

**TAB 6**

**Planning Commission Minutes July 14, 2016**

**MINUTES OF THE MEETING OF THE MADISON COUNTY  
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 14th DAY OF JULY, 2016 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 14<sup>th</sup> day of July, 2016 at 9:00 a.m. in the Board Room of the Madison County Chancery and Administrative Building.

Present: Walter McKay  
Larry Miller  
Dr. Bill Howard  
Don Drane

Scott Weeks, Planning and Zoning Administrator

Absent: Rev. Henry Brown

The meeting was opened with prayer by Commissioner Larry Miller, and those present participated in pledging allegiance to our flag.

There first came on for consideration the minutes of the June 9, 2016 meeting of the Commission. Upon motion by Commissioner Howard to approve the minutes, seconded by Commissioner Miller, with all voting "aye," the motion to approve the June 9, 2016 minutes passed.

There next came on for consideration the petition of Morris Real Estate for a variance for to the maximum sign square footage of 125 square feet total to 156 square footage. This is for the Fleetway Fuel Center located at 1227 Gluckstadt Rd. Mr. Bradley Morris appeared on behalf of the Petition. Commissioner McKay explained to him that the square footage allowed by the ordinance was for the total amount which includes both sides and the sign on the building. Commissioner McKay informed him that his calculations only included one side so the proposed calculation was off by 57 ½ square feet. He said the correct square footage to be requested was for the ordinance allowed 125 square feet plus 81 square feet, or 206 total. Commissioner Drane inquired why this was not caught before today and Zoning Administrator Weeks explained that he had just seen the actual drawing for the first time that day. It was explained to Mr. Morris that he would need to come back requesting the proper amount. Upon motion by Commissioner McKay to deny the request for a variance of 31 square feet for improper calculations, seconded by Commissioner Howard, with all voting "aye," the motion to deny the variance passed.

There next came on for consideration the petition of Albert Redmond for a conditional use for a 4 acre or less mining operation. Zoning Administrator Weeks explained that the Board of Supervisors had already approved this petition because of the time constraints for the project but petitioner was going through the proper legal process in the meantime. Mr. Redmond was present to represent the petition. Upon motion by Commissioner Howard to approve the conditional use, seconded by Commissioner McKay, with all voting "aye," the motion to approve the conditional use passed.

There next came on for consideration the petition of MAK LLC for a special exception/conditional use to excavate a four (4) or less acre mining operation and build a pond. The property is zoned A-1 Agricultural District and is located on 3024 Hwy 22. Marcus Kirby appeared on behalf of the Petitioner. He explained that this was the wedding/bed & breakfast venue that was approved in 2015. He said they had utilized the dirt for the lake but there would be some left that would need to be removed. He said the contractor had estimated approximately 12,000 to 15,000 yards would need to be removed. He said it was a 3 acre lake and explained how there would be proper water available for the lake. Mr. Kirby confirmed that it would be a nice lake and they were going to take the remaining dirt off site. He agreed to limit the hours of operation. Upon Motion by Commissioner Howard to approve the conditional use subject to the following conditions: that the hours of operation be limited for safety purposes from 8 to 2, and after 4; that no operations would be conducted after dark or on Sundays; seconded by Commissioner Drane, with all voting "aye," the motion to approve the conditional use passed.

There next came on for consideration the petition of Wendon Moore to rezone R-1 Residential District to C-2 Residential District. This petition was properly advertised and promoted and the Commission held the public hearing regarding this matter. Mr. Moore was present on behalf of the petition which was originally continued from the June, 2016 meeting because Mr. Moore was not present. Mr. Moore explained that this rezoning request was to move his business from one side of the road to the other side. He confirmed that the land across the road was zoned Industrial and used for commercial purposes. Zoning Administrator Weeks explained that he had not received any calls in opposition to this Petition. No one was present to voice any concerns or opposition. Upon Motion by Commissioner Drane to approve the petition, seconded by Commissioner McKay, with all voting "aye," the motion to approve the petition to rezone passed.

There next came on for consideration the petition of Madison County Schools Transportation and Maintenance Facility for a conditional use for a public/quasi public facility. The property is zoned I-2 Industrial. Ryan Florreich, architect, appeared on behalf of the petitioner. He explained that this was located on 16<sup>th</sup> section land and would be a maintenance facility. Lisa Williams from Germantown Subdivision addressed the Commission and stated that she was not in opposition but she expressed concerns

regarding traffic and if a deceleration lane might be possible for safety reasons. Mr. Florreich stated that he was not an engineer and could not address that question. It was discussed that this would be suggested as part of the Motion to the Board of Supervisors that the Commission would like the County Engineer to take this issue into consideration and potentially involve MDOT if necessary for this request. Upon Motion by Commissioner Howard to approve the request for a conditional use with the added request to the Board of Supervisors to have the county engineer address any traffic concerns with the roadway (including a potential deceleration lane), seconded by Commissioner Miller, with all voting "aye," the motion to approve the conditional use passed.

There next came on for consideration the site plan for a C-Store located near Aulenbrock Drive and Yandell Road. The property is currently zoned C-2. Alton Clingdon, architect, appeared on behalf of the petitioner. He stated that the property is located just to the west of the Dollar General Store. Commissioner McKay stated that there were already 2 gas stations in the immediate area and he didn't see a need for the station and Mr. Clingdon stated that they were aware of the other stations in the area. Mr. Clingdon stated that the hydraulics had already been submitted.

The hours of operation would be 6AM to 10PM and this was discussed as a condition to the approval of the site plan. Questions were taken from those in attendance. Marshall Jackson appeared and stated that he resides in the nearby neighborhood of Bradshaw Ridge. He presented a list of concerns which is attached hereto as Exhibit "A" for reference. He stated that he had concern about the proximity of alcohol sales to the nearby child care facility. He also expressed concern about the food service proposed within the gas station, signage, canopy and lighting, as well as other concerns. Mr. Clingdon stated that the grease trap would run underground.

Mr. Clingdon stated that the lighting would be downward facing with nothing outwards or upward. However, the lighting schedule does not have that type fixture specified. Mr. Clingdon was requested to make that correction to the plan.

As for the service of food, there would be a display cooler with sandwiches but no plans for a restaurant or seating within the store. Zoning Administrator Weeks explained that the liquor issue would need to be addressed by Alcohol Beverage Control for MS.

John Shows, Esq. addressed the Commission next and stated that he was noting his objection to the petition because if its in the large piece of land that other things on today's agenda were on, he wanted a chance to review it to see if it met the potential restrictive covenants from 2006.

Mr. Clingdon stated that there was an easement for an overhead powerline so if any sign

is placed, it would definitely be within what is currently allowed by the ordinances. He said he would have to work with Entergy to determine what type of sign would be allowed. Jim Harreld addressed the Commission next and stated that he lives off of Stribling Road. He stated that the plans should include the sign and you can't just rely on the minutes on what is going to be allowed. Mr. Clingdon stated that he has been doing these plans for fifty (50) years and he had never had a problem and he felt like his plans were complete. He said if he was required to go ahead and seek a sign permit without approval for the project, it was asking his client to spend money out of pocket unnecessarily.

Commissioner Drane stated that they had an obligation to the community to insure the plans were complete. Mr. Clingdon stated that the sign would be within what is already allowed by the zoning ordinance so he didn't see what difference it would make. Upon Motion by Commissioner Howard to table the site plan pending additional information from the Petitioner, seconded by Commissioner Drane, with Commissioners Howard and Drane voting "aye," and Commissioners McKay and Miller voting "nay," the motion was tied.

Further discussion was had regarding the request. Upon Motion by Commissioner McKay to approve the site plan with Petitioner agreeing to update the site plan prior to the Board of Supervisor approval with better description of the lighting and sign, seconded by Commissioner Howard, with all voting "aye," the motion to approve the site plan passed with the condition that the site plan and lighting schedule be updated prior to Board of Supervisor approval.

There next came on for consideration the site plan of Cedarstone Commercial for a new business located on Aulebrock Drive. This was last tabled from the May, 2016 meeting. Mr. Jason Weeks, Esq. appeared on behalf of Petitioner. He explained that this had been tabled at both the April and May meeting. He said the Commission had asked that they try to work something out with the nearby homeowners who were opposed to the development. He said they had exchanged multiple correspondence with the homeowners' attorney (all of which were provided as exhibits to his request to be on July's agenda and copies of which were posted online and provided to all Commissioners) but they had not been able to reach an agreement.

Mr. Weeks further stated that there was still the outstanding issue of the restrictive covenants that were part of the original petition to rezone from 2006. He said it was undisputed that the covenants were not recorded and because they were not recorded, he felt that they were not proper and never took effect to bind his client as a subsequent purchaser. He referred the Commission to Mississippi Code Annotated §89-5-5 (also provided as part of his request) which in summary states that covenants not properly recorded are not in effect and do not bind subsequent property owners.

Mr. Weeks also informed the Commission that they had checked on the rear-facing materials as requested and it would cost over \$75,000 and would not be economically feasible for them to use that material on the back side of the building. Commissioner McKay stated that he appreciated their attempts to try and reach an agreement. He stated that the letters referenced an agreement on a few aspects and he inquired if those were still agreeable to the parties. Mr. Weeks stated that he would have to consult with his clients but at this point, he would want to go through each point by point to make sure the record was clear on what was being agreed to and not agreed to by the parties. Commissioner Howard stated the he understood the law but he felt they had a moral obligation to the homeowners under the circumstances and that certain things were agreed on and he would like to see them adhered to out of fairness to the parties.

John Shows, Esq. addressed the Commission next and explained that he represented some of the homeowners that lived near this property. His arguments were summarized in a handout he gave to each Commissioner at the meeting and a copy of which is attached hereto as Exhibit "B." He first questioned the legality of the original rezoning from 2006 and whether proper notice was posted in the paper and if an actual public hearing was held because he didn't think the minutes reflected same. He also stated that he felt the restrictive covenants that were part of the original petition in 2006 do apply because they were conditions on the rezoning of the property. Commissioner McKay stated that he disagreed the rezoning was improper and pointed out that there was no reference to the restrictions in the minutes. Zoning Commission Attorney Leah Ledford stated that there was no evidence that the original rezoning was improper and it had followed the proper legal process to be rezoned and that the public hearings were always held as part of the monthly Planning and Zoning meeting.

Commissioner Miller inquired regarding the ownership of the property in 2006 and a discussion was had regarding the proper owner at the time the property was rezoned. Jason Weeks addressed the Commission next in response and said any potential fraud regarding the ownership of the land in 2006 would be between the original owners and homeowners and not his client. He reiterated the code and that it was there to protect property owners who did their due diligence in running a title search and not binding them by property documents that were not legally recorded. He also pointed out that the property was zoned C-2 but this was a proposed office park which is allowed by C-1 so they were choosing less zoning than is allowed on the property.

Upon Motion by Commissioner Miller to approve the site plan as having met the requirements under the law and that because of Mississippi law the old covenants did not run with the land, seconded by Commissioner McKay, with Commissioners Miller and McKay voting "aye," and Commissioners Drane and Howard voting "nay," the motion did not pass. It was explained by Commission attorney Ledford that they could either pass the petition without a recommendation since there was a tie vote, or they could

discuss further and try to reach an agreement. Commissioner Drane inquired whether they could go back and undo the old zoning and Jason Weeks stated that it would create more legal issues because other businesses have already been allowed and currently operate commercial businesses on this land. Commissioner Howard inquired again whether an agreement could be reached between the parties on some of these issues. Jason Weeks stated that because Mr. Shows only represents a few homeowners in that area and not all of them or the Bradshaw Ridge HOA, he was not comfortable advising his client to put any kind of covenants on the land because that would potentially open them up to claims by other homeowners as well. He stated that he would like a decision one way or the other and if the Commission turned the petition down, he wanted to know on which zoning ordinances they were basing their decision.

Commissioner Miller made another motion to approve with the same tie vote resulting. Commissioner McKay made a motion to pass the site plan to the Board of Supervisors without a recommendation due to the tie vote. Upon substitute motion by Commissioner Drane to table the site plan until the next meeting when a majority vote would be present, seconded by Commissioner Howard, with all voting "aye," the motion to table the site plan passed. Jason Weeks inquired regarding an assurance of a majority vote at the next meeting and was told by the Commissioners that they could not offer an assurance that all would be present. Commissioner Drane noted the Commission's duty to all involved to not pass things to the Board of Supervisors without a recommendation.

There next came on for consideration the site plan of Building D at Livingston which will be used for office space. This was approved by the MLHPD at their June 13, 2016 meeting. A letter from the MLHPD is attached hereto for reference as Exhibit "C." Andy Clark, Esq. appeared on behalf of the Petitioner. Commissioner McKay stated that he did not think the site plan in their material met all of the specifications required for a site plan review. Zoning Administrator Weeks stated that this was an ongoing project and the specifics were included in the original master plan that had been approved, and this was just for the building itself. He presented a site plan showing the location of the proposed building within the previously approved site plan. Upon Motion by Commissioner Howard to approve the site plan contingent upon the things requested in MLHPD's letter attached as Exhibit "C," seconded by Commissioner Miller, with all voting "aye," the motion to approve the site plan passed.

There next came on for consideration the petition for a storage facility on Aulenbrock Drive. This petition was last tabled from the April meeting. Andy Clark, Esq. appeared on behalf of Petitioner. He explained that his client had negotiated and reached a tentative agreement on this matter but negotiations stopped once the issue of the potential original restrictive covenants came into play (which were discussed at length earlier in the meeting). He reiterated the arguments set forth earlier by Jason Weeks and the MS Code that doesn't bind subsequent property owner as to unrecorded covenants.

He also stated that the Madison County Zoning Ordinances actually provide that an approved site plan then becomes law once approved by the Board of Supervisors. He pointed out that with a rezoning approval, the language does not state that so he felt like the change in rezoning on this property from 2006 had no restrictions or conditions listed in the minutes and therefore, it did not become the law. He stated that his client had met all the requirements under the ordinances for a site plan and he was asking for approval. Mr. Clark further stated that the owners were present and they could attest to the meeting and agreement reached with the adjacent homeowners before a stale mate was reached over the potential covenants issue.

Mr. John Shows, Esp. appeared on behalf of the three adjacent homeowners. He stated that he felt that the original rezoning in 2006 was a conditional rezoning and cited a Mississippi Supreme Court case, *Old Canton Hills Homeowners Ass'n v. May & Jackson*, 749 So.2d 54 (Miss. 1999), which states that conditional zoning is legal and can be done by the local municipality. Commission attorney Ledford explained that conditional rezoning was legal and discussed the distinguishing factor of this situation where the conditions were not part of the original rezoning minutes. Mr. Shows said his clients had met with and come to a tentative agreement but they wanted to see what the Commission was going to do on the covenants issue. Commissioner Howard stated that he would like to see the parties reach an agreement. Upon motion by Commissioner Howard to table the petition until a majority vote is present but stating that he would encourage the parties to work out an agreement, seconded by Commissioner McKay, with all voting "aye," the motion to table the petition passed.

There next came on for discussion the payment of attorney fees for June, 2016. The Commissioners requested more specific entries to which Commission attorney Ledford agreed. Upon Motion by Commissioner Howard, seconded by Commissioner McKay, with all voting "aye," the motion to approve the attorney fees for June, 2016 passed.

There next came on for discussion the setting of the August, 2016 meeting. The second Thursday of the month is August 11, 2016 and all agreed to this date. Upon motion by Commissioner Miller, seconded by Commissioner Drane, with all voting "aye," the motion to set the August, 2016 meeting for August 11, 2016 passed.

With there being no further business, the July 14, 2016 meeting was adjourned.

8-11-16  
Date

Walter McKay  
(Chairman)



Exhibit "A"

Convenience Store - Yandell Road

Aesthetic Design complete with landscaping.

Exterior construction appears to meet requirements for 23 ac Covenants.

23 ac Covenants, have a 100' requirement for surrounding facilities to be presented on plans.

Beer sales: In close proximity to child care facility and school?

Signage: No signage presented? Monument? Freestanding? Canopy?

Traffic: Ability for traffic entrance and exit, will facility present a traffic problem?

Lighting: Request all exterior lights change to Low pollution light emission and "Dark Sky Compliant"

Canopy lighting not defined per plans?

Flood lighting not located on plans, nor defined?

Exterior building lighting plan details (10) ten 100w metal halide lights with 10% up lighting (located with "X").

Kitchen: Plans to provide (3) three meals a day?

Site plan shows a 1000 gallon grease trap with no planned method to access for disposal and landscaping will block access. How will the grease trap be accessed for disposal?

Dumpsters: Plans don't adequately describe their construction, please enclose in brick matching store and lock gates closed when not accessed. Request six (6) feet minimum height.

**RESPONSE TO CEDARSTONE COMMERCIAL  
REQUEST FOR SITE PLAN**

1. Covenants were the basis of the rezoning. There would be no C-2 zoning if these covenants had not been agreed upon by the applicant and owners of the property in their rezoning request.

Cedarstone can not have it both ways. Either the property is zoned C-2 with covenants or the property is not zoned C-2.

2. Secondly, the covenants are binding on the County. The County can require that parties who file site plans to conform such proposed use and site plans to these specific covenants.

My clients believe this issue of the validity of the covenants should be addressed by the Commission and if valid, then the site plans need to be adjusted to conform to the covenants.

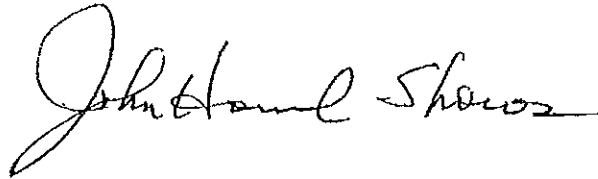
3. Attached are our proposed covenants showing the agreed issues and the unagreed issues. We believe they are reasonable. The primary issues which no agreement has been reached are:

1. Buffer zone/fence
2. EFIS on back of building
3. Restrictions on use of premises
4. Hours of operation
5. Storage of hazardous material on site
6. Attorney's fees to specifically enforce covenants

The proposed covenants are attached as Exhibit A.

4. My clients object to the metal siding on the rear of the proposed buildings. In the May minutes, there is testimony by a citizen that Mack Haik agreed to change their site plan to conform to the Commission's request regarding siding. Minutes reflect that Mack Haik agreed to use EFIS (copy of Minutes attached as Exhibit B). Cedarstone should also be required to put stucco on the rear of their building. The covenants attached to the Zoning Petition specifically prohibit metal siding.

5. Copies of the plat of subdivision for part 2 and part 3 (amended of Bradshaw Ridge) are attached hereto as Exhibit C. Please note that there is a 20 foot buffer between the plat description of the property platted and the lot lines. The fence along part 3 (amended) is in the Buffer zone.

A handwritten signature in black ink, appearing to read "John Samuel Shaw". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

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**Prepared By:**

John Howard Shows, MS Bar #6776  
2950 Layfair Drive, Suite 101  
Flowood, MS 39232  
Telephone: (601) 664-0044

**Return To:**

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State of Mississippi  
County of Madison

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**COVENANTS AND RESTRICTIONS  
OFFICE WAREHOUSE**

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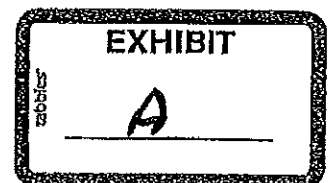
**Grantor:**

**WCTN, LLC,**  
a Mississippi limited liability company  
396 Business Park Drive  
Suite A  
Madison, Mississippi 39110  
(601) 519-5533

**INDEXING INSTRUCTIONS:**

SW ¼ of the NW ¼ and the SW ¼ of the NE ¼ of Section 27, T8N, R2E  
Madison County, Mississippi

Lots 117, 118 and 119 of Bradshaw Ridge, Part Two, Plat Cabinet D, Slide 198 and  
Lots 64, 65, 66 and 67 of Bradshaw Ridge, Part Three, amended, Plat Cabinet E, Slide 8



**COVENANTS AND RESTRICTIONS  
OFFICE WAREHOUSE**

WHEREAS, WCTN, LLC, a Mississippi limited liability company (hereafter "Owner") is the Owner of that property described on Exhibit A hereto;

WHEREAS, the property described on Exhibit A hereto is zoned C-2 Commercial by Madison County, Mississippi;

WHEREAS, the Owner has filed a site plan with Madison County, Mississippi;

WHEREAS, the property described on Exhibit A hereto is contiguous and adjacent to Bradshaw Ridge Part Two and Bradshaw Ridge Part Three (amended);

WHEREAS, homeowners in Bradshaw Ridge Part Two and Part Three have requested that Owner provide certain Covenants and Restrictions to protect and preserve the residential neighborhood development of Bradshaw Ridge Part Two and Part Three;

WHEREAS, Owner has agreed to certain Covenants and Restrictions regarding the development of the property described on Exhibit A hereto.

THEREFORE, for Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner agrees to subject the property described on Exhibit A to the following Covenants and Restrictions:

A. Buffer Zone.

1. A Buffer Zone of twenty (20) feet shall be provided for along and adjacent to the Bradshaw Ridge Part Two and Part Three. Owner shall plant *Elaeagnus Angustifolia*, commonly known as "Russian Olive" every seven (7) feet along with other suitable plantings to include another species of *Elaeagnus*.

4. Owner shall construct a twelve (12) foot high fence along the boundary of

**Bradshaw Ridge Part Two and Part Three on the rear lot lines of Lots 117, 118 and 119 of Bradshaw Ridge Part Two, Plat Cabinet D, Slide 198 and Lots 64, 65, 66 and 67 of Bradshaw Ridge, Part Three (amended), Plat Cabinet E, Slide B.**

5. The Buffer Zone of twenty feet (20) feet shall be owned by Owner and maintained by Owner. This Buffer Zone is granted as a license to the homeowners and no homeowner in Bradshaw Ridge Part Two or Part Three may claim a portion of the Buffer Zone by adverse possession.

**B. Colors for Office Warehouse Buildings.**

1. The roof of the office warehouse buildings shall be a neutral color and the sides of the office warehouse buildings shall be a neutral color, either tan, light gray or an off white. The front, back and sides of the office warehouse building shall have a brick façade at least four (4) feet in height. The rollup doors on the front shall also be a neutral color.

3. No building shall be more than one story in height.

**C. Restrictions on Use.**

No part of the property described on Exhibit A hereto shall be used as, or for:

1. a childcare facility.
2. a business that produces loud music or outside activities that create noise.
3. a liquor store.
4. a restaurant for full service or fast food or casual dining.
5. a cafeteria, delicatessen, coffee shop or coffee bar.
6. a food carryout service.
7. the sale of beer, wine or alcoholic beverages of any type.

8. a convenience store or gas station.
9. a facility to store any type of equipment. (as long as it is stored within the building)
10. a facility to sell any type of equipment. (as long as it is stored within the building)
11. a facility to sell building materials or paint.
12. a fireworks stand.
13. a billboard.

D. Hours of Operation; Lighting and Security.

1. The office warehouse buildings may be occupied from 8:00 A.M. to 6:00 P.M. Monday through Saturday.

2. The lighting of the storage facility will be LED motion activated, low pollution light emission and shall be "Dark Sky Compliant". The lighting shall be located on the property so as not to directly shine on homes and yards adjacent and contiguous to the property described on Exhibit A hereto.

5. All trash dumpsters or bins shall be located away from the perimeter of the storage facility and away from the homeowners of Bradshaw Ridge Part Two and Part Three. (We agreed to their proposal to construct a brick façade around the dumpsters)

6. The storage of hazardous or explosive or incendiary material is prohibited on the property described on Exhibit A.

E. Enforcement.

1. These covenants may be specifically enforced by any homeowner in Bradshaw Ridge Subdivision who owns a lot adjacent to or contiguous with the Property described on Exhibit A hereto or by the Homeowners Association of Bradshaw Ridge Subdivision.

2. If a lot owner or the Bradshaw Ridge Homeowners Association has to specifically enforce these covenants, then such lot owners or Homeowners Association shall be entitled to recover their reasonable attorney fees and costs incurred in pursuit of such specific performance suit.

F. Binding Effect of Covenants.

1. These are covenants and restrictions which run with the property described on Exhibit A hereto.

2. These covenants shall bind Owner and all of Owner's assigns, representatives and grantees as well as any lessee of Owner.

3. These covenants shall be binding for twenty-five (25) years from the date these covenants are recorded in the land records of the Chancery Clerk of Madison County, Mississippi.

4. These covenants are specifically for the benefit of each Owner of Lots 117, 118 and 119 of Bradshaw Ridge Part Two, Plat Cabinet D, Slide 198 and Lots 64, 65, 66 and 67 of Bradshaw Ridge Part Three (amended), Plat Cabinet E, Slide 8. Each of the Owners of these lots shall be entitled to specifically enforce these covenants.

5. These covenants also are for the benefit of the Homeowners Association of Bradshaw Ridge Subdivision.

G. Site Plan Approval.

Owner covenants that Owner or any grantee or assignee of Owner will construct the office warehouse buildings as shown on the site plan as shown on Exhibit B hereto with the buildings and parking to be constructed as shown on Exhibit B hereto.

Witness the signatures of Owner, this the \_\_\_\_\_ day of \_\_\_\_\_, 2016.



WCTN, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF MISSISSIPPI

COUNTY OF \_\_\_\_\_

Personally appeared before me, the undersigned authority in and for the said county and state, on this \_\_\_\_\_ day of \_\_\_\_\_, 2016, within my jurisdiction, the within named \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed in the above and foregoing instrument and acknowledged that he executed the same in his representative capacity and that by his signature on the instrument, and as the act and deed of the person or entity upon behalf of which he acted, executed the above and foregoing instrument, after first having been duly authorized so to do.

\_\_\_\_\_  
NOTARY PUBLIC

My commission expires:

\_\_\_\_\_

MINUTES OF THE MEETING OF THE MADISON COUNTY  
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 19<sup>th</sup> DAY OF MAY, 2016 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 19<sup>th</sup> day of May, 2016 at 9:00 a.m. in the Board Room of the Madison County Chancery and Administrative Building.

Present: Walter McKay  
Larry Miller  
Rev. Henry Brown  
Dr. Bill Howard

Scott Weeks, Planning and Zoning Administrator

Absent: Don Drane

The meeting was opened with prayer by Rev. Brown, and those present participated in pledging allegiance to our flag.

There first came on for consideration the minutes of the April 14, 2016 meeting of the Commission. Upon motion by Commissioner Miller to approve the minutes, seconded by Commissioner Brown, with all voting "aye," the motion to approve the April 14, 2016 minutes passed.

There next came on for consideration the petition of Mak Haik for a conditional use to sell pre-owned vehicles. The property is located between I-55 and Calhoun Station Parkway. The petitioner is requesting three car dealership locations and a site plan has been provided for the Chrysler, Jeep, Dodge and Chevrolet dealerships being proposed. Allen Grant appeared on behalf of Petitioner as the architect for the petitioner. Andrew Leeper with the Mak Haik Jackson, MS location also appeared on behalf of Petitioner. He explained this the businesses would consist of 70% new and 30% used vehicles. The used vehicles will undergo a 125 point inspection process and be certified used vehicles. No one was present to oppose the development. Upon motion by Commissioner Howard to approve the motion for a conditional use, seconded by Commissioner Brown, with all voting "aye," the motion to approve the conditional use passed.

There next came on for consideration the site plan of Mak Haik for their businesses as just approved. Commissioner McKay inquired regarding the siding on the buildings and stated that he would like to see EIFS on the whole building, including the back, to make it look more upscale, to which Petitioner agreed. Upon motion by Commissioner Howard to approve the site plan, seconded by Commissioner Brown, with all voting "aye," the motion to approve the site plan passed.

There next came on for consideration the petition of Dawn and Bennie Street for a



conditional use to excavate a lake and remove the excess material. The property is located on the Southwest corner of Goodloe Rd and Hwy 43N. This will be a 4 acre or less permit and their site plan is included. Mrs. Street appeared and stated that they intend to make this a 4 acre lake that will eventually be a larger lake. They have provided their plans and all necessary documents in support of their request, including their hours of operation which limit operation for school/work traffic and no Sunday operations. Those in opposition were asked to come forward. Jake Ritchie spoke first and explained he was the attorney hired by Rayford Pool who is an adjacent landowner to this property. He is concerned about how this will affect his property value and how the water will be maintained. He said his client is also has safety concerns because of traffic and dust created by the operations. Mr. Ritchie stated that according to the zoning ordinances, the County is to protect the health, safety and welfare of the citizens and these issues meet these concerns. Mrs. Street spoke in response to these concerns and stated that this is their home and they intend for this to be a nice lake that increases their property value. They did another lake in the area in the past and it enhanced the property value. She said there is a clear water shed coming off of Hwy 43 and it will provide plenty of water for the lake. She pointed out there is another dirt pit being operated nearby on Goodloe Rd. and that this is a public road that sees a lot of truck traffic already so this wouldn't change the conditions of the road. This is a one year permit only and they will be done within that time. She further elaborated on their history in owning the property for 15 years and that they only intend to increase the value. Commissioner McKay inquired regarding the bond and Mrs. Street stated they had put up a \$1,000 bond per acre to ensure the work was done properly, including reclaiming the edges and making the property look nice. Commissioner McKay also inquired regarding the water and Mrs. Street stated there is a ditch that floods that will provide water to the lake and the dirt will be used to make a dam for the lake and the excess will be hauled away and sold. James Parker addressed the Commission next and stated that he lives at 2355 Hwy 43N and is concerned about flooding from the nearby creek and how this may affect his property. He lives south of the proposed property. Mrs. Street stated that the maps provided showed that this land would not be affected by these operations. Nancy Isonhoot spoke next and she lives on Quail Rd. She stated there was already a mining pit being operated on Goodloe Rd. and another nearby and there wasn't a need for another pit mining operation. She also stated there was a lake that was done nearby and its nothing but a big empty hole and she didn't want to have to see that again. Commissioner Howard stated that he was concerned about the lake being well maintained. Mr. Street stated that they farm and live in this area and they wouldn't do anything to negatively effect their property value or be at odds with their neighbors. He further pointed out that he is in the land business and does this for a living and so he has plenty of experience to ensure this is done correctly. Commissioner McKay stated that DEQ would be the proper entity to oversee and enforce their permit. Upon Motion by Commissioner Brown, seconded by Commissioner Miller, with Commissioner Brown, Miller and McKay voting "aye," and Commissioner Howard voting "nay," the motion to approve the conditional use and site plan passed.

There next came on for consideration the site plan of Cedarstone Commercial for a new business located on Aulenbrock Drive. Jason Weeks appeared on behalf of Petitioner, along with Brad Williford. He stated that this was an office warehouse space that was being proposed and it was tabled from the April 14, 2016 Commission hearing. He stated that he was recently retained to represent the Petitioner due to the issues with the surrounding homeowners that they had not been able to resolve. He stated that the land was properly zoned for this and it was a site plan

review only. Commissioner McKay stated that he was absent at the April meeting and would like to know what was at issue between the parties. Mr. Weeks stated that there had been a long list of items sent to his client that he felt were unreasonable and not economically feasible for his client. He stated that they had agreed to move the dumpsters away from the landowners and the only lighting in the rear would be from the exit signs required by code. He said they had requested a 12 foot fence with razor wire on top and other things they couldn't agree to and they felt their site plan met the ordinances for this zoning. Commissioner McKay inquired regarding the building facade and why they couldn't put it on the parts that would be seen by the homeowners and that it appeared to be a reasonable request. Mr. Weeks stated that this zoning was already in a place when most of the homeowners moved and they should have taken note of the commercial zoning prior to purchasing their property. Dr. Howard inquired regarding the landscaping and Mr. Weeks stated that it was open landscaping of 20 feet as required by the ordinances. Rick Eisenberger with John Shows' office addressed the Commission next on behalf of Bradshaw Ridge Subdivision. He stated that the Petition when the land was originally rezoned in 2006 had covenants that were attached that would affect this site plan and stated that he was representing the Bradshaw Ridge subdivision in opposition to this site plan. He stated they had just received this Petition and would like time to discuss with the homeowner and try to work out an agreement so they would like the Petition to be tabled. He also denied that the landowner had tried to meet and work anything out since the last meeting. He said it was unclear whether the covenants had been recorded but that they stated there was to be EISF siding used and no metal (which is on the current site plan) and the landscaping was supposed to be more of a buffer for the homeowners. He stated they were also concerned because the current site plan doesn't address rear setbacks. Marshall Jackson, a resident of Bradshaw Ridge, spoke next and stated that he was concerned about the <sup>new</sup> location of the dumpsters because they were now located directly behind his home. Lisa <sup>Walters</sup> ~~Walters~~, a <sup>Gluckstadt</sup> ~~Gluckstadt~~ resident of Germantown Subdivision, spoke next and inquired regarding the <sup>covenants</sup> ~~covenants~~ issue. She stated that she had inquired this issue in the past and was concerned about how it affects zoning. Commission attorney Ledford stated that new procedures were being discussed to help ensure the recording of any covenants agreed to in zoning matters. She further stated that unrecorded covenants may not be enforceable and this legal issue was currently being reviewed. Commissioner Howard stated that in his opinion the covenants should remain in effect because they were a condition to the rezoning, regardless of whether they were filed. James Harrel addressed the Commission and stated that he is a Gluckstadt resident who resides on Stribling Rd. He stated that the other petitioner, Mak Haik, had agreed to add more siding without question and he didn't think it was right that the current petitioner wouldn't agree to same. Crystal Hunt addressed the Commission next and stated that although she was glad they had moved the dumpsters away from her property, she was concerned for the other homeowners. He also stated that they were currently getting a survey done because some of the land behind the neighborhood fence may actually belong to the HOA and she wanted that issue to be noted. Tammy Harrel addressed the Commission next and inquired regarding the lost documents and stating that she felt that the Planning and Zoning Office had lost documents in the past that cost the county citizens a lot of money and that concerned her. She stated that she would like to see the process changed to ensure this didn't happen anymore. She further stated that she felt the Commission attorney always sided with the developer and that concerned her. Commission attorney Ledford stated that this was not an issue with the Planning and Zoning office but instead covenants that had not been filed by the property owner. She also

reiterated that the County had no authority to file or enforce covenants, that was the duty of the landowner. She further stated that she was bound by the law and had no personal interest in either side's position. Commissioner Miller spoke next and stated that he didn't appreciate the accusations being made by Mrs. Harrelld regarding prior Commission decisions. Upon Motion by Commissioner Howard to table the site plan pending further discussions between the petitioners and those in opposition, seconded by Commissioner Miller, with all voting "aye," the motion to table the site plan passed.

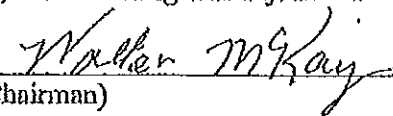
There next came on for discussion the payment of attorney fees for April, 2016. Upon Motion by Commissioner Brown, seconded by Commissioner Miller, with all voting "aye," the motion to approve the attorney fees for April, 2016 passed.

There next came on for discussion the setting of the June, 2016 meeting. The second Thursday of the month is June 9 and all agreed to this date. Upon motion by Commissioner Brown, seconded by Commissioner Howard, with all voting "aye," the motion to set the June, 2016 meeting for June 9, 2016 passed.

With there being no further business, the May 19, 2016 meeting was adjourned.

Date

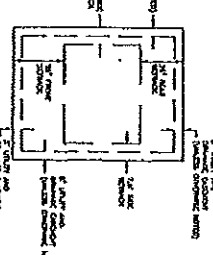
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(Chairman)

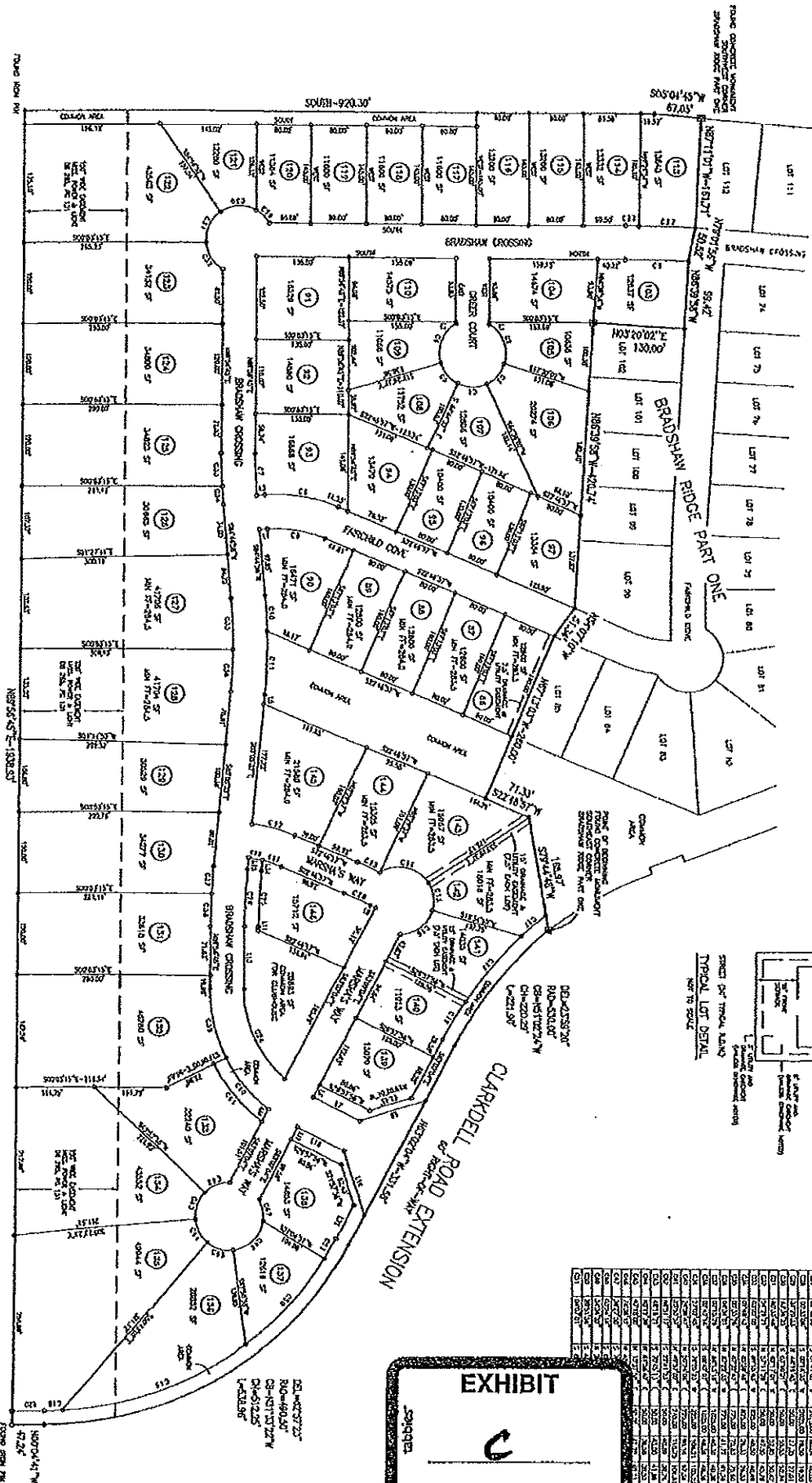
# BRADSHAW RIDGE PART TWO

NORTH 1/2 OF SECTION 21, TOWNSHIP 8 NORTH, RANGE 2 EAST  
MADISON COUNTY, MISSISSIPPI

NO.	DESCRIPTION	AMOUNT
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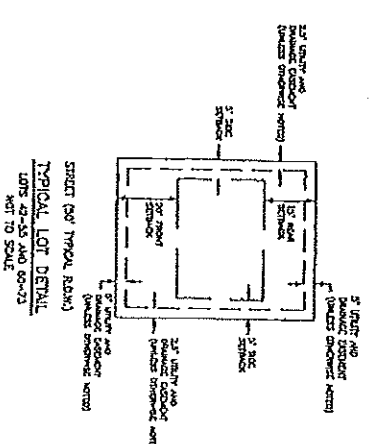
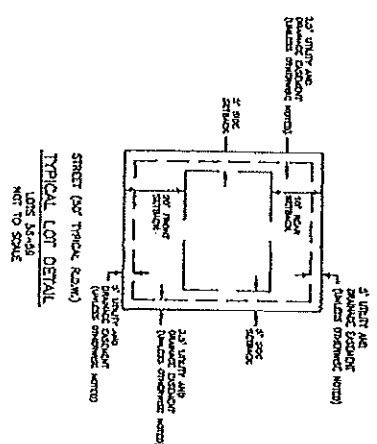
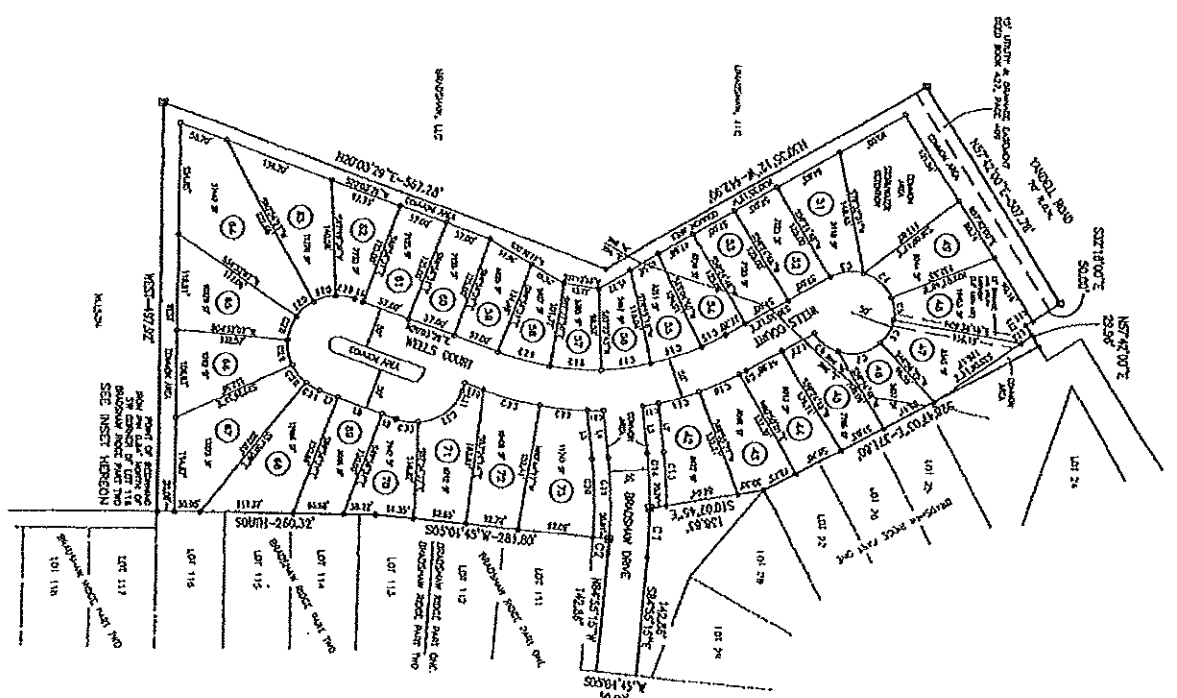


PREPARED BY  
**BANKS ENGINEERING & SURVEYING, INC.**  
CONSULTING ENGINEERS & LAND SURVEYORS  
1910 W. HOOVER AVENUE, MOBILE, MS 36688

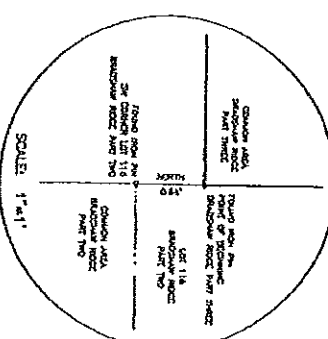


# BRADSHAW RIDGE PART THREE (AMENDED)

NORTH 1/2 OF SECTION 21, TOWNSHIP 8 NORTH, RANGE 2 EAST  
HARRISON COUNTY, MISSISSIPPI



NUMBER	SECTION	ORIGIN	DISTANCE
11	NE 1/4	W	100.00
12	S 1/2	E	100.00
13	S 1/2	E	100.00
14	S 1/2	E	100.00
15	S 1/2	E	100.00
16	S 1/2	E	100.00
17	S 1/2	E	100.00
18	S 1/2	E	100.00
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PREPARED BY:  
BANKS ENGINEERING & SURVEYING, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
172 LONE WOLF DRIVE, SUITE B, MADISON, MS 39110

BRADSHAW RIDGE PART THREE (AMENDED) IS A SUBDIVISION OF THE NORTH 1/2 OF SECTION 21, TOWNSHIP 8 NORTH, RANGE 2 EAST, HARRISON COUNTY, MISSISSIPPI, AS SHOWN ON THE PLAT OF BRADSHAW RIDGE PART ONE AND PART TWO, HARRISON COUNTY, MISSISSIPPI, DATED AND RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT OF HARRISON COUNTY, MISSISSIPPI, IN BOOK 118, PAGE 118.

ALL OF THE PROPERTY SHOWN ON THIS SUBDIVISION IS SUBJECT TO THE EASEMENTS OF THE BRADSHAW RIDGE PART ONE AND PART TWO, HARRISON COUNTY, MISSISSIPPI, AS SHOWN ON THE PLAT OF BRADSHAW RIDGE PART ONE AND PART TWO, HARRISON COUNTY, MISSISSIPPI, DATED AND RECORDED IN THE OFFICE OF THE CLERK OF THE SUPREME COURT OF HARRISON COUNTY, MISSISSIPPI, IN BOOK 118, PAGE 118.

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THE CLERK OF THE SUPREME COURT OF HARRISON COUNTY, MISSISSIPPI, HAS REVIEWED THIS PLAT AND HAS DETERMINED THAT IT CONFORMS TO THE REQUIREMENTS OF THE MISSISSIPPI SUBDIVISION ACT AND THE RULES AND REGULATIONS OF THE MISSISSIPPI SURVEYING BOARD.

DATE: MAY 1, 2008

BY: [Signature]

Ex "C"

**APPLICATION FOR CERTIFICATE OF APPROPRIATENESS/  
CERTIFICATE OF APPROPRIATENESS:  
MANNSDALE-LIVINGSTON HERITAGE PRESERVATION (MHLF) DISTRICT**

APPLICANT NAME: Livingston Township Fund One, LLC  
APPLICANT ADDRESS: 116 Livingston Church Road, Suite B, Flora, MS 39071  
APPLICANT TELEPHONE NUMBER: 601-622-7334  
DATE SUBMITTED TO ZONING ADMINISTRATOR: May 31, 2016

LOCATION OF PROPERTY FOR WHICH CERTIFICATE OF APPROPRIATENESS IS REQUESTED: (PLEASE ATTACH MAP INDICATING BOUNDARIES OF PROPERTY INVOLVED AND/ OR A LEGAL DESCRIPTION).

"Building D" at Town of Livingston as depicted on attached General Development Plan Legal Description attached.

PLEASE SPECIFY PROPOSED USE OR USES OF THE SUBJECT PROPERTY FOR WHICH CERTIFICATE OF APPROPRIATENESS IS REQUESTED: (IF MORE THAN ONE USE, INDICATE ON THE REQUIRED SITE PLAN THE LOCATION OF ALL THE PROPOSED USES).

CHECK LIST ALL OF THE FOLLOWING THAT APPLY: Commercial Office

**Uses Allowed Only As Special Exceptions:**

- Public/ quasi-public facility or utility: Specify: \_\_\_\_\_
- Commercial uses (See Zoning Ordinance for uses allowed as special exceptions) Please describe specific uses: \_\_\_\_\_

- Surface mining operations of a temporary type: Please describe: \_\_\_\_\_

**SITE PLAN REQUIRED:** A site plan is required for all proposed buildings or structures (except single-family dwellings) in the MLHP District. If the applicant proposes the subdivision of land inside the MLHP, he/she must submit a subdivision plat in accordance with the Madison County *Subdivision Regulations*. All site plans (required for construction on a single lot) shall be prepared in accordance with Sections 402.16-19 and 505 of the Madison County Zoning Ordinance.

Previously submitted

**ADDITIONAL INFORMATION REQUIRED FOR DEVELOPMENT OF ALL COMMERCIAL PROPERTIES:**

1. Detailed lighting plan for grounds and buildings.
2. Detailed landscaping plan.



Approval of this application for a Certificate of Appropriateness is required under Section 402.16-21 of the Madison County Zoning Ordinance. The Mannsdale-Livingston Heritage Preservation Commission will review this application and make a recommendation to the Board of Supervisors as to whether a Certificate of Appropriateness should be issued to the applicant. For approval of this application, the applicant must demonstrate that the proposed building or structure is not excessively similar or dissimilar to other like buildings or structures in the MLHP district and that the proposed building/structure or use would not provoke one of the harmful effects listed below:

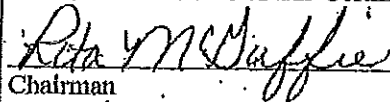
- Lower property values;
- Decreased economic growth; and/or
- Diminished future opportunities for land use and development.

No building permit shall be issued by the County Building Official for any proposed construction in the MLHP district without a Certificate of Appropriateness.

### CERTIFICATE OF APPROPRIATENESS

Following review of the above application for a Certificate of Appropriateness with the required site plan and all supporting information, the Chairman of the Mannsdale-Livingston Heritage Preservation Commission may sign this Certificate indicating a recommendation for approval of the application and issuance of a Certificate. However, if the application for issuance of a Certificate is recommended for *denial*, the applicant shall have the right to appeal the recommendation of the Commission directly to the Board of Supervisors. *The Minutes of the Commission shall accompany the application indicating specific findings in this case, whether recommended for approval or denial.*

We, the Mannsdale-Livingston Heritage Preservation Commission, have reviewed the above application for a Certificate of Appropriateness with the required site plan and do hereby recommend issuance of this Certificate to the Applicant.

  
Chairman

Mannsdale-Livingston Heritage Preservation Commission

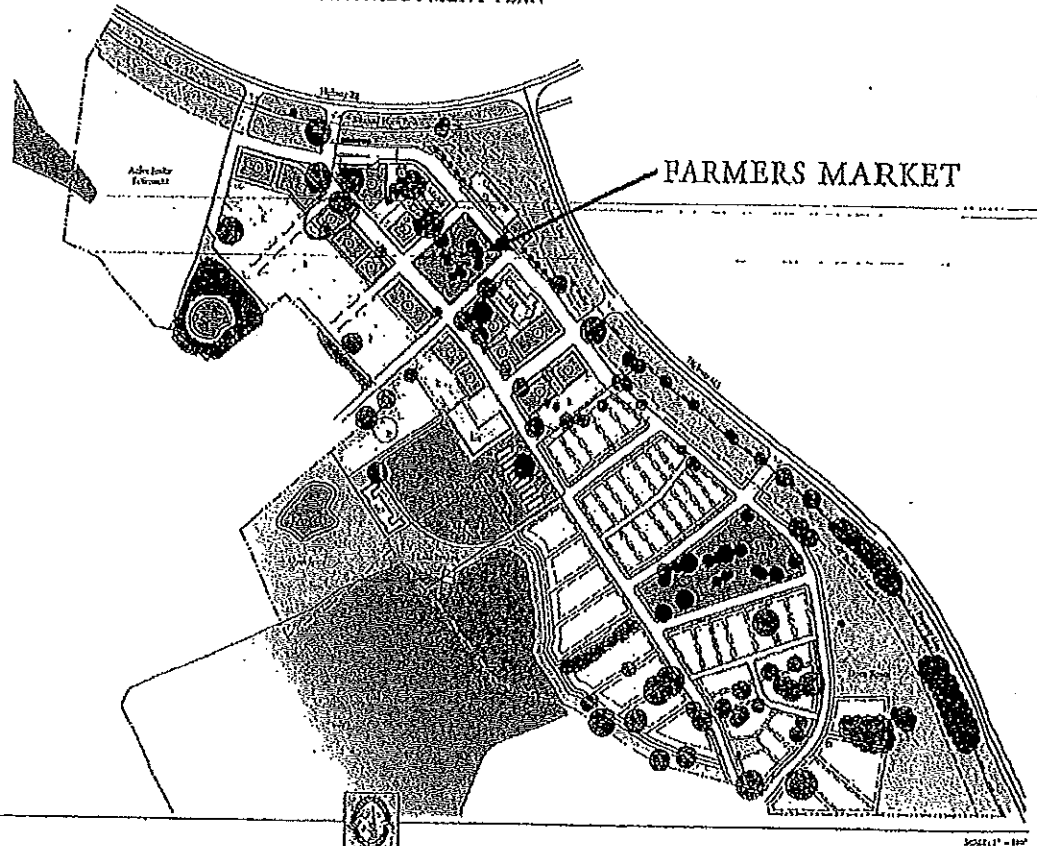
7-13-16  
Date

**APPROVED BY THE MADISON COUNTY BOARD OF SUPERVISORS:**

\_\_\_\_\_  
President

\_\_\_\_\_  
Date

GENERAL DEVELOPMENT PLAN



FARMERS MARKET

1930/11/14, 2011

2011/11/14 - 100

BUSCHDEVO

"D"

A certain parcel of land being situated in the Northwest  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of Section 8, T8N-R1E, Madison County, Mississippi, and being more particularly described as follows:

Commence at the Northwest corner of Lot 67, Chestnut Hill, Part ID, a subdivision according to the map or plat thereof, on file and of record in the office of the Chancery Clerk of Madison County at Canton, Mississippi, as now recorded in Plat Cabinet E at Slides 141B and 142A and run thence North 40 degrees 11 minutes 38 seconds West for a distance of 1,900.04 feet to the POINT OF BEGINNING of the parcel of land herein described; from said POINT OF BEGINNING, run thence North 43 degrees 45 minutes 45 seconds West for a distance of 40.00 feet to a point; run thence North 46 degrees 14 minutes 15 seconds East for a distance of 121.50 feet to the Point of Curvature of a 1637.02229 degree curve bearing to the right having a central angle of 90 degrees 00 minutes 00 seconds and a radius of 3.50 feet; run thence southeasterly along the arc of said curve an arc length of 5.50 feet to the Point of Tangency of said curve; said curve having a chord bearing of South 88 degrees 45 minutes 45 seconds and a chord distance of 4.95 feet; run thence South 43 degrees 45 minutes 45 seconds East for a distance of 36.50 feet to a point; run thence South 46 degrees 14 minutes 15 seconds West for a distance of 125.00 feet to the POINT OF BEGINNING, containing 4,997.4 square feet, more or less.



**TAB 7**

**Scott Weeks Letter regarding Agreement of Cedarstone as to Conditions**



August 9, 2016

John H. Shows., Esq.  
Show & Smith Law Firm, PLLC  
2950 Layfair Drive, Ste 101  
Flowood, MS 39232

RE: Bradshaw Ridge/Cedarstone Commercial

Dear John:

In response to the proposed covenants you provided on July 22, 2016, my client is willing to agree on certain restrictions proposed therein but cannot agree to record those restrictions as covenants. We are willing to have the following restrictions included with the Commission's recommendations to the Board as follows:

A. To provide a buffer zone along and adjacent to the Bradshaw Ridge Part Two and Part Three as provided for on the plans we are seeking approval for;

B. The roof on the office warehouse buildings shall be a neutral color and the sides of the office warehouse buildings shall be a neutral color, either tan, light gray or an off white. The front of the warehouse building shall have a brick façade at least four (4) feet in height. The rollup doors on the front shall also be a neutral color. No building shall be more than one story in height.;

C. No part of the property shall be used as, or for:

1. a childcare facility which is adjacent to Bradshaw Ridge, Part III; one may be located on West Falon Road;
2. a business that produces loud music or outside activities that create noise.;
3. a liquor store.;
4. a restaurant for full service or fast food or casual dining.;
5. a cafeteria, delicatessen, coffee shop or coffee bar.;

6. the sale of beer, wine or alcoholic beverages of any type.;
  7. a convenience store or gas station.;
  8. a fireworks stand.;
  9. a billboard.;
- D. All trash dumpsters or bins shall be located away from the homeowners of Bradshaw Ridge Part Two and Part Three. (There shall be a brick façade around the dumpsters.)

Please review this with your client and if possible, please provide a response prior to the August 11, 2016 Commission meeting.

Sincerely,

RANDALL SEGRETT, WEEKS & REEVES, PLLC.



Jason E. Weeks

**TAB 8**

**Zoning File**



ORIGINAL

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF  
MADISON, STATE OF MISSISSIPPI

IN THE MATTERS OF REZONING OF  
CERTAIN LANDS SITUATED IN SECTION  
27 OWNERSHIP 8 NORTH, RANGE 2 EAST  
MADISON COUNTY, MISSISSIPPI

**APPROVED**  
BY MADISON COUNTY  
BOARD OF SUPERVISORS

Date 6/26/06  
Ronny Lott, Chancery Clerk

By Chalker DC.

SARTAIN ASSOCIATES, INC. PETITIONER  
PHILLIP NELSON, PETITIONER

PETITION TO REZONE AND RECLASSIFY REAL PROPERTY

Comes now Sartain Associates, Inc., a Mississippi Corporation, and Phillip Nelson, owner of the hereinafter described land and property, and files this petition with the Board of Supervisors of Madison County, Mississippi, to rezone and reclassify a tract or parcel of land situated in Section 27, Township 8 North, Range 2 East, Madison County, Mississippi, and more particularly described as follows, to-wit:

SEE ATTACHED EXHIBIT A

from its present Use District Classification of R1 to a C2 District, in support thereof would respectfully show as follows, to-wit:

1. The subject property consists of approximately 23 acres with two homes constructed on-site. Utilities served to site are water and sewer by Bear Creek Water Association, gas by Centerpoint Energy and electrical by Entergy.
2. Existing C-2 designations adjacent to subject parcel includes: two acres fronting Yandell Road in the NE corner of site, 8 acres East of site, a mini-storage facility North across Yandell Road and the Entergy sub-station West of site. A portion of the subject parcel is bordered to the North, East and South by Residential.

P.C. Action: Approved 6/8/06

3. Existing C-2 designations and the electric sub-station adjoining subject site, along with its access off Yandell Road render the property as undesirable for Residential purposes.

4. Use of subject property shall be for any as permitted under the C-2 Commercial designations for Madison County, Mississippi and subject to restrictions as designated by Restrictive Covenants to be recorded.

5. In order to insure, as reasonably as is possible, the development of a desirable commercial property, Restrictive Covenants shall be placed upon subject property as outlined in attached document, Exhibit F.

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that this petition be received, and after due consideration, the Board of Supervisors of Madison County will enter an order (amending the Land Use Plan) rezoning and reclassifying this property from its present R1 District classification to C2 District.

Respectfully submitted this the 25<sup>th</sup> day of April, 2006

  
Sartain Associates, Inc., President

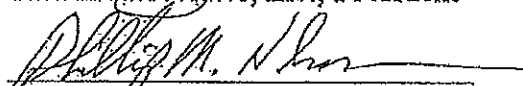
  
Phillip Nelson, Owner



EXHIBIT A  
PROPERTY DESCRIPTION

Tracts I, II & III  
Section 27, T8N, R2E  
Madison County, Mississippi

Tract I

A certain parcel of land lying and being situated in the NE  $\frac{1}{4}$  and the SE  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 27, Township 8 North, Range 2 East, Madison County, Mississippi, and being more particularly described by metes and bounds, to-wit:

Commencing at a concrete monument marking the southwest corner of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of said Section 27, thence N 89 degrees 54 minutes 18 seconds East along the line between the N  $\frac{1}{2}$  and the S  $\frac{1}{2}$  of said Section 27 a distance of 704.26 feet to the Point of Beginning of the property herein described; thence N 00 degrees 08 minutes 08 seconds West a distance of 1123.74 feet to a point in the centerline of Yandell Road; thence N 57 degrees 39 minutes 28 seconds East along the centerline of Yandell Road a distance of 549.0 feet to a point; thence South a distance of 755.32 feet to a point; thence East a distance of 55.4 feet; thence South a distance of 661.3 feet to a point on the aforesaid line between the N  $\frac{1}{2}$  and the S  $\frac{1}{2}$  of Section 27; thence S 89 degrees 54 minutes 18 seconds West along said line between the N  $\frac{1}{2}$  and the S  $\frac{1}{2}$  of Section 27 a distance of 516.66 feet to the Point of Beginning, containing 13.158 acres.

and

Tract II

A certain parcel of land lying and being situated in the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 27, Township 8 North, Range 2 East, Madison County, Mississippi, and being more particularly described by metes and bounds, to-wit:

Commencing at a concrete monument marking the southwest corner of the SE  $\frac{1}{4}$  of the NW  $\frac{1}{4}$  of said Section 27, and run North 89 degrees 54 minutes 18 seconds East along the line between the N  $\frac{1}{2}$  and the S  $\frac{1}{2}$  of said Section 27 a distance of 1210.92 feet to the point of beginning of the property herein described; thence North along the east line of a certain 13.158 acre tract a distance of 661.3 feet; thence East a distance of 790.24 feet; thence South a distance of 660.0 feet; thence South 89 degrees 54 minutes 18 seconds West along the said line marking the N  $\frac{1}{2}$  and the S  $\frac{1}{2}$  of said Section 27 a distance of 790.24 feet to the point of beginning, containing 11.985 acres.

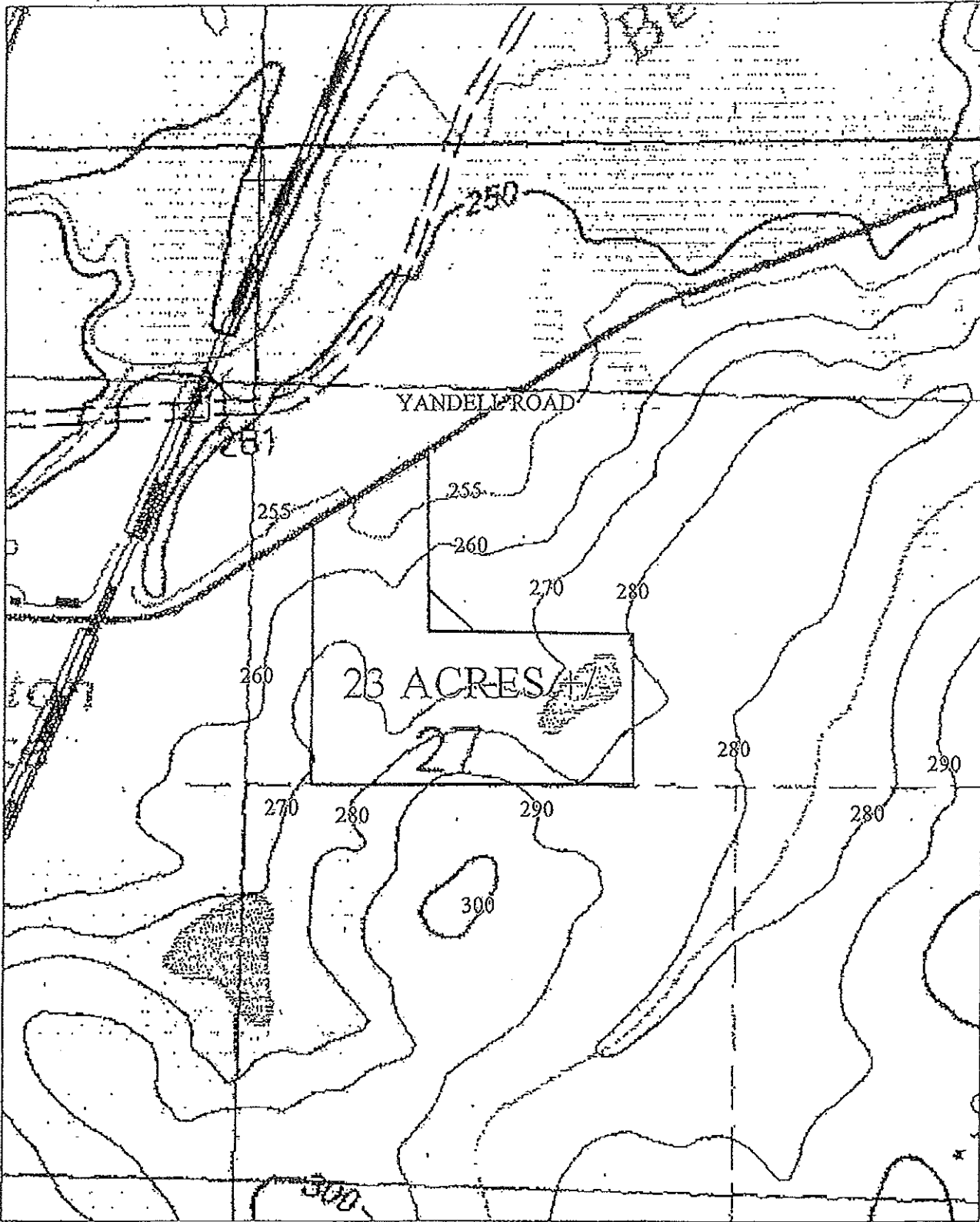
and

Tract III

A parcel of land lying and situated in the NE ¼ and in the NW ¼ of Section 27, Township 8 North, Range 2 East, Madison County, Mississippi being more particularly described as follows:

Commence at the SE corner of the NE ¼ of said Section 27 and run thence S 89 degrees 56 minutes 45 seconds W along the south line on the NE ¼ of said Section 27 for a distance of 5.00 feet to an iron pin; thence continue S 89 degrees 56 minutes 45 seconds W along said south line for a distance of 1938.80 feet to an iron pin; thence run N 0 degrees 00 minutes 00 seconds E for a distance of 660.00 feet to an iron pin; thence run S 90 degrees 00 minutes 00 seconds W for a distance of 645.65 feet to an iron pin which is the Point of Beginning of the parcel herein described. From the Point of Beginning continue thence S 90 degrees 00 minutes 00 seconds W for a distance of 200.00 feet to an iron pin; thence run N 0 degrees 00 minutes 00 seconds E for a distance of 200.00 feet to an iron pin; thence run S 45 degrees 00 minutes 00 seconds E for a distance of 282.84 feet to the Point of Beginning. This parcel contains 20,000 square feet of 0.46 acres, more or less.





3-D TopoQuads, Copyright © 1999 DeLorme Yarmouth, ME 04096 Source Data: USGS | 250 ft Scale: 1 : 6,400 Detail: 14-0 Datum: WGS84

NELSON PROP.  
SEZ. 27, T8N, R2E

## RESTRICTIVE COVENANTS

WHEREAS, Sartain Associates, Inc., a Mississippi Corporation, (herein after referred to as ("Declarant") is the owner and developer of the following described property located in Madison County, Mississippi, to wit:

See Exhibit "A", for a legal description of the subject property (the Property")

WHEREAS, the Declarant desires to make said Property to be a useful, economic and attractive property and, in order to accomplish said purpose, the said Declarant deems it advisable to place thereon a covenant running with said land;

NOW, THEREFORE, the undersigned Declarant hereby declares the Property shall be held, used and transferred subject to the following restrictive covenants:

### ARTICLE I

#### GENERAL PROVISIONS

##### 100. Purpose

100.01 The Property shall be established in order that there be an area within the community where it is deemed desirable to locate commercial and related operations. The purpose of these covenants is to govern the types of uses within the Property in order to protect Occupants, (hereinafter referred to as Owners, whether lessees or purchasers) and its neighbors against nuisance created by undesirable neighbors. Governing the use of the Property is accomplished by requiring all Owners to conform to certain performance standards based on measurable external nuisance, i.e., smoke, odor, noise, water and air pollution, etc.

100.02 The purpose of these covenants is to insure, as far as is reasonably possible, the development of a desirable commercial area, the preservation of property values, the increase of the aesthetic beauty, and the improvement of public acceptance of business which results from a high-quality commercial area. It is anticipated that the businesses locating in the area will follow the intent of these covenants. All real property shall be held, used and enjoyed subject to the limitations, restrictions and other provisions set forth herein.

##### 101. Duration of Covenants

101.01 Once recorded, these covenants shall be in effect until January 1, 2026 and run with the land. Any time prior to January 1, 2026, the Owners of a majority of the acreage within the Property may by a written declaration signed by them, change, alter, amend or extend such restriction, conditions and covenants as they desire, subject to the approval of the Madison County Board of Supervisors. Upon such approval, the written declaration shall be recorded in the Chancery Clerk's office provided, no change, alternation or amendment shall affect, invalidate, or make improper any usage or structure then in existence in conformity with these covenants.



## 102. Invalidation

102.01 Invalidation of any of these conditions, restrictions or covenants by a court of competent jurisdiction shall in no way affect any of the other provisions which shall remain in full force and affect.

## 103. Permitted Uses

103.01 Any use that is consistent with the C-2 zoning requirements of Madison County, Mississippi, as they exist now or as permitted elsewhere in this document; excepting prohibited uses, but no lot, land, premises, place or building shall be used and no building or structure shall be erected or placed which is arranged, intended or designated to be used for any purpose or business which is considered dangerous or unsafe, or which constitutes a nuisance, or which is noxious or offensive because of emission of dust, odor, gas, smoke, fumes or noise. No sound or odor shall be emitted from any part of the Property which is noxious or unreasonable or offensive to others. Without limiting the generality of the foregoing, no exterior speakers, horns, whistles, bells or other devices other than devices used exclusively for security, fire prevention or fire control purposes, shall be located or used on the Property except with the prior written approval of the owner successor.

## 104. Prohibited Uses

104.01 No land or building shall be used or occupied which does not conform to the standards set forth herein. In addition, the following uses are specifically prohibited;

104.01-01 Commercial cemeteries and Crematoriums.

104.01-02 Commercial incineration.

104.01-03 Junkyards or salvage yards.

104.01-04 Rubbish, garbage or trash dumps.

104.01-05 Drive in movie theaters, or above-ground sewage and water treatment plants

104.01-06 Amusement parks, Tattoo Parlors, and Adult Entertainment Facilities.

104.01-07 Automobile repair shops and body shops, except in cases where all vehicle storage is enclosed in a fenced area behind the shop areas. All vehicles stored shall be for the purposes of repair and release. Storage of abandoned vehicles or vehicles stored simply for the use of that vehicle's parts is prohibited. All vehicles must be repaired and returned to the owner within thirty (30) days of completion of repairs.

104.01-08 Any business or activity deemed illegal by the local governing law enforcement agency.

~~104.01-09~~ Mini-storage facilities are specifically prohibited.

~~104.01-10~~ No flashing signs shall be allowed on the Property.

~~104.01-11~~ Signs shall be submitted to the necessary governing authority for approval prior to installation.

## ARTICLE II

### 200. Approval of Plans and Specifications

200.01 The Declarant or its Assigns reserves the right to approve the architectural and engineering plans for the structures as well as the site plans to ensure compliance with these covenants and designated building codes. No construction or modification for existing construction shall be allowed to proceed prior to this approval. All plans and specifications shall be prepared under the direction of a professional engineer and/or architect registered in the State of Mississippi and shall bear his seal.

200.02 Prior to construction or alteration of any building or improvement on a building lot, two (2) sets of site plans and specifications for such building or alteration shall be submitted to the Declarant or its nominee. Written approval of such plans by the Declarant shall be proof of compliance. The site plan shall be drawn to a scale not greater than one (1) inch equals fifty (50) feet and shall show the following:

200.02-01 All lot line dimensions.

200.02-02 Building setback, side line and rear yard distances.

200.02-03 Location of off-street parking areas with dimensions showing parking spaces, access, drives, traffic circulation, and the location and description of any lighting in connection with the parking area. This includes the location and dimensions of all loading and unloading docks and area.

200.02-04 Location and description of all proposed signs.

200.02-05 Types of surfaces, paving and curbing.

200.02-06 Storm drainage facilities and means of disposal of storm water.

200.02-07 All landscaping, fences, walls or similar facilities to be provided. All lots adjoining any Residential designation shall be landscaped with trees and/or shrubs that are fast growing so as to provide a dense buffer. Said buffer shall meet the minimum rear setback requirement as per the Madison County Zoning ordinance.

200.02-08 Location of all structures within one hundred (100) feet of a property line.

200.02.09 The specific types of material to be used in construction.

200.02.10 Outside lighting plan. All lots shall provide outside lighting that shall be directed away from any adjoining Residential designation so as not to be a nuisance to said adjoining property.

200.03 If the site plan is rejected by the Declarant or its nominee, the applicant shall remedy any and all objectionable items in the plan prior to further consideration.

#### 201. Required Condition

201.01 Setbacks Setbacks shall comply with zoning requirements of the County as they exist now and as to any future building as said zoning requirements may exist in the future.

201.02 Trees Each Owner of the property shall exert its best efforts to preserve the natural beauty of its respective property and, in this regard, shall not needlessly destroy or remove live trees, other than those in an area where construction will take place. Where possible, at parking lots or entrances, trees and shrubs shall be provided by the Owner.

201.03 Commencement of Construction Each Owner shall begin construction within the time period agreed upon in writing by the Owner and Declarant, and once construction has begun or commenced, such Owner shall continue construction to completion in a timely manner.

201.04 Front Elevation Materials Front and side elevations facing the street shall be constructed solely or a combination of brick, architectural block, masonry or synthetic stucco, wood siding, or other materials as may approved by Declarant upon Architectural Review. Metal siding is specifically prohibited.

201.05 Outside Storage All outside storage areas shall be fenced to a minimum height of six (6) feet and a maximum height of eight (8) feet, and all such fencing shall be of a type to provide solid screening. No fence shall be allowed without Declarant's or its successor's approval.

202.01 All of the following minimum standard must be complied with:

202.01-01 Fire and Explosion Hazards All activities shall be carried on only in structures which conform to the National Board of Fire Underwriters' standards concerning the plan operation and storage of explosive raw materials, fuels, liquids, and

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finished products. No activity shall be conducted on and no improvement shall be constructed on any of the Property which is or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no radiation or toxic substances shall be created on or emitted from the Property, no firearms shall be discharged upon the Property and no open fires shall be lighted or permitted on the Property.

202.01-02 Smoke, Fumes, Gases, Dust Odors There shall be no emission of any smoke, fumes, gas, dust or odors. These and any other atmospheric pollutant which are noxious to the human senses to the boundaries of the lot occupied by the emitter are prohibited. In any case, the limits of such emission of air pollutants shall be subject to the approval of the Mississippi Department of Environmental Quality.

202.01-03 Vibration There shall be no vibration which is discernable on the human sense of feeling beyond the immediate site on which such activity is conducted.

202.01-04 Maintenance No property herein shall be permitted to fall into disrepair, and all property, including any improvements and landscaping thereon, shall be kept and maintained by the Owners thereof in a clean, safe, attractive and aesthetically pleasing condition, not visibly in disrepair or lacking exterior paint, with windows glazed and paving swept. Any building which is vacant for any reason shall be kept locked and the windows shall be glazed in order to prevent entrance by vandals. All grounds shall be maintained in a safe, clean and neat condition free of rubbish and weeds. Lawns shall be kept in a mowed condition. Roads and pavements shall be kept in good repair. Drainage systems shall be kept clean and free of obstacles. Parking areas, lighting and signage shall be kept clean and in good repair. To the extent reasonably possible, all plantings shall be maintained in a healthy condition. Dead or dying plants shall be removed as quickly as possible, and, subject to seasonal limitations, replaced as quickly as possible, and in any event within thirty days after notification from the Declarant or its successor.

202.01-05 Garbage and Trash No refuse, garbage, trash or scrap lumber or metal; and no grass, shrub or tree clippings; and no plant waste, compost, bulk materials or debris of any kind shall be kept, stored or allowed to accumulate on the Property except within an enclosed structure or container approved by the Declarant or its successor or unless appropriately screened from view, in a manner acceptable to the Declarant or its successor.

202.01-06 Temporary Structure No temporary structure or temporary building shall be placed on any Property except with the prior written consent of the Declarant or its successor in each instance.

202.01-07 Antennas, Aerials and Dishes No exterior radio antenna or aerial, television antenna or aerial, microwave antenna, aerial or dish, or other antenna, aerial, dish or similar facility of any type shall be erected or maintained on the Property (specifically including any site) without the prior written approval by the Declarant or its successor of the location of and screening for any subject object.

202.01-08 Resubdivision Any lot may be resubdivided so long as subdivided parcels meet the minimum lot size of one half acre as required by Madison County for C-2 zoning designation.

ARTICLE II

300.01 The terms and conditions set forth in these restrictive covenants shall apply upon the sale or lease of property by the Declarant. If at such time the Declarant no longer has any ownership or leasehold interest in the Property, any responsibilities or duties of the Declarant under these covenants shall be delegated to a Development Review Committee to be established by the Owners of the Property.

ARTICLE III

400.01 Enforcement. Enforcement of these Covenants may be made by any Owner by a suit at law or in equity. The defaulting party shall be responsible for a reasonable attorney's fee and all court costs.

IN WITNESS WHEREOF, the Declarant has caused these Restrictive Covenants to be created this \_\_\_\_ day of \_\_\_\_\_, 2006.

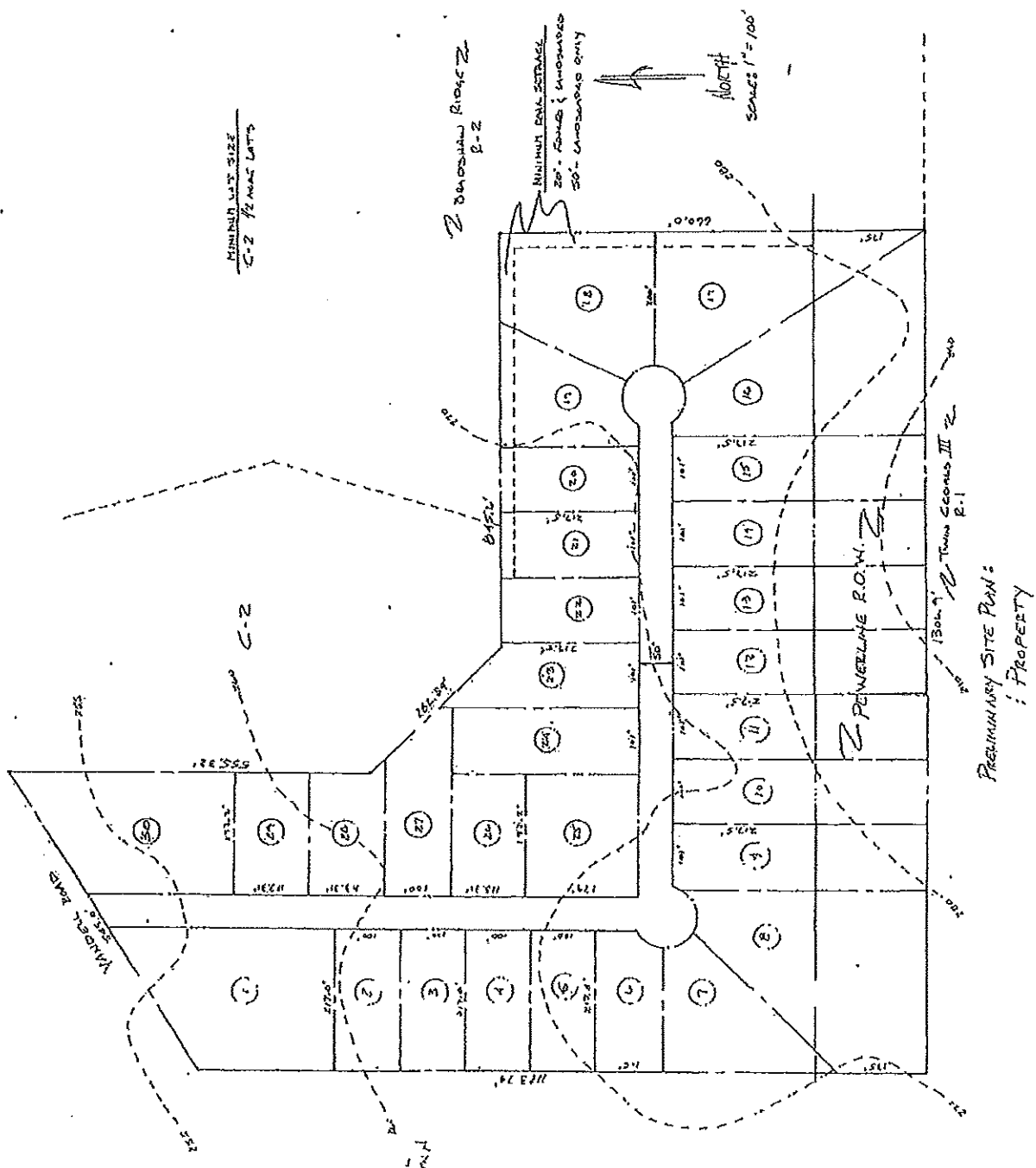
SARTAIN ASSOCIATES, INC.

By: \_\_\_\_\_  
President

STATE OF MISSISSIPPI

COUNTY OF MADISON

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the said county and state, on this \_\_\_\_ day of \_\_\_\_\_, 2006, within my jurisdiction, the within named \_\_\_\_\_, who acknowledged that he is the \_\_\_\_\_ of Sartain Associates, Inc. and that for and on behalf of the said Corporation and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said corporation so to do.



STATE OF MISSISSIPPI  
MADISON COUNTY

I, Ronny Lott, Chancery Clerk of the above named County and State, do certify that the foregoing instrument is a true and correct copy of the original.

Witness my signature and seal of court

This the 14 day of April 2016

RONNY LOTT, Chancery Clerk

By \_\_\_\_\_



. MINUTES OF A REGULAR MADISON COUNTY PLANNING AND ZONING COMMISSION  
HELD AND CONDUCTED ON THURSDAY, THE 8<sup>th</sup> DAY OF JUNE, 2006 AT 9:00 A.M. AT  
THE MADISON COUNTY COURTHOUSE

---

BE IT REMEMBERED that a regular meeting of the Madison County Zoning Commission was duly called, held and conducted on Thursday, the 8<sup>th</sup> day of June, 2006, at 9:00 a.m. in the Madison County Courthouse.

Present: Brad Sellers, Zoning Administrator  
Rev. Henry Brown  
Rev. Bennie Lockett, Chairman  
Sidney Spiro  
Steven Steen  
Lisa Walters

Absent: None

There first came on for consideration the minutes of the May 18, 2006 meeting. Upon motion by Commissioner Steen, seconded by Commissioner Spiro, with all voting "aye", motion to approve the Minutes, passed.

There next came on for consideration the Petition of J. Parker and Jennifer Sartain for petition to rezone A-1 Agricultural to R-1B District. Attached hereto as Exhibit "A" is a copy of correspondence from John Brunini to the Planning Commission attorneys regarding the proposed zoning matters pertaining to Annandale North Subdivision. The letter requested that the Planning and Zoning Department table any and all petitions seeking rezoning of this property during the pendency of the judicial process concerning the re-subdivision of the Annandale North Subdivision. It was recommended by the attorneys for the Commission that the matter be tabled until such time as the Madison County Chancery Court could decide any issues related to replatting the subdivision of Annandale North Subdivision. Commissioner Steen voiced his agreement with this recommendation. Chairman Lockett inquired as to whether there would be any impact from tabling this Petition twice based on prior precedent of the Planning Commission to which Zoning Administrator Sellers informed the Commission that he did not see any problem with this recommendation due to the fact that the Petitioner showed up at both meetings. Upon motion by Commissioner Walters, seconded by Commissioner Steen, with all voting "aye", motion to indefinitely table the Petitions of J. Parker and Jennifer Sartain and William Odom/John and Barbara Christmas until such time as the Madison County Chancery Court has resolved the issue of replatting Annandale North Subdivision, passed.

There next came on for consideration the Petition of Everwood Properties for a variance to setbacks in a PUD. The subject property was located in Hartfield Subdivision at 139 Hartfield Drive. Zoning Administrator Sellers informed the Commission that the Petitioner was requesting a variance to a side and rear setback due to the fact that front lot pins were disturbed by the installation of utilities and were subsequently not replaced correctly. This Petition was presented at the May 18, 2006 meeting and was tabled due to the fact that no one appeared on behalf of the Petitioner. Again, no one appeared at the June meeting on behalf of the Petitioner. Zoning Administrator Sellers informed the Commission that he notified the Petitioner twice in writing. He also stated that none of the letters had been returned and he had received no telephone calls from the Petitioner. Upon motion by Commissioner Spiro, seconded by Commissioner Steen, with all voting "aye", motion to recommend denial of the Petition due to the fact that the Petitioner failed to appear at two consecutive meetings, passed.

There next came on for consideration the Petition of Louis B. Gideon for permission to rezone R-1 Residential to C-1 Commercial District located on Gluckstadt Road. According to Zoning Administrator Sellers, the Petitioner wishes to rezone the property to C-1 Commercial, which is in compliance with the adopted Land Use Plan. Bruce Payne appeared on behalf of the Petitioner as the potential end user of the property. He stated that there were no immediate plans for development. The Petitioner stated that he would purchase the property under commercial zoning so that he could utilize it as a best use in the future. Zoning Administrator Sellers confirmed with Mr. Payne his understanding that a site plan would have to be presented before the Planning Commission before development can proceed. Commissioner Spiro inquired as to whether there was any opposition to which Zoning Administrator Sellers informed the Commission that he received no telephone calls in opposition. 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 Sartain Associates, Inc. for permission to rezone R-1 Residential to C-2 Commercial on Yandell Road. Zoning Administrator Sellers informed the Commission that the property consisted of approximately 23 acres and that utilities would be provided by Bear Creek Subdivision. Parker Sartain appeared on behalf of the Petitioner and stated that it was his intent to develop a commercial subdivision. The property is currently owned by Phillip Nelson, and two acres of the total property is already zoned C-2. Mr. Sartain informed the Commission that the property is adjacent to Wildwood Subdivision, Bradshaw Ridge, and Twin Cedars. He also informed the Commission that Entergy has a transmission line close to the subject property and that he understands that setback requirements will be in place due to this fact. He also stated that the surrounding property is heavily wooded, but it is his intent to plant additional screening if Entergy would allow him to do so. He also informed the Commission that the Bradshaw Ridge property line was already fenced with a six foot wood fence. Commissioner Spiro inquired as to whether this was in compliance with the Land Use Plan, to which Zoning Administrator Sellers stated that the Land Use Plan would have to be amended due to the fact that it reflects residential zoning. Upon motion by



Commissioner Steen, seconded by Commissioner Brown, with all voting "aye", motion to recommend approval with the appropriate amendments to the Land Use Plan, passed.

There next came on for consideration the Petition of Betsy Kendrick, Louise Hubbs, and Robert Hubbs for permission to rezone C-1 Commercial to R-2 Residential on Lake Castle Road. Zoning Administrator Sellers informed the Commission that the Petitioners wished to rezone this property to R-2 Residential, which is in compliance with the adopted Land Use Plan so that a residence could be constructed. Betsy Kendrick appeared on behalf of the Petitioners and informed the Commission that it was her intention to build a house on the property once the proper zoning was obtained. 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 consideration the Petition of Grace Fellowship for a special exception for a church in an R-1 Residential District. Reverend Daniel Crane appeared on behalf of the Petitioner and presented a site plan that covered a 4 acre tract. Commissioner Walters inquired as to whether there was any opposition to which Zoning Administrator Sellers stated that he had received some calls in opposition to the Petition. The Petitioner stated that Grace Fellowship is a home missions church that is a part of the Mississippi Assemblies of God. They are seeking an exemption for 4 acres on Church Road, which will provide them with the opportunity to construct a 10,000 to 11,000 square foot building. A site plan was developed by Nolan Williamson on behalf of Grace Fellowship. Zoning Administrator Sellers inquired of the Petitioner as to whether the building contained on the building plans presented before the Commission would be built if the Petition was approved. The Petitioner stated that there would be no temporary buildings, as they will use rented facilities until the building is completed. Commissioner Spiro inquired as to the current number of the congregation to which the Petitioner stated that there was approximately 30 members at this time. In opposition, Jennifer Menninger appeared and expressed her concerns with traffic issues in the area, as it was her contention that Church Road is not properly equipped or ready for any additional traffic. In addition, Becky Jenkins appeared in opposition to the Petition and stated that she lives across from the proposed church. She presented a Petition of approximately 35 people in opposition, a copy of which is attached hereto as Exhibit "B". She stated that she was against the location, as it forces traffic through residential neighborhoods in order to get to the church. Also, Deborah Bennett appeared in opposition. Ms. Bennett lives in the area and stated that this area is a residential neighborhood and feels it should stay residential. In addition, she expressed concerns with increased traffic on Church Road. Rene Brown appeared in opposition to state that Church Road is too narrow to support additional traffic. She informed the Commission that her mailbox has been taken down 4 times, her yard is flooding, and her culvert has had to be replaced 3 times due to traffic concerns on Church Road. She also stated that she does not feel that there will be enough parking to accommodate the congregation of this Church and that this will create an additional problem due to the limited size of the subject property. Jeff Turbville also appeared in opposition. He is an adjacent landowner who stated that he had no problem with the Church. But, he expressed some concerns that

this is a residential area and that the Church is not in compliance with the Land Use Plan. He is afraid that this will open the door for other future uses that are not in compliance with the Land Use Plan or a residential neighborhood. Commissioner Steen inquired of Ms. Brown as to the cause of the increased traffic. Rene Brown stated that Bell South has created a lot of traffic in the area in addition to other cars from other neighborhoods in the surrounding area. David Cox appeared on behalf of the Church and represented the landowner. He stated that bad homeowners drive property values down, not churches. He also stated that churches bring positive changes to neighborhoods and that those in opposition should take that into consideration. Nancy Dorman also appeared in opposition. She stated that everything in the area is residential and that the current church that is already in the area does not affect traffic on Church Road due to its Gluckstadt Road access. She also stated that this was considered by the Planning Commission in the past as a protected overlay district and that she would like to see the Planning Commission take up this consideration again. Also, she stated her concerns with traffic in the area in addition to protecting the area as a residential neighborhood. Commissioner Walters inquired of Reverend Crane as to why they selected this property to which Reverend Crane informed the Commission that the property was the right size and fell in the price range that Grace Fellowship could afford. Commissioner Spiro inquired of the Petitioner as to whether the financing was in place for the Church to be built to which the Petitioner stated that they are in the process of finalizing the financing issues. He also stated with regard to the parking issue that they had built a church in Cleveland, Mississippi on 4 acres and have ample parking to support those in the congregation who attended. Reverend David Warren, Pastor of River of Life Church in Brandon, appeared in support of the Petition and stated that one of the desires of the Church is community. He feels that the Church would help, encourage, and bless the area and community and feels that it would be an asset to the neighborhood. He also stated that the City of Madison previously approved a 600 seat auditorium and that the facility had enough parking for its congregation. However, Reverend Warren also stated that due to additional restrictions the City of Madison placed on the Petition, the plans to build the auditorium were aborted. Commissioner Steen inquired as to the location of this auditorium to which Reverend Warren stated that it was by the Madison Airport. Pam Menninger also appeared in opposition and expressed her concerns with the traffic in the area and the strain on Church Road that this Church will add. She also, like the others, expressed concerns with the residential aspect of the neighborhood and her intent that this characteristic stay the same. Commissioner Steen stated for the record that he feels the need for additional time to look into the issues that have been raised by those in opposition and to investigate the Petition in more detail. Commissioner Spiro stated for the record his agreement with Commissioner Steen. Commissioner Walters and Commissioner Brown also stated that they were in favor of tabling the matter so that they could conduct additional investigation. Upon Motion by Commissioner Brown, seconded by Commissioner Spiro, with all voting "aye", motion to table the Petition, passed.

At this time in the meeting Chairman Lockett excused himself and Commissioner Steen took over responsibilities of Chair.

There next came on for consideration the Petition of Judy Hutchinson for a special exception to sell fireworks in a C-2 District. According to Zoning Administrator Sellers, the Petitioner has used these locations for several years and, due to recent changes in the zoning ordinance, this activity must now be considered as a conditional use. Judy Hutchinson appeared on behalf of the Petitioner and stated that she needs permission to sell fireworks every year for the 4<sup>th</sup> of July, Christmas and New Year's Holidays. No one appeared in opposition. 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 consideration the Petition of Glorestine Anderson for permission for a variance in an R-3 Residential District. According to Zoning Administrator Sellers, the Petitioner engaged a contractor to add onto her existing house, and he misled her by saying that he had the appropriate building permits when he did not. What has been constructed for the Petitioner has encroached into the side yard 5.5 feet and 10 feet into the front yard. Commissioner Steen inquired as to who was the contractor, to which the Petitioner stated that his name was Allen Black. For the record and for the benefit of the Planning Commission, the Petitioner stated that her address was recorded incorrectly, and she corrected the address as 403 Sugar Hill Street. With no one appearing in opposition, upon Motion by Commissioner Brown, 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 site plan of A. D. Chandon/JJ International, LLC for a convenience store and restaurant at Old Jackson Road and West Sowell intersection. The property is currently zoned C-2 Commercial. Alton Clingan appeared on behalf of the Petitioner. Mr. Clingan is with Clingan & Associates, and he presented the site plan to the Commission. The Petitioner stated that a stone water retention is being developed by the property owners. Commissioner Walters inquired as to the landscape plan, to which the Petitioner stated that the full landscape plan has not been completed, but the area is designated as such on the site plan. He also stated that although there is no direct access to Old Jackson Road, there is a new proposed street that is being developed. Zoning Administrator Sellers inquired as to whether the proposed street would be built to which the Petitioner stated that it would, as the dirt work has already been done and culverts have already been installed. Commissioner Walters inquired of Sellers as to whether the Commission would need to see the landscape, to which Zoning Administrator Sellers informed the Commission that it is not necessary at this time but he will request the landscape plan be presented to the Commission when it is completed. Upon motion by Commissioner Walters, 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 issue of setting the special June, 2006 meeting in addition to the July, 2006 meeting. Upon motion by Commissioner Walters, seconded by Commissioner Brown, with all voting "aye", motion to set the special called meeting for June 16, 2006 and the July meeting for July 13, 2006, passed.

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

With there being no further business, the meeting adjourned at 10:30 a.m.

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Date

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(Chairman)

the matter carried by the unanimous vote of those present and said findings were and are hereby made, said road was and is hereby abandoned, and the Road Manager was and is hereby directed accordingly.

SO ORDERED this the 26<sup>th</sup> day of June, 2006.

*In re: Approval of Consent Agenda Items*

WHEREAS, the Board President did announce that he and County Administrator Donnie Caughman had conferred in advance of the meeting as to certain matters denominated "Consent Items" which bear Item numbers (4) through (14) on the Agenda and that the same appeared to be routine, non-controversial matters on which all Supervisors were likely to agree, and

WHEREAS, the Board President did explain that any Supervisor could, in advance of the call of the question, request that any item be removed from the Consent Agenda, and

WHEREAS, the following items were taken up as "Consent Items," to-wit:

(4) Approval of Petition for Reduction of Assessment - Real Property 2005

That certain Petition for Reduction of Assessment pertaining to parcel no. 081A-11-026, in the amount of \$25,509.00 a true and correct copy of which is attached hereto as Exhibit D, spread hereupon and incorporated herein by reference was and is hereby approved

(5) Approval of Zoning Matter - Louis B. Gideon Petition to Rezone R-1 to C-1/Gluckstadt Road

The action of the Madison County Planning and Zoning Commission taken on June 8, 2006 rezoning a 5.44 acre parcel of land situated in section 20, T8N, R2E from R-1 to C-1 on Gluckstadt Road at the request of Bucky Gideon was and is hereby acknowledged and approved.

✓ (6) Approval of Zoning Matter - Sartain and Associates Petition to Rezone R-1 to C-2/Yandell Road

The action of the Madison County Planning and Zoning Commission taken on June 8, 2006 rezoning a 23 acre parcel of land situated in section 27, T8N, R2E from R-1 to C-2 on Yandell Road at the request of Sartain Associates, Inc. was and is hereby acknowledged and approved.

(7) Approval of Zoning Matter - Betsy Kendrick, Robert Hubbs and Louise Hubbs Petition to Rezone C-1 to R-2/Lake Castle Road

The action of the Madison County Planning and Zoning Commission taken on June 8, 2006 rezoning a 2 acre parcel of land situated in the southeast quarter of the northeast quarter of section 15 of T7N, R1E from C-1 to R-2 on Lake Castle Road at the request of Betsy Kendrick, Robert Hubbs and Louise Hubbs was and is hereby acknowledged and approved.

(8) Approval of Zoning Matter - Judy Hutchinson Petition for Special Exception to Sell Fireworks in the C-2 District/Weisenberger Road

The action of the Madison County Planning and Zoning Commission taken on June 8, 2006 to grant a special exception to Judy Hutchinson to sell fireworks in a C-2 district on Weisenberger Road was and is hereby acknowledged and approved.

President's Initials: \_\_\_\_\_

Date Signed: \_\_\_\_\_

For Searching Reference Only: Page 6 of 14 (06/26/06)

(9) Approval of Zoning Matter - Glorestine Anderson Petition for Variance to Side and Front Setback/Sugar Hill Street

The action of the Madison County Planning and Zoning Commission taken on June 8, 2006 to grant a variance to side and front setbacks to Glorestine Anderson as to certain property owned by her on Sugar Hill Street to allow for an addition to an existing mobile home was and is hereby acknowledged and approved.

(10) Approval of Contract Agreement - Management Analysis Incorporated/Road Department Performance Review

That certain Contract Agreement No. 574.01-01, a true and correct copy of which may be found in the Miscellaneous Appendix to these Minutes between Madison County, Mississippi and Management Analysis, Inc. in the amount of \$36,500.00 was and is hereby approved and the Board President was and is hereby authorized and directed to execute the same.

(11) Authorization of Request for Payment - CDBG Creative Logistics Project

Requisition No. 7 in the amounts of \$1,850.00 to Williford Gearhardt and Knight, engineers, \$12,310.14 to Bulldog Construction, and \$2,500 to Sample & Associates, Inc. was and is hereby approved and the Chancery Clerk was and is hereby authorized and directed to issue the appropriate pay warrants accordingly. A true and correct copy of said Requisition No. 7 together with the attachments thereto may be found in the Miscellaneous Appendix to these Minutes.

(12) Authorization for Just Compensation - Richton Road Project

Just compensation for parcels 3 and 5 of property owned by Leah Clark Warren et al, comprising 1.58 acres and .15 acres respectively was and is hereby established as \$15,800 for parcel 3 and \$1,500 for parcel 5 as set forth in that certain undated memorandum from Woody Sample, a true and correct copy of which is attached hereto as Exhibit E, spread hereupon and incorporated herein by reference, and the Chancery Clerk was and is hereby authorized to issue a pay warrant upon the execution of the necessary conveyance documents.

(13) Acceptance of Term Bids - Erosion Control

The one year term bids for erosion control as recommended by County Purchase Clerk Hardy Crunk as per the memorandum dated June 21, 2006 and the attachment thereto, a true and correct copy of which may be found in the Miscellaneous Appendix to these Minutes, were and are hereby awarded as set forth therein both as to primary and first alternate.

(14) Approval of Utility Agreement

The following permit allowing use and occupancy for the construction or adjustment of a utility within certain roads or highway rights of way was and is hereby approved, and a copy thereof may be found in the Miscellaneous Appendix to these Minutes:

- (1) Entergy - seeking to upgrade a power line down 1 mile of Hickory Road and 2/10 mile down Aaron Lane in order to serve new parts of Bridgewater Subdivision.

Thereafter, Mr. Douglas L. Jones did offer and Mr. Paul Griffin did second a motion to approve, adopt and authorize each of the above and foregoing matters, the same being numbered Items (4) through (14) on the agenda hercof. The vote on the matter being as follows:

Supervisor Douglas L. Jones	Aye
Supervisor Tim Johnson	Aye
Supervisor Andy Taggart	Not Present and Not Voting
Supervisor Karl M. Banks	Aye

President's Initials: \_\_\_\_\_

Date Signed: \_\_\_\_\_

For Searching Reference Only: Page 7 of 14 (06/28/06)

Supervisor Paul Griffin Aye

the matter carried by the unanimous vote of those present, and each item was and is approved, adopted and authorized.

SO ORDERED this the 26<sup>th</sup> day of June, 2006.

*In re: Renewal of Property and Casualty Insurance*

WHEREAS, Mr. Jason Young of the Bottrell Insurance Agency did appear before the Board and reported that Zurich Insurance Company and Travelers/St. Paul had submitted quotes for the placement of all lines of property and casualty insurance for the county, and

WHEREAS, Mr. Young and other representatives of Bottrell Insurance reviewed each quote in detail with the Board and reported a substantial reduction in premiums due, in part, to efforts at negotiation with Zurich, and

WHEREAS, Mr. Young recommended the Board renew all lines of insurance currently in force and effect with Zurich Insurance Company due to the lower price,

Following discussion, Mr. Karl M. Banks did offer and Mr. Douglas L. Jones did second a motion to approve the renewal of all lines of insurance coverage currently in force and effect with Zurich Insurance Company in accordance with those certain materials submitted by Bottrell in a certain white bound booklet together with a premium summary tally sheet, a true and correct copy of all of which may be found in the Miscellaneous Appendix to these Minutes. The vote on the matter being as follows:

Supervisor Douglas L. Jones	Aye
Supervisor Tim Johnson	Aye
Supervisor Andy Taggart	Not Present and Not Voting
Supervisor Karl M. Banks	Aye
Supervisor Paul Griffin	Aye

the matter carried by the unanimous vote of those present and County Administrator Donnie Caughman and the county's agent of record were and are hereby directed to place such coverage forthwith.

SO ORDERED this the 26<sup>th</sup> day of June, 2006.

*In re: Approval of Change Orders – CDBG Creative Logistics Project*

WHEREAS, Mr. Robert E. Anderson, Jr. an engineer with the firm Williford Gearhart & Knight Inc. did appear before the Board and presented Change Order No. 2 in the amount of +\$6,280.89 representing costs to lower an existing drain pipe, and Change Order No. 3 in the amount of --\$41,503.82 representing a final quantities adjustment for the project and requested the approval thereof,

Following discussion, Mr. Douglas L. Jones did offer and Mr. Karl M. Banks did second a motion to authorize and approve said Change Orders and authorize and direct the Board President to execute the same. The vote on the matter being as follows:

Supervisor Douglas L. Jones	Aye
Supervisor Tim Johnson	Aye
Supervisor Andy Taggart	Not Present and Not Voting
Supervisor Karl M. Banks	Aye

President's Initials: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

*For Searching Reference Only: Page 8 of 14 (06/26/06)*

**MINUTES OF THE MEETING OF THE MADISON COUNTY  
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 11<sup>th</sup> DAY OF AUGUST, 2016 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 11<sup>th</sup> day of August, 2016 at 9:00 a.m. in the Board Room of the Madison County Chancery and Administrative Building.

Present:       Walter McKay  
                  Larry Miller  
                  Dr. Bill Howard  
                  Don Drane  
                  Rev. Henry Brown  
                  Scott Weeks, Planning and Zoning Administrator

The meeting was opened with prayer by Commissioner Brown, and those present participated in pledging allegiance to our flag.

There first came on for consideration the minutes of the July 14, 2016 meeting of the Commission. Upon motion by Commissioner Howard to approve the minutes, seconded by Commissioner Brown, with all voting "aye," the motion to approve the July 14, 2016 minutes passed.

There next came on for consideration the public hearing for the petition of Brad Pepper for a special exception to excavate a four (4) acre or less mining operation. The property is zoned A-1 Agricultural. This property is located at 1331 Livingston Vernon Rd near Flora, MS. Mr. Pepper was present and stated that this is to lower the elevation of their future home for privacy purposes. He stated that they intend to use some of the dirt and sell/haul the other part to help offset the cost. Norman Gainey with Gainey Construction also appeared and stated that the weather would play a factor on how long this project would take. Dr. Howard stated that his concern was for safety given this was a 2-lane road and he wanted to see the hours of operation limited. Mr. Pepper stated that they would have flag men present as necessary and would have irrigation to help settle any dust in the area. He stated that they would place the entry/exit route in a visible location off the road and would have someone present cleaning the roads as necessary. He stated that the neighbors do not have any objection to the project. He explained that this would be for the first phase and then they intend to do a pond in the future.

Zoning Administrator Weeks explained that this was a one year special exception only and if the mining went beyond that time frame or beyond four (4) acres, they would have to start the process for another special exception. Mr. Pepper agreed to limit the hours of operation to daylight hours only of 8:00 am to 2:00 pm, and after 4:00 pm, and no Sunday operations. Mr. Pepper further explained that a DEQ permit would be applied for in the future when they began to work on the pond. Zoning Administrator Weeks explained that any bond would be up to the Madison County



Engineer. Upon motion by Commissioner Howard to approve the petition subject to the limited hours of operation and flag men present as necessary for traffic safety, seconded by Commissioner Drane, with all voting "aye," the motion to approve the special exception passed.

There next came on for consideration the public hearing for the petition of Charles Gowdy for a conditional use to sell pre-owned vehicles. The property is located on Distribution Drive next to Camper Corral. A site plan is included with petitioner's materials. Mr. Gowdy appeared on behalf of the petition and stated that he is from the Canton area and his family owned a jewelry business there for many years. He currently has his pre-owned vehicle business in Jackson, MS and would like to re-locate closer to home because he lives in Madison County. He said they had conducted a lot of research in the area and this location was deemed best suited for this type of business because of the C-2 Commercial zoning, the visibility from the Interstate, and the current businesses already located in the area. He produced a letter from Camper Corral stating that they were in support of the business, attached hereto as Exhibit "A."

Leslie Ledbetter addressed the Commission next and she is the sister and office manager for the business. She stated that they currently produce \$18,000 to \$28,000 in sales tax so they would increase the tax base for the county. She stated that there were out of growing room in their current location and that they intend to add jobs in Madison County. She stated that they were working with Greg Ainsworth, a local architect, and that the business plans were of good quality and would be an improvement to the area. The exact location of the business was discussed and Mr. Gowdy produced an aerial map showing the location which is attached hereto as Exhibit "B." Mr. Gowdy stated that the access to this location would be off of Distribution Drive and that the County was in the process of finishing the roadway off which their access would be located. Commissioner Miller inquired about the lighting and Mr. Ainsworth stated that all lighting would be downward facing.

Lisa Williams addressed the Commission next and stated that she is a resident of Germantown Subdivision in Gluckstadt and she has traffic/safety concerns for the construction phase with trucks coming onto and off the roadway and inquired if traffic could be limited during high traffic times. In response to citizen Williams' request for limited traffic, Commissioner Drane stated that the same road was used by heavy trucks (18 wheelers) hauling steel headed into and out of the Majestic Metals facility located on a parcel to the south of the proposed facility and those trucks have apparently caused no traffic issues for nearby businesses. Mr. Gowdy explained that they would build the dealership first which would take at least six (6) months to complete and then the shop. Commissioner McKay stated that he was happy with the materials to be used on the buildings. He further stated that under the ordinances, he didn't think it was appropriate for hours of operation to be limited in this situation. Upon motion by Commissioner Miller to approve the special exception and site plan, seconded by Commissioner Howard, with all voting "aye," the motion to approve the special exception and site plan passed.

There next came on for consideration the petition for a site plan for a new office park located on Highway 51. Greg Ainsworth as the architect for the project and appeared on behalf of the petition, in addition to Matthew Miller who is the engineer for the project. A discussion was had regarding the location of the business and Mr. Ainsworth produced an updated site plan for the property which is attached hereto as Exhibit "C." Commissioner McKay inquired

regarding the width of the entrance and Mr. Ainsworth explained once they went through the platting process, they will come back before the Board for final approval. The entrance would have to comply with recommendations by the County Engineer pursuant to the Madison County subdivision ordinances. He confirmed that water/sewer would be provided through Bear Creek. Upon Motion by Commissioner Drane to approve the site plan; seconded by Commissioner Miller, with all voting "aye," the motion to approve the site plan passed.

There next came on for consideration the site plan of Cedarstone Commercial for a new office park. This property is located on Aulenbrock Drive and this matter was previously tabled from the July 14, 2016 meeting. Jason Weeks, Esq. appeared on behalf of the petitioner. He stated that pursuant to the discussions and instructions from the Commission at the July meeting, his client attempted to work out an agreement with Mr. Shows' clients, which are a few of the homeowners that live nearby. He stated that Mr. Shows wanted his client to enter into covenants on their property and while his client would agree to certain conditions being placed on the site plan and recorded in the minutes, they would not agree to covenants being placed on their property. Mr. Weeks produced a letter dated August 9, 2016 that spelled out what they would agree to which is attached hereto as Exhibit "D." Commissioner Drane stated that the Commission had not asked anyone to place covenants on their property but reiterated that the Commission had requested the parties to try and work out an agreement on some of the contested items. Commissioner Howard stated that he agreed with Commissioner Drane and appreciated their efforts to try and work out an agreement.

Mr. Shows addressed the Commission next and stated that his client was adamant that covenants would be necessary to protect his clients should the conditions not be followed and therefore, they wanted covenants placed on the property. His clients also want a high fence built that will protect their properties. The Commissioners discussed that this site plan review had been tabled numerous times and they were satisfied that the petitioner had tried to work out a reasonable agreement pursuant to their request.

Upon Motion by Commissioner Howard to approve the petition subject to the conditions agreed to listed in Exhibit "D" and incorporated herein by reference, which includes: providing a buffer zone along and adjacent to the Bradshaw Ridge Part Two and Part Three as provided for in the site plan; that the roof on the office warehouse buildings shall be a neutral color and the sides shall be a neutral color, either tan, light gray or off white; that the front of the warehouse building shall have brick façade at least four (4) feet in height; that the rollup doors on the front shall be a neutral color; that the building should be no more than one story in height; that certain businesses are prohibited to include a childcare facility adjacent to Bradshaw Ridge, Part III (but one may be located on West Falon Rd.), a business that produces loud music or outside activities that create noise, a liquor store, a restaurant for full service or fast food or casual dining, a cafeteria, delicatessen, coffee shop or coffee bar, the sale of beer, wine or alcoholic beverages of any type, a convenience store or gas station, a fireworks stand, a billboard; and all trash dumpsters or bins shall be located away from the homeowners of Bradshaw Ridge Part Two and Part Three (with brick façade around the dumpsters), seconded by Commissioner Brown, with all voting "aye," the motion to approve the site plan passed. The Commissioners discussed that they wanted these

conditions to be listed in the Board minutes should the Board approve the site plan subject to the conditions.

There next came on for consideration the site plan for a storage facility located on Aulenbrock Drive. This matter was previously tabled from the July 14, 2016 Commission meeting. Andy Clark, Esq. appeared on behalf of the petitioner. He stated that pursuant to the request by the Commission, his client had tried to reach an agreement with John Shows' clients regarding requests they had for the property. He said they were able to agree on most items but that his client would agree to these conditions to be recorded in the minutes but not as covenants on the property. He said Mr. Shows' main hangups appear to be that they are insistent on covenants and they want either a separate fence to be constructed some twenty (20) feet back from the property line or his client to tear down the current Bradshaw Ridge fence on that property line and replace it with a twelve (12) foot fence. He said his clients are not willing to place covenants on their property because they think the conditions as set forth in the minutes would be enforceable by the county. As for the fence, he said placing the fence 20 feet back from the property line would deny his clients' use of their property. Commissioner Drane inquired as to what his clients would be willing to do and Mr. Clark stated that his clients would be willing to construct a fence adjacent to Bradshaw Ridge's fence if they wanted another fence. It was discussed that their property in some places adjacent to the current fence were lower so a higher fence may be required just to reach the same height as the current fence. He said that the list of the things his clients were willing to agree to are listed in the correspondence which he presented to the Commission and is attached hereto as Exhibit "E."

Mr. Marshall Jackson addressed the Commission next and said he was one of the homeowners being represented by Mr. Shows. He said he met with the property owner in February and they came to a tentative agreement on the property which fell apart once the old petition came to light which had the old covenants attached that were not properly recorded. He said they did indeed want the fence to be 20 feet back to protect their property from potential crime and the property owner had originally agreed to do that. They also wanted landscaping that would further prevent potential crime. Mr. Shows, Esq. spoke next and said negotiations had not fallen apart and that the fence issue was negotiable. Commissioner Drane explained that he felt the crime issue was something that had not been discussed before and he didn't personally feel like the fence would help or hurt in that scenario because the criminal would likely just enter through the front of the neighborhood. The Commissioners discussed that this matter had been tabled numerous times and they were satisfied with the reasonable attempts made to work out an agreement.

Upon Motion by Commissioner McKay to approve the site plan subject to the conditions as agreed to and set forth in Exhibit "E" which include: a 20 foot buffer zone between the proposed concrete driveway on the East side of Phase B and the Bradshaw Ridge property line with a chain link fence to be constructed adjacent to the Bradshaw Ridge property line, planting Russian Olive or some other varietal in the buffer zone at distances to allow for maintenance but still providing adequate screening to the neighborhood, that owner will maintain the buffer zone, the use of earth tone colors similar to those proposed in the plan, to use brick facade in an aesthetically pleasing manner at least four (4) feet in height, to abide with the zoning ordinances limiting building height to forty (40) feet or three (3) stories, to limit hours of operation from 6:00 am to

10:00 pm seven (7) days a week, to use low pollution lighting, to use dual keyed locks or master keys for lessees of units, that cameras used will not be directed toward adjacent homeowners of Bradshaw Ridge, to install a security system for use in the office and other areas at their discretion, to have one gate at the storage facility as set forth on the site plan, that all dumpsters will be located away from the homeowners of Bradshaw Ridge, that tenants will be properly screened for the storage of any harmful materials, that owner will screen tenants carefully for the storage of junk vehicles or non-operational vehicles and the like, and to abide by any other Madison County zoning ordinances as appropriate for the site plan; seconded by Commissioner Brown, with all voting "aye," the motion to approve the site plan passed. Zoning Administrator Weeks informed Mr. Clark that his client would need to come back with a request for a conditional use if they want to do any outside storage at this site.

There next came on for discussion the payment of attorney fees for July, 2016. Upon Motion by Commissioner McKay, seconded by Commissioner Miller, with all voting "aye," the motion to approve the attorney fees for July, 2016 passed.

There next came on for discussion the setting of the September, 2016 meeting and September 8, 2016 was agreed to by the Commissioners as it is the second Thursday of the month.

With there being no further business, the August 11, 2016 meeting was adjourned.

9-8-16  
Date

Walter McKay  
(Chairman)

Exhibit "A"

# Camper Corral, Inc.

P. O. Box 250 • 381 Distribution Drive  
Madison, Mississippi 39110  
(601) 856-6070

July 22, 2016

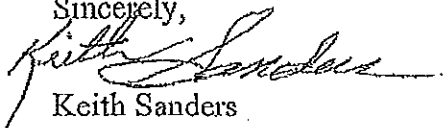
Madison County Board of Supervisors  
146 W Center Street  
Canton, MS 39046

Members of Madison County Board of Supervisors,

After reviewing the site plan and preliminary drawings for the building that is proposed on the three acre lot adjoining Camper Corral, we would be pleased to have this facility next to our business.

We have hesitated in selling this three acre lot for more than ten years, fearing we may not get the right kind of neighbor; however, this proposed facility more than meets our expatiations and I, personally think that this business will do exceptionally well in selling high end used vehicles in the growing Gluckstadt area.

Sincerely,



Keith Sanders

President

map. and your subscription is active.

376 DISTRIBUTION  
376 DISTRIBUTION

135 AMERICAN

New parcel corner needs to join parcel corner adjoining lot

DISTRIBUTION

DISTRIBUTION

Make building corner off of property line

The future discussed

Exhibit B



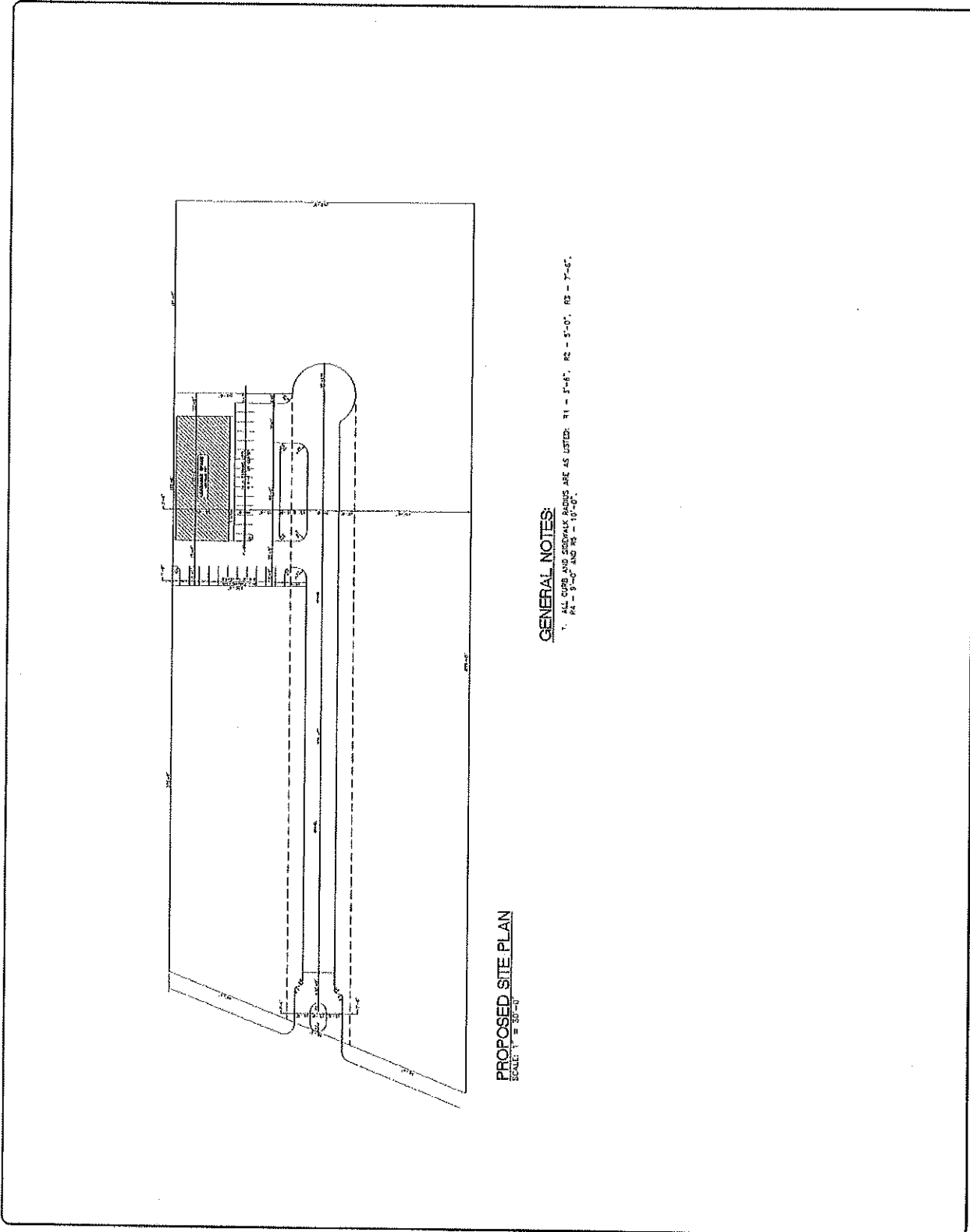
Exhibit 'C'

SECTION	

GRIG AINSWORTH, ARCHITECTS,  
 6064 95th Street  
 Jackson, MS 39210  
 601.956.9500

GLUCKSTADT OFFICE BUILDING PROJECT  
 GLUCKSTADT, MISSISSIPPI

NO.	10
DATE	
BY	
CHECKED	
APPROVED	
SCALE	
DATE	



PROPOSED SITE PLAN  
 SCALE: 1" = 30'-0"

GENERAL NOTES:

- 1. ALL CURB AND SIDEWALK RADII ARE AS LISTED: R1 = 5'-6", R2 = 5'-0", R3 = 3'-6", R4 = 9'-0", AND R5 = 10'-0".

**RANDALL | SEGREST**  
ATTORNEYS AND COUNSELORS

August 9, 2016

John H. Shows., Esq.  
Show & Smith Law Firm, PLLC  
2950 Layfair Drive, Ste 101  
Flowood, MS 39232

RE: Bradshaw Ridge/Cedarstone Commercial

Dear John:

In response to the proposed covenants you provided on July 22, 2016, my client is willing to agree on certain restrictions proposed therein but cannot agree to record those restrictions as covenants. We are willing to have the following restrictions included with the Commission's recommendations to the Board as follows:

A. To provide a buffer zone along and adjacent to the Bradshaw Ridge Part Two and Part Three as provided for on the plans we are seeking approval for;

B. The roof on the office warehouse buildings shall be a neutral color and the sides of the office warehouse buildings shall be a neutral color, either tan, light gray or an off white. The front of the warehouse building shall have a brick façade at least four (4) feet in height. The rollup doors on the front shall also be a neutral color. No building shall be more than one story in height.;

C. No part of the property shall be used as, or for:

1. a childcare facility which is adjacent to Bradshaw Ridge, Part III; one may be located on West Falon Road;
2. a business that produces loud music or outside activities that create noise.;
3. a liquor store.;
4. a restaurant for full service or fast food or casual dining.;
5. a cafeteria, delicatessen, coffee shop or coffee bar.;



6. the sale of beer, wine or alcoholic beverages of any type.;
  7. a convenience store or gas station.;
  8. a fireworks stand.;
  9. a billboard.;
- D. All trash dumpsters or bins shall be located away from the homeowners of Bradshaw Ridge Part Two and Part Three. (There shall be a brick façade around the dumpsters.):

Please review this with your client and if possible, please provide a response prior to the August 11, 2016 Commission meeting.

Sincerely,

RANDALL SEGREST, WEEKS & REEVES, PLLC.



Jason E. Weeks

Exhibit "E"

LAW OFFICES OF ANDY J. CLARK, PLLC  
350 INDUSTRIAL DRIVE SOUTH  
MADISON, MS 39110

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August 8, 2016

VIA E-MAIL ONLY

Shows & Smith Law Firm, PLLC  
John Howard Shows, Esq.  
2950 Layfair Drive  
Suite 101  
Flowood, MS 39232

**RE: L & J Holdings, LLC / Storage facility**

Dear John:

I am in receipt of a document from you entitled "Covenants and Restrictions Storage Facility" that I understand your clients wish to be placed on the subject property. I attach a copy hereto as Exhibit "A" for the sole purpose of reference, and not to be construed in any manner as to evidence any agreement to my clients as to the contents thereof, their validity, or any agreement to be bound by said document, whatsoever.

As discussed, my clients will not agree to any covenants, or other recordable document that would encumber their property. However, my clients are willing to agree to certain terms, and for evidence of said agreement to be read into and placed on the minutes of the meeting of the Madison County Planning and Zoning Commission, just as has been done with previous petitioners appearing before the Board. Accordingly, I would respond to your proposal as follows:

**A. Buffer Zone**

1. On the site plan, there currently exists a 20' buffer zone between the proposed concrete driveway on the East side of Phase B, and the Bradshaw Ridge property line. The site plan also depicts a proposed chain link fence to be constructed adjacent to the Bradshaw Ridge property line. This complies with Article XIX, Section 1903.04, Paragraph 3 of the Ordinance which states:

3. Side and rear yards where abutting any residential district;...or 20 feet, which shall remain open and be landscaped and a fence approved by the Zoning Administrator along side or rear yards.

Further, this proposal was confirmed via email dated March 4, 2016 from Greg Ainsworth to Scott Weeks, attached hereto as Exhibit "B." This was also confirmed in the Planning and Zoning minutes from March 10, 2016 attached hereto as Exhibit "C," wherein Matthew Miller advised he "could not recommend placing the fence anywhere except on the property line due to legal concerns..." Commissioner McKay "suggested that this was probably the best compromise to the situation..." Mr. Ainsworth said he could "suggest [the use of black chain link fence] to the property owner and to add more landscaping to increase the buffer." My clients are willing to abide by this, and, in order to alleviate any safety/security concerns, will place barbed wire on top of the fence in such a manner as to prevent any climbing over.

You also propose owner planting *Elaeagnus Angustifolia* or "Russian Olive" every seven (7) feet. This is too close together to be properly maintained. However, my clients will agree to place "Russian Olive" or some other varietal in the above-referenced buffer zone at distances to allow for maintenance, but still provide adequate screening.

2. Owner agrees to maintain the above-referenced buffer zone as depicted on the site plan.

3. As this reads, owner would have to "back off" the Bradshaw Ridge line, and construct the fence. As set forth above in Paragraph 1, this is not what has been previously proposed on the site plan, discussed in minutes, or otherwise required by the Ordinance. Owner does not agree to this.

4. Other than the fence discussed in Paragraph 1 above, Owner does not agree to build a fence for the Bradshaw Ridge residents.

5. Owner agrees to own and maintain the 20' buffer as set forth on the site plan, and as discussed in Paragraph 1 above.

## **B. Colors for Storage Facility**

1. Owner agrees to use earth tones similar to those proposed-i.e.-no neon or loud colors-but shall select specific colors for the doors, roof, trim, and rollup doors.

2. Owner agrees to use brick facade in an aesthetically pleasing manner on the storage facility at least four (4) feet in height.

3. Owner agrees to abide by Article XIX Section 1903.01 of the Zoning Ordinance which allows for a maximum building height of 40 feet, or three (3) stories.

### **C. Hours of Operation; Lighting and Security**

1. Owner agrees that the facility shall be available to the public from 6:00 a.m. to 10:00 p.m. seven (7) days a week. I believe these are the hours of operation suggested by the Commissioners in the March 10, 2016 meeting.
2. Owner agrees to use low pollution light emission lights to be "dark sky compliant." These lights will be on the building, and will shine down, and not on or into adjacent homes.
3. Owner agrees to use dual keyed locks or master keys for lessees of units. Any cameras used will not be directed toward adjacent homeowners of Bradshaw Ridge.
4. This does not make sense. Owner cannot wire each door to a security system. Owner will select its own security system for use in office or other areas at their discretion.
5. Owner agrees to have one gate at the storage facility as depicted on the site plan, and shall use a key code system for entry.
6. Owner agrees to all trash dumpsters or bins being located away from the homeowners of Bradshaw Ridge, as depicted on site plan.
7. "Hazardous or explosive or incendiary material" is too broadly defined. Owner shall carefully screen tenants, and what they store.
8. Owner agrees that no junk vehicles, or non-operational vehicles, or heavy equipment shall be stored on site. "Commercial Equipment" is too broadly defined to be an exclusion, but Owners will carefully screen tenants and what they store.

### **D. Enforcement**

1. N/A-Owner does not agree to any covenants being placed on their property.
2. N/A-Owner does not agree to any covenants being placed on their property.

Owner agrees to County enforcement of the Ordinance.

### **E. Binding Effect of Covenants**


1. N/A-Owner does not agree to any covenants being placed on their property.
2. N/A-Owner does not agree to any covenants being placed on their property.
3. N/A-Owner does not agree to any covenants being placed on their property.
4. N/A-Owner does not agree to any covenants being placed on their property.

**G. Site Plan Approval**

Owner agrees to comply with the requirements of the Madison County Zoning Ordinance.

This confirms L & J Holdings, LLC's good faith efforts toward a compromise as requested by the Madison County Planning and Zoning Commission. Please feel free to contact me if I may be of assistance to you. With kindest personal regards, I am

Very truly yours,

---

ANDY J. CLARK

cc: Lee Sahler (via email only)  
Jeff Cox (via email only)