

**MINUTES OF THE MADISON COUNTY PLANNING AND ZONING
COMMISSION HELD AND CONDUCTED ON WEDNESDAY, THE 13TH DAY OF
AUGUST, 2009 AT 9:00 A.M. AT THE MADISON COUNTY CHANCERY
BUILDING.**

BE IT REMEMBERED that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 13th day of August, 2009 at 9:00 a.m. in the Madison County Chancery Building.

Present: Chairman, Bennie Luckett
 Brad Sellers, Zoning Administrator
 Sidney Spiro
 Ken Steere
 William Amadio
 Reverend, Henry Brown

There first came on for consideration the minutes of the July 9, 2009 meeting. Upon motion by Commissioner Spiro, seconded by Commissioner Amadio, with all voting "aye", the motion to approve the minutes passed.

There next came on for consideration, the Petition of Thomas Dewees and Mason Lee Dewees for permission to re-zone, A-1 agricultural to C-2 commercial. The property is located at the intersection of Highway 463 and Cedar Hill Road. Zoning Administrator Sellers introduced the Petition to the commissioners and those present. No site plan was provided due to the fact that no development is currently being proposed with respect to the property. The Petition has been forwarded to the Mansdale Livingston Heritage Preservation District committee. Zoning Administrator Sellers provided the commissioners with a response from the Mansdale Livingston Heritage Preservation District, dated August 7, 2009 for their review and consideration.

Parker Sartain appeared on behalf of the Petitioner and stated that the property consists of 2.77 acres and has been owned by the Petitioners for many years. He stated that it is currently zoned agricultural and has been used in the past for agricultural purposes. However, he stated that the small size of the tract and its location has deemed the property not good for agricultural uses. He, on behalf of the Petitioners, is proposing that the property be re-zoned from A-1 to C-2 and that the land use plan be appropriately amended to conform therewith. With respect to a change in the characteristics of the area, Mr. Sartain stated that there is new developments in the area; the property across 463 from the subject property was zoned C-2 approximately 5 years ago; and numerous subdivisions in the area equal a need for commercial development. Mr. Sartain stated that the Petitioners respect and acknowledge the regulations and suggestions of the Mansdale Livingston Heritage Preservation District.

Commissioner Steere inquired as to the long range land use plan to which Mr. Sartain stated it was his understanding that the long range land use plan for this property was agricultural. Commissioner Steere inquired as to why there was no site plan provided to which Mr. Sartain stated that the owner desires to sell the property and the current offer is subject to re-zoning. He stated that there is no intended development with respect to the property and that it was his understanding that a site plan was not required. Zoning Administrator Sellers stated that the future land use plan adopted in 2005 shows the property as residential and that if the Petition were approved, the recommendation would need to include a recommendation that the land use plan also be amended.

Commissioner Steere inquired as to the requirements for a site plan, to which Zoning Administrator Sellers stated if there is no development proposed, there is no site plan required under the Ordinance.

In opposition, John and Karen Robinson appeared. They are adjacent property owners and expressed concerns about the re-zoning adversely affecting their property. They are concerned about run-off from any future commercial developments into the pond they have on their property, the potential destruction of old trees along the property line, noise, and the fact that this commercial property is sitting in the front yard of their property. They also expressed concerns about not knowing what, if any, commercial development would potentially exist on the property. Robert Baker, a resident of Cedar Hill Road, presented a Petition in opposition, signed by various land owners and residents in the area. He stated that he had talked with every one listed on the Petition and they are in opposition to any proposed re-zoning. He stated that this area is a beautiful rural area to live, which makes this area appealing. Re-zoning this property, according to Mr. Baker, would threaten the historical nature of the area. He also expressed concerns about not having any information concerning the intended use of the property. With respect to change in the area, he pointed out that west of Highway 463 there exists large lot subdivisions and that no new or high density subdivisions exist north of Annandale. He stated that the area is agricultural and large lot residential, in that the area has not changed to warrant commercially zoned property along Cedar Hill Road. He pointed out that the re-zoning of the property across 463 from the subject property has never been developed, which demonstrates no need in the area. He also expressed concerns with a potential decrease in home values in the area.

Harry Waldrop next appeared in opposition to the Petition. He is an adjacent property owner on 463, and his property backs up to the subject property. He stated that he has lived there with his wife for 25 years and that the area is identical as it was the day they moved there.

John Robinson, a nearby resident, also stated that he had a Petition in opposition signed by various individuals. He indicated he would retrieve it from his vehicle following the meeting, but it was not made a part of the record and was never received. He stated that the ultimate

decision should be whether the property has experienced a change in circumstances or a need for development. He informed the commission that he was an attorney and he cited minimum requirements for such a Petition are contained in a Mississippi case cited, 509 So.2d. 877 (1987). He stated that in this case, the minimum requirements allowed under Mississippi law was that the Petitioner provide a map showing a change in the area, and he pointed out that this was not done by the Petitioner. Second, he stated that the Petition for re-zoning has to be accompanied by statistics showing a need for re-zoning and that the Petitioner failed to adhere to this requirement. Last, he stated that other information has to be presented by the Petitioner so that a rational decision can be made. It was Mr. Robinson's position that sufficient information was not provided, in that there is no information concerning intended future development with respect to this property. Furthermore, Mr. Robinson stated that the lack of development on the commercial property across 463 is evidence enough there is no need in the area for such a re-zoning.

Commissioner Steere inquired as to when the property across 463 was re-zoned, to which the Zoning Administrator Sellers stated that it was 5-7 years ago.

Next, Marilyn Valentine appeared in opposition to the Petition, she stated that she is a Cedar Hill resident and has many questions concerning the proposed re-zoning because there is no information as to what the proposed future development would consist of. She also expressed concerns about increased traffic in an already congested area and, with the fact that the entrance to the property would be off Cedar Hill. She requested that the commissioners request a study on traffic implications.

Mr. Sartain appeared to address the concerns in opposition. He stated that a need and change for this development is driven by the market. He stated that inquiries and prospective buyers with respect to the property is evidence of the need. Also, he reiterated that the property across Highway 463 from the subject property is C-2. He stated that noise, setbacks, and tree preservation are addressed by the Ordinance and by MLHPD guidelines. Mr. Sartain stated, that these concerns would be addressed sufficiently at the time a site plan is presented. He informed the commissioners that he has lived on Gluckstat Road for approximately 15 years, and since he moved to that area it has changed significantly. He stated that this area has also experienced the same change and that the current agricultural or any residential zoning is not desirable. He stated that it is his opinion that the highest and best use of the property is C-2.

Nell Wade, of Cedar Hill Plantation, stated that she crosses this intersection everyday and that the traffic is heavy. She stated that Section 16.07 of the Ordinance provides that a site plan should be provided. However, Zoning Administrator Sellers pointed out to the commissioners that Section 2606.02 states that if there is a use identified with respect to the re-zoning, then an application should include a site plan.

Upon motion by Commissioner Steere, seconded by Commissioner Amadio, with all voting "aye", the motion to deny the Petition, based on the fact that there is no showing of a change and no support for a need for commercial zoning in this area, passed.

There next came on for consideration, the Petition of Peyton Randolph for a special exception to conduct a surface mine on property located at Stokes Road in Canton, Mississippi. Zoning Administrator Sellers introduced the Petition and stated that the property is currently zoned A-1. Peyton Randolph appeared and advised the commission that it is his desire to build a lake on the property and to eventually move there. He stated that he does not want to cause any problems for the neighbors and wants to respect the area in all respects.

In opposition, Dan Grafton, of 1228 Stokes Road, Canton, Mississippi, appeared. He stated that there are various safety concerns with respect to school bus traffic, and also the topography of the road in that it is very narrow and curvy. He stated that Stokes Road has recently experienced work as has Richton Road, which was recently overlaid for the first time ever. He stated that many people have built lakes in the area and does not know of anyone doing it as a mine through a special exception.

Chairman Luckett stated that it was his understanding that the Petitioner desired time to speak to the neighbors concerning their concerns in opposition. The Petitioner agreed.

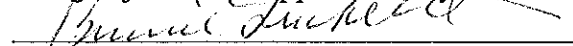
Upon motion by Commissioner Amadio, seconded by Commissioner Brown, with all voting "aye", motion to table the Petition in order to allow the Petitioner and those in opposition to meet and discuss their concerns, passed. At that time, Zoning Administrator Sellers informed the Petitioner and those in opposition that the next meeting is tentatively set for September 10, 2009, at which time this Petition will be on the docket.

There next came on for consideration, the issue of attorney's fees. Upon motion by Commissioner Steere, seconded by Commissioner Spiro, with all voting "aye", motion to approve attorney's fees passed.

There next came on for consideration, the date for the September meeting. September 10, 2009 was proposed by Zoning Administrator Sellers. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye", the September meeting of the Madison County Planning and Zoning Commission was set for September 10, 2009 at 9:00 a.m.

With there being no further business, the meeting adjourned at approximately 9:55 a.m.

9/10/09
Date


(Chairman)