

**MINUTES OF THE MEETING OF THE MADISON COUNTY
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON
THURSDAY, THE 14th DAY OF APRIL, 2022 AT 9:00 A.M. AT THE
MADISON COUNTY COMPLEX BUILDING**

BE IT REMEMBERED that a meeting of the Madison County Planning and Zoning Commission was duly called, held and conducted on Thursday, the 14th day of April, 2022, at 9:00 a.m. in the Madison County Complex Building.

Present: Larry Miller
 Walter McKay
 Dr. Keith Rouser
 Bill Billingsley
 Rev. Henry Brown
 Scott Weeks, Planning and Zoning Administrator

The meeting 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 December 12, 2021, meeting of the Commission. Upon motion by Commissioner McKay, seconded by Commissioner Brown with all voting "aye," motion to approve the December 12, 2021 minutes passed.

There next came on for consideration, the need to open the meeting for public hearing of certain matters. Upon motion by Commissioner McKay to open the meeting for public hearing of certain matters, seconded by Commissioner Miller, with all voting "aye," the public hearing was so opened.

There next came on for consideration the Application of TEKS FARMS, for Special Exception on a Conditional Use for a Surface Mining Operation. The property subject to the application is on Highway 43 approximately 5-6 miles North of Canton, and just South of Sharon, is zoned as A-1 Agricultural District, and is Supervisor District 5. Dawn Street with Soil Masters appeared on behalf of the Petitioner, and advised that they currently have a 4 acres or less exempt mining operation, and wish to expand their mine to +/-36 acres. Ms. Street advised that MDEQ has her permits on hold and waiting to be issued upon approval of Madison County. Commissioner Brown inquired as to the location of the proposed mine, and Ms. Street advised that it is approximately 5-6 miles North of Canton, and just South of Sharon. Commissioner McKay advised that the same conditions would apply to the expanded mine as to the current exempt mine. Ms. Street advised that she had mined out the 4 acres or less of exempt soils, and is waiting to reactivate operations on the expansion. Upon motion by Commissioner Brown to approve the Application of TEKS FARMS, for Special Exception on a Conditional Use for a Surface Mining Operation, seconded by Commissioner Billingsley, with all voting "aye," the motion to approve

the Application of TEKS FARMS, for Special Exception on a Conditional Use for a Surface Mining Operation was approved.

There next came on for consideration the Application of Robert A. Armstrong, for Special Exception on a Conditional Use for an Exempt Mining Operation. The property subject to the application is on the corner of Highway 43 and Quail Road, is zoned as A-1 Agricultural District, and is Supervisor District 5. Before Mr. Armstrong appeared, Attorney Clark advised the Commission that Mr. Armstrong had appeared at the December 16, 2021, meeting of the Commission on this same Application, which was approved at that time. However, Attorney Clark advised that since that time, certain issues had arisen. Firstly, when Administrator Weeks went to retrieve the sign giving Notice of Public Hearing from the property, it was gone. Secondly, the Board of Supervisors had received a Petition from numerous residents in the area of the mine stating that they never saw the sign, and were not aware of Public Hearing, or proposed use of the property. Thirdly, through Administrator Weeks' investigation, he determined there was an error in the Notice given in the Madison County Journal as to the date for the December 16, 2021 hearing. For these reasons, on March 21, 2022, the Board of Supervisors ordered this matter be remanded to the Planning and Zoning Commission for re-hearing. The matter has been properly re-noticed in the Madison County Journal with the date of Public Hearing for April 14, 2022.

Commissioner Billingsley inquired as to whether there was a determination of what happened to the sign, and Attorney Clark advised that there was not. Commissioner Billingsley also inquired as to whether there had been another sign posted as to give notice of the April 14, 2022, meeting, and Administrator Weeks confirmed that there had been a sign placed, and retrieved. Attorney Clark also advised that the Planning & Zoning Department had implemented a policy of taking photographs of signs placed in order to avoid any future confusion on whether the process had been followed.

Mr. Robert Armstrong appeared as the owner of A&A Excavating Contractors, and stated that he had been a dirt contractor in the Madison, Rankin, and Hinds County area for 47 years. He advised that dirt, and control of dirt, is the lifeblood of a dirt contractor's business. He advised that the property at issue is the kind of property that he looks for in that it is hilly so that when the mining is completed, the property has been leveled, is improved, and is not devalued. He advised that the owner, Mr. Woodrow Williams, wants to take advantage of his resource, and improve his property. Mr. Armstrong advised that the property has approximately 30 feet of elevation change from high to low, and that when completed, the would dirt down to approximately 4 feet above road level. Mr. Armstrong presented demonstrative drawings and explained the elevations of the property, and how he planned to excavate. He stated that there would be several hundred feet of heavily wooded area separating the operation from Quail Road. As such, he stated that the impact on the residents in the area would be minimal, and no more than the existing mining operations close by. He stated he did not plan to open the mine to the public, but only for use for his jobs. He advised that he would be in there for 3-4 days at a time, and only for the time it takes for him to get as much dirt as he needed for his jobs. As such, he advised that the impact and noise level would be minimal, and would improve the value of the property and surrounding properties.

Commissioner McKay inquired as to whether adjacent property owners had been notified by certified letter of the plan for the property, and Administrator Weeks explained that that is not

a requirement for this Application. Commissioner Billingsley inquired as to how long he planned to be on site, and Mr. Armstrong stated that he would only be there as needed, and estimated that may be there a couple of years, but only there 1/3 of the time. Commissioner Billingsley also inquired as to the reclamation plan, and Mr. Armstrong advised that he had filed one with MDEQ, and would re-grade topsoil and seed the property for grass cover. Chairman Rouser inquired as to Mr. Armstrong's crew, and if it would include a flagman. Mr. Armstrong advised that visibility from the site is on the peak of the property, and his crew would only be turning right.

Don Clark¹ appeared in opposition and on behalf of others in opposition to the Application. Mr. Clark advised that those in attendance, including himself, represented all of the residents of Quail Road. Mr. Clark advised that they are not opposed to mining in general, but only as to this location, as it did not comply with the Madison County Zoning Ordinance. Mr. Clark referred to Section 805.01 a-g of the Ordinance and the conditions that must be met in order to receive a conditional use. Mr. Clark advised that he did not believe Mr. Armstrong had met any of the requirements, but wanted to focus on 1) the lack of safety, and that other dump trucks from the area would be approaching Mr. Armstrong's mine, and trucks leaving his proposed mine at full speed. He advised that there are 10 driveways in this immediate location in addition to the trucks leaving Mr. Armstrong's pit. 2) Mr. Armstrong's application did not provide for an appropriate buffer for the surrounding areas, and 3) that the dirt pit is not compatible with the surrounding area, and the investments in property that the surrounding property owners had made in their own properties, and the peace and tranquility of the use of the property. Mr. Clark also pointed to Mr. Armstrong's application submitted to MDEQ and his answers to the questions thereon. First, Mr. Clark pointed to the question as to whether the applicant had any other mining permits, and that Mr. Armstrong had answered "no," on the application. However, Mr. Clark stated that Mr. Armstrong had stated that Mr. Armstrong has stated in two meetings that he had had other permits. Second, Mr. Clark pointed to the question as to whether the applicant planned to file for a permit and expand, and that Mr. Armstrong answered "no," on the application. However, Mr. Clark stated that in his cover letter to the Commission, Mr. Armstrong stated that he planned to expand to 10 acres. Third, Mr. Clark pointed that on his MDEQ application, Mr. Armstrong stated that the total number of acres to be mined was "3.5." However, on his application to the Commission, Mr. Armstrong stated that the total number of acres was "3.7," but also noted that he wanted to use off-site parking adjacent to the area, putting his total acreage over 4 acres, and requiring another permit application. Lastly, Mr. Clark pointed out that on his MDEQ application, as to whether the operation was closer than 1,320 feet to another operation, and that Mr. Armstrong answered "no." However, in his presentation to the Commission, he stated that there was another operation just 200 feet down the road. Mr. Clark stated that the reason for these discrepancies were so that Mr. Armstrong could get an exempt permit, and not have to notify adjoining property owners, and get their permission, as is required for a larger permit. Mr. Clark submitted that Mr. Armstrong had not come to this Commission with "clean hands" due to the discrepancies in Mr. Armstrong's application.

Gerald Barber also appeared in opposition, and advised that he has a real estate appraisal company that specializes in conservation efforts. Mr. Barber advised that he had purchased property on Quail Road in the late 1970's, and had improved and sold portions of the property since that time. Mr. Barber stated that the values of the property around Quail Road are among the highest due to the fact that the residents had improved the property, and built a neighborhood.

Mr. Barber advised that the highway dump truck traffic, and the surface mine would be a detriment to the surrounding properties, and devalue the residents' properties. He asked the Commission to consider the dangerous traffic caused by dump trucks, the threat to the enjoyment of the residents' properties, and possible devaluation of the properties of the residents. Commissioner Billingsley inquired as to whether Mr. Barber was there, and making his opinion, as a real estate appraiser, or a resident citizen. Mr. Barber advised that he was making his opinion as a resident citizen, but that he also happened to be a real estate appraiser. Chairman Rouser called for a show of hands as to all in opposition, and Attorney Clark noted approximately 20 hands raised.

Mr. Clark noted that the house closest to the proposed mine were in the process of renovating the house to be able to sell it, and were very much opposed to the proposed mine, as they feel it would impact their ability to sell the home. Mr. Clark asked that a copy of the memo from the family's attorney be attached to these minutes.

Commissioner Billingsley inquired as to the inclusion of the off-site parking in the total acreage on the Applicant's application. Mr. Armstrong stipulated that he would not use that area, but that that was only a proposal to increase the safety of the proposed use for off-site parking. Mr. Armstrong, therefore, stipulated that the proposed mine would be 3.5 acres. Commissioner Billingsley also inquired as to the distance to the adjacent operation. Mr. Armstrong stated that he misspoke, and that MDEQ checked and certified distances to adjacent operations before they would issue a permit. After discussion, there was no certification presented as to the distance between the existing operation, and the proposed operation.

Commissioner McKay inquired as to the question as to whether Mr. Armstrong intended to apply for a permit up to 10 acres. Mr. Armstrong stated that at the time, he was anxious as to whether he would be able to obtain a permit, but that if allowed, he would like to enlarge the mining operation, but that he did not do so initially because it is a long, drawn out process where the exempt permit is not. He stated that he does not know of anyone that doesn't take advantage of the exempt permit process, and then apply for the expansion later. He stated that he gained no advantage by initially stating that he did not plan to expand.

Commissioner Miller inquired as to the criteria to be met for approval of a conditional use, and as to counsel's opinion on the matter. Attorney Clark advised that the criteria and factors set forth in the Ordinance are to be proven by the Petitioner, and that the Commissioners are to decide as to whether those have been met to the satisfaction of the Commission.

Kay Pace appeared in opposition, and stated that she lives in the area, and is concerned as to traffic on Highway 43. She stated that she has difficulty in turning into, and out of her driveway due to the high speed of dump trucks on Highway 43. She stated that there is no way to strictly enforce any contracts or agreements as to traffic control measures. She stated that she is concerned of the traffic and operations affecting the enjoyment of the properties owned by the nearby residents, and asked the Commission to consider the concerns of the residents.

Mr. Armstrong responded that his operation would not increase the traffic on Highway 43. He stated that the area in question is where the dirt pits are, and that trucks would be on the highway anyway. He stated that the only difference is that his trucks would be pulling onto Highway 43

near Quail Road, and would not have time to gain speed that would cause concern to the residents, and would be slowing down in order to enter his mine. He stated that he takes safety very seriously, and that the only difference between his Application, and that of others, is that there are 20 people present stating that they don't want it.

Commissioner Billingsley inquired as to the traffic concern, and the other nearby operation. Mr. Clark advised that the adjacent operation is existing, and none in opposition lived nearby that operation. Mr. Clark stated that the adjacent pit does have traffic issues, but that the speed of trucks leaving that operation meeting the slow trucks coming and going to the proposed operation cause a great concern for uniquely dangerous traffic issues. As to why there was no opposition to the expansion of the existing operation, Mr. Clark stated that "we had a bullet to fire, if you will, and we chose to fire [at the proposed operation]."

Roderick Harris appeared in opposition. Mr. Harris stated that he over the 15 acres adjacent to the property. He stated that he never saw the sign for the December Public Hearing. He stated that his mother is currently recovering from cancer and the noise from the operation would be a burden to her. He also stated that the water from the mine would wash down and flood his driveway if the operation was allowed. Mr. Harris also expressed concern of the existing dump truck traffic as to his property.

Mr. Armstrong addressed the concerns of the water leaving the proposed operation, and again discussed the slow speed of the trucks coming to, and leaving his operation.

Commissioner Brown asked Mr. Armstrong about why he answered "no," on the application. Mr. Armstrong explained to the audience that he was skeptical as to his ability to obtain a permit in Madison County, and that his answer "no," gave him no advantage to obtain a permit. He stated that he simply changed his mind on expansion after he submitted his application. Commissioner Brown expressed concern over the way Mr. Armstrong answered the questions on the application, and the concerns expressed by the citizens present.

Attorney Clark read criteria under the Madison County Zoning Ordinance under Section 805.01 A-H, into the minutes, and by which the Commission should consider any applications for Conditional Use.

Upon motion by Commissioner Brown to deny the Application of Robert A. Armstrong for Special Exception on a Conditional Use for an Exempt Mining Operation, seconded by Commissioner Miller, with Chairman Rouser, and Commissioners Brown, McKay, and Miller voting "aye," and Commissioner Billingsley voting "nay," the motion to deny the Application of Robert A. Armstrong for Special Exception on a Conditional Use for an exempt Mining Operation was approved.

There next came on for consideration, the Petition of Robert Stockett, III to Amend the Master Development Plan for Northshore of Lake Caroline. The property subject to the application is on Highway 22, is zoned as PUD, and is Supervisor District 4. Kevin Watson appeared on behalf of Tommy, Terry, and Megan Nusz. Mr. Watson explained that the Petitions before the Commission were signed on behalf of the Samuel H. Stockett Property Trust, and that Tommy and

Terry Nusz had a contract to purchase +/-54 acres from that Trust, conditioned upon removal of the property from the current PUD, obtaining the appropriate zoning, and getting a conditional use. Mr. Watson gave a brief history of the property, stating that the initial Master Development Plan included residential lots, and an Equestrian Center. The Master Development Plan was amended in 2006, to include 149 houses, as well as 60 townhomes with access through Northshore Way. Mr. Watson explained that he was seeking removal of +/-54 acres from the PUD, to rezone that +/-54 acres to A-1 Agricultural District, and to grant a conditional use for an equestrian center. Mr. Watson explained that the result, if granted, would eliminate a number of planned homesⁱⁱ, improve the current traffic issue by eliminating the traffic from those planned homes, and that it would be an added amenity to Madison County, and the Lake Caroline area. Mr. Watson explained that the Nusz's had agreed to pay Northshore HOA to help maintain the access gate for that neighborhood, and that heavy truck ingress and egress to the property would come in off of Highway 22.

Mr. Watson provided pictorial examples of previous projects built by the Nusz's in Lexington, Kentucky, and West Palm Beach, Florida, as a similar example of the project that they propose to construct on the property. Upon receipt of such examples, Commissioner Billingsley announced that he felt the need to recuse himself from any further participation, as he and his wife run an equine rescue operation, and, if approved, there could be a potential for future dealings with the proposed operation as far a training rescue horses from his facility, and he wanted to remove any and all appearance of impropriety in his involvement in the discussion of the matter. Accordingly, Commissioner Billingsley left the meeting, and had no further participation or discussion.

Tommy Nusz appeared before the Commission, and explained that he and his wife had been in the equestrian business for 30 years, and had built facilities in Palm Beach, Florida, and Lexington, Kentucky. He explained that his daughter, Megan, had graduated college and decided to go into horse training. He explained that this facility would be for Megan, and her existing 20 or so clients for training and competition. Mr. Nusz clarified that the proposed site would be a training facility, and not an event for horse shows. Mr. Nusz explained that the facility would be approximately a \$2.5 million investment in the community.

Commissioner McKay inquired as to whether this would be a commercial operation, or an amenity to the Lake Caroline community. Mr. Watson and Mr. Nusz explained that this would be a commercial operation, but not exclusively for the residents of Lake Caroline. Instead, it would be available to the public that wished to use the facility. The proposed facility would be comprised of 20 horse stalls for Megan, and her clients' horses.

Administrator Weeks commented that he was concerned that the three Petitions at issue were getting all thrown together, and advised that the appropriate process would be to first consider the Master Development Plan amendment, then the re-zoning, and finally, the conditional use. Mr. Watson clarified that the proposal before the Commission was to request removal of a +/-54 acre tract from the current Master Development Plan, the second request would be to re-zone that +/-54 acre tract from its current designation of R-1B Moderate Density Residential District to A-1 Agricultural District, and lastly, to request a conditional use for an equestrian facility. Mr. Watson advised that Mr. Nusz had met with Tommy Guest, manager of Lake Caroline HOA, and the

President of the Lake Caroline HOA, and had reached out to the President of the Northshore HOA, but had not heard back from them on the matter.

Mike Howard appeared as a Board member of the Northshore HOA. Mr. Howard advised that his property backed up to subject property, and that he was very much in favor of the project, as is the Northshore HOA.

Upon motion by Commissioner McKay to approve the Application of Robert Stockett III for Master Plan Amendment Lake Caroline Northshore by removing +/-54 acres currently zoned as R-1B Moderate Density Residential District from the PUD, seconded by Commissioner Brown, with all presentⁱⁱⁱ voting "aye," the motion to approve the Application of Robert Stockett III for Master Plan Amendment Lake Caroline Northshore was approved.

Upon motion by Commissioner Miller to approve the Application of Robert Stockett III for Re-Zoning +/-54 acres from R-1B Moderate Density Residential District to A-1 Agricultural District with the condition that the A-1 Agricultural District Designation on the +/-54 acres be so zoned only for an equestrian facility, seconded by Commissioner Brown, with all present^{iv} voting "aye," the motion to approve the Application of Robert Stockett III for Re-Zoning +/-54 acres from R-1B Moderate Density Residential District to A-1 Agricultural District with the condition that the A-1 Agricultural District Designation on the +/-54 acres be so zoned only for an equestrian facility was approved.

Upon motion by Commissioner Miller to approve the Application of Robert Stockett III for Conditional Use to allow for a stable, riding academy, and facility for training and showing of horses, seconded by Commissioner McKay, with all present^v voting "aye," the motion to approve the Application of Robert Stockett III for Conditional Use to allow for a stable, riding academy, and facility for training and showing of horses was approved.

Following the above action, Commissioner Billingsley returned to the meeting.

There next came on for consideration, the Application of Tom Mills for Variance to Side Setbacks on Lot 79, The Shores at Caroline Phase 2-B. The property is currently zoned as a PUD, and is in Supervisor District 2. Tom Mills appeared and requested that the side setbacks be moved 2.5'. Administrator Weeks provided a letter from Blake Cress, Developer, advising that he was aware of the situation with the Lot, and had no objection. Catherine Tucker, owner of Lot 79 appeared and explained the layout of her Lot to the Commission. The issue is that an adjacent property owner would not be able to view the lake without the variance. Administrator Weeks advised that there is an easement on the left side of the proposed house, so no owners would be effected. However, in order to accommodate the neighbor on the right side, the proposed house would need to be moved forward, and shifted to the left on the Lot, stay within the setbacks on the right side, and necessitating the 2.5' variance to the side setback. Upon motion by Commissioner Billingsley to approve the Application of Tom Mills for Variance to Side Setbacks on Lot 79, The Shores at Caroline Phase 2-B, seconded by Commissioner McKay, the motion to approve the Application of Tom Mills for Variance to Side Setbacks on Lot 79, The Shores at Caroline Phase 2-B, was approved.

Upon motion by Commissioner McKay to close the public hearing, seconded by Commissioner Billingsley, with all voting "aye," the public hearing was so closed.

There next came on for consideration, the site plan for a MCEDA Spec Building. The property is located at the Madison County Megasite, and is in Supervisor District 4. Clint Bledsoe with Alliant Construction appeared, and advised that he was applying for the permit to construct the building. Mr. Bledsoe advised that this would be a 100,000 sq.ft. manufacturing facility. Mr. Bledsoe advised that the building was just a shell at the moment, with potential future expansion up to 300,000 sq.ft. Mr. Bledsoe advised that the building would be precast wall panels with the West wall being pre-engineered metal to allow for future expansion. Mr. Bledsoe advised that there will not be a slab on grade until a tenant is found, and their needs are known. Mr. Bledsoe advised that once a tenant was found, then contractor would comply with all other requirements of Madison County. Upon motion by Commissioner McKay to approve the site plan with the condition that when a tenant is found, the site plan should come back to the Planning and Zoning Commission for further review, seconded by Commissioner Billingsley, the site plan for a MCEDA Spec Building, with the condition that when a tenant is found, the site plan should come back to the Planning and Zoning Commission for further review, was approved

There next came on for discussion, the setting of the May, 2022, meeting. May 19, 2022, was suggested. Upon motion by Commissioner Billingsley, seconded by Commissioner McKay, with all voting "aye," motion to set the May, 2022, meeting for May 19, 2022, passed.

With there being no further business, the April 14, 2022, meeting of the Madison County Planning and Zoning Commission was adjourned.

5-19-22
Date


Dr. Keith Rouser, Chairman

- ⁱ Don Clark advised that he is an attorney, but that his appearance at the meeting was as a concerned citizen, and not that of an attorney.
- ⁱⁱ The Master Development Plan shows residential lots, and townhomes. While the residential lots will be eliminated, the townhomes will not. Petitioner's petition is limited to the property contained in the legal description submitted with its petition.
- ⁱⁱⁱ Commissioner Billingsley was not present, not participating, and did not vote.
- ^{iv} Commissioner Billingsley was not present, not participating, and did not vote.
- ^v Commissioner Billingsley was not present, not participating, and did not vote.