

**MINUTES OF THE MADISON COUNTY PLANNING AND ZONING
COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 14TH DAY OF
JANUARY, 2010 AT 9:00 A.M. AT THE MADISON COUNTY
COMPLEX BUILDING.**

BE IT REMEMBERED that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 14th day of January, 2010 at 9:00 a.m. in the Madison County Complex Building.

Present: Chairman, Bennie Lockett
 Brad Sellers, Zoning Administrator
 Ken Steere
 William Amadio
 Henry Brown
Absent: No one

There first came on for consideration the minutes of the December 10, 2009 meeting. Commissioner Steere inquired as to the vote with respect to the Petition for a Special Exception to Construct and Operate a Municipal Solid Waste Landfill. According to Commissioner Steere, Commissioner Amadio voted "aye" to recommend denial as opposed to Commissioner Steere. Upon Motion by Commissioner Steere, seconded by Commissioner Amadio, with all voting "aye", motion to approve the minutes with the stated revision passed.

There next came on for consideration was the Petition of the Livingston Township, LLC for a variance to reduce the existing landscape buffer from 80 feet to 50 feet along Highways 463 and 22. Zoning Administrator Sellers introduced the Petition for the Commission. David Landrum appeared on behalf of the Petitioner, and presented an 1829 depiction of the historic town grid of Livingston. Mr. Landrum informed the Commission that a variance for a 50 feet buffer, as opposed to an 80 foot buffer, in the historic town grid is necessary in order to enable the chapel to exist as the town center. Don Williams also appeared on behalf of the Petitioner. He informed the commission that the history and development will embrace the historic elements of the original town of Livingston, which is unique to this development, and in order to complete the development, inclusive of all the historic elements and layout of the original town, the variance is necessary. Zoning Administrator, Sellers informed the Commission that the Mannsdale Livingston Heritage Preservation District has provided a letter outlining comments and suggestions with respect to the development. The recommendations and comments by the Mannsdale Livingston Heritage Preservation District are attached hereto as Exhibit "A". Mr. Landrum stated that he had not seen the January 6, 2010 letter from MLHPD, but he did see feedback from MLHPD when the property was initially zoned commercial. Mr. Landrum stated that he is trying to use the existing typography and the trees within the development; that there will be no modern buildings in the development-only 1800 style-buildings; and that an integral

part of the development is maintaining the existing landscape. Mr. Landrum that there will be no need for a variance if the development does not go forward and that if the variance is approved, the Petitioner will not assign the variance to another project.

Commissioner Steere inquired as to why the Petitioner did not move forward with a variance at the time they petitioned for approval of the PUD. Mr. Landrum stated that their initial intention was that it all be done at the same time, but at the time the PUD was up for approval, the preferred steps were that the PUD be approved first. Commissioner Steere next inquired as to the parking. Mr. Williams informed the Commission that there will be no parking in the historic grid. Mr. Landrum added that, in addition to green space in an historic grid, they desire to keep the original square pedestrian friendly. Commissioner Steere inquired as to whether the streets in the historic grid are intended to be private or public streets. Zoning administrator Sellers informed the Commission that the streets would be private but the county would require access for emergency purposes. Mr. Williams informed the Commission that the streets will be wide enough for emergency access. Mr. Landrum further stated that the intent of this development is to bring the town of Livingston into existence in as close as a state that they can bring it as it existed in 1829. One of the elements of this historic uniqueness of this development is that the Petitioner desires the streets in the historic grid to be developed in the same place. Mr. Landrum stated that the development will have a museum with an original town map, and it will be most desirable to be able to tell individuals that the streets are in the same place as was in 1829.

Nell Wade appeared in opposition. She is a nearby property owner and is concerned with the variance. She stated that there have been four variances denied for this project. She informed the Commission that in August, 2009, the PUD was approved and, since that time, no plan has been submitted that has provided for the requested variance. She stated that the appeal time has run and that no appeal was effectuated. She urged the Commission to put a stop to this development until such time as the Petitioner has come forward with a fully developed plan. Attached hereto as Exhibit "B" is a letter from Nell B. Wade & Associates, which sets forth concerns and comments regarding the Livingston Township. Commissioner Steere inquired of Zoning Administrator Sellers as to when the site plan will be required in the process, to which Zoning Administrator Sellers stated that it would be during the request for rezoning. Commissioner Steere inquired as to whether a site plan was provided with the PUD to which Zoning Administrator Sellers answered in the affirmative.

Upon Motion by Commissioner Steere, seconded by Commissioner Brown, with all voting "aye", Motion to recommend approval to the Board of Supervisors subject to the condition that the original streets and historic grid are cited and used as suggested by the Petitioner in addition to the condition that, should the variance be approved, it not be assignable to any heirs, successors, or signs, passed.

There next came on for consideration the resolution regarding the resignation of Sidney Spiro. Zoning Administrator Sellers introduced the issue to the Commission, and Commission Attorney O'Cain read the resolution to the Commission for their consideration and acknowledgment. Upon Motion by Commissioner Amadio, seconded by Commissioner Brown, with all voting "aye", Motion to accept and adopt the resolution recognizing Sid Spiro's years of service to the Madison County Planning and Zoning Commission, passed.

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

There next came on for discussion the date for the February, 2010 meeting of the Madison County Planning and Zoning Commission. February 11, 2010 was proposed. Upon Motion by Commissioner Steerz, seconded by Commissioner Amadio with all voting "aye" Motion to Set the February, 2010 meeting of the Madison County Planning and Zoning Commission for February 11, 2010 passed.

With there being no further business, the meeting adjourned at approximately 9:35 a.m.

Feb 11, 2010
Date

Thom Brown
(Chairman) Acting Chair

January 6, 2010

To: Brad Sellers

From: Mannsdale Livingston Heritage Preservation District

Dear Mr. Sellers,

The Mannsdale Livingston Heritage Preservation District Commission called a special meeting on Monday, January 4, ~~2010~~²⁰¹⁰ in order to review the Application for Dimensional Variance submitted by Livingston Township, LLC.

A portion of the subject property represents the only area within the Mannsdale Livingston Heritage Preservation District which is the site of an historic town. Although no buildings exist, the original road beds which formed the nine square grid of the town center remain, as well as some of the original trees. In order to take advantage of this unique historical circumstance and to duplicate the original footprint of the Livingston town square, the Livingston Development Team has requested that the required eighty (80) foot landscaped buffer zone be reduced to a fifty (50) foot landscaped buffer zone only in the original nine square grid of the Town of Livingston.

The Mannsdale Livingston Heritage Preservation District Commission encourages and supports the preservation and accurate replication of the rich history of the District. An accurate historical recreation and/or replication of the original square of the Town of Livingston in the manner of extant Mississippi squares such as those in Canton, Raymond, Carrolton, and Lexington would be an asset to the District. However, the Mannsdale Livingston Heritage Preservation District Commission is mindful of the fact that by reducing the buffer zones, the Livingston Development Team would be given an economic advantage that would not be afforded to other developers in the District. It would be manifestly unjust and inequitable to other developers in the District to grant a variance reducing the buffer zone in Livingston if the Town Square was not actually reproduced on the original grid. Accordingly, the Mannsdale Livingston Heritage Preservation District Commission finds and recommends as follows:

1. **Parking** – The Livingston Development Team admitted in the Position Paper submitted to the Board of Supervisors that insufficient parking spaces existed to support the commercial development set forth in the Master Plan, as follows:

“At the time of submission of information by the developer on each commercial building, specific parking requirements will be established to meet Zoning Ordinance requirements or the building will not be built. If you count the individual parking spaces on our plans, you will not find a total that supports 300,000 sf . . . but the developer will resolve this in the final engineering permit drawings.” [Emphasis added. Paragraph 9, pages 5-6, Position Paper. A copy is attached as Exhibit “A”.

As stated above, it would be manifestly unjust and give the Livingston Development Team an unfair economic advantage over other developers in the District if a variance were granted to recreate the original town square on the original footprint and all of the buildings in the original town square were not actually built. Accordingly, **the Commission recommends that before any**

variance is granted, the Livingston Development Team be required to resolve all the parking issues related to the buildings sitting on all or a part of the footprint of the original town square. That is, the Master Plan submitted by the Developers should be modified, if necessary, to create sufficient parking spaces to support the commercial and/or residential enterprises located on the nine square grid before any variance is granted. Furthermore, if any building on the nine square grid cannot be built because of lack of sufficient parking or any other reason, the request for the variance should be denied. The Commission recognizes that some lots on the original grid may have been fields upon which livestock may have grazed. Lots such as these would of course remain grass or parks, not parking facilities.

2. **Historical Structures** – As stated above, it would be manifestly unfair and unjust to other developers in the District to grant a reduction in the required buffer zone if the original town square is not actually recreated. Many documents have been submitted and buildings have appeared and disappeared during the course of these submissions by the Livingston Development Team. The Master Plan filed with the Board of Supervisors does not contain a building on each square of the grid. Accordingly, the Commission recommends that the Livingston Development Team be required to modify the Master Plan to show a true and accurate recreation of the original town square, including the aforementioned grass lots, before any variance is granted. Additionally, it would be unfair and unjust to grant the Livingston Development Team a variance if the structures built on the square are modern buildings, or any other style which would not have existed in Mississippi in the mid 1800's. Accordingly, the Commission recommends that any structure placed on the square be required to closely resemble a building which would actually have existed in the Town of Livingston.
3. **Footprint** – The nine square grid appears to vary in dimension and orientation on the numerous documents submitted by the Livingston Development Team. As shown above, it would be unfair and unjust to grant an exception or variance to allow the recreated town to be placed on the original footprint if it is not built on the footprint. Accordingly, the Commission recommends that before any variance is granted, the developers be required to submit the Master Plan to Archives and History to verify that the planned development will actually sit on the footprint of the original Town of Livingston and that the planned development as it relates to the original town square, is the same size as the original town square.
4. **Preservation of Topography and Existing Trees** – The Livingston Development Team has repeatedly expressed an earnest desire to recreate the original Town of Livingston. Accordingly, the Commission recommends that before a variance is granted, the Livingston Development Team be required to hire an arborist or other qualified professional to preserve

the cedars and other remaining original trees on the nine square grid and the existing road beds.

5. **Buffer Zones** - The buffer zone must be well-landscaped, maintained, and mowed. No parking or roads should be placed in the buffer zone. The landscaping plan must be submitted to and approved by the Mannsdale Livingston Heritage Preservation District Commission.

6. **Variance** - The main purpose of the Mannsdale Livingston Heritage Preservation District is the preservation of the historic character of the area. We encourage concepts which embrace and preserve the rich history of the area. The Livingston Development Team has represented to the Mannsdale Livingston Heritage Preservation District Commission and to the Board of Supervisors that their project will be a replication of the original town with architecture resembling the 1800's and early 1900's. An accurately replicated town square would be an asset to the District. Accordingly, **the Commission recommends that if the above and foregoing conditions are met, the request for the variance be granted and the landscaped buffer zone which abuts the original nine square grid at the intersection of Highway 463 and Highway 22 be reduced to a fifty (50) foot landscaped buffer zone. A variance should be granted in no other area at this time. This variance is being recommended solely to accommodate the accurate recreation of the original square of the Town of Livingston on the existing nine square grid.**

7. **Citizens concerns** – Citizens have asked the Commission (1) whether the venue over this request is properly before the Chancery Court since this is a PUD and (2) whether the Livingston Development Team has met the burden of proof for a variance. These are legal issues which fall outside the scope of this Commission's review. We recommend that the attorney for the Board review this matter to insure all appropriate legal requirements have been met.

Respectfully submitted,

Mannsdale Livingston Heritage Preservation District Commission

BEFORE THE BOARD OF SUPERVISORS OF MADISON COUNTY, MISSISSIPPI

IN RE: REZONING HEARING AND PUD APPLICATION FOR LIVINGSTON TOWNSHIP LLC

BRIEF POSITION PAPER OF LIVINGSTON TOWNSHIP LLC

INTRODUCTION

Livingston Township LLC ("Livingston Township") proposes that the Madison County Board of Supervisors ("the Board") create a PUD¹ on its property at the intersection of Highways 22 and 463 that will contain residential and approved commercial uses. A portion of the property subject to the proposed PUD falls within the Mannsdale-Livingston Heritage Preservation District.²

The purposes of this position paper are to briefly summarize the: 1) request being made by Livingston Township LLC in its Petition to Rezone and Reclassify Real Property³ concerning the formation of a PUD; and, 2) respond to issues raised by the Mannsdale-Livingston Heritage Preservation District Commission ("MLHPD Commission") and others.

THE PROJECT

Livingston Township seeks to establish a development that recreates the best of the past with the benefits of the future on this 47.2 acre PUD.⁴ Approximately 22.32 acres have a

¹ A PUD is a Planned Unit Development that is specifically authorized by Article XV of the Madison County Zoning Ordinance ("the Zoning Ordinance") and allows residential and commercial uses. Although not technically a "mixed-use" or "traditional neighborhood" development, a PUD allows the coexistence of residential and commercial uses as proposed by Livingston Township.

² MLHPD is specifically authorized by Article XVI of the Zoning Ordinance. The MLHPD provisions of the Zoning Ordinance, like all other provisions, are subject to variances. The MLHPD Commission is an advisory body and its recommendations and findings are not binding on the Board.

³ The Petition and plats have been submitted to the Board. Additional information in support of the Petition is also being submitted to the Board.

⁴ The application of the PUD requirements to the Livingston Township resulted in appropriate give and take between the developer, the Zoning Administrator and the Zoning Commission concerning the PUD. This resulted in

residential use with approximately 24.88 acres having a commercial use. Livingston Township's petition was approved by the Planning Commission and has been approved by neighbors on all sides of the property and the nearby Town of Flora.⁵

Several issues concerning the PUD deserve special attention by the Board or comment by the developer in response to information provided the Board by others. They include:

1. The PUD seeks to reestablish a portion of the historic Town of Livingston using a 50' building setback from Highways 463 and 22 on the portion of the 860 feet comprising the old town area. A variance should be granted from the 80' buffer set forth in the MLHPD provisions of the Zoning Ordinance because: a) no buffer existed in the old town and to a historic recreation of the old town should not include a buffer⁶; b) requiring a buffer in the old town area would reduce that portion of the original town layout that can be otherwise restored; c) buffers are created under the MLHPD provisions of the Zoning Ordinance to buffer adjacent large lot residential properties which do not exist under the Livingston Township PUD; and, d) a 50' building setback allows a more complete use of the property in a manner similar to the old town while creating separation from the major highways.

2. The "overflow parking" area in the residential area is planned for use of the entire PUD, which includes the residential areas (for special parties or activities of residents) and the commercial area (for events, activities or other overflow). These could include special events that the residents of the PUD desire to hold on the Common Area where the Livingston

a number of revisions of the PUD. At least one person has asked the Board to deny the Petition based upon these changes and revisions. (See email of Nell Wade dated August 12, 2009). The fundamentals of the rezoning have not changed in that there is a combination of residential and commercial use under the zoning provisions of the PUD ordinance. Because the Board is the final decision maker at this public hearing which has drawn considerable attention, the Board should make the final decision on all issues at the conclusion of the public hearing.

⁵ See supplemental materials.

⁶ Livingston WAS this intersection of Highways 22 and 463. Like other towns, there was no buffer from the main thoroughfares leading into the town. These roads originally came directly into the main square for more than 100 years until the 1940's.

Township Property Owners Association may invite the public. Since some of these areas are not intended for everyday use, they are not paved and striped.... instead the developer proposes a grass paving system that protects the grass from vehicular damage as well as allowing emergency vehicle access. This is a reasonable use of PUD property owned by the Property Owners Association and will be maintained as "green" but is not calculated as a part of required "open space".⁷ If this overflow parking area is not viewed as private roads with parking or common space operated as a quasi public facility (of the Property Owners Association), it should be granted as a variance.

3. The authorized height of structures is 40 feet in the commercial area of the PUD. A variance is sought to achieve 45 feet. This height is typical for buildings in old town squares and will fit within the architectural scheme of the area.

4. The street in the buffer portion of the Union Park will be removed from the buffer and will not be established.

5. The PUD provisions of the zoning ordinance do not require internal buffers or setbacks between commercial and residential areas.⁸ Purchasers of residential lots and purchasers or tenants of commercial space will know how the areas are separated as shown on the plats before they acquire an interest in any of the property within Livingston Township PUD. External buffers and setbacks are required on an external basis when a developer seeks to develop property with a use that is inconsistent with existing property uses of neighboring third parties. This is not the situation with Livingston Township PUD.

⁷ A more complete discussion of "Open Space" is included later in this position paper.

⁸ Setbacks are required on individual lots and will be followed there. Additionally, a 50' building setback is voluntarily being imposed by the developer as an internal setback although not required by the PUD provisions of the Zoning Ordinance. The 50' building separation in C-2 Section 1903-04 is not applicable to a PUD.

6. The actual historic elements of the Town of Livingston are being preserved by the Livingston Township PUD. Although not required by law,⁹ Livingston Township is developing the PUD in a manner that goes beyond preserving and protecting the “old cedar trees which lined the town square of the Town of Livingston.”¹⁰ It will restore the town square even building a courthouse type structure in the square and will preserve the old cistern found on the property (although this preserved cistern may be located within a new building). All adjacent property owners whose properties include cemeteries, springs, churches and other historic uses have consented to the Livingston Township PUD.¹¹ All known prehistoric properties are at best “near”¹² the Livingston Township PUD but there is no known prehistoric evidence within the Livingston Township PUD. As is typically the case with any development, should historic issues arise during construction, they will be resolved on a case by case basis.

7. The “Open Space”¹³ and “Residential Density”¹⁴ requirements of the PUD provisions of the Zoning Ordinance are met by the Livingston Township PUD. The Zoning Administrator and Planning Commission¹⁵ have interpreted these provisions by applying the Residential Density and Open Space requirements to the residential area only (thereby reducing

⁹ In order for private property to be subject to requirements for preservation of historic attributes, a private property owner must have registered the property for that purpose (e.g. historic designation), placed a conservation or other protective easement upon the property for that purpose, or taken other affirmative action that would require the private property owner to preserve the property. There is no preservation requirement in the case of the private property that is the Livingston Township PUD. Furthermore, there is no requirement for a historic or cultural assessment of any private property for private development (where there is no use of federal funds that might otherwise require an assessment under the National Environmental Policy Act [NEPA] or other statutes). However, the essential elements and known historic portions of the property (streets originally laid out, cedar trees, and cistern) are being preserved and protected by the Livingston Township PUD.

¹⁰ See MLHPD portion of Zoning Ordinance at Section 1600.

¹¹ See attached letters from neighbors in the supplemental materials submitted to the Board.

¹² The MLHPD Commission’s memorandum to the Board does not indicate prehistoric evidence within the Livingston Township PUD, but only that such evidence has been found on “nearby property.” MLHPD Commission Memorandum, Page 2 (August 12, 2009) (hereinafter “MLHPD Memorandum”).

¹³ See Section 1509.01.

¹⁴ See Section 1506.02.

¹⁵ This interpretation is also shared by Larry Smith of the Central Mississippi Planning and Development District which was the entity that drafted the PUD provisions of the Zoning Ordinance.

the number of residential lots available and reducing the acreage of required Open Space).

However, the developer has agreed to meet this restriction as to Residential Density (and resulting fewer lots) and met the requirement for Open Space in the residential area. When the Open Space and other common area is transferred to the Livingston Township Property Owners Association ("the Association"), appropriate provisions will be included in the transfer document as required by the PUD provisions of the Zoning Ordinance as to any minimum required Open Space. Certain Common Area space may be green or other space but not subject to the requirements of preservation of "Open Space"¹⁶ but will be maintained by the Association as Common Area.

8. The approval of the Livingston PUD is not blanket approval of all future sites within the PUD. The developer recognizes that each commercial site will be subject to required commercial approvals by the Zoning Ordinance including the commercial buildings and elevations. Furthermore, commercial buildings within the MLHPD will require submission to the MLHPD Commission for its comments as to a proposed Certificate of Appropriateness. Additionally, individual features such as signs, hours of operation and other matters would be a part of the commercial building permit application and approval process.

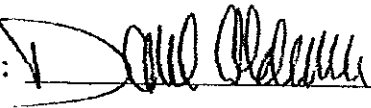
9. The commercial parking will comply with the existing ordinance. Commercial parking cannot be precisely calculated absent a determination of the size and proposed use of the applicable commercial building. At the time of the submission of information by the developer on each commercial building, specific parking requirements will be established to meet Zoning

¹⁶ For example, the MLHPD Memorandum points out areas where green space may not qualify as "Open Space". The developer has not counted any green space in meeting the Open Space requirements. Green space not meeting the definition of Open Space will be used by PUD residents, guests, and their invitees subject to the covenants to be placed upon the property and rules and regulations adopted pursuant to those covenants and the organizational documents of the Livingston Township Property Owners Association ("the Association"). MLHPD is incorrect in its assertion that Open Space cannot include organic gardens. The Association may plant its "Open Space" with any landscaping it desires, organic or otherwise. The Association will not build a permanent structure on the Open Space or take other action in violation of the PUD provisions of the Zoning Ordinance concerning Open Space

in the area and will recreate the Town of Livingston as a vibrant community while preserving adjacent residential properties and meeting public needs.

Respectfully submitted,

Livingston Township LLC

By: 

Its: Development Manager

NELL B. WADE & ASSOCIATES
LANDSCAPE ARCHITECT – SITE PLANNER

January 11, 2010

Dear Mr. Ken Steere,

I hope you had a pleasant holiday season. The year has started off with a bang (weather included). This letter is primarily to address the application for a variance that Livingston Township has on the upcoming January P&Z agenda. However, due to the related actions about this project that will occur this month, or occurred at the end of last year, I have included that information as well. I am not a lawyer, but I am trying to provide some research data for those interested in these issues. Please feel free to contact me (or John Robinson) if you like any additional information, or would like to share data.

1. Livingston Township is again requesting a variance (denied by the BOS in August when rezoned to a PUD w/ C-2 & R-1B), at the Planning & Zoning Board meeting Thursday, Jan. 14th, 9 a.m.
2. Livingston Township is requesting TIF funds at a public hearing 9 a.m., before the next BOS meeting, Tuesday, January 19th. They want a pledge of up to 75% of the "expected to be generated" ad valorem taxes (up to \$2.15 million dollars) over the next 20 years in order to fund their private development.
3. The appeal John Robinson & I filed against the August 2009 rezoning of Livingston Township is proceeding to court @ noon, Tuesday, January 19th. A busy day.

The Livingston Township variance request (denied by the BOS in August when rezoned to a PUD w/ C-2 & R-1B) hearing will be at the Planning & Zoning Board meeting Thursday, Jan. 14th, 9 a.m. See links:

<http://www.onlinemadison.com/main.asp?Search=1&ArticleID=21725&SectionID=1&SubSectionID=1&S=1>
and http://www.madison-co.com/images/admin/pdfs/662_20756_Minutes_8-17-09_%28Final%29.pdf

If approved it would reduce the landscape buffer along 463 & 22 to 50' (from 80').

- It would appear to be favoritism (Section 2604.01 C) if extensive evidence isn't provided by Livingston Township that the historic references used to justify the need (2604.01 A) to reduce the buffer. Without the historic documentation & archeological evidence to support the need for such a variance, it appears to just be a way to maximize the land area for their development. The drawings that I have seen, as well as the survey flags currently on the site, appear to shift the roadways by 20'-40' from the existing sunken roadbeds, and manipulate the orientation, size, & parcel layout of the Archives & History plat to suit their design concept.
- A credible site plan (2606.02, and 1611) should be required that shows that their ability to recreate an Old Town Square is achieved with their proposal (in both the building configuration & the protection of the old cedar trees and other natural landmarks).

- LT admitted at the Aug public mtg that nothing beyond the 80' buffer had been done in the MP (development plan) to accommodate any future widening of the intersection or highways. Section 2604.06 requires that "...the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare". Reducing this buffer, especially now that they are promoting the development as a resort and tourism destination could put an undo strain on that decision.
- The rezoning of the Township is in appeal.
- No site plan has been provided, as required in the Ordinances (nor was it provided for the zoning change, as required in 2606.02, and 1611). Please reference Sections 2607-2610, especially 2607.02 E (and G, if they plan to park outside the immediate area of buildings in the "Old Town Grid" in order to fulfill parking ratios), and 2609.01 (and even 2609.02) for what should be included.
- The weak link is Section 2604.03, putting site plans for dimensional variances at the discretion of the Zoning Administrator, but since financial hardship "shall not be considered justification for granting a variance" (Article II, Definition of Variance), surely it would be required for most requests (since a difficult site would be the primary reason to grant the variance latitude).
- The Livingston team has not presented a site plan, or even a verifiable Development Plan, throughout this process. Statements in the August public hearing as well as the Development team position paper make it clear that they intend to chisel away at the zoning requirements with repeated requests for variances. Their illustrative plans continue to show an expectation of variance approvals (such as the commercial parking in landscape buffers & residential open space, as shown on their website, plan attached from link <http://www.livingstonmississippi.com/landplan.html>). Even the publication for this hearing "misstated" the variance as for a 50' setback vs. a landscape buffer.
- Section 2604.06 requires the P&Z to be assured it is the "minimum required deviation" to the standard. That should require a site plan.
- As a PUD, Section 1511 states that any changes to the PUD constitutes an amendment to the zoning map, since PUD IS the zoning. So, Section 2606 requirements apply (hence, a site plan).

In the December BoS meetings, the following items were approved - see link to BoS minutes: http://www.madison-co.com/images/admin/pdfs/682_98520_Minutes_12-18-09_%28Final%29.pdf , and Madison County Herald article: <http://www.mcherald.com/apps/pbcs.dll/article?AID=/20091210/NEWS/912100308/1001/Development-gets-historical-and-tourism-designations>

1. The BoS passed referendums awarding their approval for Livingston Township to receive Resort Status, Historic Hamlet Status, and Tourism Status (none of which were published, on the agenda, or opened for public comment). The approvals are extensive; there was no mention of this in any advertisement for the regular BOS mtg. The agenda was the only notice of "related items" when the resolutions were adopted in December, and none of the submittals were available until the December minutes were approved January 4, 2010. As far as I know, the BoS bypassed any input from the MLHPD board on these designations, even though they are the county's appointed watchdog on relevant matters within the district. My impressions of the Dec. 18th resolutions are not favorable. The resolutions passed by the BoS for Livingston Township appear to be private developer welfare at tax payers' expense, under the guise of incentives.
 - The Tourism rebate program has 80% of the expected sales taxes go back to the developer as reimbursement for building the project (for 10 years). See links: http://www.visitmississippi.org/resources/TOURISM_REBATE_GUIDELINES_2009.pdf , and <http://billstatus.ls.state.ms.us/documents/2009/pdf/HB/1400-1499/HB1467SG.pdf> .
 - The Historic Hamlet status could restrict the county's taxation, which may affect the ability to use the taxes to pay back the county TIF funding. See link to House Bill No. 1203: <http://index.ls.state.ms.us/isysnative/UzpcRG9jdW1lbnRzXDIwMDIcbm90ZGVhZFxoYlwxMjAwLTYyOTIcaGlzMjAzc2cucGRm/hb1203sq.pdf#xml=http://10.240.72.35/isysquery/irle2f9/1/hillite> .
 - The Resort Status could allow the Township properties to operate & sell alcohol 24/7, over-riding the MLHPD restrictions as well as citizen input, since it appears any objections to this designation must be directed in filings to the MS Tax Commission (who would have little incentive to reduce possible tax revenues). See link to House Bill no. 1441: <http://billstatus.ls.state.ms.us/documents/2009/pdf/HB/1400-1499/HB1441SG.pdf> , and <http://www.sos.state.ms.us/elections/2005/HandBook/ABCStatutes.pdf> .
2. Chestnut Hills re-subdivided three of their estate lots into seven lots of minimum 5.5 acres each. They did not advertise or notify interested parties, nor present it at any P&Z meeting. The covenants that were cited (and filed) that allowed this were not consistent with the draft reviewed by neighbors or the MLHPD in 2007 when the R-1 / PUD was established.

You have shown good judgment and leadership in the previous meetings I have attended. I hope you will consider these points as you discuss & render an opinion about the proposed variance. Thank you for your time.

Sincerely,
Nell Wade
Ph. 601-605-4302