

IN THE CIRCUIT COURT OF MADISON COUNTY, MISSISSIPPI

SEP 15 2026

DONNA ALLEN, ET AL.

ANITA WRAY, CIRCUIT CLERK

APPELLANTS

VS.

CAUSE NO.: 45CI1:24-cv-00260-JR

BOARD OF SUPERVISORS OF
MADISON COUNTY, MISSISSIPPI, ET AL.

APPELLEES

OPINION AND ORDER

This matter comes before the Court under Miss. Code Ann. § 11-51-75 on appeal from the September 16, 2024, decision of the Madison County Board of Supervisors to rezone certain real property from Residential Estate District (R-1) to Medium Density Residential District (R-2) with a Planned Unit Residential (PURD) overlay. The Court, having reviewed the record on appeal, the briefs submitted by the Parties, and the applicable law, and having heard oral argument of counsel held on August 19, 2026, hereby finds the decision of the Board of Supervisors should be and is hereby affirmed.

INTRODUCTION

The Madison County Board of Supervisors' ("The Board") granted an application by the Developers¹ and Owners² to rezone +/-362 acres of property from Residential Estate District (R-1) to Medium Density Residential District (R-2) with a Planned Unit Residential District (PURD) overlay. Appellants are a group of neighboring landowners who opposed the rezoning and appeal the Board's decision to this Court. The Board voted to approve the Developer and Owners' application after finding they had satisfied their burden by proving with clear and convincing evidence that (1) there had been a substantial change in the character of the neighborhood and (2)

¹ The developers of the subject property are Clarkdell Farms, LLC and Stilhouse Creek, LLC.

² The owners of the subject property are Beverly Yandell Milam, Kathryn Ellen Yandell Laurent, Pyllis Anne Yandell Mashburn, and Melinda Yandell Perry.

there was a public need for the rezoning. Applying the mandated standard of review and finding no error, the Court hereby affirms the decision of the Board.

BACKGROUND

The Developers and Owners filed their Petition to Rezone and Reclassify certain Real Property in 2024, specifically requesting to rezone the subject property from Residential Estate District (R-1) to Medium Density Residential District (R-2) with a Planned Unit Residential (PURD) overlay. The Appellants opposed the rezoning citing concerns over property values, traffic, overcrowded schools, and the location of a pipeline on the subject property and arguing both that the character of the neighborhood had not changed and there was no public need for rezoning.

The Madison County Planning and Zoning Commission (“the Commission”) held a public hearing at which time the Developers and Owners and the Appellants were afforded the opportunity to present evidence. (R. 26-37.) At the conclusion of the public hearing, the Planning and Zoning Commission voted to deny the requested rezoning application. *Id.*

The Owners and Developers then appealed that decision to the Madison County Board of Supervisors under Section 806.06 of the Madison County Zoning Ordinance, triggering an additional public hearing. At the public hearing before the Board of Supervisors, all parties were again afforded the opportunity to present evidence. (R. 15-19.) At the conclusion of the public hearing, the Board voted to approve the rezoning of the subject property from “R-1 Residential Estate District to R-2 Medium Density Residential District/Planned Unit Residential District Overlay.” (R. 19.) The Board’s decision to approve the rezoning was not arbitrary and capricious and was instead supported by substantial evidence that the character of the neighborhood has changed to such an extent to justify the rezoning and that there is a public need for the rezoning. This decision was within the Board’s discretion, and this Court must affirm.

STANDARD OF REVIEW

This matter is before this Court, sitting as an appellate court, for review under Miss. Code Ann. § 11-51-75. The Court is mindful of its limited role while sitting as an appellate court. The Circuit Court's role in zoning cases is not that of the trier of fact but is rather that of an appellate court. *Mayor & Board of Alderman, City of Clinton v. Welch*, 888 So. 2d 416, 418 (Miss. 2004). "In zoning cases on appeal the cause is not tried de novo; the circuit court acts as an appellate court only." *Jackson v. Aldridge*, 487 So. 2d 1345, 1347 (Miss. 1986). The Court appreciates this to mean that even if this Court would have reached a different decision than the Board, the Court must nevertheless affirm the decision if it is supported by substantial evidence and not arbitrary and capricious. Indeed, "[the courts do] not sit as a super-zoning commission. The Courts should not constitute themselves as a Zoning Board for a municipality." *McWaters v. City of Biloxi*, 591 So. 2d 824, 828 (Miss. 1991).

"The standard of review in zoning cases is whether the action of the board or commission was arbitrary or capricious and whether it was supported by substantial evidence." *Drews v. Hattiesburg*, 904 So. 2d 138, 140 (Miss. 2005). "Judicial review is limited to determining whether there was a substantial evidentiary basis for the Board's decision. It is not the role of the judiciary to reweigh the evidence, but rather to verify if substantial evidence exists." *Childs v. Hancock County Bd. of Sup'rs*, 1 So. 3d 855, 861 (Miss. 2009). "The decision of a local governing board is presumed valid, and the burden is upon the person seeking to set it aside to show that it was arbitrary, capricious and unreasonable." *Gentry v. City of Baldwin*, 821 So. 2d 870, 873 (Miss. Ct. App. 2002).

"An act is arbitrary when it is not done according to reason or judgment, but depending on the will alone." *Id.* "Capricious" is defined as any act done without reason, in a whimsical manner, implying either a lack of understanding of or a disregard for the surrounding facts and settled

controlling principles. *Id.* (citing *Burks v. Amite County School Dist.*, 708 So. 2d 1366, 1370 (Miss. 1998)).

The Mississippi Supreme Court has held that it “will not disturb a governing board’s decision ‘which appears to be fairly debatable.’” *Como Steak House, Inc. v. Bd. of Supervisors of Panola Cnty., Mississippi*, 200 So. 3d 417, 425 (Miss. 2016) (quoting *City of Madison v. Shanks*, 793 So. 2d 576, 578 (Miss. 2000)); *see also Town of Florence v. Sea Lands, Ltd.*, 759 So. 2d 1221, 1223 (Miss. 2000). “‘Fairly debatable’ is the antithesis of arbitrary and capricious. If a decision is one which could be considered ‘fairly debatable,’ then it could not be considered arbitrary or capricious” *Saunders v. City of Jackson*, 511 So. 2d 902, 906 (Miss. 1987). The Supreme Court of Mississippi has repeatedly held that “[e]very zoning case must be decided on the basis of all circumstances of the particular case.” *Howie v. Autrey*, 209 So. 2d 904, 905 (Miss. 1968). Appellants failed to meet their burden. The circumstances of this particular case show The Court the Board’s decision was at a minimum fairly debatable, and not arbitrary or capricious, as the record contains substantial evidence supporting the County’s decision.

ANALYSIS

“To reclassify property, there must be proof, by clear and convincing evidence, that either: (1) a mistake in the original zoning occurred; or (2) a change occurred in the character of the neighborhood to justify rezoning and a public need.” *Edwards v. Harrison Cty. Bd. of Supervisors*, 22 So. 3d 268, 274 (Miss. 2009). Section 806.03 of the Madison County Zoning Ordinance requires the same. (R. 559.) The Mississippi Supreme Court explained the burden of proof in *Woodland Hills Conservation Ass’n, Inc. v. City of Jackson*:

We use the language and tools of adjudication when we impose burdens of proof to be met in zoning hearings. Our cases state that the rezoning applicant has the burden of establishing that there has been a change or mistake.

his burden of proof does not operate as in a trial. Because at its core the rezoning process remains legislative in nature, our enforcement of a burden of proof is strained at best. We are not here concerned with the situation where the party bearing the burden in reality bears the risk of losing his case should he fail to introduce at the hearing evidence of the existence of certain facts. The rezoning tribunal has a responsibility first to act in the public interest. It may draw upon its knowledge of the community and the area as well as the applicant's proof.

443 So. 2d 1173, 1182 (Miss. 1983) (internal citations omitted). Petitioners here met their burden, and the decision of the Board of Supervisors is presumed valid; additionally, “the burden is upon the person seeking to set it aside to show that it was arbitrary, capricious and unreasonable.” *Gentry*, 821 So. 2d 873. This Court must now affirm.

I. SUBSTANTIAL EVIDENCE SUPPORTS THE BOARD’S FINDING OF A CHANGE IN THE CHARACTER OF THE NEIGHBORHOOD.

The Supreme Court has repeatedly held that “every zoning case must be decided on the basis of all circumstances of the particular case.” *Thomas v. Board of Sup’rs of Panola County*, 45 So. 3d 1173, 1181 (Miss. 2010) (quoting *Howie*, 209 So. 2d at 905 (Miss. 1968)). In arguing that there was insufficient evidence for the Board of Supervisors to find the character of the neighborhood had changed, Appellants invite this Court to utilize a one-mile rule to define what constitutes the “neighborhood” for rezoning purposes. This Court declines to do so. The Mississippi Court of Appeals on multiple occasions rejected similar arguments made here and has held that the local authorities may define the area which constitutes the applicable “neighborhood.” *See Kuluz v. City of D’Iberville*, 890 So. 2d 938, 942 (Miss. Ct. App. 2004) (City’s definition of neighborhood was fairly debatable); *see also Collins v. Mayor and Council of City of Gautier*, 38 So. 3d 677, 682 (Miss. Ct. App. 2010) (what constitutes the “neighborhood” is to be decided at the local level).

As to the record evidence, the Mississippi Supreme Court and the Madison County Zoning Ordinance both require that a rezoning applicant prove by clear and convincing evidence that the

character of the neighborhood has changed to such an extent to justify rezoning. *Thomas*, 45 So. 3d at 1181; (R. 559.). In *Conerly*, the Supreme Court held that “. . . the record at a minimum should contain a map showing the circumstances of the area, the changes in the neighborhood, statistics showing a public need, and such further matters of proof. . .” *Board of Aldermen, City of Clinton v. Conerly*, 509 So. 2d 877 (Miss. 1987). This Court finds that the Owners and Developers presented maps and other such substantial evidence to show the character of the neighborhood had changed to such an extent to justify rezoning.

A. Nearby rezonings and developments.

The Owners and Developers presented evidence that the adjacent properties had been rezoned and that those rezonings show a substantial change in the character of the neighborhood. The Mississippi Supreme Court has held “[e]vidence that nearby property has been rezoned supports a finding by the city council there has been a material or substantial change in the neighborhood since the inception of the comprehensive zoning plan.” *McWaters*, 591 So. 2d at 824. At both the Planning and Zoning Commission meeting and the Board of Supervisors’ hearing, the Developers provided evidence that properties located around the subject property have recently been rezoned from R-1 to R-2 and/or PUD. (R. 27, 57.) The map of the subject property provided to the Board by the Developers and Owners showed that the properties to the north of the subject property are being developed. (R. 442, 674, 675.) The evidence showed both the subject property and the property to the north were once part of a larger tract of land owned by the Yandell Family. (R. 27, 57.) The Concerned Citizens provided three maps of aerial photography which the Court finds show that the area has changed significantly since 2004. (R. 673-75.) The 2004 map shows the subject property and the property to the north were once a contiguous cow pasture, while in the 2021 map, four subdivisions had been developed on the land surrounding the subject property. (R. 673-75.) The Board also considered a will-serve letter from the Bear Creek Water Association,

addressing concerns raised regarding the provision of adequate public utility service. (R. 56, 237.) The Mississippi Court of Appeals has held that evidence of the rezoning of adjacent property and evidence of the extension of utilities to the area is substantial evidence of a change in the character of the neighborhood. *Gentry*, 821 So. 2d at 870.

B. The Rezoning was in accordance with the Comprehensive Plan.

The controlling state statute provides in part, that “[z]oning regulations shall be made in accordance with a comprehensive plan.” Miss. Code Ann. § 17-1-9 (Rev. 2024). See also *Bridge v. Mayor and Bd. of Aldermen of City of Oxford*, 995 So. 2d 81, 85 (Miss. 2008). Madison County’s Comprehensive Plan, adopted in 2019, requires the same under section 806.04. (R. 559.) The Future Land Use Plan in the Comprehensive Plan shows that the subject property should be zoned for “moderate density residential.” (R. 56, 468.) The proposal submitted by the Owners and Developers for a moderate density residential development is thus in line with the goals of the County for future land use. (R. 58.)

And Comprehensive Plans adopted by the local authorities can show the change of character to a neighborhood, as well as a public need for rezoning. See, e.g., *Luter v. Hammon*, 529 So. 2d 625, 629 (Miss. 1988); *McWaters*, 591 So. 2d at 828; *Kuluz*, 890 So. 2d at 943; *White v. City of Starkville*, 283 So. 3d 189, 194 (Miss. Ct. App. 2019).

C. Recent Incorporation of the City of Gluckstadt.

The City of Gluckstadt was incorporated less than a mile away from the subject property. Board members can consider their own knowledge of the area when making their decisions. *Woodland Hills*, 443 So. 2d at 1182 (“[The Rezoning Tribunal] may draw upon its knowledge of the community and the area as well as the applicant’s proof.”) Though the City of Gluckstadt was unincorporated at the time the County adopted its most recent Comprehensive Plan, that adopted Plan recognized that the area was becoming more urbanized and expected to continue developing.

(R. 463.) The County had anticipated the change of the character of the neighborhood in the Comprehensive Plan. (R. 56.) The urbanization of the area ultimately resulted in the need for the incorporation of the City of Gluckstadt less than one mile from the neighborhood. There is no doubt the character of the neighborhood changed, and the Board had sufficient evidence before it when reaching its decision.

D. Traffic counts support a change in character of the neighborhood.

The undisputed evidence shows a clear increase in area traffic over several years which supports the Board's finding that there has been a substantial change in the character of the neighborhood. The County recognized this change in the character of the neighborhood and committed \$92 million to road improvements in the area near the subject property. (R. 27.) This road work will widen the roads in the surrounding area, including Clarkdell Road, and provide better access to surrounding highways and arterial roads. (R. 27.) The evidence showed all of these road projects will be completed before the subject property is fully developed. (R. 27, 136.)

Based on this review of the record, the Court finds the Board had before it clear and convincing evidence to find the rezoning petitioners had met their burden of showing there had been a substantial change in the character of the neighborhood.

II. SUBSTANTIAL EVIDENCE SUPPORTS THE BOARD'S FINDING OF PUBLIC NEED.

In deciding whether there is a public need for rezoning, the Mississippi Supreme Court has given great deference to the duly elected officials' knowledge and understanding of the area. *Woodland Hills*, 443 So. 2d at 1181-82. The members of the Board may consider their own knowledge of the area in dispute as well as the information presented during the public hearing. *Faircloth v. Lyles*, 592 So. 2d 941, 943 (Miss. 1991). Future land use studies can provide a substantial basis for finding a public need for certain zoned properties. *McWaters*, 591 So. 2d at

828. The Court has also “. . . recognized the duty of municipal zoning authorities, acting legislatively, to assess their needs by look[ing] out the window and acting on the basis of what they see happening in their community.” *Id.* (internal quotations omitted).

A. Need for housing

The Owners and Developers presented the Board with evidence showing a nationwide housing shortage and that Madison County was not immune to this shortage. (R. 54.) The Developer and Owners presented MLS data and the number of building permits issued to show there is a shortage of housing in the area. (R. 54.) This shortage was further evidenced by the absorption rate of houses for sale in Madison County being below the recommended level. (R. 54-55.) The Developer and Owners showed that availability of housing is a significant factor when attracting jobs. (R. 56.) Madison County added more than 1,500 jobs through Amazon’s development, Clark Beverage moving into the area, and other developments headed by the Madison County Economic Development Authority. (R. 56.) The evidence showed that Madison County is “on the front line for economic development and job growth in Mississippi.” (R. 55.) The Supreme Court has held on multiple occasions that a Board’s decision to rezone is “. . . not unreasonable, arbitrary or capricious, even though there may not have been a present demand” *McWaters*, 591 So. 2d at 828 (discussing *Howie*, 209 So. 2d at 905-06). The Court recognizes that local authorities are charged with the duty of future planning for their areas. *Id.* “This Court has recognized the duty of municipal zoning authorities, acting legislatively, to assess their needs by ‘look[ing] out the window’ and acting on the basis of what they see happening in their community.” *Id.* During the Board discussion before voting on whether to grant to petition, Supervisor Griffin recognized the future need for development in the area when he said, “[i]f we don’t start on this group of roads and allow these developers to go and do their job, we are dead in the water.” (R. 171.)

B. Comprehensive Plan

Once more, caselaw is clear that Comprehensive Plans adopted by the local authorities can show a public need for rezoning. See, e.g., *Luter*, 529 So. 2d at 629; *McWaters*, 591 So. 2d at 828; *Kuluz*, 890 So. 2d at 943; *White*, 283 So. 3d at 194. Such was the case here.

The Comprehensive Plan adopted by the Board also evidences the County's need for more housing, and the subject property is in the middle of the County's growing area. (R. 463.) The purpose of the Comprehensive plan is to "serve as a general and long-range policy guide to decision-making for Madison County." (R. 433.) The plan attempts to "shape and channel market forces" in order to prevent "haphazard growth" and "unnecessary costs" to the County. (R. 434.) The Comprehensive Plan provides that, "[w]hile the plan is not a legal tool . . . it forms the basis for the zoning ordinance." (R. 435.) It further provides that, "[a]ll policy decisions related to the development of property, including rezoning, within the local government should be based on the Comprehensive Plan." (R. 435.) The Comprehensive Plan in the record shows anticipated growth for residential development on the east side of I-55. (R. 56.)

The Comprehensive Plan of Madison County and the evidence presented to the Board showing a need for housing in the area supports a need for rezoning the subject property.

C. Concerns of the citizens

This Court finds the Board of Supervisors in making its decision considered the concerns voiced by the objectors. On multiple occasions in the hearing, the Board voted unanimously to acknowledge the concerns presented by the Concerned Citizens. (R. 17-19.) The record displays that all concerns were addressed by the Owners and Developers sufficiently addressed these concerns.

The Appellants, as objectors to the rezoning, expressed concerns about traffic, home values, school population, and a nearby gas pipeline, but these concerns – which the record shows

were adequately considered by the Board of Supervisors – do not show a record lacking in substantial evidence.

The Board of Supervisors heard testimony from traffic engineer Johnathon Kiser about the capacity of Clarkdell and that the Yandell and Clarkdell intersection would operate at acceptable levels with the additional development proposed by Owners and Developers. (R. 137-39.) The Board also considered a letter from Superintendent Ted Poore explaining the School District monitors and is aware of the growth in the area and the School District will account for this growth in its future planning. (R. 192.)

As to the concerns regarding home values in the area, the Concerned Citizens did not produce any data which shows the rezoning of the property would decrease the value of homes in the area. The Board members were aware that home prices in Madison County have steadily risen over the past decades, even withstanding the economic recession of the late 2000s. Regarding the gas pipeline which runs along the property, the objectors presented only anecdotal references to other pipeline ruptures and produced a list of questions for the Board regarding the pipeline. (R. 672.) These concerns relate more directly to site plan approvals which will be a subsequent plan in the process. Blake Cress, one of the Developers, explained to the Board that the pipeline operator is closely involved in the construction process and is reviewing the Developer's plan to ensure no part of the pipeline is disturbed during development of the property. (R. 86.)

The record shows that the development will take two to three years to even break ground. (R. 53.) The Developer explained to the Board that the development will not be fully built out for more than a decade, with the start of construction anticipated to be two to three years after rezoning, with total build-out to last 10 to 12 years, meaning that site plans for any housing development are also years away from approval. (R. 53.)

The discussion of the Board and evidence considered at the time of voting on whether to grant the petition shows that the decision was, at a minimum, “fairly debatable” and therefore could not be arbitrary or capricious. (R. 167-78.) As the Mississippi Supreme Court has consistently held, “The Courts should not constitute themselves as a Zoning Board for a municipality.” *Westminster Presbyterian Church v. City of Jackson*, 176 So. 2d 267, 272 (Miss. 1965). The decision of the Board was supported by substantial evidence, which the Appellee has laid out in its briefing and oral argument and which the Court has now fully set forth in this Opinion. Based on that evidence, the Court can reach no other conclusion than to find the Board’s decision was “fairly debatable,” which by definition means it was not arbitrary or capricious. Therefore, longstanding precedent mandates affirmance of the decision.

CONCLUSION

“Zoning is not a judicial matter, but a legislative matter.” *Luter*, 529 So.2d at 628. The decision of the Board must be upheld unless it is “arbitrary, capricious, discriminatory, or is illegal, or without a substantial evidentiary basis.” *Faircloth*, 592 So. 2d at 943. A decision to rezone which is fairly debatable will not be disturbed. *Saunders*, 511 So. 2d at 906. The burden is upon the Appellant seeking to set aside the Board’s decision to show that it was arbitrary, capricious and unreasonable.” *Fondren N. Renaissance v. Mayor and City Council of City of Jackson*, 749 So. 2d 974, 979–80 (Miss. 1999) (citing *Conerly*, 509 So. 2d at 883). Appellants fail to meet that burden.

The Developers and Owners satisfied their burden in showing, by clear and convincing evidence, that there was both a change in the character of the neighborhood and a public need to rezone. The decision of the Board of Supervisors was supported by substantial evidence presented at the hearing and was thus not arbitrary or capricious. The evidence supporting the County’s decision included among other items the rezoning and development of adjacent property, the incorporation of the City of Gluckstadt, and the undisputed increase in traffic, as well as the

County's recent commitment of \$92 million in roads improvements, including those adjacent to the subject property. The rezoning was also in accordance with Madison County's adopted Comprehensive Plan of Madison County, and its Future Land Plan, which show the subject property should be zoned for moderate density residential. The Board based its approval of the rezoning request on substantial evidence, and its decision was not arbitrary or capricious. As such, this Court must affirm the decision.

IT IS, THEREFORE, ORDERED that the decision of the Madison County Board of Supervisors, on Sept. 16, 2024, rezoning the subject real property from Residential Estate District (R-1) to Medium Density Residential District (R-2) with a Planned Unit Residential (PURD) overlay should be, and the same is hereby, **AFFIRMED**.

SO ORDERED, this the 15 day of September, 2026.



CIRCUIT JUDGE

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