

**MINUTES OF A REGULAR MADISON COUNTY PLANNING AND ZONING
COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 11TH DAY OF
AUGUST, 2005 AT 9:00 A.M. AT THE MADISON COUNTY COURTHOUSE**

BE IT REMEMBERED that a regular meeting of the Madison County Zoning Commission was duly called, held and conducted on Thursday the 11th day of August, 2005, at 9:00 a.m. in the Madison County Courthouse.

Present: Sidney Spiro
 Steven Steen
 Brad Sellers, Zoning Administrator
 Lisa Walters
 Rev. Bennie Luckett, Chairman
 Rev. Henry Brown

Absent: None

There first came on for consideration the minutes of the July 14, 2005, meeting. Upon motion by Commissioner Steen, seconded by Commissioner Walters, with all voting "aye", motion to approve the Minutes, passed.

There next came on for consideration the Petition of Cellular South Real Estate Inc. for petition for special exception to construct a cellular tower at Madison Station Elementary School on Reunion Parkway. Zoning Administrator Sellers informed the Commission that the Petitioner had requested that the petition be tabled again until September as they are still working with the City of Madison on design options. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye", motion to table the petition until the September meeting, passed.

There next came on for consideration the Petition of Marvin Pepper/Marson Construction Company for petition for variance to front setback of a home in Wildwood Subdivision. The Petitioner is requesting a variance of 1.7 feet to the required 50 foot front setback. The Petitioner was not present, and Zoning Administrator Sellers stated for the Commission that the Petitioner had contacted him in order to inform him that he had an emergency and would be running late. As such, upon agreement of all present, the Petition was delayed in order to provide time for the Petitioner to arrive.

There next came on for consideration the Petition of Klaas Plantation, LLC for permission to rezone R-1 Residential to R-2 Residential with the subject property being located off Yandall Road. Zoning Administrator Sellers informed the Commission that the subject property consisted of approximately 57 acres and was not in compliance with the adopted Land Use Plan. He further stated that a plat and covenants had been provided, and Bear Creek has agreed to provide utility services. Horace Lester and Darryl Breeland appeared on behalf of the Petitioners. They presented updated design guidelines for the Commissioners' review, which is attached hereto as Exhibit "A" and incorporated herein by reference. Mr. Lester informed the Commission that the subject property is approximately one-half mile west of Clarksdale Road and adjoins property that was recently rezoned last month. He further stated that the subject property contains two residences that they are currently in the process of purchasing. Mr. Lester further stated that it is his opinion that the area has undergone a change that is susceptible at this time for this development, as the area has grown and there is a need in the community for this development. He stated that the homes would consist of 2,000 square foot minimum requirements and lot sizes would be limited to 12,000 square foot minimums. Darryl stated that the guidelines would be highly restrictive and the architectural designs would be limited to country French and French Acadian. He further stated that the homes would cost approximately \$300,000, which includes the price for the lot. Commissioner Steen inquired as to the adjoining property that was rezoned to which the Petitioner informed him that the adjoining property was rezoned to allow 1,600 square foot minimum homes and 12,000 square foot lot size minimums. The Petitioners stated their desire to ensure that this development does not compete with the adjoining development. Commissioner Walters inquired as to the green space to which the Petitioners stated that green space would exist at the front of the development around two large pecan trees, along both sides of a creek that runs through the property that will provide drainage assistance for the development, and that a clubhouse is being proposed that will also consist of green space. Zoning Administrator Sellers inquired as to who would maintain the creek. The Petitioners stated that this would be the responsibility of the Homeowner's Association, and all homeowners are required to be members of the Homeowner's Association. They further stated that the creek will be enlarged and developed in a manner that would facilitate easy maintenance. Commissioner Spiro inquired as to what percentage the control of the Homeowner's Association would shift from the developer to the homeowners to which the Petitioners stated eighty percent. The Petitioners stated that they have been utilizing a 4 to 1 scale for a long time in this regard and that turning control over too quick can cause a change in the features offered on a house and run up the costs of the remaining homes to be built in the development. Commissioner Spiro stated for the record that eighty percent was too high in his opinion. Darryl Breeland stated in response that the reason behind the eighty percent control shift is due to the security it provides the developer in keeping control as long as

possible in order facilitate the selling of the remaining lots when the control is turned over to the Homeowner's Association. Upon motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye", motion to recommend approval to the Board of Supervisors, with the appropriate amendments to the Land Use Plan, passed.

There next came on for consideration the Petition of Stribling Lake, LLC for permission to rezone A-1 Agricultural to R-1B with PUD overlay on the subject property located on Stribling Road. Zoning Administrator Sellers informed the Commission that Bear Creek Water Association has agreed to provide utilities. Ken Primos and Horace Lester appeared on behalf of the Petitioners. They stated they are calling the subject development McMillon Lake and that the property is located east of Highway 463 off Stribling Road. Horace Lester stated for the Commission that the development will probably consist of two phases, but this has not yet been determined. He stated that the proposed lake would consist of approximately 25 acres and that they are asking for a PUD due to the amount of green space proposed. He stated that the lake would be owned entirely by the Homeowners' Association and that there is a change in the neighborhood due to the surrounding developments, as Hartfield and Devlin Springs subdivisions are across the street from this proposed development. He stated that there is a need now for these types of developments. He stated that sewage lines have recently been installed, which has facilitated the development of this property as proposed. Ken Primos showed a proposed plat to the Commission, and stated that the east side of the development would continue with the Devlin Springs theme and the west side of the development would continue with the Hartfield Subdivision theme. They have proposed 274 lots and do not expect more than this number. Zoning Administrator Sellers stated for the Commission that the Manssdale-Livingston Heritage Preservation District has issued a Certificate of Appropriateness for this development. A copy of said Certificate, including a letter from Chairman Rita McGuffie, is attached hereto as Exhibit "B" and incorporated herein by reference. The Petitioners have agreed to include a 65 foot buffer off Stribling Road in order to maintain the rural look of the surrounding area in addition to a six-foot iron fence along the lot line and the buffer zone on Stribling Road. Commissioner Walters inquired as to whether or not the development would be a gated community, to which the Petitioners stated that it would not due to their concerns to protect the proposed buffer zones. They stated that the fence is to be in place within a year after the plat is filed, and the builders will split the cost of the fence with the developers. The Petitioners stated that the percentage in which control will shift to the Homeowner's Association is not included in the covenants, as six months after the first phase is begun, the Homeowner's Association would be formed and the developer would maintain control as long as he owned the larger percentage of the available lots. Every lot/home owner will immediately begin paying dues to the Homeowner's Association, and the developer will pay dues on any unsold lots he still

owns. The Petitioner explained that once a lot has been sold, the purchaser begins to pay dues to the Homeowner's Association and when the developer no longer owns the majority of the lots, he does not have absolute control over the Homeowner's Association. However, the Petitioner stated that the developer would control the architectural review committee until the last lot is sold in order to ensure that all lots are sold in the development. Commissioner Walters inquired as to whether or not a swimming pool would be available to the residents, to which Mr. Primos stated that there would definitely be a pool and clubhouse or cabana, and the lake will belong to the homeowners, which would include a boat launch and a fishing pier. Commissioner Walters further inquired as to the proposed price of the homes, to which the Petitioner stated they would cost approximately \$185,000 to \$260,000. Zoning Administrator Sellers pointed out to the Petitioners that due to the fact that the lake is not yet built, they may have more or less land to actually development, and the number of lots proposed could increase or decrease due to this fact. Horace Lester stated that due to the fact that this was a computer generated plat as opposed to a manual plat, they did not expect the number of lots would increase or decrease dramatically, but he did acknowledge this fact. Upon motion by Commissioner Walters, seconded by Commissioner Steen, with all voting "aye", motion to recommend approval to the Board of Supervisors with the appropriate amendments to the Land Use Plan, passed.

There next came on for consideration the Petition of Jerry Sumrall for permission to rezone R-1 Residential and A-1 Agricultural to R-2 Residential on subject property located on the corner of Way Road and Brown Road East. Jerry Sumrall appeared on behalf of the Petitioner in addition to a professional engineer who has helped develop the proposed sewage system. Zoning Administrator Sellers informed the Commission that the Land Use Plan would require amendment if approved. He stated further that the Health Department has approved the sewage system on a trial basis and that the Petitioner has agreed to build a phase 1, which consists of 20 acres, if approved, on a trial basis of 2 years in order to ensure the sewage system works properly. Zoning Administrator Sellers further stated for the Commission that there are no lots of this size contained in District 5. Commissioner Steen inquired as to how the sewer system operates. The engineer accompanying Mr. Sumrall stated that there would be one unit per lot and that the proposed homes are 3 bedroom houses. He stated that the system uses a trickling filter system that contains an aerobic process in addition to a normal septic tank that removes solids. He stated that the pump picks up the waste and sprinkles it through a bed of media and then a second pump doses it out to the drip field. He stated that the by-product is a clear fluid, and the liquid is 99% cleansed when it is dripped into the soil. He stated that the drip is applied to the soil and that each system is designed for the particular soil type that will be utilized. He further stated that the sewage system is equipped to operate 450 gallons per day and that the clay silt soil in this area needs 3,000 feet of soil to percolate. However, he further stated that the

system that they have designed sets aside 7,000 square feet, which is more than twice the required square foot of soil necessary for this system. Commissioners Steen and Walters inquired as to the cost, to which the Petitioner stated that the system would be cost competitive with other systems, as they are proposing these sewage systems in a subdivision as opposed to an individual home. Each system will cost approximately \$5,000.00. Commissioner Steen inquired as to whether or not there was a monthly fee for monitoring this system to which the Petitioner stated that it would cost approximately \$30.00 a month, which will also cover any maintenance fees. The Petitioner further stated that this system does not use the soil for treatment, just for discharge, and that the system is very easy to maintain as it only consists of two pumps. He also stated that each system has a real-time monitor at headquarters and should a problem arise, there are individuals available to immediately address the problems due to the real-time feature available. Commissioner Steen inquired as to whether there was an alternative plan should a problem arise with the sewage system. The Petitioner stated there is land set aside for a large trickle field if necessary. Commissioner Walters inquired as to whether or not there was any negative feedback from the surrounding community, to which Commissioner Brown stated that everyone seemed to be in favor of this type of development. Upon motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting "aye", motion to recommend approval contingent on the two year trial basis as agreed upon by the Petitioner and contingent upon the Petitioner setting aside a minimum of 20 acres as a precaution, passed.

There next came on of consideration the Preliminary Plat of King Ranch Community. Larry Bailey appeared on behalf of the Petitioner. Zoning Administrator Sellers informed the Commission that the Petitioner is considering the use of prefabricated housing and that information has been sent to the mayor of Canton due to the fact that the land adjoins Canton. He further stated that the Petitioner would be required to obtain a building permit in order to place houses on the lot, but the homes would be bolted to concrete or conventional slab. The Petitioner stated for the Commission that the City of Canton has signed off on the proposed development. He further stated that the homes would be approximately 1,300 to 1,500 square foot and the prefabricated homes were certified by an engineer at the factory. Chairman Lockett inquired as to why the Petitioner was proposing to use this method of construction, to which the Petitioner stated that it was cost effective and addresses a need in the community to have homes in the \$100,000 price range. The Petitioner stated that there were no covenants yet, but he agreed to present those covenants to the Commission for their review once completed. Zoning Administrator Sellers stated that he wants to make sure that the City of Canton has looked at this thoroughly, and he also stated that the proposed prefabricated homes will not be approved with the approval of the proposed plat. Commissioner Walters was excused early and did participate in this

vote. Upon motion by Commissioner Steen, seconded by Commissioner Spiro, with Commissioners Spiro, Steen, and Chairman Luckett voting "aye", and Chairman Brown voting "nay", motion to recommend approval subject to the review and approval of the proposed covenants by the City of Canton, passed.

There next came on for consideration the continued Petitioner of Marvin Pepper for a variance to front setback of 1.7 feet. Mr. Pepper appeared and stated that the Homeowner's Association had no objections and that he is unaware of any other opposition. 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 on for discussion the issue of attorneys' fees. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye", motion to approve attorneys' fees passed.

There being no further business, the meeting was adjourned at 10:40 a.m.

Date

(Chairman)