

**MINUTES OF THE MADISON COUNTY PLANNING AND  
ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 14<sup>th</sup> DAY OF AUGUST, 2008 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 14<sup>th</sup> day of August, 2008, at 9 a.m. in the Madison County Chancery Building.

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

Absent:         Lisa Walters

There first came on for consideration the Minutes of the July 10, 2008 meeting. Upon motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye", the motion to approve the Minutes passed.

There next came on for consideration the petition to rezone A-1 Ag. to C-2 Commercial District. The subject property is located on Loring Road, Section 27, T1 1N-R4E. Tony McBride appeared on behalf of the petitioner and stated the rezoning was needed in order to construct and operate a funeral home on the site. Sewer will be on-site and private. A site plan was furnished.

Commissioner Luckett inquired as to the location of the site. Mr. McBride advised the site was near the Velma Jackson school. Commissioner Luckett inquired of Administrator Sellers regarding the site's current use. Administrator Sellers advised the site was agricultural with some residential. There is some commercial zoning for a convenience store that was previously opened (after being rezoned) by the Petitioner McBride. Commissioner Amadio inquired as to whether it had to be rezoned as C-2. Administrator Sellers advised "yes" based upon the intended use.

Randall Lewis, from 1973 Loring Road, appeared at the meeting to voice his objection to the rezoning as requested by the Petitioner. Mr. Lewis advised the Board he owns 106 acres and the community is a residential/retirement community. His concerns were as follows: 1) He could not find the Petitioner's name on the deed to the property; 2) the convenience store now sits vacant; 3) He wanted to know what would happen if the funeral home (like the convenience store) closes; and 4) He was concerned about "spot zoning."

Marlin Rosano, who also lives in the area, appeared at the meeting to voice his objection to the rezoning as requested by the Petitioner. Mr. Rosano wanted to know whether

the zoning change was permanent. He was concerned the proposed use could have a negative impact on the community should the business fail and become vacant.

The Board had no questions.

Administrator Sellers advised that should the rezoning pass, it would remain C-2 until the owner of the property requests differently. Administrator Sellers further advised his office had not received any written objections from the community.

Commissioner Luckett advised that Churches do not decide where people have funerals, the family decides. So, opening the proposed funeral home does not mean the local churches and residents would choose to use this particular funeral home.

Upon Motion by Commissioner Brown to deny the Petition to rezone, seconded by Commissioner Spiro, with all voting "aye," the motion to deny the Petition to rezone passed. The Petitioner was advised he had 15 days to appeal.

There next came on for consideration the petition to approve the special exception by Sides Property, L.L.C. to conduct surface mining. The Petitioner requested permission to conduct surface mining on 4 acres of land or less located on North Livingston Road, Section 10, T7N-R1E. Kent Dear (and an attorney for Side Properties, L.L.C.) appeared on behalf of the petitioner. Mr. Dear advised the property was originally purchased for estate lots, but due to the current market, the property would need to be developed differently. Mr. Dear advised hills would be taken down, gullies filled in and dirt would be hauled off. Mr. Dear verified with his attorney that Side Properties, LLC would post surety for any damage to county roads.

Commissioner Amadio inquired as to the length of the proposed project. Mr. Dear advised it would take a year to a year and one-half. Commissioner Amadio inquired of Administrator Sellers whether there were typically any time limits on such projects. Administrator Sellers advised it depends on the particular job, but typically restrictions can be placed on the time in conjunction with traffic etc. Further, sureties were common and makes sure the repairs can be performed. Commissioner Brown asked about the proposed hours of operation and Mr. Dear advised it was in the proposal.

Andrew Rushing, President of the Springbrook Homeowners' Association, appeared to object to the proposed special exception. Mr. Rushing's objection was based upon the following: 1) Little notice was given to the homeowners and residents of the area; 2) the county just finished repaving the road and this project would certainly cause damage; 3) he was concerned that the Petitioner has no definite plans for the site which could result in the site being undeveloped long after the proposed surface mining project is completed; and 4) he is concerned about traffic safety as the dump trucks enter the roadway.

Commissioner Brown inquired about the current traffic situation and Mr. Rushing advised it is already nearly impossible to get on HWY 463. Mr. Rushing further advised

Rudy Warnock admitted it was a mistake not to take down the hill on Livingston Road while the road was being resurfaced.

Commissioner Amadio inquired as to why he (Rushing) was objecting based upon hours of operation. Mr. Rushing advised the traffic would be difficult and dangerous during the school year. Administrator Sellers advised the special exception could be approved with time limitations. Further, Administrator Sellers advised DEQ would not take any action until the County approves it (the special exception).

Barden Yossing, a resident of the Springbrook subdivision, appeared at the meeting to object to the proposed special exception because of safety concerns and water flow issues after the project is completed.

Anita Williams Bishop, a resident of the Springbrook subdivision, appeared at the meeting to object to the proposed special exception because of safety concerns, noise issues and the lack of any future plans for the site after the surface mining project is completed.

The attorney for the Petitioner advised the property is not being rezoned. The proposed special exception is simply to get some sort of economic return on the property during a down market. He further stated the Petitioner is not required to provide long term plans for a special exception.

James Fowler, a resident of the Springbrook Subdivision, appeared at the meeting to object to the proposed special exception because traffic was already congested and this project would make it worse. Mr. Fowler further requested the Board to limit the hours of operation with school children in mind should the special exception be granted.

Jimmy Walker, a resident of the Springbrook subdivision, appeared at the meeting to object to the proposed special exception because of traffic and safety concerns regarding the dump trucks entering the roadway.

Upon Motion by Commissioner Spiro to deny the special exception, seconded by Commissioner Amadio, with all voting "aye," the motion to deny the special exception passed. The Petitioner was advised to file any appeals within 15 days.

There next came on for consideration the petition to market pre-owned vehicles in the C-2 Commercial District located at 1994 HWY 51, Suite A, Section 10, T7N-R1E. No one appeared on behalf of the Petitioner (Kudzu Motors). Upon Motion by Commissioner Spiro to table the Petition until the next meeting, seconded by Commissioner Brown, with all voting "aye," the Motion passed.

There next came on for consideration a Petition for Special Exception to erect and operate a communication tower as a public/quasi-public facility. The Petitioner, TowerCo., LLC was seeking a special exception to erect and operate a communication tower at 735 North Railroad Street, Section 7, T9N-R3E. A site plan was furnished.

Chad Mullins appeared on behalf of the Petitioner and advised the tower would be 198 feet and located on a piece of property clear cut 2 years ago. There are no residences within a half mile of the site. Mr. Mullins further advised Cellular South has little to no coverage in this area and no towers exist to co-locate with. If the tower is erected, the Petitioner will allow co-locators.

Commissioner Amadio inquired if the City of Canton had approved the project. Mr. Mullins advised a letter was in the packet from the City of Canton approving the project. Upon Motion by Commissioner Amadio to grant the special exception, seconded by Commissioner Spiro, with all voting "aye," the Motion passed.

There next came on for consideration a site plan for an industrial building by the Petitioner, Polycon (through Laws Construction). The site is located on Industrial Drive in Gluckstadt. John Laws of Laws Construction appeared at the meeting and advised the company has grown because of the cost of fuel. As such, more space is needed. The Board had no questions. Upon Motion by Commissioner Amadio to approve the site plan, seconded by Commissioner Brown, with all voting "aye," the Site plan was approved.

There next came on for consideration a site plan for a new fellowship hall at the Smith Chapel M. B. Church. Mr. Roger Ealey appeared on behalf of the Petitioner and explained the congregation wished to construct a fellowship hall adjacent to the existing church building. Mr. Ealey advised the Church had been there for as long as he could remember and the existing building was about 35 years old. Commissioner Spiro inquired about the size of the proposed building. Mr. Ealey advised it would be approximately 4500 square feet. Upon Motion by Commissioner Brown to approve the site plan, seconded by Commissioner Spiro, with all voting "aye," the Site Plan was approved.

There next came on for consideration the approval of the attorney's fees. Upon Motion by Commissioner Brown, seconded by Commissioner Amadio, with all voting "aye", the Motion to approve the attorney's fees passed.

There next came on for consideration the setting of the September meeting. Zoning Administrator Sellers stated that it would be September 11, 2008. Upon Motion by Commissioner Spiro, seconded by Commissioner Brown, the Motion to set the September meeting for September 11, 2008 passed.

With there being no further business, the meeting adjourned at 10:00 a.m.

9/15/08  
Date

Benji Luckert  
(Chairman)