



41 the Commission that the steep slopes (those 20% and greater) be shaded-in so the  
42 Commission could better see the Hillside Protection overlay. Mr. Bivens said that  
43 the drainage was the biggest concern for the subdivision because without proper  
44 precautions water could potentially flow into the subdivision behind the lot.

45 Mr. Myers asked if the lot was heavily wooded. Dr. Harvey responded  
46 affirmatively. Mr. Myers asked if implementation of the rain garden would  
47 require significant removal of trees. Mr. Bivens responded that it was definitely  
48 possible to put in a rain garden without too much disturbance.

49 Chairman Evans asked Dr. Harvey if anyone was going to live there immediately.  
50 Dr. Harvey said there were no current plans, but he would try to sell the lot once  
51 divided. Chairman Evans asked if there was any further discussion on the issue,  
52 hearing none he called for a motion. *Mr. Waller made the motion to approve the*  
53 *concept plan to move on to preliminary plat, Mayor Coke seconded it and it was*  
54 *approved unanimously.*

55

56 5. **Concept Plan Approval for subdivision of the lot located at 1230 Jefferson**  
57 **Davis Court.** Mr. and Mrs. McCracken requested a variance to subdivide a  
58 portion of their lot that is inaccessible. By doing so, the lot will fall below the  
59 1.25 minimum lot size of Residential A zoning. The 1.38 acre lot would result in  
60 a lot of .98 acres. They asked for this variance due to hardship. This unique lot is  
61 located in the Hillside Protection Overlay District because of steep sloping as well  
62 as being in the floodway. The acreage would go to the north (back) and east  
63 (side) neighbors.

64 Mr. McCracken stated that his request was more complex than the previous two  
65 applicants. His lot had three portions- the street areas in front, the steep slope in  
66 the middle that drops four (4) stories, and the flat bottom on the other side of the  
67 creek. He stated that traversing the slope is treacherous, the grade being at near  
68 45%. As a result, he desired to apportion his lot to his neighbors, reducing his lot  
69 size by a third of an acre. Mr. McCracken led the board through a power point  
70 presentation that gave a history of the lot and included detailed pictures  
71 illustrating his hardship.

72 Mr. Foster noted that this was a very unusual request and a unique property.  
73 Despite whether the Commission deems this a hardship or not, the topography  
74 makes compliance with the setbacks impossible. Generally, the Board of Zoning  
75 Appeals (BZA) grants variances from the Zoning Ordinance. The Planning  
76 Commission can grant a variance as it relates to the subdivision. He mentioned  
77 that in this case, one of three lots will not have the required 1.25 acres. He gave  
78 them two options: the first was to consider and grant the variance as a  
79 Commission and the second was to ask the BZA to consider whether there was a  
80 hardship and grant(or not grant) the variance in between Commission meetings.

81 Mr. Foster reminded the Commission that they must be very thoughtful in this  
82 decision because it would set a precedent for future decisions.

83 Commissioner Hyde stated that his preference was to not pass the buck to the  
84 BZA. He added that it would be very important that the variance be worded  
85 carefully to not set an unanticipated precedent. The variance should include  
86 wording that will not let it happen with all or other existing lots.

87 Chairman Evans asked if the neighbors had considered creating permanent  
88 easements rather than dividing the lot. Mr. McCracken said that was not his  
89 preference. Mr. Myers asked if easements would create a tax equity issue. Mr.  
90 Foster mentioned that it could reduce the marketability of the parcels if they were  
91 to be sold.

92 Mr. Gardner said that an important distinction here is that there are no new lots  
93 and all of the existing lots already have homes on them. He mentioned that they  
94 have been steadfast in lot sizes when it came to creating new lots. He gave the  
95 example of not allowing a lot that was a few tenths under the requirement.  
96 Chairman Evans concurred with the notion that this would be a different if they  
97 were creating a new lot. But as it is requested, the application is in spirit of the  
98 plan and code. Additionally, he stated, the code is abundantly clear that nothing  
99 can be built in the floodway. He asked Mr. McCracken how badly the area  
100 flooded. Mr. McCracken responded that Mr. Farrington's (the back neighbor)  
101 pool house and other areas flooded substantially.

102 Chairman Evans asked staff if the plan was acceptable. Mrs. Deaton outlined that  
103 the applicant would have to have the sewer lines and all existing buildings,  
104 including the well house and any bridges, shown on the plat. The contours on the  
105 plat would also need to be bolded so the Commission could better review the  
106 topography. Additionally, the applicant would need to have the small barn  
107 demolished before final recording.

108 Commissioner Hyde asked Mr. Foster if he could ensure that the wording of the  
109 notes on the final plat and the final minutes set no precedent for this action  
110 generally. Mr. Foster said that this property's topography was so unique that the  
111 city could ensure no precedent was set.

112 A brief discussion occurred where the Commission decided not to submit this  
113 application to the BZA. Once complete, Chairman Evans asked if there were any  
114 additional comments. Hearing none, he called for a motion. *Mayor Coke made the*  
115 *motion to approve the concept plan to move on to preliminary plat. Mr. Myers*  
116 *seconded it, and it was approved unanimously.*

117

118 **6. Other Matters:**

119 (a) Mr. Foster told the Commission that he would have three items for them to  
120 consider during the next meeting. He would bring the Comprehensive Plan  
121 that included the Major Street Plan, Appendix 7 that clarified the green way  
122 plans for the City, and possibly a proposal to amend the Zoning Ordinance  
123 to allow six domesticated hens on each property if permitted.

124 (b) Mrs. Deaton also asked the Commission to review the Calendar so that it  
125 could be approved in February.

126

127 **7. The meeting was adjourned**