

**MINUTES OF THE MEETING OF THE MADISON COUNTY
PLANNING AND ZONING COMMISSION HELD AND CONDUCTED ON
THURSDAY, THE 9th DAY OF NOVEMBER, 2023 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 9th day of November, 2023, at 9:00 a.m. in the Madison County Complex Building.

Present: Dr. Keith Rouser
 Rev. Henry Brown
 Jean McCarty
 Bill Billingsley

Scott Weeks, Planning and Zoning Administrator

Absent: Mandy Sumerall

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 October 19, 2023, and the October 20, 2023, meeting of the Commission. Upon motion by Commissioner McCarty, seconded by Commissioner Billingsley, with all voting "aye," motion to approve the October 19, 2023, and October 20, 2023, minutes passed.

There first came on for consideration, the Appeal of Zoning Administrator's Interpretation of Zoning Designation (Lake Caroline) by Bill Hardin. Prior to any discussion, Attorney Clark informed the Commission that Mr. Hardin's appeal arises out of the June 8, 2023, approval of the Stribling Market site plan. Attorney Clark advised that upon submission of the Stribling Market site plan, and that based on Attorney Clark's, and Administrator Weeks' general knowledge of the area, site plan application, and research of the BOS minutes and Chancery Clerk file, they believed the property to be zoned as a PUD superimposed over C-2 Commercial District.

However, upon further investigation, Attorney Clark, and Administrator Weeks learned that in the early to mid 2000s, Lake Caroline golf course was failing. Litigation over the Lake Caroline Master Development Plan ensued. Ultimately, the Mississippi Supreme Court remanded the matter back to the Madison County Board of Supervisors to conduct a full hearing considering the existence *vel non* of the purported 1989 Lake Caroline Master Development Plan, and to confirm, amend, or adopt a Master Plan.

The Board of Supervisors held such hearing on December 1, 2008. The minutes reflect that the Board of Supervisors considered four (4) purported Master Development Plans from 1989, 1998, 2001 & 2003 for consideration. At that hearing, the Board of Supervisors adopted the 2003 Master Plan of Lake Caroline, as the 2008 Master Plan of the Lake Caroline PUD District. The

2003 (2008) Master Development Plan only shows that the property is for “commercial use consistent with PUD zoning.” The PUD zoning that was in place at the time of the 2003 Master Development Plan of Lake Caroline was a P-1 Planned Unit Development under the 1983 Zoning Ordinance. Subsequent passage of various ordinances repealed the P-1 PUD zoning, and it is no longer a part of the Ordinance. The commercial designation was never brought forward to current commercial designation.

Prior to the June 8, 2023 site plan submission, Attorney Clark and Attorney Weeks found a 2008 Master Development Plan in the Chancery Clerk’s files which clearly showed the property subject to the Stribling Market site plan as C-2 Commercial District, and that is what Attorney Clark and Administrator Weeks based their opinion on as to the current zoning designation. However, after sorting through numerous County records, Attorney Clark and Administrator Weeks now realize that opinion was in error, and the found 2008 Master Development Plan is of no moment and has no bearing on the matter. As such, Attorney Clark advised the Commission that Mr. Hardin had appealed the Zoning Administrator’s Interpretation of Zoning Designation.

Bill Hardin appeared before the Commission, and stated that he did not learn of the Stribling Market site plan until after its approval. He advised that he came up the Planning & Zoning office and asked for zoning verification. Mr. Hardin directed the Commission to Section 806.04 of the Zoning Ordinance states that proposed rezoning shall be consistent with adopted Comprehensive Plan, and that no amendment to the Official Zoning Map shall be approved by the Planning and Zoning Commission unless the proposed rezoning is consistent with all four elements of the Comprehensive Plan including the Goals and Objectives, Land Use Plan, Transportation Plan, and the Community Facilities Plan. Mr. Hardin stated that the Land Use Plan for Lake Caroline calls for moderate or medium density residential, with the exception of The Mermaid Restaurant. Mr. Hardin stated that Section 2703 of the Zoning Ordinance states that in a PUD, rezoning is required for development of a portion of PUD for townhouses, townhomes, multi-family or commercial uses.

Mr. Hardin asked the Commission to recall a case from a few years back where re-zoning was required for townhomes on the west side of Lake Caroline. Mr. Hardin opined that any commercial development in Lake Caroline would likewise require re-zoning. Mr. Hardin further opined that the decision of the Commission would affect thousands of property owners in Lake Caroline, and that any commercial use would be detrimental to their property values.

Mr. Hardin stated that Stribling Road is classified as a medium arterial road, and not a highway. Mr. Hardin opined that C-2 Highway Commercial would be inappropriate for this location, and that there are numerous locations along major intersections for this type of commercial development. Mr. Hardin further opined that if there were to be any commercial zoning in Lake Caroline, it should be non-retail, and office use only.

Commissioner Billingsley inquired as to whether Mr. Hardin was speaking for Lake Caroline, or as a private citizen. Mr. Hardin responded that many of his neighbors knew his background as a Zoning Administrator for the City of Jackson for more than 20 years before retiring and entering into private real estate development. Mr. Hardin also advised that he had

been an expert witness in Madison County annexation cases. As such, many of his neighbors had asked him to get involved.

Attorney Clark advised the Commission that he disagreed that a re-zoning was required because there is no question that the Lake Caroline PUD exists. The question was over the Master Development Plan, which has been solved. However, the P-1 PUD designation was a stand-alone designation in the 1983 Zoning Ordinance and virtually left commercial development open to the discretion of the Board of Supervisors. However, the P-1 PUD no longer exists, and the zoning was never brought forward to a modern commercial designation under the current Ordinance.

Attorney Clark advised that because their June 8, 2023, approval of the Stribling Market site plan was based on erroneous information, the Board should consider rescission of their prior approval and ask the Board of Supervisors to set a Public Hearing as to what the current zoning designation should be under the current Ordinance. Attorney Clark advised the Commission that there is precedent for this, as property to the North of Lake Caroline had a Master Development Plan that simply listed the property as "Commercial," without any designation, and the Board of Supervisors determined that that property was, indeed, C-2.

Upon motion by Commissioner Billingsley to rescind the June 8, 2023, approval of the Stribling Market site plan as same was based on erroneous information, and to request that the Board of Supervisors set a Public Hearing to determine the appropriate commercial designation under the current Zoning Ordinance, seconded by Commissioner Brown, with all voting "aye," the motion to rescind the June 8, 2023, approval of the Stribling Market site plan as same was based on erroneous information, and to request that the Board of Supervisors set a Public Hearing to determine the appropriate commercial designation under the current Zoning Ordinance, was approved.

Following the vote on the matter, Commissioner Billingsley inquired as to whether, once this matter is settled, if the Planning & Zoning Commission needed to make any changes to its Ordinance. Attorney Clark opined that once the matter is settled by the Board of Supervisors, the Zoning Map would be updated. Mr. Hardin addressed the Commission and opined that if the Board of Supervisors is to zone this property as commercial, then they have to amend their Land Use Plan.

There next came on for consideration the Site Plan of White Farms, LLC. The property subject to the Application is on Highway 51, is Madison County Tax Parcel No.: 082F-14-017/00.00, is zoned C-2 Highway Commercial District, and is in Supervisor District 5. Daniel Wooldridge appeared on behalf of the Applicant as architect for the project. Mr. Wooldridge advised that this is a family-owned property for a family-owned construction business that installs concrete pilings for foundations. Mr. Wooldridge advised that the Applicant wishes to place a building on the property for inside storage and maintenance, parking of their vehicles. Mr. Wooldridge advised that the building would be pre-engineered with a wood front facing the Highway 51 for screening, and the remainder would be chain-link. Mr. Wooldridge advised that there is an existing gravel driveway that will be improved and the parking area in front of the building will be gravel, with a concrete pad for handicapped parking. Landscaping will be minimal

as the front of the site will be left natural. The color of the building will be gray metal with gray board and batting.

Commissioner Billingsley inquired as to whether there were any visibility issues on the rear of the building, and Mr. Wooldridge responded that it would not, as the site is on the East side of Highway 51.

Commissioner McCarty inquired about the entirety of the parcel being +/-3 acres to qualify for C-2 designation, and pointed out that it abuts a residentially zoned property. Commissioner McCarty inquired as to the setback requirements and landscaping on that portion. Mr. Wooldridge responded that a 50' set back is required if you don't have a fence, and 25' if you do have a fence. Commissioner McCarty stated that the Ordinance does require landscaping. Attorney Clark advised that there is no certain requirement for landscaping, and that it could be sod or grass, or something more to provide for screening. Mr. Wooldridge advised that there is an existing fence on the property line, and the plan was to allow that to remain natural. Commissioner McCarty inquired as to the plan for landscaping along Sowell Road, and the East side of the property. Mr. Wooldridge advised that they would put some trees on the side facing Sowell Road and the East line between the subject property, and the residentially-zoned property. Commissioner McCarty also inquired as to the use of the property and possibility of creating noise. Mr. Wooldridge advised that the business works off site, and the building would be more of a base of operations for the business, and the employees would be there on a come and go basis. Commissioner McCarty further inquired as to the open shed area, and stated that under a C-2 designation, there is not to be open storage. Mr. Wooldridge stated that the purpose of the open shed area was only to park personal vehicles out of the weather. Attorney Clark commented that the inclusion of such in the ordinance would be more for a business that has a lumber or brick yard, or in the instance of a mini-storage parking boats and RV's, and that the requested shed parking area would be permitted, and not run afoul of the Ordinance. Commissioner McCarty next inquired as to the width of the lot not being the minimum width under C-2, and Administrator Weeks advised that this is a lot of record prior to enactment of the minimum width, and the use is permitted under C-2. Upon motion by Commissioner McCarty to approve the Site Plan for White Farms, LLC, seconded by Commissioner Brown, with all voting "aye," the motion to approve the Site Plan for White Farms, LLC, was approved.

There next came on for consideration the Site Plan of Stokes Road Shell for a Convenience Store. The property subject to the Application is on the corner of Stokes Road and Livingston Vernon Road and Highway 51, is Madison County Tax Parcel No.: 051A-12-005/03.00, is zoned C-2 Highway Commercial District, and is in Supervisor District 4. Daniel Wooldridge appeared on behalf of the Applicant as architect for the project, and advised that Rav Bedi is the owner of the property. Mr. Wooldridge stated that the project is a +/-5,200 sf. building, but that it is a stand-alone store without additional lease space. The building is on property that is zoned C-2, which is a permitted use, and adjoins two more parcels that are also zoned C-2. The property will be all brick and Mr. Wooldridge distributed a color-rendering to the Commission. Mr. Wooldridge advised that the site plan includes a drainage plan and retaining water on site. Commissioner McCarty pointed out that one parcel away is a church, and inquired as to the distance from the subject site to the church, and stated that it is approximately 450 feet. Commissioner McCarty inquired as to the State requirement for distance from a church in order to sell alcohol. Attorney

Clark stated that he was not sure, but that the State measures from door to door in order to calculate the required distance, and Commissioner McCarty stated that she believed the distance here would meet that requirement.

Sheriff Toby Trowbridge (Retired) appeared in opposition, and advised that he resides on Cedar Hill Road near the subject property. Sheriff Trowbridge advised that he does not believe that the property is actually zoned as C-2. Sheriff Trowbridge advised that in 1961, the Madison County Board of Supervisors adopted a certain resolution to zone properties outside of the municipalities, but did not actually zone any areas. Instead, Sheriff Trowbridge argued that the resolution simply set out rules and regulations for future zoning, because they did not have any legal descriptions, or any required requests for rezoning from any land owners. Sheriff Trowbridge advised that in 1964, the Board of Supervisors came up with a map showing possible places for future zoning of commercial districts, but that the Planning & Zoning Commission had not taken any action to change the zoning of the subject property since 1961. Sheriff Trowbridge distributed a map showing what is supposedly classified as C-2, but alleged that same is incorrect, and that the property is still zoned as A-1, and taxed as A-1. Such map is attached hereto as **Exhibit "A."** Sheriff Trowbridge also distributed an Affidavit from Arne D. Greaves as support for his argument. Such Affidavit is attached hereto as **Exhibit "B."** Sheriff Trowbridge requested that the Commission table this matter for further review, based on the information he presented at the meeting, and for verification that the property is, in fact, zoned as C-2. Sheriff Trowbridge further argued that there are numerous convenience stores within a five (5) mile radius of the subject property, and that if another one is approved, it may put others out of business.

Commissioner McCarty inquired as to whether the Applicant had conducted a traffic study. Sheriff Trowbridge responded that those in objection had requested the Board of Supervisors conduct one in conjunction with another application on an adjacent property, and that the State of Mississippi may have to conduct one since the property lies on a state highway. Sheriff Trowbridge further argued that the subject property is in a dangerous curve and that accidents have occurred in the area.

Daniel Wooldridge responded that the Applicant had purchased the subject property from a Celeste Williams, and that he wasn't sure Sheriff Trowbridge was referring to the correct piece of property. Mr. Wooldridge further argued that the property was shown to the Applicant as C-2, that it is on the County maps as C-2, that the Applicant bought it in reliance on the fact that it is zoned as C-2, and that the property had been previously used as commercial. As for the convenience stores in Flora going out of business, Mr. Wooldridge responded that they had been purchased for new development in the Town of Flora, and not due to competition.

Commissioner Billingsley inquired as to whether this type of question could possibly lead to future challenges to zoning. Attorney Clark responded in the affirmative, and stated that, as a general matter, historical record keeping is not perfect, and that Madison County has experienced exponential growth in the interim between 1961 and present day.

Sam Martin, Esq. of 128 Stokes Road appeared in opposition. Mr. Martin stated that his home is approximately 500 feet from the subject property. Mr. Martin argued that the proposed use of the subject property is not harmonious with adjacent residential use, or use for a church. He

argued that if you look at existing maps, there is only one convenience store adjacent to a residential structure and that is located at Luckett Road and Highway 16. He argued that area is not experiencing the growth that the subject area enjoys. Mr. Martin argued that a convenience store simply does not fit with, and is not harmonious with the subject area.

Mr. Martin argued that the landscape plan on the sides and back does not meet the requirements of Section 2203.04. Mr. Martin requested that if the Commission should approve this matter, that they require appropriate setbacks, landscaping, and architecture in accordance with the Ordinance. Mr. Martin further requested that the Commission consider lighting, and a softer "moonlight" requirement for the convenience store.

Mr. Martin further referenced the Ordinance, and the Commission's review to ensure that the proposed structures are incongruent or out of harmony so as to cause lower property values, decreased economic growth, or diminished future opportunities for land use and development. Mr. Martin argued that a convenience store would cause all three (3) of those things.

Mr. Martin further argued that there is a movement to establish a new overlay district in the subject area called Anderson-Livingston Heritage Overlay District, and asked that the Commission table this matter until the matter of the overlay district is brought before the Board of Supervisors.

Mark Morgan appeared on behalf of the Damascus Baptist Church and argued that the current design of the convenience store belongs in an urban area, and not in the present community in the scenic Highway 22. Mr. Morgan stated that the church is not happy about their children coming out of the church and seeing people fill up their vehicles with beer. Mr. Morgan also expressed concern over the traffic danger in the nearby intersection with Highway 22.

Celia Manley appeared and expressed the need for an overlay district in order to preserve the scenic Highway on 22. Ms. Manley stated that the plans to submit for an overlay approval are in the works, and that an attorney has been engaged to ensure that the submission complies with the Zoning Ordinance. Ms. Manley stated that the proposed overlay would be similar to the Mannsdale-Livingston Historic Preservation District, but perhaps not quite as stringent because the subject area is more rural in nature.

Daniel Wooldridge reappeared, and in response to questions from Commissioner Billingsley, stated that there had not been a traffic study conducted. As for the lighting, Mr. Wooldridge stated that the Applicant understands that there can be no light pollution, and had proven that light would not leave the property through a study done with the Applicant's electrical engineers. As for the architecture, Mr. Wooldridge stated that this building would be more akin to what is seen in downtown Flora, and the Livingston Township. Mr. Wooldridge also stated that there are no entries or exits to the site off of Highway 22, and the vehicle traffic would use existing routes to enter and exit the highway. As for landscaping, Mr. Wooldridge stated that the Applicant would be happy to add landscaping if desired.

Stephanie Williams of Parkinson Road appeared and stated that she did not see the need for a six (6) pump convenience store when there are convenience stores in Flora, and Livingston. Ms. Williams expressed further concern over the increased traffic in the area.

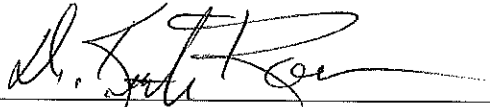
Prior to any further discussion, Commissioner Brown left the meeting.

Commissioner Billingsley made a motion to approve the Site Plan for Stokes Road Shell for a Convenience Store, contingent upon confirmation of the appropriate zoning designation of C-2 Highway Commercial District, and upon a traffic study acceptable to Madison County. Commissioner McCarty made a substitute motion to table the Site Plan for Stokes Road Shell for a Convenience Store until such time as the appropriate zoning designation is confirmed, seconded by Chairman Rouser, with all voting "aye," the motion to table the Site Plan for Stokes Road Shell for a Convenience Store was approved.

There next came on for discussion, the setting of the December, 2023 meeting. December 14th, 2023, was suggested. Upon motion by Commissioner Billingsley, seconded by Chairman Rouser, with all voting "aye," the motion to set the December, 2023 meeting for December 14, 2023, was approved.

With there being no further business, the November 9, 2023, meeting of the Madison County Planning and Zoning Commission was adjourned.

Date



Dr. Keith Rouser, Chairman