APPROVED

MINUTES OF THE PLANNING & ZONING COMMISSION
MEETING OF DECEMBER 13, 2011
THE CITY OF STARKVILLE, MISSISSIPPI

The Planning & Zoning Commission of the City of Starkville, Mississippi held its regularly scheduled meeting at 5:30 PM in the City Hall Courtroom at 101 E. Lampkin Street, Starkville, Mississippi. Present were Commissioners James Hicks, Jerry Emison, Jason Walker, Jeremy Murdock, Ira Loveless and John Moore. Commissioner Dora Herring was absent. Attending the Commissioners were City Attorney Chris Latimer, City Planner Ben Griffith, Assistant City Planner Pamela Daniel and Recording Secretary Bill Green.

AN ORDER APPROVING THE WRITTEN AGENDA

The Commission considered the matter of approval of the written agenda dated December 13, 2011. Commissioner Murdock made a motion to approve the meeting agenda as presented. The motion was seconded by Commissioner Moore and the Commission voted unanimously to approve the agenda as presented.

AN ORDER APPROVING THE MINUTES OF THE OCTOBER 25, 2011 MEETING

The Commission considered the matter of approval of the minutes of the October 25, 2011 meeting. After discussion and upon the motion of Commissioner Murdock, seconded by Commissioner Walker, the Commission voted unanimously to approve said minutes as presented.

AN ORDER APPROVING THE MINUTES OF THE NOVEMBER 8, 2011 MEETING

The Commission considered the matter of approval of the minutes of the November 8, 2011 meeting. After discussion and upon the motion of Commissioner Walker, seconded by Commissioner Murdock, the Commission voted unanimously to approve said minutes as presented.

CITIZEN COMMENTS

Chairman Emison asked if any member of the public cared to address the Commission, stating that there were three public hearings on the agenda and comments regarding those items would be called for at the appropriate time. No comments were received.

A REQUEST BY CMI ACQUISITIONS FOR APPROVAL OF A PROPOSED COMMUNICATION TOWER LOCATED IN A C-2 (GENERAL BUSINESS) ZONING DISTRICT BEHIND THE PINELAKE CHURCH AT 200 MS HIGHWAY 25 BYPASS SOUTH IN WARD 1

There came before the Commission item #CT 11-01: a request by CMI Acquisitions for approval of a proposed communication tower located in a C-2 (General Business) zoning district behind the Pinelake Church at 200 MS Highway 25 Bypass South in Ward 1. The Assistant City Planner presented a brief introduction of the item.

Mr. John Wade introduced himself as an attorney for C-Spire and handed out a copy of the City's communication tower ordinance to reference during the discussion. He stated that he believes that the tower is a permitted use under Section 104-54 and not a special use as addressed in Section 104-55. He also stated that there were several representatives of C-Spire present to answer any questions that the Commissioners may have.

Mr. David McGehee of CMI Acquisitions introduced himself stating that CMI acted as a site locator for C-Spire and provided a brief technical explanation of why the proposed site was suitable for the proposed tower, adding that the cellular traffic on the western side of town was increasing and that C-Spire was working to meet the increased demand. He stated that there was a pending variance request to be heard by the City's Board of Adjustments & Appeals on December 14th regarding the setback, which requires a 2-foot setback for every 1 foot of tower height.

Mr. James Peden introduced himself as an attorney representing RMR Investment Company, a limited liability corporation headquartered in Memphis and owned by Mr. Robert Rogers. He stated that his client owns large parcels of property adjacent to the proposed tower site and briefly described those properties to the Commission. Mr. Peden stated that his client objects to both the special use and the setback variance for the tower which was located on land donated by his client to the CrossPoint Baptist Church. He stated that the donated land included covenants which the proposed tower appeared to violate. Mr. Peden stated that approval of the proposed tower would adversely affect his client's property and/or the future development of his property. Mr. Peden then briefly described his area of law practice and submitted a statement of objector, copy of the warranty deed and other items for the Commissioners to consider. He noted several issues his client had with the proposed tower and questioned whether the notifications sent out by the Planning Office included the correct applicant information. Mr. Peden concluded by stating that his client was not in blind opposition to the proposed tower and would be willing to work with the applicant to find a more suitable location for it.

Mr. Wade stated that it was his opinion that the proposed tower was a permitted use and not a special use and questioned whether or not it should even be reviewed by the Planning & Zoning Commission. He reviewed the criteria for a communications tower and stated that it appeared to be more of a dispute between property owners and not a matter for the City to consider, concluding that C-Spire had met the criteria of the City's communication tower ordinance and the Telecommunications Act of 1996.

Chairman Emison asked for other citizen comments and seeing none, closed the public hearing and asked the City Attorney to address and clarify matters for the Commission.

Mr. Latimer stated that with respect to notice—the objectors were present. He stated that the setback issue was a Board of Adjustments & Appeal matter and beyond the purview of the Planning & Zoning Commission. Mr. Latimer stated that the issue of the covenants was a matter between the property owners and likely beyond the scope of City review. He stated that the City's communication tower ordinance would likely control over any conflicting language in the general zoning ordinance. Mr. Latimer stated that Section 104-55 of the communication tower ordinance referred to the requirement for a 2,640-foot radius for another tower or a residentially-zoned area and that the Planning & Zoning Commission would need to decide whether or not to issue a special use permit since the legal argument that the proposed tower was permitted by right was colorable.

Chairman Emison reviewed the items discussed by the attorneys and asked which section of the communication tower ordinance was applicable and whether or not another approach was suitable for the parties to work out options amongst themselves.

Mr. Latimer stated that Section 104-55(b)(8) of the communication tower ordinance applied to proposed tower locations in non-C-2 zoned areas where a catch-all phrase applied, creating conflicts.

Chairman Emison then asked what counsel would recommend if the consensus of the Commission were to determine that it was not an item for them to decide, how should they proceed.

Mr. Latimer suggested that the Commission would need to first determine whether the proposed tower was a special use or a permitted use and that he would recommend erring on the side of caution and following the special use test.

A brief discussion ensued amongst the Commissioners as to how best to proceed and whether or not they should table the request. Chairman Emison asked for a motion to determine whether a special use applied or not, and if not, then a motion to determine that it is a permitted use to move forward.

After another brief discussion amongst the Commissioners regarding how to address the request, Chairman Emison asked the applicants if they would be willing to work with the objectors.

Mr. Wade stated that the site was critical but that a month delay may not be so critical.

Mr. Peden stated that a representative of RMR had talked to C-Spire but not in detail and that perhaps they could sit down and explore other options.

After another brief discussion, Commissioner Murdock made a motion to proceed with the request as specified in the application and Commissioner Walker seconded the motion.

Hearing no further discussion, Chairman Emison asked for a roll call vote which was recorded as follows:

James Hicks	Voted: NAY
Jason Walker	Voted: YEA
Jeremy Murdock	Voted: YEA
Ira Loveless	Voted: NAY
John Moore	Voted: NAY

Chairman Emison announced that the motion failed 3—2 and that the Commission now had two choices: either table the request to allow the parties to dispose of the matter or work out a win-win for all involved; or, conclude that the zoning takes the matter out of the Commission's hands.

Commissioner Loveless made a motion to table the request to give the parties time to meet, which Commissioner Moore seconded.

Chairman Emison asked for a roll call vote which was recorded as follows:

James Hicks	Voted: YEA
Jason Walker	Voted: YEA
Jeremy Murdock	Voted: NAY
Ira Loveless	Voted: YEA
John Moore	Voted: YEA

Chairman Emison announced that the motion carried 4—1 and that the request would be tabled to allow the parties time to meet and discuss their options.

A REQUEST BY FRANK JONES DEVELOPMENT, LLC FOR APPROVAL OF THE "COUNTRY CLUB ESTATES FINAL PLAT—PHASE 2" LOCATED IN AN R-4 (ZERO LOT LINE/CLUSTER DEVELOPMENT) ZONING DISTRICT EAST OF SOUTH MONTGOMERY STREET IN WARD 3

Next there came before the Commission item #FP 11-11: a request by Frank Jones Development, LLC for approval of "Country Club Estates Final Plat—Phase 2" located in an R-4 (Zero Lot Line/Cluster Development) zoning district east of South Montgomery Street in Ward 3. The City Planner presented a brief introduction of the item.

Mr. Mike Brent presented the item to the Commissioners, stating that most of the conditions listed on the staff report had been completed. He then asked if there were any questions.

After a brief discussion, Commissioner Hicks made a motion to recommend approval of the final plat to the Mayor and Board of Aldermen, based on the findings of fact and conclusions of the staff report dated December 8, 2011 and the following conditions:

1. The final plat shall meet the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code of 1972, as amended.
2. The final plat shall meet the minimum requirements for R-4 zoning dimensions.
3. All public utilities are currently in place.
4. Erosion control vegetation shall be established on all disturbed areas.
5. Sidewalk construction shall conform to the City's Sidewalk Ordinance and ADA standards.
6. The applicant shall provide adequate and satisfactory test reports for roadways, curbs and all drainage structures and facilities.
7. A guarantee in the amount of 150% of the current cost of all remaining improvements is required to be posted prior to Board approval of the final plat, if applicable.

8. Financial assurance for the cost of the final layer of asphalt shall be determined by and provided to the City Engineer prior to approval by the Mayor and Board of Aldermen.
9. The applicant shall provide two paper copies of the recorded plat to the City, along with a digital copy in "AutoCAD" format in standard state plane coordinates.
10. The applicant shall provide "as-built" drawings of all infrastructure improvements (water, sewer, storm drainage, roadways, sidewalks, etc.) in "AutoCAD" format as well as a paper copy that is signed and sealed by a licensed design professional, guaranteeing accuracy.
11. The final plat shall be recorded at the Office of the Oktibbeha County Chancery Clerk within thirty (30) days of the approval by the Mayor and Board of Aldermen.

Commissioner Loveless seconded the motion and the Commission voted unanimously in favor of recommending approval of the final plat to the Mayor and Board of Aldermen.

A REQUEST BY BOARDTOWN DEVELOPMENT FOR APPROVAL OF THE "HIGH COTTON" FINAL CONDOMINIUM PLAT LOCATED IN AN R-5 (MULTI-FAMILY, HIGH-DENSITY) ZONING DISTRICT AT 509 RUSSELL STREET IN WARD 4

Next there came before the Commission item #FP 11-12: a request by Boardtown Development for approval of the "High Cotton" final condominium plat located in an R-5 (Multi-Family, High-Density) zoning district at 509 Russell Street in Ward 4. The City Planner presented a brief introduction of the item.

Mr. Thomas Allen presented the item to the Commissioners and asked if there were any questions.

After a brief discussion, Commissioner Walker made a motion to recommend approval of the final plat to the Mayor and Board of Aldermen based on the findings of fact and conclusions of the staff report dated December 8, 2011, and the following conditions:

1. The final plat shall meet the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code of 1972, as amended.
2. The final plat shall meet the minimum requirements for R-5 zoning dimensions.
3. All public utilities are currently in place.
4. Erosion control vegetation shall be established on all disturbed areas.
5. Sidewalk construction shall conform to the City's Sidewalk Ordinance and ADA standards and shall be required prior to the issuance of a Certificate of Occupancy for the building.
6. General Note #12 shall be stricken from the face of the plat prior to staff execution and recording.
7. The condominium documents shall include provisions for the maintenance of common areas and the City Attorney's standard hold-harmless indemnification clause.
8. The applicant shall provide two paper copies of the recorded plat to the City, along with a digital copy in "AutoCAD" format in standard state plane coordinates.
9. The final plat shall be recorded at the Office of the Oktibbeha County Chancery Clerk within thirty (30) days of the approval by the Mayor and Board of Aldermen.

Commissioner Murdock seconded the motion and the Commission voted unanimously in favor of recommending approval of the final plat to the Mayor and Board of Aldermen.

A REQUEST BY MR. & MRS. SID CRIGLER FOR APPROVAL OF THE "BRAMMELWOOD APARTMENTS—PHASE ONE" PRELIMINARY PLAT LOCATED IN A C-2 (GENERAL BUSINESS) ZONING DISTRICT ON THE WESTERN SIDE OF MS HIGHWAY 25 BYPASS SOUTH, APPROXIMATELY 1.3 MILES SOUTH OF MS HIGHWAY 12 WEST IN WARD 2

Next there came before the Commission item #PP 11-02: a request by Mr. & Mrs. Sid Crigler for approval of the "Brammelwood Apartments—Phase One" preliminary plat located in a C-2 (General Business) zoning district on the western side of MS Highway 25 Bypass South, approximately 1.3 miles south of MS Highway 12 West in Ward 2. The City Planner presented a brief introduction of the item.

Mr. Jason Pepper presented the item to the Commissioners and asked if there were any questions.

After a brief discussion, Commissioner Hicks made a motion to recommend approval of the preliminary plat to the Mayor and Board of Aldermen based on the findings of fact and conclusions of the staff report dated December 8, 2011 and the following conditions:

1. The preliminary plat meets the minimum standards for the State of Mississippi, as required by §17-1-23 and §17-1-25 of the Mississippi Code Annotated (1972), as amended.
2. The preliminary plat shall meet the minimum requirements for C-2 zoning dimensions.
3. Approval of the preliminary plat shall be tentative, pending the submission of the final plat, as specified in Appendix B, Article IV, Section 3 of the City of Starkville's Code of Ordinances.
4. The applicant shall prepare and submit infrastructure plans in accordance with Appendix B, Article III, Sections 3 & 4 of the City of Starkville's Code of Ordinances.
5. When infrastructure plans have been approved for construction, a pre-construction conference shall be held with appropriate city staff prior to the commencement of any construction activities at the site.
6. When a final plat is submitted for review by the City's Development Review Committee, all required improvements must be complete and the applicant shall provide "as-built" drawings of all infrastructure improvements (water, sewer, storm drainage, roadways, sidewalks, etc.) in "AutoCAD" format as well as a paper copy that is signed and sealed by a licensed professional engineer, indicating that the improvements were installed under his/her responsible direction and that the improvements conform to the approved construction plans, specifications and the City's ordinances.
7. All public utilities shall be in place and any non-conforming conditions noted during final inspection and shall be corrected prior to placement onto the Planning & Zoning Commission agenda.
8. Approval of the preliminary plat shall be valid for one year, per Appendix B, Article III, Section 2(6)(b) of the City of Starkville's Code or Ordinances.
9. A final plat review and approval shall be required prior to the recording of the plat at the Office of the Oktibbeha County Chancery Clerk.

Commissioner Loveless seconded the motion and the Commission voted unanimously in favor of recommending approval of the preliminary plat to the Mayor and Board of Aldermen.

A PUBLIC HEARING TO CONSIDER A PROPOSED ORDINANCE REPEALING AND REPLACING THE "CHART OF PERMITTED USES" FOUND IN APPENDIX A, ARTICLE VIII, SECTION M AND THE DEFINITIONS FOUND IN APPENDIX A, ARTICLE II OF THE CITY'S CODE OF ORDINANCES

Next there came before the Commission item #OR 11-01: a public hearing to consider a proposed ordinance repealing and replacing the "Chart of Permitted Uses" found in Appendix A, Article VIII, Section M and the definitions found in Appendix A, Article II of the City's Code of Ordinances.

The City Planner presented a brief introduction of the item, stating that the revisions discussed by the Commission at the November 8th meeting had been incorporated into the chart and that a note had been added referencing Table 5 of the form based code regarding land uses within the proposed Transect Districts.

Commissioner Murdock suggested revisions to 4 land uses on the chart, moving uses from "P" (permitted by right) to "C" (conditional use) and after a brief discussion among the Commissioners, it was decided to direct the City Planner to amend the chart.

Chairman Emison stated that if there was no further discussion that he would entertain a motion.

Commissioner Murdock made a motion to recommend approval of item #OR 11-01 with the 4 revisions to the Chart of Permitted Uses, to the Mayor and Board of Aldermen.

Commissioner Moore seconded the motion and the Commission voted unanimously in favor of recommending approval of the proposed ordinance to the Mayor and Board of Aldermen.

A PUBLIC HEARING TO CONSIDER A PROPOSED ORDINANCE AMENDING THE CITY'S OFFICIAL ZONING MAP AND CODE OF ORDINANCES BY ADDING APPENDIX A, ARTICLE A. ZONING, ARTICLE VII, DISTRICT REGULATIONS, SECTION T, TRANSECT DISTRICTS, BY MEANS OF A PREPARED FORM BASED CODE ENTITLED "DOWNTOWN/MSU CORRIDORS CODE" FOR AREAS WHICH INCLUDE PORTIONS OF MS HIGHWAY 182, MAIN STREET, UNIVERSITY DRIVE, LAMPKIN STREET AND RUSSELL STREET

Next there came before the Commission item #OR 11-02: a public hearing to consider a proposed ordinance amending the City's Official Zoning Map and Code of Ordinances by adding Appendix A, Article A. Zoning, Article VII, District Regulations, Section T, Transect Districts, by means of a prepared form based code entitled "Downtown/MSU Corridors Code" for areas which include portions of MS Highway 182, Main Street, University Drive, Lampkin Street and Russell Street.

The City Planner introduced the item by reading the following statement into the record:

Item #OR 11-02 is a proposed ordinance amending the City's official zoning map and establishing a form based code for the corridors connecting downtown Starkville to the MSU campus. Planning staff received the latest revised edition of the form based code late Friday (December 9th) morning and it appears that most issues have been addressed: the zoning map on page 2 has been cleaned up and revised, the intent and process section has been revised with the Planning & Zoning

Commission the form based code appeal body, and the building heights have been increased slightly for the Transect Districts.

The City Attorney asked that I provide some general information regarding the study area.

- The Highway 182 corridor has experienced an increase in the number of retail, restaurant and service establishments, but still faces difficulties in redevelopment due to smaller parcels of differing ownership and heavy traffic which limits pedestrian movement from the adjacent residential areas to the commercial ones located along the highway.
- Downtown Starkville is vibrant with an ever-changing number of retail, restaurant and service businesses opening, enlarging and moving to larger locations.
- Russell Street is poised for major redevelopment of the Cooley Building site with the Cotton Mill Development proposal and several other smaller, multi-family residential developments within and at the edge of the Cotton District.
- The University Drive corridor continues to experience commercial growth and redevelopment with increasing numbers of building permits and privilege permits issued every year. Increasing amounts of dense, multi-family residential development dominates this area.

All of these contributing factors indicate that change is occurring within the form based code study area, in some areas more than others. The current economy has reduced what would be expected to be an ever-growing market due to increased enrollment every year at Mississippi State University. Although located just outside the study area, the increasing development of the Thad Cochran Research and Technology Park also adds to the demand for residential and commercial facilities close by. I would offer these items for consideration by the Commission as findings of fact and conclusions, in addition to the "intent" section of the attached ordinance, when making a motion for recommendation to the Mayor and Board of Aldermen.

Chairman Emison then opened the public hearing and invited citizens to come forward to address the Commission.

Mr. Mark Guyton of 523 E. Gillespie Street in Starkville stated that the City's zoning regulations seemed to be getting more complex and that he was confused by the new form based code regulations and how it would affect his rental properties.

Commissioners Walker and Murdock addressed Mr. Guyton's concerns by reviewing the general concepts of form based codes and how it would benefit property owners such as him.

Chairman Emison asked if any other citizens wished to provide comments and seeing none, closed the public hearing portion of the meeting and opened the floor for discussion among the Commissioners.

A lengthy discussion among the Commissioners began regarding several areas of the proposed form based code, the following revisions were suggested by the Commissioners for inclusion with a possible recommendation of approval to the Mayor and Board of Aldermen:

1. Page 3: add "Reserved for Future" to Section 1.3(a)(i), (ii) and (iii) after T1, T2 and T3.
2. Page 4: add the word "and" at the end of Section 1.4(d)(ii)(f)(ii).
3. Page 15: add "by exception" to conference/convention center in T5.

4. Page 15: add "by exception" to eating/drinking establishment in T4.
5. Page 15: revise "by right" to "by exception" for parking lot/garage in T6.
6. Page 15: add "by exception" to bed & breakfast in T6.
7. Page 15: revise "by right" to "by exception" to boarding/rooming house in T5 and T6.
8. Page 15: add "by exception" to hotel in T5.
9. Page 15: revise "by right" to "by exception" for places of worship in T4, T5 and T6.
10. Page 15: revise "by right" to "by exception" for industrial and manufacturing in T5.
11. Page 15: revise "by right" to "by exception" for funeral homes in T4, T5 and T6.
12. Page 19: strike "Yard Signs" from Section 6.7(a).
13. Page 22: "externally illuminated" in Section 7.7(c) raised questions because most Commissioners thought internally lit signs, such as marquees or menu boards were OK, but definitely <u>not</u> internally lit channel letters used for signage—any thoughts?
14. Page 25: Section 8.4(b) refers to "Table X" and everyone scratched their head—we assumed that it should probably be "Table 5" but wanted to check and make sure…
15. Page 29: strike "Trees are optional." in the "Plaza" section of Table 18(f).

After further discussion, Commissioner Murdock made a motion to approve the proposed amendment to the zoning ordinance with the proposed changes and on a finding that the neighborhood of the transect districts had changed and that there was a public need for the zoning amendment as evidenced by the statement of intent in Section II of the ordinance, Mr. Griffith's staff notes that were read into the record and reduced to writing, and the Commission's familiarity with the area.

Commissioner Walker seconded the motion and the Chairman asked for a roll call vote which was recorded as follows:

James Hicks	Voted: <u>YEA</u>
Jason Walker	Voted: <u>YEA</u>
Jeremy Murdock	Voted: <u>YEA</u>
Ira Loveless	Voted: <u>YEA</u>
John Moore	Voted: <u>YEA</u>

Chairman Emison announced that the motion carried unanimously and declared the item closed.

PLANNER REPORT

City Planner Ben Griffith stated that no public hearing requests had been submitted for the January 10th meeting and was not sure of any pending subdivision plats. He stated that he would contact the Chairman at the appropriate time regarding possible cancellation of the January meeting. Mr. Griffith stated that he had placed a copy of the 2012 P&Z submittal and meeting schedule at the Commissioners' seats and that it had also been posted on the City's website. He concluded by asking the Commissioners to be mindful of all *ex parte* communications and to contact the Planning Office with any questions regarding any items on upcoming agendas.

ADJOURNMENT

Commissioner Hicks made a motion, which was seconded by Commissioner Walker, to adjourn at approximately 7:45 PM. The next regularly scheduled meeting of the Planning & Zoning Commission will be Tuesday, January 10, 2011 at 5:30 PM in the City Hall Courtroom.

Jerry Emison, Chairman

Ben Griffith, AICP, City Planner