

**MINUTES OF A REGULAR MADISON COUNTY PLANNING AND ZONING  
COMMISSION HELD AND CONDUCTED ON THURSDAY, THE 10<sup>TH</sup> DAY OF  
MARCH, 2005 AT 9:00 A.M. AT THE MADISON COUNTY CHANCERY BUILDING**

---

BE IT REMEMBERED that a regular meeting of the Madison County Zoning Commission was duly called, held and conducted on Thursday the 10<sup>th</sup> day of March, 2005, at 9:00 a.m. in the Madison County Chancery Building.

Present: Bennie Lucket, Chairman  
Steven Steen  
Sidney Spiro  
Henry Brown  
Brad Sellers, Zoning Administrator

Absent: Lisa Walters

There first came on for consideration the minutes of the February 10, 2005, meeting. Upon motion by Commissioner Spiro, seconded by Commissioner Steen, with all voting "aye", the motion to approve the minutes passed.

There next came on for consideration the petition of Randy L. Knouse/Todd Sandridge/Charles Kemp Enterprises, Inc. for permission to rezone R-1 Residential to an R-2 Residential District. This Petition was previously tabled at the February meeting in order to provide an opportunity for the Petitioners and those in opposition to meet in order to attempt to work out issues raised at the February meeting. John Lockett appeared in part on behalf of the Petitioners. He is a partner in the proposed development. He stated that they have not met with those in opposition since the last meeting. He also informed the Commission that there was a material change present in the neighborhood and a need for high density residential development exists in Madison County due to a lack of homes in the price range of \$150,000 to \$200,000 in the County. He stated that the development would contain controlled covenants and that they want to work with those in opposition. He stated that the entire subdivision plat was changed to address the concerns raised at the February meeting, including changing the access at Smith-Carr Road to one entrance. The new proposed plat was presented to the Commission and is attached hereto as Exhibit A. Mr. Steen inquired as to whether there was an engineering plan for the proposed development, to which the Petitioners informed him and the Commission that there was not. Jim Martin appeared in opposition. He is a member of the Smith-Carr Homeowners Association and presented a letter to the Commission outlining the concerns of the Smith-

Carr Homeowners Association. This correspondence is attached hereto as Exhibit B. Among the concerns noted in the letter to the Commission, Mr. Martin stressed the following: Smith-Carr Road is not equipped to handle additional traffic; the intersection of Yandell and Smith-Carr Road is dangerous and hazardous; Petitioner has the burden to show that the change to the neighborhood exists and that they have failed to do this as the surrounding developments consist of large estate lots; the creek across the subject property floods Smith-Carr Road and is a hazard; the area is not situated for high density development. He stated that he is not opposed to the development of this property, but changing the property from R-1 to R-2 is not justified in this area. In addition, Mr. Martin presented a Petition, executed by numerous neighbors in opposition to this proposed development. The Petition is attached hereto as Exhibit C.

Percy Smith next appeared in opposition to this Petition. He is a member of the local church in the area and stated that the subdivision would create a hazard to the church. He objected to the development and, in support of his objections, he presented photographs demonstrating flooding in the area. The photographs show drainage at the creek that traverse through the property. In response to those in opposition, Mr. Lockett stated that the traffic concerns were far-fetched as compared to Highway 463 and the amount of traffic that road carries daily. He stated that Yandell Road will present the main entrance to the development and would diminish the traffic flow on Smith-Carr Road tremendously. He stated that currently there are 61 available homes in Madison County that are in the \$150,000 to \$200,000 price range. In addition, he stated that there are 280 available homes in the \$200,000 to \$600,000 price range. Commissioner Spiro stated for the record that he does not believe that the Petitioners have met the burden of demonstrating a change in the neighborhood as to warrant high density residential development. Commissioner Steen stated that the photos of the flooding on the road are substantial in that they showed danger and hazard in the area that would be increased with increased traffic flow. He stated that the drainage issue in regards to the creeks traversing through the property is paramount and also demonstrates a large concern. Long, the engineer for the subject development stated that in order to design a detention system, the rest of the subdivision had to first be designed and implemented. He said that the detention system is designed after the plat is approved, explaining the lack of a detention system on the plat. Commissioner Steen, in response, stated that there were many other issues besides the lack of a detention system that weighs against this development. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with Commissioners Spiro, Steen, and Brown voting "aye," and Chairman Lockett voting "nay," the Motion to recommend denial of the Petition to the Board of Supervisors passed.

There next came on for consideration the petition of George A. Wilkinson for permission to rezone A-1 Agricultural to C-1 Commercial. A site plan was provided to the Commission as well as a Petition executed by neighboring landowners in favor of the Petition. Cassandra Walter, the attorney for the Petitioner, appeared on behalf of the Petitioner. She stated that the property was across from the Nissan plant and that in actuality, A-1 to C-1 is technically a down zoning. She stated there has been 53 zoning changes in this area in the last ten (10) years and that this evidence is supportive of a change in the neighborhood. The construction of Nissan and its current existence in the area is further proof of change in the characteristics in the neighborhood. Ms. Walter stated that the Petitioner intended on building and running an appliance repair shop and that the rezoning was being requested in order to allow for construction of the shop. She stated that the proposed rezoning is within the current Land Use Plan. In opposition, Matilda Archie appeared and stated that this area is primarily residential and that changing this to C-1 will affect their property values and rights. She presented a Petition in opposition to this Petition with signatures of other landowners in the area, which is attached hereto as Exhibit D. Upon Motion by Commissioner Spiro, seconded by Commissioner Steen, with all voting "aye," the Motion to recommend approval to the Board of Supervisors passed.

There next came on for consideration the Petition of M&H Properties, LLC for permission to rezone A-1 Agricultural to I-2 Industrial. Jay Hawkins appeared on behalf of the Petitioner and informed the Commission that this subject property was comprised of approximately 19 acres and was located across from Nissan. He stated that the rezoning is consistent with the adopted Land Use Plan. He stated there are no current plans for development but they have had potential buyers approach them in order to purchase this property, each inquiring as to the current zoning. Because of these prospects, the Petitioner has requested rezoning to light industrial. He stated for the record that they were trying to get the land zoned at the highest and best use within the zoning and that covenants have been provided with the Petition to protect the property against any future nuisance and in order to preserve the surrounding property values. Again, Milinda Archie appeared in opposition and stated that this area is primarily residential and family oriented. In response, the Petitioner stated that the property fronts the interstate and was directly across from Nissan. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye," the Motion to recommend approval to the Board of Supervisors passed.

There next came on for consideration the petition of Kenneth Hootsell for permission for a special exception to operate a surface mine in an A-1 district located on Catlett Road. He stated for the Commission that it was his intention to construct a small one acre pond.

No one appeared in opposition. Upon Motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye," the Motion to recommend approval to the Board of Supervisors contingent on the approval by the appropriate state agencies, passed.

There next came on for consideration the Petition of Kenneth King for special exception to place a mobile home in an R-2 District. Mr. King was allowed an exception in 1999 for a conditional use contingent upon the street being fully constructed and that access be provided to the subject property. No access has been provided and the street has not been constructed. The Petitioner did not appear before the Commission in support of his Petition. Zoning Administrator Sellers informed the Commission that there are 3 other homes in the area. Commissioner Spiro expressed his concern that there was no building permit issued for this property, that the previous 3 year time limit had expired years ago, and that the previous conditions placed on the special exception had never been met by the Petitioner. Commissioner Steen stated for the record that he was in agreement with Commissioner Spiro based on the evidence that the previous conditions had not been adhered to by the Petitioner. Upon Motion by Commissioner Spiro, seconded by Commissioner Steen, with all voting "aye," motion to recommend to the Board of Supervisors that the request be denied, passed.

There next came for consideration the petition of James B. Collins to replace an existing mobile home with a new model in an R-1 Residential District on Robinson Springs Road. Christine Collins Anderson appeared on behalf of the Petitioner, her father. She stated that the current mobile home is unlivable and that they want to replace it with an updated model. She informed the Commission that her father was approaching 90 years old and that the living conditions needed to be upgraded. Commissioner Spiro inquired as to whether there was any opposition, to which Petitioner informed him that there was none. Chairman Lockett inquired as to whether there were any other mobile homes in the area, to which the Petitioner informed him that there was a lot of land and older homes. Commissioner Spiro recommended to the Commission that any motion include a recommendation that the property be cleaned up in light of its current condition. The Petitioner informed the Commission they had planned on doing this anyway. With that being said, she acknowledged that the recommendation would be contingent on the property being cleaned. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye," motion to recommend approval to the Board of Supervisors for the life of James B. Collins or until a time in the future that James B. Collins no longer lives on the subject property, contingent on the property being clean within 90 days of approval of the Board of Supervisors, pursuant to the Petitioner's agreement, passed.

There next came on for consideration the Petition of Foshee Construction Company, Inc. for permission for a special exception to operate a Class II rubbish landfill on Highway 22. The Board of Supervisors have already previously approved the amendment of the solid waste plan to include this landfill. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye," Motion to recommend approval to the Board of Supervisors, passed.

There next came on for consideration the Petition of Bear Creek Water Association for special exception to place a water well and equipment facilities on Bozeman Road. Scott Bonner appeared on behalf of the Petitioner and stated it was the intent of Bear Creek to replace an existing well and expand the facility with the addition of a new well on Bozeman Road. He stated that the site had been there for 35 years, and they would surround the proposed well with a fence. It is the desire of Bear Creek Water Association to install a well that would go deeper into the strata to get better water and, if enough water is obtained, the nearby treatment site will be removed. Thereafter, they plan on installing a brick building with a metal fence and landscape the area, which, according to the Petitioner, would be a significant upgrade to the existing site. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye," Motion to recommend approval to the Board of Supervisors, passed.

There next came on for consideration the preliminary plat of Magnolia Pointe Subdivision, which is attached hereto as Exhibit "E". Zoning Administrator Sellers informed the Commission that the zoning for the subject property had previously been approved but, according to the guidelines, the plat now needs approval. He stated that the plat contained the exact same layout presented at the rezoning hearing. Upon Motion by Commissioner Spiro, seconded by Commissioner Brown, with all voting "aye," Motion to recommend approval to the Board of Supervisors, passed.

There next came on for discussion the issue of attorneys' fees. The December, 2004, invoice in addition to the February, 2005, invoice was presented. Upon Motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye," Motion to approve attorneys' fees passed.

There being no further business, the meeting was adjourned at 11:00 a.m.

---

Date

---

(Chairman)