

MINUTES OF A REGULAR MADISON COUNTY PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 20th DAY OF OCTOBER, 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 20th day of October, 2005, at 9:00 a.m. in the Madison County Courthouse.

Present: Sidney Spiro
Steven Steen
Lisa Walters
Brad Sellers, Zoning Administrator

Absent: Rev. Bennie Luckett, Chairman
Rev. Henry Brown

Presiding: Commissioner Steen presided over the meeting due to Chairman Luckett's absence.

There first came on for consideration the minutes of the September 8th, 2005 meeting. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, 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 special exception to construct a cellular tower at Madison Station Elementary School. Zoning Administrator Sellers informed the Commission Cellular South is still delayed in their action on this Petition due to their continued negotiations with the City of Madison. Zoning Administrator Sellers further informed the Commission that Cellular South had indicated their intent to remove their Petition from the agenda at this time. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting "aye", motion to remove Cellular South's Petition from the agenda passed.

There next came on for consideration the Petition of T. Davis Gordon/Don Holtzsinger to rezone C-1 commercial to C-2 commercial on Weisenberger Road. Nolan Williamson appeared on behalf of the Petitioner. Davis Gordon, according to Mr. Williamson, was in route to the meeting from Gulfport but was caught up in traffic. Mr. Williamson is the engineer assigned to this project, and he stated that the proposed development would consist of climate control storage units. He further stated that the units will be accessed internally, as there would be no roll-up doors on the outside of the structure. He also stated for the Commission that the surrounding property was already zoned C-2. Commissioner Walters inquired as to how the building would be constructed, and Mr. Williamson could not provide that information. Zoning Administrator Sellers stated that Gordon had informed him that the building will be modeled after similar stucco and brick buildings in the area. Commissioner Steen inquired as to whether the Petitioner would have any problems with restricting the development to a mini-storage facility only

to which Williamson stated that they would have no problem. Commissioner Walters stated that it was her opinion that the Petition should be moved to the heel of the agenda in order to provide time for Mr. Gordon to arrive and provide more details, and, as none of the Commissioners had any objection to this suggestion, the Petition was placed on the heel of the agenda.

There next came on for consideration the Petition of Key Constructors, LLC for special exception to conduct surface mining on Highway 51 north of Yandell Road. Paul McPhail appeared on behalf of Key Constructors. He provided a reclamation plan and hours of operation. Commissioner Steen inquired as to the hours of operation to which the Petitioner stated they had requested 7:00 a.m. to 6:00 p.m., Monday through Saturday, but does not know exactly what restriction on hours will be made by the MDEQ. He stated that the purpose of this mine would be to provide dirt for the Highway 463 extension through the City of Madison. Commissioner Steen inquired into the haul route being proposed to which the Petitioner stated that they had intended to use Highway 51. Commissioner Walters stated for the record her concerns with safety in light of the school traffic that would be along this haul route, and Zoning Administrator Sellers stated for the record that there was a new school being built along this route that increases these concerns. Commissioner Walters asked the Petitioner whether they would consider changing the hours of operation to which the Petitioner stated that he understands the Commission has the prerogative to change the hours of operation, but they felt that 7:00 a.m. to 6:00 p.m. was necessary. He stated for the Commission that the project will be bid in January and that they are attempting to get this land rezoned so that they can provide the dirt work for this project if they are successful on the bid. Zoning Administrator Sellers inquired as to the time frame for the operation of this mine to which the Petitioner stated that the dirt will be hauled from May 2006 to May 2007 and that the pit will be closing out in 2008. Commissioner Steen stated for the record how bad the traffic was on Weisenberger Road at 7:30 in the morning and stated that it was his opinion that there may be a better route that is more efficient for this project and more safe for the residents of this area. The Petitioner agreed with this assessment and stated that they are open to suggestions. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting "aye", motion to approve the Petition for special exception, contingent on this exception being non-transferrable in addition to limiting the haul route south on Highway 51 from 8:00 a.m. to 4:30 p.m. and any haul route north of the subject mine anytime, passed.

There next came on for consideration the Petition of Nicole Shields for permission to rezone A-1 to R-2 residential on Robinson Road in order to develop a residential subdivision. East Madison Water Association and CMU will furnish utilities. Nicole Shields and Elmore Moody appeared on behalf of Petitioner and stated that the property was already zoned R-2 and they presented a plat showing the layout of the proposed subdivision along with a set of covenants. Commissioner Spiro inquired as to the lack of architectural review provisions in the covenants to which Nicole Shields stated that it was a good suggestion and they have no problem with providing such provisions. Commissioner Steen inquired as to who would provide the sewer utilities to which the Petitioner stated that CMU has agreed to provide these. Mr. Moody stated for the Commission that the proposed

minimum square footage of the homes is 1500 square feet, and Zoning Administrator Sellers suggested that this be included in the covenants. Commissioner Walters inquired as to the name of the proposed development to which Ms. Shields stated that the proposed name was Trinity Estates. Upon motion by Commissioner Spiro, seconded by Commissioner Walters, with all voting “aye”, motion to approve the Petition, subject to covenants including architectural review provisions and a minimum square footage of 1500 square feet with the limitation that the covenants cannot be altered or changed without the Board of Supervisors’ approval, passed.

There next came on for consideration the Petition of Community First Development, LLC for permission to rezone R-1 residential to R-2 residential along Yandell Road for a proposed residential development. John Jordan appeared on behalf of the Petitioner. The Petitioner stated that the control of the development shifts to the homeowner’s association at two-thirds ownership. Commissioner Spiro stated that he did not see these provisions in the covenants, to which the Petitioner stated that if they are not included, he would be certain to make sure they were. Zoning Administrator Sellers inquired as to the proposed square footage to which the Petitioner stated that he had suggested 1500 square feet. Zoning Administrator Sellers inquired as to whether he would consider 1600 square feet to which the Petitioner stated his approval. Commissioner Walters inquired as to the proposed lot size to which the Petitioner stated that the lot size would be the minimum allowed for R-2 developments. The Petitioner stated that he was agreeing to improve the county road up to the entrance to the development and that he would agree to talk to the county engineers in order to work with the county to get the road improved all the way down past the development. Angela Thompson, a concerned neighboring landowner, appeared in order to express her concerns with the condition of the road. She stated that she was not opposed to the proposed development, but she stated for the record that this is a county road which is in bad condition and this development will put a lot more traffic on Johnson Lane and compound additional problems. The Petitioner stated that he wants to work with all the neighbors to get the area in good condition and again stressed that he will be willing to work with the county in order to improve Johnson Lane. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to approve the Petition, subject to the covenants providing for 1600 square foot minimum homes and homeowner’s association control shifting to the homeowners at seventy-five percent ownership in addition to the appropriate amendments to the Land Use Plan, passed.

There next came on for consideration the Petition for a special exception to establish a private family cemetery on a .15 acre tract to be recorded with the county as a cemetery. Mrs. Dan Morgan appeared on behalf of the Petitioner. She stated that the proposed cemetery would be private and contain eight lots. Commissioner Walters inquired as to whether or not there was any opposition to this Petition to which Zoning Administrator Sellers stated that there was none. Upon motion by Commissioner Spiro, seconded by Commissioner Walters, with all voting “aye”, motion to recommend approval to the Board of Supervisors passed.

There next came on of consideration the Petition of Justin Adcock for a variance to the required side setback in an R-2 district, specifically lot 6 in Providence Subdivision. Justin Adcock appeared on behalf of the Petitioner and stated that property pins had been inadvertently removed and the setbacks were off. This was not discovered until the house had been constructed, and Landmark Development has stated that they have no opposition to this setback. Commissioner Steen inquired as to whether there was any other opposition to which Zoning Administrator Sellers stated that there was none. Upon motion by Commissioner Spiro, seconded by Commissioner Walters, with all voting “aye”, motion to recommend approval to the Board of Supervisors passed.

There next came on for consideration the Petition of T. Davis Gordon. As Mr. Gordon had arrived, the Petition was revisited. Dave Gordon appeared on behalf of the Petitioner and stated that he had no drawings or elevations to show to the Commission but that he would be more than happy to get this information to the Commission at a later date. He stated that the building will consist of stucco with store front windows on the front and the remainder of the building would be a metal exterior. Zoning Administrator Sellers stated that the location of this proposed structure would be in such a position that the public would not be able to see the sides of the building from the road. The Petitioner stated that the front of the building would wrap around the sides for 30 feet on both sides that would further shield the metal exterior from the public. The Petitioner stated that there is also a proposed 6 foot planting barrier in the rear of the building. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to recommend approval of the Petition limited only for a mini-storage facility, subject to the Petitioner providing elevations to the Board of Supervisors and including an adequate 6-10 foot screen buffer on the rear of the facility, passed.

There next came on for consideration the preliminary plat of Windsor Parke. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to recommend approval to the Board of Supervisors passed.

There next came on for consideration the preliminary plat of St. Johns Way for the first 11 lots of the proposed subdivision in order to monitor the sewage system for the proposed development as previously approved. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to recommend approval of the preliminary plat to the Board of Supervisors passed.

There next came on for discussion the issue of the amended zoning ordinance. Larry Smith, the Director of Planning for the Central Mississippi Planning and Development District, appeared. There was a discussion as to the appeal time for the recommendation by the Commission to the Board of Supervisors, and whether or not there needs to be a fee placed on the appeal process among other issues addressed below. After discussing the proposed amended zoning ordinance, the following are proposed changes to the amended zoning ordinance as recommended by the Planning Commission:

1. The Amended Zoning Ordinance needs to include a section to specifically address the time limit for the appeal of the planning commission's recommendation in order to have a second public hearing before the Board of Supervisors, and it is recommended that the deadline for entering a notice of appeal be fifteen (15) days.
2. There needs to be a established a required fee that an aggrieved individual must pay in order to pursue an appeal in order to discourage frivolous appeals and to assist the costs incurred with the appeal and subsequent public hearing.
3. Section 401.03 needs to include language prohibiting encroachment, including conrices/eaves, into the required setbacks of more than fifty (50) percent.
4. Section 503.01 needs to change maximum building height from 35 feet to 40 feet, which is the same as that allowed in residential districts.
5. Section 1304 needs to reference adopted codes as opposed to standard codes.
6. Section 1305.04 needs to relax the setback from 50 feet to 25 feet.
7. Section 1402-A needs to omit the language, "or on a rental or lease basis".
8. Section 1501 needs to omit "existing" from "superimposed designation on an [existing] low density residential district".
9. Section 1503 needs to be reworded to allow the petition for PUS to include a request for any proposed R-3/R-4 or commercial zoning and to allow one petition to include all desired zonings for the subject property as opposed to requiring separate petitions for each/different use.
10. Section 1506.05 needs to change the front and rear minimum yard from 25 feet to 20 feet.
11. Section 1511, as designated on page 80, needs to be section 1512, and section 1512, as it is currently listed on page 80, needs to be changed to section 1513.
12. Section 1609 needs to be deleted altogether.
13. Section 1610.03-6 needs to include language to the effect that these authorizations are at the expense of the Mannsdale-Livingston Heritage Preservation Commission.

14. Section 1611 needs to include the requirement that the Mannsdale-Livingston Heritage Preservation Commission make their recommendation to the Madison County Planning Commission as opposed to the Madison County Board of Supervisors.
15. Section 1701-E needs to omit “or not to exceed 10,000 square feet if freestanding”.
16. Section 1802-E needs to change “excluding outside runs” to “including outside runs”. Also, “Veterinary clinics and pet shops, excluding outside runs” needs to be added to Section 1801 - Land Uses Permitted.
17. Section 1902-E needs to include language requiring that vehicles stored on site be in the rear of the building and covered by adequate screening. Also, garage and body shops with no outside storage allowed needs to be included in Section 1901 - Land Uses Permitted.
18. Section 2101 needs to additionally apply to C-1 and C-2 districts.
19. Section 2518 (6) needs to remove its reference to Standard Building Code.
20. Section 2605.01 needs to change 15th day of the month to the 1st day of the month.
21. Lastly, the Commission raised questions as to when subject property is effectively rezoned. It is recommended that the property be effectively rezoned upon approval of the Board of Supervisor’s minutes when the president of the Board signs the minutes.

Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to recommend the changes to the proposed amended zoning ordinance to the Board of Supervisors, passed.

There next came on for consideration the issue of attorneys’ fees. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, motion to approve attorneys’ fees passed.

There being no further business, the meeting was adjourned at 12:06 p.m.

Date

(Chairman)