

**MINUTES OF A REGULAR MADISON COUNTY PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 10<sup>th</sup> DAY OF JUNE, 2004 AT 9:00 A.M. AT THE MADISON COUNTY CHANCERY BUILDING**

---

BE IT REMEMBERED that a regular meeting of the Madison County Zoning Commission was duly called, held and conducted on Thursday the 10<sup>th</sup> day of June, 2004, at 9:00 a.m. in the Madison County Chancery Building.

Present: Bennie Lucket, Chairman

Sidney Spiro

Steven Steen

Henry Brown

Brad Sellers, Zoning Administrator

Absent: Lisa Walters

There first came on for consideration the minutes of the May 6, 2004, meeting. Upon motion of Commissioner Brown, seconded by Commissioner Steen, with all voting ~~Aaye~~, motion to approve minutes passed.

There next came on for consideration the petition of Richard Kuebler and Allan Henderson for permission to re-zone R-1 Residential to C-2 Commercial District. Allan Henderson appeared on behalf of the petitioners and gave a brief description of the property to the Commission. It was noted that this petition was tabled at the October, 2003, meeting at the request of the petitioners and the City of Madison. The petitioner stated that he had negotiated with the City of Madison concerning the re-zoning of this property and further stated that the surrounding property is similarly zoned. He stressed that the land he is requesting to be re-zoned lies in an area that is expected to experience significant growth and change in the near future. Commissioner Steen asked the petitioner whether the City of Madison controlled the utilities to this property. The petitioner stated that the water utilities were with Bear Creek and that he had a letter from the City of Madison stating that they would provide sewer utilities. Doug Varney, a neighboring property owner appeared in opposition. He stated that he was not particularly opposed to developing the property but that he was opposed to the property being zoned as C-2, as it would make the neighboring property less valuable. John Hedgeland, attorney for the City of Madison, also appeared in opposition. He stated that the City's proposal to re-zone the property as City C-1 zoning is fair and generous and that it would allow businesses of all types. He further stated that this petition did not meet the minimal requirements as stated in the case of *City of Clinton vs. James E. Conerly, et al.*, 509 So.2d 877. In reliance on this case, Mr. Hedgeland stated that the comparisons stated in the petition were over one mile from the subject property, that the petitioner did not show a change in circumstances as required, and that the petitioners did not show statistics showing that there is

a public need for the re-zoning of this property. In addition, Mr. Hedgeland pointed out that the applicant failed to state the specific use of the property and the date that the plan would be put into effect. Again, the petitioner stated that the best use of this property is not residential, that I-1 zoned land is 100-200 yards away that C-2 zoned land is one mile away, and the property is serving no one at the present time. Mark Macklin, another neighboring property owner, appeared in opposition stating his concern that the petitioners have not identified a use for the property and that he did not want storage buildings or meat packing plants located on this land. Commissioner Steen asked the petitioner whether or not he was willing to continue negotiating with the City of Madison. Petitioner stated that he is open to compromise and negotiations but is unsure whether the City of Madison is willing to compromise. Commissioner Steen stated that the petitioner would have to secure sewer utilities from the City of Madison prior to the approval of this petition. Upon motion of Commissioner Steen, seconded by Commissioner Brown, with all voting Aaye@, motion to table the petition until the next scheduled meeting in order to give the parties more time to further compromise passed.

There next came for consideration the petition of Madison County Schools for a special exception to construct a public/quasi-public facility (elementary school). Paula Griffin appeared on behalf of the petitioner, and she stated that the elementary school would be located on Highway 43 North, Section 6, T10N-R5E. The petitioner stated that there is no provision for treating sewage in this area, but that an engineer report from the Department of Environmental Quality stated that on-site treatment would be available. The petitioner further stated that she had spoken about this matter with Ricky Terry with the Department of Environmental Quality. No one appeared in opposition. Upon motion of Commissioner Brown, seconded by Commissioner Steen, with all voting Aaye@, motion to recommend approval to the Board of Supervisors passed.

There next came for consideration the petition of Bruno Clark for permission to re-zone R-1 Residential to C-2 Commercial District. Bruno Clark appeared on behalf of the petitioner, and stated that the only reason C-2 Commercial District zoning was being sought was that a billboard was going to be repositioned on one specific area of the property. He further stated that covenants are going to be put into effect that would prevent further signs from being constructed on the property. Commissioner Steen asked the petitioner whether or not he would agree to a restricted covenant in order to use the C-2 zoning for the one billboard being proposed. The petitioner agreed with this request. There being no opposition, upon motion of Commissioner Spiro, seconded by Commissioner Brown, with all voting Aaye@, motion to recommend approval to the Board of Supervisors with a stipulation that covenants be provided that would restrict the C-2 zoning use solely to the existing billboard passed. Chairman Luckett excused himself at 9:50 a.m. leaving Commissioner Steen in charge of the meeting in his absence.

There next came for consideration the petition of CGC, LLC, for permission to re-zone R-1 Residential to R-2 Residential District. Brad Chishold appeared on behalf of the petitioner, and stated that he was one of three owners of this property. Commissioner Steen asked why the

petitioner planned to construct 1700 square foot residences as opposed to the area's existing covenants of 1800 square feet. In response to this, the petitioner stated that the covenants are in compliance with the city ordinance and that the set back requirements on these lots are more restricted than the city ordinance. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting Aye@, motion to recommend approval to the Board of Supervisors passed.

There next came for consideration the petition of Diane Bennett for permission to re-zone R-1 Residential to C-2 Commercial. David Mullens, the proposed buyer of the property, appeared on behalf of the petitioner and stated that the subject property had never been used as a residential area. He further stated that a warehouse had existed on the property since World War II, and that his plans include improving the warehouse's appearance. In addition, the petitioner stated that the proposed covenants provide for a wood working shop. He further stated that the covenants would not allow more than three employees and would limit business hours from 7:00 a.m. to 5:00 p.m.. Ben Conner, an attorney representing five of the adjoining land owners, appeared in opposition. He stated that there was no access to the property except through private easements, and that no sewage facilities were available for the property. He stated that spot zoning is prohibited and that this petition, if approved, would reflect spot zoning. In addition, Mr. Conner brought to the Commission's attention that Pine Drive is a private road and, in support thereof, Mr. Conner provided to the Commission a list of roads in Madison County from the land records department of Madison County that indicates that Pine Drive is private. Commissioner Spiro posed the question as to whether the zoning of this land could be grandfathered. In response, Mr. Conner indicated that the subject property was zoned residential in 1980 and was residential when the petitioner purchased it. In opposition, Debra Young a former owner of this property appeared and stated that this property was sold by her family to Jimmy Houston with a condition that the warehouse be maintained. She further indicated that the family sold the property with the understanding that it would never be used for commercial uses again. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting Aye@, motion to recommend denial of the petition to the Board of Supervisors passed.

There next came for consideration the petition of Brenda Hales for permission for a special exception to place a mobile home in an R-2 District. Brenda Hales appeared on behalf of the petitioner, and stated that she was in the process of buying one acre of land for the mobile home, which is located at 130 Terri Road, in the Kearney Park area. She stated that there was no opposition and that West Madison Utilities would provide the sewer and water. Ken Roberson a neighboring land owner, appeared in support of the petition and stated that he openly welcomes new people to come into this area because of the prospect that it would be beneficial for the area as a whole. He further stated that there was an industrial building and a car shop across the street from the subject property and that there were mobile homes all around this particular area. Upon motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting Aye@, motion to recommend approval to the Board of

Supervisors passed.

There next came for consideration the petition of Riley Wayne McFarland for permission to place a mobile home in an R-1 District. R. W. McFarland appeared on behalf of the petitioner and stated that he was planning on exchanging an older model mobile home for a newer model and was placing it on the same subject property that the older model mobile home is currently situated. With there being no opposition and upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting Aaye@, motion to recommend approval to the Board of Supervisors passed.

There next came for consideration the approval of two preliminary plats, as follows:

- A. Bradshaw Ridge, Part 2;
- B. Brian Estess

The first preliminary plat, Bradshaw Ridge, Part 2, was presented to the Commission by Nolan Williamson, the responsible engineer. He stated that the master plan has been approved and that this plat is in compliance with that plan. Upon motion of Commissioner Spiro, seconded by Commissioner Brown, with all voting Aaye@, motion to recommend approval to the Board of Supervisors passed. The second preliminary plat, Brian Estess, represented a continuation of the Magnolia Heights sub-division. Again, Nolan Williamson appeared on behalf of the petitioner and stated that he wanted the plat approved as to open ditches instead of as to curb and gutters. He further stated that the preliminary plat was approved last year by the Commission and the Board of Supervisors, and that the only change in the preliminary plat that is being requested is that a through street be exchanged for the culdesac. Mr. Williamson additionally stated that District Supervisor Banks is in favor of this change. With there being no opposition, upon motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting Aaye@ motion to recommend approval to the Board of Supervisors passed.

There next came for consideration the issue of attorneys fees. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting Aaye@, motion to approve attorneys fees passed.

There being no further business the meeting was adjourned at 10:25 a.m.

---

CHAIRMAN

