

**MINUTES OF THE MEETING OF THE MADISON COUNTY  
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON  
THURSDAY, THE 11th DAY OF APRIL, 2024 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 11th day of April, 2024, at 9:00 a.m. in the Madison County Complex Building.

Present:       Dr. Keith Rouser  
                  Amanda Myers  
                  Jean McCarty  
                  Mandy Sumerall  
                  Rev. Henry Brown

Scott Weeks, Planning and Zoning Administrator

The was opened with prayer by Commissioner Brown, and all present participated in pledging allegiance to our flag, led by Chairman Rouser.

There first came on for consideration the minutes of the March 14, 2024, meeting of the Commission. Upon motion by Commissioner McCarty, seconded by Commissioner Myers, with all voting “aye,” motion to approve the March 14, 2024, minutes passed.

There first came on for consideration the need to open the meeting for public hearing of certain matters. Upon motion by Commissioner Brown to open the meeting for public hearing of certain matters, seconded by Commissioner Sumerall, with all voting “aye,” the public hearing was so opened.

There next came on for consideration the Application of Eutaw Construction to Re-Zone certain property from its current designation of A-1 Agricultural District to C-2 Highway Commercial District. The property subject to the Application is located between I-55 and Old Jackson Road, is currently zoned as A-1 Agricultural District, and is in Supervisor District 4. This matter was tabled at the March 14, 2024, meeting of the Commission, and is now back before the Commission.

Reed Nunnelee, Esq. appeared on behalf of Eutaw Construction (“Eutaw”) and advised that Eutaw is seeking to Re-Zone a certain portion of property from A-1 Agricultural District to C-2 Highway Commercial District. Mr. Nunnelee advised that Eutaw has been in existence for nearly 50 years, has experienced tremendous growth and prosperity, and has simply outgrown their current corporate office in Gluckstadt. As such, Mr. Nunnelee explained that Eutaw is looking to expand, and desires to take advantage of the improved infrastructure, and proximity to the interstate that this property affords.

Mr. Nunnelee argued that over the past twenty (20) years, and even more recently, the area had experienced change with Nissan, Amazon, Clark Beverage, Merit Health, Southern Sky, and the Mississippi State Extension locating in the area. As such, Mr. Nunnelee argued that allowing Eutaw a nice, first class office space to locate on the subject property fits squarely within the County's long-term goals, and Comprehensive Plan.

Mr. Nunnelee briefly addressed the opposition voiced at the prior meeting. First, he addressed the land use; and feared sights, and sounds that come along with a construction company. Mr. Nunnelee explained that this property would simply be an office building, and not have any type of lay down yard, or storage of heavy equipment.

Next, Mr. Nunnelee addressed some concerns of permitting issues such as stormwater, and an increased load on the electric grid, potential flooding, and impact on a creek running through the property. Mr. Nunnelee explained that these type of issues are to be addressed upon permitting application with the County, MDEQ, and others, and are not a part of the zoning process.

Mr. Nunnelee next addressed concerns on the use of Hawkins-Thompson Lane. Mr. Nunnelee advised that Eutaw would not be utilizing Hawkins-Thompson Lane for access, but would be constructing their own access off of the West end of the property.

Mr. Nunnelee argued that the area had obviously changed, and that the property would not remain A-1 Agricultural forever. But, Mr. Nunnelee further argued that the County's Land Use Plan contemplates that the property would someday be Light Industrial, and that Eutaw's proposed use as C-2 Highway Commercial District would be even less impactful than what the County has planned.

Mr. Nunnelee advised that Eutaw had met with some of the adjacent property owners to alleviate some of their concerns, and that some were in attendance there today.

Montel Thompson appeared in opposition of the application. Mr. Thompson stated that he had a "bad taste in his mouth" about re-zoning because he lives near property that had been re-zoned in previous years, and the road was not equipped for the type of use and construction traffic that came along with that re-zoning. As such, Mr. Thompson complained that the prior re-zoning has destroyed the road that he lives on. Mr. Thompson expressed concern that once the property is re-zoned, that becomes permanent. Mr. Thompson complained about a property owner near him that had expressed that his re-zoned property would be a residential area, but is now being used as a make-shift sawmill. Mr. Thompson expressed concern about future possibilities of Eutaw selling their property for profit, and another use come onto the property, and that he is having to fight a re-zoning in his backyard.

Mr. Nunnelee re-appeared, and advised that Eutaw was sympathetic with the adjacent property owners, and the fact that the area had changed over the years. However, Mr. Nunnelee reiterated the point that Eutaw's proposed use is less impactful now, and in the long term, than what the County's land use plan shows for the property.

Upon question from Commissioner McCarty, Mr. Nunnelee and Rob White from Eutaw explained that they were currently planning to develop Tract I and Tract III [as depicted on their

Application], but had no current plans to develop Tract II. Mr. White advised that they simply wished to have the property re-zoned at one time, in the event they desired to expand their use or facility.

In response to specific question from Commissioner McCarty as to whether Eutaw foresaw Tract II as an equipment yard, Mr. White responded “no,” and further advised they have an equipment yard in Aberdeen, MS. Mr. White advised that the proposed facility is essentially an accounting office, and houses staff and project managers with approximately twenty (20) passenger vehicles per day.

In further response to specific question from Commissioner McCarty, Mr. White stated that they desire to locate the facility on Tract III, as opposed to Tract II, is to be further off the road, more centralized, and to mitigate any impact on adjacent landowners.

Upon Motion by Commissioner Summerall to approve the Application of Eutaw Construction to Re-Zone certain property from its current designation of A-1 Agricultural District to C-2 Highway Commercial District, seconded by Commissioner Myers for discussion.

Commissioner McCarty made a substitute motion to approve the Application of Eutaw Construction to Re-Zone certain property from its current designation of A-1 Agricultural District to C-2 Highway Commercial District with a definitive buffer zone of 50’ be in place between the Commercial designation of the subject property, and the adjacent Residential property; that such buffer zone be enhanced by either an eight foot (8’) fence, or evergreen landscaping with a minimum of eight foot (8’) height; that a landscape architect be consulted to provide enough foliage to complete buffer the Commercial area from the Residential area, seconded by Commissioner Summerall, with all voting “aye,” the motion to approve the Application of Eutaw Construction to Re-Zone certain property from its current designation of A-1 Agricultural District to C-2 Highway Commercial District with a definitive buffer zone of 50’ be in place between the Commercial designation of the subject property, and the adjacent Residential property; that such buffer zone be enhanced by either an eight foot (8’) fence, or evergreen landscaping with a minimum of eight foot (8’) height; that a landscape architect be consulted to provide enough foliage to complete buffer the Commercial area from the Residential area, was approved.

Mr. Nunnelee asked for clarification on Commissioner McCarty’s request for either an eight foot (8’) fence, or evergreen landscaping with a minimum of eight foot (8’) height and enough foliage to complete buffer the Commercial area from the Residential area, and whether either would work. Commissioner McCarty agreed. Attorney Clark read from Section 2203.04 of the Ordinance as requiring fifty (50) feet, which shall remain open and be landscaped; or 20 feet which shall remain open and be landscaped and a fence approved by the Zoning Administrator along side or rear yards where abutting any residential district, but clarified that Commissioner McCarty’s motion required a buffer of fifty (50) feet whether it was to remain open and landscaped, or have a fence and be landscaped. Administrator Weeks advised that the landscaping be specific, as the definition in the Ordinance is extremely broad. At the end of the discussion and clarification, it was clarified and agreed that as long as Eutaw complies with Section 2203.04 D. of the Ordinance, then that is what was intended to be required

There next came on for consideration the Application of Chad Phillips for a Conditional Use for Public/Quasi Public Facility (The Oaks-Assisted Living Facility) with Site Plan. The property subject to the application is at 3265 Highway 22, is zoned C-1 Commercial District with a Planned Unit Development (“PUD”) overlay, and is in Supervisor District 4. This matter was denied by the Mannsdale-Livingston Historic Preservation District (“MLHPD”) on January 30, 2024, and remanded back to the Commission by the Board of Supervisors on March 4, 2024.

Chad and Crystal-Gardner Phillips appeared as Applicants. Crystal gave a brief overview of the project, and advised that the first time they were before the Commission, they received a unanimous approval, and the second time they received approval subject to MLHPD findings. Crystal advised that they would focus on the MLHPD findings.

Crystal gave a brief overview, and advised that The Oaks is designed to look like a Southern Greek Revival home to be located within the Livingston Township PUD on +/-5 acres currently zoned as C-1 General Commercial District. Crystal advised that the Warranty Deed and legal description to the subject property are attached to their initial submission as Exhibits 3 and 4. She advised that the underlying C-1 General Commercial District designation specifically permits Public/Quasi-Public Facilities and Utilities in compliance with Section 402 of the Ordinance. She further pointed out that the uses permitted outright in PUD districts are subject to regulations and restrictions over which a PUD is superimposed. She further pointed out that Section 2705 states that public or quasi-public facilities or utilities may be considered for location in a PUD district in compliance with Section 402 of the Ordinance.

Crystal stated that The Oaks is not for residential use, nor do they have any rental agreements. Rather, she stated that The Oaks is for personal care assisted living facility which is clearly permitted as a Conditional Use for a Public/Quasi Public use in a C-1 General Commercial District, and in all districts in the County.

Crystal provided several factors that make The Oaks is a Level 5 Luxury Assisted Living providing exceptional senior care in an upscale environment. She stated that The Oaks is designed to reflect the preferences of the residents with only 15 residents in a higher-than-average caregiver ratio, and tailors each care plan to accommodate the residents in a safe environment.

Chad distributed a document which addresses each of the MLHPD findings, and the Applicant’s rebuttal to same, along with an attached Request for Reasonable Accommodation. Such document is attached to these Minutes as **Exhibit “A.”** Chad then addressed each of the findings in order, and presented same in the form of argument to the Commission, as listed on Exhibit “A.”

Upon question from Commissioner Myers as to the “fairness” to elderly residents to be in a place that may be loud at night, and any accommodations that may have been made, Chad advised that his Contractor had made provision for increased insulation in the building much like that on the Mississippi Gulf Coast as preparation for hurricane weather.

Upon question from Commissioner Summerall as to MLHPD’s finding as to their denial under Article 1900, Attorney Clark advised that Article 1900 is the section of the Ordinance that

encompasses and governs the MLHPD Commission, and that there are numerous sub-articles there that speak to things such as Permitted Uses (Article 1901), and that if Commissioner Summerall was asking about specific uses, then MLHPD mentioned prohibition of hotels, apartment complexes, condominiums, etc, then he had previously opined to the MLHPD in August of 2023, and which Memorandum Opinion is part of MLHPD Review of the Oaks (which was included in the April 11, 2024 Commission Meeting Packet), that The Oaks is not an apartment complex, or a condominium, and that it is a permitted as a Conditional Use in any district as an assisted living facility in a C-1 General Commercial District, which is what the Applicants are seeking here.

Commissioner Summerall inquired as to whether the zoning permits overnight rentals, and Attorney Clark responded in the negative, and stated that, in his opinion as Counsel to the Commission, this is not an overnight rental, but rather an assisted living facility in a C-1 General Commercial District, and not apartment, or condominium.

Commissioner Summerall further inquired as to whether the above-reference question had been confirmed, and Attorney Clark responded in the affirmative, as the Commission had previously approved the Application based on that opinion from Counsel.

Crystal reappeared, and commented that one major difference between their facility, and a rental agreement, or hotel stay, is that with The Oaks, there is no start or end date. She opined that The Oaks is more akin to a hospital, in that they charge a fee for services to residents with no end date. The residents are provided services until they no longer need them. On this point, Commissioner Summerall inquired as to whether there was any minimum stay required. Chad responded that there is not, and that any services provided for less than a monthly basis would be prorated accordingly.

Commissioner McCarty inquired as to State law requirements, and any Admission Agreement. Specifically, Commissioner McCarty inquired as to whether any such Admission Agreement would be to provide an apartment, or for services. Chad responded that any Admission Agreement would be to strictly provide services, and that the residents would not have any specifically designated room, and could change rooms based upon availability at the time.

Commissioner McCarty further inquired as to language in State regulations, and whether people being cared for at The Oaks are patients, or residents. Chad responded that he was unaware of the State's definition of a patient, but that the persons being cared for at The Oaks would be residents of the facility.

Commissioner Summerall further inquired as to the Applicant's plans for further development as the original submission had multiple buildings depicted on the parcel. Crystal explained that they did put additional buildings on the submission, but only for demonstrative purposes, and were merely seeking approval for a single building only, and only being The Oaks. Per request of Commissioner Summerall, Attorney Clark clarified that the only matter before the Commission is the submitted Conditional Use and Site Plan for The Oaks, and if the Applicants ever wanted to subdivide, or place an additional building on the property, then the Applicant would have to bring any such site plan to the Commission for approval. Further, Attorney Clark advised

that if there were ever to be any change in the use of the property which is different from an assisted living facility, that, too, would have to come back to the Commission for approval.

Commissioner Summerall further inquired as to the question of provision of electricity by Entergy to the site. Chad responded that there is electricity to the site, and, although he cannot say that his Contractor has spoken directly to Entergy, he has relayed to Chad that electricity to the proposed facility will not be an issue. that his Contractor has told him that,

Commissioner McCarty inquired as to whether The Oaks would be licensed as a medical facility, and Chad advised that The Oaks would be licensed as a personal care assisted living facility. Crystal added that the facility would fall under the Mississippi State Department of Health that spells out every kind of care home, and that the Oaks would be listed as a personal care home assisted living.

Attorney Bob Germany appeared on behalf of the Greaves family and their Trust in opposition. Mr. Germany presented a pictorial and video presentation which included a map of the subject property and surrounding properties. Mr. Germany advised that the Greaves family has been in the area since at least 1848, and that they have an interest in maintaining the historical integrity of the area. As such, Mr. Germany asked the Commission to deny the application in furtherance of historical preservation of the area.

Mr. Germany advised that the idea of Livingston was to revive the historic County Seat, while turning the venue into an entertainment district with the exception of the church, and a wedding venue.

Mr. Germany argued that there is some confusion as to whether The Oaks is a residence, and asked the Commission to look at the documents submitted by the Applicants as stating that it reads "The Oaks Residence." Mr. Germany argued, and asked the Commission to consider "What is a residence?" He further argued that a residence is not a hospital, and not a health care facility. Rather, he argued that a residence is a place you live, and a place you spend the night. Mr. Germany further reiterated the point from the MLHPD findings that any attempts to provide housing in the MLHPD District, and specifically, at Livingston have been denied. Mr. Germany argued that this indicates a precedence, and that precedence is important because people seeking to purchase property need consistency, and need to be able to rely on the MLHPD to be consistent in application of its rules.

Mr. Gemany further argued that he cannot figure out who the patients, or residents will be paying money to. He argued that there are four (4) different entities under the CPOR name. He argued that there is no clear answer as to who the Commission should look to in the event there is an issue.

Mr. Germany further argued that, contrary to assertion, he had not misled anyone. He simply provided the document [the Assignment of Rents] that was already in the submission packet. Mr. Germany further argued that no one has ever seen any Admission Agreement, and no one can tell what all is being provided at The Oaks, but that it's clear that fifteen (15) places to live are being provided, and therefore, it is a residence. And, apparently, the residents can move

room to room, and the person deciding to stay or go is the resident. Further, Mr. Germany argued that this is not like a hospital where a physician decides to admit a patient for care, and that decision is up to the resident. Mr. Germany likened this to a renter at an apartment complex—an arrangement that has twice been denied in Livingston.

Mr. Germany distributed a notebook to each of the Commissioners. Such notebook, and its contents are attached hereto as Exhibit “B.”

Mr. Germany directed the Commission to the 2007 deed where the Greaves family, through Sunnyplace Trust, conveyed the subject property to Chestnut Developers, LLC. Mr. Germany pointed to the portion of the deed which states:

[t]his conveyance is made subject to the following covenant that for a period of fifty (50) years from the date of this instrument, all uses and improvements on said 10.81-acre tract (Parcel 2 on Exhibit A) will meet the standards of the Mannsdale-Livingston Heritage Preservation District.

Mr. Germany stated that this is why the report from MLHPD is so important as it dictates what can be done on the property from that date forward. Mr. Germany argued that the Greaves family placed this covenant on the property in order to protect the history and integrity of their and their ancestors’ property, and to protect their interest in their property, and the adjoining property. Mr. Germany asked the Commission to consider the report that states care facilities affect home values within a half-mile radius of the facility, and that the Greaves are next door.

Mr. Germany next directed the Commission to the deed where title vested in the Applicants, and asked the Commission to note that it reads:

Covenant for meeting standards of the Mannsdale-Livingston Heritage Preservation District contained in Special Warranty Deed dated August 24, 2007, rcordeed in Book 2232 at Page 315.

Mr. Germany argued that this is a restrictive covenant, and that the Applicants knew it was there when they bought the property subject to the MLHPD standards. Mr. Germany argued that the MLHPD had spoken “loud and clear by a vote of 7-0 with one (1) abstention” that this proposal does not meet their standards.

Mr. Germany argued that the first three (3) times the Applicant’s met with MLHPD, the Applicants did not provide any Application for Certificate of Appropriateness, and only provided it for the first time on October 16, 2023.

Mr. Germany next argued that the Applicants’ name is nowhere on any of the documents on the Mississippi Secretary of State website, but instead, a person named Lexie Rivers appears there as an “Organizer.” Mr. Germany argued that perhaps Ms. Rivers should be the person signing the application before the Commission.

Mr. Germany advised the Commission that it was his belief that the Commission could stop at this point, and deny the Application based on the language of the deeds alone.

Upon question from Commissioner McCarty as to NAICS codes listed on the Secretary of State documents as “Other Activities Related to Real Estate,” and as to whether there was any further explanation as to what those may be. Mr. Germany responded that he was not aware of any, and that he understood those to be purposefully broad.

Commissioner McCarty further inquired as to the deed to CPOR, and whether any Secretary of State documents identify the members of the LLC. Mr. Germany advised that he did not believe there was any requirement for identifying members.

Chad reappeared and clarified that Crystal Garnder-Phillips is the Managing Member of all related entities, including the real estate, operations, management, and holding companies.

Mr. Germany further directed the Commission to rendering of The Oaks, and argued that it does not resemble any other building at Livingston.

Mr. Germany next argued that The Oaks is incompatible with existing businesses. He stated that there are currently two (2) restaurants, a bar, a liquor store, a candy/ice cream shop, a stock broker, a haberdasher, a mercantile store, and a barber, but no one providing “room and board.” Mr. Germany further argued that Livingston is an entertainment and event venue, and that there is a church service at the Missionary Baptist church, a restaurant with live music, and a wedding venue.

Mr. Germany argued that the Applicants have sought to have the entire parcel re-zoned, and that there has been some talk of a memory care center, but still don’t know about an Admission Agreement, how the residents are billed, who the money goes to, or any other items with regard to the Admission Agreement.

Mr. Germany also pointed to the Assignment of Rents, and the fact that it speaks to “tenants” and not “patients.” It further gives the bank the right to step in and take over the property.

Mr. Germany argued that the article speaking to property values, and that Applicants never disputed that assisted living facilities reduce property values within a half mile, or provided any evidence to the contrary.

Mr. Germany showed the Commission a video of various slides and pictures, and explained that this is what his clients are interested in preserving.

Mr. Germany specifically directed the Commission to the sign pointing visitors to The Greater Livingston Missionary Baptist Church and that it was dated 1856. Mr. Germany stated that the ancestors put together \$60 to purchase the land and built a church.

Chairman Rouser stated there was a time when he attended The Greater Livingston Missionary Baptist Church and the improvements on the corner of Highways 463 and 22 were not



there. Chairman Rouser inquired as to why, if the church members did not come out in opposition to the current improvements, then how would an assisted living facility affect the church? In response, Mr. Germany showed a picture of the church cemetery, and stated that there are people buried there from the 1800s, and that just on the other side, is where the proposed facility would be located. Mr. Germany stated that he could not speak to others, but when he wishes to visit the graves of his ancestors, he is not interested in looking a nursing home, but in paying his respects to the dead. And, if he is in a nursing home, he is not interested in looking at a cemetery. Mr. Germany also argued that he believes there would be no impact as to traffic, but that he is interested in preserving the history.

Commissioner Summerall inquired as to whether the Commission should be looking at any Admission Agreement as part of the consideration of the use and site plan before them. Commissioner Myers asked the same question as to any sort of eviction plan, and Attorney Clark opined that the short answer to both questions is “no,” and that the Commission is only looking at the proposed use and site plan before them.

Commissioner McCarty further commented on the Admission Agreement, and that the language went to the “care of the person” and all that goes with that.

Lolly Rash, Director of the Mississippi Heritage Trust appeared and stated that is a non-profit with a mission to save and renew places that are meaningful to Mississippians and their history. Ms. Rash commended the County on creating a beautiful place, but stated that has to be done under the established rules. Ms. Rash stated that those rules are intact, and are part of what makes this place special and valuable. Ms. Rash urged the Commission to uphold the MLHPD denial of The Oaks.

In response to question from Commissioner Summerall, Attorney Clark advised that the MLHPD Commission, and the Planning & Zoning Commission can differ, and that one’s approval is not contingent on the other. He further opined that both commissions are recommendation commissions, and that the ultimate decision making body is the Board of Supervisors.

Kevin Watson appeared in opposition. Mr. Watson explained that he is currently building a house in Chestnut Hill. Mr. Watson reiterated that Livingston is an entertainment and event venue. Mr. Watson argued that the proposed facility does not fit with the character of the neighborhood, and that it does not comply with the Madison County Zoning Ordinance. Mr. Watson further argued that the Board of Supervisors admonished the MLHPD Commission to review the application, that MLHPD had done so, and had done their job. Mr. Watson argued that other businesses in Livingston had resort status, and were able to stay open later at night than other businesses can. Mr. Watson further urged the Commission to look at the residential assisted living website, and they would see that this proposal is all about the money. Mr. Watson further expressed concern that the Applicants are seeking a re-zoning of the entire five (5) acre tract, and will not tell the Commission, and would not tell MLHPD what they plan to do with the remainder.

Commissioner Summerall asked if Applicants could build additional structures on the property without seeking approval, and Attorney Clark advised that even if the Applicants sought to build additional structures on the property, they would have to submit a site plan for approval.

Attorney Clark further opined that if the Commission should be inclined to approve the Application, it could approve this application, and this application only, and any further improvements to the property would come back before the Commission for approval.

Mr. Watson further argued that The Oaks is a “boarding house,” and that the Applicants would be renting rooms, and employing an 18 year old to provide skills to dress, bathe, feed, and walk the residents.

Mr. Watson further argued that the deed the Applicants received a deed with restrictive covenants that would make them comply with the MLHPD covenants. Mr. Watson argued that MLHPD had spoken, and that because of the MLHPD restrictions, and despite the Commission’s Attorney’s opinion, his opinion is that the property does not qualify for a conditional use, and reiterated that it is a boarding house.

Mr. Watson further argued that the Commission’s duty pursuant to Section 805.01, which reads in part:

The Planning and Zoning Commission shall not grant a conditional use unless satisfactory provision and arrangement has been made concerning all of the following:

...

G. General compatibility with adjacent properties and other property in the district.

Mr. Watson argued that the proposed assisted living facility is not compatible with the adjacent properties, and satisfactory provision has not been made concerning that. As such, Mr. Watson opined that it is the Commission’s duty to deny the application.

Arnie Greaves appeared in opposition to the Application, and advise that his mother was involved in the creation of the MLHPD. Mr. Greaves advised that his family placed the restrictions in the deed in order to be binding on the subject property in the event that things changed in the future, things would not change with regard to their property.

Greta Barber Mills (Greaves) appeared in opposition and advised that she had gathered 400 signatures from Madison County residents around an approximate three (3) mile radius and that are opposed to an assisted living facility being built at Livingston. Ms. Barber Mills read from the Petition which is attached hereto as **Exhibit “C,”** as to which she asked signees to sign. Ms. Mills argued that if the denial is not upheld, then the dismantling will begin.

Chad reappeared and asked Ms. Mills if her petition did not state that the assisted living facility could turn into an alcohol and drug rehab facility, confirmed that it does, and specifically refuted that their facility had any intent or purpose in doing so. Ms. Barber Mills refuted the claims, but stated that it does state that there is a fear that it could turn into a drug and alcohol rehab facility.

Chairman Rouser reiterated that if there was a change in the use somewhere in the future, then any applicant would have to come back before the Commission for such change.

Rita McGuffie appeared as a member of the MLHPD Commission, and stated that MLHPD is charged with sending a letter of findings and recommendations of things that were discussed at the MLHPD meeting. Ms. McGuffie stated that MLHPD Commission is the eyes and ears of the County to give information as far as the project. Ms. McGuffie directed the Commission to the MLHPD recommendations wherein is listed that the proposed use is expressly, or by implication, prohibited in an overlay zone where more restrictive standards shall apply. Ms. McGuffie stated that such is based on the definitions in the Ordinance, and particularly the definition of an overlay zone.

Chairman Rouser clarified that the portion of the Ordinance that Ms. McGuffie read from speaks to “group housing.”

Crystal reappeared and spoke to the petition, and stated that they had crafted a letter in response refuting the contents of the petition. She stated that they had received nothing but positive comments in response to their letter. Crystal further stated that there have been numerous persons to appear at MLHPD meetings in support of their Application. She further spoke to the positive aspects of the project, and that they had complied with the Ordinance in a spirit of cooperation.

Commissioner McCarty stated that after all of the arguments, she believed it boiled down to whether this is a residential facility in a commercial zone, or a commercial enterprise in a commercial zone. She further stated that this use does not meet the definitions of a residential facility in a commercial zone, in that it is not a boarding house, not a condominium, or a rental unit. Rather it is a medical facility for the care of people. She further stated that whether the other activities at Livingston will negatively impact the facility is not the decision of the Commission, and that the facility will not negatively impact the development at Livingston. She further opined that Livingston, and its success, depend on traffic, and this facility will bring traffic to the area. Commissioner McCarty stated that the Commission’s job is to determine whether the facility meets the guidelines, and that she is of the opinion that it does.

Upon motion by Commissioner McCarty to approve the Application of Chad Phillips for a Conditional Use for Public/Quasi Public Facility (The Oaks-Assisted Living Facility) with Site Plan, seconded by Commissioner Brown.

Commissioner Summerall made a substitute motion to approve the Application of Chad Phillips for a Conditional Use for Public/Quasi Public Facility (The Oaks-Assisted Living Facility) with Site Plan, conditioned upon any further use, plans, buildings, or additions be brought back before the Commission, seconded by Commissioner Brown, with all voting “aye,” the motion to approve the Application of Chad Phillips for a Conditional Use for Public/Quasi Public Facility (The Oaks-Assisted Living Facility) with Site Plan, conditioned upon any further use, plans, buildings, or additions be brought back before the Commission, was approved.

There next came on for consideration, the need to close the public hearing. Upon motion by Commissioner Summerall to close the public hearing, seconded by Commissioner Myers, with all voting “aye,” the public hearing was so closed.

There next came on for discussion, the setting of the May, 2024 meeting. May 16, 2024, was suggested. Upon motion by Commissioner Sumerall, seconded by Commissioner Myers, with all voting “aye,” the motion to set the May, 2024 meeting for May 16, 2024, was approved.

With there being no further business, the April 11, 2024, meeting of the Madison County Planning and Zoning Commission was adjourned.

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Date

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Dr. Keith Rouser, Chairman