

**MINUTES OF THE MEETING OF THE MADISON COUNTY
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON
THURSDAY, THE 14th DAY OF FEBRUARY 2013 AT 9:00 A.M. AT THE
MADISON COUNTY COMPLEX BUILDING**

BE IT REMEMBERED that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 14th day of February, 2013 at 9:00 a.m. in the Madison County Complex Building.

Present: Dr. Keith Rouser
 Jim Smith
 Rev. Henry Brown
 William Amadio
 Will Sligh

Brad Sellers, Planning and Zoning Administrator.

There first came on for consideration the minutes of the January 10, 2013 meeting of the Commission. Upon motion by Commissioner Amadio, seconded by Commissioner Rouser, with all voting "aye," motion to approve the minutes passed.

There next came on for consideration the Petition of W.M. Patrick, III to rezone R-2 Residential District to C-2 Commercial District located on Coker Rd, Section 5, T7N-R1E. The Petitioner wishes to rezone a .16 acre parcel, and combine it with an existing parcel zoned C-2 Commercial to operate a boat repair business. The business currently operating in this location will be relocated to another location. Mr. Patrick appeared on behalf of the Petition and set forth his request and stated that he wanted to improve the look of the property and he presented a Petition to the Commission with signatures of those in support of the Petition, including the immediate neighbors closest to the property who approved of the request. The Petition is attached as Exhibit "A" to these minutes.

Bob Marsh appeared in opposition to the Petition. He presented the Commission with a Petition in opposition to the rezoning, as well as the formal response in opposition to the rezoning, both of which are attached to the minutes as collective Exhibit "B." Mr. Marsh explained that Mr. Patrick owned the house on the corner of Coker Rd and Lakeshore Dr but in March of 2009, he sold the house and most of the lot but retained the back yard of the house. This portion of land he retained is approximately 40 feet wide by 160 feet deep, faces Coker Rd and sits next to Mr. Ziglar's C-2 zoned property. This lot is primarily used to store boats, trailers, parts and equipment and contains three accessory buildings, a 2-story pole barn, a tractor, fork lift, and various pieces and parts. This lot does not currently meet the regulations for the minimum residential lot size of 10,600 square feet or the minimum lot width of 75 feet pursuant to Zoning Regulations Section 401.01 and 903. Mr. Marsh stated that the property line set back is a serious safety issue. He stated that the barn is two stories tall, and no construction permit was posted when it was built. This type structure is also in violation as it is not allowed in a residential district according to the Madison County Zoning

Regulations for Land Uses Permitted, Section 901. Further, the set back violates county regulations. The accessory buildings also violate Zoning Regulations Section 903.05. The parking in front of the lot violates Section 2301 of the Regulations. He also cited safety concerns due to the location of the property near a curve and hill, as well as the damage to the road that would be further caused. He also stated that because the proposed business was to repair boats, there was a noise concern with boat motors. He further cited other provisions, including General Policies 9 and 12 that protect primarily residential areas. He asked the Commission to not approve the Petition based on the current violations and provisions cited in their opposition paper.

Attorney Ben Piazza, representing Scott Lively, next spoke in opposition to the rezoning. He also presented a signed Petition in opposition and photographs which are attached hereto as collective Exhibit "C." Mr. Lively's property is very close to the property being requested for rezoning and he is opposed to the Petition for the same reasons as set forth by Mr. Marsh.

Audrey Gill next spoke in opposition to the rezoning. She stated that she lives at 182 Lorman Ln, Gate 7 and that she is in the same area as the subject land. She also presented a signed Petition that is attached as Exhibit "D," and voiced her strong opposition to the pending request.

Mr. Patrick spoke briefly in response to the opposition and stated that an attorney had closed on the property for him and he was not aware of the violations. He stated he would comply with whatever ordinances that were in place if the Petition was approved. Commissioner Sligh inquired regarding the owner of the land and Mr. Patrick stated that he had presented a letter but he did not technically own it yet. Commissioner Rouser inquired regarding whether he was aware of the zoning violations and he replied that he did not. Administrator Sellers informed the Commission that his office had notified Mr. Patrick of the violations which had started the process of the current application for rezoning. Upon Motion by Commission Amadio to deny the Petition based on the violations of the current ordinances and the fact that there is no contract on the property that is the subject of the request, seconded by Commissioner Sligh with all voting "aye," motion to deny the petition to rezone the R-2 Residential District to C-2 Commercial District was denied.

There next came on for consideration the Petition for Special Exception by Warren Excavation, LLC to conduct surface mining in the A-1 Agriculture District. The location of the property is 3364 Hwy 22, Seciton 4, T8N-R1E. Petitioner is requesting to conduct surface mining on the 35 acres out of a 425 acre tract. It is currently zoned A-1 Agricultural District. A 4 acre site was approved on this property June 4, 2012. A mining application has also been filed with MDEQ. Jim Giddy, Doug Warren and Daniel Spivey appeared on behalf of the Petition. Jim Giddy first spoke on behalf of the Petition. Mr. Giddy owns the land and explained that a prior 4 acre tract was approved and he is now requesting an additional 36 acres be approved as well. He stated that the purpose was to be able to support his mother who he is caring for. All traffic for the operation will be solely on Highway 463 and 22. He stated that there was a small cemetery currently on this property that appeared to be from the 1850's. He and his family are the only people who have ever visited or cared for the graves. Commissioner Amadio inquired about what would happen to this area if the Petition was approved and Mr. Giddy stated that they would comply with the requirements of the MDEQ which requires a 100 foot setback. Administrator Sellers stated that the county does not have any requirements or regulations for this. Commissioner Sligh inquired about other potential

graves sites and Mr. Giddy responded that they were in the process of trying to find someone to look into this further. Administrator Sellers stated that he knew of a company his church had used who had done the same thing and Mr. Giddy said they would get this company's information. Commissioner Rouser asked if anyone else had visited or maintained the graves and Mr. Giddy stated that no one other than himself and his mother and other family members had done anything with the property. It was stated to the Commission that Mr. Doug Warren of Warren Excavation would be doing the work. He explained that they had and would continue to comply with all regulations and would do a good job with the work. Commissioner Amadio inquired regarding the local road and they explained they would only be using Highway 22 and 463. Commissioner Smith stated that he had received some calls about trucks on the local road. Mr. Warren replied that they had looked into that incident after it was reported to them and it was not their trucks because they only used the main highway and they weren't in operation during that time.

Jim Martin first spoke in opposition to the Petition. He is the attorney for the adjoining landowners, Paul and Courtney Williams and Nancy McReynolds. He presented Petitions in opposition to the Petition. Mr. Martin also showed 2 maps of the property setting forth where his clients' land is located in relation to the subject land. Both of these items are attached as collective Exhibit "E." Mr. Martin stated that he believes you should be able to do what you want with your land, as long as it complies with regulations. Mr. Martin explained that the restrictive covenants were in place to assure that it stays residential. He explained that this area is no longer a rural area but is growing rapidly and surrounded by various residential neighborhoods. He argued that this land is not suited for an open pit mining operation and is not in compliance with the surrounding areas and would negatively effect his client's land value. He stated that it would be an eye sore and traffic hazzard with trucks coming on and off Highway 22, plus the damage to the roadway from the trucks. He explained that the operation was to last four (4) years and some 35,000 truck loads of dirt was to be hauled during this time from sun up to sun down. The dirt would be dug to twelve (12) feet deep in the ground. He stated that there were other ways to generate income from your land other than surface mining. He also referenced a bill that was to establish Highway 22 as a scenic byway and that this use would not be compatible with such bill. He also stated that after digging the big hole, it would be hard to establish the natural beauty of the property after such an operation.

Richard Butler also spoke in opposition to the Petition. He was speaking on behalf of the Township of Livingston and stated that he agreed Mr. Warren had done a good job with the current site but explained that with such an increase in acreage, his concern was the increase in traffic on the roads around that area as well as to the appearance of the area where the work would be taking place since it was right up to Highway 22. He stated that there were events at Livingston on the weekends and in the evenings and he was concerned how this would effect their events.

Phyllis Doby also spoke in opposition to the Petition. She lives on Highway 463 and cited concerns for the road and the current schools and churches on that road and how the increase in traffic with big trucks would effect them. She was especially concerned for the safety risk this might impose to the schools. She also referenced that the bill had just been approved and Highway 22 was now a scenic byway and this might not comply with said bill. Commissioner Sligh inquired regarding the byway and Ms. Doby explained that it would run from Canton to Flora.

David Strain next spoke in opposition to the Petition. He stated that he and his wife had purchased property half a mile from this proposed operation and were very concerned about the effect it would have on the value of their property. They had specifically purchased the land because of its beauty and rural qualities and they were concerned how this would affect the wildlife and other landowners nearby. He was also concerned about the safety because they have small children. He felt there was better uses for the property other than the proposed request.

Ken Primos next spoke as a neutral party. He explained that he is a business developer and he appreciated both sides positions and felt there was a way to do this where all sides could be happy. He stated that dirt is required to build anything so he thought there was a need for the operation; however, he said a plan could be put in place so that all parties were pleased.

Rita McGuffee next spoke and she stated that she lives on Highway 463 and she was very concerned about how this might affect the safety with all the different school traffic and schools on the road.

Mr. Giddy addressed the concerns presented and stated that he appreciated them but it was his land and he should be allowed to do what he wanted with it. He explained that he would do the work in a tasteful manner that respected everyone else's rights. He stated that they would have flashing signs posted on the road and he would clean up the land and replant grass once the operation was complete. Mr. Spivey also stated that they would be willing to work with the Commission to address the safety and other concerns as necessary.

Cherrie Deddens next spoke and stated that she lived on Highway 22 and she would like to see a plan on how close it is going to be to the road and other landowners. Administrator Sellers explained that the Commission could only consider what was before them today. Mr. Giddy explained that they would maintain the buffer between the pit and the road so that it wasn't an eye sore and didn't effect Highway 22.

Paul Williams next spoke, who is the adjacent landowner to this property. He explained that this was directly next to his property. He stated that when they purchased the property, it was under the express provision that it would only be residential and there were particular requirements in place for lot sizes, etc. for future use. He also expressed safety concerns since he has young children. Commissioner Sligh inquired regarding the dirt that would be needed to build his house and Mr. Williams stated he did not know where the dirt would come from at this time.

Commissioner Sligh then made the motion to approve the Petition with the following restrictions: 1) prohibit haul activity on local roads unless point of delivery is on that road; 2) restrict haul activity on Highway 463 during school peak hours; 3) investigate cemetery for unmarked graves and establish a buffer zone; 4) have flag men present on the site; and 5) buffers must be present between the site and adjacent landowners and Highway 22, seconded by Commissioner Rouser with all voting "aye," motion to approve the Petition with certain restrictions as set forth herein was approved.

There next came on for hearing the site plan of Dependable R.V. Services for a proposed new structure to store RV's. This property is located at 142 Enterprise Drive in Gluckstadt. The site plan is for a new building for storage of RV's, material and finish to match the existing buildings. This is an expansion of the current facility. Mark Marley appeared on behalf of the Petition. Commissioner Sellers explained that this was an expansion of the current business and they already operate several buildings at this location. Commissioner Smith then made by the motion to approve the site plan, seconded by Commissioner Rouser with all voting "aye," motion to approve the site plan was approved.

There next came on for discussion, the setting of the March, 2013 meeting. March 14, 2013 was suggested. Upon motion by Commissioner Smith, seconded by Commissioner Amadio, with all voting "aye," motion to set the March, 2013 meeting for March 14, 2013, passed.

With there being no further business, and upon motion made by Commissioner Amadio, seconded by Commissioner Sligh, the February 14, 2013 meeting was adjourned.

3-14-13
Date


(Chairman)