

# **PLANNING COMMISSION MEETING TRANSCRIPT**

THURSDAY, FEBRUARY 14, 2008

The regular meeting of the Planning Commission was held on Thursday, February 14, 2008, at 6:00 p.m. in the Board Chambers at the Hot Springs Municipal Building, 133 Convention Boulevard, with Chairman Gary Threadgill calling the meeting to order at 6:00 p.m.

Chairman Gary Threadgill: <meeting already in progress> ...by the applicant, and anyone speaking for or against will have three minutes. That time is monitored on the bottom of the screens as you can see up here in the blue; and I'm going to keep you to that so we can make it as quick as possible. So, with that being said, I'd like to call the meeting to order. Call the roll, please.

## **Invocation**

## **Pledge of Allegiance**

## **Roll Call**

Present: James Clopton, David Campbell, Wanda Thorp, John Mory, Gary Threadgill, Harriel White

Absent: Lauri Ames, Louis Kleinman, Larry Raney

## **Approval of Minutes**

Chairman Threadgill: I need a motion to consider the previous minutes.

Commissioner Campbell: So moved.

Chairman Threadgill: I have a motion by Commissioner Campbell. Do I have a second?

Commissioner Clopton: Second.

Chairman Threadgill: I have a second by Commissioner Clopton. All in favor? <ayes> Opposed? <none> Motion passes.

## **Approval of Agenda**

Chairman Threadgill: I need a motion to consider the agenda tonight with Item 7 being moved to Item No. 1 on New Business. Do I have a motion to approve?

Commissioner Mory: So moved.

Chairman Threadgill: Do I have a second?

Commissioner Campbell: Second.

Chairman Threadgill: I have a motion by Commissioner Mory and a second by Commissioner Campbell. All in favor? <ayes> Opposed? <none> It passes. The item that is moved forward is the Corporate Terrace, wait a minute.

Commissioner Thorp: No. You said 7.

Chairman Threadgill: Let me pull up my screen here. I did what I said I wasn't going to do. Preliminary Subdivision – Pleasant Valley Place – will be moved up to the first item on New Business, but we have one item first of Old Business. We'll start off with that item. Kathy, first item on Old Business.

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## **OLD BUSINESS**

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1. Conditional Use (CU-07-0215) – Country Club Gardens – Conditional Use for 84 bed long-term care nursing facility in an R-2 Zone – ALSO Malvern Avenue Overlay District review of nursing facility – 2605 Malvern Avenue – Legal: PT NE SW & PT W ½ SE NW – District 6 – R-2

Director Kathy Sellman: Thank you. The first item is Country Club Gardens. This is a conditional use request for an 84 bed long-term care nursing facility to be located in an R-2 Zone. This is also subject to Malvern Avenue Overlay District review. The project is located at 2605 Malvern Avenue and it is low-density residential in the Comprehensive Plan Future Land Use Plan Map. It's located in District 6. The applicant is Levi Hospital.

Chairman Threadgill: Is the applicant present? Please come forward and give us your name and address for the record, please, sir.

Mr. Patrick McCabe, President and CEO of Levi Hospital: My home address is 144 Myrick Court, here in Hot Springs. The business address is 300 Prospect Avenue, here also in Hot Springs. I want to personally thank Kathy Sellman and her staff and the representatives of Levi Hospital who have worked hard together in developing a site plan that addresses the various concerns of the neighborhood. Having reviewed the staff report on our request for a conditional use permit, I see a number of contingencies outlined on pages 2 and 3 of the report. We are very supportive of inclusion of these conditions into any final action taken here tonight. I'm equally satisfied with the aesthetic appearance of this facility. It certainly is not your typical nursing home. The Arkansas Health Services Permit Agency continues to assess the need for new nursing home beds in Hot Springs and Garland County. Furthermore, to insure that this site meets the standards of the Office of Long-Term Care, we requested a site review by that agency. That site review was conducted and this site has been approved by the Office of Long-Term Care for an 84 bed nursing home. With your approval here tonight, all hurdles to implementation will have been satisfied. At this time, I will close my comments, and if there are any questions, I'll address those or have representatives on this project, working on our behalf, to address those as well.

Chairman Threadgill: Alright, sir. Does anyone on the Commission have anything to say to the applicant? Alright, sir, you may be seated.

Mr. McCabe: Thank you.

Chairman Threadgill: Is there anyone in the audience who has anything to say for or against this item? Please come forward and give us your name and address, sir. Please stay with the three minute time.

Mr. Tylar Tapp: Good evening. I am an attorney in town. My professional address is 424 Ouachita Avenue. My parents' address is 2524 Malvern Road, immediately across the street from this property. First I want to make sure that there is no confusion. This is not a Levi Project. It's clear from the plan they've submitted that Mr. Montgomery is going to be operating this facility. He's going to be owning it and it is going to be sold by Levi. So if anything, this is just the ability for Levi to try to turn a quick buck. Second, looking at the long-term plan of this area, this is an R-2 development. It's R-2 today. The long-term plan of the City is R-2, so by

making this modification today, you totally modified the long-term plan of the entire neighborhood. That is a substantial effect to this neighborhood in particular that is a quiet, well established residential neighborhood. There are residences on three, well actually all four sides of where they're intending on putting this facility. The only thing that is not residential adjacent is a small dental office that from outwards appearance looks like a nice residential home. Everything else is residential. This is an area with substantial families that have been there some for multi-generations, some are new. There are children that play in this area. The most important thing to consider is that every single person who lives around this facility is against it. That's substantial. We've already submitted over 100 names. In fact, we have a large standing of people today. Everyone in opposition of this, please rise. There are many other people who have contacted me and I know contacted the Board who were not able to be here today living around this area in complete opposition. First, this is a conditional use that falls within the ability of the Board to grant it. However, this is not a standard conditional use for an R-2. It's more standard for an R-4. That's because it fits more in the R-4 building and the R-4 development ideas. Second, at the last meeting, there was a question as to whether or not this may interfere with federal law, particularly the Fair Housing Act. It does not. You cannot discriminate against companies, or excuse, against nursing homes in a larger residential area like an R-4 or R-5 or C-1; but R-2 is substantially different enough that it does not affect the Fair Housing. This area would be affected by the traffic. This area would be affected by the noise pollution and the light pollution. The light in particular from this facility would disrupt dozens of homes. The noise from this facility at 24 hours would disrupt dozens of homes. That's not to mention the additional crime and the other problems associated with it. This is a long-standing neighborhood that wants to stay a residential neighborhood. These residents don't want to be forced to sell and by changing the status of their neighborhood, putting this monstrosity into the middle of it, you will force dozens of people to lose their life savings, be forced to sell, to move, ultimately making the entire area commercial rather than non-commercial. That is not what a conditional use is for. A conditional use is when it can fit into the neighborhood and not disrupt it. This facility will not and cannot do that under the current plan and I would ask that it be denied. Thank you.

Chairman Threadgill: I have one comment for you for the record. You stated that the nursing home was not subject for an R-2. Under the Codes of the City of Hot Springs, nursing home/convalescent homes are conditional use in any zone, from R-1 to agricultural.

Mr. Tapp: Absolutely, but if you look at R-4, it's more of a normal conditional use for an R-4 and not an R-2. An R-2, the typical conditions are churches and charitable institutions, golf clubs, golf courses, day care centers, home occupation, parks, and playgrounds. But if you look

at the R-4 under the typical conditional uses for those areas, that's where you see a nursing home. It is allowed. I have indicated before, it is allowed as you've indicated there.

Chairman Threadgill: I have it here. It is a conditional use. It doesn't specify whether it's an R-1, R-2, R-3, or R-4.

Mr. Tapp: Absolutely and if you turn to that same R-4 and the definition of the conditional uses and the typical conditional uses in those, you will see nursing homes. If you will see the R-2, you will not see a nursing home. So while it is permitted by the Board, it is not the typical one associated with these areas.

Chairman Threadgill: Do I have any other questions to the applicant? Commissioner Campbell?

Commissioner Campbell: Would you explain to me, you said it will increase crime in the area ...what is your basis there? I don't follow that.

Mr. Tapp: We have 24 hour operation. We have numerous people from other areas coming into this area. We're talking about 60 employees minimal. Dozens each night. Cars going in and out. Neighbors not being able to monitor what's going on because of the activity. So absolutely it will affect crime in the area. There's no way for an operation of this sort not to.

Commissioner Campbell: Thank you.

Chairman Threadgill: Alright, any other questions to the speaker from the Commission?

Chairman Threadgill: Alright, sir. Thank you. You may be seated.

Mr. Tapp: Thank you.

Chairman Threadgill: Anyone else in the audience? Please come forward and give us your name and address.

Ms. Deborah Wemette, 118 Forest Heights Trail: I'd like to <unintelligible> did any of you read the packets that I delivered to you today that's based about the crime and how many times the police have actually responded to similar businesses? Because if not, please review that before you make this decision. Commissioners, I'd like to thank you for your time and consideration. You'll see here tonight that we, the citizens, have done our homework and we have justification

to refuse a nursing home in our neighborhood. Earlier today, I left important facts to be considered by each of you before voting on this permit. I asked that you receive them before this meeting. To highlight some of the key points, the Malvern Overlay District states at § 16-2-65 that the property within the Overlay District have (c) requirements of both underlying and overlaid zoning codes. Furthermore, one of the underlying codes is the Comprehensive Plan which states “not <unintelligible> uses or uses that have the potential to adversely affect the health, safety, and welfare of adjoining land owners should be located so as not to adversely affect the enjoyment or the value of the adjoining properties. Additionally, the negative aspects of community growth should be mitigated where possible.” What we the citizens see as the negative aspects of this community growth are air, light, and water pollution, increased storm water runoff, increased demand on the municipal services and infrastructure, degradation of the natural land and noise pollution. Through research I found that a nursing home of this size will have about 30 employees for each of the three shifts. These employees are due to work at 7 a.m., 3 p.m., and 11 p.m. The 7 a.m. arrive time coincides with bus pickup on children on their way to school at Lakeside, creating even more congestion on Malvern Road. The outgoing employees will leave at 7:30 a.m. They will be leaving work while all the kids and parents are heading to school. When the 3:30 shift leaves, it will be at the same time that the school is letting out, creating a traffic nightmare for parents, students, buses, and the neighborhood. At 11:30 p.m., the last shift leaves. For a neighborhood that’s currently quiet after 6:00 p.m., will now continue to be bustling until almost midnight seven days a week, every weekend, every birthday, every holiday. This 24 hour business will adversely affect my family and our neighbors. This property directly abuts my property. My neighborhood is so quiet that I feel like I live in the County, not the City limits. It’s quiet enough that we currently had to set a trap to catch a coyote. The noise pollution of the many delivery trucks needed to maintain this 24 hour business – we’re including garbage trucks that pick up bins and bang them on the trucks to release the garbage – this will negatively impact our neighborhood. It’s an annoying but necessary back up beep, beep, beep. Hot Springs Zoning Code § 16-2-72 states that “the proposed land use is compatible with and will not adversely affect other property in the area where it is proposed to be located.” I have police reports which I did submit to you from four nursing homes. In an 11 month period, the police have responded more than 43 times to the busiest nursing home, with 19 visits being the least. All this police activity is not compatible with our neighborhood. Please consider the fact that this facility is not wanted by our neighborhood as shown by our earlier petition with 150 signatures from local residents. Tonight I submit another 75 signatures that object to the destruction of our established neighborhood. I beg of you do not allow this conditional use permit. Please let it be known that we are not against developing this property so long as it is with compatible residential use. Thank you for your time and consideration. Who do I submit these to?

Chairman Threadgill: Just hand those to John there please.

Ms. Wemette: Thank you.

Chairman Threadgill: Thank you. Is there any questions from the Commission to the speaker? None? Next. Name and address for the records please.

Mr. Herbert Gray: I live at 218 Forest Heights Trail, just behind where the proposed nursing home is to be built if permission is granted. We, the residents of this area, come before you tonight with distorted truths about the facility. On December 10, 2007, Mr. Patrick McCabe, President and CEO of Levi Hospital, mailed out a letter to residents adjacent to the proposed site for a new nursing home at 2605 Malvern Avenue. In this letter, he stated that the Arkansas State Health Services Permit Agency had approved the construction of this facility to alleviate the shortage of beds in our County. This was a false statement in that there is no shortage of beds in our County and the fact is there had already been two other permits granted to build nursing homes in Hot Springs by the same agency. Also stated by Mr. McCabe was that this area, the Malvern Avenue location, does not have access to a long-term care facility when indeed there are four such facilities within two miles of here. Now due to poor decision making by Mr. McCabe of Levi Board of Directors, two other sites had already been rejected – one on <unintelligible> preparation of the location and one on the location itself – rejected by the Department of Long-Term Care. Mr. McCabe went on to say that this facility is one in which the community will be proud to have. Now if this was true, why do you have 125 + signatures of neighbors in this area against this proposed facility? The reason is, we can see all the problems this facility would create. On another note, the site plan produced by Milton Raabe, P.E., states very clearly on the front that the developer is Leo N. Levi Hospital. With just a couple of phone calls, it was discovered that Levi had no intentions of owning or operating this facility. A fellow by the name of John B. Montgomery would be the owner/operator if or when a change of POA is granted. This has already been applied for. After several revisions of the original plan, none of which meet the square footage code for the Malvern Overlay District, we see a sketch of this proposed building. If for some unknown reason this atrocity is approved, do I think they will come back asking for revisions and variances? I certainly do. As mentioned, this proposal for a nursing home does not meet criteria set forth by your own rules and codes, which includes the will of the people. Please be consistent in your voting, listen to the will of the people, read your codes, and vote against this proposal.

Chairman Threadgill: Alright. Do we have any questions or comments to the applicant? Or to

the speaker? I have one. This is not a question. It's a comment. What we're doing is looking at a conditional use for a nursing home with 84 beds. Who builds it is really no concern to this Committee. It's just they've made an application for an 84 bed nursing home, period. Who builds it or who it belongs to is really irrelevant.

Mr. Gray: What the point was is there was distorted lies told as to who is going to own and operate this nursing home.

Chairman Threadgill: Okay. Alright. Any other comments from the Commissioners or questions? Thank you, sir. Anyone else in the audience with anything to say for or against? Please hold it to the three minutes.

Ms. Geraldine Moss, 111 Colonial Trail:

Chairman Threadgill: Your last name again?

Ms. Moss: I'm Geraldine Moss. I live at 111 Colonial Trail. In your drawing, I'm the first property on Colonial Trail as you come up as you see I'm that corner. I'm immediately behind the proposed drawing showing a retention pond. That's of great concern to me because the drainage ditch comes to my house. I don't need water. I don't need drainage in my yard because the water table in my yard is very high right now. I have plenty. When the neighborhood had brown grass, I have green grass because the water table is really just underneath the surface. If the ditch is draining ...It's moved from the original drawing. It's draining right in toward my house. I don't know much about drawings and things like that. I talked to a registered professional engineer and he told me that Hot Springs Code Title 15, Chapter 13, Storm Water Management, § 15-13-1.5, has storm water submittal requirements for small commercial construction sites. The applicant has not made submittals as to how they propose to comply with these regulations. If in the drawing, if the construction is allowed to make this, we're talking about an open ditch, mosquitoes, snakes, and the greatest thing that would be a problem to me would be children. I have grandchildren and the neighborhood children playing in the water, this kind of thing, it's just horrifying for me to think about what might happen. During the rainy season, I'm not concerned with water problems in my yard, but the pollutants and all the stuff that could drain off from this property into that drainage thing, pointed toward my house, could be a disaster. Does not anybody care about the neighborhood? We're just talking about a lot of stuff, but the neighborhood is important. If it goes through, we'll not only devalue our property, but possibly I would receive water damage to my yard, to my house. I'm wondering when that happens, and it would happen because occasionally it probably would get clogged up,

who will be responsible to take care of this problem? It shouldn't even be allowed to begin with. I beg you not to allow this to be built that way.

Chairman Threadgill: Yes, ma'am. Is there any questions for the speaker?

Commissioner Mory: I have a couple of comments.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: The detention pond that's shown on there is downstream of your property. A detention pond, now, I'm going to say a few words here.

Ms. Moss: Okay.

Commissioner Mory: If properly maintained and constructed, okay, we've got to assume that for right now ...

Ms. Moss: Who will maintain it?

Commissioner Mory: The land owner. The property owner.

Ms. Moss: Okay.

Commissioner Mory: It will be, a typical detention pond, especially on this site with no more <unintelligible> than there is, you would not know there is a pond there until it rains and you see some water standing in it. If it's maintained correctly, it will not hold water after the event is over. Just like a yard, it will be wet for a little while, maybe a day or two, it depends on what kind of season we're in; but typically speaking, it's going to be dry. As far as affecting your property, looking at the map here, that's just really not much of a possibility. Now there are ...not that you won't have other valid concerns on this, but I've seen a few people bring up the storm water issue and the storm water issue in my mind, if that's the only thing we've got to worry about, then we don't have a problem out there.

Ms. Moss: Have you looked out there lately at all the water? Has anybody looked out there?

Commissioner Mory: But what they have now is not ...

Ms. Moss: All the water that's out there?

Commissioner Mory: What we're saying now is they can fix all that.

Ms. Moss: Oh, they are going to fix all that?

Commissioner Mory: Right if they put in the detention system like they will, yes.

Ms. Moss: I mean all the water that's down there toward Malvern Road on Colonial Trail down through ...

Commissioner Mory: Well, now, I was addressing the point you brought up before...

Ms. Moss: Right. Right. What I need. Right.

Commissioner Mory: Right, and now ...

Ms. Moss: You're saying there will be no standing water. There will be no possibility for mosquitoes or water for anybody to get into or wade into or this kind of thing?

Commissioner Mory: No, not with a detention pond, no. Not as far as getting into and drowning and that kind of thing. Not with a detention pond. Now, as I said, if it's properly maintained. But, I mean ...

Ms. Moss: <unintelligible> stopping up? We have lots of leaves. It won't stop and ...

Commissioner Mory: Again, it will have to be, again, properly maintained. If they rake the rest of the yard, if they do some other general maintenance – mowing and that kind of thing – then <unintelligible> ...

Ms. Moss: And they're going to watch and care for it daily like it needs to be.

Commissioner Mory: Right. It would be part of the yard. That's my point on this. It's part of the yard. <noise from audience>

Chairman Threadgill: Hold it down, please.

Ms. Moss: Sure.

Commissioner Mory: What my point on this is, again, if the drainage issue is the biggest issue that was a concern, we would not have a problem. Personally, I don't think it is the biggest issue, but I'm trying to put that one to rest.

Ms. Moss. To rest. Why was the detention pond moved from down the corner of Malvern and Colonial Trail up to this site?

Commissioner Mory: We'll have to ask Mr. Raabe that question. I'm not sure. He may have had a reason for relocating. I don't know. I noticed that up here, the way he's generally got it located, he may have a little more room up there, but again, that's a question for Mr. Raabe.

Chairman Threadgill: Do I have any other questions to the applicant? Thank you.

Ms. Moss: Thank you.

Chairman Threadgill: Anyone else in the audience who would like to say anything for or against the item? Please come forward and give us your name and address for the record.

Mr. Jerry Johnson, 2600 Malvern Avenue: I hope that you can be convinced that what is proposed will not, cannot meet the intent and the purpose of the Malvern Avenue Overlay District. One, the purpose of the Malvern Avenue Overlay District is to not allow worsening of traffic, health, safety, and welfare issues. These were discussed and presented in detail previously and are in the record. Second, and this one I don't believe can be overcome, is a permitted land use in the Malvern Overlay District. Commercial development not exceeding 15,000 square feet. Areas that appear in the record, 17,625 square feet is on the site plan dated November 2, page 2. That number is also in the Staff Report for the December meeting. 10,900 square feet is in the site plan revised for the short-circuited January meeting. 13,922 square feet is in the Staff Report. 40,000 square feet in the nursing home application which is also a part of the record. Using good engineering calculations, which I'd be glad to explain to anybody that would be interested, the foot print of that building that's shown on this print ...The foot print of that foundation would be approximately 16,500 square feet and a two-story building would be in excess of 30,000 square feet. Using similar methods for the elevations that were submitted later and those elevations have been shown on your screen, this building is going to be 200' long and 200' wide and the foot print of that building, using similar calculations, the ground floor turns out to be 31,000 square feet approximately. This is just the ground floor. You extrapolate that

ground floor area to a total two-story building area of 60,000 square feet. This building cannot be constructed to meet the 15,000 square feet minimum dictated by the Malvern Avenue Overlay District. What are you being asked to permit? The applicant seems to be attempting to cloud the issue to say what they think you want to hear and after they get a permit, will they be back asking for a variance or will they just construct what they want? As pointed out earlier, John Montgomery has filed a permit application to buy Levi's permit to construct, own, and operate. The permit application is for 40,000 square feet at a cost of \$5,342,000. This is big commercial business to make big dollars, not just to provide a feel good service for the elderly people of Hot Springs. Another fact validating this is that last December, two additional nursing homes got their permits to construct facilities with 196 beds in Hot Springs. They are Abbey Hill Nursing Home and Rehabilitation just behind the post office, Spring Valley Rehab near HealthPark. There are places in Hot Springs to build nursing homes that won't disrupt neighborhoods. I plead with you not to issue this permit. There's no Codes, I believe, to support the issues on this. Thank you.

Chairman Threadgill: Alright, thank you, sir. Is there any other questions from the Commission to Mr. Jones, or Jerry? No questions to Mr. Johnson? Alright, sir, thank you. Anyone else in the audience with anything to say for or against this item? Please come forward and give us your name and address for the record.

Ms. Barbara Johnson, 2600 Malvern Avenue: I rise in opposition to this permit also. This neighborhood is over 50 years old and in your own Planning Commission's Long-Term Plan, it's R-2, low density residential. We've all asked and begged for you to not do this. Mr. Hurst and Pat McCabe in December at this meeting said that people would not be coming from the outside to build this. It would be home town people. They both knew they had already filed paperwork to sell this to an outsider, John B. Montgomery. If they lie about the ownership and they can't tell the truth on a simple fact, how can you believe them on anything else that they have offered? They say that their permit was as good that day in December as it ever was, but he dodged around the thing that the commission in Little Rock had denied his permit that day. It had not been approved to this date. Once you make a decision, the permit in Little Rock may be reheard. It may not be. But they are trying to convince you that everything is okay and all you have to do is approve it and Little Rock has no problem. That's another lie they have given you. Mr. Pat McCabe and John B. Montgomery seem to work best when it's out of the public eye with <unintelligible> commissioners in back rooms. I believe it's called ex parte communications and I believe it's illegal. The commission in Little Rock ...

Chairman Threadgill: Wait a minute. Wait a minute. Are you accusing the Commission?

Ms. Johnson: I'm not accusing the Commission of anything. I'm accusing Mr. ...

Chairman Threadgill: You just stated that we were making decisions behind closed doors. I resent that and I will not respect that from you.

Ms. Johnson: I did not say you. I am accusing them of attempting to. They did this in Little Rock.

Chairman Threadgill: There's been no attempts that I know of by this Commission for bribery or any sort and I will not take that from anyone.

Ms. Johnson: I myself say them in the back room during the break talking to the Commissioners last December and got it changed. They were trying to get the date changed. They wanted this through fast because they have a deadline. It got all fouled up in the <unintelligible> ...

Chairman Threadgill: It did not get ... an extra date or nothing.

Ms. Johnson: I know it didn't, but it ...

Chairman Threadgill: So I don't want to hear that. You just go on with something else and do not threaten this Commission with ...

Ms. Johnson: In December, the plans ran up through the engineer to make this look better on paper, but it doesn't change the fact that it's our life savings and our homes. The dumpsters, everything out there will ruin our property value. There's a traffic problem. There's a 24 hour a day daily operation. It does not fit into an old, established nursing home. There's a flooding problem on this property already. They have not convinced anybody who lives out there on paper that they can fix this flooding problem. Every time we look at paperwork filed by John B. Montgomery, most of his answers are not applicable. We, the neighborhood, implore you to look at this. It's not a good move for the City. It's not a good move for our neighborhood. We want to keep it R-2 residential. There is no reason to do this for one property owner to the detriment of everybody else in the neighborhood. We ask you to please vote no.

Chairman Threadgill: Do I have any questions for Ms. Johnson from the Commissioners? Thank you, ma'am. Is there anyone else in the audience with anything to add? Please give us your name and address.

Ms. Sandra Cagle, 460 Restful Ridge Road: I'm representing my parents at 115 Colonial Trail. I just wanted to ask the Commissioners if any of ya'll have worked a night shift? Anybody? I am an automation consultant. I do a lot of night work for 24/7 operations at plants and so forth. The question about the crime, I did want to make a comment that unless you have worked at a 24/7 facility, you have no idea what goes on in those parking lots at 3:00 in the morning. The employees have people drop by and visit and the activities in the cars ... I am talking about all types of activities. So I did want to make a general comment about that based on my own personal experience on 24/7 operations. Thank you.

Chairman Threadgill: Thank you, ma'am. Anyone else with anything to say different? Please come forward and give us your name and address.

Mr. John Montgomery, 3010 New Hope, Rogers, Arkansas: There's a few things that I would like to address that something was said. One of them is the square footage on the footplan. Mr. Milton is our engineer here in Hot Springs and he's done all the proposals for this and all the things that we've worked together through and it clearly states on the project area 13,922 square feet. I just want everybody to know that I am the contractor for this project and we are committed to building a quality project when it's approved here, if it is. We just want to let everybody know it's going to be a very nice facility, a very upscale facility. It will help the community as far as that type of thing because it is a residential type building. We think ...we know that we will meet all the Codes that Hot Springs requires. If you've got any questions, I'll sure ...

Chairman Threadgill: Any questions to the speaker from the Commissioners? Commissioner Campbell?

Commissioner Campbell: What is your gross floor area?

Mr. Montgomery: On the first floor, it's 13,922 square feet.

Commissioner Campbell: What about the ...?

Mr. Montgomery: The second floor will be probably another 10,000 or something like that on the second floor, but it's a two-story building.

Commissioner Campbell: Okay.

Chairman Threadgill: Any other questions from the Commissioners?

Commissioner White: Is this a for? You're speaking in favor of this project?

Mr. Montgomery: I'm for it, yes. Yes, I'm for this project. I'm speaking in favor of the project.

Chairman Threadgill: Comments. Hold on. Hold on. The comments from Commissioner White was wanting to know if the speaker is for or against. The speaker is the engineer for the development.

Commissioner White: Thank you.

Mr. Montgomery: I'm the general contractor.

Chairman Threadgill: Contractor. Any other questions to the applicant? Anyone else in the audience with anything to say for or against? Please come forward and give us your name and address, ma'am.

Ms. Debby Nye: I am an attorney representing Levi since September of 2002, when the POA was originally issued. I'm at 214 West Dixon Street in Fayetteville. I wanted to bring some clarity to a number of the misunderstandings about the status of the permit of approval that Levi has. It has been issued a permit of approval to construct, and it was issued in September of 2002, it has been and continues to be in good standing. There is a misunderstanding of whatever was perceived by statements today by those of what happened in December of '07. There was not a challenge to the permit of approval. That has never been at issue. What was at issue was the change of the site for the construction. At that time, after an all-day hearing back and forth, the will of the Health Services Permit Commission was essentially to defer to this City Commission, that it was appropriate because you all have the authority to determine what is constructed where in your City. That was not an issue for the Health Services Commission. Their responsibility was to define the need for the construction, which they did originally in 2002 and has steadfastly maintained that in Hot Springs, in Garland County, there continues to be a need for nursing home beds. Now you can't just look around and decide if that's true or not. It's quite a complicated process that the Commission, Health Services Commission, undergoes and routinely updates to assure that's correct. So that's not for this Commission to consider as a part of the matter before you now. The issue of the site, it was alluded that this was the second or third attempt by Levi Hospital to have a suitable site. In some respects, that's certainly true. So in an effort to assure

going forward, that this is real and this is where they really want to build this facility, the Office of Long-Term Care as Mr. McCabe said earlier, has looked at this site and has approved it. So we hope to avoid all of those issues going forward with that state agency. So that's out of the way. We are really troubled by the statements about 24 hour operation and the crime. Those are just simply red herrings. This is a 24 hour operation, but it is a residence. People live here. That is something that it seems like we're losing sight of. Around the state, many nursing homes are in neighborhoods by design because those are people that have a right to live in a neighborhood. As far as what happens at night, most folks sleep. There's a 24 hour operation, but there's no deliveries. We're not running a plant. So please, let's keep this in consideration which you all have already done by virtue of this already being allowable as a conditional use in a residential area. You've already been there and decided that is an acceptable operation. We ask that you consider this in the best light of what is best for Garland County and we ask that you approve it tonight.

Chairman Threadgill: Do I have any questions to the speaker from the Commission? Seeing none, thank you, ma'am. Anyone else in the audience who hasn't spoke yet? Please come forward and give us your name and address, sir. You the man. <laughter>

Mr. Q. Byrum Hurst: My professional address is 518 Ouachita here in Hot Springs. Let me just ...<child noise from audience gets louder>.

Chairman Threadgill: Step outside.

Mr. Hurst: I think I can compete with that, whatever it is. I just want to speak with you very briefly because the last time that we came before you, I had an opportunity to address this issue and I don't want to belabor it. I do want to show you a couple of things that I think Debby cleared up some of the same areas that I was going to, but my role in regard to this with Levi Hospital was to advise them about the Zoning Code, what they needed to do in order to get this location, and also to advise them about the Malvern Avenue Overlay District and what its purposes were and how they could best comply with it. Now I can honestly tell you that I am very proud of the way that my clients have conducted themselves throughout this entire matter. If you recall the last time that we were here, the Commission had some very legitimate requests and those requests were that they wanted to know more about the plans. They wanted the plans before then. They wanted the details. It was ya'll when I say "they." I mean ya'll. My clients didn't drag their feet at all and in fact hurried as fast as they could to get those plans, to get those drawings, to get every detail before you as fast as they could in order that you could give it a timely consideration and an opportunity to see if they complied with the ordinances, with the

statutes, with all of the regulations and they have. They've gone overboard to try to do that. Like Debby said, I understand about these residents being concerned. I have a great understanding for them, but we all know, you can use your common sense and know that this is a changing area. I drove out to some deli place the other day on Malvern Road that I don't think was there a couple of years ago and got a sandwich. You can just see the area beginning to change. But we're not making any zoning request changes. This is a conditional use. They're not interested in building a nursing home where your loved ones, my loved ones, their loved ones might be residents that's going to have noise pollution, that's going to have water problems, that's going to have lighting problems. They located in this area because it is beautiful. It is serene. They want it to be peaceful. They want to co-exist with the residents because that's who is going to be in the nursing home – residents. That's going to be their home. So our goal is not to disrupt the neighborhood. Our goal is to be good neighbors with them. From a legal standpoint, I believe that my clients have met every single condition that they could and they put this before you because this is a conditional use request and they just simply ask that you give it a favorable ruling and a favorable passage. Thank you.

Chairman Threadgill: Thank you. Any questions to the speaker? Alright, sir, you may be seated. Is there anyone else in the audience who has anything to say for or against? Sir, I'll let you come back up and then I'll close the public.

Male Speaker: I would just like to respond about the Arkansas Health Services Permit Commission in Little Rock. The meeting on December 13<sup>th</sup>. They, at approximately noon, they rejected Levi Hospital's request to build at 2605 Malvern Avenue. It was at their 5:00 in the afternoon when the Commission said they reconsidered and they said that they would have a special meeting if this Commission approved, or Hot Springs approved this site location for a change. If the world ends tomorrow, they do not have a permit to construct at 2605 Malvern Avenue. I was there. I have been in contact with the Commission since, so they do not have a permit to build at 2605 and hopefully they won't get one. Thank you.

Chairman Threadgill: Alright, thank you, sir. At this time, I'm going to give a recall to the applicant. I'll give you a minute if you have anything you want to all for or against it.

Mr. Hurst: Your honor.

Chairman Threadgill: Alright. No, don't even go there. You're in the wrong room. <laughter>

Mr. Hurst: It's been a long day in court too. We think that everything has been submitted on

behalf of the applicant that could be and that the comments are all in, and so we just urge you to take a favorable action.

Chairman Threadgill: With that being said, I'll close the public portion. Do I have any discussion from the Commissioners? Commissioner Campbell?

Commissioner Campbell: I have one of staff. Would you respond to the 15,000 square foot ruling that they are talking about?

Director Sellman: There is a 15,000 square foot limit on commercial development. This is not strictly speaking commercial development. This is a group living facility that is residential in nature.

Commissioner Campbell: Okay.

<Noise from audience.>

Chairman Threadgill: Alright, hold it down, please. Do I have any other questions from any of the Commissioners? Commissioner Clopton?

Commissioner Clopton: I didn't bring it with me, but ...<inaudible>

Chairman Threadgill: Use your microphone, please, sir.

Commissioner Clopton: I didn't bring my packet with me. This is for staff. I can't bring up your recommendations.

Male Commissioner: I can't either.

Commissioner Campbell: I can't either. Nobody can.

Chairman Threadgill: No. They're not coming up. While we're getting up the Staff Report, do I have any other questions or comments from any of the Commissioners?

Commissioner Mory: I've got some comments, but they may be kind of long. In my opinion, the biggest thing for us to consider is the overall impact of this facility to the neighborhood. The biggest negative impacts that I see to this neighborhood will be the light pollution and noise

pollution. I think those are the two biggest concerns that the neighborhood ...if I were living there, that's what I would have as a legitimate concern.

Chairman Threadgill: Both of those are covered by Code. They have to be addressed before the CO will be issued.

Commissioner Mory: Right, and what I was going to say in regards to the causes of the pollution, starting with the noise pollution, the two biggest sources of noise pollution that I would see would be vehicles in the parking lot and the dumpster. Both of those are located so that they are adjacent to the neighboring properties. The parking lot is located from an engineering standpoint is an outstanding location to put a parking lot because it just fits right there. From a neighborhood impact standpoint, I don't think it's a very good location because three sides of the parking lot are adjacent to properties not to this nursing home. This nursing home is <unintelligible>. The <unintelligible> location for it is remote to the parking lot, so it puts the impact on the neighborhood and not on the nursing home. Again, with the light pollution, the same kind of thing. What's going to be lit? Well, obviously the entryway around the building will be lit. That I think is remote enough from the properties that everything will be okay. But again, you've got the parking lot. Yeah, the light from the lighting will shine down. It will shine pretty much straight down, but somebody that's living back behind those properties is going to have ...I don't know if the light is an improvement or not, but they're going to have different <unintelligible> than they're used to. I don't think that may be as significant as the noise pollution, but again, where the parking lot is located, it is not impacting the nursing home. It's impacting the neighborhood. Those are my comments.

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: He brought up one of the concerns that I have. I'm sure that that parking lot is primarily considered for the staff use and the staff will be coming at all hours of the day and night. It is in direct proximity to two residences back there. It concerns me that they'll be using it after say 9:00 for staff. That was one of the interests that I had.

Chairman Threadgill: Alright. I have concerns too due to the fact that I live behind Walgreens and I know exactly what they're talking about. At 5:30 or 6:00 in the morning when the trash truck comes, it wakes me up every Wednesday morning. I mean it's ...but you know there is development that's going to happen. Where they have the ability right now to build I think it's seven homes in that area.

Director Sellman: Yes. It's 3.6 dwelling units per acre which would be approximately seven homes.

Chairman Threadgill: Which would be you know a pretty good amount of traffic, the lighting and all would be the same. There would be more internal streets. As far as addressing the storm water, the retention ponds and all that has to meet the ADEQ Storm Water Management before they get their occupancy permit. Their design package, once approved tonight, the drawings that staff has is what they have to build. Unless like one of the speakers said, they come back and ask for a variance of some type through the BAA or the BZA. That's about all the comments I had. Do I have any other ...? Commissioner Clopton?

Commissioner Clopton: Yes. As I recall the packet, and I don't have it. I sure wish I had it. I think the issue of trash collection was addressed in that packet as one of the conditions.

Chairman Threadgill: It's under the DRC Report.

Director Sellman: It is a condition of approval as well.

Chairman Threadgill: Staff is fixing to read those here in just a second, as soon as we get through with our comments.

Commissioner Clopton: Okay.

Chairman Threadgill: Commissioner Thorp?

Commissioner Thorp: Well my concern was about the traffic <unintelligible> too.

Chairman Threadgill: Let me just go ahead and have staff read the conditions and then any other comments you have, we'll go back and address those.

Director Sellman: Thank you. There are 12 conditions. The first is the development shall follow strictly the site plan CU-07-0215 and its drainage, lighting (which is to be full cut-off fixtures), and landscape plans as approved as well as all applicable Malvern Avenue Overlay District requirements. No. 2 – no construction shall be permitted until a building permit has been issued. No. 3 – comply with City of Hot Springs Landscaping Ordinance requirements for preservation and maintenance. 4 – Sanitation pick up shall be coordinated with the Sanitation Department to have no pickups before 8:30 a.m. and shall be frequent enough to prevent odors and to prevent

attracting pests and rodents. 5 – Vendor deliveries shall be coordinated to run between the hours of 9:00 a.m. and 5:00 p.m. 6 – A 12' x 20' dumpster pad is required along the 50' of unobstructed approach to the dumpster. 7 – The site must maintain 20' clear width on the access road to include a turn around the North parking lot. 8 – The site will require a City of Hot Springs Storm Water permit and a Storm Water Protection Plan. 9 – A 15' easement will be required around the creek. 10 – If a building permit has not been issued within 12 months of approval, land use shall convert back to single family residential use. 11 – Site compliance must be approved by all City departments before a Certificate of Occupancy is issued. And 12 – The sign shall meet all site plan requirements as well as the Hot Springs Sign Code and Malvern Overlay requirements. That's it.

Chairman Threadgill: I have one question on that. You stated that after 12 months, the property would revert back to R-2.

Director Sellman: That's correct.

Chairman Threadgill: The property is going to stay R-2. Should we not say that it's going to revert ...It's going to lose the conditional use?

Director Sellman: We can do it that way. Sure.

Chairman Threadgill: I'd rather it state something like that for the public's benefit because it's already R-2. I'd rather it state that the conditional use will be voided. Any ...Commissioner Thorp, you had some questions?

Commissioner Thorp: Yes I do. When I spoke to Mr. Burroughs, he did not say that he could guarantee that the trash would be picked up at 8:30. So do we know that with this in here that that will happen?

Director Sellman: It is a condition of the approval.

Commissioner Thorp: If it comes at 6:00, can the neighbors call?

Director Sellman: Then they are in violation of their permission.

Commissioner Thorp: Okay.

Chairman Threadgill: Any other questions? Harriel? Commissioner White? Go ahead.

Commissioner White: I have a question concerning the conditions and the 12 month. There's only a 12 month requirement on those?

Director Sellman: There actually is no requirement on most conditional uses. Because of the visibility and neighborhood interest on this project, it was deemed to be in the best interest of the community to have a condition that would require that full review of the building plans and a permit issuance would be required within 12 months of this approval, should it be approved.

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: Question – how can the operators of the nursing home control when the garbage is picked up? That has to be done by Sanitation, does it not?

Director Sellman: It does have to be done by them. Uhh, huh.

Commissioner Thorp: That's why I called Mr. – if I may speak ...

Chairman Threadgill: Commissioner Thorp:

Commissioner Thorp: ....That's why I called Mr. Burroughs myself and discussed that with him. This was when we were at our last meeting and he said that he could not guarantee that. Now I'm not speaking for him, but that's what he told me because that was one of my concerns. That you got an exact time to be there at 8:30 ...

Chairman Threadgill: Well if we set it as a condition on this packet, it will be dealt with properly. If it's picked up any sooner, then we'll deal with the Sanitation Director because he'll be in violation and then it will be staff's responsibility to straighten him out.

Commissioner Thorp: Okay.

Chairman Threadgill: Same as they would if it was a violation by the applicant. We're not here to tolerate the fluctuation back or forth. If we make a recommendation, that's the way it's to be.

Commissioner Thorp: Okay.

Chairman Threadgill: Commissioners, anyone else? With all that being said, I'll entertain a motion for or against this item.

Commissioner Campbell: Mr. Chairman, I would make a motion that we approve this with one amendment to the staff's recommendation that there is now no site entries into Colonial Drive or Forest View I believe. My condition would be that would have to remain that way. If it is ever desired, it would have to be an item that came back to this Commission for consideration for exits out onto those side streets.

Chairman Threadgill: Alright, if this Commission approves it, there will be no additional curb cuts on the residential sides of the property. So we'll have 13 items on the conditional use, on the conditions. I have a motion to approve. Do I have a second?

Commissioner Clopton: I second.

Chairman Threadgill: I have a second by Commissioner Clopton. Call the roll please.

Ms. Minear: James Clopton – yes; David Campbell – yes; Wanda Thorp – no; John Mory – no; Harriel White – no; Gary Threadgill – no.

Chairman Threadgill: That's four to two. Motion fails.

Director Sellman: For the record, we had two things that need to occur. One is findings. <unintelligible> about the denial, we need to know what is the reason for the denial.

Chairman Threadgill: Commissioner Campbell, you made the motion. What is your fact findings?

Commissioner Campbell: I voted for it.

Director Sellman: He voted for it.

Commissioner Clopton: I voted for it.

Commissioner White: I voted against and my main concern is the opposition, the strong opposition from the residents in that neighborhood against this project. I don't think that it is ...I agree with them. I don't believe it is consistent with the residential plans for that area.

Commissioner Mory: My findings were basically what I stated awhile ago with the impacts from noise and light pollution, as well as the public outcry.

Chairman Threadgill: Alright. And your second? We have the findings of fact and ...

Director Sellman: You have a motion that failed. You have the opportunity to make a motion to deny in order for you to have an action that passes.

Chairman Threadgill: Everybody understand?

Several Speakers: No.

Chairman Threadgill: What we have is a request by the applicant for approval. The request was made to approve. We denied. Now I need a motion to deny the approval.

Commissioner Mory: I so move.

Chairman Threadgill: I have a motion. Do I have a second?

Commissioner White: Second.

Chairman Threadgill: Alright, all in favor of the denial?

Director Sellman: Do you want a roll call?

Chairman Threadgill: Yeah, give us a roll call please, Teresa, to keep in line.

Ms. Minear: Harriel White – yes; James Clopton – no; David Campbell – no; Wanda Thorp – yes; John Mory – yes; Gary Threadgill – yes.

Chairman Threadgill: Okay, the item does fail.

Director Sellman: Thank you.

Chairman Threadgill: Okay, we'll move to Item No. 1 on New Business, which will be Item 7. We're going to take about a five minute break to get everybody cleared out and everything if it's

alright, sir. <lots of crowd noise> Alright if everybody is ready, we've got the exterior doors open trying to get some air in here. Bear with us please. I think we're going to go to Item ...It will be Item No. 1 on your packet and Item No. 7 on the Planning Commission's. Kathy, would you?

<See Item 7 below.>

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## NEW BUSINESS

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2. Planned Development (PD-07-0183) – 200 Corporate Terrace PD Amendment – proposal to place two hotels on property – 200 Corporate Terrace – District 5 –PD

Director Sellman: This project is 200 Corporate Terrace Planned Development amendment. This is a request to place two hotels on property located at 200 Corporate Terrace. It is zoned PD. The Comprehensive Plan Classification is linear commercial corridor. It is located in District 5. The placement of the hotels will be for a Marriott Courtyard Inn, most likely, as well as very likely Marriott Residence Inns. The recommendation is for approval with conditions.

Chairman Threadgill: Is the applicant present? <end of side of tape>

Mr. Ray Owen: I live at 110 Lee Circle, here in the City. My law office is at 209 Hobson, here in the City. We've been working on this project with the Planning Commission staff very closely for more than six months. We have had a traffic study performed and furnished copies of it electronically and on paper. We've had multiple drawings done by the engineers who are working with the developer. We've had back and forth and made a lot of changes to be able to try to take into consideration the needs of all. Quite frankly, folks, if you can satisfy Marriott, you can satisfy anybody. <laughter> They've been the most difficult folks to make sure that they're happy with it. They're a tough group to work with, but we think we've done what we need to do to satisfy them. Hopefully, we are able to satisfy you as well. This is an existing planned development. It was one of those old planned developments that's more than 10 years old. I think we had to dust the cobwebs off the file to be able to see the old planned development. This is the property at the top of Corporate Terrace. It's 5.07 acres. The plan is to put two hotels there. The only thing that's there now is that kind of a metal storage building that's been used to store siding in for awhile and now I think they store cars and stuff in it. That's basically it. I'm here to try to answer questions. Tim Kaeskie is also here with B&F. He's done all the plans and worked with the architect. We'll try to answer questions as well.

Chairman Threadgill: Alright. Do I have any questions to the applicants? Commissioner Campbell?

Commissioner Campbell: Yeah, Mr. Owen, did they get their problems worked out with the radio station and their antennas?

Mr. Owen: Yes, sir. Tim can shed more light on that with you, but he has met with them specifically about that. I'll let Tim answer that question.

Commissioner Campbell: Thank you.

Mr. Owen: Yes, sir.

Chairman Threadgill: Do I have any other questions to the applicant? You may be seated, Mr. Owen.

Mr. Owen: Thank you.

Chairman Threadgill: Thank you, sir.

Mr. Owen: Tim?

Chairman Threadgill: Yeah, I was going to call him up. Please come forward and give us your name and address, sir. Maybe you can answer Mr. Campbell's question.

Mr. Tim Kaeskie: I'd be more than happy to. I'm with B&F Engineering. This is Doug Fellens, with B&F Engineering. My work address is 928 Airport Road.

Chairman Threadgill: Alright, Mr. Campbell, would you like to restate your question please?

Commissioner Campbell: You want to explain what ya'll have done as far as the antennas?

Mr. Kaeskie: Yes, sir. We have performed a meeting, I believe it will be two weeks this coming Friday, so about a week and a half ago, with US Stations. Before that, we did a study taking coordinates that were given to us, I have a display in the front and I'll pass it around to you momentarily, we took the coordinates of two radio towers – one that's located in Percy up on one of the mountains and one that is located on Mount Riente. We took the coordinates and projected them back to the radio station's tower which we surveyed in the coordinates of that tower. This exhibit shows the path of the projected microwaves – I believe is what they're called – and shows the path and the location of the building in reference to the paths of those two radio waves. We found that the radio wave that exits the radio station and goes toward Mount Riente looks like it clears with maybe 15' to 20' of room with the footprint of the building, of the proposed hotel. The one that projects to Percy appears to be within about 2' of clearance. When I visited with the radio stations, Mr. Gary Terrell and Mr. Charlie Sinn a couple of weeks ago, we weren't sure and they could not give us the exact width of what that radio wave path is. So we're entering in an agreement with them that the developer will provide a new tower at the

radio station which will relocate one of the satellite, one of the dishes, I'm sorry, the microwave dishes to clearly demonstrate that we would miss the proposed hotel if there's a problem. Mr. Gary Terrell is here too. He may want to speak to that as well, but really we don't have enough data to determine whether 2' is enough or 10' is better. But anyway, that's where we've left it at this point. I'll pass this around.

Commissioner Campbell: Okay. The next question to you before you pass it around. Have ya'll looked at a secondary exit out of that thing? There's a path there behind Temperance Hill that goes out to Temperance Hill Road. Have ya'll looked at that any as getting a second way in and out of that complex?

Mr. Kaeskie: Yes, sir. The grades are so steep as to where the radio station is now and where this proposed site is. It's about a 15' to 20' grade difference. As a matter of fact, our development we have suggested segmental or what you would call turf walls to be in place. It would be a decorative type retaining wall to accommodate the grade change and make it appealing. It's too steep to put in a drive. In addition though, we did show as a future development in the property to the North of this site, adjacent to it, would be developed, that we do show a future ingress and egress just as soon as that would come available. But unfortunately, to go behind Temperance Hill is really not an option. It's not a viable option any way.

Chairman Threadgill: Alright. Rick, could you pull up Picture 3 please? What we've got is a townhouse complex right next to it, which is labeled a private drive. Have you had any discussion with these people on the cut through is going to be from Files Road through their complex to the hotels? Have you had any kind of conversation with those people in the area to let them know what's going to go on or have you made any attempt to gate it or anything like that to...?

Mr. Kaeskie: Yes, sir. I met with the President of that Homeowners Association a week ago last Monday, Mr. Dale Whitman, and his secretary, Dr. Ewing. They represented the community there. They said they had no opposition from the community, but they did want ...I invited them to come over to our firm. I met with them around 9:00 a.m. Monday morning and went over the plans with them, explained, showed them, and gave them a copy of the full set of plans showing the proposed development. What they have I guess been entertaining is gating that community. Our development has no opposition at all to that and would like to see that. We want to make them happy in any way we could to accommodate them. They were satisfied with that. Their only comment that they even brought up and they called after they had left our office was the location of a sport court, which is located in front of the Residence Inn. I told them that's really a kind of conceptual layout but that could definitely be switched to the ... I guess that could be towards the West and would get that sport court, which is really a tennis court is what it is, a little further away from the residents. Their concern was just some extra outside noise. This is a Marriott. It's not a low-income type hotel establishment so I would hardly imagine it would be like college parties or something going on.

Chairman Threadgill: Alright. Any other questions to the applicant? Alright, sir, you may have a seat.

Mr. Kaeskie: I'm going to pass this around to you and let you look at it.

Chairman Threadgill: Alright. While that's being passed around, is there anyone in the audience that has anything to say for or against this item? Yes, sir. Please come forward and give us your name and address for the record.

Mr. Gary Terrell: I represent US Stations at 125 Corporate Terrace. We are not opposed to the development that is around our building. Obviously, as Tim stated, our major concern was the microwave antennas that we use to send our signal from our studios out to our transmitter sites. These are federally licensed microwaves and to make any changes on these, it does require permitting through the FCC, the Federal Communications Commission, even if you move more than 1 ½' so they are pretty particular about that. There is a period – 30 to 60 days – that we have to wait and then there's a possibility of an objection, generally there's not, but we would like to make sure ... Obviously this is not something we would like to find out after it's built that there's a problem because we make our livelihood off of that transmission out to our towers. We would like for that to be stipulated or as a condition. We have talked with Tim and think a very economical and reasonable way would be to move the one dish, to put up a small tower less than 40' that doesn't have to be <unintelligible>. It can just be attached. Our building is two stories in that part and would probably be less than a \$5,000 from engineering and installation and everything to get it further away than 2' in front of the hotel because we are really afraid that may be a little bit too close.

Chairman Threadgill: Put it on the roof.

Mr. Terrell: Well, they offered that, but there's some problems there because it's six stories. That's a lot of ... If we have our transmitters still located in that, but the cable is copper and we all know what copper now costs. To do that, and there's some line loss for that length of thing, so...

Chairman Threadgill: Do we have any other questions to Gary from the Commission? Commissioner Harriel White?

Commissioner White: Am I understanding that you're saying you've already come to an agreement with the developers?

Mr. Terrell: Well, we have nothing in writing, so I think it's important that it be a stipulation or a condition on this that that be taken care of and that they reimburse or pay the cost of any movements that we incur to get that out of the way of the hotel.

Mr. Owen: We don't have a problem with making that a condition.

Chairman Threadgill: That comment was made by Mr. Ray Owen. Mr. White, any other comments?

Mr. Terrell: Well, I was looking to you to see ...

Chairman Threadgill: We can make that as a condition on this to that they meet or they have to minimum meet what the FAA or whoever, the FCC or whoever ...

Mr. Terrell: Right. As I say, it's an application process and I would actually prefer that that before they start construction, that that part be moved out, that the additional tower be erected and that be operating before they actually start construction in the air.

Chairman Threadgill: Alright. Mr. Owen, you stated that the firm had no problem with that, getting that information for the ...to staff.

Mr. Owen: Well I think Mr. Terrell probably has a much better understanding and knowledge of how to make the application to the FCC, but if it's a matter of spending somewhere between \$2,500 and \$5,000 for us to reimburse him for putting it in. We don't want to put an antenna on his building. We don't mind if he puts an antenna on his building and we'll pay him for it. We don't want up there on his building doing that, but if it's going to be between \$2,500 and \$5,000, we're ....

Chairman Threadgill: I think what we need then is for you to get your group to give something to staff in writing as soon as possible for that.

Mr. Owen: We don't mind you making it a condition too.

Director Sellman: Could I propose some language then that would be Condition No. 5 – establishing the responsibility of the applicant for cost of engineering and construction of a tower not to exceed 40' for installation of a microwave antenna. Is that what we're ...?

Chairman Threadgill: Prior to development.

Director Sellman: Prior?

Mr. Owen: And I'd like to limit it too, you said at one point in time I think you mentioned to Tim that it would be maybe \$2,500. Could we say not to exceed \$5,000?

Mr. Terrell: Well, I haven't done the cost of a tower, but I would say that my best estimate would be ...

Mr. Owen: I don't want to commit myself to a \$4 million tower right here. <laughter>

Mr. Terrell: Could you say less than \$7,500?

Mr. Owen: Less than \$7,500.

Director Sellman: Okay.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: I would like to propose that the language be worded the applicant and the radio station reach a written agreement that's presented to staff that both agree on and that keeps the City out of the loop of having to enforce an agreement that a lawyer could pick apart. I just see us opening up a potential can of worms here.

Mr. Owen: We can prepare an agreement between the radio station and the developers that I think will be satisfactory.

Chairman Threadgill: What we have though as part of the condition that we can put on them is they will not get an occupancy permit until this is ....

Commissioner Mory: Right. Right.

Chairman Threadgill: So that ... Their leeway and the City is not going to be responsible. I mean, but, what's going to happen is the Merriest aren't going to get a water meter unless they comply with Mr. Gary's request, so ... We'll leave that up to staff to get the wording to whatever City Attorney feels. Is that alright with you, Kathy?

Director Sellman: I'd like to narrow it down a little bit more. I don't feel comfortable with the discretion to figure that out.

Chairman Threadgill: Commissioner Clopton?

Commissioner Clopton: Mr. Chairman, could you not word your condition something to say that prior to construction, a written agreement must be submitted to the Planning Commission whereby the two parties agree upon the moving of the microwave antenna.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: I agree.

Chairman Threadgill: Is that suitable?

Director Sellman: Yes, it is. Thank you very much.

Chairman Threadgill: It's a done deal. Come back to the podium, please, sir. Is there anyone else in the audience with anything to say for or against this item? Please come forward and give

us your name and address, sir.

Mr. Kenneth Baim, 234 Summertime Point: Also with the Baim Law Firm. My family, the Baim Family, properties owns the self-storage which is immediately adjacent to this property. I want you to know that the staff, Teresa, was very kind in helping me and providing me with the information. We are very much supportive of this ...of what they're doing.

Chairman Threadgill: I appreciate your compliments, sir.

Mr. Baim: B&F Engineering has done all of our engineering for us and I'm very, very comfortable with the fact that B&F has done this and I feel very good about it. Thank you very much.

Chairman Threadgill: Thank you for your comments, sir. Is there anyone else in the audience with anything to say for or against this item? Again, anyone else in the audience with anything for or against this item? Seeing none, I'll close the public portion and ask if there's any questions or comments from the Commissioners. Seeing none, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, I move that we approve this project subject to the conditions.

Chairman Threadgill: I have a motion by Commissioner Clopton to approve with conditions.

Commissioner White: Second.

Chairman Threadgill: I have a second by Commissioner White. All in favor? <ayes> Those opposed? <none> Item passes.

Director Sellman: And to clarify, that does include Item 5 as you suggested the language?

Commissioner Clopton: Yes, it does include Item 5 as suggested.

Chairman Threadgill & Director Sellman: Thank you.

Chairman Threadgill: We'll go to Item No. 3, moving right along.

3. Site Plan Approval (SPA-08-0008) – Utility Service Center – New Municipal Utility Service Building – 775 Adams – District 5 – M-2

Director Sellman: This is the Utility Service Center request for site plan approval to construct a new Utility Service Building by the City of Hot Springs at 775 Adams Street. The zoning is M-2. It's in District 5. The recommendation is for approval with conditions.

Chairman Threadgill: Is the applicant present? Please come forward and give us your name and address for the record, sir.

Mr. Steve Mallett, Public Works Director for the City of Hot Springs: I'm representing the Utilities Department. The Utilities Department is requesting approval to proceed with the dismantling and reconstruction of an existing 5,000 square foot building on an existing site at 700 Adams Street. That's our existing Utilities Service Center. This site is used pretty much explicitly for utilities, housing of all of our equipment and staff. I'm not aware of any opposition to this request, so I would also state that I am aware of all the conditions that were brought up by the Development Review Committee and we're prepared to comply with all of those conditions.

Chairman Threadgill: Do I have any questions from the Commission to the applicant? Wow, seeing none, you may be seated, sir. <laughter> Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? None? I'll entertain a motion.

Commissioner Thorp: Mr. Chairman?

Chairman Threadgill: Commissioner Thorp?

Commissioner Thorp: I make a motion for approval.

Chairman Threadgill: I have a motion to approve ...

Commissioner Thorp: With the recommendations.

Chairman Threadgill: Thank you, with staff's recommendations. Do I have a second?

Commissioner Clopton: Second.

Chairman Threadgill: I have a motion to approve with staff's recommendations by Commissioner Thorp, and a second by Commissioner Clopton. All in favor? <ayes> Those opposed? <none> Item passes. Item No. 4.

4. Site Plan Approval (SPA-08-0006) – Hillcrest Children's Home – multiple building Site Plan Approval in Malvern Overlay – District 6 – R-2

Director Sellman: Item No. 4 is Hillcrest Children's Home, a request for site plan approval. This project is located partially in the Malvern Overlay. This is zoned R-2. The Comprehensive Plan Classification is low density residential. It is located in District 6. The recommendation is for approval with conditions.

Chairman Threadgill: Is the applicant present? Please come forward and give us your name and

address for the record, sir.

Mr. Robert Michaels, Executive Director, Residences, 124 Gardens Gate Drive:

Chairman Threadgill: Alright, sir, and a little bit about what you've got plans for.

Mr. Michaels: Well what we've got planned is on our property, situated well back off Malvern, is two approximately 5,000 square foot residence facilities for underage children.

Chairman Threadgill: Alright, sir. Do I have any questions from the Commissioners to the applicant? Commissioner Campbell?

Commissioner Campbell: I have. What type of material are you planning on constructing these buildings of?

Mr. Michaels: The outside will be brick.

Chairman Threadgill: Any other questions? Thank you, sir. You may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? Seeing none, I'll entertain a motion.

Commissioner Mory: I do have a comment.

Chairman Threadgill: One comment. Commissioner Mory?

Commissioner Mory: They are doing an Article II, correct?

Director Sellman: Yes.

Commissioner Mory: And we don't have a site plan, correct?

Director Sellman: Not correct. We do have a site plan.

Commissioner Mory: Well I mean we don't have one that I particularly see for ...oh, never mind. I was thinking about the Malvern Overlay. I'm sorry. I was thinking about <unintelligible> and everything, but this is outside.

Director Sellman: Right. Yes. It's on its own parcel outside the Malvern Overlay.

Commissioner Mory: Thank you.

Director Sellman: Yes.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: Doesn't the Malvern Overlay though state that when a project lies within the Malvern Overlay that everything in it has to meet it?

Director Sellman: It states that when a parcel is within the Malvern Overlay, everything on the parcel is located in the Malvern Overlay. This is a parcel that is entirely located outside of the Malvern Overlay.

Commissioner Campbell: Okay. Thank you for the clarification.

Director Sellman: Mmm, hmm.

Chairman Threadgill: Any other questions or comments from the Commissioners? Again, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, I make a motion that we approve this, subject to staff's conditions.

Chairman Threadgill: I have a motion by Commissioner Clopton to approve with staff's recommendations. Do I have a second?

Commissioner White: Second.

Chairman Threadgill: I have a second by Commissioner White. All in favor? <ayes> Those opposed? <none> Motion passes. Item No. 5.

5. Site Plan Approval (SPA-08-0005) – Sparling Point Townhomes – 5 building multiple building site plan review in the County – County – ET

Director Sellman: Item No. 5 is Sparling Point Townhomes, a request for site plan approval to construct a five building multiple building site. It's located in the extraterritorial jurisdiction of the City in the unincorporated area of the County. The Comprehensive Plan Classification is suburban residential. The recommendation is missing.

Male Speaker: You don't have to find that.

Chairman Threadgill: The staff's recommendations are to deny the Article II multi-building site plan.

Director Sellman: Yes, it's to deny with findings.

Chairman Threadgill: Please give us your name and address for the record, sir.

Mr. Bill Malone, Engineer, 130 Hobson, residence at 2300 Central, Hot Springs.

Chairman Threadgill: A little bit of what you've got here, Mr. Malone.

Mr. Malone: This is a project at the end of Sparling Road, as most of you know. It's on a parcel that is on a point. It formerly had one home on it, I believe. The owners of the property want to place five residences on this property, individual homes, ranging in size from about 1,500 square feet heated up to about 3,300. I think that's their size, roughly in that area. They've been valued by the assessor on this spot as their plans from about \$800,000 to \$1.3 million, so they're upscale individual home sites on a very nice piece of property. Unfortunately, the access to this property is restricted, as pointed out in your staff's report. We have a 20' easement to the property and once we get on the property, we're going to fully develop that 20' and curb it. The area within that curb, it was pointed out in your staff's report that a plat revision did not show a fire zone, a fire lane, but there is a fire lane designation for that area. So there wouldn't be any parking boats or excess automobiles or anything allowed. That would always be accessible for turnaround purposes. It's a modified hammerhead cul-de-sac design. Each house, building, would have a 20' driveway and a car and a garage. The drainage is to be provided down to the drains, not underground, but over land with rock, rip-rap type <unintelligible> to the lake. Grinder, sewer facilities are available and we will hook into those. We'll extend a water line down to this project.

Chairman Threadgill: Okay, I've got one question while you're there. On your drawing, your showing it looks like two grinder stations?

Mr. Malone: Yes.

Chairman Threadgill: And if I'm not mistaken, one of your forced mains has a 7' clearance between the buildings and your other has an 8'. If I'm not mistaken, City requirements are a 15' easement for any drains and pressure lines. How are you going to accommodate that? There's no way that the City could get a backhoe to the back of those buildings to dig up those grinder pumps or replace them anyhow.

Mr. Malone: Well that means that for this to work like I've got it laid out here, because of the space between the buildings as you point out, will not meet the requirements for easement, so the horizontal property regime will have to be responsible entirely for this operation of their utilities in between the buildings. That would be an acceptable condition. I think that would be the only way that the City utilities would accept it probably.

Chairman Threadgill: Alright, continue.

Commissioner Thorp: I didn't understand that. I didn't understand what he was talking about.

Director Sellman: Then I think he needs to explain it again.

Chairman Threadgill: Alright.

Mr. Malone: Well normally, like the Chairman says, anything that the City's going to maintain requires certain easement widths or they just are not accessible when you try to get those. In this project, we can't do it so the developer, the owners will have to be responsible from now on for that maintenance of those facilities.

Commissioner Thorp: So you're saying that the owner of that is going to come down there and take care of those grinder pumps?

Mr. Malone: The horizontal property regime ownership will maintain and be responsible for the grinder pumps – any replacement, any repair, anything like that.

Commissioner Thorp: Thank you.

Chairman Threadgill: Thank you. Do you have any other comments, Bill?

Mr. Malone: No. I don't.

Chairman Threadgill: Any questions to the applicant from the Commissioners? Commissioner Clopton?

Commissioner Clopton: Mr. Chairman, this property seems pretty low or very close to the lake from a height standpoint, from vertical. Are we looking at flood plain problems here?

Mr. Malone: No, it's not that ...It's not a problem at all because there is sort of a very steep bank on the property and it will have a sea wall around it. There's a sea wall around all except the center part of the point now and they will complete that.

Commissioner Clopton: Thank you.

Chairman Threadgill: You are within the 400' water line? I see 405' here and I guess another line, so that puts you within the 400' or 399' for the Entergy water line?

Mr. Malone: All of the ...I show the finished floor elevations of the garages. You can see they're up pretty high.

Chairman Threadgill: At 405', so they're 5' from the water table?

Mr. Malone: Well, like Building No. 5 has got it at 417' and Building No. 1 is 415'.

Chairman Threadgill: Any other questions to the applicant from the Commissioners? Sir, you may have a seat. Is there anyone in the audience with anything to say for or against this item? Please come forward and give us your name and address, sir.

Mr. Cal Arnold, 251 Sparling Road: That's three houses down from this project. I know there's a number of Sparling residents here this evening that would like to speak in strong opposition to the project. We only found out about it yesterday. That being on a point, the road dead ends there. As has already been pointed at, they have a very narrow access 20'. So we did not realize it was posted for this until just yesterday because you really have to drive on the project, on the property itself to see the 8 ½" x 11" notice about it. <Someone is speaking in the audience.>

Chairman Threadgill: Hold it down please and let the applicant speak.

Mr. Arnold: 8 ½" x 11". I think it would be our preference that you postpone a vote so we have an opportunity to really study the project better in detail, become well informed about it, and if necessary retain some counsel representation. If you are intent on voting on it this evening, then we are strongly opposed to it. I know others will speak about that. This is an area of long-established single resident homes. This developer bought this property as a single family home, immediately bulldozed the house, bulldozed all the trees, and carried a large number of dump truck loads off the property in order to develop it. I think initially it was going to be two homes, then three. That's been well over a year when that didn't appear to work from a marketing perspective. Now I believe the developer is trying to bail out by overdeveloping and shoe horning these five residences in here. There's nothing else out on that point that's anything but single family homes. So we would ask that you deny this project. Vote no on it and maintain the integrity, the quiet integrity of our single family neighborhood.

Chairman Threadgill: Alright, sir. Are there any questions to the speaker from the Commissioners? Alright, thank you, sir. Is there anyone else who has anything to say for or against the item? Please come forward and give us your name and address, sir.

Mr. Nick Perry, 280 Sparling, which is two lots to the West of the property in question: I took some pictures today. I don't know if you want to see these, if I can bring those up.

Chairman Threadgill: Pass them over to Mr. Mory.

Mr. Perry: Probably the last quarter mile of road down to this property isn't any more than 15' wide. When two cars come together, one generally has to pull over to let the other one go by. They're trying to put five homes down there, which almost every home is going to at least have two automobiles. He says that you cannot have any extra vehicles there. The cul-de-sac that they're talking about in between the homes isn't much bigger than this room. On holidays, they're living on the lake. I don't know who doesn't have company on the holidays. I don't know where they're going to park or if they're going to have to shuttle people in and out over there. Water pressure – I don't know how they're going to deal with water pressure on the holidays. Sewer. The traffic is a major issue. We're really a single family home. I've been there forever. It's very quiet at 6:00 or 7:00 in the evening. You don't really see anybody other than the people walking up and down the street. With this many cars, there's going to be safety issues. As my neighbor said, we didn't find out about this until yesterday and that was only

because one of my other neighbors was actually looking for his dog. The sign was posted very far into the property. It was just an accident that we're here. We're pretty much woefully unprepared. All I can say is we're strongly opposed to this. They're trying to put a size 5 foot into a size 2 shoe. It's just ...there's just too many homes there. From our original understanding, they were going to put one home, maybe two. Now they're trying to put in five. This person that bought it I don't even think has any intention of living there. I don't know if that was his intention from the get-go, but it's just really not working for us there.

Chairman Threadgill: Alright. Do I have any questions to the speaker from the Commissioners? Thank you. Is there anyone else in the audience with anything to say for or against the item? Please come forward and give us your name and address for the record.

Mr. L.C. Gaither, 285 Sparling, adjoining this property: I just want to know has anyone ever had to service their own grinder pumps in a place that they couldn't access with a backhoe? There's just too many buildings shown on this property to be reasonable. If ya'll can't turn it down, we'd certainly like time to get some legal advice as to what we can do to fight it. Thank you.

Chairman Threadgill: Thank you, sir. Anyone else in the audience with anything to add to for or against?

Mr. Ralph Brink, 225 Sparling Road: It's like they said. They told us one day and the next day ...bang. We would like time. Just set the thing back and wait. Let us get our legal counsel and see what we can do. That's all I have to say.

Chairman Threadgill: Thank you, sir.

Mr. Brink: Thank you.

Chairman Threadgill: Anyone else in the audience have anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? Commissioner White?

Commissioner White: Yes. Just a comment. We do run or advertise in the media concerning the projects that are coming up for the Commission 30 days in advance.

Chairman Threadgill: Correct.

Commissioner White: Okay.

Male Speaker from the audience: What <unintelligible>?

Chairman Threadgill: What we do, we have a notice period, what is it 10 days, 15 days?

Director Sellman: 15 days.

Chairman Threadgill: 15 days? That anything that comes to this Commission has to be printed in the paper. It's usually back in the legal section, 410, and any item will have the warning, the yellow notification sign that has to be posted. So that's the intent of the public notification.

Male Speaker from the audience: That may be <unintelligible>.

Chairman Threadgill: The public portion is closed, sir. Did I? Yes?

Director Sellman: Yes, you did.

Chairman Threadgill: I had to remember.

Director Sellman: No.

Chairman Threadgill: One of the things that I would like to make a comment on, kind of relevant to this item, the City has been trying to adopt a one-mile zoning. You probably read in the paper there's a lot of conflict. The Quorum Court has pretty much told the Board of Directors they want them to forget it. This is where your rights come in in this one-mile zoning. If we do that, there will be notification mailed out to people in these areas so you'll have some kind of idea of what's happening in your neighborhood. We'll have more control on what can and can't be done in areas as far as development to and from streets to the projects. So it's one of the things that you might want to think about and talk to your friends before we start saying that we don't want regulations in the one-mile area. It's to the public's benefit. I wish the public would at least give the Board of Directors the chance to hear what we've comprised to submit to you before anything's done. With that being said, Commissioner Clopton?

Commissioner Clopton: I'd like to add to that just briefly. Just to say that you are not the exception. You are the rule. Last month we had a group of citizens protesting a project in the County, just as you are today. Again, we have very little control on what happens in the County since we have no zoning. This is something that happens almost every meeting month. We want to protect you against infringement upon your property values and the development around the lake just as much as you want it. So whatever you do in that respect, keep it in mind.

Chairman Threadgill: Alright, any other questions from the Commissioners?

Commissioner Mory: I have a couple of comments. I think the easiest way I can sum it up is my personal view is I generally agree with the comments brought up by the residents in the area and the comments that staff has made. I think the existing infrastructure, particularly the streets, are inadequate for this size development. I also think that the term "shoehorning" is a very good one for this project. I think we are literally trying to shoehorn five houses onto where you may be able to fit two in a reasonable manner.

Chairman Threadgill: Any other comments? I have one in mine. I don't like any development that comes to us with City utilities shown on the drawing that are going to attach to City sewer services, water, and all that, we don't have the easements that are required for the maintenance. We approve this with these drawings, we're approving that design. I'm not, you know, I'm totally against that. I'm going to go along with staff's recommendations, so any other questions or comments? Seeing none, I'll entertain a motion.

Commissioner Campbell: Mr. Chairman, I make a motion that we deny this application and the facts of finding would be exactly what has been said is the existing infrastructure is not adequate and this development is completely out of nature with what's there now, so that would be my ...

Chairman Threadgill: Along with staff's recommendations?

Commissioner Campbell: Yeah.

Chairman Threadgill: I have a motion with recommendations by Commissioner Campbell. Do I have a second?

Commissioners Thorp and Clopton: Second.

Chairman Threadgill: Commissioner Thorp seconds. All in favor? <ayes> Opposed? <none> Motion fails.

Director Sellman: <unintelligible>, the project is denied.

Chairman Threadgill: Yeah, thank you.

Commissioner Thorp: When you start saying something <unintelligible>, then it scares me. <laughter>

Chairman Threadgill: Yeah. I know what she's doing. She's keeping us straight on the record.

Commissioner Thorp: I wanted to be sure that I voted correctly what I intended.

Commissioner Clopton: We're going to 7 now right?

Director Sellman: Yes. Item 7.

6. Preliminary Subdivision (PS-07-0216) – Country Club Garden Homes – 21 lot subdivision on Shady Grove – 500 Shady Grove, Shady Grove and Country Club Lane – District 5 – R-2

Chairman Threadgill: Is the applicant present? This was a change I made yesterday that the

packet was already...

Director Sellman: Country Club Garden Homes preliminary subdivision. A 21-lot subdivision at 500 Shady Grove. The current zoning is R-2, residential. The Comprehensive Plan Classification is low density residential. I believe the zoning is R-3. Yes?

Male Speaker: Yes, it is now.

Director Sellman: It is located in District 5. The applicant is Rodney Myers. The recommendation is for approval with conditions.

Chairman Threadgill: Alright, Mr. Myers, if you'll give us your name and address for the record. I'm sorry, Bill.

Mr. Bill Malone, representing the developers: My office address is 130 Hobson. My home address is 2300 Central. The plan before you that we are going to consider is for 20 lots rather than 21. This is the third refinement of this plan. We started out with 23 and now we're asking approval for 21 or 20. That's quite a different design than what we started; but basically, we have provided for future street improvements – future street improvements on Shady Grove and also on the North side of the property going East and West. We were able to design the subdivision to meet the R-3 requirements with a slight change of the right-of-way widths and that was approved by the variance group at their last meeting. Other than that, it's pretty straight forward.

Chairman Threadgill: Alright. I'd like one request too real quick from staff, on the briefs we have 21 lots and on the subdivision site plan, we have 20 lots; so I'd like that changed to read 20 on the briefs as well. Do I have any questions from the Commissioners to the applicant? Commissioner Mory?

Commissioner Mory: I have a couple. On Drawing No. 10 where you're showing the proposed streets internal to the subdivision, you have the percent grade of the first part there shown as 3%, which is obviously a typo.

Mr. Malone: It's supposed to be 13.

Commissioner Mory: 13%? Okay. <unintelligible> calculations, I was getting something like 15%, but has staff...? Let me look at the DRC. Basically, looking at that from the standpoint of impact on the neighborhood and the City is going to maintain and operate these streets, correct?

Director Sellman: Ahhh....

Commissioner Mory: It's in the County.

Chairman Threadgill, Director Sellman, and others: No, this is in the City. These are going to be City streets.

Commissioner Mory: I'm jumping around on different site plans here. And that street is going to be an asphalt street, correct, not concrete?

Mr. Malone: We haven't made that determination. On the last one we did, we did change it to concrete. For right now, it's shown as asphalt.

Commissioner Mory: That's what I thought I seen in that section there.

Mr. Malone: It's a little bit steep.

Commissioner Mory: Yeah, yeah. I know from a maintenance standpoint that asphalt is not going to stay there very long.

Mr. Malone: It's very short, though. That's the good thing about it.

Chairman Threadgill: Commissioner Mory, put your microphone closer.

Commissioner Mory: Sorry.

Chairman Threadgill: Any other questions or comments? Hold on. Commissioner Mory, you finished?

Commissioner Mory: Go ahead with Mr. Campbell.

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: I think we need to clear up the drawing that you're looking at 10, that is the internal street I believe.

Mr. Malone: Yes.

Commissioner Campbell: That's going to be a private street, isn't it, staff? Because it says in there that, in the Staff Report, that the internal streets, it's part of the conditions was that the developer would maintain the internal street, I believe.

Mr. Malone: It used to be a private street.

Chairman Threadgill: Alright.

Director Sellman: It's a private street.

Commissioner Mory: Okay.

Chairman Threadgill: The applicant just stated the internal street is private. Any other questions or ...Commissioner Campbell?

Commissioner Campbell: I have one. 13%, Mr. Malone, is that where it comes off of Sunnyside and going up?

Mr. Malone: Sunnyside and goes up. Exactly.

Commissioner Campbell: Okay. That's what it looked like. That's all I have.

Chairman Threadgill: Do I have any other questions or comments from the Commissioners? Sir, you may have a seat. Commissioner Campbell?

Commissioner Campbell: I have one more. Ya'll are calling that Sunnyside and I think that the map shows that Sunnyside <unintelligible> to the original Sunnyside, but it's not connected now. Are you planning on changing that name?

Mr. Malone: I believe there's been some talk about it. I don't know for sure if they're going to do that or not. I think they'd like to.

Chairman Threadgill: The 911 development will check all street names and they will make sure there's no ...They've got to get permission for any street names through ...

Director Sellman: Because its alignment eventually is capable of connecting to Sunnyside, it will probably maintain the name that it has at this time and will serve as a collector street.

Mr. Malone: Thank you.

Chairman Threadgill: Alright, you may be seated, sir. Is there anyone in the audience with anything for or against this item? Again anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from any of the Commissioners? Commissioner Thorp?

Commissioner Thorp: Yes, sir. In the Staff Report, does it say that this will be a street maintained by the developer? It's going to be a private street. Am I not reading that right? Does it read it in there? There's a required street improvements shall be constructed at the expense of the developer, but it doesn't say that it will be private.

Mr. Stauder: If I could address that, I don't believe that I referenced whether it would be private or public. I wasn't aware at the time. Regardless, it has to be constructed to the same standards. As they did mention, they got a right-of-way reduction variance from the Board of Adjustments and Appeals, but the street design will <unintelligible> of 28' back to back as a normal street

would. They also proposed to dedicate additional utility easements along the fronts of all those lots to compensate for any utility placement as a result of the variance.

Commissioner Thorp: So if I chose to live in that area and the street got all bad, then that's who I go back to and he knows that.

Mr. Stauder: It should be spelled out in the Bill of Assurance that anyone that buys a lot in that subdivision is subject to those restrictions and the maintenance expenses, POA dues, etc. should be spelled out in that document.

Commissioner Thorp: I'd like for it to say that this will be a private street so that there's no misunderstanding about what this is right here. If I'm making a street improvement, I can understand that. However, if it's a private street, to me that takes on a whole different aspect.

Chairman Threadgill: Mr. Malone, would you come back forward please? Is this going to be a POA established property?

Mr. Malone: Their plan is I believe to gate this and so definitely anything behind the gate would be maintained by a POA. That would be taken care of in the Bill of Assurance. On the plat, we would designate, on the final plat, the designation of the street.

Chairman Threadgill: Is there a designation now? I mean that's what we're needing now. You have a Bill of Assurance ...not a Bill of Assurance, a ...

Commissioner Thorp: A master deed?

Chairman Threadgill: Yes, a master deed or anything that's going to reflect that this is going to be a private street?

Mr. Malone: I don't know if it does or not. We'll have to ask the owner that question.

Chairman Threadgill: Alright. Please give us your name and address real quick.

Mr. Rodney Myers, 46 Baton Circle, Little Rock:

Chairman Threadgill: You understand what we're asking, Rodney? We need some kind of assurance that the property owners are going to maintain this street and not after it's approved, say the City's supposed to be doing it, and here we get ended up with a 13 ° slope on a street that's going to be hard to maintain.

Mr. Myers: Our whole intention is to gate the thing. We've not done our master by-laws or anything like that, but our intent is, we've no intention of changing it, is to put a gate which would make it private. If you need to put some type of contingents on that, that's fine.

Director Sellman: We can add a condition No. 7 that the internal street is private and maintenance will be the responsibility of the Property Owners Association.

Mr. Myers: That will be fine.

Chairman Threadgill: You happy with that?

Commissioner Thorp: Yes, it will.

Chairman Threadgill: Alright, hold on just a second. Commissioner Campbell?

Commissioner Campbell: It's my <unintelligible> any time that gate <unintelligible> internal entrance and exits. You're not talking about gating Sunnyside Street itself?

Mr. Myers: No, Sunnyside – that's the City's. We're having to build a sidewalk, curb, and gutter, and the extension of Sunnyside at our expense, but we're talking about putting the gates at the two entrances to the project.

Commissioner Campbell: Will that sidewalk continue on out and come up Shady Grove the length of your property also?

Mr. Myers: No, no, it doesn't.

Commissioner Campbell: You don't know off the top of your head about where ....?

Mr. Myers: We gave a setback or something, didn't we, Kathy?

Director Sellman: There is additional dedication along Shady Grove, that I believe is sufficient for the construction of a sidewalk. I don't recall that the sidewalk was a requirement.

Mr. Myers: I don't have a problem, Commissioner, building a sidewalk.

Director Sellman: We can make that a condition No. 8.

Commissioner Campbell: Yes.

Director Sellman: Construction of a sidewalk the full length of the development along Shady Grove.

Commissioner Campbell: Yep.

Chairman Threadgill: Anything else, Commissioner Campbell?

Commissioner Campbell: No, that's all.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: The only thing I had on condition No. 7 was we need to make sure it's streets that are plural on that because there are two internal streets. Just for clarity there.

Chairman Threadgill: Alright. Commissioner Clopton, did you have a ...? Any other questions from the Commissioners?

Mr. Myers: Thank you.

Chairman Threadgill: Seems I have no more comments, I'll entertain a motion.

Commissioner Mory: Mr. Commissioner, I move that we approve the plan as submitted with the eight conditions we discussed – the six original staff conditions and the two we recently added.

Chairman Threadgill: Alright, I have a motion to approve by Commissioner Mory. Do I have a second?

Commissioner Campbell: Second.

Chairman Threadgill: I have a second by Commissioner Campbell. All in favor? <ayes> Those opposed? <none> Motion passes. We'll go to Item No. 2.

7. Preliminary Subdivision (PS-08-0007) – Pleasant Valley Place – 5 lot duplex subdivision in the County – Hershell Road – County – ET

Director Sellman: Yes. Thank you. This item is Pleasant Valley Place preliminary subdivision. This is a five lot duplex subdivision in the County. Is that correct? Why is that Item 7?

Mr. Stauder: Oh, excuse me. Do we need to go Item 6 or is it out of 7?

Chairman Threadgill: Pleasant Valley is 7 on my sheet.

Director Sellman: Country Club Garden Homes. That sounds more like it.

Chairman Threadgill: Do you have the public sheet? Yes. Okay. On the public sheet, it is ...The item we're looking for is 500 Shady Grove, Country Club Lane.

Ms. Minear: It's Item No. 2 on the public sheet. It's Item No. 6 on your board packets.

Director Sellman: Okay, thanks. <Discussion continues under Item No. 6 above>

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Director Sellman: Item 7 is Pleasant Valley Place. This is a request for a preliminary subdivision to develop a five lot duplex subdivision in the County. This is an after-the-fact request. It's located on Hershell Road, in the County's unincorporated area within the City's extraterritorial jurisdiction. The Comprehensive Plan Classification is suburban residential. The recommendation is for approval with conditions.

Chairman Threadgill: Please give us your name and address for the record, sir.

Mr. Terry Black, 131 Bridgewater Point:

Chairman Threadgill: A little bit of what you've got planned there.

Mr. Black: My desire is to put five duplexes on this parcel as shown on the plat, the preliminary plat.

Chairman Threadgill: Do I have any questions or comments from any of the Commissioners? Commissioner Campbell?

Commissioner Campbell: I do. I noticed that you've been in contact with staff and you're talking about expanding the size of that road going in there?

Mr. Black: Yes, sir.

Commissioner Campbell: You're just about going to have to go clear over to that fence with it, aren't you?

Mr. Black: Just about.

Commissioner Campbell: Okay.

Mr. Black: I've talked to the Public Works Engineer and he said because it was a private drive, that wasn't going to be as strict an issue, but I'm getting conflicting reports from staff. So I'm just going to do whatever I can to satisfy the City.

Commissioner Campbell: How much room can you get in width-wise from the edge of it next to the air conditioning units out? How much room can you get in there?

Mr. Black: I think we can add probably 8'. I visited with the Fire Department, the Fire Chief, and he said the roadway was not an issue as long as it had a hammerhead. I did that before we went back to the engineer to draw this for you.

Commissioner Campbell: Are you planning on putting a curb over there on the outside edge of it because it...?

Mr. Black: Yes, sir, I'll have to.

Commissioner Campbell: You just about have to to keep it from running down on that property...

Mr. Black: To keep the water from running down on adjacent property. Yes, sir.

Commissioner Campbell: That's all I have.

Chairman Threadgill: Any other questions or comments from any of the Commissioners? Commissioner White?

Commissioner White: Well, yes, I have a comment. What you're talking about, are we talking about these as conditions?

Director Sellman: The eight items are conditions. This is a preliminary plat. These conditions must be met for the final plat.

Commissioner White: Okay. So they are conditions?

Director Sellman: Yes. There are eight.

Commissioner Thorp: Mr. Chairman?

Chairman Threadgill: Any other questions or comments from any of the Commissioners? Commissioner Thorp?

Commissioner Thorp: Mr. Chairman, does this not start out to be single family dwellings and now we're at duplexes?

Chairman Threadgill: Staff?

Director Sellman: That appears to be what happened. Yes. It was approved as a single family development.

Commissioner Thorp: Then how did we get to duplexes when it was supposed to be ...?

Director Sellman: That would be a question for the applicant.

Commissioner Thorp: So how did we get from single family dwellings to duplexes?

Mr. Black: The confusion I think was mostly, I'm going to own most of that confusion. I met with staff five years ago and asked what I needed to do to subdivide this property or I could have

asked for a multi-building, multi-buildings on one site. I wasn't fully aware of that at the time, but my question to staff at that time, over five years ago, was since I'm the sole owner, would it be best if I wanted at a later date years down the road to sell individual properties, would it be best to subdivide that now or later? I explained that I wanted to do duplexes from the very beginning, but there was some confusion I think when I went to the engineer. The engineer drew what I asked him to draw. I submitted that to the staff. Staff submitted it to the Commission at that time. When I went to my lender, my lender, because they are duplexes, considered them ... An individual can buy a portion, half of a duplex, and so if I would have asked for triplexes or quads, my lender would have considered that multi-family. My lender considered these residences. What compounded that when I talked to Milt at the Sewer Department, it has two boxes on what I requested and paid for my sewer hookups. One was a box that said residence and the other box said multi-family. The boxes that were checked by the Sewer Department were residence. So I was not aware that I was not ... My intent was not to build multi-family. It was to build duplexes, but the definition of staff is a duplex is multi-family even though I wasn't fully aware of that. I wasn't aware of that until about 90 days ago when I attempted to ... I first called the City and said are we in the City now? I didn't know if we had been incorporated into the City yet. They said no. I said so do I need a building permit? I was told no. So I went ahead and constructed the footing and the foundation blocks for the fifth building and when the plumber came in to get his permit is when we were told that we couldn't build a duplex, even though we had already built four five years ago. So does that answer your question?

Commissioner Thorp: Yes it does, and I have another question.

Mr. Black: Yes, ma'am.

Commissioner Thorp: When you go in that road, and you've got some foundation laid back there at the back, is that going to be a one-way in and a one-way out?

Mr. Black: Well, it's a ...

Commissioner Thorp: You've got to turn around at that last one that's already built to get out.

Mr. Black: Well it's a private drive, so the only people coming in are the people that live there. I haven't had any complaints in five years. I've actually had City employees live there.

Commissioner Thorp: I'll complain. I had a hard time getting out to go look at your project. If they have visitors though, if you have someone over for a party or whatever, it's hard to get out of there.

Mr. Black: Well, like I said. I did not ... The problem really originated over five years ago when the City didn't have anything in place to help advise me in regards to road width and other issues. I just did what I needed to do. But I haven't had any complaints from any residents.

Commissioner Thorp: So on that other end down there, you don't have a way that you could

make like a circle where you could go in and come back out down here?

Mr. Black: Well, again, I went back to the Fire Department and I went to Public Works and both of them said the roadway, as far as they were concerned for safety, for access, was adequate. But we have been asked by staff to widen the road and we've agreed to do that to the best of our ability as is shown on the preliminary plat.

Commissioner Thorp: And you have discussed with the person that owns that chain linked fence that you're fixing to come over that way? So if they have a wreck and run over and tear down his chain link fence, are you going to fix it?

Mr. Black: Well, I can't answer that. That would probably be a question either from the attorney or from the home owner's insurance company or that person who ran over the fence. That wouldn't be a responsibility of me as the developer if somebody run over somebody's fence.

Commissioner Thorp: Okay.

Mr. Black: That would be a home owner's issue. That is a good question. But I have visited with the neighbor with the chain link fence and he's fully aware of what I'm doing.

Chairman Threadgill: Any other questions?

Commissioner Thorp: I don't think so. I don't see enough room, but...

Chairman Threadgill: Commissioner Campbell?

Commissioner Campbell: In reading in the Staff Report, it talks about the lots should have been 70' and <unintelligible> that you intend on extending them back. Are you going to remove that portion of the pavement that's going to be on that lot?

Mr. Black: No, sir. Again, that's just going to add more access to and from. It was my understanding from staff that we could have, when we resubmitted this, we could have simply resubmitted it with a POA and each house or dwelling would only be the footprint if I ever were to sell it and it would remain in a POA. But we chose to work with staff best we could with what we have. So it's just less yard that somebody's going to have to mow. Again, I haven't had any complaints. I've had happy tenants out there for five years. It's about \$800,000 finished product right now. It will be over a \$1 million when we're done.

Commissioner Campbell: That's all I had.

Chairman Threadgill: Any other questions to the applicant from the Commissioners? Alright, sir. Commissioner Thorp?

Commissioner Thorp: I'm sorry. Mr. Rick, would you put up Picture No. 3 please. Okay. Now can you show me on that picture, sir. How close are you going to be to those trees and that ...?

Mr. Black: I think we're approximately 8', could be a little bit more.

Commissioner Thorp: How much is there now?

Mr. Black: 14' I think. Rick, do you know that?

Mr. Stauder: That would be about right.

Commissioner Thorp: Okay.

Mr. Black: Like I said, we measured it with the Fire Department before I pursued anything else.

Commissioner Thorp: Okay.

Mr. Black: On a personal note, I would like to apologize to the Commission for my error.

Chairman Threadgill: So that street will be 22'. Is that what he's saying?

Mr. Black: Well we want to expand it ...Can I answer that?

Chairman Threadgill: Yes.

Mr. Black: We have agreed to expand it to 20'.

Chairman Threadgill: Alright. Any other questions or comments to the applicant? Alright, sir. You may have a seat. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? Commissioner Campbell?

Commissioner Campbell: I just have one. Rick, can you go to the plan?

Mr. Stauder: Do you want the development plan or the plat?

Chairman Threadgill: Pleasant Valley Plan.

Commissioner Campbell: The one that shows the 20'.

Mr. Stauder: Yeah, hang on one second. That one? Let me zoom in on it. This one right here?

Commissioner Campbell: Yeah, while you're right there, is that a misprint right there where it

says gasoline? All the rest of them say gas line and that one says gasoline.

Mr. Stauder: I guess it's a misprint.

Commissioner Campbell: Now then if you'll show me that 20' down there. Okay.

Mr. Stauder: Right here. I think the cross hashed area here just South of the existing pavement is where he intends to widen it and according to the development plan, he can keep a 20' minimum unobstructed width till he gets past this building. Typically that's what the Fire Department comments on. They need a minimum of 20' unobstructed.

Commissioner Campbell: I know on that interior curve, I noticed when I was out there, that there's a big drop off right there where people have run off of it. That needs to be addressed too whenever they get in there just for the ... You know where I'm talking about?

Mr. Stauder: I'm not sure I do.

Commissioner Campbell: Right in that area.

Mr. Stauder: Oh, okay.

Commissioner Campbell: This area right here.

Mr. Stauder: He is at the direction of staff going to do 5' additional foot of paving on the West side of the road and then to construct this hammerhead here, which, in my opinion, would allow people to swing a little bit wider here and maybe avert that lower area. I mean, if it's your desire to have him round this, I'm sure that ...I don't want to speak for the applicant, but he might be willing to do that.

Commissioner Campbell: Yeah, just looking at it. I think the projects he's going to have plus extra added possibility of eight cars back there, he needs, while he's in there paving, he needs to do that. Of course the other 5' over there may give him enough room. The way it is now, there's just not enough room hardly to turn anything with any length without dropping off.

Mr. Stauder: It's tight.

Chairman Threadgill: I still have one question. Is this the original plat that was brought in?

Mr. Stauder: No, sir. It's been modified slightly. The lot lines have been extended back and to the paved easement. That's an attempt to get the 7,000 square foot for a duplex lot to at least meet that portion of the Code. He just can't get the 70' of width as the requirement. But it does state for a duplex lot, you're supposed to have 70' width by 100' depth minimum, so since he couldn't get the 70' width, he at least got the 7,000.

Chairman Threadgill: And that Lot No. 5, was that on the original drawing?

Mr. Stauder: It was.

Chairman Threadgill: What kind of drives did they have for it? I mean what was the access for that fifth lot?

Mr. Stauder: The access for the fifth lot ...

Chairman Threadgill interjects: That 8' drive or 10' drive?

Mr. Stauder: Well, it's actually 17' of width I think is what they had it. It kind of pipe stemmed around Lot 4 here and that was the frontage or the access that Lot 5 had to a public street.

Chairman Threadgill: And this being in the County at the time, it had no side yard setbacks or anything like that?

Mr. Stauder: Yeah, I guess not. I don't really think, doing my research, that there was even a development plan *per se* submitted with the request. It was, and some of you that were on the Commission at that time know what I'm talking about, it was just basically a plat.

Chairman Threadgill: And too back then, five years ago, we didn't ...

Mr. Stauder: Exactly.

Chairman Threadgill: It was more or less on consent agenda with staff's recommendations.

Mr. Stauder: This one was on consent.

Chairman Threadgill: Alright. Any other questions from the Commissioners? Seeing none, I'll entertain a motion.

Commissioner Campbell: Mr. Chairman, I will make a motion that we approve this with the recommendations of staff and I assume they include all of the road improvements that's in the ... That is in the recommendation, is that right?

Director Sellman: Yes. Road improvements are in there.

Commissioner Campbell: Okay. With the rest of staff's recommendations.

Chairman Threadgill: I have a motion by Commissioner Campbell to approve with staff's recommendations. Do I have a second?

Commissioner Mory: Second.

Chairman Threadgill: I have a second by Commissioner Mory. Call the roll.

Ms. Minear: Harriel White – yes; James Clopton – yes; David Campbell – yes; Wanda Thorp – yes; John Mory – yes; Gary Threadgill – no. That item passes. We'll go to Item No. 8.

8. Conditional Use (CU-08-0004) – Lakepoint Church – Conditional Use request to locate a church in Mowery Wyatt Plaza – 1343 Albert Pike – District 4 – C-2

Director Sellman: Item No. 8 is Lakepoint Church Conditional Use application. This is a request to locate a church in Mowery Wyatt Plaza. It is located at 1343 Albert Pike. The current zoning is C-2. The Comprehensive Plan Classification is linear commercial corridor. It is in District 4. The recommendation is for approval with conditions.

Chairman Threadgill: Give us your name and address for the records, sir.

Mr. Greg Bearss, 828 Old Brundage Road, pastor of Lakepoint.

Chairman Threadgill: Alright, sir, a little bit of what you're going to do. You're going to preach?

Mr. Bearss: Yes, absolutely. We see this as an opportunity to have a hub for a ministry. Currently we're at the Lakeside Middle School. They're gracious enough to rent that facility to us. This will be our transitional facility, our home for awhile.

Chairman Threadgill: Do I have any questions to the applicant from the Commissioners? I had a ... Go ahead. Commissioner Clopton?

Commissioner Clopton: I have read the general parking space write-up that we have here and I'm not quite sure how you're going to designate which parking spot goes to who. How are you going to keep someone working next door from parking in one of your parking spots on these days that you're ...?

Mr. Bearss: What we've done is, we've also been in conversation with John <unintelligible> who is the manager of ACCENT, and with the property owner and the managing property Mowery Wyatt of that facility and we've drawn up the agreement that you've seen. We've been provided 130 spaces and are required by the counselor here to have 125 I believe is the requirement. How are we going to manage that? That's a great question. The situation that currently that exists for ACCENT, their prime times are not on Sunday. Obviously, our prime time is going to be Sunday morning. Their capacity from the times that we've been over there to visit and in talking with Mr. Jump has been a situation where their low parking traffic. So at this point, we don't see it as being an issue. Lord willing, it will be an issue if we continue to grow and we'll address that as that would occur. But at this point in time, we don't see that as being a problem.

Commissioner Clopton: But you have no specific way of designating that this is your parking area? This is your 130 parking spots and this is theirs. It's just a big parking lot.

Mr. Bearss: Yes, it is designated if you'll look at ...Do they have a copy of that? I've got it in my ...

Commissioner Clopton: Excuse me. Excuse me. Let me interrupt you. I'm sorry to interrupt you, but what I'm talking about is if I'm going to come in there and park, how am I going to know I'm parking in the right spot?

Mr. Bearss: We're not going to kick you out. We're going to invite you to church. We will manage. Obviously, we'll have people out there. We do that now where people come in and we're welcoming them in. Are we going to put signs up that say Lakepoint parking only? No, we're not going to do that. We're going to work with our tenant next door and we're going to go through and try to come to a conclusion that would be beneficial to both parties. That's the relationship that we've established. We do have from the tenant that we're renting from an outline that shows our parking spaces on there. You can go to that document if you see that's an aerial view. So we have that outline. If it's a problem, we're not going to be talking to you guys. We're going to be visiting with our tenant and working out an agreeable solution. That's the way we do business.

Commissioner Clopton: Okay, thank you.

Commissioner Thorp: I have a question.

Chairman Threadgill: Commissioner Thorp?

Commissioner Thorp: Is there going to be any problem in there little coffee house there too in the same parking lot? They kind of have a drive through, don't they?

Mr. Bearss: Yeah, well, they do not have a drive through because that was never approved for them. They currently have a window that you walk up to. A walk up window.

Commissioner Thorp: Oh, okay. And so that's not going to be ...?

Mr. Bearss: That's not included in the parking spaces allotted to us, no. They have no formal agreement of guaranteed parking for their facility.

Commissioner Thorp: Okay.

Chairman Threadgill: Commissioner White, did you have a comment?

Commissioner White: Well, yes. Part of it was answered. I had the same concerns that

Commissioner Clopton was asking, except that I guess this is a ...In looking at your agreement, you are renting the spaces, leasing the spaces?

Mr. Bearss: Correct.

Commissioner White: So, I mean, it's just a general agreement that you have 130 spaces and they could be at either end, any place in that general ...in that parking lot area there?

Mr. Bearss: The agreement, they've outlined in the aerial view the 130 that we're assigned. I don't know if you want to get technical with that if they parked up in the far left-hand corner away from the facility if that's included in the agreement. It's 130 spaces. The assumption would be made on the aerial that's not the one. Do you have a copy of that?

Chairman Threadgill: Is that the grid line you have laid out there? The dotted green line?

Mr. Stauder: The grid line's for what? I'm sorry. The parking spaces are actually highlighted in yellow on this drawing.

Chairman Threadgill: Yeah. You see the green line, dotted line?

Mr. Bearss: That's it. That's it.

Mr. Stauder: Oh, yeah.

Mr. Bearss: The dotted line there that you have would be the grid line.

Chairman Threadgill: Okay.

Mr. Bearss: That's designated to us.

Chairman Threadgill: Okay, that brings a question to me. Since there is a third building with approximately 1,300 square feet in Area 51 and 49 are dead in front of it, does that not kill parking for that business?

Mr. Stauder: I guess technically it could. I believe staff looked at this parking situation from several different angles, one of which is what would be required just looking at this whole development as a shopping center versus breaking it out as separate uses. I believe they're over looking at it from either direction.

Chairman Threadgill: Well that's what I'd like to know. We have 30,000 square feet or a church. The amount of parking spaces that they have to have is roughly 130. Okay? Then we have a 13,000 square foot building which whatever the minimum parking would be for it?

Mr. Stauder: Uhh, huh.

Chairman Threadgill: Then we have ACCENT. What is their 30,000? What is theirs? If you compiled it that way to see if the parking lot has enough parking for all these facilities.

Mr. Stauder: I actually didn't do the staff write-up on this one, but it was my understanding that it was looked at from those angles. I mean, hypothetically, if this was vacant ground and they wanted to build a new shopping center with this same footprint, the parking that's existing now would comply.

Chairman Threadgill: That's what I'm getting at. So we do have ample parking, whether he parks across the lot or wherever.

Mr. Stauder: Right.

Chairman Threadgill: Commissioner Mory?

Commissioner Mory: That's similar to my question of staff. Do we typically in a situation like this designate exactly which unit gets exactly which parking places?

Director Sellman: No. This is similar to any other shopping center, although Macy's might need 500 spaces, certainly if you want to park near Sear's, you can do that. So that type of give and take is quite normal in a multi-tenant situation.

Commissioner Mory: Okay.

Chairman Threadgill: That's why I asked if there was ample parking for the entire development?

Commissioner Mory: Right. Right.

Chairman Threadgill: That's the issue. I mean, like he says, when they get up to a capacity to where the seats run out, the Fire Department is going to shut them down and they're going to have to move somewhere else.

Mr. Bearss: We'll do two services. <laughter>

Chairman Threadgill: But that's my only concern is that there is enough parking area. If I'm not mistaken, there could be parking to the rear of the facility as well. Could there not?

Director Sellman: There's limited space there that is probably dedicated to other uses. I think the church has a small recreational area for the area behind there, so that is probably not available for parking for a number of reasons.

Chairman Threadgill: Okay.

Director Sellman: I would note, however, though that the analysis of the parking on this particular project was done not only on a square footage basis but also on a peak employee per shift basis with ACCENT, which has a very high number of employees at certain times; and also an analysis of when the peaks occur for the various operations in that center. It appears that there is sufficient parking based upon that analysis.

Chairman Threadgill: Alright. Any other questions from the Commissioners? None? Thank you, sir. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Oh, go ahead, sir. Name and address for the record.

Mr. John <unintelligible>, Harris Architecture, 1401 Malvern, Suite 20274: We've been doing an analysis on this project and been working a lot with Lakepoint as well as with the City on ... We knew the parking was going to be the issue, and so we were trying to address that. I just wanted to state that we did look at it from a peak use kind of perspective in that the church's peak use <unintelligible> occur with the peak uses of other tenants in the area. And as well that the parking situation currently is one where the entire lot is shared between all of the tenants, which there's multiple <unintelligible> ones there, not just ACCENT. So we've shown it with the dotted lines. That was more to give us an idea, kind of a visual idea, of how big that amount of parking is. We've shown 130 I think. The peak requirements for the actual building as proposed is going to be 125. Thank you.

Chairman Threadgill: Thank you. My only comment on that is I get into these visual diagrams and saying this is your parking and it kind of blisters me to see that they run over in front of another building, so that's why I wanted to make sure that we had it in the entire parking lot. We're not saying that you have to park in this area.

Mr. <unintelligible>: Absolutely not. There will be no signs.

Chairman Threadgill: I'd rather do that as to cause problems further down the street. Alright, anyone else in the audience with anything to say for or against this item? Please come forward and give us your name and address, ma'am.

Ms. Edna Laroe, 601 Rector, Hot Springs: I have attended Lakepoint Church not too long after its inception and I just want to say that I feel like Pastor Bearss and his ministry staff and the church will be a very welcome addition to that particular community and to all the City of Hot Springs because there is a genuine desire to serve the Lord and I've been deeply inspired by his ministry in the time that I've attended and listened to his ministry that's televised on Channel 5. So I'm rooting for Lakepoint.

Chairman Threadgill: We appreciate your comments, ma'am. I'm sure they do as well. Anyone else in the audience with anything to say for or against this item? Again, anyone else in the audience with anything to say for or against this item? Seeing none, I'll close the public portion. Do I have any questions or comments from the Commissioners? Commissioner Clopton?

Commissioner Clopton: One comment. I support the project. I do concern myself again with the surveys on the parking. If you look in the newspaper any day of the week, you will find that ACCENT is still adding more and more people and it looks to me like ...I've been up there several times around that parking area, and it gets pretty crowded sometimes. That was my only concern.

Chairman Threadgill: As well. I live across the street from it, so I know by looking out my window everyday across Albert Pike, I see the traffic build up. But I'm going to have to go with staff. If they think from what data they've compiled, we're going to have to trust staff somewhere. I'm going to go with staff. If they think there's ample area there to handle this church parking and the rest of the facility as far as square footage wise, then I think we're going to have to maybe draw a line there. Any other questions or comments from the Commissioners? Seeing none ...Commissioner Thorp?

Commissioner Thorp: No.

Chairman Threadgill: Seeing none, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, I move that we approve this project with staff's recommendations.

Chairman Threadgill: I have a motion to approve with staff's recommendations by Commissioner Clopton. Do I have a second?

Commissioner White: Second.

Chairman Threadgill: I have a second by Commissioner White. All in favor? <ayes> Opposed? <none> Item passes. <end of tape> Item No. 9.

9. Conditional Use (CU-08-0003) – Summit Health Resources Nursing Home – 96 bed skilled nursing facility adjacent to HealthPark – 1636 Higdon Ferry – District 4 – C-2

Director Sellman: Item No. 9 – Summit Health Resources Nursing Home. This is a conditional use request for a 96 bed skilled nursing facility adjacent to HealthPark at 1636 Higdon Ferry Road. It's zoned C-2 and is located in District 4. The recommendation is for approval with conditions.

Chairman Threadgill: Will the applicant please come forward and give us your name and address, sir.

Mr. Doug Fellens, B&F Engineering, 928 Airport Road, Hot Springs: What we have here is there's approximately 4.7 acre piece of property that is West of HealthPark Hospital. It fronts

along Section Line Way. It's currently, as Director Sellman said, it's currently zoned as a C-2, general business district. We are applying for a conditional use permit to construct a 45,000 square foot, one-level skilled nursing facility.

Chairman Threadgill: Do I have any questions to the applicant from the Commissioners? Thank you, sir. Is there anyone in the audience with anything to say for or against this item? Commissioner Clopton?

Commissioner Clopton: Mr. Chairman, I would like to ask a question. I'm sorry.

Chairman Threadgill: Will you come forward, sir?

Commissioner Clopton: I was looking at your diagram and I'm not sure I'm seeing what I think I'm seeing. On the back side of this, are we having an access road from HealthPark into the backside of your property? Is that what that is?

Mr. Fellens: What we have is you can see of course obviously there are two main access points off Section Line Way. But what we also have is a declaration of access and utility easement agreement from the owners of the HealthPark property, which will provide two additional cross access and ingress/egresses across that site to Higdon Ferry to help alleviate that traffic.

Commissioner Clopton: That's what I was ...I was trying to visualize where that was and how it came out as it looked like it was pretty close to the corner of that building.

Mr. Fellens: Absolutely.

Commissioner Clopton: Thank you.

Chairman Threadgill: Any other questions or comments to the applicant? Sir, you may be seated. Is there anyone in the audience with anything to say for or against this item? Again, anyone in the audience with anything to say for or against this item? Seeing no one, I'll enter ...Any questions or comments from the Commissioners? I'm trying to get this one done here, or something. Any questions or comments from the Commissioners? Seeing none, I'll entertain a motion.

Commissioner Clopton: Mr. Chairman, I move that we accept this project or approve this project with staff's recommendations.

Chairman Threadgill: I have a motion by Commissioner Clopton to approve with staff's recommendations. Do I have a second?

Commissioner Mory: Second.

Chairman Threadgill: Second by Commissioner Mory. All in favor? <ayes> Opposed?

<none> Item passes. No. 10.

Director Sellman: Can I clarify one thing?

Chairman Threadgill: Yeah.

Director Sellman: The development will be consistent with the site plan CU-08-0003. We were really not specific about that as a condition.

Commissioner Clopton: That should be added as a portion of my motion.

Chairman Threadgill: I have a motion to add that statement. Do I have a second?

Commissioner Mory: Second.

Chairman Threadgill: I have a motion and a second. Statement added. All in favor? <eyes> Opposed? <none> Item is added. We're good.

Mr. Fellens: I just want to say Happy Valentine's Day to everybody. <laughter>

Chairman Threadgill: Thank you. Item No. 10.

10. Ordinance Amendment (OA-07-0205) – Mural Sign Code Amendment – Amendment of Ordinance No. 5086 concerning the consideration and approval of murals

Director Sellman: Item No. 10 is an amendment to the Sign Code regarding murals. This is concerning consideration and approval of murals that are proposed. The change to the Code is a requirement for the Arts Advisory Committee to review and make a recommendation on any proposed mural prior to that mural coming to the Planning Commission for Planning Commission approval. The mural, the section of the Code now does require Planning Commission approval. This simply adds the Arts Advisory Committee's recommendation to those requirements.

Chairman Threadgill: Okay, one question. My only concern with anything we do like this is this going to add a time frame extension. Are they going to have to go another 30 days?

Director Sellman: It's my understanding that the Arts Advisory Committee does not meet on a regular basis and that a meeting could be called for the purpose of considering such a proposal.

Chairman Threadgill: Would their meeting have to be publicly noticed and ...

Director Sellman: I imagine that it does, but the notice requirement on most meetings like that is two hours.

Chairman Threadgill: Okay. That's what I was concerned is I didn't want to get stuck with a 15 day and then have to wait on their decision and be 30 days or whatever for our period. So it could be pretty quick?

Director Sellman: I believe it's something that can be turned around fairly easily.

Chairman Threadgill: Alright. Any questions or comments from the Commissioners?

Commissioner White: I have one.

Chairman Threadgill: Hold on just a sec. Is there anyone in the audience who has anything to say for or against this? Okay. Commissioner White?

Commissioner White: I have a question for this Commission. The point that we're trying to resolve here by having the approval of the Arts Advisory Committee before the murals come before the Planning Commission is to ...?

Chairman Threadgill: You're looking for the answer?

Commissioner White: I'm looking for the answer to that.

Chairman Threadgill: Okay. I think what the Arts Advisory Committee is wanting here is to have a little say on whether the tasteful or what type of signage they want and have a little input on it.

Commissioner White: That was what I was kind of thinking, but I wanted to make sure that we're all on the same page. The reason we're allowing them to review and make a recommendation is because of their involvement in the arts.

Chairman Threadgill: Right. This to me would be like us having a DRC Review. These people are more familiar with what type of aesthetics are needed downtown or wherever and they would give us a little bit more information on what we would need. In my opinion, I think this is a good idea as long as we don't hamper the time frame on the applicant's time.

Director Sellman: Exactly.

Chairman Threadgill: Okay. Commissioner Campbell?

Commissioner Campbell: Where you through?

Chairman Threadgill: Yes.

Commissioner Campbell: Just to kind of add to that, their recommendation is non-binding.

Director Sellman: That is correct.

Commissioner Campbell: It's just a recommendation.

Commissioner White: I understand the non-binding part, but then once you have involvement like that from the arts community and the painter of the mural and then it gets to us and then we don't like it, you really have a mess then. If everybody likes it on down the line, everything is great. But if it rolls to the Planning Commission and the Planning Commission is the only one that doesn't like it, then you've really got a problem.

Chairman Threadgill: It rolls to us every meeting. <laughter> When you decide that you don't want to go with the DRC or you don't want to go with staff's recommendations, it rolls over every time on us. So, it's going to happen one way or the other. Do I have any other questions or comments on the item? If none, I'll entertain a motion to accept.

Commissioner Clopton: So moved.

Chairman Threadgill: I have a motion to accept by Commissioner Clopton. Do I have a second?

Commissioner Thorp: Second.

Chairman Threadgill: A second by Commissioner Thorp. All in favor? <ayes> Opposed? <none> Item passes. That is the end of the agenda and now it is time for staff.

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## ITEMS FOR DISCUSSION AND ANNOUNCEMENT

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### 1. PLANNING DIRECTOR'S REPORT

Director Sellman: Yes, I have two items.

Chairman Threadgill: Oh, boy.

Director Sellman: Yes. No. 1 – I wanted to mention that on the agenda for the Board of Directors next week is reappointment of Wanda Thorp and Jim Clopton. <clapping>

Commissioner Mory: Congratulations.

Director Sellman: I am very pleased to announce that. And secondly, we have an announcement

of a new kind of an educational program that is being put on called “Prune, Protect, and Propagate” and this is a presentation featuring people from the University of Arkansas Cooperative Extension Service, the State Forestry Commission, Parks and Rec Department, Arkansas Game and Fish addressing a variety of issues that will help people to do development and improvements on their land in a way that will preserve the environmental features that we like to see preserved – trees and so forth. So it’s something that you might be interested in attending. It’s March 6<sup>th</sup>. It’s at the Magnolia Room at Garvan Woodland Gardens and it is all day from 8 to 5. I’ve got that information here. The cost for the workshop, which includes lunch, is \$35 for Garden members and \$50 for non-members. They are looking for pre-paid reservations.

Commissioner Clopton: The City doesn’t get a discount.

Director Sellman: There doesn’t seem to be a City discount.

Chairman Threadgill: I’ve got one question before we get too far along here. Go ahead.

Commissioner Mory: Can you e-mail that to us?

Director Sellman: Sure.

Chairman Threadgill: Or you can have this one.

Director Sellman: Yes, or you can have this one.

Chairman Threadgill: Does everybody want one of those? We could just fax you one, or e-mail you one.

Commissioner Campbell: I don’t. I got mine from the Garden.

Commissioner Clopton: I don’t. I’m booked that day anyway.

Chairman Threadgill: You a member?

Director Sellman: Okay.

Chairman Threadgill: I’ve got one item. Oddly enough, I think I forgot what it was.

Commissioner Thorp: E-mail it to me, Kathy.

Director Sellman: Yes.

## 2. COMMENTS FROM COMMISSION

Chairman Threadgill: Oh, next month, the 13<sup>th</sup> and 14<sup>th</sup>, we have the spring/summer, what is it?

Director Sellman: Spring.

Chairman Threadgill: Spring APA Convention. It's going to be in North Little Rock at the Municipal League Building on I believe it's the 13<sup>th</sup> and the 14<sup>th</sup>. I would kind of like to know who would like to go.

Commissioner Thorp: What was that in Pine Bluff? There was something in Pine Bluff.

Chairman Threadgill: Yeah, Pine Bluff is a training seminar coming up. We'll get to that in just a sec. But ...

Commissioner Clopton: March, right? March?

Commissioner Thorp: Yeah.

Chairman Threadgill: Yeah. Yeah. Next month, March 13<sup>th</sup> and 14<sup>th</sup> I believe are the dates. It's the same day as our meeting. Is that right?

Director Sellman: Right.

Chairman Threadgill: They are going to have a fantastic tour, but it starts at 4:00 and our meeting starts at 5:00, so it's going to be rough to get through the meeting and get back to Hot Springs.

Commissioner Thorp: Is that day the day we're used to meeting on that Thursday?

Chairman Threadgill: Yes, what it is on Thursdays they have the training sessions and then on Friday what we do is have the executive type meeting where we go with the minutes of previous and all that. Any member of the APA, which we all are, can stay for the meeting.

Commissioner Campbell: There's a program on Friday too according to the agenda.

Chairman Threadgill: Is there a program this time? Alright. David says there is a program on it this time for ... Usually we just have a quick donut breakfast and about a 30 minute meeting and four hours of talking. Then we have a training seminar for Planning Commissioners coming up – I'm not quite sure on the date – in Pine Bluff.

Director Sellman: <unintelligible>

Chairman Threadgill: It's pretty good. It's getting close.

Director Sellman: Yes.

Chairman Threadgill: I'd like to make a request that specifically the ones who have not been – Mory, Wanda, White, Clopton – that you take the time and make it. It's a training workshop. It covers the entire scope of a Planning Commissioner from ethics up to parliamentary procedures. It's a great course to take.

Commissioner Thorp: It's one day, isn't it?

Chairman Threadgill: Yes. Yes. I'd like to set it up maybe with the City that we couldn't get a van and take everybody in the van instead of paying mileage for everybody down and back.

Commissioner Clopton: If it's on the day I think it's on, I'm working.

Commissioner Thorp: What day do you think it's on?

Chairman Threadgill: Well. I mean, there's no way that we can get everybody. I mean, you know, I'm asking that the ones that haven't been really try to make it.

Commissioner Mory: What are the dates on it now?

Chairman Threadgill: I'm not sure. We'll get back to you on that and e-mail you something.

Commissioner Mory: Okay.

Director Sellman: It's on the website as March 12<sup>th</sup>.

Commissioner Thorp: March the 12<sup>th</sup>?

Director Sellman: So Wednesday, March 12<sup>th</sup>.

Chairman Threadgill: I was thinking that it was close. I was thinking it was this month.

Commissioner Thorp: No, next month.

Chairman Threadgill: I knew it was close. That's why April didn't dawn on me. Do you have the application?

Ms. Minear: I have a couple of filled out applications. I have one from Harriel.

Commissioner Thorp: Are we going to be in Pine Bluff?

Commissioner Clopton: That's on like a Thursday or a Friday, isn't it?

Commissioner Thorp: No. That's a Wednesday.

Commissioner Mory: It's a Wednesday.

Commissioner Clopton: Same difference.

Commissioner Mory: I told you a long time ago that I was interested in it.

Male Speaker: This is a training workshop sponsored by UALR. It's really good. I think everybody needs to really try. It's Wednesday, November 14<sup>th</sup>.

Commissioner Thorp: November?

Director Sellman: March.

Chairman Threadgill: It's Wednesday, March 12<sup>th</sup>. Somebody check November '07. You did. That date's gone. Alright. There's two dates here – one in Fayetteville/Bentonville – but that date has passed because we didn't have the funding to send everybody to it. But again, it's March 12, 2008. Get with Teresa if you haven't and get your application in. We'll try to somehow or another get everybody there together. Alright?

Commissioner Clopton: Can you send me one of those on the computer where I can print it out? I've got to check my schedule and see if that's.

Chairman Threadgill: All she can do is change your date. Scratch it out and put the March date on there.

Commissioner Clopton: Oh, okay. No, I've got to check and see if that's a race day or not.

Chairman Threadgill: Another thing I've been appointed to the Executive Committee as a citizen planner on the Arkansas Chapter of the American Planner's Association. So we have ...Hot Springs has some representation now in the Arkansas Chapter so I think that's a good deal for us. <someone claps> We're still not going to have it here. We're going to probably end up in Fayetteville for our fall conference. I tried to get them here, but it just ...

Director Sellman: Keep working on it.

Chairman Threadgill: I think that's pretty much got everything that's going on right now. Anybody else got any input before we close this thing down? Commissioner Thorp?

Commissioner Thorp: When is that banquet that we have in March?

Director Sellman: That is the ...

Chairman Threadgill: The 29<sup>th</sup>.

Director Sellman: Gosh, I'm going to say it's the 28<sup>th</sup> or 29<sup>th</sup>.

Chairman Threadgill: With the Board of Directors?

Someone yells from the audience <possibly Director Carroll Weatherford>: February 28<sup>th</sup>.

Commissioner Thorp: No, not that one.

Director Sellman: No, that's the volunteer banquet.

Commissioner Thorp: Yeah, the appreciation banquet.

Director Sellman: I can get you that date.

Commissioner Thorp: Okay.

Commissioner Clopton: It's in the letter.

Chairman Threadgill: Yeah, our meeting is the 28<sup>th</sup> of this month.

Someone from the audience <Director Weatherford?>: And the workshop.

Chairman Threadgill: Yeah.

Commissioner Campbell: That's in <unintelligible>.

Chairman Threadgill: Huh?

Director Sellman and others: That's March 25<sup>th</sup>.

Commissioner Thorp: I have not read the letter.

Chairman Threadgill: Is everybody aware that on the 29<sup>th</sup>, the 28<sup>th</sup>, we have the Board of Directors ...No, the 29<sup>th</sup>.

Director Sellman: No, the 28<sup>th</sup>.

Chairman Threadgill: Okay, the 28<sup>th</sup>, we have the joint this month.

Commissioner Thorp: Alright, are we meeting every Thursday?

Chairman Threadgill: Yes.

Commissioner Thorp: On the 21<sup>st</sup>, we are meeting?

Chairman Threadgill & Director Sellman: Yes.

Chairman Threadgill: We are meeting. What we're going to do, we're going to get together and staff is going to have us a draft of the one-mile zoning and a presentable packet that we can look at and hopefully send forward to the Board of Directors to get some kind of approval that maybe we can take it forward to the public without them being crucified or hung by the whatever. So, we're going to just try to get them a packet and let them look at it and make their decision whether we go forward with it or stop.

Director Sellman: Yes.

Commissioner White: I know I won't be in next Thursday, but I think we pretty much got it down to where ...

Chairman Threadgill: Yeah, everything we've compiled, they're going to put into a nice draft that we can present to the Board of Directors. I don't want to send anything to them until I've looked at it and I think everybody else was pretty well on the same form.

Commissioner Clopton: Next Thursday?

Director Sellman: Yes.

Chairman Threadgill: Next Thursday.

Commissioner Clopton: At 5?

Chairman Threadgill: At 5.

Director Sellman: John can't be here.

Chairman Threadgill: John?

Commissioner Mory: I won't be here.

Chairman Threadgill: Alright. I'm sorry.

Director Sellman: We'll get that out to you on Monday.

Commissioner Thorp: Monday is a holiday. Do ya'll work?

Director Sellman: No, we work.

Commissioner Thorp: Oh, do you?

Director Sellman: No holiday.

Chairman Threadgill: Any other input? Rick, you got anything? Dave?

Commissioner Campbell: I have one. I talked with Kathy before. The booklet that she handed out to us the other day, the Commissioner Booklet, the article that she told us to read at the end of it, there's a website that you can go to and look at a planning handbook.

Commissioner Thorp: Did you get it copied off?

Commissioner Campbell: I got about 20 or 30 pages of it and I've talked with Kathy. I think we ought to look at it and see about the feasibility of printing the whole 130 pages for each one of us. It's got some good information and I will leave it up to them to look at it and see what they think about it.

Director Sellman: We'll look at that.

Commissioner Campbell: If you decide to go and look at it, it's NI ...

Director Sellman: NIRPC.

Commissioner Campbell: Yeah, NIRPC.org. It's got a big long, a big. It's ... Forget about going that whole length of that webpage that they suggest and just stop at the dot org and then look for the handbook.

Chairman Threadgill: Would you rather it be printed or put on disk so we can put it in the computer?

Commissioner Campbell: That would be fine either way.

Chairman Threadgill: The reason we got the computers is to try to cut down on paper.

Commissioner Campbell: That's fine.

Director Sellman: We can do that.

Chairman Threadgill: Will that be easier for you, Rick? Than running off 40,000 pages of those.

Mr. Stauder: As long as it's downloadable off of the internet, we can do that. No problem.

Commissioner Campbell: I got one other question too. On our computers that we have, every time I go to bring something up off of the disk or something, it gives you a big warning on there

but then it says "run this program". You just hit "run this program" and it goes ahead. Is there a problem?

Mr. Stauder: What does the wording ...it might contain a virus or that kind warning?

Commissioner Thorp: It's not protected.

Commissioner Clopton: What it is is our virus deals aren't updating and when we enter a disk and it doesn't want to ...it gives you that warning that this could be a problem and then it will turn around and do it.

Mr. Stauder: Are you sure you want to do this and then if you say "yes," it will do it.

Commissioner Campbell: No, mine's not because mine updates everyday. I'm on-line with mine. It just says it can't run this program and wants to know if you want to look for a way to run this program.

Mr. Stauder: Huh.

Commissioner Campbell: And then it says over next to it, it says "run the program," and you just hit "run the program" and it comes up.

Ms. Minear: Is anyone else having that problem?

Chairman Threadgill: Yeah, I do the same thing. It's a viral protection <unintelligible>. It just wanted to make sure that you want to progress and take this and take the chance that it might contain a virus. But mine does update, but it doesn't ...I don't stay on the net. Meeting is adjourned.

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ADJOURNMENT

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