

**MINUTES OF THE MADISON COUNTY PLANNING AND ZONING  
COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 20<sup>TH</sup> DAY OF  
MAY, 2010 AT 9:00 A.M. AT THE MADISON COUNTY  
COMPLEX BUILDING.**

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**BE IT REMEMBERED** that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 20<sup>th</sup> day of May, 2010 at 9:00 a.m. in the Madison County Complex Building.

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

There first came on for consideration the minutes of the April 8, 2010 meeting of the Madison County Planning and Zoning Commission. Upon Motion by Commissioner Brown, seconded by Commissioner Steere, with all voting "aye", with the exception of Commissioner Sligh, who abstained due to his subsequent appointment to the Madison County Planning and Zoning Commission, Motion to approve the minutes passed.

There next came on for consideration the Petition of Fred Bennett to rezone SU-1 Special Use District to A-1 Agricultural District and to request a Conditional Use to conduct a surface mining operation. Zoning Administrator Sellers introduced the Petition to the Commission. Zoning Administrator Sellers advised the Commission that in 1983, the Board of Supervisors rezoned this property to SU-1 Special Use District due to the property owner's desire to operate a horse-riding facility thereon. This use ceased numerous years ago, and Mr. Bennett is now petitioning the Madison County Zoning and Planning Commission for permission to rezone this to A-1 Agricultural District so that he can operate a surface mining operation and in order to facilitate his sister in constructing a house on the property. As the property is currently zoned, Zoning Administrator Sellers cannot issue a permit for construction of the house.

Zoning Administrator Sellers stated that rezoning the property to Agricultural would be in compliance with the land use plan, and he further informs the Commission that the Petitioner has obtained an exempt permit from the State of Mississippi with respect to the surface mining operation. He also informed the Commission that there are no other residences in the area other than a house and a trailer that is situated at the end of the road. Fred Bennett appeared in support of his Petition. He stated that Dennis Love of Love Construction had spoken with Mr. Bennett concerning his questions about building a lake on the property, and, in those conversations, Mr. Love recommended mining the area in return for the lake. He initially wanted to clear the land

in order to build the lake and in order for his sister to move back to Mississippi to construct a house. However, the Petitioner informed the Commission that now he simply wants to have the land cleared without any intentions of constructing a lake.

Commissioner Sligh inquired as to the time frame on the surface mining operation, to which Zoning Administrator Sellers stated that the Planning Commission can recommend a time frame but the Board of Supervisors will make the final decision. Zoning Administrator Sellers added that a one year time frame is typical and that any approval of the mining operation would be subject to revocation. Commissioner Sligh next inquired as to whether or not the County should require a bond, to which Zoning Administrator Sellers stated that this decision will be left to the Board of Supervisors. Commissioner Steere inquired as to whether the reclamation plan included returning the property to pasture or a lake, to which the Petitioner stated that he originally wanted the lake but now simply wants the property cleared. Zoning Administrator Sellers asked the Petitioner as to where his sister would construct her house, to which the Petitioner replied that if his sister does in fact move back from out-of-state, she will construct her house on the property that is being cleared through the surface mining operation.

Commissioner Steere asked the Petitioner as to the vicinity of Ashbrook Subdivision to the mining operation, to which the Petitioner informed the Commission that Ashbrook Subdivision is approximately 200 yards from the proposed mining site. Commissioner Steere asked as to whether anyone had contacted the Madison County Planning and Zoning Commission concerning these Petitions, to which Zoning Administrator Sellers stated that he had received one call from a lot owner in the Ashbrook Subdivision that was interested to know whether or not these Petitions would affect him buying any additional land adjoining his lot. Other than that call, there was no other contact from anyone concerning these Petitions. Commissioner Amadio inquired as to the haul route to which Zoning Administrator Sellers responded that, if approved, the haul route would be from Leubirdia Lane to Catlett Road. Commissioner Amadio inquired as to whether there are any residents along Leubirdia Lane to which the Petitioner stated that there were known. Commissioner Steere inquired as to whether there would be any restrictions or conditions in place concerning the control and maintenance of dust from the operation. Zoning Administrator Sellers advised the Commission that there would be signs erected and other restrictions in place in order to keep dust to a minimum and advise the public of the mining operation for safety purposes.

Upon Motion by Commissioner Sligh, seconded by Commissioner Steere, with all voting "aye", Motion to Recommend Approval of the Petition to rezone SU-1 Special Use District to A-1 Agricultural District to the Board of Supervisors passed.

Upon Motion by Commissioner Sligh, seconded by Commissioner Brown, with all voting "aye", Motion to Recommend Approval to the Board of Supervisors of the Petition for a Conditional Use to conduct a surface mining operation to the Board of Supervisors, subject to

one year and an appropriate bond from the mining contractor, passed.

There next came on for consideration the Petition of Hatheway Lake, LLC for a variance to the required 60 foot buffer in the Mannsdale-Livingston Heritage Preservation District. Zoning Administrator Sellers introduced the Petition to the Commission. Ken Primos appeared on behalf of the Petitioner and stated that the request is for a 20 foot variance to the required 60 foot buffer to realign a road and add additional land to the lots in the subdivision. The Petitioner stated that the requested variance would enable future lot owners to have larger lots, more drainage and more space for the developer to accommodate elevation changes. In addition, Mr. Primos stated that this will also maximize the opportunity to create an optimal buffer under the existing pines. Commissioner Sligh inquired as to whether there was any understory under the existing pines to which the Petitioner stated that there was. The Petitioner also stated that he wants to keep the buffer as close to what it looks like now. Next, the Petitioner gave a general history of the project for the benefit of the Commission. He stated that currently, the setback leaves room for very small backyards along Stribling Road, and although it is anticipated that the developer will lose some density to the subdivision, it is their intent to increase the lots to where they are 150 feet deep or greater. He also stated that if the variance is granted he will need to shift the road in order to do this. He also stated that if the buffer area is damaged at all through utility installation or otherwise, he will replace and enhance the damaged areas. Commissioner Steere inquired of the Petitioner as to whether he had seen the recommendations of the Mannsdale-Livingston Heritage Preservation District, which is attached hereto as Exhibit "A" and incorporated herein by reference, to which the Petitioner stated that he had. The Petitioner advised the Commission that he has no objection to including item (a) from the Mannsdale-Livingston Heritage Preservation District recommendations on the plat when the plat for this phase of the development is filed. An email from Primos detailing the petition is attached hereto as Exhibit "B", and a plat detailing the proposed revisions to this phase of the development is attached hereto as Exhibit "C". Upon Motion by Commissioner Steere, seconded by Commissioner Amadio, with all voting "aye", Motion to Recommend approval to the Board of Supervisors with the condition that paragraph (a) from the Mannsdale-Livingston Heritage Preservation District's recommendations, which are embodied in Exhibit "A" to these minutes, are incorporated when the plat for this phase of the development is filed, passed.

There next came on for consideration the preliminary plat of Kemper Creek, phase 3. Zoning Administrator Sellers introduced the plat to the Commission. Commissioner Steere inquired as to whether this preliminary plat is the same as initially proposed to which Zoning Administrator Sellers responded in the affirmative. Commissioner Sligh inquired as to whether this property is zoned R-2 to which Zoning Administrator Sellers responded in the affirmative. Upon Motion by Commissioner Amadio, seconded by Commissioner Sligh, with all voting "aye", Motion to Recommend Approval of the Preliminary Plat to the Board of Supervisors passed.

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

There next came on for consideration the Minutes of the May 4, 2010 Special Meeting of the Madison County Planning and Zoning Commission. Upon Motion by Commissioner Steere, seconded by Commissioner Sligh, with all voting "aye", Motion to Approve the Minutes of the May 4, 2010 Special Meeting of the Madison County Planning and Zoning Commission passed.

There next came on for consideration the date for the June, 2010 meeting of the Madison County Planning and Zoning Commission. June 17, 2010 was proposed. Upon Motion by Commissioner Amadio, seconded by Commissioner Steere, with all voting "aye", Motion to set the June, 2010 meeting of the Madison County Planning and Zoning Commission for June 17, 2010, passed.

Upon Motion by Commissioner Steere, seconded by Commissioner Amadio, with all voting "aye", Motion to Adjourn the May 20, 2010 meeting of the Madison County Planning and Zoning Commission passed.

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

6/10/10  
Date

Bennie Lubert  
(Chairman)

5-20-10

Brad Sellers, Zoning Administrator

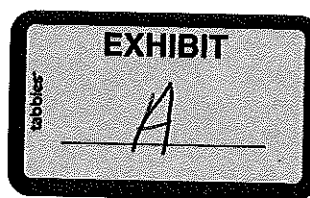
Re: Variance for Lots 106, 107, 108, 109, 110, 111, 112, 113, 114, and 115 of Lake Hatheway Part 2

The MLHPD Commission recommends that the request for a twenty foot variance in the buffer zone adjacent to Stribling Road in the Hatheway Lake subdivision be approved with certain restrictions.

The MLHPD Commission finds that the property is a narrow strip of land bordered by Lake Hatheway to the North and Stribling Road to the South. The property may be considered for a variance pursuant to Sec. 2604.01 of the Zoning Ordinance of Madison County. The variance has been requested to allow the developer to increase the lot sizes. No buffer zone exists across the road from the subject property. The subdivisions of Hartfield, Johnstone, and Devlin Springs pre-dated the creation of the MLHPD and its attendant buffer zones. The right of way on Stribling Road is ~~forty~~ <sup>80</sup> feet. The Developers, Stribling Lake, LLC, have assured MLHPD that PUD density will not be affected by the variance, the minimum square footage of homes will not change, and PUD greenspace requirements will continue to exceed those required by the Zoning Ordinances of Madison County. The developer informed neighboring homeowners of the proposed variance over two weeks ago and MLHPD has not received any questions or comments to date. See Exhibit 1.

Stribling Lake, LLC proposed the following language for the variance which MLHPD recommends for approval:

1. The rear twenty feet of Lots 106, 107, 108, 109, 110, 111, 112, 113, 114, and 115 of Hatheway Lake Part 2 which is presently part of the buffer zone, shall remain part of the buffer zone. The rear twenty feet of said lots may be deeded, transferred, and/or conveyed. The residents of Hatheway Lake may use and enjoy the rear twenty feet of said lots in the same manner that any other resident of Hatheway Lake uses and enjoys his/her lot with the following exceptions:
  - a. No permanent or temporary structures, vehicles, trailers or objects shall be allowed in the rear 20 foot buffer zone except the following: playground equipment, lawn furniture, grills, and those temporary structures, such as tents and space jumps, which are erected immediately before a party and removed immediately after a party.
  - b. The iron fence required in a sixty foot buffer zone may be placed at forty feet.
  - c. Stribling Lake LLC agrees to replace (if damaged) and or enhance the natural screening presently in place in the 40 foot strip between the ROW of Stribling Road and the rear property line of the above described lots. This area is intended to remain in a natural state, preserving a natural vegetative screen to protect the view corridor on Stribling Road and to achieve maximum privacy for the residents of

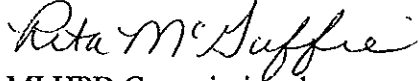


Hatheway Lake Subdivision. Stribling Lake LLC will fill in any areas damaged by construction with natural vegetation ,such as wax myrtles, and to restore as near as possible the Buffer Zone to it original condition if any such damage occurs.

- d. The variance shall be reflected on the recorded plat.

(plat is attached hereto as Exhibit 2)

Respectfully submitted,



MLHPD Commission, by  
Rita McGuffie, President

----- Forwarded message -----

From: "Ken Primos" <kenprimos@kapcoinc.net>

Date: Thu, Apr 29, 2010 8:59 AM

Subject: Hatheway Lake Variance request

To: "Phil Horel" <dsresident@hotmail.com>

Cc: "Brad Sellers" <bws@madison-co.com>, "Ron Henderson" <ronjhenderson@bellsouth.net>, <ritameguffie@yahoo.com>, "Brian Deweese" <bdeweese03@aol.com>, "Frank Thomas"

<frthomas2@comcast.net>, "Hardman, Joseph A, MAJ" <joseph.hardman@us.army.mil>, "Mark Geiger" <bully111@msn.com>

Exhibit 1

Phil,

Attached is the plat illustrating the buffer zone between Hatheway Lake Subdivision and Stribling Road and the requested variance. The developer is asking for this variance to enlarge the lots being developed between Stribling Road and the lake. The enlargement involves increasing the depth of the lots to 150 feet from the average depth of 125 feet. The buffer is currently heavily wooded and no trees or underbrush are to be removed. The intent of the buffer is to screen the neighborhood from the road corridor with natural trees and plants. The developer will enhance this screening wherever necessary especially where construction damage occurs. To provide another point of reference the property line for developments on the South side of Stribling road all are located on the right of way for Stribling road. This puts Hartfield, Johnstone, and Devlin Springs 40 feet from the center line of the road. The North side of the road encompassing Hatheway Lake has an additional 60 feet of space, placing the property line for Hatheway Lake lots 100 feet from the center line of Stribling Road. The variance the developer is seeking would reduce that distance by 20 feet leaving 80 feet of space from the center line of the road. The area focused on is highlighted on the plat and does not include the entire length of the Hatheway Lake property.

I also want to point out what is not being asked for in the Variance Request.

1

1. No change to the covenants.
2. No increase in lot density.
3. No change to the minimum square footage.

I have copied this e-mail to the Directors for Hatheway Lake, Johnstone, Mannsdale Livingston Overlay District and Madison County Planning and Zoning. Please feel free to share this with any interested party and if you have any questions please give me call.

