

**MINUTES OF THE MADISON COUNTY PLANNING AND
ZONING COMMISSION HELD AND CONDUCTED ON
THURSDAY, THE 16th DAY OF AUGUST, 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 Thursday, the 16th day of August, 2007, at 9:00 a.m. in the Madison County Courthouse.

Present: Chairman Bennie Luckett
 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 July 12, 2007 meeting. Upon motion by Commissioner Spiro, seconded by Commissioner Walters, with all voting "aye", the motion to approve the Minutes passed.

There next came on for consideration the Petition of Minnie J. Bozeman Family Limited Partnership and Brook Highland Developers, LLC to amend the adopted Land Use and Transportation Plan of Madison County to reflect C-1A, C-1 and C-2 Commercial use. Richard Skinner appeared on behalf of the Petitioner. Mr. Skinner presented a revised Land Use Map, a copy of which is attached hereto as Exhibit "A". This matter was tabled at the June meeting. Following initial presentation by Mr. Skinner, Commissioner Luckett solicited questions from the attendees. The first attendee presenting a question to the Commission was Jerry Mills, on behalf of the Cherry Hill Homeowners' Association. Mr. Mills stated that the Homeowner's Association were concerned about the flow of traffic issue. Mr. Mills addressed an element of concern is thorough-fairs and the transportation part of the Madison County Comprehensive Plan. Mr. Mills further stated that the Comprehensive Plan does not address traffic problems. The Cherry Hills Homeowners' Association opposes the change unless it is modified to handle the traffic concerns. Mr. Mills further stated that upon a change in zoning requirements, certain criteria must be met, including a mistake made in zoning or a substantial change in the neighborhood and a public need for the rezoning. According to Mr. Mills, the Homeowners' Association opposes the change to the Comprehensive Plan because there has been no substantial change in the neighborhood. Further, Mr. Mills stated that the Madison County Board of Supervisors, on February 26, 2007 made a decision that changes which would not warrant rezoning have not occurred, and offered the transcript of the Board of Supervisors' public hearing on zoning into the record, a copy of said transcript is attached to these Minutes as Exhibit "B".

Next, Jim Streetman, attorney for the Madison County Planning Commission, stated that it was his understanding that this was a proposed change in the Land Use Plan, not a rezoning. Mr. Mills responded that there is a difference, but that he could not tell from the

language of the Petition whether this was a Petition to change the Land Use Plan or rezone. Nevertheless, Mr. Mills stated that if the Petition is for a Land Use Change, it is improperly drawn. Zoning Administrator Sellers stated that there are colors on maps for land use plans which indicate zones. Mr. Mills stated that if the Petition is treated as a Petition for a change in the Land Use Plan, it is still premature as there should have been consideration for changes in traffic patterns. Commissioner Walters stated that the Planning Commission and the Board of Supervisors have worked tirelessly to change the Plan to please all interested parties, but that any development, whatsoever, would not be pleasing to the Cherry Hills Homeowners' Association. Upon Motion of Commissioner Walters to approve the new map with the exception of a certain portion of the Land Use Map on the northern section thereof, with a western boundary of Old Bozeman Road and eastern boundary of Bozeman Road labeled as C-1, + - 40.7 ac. tract 1, to be excluded. Said exclusion is hereby noted on Exhibit "A" to these Minutes. Said Motion was seconded by Commissioner Spiro, with all voting "aye," and the Motion 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. The 130 acres proposed as Part 2 of the Bridgewater Subdivision proposes 162 lots ranging from 10,600 square feet to +- 2 acres, with houses ranging from 2,500 to 3,000 square feet. Access will be from Hidden Oaks Drive. This matter was tabled at the July meeting. Petitioner Elmore confirmed emergency access to Livingston Road. Petitioner Elmore provided further explanation regarding the square foot minimums and acreage of the lots proposed. Additionally, Petitioner stated that 6.6 acres of wetland would be preserved in an area central to the development. Petitioner further stated that neighborhood covenants would continue from the Part 1 of the Bridgewater Subdivision. Commissioner Walters stated that she had a concern regarding the entrance access. Petitioner explained that the entrance in relation to the original Bridgewater entrance. Upon Motion of Commissioner Walters to accept the rezoning as proposed, seconded by Commissioner Amadio, with all voting "aye," the Motion to rezone A-1 Agricultural District to R-2 Residential District passed.

There next came on for consideration the Petition of Joshua Properties, LLC, and Performance Sports Academy, LLC for special exception in the C-2 Commercial District located on 120 acres on Parkway East in Section 32. James Martin, Esq., appeared as attorney for Joshua Properties, LLC and Performance Sports Academy, LLC. Attorney Martin stated that the Petitioner wishes to develop a sports facility to provide training and professional instructions, and that the C-2 zoning allows for public recreational and quasi-recreational facilities. Mr. Martin explained that the proposed development was within the zoning classification, so that this was merely a request for special exception permit. A conceptual drawing of the Performance Sports was presented, a copy of which is attached hereto as Exhibit "C." Attorney Martin stated that the purchase of the property was set to close on August 1st and explained that the operation would be the same as the Performance Sports Academy's operation in Flowood. Attorney Martin additionally stated that Mayor Hawkins has endorsed the project and that this project would benefit all aspects of the community. Commissioner Walters stated that she was excited about the project and welcomed the Petitioner's to Madison County. Zoning Administrator Sellers questioned as

to whether the lighting which was already proposed on the project would be incorporated into the Plan. Attorney Martin confirmed that the lighting would conform to that already proposed. The light would be a special performance light which would force light down rather than out of the facility. Zoning Administrator Sellers also noted that if approved, each structure on the development must have a site plan proposed. Upon Motion by Commissioner Spiro to move to recommend approval for special exception in the C-2 Commercial District, seconded by Commissioner Walters, with all voting "aye," the Motion passed.

There next came on for consideration the Petition of Property Resources, Inc. to rezone R-1 Residential District to C-1A Limited Commercial District located on Highway 463, Section 2, T7N-R2E. Horace Lester and Justin Adcock appeared on behalf of the Petitioner. Petitioner Lester presented first, noting that the property is a shallow tract off of Highway 463, thereby rendering it unable to support residential use. Petitioner Lester stated that any residential properties would be too crowded off of 463. Petitioner Lester further stated that the City of Madison is of the opinion that this limited commercial use would be the best use of the property. Petitioner Adcock stated that the concept of the development was out of need in the community for 4,000 to 5,000 square foot office space for professional businesses. Petitioner Adcock stated that the development would cause a very low impact on traffic in the neighborhoods, and stated that he had observed the traffic flow and school and work times. Petitioner Adcock presented a conceptual drawing of the office park, which is attached hereto as Exhibit "D" and an architectural rendering of a proposed office building which is attached hereto as Exhibit "E". Commissioner Walters commented that the covenants must be provided and approved. Commissioner Luckett solicited comments from the attendees. Cheryl Webster, a resident of Fairfield, stated that she found out about the agenda for this meeting on Monday, prior to the meeting. Ms. Webster commented that all properties around the site are residential, and that the closest retail is 1 mile away from the proposed site. Ms. Webster stated that this was not a transactional area and that it would generate more traffic than a residential area. Ms. Webster voiced concerns that between the hours of 7:30 and 8:15 am, she cannot turn east out of her neighborhood without fear of on-coming traffic. Ms. Webster further stated that the traffic picks up again in the afternoon and does not relax until after 6:00 pm. Ms. Webster stated that she has requested help from the Madison County Sheriff's Department, but that they have stated that they do not enough personnel to render assistance to traffic flow. Ms. Webster further stated that a change in this zoning to C-1A would set a precedent for future rezoning in the area. Ms. Webster asked that the Commission table the Petition until the developer could give more information. Commission Attorney Jim Streetman stated that the notice of the hearing was proper and complied with the time period for public viewing. Commissioner Spiro questioned as to whether there was a Fairfield Homeowners' Association. Ms. Webster responded in the affirmative, and that none of the homeowners knew about the Petition. Ms. Webster presented a Petition of the Fairfield Subdivision residents, a copy of which is attached hereto as Exhibit "F", requesting that the Commission table the matter until the surrounding residents can be made aware of the proposed change and how it will affect them. Petitioner Adcock stated that he had spoken with Cindy Keller and had been advised that there was no formal board of directors for the homeowners' association of Fairfield subdivision. Petitioner Adcock attempted to address

concerns for unwelcome development, and stated that any unwelcome developments would be excluded in the development covenants. Zoning Administrator Sellers advised the attendees that the Madison County Planning Commission is only an authority to recommend, rather than approve the rezoning. Commissioner Spiro commented to Ms. Webster as to whether the fact that the fire station is so close would prohibit the building of houses in the development. Commissioner Amadio commented that an office park would help the community. Commissioner Walters stated that this was a tough piece of property and that the Commission was attempting to make the best use of the land. Commissioner Walters further stated that this small tract of land would only accommodate very small houses and that the professional offices proposed would help the surrounding residential area more than very small homes. Commission Attorney Jim Streetman then commented that this property could only be developed this way, as it is only 8-1/2 acres in size. At this point in the Commission meeting, a five minute break was held.

Following the five minute break, Eva Bartley, an Ingleside resident, addressed the Commission. Ms. Bartley stated that the sign advertising the meeting was in a camouflaged area, and that no one with whom she had discussed the meeting in the neighborhood was aware of the meeting. Ms. Bartley stated that this proposal was not good for the area and that the commercial use in this area would cause a snowball effect. Ms. Bartley asked the Commission to table the issue. Commissioner Luckett responded and requested the attendees to discuss the pros and cons of the project only. Ron Russell, Treasurer of Ingleside Homeowners' Association, then addressed the Commission. Mr. Russell stated that Zoning Administrator Sellers had done a wonderful job in all of his interactions. Mr. Russell stated that, in his experience, professional offices of this kind deteriorate over time and that a better use for the area would be a park or a walking trail. Petitioner Adcock then stated that nothing has been presented by the attendees which would constitute tabling the issue. Commissioner Spiro agreed that tabling the issue would not assist the Commission, as there would be no change in the positions. Upon Motion by Commissioner Walters, seconded by Commissioner Brown, with all voting "aye," Motion to approve the recommendation to rezone R-1 Residential District to C-1A Limited Commercial District passed. Following the passing of the Motion, Zoning Administrator Sellers addressed the attendees and advised them of the procedure to file an appeal of the Planning Commission's vote. Zoning Administrator Sellers further suggested that the attendees meet with Petitioner Adcock in an effort to receive more information regarding their concerns with the property. Finally, Zoning Administrator Sellers directed the attendees to the Planning Commission web site for the procedure for appeal.

There next came on for consideration the Petition for variance of Dawn Kyzar to side and rear setback in the R-2 Residential District located at 856 Gluckstadt Road, Section 19, T8N-R2E. Zoning Administrator Sellers stated that the Petitioner wished to construct an addition to her existing residence which will encroach into the rear and side setbacks. Zoning Administrator Sellers further stated that Petitioner's only neighbor, Francis Smith, was unopposed to her making her house larger. Petitioner Kyzar appeared to address the Commission, which had no questions. Upon Motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye," the Motion for variance to side and rear setback in the R-2 Residential District passed.

There next came on for consideration the site plan of Prentiss Guyton for a proposed temporary facility to be leased as a convenience store. Zoning Administrator Sellers discussed that the time limit ordinance established for temporary commercial structures does not apply to this project, but that a time limit could be placed at the issuance of the Commission. Commissioner Walters asked the Petitioner if 6 months was sufficient time. Petitioner Guyton stated that in order to consider whether this location would be profitable, he would request a 1 year time limit rather than 6 months. Commissioner Brown stated that the 1 year time limit would be fair. Upon Motion by Commissioner Brown, seconded by Commissioner Amadio, with all voting "aye," the site plan for the proposed temporary facility passed, with a 1 year time limit on same.

There next came on for consideration the setting of the date for the September meeting. Upon Motion by Commissioner Walters, seconded by Commissioner Brown, with all voting "aye," Motion to set the September meeting for September 13, 2007, 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 the attorneys fees passed.

There next came on an address by Zoning Commissioner Sellers, a matter which was not included on the agenda. Zoning Administrator Sellers stated that the Chestnut Hill Development Rezoning Petition was to be withdrawn. Horace Lester appeared on behalf of Petitioner and stated that changes were required of the site plan to reconfigure the area which was already approved for a change in the access road. Upon Motion of Commissioner Walters to approve the change to the site plan, subject to the approval of the Mannsdale-Livingston Heritage Preservation Commission, seconded by Commissioner Spiro, with all voting "aye," the Motion passed.

There next came on for consideration an extra item which was not on the agenda. Zoning Administrator Sellers recommends that due to the fact that the Mannsdale-Livingston Heritage Preservation Commission does not have regular meetings, that a letter be forwarded requesting them to set a meeting date prior to the meeting scheduled of the Madison County Planning Commission. Attorney Streetman stated that he would oversee the preparation of the letter.

With there being no further business, the meeting adjourned at 11:20 a.m.

Date

(Chairman)