written. The motion was seconded and passed unanimously.

Chairman Carter announced the following item:

**Old Business: PL-1513 – Request to Rezone a 13.55-acre tract of land located on the north side of Green T Road and east of McIngvale Road and west of Tchulahoma Road, more specifically known as Parcel Number 207932000-0000700 in Section 32, Township 2 South, Range 7 West, Doug Thornton of AERC representing Joyce Estes, L.L.C. and Greg Drumwright, the property owners**

Mr. BJ Page explained that the applicant has requested to table the application until June 8, 2021.

Commissioner Hawkins made a motion to **TABLE** the application to June 8, 2021 meeting. Commissioner Wicker seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 1: PL-1515 – Request to Rezone a 1.30-acre tract of land located on the northeast corner of Gwynn Road and Nesbit Road, more specifically known as Parcel Number 208726010-000300.00 in Section 26, Township 2 South, Range 8 West, from the current zoning of “AR,” Agricultural Residential to “R-20,” Residential Single Family District (Low Density), Ben Smith with IPD Civil Engineering, representing Susan Wampler, the property-owner.**

Mr. Page presented the application to the commission. Commissioner Cotton stated that he does not feel that a shortage of homes in the area is a good argument for a rezoning.

Mr. Ben Smith came forward to represent the application. He stated that he feels that a mistake was made by Desoto County at the time of the original zoning. These lots were designated as AR, Agricultural Residential with a minimum of 1.5 acre lots. Most of the lots in the area are non-conforming. He added that the parcels across the street were recently rezoned to “R-40.” There is also a subdivision that has been built that has “R-8” to “R-12” lots. Sewer is also available in this area. Mr. Smith stated that he feels there have been enough changes in the area to warrant a zoning change in addition to the mistake in original zoning.

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

Commissioner Jordan made a motion to recommend **APPROVAL** to the Board of Aldermen of the rezoning of Parcel No. 208726010-00030.00, the Susan Wampler property, which is a 1.30-acre tract located on the northeast corner of Gwynn Road and Nesbit Road, from the “AR,” Agricultural/Residential District to the “R-20,” Residential Single-Family District (Low Density), based upon the following findings:

1. How the proposed amendment would conform to the General Development Plan.

Although the rezoning request does not conform to the recommendations of the City’s currently adopted General Development Plan. The request does conform to the as yet unadopted 2020 Comprehensive Plan draft which designates the subject property for “Suburban Neighborhood – Low Density” land use, which recommends lots of 0.5-acres up to 3.0 acres in size.

1. Why the existing zoning district classification of the property in question is inappropriate or improper.

The character of the neighborhood is detached homes on small lots, considerably smaller than 1.5 acres. If this area were properly zoned at the time of the adoption of the Desoto County Comprehensive Plan (2004) the small residential lots in Nesbit would not be non-conforming. Several large lots have been recently divided into R-40 Lots. Some of Willingham Estates Lots are R-10 in size. The availability of central water and sewer justifies smaller lots.

1. That major economic, physical, or social changes, if any, have occurred in the vicinity of the property in question that were not anticipated by the General Development Plan and have substantially altered the basic character of the area, which make the proposed amendment to the Zoning District Map appropriate.

All of Desoto County is experiencing a shortage of homes and buildable lots. This area is a highly desirable area to live. Demand for homes has never been this high. This rezoning and future lot division will create one lot with an existing home and one buildable lot for sale to help meet the demand.

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

Chairman Carter announced the following item:

**Item 2: PL-1518 – Request to Rezone a 1.0-acre portion of a 4.0-acre tract of land located on the south side of Byhalia Road, east of McIngvale Road and west of Jaybird Road, more specifically known as Parcel Number 307308000-00001.01 in Section 8, Township 3 South, Range 7 West, from the current zoning of the “A,” Agricultural District to the   
O” Office District. Mr. Jon Lovell, representing The MS Goat, L.L.C. the owner of the property.**

Mr. Page presented thee application. The commission had no questions for Mr. Page, so he introduced Mr. Jon Lovell as being present to represent the application.

Mr. Lovell, 1650 Single Tree Dr, came forward. With Madison Lakes coming in he stated that he felt this property would be a good investment. He then added that he currently has a local business owner that wants to expand her business and feels like this would be a great location.

Commissioner Jernigan asked if he plans to leave the building as is. Mr. Lovell said that they intend to freshen it up, but it will remain as is for the most part.

Commissioner Carter asked if there was anyone present to speak for or against the application. Ms. Jennifer Pacileo came forward.

Ms. Pacileo stated that she owns Southern pediatric Therapy and has over 310 children with special needs that come through her doors. She has 8 employees now and has 81 patients on the waiting list. She needs a larger facility and would love to be able to relocate her business to this location.

Commissioner Carter added that with the approval of Madison Lakes in the area this is a good fit.

Commissioner Jernigan made a motion to recommend **APPROVAL** to the Board of Aldermen of the rezoning of Parcel No. 307308000-00001.01, the MS Goat, L.L.C., property, which is a 1.0-acre portion of a 4.0-acre tract located on the south side of Byhalia Road, east of McIngvale Road and west of Jaybird Road, from the “A,” Agricultural District to the “O,” Office District, based upon the following findings:

1. How the proposed amendment would conform to the General Development Plan.

This property has been allowed to be used as an office building for North Mississippi Utilities under the current zoning as a public service facility for a number of years. The buildings on the site are of commercial construction and not easily convertible to residential use. The building use will not change from office use, but the current zoning won't allow for traditional office use. Rezoning to the “O” district would be a natural extension of the retail commercial and office development proposed on the north side of Byhalia Road in the Madison Lakes PUD.

1. Why the existing zoning district classification of the property in question is inappropriate or improper.

This property has been allowed to be used as an office building for North Mississippi Utilities under the current “A,” Agricultural District zoning as a *public service facility* for a number of years. The buildings on the site are of commercial construction and not easily convertible to residential use. Although the building use will not change from office use, the current “A,” Agricultural District zoning won't allow for traditional office use.

1. That major economic, physical, or social changes, if any, have occurred in the vicinity of the property in question that were not anticipated by the General Development Plan and have substantially altered the basic character of the area, which make the proposed amendment to the Zoning District Map appropriate.

A local business, Southern Pediatric Therapy, has a need to expand their business due to their growth in clientele. The business owner wants to remain in the City of Hernando and sees the subject property and building as a good opportunity to expand. Rezoning to the “O” district would be a natural extension of the retail commercial and office developments proposed on the north side of Byhalia Road in the Madison Lakes PUD.

Commissioner Hawkins seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 3: PL-1519 – Request for** **Final Plat Approval, Copperleaf at Arbor Point Subdivision, Phase 2, 43 lots and 2 common open spaces lots on 1888 acres located west of Memphis Street at the western terminus of Arbor Point Boulevard in Section 12 Township 3 South,, Range 8 West, zoned “R-10,” Single Family Residential District – Nick Kruenen, Civil-Link, on behalf of M &R Builders L.L.C., the property owner.**

Mr. Page presented the application to the commission. He explained that there has been a major change to the covenants that were submitted for this phase. Article 7 “Housing for Older Persons Provisions” has been removed. Mr. Page recommended that the Declaration of Covenants reflect the covenants of Copperleaf at Arbor Point Phase 1 including Article 7. He also added that a provision be added that requires any changes to said covenants must be submitted to the City.

Commissioner Jernigan stated that there are still drainage issues that need to be addressed. She added that she does not feel that the development matches what was approved in 2017. Mr. Page stated that he would be happy to stet up a meeting with the city Engineer if she would loke to discuss these issues.

Nick Kruenen, Civil-Link, came forward. He stated that the developer is good with all conditions except the 55 and over provision. Commissioner Jordan asked if there is any justification for removing this condition.

Mr. Jerry McBride, developer, came forward, He stated that the property has not sold the way they expected it to. He stated that they planned to fence around Copperleaf Phase 1 he also added that he had a conversation with Mr. Keith Briley, and Mr. Brisley told him that he could change the 55 and over requirement if Phase 1 did not work out. Commissioner Carter stated that Mr. Briley is not there to defend the conversation so that should be irrelevant. Mr. Stockto added that conversation on the side do not matter. The Planning Commission and Board of Alderman are the only discussions and decisions that matter.

Commissioner Jernigan stated that she hopes that the new area does not have the same problems as they do now. Mr. McBride stated that the development is not finished. The final product will be graded and look very nice.

Commissioner Jordan asked how many 55 and over houses were sold in Phase 1. Mr. McBride stated that there are 36 homes and 29 sold. Commissioner Jordan then stated that 29 people purchased under the assumption that both phases would be 55 and over. Mr. McBride stated that Phase 1 is 55 and over. He asked that the commission approve Phase 2 as submitted. He added that he did not submit this application with 55 and over. Mr. McBride added that there have been 120 houses sold n the traditional Arbor Point and only 29 sold in the 55 and over Copperleaf.

Commissioner Cotton stated that the way it was submitted and the way the staff report is written are different.

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

Commissioner Jordan made Motion to **GRANT** Final Plat approval for Copperleaf at Arbor Pointe Subdivision, Phase 2, a 45-Lot Single Family Residential Subdivision (43 residential lots and 2 common open spaces) located west of Memphis Street, at the western terminus of Arbor Pointe Boulevard in Section 12, Range 3 South, Township 8 West, based upon a finding that the submitted plat generally conforms to the approved 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. Revise the plat to correct Note #1.
3. Revise the plat to reflect the section corner tie-in.
4. Any buffer areas, retention basins, landscape areas, open areas, street medians, entrance signs, and any other common elements, proposed to be dedicated to the Homeowners Association in Phase 2 shall be deeded over to the Copperleaf Homeowners Association with the recording of the final plat of that phase. A copy of all of deeds transferring common elements to the Copperleaf Homeowners Association shall be submitted to the staff for inclusion in the file prior to the issuance of any building permits in Phase 2.
5. Revise the “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision” submitted with the Phase 2 application to match the “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision” recorded with Phase 1 of the Copperleaf at Arbor Pointe Subdivision. Revise the “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision” submitted with the Phase 2 application to address all of the comments discussed under Item #2 of the “Staff Comments” above. Revise Article 6, “General Provisions (Article 8 as corrected),” Section 3, “Amendments,” of the “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision,” submitted with the Phase 2 application to add the following statement: “Any proposed amendments to this “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision” must be submitted to the City of Hernando, Mississippi, Planning Commission for review and approval prior to recording.” The revised “Declaration of Covenants, Conditions, and Restrictions of Copperleaf at Arbor Pointe Subdivision” to be recorded with Phase 2 must be submitted to the Hernando Planning Department for review and approval prior to recording the final plat for Phase 2.
6. As Phase 2 completes the subdivision, all common elements required in all previous phases of the development must be completed and dedicated to the applicable Homeowners Association prior to the issuance of any building permits in Phase 2.
7. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
8. All landscaping in all common open space areas, natural areas, buffer areas, streetscape areas, medians, islands, and the entrance signage areas and such other associated improvements shall be installed/constructed prior to the recording of the final plat for Phase 2. Street trees may be bonded insuring their installation prior to the final inspection and occupancy of the residence upon each lot.
9. 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.
10. Sidewalks shall be installed on both sides of all streets, with the exception of Memphis Street where sidewalks will only be required on the west side of the street to the extent the street borders the development.
11. Finished floor elevations shall be listed for each lot.
12. Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
13. 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.
14. 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.
15. Following Plat Approval, the Developer shall submit two (2) complete sets of construction plans for review and approval to the Office of Planning.
16. 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.
17. Prior to submitting the plat for recording, the applicant shall coordinate with the Post Office the centralized delivery location of the mailboxes.

He added that Article 7 of the original covenants be added back to Phase 2 covenants. Commissioner Cotten seconded the motion. The motion passed with the following vote: Commissioner Jernigan “Nay,” Commissioner Cotton “Yay,” Commissioner Jordan “Yay,” Commissioner Wicker “Nay,” Commissioner Hawkins “Yay,” Commissioner Ashworth “Yay,” and Commissioner Skeen “Yay.”

Commissioner Carter called for a 5-minute break.

The Meeting resumed.

Chairman Carter announced the following item:

**Item 4: PL-1517 – Request for Final Plat Approval, Jefferson Estates Subdivision Section “D,” 21 residential lots and 1 common open spaces lot on 11.94 acres located on the south side of Holly Springs Road and east of Jaybird Road in Section 21, Township 3 South, Range 7 West, zoned “PUD” planned unit Development District – Andy Richardson of R & H Engineering and Surveying, representing Robert Reiner, the property owner.**

Mr. Page presented the application to the commission. He then introduces Mr. Andy Richardson as being present to represent the application.

Mr. Richardson came forward. Commissioner Jernigan asked if there would be three stub street to Holly Springs Road. He stated the there would be one that stubs out to Holly Springs Road and the other two are interior streets.

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 **GRANT** Final Plat approval for Jefferson Estates Subdivision, Section “D,” a 22-lot single family residential subdivision located on the southeast corner of Holly Springs Road and Jaybird Road, at the eastern terminus of Jaxon Road in Section 21, Township 3 South, Range 7 West, based upon a finding that the submitted final plat generally conforms to the approved preliminary plan for the planned unit development, and generally meets the requirements of the City’s codes and ordinances, subject to the following conditions:

1. Revise the final plat to address the following:
2. 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.”
3. Revise the Mayor and Board of Aldermen’s Certificate to read “City of Hernando,” not “City of Horn Lake.”
4. Revise the plat to reflect the ownership of all adjacent properties.
5. Revise the plat to label the front yard building line and its depth.
6. Revise the plat to identify the right-of-way widths of all of the streets.
7. A Homeowners Association is to be established prior to the recording of the final plat. Any buffer areas, retention basins, landscape areas, open areas, street medians, entrance signs, and any other common elements, proposed to be dedicated to the Homeowners Association in that phase shall be deeded over to the Homeowners Association with the recording of the final plat of that respective phase. A copy of the finalized incorporation papers and all deeds transferring common elements to the Homeowners Association shall be submitted to the staff for inclusion in the file.
8. The Homeowners Association covenants shall be submitted to and approved by Planning Staff prior to recording of the plat. The submitted covenants shall match the covenants that were recorded with Phases “A,” “B,” and “C” of Jefferson Estates Subdivision. If amendments are requested by the developer, if the proposed changes are more restrictive than what is currently required by the previous sections of Jefferson Estates Subdivision, then those changes may be approved by the Planning staff. If the proposed changes are less restrictive than what is currently required by the previous sections of Jefferson Estates Subdivision, then those changes must be approved by the Planning Commission.
9. All common elements required in all previous sections of the development must be completed and dedicated to the Homeowners Association prior to the issuance of any building permits in Section “D.”
10. Improvements are to be the responsibility of the developer and not the responsibility of the City of Hernando.
11. All landscaping in all common open space areas, natural areas, buffer areas, streetscape areas, medians, islands, and the entrance signage areas and such other associated improvements shall be installed/constructed prior to the issuance of any building permit within that respective phase of the development. Street trees may be bonded insuring their installation prior to the final inspection and occupancy of the residence upon each lot.
12. 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.
13. Prior to the beginning of utility and improvement construction, the Developer shall enter into a Development Contract with the City of Hernando for the installation of all required Public Improvements. This is in accordance with Article VI Required Minimum Improvements, §B. Procedures for Posting or Release of Bonds of the City of Hernando’s Land Subdivision Ordinance.
14. Sidewalks shall be installed on both sides of all streets.
15. Finished floor elevations shall be listed for each lot.
16. Grading, drainage, and engineering construction plans to be approved by the City Engineer and Public Works Director.
17. 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.
18. 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.
19. Following Plat Approval, the Developer shall submit two (2) complete sets of construction plans for review and approval to the Office of Planning.
20. 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.
21. Prior to submitting the plat for recording, the applicant shall coordinate with the Post Office the centralized delivery location of the mailboxes.

Commissioner Skeen seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 5: PL-1516 – Request for a Zoning Variance to allow the encroachment of a detached garage 1.5 feet from the west property line of the lot, rather than the required 5 feet, a variance of 3.5 feet, on a 1.07 acre parcel located on the south side of Milam Lane, east of McIngvale Road, and also east of Single Tree Lane, in Section 8, Township 3 South, and Range 7 West, more specifically known as 1315 Milam Lane, zoned “A,” Agricultural District – Richard Robinson, property owner.**

Mr. Page presented the applicant. He stated that this is a 24x36 detached garage. He then introduced Mr. Richard Robinson as being present to represent the application.

Mr. Richard Robinson, property owner, stated that there is a drainage ditch between the two properties that makes it difficult to meet the setback requirements.

Commissioner Cotton asked if he assumed that the drainage ditch. Mr. Robinson said yes.

Mr. Kenny Stockton, city attorney, said that the commission needs to consider that this will be over the utility easement and if built it will be at the owners risk. A utility company could come through in the future and remove the building. Mr. Page added that in the terms of granting the variance it does not do anything to relieve that the risk of building over a utility easement.

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

Commissioner Jordan made a motion to **APPROVE** a Zoning Variance by Richard Robinson, the owner of the property, to construct a 24’ x 36’ detached garage 12’ from the residence and 1.5’ from the west side property line as represented on the submitted site plan, granting a variance of 3.5’ from the 5.0’ side yard setback requirement on the subject property identified as 1315 Milam Lane (Parcel #307308030-00017.0), a 1.07-acre tract located on the south side of Milam Lane, east of McIngvale Road, further east of Single Tree Lane, 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.* The applicant’s lot is narrow in width, and his home appears to be larger than his neighbors’ homes. Due to the location of the home on the lot and the location of the existing driveway, these special conditions and circumstances are all limiting factors on the potential location of the detached garage.
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.* Because of the various limiting factors to the location of the detached garage discussed in Item A., above, the strict enforcement of the requirements of the Ordinance does deny the applicant the opportunity to construct a detached garage which many of his adjacent and surrounding neighbors already enjoy.
3. *That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations.* Milam Country Subdivision was recorded in 1987 and the residence on the property was constructed until 1996, so the size and shape of the lot and the location of the drainage ditch to the west were already fixed by the developer of the subdivision before the applicant acquired the subject property.
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.* Since many of the applicant’s surrounding and adjacent neighbors already have constructed detached garages of similar size, approval of the variance would not confer on the applicant any special privilege otherwise denied by this Ordinance to other lands, structures, or buildings in the same district.

He added that the building is over the utility easement that may impair his usage. The owner has acknowledged this and is aware.

Commissioner Jernigan seconded the motion. The motion passed unanimously.

Chairman Carter announced the following item:

**Item 6: PL-1514 – Request for a Zoning Variance to allow the elimination of 26 required off-street parking spaces relating to the recent construction of a memory care facility at the location of the existing assisted living facility on a 30.0-acre parcel located on the southwest corner of McIngvale Road and Martin Circle South, in Section 7, Township 3 South, and Range 7 West, more specifically known as 1325 McIngvale Road. The subject property is currently zoned “RM-6,” Residential Multi-Family District (High Density). united Methodist Senior Services of Desoto County, property owner.**

Mr. Page presented the application to the commission.

There was no applicant present.

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 **APPROVE** a Zoning Variance for United Methodist Senior Services of DeSoto County, the owner of the property, to eliminate 26 required parking as represented on the submitted site plan as it relates to the construction of a memory care facility on the subject property identified as 1325 McIngvale Road (Parcel #307307000-00001.02), a 30.0-acre tract located on the southwest corner of McIngvale Road and Martin Circle South, in Section 7, Township 3 South, and Range 7 West, 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.* The staff at the new building are one in the same as at the existing independent living facility, which shares parking with the new building. This new facility is designed for special care (memory care) and residents do not have their own vehicles. The existing facility meets the same parking requirements by building area, yet many of those residents also do not have cars, therefore demand does not exceed parking count. Also, the type of care given in the new building would never require resident parking.
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.* Because of the special conditions involved by the specific use of the property (assisted living and memory care), the strict enforcement of the requirements of the Ordinance would adversely affect the applicants’ project.
3. *That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations.* The nature of these forms of senior living (assisted living and memory care), and the reduced needs for parking that accompany them, are true wherever these types of facilities are constructed.
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 nature of these forms of senior living (assisted living and memory care), and the reduced needs for parking that accompany them, are true wherever these types of facilities are constructed.

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 8:09 p.m.