

The Mayor and Board of Aldermen of the City of Hernando met in Recessed session at City Hall on Tuesday, January 23, 2024 at 6:00 P.M. with Mayor Chip Johnson presiding. Alderpersons present were: Alderman W.I. “Doc” Harris, Alderwoman Natalie Lynch, Alderman Andrew Miller, Alderman Bruce Robinson, Alderman Chad Wicker, Alderwoman Beth Ross, and Alderman Ben Piper. Also present for the meeting were: City Clerk Pam Pyle, HR Director Julie Gates, City Attorney Steven Pittman, Public Works Director Lee Germany, Police Chief Shane Ellis, Police Assistant Chief Charles Lanphere, Fire Chief Marshel Berry, Deputy Fire Chief Sam Witt, Planning Director Austin Cardosi, City Engineer, Joe Frank Lauderdale, Parks Director Jared Barkley, Community Development Director Gia Matheny, Nester Duran, Kevin Bolin, Frank Pevey, Jerry Anne Pevey, Wade Stevens, Mike & Kaye Hanna, Charles McClellan, Tony & Shirley Middleton, Joseph Green, Tim Miller, Sharon Miller, Allen Nelson, Rebecca Nelson, Tommy & Betsy McDonald, Rachel Moore, Chris Moore, Shannon Barrett, Kevin Jones, Cynthia Coleman, Carolyn Young, Cole Bostick, Randy White, Patti Hallberg, Wayne Challberg, John McCormick, Steven Hodge, Scott Haley, Kevin Earnest, Dale Bellflower, Mike Allen, Patti Allen, Greg Smith, Doug Thornton, Ronnie Rowland, Ryan Diffe, Jeff Brown, Jodi Plunk, Tracy Dobbs, Tonya Dobbs, Mark Anglin, Sam Anglin, and Pieter Zee.

Alderman Doc Harris attended via teleconference.

**20240123**

---

**PLEDGE OF ALLEGIANCE**

---

Pledge of Allegiance

**20240123**

---

**INVOCATION**

---

Alderman Miller gave the invocation.

**20240123**

---

**AGENDA**

---

Agenda  
City of Hernando  
Mayor and Board of Alderman  
Recessed Meeting

January 23, 2024

6:00 pm

- 1) Call the meeting to order.
- 2) Pledge of Allegiance
- 3) Invocation

***RECESS MEETING TUESDAY, JANUARY 23<sup>RD</sup> AT 6:00PM DUE TO INCLEMENT WEATHER***

- 23) End of the year update from the Department of Community Development: Director Gia Matheny
- 24) End of the year update from the Department of Public Works: Director Lee Germany
- 25) Presentation of Community Service Award-Carolyn Young
- 26) **Appeal of the denial of PL-1775 - Hilltop Body Shop Variance** – Request for a Variance to allow a 6-foot fence and a 20-foot bufferyard. The subject property is located

on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr, more specifically 2181 U.S. Hwy 51 N, in Sections 24, Township 2, and Range 8, Chance Walker, IPD, representing Ronnie Rowland, owner.

- 27) Appeal of the denial of PL-1776 – Longview Point Design Variance** - Request for a Design Review Variance to allow metal panels on the exterior of the building. The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 8, Township 3, Range 7, Patrick Smith, AERC, representing the owner.
- 28) PL-1781 – Edgewater PUD Revision** - Request to revise 1.3 acres of the Edgewater PUD to allow an auto repair facility. The subject property is located on the south side of Holly Springs Road, east of McIngvale Road. Parcel Number 307420000 0001000 in Section 20, Township 3, Range 4, Robbie Jones, representing the owner.
- 29) PL-1783 – Elm Street & Robinson PUD** – Request to revise 0.32 acres from R-12 to PUD. The subject property is located on the southeast corner of Elm Street and W Robinson, east of McIngvale Road. Parcel Number 308613071 0386100 in Section 13, Township 3, Range 8, Jon Lovell, owner of the property.
- 30) Revision to the Board order approving gated access to Chapel Grove PUD** - Located on the west side of Robertson Gin Road, south of Oak Grove Road in Section 23, Township 3, Range 8 and is zoned PUD.
- 31) Discussion of additional streets to be paved in this budget year.
- 32) Adjourn

**20240123-23**

**END OF THE YEAR UPDATE FROM THE DEPARTMENT OF COMMUNITY  
DEVELOPMENT: DIRECTOR GIA MATHENY**

---

No action taken.

**20240123-24**

**END OF THE YEAR UPDATE FROM THE DEPARTMENT OF PUBLIC WORKS:  
DIRECTOR LEE GERMANY**

---

No action taken.

**20240123-25**

**PRESENTATION OF COMMUNITY SERVICE AWARD-CAROLYN YOUNG**

---



*City of Hernando*

**COMMUNITY SERVICE AWARD  
1<sup>ST</sup> QUARTER 2024**

*In Grateful Recognition of Your Commitment  
To Serving Others and Your Community*

*On This Day, The City of Hernando  
Presents This Award To*

*Carolyn Young  
The Hernando Veterans Parade*

DATED THIS 16<sup>th</sup> day of January, 2024

\_\_\_\_\_  
Chip Johnson, Mayor  
On Behalf of the Board of Aldermen  
City of Hernando, Mississippi

**20240123-26**

**APPEAL OF THE DENIAL OF PL-1775 - HILLTOP BODY SHOP VARIANCE – REQUEST FOR A VARIANCE TO ALLOW A 6-FOOT FENCE AND A 20-FOOT BUFFERYARD. THE SUBJECT PROPERTY IS LOCATED ON THE WEST SIDE OF U.S. HWY 51 N, NORTH OF NESBIT RD AND SOUTH OF LICENSE DR, MORE SPECIFICALLY 2181 U.S. HWY 51 N, IN SECTIONS 24, TOWNSHIP 2, AND RANGE 8, CHANCE WALKER, IPD, REPRESENTING RONNIE ROWLAND, OWNER.**

Motion was duly made by Alderman Wicker seconded by Alderman Piper to approve a variance to the required bufferyard and fence height as described in the application. The subject property is located on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr. more specifically 2181 U.S. Hwy 51 n, in Sections 24, Township 2, Range 8 based upon the findings A through D.

A vote was taken with the following results:

Those voting “Aye”: Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, Alderman Harris, and Alderman Miller.

Those voting “Nay”: Alderwoman Lynch

Absent: None

ORDERED AND DONE this the 23<sup>rd</sup> day of January, 2024.



City of  
**Hernando**  
MISSISSIPPI

**BOARD OF ALDERMEN  
STAFF REPORT**

---

**Project No.:** PL-1775  
**Request:** Hilltop Body Shop Variance to required fence and bufferyard  
**Location:** The subject property is located on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr, more specifically 2181 U.S. Hwy 51 N, in Sections 24, Township 2, and Range 8  
**Applicant:** Chance Walker, IPD, representing Ronnie Rowland, owner.  
**Date:** January 16<sup>th</sup>, 2023

---

**INTRODUCTION:**

Mr. Walker is requesting a variance to the required bufferyard distance and required fence height. The site is described on the attached exhibit. The subject property is located on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr, more specifically 2181 U.S. Hwy 51 N, in Sections 24, Township 2, and Range 8

The required separation for M1 to A zoning is a 40 foot bufferyard and a 10 foot fence. The applicant is proposing a 20 foot bufferyard and a 6 foot fence. All required plantings within the bufferyard are proposed to be installed.

**DISCUSSION:**

A Zoning Variance is based upon the concept of “unnecessary hardship.” In other words, whether or not the strict enforcement of the requirements of the Ordinance will impose on the applicant an unnecessary hardship as a result. In considering any Zoning Variance for approval or denial, the Planning Commission must make specific findings concerning the following questions to determine if an “unnecessary hardship” exists:

1. **That special conditions and circumstances exist that are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.**

Applicant Response: This property is zoned M-1 and surrounding zoning is A. There is potential for the surrounding property to be zoned M-1 based on the future land use map and currently the zoning requires a bufferyard type 40. This bufferyard is taking away a substantial amount of the owners land and making it useful. There is also a 6'-7' high berm on the West and North property line that acts as a natural buffer to the neighboring property.

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.**

Applicant Response: The current zoning is requiring a 40' bufferyard around the perimeter of the property due to the property adjacent being zoned A. This 40' buffer makes a substantial part of the owners land useless. We are proposing making the 40' buffer a 20' buffer and remain all required landscaping with a 6' fence instead of a 10' fence.

3. **That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations.**

Applicant Response: We are trying to prepare the property planning wise to account for the future land use's that could be adjacent to the property. Potentially in the future if the property adjacent to the subject property is zoned light industrial the owner is stuck with a 40' buffer while the neighboring property would not be required to have a 40' buffer. We are proposing a 20' buffer with same requirements instead of 40' buffer.

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.**

Applicant Response: We will still have a 20' buffer along with a 6' fence and required landscaping. There is a natural berm that is 6'-7' in height along West and North Property line that naturally hides the site for adjacent property owners.

**OTHER COMMENTS:**

1. If approved, the applicant shall submit all necessary building permits required.
2. This application was denied by the Planning Commission by a vote of 5-2 and was subsequently appealed.

**PROPOSED MOTIONS:**

1. A motion to **approve** a variance to the required bufferyard and fence height as described in the application. The subject property is located on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr, more specifically 2181 U.S. Hwy 51 N, in Sections 24, Township 2, and Range 8 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.*

- 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 under the terms of this Ordinance.*
  - C. *That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations.*
  - D. *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.*
2. A motion to **DENY** a variance to the required bufferyard and fence height as described in the application. The subject property is located on the west side of U.S. Hwy 51 N, north of Nesbit Rd and south of License Dr, more specifically 2181 U.S. Hwy 51 N, in Sections 24, Township 2, and Range 8 based upon the following findings:
- A. *That the special conditions and circumstances that exist are not peculiar to the land, structures, or buildings involved, and are generally applicable to other lands, structures, or buildings in the same district.*
  - B. *That the literal enforcement of the provisions of these standards would not deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Ordinance.*
  - C. *That the special conditions and circumstances do result from the actions of the applicant, and/or are based upon economic considerations.*
  - D. *That granting the variance requested would confer on the applicant any special privilege that is otherwise denied by this Ordinance to other lands, structures, or buildings in the same district.*
3. The Planning Commission may wish to **table** the item to the next regularly scheduled meeting in the event the Commission should feel that they need additional information submitted by the applicant or if the Commission feels that they need more time to consider the request.

20240123-27

**APPEAL OF THE DENIAL OF PL-1776 – LONGVIEW POINT DESIGN VARIANCE - REQUEST FOR A DESIGN REVIEW VARIANCE TO ALLOW METAL PANELS ON THE EXTERIOR OF THE BUILDING. THE SUBJECT PROPERTY IS LOCATED ON THE SOUTH SIDE OF BYHALIA ROAD AND EAST OF MCINGVALE ROAD, MORE SPECIFICALLY 1100 MCINGVALE ROAD, IN SECTION 8, TOWNSHIP 3, RANGE 7, PATRICK SMITH, AERC, REPRESENTING THE OWNER.**

Motion was duly made by Alderman Robinson seconded by Alderman Piper to approve a design variance for Longview Point Church, as described on the attached exhibits. The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 6, Township 3, Range 7, based upon the findings A through D as shown on applicant exhibits.

A vote was taken with the following results:

Those voting "Aye": Alderman Miller Alderman Robinson, Alderman Wicker, Alderwoman Ross, Alderman Piper, and Alderman Harris.

Those voting "Nay": Alderwoman Lynch

Absent: None

ORDERED AND DONE this the 23<sup>rd</sup> day of January, 2024.



City of  
**Hernando**  
MISSISSIPPI

**BOARD OF ALDERMEN  
STAFF REPORT**

**Project No.:** PL-1776  
**Request:** Appeal of the decision of the Planning Commission - Longview Point Design Variance  
**Location:** The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 8, Township 3, Range 7  
**Applicant:** Patrick Smith, AERC, representing the owner.  
**Date:** January 16<sup>th</sup>, 2024

**INTRODUCTION:**

Mr. Smith is requesting variance to allowable exterior building materials. The building is described on the attached exhibit. The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 8, Township 3, Range 7

The property received a previous Certificate of Development approval for a small portion of metal façade in 2014, that memo is attached.

**DISCUSSION:**

A Design Variance is based upon the concept of "unnecessary hardship." In other words, whether or not the strict enforcement of the requirements of the Ordinance will impose on the applicant an unnecessary hardship as a result. In considering any Zoning Variance for approval or denial, the Planning Commission must make specific findings concerning the following questions to determine if an "unnecessary hardship" exists:

1. That special conditions and circumstances exist that are peculiar to the land, structures, or buildings involved, and are not generally applicable to other lands, structures, or buildings in the same district.

**Applicant Response:** The existing church building includes a high-quality concealed fastener metal panel facade from the previous addition. The new addition will continue a similar appearance, along with matching brick, to create a more modern look that is compatible with all existing previous buildings on-site.

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.

Applicant Response: The current existing building includes metal facades, therefore no special privileges are conferred.

3. **That the special conditions and circumstances do not result from the actions of the applicant and are not based upon economic considerations.**

Applicant Response: The previous building addition was approved by the City to have a special high-end metal panel facade.

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.**

Applicant Response: The proposed building will include similar high-quality concealed fastener metal panels similar to the existing lobby addition building, which will be combined with brick veneer to match the other existing buildings, in order to give the new building a slightly more modern appearance.

**OTHER COMMENTS:**

1. If approved, the applicant shall submit all necessary building permits required.
2. The Planning Commission denied this request by a vote of 3-2, the applicant has appealed that decision

**PROPOSED MOTIONS:**

1. A motion to overturn the decision of the Planning Commission and **approve** a design variance for Longview Point Church, as described on the attached exhibits. The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 8, Township 3, Range 7 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.*
  - 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 under the terms of this Ordinance.*
  - C. *That the special conditions and circumstances **do not** result from the actions of the applicant and are not based upon economic considerations.*
  - D. *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.*

Hernando Planning Commission  
Page 2 of 3



2. A motion to uphold the decision of the Planning Commission and **deny** a design for Longview Point Church, as described on the attached exhibits. The subject property is located on the south side of Byhalia Road and east of McIngvale Road, more specifically 1100 McIngvale Road, in Section 8, Township 3, Range 7 based upon the following findings:
  - A. *That the special conditions and circumstances that exist **are not** peculiar to the land, structures, or buildings involved, and **are** generally applicable to other lands, structures, or buildings in the same district.*
  - B. *That the literal enforcement of the provisions of these standards **would not** deprive the applicant of rights commonly enjoyed by other properties within the same district under the terms of this Ordinance.*
  - C. *That the special conditions and circumstances **do** result from the actions of the applicant, and/or are based upon economic considerations.*
  - D. *That granting the variance requested **would** confer on the applicant any special privilege that is otherwise denied by this Ordinance to other lands, structures, or buildings in the same district.*
3. The Planning Commission may wish to **table** the item to the next regularly scheduled meeting in the event the Commission should feel that they need additional information submitted by the applicant or if the Commission feels that they need more time to consider the request.

20240123-28

**PL-1781 – EDGEWATER PUD REVISION - REQUEST TO REVISE 1.3 ACRES OF THE EDGEWATER PUD TO ALLOW AN AUTO REPAIR FACILITY. THE SUBJECT PROPERTY IS LOCATED ON THE SOUTH SIDE OF HOLLY SPRINGS ROAD, EAST OF MCINGVALE ROAD. PARCEL NUMBER 307420000 0001000 IN SECTION 20, TOWNSHIP 3, RANGE 4, ROBBIE JONES, REPRESENTING THE OWNER.**

Motion was duly made by Alderwoman Ross and seconded by Alderman Piper approval to DENY a rezoning requested by Jones Davis Engineering, representing the owner of the property for preliminary development plan approval to amend the existing PUD for the Edgewater Commercial Subdivision. The subject property is located on the south side of Holly Springs Road, east of McIngvale Road, in Section 20, Township 3, Range 7 based upon the findings 1 through 3.

A roll call vote was taken with the following results:

Those voting "Aye": Alderman Robinson, Alderwoman Ross, Alderman Piper, Alderman Harris, and Alderwoman Lynch, and Alderman Miller.

Those voting "Nay": Alderman Wicker

Absent: None

ORDERED AND DONE this the 23<sup>rd</sup> day of January, 2024.



**City of  
Hernando**  
MISSISSIPPI

**BOARD OF ALDERMEN  
STAFF REPORT**

Project No.: PL-1781

Request: Zoning Map Amendment/Preliminary Development Plan Approval – Revision to the Edgewater PUD to allow an auto repair facility

Location: The subject property is located on the south side of Holly Springs Road, east of McIngvale Road, in Section 20, Township 3, Range 7

Applicant: Jones Davis Engineering, representing the applicant

Date: January 16<sup>th</sup>, 2024

**INTRODUCTION:**

Jones Davis Engineering, representing the owner of the property, is requesting a rezoning and preliminary development plan approval to amend the existing PUD for the Edgewater Commercial Subdivision. The subject property is located on the south side of Holly Springs Road, east of McIngvale Road, in Section 20, Township 3, Range 7

**BACKGROUND:**

The Future Land Use Map for the City's currently adopted General Development Plan identifies the subject property in the "Activity-Retail" land use designation, which has a variety of subsets. The full description of this land use category is included in your staff report.

The Edgewater PUD was approved in 1998 and the applicant is proposing to build and operate an auto repair facility, which is not currently allowed in commercial section of the PUD. As required, the applicant has provided a site plan and building elevations, which would run concurrent with the zoning, and serve as the preliminary plat.

**DISCUSSION:**

Article XVIII Amendments of the City of Hernando Zoning Ordinance allows for the amendment of the text or map of the Zoning Ordinance provided the applicant demonstrates the appropriateness of the change and addresses the following criteria for the zoning amendment.

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

**Applicant Response:** The requested amendment to the uses of the PUD will conform to the General Development Plan to provide much needed services to the City Of Hernando.

2. **Why the existing zoning district classification of the property in question is inappropriate or improper.**  
Applicant Response: The zoning classification is sufficient. It is the use being permitted for that is trying to be added.
  
3. **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.**  
Applicant Response: New hotels, and car dealerships have been established in the area. Automotive repair services are in demand in the City Of Hernando. The location of the site on Holly Springs Road makes it an ideal location for a repair shop.

#### PRELIMINARY DEVELOPMENT PLAN

The proposed development will have access to City water and sanitary sewer services. If approved, the preliminary text submitted will serve as the preliminary plat approval. Any subdivision of the property will be required to follow applicable regulations concerning engineering and plat procedures.

#### STAFF COMMENTS:

The Planning Commission has recommended to approve 6-1.

#### PROPOSED MOTION:

##### **Motion to Approve**

A motion to APPROVE a rezoning requested by Jones Davis Engineering, representing the owner of the property for preliminary development plan approval to amend the existing PUD for the Edgewater Commercial Subdivision. The subject property is located on the south side of Holly Springs Road, east of McIngvale Road, in Section 20, Township 3, Range 7 based upon the following findings:

1. The proposal conforms to the general development plan's recommendation of PUD designation.
2. The existing zoning district's PUD regulations are inappropriate.
3. Major economic, physical, or social changes 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.

##### **Motion to Deny**

A motion to DENY a rezoning requested by Jones Davis Engineering, representing the owner of the property for preliminary development plan approval to amend the existing PUD for the Edgewater Commercial Subdivision. The subject property is located on the south side of Holly Springs Road, east of McIngvale Road, in Section 20, Township 3, Range 7 based upon the following findings:

1. The proposal does not conform to the general development plan's recommendation of PUD designation.
2. The existing zoning district classification of the property in question is not inappropriate or improper.
3. That major economic, physical, or social changes have not 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.

**Motion to Table**

The Planning Commission may wish to table the item to the next regularly scheduled meeting in the event the Commission should feel that they need additional information submitted by the applicant or if the Commission feels that they need more time to consider the request.

20240123-29

**PL-1783 – ELM STREET & ROBINSON PUD – REQUEST TO REVISE 0.32 ACRES FROM R-12 TO PUD. THE SUBJECT PROPERTY IS LOCATED ON THE SOUTHEAST CORNER OF ELM STREET AND W ROBINSON, EAST OF MCINGVALE ROAD. PARCEL NUMBER 308613071 0386100 IN SECTION 13, TOWNSHIP 3, RANGE 8, JON LOVELL, OWNER OF THE PROPERTY.**

---

Tabled until 2/6/2024.

20240123-30

**REVISION TO THE BOARD ORDER APPROVING GATED ACCESS TO CHAPEL GROVE PUD - LOCATED ON THE WEST SIDE OF ROBERTSON GIN ROAD, SOUTH OF OAK GROVE ROAD IN SECTION 23, TOWNSHIP 3, RANGE 8, AND IS ZONED PUD.**

---

Alderman Miller stated the developer and residents got together and made a compromise. The board meeting took place 4/16/2019 and the compromise was agreed upon and presented to the Board of Aldermen. Nowhere was said it was illegal. Alderman Bryant made the motion, and I seconded the motion, and it was passed. No written documents have been presented saying what was done was wrong. Later, something approved now could come back and try to change overturning what a previous board approved. I feel obligated to stand by what was approved in good faith. No city official was involved in any negotiations, just the developer and residents and no elected official was involved in negotiations with the city. I feel obligated to stand by what was previously approved.

Steven Pittman stated he reviewed the past board decision. A gate across a public road is illegal unless accessible by the public 24 hours a day 7 days a week. No legal options for either side tonight. If end results are illegal, they cannot pass the standards of our law. Discussions in the 4/16/19 minutes say the Fire Chief said the HOA will have to maintain the access road and has to be 24 feet wide. In the approved minutes, access to Montclair Subdivision for emergency vehicles only with a locked gate in place and develop a HOA responsible for maintenance of an access road and gate with 30-foot road/bike access. This was passed. The city's requirement as stated in the adopted 2012 International Fire Code. The Fire Code Official has to approve any type of installation or maintenance of gates or other barricades across fire apparatus access roads. The gate is intended for automatic siren operated or accessible by emergency personnel. If that were the case this board had to approve a gate that would have to be designed and constructed in full compliance and requirements of the American Society of Testing Materials section F- 2200. That was not done by the board in 2019 and the gate is illegal.

Alderman Wicker asked Steven Pittman that he is understanding is this was initially approved as an access road and now we have a public street. Can you talk to that and why it changed down the road?

Steven Pittman said you can gate an access road and not a public road.

Austin Cardosi stated it is not plated as public road but is in the process of being developed. The new development is over 30 lots and that requires 2 public ways in and out. The confusion is now if that 2<sup>nd</sup> way in and out allowed to be a small road with a gate on it or does it have to be public access.

Steven Pittman stated for the record that I want to speak to Cynthia Colemans comment from the discussion regarding the 100 units. That is 100 multi-family units and for single-family units anything over 30 requires 2 accesses.

Marshel Berry stated anything over 30 houses has to have 2 ways in and out. Obviously, this neighborhood was approved for 71-77 lots, and they have to have 2 ways in and out. As far as the gate where a code was mentioned that Fire Official can approve the gate. The very next

sentence states that he cannot approve any gate, blockade on a public road. I cannot override that.

Alderman Wicker stated it looks like it comes down to is this an access road or public road.

Steven Pittman stated that he thinks the plan was for this to be a public road connecting the 2 neighborhoods. It is not legal because there is no specification for the gate to be built in compliance except that it be wrought iron. That board approved a gate that is illegal which is unquestionable. The part where this is a public road is unclear.

Austin Cardosi stated it is very unclear whether it is an access or public road. The motion state ...*"access to Montclair subdivision for emergency vehicles only with locked gate in place and develop a HOA responsible for maintenance of access road and gate, and with sub convenience being submitted being part of the PUD approval..."*. So, the question being is the 2<sup>nd</sup> way in and out in my mind the worst possible scenario is the HOA maintenance. Typically, that's going to be a separate parcel, it's going to be a parcel with common open space which the city does not control access to. We are trusting an HOA for access, but we cannot control it. And I think our opinion is to guarantee 2 ways in and out whether it is with a gate or no gate it would be public access. I think the intent when the hearing in 2019 came out was to prohibit access. Prohibit access except for emergency access. I don't think the code speaks to that.

Alderman Wicker stated in the 4/16/2019 minutes:

Alderman Miller stated so it is a private access road to be maintain by the HOA.

George Ready answered yes, to be accessed by the city emergency personnel."

So, my question to Mr. Pittman is if we approve this tonight, with clarification that this is an access road and meets specifications of 2012 code, would that be enough specificity to allow for that road to be gated?

Steven Pittman stated if that was approved by the Fire Official, yes. As long as it meets all requirements and specifications in the code.

Alderman Robinson ask then if the gate is there, will there have to be another access road?

Steven Pittman stated if the gate meets required specifications, and the Fire Official approves it, with consideration who maintains the operation and maintenance of the gate. I want to clarify that Fire Chief or Marshal cannot approve only one access to a subdivision that has more than 30 homes. Unless fire sprinklers are installed in those homes. That has not been required. I stand by my legal opinion as I've stated. Consideration whether or not this is a public road is it's not yet. When it becomes a public road, you cannot have a gate unless it is accessible 24-7. Short of that, if you are going to not be a public road and be an access road this board has to specifically vote and approve that the gate will be built to lawful specifications and then the Fire Marshal still has to approve the access.

Alderman Ross stated that the Fire Marshal could shoot it down and the gate would have to be left open so that would be an expense.

Austin Cardosi stated we have a public subdivision with over 30 lots and a public road. Then we have Montclair well over 30 homes and public roads. Can we legally make a piece of road private and gate it to prohibit access between the public roads. That was my question from the very beginning.

Alderman Miller stated let me make one point here. In the minutes have reflected this, private and access. The minutes reflect access road. An access road that is legal. The road has not be designated a public road. That's the discrepancy. What we did was not illegal because the minutes reflected that it was what, an access road.

Steven Pittman stated he wanted to address Alderman Lynch's summation as well. There are 3 options: No gate, 24-7 access gate, and a legal gate, which was not legally approved the first time, and I've stated why. It's my understanding that more than likely this has not been dedicated a public road yet, which is causing all of the confusion. So, if it were, then you cannot even have the fire maintenance gate.

Alderman Robinson stated if it is a 24-7 gate, and let's say the gate breaks down. Who is liable if there is an issue in one of the subdivisions, the City?

Steven Pittman stated he is not going to answer that question, we discussed that in executive session. But what is 100% clear is that if the gate had been built per the board approval and something happened, the city would be responsible. Now, the HOA takes responsibility for it, there in lies the gray area where the Fire Chief is concerned because something could happen. So, the question in my mind, and I am speaking for Chief Berry, is the safety of the citizens. Because you never know what will happen and those are the considerations before this board.

Alderwoman Ross stated that she has seen this issue in her ward. There are 2 city subdivisions surrounding a county subdivision. The county wanted to gate theirs, but she told them it is a public road, and you cannot block public roads by gating them and closing them off. I'd love to find a compromise to make it work for everybody.

Alderman Piper state he had been told something similar with the Delta Landing PUD that we have by the new Hernando Hight School with the neighbors to the north in the Nesbit area requested something similar with just a fire access where there is several hundred homes going in there. I was told we couldn't do a gate there. So, I've certainly seen that principle applied but if we go down into county streets and goes down Holly Springs Road long enough, everybody knows there was a gate there that they would close due to road flooding, which was a public safety concern. So, we have to have some oversight for public safety issues to allow for some gates to be constructed in some way and that falls to the Municipality or the government entity. So, I think that if we can come to a compromise and it is a 24-7 gate, that seems to be a fairly reasonable option.

Alderman Wicker state unfortunately this conversation did not happen in 2019. So, I think it sounds like there is a good compromise to put a 24-7 access gate and my question would be how do we mandate that the HOA's are responsible for the cost of that.

Alderman Robinson asked who will be liable if the gate didn't work the HOA or the city?

Steven Pittman stated we have discussed this before, but to answer your question, if the board approved an access road that was not a city street, the Fire Marshal still has to approve it. Either way, if you make it a public road 24-7 or access road with an ASTM F-200 with those specifications, certainly the Fire Marshal will have to inspect it. If the Fire Marshal goes out there 5 years from now and finds that it is not working, he can say they have to keep the gate open. It is under his purview per our adopted Ordinances.

Alderwoman Ross stated so, if at any point in time the gate is inoperable and no one is going to take responsibility for fixing it, the Fire Marshal can say it has to stay open.

Steven Pittman stated that is my opinion.

Greg Smith representing the developer stated he has no problem installing the gate, but requests that this be a public road because it was developed as such and meets all the requirements of a public road and will need to be maintained as such.

Austin Cardosi stated as clarification that there be a small piece of common space where the gate hardware will be located. Greg Smith agreed to that.

Motion was duly made by Alderman Wicker seconded by Alderman Piper approval to require that the public dedicated street have a 24-hour public access gate with a small common space where the gate hardware will be installed. The automatic gate must be designed, constructed, and installed to comply with ASTM F 2200 guidelines. The Chapel Grove HOA is required to provide maintenance of that gate and have the city inspect it every 6 months.

A roll call vote was taken with the following results:

Those voting "Aye": Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, and Alderwoman Ross.

Those voting "Nay": None

Absent: None

ORDERED AND DONE this the 23<sup>rd</sup> day of January, 2024.

**20240123-31**

**DISCUSSION OF ADDITIONAL STREETS TO BE PAVED IN THIS BUDGET YEAR.**

Motion was duly made by Alderman Piper seconded by Alderman Wicker approval to get a quote from Civil-Link to update the comprehensive streets study.

A vote was taken with the following results:

Those voting "Aye": Alderman Piper, Alderman Harris, Alderwoman Lynch, Alderman Miller, Alderman Robinson, Alderman Wicker, and Alderwoman Ross.

Those voting "Nay": None

Absent: None

ORDERED AND DONE this the 23<sup>rd</sup> day of January, 2024.

**20240123-32**

**ADJOURN**

---

There being no further business at this time a motion was duly made by Alderman Wicker, seconded by Alderman Piper to adjourn.

Motion passed with a unanimous vote of "Aye."

RESOLVED AND DONE this the 23<sup>rd</sup> day of January, 2024

\_\_\_\_\_  
MAYOR, CHIP JOHNSON

ATTEST:

\_\_\_\_\_  
PAM PYLE, CITY CLERK



**THIS PAGE LEFT BLANK INTENTIONALLY**