

**MINUTES OF THE MADISON COUNTY PLANNING AND
ZONING COMMISSION HELD AND CONDUCTED ON
THURSDAY, THE 12th DAY OF JULY, 2007 AT 9:00 A.M.
AT THE MADISON COUNTY COURTHOUSE**

BE IT REMEMBERED that a meeting of the Madison County Zoning Commission was duly called, held and conducted on Friday, the 20th day of July, 2007, at 9:00 a.m. in the Madison County Courthouse.

Present: Chairman Bennie Lockett
 Brad Sellers, Zoning Administrator
 Lisa Walters
 Sidney Spiro
 William Amadio
 Rev. Henry Brown

Absent: None

There first came on for consideration the Minutes of the June 14, 2007 meeting. Commissioner Spiro stated that the Minutes failed to address his comments concerning the inadequacy of the fire and police protection with respect to the South Madison Development Petition. Upon motion by Commissioner Brown, seconded by Commissioner Walters, with all voting "aye", motion to approve the Minutes, subject to the inclusion of Commissioner Spiro's comments concerning the inadequacy of fire and police protection in the area concerning the South Madison Development Petition, passed.

There next came on for consideration the Petition of Chestnut Developers, LLC, for permission to rezone subject property to R-1A. Horace Lester appeared on behalf of the Petitioner and stated that it was their intent that this Petition be tabled for the time being so that certain concerns with those in opposition could be addressed and to allow time for attempts to have the zoning ordinance amended, which may affect this Petition. Commissioner Walters stated that this would be a high quality development, and the Petitioner is working in order to attempt to get the zoning ordinance amended to accommodate this type of development. Zoning Administrator Sellers stated that an amendment to the zoning ordinance would need to be initiated at the Board of Supervisors, and then a public hearing would be necessary. Commissioner Amadio inquired as to the issue to which the Petitioner is addressing with the intent to have the zoning ordinance amended to which Horace Lester stated that they would desire to see the zoning ordinance amended in order to allow lots smaller than two acres in an A-1 District without the necessity of having the entire district rezoned to accommodate such lots. There was discussion among the Commissioners as to having the new Petition tabled and the parameters that would affect tabling the Petition. It was recommended that the Petition be tabled until the October, 2007 meeting in order to allow time for the Petitioners to address the Board of Supervisors on the issue of having the zoning ordinance amended.

Upon motion by Commissioner Walters, seconded by Commissioner Brown, with all voting “aye”, the motion to table the Petition until the October, 2007 meeting, passed.

There next came on for consideration the Petition of Augusta 185, LLC for permission to rezone A-1 Agricultural District to R-2 Residential District located on Livingston Road. Zoning Administrator Sellers introduced the Petition to the Commissioners and duly called the Petition for hearing. No one appeared on behalf of the Petitioner, and, as such upon Motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting “aye”, the Motion to table the Petition until next month’s meeting passed.

There next came on for consideration the Petition of Design Scape, Inc., for permission to rezone R-1 Residential to C-1A and C-2 Commercial Districts located on Gluckstadt Road. The C-1A Zoning consist of 2.034 acres and currently houses an existing building to which the Petitioners would like to operate out of as an office for their company. The proposed C-2 Zoning consist of 1.19 acres. Zoning Administrator Sellers informed the Commission that the land use plan currently shows the area as C-1, and, accordingly, it will need to be amended should the Petition be favorably taken. Zoning Administrator Sellers also informed the Commissioners that there is similar zoning on the east side of the subject property. Dawn Steed appeared on behalf of the Petitioner and stated that it is their intention to enhance the property. They are currently operating on Highway 51, and, the reason for their move to this location is the need for additional space. Commissioner Walters inquired as to any screening that would be implemented to which the Petitioner stated that they would implement solid fencing and would assure that it looks nice. Zoning Administrator Sellers stated that there have been no opposition on the few calls he received. Jennifer Menniger, the current owner, stated that the neighbors are excited about the Petition, and she is confident that the Petitioner will keep the historic aspects of the current house that is on the property and will do a beautiful job in enhancing the property. Upon motion by Commissioner Spiro, seconded by Commissioner Amadio, 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 Minnie J. Bozeman Family Limited Partnership and Brook Highland Developers, LLC, for permission to amend the adopted Land Use and Transportation Plan of Madison County to reflect C-1A, C-1 and C-2 Commercial Use. Zoning Administrator Sellers introduced the Petition and stated that the property is located on Bozeman Road. Richard Skinner appeared on behalf of the Petitioner as owner of Brook Highland Developers, LLC. He stated that this area, due to the Reunion Parkway and the surrounding developments, has resulted in considerable change in the area. They own approximately 600 acres off Bozeman Road and desire to develop it in a commercial fashion. He stated that he has met with Cherry Hill residents and is aware of concerns such as privacy, lighting, and access to Bozeman Road with respect to this development. He stated that it is their intent to minimize these concerns and he ensured the Commissioners that the Petitioners would address these issues accordingly. He said that they will include a privacy fence and landscape buffers that are implemented will be uniform throughout. He also stated that there is currently proposed additional changes to

Bozeman road, and once these additions have taken effect, this will minimize concerns regarding traffic. Commissioner Amadio inquired as to whether there were any issues the Commissioners needed to take into consideration when changing a Land Use Plan. Zoning Administrator Sellers stated that it is not required that the Commissioners be satisfied that there has been a change in the characteristics of the neighborhood or a public need, as those are concerns with respect to rezoning issues. He stated that the Land Use Plan is a road map for future development. Commissioner Walters stated that due to the fact that the Land Use Plan is a road map for future development, she would require the Petitioners to provide the specifics of their intended future development of this property. Woody Middleton of Cherry Hill Plantation appeared in opposition. He also asked for a continuance. He stated that the surrounding land owners had legal representation and Jerry Mills, who could not be present at the meeting. He stated that they are trying to work with Richard Skinner on concerns that they have and that the development will have a profound impact on Cherry Hill Plantation. Commissioner Walters stated her belief that she thought the landowners and Richard Skinner had reached an agreement to which Richard Skinner stated that he has not received a written list of any concerns from Cherry Hill Plantation but is aware of their general concerns. Ken Steer also appeared in opposition. He is vice President of Cherry Hill Plantation Homeowners Association. He stated that Skinner came and spoke at a meeting with the Cherry Hill Plantation Homeowners Association, and he told Mr. Skinner that he needed specifics as to the nature of the development in writing so that they could address any concerns they had in a more detailed fashion. He also stated that it is disturbing to him that this portion of the Land Use Plan was amended two years ago with the county and a Residential buffer was instituted. In addition to this, Mr. Steer stated that nothing has changed to warrant a change in the Land Use Plan. Attached hereto as Exhibit "A" is a letter in opposition from Jerry Mills, which addresses some of the oppositions' concerns. Mr. Steer further stated that the land should remain R-1 or R-1A, but he stated for the record that they are not presently prepared to adequately address the concerns because there has been nothing presented in writing from Petitioners regarding the specifics of the development. Scott Kimbrough also appeared in opposition. He is an area resident, and also addressed the fact that the Land Use Plan was only adopted two years ago and provided for a Residential Buffer in this area. He stated that Bozeman Road was established as a line for the Residential Zoning Buffer, numerous subdivisions back up to and front Bozeman Road. He stated that this is a residential area, and the landowners should be able to depend upon the current Land Use Plan in making decisions as to where they want to live, how they are going to be able to enjoy their homes and not have to worry about zoning changes that will affect them that are contrary to the Land Use Plan. Richard Skinner stated that MDOT is about to implement a six million dollar interchange at Reunion Parkway, and Brook Highland Developers is donating 200 feet of right-of-way to the project. He stated that this area will be a main thoroughfare and does constitute substantial change in the neighborhood. Commissioner Walters inquired as to whether Bozeman opposition were willing to compromise with the Petitioner. Woody Middleton stated that the homeowners do not think this area changed but that the board is willing to discuss their opposition with the homeowners in order to attempt to reach a compromise. Charlie Payne also appeared in opposition. He is an area resident and stated that he has not had any contact from Richard Skinner regarding this. He generally stated that there has been no change in this area to warrant changing the Land

Use Plan to commercial designations, and he further commented that traffic on Bozeman Road is already heavy and commercial zoning would only make it worse. He stated that if the commercial zoning were designated on the Land Use Plan for this area, he would request that there only be one entrance to the subject property at Reunion Parkway, that proposed buffers be increased, that there be no commercial retail space, that the developers implement a berm instead of a wall that contains six feet of vegetation, and that the Petitioner address who would maintain the buffer. In addition, Stan Patrick also appeared to have his concerns heard. He is the President of the Reserve Homeowners Association, and he stated that he is willing to meet with the Petitioner, but he desires more time to see the specifics of the proposed developments so that he can fully understand the impact that this would have on the surrounding area and residents. He also requested that the Petition be tabled because of the concerns. Commissioner Walters that for the record it is her opinion that Richard Skinner has made a good effort but that he needs to provide more specifics as to the proposed development that would be placed on this property if the Land Use Plan were amended to reflect commercial zoning. She also stated that the people have reflected that they need more communication with Richard Skinner and more details as to the development so that they can properly address their concerns. She recommended that there be a time set aside in order to discuss the specifics of the development and concerns of those in opposition and to get the specifics on paper. With that being said, upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting "aye", the Motion to Table the Petition until next month's meeting and to set a date for a work session with the owners and the neighboring land owners, passed.

There next came on for consideration the Petition of Larry Feduccia for a special exception to conduct surface mining. Mr. Feduccia stated that he is attempting to mine dirt so that he can construct a pond. He has a Department of Environmental exempt permit, and his Petition provides for a one year time frame. Zoning Administrator Sellers further introduced the Petition and stated that Mr. Feduccia, who works for CMU, was called out for a job and could not be present at the meeting. Due to the nature of his work and the unexpected deployment for his employment obligations, Zoning Administrator Sellers asked the Commission to move forward on the Petition despite his absence. Chairman Lockett stated for the record that this is not normally the manner in which the Commission would proceed, but due to the nature of the Petitioner's absence, he viewed this as an emergency consideration and further recommended that the Commission act on the Petition. The Commissioner discussed the time frame contained in the Petition as well as the hours of operation. Commissioner Amadio inquired as to whether there was any opposition to which Zoning Administrator Sellers stated that he received one call but it was not in opposition to this Petition. Upon motion by Commissioner Brown, seconded by Commissioner Amadio, with all voting "aye", Motion to recommend approval to the Board of Supervisors, passed.

There next came on for consideration the Petition of Myrick Home Construction for a rear set back in a planned unit development at Hathaway Lake Subdivision. James Myrick appeared on behalf of the Petitioner. He stated that he needed a setback of eight and one-half feet due to the fact that his house would not sit on the lot, which was the corner lot on a cul-de-sac. All adjacent property owners have no objection to the Petition

and neither does the developer. The Petitioner stated that his house was currently under construction and this set back would not affect the aesthetics of the neighborhood. Upon motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting "aye", the Motion to recommend approval to the Board of Supervisors, passed.

There next came on for consideration the Petition of Jerry Kontouris Petition for a variance to a rear setback in a planned unit development located at Reunion. The Petition was introduced by Zoning Administrator Sellers. The Petitioner needs an eleven foot setback variance, and Reunion has approved the request. There is no opposition to the Petition, and the lot backs up to water. Upon Motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye", the Motion to recommend approval for an eleven foot setback to the Board of Supervisors, passed.

There next came on for consideration the Petition of the Bozeman Family Cemetery, LLC, for a special exception for a public quasi public facility in an A-1 Agricultural District located on Cox Ferry Road. The Petitioner, Harvey Bozeman, appeared before the Commission. He stated that the special exception was to establish a private family cemetery, as his father wanted this and he just passed away. Commissioner Walters discussed concerns with Zoning Administrator Sellers and the Commissioners, such as upkeep of the cemetery and location. The Petitioner stated that the cemetery would be held in the name of a private corporation who will maintain the upkeep for the cemetery and that the cemetery will only be used for their family, spouse and children. Commissioner Lockett inquired as to how many plots to which the Petitioner stated that there were over one hundred plots and reiterated that it will be deeded to the limited liability company. 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 setting of the dates for the August meeting. Upon Motion by Commissioner Walters, seconded by Commissioner Spiro, with all voting "aye," motion to set the August meeting for August 16, 2007, passed.

There next came on for consideration the issue of attorneys fees. Upon Motion by Commissioner Spiro, seconded by Commissioner Amadio, with all voting "aye," motion to approve the attorneys fees passed.

With there being no further business, the meeting adjourned at 10:50 a.m.

Date

(Chairman)